UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 98th CONGRESS

SECOND SESSION

VOLUME 130—PART 20

SEPTEMBER 27, 1984 TO OCTOBER 2, 1984

(PAGES 27393 TO 28830)

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UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1984

31-059 O-87-1 (Pt. 20)

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PROCEEDINGS AND DEBATES OF THE 98th CONGRESS, SECOND SESSION

SENATE—*Thursday, September 27, 1984*

(Legislative day of Monday, September 24, 1984)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

God of grace and love, as relentless time moves inexorably, indifferent toward human frailty, enable the Senate to find its way through the clash of ideas and agendas to worthy resolution. Someone has said that it is better to be swallowed by a whale than to be nibbled to death by minnows. Dear God, keep us from allowing human caprice to consume precious minutes and substantive issues with trivia. Refresh weary minds as negotiations toughen and help Senators to arrive at beneficial agreements. Prevent principle from degenerating into personal animosity. Strengthen your servants, Lord, against attitudes toward each other which alienate and demean. However difficult the process under the pressure of demanding deadlines, let friendships be deepened, respect and admiration heightened, love and peace prevail. May the significance of Rosh Hashana benevolently infect this day. For the honor and glory of Your name, O Lord, and to the blessing of all. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

Mr. STEVENS. Mr. President, I thank the Chair.

SENATE SCHEDULE

Mr. STEVENS. Mr. President, following the time for the two leaders this morning, there are five special orders of 15 minutes each for Senators PROXMIRE, BYRD, CHILES, BENTSEN, and BINGAMAN. After that, there will be a period for the transaction of routine morning business not to last beyond the hour of 11 a.m., with Senators speaking therein not to exceed 5 minutes each.

Following that, we shall resume consideration of the Interior appropriations bill. There is pending an amendment I have offered to Senator MCCLURE's amendment. We have also given notice that we will proceed to the conference report on the DOD authorization bill as soon as the chairman and ranking member are ready to proceed. That is a privileged matter.

Last evening, we received consent to an agreement that the vote on the cloture motion on the highway bill will start at 6 p.m. and that normal proceedings under rule XXII have been waived. That vote will start at 6 p.m. That was part of our understanding concerning the celebration of Rosh Hashana, that we would not have record votes between the hours of 6 p.m. last evening and 6 p.m. today. We do still recognize the importance of that celebration for those of the Jewish faith, and in keeping with our recognition of their celebration and the meaning of this religious holiday, there will be no votes during the day until 6 p.m.

Mr. President, I reserve the remainder of our time.

Mr. PROXMIRE. Will the majority leader yield for a question?

Mr. STEVENS. Yes.

Mr. PROXMIRE. May I ask, the acting majority leader said the vote would start at 6 o'clock. Does that mean it might continue beyond the usual 15 minutes or will it be a 15-minute vote?

Mr. STEVENS. It is hoped that it will be a normal vote. Senators have been on notice for some time that we would commence voting at 6 o'clock. We are hopeful that Senators will be here. I cannot predict how long we might hold that for someone who is inconvenienced. We did put the Senate on notice last evening by the unanimous-consent agreement that there would be a vote at 6 p.m. We anticipate a long evening tonight, so we are hopeful that will be a normal vote but we are cognizant of those who must be accommodated and hope to go on to other votes that might occur.

Mr. President, I ask unanimous consent that the special orders that have been entered for the five Senators be granted so that they may be recognized as they come to the floor and seek recognition for their special orders and not be in any particular order in accordance with the way I listed them last evening.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The distinguished acting Democratic leader is recognized.

Mr. PROXMIRE. I thank the Chair.

Mr. President, I ask unanimous consent that the time of the Democratic leader [Mr. BYRD] be reserved for his use at a later time today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR PROXMIRE

Mr. PROXMIRE. Mr. President, I understand I have a special order.

The PRESIDENT pro tempore. The Senator is correct. The Senator from Wisconsin is recognized for 15 minutes.

Mr. STEVENS assumed the chair.

WHAT ARE THE PRIME STEPS TO PREVENT NUCLEAR WAR?

Mr. PROXMIRE. Mr. President, the first step to prevent nuclear war is: Reach for an agreement with the Soviet Union to restrain the nuclear arms race. How do we achieve that agreement? Does it require more nuclear arms? The American people have told us no in poll after poll. Why?

They say both the Soviet Union and the United States have enough to utterly destroy the other over and over again not once but many times. So why do we need to buy more? Why do we need to pour $40 or $50 billion a year into building up ever greater nuclear power? The American people keep asking that question. They have asked it repeatedly for the past 20 years. What answer do they get? The nuclear arms proponents argue that the Soviets continue to build their nuclear military power. So we have to match and surpass it.

The administration tells us it is not enough that if the Soviets initiate an all-out nuclear strike we can retaliate and totally destroy them.

It is not enough that the part of our nuclear deterrent that they cannot reach with a preemptive strike, the part of our nuclear deterrent that is invulnerable, is far larger than the invulnerable part of the Soviet deterrent. The administration now tells us we must go ahead, lead the way with an entirely new dimension of the arms race in Star Wars.

How do we overcome this and build the peace? The first ghost we must exorcise is the arms race fever that perfectly illustrates Santayana's definition of fanaticism as the determination to redouble your effort when you have lost sight of your objective.

What is our objective? Is it to be No. 1 in every conceivable phase of nuclear weaponry? Or is it to achieve peace? If it is peace, then let us acknowledge that the true enemy is not any particular nation or political faith. Our true enemy is the arms race itself. So, to achieve peace, first, we negotiate a mutual verifiable end to the arms race. We seek an agreement to end nuclear arms competition with the Soviet Union. Our countries have never fought a major war with each other. Neither country has any territorial need or ambition that will bring the two nations into conflict. Both countries will lose everything in a nuclear war. Both will gain greatly from easing the immense burden of the arms race.

The Soviet system of economic collectivism and the American system of free enterprise competition obviously and sharply suffer from the arms race. Both American political freedom and Soviet totalitarianism grow logically out of the two economic systems. And, yes, they do indeed stand in absolute contrast. Can these two contradicting and conflicting systems coexist? Can they live side by side when the Soviets deeply believe and teach world revolution led by Soviet communism? Can we live in peace with a nation that constantly plans and works so that their world revolution will come on as they view it, as the inevitable wave of the future? Of course we can. After all, Marx set forth the dogma of the inevitability of world Communist revolution 100 years before the dawn of the age of nuclear weapons. No matter how enchained Russians might be in Marxist dogma, they know Marx could not have dreamt that an armed clash between nuclear armed nations would certainly destroy civilization and even possibly exterminate mankind.

For almost all of its 66 years of existence, Russian communism has been losing its economic struggle to compete with capitalism. On every front free enterprise has surpassed collectivism. This is now obvious to everyone. It is true in comparing U.S. economic productivity versus the Soviet Union. It is true in comparing West Germany and East Germany. It is true for the NATO countries versus the Warsaw Pact. It is true for Japan versus China. It is true for South Korea versus North Korea. Freedom has consistently won a far better life for the people who renounce collectivism and rely on individual initiative and private ownership. As the years go by, if only we can live in peace, collectivism will fade away as it is even today starting to fade in China and in some parts of Eastern Europe. We can win for freedom not by building ever more devastating nuclear arms but by using the nuclear standoff to negotiate an end to the arms race.

OUR UNAFFECTED WAYS

Mr. PROXMIRE. Mr. President, in his article, "Too Many Holocausts Have Made Mankind Numb," which appeared in the September 2, 1984, issue of the Washington Post, William Shawcross reminds us that our own secure lives often coexist with ongoing acts of genocide. Shawcross makes the point that we tend to be consumed by our daily lives while we pay little attention to the plight of those who are suffering. He describes us as becoming indifferent to the horrors in the world, in part because the successive reports of mass murder, famine, and genocide have dampened our desire to know and feel what is happening around us.

In order to do all we can to help the peoples of the world, we must not adopt the behavior described by William Shawcross. We must awaken ourselves to the cries of our fellow humans and do all we can to identify with their anguish. Doing so will help maintain our role as a leader in human rights. The world will not look to us for leadership if acts of genocide fail to affect our thoughts and deeds.

Over 90 countries have looked at the horrors man has imposed upon his fellow man and have proclaimed their outrage against the destruction of religious, racial, national, and ethnic groups. They have not screened out the reality of the tragedies which have occurred, but have acknowledged them and their potential for recurrence. This has been achieved through their ratification of the Genocide Convention.

Unfortunately, Mr. President, we have not ratified this treaty. Consequently, we have reduced our leadership potential in human rights issues. By ratifying the Genocide Convention, we could reassert our leadership and thus our desire to protect the most fundamental right of mankind—the right to live. We would proclaim to the world that we have not ignored the pains of those subjected to acts of genocide. Let us make that proclamation by ratification of the Genocide Convention.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR CHILES

The PRESIDING OFFICER. Under the previous order, the Senator from Florida is recognized for not to exceed 15 minutes.

THE U.S. ECONOMY

Mr. CHILES. Mr. President, I noticed in yesterday's Washington Post and New York Times an account about a speech the President had made to the World Bank. The President reportedly claimed that the impact of our high interest rates on Third World countries is more than offset by the opportunities those nations now have to export their goods to the United States.

I took the time to read that speech—I read it again this morning—and it makes me wonder about what the President has in mind for the American worker.

The President seems delighted to say that the total U.S. imports rose 32 percent in the first half of this year, and he seems just as happy to announce that our imports are expected to exceed 1983 imports by 25 percent.

He bragged to the people at the IMF conference that they should not be concerned about interest rates in this country because they have such a great opportunity now to trade with us.

It did not seem to bother him that U.S. imports from non-oil-producing countries are up nearly 30 percent for the first half of 1984.

It bothers me, Mr. President.

The U.S. trade deficit is surging toward a $150 billion record. That

number is the amount by which our imports exceed our exports, and that $150 billion trade deficit represents jobs that the American taxpayer is subsidizing overseas rather than creating here at home. Our huge Federal deficits and the high interest rates behind them amount to an enormous foreign aid package when they produce a $150 billion trade deficit.

Can anyone in Congress imagine the reaction of this institution to a request from any President for a foreign aid package in any given year that amounts to $150 billion? Yet, that is not only what we see happening; we see the President of the United States bragging to foreign countries: "Look what I have for you. Look what I'm doing for you."

For the first time, I begin to realize that maybe this is the President's plan. Maybe this is the way we are going to take care of foreign countries. But what in the world are we going to do to take care of workers here who are being laid off because we have a 30-percent to 40-percent premium on U.S. goods? Soybean producers and automobile producers are paying that 30-percent to 40-percent premium, and now we find that the President thinks that is fine.

"Don't worry about our high interest rates because look what we've got for you. We've got this tremendous market here in the United States, and you are to be the beneficiary."

They are the beneficiary all right. But it is just like a tax of 30 to 40 percent we are placing on all the goods we are attempting to sell overseas.

It is a nice way to take care of our deficit because all of the foreign money is coming in. It is a painless way. No one seems to notice that high deficit when we take care of it this way. But with the President going to meetings and bragging about it, I think that is rubbing it in a little bit on the people who want to get our steel mills open, want to get those assembly lines going back producing American cars.

(Mr. HUMPHREY assumed the chair.)

Mr. BENTSEN. Mr. President, will the Senator from Florida yield?

Mr. CHILES. I am happy to yield to my distinguished colleague from Texas.

Mr. BENTSEN. I say to my friend from Florida, that your State is very seriously engaged in trade, that it contributes much to the economy of this Nation of ours in what it does trade, and shares with Texas and the rest of the Nation the problems of an incredible increase in imports and very substantial curtailment of exports. I also watched what the President said at the IMF speaking before the World Bank. As the ranking member on the trade subcommittee for the minority, I have been looking for some kind of a direction on the conduct of trade policy from this administration, and we just have not seen that.

What we have seen is a rudderless trade policy. We have seen a situation where the value of the dollar has gone up almost 50 percent since 1980, crippling American industry tied to world trade. U.S. exports are still below the levels scored in 1980, 1981, and 1982. We have yet to see exports regain the level when President Reagan took office.

It is difficult to understand why the President would stand up and brag about that kind of a policy. It is just like having a race to the world market, like having a 100-yard dash, giving the Japanese a 30-yard head start and giving the Germans a 20-yard head start. That is simply not fair competition. It is that kind of a disparity in the exchange rate which has been brought about by these huge trade deficits that we fought so hard to try to curtail. These deficits have created incredible high interest rates that are bringing in this influx of foreign currency. That has pushed the American dollar to an inflated value. And that puts our manufacturers at an extreme disadvantage.

If you do everything you can do to increase productivity, and see it increase to 5 percent and then all of a sudden are hit with an 8 or 9 percent change in the currency exchange values, you have lost ground to foreign firms. There is no way that you can handle that kind of a situation and remain competitive.

American agriculture lives and dies by exports. But, since the Reagan deficits sent the dollar skyward, farmers and ranchers have experienced their second Great Depression of the 20th century. Real farm income was higher in the 1930's than it is today; 200,000 family farmers have been pushed into bankruptcy by the Reagan deficits.

Other U.S. industries have fared no better. Petrochemicals, aircraft, 64- and 256-K ram chips, computers—the list of American industries being savaged by the soaring dollar is long. Just since 1982, 1.2 million U.S. jobs in export industries have been lost abroad.

The bloated dollar harms U.S. import-competing firms, too. Since 1980, merchandise imports have jumped 30 percent to $320 billion annually. In just that period, over 2.3 million jobs in every type of U.S. industry have been lost to imports. Steel workers, tool and die craftsmen, aircraft fabricators, computer assembly workers, the number and variety of jobs exported is enormous. In fact, Mr. President, the U.S. export product since 1981 has been jobs—we have sent 3.5 million of them overseas.

The dollar has simply forced U.S. industry after U.S. industry—viable, ongoing, efficient ones—to cut employment because foreign firms could do it cheaper. And many of these jobs will never return even when the dollar declines in value.

Mr. CHILES. Mr. President, if we just look at agriculture, I see that in 1981 we exported nearly $44 billion in agricultural goods but in 1983 the figure had fallen to $35 billion. So we had a fall of $9 billion in 2 years and, as the Senator knows, being from Texas, which is a large agricultural State in exports, that figure had been going up at a steady increase of 5 or 6 percent every year for the past years. Suddenly we see it turn around.

Mr. BENTSEN. I say to the Senator from Florida that we were a large agricultural State. We are not so large anymore.

Mr. CHILES. The Senator is right.

Mr. BENTSEN. Another thing that we run into is the deficit and sky-high dollar encourage a loss of technology to foreign nations. There are two industries that play a very dominant role in increasing productivity: R&D that leads to new products and jobs; and the capital goods industry like machine tools which convert that R&D into usable products.

The sky-high dollar has seen thousands of U.S. firms looking abroad for the first time and conducting R&D and in purchasing capital equipment.

The problem that we run into is not just a temporary one. Once we put a U.S. capital goods firm or industry out of business, once the production lines became long enough abroad and economies of scale are achieved by foreign competitors, they really get their unit cost down, and it is exceedingly difficult for U.S. firms to come back and establish new positions in the market. It is gone and you lose the technology and the trained workers.

Mr. CHILES. I do not know of any case where we have reestablished that and make a comeback.

We saw that happen in pocket calculators and TV's to everything in the world, and in each instance we did not come back.

Mr. BENTSEN. Here is what has happened to the capital goods industry: The share of capital equipment now being imported is up to 20 percent now as cost-conscious U.S. managers exploit the strong dollar that is up from 8 percent during the seventies.

The situation is much worse in some key sectors. A staggering 42 percent of our machine tools are imported now—40 percent—and an unbelievable 53 percent of our critical metal cutting capital hardware is imported.

The U.S. capital goods industry is going broke on a bloated dollar. We are rapidly becoming a nation dependent on foreign R&D, foreign scientists, and foreign technicians to produce the key capital goods that we use to

produce all the other goods our society demands. That future is dark, indeed.

To quote from Mr. James Gray, the president of the National Machine Tool Builders Association, "It is unlikely," he said last Monday, "that the machine tool industry will ever recover in this country."

In concluding his cheerful speech to the IMF, President Reagan spoke glowingly for the future of world economic growth. "We are a little like climbers," he said, "who begin their ascent from the opposite ends of the mountain" * * * "and reach the peak as one."

The President goes on to describe his version of the world economic future as analogous to real life events in which competing American and Japanese teams scale Mount Everest and triumph together.

That is an apt analogy for more reasons than President Reagan realizes because his deficit policies have sharply divided the world into "haves" and "have-nots." Over one-half of the deficits are being financed with foreign capital lured by record real interest rates being offered by the Treasury. That capital has come from across the world. Hong Kong has been drained; Geneva, London, and Bonn have all been drained. The only exception has been the strong Japanese economy.

Mr. CHILES. That is interesting because, as the Senator knows, we call that foreign investment, but if you are in one of those countries where the money is coming from, it is called capital flight. It is really taking away the capital that they would use to build their economies so they could buy from us.

So what we are doing is we are taking their seed corn, so to speak. It is taking care of our debt in a "painless" way. But when 60 to 70 percent of that debt is being financed by that foreign capital, we are shooting ourselves in the foot.

Mr. BENTSEN. Yes. And how about our allies?

Mr. CHILES. They do not like it.

Mr. BENTSEN. Yes. The problem you run into for our allies now, with that massive outflow of capital from their countries, is that they are faced with a terrible choice—either to turn on the money printing presses and risk all the dangers of inflation—or watch their cash-poor economies stagnate and go into serious recession.

So far, they have chosen not to inflate—to accept no-growth along with rising unemployment.

The President cheered his audience with talk of a new tomorrow. Overseas—behind him on the real playing field of world economics—our allies have been pushed into recessions or no-growth by the administration credit policies—when they normally would be booming as our recovery spread abroad.

Industrial production in France in June was no higher than it was a year earlier. In fact, France has yet to regain the level of output it achieved as far back as 1979 or 1980.

Industrial production in Germany dropped off a cliff this summer, falling 10 percent from as recently as January.

Industrial production in England has declined steadily this year, as well—and sits 3 percent below 1983.

Our recovery has boosted their exports all right. But that has been more than offset by the credit drain which has crippled European efforts to match our recovery.

The President's mountain climbing analogy was indeed an appropriate one. We and Japan have prospered under his red ink policies—we have climbed the mountain of prosperity.

But if the President were to stop cheering and look over his shoulder, he would see no one else behind us on the trail upward.

And if he looks all the way around, he would see that all paths from our perch atop his Mount Everest lead downward.

Mr. CHILES. I was in a meeting 2 or 3 days ago, and Chairman Volcker was there. He said that he had been surprised. He had felt crowding out would have occurred before now and would have hurt our housing based on the fact that we are keeping a tight money policy, the very high interest rates that we have had. But he said to his surprise it had not worked that way. Now he realizes the reason it did not is because of the influx of foreign capital. He said where the crowding out has virtually occurred is in the trade deficit. A lot of people have not paid much heed to the trade deficit. It's hard to put your finger on it. I do not think a lot of people realize that this country will become a debtor nation next year, the first time perhaps since back in the Revolutionary War times. We will owe the rest of the world more than they owe us. We will be a debtor nation.

Mr. BENTSEN. Riding to work this morning, and breathing that touch of fall in the air started me thinking about football. That brought the Gipper to mind. I was thinking about the cheerleaders I had watched at the University of Texas. I enjoy them; I appreciate them. They do a great job of cheerleading. The problem is they generally have their backs turned to the playing field. They do not really know what is happening there on the playing field. That just about describes where the President is. He is a great cheerleader. But I began to question that he really understands what is happening out on the field. He says he wants to build this economy on granite. Well, he is building it on a house of cards—credit cards.

He talks a great deal about fiscal responsibility. But his idea of pay-as-you-go is to say "charge it." I will tell you what he really should do. In light of his economic performance he really ought to have an "American Excess card" and never leave the ranch without it, because that demonstrates, I think, the approach to this Nation's economic affairs we have seen in this administration.

He spoke cheerfully in his IMF speech of sustainable economic growth, rolling like a rising tide across the world. Yet, the only tide we see once the cheering ceases is an administration awash in a tidal wave of red ink—one unwilling to live within its means—one unwilling to match its words with deeds.

The President speaks of the strength and duration of the recovery. But behind the cheerleaders where the real game is played, we see an administration which created the worst recession in 50 years; an administration which threw nearly 3 million Americans out of work; a President nearly at the bottom of all postwar Presidents in the number of jobs he created; a President who speaks glowingly of an America where far too many people, 8.5 million men and women, are looking for an honest day's work, without success.

The President warns us away from the path of temptation, of political expediency, and urges us to make hard choices. Yet, his economic policy resembles nothing so much as a wild spending spree where the easy choices are quickly made to cut taxes and boost spending, while it ducks and dodges the tough calls to raise taxes, cut spending, or balance the budget. It is an administration scouring the world for $100 billion a year in fast and easy credit, and running up a tab that will take a generation of sacrifice to pay off.

Mr. BINGAMAN. Will the Senator from Texas yield for a question?

Mr. BENTSEN. I am delighted to yield to the distinguished Senator from New Mexico.

Mr. BINGAMAN. I noticed last week our colleague from South Carolina made a very good point, picking up on somewhat the same analogy that you have just made about the cheerleaders in Texas. He indicated in a speech here on the Senate floor that we are in the awkward situation where we are engaged in a trade war, or there is a trade war going on, but we are the only ones who are not attending. As he put it, we are up in the grandstands hollering, "Free trade, free trade, protectionism, protectionism," and down on the field the game is in the fourth quarter, and they are cleaning our clock.

I know in my State, another part of this trade problem which really has

been brought home to me is the plight of our basic industries. I am talking about copper, uranium, potash, and the cement industry.

I notice yesterday in the speech that the President gave to the International Monetary Fund he took great pride in the fact, as he points out, that "Our record should put any doubts to rest. Requests for protection on tuna, stainless steel, flatware, shoes, and copper have all been turned down." I can assure him that the turndown of any request from those industries has been well-noted in my home State. In the copper industry, we have the untenable situation where the Third World—in particular the country of Chile—is importing subsidized copper into this country at a tremendous rate. We have less than 70 percent of the copper workers in this country working today. Most of our copper mines are shut down, and most of our smelting and milling operations are shut down. I am sure it is good for the financial well-being of Chile. I have no doubt about that. But the truth is this country needs to maintain some of these basic industries.

I think George Munroe, who is the Chairman of the Board at Phelps-Dodge, put it very well in the talk he gave in New Mexico a couple years ago where he said that this country cannot remain a great Nation by merely learning to communicate with each other faster and faster, and selling each other Big Macs. We have to have some basic industry in this country, and this trade policy that the President is taking so much pride in is destroying much of that basic industry.

Mr. BENTSEN. I say to my friend from New Mexico, I appreciate that, and I can understand the concerns of the people in your State, and they are shared by mine, and across this Nation of ours.

It concerns me very much that we are becoming a debtor Nation. As under the President's budgets by the end of fiscal year 1986, he will have prepared deficits we will exceed all the deficits that were incurred by this Nation under all our Presidents—from George Washington through the Revolutionary War, through the Civil War, through the Spanish-American War, through the First World War—every President, right up and including Jimmy Carter. This President keeps talking about a balanced budget, yet he has never submitted a balanced budget to this Congress.

Mr. BINGAMAN. I will ask the Senator from Texas if he agrees with my concern. It appears to me it is clear that there is a great sentiment on the part of the President to let the budget deficit take care of itself, that this is a problem that we will grow out of. It is not something that we need to address here with any kind of tax increase, nor any other draconian measure such as that. It seems to me the same position is being taken by the President with our trade deficit. I know of no plans to deal with this trade deficit. It seems to me every week when I pick up a newspaper there is a larger projection of the trade deficit. But I hear of no concern on the part of the administration, no plan to deal with it, no strategy for getting our exports up and reducing the imports some way or the other, or getting the level playing field, as everyone is so fond of saying around this Congress.

I believe either this is a problem that needs attention, which I believe very sincerely it is, or I am very confused about the matter. I just do not see any effort or any concern about it on the part of the administration. Perhaps I have missed some news accounts. But this speech to the IMF seems to confirm my view that the President thinks this trade problem is really no problem at all, that we are doing just what we ought to be doing.

Mr. BENTSEN. What you do see on the news is news of Americans abroad, do you not? You see American tourists in Europe, in Asia, and everything is telling them spend American dollars overseas now. You do not see much about the British being here as tourists or the Germans, or the Japanese. You see a situation where we are not getting a chance to really earn foreign dollars and reduce the kind of a trade deficit that we are facing. That deficit is not slowing down. It is increasing for us. As it does, it can do nothing but hurt American industry, cost us American jobs, and finally you will see some of those industries go out of business and never return.

Mr. CHILES. I wonder if the Senator would comment a little bit. I notice the President said when he was talking to them that the high U.S. industry dollar on the third world countries is more than offset by their opportunity to export more into the robust American economy. Is that why these exports on their part are going up so much because of our robust American economy, or is it because we have tied the hands behind the back of our people that would be competing with them, our factories, our farmers, and our growers?

Mr. BENTSEN. I say to that, Senator, I do not think that any farmers in the world are more efficient than ours. We have large units of production. We have the most modern tools and machinery. We have the best educated farmers and farm practices of any nation in the world. I do not know of any nation that has become more progressive in trying to do things to make the farmer more efficient and where the farmer has taken such good advantage of that help as he has here. But even with all of that, when I go out to west Texas, I will tell you who is doing most of the business. It is the auction yards selling out farmers who have gone broke.

I am not talking about windshield farmers who go along the road and look through the windshield to see how the crops are doing because they have a fellow working for them. I am talking about third-generation farm families, where the kids and everyone else is out there trying to make that crop. Their forefathers have prospered, grown and educated those young people, sending them to some of the best colleges in our land to study modern farm practices. But they still cannot cut it because of the incredible disparity in the dollar and what happens to the value of their product, what they have to sell it for if they sell it at all. No matter how efficient they are, they cannot make it.

Mr. CHILES. For years, literally our Government policy encouraged farmers to grow more than they could sell in this country because agriculture was our most favorable balance of trade. That is where we improved our trade picture. Now that foreign market is literally drying up on them because of the high interest rates.

Is the copper producer in Mexico less able to produce than his neighbor in Chile or those other countries? Or is the condition of the dollar having something to do with it.

Mr. BINGAMAN. I think a strong dollar is the major factor hurting our basic industries in this country. As I say, it does not seem that there is any plan to deal with it or any real concern to develop a plan. I think one example that really brings it home to me in my State is the tremendous increase in imports of cement into this country from Mexico in the last year or two. We have seen increases of 200 and 300 percent a year. It is cement that is produced with energy that is sold to those Mexican cement companies at about $4 per barrel.

We are asking our domestic industry to buy that oil at $26 and $28 a barrel and compete. It is not a level playing field by any means. What you are seeing is that in my region of the country, the Southwest part of the country, where the transportation is not too major a problem, the cement industry is virtually threatened with going out of business because of the cheap Mexican imports of cement.

We have a bid opening for a large Bureau of Reclamation project in New Mexico today, the Brantley Dam, one of the largest projects in use of cement, that we have had in our State in decades.

It seems almost inevitable, given the present situation, that that project will be constructed with cheap Mexican cement. Our American producers cannot compete because they do not have the energy subsidy which the

Mexican Government is providing to all those producers.

I think the President tried in his talk to the IMF to leave the impression that we are in favor of free trade and, he also added fair trade. I can see the free part in what he is doing, but on the fair part I do not see a whole lot of effort to insure any fairness for the people of this country who have their jobs at stake.

Mr. CHILES. It seems to me the preacher has been displaced in his pulpit. The President is telling the rest of the world what to do with their money and the gospel of the preacher says, "Thou shalt lend it to us."

As you say, we talk about free trade but when that field is tilted, it is very hard to say that it is fair.

Mr. BINGAMAN. Let me just make one more point which I think was also an excellent statement by our colleague from South Carolina in his excellent speech on September 20 on this same issue. He was quoting George Washington's famous line that the best way to preserve the peace is to prepare for war.

Clearly, I think that is the view of a lot of us in this country. It is the reason why we give so much attention to a strong national defense. In just the last few days, we have been struggling to get the defense authorization bill and the appropriations bill out to fine tune our defense program.

But when you get to this area of trade, it seems that we have no such sentiments. It would appear clear to me that the best way to preserve a free market in the world is to be able to compete on the same level and the same basis as the rest of these countries. We are not being able to compete on that same basis today. I believe it is severely threatening the peace that we have had traditionally in our trading relations with our allies.

I think the President appears, at least in his speech to the IMF, to be unaware of this problem and believes it is a problem that will solve itself, one that need not concern the administration or call for any kind of affirmative action. I hope the President will rethink his position, and if we are going to, in fact, come down on the side of Chilean copper workers as against the United States copper workers, at least we should not be going to the International Monetary Fund and bragging about it. I think that is the unfortunate thing about the speech he gave.

Mr. CHILES. I thank the Senator from New Mexico.

Mr. President, we have seen reports on TV and read in the newspaper about the mighty American dollar stronger than any currency in the world. The way the administration presents it, they would have us believe that is something that should be a source of pride to all Americans.

In fact, it is a threat to their jobs.

The fortunate American who can travel overseas can buy all sorts of foreign goods at bargain prices. But the citizens of other nations, whether they visit our American stores or stay home and shop in their own cannot afford to buy our cars, and they cannot afford to buy our produce.

I am beginning to wonder if perhaps the plan for dealing with the deficit that the President will not announce is really written between the lines—between tomorrow's American unemployment lines.

I am beginning to wonder if maybe there is some premeditated element to the Nation's economic policy which says the deficits won't be reduced but only made invisible by financing them with foreign credit.

It is not hard to reach that conclusion. Our high rates of interest attract foreign capital and ease the current burden on the American taxpayer. That makes today look fine. But the clouds over tomorrow are darker than ever.

We are milking foreign nations of their investment capital, denying them the chance to rebuild their own economics into stable trading forces for the future. They are buying our debt by mortgaging their futures as well as our own.

Is that the administration's plan for dealing with the deficit? Borrow now, bankrupt later? A consumer avalanche of imported goods today, lost American jobs tomorrow?

How can there be any other conclusion when the President of the United States tells us that American interest rates are acceptable as long as the complete deal comes out this way: You buy our debt and we will buy your goods.

Maybe it's time the American worker who has a job today thinks about the future. And the future is next year when the United States becomes a debtor nation owing the rest of the world more than they owe us.

If the President of the United States is proud that we are buying more than we are selling, and if he thinks high interest rates are not a problem, let him explain that position to the American worker. Let him explain his position to the American farmer.

Agriculture is in bad shape in the United States. Just last week I reviewed some of the numbers that tell the story. In 1983, net farm income dropped to $5.4 billion, the lowest level since they started keeping figures over 70 years ago.

In the 4 years between 1979 and 1983 farm machinery sales were off anywhere from 40 to 77 percent.

Fertilizer use dropped 18 percent, and over 1,000 farm equipment dealerships closed their doors.

And all this is happening in an industry that accounts for 24 million working persons in the United States, about one-fifth of the entire work force.

It has been a rough road for the American farmer, both at home and abroad. In 1981, we exported nearly $44 billion in agricultural goods. By 1983, the export figure had fallen to just under $35 billion. In 1980, our agricultural export volume was 164 million metric tons. The forecast for 1984 puts the volume down around 140 million metric tons. Something like one-fourth of U.S. farm income comes from overseas sales.

But this summer I was reading about an Iowa farmer. He said he couldn't "afford to grow for the American public at the price they want to pay. I've got to have a bigger market than our domestic market to survive.

He's going to have a tough time surviving if the interest rates remain as high as they are. It seems to me the President should not be trying to explain away interest rates by emphasizing how it helps foreign nations sell in our markets.

The fact is those interest rates have spiked the American dollar to such high levels that people overseas can't afford to buy what we produce. Those interest rates are giving a 40-percent discount to our competitors by driving up the cost of our goods.

How on earth can the President of the United States say there's a silver lining in high interest rates because it gives foreign nations a chance to sell us more goods? Maybe that's good for them, but it's awful for us.

And the fact is it's not very good for the foreign nations either. They are having a devil of time reaching for their own economic recoveries. When they borrow money to finance their own debts they are doing so at rates of interest which simply add to their own problem. And when they are forced to use their capital to finance their debts they are helping us finance our deficits while denying themselves the money they need to rebuild their own economies.

Mr. President, these high interest rates have been spawned by huge American deficits. And those high interest rates and that strong dollar have made us a net debtor.

The President can search the economic libraries around the nation in hopes of finding the kind of logic that will make high American interest rates sound acceptable. But when real interest rates are at unprecedented levels; when our trade imbalance is worse than ever before; when every $1 billion in trade deficit means 25,000 fewer American jobs, there's no way I am willing to accept any argument he finds that high interest rates are OK.

The President knows high interest rates are a threat to the United States. Just last week he announced a pro-

gram to reschedule agricultural loans. He knows farmers are in hard times, and he knows just as well that high interest rates are at the root of their problems.

Anyone who does business at home or abroad, anyone who wants to buy American goods overseas, and most of us who want to buy American-made durable goods at home, know we have ourselves in the financial equivalent of a hydraulic press. Interest rates are very high, deficits are very large, and the margin of economic health is very thin.

Yet the United States has the nerve to lecture other nations about the virtues of economic prudence. We tell them to tighten their belts while we sit at the banquet table. We tell them to do something about their debts while we do virtually nothing about our own. We tell them we will loan them money if only they will invest all their venture capital to help us finance our own deficits.

And then we look around the world and wonder why other nations are asking us to increase arms sales to help entrenched governments prevent domestic upheaval.

When critics condemn the United States for Hoover economics, they are not talking about the Depression. They are talking about a policy which has the United States willing to sweep up all the lendable dollars other nations are willing to give.

Mr. President, there simply is no virtue in high American interest rates. They must come down before we can have any real confidence in the world economy. There's only one way to get those rates down, and that is to cut American deficits.

Mr. President, I ask unanimous consent to have printed in the RECORD some newspaper clippings.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 26, 1984]

PRESIDENT MINIMIZES HIGH RATES—SAYS U.S. IMPORTS OFFSETTING INTEREST PAID BY THIRD WORLD

(By Hobart Rowen)

President Reagan, in an exceptionally optimistic assessment of world economic prospects, said yesterday that the impact of high U.S. interest rates on Third World nations is more than offset by their opportunities to export more into the robust American economy.

Reagan, addressing the 39th joint annual meeting of the World Bank and the International Monetary Fund, acknowledged "complaints about high interest rates," especially from Third World countries "legitimately concerned about the additional debt service costs they must bear."

But he pointed to "a slight drop in [interest rates] the last several days," and added: "I believe there will be more of that ahead."

And he stressed the contribution to the economics of those nations from heavy U.S. imports from them.

For example, he said, in the first seven months of this year American imports from the non-oil-exporting poor countries had increased more than $12 billion over the amount in the same period of 1983.

Against that, he said, a 1 percent rise in international borrowing rates would increase the net interest payments by those countries by only $2.5 billion.

Short-term interest rates have declined slightly in recent weeks, and a major bank lowered its prime interest rate last Friday, although the rest of the banking industry has not followed suit.

Reagan also pledged that the United States would "share our knowledge and the blessings of progress" with all nations in order to achieve "golden dreams for all mankind."

But he stressed that this could be achieved only by following the freemarket strategy that he credited for the U.S. recovery of the past three years.

"Our own economy is dramatically changed from only three years ago," Reagan said. "Rewarding hard work and risk-taking has given birth to an American renaissance. Born in the safe harbor of freedom, economic growth gathered force, and rolled out in a rising tide that has reached distant shores."

Reagan also responded to statements Monday by IMF Managing Director Jacques de Larosiere and World Bank President A.W. Clausen about protectionist pressures in the United States and other major industrial nations.

"We believe our record should put those doubts to rest," Reagan said. "Requests for protection on tuna, stainless steel flatware, shoes and copper have all been turned down." He cited as well his decision last week to reject formal steel quotas and tariffs in favor of negotiating "voluntary" quotas.

In the past three years, however, the administration has placed restrictions on stainless steel, motorcycles, textiles and food products, and extended voluntary quotas on Japanese cars. And some industry observers believe that voluntary steel quotas will be as painful as formal quotas to undeveloped countries.

The president's unreserved optimism about economic prospects and the hope he expressed for lower interest rates were questioned by officials of other governments at the meeting.

Echoing an earlier warning by Alan M. Dukes, Ireland's minister of finance, British, Chancellor of the Exchequer Nigel Lawson said in his address to the joint meeting that "interest rates remain a dominant concern for most of us, and I must link this with the situation in the United States. . . . Interest rates are held at unprecedented levels in real terms, and the needs of the U.S. economy preempt a large share of the savings of the rest of the world."

Finance Minister of India Pranhab Mukerjee, speaking just before Reagan, articulated a view widely held among the poorer nations: "The economic expansion has not spread convincingly to Europe, and there's not been much change for the developing nations. A durable solution still eludes us, and the prospects for growth are still uncertain."

In promising to extend a helping hand to the rest of the world, Reagan carefully excluded mention of a new capital increase for the World Bank, high on the priority list of demands by most of the nations present and by the bank's management.

Treasury Secretary Donald T. Regan told the meeting Monday that the World Bank should develop a new "coherent strategy" for the next decade, using its "existing capital base. . . . We do not view a general capital increase as a necessary result of this process."

This could indicate a battle later over major new resources for the World Bank. Even West Germany, whose conservative government often lines up with the United States on these issues, favors a general capital increase.

West German Minister of Finance Gerhard Stoltenberg told the session: "I hope that there will be broad support for such an increase on the part of all members of the bank."

Stoltenberg also threw his weight behind more generous aid to the International Development Association program when it comes up for a review in about six months. Such a review was endorsed over the weekend by the World Bank's Development Committee.

Bank officials said yesterday they did not regard the Reagan and Regan language as "closing the door on a general capital increase—it's up to us to prove that we need it."

The president also restated his opposition to a tax increase—suggested by many others as a way to cut the budget deficit—pledging instead a "historic simplification of our tax system that will enable us to significantly increase incentives by bringing personal tax rates further down, not up."

STRONG DOLLAR OVERSEAS HURTING U.S. BUSINESS

(By Jane Seaberry and David A. Vise)

The rise in the value of the U.S. dollar overseas is taking its toll on American business.

The high value of the dollar relative to foreign currencies has made exports relatively expensive and imports relatively cheap, leading to record U.S. trade deficits and the loss of jobs for workers in domestic industries facing stiff competition from cheap imports.

"This strong dollar may be keeping inflation down but it is doing so at the cost of jobs in the United States," said John Sagan, vice president and treasurer of Ford Motor Co.

The high dollar also makes planning more difficult for U.S. firms with divisions operating overseas, and in some cases is producing losses for these firms when income and assets denominated in deutsche marks, francs and pounds are converted into dollars for financial reporting purposes.

"The thing that has pushed earnings downward is the translation of our earnings abroad back into dollars," said Bill Herman, chief economist at Chevron Corp. "Last year that cost us around $30 million in earnings. We also face a problem because when we buy crude oil abroad, the price is pegged to the dollar.

"That means that when we buy crude from the Saudis in Europe now at $29 a barrel, it costs us around three deutsche marks to the dollar instead of 1.8 deutsche marks a couple of years ago for the same thing. When we translate our earnings overseas back into dollars, it also means that now we have to earn three deutsche marks to get one dollar of profit instead of 1.8 deutsche marks to get that same dollar before," Herman said.

During the second quarter this year, capital losses in the current account of the U.S. balance of payments—caused largely by these currency transactions—were $2.6 billion, ahead of the $2.3 billion record set in the fourth quarter of last year, according to the Commerce Department. That category mostly reflects losses caused by currency translations, Commerce said.

In 1981, the United States had a capital gain of $426 million, which declined to a loss of $2.146 billion in 1982 and a loss of $6,542 billion in 1983. This year, the United States had a first-quarter gain of $318 million and a second-quarter loss of $2.593 billion, Commerce said.

"If the deutsche mark drops 5 percent, earnings are worth 5 percent loss," said Robert Ortner, chief economist for the Commerce Department.

Although the losses so far this year are half of those in 1983, economists said this year's loss could top last year's because earnings tend to move very closely with the value of the dollar. The loss could be between $2 billion and $3 billion in the third quarter.

"Many countries have placed restrictions on the amount of dollars they allow to leave their countries and this causes problems for us," said a spokesman for PepsiCo Inc. "We sell concentrate [to make Pepsi-Cola] abroad to our franchisees and like to be paid in dollars. This has put a squeeze on our profits."

The strong-dollar problem is particularly acute when companies sign contracts with foreign companies based at fixed exchange values. If an American firm agrees to buy goods from a foreign company at a fixed price and the value of the dollar doubles, the U.S. company ends up getting the goods for half price in U.S. dollars.

However, if an American firm sells goods or services overseas at a fixed price and the value of the dollar doubles, the U.S. company ends up earning only half of its expected income when converted to U.S. dollars.

Many firms, however, get around that problem by buying currency in futures markets, allowing them to sell the foreign currency and buy dollars at a specified price or have contracts with exchange rates indexed to currency fluctuations. "There's a pretty active forward market," said David Wyss, chief financial economist for Data Resources Inc.

Capital losses recorded in the current account are from everyday transactions and not from speculation, a Commerce official said. It would appear that banks, which engage in daily currency transactions, might suffer losses from loans.

However, Wyss said banks are pretty good at balancing their assets and liabilities so that they are not caught holding too much of one currency.

Some companies can benefit from the high dollar, economists said. For example, firms that ship raw materials and partially finished products overseas to take advantage of lower foreign labor costs and send the finished product back to the United States for final sale, benefit because lower labor costs are billed into the goods' price.

Economist Allan H. Meltzer said that companies buying raw materials or importing components from overseas are aided by the high dollar. Auto companies are big beneficiaries of this activity, Meltzer said.

Meltzer also said that companies that have currency translation problems can reinvest income denominated in foreign currencies into foreign assets.

In addition, U.S. firms only lose when the dollar is rising, not when it is stable or declining. "They don't have to make those losses," Meltzer said of companies with overseas divisions. "They get a temporary blip in earnings. When the dollar goes down, they'll recapture that."

Mr. CHILES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

Mr. BYRD. Mr. President, I now claim my time under the leader order.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. I thank the Chair.

THE PRESIDENT'S TRADE RECORD REEXAMINED

Mr. BYRD. Mr. President, on Tuesday, September 25, President Reagan addressed a joint meeting of the World Bank and the International Monetary Fund here in Washington. His remarks were something of a surprise because they amounted to an endorsement of high U.S. interest rates and a high trade deficit. To quote the President:

> Expansion here in the world's largest single market has meant increased trading opportunities for other nations . . . Total U.S. imports rose 32 percent in the first half of this year, and for the full year, our imports are expected to exceed 1983 imports by over 25 percent.

In fact, the Department of Commerce has acknowledged that the U.S. trade deficit for 1984 may be nearly twice the record $70 billion set in 1983.

The President's comments may offer some encouragement to the international bankers present at that meeting. But, as a Senator representing a State that ranks third in the Nation in its dependence on exporting, I do not take much comfort in our trade deficit. I am deeply concerned about the fact that America is losing its leadership in the world market. American coal miners, steel workers, chemical and auto workers all depend upon the U.S. export market and traditional U.S. leadership as the world's greatest trading nation. But this administration has presided over the largest trade deficit in history.

The President likes to deliver good news. And I can understand that he wanted to deliver some good news to foreign bankers. But I am astounded to learn that he is bragging about our record trade deficit. Is it possible that he fails to appreciate that arising tide of foreign imports is wiping out this country's leadership in the world economy? Is it possible that he does not know that every $1 billion of our trade deficit translates into 25,000 jobs lost or not created in the United States? Record imports may be good news for foreign companies and international bankers, but they are dreadful news for an American economy suffering from record trade shortalls.

Moreover, the President had very little to say about the most serious threat to world recovery—the growing Federal deficit and sky-high interest rates here in the United States. What he did have to say on that subject seemed to suggest that there was little to fear from high interest rates. Indeed, he said that the burden which growing interest rates impose on debtor developing countries is more than offset by the increased exports of their goods to the U.S. market. I share the President's satisfaction in seeing developing countries increase their exports rather than their debt burden, but with out an associated increase in U.S. exports, this development is dangerous for the American market. As long as the administration pursues a policy of big deficits and an artificially high dollar, American businesses and workers are going to lose out in the global contest for markets—including our own market. I think it is preposterous to expect that the American public would find any solace in high interest rates which cause an overvalued dollar and make American products more expensive overseas.

The President also pointed with pride to his accomplishment in resisting protectionism. He said, "Only last week I reaffirmed the U.S. commitment to an open world trading system by rejecting protectionist quota and tariff relief for the steel industry." If anyone has any doubt about the President's commitment to assuring a world class steel industry in this country, I recommend that they consider that remark.

In effect, the President has announced that he has no steel protection policy, and only a few days before he had assured the steel industry that he would work for voluntary restraints in the shipping of steel from other countries into this country. Then he speaks to the international bankers and says, "Well, just look at what we are doing for you. You are able to export increasingly into our country, increasingly, in essence, you are taking the American market away from our own industries."

In effect, the President has announced that he has no steel policy and he has no intention of developing one.

This seems to be the position of his administration on the whole range of

trade issues. We have the largest trade deficit in history. It is growing by leaps and bounds. The United States is losing its place as the world's greatest trading Nation. It is firmly established as the biggest trade loser in the world. And, this administration seems to believe that such a result is perfectly acceptable or something even to brag about. Indeed, the President has told the world's financial leaders that the increasing foreign domination of the U.S. domestic market is an economic good for all who are involved.

I am not the only person who has some doubts about the President's analysis. On Tuesday, September 24, Congressional Budget Office Director Rudolph Penner testified that "We judge the number one risk"—referring to economic health "as—emanating from the international sector." The chief economist for Goldman & Sachs Co. also testified that the Nation's trade deficit is a fundamental threat to the economic health of the country.

Mr. President, I ask unanimous consent to have printed in the RECORD a Journal of Commerce article reporting this testimony.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Journal of Commerce, Sept. 26, 1984]

ECONOMISTS WARN OF TRADE IMBALANCE

(By Linda Stern)

WASHINGTON.—The nation's trade deficit soon may begin exerting a negative effect on economic activity and the dollar's exchange rate, economist Gary Wenglowski told the House Ways and Means Committee.

Mr. Wenglowski, chief economist of Goldman, Sachs & Co., was one of several witnesses who told the committee the federal budget deficits are resulting in a trade deficit that soon will turn into a negative economic factor.

The witnesses, which also included Congressional Budget Office Director Rudolph Penner, Henry Kaufman of Saloman Brothers Inc., and Felix Rohatyn of Lazard-Feres, all spoke of the need for deficit reductions at the first day of committee hearings on the tax reform.

Chairman Daniel Rostenkowski, D-Ill., requested the witnesses to focus on the deficit, a possible sign of the panel's intentions to combine tax reform legislation with measures to raise taxes to cut projected federal deficits.

In introducing the hearings, Rep. Rostenkowski said, "The central issue that I would like to pursue today is the deficit. That an economy can recover and grow carrying incredible debt is a great puzzle to many of us here."

In contrast, Senate Finance Committee Chairman Robert Dole, R-Kan., opened his committee hearings on tax reform by stating he would not discuss revenue needs at this point. He asked his witnesses to comment solely on tax reform issues.

"We must raise revenue to reduce the deficit," Rep. Rostenkowski said. "On the other hand, we must seek to simplify and reform the code as a whole. The two tasks are not necessarily compatible—or done at once."

At Tuesday's hearings, Mr. Penner said, "We judge the number one risk (to economic health) as emanating from the international sector."

Mr. Wenglowski explained that the nation's trade deficit is beginning to exceed its fiscal deficit, a development that could reduce the strength of the current expansion, weaken the dollar and result in higher levels of inflation.

Further actions to reduce the deficit must be considered in light of the effects on the economy from a rising trade imbalance and the possibility of a declining dollar exchange rate. This presents a true dilemma since an increasing trade imbalance and declining exchange rate would have the contrary effects of weakening economic growth and raising the U.S. inflation rate for a period of time."

Messrs. Penner and Wenglowski asserted that the trade deficit was an indirect result of the budget deficits.

Meanwhile, as the committee held its first of three hearings on the subject of tax reform, two new reform proposals were unveiled. Rep. Fortney Stark, D-Calif., added a new bill to the list of 20 or so that already have been introduced.

His "Base Broadening Tax Act of 1984" would make temporary across-the-board reductions in all existing tax deductions, credits and preferences to raise about $150 billion over five years.

At the same time, Brookings Institution economist Joseph Pechman announced his preference for a "comprehensive income tax" in which almost all tax expenditures would be eliminated in exchange for lower income tax rates.

(Mr. NICKLES assumed the chair.)

CHAIRMAN ROSTENKOWSKI'S STEEL PROPOSAL

Mr. BYRD. Mr. President, on September 18, the President, as I indicated a moment ago, announced his decision concerning imports of foreign steel.

As I said at the time, I see nothing in that decision which provides a firm ceiling on steel imports. The President's comments do not guarantee that America's steel industry will adjust and regain its standing as a world class steel producer.

By contrast, House Ways and Means Committee Chairman DANIEL ROSTENKOWSKI introduced a bill on September 25 that would put teeth in the President's proposal and provide certainty for the American industry. Mr. ROSTENKOWSKI's initiative links import relief to the industries commitment to devote substantial funding to modernization of steel plants and equipment. This is similar to the requirement imposed in the International Trade Commission's recommendation in the Fair Trade in Steel Act, and in Vice President Mondale's proposal.

The President's package is conspicuous in having no such provision. I do not believe we can provide import protection to the American steel industry without some commitment from that industry to use its profits to modernize its plants and equipment and assure that this country has a world-class steel industry.

If steel profits are invested in oil companies or any of a hundred other activities, that money will not help the industry or the steelworkers, or the metallurgical coal mines and miners, or other workers in allied industries. Congress and the American public are willing to show their faith in the steel industry's ability to compete in a fair world market, but the industry has to live up to that demonstration of faith by putting its money up front—on steel production. Mr. ROSTENKOWSKI's proposal would assure that commitment by requiring an annual determination that the steel industry is devoting its resources to modernization and becoming internationally competitive.

Moreover, the chairman's bill contains a sense of the Congress resolution that encourages the President to hold foreign imports to a level not more than 17 percent of the American steel market. This is below the 18.5 percent proposed as a target in the President's plan and more closely resembles a ceiling level of foreign steel in this market that will allow for a healthy U.S. steel industry.

Finally, Mr. ROSTENKOWSKI's proposal requires that the Department of Labor review and report to the President on worker retraining and community assistance programs to assist those individuals displaced from steel jobs. Such assistance would be funded in part by 1 percent of steel industry profits, to be allocated to worker retraining programs. This recognizes the ongoing responsibility that companies and government have to workers displaced from jobs by changing market conditions.

I commend Mr. ROSTENKOWSKI for his initiative on behalf of American steelworkers and the industry. I believe it goes a long way in strengthening the President's hand in negotiations with foreign steel producers. I understand that on September 25, the Ways and Means Committee adopted Mr. ROSTENKOWSKI's proposal and that it will go to conference with the Senate trade bill. Some of my colleagues may not have seen the chairman's proposal.

Mr. President, I ask unanimous consent to have printed in the RECORD Mr. ROSTENKOWSKI's bill.

There being no objection, the bill was ordered to the printed in the RECORD, as follows:

H.R. 6301

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Steel Import Stabilization Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the United States steel industry has a serious need to modernize its plant and equipment in order to enhance its international competitiveness, and needs increased capital investments to effect that modernization;

(2) the ability of the domestic steel industry to be internationally competitive is, and has been, impeded by the effects of the enormous Federal budget deficit, an overvalued dollar, and increasing trade deficits, as well as serious injury due to imports of, and subsidies, dumping, and the use of other unfair and restrictive foreign trade practices regarding, carbon and steel alloy products;

(3) the extensiveness of the unfair trade practices engaged in the international market regarding such products imposes unusually harsh burdens on the United States steel industry in combating those practices through the trade remedy laws;

(4) expeditious and effective action under the President's national policy for the steel industry, including more vigorous efforts by the Executive Branch to self-initiate and pursue remedies against those practices, is needed to eliminate the adverse effects of those unfair trade practices;

(5) import relief should not be granted to the steel industry unless it is tied to a firm commitment by that industry to engage in serious and substantial modernization during the period of relief; and

(6) full and effective implementation of the national policy for the steel industry will substantially improve the economy and employment in both the steel and iron ore-producing sectors.

(b) PURPOSES.—The purposes of this Act are—

(1) to supplement the authority of the President to achieve the goals of the national policy for the steel industry by granting enforcement powers regarding those bilateral arrangements that are entered into or undertaken for purposes of implementing that national policy; and

(2) to make the continuation of those powers subject to the condition that the steel industry undertake a comprehensive modernization of its plant and equipment.

SEC. 3. SENSE OF CONGRESS REGARDING THE NATIONAL POLICY FOR THE STEEL INDUSTRY.

It is the sense of the Congress that—

(1) the President should, in conjunction with the authority granted under this Act, implement the national policy for the steel industry in such a manner as to restore the foreign share of the United States market for carbon and alloy steel products to a level commensurate with that which would obtain under conditions of fair, unsubsidized competition in that market, which level should, when that policy is fully implemented, result in a foreign share of the domestic market approximating 17 percent, subject to such modifications that changes in market conditions and the composition of the steel industry may require;

(2) the national policy for the steel industry should not be implemented in a manner contrary to the antitrust laws; and

(3) if the national policy for the steel industry does not produce satisfactory results within a reasonable period of time, the Congress will consider taking such legislative actions concerning steel and iron ore products as may be necessary or appropriate to stabilize conditions in the domestic market for such products.

SEC. 4. DEFINITIONS.

As used in this Act—

(1) The term "bilateral arrangement" means any arrangement, agreement, or understanding (including, but not limited to, any surge control understanding or suspension agreement) entered into or undertaken by the United States and any foreign country or customs union containing such quantitative limitations or other restrictions on the importation into, or exportation to, the United States of categories of carbon and steel alloy products as may be necessary to implement the national policy for the steel industry.

(2) The term "carbon and alloy steel products" means articles of the kinds subject to the investigation of the United States International Trade Commission numbered TA-201-51, and fabricated structural steel articles provided for under items 652.97 and 653.00 of the Tariff Schedules of the United States (19 U.S.C. 1202, as in effect on the effective date of this Act).

(3) The term "national policy for the steel industry" means those actions and elements described in Executive Communication 4046, dated September 18, 1984 (printed as House Document 98-263).

(4) The term "steel industry" means producers in the United States of carbon and alloy steel products.

SEC. 5. ENFORCEMENT AUTHORITY.

(a) IN GENERAL.—Subject to subsection (b) and section 6, the President is authorized to carry out such actions as may be necessary or appropriate to enforce the quantitative limitations and restrictions contained in each bilateral arrangement or other export measure required by a foreign government or customs union. Such actions may include, but are not limited to, requirements that valid export licenses or other documentation issued by a foreign government be presented as a condition for the entry into the United States of carbon and alloy steel products.

(b) CRITERIA.—In applying the authority provided for under subsection (a), the President shall, to the extent practicable, cover all categories of carbon and steel alloy products, avoid distortions among those categories, and include all exporting countries and customs unions from which surges in exports of those products to the United States are being, or have been, experienced.

SEC. 6. EFFECTIVE PERIOD OF ACT.

(a) IN GENERAL.—Section 5 shall terminate—

(1) at the close of the fifth anniversary of the effective date of this Act; or

(2) at the close of the first, second, third, or fourth anniversary of the effective date of this Act, unless the President, before each such anniversary, submits to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (in writing and together with the reasons therefor) an affirmative annual determination described in subsection (b).

(b) AFFIRMATIVE ANNUAL DETERMINATION.—(1) An affirmative annual determination is a determination by the President that the steel industry, taken as a whole, has, during the 12-month period ending at the close of an anniversary referred to in subsection (a)(2)—

(A) invested substantially all of its net cash flow from carbon and alloy steel product operations for purposes of reinvestment in, and modernization of, that industry through investment in modern plant and equipment, research and development, and other appropriate projects; and

(B) taken sufficient action to maintain its international competitiveness, including action to restrain and discipline pricing policies and to control costs of production.

(2) The President may not consider paragraph (1)(A) as being complied with unless the President finds that—

(A) each major company with significant reinvestment or modernization needs has committed all of its net cash flow (except that required to be committed to retraining under subparagraph (B)) from carbon and alloy steel product operations during the applicable 12-month period to meet those needs; and

(B) each major company that has, or reasonably anticipates, significant unemployment in carbon and alloy steel product operations has committed for the applicable 12-month period not less than 1 percent of such net cash flow to the retraining of workers, including former workers who were laid off from such operations at any time since January 1, 1982.

(3) For purposes of this subsection—

(A) The term "major company" means an enterprise whose raw steel production in the United States during 1983 exceeded 1,500,000 net tons.

(B) The term "net cash flow" means annual net (after-tax) income plus depreciation, depletion allowances, amortization, and changes in reserves minus dividends.

(4) For purposes of carrying out this subsection, the President shall take into account such information as may be available from the United States International Trade Commission and other appropriate sources relating to the modernization efforts of the steel industry.

SEC. 7. DEPARTMENT OF LABOR WORKER ASSISTANCE PLAN.

Within 6 months after the effective date of this Act, the Secretary of Labor shall prepare (in consultation with the Steel Advisory Committee established on November 3, 1983, by the Secretary of Commerce and the Secretary of Labor (48 F.R. 51165)) and submit to the Congress a proposed plan of action for assisting workers in communities that are adversely affected by imports of carbon and alloy steel products; which assistance shall include retraining and relocation for former workers in the steel industry who will likely be unable to return to employment in that industry. The plan required under this section shall be based upon existing authorities for providing such assistance, but shall be accompanied by such recommendations for additional statutory authority as the Secretary of Labor considers necessary to carry out the purposes of the plan.

SEC. 8. EXTENSION OF ADJUSTMENT ASSISTANCE FOR WORKERS AND FIRMS.

Sections 245 and 285 of the Trade Act of 1974 (19 U.S.C. 2317 and the note preceding 2271) are each amended by striking out "1985" and inserting in lieu thereof "1987".

SEC. 9. EFFECTIVE DATE.

This Act shall take effect on October 1, 1984.

REPORT FROM AFGHANISTAN: AN UPDATE

Mr. BYRD. Mr. President, from time to time we have the good fortune to recieve reporting from courageous members of the press corps who travel inside Soviet-occupied Afghanistan at personal risk to come out with the

truth. The Christian Science Monitor of Wednesday, September 26, carries such reporting by Edward Girardet. Mr. Girardet walked some 850 miles through the rugged mountains of Hindu Kush to document the ravages of the most brutal fighting in more than 4 years of Soviet occupation. Soviet-controlled propaganda sources claim major victories and the murder of 23,000 freedom fighters this year alone. But, through the efforts of determined reporters, we learn the truth about the failures of Soviet ambition.

We also learn that our assistance to the Afghan freedom fighters may not be as effective as we hope. Earlier this year, I introduced a resolution calling on the President to assure that essential food and medical supplies find their way to the brave freedom fighters. This report and others call into question the efficacy of that assistance effort. I hope and trust we are doing all we do. But I urge that we redouble our efforts if at all possible. I encourage the administration to review its assistance programs so we are certain that America is doing what needs to be done to support the freedom loving people of this war-torn country.

It is a tribute to the determination of the Afghan resistance that, more than 4 years after the Soviet invasion, wire services report this week that the city of Kabul is under attack by those brave freedom fighters.

Mr. President, I ask unanimous consent to have printed in the RECORD this article entitled "The Conflict From Afghanistan: The Conflict—and Civilian Toll—Worse Than Ever."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Sept. 26, 1984]

REPORT FROM AFGHANISTAN: THE CONFLICT—AND CIVILIAN TOLL—WORSE THAN EVER

(By Edward Girardet)

Most of the villages along the western banks of the Kunar River lie deserted, the bomb-shattered mud houses crumbling and the once lush, irrigated fields and fruit orchards little more than listless dust bowls.

For several years now, the nearby mountains and ravines have served as havens for the hidden bases of local guerrilla groups.

The main highway which traces the length of the Kunar Valley attests to the fierce clashes that regularly erupt between Afghan resistance fighters and Soviet occupiers. It is strewn with wrecked government vehicles, including a Soviet tank, the scatterings of spent machine-gun cartridges, and the jagged remains of exploded artillery shells.

From all indications, this year has been the hardest, the most gruesome of the war so far. Not only have the Soviets intensified their operations against the Afghan resistance, but they also have systematically stepped up acts of terror and intimidation against civilians.

Militarily, the Soviet Army and guerrillas have been going hammer and tongs at each other since early this year. But, as far as can be determined, the conflict remains a grueling standoff.

The Soviets have learned some lessons of the past and have generally improved their fighting capabilities. They are applying more effective tactics and their troops appear better trained in the art of anti-insurgency.

As part of its presistent and often successful propaganda effort, Radio Kabul regularly claims to have annihilated vast numbers of "antirevolutionaries." Only last week; it maintained that its forces killed 23,000 guerrillas in 1984 alone—a figure granted little credence by most observers unless civilians are also included.

While the mujahideen, or holy warriors, as the guerrillas are called, are known to have sufered devastating setbacks in some areas, they have tended to hold their own. According to Western intelligence reports and journalists who have witnessed several attacks against government and Soviet convoys and bases this year, the resistance may be inflicting higher casulties on the Red Army than before. It is thought that the Soviets are also taking substantial losses by conducting more exposed commando-style operations inside guerrilla territory.

For Afghan civilians however, the future looks grim Although some regions such as the valleys of Nuristan in the northeast and the central highlands of the Hazarajat have been spared the full thrust of war in recent years, most provinces have suffered badly.

While reliable figures are virtually impossible to asscertain, hundreds of thousands of men, women, and children are believed to have been killed or have died as a direct consequence of the war. Aerial bombardments and ground assaults against civilian habitations, executions, disease, and malnutrition provoked by the destruction of food sources are principal causes.

Furthermore, the number of Afghans seeking refuge in Pakistan, Iran, and elsewhere—now estimated at over 5 million and nearly one-third of Afghanistan's prewar population of 15 million to 17 million—continues to rise. For the first time, farmers and nomads from the northern provinces of Kunduz, Takhar, and Baghlan bordering the USSR have been leaving in large numbers.

Analysts consider Moscow's systematic application of terror as part of a deliberate policy to rid Afghanistan of all potential resistance, a form of "migratory genocide" ignored by most of the world. This includes the strafing by Soviet MIG-27s on Aug. 18, as witnessed by this correspondent near the Chamar Pass just east of the Panjshair of some 500 Kandari nomads and their animals. The attack resulted in at least 40 dead and dozens of injured.

By massacring civilians, bombing farms, despoiling crops, slaughtering animals, and wrecking fragile irrigation systems, the Kremlin is seeking not only to punish the local population for its resistance sympathies, but also to totally disrupt the economic and social infrastructure of the guerrilla-held areas.

International relief representatives maintain that the plight of civilians in areas such as Paghman, Kandahar, and the Panjshair Valley is critical if not disastrous. Food and medical supplies are short or nonexistent. For many Afghans, winter is regarded as the cutoff period that will decide whether there will be enough food to stay or whether they will be forced to leave.

Despite appeals for outside assistance, many guerrilla groups lack both the resources and structures to help the local population. Several Western relief agencies now are examining the possibility of a large-scale, coordinated aid program to be channeled directly to resistance commanders inside the country rather than through the political parties in Peshawar, Pakistan.

Nevertheless, the Soviet Union's long-term strategy of attrition is clearly relying on the guerrillas' present inability to provide succor. "In many places, the Soviets have dropped all pretenses at trying to win over the people with a hearts-and-mind program. All that Moscow is offering is a stark take-it-or-leave alternative," noted a West European diplomat in Pakistan.

Forced to abandon the countryside, Afghans have the choice of moving the cities which the government finds easier to control or flee across the borders. Either way, the mujahideen many ultimately find themselves operating in broad free-fire zones, totally devoid of human life—areas that previously had provided food, shelter, and perhaps most important, local intelligence.

But Afghanistan's increasingly ruthless war is also a war of surprising contrasts.

Among several resistance-held settlements on the far side of the Kunar's churning, gray waters, there persists a determined struggle to survive in full view of passing military convoys and patrolling helicopters.

The vast majority of the tens of thousands of inhabitants who fled the valley during the Soviet offensives of 1980 and 1981 have yet to return. But groups of caretaker villagers have made a bid to wrest back their farms from the wasteland that much of this area has become.

Ignoring periodic mortaring and occasional sorties by government troops, the villagers have repaired homes, garden walls, and canals; they have replanted trees and even produced enough wheat to permit the water mills to rumble once again.

Yet this air of normality is precarious.

In many respects, the Soviet Union's heightened war has meant a year of decision for the resistance. There is a growing realization that to survive, a rapid change of basic tactics involving improved organization and above all unity is vital.

Certain guerrilla commanders such as Herat's Ismail Khan, Kabul's Abdul Haq, Wardak's Amin Wardak, and the Panjshair's Ahmed Shah Massoud seem to be moving in this direction. Western observers have reported satisfactory cooperation among the political fronts in different areas even among traditional rivals. This correspondent found smooth relations in Kunar Province between groups affiliated with Jamiat-e Islam and Hezb-i-Islami (Hekmatyar faction), both of which are regularly at each other's throats in other parts of the country.

Many mujahed chiefs have failed to adapt to changing conditions while the Peshawar political parties continue to bicker. Their continued failure to establish a united front has further alienated the grass roots.

This year's unprecedented series of coordinated, mass offensives by Soviet and Afghan troops against guerrilla centers such as Herat, Ghazni, Panjshair, Logar, Kandahar, and Mazar-i-Sharif did not bring the victories the Kremlin may have hoped for. But they did show that the concept of concentrated "guerrilla strongholds" only invites vehement military reaction.

In their efforts to seal off the border with Pakistan, the Soviets have managed to block major caravan routes for weeks on end. Heliborne troops have also succeeded in laying

ambushes (note the recent capture of French journalists Jacques Aboucher), illustrating a degree of lack of precaution among mujahed fronts.

But there are guerrilla moves to diversify the war by expanding it to towns, military bases, and supply lines.

"We have got to make them feel the war throughout the country," said one guerrilla commander. "This will force them to spread out. They will then have to increase their commitments or think twice about continuing."

Certain guerrilla commanders are weeding out incompetent fighters in order to form smaller, well-trained mobile units. There are also initiatives to appoint a single overall commander for each area to coordinate operation rather than rely on the whims of individual group leaders. This is not an easy task in a movement where personal rivalries often override resistance considerations.

A recent Western visitor to the Afghan capital said that recent attacks on power lines from Sarobi, Naghlu, and other electricity plants had caused severe blackouts. Despite strict security in Kabul and government claims that all is under control, he said, nightly exchanges of small-arms' fire, rockets, and even artillery indicated the extent to which the war has reached the urban areas.

For the Soviets the conflict remains nothing more than a low-level nuisance. While some Western and Afghan sources maintain that the Kremlin has expanded its military commitment by as many as 50,000 men this year, the London-based International Institute for Strategic Studies says this expansion has not occurred. Its estimate for Soviet troop strength remains at 110,000. What may seem like new influxes, it says, are probably divisions temporarily deployed from Soviet Central Asia.

Despite rising casualties and a substantial financial burden to keep Afghanistan's economy on an even keel, the Soviets feel that if it takes years, or even decades, the resistance will eventually buckle under. As this year's third round of Geneva talks have bogged down yet again, Moscow has no intention of withdrawing nor accepting a peaceful solution except under its own terms. The Afghan resistance, for its part, maintains that it will continue fighting until the communists are forced out.

Overall, resistance morale remains relatively high. But the movement is still plagued by lack of unity, poor organization and training, meager outside support, and little international attention.

Despite claims by US officials that the Central Intelligence Agency (CIA) is running a highly effective and "daring" military assistance program to the resistance estimated at $325 million, most observers who have traveled to Afghanistan including this correspondent have not found this to be the case. It is widely held that such executive leaks concerning CIA activities are part of a general disinformation effort by the present administration to conceal their lack of impact.

American military aid has been indeed seeping through, but the weapons and ammunition tend to be of poor quality or insufficient quantity. For example, Soviet-designed weapons supplied by Western and other sources such as 82-mm mortar rounds and SAM-7 missiles have proved to be ineffective. Other supplies such as mines and heavy machine guns have been coming in from China, but appropriate weaponry and, equally important, training to maintain a sustained war of resistance have yet to be forthcoming.

ORDER OF PROCEDURE

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. BYRD. Mr. President, I have not yielded the floor. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has used his minutes under the special order.

Mr. BYRD. Mr. President, I claim my time under the leader's standing order.

The PRESIDING OFFICER. The Senator may proceed.

Mr. TOWER. If the Senator will yield, I see Senator NUNN is on the floor. We are prepared to present the conference report on the DOD authorization bill.

If the distinguished minority leader will yield further, we also would like to have Senator BAKER on the floor.

Mr. BYRD. Mr. President, I have how much time left now?

The PRESIDING OFFICER. The Senator has 7 minutes and 11 seconds.

Mr. BYRD. I thank the Chair.

THE LEBANON AND IRANIAN HOSTAGE CRISES—A COMPARISON

Mr. BYRD. Mr. President, I read with great interest Vice President GEORGE BUSH'S comments earlier this week accusing Democratic Presidential nominee, Walter Mondale, of "demagoguing the issue" of the latest Embassy bombing in Beirut.

First, the American people should be reminded that under the Carter administration every American held hostage by the Iranian regime of Ayatollah Khomeini, was returned safely to U.S. soil. By contrast, 241 Americans were killed in Lebanon in one catastrophic terrorist bombing incident in Beirut. And it was under this administration's watch. These different bombing incidents have occurred in that country in which experts agreed that security precautions were inadequate for the protection of American lives.

Second, the American people also should be reminded of Presidential candidate Ronald Reagan's performance during the Iranian hostage crisis and what he was saying beginning on January 9, 1980. Candidate Reagan was incessant in his criticism of President Carter by charging:

> How [can] a ragtag revolutionary mob invade an Embassy of ours, seize our people and now be holding them into the third month and we seem unable to do anything about it.

On January 25, 1980, candidate Reagan charged:

> The Iranians bet that Mr. Carter would be too weak to respond to an act of war. They were right. I cannot doubt that our failure to act decisively at the time this happened provided the Russians with the final encouragement to invade Afghanistan.

On March 28, 1980, candidate Reagan asserted:

> I'm not a jingo thinking of pushing the war button when it wouldn't do any good, but this Administration has dillied and dallied.

And the same President who lifted the grain boycott against the Soviet Union, which President Carter imposed after the invasion of Afghanistan, stated on March 28, 1980 that one of President Carter's alternatives was a food embargo. "That country is dependent, very basically dependent, on the import of food for feeding its people."

On April 9, 1980, candidate Reagan, responding to the Carter administration's action cutting off diplomatic and trade relations with Iran, stated:

> They're about five months too late. * * * Much of what is going on should have been done literally in the first hours.

On May 1, 1980, candidate Reagan charged:

> [The] deepening crisis in Iran, worsened by the failed rescue mission, is but a symptom of a larger crisis we face * * *. America's credibility, leadership and strength are not only being questioned by our friends, but increasingly are being tested by our adversaries.

Then on May 2, 1980, candidate Reagan suggested that the loss of "national prestige" may ultimately be more important to the United States than the lives of the hostages.

On May 6, 1980, candidate Reagan was quoted as saying:

> You have to weigh the importance of those hostages and their continuing to be held, to what it means to the United States—the possible threat to the United States, and to other Americans when seemingly someone with so little power can get away with this. Is anyone safe in an American Embassy anywhere?

Mr. President, look at the pattern. Candidate Reagan was quick to criticize, in the most vicious of terms, the taking of 52 American hostages in Iran—52 hostages who were safely returned to American soil. Now, President Reagan blames everyone else for the loss of 266 American lives in Beirut.

And what has this administration done about such a tragic series of events? As Joseph Kraft, noted in the Washington Post of September 25, 1984, this administration "speaks loudly but wields a mere twig. That incongruity, a classic case of thoughtlessness that begets peril, virtually invites the terrorist attacks that have repeatedly cost this country lives and prestige in Lebanon."

Three terrorist attacks on U.S. installations in Lebanon and 266 Americans dead. To paraphase a former candidate for the highest office of this land: You have to weigh the impor-

tance of these three bombings in Lebanon and what it means for the United States—the possible threat to the United States, and to other Americans when seemingly someone with so little power can get away with this. Is anyone in an American Embassy anywhere?

I ask unanimous consent that the articles I have cited and others be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 26, 1984]

BUSH ACCUSES MONDALE OF "PILING ON"

(By Juan Williams)

CHICAGO, Sept. 25.—Vice President Bush today accused Walter F. Mondale of "piling on" in his criticism of President Reagan about security at the U.S. Embassy annex in Beirut, but spent part of his day defending his decision not to release his income tax forms.

Before visiting a Jewish academy, Bush told reporters that Mondale and other Democratic leaders are trying to turn last week's van-bombing in Beirut to their "political advantage" by attacking the president for lax security and "going on and on" about Reagan's statement in which he compared security improvements at the embassy to a slow remodeling job on a kitchen.

"I really think there's a certain desperation on the part of Mr. Mondale," Bush said. "I don't remember out of Mr. Mondale any warnings ahead of time that, 'Hey, I'm worried our embassies are not secure . . .' I think what he is doing is hindsight, trying to capitalize on a very tragic incident."

In television interviews with local reporters, Bush said the Democratic presidential nominee is "demagoguing the issue" of the embassy bombing and trying to "tear down the president—he does it all the time." He said the attacks amount to "what they do in football—they're piling on."

Meanwhile, the director of the U.S. Office of Government Ethics said today that Bush is free to release his personal income tax forms, even though his holdings are in a blind trust. At a news conference here, Bush said he had been advised by his lawyers that the ethics office would not permit him to break the trust to make public his tax forms.

His opponent, Rep. Geraldine A. Ferraro (D-N.Y.), released her tax forms and her husband's last month.

"He can legally open that trust," ethics office Director David H. Martin said today in a telephone interview. "That is a political decision to be made by him if he wants to allow his tax returns to be examined. Then we would have to work with him to form another trust."

Bush has about $800,000 in stocks and securities in the trust in addition to about $1 million in real estate holdings, according to his lawyer, Dean Burch.

Even in light of the new information, however, Bush said he was "wary" of disclosing his tax payments, because once he knew what his holdings were he could be open to charges of conflict of interest.

[From the Washington Post, Sept. 25, 1984]

WIELDING A TWIG

President Reagan bears no direct responsibility for the repeated terrorist actions against Americans in Beirut. Neither could Jimmy Carter be fairly blamed for the seizure of the hostages in Tehran.

But much as the hostage crisis identified the moralistic qualities that comprised Carter's systematic weakness in foreign policy, so the Lebanon bombings pinpoint Reagan's fatal flaw as an international leader. The basic defect is thoughtlessness, a want of serious, steady attention, which causes the United States to play its global role with nobody in charge.

Abundant evidence testifies to lack of personal engagement by the president in international affairs. Reagan came to the White House without any previous experience in foreign business. He has not worked to make up for the deficiency. In fact, on a tour of Latin America the president seemed not to know what country he was in.

On such major matters as the Mexican debt rescue of 1982 and the shooting down of the Korean airliner last year, senior officials acted without consulting him directly. Nancy Reagan has had to prompt answers to the most simple questions. Press conference comments betray ignorance of what happened in the crucial "walk-in-the-woods" session between the chief U.S. and Soviet arms control negotiators in Geneva on July 16, 1982. Alexander Haig, in a book recounting his service as Reagan's secretary of state, likens the administration to a "ghost ship."

The foremost foreign policy failure of the administration—the failure to engage the Russians in constructive dialogue—springs directly from Reagan's insouciant attitude. On the one hand, he has been a windy talker regularly spouting the fatuous slogans of the ideological right. In that spirit, he spoke of Russia as the "empire of evil," and asserted that Moscow reserved to itself "the right to commit any crime, to lie, to cheat."

On the other hand, when pressure from public opinion and the European allies obliged him to seek a dialogue, he lacked the mastery over his own administration required for serving up negotiable positions. Even yesterday, in his powerful overture to the Russians at the United Nations, Reagan skirted encounters with the Pentagon hawks on substantive questions of arms control. Instead, the president made a pitch to Foreign Minister Gromyko for a process of meetings at high levels. In effect, he put off again, until after the election, the issues of substance.

Negligence at the top also makes Central America far more trouble—some than it needs to be. The basic policy is to isolate the Marxist-Leninists ruling Nicaragua while giving support to democratic forces in El Salvador and other countries. But, until blocked by Congress, an inattentive president let the Central Intelligence Agency sponsor actions like the mining of harbors, which smacked of Yankee imperialism and united supporters behind Nicaragua. Until pushed by the press and television, the president looked the other way when "death squads" worked their atrocities in El Salvador.

The case of Lebanon presents the same spectacle in far more tragic form. Dispatch of the Marines as a peace-keeping force had a certain logic as long as the basic security was being provided by the Israelis. When the Israelis started to pull back, however, the Marines became sitting ducks. But a president ignorant of the realities on the ground kept the forces there on the theory that withdrawal would show weakness under pressure. When the pressure actually came in the form of the terrorist action that cost more than 200 lives, the troops were yanked out under fire in a truly ignominious fashion.

The second bombing of the embassy, last week, shows a continued lack of taut attention to detail. Highly trained bodyguards in attendance on a visiting British diplomat actually knocked out the terrorist truck before it could cause a heavy loss of lives. Presumably American guards would have been similarly effective if they had been on duty at the perimeter of the compound. But American forces had been withdrawn, leaving protection in the hands of a notoriously undisciplined Lebanese force.

Direct blame, I repeat, cannot be pinned on Ronald Reagan. He had nothing to do with the episode. But as the case of blame heaped on Jimmy Carter for the hostages in Iran indicates, a symbolic responsibility applies to the president in the American system.

Reagan sets the tone of American foreign policy. He has chose to emphasize a tough stance, based on bold rhetoric, a king-sized defense program and a declared willingness to apply military pressure anywhere. But the administration shares with public opinion the Vietnam complex. It recoils from dangerous engagements. It has no stomach for committing sizable American forces to real trouble spots. It avoids the military conscription that, more than any other step, would deliver a credible message of enduring determination to resist external pressure.

Overall, in other words, it speaks loudly but wields a mere twig. That incongruity, a classic case of the thoughtlessness that begets peril, virtually invites the terrorist attacks that have repeatedly cost this country lives and prestige in Lebanon.

[From the Los Angeles Times, Jan. 25, 1980]

REAGAN SAYS CARTER IS TO BLAME FOR AFGHANISTAN—STEPS UP HIS ATTACKS; CALLS PRESIDENT "WEAK OR A FOOL"

(By Richard Bergholz)

FLORENCE, S.C.—President Carter is "weak, deceitful or a fool," Ronald Reagan said Thursday, and that is why the Russians moved into Afghanistan.

The former California governor, stepping up the tone of his attacks on the President in comments on Carter's State of the Union speech, said it all started when militants took American hostages at the U.S. Embassy in Tehran.

"The Iranians bet that Mr. Carter would be too weak to respond to an act of war," the GOP presidential candidate said. "They were right.

"The Soviet Union bet that Mr. Carter was too weak to respond to its invasion of Afghanistan. They were right."

And now, despite the President's warning to the Soviets that further intrusion toward the Persian Gulf will bring U.S. military response, Carter "is encouraging the belief that this nation will not risk war no matter what the provocation," Reagan contended.

It wouldn't be that way if he were President, Reagan said. However, he repeatedly declined to say what he would do.

But one promise he made was that in the next few weeks he will start making specific charges against Carter and, presumably, will start giving specific alternatives.

One of his objections to the presidential speech, he said, was that Carter was not specific. He said he wants Carter to define exactly what area is off limits to the Soviet

Union. He also said he wants to know why the President did not say what would happen if the Russians do not withdraw their occupation forces in Afghanistan.

What Reagan is trying to do is smoke out the President on specifics, while at the same time offering as few as he can.

The policy was worked out by the top leadership of Reagan's campaign organization after a series of telephone calls across the country Wednesday night after the Carter speech. Foreign policy advisers in Washington, New York, New England and California weighed in with their suggestions, a staffer reported.

Whatever his eventual position, Reagan now has adopted the policy of saying the problems in Iran and Afghanistan would not have developed if Carter had been firm instead of weak.

"I cannot doubt that our failure to act decisively at the time this happened (the taking of hostages in Tehran) provided the Russians with the final encouragement to invade Afghanistan," Reagan said.

Reagan also said Carter, in his speech, seemed to hold out the prospect of eventual U.S. aid to Iran if the hostages were released quickly.

"Mr. Carter is either deceitful or a fool if this is what he believes," Reagan said.

"How on earth could this Iranian government look for help from a country that does not even possess the will to act decisively when its embassy is seized and its diplomats held hostage?

"How in the world can Mr. Carter offer protection to Iran when Iran, more than any other country, knows how weak we are?"

Reagan said he now believes an "American presence" must be established in the Middle East and Persian Gulf area and that aid must be given to Pakistan.

But he does not favor ground troops being sent there now, he said.

Carter's plan for draft registration was described by Reagan as "a meaningless gesture." Reagan said he is opposed to a peacetime draft, as he has always been, and his answer to development of the military muscle to back up a new get-tough stance by the U.S. is the development of a better volunteer reserve force.

All in all, Reagan concluded, "We are seeing the same kind of atmosphere (in the White House) as when (former British Prime Minister) Neville Chamberlain went tapping his cane on the cobblestonses of Munich" during the buildup of Nazi strenght in Germany more than four decades ago.

PRESIDENTIAL CANDIDATE REAGAN ON THE IRANIAN HOSTAGE CRISIS

Candidate Reagan charged that all the steps taken by the President "over a period now of going into three months, I don't see any of those things that should not have been started within the first 24 hours. * * * How (can) a ragtag revolutionary mob invade an embassy of ours, seize our people and now be holding them into the third month and we seem unable to do anything about it? You don't wait when 50 Americans are deprived of their liberty, their pursuit of happiness and their life is threatened and they're kept in this kind of captivity."—Los Angeles Times, January 9, 1980

Candidate Reagan charged: "The Iranians bet that Mr. Carter would be too weak to respond to an act of war. They were right." He went on to say: "I cannot doubt that our failure to act decisively at the time this happened (the taking of the hostages in Tehran) provided the Russians with the final encouragement to invade Afghanistan * * * Iran, more than any other country, knows how weak we are?"—Los Angeles Times, January 25, 1980

The New York Times reported that Candidate Reagan was "extremely critical of Mr. Carter's handling of the situation in Afghanistan and Iran. * * * He also stepped up his defense of (the Shah) * * * saying in response to a question in Detroit that he would even be willing, if asked, to testify in the Shah's behalf at any formal inquiry held in United Nations. He said, however, that he preferred that the United States defend the Shah." New York Times, February 15, 1980

Candidate Reagan charged: "There must come a time if we are to get them (the hostages) back, when we tell them (Iranian leaders) this is the end of the road." He stopped short of setting a date, but insisted that the Carter Administration must at some point tell the Iranians that "there will be no further discussion of terms beyond this." "I don't know of anything that our government is doing now except praying for a miracle." New York Times, March 25, 1980

Candidate Reagan said: "I'm not a jingo thinking of pushing the war button when it wouldn't do any good, but this Administration has dillied and dallied * * *" He suggested that after diplomatic efforts had failed, the United States should have given Iran a deadline for freeing the hostages and told the government that "a very unpleasant action" would occur if the deadline was not met. Washington Post, March 28, 1980

Candidate Reagan charged that President Carter "is just sitting there waiting for a miracle and hoping that miracle will happen just shortly before the November election * * * This Administration has dillied and dallied for 5 months now, trying various diplomatic maneuvers, up to and including what I think is this illegal United Nations commission." Candidate Reagan said he was not thinking "in terms of a military invasion", but refused to give specifics. He did suggest the possibility of a food boycott. Los Angeles Times, March 28, 1980

Candidate Reagan said that he did not think the hostages would have been taken if he had been president because he would have stood behind the Shah. He said the Administration's actions during the week, cutting off diplomatic relations and trade, were moves in the right direction, "but they're about five months too late." "I think we have dillied and dallied much too long. Much of what is going on should have been done literally in the first hours." Washington Star, April 9, 1980

Candidate Reagan claimed: "I think we have dillied and dallied much too long. Much of what is going on should have been done literally in the first hours." He said he supported cutting off diplomatic relations and trade "but they're about 5 months too late." Washington Star, April 9, 1980

Candidate Reagan called the rescue mission "long overdue". "It is very difficult to understand why it took so many months to take any action at all." He said President Carter should have first tried diplomatic measures and "when these steps failed, decisive action should have been taken promptly. Instead, Mr. Carter has announced a variety of moves he planned to make. But then he delayed, vacillated, and frequently canceled these actions." He further said: "I support the President in his attempt to rescue our people in Iran * * * as a matter of fact, I would have supported it six months ago." He called the hostage crisis "a national disgrace," and used the failure of rescue mission to denounce the "deficiencies" in US weapons. He further suggested possibility of "total quarantine" of Iran. Washingon Post, May 1, 1980

Candidate Reagan charged: "Specific action to bring the hostages home was long overdue * * * It is very difficult to understand why it took so many months to take action at all * * * Our allies, those countries whose support is vital to our own self interest as a nation, had already been receiving confused signals from the Carter Administration when they learned of the rescue attempt * * * For weeks, consultation had taken the form of one-way messages from Washington * * * (The) deepening crisis in Iran, worsened by the failed rescue mission, is but a symptom of a larger crisis we face * * * America's credibility, leadership and strength are not only being questioned by our friends, but increasingly are being tested by our adversaries." New York Times, May 1, 1980

Candidate Reagan charged: "The global ramifications of this tragic episode (the failed rescue mission) take on far greater dimensions for the future and they should be deeply troubling to every American * * * America's credibility, leadership and strength are not only being questioned by our friends, but increasingly are being tested by our adversaries." New York Times, May 1, 1980

Candidate Reagan suggested that the loss of "national prestige" may ultimately be more important to the United States than the lives of the hostages. Washington Post, May 2, 1980

Reagan said the United States should not rule out "any option for any reason" to free the hostages. But he ruled out the use of military force or tactical nuclear weapons: "I don't think some of those are legitimate options because I think they would result in harm or death to the hostages." Los Angeles Times, May 3, 1980

In an interview Candidate Reagan explained: "You have to weigh the importance of those hostages and their continuing being held, to what it means to the United States—the possible threat to the United States, and to other Americans when seemingly someone with so little power can get away with this. Is anyone safe in an American embassy anywhere? * * * I just don't understand the President's words about how the burden isn't so great: it's as if, with his failed mission, is he washing his hands of it? Is he saying: 'Well, we'll continue to think about them, but there isn't anything we can do about them?' " Interview in Wall Street Journal, May 6, 1980

Candidate Reagan charged that the United States was too weak to defend Iran in case of a Soviet attack on Iran which he felt might involve Saudi Arabia and lead to WWIII. He added that, "Iran's oil isn't all that important." Wall Street Journal, June 3, 1980

Candidate Reagan charged: "I think it (hostage crisis) has been mishandled. I think all the things the President has done over these long months were things that should have been done in the first few days. But some place along the line there had to be an ultimatum. Here again, because we have lost so much influence with friends and allies, we were not in a position to go to the rest of the world and say look, this is a violation of international law, and present

to them the idea of the world literally quarantining." Time June 30, 1980

In his acceptance speech to the 1980 Republican convention Candidate Reagan declared: "Incredibly more than 50 of our fellow Americans have been held captive for over eight months by a dictatorial foreign power that holds us up to ridicule before the world. * * * The Carter Administration lives in a dream world of make-believe. Every day, drawing up a response to that day's problems, troubles, regardless of what happened yesterday and what will happen tomorrow * * * disasters are overtaking our nation without any real response from Washington." Acceptance Speech to 1980 Republican Convention.

Candidate Reagan accused the Carter Administration of "grandstanding" in its handling of the hostage situation. "All the moves that have been made since to try to get them out, I think were kind of grandstanding * * * What you say in a situation of that kind—and don't say it in the newspaper—you say it directly to them: 'We want our people back and we want them back today or the results are going to be very unpleasant.'" Washington Post, September 10, 1980

According to the Washington Star: "Reagan noted that he believed that the United States should not have negotiated with Iran until after release of the hostages. But he added that negotiations have been underway for eight months so his preferred policy is not currently 'a subject for debate.'" Washington Star, September 14, 1980

Candidate Reagan charged that President Carter helped "pull the rug out" from under the former Shah of Iran which produced the crisis between Iran and Iraq. He then argued that the taking of the hostages, which he termed "the next great error of this administration" after abandoning the Shah—could have been averted if the President had heeded warnings. "What is happening (in the Middle-East) * * * is the consequence of policies this Administration has followed the last three and a half years. A vacillating foreign policy and a weekend defense capability are largely to blame." Candidate Reagan also criticized President Carter for his "feeble attempts" to secure the release of the hostages after they were captured and said that the President should have immediately made clear that, "no nation could continue to have friendly relations with Iran and have friendly relations with the United States." Washington Star, September 25, 1980

Question: "Why would the Iranians prefer a Carter Presidency to a Reagan Presidency?"

Candidate Reagan answered: "Maybe just on the basis of some of my criticisms of the Carter Administration and the fact that I have been rather outspoken in my belief that this country should have stood by the Shah's government." Interview in New York Times, October 2, 1980

Question: "Is there anything that you would have done differently in an attempt to get them (the hostages) out?"

Candidate Reagan answered: "Yes—everything. We let the Shah's government fall—or even helped it fall—and then didn't take the action we should have when we were warned of the possible threat to our embassy. After the takeover, the moves we made were weak and vacillating. To me, that is the trademark of the whole foreign policy of the Carter Administration * * *" Interview in U.S. News & World Report, October 6, 1980

Candidate Reagan called Iran "a humiliation and a disgrace to this country." He charged that President Carter's foreign policy was responsible: "I believe that the Administration's foreign policy helped create the entire situation." Asked what he would do, Reagan refused to give specifics. He further charged: "I don't understand why 52 Americans have been held hostage for almost a year now." Washington Star, October 21, 1980

Candidate Reagan charged: "I think his (President Carter's) foreign policy, his vacillation, his weakness, his allowing our allies throughout the world to no longer respect us, there's far greater danger of that unwanted inadvertent war through that kind of a weak policy." Washington Post, October 21, 1980

Candidate Reagan charged: "I believe that this (Carter) Administration's foreign policy helped create the entire situation that made the kidnap possible * * * I think the fact that they've been there that long is a humiliation and disgrace to this country." Later that day he said, "I'm convinced that the greatest risk of war comes from the kinds of foreign policy we have today under this Administration where our friends don't know whether they can trust us * * * (and) our adversaries certainly don't respect us." Washington Post, October 22, 1980

Asked if he had a plan to free the hostages, Candidate Reagan responded: "I wouldn't just stand there and do nothing." Chicago Tribune, October 22, 1980

Candidate Reagan accused President Carter of exploiting the hostage crisis for political purposes: "The man who's trying to make a political issue of this at the present is the President of the United States." He went on to say that he was not going to discuss the hostages "because right now it is so obvious how they're trying to make a political issue of this—and with 52 human beings at stake." Chicago Tribune, October 23, 1980

According to the Chicago Tribune: "Television spots of Reagan criticizing Carter's handling of the hostage situation have been prepared." Chicago Tribune, November 3, 1980

On at least two occasions Ronald Reagan defended the right to criticize a President's foreign policy.

During the 1976 presidential election, Secretary of State Henry Kissinger assailed Candidate Reagan for attacking détente. Reagan responded: "If our foreign policy can be ruined by telling the people the truth about it, then it can't be much of a foreign policy * * * I'm trying to call the people's attention to a danger that threatens this country." Los Angeles Times, March 12, 1976

During the 1980 presidential election, President Carter charged that Candidate Reagan's criticisms of his Administration's foreign policies were playing into unfriendly foreign hands. Reagan responded: "I'm going to quote Harry Truman: 'If you can't stand the heat, get out of the kitchen'. * * * I don't think any criticism of mine gave aid and comfort to the enemy." Washington Star, April 11, 1980

Vice President George Bush was also very critical of President Carter's handling of the hostage crisis. Attached is a partial transcript of a "Meet the Press" program on which he appeared which contains some of his criticisms.

[From the Los Angeles Times, Jan. 9, 1980]

REAGAN STEPS UP CRITICISM OF CARTER

(By William Endicott)

NASHUA, N.H.—After a weekend strategy meeting in Los Angeles between Ronald Reagan and his top aides, Reagan's Republican presidential campaign took a new turn Tuesday with a stepped-up attack on President Carter's handling of the crises in Iran and Afghanistan.

There reportedly had been some disagreement between Reagan and his aides about just how tough the candidate should get, since he persistently has said he wanted to do or say nothing that might endanger the American hostages in Iran.

But Reagan used some of his harshest language to date here Tuesday, and earlier in Davenport, Iowa, in blaming Carter for the continued imprisonment of the American hostages in Iran and for a response to the Soviet Union's moves in Afghanistan that he characterized as too meek.

In both cases, he sidestepped questions about how he would deal with the crises if he were in the White House, but he described the Carter Administration foreign policy as "virtually nonexistent * * * hesitant * * * vacillating."

On Iran, the former California governor said that of all the steps taken by the President "over a period now of going into three months, I don't see any of those things that should not have been started within the first 24 hours."

Said Reagan: "How (can) a ragtag revolutionary mob invade an embassy of ours, seize our people and now be holding them into the third month and we seem unable to do anything about it * * *?

"You don't wait when 50 Americans are deprived of their liberty, their pursuit of happiness and their life is threatened and they're kept in this kind of captivity. This was an act of war."

On Afghanistan, the front-running GOP candidate said Carter is following the same pattern of "inadequate responses and an admission that we have no contingency plans for things of this kind.* * * We just react, always after the fact."

Again, Reagan refused to offer his own options, saying that "unless you're in that job, you don't know what the options are." But he said the U.S. response to the Soviets should have been quicker and "more forceful." He did not elaborate.

He suggested to reporters, however, that because the Russians have violated the United Nations Charter by committing "armed aggression against another country" they should be expelled from the United Nations. "Why don't we tell 'em to get out because they no longer meet the requirements of the charter," he said. The President, he said, has "discovered the Soviet Union cannot be trusted, something most of us were aware of for quite some time past."

Reagan looked relaxed and fit after an almost three-week absence from campaigning during the Christmas holidays, and when a reporter in Iowa asked him to comment on suggestions by some people that, at 68, he is too old to be President, the candidate, grinning, shot back, "Do they want to arm wrestle?"

An editorial in the Quad-City Times in Davenport, Iowa, Tuesday morning criticized Reagan for refusing to take part in last Saturday's debate in Des Moines between six other republican candidates, saying that "many should and will charac-

terize his absence as a cowardly attempt to maintain a lead in the polls."

There also have been other suggestions from national press reports that the only loser in the debate was the absent Reagan.

However, his support in Iowa appears to be as strong as ever. It was evident in Davenport on Monday night when more than 2,000 pesons jammed the Palmer Auditorium to hear him speak. Massachusetts Sen. Edward M. Kennedy, the Democratic challenger to Carter, drew only half that many a week earlier.

Precinct caucuses, which will begin the process of choosing Iowa's 37 delegates to the Republican National Convention, are scheduled Jan. 21 and Reagan still is expected to do well despite a significant challenge being mounted by former Ambassador George Bush.

[From the New York Times, Feb. 15, 1980]

REAGAN WOULD BAR AN APOLOGY TO IRAN

(By Wayne King)

BURLINGTON, VT, Feb. 14.—Former Gov. Ronald Reagan of California said today that he felt strongly the United States should issue no apology to Iran in exchange for the release of the Americans held hostage there.

"There must be better ways to get them back," he said in a news conference here.

Earlier, in New Hampshire, the Governor said, "I hope that the United States will not give up too much of its honor to get them back," and strongly defended the deposed Shah of Iran.

The Governor returned to New England today on the second day of a grueling 18-day swing intended to dispel any lingering suspicion that he regards himself as above the battle, a suspicion that appeared to have cost him support in Iowa.

MORE TIME IN STATE

At stops in Merrimack and Amherst, N.H., the Governor was at pains to emphasize that he would spend twice the time in the state in the closing days of the campaign as he did in 1976.

The 13 days he will spend here will bring to 17 the number he has spent in the state since November, when he campaigned here for a single day. Despite the stepped-up February schedule, this falls short by two days of his pace of 1976, when he spent 19 days here.

The 18-day trip is in sharp contrast to the four-day trips that had been the norm in his campaign. That relative leisurely pace led to concern among his staff that he was being perceived as aloof and was giving the appearance of conserving his energy, aggravating the "age issue" that is already of concern to a significant number of voters.

Mr. Reagan's schedule carries him through to March 3, with a respite only on Sundays, which will be given over to church and to staff briefings.

POLL SHOWS HIM TRAILING

The campaign swing is heavily weighted to New Hampshire, with sorties into Vermont and Massachusetts, where a recent poll by The Boston Globe showed him trailing George Bush by a stunning 45 points. But he will make brief excursions into Florida, Georgia and South Carolina at the end of the swing before returning to Los Angeles for a few days before taking to the road again. He has played to sizable and generally enthusiastic crowds—he attracted some 1,500 to a $75-a-plate fund-raiser in Detroit last night—driving home his conservative litany of huge tax cuts, less government regulation, and a tougher military and foreign policy. He has been particularly critical of Mr. Carter's postponement of weapons systems.

He has also been extremely critical of Mr. Carter's handling of the situation in Afghanistan and Iran, suggesting as "one option" a blockade of Cuda in response to the invasion of Afghanistan. He said he felt such a move would not lead to war with the Soviet Union.

He also stepped up his defense of Shah Mohammed Riza Pahlevi, saying in response to a question in Detroit that he would even be willing, if asked, to testify in the Shah's behalf at any formal inquiry held by the United Nations. He said, however, that he preferred that the United States defend the Shah.

However, when that issue was raised at the news conference here, the Governor said the matter was purely hypothetical and he could foresee no situation in which he would be asked to give testimony.

He also declined to say that he had knowledge that charges of brutality by the Shah and Savak, his security policy, were false, but he said that he again emphasized that the Shah had been an ally of the United States for more than 30 years, going back to the Truman Administration, and said that he did not feel that he should be abandoned now. He also emphasized reforms the Shah had instituted in his country, rather than the accusations of brutality.

[From the New York Times, Mar. 25, 1980]

REAGAN SEES NEED FOR PRESIDENT TO DRAW THE LINE WITH IRAN ON HOSTAGES

(By Douglas E. Kneeland)

ALBANY, March 24.—Ronald Reagan declared today that the Carter Administration had been reduced to "praying for a miracle" in its attempts to recover the 50 American hostages from Iran.

The former California Governor, who usually voices reluctance to comment on President Carter's handling of the situation, told members of the Central New York Press Association in Syracuse that the Administration's willingness to negotiate various differences with the Iranians had permitted them to use "salami tactics," slicing off one gain after another without releasing the hostages.

"There must come a time," said Mr. Reagan, "if we are to get them back, when we tell them this is the end of the road."

BOYCOTT ALTERNATIVE SUGGESTED

Although he stopped short of setting such a date, Mr. Reagan insisted that the Administration must at some point tell the Iranians that "there will be no further discussion of terms beyond this."

After that, Mr. Reagan said, the United States should start applying pressure on Iran, "including a boycott and so forth."

Mr. Reagan, who brought his campaign for the Republican Presidential nomination back to New York State for late-hour stumping before tomorrow's primary, made his comments in response to questioning at the press association meeting. He had been asked what effect he thought the flight of the former Shah of Iran from Panama to Egypt would have on the plight of the hostages.

Although Iranian officials have indicated that the Shah's movement could further delay the release of the captives, Mr. Reagan said:

"I can't see why it would have any effect on the hostage situation—the Shah's taking up residence there."

Then, he added, after explaining that he had always favored permitting the Shah to enter this country when he was forced to leave Iran:

"However, I don't know of anything that our Government is doing now in regard to the hostages except praying for a miracle."

Mr. Reagan flew back to New York State this afternoon after a weekend of campaigning in Wisconsin and Kansas, which have primaries scheduled for April 1, and in Oklahoma, which begins on April 7 the process of picking Republican delegates for next summer's national convention and caucuses.

In New York State he was concentrating, in visits to Auburn, Syracuse, Albany and Bear Mountain, on districts where his delegate slates are opposed either by uncommitted slates or by one committed to George Bush.

Tomorrow, Mr. Reagan will fly to Buffalo, where he will hold an airport news conference in another contested district. He will then go to Texas, where he is expected to be endorsed by John B. Connally, the former Governor of Texas who has dropped out of the contest for the nomination.

Later tomorrow Mr. Reagan will fly to Wisconsin to continue his campaign there.

[From the Los Angeles Times, Mar. 12, 1976]

REAGAN ASSERTS RIGHT TO RAP U.S. POLICY

(By Richard Bergholz)

MADISON, WIS.—Secretary of State Henry A. Kissinger is wrong if he thinks criticism of American foreign policy is misguided and should be stopped, Ronald Reagan said Thursday.

"If our foreign policy can be ruined by telling the people the truth about it, then it can't be much of a foreign policy," the Republican presidential candidate told newsmen here while campaigning.

The former governor of California was responding to Kissinger's charge, made earlier Thursday in a speech in Boston, that, if political attacks on U.S. foreign-military policy continue, "the results will be paralysis, no matter who wins in November."

"For a while there, I thought I was running against Bo Callaway (Howard H. Callaway, President Ford's national campaign chairman)," Reagan said, referring to Callaway's early attacks on Reagan's candidacy.

"And then I was left with just Mr. Ford to run against.

"Now I've got Kissinger to run against."

Reagan made it clear that he thought Kissinger was involving himself in the presidential campaign and that whatever his complaints were, they were motivated more by President Ford's concern about gaining the nomination over Reagan than by concern about the effect abroad of Reagan's criticisms.

Kissinger's complaints constituted an "oversimplified, sterile and misleading charge." Reagan said, picking up some of the words used by the secretary of state in his speech.

"I'm trying to call the peoples' attention to a danger that threatens this country," he said, "and I'm not alone. Don't think I'm telling the Russians anything they don't already know, so I don't see what is wrong."

Reagan argued that, under Ford and Kissinger, the United States has lost its military superiority over the Soviet Union, which makes the policy of detente unworkable.

"Detente was based on our dealing from strength, that we had military superiority over the Soviet Union," Reagan said. "We do not have to make concessions."

"We could legitimately offer a concession to the Soviet Union, in return for a concession aimed at lessening tensions. But now, when there is no reason for the Russians to make a concession in return because we no longer have pre-eminence in power, then it is a policy that should not be continued."

Reagan denied Kissinger's charge that critics have not said what they would do in lieu of the existing policy.

"I think I've been very clear," Reagan said.

He referred to his campaign statements that the President should not have signed the Helsinki Pact, which ratified Communist control over Eastern European countries, to his argument that the United States should not negotiate with Panama over treaty provisions affecting the Canal Zone, and to his charge that Ford was wrong in signaling a relaxation of tensions with Cuba.

"Surely he (Kissinger) doesn't deny the American people have a right to know about our foreign policy."

As for Kissinger's suggestion that some of the foreign policy criticism is politically motivated, Reagan said that is not the case as far as he is concerned

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[From the Los Angeles Times, Mar. 28, 1980]

CARTER DILLYDALLIES ON HOSTAGE CRISIS, REAGAN CHARGES

(By Douglas Shuit)

MILWAUKEE.—Ronald Reagan, stepping up his attack on the Carter Administration's foreign policy, Thursday accused the President of dillydallying for the five months that American hostages have been held in Tehran.

Reagan, campaigning here for the April 1 Wisconsin GOP presidential primary, said Carter did not act decisively against Iran in the first days after the capture of the hostages. "And now apparently he's just sitting, waiting for a miracle and hoping that miracle will happen just shortly before the November election," he said.

"This Administration has dillied and dallied for five months now, trying various diplomatic maneuvers, up to and including what I think is this illegal United Nations commission."

Reagan, however, has refused to present specific proposals of his own to win release of the hostages.

But he told a press conference here that he was not thinking "in terms of military invasion."

Reagan, in his strongest comments on the Iranian crisis in recent weeks, said, "I am not a jingo thinking of pushing the war button when it wouldn't do any good to get them back."

Reagan said that one of Carter's alternatives was a food embargo. "That country is dependent, very basically dependent, on the import of food, feeding its people."

[From the Washington Post, Mar. 28, 1980]

REAGAN REJECTS MILITARY ACTION TO FREE IRAN HOSTAGES

(By Lou Cannon)

March 27.—Republican presidential candidate Ronald Reagan said today that the alternatives available to the United States in Iran do not include direct military action to free the hostages.

At a press conference here, Reagan said he realizes it would be militarily impossible to conduct an "Entebbe-like raid" that would free the Americans being held hostage in the U.S. Embassy. He said he understood that such an operation would likely cost the lives of the hostages.

But Reagan, in renewed sharp criticism of the Carter administration on the Iranian issue, said there were many options available to put pressure on Iran which the president had refused to take. Among those he said were embargoes of food and oil to Iran and a naval blockade.

"I'm not a jingo thinking of pushing the war button when it wouldn't do any good," Reagan said. "But this administration has dillied and dallied for five months now . . ."

Reagan has said repeatedly on the campaign trail that everything the administration has done to free the hostages could have been done within the first 48 to 72 hours after their capture. He has said that if diplomatic efforts failed during this period, the United States should then have privately given Iran a deadline for freeing the hostages and told the Iranian government that "a very unpleasant action" would occur if the deadline was not met.

However, Reagan repeatedly has refused to say what that action would be on the grounds that only the president would know the full range of alternatives necessary to make such a decision. Reporters have been pressing him for details of what he would do, and even some of Reagan's advisors have acknowledged privately that he has been unspecific on the issue.

When the issue arose today, Reagan seemed far readier than in the past to assure he was not talking about military intervention in Iran.

Reagan said the administration appeared to have no plan to free the hostages and was now "waiting for a miracle to happen before the November election."

[From the Washington Star, Apr. 9, 1980]

CARTER IS 5 MONTHS LATE ON IRAN, REAGAN SAYS

(By Mary Thornton)

Republican presidential candidate Ronald Reagan charged yesterday that President Carter's latest actions against Iran should have been taken within hours of the seizure of U.S. hostages in Tehran more than five months ago.

Reagan added that he didn't think the hostages would have been taken if he had been president, because he would have stood behind the shah's government during the revolution that brought the current Iranian regime to power.

In a speech to 600 members of the American Society of Newspaper Editors, which is meeting this week at the Washington Hilton, Reagan said he saw a "new coalition" developing in American politics, and "it is coming our way."

The Republican front-runner was critical of Carter's economic and foreign policies. On Iran, Reagan said Carter's actions this week—cutting off diplomatic relations and trade—were moves in the right direction, "but they're about five months too late."

"I think we have dillied and dallied much too long. Much of what is going on should have been done literally in the first hours," he continued.

Reagan said that except for taking the latest actions earlier, he didn't know how he would have handled the Iranian situation differently. "Unless you're there and have access to the information and options that only the president has, I can't make a proposal or suggestion," he said.

After first supporting and later backing away from Carter's plan to boycott the Moscow Olympics this summer because of the Soviet invasion of Afghanistan, Reagan told the editors yesterday that he now approves of Carter's move.

"I've always favored the boycott," Reagan said, "but I had hoped our country would be able to persuade other countries to join in holding the games at an alternative location.

"There was something about a president of the United States saying to free Americans that they couldn't leave our country. I didn't like that. I would rather see the Olympic Committee and the athletes persuaded not to go."

Concern over the economy, Reagan said, is forging a base of support for him much broader than his historical conservative core. He said that coalition, "which may foreshadow a major change in American politics," includes blue-collar workers, ethnics, Democrats and independents with conservative values.

"On the farm, in labor unions, in white-collar offices, in the suburbs and in the older neighborhoods themselves, there is a new coalition and I believe it is coming our way," Reagan said.

He criticized Carter's new budget cuts, asking: "If those $15 billion worth of items can be cut from Mr. Carter's recently presented austere budget, why were they there in the first place?"

Asked what role his wife Nancy would play if he were elected president, Reagan replied, "I'm happy to say she would consider her first responsibility being Mrs. Reagan."

He added that while he was governor of California, Mrs. Reagan worked on foster grandparents project and wrote a newspaper column to raise money for a POW families' program. "I think Nancy would find things of that kind to do," Reagan said, "but she wouldn't attend Cabinet meetings."

[From the Washington Post, May 1, 1980]

REAGAN: ACTION TO RESCUE HOSTAGES "LONG OVERDUE"

(By Lou Cannon)

EL PASO, TEX.—April 30.—Ronald Reagan said today that American action to rescue the hostages was "long overdue" and suggested it may now be necessary to impose "a total quarantine" on Iran.

In a statement, Reagan blamed indecision by President Carter for the long captivity of the 53 Americans held hostage in Tehran.

"It is very difficult to understand why it took so many months to take any action at all," Reagan said.

"During the first few days, the president should have determined whether diplomatic steps would be sufficient to free our citizens," Reagan said. "When these steps failed, decisive action should have been taken promptly. Instead, Mr. Carter has announced a variety of moves he planned to make. But then he delayed, vacillated and frequently canceled these actions."

In a rally here before the news conference, Reagan made a similar point.

"I support the president in his attempt to rescue our people in Iran," Reagan said to applause. "As a matter of fact, I would have supported it six months ago."

Later, in Midland, Reagan endorsed a U.S. Senate investigation into why the rescue attempt failed. He also said he would not rule

out another attempt to free the hostages by force.

"I wouldn't rule out anything that would have a possibility of rescuing those hostages," Reagan said, ". . . This is a national disgrace."

Reagan said the failure of the rescue attempt had "global ramifications" which go beyond the fate of the hostages. He said that the confidence of U.S. allies had been shaken by the "confused signals" which they had received from the Carter administration.

Reagan said he did not know whether the appointment of Sen. Edmund S. Muskie as secretary of state was a step toward restoring this shaken confidence.

"It came as a complete surprise to me," Reagan said. "All of us will hope he's most successful because we need success right now."

While Reagan said he would not make any tactical criticism of the failed rescue mission in Iran, his speech to the rally and his statements to reporters referred repeatedly to "deficiencies" in U.S. weapons, equipment and ammunition.

He said the failure of the Carter administration to maintain the strength of the U.S. military establishment was partly responsible for the nation's present crisis but declined to say specifically that this had been a reason for the failure of the rescue attempt.

Reagan did not detail what the United States should now do to free the hostages. However, he implied that stronger measures are necessary.

"If it a total quarantine, so be it," Reagan said.

Reagan arrived in Texas today on a private plane, The Free Enterprise II, after a three-day rest in California. His schedule has been sharply revamped to give him more time campaigning in Fort Worth and Houston, where George Bush is believed to be making inroads.

Ernie Angelo, Reagan's Texas campaign manager, said today that he thought Bush had a good chance of winning five or six of the state's 24 congressional districts and as many as a dozen of the 80 Texas delegates to the Republican National Convention.

This is double the estimate of Bush's strength that Angelo made a week ago.

Campaigning in Texas on Tuesday, Bush asked Reagan to denounce anti-Bush leaflets which link him to the Trilateral Commission and call this international group a "one world conspiracy."

Today, Reagan brushed aside this criticism.

"I have never seen any of the literature he's talking about," Reagan said. "The only person I've seen raise the Trilateral issue is George Bush and maybe he should tell us why he resigned." Reagan also was asked to comment on a statement a reporter attributed to Carter, which said the president would now campaign because the crises which kept him in the White House are under control.

"I guess that's as good an excuse as any for getting out of the Rose Garden," Reagan said.

[From the New York Times, May 1, 1980]

REAGAN SAYS CARTER ACTED TOO LATE WITH IRAN MISSION

(By Douglas E. Kneeland)

EL PASO, April 30.—Ronald Reagan sharply criticized President Carter today for not acting months earlier to rescue the American hostages in Iran.

Mr. Reagan, arriving here this afternoon for a swing through the state to campaign for Saturday's Republican Presidential primary, told about 300 people at a rain-shortened rally at El Paso Airport that he would have supported the President "six months ago, if he had done that."

Then, moving indoors for a news conference, he heightened his criticism of the President, asserting that "specific action to bring the hostages home was long overdue."

"It is very difficult to understand why it took so many months to take action at all," Mr. Reagan said. "During the first few days, the President should have determined whether diplomatic steps would be sufficient to free our citizens. When those steps failed, decisive action should have been taken promptly. Instead, Mr. Carter has announced a variety of moves he planned to make. But, then he delayed, vacillated and frequently canceled those actions."

SEVEREST CRITICISM YET

Although Mr. Reagan said that he still supported the President's attempt to rescue the hostages last week and he deeply regretted that the mission failed, today's criticism was his harshest yet of Mr. Carter's handling of the Iranian crisis.

"I do not intend to comment at this time on the technical aspects of the aborted rescue attempt except to say that our hostages today, after six long months of imprisonment, continue in grave peril," Mr. Reagan said.

The former California Gcvernor said that while the safety of the hostages was the focus of immediate concern, as it should be, "the global ramifications of this tragic episode take on far greater dimensions for the future and they should be deeply troubling to every American."

"Our allies, those countries whose support is vital to our own self-interest as a nation, had already been receiving confused signals from the Carter Administration when they learned of the rescue attempt," he said. "For weeks, consultation had taken the form of one-way messages from Washington. One of the Administration's on-again, off-again communiques relating to joint efforts for dealing with the Iranian problem was delivered—not by diplomatic pouch—but on European television by President Carter himself, a novel way to inform heads of state about American intentions."

"SYMPTOM" OF BROADER CRISIS

Mr. Reagan said that the "deepening crisis in Iran, worsened by the failed rescue mission, is but a symptom of a larger crisis we face."

"America's credibility, leadership and strength are not only being questioned by our friends, but increasingly are being tested by our adversaries," he said.

"This sobering development has caught the rapt attention of friend and foe," he added. "It is against this historic backdrop that we now enter one of the most dangerous decades of western civilization."

[From the Washington Post, May 2, 1980]

REAGAN, TALKING TOUGH, CALLS CARTER DECEPTIVE ON DEFENSE

(By Lou Cannon)

RICHARDSON, TEX., May 1.—Ronald Reagan talked tough in Texas and Tennessee today, accusing President Carter of deceiving the American people with a phony increase in the U.S. defense budget.

As he campaigned in military-minded Texas two days before the Republican primary here, Reagan also suggested at one point that the loss of "national prestige" in the Iranian crisis may ultimately be more important to the United States than the lives of the 53 hostages.

Reagan's charges about the defense budget were based on a contention that Carter was achieving a pledged 3.1 percent boost in the 1981 fiscal year defense budget by artificially lowering the 1980 budget.

"The Carter White House didn't want an honest increase." Reagan said. "So, it demanded that the Defense Department carry out a deceptive bookkeeping trick."

Reagan said that there has been no real increase in defense spending, despite Carter's promises to the American people to do so.

After the news conference in which Reagan made these charges, his aides cited an April 8 memo by John Quetsch, deputy comptroller for the Department of Defense, to Secretary of Defense Harold Brown. The memo discusses 1980 defense budget decreases, apparently politically motivated, that would have the effect of making the increase in the 1981 budget seem larger in percentage terms.

The contents of this memo previously have been reported by various newspapers, including The Washington Post.

Reagan's allegation was part of a concerted attack he has been making on Carter on the national defense issue, which in Johnson City, Tenn., later today, he called one of the central issues of the presidential campaign. While Carter has been saying he will keep the nation's defense "second to none" said Reagan. "it is already second to the Soviet Union."

[From the Los Angeles Times, May 3, 1980]

REAGAN RULES OUT MILITARY FORCE IN IRAN

(By Willian Endicott)

HOUSTON.—Ronald Reagan said Friday that the United States should not rule out "any option for any reason" to free the American hostages in Iran.

But under questioning from reporters, he quickly ruled out the use of military force or tactical nuclear weapons.

"I don't think some of those are legitimate options because I think they would result in harm or death to the hostages," the Republican presidential candidate said. "I'm speaking of options that will give us a reasonable chance to bring back those people alive.

"On the other hand, I have always said this: We should never tell the adversary what we won't do."

Reagan campaigned in Tennessee and Texas on Friday in the company of former Texas Gov. John B. Connally and indicated that he is growing increasingly irritated at his only remaining GOP challenger, George Bush.

Bush has been sharply critical of Reagan in Texas, Bush's home state, and has accused Reagan's campaign staff of spreading "hateful" literature questioning Bush's membership on the Trilateral Commission.

"These people are distributing this all over—these discouraged, little, conspiratorial people spreading their venom." the former U.N. ambassador and CIA director said earlier this week in Austin.

But Reagan has consistently denied any knowledge of the literature and said Friday that he wished Bush "would accept my word that we don't know anything about this Trilateral issue."

The Trilateral Commission, headed by New York banker David Rockefeller, is an

international organization attempting to foster closer economic ties among the United States, Japan and Western Europe. But it is viewed by ultraconservatives as a one-world conspiracy and has become a major issue in today's Republican primary election in Texas.

Reagan flew here for one last afternoon of campaigning on the eve of the primary after speaking at a $250-a-plate fund-raising dinner for Connally and Sen. Howard H. Baker Jr. in Nashville, Tenn., on Thursday night and at an airport rally Friday morning in Memphis.

Connally and Baker, both of whom have endorsed Reagan, are trying to retire deficits from thier own aborted presidential campaigns. They split $70,000 from the Nashville dinner.

At a press conference on arrival in Houston, the oil capital of the nation, Reagan called the Carter Administration's energy-conservation measures, such as turning down thermostats and driving less, "privation" instead of conservation and said the answer to the energy shortage is to increase domestic oil production.

[From the New York Times, June 2, 1980]

REAGAN SEEKS TO STRESS ARMS ISSUE WITHOUT SEEMING "TRIGGER-HAPPY"

(By Howell Raines)

ST. LOUIS, May 31.—Here, as in most cities, Ronald Reagan's voice thickened with emotion as he came to the point in his standard speech where he describes what he calls the strongest yearning of his life: "That is to say to the world there will be no more Taiwans. There will be no more Vietnams. There will be no more betrayal of friends and allies by the United States Government."

The Republican Presidential candidate and his aides recoil at the suggestion that this is a call to arms. Campaigning in Ohio, New Jersey and California this week, Mr. Reagan insisted that his goals were not "warlike" or "hostile" and that he was not "trigger-happy."

Such remarks point up two important aspects of Mr. Reagan's candidacy that have come into sharp focus over the last week, as the former California Governor, assured of his party's Presidential nomination, prepared for a battle in the general election campaign with his presumed Democratic opponent, President Carter.

First, Mr. Reagan has clearly decided that the centerpiece of his foreign policy will be military preparedness, or what an aide called "the strategic high ground of rebuilding our national military security." The policy calls for the United States to resume its role as a global protector of its allies, and Mr. Reagan plans, according to an aide, to fashion the preparedness issue into "a tin can tied around Carter's tail."

EXPECTING FIERCE ATTACK

Second, the Reagan campaign expects Mr. Carter and his surrogates to wage a fierce counterattack that will attempt to depict the Republican as a restless, militaristic ideologue who might blunder into war. That is the reason Mr. Reagan frequently defends his judgment, and the reason Mr. Reagan's aides seize every opportunity to describe the Californian as a calm, pragmatic apostle of "peace through strength."

This emphasis is intended to protect Mr. Reagan against charges of warmongering that, the candidate and his staff believe, were used so effectively against another conservative Republican in 1964. "I don't think Barry Goldwater was defeated because he was a conservative," Mr. Reagan said Wednesday in an interview, but because his opponents "succeeded in creating an image of him as a dangerous radical."

In offering himself as the candidate of military strength, while also guarding himself against charges of recklessness, Mr. Reagan has developed a rhetoric of implied force that is at once fervent in its call for increased military power and vague as to how he, as President, would use that power.

In a typical speech, Mr. Reagan asserts that "what this Administration has done to the domestic economy is infinitesimal to what has been done on the international scene to this country of which we were once so proud." Then, invoking the specter of an America so weak that its President must surrender by telephone to the Soviet Union. Mr. Reagan calls for a "crash program," to rebuild the nation's military arsenal and to strengthen the professional Army to a point where it would intimidate the Soviet Union.

Within this framework, Mr. Reagan criticizes Mr. Carter's military response to the Iranian crisis as soft and slow, and he ridicules the President's "standing for" Soviet troops in Cuba and Afghanistan. As with his statement on the protection of allies, the implication is that Mr. Reagan, as President, would not hesitate to use military force as soon as diplomatic remedies fail, as he puts it.

But very rarely does Mr. Reagan venture a proposal as specific as his mention a few weeks ago of a blockade of Cuba. According to Jim Brady, the issues adviser who travels with Mr. Reagan, this reflects a tactical decision that the Californian should always avoid precise answers on the military actions he would order as President.

"I can't envisage a scenario where you"—that is, the candidate—"would be specific," Mr. Brady said. In the fall campaign, he continued, when Mr. Reagan is asked how he would handle a given military situation, his likely answer will be, "I am not privy to the day-to-day intelligence information that a President would have, and it's very hard to respond to a hypothetical situation."

Mr. Reagan took that approach when he was asked yesterday to elaborate on his no-more Vietnams pledge by describing the circumstances in which he would use combat troops or naval or air strikes to defend an ally. "Well, it's a little bit like a Governor with the National Guard," he said. "You use whatever force is necessary to achieve the purpose, and I would like to feel that there wouldn't be a need for using armed force if we made it apparent that we have the will if necessary to do that."

"I AM NOT TRIGGER-HAPPY"

Then, asserting that he would use force only to protect national security, Mr. Reagan added, "But I am not trigger-happy and not one who is going to rush out and wave a blood-soaked sword and yell, 'Onward, men,' and I don't think it's necessary."

Representative John H. Rousselot, a hawkish conservative who campaigned with Mr. Reagan recently, has said that it is important for his fellow Californian to convince voters that he is "not going to be a wild President."

This week, Mr. Reagan was careful to say that the military buildup he advocated was essentially defensive in nature. "Now, does this make us warlike or hawklike?" he asked in Columbus, Ohio. "Not at all. The simple truth is the primary goal must be world peace, and it happens that we're the only nation on earth that can preserve the peace." To fill that role, he concluded, "we have to be so strong that no other nation on earth will dare violate the peace."

VISION OF A MIGHTY POWER

Almost invariably, Mr. Reagan's voice grows coarse with feeling in this passage of the speech. Often, he drops the last reference to peace and proposes a national defense so strong "that no nation in the world will dare lift a hand against us."

This kind of proposal ranks only slightly behind the economy in pulling voters to Mr. Reagan, according to key grass-roots political workers. Citing polls, they say that the voters trust Mr. Reagan too much to worry about what military orders he might give.

And State Representative Donna Pope, the Reagan co-chairman in Ohio, says concern that Mr. Reagan may be overly fond of military solutions is receding rather than growing. "Oh, once in a while you hear a college student use the term trigger-happy," she said, "but that's about it."

[From the Washington Post, Sept. 10, 1980]

REAGAN FAULTS ADMINISTRATION ON HOSTAGES

Campaigning for votes in a Polish neighborhood in Milwaukee yesterday, Republican presidential nominee Ronald Reagan accused the Carter administration of "grandstanding" in its handling of the hostage situation.

At the end of a stump speech he gave in front of a firehouse, Reagan responded to a shouted question from the audience by saying that the administration had been responsible for the events that led to the taking of hostages at the U.S. Embassy in Iran last year.

"All the moves that have been made since to try to get them out, I think were kind of grandstanding," Reagan said. ". . . What you say in a situation of that kind—and don't say it in the newspapers—you say it directly to them: 'we want them back today or the results are going to be very unpleasant'."

The remark was Reagan's sharpest criticism of the president's handling of the hostage situation. The GOP candidate has not mentioned the hostages at all in his speeches for several weeks.

Ronald Reagan continues to hold a narrow lead over President Carter, with John Anderson a distant third, a new ABC News-Harris survey shows.

Meanwhile, Reagan's once overwhelming lead over Carter in California has narrowed considerably, according to a new California Poll.

The Harris survey shows Reagan leading Carter 41 to 37 percent, with Anderson at 17 percent. Three weeks ago, Reagan led Carter 42 to 36, with Anderson at 17 percent.

The California Poll now shows Reagan leading Carter by 10 points, 39 percent to 29 percent, with Anderson at 18 percent. In July, Reagan led Carter 30 to 21 percent, with Anderson at 20 percent.

Ronald Reagan's economic speech yesterday was the product of many voices, but at least one prominent Republican filed a dissent.

Former president Ford, after a meeting in Chicago with Reagan Monday night, indicated he still had some disagreement with the GOP nominee over tax cuts. He said he supports the proposed 10 percent tax cut for next year, but wouldn't commit himself to

an additional 10 percent in each of the next two years, as Reagan wants.

Setting himself against a Norman Rockwell backdrop of rolling hills, cows, a lake and a swimming float, George Bush today came to the conservative farming country of northwestern Illinous to reiterate Republican opposition to the current embargo on grain sales to the Soviet Union.

"We need government assistance in our State Department and Commerce Department that is going to work to expand [agricultural] markets [overseas]. And that means we don't need an embargo of grain," Bush told an audience of about 75 Republican workers picnicking on Charles Baum's hog farm in Colona, Ill.

[From the Washington Star, Sept. 14, 1980]

REAGAN SET DOWN HIS POSITION ON HOSTAGE RELEASE DEMANDS

Republican presidential candidate Ronald Reagan yesterday called for an immediate release of the American hostages in Iran upon conclusion of any agreement that may be imminent between the United States and the government of Iran.

In a two-minute statement to reporters Reagan responded to reports of progress in the Iranian crisis by expressing his support for the unfreezing of Iranian assets now being held in the United States, the cancellation of claims against Iran and by pledging non-intervention in Iran's domestic affairs.

Those positions covered three of the four demands for the release of the hostages made Friday by Iran's Ayatollah Ruhollah Khomeini.

The GOP nominee said the the question of returning the shah's property to Iran, the fourth Khomeini demand, should be taken up in the courts.

Reagan pledged not to make any negotiations with Iran a partisan issue in the presidential campaign and he promised to observe the terms of any agreement if he's elected in November.

"Let me add that there should be no delay in freeing the hostages with any thought by Iran that it might get better terms after the election in November," Reagan stated.

Lyn Nofizger, Reagan's press secretary, said the former governor issued the statement to put his position on the record.

Reagan noted that he still believes the United States should not have negotiated with Iran until after release of the hostages. But he added that negotiations have been underway for eight months so his preferred policy is not currently "a subject for debate."

[From the Washington Post, Sept. 14, 1980]

HOSTAGES—REAGAN: UNITED STATES SHOULD MEET NEARLY ALL IRANIAN DEMANDS

(By Edward Walsh)

Republican presidential nominee Ronald Reagan said last night that the United States should agree to virtually all the new demands of Iran's Ayatollah Ruhollah Khomeini in return for the prompt release of the American hostages.

In a prepared statement he read before he and President Carter delivered separate speeches to the National Italian-American Foundation dinner, Reagan said the United States "can and should" agree to release Iranian assets in this country, cancel all claims against Iran and pledge nonintervention in Iran's domestic affairs.

These were three of the four conditions Khomeini set for the return of the hostages in a statement issued Friday in Tehran.

Reagan said Khomeini's fourth condition—the return to Iran of the property of the late shah Mohammad Reza Pahlavi—cannot be met without "due process of law."

"Having agreed to these points we must above all insist that the hostages be released immediately upon conclusion of an agreement, that there be no delays, introduction of additional demands or waiting for fulfillment of an agreement," he said.

The GOP nominee also pledged not to make negotiations over Iran's new conditions "a partisan issue in the campaign" and said that if elected "I will observe the terms of the agreement."

"Let me add that there should be no delay in freeing the hostages with any thought by Iran that it might get better terms after the election in November," Reagan said.

The statement was Reagan's most extensive of the campaign on the hostages and was clearly meant to put the president on the defensive on that explosive issue. Carter initially reacted cautiously to Khomeini's statement, saying only that it would be studied, and he made no reference to Reagan's comments in his speech last night.

The United States has already pledged not to intervene in Iran's domestic affairs and neither the frozen Iranian assets nor the pending claims against Iran are likely to be major stumbling blocks in any negotiations for release of the hostages.

But by his statement last night, Reagan seized the initiative, staking out a position that may turn out to be essentially what the administration offers Khomeini in response to the new conditions.

Reagan refused to answer questions about his hostage statement, which was issued as he and the president maneuvered around each other at the Washington Hilton Hotel, coming within an hour of staging a sort of mini-debate before the dinner.

[From the New York Times, Oct. 2, 1980]

EXCERPTS FROM REAGAN INTERVIEW ON POLICIES HE WOULD FOLLOW

Q. President Carter said in Portland, Ore., a week ago that American forces—and he said flatly—American forces would not become involved in this situation between Iran and Iraq. If you were President, would you make a flat pledge of that sort in a situation like that, and would you advocate the use of American naval forces should this conflict lead to the closing of the Strait of Hormuz?

A. It's very difficult for me to answer, first not knowing all the options that might be available, but also because I am scheduled in a few days to have a briefing by our intelligence people on this situation.

Q. In a more general sense then, can the Western world afford to have our oil outlet closed for any period of time?

A. No, there's no way we can afford that. It's not as much of a blow to us as it is to our allies, Japan and Western Europe. But as to what can be done, that's kind of irrelevant because we don't really have the facility to do very much. The President himself spoke of using force in the Middle East in connection with the Russian invasion of Afghanistan and then two weeks later had to admit we don't have the force.

SOVIET GRAIN EMBARGO

Q. In connection with Afghanistan, you said to U.S. News & World Report, "If you're going to use this to show them our displeasure about Afghanistan, let's go all the way." What did you have in mind?

A. I was against the grain embargo only for the reason that I thought it was for domestic consumption and was not really going to penalize the Soviet Union to the extent that it penalized American farmers. What I meant by "all the way" is, if you're going to use trade and sanctions of that kind as a weapon in a case of this kind, then you use a quarantine of the other side. And here we were shutting off some feed grain for animals at the same time that, I've been informed, among the things we were shipping to Russia was an assembly line for 12-cylinder diesel tank motors.

Q. So you would have called it all off?

A. If that was the proper thing. Again, as I say, remember, unless you're there, you don't really know what all the options are.

Q. If you're inaugurated in January and Soviet troops remain in Afghanistan and the hostages remain in Iran, can you tell us what you would do about it?

A. I've wondered whether they will be still there in January or whether there might not be an October surprise in this campaign. I'm quite sure that from things they've said that the Iranians are not exactly supporters of mine. If that will help bring the hostages home, fine. Again, there's no way that I can tell you what to do. And I think there's been too much of our diplomacy that's been done out in the public.

POSSIBILITY OF SURPRISE

Q. On the October surprise, do you have any information other than speculative that they might try to influence the American election?

A. Well, I don't know. I can only say that the President has been pretty industrious in using the incumbency in this campaign, more so than any President that I could recall. So, as I say, I'm just bracing myself for an October surprise.

Q. Why would the Iranians prefer a Carter Presidency to a Reagan Presidency?

A. Maybe just on the basis of some of my criticisms of the Carter Administration and the fact that I have been rather outspoken to my belief that this country should have stood by the Shah's government.

Q. You say the United States is powerless to act in the Persian Gulf and you criticize President Carter's draft registration program as a meaningless geasture. As President you would have the power to sign an executive order to abolish draft registration. Would you?

A. I'd think very seriously of doing it, yes. His own Selective Service director said that is actually would not speed up the building of a draft army by more than a few days. Therefore why go to all this trouble? I think a volunteer military will work. It always did in the past. And I think you have a draft army if there is really approaching an emergency situation. I think that our prime thing is to adopt a realistic pay scale, fringe benefits that are appropriate.

Q. Those incentives would require legislation from Congress.

A. Yes.

ENERGY AND EDUCATION AGENCIES

Q. You have criticized the Energy Department and the Education Department. If elected would you take concrete steps to eliminate those two agencies?

A. I would look very closely at that. Now I recognize that in the making of those two departments there were some programs that may still have to go on. Some of the functions might have to be preserved.

Q. You've been highly critical of the so-called windfall profits tax. What priority would you give to its repeal?

A. Well, it's in now, and is a part of the system. My own economic plan is based on changes of taxes that I think are immediately necessary to correct the economy. So here is one of the two biggest single tax increases in the history of our nation. I don't know that I could do the other things I've said and immediately eliminate that, but it is one that I think you could look to as you progressed to phasing out. Because it isn't a windfall profits tax, it's a sales tax, and it is paid by the customer. It isn't paid by the oil companies.

Q. After President Carter suggested in Los Angeles that the choice was Carter and peace or Reagan and war, the Carter campaign put out a list of statements made over the past 12 years in which they said you had suggested the use of American forces abroad. Do you regret any of those statements?

A. No, and if they're seen in the context in which they were stated, you'll find out that the President and his writers are guilty of a great many distortions. He went back almost as far as when he was a legislator voting against civil rights. I don't itch to get my thumb on the button at all.

ATTITUDE ON BLACKS

Q. In the same speech, Carter equated some of your statements with racism and he said that blacks shouldn't look to you for leadership because you opposed the Civil Rights Act of 1964.

A. I appointed more blacks to executive and policy-making positions in state government in California than all the previous governors put together. I think that the minorities in this country today have still some problems to be solved, but most of them are economic. And that's why I went down to Charlotte Street in South Bronx and stood in the very spot where he stood in 1977 and promised that he was going to have a muitibillion-dollar program to rebuild that area and provide jobs and all that. Nothing was ever done. The promises were never kept.

Q. If you were elected, would you withdraw the SALT II treaty from Senate consideration?

A. Yes. But, at the same time I did, I would make it plain that I was prepared to sit down with the Russians for as long as it might take to negotiate a legitimate arms limitation agreement. My objection to SALT II is it is not arms limitation. It legitimizes arms race. It begins by letting the Soviet Union build 3,000 more warheads, then we can build some to catch up, only we can't catch up until 1990. I think it is a fatally flawed treaty, and it isn't arms limitation. If we're really going to try to remove the danger to the world today, let's sit down with the intention voiced and the agreement of the other side that we're going to find a way to fairly reduce the strategic weapons so that neither one of us can threaten the other.

Q. To parity, to equality?

A. To whatever is necessary that we cannot be a threat to each other.

Q. Would you want to begin arms talks with the Soviet Union at the present military strength, or would you want to wait until the United States was able to build up its strength to a point where you thought there was military parity with the Soviet Union?

A. I'd have to look to see whether it would be sufficient just for us to start, but I don't think that we should sit at the table the way we have in the past. This is one of the things that's been wrong. We have been unilaterally disarming at the same time we're negotiating supposedly arms limitation with the other fellow, where all he has to do is sit there and not give up anything and his superiority increases. He will be far more inclined to negotiate in good faith if he knows that the United States is engaged in building up its military.

Q. So you wouldn't wait to start new negotiations?

A. No, I think that if you start, they know our industrial strength. They know our capacity. The one card that's been missing in these negotiations has been the possibility of an arms race. Now the Soviets have been racing, but with no competition. No one else is racing. Now they know the difference between their industrial power and ours. And so I think that we'd get a lot farther at the table if they know that as they continue, they're faced with our industiral capacity and all that we can do.

Q. Would an absolute reduction in the existing levels of arms in the United States and Soviet Union be a requirement for a treaty?

A. It's either that or a buildup on our side to the point that once again the possibility of a preemptive strike has been eliminated.

LIMITATION ON ARMS

Q. The theory behind the treaty that the President submitted was that you put a lid somewhere, even on the increase. But you seem to be saying that you want an absolute reduction.

A. The only choice between that then would be parity by our matching what we know them to have. And it would, I think, make a lot more sense for both our countries to reduce it down.

Q. It would have to be a Soviet reduction to our level.

A. Yes.

Q. Given the hard line that you've taken with the Soviet Union and the political realities in the Kremlin, how long do you think it would take to convince the Soviet Union to come to the bargaining table?

A. Well, I don't know, the Soviet Union wouldn't be confused about where I stood and I think sometimes they'd feel better if they knew what the game is and who the players are.

Q. You and President Carter have been exchanging a kind of long-range blow-by-blow campaign where he has leveled a lot of personal accusations against you and you've had a lot of, the not personal, at least accusations against the President. Are you too concerned with the turn the campaign has taken?

A. Well, yes. I think the thing is his record.

Here's a man with almost four years record as chief executive officer of this nation and the simple question is, on the basis of the record, do we want four more years of this? I have not attacked him personally. I have even quit telling the joke about the spoons. I think it is fair game to say when his policies have taken us from 4.8 percent inflation to as high as 11 percent inflation, when he has to in contrast to his own priorities that he would not use unemployment as a tool against inflation, and then deliberately used that, stated that he was using it in his economic report of labor and two million people lose their jobs. I think these are campaign issues. I can understand his not wanting to run on the record. He can't run on the record. He has to retreat from it or hide from it. He in an attempt to cover that up has been reverting to personal attacks and I'm not going to answer them. I'm going to keep talking about his record.

[From the Washington Star, Sept. 25, 1980]

REAGAN BLAMES GULF CONFLICT ON CARTER POLICY

(By Lisa Myers)

TYLER, TEX.—Republican presidential nominee Ronald Reagan charged yesterday that President Carter is at least partly to blame for the war between Iran and Iraq because he helped "pull the rug out" from under the former Shah of Iran.

In interviews with local reporters, Reagan said that since Carter has allowed U.S. defenses to deteriorate the United States has "no choice" but to remain neutral in the escalating conflict.

But the former California governor said that he would not recommend U.S. military intervention anyway. "I'm not looking to use force any place unless it is absolutely necessary to our national security," he said.

After a full day of deflecting questions on the Mideast conflict, Reagan seized upon the situation to reiterate his campaign theme that U.S. military strength is the key to avoiding war and that Carter's "vacillating" policies pose a threat to peace.

"The U.S. is the only nation in a position to maintain that peace," Reagan said. "And it can't maintain it under the vacillating policies and the weakening of defenses that (Carter) has permitted."

In placing blame squarely on Carter, Reagan pointed in particular to administration treatment of the former Shah of Iran, who for years was a key ally in the region.

This could not have happened if our government had not helped in the fall of the shah," he declared. "And there was no excuse for helping pull the rug out from that government."

Later, in El Paso, Reagan read reporters a statement that appeared to be designed to take some of the sting out of his earlier remarks.

The situation involving Iran and Iraq is both serious and unfortunate, not only because the American hostages are endangered, but also because it could spread into a generalized war and because it threatens world oil supplies," he said. "What is happening . . . is the consequence of policies this administration has followed during the last three and a half years. A vacillating foreign policy and a weakened defense capability are largely to blame."

The challenger added, however, that Carter must decide what role the United States should play and that he would have no further comments for now.

Earlier in the day, Reagan also took a shot at Carter over the continued captivity of American hostages in Iran.

He argued that the taking of the hostages—which he termed "the next great error of this administration" after abandoning the shah—could have been averted if Carter only had heeded warnings.

Criticizing the "feeble attempts" of Carter to secure release of the Americans shortly after they were captured, Reagan said the United States immediately should have made clear "that no nation could continue to have friendly relations with Iran and have friendly relations with the United States."

Reagan also did not want to talk about a number of quotes released by the White House on Tuesday to back up Carter's charge that a Reagan presidency could mean war. Carter said that accusation was justified in light of Reagan's habit of sug-

gesting military solutions to diplomatic problems.

"I'm not going to bother every day trying to answer those things," Reagan told reporters upon leaving Springfield, Mo., yesterday morning. "The issue of this campaign is his record and I'm just going to keep talking about it."

Reagan earlier accused the president of stooping "beneath decency" in claiming that the 1980 election is a choice between "peace or war."

[From the Washington Star, Oct. 21, 1980]

REAGAN SAYS CARTER POLICY LED TO HOSTAGE DILEMMA

SITUATION CALLED 'HUMILIATION' TO U.S.

(By Lisa Myers)

Republican presidential nominee Ronald Reagan today said that the countinued captivity of 52 Americans in Iran is "a humiliation and a disgrace to this country."

Reagan charged that President Carter's foreign policy was to blame for the kidnapping in the first place and that his conduct of sensitive negotiations in the press rather than through "quiet diplomacy" has delayed the hostages' release.

It was the second consecutive day that the challenger criticized Carter for failing to free the captive Americans.

Reagan raised the potentially volatile issue at a rally yesterday, saying "I don't understand why 52 Americans have been held hostage for almost a year now."

But today, in response to reporters' questions as he left his hotel en route to Marion, Ill., Reagan turned up the voltage.

"I believe that this administration's foreign policy helped create the entire situation," he said. "and I think the fact that they've been there that long is a humiliation and a disgrace to this country."

Asked whether he has a plan to free the hostages, Reagan replied: "I've had some ideas, but you don't talk about them. And maybe that's been one of his (Carter's) problems. He's done all of his negotiating in the press. That's not quiet diplomacy."

The final jab appeared to be in response to Carter's statement yesterday that he would end economic sanctions, including the trade embargo and freeze of assets, against Iran when the Americans come home.

Reagan devoted yesterday to the second wave of his political peace offensive, warning that there is "far greater danger" of Carter's stumbling into war than of his leading the country into one.

Attempting to turn the war and peace issue to his advantage, Reagan rolled out his party's big foreign policy guns, including the biggest howitzer of them all—former Secretary of State Henry Kissinger—to buttress his credentials as a firm but reasoned man of peace.

In Cincinnati, Kissinger endorsed as "the correct way to go." Reagan's proposal to scrap SALT II in favor of opening negotiations for a SALT III agreement that actually reduces nuclear weapons. But he suggested that while talks are under way for a new 10-year strategic arms limitation pact, an interim accord including less controversial provisions of SALT II should be reached to prevent the arms race from getting out of control.

Kissinger also said the military buildup advocated by Reagan is necessary for the United States "to be in a position from which we can negotiate general arms control and not in which we are in a position of such relative weakness and inequality that the other side has no incentive to negotiate and on top of it, is tempted into military intervention."

The former Secretary of State, who negotiated the initial phase of SALT II, denounced as a "grandstand play" Carter's recent pledge to urge the Senate to ratify SALT II soon after the Nov. 4 election.

Kissinger said he found it "extraordinarily strange" that Carter, who twice withdrew the treaty and could have pressed Senate ratification for months, suddenly resurrected the effectively dead agreement when Congress wasn't around to do anything about it.

Senate Minority Leader Howard H. Baker Jr. accused Carter of engaging in "political deceit,"charging that the Senate has "effectively rejected" SALT II and would formally defeat it if forced to vote after the election. He said, however that as much as two-thirds of the treaty would be acceptable on an interim basis.

The political attack, which came on the heels of Sunday's 30-minute televised foreign policy speech by Reagan, was designed to defuse Carter's charges that a Reagan presidency would be a threat to peace. On the first leg of a four-day campaign swing, Reagan presided over a meeting of international specialists known for political moderation.

The group—Kissinger, Baker, former Secretary of State William Rogers, former Ambassador Elliot Richardson, former Ambassador Anne Armstrong and Georgetown University Professor Jeanne Kirkpatrick, a Humphrey Democrat—echoed Reagan's attack on Carter.

"The president is determined to have me start a nuclear war. Well, I'm just as determined that I'm not going to, Reagan declared at an airport rally here.

In Louisville, Ky., Reagan broadened his attack. Responding to Carter's charge yesterday morning that Reagan did not understand the consequences of his own foreign policy pronouncements, the GOP nominee conceded that there were a lot of things that he couldn't figure out.

"I don't understand why we have had inflation at the highest peacetime rates in history," Reagan said. "I don't understand why the elderly have to pay more and more for what they buy while they are limited in the income they have. I don't understand why his answer to inflation was to put 2 million people out of work. I don't understand why mortgage rates are at 14 percent.

"I don't understand why our defenses have weakened, why American prestige has fallen abroad, why Afghanistan is now occupied by the Soviet Union, why there is massive instability in the Persian Gulf region. And lastly, I don't understand why 52 Americans have been held hostage for almost a year now."

It was the first time this fall that Reagan raised the hostage issue in a manner overtly critical of the president. His advisers previously have been wary of the issue for fear it would backfire.

Kissinger defended Reagan's assertion that the United States must negotiate from a position of strength, pointing to previous jousting with the Kremlin over limitation of anti-ballistic missile systems

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[From the Washington Post, Oct. 21, 1980]

REAGAN RAISES HOSTAGE ISSUE IN CAMPAIGN

(By Lou Cannon)

LOUISVILLE, KY., Oct. 20.—Ronald Reagan today raised the potentially volatile hostage issue in the presidential campaign, declaring that he didn't "understand why 52 Americans have been held hostage for almost a year now."

Reagan's statement was carefully prepared, though it was not included in printed excerpts of the speech distributed to reporters here. The Republican nominee did not say what he would do differently to win release of the Americans who have been held for 352 days in Iran.

Reagan has rarely referred to the hostages in his general election campaign against President Carter, and it was not immediately clear why he had chosen to bring up the issue now. But one Reagan aide said that the GOP nominee would like to put the president on the defensive "where he belongs" on the war-peace issue that has been hurting Reagan.

"I've heard that Mr. Carter this morning assembled members of the press corps to tell them that Ronald Reagan did not understand," Reagan said at a rally here. "Well, you know, for once I agree with him—he's hit it right on the nose. I don't understand why we have had inflation at the highest peacetime rates in history. . . . I don't understand why his answer to inflation was to put 2 million people out of work. I don't understand why mortgage rates are at 14 percent.

"I don't understand why our defenses have weakened, why American prestige has fallen abroad, why Afghanistan is now occupied by the Soviet Union [and] why there is massive instability in the Persian Gulf region. . . . And lastly, I don't understand why 52 Americans have been held hostage for almost a year now."

Reagan's statement came at the end of a day in which he carried his political peace offensive into the nation's border region. He brought along a galaxy of Republican stars, including former secretary of state Henry A. Kissinger, to buttress his new proposal for SALT III and to attack the policies of the Carter administration.

"The president is determined to have me start a nuclear war," Reagan told an airport rally in Cincinnati. "Well I'm just as determined that I'm not going to. The matter of fact is—I think that his foreign policy, his vacillation, his weakness, his allowing our allies throughout the world to no longer trust us or depend on us and our adversaries to no longer respect us, there's far greater danger of that unwanted inadvertent war through that kind of a weak policy than there is by someone in there who believes that the first thing we should do is rebuild our defense capability to the point that this country can keep the peace."

In addition to Kissinger, Reagan was accompanied today by former secretary of state William Rogers, Elliot Richardson, who held a variety of Cabinet posts in the Nixon and Ford administrations, and Senate Minority Leader Howard H. Baker Jr. (R-Tenn.).

All of them dutifully endorsed the proposal which Reagan made on national television Sunday night for a SALT III limiting strategic nuclear arms. All of them also criticized as unrealistic Carter's statement that he would take the rejected SALT II pact back to the Senate for a new try at ratification immediately after the election.

Kissinger called this move "a grandstand play" by the president. Baker said that SALT II would again be rejected by the Senate.

"Unless the Soviet Union agrees to restrain its international conduct, no arms

control negotiation is going to succeed," Kissinger said.

When Kissinger was asked what he thought the Soviet response would be to Reagan's SALT III proposal, he replied: "They'll reject it with indignation from candidate Reagan and they'll accept it from President Reagan."

Kissinger went on to say that he thought Reagan's proposal for a SALT III without SALT II was workable but that it might be necessary to have an interim agreement between the United States and the Soviet Union that would incorporate the noncontroversial provisions of SALT II. His agreement with the GOP nominee's proposal was not surprising, since Kissinger was one of the architects of the speech.

Kissinger also spoke of the United States achieving "equivalence" with the Soviets in nuclear arms. In the GOP primaries, Reagan repeatedly said that U.S. "superiority" was what was needed. Asked about this, Reagan foreign policy adviser Richard V. Allen said that Reagan accepted the idea of "meaningful equivalence" in strategic arms but added that U.S. "superiority" was desirable in other instances. He mentioned naval superiority as an example of an area where the United States should have more than equivalence with the Soviet Union.

[From the Chicago Tribune, Oct. 22, 1980]

REAGAN ASSAILS CARTER FOR INACTION ON HOSTAGES

HERRIN, ILL.—Ronald Reagan said Tuesday he would take some action to release the American hostages from captivity in Iran if he is elected President.

"I wouldn't stand there and do nothing," Reagan told reporters upon arriving for another campaign swing through Illinois.

Earlier, the Republican presidential candidate said that he has "some ideas" on how to win freedom for the hostages but that he does not want to discuss them.

Meanwhile, a top Reagan aide said Eugene McCarthy—the 1968 "peace" candidate who broke with Lyndon B. Johnson over the Viet Nam war—will endorse Reagan at an Ohio college campus Wednesday night.

McCarthy showed up at Reagan's hotel suite in Louisville Monday night. McCarthy and the GOP nominee "talked about war and peace, the bureaucracy, and competence," according to Mike Deaver, a close Reagan aide.

Deaver said McCarthy told Reagan he is "supportive" of his candidacy and would do anything Reagan's forces ask to aid the campaign.

The aide said McCarthy supports Reagan on the "war and peace" issue and agrees that SALT II, the nuclear arms agreement with the Soviet Union, should be scrapped.

The hostage issue came up just as Reagan was leaving Louisville, when a reporter noted that Reagan criticized President Carter for the continuing stalemate in the hostage crisis.

Asked whether it was an issue in the campaign, Reagan said: "I was simply remarking that they've been there for a long time and, on election day, unless they are suddenly released, it will be one year.

"I believe that this administration's foreign policy helped create the entire situation that made their kidnap possible. And I think the fact that they've been there that long is a humiliation and a disgrace to this country."

Asked if he had a plan to secure their release, he replied: "I think I've had some ideas, but you don't talk about them. And maybe that's one of the problems. He's [Carter] done all of his negotiating in the press. And that's not quiet diplomacy."

Later, asked if he was saying he had a plan to free the hostages if elected, he said: "Well, I said I have some ideas."

And he added: "I wouldn't just stand there and do nothing."

With the election just two weeks away, Reagan devoted Monday to warning that there is a "far greater danger" of Carter's stumbling into war than of his leading the country into one.

"The President has said I'm busy starting a new nuclear war," Reagan told several hundred supporters at an outdoor rally in Louisville Monday, "I absolutely refuse to do it."

Reagan brought several Nixon administation foreign policy advisers and GOP personalities to the campaign trial in Cincinnati Monday.

Former Secretary of State Henry Kissinger endorsed as "the correct way to go" Reagan's proposal to scrap SALT II in favor of opening negotiations for a SALT III agreement that actually reduces nuclear weapons.

But Kissinger suggested that while talks are under way for a new 10-year strategic arms limitation pact, an interim accord, including less controversial provisions of SALT II.

[From the Washington Post, Oct. 22, 1980]

OPTIMISTIC REAGAN CAMP

POLITICAL DUELING ON HOSTAGE ISSUE

(By Lou Cannon)

HERRIN, ILL., OCT. 21.—Ronald Reagan struggled to return his campaign to economic themes today, but his own comments on the hostage issue got in the way again.

"I believe that this [Carter] administration's foreign policy helped create the entire situation that made their kidnap possible," Reagan told reporters when he left his hotel in Louisville, Ky. this morning. "And I think the fact that they've been there that long is a humiliation and disgrace to this country."

At the airport in Orlando, Fla, where he was campaigning today, President Carter said the hostages are too important for him to comment on publicly and he accused Reagan of breaking a pledge not to inject the subject of the hostages into the presidential campaign. However, the hostage issue has been raised in recent weeks by administration officials who suggested to reporters that the Americans were about to be released.

"The fate of the hostages is too important to be made a political football," the president said when asked about Reagan's statement today.

Reagan was asked repeatedly throughout a day of campaigning in this border state region what he would do differently than Carter to free the American hostages, who today completed their 352nd day of captivity in Iran.

Over and over again, Reagan declined to say what he would do.

Carter said that on Sept. 13, Reagan had pledged not to make the negotiations over the hostage a partisan issue in the campaign. "I regret that he has broken this pledge, but I am not going to depart from the prior commitment we have made to continue to do everything we could to preserve the lives and safety of the hostages and to see them brought back at the earliest possible moment."

Asked if he had a response to Reagan's charge that the adminstration's foreign policy weakness had led to the hostage crisis, Carter shook his head, said, "No," and walked away.

Campaigning in Kansas City tonight, Reagan responded: "I don't think I've broken that pledge. The hostages have been a matter of discussion and of all your questions for quite some time now. I would think that breaking such a pledge might be if I waited until 7:15 on Election Day and then brought the subject up, as he [Carter] did in the Wisconsin primary."

In Louisville this morning, the Republican nominee said it wasn't wise for a president to do his "negotiating in the press," as Reagan said Carter had done. When Reagan was asked in this southern Illinois coalmining town whether he had a plan of his own to free the hostages, he replied: "There's just no way I could answer that question without giving something away."

Reagan's criticism of Carter for mishandling the hostage issue surfaced at a Louisville rally Monday night. The remark was designed to put Carter on the defensive on the "war-peace issue" and also to take the edge off any political benefit the White House might receive from an election-eve attempt to bring the hostages home.

Today, Reagan tried to get back to the economic issue, which his own and other polls show to be Carter's most vulnerable issue. In Herrin, which Carter carried four years ago but where Reagan is now believed to be ahead, the GOP nominee made a hard-hitting and well-received speech deploring the policies of the Environmental Protection Agency, which he said make it difficult for coal producers to market the region's high-sulfur coal.

"Coal mines have closed down in southern Illinois, yet we have imported 16 million tons of foreign coal." Reagan said, "You are faced with the absurd situation that while you have so much coal right under your feet, you must export your jobs somewhere else."

But when Reagan took an extensive stroll of the town's main street, both the reporters accompanying him and several of the local voters seemed to have foreign policy on their minds.

Reagan continued to say, as he has the last few days, that he is a man of peace who would be less likely than Carter to lead the nation into war.

"I'm convinced that the greatest risk of war comes from the kinds of foreign policy we have today under this administration where our friends don't know whether they can trust us . . . [and] our adversaries certainly don't respect us," Reagan told a clothing store owner who said he was a veteran of World War II.

Reagan and his aides took some comfort, as foreign policy continued to dominate the presidential campaign, from the anticipated endorsement Wednesday from former Minnesota Senator Eugene McCarthy, the 1968 antiwar candidate.

"This, maybe, will give some people confidence that I don't eat my young," Reagan said in Herrin.

Reagan lost the contact lens in his right eye today and misread several lines of his speech to a large crowd assembled in front of the Herrin City Hall. The crowd gasped when the GOP nominee mispronounced the name of the community he was in as "Heroine."

But Reagan recovered and had the crowd applauding him when he denounced federal

energy policies, and mocked a campaign boast of Carter's in which the president says: "We're well on the way to recovery. I think we'll have a good Christmas."

"Well, maybe it will be a good Christmas in the White House, but he better not look into the windows of too many homes around America," Reagan said. "Is it going to be a good Christmas for the thousands of steelworkers who were tossed into unemployment lines by the Carter economic policies. . . . And what kind of Christmas will it be for so many Americans who find the price of nearly everything flying out of sight?"

Reagan plans to make the economy the subject of a half-hour paid television speech that will be aired over CBS at 10:30 p.m. Friday.

[From the Chicago Tribune, Oct. 23, 1980]

HOSTAGES BEING USED—REAGAN

(By Steve Neal)

SHREVEPORT, LA.—Ronald Reagan charged Wednesday that President Carter is exploiting the captivity of the American hostages in Iran to aid his reelection campaign.

With reports indicating that prospects for an agreement with Iran for the hostages' release have brightened, Reagan accused Carter of using the hostages as a political ploy.

Reagan, however, introduced the hostage issue into his own campaign on Monday when he criticized Carter's handling of the hostage situation.

"The man who's trying to make a political issue of this at the present is the President of the United States," the Republican candidate said during an interview Wednesday with The Cable News Network.

"He'd dearly like to get me into a discussion of this for the next 13 days," said Reagan. Later, Reagan said he wasn't going to discuss the hostages "because it is so obvious how they're trying to make a political issue of this—and with 52 human beings at stake."

Reagan's strategists think it is likely that Carter will strike a deal for the release of the hostages before the Nov. 4 election. Their anxiety over this was a factor in Reagan's decision to meet Carter in next week's debate.

Some politicians think that Reagan may be guilty of overkill in raising the hostage issue so late in the campaign. In recent days, Reagan has been struggling to get the campaign focused back on economic issues, which his camp thinks offer him his best chance of winning the election.

Although Reagan said that he had some thoughts about how to obtain the release of the hostages, he said he didn't think it would be proper to go public with details.

"I might be suggesting something that is in the works at the moment, and it would interfere with that. I wouldn't want to do that," said Reagan. He conceded, though, that his vagueness "sounds very reminiscent of Nixon's having a supposedly secret plan to end the war in Viet Nam."

The former California governor acknowledged that Carter had inflicted some damage with his charge that Reagan might lead the nation into war.

"I think there's no question he's been effective at creating this stereotype of me," said Reagan. "And it is a stereotype. I don't think there is anyone in this country that is more in favor of peace than I am."

[From the Chicago Tribune, Nov. 31, 1980]

REAGAN QUIET ON SENSITIVE IRAN ISSUE

(By Steve Neal)

MARIETTA, OHIO.—Ronald Reagan avoided comment on the hostage situation in Iran after it was announced Sunday the conditions for releasing the 52 Americans.

But his aides indicated the break-though had come too late to win the election for President Carter on Tuesday.

Speaking Sunday at a rally at Marietta College here, Reagan said: "I know as we meet here today, we all have our minds on the matter of the hostage situation in Iran. But let me say this is not the time or place for me to be addressing such a sensitive matter. Obviously, all of us want this tragic situation resolved. It's my deepest hope, and I know it's yours."

Earlier, as he left a hotel in Columbus, Ohio, he said: "All I can tell you is I think this is too sensitive to make any comment at all. I won't make any comment about it."

Reagan did say that he planned to keep on campaigning in these last days before the election. "I'm going to keep my schedule."

His wife, Nancy, then pulled him back as reporters continued to ask questions.

Reagan campaigned much of Sunday in Ohio, one of the Great Lakes states his strategists consider critical if he is to win the election.

The Reagan camp has worried about the political effects if the hostages were released before Tuesday's election. The return of the hostages was the "October surprise" Reagan feared most as the event to throw the election to Carter.

But on Sunday, the feeling among Reagan's aides was that Iran's action in setting terms for the hostage's release probably had come too late to be a decisive factor in the voting.

Edwin Meese, Reagan's closest aide, said: "I think it's awfully early to say just what impact, if any, it will have. I do think that the main thing voters will be looking for on Tuesday is what lies ahead for the next four years."

A few aides have been in touch with some of the hostages' relatives who are bitter about Carter's handling of the situation.

Reagan's strategists said the Republican candidate planned to mute his attacks on Carter's performance in the hostage matter. However, Reagan has blamed Carter for the taking of hostages, calling it "humiliation of the U.S."

At the same time, Reagan's camp kept its options open. Television spots of Reagan criticizing Carter's handling of the hostage situation have been prepared.

"We don't have anything on the air," said Reagan's press secretary, Lyn Nofziger. He added that there is one spot that probably would never be used, but gave no further hints of what it contained.

On September 13, Reagan said that if he were elected, he would negotiate with Iran on the demands set by Ayatollah Ruhollah Khomeini. However, Reagan did not include the returning of the late shah's wealth because, he said, that is a court matter.

He also indicated he would honor any agreement made before he took office. Meese said Sunday that Reagan would stand by that statement.

[From the Los Angeles Times, Mar. 12, 1976]

REAGAN ASSERTS RIGHT TO RAP U.S. POLICY

(By Richard Bergholz)

MADISON, WIS.—Secretary of State Henry A. Kissinger is wrong if he thinks criticism of American foreign policy is misguided and should be stopped, Ronald Reagan said Thursday.

"If our foreign policy can be ruined by telling the people the truth about it, then it can't be much of a foreign policy," the Republican presidential candidate told newsmen here while campaigning.

The former governor of California was responding to Kissinger's charge, made earlier Thursday in a speech in Boston, that, if political attacks on U.S. foreign-military policy continue, "the results will be paralysis, no matter who wins in November."

"For a while there, I thought I was running against Bo Callaway (Howard H. Callaway, President Ford's national campaign chairman)," Reagan said, referring to Callaway's early attacks on Reagan's candidacy.

"And then I was left with just Mr. Ford to run against.

"Now I've got Kissinger to run against."

Reagan made it clear that he thought Kissinger was involving himself in the presidential campaign and that whatever his complaints were, they were motivated more by President Ford's concern about gaining the nomination over Reagan than by concern about the effect abroad of Reagan's criticisms.

Kissinger's complaints constituted an "oversimplified, sterile and misleading charge," Reagan said, picking up some of the words used by the secretary of state in his speech.

"I'm trying to call the peoples' attention to a danger that threatens this country," he said, "and I'm not alone. I don't think I'm telling the Russians anything they don't already know, so I don't see what is wrong."

Reagan argued that, under Ford and Kissinger, the United States has lost its military superiority over the Soviet Union, which makes the policy of detente unworkable.

"Detente was based on our dealing from strength, that we had military superiority over the Soviet Union," Reagan said. "We do not have to make concessions.

"We could legitimately offer a concession to the Soviet Union, in return for a concession aimed at lessening tensions. But now, when there is no reason for the Russians to make a concession in return because we no longer have pre-eminence in power, then it is a policy that should not be continued."

Reagan denied Kissinger's charge that critics have not said what they would do in lieu of the existing policy.

"I think I've been very clear," Reagan said.

He referred to his campaign statements that the President should not have signed the Helsinki Pact, which ratified Communist control over Eastern European countries, to his argument that the United States should not negotiate with Panama over treaty provisions effecting the Canal Zone, and to his charge that Ford was wrong in signaling a relaxation of tensions with Cuba.

"Surely he (Kissinger) doesn't deny the American people have a right to know about our foreign policy."

As for Kissinger's suggestion that some of the foreign policy criticism is politically mo-

tivated, Reagan said that is not the case as far as he is concerned.

[From the Washington Star, Apr. 11, 1980]

REAGAN REJECTS CHARGE BY CARTER ON CRITICISM

GREENSBURG, PA.—Ronald Reagan, responding to President Carter's charge that the Republican front-runner had played into unfriendly foreign hands by criticizing the conduct of U.S. foreign policy, yesterday tossed back a quote from Carter's favorite predecessor.

"I'm going to quote Harry Truman: 'If you can't stand the heat, get out of the kitchen,'" Reagan said while campaigning here in Pennsylvania.

Earlier in the day, in a Washington address to the American Society of Newspaper Editors, Carter had said Reagan's assertions about the United States' handling of Iran and Russia "could only damage our nation's prestige . . . and help the Soviets."

Carter also said the U.S. hostages' captors in Tehran "would agree with candidate Reagan" in his criticisms.

To this attack, Reagan replied: "I don't think any criticism of mine gave aid and comfort to the enemy."

Campaigning for the April 22 Republican primary in Pennsylvania, Reagan spent much of his day responding to his own remarks. He retracted his previous statement that Vietnam veterans are not eligible for benefits under the GI Bill of Rights, conceding that he "was not quite correct."

Vietnam veterans, in fact, are eligible for educational benefits for 10 years following their separation from military service. They are eligible for home loans for the rest of their lives.

Reagan at first said his accusation was based on a briefing by two "gentlemen who only recently wore four stars each in two branches of the services." He refused to identify the military sources, but aides said they were retired Adm. Thomas Moorer, former chairman of the Joint Chiefs of Staff, and retired Lt. Gen. Edward Rowney, former Defense Department liaison at the SALT II arms control talks.

Later in the day, Reagan summoned reporters and absolved the military men of any blame in his mistake, which he said resulted from a "double-track conversation."

It was not the first time Reagan has seen his accuracy questioned. In the past, he has claimed there are more oil reserves in Alaska than in Saudi Arabia.

Asked about an April 3 CBS-TV program which challenged other campaign statements, Reagan said he felt "they were doing exactly what they accused me of doing, that they went out and found some source that would give them a different answer and they then took that source as an absolute guarantee."

He said the CBS report quoted experts as saying Reagan's estimates of oil reserves in Alaska came from a 6-year-old report and that the estimated reserves are only half what he claimed.

"I have far more recent information from Alaska," the former California governor said, adding that some of his data came from an organization called the Commonwealth North, headed by former Interior Secretary Walter Hickel, who also is a former Alaska governor.

A book published by the group quotes former Govs. Hickel and William A. Egan as maintaining that potential oil to be found on and offshore Alaska "will range from 300 to 600 billion barrels."

The U..S. Geological Survey estimates Alaska's total potential oil reserves between 22 and 59 billion barrels.

[From Meet the Press, Live/Washington, Apr. 20, 1980]

GEORGE BUSH, PRESIDENTIAL CANDIDATE, GUEST

Moderator and executive producer: Bill Monroe—NBC News.

Panel: Jack Nelson—Los Angeles Times; David S. Broder—Washington Post, Lawrence E. Spivak—NBC News.

Mr. MONROE. Our guest today on MEET THE PRESS is George Bush, candidate for the Republican Presidential nomination. Mr. Bush has served in the past as Texas Congressman, Republican National Chairman, Ambassador to the U.N., Envoy to China, and C.I.A. Director. With the important Pennsylvania primary coming up Tuesday, he is trailing Ronald Reagan, according to NBC's count, in delegates by 72 to 374, with 988 needed for nomination.

Ambassador Bush, President Carter says that if the tougher economic and diplomatic sanctions against Iran which are now being planned do not work that the only next step he can see is military action. The Washington Post has a poll showing that 55 percent of the American people favor setting a deadline and then following with military action if the hostages are not released. Senator Robert Byrd says we should go slow on military action, that it might be counter-productive solidifying anti-American opinion in Iran and inviting Soviet intervention.

What is your view?

Mr. BUSH. I don't agree with the Senator. My view is that our policy has been one of too much carrot and too little stick. I said, I believe within 48 hours of the hostage situation that we should be having plans for economic and paramilitary and military action drawn up. I was out front suggesting that we break diplomatic relations and that we impose economic sanctions. And I believe the way you forestall future hostage situations is to act with firmness.

My problem with the Administration, one of them, has been that it has been kind of vacillating and taking too long and no action. And now recently we've had it, and if the President goes that route, he'll have my support.

Mr. MONROE. Do you believe in giving Iran a deadline and then if the hostages are not released, following through with military action, let us say in the next two or three months?

Mr. BUSH. I've never been a believer in the deadline theory. Nor have I been a believer in running up every option on the flagpole, as they say in the advertising business, to see if it's popular or not. The President, in my view—It's been too political. Put it that way. And I believe the Administration has been too political with it. I didn't feel that way at first. I do now. And I think that he ought to move and move responsibly and fast.

Mr. MONROE. Is it fair to say from what you've just said that you do believe in military action in—in——

Mr. BUSH. I would support the President if that's what he does.

Mr. MONROE [continuing]. In the fairly near future, even at the risk of harm to the hostages?

Mr. BUSH. Nothing's risk free. You're dealing with total illegality. You're dealing with people who have no respect for international law.

Do you know that only recently did Jimmy Carter talk about 53 hostages instead of 50? Three of them are held by the government. They could turn those people loose, take them out to the Tehran Airport and send them home today. And in addition to that, you have these terrorists that they call students, and so I just think that nothing's risk free. You're dealing with people that have total disrespect for international law. And I would say nothing is risk free. And that's a tough decision for the President. But he'll have my support if he goes—tightens up.

Mr. MONROE. Thank you, Mr. Ambassador. [Announcements.]

Mr. MONROE. We'll continue the questions for Ambassador Bush with Mr. Nelson.

Mr. NELSON. Mr. Bush you've been on record for some time now really as being in favor of the Naval blockade of Iran. Suppose you have a naval blockade and it doesn't work, the hostages are still held. What do you do next?

Mr. BUSH. I don't know. Take another look. Nobody can predict when you're dealing with irrational people what's gonna work. But I said that I would support the President if he did it. There's discussion of Karg Island, mining, of this kind of thing. And there're options that are open to the President. I'll support him. And you can't predict. I'm not going to buy into every hypothetical situation down the line. And I hope he goes forward.

Mr. NELSON. What are those other options that are open to him?

Mr. BUSH. Mining Karg Harbor, for one. Karg Island I've been down there. You don't have to go in with great risk to the United States to do it. I understand that's being considered. There's one.

Mr. NELSON. But you can't say what else you would do if the hostages are not released.

Mr. BUSH. I think one of the worst things you can do is target everything you do. That's why I don't favor deadlines, and that's why I don't favor a three-point program. We'll try this. If it doesn't work, we'll try that. That is not my conception of how foreign affairs should work.

Mr. NELSON. Let me ask you something else. Earlier in the campaign, you were very supportive of Mr. Carter on Iranian policy.

Mr. BUSH. Right.

Mr. NELSON. As a matter of fact, you said, "We should get behind the President as he tries to do something about Iran."

Mr. BUSH. Exactly.

Mr. NELSON. And now, you're really one of his most severe critics. What's changed?

Mr. BUSH. What's changed is time, vacillation, pulling back, political, politicization of this thing, calling in editors in the Wisconsin primary day with the good news, and then the next day having it gone. I did support him. All the country was supporting. But we haven't moved fast enough or far enough. And now I admit I have the advantage of hindsight, but I'll tell you something. I was in Pennsylvania last night at Scranton, that whole community, you can feel their concern about the hostages. And I think Jimmy Carter should have done more and should have done it sooner. I supported the President, as did the overwhelming part of the American people, hoping he was going to do something. But at some point, I think it's fair to break off and say here's what I'd do different. I did do that, the only one. And President Carter went along, surely not because of that and that alone, but now I've said—told you what I'd do.

Mr. MONROE. Mr. Broder?

Mr. BRODER. Mr. Bush, you mentioned that you had called for consideration of paramilitary actions. When a former C.I.A. man says that phrase it raises the possibility of political coups, overthrow of the government. Is that what you're talking about?

Mr. BUSH. No. Do you ever remember—Do you remember, Mr. Broder, the thrilling moment when Israel went into Entebbe and freed their people. That's what I call paramilitary. I'm not saying it's there. I don't know. I don't have access to everything the President has. I don't know what our capability for that kind of thing is, how you do it, what kind of action. But I know enough about it to know that somewhere between sending in the Marines and sitting there doing nothing, as the United States of America, is a need. And that's what I'm talking about paramilitary.

Mr. BRODER. You've ruled out deadlines as far as the Iranian government is concerned. What about as far as any response from America's allies?

Mr. BUSH. Well, I'm not a deadline theorist. You see, part of my perception of foreign affairs is our allies don't know what we're going to do. They don't know whether this Administration is going to keep it's word. I go back to the decision that we urged on Chancellor Schmidt the deployment of the enhanced radiation weapon. We got Schmidt to take a very unpopular political position, and then the communists and the left in Europe started waging a massive propaganda campaign against deployment of the neutron weapon, and we pulled back leaving our ally all alone.

Part of the reason you see vacillation on the part of the allies, or an unwillingness to go along on this or the grain embargo or the Olympics is they don't know whether Mr. Carter is going to keep and do what he says he's going to do.

Mr. BYRD. If I have any time remaining, I yield it back.

ROUTINE MORNING BUSINESS

Mr. TOWER. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business be extended until the hour of 11:25 a.m. under the same terms and conditions as previously ordered.

The PRESIDING OFFICER. Without objection it is so ordered.

SENATOR DAN QUAYLE'S ADDRESS TO THE NATIONAL SECURITY INDUSTRIAL ASSOCIATION

Mr. TOWER. Mr. President, last Thursday, our colleague, DAN QUAYLE, addressed the National Security Industrial Association on the subject of defense procurement policy. Senator QUAYLE's speech was, in my view, a lucid and thoughtful discussion of the appropriate approach which the Congress ought to adopt in the area of defense procurement.

Senator QUAYLE does make a kind reference to me in his remarks. I want to thank him for his thoughtful comments about my service as chairman of the Armed Services Committee.

I ask unanimous consent that the prepared text of Senator QUAYLE's speech be inserted in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit F.)

Mr. TOWER. I also would like to take this opportunity to call to the attention of the Senate the outstanding work which Senator QUAYLE has done as chairman of the Task Force on Selected Defense Procurement Matters in the Armed Services Committee. This task force was created just 6 months ago, and Senator QUAYLE has demonstrated energetic, skillful, and innovative leadership as its chairman.

A tangible indication of the results that he has achieved in this short time are the more than 50 pages of procurement-related provisions in the DOD Authorization Act for fiscal year 1985. These provisions deal with critical procurement policy issues—warranties, spare parts, technical data rights, program management, cost estimating, competition, and small business contracting. This Defense Procurement Reform Act of 1984, which Senator QUAYLE has been instrumental in passing, should resolve a number of the acquisition process concerns at DOD. I congratulate Senator QUAYLE on his excellent work, and I am certain that all Senators will find his remarks to NSIA of interest.

EXHIBIT F

SPEECH OF SENATOR DAN QUAYLE BEFORE THE NATIONAL SECURITY INDUSTRIAL ASSOCIATION, SEPTEMBER 20, 1984

The National Security Industrial Association was founded as a forum for the exchange of views between government officials and those active in the defense industry. This is a critically important dialogue, and it is a pleasure for me to appear at your luncheon today, and, hopefully, to contribute to that discussion.

As all of you know, this has been a very difficult year with respect to the passage of defense budget legislation. The Budget Committee has bogged down in agreeing on a first budget resolution because of an inability to settle on an overall level of defense spending. The defense authorization bills were passed by the Senate and the House, but have been in conference for several months with only limited progress being made. Though the new fiscal year begins in only 11 days, we are far from having a defense appropriations bill for fiscal year 1985, and we will have to rely once again on a continuing resolution to provide funding for the Defense Department starting on October 1.

The message of this series of events is undeniable—the Congress is having a very hard time getting its work done where defense is concerned. And the problem is not just with defense. I have had the honor over the last several months to serve as chairman of the Temporary Select Committee to Study the Senate Committee System. That Committee has held two days of hearings and received the views of many Senators on general procedural problems with the Senate. Without going into this subject in detail today, it is my conclusion that there has been an undesirable decentralization of authority in the Senate, that there is nonproductive redundancy among Senate committees, that Senators have too many Committee assignments which make them "jacks of all trades and masters of none," and that there has been a tendency in Senate debates to deal with relatively trivial issues as opposed to major national policy questions.

I believe there is one major change that we could make in Senate procedures that would have a substantial positive effect on our handling of defense matters. We should institute a two-year authorization for the Department of Defense. This reform would have several obvious benefits. It would introduce greater stability into weapons system procurement. It would permit the Armed Services Committees to spend only every other year working on defense budget issues, and to use the alternate years to conduct broader oversight. It would also permit Senators to broaden their knowledge of defense and national security issues as a result of having time in alternate years to consider questions that go beyond line-item authorizations. It is my intention to discuss at some length with the leadership of the Armed Services Committee the possibility of our moving to a two-year authorization as soon as possible.

I would like to share with you today several observations about Congress' involvement with defense procurement policy. Without question, the last year has been the most active in recent memory with respect to Congressional interest in the defense acquisition process. The Senate Armed Services Committee had a sequential referral of S. 338, the Competition in Contracting Act, and we saw that measure enacted into law. The bill materially changes the fundamental structure of our system to compete purchases by the Defense Department and other agencies of government.

We reported the Defense Authorization Bill for FY 1985, including some 40 pages of provisions dealing with procurement policy. These provisions covered topics such as warranties on weapon systems, spare parts, technical data, economic order quantities, competition advocates, prequalification, independent cost estimating, shipbuilding claims, tour of duty for program managers, and assorted other issues.

Finally, the Armed Services Committee also sequentially reported S. 2489, the Small Business Competition Enhancement Act, which was subsequently passed by the Senate and includes numerous provisions to try to enhance competition in the procurement of spare parts.

What have I concluded from this very busy year of working on defense procurement?

First, the attention of the Congress has in many cases been on relatively small problems of the defense procurement system rather than on the largest, most fundamental problems. Rather than focusing exclusively on temporary management problems like spare parts procurement, our concern more properly ought to be the larger alarming trends in defense acquisition over the last 30 years. For example, this year for the same amount of money we spent 30 years ago, we will receive 700 tanks rather than 7,000. In 1951 we spent $7 billion dollars to buy 6,300 fighter aircraft. In 1984 we will spend $11 billion to buy 322 fighters. Of course, we all recognize that there is little similarity between weapons systems of the 1980's and weapon systems of the 1950's. But the fact remains that as a result of the

need to pay very high prices for individual weapon systems, the quantity of those systems which we have been able to acquire has shrunken dramatically.

In addition, we have continued to witness average time from conception to full scale production of new weapon systems of 8 to 10 years.

We have watched as the defense industrial base has contracted. Today we have only one shipyard that builds aircraft carriers and only two that build nuclear submarines. We have virtually no commercial shipbuilding in the United States, which raises real questions about the viability of a number of existing shipyards for the foreseeable future. We have only two aircraft manufacturers producing carrier-based aircraft for the Navy. And there are substantial questions about the strength of the subcontractor base in a number of fields.

I think the attention of the Congress must be on the largest, most fundamental questions that affect defense procurement. For example, how do we shorten the time involved in the acquisition of weapon systems? How do we incentivize contractors to a greater extent than we are presently doing to minimize their costs in the production of weapon systems? How do we assure that we receive the highest quality and reliability in weapon systems, not through the simplistic misapplication of a commercial concept like warranties, but through a much broader approach to quality assurance that recognizes the historical and significant roles of inspection, acceptance, testing, and efficient management of the transition from development to production? How do we ensure that we have a corps of trained, competent, conscientious procurement managers in all the military services? How do we achieve stability in the production of individual systems in order to drive down unit costs? How do we obtain greater inter-service cooperation for procurement of weapon systems? How do we ensure that we have an adequate defense industrial base for peacetime as well as wartime mobilization? These are the key issues related to defense procurement. These are the issues that deserve the attention of the Congress.

I want to assure you that as long as I am the Chairman of the Defense Procurement Task Force of the Armed Services Committee, these are the issues on which I intend to focus the Task Force's attention. And when I say "focus attention," I am not necessarily talking about legislation.

In the area of defense procurement, we should have less legislation and more effective oversight by the appropriate Committees of the Congress. There are few systems as complex as the defense procurement system. In any such system, there are obviously going to be mistakes. But I, for one, believe that the Department of Defense under the leadership of Secretary Weinberger is making a sincere and conscientious effort to identify those problems and implement appropriate management responses to them.

The problems that we have witnessed over the last year with respect to spare parts and quality assurance are management problems. They require management solutions, solutions that ought to be formulated and implemented by the Executive Branch of the government. The proper role of the Congress and of the Armed Services Committees in the House and the Senate, which are the appropriate committees of responsibility, should be to exercise energetic oversight to ensure that effective management procedures are developed and implemented. The codification of management approaches adopted by the Department into statutes at this point in time is generally unnecessary, since the management actions proposed to be placed into law are for the most part identical to what the Department is already doing. The two-year budget which I mentioned at the beginning of my remarks should facilitate this shifting of emphasis.

In addition, we need a Congressional system which permits Members of Congress to develop expertise in given areas. Senator John Tower, the Chairman of the Armed Services Committee, is a superb example of a Senator who has devoted his more than 20 years of service in the Congress to becoming an expert on foreign policy and national security. Senator Tower, of course, served during World War II in the Navy. For years now he has taken the time to visit our military installations in all parts of the world, to meet with American servicemen in the field, to sail on ships while underway, to visit defense contractor facilities, and to meet with all the key leadership of our military services and the Department of Defense. We need more Senators who make similar efforts in their own areas of expertise, whether that be defense or other public policy concerns. I am hopeful that a two-year budget will facilitate this by providing "off-year" time to let Members do more travel and to consider larger areas of national defense policy.

Those are my thoughts for the afternoon. First, the Congress should move promptly to a two-year defense authorization. Second, the Congress should focus its attention on the largest questions of weapon system procurement, dealing generally with cost, schedule, stability, quality assurance, and professional management. Third, we don't need more legislation on the acquisition process at the Defense Department now; what we need is effective oversight of DOD management initiatives. Fourth, Members of Congress who want to be involved in setting national defense policy must take the time to learn the intricacies of the system.

It is my intention so long as I have the procurement policy responsibility in the Senate Armed Services Committee to try to direct the attention of my colleagues on the Committee and in the Senate to the large, long-term defense procurement issues we have talked about today. I am convinced that we can achieve greater program stability; we can arrest the cost growth in weapon systems; we can shorten the time it takes to put a new system into service; we can achieve high reliability in the field; and we can provide broad competitive opportunities for American business, whether large or small. These are the things that I shall be working toward in the next year. From my experience, I think that most of you in the audience today support these same goals. I welcome that support, and I want to assure you that I will do all that I can to ensure that the Congress acts thoughtfully and responsibly in the future as it tries to oversee and improve the defense procurement process.

WINNERS OF U.S. SENATE PRODUCTIVITY AWARD PROGRAM

Mr. STEVENS. Mr. President, I wish to announce that the award winners of the U.S. Senate Productivity Award Program are in the building, in the Vandenberg Room. They are the winners from Rhode Island, Maryland, Washington, DC, Vermont, Virginia, Utah, South Dakota, New York, Wisconsin, Illinois, Massachusetts, and Arkansas.

The names of these winners are as follows:

Atanasoff, John V.—Vice President and General Manager, EG&G Sealol Engineered Products Division (Providence, Rhode Island).

Blazie, Deane.—President, Maryland Computer Services, Inc. (Forest Hill, Maryland).

Catron, Gary.—Associate, Washington Coordinating Council on Productivity (Washington, D.C.).

Cirillo, Frank J.—Division Senior Vice President, Simmonds Precision, Instruments Systems Division (Vergennes, Vermont).

Dinger, Leonard A.—Director, Productivity Programs Office, Norfolk Naval Shipyard (Portsmouth, Virginia).

Gluse, M.R., Captain.—Commander, Norfolk Naval Shipyard (Portsmouth, Virginia).

Grange, Russell.—Manager, Management Development, American Express, Travelers Checks Operations Center (Salt Lake City, Utah).

Hall, Mel.—General Manager, Organizational Development and Training, Reynolds Metals Company, Mill Products Division (Richmond, Virginia).

Howard, John R.—President, Black Hills Packing Company (Rapid City, South Dakota).

Korin, Samuel B.—Director, IBM Manufacturing Technology Institute (New York, New York).

Korta, Lawrence B.—Manager, Corporate Value Management, Johnson Controls (Milwaukee, Wisconsin).

Manatos, Andy.—President, Washington Coordinating Council on Productivity (Washington, D.C.).

Marquard, Jay.—Plant Productivity Coordinator, Reynolds Metals Company, Mill Products Division (McCook, Illinois).

Matthews, Kimberley.—Associate, Washington Coordinating Council on Productivity (Washington, D.C.).

Rowe, Hobie.—Manager, Quality Assurance, Boston Gear (Quincy, Massachusetts).

Segrest, Earl.—Plant Manager, Stant Inc. (Pine Bluff, Arkansas).

I hope that the Members who are responsible for these winners being here will stop by and say hello. I have asked them to dinner in the dining room, and I ask Senators to join them there.

A SALUTE TO BETTY NELSON

Mr. ROTH. Mr. President, I want to join with many of my colleagues in saluting Betty Nelson, who retired from the Air Force Senate Liaison Office last month after 34 years of Federal service.

Betty has been extremely helpful to my office and many, many Delawareans over the years. Her job was not an easy one, but she performed it not only with great efficiency but with a kind of cheerfulness and compassion that often goes lacking in today's busy world.

Betty has been honored repeatedly by her colleagues in the Air Force, and I can say that these are awards well

earned. I send her my best wishes for a most enjoyable and much deserved retirement.

TCOM AEROSTATS LEAD AMERICA'S INTERDICTION AND DETECTION EFFORTS

Mrs. HAWKINS. Mr. President, 100 percent of the cocaine and 90 percent of the marijuana consumed in the United States is produced abroad. The routes used by drug traffickers are well known. Narcotics are grown in several South American countries and are transported by means of small- to medium-sized aircraft or ships over established routes to the shores of the United States. For geographical and other reasons the traffic is forced to pass through two choke points. These are the Yucatan Channel between Mexico's Yucatan Peninsula and Cuba and the Windward Passage, between Cuba and Haiti. There are, at present, no effective surveillance systems in operation in these channels. The Coast Guard and Customs patrol these areas without the benefit of long-range surveillance; intercepts are made by chance visual acquisition of targets. Visual acquisition: that is, a seaman, standing on deck with, maybe, a pair of binoculars. Not exactly high-tech surveillance.

From time to time, aircraft-born radar systems owned by the U.S. military, such as the U.S. Air Force AWACS, and the U.S. Navy Hawkeye have been employed in long-range target acquisition and vectoring of intercept aircraft. While this technology is more along the lines of what we would expect to be using to catch smugglers, these missions are very expensive and are not available on a full-time basis; these planes, after all, are needed for military purposes. The operational cost of an AWACS platform is in excess of $10,000 per hour. The Hawkeye cost more than $3,000 per hour to operate.

In an effort to more effectively fight traffickers, I am proposing that we wed human aviation's oldest technology to the latest in sophisticated surveillance by using a helium-filled balloon equipped with a state-of-the-art surveillance radar. The entire system would be tethered to an oil platform supply ship, the kind now used by the offshore oil industry for supplying drilling and production rigs. This "aerostat," as it is called, flies at an altitude of approximately 2,500 feet and from there has a target acquisition range of 70 miles. This range effectively covers the two channels previously mentioned. The ship steams in the area of concern and the airborne radar sees targets, in this case smuggling ships, as they enter the detection range. The radar data is transmitted to the ship and from there may be sent to other units operating in the same area.

The advantage of this arrangement is that Coast Guard intercept vessels and Customs intercept aircraft would now be able to lock in on suspicious targets until they can be visually identified. This removes aimless patrolling and the element of chance from the hunt. The balloons remain airborne for 10 days to 2 weeks and can be winched to the ships for inspection, repair, and maintenance.

The main attraction of the aerostat system is its economy. Operational costs for the aerostat are on the order of $300 to $400 per hour. The aerostat also has a larger coverage area; it can see farther than much more expensive airborne platforms. Recent Coast Guard tests have revealed that aerostats can increase our surveillance abilities by over 300 percent while dramatically reducing costs.

For too long we have allowed ourselves to be outmanned, outspent, and outgunned by narcotics traffickers. TCOM's radar-balloon technology will make a valuable contribution to our national effort to stop the flow of narcotics into our country.

TRIBUTE TO U.S. ATTORNEY JOSEPH DIGENOVA

Mrs. HAWKINS. Mr. President, we residents of Washington are fortunate indeed to have Mr. Joseph diGenova as our U.S. attorney.

In a recent article in the Washington Post, just a few of Mr. diGenova's accomplishments are mentioned. As chairman of both the Senate Drug Enforcement Caucus, and the Senate Subcommittee on Alcoholism and Drug Abuse, I am particularly pleased with Mr. diGenova's focus on drug abuse, and his numerous prevention and enforcement efforts. As was said about him in the Post: "diGenova is the kind of aggressive, almost fanatical, antidrug prosecutor that many people, especially the respectable poor blacks in drug-ridden neighborhoods, have been claiming they wanted for years." This kind of prosecutor is, indeed, what we all in Washington have wanted, and needed, for a long time.

With an operation of almost 200 prosecutors, 300 staff workers and a $13 million budget, Mr. diGenova has put together an effective antidrug network that "stretches from the streets to the courts and on to prison."

It is considered by most Washingtonians to be a remarkable effort. Among Mr. diGenova's accomplishments are the DC Council's recent consideration of legislation which would triple the 5-year maximum penalty for conviction of manufacturing, distributing, and using PCP. Also, narcotics arrests are being made in Washington in record numbers, with many of those arrested supplying information to net other drug traffickers.

Mr. diGenova has given Washington residents a disturbing glimpse of the amount, and effects of drug use in this city. He has chosen to exclude no one in his efforts for strong drug law enforcement, and to eradicate drug abuse in our Nation's Capital. I applaud his efforts, and wish him continued success.

I respectfully request that the article entitled, "The Piper," in the Washington Post of Thursday, September 13, 1984, be inserted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE PIPER

Joseph diGenova seemed friendly enough when he was sworn in as U.S. attorney for the District of Columbia last December. Here was a man who had sung opera and played piano in clubs to pay his way through Georgetown University Law School. He was a witty gourmet cook, specializing in tasty Southern and Renaissance Italian cuisine.

Now, some are saying that diGenova has changed his tune and instead of serving the city is trying to cook Mayor Marion Barry's goose.

Barry has accused diGenova of trying to "lynch" him with leaks to the media about his "personal relationship" with a convicted cocaine dealer, and many residents of this city seem inclined to believe the mayor, given the history of race relations here and the fact that deGenova has the support of both Ronald Reagan and Sen. Strom Thurmond (R-S.C.)

But a rush to racial judgment on deGenova is not in order.

As a staff aide to Sen. Charles McC. Mathias Jr. (R-Md.), diGenova worked hard to get GOP support for a proposed constitutional amendment that would give the District voting rights in Congress. He was chief minority counsel to a Senate subcommittee on the District during the Carter administration and was seen as a friend of the city.

DiGenova is the kind of aggressive, almost fanatical antidrug prosecutor that many people, especially the respectable poor blacks in drug-ridden neighborhoods, have been claiming they wanted for years. Much of his operation—about 200 prosecutors, 300 staff workers and a $13 million budget—has been used to devise a crafty antidrug network that stretches from the streets to the courts and on to prison.

And some interesting characters have been caught up in his web.

"Citizens want strong law enforcement," such as crackdown on drug offenders and mandatory sentencing for violent criminals, diGenova says. "Citizens have to understand that that costs money, that they've got to pay the piper."

A native of Wilmington, Del., this particular piper earns $67,500 a year for his efforts. For the money, residents have been given a disturbing glimpse of rampant drug use in the city and witnessed a remarkable effort to stem the tide.

A new drug-testing program implemented in the D.C. Superior Court system found that nearly 62 percent of all criminal defendants who appeared for bail hearings were drug users, half of them PCP users. DiGenova later asked the D.C. City Council to

consider tripling the five-year maximum penalty for conviction of manufacturing, distributing and using PCP.

On the streets, Police Chief Maurice Turner's men are making narcotics arrests in record numbers. At the U.S. attorney's office, diGenova's men keep the ball rolling, leaning on arrestees to squeal like pigeons in an effort to say out of jail.

Unfortunately, the name of Mayor Marion Barry has cropped up—several times. For some reason, according to federal prosecutors, small-time drug dealers, prostitutes, pornography panderers, all trying to save their hides, have wondered why they are picked on when the mayor can do his thing. What thing? the prosecutors ask. The allegations flow from there.

So far, the allegations have gone unproved. Some information allegedly gathered by the grand jury investigating the matter has been handled indiscreetly. But the mayor should be the last one to complain about indiscretion. After all, it was he who the FBI reportedly filmed either arriving at or leaving a party at "This Is It?" a topless nightclub in the heart of Washington's tenderloin strip. The mayor said he was looking for campaign contributions. He said this was his city and he could go anywhere he wanted to. And he's right. But now he, too, must pay the piper.

DiGenova's motives for such a fervent crackdown have been questioned although they seem clear enough. He could end up as did his predecessor, Stan Harris, now a U.S. District Court judge.

Whatever the motive, the fact is that it is not a white prosecutor out to lynch the mayor, but a few black people who were busted for drugs and started singing to the piper's tune.

NATIONAL WILD AND SCENIC RIVERS SYSTEM

Mr. McCLURE. I understand that the House included an amendment to S. 416 which requires a study of the main stem of the North Umpqua River for possible inclusion into the National Wild and Scenic Rivers System and also included special fisheries management language for Steamboat Creek, to be administered by the Forest Service.

Mr. HATFIELD. The Senator is correct. The amendment designates the North Umpqua River as a study river and specifies that the Secretary of Agriculture, in the Umpqua National Forest plan, provide that management practices for Steamboat Creek and its immediate environment conserve, protect, and enhance the anadromous fish habitat and population. Steamboat Creek is a tributary of the North Umpqua River. I would also add that the restrictions of section 7(a) of the Wild and Scenic Rivers Act would also apply to Steamboat Creek.

Mr. McCLURE. What is the size of the area referred to as Steamboat Creek and its immediate environment?

Mr. HATFIELD. The term "immediate environment" means the land area adjacent to Steamboat Creek. This language is not intended to cover the whole watershed, and it is my intention in accepting this language, that the term "immediate environment" would cover the area as defined in the Wild and Scenic Rivers Act. In other words, averaging not more than one-quarter mile on each side of Steamboat Creek. That is, for the main stem of Steamboat Creek, a distance of 19 miles. The Forest Service has adopted special management practices along Steamboat Creek, and has instituted a narrow streamside management strip to protect the fisheries. The fisheries resource in Steamboat Creek is very important and I would expect the Forest Service to manage the immediate environment in a manner to conserve, protect, and enhance the fishery in this creek. All of this would take place in the Umpqua Forest plan. It was not my intention in accepting this language that ongoing or planned timber sales are to be prohibited. Such sales to be conducted, within the immediate environment of Steamboat Creek, so as to conserve, protect, and enhance the fishery resource in Steamboat Creek.

Mr. McCLURE. I thank the Senator.

Mr. HATFIELD. Mr. President, the Senate Energy and Natural Resources Committee report that accompanied S. 416, contained language directed toward protecting ranching activities along the Owyhee River, specifically those activities that take place in the segment to be included in the Wild and Scenic Rivers System. I want to restate that it was both the committee's intention, and mine, that ranching activities, where compatible with the Wild and Scenic Rivers Act be allowed to continue. Specifically, those activities include grazing, stock watering, and repairs, maintenance, and replacement of structures associated with livestock operations.

Mr. President, I finally want to address myself to one other item related to this legislation. The inclusion of the Owyhee River into the Wild and Scenic Rivers System and the study of lands for possible inclusion into the wilderness system are separate actions. I fully expect BLM to examine all lands along the Owyhee River, be they in the canyon, or on the plateaus above the canyon rim, for their wilderness values. Placing the Owyhee River in the Wild and Scenic Rivers System should not be viewed as a substitute for wilderness. BLM is obligated under the Federal Land Policy and Management Act to conduct a review of its lands for wilderness values. Final passage of S. 416 does not affect that review in any manner.

WILD HORSES AND BURROS ON PUBLIC LANDS

Mr. LEVIN. Mr. President, the Senate and House conference committee will soon be meeting on the continuing resolution and will consider, among its many items, the Interior and Related Agencies Appropriations Act. A highly controversial provision is included in the Senate's version of the act which, if adopted, will mean the ultimate sale for slaughter of thousands of wild horses and burrors currently living on our public lands.

Specifically, the Senate bill earmarks $20 million for a massive roundup of 35,000 animals which proponents of the measure contend are interferring with the grazing habits of livestock sharing the same public lands. When the Department of Interior's own fiscal year 1983 statistics show 4.6 million livestock and 60,000 wild horses and burros on these lands, such a contention is without basis. Furthermore, to agree to the Senate's appropriation of $20 million, representing a 400 percent increase over the President's own budget request for the wild horse program, is fiscal madness.

I urge my colleagues on the conference committee to adopt the House's Interior appropriations request for $500,000 to feed those 2,500 wild horses and burros already rounded up and currently awaiting adoption by the public. By doing so, there will be no roundup and ultimate slaughter of our Nation's wild horses and burros and the American public will be assured that their tax moneys are not being used in such an unwarranted, budget busting manner.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. TOWER. Reserving the right to object—I object.

The PRESIDING OFFICER. Objection is heard. The clerk will call the roll.

The legislative clerk resumed the call of the roll.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. TOWER. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended to the hour of 11:35 a.m. under the same terms and conditions as previously ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona.

THE DIRECTOR OF THE CIA

Mr. GOLDWATER. Mr. President, I wanted to take a moment to express my appreciation to the senior Senator from New York [Mr. MOYNIHAN] for having introduced a piece of legislation relative to the Director of the Central Intelligence Agency. This legislation, if passed, would prevent any future appointments to the directorship of the CIA from political ranks.

This legislation might be considered as being aimed at the present Director, Mr. Casey. It is not. Mr. Casey has done a superb job. He brought order out of chaos in the intelligence family. He is respected by intelligence people all over this world and, as long as he wants to stay, there can be no objection.

What I am considering here is the possibility that Mr. Casey may at some time in the future—the distant future, I hope—seek to retire. When that time comes, it will be necessary to fill the job of Director of the Central Intelligence Agency. We have lived through a period of political appointments to the directorship of that body. Some have worked very well, some have worked badly, and some of them have been terrible. Mr. Casey has been a fine exception. As one who serves as chairman of the Select Committee on Intelligence, I do not want to see this position revert once again to a political appointee.

Mr. President, I just wanted to take this opportunity to congratulate my friend from New York for having introduced the bill on his behalf and on mine. Also, I wanted to explain my position. I yield the floor.

CONCLUSION OF MORNING BUSINESS

Mr. BAKER. Mr. President, the Interior appropriations bill is pending, is that correct?

The PRESIDING OFFICER. The Senate is still in morning business.

Mr. BAKER. Mr. President, I ask the Chair to inquire if there is further morning business.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

DEPARTMENT OF THE INTERIOR APPROPRIATIONS, 1985

Mr. BAKER. Mr. President, what is the pending business?

The PRESIDING OFFICER. The clerk will state the pending business.

The legislative clerk read as follows:

A bill (H.R. 5973) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1985, and for other purposes.

Mr. BAKER. Mr. President, I have discussed this with the two managers of the DOD conference report. I have received word from the minority leader through staff that he has no objection to this procedure. I have discussed this as well with the chairman of the Committee on the Interior.

I ask unanimous consent that the Senate now temporarily lay aside the pending business and turn instead to consideration of the conference report to accompany H.R. 5167, the Department of Defense authorization bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

DEPARTMENT OF DEFENSE AUTHORIZATION, 1985—CONFERENCE REPORT

Mr. TOWER. Mr. President, I submit a report of the committee of conference on H.R. 5167 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. NICKLES). The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5167) to authorize appropriations for fiscal year 1985 for the military functions of the Department of Defense, to prescribe military personnel levels for the fiscal year for the Department of Defense, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 26, 1984.)

Mr. BAKER. Mr. President, I hope we can dispose of this subject promptly and even though no rollcall votes can occur prior to 6 p.m. I hope we can agree to this conference report by voice vote, dispose of it, and proceed with the Interior bill and the continuing resolution.

Mr. TOWER. Mr. President, I am pleased to bring to the Senate the conference report on H.R. 5167, the defense authorization bill for fiscal year 1985.

Before getting into details on the bill, let me first express my thanks to the senior Senator from Georgia [Mr. NUNN], who has worked tirelessly to bring this bill to a successful conclusion.

Since the untimely death of our friend and colleague, "Scoop" Jackson, who was one of the most respected spokesmen on national security issues while he served in the Senate, Senator NUNN has undertaken his responsibilities in a truly outstanding manner, supporting defense programs where support was necessary and justified and challenging defense programs when it was appropriate.

I would also like to thank all of the subcommittee chairmen and ranking Democratic members of the Armed Services Committee who have played an integral part in completing this bill.

Let me say also that I personally appreciate the cooperation of my friend, the distinguished chairman of the Senate Appropriations Subcommittee on Defense [Mr. STEVENS]. He and I and our respective staffs have worked very closely throughout this very difficult year to ensure that the views of our respective committees are reflected in both the Senate authorization and the Senate appropriations bills. As a result, the two bills are quite compatible. This has been a model year of cooperation between our two committees and for this I am deeply grateful to Senator STEVENS.

I would be remiss if I did not call to the attention of the Senate the outstanding work done by committee staff, both majority and minority staff who have worked together in a spirit of cooperation to get this bill completed.

We started conference on this bill with the House on Friday, June 22, in the absence of a first concurrent resolution on the budget. In effect, we were working with different budget figures on how much should be spent for defense. The conferees worked diligently through several sessions to complete their work prior to the August recess. However, it became obvious that without a resolution of the budget figures for national defense and without some resolution of the issue of how to proceed with the MX missile system, it would be impossible for the conferees to complete work on this important defense bill. As a result of this impasse, leadership from the Senate and the House of Representatives undertook a series of negotiations which were finally completed on Thursday, September 20. Since that time, we have been able to complete conference action on the defense bill.

Mr. President, the bill that I am recommending to the Senate at this time is a bill that I feel can be supported by every Member.

As is the case in any conference report, there are many matters in this bill that I personally disagree with and would prefer had been changed. However, the bill maintains the momentum of President Reagan's efforts to strengthen our overall defense posture.

The provisions in this bill, when combined with appropriations for those defense items that do not require authorization, total $297 billion for fiscal year 1985. That figure compares with the President's February fiscal year 1985 request of $313.4 billion which was reduced to $299 billion with the so-called Rose Garden compromise in May. The agreement

reached last week between the House and Senate leadership stipulated a $297 billion authorization level with the understanding that the final appropriations bill would total $292.9 billion. The conference bill before the Senate is consistent with the agreement entered into by Senator BAKER and Speaker O'NEILL.

Let me briefly outline the major provisions of the bill for Members' information.

STRATEGIC ISSUES

The conference committee resolved differences of over $2.7 billion between the House and Senate bills in the area of strategic nuclear forces. Budget constraints forced adjustments to be made in a number of programs, but overall, the momentum of the strategic modernization program was sustained. The conference committee took a number of actions that will support the administration's efforts to negotiate equitable and verifiable arms control agreements.

ICBM MODERNIZATION PROGRAM

The conference report includes statutory provisions that implement the agreement of the House and Senate leadership regarding procurement of additional Peacekeeper missiles. The conferees provided $2.5 billion for 21 operational missiles. Of the total amount authorized, $1 billion may be obligated at any time in fiscal year 1985 for the basing and support of the 21 missiles procured in fiscal year 1984, and for the procurement of long lead components and spare parts associated with the fiscal year 1985 missile procurement. The remaining $1.5 billion authorized would not become available until a joint resolution of approval is enacted by the Congress, following submission of a report by the President after March 1, 1985. The conferees provided $2.345 billion in research and development funds for the Peacekeeper missile, small ICBM and alternative basing research including silo hardening, and hard mobile launchers for the small ICBM.

ANTISATELLITE WARHEADS

The conference report includes statutory provisions that implement the House and Senate leadership agreement regarding testing of antisatellite warheads. In the course of their actions on these programs, the conferees adopted the provision of the Senate bill that permits testing against an object in space following a certification by the President of the need for, and arms control implications of, such testing. The conferees approved the full $143.3 million requested for ASAT research and development; procurement funding was not an issue in the conference. However, during fiscal year 1985, funds appropriated for the purpose of testing the F-15 miniature homing vehicle ASAT warhead may not be used to conduct more than two successful tests—defined as intercepts—of that warhead against an object in space.

STRATEGIC DEFENSE INITIATIVE [SDI]

The Senate bill reduced the administration's $1.777 billion request by $150 million, however, it left the allocation of this reduction to the discretion of the SDI Director. The House bill reduced the administration's request by $407 million, and specified the program areas to be reduced. The conferees agreed to adopt the Senate position, providing $1.627 billion for research and development in connection with the strategic defense initiative in fiscal year 1985, leaving the discretion to the SDI Director as to where such funding reductions shall be made.

B-1B BOMBER

The conferees agreed to provide $465 million for B-1B research and development, and $7.7 billion for procurement of 34 B-1B bombers in fiscal year 1985. In addition, $110 million was provided for replenishment spares.

TACTICAL WARFARE ISSUES

In the area of tactical warfare, the conferees agreed on research and development and procurement efforts that will continue the essential modernization of our conventional forces. Emphasis was placed on maintaining efficient production rates to keep costs as low as possible.

ARMY

For the Army the conferees agreed on the procurement of 84 UH-60 Blackhawk helicopters, 144 AH-64 Apache attack helicopters, and 11 CH-47C Chinook transport helicopters.

The conferees agreed to authorize 840 M-1 Abrams tanks. By utilizing prior year savings from the tank program and receipts from foreign military sales of older tanks, the conferees were able to increase the budgeted tank buy from 600 to 840 vehicles with an increase in new authorization of only $150 million. The Bradley fighting vehicle was approved at $980 million for 680 vehicles. The division air defense gun system [DIVAD] was approved at 117 vehicles, however, a special provision was agreed to which precludes spending fiscal year 1985 funds until the successful operational testing of production vehicles.

The conferees agreed to authorize continued research on the joint tactical missile system but included bill language which requires a competitive development of the new system using off-the-shelf missile technology.

NAVY

For the Navy, the conferees agreed to authorize six A-6E attack aircraft and provided $15.1 million in advance procurement for continued production in fiscal year 1986. The conferees also approved $961.7 million for the procurement of 24 F-14 fighter aircraft. To address the need to upgrade the capabilities of these two aircraft, the conferees agreed to the Senate recommended figures of $69.6 million for A-6E modernization and $278.9 million for major improvements to the F-14. Improvements to the F-14 will include new avionics as well as new engines.

In recognition of the inadequate inventory of Navy search and rescue [SAR] helicopters, the conferees approved the procurement of two HH-60 helicopters for the Naval Reserves at a cost of $6 million each. The conferees also agreed to the Senate position for Navy adversary aircraft procurement at a level of $116.8 million.

The conferees approved an authorization of $118 million for development of the Marine, tilt-rotor aircraft, the JVX.

AIR FORCE

For the Air Force the conferees approved a funding level of $1.890 million for the procurement of 42 F-15 fighter aircraft and $2.971 million for the procurement of 150 F-16 aircraft. Authority was also granted to initiate a second multiyear contract for the procurement of F-16's.

The conferees accepted the Senate proposal to develop the C-18—a used Boeing 707—for the joint surveillance and target attack radar system [JSTARS] and provided $94.9 million in the Air Force R&D account and $60 million in the Army R&D for JSTARS development. The JSTARS platform is expected to give our conventional forces a significant increase in capability by providing the ability to detect the movement of enemy units more than 100 kilometers beyond the forward edge of the battle area.

The Air Force's night, under the weather navigation system, LANTIRN, was funded at $90 million for procurement of the navigation pod only.

SEA POWER ISSUES

In the sea power area, the conference report tracks very closely with the administration's request and the bipartisan effort to achieve a 600-ship—15-carrier battlegroup—Navy.

SHIPBUILDING

The conferees approved $12,153.4 million for 27 ships in the Navy's fiscal year 1985 shipbuilding program. The conferees agreed to fund one Trident submarine, four *Los Angeles* [SSN-688] submarines, three CG-47 Aegis cruisers, and one *Arleigh Burke* [DDG-51] destroyer. The *Arleigh Burke* is the lead ship of a new class of guided-missile destroyers and will be equipped with a derivative of the Aegis cruiser's combat system. Funds were also included for reactivation of the U.S.S. *Missouri* [BB-63], the third battleship of the *Iowa* class. Additionally, funding was authorized for service life extension for one aircraft carrier—U.S.S. *Independence* [CV-62], two LSD-41 class amphibious dock landing ships, four MCM mine countermeasures ships, three TAO fleet oilers, two

TAGOS ocean surveillance ships, two TACS crane ship conversions, and one TAVB aviation logistics support ship conversion.

AIRLIFT AIRCRAFT PROCUREMENT

The conferees agreed to authorize procurement of 16 strategic airlift aircraft: 8 KC-10A advanced tanker/cargo aircraft and 8 C-5B strategic airlift aircraft. For tactical airlift, the conferees agreed to authorize procurement of 16 C-130H aircraft with 8 to be assigned to the Air Force Reserve, 4 to the Air National Guard, and 4 to the Active Force. The conferees further agreed to authorize the modification of two C-131 mission support aircraft operated by the Air National Guard.

OPERATIONS AND MAINTENANCE ISSUES

In the operations and maintenance area the conferees provided the necessary funding to permit the steady improvements that have occurred in the past few years in the area of readiness and sustainability to be maintained. The conferees strove to insure that there were adequate funds to properly train U.S. Forces and to procure the necessary supplies and ammunition to insure that our forces would be prepared if called upon.

OPERATIONS AND MAINTENANCE

The conferees approved $78.3 billion for the operation and maintenance of the Armed Forces in fiscal year 1985, including civilian salaries, base operations, and training. The conference action represents a reduction of $2.6 billion from the administration's February request but only $146 million from the administration's revised May request.

Reductions in the operation and maintenance accounts were achieved through revised estimates of fuel transactions, and by imposing slower rates of growth on programs of lower priority.

Conference action included modest increases in recruiting for the Army and Navy as well as increases of $45 million in readiness related items for the Reserve and National Guard.

MANPOWER AND PERSONNEL ISSUES

The most significant differences between the Senate and House were in the end strength levels of military forces, management of the civilian work force, and military pay and educational benefits. The proposed resolution of these differences will result in continued improvement in the total force.

ACTIVE DUTY

The conferees agreed to an active duty end strength of 780,800 for the Army, 571,300 for the Navy, 602,070 for the Air Force, and 198,300 for the Marine Corps.

CIVILIANS

The conference agreement provides for a 1-year test program which will permit the Department of Defense to manage its civilian work force without an end strength imposed by the Congress and without the use of end strengths as an administrative management tool. The Department would be required to report back to the Congress on the results of this test next year.

MILITARY PAY RAISE

The conferees approved a 4-percent raise in basic pay and basic allowance for subsistence effective on January 1, 1985. The pay of E-1's with less than 4 months active duty will not be increased.

EDUCATIONAL BENEFITS

The conferees approved a test of a new program to provide educational benefits to military members entering the service between July 1, 1985, and June 30, 1988. Under the test program, each person entering active duty for the first time during that period will be entitled to educational benefits upon the payment of $100 per month for the first 12 months of active duty. Those benefits will vary depending upon the period of active duty served: $250 per month for 36 months for 2 years of active duty and $300 per month for 36 months for 3 years of active duty. The Secretary of Defense would have discretion to increase these rates for those with special or critical skills and upon the reenlistment of persons who earned the basic benefit.

Additionally, the conference agreement provides for the test of a new entitlement to educational benefits for those enlisting, reenlisting, or extending an enlistment in the Selected Reserve for 6 years, and provides an opportunity for those on active duty with entitlement to benefits under the Vietnam-era GI bill to earn enhanced benefits under the test program by serving an additional 3 years on active duty.

PROCUREMENT POLICY ISSUES

As part of the conference report, the conferees adopted the Defense Procurement Reform Act of 1984. The act has extensive provisions dealing with the defense procurement process and is intended to address recent high visibility problems in the acquisition of spare parts. The act seeks to increase competition, to provide broader competitive opportunities for small businesses, to ensure that reliable weapons systems are purchased, and to otherwise improve the acquisition process.

Specifically, major provisions were adopted on the following subjects: First, to require guarantees on the performance and materials and workmanship in weapon systems procured by the Department of Defense; second, to require the Department to purchase supplies in economic order quantities; third, to strengthen the powers of competition advocates at the Defense Department; fourth, to encourage new competitors and broaden the defense industrial base; fifth, to better manage the technical data held by the Department in order to promote competition in the reprocurement of spare parts; sixth, to better manage the system by which proprietary rights are asserted in technical data; seventh, to ensure that the Department of Defense not pay a higher price for certain supplies than that paid when such supplies are sold to commercial firms; and eight to require program managers in the military services to serve for at least 4 years. Other provisions on related issues were also adopted.

JOINT CHIEFS OF STAFF ISSUES

The conferees agreed to the several measures that are designed to enhance the authority of the Chairman of the JCS and to improve the quality of the Joint Staff. The majority of the conferees agreed that more far-reaching changes in the structure and operating procedures of the JCS should not be made without considering possible changes in other parts of the Department of Defense. In this regard, the conferees approved report language which highlights the importance of this issue and which requires senior civilian and military officials in the Defense Department to provide information on further organizational changes that could be made, especially in the Joint Chiefs of Staff and in the Office of the Secretary of Defense.

Mr. President, this defense bill is one of the most detailed and comprehensive pieces of legislation that the Senate will address this year. I recommend it to the Senate with mixed feelings. It clearly supports a strong national defense which is vital to our continued existence as the leading nation in the free world. Yet, we have been forced to make reductions that will hurt. They will impact enlisted men and women who volunteered to serve their country, and they will impact the ability of the President to conduct foreign policy from a position of strength.

For me, this bill also has special meaning. For 24 years I have served in the Senate and my work in the national security area has been most satisfying. I am particularly privileged to be chairman of the Armed Services Committee at this moment in history with a President like Ronald Reagan who has satisfied his 1980 campaign pledge to strengthen our national defense and reestablish the United States as the unquestioned leader of the free world. For a period of time, there were many who were concerned that we would not have a fiscal year 1985 defense authorization bill. Let me assure these people that I was determined that would not happen, and I think that determination was shared by my distinguished colleague, the ranking minority member. The defense author-

ization process is too important; it has become a critical element of our national security decision-making process.

Mr. President, we are going to get a defense bill, and it is a bill which I support. I urge my colleagues to support it as well.

I might note, Mr. President, one thing which was brought clearly home to me during the consideration of this bill and during the lengthy conference that ensued with the House. I believe we should give some consideration in the Senate to a germaneness rule which would prevent subject-matter legislation from being loaded down with floor amendments that are not relevant. I think that would be a more orderly way to legislate, and it certainly would make matters easier in conference.

In our conference with the House, we spent more time on amendments that were not germane to this bill or amendments that properly belonged in the jurisdiction of other committees than we did on the matters that were clearly within the jurisdiction of the Armed Services Committee. We spent more time on those matters than we did in consideration of programs and program differences between the House and the Senate.

I also hope, if there is no change in the germaneness rule, my colleagues would think with sympathy about embattled committee chairmen and ranking members who come to the floor and present their bills and try to advocate them, defend them, and secure their passage and they are loaded down with nongermane amendments that make conferences far, far more difficult and in some cases perhaps even proscriptive of successful resolution of the conference.

So I say that as a sort of parting shot, Mr. President, because it is a matter that I think we need to seriously consider.

I might note that because of the nongermane provisions of the bill, there were some 52 conferees on the part of the House, I think only about 17 or 18 of whom were members of the Armed Services Committee. Of course, they were there only for specific areas of the bill in which they had an interest or had some jurisdiction in the House. But it does make it enormously difficult to resolve a conference between the House and the Senate.

So that is my reform speech for the day. I intend to have more to say about the subject before we adjourn sine die.

Mr. President, I ask unanimous consent that the following technical changes be made to the Statement of Managers in the conference report on the fiscal year 1985 DOD Authorization Act.

They are simply technical corrections and do not change the substance of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

In the chart entitled Navy Aircraft Procurement, on the line reflecting the subtotal of Prior Year Authorization Transfers, change the figure "$-152.1" to "$-54.4."

In the chart entitled Air Force Missile Procurement, in the line reflecting the subtotal of Other Support, change the figures in the appropriate columns to read as follows:

Request	3,992.6
H.R. 5167	3,726.7
S. 2723	3,931.9
Conference	3,891.9

In the narrative entitled Air Force Other Missile support, in the first paragraph, make the appropriate changes to reflect correct figures for the subtotal of Other Support.

Mr. NUNN. Mr. President, I thank the Senator from Texas for his kind and gracious remarks about my role in this defense bill and work on the Armed Services Committee. I will have more to say about his excellent service in a few minutes.

For the past 2 months, I have talked about how important it was for the conferees on the fiscal year 1985 Defense authorization bill to fulfill their responsibilities to the Congress, the Defense Department, and the taxpayers of this country in reaching a conference agreement. It is therefore with a great deal of pleasure that I join the chairman of the Armed Services Committee in presenting the conference report on the fiscal year 1985 Defense authorization bill to the Senate.

Mr. President, the Senator from Texas has covered a number of subjects, and I am going to skip those that he has covered and try to highlight a few that I think are important which have not been covered in the discussion this morning. I will not take time to summarize the entire conference agreement which covers some 1,300 individual differences between the two bills. But there are several important issues I will highlight.

MX

On the MX missile, I believe we have reached a sensible, bipartisan compromise. Rather than decide the fate of this important program in the waning days of this session and in the midst of election year politics, the conferees agreed to defer the decision on the production of additional missiles until next spring. In the meantime, the agreement provides enough interim funding so that missiles approved last year can be installed, so that the production base will not disappear, and so that the program's schedule would not be affected if next spring's decision is favorable. Essential parts of next year's debate must include consideration of any new developments in MX basing. We must also focus on a cost and deployment assessment with respect to the small missile, particularly with respect to its viability outside any arms control agreement. In my judgment, however, unless the administration can set forth a plan that goes beyond simply putting the MX into vulnerable Minuteman silos, the outlook for the MX next spring is not very bright.

OTHER STRATEGIC PROGRAMS

The conferees reached what I consider a prudent compromise on Asat that permits two successful tests of our Asat if the President certifies that the tests are needed and will not prejudice future negotiations. The rate of testing is controlled in order to motivate the Soviets to begin negotiations forthwith if they are genuinely interested in negotiating Asat limitations. Senator JIM EXON has played a key role in this area as well as the whole strategic subcommittee account.

On the advanced technology programs, I believe the conferees' decisions continue to reflect the strong sense of the Congress that our technological edge in low observables, or Stealth as it is sometimes known, should be vigorously pursued. The Senate was able to prevail and restore virtually all of the House cuts in these areas.

I am afraid that my prophecy for the last 3 years about pressure on these very high leverage, high technology programs is being realized. The House made substantial cuts, and there are indications that some in the Department of Defense, although not the Defense Department itself, are advocating that these programs be cut back. I think that is the result of the budget squeeze that has been predictable and inevitable now for 3 years, particularly in the strategic area where we have too many programs for the funding levels that are going to be available.

But this year we were able to prevail and the House did recede in these important areas.

If the authorized amounts are fully appropriated, as I hope they will be, we will be able to continue these strategic capabilities in the late 1980's and 1990's. Senator ROBERT BYRD has had an amendment the last 2 years which placed the strong backing of the Senate behind these very important high-leveraged programs, and I commend Senator BYRD for his effort. That amendment was a part of the conference report and enabled us to convince the House conferees that the Senate stood fully behind these programs.

On the President's Strategic Defense Initiative, I am pleased that the conferees have left to the discretion of the new SDI Director the authority to deal with such reductions as may be imposed. While I support the overall

conference agreement before you today, I supported a lower level for SDI in our committee, on the Senate floor, and in the conference. I continue to be concerned about the pace and direction of the program.

Let me note that the conferees agreed to the formation of a blue ribbon task group to examine whether changes are needed or desirable in the way DOD and DOE now perform their various functions regarding nuclear weapons planning, design, development, production, testing, and stockpiling. I continue to be concerned that there is inadequate cost and management control over this process, so long as the Defense Department's perspective is that nuclear weapons are free. In my view, this leads to overstated military requirements which the DOE then tries to satisfy, resulting in an inordinately costly process. Since DOD does not have to allocate resources to nuclear weapons, those programs largely escape top management scrutiny and the tradeoffs of numbers, cost, and performance that such high-level reviews generate I urge the President to put his emphasis and prestige behind this effort and I look forward both to the task group's report and to additional hearings in this area next year.

ARMS CONTROL AND RISK REDUCTION

I am pleased that the conference adopted three important Senate amendments on the general question of arms control and risk reduction with the Soviet Union.

First, the conference adopted an amendment sponsored by Senators LEAHY and BUMPERS calling on the President to continue to honor the interim restraints established under the SALT II Treaty.

Second, the conference accepted as a sense of the Senate resolution the Kennedy amendment calling upon the President to support the ratification of the Threshold Test Ban Treaty signed in 1974 by President Ford and the Peaceful Nuclear Explosion Treaty signed by President Carter in 1976.

The conference also adopted the amendment that I proposed—and which the Senate adopted—to the Kennedy initiative relating to verification. There are serious and legitimate concerns as to whether these treaties can be adequately verified. Therefore, the provision calls on the President to submit a report containing any plans he may have to negotiate supplemental verification procedures with the Soviet Union or, in the absence of such supplemental procedures, any understanding or reservation on the subject of verification which the President believes necessary and which he believes should be attached to the treaties when and if they are ratified by the Senate.

It also calls upon the President to propose to the Soviet Union an immediate resumption of negotiations toward a verifiable comprehensive test ban treaty.

Finally, the conference adopted the Nunn/Warner nuclear risk reduction amendment. That amendment commends the President for his recent agreement with the Soviets upgrading the "hot-line" but calls upon him to consider further improvements in our communication links with the Soviets in event of a crisis and suggests that he explore with the Soviets the establishment of nuclear risk reduction centers which would facilitate rapid communication between ourselves and the Soviets in times of crisis.

In summary, we have made some small but significant steps forward in this area, but I think it is one of the most important areas in arms control. Whatever level of limitation we may agree to, or whatever scaling-back we agree to, in weapons in the future, even the best agreements will leave the United States and the Soviet Union with a very large nuclear arsenal which must be managed in a very prudent way, particularly in crisis situations. The object of all this is to avoid expanding the nuclear exchanges or nuclear exchanges that could be precipitated by terrorist groups or Third World countries, and to reduce tensions in the event of a confrontation.

CONVENTIONAL PROGRAMS

Mr. President, one of the successes of this conference is retaining higher rates of production on some important conventional weapons systems. We rejected the recommendations on the administration to cut the Apache attack helicopter, the Abrams M1 tank, the TOW II missile, the Hellfire laser missile system, and the Mark 48 torpedo, just to name some important examples. I ask unanimous consent that a list of such selected weapons systems which the conferees placed a high priority on funding at efficient rates be included in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 1.—EXAMPLES OF SELECTED WEAPONS SYSTEMS WHICH THE ARMED SERVICES CONFEREES SUSTAINED A HIGHER PRODUCTION RATE (YEARLY QUANTITIES REQUESTED AND AUTHORIZED)

System	1985 production rate		
	January budget request	Presidents May budget revision	Conference recommendation
Army systems:			
AH–64 attack helicopter	144	112	144
UH–60 utility helicopter	78	78	84
Hellfire missile	6,026	5,026	6,026
TOW missile	18,000	6,000	15,000
M1 tank	720	600	840
M2 fighting vehicle	710	655	680

TABLE 1.—EXAMPLES OF SELECTED WEAPONS SYSTEMS WHICH THE ARMED SERVICES CONFEREES SUSTAINED A HIGHER PRODUCTION RATE (YEARLY QUANTITIES REQUESTED AND AUTHORIZED)—Continued

System	1985 production rate		
	January budget request	Presidents May budget revision	Conference recommendation
Navy systems:			
SSN–688 attack submarine	4	3	4
MK 48 (Mod 4) torpedo	144	51	108
Captor mine	300	0	300

Mr. NUNN. Mr. President, this picture is mixed, since both the administration and the Armed Services Committees have again had to resort to program stretchouts in the face of budget reductions.

In the original budget request for fiscal year 1985, the administration stretched out the production of 22 major weapons systems. More programs were funded in the near term, but the ultimate effect of these stretchouts was to increase the total cost of these 22 programs by nearly $3 billion. The May revisions to the fiscal year 1985 defense budget reflecting the Rose Garden compromise called for stretching out the production of 25 more systems.

In the conference agreement before the Senate today, cuts in procurement programs as great as 50 percent are not uncommon. We did not terminate a single program. I think that is a mistake. We just stretched some out, with unavoidable inefficiencies introduced in the process. I ask unanimous consent that a table of sample "stretchouts" be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 2.—EXAMPLES OF WEAPONS SYSTEMS "STRETCHED OUT" IN TERMS OF ANNUAL PRODUCTION RATES IN 1985

[Comparing the production rates projected last year for 1985 with the President's budget request and the authorization]

System	1985 production rate		
	Projected last year	Requested this January	Authorized this fall
Army systems:			
Patriot missile	815	585	400
TOW missile	21,028	18,000	15,000
M–2 fighting vehicle	830	710	680
Navy systems:			
F/A–18 aircraft	92	84	84
Phoenix missile	464	400	380
Air Force systems:			
F–15 fighter	72	48	42
C–5 transport	10	10	8
IIR Maverick missile	5,729	4,500	2,600
AMRAAM missile	224	174	25

Mr. NUNN. Mr. President, the fault in this process is our inability to discipline new starts. Because too many systems have entered production, we are not able to buy many of them at efficient production rates. I continue to be concerned about the overemphasis on procurement that the current

program represents. It is clear to me that, as budgets inevitably are lower, and as the operating and maintenance cost of the new systems increase, and as the fixed prior obligations of all this bow wave of new procurement comes due while strategic nuclear programs are fenced from any decreases, funds for day-to-day military readiness will be squeezed and squeezed and squeezed again.

There were some important provisions that were included in the Senate bill which have been retained in the conference. For example, the Senate insisted on language restricting production of DIVAD air defense guns authorized in this bill until the results of initial production testing are completed next spring. The House had opposed such provisions and indeed had defeated similar provisions offered in a floor amendment. The Senate was able to prevail, thanks to the hard work of Senator BINGAMAN who took the lead on behalf of the committee.

TRANSFER OF UNOBLIGATED BALANCES

Mr. President, I should like to point out a detail of our conference report that might go unnoticed, but which I believe is an important indication of an as of yet untold story to which we will have to pay increasing attention. This bill authorizes the Department of Defense to transfer forward to fiscal year 1985 $1.4 billion of funds authorized in prior years which remain unobligated and unneeded.

With the growth in the DOD procurement accounts since fiscal year 1981, we have seen a rapid accumulation of large unexpended balances waiting to be spent. At the beginning of fiscal year 1981, the Defense Department had $92.2 billion in unexpended balances. By the end of fiscal year 1985, DOD is projecting its unexpended balances to be $238.9 billion, 2½ times larger than the level at the beginning of fiscal year 1981. Some of this is inevitable, but it does raise inevitable questions of efficiency in management of these unexpended balances.

In the defense budget reductions submitted to Congress as part of the rose garden compromise last May, DOD identified $1.4 billion of funds authorized and appropriated in prior years which are no longer needed. Throughout this year the Armed Services and Appropriations Committees have reviewed many DOD reprogramming requests which sought to transfer prior-year funds no longer required because of favorable contract negotiations, unexpected lower costs, and other similar reasons, to fiscal year 1984 programs.

This is good news. It certainly is welcome in terms of budget savings, but it also indicates that perhaps large sums in that growing pot of unobligated balances may not be required. When you look at reprogramming requests and the way they are handled, you have to recognize that these requests are not given the same degree of scrutiny as the original requests in the budget.

Many of those unobligated balances were tied to programs that were based on economic assumptions that assumed much higher inflation than has actually occurred. These large transfers of prior year funds raise real questions about how large the savings in prior year programs really are, and whether all of the savings possible have been identified to date by DOD.

OPERATIONS AND MAINTENANCE

The conference agreement does a good job of protecting important programs in the operation and maintenance accounts essential to day-to-day readiness of our military forces.

The fiscal year 1985 defense budget reductions included as part of the rose garden compromise last May made some unwise reductions in the O&M accounts to operating tempos, depot maintenance programs, and real property maintenance. The bill passed by the Senate early in June restored some of these proposed reductions to readiness programs, but not all of them.

Between the time that the Senate completed action on the bill and the completion of the conference, additional savings have become possible in the fiscal year 1985 O&M request. These savings are the results of continued lower than anticipated prices for fuel and other stock fund items, as well as through savings in foreign currency requirements because of the improvement in the strength of the dollar overseas. As a result, the conferees were able to apply these savings in pricing adjustments to fund programs that had been reduced in both bills. The conferees applied approximately $470 million in savings to restore funds to depot maintenance, including Navy ship overhauls; logistics support programs; real property maintenance; and other important readiness programs in the O&M accounts.

NATO

The conferees agreed to adopt the Cohen/Nunn amendment, which included the troop ceiling on U.S. forces. This compromise does not include the troop withdrawals which were a part of the Senate debate and which were part of my original amendment. I felt that delaying the troop withdrawals for several years, until we could determine if the allies were going to carry out their obligations, was a reasonable test of allied intentions to acquire a realistic conventional deterrent within NATO. We did not adopt that on the Senate floor, and of course it is not part of the Cohen amendment that was adopted in conference. There are some signs that our allies are taking the issue more seriously, but I will look closely at what our allies are doing in the next several months in terms of action, not speeches or rhetoric. I am sure that this effort is going to be scrutinized carefully by our colleagues in the Senate, whether they were for the original amendment or not.

There was a very broad consensus here in the Senate that our allies are not doing what they have pledged to do within NATO in the conventional area.

Mr. President, I am persuaded the American taxpayer will not permanently support large U.S. expenditures in excess of $100 billion for forces in NATO unless our allies buy enough munitions to get through at least 30 days of a war and unless they become willing to build aircraft shelters and minimum essential facilities that are necessary to protect the $50 billion of U.S. tactical aircraft and the highly-trained American pilots we plan to send to NATO in any kind of confrontation in that arena.

REORGANIZATION OF THE JOINT CHIEFS

Mr. President, there is another area here that should not go unnoticed because I happen to believe it is one of the most fundamentally important areas facing us in national security over the next couple of years, and this relates to the Joint Chiefs and the reorganization of the Joint Chiefs, and I might add also the Department of Defense.

The conferees adopted a number of measures to reorganize and strengthen the organization of the Joint Chiefs of Staff. I believe and hope these measures are just a beginning in our efforts to enable the Chiefs and the Chairman, in particular, to provide the kind of sound military advice to the Secretary of Defense, the President, and Congress that cuts across service lines on strategy and resources that is so essential that we have the most effective and capable unified fighting forces for the resources available.

The House bill included a comprehensive revision of the JCS which had been introduced by Congressman NICHOLS. The Senate bill did not contain any provisions dealing with JCS reform, and as I said on the floor during the consideration of the bill, I believe that the question of reorganization of the entire Department of Defense, including the JCS, is long overdue.

Senator TOWER and I and the staff worked diligently on this all year. We had so many other items we could not complete a markup of the bill. Our staffs, led by Jim McGovern and Arnie Punaro, I think did a superb job in presenting to us the various options and I think that these efforts will continue to be very valuable next year.

The conference adopted some of the important provisions of the House bill. These include making the chairman the spokesman for the unified and

specified commands, giving him the authority to determine what issues before the JCS shall be decided and the right to select staff officers. These are important changes. We also adopted provisions which would relax restrictions on officers serving on the Joint Staff so as to preserve staff expertise. The conference also adopted report language that I proposed which commits the Committees on Armed Services in both Houses to pursue the issue of DOD reorganization in the next Congress. This report language by the conferees poses a series of questions to the key defense officials whose answers will have to be an important part of next year's effort.

I commend several Members of Congress who have devoted a great deal of time and energy to this question and who have developed and contributed a great deal of expertise and wisdom in this area. Our distinguished colleague from Missouri, Senator EAGLETON, introduced an amendment to the Defense Authorization bill, which he subsequently withdrew but which includes many thoughtful provisions reflecting his own careful analysis and examination of the shortcomings of the current organizational structure. On the House side, Congressman BILL NICHOLS and Congressman IKE SKELTON should be commended for the care and depth with which they have approached this important question. Former Congressman Richard White also has contributed significantly to this effort. I am sure that all of these individuals will continue to follow this matter closely and will make great contributions to our efforts to reorganize the Department of Defense.

And I might add that all of us look forward to continuing to get the advice of the Senator from Texas because he has acquainted himself in this area diligently in the last couple of years, and I know we will welcome his advice next year wherever he is.

It is also appropriate to recognize the outstanding staff work that both committees have done on this subject—Archie Barrett on the House side and Jim Licher, Rick Finn, and Bruce Porter on the Senate side, as well, of course, as Jim McGovern and Arnie Punaro.

PROCUREMENT POLICY

Mr. President, on the subject of procurement policy, the conference also adopted a number of very important provisions which reform major elements of procurement policy of the Department of Defense. These include improvements in the provisions requiring warranties on major weapon systems, a number of steps to reduce the abuses in purchasing of spare parts, and measures designed to increase competition and open up opportunities for small businesses in the Defense procurement process.

This is an extremely complex and technical area. It required a great deal of study and hard work by Senator QUAYLE and Senator LEVIN, the chairman and ranking minority member on our committee's special task force on procurement. Senator DIXON was also a key leader in this effort. All of the members of this task force should be commended for their hard work on this subject.

I was also pleased that the conference adopted with modifications an amendment I sponsored mandating minimum 4-year tour lengths for program managers of major defense acquisition programs. I think this amendment will contribute to improve stability and accountability in the procurement of major weapons systems.

TEST OF NEW EDUCATIONAL INCENTIVES PROGRAM

Mr. President, one of the toughest issues facing the conference was the question of a new program of educational incentives for military service.

The House contained a new GI entitlement program for everyone entering military service sponsored by Congressman MONTGOMERY. The Senate bill contained a much more limited program of educational benefits, introduced by Senator GLENN, designed to appeal to high quality, motivated recruits who would come into the service for one enlistment in return for a college education.

The conferees agreed to a 3-year test program in which all members entering active service for 3 years beginning July 1, 1985, will be eligible to receive post-service educational benefits in return for a reduction in pay of $100 per month for the first 12 months of active duty. These benefits will vary depending upon the period of active duty served: $250 per month for 36 months for 2 years of active duty, and $300 per month for 36 months for 3 years of active duty. The Secretary of Defense could increase these rates for those with special or critical skills, and upon the reenlistment of persons who earned the basic benefit. The agreement also provides for the test of a new entitlement for educational benefits for enlisting, reenlisting, or extending their enlistment in the Selected Reserve. I stress my belief that the conferees intend this strictly as a test program, although it is far too large a test for my own appetite.

Mr. President, I am pleased that the conferees made this program voluntary and contributory, but I did not support the compromise agreement.

I just do not believe, with $200 billion deficits, we can afford a new educational benefits program of this type and this size at this point in time. When we are able to afford such a program, I think it should be carefully targeted to appeal to those young people we need the most in the military and are having the hardest time recruiting—high quality, high school graduates.

I am also very concerned that this program will have a harmful impact on retention because when you make a very large sum of money, between $10,000 or $11,000, available to everyone after the third year, it seems to me that it is going to be very difficult to continue to have people stay in the service for the length required if they have this kind of reward to get out after the third year.

Mr. TOWER. Mr. President, will the Senator yield for a comment on that?

Mr. NUNN. I am delighted to yield to the Senator.

Mr. TOWER. Mr. President, I am bound to say that I am very much in sympathy with what the Senator from Georgia said, and I share his concerns and would have preferred to see nothing of this type in the bill.

I felt it was necessary to try to effect some sort of a compromise with the House of Representatives in the interests of getting out a conference report, and it was under that kind of situation that I did agree to a somewhat more limited GI bill than what was originally proposed in the House bill, but I must say I do share the concerns of the Senator from Georgia.

Mr. NUNN. I thank the Senator from Texas.

The Senator from Texas and I saw this one just alike. We worked very carefully together, and the Senator from Texas is to be commended for the changes he made in the original bill. I think his changes will greatly improve it and minimize the downside risk that I had seen.

Mr. President, to me, the GI bill was one of the finest programs this country has ever had. I think it was an excellent program. But we have to recall the origin of the GI bill. It was basically a program to help transition people out of the military and to give them a chance to be trained for civilian endeavors.

Our problem today is almost exactly the opposite. What we really need now is something to attract people of high skills and qualifications in the military and to have them continue for a reasonable period of time, hopefully for a career.

When you give people an incentive to take their money and get out you have to ask whether we have geared a program to the real challenge or whether we have geared a program to our nostalgia for the GI bill.

I wish to see us review this full area next year. I think it is long overdue that we look at all Government benefits for college education and if we are indeed going to have a new program I think we should consider that we are competing with benefits which are available to people who do not serve in the military.

I wish to evolve the whole concept into some form of national service and that national service program would have educational benefits and rewards at the end of it.

What we have is a piecemeal approach now. We have a patchwork system of educational benefits—some of it related to Government, some of it having nothing to do with Government services, and I am afraid that the total package is not going to be very useful.

Notwithstanding my opposition to this particular provision, I want to pay special tribute to the hard work and effective leadership in this area by Congressman MONTGOMERY, Senator COHEN, and Senator ARMSTRONG, who are committed to ensuring that we obtain the high quality of recruits we need today. They have spearheaded the effort for a peacetime GI bill. While we do disagree on the approach, I think we all agree on the final goal.

Mr. President, I am delighted that the Senator from West Virginia, Senator RANDOLPH, is on the floor. I will take a moment to talk about a subject dear to his heart. I think it is a great tribute to our distinguished colleague from West Virginia, JENNINGS RANDOLPH, and many others who have worked long and hard on this issue that the conference adopted the Senate amendment to establish the Peace Academy with certain changes. In order to avoid confusion as to the nature and purpose of the academy, the name was changed to the Peace Institute. To avoid a potential constitutional concern, no Members of Congress will be made members of the board of directors. The funding authorization was scaled back by eliminating the $7.5 million capitalization fund that was contained in the original Senate bill. The thrust of the change in conference in this area was that we deemphasized—in fact, excluded—so-called bricks and mortars type projects and maximized the utilization of existing institutions and arenas of higher education.

Mr. President, this compromise agreement specifically calls for a Jennings Randolph peace program. I think that reference to the Senator from West Virginia is extremely well taken. I think it is appropriate. There will not be new construction under the conference agreement. Instead, the Peace Institute will maximize the use of the existing academic community to further the important mission and role of conflict resolution.

Mr. President, this is a mammoth agreement whose final provisions were only completed yesterday morning. Our staff worked virtually all night the night before last, and I commend all of them for their very, very diligent work. The statement of managers itself is over 500 pages, and the bill language is over 400 pages. So clearly it would be some time before one could give a complete and thorough analysis of all the provisions and their implications. It is not, however, too early to talk about the challenges that still remain even with the work this bill represents. We still must remain focused on the need to ensure that we get the maximum defense capability for the resources we invest. We must ensure that these resources are being invested wisely under a sound, coherent military strategy. We must ensure that we have the most effective organizational structure in the Department of Defense to provide the cross-service military advice needed to develop and implement our military strategy.

We must ensure that there is a proper balance between strategic and conventional programs and between procurement and readiness. We must ensure that our allies are contributing their fair share to a credible common defense posture. We must ensure that the Department of Defense is properly managing the resources we are providing.

It is clear that there are significant and continuing problems and challenges in all of these areas.

In closing, Mr. President, I want to add a personal note of thanks to Chairman JOHN TOWER for his service in this conference which was long, tedious, and required a great deal of skill and a great deal of wisdom on his part to complete. I also want to thank him—and I think I speak for all the members of our committee, and I believe safely I can say all the Members of the Senate—for his service to the Senate of the United States, to the Nation, and particularly to the Nation's security.

This is my first complete bill as the ranking member of the committee following the sad and untimely death of our beloved colleague, Scoop Jackson. Senator TOWER has been most cooperative and helpful, and we on the minority side have been treated fairly by Senator TOWER and by his staff. It is essential that a committee like ours work on a bipartisan basis to the maximum extent possible, and also in a very cooperative manner. I want to thank Senator TOWER and the majority for leading the way in making this possible.

The staff on the majority side, led by Jim McGovern, I think have done a tremendous job in a very difficult arena, and I am also proud of my staff led by Arnold Punaro. Jim and Arnold and their respective staffs have worked together well and have been mutually reinforcing toward a larger goal of enhancing our national security.

I also want to thank the staff both on the House and Senate side for their herculean efforts of last week. They virtually worked around the clock as I have already mentioned. I particularly thank the minority staff, Bill Hoehn, Jeff Smith, David Lyles, John Hamre, Russell Miller, Patty Watson, Pam Powell, Cathy Bognovitz, Shelley Turner, and Debbie Paige-Dubose. Much of the staff is new joining some seasoned professionals. This was their first budget cycle. I hope that I can truthfully tell them they all will not be this long and tedious, and maybe they will stay on for another round. I am certainly hopeful that they will.

Mr. President, again I thank my chairman, Senator TOWER, and all the members of the committee.

I also want to particularly thank the outstanding leadership in the Strategic Subcommittee, Senator WARNER, and Senator EXON; in the Tactical Subcommittee, his usual outstanding job, Senator GOLDWATER and the ranking member, Senator KENNEDY; in the Sea Power Subcommittee, Senator COHEN and Senator HART; in the Manpower Subcommittee, Senator JEPSEN and Senator DIXON; in the Military Construction Subcommittee, Senator THURMOND and Senator BINGAMAN; in Preparedness, Senator HUMPHREY and Senator LEVIN; and the new Ad Hoc Committee on Procurement. I think they made a very impressive start under the leadership of Senator QUAYLE and Senator LEVIN.

The PRESIDING OFFICER (Mrs. KASSEBAUM). The Senator from Texas.

Mr. TOWER. Madam President, I want to thank my coworker, Senator NUNN, for his very generous remarks about me. This would not at all have been possible, the completion of this conference report, without a great deal of cooperation on both sides of the aisle.

Mr. RANDOLPH. Mr. President, I am very, very grateful for the generous words of the valiant Senator from Georgia [Mr. NUNN], who served as the ranking minority member of the Joint Conference, with the Senate Chairman [Mr. TOWER], of Texas.

It is our hope that an approach through an Institute of Peace will be a positive force in forging a program to hasten that day when peace and understanding will undergird humankind throughout the world.

My cherished colleagues know that I hoped and worked, as did many others, for the creation of a peace office within the U.S. Government.

My experience, as we have established similar institutions over my many years in Congress, is that there is always a need for an appropriate appreciation of the history of an idea itself, its roots so to speak. I believe the roots of the Institute of Peace started in the time of the drafting of our Constitution; the debate over the past 39 years, in my opinion, has assumed an appropriate historic dimension, particularly over whether creat-

ing the Institute is a proper role of the Federal Government in education.

The question had become not so much "is education a Federal responsibility?" But "does national security require Federal participation in some types of education?" The answer is that it does, for our national security in our modern age has assumed new meaning, posing unique and demanding challenges on our leadership and the people we represent.

We do not ask the private sector, alone, to prepare for military solutions to conflict, nor should we expect the private sector, alone, to develop nonmilitary approaches to conflicts which affect the security of our Nation.

I shall always remember the action in this body today, to approve the conference agreement on the Department of Defense authorization legislation, which contains authority to establish the U.S. Institute of Peace. We demonstrate, as the Congress has demonstrated in the past, that when we see a gap or a void that needs to be filled, we do not hesitate to fill it. Yet this Federal presence, sponsored by Congress, always seeks to compliment and support, never to supplant, the private activities seeking the same goals.

I express my gratitude to all our supporters in the House and Senate, who served as conferees on the DOD authorization. Our Committee on Labor and Human Resources colleagues favorably reported the Peace Academy legislation to the Senate late last year. Without their help, this would not have been possible. There were 56 Members of the Senate, Republicans and Democrats who cosponsored S. 564. Approximately 178 Members of the House of Representatives who cosponsored similar legislation over the past 4 years.

This Nation's citizens want us to be prepared and knowledgeable and to be willing and able to develop new approaches to peacekeeping. While maintaining an adequate defense structure—which we have done in the defense authorization bill today, the people also want no artificial barriers placed in the way of resolving world tensions through nonviolent means wherever and whenever possible. I believe the Institute will be able, eventually, to deliver that knowledge and preparedness and other nations will hopefully follow our example. The Institute will centralize that effort to achieve global peace.

Throughout the United States thousands of people have written of their support for the Peace Academy, now the Peace Institute. The U.S. Government is prepared to reject the proposition that only military—strictly military—responses to the problems of this world meet our collective commitment to build a more stable world.

The creation of the Institute does not say to the world "we are weak"—it says to the world "we are strong. We are imaginative. We are dedicated to the most penetrating analysis and incisive action possible to bring peace to the world."

I quote the words of John F. Kennedy:

"The pursuit of peace is not as dramatic as the pursuit of war, but we have no more urgent task."

Mr. GOLDWATER addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Madam President, my statement will be very, very short. I hope that next year when we get into this business of defense expenditures that we can establish a rule of germaneness on this floor.

Madam President, we spent 2 months in this conference, and never once was mentioned an item to be used by the Armed Forces. I hope next year and the year after we will not be faced by a Speaker of the House who insists on stacking the deck by adding 52 or 53 Members of the House. You have no idea what we went through in that conference listening to things that had no reference at all or no importance to defense.

Madam President, I want to remind my colleagues not only in the Senate but in the House that the first job of this Congress is to provide for the defense of our people and our freedom. And I think we spent a lot of useless, wasted time put upon us, not by this body, except for the 27-odd nongermane amendments, but put upon us by the Speaker of the House who at times I am afraid insists upon his own feelings above the feelings of the Constitution or the people.

I look forward to serving on this committee in my remaining years. I look forward to serving with Senator NUNN, of Georgia, and whoever may serve on this committee.

I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Madam President, I rise in support of the conference report on the Department of Defense Authorization Act for Fiscal Year 1985. The chairman of the Senate Armed Services Committee, Senator JOHN TOWER, and the ranking minority member, Senator SAM NUNN, are to be commended for their efforts to achieve agreement with the House conferees. We had a very short period of time in which to finish this conference and their leadership was instrumental in resolving many difficult issues of concern to the Senate.

Madam President, this legislation authorizes expenditures of $297 billion in support of our national defense. Although President Reagan requested $313.4 billion for national defense, this bill maintains the momentum of our modernization efforts in strategic and tactical programs begun by the administration in 1981, and I urge all my colleagues to vote in support of this conference report.

We are continuing progress with the Peacekeeper missile by purchasing 21 operational missiles during fiscal year 1985. Strong continued support for our NATO allies is evident by further procurement of Pershing II and ground launched cruise missiles. Modernization of our tactical fighter wings proceeds with the purchase of F-16 and F-15 aircraft for the Air Force and F-14 and F-18 aircraft for the Navy.

The Army will continue to receive the M-1 Abrams tank, the Bradley fighting vehicle, and the division air defense gun system to help improve our ground combat forces. In addition, Madam President, the conferees agreed to an addition of approximately $500 million above the administration request for equipment for our Guard and Reserve Forces. Included in this add-on purchase are C-130 airlift aircraft for the Air Force Reserve and the Air National Guard, ground support equipment for the Army National Guard and the Marine Corps Reserve, and search and rescue helicopters for the Naval Reserves.

Madam President, this Defense authorization has received close scrutiny and should add significantly to strengthening our national defense.

Madam President, I would also like to point out that this is the last Defense authorization bill that will be managed by our distinguished colleague from Texas, Senator JOHN TOWER. His leadership has been the key to funding our successful military buildup. This Nation owes him a large debt for his dedication and hard work. He will be missed very much in the years ahead, and we all wish him the best in his future endeavors.

Mr. KENNEDY. Madam President, I am pleased to support adoption of this essential piece of legislation, the Fiscal Year 1985 Department of Defense Authorization Act.

There are a number of provisions in this bill that I do not fully support, but this conference agreement is a dramatic improvement over the bill that passed the Senate last June. This measure contains provisions which offer promise in the area of arms control, strengthen our conventional forces, and provide some important assistance for the men and women who serve our country in the military services. I want to briefly highlight some important provisions of this bill.

First, the legislation provides Congress an important opportunity to reevaluate our commitment to the MX. Although I believe that we should have acted this year to put an end to this missile without a mission, the con-

ference agreement fences funds for further production of the MX until the Congress votes again next spring. I am hopeful that at that time Congress will at last put an end to this wasteful and destabilizing program.

Second, the limitation placed on the Reagan Asat program keeps alive at least a chance for meaningful arms control in space. The agreement makes clear Congress' clear intent that the President diligently pursue efforts at preventing a space arms race, which would not only raise the risk of war, but would threaten our national security by putting at risk our eyes and ears in space, which are essential to our early warning and communication systems.

Third, the agreement puts Congress squarely on record as opposing military intervention in Central America. This is an issue which I raised on several occasions last spring, and I am gratified that the conferees share my view that the achievement of a lasting and meaningful peace in Central America cannot be achieved through U.S. military intervention. I also strongly support the agreement's call for consultation with Congress before any change in our position with regard to Central America.

Fourth, the conferees retained a provision offered by myself and Senator MATHIAS, calling on the President to submit the Threshold Test Ban Treaty and Peaceful Nuclear Explosion Treaty to the Senate for ratification, and to resume negotiations for a Comprehensive Test Ban Treaty. Ratification of these two previously neglected treaties, and resumption of CTB negotiations will represent a significant step toward ending the nuclear arms race. I call on the President to heed the overwhelming sentiments of the Senate which adopted this provision by a vote of 77 to 22 and immediately submit these two treaties for ratification, and begin negotiations on a comprehensive test ban treaty.

The conferees also adopted a provision which I sponsored, limiting the funding for the B–1 bomber program to the currently planned 100 bombers. In the next year we will face an important decision: whether to continue with our announced plans to move beyond the already obsolete B–1 to the promising advanced technology bomber or to continue beyond the 100 B–1's as some have proposed.

The Stealth bomber offers the only meaningful opportunity to maintain the air-breathing leg of our triad. I have personally studied the progress of the ATB, and am confident that if we maintain our commitment to this program, the promise of this program will become a reality.

This bill contains two important provisions that will help assure our continued success in recruiting and retaining qualified, motivated individuals to our military services. The conferees adopted a 4-percent pay raise in lieu of the House's proposed 3.5-percent pay increase, and adopted a significant new program of educational benefits for the military. Although I regret that Congress was unwilling to adopt the full 5.5-percent pay raise proposed by Senator COHEN and myself, I pledge my efforts next year to attempt to restore some of the ground lost this year, when a 5.1-percent raise was necessary to maintain pace with inflation. The men and women who serve this country are the backbone of our national security, they deserve no less.

The bill before us contains a number of provisions that will help strengthen our conventional forces. I am particularly pleased that the conferees have maintained our support for promising new initiatives, such as the JSTARS and JTACMS Program, and for research into improved munitions, which can help significantly to raise the nuclear threshold. At the same time, we must not neglect the basic war fighting requirements of adequate stocks of today's conventional munitions and supplies. Although high technology offers great hope for the future, the immediate requirement is for adequate substainability to assure that we have an alternative to early use of nuclear weapons in the event of war.

One dangerous departure from our efforts to raise the nuclear threshold is the decision to provide $10 million for a nuclear warhead for the standard [SM–2] missile. Although the conferees reduce the House provision—which contained $40 million for this program—the continuation of this program is not only wasteful, ill-conceived and unnecessary, but raises the risk of initiating nuclear war at sea, without adequate attention to fundamental issues of nuclear control and stability. I intend to work next year to put an end to this dangerous effort.

I am deeply concerned about the strategic defense initiative as provided by this bill. The funding for this program, which represents more than a 60-percent increase over last year, is entirely unwarranted in light of the poor program definition, and I am hopeful that it will be reduced by the Appropriations Committee. More important, I am deeply troubled by the underlying premise of the SDI. The President's star wars conception of nuclear safe America is not only technologically unattainable—as was demonstrated by the OTA study by Dr. Ashton Carter of MIT—but also threatens the already precarious balance of nuclear deterrence. Deployment of the antiballistic system envisioned by the President will only lead to further escalation of the offensive arms race as the Soviets attempt to maintain their ability to overwhelm our defense, but will also lead to a new, unimaginably costly defensive arms race which offers no significant hope for greater security and many even raise the risk of a preemptive first strike. Hopes for future stability lie through meaningful arms control, not wild-eyed visions of space lasers.

My final comment concerns the funding level in this bill. I believe that the $297 billion authorization is unwarranted in light of our national security needs. However, the level of funding contained here is part of our agreement on the budget resolution which would hold defense spending to $292.9 billion, a 5-percent real growth. This is the level of spending which I supported in the Armed Services Committee and on the floor in an amendment I offered with Senator DIXON. In light of the agreement on the final level of spending, I accept the funding in this bill.

Finally, I want to commend my colleagues on this conference agreement. I regret that the President's intransigence impeded our progress on this bill, and that we were delayed in our consideration of this legislation. I want to particularly commend the ranking minority member, Senator NUNN, whose hard work and deep commitment to the national security has made a lasting contribution to achieving many of the vital provisions of this bill. I also want to commend the chairman of the Tactical Warfare Subcommittee, Senator GOLDWATER, whose leadership and insight has made it a particular pleasure for me to serve as the ranking member on that subcommittee. I am especially proud of the tactical programs included in this legislation, which are vital to our national security, provisions which are due in large measure to the work of Senator GOLDWATER and his staff.

Mr. QUAYLE. Madam President, I rise today in support of the joint House-Senate conference report on the fiscal year 1985 defense authorization bill.

This conference report, Madam President, reflects the culmination of weeks of effort at resolving considerable differences in our House and Senate defense authorization bills for next fiscal year. Many had predicted that we would not achieve agreement sufficient to get to final passage of our conference report, and I am delighted that we are now able to authorize our essential military programs for next year.

As chairman of the Senate Armed Services Committee's task force on selected defense procurement matters, I had the opportunity to oversee important contributions to this year's authorization bill in the area of defense procurement policy. Our conference report contains numerous provisions to improve the reliability and efficiency of our weapons and spare parts procurement process.

Our Senate provision on weapons system warranties remains intact, after addressing several concerns voiced by our House colleagues. I would like to acknowledge the help of and cooperation of Senator MARK ANDREWS, who is responsible for first focusing the Congress' attention on this issue, and worked diligently and in good faith to achieve a provision which will be workable and provide the flexibility needed to assure smooth implementation by the Defense Department. I would also like to recognize the hard work and cooperation of Senator LEVIN, the ranking minority member of our task force. His contribution to our work was always substantive, and I greatly appreciated his help.

The conferees addressed many other areas involving defense procurement. The conference agreement contains provisions covering topics such as spare parts, technical data, prequalification, independent cost estimating, economic order quantities, competition advocates, shipbuilding claims, and tours of duty for program managers. These are all important provisions on which we were able to resolve our differences and report a bill which should enhance competition and improve the efficiency of our defense procurement process. We hope they are a solid start at future congressional efforts to improve defense acquisition and renew public confidence in our national defense effort.

This conference report contains many other programs vital to our national defense, Madam President. All are authorized with the intent and expectation that they will keep America strong and ready to respond to crisis wherever and whenever our vital interests dictate. As we modernize our forces and continue the Reagan administration's program to revitalize our defenses we must remain ever mindful that these dollars must be spent in an efficient manner that gives us the most bang for the buck. I believe this conference report just that, and I urge its swift passage by the Senate this afternoon.

The PRESIDING OFFICER. The question is on agreeing to the motion. Is there further debate?

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. PRYOR. Madam President, I would like to suggest the absence of a quorum. I would like to engage, if I might, in a short colloquy with the Senator from Georgia. He is momentarily off the floor.

Mr. TOWER. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call to roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRYOR. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Madam President, I rise this morning for a few moments to express the deep concern I have about the Department of Defense's unwillingness to send to the Congress the name of an individual to head up the proposed new Office of Operational Test and Evaluation.

As a little background, this legislation, of which I was one of the sponsors, was signed into law in September of 1983, 1 year ago on this past Monday. The new office was approved by the Senate by a 91 to 5 vote. We have 30 Senate cosponsors from both sides of the aisle on the amendment to create the Operational Test and Evaluation Office.

The effective date for the Operational Test and Evaluation Office as mandated by the legislation passed by the Congress and signed into law by the President was to be November 1, 1983.

Today, 1 year later, there is still no nominee to direct this office whose name has been submitted to the Senate for the necessary confirmation as prescribed by the amendment.

During the past year, numerous requests have been made for submission of the nomination to the Senate. Recently I wrote Secretary Weinberger asking him why no nominee has been proposed to the Senate for our approval or disapproval.

Madam President, I ask unanimous consent that the letter of August 9 that I wrote to the Secretary about the administration's failure to come forward with this nomination be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, August 9, 1984.

Hon. CASPAR W. WEINBERGER,
Secretary, Department of Defense, The Pentagon, Washington, DC.

DEAR MR. SECRETARY: I am writing to express my concern about continued revelations of defense weapons systems being approved for production without adequate operational testing and to urge that the administration promptly submit the nomination of an individual to serve as Director of Operational Test and Evaluation at the Defense Department. I refer specifically to recent reports that the Defense Department Inspector General examined testing procedures of three major weapons systems, with a total cost of $12.2 billion, and concluded that the Army approved production of the systems without adequate assurance that the systems would function properly in an operational environment.

As you recall, more than a year ago, in July of 1983, the Senate and House of Representatives, in response to recurring reports of deficiencies in the weapons acquisition process, approved amendments to establish the Operational Test and Evaluation Office. The office was, under terms of the statute adopted, to be established with an effective date of November 1, 1983, and be headed by a Director who would be subject to Senate confirmation. While certain implementation steps have been taken, the Senate has still not received the nomination of a Director for its consideration.

As the sponsor of the amendment creating this office, I am disappointed that this important appointment has not yet been made. It is unfortunate that the Senate has not yet had an opportunity to examine the goals, intentions and qualifications of a nominee who would assume these serious responsibilities. It is also unfortunate that billions of dollars continue to be spent and weapons systems produced without the safeguards and accountability that a Senate-confirmed appointee to this Congressionally-mandated position would provide.

I know that you share my concern and the concern of my colleagues in Congress about assuring the quality and safety of weapons systems. We must not worry only about the billions of dollars being wasted, but the possibility that the lives of American soldiers dependent upon these weapons may be lost as well. I am hopeful that prompt submission of a nomination to this position would enhance our efforts to attain that assurance.

Sincerely,

DAVID PRYOR.

Mr. PRYOR. Secretary Weinberger responded to my August 9 letter in a letter addressed to me on August 30, 1984. Madam President, I ask unanimous consent that Secretary Weinberger's response to my letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, DC, August 30, 1984.

Hon. DAVID PRYOR,
U.S. Senate,
Washington, DC.

DEAR SENATOR: Thank you for your letter regarding the adequacy of operational testing of our defense weapon systems and the delays in the nomination of a Director for the Office of Operational Test and Evaluation (DOT&E).

Please be assured that fielding of systems that are operationally suitable and adequate for use by our military forces is of great concern to me. We are continually seeking and implementing new methods to ensure that realistic operational testing is accomplished and, of equal importance, that the results of those tests are made known to decision makers.

The search for a Director of Operational Test and Evaluation to oversee this important facet of the acquisition process has indeed taken too long. Unfortunately, it developed at a very late point in the selection process that my first nominee for this position could not be approved, so we are again searching for a qualified person to fill this important position. Although it may be difficult to find an individual with the required qualifications and credentials this late in an election year, I assure you we are actively and aggressively screening candidates to provide another nominee. In the meantime, the separately organized function of the DOT&E is being headed by Brigadier Gen-

eral Michael D. Hall, USAF, who is an able professional.

Sincerely,

CASPAR W. WEINBERGER.

Mr. PRYOR. Madam President, the conference report that I understand we are dealing with at this time provides that no more than a certain amount of funds may be spent in certain accounts of the DOD budget until the President submits a nomination for this new office and the Senate has confirmed a nominee, and until the Secretary of Defense establishes the structure provided by last year's amendment. I wish to say that I am very pleased with what the conference has done. I think it underscores the Congress' commitment to independent testing and evaluation of our weapons. I think it uses the Congress' power of the purse. I think we should certainly use that more often.

I am interpreting this conference report to say that changes must be made and good testing of our weapons must be accomplished. I regret that congressional action has been necessary. I have no desire, I am sure that no Senator has any desire to withhold DOD funding.

What I do want, what I think most of us want as indicated by a 91-to-5 vote on September 4, 1983, is that we want proper testing of weapons and, more important, we want good weapons and weapons that work. If we have to withhold funds to get good testing, we should do so and we should not in any way retreat from that commitment. Sometimes we have to say no, and no to business as usual in the Department of Defense, I think, is going to be absolutely necessary in this instance until we receive a nominee from the administration for this office that Congress has mandated.

I am wondering, Madam President, if the very distinguished Senator from Georgia would like to comment on this. I know he was an original cosponsor of legislation creating the independent office of Operational Testing and Evaluation and he has done a great deal of work to insure that independent testing become a reality in the Department of Defense.

Mr. NUNN. Madam President, I thank my friend from Arkansas for his comments on this important subject and for his leadership in this area. I think he can really help to improve the system.

Interestingly enough, a former high-ranking Department of Defense official, Mr. Augustine, has written a book on this subject, saying he believes this is one of the more important reforms and has so testified.

This conference report reflects the very frustrating task of trying to get action on the Office of Operational Test and Evaluation. The House bill provided that of the funds authorized for the Director of Operational Testing, none of those funds could be spent until the President appointed a Director for Operational Testing.

That was a mistake in draftsmanship. They did not really mean that, because they would have been withholding funds for the very office that the Department of Defense was not about to set up and that would have brought about nothing more than a chuckle over in the Pentagon. In conference we caught that error and the word "operational" was dropped. We changed the House provision to limit the funds for the Director of Test and Evaluation, the shop headed by Dr. DeLauer, and mandated that that money be withheld until the President appoints a Director for the independent Office of Operational Test and Evaluation.

I think there is a little confusion on the figures on this and I think we can verify them with precision as the debate continues on the bill.

The conference report provides that not more than $20 million of the funds appropriated for the activities of the Director of Test and Evaluation of the Department of Defense including activities relating to foreign weapons evaluation may be obligated or expended until the President has nominated an individual to be Director of the Office of Operational Test and Evaluation in the Department of Defense.

The House bill provided $62 million, which was reduced in the conference to $59 million. So you deduct $20 million that can be obligated from the $59 million that is the total authorization. It comes to $39 million which is being withheld until the President appoints the Director.

Mr. PRYOR. I thank the distinguished Senator from Georgia for responding to my inquiry. Certainly, there is no more eminent authority in this body on these matters than the distinguished Senator from Georgia, my friend.

Certainly, withholding a few dollars—I say a few in comparison with the total dollars in this legislation underlines the principle that once again we have seen the Department of Defense basically thumb its nose at Congress and Congress must respond. The Congress had mandated that by November 1, 1983, an independent Office of Test and Evaluation be created, asking that a name of a nominee be sent to this body.

It is no secret that the Department of Defense opposed this legislation originally. They opposed it when I first introduced it. They opposed it once again in 1983. In my opinion, they still oppose it. In my opinion, they are still opposing it because they want to do business as usual. When we adjourn and when we are gone until some time next year, maybe once again we can attempt, through some means, some method, to bring pressure upon the Department of Defense or upon the President—whoever might be the President—to send to this body the name of that individual that they have chosen to carry out the simple mandate of the Congress.

Too often the Department of Defense considers itself, in my opinion, above the Congress, thumbing its nose at Congress. This is one of those times. This is one of those instances.

Madam President, I wish, if I may, to read a very brief quote. This is not a statement of an individual who might be called a disarmament freak. This is not a statement of someone you might consider soft on communism or whatever. This statement appears on page 180 in the book "Plain Speaking," it is a quotation from Harry Truman. I would like to quote:

"It's a crime and a disgrace. I'll bet you"—He was referring to Defense Department expenditures.

It's a crime and disgrace. I'll bet you . . . I'll bet billions of dollars are being wasted over there at the Pentagon. Billions of dollars lining somebody's pocket.

The thing I've always felt about the Pentagon is that while it was probably necessary . . . it's not right to have all those people in one building without a single watchdog. There ought to be somebody looking into every penny that's spent, but there isn't. And we're all in trouble when that goes on, when the generals get that much power.

That is a statement by the late President Harry Truman, speaking out in "Plain Speaking."

I think the problem that the late President Truman referred to during his Presidency was there then and it is here with us now. The people of our country, I think, are demanding of this Congress that we do everything within our power to bring the spending of the Department of Defense under control and to make certain that the weapons that we purchase work and to make certain that the weapons that we purchase are not solely tested by the contractors who manufacture those weapons. I think that is a simple enough request, Madam President. All we are asking is that whatever we purchase, let us give every guarantee possible that those weapons work.

I thank the distinguished Senator from Georgia for responding to me and for engaging in this colloquy at this time.

The PRESIDING OFFICER. Is there any further debate?

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Madam President, I had not planned to speak this morning. Senator NUNN has already outlined his views on the conference report, and I certainly associate myself

with those remarks. But I feel a need to take this opportunity to address an article that appeared in this morning's edition of the New York Times on defense management and how we are dealing with the problems that have come to light in this area.

I was particularly concerned about a statement in the article that there is a planned series of DOD briefings during the next 5½ weeks, from now to the election, to demonstrate how much the administration has done to solve the problem. To quote specifically from the article, it states: "Pentagon officials said the briefing"—and they are referring to a briefing yesterday by Joseph Sherick, the Pentagon's inspector general—"Pentagon officials said the briefing was the first in a scheduled series between now and the Presidential election that is intended to show that the Pentagon is vigorously attacking corruption."

Madam President, I for one resent the effort which is clearly described here to make this issue of waste, fraud, and corruption in defense spending a partisan issue. I also resent the effort which evidently is planned to use the next 5½ weeks to smooth over this problem and persuade the American people that it is a problem well under control, because in my view at least it is not well under control. This is an issue that, of course, I have heard a great deal about in the 2 years that I have been in the Senate. From the very first it was clear to me it was not being approached as a partisan issue and should not be. Everyone acknowledges that there are serious problems, many of which are still unaddressed. The DOD inspector general, Mr. Sherick, indicated yesterday that, although many problems have been solved, many remain.

Let me indicate what I see as the true state of the situation with regard to these management problems. There is the independent Director of Operational Test and Evaluation, of which Senator PRYOR has been speaking. Senator ROTH was a cosponsor, Madam President was a cosponsor, and Senator NUNN was a cosponsor of the legislation to create that position. I would point out that the Department of Defense opposed this legislation and, as the Senator from Arkansas has pointed out, they continue to resist the appointment of a person to head that office.

There is the independent inspector general, Mr. Sherick himself, who held the briefing yesterday. This legislation was passed in 1982, with Senators EAGLETON and ROTH as the prime sponsors, and again this legislation was opposed by the Department of Defense.

The Competition in Contracting Act that Senators LEVIN and COHEN sponsored was also passed in the face of DOD opposition in this Congress. This points up the difficulties that we still face in this area. Warranty provisions that Senator ANDREWS, Senator LEVIN, and Senator QUAYLE have taken the lead on have passed in the face of DOD opposition and are retained in this year's defense authorization bill. There has been a bipartisan effort to follow the testing of the Divad gun, and I believe that is a genuine effort by many people on both sides of the aisle. Senator RUDMAN led a successful effort to cancel the Army's Viper antitank rocket, and he uncovered testing irregularities, cost growth, and the inability of that weapon to meet its requirements. Senator GRASSLEY has been a leader in uncovering spare parts abuses and in defending the integrity of the audit process. The Armed Services Committee, which I am serving on, has its own task force on procurement, which I also serve on, led by Senator QUAYLE and Senator LEVIN. They have developed many provisions that we have included in this legislation to deal with problems that those of us on the task force at least believe have not been adequately dealt with to date.

The point, Madam President, is that this has been a bipartisan effort that has often been resisted by the Department of Defense. A great deal remains to be done. We do not have adequate computer capability to manage the tens of thousands of spare parts that we are procuring in the Defense Department. Last week we had a hearing at which Norm Augustine of Martin-Marietta said we do not have the sort of managers that we need running defense acquisition programs.

Madam President, I ask unanimous consent that the statement which Mr. Augustine made to the Senate Armed Services Committee last week be printed in the RECORD at this point. The statement makes it clear how much remains still to be done.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY NORMAN R. AUGUSTINE
IMPROVING THE DEFENSE PROCUREMENT PROCESS

Mr. Chairman, and Members of the Committee; I am pleased to have the opportunity to appear before you to offer my views on the defense procurement process. If the United States is to employ military forces which may be smaller in number than those of our potential adversaries, it is crucial that we equip those forces in a manner which contributes to the overall strength needed to assure deterrence . . . both strategic and tactical. The capability to be sought is, to a considerable extent, dependent upon maintaining technological superiority and translating that superiority into forces in being. If, through strenuous effort, we achieve leadership in our laboratories only to lose that leadership in the process of fielding equipment, then our acquisition process has not served us well. In today's world, where the half-life of most pivotal technologies is of the order of 3 to 8 years, we can ill afford to take 10 to 20 years in the acquisition process . . . as has actually been the case for a number of important systems. Similarly, we cannot afford to suffer cost overruns which result in inefficient use of the nation's limited resources and which rightfully undermine the confidence of the public in those of us who are entrusted with the critical task of equipping our armed forces.

Before offering my comments I should emphasize that the views I express are purely my own and do not necessarily represent positions of any of the organizations with which I am associated. In fairness, I should also state my perspective. Mine is a view derived in part from service in various capacities in the Office of the Secretary of Defense and in several positions in a Military Department. However, I consider myself principally an industrial executive whose career in industry happens to have been punctuated by periods in which I was privileged to serve our government. My experience in industry has been with three large corporations and on Boards of Directors of several smaller firms. I have also been afforded the opportunity over the years to observe the acquisition process in a number of advisory capacities to the Army, Navy, Air Force, OSD, NSC, GAO, and NASA. During this service it has been my good fortune to have been associated both in government and outside with some of the most dedicated, talented individuals I have ever known. Yet, for some reason, the character of the acquisition process seems to be such that the whole is much less than the sum of the parts. This is not to say that the acquisition process has not had its successes: it has had many. It is probably fair to state that most nations would prefer to have U.S. equipment rather than Soviet equipment were they to have a choice. But the fact remains that although we are in some respects doing better today, the acquisition process is still greatly troubled and a source of frustration to most all who come in contact with it—whether in industry or government, including, I suspect, the Congress.

I would suggest that three principal ailments exist. The first of these is that many of the products of the acquisition process are exceedingly costly and, equally problematical, the actual costs of these products over the years have, according to my analyses, exceeded the estimated costs in constant dollars by an average of 52 percent. The second is that it seems to take an inordinately long time to develop hardware (and software); slightly over 8 years for the median major system. Third, it seems to be very difficult to adopt revolutionary—as opposed to evolutionary—system concepts. Too often we depend on symmetry of forces; "airplanes vs airplanes", "submarines vs submarines", "artillery vs artillery", when the principal effect of such a strategy may simply be to maximize the demand to incorporate extreme technological superiority within quantitatively outnumbered forces. These problems are exacerbated by the happenstance that burgeoning technology has no respect for Service boundaries.

What can be done to improve the defense acquisition process? I would like to offer for your consideration six actions which if implemented would, I believe, greatly strengthen our ability to field quality equipment on a reasonable schedule and at reduced cost. In fairness, I should note at the outset that it is relatively easy to identify the symptoms of problems of the acquisition process; only moderately difficult to discern the root problems; somewhat more

challenging to promulgate realistic solutions; and incredibly difficult to make any of them happen. The latter is a consequence of the factor identified in the findings of the defense Blue Ribbon Panel of several years ago which concluded that in the acquisition process . . . "everyone is responsible for everything and no one is responsible for anything" . . . an accusation which, incidentally, I would respectfully submit spills over into the Congress itself.

First, I would suggest that we need to recognize that estimating the cost and schedule of tasks which have never before been undertaken (a fact of life in research and development . . . and to a lesser extent even in initial production) involves fundamental uncertainties and thus requires the management of risk. In this regard our present budgeting process is akin to asking a pilot to calculate the amount of fuel his aircraft will need if no unusual circumstances were to arise . . . and then forcing him to take-off with exactly that amount of fuel and not a drop more! Under that circumstance, one should be prepared for a crash.

My own studies of development programs in the past indicate that an estimate for which one demands an 80% probability that it will not be exceeded must be fully one-third greater than the corresponding "fifty-fifty" estimate; i.e., the estimate which itself has an equal chance of being underrun or overrun. This same study reveals that, in the aggregate, programs of the last two decades have been initiated at about the 10-percent confidence level in terms of funding, and that even in constant dollars it is necessary to increase initial cost projections by about a factor of 1.35 to have a fifty-fifty chance of meeting the estimates.

It will be noted that these observations are presented in probabilistic terms in recognition of the uncertainty which characterizes major development undertakings. The failure to recognize this statistical nature of cost estimating is at the very core of many of our shortcomings in the cost as well as schedule management processes. The situation can be compared to the problems encountered in forecasting weather. In spite of the sophisticated atmospheric models which now exist, weather forecasts are presented in probabilistic terms: "There is a 20-percent chance of rain tomorrow." Cost estimators would be well advised to emulate this practice of weather forecasters when they establish initial program cost estimates. That is not to imply that one cannot determine discrete cost figures for budgeting purposes as indeed one must; rather, it suggests that we need to recognize and quantify uncertainty and provide adequate management reserves to accommodate them.

A second solution I would offer is that we should provide greater stability to our programs. One of the dominant contributors to acquisition problems is program turbulence: changes in schedule, change in objectives, changes in funding, changes in people. Discipline must be instilled that once a decision has been made to conduct a program that decision cannot be reopened absent significant changes in one or more of the truly fundamental factors underlying the initial approval. Similarly, when technical problems are encountered—and they will be—it is frequently better to "tough it out" and solve those problems. The habit of terminating existing programs with known problems in order to initiate new programs with unknown problems is generally an exercise in self-delusion.

It should be a matter of policy that changes simply will not be tolerated at any level of management except for the most compelling of reasons. Authority to approve changes should, as an inhibitant, be placed at a very high organizational level (as, incidentally, should the control of reserves). Even apparently trivial changes, particularly in funding, have a way of cascading down through a prime contractor to a handful of subcontractors to hundreds or even thousands of vendors—wreaking contractual havoc at each and every step of the way.

Third, a highly qualified group of program cost estimators should be established in the office of the Secretary of Defense to review program costs and to provide the "official" estimates which are used in budgeting and program approval. This would represent a major increase in authority of the group now in existence and in some respects would parallel the function of central financial organizations in industry. Simply stated, the pressures to obtain program approval and to be selected as a winning contractor are such that making conservative cost estimates at the working level of both buyer and seller organizations is highly problematical at best. Contractors should be selected for cost-reimbursable contracts based on the Government's assessment of the contractor's "most likely cost"; not on the contractor's estimates—and, as previously stated, the former should include the impact of risk analyses.

Fourth, we should initiate only those programs which can be fully funded. It should be made very difficult to start new programs, requiring as a minimum that the benefits sought be substantial; that they cannot be realized through product improvement; that suitable commercial products are not available; and that funds can be provided to carry out the programs on an optimum schedule. Product improvement, in particular, will often offer an extremely attractive alternative to acquiring altogether new systems . . . particularly when uncertainties are given their due recognition.

Fifth, it appears appropriate that greater discipline be introduced into the process of establishing system requirements. The last few percent of capability typically generate a disproportionate share of total system cost and, most assuredly, of the problems encountered. Requirements should be established not for individual programs in isolation, as is largely the case today, but rather for an entire military force within a prescribed overall budget.

Sixth, and finally, I would suggest that we need to place greater responsibility and accountability on individual managers. The greatest differences I have observed between government and industrial management practices are that the government operates principally by consensus and has little discipline in preventing dissenting views from becoming disruptive after a decision has been made. We need to provide management the latitude to manage. For example, under the present acquisition process, budgets are established, by and large, one to three years prior to their actually being executed, yet the technological and procedural uncertainties in the acquisition process are inconsistent with this degree of restrictiveness.

Reprogramming thresholds established by Congress could be liberalized substantially. The Undersecretary of Defense Research and Engineering should be provided a reserve that can be used to resolve short-term problems. The lack of suitable budgetary flexibility often produces large adverse cost impacts on a program caused by schedule slippages. It should be noted, of course, that to introduce such procedures constitutes a genuine commitment to delegate authority and responsibility—and a willingness to accept the risk entailed.

Before closing I feel obligated to observe that the sine qua non for major development projects is that they be led by competent, qualified, dedicated people. Once such individuals are found, it is counter-productive in the extreme to keep turning them from job to job, a practice which serves only to undermine both their understanding of the task to be performed and their accountability for its successful execution. Settling for the second-best qualified individual because, for example, it is not possible to obtain or keep the best qualified individual due to across-the-board salary restraints is a practice largely peculiar to government and a practice which no individual firm could afford to embrace if it is to survive. To accept an individual having 1% less likelihood of making the proper decision on a multimillion- or billion-dollar program in order to save ten or twenty thousand dollars a year in salary is simply not mathematically supportable.

In summary, the following specific actions are some of those I would offer for your consideration:

Conduct formal cost tradeoffs in the requirements process.

Before initiating new programs perform complete and formal analyses of alternatives based on product improvement of existing systems. Advocates of product improvement should appear at DSARC's.

Establish in the Office of the Secretary of Defense a cost estimating group with sole authority for providing the cost bases for program approval and budgeting.

Provide cost and schedule reserves in each program commensurate with the risk entailed. Aggregate these reserves and hold them at a high level in the management structure.

Make it difficult to start new programs and difficult to change them once started. (Perhaps require a ⅔ vote in Congress for initial approval for a new program and the same vote to subsequently change the funding.)

Provide multi-year budget approval of individual programs.

Utilize the free enterprise system to the maximum possible extent for the provision of goods and services. Emphasize competition (but recognize there are limits to its appropriateness).

Emphasize past performance in the source selection process.

Establish a career pattern in acquisition for military and civilian employees of the government . . . analogous to the Surgeon General or Judge Advocate General organizations.

Plan to keep program managers in place throughout the development phase of a program . . . but have a means of rapid reassignment should that become necessary.

Pay government employees wage packages competitive with the private sector . . . do not place arbitrary ceilings leading to compression in the key leadership ranks.

The above suggestions would most assuredly not all be greeted with enthusiasm by my colleagues in industry or, for that matter, my former colleagues in government. The fact is, however, that we are beyond the point where cosmetic changes will resolve the difficulties we together face.

The record of the acquisition process has in fact improved in some areas—most notably and, perhaps most surprisingly, in cost estimating—however, much remains to be done. I am appreciative of the opportunity to share with you my views on some of the possible improvements.

I would be pleased to answer your answers.

Mr. NUNN. Will the Senator yield for a brief comment?

Mr. BINGAMAN. I certainly will.

Mr. NUNN. I have to leave the floor and I did not want to leave without commending the Senator, not only for his outstanding work as a new member of the Armed Services Committee but for bringing this matter to our attention. We are all in this battle together, trying to get the Department of Defense in a better position to expend funds efficiently and effectively. The problems of management in the Department of Defense are not unique to any one administration. I think the Senator is making a very good point. It has been my understanding the Office of the Inspector General in the Department of Defense has done yeomen's work in trying to root out waste, fraud, and abuse, but nothing can undermine their own credibility more than becoming a part of the election campaign.

I hope this New York Times report is in error. I hope they are not going to give briefings simply for an election campaign and have an all-out briefing schedule that will terminate in November. I hope that is not going to be the role of inspector general. If it is, we are going to have to find a more independent-type Inspector General, because it was not the intention of any Inspector General legislation, particularly that in the Department of Defense, for them to become a part of a campaign. I hope Mr. Sherick will promptly let us in the Congress know that he is not going to become a part of the campaign. We would welcome his statements at any time. We would welcome briefings at any time, and certainly they should not begin right before the November election and conclude after the election. That would be a tragedy in the Inspector General's role, and I think it would greatly undermine the credibility of the internal mechanism in the Department of Defense to be objective and analytical in their approach.

I think the Senator has made a good point, and I commend him for it. I hope we get some clarification of this from the Inspector General himself.

Mr. BINGAMAN. I thank the Senator from Georgia for his statement. I agree entirely that if the Reagan-Bush reelection campaign wants to have a series of briefings to demonstrate all they feel the administration has done to solve the problem of waste in the defense budget, then that would be entirely appropriate but it should be done without use of taxpayer dollars.

But to take the Office of Inspector General in the Department of Defense and use it to try to persuade the American people in the remaining 5 weeks of this Presidential election that there is no serious problem being unaddressed and that in fact the problem has gone away or is well under control, I think is an abuse which we should not permit in this Congress.

Madam President, there are still serious problems in the way we make choices about which systems we should allow to go to full-scale engineering development. Mr. Augustine pointed that out to the committee this last week as well. We have rampant quality control problems in the defense industry. Witness the problems in the Hughes plant in Tucson. We have problems with throwing away perfectly good parts because of poor inventory management, and the list goes on. The point very simply, Madam President, is that we need a continuing bipartisan partnership to tackle these problems.

Also, you, Madam President, the Senator from Kansas, have taken a lead in the military reform caucus in the Congress in bringing some of these problems to light and in proposing constructive solutions to them. We do not need at this point a self-serving claim by the Department of Defense that they have been out front in solving these procurement issues. That is not the case. They have reacted to the problems which many of their own employees at low levels have found and brought to the attention of Congress.

If we are going to the root of the mismanagement and waste problem, we will need sustained attention from both the Defense Department management and Congress, not a 5-week public relations blitz to get them past November 6. We will have to devote the necessary resources to the problem. We will have to look seriously at how the services procure their various weapons systems. We will have to look at the acquisition process. We will have to give greater authority to managers of these programs.

Madam President, in conclusion, I merely want to reiterate that I think this is not a partisan issue. This is not an issue that should be allowed to become a partisan issue in order to serve some short-term purpose that someone in the Department of Defense obviously has, or someone in the administration. It is not a problem we should allow the American people to be persuaded has been solved. This is a serious problem that continues to need our attention and perhaps needs our attention more today than it did in recent years.

I think the statement that Harry Truman made while a Member of this body back in the 1940's and which the Senator from Arkansas quoted earlier is one that in many cases is very applicable today. Truman led the fight in Congress and in the Senate to try to root out problems of profiteering, problems of mismanagement of our defense acquisition process; and I think the same effort is going forward by Senators on both sides of the political aisle in this body today.

I hope that no action such as that suggested in this morning's New York Times article will go forward by the Defense Department. Such an action would undermine the genuine bipartisan effort on this issue that I think is important to the future of the country.

The PRESIDING OFFICER. Is there further debate?

Mr. STENNIS. Madam President, I commend highly the chairman of the committee and the ranking minority member, as well as those who served as chairmen of the subcommittees that worked on this massive bill.

In many ways, it was an extremely difficult bill for the authorization of the entire military program, added to the circumstances we already had existing about difficulty with reference to a budget resolution. I believe it is the most difficult problem I have ever seen the Armed Services Committees of the two Houses faced with.

At one time, it appeared that we would not have a bill. I am sometimes slow to act, but I felt compelled to make points on the floor of the Senate, that it was intolerable and unthinkable for us to proceed for another year without an authorization bill and without the benefit of an appropriation bill for the military, the largest program we have ever had in our history, and stretched all over the world.

It appeared at that time that without an authorization bill, we could not get an appropriation bill; but we have a device we call a continuing resolution. On top of those facts, even though the Senate rules provide that there shall be a budget resolution passed each year—and we have followed that for the 10 years the rule has been in existence—we did not have that available this year as a helpful guide, and the prospects at that time did not look good for getting it.

I am happy, as everyone else is, that we did meet those conditions; and the Members, to whom I have referred are entitled to a lot of credit.

I think this is a splendid bill as a whole. It certainly has enough money in it. I hope we can return to the idea of seeing what is the smallest sum we can have and still take care of the actual needs of the various departments in connection with a 12-month operation. We start out with a total of so much and then decide what that is going to include, which I do not think is the best way to go at the problem,

particularly when we are trying to hold down the totals.

I believe there has been more work on this bill than any other bill pertaining to this Department, and the House has worked on it with great activity, also.

THE ALL-VOLUNTEER EDUCATIONAL ASSISTANCE PROGRAM

Mr. CRANSTON. Madam President, as the ranking minority member of the Veterans' Affairs Committee and a member of the conference committee on the DOD authorization bill for 1985, H.R. 5167, I am pleased that the conference report that is now pending before the Senate contains provisions—title VII—that would establish a new All-Volunteer Force Educational Assistance Program.

I have long believed very strongly that educational incentives, if properly designed and implemented, can aid significantly in helping to insure the success of the All-Volunteer Force. Educational benefits—as part of a military compensation system made up of both pay and benefits—have a special, important role to play in increasing the numbers and quality of men and women we are able to attract to and keep in the armed services. In this connection, I first introduced in December of 1980 a measure designed to establish such a program of benefits. That was S. 3263, the proposed "All-Volunteer Force Educational Assistance Act of 1980," in the 96th Congress. I reintroduced modified versions of that legislation in the 97th Congress as S. 417 on February 5, 1981, and as S. 8 in this Congress.

Subsequently, in this Congress, I joined with Senators ARMSTRONG, COHEN, HOLLINGS, and MATSUNAGA, in developing a measure which blended together major features of my measure, S. 8, and a measure which those distinguished Senators had introduced, S. 691. We attempted on two occasions to have the Senate approve those provisions: First, on the Omnibus Defense Authorization Act, 1984, when the Senate considered that measure on July 13, 1983; and again on June 13, 1984, when the Senate version of H.R. 5167 was before us. On both those occasions, our efforts were turned back on procedural grounds, most narrowly on June 13 when we were defeated by a vote of 47 to 45.

However, Madam President, largely through the perseverance and diligence of the distinguished chairman of the House Veterans' Affairs Committee [Mr. MONTGOMERY], who also serves as a senior member of the House Armed Services Committee, our work on this important issue of educational incentives has finally paid a dividend, and I firmly believe it has and will continue to do so, after we enact the provisions in the conference agreement, through the recruitment and retention of high quality young men and women in the Armed Forces.

There are others as well, Madam President, to whom credit should be given for what I believe will in years to come be regarded as a turning point in our ability to foster and promote the All-Volunteer Force. First, I pay tribute to my Senate colleagues in developing the amendment that came so close to Senate adoption on two occasions—the Senator from Colorado [Mr. ARMSTRONG], the Senator from Maine [Mr. COHEN] who served as a conferee as well on the pending bill, the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Hawaii [Mr. MATSUNAGA]. Their personal commitment never faltered throughout the long and often frustrating efforts to obtain enactment of an education incentives program. The cooperation and dedication of each of them, as well as their staffs, especially Jim Dykstra, Bod Sneed, and Vince Versage, have contributed much to the outcome by convincing the Senate conferees that the Senate wanted a meaningful response on this issue.

Also, I want to note that the leaders of the Senate conferees the Senator from Texas [Mr. TOWER] and the Senator from Georgia [Mr. NUNN]—and their staffs, Pat Tucker and David Lyles—ultimately exhibited a willingness to reach a compromise on an issue where there was great philosophical disagreement.

Next, Madam President, I want to express my deep personal appreciation to the distinguished chairman of the Veterans' Affairs Committee and my good friend from Wyoming [Mr. SIMPSON], who served with me as a special conferee on this issue. His thoughtful and perceptive approach to the issues was most helpful, and his support for the development of the compromise approach embodied in the pending measure was key to its success. Special thanks as well to his chief counsel, Tony Principi, for his long hours, hard work, and numerous contributions.

Finally, I want to thank those members of my staff—Jon Steinberg, Ed Scott, and Babette Polzer—who have assisted me for over 4 years to produce a beneficial result in this area.

Madam President, I don't intend at this point to address the provisions in the conference agreement in detail. I would like to note, however, that this is a new concept and one about which I'm certain we will learn much in the future. As ranking minority member of the Committee on Veterans' Affairs, I intend to follow its implementation very closely and, if the need arises, to pursue legislative remedies to any problems that may develop, as well as legislation to make improvements that are appropriate.

There is one aspect of the provisions in this measure, however, which should be highlighted. Under the program established by this legislation, persons entering the service after June 30, 1985, will automatically begin to establish eligibility for the education benefits unless they make affirmative elections not to participate. This is, therefore, unlike the current chapter 32, VEAP Program under which individuals must make affirmative elections to participate. It is my hope, Madam President, that the Department of Defense and the service branches will aggressively promote this new program and encourage all new entrants to remain in it.

Regrettably, there is one element of the package with which I am particularly unhappy and that is the status of the current VEAP Program. Under the provision in the conference report, that contributory-matching program would not be repealed—as had been proposed in the House-passed legislation and in the amendment I had joined in offering in the Senate—but rather, it would be, in essence, "suspended" for new entrants during the period July 1, 1985, through June 30, 1988.

Madam President, I am aware of the great concern expressed on the floor of the other body by my friend from Mississippi [Mr. MONTGOMERY] about the insistence of the Senate Armed Services Committee that the VEAP Program be suspended for 3 years rather than terminated, as the House bill provided. Mr. MONTGOMERY had good reason to believe that the Senate had agreed to terminate VEAP, and I regret very much the way that this matter was handled and the outcome that Mr. MONTGOMERY had to accept at the 11th hour in order to salvage the entire conference report. I appreciate his perspective on this matter, but still believe he was not treated properly on this issue.

In closing, Madam President, I want again to congratulate the distinguished Congressman from Mississippi [Mr. MONTGOMERY] for an outstanding effort in support of a timely issue of great potential importance to America and to express to him and the very able staff members who have assisted him on this issue—Mack Fleming, Frank Stover, Richard Shultz, and Jill Cochran—my admiration for a job most ably done.

THE DEFENSE AGREEMENT

Mr. BYRD. Madam President, I congratulate the managers of this vital defense conference report for bringing it to the floor of the Senate at this time. The distinguished chairman of the Armed Services Committee, the senior Senator from Texas [Mr. TOWER] and the ranking Democrat on that committee, the senior Senator from Georgia [Mr. NUNN] have labored long, hard, responsibly and successfully on this measure. There is no more important matter for this body

to carefully and responsibly consider, than our country's defense.

I believe the conference agreement before us is a good one, and while no compromise is completely perfect or satisfactory to everyone, the result is one which I believe this body can be proud of. It embodies decisions on many military and foreign policy matters, from specific weapons systems to important arms control policies.

The compromise on the MX, given the deep concerns that have arisen over that strategic system, is a responsible accommodation. It gives us the necessary time to continue to evaluate the MX system in light of its basing mode, its contribution to the American arsenal, and the possible alternatives to it. It continues our antisatellite program while giving due regard to the pursuit of mutual arms control proposals to reduce the arms race in space.

Madam President, I would like to express my satisfaction in the actions taken by the distinguished managers of this bill in successfully defending several measures which I proposed on this floor during the Senate's consideration of the Defense authorization measure. In particular, and with due regard to the sensitive nature of the highly classified Stealth Bomber Program, I understand that the Senate position largely prevailed. I am very gratified that my sense-of-the-Senate amendment regarding the Stealth technology programs was adopted and that the funding for those important programs reflects the Senate position.

In addition, I am pleased that my proposal for hard-hitting competition advocates in the military services was largely retained in conference—and I understand that there was considerable bargaining on that matter. It is my hope that the creation of these competition advocates will help to reverse the unacceptably high level of waste that has been, and apparently still is, existing in many of our defense weapons programs. I have no difficulty supporting the 6.5-percent level of real growth that is embodied in this measure, but I am sure that all my colleagues would agree that those dollars should be stretched further and more carefully in protecting the American taxpayer. It is clear that a great deal more work will be needed before we can truly say that we have adequate quality control and cost effectiveness in the Department of Defense. But inclusion of this proposal, as well as other provisions in this area in the conference agreement, represents a good beginning, I believe.

I also appreciate the inclusion of my amendments establishing a National Commission on the Merchant Marine and Defense, a report on the importation of Cuban and Russian nickel into the United States, and a sense-of-the-Senate resolution regarding food and medical aid to Afghanistan into this final agreement.

I am also pleased that the committee has established a test program to reestablish the GI Educational Benefits Program. The quality of education in the United States today needs our undivided attention, and it is my hope that this provision will prove successful in upgrading the pool of adequately educated talent.

I would again commend Mr. TOWER for his hard work in successfully concluding this, his last Defense authorization bill, in this manner. I also commend Mr. NUNN, who is a source of constant inspiration and guidance to this body, and to me, on these matters of the highest national importance. The country is well served, and this measure has my full support.

Mr. CHAFEE. Madam President, today we are adopting the conference report on the Defense authorization bill. This report, which represents the product of many hours of dedicated effort by the committee conferees, the Senate and House leadership, and the administration, contains a number of important provisions in addition to the overall defense spending figures. Several features of this bill are especially noteworthy.

First, the total amount of spending authorized, $297 billion, is considerably below the initial amount requested by the administration. As part of our related actions on the budget resolution and in the appropriations process, the Congress will agree to an actual defense spending figure of $293 billion. Compared to the administration's original request of $313 billion, our action represents a substantial reduction in defense spending.

While I do not wish to detract from the fine efforts of the leadership and other Senators in reaching this agreement, I do want to point out that 5 months ago this option was available to us, and had we acted upon it at that time we could have been spared much of the intervening effort and concluded our business in a much more orderly fashion. In May of this year, I and five of my colleagues introduced an amendment to the budget resolution then under consideration which would have pegged the defense appropriation at $291 billion. Our proposal was narrowly rejected at that time, but it had great merit—indeed, it has been adopted for all practical purposes by the Congress.

I applaud this action. It represents a more reasonable balance of fiscal and defense priorities, providing for roughly 5 percent real growth in defense spending while, at the same time, reducing the deficit over the next 3 years by $27.3 billion compared to the Senate-passed version of the budget resolution. I believe this action affirms the merit contained in the budget amendment I offered last spring, and I congratulate the conferees on this action.

The conference report also contains the substance of the amendment I cosponsored with Senator BUMPERS and others calling for continued adherence to the policy of abiding by the unratified SALT II Treaty. The two reports which are required by this amendment in 1985 should serve as important elements in the critical discussions on arms control policy which will be held next year, both in this body and in the country at large. I am pleased that the conference had the good judgment to retain this amendment, and I congratulate the conferees.

Another part of the conference agreement concerns the MX missile. As is well known by now, we will have two more opportunities next spring to examine the missile and its basing mode in the light of progress in arms control and other developments concerning the basing mode. This method of proceeding represents a responsible and prudent course, enabling us to examine carefully the issues surrounding the MX before proceeding further with deployment of the missile.

I also want to mention that the conference report contains limitations on anti-satellite testing, and it retains the Senate amendment concerning ratification of the Threshold Test Ban Treaty, the Peaceful Nuclear Explosions Treaty, and efforts to negotiate a Comprehensive Test Ban Treaty. These are important measures, and I am pleased to support them as part of the overall defense authorization.

Mr. MATSUNAGA. Madam President, I rise in support of the conference report on the Defense Authorization Act of 1985, and to urge its adoption. I do so primarily because the conferees agreed to retain the Senate amendment providing for the establishment of a U.S. Academy of Peace. Upon the insistence of the House conferees, the name of the proposed Peace Academy has been changed to the U.S. Academy of Peace. Upon the insistence of the House conferees, the name of the proposed Peace Academy has been changed to the U.S. Institute for Peace, but no substantive change in its functions have been made.

Madam President, this is a day of inexpressible joy for me. Passage of legislation to establish a National Institute for Peace represents the culmination of a dream of longstanding, one I have pursued since my election to the U.S. Congress in 1962. It was an idea which took root when I was a student in college and which was nurtured during my battlefield experiences in World War II.

For my dear friend and distinguished colleague the senior Senator from West Virginia [JENNINGS RANDOLPH], passage of this legislation fulfills an objective he set in 1945 when,

as a Member of the House, he introduced a bill to create a Federal agency whose mission was the promotion of peace. On the eve of his retirement from Congress his vision too has come of age, and I congratulate and compliment him for it. Without his principal cosponsorship of the bill S. 564, which I introduced its adoption as an amendment to the Defense authorization bill would have been even more difficult. I am glad that the conferees agreed to name the Institute's International Program for Peace in his honor, and I strongly endorse the proposal in recognition of his 39-year effort.

We joined forces in 1977 with the distinguished senior Senator and my dear friend from Oregon [MARK HATFIELD], to pursue this cause which now approaches fruition. I wish also to congratulate and compliment Senator HATFIELD for his tremendous efforts as a principal cosponsor of the bill S. 564 and for his leadership in offering it as an amendment to the Defense authorization bill. Without his parliamentary know-how, wise counsel and invaluable assistance, the Peace Academy would still be only a dream.

I understand that some of the conferees on the Defense authorization bill were concerned that the Peace Academy might try to acquire a large campus and conference facilities with the $7.5 million capitalization fund. This question of whether or not the Academy should be of "bricks and mortar" was raised during the hearings held by the U.S. Commission on Proposals for the National Academy of Peace and Conflict Resolution, which I had the privilege of chairing, and again during consideration of our bill in the Senate Committee on Labor and Human Resources. Although I am disappointed that the Institute for Peace will not have its own "home" during its initial years, I do not consider this a serious, or necessarily permanent, handicap.

There were certain changes made in the authorization language but no change of any real substance. The "Peace Academy" will be known as an "Institute for Peace," but there is no change from the original language regarding the allocation of funding between support for existing educational institutions—25 percent of its operating budget—and the development of programs under its own identity, with the 75-percent balance.

I urge my colleagues to accept the conference language on the Peace Institute because there has been no change in its basic mission, namely, First, peace research, second, education and training of future leaders of this country and others in the technique of peacemaking, and third, dissemination of information on peace and peacemaking, all as called for in the original bill, S. 564.

Madam President, the House yesterday approved the pending conference report. Its acceptance by this body will mean, among other things, the establishment of a U.S. Institute for Peace. This action by the U.S. Congress will be seen as a strong signal to the entire world of a renewed and reinvigorated U.S. commitment to world peace and security, at a most crucial period in mankind's history.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the conference report.

The conference report was agreed to.

Mr. TOWER. Madam President, I move to reconsider the vote by which the conference report was agreed to.

Mr. STENNIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, I have voted to approve the conference report on the fiscal 1985 Defense Authorization Act, despite its deficiencies, because its overall impact on our national defense is a net plus rather than a net minus.

That judgment is a close call based on those parts of this legislation which authorize execessive funding for militarily unjustified procurement and research on certain dubious strategic nuclear weapons programs. The MX missile and the ill-conceived crash missile defense program called Star Wars are two such allocations.

However, the improvements authorized in the conference report for our conventional forces—especially the Army and the National Guard/Reserve components—its defense procurement reforms, and its positive arms control provisions are the primary basis for my vote in its favor.

In terms of overall defense spending, this conference report represents about 6.2 percent to 6.5 percent above last year's totals, after excluding inflation. While that real growth rate is too high, it is much better than what was originally requested by the President—a 13-percent rate—and an improvement over what was contained in the Senate bill—a 6.9-percent rate.

I share the opinion of many defense experts who believe that we could sufficiently maintain and improve our Armed Forces with an annual real growth of between 3 and 5 percent in defense spending. I am pleased that the majority leader of the Senate, a Republican, and the Speaker of the House of Representatives, a Democrat, have agreed that the overall outcome of the defense budget process this year will be about 5 percent real growth—4.7 percent to be exact. Between 3 and 5 percent real growth is a more prudent way to protect both our military security and our economic security in this age of staggering deficits.

Among the most significant improvements this conference report contains for our conventional forces is the authorization of procurement of 840 M–1 main battle tanks in fiscal year 1985, Mr. President. By including savings from past M–1 procurement and receipts from foreign military sales, the conferees were able to buy 840 M–1's for only $150 million more in new budget authority that the President requested for 600 tanks.

We also were able to authorize sufficient funds for advance procurement to support purchase of 840 M–1 tanks in fiscal year 1986.

Both those authorizations, Mr. President, represent the conferees rejection of the President's request for 600 M–1's in fiscal year 1985 and for advance procurement in fiscal year 1985 for 720 tanks in fiscal year 1986. The conference report represents a much wiser approach to increasing our conventional combat readiness, especially in view of past underfunding of most Army programs and of the improving Soviet armor threat.

I fought hard for the increase in the M–1 Program, Mr. President, and I am gratified that my Senate colleagues on the conference decided to change their position, which was for 720 M–1's in fiscal year 1985 and advance procurement for 720 fiscal year 1986, to approve the 840 levels.

This conference report also contains some of the most sweeping reforms to the defense procurement process since about 1949, Mr. President. It is our attempt to begin attacking the procurement problems which have led to the American taxpayers being charged $9,600 for a simple allen wrench, $1,100 for a plastic stool cap and $435 for a claw hammer.

Many of my own proposals for reforming military procurement are included in this package, and I appreciate the support of the other Senate and House Armed Services Committee conferees for their inclusion.

For nearly 2 years now, I have been actively involved in analyzing the defense procurement process. In April of this year I introduced two bills, S. 2571 and S. 2572 which were designed to implement some of the systemic reforms that had become necessary to stop the outrageous problems in spare parts pricing.

My bills, as well as a bill introduced by Senators WEICKER and DIXON, S. 2489, became the nucleus of a special title on procurement reform in the Senate's version of the authorization bill. Nearly all of these provisions were included by the conferees, as well as language that had appeared in the House version of the bill. They include provisions to require that prices be equal to or less than the lowest commercial price charged by a contractor, that supplies be ordered in economic

order quantities whenever possible, and that overhead allocations to spare parts by contractors be limited to reasonable levels. This bill also includes a comprehensive plan for treatment of technical data on systems purchased by the Government for purposes of competitive reprocurement. Hopefully this provision will now stop the problem that exists in one service where nearly 25 percent of the sole source purchases for parts are not competitive because the Government either never obtained, cannot find, or cannot use the technical data. I appreciate the support of my colleagues in these efforts.

The Senate's provision of a 4-percent pay raise for most military personnel was approved by the conference, instead of the House's 3.5-percent pay increase. I think that the total pay raise should have exceeded even the initial Senate position, but the conference outcome certainly is more acceptable than the House position.

I am concerned that we still are repeating the sins of the past by allowing military pay to lag significantly behind civilian wages. This is a sad demonstration of unwise defense spending priorities.

Recruiting and retention are adequate at the present time, Mr. President, but the warning signs already are appearing that we could have serious personnel problems in the future. Inadequate military pay now will not forestall those problems.

We also have tried to respond in this conference report to the American public's concerns that some of our NATO allies and Japan are failing to carry their fair shares of the common defense burden. This failure is most egregious in the case of the Japanese, but several of the most affluent NATO countries also should be ashamed of their defense burden sharing efforts.

This conference report places into permanent law an amendment I have authored for the past several years decrying these inadequate allied defense spending efforts and requiring the Secretary of Defense to issue an annual "report card" on allied military contributions.

The arms control provisions of this conference report were among the most controversial issues before the conference, as most of our colleagues know. I am pleased that the conferees agreed to restrict obligation of funds for buying additional MX missiles unless Congress approves such procurement in two votes next year.

The administration has declared repeatedly that the MX missile is not a bargaining chip, Mr. President. Considering that its military utility is minimal, if not nonexistent, because it is not a survivable weapon, there is no valid defense or arms control rationale for continuing the MX Program.

In fact, the MX's lack of survivability is recognized by many arms control and defense experts as contributing to a lowering of the nuclear threshold—in other words to making nuclear war more, not less, possible—and as a destabilizing element in the nuclear balance.

The conferees decided to require the President to certify that the United States was making serious efforts to negotiate with the Soviet Union a mutual and verifiable space arms control pact on antisatellite [ASAT] weapons before the Air Force could test its new ASAT system against an object in space. The number of ASAT tests against an object in space would be limited to two successful tests in fiscal year 1985.

These bipartisan congressional decisions contribute to arms control and defense. This administration has been reluctant in the past to recognize the need to pursue aggressively space arms control agreements. This provision encourages them to do so. It also permits a limited testing of a limited performance U.S. ASAT system within the context of space arms control efforts, which is an attempt to satisfy both arms defense and arms control concerns.

An important sense of the Congress provision was approved in this conference report which states that the United States should continue its policy of not undercutting the provisions of existing strategic arms agreements so long as the U.S.S.R. does so, through December 31, 1985, or until a new strategic arms pact is concluded.

This provision recognizes that past strategic arms agreements, even including the unratified SALT II Treaty, make a useful contribution to our national security and that we should be extremely careful about not undercutting them.

The conferees also endorsed a sense of the Senate statement that the President should at the earliest possible date request Senate approval of ratification of two arms control agreements—the Threshold Test Ban Treaty and the Peaceful Nuclear Explosion Treaty. The former pact was signed by President Nixon in 1974; the latter was signed by President Ford in 1976.

Finally, Mr. President, the conference report contains improved funding in specific operations and maintenance accounts most related to our conventional forces combat readiness. We were able to increase funding for maintenance and logistical support, depot maintenance, real property maintenance, and ship overhauls.

The administration has failed to fund several of these accounts adequately, but at least this conference report attempts to address these readiness deficiencies through some additional funding.

For all these reasons, Mr. President, I voted for this conference report.

Mr. TOWER. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WALLOP). Without objection, it is so ordered.

S. 3019, A BILL TO REQUIRE THAT THE POSITIONS OF DIRECTOR OF CENTRAL INTELLIGENCE AND DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE BE FILLED WITH CAREER INTELLIGENCE OFFICERS

Mr. MOYNIHAN. Mr. President, 2 days ago I joined the very distinguished and beloved chairman of the Select Committee on Intelligence, the Senator from Arizona [Mr. GOLDWATER] in introducing legislation which would require that the positions of Director of Central Intelligence and the Deputy Director of Central Intelligence be filled by career civilian or military intelligence officers. This bill has been printed as S. 3019.

We have come to this view after considerable reflection and consultation. We have served together on the Intelligence Committee going on 8 years, during the last 4 of which he has served as chairman and I as vice chairman. On one fundamental point during our tenure we have been firm and unswerving: That there is no room for partisan politics in the Intelligence Committee or in the Intelligence Community. We have also derived this corollary: that the intelligence mission of the Central Intelligence Agency and its sister intelligence agencies is best carried out by professional intelligence officers. In other words, it is imperative that senior positions in our intelligence establishment be staffed by career personnel having requisite expertise and records of accomplishment.

When Congress passed the National Security Act of 1947, which created the CIA and the positions of DCI and Deputy DCI, the main concern was that the two positions not be filled simultaneously by commissioned active or retired military officers. The United States did not have anything in the nature of a career intelligence class at that time. By World War II it had fallen to Gen. William Donovan to assemble, rather hastily withal successfully, an intelligence apparatus which became known as the Office of Strategic Services. Allen Dulles, who served as the OSS's Chief of Station in Swit-

zerland in World War II later became head of the CIA's clandestine service (1951), then Deputy Director (1951–53) and Director of Central Intelligence (1953–61). He might appropriately be called the prototype of the modern intelligence professional.

Now, with almost 40 years of experience, there is no longer any need to look outside of our highly qualified pool of career civilian and military intelligence officers to fill the positions of Director and Deputy Director of Central Intelligence. Moreover, the work of intelligence has become increasingly complex, requiring senior officials to master a vast array of highly sophisticated satellite and other technical collection systems as well as political, economic and military issues affecting virtually every country in the world. Our Nation is best served by appointing people to these positions who do not require on-the-job training.

I believe it is fair to say that my thinking and that of the chairman began evolving in this direction in 1981 when a person without visible qualifications, save participation in a Presidential campaign, was appointed to head the CIA's clandestine service. The tenure of this individual was short-lived, but the lesson of this episode has not faded.

Subsequently, we faced questions about the activities of the Director of Central Intelligence before his appointment, including those while he served as the manager of a Presidential campaign. Questions of this sort, however meritorious, detract from the vital duties of the Director, not to mention those of its congressional oversight committees.

Then last year, we experienced the one great breakdown in our relationship with the Intelligence Community during my 8 years on the select committee: the DCI's failure to notify us in advance of the mining of the Nicaraguan harbors. He subsequently apologized and agreed, with the President's personal approval, to a new written procedure whereby the committee will be advised automatically of "significant anticipated intelligence activit[ies]" required by the Intelligence Oversight Act of 1980. When we passed the act, we did not define what is intended by the term "significant." The term seemed to speak for itself. However, the time came when the CIA embarked on an activity which clearly was "significant," but which the committee only learned about afterwards.

Under the committee's agreement with the DCI, signed on June 6, there is a simple test of the matter of "significant" within the executive branch. If an officer of the Government has in mind an initiative which he or she considers genuinely "significant," he or she will see to it that the President has approved before going forward. The agreement provides, among other things, that any such activity receiving Presidential approval will be reported in advance to the committee.

Our new, written procedure does as much to resolve this difficulty as procedures can do. There are limits on man's ability to devise effective arrangements of this sort. Nevertheless, the question remains whether the misadventure would have happened if a career intelligence professional with strong interest in the long-term welfare of the intelligence community had been serving as Director.

The DCI and his Deputy are the preeminent intelligence advisers to the President, responsible not only for managing the affairs of CIA, but for coordinating the entire intelligence collection and analytical effort. The judgments they make can affect the destiny of our Nation. Consequently, it is imperative that their judgment reflect an independent evaluation of the facts and proposed courses of action. First of all and above all, this is in the President's interest.

I believe that we are more likely to achieve this outcome by requiring, as this bill would, that the President select his DCI and Deputy from among qualified career civilian and military intelligence officers. While some may argue that denying the President unfettered authority to appoint "his man or woman" may result in an unresponsive intelligence community, I consider such a risk minimal.

In my several years experience as a member of the select committee and previously as an Ambassador, I have never met an intelligence officer who was not fully and honorably aware that he worked for the President of the United States.

Finally, Mr. President, I believe this bill is a natural outgrowth of the task of institution building. During the 1970's the CIA and other intelligence agencies went through a difficult period of accusations and investigations. Resources, especially personnel, were significantly reduced. With the establishment of the Select Committee on Intelligence, we embarked upon a program to restore the strength and morale of these vital agencies. This bill would, I believe, constitute formal recognition that we have suceeded in our work and can look confidently to finding qualified persons to serve as DCI and DDCI from within the intelligence community.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3019

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 102(a) of the National Security Act of 1947 (50 U.S.C. 403(a)) is amended by adding after the phrase *"Provided, however,"* the following: "That the Director and Deputy Director of Central Intelligence shall be appointed from among career civilian or military intelligence officers, and *Provided further,"*.

Mr. MOYNIHAN. Mr. President, I should like to add an expression of my appreciation for the very generous remarks that the Senator from Arizona [Mr. GOLDWATER] made this morning about this bill which we have introduced together. It most assuredly is not directed to any individual and ought not to be read in that light. It represents a judgment we mave made in 8 years of service on the Select Committee on Intelligence as to what would best serve the interest of the President.

In my statement I am at some pains to say that it is my view, and I think the Senator from Arizona would share it, that the President is best served by the intelligence community if that community is headed by professional, career intelligence officers.

At the time the CIA was established in the National Security Act of 1947, the United States did not have an intelligence community. It had a number of intelligence officers, of which Mr. Casey was a most distinguished one, who had worked in the OSS during World War II, but a career service did not exist and it would have been pointless to suggest that a career officer fill these two jobs.

This is no longer the case. Nearly two generations in some regards later we have a career cadre in the military and in the civilian side and this can be done.

I point out, Mr. President, perhaps particularly that ours is the only democratic nation in the world which has a major intelligence service that is frequently headed by political persons, persons directly from politics, persons directly involved with politics. There is nothing the least bit the matter with those individuals, but it seems to us it is our considered judgment that the President and the Nation would be best served if the issue of the political activities of the Director of the CIA or his Deputy should never arise by virtue of the career patterns of the persons who hold those positions.

(Mr. DANFORTH assumed the chair.)

THE BEIRUT BOMBING

Mr. MOYNIHAN. Mr. President, I spoke yesterday at some length on the floor concerning the statement that was attributed to the President in an exchange of questions and answers with students at Bowling Green, OH, about the dismantling of the intelligence capabilities of the U.S. Govern-

ment as being in some manner responsible or contributing to the recent bombing of our Embassy, our annex, in Beirut.

The clear inference, as confirmed in the Washington Post this morning, was that the President was referring to the Carter administration, and I said yesterday that I thought the President had been wrong in what he said and has been wrong to say it. I pointed out, with no pleasure whatever, that almost a year ago in the aftermath of the extraordinary loss of life in the bombing of the Marine barracks in Beirut the White House spokesman, Mr. Speakes, attributed this to, in part, the crippling—various words were used—of the intelligence capabilities of the Government under the previous administration.

This was followed by a long article in the Wall Street Journal in which a respected journalist reported authoritative Government sources giving him various important bits of information and adding to them this general statement about a dismantling of analytic capacity, and such like.

On this occasion, I wrote to Mr. Casey and stated my view that this was unacceptable. It was wrong in fact and wrong in practice to politicize as sensitive and solemn a subject as the intelligence community capabilities and performance. If it were not wrong in fact it might not, indeed, be wrong in procedure and as a practice, but it was wrong.

And Mr. Casey, on March 8, replied to me in writing, and that letter is available to any Member of this body, agreeing that these matters had to be kept wholly nonpartisan and acknowledging that the long run down under Democratic and Republican Presidents of the budget, personnel of the Central Intelligence Agency had halted and reversed itself under the Democratic administration of President Carter, even as it began an upward path which has continued under the Republican administration of President Reagan.

The facts are elemental to anyone with access to the budgets, and I say, Mr. President, any Member of this body has access to those budget figures any time they might choose.

I thought that Mr. Casey's statement—that he was pained by the article in the Wall Street Journal and in no sense wanted to see this ever become an issue in a reelection campaign—was a handsome statement and that, if those events had happened once, well, they would not happen another time, I put the letter in the file, as you might say, and wished no more to do with it.

But then there was a second bombing and this same charge a second time and that it seemed to me to be unacceptable.

To repeat, I think the President was wrong in what he said and was, in my view, wrong to say it.

Mr. President, this morning in a ceremony in the White House Garden with President Belaunde Terry of Peru, the President was asked for his response to the stories that appeared in the press and television; radio, stories that were prominent last night and this morning with respect to his remarks yesterday in Bowling Green.

He said—I will now quote the United Press International and UPI paragraph which simply says:

> Asked for his response Reagan spoke to reporters of "the way you distorted my remarks on the CIA," and said no more. White House aides would not explain what Reagan had meant.

It is evidently the President's view that the press distorted his remarks and, if that is so, it is to be regretted and corrected. That is not a difficult thing to do. Such things have happened in the past. They will happen in the future. There could be no intention to do so. On the other hand, I would have to say that as I read the various accounts of Helen Thomas of United Press International—who has covered to my certain knowledge the last five Presidents, including the present one—she had no doubt about the meaning of the remarks.

The White House aide accompanying the President when asked what the President was referring to made the exact same references that Mr. Speakes referred to. So this remains to be sorted out. I come to the floor, Mr. President, for the simple purpose of saying I hope it will be sorted out. In the aftermath of last year's charges and my request to Mr. Casey to repudiate such activities and his repudiation, I left the matter exactly where it was and said nothing. On the day of the most recent bombing in Beirut, I was asked on television did I think this would become an issue in the Presidential campaign. And, I said, "Oh, my goodness, I hope not." This is not an issue that should ever divide Americans, no matter what is going on here, say in an election, and I hope it will not.

It remains, however, for the administration to be more specific and explicit in this matter. This can be done. If it is done, it would be a good thing, and the sooner it is done the better.

Thank you, Mr. President. I yield the floor.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

CONTINUING APPROPRIATIONS, 1985

Mr. BAKER. Mr. President, for some time now I have made the point that as soon as the continuing resolution is received, it would be the intention of the leadership on this side to proceed to that matter, if the Senate would agree. We now have the CR. It is one of the two matters that absolutely must be done before this Congress can adjourn.

I ask the Chair now to lay before the Senate Calendar Order No. 1231, House Joint Resolution 648.

The PRESIDING OFFICER. The joint resolution will be stated.

The legislative clerk read as follows:

> A joint resolution (H.J. Res. 648) making continuing appropriations for the fiscal year 1985, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution which had been ordered to be printed with the amendments of the Committee on Appropriations; as follows:

(The parts of the joint resolution intended to be stricken are shown in boldface brackets, and the parts of the joint resolution intended to be inserted are printed in italic.)

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled

[TITLE I]

That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1985, and for other purposes, namely:

SEC. 101. **[**(a) Such amounts as may be necessary for projects or activities, not otherwise specifically provided for in this joint resolution, at a rate for operations and to the extent and in the manner provided for in the following appropriation Acts as passed by the House of Representatives as of October 1, 1984:

[Agriculture, Rural Development, and Related Agencies Appropriation Act, 1985;**]**

(a) Such sums as may be necessary for programs, projects, or activities provided for in the Agriculture, Rural Development and Related Agencies Appropriation Act, 1985 (H.R. 5743), to the extent and in the manner provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report Numbered 98-1071), filed in the House of Representatives on September 25, 1984, as if such Act had been enacted into law.

[District of Columbia Appropriation Act, 1985;]

(b) Such amounts as may be necessary for projects or activities, not otherwise specifically provided for in this joint resolution, at a rate for operations and to the extent and in the manner provided for in H.R. 5899, the District of Columbia Appropriation Act, 1985, as passed by the Senate on August 10, 1984.

[Department of the Interior and Related Agencies Appropriation Act, 1985;]

(c) Such amounts as may be necessary for projects or activities, not otherwise specifically provided for in this joint resolution, at a rate for operations and to the extent and in the manner provided for in H.R. 5973, the Department of the Interior and Related Agencies Appropriation Act, 1985, as passed by the Senate as of October 1, 1984: Provided, That for the purposes of this subsection, if such Act has been reported to the Senate but not passed the Senate as of October 1, 1984, it shall be deemed as having been passed by the Senate.

[Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1985;]

(d) Such amounts as may be necessary for projects or activities, not otherwise specifically provided for in this joint resolution, at a rate for operations and to the extent and in the manner provided for in H.R. 6028, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1985, as passed by the Senate on September 25, 1984.

[Military Construction Appropriation Act, 1985; and]

(e) Such amounts as may be necessary for projects or activities, not otherwise specifically provided for in this joint resolution, at a rate for operations and to the extent and in the manner provided for in H.R. 5898, the Military Construction Appropriation Act, 1985, as passed by the Senate as of October 1, 1984: Provided, That for the purposes of this subsection, if such Act has been reported to the Senate but not passed the Senate as of October 1, 1984, it shall be deemed as having been passed by the Senate.

[Water Resource Development Appropriation Act, 1984.]

(f)(1) Notwithstanding any other provision of this joint resolution, there is appropriated an additional amount for Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil, "Construction, general" for the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by State, local governments, or private groups) authorized or made available for selection by law (but such studies shall not constitute a commitment of the Government to construction), to remain available until expended, $72,800,000; of which $8,500,000 shall be derived from the Inland Waterways Trust Fund; except that the Chief of Engineers is authorized and directed to proceed with planning, design, engineering, and construction of: Atchafalaya Basin Floodway System, Louisiana; Baltimore Harbor and Channel, Maryland and Virginia; Bassett Creek, Minnesota; Bodega Bay, California; Bonneville Navigation Lock, Oregon and Washington; Dade County, Florida (north of Haulover Beach Park); Eight Mile Creek, Arkansas; Ellicott Creek, New York; Freeport Harbor, Texas (North Jetty); Gallipolis Locks and Dam, Ohio and West Virginia; Gulfport Harbor, Mississippi; Jonesport Harbor, Maine; Kahoma Stream, Hawaii; Liberty State Park Levee and Seawall, New Jersey; Little Dell Lake, Utah; Locks and Dam 26, Illinois and Missouri (Second Lock), including environmental management along the Upper Mississippi River Basin; Merced County Streams, California; Mississippi River Ship Channel, Gulf to Baton Rouge, Louisiana; Mobile Harbor, Alabama; Moriches Inlet, New York; Norfolk Harbor, Virginia; Richmond Filtration Plant, Virginia; Sacramento River Deep Water Ship Channel, California. In the event the Congress subsequently enacts legislation specifying the requirements of local cooperation for water resources development projects under the jurisdiction of the Department of the Army, such requirements shall be applicable to projects for which funds are herein provided, notwithstanding any agreement for local cost sharing in excess of amounts specified in the relevant project authorizations. The initiation of inland waterways projects identified for planning, design, engineering, and construction in this Act may be funded from sums available in the Inland Waterways Trust Fund, established by the Inland Waterways Revenue Act of 1978 (title II of Public Law 95-502) notwithstanding the second sentence of section 204 of such Act.

(2) Notwithstanding any other provision of this joint resolution, there is appropriated an additional amount for the Department of the Interior, Bureau of Reclamation, "Construction program", for the design and construction of the Animas-La Plata Project, Colorado and New Mexico; Buffalo Bill Dam Project, Wyoming; and the Headgate Rock Project, Arizona, to remain available until expended, $9,300,000; of which $1,000,000 shall be available for transfers to the Upper Colorado River Basin Fund as authorized by section 5 of the Act of April 11, 1956 (43 U.S.C. 620d): Provided, That of the total appropriated, the amount for program activities which can be financed by the Reclamation Fund may be derived from that Fund: Provided further, That of the total appropriated, $5,000,000 is appropriated pursuant to the Snyder Act (25 U.S.C. 13), to be expended by the Bureau of Reclamation for the purpose of designing and initiating construction of the Headgate Rock Hydroelectric Project, Arizona.

[(b) Such amounts as may be necessary for projects or activities at the rate for operations and to the extent and in the manner provided for in H.R. 6237, the Foreign Assistance and Related Programs Appropriations Act, 1985, as reported to the House of Representatives on September 13, 1984: *Provided*, That 2 percent of the aggregate amount of new budget authority provided for in each of the first three titles of H.R. 6237 shall be withheld from obligation, and all earmarkings of funds in H.R. 6237 (except earmarkings for Israel and Egypt) shall be deemed to be reduced by 2 percent.]

(g) Such amounts as may be necessary for continuing the activities under the purview of the Foreign Assistance Appropriations Act as provided for in section 101(b)(1) of Public Law 98-151 and Public Law 98-396, under the rate provided for in S. 2793 as reported to the Senate on June 26, 1984, and under the terms and conditions contained in section 101(b)(1) of Public Law 98-151, Public Law 98-396, and S. 2793, notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956: Provided, That where the terms and conditions (including earmarkings, ceilings and transfers of funds) on the uses of funds contained in such Acts differ from, or are not included in, the provisions of S. 2793, the latter bill only shall be applicable: Provided further, That of the total amounts of credits (or participations in credits) appropriated in this subsection to carry out the purposes of section 23 of the Arms Export Control Act, Israel and Egypt shall be released from their contractual liability to repay the United States Government with respect to such credits (and participations in credits): Provided further, That in addition to funds appropriated or otherwise made available by this joint resolution, $25,000,000 is hereby appropriated for necessary expenses to carry out the provisions of section 104(c) of the Foreign Assistance Act of 1961, as amended by S. 2582, section 403(a) (Child Survival Fund), as passed by the Senate Foreign Relations Committee on April 18, 1984, of which sum not less than $15,000,000 shall be available only for the United Nations Development Program and not less than $10,000,000 shall be available only for the United Nations Children's Fund: Provided further, That in addition to amounts otherwise appropriated by this joint resolution for "International Organizations and Programs" there is hereby appropriated $40,000,000 for the International Fund for Agriculture Development: Provided further, That notwithstanding any other provision of law, up to $10,000,000 of the funds appropriated under this subsection for "Agriculture, rural development and nutrition, Development Addistance" may be available for agricultural activities in Poland which are managed by the Polish Catholic Church or other non-governmental organizations, which sum shall remain available until September 30, 1986, except that $5,000,000 of the funds made available by this proviso may not be obligated or expended until October 1, 1985: Provided further, That $2,000,000 of the funds made available by this joint resolution for "Energy and selected development activities, Development Assistance" shall be transferred and made available for "Science and technology, Development Assistance", which sum shall be made available only for cooperative projects among the United States, Israel and developing countries: Provided further, That, of the funds made available by this joint resolution for the "Economic Support Fund", $20,000,000 shall be made available to Tunisia.

[(c) Pending enactment of the Department of Defense Appropriation Act, 1985, such amounts as may be necessary for continuing activities which were conducted in the fiscal year 1984, for which provision was made in the Department of Defense Appropriation Act, 1984, under the current terms and conditions and at a rate for operations not in excess of the current rate or the rate provided for in the budget estimates, whichever is lower, until the Department of Defense Appropriation Act, 1985, is reported to or subsequently passed by the House of Representatives, whereupon such amounts as may be necessary shall become available at a rate for operations for activities and under the terms and conditions as provided for in such Appropriation Act and accompanying House report for fiscal year 1985, as reported to or subsequently passed by the House of Representatives, the latest action prevailing: *Provided*, That no appropriation or funds made available or authority granted pursuant to this subsection shall be used

for new production of items not funded for production in fiscal year 1984 or prior years, for the increase in production rates above those sustained with fiscal year 1984 funds or to initiate, resume or continue any project, activity, operation or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during the fiscal year 1984 until the Department of Defense Appropriation Act, 1985, is reported to or subsequently passed by the House of Representatives: *Provided further,* That no appropriation or funds made available or authority granted pursuant to this subsection shall be used to initiate multiyear procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later or until the Department of Defense Appropriation Act, 1985, is reported to or subsequently passed by the House of Representatives: *Provided further,* That during fiscal year 1985, no funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual until the Department of Defense Appropriation Act, 1985, is reported to or subsequently passed by the House of Representatives: *Provided further,* That the appropriations or funds made available or authority granted pursuant to this subsection for procurement of MX missiles shall be in accordance with and subject to all the limitations, restrictions, and conditions set forth in sections 110 and 1132 of the Department of Defense Authorization Act, 1985 (H.R. 5167), as passed by the House of Representatives on June 1, 1984, until the Department of Defense Appropriation Act, 1985, is reported to or subsequently passed by the House of Representatives: *Provided further,* That the appropriations or funds made available or authority granted pursuant to this subsection for testing of the Space Defense System (anti-satellite weapon) shall be in accordance with and subject to all the limitations, restrictions and conditions set forth in section 207 of the Department of Defense Authorization Act, 1985 (H.R. 5167), as passed by the House of Representatives on June 1, 1984, until the Department of Defense Appropriation Act, 1985, is reported to or subsequently passed by the House of Representatives: *Provided further,* That the appropriations or funds made available or authority granted pursuant to this subsection for possible deployment of any cruise missile designed to carry a nuclear warhead and to be launched from a naval vessel or for the assembly of nuclear warheads onto such a cruise missile shall be in accordance with and subject to all the limitations, restrictions and conditions set forth in section 1130 of the Department of Defense Authorization Act, 1985 (H.R. 5167), as passed by the House of Representatives on June 1, 1984, until the Department of Defense Appropriation Act, 1985, is reported to or subsequently passed by the House of Representatives: *Provided further,* That funds shall be available for National Guard and Reserve Equipment and Retired Pay, Defense at the current rate until the Department of Defense Appropriation Act, 1985, is reported to or subsequently passed by the House of Representatives.]

(h) Such amounts as may be necessary for projects or activities, not otherwise specifically provided for in this joint resolution, at a rate for operations and to the extent and in the manner provided for in the Department of Defense Appropriation Act, 1985, as passed by the Senate as of October 1, 1984: Provided, That for the purposes of this subsection, if such Act has been reported to the Senate but not passed the Senate as of October 1, 1984, it shall be deemed as having been passed by the Senate.

[(d) Such amounts as may be necessary for continuing activities, not otherwise specifically provided for in this joint resolution, which were conducted in the fiscal year 1984, for which provision was made in the Department of Transportation and Related Agencies Appropriations Act, 1984, under the current terms and conditions, and at a rate for operations not in excess of the current rate or the rate provided for in the budget estimates, whichever is lower.]

(i) Such amounts as may be necessary for continuing activities, not otherwise specifically provided for in this joint resolution, under all the conditions and to the extent and in the manner as provided in S. 2852, the Transportation and Related Agencies Appropriation Act, 1985, as reported to the Senate on July 17, 1984, and the provisions of S. 2852 shall be effective as if enacted into law.

[(e) Such sums as may be necessary for programs, projects, or activities provided for in the Treasury, Postal Service and General Government Appropriations Act, 1985 (H.R. 5798) to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference as passed by the House of Representatives on September 12, 1984, as if enacted into law: *Provided,* That, notwithstanding section 102 of this joint resolution, the Department of the Treasury shall consolidate the operations of the Bureau of Government Financial Operations in accordance with the language concerning amendment numbered 9 in the joint explanatory statement of the committee of conference (H. Rept. 98-993).]

(j) Such sums as may be necessary for programs, projects, or activities provided for in the Treasury, Postal Service and General Government Appropriations Act, 1985 (H.R. 5798), to the extent and in the manner provided for in the conference report and joint explanatory statement of the Committee of Conference (98-993), filed in the House of Representatives on September 6, 1984 (with the exception of the provisions involved in the amendments numbered 36, 42, 43, 44, 55, and 67, which shall not be effective), as if such Act had been enacted into law.

[(f)] *(k)* Such amounts as may be necessary for continuing the following activities, not otherwise provided for in this joint resolution, which were conducted in the fiscal year 1984, under the terms and conditions provided in applicable appropriation Acts for the fiscal year 1984, at the current rate:

[Activities under section 163 of the Federal-aid Highway Act of 1973, as amended;

[Activities under section 5(h)(2) of the Department of Transportation Act, as amended;

[Activities under title VII of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended;

[Activities related to the United States Railway Association under the Regional Rail Reorganization Act of 1973, as amended;]

Activities under the Public Health Service Act; *and*

[Activities under title V of the Social Security Act;

[Activities under section 427(a) of the Federal Coal Mine Health and Safety Act;

[Activities of the Regional Offices of Facilities Engineering and Construction;

[Activities under title XXVI of the Omnibus Budget Reconciliation Act of 1981;]

Refugee and entrant assistance activities under the provisions of title IV of the Immigration and Nationality Act, title IV and part B of title III of the Refugee Act of 1980, and sections 501 (a) and (b) of the Refugee Education Assistance Act of 1980[, except that such activities shall be continued at a rate for operations not in excess of the lower of the current rate or the rate authorized by H.R. 3729 as passed the House of Representatives]: *Provided,* That such funds may be expended for individuals who would meet the definition of "Cuban and Haitian entrant" under section 501(e) of the Refugee Education Assistance Act of 1980, but for the application of paragraph (2)(B) thereof;

[Head Start activities authorized by the Head Start Act;

[Child abuse prevention and treatment and adoption opportunities activities authorized by the Child Abuse Prevention and Treatment Act, and title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978;

[Runaway and homeless youth activities authorized by the Runaway and Homeless Youth Act;

[Aging programs and activities authorized by the Older Americans Act of 1965;

[Developmental disabilities program and activities authorized by the Developmental Disabilities Assistance and Bill of Rights Act;

[Native American activities authorized by the Native American Programs Act of 1974;

[Foster care activities authorized by section 102(a)(1) and 102(c) of Public Law 96-272;

[Foster care and adoption assistance activities authorized by title IV-E of the Social Security Act;

[School assistance in federally affected areas authorized by title I of the Act of September 30, 1950, and the Act of September 23, 1950;

[Payment to the Corporation for Public Broadcasting under the Communications Act of 1934 as amended for the fiscal year 1987: *Provided,* That for purposes of this payment, the current rate shall be the amount of the payment provided in fiscal year 1986;

[Emergency immigrant education activities authorized by section 101(g) of Public Law 98-151; and

[Activities under the Follow Through Act.]

SEC. 102. Unless otherwise provided for in this joint resolution or in the applicable appropriation Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1984, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b)

enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) September 30, 1985, whichever first occurs.

SEC. 103. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 105. Any appropriation for the fiscal year 1985 required to be apportioned pursuant to subchapter II of chapter 15 of title 31, United States Code, may be apportioned on a basis indicating the need (to the extent any such increases cannot be absorbed within available appropriations) for a supplemental or deficiency estimate of appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees and to active and retired military personnel. Each such appropriation shall otherwise be subject to the requirements of subchapter II of chapter 15 of title 31, United States Code.

[SEC. 106. There is appropriated an additional amount for Construction, general, $6,000,000, to remain available until expended, of which $4,000,000 shall be made available for the construction of the project for correction of the design deficiency of the navigation project for Barnegat Inlet, as described in the report of the Chief of Engineers dated January 20, 1983, and the May 21, 1984, supplement thereto, which project shall be constructed at full Federal expense.

[SEC. 107. There is appropriated an additional amount for Flood Control, Mississippi River and Tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee, $2,000,000, to remain available until expended.

[SEC. 108. There is appropriated an additional amount to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, $11,000,000, to remain available until expended.]

SEC. [109.] *106.* Notwithstanding any other provision of this joint resolution:

(A) The Secretary of the Army, acting through the Chief of Engineers, shall take such action as may be necessary to remedy slope failures and erosion problems (1) along the banks of the Coosa River, Alabama, in order to protect the Fort Toulouse National Historic Landmark and Taskigi Indian Mound in Elmore County, Alabama, at an estimated cost of $31,000,000, and (2) along the banks of the Black Warrior River, Alabama, in order to protect the Mound State Monument National Historic Landmark near Moundville, Alabama, at an estimated cost of $4,860,000. Such actions shall be coordinated with the Secretary of the Interior and the State of Alabama.

(a) Prior to initiation of construction of the projects authorized by subsection (A), appropriate non-Federal interests shall agree—

(1) to provide without cost to the United States all lands, easements, and rights-of-way necessary for construction and operation of the projects;

(2) to hold and save the United States free from damage due to construction, operation, and maintenance of the projects, not including damages due to the fault or negligence of the United States or its contractors;

(3) to accomplish without cost to the United States all modifications or relocations of existing sewerage and drainage facilities, buildings, utilities, and highways made necessary by construction of the projects; and

(4) to maintain and operate all features of the projects after completion, in accordance with regulations prescribed by the Secretary.

[(B) Within available funds, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to perform necessary channel and associated work in connection with the Turtle Creek, Pennsylvania, local protection project; and shall take such action as may be necessary to remove accumulated snags and other debris blocking the channel of the Hatchie River and its tributaries in the vicinity of Bridge Creek and the Little Hatchie River in Mississippi; and shall take such action as may be necessary to perform necessary channel and associated work in connection with the Glencoe, Alabama, flood control project.]

[(C)] *(B)* Notwithstanding any existing agreements, within funds otherwise made available for the Yazoo Basin, the Corps of Engineers is directed to operate and maintain the McKinney Bayou Pumping Plant in accordance with the provisions of Public Law 678 of the Seventy-fourth Congress, approved June 15, 1936, as amended by Public Law 526 of the Seventy-ninth Congress, approved July 24, 1946, effective upon the passage of this joint resolution.

[(D) The authorization for the Sardis Lake project, Oklahoma, contained in section 203 of the Flood Control Act of 1962, as amended by section 108 of the Energy and Water Development Appropriation Act of 1982 is hereby amended to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to plan, design, and construct access road improvements to the existing road from the west end of Sardis Lake to Daisy, Oklahoma, at an estimated Federal cost of $10,000,000 and the State or political subdivision shall agree to operate and maintain said facilities at their own expense.

[(E) The Secretary of the Army, acting through the Chief of Engineers, is directed to utilize funds previously appropriated for the Meramec River Basin flood control study, to establish a demonstration project for flood forecasting/warning on the Lower Meramec River to demonstrate the capability of nonstructural means of flood control through the procurement and installation of commercially available equipment. The Chief of Engineers is to operate and maintain this system for a period of time sufficient to demonstrate its functioning during the occurrence of a one hundred year Meramec River flood or for a period of two years, whichever is less. After the system has been field-tested, the Chief of Engineers is to report to the Congress the results of this prototype testing.

[(F) The Secretary of the Army, acting through the Chief of Engineers, shall grant, within ninety days of enactment of this joint resolution, to the University of Alabama at Huntsville the funds appropriated to the Secretary of the Army pursuant to title I of Public Law 98-50 for the design and construction of a Corps of Engineers learning facility at Huntsville, Alabama. This grant shall be made to the University of Alabama at Huntsville subject to the conditions that the University will convey the grant funds to the Chief of Engineers to design and construct the learning facility on lands owned by the University at Huntsville and the completed facility is to be owned and maintained by the University and to be operated by the University and the corps as a joint-use facility, all according to such specifications, terms, and cost sharing arrangements for operation and maintenance as the University of Alabama at Huntsville and the Secretary of the Army, acting through the Chief of Engineers, may agree. The Secretary of the Army, acting through the Chief of Engineers, shall report to the Committees on Appropriations of the United States House of Representatives and the United States Senate on a monthly basis on the status of the required agreements and the construction of the learning facility until such time as the facility is constructed and operational at the University of Alabama at Huntsville.

[(G) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to remove the Berkeley Pier, which extends into San Francisco Bay, California, approximately twelve thousand feet, at an estimated cost of $3,200,000.]

[(H)] *(C)* The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake such structural and nonstructural measures as he deems feasible to prevent flood damage to communities in the Pearl River Basin, Saint Tammany Parish, Louisiana.

[(I) (a) The Secretary of the Army, acting through the Chief of Engineers, shall, after consultation with the advisory committee established under subsection (b), carry out a demonstration project for the development, operation, and maintenance of a recreation and greenbelt area on and along the Des Moines River, Iowa, between the point at which the Des Moines River is intersected by United States Highway 20 to the point downstream at which relocated United States Highway 92 intersects the Des Moines River. Subject to subsection (b) and (c) of this section, such project shall include, but not be limited to—

[(1) the construction, operation, and maintenance of recreational facilities and streambank stabilization structures;

[(2) the operation and maintenance of all structures constructed before the date of enactment of this joint resolution (other than any such structure operated and maintained by any person under a permit or agreement with the Secretary) within the area described in the Des Moines Recreational River and Greenbelt Map and on file with the Committee on Public Works and Transportation of the House of Representatives; and

[(3) such tree plantings, trails, vegetation, and wildlife protection and development and other activities as will enhance the natural environment for recreational purposes.

[(b)(1) The advisory committee referred to in subsection (a) shall be constituted as follows:

[(A) five persons shall be appointed by the Governor of Iowa;

[(B) two persons shall be appointed by their respective board of supervisors to represent each of Mahaska, Marion, Warren, Jasper, Polk, Dallas, Boone, and Webster Counties;

[(C) one person shall be appointed by the mayor of the city of Des Moines and one additional person shall be appointed by the mayor of each other incorporated munici-

pality within whose boundaries a portion of such recreation area lies; and

[(D) three employees or officials of the Corps of Engineers shall be appointed by the Secretary.

[(2) Each member of the advisory committee shall serve at the pleasure of the authority which appointed such member.

[(3) No member of the advisory committee who is not an officer or employee of the United States shall receive compensation on account of his service on the committee or travel expenses or per diem in lieu of subsistence with respect to the performance of services for the committee. Members of such advisory committee who are officers or employees of the United States shall not receive additional compensation on account of their service on the committee.

[(4) The advisory committee may elect such officers and spokesmen as it deems appropriate and may appoint such ad hoc committees of interested citizens as it deems appropriate to assist the committee in advising the Secretary.

[(c) The construction and maintenance of structures and plant and husbandry activities referred to in subsection (a) of this section shall be conditioned upon the ownership by the United States of the land or interests therein necessary for such purposes.

[(d) In carrying out the project described in subsection (a) of this section, the Secretary may acquire by purchase, donation, exchange, or otherwise land and interests therein, as the Secretary determines are necessary to carry out such project. If the Secretary purchases any land or interest therein from any State or local agency, he shall not pay more than the original cost paid by such State or local agency for such land or interest therein. No land or interest therein may be acquired by the United States to carry out such project without the consent of the owner, and nothing herein shall constitute an additional restriction on the use of any land or any interest therein which is not owned by the United States.

[(e) Notwithstanding any other provision of law, the Federal share of the project to be carried out pursuant to this section shall be 100 per centum of the cost of the project.

[(f) There is authorized to be appropriated to carry out this section $6,000,000, for fiscal years beginning after September 30, 1983.

[(J) The project for navigation, Tampa Harbor, East Bay Channel, Florida, is hereby authorized to be prosecuted by the Secretary of the Army, acting through the Chief of Engineers, substantially in accordance with the plans and subject to the conditions recommended in the report of the Chief of Engineers, dated January 25, 1979, at an estimated initial cost of $2,717,000. The Secretary shall monitor the effects of construction, operation, and maintenance of the project on water quality and the environment.

[(K) The project for navigation, Newport News Creek, Virginia, authorized by the River and Harbor Act of 1946, is hereby modified to authorize the relocation and reconstruction by the Commonwealth of Virginia of the project upon approval of plans for such relocation and reconstruction by the Secretary of the Army.]

(D)(a) The project for mitigation, Replacement of Trimble Wildlife Area, Smithville Lake, Little Platte River, Missouri-Plan, is hereby authorized to be prosecuted by the Secretary of the Army, acting through the Chief of Engineers, substantially in accordance with the plans and subject to the conditions recommended in the report of the Chief of Engineers dated September 22, 1977, at a Federal cost of $7,770,000.

(b) There is hereby appropriated an additional amount for Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil, "Construction, general", $7,770,000 to remain available until expended, to carry out this section.

(E) Section 44 of the Water Resources Development Act of 1974 (Public Law 93-251, 88 Stat. 12) is amended by striking subsection (b)(2) and inserting in lieu thereof the following:

"(2) The lands conveyed pursuant to this section, including the Olson Second Addition, shall be used by the Mountrail County Park Commission, Mountrail County, North Dakota, for public park and recreation purposes: Provided, That the park commission may designate all of the lands conveyed for leasing of cabin sites. The Mountrail County Park Commission shall reimburse the Federal Government for lands so used at the fair market value for such property. If any lands used for public purposes are ever used for any other purpose, title thereto shall revert to, and become the property of, the United States which shall have the right of immediate entry thereof.

"(3) The Secretary of the Army is authorized to execute and file an amended deed to reflect the provisions of this Act.".

[SEC. 110. Notwithstanding any other provision of this joint resolution, all rates for the sale of electric power generated at facilities constructed pursuant to 38 Stat. 242, 1913, shall be based upon the costs of generating and transmitting such power and shall be approved by the Secretary of the Interior.]

SEC. [111.] *107.* Notwithstanding any other provision of this joint resolution, no part of the funds provided under this joint resolution or any other provisions of law may hereafter be used by the Comptroller General to review or decide any protest submitted under subchapter V of chapter 35 of title 31, United States Code, involving the nonappropriated fund procurement of property or services by the Tennessee Valley Authority.

[SEC. 112. There is appropriated an additional $5,000,000, to remain available until expended, for the "Tennessee Valley Authority" for the conduct of a demonstration project for the construction of a main water transmission line for the city of Bristol, Tennessee, in the vicinity of the Authority's Boone Lake.

[SEC. 113. Section 1201(b)(1) of the National Housing Act is amended—

[(1) by striking out "September 30, 1984" and inserting in lieu thereof "September 30, 1985"; and

[(2) in subparagraph (A), by inserting after "1985" the following: ", and September 30, 1986, respectively".]

SEC. 108. Notwithstanding any other provision of this joint resolution, for an additional amount for "Abatement, control and compliance, Environmental Protection Agency", $13,000,000, to remain available until expended, which shall be available to the city of Akron, Ohio, to refinance the bond debt of the recycle energy system of such city: Provided, That such sum may not exceed sixty percent of such debt: Provided further, That the facilities of such recycle energy system shall be made available to the Federal Government as a laboratory facility for municipal waste to energy research.

SEC. [114.] *109.* The penultimate proviso in the paragraph under the heading "Rent Supplement" in the Supplemental Appropriations Act, 1983 (Public Law 98-63, 97 Stat. 301, 320) is amended to read as follows: "*Provided further,* That upon the completion of each contract under such sections 101 or 236(f)(2) on behalf of qualified tenants on a State-aided, noninsured rental housing project, the balance of the contract authority provided in appropriation Acts for such contract shall be rescinded:". Any amounts of authority for contracts under section 236 of the National Housing Act (12 U.S.C. 1715z-1) or under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s) which would otherwise become available at the time of cancellation of any such contract as a result of a foreclosure action, or a transfer of a deed in lieu of foreclosure, of a State-aided, noninsured rental housing project having any contracts under such sections shall remain available for such project for the balance of the term which remains at the time of cancellation of such a contract as a result of a foreclosure action or such transfer of deed, and the Secretary of Housing and Urban Development shall offer to execute new contracts under such sections, subject to compliance with the requirements of sections 236 (b) and (f)(2) of the National Housing Act, or such section 101, respectively.

SEC. [115.] *110.* The item relating to "Department of Housing and Urban Development—Housing Programs—Annual Contributions for Assisted Housing" in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1984 (Public Law 98-45; 97 Stat. 219, 220), is amended by adding at the end thereof the following new paragraph:

"Notwithstanding any other provision of this Act or any other law regarding the availability of recaptured budget authority, $9,000,000 of budget authority recaptured and becoming available for obligation in fiscal year 1984 shall be made available only to provide assistance under the new construction program of section 8 of the United States Housing Act of 1937 for 40 dwelling units in the Carmel Plaza North Project Numbered 000-32028-PM/L8, in the District of Columbia, which project was terminated by the Secretary of Housing and Urban Development on July 26, 1984. Such budget authority shall remain available for obligation for fiscal year 1985, and the provisions repealed by section 209(a) of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181; 97 Stat. 1153, 1183) shall remain in effect with respect to such project and budget authority.".

SEC. [116.] *111.* The Administrator of the Environmental Protection Agency shall make a grant not to exceed $2,337,000 from construction grant funds allotted to the State of Ohio for fiscal year 1985 to the owners of the Rocky River Wastewater Treatment Plant in Rocky River, Ohio, for reimbursement of such owners for the cost of construction of such plant.

[SEC. 117. (a) Notwithstanding any other provision of law, rule, or regulation, for purposes of section 7(b) of the Small Business Act (15 U.S.C. 636(b)), the Administrator of the Small Business Administration shall, with respect to small business concerns involved in the fishing industry and with respect to agricultural enterprises, treat the recent drought and El Nino-related ocean conditions as disasters under such section:

[(1) disaster loan assistance shall be provided to the fishing industry pursuant to paragraph (2) of such section—

[(A) the term "recent El Nino-related ocean conditions" means the ocean conditions (including high water temperatures, scarcity of prey, and absence of normal upwellings) which occurred in the eastern Pacific Ocean off the west coast of the North American Continent during the period beginning with June 1982 and ending at the close of December 1983, and which resulted from the climatic conditions occurring in the Equatorial Pacific during 1982 and 1983;

[(B) the term "fishing industry" means any trade or business involved in—

[(i) the catching, taking, or harvesting of fish (whether or not sold on a commercial basis),

[(ii) any operation at sea or on land, in preparation for, or substantially dependent upon, the catching, taking, or harvesting of fish, and

[(iii) the processing or canning of fish (including storage, refrigeration and transportation of fish before processing or canning); and

[(C) the term "fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds; and

[(2) disaster loan assistance shall be provided to agricultural enterprises on account of drought commencing during the dates specified in (a)(1)(A) above pursuant to paragraph (1) of such section—

[(A) at a rate of interest equal to the based upon computations of eligibility pursuant to rules in effect for emergency loans from the Farmers Home Administration, both as of January 1, 1984;

[(B) the Small Business Administration shall not impose on such enterprises any loss threshold or other type of minimum loss test which is not imposed on non-agricultural enterprises on the commencement date of the drought, either to determine the eligibility for such loans or to determine the amount of eligibility for loan assistance; and

[(C) the determination of a natural disaster by the Secretary of Agriculture pursuant to subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) shall be deemed a disaster declaration by the Small Business Administration for purposes of determining eligibility for assistance under section 7(b)(1) of the Small Business Act as amended herein.]

SEC. 112. The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under Section 236 of the National Housing Act, as amended (12 U.S.C. 1715z-1), reduced in fiscal year 1985 by not more than $7,631,000 in uncommitted balances of authorizations provided for this purpose in appropriation Acts pursuant to the paragraph under this heading in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1985 (Public Law 98-371, 98 Stat. 1213, 1215), shall not be reduced by more than $4,331,000 in fiscal year 1985: Provided, That $3,300,000 in such uncommitted balances shall be made available in fiscal year 1985 and remain available thereafter until used as needed to replace amounts pooled for interest reduction payments for State-aided, noninsured rental housing projects under such Section 236, but used during fiscal year 1982 for amendments to contracts for rental assistance payments: And provided further, That amounts made available under this joint resolution and prior appropriation Acts to fund interest reduction subsidies and rental assistance payments under Section 236 of the National Housing Act (12 U.S.C. §1715z-1) for State aided, noninsured rental housing projects, which amounts were used to fund the pools to be available to the State agencies, project owners and tenants, shall be made available by the Secretary of the Department of Housing and Urban Development for fiscal year 1985 and thereafter, under the original terms and conditions of the agreements which established such pools or as such agreements are mutually amended by the parties thereto.

SEC. 113. The head of any department or agency of the Federal Government in carrying out any loan guarantee or insurance program for the fiscal year 1985 shall enter into commitments to guarantee or insure loans pursuant to such program in the full amount provided by law subject only to (1) the availability of qualified applicants for such guarantee or insurance, and (2) limitations on such amount contained in appropriation Acts.

SEC. [118.] *114.* None of the funds appropriated or made available by this joint resolution or any other Act may be used by the United States Customs Service to propose *or promulgate* any rule or regulation relating to the subject matter of the Advanced Notice of Proposed Regulations published in the Federal Register on July 21, 1983 (48 Fed. Reg. 33318): *Provided,* That nothing shall prevent the expenditure of funds to propose any rule or regulation relating to duty-free stores which implements or conforms to statutory standards hereafter enacted by Congress.

SEC. 115. Section 404 of the Small Business Investment Act of 1958 (15 U.S.C. 694-1) is amended as follows:

(1) by striking out "may be issued" in paragraph (1) of subsection (b) and inserting in lieu thereof "shall be issued";

(2) by inserting before the period at the end of paragraph (1) of subsection (b) the following: ", and the Administration is expressly prohibited from denying such guarantee due to the property being so acquired"; and

(3) by striking out "exceed 3½ per centum" in subsection (c) and inserting in lieu thereof "be less than 1 per centum or more than 3½ per centum".

SEC. 116. Of the funds appropriated to the Department of State in Public Law 97-257, Supplemental Appropriations Act, 1982 (96 Stat. 824), $3,500,000 in "Salaries and expenses" and $3,000,000 in "Acquisition, operations and maintenance of buildings abroad" shall remain available until September 30, 1985.

SEC. 117. Notwithstanding any other provision of this joint resolution, the Administrator of the General Services Administration is to provide an additional $3,611,000 from the Federal Buildings Fund for repairs and alterations of the Blair House.

SEC. 118. Notwithstanding any other provision of this joint resolution, $348,000 is appropriated to the State of Arizona to be available for expenses in connection with the San Luis, Arizona Border Station.

SEC. 119. Pursuant to the recommendation of the United States Claims Court in G.E. Amick, et al. against United States, (a)(1) the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to each of the individuals named in subsection (b) the amount set forth opposite the name of each such individual in full settlement of all claims of each such individual against the United States for damages arising in connection with the flooding of certain lands as the result of the unnecessary release of excess amounts of waters from the Stockton Dam and Reservoir during the period from November 1972 through June 1974, at which time such dam and reservoir were in operation under the control of the United States Army Corps of Engineers.

(2) The individuals referred to in subsection (a) and the amounts of money due each such individual are as follows:

R. Dean Dawes of Stockton, Missouri	*$2,700*
Harlen Chism of Stockton, Missouri	*6,596*
Ray and Clara Pinkman of Stockton, Missouri	*4,211*
Perrin Masters of Stockton, Missouri	*2,394*
Ray M. Pinkman of Stockton, Missouri	*3,819*
A.W. Spillers of El Dorado Springs, Missouri	*3,500*
Hester E. Simrell of Stockton, Missouri	*2,200*
G.E. Amick of El Dorado Springs, Missouri	*3,200*
T.M. Mongomery of Stockton, Missouri	*3,087*
T.M. and Berla Montgomery of Stockton, Missouri	*190*
A.C. and Virginia I. Montgomery of Stockton, Missouri	*4,500*
Irene Larson of Aurora, Missouri and Virginia Montgomery of Stockton, Missouri	*7,796*
Ruby Dean Leffler of Stockton, Missouri	*4,982*
Edward C. and Frances Pyle of Stockton, Missouri	*1,545*
Gilbert and Pansy Pyle and Ronnie and Kay Pyle of Stockton, Missouri	*4,422*
Gilbert and Ronnie Pyle of Stockton, Missouri	*11,458*
Lageta Cowan of Stockton, Missouri	*3,200*
Swangel Estate of Stockton, Missouri	*12,123*
W.H. Eslinger of Stockton, Missouri	*5,668*
J.C. Eslinger of Stockton, Missouri	*5,668*
Max A. and Betty Lee Smith of Stockton, Missouri	*310*
Lat and Zella Lee Smith of Stockton, Missouri	*384*
Riley Carver of El Dorado Springs, Missouri	*6,800*

(b) No part of each amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, any contract to the contrary notwithstanding. A violation in this section is a misdemeanor punishable by a fine in an amount not to exceed $10,000.

SEC. 120. (a) Section 5723(a)(1)(C) of title 5, United States Code, is amended by striking out ", by and with the advice and consent of the Senate,".

(b) Subchapter II of chapter 57 of such title is amended by striking out sections 5724b and 5724c and inserting in lieu thereof the following:

"§ 5724b. Taxes on reimbursements for travel, transportation, and relocation expenses of employees transferred

"(a) Under such regulations as the President may prescribe and to the extent considered necessary and appropriate, as provided therein, appropriations or other funds available to an agency for administrative expenses are available for the reimbursement of substantially all of the Federal, State, and local income taxes incurred by an employee, or by an employee and such employee's spouse (if filing jointly), for any moving or storage expenses furnished in kind, or for which reimbursement or an allowance is provided (but only to the extent of the expenses paid or incurred). Reimbursements under this subsection shall also include an amount equal to all income taxes for which the employee and spouse, as the case may be, would be liable due to the reimbursement for the taxes referred to in the first sentence of this subsection.

"(b) For the purposes of this section, 'moving or storage expenses' means travel and transportation expenses (including storage of household goods and personal ef-

fects under section 5724 of this title) and other relocation expenses under sections 5724a and 5724c of this title.

"§ 5724c. Relocation services

"Under such regulations as the President may prescribe, each agency is authorized to enter into contracts to provide relocation services to agencies and employees for the purpose of carrying out the provisions of this subchapter. Such services include but need not be limited to arranging for the purchase of a transferred employee's residence.".

SEC. 121. Notwithstanding any other provision of this joint resolution, except section 102, there is an additional amount appropriated for "Military construction, Army", $14,950,000; for "Military construction, Navy", $17,570,000; for "Military construction, Air Force", $35,100,000; for "Family housing construction, Army", $4,800,000; for "Family housing construction, Air Force", $20,086,000: Provided, That notwithstanding section 101 of this joint resolution the rate of operations for 'Military construction, Navy" shall be $1,550,242,000; and for 'Military construction, Defense Agencies", $351,010,000.

"SEC. 122. In the case of pay for pay periods commencing on or after the first day of the month after the month in which this section is enacted, the pay for any period of an attorney in the Office of the Legislative Counsel of the Senate shall not be reduced by more than 50 percent because of deductions made pursuant to section 8344 of title 5, United States Code, if such attorney, as of the date of enactment of this section, has attained age 55 and has completed 30 years of service as an attorney in such Office. The preceding sentence shall cease to be effective in the case of pay for pay periods commencing after October 1, 1989.".

SEC. 123. The first sentence of section 101(e) of the joint resolution entitled "Making continuing appropriations for the fiscal year 1983, and for other purposes", approved October 2, 1982 (96 Stat. 1189), is amended by inserting "(1)" after "except that" and by striking out the period at the end thereof and inserting in lieu thereof the following: ", and (2) the proviso contained in the paragraph under the heading 'Acquisition of Property as an Addition to the Capitol Grounds' in S. 2939 shall not be effective after the date of enactment of this clause.".

SEC. 124. (a) Notwithstanding any other provision of law, the Department of Transportation is hereby authorized to require and accept bonds in connection with the provisions of this section, and to deposit the same into the general fund of the Treasury in the event of the failure of the poster of the bond to comply with the requirements of this section.

(b) The Secretary of the Department of Transportation shall provide exemptions to the January 1, 1985 deadline for compliance with the provisions of Public Law 96-193 for international operations at Miami International Airport if, on or before January 1, 1985, applicants for such exemptions have posted bonds committing them to sign contracts with known suppliers of equipment that would bring said applicants into compliance with the provisions of Public Law 96-193, with such exemptions to be granted as follows:

(1)(A) applicants currently operating aircraft for which equipment to assure compliance ("hush kits") is currently under development shall be required to enter into contracts for such equipment or replacement aircraft three months after the certification by the Department of such equipment by two or more competing suppliers; and

(B) applicants currently operating aircraft for which no such compliance equipment is currently under development shall be required to contract for aircraft or equipment which will comply with the provisions of Public Law 96-193 no later than December 31, 1985, unless extended by the Secretary; and

(C) except for circumstances beyond the control of the applicant, all exemptions granted under this subsection shall expire no later than December 31, 1986; or

(2) in the case of a foreign applicant where the Secretary of the Department of Transportation determines, after consultation with the Secretary of State and other interested departments and agencies of the Government, that the applicant faces financial circumstances whereby compliance would impose unreasonable burdens on the applicant and such burden would not be in the interests of the foreign policy of the United States, the Secretary shall provide an exemption to such time certain as he determines to be reasonable under the circumstances, not to extend beyond December 31, 1987.

(c) No applicant receiving an exemption under the provisions of this section may increase its frequency of international operations of noncompliant aircraft on an annualized basis at Miami International Airport beyond that existing on an annualized basis during calendar year 1984.

(d) No applicant receiving an exemption under the provisions of this section may add to the number of noncompliant aircraft operated at Miami International Airport over that which it operated during calendar year 1984.

(e) Each applicant shall post a bond, in an amount to be determined by the Secretary (but not to exceed $100,000 per aircraft), as evidence of its binding commitment to comply with the provisions of Public Law 96-193. The Secretary shall notify each current applicant for exemption within two weeks of the adoption of this section or where an application is not yet on file, two weeks following application as to the amount of bond to be required. Any failure to comply with the conditions of any exemption granted under this section shall result in the forfeiture of the bond and the termination of the exemption. Upon compliance with sections (b)(1)(A) and (b)(1)(B) herein or the grant of a waiver under (b)(2), the bond shall be returned to the applicant.

(f) Nothing in this section shall affect the authority of the Secretary to grant exemptions at other places or for other reasons, or to deny any application for foreign policy consideration.

SEC. 125. Notwithstanding any other provisions of law or this joint resolution, unexpended balances of funds appropriated by the Department of Transportation And Related Agencies Appropriations Act of 1984, for employee protection as authorized by the Rock Island Railroad Transition and Employee Assistance Act as amended (45 U.S.C. 1001 et seq.), shall continue to remain available for such purpose until not later than April 1, 1985; and, such funds shall be expended in accordance with the amendment made by section 201 of H.R. 3648 as passed by the House of Representatives on March 6, 1984.

SEC. 126. Notwithstanding any other provision of this joint resolution, there is an additional amount appropriated for the Agricultural Research Service, United States Department of Agriculture, $1,000,000.

SEC. 127. Notwithstanding any other provision of this joint resolution, and in addition to amounts appropriated elsewhere, there are appropriated $3,200,000 for fiscal year 1985 for Salaries and Expenses of the Food and Drug Administration to carry out the Drug Price Competition and Patent Term Restoration Act of 1984.

SEC. [119.] 128. (a) Funds appropriated by this joint resolution or any other appropriation act to carry out the Food Stamp Act of 1977 (7 U.S.C. 2011-2029) shall, notwithstanding any other provision of law or this Act, be used in a manner to ensure that, under the food stamp program, households certified as eligible to participate in the program are issued an allotment that reflects the full cost of the thrifty food plan, adjusted to reflect changes in the cost of such plan for the twelve months ending June 30, 1984, rounded to the nearest lower dollar increment for each household size.

(b) The provisions of subsection (a) shall be effective during the period beginning November 1, 1984, and ending September 30, 1985.

SEC. 129. Any of the funds provided for El Salvador by this joint resolution which are placed in the Central Reserve Bank of El Salvador shall be maintained in a separate account and not commingled with any other funds: Provided, That such funds may be obligated or expended notwithstanding the provisions of section 604 of the Foreign Assistance Act of 1961, as amended, section 901(b)(1) of the Merchant Marine Act of 1936, as amended, section 5 of the International Air Transportation Fair Competitive Practice Act of 1974, section 644 of the Small Business Act, section 2711 of the Competition in Contracting Act of 1984, the provisions of the Federal Property and Administrative Services Act of 1949, as amended, and any other provision of law inconsistent with the cash transfer nature of this assistance.

SEC. 130. None of the funds made available by this joint resolution may be obligated or expended for the construction of a Regional Military Training Center in Honduras unless, and until fifteen days after, the President provides to the Committees on Appropriations of the Senate and the House of Representatives—

(1) a report that the Government of Honduras has provided a site for such a Center and assumed responsibility for any competing claims to rights of use or ownership of such site, and has committed itself to make that site available on a long-term basis for training by the armed forces of other friendly countries in the region as well as those of Honduras;

(2) a detailed plan, with specific cost estimates, for the construction of such a Center at the site provided by the Government of Honduras; and

(3) a determination that the Government of Honduras recognizes the need to compensate as required by international law the United States citizen who claims injury from the establishment and operation of the existing Center; and that it is taking appropriate steps to discharge its obligations under international law, in particular the Treaty of Friendship, Commerce and Consular Rights with the United States, as well as its letter of December 14, 1983, to the United States Trade Representative.

Moreover, the President shall report to the Committees sixty days after the passage of this resolution and again in one hundred

and twenty days on progress in resolving this claim. In one hundred and eighty days, the President shall report on the resolution of the claim or, if Honduras has failed to resolve the claim, on the actions which he proposes to take in response to the situation and in particular actions with respect to the granting of preferential trade benefits under the Caribbean Basin Initiative, disbursement of economic support funds or any other funds provided under this resolution and review of the status of Honduras under other, expropriation-related legislation.

SEC. 131. No credits may be extended and no guarantees may be issued under the Arms Export Control Act for Turkey for the fiscal year 1985 if the extension of such credits or the issuance of such guarantees would cause the sum of such credits and guarantees provided for Turkey for such fiscal year to exceed $500,000,000: Provided further, That, of the amounts appropriated or made available by this joint resolution for grant military assistance for fiscal year 1985, not to exceed $215,000,000 may be available for Turkey only if the President certifies to the Congress that (1) the United States Government is in compliance with the provisions of Senate Resolution 278, as passed by the Senate on November 17, 1983, and (2) that Turkey is making efforts to ensure that the Turkish Cypriot community is not taking any actions with regard to the region of Famagusta/Varosha which would prejudice the outcome or otherwise impede intercommunal talks on the future of Cyprus.

SEC. 132. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic Support Fund which are allocated to Israel during the fiscal years 1985 through 1989 shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.

SEC. 133. None of the funds provided for in this joint resolution or hereafter provided shall be used to lease the mineral interest of the United States with respect to a tract of land in Payne County, Oklahoma, totalling nine hundred sixty acres located on the Indian Base Meridian; township 19 north; range 1 east, section 22 west half; section 26 northwest quarter; section 27 north half, southeast quarter; unless such lease prohibits the surface occupancy of the land for development of those interests.

SEC. 134. Notwithstanding any other provision of this joint resolution, except for lands described by sections 105 and 106 of Public Law 96-560, section 103 of Public Law 96-550, section 5(d)(1) of Public Law 96-312, and except for land in the State of Alaska, and lands in the national forest system released to management for any use the Secretary of Agriculture deems appropriate through the land management planning process by any statement or other Act of Congress designating components of the National Wilderness Preservation System now in effect or hereinafter enacted, and except to carry out the obligations and responsibilities of the Secretary of the Interior under section 17(k)(1) (A) and (B) of the Mineral Leasing Act of 1920 (30 U.S.C. 226), none of the funds provided in this Act shall be obligated for any aspect of the processing or issuance of permits or leases pertaining to exploration for or development of coal, oil, gas, oil shale, phosphate, potassium, sulphur, gilsonite, or geothermal resources on Federal lands within any component of the National Wilderness Preservation System or within any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning in Executive Communication 1504, Ninety-sixth Congress (House Document numbered 96-119); or within any lands designated by Congress as wilderness study areas or within Bureau of Land Management wilderness study areas: Provided, That nothing in this section shall prohibit the expenditure of funds for any aspect of the processing or issuance of permits pertaining to exploration for or development of the mineral resources described in this section, within any component of the National Wilderness Preservation System now in effect or hereinafter enacted, any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning, within any lands designated by Congress as wilderness study areas, or Bureau of Land Management wilderness study areas, under valid existing rights, or leases validly issued in accordance with all applicable Federal, State, and local laws or valid mineral rights in existence prior to October 1, 1982: Provided further, That funds provided in this Act may be used by the Secretary of Agriculture in any area of National Forest lands or the Secretary of the Interior to issue under their existing authority in any area of National Forest or public lands withdrawn pursuant to this Act such permits as may be necessary to conduct prospecting, seismic surveys, and core sampling conducted by helicopter or other means not requiring construction of roads or improvement of existing roads or ways, for the purpose of gathering information about and inventorying energy, mineral, and other resource values of such area, if such activity is carried out in a manner compatible with the preservation of the wilderness environment: Provided further, That seismic activities involving the use of explosives shall not be permitted in designated wilderness areas: Provided further, That funds provided in this Act may be used by the Secretary of the Interior to augment recurring surveys of the mineral values of wilderness areas pursuant to section 4(d)(2) of the Wilderness Act and acquire information on other national forest and public land areas withdrawn pursuant to this Act, by conducting, in conjunction with the Secretary of Energy, the national laboratories, or other Federal agencies, as appropriate, such mineral inventories of areas withdrawn pursuant to this Act as he deems appropriate. These inventories shall be conducted in a manner compatible with the preservation of the wilderness environment through the use of methods including core sampling conducted by helicopter; geophysical techniques such as induced polarization, synthetic aperture radar, magnetic and gravity surveys; geochemical techniques including stream sediment reconnaissance and X-ray diffraction analysis; land satellites; or any other methods he deems appropriate. The Secretary of the Interior is hereby authorized to conduct inventories or segments of inventories, such as data analysis activities, by contract with private entities deemed by him to be qualified to engage in such activities whenever he has determined that such contracts would decrease Federal expenditures and would produce comparable or superior results: Provided further, That in carrying out any such inventory or surveys, where National Forest System lands are involved, the Secretary of the Interior shall consult with the Secretary of Agriculture concerning any activities affecting surface resources: Provided further, That funds provided in this Act may be used by the Secretary of the Interior to issue oil and gas leases for the subsurface of any lands designated by Congress as wilderness study areas, that are immediately adjacent to producing oil and gas fields or areas that are prospectively valuable. Such leases shall allow no surface occupancy and may be entered only by directional drilling from outside the wilderness study area or other nonsurface disturbing methods.

SEC. 135. Of the funds appropriated to the Energy Security Reserve by the Department of the Interior and Related Agencies Appropriations Act, 1980 (Public Law 96-126) and subsequently made available to carry out Title I, Part B of the Energy Security Act (Public Law 96-294) by Public Laws 96-304 and 96-514, $5,200,000,000 are rescinded: Provided, That of the remaining funds in the Energy Security Reserve for carrying out Title I, Part B of the Energy Security Act, the amount of $5,700,000,000 shall be initially available only for obligation to projects with Letters of Intent authorized by the Board of Directors of the United States Synthetic Fuels Corporation on or before June 1, 1984; and, if by reason of Board determinations that the Corporation will not enter into financial assistance contracts with projects for which such Letters were authorized, or that lesser amounts of financial assistance than those specified in such authorizations shall be awarded, there remains a balance of such amount which is unobligated and uncommitted, 50 percent of said balance shall cease to be available for obligation and the remaining 50 percent of said balance shall thereafter be available for commitment or obligation by the Corporation pursuant to the Energy Security Act: Provided further, That until such time as the comprehensive strategy is approved pursuant to section 126(c) of the Energy Security Act, the Board of Directors shall solicit proposals and award financial assistance pursuant to applicable sections of the Energy Security Act without regard to the national synthetic fuel production goal established under section 125 of the Act: Provided further, That of the $5,200,000,000 rescinded from the Energy Security Reserve, $750,000,000 shall be deposited and retained in a separate account hereby established in the Treasury of the United States, entitled the "Clean Coal Technology Reserve," which account and the appropriations therefor, shall be available for the purpose of conducting clean coal technology demonstration activities, including those identified in section 320 of the fiscal year 1985 Department of the Interior and Related Agencies Appropriations Act, as reported by the Senate Committee on Appropriations (H.R. 5973, Senate Report 98-578), without fiscal year limitation, subject to subsequent annual appropriation in the Department of the Interior and Related Agencies Appropriations Act.

SEC. 136. Notwithstanding any other provision of this joint resolution, none of the funds provided under this joint resolution shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

[SEC. 120. Notwithstanding any provision to the contrary in title XX of the Social Security Act—

[(1) the dollar figure set forth in section 2003(c)(3) of such Act is hereby increased to $2,750,000,000 for the fiscal year 1985;

[(2)(A) the additional $50,000,000 made available to the States for such fiscal year pursuant to paragraph (1)—

[(i) shall be used only for the purpose of providing training and retraining, including training in the prevention of child abuse in child care settings, to providers of licensed or registered child care services, operators and staffs (including those receiving in-service training) of facilities where licensed or registered child care services are provided, State licensing and enforcement officials, and parents, and

[(ii) shall be expended only to supplement the level of any funds that would (in the absence of the additional assistance resulting from this section) be available from other sources for the purpose specified in clause (i), and shall in no case supplant such funds from other sources or reduce the level thereof; but

[(B) no more than one-half of the amount by which any State's allotment under section 2003 of such Act is increased as a result of paragraph (1) shall actually be paid to such State unless it has in effect procedures (established by or under State law and funded from other sources) for appropriately screening and conducting background checks and criminal investigations of all providers of licensed or registered child care services and all operators and staffs of facilities where licensed or registered child care services are provided, in accordance with standards specified in or established under State law, with the objective of protecting the children involved and assuring their safety and welfare while they are receiving child care services; and

[(3) the determination and promulgation required by section 2003(b) of such Act with respect to the fiscal year 1985 (to take into account the preceding provisions of this section) shall be made as soon as possible after the enactment of this Act.

[SEC. 121. (a) The provisions of the bill H.R. 3678 (98th Congress), as passed the House of Representatives on June 29, 1984, are hereby enacted.

[(b) Section 102 of this joint resolution shall not apply with respect to the provisions enacted by this section.

[SEC. 122. Notwithstanding section 102, no funds appropriated by this or any other Act may be used for any contract to administer a civilian conservation center of the Job Corps if the administration of such center was not under contract as of September 1, 1984.

[SEC. 123. (a)(1) Section 303(b) of the District of Columbia Self-Government and Governmental Reorganization Act is amended to read as follows:

["(b) An amendment to the charter ratified by the registered qualified electors shall take effect upon the expiration of the thirty-five-calendar-day period (excluding Saturdays, Sundays, holidays, and days on which either House of Congress is not in session) following the date such amendment was submitted to the Congress, or upon the date prescribed by such amendment, whichever is later, unless, during such thirty-five-day period, there has been enacted into law a joint resolution, in accordance with the procedures specified in section 604 of this Act, disapproving such amendment. In any case in which any such joint resolution disapproving such an amendment has, within such thirty-five-day period, passed both Houses of Congress and has been transmitted to the President, such resolution, upon becoming law subsequent to the expiration of such thirty-five-day period, shall be deemed to have repealed such amendment, as of the date such resolution becomes law.".

[(2) The second sentence of section 602(c)(1) of such Act is amended to read as follows: "Except as provided in paragraph (2), such act shall take effect upon the expiration of the 30-calendar-day period (excluding Saturdays, Sundays, and holidays, and any day on which neither House is in session because of an adjournment sine die, a recess of more than 3 days, or an adjournment of more than 3 days) beginning on the day such act is transmitted by the Chairman to the Speaker of the House of Representatives and the President of the Senate, or upon the date prescribed by such act, whichever is later, unless, during such 30-day period, there has been enacted into law a joint resolution disapproving such act. In any case in which any such joint resolution disapproving such an act has, within such 30-day period, passed both Houses of Congress and has been transmitted to the President, such resolution, upon becoming law subsequent to the expiration of such 30-day period, shall be deemed to have repealed such act, as of the date such resolution becomes law.".

[(3) The third sentence of section 602(c)(1) of such Act is amended by deleting "concurrent" and inserting in lieu thereof "joint".

[(4) The first sentence of section 602(c)(2) of such Act is amended by deleting "only if during such 30-day period one House of Congress does not adopt a resolution disapproving such act." and inserting in lieu thereof "unless, during such 30-day period, there has been enacted into law a joint resolution disapproving such act. In any case in which any such joint resolution disapproving such an act has, within such 30-day period, passed both Houses of Congress and has been transmitted to the President, such resolution, upon becoming law subsequent to the expiration of such 30-day period, shall be deemed to have repealed such act, as of the date such resolution becomes law.".

[(5) The second sentence of section 602(c)(2) is amended to read as follows: "The provisions of section 604, relating to an expedited procedure for consideration of joint resolutions, shall apply to a joint resolution disapproving such act as specified in this paragraph.".

[(6) Section 604(b) of such Act is amended by deleting "concurrent" and inserting in lieu thereof "joint".

[(7) Subsections (b) and (c) of section 740 of such Act are amended by deleting in each subsection the words "resolution by either the Senate or the House of Representatives" and inserting in lieu thereof "joint resolution by the Congress".

[(8) Section 740(d) of such Act is amended by deleting "concurrent" and inserting in lieu thereof "joint".

[(9) The amendments made by this subsection shall not be applicable with respect to any law, which was passed by the Council of the District of Columbia prior to the date of the enactment of this joint resolution, and such laws are hereby deemed valid, in accordance with the provisions thereof, notwithstanding such amendments.

[(b) Part F of title VII of such Act is amended by adding at the end thereof the following new section:

["SEVERABILITY

["SEC. 762. If any particular provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.".

[(c) Section 164(a)(3) of the District of Columbia Retirement Reform Act is amended to read as follows:

["(3)(A) The Congress may reject any filing under this section within thirty days of such filing by enacting a joint resolution stating that the Congress has determined—

["(i) that such filing is incomplete for purposes of this part; or

["(ii) that there is any material qualification by an accountant or actuary contained in an opinion submitted pursuant to section 162(a)(3)(A) or section 162(a)(4)(B).

["(B) If the Congress rejects a filing under subparagraph (A) and if either a revised filing is not submitted within forty-five days after the enactment under subparagraph (A) rejecting the initial filing or such revised filing is rejected by the Congress by enactment of a joint resolution within thirty days after submission of the revised filing, then the Congress may, if it deems it in the best interests of the participants, take any one or more of the following actions:

["(i) Retain an independent qualified public accountant on behalf of the participants to perform an audit.

["(ii) Retain an enrolled actuary on behalf of the participants to prepare an actuarial statement.

The Board and the Mayor shall permit any accountant or actuary so retained to inspect whatever books and records of the Fund and the retirement program are necessary for performing such audit or preparing such statement.

["(C) If a revised filing is rejected under subparagraph (B) or if a filing required under this title is not made by the date specified, no funds appropriated for the Fund with respect to which such filing was required as part of the Federal payment may be paid to the Fund until such time as an acceptable filing is made. For purposes of this subparagraph, a filing is unacceptable if, within thirty days of its submission, the Congress enacts a joint resolution disapproving such filing.".

[(d) Section 102 of this joint resolution shall not apply with respect to the amendments made by this section.

[SEC. 124. (a) The provisions of the bill H.R. 5119 (98th Congress), as passed the House of Representatives on May 10, 1984, are hereby enacted.

[(b) Section 102 of this joint resolution shall not apply with respect to the provisions enacted by this section.]

And with an amendment to strike the remainder of the joint resolution (which is the text of the "Crime Package" added by the House of Representatives, the text of which is printed in the RECORD of Tuesday, September 25, 1984).

Mr. BAKER. Mr. President, what I have done is ask unanimous consent for the Chair to go to this. I now ask unanimous consent that no call for regular order will bring back any other matter.

The PRESIDING OFFICER. Without objection——

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

Mr. BYRD. Mr. President, I yield for that purpose, with the understanding that I not lose my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the minority leader may yield to me, he now having the floor by reason of the previous uanimous-consent order, without losing his right to the floor so I may make a unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Will the Senator yield under those circumstances?

Mr. BYRD. Yes, Mr. President.

Mr. BAKER. Mr. President, it was previously announced that there would be no rollcall votes before 6 p.m. tonight, but no order was entered to that effect, it was merely an announcement. I now ask unanimous consent that any votes ordered between now and 6 p.m. tonight occur after 6 p.m. in the sequence in which they were ordered.

Mr. President, I add to the request that, notwithstanding the provisions of rule XXII in respect to the action of the Senate postcloture, if cloture is invoked at 6 p.m., as previously ordered—a vote on which is ordered at 6 p.m. on the highway bill—that any votes which are ordered on this measure occur after the cloture vote in the sequence in which they are asked.

Mr. BYRD. Mr. President, reserving the right to object.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, I am being recognized under the authority granted by the Chair that the Senator from West Virginia, the minority leader, can yield to me without losing his right to the floor; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. BAKER. I thank the Chair.

Now, Mr. President, I want to clarify one point. I earlier asked unanimous consent that no call for the regular order would bring back any other measure. It is my clear recollection that that request was granted, but if it was not granted, I now make that request, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Now, Mr. President, let me modify my previous unanimous-consent request to try to accommodate the rather complex circumstances that we are faced with at this time. Given the fact that there is an automatic rollcall at 6 o'clock on cloture on the highway bill, it is clear that any votes which might be ordered between now and 6, and which cannot occur because of the religious holiday until after 6, must occur after that cloture vote. There may be more than one vote ordered between now and 6 o'clock, so let me design this request which I now put.

I ask unanimous consent that any rollcall votes that are ordered between now and 6 p.m. will occur after the cloture vote which will occur by unanimous consent this afternoon at 6. I further ask unanimous consent, Mr. President, that thereafter the first vote ordered on this bill, if any, will occur after debate is completed and that any subsequent votes that are ordered will occur in order next succeeding following the completion of debate on those amendments. That is the request, Mr. President. Before the Chair acts, let me explain the circumstances.

It is possible that there would be more than one amendment pending for various reasons. It is also possible, Mr. President, that the yeas and nays might be ordered on more than one amendment but debate might not be completed. When we get past 6 o'clock and start voting on these things, unless this provision is incorporated, it would have the effect of terminating debate or even preventing debate on matters that had been presented to the Senate between now and 6 p.m. So the request is that the votes that might be ordered on this bill between now and 6 would occur in order after the cloture vote but it will not terminate the opportunity for Members to debate those amendments if debate has not been completed between now and 6.

Now, that is the meaning of the request. I have put the request.

Mr. JOHNSTON. Reserving the right to object, will the Senator clarify what he means by "if debate has not been completed"? The Senator means if anyone thereafter should want to debate, you can complete debate?

Mr. BAKER. Yes, Mr. President; you can. Let me give you a concrete example. Let us assume that there was an amendment offered this afternoon and that the yeas and nays are ordered and debate continued between now and 6 p.m. After the cloture vote, then debate would resume on that amendment, and the vote would not occur until the Senate had decided to conclude the debate on that measure or the matter was tabled or in some other manner contemplated by the rules of the Senate. But the protection is against restricting debate on any amendment by reason of an order that votes would be postponed and stacked until after 6 p.m.

Mr. JOHNSTON. Will the Senator tell me if you wish to terminate debate between now and 6 p.m., how would you do that and how would the Chair rule?

Mr. BAKER. Mr. President, there are only two ways that come to mind readily. The first would be if debate is exhausted and there was a general acknowledgment and nothing further was done, but even then any Senator could exercise the right to speak further on the amendment after 6 p.m. The only sure way I know to do that would be to make a motion to table, but even then a motion to table would not occur until after 6 p.m. That is the only way I can think of that debate could be terminated.

Mr. JOHNSTON. I thank the Senator.

Mr. BYRD. Mr. President, has the majority leader completed his request?

Mr. BAKER. Yes.

Mr. BYRD. Reserving the right to object, do I understand the distinguished majority leader to say—and either case is fine with me—that in that set of circumstances which he contemplates may obtain, even though a motion to table a particular amendment had not been made prior to the cloture vote, the right to move to table would not be waived in regard to any one or more of those matters on which a rollcall vote had been previously ordered?

Mr. BAKER. Yes, Mr. President; I believe that is the case. That is my intention.

Mr. BYRD. My second question is—and I may not have listened carefully enough to the distinguished majority leader's request—does he mean that, whether or not cloture is invoked on the highway bill, the request he has just made will again govern?

Mr. BAKER. Yes. Mr. President, if the Parliamentarian will listen to me for a moment, the original formulation did include that proviso, and I now include that once more; that is, the request I have put will be effective notwithstanding the provisions of rule XXII in respect to proceedings of the Senate in the event cloture is invoked.

The PRESIDING OFFICER. Is there objection to the request?

Mr. McCLURE. Reserving the right to object, and I shall not object, I assume that that would also in effect allow us to have the cloture vote and then temporarily set aside the highway bill following that vote for the

continuation of proceedings on the pending matter?

Mr. BAKER. Mr. President, in answer to the distinguished Senator from Idaho, let me put a parliamentary inquiry to the Chair if I may.

Mr. President, first, the vote which will occur at 6 o'clock on cloture occurs not by reason of the measure being pending as such but by reason of the provisions of rule XXII and that if cloture is not invoked the highway bill would no longer be before the Senate, is that correct?

The PRESIDING OFFICER. If cloture is not invoked, then the highway bill has not been before the Senate at all today.

Mr. BAKER. I thank the Chair. My understanding is that the only way the highway bill can come back under these circumstances is if cloture is invoked but until then the highway bill is not even before the Senate.

The PRESIDING OFFICER. The majority leader is correct.

Mr. BAKER. And if cloture is not invoked, once more the highway bill is not and was not before the Senate.

The PRESIDING OFFICER. That is correct.

Mr. BAKER. And the pending business will be the continuing resolution.

The PRESIDING OFFICER. That is correct.

Mr. BAKER. I thank the Chair.

Mr. BYRD. I have one further suggestion that the distinguished majority leader may wish to do not that is to include in this request that in the event a rollcall is ordered on a procedural motion—I am not using "for example"—on any motion that is for the purpose of securing a quorum of Senators, that vote of course would not be put off.

Mr. BAKER. Mr. President, in answer to the distinguished minority leader, his point is very well taken. I suppose I lose a valuable tool in indicating that I will not make such a motion, but I made the representation that no rollcall votes would occur before 6. I believe under those circumstances I have to content myself with obtaining the presence of a quorum by a quorum call and no rollcall, so there would not be a rollcall vote on a motion to instruct the Sergeant at Arms, for instance, prior to 6 p.m.

Mr. McCLURE. Mr. President, further reserving my right to object, my understanding is the request would in effect preserve whatever rights any Members has with respect to the pending bill or any motions or points of order, and so on, that might be made with respect to the amendments pending with regard to the pending bill after the cloture vote this evening.

Mr. BAKER. Mr. President, once again, to reply to the Senator from Idaho, I put this parliamentary inquiry: Under this formulation has the right of any Senator to make a point of order——

Mr. McCLURE. Whatever rights a Member may have under the rules, with respect to the pending measure, are not abrogated or waived by the pending request.

The PRESIDING OFFICER. No rights are abrogated or waived by the pending request.

Mr. McCLURE. Further with respect to the highway bill, in the event cloture is invoked, the exception to rule XXII would permit the completion of the debate and votes upon matters which might have been ordered in the interval between now and 6 o'clock, but would not in any way affect the rights of any party with respect to the highway bill once those matters have been disposed of?

The PRESIDING OFFICER. The Senator is correct.

Mr. McCLURE. I thank the Chair.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, I thank the Senator from West Virginia, the minority leader, for yielding to me for this purpose.

Mr. BYRD. I thank the distinguished majority leader.

AMENDMENT NO. 5508

Mr. BYRD. Mr. President, I send to the desk an amendment and ask that it be stated by the clerk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. BYRD) on behalf of Mr. KENNEDY, Mr. HART, Mr. BRADLEY, Mr. CRANSTON, and Mr. CHILES, proposes an amendment numbered 5508.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be stricken by the first committee amendment, insert the following:

TITLE —CIVIL RIGHTS ACT OF 1984

SHORT TITLE

SEC. . This title may be cited as the "Civil Rights Act of 1984".

PROHIBITION OF SEX DISCRIMINATION

SEC. . (a)(1) The matter preceding clause (1) of section 901(a) of the Education Amendments of 1972 (hereafter in this section referred to as the "Act") is amended—

(A) by striking out "in" the second time it appears;

(B) by striking out "the benefits of" and inserting in lieu thereof "benefits"; and

(C) by striking out "under any education program or activity receiving" and inserting in lieu thereof "by any education recipient of".

(2) Section 901(a)(3) of the Act is amended by inserting "or recipient" after "institution".

(b) Section 901(c) of the Act is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following:

"(2) For the purpose of this title, the term 'recipient' shall not be construed to include any entity which would not have been a recipient under agency regulations implementing this title in effect on February 27, 1984, nor to exclude any entity which would have been a recipient under agency regulations implementing this title in effect on February 27, 1984.

"(3)(A) For the purpose of this title, except as provided in subparagraph (B), in the case of Federal financial assistance extended to a State or to a political subdivision, a department, agency, or other such component part of the State or political subdivision that—

"(i) does not have as its primary function the performance of any of the purposes for which such assistance was extended; and

"(ii) is not extended such assistance,

shall not be deemed a recipient.

"(B) If all or a portion of Federal financial assistance is extended to a State or to a political subdivision without restriction, such assistance shall be presumed to have been extended to the entire State or subdivision unless as to the department, agency, or other such component part where discrimination is alleged, the State or political subdivision demonstrates, by clear and convincing evidence, that no Federal financial assistance was in fact extended to such department, agency, or other component part.

"(4)(A) For the purposes of this title, except as provided in subparagraphs (B) and (C), in the case of Federal financial assistance extended to a private corporation or partnership that has more than one establishment, an establishment that is not extended such assistance shall not be deemed a recipient.

"(B) If Federal financial assistance is extended to a private corporation or partnership without restriction, the entire corporation or partnership is covered in its entirety.

"(C) To the extent the provisions of subparagraph (A) constitute a limitation on coverage, subparagraph (A) shall not apply to corporations and partnerships whether profit or nonprofit engaged in education, health care, or social services.".

(c)(1) The first sentence of section 902 of the Act is amended—

(A) by striking out "to any education program or activity" and inserting in lieu thereof "for education"; and

(B) by striking out "such program or activity" and inserting in lieu thereof "recipients".

(2) The third sentence of section 902 of the Act if amended—

(A) by striking out "under such program or activity";

(B) by striking out "to whom" each time it appears in clause (1) and inserting in lieu thereof "to which" each such time;

(C) by striking out "program, or part thereof, in which" and inserting in lieu thereof "assistance which supports"; and

(D) by striking out "has been so found" and inserting in lieu "so found".

(3) Section 902 of the Act is amended by adding at the end thereof the following new sentence: "For the purpose of clause (1) of the third sentence, Federal financial assistance does not support noncompliance by or with respect to a part of a recipient solely because the receipt of such assistance by the recipient enables the recipient to make

other resources of the recipient available to that part.".

(4) Section 903 is amended by striking out "1002" and inserting in lieu thereof "902".

NONDISCRIMINATION ON THE BASIS OF HANDICAPPING CONDITION

SEC. . (a) Section 504 of the Rehabilitation Act of 1973 (hereafter in this section referred to as the "Act") is amended—

(1) by striking out "his" and inserting in lieu thereof "such individual's";

(2) by striking out "in" the third time it appears;

(3) by striking out "the benefits of" and inserting in lieu thereof "benefits";

(4) by striking out "under any program or activity receiving" and inserting in lieu thereof "by any recipient of"; and

(5) by striking out "under any program or activity conducted".

(b) Section 504 of the Act is further amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsections:

"(b) For the purpose of this section, the term 'recipient' shall not be construed to include any entity which would not have been a recipient under agency regulations implementing this section in effect on February 27, 1984, nor to exclude any entity which would have been a recipient under agency regulations implementing this section in effect on February 27, 1984.

"(c)(1) For the purpose of this section, except as provided in paragraph (2), in the case of Federal financial assistance extended to a State or to a political subdivision, a department, agency, or other such component part of the State or political subdivision that—

"(A) does not have as its primary function the performance of any of the purposes for which such assistance was extended; and

"(B) is not extended such assistance,

shall not be deemed a recipient.

"(2) Is all or a portion of Federal financial assistance is extended to a State or to a political subdivision without restriction, such assistance shall be presumed to have been extended to the entire State or subdivision unless as to the department, agency, or other such component part where discrimination is alleged, the State or political subdivision demonstrates, by clear and convicing evidence, that no Federal financial assistance was in fact extended to such department, agency, or other component part.

"(d)(1) For the purposes of this section, except as provided in paragraphs (2) and (3), in the case of Federal financial assistance extended to a private corporation or partnership that has more than one establishment, an establishment that is not extended such assistance shall not be deemed a recipient.

"(2) If Federal financial assistance is extended to a private corporation or partnership without restriction, the entire corporation or partnership is covered in its entirety.

"(3) To the extent the provisions of paragraph (1) constitute a limitation on coverage, paragraph (1) shall not apply to corporations and partnership whether profit or nonprofit engaged in education, health care, or social services.".

(c) Section 505(a)(2) of the Act is amended by inserting ", as amended," after "1964".

PROHIBITION OF AGE DISCRIMINATION

SEC. . (a) Section 302 of the Age Discrimination Act of 1975 (hereafter in this section referred to as the "Act") is amended—

(1) by striking out "in programs or activities receiving" and inserting in lieu thereof "by recipients of"; and

(2) by striking out "programs or activities receiving funds under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221 et seq.)" and inserting in lieu thereof "recipients of funds under chapter 67 of title 31, United States Code".

(b) Section 303 of the Act is amended—

(1) by striking out "in" the second time it appears;

(2) by striking out "the benefits of" and inserting in lieu thereof "benefits"; and

(3) by striking out "under, any program or activity receiving" and inserting in lieu thereof "by any recipient of".

(c)(1) Section 304(a)(4) of the Act is amended by striking out "to any program or activity".

(2) Section 304(b)(1) of the Act is amended—

(A) by striking out ", in the program or activity involved";

(B) by striking out "operation" in clause (A) and inserting in lieu thereof "operations of the recipient"; and

(C) by striking out "of such program or activity" in clause (A) and inserting in lieu thereof "in furtherance of which the Federal financial assistance is used".

(3) Section 304(c)(1) of the Act is amended by striking out "any program or activity receiving".

(d)(1) Section 305(a)(1) of the Act is amended by striking out "under the program or activity involved".

(2)(A) The second sentence of section 305(b) of the Act is amended by striking out "the particular program or activity, or part of such program or activity, with respect to which such finding has been made" and inserting in lieu thereof "assistance which supports the noncompliance so found".

(B) The third sentence of such section is amended to read as follows: "No such termination or refusal shall be based in whole or in part on any finding with respect to any noncompliance which is not supported by such assistance.".

(C) Section 305(b) of the Act is amended by adding at the end thereof the following new sentence: "For the purpose of the third sentence of this subsection, Federal financial assistance does not support noncompliance by or with respect to a part of a recipient solely because the receipt of such assistance by the recipient enables the recipient to make other resources of the recipient available to that part.".

(3) Section 305(e)(1) of the Act is amended by striking out "Act by any program or activity receiving Federal financial assistance" and inserting in lieu thereof "title".

(e) Section 309 of the Act is amended by—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following:

"(b) The term 'recipient' shall not be construed to include any entity which would not have been a recipient under agency regulations implementing this title in effect on February 27, 1984, nor to exclude any entity which would have been a recipient under agency regulations implementing this title in effect on February 27, 1984.

"(c)(1) For the purpose of this title, except as provided in paragraph (2), in the case of Federal financial assistance extended to a State or to a political subdivision, a department, agency, or other such component part of the State or political subdivision that—

"(A) does not have as its primary function the performance of any of the purposes for which such assistance was extended; and

"(B) is not extended such assistance,

shall not be deemed a recipient.

"(2) If all or a portion of Federal financial assistance is extended to a State or to a political subdivision without restriction, such assistance shall be presumed to have been extended to the entire State or subdivision unless as to the department, agency, or other such component part where discrimination is alleged, the State or political subdivision demonstrates, by clear and convincing evidence, that no Federal financial assistance was in fact extended to such department, agency, or other component part.

"(d)(1) For the purposes of this title, except as provided in paragraphs (2) and (3), in the case of Federal financial assistance extended to a private corporation or partnership that has more than one establishment, an establishment that is not extended such assistance shall not be deemed a recipient.

"(2) If Federal financial assistance is extended to a private corporation or partnership without restriction, the entire corporation or partnership is covered in its entirety.

"(3) To the extent the provisions of paragraph (1) constitute a limitation on coverage, paragraph (1) shall not apply to corporations and partnerships whether profit or nonprofit engaged in education, health care, or social services.".

NONDISCRIMINATION BY RECIPIENTS OF FEDERAL FINANCIAL ASSISTANCE

SEC. . (a) Section 601 of the Civil Rights Act of 1964 (hereafter in this section referred to as the "Act") is amended—

(1) by striking out "in" the second time it appears;

(2) by striking out "the benefits of" and inserting in lieu thereof "benefits"; and

(3) by striking out "under any program or activity receiving" and inserting in lieu thereof "by any recipient of".

(b)(1) The first sentence of section 602 of the Act is amended by striking out "program or activity" each time it appears and inserting in lieu thereof "recipient" each such time.

(2) The third sentence of section 602 of the Act is amended—

(A) by striking out "under such program or activity" in clause (1);

(B) by striking out "to whom" each time it appears in clause (1) and inserting in lieu thereof "to which" each such time;

(C) by striking out "program, or part thereof, in which" in clause (1) and inserting in lieu thereof "assistance which supports"; and

(D) by striking out "has been so found" in clause (1) and inserting in lieu thereof "so found".

(3) Section 602 of the Act is amended by adding at the end thereof the following new sentence: "For the purpose of clause (1) of the third sentence, Federal financial assistance does not support noncompliance by or with respect to a part of a recipient solely because the receipt of such assistance by the recipient enables the recipient to make other resources of the recipient available to such part.".

(c) Title VI of the Act is amended by adding at the end thereof the following new section:

"SEC. 606. (a) For the purpose of this title, the term 'recipient' shall not be construed to include any entity which would not have been a recipient under agency regulations

implementing this title in effect on February 27, 1984, nor to exclude any entity which would have been a recipient under agency regulations implementing this title in effect on February 27, 1984.

"(b)(1) For the purpose of this title, except as provided in paragraph (2), in the case of Federal financial assistance extended to a State or to a political subdivision, a department, agency, or other such component part of the State or political subdivision that—

"(A) does not have as its primary function the performance of any of the purposes for which such assistance was extended; and

"(B) is not extended such assistance, shall not be deemed a recipient.

"(2) If all or a portion of Federal financial assistance is extended to a State or to a political subdivision without restriction, such assistance shall be presumed to have been extended to the entire State or subdivision unless as to the department, agency, or other such component part where discrimination is alleged, the State or political subdivision demonstrates, by clear and convincing evidence, that no Federal financial assistance was in fact extended to such department, agency, or other component part.

"(c)(1) For the purposes of this title, except as provided in paragraphs (2) and (3), in the case of Federal financial assistance extended to a private corporation or partnership that has more than one establishment, an establishment that is not extended such assistance shall not be deemed a recipient.

"(2) If Federal financial assistance is extended to a private corporation or partnership without restriction, the entire corporation or partnership is covered in its entirety.

"(3) To the extent the provisions of paragraph (1) constitute a limitation on coverage, paragraph (1) shall not apply to corporations and partnerships whether profit or nonprofit engaged in education, health care, or social services.".

PROVISION WITH RESPECT TO REVENUE SHARING

SEC. . Nothing in this Act or in the amendments made by this Act shall be construed to supersede the provisions of chapter 67 of title 31, United States Code, relating to revenue sharing.

CLOTURE MOTION

Mr. BYRD. Mr. President, I send to the desk a cloture motion.

The PRESIDING OFFICER. The cloture motion will be stated.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the pending amendment.

Senators Don Riegle, Christopher Dodd, Bill Bradley, Bill Cohen, Claiborne Pell, Howard Metzenbaum, Daniel Patrick Moynihan, Gary Hart, Frank R. Lautenberg, George J. Mitchell, James Sasser, Charles McC. Mathias, Alan Cranston, Bob Packwood, Patrick Leahy, Tom Eagleton, Edward M. Kennedy, Joe Biden, and Dale Bumpers.

Mr. BYRD. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 5509

Mr. BYRD. Mr. President, I send to the desk an amendment to the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes on behalf of Mr. KENNEDY, Mr. HART, Mr. BRADLEY, Mr. CRANSTON, and Mr. CHILES an amendment numbered 5509:

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

TITLE —CIVIL RIGHTS ACT OF 1984

SHORT TITLE

SEC. . This title may be cited as the "Civil Rights Act of 1984".

PROHIBITION OF SEX DISCRIMINATION

SEC. . (a)(1) The matter preceding clause (1) of section 901(a) of the Education Amendments of 1972 (hereafter in this section referred to as the "Act") is amended—

(A) by striking out "in" the second time it appears;

(B) by striking out "the benefits of" and inserting in lieu thereof "benefits; and

(C) by striking out "under any education program or activity receiving" and inserting in lieu thereof "by any education recipient of".

(2) Section 901(a)(3) of the Act is amended by inserting "or recipient" after "institution".

(b) Section 901(c) of the Act is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following:

"(2) For the purpose of this title, the term 'recipient' shall not be construed to include an entity which would not have been a recipient under agency regulations implementing this title in effect on February 27, 1984, nor to exclude any entity which would have been a recipient under agency regulations implementing this title in effect on February 27, 1984.

"(3)(A) For the purpose of this title, except as provided in subparagraph (B), in the case of Federal financial assistance extended to a State or to a political subdivision, a department, agency, or other such component part of the State or political subdivision that—

"(i) does not have as its primary function the performance of any of the purposes for which such assistance was extended; and

"(ii) is not extended such assistance,

shall not be deemed a recipient.

"(B) If all or a portion of Federal financial assistance is extended to a State or to a political subdivision without restriction, such assistance shall be presumed to have been extended to the entire State or subdivision unless as to the department, agency, or other such component part where discrimination is alleged, the State or political subdivision demonstrates, by clear and convincing evidence, that no Federal financial assistance was in fact extended to such department, agency, or other component part.

"(4)(A) For the purposes of this title, except as provided in subparagraphs (B) and (C), in the case of Federal financial assistance extended to a private corporation or partnership that has more than one establishment, an establishment that is not extended such assistance shall not be deemed a recipient.

"(B) If Federal financial assistance is extended to a private corporation or partnership without restriction, the entire corporation or partnership is covered in its entirety.

"(C) To the extent the provisions of subparagraph (A) constitute a limitation on coverage, subparagraph (A) shall not apply to corporations and partnerships whether profit or nonprofit engaged in education, health care, or social services.".

(c)(1) The first sentence of section 902 of the Act is amended—

(A) by striking out "to any education program or activity" and inserting in lieu thereof "for education"; and

(B) by striking out "such program or activity" and inserting in lieu thereof "recipients".

(2) The third sentence of section 902 of the Act is amended—

(A) by striking out "under such program or activity";

(B) by striking out "to whom" each time it appears in clause (1) and inserting in lieu thereof "to which" each such time;

(C) by striking out "program, or part thereof, in which" and inserting in lieu thereof "assistance which supports"; and

(D) by striking out "has been so found" and inserting in lieu thereof "so found".

(3) Section 902 of the Act is amended by adding at the end thereof the following new sentence: "For the purpose of clause (1) of the third sentence, Federal financial assistance does not support noncompliance by or with respect to a part of a recipient solely because the receipt of such assistance by the recipient enables the recipient to make other resources of the recipient available to that part.".

(4) Section 903 is amended by striking out "1002" and inserting in lieu thereof "902".

NONDISCRIMINATION ON THE BASIS OF HANDICAPPING CONDITION

SEC. . (a) Section 504 of the Rehabilitation Act of 1973 (hereafter in this section referred to as the "Act") is amended—

(1) by striking out "his" and inserting in lieu thereof "such individual's";

(2) by striking out "in" the third time it appears;

(3) by striking out "the benefits of" and inserting in lieu thereof "benefits";

(4) by striking out "under any program or activity receiving" and inserting in lieu thereof "by any recipient of"; and

(5) by striking out "under any program or activity conducted".

(b) Section 504 of the Act is further amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsections:

"(b) For the purpose of this section, the term 'recipient' shall not be construed to include any entity which would not have been a recipient under agency regulations implementing this section in effect on February 27, 1984, nor to exclude any entity which would have been a recipient under agency regulations implementing this section in effect on February 27, 1984.

"(c)(1) For the purpose of this section, except as provided in paragraph (2), in the

case of Federal financial assistance extended to a State or to a political subdivision, a department, agency, or other such component part of the State or political subdivision that—

"(A) does not have as its primary function the performance of any of the purposes for which such assistance was extended; and

"(B) is not extended such assistance,

shall not be deemed a recipient.

"(2) If all or a portion of Federal financial assistance is extended to a State or to a political subdivision without restriction, such assistance shall be presumed to have been extended to the entire State or subdivision unless as to the department, agency, or other such component part where discrimination is alleged, the State or political subdivision demonstrates, by clear and convincing evidence, that no Federal financial assistance was in fact extended to such department, agency, or other component part.

"(d)(1) For the purposes of this section, except as provided in paragraphs (2) and (3), in the case of Federal financial assistance extended to a private corporation or partnership that has more than one establishment, an establishment that is not extended such assistance shall not be deemed a recipient.

"(2) If Federal financial assistance is extended to a private corporation or partnership without restriction, the entire corporation or partnership is covered in its entirety.

"(3) To the extent the provisions of paragraph (1) constitute a limitation on coverage, paragraph (1) shall not apply to corporations and partnerships whether profit or nonprofit engaged in education, health care, or social services.".

(c) Section 505(a)(2) of the Act is amended by inserting ", as amended," after "1964".

PROHIBITION OF AGE DISCRIMINATION

SEC. . (a) Section 302 of the Age Discrimination Act of 1975 (hereafter in this section referred to as the "Act") is amended—

(1) by striking out "in programs or activities receiving" and inserting in lieu thereof "by recipients of"; and

(2) by striking out "programs or activities receiving funds under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221 et seq.)" and inserting in lieu thereof "recipients of funds under chapter 67 of title 31, United States Code".

(b) Section 303 of this Act is amended—

(1) by striking out "in" the second time it appears;

(2) by striking out "the benefits of" and inserting in lieu thereof "benefits"; and

(3) by striking out "under, any program or activity receiving" and inserting in lieu thereof "by any recipient of".

(c)(1) Section 304(a)(4) of the Act is amended by striking out "to any program or activity".

(2) Section 304(b)(1) of the Act is amended—

(A) by striking out ", In the program or activity involved";

(B) by striking out "operation" in clause (A) and inserting in lieu thereof "operations of the recipient"; and

(C) by striking out "of such program or activity" in clause (A) and inserting in lieu thereof "in furtherance of which the Federal financial assistance is used".

(3) Section 304(c)(1) of the Act is amended by striking out "any program or activity receiving".

(d)(1) Section 305(a)(1) of the Act is amended by striking out "under the program or activity involved".

(2)(A) The second sentence of section 305(a)(1) of the Act is amended by striking out "the particular program or activity, or part of such program or activity, with respect to which such finding has been made" and inserting in lieu thereof "assistance which supports the noncompliance so found".

(B) The third sentence of such section is amended to read as follows: "No such termination or refusal shall be based in whole or in part on any finding with respect to any noncompliance which is not supported by such assistance.".

(C) Section 305(b) of the Act is amended by adding at the end thereof the following new sentence: "For the purpose of the third sentence of this subsection, Federal financial assistance does not support noncompliance by or with respect to a part of a recipient solely because the receipt of such assistance by the recipient enables the recipient to make other resources of the recipient available to that part.".

(3) Section 305(e)(1) of the Act is amended by striking out "Act by any program or activity receiving Federal financial assistance" and inserting in lieu thereof "title".

(e) Section 309 of the Act is amended by—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following:

"(b) The term 'recipient' shall not be construed to include any entity which would not have been a recipient under agency regulations implementing this title in effect on February 27, 1984, nor to exclude any entity which would have been a recipient under agency regulations implementing this title in effect on February 27, 1984.

"(c)(1) For the purpose of this title, except as provided in paragraph (2) in the case of Federal financial assistance extended to a State or to a political subdivision, a department, agency, or other such component part of the State or political subdivision that—

"(A) does not have as its primary function the performance of any of the purposes for which such assistance was extended; and

"(B) is not extended such assistance, shall not be deemed a recipient.

"(2) If all or a portion of Federal financial assistance is extended to a State or to a political subdivision without restriction, such assistance shall be presumed to have been extended to the entire State or subdivision unless as to the department, agency, or other such component part where discrimination is alleged, the State or political subdivision demonstrates, by clear and convincing evidence, that no Federal financial assistance was in fact extended to such department, agency, or other component part.

"(d)(1) For the purposes of this title, except as provided in paragraphs (2) and (3), in the case of Federal financial assistance extended to a private corporation or partnership that has more than one establishment, an establishment that is not extended such assistance shall not be deemed a recipient.

"(2) If Federal financial assistance is extended to a private corporation or partnership without restriction, the entire corporation or partnership is covered in its entirety.

"(3) To the extent the provisions of paragraph (1) constitute a limitation on coverage, paragraph (1) shall not apply to corporations and partnerships whether profit or nonprofit engaged in education, health care, or social services.".

NONDISCRIMINATION BY RECIPIENTS OF FEDERAL FINANCIAL ASSISTANCE

SEC. . (a) Section 601 of the Civil Rights Act of 1964 (hereafter in this section referred to as the "Act") is amended—

(1) by striking out "in" the second time it appears;

(2) by striking out "the benefits of" and inserting in lieu thereof "benefits"; and

(3) by striking out "under any program or activity receiving" and inserting in lieu thereof "by any recipient of".

(b)(1) The first sentence of section 602 of the Act is amended by striking out "program or activity" each time it appears and inserting in lieu thereof "recipient" each such time.

(2) The third sentence of section 602 of the Act is amended—

(A) by striking out "under such program or activity" in clause (1);

(B) by striking out "to whom" each time it appears in clause (1) and inserting in lieu thereof "to which" each such time;

(C) by striking out "program, or part thereof, in which" in clause (1) and inserting in lieu thereof "assistance which supports"; and

(D) by striking out "has been so found" in clause (1) and inserting in lieu thereof "so found".

(3) Section 602 of the Act is amended by adding at the end thereof the following new sentence: "For the purpose of clause (1) of the third sentence, Federal financial assistance does not support noncompliance by or with respect to a part of a recipient solely because the receipt of such assistance by the recipient enables the recipient to make other resources of the recipient available to such part.".

(c) Title VI of the Act is amended by adding at the end thereof the following new section:

"SEC. 606. (a) For the purpose of this title, the term 'recipient' shall not be construed to include any entity which would not have been a recipient under agency regulations implementing this title in effect on February 27, 1984, nor to exclude any entity which would have been a recipient under agency regulations implementing this title in effect on February 27, 1984.

"(b)(1) For the purpose of this title, except as provided in paragraph (2), in the case of Federal financial assistance extended to a State or to a political subdivision, a department, agency, or other such component part of the State or political subdivision that—

"(A) does not have as its primary function the performance of any of the purposes for which such assistance was extended; and

"(B) is not extended such assistance, shall not be deemed a recipient.

"(2) If all or a portion of Federal financial assistance is extended to a State or to a political subdivision without restriction, such assistance shall be presumed to have been extended to the entire State or subdivision unless as to the department, agency, or other such component part where discrimination is alleged, the State or political subdivision demonstrates, by clear and convincing evidence, that no Federal financial assistance was in fact extended to such department, agency, or other component part.

"(c)(1) For the purposes of this title, except as provided in paragraphs (2) and (3), in the case of Federal financial assistance extended to a private corporation or partnership that has more than one establishment, an establishment that is not ex-

tended such assistance shall not be deemed a recipient.

"(2) If Federal financial assistance is extended to a private corporation or partnership without restriction, the entire corporation or partnership is covered in its entirety.

"(3) To the extent the provisions of paragraph (1) constitute a limitation on coverage, paragraph (1) shall not apply to corporations and partnerships whether profit or nonprofit engaged in education, health care, or social services.".

PROVISION WITH RESPECT TO REVIEW SHARING

SEC. . Nothing in this Act or in the amendments made by this Act shall be construed to supersede the provisions of chapter 67 of title 31, United States Code, relating to revenue sharing.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. BYRD. Mr. President, I send to the desk another cloture motion.

Mr. HATFIELD. Mr. President, do I have the floor?

The PRESIDING OFFICER. The Senator has the right to send up a cloture motion at any time. He does not need to have the floor for that purpose.

The cloture motion will be stated.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the pending amendment, No. 5509.

Senators Howard Metzenbaum, Daniel Patrick Moynihan, Gary Hart, Frank R. Lautenberg, George J. Mitchell, Jim Sasser, Don Riegle, Bob Packwood, Tom Eagleton, Dale Bumpers, Charles McC. Mathias, Alan Cranston, Patrick Leahy, Bill Bradley, Ted Kennedy, Carl Levin, Christopher J. Dodd, John Glenn, and William Proxmire.

Mr. HATFIELD. Mr. President, I rise to make a point of order against the first-degree amendment as a violation of rule XVI, as legislation on an appropriation bill.

Mr, President, I should like to make a few remarks.

The PRESIDING OFFICER. The point of order is not debatable. Is there objection to the Senator proceeding?

Without objection, the Senator may proceed.

Mr. HATFIELD. Mr. President, we have tried very diligently to put the appropriations process into some kind of reasonable functioning format over the last few days. We have succeeded at times and we have failed at other times.

I want to report to the Senate that, for the first time in probably two decades at least, we have seen the functioning of the appropriations committee to the degree that we have been able to report every appropriation bill from the committee to the floor—13 of them. We have seen, for the first time in the memory of many people, bills that have passed here in a reasonable period, dealing with controversial subjects, such as Labor-HHS and others. However, we have now fallen back into old habits.

I have a commitment from the majority leader that if we need to go around the clock and, God willing, I have the energy to do it, I will stand here to wear the last Member down to the bone if necessary in order to get this continuing resolution completed. I believe I can probably outlast most.

We are not going to get into that interminable situation as we have in the past, if I can help it of loading up this appropriations bill with legislative riders. I have a responsibility—we all have a responsibility—to keep this Government going.

Let me tell Senators where we are. I have asked the staff over the last few days to keep their ears open and try to find out just about what we might expect so far as legislative amendments to this CR are concerned.

We have first now out of the box the Grove City bill.

Mr. President, let me tell you I am cosponsor of the Civil Rights Act of 1984. I will take no back seat to any Member in this body in my commitment to civil rights. But I want to tell you that this is not the place to start trying to transfer all the unfinished legislative calendar to the appropriations calendar.

I am told, for instance, that we could expect to have the crime bill put on this CR, and also the foreign aid authorization, the water project authorization, possibly another abortion amendment—who knows how many of those there will be—product liability, Superfund, beer distributorships, and immigration.

If the Senate cannot under its normal procedures finish the legislative calendar, than loading up appropriations bill is a poor excuse. We may enjoy certain political therapy by going through the motions and getting our little publicity out to the hometown newspapers, but this does violence to the institution. This does violence to the appropriations process, and to the Senate.

I am going to stand here and, if it includes Bonneville locks, I am going to make a point of order against any proposal or any amendment that offers legislation on an appropriation bill. Such an amendment is in clear violation.

I know what is going to happen. I can tell you right now that there is going to be an appeal on germaneness and the floor will vote legislative riders germane. The floor will vote it. Then we are then really opening the floodgates.

I cannot logically stand here and then argue against all the things that come along that are obviously legislation on appropriations. But I hope there comes a time soon when we begin to get a perspective of the institution.

I have said it before. Senator Russell was the epitome of what I thought a Senator was. We all should take a look at it. Senator Russell fought the civil rights bills tooth and nail and fought them right up to cloture. When cloture was laid down Senator Russell, the gentleman he was, the man who understood the Senate, the man who was a Senator's Senator, even though I might disagree with him on the civil rights issue, he said, "There comes a time when my personal perspective and viewpoints have to be submerged to the institution."

And Senator Russell stood back and let the Senate work its will after he had had his time on the floor.

Now we have developed postcloture filibusters and we ignore the will of the majority because we are so determined to follow our own perspective even to the perversion, the distortion, and the destruction of the appropriations process.

That is what is happening. I am sure it is beginning here right at this point. As I say, I support this Civil Rights bill wholeheartedly. I am a cosponsor of it. But I also have an obligation as chairman of the Appropriations Committee. I have an obligation to see the Senate as an institution function and to see the Government keep running.

Mr. President, let me just tell you that this CR includes $472 billion for programs that feed, teach, heal, and care for American citizens. That is the only way the Government is going to function, and that a loaded down CR is a poor way to have the Government function.

We have only enacted and signed into law $85 billion of appropriation measures, and not because the Appropriations Committee has not performed. We have reported our bills. We reported the first one on June 5 and the last one yesterday, on September 26.

For the first time in decades the committee has functioned. I say with all respect to all those who are part of this action of this moment, please understand that I am not being personally critical; I am just concerned about the process and about carrying out our responsibility. I just do not think this is the way to do it.

I know Senator THURMOND is very committed to his crime bill and the House of Representatives has put the

crime bill on it. I voted for the crime bill, but I am going to raise a point of order because it does not belong on the CR.

I do not want to revive the whole history, but I stood in this same position in 1981 and said when we violated the proposition by putting on the abortion measure, one which I personally supported, I said when we put an abortion amendment on the first appropriation bill we were going to ask for trouble down the road, and this is the result. Now we are going to end up here with all the legislative matters that we have not been able to resolve on this CR, and I can tell you it is going to go down—if the CR ever survived in the conference it is going to be vetoed. It is going to be vetoed by the President. Then we are going to be back here next week, or going to be here at a time when some should be out, because of these riders when we should have done our business in a reasonable time.

So let us be aware of what we are asking for down the road from this point when we begin to hang all of these matters on the CR. The Government and its operations on which our constituents depend, will be shut down.

I have said it, and I appreciate the opportunity the Senate has given me to speak on this matter.

The PRESIDING OFFICER (Mr. MATTINGLY). The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I respect the distinguished chairman of the committee. There is no question but that he is as diligent, effective, and dedicated a Member of this body as is anyone else.

I certainly can appreciate the feeling that he has expressed today. I merely want to say this: the House of Representatives has already opened the door on this bill with respect to legislation on an appropriations bill and under those circumstances I do not believe that the Senate, except by a supermajority vote, should deprive itself of being able to offer some amendments over here that may have to go to conference and be decided between the Senate and the House of Representatives.

The House of Representatives has certainly not meticulously avoided adding material that constitutes legislation on an appropriations bill. So why should we let the other body have it all and this body have no rights at all along that line?

I am perfectly willing—I wish we had a rule, and I am going to introduce legislation that will provide that no nongermane amendment to any bill may be offered if action on a motion by a supermajority, say 60 Members, is had to preclude the offering of such amendment.

Mr. President, I made that point. I shall now raise in the context of what I have just said the question of germaneness.

The PRESIDING OFFICER. Under the precedents of the Senate when the question of germaneness is raised under rule XVI, the Chair has to submit the question to the Senate.

Mr. BAKER. Mr. President, is there not an order that any votes that are to occur will be stacked to occur after the cloture vote at 6 p.m.?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BAKER. So if a rollcall vote is ordered on the question of germaneness, it will be stacked; is that correct?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BAKER. If it is a voice vote, it would not.

The PRESIDING OFFICER. That is correct.

Mr. BAKER. Mr. President, has the Chair submitted the question of germaneness?

The PRESIDING OFFICER. the Chair is submitting that question to the Senate.

Mr. BAKER. And it is now eligible for a call for the yeas and nays?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Then, Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. Mr. President, the effect now on the present proceedings by reason of the unanimous-consent order previously entered is that the issue of rule XVI and the defense of germaneness will be put over until after the vote at 6 p.m. on cloture; is that correct?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Is the Chair still concerned with the first committee amendment? Does the Senate still have the first committee amendment before it?

The PRESIDING OFFICER. Unless unanimous consent is granted that is the question before the Senate.

Mr. BAKER. Mr. President, may I inquire further, Is the first committee amendment still amendable?

The PRESIDING OFFICER. Other amendments will be in order to the language as proposed to be stricken and also the first amendment offered by the Senator from West Virginia.

Mr. BAKER. Yes.

Mr. President, now there are two opportunities, I understand it, for amendment. One would be to the language sought to be stricken and the other would be to the language offered by the distinguished Senator from West Virginia; is that correct?

The PRESIDING OFFICER. To the first-degree amendment offered by the Senator from West Virginia?

Mr. BAKER. To the first-degree amendment offered by the Senator from West Virginia.

Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. By reason of our elaborate precautions and provisions here, it is not possible as a practical matter then to dispose of the first committee amendment; is that correct?

The PRESIDING OFFICER. It is most difficult at this time.

Mr. BAKER. It would be impossible, is that not correct?

The PRESIDING OFFICER. The Senator is correct, yes.

Mr. BAKER. Mr. President, I have two alternatives. I can move to adjourn or I can do something else, and I am not inclined to ask the Senate to quit. That is not true—maybe I am, but I will restrain myself.

Mr. President, it would take unanimous consent, however, to proceed, for instance, to the second committee amendment.

Mr. President, I think we need time to think this out. I suggest the absence of a quorum.

Mr. KENNEDY. Mr. President, would the leader withhold that request for a moment?

Mr. BAKER. Sure.

Mr. KENNEDY. There is another alternative; and, that is, to debate the issue so that we come to some resolution of this issue, which has been passed by an overwhelming margin.

Mr. BAKER. Mr. President, I think I am correct in saying that since the issue of germaneness has been submitted, it would require a unanimous consent to debate the issue. Is that correct?

The PRESIDING OFFICER. The issue of germaneness is not debatable.

Mr. BAKER. That is the problem we have, I must say that I want to consult now on two or three courses of action that occurred to me we might follow to make sure we do it in a way that does justice to all Senators.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, a parliamentary inquiry. Am I correct, Mr. President, in saying that no debate is in order on the submitted question of germaneness?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, notwithstanding that, I put this unanimous-consent request: I ask unanimous consent, notwithstanding the rules and precedents of the Senate with respect to debate on the question of germaneness as submitted to the Senate, that there be 1 hour and 30 minutes of debate beginning at 4:30 p.m., and that the time be equally divided between the distinguished Senator from Massachusetts and the distinguished Senator from Utah [Mr. HATCH].

I further ask unanimous consent, Mr. President, that in the time between now and 4:30 p.m., that it be in order to proceed to the next and subsequent committee amendments in regular order.

Mr. BYRD. Mr. President, reserving the right to object, I have no objection to any portion of the request with the exception of the last phrase. Would the distinguished majority leader amend his request to provide the Senate may go to the third committee amendment and sebsequent amendments, leaving the second one?

Mr. BAKER. Mr. President, I amend the request in that manner.

The PRESIDING OFFICER. Is there objection?

Mr. JOHNSTON. Mr. President, reserving the right to object, what we would do is at 4:30 p.m. go to an hour-and-a-half of debate on the question of germaneness. That is assuming that the Chair rules that this is legislation on an appropriations bill.

Mr. BAKER. If the Senator will yield, I guess technically that is what we will be debating, but actually what you will be debating is to proceed.

Mr. JOHNSTON. Does this foreclose the offering of any further amendments between now and then?

Mr. BAKER. No, Mr. President; indeed, it would provide that we can begin with the third committee amendment and work our way through the rest of the 35 and deal with them in the ordinary course of events.

Mr. JOHNSTON. I mean at 6 o'clock we will be voting on the question of germaneness on the Byrd amendment, is that correct?

Mr. BAKER. Mr. President, first we vote on cloture, unless we vitiate that vote. It will be the cloture vote on the highway bill at 6 o'clock. Then we would have the vote on the germaneness question.

Mr. JOHNSTON. A vote on what?

Mr. BAKER. There is already ordered a vote at 6 o'clock on cloture. That would occur first. As soon as that vote is over, the vote would occur on the question of germaneness on the first-degree amendment offered by the Senator from West Virginia.

Mr. JOHNSTON. Right. But that would not cut off any further amendments to the first committee amendment.

Mr. BAKER. No; it would not, Mr. President. I asked the Chair earlier and received a ruling from the Chair. Two more amendments are in order.

Mr. KENNEDY. Will the majority leader yield?

Mr. BAKER. Yes.

Mr. KENNEDY. At the designated time for this vote, if as a result of the vote the amendment is germane, do I understand correctly that the amendment would be the matter before the Senate?

Mr. BAKER. The amendment, yes, would be before the Senate.

Mr. KENNEDY. I thank the majority leader.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, could I make an inquiry of the minority leader? I expect he may not be ready to answer this yet. I have a strong feeling that cloture on the highway bill may not be invoked. I wonder if the minority leader would be inclined to consider vitiating that vote at 6 o'clock.

Mr. BYRD. Yes.

Mr. BAKER. Very well.

Mr. President, may I notify Senators on this side that it would be my intention in a few moments to ask unanimous consent that the 6 o'clock cloture vote on the highway bill be vitiated. I do not now make that request but say this so that Senators will be on notice.

Mr. President, I yield the floor.

THIRD COMMITTEE AMENDMENT

Mr. HATFIELD. Mr. President, as I understand it, the agreement now has provided for us to proceed with the third committee amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD. I ask the Chair to put before the Senate the third committee amendment.

The PRESIDING OFFICER. The third committee amendment will be stated.

The legislative clerk read as follows:

On page 2; strike District of Columbia Appropriation Act, 1985; and insert new language:

(b) Such amounts as may be necessary for projects or activities, not otherwise specifically provided for in this joint resolution, at a rate for operations and to the extent and in the manner provided for in H.R. 5899, the Disrict of Columbia Appropriation Act, 1985, as passed by the Senate on August 10, 1984.

Mr. HATFIELD. Mr. President, this committee amendment is merely referencing the DC appropriations bill as reported by the conference but not acted upon by the Senate. I believe it has been checked with the minority side and that it would be appropriate to adopt that amendment.

Mr. JOHNSTON. Mr. President, is there further debate?

The question is on agreeing to the third committee amendment.

The third committee amendment was agreed to.

Mr. HATFIELD. I move to reconsider the vote by which the amendment was agreed to.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FOURTH COMMITTEE AMENDMENT

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The bill clerk read as follows:

On page 3, strike Department of the Interior and Related Agencies Appropriation Act, 1985; and insert new language:

(c) Such amounts as may be necessary for projects or activities, not otherwise specifically provided for in this joint resolution, at a rate for operations and to the extent and in the manner provided for in H.R. 5973, the Department of the Interior and Related Agencies Appropriation Act, 1985, as passed by the Senate as of October 1, 1984: *Provided*, That for the purposes of this subsection, if such Act has been reported to the Senate but not passed the Senate as of October 1, 1984, it shall be deemed as having been passed by the Senate.

Mr. HATFIELD. Mr. President, this fourth committee amendment is referencing the appropriations for the Interior and related agencies based on the figures in the reported bill that is before the Senate. I know of no objections to this Interior bill. I believe the minority knows of no objections.

Mr. JOHNSTON. Mr. President, may I ask a question of the distinguished Senator from Idaho [Mr. McCLURE]?

Mr. McCLURE. Yes, Mr. President.

Mr. JOHNSTON. We are referencing in now the Interior bill. Would that not be subject to further amendment?

Mr. McCLURE. It would be subject to further amendment.

Mr. JOHNSTON. To adopt that at this point?

Mr. President, I know of no objection to the Interior bill—just a moment. Reserving the right to object, Mr. President, I am advised that the Parliamentarian is not sure whether this would be subject to further amendment at this point.

May I make a parliamentary inquiry?

The PRESIDING OFFICER. The Senator will state it.

Mr. JOHNSTON. If we adopt the Interior bill by reference, is it subject to further amendment?

The PRESIDING OFFICER. The Interior bill itself is not before the

body but amendments could be drafted.

Amendments limiting the effect of this bill are in order and those amendments could limit the extent to which this bill incorporates by reference the Interior appropriations bill.

Mr. BRADLEY. Mr. President, is it the Chair's position that an amendment could be offered at this time that is not a committee amendment?

The PRESIDING OFFICER. The only amendments that could be adopted or offered now would be amendments to the committee amendments at this time.

Mr. HATFIELD. Mr. President, may I then suggest that by unanimous consent, we lay this committee amendment aside? If there is any question as to a possible amendment that someone would want to offer or how it could best be offered, let me make the request to temporarily lay aside committee amendment No. 4.

Mr. JOHNSTON. Mr. President, may I make an inquiry of the distinguished Senator from Oregon?

Mr. HATFIELD. Yes.

Mr. JOHNSTON. I think we can solve this problem. I also ask my minority leader, by adopting these amendments as original text by unanimous consent for the purpose of further amendment—I ask if that would make them then——

Mr. HATFIELD. Mr. President, I would be happier if we could do that on a one-by-one basis, because there may be some which do not require that. If the Senator from Louisiana would like to make the motion, I would be happy to support him at this point.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the committee amendment with reference to Interior be adopted as original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection?

Mr. MELCHER. Reserving the right to object.

Mr. BRADLEY. Reserving the right to object.

Mr. HATFIELD. Will the Senator add that no point of order be waived?

Mr. JOHNSTON. And that no point of order be waived.

Mr. PACKWOOD. Mr. President, reserving the right to object, I cannot quite hear what is going on. May I have the attention of the Senator from Louisiana?

I could not understand the Senator's request. Is he asking that the Interior appropriations bill be treated as original text and that it be open for amendment?

Mr. JOHNSTON. That is correct.

Mr. MELCHER. Reserving the right to object.

Mr. PACKWOOD. May I ask a question, Mr. President?

The PRESIDING OFFICER. The Sentor will state it.

Mr. PACKWOOD. This will present a similar problem to section I of the transportation bill. I wonder if the Senator would be willing to reference as original text the transportation amendment so I could reference a particular section.

Mr. HATFIELD. I would.

Mr. MELCHER. Reserving the right to object, Mr. President.

If this unanimous-consent request is granted, what is the status, then, of those committee amendments in the text that would be subject to a point of order as legislation on an appropriation bill?

Mr. JOHNSTON. If the Senator's question is asked of me, it is specifically a part of the unanimous-consent request that all points of order not be waived.

The PRESIDING OFFICER. That is correct.

Mr. MELCHER. Mr. President, I am asking the Chair what would be the status of those committee amendments that are legislation on an appropriation bill if this unanimous-consent request is granted?

The PRESIDING OFFICER. In this request offered by the floor manager, it is only this amendment that is the subject of the request. If the request is granted and agreed to, no point of order will be waived; then the amendment would be subject to amendment.

Mr. MELCHER. May I further inquire, Mr. President, if an amendment to an amendment, to a committee amendment that is legislation on an appropriation bill, what would be the status of an amendment to that amendment then?

The PRESIDING OFFICER. That legislation likewise would be subject to a point of order.

Mr. MELCHER. Mr. President, if I understand the Chair correctly, the unanimous-consent request as proposed will permit, on a committee amendment that is legislation on an appropriation bill, further amendment, which would have the same character of legislation on an appropriation bill.

The PRESIDING OFFICER. The amendment could be offered, but it would still be subject to a point of order.

Mr. MELCHER. But would be in the same position as the committee amendment. Do I draw the right conclusion, Mr. President?

The PRESIDING OFFICER. The Senator is correct.

Mr. MELCHER. I thank the Chair and I have no objections.

Mr. BRADLEY. Mr. President, I object to the unanimous-consent request.

The PRESIDING OFFICER. Objection is heard.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I withdraw my unanimous-consent request.

The PRESIDING OFFICER. The request is withdrawn.

Mr. HATFIELD. Mr. President, I now ask for the adoption of committee amendment No. 4.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. JOHNSTON. Mr. President, I ask that I be recognized at this point.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, I inform the Senator from Montana [Mr. MELCHER] the pending request is to approve the Interior amendment. The unanimous consent has been withdrawn at this point. The Senator's remedy would be to put in amendments to the bill which would be in order. There has been the suggestion, to those who are interested in doing it, that that would be sufficient. I wanted the Senator from Montana to understand what the request is and be sure that he is not caught by surprise.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MELCHER. Is the unanimous-consent request in the same form as last proposed by the Senator from Louisiana?

The PRESIDING OFFICER. There is no pending request. The request was withdrawn.

Mr. MELCHER. Mr. President, parliamentary inquiry amendments then to this amendment may be offered, and what is the situation with the question of legislation on appropriations as to the committee amendments?

The PRESIDING OFFICER. No amendments may be offered to the amendment once it is agreed to. While the amendment is pending, then an amendment to it would be in order. The amendment itself does constitute legislation on appropriations.

Mr. HATFIELD. Mr. President, will the Chair restate the parliamentary situation?

The PRESIDING OFFICER. If a committee amendment is pending and it is a first-degree amendment, it is subject to amendment in one further degree. After it is agreed to, it would no longer be amendable.

Mr. MELCHER. Mr. President, the amendments are in order to the amendment at this point. It that correct?

The PRESIDING OFFICER. A second-degree amendment is in order at this time.

AMENDMENT NO. 5540

(Purpose: To provide an additional $2,500,000 to the Forest Service for noxious weed control)

Mr. MELCHER. Mr. President, I have an amendment. The amendment deals with a question of the amount of money that would be available for the Forest Service for weed control on national forest lands. I send the amendment to the desk on behalf of myself and Mr. BAUCUS.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Montana [Mr. MELCHER], for himself and Mr. BAUCUS, proposes an amendment numbered 5540:

On page 55, line 13, delete "$1,062,210,000" and insert in lieu thereof "$1,064,710,000".

Mr. MELCHER. Mr. President, this amendment is an add on of $2.5 million to the bill for weed control for the Forest Service. I am advised that in the bill there is approximately $404,000 for that purpose. That $404,000 is to cover the weed control efforts of the Forest Service on the national forest lands; and I am ashamed to say that while that more than doubled the amount requested by the Forest Service, the amount is so small as to be negligible. The amount I am offering, of course, will not do a great deal more, but it will more than double the amount that is in the bill.

The question of weed control in the national forest has to be one of disaster. Nothing else can describe it.

In our State of Montana, leafy spurge and knapweed have done so much damage to vegetation and to the habitat, both for wildlife and for livestock, that the Forest Service is estimating that in some forest districts the amount of vegetation available for wildlife and livestock has been reduced by fully 50 percent.

That is not where it ends, though. Without control of the weed situation at this particular point, even further deterioration of the habitat for wildlife and livestock will continue.

The amount of money that has been available for controlling weeds has been cut back year after year over the past 4 years. Congress generally adds on to what is requested. What it would take to immediately start to control leafy spurge and knapweed and other noxious weeds in the national forest system, at the point it is right now, would be in excess of $15 million. I would like to offer an amendment to increase this amount to $15 million, and I would offer it. Budget constraints would not prevent me or discourage me from offering that amount. However, I am advised by the Forest Service that they could only use prudently $2.5 million over the amount that is already in the bill.

I would like to quarrel with the Forest Service as to why they cannot use much more, but at this stage I am not going to do that. I am going to accept their recommendation as to what they could prudently and wisely use during the next fiscal year and hold the amendment to that amount. I know that it will not be enough for even region 1 to adequately contain the weed disaster at the present point.

To put this into proper perspective, in holding a field study in cooperation with the Forest Service a few weeks ago, at a couple of points in Montana, we were impressed and discouraged by the amount of leafy spurge and knapweed that have taken hold in the national forest and some of the other national forests in Montana. We did not view the Bitter Root as part of our 1-day excursion, but I am told that Bitter Root National Forest is worse than anything we did see.

So I suggest to all my colleagues that while this amount is very small and the problem is very great, the least we can do is accept this add-on of $2.5 million and attempt to get the Forest Service in business of controlling noxious weeds as promptly as possible.

I have no feeling that what is done in the next fiscal year will be adequate, but at least it will be a better start than if we would not provide this amount. I hope the Senate will agree to my amendment.

The PRESIDING OFFICER. The Senator informs the Senator from Montana that the amendment he has sent to the desk needs to be redrafted. It proposes to strike a figure at a page and line where there is no such figure.

Mr. MELCHER. Mr. President, we all well know that we are a little handicapped, since we do not have the bill before us. I request the extra exertion and support at the desk in trying to handle this peculiar situation in which we find ourselves. The desk happens to have the only copy of the bill that is before the entire Senate.

It seems to me that the admonition of the Presiding Officer is in order, but it is impossible for an individual Senator, standing at his desk, to make the appropriate corrections for the page when the desk has the only bill that is present in this body of Congress.

Mr. President, there is only one copy of this bill, which appropriately is lodged at the desk. I suggest the absence of a quorum, until we can have the advantage of moving from our desk to the podium so that we can view the bill and make the correction.

Mr. JOHNSTON. Mr. President, will the Senator withhold that?

Mr. MELCHER. Yes.

Mr. JOHNSTON. I say to the Senator that we are trying to get this drafted, and it is almost drafted at this point. If he and other colleagues who have problems of this nature will withhold, we will be glad to help. Just let us know.

Mr. McCLURE. Mr. President, if I may have the attention of the Senator from Montana, I believe the problem would be cured if the amendment were modified to read:

Before the period at the end of section 101(c), insert the following:

Provided, further, That nonwithstanding other provisions of this act, the amount for National System, Forest Service, be $1,064,710,000."

Mr. President, I believe that if the Senator will modify his amendment in that fashion, it will be appropriate.

Mr. MELCHER. Mr. President, I send such a modification to the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment, and it is so modified.

The modified amendment is as follows:

Before the period at the end of section 101(c) insert the following:

": *Provided further,* That notwithstanding any other provision of this Act. The amount for "National Forest System; Forest Service" be $1,064,710,000."

Mr. McCLURE. Mr. President, I have listened to the remarks of the Senator from Montana, and I do not disagree with the need for more money for noxious weed control on the public lands in the West. One of the great problems we have is that the Federal Government likes to own all this land and the taxpayers in the country like to own all of this land but they do not like to pay the bill of being good landlords.

Certainly noxious weed control on the public lands is one of those questions.

I have no objection to increase the amount of money and we can take it to the conference and see what we can get the House of Representatives to agree to.

But I wish to caution all Members as we increase this amount of money we are already over the budget allocation given to us in the committee by some $400 million.

The provisions in the House bill with which we are dealing will add to that so that will be over some $500 to $600 million and somehow in the conference we are going to have to get that amount of money out of the total appropriation for this section of the bill.

So every addition adds to that pressure, and I do not want to misrepresent to my friend from Montana what we might be able to get done in the conference. I think it is going to be a difficult conference, but I have no objection at all to accepting the amendment at this time.

Mr. JOHNSTON. Mr. President, the minority has no objection to the amendment.

Mr. MELCHER. Mr. President, I thank my colleagues for their interest and attention to this problem. I hope it can survive the conference.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Montana.

The amendment (No. 5540) was agreed to.

The PRESIDING OFFICER. The question now is on the amendment as amended.

Mr. MELCHER. Mr. President, I have two or three other amendments to the Interior appropriations bill, and I think it would be better if we presented them in the proper form, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DENTON). Without objection, it is so ordered.

AMENDMENT NO. 5541

Mr. MELCHER. Mr. President, I send an amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. MELCHER] proposes an amendment numbered 5541. At the end of the amendment numbered 5541. At the end of the amendment, insert the following: *Provided, further,* that the Secretary of the Interior may not contract for the establishment or operation of a school not currently operated by the Bureau of Indian Affairs, or assisted by the Bureau under contract.

Mr. MELCHER. Mr. President, I am offering this amendment in this manner to allow the Bureau of Indian Affairs to further sort out their affairs, and to arrive at a situation involving contract schools, to be sure the BIA is treating the Indian children fairly, the school districts fairly, and the whole community fairly. The language that my amendment replaces, or corrects, is language that sets a number of conditions under which the Bureau of Indian Affairs may decline to engage in contracts with tribes regarding the education of Indian children. That language in the bill is not acceptable to me, and it is not acceptable to the Indians. I do not know whether it would even be workable for the Bureau of Indian Affairs. However, the Appropriations Committee has looked at this problem for a long time, and has attempted to arrive at an understanding with the Bureau of Indian Affairs on what those conditions should be.

In recognition of both sides of this, Mr. President, I offer this amendment for a 1 year moratorium at the suggestion of the committee. It is my hope that during that 1 year's time, we will have this resolved. It does involve some of the basic questions of Indian education. I am sure the Select Committee on Indian Affairs is interested in the problem being resolved.

I am not certain that my offering this amendment is the best solution even for 1 year, but it seems to me that it is probably in order now because we are trying to approve this resolution.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, the Senator is correct. This is a compromise and I am willing to accept the amendment as offered.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5541) was agreed to.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, will the Chair state the parliamentary situation?

The PRESIDING OFFICER. The fourth committee amendment is the pending question.

ORDER VITIATING CLOTURE VOTE ON S. 2527

Mr. BAKER. Mr. President, the minority leader is on the floor. Could I inquire of him if he is in a position to entertain a unanimous-consent request that the cloture vote on the highway bill scheduled for 6 o'clock be vitiated?

Mr. BYRD. Mr. President, I am ready. I have cleared this on my side of the aisle. Will the majority leader indicate what will be the pending business at 6 o'clock?

Mr. BAKER. Yes, Mr. President. As I understand it, at that time the continuing resolution will be the pending business and the pending question will be the second Byrd amendment, as I understand it.

I am sorry. The pending question will be that submitted by the Chair as to whether the first-degree amendment of the Senator from West Virginia, the minority leader, is germane. That would be the pending question. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. Mr. President, with that response, I remove my reservation.

Mr. JOHNSTON. Reserving the right to object, would not the pending question be the ruling by the Chair on the question of legislation on an appropriations bill?

The PRESIDING OFFICER. The Chair has not ruled on that question because the question of germaneness has been invoked.

Mr. JOHNSTON. Mr. President, I earlier asked of the majority leader whether or not amendments would be in order during the period from 4:30 to 6 p.m., during debate on the Byrd amendment. The response was that those amendments would be in order. Am I correct?

The PRESIDING OFFICER. That is not the ruling of the Chair. The ruling of the Chair was that that time is to be divided between the Senator from Massachusetts and the Senator from Utah to debate the germaneness of amendment No. 5508. After that issue is resolved, amendments will be in order.

Mr. BAKER. Mr. President, a parliamentary inquiry. Would it not be only after the Senate has spoken on the question of germaneness that amendments would be in order?

The PRESIDING OFFICER. The Senator is correct.

Mr. JOHNSTON. Mr. President, will the Senator make that as part of his unanimous-consent request? That is, that amendments would be in order between 4:30 and 6 p.m.?

Mr. BAKER. Mr. President, I understand what the Senator from Louisiana has in mind and I am sympathetic. But it is my clear understanding that the time between 4:30 and 6 p.m. was to be given over to debate, technically on the germaneness question, actually, I suspect, on the question of Grove City or the civil rights matter.

Mr. President, I can assure the Senator that there will be an opportunity for amendments if the Senate votes that the amendment is germane. If the Senate votes that the amendment is germane, then there would be an opportunity for further amendments. It would be my intention on behalf of another Senator to offer amendments at that time. But I would not now be inclined to ask unanimous consent that amendments could be offered in advance of the vote of the Senate nor during the period between 4:30 and 6 p.m.

Mr. JOHNSTON. Mr. President, I have asked the staff to check the RECORD because I asked the question as clearly as I knew how. I am not sure it is clear. The part of the transcript I have received does not cover the question. If that question is in the RECORD, I would want the opportunity to show it to the Parliamentarian, to the Chair, and to the majority leader. If

they are satisfied that that was the clear intent—because it certainly was mine when the previous question was put——

Mr. BAKER. Mr. President, I never rule out the possibility that I misunderstand or even misspeak. But it is my clear understanding that we would have from 4:30 to 6 o'clock for debate; that at 6 o'clock, or in that case after the cloture vote on the highway bill, that we would have then submitted the question, which is ordinarily nondebatable, of the germaneness of the amendment first offered by the Senator from West Virginia. Then, as I recall, the Senator from Louisiana asked whether or not it was amendable further and I said there would be at least two more opportunities for amendment to that amendment, if the amendment was held germane.

If I misspoke or if I misunderstood, I will be gald to take a look at the transcript and see what we can do. I can assure the Senator that I could not clear at this time a unanimous-consent request to provide that any amendments would be in order between 4:30 and 6 o'clock. I have had one Senator already indicate to me that he would object to such a request at this time. I am not trying to be difficult but I am just saying to the Senator from Louisiana that, regardless of the circumstances, we are tied into that right now. I will try to make sure that the right to offer amendments is preserved.

As I indicated earlier, I have at least one amendment and perhaps as many as three amendments that I will offer on behalf of another Senator if germaneness is upheld by the Senate after the 6 o'clock vote.

Mr. JOHNSTON. If I may inquire of the distinguished majority leader, the present posture is that if this unanimous-consent request is not granted, then at 6 o'clock we vote on germaneness, is that correct?

Mr. BAKER. Mr. President, If the unanimous-concent request I am about to put is granted, which is to vitiate the cloture vote, then the germaneness vote would come at 6. If it is objected to or if I do not put it, then the germaneness vote would come after the cloture vote.

Mr. JOHNSTON. Would the majority leader withhold that until we can check the transcript?

Mr. BAKER. Mr. President, I yield the floor.

Mr. President, the hour of 4:30 has arrived. I ask the Chair to execute the previous order.

The PRESIDING OFFICER. The hour of 4:30 having arrived, the time between now and 6 o'clock is to be evenly divided between the Senator from Massachusetts and the Senator from Utah. Who yields time?

Mr. KENNEDY. Mr. President, I understand that there are 45 minutes that are available to the supporters of this amendment, am I correct?

The PRESIDING OFFICER. The Senator is correct; in each side.

Mr. KENNEDY. Could we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. KENNEDY. Mr. President, at the outset, let me deal with the parliamentary situation before us. Obviously the Grove City amendment, the Civil Rights Act of 1984, is legislation on an appropriations bill. It is not the first piece of legislation on an appropriations bill and it certainly will not be the last. We do it all the time on almost every appropriations bill. As a matter of fact, the House of Representatives added the whole crime package to the appropriations bill that we are addressing here this afternoon. So the procedure that we are following today is certainly one that has been used by the House of Representatives and by the Senate in the past, so there is nothing unprecedented or unusual in our offering this amendment.

At the same time, under the precedents of the Senate, a floor amendment, to be in order as legislation on an appropriations bill, must be germane to the underlying House bill or the Senate committee amendments. It is the custom of the Senate for the Chair to submit the issue of germaneness to the full Senate for a vote.

First, however, the Chair must be satisfied that a plausible claim of germaneness can be made. The Chair has made such a determination and the issue of germaneness will shortly be submitted to the Senate.

Technically, the amendment is in fact germane. In a larger sense, however, the amendment is obviously germane. The continuing resolution is an appropriation of hundreds of billions of dollars in Federal spending.

For two decades, until the Grove City College decision by the Supreme Court, no Federal dollars could be used in any way to subsidize discrimination because of race, sex, age, or handicap. If we had not had those antidiscrimination laws on the statute books, you can be sure that every appropriations bill every year in its general provisions would have included a section banning discrimination in the expenditure of any funds appropriated in the bill.

I urge the Senate to hold this amendment germane and to adopt it as part of the continuing resolution, so that we may restore the prior law that has governed the expenditure of Federal funds in every appropriations bill for the past two decades, the simple eloquent and essential commandment, thou shalt not discriminate.

Mr. President, this amendment is the Civil Rights Act of 1984 and the Senate must not adjourn this year without acting on this fundamental civil rights legislation. It has been my hope that the Senate leadership would schedule the bill for floor consideration so that it could be debated and voted on as a separate measure. We are only a few days from adjournment and the bill has not been scheduled. We cannot wait any longer to restore the vitality of our civil rights laws.

We cannot risk time running out before we repair the damage caused by the unfortunate decision of the Supreme Court of the United States last February in the case of Grove City College against Bell. That decision, if not reversed, leaves all Federal aid programs open to discrimination because of race, sex, age, or handicap.

For the past 20 years, title VI of the Civil Rights Act of 1964, which prohibits discrimination because of race in any program receiving Federal aid, has been one of the most powerful tools for reducing racial discrimination in America.

And it has also become a precedent for dramatic progress in other areas where discrimination had been epidemic in our society—against women, against the elderly, against the disabled. Congress enacted new laws in the 1970's to assist those disadvantaged groups, and all of these laws were modeled on—indeed are virtually identical to—title VI of the landmark Civil Rights Act of 1964.

In 1972, we enacted title IX, to prohibit discrimination in education on the basis of sex. In 1973, we adopted section 504 of the Rehabilitation Act to outlaw discrimination against the handicapped. And in 1975, the Age Discrimination Act was written into law to guarantee the same protection to the elderly. As a result of these actions by Congress:

The participation of women in sports in high schools and colleges has soared since the enactment of title IX;

Disabled youngters in record numbers are at last receiving special education since the enactment of section 504.

Black enrollment in colleges increased by 92 percent in the decade of the 1970's.

But suddenly, on February 28, 1984, all of our progress against discrimination in each of these areas was placed at risk by the Grove City College decision.

At the instigation of the Reagan Department of Justice, the Supreme Court reached out—in a decision that violated the most basic conservative principles of judicial restraint and statutory construction—and crippled title IX by narrowing it beyond recognition.

The Grove City decision is a gaping hole in all our antidiscrimination laws—not just those against sex discrimination—because all the other key statutes forbidding bias based on race

or age or handicap contain provisions essentially identical to those cut down by the Supreme Court in its decison on sex discrimination.

At a single stroke, the Supreme Court has unfairly jeopardized the hard-won rights of millions of women, minorities, elderly, and disabled citizens in every region of our country.

If allowed to stand, there will no longer be any all-inclusive prohibitions against sex, race, handicap, or age discrimination in schools, colleges, hospitals, State and local governments, or any other recipients of Federal aid.

The consequences of the Court's decision were felt almost immediately. Within a matter of weeks, the Department of Education's Office of Civil Rights dropped 18 pending cases in the area of higher education, and 4 additional cases in the area of elementary and secondary education, because of the Supreme Court's ruling in the Grove City College case.

No Congress that believes in the principle of equal justice under law could acquiesce in a misguided ruling like that. And so, on April 12, a broad bipartisan coalition in both the House and the Senate introduced legislation to reverse the decision and restore the four major civil rights statutes that had been placed in jeopardy. The response to that legislation was immediate and effective. Two House committees unanimously reported the legislation, and on June 26, 1984, the bill was overwhelmingly approved in the House of Reprsentatives by a vote of 375 to 32. Meanwhile the original list of sponsors in the Senate grew from 52 to 63.

In short, the support for this legislation is broad, bipartisan, and deep. During many days of hearings, top ranking civil rights officials in four past administrations, Republican and Democratic alike, unanimously endorsed the bill.

I look forward to action on this measure and prompt and favorable enactment by the Senate. It will be a sad day for civil rights if Congress adjourns without acting on this legislation to restore the prior laws prohibiting the use of Federal aid in any form to subsidize discrimination because of race, sex, age, or handicap.

Mr. President, to me this is the most important bill that this Congress will enact in these 2 years of its meeting. I hope that the Senate will vote that this matter is germane to the underlying legislation.

Mr. President, I yield such time as the Senator from Oregon may desire.

Mr. PACKWOOD. Mr. President, today, Senator KENNEDY, myself and 61 other Senators bring to the Senate floor as an amendment to the continuing resolution, the most significant piece of legislation of the 98th Congress. The Civil Rights Act of 1984 is a simple bill. Yet, without its passage, millions of Americans will be deprived of fundamental civil rights.

The Senate consideration of the Civil Rights Act of 1984 has been extensive and intense at the committee level for the past 6 months. Additionally, many of my colleagues have no doubt heard of our exhaustive negotiations with the administration and may be confused by the intensity of controversy over this bill. No doubt you are as incredulous as I have been, because this is not a radical bill. This is not new civil rights law. This is not an expansion of rights for anyone. This bill is simply a restoration of what we thought the law has been all along.

The Civil Rights Act of 1984 is a response, and a response alone, to the February decision of the Supreme Court in Grove City College against Bell. In that decision, the Court interpreted title IX of the Education Amendments of 1972, prohibiting sex discrimination in education, extremely narrowly, and in a manner contrary to the past 12 years of interpretation by both Democratic and Republican administrations. It was a technical decision, and one readily corrected by Congress. What the Supreme Court said is that only the specific, "program or activity" in an education institution receiving Federal funds need comply with title IX. Up until that point, both courts and prior administrations have interpreted title IX and the civil rights statutes upon which it is modeled as conveying, "institution-wide" coverage. Institution-wide coverage means, if Federal moneys are received, discrimination is prohibited in all portions of the institution. By the Civil Rights Act of 1984, all we seek to do is return the law to the place it was prior to Grove City.

In doing so, it is our judgment that we must also amend title VI of the landmark Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, all of which employ identical language. We are concerned that courts will feel bound by the Grove City decision to interpret those other statutes in the same restrictive fashion. The Department of Justice has already indicated its intention to proceed on this basis—and investigations have been stopped in at least 23 cases. The rights of minorities, our disabled, our elderly, as well as our women, are at stake. And we cannot permit any of these groups, or these rights, to be in jeopardy.

You have heard horror story after horror story in the weeks since this bill was introduced. The opponents claim enactment of this bill will mean that farmers, grocery store owners, landlords that accept AFDC checks as rental payments, churches, will suddenly be covered by this bill. You have also heard that there will be virtually no private sphere in which the Federal Government cannot intrude. Every one of these stories is a myth. We will address each and every one of these claims in the succeeding debate and we will not yield until this bill becomes a reality for all Americans.

The issue is discrimination: Will the Federal Government subsidize discrimination? And will the Senate permit that practice to occur? Let me remind all of you that in June, the House passed this bill overwhelmingly, 375 to 32, with but two amendments, both of which would expand the coverage of the bill, rather than restrict it. This vote followed 6 days of hearings in the House with a total of 34 witnesses on both sides. In the Senate, three different committees held 5 days of hearings and have heard from 51 witnesses, including the testimony of representatives of administrations from President Nixon through President Carter, each of which urged passage of the civil rights bill. It is hard to imagine what arguments could be raised in counterpoint. It is hard to imagine what defense the opponents could urge. It is hard to conceive that anybody could seek, in 1984, to deprive so many of so much.

Because, however, there has been so much misrepresentation, hyperbole, and hysteria, Senator KENNEDY and I have decided to offer a package of clarifying amendments to our original bill. This comports with our promise from the start to consider making changes that would complement our objective, to restore these statutes to their pre-Grove City stature. It also comports with our firm commitment not to undercut or substantially change these laws in any respect.

To reassure any who may be confused and mystified by the barrage of claims of the proponents, our package drops the statutory definition of "recipient" that has engendered so much criticism, and substitutes, instead, a grandfather clause. The grandfather clause specifically states that nothing in this bill will alter the interpretation of "recipient" or the regulations in place the day before the Grove City decision was decided.

The purpose of this change is to remove all doubt that the bill will result in an expansion of civil rights jurisdiction under the four statutes. Whoever is a recipient under the standards and criteria developed over the past 20 years continues to be a recipient. Whoever is not a recipient under those standards will not be. Ulitmate beneficiaries—such as farmers who receive Federal crop subsidies—will continue to be excluded as they always have been. Landlords, retailers, and banks which may receive proceeds from an AFDC, Social Security, or Federal pension check will continue to be excluded as they always have been. Drug stores and grocery

stores will be covered only to the extent they have been covered before.

Going further to meet the concerns that have been expressed, the substitute contains two other clarifications of the coverage of recipients under the broad principles established by Congress when it enacted these laws. First, with respect to States and localities, the amendment makes clear that only departments and agencies which actually received Federal financial assistance or are primarily responsible for carrying out the functions for which the assistance was granted, are covered. For example, an education block grant will not trigger automatic coverage of a State's transportation department. Federal aid extended to a single State department will not trigger coverage of the entire State.

Second, with respect to private business corporations with multiple establishments or plants, the substitute makes clear that only those establishments of the corporation that actually receive Federal financial assistance are covered. For example, if one plant of an auto company receives a Federal grant, another plant of the same company would not be covered unless it also received a grant.

Finally, the substitute amendment ensures that the scope of the termination authority remains narrow and pinpointed to the discrimination which exists. For instance, discrimination in the English department at a college would not require termination of all Federal funds received by the college simply because Federal funds received by the college may have freed up other college funds to be used in the English department.

What more can we do to satisfy the nay sayers? How much further can we go to remedy a technical problem?

By contrast, the only amendments we have seen from opponents of the bill would substantially undercut the civil rights laws, exempting entirely new categories of recipients of Federal funds and providing special status for a privileged few. It is Senator KENNEDY's and my view—and for some time the view of the Congress of the United States—that no one should be permitted to discriminate in this country when the Federal Government is infusing those institutions with public funds. It is equally our view that when discrimination occurs, the victims should be able to seek relief in Federal court. What is horrifying, and repugnant, is that such simple premises require restatement and relitigation today.

Let us not get caught up in rhetoric and forget fundamental philosophy regarding civil rights. Those who are against them will always be against them. Those who are for them—which I strongly suspect is a vast majority of this Senate, including 62 cosponsors of this bill—will not rest until this bill becomes law.

It is not our intention to deprive the Senate of completing its business. We seek nothing more than speedy passage of this bill so that the 98th Congress can close with our most fundamental citizens' rights restored, intact, and forever assured.

Mr. President, I have ambivalent feelings about what we are doing here tonight. With all of my heart I support this civil rights bill, but I have trouble supporting this procedure that we are undertaking.

It is not clear that we have the votes on my side and Senator KENNEDY's side to pass the Civil Rights Act of 1984 in this session. There is an honest difference of opinion—and I emphasize an honest difference of opinion—as to what the law was prior to the Grove City case. In good conscience Senator KENNEDY and I think it was one thing, while Senator HATCH and Senator HELMS think it was another. That is an honest difference of opinion, it is a subject worthy of debate on the floor of the Senate and is also a subject worthy of vote. But I am reminded of something that my predecessor in the Senate, Wayne Morse, used to say over and over and over: "Give me control of the procedures of democracy, and I will control the substance." Is this Civil Rights Act of 1984 germane to the so-called continuing resolution? As a matter of fact, I think it is. There is so much in that resolution, that there is nothing that is ungermane to the continuing resolution. I daresay that if we voted in honesty and we said: Is there something in the continuing resolution that bears on some amendment that somebody wants to offer? The answer would be, it is clearly germane.

Is it legislating on an appropriation bill? Clearly, it is legislating on an appropriation bill. Would that bother me in and of itself? No. We do it all the time.

Let me share with you something, Mr. President. Later today we are going to come to an amendment in the appropriation bill identified as section I. I cannot give you a page number of anything because we do not have the bill in front of us. What it does is incorporate by reference the entire S. 2852, which is a previous appropriation bill that has been reported out of committee and never voted upon by the Senate. I have marked it in yellow and given it to the Parliamentarian to tell me how much of it is legislating. His answer is that roughly 80 percent of it is legislating on an appropriation bill. The Appropriations Committee is legislating on appropriation bills. So by every fair stretch of the imagination, why should the rest of us not be allowed to legislate on appropriation bills? I will tell you what is going to happen.

This Senate is one of the few bodies I have run across which is less than the sum of its parts. We have managed from roughly 1970 or 1971 onward to so pervert and torture the processes of this body that we are approaching being inert. The House of Representatives is barely better or worse. What we are going to succeed in doing is so immobilizing the legislative process that we are going to make the Executive not just the dominant, not just the paramount administrator in this country but the principal legislator as well. And that may be fine when he is your President and you like it. But, it certainly is not fine when he is not your President or is not of your philosophy. I hate to see this body come to the situtation where we are prepared to abdicate our powers—here I am not talking about the merits or the demerits of the Civil Rights Act of 1984—to the President because we have managed to involve ourselves in procedures that make it impossible for us to act at all. As I understand—the Senator from Utah can correct me if I am wrong—he has filed at least 500 amendments, maybe more.

I, as well as anyone, understand the use of the procedures of this body to prevent its operation. Two years ago Senator WEICKER and I and only two or three others managed to carry on a filibuster for almost 2 months on the subject of abortion. We prevented this body from acting until we were close to adjournment. Senator HATCH and his allies are fully able, through the amendment process, whether or not cloture is ever invoked, to prevent the passing of the Civil Rights Act of 1984. I, in no way blame him for what he is undertaking. They are procedures that I have undertaken on a different subject where he and I were opposites.

Mr. President, these are a legitimate use of the rules of the Senate. But if we all practice them, the Senate will do nothing. If that is what we want to get to, so be it.

I also understand on occasion the willingness to fight a losing battle for the sake of getting a vote so that that vote can be used politically in an election. I fear before we are done we are going to have 40 or 50 votes on the continuing resolution of that kind. We are a political body. So long as we understand what it is, we need not be ashamed of that tactic. But I will say this once more in closing. Control of the procedures of democracy is control of the substance. Do not assume that Government is going to stop if we have reached a place in this body where we no longer have procedures that can be operated by anybody to any effective end. What is going to stop is the Senate. I only wish this battle could be put in a clean-hands/dirty-hands context, but it cannot because I think the people on all sides

are honestly motivated. I only wish the battle of procedures could be put in a clean-hands/dirty-hands argument. However, it cannot because every one of us has been guilty of trying to legislate on appropriation bills and complaining when somebody else wants to legislate something we do not want.

But I think the time to start is now and say that henceforth when people in this body want to bring up bills of a month ago, or 2 months ago as amendments: Let it happen. Holds by one or two people or refusals by half a dozen to allow them to come up will no longer be tolerated. Then we will not be in a position we are in today, where we reach the last 5 or 6 days and we have to start voting on issues, we have to wrap ourselves in a procedure that leads us all to defeat.

When the vote comes today on germaneness, I am going to vote that this is indeed germane. It is germane. No question about it. But as I said earlier in this speech, there is nothing any longer that is not germane. By the very process that we are following, for better or worse, we are turning the Government of the United States over to the President of the United States. The irony is that he will not have seized the power from us; we will have ceded it voluntarily. And that is a shame on all of us.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I do appreciate the distinguished remarks of our colleague from Oregon, and I want to say in front of this whole body how much I respect him. His feelings are sincere which often makes him a very formidable opponent. I also respect those he represents who really believe that they are right on this particular issue as do all those with whom I have worked closely. I agree with the distinguished chairman of the Appropriations Committee that this is legislation on an appropriations bill. Even those who support adoption of the so-called Grove City amendment should admit that.

I also agree with Senator HATFIELD that this is not the way to proceed on this amendment. This whole Grove City issue has been legislated in the worst possible way.

In the House, the hearings were one-sided, with most witnesses representing one side of the issue. These hearings were not extensive on a bill which clearly warranted exhaustive examination. These cursory hearings left the misleading conclusion that this was just a simple overrule of Grove City and a return to the status quo ante. It is actually much more than that. This is not only my opinion but the opinion of numerous experts and legal scholors as well. The House committee met for a very short time in markup, without any real debate, and marked it up. Then, as I recall, less than a day was spent on the House floor debating this issue.

The only reason we held any Senate hearings at all was that I insisted on holding some hearings on this matter. I viewed it as a very serious piece of legislation that went a lot further than what was represented in the House debates. The Labor Committee, of which I am chairman, was determined to give this issue proper review. Accordingly, I called 8 committee markups over the last number of months to give the proponents of this measure, who had 10 sponsors out of my 18-person committee, ample opportunity to move their bill. I even represented that I would act as chairman to debate after a reasonable period of time, that I would help cloture my own committee and let the chips fall where they would. This I would have allowed although I knew that this bill would be reported in the form that Senator KENNEDY wanted it on a likely vote of 10 to 8. Actually, there were 11 cosponsors in the committee. Nonetheless I wanted to give Senators who opposed this bill an opportunity to raise the appropriate issues by careful committee processes before we cut off debate. I went to the effort of making sure that a number of Senators who were opposed to this measure were present at a number of these committee markups to help achieve a quorum. As I recall, the most proponents who showed up at any of those markups were three, and I believe that two is probably more accurate.

I agree with the distinguished Senator, and I appreciate his being so kind to me in his opening remarks, that from the outset of these debates I have agreed with the two principal cosponsors of this amendment in question and the President of the United States with regard to overruling Grove City and applying title IX institution-wide. We still agree on the merits of that simple overruling of Grove City. That is not the question before the Senate.

The question is: Is this bill a return to the status quo ante Grove City? The answer to that is simply "No." This bill goes far beyond title IX law prior to the Supreme Court ruling. It injects the Federal Government into State, local, and even private affairs.

Mr. President, a few years ago I was a skeptic regarding title IX of the Education Amendments of 1972. In 1981, I introduced a bill which would have provided narrower coverage under title IX, which the Supreme Court later established in many respects in the Grove City College versus Bell decision.

At that time, I was approached by supporters of title IX who explained the importance of the statute to women's progress in education, sometime subsequent to when I filed that bill. I had been urged to file the bill originally by women who felt that some of the earlier rulings under title IX were bizarre and ridiculous, and I did, too. But after the passage of time, and title IX sifted through and the rulings started to make sense, I had my women's advisory group come to me, and they suggested that I should reconsider what I had done, and I did; and that is why I withdrew my bill.

In the wake of the Grove City decision, I express my support by covering all educational and athletic programs in colleges and universities; but I also express my deep concern concerning the Civil Rights Act of 1984.

This bill would amend the following four civil rights statutes: Title VI of the Civil Rights Act of 1964; title IX of the Education Amendments of 1972; section 504 of the Rehabilitation Act of 1973; and the Age Discrimination Act.

Some of the bill's sponsors have consistently taken the attitude that only they know how to provide adequate civil rights protections for our citizens and that their bill's principal provisions were sacrosanct. They have described the proposed act as nothing more than a technical piece of legislation restoring civil rights laws to the scope some had thought existed prior to the Grove City decision. In fact, the bill is so poorly drafted that its principal House sponsors differed as to its meaning.

Let us talk about the bill. The House bill was represented as a simple overruling of the Grove City case, a simple return to the status quo ante, until it got to the floor; and then there was a debate even among proponents of the bill as to what it meant.

We raised a number of issues and then suddenly, shortly before we went into the last couple of weeks of this session, a new amendment is filed. This is an indication that our earlier arguments had merit. The Grove City bill was not the simple reversal of Grove City as had been represented. This new amendment does not resolve the problems that we have raised with regard to the earlier bill.

The proposed act is described as nothing more than a technical piece of legislation restoring civil rights laws to the scope that existed prior to the Grove City decision. But this bill is so poorly drafted and so hastily put together that even its House sponsors differed as to its meaning. Yet, it is clear enough that those sponsors felt that this bill provides for a vast expansion of Federal enforcement authority over State and local governments—an expansion never allowed before, an expansion of Federal authority over the private business sector and the nonbusiness sector of this country of unprecedented proportions.

The proposed act extends the scope of these four statutes far beyond that which was ever attempted by Federal agencies or court. Many, many observers have expressed either outright opposition to the bill or reservations about it, including many who normally do not get involved in civil rights legislation of this kind and who normally would support civil rights legislation of any kind. Among these organizations are the following: The American Farm Bureau Federation, the U.S. Chamber of Commerce, the National Association of Counties, the U.S. Catholic Conference, the National Association of Manufacturers, the American Hospital Association, the National Governors' Association, the National Association of Independent Colleges and Universities, the Baptist Joint Committee, the National Federation of Independent Businesses, Aqudath Israel, Association of Christian Schools International; American Association of Presidents of Independent Colleges and Universities, the Labor Policy Association, the Moral Majority, Citizens for Educational Freedom, Association of Advanced Rabbinical and Talmudic Schools, and the American Association of Christian Schools.

This is what the American Farm Bureau Federation said:

We are concerned that the broad, vague, and all-encompassing language contained in S. 2568 . . . may be an open invitation to the federal bureaucracy and the courts to bring virtually every public activity at all levels of government under the jurisdiction of the several statutes that would be amended by this legislation.

The Chamber of Commerce said:

Examples of questions of concern to the business community remaining unanswered include: (1) whether grocery stores will be subject to regulation because they accept food stamps; (2) whether farmers who receive crop subsidies would be subject to regulation; (3) whether pharmacists would be subject to regulation because they receive payment from Medicare or Medicaid. The Chamber believes that S. 2568 has not received adequate consideration or deliberation by the Senate.

The National Association of Counties raised this concern:

We are concerned that the proposed legislation may extend the force and coverage of the civil rights laws far beyond their original scope. Moreover, we are concerned that it may subject counties to unreasonable federal scrutiny and administrative burdens.

The National Association of Independent Colleges and Universities also offers significant objections:

S. 2568 contains some surprisingly serious ambiguities. The entire bill is shot through with major uncertainties about its meaning . . . utter disregard in the language for the lines that have traditionally marked the boundaries between the public and private sectors or the boundaries between federal and state sectors . . . Limited resources of the small, independent college may make it virtually impossible to fully shoulder their compliance duties. Their only answer may be to ask for additional federal funds to cover compliance costs.

I could go on and on.

I ask unanimous consent to have printed in the RECORD a variety of these statements.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

President Ronald Reagan: ". . . so broad that actually it would open the door to Federal intrusion in local and state governments and in any manner of ways beyond anything that has ever been intended by the Civil Rights Act."

American Farm Bureau Federation: "We are concerned that the broad, vague, and all-encompassing language contained in S. 2568 . . . may be an open invitation to the federal bureaucracy and the courts to bring virtually every public activity at all levels of government under the jurisdiction of the several statutes that would be amended by this legislation."

U.S. Chamber of Commerce: "Examples of questions of concern to the business community remaining unanswered include: (1) whether grocery stores will be subject to regulation because they accept food stamps; (2) whether farmers who receive crop subsidies would be subject to regulation; (3) whether pharmacists would be subject to regulation because they receive payment from Medicare or Medicaid. The Chamber believes that S. 2568 has not received adequate consideration or deliberation by the Senate."

National Association of Counties: "We are concerned that the proposed legislation may extend the force and coverage of the civil rights laws far beyond their original scope. Moreover, we are concerned that it may subject counties to unreasonable federal scrutiny and administrative burdens."

U.S. Catholic Conference: "The definition of 'recipient' in S. 2568 is unclear and could extend the reach of the four statutes to an organization which does not itself receive federal financial assistance . . . could lead to unwarranted governmental intrusion into the internal affairs of religious organizations . . . we also wish to reiterate here our broader concern with the way in which Title IX regulations require institutions receiving federal financial assistance to treat abortion in the same fashion as other temporary disabilities for the purposes of student and employee leave and health policies."

National Association of Manufacturers: "The definition of the word "recipient" could potentially reach far beyond the parameters of the Grove City situation. Additionally, "federal financial assistance" which is defined in each of the four statutes applies to both direct and indirect recipients, many of whom are far removed from any reasonable inference that they are recipients of federal assistance (e.g. Is a supermarket that accepts food stamps from its customers a recipient of federal assistance?)."

American Hospital Association: "The proposed act could greatly expand the reach of federal agencies, create compelling or inconsistent requirements for hospitals, and could add greatly to the regulatory burden of one of the most highly regulated segments of our economy."

National Governor's Association: "Conflicting testimony by many witnesses has raised new questions of scope, coverage, definitions, compliance, and enforcement. Since the proposed legislation would seem to cover all activities of all direct and indirect recipients of federal aid, the intergovernmental management implications for state and local government would seem to be substantial. It is also unclear how the proposed changes would affect the local general revenue sharing program and state and local government block grants."

U.S. Department of Agriculture: "We are concerned that, if S. 2568 is enacted in its present form, it would so broaden the reach of the federal laws regarding discrimination that it would make them applicable to over 2,000,000 individual farmers who are recipients of Federal loans and grants under programs administered by this department."

National Association of Independent Colleges and Universities: "S. 2568 contains some surprisingly serious ambiguities. The entire bill is shot through with major uncertainties about its meaning . . . utter disregard in the language for the lines that have traditionally marked the boundaries between the public and private sectors or the boundaries between federal and state sectors . . . Limited resources of the small, independent college may make it virtually impossible to fully shoulder their compliance duties. Their only answer may be to ask for additional federal funds to cover compliance costs."

Baptist Joint Committee: ". . . deeply concerned about the section of the Act which included "other entities"—without definition of that term—as recipients of federal financial assistance . . . concerned that churches and those agencies integral to their religious mission might be brought unconstitutionally under the supervision and control of administrative agencies and their regulations."

U.S. Commission on Civil Rights: "Congress, we believe, should write as clear and precise a bill as possible . . . would be unfortunate if we left up to the courts to determine what the bill meant . . . it would be unfortunate if the Congress were to end up sounding like J. Alfred Prufrock in the poem by T.S. Eliot muttering forever, "That's not what I meant. That's not what I meant at all." "

National Federation of Independent Businesses: "The language of this legislation is extremely broad and ambigous with respect to its impact on small firms . . . The definition of "recipient" is so broad and all-encompassing as to overwhelm efforts to determine its precise impact . . . it would appear that there is some credence to the view that any part of a public or private enterprise could be subjected to federal civil rights regulations and enforcement procedures, however, distant un-aided activities may be from the activity receiving federal financial assistance."

Agudath Israel: "It is precisely because we take this concept of civil rights so seriously that we are concerned about the potential implications of this bill . . . carries with it the potential for great mischief. The Orthodox Jewish community is particularly concerned that this bill not have the effect of limiting parents' and students' educational options."

U.S. Department of Labor: "We are concerned that clarification of the bill's requirements is necessary if we are to avoid adversely affecting the willingness of private sector employers to get involved in programs under the Job Training and Partnership Act and the Emergency Veterans Job Training Act. It is possible that S. 2568 would cause employers to avoid federally

supported training and employment services . . ."

Association of Christian Schools International: "Congress ought not set in motion a piece of legislation which is as unready as is this to be considered a safe vehicle for public use . . . [Commitment to civil rights] does not mean that these small, self-supporting religious schools should be paved over with burdensome regulation, arbitrary and costly compliance requirements, and have thrust upon them the jurisdiction of governmental agencies with inevitable surveillance."

Amer. Assoc. of Presidents of Independent Colleges & Universities: "The "recipient" definition's reliance on an indirect benefit theory brings within its reach every imaginable kind of private or local governmental activity. In its application to charitable organizations in general, the indirect benefit theory of this bill sets the stage for a future attack upon the entire concept of tax exemptions."

Heritage Foundation: "It appears from the plain language of S. 2568 that participation in federal revenue sharing programs will bring each and every activity of the states under the scope of federal civil rights laws. The result will inevitably be to erase any distinction between federal and state action. The states will truly become no more than administrative units of the federal government."

U.S. Department of Justice: "The sweeping scope of the language proposed in the bill might well have much broader application than simply the reversal of the Grove City decision . . . the perhaps unintended ramifications of the bill are certain, at best, to create confusion in recipients, agencies, and courts. At worst, they may include impermissible interference with important state prerogatives or lead to adverse judicial decisions as to their enforceability."

Labor Policy Association: "Significantly, the bills under consideration go far beyond reversing the Grove City decision . . . Private employers who now face the possibility of litigating a single claim of discrimination in several different forums could have this burden increased substantially if the proposed legislation were passed."

Moral Majority: "The bill grants the federal government control over a wide range of newly expanded areas, going far beyond the pre-Grove City decision . . . opens the door for grave entrenchment of religious civil liberties."

Citizens for Educational Freedom: "This legislation defines a "recipient" of federal funds and it does so in such a broad way as to include just about everyone in the United States, from the independent truck driver who delivers federally subsidized milk to the local public school to the owners of a "mom and pop" grocery store that accepts food stamps."

Assoc. of Advanced Rabbinical and Talmudic School: "When the Civil Rights Act of 1984 first came to my attention . . . I felt comfortable recommending to my colleagues that Congress should see to its speedy implementation . . . Further investigation and review of the testimony of several other groups has led to the realization that bill might have some very serious—and negative—implications."

American Association of Christian Schools: "It would drastically change our system of government by making just about everybody and everything a "recipient" of indirect federal financial assistance. Massive federal controls would be imposed on almost all public and private activity."

Professor Charles Fried (Harvard Law School): "This bill represents our legislative process at its worst. It would make major changes in the structure of our anti-discrimination laws, in the balance of responsibility between the federal government and the states, in the balance between the responsibilities and prerogatives of private institutions and bureaucratic authority over those institutions . . . a legislative nuclear time bomb."

James J. Kilpatrick: "The bill is a hoax, a deception, a fraud . . . These sweeping provisions would apply not only to the states and to every "political subdivision thereof" but also to every "private agency, instrumentality, institution, organization, or other entity . . . Any person who is taken in by that sweet talk [of the sponsors] should read the House and Senate bills. Just read them. The words in this legislation are not hard words; any sixth grader could understand them. Grown-ups should read them and demand to know just what in the holy name of civil rights is going on here."

Wall Street Journal: "The upshot is that federal regulations—complete with quotas and private enforcement suits—would apply to just about everyone who gets federal money of any sort, even if indirectly. This includes approximately all of us."

Mr. HATCH. Mr. President, I wish to respond to two myths concerning the bill and its consideration thus far in the Senate.

The first myth is that the administration and some conservative Republican Senators are stalling on the bill and holding up Senate floor consideration. This is absolutely untrue. Rather, as I shall explain, it has been the sponsors of the bill who have stalled its consideration in this body.

I have scheduled, as I said, eight markup sessions. We would have had it marked up. It could have come up in the ordinary course of events. It could have come up with the full force of our committee structure and I think there would have been a more accommodating atmosphere than the fight that we are now waging on the floor. We could have considered this legislation and our common goals had we followed the Senate rules and procedures, had we followed the committee structure, and had we followed democratic principles within the Senate. We did not.

I raised these issues and I made the opportunities for committee consideration even though I knew I was going to lose in committee, even though I knew that I would have to cloture my own friends and supporters on this amendment.

If there has been any stalling it has been by those who wanted to get to the point where this legislation can be thrust on an appropriations measure where, perhaps by mistake or by the pressure of this important appropriation bill, it might be approved without ample debate.

I do not think anyone should be deceived. The committee process has been abused.

This invites us to use substantial opportunities to make it very difficult to pass this particular legislation which has flaunted Senate procedures.

The issue here is not Grove City. That never has been the issue. The issue is Senate procedure. The issue is whether or not we are going to respect Senate rules in the future.

I agree with the distinguished Senator from Oregon. It is pathetic that we always get down to the last few days and one Senator can hold up the whole Senate over anything.

Mr. PACKWOOD. Mr. President, will the Senator yield?

Mr. HATCH. I yield.

Mr. PACKWOOD. Could I ask my distinguished colleague a question?

Mr. HATCH. Yes.

Mr. PACKWOOD. Do you think this is honestly germane to the continuing resolution?

Mr. HATCH. No; I do not. I do not believe it is germane, and I hope Senators will vote against it.

Mr. PACKWOOD. In a technical sense, in what we mean by germane is there anything in almost a one-half trillion dollar bill to which the Civil Rights Act of 1984 is germane?

Mr. HATCH. I do not believe so.

Mr. PACKWOOD. I think it is germane.

Mr. HATCH. I cannot agree with my colleague from Oregon.

I think the Senator has a viewpoint and has spoken eloquently about it, but I really do not believe it is germane any more than the other legislative matters are. I think every Senator should vote that it is not germane. I think that would make a much stronger case for credibility and integrity of the Senate procedures.

I could go on.

As I said, I scheduled eight sessions to mark-up this bill. These sessions never took place for one of two reasons: either a sponsor of the bill requested a postponement of the meeting or sponsors refused to show up at a meeting, thus preventing a quorum from existing. The sponsors, therefore, have been diligent in their refusal to submit this bill to normal committee consideration. Yet they claim others have been stalling.

I should also add that my office worked with staff of some of the sponsors of the bill for nearly 2 months in order to reach a compromise which would truly restore institutionwide coverage of Federal aid recipients without going beyond the scope of Federal civil rights coverage that existed prior to Grove City. Joining these discussions was the Assistant Attorney General for Civil Rights, Wm. Bradford Reynolds. Never in my 8 years in the Senate have I seen an executive branch official of Mr. Reynolds' rank spend as much time trying to improve a piece of legislation. Mr.

Reynolds even cut short a vacation in order to pursue these negotiations.

In view of the utter intransigence of the bill's sponsors, and their adamant unwillingness to make any but the most cosmetic and inconsequential changes to their overbroad bill, I and five of my colleagues on the Labor and Human Resources Committee introduced the Grove City Reversal Act, S. 2910, on August 7.

Our bill would provide for institutionwide coverage under title IX and thereby achieve the result desired by the sponsors of the Civil Rights Act of 1984—the reversal of Grove City's narrow construction of title IX. The Supreme Court in Grove City only decided the scope of title IX, not the three other statutes also amended by the Civil Rights Act of 1984. One section of our bill makes clear that courts are not to construe the scope of those three other statutes by taking into consideration any previous judicial construction of title IX, including the Grove City decision. Each of those three other statutes will be interpreted by courts in light of their own legislative history, not that of title IX or any decision interpreting title IX.

Mr. President, I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, I yield 5 minutes to the Senator from Colorado.

Mr. HART. Mr. President, I am proud to join the Senator from Massachusetts, the Senator from Oregon, and 60 of our colleagues in cosponsoring as original cosponsors what is important and necessary and timely legislation; namely, the Civil Rights Act of 1984.

Mr. President, may I take the occasion to say that there is no Member of the Senate who exceeds the record and the commitment of the Senator from Massachusetts to the civil rights of the citizens of this Nation. I am proud to say that I serve with the senior Senator from Massachusetts who over years, approaching decades, has committed his public career to guaranteeing in every way that he can an unflagging, unwavering commitment to total, absolute civil rights to Americans. I think he does credit to the Senate and to this country by his continued effort, his continued personal dedication and devotion to the cause of civil rights, frankly in a period when it was not as fashionable as it once was.

I am proud to follow his lead in this effort and to congratulate him on a career dedicated to absolute equality in this country.

Mr. President, rarely during my decade of service in the Senate have I known a question of public policy to present us with such clear choices. Simply put, passage of this legislation places the Senate and this country squarely on the side of handicapped Americans, the elderly, women, and minorities—and against State subsidized discrimination in any form.

The need for this legislation is equally clear. Two overriding concerns mandate its passage, in this concluding period and these concluding days of this session. First and foremost, of course, is the Supreme Court's narrow and restrictive decision in the Grove City case. In effect, that decision reversed 20 years of bipartisan judicial and legislative interpretation of the nature and extent of the Federal Government's enforcement mechanisms with respect to its prohibitions against unlawful discrimination.

The second factor which compels immediate passage of the Civil Rights Act of 1984 is, quite frankly, the present administration. After years of bipartisan consensus on civil rights, we have seen in recent months a guerilla assault on traditional concepts of the Federal Government's legitimate responsibility to those of its citizen's described in Biblical terms as "the least of these." This administration has described the Supreme Court's endorsement of the last hired-first fired doctrine in the Memphis Firefighter's case, as a slam dunk. This is an administration that promises the broadest of all interpretations and applications of the Grove City holding; and it is an administration that in the process, intends to retreat even further from enforcement of Federal prohibitions against discrimination based upon age, race, sex, or physical disability.

Unquestionably, this is the most significant civil rights legislation we will consider during this session of Congress. I trust that my distinguished colleagues will not fall prey to the strategy of the opposition. I hope we are not sidetracked by the exaggerated claims and horror stories to which we are currently being subjected. Despite frenzied claims to the contrary, the Civil Rights Act of 1984, in no way expands the scope of civil rights protections. Rather, it simply reaffirms public policy and congressional intent that Federal funds shall not be used to subsidize discrimination in any manner, shape, or form—period.

We are likely to be asked to consider a substitute bill innocently called the Grove City Reversal Act. A review of this measure reveals that it will not reverse the Grove City case, but would, in fact, reduce much of what is left of title IX protections as a result of the case. Moreover, a series of amendments are possibly going to be offered as so-called technical in nature. I respectfully suggest to my colleagues that such amendments are, in reality, quite substantive and are clearly and purposely designed to defeat the spirit and intent of the Civil Rights Act of 1984.

Mr. President, we must remain firm in our resolve to oppose all efforts to substitute, filibuster, amend, or otherwise weaken the Civil Rights Act of 1984, and I invite my colleagues to join in this battle. In the service of those whom we profess to represent, Mr. President, we can do no less; I, therefore, urge the Senate to swiftly approve the Civil Rights Act of 1984.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. KENNEDY. Mr. President, I yield 5 minutes to the Senator from New Jersey.

Mr. BRADLEY. Mr. President, there is no subject more important to American's soul than the subject of this amendment, civil rights.

Our past failures in guaranteeing equal justice and opportunity to all members of the American community have been our badge of shame; our successes in redressing those inequalities have been our greatest pride.

Yet we cannot rest on our laurels, nor must we take the inviolability of equal justice and opportunity for granted, for once again civil rights is under siege and this body must liberate them.

Why do I say that civil rights in America are under siege? Because in February 1984 the Supreme Court at the instigation of the Department of Justice gutted the principal law outlawing sex discrimination in education; education, the great equalizer; education, the very essence of equal opportunity.

Can you believe that in 1984 our Supreme Court ruled that it is OK to discriminate against women in federally assisted educational programs? Hard to believe, yet it is true. That Supreme Court decision, the Grove City case, has left a gaping hole in all our antidiscrimination laws. It has dealt a body blow to the cause of civil rights in America. It cannot be allowed to stand. Grove City is a wholesale assault on civil rights. It jeopardizes the hard-won rights of millions of women and minorities. It dashes the hopes of the elderly and the disabled for taking their rightful place in our great economy. It is a travesty of what our National stands for.

Unless we bring the Supreme Court's decision in line with the history and clear intent of our civil rights laws, there will no longer be an all-inclusive prohibition against discrimination based on race, sex, handicap, or age. Schools, hospitals, State and local governments, indeed, any entity conducting a federally assisted activity will be empowered to get around the clear intent of our civil rights laws. No Congress that believes in the principle of equal justice under the law can permit the Grove City case to stand. That is what this amendment is all about. Support for the language contained in this amendment is both broad and deep. Top ranking civil

rights officials in four administrations have unanimously endorsed it.

Women and black Americans are solidly behind it. Given the unassailable strengths of this legislation and its broad-based enthusiastic support, who could be against it? Well, sad to say a small but determined band of people implacably opposed to civil rights are trying to prevent action on this bill. They will argue—I say this ingenuously—that this legislation will hang a new and burdensome yolk of Federal intrusion on the frail neck of the States and the private sector. Even sadder, they are supported in their claims by the Department of Justice and the White House. But that should not be surprising, for this is the same Department of Justice and the same White House that tried to protect the tax-exempt status of schools that practice racial discrimination as a matter of policy.

Mr. President, one last point: The Olympics are over. As a former gold medalist, I thrilled like most of my colleagues at the performance of all our athletes. But I did know that the White House tried, oh so subtly, to identify with the triumph of our U.S. athletes. But before they sold an unsuspecting public, people remembered that gold medalists Evelyn Ashford, Cheryl Miller, Joan Benoit, Connie Carpenter, Tracy Caulkins, and Mary Lou Retton all won this year in part because for over a decade title IX of the Civil Rights Act guaranteed them the opportunity to excel. This is the same title IX that this amendment seeks to uphold, and that the White House and a small group of Senators try to subvert today. Mr. President, let me be quite clear about what this amendment does.

The PRESIDING OFFICER (Mr. ABDNOR). The Senator's 5 minutes have expired.

Mr. KENNEDY. Mr. President, how much time remains to the Senator from Massachusetts and the Senator from Utah?

The PRESIDING OFFICER. Sixteen minutes and fifty-four seconds.

Mr. KENNEDY. To whom?

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. How much on the other side?

The PRESIDING OFFICER. Twenty-nine minutes and fifty-one seconds.

Mr. KENNEDY. I reserve the balance of my time.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I think if the Senators are correct in asserting that they really want to simply reverse the title IX problem created by Grove City. I am willing to agree to it. That is not the issue. It never has been insofar as I am concerned, and I believe that every Senator in the Senate would vote for a simple overruling of Grove City, not because they do not see some merit in the Supreme Court case, nor because they do not see some merit in those 26 out of 5,000 colleges and universities in this country that are so fiercely independent that they do not want to accept aid from the Federal Government. Senators would vote to merely overrule Grove City because they wish to avoid deterring the enforcement of title IX. There is merit to all of those positions.

So any Senator who comes to the floor and characterizes it otherwise than the way the distinguished Senator from Oregon, Senator HATFIELD, so graciously characterized it is doing so, in my opinion, for political purposes.

Mr. President, this amendment goes far beyond a simple overrule of Grove City, the application of title IX institutionwide. That we are willing to do. I might add this substitute deletes any express definition of "recipient." A new section is added which seeks to exclude from coverage "any entity which would not have been a recipient under agency regulations in effect on February 27, 1984, and to include 'any entity' which would have been a recipient under said regulations."

There are numerous problems with this clause that go far beyond the issues of civil rights today.

Let me mention a few. No. 1, Agency regulations in effect since before the Grove City decision define recipient to include coverages of States, political subdivisions, instrumentalities of any State or civil subdivision, public or private agencies, institutions, organizations, individuals, in addition to "other entity." These are in the regulations.

I ask unanimous consent that some explanations of the problems this will present be printed in the RECORD at this point:

There being no objection, the references in the regulations were ordered to be printed in the RECORD, as follows:

SELECTED ILLUSTRATIONS OF THE IMPACT OF "THE CIVIL RIGHTS ACT OF 1984"

[S. 2568; H.R. 5490] [1]

Entity	Covered prior to Grove City?	Covered by proposed bill?	Consequences
Grocery store accepting food stamps	No	Yes—See statement of House floor manager (H7038).	Grocery stores would be subject to rules and regulations, compliance review, and affirmative action requirements of federal civil rights law. In particular, would be required either to retrofit facilities, i.e. widened aisles, lowered shelves, or else institute home delivery for disabled.
Drug store filling Medicare or Medicaid prescriptions.	No	Yes—See logic of statement of House floor manager (H7038); House report (p. 30).	Drug stores would be subject to rules and regulations, compliance review, and affirmative action requirements of federal civil rights laws, including handicapped 'accessibility' requirements.
Rancher receiving water at reduced cost from Bureau of Reclamation water project.	No	Yes—Bill removes the 'ultimate beneficiary' exclusion contained in current agency rules.	Ranchers would be subject to rules and regulations, compliance review, and affirmative action requirements of federal civil rights laws. For example, would bear burden of demonstrating why it was not unlawful not to hire handicapped or persons over age 40.
Farmer receiving USDA crop subsidies	No	Yes—Bill removes the 'ultimate beneficiary' exclusion contained in current agency rules.	Farmers would be subject to rules and regulations, compliance review, and affirmative action requirements of federal civil rights laws. Subject to on-site compliance inspections, as well as liable to private lawsuits.
Apartment owner accepting rental vouchers	No	Yes—See logic of statement of House floor manager (H7038); House report (p. 30).	Apartment owners and landlords would be subject to rules and regulations, compliance review, and affirmative action requirements of federal civil rights law, including the obligation to retrofit units to improve handicapped accessibility, i.e. widened doorways, rails, etc.
Steel mill using water purified in municipal wastewater treatment plant built with EPA assistance.	No	Yes—See statement of Subcommittee chairman concerning "indirect assistance" (H6802-3).	Steel mill would be subject to rules and regulations, compliance review, and affirmative action requirements of federal civil rights law. Not only would mill be covered, but all of the mills of the firm would be convered.
Corporation which conducts vocational education programs which also receives grant for defense related research.	No	Yes—See House report (p. 28).	Entire corporation would be subject to rules and regulations, compliance review, and affirmative action requirements of federal civil rights law.
Small tool and die business receiving technical aid from State or local government economic development program.	No	Yes—See concept of "significant assistance" in House report (p. 28).	Tool and die firm would be subject in its entirely to rules and regulations, compliance review, and affirmative action requirements of federal civil rights law.

SELECTED ILLUSTRATIONS OF THE IMPACT OF "THE CIVIL RIGHTS ACT OF 1984"—Continued

[S. 2568; H.R. 5490] [1]

Entity	Covered prior to Grove City?	Covered by proposed bill?	Consequences
Big Brother program receiving assistance from student volunteers at a federally assisted college.	No	Yes—See concept of "significant assistance" in House report (p. 28). There are no apparent conceptual limits.	Big Brother program would be fully subject to rules and regulations, compliance review, and affirmative action requirements of federal civil rights law.
Church operating a school receiving Title I assistance.	No	Yes—See Statement of ranking member of House Judiciary Committee on the scope of 'trickle-up' theory (H6802); House report (p. 26).	Employment practices of church would be covered under federal civil rights laws, with accompanying rules and regulations, paperwork and compliance requirements, affirmative action, and so forth. Would also be liable to private civil rights suits.
University-owned commercial or residential building.	No	Yes—See statement of Rep. Ferraro (H7054); House report (p. 28).	Buildings would be made subject to federal rules and regulations, including requirement that they be made accessible to handicapped persons. Also subject to Title IX in full.
National political party receiving federal funds for convention or other activities.	No	Yes—"Recipient" wide nature of coverage would trigger coverage of the of entire operation of party.	Conduct of national party affairs would be subject to "effects" notion of "discrimination" under federal civil rights law, including selection procedures for party activities and internal employment policies. Convention rules would be within this scope of coverage.
Professional baseball team performing in municipal-owned facilites.	No	Yes—Team would constitute indirect recipient of any federal assistance extended to city.	Team would be subject to rules and regulations, compliance review, and affirmative action requirements of federal civil rights law.
Insurance companies administering Medicare or Medicaid program.	No	Yes—Company would constitute indirect recipient of federal assistance extended to Medicare or Medicaid beneficiary.	Insurance company would be subject to "effects" concept of 'discrimination' under federal civil rights law thus requiring benefits and coverage policies to be tested in their validity by 'disproportionate impact' analysis.
College at which single unit or department receives Federal financial assistance.	No	Yes—Purpose of bill is to overturn decision in Grove City limiting coverage to individual department or activity rather than to entire university.	Not only would entire university be subject to rules and regulations, compliance review, and affirmative action requirements of federal civil rights law, but all of the branches and campuses of the university would be covered. Funding could be cut off to entire university on the basis of isolated violation.
State government/local government if single State/local agency receives Federal assistance.	No	Yes—See Statement of House floor manager (H6013); statement of ranking member of House Judiciary Committee member (H7022).	Would result in vast expansion of federal civil rights coverage. State and local programs not currently subject to rules and regulations, compliance review, and affirmative action requirements would be covered. Licensing and certification boards would be subject to "effects" concept of 'discrimination' in determining the validity of tests and standards. Moreover, all federal aid to an entire State/locality could be terminated if violation occurs within any subunit. Officials personally liable.

[1] Because of its many vague and ambiguous terms, it is impossible to predict the impact of this act with certitude. The illustrations contained herein, however, are largely based upon the text of this bill as well as upon the legislative history created by the leading proponents of the bill.

Mr. HATCH. In the last days of this session, the proponents are attempting to amend a major piece of legislation involving major controversies and complexities with a clause that only seeks to "grandfather" the treatment of that tiny portion of recipients considered "entities." They have failed to adequately address the coverage issues affecting recipients such as institutions, subdivisions, and many others. This is a glaring loophole in what has been represented as an effort to restore the status quo before Grove City. The grandfather language simply fails to correct the many significant coverage problems in the proposed measure.

Furthermore, agency regulations generally do not list specific recipients. They cover broad categories such as States, subdivisions, and institutions. Thus, this clause does not merely incorporate an agency's regulatory definition of "recipient" and other relevant regulatory provisions, but rather it incorporates agency practices in interpreting such agency regulations.

Such a grandfather clause which is supposed to take us to the status quo ante hardly establishes clear legislative intent. How does one determine who has been a recipient under agency regulations before the Grove City decision under the bill? This issue is what the dispute in the Grove City case itself was largely about. Suppose lower court decisions before Grove City conflict with one another or with agency interpretations as to whether a particular institution or entity was a recipient? How does one determine if the institution or entity is covered under the proposed language? For example, before 1982, the Department of Education treated an educational institution enrolling students who have guaranteed student loans as recipients of Federal aid. The district court in the Grove City decision decided that guaranteed student loans fell within the statutory exclusion of contracts of guarantee in title IX, 20 U.S.C., 1682 et seq. Thus, under this decision, an institution's enrollment of students with GSL does not subject the institution to coverage. The Government did not contest the decision on appeal, and it was not addressed by the appellate courts. I could go on and on on how this new amendment would incorporate agency regulations into law, and nobody knows what that means. Does it mean that any past pronouncement of some bureaucrat is now to have the force of law? I know one thing. This creates a lot of questions; that and other aspects of this particular matter.

At this point I ask unanimous consent that an analysis prepared for the Civil Rights Commission or the U.S. Commission on Civil Rights sent to me on September 21, 1984, be placed in the RECORD at this point including the letter from Linda Chavez, staff director.

There being no objection, the analysis and letter were ordered to be printed in the RECORD, as follows:

U.S. COMMISSION ON CIVIL RIGHTS,
Washington, DC, September 21, 1984.

Hon. ORRIN G. HATCH,
Washington, DC.

DEAR SENATOR HATCH: In response to your request yesterday for an analysis of the substitute Civil Rights Act, I am enclosing a memorandum by the Commission's General Counsel, Mark R. Disler.

Mr. Disler's analysis is a preliminary one and he may wish to supplement it at a later date.

Please let me know if we can be of further assistance to you.

Sincerely,

LINDA CHAVEZ,
Staff Director.

Enclosure.

U.S. COMMISSION ON CIVIL RIGHTS,
Washington, DC, September 21, 1984.

Subject: Proposed Substitute for the Civil Rights Act of 1983.

To: Linda Chavez, Staff Director.

You have asked for an analysis of the new civil rights proposal offered yesterday morning, September 20, 1984, by the sponsors of S. 2568 (hereinafter the "substitute"). Because of the speed with which this memorandum must be prepared, I may wish to supplement it later.

I will analyze the substitute against a single-standard: does it merely restore the broad scope of federal civil rights coverage thought by some to have existed prior to

Grove City or does it go further. My conclusion is: in a few instances, the substitute appears to make marginal adjustments to the vastly overbroad scope of the original bill, S. 2568. Major problems clearly remain, however, and the substitute is a wholly inadequate effort to restore the scope of civil rights coverage thought to have existed before *Grove City* but go no further than such coverage.

As a preliminary matter, I wish to note the grave danger of uncertainty in the interpretation of the substitute language and the difficulty in discerning its ultimate meaning. S. 2568 was offered in April, 1984 and proved to be so full of ambiguities that it took responsible observers weeks to understand the sweeping expansion of Federal civil rights coverage embodied in the bill. Now, the sponsors of the original poorly drafted legislation have produced a substitute with 12 days left in the session. No time is apparently available for Committee hearings or Committee mark-up. The process does not lend itself to the comprehensive review the substiture requires. I believe that the problems I have identified in the substitute at this point will multiply as I have time for further reflection. This is especially likely because sponsors of the substitute indicate they intend no substantive change from the scope of their original bill.

The haste in which this substitute must necessarily be considered is particularly troublesome: the problem Congress is now seeking to correct, establishing an appropriate scope of federal civil rights coverage, was created because of sloppy draftsmanship by earlier Congresses. Ironically, the posture the substitute is now in lends itself to further unexpected judicial rulings. It would seem that Congress could do better on so serious a matter.

I. GRANDFATHER CLAUSE

The substitute deletes any express definition of "recipient". A new section is added which seeks to exclude from coverage "any entity which would not have been a recipient under agency regulations in effect on February 27, 1984," and to include "any entity" which would have been a recipient under said regulations.

There are numerous problems with this clause:

1. Agency regulations in effect since before the *Grove City* decision define recipient to include coverage of states, political subdivisions, instrumentalities of any state or political subdivision, public and private agencies, institutions and organizations, and individuals, in addition to "other entity" (e.g., 34 CFR 100.13(i) (Dept. of Education Title VI regulation)). Yet, the clause only seeks to "grandfather" the treatment of "any entity," a tiny portion of recipients. It does not address coverage of all other recipients, such as institutions, subdivisions, etc. This is a glaring loophole in what appears to be an effort to restore the status quo ante *Grove City* with "grandfather" language.[1]

2. Agency regulations generally do not list specific recipients; they cover broad categories, such as states, subdivisions, and institutions. Thus, this clause, in effect, incorporates by reference not merely an agency's regulatory definition of "recipient" and other relevant regulatory provisions, but rather it incorporates *agency practice* in interpreting agency regulations.[2]

Such a "grandfather" clause hardly establishes clear legislative intent: how does one determine who had been a recipient under agency regulations before the *Grove City* decision under the bill? This issue is what the dispute in the *Grove City* case itself was largely about. Suppose lower court rulings before *Grove City* are at odds with one another—or with agency interpretations—as to whether a particular institution or entity was a recipient? How does one determine if the institution or entity is covered if the substitute is enacted? For example, before 1982, the Department of Education treated an educational institution enrolling students who have Guaranteed Student Loans (GSLs) as recipients of federal aid. The district court in the *Grove City* case decided that GSLs fell within the statutory exclusion of "contracts of guaranty" in Title IX (20 U.S.C. § 1682 et seq.). Thus, under this decision, an institution's enrollment of students with GSLs does not subject the institution to coverage. The government did not contest that decision on appeal and it was not addressed by the appellate courts. *Grove City* v. *Harris*, 500 F. Supp. 253, 260 (W.D. Pa. 1980). Under the substitute, are institutions enrolling students using GSLs considered "recipients"? What determines the answer: agency practice prior to 1982; agency policy or practice after 1982; the lower court's decision; or a combination of these elements? I cannot even venture a guess as to the "correct" answer under the language of the substitute.

Moreover, by elevating to the level of statute the practice of agency enforcement officials (including low-level investigators and others) in thousands of situations unknown to the Congress, in some cases over a 20 year period, a significant opportunity for expansion of coverage is presented. Suppose litigants uncover isolated and obscure instances of past bureaucratic overreaching with respect to a particular type of organization, agency, or other entity alleged to have been a "recipient." Even though the effort to subject such organization, agency, or other entity to coverage went beyond the scope of the regulations or statute or may never have become formal agency policy, litigants will use such overreaching to establish a highly plausible claim that the organization etc., was deemed to have been a "recipient" before February 27, 1984. Thus, for example, the Department of Agriculture has informed the Congress that it never covered grocery stores by virtue of their participation in the food stamp program during the last 20 years. Suppose a few civil rights investigators had made preliminary inquiries of a few grocery stores in 1967 under Title VI. Would a Federal court rule that grocery stores were recipients under agency regulations prior to February 27, 1984, based on those old, isolated inquiries?

Bear in mind that principal sponsors of the original bill claim that it covers such grocery stores, notwithstanding past agency practice. Incidentally, the legislative history established for H.R. 5490, S. 2568's companion House bill, lies about like a loaded gun. It contains many misstatements about the scope of pre-*Grove City* coverage and many errors about the effect of the original bill.[3] To the extent that sponsors of the substitute intend that the legislative history in the House is to serve as an interpretive gloss on the substitute, all of the many serious problems of overreaching created by that legislative history would remain.[4]

II. TRICKLE DOWN CLAUSES

A. First Clause

The substitute provides that if a State or political subdivision receives Federal aid, "a department agency, or other such component part of the State or political subdivision that—

(i) does not have as its primary function the performance of any of the purposes for which such assistance was extended; and

(ii) is not extended such assistance, shall not be deemed a recipient."

1. This section extends coverage far more broadly than existed prior to *Grove City*: an agency or department of a state or political subdivision was never covered unless it *actually received* Federal financial assistance. It was not covered if it merely had "as its primary function the performance of any of the purposes for which such assistance was extended"—it had to *receive* a part of the *actual* Federal aid.

Thus, this clause sets up a presumption of coverage of agencies and other components of a state or locality far broader than is warranted and provides no means to rebut the presumption. Moreover, there was no such presumption in this area—rebuttable or otherwise—prior to *Grove City*. The touchstone for coverage before *Grove City* was actual receipt of Federal aid. This clause creates a significant expansion of federal civil rights coverage of states and localities beyond that which was throught to have existed before *Grove City*.

2. Further, it is unclear what the substitute means by "Federal financial assistance extended to a state . . ." Currently, there is no such federal aid program (general revenue sharing funds go only to localities). Categorical and block grant program funds have always been deemed to go to the departments receiving those funds and not to the "state" as a whole for purposes of civil rights coverage.

This clause seems to provide that a categorical grant to a state health department is a grant to the state so that any other health agency of the state will be deemed covered even if it did not receive any part of the federal aid, in clear contravention of pre-*Grove City* practice.

B. Second Clause

This provision also states:

If all or a portion of Federal financial assistance is extended to a State or to a political subdivision without restriction, such assistance shall be presumed to have been extended to the entire State or subdivision unless as to the department, agency, or other such component part where discrimination is alleged, the State or political subdivision demonstrates, by clear and convincing evidence, that no Federal financial as-

[1] This loophole is probably unintentional: the provision so clearly fails to achieve its apparent intended effect, even on its face, that it can scarcely be taken seriously. The drafters of the substitute, perhaps functioning in haste, failed to draft the clause carefully. This is an example of the kind of problem that can arise in creating legislation quickly in a complex area of law.

[2] This point is made without reference to the very serious problem identified in paragraph one, i.e., the substitute does not even purport to "grandfather" all prior agency practice.

[3] See my July 11, 1984 and September 17, 1984 memoranda.

[4] Indeed, I understand that the sponsors of the substitute intend to rely on the legislative history in the House as a guide for interpreting it.

sistance was in fact extended to such department, agency, or other component part."

1. This clause once again pre-supposes that there is a program which extends federal aid to a "state", even though no such program exists. See II.A.2.

2. This clause is also vague: what does the term "without restriction" mean? Does it include a block grant? If so, the presumption here is far overbroad: only agencies receiving funds from the block grant would be covered, and a broader presumption is unwarranted. Indeed, under pre-*Grove City* coverage, no such presumption existed.

C. General concern about overhead expenses

"Federal financial assistance . . . extended to a state or . . . political subdivision" triggers state-wide or locally-wide coverage, subject to a rebuttable presumption, under the substitute. The sponsors of the House bill made clear that if a federal grant to a state's health department provided for payment of administrative overhead expenses to the governor's office, the entire state would be covered. E.g., Report of the Committee on Education and Labor (98th Cong. 2d Sess., Report 98-829, Part 2) at 26.

Prior to *Grove City*, however, if a governor's office or mayor's office received a part of a federal aid grant to a department or agency of a state or locality, only the department or agency, plus the governor's office or mayor's office, would have been recipients. The notion that a central office's receipt of overhead expenses from a federal aid grant to the health department also subjected the corrections department, and the boards that license electricians, taxi drivers, plumbers, and others to federal civil rights coverage is utterly foreign to pre-*Grove City* interpretation. This notion represents one of the most obvious expansions in civil rights coverage presented by the substitute. The licensing activities of states and localities will be subject to these civil rights laws, generally for the first time. They will also be subject to the "effects" regulations implementing these laws. This would represent a significant expansion of federal authority.

In short, the substitute does nothing to ensure that receipt by a governor's office or mayor's office of "overhead" expenses from a federal grant to an agency or department does not subject the entire state or locality to coverage.[5] And many federal aid programs provide for just such overhead expenses—making this a very large loophole indeed.

III. PRIVATE-SECTOR COVERAGE

The substitute provides:

(5)(A) For the purposes of this title, except as provided in subparagraphs (B) and (C), in the case of Federal financial assistance extended to a private corporation or partnership that has more than one establishment, an establishment that is not extended such assistance shall not be deemed a recipient.

(B) If Federal financial assistance is extended to a private corporation or partnership without restriction, the entire corporation or partnership is covered in its entirety.

(C) To the extent the provisions of subparagraph (A) constitute a limitation on coverage, subparagraph (A) shall not apply to corporations and partnerships whether profit or nonprofit engaged in education, health care, or social services.

[5] Indeed, it appears that sponsors of the substitute intend that the substitute achieve this very result.

1. Section (A) is imprecise because "establishment," an entirely new term introduced into the bill, is undefined. Does it mean plants, facilities, divisions, subsidiaries—or some or none of these things? Prior to *Grove City*, even a single establishment of a corporation was not always subject to coverage in its entirety. *See generally Simpson* v. *Reynolds Metals Company, Inc.*, 629 F.2d 1226 (7th Cir. 1980). Moreover, why aren't other entities, in addition to corporations and partnerships, addressed here? Limits on pre-*Grove City* coverage in the private sector generally knew no distinctions based solely upon the nature of private sector organizations.

2. Section (C) seeks to cover all corporations and partnerships in the education, health care or social service fields, whether profit or nonprofit, in their entirety. This goes well beyond the scope of even the broad coverage some thought existed prior to *Grove City*, as is readily apparent from the very regulations to which the substitute ironically refers in its grandfather clause.[6]

Indeed, the Department of Health and Human Services' long-standing Title VI regulation, which specifically applies to educational, health care, and social service institutions, requires an assurance from a recipient that it will abide by Title VI throughout its activities, *"Unless the applicant establishes to the satisfaction of the responsible Department official, that the institution's practices in designated parts or programs of the institution will in no way affect its practices in the program of the institution for which the Federal financial assistance is sought, or the beneficiaries of or participants in such program. . . ."* 45 CFR 80.4(d)(2) (emphasis supplied). The Department of Education's Title VI regulation contains identical language. 34 CFR 100.4(d)(2).

Thus, for example, the commercial activities of an educational institution unrelated to the institution's education activities, were never subject to civil rights coverage before *Grove City* merely because the institution received federal education aid. Under the proposal, they would be so subjected.

V. TERMINATION CLAUSE

The *Grove City* decision did not interpret the scope of an agency's power to terminate federal aid to a recipient found to have discriminated. Yet, the substitute alters the language in this clause in a manner which could expand its scope. The substitute places a slight restraint on the outer limits of such possible expansion. This slight restraint, however, is inadequate: there need be no change in the termination clause in order to conform to pre-*Grove City* practice.

MARK R. DISLER,
General Counsel.

Mr. HATCH. Mr. President, some of the questions that we have raised—have been sent to Senators because these are questions that anybody who reads this has to raise. I do not believe these have been answered. They certainly have not been answered in committee hearings. They certainly have not been answered in committee debates. They certainly have not been answered in committee markup in either house of this body, and yet these are important questions. Let me give you a few.

I will ask this to the sponsors rhetorically because there is no way they can answer all of these questions tonight. There is no way we can get into all of them tonight with the limitation of time that we have. That again is not the way to pass legislation.

Is it the sponsors' intent that Federal assistance extended, for example, to the adoption services agency of a State social services department would trigger the application of Federal rules and regulations to every agency within that department whether or not such agency itself receives Federal aid?

That is not the present law, but we believe this bill does that.

Is it the intent of the sponsors that Federal education aid to a State education department would trigger actions of agencies outside the department which do not receive such aid but would be performing some educational functions?

Again, that is not the law, not the present law, but we believe this amendment would cause that.

Is it your intent that Federal aid to a college would trigger coverage not only of the education programs of the college but also of its commercial holdings?

Again, that is not the law.

Are you in agreement with the House manager of this bill that grocery stores would be covered by Federal regulations, that is, paperwork, compliance reviews, affirmative actions, as recipients because they redeem Federal food stamps?

That certainly was not the law and it is not the law today.

Is it your intent that pharmacists would be covered by Federal regulations because they filled Medicaid or Medicare prescriptions?

We think the bill says that. That is not present law.

Is it your intent that landlords and apartment owners be covered by Federal law because they accept Federal rental aid?

That is not the present law.

Is it the intent that general Federal assistance extended to any corporation, or any form of Federal assistance extended to a profit or nonprofit firm engaged in "health care or social services," would trigger the application of an estimated 75,000 words of Federal rules and regulations to every plant, every division, every facility, and outlet of that corporation, no matter how limited the assistance?

Mr. President, that is not present law but we believe this amendment would make it law and it would do it by elevating far reaching agency regulations to the level of statutes. This is not the way Congress should enact statutes. And this is certainly more than the status quo ante.

Is it your intent that any corporation or nonprofit entity performing education, health, or social service functions—no matter how incidental to their primary purpose—would be

[6] This contradiction in the substitute, first seeking to "grandfather" agency regulatory practice and then contradicting some of the clearest portions of the regulations, is just another example of the problems in this proposed legislation.

covered in their entirety if they received Federal aid, however narrowly that aid may be targeted?

That is not the present law but this amendment would make it law.

Is it your intent that any Federal aid program that allows a State administrator to use some funds for discretionary purposes would trigger coverage of the entire State unless some political subdivision can demonstrate by clear and convincing evidence that it did not benefit from such funds?

Again this is not the present law. It is something that States are concerned about; something that local municipal governments are concerned about. And something that we ought to be concerned about.

It is the intent that Federal assistance to a county or municipality program would trigger coverge of the entire county or municipality if any administrative overhead funds remained in the county or municipality?

Mr. President, that is not present law but we believe it would be if this amendment is adopted. You cannot believe the destruction, I think to the detriment of civil rights, that would occur if this is imposed upon the people.

Mr. President, I ask unanimous consent that the 50 questions we have asked of the sponsors of the bill that have not been adequately answered be printed in the RECORD at this point.

Mr. KENNEDY. I object, unless, as part of that request, the Senator will also include the responses.

Mr. HATCH. Without question. I ask unanimous consent that they also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, September 24, 1984.

DEAR COLLEAGUE: Despite the fact that their substitute amendment to the "Civil Rights Act of 1984" (S. 2568) has been available for only several days, it is apparently the intention of Senator Kennedy and Senator Packwood to force the Senate to consider this measure during the final two weeks of session. They remain unwilling (as they have for the past two months) to have either their substitute or their original bill debated within the Senate Labor Committee.

We are particularly confused by the fundamental objectives of the new substitute. On the one hand, its proponents suggest that the substitute is intended to deal satisfactorily with the myriad problems raised by the original bill. On the other hand, they suggest that the intended coverage of the substitute is the same as the original bill and would incorporate fully the legislative history established in the recent House report.

In an effort to clarify their present objectives, we intend to raise a series of questions to the sponsors about the meaning of their substitute when debate commences. We are taking the liberty of attaching, for your own consideration, a partial listing of these.

We continue to feel that the estimable title of their measure ought not to obscure the potentially radical expansion in Federal authority effected by S. 2568. We would urge you to look beyond the self-proclaimed "Civil Rights Act" title and assess the real-world implications of this measure.

Sincerely,

ORRIN G. HATCH,
U.S. Senate.
CHARLES E. GRASSLEY,
U.S. Senate.

"A FEW QUESTIONS"

(Directed to the Sponsors of Kennedy-Packwood Substitute to S. 2568):

1. Is it your intent that Federal aid to a single agency of a State Social Services Department would trigger the application of Federal rules to every agency within that Department, whether or not such agency itself receives Federal aid? (*Not present law*)

2. Is it your intent that Federal education aid to a State education department would trigger coverage of even agencies outside the department that do not receive such aid but which may be performing some education functions? (*Not present law*)

3. Is it your intent that Federal aid to a college would trigger coverage, not only of the education programs of the college, but also of its commercial holdings? (*Not present law*)

4. Are you in agreement with the House manager of this bill that grocery stores would be covered by Federal regulations (i.e. paperwork, compliance reviews, affirmative action) as "recipients" because they redeem Federal food stamps? (*Not present law*)

5. Is it your intent that pharmacists would be covered by Federal regulations as "recipients" because they fill Medicare or Medicaid prescriptions? (*Not present law*)

6. Is it your intent that landlords and apartment owners be covered by Federal regulations as "recipients" because they accept Federal rental vouchers? (*Not present law*)

7. Is it your intent that general Federal assistance extended to a private corporation would trigger the application of an estimated 75,000 words of Federal rules and regulations to every plant, every division, every facility, and every outlet of that corporation, no matter how limited the assistance? (*Not present law*)

8. Is it your intent that any corporation or non-profit entity performing "education, health, or social services" functions, no matter how incidental to their primary purpose, would be covered in their entirety if they receive Federal aid, however narrowly that aid may be targeted? (*Not present law*)

9. Is it your intent that any Federal aid program that allows the State Administrator to use some funds for discretionary purposes would trigger coverage of the entire State unless some political subdivision could demonstrate by "clear and convincing" evidence that it didn't receive such funds? (*Not present law*)

10. Is it your intent that Federal aid to a county or municipality would trigger coverage of every department or agency in that county or municipality, no matter how limited the actual aid, if any administrative overhead funds remained in the county or municipality? (*Not present law*)

11. If a college or university is covered by Title IX (and is not formally "controlled" by a church), is it your intention that such college or university will be required to abide by Title IX regulations prohibiting them from distinguishing between abortion and other "medical procedures" (for purposes of student and employee health and leave policies) no matter how genuine their moral or religious objections?

12. If a State chooses to discontinue a particular program because continuation of that program results in the State being covered by Federal rules in unsatisfactory ways, will the State be allowed to do this under S. 2568?

13. Is it your intent to flatly rule out tax exemptions and tax credits as the kind of "Federal assistance" that would trigger the application of coverage under this bill?

14. Is it your intent to flatly rule out Federal licensing, Federal safety regulations, Federal insurance, and Federal marketing orders as the kind of "Federal assistance" that would trigger the application of coverage under the bill?

15. The Educational Testing Service frequently uses public facilities to administer its various tests, e.g. SAT, LASAT. Would they be considered a direct or indirect recipient of Federal assistance under this bill?

16. If a franchiser receives Federal assistance, would each of its franchisees be considered a 'recipient' under this bill?

17. If General Motors receives Federal assistance, would every General Motors-authorized dealer be considered a 'recipient' under this bill?

18. Is it your intent that the 'disproportionate impact' concept of discrimination will be applied under this bill to local police/firefighting examinations, occupational licensing examinations, college admissions tests, and so forth?

19. Will any business be considered a 'recipient' of Federal assistance by virtue of any procurement contract, fair market transaction, or arms-length commercial transaction with the Federal government?

20. Is a medical doctor incorporated as a professional "corporation" included within the definition of a "corporation . . . engaged in health care" for purposes of this bill if his or her patients pay their bills with Medicare benefits?

21. Is a lawyer incorporated as a professional "corporation" included within the definition of a "corporation . . . engaged in social services" for purposes of this bill if their clients bills are paid with public assistance funds?

22. Is a health insurance company "engaged in health care" for purposes of this bill if it is a Medicare or Medicaid carrier?

23. Does the so-called 'grandfather' clause of this bill implicitly ratify agency rules and regulations that would otherwise be illegal because they exceeded the authority of Title IX, Title VI, Section 504, or the Age Discrimination Act?

24. Is it the purpose of the so-called 'grandfather' clause to elevate to the status of law each of several thousand existing rules and regulations and (a) preclude incumbent Administrations from altering such regulations; and (b) preclude courts from finding such regulations to be inconsistent with the terms of the four civil rights statutes?

25. Is it permissible for an agency that is currently lacking rules and regulations to promulgate rules and regulations following passage of this bill?

26. Is it your intent that Federal job training programs in which many businesses participate will constitute Federal assistance to participating firms?

27. If it is not the intent to expand Federal fund termination ("pinpointing") authority in this bill, why does it contain significant amendments to present laws relating to this matter?

28. Is it your intent to flatly exclude from the definition of 'recipient' any customer or purchaser or similar "transferee" of an entity receiving Federal assistance?

29. Is it your intent that Federal highway funds trigger coverage of trucking firms as 'recipients', or that Federal airport assistance (e.g. controllers) triggers coverage of airline firms?

30. Given your intent to cover various forms of loan guarantees as Federal assistance that were not covered in this manner before *Grove City*, e.g. GSLs, is it your intent to extend coverage over other institutions benefitting from Federal loan guarantee programs?

31. Is it your intent that Federal direct loans constitute Federal assistance to entities of the sort that would trigger the coverage of the four laws in question?

32. Is it your intent to include within coverage those entities which themselves do not receive Federal assistance but which, in the words of the House report, receive "significant assistance" from those entities which do? What does this cover?

33. If HHS provides Federal aid to the medical school of a college and the Department of Education provides aid to the mathematics department of a college, under the "institution wide" coverage contemplated by this bill could both HHS and the Department of Education impose its regulations upon both the medical school and the mathematics department, as well as the other programs of the college?

34. Is is your intent that the exceptions presently contained in Title VII (relating to employment discrimination) would also be implicit in employment discrimination actions that could now be pursued under Title VI, Title IX, Section 504, and the age Discrimination Act?

35. Is it your intent that the present coverage of States and localities under the Revenue Sharing Act would be maintained intact under the present bill?

36. It is your intent that every college be subject to Federal coverage, in its entirety, even if it refuses all Federal education assistance, if even so much as a single attending student receives a Federal guaranteed student loan, or GI benefits?

37. Is it your intent that "discrimination" under these four statutes be defined in terms of purposeful discrimination on account of sex, race, handicap, age, etc. or that these statutes will incorporate the "disparate impact" or unequal results concept of discrimination?

38. Is it your intent that postal privileges or antitrust exemptions (e.g. newspapers) would constitute Federal assistance that would trigger the coverage of Federal rules and regulations under this bill?

39. Is it your intent that the status of traditionally all-black colleges, or "single sex" colleges not be affected by this bill?

40. Is it your intent that a wholesaler not be considered the "transferee" of a retail business receiving some form of Federal financial assistance?

41. Is it your intent that Federally subsidized water not constitute Federal assistance that would trigger coverage under this bill?

42. Is it your intent that State and local officials would be personally liable for using Federal aid in a manner that resulted in the violation of any of the four civil rights laws?

43. If a political party receives nominating convention assistance from the Federal government, or other operating or campaign funds, would it be considered a "recipient" of Federal financial assistance under this Act?

44. Is it your intent to reject the amendment adopted recently in the House extending coverage of these civil rights laws, for the first time, to the legislative and judicial branches of the national government?

45. Is it your intent to incorporate the statement of the House floor manager that private parties have authority to seek Federal fund termination to "recipients" along coterminous lines with Federal agencies?

46. Would organizations receiving Federal assistance such as PUSH, the Urban League, and the NAACP be required to conform, in all respects, to Federal rules and regulations under this bill?

47. Is it your intent that Federal assistance to a single department at a single campus of the University of California university system trigger coverage of every department at every campus of that system?

48. Is it your intent that crop subsidies to farmers, no matter how they structure their business operations, be insufficient to trigger Federal coverage of their farming operations?

49. Is it your intent that the receipt of a Federal charter not subject organizations to the full coverage of Federal rules and regulations under this bill?

50. What precisely are the circumstances under which churches and other religious organizations can be considered the "recipients" of Federal assistance under this bill?

SPONSORS ANSWERS TO QUESTIONS TO CIVIL RIGHTS ACT OF 1984 POSED BY SENATOR HATCH

1. GROCERY STORES ACCEPTING FOOD STAMPS

Coverage before: We do not know of any definitive regulatory or court determination that say grocery stores accepting food stamps are covered under these statutes. However, since the 1964 Act grocery stores have been covered by Title II of the Civil Rights Act which bans discrimination in public accommodations based on race or national origin.

Even if grocery stores were determined to be covered for the purpose of Sec. 504, the USDA § 504 regulations state expressly that small providers (those with 15 or fewer employees) have much flexibility in deciding how to accommodate disabled customers. Thus, "Mom and Pop" stores would not be required to undertake costly alterations to accommodate the disabled 7 CFR 156.18.

Cover after: Remains the same as prior to the Grove City decision. The grandfather provision makes clear that any person or entity which was not a recipient prior to the Grove City decision is not a recipient under the bill. Any person or entity which was a recipient before is a recipient now.

This bill does not create any new recipients. It does not resolve any unsettled questions about whether a given entity or person is a recipient of federal financial assistance under the civil rights laws. It simply leaves the law as it was before on this issue of who or what is a recipient.

2. DRUG STORES FILLING MEDICARE OR MEDICAID PRESCRIPTIONS

Covered before: Yes.

Medicare and Medicaid are forms of federal financial assistance. The individual patient is not covered because she/he is an ultimate beneficiary. However, hospitals and nursing homes are covered by virtue of their receipt of Medicaid and Medicare payments. See e.g. *U.S.* v. *Baylor Medical Center*, (5th Cir. 1984).

Pharmacies filling prescriptions paid for by Medicaid or Medicare are also covered. The statement preceding the publication of the HEW § 504 regulations in final form lists druggist as one of the examples of health care providers covered by Medicaid and Medicare. See 42 FR 22689 (May 4, 1977).

Covered after: Yes.

No change is caused by the bill. Entities which were recipients prior to Grove City are recipients under the bill.

Fears of accessibility burdens are unfounded because the Justice Department's government-wide § 504 regulations allow small providers additional flexibility in how they become accessible to disabled customers. 28 C.F.R. 42.521 in 45 FR 37625 (June 3. 1980). The necessary flexibility was built in prior to the Grove City decision.

3. RANCHER RECEIVING WATER AT REDUCED COST FROM BUREAU OF RECLAMATION WATER PROJECT

Coverage before: No.

The Rancher is the ultimate beneficiary of the funding statute. Ultimate beneficiaries are excluded from the regulatory definition of recipient.

Coverage after: No.

The grandfather provision makes clear that only persons or entities which were recipients prior to Grove City are recipients now.

4. FARMER RECEIVING USDA CROP SUBSIDIES

Coverage before: No.

The farmer was the ultimate beneficiary of the subsidy statute and the USDA regulatory definitions of recipient exclude ultimate beneficiaries. USDA civil rights regs. recipient definitions, 7 C.F.R. 15.2(e), 7 C.F.R. 15b.3(f).

Coverage after: No.

The grandfather provision makes clear that only persons or entities which were recipients prior to Grove City are recipients now.

[NOTE.—Farmers would be recipients and have an obligation not to discriminate when they open their lands to hunters in return for USDA payments in the Forest Incentive Payment Program. A Farm Cooperative organized by a group of farmers that receives federal financial assistance may be a recipient because it has responsibility for distributing the federal benefits to farmers in a nondiscriminatory manner.]

5. APARTMENT OWNER ACCEPTING RENTAL VOUCHERS

Coverage before: Yes.

A housing voucher program was authorized by Congress in 1983, but has not been implemented. However, it represents the type of federal aid that has always been considered financial assistance. Rent supplement programs are listed as a form of federal financial assistance in the HUD regulations (24 C.F.R. §§ 1.1 et. seq., App. A) and housing certificates are expressly subject to Title VI (24 C.F.R. §§ 882.111).

Coverage after: Yes.

The legislation does not change the test for who is considered a recipient.

6. STEEL MILL USING WATER PURIFIED IN MUNICIPAL WASTEWATER TREATMENT PLANT BUILT WITH EPA ASSISTANCE

Coverage before: No.

The Steel Mill is not a recipient of federal financial assistance. A steel mill is no different from any other consumer of water. Those using publically provided water do not become recipients of federal financial assistance, because the municipal

wastewater treatment plant may have received a federal grant.

Coverage after: No.

The legislation does not change the test for who is considered a recipient.

7. CORPORATION WHICH CONDUCTS VOCATIONAL EDUCATION PROGRAMS WHICH ALSO RECEIVES GRANTS FOR DEFENSE-RELATED RESEARCH

Coverage before: Yes.

Before the Grove City College case, when a corporation received federal assistance certain nondiscrimination obligations applied. It was covered by Title VI, Section 504 and the Age Discrimination Act with respect to all its operations at the establishment which received the assistance, and all of its education activities were covered by Title IX.

Coverage after: Yes.

The entire purpose of this legislation is to return the laws to their pre-Grove City requirements. In order to make it clear that coverage of private corporations remains the same, the substitute includes statutory language which specifically limits coverage of corporations to the establishment of the corporation which receives the assistance. The term establishment essentially connotes a geographical limitation so that only the plant or facility that receives the financial assistance is covered. Of course the entire plant or facility would be covered.

8. SMALL TOOL AND DIE BUSINESS RECEIVING TECHNICAL AID FROM STATE OR LOCAL GOVERNMENT ECONOMIC DEVELOPMENT PROGRAM

Covered before: No, unless the technical assistance was the result of federal financial assistance for that purpose. The regulations have always made clear that federal financial assistance could take the form of technical assistance. However, this has never meant that any such technical assistance from a state or local government to a private company constituted federal financial assistance.

Covered after: No.

The grandfather provision makes clear that an entity which was not a recipient prior to Grove City is not a recipient under this bill.

9. BIG BROTHER PROGRAM RECEIVING ASSISTANCE FROM STUDENT VOLUNTEERS AT A FEDERALLY ASSISTED COLLEGE

Coverage before: No.

None of the statutes or applicable regulations indicate that the assignment of volunteer help constitutes federal financial assistance. The Title VI regulations do make clear that "federal financial assistance" may take the form of "the detail of Federal personnel" or work performed by "employees" of the recipient of Federal financial assistance. But these provisions do not cover the use of volunteers, (See e.g. 7 C.F.R. 15.2(a) and (k), Agriculture Department regulations).

It is also important to note that Title IX contains an express exemption which permits tax exempt voluntary youth service organizations to regain their single sex membership policies. (20 U.S.C., 1681 (a)(6)(B))

Coverage after: No.

The legislation would not change the recipient status of any entity.

10. CHURCH OPERATING A SCHOOL RECEIVING TITLE I ASSISTANCE

Coverage before: No, unless the church also received the assistance.

Churches, like other institutions and entities have always been subject to the nondiscrimination laws if they received federal financial assistance. The only exemption has been for those situations in which application of Title IX would be inconsistent with religious tenets (20 U.S.C. 1681 (a)(3)). The question is whether a church is a "recipient" of federal financial assistance whenever it operates a federally assisted school.

The church would be covered if it received some of the federal financial assistance extended to a school it operates, but it would not be the automatic result of federal financial assistance to the school.

Coverage after: No, except when the church also receives the assistance.

11. UNIVERSITY-OWNED COMMERCIAL OR RESIDENTIAL BUILDING

Coverage before: Yes.

The inclusion of the commercial activities of universities in the Title IX prohibition on discrimination is not the result of anything in the Civil Rights Act of 1984. The broad scope of the law, reflected in regulations which encompass even non-educational activities, give strong indication that university-owned commercial or residential buildings be covered. Such a building would also be covered under Title VI, Section 504 and the Age Discrimination Act. These laws make no distinction between educational and non-educational activities.

Coverage after: Yes.

The legislation simply restores the coverage situation that existed before the Grove City decision.

12. NATIONAL POLITICAL PARTIES

Coverage before: No.

The national political parties have nondiscrimination obligations under the Voting Rights Act; however, no additional civil rights obligations arise from the receipt of federal Presidential campaign funds. The regulations are silent on this point, but a 1980 federal court decision sets out that we view as the appropriate analysis to explain why federal presidential compaign funds do not trigger coverage under the laws amended by the Civil Rights Act of 1984. The judge found that Section 504 did not apply to the two presidential campaign headquarters because the legislative history of the law authorizing the funds made clear that the money was intended for the sole purpose of benefitting the campaign activities of the candidates. Each candidate is therefore the "ultimate beneficiary" of the funds and the exemption from recipient status should apply. (See *Paralyzed Veterans of America* v. *Civiletti*)

Coverage after: No.

13. PROFESSIONAL BASEBALL TEAM PERFORMING IN MUNICIPAL FACILITIES

Coverage before: No.

No coverage of a professional or other sports team would come about simply because it played in a municipally-owned facility, even if the city was a recipient of federal financial assistance. The concept of indirect assistance, which has always been in the regulations, have never been interpreted to apply to such situations. (See Title VI definition of recipient, for example.) For assistance to extend indirectly there must be something more than the lease of a municipal facility. The city, or any other recipient of federal financial assistance must be nondiscriminatory in its treatment of those who use a building (or stadium), but this does not impose civil rights obligations on those using the facilities.

Coverage after: No.

Nothing in the legislation would make any entity a recipient which was not a recipient before.

14. INSURANCE COMPANIES ADMINISTERING MEDICARE OR MEDICAID PROGRAMS

Coverage before: No.

According to the Department of Health and Human Services, insurance companies which administer Medicare and Medicaid contracts do so as contractors performing administrative services for the agency. They have never been considered "recipients" on the basis of these contracts. The companies do not receive the federal money extended to Medicare or Medicaid beneficiaries; they receive payment from HHS for the services they perform as would any other contractor. (See, "Report on the Major Programs Within the Jurisdiction of the Subcommittee on Health and the Environment." Committee on Energy and Commerce. Committee Print 98–C, April 1983, p. 5.) The legislation would do nothing to change the status of these arrangements.

Coverage after: No.

15. DOES THIS LEGISLATION COMPEL RELIGIOUSLY AFFILIATED SCHOOLS SUCH AS NOTRE DAME OR BRIGHAM YOUNG TO PERFORM ABORTIONS?

No. Title IX prohibits education institutions from discriminating on the basis of sex in the provision of health care services. There is no affirmative requirement that any particular institution provide abortion services. In addition, educational institutions controlled by a religious organization are protected by an exemption already included in Title IX. This exemption removes these institutions from coverage to the extent that such coverage would not be consistent with the religious tenets of the organization.

U.S. SENATE,
Washington, DC, September 24, 1984.

DEAR COLLEAGUE: Last week we announced our intention to ask the Senate to debate the Civil Rights Act of 1984. We also indicated that we would offer a clarifying amendment to the bill we originally introduced to answer the unfounded allegations that S. 2568 expands civil rights coverage.

We have now made our clarifying amendment available and it has been met with a new set of allegations and false claims by those who oppose us.

We believe it is important that our supporters have the facts. Attached to this letter is our response to these most recent misrepresentations.

We think it will give you a better understanding of our proposal and help you recognize that our opponents intent is not to offer constructive suggestions but to undermine and kill the bill.

We hope we have answered your questions. Please call Kitty Higgins (4-5465) or Sana Shtasel (4-9056) if we can be of any further assistance.

Sincerely,

EDWARD M. KENNEDY.
BOB PACKWOOD.

RESPONSES TO ALLEGATIONS IN HATCH "DEAR COLLEAGUE" OF SEPTEMBER 20, 1984

Allegation: Under the substitute, Federal assistance extended, for example, to the adoption services agency of a State Social Services Department would trigger the application of Federal rules and regulations to every one of the several dozen State agencies commonly grouped within the Department. Under pre-Grove City law, only the adoption services agency would be covered.

Response: This example is just wrong. Prior to *Grove City*, the entire State Social

Services Department would have been covered. Our bill changes nothing.

Allegation: Under the substitute, Federal educational assistance extended, for example, to a State Education Department would trigger the application of Federal rules and regulations to every education function of the State, broadly defined, no matter which Department administered the function. Under pre-*Grove City* law, only the Education Department would be covered.

Response: Under our substitute, if federal assistance is extended to a State Education Department, the Department is the recipient and only the Department is covered. This is the same as pre-*Grove City* law.

If, however, federal assistance is extended to the State in the form of an education block grant, under our substitute, all agencies within the State whose primary function is education would be covered, whether they actually received federal money or not. This is consistent with the pre-*Grove City* approach that education assistance covered the education programs of the State.

Allegation: Under the substitute, general Federal assistance extended to any corporation (or any form of Federal assistance extended to a profit or non-profit firm engaged in "health care or social services") would trigger the application of Federal rules and regulations to every plant, every division, every facility, and every outlet of that corporation. Under pre-*Grove City* law, only the unit actually receiving the assistance would be covered.

Response: General federal assistance, i.e. aid that is given without specific limits, extended to a corporation would trigger coverage of the entire corporation. This was also true under pre-*Grove City* law. Our amendment provides, however, that federal financial assistance extended to one establishment of a corporation would trigger coverage of only that establishment. Other similar establishment of the corporation would not be covered, nor would coverage extend to the rest of the corporation.

Allegation: Under the substitute, Federal assistance to a college or university would trigger the application of Federal rules and regulations to even the non-educationally related, commercial (e.g. real estate) operations of the college or university. Under pre-*Grove City*, only the education functions would have been covered.

Response: The inclusion of the commercial activities of universities in the Title IX prohibition on discrimination is not the result of anything in the Civil Rights Act of 1984. The scope of the law, reflected in regulations which encompass even non-educational activities, give strong indication that university-owned commercial or residential buildings be covered. Such a building would also be covered under Title VI, Section 504 and the Age Discrimination Act. These laws make no distinction between educational and non-educational activities.

Allegation: Under the substitute, general Federal assistance to a State would trigger the application of Federal rules and regulations to the "entire State" unless it could be shown through "clear and convincing evidence" that some entity did not actually receive the assistance. Under present law, except in the revenue sharing program, the presumption is reversed.

Response: Senator Hatch is correct that we are proposing a rebuttable presumption for coverage of entire states *if* they get general federal assistance. This tracks the rule for revenue sharing. The allegation that under present law, except for revenue sharing the presumption is reversed is completely inaccurate. Revenue sharing is in fact the only statute which contains a presumption formula for coverage under civil rights laws.

In our substitute, we have attempted to treat other federal assistance which is like revenue sharing, in the same manner as revenue sharing.

Allegation: Under the substitute, Federal assistance to a county or municipality would trigger coverage of the entire county or municipality, e.g. fire department, police department, welfare department, if any administrative overhead funds remained in the county or municipality. Under present law, such assistance would cover only the subunit actually receiving the funds, e.g. police department.

Response: General unrestricted assistance, such as administrative overhead, would be treated in the same way as revenue sharing funds. If a political subdivision received such general assistance, there would be a rebuttable presumption that the entire subdivision is covered. The presumption could be rebutted by showing that a particular department did not actually receive federal funds.

The extent of coverage triggered by general overhead assistance to a state or political subdivision prior to *Grove City* is unclear. The substitute is our best effort to treat this assistance in the same way as similar assistance, revenue sharing, has always been treated.

Allegation: Under the substitute, Federal authority to terminate funding to a recipient of Federal assistance is altered in uncertain ways. Federal termination or 'pinpointing' authority was not even at issue in Grove City (nor for that matter were three of the four statutes amended by S. 2568).

Response: Our bill continues to 'pinpoint' fund termination. It adopts the language straight from the key fund-termination case *(Taylor County* v. *Finch).* Senator Hatch is also wrong that fund-termination was not at issue in *Grove City.* It narrowed fund-termination of student aid only to the financial aid department, even though federal money in the form of student aid flowed throughout the college.

Allegation: Under the substitute, the so-called 'grandfather' clause is highly ambiguous and refers only to agency "rules" (no matter how consistent such "rule" might have been with Congressional statutes). In attempting to "clarify" the scope of coverage of such rules, the proponents of S. 2568 have clearly indicated their intent to impose Federal rules and regulations upon such "indirect recipients" of Federal assistance as grocery stores redeeming foods stamps, pharmacies and hospitals performing services for Medicare recipients, landlords accepting rent vouchers, and so forth. None of this coverage is clear today.

Response: The purpose of our bill is to restore the status quo ante Grove City. Senator Hatch has stated his support for this concept. Grandfathering existing regulations is the clearest way to restore the status quo ante.

This criticism by Senator Hatch confirms that he is opposed not to our bill, but to the basic laws.

Grandfathering existing regulations would leave completely unchanged the coverage of grocery stores, hospitals, etc.

Allegation: Further, in attempting to "clarify" the scope of coverage of such rules, the proponents of S. 2568 have indicated that various loan guarantee programs, e.g. student loans, health education loans, trigger the application of Federal rules and regulations to "recipients." This is not the law today.

Response: Our bill makes no change whatever in the definition of what is Federal financial assistance.

Mr. HATCH. Mr. President, again, this makes my point. We are at the last stage of the session and we finally get answers to questions we have been asking for months now. We get them on the last days of this session, when nobody can make a final determination whether those answers are right or wrong.

Mr. President, I can tell you that I do not think anybody can read this bill without raising these questions and realize that they cannot be answered in a cavalier fashion like this. This is a complex matter.

Mr. KENNEDY. Mr. President, will the Senator yield for a question?

Mr. HATCH. If the Senator wants to use his own time.

Mr. KENNEDY. I will be glad to.

Mr. HATCH. Let me finish remarks and I will be glad to yield for any questions.

Mr. President, I would also like to keep the record open to include my own responses to their responses because I believe we can show that their responses are not responsive under the circumstance.

Mr. President, I ask unanimous consent that that be the case as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Do I understand that we will be able to respond to the Senator's responses to our responses?

Mr. HATCH. Sure. I amend my request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. We may never get past this session.

Let me say this: I do not impugn malicious or bad motives to the sponsors of this bill and I do not believe they do to me. At least one Senator has indicated that perhaps a small band of people is trying to prevent this who may have interests opposed to civil rights. I am not part of that small band. I want the record to show that. And I do not believe any other Senator is part of that small band either.

Be that as it may, we need to address the questions concerning trickle down coverage—the questions as they affect State and local governments. We need to discuss the way in which this measure will affect the private and business sector—which has never been affected before—and the nonprofit organizations such as colleges and universities. If we could discuss these issues and if we could all agree on what is or is not discrimination, even then you would question whether we should give the Federal Government such control over State and local governments as this amendment does.

But even if we assume that we should, the problem here is we cannot agree. Some of the greatest debates in our country today are beyond that traditional concept of what is or is not discrimination. You get into areas such as whether educational institutions, because of title IX have to treat abortion because like any other medical operation or procedure; whether adoption by institutions of separate dress codes for female and male students would be permitted; whether adoption by educational institutions of counseling practices in which men and women are encouraged to pursue traditional careers is proper; whether we should have quotas; whether there is a matter of reverse discrimination with regard to quotas; whether the effects test should become the determining factor; whether licensure should be continued; whether States discriminate because statistically there may be fewer women than men or fewer blacks than whites in a given profession.

Who knows? These are tough questions. You cannot cavalierly dismiss them by filing this bill in the last throes of this particular session and expect Senators to pass it.

Mr. President, I think this type of legislation deserves to be considered in as much detail as possible. I would not be so opposed at this particular point had the committee structure and all the other procedures in the Senate been followed.

Here we are at the last minute using another procedure to get this up before the Senate when in fact this is not a germane quesion.

The Senator from Oregon has stated that if this is germane to the continuing resolution, anything is germane to the continuing resolution. I agree with him. If this is germane to the continuing resolution, then anything is germane to the continuing resolution.

Mr. PACKWOOD. Will the Senator yield? I think he has turned it around. I think what I said was that if anything is germane to the continuing resolution then the Civil Rights Act of 1984 is germane.

Mr. President, I would defy the imagination of any man or woman to say it was not germane to this half-trillion dollar resolution.

Mr. HATCH. Mr. President, I yield the floor and reserve the remainder of my time.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself such time as I may use.

Mr. President, the Senator from Utah has asked certain rhetorical questions and stated that those who are supporting this legislation have not been able to respond to these questions.

These are basically old chestnuts, red herrings, straw men and women, or however you want to describe them, that were responded to on the floor of the House of Representatives and also the questions were circulated in the letters by the Senator from Utah, two different "Dear Colleague" letters, one on September 5 and another one on September 20.

I believe I am correct in my understanding that the September 20 "Dear Colleague" letter was responded to by myself and the Senator from Oregon, Senator PACKWOOD, on September 24, with all of the questions that were raised by the Senator from Utah, with all of the responses to it.

I can read down his questions and go yes, yes, no, no, yes, yes, no, but I think for the benefit of the Members, I will make sure that those responses are included as a part of the RECORD as the Senator from Utah requested that they should be. I will also include the complete series of responses to the Senator from Utah's letter of September 5, which was responded to again by myself and Senator PACKWOOD on September 19.

Each of the illustrations that he used this afternoon were questions which he included in those various "Dear Colleague" letters and have been responded to completely and fully.

I ask unanimous consent that both the letters of the Senator from Utah and the responses by the Senator from Oregon and myself be printed in the RECORD at the point in the RECORD at which the Senator from Utah's questions are printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, we have some other Senators that are on their way to the floor who would like to be heard. I have some additional comments and I would like to reserve the balance of my time.

How much time remains to the Senator from Utah and how much to the Senator from Massachusetts?

The PRESIDING OFFICER. The Senator from Massachusetts has 13 minutes and 20 seconds.

Mr. KENNEDY. And the Senator from Utah?

The PRESIDING OFFICE. The Senator from Utah has 14 minutes and 51 seconds remaining.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I wonder if the Senator from Massachusetts would object if I responded to some of the substantive arguments that were made by the Senator from Utah?

The PRESIDING OFFICER. Will the Senator from Massachusetts yield time to the Senator from Oregon?

Mr. KENNEDY. Yes.

Mr. PACKWOOD. Mr. President, I talked earlier about the morassic procedure we were in but I cannot resist responding to the Senator from Utah as to the substance of the Civil Rights Act of 1984, as long as this is going to be a substantive debate. So let us go through the history of where we are and why we are here tonight.

There are four principal civil rights acts in this country that we are dealing with here: the Civil Rights Act of 1964 which is the grandparent of all of these; title IX of the Education Amendments of 1972 which was the one the Grove City evolved from; the Rehabilitation Act of 1973; and the Age Discrimination Act of 1975.

Bear in mind there was 8 years difference between the 1964 Civil Rights Act and the 1972 title IX act—8 years.

The 1964 Civil Rights Act read—and I am only going to quote a small portion of it:

> No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance.

"Program or activity receiving Federal financial assistance."

Eight years later, title IX of the 1972 Education Amendments read as follows:

> No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

The Rehabilitation Act of the next year virtually used the same words, "program or activity receiving Federal financial assistance."

Finally, the Age Discrimination Act of 1975 uses the same words, "programs or activities receiving Federal financial assistance."

It was the term "program or activity" that was interpreted in the Grove City case. For years this Congress and administrations from Richard Nixon to Lyndon Johnson, all of the Attorneys General, and all of the Deputy Attorneys General in charge of the Civil Rights Division assumed that "program or activity" meant institutionwide or the equivalent of it in all of those acts. When we talk about a college, we are used to the term institution. When you talk about a State, you do not normally refer to it as an institution. But in all of the interpretations, everyone assumed "program or activity" meant the equivalent of institutionwide under all four acts.

Now, the best way to follow what that means is to go back to the regulations that were issued under the relevant acts.

Mr. President, let me read the regulations that were issued before there was a title IX. I am quoting from the Code of Federal Regulations for title VI of the Civil Rights Act of 1964:

In the Federally-affected area programs . . . for construction aid and for general support of the operation of elementary or secondary schools, or in programs for more limited support to such schools such as for the acquisition of equipment, the provision of vocational education, or the provision of guidance and counseling services, discrimination by the recipient school district in any of its elementary or secondary schools in the admission of students, or in the treatment of its students in any aspect of the educational process, is prohibited.

If you take money for a vocational school then your school system—the entire system—is prohibited from discriminating. That was the definition of programs or activities.

Let me read a letter from Secretary Weinberger. I do not mean Secretary of Defense Weinberger, I mean Secretary of Health and Education Weinberger in 1975. He was writing to the House committee that was receiving title IX and explained why the term "program or activities" meant institutionwide. Here is what he said:

[O]ne of the places you look for guidance is in the interpretation that the courts have given to similar statutes. Title VI, in the Finch case, was interpreted in a way . . . that programs that have any educational value or any educational meaning are the ones that are covered regardless of whether the Federal funds go specifically to those programs.

In other words, if the Federal funds go to an institution which has educational programs, then the institution is covered throughout its activities. That essentially was the ruling with respect to similar language in title VI, and that is why we used this interpretation in title IX.

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. PACKWOOD. Without losing my time.

Mr. BAKER. Mr. President, I ask unanimous consent that he may yield without losing his right to the floor. It will not take but a second. The minority leader advises me that he is in a position now to clear the unanimous consent that we vitiate the cloture vote at 6 and I make that request at this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I will wrap this up in 2 minutes, because I know there are others who want to speak. There is no question that the term "programs or activities" means institutionwide or the equivalent under all four statutes. The same words are used in all four statutes. The same words are used in the regulations of all four statutes. Now comes the Grove City College case and the Supreme Court interprets "programs or activities" to be very specific and narrow. The court said in essence, if the French department gets money you can still discriminate in the athletic department.

Now, we can agree on reversing the Grove City College case. That was a title IX case. But my fellow Senators need to know that the admininstration has said they are going to enforce all other civil rights statutes in light of the interpretation of the Supreme Court in the Grove City decision. Henceforth, it will mean "programs or activities" for the grandparent of all our acts, for title VI; "programs or activities" of the handicapped; "programs or activities" for the aged. And that is why we were trying to reverse all of these statutes. Not to change the law, but to put the law back on what everyone thought it was prior to the Grove City case. No malice intended, no evil intended, no trickery intended, but to put the law back to where it was.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. Five minutes and forty four seconds.

Mr. KENNEDY. I yield 2 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I rise to make one simple statement. I was an Assistant Secretary of Labor in 1964 when the Civil Rights Act was passed. I had been part of the Kennedy administration which had proposed it. The basic elements of that 1964 measure were central to the administration and central to our Department. When this measure passed, there was not a person in this city who anticipated the Supreme Court's interpretation of title IX of the Education Amendments of 1972, in the case of Grove City College against Bell. The persons who favored the 1964 Civil Rights Act understood that its application would be universal in the institutions involved, and the persons who were against it had the same understanding. It was as clear-cut a proposition as any concerned with that debate, which lasted for 2 full years. It would not have been in the imagining of anyone when it was passed 20 years ago that the court might take the action that it did. Now, two decades later, we join to reaffirm the enforcement requirements of the 1964 statute, as well as three other antidiscrimination statutes modeled on the 1964 act.

Title IX of the 1972 Education Amendments, section 504 of the Rehabilitation Act of 1973 and the Age Discrimination Act of 1975. It seems to me that the logic of the law, the lesson of our experience under it, and the mandate of the Constitution of the United States require us to set the court right, to give it clear instructions if it so needs. Today we can set the record straight. This amendment would reaffirm the Nation's commitment to vigorous protection of the civil rights of American woman, minorities, elderly, and disabled citizens. Let us go forward directly.

Mr. President, is it imaginable that in this Chamber the day would come when the issue of the constitutional rights of American citizens would be regarded as not germane to legislation that involves practically the whole of the functioning of the American Government? Surely not, Mr. President.

I believe my 2 minutes have expired.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MOYNIHAN. I thank the Senator from Massachusetts.

Mr. HATCH. Mr. President, I yield 5 minutes to the distinguished Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I thank the Senator from Utah for yielding to me.

Mr. President, you might expect if I am involved in some floor maneuvering that I rise in strong opposition to the procedure of offering civil rights legislation as an amendment to the continuing resolution—an amendment which is clearly not germane—as well as to the substance of the amendment itself. But before I go into my reasons for opposing this amendment, I remind my colleagues that this is a test vote of great importance.

I hope my colleagues recognize that there is a great deal of opposition to this legislation and that every effort will be made by those Members to delay progress on this bill. Also, I must emphasize that if my colleagues rule against the Chair's ruling that this is a nongermane amendment, it will open the continuing resolution up to a myriad of controversial amendments that are also nongermane and which will create great difficulty in passage of this bill. If Members of this body choose to rule this nongermane amendment germane when it is clearly to the contrary, then it will not be the last vote taken on exactly the same issue during the course of debate on this continuing resolution.

I am greatly dismayed over the course of action that the sponsors of this amendment have chosen to take. As you know the original PACKWOOD-KENNEDY bill, S. 2568, has been pending for months in the Labor and Human Resources Committee, of which I am a member. Repeated efforts were made by the chairman of the committee, my colleague from Utah, to process the bill through

normal legislative channels and to give it the committee scrutiny that that normal legislative process provides. However, proponents of this bill has deliberately failed to attend the executive sessions of the Committee on Labor and Human Resources—thereby circumventing the committee process and avoiding attempts to clarify the intent and impact of the legislation. I suggest to the Members of this body that proponents of this legislation were unwilling to address very serious questions and legitimate concerns raised by the language in this proposal. Senator HATCH scheduled eight executive sessions for consideration of the measure in the committee, and not once were the proponents of this bill willing to make the quorum necessary to allow consideration of the bill.

Recently, with only 12 days remaining in the session, the proponents of this legislation have produced substitute language and expect this body to approve it with literally no hearings or committee action. They say that this substitute takes care of objections that many of us have raised over the past several months. But I think that many of my colleagues will agree that this substitute not only fails to deal satisfactorily with these problems, but presents new questions as to its meaning. It is evident, however, that both versions radically expand current Federal regulatory authority over the private and public sectors.

This new language has not been reviewed carefully by the Members of this body. No time remains for careful consideration, hearings, markup sessions, review by the agencies that enforce our civil rights laws or by any of the organizations, corporations, individuals and State and local governments that will be affected by this legislation.

I wish to make clear that one's opposition to the civil rights legislation in its current form does not mean that one is against civil rights. It does not mean that one wishes to see Federal-aid recipients free to discriminate against participants in their programs. It does mean that each piece of legislation we adopt—especially one as important as legislation on civil rights—must be drafted with clarity. The sponsors of this bill seem to have taken the attitude that only they know what is right; only they know how best to draft legislative language in this important and complex area. They have rejected reasonable offers of compromise language.

I should point out that it was the lack of clarity in the original title IX statute that led to the Supreme Court's decision in Grove City in the first place. Can we afford to enact another civil rights bill which is not as clear and as precise as we can make it?

I note that a diverse and wide-ranging set of groups and individuals have opposed the bill or raised very serious questions about it, including American Farm Bureau Federation, U.S. Chamber of Commerce, National Association of Counties, U.S. Catholic Conference, National Association of Manufacturers, American Hospital Association, National Association of Independent Colleges and Universities, Baptist Joint Committee, National Federation of Independent Businesses, Agudath Israel, Association of Christian Schools International, American Association of Presidents of Independent Colleges and Universities, Labor Policy Association, Association of Advanced Rabbinical and Talmudic Schools, and the American Association of Christian Schools.

Are these organizations and persons against civil rights? Of course not. They are against sloppy, slip-shod draftsmanship. They are against passage of a bill on so momentous an issue which is so unclear and ambiguous that even its sponsors do not know what it means. We owe our constituents a bill that they, Federal-aid recipients, Federal civil rights enforcement agencies, and the courts will understand.

Proponents of the substitute have tried to sell their measure as an attempt to overturn the Grove City case and restore enforcement of the four civil rights statutes to the "status quo ante." This simply is not the case. The substitute extends coverage for the first time to State and local entities that actually receive no Federal financial assistance. It also expands coverage for the first time to corporations and nonprofit organizations in their entirety if they are involved in "education, health care services, and social services." Such changes show utter disregard for the lines that have traditionally marked the boundaries between the public and private sectors and the boundaries between Federal and State authority.

I am sure that many Members of the Senate support the reversal of the Grove City decision that limited title IX coverage to specific programs and activities receiving Federal aid. S. 2568 and the new substitute are not the appropriate measures to accomplish this, however. I urge my colleagues not to obscure the current law concerning Federal civil rights coverage and enforcement. Passage of the new substitute would assure us of only one thing—a future filled with litigation as costly and as confusing as the past.

At this time, we must deal responsibly with this vote on germaneness and I hope that my colleagues will support the Chair's ruling.

Mr. HATCH. Mr. President, I yield 5 minutes to the distinguished Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. SYMMS. I thank the distinguished Senator from Utah for yielding.

Mr. President, the so-called Civil Rights Act of 1984, S. 2568, as incorporated in this amendment, proposes to amend four civil rights statutes simultaneously, in reaction to the Supreme Court's decision in *Grove City College v. Bell* [104 S.Ct. 1211 (1984)]. The success of the act heretofore in breezing through this and the other body would not be any greater had it been titled the "Healthy Babies Amendment of 1984." Yet the substance of the amendment would inject the Federal bureaucracy into the everyday life of State and local governments, small businesses, and farms, far more than has ever been the case.

Let us recall how this instrusion began. In the Grove City decision the Supreme Court affirmed a court of appeals holding that a college which has students receiving Federal educational grants was covered by title IX's anti-sex-discrimination provisions. There should be no mistake made about this decision—the college lost. From the media uproar generated by the proponents of this amendment, and from their own rhetoric, one would think not only that the college won, but that title IX itself was overturned. On the contrary: the college lost, and title IX remains as good law as ever.

Another essential fact has been wholly obscured in the dust thrown up by the proponents of this amendment. No one has ever accused the college of discrimination, of any kind. This case is not about unsavory sexists slipping through a crack in title IX enforcement provisions, or being allowed to make discriminatory hay with stacks of Federal funding. Rather, the college is composed of fair and high-minded citizens, Americans who just happen to want to remain free of the regulatory and administrative bureaucracy which follows every Federal dollar like the odor which follows an automobile which has met a certain black and white animal on the highway.

We might recall one other neglected fact: That the Federal funding which the college has refused to accept—refused on principle—is extracted from the college, from its students, its faculty, and its administrators. The Federal Government has made the conditions attached to getting some of it back so onerous that the college had systematically refused to accept the return of its own money. It says, in effect: You will weaken me by frivolous and time-consuming bureaucratic obligations having nothing to do with my one, overriding purpose—so keep the money; and I will be strong enough to remain independent, and unencumbered.

Now, as a result of this decision, which it lost, the college will have to insist that none of its students accept Pell grants—a hardship to all involved, which none but the Department of Education would wish—in order that it remain free of the intrusive and harping bureaucracy created by the statute.

The proponents of this amendment owe an apology to Grove City College for fostering the impression that sexism has triumphed and will go unpunished unless and until the Supreme Court's decision is overturned. The college lost the case, and it did so not because it had discriminated against women, or any other minority group, it lost it because it tried to remain free of the Department of Education's flying squad, which would dictate the school's policies in the guise of suppressing discrimination which even the Department admits does not exist. This is an illuminating case of the Federal bureaucracy trying to right a wrong before it has been committed and in the process itself committing a far fouler wrong.

What, then, was the outcry over the decision about? The screams went up because the Supreme Court held, in addition, that only the college's financial aid program, and not every department at the entire institution, was subject to the Department of Education's bureaucratic oversight. This was the Court's interpretation of what the statutory phrase "program and activity" meant.

The proponents of the amendment have asserted over and over that this was a radical narrowing of previous interpretations of the statute's language. The number of times they have repeated this particular chant does not contribute to its truth value. In fact, Grove City did not narrow previous applications of title IX as interpreted by Federal courts. An examination of Federal case law interpreting title IX reveals that a program-specific interpretation of its coverage was the norm before Grove City and that institutionwide coverage was an anomaly rarely upheld when challenged in Federal court by recipients of Federal money.

This aspect of the Grove City opinion infuriated the bureaucrats and interest groups because it put the Department of Education back in its place as administrator of the law as Congress wrote it. The Department has tried to have its way with the original statute and failed. It tried to have its way a second time with the regulations it promulgated, and failed. Now it is attempting to have its way a third time with this piece of legislation. But it will fail. At some point one hopes the Department will enforce the law as written, rather than trying to change it to something it prefers. Grove City itself demonstrates that the Department petulantly persisted in its interpretation even after the Supreme Court held, in the 1982 *North Haven* case (456 U.S. 512, 538), that title IX was program specific in its application.

Numerous Federal courts have repeatedly held that the four statutes affected by this amendment are program specific: *North Haven Board of Education* v. *Bell*, 456 U.S. 512 (1982); *Romeo Community Schools* v. *HEW*, 438 F.Supp. 1021, aff'd, 600 F. 2d 581 cert. denied, 444 U.S. 972 (1979); *Simpson* v. *Reynolds Metals Company*, 629 F. 2d 1226 (1980); *Othen* v. *Ann Arbor School Bd.*, 507 F.Supp. 1376, aff'd, 699 F. 2d 309 (1981); *Brown* v. *Sibley*, 650 F. 2d 760 (1981); *Rice* v. *President and Fellows of Harvard College*, 663 F. 2d. 336 (1981); *University of Richmond* v. *Bell*, 543 F.Supp. 321 (1982); *Hillsdale College* v. *HEW*, 696 F. 2d. 418; *Dougherty County School System* v. *Bell*, 974 F. 2d 78 (1982); *Bachman* v. *American Society of Clinical Pathologists*, 577 F.Supp. 1257 (1983). This has not noticably restrained the enforcement of the statutes. Some cases have held that Federal financial assistance is so substantial as to pervade the operation of an entire school system, and thus to allow the entire system to be treated as the program under section 504: *Pittsburgh Fed. of Teachers, Local 400* v. *Langer*, 546 F.Supp. 434, 437 (1982). See *Hafner* v. *Temple University of Com. System*, 543 F.Supp. 531 (1981); *Wright* v. *Columbia University*, 520 F.Supp. 789 (1981); *Poole* v. *South Plainfield Board of Education*, 490 F.Supp. 948 (1980). But where Federal grants are "directly awarded for and applied to specific activities . . ." and "not used generally to support the organization" this is not the case. *Bachman* v. *American Soc. of Clinical Pathologists*, 577 F.Supp. 1257, 1263 (1983).

Each statute and each case is different and the unsound generalization about restoring the pre-Grove City interpretation are built upon a pastiche of misunderstandings. This amendment thus presupposes a revisionist history of the original title IX legislation and of Congress' intentions. It willfully misinterprets the line of judicial decisions concerned with the statutes. In other words, the true effects of the present legislation have been artfully disguised.

Finally, the proponents of S. 2568, as included in this amendment, have been unable to resolve the many grave questions as to its reach and effect. As they have refused to participate in the subcommittee markup sessions, they are apparently afraid to respond to sustained and reasoned questioning about it. They have brought it instead to the floor, apparently with the hope that in the final rush of legislation, and in the blur of election year politics, it will escape the scrutiny it deserves. However, its possible unforeseen effects—and they are unforeseeable, given the bill as presently offered—upon small business, upon groceries, pharmacies, farms, ranches, apartment owners, upon States and local governments, upon insurance companies and banks, upon virtually any recipient of Federal moneys. The proponents of this amendment have been unwilling to argue out the extent of its reach and effects, and, therefore, I feel no compunction to expand my critique of it at this time. It is sufficient to say that it is a hasty and ill-considered measure, and that even its sponsors disagree as to its effects.

Mr. THURMOND. Mr. President, few laws are more important than those which protect the civil rights of our citizens. Legislative efforts to amend those laws—such as the bill before us today—must undergo thorough and critical analysis. To properly perform this analysis, we, as legislators, have a responsibility to look beyond the flashy titles which may be given to a bill, and beyond simplistic explanations that may be forwarded regarding its purpose, however compelling they may appear.

Mr. President, I want to take this opportunity to commend my distinguished colleague, Senator HATCH, for his efforts, as chairman of the Labor and Human Resources Committee and the Judiciary Subcommittee on the Constitution, to ensure that the so-called Civil Rights Act of 1984 is fully considered and debated. In addition to conducting three hearings on this legislation, Senator HATCH scheduled no less than eight executive sessions in order to have it debated and, if possible, reported by the Labor and Human Resources Committee.

On each occasion, however, the proponents of this bill prevented its consideration by failing to attend, by requesting postponement, or by using other delaying tactics. On several occasions, Senator HATCH, myself and other members of the committee majority have spent our time waiting for the proponents to show up so that their legislation might be properly debated and addressed. However, the proponents have not shown up, refusing to honor the committee process.

Now, having ignored the committee process, the sponsors of this legislation insist on its consideration by the full Senate as an amendment to an unrelated measure. I believe these actions to be highly objectionable and inappropriate.

Mr. President, the proponents of the so-called Civil Rights Act of 1984 have pointed out, and will continue to point out, that their bill was passed by the House of Representatives by a lopsided vote of 375 to 32 and that it has 63 cosponsors in the Senate. Some may

suggest that no legislation could be faulty with such bipartisan support.

I submit, however, that much of this support has been garnered through repeated misrepresentations—intentional or otherwise—regarding the purposes of the legislation and the implications of its enactment.

The most blatant of these misrepresentations, and the most critical, has been the statement that the Civil Rights Act of 1984 simply reverses the Supreme Court's decision in the case of Grove City College against Bell, decided on February 28, 1984, and returns the law to the status quo as of that date. This statement is not only disputed and disproved by many of those who have testified on this legislation and by other experts who have studied it, but by the language of the legislation itself.

Mr. President, most of us are aware that in the Grove City case, the Supreme Court made two major decisions in interpreting the language of title IX of the 1972 Education Amendments which prohibits sex discrimination in any education program or activity receiving Federal financial assistance. First, the Court held that a private college which receives no direct Federal financial assistance, but some of whose students receive Federal financial aid in the form of Basic Educational Opportunity Grants [BEOG's], is subject to title IX. It should be pointed out that the proposed Civil Rights Act of 1984 does not address this part of the Court's decision.

Second, the Court held that the students' receipt of the BEOG's subjects only the colleges financial aid program to title IX regulation, not the entire institution. In so holding, the Court narrowly interpreted the "program or activity" language found in title IX. Immediately following the Court's decision, and prior to the introduction of the proposed Civil Rights Act of 1984, many of my colleagues and others called for reversal of this part of the Grove City case.

While I personally would not go so far as to label as flawed, as some have, the reasoning used by the Supreme Court in this case, it is clear that there is widespread support in Congress, and by the administration, for the institution-wide approach to invoking coverage under title IX. I, too, support this approach.

Unfortunately, Mr. President, the legislation which was advertised as the bill to reverse the Grove City case, the Kennedy-Packwood proposal, goes far beyond merely a mandate of the institution-wide approach. Not only does it expand the breadth of coverage under title IX, it makes major and unnecessary amendments to section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964. It does so without any showing or evidence whatsoever, without so much as an allegation, that there is discrimination in this country which warrants expanded coverage under the civil rights laws.

Mr. President, the distinguished Prof. Charles Fried, who has taught at the Harvard Law School for the last 24 years, has summed up the proposed "Civil Rights Act of 1984" as follows:

> This bill represents our legislative process at its worst. It would make major changes in the structure of our antidiscrimination laws, in the balance of responsibility between the federal government and the states, in the balance between the responsibilities and prerogatives of private institutions and bureaucratic authority over those institutions. It will greatly enlarge the scope of agency discretion, and do so in an unsystematic, haphazard and overlapping way. It will invite a monumental increase in litigation in the federal courts, while providing little basis for federal judges to discipline and restrain that litigation. And it does all this without any showing of need; it does all this on the wholly spurious ground that we have here nothing more than a technical amendment to a number of statutes, a technical amendment necessitated to remedy the effect of an unfortunate, technical Supreme Court decision.

Mr. President, I believe it is important that the Members of this body carefully review the original and amended language of the "Civil Rights Act of 1984." Upon doing so, they will note that in each of the affected statutes the words "program or activity" are removed. These are the words which have previously described the scope of coverage which follows Federal financial assistance. That legislation proposes to replace the words "program or activity" with the word "recipient". The original bill, S. 2568, went on to define that word broadly—so broadly, I believe, that it is without theoretical or legal limitation. The new bill takes the approach of elevating to the level of statutory law the regulations which now exist. This proposal, Mr. President, is a very dangerous one which, by the admission of its sponsors, is substantively the same as their original bill.

Mr. President, as another example of the misrepresentations made about their original bill, I point out that the sponsors of the "Civil Rights Act of 1984" have often stated that the word recipient and its definition is merely drawn from the current regulations under the statutes affected by their legislation. They reason, therefore, that elevation of regulations to statutory language would have minimal effects on the law. It must be noted, however, that the term recipient, as defined in the Kennedy-Packwood bill and its amendment, would be interpeted outside the constraints heretofore imposed by the statutory "program or activity" language and will itself take on new force and stature as statutory language. Additionally, it is important to note that the definition of recipient, as it appears in this legislation, is not the same as its current form in the four regulations. In fact, the definition of recipient varies among those regulations.

Mr. President, all of us support, I believe, the proposition that Federal funds should not support discrimination. However, we cannot practically follow each Federal dollar throughout every facet of the public and private sector in our society. To do so not only would cost taxpayers millions of dollars in enforcement, but would certainly turn on its head the traditional and constitutional notion of Federal, State, and local autonomy and obliterate the distinction between the private and public sector.

There must be limitations on the tracing of Federal assistance, and pre-Grove City law did recognize the need for such limitations. The major concern of those who have criticized the proposed Civil Rights Act of 1984 is the unlimited tracing and, therefore, unlimited scope of its provisions. This legislation is a broad, nearly all-encompassing statute, and its sponsors seek to limit its scope, if at all, only through legislative history. This is no way to legislate. I would point out that under the rules of statutory construction, courts look first to the language of a statute. If its meaning is clear, then it is applied. If the statute is ambiguous, they may look beyond it to the legislative history for guidance. Review of legislative history is not automatic, and legislative history and report language do not control if the statute is unambiguous on its face.

The language of this legislation, I believe, is unambiguous. What is ambiguous is the intent of its sponsors. What do they intend to be the limitations on the tracing of Federal assistance and on coverage of the civil rights laws? Are mom and pop grocery stores which accept food stamps covered? At least one sponsor of the House counterpart to S. 2568 says they are. Are drug stores which fill medicaid or medicare prescriptions covered or the pharmaceutical companies which supply drugs to those drug stores? Are farmers covered? Are State and local licensing boards covered merely because a State or some part thereof is in receipt of Federal assistance?

Mr. Chairman, these and many other questions regarding the scope of the Civil Rights Act of 1984 must be answered prior to its enactment. I believe it is time that the sponsors of this legislation revise the language of their proposal to conform to their stated intent. On the other hand, if their real intent, as represented in the provisions of the legislation is to achieve a greatly broadened scope of

coverage under the civil rights laws, then I believe they should so state.

Mr. GLENN. Mr. President, I rise again in support of the Civil Rights Act of 1984. This legislation will remedy the decision of the U.S. Supreme Court in Grove City against Bell. The Civil Rights Act is intended to bring the law back to the status quo before the Grove City decision. That decision narrowed the discrimination prohibition in title IX of the Education Act amendments to the specific "program or activity" of a college or university receiving Federal financial assistance. Because title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act all use identical language to title IX, and because the Justice Department has already indicated that it will interpret all four statutes similarly, it is necessary to amend each statute to ensure that the civil rights of all Americans is protected.

Historically, the reference in title IX to a "program or activity" receiving Federal aid had been interpreted by the Department of Education and, until recently, the Department of Justice, as including an entire educational institution within the coverage of the statute's antidiscrimination provisions. Testimony on the original bill revealed that women in higher education—students, teachers and administrators—were being systematically denied the broad and promising opportunities available to men. Congress, therefore, concluded in 1972 that taxpayers' moneys shall not be used to support institutions that engage in discrimination based upon sex.

The Justice Department, in an excess of deregulation zeal, reversed its position in 1983 and filed a brief in support of the petitioners in Grove City College against Bell. In February of this year, the Supreme Court accepted the administration's argument and ruled that colleges and universities need only comply with the provisions of title IX with regard to specific programs receiving Federal funds. Henceforth, a college or university receiving Federal financial assistance is free to engage in sex-based discrimination in any program or activity for which it is not receiving direct aid from the Federal Government.

The technical correctness of the Grove City College decision may be debated, but the intent of Congress in passing the original legislation cannot. I believe, and Congress believed at the inception of title IX, that a college or university, as a condition to receiving Federal funds, must be willing to comply with the overriding Federal policy on eliminating gender discrimination. By working a few adjustments in the language of title IX, S. 2568 will restore this policy imperative to the statute, and avoid the flood of lawsuits the Supreme Court's decision is likely to engender.

I urge my colleagues to join me in support of the Civil Rights Act of 1984.

Mr. EAGLETON. Mr. President, I intend to vote favorably on the question of the germaneness of this amendment, and want to add my voice to those supporting ultimate passage of the 1984 Civil Rights Act.

Last February, when the Supreme Court handed down its decision in Grove City, it took the teeth out of the most important law government sex discrimination in education and, by implication, three other fundamental civil rights statutes.

Despite wild rumors to the contrary, this bill only seeks to restore the status quo ante, by clarifying that congressional intent is to be interpreted broadly—that Federal money will not end up subsidizing an institution that practices discrimination. A recent modification in the bill's language makes it absolutely clear that the legislation does not expand civil rights jurisdiction, but restores it to what it has been the past 20 years.

Attaching this omnibus legislation to the continuing resolution is perhaps our only opportunity to see the Grove City bill become law. We must take this step. Enactment of our civil rights laws—those covered by this bill—did not come easily. And Congress does not take lightly to these laws being tampered with. For those committed to equal opportunity and to equal protection of the law, we need this bill.

The unifying principle of this land is that we share a belief in the equal dignity of each person. This has always been America's promise, and we must continue to make good on it. This calls for perpetual resolve to ensure that the blessings of liberty apply with equal force to everyone. Restoring the strength and the clout of our most important civil rights laws is the best evidence that this Government is serious about these principles.

I urge my colleagues to vote favorably on the germaneness question, and to support ultimate adoption of this legislation.

Mr. SPECTER. Mr. President, I urge my colleagues to support the Civil Rights Act of 1984 which will ensure that Government funds are not available to assist in discrimination against women, minorities, the handicapped, and the elderly. If our constitutional guarantees of equality are to be fully recognized, the Government's resources cannot be allowed to aid and abet in discrimination.

This issue is, of course, before us now because the Supreme Court's February 28, 1984 decision in Grove City against Bell drastically limited the efficacy of title IX of the Education Amendments of 1972, of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973 and the Age Discrimination Act. In my thinking, to the extent enforcement of these civil rights laws is limited, every American is disserved.

In supporting the Civil Rights Act of 1984, I recognize that serious questions have been raised concerning the impact of this legislation, particularly the meaning of the term "recipient." As an original cosponsor of this legislation, I am confident that the intent of the sponsors was to preserve the status quo before the Grove City decision; however, I believe that any questions in this regard have been answered by the substitute language offered tonight.

As redrafted, the legislation grandfathers the regulatory definition of the term "recipient" in use at the time of the Grove City decision. Thus, only an entity which was a recipient for purposes of these four civil rights statutes as of February 1984 will be covered by this legislation. Conversely, any entity which was not covered then, will not be covered now.

Two other clarifications in the substitute amendment also clarify that the purpose of this act is to preserve not to expand civil rights enforcement. First, with respect to Government entities, the substitute language makes it clear that only the specific agency or department which actually receives the assistance or which is primarily responsible for carrying out the functions for which the assistance was granted is covered. Second, for private entities with multiple establishments, the language offered tonight clarifies that only the specific establishment which receives Federal financial assistance is covered.

Twenty years of progress in the elimination of discrimination must not now be sidetracked. Passage of the Civil Rights Act of 1984 will help to ensure the continued availability of fair and equal opportunity for women, minorities, the elderly and the handicapped.

Mr. CRANSTON. Mr. President, I am proud to rise today in strong support of the proposed "Civil Rights Act of 1984." This legislation is intended to restore the strength and vitality of four basic civil rights statutes in the wake of the devastating decision of the U.S. Supreme Court in the Grove City College case.

Mr. President, in a few moments I will discuss that decision and its potential impact upon these fundamental civil rights laws. However, preliminarily, let me say that there is no more important business before this body in the closing days of the 98th Congress than enactment of this measure. The U.S. Senate is called upon to reaffirm and rededicate the moral and legal force of our National Government to eliminate unjust discrimination in our

society, whether it be based upon race, color, sex, age, or disability. It is a task which we should not, which we cannot shirk.

Mr. President, we have struggled too long and we have traveled too far to allow a handful of individuals and organizations to turn back the clock on civil rights. Our Nation truly stands at a crossroads today. We can continue the efforts begun in the fifties, sixties, and seventies to put bigotry and prejudice behind us, or we can slide back to the days when their dark shadows eclipsed the bright hopes and dreams of those Americans whose color is not white, whose sex is not male, and whose bodies or minds are not young or whole.

Mr. President, this Nation was founded upon a dream of opportunity. It is a dream that must live for all Americans, not just for the fortunate few.

In the past several months, the opponents of this legislation have attempted to stir up every conceivable groundless charge, ignite every possible fear, and drag out every preposterous specter across the path of this legislation.

But the arguments and voices of the oppositon are not new.

They are the same voices raised against the original civil rights laws, against the Voting Rights Act, against the fair housing laws, against the equal rights amendment, and against programs like legal services for the poor. We have heard those voices and their distortions and scare tactics every time this Nation has moved forward to secure rights of all Americans to equality of opportunity and fairness under the law.

Mr. President, they were wrong in 1964 when the Civil Rights Act was enacted. They have been wrong time and time again. If anything, they are weaker today because this Nation has now lived for two decades under a fabric of civil rights laws, from public accommodations to voting rights. We know that these most fundamental of laws in a society founded on equality have worked and that all Americans have benefited from a society where segregation and discrimination is not accepted.

The opponents of these laws did not prevail in the past and they will not prevail today. This Nation is not willing to turn back the progress that has been made in putting discrimination and prejudice behind us. We will not stand by and let the civil rights laws of this land be dismantled. The stakes are too high.

Mr. President, at the time S. 2568 was introduced on April 12, 1984, I made a lengthy statement—which appears on pages 9261-9265 of the RECORD for that date—discussing the Supreme Court decisions in the cases of Grove City College and Darrone against Consolidated Rail Corporation handed down on February 28, a well as the case of North Haven Board of Education against Bell, decided in May 1982. At that time, I discussed the immediate and potential impact of those cases on the four civil rights statutes at issue—title IX of the Education Amendments of 1972, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act. I do not intend to reiterate that discussion now.

I would, however, note that both S. 2568 and the legislation derived from it that is being proposed today follow the same general approach for avoiding the limitations imposed by the North Haven, Grove City, and Darrone cases on the scope of the antidiscrimination provisions—as opposed to the funding cutoff provisions—of these statutes. Both versions of the proposed legislation would delete from these four laws the term "program or activity," which the Supreme Court had so narrowly construed and which fix the scope of the statutes under current law. The term "recipient"—of Federal financial assistance—would replace "program or activity." Thus, as proposed to be amended, the scope of these laws—in terms of their prohibitions of discrimination and the authorities they provide for agency regulations and enforcement activities—would be determined by the term "recipient" as proposed to be defined. Thus, through these changes, we intend to overcome the limiting effects of those decisions and the opportunities they provide for still further restrictions of the protection of these laws through narrow administrative interpretations of the Court's opinions.

Mr. President, I would also note at this point that, if there is any doubt as to whether the current administration intends to use these decisions to emasculate these statutes and their effectiveness, one need only look at the action already taken with respect to title IX since last February.

Already, the Department of Education has dismissed 23 pending sex discrimination complaint investigations against education institutions on the grounds that it no longer has authority to proceed.

Mr. President, should it be argued that the Reagan administration in taking such actions is merely applying the law as interpreted by the Supreme Court, I would point out that this administration advocated that interpretation when the Grove City College case was pending before the high court. I and Senators PACKWOOD and DOLE filed a brief in the Court opposing the Reagan administration's position. Unfortunately, the administration prevailed in its arguments to the Court.

Mr. President, this legislation, as it was introduced and as it has been modified, is intended to clarify the coverage of these statutes in the wake of the Court decision and the decision in the North Haven case in May of 1982, and restore them to their previous status.

Mr. President, much of the debate which has taken place and will take place involves the charges that the opponents of the legislation have made that the language goes beyond the stated intent. That line of attack provides a convenient smokescreen behind which to hide their true intent—to use the opportunity created by the Supreme Court decision to tear apart these statutes. As each hypothetical problem they have posed has been answered and rebutted, new ones have been formulated to confuse and distort the dialog.

This legislation is designed to restore the status quo that existed prior to the devastation created by the Supreme Court decisions.

And that is what it will do and all it will do when it is enacted.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield briefly to the Senator from Illinois.

Mr. DIXON. Mr. President, as an original cosponsor of S. 2568, the Civil Rights Act of 1984, I am pleased to join as a supporter of this amendment. The amendment would reaffirm congressional intent to abolish discrimination in all activities that receive Federal financial assistance.

At issue is the February 28, 1984, Supreme Court decision, Grove City College against Bell. The Court narrowed the application of coverage in title IX of the Education Amendments of 1972 which prohibits discrimination in education on the basis of sex. The Court ruled that only the specific "program or activity" receiving Federal funds at a school is subject to Federal discrimination laws and regulations, not the school as a whole.

We all know this was not the intent of Congress when it approved title IX.

In addition, antidiscrimination language that is nearly identical to provisions of title IX is used in three other civil rights statutes; namely, title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and section 504 of the Rehabilitation Act of 1973. By implication, the Grove City decision could be applicable to these laws which prohibit discrimination by race, national origin, age, or handicap. As a matter of fact, this administration has indicated its intent to interpret these statutes so that they, too, will conform with the Court's decision.

Mr. President, I support the position that the Court misinterpreted congressional intent on this matter. Simply

put, this amendment overturns the Court's decision. It provides for no new civil rights advances. It restores the four civil rights laws to where they stood for many years prior to the Grove City decision.

The amendment before us today would substitute the word "recipient" for the Court's interpretation of the term "program or activity." A grandfather clause defines "recipient" to include any entity that was covered by agency regulations that were in effect prior to Grove City. Therefore, under the civil rights statutes, any entity that was covered prior to Grove City would still be covered under this amendment. Any entity not covered prior to Grove City would not be covered. This provision is specifically intended to assure that the definition of the word "recipient," as used in each of the four civil rights statutes, is not expanded.

Since I've received so many expressions of concern from farmers about their coverage under this amendment, I want to provide assurance to them that this amendment would not subject farmers to any new controls due to their participation in the farm subsidy program.

As my colleagues know, I am not one to be frivolous in overturning a Supreme Court decision. However, this is an instance where an overturn is justified. Clearly a majority of the American people oppose racism, injustice, and discrimination whenever and wherever it exists. Likewise, a clear majority of the people object to our Federal dollars going to subsidize discrimination. Additionally, S. 2568 has bipartisan cosponsorship from 63 Senators.

Mr. President, I urge my colleagues to join with us in supporting the adoption of this amendment. In order to proceed, I further urge the Senate to hold this amendment germane.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 3 minutes and 11 seconds.

Mr. KENNEDY. I yield 1 minute to the Senator from Oregon.

Mr. PACKWOOD. Mr. President, let us be very clear about what this vote is. This is going to be the test vote on civil rights for this Congress, period. There may not be any other vote. I do not know how this will come out. This is the test. There is no question that this amendment is germane. Unfortunately, it is a simple, shabby process. I am not talking about this civil rights amendment, I am talking about this continuing resolution bill and the process we are going through and are going to go through. It is germane. It is the civil rights test vote. Let everyone be aware of how they are going to be judged.

Mr. HATCH. Mr. President, I yield 5 minutes to the distinguished Senator from Kansas.

Mr. DOLE. Mr. President, I believe the record will reflect that I have been involved, actively involved, in trying to work out some solution of the Grove City problem. Many of us have spent many hours. We have had staff spend more hours. We have been up half the night in some cases, trying to resolve this very important issue.

I am a cosponsor of the so-called Packwood-Kennedy proposal, but I must say, after carefully looking at it, that I felt we needed to make some changes, and that is the part we are trying to do.

If we are going to open the floodgates on a continuing resolution for a superfund and the REA bill and everything else stacked out there, this is where you pull the plug, on this vote.

I think that those of us involved have not given up on some Grove City resolution between now and when we adjourn on Friday of next week. We all want this issue worked out. We want a bill this year.

This afternoon, I discussed another compromise I am thinking about trying to float on both sides to see if it might work.

I share the views expressed by the Senator from Oregon and the Senator from Massachusetts. As to whether it is germaine, I do not think it is germane. I think the procedure is getting a little out of hand. But as one who has to bring up the debt ceiling in the next few days, if you lose here, you will probably be back on the debt ceiling, and we will go through this again.

So far as I know, everyone is in good faith: the Senator from Utah [Mr. HATCH], the Senator from Oregon, the Senator from Massachusetts, Brad Reynolds, Bill Taylor of the Leadership Conference. I do not believe anyone has fought not to reach a resolution of this very important problem. But I hope we will not vote that this is germane to the continuing resolution. If you do, you may want this, but you may not want the next 9 or 10 amendments that are going to be offered—big legislative programs offered at the last minute on the continuing resolution.

I yield back the remainder of my time.

Mr. HATCH. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. Two minutes and twenty-four seconds.

Mr. KENNEDY. I yield myself such time as I have.

May we have order?

The PRESIDING OFFICER. The Senate will be in order. Those wishing to talk will please retire to the cloakroom.

Mr. KENNEDY. Mr. President, the issue before the U.S. Senate at 6 o'clock is a very simple one. It is the issue of discrimination. It is the issue of whether American taxpayers' money is going to be used to discriminate on the basis of race or age or sex or handicap. That is the issue. Make no mistake about it.

It has been the understanding of Members of this body and the House of Representatives for 20 years that we are not going to permit American taxpayers' money to be used for discriminatory purposes, until the Supreme Court misconstrued the legislative intent of the Congress of the United States.

All we are attempting to do is to make sure that taxpayers' money will not be used for discriminatory purposes. That is what this vote is on, at 6 o'clock tonight.

The House addressed this issue, and by a margin of 10 to 1 they decided that American taxpayers' money should not be used for discrimination. We have the same opportunity to make that choice, when the roll is called at 6 o'clock.

This body, during the time I have been here, 22 years, on the important issues of discrimination and fairness and equity, has voted very clearly, on both sides of the aisle, in favor of the fundamental value of this country, and that is that we will not stand for discrimination. That is the issue; that is the vote. Make no mistake about it. The country is watching what we are going to do.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Utah has 4 minutes and 14 seconds.

Mr. HATCH. I yield the remainder of my time to the distinguished majority leader.

Mr. BAKER. Mr. President, I have requests for time, and I yield briefly to the Senator from Vermont, the Senator from Michigan, the Senator from New Jersey, and the Senator from Ohio.

Mr. LEAHY. Mr. President, it is a sad day when a Member of this body is given the unhappy choice of serving the interest of the Senate or the interests of the American people. The opponents of the Civil Rights Act of 1984 have put us in that position, and despite my opposition to the principle of using an appropriations measure to enact substantive legislation, I support the current amendment as germane.

When the Supreme Court in Grove City versus Bell last winter dealt a blow to four of the most important civil rights statutes ever adopted, this body set to work drafting legislation to return these laws to their former status. In April 63 Members of the

Senate joined in such a bill, S. 2568, and companion legislation was introduced in the House.

The House passed the Civil Rights Act overwhelmingly, but in the Senate opponents undertook an intensive campaign to demonstrate that this bill went beyond the task of restoring these laws to their effect before Grove City.

Testimony to the contrary in the Senate was clear and overwhelming, and I think it is fair to say that no civil rights measure ever received greater scrutiny.

In June, negotiations began between supporters and opponents, within the Senate, the administration, and the civil rights community. At times these negotiations seemed endless, and I am sorry to say the result was not complete agreement.

Nevertheless, changes were made to an already satisfactory bill making it literally impossible to interpret these historic laws more broadly than they were interpreted before Grove City.

The continued opposition of the bill's opponents tells a sad story. It says that deep in truth, no amount of assurance, no new clauses, no additional "grandfathering" of pre-Grove regulations will turn their hearts.

And meanwhile the country waits.

Women, racial minorities, handicapped Americans, and senior citizens are waiting.

The future progress of civil rights waits in the balance.

As this session comes to a close, I am going to vote to consider this bill now. The continuing resolution will result in the expenditure of billions of tax dollars. Without this bill, we can say with certainty that some of those dollars will end up supporting discrimination.

Again, I don't like adding anything to a resolution like this, but given the stakes, the amendment could not be more germane.

I am deeply sorry this is the way we are compelled to do business. But my position is clear. I will vote "aye."

Mr. RIEGLE. Mr. President, the amendment before us reaffirms the congressional intent to prohibit discrimination on the basis of race or national origin, sex, handicap, or age in institutions that receive Federal financial assistance. Simple justice demands that public funds should not be used to subsidize or encourage these invidious forms of discrimination. The enactment and enforcement of title VI of the 1964 Civil Rights Act, title IX of the 1972 Education Amendments, section 504 of the 1973 Rehabilitation Act, and the 1975 Age Discrimination Act have corrected and prevented many instances of discrimination. Our commitment to combating these forms of discrimination requires the continuing vigorous enforcement of these civil rights laws.

Regrettably, the Supreme Court decision of Grove City College versus Bell last February will not ensure that this vigorous enforcement will continue. That decision, which the Reagan administration sought in its argument before the Court, represents a major retreat from the enforcement of these laws. As my colleagues are aware, the Grove City decision stated that while title IX's antisex discrimination provisions apply to an institution whose students receive Federal financial aid grants, those provisions apply only to the financial aid program. That decision permits a school to discriminate in its academic courses, extracurricular activities, and other programs provided that it does not discriminate in its financial aid program. This narrow interpretation runs counter to congressional intent and to the enforcement of title IX's provisions by all administrations, Democratic and Republican, except for the present one. This decision affects not only title IX, but the other civil rights laws that I have mentioned, because they contain the same program or activity language that the Supreme Court interpreted in reaching its Grove City decision. In fact, Congress modeled title IX's language after that found in title VI of the 1964 Civil Rights Act. Moreover, Assistant Attorney General for Civil Rights, Bradford Reynolds, has stated that he would apply the Grove City interpretation to other civil rights laws. It should be clear to everyone that this decision will result in a retreat from the vigorous enforcement of these civil rights laws. Indeed, I understand that because of the Grove City decision, the administration has closed 23 civil rights investigations and has narrowed the scope of many others.

In an effort to restore the broad scope and coverage of these four civil rights laws that existed prior to the Grove City decision, Senators KENNEDY and PACKWOOD introduced S. 2568, the Civil Rights Act of 1984. That bill has the broad, bipartisan support of 63 Senators and I am proud to be one of those 63 cosponsors. Furthermore, the companion bill in the House (H.R. 5490) passed in that body by an overwhelming vote of 375 to 32 in late June. Despite the assurances of S. 2568's drafters that their intent is only to restore the enforcement and coverage of these laws as they existed prior to the Grove City decision, opponents of the bill have offered numerous horror stories to argue that the bill greatly expands Federal control over local entities. Mr. President, these claims are simply unfounded. Nonetheless, in an effort to reach an understanding and to show their good faith, the major proponents of S. 2568 have met in lengthy sessions over the past few months with representatives of the White House, the majority leader, and other Members. While the parties have been unable to reach final agreement, they have come close to ironing out their differences. The substitute to S. 2568 that is before this body represents an attempt to answer most of the concerns expressed by the White House and many of S. 2568's opponents.

This substitute amendment replaces the program or activity language that the Supreme Court interpreted in Grove City with the term "recipient." This change ensures that, as the Congress intended, discrimination on the basis of race or color, sex, handicap, and age will be prohibited throughout an entity that receives Federal funds. This substitute deletes the definition of "recipient" that appears in S. 2568 and instead, grandfathers the regulatory definitions of "recipient" under the four statutes as they existed on the day before the Grove City decision. This change is for one simple reason. It reflects the intent of the proponents to restore the law as it existed prior to Grove City, neither expanded nor restricted. Whoever was a recipient under these regulatory standards continues to be a recipient. Whoever was not a recipient under these standards will not be made a recipient under this amendment. This substitute amendment makes two further clarifications in order to accommodate the concerns expressed regarding coverage of States and localities and large business with multiple plants.

First, to clarify the intent regarding coverage of States and localities, this amendment extends coverage only to departments and agencies that actually receive Federal assistance for which are primarily responsible for carrying out the functions for which the assistance was granted. Second, this amendment makes clear that only those establishments of a corporation that receive Federal assistance are covered. Other establishments of that corporation would not be covered unless they receive Federal assistance. Finally, the amendment before us retains the narrow pinpoint termination of funding enforcement provisions. Mr. President, these changes should make clear that the proponents of this legislation seek only to restore the law as it existed prior to Grove City.

The proponents of the Civil Rights Act of 1984 have negotiated in good faith. Now is the time to proceed to restore the civil rights that have been restricted as a result of the Grove City decision. The amendment before us will insure that active enforcement of these civil rights laws will continue. Enactment and enforcement of these civil rights laws have helped to eradicate instances of discrimination. They have helped to make possible many of the achievements of our Olympic ath-

letes. Let us show the American people that our commitment to prohibit discrimination on the basis of race or national origin, sex, handicap, and age is as strong today as ever. I urge my colleagues to demonstrate that commitment by voting in favor of the amendment before us.

Mr. LAUTENBERG. Mr. President, I rise in strong support of the Civil Rights Act of 1984. Twenty years after Congress passed the landmark Civil Rights Act of 1964, it is deeply disappointing that we are still struggling over legislation to enforce our antidiscrimination laws. At this point in our Nation's history, we should no longer be debating these issues. The House of Representatives approved this bill overwhelmingly several months ago. And in this body a clear majority of Senators support this legislation. Sixty-three Senators have cosponsored it. Objections from the administration and others have delayed its consideration, but the time is ripe for the Senate to act. We should pass this bill and make it clear that the Congress stands firmly against discrimination in federally assisted institutions. We should delay no longer, but vote right now for the principles embodied in our civil rights laws.

Mr. President, the need for this legislation arises from a decision by the Supreme Court. In Grove City College versus Bell, the Supreme Court ruled in late February that title IX of the Civil Rights Act, which bans sex discrimination in our Nation's educational institutions, should be interpreted narrowly to cover only those specific programs within a college or university which receive Federal aid. Before this disturbing ruling was made, the executive branch and the lower courts had consistently applied title IX requirements to all programs within institutions which received Federal aid—not just to federally assisted programs within each school or college.

I am concerned that the Supreme Court's ruling will significantly erode the fight to end sex discrimination in educational institutions. I also fear that this narrow interpretation of the law might be applied to title VI of the Civil Rights Act, and other Federal laws which employ similar language barring discrimination in federally funded programs. Because of this concern I was an original cosponsor of the Civil Rights Act of 1984, which merely carries out the original intent of the Congress in passing these antidiscrimination statutes.

Congressional approval of this legislation is important. It is important to make it clear that we will not retreat from our commitment to enforcing the civil rights laws of our country; that we will insist that the Federal Government not subsidize institutions that discriminate; that we will not go backward.

Mr. President, the Civil Rights Act of 1984, will clarify the language in several civil rights programs which are similar to title IX: Title VI of the Civil Rights Act, which prohibits discrimination based on race or national origin; section 504 of the 1973 Rehabilitation Act, which prohibits discrimination on the basis of disability; and the Age Discrimination Act of 1975. Under this proposed legislation, discrimination on the basis of sex, race, national origin, disability, or age, would be prohibited in entire institutions when any of its programs, departments, or activities received Federal funds.

As a society, we must employ the strongest tools possible to enforce our Nation's civil rights laws. The Civil Rights Act of 1984 will allow the Federal Government to effectively combat discrimination on the basis of sex, race, national origin, disability, or age in federally aided programs.

Mr. President, the Senate should not tolerate another single day's delay in its reaffirmation of our major civil rights laws. Let us send a clear message to the country that those institutions that would deny equal treatment to all citizens will not be allowed to benefit from Federal funds.

I urge the adoption of this legislation today.

Mr. METZENBAUM. Mr. President, the Nation's civil rights laws are some of our most important legislative achievements. They stand as a bulwark against discrimination in employment, in participation in the political process, and in many other areas. There is no doubt that our hard-won and painstakingly developed civil rights protections have made a difference in American life. Our citizens are freer, and our political system is fairer. Citizens once shut out of jobs, public accommodations, educational institutions, and other benefits of our society now stand, in the eyes of the law, on an equal footing with everyone else.

Now, there is a fundamental flaw in the structure of these laws and the Government's ability to enforce them. In a narrow and erroneous decision, the Supreme Court interpreted title IX of the Education Amendments of 1982 to prohibit discrimination only in the Student Loan Assistance Program when a college was receiving federally sponsored student financial assistance.

This erroneous reading of the law means that an educational institution can receive the benefits of Federal aid to students that clearly ends up supporting the academic departments, the administration of the college, the extracurricular programs and so on—as long as it refrains from discrimination in the Student Assistance Program itself. Similarly, if Federal funds are used to support a science program, there can be discrimination in the athletic department, a college could refuse to allow minorities to enroll in science programs and refuse to allow women to participate in the school's athletic programs as long as Federal aid was not specifically intended for those programs.

This result is so contrary to common sense, as well as congressional intent, that there is general agreement, even by those that oppose S. 2568, that this decision should be reversed. Moreover, there are over 60 cosponsors of S. 2568 and the House has already passed it overwhelmingly. Editorials all over the country have called for prompt enactment.

Every Member of this body says he or she is interested in strong civil rights laws. Yet the Senate has still failed to act.

What explains the delay? First, the opponents of this bill have continually conjured up one horror story after another to try to foster the illusion that the Civil Rights Act of 1984 would change the interpretation of the law before Grove City was decided. They say grocery stores that accept food stamps would be covered by the law or that every agency of a State would be subject to a cutoff of Federal funds if only one State agency was found to have discriminated. None of those arguments have ever held water. Officials responsible for civil rights enforcement under Presidents Nixon, Ford, and Carter have all endorsed testimony stating that the bill would not change the interpretation of the civil rights laws before the Grove City decision.

Not only did this technique of argument by horror story fall flat from the beginning, the principal authors of this legislation, Senators KENNEDY and PACKWOOD, have gone to great lengths to clarify the language of their bill so that it is as clear as possible that the recipient of Federal funds, for purposes of title IX and related civil rights laws, is defined by the regulations that were in place before the Grove City decision.

Anybody can make up horror stories about how a statutory term could be defined if they are willing to ignore legislative history, and prior Court interpretations. In this case, the assurance that the legislative language reflects prior interpretations and applications of the law is included in the express language of the bill.

It is also clear that it would be irresponsible for Congress to fail to address language of other statutes that have the same essential scheme as title IX and have identical or almost identical language. Yet the opponents of this legislation would have us do nothing and wait for the Supreme Court or lower courts to follow the Grove City interpretation and narrowly restrict the effect of title VI of the

Civil Right Act of 1964, which prohibits discrimination based on race, color, or national origin in federally assisted programs; section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against the handicapped in programs or activities receiving Federal funds; and the Age Discrimination Act of 1975, which prohibits discrimination based on age in federally assisted programs.

Where does the administration stand on this bill? The sad truth is that this administration has spent almost 4 years looking for ways to avoid enforcing the civil rights laws, to narrow their scope and to undercut the Government's ability to enforce civil rights provisions. This is the administration that tried to win a tax-exempt status for institutions that discriminated on the basis of race. This is the administration that fought to undercut the Voting Rights Act until it became clear that its position would not prevail. This is an administration whose Justice Department recently refused to turn over information about affirmative action goals to the Equal Employment Opportunity Commission even though the EEOC, including President Reagan's own Chairman, said these reports are required by law.

If this bill fails to be enacted by the close of this Congress, make no mistake where the responsibility will lie. The authors of this legislation have devoted countless hours to discussions with the administration to find out what its problems were and to make any clarifying amendments that were reasonable. For a while, the administration appeared to want to do just that, but now as adjournment draws near, we find just the opposite. All signs point to the fact that the administration is losing interest in negotiations. Perhaps it believes it can avoid responsibility if this bill is not enacted. It cannot.

I call on the Members of the Senate and the White House to stop stalling, to stop inventing horror stories, to stop fighting against efforts to strengthen civil rights laws, and to join in efforts to promptly pass this bill.

Mr. BAKER. Mr. President, let me say, as did the Senator from Kansas, that I, too, am a cosponsor of the original Packwood proposal on Grove City. But I will not vote that this amendment is germane. Indeed, I think it is not germane.

In any event, Mr. President, I think that if we decide to cope with this issue on the continuing resolution, school is out. I think we might as well settle down to a long night tonight and a long day tomorrow and a long night the night after that, and goodness knows how much longer, as we build a Christmas tree and hang our baubles on it.

I hope that the Senate, in its wisdom, will decide that this issue is not germane.

Mr. LONG. Mr. President, will the Senator yield?

Mr. BAKER. I yield for a question.

Mr. LONG. Why can the amendment not be offered on something like the debt limit bill, where it does not have to be germane?

Mr. BAKER. It can be offered on a number of things, and I hope we will find another way to provide a Grove City measure we can deal with but not on the continuing resolution.

May I say, before the Senator from Kansas goes into a fit of apoplexy, that I would not include the debt limit in that list. [Laughter.]

Mr. President, the time has expired, I believe, except to say that I urge Senators to consider that we are not voting on a question of civil rights; we are voting on whether or not this is germane to a continuing resolution, and it is not, and I hope the Senate will decide that.

Mr. President, are the yeas and nays ordered on the question?

The PRESIDING OFFICER. They have been ordered.

Mr. BAKER. I thank the Chair.

VOTE ON GERMANENESS OF AMENDMENT NO. 5508

The PRESIDING OFFICER. The question is, Is the amendment germane?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Illinois [Mr. PERCY] is necessarily absent.

The PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 253 Leg.]

YEAS—51

Andrews	Dodd	Matsunaga
Baucus	Durenberger	Melcher
Bentsen	Eagleton	Metzenbaum
Biden	Exon	Mitchell
Bingaman	Ford	Moynihan
Boschwitz	Glenn	Packwood
Bradley	Hart	Pell
Bumpers	Heinz	Proxmire
Burdick	Hollings	Pryor
Byrd	Huddleston	Randolph
Chafee	Inouye	Riegle
Chiles	Johnston	Sarbanes
Cohen	Kennedy	Sasser
Cranston	Lautenberg	Specter
D'Amato	Leahy	Stafford
DeConcini	Levin	Tsongas
Dixon	Mathias	Weicker

NAYS—48

Abdnor	East	Hecht
Armstrong	Evans	Heflin
Baker	Garn	Helms
Boren	Goldwater	Humphrey
Cochran	Gorton	Jepsen
Danforth	Grassley	Kassebaum
Denton	Hatch	Kasten
Dole	Hatfield	Laxalt
Domenici	Hawkins	Long
Lugar	Quayle	Thurmond
Mattingly	Roth	Tower
McClure	Rudman	Trible
Murkowski	Simpson	Wallop
Nickles	Stennis	Warner
Nunn	Stevens	Wilson
Pressler	Symms	Zorinsky

NOT VOTING—1

Percy

The PRESIDENT pro tempore. On this vote the yeas are 51; the nays are 48. The amendment has been declared germane by the Senate.

AMENDMENT NO. 5726

Mr. BAKER. Mr. President, I send to the desk an amendment on behalf of the Senator from Utah [Mr. HATCH] and ask that it be stated.

The PRESIDENT pro tempore. The amendment will be stated.

The bill clerk read as follows:

The Senator from Tennessee [Mr. BAKER], for Mr. Hatch, proposes an amendment numbered 5726.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDENT pro tempore. Is there objection?

Mr. KENNEDY. I object, Mr. President.

The PRESIDENT pro tempore. Objection is heard. The clerk will state the amendment.

The bill clerk continued to read the amendment.

Mr. STEVENS. May we have order, Mr. President?

The PRESIDENT pro tempore. There will be order in the Senate. The Senators will take their seats.

Mr. KENNEDY. Mr. President, I have no further objection to dispensing with the reading of the amendment.

The PRESIDENT pro tempore. The objection is withdrawn.

The amendment is as follows:

At the end of amendment No. 5508, add the following:

SECTION . SHORT TITLE.

This amendment may be cited as the "Educational Opportunity and Equity Act of 1983".

SEC. . CONGRESSIONAL FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that it is the policy of the United States to foster educational opportunity, diversity, and choice for all Americans. Therefore, this Act recognizes that—

(1) pluralism is one of the great strengths of American society, diversity in education is an important contributor to that pluralism, and nonpublic schools play an indispensable role in making that diversity possible;

(2) the existence and availability of alternatives to public education tend to strengthen public education through competition and to improve the educational opportunities of all Americans;

(3) Americans should have equal opportunities to choose between the education offered by public schools and available in private educational systems and should not be compelled because of economic circumstances to accept education provided by gov-

ernment-created and government-operated school systems, and to force such a selection is an unfair and unjust discrimination against persons of lesser means;

(4) increasing numbers of American families are unable to afford nonpublic school tuition in addition to the State and local taxes that go to support public schools, and tax relief for nonpublic school tuition expenses is necessary if American families are to continue to have a meaningful choice between public and private education at the elementary and secondary levels;

(5) tax relief in the form of tuition tax credits is the fairest way to extend a choice in education to a wide range of individuals, tax relief in the form of tuition tax credits creates the least possible danger of interference in the lives of individuals and families consistent with achieving these ends, and tax relief in the form of tuition tax credits achieves these ends with a minimum of complexity so that those for whom the tax relief is intended will be able to understand and take advantage of it;

(6) the tax revenue loss occasioned by a tuition tax credit for a child would be small compared to the cost to State and local taxpayers of educating the child at a public school; and

(7) equality of educational opportunity is the policy of the United States, and the tax relief afforded by this legislation may not be used to promote racial discrimination.

The Congress finds that this Act will expand opportunities for personal liberty, diversity, and pluralism that constitute important strengths of education in America.

(b) PURPOSE.—The primary purpose of this Act is to enhance equality of educational opportunity, diversity, and choice for Americans.

SEC. . CREDIT FOR TUITION EXPENSES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44H the following new section:

"SEC. 44I. CREDIT FOR TUITION EXPENSES.

"(a) GENERAL RULE.—At the election of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the qualified tuition expenses paid by such individual during the taxable year for any qualified dependent.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT PER QUALIFIED DEPENDENT.—

"(A) IN GENERAL.—The amount of the credit allowable to the taxpayer under subsection (a) with respect to any qualified dependent for any taxable year shall not exceed the applicable amount.

"(B) APPLICABLE AMOUNT.—For purposes of this paragraph, the term 'applicable amount' means the excess, if any, of—

"(i) $300, over

"(ii) 3 percent (6 percent in the case of a married individual who does not file a joint return) of the amount, if any, by which the adjusted gross income of the taxpayer for the taxable year exceeds $40,000 ($20,000 in the case of such married individual).

"(C) TRANSITIONAL RULE.—For taxable years beginning after December 31, 1982, and before January 1, 1985, subparagraph (B) shall be applied—

"(i) in taxable years beginning in 1983, by substituting—

"(I) '$100' for '$300',

"(II) '1 percent' for '3 percent', and

"(III) '2 percent' for '6 percent', and

"(ii) in taxable years beginning in 1984, by substituting—

"(I) '$200' for '$300',

"(II) '2 percent' for '3 percent', and

"(III) '4 percent' for '6 percent'.

"(2) CREDIT NOT TO EXCEED TAX LIABILITY.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than credits allowable by sections 31, 39, and 43.

"(c) CREDIT DENIED FOR AMOUNTS PAID TO RACIALLY DISCRIMINATORY INSTITUTIONS.—

"(1) DECLARATORY JUDGMENT ENTERED.—

"(A) IN GENERAL.—No credit shall be allowed under this section for any amount paid to an educational institution during any taxable year if—

"(i) within the calendar year ending with or within such taxable year or in any preceding calendar year—

"(I) a judgment has been entered by a district court of the United States under section 7409 (regardless of whether such judgment is appealed) declaring that such educational institution follows a racially discriminatory policy, or

"(II) an order by any United States Court of Appeals has been made which, by its terms, requires the district court to enter such a judgment, and

"(ii) no order described in section 7409(f)(2) with respect to such educational institution has been entered which is in effect for the calendar year ending with or within such taxable year.

"(B) REVERSALS OF DECLARATORY JUDGMENTS OR ORDERS.—

"(i) IN GENERAL.—A judgment or order described in subparagraph (A)(i) entered in an action brought with respect to an educational institution shall not be taken into account under subparagraph (A) for any taxable year if, after all appeals in such action have been concluded or the time for filing such appeals has expired, the declaration contained in such judgment, or required to be entered under the terms of such order, that such institution has followed a racially discriminatory policy is negated (other than by reason of an order described in section 7409(f)(2)).

"(ii) WAIVER OF LIMITATIONS.—Notwithstanding section 6511(a) or any other period of limitation or lapse of time, a claim for credit or refund of overpayment of the tax imposed by this chapter which arises by reason of this subparagraph may be filed by any person at any time within the 1-year period beginning on the earlier of—

"(I) the date on which all appeals with respect to the judgment or order described in subparagraph (A)(i) have been concluded, or

"(II) the date on which the time for such appeals has expired.

Sections 6511(b) and 6514 shall not apply to any claim for credit or refund filed under this subparagraph within such 1-year period.

"(C) STAY OF DECLARATORY JUDGMENT.—

"(i) IN GENERAL.—Any judgment or order described in subparagraph (A)(i) shall not be taken into account under subparagraph (A) for any taxable year if such judgment or order is stayed as of the close of such taxable year.

"(ii) REMOVAL OF STAY.—If a stay entered against a judgment or order described in subparagraph (A)(i) is vacated—

"(I) this subparagraph shall not apply with respect to such judgment or order for any taxable year preceding the taxable year in which such stay is vacated, and

"(II) notwithstanding any other provision of this title or of any other law, the statutory period for the assessment of a deficiency attributable to the disallowance of any credit under this section by reason of this clause shall not expire before the date which is 3 years after the close of the calendar year in which such stay is removed.

"(D) WAIVER OF LIMITATIONS IF INSTITUTION CEASES TO DISCRIMINATE.—Notwithstanding section 6511(a) or any other period of limitation or lapse of time, a claim for credit or refund of overpayment of the tax imposed by this chapter which arises by reason of a reversal of any order denying a motion under section 7409(f)(1)(A) may be filed by any person at any time within the 1-year period beginning on the date on which such reversal is made. Sections 6511(B) and 6514 shall not apply to any claim for credit or refund filed under this subparagraph within such 1-year period.

"(2) REQUIRED STATEMENTS.—

"(A) STATEMENTS FURNISHED BY INSTITUTIONS TO THE SECRETARY.—No credit shall be allowed under subsection (a) for amounts paid to any educational institution during the taxable year if such educational institution has not filed with the Secretary (in such manner and form as the Secretary shall by regulation prescribe) within 30 days after the close of the calendar year ending with or within such taxable year a verified statement which—

"(i) declares that such institution has not followed a racially discriminatory policy during such calendar year;

"(ii) indicates whether—

"(I) a declaratory judgment or order described in paragraph (1)(A)(i) has been entered against such institution in an action brought under section 7409;

"(II) a stay against such judgment or order is in effect; and

"(III) an order described in section 7409(f)(2) is in effect; and

"(iii) attests that such institution has complied with the requirements of subsection (d)(3)(D) during such calendar year.

"(B) STATEMENTS FURNISHED TO TAXPAYERS.—Except as otherwise provided by regulations, within 30 days after the close of the calendar year to which the statement described in subparagraph (A) relates, the educational institution shall furnish a copy of such statement to all persons who paid tuition expenses to the institution in the calendar year to which such statement relates.

"(C) STATEMENTS FURNISHED BY TAXPAYERS TO THE SECRETARY.—No credit shall be allowed to a taxpayer under subsection (a) for amounts paid to an educational institution during the taxable year if the taxpayer does not attach to the return on which the taxpayer claims the credit the statement described in subparagraph (A) which is furnished by such institution for the calendar year ending with or within such taxable year of the taxpayer.

"(3) ENFORCEMENT RESPONSIBILITY.—The Attorney General shall have exclusive authority under this subsection to investigate and to determine whether an educational institution is following a racially discriminatory policy.

"(4) RACIALLY DISCRIMINATORY POLICY.—For purposes of this subsection—

"(A) IN GENERAL.—An educational institution follows a racially discriminatory policy if such institution refuses, on the basis of race, to—

"(i) admit applicants as students;

"(ii) admit students to the rights, privileges, programs, and activities generally made available to students by the educational institution; or

"(iii) allow students to participate in its scholarship, loan, athletic, or other programs.

"(B) QUOTAS, ETC.—The term 'racially discriminatory policy' shall not include failure of any educational institution to pursue or achieve any racial quota, proportion, or representation in the student body.

"(C) RACE.—The term 'race' shall include color or national origin.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED TUITION EXPENSES.—The term 'qualified tuition expenses' means the excess of—

"(A) the amount of tuition expenses paid by the taxpayer during the taxable year to any eligible educational institution for any qualified dependent of such taxpayer, over

"(B) any scholarship or financial assistance paid during such taxable year to such qualified dependent or to the taxpayer with respect to such qualified dependent.

"(2) QUALIFIED DEPENDENT.—The term 'qualified dependent' means any individual—

"(A) who is a dependent of the taxpayer (other than an individual described in paragraph (4), (5), (7), or (8) of section 152(a)),

"(B) who has not attained 20 years of age at the close of the taxable year, and

"(C) with respect to whom a deduction under section 151 is allowable to the taxpayer for the taxable year.

"(3) ELIGIBLE EDUCATION INSTITUTION.—The term 'eligible educational institution' means an educational institution—

"(A) which provides a full-time program of elementary or secondary education;

"(B) which is a privately operated, not-for-profit, day or residential school;

"(C) which is exempt from taxation under section 501(a) as an organization described in section 501(c)(3), including church-operated schools to which subsections (a) and (b) of section 508 do not apply; and

"(D) which includes in any published bylaws, advertisements, admission application forms, and other such published materials, a statement (in such form and manner as the Secretary may by regulations prescribe) that it does not discriminate against student applicants or students on the basis of race.

"(4) TUITION EXPENSES.—

"(A) IN GENERAL.—The term 'tuition expenses' means tuition and fees paid for the full-time enrollment or attendance of a student at an educational institution, including required fees for courses.

"(B) CERTAIN EXPENSES EXCLUDED.—The term 'tuition expenses' does not include any amount paid for—

"(i) books, supplies, and equipment for courses of instruction;

"(ii) meals, lodging, transportation, or personal living expenses;

"(iii) education below the first-grade-level; or

"(iv) education above the twelfth-grade level.

"(5) SCHOLARSHIP OR FINANCIAL ASSISTANCE.—The term 'scholarship or financial assistance' means—

"(A) a scholarship or fellowship grant (within the meaning of section 117(a)(1)) which is not includible in gross income under section 117;

"(B) an educational assistance allowance under chapter 32, 34, or 35 of title 38, United States Code; or

"(C) other financial assistance which—

"(i) is for educational expenses, or attributable to attendance at an educational institution, and

"(ii) is exempt from income taxation by any law of the United States (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)).

"(e) ELECTION.—The election provided under subsection (a) shall be made at such time and in such manner as the Secretary shall by regulations prescribe.".

(b) DISCLOSURE OF INFORMATION TO ATTORNEY GENERAL.—Subsection (h) of section 6103 of such Code (relating to disclosure to certain Federal officers and employees for tax administration purposes) is amended by adding at the end thereof the following new paragraph:

"(7) CERTAIN INVESTIGATIONS AND PROCEEDINGS REGARDING RACIALLY DISCRIMINATORY POLICIES.—Upon the request of the Attorney General or the Secretary's own motion, the Secretary shall disclose any return or return information which is relevant to—

"(A) any investigation conducted by the Attorney General under section 44I(c) with regard to whether an educational institution is following a racially discriminatory policy (within the meaning of section 44I(c)(4)), or

"(B) any proceeding which may be brought under section 7409,

to any officer or employee of the Department of Justice who is directly and personally involved in such investigation or in preparation for such a proceeding.".

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44H the following:

"Sec. 44I. Tuition expenses.".

(2) Section 6504 of such Code (relating to cross references with respect to periods of limitation) is amended by adding at the end thereof the following new paragraph:

"(13) For disallowance of tuition tax credits because of a declaratory judgment that a school follows a racially discriminatory policy, see section 44I(c).".

(3) Section 6096(b) of such Code (defining income tax liability for designation of payments to the Presidential Election Campaign Fund) is amended by striking out all after "allowable under" and inserting in lieu thereof "subpart A of part IV of subchapter A of chapter 1 (other than section 31, 39, or 43)".

SEC. 4. DECLARATORY JUDGMENT PROCEEDING.

(a) IN GENERAL.—Subchapter A of chapter 76 of the Internal Revenue Code of 1954 (relating to judicial proceedings) is amended by redesignating section 7409 as section 7410 and by inserting after section 7408 the following new section:

"SEC. 7409. DECLARATORY JUDGMENT RELATING TO RACIALLY DISCRIMINATORY POLICIES OF SCHOOLS.

"(a) IN GENERAL.—Upon filing of an appropriate pleading by the Attorney General under subsection (b), the district court of the United States for the district in which an educational institution is located may make a declaration with respect to whether such institution follows a racially discriminatory policy. Any such declaration shall have the force and effect of a final judgment of the district court and shall be reviewable as such.

"(b) FILING OF PLEADING.—

"(1) IN GENERAL.—The Attorney General is authorized and directed to seek a declaratory judgment under subsection (a) against any educational institution upon—

"(A) receipt by the Attorney General within the previous 1-year period of any allegation of discrimination against such institution, and

"(B) a finding by the Attorney General of good cause.

"(2) ALLEGATION OF DISCRIMINATION.—For purposes of this section, the term 'allegation of discrimination' means an allegation made in writing by any person which alleges with specificity that—

"(A) a named educational institution has committed a racially discriminatory act against a named student applicant or student within one year preceding the date on which such allegation is made to the Attorney General, or

"(B) the educational institution made a communication, within one year preceding such date, expressing that the institution follows a racially discriminatory policy.

"(3) NOTICE OF ALLEGATIONS OF DISCRIMINATION.—Upon receipt of any allegation of discrimination made against an educational institution, the Attorney General shall promptly give written notice of such allegation to such institution.

"(4) OPPORTUNITY TO COMMENT.—Before any action may be filed against an educational institution by the Attorney General under subsection (a), the Attorney General shall give the institution a fair opportunity to comment on all allegations made against it and to show that the alleged racially discriminatory policy does not exist or has been abandoned.

"(5) AVAILABILITY OF CERTAIN INFORMATION TO COMPLAINANT.—

"(A) IN GENERAL.—If an allegation of discrimination against an educational institution is made to the Attorney General and the Attorney General—

"(i) declines to bring an action under subsection (a) against such institution, or

"(ii) enters into a settlement agreement with such institution under subsection (d) before such an action is brought,

the Attorney General shall make available to the person who made such allegation the information upon which the Attorney General based the decision not to bring such an action or to enter into such settlement agreement. The Attorney General shall promptly give written notice to such person that such information is available for his inspection.

"(B) PRIVACY LAWS.—Nothing in this paragraph shall be construed to authorize or require the Attorney General to disclose any information if such disclosure would violate any applicable State or Federal law relating to privacy.

"(c) REQUIREMENTS FOR A FINDING OF FOLLOWING A RACIALLY DISCRIMINATORY POLICY.—A district court may declare that an educational institution follows a racially discriminatory policy in an action brought under subsection (a) only if the Attorney General establishes in such action that—

"(1) the institution has, pursuant to such policy, committed a racially discriminatory act against a student applicant or student within the 2 years preceding commencement of such action;

"(2) the institution has, within the 2 years preceding commencement of such action, made a communication expressing that it

follows a racially discriminatory policy against student applicants or students; or

"(3) the institution has engaged in a pattern of conduct intended to implement a racially discriminatory policy, and that some act in furtherance of this pattern of conduct was committed within 2 years preceding commencement of such action.

"(d) SETTLEMENTS.—

"(1) IN GENERAL.—Prior to, and in lieu of, filing an action under subsection (a), the Attorney General may, at his discretion, enter into a settlement agreement with the educational institution against which an allegation of discrimination has been made if the Attorney General finds that the institution has been acting in good faith and has abandoned its racially discriminatory policy.

"(2) VIOLATION OF SETTLEMENT AGREEMENT.—If the Attorney General has entered into a settlement agreement with an educational institution under paragraph (1) and the Attorney General finds that such institution is in violation of such agreement, the Attorney General may—

"(A) notwithstanding subsection (b)(1)(A), bring an action under subsection (a) without having received any allegation of discrimination against such institution, or

"(B) bring an action to enforce the terms of such agreement.

"(3) COPY OF SETTLEMENT AGREEMENT TO COMPLAINANT.—The Attorney General shall give a copy of any settlement agreement which is entered into with any educational institution under paragraph (1) to any person from whom the Attorney General has received an allegation of discrimination against such institution.

"(e) RETENTION OF JURISDICTION.—Any district court which makes a declaration under subsection (a) that an educational institution follows a racially discriminatory policy shall retain jurisdiction of such case.

"(f) DISCONTINUANCE OF RACIALLY DISCRIMINATORY POLICY.—

"(1) MOTION.—

"(A) IN GENERAL.—At any time after the date which is 1 year after the date on which a judgment is entered in an action brought under subsection (a) declaring that an educational institution follows a racially discriminatory policy, such institution may file with the district court a motion to modify such judgment to include a declaration that such institution no longer follows a racially discriminatory policy.

"(B) AFFIDAVITS.—Any motion filed under subparagraph (A) shall contain affidavits—

"(i) describing with specificity the ways in which the educational institution has abandoned its previous racially discriminatory policy;

"(ii) describing with specificity the ways in which such institution has taken reasonable steps to communicate its policy of nondiscrimination to students, to faculty, to schoo' administrators, and to the public in the area it serves;

"(iii) averring that such institution has not, during the preceding year—

"(I) committed a racially discriminatory act against a student applicant or student pursuant to a racially discriminatory policy;

"(II) made a communication expressing that it follows a racially discriminatory policy against student applicants or students; or

"(III) engaged in a pattern of conduct intended to implement a racially discriminatory policy, and committed some act in furtherance of this pattern of conduct; and

"(iv) averring that such institution has complied with the requirements of section 44I(d)(3)(D).

"(2) ORDER.—If a motion is made under paragraph (1), the district court shall issue an order modifying the judgment entered in the action to include a declaration that the educational institution no longer follows a racially discriminatory policy unless the Attorney General establishes that—

"(A) any affidavit provided by the institution under paragraph (1)(B) is false;

"(B) the institution has, during the preceding year, committed any act, made any communication, or engaged in any pattern of conduct described in paragraph (1)(B)(iii); or

"(C) the institution has not, in fact, complied with the requirements of clauses (ii) and (iv) of paragraph (1)(B).

"(3) APPEAL OF ORDERS.—Any order of the district court granting or denying a motion made under paragraph (1) shall be reviewable.

"(g) ATTORNEYS' FEES.—If an educational institution prevails in an action under this section, the court may award the institution costs and reasonable attorneys' fees in such action.

"(h) DEFINITIONS.—For purposes of this section—

"(1) RACIALLY DISCRIMINATORY POLICY.—The term 'racially discriminatory policy' has the meaning given to such term by section 44I(c)(4).

"(2) RACIALLY DISCRIMINATORY ACT.—

"(A) IN GENERAL.—An educational institution commits a racially discriminatory act if such institution refuses, on the basis of race, to—

"(i) admit any applicant as a student;

"(ii) admit any student to the rights, privileges, programs, and activities generally made available to students by the educational institution; or

"(iii) allow any student to participate in its scholarship, loan, athletic, or other programs.

"(B) QUOTAS, ETC.—The term 'racially discriminatory act' shall not include the failure of such institution to pursue or achieve any racial quota, proportion, or representation in the student body.

"(C) RACE.—The term 'race' shall include color or national origin.

"(i) REPORT.—Within 90 days of the close of each calendar year, the Attorney General shall submit a report to the Congress concerning the disposition during such calendar year of—

"(1) any allegations of discrimination received by the Attorney General, and

"(2) any actions brought under this section.".

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter A of chapter 76 of such Code (relating to civil actions by the United States) is amended by striking out the item relating to section 7409 and inserting in lieu thereof:

"Sec. 7409. Declaratory judgment relating to racially discriminatory policies of schools.

"Sec. 7410. Cross references.".

(2) Section 2201 of title 28, United States Code (relating to creation of declaratory judgment remedy) is amended by striking out "section 7428" and inserting in lieu thereof "section 7409 or 7428".

SEC. 5. TAX CREDITS ARE NOT FEDERAL FINANCIAL ASSISTANCE.

Tax credits claimed under section 44I of the Internal Revenue Code of 1954 shall not constitute Federal financial assistance to educational institutions or to the recipients of such credits.

SEC. . EFFECTIVE DATE: SPECIAL RULE.

(a) CERTIFICATION REQUIRED.—The amendments made by this Act shall not take effect until the Attorney General certifies to the Secretary of the Treasury that, pursuant to—

(1) an Act of Congress which has been enacted, or

(2) a final decision of the United States Supreme Court,

the Internal Revenue Code of 1954 prohibits the granting of tax exemption under section 501(a) by reason of section 501(c)(3) to private educational institutions maintaining a racially discriminatory policy or practice as to students.

(b) APPLICATION WHEN CERTIFICATION IS MADE.—

(1) IN GENERAL.—If the certification described in subsection (a) is made to the Secretary of the Treasury—

(A) except as provided in paragraph (2), the amendments made by section 3 shall apply with respect to expenditures made after the date on which such certification is made to the Secretary of the Treasury in taxable years beginning after December 31, 1982, and ending after such date, and

(B) the amendments made by section 4 shall take effect on the date on which such certification is made to the Secretary of the Treasury.

(2) NO APPLICATION BEFORE AUGUST 1, 1983.—In no event shall the amendments made by section 3 apply with respect to expenditures made before August 1, 1983.

(c) ESTIMATED INCOME TAX AND WAGE WITHHOLDING.—

(1) ESTIMATED INCOME TAX.—Any credit allowable to any taxpayer under section 44I of the Internal Revenue Code of 1954 shall not be taken into account under section 6015(d) in determining the estimated tax of such taxpayer for any taxable year beginning before January 1, 1984.

(2) WAGE WITHHOLDING.—Any credit allowable under section 44I of such Code shall not be taken into account in determining the number of withholding exemptions to which any taxpayer is entitled under section 3402 of such Code with respect to remuneration paid before January 1, 1984.

AMENDMENT NO. 5727

Mr. BAKER. Mr. President, I send an amendment to the desk in behalf of Mr. HATCH and ask for its immediate consideration.

The PRESIDENT pro tempore. The amendment will be stated.

The bill clerk read as follows:

The Senator from Tennessee [Mr. BAKER], for Mr. HATCH, proposes an amendment numbered 5727.

Mr. BAKER. I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. KENNEDY. Mr. President, I object.

The PRESIDENT pro tempore. Objection is heard.

The bill clerk continued to read the amendment.

Mr. KENNEDY. Mr. President, I have no further objection to reading of the amendment.

The PRESIDENT pro tempore. The Senator changes his mind. He has no objection.

The amendment is as follows:

At end of the language proposed to be stricken by the amendment add the following:

That the Congress finds that the rights of citizens to keep and bear arms under the second amendment to the United States Constitution; their rights to security against illegal and unreasonable searches and seizures under the fourth amendment; their protections against uncompensated taking of property, double jeopardy, and assurance of due process of law under the fifth amendment; and their rights against unconstitutional exercise of authority under the ninth and tenth amendments; require additional legislation to correct existing firearms statutes and enforcement policies. The Congress further finds that additional legislation is required to reaffirm its intent, as expressed in section 101 of title I of the Gun Control Act of 1968, that "it is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trapshooting, target shooting, personal protection, or any other lawful activity, . . . " or "to discourage or eliminate the private ownership or use of firearms by law-abiding citizens for lawful purposes.".

TITLE I—AMENDMENTS TO TITLE 18, UNITED STATES CODE (18 U.S.C. 921-928)

AMENDMENTS TO SECTION 921

SEC. 101. Section 921 of title 18, United States Code, is amended—

(1) in subsection (a)(10) by deleting the words "manufacture of" and inserting in lieu thereof the words "business of manufacturing";

(2) in subsection (a)(11)(A) by deleting the words "or ammunition";

(3) in subsection (a)(12) by deleting the words "or ammunition";

(4) in subsection (a)(13) by deleting the words "or ammunition";

(5) by amending subsection (a)(20) to read as follows:

"(20) The term 'crime punishable by imprisonment for a term exceeding one year' shall not include (A) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices, or (B) any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less: *Provided, however,* That what constitutes a conviction shall be determined in accordance with the law of the jurisdiction in which the proceedings were held: Provided further, That any conviction which has been expunged, or set aside or for which a person has been pardoned or has had his or her civil right restored shall not be considered a conviction under the provisions of this Act, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms." and

(6) in subsection (a) by inserting new paragraphs (21) and (22) after paragraph (20), to read as follows:

"(21) The term 'engaged in the business' means—

"(A) As applied to a manufacturer of firearms, a person who devotes time, attention, and labor to manufacturing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms manufactured.

"(B) As applied to a manufacturer of ammunition a person who devotes time, attention, and labor to manufacturing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition manufactured.

"(C) As applied to a dealer in firearms, as defined in section 921(a)(11)(A), a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms. The term shall not include a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or hobby, or who sells all or part of his personal collection of firearms.

"(D) As applied to a dealer in firearms, as defined in section 921(a)(11)(B), a person who devotes time, attention, and labor to engaging in such activity as a regular course of trade or business with the principal objective of livelihood and profit. The term shall not include a person who makes occasional repairs of firearms or who occasionally fits special barrels, stocks, or trigger mechanisms to firearms.

"(E) As applied to an importer of firearms, a person who devotes time, attention, and labor to importing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms imported.

"(F) As applied to an importer of ammunition, a person who devotes time, attention, and labor to importing ammunition as a regulr course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition imported.

"(22) The term 'with the principal objective of livelihood and profit' means that the intent underlying the sale or disposition of firearms is predominantly of obtaining livelihood and pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection.

AMENDMENTS TO SECTION 922

SEC. 102. Section 922 of title 18, United States Code, is amended—

(1) by amending subsection (a)(1) to read as follows:

"(1) for any person (A) except a licensed importer, licensed manufacturer, or licensed dealer to engage in the business of importing, manufacturing, or dealing in firearms, or in the course of such business to ship, transport, or receive any firearm in interstate or foreign commerce; and (B) except a licensed importer or licensed manufacturer to engage in the business of importing or manufacturing ammunition, or in the course of such business, to ship, transport, or receive any ammunition in interstate of foreign commerce";

(2) in subsection (a)(2)—

(A) By deleting the words "or ammunition"; and

(B) by deleting the words "or licensed dealer for the sole purpose of repair or customizing," and inserting in lieu thereof the words, "licensed dealer, or licensed collector;";

(3) by amending clause (B) of subsection (a)(3) to read as follows: "(B) shall not apply to the transportation or receipt of a firearm obtained in conformity with the provisions of subsection (b)(3) of this section,";

(4) in subsection (b)—

(A) by deleting in paragraph (2) "or ammunition" each place it appears;

(B) by deleting clause (A) in paragraph (3) and inserting in lieu thereof the following: "(A) shall not apply to the sale or delivery of any firearm to a resident of a State other than a State in which the licensee's place of business is located if the sale, delivery and receipt fully comply with the legal conditions of sale in both such States: *Provided, however,* That any licensed manufacturer, importer or dealer shall be presumed, in the absence of evidence to the contrary, to have had actual knowledge of the State laws and published ordinances of both States,";

(C) by inserting "and" before "(B)" in paragraph (3);

(D) by striking out ", and" in clause (B) of paragraph (3) and inserting in lieu thereof a semicolon;

(E) by repealing clause (C) of paragraph (3); and

(F) by deleting from paragraph (5) "or ammunition except .22 rimfire ammunition";

(5) in subsection (d)—

(A) by deleting "licensed importer, licensed manufacturer, licensed dealer, or licensed collector" the first time they appear and inserting in lieu thereof "person";

(B) by deleting in paragraph (3) the word "or" following the semicolon;

(C) by replacing the period in paragraph (4) with a semicolon; and

(D) by inserting after paragraph (4) the following:

"(5) who, being an alien, is illegally or unlawful in the United States;

"(6) who has been discharged from the Armed Forces under dishonorable conditions; or

"(7) who, having been a citizen of the United States, has renounced his citizenship.";

(6) in subsection (g)—

(A) by deleting the words "is under indictment for, or who" in paragraph (1);

(B) by deleting in paragraph (3) the word "or" following the semicolon;

(C) by inserting after paragraph (4) the following:

"(5) who, being an alien, is illegally or unlawfully in the United States;

"(6) who has been discharged from the Armed Forces under dishonorable conditions, or

"(7) who, having been a citizen of the United States, has renounced his citizenship;"; and

(D) by deleting the words "to ship or transport any firearm or ammunition in interstate or foreign commerce" and inserting in lieu thereof the words "to ship or transport in interstate, or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition, which has been shipped or transported in interstate or foreign commerce.";

(7) in subsection (h)—

(A) by inserting after the word "any" and before the word "person" the words "individual who to his knowledge and while being employed by any";

(B) by deleting the words "is under indictment for, or who" in paragraph (1);

(C) by deleting in paragraph (3) the word "or" following the semicolon;

(D) by inserting after paragraph (4) the following:

"(5) who, being an elien, is illegally or unlawful in the United States;

"(6) who has been discharged from the Armed Forces under dishonorable conditions; or

"(7) who having been a citizen of the United States, has renounced his citizenship;"; and

(E) by deleting the words "to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce" and inserting in lieu thereof the words "in the course of such employment to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.", and

(8) by inserting after subsection (m) a new subsection to read as follows:

"(n) It shall be unlawful for any person who is under indictment for a crime punishable by imprisonment for a term exceeding one year to ship or transport in interstate or foreign commerce any firearm or ammunition or receive any firearm or ammunition which has been shipped or transported in interstate of foreign commerce.".

AMENDMENTS TO SECTION 923

SEC. 103. Section 923 of title 18, United States Code, is amended—

(1)(A) in subsection (a)—

(i) by deleting the words "No person shall engage in business as a firearms or ammunition importer, manufacturer, or dealer until he has filed an application with, and received a license to do so from the Secretary." and inserting in lieu thereof the words "No person shall engage in the business of importing, manufacturing, or dealing in firearms, or importing or manufacturing ammunition, until he has filed an application with and received a license to do so from the Secretary."; and

(ii) by deleting the words, "and contain such information", and inserting in lieu thereof the words "and contain only that information necessary to determine eligibility for licensing,";

(B) in subsection (a)(3)(B) by deleting the words "or ammunition for firearms other than destructive devices";

(2) in subsection (b) by striking out "and contain such information", and inserting in lieu thereof "and contain only that information necessary to determine eligibility for licensing";

(3) in subsection (c) by adding at the end thereof the following: "Provided, however, That nothing in this chapter shall be construed to prohibit a licensed manufaturer, importer, or dealer from maintaining and disposing of a personal collection of firearms, subject only to such restrictions as apply in this chapter to dispositions by a person other than a licensed manufacturer, importer, or dealer: Provided further, That if any firearm is so disposed of by a licensee within one year of its transfer from his business inventory into his personnal collection or if such disposition or any acquisition is made for the purpose of willfully evading the restrictions placed upon licenses by this chapter, then such firearms shall be deemed part of his business inventory.";

(4) in subsection (e) by inserting before the word "violated" the word "willfully";

(5) in subsection (f)—

(A) by inserting the words "de novo" before the word "judicial" in paragraph (3);

(B) by adding the words ", whether or not such evidence was considered at the hearing held under paragraph (2)." after the words "to the proceeding" in paragraph (3); and

(C) by inserting at the end thereof the following new paragraph:

"(4) If criminal proceedings are instituted against a licensee alleging violations of this chapter or regulations promulgated thereunder, and the licensee is acquitted of such charges, or such proceedings are terminated, other than upon motion of the Government prior to trial upon such charges, the Secretary shall be absolutely barred from denying or revoking any license granted under the provisions of this chapter where such denial or revocation is based in whole or in part of the facts which form the basis of such criminal charges. No proceedings for the revocation of a license shall be instituted by the Secretary more than one year after the filing of the indictment or information.",

(6) by amending subsection (g) to read as follows:

"(g)(1) Each licensed importer, licensed manufacturer, and licensed dealer, shall maintain such records of importation, production, shipment, receipt, sale, or other disposition, of firearms at his place of business for such period, and in such form, as the Secretary may by regulations prescribe. Such importers, manufacturers and dealers shall not be required to submit to the Secretary reports and information with respect to such records and the contents thereof, except as explicity required by the Act entitled 'An Act to protect firearms owners' constitutional rights, civil liberties and rights to privacy'. The Secretary, when he has reasonable cause to believe a violation of this law has occurred and that evidence thereof may be found on such premises may, upon demonstrating such cause before a Federal magistrate, and securing from him a warrant authorizing entry, enter during business hours the premises (including places of storage) of any licensed firearms importer, licensed manufacturer, licensed dealer, licensed collector or any licensed importer, or manufacturer of ammunition, for the purposes of inspecting or examining (1) any records or documents required to be kept by such licensed importer, licensed manufacturer, licensed dealer, or licensed collector under the provisions of this chapter or regulations issued under this chapter, and (2) any firearms or ammunition kept or stored by such licensed importer, licensed manufacturer, licensed dealer, or licensed collector, at such premises. The Secretary may inspect the inventory and records of a licensed importer, licensed manufacturer, or licensed dealer without such cause or warrant, (A) for a reasonable inquiry during the course of a criminal investigation of a person or persons other than the licensee; or (B) no more than once in any twelve consecutive months, upon reasonable notice, but no criminal charges shall be brought against the licensee based upon such inspection except for willful violations of the recordkeeping requirements of this chapter or sales or other dispositions of firearms to prohibited persons; or (C) when such inspections or inquiries may be required fo determining the disposition of one or more particular firearms in the course of a bona fide criminial investigation. The Secretary may inspect the inventory and records of a licensed collector without such reasonable cause or warrant (A) no more than once in any twelve consecutive month period, upon reasonable notice, but no criminal charges shall be brought against such licensee based upon such inspection except for willful violations of the recordkeeping requirements of this chapter or sales or other dispositions of firearms to prohibited persons; or (B) when such inspections or inquiries may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation. At the election of a licensed collector, the annual inspection of records and inventory permitted under this paragraph shall be performed at the office of the Secretary designated for such inspection which is located in closest proximity to the premises where the inventory and records of such licensed collector are maintained. Such procedure shall not be construed as authorizing the Secretary to seize any records or other documents other than those records or documents constituting material evidence of a violation of law. If the Secretary seizes such records or documents, copies shall be provided the licensee within a reasonable time. The Secretary may make available to any Federal, State, or local law enforcement agency any information which he may obtain by reason of the provisions of this chapter with respect to the identification of persons prohibited from purchasing or receiving firearms or ammunition who have purchased or received firearms or ammunition, together with a description of such firearms or ammunition and he may provide information to the extent such information may be contained in the records required to be maintained by the provisions of this chapter, when so requested by any Federal, State, or local law enforcement agency.

"(2) Each licensed collector shall maintain in a bound volume the nature of which the Secretary may by regulations prescribe, records of the receipt, sale, or other disposition, of firearms. Such records shall include the name and addresses * * * to the Secretary reports and information with respect to such records and the contents thereof, except as explicitly required by the Act entitled 'An Act to protect firearms owners' constitutional rights, civil liberties and rights to privacy'.

"(3)(A) Within thirty days of the absolute discontinuance of the business of a licensee, any records maintained by such licensee under this chapter shall be delivered to the joint custody of the Administrator of General Services and the Secretary to be stored in a records center maintained and operated by the Administrator of General Services, unless state law or local ordinance requires delivery to another authority, in which event the Administrator of General Services and the Secretary may arrange for delivery to such authority.

"(B) The Secretary shall have access to records stored under this paragraph solely for the purposes of tracing firearms, organizing and preserving such records, and certifying to facts on the basis of such records in any court or any administrative proceeding of the United States or of any state. The Secretary may remove such records from the record center maintained by the Administrator of General Services only in connection with proceedings in any court or any administrative proceeding of the United States or of any state.

"(C) The Administrator of General Services may promulgate regulations governing the storage, processing and servicing of records stored under this paragraph: *Provided*, That no such regulations may restrict the authority of the Secretary under this paragraph to have access to or to remove such records.

"(D) Notwithstanding any other provision of law, the Administrator of General Services shall dispose of records kept by licensed

dealers and licensed collectors, and records relating to the disposition of firearms kept by manufacturers and importers, and stored under this paragraph twenty years after such records are received by the Administrator of General Services and the Secretary.

"(4)(A) Each licensee shall, when required by letter issued by the Secretary, and until notified to the contrary in writing by the Secretary, submit on a form specified by the Secretary, for the periods and at the times specified in such letter, all record information required by this chapter or such lesser record information as the Secretary in his letter may specify.

"(B) The Secretary may authorize the information to be submitted in a manner other than that prescribed in subparagraph (A) of this paragraph when it is shown by a licensee that an alternate method of reporting is reasonably necessary and will not unduly hinder the effective administration of this chapter.

"(C) No warrant shall issue nor shall any criminal charges be brought against the licensee based solely upon information provided pursuant to the provisions of this paragraph.

"(5)(A) Each licensee shall prepare a report of multiple sales or other disposition whenever the licensee sells or otherwise disposes of, at one time or during any five consecutive business days, two or more pistols, or revolvers, or any combination of pistols and revolvers totaling two or more, to an unlicensed person. The report shall be prepared on a form specified by the Secretary and forwarded to the office specified thereon not later than the close of business on the day that the multiple sale or other disposition occurs.

"(B) Ten years after receiving any report submitted under subparagraph (A) of this paragraph, the Secretary shall deliver such report to the joint custody of the Administrator of General Services and the Secretary to be stored in a records center maintained and operated by the Administrator of General Services, subject to the provisions of sections 923(g)(3) (B) and (C) of this title. Notwithstanding any other provision of law, the Administrator of General Services shall dispose of records stored under this subparagraph ten years after such records are received by the Administrator of General Services and the Secretary.

"(C) No record, form, or information delivered, submitted, or forwarded pursuant to this paragraph or paragraph (3) or (4) of this subsection may be kept by the Secretary at a centralized location, nor shall it be entered into a computer for storage or retrieval."; and

(7) by amending subsection (j) to read as follows:

"(j) A licensed importer, licensed manufacturer, or licensed dealer may, under regulations prescribed by the Secretary, conduct business temporarily at a location other than the location specified on the license if such other location is in the State which is specified on the license. Records of receipt and disposition of firearms transactions conducted at such temporary location shall include the location of the sale or other disposition and shall be entered in the permanent records of the licensee and retained on the location specified on the license. Nothing in this subsection shall authorize any licensee to conduct business in or from any motorized or towed vehicle. Notwithstanding the provisions of subsection (a) of this section, a separate fee shall not be required of a licensee with respect to business conducted under this subsection. Except for records directly related to receipts, sales, or other dispositions of firearms made at the temporary premises within the period of time the licensed importer, licensed manufacturer, or licensed dealer conducted the business of which such receipts, sales, or other dispositions were a part, nothing in this subsection shall be construed to authorize the Secretary to inspect or examine the inventory or records of a licensed importer, licensed manufacturer, or licensed dealer at any location other than the location specified on the license. Nothing in this subsection shall be construed to diminish in any manner any right to display, sell or otherwise dispose of firearms or ammunition which is in effect prior to the date of enactment of the Act entitled 'An Act to protect firearms owners' constitutional rights, civil liberties and rights to privacy'.".

AMENDMENTS TO SECTION 924

SEC. 104. Section 924 of title 18, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) Whoever—

"(1) knowingly makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under this chapter or in applying for any license or exemption or relief from disability under the provisions of this chapter;

"(2) knowingly violates subsections (a)(4), (d)(6), (f), (g), (h), (i), or (k) of section 922;

"(3) knowingly imports or brings into the United States or any possession thereof any firearm or ammunition in violation of section 922(l);

"(4) knowingly violates any provision of this section; or

"(5) willfully violates any other provision of this chapter,

shall be fined not more than $5,000, or imprisoned not more than five years, or both, and shall become eligible for parole as the Board of Parole shall determine: *Provided,* That no person shall be prosecuted under this subsection where the conduct of such person involves simple carelessness.".

(2) by amending subsection (c) to read as follows:

"(c)(1) Whoever, during and in relation to any crime of violence, including a crime of violence which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device, for which he may be prosecuted in a court of the United States, uses a firearm, or carries a firearm in furtherance of any such crime of violence, shall, in addition to the punishment provided for such crime of violence, be sentenced to imprisonment for a term of five years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to imprisonment for a term of ten years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the

* * * * *

(1) in subsection (c)—

(A) by deleting the words "has been convicted of a crime punishable by imprisonment for a term exceeding one year (other than a crime involving the use of a firearm or other weapon or a violation of this chapter or of the National Firearms Act)" and inserting in lieu thereof the words "is prohibited from possessing, shipping, transporting, or receiving firearms or ammunition";

(B) by inserting the word "transportation," after the word "shipment";

(C) by deleting the words "and incurred by reason of such conviction,"; and

(D) by adding after the words "the public interest." the words "Any person whose application for relief from disabilities is denied by the Secretary may file a petition with the United States district court for the district in which he resides for a judicial review of such denial. In a proceeding conducted under this subsection, the scope of judicial review shall be governed by section 706 of title 5, United States Code. The court may in its discretion admit additional evidence where failure to so so would result in a miscarriage of justice."; and

* * * words: "*Provided,* That no such rule or regulation promulgated after the effective date of this Act may require that records required to be maintained under this chapter or any portion of the contents of such records, be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or any political subdivision thereof, nor that any system of registration of firearms, firearms owners, or firearms transactions or dispositions be established: *Provided further,* That nothing in this section shall be deemed to expand or restrict the Secretary's authority to inquire into the disposition of one or more firearms pursuant to a criminal investigation."; and

(5) inserting at the end thereof the following:

"(b) The Secretary shall give not less than ninety days public notice, and shall afford interested parties opportunity for hearing, prior to prescribing such rules and regulations.

"(c) The Secretary shall not prescribe regulations that require purchasers of black powder under the exemption provided in section 845(a)(5) of title 18, United States Code, to complete affidavits or forms attesting to that exemption.".

AMENDMENTS TO SECTION 927

SEC. 107. Section 927 of title 18, United States Code, is amended by inserting before the period at the end thereof the following: ": *Provided, however,* That any provision of any legislation enacted, or of any rule or regulation promulgated, by any State or a political subdivision which prohibits or has the effect of prohibiting the transportation of a firearm or ammunition in interstate commerce through such State, when such firearm is unloaded and not readily accessible, shall be null and void.".

EFFECTIVE DATE

SEC. 108. (1) All amendments (including any repeals) made by this Act shall become effective one hundred and eighty days after the date of enactment of this Act. At that time the Secretary shall publish and provide to all licensees a compilation of the State laws and published ordinances of which licensees are presumed to have knowledge pursuant to chapter 44 of title 18, United States Code, as amended by this Act. All amendments to such State laws and published ordinances as contained in the aforementioned compilation shall be published in the Federal Register, revised annually, and furnished to each person licensed under chapter 44 of title 18, United States Code, as amended by this Act.

(2) The provisions of sections 103(5)(C), 104(2), 105, and 107 of this Act shall be applicable to any action, petition, or appellate proceeding pending on the effective date of this Act. In considering any petitions for

Presidential pardons submitted by persons convicted of violations of chapter 44 of title 18, United States Code, prior to the effective date of this Act, the Congress recommends that consideration be given to whether the violation would have been punishable under this Act, and to the purposes and findings contained in the preamble thereto.

Mr. BAKER. I ask for the yeas and nays, Mr. President.

The PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 5728

(Purpose: To restore the neighborhood school and to curb forced busing by federal courts, and for other purposes)

Mr. BAKER. Mr. President, I send an amendment to the desk in behalf of Mr. HATCH and ask for its immediate consideration.

The PRESIDENT pro tempore. The amendment will be stated.

The bill clerk read as follows:

The Senator from Tennessee [Mr. BAKER], for Mr. HATCH, proposes an amendment numbered 5728.

Mr. BAKER. I ask unanimous consent that further reading be dispensed with.

The PRESIDENT pro tempore. Is there objection?

Mr. KENNEDY. Objection, Mr. President.

The PRESIDENT pro tempore. Objection is heard.

The bill clerk continued to read the amendment.

Mr. KENNEDY. Mr. President, as I understand, this is the busing amendment. I have no further objection to dispensing with its reading.

The PRESIDENT pro tempore. The Senator no longer objects. Reading is dispensed with.

The amendment is as follows:

At the end of the pending amendment No. 5727 add the following:

SEC. . (a) This section may be cited as the "Neighborhood School Act of 1984".

(b) The Congress finds that—

(1) court orders requiring transportation of students to or attendance at public schools other than the one closest to their residence for the purpose of achieving racial balance or racial desegregation have proven to be ineffective remedies to achieve unitary school systems;

(2) such orders frequently result in the exodus from public school systems of children causing even greater racial imbalance and diminished public support for public school systems;

(3) assignment and transportation of students to public schools other than the one closest to their residence is expensive and wasteful of scarce petroleum fuels;

(4) there is an absence of social science evidence to suggest that the costs of school busing outweigh the disruptiveness of busing; and

(5) assignment of students to public schools closest to their residence (neighborhood public schools) is the preferred method of public school attendance.

(c) The Congress is hereby exercising its power under article III, section 1, and under section 5 of the fourteenth amendment of the U.S. Constitution.

(d) Section 1651 of title 28, United States Code, is amended by adding the following new subsection (c):

"(c)(1) No court of the United States may order or issue any writ directly or indirectly ordering any student to be assigned or to be transported to a public school other than that which is closest to the student's residence unless—

"(i) such assignment of transportation is provided incident to the voluntary attendance of a student at a public school, including a magnet, vocational, technical, or other school of specialized or individualized instruction; or

"(ii) the requirement of such transportation is reasonable.

"(2) The assignment or transportation of students shall not be reasonable if—

"(i) there are reasonable alternatives available which involve less time in travel, distance, danger, or inconvenience;

"(ii) such assignment or transportation requires a student to cross a school district having the same grade level as that of the student;

"(iii) such transportation plan or order or part thereof is likely to result in a greater degree of racial imbalance in the public school system than was in existence on the date of the order for such assignment or transportation plan or is likely to have a net harmful effect on the quality of education in the public school district;

"(iv) the total actual daily time consumed in travel by schoolbus for any student exceeds thirty minutes unless such transportation is to and from a public school closest to the student's residence with a grade level identical to that of the student; or

"(v) the total actual round trip distance traveled by schoolbus for any student exceeds 10 miles unless the actual round trip distance traveled by schoolbus is to and from the public school closest to the student's residence with a grade level identical to that of the student.".

(e) The school closest to the student's residence with a grade level identical to that of the student shall, for purpose of calculating the time and distance limitations of this Act, be deemed to be that school containing the appropriate grade level which existed immediately prior to any court order or writ resulting in the reassignment by whatever means, direct or indirect including rezoning, reassignment, pairing, clustering, school closings, magnet schools or other methods of school assignment and whether or not such court order or writ predated the effective date of this legislation.

(f) Section 407(a) of title IV of the Civil Rights Act of 1964 (Public Law 88-352), section 407(a); 78 Stat. 241, section 407(a); 42 U.S.C. 2000c-6(a)), is amended by inserting after the last sentence the following:

"Whenever the Attorney General receives a complaint in writing signed by an individual, or his parent, to the effect that he has been required directly or indirectly to attend or to be transported to a public school in volation of the Neighborhood School Act and the Attorney General believes that the complaint is meritorious and certifies that the signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief, the Attorney General is authorized to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.".

(g) For the purpose of this Act, "transportation to a public school in violation of the Neighborhood School Act" shall be deemed to have occurred whether or not the order requiring directly or indirectly such transportation or assignment was entered prior to or subsequent to the effective date of this Act.

(h) If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

Mr. HART and Mr. HATFIELD addressed the Chair.

The PRESIDENT pro tempore. The Senator from Oregon.

Mr. HATFIELD. Mr. President, in a moment, I am going to ask unanimous consent that we temporarily set aside the pending amendment so we can get on with the next committee amendment.

MOTION TO TABLE MOTION TO RECONSIDER PREVIOUS VOTE ON GERMANENESS

Mr. KENNEDY. Would the Senator object if we moved to reconsider the previous vote?

Mr. HATFIELD. No.

Mr. KENNEDY. I so move, Mr. President.

Mr. HART. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I would like to make just one brief statement assessing where we are as I view it at this time on the appropriations continuing resolution.

We have made a determination now that invites other legislative matters to be put on this continuing resolution, attached to it. I have one or two options as the manager of the bill. That is to accept everything that comes along knowing that we are headed for a veto and that is the direction we have to go because we cannot expect to get anything out of a conference that would be anything other than a vetoed bill. That puts us over into next week. I have said to the leader that that means October 5, in my view, is out of the question as far as the adjournment sine die because we have to stay here and do the people's business.

The other option is to try to return reason to the Senate as it relates to the question of whether we are going to choose to use the CR to attach all the unfinished legislative agenda that has not worked its way out through the process of the Senate during this time in this session. Because if we begin to attach the entire agenda, or even make—I have read before and

will not read again a list I have here of everything from authorization bills for foreign operation to water projects, immigration, crime bill, beer distributorships, Superfund, product liability, abortion, and on and on. Why should I make any effort to resist it?

On the other hand, if we want to try to take one at a time and make a determination, I shall raise a point of order against all these legislative matters. We are going to be in a process that is going to take, again, all this night, all tomorrow, all Friday night, all Saturday, and Sunday—hoping we can get to conference on Monday. Out of that conference, we still have to make a choice later on to see if we can develop something that is going to be signed downtown.

Let me tell you, I am a cosponsor of this bill, this which is determined to be germane, and this which is obviously ridiculous on the face of it. But that is our determination, the will of the Senate. Why should I try to resist others when we made this determination at this time? Maybe we will change our view on some of these other points.

I want to just lay it out. The Appropriations Committee has reported every appropriations bill to this floor beginning in June. The leader has given me assurance he will back me on continuing the around-the-clock session, if necessary. We may have to go into that. I am not complaining. I am not beefing about it. But I want to say very clearly we do have a lot of procedure ahead of us before we complete this session of the Congress. We have perverted the whole appropriations process time after time by going to the continuing resolution to begin with.

I have done my lecturing for the night. I just want to say we will be saying good morning to each other as we have been saying good evening to each other, as we go along here, because we have to finish the people's business.

Mr. BAKER. Will the Senator yield to me, Mr. President?

Mr. HATFIELD. I am happy to yield.

Mr. BAKER. I agree with the Senator from Oregon. I am not rising with regard to the correctness or appropriateness of the bill which has now been deemed germane. But all Senators will think about the fact that the first time out of the stall we failed to keep the CR as a CR. I do not think that augurs well for future efforts.

I have suggested to the distinguished manager of the bill on this side that we get on now with the next committee amendment and let us see how that goes. Let us see whether or not we work up the courage to hold anything nongermane tonight. It may be that we will not. If we do not, we just do not. I am not trying to tell the Senate that we have to do that. The Senate can do just about whatever it wants to do, just about. But at some point we have to get a grip on ourselves and pass a CR.

Let me define a continuing resolution. A continuing resolution is a resolution to make appropriations for those agencies and departments of Government where we have failed to make those appropriations. It is an emergency measure to do what we have not done and should have done.

But now, Mr. President, the CR has taken on a different connotation altogether. The CR is becoming the vehicle by which we offer our favorite proposal to this on the theory that the President will not veto.

Mr. President, that is not a safe assumption.

I can assure the Senate that as far as I am concerned, if we keep going this way I will recommend to the President that he veto it.

I am not talking about this measure right now, I am not talking about Grove City. But I am talking about what I think I see in prospect, what I think I see in prospect in adding billions of dollars to this deficit.

So, Mr. President, I should say outright that I am disappointed but not yet dismayed. I have urged the distinguished Senator from Oregon to see if we can get consent now to go on to the next one and see how we get along with that. We are going to go for a while. We will see what the Senate thinks about these things. But I have a terrible feeling. I am afraid that I am going to see 18 years of legislative combat reel before me in the next few days.

Just in case anyone has not done one on the Panama Canal, I may have an amendment on that. [Laughter.]

Mr. KENNEDY. Will the majority leader yield.

Mr. BAKER. I do not have the floor, Mr. President.

Mr. HATFIELD. I will be happy to yield. I guess I have the floor. I am happy to yield.

Mr. KENNEDY. Mr. President, I think it is quite clear from the vote that was just taken that a majority of the Members of this body want to address the issue of Grove City. As has been stated, even during this exchange, there are some who voted against the germaneness in support of the substance of the issue. I can indicate to the majority leader that those of us, 62 Members of this body, who cosponsored this legislation wanted an opportuntiy to vote on this issue. We were quite prepared for the measure to be brought up by the majority leader, that a cloture petition would be laid down, and if we were able to get the 60 votes it would be disposed of.

That is an offer that should still stand at the present time.

I think any of us who support this legislation must hear carefully what the majority leader and floor manager have stated. We understand our responsibilities to this institution.

If the majority leader will give us an opportunity to vote on this question on a cloture motion, with perhaps an hour of debate, a vote on cloture on Grove City, I would certainly recommend that that be the track to be followed and we could move toward the other substance of this issue.

Mr. PACKWOOD. Would the majority leader yield to me?

Mr. BAKER. I yield.

Mr. PACKWOOD. I will reemphasize what the Senator from Massachusetts has said, in terms of the offer originally made. We offered if we could have a cloture vote on the Grove City bill, which is at the desk, a cloture vote—and we need 60 votes to shut off debate—if we could have that vote, we would live by it. If we could not get 60 votes, we would proceed no further, other than having an agreement on title IX. We could probably agree to that.

That offer was rejected. We would not have what we have today had that offer been accepted. That is all we want. We said we would stake it on getting 60 votes.

No wonder we are frustrated. What on earth do you expect us to make in terms of an offer if that is not enough?

Mr. BAKER. Mr. President, it is like trying a lawsuit. You say the jury has to decide and I guess the jury has decided.

Mr. President, as far as I am concerned, I think I negotiated in good faith. I will not say whether I did or not, but some Members know I recommended ways by which we might get out of this. But we did not. Every Senator has the perfect right to decide to accept or reject every decision on how they wish to proceed. For weeks those negotiations went on and they were unsuccessful. The Senator from Kansas worked on it and dozens of meetings were held. Our staffs worked on it for dozens of meetings.

The point of the matter is that that was not a good offer. Maybe that is a good offer. Maybe I would have taken it. But the point of the matter is it would not work out.

The Senate has now spoken. I am not trying to be critical of any person. All I am saying is we have a lot of work yet to do. I have recommended to the distinguished chairman of the committee that we let this thing cool off a while now and go to the next committee amendment.

Mr. President, if the Senator will yield to me for that purpose——

Mr. HATCH. Will the Senator yield for one brief moment?

Mr. BAKER. Yes.

Mr. HATCH. I need to address one matter. One thing I feel deeply about is that as committee chairman of the Labor and Human Resources Committee, I raised issues that I thought were important if we were to reverse Grove City. That is where we got into a bind. We could not agree on what was the status quo. Both sides were sincere. Both sides have tried to accommodate. We have not been able to.

But I called eight committee markups to resolve this matter. I went further and said that I would cut off debate after a reasonable time. I even indicated that I would take two committee meetings, meaning we were limited to 2 hours at each meeting, but we did not have people show up. And yet within 2 weeks of the final day of this session we have a brandnew bill filed. It does not address many of the problems we have raised. Nobody has addressed them, and that is the problem.

Now, I urge my fellow Senators to look at the issue itself and realize that this is not an inconsequential thing. It is important. I do not really believe it is a civil rights issue. I believe it is an issue of governmental power; the Federal Government vis-a-vis State and local governments, as well as, private industry and nonprofit corporations.

But be that as it may, I think there are two sides to this. Had this come through the normal committee process, had we been able to resolve it that way, I probably would have lost in committee. There were 11 cosponsors out of the 18 committee members. But we would have given this proposal the kind of attention it deserves.

I urge Senators to read the amendment itself and consider what it does to State and local government powers, consider what it does to the private sector, and I think you will find it does a lot more than has been represented by the proponents.

I am sorry to take this additional time, but I wanted to make these statements.

Mr. BAKER addressed the Chair.

The PRESIDENT pro tempore. The distinguished majority leader is recognized.

Mr. BAKER. I thank the Chair.

Mr. President, as I indicated, I think it is time to get on with the matter at hand. Rather than spend any more time on Grove City and this amendment, I think we ought to move along. So what I would propose now is to ask unanimous consent that the Senate temporarily lay aside the pending committee amendment and proceed to committee amendment No. 4.

Mr. WEICKER. Parliamentary inquiry.

The PRESIDENT pro tempore. The Senator from Connecticut will state his inquiry.

Mr. WEICKER. Mr. President, what is the pending business before the Senate?

The PRESIDENT pro tempore. The amendment offered by the majority leader, No. 5728.

Mr. WEICKER. Mr. President, through you and the majority leader, I ask the majority leader, his request involved the fact that he seemed to be indicating the pending business was the committee amendment on the bill. The pending business, however, is one of the amendments that the majority leader offered. I was wondering exactly where we expect to go on that matter?

Mr. BAKER. Mr. President, if I may say so, the amendment that was offered to the committee amendment No. 1 by the distinguished minority leader was itself subject to an amendment, as was the underlying language. That was the pending question. I then offered three amendments to fill up the tree, and the last one of those becomes the pending question. But the pending business is the bill itself.

Now, what I am proposing is that we move from committee amendment No. 1, with all of the appendages thereto filling up the tree, and go to committee amendment No. 4, which is the preference of the chairman. But this is temporarily laying it aside and we would return to it.

Now, Mr. President, there is one other thing that I have to straighten out before I want the Chair to rule. If I may have just a moment, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I withdraw my previous request, and I wish to reformulate it.

First, I ask unanimous consent that the Senate temporarily lay aside the pending committee amendment and any amendments thereto or amendments to amendments thereto, and proceed to the consideration of committee amendment No. 4, and that no call for the regular order will serve to bring committee amendment No. 1 back.

Next, I ask unanimous consent that, notwithstanding that during the calendar day tomorrow the committee amendment No. 1 and amendments thereto or amendments to amendments thereto is not pending, it may be in order for Senators to file cloture motions in respect to the committee amendment, and amendments to the committee amendments, or amendments to amendments to committee amendments.

Mr. BYRD. Mr. President, reserving the right to object.

The PRESIDENT pro tempore. Is there objection?

Mr. HATCH. Mr. President, reserving the right to object.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I temporarily withdraw the request I just put.

CLOTURE MOTION

Mr. HATCH. Mr. President, I send a cloture motion to the desk.

The PRESIDENT pro tempore. The cloture motion will be stated.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on amendment No. 5727 to the language proposed to be stricken:

Orrin G. Hatch, Strom Thurmond, Jesse Helms, Jeremiah Denton, Steve Symms, Chick Hecht, John P. East, Don Nickles, Paula Hawkins, Chuck Grassley, Paul Laxalt, Bill Armstrong, Jake Garn, James Abdnor, Barry Goldwater, James A. McClure.

Mr. BYRD. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. BYRD. I take it that the cloture motion is to the pending amendment.

The PRESIDENT pro tempore. The underlying first-degree amendment. Under the Senate precedents, it can be filed.

Mr. BYRD. What was the Chair's ruling?

The PRESIDENT pro tempore. The question is on the amendment.

Mr. BAKER. Mr. President, just to keep things straight, what is the pending question?

The PRESIDENT pro tempore. The question is on amendment No. 5728.

Mr. BAKER. And what is it to?

The PRESIDENT pro tempore. Amendment No. 5727. [Laughter.]

Mr. BAKER. My gratitude to the Chair is overwhelming. I do not know that pursuing that will help. [Laughter.]

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, my intuition is sometimes more right than my head. My intuition told me sometime ago that we ought to let this cool off and start again in the morning.

I think we are close to some agreements that might expedite these proceedings, but we are not there yet.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not past the hour of 7:45 p.m., in which Senators may speak for not more than 1 minute each, except for the two leaders against which there will be no limitations of time.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, there will be no votes tonight. However, there is a high probability that we will be in much of tomorrow night and on Saturday.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore of the Senate, pursuant to the provisions of Public Law 98-933, appoints the following Senators to the Martin Luther King, Jr., Federal Holiday Commission: the Senator from Maryland [Mr. MATHIAS], the Senator from Kansas [Mr. DOLE], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Massachusetts [Mr. KENNEDY].

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

U.S. GOVERNMENT PARTICIPATION IN THE UNITED NATIONS—MESSAGE FROM THE PRESIDENT—PM 172

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Appropriations:

To the Congress of the United States:

I am pleased to transmit herewith a report of the activities of the United States Government in the United Nations and its affiliated agencies during the calendar year 1983, the third year of my Administration. The report is required by the United Nations Participation Act (Public Law 264, 79th Congress).

RONALD REAGAN.

THE WHITE HOUSE, *September 27, 1984.*

SUPPLEMENTAL APPROPRIATIONS REQUEST FOR SECURITY OF U.S. DIPLOMATIC MISSIONS—MESSAGE FROM THE PRESIDENT—PM 173

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Appropriations.

To the Congress of the United States:

I am today forwarding to the Congress a request for Supplemental Appropriations for Fiscal Year 1985 totalling $110,200,000. These funds will be used solely to increase the security of United States diplomatic missions overseas.

This request represents another essential step in what will be a multi-year effort to counter the threats posed by a growing scourge against humanity—international terrorism. The Secretary of State is also forwarding separately a request for authorization of $366,278,000 for the next fiscal year. This first $110.2 million supplemental request is that portion of the total $366 million authorization that requires immediate appropriation. We would hope for prompt action on these proposals so that immediate steps can be taken and longer-term measures can be planned to better protect our diplomatic personnel and facilities abroad. In my FY-86 budget, we will forward to the Congress the next increment of a five-year program of security enhancements for our overseas missions. This program is now in the final stages of review.

The five-year program of improved protection is being prepared as part of the intense government-wide analysis I directed immediately after the terrorist attack against our Marines in Lebanon last October. When the final review is completed, this detailed action plan, reinforced by new legislation now pending in the Congress and separate measures being taken with our allies, will add considerably to our ability to counter this menace to all mankind. As the tragic events in Beirut have shown, we must do more to protect our citizens who serve our country overseas. This request continues our commitment to do just that and complements actions already being implemented which are compatible with our longstanding policy:

—On July 23, 1983, I issued a public statement urging international cooperation against terrorism.

—In a message to the European Heads of State and Government on September 17, 1983, I made a similar direct appeal for their help in deterring terrorist attacks.

—In April 1984, the Administration submitted four bills to the Congress designed to strengthen our legal instruments for dealing with terrorists.

—In an effort to improve international cooperation in combatting terrorism, Western leaders at the London Economic Summit in June 1984 issued a seven point declaration on cooperative steps to be taken against terrorists.

—In April 1984, I also issued direction to:

improve intelligence collection, analysis, and dissemination on terrorist groups and organizations;

improve our response capabilities based on cogent analysis of what responses are most likely to deter future attacks; and

better our security protection and awareness and take legal preventive action to thwart terrorist attacks before they occur.

The funds proposed in this request will help us move to implement this last step. Recent events underscore the urgency for proceeding rapidly with those measures which will improve security and protection.

International terrorism, by its very nature, is unpredictable and difficult to defend against—particularly when the attacker intends to give his life in the attempt to assassinate others. As long as rogue governments use the brutality of terrorism in attempts to achieve their ends, we must take measures such as these to reduce our vulnerability. No one can be certain that such attacks will not occur again in the future. We can be certain, however, that the enhancements made possible in the request for appropriations I have forwarded today and the authorization request, transmitted by the Secretary of State, will make such attacks much more difficult.

RONALD REAGAN.

THE WHITE HOUSE, *September 27, 1984.*

MESSAGES FROM THE HOUSE

At 12:17 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1904) to extend and improve the provisions of the Child Abuse Prevention and Treatment Act and the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 3979) to establish a national program to increase the availability of information on the health consequences of smoking, to amend the Federal Cigarette Labeling and Advertising Act to change the label requirements for cigarettes, and for other purposes.

The message further announced the House agrees to the report of the committee of conference in the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2603) to extend the authorization of appropriations for, and to revise the Older Americans Act of 1965, and that the House recedes from its amendment to the title of the said bill.

The message also announced that the House has agreed to the following concurrent resolution; in which it requests the concurrence of the Senate:

H. Con. Res. 364. Concurrent resolution to correct technical errors in the enrollment of the bill H.R. 1904.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message further announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 718. An act for the relief of Samuel C. Willet;

H.R. 5561. An act to enhance the economic development of Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and for other purposes; and

H.J. Res. 649. Joint resolution changing the date for the counting of the electoral votes in 1985.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore [Mr. THURMOND].

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROTH, from the Committee on Governmental Affairs: Report to accompany the bill (S. 563) to reform the laws relating to former Presidents (Rept. No. 98-637).

By Mr. MATHIAS, from the Committee on Rules and Administration, without amendment:

S. Res. 429: A resolution authorizing the printing of the report entitled, "Highway Bridge Replacement and Rehabilitation Program, Fifth Annual report to Congress" as a Senate document (Rept. No. 98-638).

By Mr. MATHIAS, from the Committee on Rules and Administration, without amendment:

S. Res. 454: An original resolution authorizing the printing of a revised edition of Senate document numbered 96-23, Ninety-Sixth Congress, first session, entitled "Majority and Minority Whips of the Senate," a Senate document (Rept. No. 98-639).

By Mr. MATHIAS, from the Committee on Rules and Administration, without amendment:

H.J. Res. 580: A joint resolution to authorize the Kahlil Gibran Centennial Foundation of Washington, D.C., to erect a memorial in the District of Columbia (Rept. No. 98-640).

By Mr. ROTH, from the Committee on Governmental Affairs, with amendments:

H.R. 6007: A bill to establish certain procedures regarding the judicial service of retired judges of District of Columbia courts, and for other purposes.

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. Res. 445: An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5076.

S. Res. 446: An original resolution waiving section 402(a) of the Congressional Budget Act of 1974, with respect to the consideration of H.R. 5221.

S. Res. 448: An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 2889.

S. Res. 451: An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 2645.

By Mr. MATHIAS, from the Committee on Rules and Administration, without amendment:

S. Res. 455: An original resolution to pay a gratuity to Joan M. Shute and Arthur G. Mitton III.

S. Res. 456: An original resolution to pay a gratuity to Mary E. Hinton.

By Mr. ROTH, from the Committee on Governmental Affairs, without amendment:

S. 2721: A bill to confirm a conveyance of certain real property by the Southern Pacific Transportation Company to Ernest Pritchett and his wife, Dianna Pritchett.

By Mr. BAKER (for Mr. PERCY), from the Committee on Foreign Relations, with amendments and an amended preamble:

S. Con. Res. 74: A concurrent resolution to encourage and support the people of Afghanistan in their struggle to be free from foreign domination.

By Mr. ROTH, from the Committee on Governmental Affairs, without amendment and with a preamble:

S. Con. Res. 120: A concurrent resolution expressing the sense of the Congress that the legislatures of the States should develop and enact legislation designed to provide child victims of sexual assault with protection and assistance during administrative and judicial proceedings.

By Mr. MATHIAS, from the Committee on Rules and Administration, without amendment:

S. Con. Res. 144: A concurrent resolution authorizing the rotunda of the United States Capitol to be used on January 21, 1985, in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President-elect of United States.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. ROTH, from the Committee on Governmental Affairs:

Susan Rebecca James, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for a term of 15 years;

Colleen Kollar-Kotelly, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for a term of 15 years;

Robert Isaac Richter, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for a term of 15 years;

A. Noel Anketell Kramer, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for a term of 15 years;

Emmet G. Sullivan, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for a term of 15 years;

Robert Samuel Tignor, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for a term of 15 years;

Rufus Gunn King III, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for a term of 15 years;

By Mr. PERCY, from the Committee on Foreign Relations:

Treaty Doc. 98-31. Convention relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite, which was signed by the United States at the close of the Diplomatic Conference in Brussels on May 21, 1974; Executive Report No. 98-52.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SYMMS:

S. 3030. A bill to amend the United States Housing Act of 1937 to provide additional homeownership and resident management opportunities for families residing in public housing projects; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WALLOP:

S. 3031. A bill to amend the Tariff Schedules of the United States in order to establish equitable duty rates for sodium bicarbonate; to the Committee on Finance.

By Mr. DURENBERGER (for himself, Mr. BOSCHWITZ, Mr. MELCHER, Mr. BOREN, Mr. SIMPSON, Mr. NICKLES, Mr. PRYOR, and Mr. THURMOND):

S. 3032. A bill to amend the Internal Revenue Code of 1954 to provide for more equitable test and imputed interest rates, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MATHIAS, from the Committee on Rules and Administration:

S. Res. 454. An original resolution authorizing the printing of a revised edition of Senate document numbered 96-23, 96th Congress, first session, entitled "Majority and Minority Whips of the Senate" as a Senate document; placed on the calendar.

S. Res. 455. An original resolution to pay a gratuity to Joan M. Shute and Arthur G. Mitton III; placed on the calendar.

S. Res. 456. An original resolution to pay a gratuity to Mary E. Hinton; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SYMMS:

S. 3030. A bill to amend the U.S. Housing Act of 1937 to provide additional homeownership and resident management opportunities for families residing in public housing; to the Committee on Banking, Housing, and Urban Affairs.

ADDITIONAL OPPORTUNITIES FOR FAMILIES RESIDING IN PUBLIC HOUSING

Mr. SYMMS. Mr. President, today we held the fourth in a series of hearings on privatization before the Joint Economic Committee's Subcommittee on Monetary and Fiscal Policy.

Privatization is the transfer of the ownership of assets and, consequently, the responsibility for supplying goods and services from the public to the private sector of the economy.

Today we addressed the privatization of public housing. I am particularly pleased that Congressman KEMP was our first witness today because privatization of public housing is not only a privatization issue, but it is also a supply-side issue, one that is of importance to the future health of our Nation's cities.

Government intervention has driven a wedge between the demand for and supply of housing in this country. As a result, these Government policies have actually worked on the suppy side of the housing market to either destroy our Nation's housing stock or retard its growth. Prof. Peter Salins has documented how these negative supply-side effects have worked in New York City. For evidence, allow me to suggest that you refer to Salins' book, "The Ecology of Housing Destruction."

By privatizing public housing, I believe we can begin to remove some of the supply-side impediments to the provision of housing for the needy.

We began these hearings with Congressman KEMP's analysis of the privatization option for the United States, and then heard from Dr. Stuart Butler, who reviewed how Britain's privatization program for public housing has worked.

I encourage my colleagues and their staff to look at this testimony, and I ask unanimous consent that it be printed in the RECORD, along with the Heritage Foundation material entitled "Public Housing: From Tenants to Homeowners."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE URBAN HOMESTEAD ACT OF 1984: A PLAN FOR TURNING TENANTS INTO HOMEOWNERS

(Testimony before the Joint Economic Committee by Congressman Jack Kemp, September 27, 1984)

I welcome the opportunity to testify today on the Urban Homestead Act, a new bill which I have just introduced along with some of my colleagues, which extends homeownership opportunities to thousands of public housing tenants who yearn to own their own home. I would like to recognize the important contributions and efforts in this regard of Heritage Foundation's Stuart Butler, American Enterprise Institute's Cicero Wilson, Bob Woodson of the Center for Neighborhood Enterprise, Dr. June Q. Koch, Assistant Secretary for Policy Development and Research at HUD, and the many others who have provided important assistance and advice on my bill.

In all our efforts, we have striven to achieve one major goal: to make the dream of homeownership a reality for thousands of public housing tenants—often poor, black, and on welfare—who don't have a strong voice in Washington, who feel left out of our economic system, and who have often become alienated from our political system.

We want to let these people know that their aspirations, their hopes, and their dreams are our own. That the American dream of homeownership is not just for the well-to-do, or even the middle class, but also for poor people who live in the most blighted areas of our inner cities. They too yearn for homeownership—a home they can afford, a home in which to raise a family in security and independence, a home in which to take pride while building and improving for the future and for their children.

Yet today most of the urban poor find it nearly impossible to own their own home. Not just because their income is low, interest rates high, and their credit worthiness doubtful, but also because tenants in government housing projects are not permitted to purchase their dwellings. We don't want to eliminate public housing or cripple its effectiveness. While there certainly are some bad housing projects, our goal is to enhance and improve this tremendous national asset by allowing public housing tenants the opportunity to buy their own home.

All of this is not to say that the public housing is trouble free. Far from it. Public housing discourages work and saving, raises numerous barriers to the upward mobility of tenants, and sometimes has degenerated into dilapidated and depressing slums.

If a public housing tenant on welfare takes a job, for example, he faces effective marginal tax rates over 100%, due not just to federal, state, and local taxes on his earnings, but also the loss of government support payments as well. As the tenant's income increases, his rent would be raised accordingly. And he could be expelled from the project if his income rises too much. If a tenant marries, the additional income of a spouse may make them ineligible for public housing.

Tenants have little incentive to conserve utilities or properly maintain projects, and public housing authorities have just as little incentive to upgrade projects or fill vacant units, since they get paid whether the unit is vacant or filled. What a tragedy that over 60,000 public housing units lay vacant, while thousands of the poor are on waiting lists for an apartment.

I believe that homeownership can lift the aspirations, hopes, and self-respect of those in our inner city slums. When people become homeowners something dramatic occurs in their attitudes, character, and outlook. Families acquire new dignity, they begin to take pride in what they own, and they become more steadfast and concerned citizens in the community.

The mere act of homeownership transforms tenants, giving them a new sense of belonging and self-reliance. Homeownership encourages stable and intact families, creates a longer outlook on life and the future, and gives the poor new reasons to work and save. Homeownership can help give new life to the inner city poor by promoting human dignity, personal achievement, and social stability.

And in doing so, America itself gains in strength. Since the beginning of our country, tenantry has been viewed as unfavorable to freedom. The policy of free republics was always to multiply homeownership to increase the love of country, the spirit of independence, and self-reliance. Abraham Lincoln over a century ago endorsed a Homestead Act which opened up the Western frontier to the new immigrants and freed blacks seeking to own their own home. We name our bill in honor of Lincoln's Homestead Act since we share his objective of homeownership for all regardless of income, creed, or race.

Can it be done? Can poor people become the owners of their own homes? Many say no, that the economics of the poor preclude homeownership for all but the middle class.

I believe that many tenants would choose homeownership, if they were given a choice. Our inner city poor are our country's most important untapped resource. We can turn many of the poor into homeowners, if only we have the determination and imagination to make this goal a reality.

We already have tested and demonstrated examples of successful tenant-management of public housing like Ms. Kimi Gray of Kenilworth/Parkside Gardens who modernized a dilapidated project, improved maintenance, and reduced costs to a point where the project is now self-sustaining. But what she really did was to lift the spirits and sights of her tenants. And the results were dramatic reductions in many social problems like crime, drug abuse, and vandalism. She and her tenants deserve to be homeowners.

This story is repeated in the charismatic leadership of other tenant managers, like Ms. Bertha Gilkey of Cochran Gardens in St. Louis, or Ms. Bonnie Downs of Iroquois Homes in Louisville, Kentucky, or Ms. Viney Reynolds of B.W. Cooper Homes in Louisiana—all of whom have helped turn some of the worst housing projects into showcase success stories. These tenants and others have demonstrated that they can handle the full responsibilities and privileges of homeownership.

I am proposing a determined national effort to build on the efforts and aspirations of the Kimi Grays and Viney Reynoldes to make private ownership the next reasonable and viable step for tenant-managed projects. We don't make homeownership an entitlement program. Giving away housing without requiring any stake by the tenant himself would defeat our purpose of promoting independence and pride among tenants. It would also be an affront to low and middle

income Americans who must work hard to afford their own homes.

Our bill puts homeownership in striking distance for deserving tenants who have demonstrated that they can handle the responsibilities and costs of homeownership.

The premises and details of our plan, which is only a beginning step, would proceed along the following line: First, tenants would form a tenant association; second, they would be trained and educated to efficiently manage their projects; third, they could buy the project at a discount from market value after demonstrating that they could bear the costs and responsibilities of ownership and project management.

Our first premise is that tenants themselves would show their interest and support for homeownership by forming a homeowners association with intention to buy. The homeowners association, not HUD or the local public housing authority, would initiate and plot the course for eventual conversion of the projects to homeownership. Our approach does not bypass the housing bureaucracy but neither does it allow public housing authorities to arbitrarily block homeownership.

Our responsibility, however, doesn't end with putting a "for sale" sign on government housing projects. We must go much farther. My bill envisions a partnership involving labor, business, local housing authorities, civic organizations, foundations, and especially poor people themselves, to make the dream of homeownership a reality. Aspiring homeowners must be trained, educated, and counseled not just on managing the responsibilities of home ownership, but also on job skills, financial management, and home care maintenance. Is this asking too much? The experience of tenant-managed projects gives a resounding no.

Public housing projects can also become the focal point for many self-help efforts like the Administration's Job Training Partnership Act and its Enterprise Zone legislation which promote job skills, enterprise, and new business to greenline distressed inner cities which too often have been blacklined against private enterprise and growth. Local civic groups like Rev. Leon Sullivan's Opportunities Industrialization Center, which has done outstanding work in training rehabilitation experts from the ranks of the unskilled, should also be tapped.

We have already received encouraging support from real estate associations, life insurance firms, foundations, and businesses ready to contribute training, management and technical expertise, and even seed capital. Local governments could provide tax abatement. In short, our homeownership initiative is more than just signing papers, it is an entire urban revitilization strategy around the inner city family's most cherished possession: its home.

Our second premise is that public housing must be sold at large discounts, since obviously most tenants are quite poor. To help facilitate what is beyond the means of most poor, a homeowners association could purchase their dwelling at no more than 25 percent of market value and no down payment. The public housing authority would "take back" a mortgage at reasonable rates (no more than 70 percent of market interest rates). To bring homeownership into the reach of even more poor people, tenants themselves could build equity in their homes by contributing their own talents and labor as part of their investment.

Third, to protect all public housing tenants, our bill provides a number of important safeguards both for tenants and the homeowners. Tenants who don't choose to buy either would continue to rent as now from the public housing authority or would receive a housing voucher from the government equal to or better than their current housing assistance. No tenants could ever lose their home as a consequence of our bill.

To prevent premature or hasty transfer of ownership, title would be transferred to tenants only after HUD certifies that they and the homeowners association can afford the cost and responsibilities of homeownership. Under our bill, the Department of Housing and Urban Development must bring the housing up to decent standards before being sold and would provide continuing assistance as needed even after conversion to private ownership.

Taxpayers also gain from the Urban Homestead Act. Aside from construction costs, taxpayers now pay over $3 billion yearly in operating and modernizing subsidies for public housing, about $2,100 per unit a year. Many public housing projects can achieve economic self-sufficiency and can operate on a break even basis without government subsidies. The payoff is not only reduced government subsidies, but significantly higher property values for businesses and taxpayers in neighborhoods near public housing projects.

Now, this is a sketchy outline of our plan. Clearly, this involves a great many issues and raises a number of problems. But nothing in this plan has not been done before on a smaller scale and has not been already tested and tried with success. What is really new is our strong determination to make homeownership available to low-income families in America's cities. Considering the greater security and peace of mind, the tremendous boost in morale and dignity, and the opportunity to rebuild our inner cities, shouldn't we be looking at ways to turn tenants into homeowners? There is no more rewarding investment than helping some of America's urban poor realize an important and lasting stake in the American dream.

TESTIMONY BEFORE THE MONETARY AND FISCAL POLICY SUBCOMMITTEE OF THE JOINT ECONOMIC COMMITTEE, SEPTEMBER 27, 1984

(By Stuart M. Butler, Director of Domestic Policy Studies, The Heritage Foundation)

My name is Stuart Butler. I am Director of Domestic Policy Studies at The Heritage Foundation. The views I put forward are my own, and should not be taken as representing any official position of the Foundation.

I have taken a keen interest in the idea of privatization for some time, and a number of articles by myself and other authors on the issue have been published by Heritage during the last three years. These have dealt with a wide variety of issues from the privatization standpoint, including Social Security, municipal services, bank deposit insurance, and, most recently, public housing. My interest in the idea of privatizing public housing stemmed from the work of the National Center for Neighborhood Enterprise, and from the experience of a privatization model in Britain.

The National Center has examined the role of neighborhood-based organizations in service delivery and economic development within low income communities. The Center found that when groups are given control of functions, they can be remarkably successful in bringing down costs and developing innovative and highly effective methods of dealing with local problems.

Housing is a case in point. In conjunction with the Project on Neighborhood Revitalization of the American Enterprise Institute, the National Center has examined the performance of community-based management organizations as operators of public housing—Kimi Gray, the Resident Manager of such a corporation in Washington, will be testifying before the subcommittee tomorrow. The data concerning these corporations will be discussed during Ms. Gray's testimony, but the general conclusion is that dramatic cost reductions can be achieved once tenants obtain control of their own housing destiny.

Ownership is the logical next step after tenant management. Ownership provides a clear stake in the community—one that is permanent. The evidence from both the United States and Britain is that once low income people acquire ownership rights over their homes, they take a very different view towards maintenance, economic improvement, and even social problems within their community.

It is this change in attitudes and commitment that lies at the heart of the privatization strategy. Privatization has nothing to do with "selling off" valuable federal assets to private interests: it has everything to do with using a change of ownership to alter behavior patterns, thereby stimulating efficiency, innovation, and a determination to preserve and improve the asset. The proposal to encourage homeownership among public housing tenants is an excellent example of this strategy. By providing residents with an ownership stake in their communities, the program would enable low income people to attain the American dream of home ownership, reduce the burden on the federal government of excessive operating costs, and stimulate community efforts to tackle the social problems that now lead to falling property values, vandalism and boarded-up dwellings.

Following is an analysis of the British "Right to Buy" program, which has turned 500,000 tenants into homeowners, together with the framework of a plan for a similar program in the United States. While there may be disagreement on the details of such a homeownership plan, there can be little doubt that the ownership idea works in low income neighborhoods. The demonstration program being developed by HUD is a major step forward in turning ownership into a reality in such neighborhoods. I hope that Congress will study that program carefully, while preparing the legislation necessary to turn the experiment into a full program.

[From the Heritage Foundation Backgrounder, June 12, 1984]

PUBLIC HOUSING: FROM TENANTS TO HOMEOWNERS

(By Stuart M. Butler, Director of Domestic Policy Studies)

INTRODUCTION

Public housing projects in the United States have come to epitomize urban blight. While this view is exaggerated, it is nevertheless true that public housing represents one of the great ironies of federal intervention. When the program began in the 1930s, the assumption was that the projects would help ameliorate social problems in the cities by stabilizing communities and the housing stock. The reverse has been true.

Yet there is evidence, in this country and abroad, that certain inner city housing experiments can have positive results. They all have one thing in common—ownership.

Whether the program is homesteading, where abandoned properties can be brought for a dollar, or the discounted sale of public housing to tenants (in Britain), the effect is the same. When residents acquire an equity stake in the future of their building, and hence their neighborhood, they gain incentives to change their behavior from destructive to constructive and to urge their neighbors to do likewise. And instead of economic improvement bringing with it the threat of increased land values and displacement, equity allows a resident to rise with the tide—not drown in it.

But, some would argue, the low income of public housing tenants precludes their becoming homeowners. The solution to this apparent barrier is to recognize that support for homeownership is entrenched in the tax codes. Thanks to the mortgage interest deduction, middle- and upper-income Americans have powerful tax incentives to become homeowners. This is no accident. The explicit purpose of the deduction is to help Americans purchase homes. Yet the low-income tenant, who pays little or no income tax, has no such incentive—so he must pay a far higher after-tax price than higher-income citizens buying exactly the same property.

Congress and the Administration should recognize this inequity and establish a "Right to Buy" homeownership program in the inner cities, based on the sale of public housing buildings, at a substantial discount, to associations of occupying tenants. The Reagan Administration should establish an experimental program immediately using existing law. It should also seek legislation to permit tenant associations to apply directly to the Secretary of Housing and Urban Development (HUD) for permission to purchase buildings from their local Public Housing Authority (PHA). The legislation should also allow the Secretary to require the PHA to provide the tenant group with a mortgage.

Proponents of such a program would be blind if they overlooked its political advantages. A similar plan in Britain enabled Conservative Margaret Thatcher to make considerable inroads among traditionally Labor-voting public housing tenants in her landslide 1983 reelection. The New York Times noted after the election that:

As political experts and party strategists sift through the results of Labor's crushing defeat . . . more and more are identifying the "homeowner mentality" of voters . . . as a crucial development.[1]

An inner city homeownership plan would extend the idea of owning a home to low-income Americans. It would help stabilize the value of public rental stock near tenant-owned units, and would plant the seeds of improvement in the nations's most desolate neighborhoods. It would be a logical companion to the enterprise zone approach to inner city development. Like the zone proposal, which seeks to unlock the entrepreneurial spirit, the Right to Buy program would draw on the strengths of residents to tackle the problems of their own community.

THE BRITISH RIGHT TO BUY PROGRAM

During the last five years, over 500,000 dwellings (out of a total public housing stock of approximately 7 million units) have been sold to public housing tenants in Britain under the "Right to Buy" scheme. Widening homeownership in this way is seen by the Thatcher government as central to its objective of reviving neighborhoods and encouraging self-improvement.

Stated simply, Britain's Right to Buy program allows public housing tenants to purchase their units at a discount on the market value of up to 60 percent, based on the length of tenancy.

Eligibility

A tenant obtains the right to buy it if he or she has been a public housing tenant for at least two years[2] and the unit is the principal home. The tenant can purchase the unit jointly with up to three other family members, provided they have been living in the same unit for at least three months.

Discount

If the tenant has lived in public housing for three years, the unit can be bought at the market value less 33 percent. The discount increases by 1 percent for each additional year as a tenant, up to a maximum 60 percent discount after 30 years as a tenant.[3] The period counting toward the discount need not have been spent in the same unit, or even within the jurisdiction of the same housing authority. The valuation, upon which the discounted price is based, is calculated by the housing authority. If the tenant disagrees with that valuation, he can appeal to the District Valuer, an independent official whose decision is legally binding on both parties.

Finance

The purchaser has three options in raising the money to pay for the house.

(a) The tenant can obtain a mortgage from a savings and loan association. Approximately half of all public housing sales are financed in this way.

(b) The tenant has the legal right to a mortgage from the local housing authority. Basically the loan amount is limited to 2½ times the annual income of the purchaser, plus 1 times the annual income of any other family members assisting in the purchase. For purchasers over 60 years of age, the multiple is lower.

(c) The tenant may buy the unit in stages. After buying at least 50 percent of the unit, with the usual discount according to length of tenancy, he can obtain full ownership by purchasing increments of 12½ percent. The tenant continues to pay rent on the portion still owned by the housing authority.

Like the purchaser of privately built housing, the public housing tenant-buyer can deduct mortgage interest payments from taxable income. The trouble has been that, if the low-income purchaser pays little or no income tax, the mortgage deduction is practically worthless. Since April 1983, however, a low-income buyer in Britain has been able to utilize the Mortgage Interest Relief at Source Program. Under this, he can obtain a cash subsidy equal to the tax relief to which he is entitled (at the 30 percent lowest bracket), less the amount he can actually deduct from his tax bill—in effect a refundable mortgage deduction.

Value recapture

A tenant-buyer cannot buy his unit one day with a 60 percent discount, sell it the next at the full market rate, and walk away with the difference. If the unit is sold within one year of the initial purchase, 100 percent of the discount must be repaid. This repayment requirement falls by 20 percent each year until, after five years, the unit can be resold without the repayment of any portion of the discount.

ANALYSIS OF THE BRITISH EXPERIENCE

The British program of public housing sales has been highly popular and had profound effects on many neighborhoods. As the program's proponents expected, signs of home improvement activity, close attention to maintenance, and resident involvement in neighborhood issues have become evident in communities where tenants are buying. The reason for this is simple, says Conservative Councilwoman Hazel Weiberg, "ownership gives them a greater stake in the community."[4]

Distribution of housing and sales

Approximately one-third of all housing in Britain is publicly owned rental accommodation. This is above the average for Western Europe, and far above the 1.5 percent in the U.S. In addition, the mean income of families in British public housing is not far below that of owner-occupying families, and it is a shade higher than families in private rental units. One reason for this is that local housing authorities cannot evict tenants whose incomes rise above the initial threshold for their unit. Moreover, the right of tenancy in a public housing unit in Britain can be passed on to an heir who has lived with the tenant. British public housing structures also differ from those found in American cities. While there are many examples of blighted high-rise properties, more typical is the well-built duplex or four-unit walk-up in a reasonably stable neighborhood.

The sales of British public housing reflect these characteristics. Data for 1982, for instance, indicate that the average income of tenant purchasers was only 16 percent lower than that of all first-time house buyers in Britain, and 96 percent of public units sold were town houses, duplexes, or detached houses (only 4 percent were apartments). Nevertheless, sales were more common among lower-income public housing tenants than is usual for first time buyers. Forty-seven percent of public housing purchasers earned less than $10,000 a year (34 percent for all first-time buyers), and 14 percent earned less than $7,000 (9 percent generally).[5] Not surprisingly, in view of the discount based on length of tenancy, the average age of the tenant-buyer (43 years) was significantly above the average for first-time buyers (31).

Multi-unit buildings

The data indicate that the bulk of public housing sales in Britain have constituted purchases of fairly desirable types of housing to tenants who would not be classified as very poor. So American policymakers should not assume that the typical Right to Buy sale involves a welfare mother buying her high-rise apartment.

Indeed, it is the high-rise apartment that has been the most difficult for local authorities to sell to tenants. British officials are quick to point out, however, that a high proportion of Britain's multifamily urban public housing was built after the Second World War with poor material and designs. Inadequate durabiltiy and structural prob-

[1] "In Housing Policy, It Seems the Tories Had a Winner," The New York Times, June 22, 1983.

[2] Decreased from three years in legislation passed in 1983.

[3] Prior to the 1983 legislation, the maximum discount was 50 percent after 20 years.

[4] "New Law Transforms Britain Into a Nation of Homeowners," Wall Street Journal, September 14, 1983.

[5] Assuming one pound = $1.40

lems make these units very unattractive for purchase, even at low prices. Would-be buyers in such buildings are inclined to remain on the waiting list for a more desirable property (using the waiting time toward a larger discount).

A second key factor is the unfamiliarity of the British with mechanism such as tenant management or cooperative ownership. Tenant management is almost unknown in Britain, and cooperative ownership is rare. Consequently, say British officials, tenants have a strong resistance to the only forms of purchase and organization that are practical for low-income people in multifamily buildings. Even when a tenant buys his home in a 4-unit walk-up, the local authority usually retains the responsibility for the common areas and general maintenance (with a service fee), rather than have the owners accept this responsibility.

Lessons of the British model

Despite such differences between the U.K. and U.S. situations, the British program contains important lessons for a workable approach on this side of the Atlantic.

The first is that a discount based on length of tenancy is a powerful stimulus and a means of favoring the most stable tenants. Initial fears that the discounts would provoke anger among working class buyers of private homes (who enjoy no such discount) proved groundless. The discount strategy has enabled many long established tenants to become even firmer anchors in the community.

A second lesson is that the resale value recapture mechanism is an important ingredient of the British program. It discourages rapid resale—which would undermine the otherwise stabilizing features of the program. On the other hand, the prospect of capital gain is important to a purchaser. In neighborhoods where market prices are not rising, or even falling, the sliding scale recapture provision in Britian allows for a potential capital gain within a reasonably short time.

The third lessson is that an American version of the British plan would have to overcome the problem of selling apartments to low-income tenants. Given the familiarity of Americans with cooperative ownership, this should present fewer problems than it has in Britain. Nevertheless, the high concentration of low-income people in American public housing would require more creative financing arrangements than are typical in Britain.

A PROGRAM FOR THE UNITED STATES

Since 1949, Congress has targeted the public housing program increasingly toward lower-income and welfare families, rather than those with modest incomes. Unlike Britain, therefore, the family income of a typical American public housing tenant is well below the national median—posing problems for any sales policy. Legislation does give a Public Housing Authority (PHA) in the United States the power to sell a "low income project to its lower income tenants." The sale price is usually based on the portion of the original development cost still outstanding—not the current market value. So discounted sales are permissible in the U.S.

This and other legislation have led to a number of home ownership programs for low-income tenants. The Turnkey III program, begun in 1968 and terminated in 1973, used the PHA framework to develop housing projects for sale, on a lease-purchase basis, to groups of public housing tenants with sufficient incomes to permit a sale without continued operating subsidies. The price was based on the total original development costs, and if the buyer were to resell the unit within five years of receiving full title, the PHA was entitled to recapture the capital gain according to a sliding scale. A requirement for success was the ability of the buyer to undertake basic maintenance and to accept the financial and other obligations of ownership.

Similar problems arose with the Section 235 Homeownership Program, another major federal initiative to encourage low-income homeownership through the sale of new or extensively rehabilitated units. The income problem was compounded in the case of Section 235 by the low (3 percent) down payment requirement—which could be in the form of "sweat equity" (that is, provided in the form of on-site work rather than cash). This meant that the loan-to-value ratio could easily come to exceed 100 percent in an unstable neighborhood—encouraging others to abandon their properties at the first need for substantial maintenance outlays.

The most extensive and perhaps most interesting low-income ownership program, however, has been the Indian Mutual Help Ownership Opportunity Program, which constitutes 61 percent of HUD assistance in Indian areas. Families or tribes must make a down payment contribution of at least $1,500 toward each unit, in the form of cash, land, or work. The resident can acquire title to the unit, generally after 25 years, through a lease-purchase plan that allows equity to be built up gradually. The program has been very popular and effective, covering over 30,000 units.

Mutual housing associations (MHAs), as a homeownership vehicle for public housing tenants, have attracted considerable attention in recent years. Proposals are now being formulated in Patterson, New Jersey, for example, which would use the model to transfer 242 public housing units into tenant ownership. The title of the building first would be transferred to a mutual housing association made up of residents. This MHA would be affiliated to a citywide MHA with a board of directors drawn from city officials and local organizations. This citywide MHA could enlist support and provide technical assistance for would-be buyers, thereby improving the chances of successful ownership by individuals, who would be able to purchase title from the MHA.

THE PRINCIPLES OF A NEW OWNERSHIP INITIATIVE

Drawing on British and American experience in encouraging ownership among low-income tenants, principles for a successful homeownership program for public housing tenants emerge. Among them:

Discounts and equity

It is clear from the problems associated with section 235, and in contrast, the success of the British approach, that buyers must feel they have sufficient stake in their homes to justify expenditures on maintenance. Discounting the price (giving the prospect of a substantial capital gain) would provide that stake indirectly but effectively: a token down payment does not.

Current law permits HUD to sell to a resident tenant at a discount with the federal government paying off part or all of the existing capital debt. Similarly, units can be modernized without the tenant-buyer being required to pay the cost of modernization.

A subsidy to buyers

Some critics of discounted sales to low-income buyers charge that this constitutes an unfair valuable subsidy to the buyer. These critics overlook the mortgage deduction available to middle- and upper-income buyers—which is of little value to low income buyers. If the purpose of Treasury assistance is to help home-buyers, then a price discount on public housing would be a rational and equitable device to help low-income buyers. Depending on the discount chosen and the tax savings (if any) usable by purchase, a case could also be made—again on equity grounds—for some interest relief for low-income buyers. It would be reasonable for the interest payable on PHA-provided mortgages to be reduced by an amount at least equal to the lowest marginal federal tax rate.

Netting for other subsidies

Subsidy calculations should also be adjusted for the subsidies to other groups already included in the cost of public housing. American Enterprise Institute scholar John Weicher notes that studies suggest that new public housing units cost about 25 percent more than comparable private housing. The major reasons for this are the high tax revenue costs associated with tax-exempt financing often used in such projects (a subsidy to higher-income investors) and high construction costs due to the application of the Davis-Bacon Act (a subsidy to construction workers).[6] There seems little justice in forcing low-income homebuyers to cover the capital cost of a subsidy to Americans earning well above their income. The cash basis for any calculation of purchase price, therefore, should net out such subsidies.

Developing homeowner attitudes

A major problem associated with low-income buyers, even if financing can be arranged, is that they often lack the maintenance and accounting skills needed for homeownership. On the other hand, some remarkable successes have been achieved with tenant management associations as vehicles to encourage sound maintenance techniques—especially when cash incentives were utilized. As head of Newark's public housing in the 1970s, for instance, Tom Massaro sought to cut costs by inviting tenants to take over many responsibilities. For every dollar this saved the city, the tenants were allowed a portion to finance community activities. The result: vandalism and utility costs plummeted and tenants acquired useful maintenance skills.

Another tenant management association in Kenilworth Courts, Washington, D.C., has achieved dramatic cost reductions by training its own tenants in management and maintenance skills. A preliminary study by the American Enterprise Institute's Neighborhood Revitalization Project found that within one year of the 1982 turnover to tenant management, administrative costs were cut by 63 percent, and maintenance (the major outlay) by 26 percent. In addition, rental income was increased significantly, thanks to improved collection and reduced vacancy rates, such that the project began to run a healthy operating surplus.

Success as a tenant management association could be a sensible prerequisite to apply to a group of public housing tenants wishing to purchase as a cooperative. An alternative requirement would be the creation of a pri-

[6] John C. Weicher, Housing (Washington, D.C.: American Enterprise Institute, 1980), p. 59.

vate Mutual Housing Association, as that suggested in Patterson, New Jersey, to provide management assistance and training to achieve operating cost reductions. The tenants would be members of this association, which could foster cooperative or any other suitable form of tenant ownership. Another equity-building approach would be for the tenants to enter into a lease-purchase agreement. The operating subsidy would then be capped, and savings achieved by the tenants would be accumulated as equity shares until the full purchase could be accomplished, whereupon title would be transferred.

The savings achievable through tenant management is critical both to the success of any ownership plan and to the number of tenants that could hope to utilize it. Most studies of the potential for ownership among public housing tenants suggest that it is very small. But these calculations ignore the substantial reductions in cost that can be achieved—if tenants have an incentive—and thus grossly underestimate the possibilities of ownership.

A PUBLIC HOUSING HOMEOWNERSHIP PROGRAM

The Administration, utilizing existing law and with the agreement and cooperation of communities and PHAs, should experiment with a homeowner program for public housing tenants. The President should make it clear that the objective is not to raise income but to promote ownership in poor communities. Special buildings for the elderly or the handicapped should be excluded from the program, so that the number of such units available for rent would not be reduced.

In addition, Congress should enact a "Public Tenants Right to Buy Program." The measure should give groups of tenants the right to be included in the homeownership program, even if the local PHA opposes ownership. Such a group of tenants would apply directly to the Secretary of HUD. If eligible, according to the criteria below, HUD would set in motion the ownership process, and the PHA would be required to provide the resident association with a mortgage according to HUD rules. Legislation should also be enacted to expand the housing voucher program so that tenants unable to buy a share of a co-op, or other ownership vehicle, such as lease-purchase, could continue as renters.

Eligibility

The program would center generally on purchases by successful tenant management associations. As the tenant management associations or mutual housing associations improved tenant skills and reduced operating costs, savings to the PHA would be placed into an escrow account toward the purchase price, or as the equity element of a lease-purchase agreement. The purchase process would begin when this transitional arrangement reduced running costs sufficiently for the tenants to have a reasonable chance of meeting the costs of ownership.

To be eligible for membership in the purchasing organizations, tenant-buyers should have been good tenants in the specific building for at least one year and good public housing tenants for at least three years. This would help assure stable buyers of good character. Tenants unable to meet this criterion would not be permitted to purchase.

Discount and resale

An eligible association, comprised of eligible tenants, would be allowed to purchase the building at 30 percent of the assessed market value. No down payment would be required. If a co-op member were to sell his share within the one year, his portion of the entire 70 percent discount would be repayable to the PHA. This repayable portion would fall by 10 percent annual segments (of the initial market price) until, after seven years, the member would be free to keep all resale proceeds. The prospect of gain should be sufficient to establish the notion of equity, and so offset the lack of a down payment.

Financing

Eligible tenant management associations accepted into the program would have the right to a mortgage from the PHA under the legislation proposed. Since the PHA would be the owner of the building in the first place, this would involve no transfer of cash, only the replacement of rent payments to the PHA with mortgage payments. The interest rate on the mortgage would be adjusted to reflect the marginal tax benefits available to typical first-time homebuyers.

Tenant associations could purchase outright or purchase according to a shared-equity plan. With either method of purchase, the housing authority would continue to operate the units occupied by tenants refusing or ineligible to join the ownership associations. Existing tenants, in other words, would not be evicted. Eligible tenants could, however, buy into the purchase plan at any time. If some of the tenants continued to remain renters, supported by the government, that portion of the building would be considered a set of units owned by the PHA—thus the PHA would not be a shareholder in the cooperative. However, maintenance services to these units could be provided by the tenant ownership association under contract. An alternative might be for the federal government to guarantee to the association owning the building that vouchers would be provided to meet the costs of units still occupied by tenants.

Under a shared-equity arrangement, the tenant association could, in effect, buy a portion of the unit (minimum 50 percent) and continue to pay rent to the PHA on the remainder. The association could add to its ownership in increments, as finances permitted. Payment could be made in-kind (such as maintenance work) to obtain additional ownership shares. An alternative approach would be a lease-purchase arrangement, where tenants could build up equity credits, but would not take title until they could finance the entire sale price of the building.

Resale

The part-owner could sell his unit in the normal way, subject to the provisions regarding discount repayment, but he would have to return the original cost of the rented portion of his unit to the PHA. Alternatively, he could sell his share to an eligible buyer willing to take on his shared equity responsibilities. The tenant would have the right to a mortgage from the PHA, with a limit based on income and a below-market interest rate, offsetting the reduced tax relief available to low-income tenants.

CONCLUSION

The program suggested is not a proposal to sell off public housing to developers or suburban homesteaders. It is a device to provide ownership opportunities for existing tenants of public housing projects. If successful, it could transform some of the most troublesome communities in the nation's urban areas. It draws on the known successes of tenant management associations and that powerful ingredient of commitment to neighborhood—ownership. Turning public housing tenants into homeowners in this way would utilize the strengths and ownership dreams of residents themselves to help overcome the debilitating problem of America's inner cities.

By Mr. WALLOP:

S. 3031. A bill to amend the Tariff Schedules of the United States in order to establish equitable duty rates for sodium bicarbonate; to the Committee on Finance.

TARIFF TREATMENT OF SODIUM BICARBONATE

● Mr. WALLOP. Mr. President, today I am introducing a bill that would put a 20-percent tariff on imports of sodium bicarbonate. Sodium bicarbonate is a substance that is familiar to us all, marketed as baking soda under the familiar Arm & Hammer trademark. In addition, sodium bicarbonate is used for animal feed and many industrial applications such as tanning, fire extinguishers, and many others. Work is also being carried out to use sodium bicarbonate in alleviating the problem of acid rain. One approach uses it to reduce sulfur dioxide emissions from powerplant flue gases. The other provides for the reclamation of lakes which have suffered damage from acid rain.

The largest producer of sodium bicarbonate is Church & Dwight with plants in Wyoming, New Jersey, Ohio, and New York. The Green River, WY, plant is the world's largest, using the plentiful trona deposits as a source of raw material. Sodium bicarbonate is also produced by Stauffer Chemical and Allied Chemical, both of whom have operations in southwest Wyoming. I am introducing this bill because the domestic industry is suffering from a surge of imports, primarily from Mexico and from West Germany. Over the last 2 years, the volume of sodium bicarbonate imports has increased fivefold from 3,410 tons in 1981 to 16,618 tons in 1983. The imports from Mexico and West Germany, accounting for nearly three-fourths of all imports into the U.S. market, have caused the domestic sodium bicarbonate industry to suffer from declining production, sales, revenues, employment and prices, while the American economy has been in a general recovery.

The dramatic increase in imports is facilitated by duty-free entry into the United States. By contrast, Mexico imposes a 50-percent import duty on U.S. sodium bicarbonate and requires an import permit. West Germany has a 10.2-percent duty on sodium bicarbonate. With the world's largest deposits of raw materials and with modern plants, the U.S. industry can compete if given equitable treatment.

Introduced this late in the congressional session, this tariff bill has little chance for passage now. It should serve as notice to Mexican and West

German importers that unless predatory pricing tactics are changed, the U.S. producers will initiate proceedings under U.S. trade laws. I have written U.S. Trade Representative William Brock and asked his assistance in this matter. If present trends continue, I will work with the sodium bicarbonate industry in using every avenue available to bring equity for U.S. producers.●

By Mr. DURENBERGER (for himself, Mr. BOSCHWITZ, Mr. MELCHER, Mr. BOREN, Mr. SIMPSON, Mr. NICKLES, Mr. PRYOR, and Mr. THURMOND):

S. 3032. A bill to amend section 483 of the Internal Revenue Code of 1954 to provide for more equitable test and imputed interest rates, and for other purposes; to the Committee on Finance.

IMPUTED INTEREST RATES

● Mr. DURENBERGER. Mr. President, tonight I am joined by my distinguished colleagues, Senators BOSCHWITZ, MELCHER, SIMPSON, NICKLES, BOREN, PRYOR, and THURMOND, in introducing legislation to correct what was a serious mistake by Congress which will cause severe hardship to millions of Americans. I am referring to the original issue discount [OID] and imputed interest provisions enacted in the Tax Reform Act of 1984 [TRA].

In just the past few days, my offices in Minneapolis and Washington have received more than 300 constituent calls on this imputed interest problem which takes effect in just 3 short months. And no doubt the offices of many of my colleagues have received similar urgent pleas to correct this provision inside the TRA.

What does imputed interest do? Why are our constituents who know of the new provision screaming?

Other than the fact that the Government really has no business interjecting itself into the private bargaining meetings between a buyer and a seller of property? Imputed interest, under the current provision, places an unwanted, untimely and unfair burden on homeowners and potential home buyers, farmers and others who want to buy or sell property and small businesses. Unwanted because neither party in a financial transaction wants the higher interest rates forced upon both of them starting January 1.

Untimely because, as everyone in the world knows, interest rates are high enough—too high still.

And unfair because imputed interest will mean millions of Americans will find it extremely burdensome—if not impossible—to sell their property. They will be forced to sell at a higher interest rate than even they themselves would care to and need to, to make it economically feasible. The result, of course—no sale at all! For anyone! Buyer or seller!

Seller financing goes right out the window—the window of a home or small business or farm that will go unsold. Seller financing is absolutely essential when rates become high because the availability of credit is depleted and the cost of credit makes it prohibitive for a buyer to buy. In these times of high interest rates, transactions often will only go forward when the seller steps in to finance part of all of the purchase price in order to sell. Take away seller financing and you take away the most sensible, reasonable, practical means by which an American can buy or sell a private home, a private farm, or a private small business.

The new tax law simply means that in these times of high interest rates, the private marketplace will no longer be able to facilitate sales at a reasonable rate of interest!

We simply went much too far with the imputed interest rate provision. No one argues with the worthwhile intent of the Tax Reform Act to eliminate tax abuse. But forcing someone to use imputed interest who must sell his property to avoid foreclosure, for example, is like telling a drowing man that he must first learn to swim in order to get safely pulled to shore. It really is that senseless. It's a mistake in the new tax law which must be corrected now, before our fast approaching adjournment, and before our Nation must be forced to cope with imputed interst rate provisions come January 1.

Just imagine a retired small businessman who must sell the private home he has owned for 30 years, so that he may live a reasonably comfortable life in his remaining years. Our retired American has a prospective buyer who is willing to pay a fair price for the home, despite today's already high interest rates. The retired homeowner needs the fair marketplace profit he will make on the sale to move to a dwelling better suited to his retirement needs. Even after Social Security and a small pension, his monthly checks hardly cover his needs in 1984. So a successful sale of his home is vital to his future. But he cannot sell it. For a perfectly outrageous reason. His prospective buyer cannot afford to buy, under the 1985 imputed interest provision. In fact, the interest rate both the retired homeowner and the buyer would have to settle upon is at least 3 percent higher than normal, freely negotiated rates.

What imputed interest would do is tax the interest income to the seller, just as if the interest rate he had agreed upon was a higher commercial rate, even though the rate agreed to by both buyer and seller is generally less than commercial rates. This forces the seller to raise the interest rate he must ask for—if he is going to be taxed on it he might as well charge it. Anyone can guess what this dilemma accomplishes. It turns away buyers en masse.

My bill will correct these problems and at the same time, I believe, keep intact the integrity of the Treasury's tax abuse prevention provisions.

My bill takes a simple, straightforward two-step approach. First, it consists of a blanket exemption for those Americans who take back less than $1.5 million worth of seller-financing in any one taxable year. If someone is under the $1.5 million test figure his imputed interest rate is capped at current law—9 percent imputed to 10 percent.

Step 2 is for those Americans who take back more than $1.5 million of seller-financing. It would consist of a test rate of 80 percent of the applicable Treasury rate. If the 80-percent test is not met, an interest rate can be imputed at 110 percent of the applicable Treasury rate.

I firmly believe that these and other provisions of my bill will correct the faulty provision which takes effect on January 1, 1985. We must act quickly. For the sake of every home buyer and home owner, farmer and small businessman and woman in this Nation.

Mr. President, I ask unanimous consent that the text of the bill follow these remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3032

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMPUTED INTEREST RATES.

(a) REDUCTION IN GENERAL TEST AND IMPUTED INTEREST RATES.—

(1) IMPUTED RATE REDUCED FROM 120 PERCENT TO 100 PERCENT.—The last sentence of section 483(b) of the Internal Revenue Code of 1954 (defining total unstated interest) is amended by striking out "120 percent" and inserting in lieu thereof "110 percent".

(2) TEST RATE REDUCED FROM 110 PERCENT TO 80 PERCENT.—Subparagraph (B) of section 483(c)(1) of such Code (relating to payments to which section applies) is amended by striking out "110 percent" and inserting in lieu thereof "80 percent".

(b) 9 AND 10 PERCENT RATES FOR FIRST $1,500,000 OF DEBT INSTRUMENTS.—Subsection (e) of section 483 of the Internal Revenue Code of 1954 (relating to interest rates in case of sales of principal residences or farm lands) is amended to read as follows:

"(e) SPECIAL RATES FOR FIRST $1,500,000 OF DEBT INSTRUMENTS.—

"(1) IN GENERAL.—In the case of that portion of any debt instrument to which this subsection applies, the discount rates under subsections (b) and (c)(1)(E) shall not be greater than 10 percent and 9 percent, respectively.

"(2) PORTION OF DEBT INSTRUMENT TO WHICH SUBSECTION APPLIES.—This subsection shall apply to that portion of the stated principal amount of the debt instrument of any obligee entered into during any taxable

year which, when added to the sum of the stated principal amounts of all other previous debt instruments of the obligee—

"(A) to which this subsection applies, and

"(B) which were entered into during such taxable year,

does not exceed $1,500,000.

"(3) DOLLAR LIMITATION OF CONTROLLED GROUP.—

"(A) IN GENERAL.—For purposes of paragraph (2)—

"(i) all component members of a controlled group shall be treated as one taxpayer, and

"(ii) the Secretary shall by regulation provide for the apportionment of the $1,500,000 limitation among the component members of such controlled group.

"(B) CONTROLLED GROUP.—For purposes of this paragraph, the term 'controlled group' has the meaning given such term by section 1563(a) except that 'at least 80 percent' shall be substituted for 'more than 50 percent' each place it appears in section 1563(a)(1).

"(4) DOLLAR LIMITATION IN CASE OF PARTNERSHIPS, S CORPORATIONS, ESTATES AND TRUSTS, AND OTHER FLOW THROUGH ENTITLES.—In the case of a partnership, S corporations, estate or trust, or other flow through entity, the $1,500,000 limitation under paragraph (2) shall apply—

"(A) with respect to the partnership and with respect to each partner,

"(B) with respect to the S corporation and with respect to each shareholder,

"(C) with respect to the estate or trust and with respect to each beneficiary, and

"(D) with respect to the flow through entity and with respect to each person to whom amounts are flowed through.

"(5) APPLICATION WITH SUBSECTION (f).—In the case of any qualified sale (as defined in subsection (f)(2)), the $1,500,000 limitation under paragraph (2) shall be reduced by the amount of any debt instrument to which subsection (f)(1) applies.".

SEC. 2. APPLICATION OF SECTION 1274.

(a) REDUCTION IN GENERAL TEST AND IMPUTED INTEREST RATES.—

(1) IMPUTED RATE REDUCED FROM 120 PERCENT TO 110 PERCENT.—Subparagraph (B) of section 1274(b)(2) of the Internal Revenue Code of 1954 (defining imputed principal amount) is amended by striking out "120 percent" and inserting in lieu thereof "110 percent".

(2) TEST RATE REDUCED FROM 110 PERCENT TO 80 PERCENT.—Section 1274(c)(3) of such Code (defining testing amount) is amended by striking out "110 percent" and inserting in lieu thereof "80 percent".

(b) SECTION 1274 NOT TO APPLY TO FIRST $1,500,000 AND RESIDENCES.—Paragraph (4) of section 1274(c) of the Internal Revenue Code of 1954 (relating to exceptions) is amended—

(1) by striking out subparagraphs (A), (B), and (C) and inserting in lieu thereof the following:

"(A) AMOUNTS TO WHICH SECTION 483 (e) APPLIES.—Any debt instrument to the extent of that portion of the stated principal amount to which section 483(e) applies.

"(B) RESIDENCES.—Any debt instrument arising from the sale or exchange of any property to be used as the residence of the obligor under the instrument.", and

(2) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively,

(c) NO DEDUCTION TO BORROWER ON ACCRUED BASIS.—Section 461 of the Internal Revenue Code of 1954 (relating to general rule for taxable years of deduction) is amended by adding at the end thereof the following new subsection:

"(j) IMPUTED INTEREST.—

"(1) IN GENERAL.—In the case of any obligor of a debt instrument to which section 483(e) applies, any deduction for interest on that portion of the stated principal amount to which section 483(e) applies shall be computed on the cash receipts and disbursements method of accounting.

"(2) EXCEPTION FOR FARMS AND RESIDENCES.—Paragraph (1) shall not apply to—

"(A) any debt instrument arising from the sale or exchange of property for use by an individual as a residence, or

"(B) any debt instrument arising from the sale or exchange of a farm (within the meaning of section 6420(c)(2));

"(i) by an individual, estate, or testamentary trust,

"(ii) by a corporation which as of the date of the sale or exchange is a small business corporation (as defined in section 1244(c)(3)), or

"(iii) by a partnership which as of the date of the sale or exchange meets requirements similar to those of section 1244(c)(3).".

SEC. 3. OTHER MODIFICATIONS OF SECTIONS 483 AND 1274.

(a) Section 483 of the Internal Revenue Code of 1954 (relating to interest on certain deferred payments) is amended by redesignating subsections (g) and (h) as subsections (h) and (i) and by inserting after subsection (f) the following new subsection:

"(g) SPECIAL RULES FOR OPERATION OF THIS SECTION.—For purposes of this section—

"(1) DATE ON WHICH APPLICABLE RATE DETERMINED.—In the case of any sale or exchange, the determination of the applicable Federal rate shall be made as of the first day on which there is a binding contract in writing for the sale or exchange.

"(2) CERTAIN ASSUMPTIONS AND WRAPAROUNDS NOT TAKEN INTO ACCOUNT.—This section shall not aply to any payment under any debt instrument—

"(A) which is assumed in the sale or exchange,

"(B) with respect to which the property subject before and after such sale or exchange, or

"(C) in the case of the sale of a residence, is part of a wraparound mortgage.".

(b) SECTION 1274.—Section 1274(c)(4) of the Internal Revenue Code of 1954 (relating to exceptions), as amended by section 2(b), is amended by adding at the end thereof the following new subparagraph:

"(F) CERTAIN ASSUMPTIONS AND WRAPAROUNDS.—Any debt instrument—

"(i) which is assumed by any person in the sale or exchange,

"(ii) with respect to which the property is subject before and after such sale or exchange, or

"(iii) in the case of the sale of a residence, is part of a wraparound mortgage.".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall take effect as if included in the amendments made by section 41(b) of the Tax Reform Act of 1984.●

ADDITIONAL COSPONSORS

S. 193

At the request of Mr. INOUYE, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 193, a bill to recognize the organization known as the National Academies of Practice.

S. 2084

At the request of Mr. SASSER, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 2084, a bill to amend the Small Business Act to restrict the authority of the Small Business Administration to deny financial assistance to small business concerns solely because the primary business operations of such concerns relate to the communication of ideas.

S. 2131

At the request of Mr. DECONCINI, the names of the Senator from Rhode Island [Mr. PELL] and the Senator from Montana [Mr. BAUCUS] were added as cosponsors of S. 2131, a bill to provide for the temporary suspension of deportation for certain aliens who are nationals of El Salvador, and to provide for Presidential and congressional review of conditions in El Salvador and other countries.

S. 2720

At the request of Mrs. HAWKINS, the names of the Senator from Nevada [Mr. LAXALT], the Senator from New York [Mr. D'AMATO], the Senator from Arkansas [Mr. BUMPERS], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of S. 2720, a bill to recognize the organization known as the Women's Army Corps Veterans' Association.

S. 2894

At the request of Mr. MELCHER, the names of the Senator from Arkansas [Mr. BUMPERS], and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 2894, a bill to amend the Internal Revenue Code of 1954 to clarify the application of the imputed interest and interest accrual rules in the case of sales of residences, farms, and real property used in a trade or business.

S. 2930

At the request of Mr. SYMMS, the names of the Senator from Alabama [Mr. DENTON], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Nevada [Mr. LAXALT], the Senator from Arkansas [Mr. BUMPERS], and the Senator from Illinois [Mr. PERCY] were added as cosponsors of S. 2930, a bill to repeal the changes made by the Tax Reform Act of 1984 with respect to the tax treatment of debt instruments issued for property.

S. 2967

At the request of Mr. JEPSEN, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 2967, a bill to amend the Consolidated Farm and Rural Development Act to provide agricultural credit assistance to borrowers of loans made by legally organized lending institutions, and for other purposes.

SENATE JOINT RESOLUTION 352

At the request of Mr. DANFORTH, the names of the Senator from Vermont [Mr. LEAHY], the Senator from Texas [Mr. BENTSEN], the Senator from California [Mr. CRANSTON], the Senator from Nevada [Mr. LAXALT], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Alabama [Mr. DENTON] were added as cosponsors of Senate Joint Resolution 352, a joint resolution designating October 1984 as "National Head Injury Awareness Month."

SENATE JOINT RESOLUTION 354

At the request of Mr. NUNN, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Ohio [Mr. GLENN], the Senator from Alabama [Mr. HEFLIN], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Joint Resolution 354, a joint resolution designating the week of January 7 through January 13, 1985, as "National Productivity Improvement Week."

SENATE RESOLUTION 139

At the request of Mr. ZORINSKY, the name of the Senator from Colorado [Mr. HART] was added as a cosponsor of Senate Resolution 139, a resolution disapproving the recommendation of the Study Group on Senate Practices and Procedures to abolish the Senate Committee on Veterans' Affairs.

SENATE RESOLUTION 454—ORIGINAL RESOLUTION REPORTED AUTHORIZING THE PRINTING OF A SENATE DOCUMENT

Mr. MATHIAS, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 454

Resolved, That a revised edition of Senate document numbered 96-23, Ninety-Sixth Congress, first session, entitled "Majority and Minority Whips of the Senate", be printed as a Senate document, and in addition to the usual number that there be printed five thousand additional copies for the use of the United States Senate.

SENATE RESOLUTION 455—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO JOAN M. SHUTE AND ARTHUR G. MITTON III

Mr. MATHIAS, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 455

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Joan M. Shute, niece of Richard H. Van Kleeck, and Arthur G. Mitton III, nephew of Richard H. Van Kleeck, an employee of the Senate at the time of his death, a sum to each equal to one half of three months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 456—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO MARY E. HINTON

Mr. MATHIAS, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 456

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Mary E. Hinton, widow of Harry A. Hinton, an employee of the Senate at the time of his death, a sum equal to eight and one-half months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

AMENDMENTS SUBMITTED

FEDERAL-AID HIGHWAY ACT

HATCH AMENDMENT NOS. 4856 THROUGH 5507

(Ordered to lie on the table.)

Mr. HATCH submitted 652 amendments intended to be proposed by him to the bill (S. 2527) to approve the interstate and interstate substitute cost estimates, to amend title 23 of the United States Code, and for other purposes; as follows:

AMENDMENT No. 4856

At the appropriate place, strike "last" and insert "first".

AMENDMENT No. 4857

At the appropriate place "not" before "amended".

AMENDMENT No. 4858

At the appropriate place, delete lines 23 and 24.

AMENDMENT No. 4859

At the appropriate place, delete lines 20, 21, and 22.

AMENDMENT No. 4860

At the appropriate place, strike "last" and insert "last two".

AMENDMENT No. 4861

At the appropriate place, delete lines 18 and 19.

AMENDMENT No. 4862

At the appropriate place, after "is" insert "not".

AMENDMENT No. 4863

At the appropriate place, delete lines 18 and 19.

AMENDMENT No. 4864

At the appropriate place, delete the word "ten" and insert in lieu thereof the word "five".

AMENDMENT No. 4865

At the appropriate place, insert "90 percent of" before "substitute".

AMENDMENT No. 4866

At the appropriate place, insert "60 percent of" before "substitute".

AMENDMENT No. 4867

At the appropriate place, insert "95 percent of" before "the".

AMENDMENT No. 4868

At the appropriate place, after "trolled" add the word "exclusively."

AMENDMENT No. 4869

At the appropriate place, change "1987" to "2011".

AMENDMENT No. 4870

At the appropriate place, after "among" insert "three-fourths".

AMENDMENT No. 4871

At the appropriate place, after "among" insert "two-thirds".

AMENDMENT No. 4872

At the appropriate place, after "among" insert "one-tenth".

AMENDMENT No. 4873

At the appropriate place, change the first "30" to "1".

AMENDMENT No. 4874

At the appropriate place, between the words "for" and "the," insert the following: "the first six months of".

AMENDMENT No. 4875

At the appropriate place, insert the word "not" between the words "shall" and "adjust.".

AMENDMENT No. 4876

At the appropriate place, strike lines 2 through 8.

AMENDMENT No. 4877

At the appropriate place, strike lines 14 through 24.

AMENDMENT No. 4878

At the appropriate place, delete the word "highway".

AMENDMENT No. 4879

At the appropriate place, delete ", respectively." and insert a period "." in lieu thereof.

AMENDMENT No. 4880

At the appropriate place, delete the word "any".

AMENDMENT No. 4881

At the appropriate place, insert between the words "routes" and "functionally" the words "that are".

AMENDMENT No. 4882

At the appropriate place, strike the words "fifty-one" and add the words "forty-nine".

AMENDMENT No. 4883

At the appropriate place, strike the words "fifty-one" and add the words "forty-eight".

AMENDMENT No. 4884

At the appropriate place, strike the words "fifty-one" and add the words "forty-seven".

AMENDMENT No. 4885

At the appropriate place, strike the words "fifty-one" and insert the words "forty-six".

AMENDMENT No. 4886

At the appropriate place, after "shall" insert "not".

AMENDMENT No. 4887

At the appropriate place, delete the word "sixteenth" and insert in lieu thereof "fifteenth".

AMENDMENT No. 4888

At the appropriate place, between "1984" and "the," insert the following: "one-third of".

AMENDMENT No. 4889

At the appropriate place, insert "80 percent of" before Substitute.

AMENDMENT No. 4890

At the appropriate place, after the word "Secretary" insert "or acting Secretary".

AMENDMENT No. 4891

At the appropriate place, delete the word "obligated" and insert the word "appropriated" thereof.

AMENDMENT No. 4892

At the appropriate place, before "inserting" insert "not".

AMENDMENT No. 4893

At the appropriate place, insert "65 percent of" before "Substitute".

AMENDMENT No. 4894

At the appropriate place, insert "75 percent of" before "Substitute".

AMENDMENT No. 4895

At the appropriate place, insert "70 percent of" before "substitute".

AMENDMENT No. 4896

At the appropriate place, between the words "of" and "is", delete the word "such" and insert in lieu thereof the word "this".

AMENDMENT No. 4897

At the appropriate place, delete the words "by the State" between the words "operated" and "In".

AMENDMENT No. 4898

At the appropriate place, delete the word "operation" between the words "installation" and "and".

AMENDMENT No. 4899

At the appropriate place, delete the words "under this title" following the word "assistance".

AMENDMENT No. 4900

At the appropriate place, delete the word "not" between the words "shall" and "be".

AMENDMENT No. 4901

At the appropriate place, delete the word "total" which is between "The" and "amount".

AMENDMENT No. 4902

At the appropriate place, delete the word "not" between the words "shall" and "be".

AMENDMENT No. 4903

At the appropriate place, delete the words "other articles" before the word "as".

AMENDMENT No. 4904

At the appropriate place, "one-eighth of".

AMENDMENT No. 4905

At the appropriate place, insert the following: "one-tenth of".

AMENDMENT No. 4906

At the appropriate place, insert "the first six months of" before "such".

AMENDMENT No. 4907

At the appropriate place, insert the following: "one-ninth of".

AMENDMENT No. 4908

At the appropriate place, strike the word "fifty-one" and insert the word "fifty".

AMENDMENT No. 4909

At the appropriate place, delete the year "1984" and add the year "1985".

AMENDMENT No. 4910

At the appropriate place, strike out "all" and insert in lieu thereof "one-tenth".

AMENDMENT No. 4911

At the appropriate place, strike "all" and insert in lieu thereof "one-eigth".

AMENDMENT No. 4912

At the appropriate place, delete line 3 through 22.

AMENDMENT No. 4913

At the appropriate place, insert the following: "one-sixth of".

AMENDMENT No. 4914

At the appropriate place, insert the following: "one-fourth of".

AMENDMENT No. 4915

At the appropriate place, insert the following: "one-fifth of".

AMENDMENT No. 4916

At the appropriate place, insert the following: "one-seventh of".

AMENDMENT No. 4917

At the appropriate place, strike "all" and insert in lieu thereof "one-ninth".

AMENDMENT No. 4918

At the appropriate place, strike "all" and insert in lieu thereof "one-seventh".

AMENDMENT No. 4919

At the appropriate place, insert the following: "one-half".

AMENDMENT No. 4920

At the appropriate place, delete the words from "and" through the word "bridge " on line 15.

AMENDMENT No. 4921

At the appropriate place delete lines 14 and 15.

AMENDMENT No. 4922

At the appropriate place delete the words "in accordance with procedures established by the Secretary".

AMENDMENT No. 4923

At the appropriate place strike the words "January 1" and insert in lieu thereof "January 28".

AMENDMENT No. 4924

At the appropriate place strike the words "located on a Federal aid system".

AMENDMENT No. 4925

At the appropriate place strike the words "or operated".

AMENDMENT No. 4926

At the appropriate place strike the words "owned or".

AMENDMENT No. 4927

At the appropriate place strike the words "before January 1 of each year".

AMENDMENT No. 4928

At the appropriate place delete the words "of each year" and insert in lieu thereof ", 1985".

AMENDMENT No. 4929

At the appropriate place, between the words "and" and "the", insert the following: "one-half".

AMENDMENT No. 4930

At the appropriate place delete the number "20" and add the number "80".

AMENDMENT No. 4931

At the appropriate place strike the word "installation" between the words "of" and "operation".

AMENDMENT No. 4932

At the appropriate place insert "the first six months of" before "such".

AMENDMENT No. 4933

At the appropriate place delete the word "women" and substitute in lieu there of "minorities".

AMENDMENT No. 4934

At the appropriate place insert "85 percent of" before "the".

AMENDMENT No. 4935

At the appropriate place delete lines 20 through 25.

AMENDMENT No. 4936

At the appropriate place delete lines 1 through 4.

AMENDMENT No. 4937

At the appropriate place delete lines 5 through 12.

AMENDMENT No. 4938

At the appropriate place delete lines 13 through 15.

AMENDMENT No. 4939

At the appropriate place delete lines 16 through 18.

AMENDMENT No. 4940

At the appropriate place delete lines 13 through 15.

AMENDMENT No. 4941

At the appropriate place delete lines 16 through 19.

AMENDMENT No. 4942

At the appropriate place delete lines 9 through 12.

AMENDMENT No. 4943

At the appropriate place delete lines 6, 7 and 8.

AMENDMENT No. 4944

At the appropriate place delete line 5.

AMENDMENT No. 4945

At the appropriate place, delete the number "20" and add the number "40".

AMENDMENT No. 4946

At the appropriate place delete the number "20" and add the number "50".

AMENDMENT No. 4947

At the appropriate place delete the number "20" and add the number "60".

AMENDMENT No. 4948

At the appropriate place delete the number "20" and add the number "70".

AMENDMENT No. 4949

At the appropriate place strike "all" and insert in lieu thereof "one-sixth".

AMENDMENT No. 4950

At the appropriate place insert "all" after "has".

AMENDMENT No. 4951

At the appropriate place delete the word "wholly" and add the word "substantially".

AMENDMENT No. 4952

At the appropriate place, delete "January 1" and insert in lieu thereof "March 17".

AMENDMENT No. 4953

At the appropriate place delete lines 3 and 4.

AMENDMENT No. 4954

At the appropriate place delete the words "which are eligible for Federal funds under section 144".

AMENDMENT No. 4955

At the appropriate place, delete everything between "(3) an analysis" and "program," on line 14.

AMENDMENT No. 4956

At the appropriate place strike "substitute" and insert "any".

AMENDMENT No. 4957

At the appropriate place add the words "reports, lists, schedules or surveys" after the word "no".

AMENDMENT No. 4958

At the appropriate place, delete the word "not".

AMENDMENT No. 4959

At the appropriate place insert "not" between "would" and "serve".

AMENDMENT No. 4960

At the appropriate place change "17" to "16".

AMENDMENT No. 4961

At the appropriate place, strike the word "may" and insert the word "shall".

AMENDMENT No. 4962

At the appropriate place, delete "last sentence" and substitute "last two sentences".

AMENDMENT No. 4963

At the appropriate place, delete the number "20" and insert the number "90".

AMENDMENT No. 4964

At the appropriate place, delete lines 1 and 2.

AMENDMENT No. 4965

At the appropriate place, insert between the word system and the quotation mark, the words "and routes that are functionally classified as arterials of major collectors".

AMENDMENT No. 4966

At the appropriate place, insert "one-half" before "the".

AMENDMENT No. 4967

At the appropriate place, delete the words "or for" after the word "by".

AMENDMENT No. 4968

At the appropriate place, remove the word "6 p.m." and insert instead "4 p.m.".

AMENDMENT No. 4969

At the appropriate place, delete everything from "the adequacy" through line 11, "bridge inventory;".

AMENDMENT No. 4970

At the appropriate place, change the number "1983" to "1984".

AMENDMENT No. 4971

At the appropriate place, add the words "does not" between the words "criteria" and "which".

AMENDMENT No. 4972

At the appropriate place, strike the words "fifty-five" and add "thirty-five" between the words "as" and "miles".

AMENDMENT No. 4973

At the appropriate place, delete lines 16 and 17.

AMENDMENT No. 4974

At the appropriate place, replace the word "including" with the word "excluding".

AMENDMENT No. 4975

At the appropriate place, replace the word "both" with the word "only".

AMENDMENT No. 4976

At the appropriate place, after "and" insert "the first half".

AMENDMENT No. 4977

At the appropriate place, strike the words "The costs of installation, operation, and maintenance of vending machines shall not be eligible for Federal assistance under this title".

AMENDMENT No. 4978

At the appropriate place, remove the word "Friday" and insert instead "Wednesday".

AMENDMENT No. 4979

At the appropriate place, add the word "not" between the words "may" and "be".

AMENDMENT No. 4980

At the appropriate place, insert "not" after "are".

AMENDMENT No. 4981

At the appropriate place delete everything between the words "and the adequacy" and "inspections," on line 12.

AMENDMENT No. 4982

At the appropriate place delete the words "or rehabilitation of a bridge".

AMENDMENT No. 4983

At the appropriate place insert "fifty percent of" before "Any".

AMENDMENT No. 4984

At the appropriate place insert "the first six months of the" before "the fiscal year".

AMENDMENT No. 4985

At the appropriate place change "conduct" to "institute".

AMENDMENT No. 4986

At the appropriate place add the word "not" between the words "by" and "inserting".

AMENDMENT No. 4987

At the appropriate place insert "the first six months of" before "the fiscal years".

AMENDMENT No. 4988

At the appropriate place add the word "not" after the word "is".

AMENDMENT No. 4989

At the appropriate place add the word "not" after the word "is".

AMENDMENT No. 4990

At the appropriate place change "include" to "exclude".

AMENDMENT No. 4991

At the appropriate place delete "17" and substitute "12".

AMENDMENT No. 4992

At the appropriate place delete "not".

AMENDMENT No. 4993

At the appropriate place insert "not" between "is" and "amended".

AMENDMENT No. 4994

At the appropriate place insert "not" between "shall" and "be reduced".

AMENDMENT No. 4995

At the appropriate place line 15, strike the words "5 per centum" and insert in lieu thereof the words "15 per centum".

AMENDMENT No. 4996

At the appropriate place strike the words "5 per centum" and insert in lieu thereof the words "10 per centum".

AMENDMENT No. 4997

At the appropriate place delete the words "Janaury 1 of each year" and insert in lieu thereof "January 15 of each".

AMENDMENT No. 4998

At the appropriate place delete "any State" and insert the word "States".

AMENDMENT No. 4999

At the appropriate place, delete the word "may" and insert the word "shall".

AMENDMENT No. 5000

At the appropriate place, between the words "for and the", insert the following: "the first three months of".

AMENDMENT No. 5001

At the appropriate place, between the words "for and the", insert the following: "the first two months".

AMENDMENT No. 5002

At the appropriate place, between the words "for and the", insert the following: "the first month of".

AMENDMENT No. 5003

At the appropriate place, between the words "for and the", insert the folllowing: "the first four months of".

AMENDMENT No. 5004

At the appropriate place, between the words "for and the", insert the following: "the first five months of".

AMENDMENT No. 5005

At the appropriate place, between the words "for and the", insert the following: "the first six months of".

AMENDMENT No. 5006

At the appropriate place, between the words "for and the", insert the following: "the first seven months of".

AMENDMENT No. 5007

At the appropriate place, between the words "for and the", insert the following: "the first eight months of".

AMENDMENT No. 5008

At the appropriate place, between the words "for and the", insert the following: "the first nine months of".

AMENDMENT No. 5009

At the appropriate place, between the words "for and the", insert the following: "the first ten months of".

AMENDMENT No. 5010

At the appropriate place, between the words "for and the", insert the following: "the first eleven months of".

AMENDMENT No. 5011

At the appropriate place strike the words "5 per centum" and insert in lieu thereof the words "25 per centum".

AMENDMENT No. 5012

At the appropriate place strike the words "5 per centum" and insert in lieu thereof the words "20 per centum".

AMENDMENT No. 5013

At the appropriate place, strike lines 4 through 7.

AMENDMENT No. 5014

At the appropriate place, between the words "shall be" insert the word "not".

AMENDMENT No. 5015

At the appropriate place, between the words "for" and "the", insert the following: "the first month of".

AMENDMENT No. 5016

At the appropriate place, between the words "for" and "the", insert the following: "the first two months of".

AMENDMENT No. 5017

At the appropriate place, between the words "for" and "the", insert the following: "the first three months of".

AMENDMENT No. 5018

At the appropriate place, between the words "for" and "the", insert the following: "the first four months of".

AMENDMENT No. 5019

At the appropriate place, between the words "for" and "the", insert the following: "the first five months of".

AMENDMENT No. 5020

At the appropriate place, between the words "for" and "the", insert the following: "the first six months of".

AMENDMENT No. 5021

At the appropriate place, between the words "for" and "the", insert the following: "the first seven months of".

AMENDMENT No. 5022

At the appropriate place, between the words "for" and "the", insert the following: "the first six months of".

AMENDMENT No. 5023

At the appropriate place, between the words "for" and "the", insert the following: "the first eight months of".

AMENDMENT No. 5024

At the appropriate place, between the words "for" and "the", insert the following: "the first nine months of".

AMENDMENT No. 5025

At the appropriate place, between the words "for" and "the", insert the following: "the first eleven months of".

AMENDMENT No. 5026

At the appropriate place insert the following: "the first ten months of".

AMENDMENT No. 5027

At the appropriate place strike lines 2 through 12.

AMENDMENT No. 5028

At the appropriate place strike all words after "Mexico" through "activities." on line 36, page 36.

AMENDMENT No. 5029

At the appropriate place strike the words "or any other highway related purpose".

AMENDMENT No. 5030

At the appropriate place strike lines 17 through 21.

AMENDMENT No. 5031

At the appropriate place, strike the words "5 per centum" and insert in lieu thereof the words "30 per centum".

AMENDMENT No. 5032

At the appropriate place, strike lines 1 through 3.

AMENDMENT No. 5033

At the appropriate place, delete the words "fifty-five" and add the words "thirty-nine" between the words "as" and "miles".

AMENDMENT No. 5034

At the appropriate place, delete the words "fifty-five" and add the words "thirty-eight" between the words "as" and "miles".

AMENDMENT No. 5035

At the appropriate place, delete the words "fifty-five" and add the words "thirty-seven" between the words "as" and "miles".

AMENDMENT No. 5036

At the appropriate place delete the words "fifty-five" and add the words "thirty-six" between the words "as" and "miles".

AMENDMENT No. 5037

At the appropriate place after the word "women" add the word "small".

AMENDMENT No. 5038

At the appropriate place, change the first "30" to "1".

AMENDMENT No. 5039

At the appropriate place, change the first "30" to "2".

AMENDMENT No. 5040

At the appropriate place, change the first "30" to "3".

AMENDMENT No. 5041

At the appropriate place change the first "30" to "4".

AMENDMENT No. 5042

At the appropriate place change the first "30" to "5".

AMENDMENT No. 5043

At the appropriate place change the word "future" to "present".

AMENDMENT No. 5044

At the appropriate place insert the words "lack of" between "analysis of this" and "progress".

AMENDMENT No. 5045

At the appropriate place change "applicable" to "inapplicable".

AMENDMENT No. 5046

At the appropriate place change the word "current" to "past".

AMENDMENT No. 5047

At the appropriate place change "certain large vehicles" to "a certain large vehicle".

AMENDMENT No. 5048

At the appropriate place change the word "actual" to "mean".

AMENDMENT No. 5049

At the appropriate place replace the word "large" with "small".

AMENDMENT No. 5050

At the appropriate place change the word "large" to "small".

AMENDMENT No. 5051

At the appropriate place change the word "review" to "purview".

AMENDMENT No. 5052

At the appropriate place insert the words "or any subsequent periods".

AMENDMENT No. 5053

At the appropriate place delete the word "Any" and insert the word "All".

AMENDMENT No. 5054

At the appropriate place, change "17" to "7".

AMENDMENT No. 5055

At the appropriate place, add the words "120 days" between the words "expended" and "after".

AMENDMENT No. 5056

At the appropriate place, add the words "30 days" between the words "expended" and "after".

AMENDMENT No. 5057

At the appropriate place, insert "the tenth month of" before "such".

AMENDMENT No. 5058

At the appropriate place, insert "the ninth month of" before "such".

AMENDMENT No. 5059

At the appropriate place, insert "the eighth month of" before "such".

AMENDMENT No. 5060

At the appropriate place, change "1987" to "1998".

AMENDMENT No. 5061

At the appropriate place, change "1986" to "2010".

AMENDMENT No. 5062

At the appropriate place, delete "January 2, 1984," and insert "January 19, 1984,".

AMENDMENT No. 5063

At the appropriate place insert "not" after "have".

AMENDMENT No. 5064

At the appropriate place remove the words, "September 30," and insert instead "October 1,".

AMENDMENT No. 5065

At the appropriate place delete "for public mass transit".

AMENDMENT No. 5066

At the appropriate place insert "not" after "shall".

AMENDMENT No. 5067

At the appropriate place, change "the fiscal year" to "the first six months of the fiscal year".

AMENDMENT No. 5068

At the appropriate place, delete the word "food" between the words "such" and "drink".

AMENDMENT No. 5069

At the appropriate place, add the word "not" between "and" and "desirable".

AMENDMENT No. 5070

At the appropriate place, delete the words "gross vehicle weight".

AMENDMENT No. 5071

At the appropriate place, delete everything between "and the current" and "formula".

AMENDMENT No. 5072

At the appropriate place, insert "the first six months of" after "for".

AMENDMENT No. 5073

At the appropriate place, strike "1982" and insert in lieu thereof "1983".

AMENDMENT No. 5074

At the appropriate place, insert "not" between "shall" and "conduct".

AMENDMENT No. 5075

At the appropriate place, strike the words "and Rehabilitation".

AMENDMENT No. 5076

At the appropriate place, after "among" insert "one-half".

AMENDMENT No. 5077

At the appropriate place, change "118" to "120".

AMENDMENT No. 5078

At the appropriate place, replace the word "inadequate" with "substandard".

AMENDMENT No. 5079

At the appropriate place, delete the word "to include" and replace with the words "if feasible include".

AMENDMENT No. 5080

At the appropriate place, Add the word "not" between the words "shall" and "use".

AMENDMENT No. 5081

At the appropriate place, strike the words "on the Federal aid system and".

AMENDMENT No. 5082

At the appropriate place, strike the words "and off the system". On page 16, line 2, strike "both".

AMENDMENT No. 5083

At the appropriate place, add the word "affected" between the words "the" and "States".

AMENDMENT No. 5084

At the appropriate place, insert the word "not" between the words "shall" and "apportion".

AMENDMENT No. 5085

At the appropriate place, insert the word "not" between "shall" and "adjust".

AMENDMENT No. 5086

At the appropriate place, insert the word "not" between the words "shall" and "adjust".

AMENDMENT No. 5087

At the appropriate place, strike "years ending September 30, 1984 and September 30, 1985" and insert in lieu thereof "year ending September 30, 1984".

AMENDMENT No. 5088

At the appropriate place, insert "25" in lieu of "the".

AMENDMENT No. 5089

At the appropriate place, delete "January 2, 1984" and insert "January 18, 1984".

AMENDMENT No. 5090

At the appropriate place, delete "January 2, 1984," and insert "January 18, 1984".

AMENDMENT No. 5091

At the appropriate place, delete "January 2, 1984," and insert "January 17, 1984".

AMENDMENT No. 5092

At the appropriate place, change "1984" to "1999".

AMENDMENT No. 5093

At the appropriate place, delete "January 2, 1984," and insert "January 16, 1984".

AMENDMENT No. 5094

At the appropriate place, delete "January 2, 1984," and insert "January 15, 1984,".

AMENDMENT No. 5095

At the appropriate place, delete "January 2, 1984," and insert "January 14, 1984,".

AMENDMENT No. 5096

At the appropriate place, delete "January 2, 1984" and insert "January 13, 1984,".

AMENDMENT No. 5097

At the appropriate place, delete "January 2, 1984," and insert "January 12, 1984,".

AMENDMENT No. 5098

At the appropriate place, delete "January 2, 1984," and insert "January 11, 1984,".

AMENDMENT No. 5099

At the appropriate place. delete "January 2, 1984," and insert "January 10, 1984,".

AMENDMENT No. 5100

At the appropriate place, delete "January 2, 1984," and insert "January 9, 1984,".

AMENDMENT No. 5101

At the appropriate place delete "January 2, 1984," and insert "January 8, 1984".

AMENDMENT No. 5102

At the appropriate place delete "January 2, 1984," and insert "January 7, 1984".

AMENDMENT No. 5103

At the appropriate place delete "January 2, 1984" and insert "January 6, 1984".

AMENDMENT No. 5104

At the appropriate place delete "January 2, 1984" and insert "January 5, 1984".

AMENDMENT No. 5105

At the appropriate place delete "January 2, 1984" and insert "January 3, 1984".

AMENDMENT No. 5106

At the appropriate place delete "January 2, 1984" and insert "January 4, 1984".

AMENDMENT No. 5107

At the appropriate place strike the words "and with (a) small business concerns owned and controlled by women".

AMENDMENT No. 5108

At the appropriate place insert "the first five months of" before "such".

AMENDMENT No. 5109

At the appropriate place insert "the first five months of" before "such".

AMENDMENT No. 5110

At the appropriate place delete the words "strike the period after thereto and".

AMENDMENT No. 5111

At the appropriate place, delete the words "repair and".

AMENDMENT No. 5112

At the appropriate place, strike the words "and replacement".

AMENDMENT No. 5113

At the appropriate place, after "among", insert "one-third".

AMENDMENT No. 5114

At the appropriate place, after "among", insert "one-fourth".

AMENDMENT No. 5115

At the appropriate place, insert "the months of" before "such".

AMENDMENT No. 5116

At the appropriate place, insert "the first three months of" before "such".

AMENDMENT No. 5117

At the appropriate place, insert "the first two months of" before "such".

AMENDMENT No. 5118

At the appropriate place, insert "the twelfth month of" before "such".

AMENDMENT No. 5119

At the appropriate place, insert "the eleventh month of" before "such".

AMENDMENT No. 5120

At the appropriate place, delete the words "replacement of a bridge fifty-one feet or less in length or".

AMENDMENT No. 5121

At the appropriate place between the word "Carpool" and "Vanpool", delete the word "and" and insert the word "or".

AMENDMENT No. 5122

In the appropriate place, add the words "and the county where the bridge is located" between the words "State" and "to".

AMENDMENT No. 5123

In the appropriate place, insert the following: "the first eleven months of ".

AMENDMENT No. 5124

In the appropriate place, insert the following: "the first ten months of ".

AMENDMENT No. 5125

In the appropriate place, insert the following: "the first nine months of ".

AMENDMENT No. 5126

In the appropriate place, insert the following: "the first eight months of ".

AMENDMENT No. 5127

In the appropriate place, insert the following: "the first seven months of ".

AMENDMENT No. 5128

In the appropriate place, insert the following: "the first six months of ".

AMENDMENT No. 5129

In the appropriate place, insert the following: "the first five months of ".

AMENDMENT No. 5130

In the appropriate place, insert the following: "the first four months of ".

AMENDMENT No. 5131

In the appropriate place, insert the following: "the first three months of".

AMENDMENT No. 5132

In the appropriate place, insert the following: "the first two months of".

AMENDMENT No. 5133

In the appropriate place, insert the following: "the first month of".

AMENDMENT No. 5134

In the appropriate place, insert "the seventh monthly" before "such".

AMENDMENT No. 5135

In the appropriate place, insert "the sixth monthly" before "such".

AMENDMENT No. 5136

Delete the word "over" and add the word "under" following the word "allocation".

AMENDMENT No. 5137

Delete the word "plus" and add the word "minus" between the words "Act" and "the".

AMENDMENT No. 5138

Delete the word "desirable" and add the word "undesirable" between the words "and" and "such".

AMENDMENT No. 5139

At the appropriate place, before "such" insert "the fifth month of".

AMENDMENT No. 5140

At the appropriate place, insert "the fourth month of" before "such".

AMENDMENT No. 5141

At the appropriate place delete the words "fifty-five" and add the words "forty" between the words "as" and "miles".

AMENDMENT No. 5142

At the appropriate place delete the words "and local sources".

AMENDMENT No. 5143

At the appropriate place, insert "the third month of" before "such".

AMENDMENT No. 5144

At the appropriate place, delete the words "January 2, 1984," and insert instead, "January 1, 1984".

AMENDMENT No. 5145

At the appropriate place insert "the second month of" before "such".

AMENDMENT No. 5146

At the appropriate place strike "January 2, 1984," and insert instead, "January 3, 1984".

AMENDMENT No. 5147

At the appropriate place insert "the month of" before "such".

AMENDMENT No. 5148

At the appropriate place after "than" insert "one-fifth".

AMENDMENT No. 5149

At the appropriate place insert after "than" insert "one-half".

AMENDMENT No. 5150

At the appropriate place after "than" insert "one-third".

AMENDMENT No. 5151

At the appropriate place after "than" insert "one-fourth".

AMENDMENT No. 5152

At the appropriate place add the words "70 days" between the words "expired" and "after".

AMENDMENT No. 5153

At the appropriate place strike the word "donations" and add in lieu thereof "donated land".

AMENDMENT No. 5154

At the appropriate place strike "ten days" and insert instead "four days".

AMENDMENT No. 5155

At the appropriate place strike "ten days" and insert instead "five days".

AMENDMENT No. 5156

At the appropriate place strike "ten days" and insert instead "six days".

AMENDMENT No. 5157

At the appropriate place strike "ten days" and insert instead "seven days".

AMENDMENT No. 5158

At the appropriate place strike the words "ten days" and insert instead the words "eight days".

AMENDMENT No. 5159

At the appropriate place strike "ten days" and insert instead "nine days".

AMENDMENT No. 5160

At the appropriate place strike the word "may" and insert in lieu thereof the word "shall".

AMENDMENT No. 5161

At the appropriate place after the words "fair market value of", add the word "lawful".

AMENDMENT No. 5162

At the appropriate place after the word "shall" insert the word "not".

AMENDMENT No. 5163

At the appropriate place delete the word "specific".

AMENDMENT No. 5164

At the appropriate place delete "and the adequacy of State bridge inspections".

AMENDMENT No. 5165

At the appropriate place insert "not" between "would and serve".

AMENDMENT No. 5166

At the appropriate place delete the words "ten days" and insert instead "one day".

AMENDMENT No. 5167

At the appropriate place delete the words "ten days" and insert instead "two days".

AMENDMENT No. 5168

At the appropriate place after "than" insert "one-eighth".

AMENDMENT No. 5169

At the appropriate place delete the words "ten days" and insert instead "four days".

AMENDMENT No. 5170

At the appropriate place after "than" insert "one-tenth".

AMENDMENT No. 5171

At the appropriate place delete the words from "is" through "section 144".

AMENDMENT No. 5172

At the appropriate place delete the words "is noncontroversial".

AMENDMENT No. 5173

At the appropriate place delete the words "ten days" and insert instead "three days".

AMENDMENT No. 5174

At the appropriate place delete the words "fifty-five" and add the words "twenty-nine" between the words "as" and "miles".

AMENDMENT No. 5175

At the appropriate place delete the words "fifty-five" and add the words "twenty-eight" between the words "as" and "miles".

AMENDMENT No. 5176

At the appropriate place delete the words "fifty-five" and add the words "twenty-seven" between the words "as" and "miles".

AMENDMENT No. 5177

At the appropriate place delete the words "fifty-five" and add the words "twenty-six" between the words "as" and "miles".

AMENDMENT No. 5178

At the appropriate place delete the words "fifty-five" and add the words "twenty-five" between the words "as" and "miles".

AMENDMENT No. 5179

At the appropriate place delete the words "fifty-five" and add the words "twenty-four" between the words "as" and "miles".

AMENDMENT No. 5180

At the appropriate place delete the words "fifty-five" and add the words "twenty-three" between the words "as" and "miles".

AMENDMENT No. 5181

At the appropriate place delete the words "fifty-five" and add the words "twenty-two" between the words "as" and "miles".

AMENDMENT No. 5182

At the appropriate place after "than" insert "one-sixth".

AMENDMENT No. 5183

At the appropriate place delete the words from "is" through "Code".

AMENDMENT No. 5184

At the appropriate place after "than" insert "one-ninth".

AMENDMENT No. 5185

At the appropriate place after "than" insert "one-seventh".

AMENDMENT No. 5186

At the appropriate place after "than" insert "one-sixth".

AMENDMENT No. 5187

At the appropriate place delete the words from "is" through "Code".

AMENDMENT No. 5188

At the appropriate place, after "than" insert "one-ninth".

AMENDMENT No. 5189

At the appropriate place after, "than" insert "one-seventh".

AMENDMENT No. 5190

At the appropriate place delete the words "fifty-five" and add the words "twenty-one" between the words "as" and "miles".

AMENDMENT No. 5191

At the appropriate place, delete the word "fifty-five" and add the word "two" between the words "as" and "miles".

AMENDMENT No. 5192

At the appropriate place, delete the word "vending" after the words "of" and "machines".

AMENDMENT No. 5193

At the appropriate place, strike lines 8 through 11.

AMENDMENT No. 5194

At the appropriate place, page 35, strike lines 12 through 25.

AMENDMENT No. 5195

At the appropriate place, strike lines 4 through 20.

AMENDMENT No. 5196

At the appropriate place, strike "all" and insert in lieu thereof "one-fifth".

AMENDMENT No. 5197

At the appropriate place, change the word "including" to "excluding".

AMENDMENT No. 5198

At the appropriate place, delete the word "January" and add the word "April" before the number "1".

AMENDMENT No. 5199

At the appropriate place, delete the word "January" and add the word "March" before the number "1".

AMENDMENT No. 5200

At the appropriate place, delete "January" and add "February" before the number "1".

AMENDMENT No. 5201

At the appropriate place delete the word "January" and add the word "May" before the number "1".

AMENDMENT No. 5202

At the appropriate place delete the word "January" and add the word "June" before the number "1".

AMENDMENT No. 5203

At the appropriate place delete the word "January" and add the word "July" before the number "1".

AMENDMENT No. 5204

At the appropriate place delete the word "January" and add the word "August" before the number "1".

AMENDMENT No. 5205

At the appropriate place delete the word "January" and add the word "September" before the number "1".

AMENDMENT No. 5206

At the appropriate place delete the word "January" and add the word "October" before the number "1".

AMENDMENT No. 5207

At the appropriate place delete the word "January" and add the word "November" before the number "1".

AMENDMENT No. 5208

At the appropriate place delete the word "January" and add the word "December" before the number "1".

AMENDMENT No. 5209

At the appropriate place delete the number "1" and add the number "2" between the words "January" and "1983".

AMENDMENT No. 5210

At the appropriate place delete the number "1" and add the number "15" between the words "January" and "1983".

AMENDMENT No. 5211

At the appropriate place delete the number "1" and add the number "30" between the words "January" and "1983".

AMENDMENT No. 5212

At the appropriate place delete the words "fifty-five" and add the word "three" between the words "as" and "miles".

AMENDMENT No. 5213

At the appropriate place delete the words "fifty-five" and add the word "four" between the words "as" and "miles".

AMENDMENT No. 5214

At the appropriate place delete the words "fifty-five" and add the word "six" between the words "as" and "miles".

AMENDMENT No. 5215

At the appropriate place delete the words "fifty-five" and add the word "five" between the words "as" and "miles".

AMENDMENT No. 5216

Add at the end thereof the following language:

"Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the extension of Federal vocational or job training funds to businesses.".

AMENDMENT No. 5217

Add at the end thereof the following language:

"Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude loans made by the Rural Electrification Administration to rural electric and telephone cooperatives.".

AMENDMENT No. 5218

Add at the end thereof the following language:

"Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude direct and insured loans made by the Farmers Home Administration.".

AMENDMENT No. 5219

Add at the end thereof the following language:

"Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal programs providing contracts of insurance or guaranty.".

AMENDMENT No. 5220

Add at the end thereof the following language:

"Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude housing and mobile home loans made by the Veterans Administration.".

AMENDMENT No. 5221

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the receipt of a Federal license for operation to an entity."

AMENDMENT No. 5222

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude contracts for the purposes of providing Federal assistance to handicapped persons."

AMENDMENT No. 5223

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude non-profit organizations devoted generally to the achievement of civil rights."

AMENDMENT No. 5224

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude a church or religious organization that administers Federal food programs."

AMENDMENT No. 5225

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude Federal tax exemptions for religious, charitable, and educational institutions."

AMENDMENT No. 5226

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude Federal tax exemptions."

AMENDMENT No. 5227

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude national or state political parties."

AMENDMENT No. 5228

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude any fiscally autonomous entity which does not receive direct Federal financial assistance."

AMENDMENT No. 5229

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act Federal financial assistance received by a State or a political subdivision thereof shall, if it is extended to such State or political subdivision under terms which permit the State or political subdivision to allocate assistance to its subunits, shall be presumed to be extended to all its subunits unless, as to any one of them it can be shown, by clear and convincing evidence that no Federal financial assistance was in fact received."

AMENDMENT No. 5230

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act Federal financial assistance received by a private agency, institution, organization, or other entity shall be presumed to be extended to all its administratively separate units and subsidiary entities unless, as to any one of them it can be shown, by clear and convincing evidence that any such unit or entity was not directly involved in providing the service or benefit supported by Federal financial assistance."

AMENDMENT No. 5231

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude the Congress and the Federal judiciary."

AMENDMENT No. 5232

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude any individual who receives Federal welfare or other social services benefits."

AMENDMENT No. 5233

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude a church, convention, or association of churches, religious order, or other religious organization, or any subunit of the foregoing, whether or not separately organized or incorporated, which does not actually receive Federal financial assistance."

AMENDMENT No. 5234

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act no charitable organization shall be deemed to receive Federal financial assistance because of any pattern and practice of participation in such organization by volunteers provided by an institution of higher education receiving Federal financial assistance."

AMENDMENT No. 5235

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, nothing in this Act or the amendments made by this Act shall be construed as changing the status of historically black colleges and universities."

AMENDMENT No. 5236

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to mean:

"(A)(i) any State or political subdivision thereof;

(ii) any person or private agency, institution, organization, or other entity;

(iii) any subunit of any such State or political subdivision thereof, or any such private agency, institution, organization, or other entity, receiving Federal financial assistance (directly or through another entity or a person), or which receives support from the extension of Federal financial assistance to any of its subunits; or

(B)(i) the successor or assignee of any recipient as defined in (c)(2)(A); or

(ii) the transferee of Federal financial assistance from any recipient as defined in (c)(2)(a)."

AMENDMENT No. 5237

Add at the end thereof the following language; "Notwithstanding any other provisions of this Act, no institution of higher education shall be deemed a 'recipient' where the only Federal financial assistance extended consists of grants received directly by students in attendance at such institutions under 20 U.S.C. 1070a (Basic Educational Opportunity Grant Program, ADS); or 38 U.S.C. 1681 (Veteran's Educational Assistance Program). This exclusion shall not apply to proprietary institutions of higher education, vocational schools, any school not entitled to tax exempt status under 26 U.S.C. 501(c)(3), or to any school which, during the five years preceding as a result of a final judgment of any court of the United States, has been found in violation of any provision of the United States Constitution or law of the United States relating to civil rights."

AMENDMENT No. 5238

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'subunit' shall refer to that part of a State or political subdivision thereof, or any private agency, institution, organization, or other entity which has a direct reporting and fiscal relationship to its parent entity. Political subdivisions that are separately incorporated, including towns, cities, or counties, are not subunits of a State. State agencies and departments are subunits of a State; county agencies and departments are subunits of counties; and municipal agencies and departments are subunits of municipalities."

AMENDMENT No. 5239

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act an entity does not 'receive support', as that term is used in this Act solely because its resources are made available for other purposes as a result of its subunit's receipt of Federal financial assistance."

AMENDMENT No. 5240

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to not include technical assistance provided to a community from another community receiving Federal financial assistance."

AMENDMENT No. 5241

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, nothing in this Act shall be construed as changing the status of historically black colleges and universities or historically single-sex colleges and universities.".

AMENDMENT No. 5242

Add at the end thereof the following language: "Nothwithstanding any other provisions of this Act the term 'recipient' shall be construed to not include any entity not covered prior to the Supreme Court's decision in *Grove City* v. *Secretary of Education, Bell.*".

AMENDMENT No. 5243

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude a church or religious organization that administers Federal food programs.".

AMENDMENT No. 5244

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude Federal tax exemptions for religious charitable, and educational institutions.".

AMENDMENT No. 5245

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude Federal tax exemptions.".

AMENDMENT No. 5246

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Medicare or Medicaid reimbursements to providers of goods or services relating to health care.".

AMENDMENT No. 5247

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the receipt of Federal funds by a political party organization under the Federal Election Campaign Act.".

AMENDMENT No. 5248

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal contracts in which private businesses provide goods or services in return for fair consideration.".

AMENDMENT No. 5249

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the use by a business of water purified in municipal wastewater treatment facilities constructed with Federal funds.".

AMENDMENT No. 5250

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the receipt of subsidized water from water projects sponsored by the Bureau of Reclamation.".

AMENDMENT No. 5251

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude national or state political parties.".

AMENDMENT No. 5252

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude technical assistance provided to businesses employing fifteen or fewer persons from State or local economic development programs which receive funds from the Federal Government.".

AMENDMENT No. 5253

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial

assistance' shall be construed to exclude the provision of Federal air traffic controllers to an airport or an airline.".

AMENDMENT No. 5254

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude loans made by the Rural Electrification Administration to rural electric and telephone cooperatives.".

AMENDMENT No. 5255

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude contracts relating to agricultural research.".

AMENDMENT No. 5256

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the provision of Federal school lunch program funds to a community.".

AMENDMENT No. 5257

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the participation by a farmer in a federally administered program of marketing orders.".

AMENDMENT No. 5258

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the administration of medicare or medicaid programs by an entity engaged in the business of insurance.".

AMENDMENT No. 5259

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the applicability of Federal rules and regulations to a business.".

AMENDMENT No. 5260

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude loans from the Small Business Administration.".

AMENDMENT No. 5261

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal crop loans or subsidies.".

AMENDMENT No. 5262

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude an fiscally autonomous entity which does not receive direct Federal financial assistance.".

AMENDMENT No. 5263

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude any benefits which accrue to an entity as a result of transacting business with individuals or other entities receiving Federal welfare or other social services benefits.".

AMENDMENT No. 5264

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude federal tax exemptions under 26 U.S.C. 501(c)(3) and 501(c)(8), and eligibility to receive tax deductible contributions under 26 U.S.C. 170(c).".

AMENDMENT No. 5265

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the grant of a Federal charter to an organization.".

AMENDMENT No. 5266

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude any funds disbursed to private businesses or corporations under the veterans employment programs authorized under title 38, United States Code.".

AMENDMENT No. 5267

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude special exemptions received by newspapers under Federal antitrust laws.".

AMENDMENT No. 5268

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the utilization of Federal facilities or the utilization of State or local governments which receive Federal financial assistance by nonprofit organizations.".

AMENDMENT No. 5269

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude non-profit organizations devoted generally to the achievement of civil rights.".

AMENDMENT No. 5270

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the provision of Federal safety or health inspectors for an industry, or to any individual business within the industry.".

AMENDMENT No. 5271

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal welfare or other social services benefits.".

AMENDMENT No. 5272

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude reimburesment or payment for goods supplied or services rendered.".

AMENDMENT No. 5273

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to not include Federal vocational or job training funds to businesses.".

AMENDMENT No. 5274

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal tax credits for businesses engaged in vocational training programs.".

AMENDMENT No. 5275

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act an entity does not 'receive support', as that term is used in this Act solely because its resources are made available for other purposes as a result of its subunit's receipt of Federal financial assistance.".

AMENDMENT No. 5276

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'subunit' shall refer to that part of a State or political subdivision thereof, or any private agency, institution, organization, or other entity which has a direct reporting and fiscal relationship to its parent entity. Political subdivisions that are separately incorporated, including towns, cities, or counties, are not subunits of a State. State agencies and departments are subunits of a State; county agencies and departments are subunits of counties; and municipal agencies and departments are subunits of municipalities.".

AMENDMENT No. 5277

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act nothing herein shall be construed to extend authority to the Federal government to inquire into matters of discretion relating to the granting of academic tenure to individuals at institutions of higher education.".

AMENDMENT No. 5278

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the

extension of Federal vocational or job training funds to businesses.".

AMENDMENT No. 5279

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal programs providing contracts of insurance or guaranty.".

AMENDMENT No. 5280

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude housing and mobile home loans made by the Veterans Administration.".

AMENDMENT No. 5281

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude direct and insured loans made by the Farmers Home Administration.".

AMENDMENT No. 5282

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the receipt of a Federal license for operation to an entity.".

AMENDMENT No. 5283

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude contracts for the purposes of providing Federal assistance to handicapped persons.".

AMENDMENT No. 5284

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act nothing herein shall be construed to affect the admissions policy of any institution of higher education.".

AMENDMENT No. 5285

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act nothing herein shall be construed to extend authority to the Federal government to inquire into matters of discretion relating to student grading at institutions of higher education.".

AMENDMENT No. 5286

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude loans made by the Rural Electrification Administration to rural electric and telephone cooperatives.".

AMENDMENT No. 5287

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act nothing herein shall be construed to affect the Revenue Sharing Act.".

AMENDMENT No. 5288

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude the ultimate beneficiary of any Federal financial assistance.".

AMENDMENT No. 5289

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to not include Federal vocational or job training funds to businesses.".

AMENDMENT No. 5290

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, nothing in this Act shall be construed as changing the status of historically black colleges and universities or historically single-sex colleges and universities.".

AMENDMENT No. 5291

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the use of facilities owned by a State or local government receiving Federal financial assistance shall not constitute Federal financial assistance to the entity making use of such facilities.".

AMENDMENT No. 5292

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to not include technical assistance provided to a community from another community receiving Federal financial assistance.".

AMENDMENT No. 5293

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, nothing in this Act or the amendments made by this Act shall be construed as changing the status of historically black colleges and universities.".

AMENDMENT No. 5294

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude Federal tax exemptions for religious, charitable, and educational institutions.".

AMENDMENT No. 5295

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude reimbursement or payment for goods supplied or services rendered.".

AMENDMENT No. 5296

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, nothing in this Act shall be construed to extend authority to the Federal government to inquire into matters of discretion relating either to student grading, or the granting of academic tenure to individuals, at institutions of higher education.".

AMENDMENT No. 5297

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to not include any entity not covered prior to the Supreme Court's decision in Grove City v. Secretary of Education, Bell.".

AMENDMENT No. 5298

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude food stamp reimbursements to grocery stores.".

AMENDMENT No. 5299

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act Federal financial assistance to a particular subunit, department, or instrumentality of a political subdivision shall not constitute Federal financial assistance to another subunit, department, or instrumentality of such political subdivision.".

AMENDMENT No. 5300

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the receipt of Federal funds by a political party organization under the Federal Election Campaign.".

AMENDMENT No. 5301

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the extension of Federal financial assistance to a political subdivision of a State shall not be deemed to constitute Federal financial assistance to any other political subdivision of such State.".

AMENDMENT No. 5302

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the extension of Federal financial assistance to a public entity shall not be deemed to constitute Federal financial assistance to a private entity providing goods or services to that entity.".

AMENDMENT No. 5303

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude a church or religious organization that administers Federal food programs.".

AMENDMENT No. 5304

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude Federal tax exemptions.".

AMENDMENT No. 5305

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude medicare or medicaid reimbursements to providers of goods or services relating to health care.".

AMENDMENT No. 5306

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude medicare or medicaid reimbursements to pharmacies.".

AMENDMENT No. 5307

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the reimbursement of Federal rent vouchers to landlords.".

AMENDMENT No. 5308

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act Federal financial assistance to a particular subunit, department, or instrumentality of a State government shall not constitute Federal financial assistance to another subunit, department, or instrumentality of such State government.".

AMENDMENT No. 5309

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act no State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof (including any subunit thereof) shall be deemed to receive Federal financial assistance unless it receives such assistance in fact.".

AMENDMENT No. 5310

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act an entity shall not be deemed to receive support from the extension of Federal financial assistance to a subunit unless it receives financial assistance from such subunit.".

AMENDMENT No. 5311

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act Federal financial assistance extended to a State government shall not constitute Federal financial assistance to its political subdivisions.".

AMENDMENT No. 5312

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act Federal financial assistance to the political subdivision of a State shall not constitute Federal financial assistance to the State government itself.".

AMENDMENT No. 5313

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act nothing herein shall be construed to require an educational institution to treat abortion in a manner indistinguishable from other medical procedures for purposes of student of employee health or leave policies.".

AMENDMENT No. 5314

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal welfare or other social services services benefits.".

AMENDMENT No. 5315

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the provision of Federal safety or health inspectors for an industry, or to any individual business within the industry.".

AMENDMENT No. 5316

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act no charitable organization shall be deemed to receive Federal financial assistance because of any pattern and practice of participation in such organization by volunteers provided by an institution of higher education receiving Federal financial assistance.".

AMENDMENT No. 5317

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude a church, convention, or association of churches, religious order, or other religious organization, or any subunit of the foregoing, whether or not separately organized or incorporated, which does not actually receive Federal financial assistance.".

AMENDMENT No. 5318

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude any individual who receives Federal welfare or other social services benefits.".

AMENDMENT No. 5319

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to include the Congress and the Federal judiciary.".

AMENDMENT No. 5320

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act Federal financial assistance received by a private agency, institution, organization, or other entity shall be presumed to be extended to all of its administratively separate units and subsidiary entities unless, as to any one of them it can be shown, by clear and convincing evidence, that any such unit or entity was not directly involved in providing the service or benefit supported by the Federal financial assistance.".

AMENDMENT No. 5321

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act Federal financial assistance received by a State or a political subdivision thereof shall, if it is extended to such State or political subdivision under terms which permit the State or political subdivision to allocate assistance to its subunits, shall be presumed to be extended to all its subunits unless, as to any one of them it can be shown, by clear and convincing evidence, that no Federal financial assistance was in fact received.".

AMENDMENT No. 5322

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to mean: "(A)(i) any State or political subdivision thereof;

(ii) any person or private agency, institution, organization, or other entity;

(iii) any subunit of any such State or political subdivision thereof, or any such private agency, institution, organization, or other entity,

receiving Federal financial assistance (directly or through another entity or a person), or which receives support from the extension of Federal financial assistance to any of its subunits; or

(B)(i) the successor or assignee of any recipient as defined in (C)(2)(A); or

(ii) the transferee of Federal financial assistance from any recipient as defined in (c)(2)(A).".

AMENDMENT No. 5323

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, no institution of higher education shall be deemed a 'recipient' where the only Federal financial assistance extended consists of grants received directly by students in attendance at such institutions under 20 U.S.C. 1070a (Basic Education Opportunity Grant Program, ADS); or 38 U.S.C. 1681 (Veteran's Educational Assistance Program). This exclusion shall not apply to proprietary institutions of higher education, vocational schools, any school not entitled to tax exempt status under 26 U.S.C. 501(c)(3), or to any school which, during the five years preceding as a result of a final judgement of any court of the United States, has been found in violation of any provision of the United States Constitution or law of the United States relating to civil rights.".

AMENDMENT No. 5324

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal tax credits for businesses engaged in vocational training programs.".

AMENDMENT No. 5325

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal contracts in which private businesses provide goods or services in return for fair consideration.".

AMENDMENT No. 5326

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the use by a business of water purified in municipal wastewater treatment facilities constructed with Federal funds.".

AMENDMENT No. 5327

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the receipt of subsidized water from water projects sponsored by the Bureau of Reclamation.".

AMENDMENT No. 5328

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude national or state political parties.".

AMENDMENT No. 5329

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude technical assistance provided to businesses employing fifteen or fewer persons from State or local economic development programs which receive funds from the Federal government.".

AMENDMENT No. 5330

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the provision of Federal air traffic controllers to an airport or an airline.".

AMENDMENT No. 5331

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude loans made by the Rural Electrification Administration to rural electric and telephone cooperatives.".

AMENDMENT No. 5332

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude contracts relating to agricultural research.".

AMENDMENT No. 5333

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the provision of Federal school lunch program funds to a community.".

AMENDMENT No. 5334

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the participation by a farmer in a federally administered program of marketing orders.".

AMENDMENT No. 5335

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the administration of Medicare or Medicaid programs by an entity engaged in the business of insurance.".

AMENDMENT No. 5336

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the applicability of Federal rules and regulations to a business.".

AMENDMENT No. 5337

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude loans from the Small Business Administration.".

AMENDMENT No. 5338

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal crop loans or subsidies.".

AMENDMENT No. 5339

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude any fiscally autonomous entity which does not receive direct Federal financial assistance.".

AMENDMENT No. 5340

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude any benefits which accrue to an entity as a result of transacting business with individuals or other entities receiving Federal welfare or other social services benefits.".

AMENDMENT No. 5341

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude federal tax exemptions under 26 U.S.C. 501(c)(3) and 501(c)(8), and eligibility to receive tax deductible contributions under 26 U.S.C. 170(c).".

AMENDMENT No. 5342

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the grant of a Federal charter to an organization.".

AMENDMENT No. 5343

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude any funds disbursed to private businesses or corporations under the veterans employment programs authorized under Title 38, United States Code.".

AMENDMENT No. 5344

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude special exemptions received by newspapers under Federal antitrust laws.".

AMENDMENT No. 5345

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the utilization of Federal facilities or the utilization of State or local governments which receive Federal financial assistance by nonprofit organizations.".

AMENDMENT No. 5346

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude non-profit organizations devoted generally to the achievement of civil rights.".

AMENDMENT No. 5347

At the appropriate place, delete the number "20" and add the number "30".

AMENDMENT No. 5348

At the appropriate place, insert "90 percent of" before "the".

AMENDMENT No. 5349

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act nothing herein shall be construed to extend authority to the Federal government to inquire into matters of discretion relating to student grading at institutions of higher education.".

AMENDMENT No. 5350

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act nothing herein shall be construed to affect the admissions policy of any institution of higher education.".

AMENDMENT No. 5351

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the use of facilities owned by a State or local government receiving Federal financial assistance shall not constitute Federal financial assistance to the entity making use of such facilities.".

AMENDMENT No. 5352

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act nothing herein shall be construed to extend authority to the Federal government to inquire into matters of discretion relating to the granting of academic tenure to individuals at institutions of higher education.".

AMENDMENT No. 5353

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the extension of Federal vocational or job training funds to businesses.".

AMENDMENT No. 5354

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude the ultimate beneficiary of any Federal financial assistance.".

AMENDMENT No. 5355

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act nothing herein shall be construed to affect the Revenue Sharing Act.".

AMENDMENT No. 5356

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude loans made by the Rural Electrification Administration to rural electric and telephone cooperatives.".

AMENDMENT No. 5357

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude direct and insured loans made by the Farmers Home Administration.".

AMENDMENT No. 5358

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal programs providing contracts of insurance or guaranty.".

AMENDMENT No. 5359

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude housing and mobile home loans made by the Veterans' Administration.".

AMENDMENT No. 5360

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the receipt of a Federal license for operation to an entity.".

AMENDMENT No. 5361

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude contracts for the purposes of providing Federal assistance to handicapped persons.".

AMENDMENT No. 5362

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the provision of Federal safety or health inspectors for an industry, or to any individual business within the industry.".

AMENDMENT No. 5363

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal welfare or other social services benefits.".

AMENDMENT No. 5364

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act nothing herein shall be construed to require an educational institution to treat abortion in a manner indistinguishable from other medical procedures for purposes of student or employee health or leave policies.".

AMENDMENT No. 5365

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act Federal financial assistance to the political subdivision of a State shall not constitute Federal financial assistance to the State government itself.".

AMENDMENT No. 5366

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act Federal financial assistance extended to a State government shall not constitute Federal financial assistance to its political subdivisions.".

AMENDMENT No. 5367

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act an entity shall not be deemed to receive support from the extension of Federal financial assistance to a subunit unless it receives financial assistance from such subunit.".

AMENDMENT No. 5368

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act Federal financial assistance to a particular subunit, department, or instrumentality of a State government shall not constitute Federal financial assistance to another subunit, department, or instrumentality of such State government.".

AMENDMENT No. 5369

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act no State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof (including any subunit thereof) shall be deemed to receive Federal financial assistance unless it receives such assistance in fact.".

AMENDMENT No. 5370

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the extension of Federal financial assistance to a public entity shall not be deemed to constitute Federal financial assistance to a private entity providing goods or services to that entity.".

AMENDMENT No. 5371

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the extension of Federal financial assistance to a political subdivision of a State shall not be deemed to constitute Federal financial assistance to any other political subdivision of such State.".

AMENDMENT No. 5372

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act Federal financial assistance to a particular subunit, department, or instrumentality of a political subdivision shall not constitute Federal financial assistance to another subunit, department, or instrumentality of such political subdivision.".

AMENDMENT No. 5373

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude reimbursement or payment for goods supplied or services rendered.".

AMENDMENT No. 5374

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, nothing in this Act shall be construed to extend authority to the Federal Government to inquire into matters of discretion relating either to student grading, or the granting of academic tenure to individuals, at institutions of higher education.".

AMENDMENT No. 5375

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to not include any entity not covered prior to the Supreme Court's decision in *Grove City* v. *Secretary of Education, Bell.*".

AMENDMENT No. 5376

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to not include technical assistance provided to a community from another community receiving Federal financial assistance.".

AMENDMENT No. 5377

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, nothing in this Act shall be construed as changing the status of historically black colleges and universities or historically single-sex colleges and universities.".

AMENDMENT No. 5378

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to not include Federal vocational or job training funds to businesses.".

AMENDMENT No. 5379

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act an entity does not 'receive support' as that term is used in this Act solely because its resources are made available for other purposes as a result of its subunit's receipt of Federal financial assistance.".

AMENDMENT NO. 5380

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal tax credits for businesses engaged in vocational training programs.".

AMENDMENT NO. 5381

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the reimbursement of Federal rent vouchers to landlords.".

AMENDMENT NO. 5382

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude food stamp reimbursements to grocery stores.".

AMENDMENT NO. 5383

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal tax credits for businesses engaged in vocational training programs.".

AMENDMENT NO. 5384

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the receipt of Federal funds by a political party organization under the Federal Election Campaign Act.".

AMENDMENT NO. 5385

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude medicare or medicial reimbursements to providers of goods or services relating to health care.".

AMENDMENT NO. 5386

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude medicare or medicaid reimbursements to pharmacies.".

AMENDMENT NO. 5387

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the use by a business of water purified in municipal wastewater treatment facilities constructed with Federal funds.".

AMENDMENT NO. 5388

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal contracts in which private businesses provide goods or services in return for fair consideration.".

AMENDMENT NO. 5389

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, nothing in this Act shall be construed to extend authority to the Federal government to inquire into matters of discretion relating either to student grading, or the granting of academic tenure to individuals, at institutions of higher education.".

AMENDMENT NO. 5390

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, Federal financial assistance to a particular subunit, department, or instrumentality of a political subdivision shall not constitute Federal financial assistance to another subunit, department, or instrumentality of such political subdivision.".

AMENDMENT NO. 5391

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the extension of Federal financial assistance to a political subdivision of a State shall not be deemed to constitute Federal financial assistance to any other political subdivision of such State.".

AMENDMENT NO. 5392

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the extension of Federal financial assistance to a public entity shall not be deemed to constitute Federal financial assistance to a private entity providing goods or services to that entity.".

AMENDMENT NO. 5393

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act no State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof (including any subunit thereof) shall be deemed to receive Federal financial assistance unless it receives such assistance in fact.".

AMENDMENT NO. 5394

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act Federal financial assistance to a particular subunit, department, or instrumentality of a State government shall not constitute Federal financial assistance to another subunit, department, or instrumentality of such State government.".

AMENDMENT NO. 5395

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act an entity shall not be deemed to receive support from the extension of Federal financial assistance to a subunit unless it receives financial assistance from such subunit.".

AMENDMENT NO. 5396

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act Federal financial assistance extended to a State government shall not constitute Federal financial assistance to its political subdivisions.".

AMENDMENT NO. 5397

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act Federal financial assistance to the political subdivision of a State shall not constitute Federal financial assistance to the State government itself.".

AMENDMENT NO. 5398

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act nothing herein shall be construed to require an educational institution to treat abortion in a manner indistinguishable from other medical procedures for purposes of student or employee health or leave policies.".

AMENDMENT NO. 5399

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act nothing herein shall be construed to affect the Revenue Sharing Act.".

AMENDMENT NO. 5400

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude the ultimate beneficiary of any Federal financial assistance.".

AMENDMENT NO. 5401

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act nothing herein shall be construed to extend authority to the Federal government to inquire into matters of discretion relating to the granting of academic tenure to individuals at institutions of higher education.".

AMENDMENT NO. 5402

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the use of facilities owned by a State or local government receiving Federal financial assistance shall not constitute Federal financial assistance to the entity making use of such facilities.".

AMENDMENT NO. 5403

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act nothing herein shall be construed to affect the admissions policy of any institution of higher education.".

AMENDMENT NO. 5404

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act nothing herein shall be construed to extend authority to the Federal government to inquire into matters of discretion relating to student grading at institutions of higher education.".

AMENDMENT NO. 5405

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act nothing herein shall be construed to extend authority to the Federal government to inquire into matters of dis-

cretion relating to student grading at institutions of higher education.".

AMENDMENT No. 5406

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AMENDMENT No. 5407

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the use of facilities owned by a State or local government receiving Federal financial assistance shall not constitute Federal financial assistance to the entity making use of such facilities.".

AMENDMENT No. 5408

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act nothing herein shall be construed to extend authority to the Federal government to inquire into matters of discretion relating to the granting of academic tenure to individuals at institutions of higher education.".

AMENDMENT No. 5409

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the extension of Federal vocational or job training funds to businesses.".

AMENDMENT No. 5410

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude the ultimate beneficiary of any Federal financial assistance.".

AMENDMENT No. 5411

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act nothing herein shall be construed to affect the Revenue Sharing Act.".

AMENDMENT No. 5412

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude loans made by the rural electrification administration to rural electric and telephone cooperatives.".

AMENDMENT No. 5413

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude direct and insured loans made by the Farmers Home Administration.".

AMENDMENT No. 5414

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal programs providing contracts of insurance or guaranty.".

AMENDMENT No. 5415

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude housing and mobile home loans made by the Veterans Administration.".

AMENDMENT No. 5416

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the receipt of a Federal license for operation to an entity.".

AMENDMENT No. 5417

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude contracts for the purposes of providing Federal assistance to handicapped persons.".

AMENDMENT No. 5418

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the provision of Federal safety or health inspectors for an industry, or to any individual business within the industry.".

AMENDMENT No. 5419

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal welfare or other social services services benefits.".

AMENDMENT No. 5420

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act nothing herein shall be construed to require an educational institution to treat abortion in a manner indistinguishable from other medical procedures for purposes of student or employee health or leave policies.".

AMENDMENT No. 5421

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, Federal financial assistance to the political subdivision of a State shall not constitute Federal financial assistance to the State government itself.".

AMENDMENT No. 5422

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, Federal financial assistance extended to a State government shall not constitute Federal financial assistance to its political subdivisions.".

AMENDMENT No. 5423

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, an entity shall not be deemed to receive support from the extension of Federal financial assistance to a subunit unless it receives financial assistance from such subunit.".

AMENDMENT No. 5424

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, Federal financial assistance to a particular subunit, department, or instrumentality of a State government shall not constitute Federal financial assistance to another subunit, department, or instrumentality of such State government.".

AMENDMENT No. 5425

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, no State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof (including any subunit thereof) shall be deemed to receive Federal financial assistance unless it receives such assistance in fact.".

AMENDMENT No. 5426

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, the extension of Federal financial assistance to a public entity shall not be deemed to constitute Federal financial assistance to a private entity providing goods or services to that entity.".

AMENDMENT No. 5427

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, the extension of Federal financial assistance to a political subdivision of a State shall not be deemed to constitute Federal financial assistance to any other political subdivision of such State.".

AMENDMENT No. 5428

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, Federal financial assistance to a particular subunit, department, or instrumentality of a political subdivision shall not constitute Federal financial assistance to another subunit, department, or instrumentality of such political subdivision.".

AMENDMENT No. 5429

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, the term 'Federal financial assistance' shall be construed to exclude reimbursement or payment for goods supplied or services rendered.".

AMENDMENT No. 5430

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, nothing in this Act shall be construed to extend authority to the Federal government to inquire into matters of discretion relating either to student grading, or the granting of academic tenure to individuals, at institutions of higher education.".

AMENDMENT No. 5431

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, the term 'recipient' shall be construed to not include any entity not covered prior to the Supreme Court's decision in *Grove City* v. *Secretary of Education, Bell.*".

AMENDMENT No. 5432

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, the term 'Federal financial assistance' shall be construed to not include technical assistance provided to a community from another community receiving Federal financial assistance.".

AMENDMENT No. 5433

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, nothing in this Act shall be construed as changing the status of historically black colleges and universities or historically single-sex colleges and universities.".

AMENDMENT No. 5434

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, the term 'Federal financial assistance' shall be construed to not include Federal vocational or job training funds to businesses.".

AMENDMENT No. 5435

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, an entity does not 'receive support', as that term is used in this Act solely because its resources are made available for other purposes as a result of its subunit's receipt of Federal financial assistance.".

AMENDMENT No. 5436

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, the term 'submit' shall refer to that part of a State or political subdivision thereof, or any private agency, institution, organization, or other entity which has a direct reporting and fiscal relationship to its parent entity. Political subdivisions that are separately incorporated, including towns, cities, or counties, are not subunits of a State. State agencies and departments are subunits of a State; county agencies and departments are subunits of counties; and municipal agencies and departments are subunits of municipalities.".

AMENDMENT No. 5437

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, the term 'Federal financial assistance' shall be construed to exclude Federal tax credits for businesses engaged in vocational training programs.".

AMENDMENT No. 5438

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, no institution of higher education shall be deemed a 'recipient' where the only Federal financial assistance extended consists of grants received directly by students in attendance at such institutions under 20 U.S.C. 1070a (Basic Educational Opportunity Grant Program, ADS) or 38 U.S.C. 1681 (Veteran's Educational Assistance Program). This exclusion shall not apply to proprietary institutions of higher education, vocational schools, any school not entitled to tax exempt status under 26 U.S.C. 510(c)(3), or to any school which, during the five years preceding as a result of a final judgment of any court of the United States, has been found in violation of any provision of the United States Constitution or law of the United States relating to civil rights.".

AMENDMENT No. 5439

Add at the end thereof the following language: "Notwithstanding any other provisions of his Act, the term 'recipient' shall be construed to mean:

"(A)(i) any State or political subdivision thereof;

"(ii) any person or private agency, institution, organization, or other entity;

"(iii) any subunit of any such State or political subdivision thereof, or any such private agency, institution, organization, or other entity.

receiving Federal financial assistance (directly or through another entity or a person), or which receives support from the extension of Federal financial assistance to any of its subunits; or

"(B)(i) the successor or assignee of any recipient as defined in (c)(2)(A); or

"(ii) the transferee of Federal financial assistance from any recipient as defined in (c)(2)(A)."

AMENDMENT No. 5440

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, Federal financial assistance received by a State or a political subdivision thereof shall, if it is extended to such State or political subdivision under terms which permit the State or political subdivision to allocate assistance to its subunits, shall be presumed to be extended to all its subunits unless, as to any one of them it can be shown, by clear and convincing evidence, that no Federal financial assistance was in fact received."

AMENDMENT No. 5441

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, Federal financial assistance received by a private agency, institution, organization, or other entity shall be presumed to be extended to all of its administratively separate units and subsidiary entities unless, as to any one of them it can be shown, by clear and convincing evidence, that any such unit or entity was not directly involved in providing the service or benefit supported by the Federal financial assistance."

AMENDMENT No. 5442

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to include the Congress and the Federal judiciary.".

AMENDMENT No. 5443

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude any individual who receives Federal welfare or other social services benefits.".

AMENDMENT No. 5444

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude a church, convention, or association of churches, religious order, or other religious organization, or any subunit of the foregoing, whether or not separately organized or incorporated, which does not actually receive Federal financial assistance.".

AMENDMENT No. 5445

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act no charitable organization shall be deemed to receive Federal financial assistance because of any pattern and practice of participation in such organization by volunteers provided by an institution of higher education receiving Federal financial assistance.".

AMENDMENT No. 5446

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act nothing in this Act or the amendments made by this Act shall be construed as changing the status of historically black colleges and universities.".

AMENDMENT No. 5447

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude reimbursement of Federal rent vouchers to landlords.".

AMENDMENT No. 5448

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal tax credits for businesses engaged in vocational training programs.".

AMENDMENT No. 5449

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude food stamp reimbursements to grocery stores.".

AMENDMENT No. 5450

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Medicare or Medicaid reimbursements to pharmacies.".

AMENDMENT No. 5451

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude a church or religious organization that administers Federal food programs.".

AMENDMENT No. 5452

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude Federal tax exemptions for religious, charitable, and educational institutions."

AMENDMENT No. 5453

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude Federal tax exemptions.".

AMENDMENT No. 5454

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Medicare or Medicaid reimbursements to providers of goods or services relating to health care.".

AMENDMENT No. 5455

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the receipt of Federal funds by a political party organization under the Federal Election Campaign Act.".

AMENDMENT No. 5456

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal contracts in which private businesses provide goods or services in return for fair consideration.".

AMENDMENT No. 5457

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the use by a business of water purified in municipal wastewater treatment facilities constructed with Federal funds.".

AMENDMENT No. 5458

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the receipt of subsidized water from water projects sponsored by the Bureau of Reclamation.".

AMENDMENT No. 5459

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude national or state political parties.".

AMENDMENT No. 5460

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude technical assistance provided to businesses employing fifteen or fewer persons from State or local economic development programs which receive funds from the Federal government.".

AMENDMENT No. 5461

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the provision of Federal air traffic controllers to an airport or an airline.".

AMENDMENT No. 5462

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude loans made by the Rural Electrification Administration to rural electric and telephone cooperatives.".

AMENDMENT No. 5463

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude contracts relating to agricultural research.".

AMENDMENT No. 5464

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the provision of Federal school lunch program funds to a community.".

AMENDMENT No. 5465

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the participation by a farmer in a Federally administered program of marketing orders.".

AMENDMENT No. 5466

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the administration of Medicare or Medicaid programs by an entity engaged in the business of insurance.".

AMENDMENT No. 5467

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the applicability of Federal rules and regulations to a business.".

AMENDMENT No. 5468

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude loans from the Small Business Administration.".

AMENDMENT No. 5469

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal loan crop loans or subsidies.".

AMENDMENT No. 5470

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude any fiscally autonomous entity which does not receive direct Federal financial assistance.".

AMENDMENT No. 5471

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude any benefits which accrue to an entity as a result of transacting business with individuals or other entities receiving Federal welfare or other social services benefits.".

AMENDMENT No. 5472

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal tax exemptions under 26 U.S.C. 501(c)(3) and 501(c)(8), and eligibility to receive tax deductible contributions under 26 U.S.C. 170(c).".

AMENDMENT No. 5473

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the grant of a Federal charter to an organization.".

AMENDMENT No. 5474

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude any funds disbursed to private businesses or corporations under the veterans employment programs authorized under Title 38, United States Code.".

AMENDMENT No. 5475

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude special exemptions received by newspapers under Federal antitrust laws.".

AMENDMENT No. 5476

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the utilization of Federal facilities or the utilization of State or local governments which receive Federal financial assistance by nonprofit organizations.".

AMENDMENT No. 5477

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude non-profit organizations devoted generally to the achievement of civil rights.".

AMENDMENT No. 5478

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'subunit' shall refer to that part of a State or political subdivision thereof, or any private agency, institution, organization, or other entity which has a direct reporting and fiscal relationship to its parent entity. Political subdivisions that are separately incorporated, including towns, cities, or counties, are not subunits of a State. State agencies and departments are subunits of a State; county agencies and departments are subunits of counties; and municipal agencies and departments are subunits of municipalities.".

AMENDMENT No. 5479

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal tax credits for businesses engaged in vocational training programs.".

AMENDMENT No. 5480

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, no institution of higher education shall be deemed a 'recipient' where the only Federal financial assistance extended consists of grants received directly by students in attendance at such institutions under 20 U.S.C. 1070a (Basic Educational Opportunity Grant Program, ADS); or 38 U.S.C. 1681 (Veteran's Educational Assistance Program). This exclusion shall not apply to proprietary institutions of higher education, vocational schools, any school not entitled to tax exempt status under 26 U.S.C. 501(c)(3), or to any school which, during the five years preceding as a result of a final judgement of any court of the United States, has been found in violation of any provision of the United States Constitution or law of the United States relating to civil rights.".

AMENDMENT No. 5481

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to mean:

"(A)(i) any State or political subdivision thereof;

"(ii) any person or private agency, institution, organization, or other entity;

"(iii) any subunit of any such State or political subdivision thereof, or any such private agency, institution, organization, or other entity,

receiving Federal financial assistance (directly or through another entity or a person), or which receives support from the extension of Federal financial assistance to any of its subunits; or

"(B)(i) the successor or assignee of any recipient as defined in (c)(2)(A); or

"(ii) the transferee of Federal financial assistance from any recipient as defined in (c)(2)(A).".

AMENDMENT No. 5482

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, Federal financial assistance received by a State or a political subdivision thereof shall, if it is extended to such State or political subdivision under terms which permit the State or political subdivision to allocate assistance to its subunits, shall be presumed to be extended to all its subunits unless, as to any one of them it can be shown, by clear and convincing evidence, that no Federal financial assistance was in fact received.".

AMENDMENT No. 5483

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, Federal financial assistance received by a private agency, institution, organization, or other entity shall be presumed to be extended to all of its administratively separate units and subsidiary entities unless, as to any one of them it can be shown, by clear and convincing evidence, that any such unit or entity was not directly involved in providing the service or benefit supported by the Federal financial assistance.".

AMENDMENT No. 5484

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to include the Congress and the Federal judiciary.".

AMENDMENT No. 5485

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude any individual who receives Federal welfare or other social services benefits.".

AMENDMENT No. 5486

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude a church, convention, or association of churches, religious order, or other religious organization, or any submit of the foregoing, whether or not separately organized or incorporated, which does not actually receive Federal financial assistance.".

AMENDMENT No. 5487

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, no charitable organization shall be deemed to receive Federal financial assistance because of any pattern and practice of participation in such organization by volunteers provided by an institution of higher education receiving Federal financial assistance.".

AMENDMENT No. 5488

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act, nothing in this Act or the amendments made by this Act shall be construed as changing the status of historically black colleges and universities.".

AMENDMENT No. 5489

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the reimbursement of Federal rent vouchers to landlords.".

AMENDMENT No. 5490

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal tax credits for businesses engaged in vocational training programs.".

AMENDMENT No. 5491

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude food stamp reimbursements to grocery stores.".

AMENDMENT No. 5492

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Medicare or Medicaid reimbursements to pharmacies.".

AMENDMENT No. 5493

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude contracts relating to agricultural research.".

AMENDMENT No. 5494

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude loans made by the Rural Electrification Administration to rural electric and telephone cooperatives.".

AMENDMENT No. 5495

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the provisions of Federal air traffic controllers to an airport or an airline.".

AMENDMENT No. 5496

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial

assistance' shall be construed to exclude technical assistance provided to businesses employing fifteen or fewer persons from State or local economic development programs which receive funds from the Federal Government.".

AMENDMENT No. 5497

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the receipt of subsidized water from water projects sponsored by the Bureau of Reclamation.".

AMENDMENT No. 5498

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the administration of Medicare or Medicaid programs by an entity engaged in the business of insurance.".

AMENDMENT No. 5499

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the participation by a farmer in a Federally administered program of marketing orders.".

AMENDMENT No. 5500

Add at at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the provision of Federal school lunch program funds to a community.".

AMENDMENT No. 5501

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the applicability of Federal rules and regulations to a business.".

AMENDMENT No. 5502

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude loans from the Small Business Administration.".

AMENDMENT No. 5503

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal crop loans or subsidies.".

AMENDMENT No. 5504

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal tax exemptions under 26 U.S.C. 501(c)(3) and 501(c)(8), and eligibility to receive tax deductible contributions under 26 U.S.C. 170(c).".

AMENDMENT No. 5505

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude any benefits which accrue to an entity as a result of transacting business with individuals or other entities receiving Federal welfare or other social services benefits.".

AMENDMENT No. 5506

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude special exemptions received by newspapers under Federal antitrust laws.".

AMENDMENT No. 5507

Add at the end thereof the following language: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the utilization of Federal facilities or the utilization of State or local governments which receive Federal financial assistance by nonprofit organizations.".

CONTINUING APPROPRIATIONS, 1985

BYRD AMENDMENT NOS. 5508 AND 5509

Mr. BYRD (for Mr. KENNEDY, for himself, Mr. HART, Mr. BRADLEY, Mr. CRANSTON, and Mr. CHILES) proposed two amendments to the joint resolution (H.J. Res. 648) making continuing appropriations for the fiscal year 1985, and for other purposes; as follows:

AMENDMENT No. 5508

In lieu of the language proposed to be striken by the first committee amendment, insert the following:

TITLE —CIVIL RIGHTS ACT OF 1984

SHORT TITLE

SEC. . This title may be cited as the "Civil Rights Act of 1984".

PROHIBITION OF SEX DISCRIMINATION

SEC. . (a)(1) The matter preceding clause (1) of section 901(a) of the Education Amendments of 1972 (hereafter in this section referred to as the "Act") is amended—

(A) by striking out "in" the second time it appears;

(B) by striking out "the benefits of" and inserting in lieu thereof "benefits"; and

(C) by striking out "under any education program or activity receiving" and inserting in lieu thereof "by any education recipient of".

(2) Section 901(a)(3) of the Act is amended by inserting "or recipient" after "Institution".

(b) Section 901(c) of the Act is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following:

"(2) For the purpose of this title, the term 'recipient' shall not be construed to include any entity which would not have been a recipient under agency regulations implementing this title in effect on February 27, 1984, nor to exclude any entity which would have been a recipient under agency regulations implementing this title in effect on February 27, 1984.

"(3)(A) For the purpose of this title, except as provided in subparagraph (B), in the case of Federal financial assistance extended to a State or to a political subdivision, a department, agency, or other such component part of the State or political subdivision that—

"(i) does not have as its primary function the performance of any of the purposes for which such assistance was extended; and

"(ii) is not extended such assistance,

shall not be deemed a recipient.

"(B) If all or a portion of Federal financial assistance is extended to a State or to a political subdivision without restriction, such assistance shall be presumed to have been extended to the entire State or subdivision unless as to the department, agency, or other such component part where discrimination is alleged, the State or political subdivision demonstrates, by clear and convincing evidence, that no Federal financial assistance was in fact extended to such department, agency, or other component part.

"(4)(A) For the purposes of this title, except as provided in subparagraphs (B) and (C), in the case of Federal financial assistance extended to a private corporation or partnership that has more than one establishment, an establishment that is not extended such assistance shall not be deemed a recipient.

"(B) If Federal financial assistance is extended to a private corporation or partnership without restriction, the entire corporation or partnership is covered in its entirety.

"(C) To the extent the provisions of subparagraph (A) constitute a limitation on coverage, subparagraph (A) shall not apply to corporations and partnerships whether profit or nonprofit engaged in education, health care, or social services.".

(c)(1) The first sentence of section 902 of the Act is amended—

(A) by striking out "to any education program or activity" and inserting in lieu thereof "for education" and

(B) by striking out "such program or activity" and inserting in lieu thereof "recipients".

(2) The third sentence of section 902 of the Act is amended—

(A) by striking out "under such program or activity";

(B) by striking out "to whom" each time it appears in clause (1) and inserting in lieu thereof "to which" each such time;

(C) by striking out "program, or part thereof, in which" and inserting in lieu thereof "assistance which supports"; and

(D) by striking out "has been so found" and inserting in lieu thereof "so found".

(3) Section 902 of the Act is amended by adding at the end thereof the following new sentence: "For the purpose of clause (1) of the third sentence, Federal financial assistance does not support noncompliance by or with respect to a part of a recipient solely because the receipt of such assistance by the recipient enables the recipient to make other resources of the recipient available to that part.".

(4) Section 903 is amended by striking out "1002" and inserting in lieu thereof "902".

NONDISCRIMINATION ON THE BASIS OF HANDICAPPING CONDITION

SEC. . (a) Section 504 of the Rehabilitation Act of 1973 (hereafter in this section referred to as the "Act") is amended—

(1) by striking out "his" and inserting in lieu thereof "such individual's";

(2) by striking out "in" the third time it appears;

(3) by striking out "the benefits of" and inserting in lieu thereof "benefits";

(4) by striking out "under any program or activity receiving" and inserting in lieu thereof "by any recipient of"; and

(5) by striking out "under any program or activity conducted".

(b) Section 504 of the Act is further amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsections:

"(b) For the purpose of this section, the term 'recipient' shall not be construed to include any entity which would not have been a recipient under agency regulations implementing this section in effect on February 27, 1984, nor to exclude any entity which would have been a recipient under agency regulations implementing this section in effect on February 27, 1984.

"(c)(1) For the purpose of this section, except as provided in paragraph (2), in the case of Federal financial assistance extended to a State or to a political subdivision, a department, agency, or other such component part of the State or political subdivision that—

"(A) does not have as its primary function the performance of any of the purposes for which such assistance was extended; and

"(B) is not extended such assistance, shall not be deemed a recipient.

"(2) If all or a portion of Federal financial assistance is extended to a State or to a political subdivision without restriction, such assistance shall be presumed to have been extended to the entire State or subdivision unless as to the department, agency, or other such component part where discrimination is alleged, the State or political subdivision demonstrates, by clear and convincing evidence, that no Federal financial assistance was in fact extended to such department, agency, or other component part.

"(d)(1) For the purposes of this section, except as provided in paragraphs (2) and (3), in the case of Federal financial assistance extended to a private corporation or partnership that has more than one establishment, an establishment that is not extended such assistance shall not be deemed a recipient.

"(2) If Federal financial assistance is extended to a private corporation or partnership without restriction, the entire corporation or partnership is covered in its entirety.

"(3) To the extent the provisions of paragraph (1) constitute a limitation on coverage, paragraph (1) shall not apply to corporations and partnerships whether profit or nonprofit engaged in education, health care, or social services.".

(c) Section 505(a)(2) of the Act is amended by inserting ", as amended," after "1964".

PROHIBITION OF AGE DISCRIMINATION

SEC. . (a) Section 302 of the Age Discrimination Act of 1975 (hereafter in this section referred to as the "Act") is amended—

(1) by striking out "in programs or activities receiving" and inserting in lieu thereof "by recipients of"; and

(2) by striking out "programs or activities receiving funds under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221 et seq.)" and inserting in lieu thereof "recipients of funds under chapter 67 of title 31, United States Code".

(b) Section 303 of the Act is amended—

(1) by striking out "in" the second time it appears;

(2) by striking out "the benefits of" and inserting in lieu thereof "benefits"; and

(3) by striking out "under, any program or activity receiving" and inserting in lieu thereof "by any recipient of".

(c)(1) Section 304(a)(4) of the Act is amended by striking out "to any program or activity".

(2) Section 304(b)(1) of the Act is amended—

(A) by striking out ", in the program or activity involved";

(B) by striking out "operation" in clause (A) and inserting in lieu thereof "operations of the recipient"; and

(C) by striking out "of such program or activity" in clause (A) and inserting in lieu thereof "in furtherance of which the Federal financial assistance is used".

(3) Section 304(c)(1) of the Act is amended by striking out "any program or activity receiving".

(d)(1) Section 305(a)(1) of the Act is amended by striking out "under the program or activity involved".

(2)(A) The second sentence of section 305(b) of the Act is amended by striking out "the particular program or activity, or part of such program or activity, with respect to which such finding has been made" and inserting in lieu thereof "assistance which supports the noncompliance so found".

(B) The third sentence of such section is amended to read as follows: "No such termination or refusal shall be based in whole or in part on any finding with respect to any noncompliance which is not supported by such assistance.".

(C) Section 305(b) of the Act is amended by adding at the end thereof the following new sentence: "For the purpose of the third sentence of this subsection, Federal financial assistance does not support noncompliance by or with respect to a part of a recipient solely because the receipt of such assistance by the recipient enables the recipient to make other resources of the recipient available to that part.".

(3) Section 305(e)(1) of the Act is amended by striking out "Act by any program or activity receiving Federal financial assistance" and inserting in lieu thereof "title".

(e) Section 309 of the Act is amended by—

(1) by inserting "(a)" after the session designation; and

(2) by adding at the end thereof the following:

"(b) The term 'recipient' shall not be construed to include any entity which would not have been a recipient under agency regulations implementing this title in effect on February 27, 1984, nor to exclude any entity which would have been a recipient under agency regulations implementing this title in effect on February 27, 1984.

"(c)(1) For the purpose of this title, except as provided in paragraph (2), in the case of Federal financial assistance extended to a State or to a political subdivision, a department, agency, or other such component part of the State or political subdivision that—

"(A) does not have as its primary function the performance of any of the purposes for which such assistance was extended; and

"(B) is not extended such assistance, shall not be deemed a recipient.

"(2) If all or a portion of Federal financial assistance is extended to a State or to a political subdivision without restriction, such assistance shall be presumed to have been extended to the entire State or subdivision unless as to the department, agency, or other such component part where discrimination is alleged, the State or political subdivision demonstrates, by clear and convincing evidence, that no Federal financial assistance was in fact extended to such department, agency, or other component part.

"(d)(1) For the purposes of this title, except as provided in paragraphs (2) and (3), in the case of Federal financial assistance extended to a private corporation or partnership that has more than one establishment, an establishment that is not extended such assistance shall not be deemed a recipient.

"(2) If Federal financial assistance is extended to a private corporation or partnership without restriction, the entire corporation or partnership is covered in its entirety.

"(3) To the extent the provisions of paragraph (1) constitute a limitation on coverage, paragraph (1) shall not apply to corporations and partnerships whether profit or nonprofit engaged in education, health care, or social services.".

NONDISCRIMINATION BY RECIPIENTS OF FEDERAL FINANCIAL ASSISTANCE

SEC. . (a) Section 601 of the Civil Rights Act of 1964 (hereafter in this section referred to as the "Act") is amended—

(1) by striking out "in" the second time it appears;

(2) by striking out "the benefits of" and inserting in lieu thereof "benefits"; and

(3) by striking out "under any program or activity receiving" and inserting in lieu thereof "by any recipient of".

(b)(1) The first sentence of section 602 of the Act is amended by striking out "program or activity" each time it appears and inserting in lieu thereof "recipient" each such time.

(2) The third sentence of section 602 of the Act is amended—

(A) by striking out "under such program or activity" in clause (1);

(B) by striking out "to whom" each time it appears in clause (1) and inserting in lieu thereof "to which" each such time;

(C) by striking out "program, or part thereof, in which" in clause (1) and inserting in lieu thereof "assistance which supports"; and

(D) by striking out "has been so found" in clause (1) and inserting in lieu thereof "so found".

(3) Section 602 of the Act is amended by adding at the end thereof the following new sentence: "For the purpose of clause (1) of the third sentence, Federal financial assistance does not support noncompliance by or with respect to a part of a recipient solely because the receipt of such assistance by the recipient enables the recipient to make other resources of the recipient available to such part.".

(C) Title VI of the Act is amended by adding at the end thereof the following new section:

"SEC. 606. (a) For the purpose of this title, the term 'recipient' shall not be construed to include any entity which would not have been a recipient under agency regulations implementing this title in effect on February 27, 1984, nor to exclude any entity which would have been a recipient under agency regulations implementing this title in effect on February 27, 1984.

"(b)(1) For the purpose of this title, except as provided in paragraph (2). In the case of Federal financial assistance extended to a State or to a political subdivision, a department, agency, or other such component part of the State or political subdivision that—

"(A) does not have as its primary function the performance of any of the purposes for which such assistance was extended; and

"(B) is not extended such assistance,

shall not be deemed a recipient.

"(2) If all or a portion of Federal financial assistance is extended to a State or to a political subdivision without restriction, such assistance shall be presumed to have been extended to the entire State or subdivision unless as to the department, agency, or other such component part where discrimination is alleged, the State or political subdivision demonstrates, by clear and convincing evidence, that no Federal financial assistance was in fact extended to such department, agency, or other component part.

"(c)(1) For the purposes of this title, except as provided in paragraphs (2) and (3), in the case of Federal financial assistance extended to a private corporation or partnership that has more than one establishment, an establishment that is not extended such assistance shall not be deemed a recipient.

"(2) If federal financial assistance is extended to a private corporation or partnership without restriction, the entire corporation or partnership is covered in its entirety.

"(3) To the extent the provisions of paragraph (1) constitute a limitation or coverage, paragraph (1) shall not apply to corporations and partnerships whether profit or nonprofit engaged in education, health care, or social services.".

PROVISION WITH RESPECT TO REVENUE SHARING

SEC. . Nothing in this Act or in the amendments made by this Act shall be construed to supersede the provisions of chapter 67 of title 31, United States Code, relating to revenue sharing.

AMENDMENT NO. 5509

In lieu of the language proposed to be inserted, insert the following:

TITLE —CIVIL RIGHTS ACT OF 1984

SHORT TITLE

SEC. . This title may be cited as the "Civil Rights Act of 1984".

PROHIBITION OF SEX DISCRIMINATION

SEC. . (a)(1) The matter preceding clause (1) of section 901(a) of the Education Amendments of 1972 (hereafter in this section referred to as the "Act") is amended—

(A) by striking out "in" the second time it appears;

(B) by striking out "the benefits of" and inserting in lieu thereof "benefits"; and

(C) by striking out "under any education program or activity receiving" and inserting in lieu thereof "by any education recipient of".

(2) Section 901(a)(3) of the Act is amended by inserting "or recipient" after "institution".

(b) Section 901(c) of the Act is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following:

"(2) For the purpose of this title, the term 'recipient' shall not be construed to include any entity which would not have been a recipient under agency regulations implementing this title in effect on February 27, 1984, nor to exclude any entity which would have been a recipient under agency regulations implementing this title in effect on February 27, 1984.

"(3)(A) For the purpose of this title, except as provided in subparagraph (B), in the case of Federal financial assistance extended to a State or to a political subdivision, a department, agency, or other such component part of the State or political subdivision that—

"(i) does not have as its primary function the performance of any of the purposes for which such assistance was extended; and

"(ii) is not extended such assistance, shall not be deemed a recipient.

"(B) If all or a portion of Federal financial assistance is extended to a State or to a political subdivision without restriction, such assistance shall be presumed to have been extended to the entire State or subdivision unless as to the department, agency, or other such component part where discrimination is alleged, the State or political subdivision demonstrates, by clear and convincing evidence, that no Federal financial assistance was in fact extended to such department, agency, or other component part.

"(4)(A) For the purposes of this title, except as provided in subparagraphs (B) and (C), in the case of Federal financial assistance extended to a private corporation or partnership that has more than one establishment, an establishment that is not extended such assistance shall not be deemed a recipient.

"(B) If Federal financial assistance is extended to a private corporation or partnership without restriction, the entire corporation or partnership is covered in its entirety.

"(C) To the extent the provisions of subparagraph (A) constitute a limitation on coverage, subparagraph (A) shall not apply to corporations and partnerships whether profit or nonprofit engaged in education, health care, or social services.".

(c)(1) The first sentence of section 902 of the Act is amended—

(A) by striking out "to any education program or activity" and inserting in lieu thereof "for education"; and

(B) by striking out "such program or activity" and inserting in lieu thereof "recipients".

(2) The third sentence of section 902 of the Act is amended—

(A) by striking out "under such program or activity";

(B) by striking out "to whom" each time it appears in clause (1) and inserting in lieu thereof "to which" each such time;

(C) by striking out "program, or part thereof, in which" and inserting in lieu thereof "assistance which supports"; and

(D) by striking out "has been so found" and inserting in lieu thereof "so found".

(3) Section 902 of the Act is amended by adding at the end thereof the following new sentence: "For the purpose of clause (1) of the third sentence, Federal financial assistance does not support noncompliance by or with respect to a part of a recipient solely because the receipt of such assistance by the recipient enables the recipient to make other resources of the recipient available to that part.".

(4) Section 903 is amended by striking out "1002" and inserting in lieu thereof "902".

NONDISCRIMINATION ON THE BASIS OF HANDICAPPING CONDITION

SEC. . (a) Section 604 of the Rehabilitation Act of 1973 (hereafter in this section referred to as the "Act") is amended—

(1) by striking out "his" and inserting in lieu thereof "such individual's";

(2) by striking out "in" the third time it appears;

(3) by striking out "the benefits of" and inserting in lieu thereof "benefits";

(4) by striking out "under any program or activity receiving" and inserting in lieu thereof "by any recipient of"; and

(5) by striking out "under any program or activity conducted".

(b) Section 504 of the Act is further amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsections:

"(b) For the purposes of this section, the term 'recipient' shall not be construed to include any entity which would not have been a recipient under agency regulations implementing this section in effect on February 27, 1984, nor to exclude any entity which would have been a recipient under agency regulations implementing this section in effect on February 27, 1984.

"(c)(1) For the purpose of this section, except as provided in paragraph (2), in the case of Federal financial assistance extended to a State or to a political subdivision, a department, agency, or other such component part of the State or political subdivision that—

"(A) does not have as its primary function the performance of any of the purposes for which such assistance was extended; and

"(B) is not extended such assistance, shall not be deemed a recipient.

"(2) If all or a portion of Federal financial assistance is extended to a State or to a political subdivision without restriction, such assistance shall be presumed to have been extended to the entire State or subdivision unless as to the department, agency, or other such component part where discrimination is alleged, the State or political subdivision demonstrates, by clear and convincing evidence, that no Federal financial assistance was in fact extended to such department, agency, or other component part.

"(d)(1) For the purposes of this section, except as provided in paragraphs (2) and (3), in the case of Federal financial assistance extended to a private corporation or partnership that has more than one establishment, an establishment that is not extended such assistance shall not be deemed a recipient.

"(2) If Federal financial assistance is extended to a private corporation or partnership without restriction, the entire corporation or partnership is covered in its entirety.

"(3) To the extent the provisions of paragraph (1) constitute a limitation on coverage, paragraph (1) shall not apply to corporations and partnerships whether profit or nonprofit engaged in education, health care, or social services.".

"(c) Section 505(a)(2) of the Act is amended by inserting ", as amended," after "1964".

PROHIBITION OF AGE DISCRIMINATION

SEC. . (a) Section 302 of the Age Discrimination Act of 1975 (hereafter in this section referred to as the "Act") is amended—

(1) by striking out "in programs or activities receiving" and inserting in lieu thereof "by recipients of"; and

(2) by striking out "programs or activities receiving funds under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221 et seq.)" and inserting in lieu thereof "recipients of funds under chapter 67 of title 31, United States Code".

"(b) Section 303 of the Act is amended—

(1) by striking out "in" the second time it appears;

(2) by striking out "the benefits of" and inserting in lieu thereof "benefits"; and

(3) by striking out "under, any program or activity receiving" and inserting in lieu thereof "by any recipient of".

"(c)(1) Section 304(a)(4) of the Act is amended by striking out "to any program or activity".

"(2) Section 304(b)(1) of the Act is amended—

(A) by striking out ", in the program or activity involved";

(B) by striking out "operation" in clause (A) and inserting in lieu, thereof "operations of the recipient"; and

(C) by striking out "of such program or activity" in clasue (A) and inserting in lieu thereof "in furtherance of which the Federal financial assistance is used".

"(3) Section 304(c)(1) of the Act is amended by striking out "any program or activity receiving".

(d)(1) Section 305(a)(1) of the Act is amended by striking out "under the program or activity involved".

"(2)(A) The second sentence of section 305(b) of the Act is amended by striking out "the particular program or activity, or part of such program or activity, with respect to which such finding has been made" and inserting in lieu thereof "assistance which supports the noncompliance so found".

(B) The third sentence of such section is amended to read as follows: "No such termination or refusal shall be based in whole or in part on any finding with respect to any noncompliance which is not supported by such assistance.".

(C) Section 305(b) of the Act is amended by adding at the end thereof the following new sentence: "For the purpose of the third sentence of this subsection, Federal financial assistance does not support noncompliance by or with respect to a part of a recipient solely because the receipt of such assistance by the recipient enables the recipient to make other resources of the recipient available to that part.".

(3) Section 305(e)(1) of the Act is amended by striking out "Act by any program or activity receiving Federal financial assistance" and inserting in lieu thereof "title".

(e) Section 309 of the Act is amended by—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following:

"(b) The term 'recipient' shall not be construed to include any entity which would not have been a recipient under agency regulations implementing this title in effect on February 27, 1984, nor to exclude any entity which would have been a recipient under agency regulations implementng this title in effect on February 27, 1984.

"(c)(1) For the purpose of this title, except as provided in paragraph (2), in the case of Federal financial assistance extended to a State or to a political subdivision, a department, agency, or other such component part of the State or political subdivision that—

"(A) does not have as its primary function the performance of any of the purposes for which such assistance was extended; and

"(B) is not extended such assistance,

shall not be deemed a recipient.

"(2) If all or a portion of Federal financial assistance is extended to a State or to a political subdivision without restriction, such assistance shall be presumed to have been extended to the entire State or subdivision unless as to the department, agency, or other such component part where discrimination is alleged, the State or political subdivision demonstrates, by clear and convincing evidence, that no Federal financial assistance was in fact extended to such department, agency, or other component part.

"(d)(1) For the purposes of this title, except as provided in paragraphs (2) and (3), in the case of Federal financial assistance extended to a private corporation or partnership that has more than one establishment, an establishment that is not extended such assistance shall not be deemed a recipient.

"(2) If Federal financial assistance is extended to a private corporation or partnership without restriction, the entire corporation or partnership is covered in its entirety.

"(3) To the extent the provisions of paragraph (1) constitute a limitation on coverage, paragraph (1) shall not apply to corporations and partnerships whether profit or nonprofit engaged in education, health care, or social services.".

NONDISCRIMINATION BY RECIPIENTS OF FEDERAL FINANCIAL ASSISTANCE

SEC. . (a) Section 601 of the Civil Rights Act of 1964 (hereafter in this section referred to as the "Act") is amended—

(1) by striking out "in" the second time it appears;

(2) by striking out "the benefits of" and inserting in lieu thereof "benefits"; and

(3) by striking out "under any program or activity receiving" and inserting in lieu thereof "by any recipient of".

(b)(1) The first sentence of section 602 of the Act is amended by striking out "program or activity" each time it appears and inserting in lieu thereof "recipient" each such time.

(2) The third sentence of section 602 of the Act is amended—

(A) by striking out "under such program or activity" in clause (1);

(B) by striking out "to whom" each time it appears in clause (1) and inserting in lieu thereof "to which";

(C) by striking out "program, or part thereof, in which" in clause (1) and inserting in lieu thereof "assistance which supports"; and

(D) by striking out "has been so found" in clause (1) and inserting in lieu thereof "so found".

(3) Section 602 of the Act is amended by adding at the end thereof the following new sentence: "For the purpose of clause (1) of the third sentence, Federal financial assistance does not support noncompliance by or with respect to a part of a recipient solely because the receipt of such assistance by the recipient enables the recipient to make other resources of the recipient available to such part.".

(c) Title VI of the Act is amended by adding at the end thereof the following new section:

"SEC. 606. (a) For the purpose of this title, the term 'recipient' shall not be construed to include any entity which would not have been a recipient under agency regulations implementing this title in effect on February 27, 1984, nor to exclude any entity which would have been a recipient under agency regulations implementing this title in effect on February 27, 1984.

"(b)(1) For the purpose of this title, except as provided in paragraph (2), in the case of Federal financial assistance extended to a State or to a political subdivision, a department, agency, or other such component part of the State or political subdivision that—

"(A) does not have as its primary function the performance of any of the purposes for which such assistance was extended; and

"(B) is not extended such assistance, shall not be deemed a recipient.

"(2) If all or a portion of Federal financial assistance is extended to a State or to a political subdivision without restriction, such assistance shall be presumed to have been extended to the entire State or subdivision unless as to the department, agency, or other such component part where discrimination is alleged, the State or political subdivision demonstrates, by clear and convincing evidence, that no Federal financial assistance was in fact extended to such department, agency, or other component part.

"(c)(1) For the purposes of this title, except as provided in paragraphs (2) and (3), in the case of Federal financial assistance extended to a private corporation or partnership that has more than one establishment, an establishment that is not extended such assistance shall not be deemed a recipient.

"(2) If Federal financial assistance is extended to a private corporation or partnership without restriction, the entire corporation or partnership is covered in its entirety.

"(3) To the extent the provisions of paragraph (1) constitute a limitation on coverage, paragraph (1) shall not apply to corporations and partnerships whether profit or nonprofit engaged in education, health care, or social services.".

PROVISION WITH RESPECT TO REVENUE SHARING

SEC. . Nothing in this Act or in the amendments made by this Act shall be construed to supersede the provisions of chapter 67 of title 31, United States Code, relating to revenue sharing.

FEDERAL-AID HIGHWAY ACT

HATCH AMENDMENT NOS. 5510 THROUGH 5538

(Ordered to lie on the table.)

Mr. HATCH submitted 29 amendments intended to be proposed by him to the bill S. 2527, supra; as follows:

AMENDMENT No. 5510

Add at the end thereof the following language "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude any funds disbursed to private business or corporations under the veterans employment programs, authorized under Title 38, United States Code".

AMENDMENT No. 5511

Add at the end thereof the following language "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the grant of a Federal charter to an organization".

AMENDMENT No. 5512

At the appropriate place delete the words "fifty-five" and add the word "eight" between the words "as" and "miles".

AMENDMENT No. 5513

At the appropriate place delete the words "fifty-five" and add the word "thirteen" between the words "as" and "miles".

AMENDMENT No. 5514

At the appropriate place delete the words "fifty-five" and add the word "six" between the words "as" and "miles".

AMENDMENT No. 5515

At the appropriate place delete the words "fifty-five" and add the word "ten" between the words "as" and "miles".

AMENDMENT No. 5516

At the appropriate place delete the words "fifty-five" and add the word "fifteen" between the words "as" and "miles".

AMENDMENT No. 5517

At the appropriate place delete the words "fifty-five" and add the word "twenty" between the words "as" and "miles".

AMENDMENT No. 5518

At the appropriate place after the word "donations" add the words "or gifts".

AMENDMENT No. 5519

At the appropriate place strike "seventh".

AMENDMENT No. 5520

At the appropriate place strike the word "Federal".

AMENDMENT No. 5521

At the appropriate place strike the word "maintenance".

AMENDMENT No. 5522

At the appropriate place strike "sixth".

AMENDMENT No. 5523

At the appropriate place delete from the words "Notwithstanding" through the word "now".

AMENDMENT No. 5524

At the appropriate place, strike the number "20" and in lieu thereof add the number "10".

AMENDMENT No. 5525

At the appropriate place, add "not" after the word "shall".

AMENDMENT No. 5526

At the appropriate place, add "not" after the word "are", and before the word "appropriate".

AMENDMENT No. 5527

At the appropriate place, strike the word "drink".

AMENDMENT No. 5528

At the appropriate place, add the word "not" after the word "may".

AMENDMENT No. 5529

At the appropriate place, add the word "not" between the words "shall" and "conduct".

AMENDMENT No. 5530

At the appropriate place, delete the word "not".

AMENDMENT No. 5531

At the appropriate place, add the word "not" between the words "are" and "operated".

AMENDMENT No. 5532

At the appropriate place, delete through the word "title" on line 2.

AMENDMENT No. 5533

At the appropriate place, change the word "future" to "present".

AMENDMENT No. 5534

At the appropriate place, change "inspections" to "codes".

AMENDMENT No. 5535

At the appropriate place, strike "(1)" and insert "(2)".

AMENDMENT No. 5536

At the appropriate place, change "evaluation" to "estimation".

AMENDMENT No. 5537

At the appropriate place, change "1986" to "1999".

AMENDMENT No. 5538

At the appropriate place change "discretionary" to "nondiscretionary".

RURAL ELECTRIFICATION ACT AMENDMENTS

HUMPHREY AMENDMENT NO. 5539

(Ordered to lie on the table.)

Mr. HUMPHREY submitted an amendment intended to be proposed by him to the bill (S. 1300) to amend the Rural Electrification Act of 1936 to ensure the continued financial integrity of the Rural Electrification and Telephone Revolving Fund, and for other purposes; as follows:

On page 13, strike out line 11 and all that follows through line 12 on page 14 and insert in lieu thereof the following:

SEC. 4. Section 302 of the Rural Electrification Act of 1936 (7 U.S.C. 932) is amended by adding at the end thereof a new subsection (c) as follows:

On page 16, line 16, insert after "advances" the following: ", any payments of principal on loans made pursuant to section 3(a) of this Act,".

CONTINUING APPROPRIATIONS, 1985

MELCHER (AND BAUCUS) AMENDMENT NO. 5540

Mr. MELCHER (for himself and Mr. BAUCUS) proposed an amendment to the joint resolution (H.J. Res. 648) making continuing appropriations for the fiscal year 1985, and for other purposes; as follows:

Before the period at the end of section 101 insert the following:

": *Provided further*, That notwithstanding any other provision of this Act, the amount for "National Forest System; Forest Service" be $1,064,710,000.

MELCHER AMENDMENT NO. 5541

Mr. MELCHER proposed an amendment to the joint resolution H.J. Res. 648, supra; as follows:

At the end of the amendment (sec. 101(c)) insert the following:

Provided, further, That the Secretary of the Interior may not contract for the establishment or operation of a school not currently operated by the Bureau of Indian Affairs or assisted by the Bureau under contract.

FEDERAL-AID HIGHWAY ACT

HATCH AMENDMENT NOS. 5542 THROUGH 5568

(Ordered to lie on the table.)

Mr. HATCH submitted 27 amendments intended to be proposed by him to amendment No. 4813 proposed by Mr. BRADLEY to the bill S. 2527, supra; as follows:

AMENDMENT No. 5542

On page 2, line 10, beginning with the word "except", strike everything through line 14 and insert in lieu thereof "in the case of Federal financial assistance extended to any department or agency of a State, any component part or division of such department or agency that—".

AMENDMENT No. 5543

On page 10, line 2, beginning with the word "except" strike everything through line 6 and insert in lieu thereof "in the case of Federal financial assistance extended to any department or agency of a State, any component part or division of such department or agency that—".

AMENDMENT No. 5544

On page 7, line 27, beginning with the word "except", strike everything through line 31 and insert in lieu thereof "in the case of Federal financial assistance extended to any department or agency of a State, any component part or division of such department or agency that—".

AMENDMENT No. 5545

On page 4, line 27, beginning with the word "except" strike everything through line 31 and insert in lieu thereof "in the case of Federal financial assistance extended to any department or agency of a State, any component part or division of such department or agency that—".

AMENDMENT No. 5546

On page 8, strike lines 18 through 25.

AMENDMENT No. 5547

On page 10, strike lines 27 through 34.

AMENDMENT No. 5548

On page 9, line 24, strike the word "solely".

AMENDMENT No. 5549

On page 3, line 32, strike the word "solely".

AMENDMENT No. 5550

On page 7, line 10, strike the word "solely".

AMENDMENT No. 5551

Beginning on page 7, line 27, strike each line through line 25 on page 8.

AMENDMENT No. 5552

On page 10, strike lines 12 through 20.

AMENDMENT No. 5553

On page 2, strike lines 20 through 28.

AMENDMENT No. 5554

On page 5, strike lines 3 through 11.

AMENDMENT No. 5555

On page 8, strike lines 3 through 11.

AMENDMENT No. 5556

On page 5, strike lines 18 through 25.

AMENDMENT No. 5557

On page 3, strike lines 1 through 8.

AMENDMENT No. 5558

On page 10, lines 21 and 22 strike "except as provided in paragraph (2) and (3),".

AMENDMENT No. 5559

On page 4, strike lines 32 through 34.

AMENDMENT No. 5560

On page 7, strike lines 32 through 34.

AMENDMENT No. 5561

On page 10, strike lines 7 through 9.

AMENDMENT No. 5562

Beginning on page 10, line 2, strike each line through line 5 on page 11.

AMENDMENT No. 5563

Beginning on page 4, line 27, strike each line through line 27 on page 5.

AMENDMENT No. 5564

Beginning on page 2, line 10, strike each line through line 2 on page 4.

AMENDMENT No. 5565

On page 5, lines 12 and 13, strike "except as provided in paragraphs (2) and (3),".

AMENDMENT No. 5566

On page 8, lines 12 and 13, strike "except as provided in paragraphs (2) and (3),".

AMENDMENT No. 5567

On page 2, lines 29 and 30, strike "except as provided in subparagraphs (B) and (C),".

AMENDMENT No. 5568

On page 2, strike lines 15 through 17.

HATCH AMENDMENT NOS. 5569 THROUGH 5595

(Ordered to lie on the table.)

Mr. HATCH submitted 27 amendments intended to be proposed by him to amendment No. 4814 by Mr. BRADLEY to the bill S. 2527, supra; as follows:

AMENDMENT No. 5569

On page 2, line 10, beginning with the word "except", strike everything through line 14 and insert in lieu thereof "in the case of Federal financial assistance extended to any department or agency of a State, any component part of division of such department or agency that—".

AMENDMENT No. 5570

On page 10, line 2, beginning with the word "except" strike everything through line 6 and insert in lieu thereof "in the case of Federal financial assistance extended to any department or agency of a State, any component part or division of such department or agency that—".

AMENDMENT No. 5571

On page 7, line 27, beginning with the word "except" strike everything through line 31 and insert in lieu thereof "in the case of Federal financial assistance extended to any department or agency of a State, any component part or division of such department or agency that—".

AMENDMENT No. 5572

On page 4, line 27, beginning with the word "except" strike everything through line 31 and insert in lieu thereof "in the case of Federal financial assistance extended to any department or agency of a State, any component part or division of such department or agency that—".

AMENDMENT No. 5573

On page 10, strike lines 12 through 20.

AMENDMENT No. 5574

On page 2, strike lines 20 through 28.

AMENDMENT No. 5575

On page 5, strike lines 3 through 11.

AMENDMENT No. 5576

On page 8, strike lines 3 through 11.

AMENDMENT No. 5577

On page 5, strike lines 18 through 25.

AMENDMENT No. 5578

On page 3, strike lines 1 through 8.

AMENDMENT No. 5579

On page 8, strike lines 18 through 25.

AMENDMENT No. 5580

On page 10, strike lines 27 through 34.

AMENDMENT No. 5581

On page 9, line 24, strike the word "solely".

AMENDMENT No. 5582

On page 3, line 32, strike the word "solely".

AMENDMENT No. 5583

On page 7, line 10, strike the word "solely".

AMENDMENT No. 5584

Beginning on page 7, line 27, strike each line through line 25 on page 8.

AMENDMENT No. 5585

Beginning on page 10, line 2, strike each line through line 5 on page 11.

AMENDMENT No. 5586

Beginning on page 4, line 27, strike each line through line 27 on page 5.

AMENDMENT No. 5587

Beginning on page 2, line 10, strike each line through line 2 on page 4.

AMENDMENT No. 5588

On page 5, lines 12 and 13, strike "except as provided in paragraphs (2) and (3),".

AMENDMENT No. 5589

On page 8, lines 12 and 13, strike "except as provided in paragraphs (2) and (3),".

AMENDMENT No. 5590

On page 2, lines 29 and 30, strike "except as provided in subparagraphs (B) and (C),".

AMENDMENT No. 5591

On page 10, lines 21 and 22, strike "except as provided in paragraphs (2) and (3),".

AMENDMENT No. 5592

On page 4, strike lines 32 through 34.

AMENDMENT No. 5593

On page 7, strike lines 32 through 34.

AMENDMENT No. 5594

On page 10, strike lines 7 through 9.

AMENDMENT No. 5595

On page 2, strike lines 15 through 17.

HATCH AMENDMENT NOS. 5596 THROUGH 5622

(Ordered to lie on the table.)

Mr. HATCH submitted 27 amendments intended to be proposed by him to amendment No. 4835 proposed by Mr. KENNEDY to the bill S. 2527, supra; as follows:

AMENDMENT No. 5596

On page 8, strike lines 4 through 12.

AMENDMENT No. 5597

On page 5, strike lines 19 through 26.

AMENDMENT No. 5598

On page 3, strike lines 2 through 9.

AMENDMENT No. 5599

On page 8, strike lines 19 through 26.

AMENDMENT No. 5600

On page 2, line 11, beginning with the word "except", strike everything through line 15 and insert in lieu thereof "in the case of Federal financial assistance extended to any department or agency of a State, any component part or division of such department or agency that—".

AMENDMENT No. 5601

On page 10, line 3, beginning with the word "except", strike everything through line 7 and insert in lieu thereof "in the case of Federal financial assistance extended to any department or agency of a State, any component part or division of such department or agency that—".

AMENDMENT No. 5602

On page 7, line 28, beginning with the word "except", strike everything through line 32 and insert in lieu thereof "in the case of Federal financial assistance extended to any department or agency of a State, any component part or division of such department or agency that—".

AMENDMENT No. 5603

On page 4, line 28, beginning with the word "except", strike everything through line 32 and insert in lieu thereof "in the case of Federal financial assistance extended to any department or agency of a State, any component part or division of such department or agency that—".

AMENDMENT No. 5604

On page 10, strike lines 13 through 21.

AMENDMENT No. 5605

On page 2, strike lines 21 through 29.

AMENDMENT No. 5606

On page 5, strike lines 4 through 12.

AMENDMENT No. 5607

On page 9, line 25, strike the word "solely".

AMENDMENT No. 5608

On page 3, line 33, strike the word "solely".

AMENDMENT No. 5609

On page 7, line 11, strike the word "solely".

AMENDMENT No. 5610

Beginning on page 7, line 28, strike each line through line 26 on page 8.

AMENDMENT No. 5611

Beginning on page 10, line 3, strike each line through line 6 on page 11.

AMENDMENT No. 5612

Beginning on page 4, line 28, strike each line through line 28 on page 5.

AMENDMENT No. 5613

Beginning on page 2, line 110, strike each line through line 3 on page 4.

AMENDMENT No. 5614

On page 5, lines 13 and 14, strike "except as provided in paragraphs (2) and (3),".

AMENDMENT No. 5615

On page 8, lines 13 and 14, strike "except as provided in paragraphs, (2) and (3),".

AMENDMENT No. 5616

On page 2, lines 30 and 31, strike "except as provided in subparagraphs (B) and (C),".

AMENDMENT No. 5617

Beginning with line 28 on page 10, strike everything through line 1 on page 11.

AMENDMENT No. 5618

On page 10, lines 22 and 23, strike "except as provided in paragraphs (2) and (3),".

AMENDMENT No. 5619

On page 2, strike lines 16 through 18.

AMENDMENT No. 5620

On page 10, strike lines 8 through 10.

AMENDMENT No. 5621

Beginning on page 4, line 33, strike everything through line 1 on page 5.

AMENDMENT No. 5622

Beginning on page 7, line 33, strike everything through line 1 on page 8.

HATCH AMENDMENT NOS. 5623 THROUGH 5649

(Ordered to lie on the table.)

Mr. HATCH submitted 27 amendments intended to be proposed by him to amendment No. 4812 proposed by Mr. BRADLEY to the bill S. 2527, supra; as follows:

AMENDMENT No. 5623

On page 2, line 10, beginning with the word "except", strike everything through line 14 and insert in lieu thereof" in the case of Federal financial assistance extended to any department or agency of a State, any component part or division of such department or agency that—".

AMENDMENT No. 5624

On page 10, line 2, beginning with the word "except", strike everything through line 6 and insert in lieu thereof" in the case of Federal financial assistance extended to any department or agency of a State, any component part or division of such department or agency that—".

AMENDMENT No. 5625

On page 7, line 27, beginning with the word "except" strike everything through line 31 and insert in lieu thereof" in the case of Federal financial assistance extended to any department or agency of a State, any component part or division of such department or agency that—".

AMENDMENT No. 5626

On page 4, line 27, beginning with the word "except", strike everything through line 31 and insert in lieu thereof "in the case of Federal financial assistance extended to any department or agency of a State, any component part or division of such department or agency that ——"

AMENDMENT No. 5627

On page 10, strike lines 12 through 20.

AMENDMENT No. 5628

On page 2, strike lines 20 through 28.

AMENDMENT No. 5629

On page 5, strike lines 3 through 11.

AMENDMENT No. 5630

On page 8, strike lines 3 through 11.

AMENDMENT No. 5631

On page 5, strike lines 18 through 25.

AMENDMENT No. 5632

On page 3, strike lines 1 through 8.

AMENDMENT No. 5633

On page 8, strike lines 18 through 25.

AMENDMENT No. 5634

On page 10, strike lines 27 through 34.

AMENDMENT No. 5635

On page 9, line 24, strike the word "solely".

AMENDMENT No. 5636

On page 3, line 32, strike the word "solely".

AMENDMENT No. 5637

On page 7, line 10, strike the word "solely".

AMENDMENT No. 5638

Beginning on page 7, line 27, strike each line through line 25 on page 8.

AMENDMENT No. 5639

Beginning on page 10, line 2, strike each line through line 5 on page 11.

AMENDMENT No. 5640

Beginning on page 4, line 27, strike each line through line 27 on page 5.

AMENDMENT No. 5641

Beginning on page 2, line 10, strike each line through line 2 on page 4.

AMENDMENT No. 5642

Beginning on page 5, lines 12 and 13, strike "except as provided in paragraphs (2) and (3),".

AMENDMENT No. 5643

On page 8, lines 12 and 13, strike "except as provided in paragraphs (2) and (3),".

AMENDMENT No. 5644

On page 2, lines 29 and 30, strike "except as provided in subparagraphs (B) and (C),".

AMENDMENT No. 5645

On page 10, lines 21 and 22, strike "except as provided in paragraphs (2) and (3),".

AMENDMENT No. 5646

On page 4, strike lines 32 through 34.

AMENDMENT No. 5647

On page 7, strike lines 32 through 34.

AMENDMENT No. 5648

On page 10, strike lines 7 through 9.

AMENDMENT No. 5649

On page 2, strike lines 15 through 17.

HATCH AMENDMENT NOS. 5650 THROUGH 5668

(Ordered to lie on the table.)

Mr. HATCH submitted 19 amendments intended to be proposed by him to the bill S. 2527, supra; as follows:

AMENDMENT No. 5650

At the appropriate place, add the following:

That this amendment may be cited as the "Regulatory Reform Act".

DEFINITION OF RULE

SEC. . Section 551(4) of title 5, United States Code, is amended by inserting before the semicolon at the end thereof a comma and the following: "except that the term 'rule' does not include agency statements involving a matter relating to public property or contracts or general statements of policy of the Tennessee Valley Authority except where an applicable statute requires notice and hearing pursuant to this chapter or the statement to be made on the record after opportunity for an agency hearing".

RULEMAKING

SEC. . Section 553 of title 5, United States Code, is amended to read as follows:

"§ 553. Rule making

"(a) This section applies to every rule making, according to the provisions thereof, except to the extent that there is involved—

"(1) a matter pertaining to a military or foreign affairs function of the United States;

"(2) a matter relating to the management and personnel practices of an agency;

"(3) an interpretive rule, general statement of policy, or rule of agency organization, procedure, or practice, unless such rule or statement has general applicability and substantially alters or creates rights or obligations of persons outside the agency; or

"(4) a rule relating to the acquisition, management, or disposal by an agency of real or personal property or of services that is promulgated in compliance with criteria and procedures established by the Administrator for Federal Procurement Policy or the Administrator of General Services.

"(b)(1) General notice of proposed rule making shall be published in the Federal Register, unless all persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. Each notice of proposed rule making shall include—

"(A) a statement of the time, place, and nature of public rule making proceedings;

"(B) a succinct explanation of the need for and specific objectives of the proposed rule;

"(C) an explanation of the specific statutory authority under which the rule is proposed;

"(D) the proposed provisions of the rule;

"(E) a statement that the agency seeks proposals from the public and from State and local governments for alternative methods to accomplish the objectives of the rule making that are more effective or less burdensome than the approach used in the proposed rule;

"(F) a description of any data, methodologies, reports, studies, scientific evaluations, or other similar information on which the agency plans to substantially rely in the rule making, including an identification of each author or source of such information and the purposes for which the agency plans to rely on such information; and

"(G) a statement specifying where the file of the rule making proceeding maintained pursuant to subsection (f) of this section may be inspected and how copies of the items in the file may be obtained.

"(2) Except when notice or hearing is required by statute, a final rule may be adopted and may become effective without prior compliance with the provisions of this subsection and subsections (c) and (f) of this section if—

"(A) the agency for good cause finds that providing notice and public procedure thereon before the rule becomes effective is impracticable or contrary to an important public interest;

"(B) the agency publishes the rule in the Federal Register with such finding and a succinct explanation of the reasons therefor; and

"(C) the agency complies with the provisions of this subsection and subsections (c) and (f) of this section to the maximum extent feasible prior to the promulgation of the final rule and fully complies with such provisions as soon as reasonably practicable after the promulgation of the rule.

"(3) Except when notice or hearing is required by statute, this subsection and subsections (c) and (f) of this section do not apply to a rule when the agency for good cause finds that notice and public procedure thereon are unnecessary due to the insignificant impact of the rule and publishes, at the time of publication of the final rule, such finding and a succinct explanation of the reason therefor.

"(4) Whenever the provisions of a final rule that an agency plans to adopt are so different from the provisions of the proposed rule that the original notice of proposed rule making did not fairly apprise the public of the issues ultimately to be resolved in the rule making or of the substance of the rule, the agency shall publish in the Federal Register a notice of the final rule the agency plans to adopt, together with the information relevant to such rule which is required by the applicable provisions of this section and which has not previously been published in the Federal Register. The agency shall allow a reasonable period for comment on such final rule.

"(c)(1) After providing the notice required by this section, the agency shall give interested persons at least sixty days to participate in the rule making through the submission of written data, views, or arguments.

"(2) In order to collect relevant information, and to identify and elicit full and representative public comment on the significant issues of a particular rule making, the agency may use such other procedures as the agency determines are appropriate, including—

"(A) the publication of an advance notice of proposed rule making;

"(B) the provision of notice, in forms which are more direct than notice published in the Federal Register, to persons who would be substantially affected by the proposed rule, but who are unlikely to receive notice of the proposed rule making through the Federal Register;

"(C) the provision of opportunities for oral presentation of data, views, informa-

tion, or rebuttal arguments at informal public hearings, which may be held in the District of Columbia and other locations;

"(D) the provision of summaries, explanatory materials, or other technical information in response to public inquiries concerning the issues involved in the rule making; and

"(E) the adoption or modification of agency procedural rules to reduce the cost or complexity of participation in a rule making.

The decision of the agency to use or not to use such other procedures in a rule making pursuant to this paragraph shall not be subject to judicial review.

"(3)(A) The opportunity for participation in a rule making for a major rule (as defined in section 621(4) of this title) shall include the opportunity for oral presentation of data, views, and information at informal public hearings. Such public hearings—

"(i) may include an opportunity for oral rebuttal or argument where appropriate; and

"(ii) shall include an opportunity for direct and cross-examination of the principal agency employees or other persons who prepared for the agency data on which the agency substantially relied in formulating the rule, and of any other persons who present testimony, documents, or other information at such hearings, where other procedures, such as the convening of public meetings, conferences or panel discussions, or the presentation of staff arguments for comment and rebuttal, are determined to be inadequate for the resolution of significant issues of fact upon which the rule is based.

"(B) No court shall hold unlawful or set aside an agency rule because of a failure by the agency to use a particular procedure pursuant to subparagraph (A) of this paragraph unless—

"(i) an objection to the failure to use such procedure was presented to the agency in a timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection; and

"(ii) the court finds that such failure substantially precluded a fair consideration and informed resolution of a central issue of the rule making taken as a whole.

"(4) To ensure an orderly and expeditious proceeding, the agency may establish reasonable procedures to regulate the course of informal public hearings under paragraphs (2) and (3) of this subsection, including the designation of representatives to make oral presentations or engage in direct or cross-examination on behalf of several parties with a common interest in a rule making. Transcripts shall be made of all such public hearings.

"(5) An agency shall publish any final rule it adopts in the Federal Register, together with a concise statement of the basis and purpose of the rule and a statement of when the rule may become effective. The statement of basis and purpose shall include—

"(A) an explanation of the need for, objectives of, and statutory authority for the rule;

"(B) a discussion of any significant issues raised by the comments on the proposed rule, including a description of the reasonable alternatives to the rule proposed by the agency and by interested persons, and the reasons why each such alternative was rejected; and

"(C) an explanation of how the factual conclusions upon which the rule is based are substantially supported in the rule making file maintained pursuant to subsection (f) of this section.

"(6) When rules are required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 of this title apply instead of this subsection.

"(d)(1) An agency shall publish the final rule adopted in the Federal Register at least thirty days before the effective date of the rule. An agency may make a rule effective in less than thirty days after publishing the final rule in the Federal Register in the case of a rule that grants or recognizes an exemption or relieves a restriction, or in the case of a rule for which the agency for good cause finds that such a delay in the effective date would be contrary to an important public interest and publishes such finding and an explanation of the reasons therefor, with the final rule.

"(2) In promulgating a final rule, the agency may not substantially rely on any factual or methodological material that was not placed in the rule making file maintained pursuant to subsection (f) of this section in time to afford an adequate opportunity for public comment thereon during the period for public participation in the rule making. Notwithstanding the preceding sentence, an agency may rely on such material—

"(A) if, in the case of material developed by or for the agency, such material was placed in the rule making file promptly upon its completion and, if such material is of central relevance to the rule making, was made available in time for interested persons to have an adequate opportunity to comment thereon;

"(B) if, in the case of material submitted by a person outside the agency, such material was placed in the rule making file promptly upon its receipt by the agency and, if such material is of central relevance to the rule making, the agency provided not less than fifteen days for interested persons to comment thereon in addition to the period for comment provided under paragraph (1) of subsection (c);

"(C) if such material is material of which the agency properly can take official notice; or

"(D) if such material is material referred to in subsection (f)(3) of this section and the agency has complied with the requirements of that subsection.

"(e) Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule, for an interpretation regarding the meaning of a rule, and for a variance or exemption from the terms of a rule if the agency may grant such variance or exemption. The agency shall act on such petitions with reasonable promptness. The response of the agency to each such petition shall be in writing accompanied by a statement of reasons.

"(f)(1) The agency shall maintain a file for each rule making proceeding conducted pursuant to this section and shall maintain a current index to such file. The file and the material excluded from the file pursuant to paragraph (2) of this subsection shall constitute the rule making record for purposes of judicial review. Except as provided in paragraph (2) of this subsection, the file shall be made available to the public beginning on the date on which the agency makes an initial publication concerning the rule. The file shall include—

"(A)(i) the notice of proposed rule making and any supplement to or modification or revision of such notice; and

"(ii) any advance notice of proposed rule making;

"(B) copies of all written comments received on the proposed rule;

"(C) a transcript of any public hearing conducted in the rule making;

"(D) copies, or an identification of the place at which copies may be obtained, of all material described by the agency pursuant to subsection (b)(1)(F) of this section and of other factual and methodological material not described by the agency pursuant to such subsection that pertains directly to the rule making and that the agency considered in connection with the rule making, or that was prepared by or for the agency in connection with the rule making;

"(E) any statement, description, analysis, or any other material that the agency is required to make public in connection with the rule making, including any preliminary or final regulatory analysis issued by the agency pursuant to chapter 6 of this title;

"(F) copies of all written material pertaining to the rule, including any drafts of the proposed and the final rule, submitted by the agency to the President or his designee directed by the President to review proposed or final rules for their regulatory impact; and

"(G) a written explanation of the specific reasons for any significant changes made by the agency in the drafts of the proposed or final rule which respond to any comment received by the agency on the draft proposed rule, the proposed rule, the draft final rule, or the final rule, made by the President or his designee directed by the President to review proposed or final rules for their regulatory impact.

"(2) The agency shall place the materials described in clauses (A) through (H) of the last sentence of paragraph (1) in the file required by such paragraph as soon as practicable after such materials become available to the agency.

"(3) The file required by paragraph (1) of this subsection need not include any material that need not be made available to the public under section 552 of this title if the agency includes in such file a statement that notes the existence of such material and the basis upon which the material is exempt from public disclosure under such section. The agency may not substantially rely on any such material in formulating a rule unless it makes the substance of such material available for adequate comment by interested persons. The agency may use summaries, aggregations of data, or other appropriate mechanisms so as to protect the confidentiality of such material to the maximum extent possible.

"(4) No court shall hold unlawful or set aside an agency rule because of a violation of paragraph (1) of this subsection unless the court finds that such violation has precluded fair public consideration of a material issue of the rule making taken as a whole. Judicial review of compliance or noncompliance with paragraph (1) of this subsection shall be limited to review of action or inaction on the part of an agency.

"(g) For a period of one year after the effective date of a final rule issued pursuant to this section, such rule shall not substantially change the requirements of any contract, cooperative agreement, or grant existing on such effective date between a Federal agency and a State or local government. The preceding sentence does not apply to any case in which the agency for good cause finds that a delay in the effect of the rule would be contrary to an important public interest and publishes such finding and an ex-

planation of the reasons therefor, with the final rule.

"(h) Nothing in this section authorizes the use of appropriated funds available to any agency to pay the attorney's fees or other expenses of persons participating or intervening in agency proceedings.".

REGULATORY ACTIVITIES: ANALYSIS; PRIORITIES AND REVIEW; REPORT

SEC. . (a) Chapter 6 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER II—ANALYSIS OF AGENCY PROPOSALS

"§ 621. Definitions

"For purposes of this subchapter and subchapters III and IV of this chapter:

"(1) The term 'agency' has the same meaning as in section 551(1) of this title.

"(2) The term 'person' has the same meaning as in section 551(2) of this title.

"(3) The term 'rule' has the same meaning as in section 551(4) of this title, except that such term does not include—

"(A) a rule of particular applicability that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers or acquisitions, or accounting practices or disclosures bearing on any of the foregoing;

"(B) a rule relating to monetary policy proposed or promulgated by the Board of Governors of the Federal Reserve System; or

"(C) a rule issued by the Federal Election Commission or a rule issued by the Federal Communications Commission pursuant to sections 312(a)(7) and 315 of the Communications Act of 1934.

"(4) The term 'major rule' means—

"(A) a rule or a group of closely related rules that the agency, the President, or the officer selected under section 624 of this title reasonably determines is likely to have an annual effect on the economy of $100,000,000 or more in reasonably quantifiable direct and indirect costs; and

"(B) a rule or a group of closely related rules that is otherwise designated a major rule by the agency proposing the rule, or is so designated by the President, or by the officer selected under section 624 of this title, on the ground that the rule is likely to result in—

"(i) a substantial increase in costs or prices for wage earners, consumers, individual industries, nonprofit organizations, Federal, State, or local government agencies, or geographic regions; or

"(ii) significant adverse effects on competition, employment, investment, productivity, innovation, the environment, public health or safety, or the ability of enterprises whose principal places of business are in the United States to compete in domestic or export markets.

For purposes of subparagraph (A) of this paragraph, the term 'rule' does not mean—

"(I) a rule that involves the internal revenue laws of the United States;

"(II) a rule that authorizes the introduction into commerce or recognizes the marketable status of a product, pursuant to sections 408, 409(c), and 706 of the Federal Food, Drug, and Cosmetic Act;

"(III) a rule exempt from notice and public procedure pursuant to section 553(a) of this title; or

"(IV) a rule relating to the viability, stability, asset powers, or categories of accounts of, or permissible interest rate ceilings applicable to, depository institutions the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the Share Insurance Fund of the National Credit Union Administration Board.

"(5) The term 'benefit' means the reasonably identifiable significant benefits and beneficial effects, including social and economic benefits and effects, that are expected to result directly or indirectly from implementation of a rule or an alternative to a rule.

"(6) The term 'cost' means the reasonably identifiable significant costs and adverse effects, including social and economic costs and effects, that are expected to result directly or indirectly from implementation of a rule or an alternative to a rule.

"§ 622. Regulatory analysis

"(a) Prior to publishing notice of proposed rule making for any rule, each agency shall determine whether the rule is or is not a major rule within the meaning of section 621(4)(A) of this title and, if it is not, whether it should be designated a major rule under section 621(4)(B) of this title. For the purpose of any such determination or designation, a group of closely related rules shall be considered as one rule. Every notice of proposed rule making shall include a succinct statement and explanation of the agency's determination of whether or not the rule is a major rule within the meaning of section 621(4)(A) of this title and, if applicable, of its designation as a major rule under section 621(4)(B) of this title.

"(b) The President or the officer selected by the President under section 624 of this title may determine that a rule is a major rule within the meaning of section 621(4)(A) of this title or may designate a rule as a major rule under section 621(4)(B) of this title not later than thirty days after the publication of the notice of proposed rule making for that rule. Such determination or designation shall be published in the Federal Register, together with a succinct statement of the basis for the determination or designation. The President or the officer selected by the President under section 624 of this title may designate not more than seventy-five rules as major rules under section 621(4)(B) of this title in any fiscal year.

"(c)(1) When the agency publishes a notice of proposed rule making for a major rule, the agency shall issue and place in the rule making file maintained under section 553(f) of this title a preliminary regulatory analysis and shall include in such notice of proposed rule making a summary of the analysis. When the President or the officer selected by the President under section 624 of this title has published a determination or designation that a rule is a major rule after the publication of the notice of proposed rule making for that rule, the agency shall promptly issue and place in the rule making file maintained under section 553(f) of this title a preliminary regulatory analysis for the rule and shall publish in the Federal Register a summary of such analysis. Following the issuance of a preliminary regulatory analysis under the preceding sentence, the agency shall give interested persons an opportunity to comment thereon pursuant to section 553 of this title in the same manner as if the preliminary regulatory analysis had been issued with the notice of proposed rule making.

"(2) Each preliminary regulatory analysis shall contain—

"(A) a succinct description of the benefits of the proposed rule, including any beneficial effects that cannot be quantified, and an explanation of how the agency anticipates each benefit will be achieved by the proposed rule, including a description of the persons, classes of persons, or particular levels of Government likely to receive such benefits;

"(B) a succinct description of the costs of the proposed rule, including any costs that cannot be quantified, and an explanation of how the agency anticipates each such cost will result from the proposed rule, including a description of the persons, classes of persons, or particular levels of Government likely to incur such costs;

"(C) a succinct description of reasonable alternatives for achieving the identified benefits of the proposed rule, including alternatives that—

"(i) require no Government action;

"(ii) will accommodate differences between geographic regions; and

"(iii) employ performance or other standards which permit the greatest flexibility in achieving the identified benefits of the proposed rule;

"(D) a statement—

"(i) identifying any source of funds available from the Federal Government to pay State and local governments the costs incurred by such governments as a result of the proposed rule; or

"(ii) specifying that the agency does not know of any such source;

"(E) in any case in which the proposed rule is based on scientific evaluations or information, a description of action undertaken by the agency to verify the quality, reliability, and relevance of such scientific evaluations or scientific information; and

"(F) where it is not expressly or by necessary implication inconsistent with the provisions of the enabling statute pursuant to which the agency is proposing the rule, an explanation of how the identified benefits of the proposed rule are likely to justify the identified costs of the proposed rule, and an explanation of how the proposed rule is likely to substantially achieve the rule making objectives in a more cost-effective manner than the alternatives to the proposed rule.

"(d)(1) When the agency publishes a final major rule, the agency shall also issue and place in the rule making file maintained under section 553(f) of this title a final regulatory analysis, and shall include a summary of the analysis in the statement of basis and purpose required by section 553(c)(6) of this title. Notwithstanding the preceding sentence, in any case in which an agency, under section 553(b)(2) of this title, is not required to comply with subsections (b) through (f) of section 553 of this title prior to the adoption of a final rule, an agency is not required to comply with the preceding sentence prior to the adoption of the final rule but shall comply with such sentence when complying with section 553(b)(2)(C) of this title.

"(2) Each final regulatory analysis shall contain—

"(A) a description and comparison of the benefits and costs of the rule and of the reasonable alternatives to the rule described in the rule making; and

"(B) where it is not expressly or by necessary implication inconsistent with the provisions of the enabling statute pursuant to which the agency is acting, a reasonable determination, based upon the rule making file considered as a whole, that the benefits of the rule justify the costs of the rule, and that the rule will substantially achieve the

rule making objectives in a more cost-effective manner than the alternatives described in the rule making.

"(e)(1) An agency shall describe the nature and extent of the nonquantifiable benefits and costs of a proposed and a final rule pursuant to this section in as precise and succinct a manner as possible. The description of the benefits and costs of a proposed and a final rule required under this section shall include a quantification or numerical estimate of the quantifiable benefits and costs. Such quantification or numerical estimate shall be made in the most appropriate unit of measurement and shall specify the ranges of predictions and explain the margins of error involved in the quantification methods and in the estimates used.

"(2) In evaluating and comparing costs and benefits, the agency shall not rely on cost or benefit information submitted by any person that is not accompanied by data, analysis, or other supporting materials that would enable the agency and other persons interested in the rule making to assess the accuracy and reliability of such information. The agency evaluations of the relationships of the benefits of a proposed and final rule to its costs required by this section shall be clearly articulated in accordance with the provisions of this section. An agency is not required to make such evaluation primarily on a mathematical or numerical basis.

"(f) The preparation of the preliminary or final regulatory analysis required by this section shall only be performed by an officer or employee of the agency. The provisions of the preceding sentence do not preclude a person outside the agency from gathering data or information to be used by the agency in preparing any such regulatory analysis or from providing an explanation sufficient to permit the agency to analyze such data or information. If any such data or information is gathered or explained by a person outside the agency, the agency shall specifically identify in the preliminary or final regulatory analysis the data or information gathered or explained and the person who gathered or explained it, and shall describe the arrangement by which the information was procured by the agency, including the total amount of funds expended for such procurement.

"(g) The requirements of this section do not alter the criteria for rule making otherwise applicable under other statutes.

"§ 623. Judicial review

"(a) Compliance or noncompliance by an agency with the provisions of this subchapter shall not be subject to judicial review except according to the provisions of this section.

"(b) Any determination by the President or by the officer selected under section 624 of this title that a rule is a major rule within the meaning of section 621(4)(A) of this title, and any designation by the President or the officer selected under section 624 of this title that a rule is a major rule under section 621(4)(B) of this title, or any failure to make such a designation, shall not be subject to judicial review in any manner.

"(c) The determination of an agency of whether a rule is or is not a major rule within the meaning of section 621(4)(A) of this title shall be set aside by a reviewing court only upon a clear and convincing showing that the determination is erroneous in light of the information available to the agency at the time it made the determination. Any designation by an agency that a rule is a major rule under section 621(4)(B) of this title, or any failure to make such a designation, shall not be subject to judicial review in any manner.

"(d) Any regulatory analysis prepared under section 622 of this title shall not be subject to judicial consideration separate or apart from review of the rule to which it relates. When an action for judicial review of a rule is instituted, any regulatory analysis for such rule shall constitute part of the whole rule making record of agency action for the purpose of judicial review of the rule and shall, to the extent relevant, be considered by a court in determining the legality of the rule.

"§ 624. Executive oversight

"(a) The President shall have the authority to establish procedures for agency compliance with this subchapter and subchapter III of this chapter. The President shall have the authority to monitor, review, and ensure agency implementation of such procedures. The President shall report annually to the Congress on agency compliance or noncompliance with the requirements of this chapter.

"(b) Any procedures established pursuant to the authority granted under subsection (a) of this section shall be adopted after the public has been afforded an opportunity to comment thereon, and shall be consistent with the prompt completion of rule making proceedings. If such procedures include review of preliminary or final regulatory analyses to ensure that they comply with the procedures established pursuant to subsection (a), the time for any such review of a preliminary regulatory analysis shall not exceed thirty days following the receipt of that analysis by the President or by an officer to whom the authority granted under subsection (a) of this section has been delegated pursuant to subsection (c) of this section, and the time for such review of a final regulatory analysis shall not exceed thirty days following the receipt of that analysis by the President or such officer. The times for each such review may be extended for good cause by the President or such officer for an additional thirty days. Notice of any such extension, together with a succinct statement of the reasons therefor, shall be inserted in the rule making file.

"(c) The President may delegate the authority granted by subsection (a) of this section, in whole or in part, to the Vice President or to an officer within the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate. Any such notice with respect to a delegation to the Vice President shall contain a statement by the Vice President that the Vice President will make every reasonable effort to respond to congressional inquiries concerning the exercise of the authority delegated under this subsection. Notice of any such delegation, or any revocation or modification thereof, shall be published in the Federal Register.

"(d) The authority granted under subsection (a) of this section shall not apply to rules issued by the Nuclear Regulatory Commission.

"(e) Any exercise of the authority granted under this section, or any failure to exercise such authority, by the President or by an officer to whom such authority has been delegated under subsection (c) of this section, shall not be subject to judicial review in any manner under this Act.

"SUBCHAPTER III—REGULATORY PRIORITIES AND REVIEW

"§ 631. Review of agency rules

"(a)(1)(A) Not later than nine months after the effective date of this section, each agency shall prepare and publish in the Federal Register a proposed schedule for the review, in accordance with this section, of—

"(i) each rule of the agency which is in effect on such effective date and which, if adopted on such effective date, would be a major rule under section 621(4)(A) of this title, and

"(ii) each rule of the agency in effect on such effective date (in addition to the rules described in clause (i)) which the agency has selected for review.

"(B) Each proposed schedule required by subparagraph (A) shall include—

"(i) a brief explanation of the reasons the agency considers each rule on the schedule to be such a major rule under section 621(a)(4)(A) of this title or of the reasons why the agency selected the rule for review;

"(ii) a date set by the agency, in accordance with the provisions of subsection (b)(1) of this section, for the completion of the review of each such rule; and

"(iii) a statement that the agency requests comments from the public on the proposed schedule.

"(C) The agency shall set a date to initiate review of each rule on the schedule in a manner which will ensure the simultaneous review of related items and which will achieve a reasonable distribution of reviews over the period of time covered by the schedule.

"(2) At least ninety days before publishing in the Federal Register the proposed schedule required under paragraph (1), each agency shall make the proposed schedule available to the President, or to the Vice President or other officer to whom oversight authority has been delegated under section 624(b) of this title. The President or that officer may select for review in accordance with this section any additional rule that the President or such officer determines to be a major rule under section 621(4)(A) of this title.

"(3) Not later than one year after the effective date of this section, each agency shall publish in the Federal Register a final schedule for the review of the rules referred to in paragraphs (1) and (2) of this subsection. Each agency shall publish with the final schedule the response of the agency to comments received concerning the proposed schedule.

"(b)(1) Except where explicitly provided otherwise by statute, the agency shall, pursuant to subsections (c) through (e) of this section, review—

"(A) each rule on the schedule promulgated pursuant to subsection (a) of this section;

"(B) each major rule under section 621(4) of this title promulgated, amended, or otherwise renewed by an agency after the date of the enactment of this section; and

"(C) each rule promulgated after the date of enactment of this section which the President or the officer designated by the President pursuant to subsection (a)(2) of this section determines to be a major rule under section 621(4)(A) of this title.

Except where an extension has been granted pursuant to subsection (f) of this section, the review of a rule required by this section shall be completed within ten years after the effective date of this section or within ten years after the date on which the rule is

promulgated, amended, or renewed, whichever is later.

"(2) A rule required to be reviewed under the preceding subsection on grounds that it is a major rule need not be reviewed if the agency determines that such rule, if adopted at the time of the planned review, would not be a major rule under the definition previously applied to it. When the agency makes such a determination, it shall publish a notice and explanation of the determination in the Federal Register.

"(c) An agency shall publish in the Federal Register a notice of its proposed action under this section with respect to a rule being reviewed. The notice shall include—

"(1) an identification of the specific statutory authority under which the rule was promulgated and a statement specifying the agency's determination of whether the rule continues to fulfill the intent of Congress in enacting that authority;

"(2) an assessment of the benefits and costs of the rule during the period in which it has been in effect;

"(3) an explanation of the proposed agency action with respect to the rule; and

"(4) a statement that the agency seeks proposals from the public for modifications or alternatives to the rule which may accomplish the objectives of the rule in a more effective or less burdensome manner.

"(d) If an agency proposes to repeal or amend a rule under review pursuant to this section, the agency shall, after issuing the notice required by subsection (c) of this section, comply with the provisions of this chapter and chapter 5 of this title or other applicable law. The requirements of such provisions and related requirements of law shall apply to the same extent and in the same manner as in the case of a proposed agency action to repeal or amend a rule which is not taken pursuant to the review required by this section.

"(e) If an agency proposes to renew without amendment a rule under review pursuant to this section, the agency shall—

"(1) give interested persons not less than sixty days after the publication of the notice required by subsection (c) of this section to comment on the proposed renewal; and

"(2) publish in the Federal Register notice of the renewal of such rule and an explanation of the continued need for the rule, and, if the renewed rule is a major rule under section 621(4) of this title, include with such notice an explanation of the reasonable determination of the agency that the rule complies with the provisions of section 622(d)(2)(B) of this title.

"(f)(1) Any agency, which for good cause finds compliance with this section with respect to a particular rule to be impracticable during the period provided in subsection (b) of this section, may request the President, or the officer designated by the President pursuant to subsection (a)(2) of this section, to establish a period longer than ten years for the completion of the review of such rule. The President or that officer may extend the period for review of a rule to a total period of not more than fifteen years. Such extension shall be published in the Federal Register with an explanation of the reasons therefor.

"(2) An agency may, with the concurrence of the President or the officer designated by the President pursuant to subsection (a)(2) of this section, or shall, at the direction of the President or that officer, alter the timing of review of rules under any schedule required by this section for the review of rules if an explanation of such alteration is published in the Federal Register at the time such alteration is made.

"(g) In any case in which an agency has not completed the review of a rule within the period prescribed by subsection (b) or (f) of this section, the agency shall immediately publish in the Federal Register a notice proposing to amend, repeal, or renew the rule under subsection (c) of this section, and shall complete proceedings pursuant to subsection (d) or (e) of this section within one hundred and eighty days after the date on which the review was required to be completed under subsection (b) or (f) of this section.

"(h)(1) Agency compliance or noncompliance with the provisions of subsection (a) of this section shall not be subject to judicial review in any manner.

"(2) Agency compliance or noncompliance with the provisions of subsections (b), (c), (e), (f), and (g) of this section shall be subject to judicial review only pursuant to section 706(a)(1) of this title.

"(i) Nothing in this section shall relieve any agency from its obligation to respond to a petition to issue, amend, or repeal a rule, for an interpretation regarding the meaning of a rule, or for a variance or exemption from the terms of a rule, submitted pursuant to section 553(e) of this title.

"§ 632. Regulatory agenda and calendar

"(a) Each agency shall publish in the Federal Register in April and October of each year an agenda of the rules that the agency expects to propose, promulgate, renew, or repeal in the succeeding twelve months. For each such rule, the agenda shall contain, at a minimum, and in addition to any other information required by law—

"(1) a general description of the rule, including a citation to the authority under which the action with respect to the rule is to be taken, or a specific explanation of the congressional intent to which the objectives of the rule respond;

"(2) a statement of whether or not the rule is or is expected to be a major rule;

"(3) an approximate schedule of the significant dates on which the agency will take action relating to the rule, including the dates for any notice of proposed rule making, hearing, and final action on the rule;

"(4) the name, address, and telephone number of an agency official responsible for answering questions from the public concerning the rule;

"(5) a statement specifying whether each rule listed on the previous agenda has been published as a proposed rule, has been published as a final rule, has become effective, has been repealed, or is pending in some other status; and

"(6) a cumulative summary of the status of the rules listed on the previous agenda in accordance with clause (5) of this subsection.

"(b) The President or an officer in the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate shall publish in the Federal Register in May and November of each year a Calendar of Federal Regulations listing each of the major rules identified in the regulatory agendas published by agencies in the preceding month. Each rule listed in the calendar shall be accompanied by a summary of the information relating to the rule that appeared in the most recent regulatory agenda in which the rule was identified.

"(c) An agency may propose or promulgate a major rule that was not listed in the regulatory agenda required by subsection (a) of this section only if the agency publishes with the rule an explanation of the omission of the rule from such agenda and otherwise complies with this section with respect to that rule.

"(d) Any compliance or noncompliance by the agency with the provisions of this section shall not be subject to judicial review.

"§ 633. Establishment of deadlines

"(a)(1) Whenever any agency publishes a notice of proposed rule making pursuant to section 553 of this title, the agency shall include in such notice an announcement of the date by which it intends to complete final agency action on the rule.

"(2) If any agency announcement under this section indicates that the proceeding relating to such rule will require more than one year to complete, the agency shall also indicate in the announcement the date by which the agency intends to complete each major portion of that proceeding. In carrying out the requirements of this subsection, the agency shall select dates for completing agency action which will assure the most expeditious consideration of the rule which is possible, consistent with the interests of fairness and other agency priorities.

"(3) The requirements of this subsection shall not apply to any rule on which the agency intends to complete action within one hundred and twenty days after providing notice of the proposed action.

"(b) If an agency fails to complete action in a proceeding, or a major portion of the proceeding, by the date announced pursuant to subsection (a) of this section, or, in the case of a proceeding described in paragraph (3) of such subsection, if an agency fails to complete action within one hundred and twenty days after providing notice of such proposed action, and the expected delay in completing action will exceed thirty days, the agency shall promptly announce the new date by which the agency intends to complete action in such proceeding and new dates by which the agency intends to complete action on each major portion of the proceeding.

"(c) Compliance or noncompliance by an agency with the provisions of this section shall not be subject to judicial review except in accordance with subsection (d).

"(d) In determining whether to compel agency action unreasonably delayed pursuant to section 706(a)(1) of this title, the reviewing court shall consider, in addition to any other relevant factors, the extent to which the agency has failed to comply with this section.

"SUBCHAPTER IV—REPORT TO THE CONGRESS

"§ 641. Annual report

"Not later than January 31 of each year, the President shall report to the Congress on the regulatory activities of the Government. The report shall include—

"(1) a description of the regulatory functions and activities of the Government, and the relationship of such functions and activities to national needs; and

"(2) an estimate, for the national economy and for each of the major sectors of the national economy, of the costs and benefits resulting from—

"(A) all major rules promulgated during the preceding fiscal year;

"(B) all major rules included on the regulatory agenda published under section 632

of this title during April and October of the year preceding the year in which the report is made; and

"(C) all major rules scheduled for review under section 631 of this title to the extent possible.".

(b) Such chapter is further amended—

(1) by inserting after the chapter analysis the following new subchapter heading:

"SUBCHAPTER I—REGULATORY FLEXIBILITY";

and

(2) by striking out "this chapter" each place it appears in subchapter I and inserting in lieu thereof in each such place "this subchapter".

(c) The chapter analysis of such chapter is amended—

(1) by inserting after the chapter heading the following new subchapter heading:

"SUBCHAPTER I—REGULATORY FLEXIBILITY";

and

(2) by adding at the end thereof the following:

"SUBCHAPTER II—ANALYSIS OF AGENCY PROPOSALS

"Sec.
"621. Definitions.
"622. Regulatory analysis.
"623. Judicial review.
"624. Executive oversight.

"SUBCHAPTER III—REGULATORY PRIORITIES AND REVIEW

"631. Review of agency rules.
"632. Regulatory agenda and calendar.
"633. Establishment of deadlines.

"SUBCHAPTER IV—REPORT TO THE CONGRESS

"641. Annual report.".

JUDICIAL REVIEW

SEC. . Section 706 of title 5, United States Code, is amended to read as follows:

"§ 706. Scope of review

"(a) To the extent necessary to decision and when presented, the reviewing court shall independently decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of agency action. The reviewing court shall—

"(1) compel agency action unlawfully withheld or unreasonably delayed; and

"(2) hold unlawful and set aside agency action, findings, and conclusions found to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity;

"(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

"(D) without observance of procedure required by law;

"(E) unsupported by substantial evidence in a proceeding subject to sections 556 and 557 of this title or otherwise reviewed on the record of an agency hearing provided by statute; or

"(F) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

"(b) In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

"(c) In making determinations concerning statutory jurisdiction or authority under subsection (a)(2)(C) of this section, the court shall require that action by the agency is within the scope of the agency jurisdiction or authority on the basis of the language of the statute or, in the event of ambiguity, other evidence of ascertainable legislative intent. In making determinations on other questions of law, the court shall not accord any presumption in favor of or against agency action, but in reaching its independent judgment concerning an agency's interpretation of a statutory provision, the court shall give the agency interpretation such weight as it warrants, taking into account the discretionary authority provided to the agency by law.

"(d) In making a finding under subsection (a)(2)(A) of this section, the court shall determine whether the factual basis of a rule adopted in a proceeding subject to section 553 of this title is without substantial support in the rule making file.".

VENUE

SEC. . (a) Section 2112 of title 28, United States Code, is amended—

(1) by striking out the last three sentences of subsection (a);

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(3) by inserting after subsection (a) the following new subsection:

"(b)(1) If proceedings have been instituted in two or more courts of appeals with respect to the same agency action and the first such proceeding was instituted more than five days before the second, the record shall be filed in that court in which the proceeding was first instituted. If the first such proceeding was not instituted more than five days before the institution of a later proceeding with respect to the same agency action, and the agency, board, commission, or officer concerned has received written notice from the parties instituting each of these proceedings, the agency, board, commission, or officer concerned shall promptly advise in writing the Administrative Office of the United States Courts, with respect to the first proceeding and all proceedings initiated within five days of the first proceeding, that such multiple proceedings have been instituted and shall identify each court for which it has notice that such proceedings are pending. Pursuant to a system of random selection devised for this purpose, the Administrative Office thereupon shall select the court in which the record shall be filed from among those identified by the agency. Upon notification of such selection, the agency, board, commission, or officer concerned shall promptly file the record in such court. For the purpose of review of agency action which has previously been remanded to the agency, board, commission, or officer concerned, the record shall be filed in the court of appeals which remanded such order.

"(2) Where proceedings have been instituted in two or more courts of appeals with respect to the same agency action and the record has been filed in one of such courts pursuant to paragraph (1), the other courts in which such proceedings are pending shall promptly transfer such proceedings to the court of appeals in which the record has been filed. Pending selection of a court pursuant to subsection (1), any court in which a proceeding has been instituted may postpone the effective date of the agency action until fifteen days after the Administrative Office has selected the court in which the record shall be filed. Such postponement by the court may thereafter be modified, revoked, or extended by the court in which the record is to be filed.

"(3) Any court in which a proceeding with respect to any agency action is pending, including any court selected pursuant to paragraph (1), may transfer such proceeding to any other court of appeals for the convenience of the parties or otherwise in the interest of justice.".

(b) Section 604(a) of title 28, United States Code, is amended—

(1) by redesignating paragraphs (17) and (18) as paragraphs (18) and (19), respectively, and

(2) by inserting after paragraph (16) the following new paragraph:

"(17) Pursuant to section 2112 of this title, where proceedings with respect to action of any agency, board, commission, or officer have been instituted in two or more courts of appeals, administer a system of random selection to determine the appropriate court in which the record is to be filed.".

ADVISORY COMMITTEE

SEC. . Clause (iii) of section 3(2)(C) of the Federal Advisory Committee Act is amended to read as follows: "(iii) any committee which is composed wholly of full-time officers or employees of the Federal Government, or elected officials of State or local governments acting in their official capacities or their representatives or representatives of their national organizations.".

RESOLUTION OF AGENCY JURISDICTIONAL CONFLICT

SEC. . (a) Section 2201 of title 28, United States Code, is amended by inserting "(a)" before "In" and by adding at the end thereof the following new subsections:

"(b)(1) Except as provided in paragraph (3), upon the filing of an appropriate pleading by a regulatory agency or a public utility, the district courts shall have original jurisdiction of any civil action or proceeding to resolve a controversy between two or more regulatory agencies, with respect to jurisdiction to regulate any of the rates, services, or records relating thereto, of a public utility unless all of such agencies are agencies of the same State.

"(2) If any party shall apply to the court before whom the pleading is filed for leave to adduce additional evidence relevant to a finding of jurisdiction, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such additional evidence in proceedings before one or more of the regulatory agency parties to the action brought hereunder, the court may order such additional evidence to be taken before any of such regulatory agencies and to be adduced upon the hearing in such manner and upon such terms and conditions as the court deems proper.

"(3) If the courts of appeals have exclusive original jurisdiction to review agency action of a regulatory agency, then an action or proceeding under this subsection with respect to a controversy to which such regulatory agency is a party shall be brought in such court of appeals rather than in the district court.

"(c) The court may declare the rights and other legal relations of the parties to an action or proceeding brought under subsection (b) to the extent necessary to resolve the controversy with respect to jurisdiction and may take any action necessary to maintain the status quo pending such declaration, or pending appeal of such declaration, including staying any civil action or proceeding that might be affected by such declaration. Such action or declaration shall not be withheld—

"(1) on the ground that a controversy with respect to matters other than jurisdic-

tion to regulate may exist between or among the parties,

"(2) due to failure to pursue or exhaust any administrative remedies, or

"(3) due to inconsistent provisions of other statutes providing for judicial review of such agency action, including the regulatory statutes under which the controversy has arisen.

Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such.

"(d) For purposes of this subsection—

"(1) the term 'State' includes the District of Columbia and any territory or possession of the United States;

"(2) the term 'public utility' is any entity which offers its services to the public or any segment thereof, and whose rates are subject to regulation on a cost of service or rate of return basis by one or more regulatory agencies;

"(3) the term 'regulatory agency' includes any agency having or exercising any regulatory function with respect to any public utility; and

"(4) the term 'agency' means the United States, a State or political subdivision of a State, or any agency or instrumentality of the United States or any such State subdivision or agency.".

(b)(1) Chapter 151 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 2203. Process and procedure

"In any civil action or proceeding under section 2201(b) of this title, (1) the United States or any agency of the United States may join or be joined as a party, (2) any State or State subdivision or agency thereof may join or, with its consent where necessary, be joined as a party, and a district court may issue its process for such purposes without regard to territorial limitations.".

(2) The table of sections for chapter 151 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"2203. Process and procedure.".

(c)(1) Chapter 87 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1409. Public utility jurisdictional controversies

"Any civil action or proceeding for a declaratory judgment under section 2201(b) of this title may be brought in any judicial district in which the public utility resides or has its principal office, or in the United States District Court for the District of Columbia, except that whenever one or more States or subdivisions thereof or the agencies of a State or a subdivision thereof are parties, the civil action or proceeding must be brought in a judicial district within one of such States.".

(2) The table of sections for chapter 87 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1409. Public utility jurisdictional controversies.".

PROHIBITION AGAINST INTERVENOR FUNDING

SEC. . (a) Subchapter II of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 560. Prohibition against intervenor funding

"Except as provided in section 504 of this title, section 2412 of title 28, section 319 of the Federal Power Act, section 18(h) of the Federal Trade Commission Act, section 7(c) of the Consumer Product Safety Act, section 22 of the Act entitled 'An Act to provide certain basic authority for the Department of State', approved August 1, 1956, and paragraphs (4) and (5) of section 6(c) of the Toxic Substances Control Act, and except as otherwise expressly authorized by statute, no appropriated funds available to any agency may be used to pay the expenses of persons participating or intervening in agency proceedings.".

(b) The table of sections for such chapter is amended by adding at the end thereof the following:

"560. Prohibition against intervenor funding.".

USE OF STATE AND LOCAL REQUIREMENTS

SEC. . (a) Subchapter II of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 561. Use of duplicative State or local requirements

"(a) Except as otherwise provided by law, the head of each Federal agency is authorized, in the administration of a Federal statute with respect to any State or locality, to adopt as a Federal rule a regulation of that State or local government or use as a Federal recordkeeping or reporting requirement or implementation procedure a recordkeeping or reporting requirement or implementation procedure of that State or locality if the head of the agency determines—

"(1) that such State or local government regulation, implementation procedure, recordkeeping requirement, or reporting requirement duplicates a Federal regulation, procedure, recordkeeping requirement, or reporting requirement; and

"(2) that such State or local government regulation, implementation procedure, recordkeeping requirement, or reporting requirement is substantively equivalent to or more stringent than the Federal regulation, procedure, recordkeeping requirement, or reporting requirement.

"(b) When the head of an agency determines to use a State or local recordkeeping or reporting requirement, or implementation procedure, as a Federal recordkeeping or reporting requirement or implementation procedure in that State or locality, the head of the agency shall prepare, at a minimum, a written statement of the reasons for any determination made under subsection (a), and shall make such statement available to the public.

"(c) This section does not limit the authority or responsibility of the head of any agency to enforce Federal law.".

(b) Section 551(5) of title 5, United States Code, is amended by inserting a comma and "or the adoption of a rule pursuant to section 561 of this title" before the semicolon.

(c) The table of sections for chapter 5 of such title is amended by inserting after the item relating to section 560 the following new item:

"561. Use of duplicative State or local requirements.".

PRESIDENTIAL AUTHORITY

SEC. . Nothing in this Act (1) limits the exercise by the President of the authority and responsibility that the President otherwise possesses under the Constitution and other laws of the United States with respect to regulatory policies, procedures, and programs of departments, agencies, and offices, or (2) alters in any manner rulemaking authority vested by law in an agency to initiate or complete a rule making proceeding, or to issue, modify, or rescind a rule.

CONFORMING AMENDMENTS

SEC. . (a) Section 33(c) of the Federal Energy Administration Act of 1974 (15 U.S.C. 789(c)) is amended by striking out "(without regard to subsection (a)(2) thereof)" and inserting in lieu thereof "(without regard to clauses (2) and (4) of subsection (a) of such section)".

(b)(1) Section 3(e)(1) of the Federal Hazardous Substances Labeling Act (15 U.S.C. 1262(e)(1)) is amended by striking out "(other than clause (B) of the last sentence of subsection (b) of such section)" and inserting in lieu thereof "(other than paragraphs (2)(A) and (3) of subsection (b) of such section)".

(2) Section 3(e)(3)(C) of such Act (15 U.S.C. 1262(e)(3)(C)) is amended by inserting "(a)" after "section 706".

(c)(1) Section 5(a) of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1474(a)) is amended by striking out "(other than paragraph (3)(B) of the last sentence of subsection (b) of such section)" and inserting in lieu thereof "(other than paragraphs (2)(A) and (3) of subsection (b) of such section)".

(2) Section 5(b)(3) of such Act (15 U.S.C. 1474(b)(3)) is amended by inserting "(a)" after "section 706".

(d) Section 19(c)(1)(B)(iii)(II) of the Toxic Substances Control Act (15 U.S.C. 2618(c)(1)(B)(iii)(II)) is amended by striking out "section 553(c)" and inserting in lieu thereof "section 553(c)(6)".

(e) Section 4218(b) of title 18, United States Code, is amended—

(1) by striking out "section 553(b)(3)(A)" and inserting in lieu thereof "section 553(a)(3)"; and

(2) by striking out "statements" and inserting in lieu thereof "statement".

(f) Section 409 of the General Education Provisions Act (20 U.S.C. 1221e-4) is amended by striking out "exception provided under section 553(b)" and inserting in lieu thereof "exceptions provided under subsection (a)(3) and paragraphs (2)(A) and (3) of subsection (b) of section 553".

(g)(1) Section 508 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 358) is amended—

(A) by striking out "section 4 of the Administrative Procedure Act (5 U.S.C. 1003)" in subsection (c) and inserting in lieu thereof "section 553"; and

(B) by striking out "section 4 of the Administrative Procedure Act (5 U.S.C. 1003)" in subsection (e) and inserting in lieu thereof "section 553".

(2) Section 514(e)(4) of such Act (21 U.S.C. 360d(e)(4)) is amended by striking out "subsection (b)(A)" and inserting in lieu thereof "subsection (a)(3)".

(h) Section 426(a) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 936(a)) is amended by striking out "subsection (a) thereof" and inserting in lieu thereof "subsection (a) (1), (2), and (4) of such section".

(i) Section 5(a) of the Deepwater Port Act of 1974 (33 U.S.C. 1504(a)) is amended by striking out "without regard to subsection (a) thereof" and inserting in lieu thereof "without regard to clauses (1), (2), and (4) of subsection (a) of such section".

(j) Section 10(a) of the Act of June 30, 1936 (49 Stat. 2036, as amended; 41 U.S.C. 43a(a)) is amended by striking out "section 4 of the Administrative Procedure Act, such Act" and inserting in lieu thereof "section

553 of title 5, United States Code, the provisions of chapters 5, 6, and 7 of such title".

(k) Section 2(a)(2) of the Act of June 25, 1936 (52 Stat. 1196; 41 U.S.C. 47(a)(2)) is amended by striking out "subsections (b), (c), (d), and (e) of section 553 of title 5, United States Code," and inserting in lieu thereof "section 553 of title 5, United States Code (without regard to clauses (1), (2), and (4) of subsection (a) of such section)".

(l) Section 170A(c) of the Atomic Energy Act of 1954 (42 U.S.C. 2210a(c)) is amended by striking out "(without regard to subsection (a)(2) thereof)" and inserting in lieu thereof "(without regard to clauses (2) and (4) of subsection (a) of such section)".

(m) Section 6(c)(2) of the Noise Control Act of 1972 (42 U.S.C. 4905(c)(2)) is amended by striking out "the first sentence of".

(n) Section 501(b)(3) of the Department of Energy Organization Act (42 U.S.C. 7191(b)(3)) is amended by striking out "subsection (a)(2) of such section with respect to public property, loans, grants, or contracts" and inserting in lieu thereof "subsection (a)(4) of such section".

(o) Section 307(d) of the Clean Air Act (42 U.S.C. 7607(d)) is amended by striking out "subparagraphs (A) or (B) of subsection 553(b)" in paragraph (1)(N) and inserting in lieu thereof "subsection (a)(3) and paragraphs (2)(A) and (3) of subsection (b) of section 553".

(p) Section 102(a) of the Ocean Thermal Energy Conversion Act of 1980 (42 U.S.C. 9112(a)) is amended by striking out "without regard to subsection (a) thereof" and inserting in lieu thereof "without regard to clauses (1), (2), and (4) of subsection (a) of such section".

(q) Section 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740) is amended by striking out "section 553(a)(2)" and inserting in lieu thereof "clauses (2) and (4) of section 553(a)".

CONGRESSIONAL REVIEW

SEC. . (a) Title 5, United States Code, is amended by inserting immediately after chapter 7 the following new chapter:

"CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULE MAKING

"Sec.
"801. Definitions.
"802. Congressional review of agency rules.
"803. Procedures for consideration of resolutions of disapproval.

"§ 801. Definitions

"For purposes of this chapter—

"(1) the term 'agency' has the same meaning as in section 551(1) of this title;

"(2) the term 'rule' means any rule which is subject to section 553 of this title;

"(3) the term 'resolution of disapproval' means a concurrent resolution of the Congress, the matter after the resolving clause of which is as follows: 'That the Congress disapproves the recommended final rule issued by dealing with the matter of , which rule was transmitted to the Congress on .', the first blank being filled with the name of the agency issuing the rule, the second blank being filled with the title of the rule and such further description as may be necessary to identify it, and the third blank being filled with the date of transmittal of the rule to the Congress; and

"(4) the term 'appropriate committee' means the committee of the House of Representatives and the committee of the Senate which has primary legislative jurisdiction over the statute pursuant to which an agency issues a rule.

"§ 802. Congressional review of agency rules

"(a)(1) The provisions of this section do not apply to—

"(A) any rule for which an agency makes a finding under section 553(b)(3) of this title;

"(B) any rule of particular applicability that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing; and

"(C) any rule if—

"(i) the agency made a finding with respect to such rule under section 553(b)(2) of this title; or

"(ii) the head of the agency determines that the rule is being issued in response to an emergency situation or other exceptional circumstances requiring immediate agency action in the public interest; and

"(iii) on the date on which the agency issues the rule, the head of the agency submits to the chairman and ranking minority member of the appropriate committees a written notice specifying the reasons for the determination of the agency under clause (i) or (ii) of this subparagraph.

"(2) Notwithstanding any other provision of law, unless earlier withdrawn by the agency or earlier set aside by judicial action, a rule to which paragraph (1)(C) of this subsection applies shall terminate one hundred and twenty days after the date on which it is issued.

"(b)(1) Notwithstanding any other provision of law, any final rule subject to this section shall be considered a recommendation of the agency to the Congress and shall have no force and effect as a rule unless such rule has become effective in accordance with this section.

"(2)(A) Notwithstanding any other provision of law, no recommended final rule of an agency may become effective until the expiration of a period of forty-five days of continuous session of Congress after the date on which the rule is received by the Congress under paragraph (4) of this subsection. If before the expiration of such forty-five-day period, either appropriate committee orders reported or is discharged from consideration of a resolution of disapproval with respect to such rule, such rule may not become effective if within thirty days of continuous session of Congress after the date on which such committee orders reported or is discharged from further consideration of such resolution, one House of Congress agrees to such resolution of disapproval of the rule and within thirty additional days of continuous session of Congress after the date of transmittal of the resolution of disapproval to the other House, such other House agrees to such resolution of disapproval.

"(B) Whenever an appropriate committee reports a resolution of disapproval pursuant to this paragraph, the resolution shall be accompanied by a committee report specifying the reasons for the committee's action.

"(C) Notwithstanding subparagraph (A) of this paragraph, a recommended final rule may become effective at any time after the day on which either House of Congress defeats a resolution of disapproval, and, in the case of the Senate, a motion to reconsider such resolution is disposed of.

"(3)(A) Except as provided in subparagraph (B) of this paragraph, if Congress adjourns sine die at the end of a Congress prior to the expiration of the periods specified in paragraph (2)(A) of this subsection with respect to a recommended final rule, the rule shall not become effective during that Congress. The agency which issued such recommended final rule may transmit such rule at any time after the first day of the following Congress in accordance with paragraph (4) of this subsection, and the periods specified in paragraph (2)(A) of this subsection with respect to any such rule shall begin on the date such rule is transmitted to the Congress.

"(B) If—

"(i) Congress adjourns sine die at the end of a Congress prior to the expiration of the periods specified in paragraph (2)(A) of this subsection with respect to a recommended final rule;

"(ii) an agency transmits such recommended final rule to the Congress at least forty-five days of continuous session of Congress prior to the day on which Congress adjourns sine die at the end of a Congress; and

"(iii) either House of Congress does not adopt a resolution of disapproval with respect to such recommended final rule prior to the day on which Congress adjourns sine die at the end of a Congress,

such rule may become effective at any time after the day on which Congress adjourns sine die at the end of a Congress.

"(4)(A) On the day on which a recommended final rule is transmitted for publication to the Federal Register, an agency shall transmit to the Secretary of the Senate and the Clerk of the House of Representatives a copy of the complete text of such recommended final rule and a copy of any other materials transmitted to the Federal Register with such rule.

"(B)(i) If either House of Congress is not in session on the day on which a recommended final rule is transmitted for publication to the Federal Register, the periods specified in paragraph (2)(A) of this subsection with respect to such rule shall begin on the first day thereafter when both Houses of Congress are in session.

"(ii) The Secretary of the Senate and the Clerk of the House of Representatives are authorized to receive recommended final rules and materials transmitted under this paragraph on days when the Senate or the House of Representatives, as the case may be, is not in session.

"(C) On the day on which the Secretary of the Senate and the Clerk of the House of Representatives receive a recommended final rule and the materials transmitted with such rule, the Secretary and the Clerk shall transmit a copy of such rule and such materials to the appropriate committees.

"(c)(1) If a recommended final rule of an agency is disapproved under this section, the agency may issue a recommended final rule which relates to the same acts or practices as the disapproved rule. Such recommended final rule—

"(A) shall be based upon—

"(i) the rule making record of the recommended final rule disapproved by the Congress; or

"(ii) such rule making record and the record established in supplemental rule making proceedings conducted by the agency in accordance with section 553 of this title, in any case in which the agency determines that it is necessary to supplement the existing rule making record; and

"(B) may reflect such changes as the agency considers necessary or appropriate including such changes as may be appropriate in light of congressional debate and con-

sideration of the resolution of disapproval with respect to the rule.

"(2) An agency, after issuing a recommended final rule under this subsection, shall transmit such rule to the Secretary of the Senate and the Clerk of the House of Representatives in accordance with subsection (b) of this section, and such rule shall only become effective in accordance with such subsection.

"(d) Congressional inaction on or rejection of a resolution of disapproval with respect to a recommended final rule shall not be deemed an expression of approval of such rule.

"§ 803. Procedures for consideration of resolutions of disapproval

"(a) The provisions of this section, paragraphs (3) and (4) of section 801, and paragraphs (2)(B) and (4)(C) of section 802(b) are enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions of disapproval; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(b) Except as provided in subsection (e) of this section, resolutions of disapproval shall, upon introduction or receipt from the other House of Congress, be immediately referred by the presiding officer of the Senate or the House of Representatives to the appropriate committee of the Senate or the House of Representatives, as the case may be.

"(c)(1)(A) Except as provided in subparagraph (B) of this paragraph, if the committee to which a resolution of disapproval has been referred does not report such resolution within thirty days of continuous session of Congress after the date of transmittal to the Congress of the recommended final rule to which such resolution relates, it shall be in order to move to discharge the committee from further consideration of such resolution.

"(B) If the committee to which a resolution of disapproval transmitted from the other House has been referred does not report such resolution within twenty days after the date of transmittal of such resolution from the other House, it shall be in order to move to discharge such committee from further consideration of such resolution.

"(2) Any motion to discharge under paragraph (1) of this subsection must be supported in writing by one-fifth of the Members, duly chosen and sworn, of the House of Congress involved, and is highly privileged in the House and privileged in the Senate (except that it may not be made after a resolution of disapproval has been reported with respect to the same rule); and debate thereon shall be limited to not more than one hour, the time to be divided in the House of Representatives equally between those favoring and those opposing the motion to discharge and to be divided in the Senate equally between, and controlled, by the majority leader and the minority leader or their designees. An amendment to the motion is not in order.

"(d)(1) Except as provided in paragraphs (2) and (3) of this subsection, consideration of a resolution of disapproval shall be in accord with the rules of the Senate and of the House of Representatives, respectively.

"(2) When a committee has reported or has been discharged from further consideration of a resolution of disapproval, or when the companion resolution from the other House has been placed on the calendar of the first House, it shall be in order, notwithstanding the provisions of rule XXII of the Standing Rules of the Senate or any other rule of the Senate or the House of Representatives, at any time thereafter (even though a previous motion to the same effect has been disagreed to) to move to proceed to the immediate consideration of either such resolution. The motion is highly privileged in the House and privileged in the Senate and is not debatable. An amendment to the motion is not in order.

"(3) Debate on a resolution of disapproval shall be limited to not more than two hours (except that when one House has debated its resolution of disapproval, the companion resolution shall not be debatable), which shall be divided in the House of Representatives equally between those favoring and those opposing the resolution and which shall be divided in the Senate equally between, and controlled, by the majority leader and the minority leader or their designees. A motion further to limit debate is not in order. An amendment to, or motion to recommit the resolution is not in order. A motion to reconsider shall be in order only on the day on which occurs the vote on adoption of the resolution of disapproval, and shall not be debatable. Any other motions shall be decided without debate.

"(e) If a resolution of disapproval has been ordered reported or discharged from the committee of the House to which it was referred, and that House receives a resolution of disapproval with respect to the same rule from the other House, the resolution of disapproval of the other House shall be placed on the appropriate calendar of the first House. If prior to the disposition of a resolution of disapproval of one House, that House receives the companion resolution of disapproval from the other House, the vote in the first House shall occur on the resolution of disapproval of the other House.

"(f) The provisions of this chapter supersede any other provision of law requiring action by both Houses of Congress for congressional review or disapproval of agency rules to the extent such other provisions are inconsistent with this chapter. The provisions of this chapter do not supersede any other provisions of law requiring action by only one House of Congress for congressional review or disapproval of agency rules.

"(g) For the purposes of this chapter—

"(1) continuity of session is broken only by an adjournment sine die at the end of a Congress; and

"(2) the days on which either House is not in session because of an adjournment or recess of more than fifteen days are excluded in the computation of days of continuous session.".

(b) The table of chapters for part I of title 5, United States Code, is amended by inserting immediately after the item relating to chapter 7 the following:

"8. Congressional Review of Agency Rule Making ..... 801".

SEVERABILITY

SEC. . If the provisions of any part of this Act or the amendments made by this Act, or the application thereof, to any person or circumstances is held invalid, the provisions of the other parts of this Act or the amendments made by this Act and their application to other persons or circumstances shall not be affected.

OPEN MEETINGS

SEC. . Section 552b(a)(1) of title 5, United States Code, is amended by inserting before the semicolon a comma and "and also means the Chrysler Corporation Loan Guarantee Board".

EFFECTIVE DATES

SEC. . (a)(1) The provisions of sections 2, 3, 5, and 12 of this Act and the amendments made by such sections, and the provisions of subchapter II of chapter 6 of title 5, United States Code (as added by section 4 of this Act), shall take effect on January 1, 1985, and shall not apply to any proceeding for which a notice of proposed rule making was issued before such effective date or to any other agency action initiated before such effective date.

(2) The provisions of section 621(4)(IV) of title 5, United States Code (as added by section 4 of this Act) shall not be in effect after June 30, 1985, unless the President certifies that the extension or reinstitution of such provisions is necessary to allow the Federal agencies authorized to issue rules identified in that section to take expeditious and appropriate action to preserve the viability, safety, or soundness of federally insured depository institutions. Any certification by the President under this subsection may only be made for a single one-year period beginning after June 30, 1985.

(b) The provisions of subchapter III of chapter 6 of title 5, United States Code (as added by section 4 of this Act) shall take effect six months after the date of enactment of this Act.

(c) The provisions of section 6 of this Act shall take effect three months after the date of enactment of this Act and shall apply, according to the provisions thereof, to review proceedings instituted after such date.

(d) The provisions of subchapter IV of chapter 6 of title 5, United States Code (as added by section 4 of this Act), and the provisions of sections 7, 9, 10, 11, and 15 of this Act and the amendments made by such sections shall take effect on the date of enactment of this Act.

(e) The amendments made by section 8 of this Act shall take effect on the date of enactment of this Act, and shall not apply to any civil action commenced prior to such date.

(f) The provisions of section 13 of this Act and the amendments made by such section shall take effect on the first day of the Ninety-ninth Congress.

AMENDMENT NO. 5651

At the appropriate place, add the following:

SECTION . This Amendment may be cited as the "Product Liability Act".

DEFINITIONS

SEC. 2. As used in this Act—

(1) "claimant" means any person who brings a product liability action, and if such an action is brought through or on behalf of an estate, the term includes the claimant's decedent, or if such an action is brought through or on behalf of a minor, the term includes the claimant's parent or guardian;

(2) "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of

the allegations sought to be established; the level of proof required to satisfy this standard is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt;

(3) "commerce" means trade, traffic, commerce, or transportation (A) between a place in a State and any place outside of that State; or (B) which affects trade, commerce, or transportation described in clause (A);

(4) "exercise of reasonable prudence" includes conduct of an ordinary person or class of persons, in the same or similar circumstances, exercising the care, attention, knowledge, intelligence, and judgment that society requires of its members for the protection of their own interests and the interests of others;

(5) "express warranty" means any affirmation of fact, promise, or description relating to a product, but does not include a general opinion about, or general praise of, a product or its quality; the term does not require that a manufacturer use the terms "warrant" or "guarantee", or that the manufacturer have the specific intention to make an express warranty;

(6) "harm" means (A) physical damage to property other than the product itself; (B) personal physical illness, injury, or death of the claimant; or (C) mental anguish or emotional harm of the claimant caused by the claimant's personal physical illness or injury; the term does not include commercial loss;

(7) "manufacturer" means (A) any person who is engaged in a business to design or formulate and to produce, create, make, or construct any product (or component part of a product); (B) a product seller with respect to all aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller designs or formulates and produces, creates, makes, or constructs an aspect of a product (or component part of a product) made by another; or (C) any product seller not described in clause (B) which holds itself out as a manufacturer to the user of the product;

(8) except for purposes of section 12(f), "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(9) "practical technological feasibility" means the technical, medical, and scientific knowledge relating to the safety of a product which, at the time of production or manufacture of a product, was developed, available and capable of use in the manufacture of a product, and economically feasible for use by a manufacturer;

(10) "preponderance of the evidence" is that measure or degree of proof which, by the weight, credit, and value of the aggregate evidence on either side, establishes that it is more probable than not that a fact occurred or did not occur;

(11) "product" means any object, substance, mixture or raw material in a gaseous, liquid or solid state which is capable of delivery itself, or as an assembled whole in a mixed or combined state or as a component part or ingredient, which is produced for introduction into trade or commerce, which has intrinsic economic value, and which is intended for sale or lease to persons for commercial or personal use; the term does not include human tissue, blood, or organs;

(12) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, installs, prepares, blends, packages, labels, markets, repairs, maintains, or otherwise is involved in placing a product in the stream of commerce; the term does not include—

(A) a seller of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor;

(13) "product user" means any person, including the claimant's employer, who owns, operates, or has control of a product;

(14) "reasonably anticipated conduct" means the conduct which is expected, ordinary, and familiar of the class of persons likely to use or be exposed to the product; and

(15) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

PREEMPTION OF OTHER LAWS

SEC. . (a) No person may recover for any loss or damage caused by a product except to the extent that the loss or damage constitutes harm. A civil action for loss or damage caused to a product itself or for commercial loss is not a product liability action, and shall be governed by applicable commercial or contract law.

(b)(1) This Act supersedes any State law regarding recovery for any loss or damage caused by a product to the extent that this Act establishes a rule of law applicable to any civil action brought against a manufacturer or product seller for loss or damage caused by a product, including any action which before the effective date of this Act would have been based on (A) strict or absolute liability in tort; (B) negligence or gross negligence; (C) breach of express or implied warranty; (D) failure to discharge a duty to warn or instruct; or (E) any other theory that is the basis for an award for damages for loss or damage caused by a product. Any issue arising in such an action that is not governed by any such rule of law shall be governed by applicable State law. This Act shall not be construed to waive or affect any defense of sovereign immunity asserted by any State under any provision of law.

(2) Nothing in this Act shall be construed to supersede any Federal law, except the Federal Employees Compensation Act.

(3) Nothing in this Act shall be construed to waive or affect any defense of sovereign immunity asserted by the United States.

(4) Nothing in this Act shall be construed to affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976 (28 U.S.C. 1602 et seq.).

(c) Nothing in this Act is intended to preempt any State law creating a cause of action for damages caused by the release of a hazardous substance or waste, as defined by State law.

(d) Nothing in this Act is intended to affect in any way application of any rule of law regarding whether a claimant must identify the manufacturer of the product that caused the claimant's harm.

(e) The district courts of the United States shall not have jurisidiction over any civil action arising under this Act, based on sections 1331 or 1337 of title 28, United States Code.

RESPONSIBILITY OF MANUFACTURERS

SEC. . In any product liability action, a manufacturer is liable to a claimant if—

(1) the claimant establishes by a preponderance of the evidence that—

(A) the product was unreasonably dangerous in construction or manufacturer, as defined in section 5(a);

(B) the product was unreasonably dangerous in design or formulation, as defined in section 5(b);

(C) the product was unreasonably dangerous because the manufacturer failed to provide adequate warnings or instructions about a danger connected with the product or about the proper use of the product, as defined in section 6; or

(D) the product was unreasonably dangerous because the product did not conform to an express warranty made by the manufacturer with respect to the product, as defined in section 7; and

(2) the claimant establishes by a preponderance of the evidence that the unreasonably dangerous aspect of the product was a proximate cause of the harm complained of by the claimant.

PRODUCT CONSTRUCTION AND DESIGN

SEC. . (a) A product is unreasonably dangerous in construction or manufacture if, when the product left the control of the manufacturer, it deviated in a material way—

(1) from the design specifications, formula, or performance standards of the manufacturer; or

(2) from otherwise identical units manufactured to the same manufacturing specification or formula.

(b)(1) A product is unreasonably dangerous in design or formulation if, at the relevant point in time—

(A) the manufacturer knew or, through the exercise of reasonable prudence, should have known about the danger which allegedly caused the claimant's harm; and

(B) a reasonably prudent person in the same or similar circumstances would not have manufactured the product or used the design or formulation that the manufacturer used.

(2) A product is not unreasonably dangerous in design or formulation if the manufacturer proves by a preponderance of the evidence that, at the relevant point in time—

(A) a means to eliminate the danger that caused the harm was not within practical technological feasibility, and the benefits and usefulness of the product to the public outweighed the likelihood and probable seriousness of the harm;

(B) the harm was caused by an unavoidably dangerous product; or

(C) the harm was caused by an unsafe aspect of a product which was an inherent characteristic of the product and which would be recognized by the ordinary person who uses or consumes the product with the ordinary knowledge common to the community.

(3) As used in paragraph (2)(B), "an unavoidably dangerous product" means a product that, at the relevant point in time—

(A) is useful and desirable to the public;

(B) has a known but reasonable risk which, in light of the state of scientific and

technical knowledge at that time, can not be made safe without impairing the effectiveness of the product's intended and ordinary use; and

(C) would have been made by a reasonable manufacturer using that particular design or formulation.

(4) As used in this subsection, "relevant point in time" means the earlier of the time of manufacture of a product or certification of an aircraft or its parts or accessories by the Federal Aviation Administration.

PRODUCT WARNINGS OR INSTRUCTIONS

SEC. . (a) A product is unreasonably dangerous because of the failure of the manufacturer to provide warnings or instructions about a danger connected with the product or about the proper use of the product if—

(1) adequate warnings or instructions were not provided, under subsection (b); or

(2) adequate post-manufacture warnings or instructions were not provided, under subsection (c).

(b) A product is unreasonably dangerous for lack of adequate warnings or instructions if, at the time the product left the control of the manufacturer—

(1) the manufacturer knew or, through the exercise of reasonable prudence, should have known about the danger which allegedly caused the claimant's harm;

(2) the manufacturer failed to provide the warnings or instructions that a reasonably prudent person in the same or similar circumstances would have provided with respect to the danger which caused the harm alleged by the claimant, given the likelihood that the product would cause harm of the type alleged by the claimant and given the seriousness of that harm; and

(3) those warnings or instructions, if provided, would have led a product user in the course of reasonably anticipated conduct either to decline to use the product or to use it in a manner so as to avoid harm of the type alleged by the claimant.

(c)(1) A product is unreasonably dangerous for lack of post-manufacture warnings or instructions if, after the product left the control of the manufacturer—

(A) the manufacturer knew or, through the exercise of reasonable prudence, should have known about the danger which allegedly caused the claimant's harm; and

(B) adequate post-manufacture warnings or instructions would have been provided by a reasonably prudent person in the same or similar circumstances, given the likelihood that the product would cause harm of the type alleged by the claimant and given the seriousness of that harm.

(2) A product is not unreasonably dangerous under this subsection if the manufacturer made reasonable efforts to provide adequate post-manufacture warnings or instructions to a product user or to another person, in accordance with subsection (d).

(d) Where warnings or instructions are required under subsection (b) or (c), such warnings and instructions shall be given to the product user, unless—

(1) in light of the practical and economic difficulties of giving the warnings or instructions directly to the product user, the likelihood that the product would cause harm of the type alleged by the claimant, and the probable seriousness of that harm, a reasonably prudent person would have given such warnings or instructions to a third person, including an employer, who could be expected to take action to avoid the product user's harm or to assure that the risk of harm is explained to the product user; or

(2) the product is one which may be legally used only by or under the supervision of a using or supervising expert, in which case the manufacturer shall act with reasonable prudence to warn or instruct the expert.

(e) A product is not unreasonably dangerous for lack of warnings regarding—

(1) dangers that are obvious;

(2) the consequences of product misuse, as defined in section 9(c); or

(3) the consequences of product alterations or modifications, as defined in section 9(d).

As used in paragraph (1) of this subsection, "dangers that are obvious" are those dangers, including the magnitude of the danger, of which a product user in the course of reasonably anticipated conduct or a person identified in subsection (d), if applicable, would have been aware without a warning and dangers, including the magnitude of the danger, which were a matter of common knowledge to persons in the same or similar position as the claimant.

PRODUCT EXPRESS WARRANTY

SEC. . (a) A product is unreasonably dangerous because it did not conform to an express warranty made by the manufacturer if—

(1) the product failed to conform to such warranty; and

(2) the failure of the product to conform to such warranty caused the claimant's harm.

(b) A product may be unreasonably dangerous for failure to conform to an express warranty although the manufacturer did not engage in negligent or fraudulent conduct in making the express warranty.

RESPONSIBILITY OF PRODUCT SELLERS

SEC. . (a) In any product liability action, a product seller other than a manufacturer is liable to a claimant, if the claimant establishes by a preponderance of the evidence that—

(1)(A) the individual product unit which allegedly caused the harm complained of was sold by the defendant;

(B) the product seller failed to exercise reasonable prudence with respect to the product; and

(C) such failure to exercise reasonable prudence was a proximate cause of the claimant's harm; or

(2)(A) the product seller made an express warranty, independent of any express warranty made by a manufacturer as to the same product;

(B) the product failed to conform to such warranty; and

(C) the failure of the product to conform to such warranty caused the claimant's harm.

(b)(1) In determining whether a product seller is subject to liability under subsection (a)(1), the trier of fact may consider the effect of the conduct of the seller with respect to the construction, inspection, or condition of the product, and any failure of the seller to transmit adequate warnings or instructions about the dangers and proper use of the product.

(2) A product seller shall not be liable under this Act where there was no reasonable opportunity to inspect the product in a manner which would or should, in the exercise of reasonable care, have revealed the aspect of the product which allegedly rendered it unreasonably dangerous.

(c) A product seller shall be treated as the manufacturer of a product and shall be liable for harm to the claimant caused by a product as if it were the manufacturer of the product if—

(1) the manufacturer is not subject to service of process under the laws of the State in which the action is brought; or

(2) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

DETERMINATION OF RESPONSIBILITY IN A PRODUCT LIABILITY ACTION

SEC. . (a) All claims under this Act shall be governed by the principles of comparative responsibility. Comparative responsibility attributed to the claimant's conduct shall not bar recovery in a product liability action, but shall reduce any damages awarded to the claimant in an amount proportionate to the responsibility of the claimant.

(b)(1) In any product liability action, the court, unless otherwise agreed by all parties, shall instruct the jury to answer special interrogatories (or, if there is no jury, the court shall make findings) indicating—

(A) the total amount of damages to each claimant for that claimant's harm; and

(B) the percentage of total responsibility for each claimant's harm attributable to each claimant, each defendant, each third-party defendant, and to any other cause or person who is not a party to the action (other than the claimant's employer or coemployee, where the provisions of section 10 apply).

(2) In making the determinations specified in paragraph (1)(B), evidence of conduct defined in subsections (c), (d), (e), and (f) shall be considered. For purposes of this subsection, the court may determine that two or more persons are to be treated as a single party.

(3) The percentage attributable under paragraph (1)(B) to each defendant or each third-party defendant shall be determined by—

(A) subtracting the percentage of responsibility attributable to the claimant and to any other cause or person who is not a party to the action (other than the claimant's employer or coemployee, where the provisions of section 10 apply) from 100 percent; and

(B) allocating the percentage which is the result of the subtraction under subparagraph (A) among the defendants and third-party defendants according to their individual responsibility for the claimant's harm.

(c) Evidence that misuse of a product by any person other than the claimant's employer or coemployee (where the provisions of section 10 apply) has caused all or a portion of the claimant's harm shall be considered in determining the percentage of total responsibility for the claimant's harm allocable under subsection (b). Misuse shall be considered to occur when a product is used for a purpose or in a manner which is not consistent with the reasonably anticipated conduct of users, which may include use for a purpose or in a manner which is not consistent with adequate warnings or instructions available to the user or failure of a person who would reasonably be expected to train another person or otherwise provide for the safe use of the product and who does not train or provide for the safe use of the product.

(d)(1) Evidence that an alteration or modification of the product by any person other than the claimant's employer or coemployee (where the provisions of section 10 apply) has caused all or a portion of the claimant's harm shall be considered in determining the percentage of total responsibility for the claimant's harm allocable under subsection

(b). Alteration or modification shall be considered to occur when a product is changed in a manner which is not consistent with the reasonably anticipated conduct of users, which may include a change in the product design or formulation, or a change in or removal of warnings, instructions, or safety devices that accompanied the product.

(2) Alteration or modification shall not be considered to occur if—

(A) ordinary wear and tear of a product has occurred;

(B) the alteration or modification was in accordance with instructions or specifications of the manufacturer or product seller; or

(C) the alteration or modification was made with the express consent of the manufacturer or product seller.

(e) Evidence that the conduct of the claimant involving negligence, contributory negligence, or assumption of risk has caused all or a portion of the claimant's harm shall be considered in determining the percentage of total responsibility for the claimant's harm allocable under subsection (b). Conduct of the claimant involving negligence, contributory negligence, or assumption of risk shall be considered to occur—

(1) when the claimant, while using the product, was injured by a defective condition of which he was not aware and which would have been apparent, without inspection, to a reasonably prudent person; or

(2) when the claimant knew about the product's defective condition, understood that there was a risk of harm and the potential severity of that harm, and voluntarily used the product or voluntarily assumed the risk of harm from the product.

(f) Evidence of product misuse, alteration, or modification, as defined in subsections (c) and (d), by the claimant's employer or coemployee (where the provisions of section 10 apply) or other acts or omissions by the claimant's employer or coemployee shall be considered on the issue of whether the employer's or coemployee's misuse, alteration, modification, or other act or omission was a superseding cause of the claimant's harm.

(g) The court shall—

(1) unless section 10(a) requires a different result, enter judgment against each defendant or third-party defendant determined to be liable in accordance with its individual percentage of responsibility, as determined under subsection (b), or, where a defendant or third-party defendant is jointly and severally liable with another person, enter judgment against the defendant or third-party defendant on the basis of joint and several liability; and

(2) state in the judgment each party's percentage of responsibility for the claimant's harm.

Joint and several liability and contribution among joint tortfeasors shall be determined in accordance with applicable State law, except that the basis for contribution shall be each joint tortfeasor's percentage of responsiblity for the claimant's harm.

(h) Upon motion made by a joint tortfeasor not later than 1 year after judgment is entered, the court shall determine whether all or part of the amount for which another joint tortfeasor is responsible is uncollectible from contribution from that joint tortfeasor, and shall reallocate any uncollectible amount among the other joint tortfeasors, according to their comparative percentages of responsibility. The joint tortfeasor whose responsibility is reallocated is nonetheless subject to contribution and to any continuing liability to the claimant.

EFFECT OF WORKERS' COMPENSATION BENEFITS

SEC. . (a) In any product liability action in which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers' compensation law, the judgment entered against each defendant and third-party defendant found liable shall be determined by applying the defendant's percentage of responsibility, as determined under section 9(b), to the amount remaining after the claimant's total damages, as determined under section 9(b)(1)(A), are reduced by the sum of the amount paid as workers' compensation benefits for that harm and the present value of all workers' compensation benefits to which the employee is or would be entitled for the harm. Where a defendant or third-party defendant is jointly and severally liable with another person, the judgment against the defendant or third-party defendant shall be entered on the basis of joint and several liability, and the court shall state in the judgment each party's percentage of responsibility for the claimant's harm. The determination of workers' compensation benefits by the trier of fact in a product liability action shall have no binding effect on and shall not be used as evidence in any other proceeding.

(b) Unless the manufacturer or product seller has expressly agreed to indemnify or hold an employer harmless for harm to an employee caused by a product neither the employer nor the workers' compensation insurance carrier of the employer shall have a right of subrogation, contribution, or implied indemnity against the manufacturer or product seller or a lien against the claimant's recovery from the manufacturer or product seller if the harm is one for which a product liability action may be brought under this Act.

(c) In any product liability action in which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers' compensation law, no third-party tortfeasor may maintain any action for implied indemnity or contribution against the employer or any coemployee of the person who was injured.

(d) Nothing in this Act shall be construed to affect any State or Federal workers' compensation law provision which prohibits a person who is or would have been entitled to receive compensation under any such law, or any other person whose claim is or would have been derivative from such a claim, from recovering in any action other than a workers' compensation claim against a present or former employer or workers' compensation insurer of the employer or any coemployee for harm caused by a product. Such other actions shall be prohibited, except that nothing in this Act shall be construed to affect any State or Federal workers' compensation law which permits recovery based on a claim of an intentional tort by the employer or coemployee where the claimant's harm was caused by such an intentional tort.

(e) As used in this section, "employer" does not include a State, where the State is acting in its capacity as an employer.

(f) Without regard to when the harm giving rise to the claim occurred, the provisions of this section do not apply to any person subject to or covered by the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.), as amended.

TIME LIMITATION ON LIABILITY

SEC. . (a)(1) If any product is a capital good, no claim alleging unsafe design or formulation as provided in section 5(b), or failure to give adequate warnings or instructions as provided in section 6(a), may be brought for harm caused by such a product more than 25 years from the date of delivery of the product to its first purchaser or lessee who was not engaged in the business of selling or leasing the product or using the product as a component in the manufacture of another product.

(2) As used in this subsection, "capital good" means any product, other than a motor vehicle, or a vessel, aircraft, or railroad used primarily to transport passengers, or any component of any such product, if it is also of a character subject to allowance for depreciation under the Internal Revenue Code of 1954, as amended, and was—

(A) used in a trade or business;

(B) held for the production of income; or

(C) sold, leased, or donated to a governmental or private entity for the production of goods, for training, for demonstration, or other similar purposes.

(b) Subsection (a) is not applicable if—

(1) the manufacturer or product seller intentionally misrepresented facts about the product or fraudulently concealed information about the product, and that conduct was a cause of the claimant's harm;

(2) the harm of the claimant was caused by the cumulative effect of prolonged exposure to a defective product; or

(3) the harm, caused within the period referred to in subsection (a), did not manifest itself until after the expiration of that period.

(c) Nothing in subsection (a) shall affect the right of any person who is subject to liability for harm under this Act to seek and obtain contribution or indemnity from any other person who is responsible for that harm.

PUNITIVE DAMAGES

SEC. . (a)(1) Following a determination of the manufacturer's or product seller's liability for compensatory damages and the amount of such damages, a claimant may move that punitive damages be assessed against the manufacturer or product seller. Nothing in this section shall be construed to permit the admission of evidence relating solely to the assessment of punitive damages in a proceeding to determine liability for and the amount of compensatory damages.

(2) Punitive damages may be assessed against any manufacturer or product seller if the claimant establishes by clear and convincing evidence that the harm suffered was the result of the reckless disregard of the manufacturer or product seller for the safety of product users, consumers, or persons who might be harmed by the product. Except as provided in subsection (k), punitive damages may not be assessed in the absence of liability for compensatory damages.

(b) The trier of fact, in determining under subsection (a) whether punitive damages should be awarded, shall consider—

(1) the manufacturer's or product seller's awareness of the likelihood that serious harm would arise from the sale or manufacture of a product;

(2) the conduct of the manufacturer or product seller upon discovery that the product caused harm or was related to harm caused to users or others, including whether upon confirmation of the problem the man-

ufacturer or product seller took appropriate steps to reduce the risk of harm; and

(3) the duration of the conduct and any concealment of it by the manufacturer or product seller.

(c) If the trier of fact determines under subsection (a) that punitive damages should be assessed against a manufacturer or product seller, the court shall determine the amount of those damages. The court shall make findings of fact in connection with its award. In making its determination, the court shall consider—

(1) all relevant evidence relating to the factors set forth in subsection (b);

(2) the profitability of the conduct to the manufacturer or product seller;

(3) all resolved and pending claims against the manufacturer or product seller with respect to the product;

(4) the quality of the conduct that gave rise to liability for punitive damages;

(5) the total resources and the condition of the business of the manufacturer or product seller;

(6) the nature of the harm for which the punitive damage award is assessed; and

(7) the total effect of other sanctions imposed upon the manufacturer or product seller as a result of the misconduct, including any criminal fines, civil penalties, or other sanctions to which the manufacturer or product seller has been or may be subjected.

(d) Notwithstanding the provisons of section 13, a manufacturer or product seller may introduce relevant evidence of post-manufacturing improvements in defense of punitive damages.

(e) After determining the amount of punitive damages to be assessed under subsection (c), the court shall order a distribution of such portion of the award to the plaintiff as the court determines appropriate. The distribution shall not exceed the amount of the award of compensatory damages to the plaintiff.

(f)(1) After making the distribution under subsection (e), the court shall order the distribution of any remainder to a person to be used for a public purpose designated by the court. The public purpose shall further the national interest in health, safety, education, or the environment and may reflect the nature of the harm for which the punitive damage award is assessed.

(2) The person to whom the remainder is distributed shall serve in a fiduciary capacity with respect to such remainder by—

(A) acting in accordance with the court order governing such remainder and using the funds exclusively for the public purpose designated by the court;

(B) using the care, skill, prudence and diligence under the circumstances then prevailing that a reasonably prudent person acting in a similar capacity and familiar with such matters would use in the conduct of an enterprise of a similar character and with similar aims; and

(C) defraying reasonable expenses of administering such remainder.

(3) Unless the court otherwise orders, the person to whom the remainder is distributed shall submit to the court an annual financial statement and opinion of such remainder prepared by an independent qualified public accountant, as defined in section 103(a)(3)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023(a)(3)(D)). The public accountant shall conduct, in accordance with generally accepted accounting standards and such other tests as are considered necessary by the accountant, an examination of such financial statements, books, and records as the accountant may consider necessary and as are available for inspection consistent with any applicable provision of law.

(4) The court may, at any time after ordering distribution of the remainder under paragraph (1)—

(A) hold a hearing and appoint an expert to conduct an examination of such financial statements, books, and records as the expert considers necessary and as are available for inspection consistent with any applicable provision of law, in order to determine whether the person to whom the remainder is distributed has met its fiduciary duties, as specified in paragraph (2); and

(B) impose penalties or revise its distribution order as it considers appropriate, if the court finds that the person to whom the remainder is distributed has not met its fiduciary duties, as specified in paragraph (2).

(5) If a court orders under paragraph (1) that the remainder be distributed to a trust, the court shall designate a qualified financial institution to serve as trustee of the remainder.

(6) As used in this subsection, "person" means any governmental agency, an existing nonprofit organization, a nonprofit organization established for the purpose of receiving and administering the punitive damage award, or a trust; the term does not include any entity whose primary purpose is to assist in or influence the passage or defeat of any legislation by the Congress of the United States or the legislature of any State, or to secure the election or defeat of any candidate for elective office.

(g) If a court assesses punitive damages under this section and an appeal is taken from the assessment, all other claims for punitive damages which are based on the same allegations of reckless disregard shall be stayed pending such appeal, except that, in any case in which the trier of fact has begun to take evidence relevant to liability for punitive damages, any such claim shall only be stayed after the jury has made a determination regarding liability for punitive damages. If no such appeal is made, or upon affirmance of the assessment on appeal, all other claims for punitive damages based on the same allegations of reckless disregard shall be barred. If the assessment is reversed (without remand) upon appeal, the stay of such other claims shall be lifted.

(h) After the trier of fact has begun to take evidence relating to liability for punitive damages under subsection (a)(1), a claim for punitive damages in any proceeding under this section may be compromised, if the court approves that compromise. The court shall not approve a compromise which it finds is not in the public interest or is not commensurate with the damages appropriate to the gravity and nature of the defendant's conduct, as determined under subsection (c). The court shall not approve a compromise if it lacks sufficient evidence to make such a finding. Any such compromise shall have the same effect as an assessment made by the court under this section.

(i) Notwithstanding the provisions of section 18, this section shall apply to all product liability actions in which no jury has been selected or, if the action is to be tried without a jury, in which the court has not begun to take evidence on the effective date of this Act. A payment or adjudication of liability for punitive damages against a manufacturer or product seller before the effective date of this Act shall not bar a proceeding under this section for punitive damages. In making an assessment of punitive damages under this section, the court shall consider, in addition to the factors listed in subsection (c), any amount of punitive damages a manufacturer or product seller, based on the same evidence of reckless disregard, has paid or has been determined to be liable for before the effective date of this Act.

(j) As used in this section, "reckless disregard" means conduct of the manufacturer or product seller manifesting a conscious, flagrant indifference to the safety of those persons who might be harmed by a product and constituting an extreme departure from accepted practice. A negligent choice among alternative product designs or warnings, when made in the ordinary course of business, does not by itself constitute reckless disregard.

(k) In any action in which the alleged harm to the claimant is death and the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant is liable for any such damages regardless of whether a claim is asserted under this section, and the recovery of any such damages shall not bar a claim under this section.

SUBSEQUENT REMEDIAL MEASURES

SEC. . (a) Except as provided in subsection (b), evidence of any measure taken after an event, which if taken previously would have made the event less likely to occur, is not admissible.

(b) This section does not require the exclusion of evidence of a subsequent measure in an action alleging a product was unreasonably dangerous in design or formulation, if offered to impeach a witness for the manufacturer or product seller who has expressly denied the feasibility of such a measure.

STATUTE OF LIMITATIONS

SEC. . Any civil action brought under this Act shall be barred unless the complaint is filed within 2 years of the time the claimant discovered or, in the exercise of reasonable prudence, should have discovered the harm and its cause, except that any such action of a person under legal disability may be commenced within 2 years after the disability ceases. If the commencement of such an action is stayed or enjoined, the running of the statute of limitations under this section shall be suspended for the period of the stay or injunction.

SEPARABILITY CLAUSE

SEC. . If any provision of this Act or the application of it to any person or circumstance is held invalid, the remainder of this Act and the application of the provision to any other person or circumstance shall not be affected by that invalidation.

EFFECTIVE DATE

SEC. . (a) This Act shall be effective 60 days after the date of its enactment, and shall apply to all product liability actions commenced on or after that date, including any action in which the harm or the conduct which caused the harm occurred before the effective date.

(b) If any provision of this Act would shorten the period during which a manufacturer would otherwise be exposed to liability, the claimant may, notwithstanding the otherwise applicable time period, bring any such action within 1 year after the effective date of this Act.

PRODUCT LIABILITY REVIEW PANEL

SEC. . (a) The Judicial Conference of the United States shall establish a Product Liability Review Panel (hereinafter in this

section referred to as the "Panel") to conduct the studies required by this section. The Panel shall consist of three individuals selected on the basis of their expertise regarding civil actions and recovery for loss or damage caused by a product.

(b) The Panel shall conduct a study of the need for Federal legislation providing appropriate and predictable benefits, compensation or damages, through efficient and expeditious means, to any claimant who, through no fault of the claimant, is harmed by a product and who is unable to recover in any civil action based on liability in tort either because—

(1) the manufacturer of the product did not know and could not in the exercise of reasonable prudence have known at the relevant point in time (as defined in section 5(b)(4)) about the danger that caused the harm; or

(2) the product that caused the harm was unreasonably dangerous (as defined in this Act), but the manufacturer could not be identified.

The results of the study required by this section shall be submitted to the Congress within 18 months after the date of enactment of this Act.

(c) The Panel shall conduct a study to determine the feasibility or availability, or both, of providing compensation without regard to fault to claimants for any loss or damage caused by a product. The study shall include an assessment of current legislative or other actions regarding that compensation undertaken by Federal and State governments. The results of the study shall be submitted to the Congress within 2 years after the date of enactment of this Act, and shall contain recommendations for future legislative or other actions to provide compensation without regard to fault to claimants for any loss or damage caused by a product.

(d)(1) The Panel shall conduct an ongoing review of the adequacy of existing common law and statutory remedies in providing recovery for any loss or damage caused by a product.

(2) As part of the review required by this subsection, the Panel shall evaluate—

(A) the nature, adequacy, and availability of remedies and compensation under present law in providing recovery for any loss or damage caused by a product;

(B) the nature and scope of substantive, procedural and evidentiary barriers to that recovery, including statutes of limitation and statutes of repose, and the role of those barriers in the legal system; and

(C) the scope of liability for loss or damage caused by a product under present law and the consequences, including insurability, of any changes in that liability.

(3) The Panel shall submit the results of the review required by this subsection at such times as it considers appropriate, but in no event less often than January 15 of each year in which occurs the first session of a Congress.

(e) A member of the Panel who is not an officer or employee of the Federal Government shall be entitled to receive compensation at a rate not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule pursuant to section 5332 of title 5, United States Code, for each day (including travel-time) during which the member is engaged in the actual performance of the duties of the Panel.

(f) There are authorized to be appropriated for the purposes of this section such sums as may be necessary in fiscal year 1985. Such sums shall remain available until expended.

REVIEWABILITY

SEC. . It is the intent of the Congress that, in other than exceptional cases, the Supreme Court of the United States shall not review issues relating solely to the sufficiency of the evidence in cases arising under this Act which have been finally decided by the highest court of any State.

AMENDMENT No. 5652

At the appropriate place, add the following:

That the Congress finds that the rights of citizens to keep and bear arms under the second amendment to the United States Constitution; their rights to security against illegal and unreasonable searches and seizures under the fourth amendment; their protections against uncompensated taking of property, double jeopardy, and assurance of due process of law under the fifth amendment; and their rights against unconstitutional exercise of authority under the ninth and tenth amendments; require additional legislation to correct existing firearms statutes and enforcement policies. The Congress further finds that additional legislation is required to reaffirm its intent, as expresed in section 101 of title I of the Gun Control Act of 1968, that "it is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens. on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trapshooting, target shooting, personal protection, or any other lawful activity, . . ." or "to discourage or eliminate the private ownership or use of firearms by law-abiding citizens for lawful purposes.".

TITLE I—AMENDMENTS TO TITLE 18, UNITED STATES CODE (18 U.S.C. 921-928)

AMENDMENTS TO SECTION 921

SEC. 101. Section 921 of title 18, United States Code, is amended—

(1) in subsection (a)(10) by deleting the words "manufacture of" and inserting in lieu thereof the words "business of manufacturing";

(2) in subsection (a)(11)(A) by deleting the words "or ammunition";

(3) in subsection (a)(12) by deleting the words "or ammunition";

(4) in subsection (a)(13) by deleting the words "or ammunition";

(5) by amending subsection (a)(20) to read as follows:

"(20) The term 'crime punishable by imprisonment for a term exceeding one year' shall not include (A) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices, or (B) any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less: Provided, however, That what constitutes a conviction shall be determined in accordance with the law of the jurisdiction in which the proceedings were held: *Provided further,* That any conviction which has been expunged, or set aside or for which a person has been pardoned or has had his or her civil rights restored shall not be considered a conviction under the provisions of this Act, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms."; and

(6) in subsection (a) by inserting new paragraphs "(21 and (22) after paragraph (20), to read as follows: "(21) The term 'engaged in the business' means—

"(A) As applied to a manufacturer of firearms, a person who devotes time, atttention, and labor to manufacturing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale of distribution of the firearms manufactured.

"(B) As applied to a manufacturer of ammunition, a person who devotes time, attention, and labor to manufacturing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition manufactured.

"(C) As applied to a dealer in firearms, as defined in section 921(a)(11)(A), a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms. The term shall not include a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or hobby, or who sells all or part of his personal collection of firearms.

"(D) As applied to a dealer in firearms, as defined in section 921(a)(11)(B), a person who devotes time, attention, and labor to engaging in such activity as a regular course of trade or business with the principal objective of livelihood and profit. The term shall not include a person who makes occasional repairs of firearms or who occasionally fits special barrels, stocks, or trigger mechanisms to firearms.

"(E) As applied to an importer of firearms, a person who devotes time, attention, and labor to importing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms imported.

"(F) As applied to an importer of ammunition, a person who devotes time, attention, and labor to importing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition imported.

"(22) The term 'with the principal objective of livelihood and profit' means that the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection.".

AMENDMENTS TO SECTION 922

SEC. 102. Section 922 of title 18, United States Code, is amended—

(1) by amending subsection (a)(1) to read as follows:

"(1) for any person (A) except a licensed importer, licensed manufacturer, or licensed dealer to engage in the business of importing, manufacturing, or dealing in firearms, or in the course of such business to ship, transport, or receive any firearm in interstate or foreign commerce; and (B) except a licensed importer or licensed manufacturer to engage in the business of importing or manufacturing ammunition, or in the course of such business, to ship, transport, or receive any ammunition in interstate or foreign commerce";

(2) in subsection (a)(2)—

(A) by deleting the words "or ammunition"; and

(B) by deleting the words "or licensed dealer for the sole purpose of repair or customizing," and inserting in lieu thereof the words, "licensed dealer, or licensed collector;";

(3) by amending clause (B) of subsection (a)(3) to read as follows: "(B) shall not apply to the transportation or receipt of a firearm obtained in conformity with the provisions of subsection (b)(3) of this section,";

(4) in subsection (b)—

(A) by deleting in paragraph (2) "or ammunition" each place it appears;

(B) by deleting clause (A) in paragraph (3) and inserting in lieu thereof the following: "(A) shall not apply to the sale or delivery of any firearm to a resident of a State other than a state in which the licensee's place of business is located if the sale, delivery and receipt fully comply with the legal conditions of sale in both such States: Provided, however, That any licensed manufacturer, importer or dealer shall be presumed, in the absence of evidence to the contrary, to have had actual knowledge of the State laws and published ordinances of both States,";

(C) by inserting "and" before "(B)" in paragraph (3);

(D) by striking out ", and" in clause (B) of paragraph (3) and inserting in lieu thereof a semicolon;

(E) by repealing clause (C) of paragraph (3); and

(F) by deleting from paragraph (5) "or ammunition except .22 rimfire ammunition";

(5) in subsection (d)—

(A) by deleting "licensed importer, licensed manufacturer, licensed dealer, or licensed collector" the first time they appear and inserting in lieu thereof "person";

(B) by deleting in paragraph (3) the word "or" following the semicolon;

(C) by replacing the period in paragraph (4) with a semicolon; and

(D) by inserting after paragraph (4) the following:

"(5) who, being an alien, is illegally or unlawful in the United States;

"(6) who has been discharged from the Armed Forces under dishonorable conditions or

"(7) who, having been a citizen of the United States, has renounced his citizenship.";

(6) in subsection (g)—

(A) be deleting the words "is under indictment for, or who" in paragraph (1);

(B) by deleting in paragraph (3) the word "or" following the semicolon;

(C) by inserting after paragraph (4) the following:

"(5) who, being an alien, is illegally or unlawfully in the United States;

"(6) who has been discharged from the Armed Forces under dishonorable conditions; or

"(7) who, having been a citizen of the United States, has renounced his citizenship"; and

(D) by deleting the words "to ship or transport any firearm or ammunition in interstate or foreign commerce" and inserting in lieu thereof the words "to ship or transport in interstate; or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition, which has been shipped or transported in interstate or foreign commerce.";

(7) in subsection (h)—

(A) by inserting after the word "any" and before the word "person" the words, "individual who to his knowledge and while being employed by any";

(B) by deleting the words "is under indictment for, or who" in paragraph (1);

(C) by deleting in paragraph (3) the word "or" following the semicolon;

(D) by inserting after paragraph (4) the following:

"(5) who, being an alien, is illegally or unlawful in the United States;

"(6) who has been discharged from the Armed Forces under dishonorable conditions; or

"(7) who having been a citizen of the United States, has renounced his citizenship;"; and

(E) by deleting the words "to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce" and inserting in lieu thereof the words "in the course of such employment to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce,"; and

(8) by inserting after subsection (m) a new subsection to read as follows:

"(n) It shall be unlawful for any person who is under indictment for a crime punishable by imprisonment for a term exceeding one year to ship or transport in interstate or foreign commerce any firearm or ammunition or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.".

AMENDMENTS TO SECTION 923

SEC. 103. Section 923 of title 18, United States Code is amended—

(1)(A) in subsection (a)—

(i) by deleting the words "No person shall engage in business as a firearms or ammunition importer, manufacturer, or dealer until he has filed an application with, and received a license to do so from the Secretary." and inserting in lieu thereof the words "No person shall engage in the business of importing, manufacturing, or dealing in firearms, or importing or manufacturing ammunition, until he has filed an application with and received a license to do so from the Secretary."; and

(ii) by deleting the words "and contain such information", and inserting in lieu thereof the words "and contain only that information necessary to determine eligibility for licensing.";

(B) in subsection (a)(3)(B) by deleting the words "or ammunition for firearms other than destructive devices";

(2) in subsection (b) by striking out "and contain such information", and inserting in lieu thereof "and contain only that information necessary to determine eligibility for licensing";

(3) in subsection (c) by adding at the end thereof the following: "*Provided, however,* That nothing in this chapter shall be construed to prohibit a licensed manufacturer, importer, or dealer from maintaining and disposing of a personal collection of firearms, subject only to such restrictions as apply in this chapter to dispositions by a person other than a licensed manufacturer, importer, or dealer: *Provided further,* That if any firearm is so disposed of by a licensee within one year of its transfer from his business inventory into his personal collection or if such disposition or any acqusition is made for the purpose of willfully evading the restrictions placed upon licensees by this chapter, then such firearm shall be deemed part of his business inventory.";

(4) in subsection (e) by inserting before the word "violated" the word "willfully";

(5) in subsection (f)—

(A) by inserting the words "de novo" before the word "judicial" in paragraph (3);

(B) by adding the words ", whether or not such evidence was considered at the hearing held under paragraph (2)." after the words "to the proceeding" in paragraph (3); and

(C) by inserting at the end thereof the following new paragraph:

"(4) If criminal proceedings are instituted against a licensee alleging violations of this chapter or regulations promulgated thereunder, and the licensee is acquitted of such charges, or such proceedings are terminated other than upon motion of the Government prior to trial upon such charges, the Secretary shall be absolutely barred from denying or revoking any license granted under the provisions of this chapter where such denial or revocation is based in whole or in part on the facts which form the basis of such criminal charges. No proceedings for the revocation of a license shall be instituted by the Secretary more than one year after the filing of the indictment or information.";

(6) by amending subsection (g) to read as follows:

"(g)(1) Each licensed importer, licensed manufacturer, and licensed dealer, shall maintain such records of importation, production, shipment, receipt, sale, or other disposition, of firearms at his place of business for such period, and in such form, as the Secretary may be regulations prescribe. Such importers, manufacturers and dealers shall not be required to submit to the Secretary reports and information with respect to such records and the contents thereof, except as explicity required by the Act entitled 'An Act to protect firearms owners' constitutional rights civil liberties and rights to privacy'. The Secretary, when he has reasonable cause to believe a violation of this law has occurred, and that evidence thereof may be found on such premises may, upon demonstrating such cause before a Federal magistrate, and security from him a warrant authorizing entry, enter during business hours the premises (including places of storage) of any licensed firearms importer, licensed manufacturer, licensed dealer, licensed collector or any licensed importer or manufacturer of ammunition, for the purposes of inspecting or examining (1) any records or documents required to be kept by such licensed importer, licensed manufacturer, licensed dealer, or licensed collector under the provisions of this chapter or regulations issued under this chapter, and (2) any firearms or ammunition kept or stored by such licensed importer, licensed manufacturer, licensed dealer, or licensed collector, at such premises. The Secretary may inspect the inventory and records of a licensed importer, licensed manufacturer, or licensed dealer without such cause or warrant, (A) for a reasonably inquiry during the course of a criminal investigation of a person or persons other than the licensee; or (B) no more than once in any twelve consecutive months, upon reasonable notice, but no criminal charges shall be brought against the licensee based upon such inspection except for willful violations of the record-keeping requirements of this chapter or sales or other dispositions of firearms to prohibited persons; or (C) when such inspections or inquiries may be required for determining the disposition of one or more par-

ticular firearms in the course of a bona fide criminal investigation. The Secretary may inspect the inventory and records of a licensed collector without such reasonable cause or warrant (A) no more than once in any twelve consecutive month period, upon reasonable notice, but no criminal charges shall be brought against such licensee based upon such inspection except for willful violations of the recordkeeping requirements of this chapter or sales or other dispositions of firearms to prohibited persons; or (B) when such inspections or inquiries may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation. At the election of a licensed collector, the annual inspection of records and inventory permitted under this paragraph shall be performed at the office of the Secretary designated for such inspections which is located in closest proximity to the premises where the inventory and records of such licensed collector are maintained. Such procedure shall not be construed as authorizing the Secretary to seize any records or other documents other than those records or documents constituting material evidence of a violation of law. If the Secretary seizes such records or documents, copies shall be provided the licensee within a reasonable time. The Secretary may make available to any Federal, State, or local law enforcement agency any information which he may obtain by reason of the provisions of this chapter with respect to the identification of persons prohibited from purchasing or receiving firearms or ammunition who have purchased or received firearms or ammunition, together with a description of such firearms or ammunition and he may provide information to the extent such information may be contained in the records required to be maintained by the provisions of this chapter, when so requested by any Federal, State, or local law enforcement agency.

"(2) Each licensed collector shall maintain in a bound volume the nature of which the Secretary may by regulations prescribe, records of the receipt, sale, or other disposition, of firearm. Such records shall include the name and addresses of a firearm. Such collector shall not be required to submit of a firearms. Such collector shall not be required to submit to the Secretary reports and information with respect to such records and the contents thereof, except as explicitly required by the Act entitled 'An Act to protect firearms owners' constitutional rights, civil liberties and rights to privacy'.

"(3)(A) Within thirty days of the absolute discontinuance of the business of a licensee, any records maintained by such licensee under this chapter shall be delivered to the joint custody of the Administrator of General Services and the Secretary to be stored in a records center maintained and operated by the Administrator of General Services, unless state law or local ordinance requires delivery to another authority, in which event the Administrator of General Services and the Secretary may arrange for delivery to such authority.

"(B) The Secretary shall have access to records stored under this paragraph solely for the purposes of tracing firearms, organizing and preserving such records, and certifying to facts on the basis of such records in any court or any administrative proceeding of the United States or of any state. The Secretary may remove such records from the record center maintained by the Administrator of General Services only in connection with proceedings in any court or any administrative proceeding of the United States or of any state.

"(C) The Administrator of General Services may promulgate regulations governing the storage, processing and servicing of records stored under this paragraph: *Provided*, That no such regulations may restrict the authority of the Secretary under this paragraph to have access to or to remove such records.

"(D) Notwithstanding any other provision of law, the Administrator of General Services shall dispose of records kept by licensed dealers and licensed collectors, and records relating to the disposition of firearms kept by manufacturers and importers, and stored under this paragraph twenty years after such records are received by the Administrator of General Services and the Secretary.

"(4)(A) Each licensee shall, when required by letter issued by the Secretary, and until notified to the contrary in writing by the Secretary, submit on a form specified by the Secretary, for the periods and at the times specified in such letter, all record information required by this chapter or such lesser record information as the Secretary in his letter may specify.

"(B) The Secretary may authorize the information to be submitted in a manner other than that prescribed in subparagraph (A) of this paragraph when it is shown by a licensee that an alternate method of reporting is reasonably necessary and will not unduly hinder the effective administration of this chapter.

"(C) No warrant shall issue nor shall any criminal charges be brought against the licensee based solely upon information provided pursuant to the provisions of this paragraph.

"(5)(A) Each licensee shall prepare a report of multiple sales or other disposition whenever the licensee sells or otherwise disposes of, at one time or during any five consecutive business days, two or more pistols, or revolvers, or any combination of pistols and revolvers totaling two or more, to an unlicensed person. The report shall be prepared on a form specified by the Secretary and forwarded to the office specified thereon not later than the close of businesss on the day that the multiple sale or other disposition occurs.

"(B) Ten years after receiving any report submitted under subparagraph (A) of this paragraph, the Secretary shall deliver such report to the joint custody of the Administrator of General Services and the Secretary to be stored in a records center maintained and operated by the Administrator of General Services, subject to the provisions of sections 923(g)(3) (B) and (C) of this title. Notwithstanding any other provision of law, the Administrator of General Services shall dispose of records stored under this subparagraph ten years after such records are received by the Administrator of General Services and the Secretary.

"(C) No record, form, or information delivered, submitted, or forwarded pursuant to this paragraph or paragraph (3) or (4) of this subsection may be kept by the Secretary at a centralized location, nor shall it be entered into a computer for storage or retrieval."; and

(7) by amending subsection (j) to read as follows:

"(j) A licensed importer, licensed manufacturer, or licensed dealer may, under regulations prescribed by the Secretary, conduct business temporarily at a location other than the location specified on the license if such other location is in the State which is specified on the license. Records of receipt and disposition of firearms transactions conducted at such temporary location shall include the location of the sale or other disposition and shall be entered in the permanent records of the licensee and retained on the location specified on the license. Nothing in this subsection shall authorize any licensee to conduct business in or from any motorized or towed vehicle. Notwithstanding the provisions of subsection (a) of this section, a separate fee shall not be required of a licensee with respect to business conducted under this subsection. Except for records directly related to receipts, sales, or other dispositions of firearms made at the temporary premises within the period of time the licensed importer, licensed manufacturer, or licensed dealer conducted the business of which such receipts, sales, or other dispositions were a part, nothing in this subsection shall be construed to authorize the Secretary to inspect or examine the inventory or records of a licensed importer, licensed manufacturer, or licensed dealer at any location other than the location specified on the license. Nothing in this subsection shall be construed to diminish in any manner any right to display, sell or otherwise dispose of firearms or ammunition which is in effect prior to the date of enactment of the Act entitled 'An Act to protect firearms owners' constitutional rights, civil liberties and rights to privacy'.".

AMENDMENTS TO SECTION 924

SEC. 104. Section 924 of title 18, United States Code, is amended—

(1) by amending subsection (a) to read as follows: "(a) Whoever—

"(1) knowingly makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under this chapter, or in applying for any license or exemption or relief from disability under the provisions of this chapter;

"(2) knowingly violates subsections (a)(4), (a)(6), (f), (g), (h), (i), (j), or (k) of section 922;

"(3) knowingly imports or brings into the United States or any possession thereof any firearm or ammunition in violation of section 922(l);

"(4) knowingly violates any provision of this section; or

"(5) willfully violates any other provision of this chapter,

shall be fined not more than $5,000 or imprisoned not more than five years, or both, and shall become eligible for parole as the Board of Parole shall determine: *Provided*, That no person shall be prosecuted under this subsection where the conduct of such person involves simple carelessness.".

(2) by amending subsection (c) to read as follows:

"(c)(1) Whoever, during and in relation to any crime of violence, including a crime of violence which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device for which he may be prosecuted in a court of the United States, uses a firearm, or carries a firearm in furtherance of any such crime of violence, shall, in addition to the punishment provided for such crime of violence, be sentenced to imprisonment for a term of five years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to imprisonment for a term of ten years. Notwithstand-

ing any other provision of law, the court shall not place on probation or suspend the (1) in subsection (c)—

(A) by deleting the words "has been convicted of a crime punishable by imprisonment for a term exceeding one year (other than a crime involving the use of a firearm or other weapon or a violation of this chapter or of the National Firearms Act)" and inserting in lieu thereof the words "is prohibited from possessing, shipping, transporting, or receiving firearms or ammunition";

(B) by inserting the word "transportation," after the word "shipment";

(C) by deleting the words "and incurred by reason of such conviction,"; and

(D) by adding after the words "the public interest." the words "Any person whose application for relief from disabilities is denied by the Secretary may file a petition with the United States district court for the district in which he resides for a judicial review of such denial. In a proceeding conducted under this subsection, the scope of judicial review shall be governed by section 706 of title 5, United States Code. The court may in its discretion admit additional evidence where failure to do so would result in a miscarriage of justice."; and words: "*Provided,* That no such rule or regulation promulgated after the effective date of this Act may require that records required to be maintained under this chapter or any portion of the contents of such records, be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or any political subdivision thereof, nor that any system of registration of firearms, firearms owners, or firearms transactions or dispositions be established: *Provided further,* That nothing in this section shall be deemed to expand or restrict the Secretary's authority to inquire into the disposition of one or more firearms pursuant to a criminal investigation."; and

(5) inserting at the end thereof the following:

"(b) The Secretary shall give not less than ninety days public notice, and shall afford interested parties opportunity for hearing, prior to prescribing such rules and regulations.

"(c) The Secretary shall not prescribe regulations that require purchasers of black powder under the exemption provided in section 845(a)(5) of title 18, United States Code, to complete affidavits or forms attesting to that exemption.".

AMENDMENTS TO SECTION 927

SEC. 107. Section 927 of title 18, United States Code, is amended by inserting before the period at the end thereof the following: ": Provided, however, That any provision of any legislation enacted, or of any rule or regulation promulgated, by any State or a political subdivision which prohibits or has the effect of prohibiting the transportation of a firearm or ammunition in interstate commerce through such State, when such firearm is unloaded and not readily accessible, shall be null and void.".

EFFECTIVE DATE

SEC. 108. (1) All amendments (including any repeals) made by this Act shall become effective one hundred and eighty days after the date of enactment of this Act. At that time the Secretary shall publish and provide to all licensees a compilation of the State laws and published ordinances of which licensees are presumed to have knowledge pursuant to chapter 44 of title 18, United States Code, as amended by this Act. All amendments to such State laws and published ordinances as contained in the aforementioned compilation shall be published in the Federal Register, revised annually, and furnished to each person licensed under chapter 44 of title 18, United States Code, as amended by this Act.

(2) The provisions of sections 103(5)(C), 104(2), 105, and 107 of this Act shall applicable to any action, petition, or appellate proceeding pending on the effective date of this Act. In considering any petitions for Presidential pardons submitted by persons convicted of violations of chapter 44 of title 18, United States Code, prior to the effective date of this Act, the Congress recommends that consideration be given to whether the violation would have been punishable under this Act, and to the purposes and findings contained in the preamble thereto.

AMENDMENT NO. 5653

At the appropriate place, add the following:

This amendment may be cited as the "Public School Civil Rights Act of 1983".

SEC. . The Congress finds that—

(1) the assignment of students to public schools on the basis of or with regard to race, color, or national origin by inferior Federal courts—

(A) violates constitutional and legal guarantees the individuals shall not be denied equal protection of the law;

(B) violates constitutional and legal guarantees the individuals shall not be abridged on the basis of race, color, or national origin:

(C) has failed to demonstrate educational benefits commensurate with the disruption caused by such assignment;

(D) has failed to demonstrate social benefits commensurate with the disruption caused by such assignment;

(E) has contributed to a significant deterioration of public schools in the districts subject to such orders regarding assignment by inducing large numbers of families to migrate away from such districts;

(F) has contributed to a significant deterioration of public education by removing the neighborhood school as the focus of such education;

(G) has disrupted the education of countless schoolchildren who must endure lengthy transportation to and from school each day, and, as a result, must often forego participation in extra curricular activities occurring after school;

(H) has eroded community commitment to public school and public education;

(I) interferes with the right of parents to make decisions regarding the education of their children;

(J) disrupts racial harmony by characterizing and classifying students on the basis of race or color and assigning them to schools on such basis;

(K) diverts significant amounts of financial resources away from direct improvement of the quality of education;

(L) usurps the responsibilities and traditional functions of State and local authorities to provide an educational system meeting the distinct needs of the community; and

(M) undermines public respect for the Government and its system of administering law and justice;

(2) past unconstitutional segregation, such as racial segregation enforced by law, is not a significant cause of existing racial imbalances in public schools,

(3) since assignment of students to public schools on the basis of or with regard to race cannot be justified as a means of preventing or undoing racial discrimination by school authorities, such assignment is itself an unjustifiable practice of racial discrimination by the Government in violation of the fourteenth amendment; and

(4) whatever the basic cause of racial imbalance in the public schools, assignment of students to public schools on the basis of or with regard to race, color, or national origin results in more segregation of the races by inducing large numbers of families to migrate away from school systems subject to such assignment or by inducing large number of families to seek alternatives to public school education.

SEC. . (a) The Congress funds the remedies listed in subsection (b) are available for unconstitutional segregation exclusive of court orders which assign students to public schools on the basis of or with regard to race, color, or national origin, finding that such orders themselves have the effect of excluding students from public schools on the basis of or with regard to race, color, or national origin.

(b) The remedies which the Congress finds are available are—

(1) legal injunctions suspending all implementation of a segregative law or other racially discriminatory Government action;

(2) contempt of court proceedings where such injunctions are not scrupulously obeyed;

(3) programs without coercion or numerical quotas or specific goals based on racial balance that permit students to voluntarily transfer to other schools within the school district where they reside; and

(4) other local initatives and plans to improve education for all students without regard to race, color, or national origin.

SEC. . The Congress, pursuant to its authority and powers granted under article III of the Constitution, and under section 5 of the fourteenth amendment to the Constitution, enacts the provisions of this Act in order to protect public school students against discrimination on the basis of or with regard to race, color, or national origin.

SEC. . Section 1343 of title 28, United States Code, is amended by designating the current language as section (a) and adding at the end thereof the following:

"(b)(1) Notwithstanding any other provision of law, no inferior court established by Congress shall have jurisdiction to issue any order requiring the assignment or transportation of any student to public elementary or secondary schools on the basis of or with regard to race, color, or national origin or to issue any order which excludes any student from any public school on the basis of or with regard to race, color, or national origin.

"(2) In the case of court orders entered prior to the date of this Act that require the assignment or transportation of any student to a public elementary or secondary school on the basis of or with regard to race, color, or national origin or which excludes any student from any school on the basis of or with regard to race, color, or national origin, any individual or school board or other school authority subject to such an order shall be entitled to seek relief from such order in any court and unless that court can make conclusive findings based on clear and convincing evidence that—

"(1) the acts that gave rise to the existing court order intentionally and specifically caused, and in the absence of the order would continue intentionally and specifically to cause, students to be assigned to or excluded from public schools on the basis of or

with regard to race, color, or national origin; for purposes of this finding, these 'acts that gave rise to the existing court order and intentionally and specifically caused, and in the absence of the order would continue intentionally and specifically to cause, students to be assigned to or excluded from public schools on the basis of race, color, or national origin' (including but not limited to school district reorgainization, school boundary line change, school construction, and school closings) shall not include legitimate efforts to employ public education resources to meet public education needs without regard to race, creed, or national origin,

"(2) the totality of circumstances have not changed since issuance of the order to warrant reconsideration of the order,

"(3) no other remedy, including those mentioned herein, would preclude the intentional and specific segregation,

"(4) the economic, social, and educational benefits of the order have clearly outweighed the economic, social, and educational costs of the order, and

"(5) either (a) the total actual daily time consumed in travel by schoolbus for any student does not exceed thirty minutes unless such transportation is to and from a public school closest to the student's residence with a grade level identical to that of the student; or

"(b) the total actual round trip distance traveled by schoolbus for any student does not exceed 10 miles unless the actual round trip distance traveled by schoolbus is to and from the public school closest to the student's residence with a grade level indentical to that of the student, then such plaintiffs shall be entitled to relief which is consistent with the provisions of this subsection and the Public School Civil Rights Act of 1981 from such order.".

SEC. . Chapter 89 of title 28 of the United States Code (relating to district courts' removal of cases from State courts) is amended by adding after section 1455(c) the following new subsection:

"(d) A civil action in any State court seeking a judgment for any relief described in this Act may not be removed to any district court of the United States.".

AMENDMENT NO. 5654

At the appropriate place, add the following:

That this amendment may be cited as the "Fiscal Responsibilities Act of 1983".

TO DISCOURAGE TAXFLATION BY REQUIRING AN AFFIRMATIVE VOTE OF CONGRESS BEFORE TAX RECEIPTS INCREASE AS A PERCENTAGE OF GROSS NATIONAL PRODUCT

SEC. . (Section 301(a) of the Congressional Budget Act of 1974 (31 U.S.C 1322) is amended by renumbering paragraphs (6) and (7) as (7) and (8) respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) an estimate of the gross national product at the close of such fiscal year and of the fiscal year in progress;".

(b) Such Act is amended by inserting after section 301 the following new section:

"INCREASES IN REVENUES AS A PERCENTAGE OF GROSS NATIONAL PRODUCT

"SEC. 301A. If, immediately prior to the final vote on the adopton of any concurrent resolution on the budget for any fiscal year (or the conference report thereon) in either the House of Representatives or the Senate, the percentage which the recommended level of Federal revenues for such fiscal year is of the estimated gross national product at the close of such fiscal year exceeds the percentage which the estimated level of Federal revenues for the fiscal year in progress is of the estimated gross national product at the close of the fiscal year in progress, then a separate vote shall be taken on agreeing to the recommended level of Federal revenues for such fiscal year. In the case of a concurrent resolution on the budget for a fiscal year after such fiscal year has begun, the level of Federal revenues for the preceding fiscal year shall be substituted for the estimated level of Federal revenues for the fiscal year in progress, and the gross national product at the close of the preceding fiscal year shall be substituted for the estimated gross national product at the close of the fiscal year in progress.".

TO REQUIRE APPROVAL BY THREE-FIFTHS OF THE MEMBERS OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF ANY BUDGET WHICH PROVIDES FOR A DEFICIT

SEC. . (a) Section 305(a)(6) of the Congressional Budget Act of 1974 (31 U.S.C. 1326(a)(5)) is amended by inserting before the period at the end of the first sentence the following: ", except that after all amendments to the figures set forth pursuant to paragraph (1) and paragraphs (3) through (6) of section 301(a) have been considered, a vote shall be taken on such figures, but such vote shall not prevent further amendment of such figures as provided by this paragraph".

(b) Section 301(b)(1) of such Act (31 U.S.C. 1326(b)(1)) is amended by adding at the end thereof the following new sentence: "Prior to the consideration of any amendments to the figures set forth pursuant to paragraph (2) of section 301(a), (A) action shall be concluded, except as provided by paragraph (7) of this subsection, on all amendments to the figures set forth pursuant to paragraph (1) and paragraphs (3) through (6) of such section, and (B) a vote shall be taken on the figures as then set forth pursuant to paragraph (1) and paragraphs (3) through (6) of such section, but such vote shall not prevent further amendment of such figures as provided by paragraph (7) of this subsection.".

SEC. . The Congressional Budget Act of 1974 is amended by inserting after section 301A (as added by section 2 of this Act) the following new section:

"THREE-FIFTHS MAJORITY REQUIRED FOR DEFICIT BUDGETS

"SEC. 301B. On the question of adoption of any concurrent resolution on the budget for any fiscal year (or the conference report thereon) in either the House of Representatives or the Senate, if a deficit in the budget is set forth as appropriate, an affirmative vote of three-fifths of the Members present and voting, a quorum being present, shall be required.".

TO REQUIRE THE PRESIDENT TO SUBMIT A BALANCED BUDGET IN WHICH NEITHER EXPENDITURES NOR REVENUES EXCEED 21 PER CENTUM OF THE GROSS NATIONAL PRODUCT

SEC. . The Budget and Accounting Act, 1921 (31 U.S.C. 1 et seq.), is amended by inserting after section 201 the following new section:

"SEC. 201A. (a) If the budget transmitted pursuant to section 201 for any fiscal year sets forth—

"(1) estimated expenditures of the Government during such fiscal year exceeding 21 per centum of the estimated gross national product at the close of such fiscal year; or

"(2) estimated receipts of the Government during such fiscal year exceeding 21 per centum of the estimated gross national product at the close of such fiscal year; or

"(3) estimated expenditures in excess of estimated receipts,

the President shall transmit an alternate budget for that fiscal year in which estimated expenditures and estimated receipts which do not exceed such percentages of the estimated gross national product, and in which estimated receipts exceed estimated expenditures.

"(b) An alternative budget transmitted pursuant to subsection (a) or (b) for any fiscal year shall be transmitted on the same day as the budget transmitted pursuant to section 201 for such fiscal year and shall be in the same form and detail as the budget so transmitted, except that, at the discretion of the President, such alternate budget may omit the detail of matters that are the same as the budget so transmitted.".

AMENDMENT NO. 5655

At the appropriate place, add the following:

SECTION . SHORT TITLE.

This amendment may be cited as the "Educational Opportunity and Equity Act of 1983".

SEC. . CONGRESSIONAL FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that it is the policy of the United States to foster educational opportunity, diversity, and choice for all Americans. Therefore, this Act recognizes that—

(1) pluralism is one of the great strengths of American society, diversity in education is an important contributor to that pluralism, and nonpublic schools play an indispensable role in making that diversity possible;

(2) the existence and availability of alternatives to public education tend to strengthen public education through competition and to improve the educational opportunities of all Americans;

(3) Americans should have equal opportunities to choose between the education offered by public schools and available in private educational systems and should not be compelled because of economic circumstances to accept education provided by government-created and government-operated school systems, and to force such a selection is an unfair and unjust discrimination against persons of lesser means;

(4) increasing numbers of American families are unable to afford nonpublic school tuition in addition to the State and local taxes that go to support public schools, and tax relief for nonpublic school tuition expenses is necessary if American families are to continue to have a meaningful choice between public and private education at the elementary and secondary levels;

(5) tax relief in the form of tuition tax credits is the fairest way to extend a choice in education to a wide range of individuals, tax relief in the form of tuition tax credits creates the least possible danger of interference in the lives of individuals and families consistent with achieving these ends, and tax relief in the form of tuition tax credits achieves these ends with a minimum of complexity so that those for whom the tax

relief is intended will be able to understand and take advantage of it;

(6) the tax revenue loss occasioned by a tuition tax credit for a child would be small compared to the cost to State and local taxpayers of educating the child at a public school; and

(7) equality of educational opportunity is the policy of the United States, and the tax relief afforded by this legislation may not be used to promote racial discrimination.

The Congress finds that this Act will expand opportunities for personal liberty, diversity, and pluralism that constitute important strengths of education in America.

(b) PURPOSE.—The primary purpose of this Act is to enhance equality of educational opportunity, diversity, and choice for Americans.

SEC. . CREDIT FOR TUITION EXPENSES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44H the following new section:

"SEC. 44I. CREDIT FOR TUITION EXPENSES.

"(a) GENERAL RULE.—At the election of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the qualified tuition expenses paid by such individual during the taxable year for any qualified dependent.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT PER QUALIFIED DEPENDENT.—

"(A) IN GENERAL.—The amount of the credit allowable to the taxpayer under subsection (a) with respect to any qualified dependent for any taxable year shall not exceed the applicable amount.

"(B) APPLICABLE AMOUNT.—For purposes of this paragraph, the term 'applicable amount' means the excess, if any, of—

"(i) $300, over

"(ii) 3 percent (6 percent in the case of a married individual who does not file a joint return) of the amount, if any, by which the adjusted gross income of the taxpayer for the taxable year exceeds $40,000 ($20,000 in the case of such married individual).

"(C) TRANSITIONAL RULE.—For taxable years beginning after December 31, 1982, and before January 1, 1985, subparagraph (B) shall be applied—

"(i) in taxable years beginning in 1983, by substituting—

"(I) '$100' for '$300',

"(II) '1 percent' for '3 percent', and

"(III) '2 percent' for '6 percent', and

"(ii) in taxable years beginning in 1984, by substituting—

"(I) '$200' for '$300',

"(II) '2 percent' for '3 percent', and

"(III) '4 percent' for '6 percent'.

"(2) CREDIT NOT TO EXCEED TAX LIABILITY.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than credits allowable by sections 31, 39, and 43.

"(c) CREDIT DENIED FOR AMOUNTS PAID TO RACIALLY DISCRIMINATORY INSTITUTIONS.—

"(1) DECLARATORY JUDGMENT ENTERED.—

"(A) IN GENERAL.—No credit shall be allowed under this section for any amount paid to an educational institution during any taxable year if—

"(i) within the calendar year ending with or within such taxable year or in any preceding calendar year—

"(I) a judgment has been entered by a district court of the United States under section 7409 (regardless of whether such judgment is appealed) declaring that such educational institution follows a racially discriminatory policy, or

"(II) an order by any United States Court of Appeals has been made which, by its terms, requires the district court to enter such a judgment, and

"(ii) no order described in section 7409(f)(2) with respect to such educational institution has been entered which is in effect for the calendar year ending with or within such taxable year.

"(B) REVERSALS OF DECLARATORY JUDGMENTS OR ORDERS.—

"(i) IN GENERAL.—A judgment or order described in subparagraph (A)(i) entered in an action brought with respect to an educational institution shall not be taken into account under subparagraph (A) for any taxable year if, after all appeals in such action have been concluded or the time for filing such appeals has expired, the declaration contained in such judgment, or required to be entered under the terms of such order, that such institution has followed a racially discriminatory policy is negated (other than by reason of an order described in section 7409(f)(2)).

"(ii) WAIVER OF LIMITATIONS.—Notwithstanding section 6511(a) or any other period of limitation or lapse of time, a claim for credit or refund of overpayment of the tax imposed by this chapter which arises by reason of this subparagraph may be filed by any person at any time within the 1-year period beginning on the earlier of—

"(I) the date on which all appeals with respect to the judgment or order described in subparagraph (A)(i) have been concluded, or

"(II) the date on which the time for such appeals has expired.

Sections 6511(b) and 6514 shall not apply to any claim for credit or refund filed under this subparagraph within such 1-year period.

"(C) STAY OF DECLARATORY JUDGMENT.—

"(i) IN GENERAL.—Any judgment or order described in subparagraph (A)(i) shall not be taken into account under subparagraph (A) for any taxable year if such judgment or order is stayed as of the close of such taxable year.

"(ii) REMOVAL OF STAY.—If a stay entered against a judgment or order described in subparagraph (A)(i) is vacated—

"(I) this subparagraph shall not apply with respect to such judgment or order for any taxable year preceding the taxable year in which such stay is vacated, and

"(II) notwithstanding any other provision of this title or of any other law, the statutory period for the assessment of a deficiency attributable to the disallowance of any credit under this section by reason of this clause shall not expire before the date which is 3 years after the close of the calendar year in which such stay is removed.

"(D) WAIVER OF LIMITATIONS IF INSTITUTION CEASES TO DISCRIMINATE.—Notwithstanding section 6511(a) or any other period of limitation or lapse of time, a claim for credit or refund of overpayment of the tax imposed by this chapter which arises by reason of a reversal of any order denying a motion under section 7409(f)(1)(A) may be filed by any person at any time within the 1-year period beginning on the date on which such reversal is made. Sections 6511(B) and 6514 shall not apply to any claim for credit or refund filed under this subparagraph within such 1-year period.

"(2) REQUIRED STATEMENTS.—

"(A) STATEMENTS FURNISHED BY INSTITUTIONS TO THE SECRETARY.—No credit shall be allowed under subsection (a) for amounts paid to any educational institution during the taxable year if such educational institution has not filed with the Secretary (in such manner and form as the Secretary shall by regulation prescribe) within 30 days after the close of the calendar year ending with or within such taxable year a verified statement which—

"(i) declares that such institution has not followed a racially discriminatory policy during such calendar year;

"(ii) indicates whether—

"(I) a declaratory judgment or order described in paragraph (1)(A)(i) has been entered against such institution in an action brought under section 7409;

"(II) a stay against such judgment or order is in effect; and

"(III) an order described in section 7409(f)(2) is in effect; and

"(iii) attests that such institution has complied with the requirements of subsection (d)(3)(D) during such calendar year.

"(B) STATEMENTS FURNISHED TO TAXPAYERS.—Except as otherwise provided by regulations, within 30 days after the close of the calendar year to which the statement described in subparagraph (A) relates, the educational institution shall furnish a copy of such statement to all persons who paid tuition expenses to the institution in the calendar year to which such statement relates.

"(C) STATEMENTS FURNISHED BY TAXPAYERS TO THE SECRETARY.—No credit shall be allowed to a taxpayer under subsection (a) for amounts paid to an educational institution during the taxable year if the taxpayer does not attach to the return on which the taxpayer claims the credit the statement described in subparagraph (A) which is furnished by such institution for the calendar year ending with or within such taxable year of the taxpayer.

"(3) ENFORCEMENT RESPONSIBILITY.—The Attorney General shall have exclusive authority under this subsection to investigate and to determine whether an educational institution is following a racially discriminatory policy.

"(4) RACIALLY DISCRIMINATORY POLICY.—For purposes of this subsection—

"(A) IN GENERAL.—An educational institution follows a racially discriminatory policy if such institution refuses, on the basis of race, to—

"(i) admit applicants as students;

"(ii) admit students to the rights, privileges, programs, and activities generally made available to students by the educational institution; or

"(iii) allow students to participate in its scholarship, loan, athletic, or other programs.

"(B) QUOTAS, ETC.—The term 'racially discriminatory policy' shall not include failure of any educational institution to pursue or achieve any racial quota, proportion, or representation in the student body.

"(C) RACE.—The term 'race' shall include color or national origin.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED TUITION EXPENSES.—The term 'qualified tuition expenses' means the excess of—

"(A) the amount of tuition expenses paid by the taxpayer during the taxable year to any eligible educational institution for any qualified dependent of such taxpayer, over

"(B) any scholarship or financial assistance paid during such taxable year to such qualified dependent or to the taxpayer with respect to such qualified dependent.

"(2) QUALIFIED DEPENDENT.—The term 'qualified dependent' means any individual—

"(A) who is a dependent of the taxpayer (other than an individual described in paragraph (4), (5), (7), or (8) of section 152(a)),

"(B) who has not attained 20 years of age at the close of the taxable year, and

"(C) with respect to whom a deduction under section 151 is allowable to the taxpayer for the taxable year.

"(3) ELIGIBLE EDUCATION INSTITUTION.—The term 'eligible educational institution' means an eductional institution—

"(A) which provides a full-time program of elementary or secondary education;

"(B) which is a privately operated, not-for-profit, day or residential school;

"(C) which is exempt from taxation under section 501(a) as an organization described in section 501(c)(3), including church-operated schools to which subsections (a) and (b) of section 508 do not apply; and

"(D) which includes in any published bylaws, advertisements, admission application forms, and other such published materials, a statement (in such form and manner as the Secretary may by regulations prescribe) that it does not discriminate against student applicants or students on the basis of race.

"(4) TUITION EXPENSES.—

"(A) IN GENERAL.—The term 'tuition expenses' means tuition and fees paid for the full-time enrollment or attendance of a student at an educational institution, including required fees for courses.

"(B) CERTAIN EXPENSES EXCLUDED.—The term 'tuition expenses' does not include any amount paid for—

"(i) books, supplies, and equipment for courses of instruction;

"(ii) meals, lodging, transportation, or personal living expenses;

"(iii) education below the first-grade-level; or

"(iv) education above the twelfth-grade level.

"(5) SCHOLARSHIP OR FINANCIAL ASSISTANCE.—The term 'scholarship or financial assistance' means—

"(A) a scholarship or fellowship grant (within the meaning of section 117(a)(1)) which is not includible in gross income under section 117;

"(B) an educational assistance allowance under chapter 32, 34, or 35 of title 38, United States Code; or

"(C) other financial assistance which—

"(i) is for educational expenses, or attributable to attendance at an educational institution, and

"(ii) is exempt from income taxation by any law of the United States (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)).

"(e) ELECTION.—The election provided under subsection (a) shall be made at such time and in such manner as the Secretary shall by regulations prescribe.".

(b) DISCLOSURE OF INFORMATION TO ATTORNEY GENERAL.—Subsection (h) of section 6103 of such Code (relating to disclosure to certain Federal officers and employees for tax administration purposes) is amended by adding at the end thereof the following new paragraph:

"(7) CERTAIN INVESTIGATIONS AND PROCEEDINGS REGARDING RACIALLY DISCRIMINATORY POLICIES.—Upon the request of the Attorney General or the Secretary's own motion, the Secretary shall disclose any return or return information which is relevant to—

"(A) any investigation conducted by the Attorney General under section 44I(c) with regard to whether an educational institution is following a racially discriminatory policy (within the meaning of section 44I(c)(4)), or

"(B) any proceeding which may be brought under section 7409,

to any officer or employee of the Department of Justice who is directly and personally involved in such investigation or in preparation for such a proceeding.".

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44H the following:

"Sec. 44I. Tuition expenses.".

(2) Section 6504 of such Code (relating to cross references with respect to periods of limitation) is amended by adding at the end thereof the following new paragraph:

"(13) For disallowance of tuition tax credits because of a declaratory judgment that a school follows a racially discriminatory policy, see section 44I(c).".

(3) Section 6096(b) of such Code (defining income tax liability for designation of payments to the Presidential Election Campaign Fund) is amended by striking out all after "allowable under" and inserting in lieu thereof "subpart A of part IV of subchapter A of chapter 1 (other than section 31, 39, or 43)".

SEC. . DECLARATORY JUDGMENT PROCEEDING.

(a) IN GENERAL.—Subchapter A of chapter 76 of the Internal Revenue Code of 1954 (relating to judicial proceedings) is amended by redesignating section 7409 as section 7410 and by inserting after section 7408 the following new section:

"SEC. 7409. DECLARATORY JUDGMENT RELATING TO RACIALLY DISCRIMINATORY POLICIES OF SCHOOLS.

"(a) IN GENERAL.—Upon filing of an appropriate pleading by the Attorney General under subsection (b), the district court of the United States for the district in which an educational institution is located may make a declaration with respect to whether such institution follows a racially discriminatory policy. Any such declaration shall have the force and effect of a final judgment of the district court and shall be reviewable as such.

"(b) FILING OF PLEADING.—

"(1) IN GENERAL.—The Attorney General is authorized and directed to seek a declaratory judgment under subsection (a) against any educational institution upon—

"(A) receipt by the Attorney General within the previous 1-year period of any allegation of discrimination against such institution, and

"(B) a finding by the Attorney General of good cause.

"(2) ALLEGATION OF DISCRIMINATION.—For purposes of this section, the term 'allegation of discrimination' means an allegation made in writing by any person which alleges with specificity that—

"(A) a named educational institution has committed a racially discriminatory act against a named student applicant or student within one year preceding the date on which such allegation is made to the Attorney General, or

"(B) the educational institution made a communication, within one year preceding such date, expressing that the institution follows a racially discriminatory policy.

"(3) NOTICE OF ALLEGATIONS OF DISCRIMINATION.—Upon receipt of any allegation of discrimination made against an educational institution, the Attorney General shall promptly give written notice of such allegation to such institution.

"(4) OPPORTUNITY TO COMMENT.—Before any action may be filed against an educational institution by the Attorney General under subsection (a), the Attorney General shall give the institution a fair opportunity to comment on all allegations made against it and to show that the alleged racially discriminatory policy does not exist or has been abandoned.

"(5) AVAILABILITY OF CERTAIN INFORMATION TO COMPLAINANT.—

"(A) IN GENERAL.—If an allegation of discrimination against an educational institution is made to the Attorney General and the Attorney General—

"(i) declines to bring an action under subsection (a) against such institution, or

"(ii) enters into a settlement agreement with such institution under subsection (d) before such an action is brought,

the Attorney General shall make available to the person who made such allegation the information upon which the Attorney General based the decision not to bring such an action or to enter into such settlement agreement. The Attorney General shall promptly give written notice to such person that such information is available for his inspection.

"(B) PRIVACY LAWS.—Nothing in this paragraph shall be construed to authorize or require the Attorney General to disclose any information if such disclosure would violate any applicable State or Federal law relating to privacy.

"(c) REQUIREMENTS FOR A FINDING OF FOLLOWING A RACIALLY DISCRIMINATORY POLICY.—A district court may declare that an educational institution follows a racially discriminatory policy in an action brought under subsection (a) only if the Attorney General establishes in such action that—

"(1) the institution has, pursuant to such policy, committed a racially discriminatory act against a student applicant or student within the 2 years preceding commencement of such action;

"(2) the institution has, within the 2 years preceding commencement of such action, made a communication expressing that it follows a racially discriminatory policy against student applicants or students; or

"(3) the institution has engaged in a pattern of conduct intended to implement a racially discriminatory policy, and that some act in furtherance of this pattern of conduct was committed within 2 years preceding commencement of such action.

"(d) SETTLEMENTS.—

"(1) IN GENERAL.—Prior to, and in lieu of, filing an action under subsection (a), the Attorney General may, at his discretion, enter into a settlement agreement with the educational institution against which an allegation of discrimination has been made if the Attorney General finds that the institution has been acting in good faith and has abandoned its racially discriminatory policy.

"(2) VIOLATION OF SETTLEMENT AGREEMENT.—If the Attorney General has entered into a settlement agreement with an educational institution under paragraph (1) and the Attorney General finds that such institution is in violation of such agreement, the Attorney General may—

"(A) notwithstanding subsection (b)(1)(A), bring an action under subsection (a) without having received any allegation of discrimination against such institution, or

"(B) bring an action to enforce the terms of such agreement.

"(3) COPY OF SETTLEMENT AGREEMENT TO COMPLAINANT.—The Attorney General shall give a copy of any settlement agreement which is entered into with any educational institution under paragraph (1) to any person from whom the Attorney General has received an allegation of discrimination against such institution.

"(e) RETENTION OF JURISDICTION.—Any district court which makes a declaration under subsection (a) that an educational institution follows a racially discriminatory policy shall retain jurisdiction of such case.

"(f) DISCONTINUANCE OF RACIALLY DISCRIMINATORY POLICY.—

"(1) MOTION.—

"(A) IN GENERAL.—At any time after the date which is 1 year after the date on which a judgment is entered in an action brought under subsection (a) declaring that an educational institution follows a racially discriminatory policy, such institution may file with the district court a motion to modify such judgment to include a declaration that such institution no longer follows a racially discriminatory policy.

"(B) AFFIDAVITS.—Any motion filed under subparagraph (A) shall contain affidavits—

"(i) describing with specificity the ways in which the educational institution has abandoned its previous racially discriminatory policy;

"(ii) describing with specificity the ways in which such institution has taken reasonable steps to communicate its policy of nondiscrimination to students, to faculty, to school administrators, and to the public in the area it serves;

"(iii) averring that such institution has not, during the preceding year—

"(I) committed a racially discriminatory act against a student applicant or student pursuant to a racially discriminatory policy;

"(II) made a communication expressing that it follows a racially discriminatory policy against student applicants or students; or

"(III) engaged in a pattern of conduct intended to implement a racially discriminatory policy, and committed some act in furtherance of this pattern of conduct; and

"(iv) averring that such institution has complied with the requirements of section 44I(d)(3)(D).

"(2) ORDER.—If a motion is made under paragraph (1), the district court shall issue an order modifying the judgment entered in the action to include a declaration that the educational institution no longer follows a racially discriminatory policy unless the Attorney General establishes that—

"(A) any affidavit provided by the institution under paragraph (1)(B) is false;

"(B) the institution has, during the preceding year, committed any act, made any communication, or engaged in any pattern of conduct described in paragraph (1)(B)(iii); or

"(C) the institution has not, in fact, complied with the requirements of clauses (ii) and (iv) of paragraph (1)(B).

"(3) APPEAL OF ORDERS.—Any order of the district court granting or denying a motion made under paragraph (1) shall be reviewable.

"(g) ATTORNEYS' FEES.—If an educational institution prevails in an action under this section, the court may award the institution costs and reasonable attorneys' fees in such action.

"(h) DEFINITIONS.—For purposes of this section—

"(1) RACIALLY DISCRIMINATORY POLICY.—The term 'racially discriminatory policy' has the meaning given to such term by section 44I(c)(4).

"(2) RACIALLY DISCRIMINATORY ACT.—

"(A) IN GENERAL.—An educational institution commits a racially discriminatory act if such institution refuses, on the basis of race, to—

"(i) admit any applicant as a student;

"(ii) admit any student to the rights, privileges, programs, and activities generally made available to students by the educational institution; or

"(iii) allow any student to participate in its scholarship, loan, athletic, or other programs.

"(B) QUOTAS, ETC.—The term 'racially discriminatory act' shall not include the failure of such institution to pursue or achieve any racial quota, proportion, or representation in the student body.

"(C) RACE.—The term 'race' shall include color or national origin.

"(i) REPORT.—Within 90 days of the close of each calendar year, the Attorney General shall submit a report to the Congress concerning the disposition during such calendar year of—

"(1) any allegations of discrimination received by the Attorney General, and

"(2) any actions brought under this section.".

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter A of chapter 76 of such Code (relating to civil actions by the United States) is amended by striking out the item relating to section 7409 and inserting in lieu thereof:

"Sec. 7409. Declaratory judgment relating to racially discriminatory policies of schools.

"Sec. 7410. Cross references.".

(2) Section 2201 of title 28, United States Code (relating to creation of declaratory judgment remedy) is amended by striking out "section 7428" and inserting in lieu thereof "section 7409 or 7428".

SEC. . TAX CREDITS ARE NOT FEDERAL FINANCIAL ASSISTANCE.

Tax credits claimed under section 44I of the Internal Revenue Code of 1954 shall not constitute Federal financial assistance to educational institutions or to the recipients of such credits.

SEC. . EFFECTIVE DATE: SPECIAL RULE.

(a) CERTIFICATION REQUIRED.—The amendments made by this Act shall not take effect until the Attorney General certifies to the Secretary of the Treasury that, pursuant to—

(1) an Act of Congress which has been enacted, or

(2) a final decision of the United States Supreme Court,

the Internal Revenue Code of 1954 prohibits the granting of tax exemption under section 501(a) by reason of section 501(c)(3) to private educational institutions maintaining a racially discriminatory policy or practice as to students.

(b) APPLICATION WHEN CERTIFICATION IS MADE.—

(1) IN GENERAL.—If the certification described in subsection (a) is made to the Secretary of the Treasury—

(A) except as provided in paragraph (2), the amendments made by section 3 shall apply with respect to expenditures made after the date on which such certification is made to the Secretary of the Treasury in taxable years beginning after December 31, 1982, and ending after such date, and

(B) the amendments made by section 4 shall take effect on the date on which such certification is made to the Secretary of the Treasury.

(2) NO APPLICATION BEFORE AUGUST 1, 1983.—In no event shall the amendments made by section 3 apply with respect to expenditures made before August 1, 1983.

(c) ESTIMATED INCOME TAX AND WAGE WITHHOLDING.—

(1) ESTIMATED INCOME TAX.—Any credit allowable to any taxpayer under section 44I of the Internal Revenue Code of 1954 shall not be taken into account under section 6015(d) in determining the estimated tax of such taxpayer for any taxable year beginning before January 1, 1984.

(2) WAGE WITHHOLDING.—Any credit allowable under section 44I of such Code shall not be taken into account in determining the number of withholding exemptions to which any taxpayer is entitled under section 3402 of such Code with respect to remuneration paid before January 1, 1984.

AMENDMENT No. 5656

At the appropriate place, add the following:

That this Amendment may be cited as "The Sex Discrimination in the United States Code Reform Act of 1983".

TITLE I—ARMED FORCES, SOLDIERS' HOME, COAST GUARD, LIGHTHOUSE SERVICE, AND MERCHANT MARINE

PART A—AMENDMENTS RELATING TO THE ARMED FORCES AND THE SOLDIERS' HOME

AMENDMENTS TO TITLE 10, UNITED STATES CODE, RELATING TO THE UNIFORM CODE OF MILITARY JUSTICE

SEC. . Section 920 of title 10, United States Code, is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) Any person subject to this chapter who commits an act of sexual intercourse with another person not his or her spouse, by force and without the consent of such other person, is guilty of rape and shall be punished by death or such other punishment as a court-martial may direct.

"(b) Any person subject to this chapter who, under circumstances not amounting to rape, commits an act of sexual intercourse with another person not his or her spouse who has not attained the age of sixteen years, is guilty of carnal knowledge and shall be punished as a court-martial may direct.".

AMENDMENTS TO TITLE 10, UNITED STATES CODE, RELATING TO THE ARMY

SEC. . (a) Section 3683 of title 10, United States Code, is repealed.

(b) Section 3963 of such title is repealed.

(c) Section 4309(b) of such title is amended by striking out "males" and inserting in lieu thereof "persons".

(d) Section 4651 of such title is amended to read as follows:

"§ 4651. Arms, tentage, and equipment: educational institutions not maintaining units of R.O.T.C.

"Under such conditions as the Secretary of the Army may prescribe, such Secretary may issue arms, tentage, and equipment that such Secretary considers necessary for proper military training, to any educational institution at which no unit of the Reserve

Officers' Training Corps is maintained, but which has a course in military training prescribed by such Secretary and which has at least one hundred physically fit students over fourteen years of age.".

(e) Section 4712(d) of such title is amended by striking out clauses (1) through (9) and inserting in lieu thereof the following:

"(1) The surviving spouse or legal representative.

"(2) A child of the deceased.

"(3) A parent of the deceased.

"(4) A brother or sister of the deceased.

"(5) The next of kin of the deceased.

"(6) A beneficiary named in the will of the deceased to receive the property.".

(f) Section 4713(a)(2) of such title is amended by striking out subclauses (A) through (I) and inserting in lieu thereof the following:

"(A) The surviving spouse or legal representative.

"(B) A child of the deceased.

"(C) A parent of the deceased.

"(D) A brother or sister of the deceased.

"(E) The next of kin of the deceased.

"(F) A beneficiary named in the will of the deceased to receive the property.".

AMENDMENTS TO TITLE 10, UNITED STATES CODE, RELATING TO THE NAVY

SEC. . (a) Section 7601 of title 10, United States Code, is amended—

(1) in subsection (a) by striking out "widows" and inserting in lieu thereof "surviving spouses"; and

(2) in the first sentence of subsection (b)—

(A) by striking out "him" and inserting in lieu thereof "the Secretary"; and

(B) by striking out "he" each place it appears and inserting in lieu thereof in each such place "the Secretary".

(b) Section 6964(e) of title 10, United States Code, is amended by striking out "men" and inserting in lieu thereof "persons".

AMENDMENTS TO TITLE 10, UNITED STATES CODE, RELATING TO THE AIR FORCE

SEC. . (a) section 8683 of title 10, United states Code, is repealed.

(b) Section 8963 of such title is repealed.

(c) Section 9651 of such title is amended to read as follows:

"§ 9651. Arms, tentage, and equipment: educational institutions not maintaining units of A.F.R.O.T.C.

"Under such conditions as the Secretary of the Air Force may prescribe, such Secretary may issue arms, tentage, and equipment that such Secretary considers necessary for proper military training, to any educational institution at which no unit of the Air Force Reserve Officers' Training Corps is maintained, but which has a course in military training prescribed by such Secretary and which has at least 100 physically fit students over 14 years of age.".

(d) Section 9712(d) of such title is amended by striking out clauses (1) through (9), and inserting in lieu thereof the following:

"(1) The surviving spouse or legal representative.

"(2) A child of the deceased.

"(3) A parent of the deceased.

"(4) A brother or sister of the deceased.

"(5) The next of kin of the deceased.

"(6) A beneficiary named in the will of the deceased to receive the property.".

(e) Section 9713(a)(2) of such title is amended by striking out subclauses (A) through (I) and inserting in lieu thereof the following:

"(A) The surviving spouse or legal representative.

"(B) A child of the deceased.

"(C) A parent of the deceased.

"(D) A brother or sister of the deceased.

"(E) The next of kin of the deceased.

"(F) A beneficiary named in the will of the deceased to receive the property.".

REPEAL OF AUTHORITY TO MAKE TEMPORARY APPOINTMENTS AS OFFICERS IN THE ARMY

SEC. . The act entitled "An Act to authorize temporary appointment as officers in the army of the United States of members of the Army Nurse Corps, female persons having the necessary qualifications for appointment in such corps, female dietetic and physical-therapy personnel of the Medical Department of the Army (exclusive of students and apprentices), and female persons having the necessary qualifications for appointment in such department as female dietetic or physical-therapy personnel, and for other purposes.", approved June 22, 1944 (58 Stat. 324; 50 U.S.C. App. 1591 et seq.) is repealed.

AMENDMENTS RELATING TO ALLOTMENT OF PENSIONS OF INMATES OF THE SOLDIERS' HOME

SEC. . Section 4 of the Act entitled "An Act prescribing regulations for the Soldiers' Home located at Washington, in the District of Columbia, and for other purposes.", approved March 3, 1883 (22 Stat. 564; 24 U.S.C. 52) is amended—

(1) in the first sentence—

(A) by striking out "wife" each place it appears and inserting in lieu thereof in each such place "spouse"; and

(B) by striking out "his" and inserting in lieu thereof "the inmate's";

(2) in the third sentence—

(A) by striking out "him" each place it appears and inserting in lieu thereof in each such place "the pensioner"; and

(B) by striking out "his";

(3) in the fourth sentence

(A) by striking out "his" each place it appears and inserting in lieu thereof in each such place "the inmate's"; and

(B) by striking out "he" and inserting in lieu thereof "the pensioner"; and

(4) in the fifth sentence—

(A) by striking out "him" and inserting in lieu thereof "the pensioner"; and

(B) by striking out "his" and inserting in lieu thereof "the pensioner's".

TECHNICAL AMENDMENTS

SEC. . (a) The table of sections at the beginning of chapter 353 of title 10, United States Code, is amended by striking out the item relating to section 3683.

(b) The table of sections at the beginning of chapter 369 of such title is amended by striking out the item relating to section 3963.

(c) The table of sections at the beginning of chapter 853 of such title is amended by striking out the item relating to section 8683.

(d) The table of sections at the beginning of chapter 869 of such title is amended by striking out the item relating to section 8963.

SAVING PROVISIONS

SEC. . (a) The repeal made by section 102(a) shall not apply in the case of any person who performed active service described in section 3683 of title 10, United States Code, as such section was in effect on the day before the effective date of such repeal.

(b) The repeal made by section 102(b) shall not apply in the case of any member of the Regular Army described in section 3963 of title 10, United States Code, as such section was in effect on the day before the effective date of such repeal.

(c) The repeal made by section 104(a) shall not apply in the case of any person who performed active service described in section 8683 of title 10, United States Code, as such section was in effect on the day before the effective date of such repeal.

(d) The repeal made by section 104(b) shall not apply in the case of any Air Force nurse or medical specialists described in section 8963 of title 10, United States Code, as such section was in effect on the day before the effective date of such repeal.

(e) The repeal made by section 105 shall not apply in the case of any officer in the Army appointed and assigned under the first section of the Act referred before the date of enactment of this Act.

PART B— AMENDMENTS RELATING TO THE COAST GUARD, THE LIGHTHOUSE SERVICE, AND THE CREW OF THE MERCHANT MARINE

AMENDMENTS RELATING TO THE COAST GUARD

SEC. . (a) Section 371 of title 14, United States Code, is amended—

(1) in the second sentence of subsection (a) by striking out "male" each place it appears; and

(2) in subsection (c)(1)—

(A) by striking out "he agrees in writing that upon his" and inserting in lieu thereof "the person agrees in writing that upon"; and

(B) by striking out "he will" and inserting in lieu thereof "the person will"; and

(3) in subsection (c)(2) by striking out "he has the consent of his parent or guardian to his agreement" and inserting in lieu thereof "the person has the consent of the person's parent or guardian to the agreement".

(b) The first sentence of section 487 of such title is amended—

(1) by striking out "men" each place it appears and inserting in lieu thereof in each such place "members"; and

(2) by striking out "widows" and inserting in lieu thereof "surviving spouses".

(c) Section 41 of title 14, United States Code, is amended by striking out "men" each place it appears and inserting in lieu thereof "members".

(d) Section 192 of title 14, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".

(e) Section 351(a) of title 14, United States Code, is amended by striking out "men" and inserting in lieu thereof "members".

(f) Section 353 of title 14, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".

(g) Section 354 of title 14, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".

(h) Section 355 of title 14, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".

(i) Section 357 of title 14, United States Code, is amended—

(1) by striking out "men" each place it appears and inserting in lieu thereof "members"; and

(2) by striking out "man" each place it appears and inserting in lieu thereof "member".

(j) Section 359 of title 14, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".

(k) Section 360 of title 14, United States Code, is amended by striking out "man" each place it appears and inserting in lieu thereof "member".

(l) Section 361 of title 14, United States Code, is amended by striking out "man"

each place it appears and inserting in lieu thereof "member".

(m) Section 362 of title 14, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".

(n) Section 365 of title 14, United States Code, is amended by striking out "man" each place it appears and inserting in lieu thereof "member".

(o) Section 366 of title 14, United States Code, is amended by striking out "man" each place it appears and inserting in lieu thereof "member".

(p) Section 367 of title 14, United States Code, is amended—

(1) in the first sentence, by striking out "man" and inserting in lieu thereof "member"; and

(2) in the third sentence, by striking out "men" and inserting in lieu thereof "members".

(q) Section 370 of title 14, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".

(r) Section 421(a) of title 14, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".

(s) Section 424 of title 14, United States Code, is amended by striking out "man" each place it appears and inserting in lieu thereof "member".

(t) Section 483 of title 14, United States Code, is amended by striking out "man" each place it appears and inserting in lieu thereof "member".

(u) Section 487 of title 14, United States Code, including the section heading, is amended by striking out "men" each place it appears and inserting in lieu thereof "members".

AMENDMENTS RELATING TO THE LIGHTHOUSE SERVICE

SEC. . (a) The first section of the Act entitled "An Act to provide benefits for the widows of certain persons who were retired or are eligible for retirement under section 6 of the Act entitled 'An Act to authorize aids to navigation and for other works in the Lighthouse Service, and for other purposes', approved June 20, 1918, as amended.", approved August 19, 1950 (64 Stat. 465; 33 U.S.C. 771), is amended—

(1) by striking out "he" in clause (1) and inserting in lieu thereof "that employee"; and

(2) by striking out clause (2) and inserting in lieu thereof the following:

"(2) the surviving spouse of such former employee was married to such former employee prior to the retirement of such former employee from the Lighthouse Service and has not remarried—"; and

(3) by striking out "widow, so long as she" in the flush material after clause (2) and inserting in lieu thereof "surviving spouse, so long as such surviving spouse".

(b) Section 2 of such Act (64 Stat. 466; 33 U.S.C. 772) is amended—

(1) by striking out clause (2) and inserting in lieu thereof the following:

"(2) the surviving spouse of such employee has not since remarried,"; and

(2) by striking out "widow, so long as she" in the flush material after clause (2) and inserting in lieu thereof "surviving spouse, so long as such surviving spouse".

AMENDMENTS RELATING TO THE CREW OF THE MERCHANT MARINE

SEC. 111. (a) Section 4509 of the Revised Statutes (46 U.S.C. 561) is amended—

(1) in the first sentence—

(A) by striking out "boys" and inserting in lieu thereof "youths";

(B) by striking out "his power" and inserting in lieu thereof "the power of such official";

(C) by striking out "boy" each place it appears and inserting in lieu thereof in each such place "youth"; and

(D) by striking out "he has attained" and inserting in lieu thereof "the youth has attained"; and

(2) in the third sentence by striking out "him" and inserting in lieu thereof "such official".

(b) Section 10(b)(1) of the Act entitled "An Act to remove certain burdens on the American merchant marine and encourage the American foreign carrying trade and for other purposes", approved June 26, 1884 (23 Stat. 55; 46 U.S.C. 599(b)), is amended by—

(1) striking out "wages he may earn" and inserting in lieu thereof "wages he or she may earn";

(2) striking out "wife, sister" and inserting in lieu thereof "spouse, sibling"; and

(3) striking out "opened by him and maintained in his name" and inserting in lieu thereof "opened by him or her and maintained in his or her name".

(c) Section 10(c) of such Act (23 Stat. 55; 46 U.S.C. 599(c)) is amended by striking out "during his absence" and inserting in lieu thereof "during his or her absence".

(d) Chapter 231 of the Act of March 3, 1911 (36 Stat. 1167; 46 U.S.C. 627) is amended by—

(1) striking out "part of his effects" and inserting in lieu thereof "part of his or her effects";

(2) striking out "his money and effects" and inserting in lieu thereof "his or her money and effects";

(3) striking out "his widow or children" and inserting in lieu thereof "the surviving spouse or children of such person"; and

(4) striking out "his will" and inserting in lieu thereof "his or her will.".

AMENDMENTS RELATING TO THE ARMED FORCES

SEC. . (a) Section 311(a) of title 10, United States Code, is amended—

(1) by striking out "males" and inserting in lieu thereof "persons"; and

(2) by striking out "and of female citizens of the United States who are commissioned officers of the National Guard" and inserting in lieu thereof a period.

(b) Section 772(c) of title 10, United States Code, is amended—

(1) by inserting "or her," after "his" in the first sentence; and

(2) striking out the second sentence.

(c) Section 1431(b)(3) of title 10, United States Code, is amended by striking out "widow" and inserting in lieu thereof "surviving spouse".

(d) Section 1451(a)(2) of title 10, United States Code, is amended—

(1) by adding "or widower" after "widow" each place it appears; and

(2) by inserting "or father's" after "mother's".

(e) Section 4313(a) of title 10, United States Code, is amended by striking out "man" and inserting in lieu thereof "competitor".

(f) Section 6160(a) of title 10, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".

(g) The Act entitled "An Act to authorize the burial in national cemeteries of the remains of certain commissioned officers of the Public Health Service," approved April 30, 1956 (70 Stat. 124; 42 U.S.C. 213, note) is amended by striking out "wife, widow" wherever it appears and inserting in lieu thereof "spouse, surviving spouse".

(h) Section 551(1)(A) of title 37, United States Code, is amended by striking out "wife" and inserting in lieu thereof "spouse".

(i) Section 3402(c) of title 38, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".

(j) Section 300 of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 530) is amended—

(1) in subsection (1) by striking out "wife" and inserting in lieu thereof "spouse";

(2) in subsection (4) by inserting "or she" after "he"; and

(3) in subsection (4) by striking out "wife" and inserting in lieu thereof "spouse".

TITLE II—ELIMINATION OF GENDER-BASED DISTINCTIONS UNDER THE SOCIAL SECURITY ACT AND THE RAILROAD RETIREMENT ACT

SOCIAL SECURITY ACT PROVISIONS

SEC. . (a) Section 213(a) of the Social Security Act (42 U.S.C. 413a(2)(B)) is amended by striking out "(if a woman) or age 65 (if a man)".

(b) Section 215(f)(5) of such Act (42 U.S.C. 415(f)(5)) is amended by striking out "a man" and inserting in lieu thereof "an individual".

(c) Section 402(a)(19)(G)(iv) of such Act (42 U.S.C. 602(a)(19)(G)(iv)) is amended by striking out "mother" and inserting in lieu thereof "parent", and by striking out "she".

(d) Section 1107(b) of such Act (42 U.S.C. 1307(b)) is amended by striking out "former wife divorced" each place it appears and inserting in lieu thereof in each instance "divorced spouse".

(e) The amendments made by this section shall apply on and after the date of the enactment of this Act, and in the case of monthly benefits under title II of the Social Security Act shall only apply to benefits payable for months beginning on or after such date of enactment.

RAILROAD RETIREMENT

SEC. . (a) Section 2(c) of the Railroad Retirement Act of 1974 (45 U.S.C. 213a) is amended—

(1) in subdivision (1)(ii)(C) (45 U.S.C. 231a(c)(1)(ii)(C)), by striking out ", in the case of a wife, has in her care (individually or jointly with her husband)" and inserting in lieu thereof "has in his or her care (individually or jointly with his or her spouse)";

(2) in subdivision (2) (45 U.S.C. 231a(c)(2)), by inserting "or divorced husband" after "divorced wife" each place it appears;

(3) in subdivision (3) (45 U.S.C. 231a(c)(3))—

(A) by striking out "who (i)" and inserting in lieu thereof "who", and

(B) by striking out "and (ii)" and all that follows and inserting in lieu thereof a period; and

(4) by amending subdividion (4) (45 U.S.C. 231a(c)(4) to read as follows:

"(4) The divorced wife (as defined in section 216(d) of the Social Security Act) or divorced husband (as defined in such section) of an individual, if—

"(i) such individual (A) is entitled to an annuity under subsection (a)(1) of this section, and (B) has attained age 62;

"(ii) such divorced wife or divorced husband (A) has attained age 65, and (B) is not married; and

"(iii) such divorced wife or divorced husband would have been entitled to a benefit under section 202(b) or 202(c) of the Social Security Act as the divorced wife or divorced husband of such individual if all of such individual's service as an employee after December 31, 1936, had been included in the term 'employment' as defined in such Act,

shall, subject to the conditions set forth in subsection (e), (f), and (h) of this section, be entitled to a divorced wife's or divorced husband's annuity, if she or he has filed an application therefor, in the amount provided under section 4 of this Act.".

(b) Section 2(d) (45 U.S.C. 231a(d)) of such Act is amended—

(1) in subdivision (1)(i) (45 U.S.C. 231a(d)(1)(i)), by striking out "and who, in the case of a widower" and all that follows and inserting in lieu thereof a semicolon;

(2) in subdivision (1)(ii) (45 U.S.C. 231a(d)(1)(ii)), by inserting "or widower (as defined in section 216 (g) and (k) of the Social Security Act)" after "a widow (as defined in section 216 (c) and (k) of the Social Security Act)", and by striking out "her care" and inserting in lieu thereof "her or his care";

(3) by amending subdivision (1)(v) (45 U.S.C. 231a(d)(1)(v)) to read as follows:

"(v) the widow (as defined in section 216(c) of the Social Security Act), who is married, or has been married after the death of the employee, the widower (as defined in section 216(g) of the Social Security Act) who is married, or has been married after the death of the employee, the surviving divorced wife (as defined in section 216(d) of the Social Security Act), the surviving divorced husband (as defined in section 216(d) of the Social Security Act), the surviving divorced mother (as defined in section 216(d) of the Social Security Act), and the surviving divorced father (as defined in section 216(d) of the Social Security Act) if such widow, widower, surviving divorced wife, surviving divorced husband, surviving divorced mother, or surviving divorced father would have been entitled to a benefit under section 202(e), 202(f), or 202(g) of the Social Security Act as the widow, widower, surviving divorced wife, surviving divorced husband, surviving divorced mother, or surviving divorced father of the employee if all of the employee's service as an employee after December 31, 1936, had been included in the term 'employment' as defined in that Act. For the purpose of this paragraph—

"(A) the references in section 202(e)(3) and 202(g)(3) of the Social Security Act to an individual entitled under section 202(f) of that Act shall include an individual entitled to an annuity under paragraph (i) of this subdivision and an individual entitled to an annuity under paragraph (ii) of this subdivision,

"(B) the reference in section 202(f)(4) of the Social Security Act to an individual entitled under section 202(b) of that Act shall include an individual entitled to an annuity under subsection (c) of this section,

"(C) the reference in section 202(f)(4) of the Social Security Act to an individual entitled under section 202(e) or (g) of that Act shall include an individual entitled to an annuity under paragraph (i) of this subdivision and an individual entitled to an annuity under paragraph (ii) of this subdivision,

"(D) the reference in section 202(f)(4) of the Social Security Act to an individual entitled under section 202(h) of that Act shall include an individual entitled to an annuity under paragraph (iv) of this subdivision,

"(E) the reference in section 202(f)(4) of the Social Security Act to an individual entitled under section 202(d) of that Act shall include an individual entitled to an annuity under paragraph (iii) of this subdivision,

"(F) the reference in section 202(e)(3) and section 202(g)(3) of the Social Security Act to an individual entitled under section 202(d) or section 202(h) of that Act shall include an individual entitled to an annuity under paragraph (iii) or paragraph (iv) of this subdivision, and

"(G) the references in section 202(g)(3) and section 223(a) of that Act shall include an individual entitled to an annuity under subsection (a)(1) of this section."; and

(4) by amending subdivision (2)(B) (45 U.S.C. 231a(d)(2)(B)) to read as follows: "the last month for which the widow or widower was entitled to an annuity under paragraph (2) of subdivision (1) as the widow or widower of the deceased employee, or".

(c) Section 2(e)(5) (45 U.S.C. 231a(e)(5)) of such Act is amended by inserting "or divorced husband" after "divorced wife" each place it appears.

(d) Section 2(f)(2) (45 U.S.C. 231a(f)(2)) of such Act is amended by inserting "or divorced husband's" after "divorced wife's" each place it appears.

(e) Section 2(h) (45 U.S.C. 231a(h)) of such Act is amended by inserting "or divorced husband" after "divorced wife" each place it appears.

(f) Section 4(a)(1) (45 U.S.C. 231c(a)(1)) of such Act is amended by inserting "or divorced husband" after "divorced wife" each place it appears.

(g) Section 4(f)(2)(iii) (45 U.S.C. 231c(f)(2)(iii)) of such Act is amended to read as follows:

"(iii) the provisions of paragraphs (i) and (ii) of this subdivision shall not apply to the annuity of a widow, widower, surviving divorced wife, surviving divorced husband, surviving divorced mother, or surviving divorced father, who is entitled to such annuity on the basis of the provisions of section 2(d)(1)(v) of this Act.".

(h) Section 4(g)(5) (45 U.S.C. 231c(g)(5)) of such Act is amended to read as follows:

"(5) This subsection shall not apply to the annuity of a widow, widower, surviving divorced wife, surviving divorced husband, surviving divorced mother, or surviving divorced father, who is entitled to such annuity on the basis of the provisions of section 2(d)(1)(v) of this Act.".

"(i) Section 4(h)(2) (45 U.S.C. 231c(h)(2)) of such Act is amended by striking out the first sentence thereof and inserting in lieu thereof the following: Subsection (1) of this subsection shall not apply to the annuity of a widow, widower, surviving divorced wife, surviving divorced husband, surviving divorced mother, or surviving divorced father, who is entitled to such annuity on the basis of the provisions of section 2(d)(1)(v) of this Act.".

(j) Section 4(i) (45 U.S.C. 231c(i)(1)) of such Act is amended by inserting "or divorced husband" after "divorced wife" each place it appears.

(k) Section 5(c)(3) (45 U.S.C. 231d(c)(3)) of such Act is amended—

(1) by inserting"or husband" after "wife" each place it appears in the first sentence thereof:

(2) by striking out "her care" and inserting in lieu thereof "her or his care"; and

(3) by inserting "or divorced husband" after "divorced wife" each place it appears in the second sentence thereof.

(l) Section 5(c)(6) (45 U.S.C. 231d(c)(6)) of such Act is amended—

(1) by inserting "or widower" after "widow";

(2) by inserting "or he" after "she" each place it appears; and

(3) by striking out "her care" and inserting in lieu thereof "her or his care".

(m) Section 6(a)(3) (45 U.S.C. 231e(a)(3)) of such Act is amended by inserting "or divorced husband" after "divorced wife" and by inserting "or divorced husband's " after "divorced wife's".

(n) Section 6(b)(2) (45 U.S.C. 231e(b)(2)) of such Act is amended by inserting "surviving divorced husband" after "widower," the first place it appears.

(o) Section 6(c)(2) (45 U.S.C. 231e(c)(2)) of such Act is amended by inserting "or divorced husband" after "divorced wife".

(p) Section 7(b)(2)(B) (45 U.S.C. 231f(b)(2)(B)) of such Act is amended by inserting "or divorced husband" after "husband".

(q) Section 7(b)(2)(i)(B) (45 U.S.C. 231f(d)(2)(i)(B)) of such Act is amended by inserting "or divorced husband" after "divorced wife".

(r) The amendments made by this section shall be effective with respect to annuities payable for months after December 1983.

WORK INCENTIVE PROGRAM

SEC. . (a) Section 433(a) of the Social Security Act (42 U.S.C. 633(a)) is amended by striking out all after the colon in the last sentence thereof and inserting in lieu thereof the following : "first, unemployed parents; second, dependent children and relatives who have attained age 16 and who are not in school or engaged in work or manpower training; and third, all other indivduals so certified.".

(a) The amendment made by this section shall become effective on the date of the enactment of this Act.

TITLE III—AMENDMENTS TO UNITED STATES CODE

TITLE 5

SEC. . (a) Section 2108(3) of title 5, United States Code, is amended by striking out subparagraphs (F) and (G) and inserting in lieu thereof the following:

"(F) any parent of an individual who lost his or her life under honorable conditions while serving in the armed forces during a period named by paragraph (1)(A) of this section, if—

"(i) such parent's spouse is totally and permanently disabled;

"(ii) such parent is widowed, divorced, or separated from the other parent and has not remarried; or

"(iii) such parent has remarried but is widowed, divorced, or legally separated when preference is claimed; and

"(G) any parent of a service-connected permanently and totally disabled veteran, if—

"(i) such parent's spouse is totally and permanently disabled;

"(ii) such parent is widowed, divorced, or separated from the other parent and has not remarried; or

"(iii) such parent has remarried but is widowed, divorced, or legally separated when preference is claimed;".

(b) Section 5561(3)(A) of title 5, United State Code, is amended by striking out "wife" and inserting in lieu thereof "spouse".

(c) Section 8332(j)(1) of title 5, United States Code, is amended by striking out "widow" each place it appears and inserting in lieu thereof "surviving spouse".

IMMIGRATION

SEC. (a) The first sentence of section 283 of the Immigration and Nationality Act (8 U.S.C. 1353) is amended by striking out "wives" and inserting in lieu thereof "spouses".

(b) Section 340 of such Act (8 U.S.C. 1451) is amended—

(1) in subsection (a) by—

(A) striking out "his naturalization" and inserting in lieu thereof "his or her naturalization";

(B) striking out "his subversive" and inserting in lieu thereof "his or her subversive"; and

(C) striking out "his residence" and inserting in lieu thereof "his or her residence".

(2) in subsection (b) by—

(A) striking out "his residence" and inserting in lieu thereof "his or her residence"; and

(B) striking out "upon him".

(3) in subsection (d) by—

(A) striking out "his nativity" and inserting in lieu thereof "his or her nativity"; and

(B) striking out "his petition" and inserting in lieu thereof "his or her petition";

(4) in subsection (e) by—

(A) striking out "his certificate" and inserting in lieu thereof "his or her certificate"; and

(B) striking out "wife" and inserting in lieu thereof "spouse"; and

(5) in subsection (f) by—

(A) striking out "he may" and inserting in lieu thereof "he or she may"; and

(B) striking out "his citizenship" and inserting in lieu thereof "his or her citizenship".

(c) The first sentence of section 341 of such Act (8 U.S.C. 1452) is amended by striking out "husband" and inserting in lieu thereof "spouse".

(d) Section 357 of such Act (8 U.S.C. 1489) is amended—

(1) by striking out "woman" each of the two places it appears and inserting in lieu thereof "person"; and

(2) by inserting before "her" each of the two places it appears "his or".

(e) The Act entitled "An Act to further regulate interstate and foreign commerce by prohibiting the transportation therein for immoral purposes of women and girls, and for other purposes", approved June 25, 1910 (36 Stat. 826, chapter 395; 8 U.S.C. 1557) is amended—

(1) by amending the title to read as follows: "An Act to further regulate interstate and foreign commerce by prohibiting the transportation therein for immoral purposes of adults and youths, and for other purposes"; and

(2) by striking out "women and girls" each of the five places it appears and inserting in lieu thereof "adults and youths".

(f) Section 1 of the Act entitled "An Act Making appropriations for the Diplomatic and Consular Service for the fiscal year ending June 30, 1921", apppproved June 4, 1920 (41 Stat. 750, chapter 223; 22 U.S.C. 214) is amended by—

(1) inserting "or her" after "his" each place it appears; and

(2) striking out in the third sentence "widow" and inserting in lieu thereof "surviving spouse".

(g) Section 321 of the Immigration and Nationality Act (8 U.S.C. 1432) is amended in paragraph (3) of subsection (a) by striking out "the naturalization of the mother".

WALSH-HEALEY

SEC. . (a) Subsection (d) of the first section of the Act entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes" (commonly referred to as the Walsh-Healey Act), approved June 30, 1936 (49 Stat. 2036; 41 U.S.C. 35) is amended by striking out "no male person under sixteen years of age and no female person under eighteen years of age" and inserting in lieu thereof "no person under sixteen years of age".

(b) The first sentence of section 2 of such Act (49 Stat. 2037; 41 U.S.C. 36) is amended by striking out "each male person under sixteen years of age or each female person under eighteen years of age," and inserting in lieu thereof "each person under sixteen years of age".

AGRICULTURE

SEC. . Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) is amended—

(1) by striking out "of working mothers" in the third sentence of subsection (c) and inserting in lieu thereof "from households in which both parents work or from single parent households in which the parent works"; and

(2) by striking out "his" in the third sentence of subsection (f) and inserting in lieu thereof "the Secretary's".

INDIAN AFFAIRS

SEC. . The Act entitled "An Act authorizing appropriations and expenditures for the administration of Indian affairs, and for other purposes" approved November 2, 1921 (42 Stat. 208, chapter 115; 25 U.S.C. 13) is amended by striking out "field matrons,".

SEC. . Section 3 of the Act of March 3, 1875 (18 Stat. 449, chapter 132; 25 U.S.C. 137) is hereby repealed.

SEC. . The Act entitled "An Act in relation to marriage between white men and Indian women" approved August 9, 1888 (25 Stat. 392; 25 U.S.C. 181 et seq.) is amended—

(1) by amending the title to read as follows: "An Act in relation to marriage between non-Indians and Indians";

(2) in section 1 (25 Stat. 392; 25 U.S.C. 181) by—

(A) striking out "white man" and inserting in lieu thereof "non-Indian"; and

(B) striking out "woman";

(3) by repealing section 2 (25 Stat. 392; 25 U.S.C. 182); and

(4) in section 3 (25 Stat. 392; 25 U.S.C. 183) by—

(A) striking out "white man" and inserting in lieu thereof "non-Indian"; and

(B) striking out "woman".

SEC. . The Act of June 7, 1897 (30 Stat. 62, chapter 3) is amended—

(1) in section 1 (30 Stat. 90, chapter 3; 25 U.S.C. 184) by—

(A) striking out "white man" and inserting in lieu thereof "non-Indian";

(B) striking out "woman" each place it appears;

(C) striking out "her death" each place it appears and inserting in lieu thereof "his or her death"; and

(D) striking out "mother" and inserting in lieu thereof "Indian parent"; and

(2) in section 1 (30 Stat. 83, chapter 3; 25 U.S.C. 274) by striking out "girls as assistant matrons and Indian boys" and inserting in lieu thereof "youths as dormitory aids and".

SEC. . (a) Section 3 of the Act of September 21, 1959 (73 Stat. 592; 25 U.S.C. 933(c)) is amended by striking out "wife" and inserting in lieu thereof "or her spouse".

(b) Section 3(c) of the Act of September 5, 1962 (76 Stat. 429; 25 U.S.C. 973(c)) is amended by striking out "wife" and inserting in lieu thereof "or her spouse".

SEC. 310. Section 5 of the Act of February 28, 1891 (26 Stat. 795, chapter 383; 25 U.S.C. 371) is amended by—

(1) striking out "husband and wife" and inserting in lieu thereof "spouses"; and

(2) striking out "father" and inserting in lieu thereof "parents".

TRANSPORTATION

SEC. . Section 1 of the Act entitled "An Act to abolish certain fees for official services to American vessels, and to amend the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes", approved June 19, 1886 (46 U.S.C. 331) is amended by striking out "boys" and inserting in lieu thereof "youths".

SEC. . Section 12 of the Act entitled "An Act to promote the welfare of American seamen in the merchant marine of the United States; to abolish arrest and imprisonment as a penalty for desertion and to secure the abrogation of treaty provisions in relation thereto; and to promote safety at sea", approved March 4, 1915 (46 U.S.C. 601) is amended by striking out the first proviso of the second sentence and inserting in lieu thereof "*Provided*, That nothing contained in this or any preceding section shall interfere with the order by any court regarding the payment by any master or seaman of any part of his or her wages for the support and maintenance of his or her spouse and minor children:".

TITLE 18

SEC. . (a) Section 305(a) of title 18, United States Code, is amended—

(1) in the first sentence in the matter before the first semicolon by striking out "the members of his immediate family" and inserting in lieu thereof "the members of his or her immediate family";

(2) in the first sentence in the clause after the first semicolon by striking out "his wife during his lifetime, the person of a widow of a former President until her death or remarriage" and inserting in lieu thereof "his or her spouse during the former President's lifetime, the person of a surviving spouse of a former President until the surviving spouse's death or remarriage"; and

(3) in the first sentence in the clause after the eighth semicolon by striking out "his certificate" and inserting in lieu thereof "his or her certificate".

(b) Subsection (b) of section 245 of title 18, United States Code, is amended by—

(1) redesignating paragraphs (3) through (5) as paragraphs (4) through (6); and

(2) inserting a new paragraph after paragraph (2) to read as follows:

"(3) any person because of such person's sex, in violation of such other person's right not to be subject to discrimination on that account and because such other person is or has been participating, or in order to intimidate any person from participating, in any benefit or activity described in paragraph (2); or".

(c) Section 1153 of title 18, United States Code, is amended by striking out "carnal knowledge of any female, not his wife, who has not attained the age of sixteen years" and inserting in lieu thereof "sexual abuse of a minor".

(d)(1) Section 2032 of title 18, United States Code, is amended by—

(1) striking out "female" and inserting in lieu thereof "person"; and

(2) striking out "wife" and inserting in lieu thereof of "spouse".

(2) The heading for section 2032 of title 18, United States Code, is amended to read as follows:

"§ 2032. Sexual abuse of a minor".

(3) The table of sections for chapter 99 of title 18, United States Code, is amended by striking out the item for section 2032 and inserting in lieu thereof the following:

"2032. Sexual abuse of a minor.".

(c) Sections 2198, 2424, 3286, and 3614 of title 18, United States Code, and all references to such sections including the items relating to such sections in the table of section, are repealed.

(f) Section 1114 of title 18, United States Code, is amended by striking out "any officer or enlisted man of the Coast Guard" and inserting in lieu thereof "any officer or enlisted member of the Coast Guard".

(g) Section 2421 of title 18, United States Code, is amended—

(1) by striking out "Whoever" each place it appears and inserting in lieu thereof "Any individual who";

(2) by striking out "person" in the second paragraph and inserting in lieu thereof "individual";

(3) by striking out "woman or girl" each place it appears and inserting in lieu thereof "other person";

(4) by inserting "himself or" before "herself" each place it appears; and

(5) by striking out "her" in the second paragraph and inserting in lieu thereof "such other person".

(h) Section 2422 of title 18, United States Code, is amended—

(1) by striking out "Whoever" and inserting in lieu thereof "Any individual who";

(2) by striking out "person" and inserting in lieu thereof "individual";

(3) by striking out "woman or girl" each place it appears and inserting in lieu thereof "other person"; and

(4) by striking out "her" and inserting in lieu thereof "such other person's".

PUBLIC LANDS

SEC. . Section 2287 of the Revised Statutes (43 U.S.C. 161) is amended—

(1) in the first sentence by striking out "Every person who is the head of a family, or who has" and inserting in lieu thereof "Every person who is married or who has one or more dependents or who has"; and

(2) by inserting after "his" each place it appears the following: "or her".

SEC. . Section 2290 of the Revised Statutes (43 U.S.C. 162) is amended in the matter before the first semicolon by striking out "the head of a family, or is over twenty-one years of age," and inserting in lieu thereof "is married, or has one or more dependents, or is over twenty-one years of age,".

SEC. . Section 2291 of the Revised Statutes (43 U.S.C. 164) is amended by—

(1) striking out "No certificate shall be given or patent issued therefor until the expiration of three years from the date of such entry; and if at the expiration of such time, or at any time within two years thereafter, the person making such entry, or if he be dead his widow, or in case of her death his heirs or devisee, or in case of a widow making such entry her heirs or devisee, in case of her death, proves by himself" and insert in lieu thereof "No certificate shall be given or patent issued therefor until the expiration of three years from the date of such entry; and if at the expiration of such time, or at any time within two years thereafter, the person making such entry, or if such enterer be dead, the surviving spouse, or in case of the surviving spouse's death the enterer's heirs or devisee, or in case of a surviving spouse making such entry the surviving spouse's heirs or devisee, in case of the surviving spouse's death, proves by the enterer";

(2) striking out "he, she, or they" each place it appears and inserting in lieu thereof "they";

(3) striking out "entryman" each place it appears and inserting in lieu thereof "enterer";

(4) in the second proviso by—

(A) striking out "date of his death" and inserting in lieu thereof "date of his or her death"; and

(B) striking out "had he lived" and inserting in lieu thereof "had he or she lived"; and

(5) in the third proviso by—

(A) striking out "area of his entry" and inserting in lieu thereof "area of his or her entry"; and

(B) striking out "by him".

SEC. . Section 3 of the Act entitled "An Act for the relief of settlers on public lands", approved May 14, 1880 (21 Stat. 141; 43 U.S.C. 166) is amended—

(1) in the first sentence by—

(A) striking out "time to file his" and inserting in lieu thereof "time to file his or her";

(B) striking out "perfect his original entry" and inserting in lieu thereof "perfect original entry";

(C) striking out "and his right" and inserting in lieu thereof "and the right"; and

(D) striking out "if he settled" and inserting in lieu thereof "if the settler settled";

(2) in the matter before the first proviso in the second sentence by—

(A) striking out "unmarried woman" and inserting in lieu thereof "unmarried person";

(B) striking out "she" and inserting in lieu thereof "the person";

(C) striking out "her marriage" and inserting in lieu thereof "the marriage"; and

(D) striking out "her right" and inserting in lieu thereof "his or her right";

(3) in the first proviso by striking out "she does not abandon" and inserting in lieu thereof "the person does not abandon his or";

(4) by striking out the second proviso; and

(5) in the remaining provisos by—

(A) striking out "he" and inserting lieu thereof "the settler"; and

(B) striking out "his" both places it appears and inserting in lieu thereof "his or her".

SEC. . The Act entitled "An Act providing that the marriage of a homestead entryman to a homestead entry woman shall not impair the right of either to a patent after compliance with the law a year, to apply to existing enterers", approved April 6, 1914 (38 Stat. 312; 43 U.S.C. 167) is amended to read as follows:

"The marriage of one homestead enterer to another after each shall have fulfilled the requirements of the homestead law for one year next preceding such marriage shall not impair the right of either to a patent, but if they choose to live together, they shall together elect on which of the two entries the home shall thereafter be made and residence thereon by both spouses shall constitute a compliance with the residence requirements upon each entry: *Provided*, That the provisions of this action shall apply to entries existing on April 6, 1914: *Provided further*, That in the administration of this section the term 'enterer' shall be construed to include bona fide settlers who have complied with the homestead law for at least one year next preceding such marriage.".

SEC. . The Act entitled "An Act to provide for certificate of title to homestead entry by a female American citizen who has intermarried with an alien", approved October 17, 1914 (38 Stat. 740; 43 U.S.C. 168) is repealed.

SEC. . The Act entitled "An Act to provide for issuing patents for public lands claimed under the homestead laws by deserted wives", approved October 22, 1914 (38 Stat. 766; 43 U.S.C. 170) is amended—

(1) in the matter before the first proviso by—

(A) striking out "wife" both places it appears and inserting in lieu thereof "spouse";

(B) striking out "by her husband" and inserting in lieu thereof "by the enterer spouse";

(C) striking out "in her name" and inserting in lieu thereof "in his or her name"; and

(D) striking out "entryman" and inserting in lieu thereof "enterer";

(2) in the first proviso by—

(A) striking out "wife" and inserting in lieu thereof "deserted spouse";

(B) striking out "herself" and inserting in lieu thereof "such deserted spouse"; and

(C) striking out "her husband" and inserting in lieu thereof "the enterer spouse"; and

(3) in the second proviso by—

(A) striking out "wife" and inserting in lieu thereof "spouse"; and

(B) striking out "husband" and inserting in lieu thereof "deserting enterer spouse".

SEC. . The Act entitled "An Act for the protection of homestead settlers who enter the military or naval service of the United States in time of war"; approved June 16, 1898 (30 Stat. 473; 43 U.S.C. 240) is amended by—

(1) inserting after "his" each place it appears the following: "or her"; and

(2) inserting after "he" each place it appears "or she".

SEC. . The Act entitled "An Act to allow credit in connection with homestead entries to widows of persons who served in certain Indian wars", approved March 3, 1933 (47 Stat. 1424; 43 U.S.C. 243a) is amended by striking out "widow" each place it appears and inserting in lieu thereof "surviving spouse".

SEC. . Section 2293 of the Revised Statutes (43 U.S.C. 255) is amended by—

(1) striking out "himself" and inserting in lieu thereof "himself or herself";

(2) striking out "he" and inserting in lieu thereof "the person"; and

(3) striking out "wife" and inserting in lieu thereof "spouse".

SEC. . Section 2305 of the Revised Statutes (43 U.S.C. 272) is amended—

(1) in the matter before the first semicolon by adding after "he" the following: "or she";

(2) in the clause after the first semicolon by striking out "his homestead for a period of at least one year after he shall have commenced his improvements" and inserting in lieu thereof "his or her homestead for a period of at least one year after the improvements were commenced"; and

(3) by striking out the proviso and inserting in lieu thereof the following: *"Provided*, That in every case in which a settler on the public land of the United States under the homestead laws died while actually engaged in the Army, Navy, or Marine Corps of the United States as private soldier, officer, seaman, or marine, during the war with Spain or the Philippine insurrection the set-

tier's survivors, if unmarried, or in case of the surviving spouse's death or marriage, then the minor orphan children or their legal representatives, may proceed forthwith to make final proof upon the land so held by the deceased soldier and settler, and that the death of such soldier while so engaged in the service of the United States shall, in the administration of the homestead laws, be construed to be equivalent to a performance of all requirements as to residence and cultivation for the full period of five years, and shall entitle the surviving spouse, if unmarried, or in case of the surviving spouse's death or marriage, then the minor orphan children or their legal representatives, to make final proof upon and receive Government patent for said land; and that upon proof produced to the officers of the proper local land office by the surviving spouse, if unmarried, on in case of the surviving spouse's death or marriage, then the minor orphan children or their legal representatives, that the applicant for patent is the surviving spouse, if unmarried, or in case of the surviving spouse's death or marriage, the orphan children or their legal representatives, and that such soldier, sailor, or marine died while in the service of the United States as hereinbefore described, the patent for such land shall issue.".

SEC. 325. (a) Section 2307 of the Revised Statutes (43 U.S.C. 278) is amended by—

(1) striking out "his widow" and inserting in lieu thereof "the surviving spouse"; and

(2) striking out "entrywoman" and inserting in lieu thereof "enterer".

(b) Section 2304 of the Revised Statutes (43 U.S.C. 271) is amended by striking out "after locating his homestead and filing his declaratory statement within which to make his entry and commence his settlement and improvement." and inserting in lieu thereof "after locating a homestead and filing a declaratory statement within which to make entry and commence settlement and improvement of the land.".

CIVIL RELIEF ACT

SEC. 326. (a) Section 503 of the Soldiers' and Sailors' Civil Relief Act of 1940 (54 Stat. 1187; 50 U.S.C. App. 563) is amended—

(1) in subsection (1) by striking out "his widow, if unmarried, or in the case of her death or marriage, his minor children, or his or" and inserting in lieu thereof "the surviving spouse, if unmarried, or in the case of the surviving spouse's death or marriage, the minor children, or"; and

(2) in subsection (2) by inserting after "he" the following: "or she".

(b) Section 504 of the Soldiers' and Sailors' Civil Relief Act of 1940 (54 Stat. 1187; 50 U.S.C. App. 564) is amended—

(1) by striking out "entryman" each place it appears and inserting in lieu thereof "enterer";

(2) by striking out "his" each place it appears and inserting in lieu thereof "his or her"; and

(3) by striking out "he" each place it appears and inserting in lieu thereof "he or she".

(c) Section 510 of the Soldiers' and Sailors' Civil Relief Act of 1940 (54 Stat. 1189; 50 U.S.C. App. 570) is amended—

(1) by striking out "entryman" each place it appears and inserting in lieu thereof "enterer";

(2) by striking out "his" each place it appears and inserting in lieu thereof "his or her"; and

(3) by striking out "he" each place it appears and inserting in lieu thereof "he or she".

MISCELLANEOUS

SEC. . Section 8 of the Act of March 22, 1882 (22 Stat. 31, chapter 47; 48 U.S.C. 1461) is repealed.

SEC. . Section 604(a)(7) of title 28, United States Code, is amended by striking out "widows" and inserting in lieu thereof "surviving spouses".

SEC. . Section 2 of the Act of August 16, 1941 (55 Stat. 623, chapter 357; 42 U.S.C. 1652) is amended in subsection (b) by—

(1) striking out "surviving wife" the first place it appears and inserting in lieu thereof "the surviving spouse";

(2) striking out "surviving wife" the second place it appears and inserting in lieu thereof "surviving spouse"; and

(3) striking out "his option" and inserting in lieu thereof "his or her option".

SEC. . (a) Section 1981 of the Revised Statutes (42 U.S.C. 1986) is amended by—

(1) striking out "his legal representative" and inserting in lieu thereof "his or her legal representative"; and

(2) striking out "widow" each place it appears and inserting in lieu thereof "surviving spouse".

(b) Section 4 of the Act entitled "An Act to clarify the status and benefits of commissioned officers of the National Oceanic and Atmospheric Administration, and for other purposes" (84 Stat. 1863, 33 U.S.C. 857-4) is amended—

(1) in subsection (a) by striking out "enlisted men" and inserting in lieu thereof "enlisted persons"; and

(2) in subsection (c) by striking out "their widows" and inserting in lieu thereof "the surviving spouses of such members".

(c) Section 222 of the National Housing Act (12 U.S.C. 1715m), is amended—

(1) by striking out "servicemen" each place such term appears and inserting in lieu thereof "persons in the service";

(2) by striking out "serviceman" each place such term appears and inserting in lieu thereof "person in the service"; and

(3) in subsection (g) by—

(A) striking out "surviving widow" and inserting in lieu thereof "surviving spouse";

(B) striking out "serviceman's" each place such term appears and inserting in lieu thereof "person's in the service"; and

(C) striking out "such widow" and inserting in lieu thereof "such surviving spouse".

(d) Section 2 of the Act of July 5, 1946, commonly known as the Trademark Act of 1946 (15 U.S.C. 1052), is amended in subsection (c) by—

(1) striking out "his widow" and inserting in lieu thereof "the surviving spouse of such President"; and

(2) striking out "the widow" and inserting in lieu thereof "such surviving spouse".

(e) Section 5572 of the Revised Statutes (48 U.S.C. 1413) is amended in the first sentence by striking out "his widow, heir, executor, or administrator" and inserting in lieu thereof "the surviving spouse, heir, executor, or administrator of the discoverer".

(f) Section 5574 of the Revised Statutes (48 U.S.C. 1415) is amended in the second sentence by striking out "his widow, heir, executor, administrator, or assigns" and inserting in lieu thereof "the surviving spouse, heir, executor, administrator, or assigns of the discoverer".

(g) Section 5577 of the Revised Statutes (48 U.S.C. 1418) is amended by striking out "his widow, heir, executor, administrator, or assigns" and inserting in lieu thereof "the surviving spouse, heir, executor, administrator, or assigns of the discoverer".

SAINT ELIZABETHS HOSPITAL

SEC. . (a) Section 4839 of the Revised Statutes (24 U.S.C. 165) is amended—

(1) by striking out "he" each place it appears in the second sentence;

(2) by inserting "or her" after "his" in the second sentence;

(3) by striking out "and, in the case of a male pensioner, his wife, minor children, and dependent parents, or, if a female pensioner, her minor children, if any," in the last sentence before the proviso and inserting in lieu thereof "and the spouse, minor children, and dependent parents of the pensioner,";

(4) by striking out "shall, if a female pensioner, be paid to her minor children, and, in the case of a male pensioner, be paid to his wife, if living; if no wife survives him, then to his minor children; and in case there is no wife" in the last sentence before the proviso and inserting in lieu thereof "shall be paid to the spouse of the pensioner, if living, or if no spouse survives the pensioner, then to the minor children of the pensioner; and in case there is no spouse";

(5) by inserting "or her" before "credit at said home" in the proviso;

(6) by striking out "his said transfer" in the proviso and inserting in lieu thereof "the transfer";

(7) by striking out "be transferred with him" in the proviso and inserting in lieu thereof "also be transferred";

(8) by striking out "placed to his" in the proviso and inserting in lieu thereof "placed to the pensioner's";

(9) by striking out "his return from said hospital" in the proviso and inserting in lieu thereof "the pensioner's return from such hospital"; and

(10) by inserting "or her" before "credit at said hospital" in the proviso.

(b) The third clause of section 4843 of the Revised Statutes (24 U.S.C. 191) is amended by striking out "Men" and inserting in lieu thereof "Persons".

FEDERAL MINE SAFETY AND HEALTH ACT OF 1977

SEC. . (a) Section 203 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 843) is amended—

(1) in subsection (a)—

(A) by striking out "commencement of his employment" in the second sentence and inserting in lieu thereof "the commencement of employment";

(B) by striking out "he" the first place it appears in the second sentence and inserting in lieu thereof "the worker";

(C) by inserting "or she" after "he" the second place it appears in the second sentence;

(D) by inserting "or her" after "his" in the fourth sentence; and

(E) by striking out "advise him of his rights" in the fifth sentence and inserting in lieu thereof "advise the miner of the miner's rights";

(2) in subsection (b)—

(A) by striking out "from his position" each place it appears in paragraphs (1) and (2);

(B) by striking out "him" in paragraph (3) and inserting in lieu thereof "the miner"; and

(C) by striking out "his" in paragraph (3); and

(3) by striking out "him" in the first sentence of subsection (c) and inserting in lieu thereof "the miner"; and

(4) by striking out "such miner" in the first sentence of subsection (d) and all that follows through the end of the sentence and

inserting in lieu thereof "such miner, with the consent of the surviving spouse or, if there is no such surviving spouse, then with the consent of the surviving next of kin.".

(b) Section 402 of such Act (30 U.S.C. 902) is amended—

(1) in subsection (a)(2)—

(A) by inserting "or husband" after "wife" in the first sentence;

(B) by striking out "her" the first place it appears in the first sentence;

(C) by striking out "husband" in the first sentence and inserting in lieu thereof "spouse";

(D) by inserting "his or" before "her" each place it appears (after the amendment made by subparagraph (B));

(E) by inserting "or 'husband'" after "'wife'" in the second sentence; and

(F) by striking out "The term 'wife' also includes a 'divorced wife'" in the third sentence and inserting in lieu thereof "The terms 'wife' and 'husband' also include a 'divorced wife' and a 'divorced husband', respectively,";

(2) in subsection (e)—

(A) by striking out "The term 'widow' includes the wife" in the first sentence and inserting in lieu thereof "The terms 'widow' and 'widower' include the spouse";

(B) by striking out "his" each place it appears and inserting in lieu thereof "the miner's";

(C) by inserting "or 'widower'" after "'widow'" in the second sentence;

(D) by striking out "a 'surviving divorced wife' as defined in section 216(d)(2) of the Social Security Act" in the third sentence and inserting in lieu thereof "a 'surviving divorced wife' and a 'surviving divorced husband' as defined in paragraphs (2) and (5), respectively, of section 216 of the Social Security Act";

(E) by inserting "his or" before "her" each place it appears in the third sentence; and

(F) by striking out "Such term also includes" in the third sentence and inserting in lieu thereof "Such terms also include"; and

(3) by striking out "widow" each place it appears in the third sentence of subsection (g) and inserting in lieu thereof "the miner's widow or widower".

(c) Section 411 of such Act (30 U.S.C. 921) is amended—

(1) in subsection (a)—

(A) by striking out "him" and inserting in lieu thereof "the Secretary"; and

(B) by striking out "his"; and

(2) in subsection (c)—

(A) by striking out "his" in paragraph (1) and inserting lieu thereof "the";

(B) by striking out "his" in the first sentence of paragraph (2);

(C) by striking out "he" each place it appears in paragraph (3) and inserting in lieu thereof "the miner";

(D) by striking out "his" each place it appears in paragraph (3) and each place it appears in the first sentence of paragraph (4);

(E) by striking out "widow's" in the first sentence of paragraph (4) (after the amendment made by subparagraph (D)) and inserting in lieu thereof "or the miner's widow's, widower's";

(F) by striking out "he" in the first sentence of paragraph (4) and inserting in lieu thereof "the miner";

(G) by inserting "or husband's" after "wife's" in the second sentence of paragraph (4);

(ll) by striking out "he" in the third sentence of paragraph (4) and inserting in lieu thereof "the Secretary"; and

(I) by striking out "his" in the fourth sentence of paragraph (4) and inserting in lieu thereof "such miner's".

(d) Section 412 of such Act (30 U.S.C. 922) is amended—

(1) in subsection (a)—

(A) by striking out "his widow" in paragraph (2) and inserting in lieu thereof "the widow or widower";

(B) by striking out "he were" in paragraph (2);

(C) by striking out "his" each place it appears in the first sentence of paragraph (3);

(D) by inserting "or widower" after "widow" each place it appears in paragraph (3);

(E) by striking out "her" in the first sentence of paragraph (3) and inserting in lieu thereof "the widow's or widower's";

(F) by striking out "he" in the first sentence of paragraph (3) and inserting in lieu thereof "the child";

(G) by inserting "or she" after "he" in the *first* proviso of paragraph (3);

(H) by striking out "his" the first place it appears in the first sentence of paragraph (5);

(I) by striking out "at the time of his death" each place it appears in the first sentence of paragraph (5) (after the amendment made by subparagraph (H));

(J) by striking out "a widow or a child" each place it appears in the first sentence of paragraph (5) and inserting in lieu thereof "a widow, widower, or child";

(K) by striking out "a widow, child, or parent" each place it appears in the first sentence of paragraph (5) and inserting in lieu thereof "a widow, widower, child, or parent";

(L) by striking out "at the time of his or her death" each place it appears in the first sentence of paragraph (5);

(M) by striking out "a brother only if he is—" in the fourth sentence of paragraph (5) and inserting in lieu thereof "a brother or sister only if the brother or sister is—";

(N) by striking out "who is" after "(2)" in paragraph (5); and

(O) by striking out "him" in paragraph (6) and inserting in lieu thereof "the Secretary"; and

(2) by striking out "his widow," each place it appears in the first sentence of subsection (b) and inserting in lieu thereof "the miner's widow, widower,".

(c) Section 413 of such Act (30 U.S.C. 923) is amended—

(1) in subsection (b)—

(A) by striking out "he uses" in the first sentence and inserting in lieu thereof "used";

(B) by striking out "his wife's" in the second sentence and inserting in lieu thereof "the wife's or husband's"; and

(C) by striking out ", widow," in the ninth sentence and inserting in lieu thereof "or the miner's widow, widower,"; and

(2) by inserting "or her" after "his" in subsection (c).

(f) Section 414 of such Act (30 U.S.C. 924) is amended—

(1) in subsection (a)—

(A) by inserting "or widower" after "widow" in paragraph (1);

(B) by striking out "her husband" and inserting in lieu thereof "the miner" in paragraph (1); and

(C) by striking out "his" in paragraph (2)(C) and inserting in lieu thereof "the claimant's"; and

(2) in subsection (e)—

(A) by inserting "widower," after "widow," in the matter preceding clause (1); and

(B) by striking out "his" in clause (1) and inserting in lieu thereof "the miner's".

(g) Section 421 of such Act (30 U.S.C. 931) is amended—

(1) by inserting "widowers," after "widows," in subsection (a); and

(2) in subsection (b)(2)—

(A) by striking out "if he finds" in the matter preceding subparagraph (A) and inserting in lieu thereof "upon finding"; and

(B) by striking out "by him" in subparagraph (F).

LONGSHOREMEN'S AND HARBOR WORKERS COMPENSATION ACT

SEC. . (a) Section 9(b) of the Longshoremen's and Harbor Workers Compensation Act (33 U.S.C. 909(b)), is amended by striking out "dependent".

(b) Section 9(c) of the Longshoremen's and Harbor Workers Compensation Act (33 U.S.C. 909(c)), is amended by striking out "dependent husband" and inserting in lieu thereof "widower".

(c) Section 9(g) of the Longshoremen's and Harbor Workers Compensation Act (33 U.S.C. 909(g)), is amended by striking out "wife" each place it appears and inserting in lieu thereof "spouse".

(d) Section 14(j) of the Longshoremen's and Harbor Workers Compensation Act (33 U.S.C. 914(j)), is amended by—

(1) striking out "during which he is entitled" and inserting in lieu thereof "during which he or she is entitled"; and

(2) placing a period after "Mortality" in the second sentence and striking out the rest of the sentence.

CONSERVATION

SEC. . The last proviso of the subparagraph entitled "Federal Aid in Wildlife Restoration" under the paragraph "Fish and Wildlife Service" of the first section of the Act entitled "An Act making appropriations for the Department of the Interior for the fiscal year ending June 30, 1943, and for other purposes", approved July 2, 1942 (56 Stat. 557; 16 U.S.C. 754) is amended by striking out "per man per day" and inserting in lieu thereof "per day".

MISCELLANEOUS

SEC. . Section 1 of title 1, United States Code is amended by striking out the clause beginning "words importing the masculine gender" and inserting in lieu thereof "words importing the masculine or feminine gender include the other as well".

BENEFITS FOR INTERNEES

SEC. . Section 2004 of title 50, Appendix, United States Code, is amended—

(1) In subsection (d) by—

(A) inserting "or her" after "his";

(B) striking out "husband" each place it appears in paragraph (1), (2) and (3) and inserting in lieu thereof "widower"; and

(C) striking out "husband" in paragraph (4) and inserting in lieu thereof "widow, widower";

(2) In subsection (f)(7) by—

(A) inserting "or widower" and "widow"; and

(B) inserting "herself or" before "himself"; and

in subsection (g)(4) and (i)(4) by—

(A) inserting "or her" after "his";

(B) striking out "husband" in subparagraph (A) and inserting in lieu thereof "widower"; and

(C) striking out "dependent husband" each place it appears in subpargraph (B) and (C) and inserting in lieu thereof "widower".

SPOUSES OF FORMER PRESIDENTS

SEC. . The Act of August 25, 1958, as amended (72 Stat. 838; 3 U.S.C. 102 Note), is amended in subsection (e) by—

(1) striking out "widow" each place it appears and inserting in lieu thereof "surviving spouse"; and

(2) inserting "he or" before "she".

TITLE IV—EFFECTIVE DATE

SEC. . Except as otherwise provided, the amendments made by this Act shall become effective upon the date of enactment.

AMENDMENT No. 5657

At the appropriate place, add the following:

(a) SHORT TITLE.—This amendment may be cited as the "Enterprise Zone Act of 1984".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. . PURPOSES.

It is the purpose of this Act to provide for the establishment of enterprise zones in order to stimulate the creation of new jobs, particularly for disadvantaged workers and long-term unemployed individuals, and to promote revitalization of economically distressed areas primarily by providing or encouraging—

(1) tax relief at the Federal, State, and local levels;

(2) regulatory relief at the Federal, State, and local levels; and

(3) improved local services and an increase in the economic stake of enterprise zone residents in their own community and its development, particularly through the increased involvement of private, local, and neighborhood organizations.

SEC. . DESIGNATION OF ZONES.

(a) GENERAL RULE.—Chapter 80 (relating to general rules) is amended by adding at the end thereof the following new subchapter:

"Subchapter D—Designation of Enterprise Zones

"Sec. 7891. Designation.

"SEC. 7891. DESIGNATION.

"(a) DESIGNATION OF ZONES.—

"(1) DEFINITIONS.—For purposes of this title, the term 'enterprise zone' means any area—

"(A) which is nominated by one or more local governments and the State or States in which it is located for designation as an enterprise zone (hereinafter in this section referred to as a 'nominated area'), and

"(B) which the Secretary of Housing and Urban Development, after consultation with—

"(i) the Secretaries of Agriculture, Commerce, Labor, and the Treasury; the Director of the Office of Management and Budget; and the Administrator of the Small Business Administration, and

"(ii) in the case of an area on an Indian reservation, the Secretary of the Interior,

designates as an enterprise zone.

"(2) LIMITATIONS ON DESIGNATIONS.—

"(A) PUBLICATION OF REGULATIONS.—Before designating any area as an enterprise zone and not later than 4 months following the date of the enactment of this section, the Secretary of Housing and Urban Development shall prescribe by regulation, after consultation with the officials described in paragraph (1)(B)—

"(i) the procedures for nominating an area under paragraph (1)(A),

"(ii) the parameters relating to the size and population characteristics of an enterprise zone, and

"(iii) the manner in which nominated areas will be compared based on the criteria specified in subsection (d) and the other factors specified in subsection (f).

"(B) TIME LIMITATIONS.—The Secretary of Housing and Urban Development shall designate nominated areas as enterprise zones only during the 36-month period beginning on the later of—

"(i) the first day of the first month following the month in which the effective date of the regulations described in subparagraph (A) occurs, or

"(ii) January 1, 1985.

"(C) NUMBER OF DESIGNATIONS.—

"(i) IN GENERAL.—The Secretary of Housing and Urban Development may not designate—

"(I) more than 75 nominated areas as enterprise zones under this section, and

"(II) more than 25 nominated areas as enterprise zones during the first 12-month period beginning on the date determined under subparagraph (B) and each subsequent 12-month period.

"(ii) MINIMUM DESIGNATION IN RURAL AREAS.—Of the areas designated under clause (i), at least one-third must be areas—

"(I) which are within a local government jurisdiction or jurisdictions with a population of less than 50,000 (as determined under the most recent census data available),

"(II) which are outside of a metropolitan statistical area (within the meaning of section 103A(l)(4)(B)), or

"(III) which are determined by the Secretary of Housing and Urban Development, after consultation with the Secretary of Commerce, to be rural areas.

"(D) PROCEDURAL RULES.—The Secretary of Housing and Urban Development shall not make any designation under paragraph (1) unless—

"(i) the local government and the State in which the nominated area is located have the authority—

"(I) to nominate such area for designation as an enterprise zone,

"(II) to make the State and local commitments under subsection (d), and

"(III) to provide assurances satisfactory to the Secretary of Housing and Urban Development that such commitments will be fulfilled,

"(ii) a nomination therefor is submitted in such a manner and in such form, and contains such information, as the Secretary of Housing and Urban Development shall by regulation prescribe,

"(iii) the Secretary of Housing and Urban Development determines that any information furnished is reasonably accurate, and

"(iv) the State and local governments certify that no portion of the area nominated is already included in an enterprise zone or in an area otherwise nominated to be an enterprise zone.

"(3) NOMINATION PROCESS FOR INDIAN RESERVATIONS.—In the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to such area.

"(4) NOMINATION PROCESS FOR CERTAIN AREAS LOCATED OUTSIDE RESERVATIONS.—An Indian tribal government may nominate an area described in subsection (c)(2)(C)(iii), in conjunction with the local government and the State in which such area is located, for designation as an enterprise zone.

"(b) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(1) IN GENERAL.—Any designation of an area as an enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

"(A) December 31 of the 24th calendar year following the calendar year in which such date occurs,

"(B) the termination date designated by the State and local governments as provided in the nomination submitted under subsection (a)(2)(D)(ii), or

"(C) the date the Secretary of Housing and Urban Development revokes such designation under paragraph (2).

"(2) REVOCATION OF DESIGNATION.—The Secretary of Housing and Urban Development, after consultation with the officials described in subsection (a)(1)(B), may revoke the designation of an area if the Secretary of Housing and Urban Development determines that the local government or the State in which it is located is not complying substantially with the State and local commitments under subsection (d).

"(3) DESIGNATION SHALL NOT TAKE EFFECT UNLESS INVENTORY OF HISTORIC PROPERTIES.—Notwithstanding paragraph (1)—

"(A) within 60 days after the date of the designation of an area as an enterprise zone (determined without regard to this paragraph), the State or local government of such area shall submit to the Secretary of Housing and Urban Development an inventory of historic properties within such area, and

"(B) the date of such designation shall not be earlier than the date on which such inventory is submitted.

"(c) AREA AND ELIGIBILITY REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary of Housing and Urban Development may make a designation of any nominated area under subsection (a)(1) only if it meets the requirements of paragraphs (2) and (3).

"(2) AREA REQUIREMENTS.—A nominated area meets the requirements of this paragraph if—

"(A) the area is within the jurisdiction of the local government,

"(B) the boundary of the area is continuous, and

"(C) the area—

"(i) has a population, as determined by the most recent census data available, of at least—

"(I) 4,000 if any portion of such area (other than a rural area described in subclause (I) or (III) of subsection (a)(2)(C)(ii)) is located within a metropolitan statistical area (within the meaning of section 103A(1)(4)(B)) with a population of 50,000 or more, or

"(II) 1,000 in any other case,

"(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior),

"(iii) is—

"(I) nominated by the local government and State government of such area and by an Indian tribal government, and

"(II) located entirely within a radius of 50 miles from any point on the border of the reservation over which such Indian tribal government has jurisdiction, or

"(iv) is located in Alaska—

"(I) within the jurisdiction of an Indian tribal government, or

"(II) within a municipality at least 50 percent of the resident population of which (as determined by the 1980 census of the United States) consists of Indians, Eskimos, or Aleuts.

"(3) ELIGIBILITY REQUIREMENTS.—For purposes of paragraph (1), a nominated area meets the requirements of this paragraph if the State and local governments in which it is located certify and the Secretary of Housing and Urban Development, after such review of supporting data as he deems appropriate, accepts such certification, that—

"(A) the area is one of pervasive poverty, unemployment, and general distress,

"(B) the area is located wholly within the jurisdiction of a local government which is eligible for Federal assistance under section 119 of the Housing and Community Development Act of 1974, as in effect on the date of the enactment of this section, and

"(C) one of the following criteria is met—

"(i) the unemployment rate, as determined by the appropriate available data, was at least 1½ times the national unemployment rate for that period, or

"(ii) the poverty rate (as determined by the most recent census data available) for each populous census tract (or where not tracted, the equivalent county division as defined by the Bureau of the Census for the purpose of defining poverty areas) within the area was at least 20 percent for the period to which such data relates, or

"(iii) at least 70 percent of the households living in the area have incomes below 80 percent of the median income of households of the local government (determined in the same manner as under section 119(b)(2) of the Housing and Community Development Act of 1974), or

"(iv) the population of the area decreased by 20 percent or more between 1970 and 1980 (as determined from the most recent census available).

"(4) SPECIAL AREAS OUTSIDE RESERVATIONS.—For purposes of this section, any area described in paragraph (2)(C)(iii) which is designated by an Indian tribal government shall be treated as meeting the requirements of paragraph (3) if any area within the reservation over which such tribal government has jurisdiction meets the requirements of paragraph (3).

"(5) WAIVER UNDER CERTAIN CIRCUMSTANCES.—The Secretary of Housing and Urban Development may waive the requirements of paragraph (3)(B) for one area in each State if no area in such State otherwise meets the requirements of paragraph (3)(B).

"(d) REQUIRED STATE AND LOCAL COMMITMENTS.—

"(1) IN GENERAL.—No nominated area shall be designated as an enterprise zone unless the local government and the State in which it is located agree in writing that, during any period during which the area is an enterprise zone, such governments will follow a specified course of action designed to reduce the various burdens borne by employers or employees in such area.

"(2) COURSE OF ACTION.—The course of action under paragraph (1) may be implemented by both such governments and private nongovernmental entities, may be funded from proceeds of any Federal program, and may include, but is not limited to—

"(A) a reduction of tax rates or fees applying within the enterprise zone,

"(B) an increase in the level or efficiency of local services within the enterprise zone, for example, crime prevention,

"(C) actions to reduce, remove, simplify, or streamline governmental requirements applying within the enterprise zone,

"(D) involvement in the program by private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a commitment from such private entities to provide jobs and job training for, and technical, financial or other assistance to, employers, employees, and residents of the nominated area, and

"(E) mechanisms to increase the equity ownership of residents and employees within the enterprise zone.

"(3) LATER MODIFICATION OF A COURSE OF ACTION.—The Secretary of Housing and Urban Development may by regulation prescribe procedures for modifying a course of action under paragraph (1) following designation.

"(e) SPECIAL AREAS OUTSIDE RESERVATIONS.—A nominated area described in subsection (c)(2)(C)(iii) may be designated an enterprise zone only if the Secretary determines that a substantial portion of the benefits of such designation will accrue to the members of the Indian tribe that nominated such area.

"(f) PRIORITY OF DESIGNATION.—In choosing nominated areas for designation, the Secretary of Housing and Urban Development shall give special preference to the areas with respect to which the strongest and highest quality contributions described in subsection (d)(2) have been promised as part of the course of action, taking into consideration the fiscal ability of the nominating State and local governments to provide tax relief. The Secretary shall also give preference to—

"(1) the nominated areas with respect to which the nominating State and local governments have provided the most effective and enforceable guarantees that the proposed course of action under subsection (d) will actually be carried out during the period of the enterprise zone designation,

"(2) the nominated areas with high levels of poverty, unemployment, and general distress, particularly the areas—

"(A) which are near areas with concentrations of disadvantaged workers or long-term unemployed individuals, and

"(B) with respect to which there is a strong likelihood that residents of the area described in subparagraph (A) will receive jobs if the area is designated as an enterprise zone,

"(3) the nominated areas the size and location of which—

"(A) will primarily stimulate new economic activity, and

"(B) minimize unnecessary tax losses to the Federal Government,

"(4) the nominated areas with respect to which private entities have made the most substantial commitments in additional resources and contributions, including the creation of new or expanded business activities, and

"(5) the nominated areas which best exhibit such other factors determined by the Secretary of Housing and Urban Development as are—

"(A) consistent with the intent of the enterprise zone program, and

"(B) important to minimizing the unnecessary loss of tax revenues to the Federal Government.

"(g) DEFINITIONS.—For the purposes of this title—

"(1) GOVERNMENTS.—If more than one government seeks to nominate an area as an enterprise zone, any reference to, or requirement of, this section shall apply to all such governments.

"(2) STATE.—The term 'State' shall also include Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other possession of the United States.

"(3) LOCAL GOVERNMENT.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State,

"(B) any combination of political subdivisions described in subparagraph (A) recognized by the Secretary of Housing and Urban Development, and

"(C) the District of Columbia.".

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 80 is amended by adding at the end thereof the following new item:

"Subchapter —Designation of Enterprise Zones".

SEC. . EVALUATION AND REPORTING REQUIREMENTS.

Not later than the close of the fourth calendar year after the calendar year in which the Secretary of Housing and Urban Development first designates areas as enterprise zones under section 7891 of the Internal Revenue Code of 1954, and at the close of each fourth calendar year thereafter, the Secretary of Housing and Urban Development shall prepare and submit to the Congress a report on the effects of such designation in accomplishing the purposes of this Act.

SEC. . INTERACTION WITH OTHER FEDERAL PROGRAMS.

(a) TAX REDUCTIONS.—Any reduction of taxes under any required program of State and local commitment under section 7891(d) of the Internal Revenue Code of 1954 shall be disregarded in determining the eligibility of a State or local government for, or the amount or extent of, any assistance or benefits under any law of the United States.

(b) COORDINATION WITH RELOCATION ASSISTANCE.—The designation of an enterprise zone under section 7891 of the Internal Revenue Code of 1954 shall not—

(1) constitute approval of a Federal or federally assisted program or project (within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601)), or

(2) entitle any person displaced from real property located in such zone to any rights or any benefits under such Act.

(c) COORDINATION WITH ENVIRONMENTAL POLICY.—Designation of an enterprise zone under section 7891 of the Internal Revenue Code of 1954 shall not constitute a Federal action for purposes of applying the requirements of the National Environmental Policy Act (42 U.S.C. 4341) or other provisions of Federal law relating to the protection of the environment.

TITLE —FEDERAL INCOME TAX INCENTIVES

Subtitle —Credits for Employers and Employees

SEC. . CREDIT FOR ENTERPRISE ZONE EMPLOYERS.

(a) CREDIT FOR INCREASED ENTERPRISE ZONE EMPLOYMENT AND EMPLOYMENT OF DISADVANTAGED WORKERS.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding

at the end thereof the following new section:

"SEC. 42. CREDIT FOR ENTERPRISE ZONE EMPLOYMENT.

"(a) IN GENERAL.—For purposes of section 38, the amount of the enterprise zone credit determined under this section for any taxable year shall be an amount equal to the sum of—

"(1) 10 percent of the qualified increased employment expenditures of the taxpayer for the taxable year, and

"(2) the economically disadvantaged credit amount of the taxpayer for such taxable year.

"(b) QUALIFIED INCREASED EMPLOYMENT EXPENDITURES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified increased employment expenditures' means the excess of—

"(A) the qualified wages paid or incurred by the employer during the taxable year to qualified employees with respect to all enterprise zones, over

"(B) the base period wages of the employer with respect to all such zones.

"(2) LIMITATIONS AS TO QUALIFIED WAGES TAKEN INTO ACCOUNT.—

"(A) DOLLAR AMOUNT.—The amount of any qualified wages taken into account under paragraph (1) for any taxable year with respect to any qualified employee may not exceed 2.5 times the dollar limitation in effect under section 3306 (b)(1) for the calendar year with or within which such taxable year ends.

"(B) APPLICATION WITH ECONOMICALLY DISADVANTAGED CREDIT AMOUNT.—Qualified wages shall not be taken into account under paragraph (1) if such wages are taken into account in determining the economically disadvantaged credit amount under subsection (c).

"(3) BASE PERIOD WAGES.—

"(A) IN GENERAL.—The term 'base period wages' means, with respect to any enterprise zone, the amount of wages paid to employees during the 12-month period preceding the earlier of—

"(i) the date on which the enterprise zone was designated as such under section 7891, or

"(ii) the date on which the enterprise zone was designated as such under any State law enacted after January 1, 1981,

which would have been qualified wages paid to qualified employees if such designation had been in effect for such period.

"(B) RULES OF SPECIAL APPLICATION.—For purposes of subparagraph (A)—

"(i) subsection (e)(1) shall be applied by substituting '12-month period' for 'taxable year' each place it appears, and

"(ii) the dollar limitation taken into account under paragraph (2)(A) in computing qualified wages shall be the amount in effect under section 3306(b)(1) for the calendar year with or within which the taxable year for which the amount of the credit under subsection (a) is being computed ends.

"(c) ECONOMICALLY DISADVANTAGED CREDIT AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'economically disadvantaged credit amount' means the sum of the applicable percentage of qualified wages paid to each qualified economically disadvantaged individual.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means, with respect to any qualified economically disadvantaged individual, the percentage determined in accordance with the following table:

"If the qualified wages are paid for services performed:	The applicable percentage is:
Within 36 months of starting date	50
More than 36 months but less than 49 months after such date	40
More than 48 months but less than 61 months after such date	30
More than 60 months but less than 73 months after such date	20
More than 72 months but less than 85 months after such date	10
More than 84 months after such date	0

"(3) STARTING DATE; BREAKS IN SERVICE.—For purposes of this subsection—

"(A) STARTING DATE.—The term 'starting date' means the day which the qualified economically disadvantaged individual begins work for the employer within an enterprise zone.

"(B) BREAKS IN SERVICE.—The periods described in the table under paragraph (2) (other than the first such period) shall be extended by any period of time—

"(i) during which the individual is unemployed, and

"(ii) by any period of time before the designation of the area as an enterprise zone under section 7891 during which the individual is employed by the employer while the area is designated as an enterprise zone under State law enacted after January 1, 1981.

"(d) QUALIFIED WAGES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified wages' has the meaning given to the term 'wages' by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

"(2) REDUCTION FOR CERTAIN FEDERALLY FUNDED PAYMENTS.—For purposes of this section, the wages paid or incurred by an employer for any period shall not include the amount of any federally funded payments the employer receives or is entitled to receive for on-the-job training of such individual for such period.

"(3) SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.—Under regulations prescribed by the Secretary, rules similar to the rules of section 51(h) shall apply with respect to services described in subparagraphs (A) and (B) of section 51(h)(1).

"(e) QUALIFIED EMPLOYEE DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified employee' means an individual—

"(A) at least 90 percent of whose services for the employer during the taxable year are directly related to the conduct of the employer's trade or business located in an enterprise zone, and

"(B) who performs at least 50 percent of his services for the employer during the taxable year in an enterprise zone.

"(2) EXCEPTION FOR INDIVIDUALS WITH RESPECT TO WHOM TARGETED JOBS CREDIT IS ALLOWED.—The term 'qualified employee' shall not include an individual any portion of whose wages is taken into account by the employer for the taxable year in computing the amount of the targeted jobs credit under section 51(a).

"(f) QUALIFIED ECONOMICALLY DISADVANTAGED INDIVIDUAL.—

"(1) For purposes of this section, the term 'qualified economically disadvantaged individual' means an individual—

"(A) who is a qualified employee,

"(B) who is hired by the employer during the period a designation under section 7891 is in effect for the area in which the services which qualify such individual as a qualified employee are performed, and

"(C) who is certified as—

"(i) an economically disadvantaged individual,

"(ii) an eligible work incentive employee (within the meaning of section 51(d)(9)), or

"(iii) a general assistance recipient (within the meaning of section 51(d)(6)).

"(2) ECONOMICALLY DISADVANTAGED INDIVIDUAL.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'economically disadvantaged individual' means any individual who is certified by the designated local agency as being a member of a family which had a combined family income (including the cash value of food stamps) during the 6 months preceding the month in which such determination occurs which, on an annual basis, was equal to or less than the sum of—

"(i) the highest amount which would ordinarily be paid to a family of the same size without any income or resources in the form of payments for aid to families with dependent children under the State plan approved under part A of title IV of the Social Security Act for the State in which such individual resides, plus,

"(ii) the highest cash value of the food stamps to which a family of the same size without any income or resources would be paid aid to families with dependent children under such State plan in the amount determined under clause (i).

Any such determination shall be valid for the 45-day period beginning on the date such determination is made.

"(B) SPECIAL RULE FOR FAMILIES WITH ONLY 1 INDIVIDUAL.—For purposes of clause (i) of subparagraph (A), in the case of a family consisting of only one individual, the 'highest amount which would ordinarily be paid' to such family under the State's plan approved under part A of title IV of the Social Security Act shall be an amount determined by the designated local agency on the basis of a reasonable relationship to the amounts payable under such plan to families consisting of two or more persons.

"(3) CERTIFICATION.—Certification of an individual as an individual described in paragraph (1)(C) shall be made in the same manner as certification under section 51.

"(g) SPECIAL RULES.—For purposes of this section—

"(1) APPLICATION TO CERTAIN ENTITIES, ETC.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (f) and (i) of section 51, section 52, and section 30(f)(3) shall apply.

"(2) PERIODS OF LESS THAN A YEAR.—If designation of an area as an enterprise zone under section 7891 occurs, expires, or is revoked on a date other than the first or last day of the taxable year of the taxpayer, or in the case of a taxable year of less than 12 months—

"(A) the limitation specified in subsection (b)(2)(A), and the base period wages determined under subsection (b)(3), shall be adjusted on a pro rata basis (based upon the number of days), and

"(B) the reduction specified in subsection (d)(2) and the 90 percent and 50 percent tests set forth in subsection (e)(1) shall be determined by reference to the portion of the taxable year during which the designation of the area as an enterprise zone is in effect.

"(3) SPECIAL RULE IF PERIOD OF ZONE EXTENDS MORE THAN 15 YEARS.—For purposes of applying section 39 to business credit carryovers determined under subsection (a) or section 46(a), if the number of taxable years during the period—

"(A) beginning with the taxable year after the unused credit year, and

"(B) ending with the taxable year in which the designation of the enterprise zone expires under section 7891,

exceeds 15, then such number shall be substituted for '15', such number plus 3 shall be substituted for '18', and such number plus 2 shall be substituted for '17' each place they appear in section 39(a).

"(h) PHASEOUT OF CREDIT.—In determining the amount of the credit for a taxable year under subsection (a) with respect to qualified wages paid or incurred for services performed in an enterprise zone—

"(1) the following percentages shall be substituted for '10 percent' in subsection (a)(1):

"(A) 7.5 percent in the earlier of—

"(i) the taxable year which includes the date which is 21 years after the date on which such enterprise zone was designated under section 7891, or

"(ii) the taxable year which includes the date which is 4 years before the date (if any) on which such enterprise zone ceases to be a zone under section 7891(b)(1)(B),

"(B) 5 percent in the next succeeding taxable year,

"(C) 2.5 percent in the second next succeeding taxable year, and

"(D) zero thereafter, and

"(2) the amount determined under subsection (a)(2) shall be reduced by—

"(A) 25 percent in the case of the taxable year described in paragraph (1)(A),

"(B) 50 percent in the next succeeding taxable year,

"(C) 75 percent in the second next succeeding taxable year, and

"(D) 100 percent thereafter.

"(i) EARLY TERMINATION OF EMPLOYMENT BY EMPLOYER IN CASE OF QUALIFIED ECONOMICALLY DISADVANTAGED INDIVIDUALS, ETC.—

"(1) GENERAL RULE.—Under regulations prescribed by the Secretary, if the employment of any qualified economically disadvantaged individual with respect to whom qualified wages are taken into account under subsection (a) is terminated by the taxpayer at any time during the 270-day period beginning on the date such individual begins work for the employer, the tax under this chapter for the taxable year in which such employment is terminated shall be increased by an amount (determined under such regulations) equal to the credit determined under subsection (a) and allowed under section 38 for such taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to such employee.

"(2) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to—

"(i) a termination of employment of an employee who voluntarily leaves the employment of the employer,

"(ii) a termination of employment of an individual who, before, the close of the period referred to in paragraph (1), becomes disabled and therefore is unable to perform the services of such employment, unless such disability is removed before the close of such period and the employer fails to offer reemployment to such individual,

"(iii) a termination of employment of an individual, if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual, or

"(iv) a termination of employment of an individual due to a substantial reduction in the trade or business operations of the employer.

"(B) CHANGE IN FORM OF BUSINESS, ETC.—For purposes of paragraph (1), the employment relationship between the employer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies, if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer, if the employee continues to be employed in such trade or business and the employer retains a substantial interest in such trade or business.

"(3) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit allowable under this subpart.".

(b) ALLOWANCE OF CREDIT.—Section 38(b) (defining current year business credit) is amended by striking out "plus" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", plus", and by adding at the end thereof the following new paragraph:

"(5) the enterprise zone credit determined under section 42(a).".

(c) NO DEDUCTION ALLOWED.—Section 280C (relating to disallowance of deductions for certain expenses for which credits are allowable is amended by adding at the end thereof the following new subsection:

"(c) RULE FOR ENTERPRISE ZONE CREDITS.—No deduction shall be allowed for that portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit determined under section 42. This subsection shall be applied under a rule similar to the rule of the last sentence of subsection (a).".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting at the end thereof the following new item:

"Sec. 42. Credit for enterprise zone employment.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

SEC. . CREDIT FOR ENTERPRISE ZONE EMPLOYEES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by adding at the end thereof the following new section:

"SEC. 26. CREDIT FOR ENTERPRISE ZONE EMPLOYEES.

"(a) IN GENERAL.—In the case of a qualified employee, there is allowed as a credit against the tax imposed on such employee by this chapter for the taxable year an amount equal to 5 percent of the qualifed wages for the taxable year.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED EMPLOYEE.—The term 'qualified employee' means an individual—

"(A) who is described in section 42(e)(1), and

"(B) who is not an employee of the Federal Government, of any State or local government, or any political subdivision of a State or local government.

"(2) QUALIFIED WAGES.—

"(A) IN GENERAL.—The term 'qualified wages' has the meaning given to 'wages' under subsection (b) of section 3306, except that such wages—

"(i) must be attributable to services performed for an employer with respect to whom the employee is a qualified employee, and

"(ii) may not be taken into account to the extent such wages exceed 1½ times the dollar limitation specified in such subsection.

"(B) EXCEPTION.—The term 'qualified wages' does not include any compensation received from the Federal Government, any State or local government, or any political subdivision of a State or local government.

"(c) PHASEOUT OF CREDIT.—In determining the amount of the credit for any taxable year under subsection (a) with respect to qualified wages paid to qualified employees for services performed in an enterprise zone, the following percentages shall be substituted for '5 percent' in subsection (a):

"(1) 3¾ percent in the taxable year in which the date which is—

"(A) 21 years after the date on which such enterprise zone was designated under section 7891 occurs, or

"(B) if earlier, the date 4 years before the date the zone designation is to expire;

"(2) 2½ percent in the next succeeding taxable year;

"(3) 1¼ percent in the second next succeeding taxable year; and

"(4) zero thereafter.".

(b) REPORTING REQUIREMENTS.—Subpart C of part III of subchapter A of chapter 61 (relating to information regarding wages paid employees) is amended by adding at the end thereof the following new section:

"SEC. 6054. REPORTING OF ENTERPRISE ZONE EMPLOYEE CREDITS.

"Every employer shall furnish to each employee who is a qualified employee of the employer (within the meaning of section 26(b)(1)) a written statement showing the amount of qualified wages (within the meaning of section 26(b)(2)) paid by the employer to such employee. The statement required to be furnished pursuant to this section shall be furnished at such time, shall contain such other information, and shall be in such form as the Secretary may by regulations prescribe. When required by such regulations, a duplicate of any such statement shall be filed with the Secretary.".

(c) PENALTIES.—

(1) Subparagraph (A) of section 6652(a)(1) (relating to failure to file information returns) is amended—

(A) by striking out "or" at the end of clause (v), and

(B) by inserting after clause (vi) the following new clause:

"(vii) section 6054 (relating to reporting of enterprise zone employee credits),".

(2) Section 6674 (relating to fraudulent statement or failure to furnish statement to employee) is amended by striking "or 6053(b)" each place it appears and inserting in lieu thereof ", 6053(b), or 6054".

(d) TECHNICAL AMENDMENTS.—

(1) The table of sections for subpart C of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6054. Reporting of enterprise zone employee credits.".

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 26. Credit for enterprise zone employees.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

Subtitle —Credits for Investment in Tangible Property in Enterprise Zones

SEC. INVESTMENT TAX CREDIT FOR ENTERPRISE ZONE PROPERTY.

(a) AMOUNT OF CREDIT.—

(1) IN GENERAL.—Section 46(a) (relating to amount of investment tax credit) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(4) in the case of enterprise zone property, the enterprise zone percentage.".

(2) ENTERPRISE ZONE PERCENTAGE DEFINED.—Section 46(b) (relating to determination of percentages) is amended by adding at the end thereof the following new paragraph:

"(5) ENTERPRISE ZONE PERCENTAGE.—

"(A) IN GENERAL.—

"For purposes of this paragraph—

"In the case of enterprise zone expenditures with respect to:	The enterprise percentage zone is:
Zone personal property (within the meaning of section 48(s)(3))	5
New zone construction property (within the meaning of section 48(s)(4))	10

"(B) PHASEOUT OF CREDIT AS ENTERPRISE ZONE ENDS.—Subparagraph (A) shall be applied by substituting the following percentages for 5 percent and 10 percent, respectively:

"(i) For the taxable year described in section 42(h)(1)(A), 3.75 and 7.5.

"(ii) For the next succeeding taxable year, 2.5 and 5.

"(iii) For the second next succeeding taxable year, 1.25 and 2.5.

"(iv) For any subsequent taxable year, zero.

"(C) REGULAR PERCENTAGE NOT TO APPLY TO CERTAIN PROPERTY.—For purposes of this section, the regular percentage shall not apply to any enterprise zone property which, but for section 48(s)(1), would not be section 38 property.".

(3) CONFORMING AMENDMENT.—Section 48(o) (defining certain credits) is amended by adding at the end thereof the following new paragraph:

"(9) ENTERPRISE ZONE CREDIT.—The term 'enterprise zone credit' means that portion of the credit allowable by section 38 which is attributable to the enterprise zone percentage.".

(c) DEFINITIONS AND TRANSITIONAL RULES.—Section 48 (relating to definitions and special rules) is amended by redesignating subsection (s) as subsection (t) and by inserting after subsection (r) the following new subsection:

"(s) ENTERPRISE ZONE PROPERTY.—For purposes of this subpart—

"(1) TREATMENT AS SECTION 38 PROPERTY.—In the case of enterprise zone property—

"(A) such property shall be treated as meeting the requirements of subsection (a), and

"(B) paragraph (3) of subsection (a) shall not apply to such property.

"(2) The term 'enterprise zone property' means property—

"(A) which is—

"(i) zone personal property, or

"(ii) new zone construction property,

"(B) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 168(e)(4)(D)), and

"(C) acquired and first placed in service by the taxpayer in an enterprise zone during the period the designation as a zone is in effect under section 7891.

"(3) ZONE PERSONAL PROPERTY DEFINED.—The term 'zone personal property' means property which is—

"(A) 3-year property;

"(B) 5-year property;

"(C) 10-year property; and

"(D) 15-year public utility property,

which is used by the taxpayer predominantly in the active conduct of a trade or business within an enterprise zone. Property shall not be treated as 'zone personal property' if it is used or located outside the enterprise zone on any regular basis.

"(4) NEW ZONE CONSTRUCTION PROPERTY DEFINED.—The term 'new zone construction property' means 15-year real property, 18-year real property, or low-income housing which is—

"(A) located in an enterprise zone,

"(B) used by the taxpayer predominantly in the active conduct of a trade or business within an enterprise zone, and

"(C) either—

"(i) the construction, reconstruction, or erection of which is completed by the taxpayer during the period the designation as a zone is in effect under section 7891, or

"(ii) acquired during such period if the original use of such property commences with the taxpayer and commences during such period.

In applying section 46(c)(1)(A) in the case of property described in subparagraph (C)(i), there shall be taken into account only that portion of the basis which is properly attributable to construction, reconstruction, or erection during such period.

"(5) REAL ESTATE RENTAL.—For purposes of this section, ownership of residential, commercial, or industrial real property within an enterprise zone for rental purposes shall be treated as the active conduct of a trade or business in an enterprise zone.

"(6) DEFINITIONS.—For purposes of this subsection, the terms '3-year property,' '5-year property,' '10-year property,' '15-year real property,', '18-year real property', '15-year public utility property', and 'low-income housing', have the meanings given such terms by section 168.

"(7) CROSS REFERENCE.—

"For extension of carryover period for enterprise zone credit, see section 42(g)(3).".

(d) RECAPTURE.—Subsection (a) of section 47 (relating to certain dispositions, etc., of section 38 property) is amended by adding at the end thereof the following new paragraph:

"(9) SPECIAL RULES FOR ENTERPRISE ZONE PROPERTY.—

"(A) IN GENERAL.—If, during any taxable year, property with respect to which the taxpayer claimed an enterprise zone credit—

"(i) is disposed of, or

"(ii) otherwise ceases to be section 38 property with respect to the taxpayer, or

"(iii) is removed from the enterprise zone, converted, or otherwise ceases to be enterprise zone property (other than by the expiration or revocation of the designation as an enterprise zone),

the tax under this chapter for such taxable year shall be increased by the amount described in subparagraph (B).

"(B) AMOUNT OF INCREASE.—The increase in tax under subparagraph (A) shall equal the aggregate decrease in the credits allowed under section 38 and determined under section 46(a)(4) (or any corresponding provision of prior law) for all preceding taxable years which would have resulted solely from reducing the expenditures taken into account with respect to the property by an amount which bears the same ratio to such expenditures as—

"(i) the number of taxable years that the property was held by the taxpayer, bears to

"(ii) the applicable recovery period for earnings and profits under section 312(k).".

(e) BASIS ADJUSTMENT TO REFLECT INVESTMENT CREDIT.—Paragraph (3) of section 48(q) (relating to basis adjustment to section 38 property) is amended to read as follows:

"(3) SPECIAL RULE FOR QUALIFIED REHABILITATION AND ENTERPRISE ZONE EXPENDITURES.—In the case of any credit determined under section 46(a) for—

"(A) any qualified rehabilitation expenditure in connection with a qualified rehabilitated building other than a certified historic structure, or

"(B) any expenditure in connection with new zone construction property (within the meaning of section 48(s)(4)),

paragraphs (1) and (2) shall be applied without regard to the phrase '50 percent of'.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 1984, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.

Subtitle —Repeal of Capital Gains Tax

SEC. . CORPORATIONS.

(a) GENERAL RULE.—Paragraph (2) of section 1201 (relating to alternative tax for corporations) is amended to read as follows:

"(2) a tax of 28 percent of the excess (if any) of—

"(A) the net capital gain, over

"(B) the qualified enterprise zone net capital gain of the taxpayer for the taxable year.".

(b) DEFINITION OF QUALIFIED ENTERPRISE ZONE NET CAPITAL GAIN.—Section 1201 is amended by redesignating subsections (b) and (c) as subsections (c) and (d) and by inserting after subsection (a) the following new subsection:

"(b) QUALIFIED ENTERPRISE ZONE NET CAPITAL GAIN.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified enterprise zone net capital gain' means the amount of net capital gain for any taxable year determined by taking into account only gains and losses which are—

"(A) attributable to the sale or exchange of qualified enterprise zone property, and

"(B) properly allocable only to periods during which such property is qualified enterprise zone property.

"(2) SPECIAL RULES RELATING TO INTERESTS IN BUSINESSES.—

"(A) CERTAIN GAINS AND LOSSES NOT TAKEN INTO ACCOUNT.—In determining the amount of qualified enterprise zone net capital gain for any taxable year under paragraph (1), there shall not be taken into account any gains or losses attributable to the sale or exchange of an interest in a qualified enterprise zone business to the extent such gain or losses are attributable to—

"(i) any property contributed to such qualified enterprise zone business during the 12-month period before such sale or exchange,

"(ii) any interest in any business which is not a qualified enterprise zone business, or

"(iii) any intangible property to the extent not properly attributable to the active conduct of a trade or business within an enterprise zone.

"(B) PERIODS FOR WHICH GAINS AND LOSSES ALLOCABLE.—For purposes of determining under paragraph (1)(B) gains or losses properly allocable to an interest in a qualified enterprise zone business, there shall only be taken into account the taxable years of such business during which it meets the requirements of paragraph (3)(B).

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) The term 'qualified enterprise zone property' means—

"(i) any tangible personal property used by the taxpayer predominantly in an enterprise zone in the active conduct of a trade or business within such enterprise zone,

"(ii) any real property located in an enterprise zone used by the taxpayer predominantly in the active conduct of a trade or business within such enterprise zone, and

"(iii) any interest in a corporation, partnership, or other entity if, for the two most recent taxable years of such entity—

"(I) ending before the date of disposition of such interest, and

"(II) beginning after the date of the designation as an enterprise zone of the area in which such entity is engaged in the active conduct of a trade or business,

such entity was a qualified enterprise zone business.

"(B) QUALIFIED ENTERPRISE ZONE BUSINESS.—The term 'qualified enterprise zone business' means, with respect to any taxable year, any person—

"(i) actively engaged in the conduct of a trade or business within an enterprise zone during such taxable year,

"(ii) with respect to which at least 80 percent of such person's gross receipts for such taxable year are attributable to the active conduct of a trade or business within an enterprise zone, and

"(iii) substantially all of the tangible assets of which are located within an enterprise zone during such taxable year.

"(C) REAL ESTATE RENTAL.—For purposes of this subsection, ownership of residential, commercial, or industrial real property within an enterprise zone for rental shall be treated as the active conduct of a trade or business in an enterprise zone.

"(D) PROPERTY REMAINS QUALIFIED AFTER ZONE DESIGNATION CEASES TO APPLY.—

"(i) IN GENERAL.—The treatment of property as qualified enterprise zone property under subparagraph (A) shall not terminate when the designation of the enterprise zone in which the property is located or used expires or is revoked.

"(ii) EXCEPTIONS.—Clause (i) shall not apply after the first sale or exchange of property occurring after the designation expires or is revoked.".

SEC. . TAXPAYERS OTHER THAN CORPORATIONS.

Subsection (a) of section 1202 (relating to deduction for capital gains) is amended to read as follows:

"(a) DEDUCTION ALLOWED.—

"(1) IN GENERAL.—If for any taxable year a taxpayer other than a corporation has a net capital gain, there shall be allowed as a deduction from gross income an amount equal to the sum of—

"(A) 100 percent of the lesser of—

"(i) the net capital gain, or

"(ii) the qualified enterprise zone net capital gain (as defined in section 1201(b)), plus

"(B) 60 percent of the excess (if any) of—

"(i) the net capital gain, over

"(ii) the amount of the net capital gain taken into account under subparagraph (A).".

SEC. . MINIMUM TAX.

Paragraph (9) of section 57(a) (relating to tax preference for capital gains) is amended by adding at the end thereof the following new subparagraph:

"(E) For purposes of this paragraph, gain attributable to qualified enterprise zone net capital gain (within the meaning of section 1201(b)) shall not be taken into account.".

SEC. . EFFECTIVE DATE.

The amendments made by this subtitle shall apply to sales or exchanges after December 31, 1984.

Subtitle —Rules Relating to Industrial Development Bonds

SEC. . INDUSTRIAL DEVELOPMENT BONDS.

(a) LIMITATION ON ACCELERATED COST RECOVERY DEDUCTION NOT TO APPLY TO ENTERPRISE ZONE PROPERTY.—Subparagraph (C) of section 168(f)(12) (relating to limitations on property financed with tax-exempt bonds) is amended by inserting "or which is placed in service as enterprise zone property (within the meaning of section 48(s))" after "section 103(b)(4)(A)".

(b) TERMINATION OF SMALL ISSUE EXEMPTION NOT TO APPLY.—Subparagraph (N) of section 103(b)(6) (relating to termination of small issue exemption after December 31, 1986) is amended by adding at the end thereof the following new clause:

"(iv) EXCEPTION FOR ENTERPRISE ZONE FACILITIES.—This subparagraph shall not apply to any obligation which is part of an issue substantially all of the proceeds of which are used to finance facilities within an enterprise zone if such facilities are placed in service while the designation as such a zone is in effect under section 7891.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 1984, in taxable years ending after such date.

Subtitle —Sense of the Congress With Respect to Tax Simplification

SEC. . TAX SIMPLIFICATION.

It is the sense of the Congress that the Secretary of the Treasury and his delegates should in every way possible simplify the administration and enforcement of any provision of the Internal Revenue Code of 1954 added to, or amended by, this Act.

TITLE —REGULATORY FLEXIBILITY

SEC. . DEFINITION OF SMALL ENTITIES IN ENTERPRISE ZONES FOR PURPOSES OF ANALYSIS OF REGULATORY FUNCTIONS.

Section 601 of title 5, United States Code, is amended by—

(1) striking out "and" at the end of paragraph (5); and

(2) striking out paragraph (6) and inserting in lieu thereof the following:

"(6) the term 'small entity' means—

"(A) a small business, small organization, or small governmental jurisdiction within the meaning of paragraphs (3), (4), and (5) of this section, respectively; and

"(B) any qualified enterprise zone business; any governments which designated and approved an area which has been designated as an enterprise zone (within the meaning of section 7891 of the Internal Revenue Code of 1954) to the extent any rule pertains to the carrying out of projects, activities, or undertakings within such zone; and any not-for-profit enterprise carrying out a significant portion of its activities within such a zone; and

"(7) the term 'qualified enterprise zone business' means any person, corporation, or other entity—

"(A) which is engaged in the active conduct of a trade or business within an enterprise zone (within the meaning of section 7891 of the Internal Revenue Code of 1954); and

"(B) for whom at least 50 percent of its employees are qualified employees (within the meaning of section 42(e) of such Code).".

SEC. . WAIVER OR MODIFICATION OF AGENCY RULES IN ENTERPRISE ZONES.

(a) Chapter 6 of title 5, United States Code, is amended by redesignating sections 611 and 612 as sections 612 and 613, respectively, and inserting the following new section immediately after section 610:

"§ 611. Waiver or modification of agency rules in enterprise zones

"(a) Upon the written request of the governments which designated and approved an area which has been designated as an enterprise zone under section 7891 of the Internal Revenue Code of 1954, an agency is authorized, in order to further the job creation, community development, or economic revitalization objectives of the zone, to waive or modify all or part of any rule which it has authority to promulgate, as such rule pertains to the carrying out of projects, activities or undertakings within the zone.

"(b) Nothing in this section shall authorize an agency to waive or modify any rule adopted to carry out a statute or Executive order which prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion,

sex, marital status, national origin, age, or handicap.

"(c) A request under subsection (a) shall specify the rule or rules to be waived or modified and the change proposed, and shall briefly describe why the change would promote the achievement of the job creation, community development, or economic revitalization objectives of the enterprise zone. If a request is made to an agency other than the Department of Housing and Urban Development, the requesting governments shall send a copy of the request to the Secretary of Housing and Urban Development at the time the request is made.

"(d) In considering a request, the agency shall weigh the extent to which the proposed change is likely to further job creation, community development, or economic revitalization within the enterprise zone against the effect the change is likely to have on the underlying purposes of applicable statutes in the geographic area which would be affected by the change. The agency shall approve the request whenever it finds, in its discretion, that the public interest which the proposed change would serve in furthering such job creation, community development, or economic revitalization outweighs the public interest which continuation of the rule unchanged would serve in furthering such underlying purposes. The agency shall not approve any request to waive or modify a rule if that waiver or modification would—

"(1) directly violate a statutory requirement (including any requirement of the Fair Labor Standards Act of 1938 (52 Stat. 1060; 29 U.S.C. 201 et seq.)); or

"(2) be likely to present a significant risk to the public health, including environmental health or safety, such as a rule with respect to occupational safety or health, or environmental pollution.

"(e) If a request is disapproved, the agency shall inform the requesting governments in writing of the reasons therefor and shall, to the maximum extent possible, work with such governments to develop an alternative, consistent with the standards contained in subsection (d).

"(f) Agencies shall discharge their responsibilities under this section in an expeditious manner, and shall make a determination on requests not later than 90 days after their receipt.

"(g) A waiver or modification of a rule under subsection (a) shall not be considered to be a rule, rulemaking, or regulation under chapter 5 of this title. To facilitate reaching its decision on any requested waiver or modification, the agency may seek the views of interested parties and, if the views are to be sought, determine how they should be obtained and to what extent, if any, they should be taken into account in considering the request. The agency shall publish a notice in the Federal Register stating any waiver or modification of a rule under this section.

"(h) In the event that an agency proposes to amend a rule for which a waiver or modification under this section is in effect, the agency shall not change the waiver or modification to impose additional requirements unless it determines, consistent with standards contained in subsection (d), that such action is necessary.

"(i) No waiver or modification of a rule under this section shall remain in effect for a longer period than the period for which the enterprise zone designation remains in effect for the area in which the waiver or modification applies.

"(j) For purposes of this section, the term 'rule' means (1) any rule as defined in section 551(4) of this title or (2) any rulemaking conducted on the record after opportunity for an agency hearing pursuant to sections 556 and 557 of this title.".

(b) The table of sections for such chapter is amended by redesignating the items relating to sections 611 and 612 as sections 612 and 613, respectively, and inserting the following new item immediately after the item relating to section 610:

"Sec. 611. Waiver or modification of agency rules in enterprise zones.".

(c) Section 601(2) of such title is amended by inserting "(except for purposes of section 611)" immediately before "means.".

(d) Section 613 of such title, as redesignated by subsection (a) of this section, is amended by—

(1) inserting "(except section 611)" immediately after "chapter" in subsection (a); and

(2) inserting "as defined in section 601(2)" immediately before the period at the end of the first sentence of subsection (b).

SEC. . COORDINATION OF HOUSING AND URBAN DEVELOPMENT PROGRAMS IN ENTERPRISE ZONES.

Section 3 of the Department of Housing and Urban Development Act is amended by adding at the end thereof the following new subsection:

"(d) The Secretary of Housing and Urban Development shall—

"(1) promote the coordination of all programs under his jurisdiction which are carried on within an enterprise zone designated pursuant to section 7891 of the Internal Revenue Code of 1954;

"(2) expedite, to the greatest extent possible, the consideration of applications for programs referred to in paragraph (1) through the consolidation or forms or otherwise; and

"(3) provide, whenever possible, for the consolidation of periodic reports required under programs referred to in paragraph (1) into one summary report submitted at such intervals as may be designated by the Secretary.".

TITLE —ESTABLISHMENT OF FOREIGN-TRADE ZONES IN ENTERPRISE ZONES

SEC. . FOREIGN-TRADE ZONE PREFERENCES.

(a) PREFERENCE IN ESTABLISHMENT OF FOREIGN-TRADE ZONES IN REVITALIZATION AREAS.—In processing applications for the establishment of foreign-trade zones pursuant to an Act entitled "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", approved June 18, 1934 (48 Stat. 998), the Foreign-Trade Zone Board shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a foreign-trade zone within an enterprize zone designated pursuant to section 7891 of the Internal Revenue Code of 1954.

(b) APPLICATION PROCEDURE.—In processing applications for the establishment of ports of entry pursuant to an Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and fifteen, and for other purposes", approved August 1, 1914 (38 Stat. 609), the Secretary of the Treasury shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a port of entry which is necessary to permit the establishment of a foreign-trade zone within an enterprise zone (as so designated).

(c) APPLICATION EVALUATION.—In evaluating applications for the establishment of foreign-trade zones and ports of entry in connection with enterprise zones (as so designated), the Foreign-Trade Zone Board and the Secretary of Treasury shall approve the applications to the maximum extent practicable, consistent with their respective statutory responsibilities.

AMENDMENT No. 5658

At the appropriate place, add the following:

That (a) chapter 223 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3505 Elimination of exclusionary rule as it pertains to the fourth amendment.

"Evidence, otherwise admissible in a Federal criminal proceeding, shall not be excluded on the grounds that such evidence was obtained in violation of the fourth amendment to the United States Constitution.".

(b) The table of sections for chapter 223 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"3505. Elimination of exclusionary rule as it pertains to the fourth amendment."

SEC. . (a) Title 28, United States Code, is amended by adding immediately after chapter 171 a new chapter 172 as follows:

"Chapter 172.—ILLEGAL SEARCH AND SEIZURE

"Sec.
"2691. Definitions.
"2692. Tort claims; illegal search and seizure.
"2693. Sanctions against investigative or law enforcement officers; illegal search and seizure.
"2694. Judgment as a bar.
"2695. Attorney fees and costs.
"2696. Applicability of other tort claims procedures.

"§ 2691. Definitions

"As used in this chapter, and section 1346(g) of this title, the term—

"(1) 'Federal agency' includes the executive departments, military departments, independent establishments of the United States, and corporations primarily acting as instrumentalities or agencies of the United States, but does not include any contractor with the United States; and

"(2) 'Investigative or law enforcement officer' means any officer of the United States who is empowered by law to execute searches, to seize evidence, or to make arrests for any violation of Federal law, or any person acting under or at the request of such officer.

"§ 2692. Tort claims; illegal search and seizure

"(a) The United States shall be liable for any damages resulting from a search or seizure conducted by an investigative or law enforcement officer, acting within the scope of his office or employment, in violation of the fourth amendment to the United States Constitution.

"(b) Any person aggrieved by such a violation may recover actual damages and such punitive damages as the court may award under subsection (c).

"(c) Punitive damages may be awarded by the court, upon consideration of all the circumstances of the case, including—

"(1) the extent of the investigative or law enforcement officer's deviation from permissible conduct;

"(2) the extent to which the violation was willful, reckless, or grossly negligent;

"(3) the extent to which the aggrieved person's privacy was invaded;

"(4) the extent of the aggrieved person's personal injury, both physical and mental;

"(5) the extent of any property damage; and

"(6) the effect such an award would have in preventing future violations of the fourth amendment to the United States Constitution.

"(d) Notwithstanding subsections (b) and (c), the recovery of any person who is convicted of any offense for which evidence of such offense was seized in violation of the fourth amendment to the United States Constitution is limited to actual physical personal injury and to actual property damage sustained as a result of the unconstitutional search and seizure.

"(e) No judgment, award, compromise, or settlement of any action brought under this section shall exceed the amount of $25,000, including actual and punitive damages. The United States shall not be liable for interest prior to judgment.

"(f) Any action under this section shall be brought within the period of limitations provided in section 240(b) of this title.

"§ 2693. Sanctions against investigative or law enforcement officers; illegal search and seizure

"An investigative or law enforcement officer who conducts a search or seizure in violation of the fourth amendment to the United States Constitution shall be subject to appropriate discipline in the discretion of the Federal agency employing such officer, if that agency determines, after notice and hearing, that the officer conducted such search or seizure lacking a good faith belief that such search or seizure was constitutional.

"§ 2694. Judgment as a bar

"The remedy against the United States provided under this chapter shall be the exclusive civil remedy for a violation of the fourth amendment to the United States Constitution by any investigative or law enforcement officer acting within the scope of his office or employment whose act or omission gave rise to the claim.

"§ 2695. Attorney fees and costs

"In any action brought under this chapter, the court may award any claimant who prevails in such action reasonable attorney fees, and other litigation costs reasonably incurred.

"§ 2696. Applicability of other tort claims procedures

"The procedures provided in sections 2672, 2675, 2677, 2678, 2679, and 2680 of this title apply to any action brought under this chapter. For the purposes of such sections, any investigative or law enforcement officer who conducts a search and seizure in violation of the fourth amendment to the Constitution shall be treated as if he were an 'employee of the government'.".

(b) The table of chapters for title 28, United States Code, and for part VI of title 28, United States Code, are each amended by inserting immediately after the item relating to chapter 171 the following:

"172. Illegal Search and Seizure ..... 2691".

SEC. . Section 1346 of title 28, United States Code, is amended by adding immediately after subsection (f) the following new subsection:

"(g) The district courts, together with the United States District Court for the District of the Canal Zone, the United States District for the Territory of Guam, the District Court for the Northern Mariana Islands, and the District Court of the Virgin Islands, shall have exclusive original jurisdiction of any civil action on a claim against the United States, for money damages, brought under chapter 172 of this title.".

SEC. . (a) Section 1402(b) of title 28, United States Code, is amended by inserting after "subsection (b)" the following: "or subsection (g)".

(b) Section 1504 of title 28, United States Code, is amended by striking "section 1346(b)" and inserting in lieu thereof "under subsection (b) or subsection (g) of section 1346".

SEC. . The civil action against the United States provided by the amendments to title 28, United States Code, made by this Act shall apply only to claims arising on or after the date of enactment of this Act.

AMENDMENT No. 5659

At the appropriate place, add the following:

SEC. . Chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 20. Insanity defense

"(a) STATE OF MIND.—It shall be a defense to a prosecution under any Federal statute, that the defendant, as a result of mental disease or defect, lacked the state of mind required as an element of the offense charged. Mental disease or defect does not otherwise constitute a defense.

"(b) APPLICATION OF THIS SECTION.—This section applies to prosecutions under any Act of Congress other than—

"(1) an Act of Congress applicable exclusively in the District of Columbia;

"(2) the Canal Zone Code; or

"(3) the Uniform Code of Military Justice (10 U.S.C. 801 et seq.).

"§ 21. Determination of the existence of insanity at the time of the offense

"(a) MOTION FOR PRETRIAL PSYCHIATRIC EXAMINATION.—Upon the filing of a notice, as provided in rule 12.2 of the Federal Rules of Criminal Procedure, the court, upon motion of the attorney for the Government, may order that a psychiatric examination of the defendant be conducted, and that a psychiatric report be filed with the court pursuant to the provisions of section 24(b) and (c).

"(b) SPECIAL VERDICT.—If the issue of insanity is raised by notice as provided in rule 12.2 of the Federal Rules of Criminal Procedure on a motion by the defendant or by the attorney for the Government, or on the court's own motion, the jury shall be instructed to find, or, in the event of a nonjury trial, the court shall find, the defendant—

"(1) guilty;

"(2) not guilty; or

"(3) not guilty only by reason of insanity.

"§ 22. Hospitalization of a person acquitted by reason of insanity

"(a) DETERMINATION OF PRESENT MENTAL CONDITION OF ACQUITTED PERSON.—If a person is found not guilty only by reason of insanity at the time of the offense charged, he shall be committed to a suitable facility until such time as he is eligible for release pursuant to subsection (d) of this section. The court shall order a hearing to determine whether the person is currently suffering from a mental disease or defect and that his release would create a significant risk of bodily injury to another person or serious damage to property of another.

"(b) PSYCHIATRIC EXAMINATION AND REPORT.—Prior to the date of the hearing, the court shall order that a psychiatric examination of the defendant be conducted, and that a psychiatric report be filed with the court, pursuant to the provisions of section 24(b) and (c).

"(C) HEARING.—The hearing shall be conducted pursuant to the provisions of section 24(d), and shall be conducted not later than forty days after the date of the finding of guilty only by reason of insanity.

"(d) DETERMINATION AND DISPOSITION.—If, after the hearing, the court finds by clear and convincing evidence that the acquitted person is currently suffering from a mental disease or defect and that his release would create a significant risk of bodily injury to another person or serious damage to property of another, the court shall commit the person to the custody of the Attorney General. The Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried if such State will assume responsibility for his custody, care, and treatment. The Attorney General shall make all reasonable efforts to cause such a State to assume such responsibility. If, notwithstanding such efforts, neither such State will assume such responsibility, the Attorney General shall hospitalize the person for treatment in a suitable facility until—

"(1) such a State will assume such responsibility; or

"(2) the person's mental condition is such that his release would not create a significant risk of bodily injury to another person or serious damage to property of another;

whichever is earlier. The Attorney General shall continue periodically to exert all reasonable efforts to cause such a State to assume such responsibility for the person's custody, care, and treatment.

"(e) DISCHARGE FROM SUITABLE FACILITY.—When the director of a facility determines that an acquitted person, hospitalized pursuant to subsection (d), has recovered from his mental disease or defect to such an extent that his release would no longer create a significant risk of bodily injury to another person or serious damage to property of another, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to such person's counsel and to the attorney for the Government. The court shall order the discharge of the acquitted person or, on the motion of the attorney for the Government or on its own motion, shall hold a hearing, conducted pursuant to the provisions of section 24(d), to determine whether he should be released. If, after the hearing, the court finds by a preponderance of evidence that the person had recovered from his mental disease or defect to such an extent that his release would no longer

create a significant risk of bodily injury to another person or serious damage to propety of another, the court shall order his immediate discharge.

"§ 23. Hospitalization of a convicted person suffering from mental disease or defect

"(a) MOTION TO DETERMINE PRESENT MENTAL CONDITION OF CONVICTED DEFENDANT.—A defendant found guilty of an offense, or the attorney for the Government, may, within ten days afer the defendant is found guilty, and prior to the time the defendant is sentenced, file a motion for a hearing on the present mental condition of the defendant. Such motion must be supported by substantial information indicating that the defendant may currently be suffering from a mental disease or defect and that he is in need of custody for care or treatment in a suitable facility for such disease or defect. The court shall grant the motion, or at any time prior to the sentencing of the defendant shall order a hearing on its own motion if the court deems that there is reasonable cause to believe that the defendant may currently be suffering from a mental disease or defect and that he is in need of custody for care or treatment in a suitable facility.

"(b) PSYCHIATRIC EXAMINATION AND REPORT.—Prior to the date of the hearing, the court may order that a psychiatric examination of the defendant be conducted, and that a psychiatric report be filed with the court, pursuant to the provisions of section 24 (b) and (c). In addition to the information required to included in the psychiatric report pursuant to the provisions of section 24(c), if the report includes an opinion by the examiners that the defendant is currently suffering from a mental disease or defect but that such disease or defect does not require this custody for care or treatment, the report shall also include an opinion by the examiner concerning the sentencing alternatives that could best provide the defendant with the kind of treatment needed.

(c) HEARING.—The hearing shall be conducted pursuant to the provisions of section 24(d).

"(d) DETERMINATION AND DISPOSITION.—If, after the hearing, the court finds by a preponderance of evidence that the defendant is presently suffering from a mental disease or defect and that he should, in lieu of being sentenced to probation or imprisonment, be committed to a suitable facility for care or treatment, the court shall commit the defendant to the custody of the Attorney General. The Attorney General shall hospitalize the defendant for care or treatment in a suitable facility. Such a commitment constitutes a provisional sentence to the maximum term authorized by law for the offense of which the defendant was found guilty.

"(e) DISCHARGE FROM SUITABLE FACILITY.—When the director of the facility determines that the defendant, hospitalized pursuant to subsection (d), has recovered from his mental disease or defect to such an extent that he is no longer in need of custody for care or treatment in such a facility, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the defendant's counsel and to the attorney for the Government. If, at the time of the filing of the certificate, the provisional sentence imposed pursuant to subsection (d) has not expired, the court shall proceed finally to sentencing, and may modify the provisional sentence.

"§ 24. General provisions

"(a) DEFINITIONS. —As used in this title—

"(1) 'insanity' means a mental disease or defect of a nature constituting a defense to a Federal criminal prosecution; and

"(2) 'suitable facility' means a facility that is suitable to provide care or treatment given the nature of the offense and the characteristics of the defendant.

"(b) PSYCHIATRIC EXAMINATION.—A psychiatric examination ordered pursuant to this title shall be conducted by a licensed or certified psychiatric, or a clinical psychologist and a medical doctor, or, if the court finds it appropriate, by additional examiners. Each examiner shall be designated by the court if the examination is ordered under section 21, 22, or 23. For purposes of an examination pursuant to an order under section 23, the court may commit the person for a reasonable period not exceeding thirty days, in order to conduct such examination, or pursuant to section 21 or 22, the court may commit such person to the custody of the Attorney General for placement in a suitable facility for a reasonable period, but not to exceed forty days. Unless impracticable, the psychiatric examination shall be conducted in the suitable facility closest to the court. The director of the facility may apply for a reasonable extension not exceeding fifteen days under section 23, or not exceeding twenty days under section 21 or 22, upon a showing of good cause that additional time is necessary to observe and evaluate the defendant.

"(c) PSYCHIATRIC REPORTS.—A psychiatric report ordered pursuant to this title shall be prepared by the examiner designated to conduct the psychiatric examination, shall be filed with the court with copies provided to the counsel for the person examined and to the attorney for the Government, and shall include—

"(1) the person's history and present symptoms;

"(2) a description of the psychological and medical tests employed and their results;

"(3) the examiner's findings; and

"(4) the examiner's opinions as to diagnosis, prognosis, and—

"(A) if the examination is ordered under section 21, whether the person was insane at the time of the offense charged;

"(B) if the examination is ordered under section 22, whether the person is currently suffering or in the reasonable future is likely to suffer from a mental disease or defect which would create a significant risk to bodily injury to another person or serious damage to property of another; or

"(C) if the examination is ordered under section 23, whether the person is currently suffering or in the reasonable future is likely to suffer from a mental disease or defect for which he is in need of custody in a suitable facility for care or treatment.

"(d) HEARING.—At a hearing ordered pursuant to this title the person whose mental condition is the subject of the hearing shall be represented by counsel and, if he is financially unable to obtain adequate representation, counsel shall be appointed for him pursuant to law. The person shall be afforded an opportunity to testify, to present evidence, to subpena witnesses on his behalf, and to confront and cross-examine witnesses who appear at the hearing.

"(e) PERIODIC REPORT AND INFORMATION REQUIREMENTS FOR SUITABLE FACILITIES.—(1) The director of the facility in which a person is hospitalized pursuant to section 22 or 23, shall prepare annual reports concerning the mental condition of such person, and shall make recommendations concerning the need for his continued hospitalization. The reports shall be submitted to the court that ordered the person's commitment to the facility, and copies of the reports shall be submitted to such other persons as the court may direct.

"(2) The director of the facility in which a person is hospitalized pursuant to sections 22, 23, or 24, shall inform such person of any rehabilitation programs that are available for persons hospitalized in that facility.

"(f) ADMISSIBILITY OF A DEFENDANT'S STATEMENT AT TRIAL.—A statement made by the defendant during the course of a psychiatric examination pursuant to section 21 is not admissible as evidence against the accused on the issue of guilt in any criminal proceeding, but is admissible on the issue of whether or not the defendant suffers from a mental disease or defect.

"(g) HABEAS CORPUS UNIMPAIRED.—Nothing contained in section 22 precludes a person who is committed under such section from establishing by writ of habeas corpus the illegality of his detention.

"(h) DISCHARGE FROM SUITABLE FACILITY.—Regardless of whether the director of the facility in which a person is hospitalized has filed a certificate pursuant to the provisions of subsection (e) of either section 22 or 23, counsel for the person or his legal guardian may, during such person's hospitalization, file a motion with the court ordering such commitment for a hearing to determine whether the person should be discharged from such facility. Such motion may be filed at any time except that no such motion may be filed within one hundred and eighty days after a court determines that the person should continue to be hospitalized. A copy of the motion shall be sent to the director of the facility in which the person is hospitalized and to the attorney for the Government.

"(i) AUTHORITY AND RESPONSIBILITY OF THE ATTORNEY GENERAL.—(1) Before a person is placed in a suitable facility pursuant to section 22 or 23, the Attorney General shall request the director of each facility under consideration to furnish information describing rehabilitation programs that would be available to such person, and, in making a decision as to the placement of such person, shall consider the extent to which the available programs would meet the needs of such person.

"(2) The Attorney General may contract with a State, a locality, or a private agency for the confinement, hospitalization, care, or treatment of, or the provision of services to, a person committed to his custody pursuant to this title.".

(b) The table of sections for chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following:

"20. Insanity defense.
"21. Determination of the existence of insanity at the time of the offense.
"22. Hospitalization of a person acquitted by reason of insanity.
"23. Hospitalization of a convicted person suffering from mental disease or defect.
"24. General provisions.".

AMENDMENT NO. 5660

At the appropriate place, add the following:

SEC. . Title 18 of the United States Code is amended—

(a) by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title, if the offense constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(c) any other offense for which a sentence of death is provided, if the defendant—

"(1) intentionally killed the victim;

"(2) intentionally inflicted serious bodily injury that resulted in the death of the victim; or

"(3) intentionally participated in an act that he knew, or reasonably should have known, would create a grave risk or death to a person, other than one of the participants in the offense, and the victim died as a direct result of the act;

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) the defendant was less than eighteen years of age at the time of the offense;

"(2) the defendant's mental capacity was significantly impaired, although the impairment was not such as to constitute a defense to prosecution;

"(3) the defendant was under unusual and substantial duress, although not such duress as would constitute a defense to prosecution; and

"(4) the defendant was an accomplice whose participation in the offense was relatively minor.

The jury, or if there is no jury, the court, may consider whether any other mitigating factor exists.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the defendant has previously been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; and

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determing whether a sentence of death is justified for an offense described in section 3591 (b) or (c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(2) the defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

"(4) the defendant, in the commission of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecurniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(8) the defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism; or

"(9) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Prior to such a hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the provisions of Rule 32(e) of the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval

of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—At the hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The attorney for the government shall open the argument. The defendant shall be permitted to reply. The attorney for the government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return a special finding as to each mitigating and aggravating factor, concerning which information is presented at the hearing, required to be considered under section 3592. The jury must find the existence of a mitigating or aggravating factor by a unanimous vote, although it is unnecessary that there be a unanimous vote on any specific mitigating or aggravating factor if a majority of the jury finds the existence of such a specific factor.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591(b) or (c), an aggravating factor required to be considered under section 3592(c) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether all the aggravating factors found to exist sufficiently outweigh all the mitigating factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether a sentence of death is justified.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, national origin, creed, or sex of the defendant. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, national origin, creed, or sex of the defendant was not involved in reaching the juror's individual decision.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Upon a finding under section 3593(e) that a sentence of death is not justified, or under section 3593(d) that no aggravating factor required to be found exists, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of an aggravating factor required to be considered under section 3592;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law. A sentence of death shall not be carried out upon a woman while she is pregnant.

"§ 3597. Use of State facilities

"A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.";

(b) by repealing sections 3566 and 3567;

(c) in the chapter analysis of part II, by adding the following new item after the item relating to chapter 227:

"228. Death sentence ..... 3591"

and

(d) in the section analysis of chapter 227, by amending the items relating to sections 3566 and 3567 to read as follows:

"3566. Repealed.

"3567. Repealed.".

SEC. . Section 34 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. . Section 794(a) of title 18 of the United States Code is amended by changing the period at the end of the section to a comma and by adding immediately thereafter the words "except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

SEC. . Section 844(d) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. . Section 844(f) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. . Section 844(i) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. . The second paragraph of section 1111(b) of title 18 of the United States Code is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

SEC. . Section 1116(a) of title 18 of the United Code is amended by striking the words "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

SEC. . Chapter 51 of title 18 of the United States Code is amended—

(a) by adding at the end thereof the following:

§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of parole.

"(b) For the purposes of this section—

"(1) 'Federal correctional institution' means any Federal prison, Federal correc-

tional facility, federal community program center, or Federal halfway house;

"(2) 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death;

"(3) 'murders' means committing first degree or second degree murder as defined by section 1111 of this title."; and

(b) by amending the section analysis to add:

"1118. Murder by a Federal prisoner.".

SEC. . Section 1201 of title 18 of the United States Code is amended by inserting after the words "or for life" in subsection (a) the words "and, if the death of any person results, shall be punished by death or life imprisonment".

SEC. . The last paragraph of section 1716 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the paragraph.

SEC. . Subsection (c) of section 1751 of title 18 of the United States Code is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

SEC. . The second to the last paragraph of section 1992 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. . Section 2031 of title 18 of the United States Code is amended by deleting the words "death, or".

SEC. . Section 2113(e) of title 18 of the United States Code is amended by striking the words "or punished by death if the verdict of the jury shall so direct" and inserting in lieu thereof the words "or if death results shall be punished by death or life imprisonment".

SEC. . Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. . The provisions of chapter 228 of title 18 of the United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

AMENDMENT No. 5661

At the appropriate place, add the following: That this amendment may be referred to as the "Labor Management Racketeering Act of 1983".

SEC. . (a) Subsection (d) of section 302 of the Labor Management Relations Act, 1947 (29 U.S.C. 186) is amended to read as follows:

"(d)(1) Any person who participates in a transaction involving a payment, loan, or delivery of money or other thing of value to a labor organization in payment of membership dues or to a joint labor-management trust fund as defined by clause (B) of the proviso to clause (5) of subsection (c) of this section or to a plant, area, or industrywide labor-management committee that is received and used by such labor organization, trust fund, or committee, which transaction does not satisfy all the applicable requirements of subsections (c)(4) through (c)(9) of this section, and willfully and with intent to benefit himself or to benefit other persons he knows are not permitted to receive a payment, loan, money, or other thing of value under subsections (c)(4) through (c)(9) violates this subsection, shall, upon conviction thereof, be guilty of a felony and be subject to a fine of not more than $15,000, or imprisoned for not more than five years, or both; but if the value of the amount of money or thing of value involved in any violation of the provisions of this section does not exceed $1,000, such person shall be guilty of a misdemeanor and be subject to a fine of not more than $10,000, or imprisoned for not more than one year, or both.

"(2) Except for violations involving transactions covered by subsection (d)(1) of this section, any person who willfully violates this section shall, upon conviction thereof, be guilty of a felony and be subject to a fine of not more than $15,000, or imprisoned for not more than five years, or both; but if the value of the amount of money or thing of value involved in any violation of the provisions of this section does not exceed $1,000, such person shall be guilty of a misdemeanor and be subject to a fine of not more than $10,000, or imprisoned for not more than one year, or both.".

(b) Subsection (e) of such section is amended to read as follows:

"(e) The district courts of the United States and the United States courts of the territories and possessions shall have jurisdiction, for cause shown, and subject to the provisions of rule 65 of the Federal Rules of Civil Procedure (relating to notice to opposite party), over—

"(1) suits alleging a violation of this section brought by any person directly affected by the alleged violation, and

"(2) suits brought by the United States alleging that a transaction involving a payment, loan, or delivery of money or other thing of value to a labor organization in payment of membership dues or a joint labor-management trust fund as provided for in clause (B) of the proviso to clause (5) of subsection (c) of this section or to a plant, area, or industrywide labor-management committee violates this section, to restrain such violations without regard to the provisions of section 6 of the Clayton Act (15 U.S.C. 17), section 20 of such Act (29 U.S.C. 52), and sections 1 through 15 of the Act entitled 'An Act to amend the Judicial Code to define and limit the jurisdiction of courts sitting in equity, and for other purposes', approved March 23, 1932 (29 U.S.C. 101-115).".

SEC. . (a) So much of subsection (a) of section 411 of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111) as follows "the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 401)," is amended to read as follows: "any felony involving abuse or misuse of such person's labor organization or employee benefit plan position or employment, or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element, shall serve or be permitted to serve—

"(1) as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, employee, or representative in any capacity of any employee benefit plan,

"(2) as a consultant or adviser to an employee benefit plan, including but not limited to any entity whose activities are in whole or substantial part devoted to providing goods or services to any employee benefit plan, or

"(3) in any capacity that involves decision-making authority or custody or control of the moneys, funds, assets, or property of any employee benefit plan,

during or for the period of ten years after such conviction or after the end of such imprisonment, whichever is later, unless the sentencing court on the motion of the person convicted sets a lesser period of at least five years after such conviction or after the end of such imprisonment, whichever is later, or unless prior to the end of such period, in the case of a person so convicted or imprisoned (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) the United States Parole Commission determines that such person's service in any capacity referred to in paragraphs (1) through (3) would not be contrary to the purposes of this title. Prior to making any such determination the Commission shall hold an administrative hearing and shall give notice to such proceeding by certified mail to the Secretary of Labor and to State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Commission's determination in any such proceeding shall be final. No person shall knowingly hire, retain, employ, or otherwise place any other person to serve in any capacity in violation of this subsection. Notwithstanding the preceding provisions of this subsection, no corporation or partnership will be precluded from acting in any position proscribed in clauses (1) through (3) of this subsection without a notice, hearing, and determination by such Parole Commission that such service would be inconsistent with the intention of this section.".

(b) Subsection (b) of such section is amended to read as follows:

"(b) Any person who intentionally violates this section shall be fined not more than $10,000 or imprisoned for not more than five years, or both.".

(c) Subsection (c) of such section is amended to read as follows:

"(c) For the purpose of this section:

"(1) A person shall be deemed to have been 'convicted' and under the disability of 'conviction' from the date of the judgment of the trial court, regardless of whether that judgment remains under appeal.

"(2) The term 'consultant' means any person who, for compensation, advises, or represents an employee benefit plan or who provides other assistance to such plan, concerning the establishment or operation of such plan.

"(3) A period of parole shall not be considered as part of a period of imprisonment.".

(d) Such section is amended by adding at the end thereof the following:

"(d) Whenever any person—

"(1) by operation of this section, has been barred from office or other position in an employee benefit plan as a result of a conviction, and

"(2) has filed an appeal of that conviction, any salary which would be otherwise due such person by virtue of such office or position, shall be placed in escrow by the individual or organization responsible for payment of such salary. Payment of such salary into escrow shall continue for the duration of the appeal or for the period of time during which such salary would be other-

wise due, whichever period is shorter. Upon the final reversal of such person's conviction on appeal, the amounts in escrow shall be paid to such person. Upon the final sustaining of that person's conviction on appeal, the amounts in escrow shall be returned to the individual or organization responsible for payments of those amounts. Upon final reversal of such person's conviction, such person shall no longer be barred by this statute from assuming any position from which such person was previously barred.".

SEC. . (a) So much of subsection (a) of section 504 of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 504) as follows "or a violation of title II or III of this Act" is amended to read as follows: "any felony involving abuse or misuse of such person's labor organization or employee benefit plan position or employment, or conspiracy to commit any such crimes, shall serve or be permitted to serve—

"(1) as a consultant or adviser to any labor organization,

"(2) as an officer, director, trustee, member of any executive board or similar governing body, business agent, manager, organizer, employee, or representative in any capacity of any labor organization,

"(3) as a labor relations consultant or adviser to a person engaged in an industry or activity affecting commerce, or as an officer, director, agent, or employee of any group or association of employers dealing with any labor organization, or in a position having specific collective bargaining authority or direct responsibility in the area of labor-management relations in any corporation or association engaged in an industry or activity affecting commerce,

"(4) in a position which entitles its occupant to a share of the proceeds of, or as an officer or executive or administrative employee of, any entity whose activities are in whole or substantial part devoted to providing goods or services to any labor organization, or

"(5) in any capacity, other than in his capacity as a member of such labor organization, that involves decisionmaking authority concerning, or decisionmaking authority over, or custody of, or control of the moneys, funds, assets, or property of any labor organization,

during or for the period of ten years after such conviction or after the end of such imprisonment, whichever is later, unless the sentencing court on the motion of the person convicted sets a lesser period of at least five years after such conviction or after the end of such imprisonment, whichever is later, or unless prior to the end of such period, in the case of a person so convicted or imprisoned, (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) the United States Parole Commission determines that such person's service in any capacity referred to in clauses (1) through (5) would not be contrary to the purposes of this Act. Prior to making any such determination the Commission shall hold an administrative hearing and shall give notice of such proceeding by certified mail to the Secretary of Labor and to State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Commission's determination in any such proceeding shall be final. No person shall knowingly hire, retain, employ, or otherwise place or permit any other person to serve in any capacity in violation of this subsection.".

(b) Subsection (b) of such section is amended to read as follows:

"(b) Any person who willfully violate this section shall be fined not more than $10,000 or imprisoned for not more than five years, or both.".

(c) Subsection (c) of such section is amended to read as follows:

"(c) For the purpose of this section:

"(1) A person shall be deemed to have been 'convicted' and under the disability of 'conviction' from the date of the judgment of the trial court, regardless of whether that judgment remains under appeal.

"(2) A period of parole shall not be considered as part of a period of imprisonment.".

(d) Such section 504 is amended by adding at the end thereof the following:

"(d) Whenever any person—

"(1) by operation of this section, has been barred from office or other position in a labor organization as a result of a conviction, and

"(2) has filed an appeal of that conviction,

any salary which would be otherwise due such person by virtue of such office or position, shall be placed in escrow by the individual employer or organization responsible for payment of such salary. Payment of such salary into escrow shall continue for the duration of the appeal or for the period of time during which such salary would be otherwise due, whichever period is shorter. Upon the final reversal of such person's conviction on appeal, the amounts in escrow shall be paid to such person. Upon the final sustaining of such person's conviction on appeal, the amounts in escrow shall be returned to the individual employer or organization responsible for payments of those amounts. Upon final reversal of such person's conviction, such person shall no longer be barred by this statute from assuming any position from which such person was previously barred.".

SEC. . (a) The first paragraph of section 506 of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by striking out "In order" and inserting in lieu thereof the following:

"(a) COORDINATION WITH OTHER AGENCIES AND DEPARTMENTS.—In order".

(b) Such section is amended by adding at the end thereof the following new subsection:

"(b) RESPONSIBILITY FOR DETECTING AND INVESTIGATING CIVIL AND CRIMINAL VIOLATIONS OF EMPLOYEE RETIREMENT INCOME SECURITY ACT AND RELATED FEDERAL LAWS.—The Secretary shall have the responsibility and authority to detect and investiate and refer, where appropriate, civil and criminal violations related to the provisions of this title and other related Federal laws, including the detection, investigation, and appropriate referrals of related violations of title 18 of the United States Code. Nothing in this subsection shall be construed to preclude other appropriate Federal agencies from detecting and investigating civil and criminal violations of this title and other related Federal laws.".

(c) The title of such section is amended to read as follows:

"COORDINATION AND RESPONSIBILITY OF AGENCIES ENFORCING EMPLOYEE RETIREMENT INCOME SECURITY ACT AND RELATED FEDERAL LAWS".

SEC. . (a) The amendments made by section 3 and section 4 of this Act shall take effect with respect to any judgment of conviction entered by the trial court after the date of enactment of this Act, except that that portion of such amendments relating to the commencement of the period of disability shall apply to any judgment of conviction entered prior to the date of enactment of this Act if a right of appeal or an appeal from such judgment is pending on the date of enactment of this Act.

(b) Subject to subsection (a) the amendments made by sections 3 and 4 shall not affect any disability under section 411 of the Employee Retirement Income Security Act of 1974 or under section 504 of the Labor-Management Reporting and Disclosure Act of 1959 in effect on the date of enactment of this Act.

AMENDMENT No. 5662

At the appropriate place, add the following:

That this Act may be cited as the "Respect Human Life Act of 1983".

SEC. . The Congress finds that—

(a) it is the policy of the Government of the United States to protect innocent life, both before and after birth, and that the Government of the United States affirms that all human beings are endowed by their Creator with certain unalienable rights among which is the right to life, as embodied in our Declaration of Independence,

(b) the American Convention on Human Rights of the Organization of American States in 1969 affirmed that every person has the right to have his life protected by law from the moment of conception and that no one shall be arbitrarily deprived of life;

(c) the Declaration of the Rights of the Child of the United Nations in 1959 affirmed that every child needs appropriate legal protection before as well as after birth;

(d) at the Nurenberg International Military Tribunal for the trial of war criminals the promotion of abortion among minority populations, especially the denial of the protection of the law to the unborn children of Russian and Polish women, was considered a crime against humanity;

(e) as early as 1859 the American medical profession affirmed the independent and actual existence of the child before birth as a living being and condemned the practice of abortion at every period of gestation as the destruction of human life;

(f) scientific evidence demonstrates the life of each human being begins at conception;

(g) the Supreme Court of the United States in the case of Roe against Wade erred in not recognizing the humanity of the unborn child and the compelling interest of the several States in protecting the life of each person before birth;

(h) the Supreme Court of the United States in the case of Roe against Wade erred in excluding unborn children from the safeguards afforded by the equal protection and due process provisions of the Constitution of the United States; and

(i) a growing tolerance of infanticide in America has followed the "quality of life" ethic as was established by the United States Supreme Court in the Roe against Wade decision, and as recently evidenced by the starvation death of an innocent handicapped newborn child in Bloomington, Indiana.

SEC. . No agency of the United States shall perform abortions, except when the life of the mother would be endangered if the child were carried in term.

SEC. . No funds appropriated by Congress shall be used to perform abortions, to reimburse or pay for abortions, or to refer

for abortions, except when the life of the mother would be endangered if the child were carried to term.

SEC. . No agency of the United States shall promote, encourage, counsel, refer, pay for, including travel expenses, or assist in the performance of abortions abroad as a matter of our foreign policy, except when the life of the mother would be endangered if the child were carried to term.

SEC. . No institution that receives Federal financial assistance shall discriminate against any employee, applicant for employment, student, or applicant for admission as a student, on the basis of that person's opposition to abortion or refusal to counsel or assist in the performance of abortions.

SEC. . No institution that receives Federal financial assistance shall withhold from a handicapped infant nutritional sustenance or medical or surgical treatment required to correct a life threatening condition if: (1) the withholding is based on the fact that the infant is handicapped; and (2) the handicap does not render treatment medically constraindicated. Any institution or agency in violation of such restrictions shall be denied any further Federal assistance.

SEC. . In light of the provisions of this title, and to expedite Supreme Court consideration of the interest of the States in protecting the lives of all human beings within their jurisdiction, if any State enforces or enacts legislation which prohibits or restricts abortions or infanticide and such legislation is invalidated by interlocutory or final order of any court of the United States, any party to such case shall have a right to direct appeal to the Supreme Court of the United States, under the same provisions as govern appeals pursuant to section 1252 of title 28, United States Code, notwithstanding the absence of the United States as a party to such case. Notwithstanding any other provision of Federal law, attorneys' fees shall not be allowable in any civil action involving, directly or indirectly, the provisions of this title.

SEC. . If any provision of this title or the application thereof to any person or circumstances is judicially determined to be invalid, the validity of the remainder of this title and the application of such provision to other persons and circumstances shall not be affected by such determination.

AMENDMENT NO. 5663

At the appropriate place, add the following:

That this amendment may be cited as the "Voluntary School Prayer Act of 1983".

SEC. . (a) Chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1259. Appellate jurisdiction; limitations

"(a) Notwithstanding the provisions of sections 1253, 1254, and 1257 of this chapter, the Supreme Court shall not have jurisdiction to review, by appeal, writ of certiorari, or otherwise, any case arising out of any State statute, ordinance, rule, regulation, practice, or any part thereof, or arising out of any Act interpreting, applying, enforcing, or effecting any State statute, ordinance, rule, regulation, or practice, which relates to voluntary prayer, Bible reading, or religious meetings in public schools or public buildings.

"(b) As used herein, 'voluntary' means an activity in which a student is not required to participate by school authorities.".

(b) The section analysis of chapter 81 of title 28 is amended by adding at the end thereof the following new item:

"1259. Appellate jurisdiction; limitations.".

SEC. . (a) Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1364. Limitations on jurisdiction

"Notwithstanding any other provision of law, the district courts shall not have jurisdiction of any case or question which the Supreme Court does not have jurisdiction to review under section 1259 of this title.".

(b) The section analysis at the beginning of chapter 85 of title 28 is amended by adding at the end thereof the following new item:

"1364. Limitations on jurisdiction.".

SEC. . The amendments made by this Act shall take effect on the date of enactment, except that such amendments shall not apply to any case which, on such date of enactment, was pending in any court of the United States.

AMENDMENT NO. 5664

At the appropriate place, add the following:

That this amendment may be cited as the "Youth Employment Opportunity Wage Act of 1984".

STATEMENT OF FINDINGS AND PURPOSES

SEC. . (a) The Congress hereby finds that one of the Nation's most serious and longstanding problems is providing adequate employment opportunities for our young people; the Congress finds, as well, that many youth are unemployed because they lack the job skills to earn the minimum wage which has the effect of pricing unskilled youth out of the job market.

(b) The Congress finds that a youth employment opportunity wage could make it possible for employers to expand job opportunities for young people during a period of special need—when young people are looking for summer jobs. The Congress also finds that such a program has never been adequately tested and that there should be a demonstration period for a youth employment opportunity wage in order to allay any doubts as to the ameliorative impact of the youth wage. The purpose of this legislation is to provide a period during which a youth employment opportunity wage can be paid by employers, and evaluated for its effectiveness in creating employment opportunities and helping young people develop job skills.

SEC. . Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) is amended by adding a new subsection at the end thereof to read as follows:

"(g) Notwithstanding any provision of this Act (except for the first sentence of section 18(a)), during the period from May 1 through September 30 of each year, an employer may employ any person who is under 20 years of age at a wage not less than $2.50 per hour or 75 per centum of the otherwise applicable wage rates established pursuant to this section, section 8 or subsection (e) of section 5, whichever is less. No special certificate shall be required under section 14 for an employee who is employed in accordance with this subsection. All references in any other law to the Federal minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938 shall be interpreted as referring to the wage established by this subsection (g) with respect to the employment herein covered. This subsection shall not affect requirements for compliance with applicable child labor laws or recordkeeping requirements. This subsection shall only be applicable to hours worked by eligible employees in compliance with applicable child labor laws. This subsection shall not, with respect to any year, be applicable to any youth who has been employed by the employer at any time during the 90-day period prior to May 1 of such year. No employer shall discharge, transfer or demote any employee of such employer who is ineligible for the wage established by this subsection, on account of such ineligibility, for the purpose of employing a person eligible for such wage, and any such discharge, transfer or demotion shall be deemed a violation of section 15(a)(3)."

SEC. . Subsection (a) of section 142 of the Job Training Partnership Act (29 U.S.C. 1552) is amended by adding a new paragraph after paragraph (3) to read as follows:

"(4) Notwithstanding paragraphs 2 and 3 of this subsection, individuals who would be paid wages during the period from May 1 through September 30 of any calendar year who have not attained 20 years of age before May 1 of the year shall be paid at not less than the higher of (A) the minimum wage provided under section 6(g) of the Fair Labor Standards Act, or (B) the minimum wage under the applicable State or local minimum wage law.".

SEC. . The amendments made by this Act shall not apply with respect to hours worked after September 30, 1987.

SEC. . The Secretary of Labor shall monitor the implementation of this Act and shall prepare and submit to the Congress a report concerning the employment effects of the youth employment opportunity wage, and such other information and recommendations as the Secretary of Labor determines to be appropriate.

AMENDMENT NO. 5665

At the appropriate place, add the following new title:

"TITLE —FREEDOM OF WORKPLACE"

That section 11(d) of the Fair Labor Standards Act of 1938 is amended—

(1) by striking out the word "The" and inserting in lieu thereof "(1) Subject to the provisions of paragraph (2), the"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Nothing in paragraph (1) of this subsection shall be construed to prohibit an individual from engaging in industrial homework (including sewing, knitting, jewelry or craftmaking) or performing any service in or about the individual's place of residence as an employee of any employer covered by the provisions of this Act if the employer pays the minimum wage rate prescribed by this Act and complies with the maximum hours provision of this Act.".

AMENDMENT NO. 5666

At the appropriate place, add the following:

SEC. . (a) Subsection (a) of the first section of the Act of March 3, 1931, commonly known as the Davis-Bacon Act (40 U.S.C. 276a(a)), is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Secretary of Labor shall base his determination of the wages prevailing for the corresponding classes of laborers, mechanics, and helpers under paragraph (1) on—

"(A) the wage paid to 50 per centum or more of the corresponding classes of laborers, mechanics, and helpers employed on projects of a character similar to the contract work in the urban or rural civil subdivision of the State in which the work is to be performed, or in the District of Columbia if the work is to be performed there; or

"(B) if the same wage is not paid to 50 per centum or more of the laborers, mechanics, and helpers in the corresponding classes, the weighted average of the wages paid to the corresponding classes of laborers, mechanics, and helpers employed on projects of a character similar to the contract work in the urban or rural civil subdivision of the State in which the work is to be performed, or in the District of Columbia if the work is to be performed there.".

(b) The first section of such Act is further amended by striking out "$2,000" and inserting in lieu thereof "$100,000".

(c)(1) The first section of such Act is further amended—

(A) by striking out "mechanics and/or laborers" in subsection (a)(1) and inserting in lieu thereof "laborers, mechanics, helpers, or any combination thereof";

(B) by striking out "laborers and mechanics" wherever it appears and inserting in lieu thereof "laborers, mechanics, and helpers";

(C) by striking out "mechanics and laborers" in subsection (a)(1) and inserting in lieu thereof "laborers, mechanics, and helpers"; and

(D) by striking out "laborer or mechanic" in subsection (b) and inserting in lieu thereof "laborer, mechanic, or helper".

(2) Section 2 of such Act (40 U.S.C. 276a-1) is amended by striking out "laborer or mechanic" and inserting in lieu thereof "laborer, mechanic, or helper".

(3) Section 3 of such Act (40 U.S.C. 276a-2) is amended by striking out "laborers and mechanics" wherever it appears and inserting in lieu thereof "laborers, mechanics, and helpers".

AMENDMENT No. 5667

At the appropriate place in the bill, insert the following new section:

SEPARATE ENROLLMENT OF ITEMS OF CERTAIN BILLS AND JOINT RESOLUTIONS MAKING APPROPRIATIONS

SEC. . (a)(1) Notwithstanding any other provision of law, when any general or special appropriation bill or any bill or joint resolution making supplemental, deficiency, or continuing appropriations passes both Houses of the Congress in the same form, the Secretary of the Senate (in the case of a bill or joint resolution originating in the Senate) or the clerk of the House of Representatives (in the case of a bill or joint resolution originating in the House of Representatives) shall cause the enrolling clerk of such House to enroll each item of such bill or joint resolution as a separate bill or joint resolution, as the case may be.

(2) A bill or joint resolution that is required to be enrolled pursuant to paragraph (1)—

(A) shall be enrolled without substantive revision,

(B) shall conform in style and form to the applicable provisions of chapter 2 of title 1, United States Code (as such provisions are in effect on the date of the enactment of this section), and

(C) shall bear the designation of the measure of which it was an item prior to such enrollment, together with such other designation as may be necessary to distinguish such bill or joint resolution from other bills or joint resolutions enrolled pursuant to paragraph (1) with respect to the same measure.

(b) A bill or joint resolution enrolled pursuant to paragraph (1) of subsection (a) with respect to an item shall be deemed to be a bill under Clauses 2 and 3 of Section 7 of Article 1 of the Constitution of the United States and shall be signed by the presiding officers of both Houses and presented to the President for approval or disapproval (and otherwise treated for all purposes) in the manner provided for bills and joint resolutions generally.

(c) For purposes of this section, the term "item" means any numbered section and any unnumbered paragraph of—

(1) any general or special appropriation bill, and

(2) any bill or joint resolution making supplemental, deficiency, or continuing appropriations.

(d) The provisions of this section shall apply to bills and joint resolutions agreed to by the Congress during the two-calendar-year period beginning with the date of the enactment of this section.

AMENDMENT No. 5668

At the appropriate place, add the following:

SEC. . Paragraph (4)(A) of section 552(a) of title 5, United States Code, is amended to read as follows:

"(4)(A)(i) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comments, specifying the schedule of fees applicable to the processing of requests under this section and establishing procedures and guidelines for determining when such fees should be waived or reduced. Such schedules shall conform to the guidelines which shall be promulgated, pursuant to notice and receipt of public comment, by the Office of Management and Budget and which shall provide for a uniform schedule of fees for all agencies. Such regulations—

"(I) shall provide for the payment of all costs reasonably and directly attributable to responding to the request, which shall include reasonable standard charges for the costs of services by agency personnel in search, duplication, and other processing of the request. The term 'processing' does not include services of agency personnel in resolving issues of law and policy of general applicability which may be raised by a request, but does include services involved in examining records for possible withholding or deletions to carry out determinations of law or policy. Such regulations may also provide for standardized charges for categories of requests having similar processing costs,

"(II) shall provide that no fee is to be charged by any agency with respect to any request or series of related requests whenever the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee, and

"(III) in the case of any request or series of related requests for records containing commercially valuable technological information which was generated or procured by the Government at substantial cost to the public, is likely to be used for a commercial purpose, and will deprive the Government of its commercial value, may provide for the charging of a fair value fee, in addition to or in lieu of any processing fees otherwise chargeable, taking into account such factors as the estimated commercial value of the technological information, its costs to the Government, and any public interest in encouraging its utilization.

Nothing in this subparagraph shall supersede fees chargeable under a statute specifically providing for setting the level of fees for particular types of records.

"(ii) With respect to search and duplication charges, documents shall be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public and not the commercial or other private interests of the requester. With respect to all other charges, documents shall be furnished without such charges where the agency determines that the information is not requested for a commercial use and the request is being made by or on behalf of (a) an individual, or educational, or noncommercial scientific institution, whose purpose is scholarly or scientific research; (b) a representative of the news media; or (c) a nonprofit group that intends to make the information available to the general public.

"(iii) One-half of the fees collected under this section shall be retained by the collecting agency to offset the costs of complying with this section. The remaining fees collected under this section shall be remitted to the Treasury's general fund as miscellaneous receipts, except that any agency determined upon an investigation and report by the General Accounting Office or the Office of Management and Budget not to have been in substantial compliance with the applicable time limits of paragraph (6) of this subsection shall not thereafter retain any such fees until determined by the agency making such finding to be in substantial compliance.".

TIME LIMITS

SEC. . Paragraph (6) of section 552(a) of title 5, United States Code, is amended to read as follows:

"(6)(A) Except as otherwise provided in this paragraph, each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection, shall—

"(i) determine within ten working days after the receipt of any such request whether to comply with such request and shall immediately notify the requester of such determination and the reasons therefor, and of the right of such person to appeal to the head of the agency any adverse determination; and

"(ii) make a determination with respect to any appeal within twenty working days after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the requester of the provisions for judicial review of that determination under paragraph (4) of this subsection.

"(B) In unusual circumstances as defined in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the requester setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in extensions of more than an aggregate of thirty working days. As used in this subparagraph, 'unusual circumstances' means, but only to the extent reasonably necessary to the proper processing of the particular request—

"(i) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

"(ii) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request;

"(iii) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein;

"(iv) a request which the head of the agency has specifically stated in writing cannot be processed within the time limits stated in paragraph (6)(A) without significantly obstructing or impairing the timely performance of a statutory agency function;

"(v) the need for notification of submitters of information and for consideration of any objections to disclosure made by such submitters; or

"(vi) an unusually large volume of requests or appeals at an agency, creating a substantial backlog.

"(C) Any requester shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records. An agency shall not be considered to have violated the otherwise applicable time limits until a court rules on the issue.

"(D) Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to the requester, subject to the provisions of paragraph (7). Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.

"(E) Each agency shall promulgate regulations, pursuant to notice and receipt of public comment, by which a requester who demonstrates a compelling need for expedited access to records shall be given expedited access.".

BUSINESS CONFIDENTIALITY PROCEDURES

SEC. . Section 552(a) of title 5, United States Code, is amended by adding after paragraph (6) the following new paragraph:

"(7)(A) Each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying procedures by which—

"(i) a submitter may be required to designate, at the time it submits or provides to the agency or thereafter, any information consisting of trade secrets, or commercial, research, financial, or business information which is exempt from disclosure under subsection (b)(4);

"(ii) the agency shall notify the submitter that a request has been made for information provided by the submitter, within ten working days after the receipt of such request, and shall describe the nature and scope of the request and advise the submitter of his right to submit written objections in response to the request;

"(iii) the submitter may, within ten working days of the forwarding of such notification, submit to the agency written objection to such disclosure, specifying all grounds upon which it is contended that the information should not be disclosed; and

"(iv) the agency shall notify the submitter of any final decision regarding the release of such information.

"(B) An agency is not required to notify a submitter pursuant to subparagraph (A) if—

"(i) the information requested is not designated by the submitter as exempt from disclosure in accordance with agency regulations promulgated pursuant to subparagraph (A)(i), if such designation is required by the agency;

"(ii) the agency determines, prior to giving such notice, that the request should be denied;

"(iii) the disclosure is required by law (other than this section) and the agency notified the submitter of the disclosure requirement prior to the submission of the information;

"(iv) the information lawfully has been published or otherwise made available to the public; or

"(v) the agency is a criminal law enforcement agency that acquired the information in the course of a lawful investigationof possible violations of criminal law.

"(C) Whenever an agency notifies a submitter of the receipt of a request pursuant to subparagraph (A), the agency shall notify the requester that the request is subject to the provisions of this paragraph and that notice of the request is being given to a submitter. Whenever an agency notifies a submitter of final decision pursuant to subparagraph (A), the agency shall at the same time notify the requester of such final decision.

"(D) Whenever a submitter has filed objections to disclosure of information pursuant to subparagraph (A)(iii), the agency shall not disclose any such information for the working days after notice of the final decision to release the requested information has been forwarded to the submitter.

"(E) The agency's disposition of the request and the submitter's objections shall be subject to judicial review pursuant to paragraph (4) of this subsection. If a requester files a complaint under this section, the administrative remedies of a submitter of information contained in the requested records shall be deemed to have been exhausted.

"(F) Nothing in this paragraph shall be construed to be in derogation of any other rights established by law protecting the confidentiality of private information.".

JUDICIAL REVIEW

SEC. . Section 552(a)(4) of title 5, United States Code, is amended—

(1) by amending subparagraph (B) to read as follows:

"(B) On complaint filed by a requester within one hundred and eighty days from the date of final agency action or by a submitter after a final decision to disclose submitted information but prior to its release, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction—

"(i) to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the requester;

"(ii) to enjoin the agency from any disclosure of records which was objected to by a submitter under paragraph (7)(A)(iii) or which would have been objected to had notice been given as required by paragraph (7)(A)(i); or

"(iii) to enjoin any agency from failing to perform its duties under subsections (a) (1) and (2).".

(2) by redesignating subparagraphs (C), (D), (E), (F), and (G) as subparagraphs (F), (G), (H), (I), and (J), respectively, and by adding after subparagraph (B) the following new subparagraphs:

"(C) In an action based on a complaint—

"(i) by a requester, the court shall have jurisdiction over any submitter of information contained in the requested records, and any such submitter may intervene as of right in the action; and

"(ii) by a submitter, the court shall have jurisdiction over any requester of records containing information which the submitter seeks to have withheld, and any such requester may intervene as of right in the action.

"(D) The agency that is the subject of the complaint shall promptly, upon service of a complaint—

"(i) seeking the production of records, notify each submitter of information contained in the requested records that the complaint was filed; and

"(ii) seeking the withholding of records, notify each requester of the records that the complaint was filed.

"(E) In any case to enjoin the withholding or the disclosure of records, or the failure to comply with subsection (a) (1) or (2), the court shall determine the matter de novo. The court may examine the contents of requested agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section. The burden is on the agency to sustain its action to withhold information and the burden is on any submitter seeking the withholding of information."; and

(3) in redesignated subparagraph (H)—

(A) by adding "or any submitter who is a party to the litigation" after "United States"; and

(B) by striking out "complainant" and inserting in lieu thereof "requester".

PUBLIC RECORD REQUESTS

SEC. . Section 552(a) of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(8) In any instance in which a portion of the records requested under this subsection consists of newspaper clippings, magazine articles, or any other item which is a public record or otherwise available in public records, the agency may offer the requester a choice of (A) furnishing the requester with an index identifying such clippings, articles, or other items by date and source: *Provided*, That such index is already in existence, or (B) notwithstanding the waiver requirements contained in this section, furnishing the requester with copies of such clippings, articles, or other items at the reasonable standard charge for duplication established in the agency's fee schedule.".

CLARIFY EXEMPTIONS

SEC. . So much of section 552(b) of title 5, United States Code, as precedes paragraph (1) thereof is amended to read as follows:

"(b) The compulsory disclosure requirements of this section do not apply to matters that are—".

MANUALS AND EXAMINATION MATERIALS

SEC. Section 552(b)(2) of title 5, United States Code, is amended by inserting a comma in lieu of the semicolon at the end thereof and adding the following: "including

such materials as (A) manuals and instructions to investigators, inspectors, auditors, or negotiators, to the extent that disclosure of such manuals and instructions could reasonably be expected to jeopardize investigations, inspections, audits, or negotiations, and (B) examination material used solely to determine individual qualifications for employment, promotion, or licensing to the extent that disclosure could reasonably be expected to compromise the objectivity or fairness of the examination process;".

PERSONAL PRIVACY

SEC. . Section 552(b)(6) of title 5, United States Code, is amended to read as follows:

"(6) records or information concerning individuals, including compilations or lists of names and addresses that could be used for solicitation purposes, the release of which could reasonably be expected to constitute a clearly unwarranted invasion of personal privacy;".

LAW ENFORCEMENT

SEC. . (a) Section 552(b)(7) of title 5, United States Code, is amended to read as follows:

"(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any natural person;".

(b) Section 552(a) of title 5, United States Code, is amended by adding after paragraph (8) thereof the following new paragraph:

"(9) Nothing in this section shall be deemed applicable in any way to the informant records maintained by a law enforcement agency under an informant's name or personal identifier, whenever access to such records is sought by a third party according to the informant's name or personal identifier.".

ADDITIONAL EXEMPTIONS

SEC. . Section 552(b) of title 5, United States Code, is amended by striking out "or" at the end of paragraph (8), by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; or", and by adding the following new paragraph after paragraph (9):

"(10) records or information maintained or originated by the Secret Service in connection with its protective functions to the extent that the production of such records or information could reasonably be expected to adversely affect the Service's ability to perform its protective functions.".

REASONABLY SEGREGABLE

SEC. . Section 552(b) of title 5, United States Code, is amended by adding after the last sentence thereof the following: "In determining which portions are reasonably segregable in the case of records containing material covered by paragraph (1) or (7) of this subsection, the agency may consider whether the disclosure of particular information would, in the context of other information available to the requester, cause the harm specified in such paragraph.".

PROPER REQUESTS

SEC. . Section 552(a)(3) of title 5, United States Code, is amended to read as follows:

"(3)(A) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, upon any request by a requester who is a United States person for records which (1) reasonably describes such records and (ii) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to the requester.

"(B) The time limits prescribed in subparagraph (A) of paragraph (6) shall be tolled whenever the requester (or any person on whose behalf the request is made) is a party to any ongoing judicial proceeding or administrative adjudication in which the Government is also a party and may be requested to produce the records sought. Nothing in this subparagraph shall be construed to bar (i) a request for any records which are not related to the subject matter of such pending proceeding, or (ii) a request for any records which have been denied to a party in the course of a judicial proceeding or administrative adjudication that is no longer pending.

"(C) The Attorney General, in accordance with public rulemaking procedures set forth in section 553 of this title, may by regulation prescribe such limitations or conditions on the extent to which and on the circumstances or manner in which records requested under this paragraph or under section 552a of this title shall be made available to requesters who are persons imprisoned under sentence for a felony under Federal or State law or who are reasonably believed to be requesting records on behalf of such persons, as he finds to be (i) appropriate in the interests of law enforcement, or foreign relations or national defense, or of the efficient administration of this section, and (ii) not in derogation of the public information purposes of this section.".

ORGANIZED CRIME

SEC. . Section 552 of title 5, United States Code, is amended by adding a new subsection (c) as follows and redesignating the current subsections (c), (d), and (e) as (d), (e), and (f) respectively.

"(c) Nothing in this section shall be deemed applicable to documents compiled in any lawful investigation of organized crime, designated by the Attorney General for the purposes of this subsection and conducted by a criminal law enforcement authority for law enforcement purposes, if the requested document was first generated or acquired by such law enforcement authority within five years of the date of the request, except where the agency determines pursuant to regulations promulgated by the Attorney General that there is an overriding public interest in earlier disclosure or in longer exclusion not to exceed three years. Notwithstanding any other provision of law, no document described in the preceding sentence may be destroyed or otherwise disposed of until the document is available for disclosure in accordance with subsections (a) and (b) of this section for a period of not less than ten years.".

REPORTING UNIFORMITY

SEC. . Section 552(e) of title 5, United States Code (as redesignated), is amended—

(1) by striking out "calendar" the second and fouth places it appears and inserting in lieu thereof "fiscal";

(2) by striking out "March" each place it appears and inserting in lieu thereof "December";

(3) in paragraph (4), by striking out "subsection (a)(4)(F)" and inserting in lieu thereof "subsection (a)(4)(I)"; and

(4) in the next to last sentence, by striking out "subsections (a)(4) (E), (F), and (G)" and inserting in lieu thereof "subsections (a)(4) (H), (I), and (J)".

DEFINITIONS

SEC. . Section 552(f) of title 5, United States Code (as redesignated), is amended to read as follows:

"(f) For purposes of this section—

"(1) 'agency' means any executive department, military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency;

"(2) 'submitter' means any person who has submitted to an agency (other than an intelligence agency), or provided an agency access to, trade secrets, or commercial, research, or financial information (other than personal financial information) in which the person has a commercial or proprietary interest;

"(3) 'requester' means any person who makes or causes to be made, or on whose behalf is made, a proper request for disclosure of records under subsection (a);

"(4) 'United States person' means a citizen of the United States or an alien lawfully admitted for permanent residence (as defined in section 101(a)(20)), and unincorporated association a substantial number of members of which are citizens of the United States or aliens lawfully admitted for permanent residence, or a corporation which is incorporated in the United States, but does not include a corporation or an association that is a foreign power, as defined in section 101(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(a));

"(5) 'working days' means every day excluding Saturdays, Sundays, and Federal legal holidays; and

"(6) 'organized crime' means those structured and disciplined associations of individuals or of groups of individuals who are associated for the purpose of obtaining monetary or commercial gains or profits, wholly or in part by illegal means, while generally seeking to protect and promote their activities through a pattern of graft or corruption, and whose associations generally exhibits the following characteristics:

"(A) their illegal activities are conspiratorial,

"(B) in at least part of their activities, they commit acts of violence or other acts which are likely to intimidate,

"(C) they conduct their activities in a methodical or systematic and in a secret fashion,

"(D) they insulate their leadership from direct involvement in illegal activities by their organizational structure,

"(E) they attempt to gain influence in government, politics, and commerce

through corruption, graft, and illegitimate means, and

"(F) they engage in patently illegal enterprises such as dealing in drugs, gambling, loan-sharking, labor racketeering, or the investment of illegally obtained funds in legitimate businesses.".

PUBLICATION OF EXEMPTION 3 STATUTES

SEC. . Section 552 of title 5, United States Code, is amended by adding a new subsection (g) as follows:

"(g) Within two hundred and seventy days of the date of the enactment of this subsection, any agency which relies or intends to rely on any statute which was enacted prior to the date of enactment of this subsection, or during the thirty-day period after such date to withhold information under subsection (b)(3) of this section, shall cause to be published in the Federal Register a list of all such statutes and a description of the scope of the information covered. The Justice Department shall also publish a final compilation of all such listings in the Federal Register upon the completion of the two-hundred-and-seventy-day period described in the preceding sentence. No agency may rely, after two hundred and seventy days after the date of enactment of this subsection, on any such statute not listed in denying a request. Nothing in this subsection shall affect existing rights of any party other than an agency.".

HATCH AMENDMENT NOS. 5669 THROUGH 5682

(Ordered to lie on the table.)

Mr. HATCH submitted 14 amendments intended to be proposed by him to amendment No. 4835 proposed by Mr. KENNEDY to the bill S. 2527, supra; as follows:

AMENDMENT No. 5669

On page 4, line 24, insert "or law" before "implementing".

AMENDMENT No. 5670

On page 7, line 24, insert "law or" after "under".

AMENDMENT No. 5671

On page 4, at the end of line 27, insert the following: "*Provided, however,* That nothing herein shall preclude any court of law otherwise possessing such authority from determining that any such regulation is inconsistent with the provisions of this title.".

AMENDMENT No. 5672

On page 10, insert at the end of line 2, *Provided, however,* That nothing herein shall preclude any executive agency from modifying any such regulation determined to be inconsistent with the provisions of this title.".

AMENDMENT No. 5673

On page 4, at the end of line 27, insert the following: "*Provided, however,* That nothing herein shall preclude any executive agency modifying any such regulation determined to be inconsistent with the provisions of this title.".

AMENDMENT No. 5674

On page 2, at the end of line 10, insert the following: "*Provided, however,* That nothing herein shall preclude any court of law otherwise possessing such authority from determining that any such regulation is inconsistent with the provisions of this title.".

AMENDMENT No. 5675

Strike lines 4 through 10 on page 2 and insert in lieu thereof: "The phrase "Nothing herein shall be construed to expand or narrow in any way the scope of coverage of this title as such existed in February 27, 1984.".

AMENDMENT No. 5676

On page 2, line 6, insert "law or" following the word "under".

AMENDMENT No. 5677

On page 10, insert at the end of line 2, "*Provided, however,* That nothing herein shall preclude any court of law otherwise possessing such authority from determining that any such regulation is inconsistent with the provisions of this title.".

AMENDMENT No. 5678

On page 9, line 32, insert "law or" after "under".

AMENDMENT No. 5679

On page 7, following line 27, insert the following: "*Provided, however,* That nothing herein shall preclude any executive agency from modifying any such regulation determined to be inconsistent with the provisions of this title.".

AMENDMENT No. 5680

On page 7, following line 27, insert the following: "*Provided, however,* That nothing herein shall preclude any court of law otherwise possessing such authority from determining that any such regulation is inconsistent with the provisions of this title.".

AMENDMENT No. 5681

On page 4, at the end of line 27, insert the following: "*Provided, however,* That nothing herein shall preclude any executive agency from modifying any such regulation determined to be inconsistent with the provisions of this title.".

AMENDMENT No. 5682

In lieu of the language proposed to be inserted by amendment No. 4835, insert the provisions of S. 2910.

HATCH AMENDMENT NOS. 5683 THROUGH 5696

(Ordered to lie on the table.)

Mr. HATCH submitted 14 amendments intended to be proposed by him to amendment No. 4812 proposed by Mr. BRADLEY to the bill S. 2527, supra; as follows:

AMENDMENT No. 5683

On page 4, line 23, insert "or law" before "implementing".

AMENDMENT No. 5684

On page 7, line 23, insert "law or" after "under".

AMENDMENT No. 5685

On page 4, at the end of line 26, insert the following: "*Provided, however,* That nothing herein shall preclude any court of law otherwise possessing such authority from determining that any such regulation is inconsistent with the provisions of this title.".

AMENDMENT No. 5686

On page 10, insert at the end of line 1, "*Provided, however,* That nothing herein shall preclude any executive agency from modifying any such regulation determined to be inconsistent with the provisions of this title.".

AMENDMENT No. 5687

On page 4, at the end of line 26, insert the following: "*Provided, however,* That nothing herein shall preclude any executive agency from modifying any such regulation determined to be inconsistent with the provisions of this title.".

AMENDMENT No. 5688

On page 2, following line 9, insert the following: "*Provided, however,* That nothing herein shall preclude any court of law otherwise possessing such authority from determining that any such regulation is inconsistent with the provisions of this title.".

AMENDMENT No. 5689

Strike lines 3 through 9 on page 2 and insert in lieu thereof: "The phrase "Nothing herein shall be construed to expand or narrow in any way the scope of coverage of this title as such existed on February 27, 1984.".

AMENDMENT No. 5690

On page 2, line 5, insert "law or" following the word "under".

AMENDMENT No. 5691

On page 10, insert at the end of line 1, "*Provided, however,* That nothing herein shall preclude any court of law otherwise possessing such authority from determining that any such regulation is inconsistent with the provisions of this title.".

AMENDMENT No. 5692

On page 9, line 31, insert "law or" after "under".

AMENDMENT No. 5693

On page 7, following line 26, insert the following: "*Provided, however,* That nothing herein shall preclude any executive agency from modifying any such regulation determined to be inconsistent with the provisions of this title.".

AMENDMENT No. 5694

On page 7, following line 26, insert the following: "*Provided, however,* That nothing herein shall preclude any court of law other wise possessing such authority from determining that any such regulation is inconsistent with the provisions of this title.".

AMENDMENT No. 5695

On page 4, at the end of line 26, insert the following: *"Provided, however,* That nothing herein shall preclude any executive agency from modifying any such regulation determined to be inconsistent with the provisions of this title.".

AMENDMENT No. 5696

In lieu of the language proposed to be inserted by amendment No. 4812, insert the provisions of S. 2910.

HATCH AMENDMENT NOS. 5697 THROUGH 5710

(Ordered to lie on the table.)

Mr. HATCH submitted 14 amendments intended to be proposed by him to amendment No. 4813 proposed by Mr. BRADLEY to the bill S. 2527, supra; as follows:

AMENDMENT No. 5697

On page 4, line 23, insert "or law" before "implementing".

AMENDMENT No. 5698

On page 7, line 23, insert "law or" after "under".

AMENDMENT No. 5699

On page 4, at the end of line 26, insert the following: *"Provided, however,* That nothing herein shall preclude any court of law otherwise possessing such authority from determining that any such regulation is inconsistent with the provisions of this title.".

AMENDMENT No. 5700

On page 10, insert at the end of line 1, *"Provided, however,* That nothing herein shall preclude any executive agency from modifying any such regulation determined to be inconsistent with the provisions of this title.".

AMENDMENT No. 5701

On page 4, at the end of line 26, insert the following: *"Provided, however,* That nothing herein shall preclude any executive agency from modifying any such regulation determined to be inconsistent with the provisions of this title.".

AMENDMENT No. 5702

On page 2, following line 9, insert the following: *"Provided, however,* That nothing herein shall preclude any court of law otherwise possessing such authority from determining that any such regulation is inconsistent with the provisions of this title.".

AMENDMENT No. 5703

Strike lines 3 through 9 on page 2 and insert in lieu thereof: "The phrase "Nothing herein shall be construed to expand or narrow in any way the scope of coverage of this title as such existed on Februry 27, 1984.".

AMENDMENT No. 5704

On page 2, line 5, insert "Law or" following the word "under".

AMENDMENT No. 5705

On page 10, insert at the end of line 1, *"Provided, however,* That nothing herein shall preclude any court of law otherwise possessing such authority from determining that any such regulation is inconsistent with the provisions of this title.".

AMENDMENT No. 5706

On page 9, line 31, insert "law or" after "under".

AMENDMENT No. 5707

On page 7, following line 26, insert the following: *"Provided, however,* That nothing herein shall preclude any executive agency from modifying any such regulation determined to be inconsistent with the provisions of this title.".

AMENDMENT No. 5708

On page 7, following line 26, insert the following: *"Provided, however,* That nothing herein shall preclude any court of law otherwise possessing such authority from determining that any such regulation is inconsistent with the provisions of this title.".

AMENDMENT No. 5709

On page 4, at the end of line 26, insert the following: *"Provided, however,* That nothing herein shall preclude any executive agency from modifying any such regulation determined to be inconsistent with the provisions of this title."

AMENDMENT No. 5710

In lieu of the language proposed to be inserted by amendment No. 4813, insert the provisions of S. 2910.

HATCH AMENDMENT NOS. 5711 THROUGH 5724

(Ordered to lie on the table.)

Mr. HATCH submitted 14 amendments intended to be proposed by him to amendment No. 4814 proposed by Mr. BRADLEY to the bill S. 2527, supra; as follows:

AMENDMENT No. 5711

On page 4, line 23, insert "or law" before "implementing".

AMENDMENT No. 5712

On page 7, line 23, insert "law or" after "under".

AMENDMENT No. 5713

On page 4, at the end of line 26, insert the following: *"Provided, however,* That nothing herein shall preclude any court of law otherwise possessing such authority from determining that any such regulation is inconsistent with the provisions of this title.".

AMENDMENT No. 5714

On page 10, insert at the end of line 1, *Provided, however,* That nothing herein shall preclude any executive agency from modifying any such regulation determined to be inconsistent with the provisions of this title.".

AMENDMENT No. 5715

On page 4, at the end of line 26, insert the following: *"Provided, however,* That nothing herein shall preclude any executive agency from modifying any such regulation determined to be inconsistent with the provisions of this title.".

AMENDMENT No. 5716

On page 2, following line 9, insert the following: *"Provided, however,* That nothing herein shall preclude any court of law otherwise possessing such authority from determining that any such regulation is inconsistent with the provisions of this title.".

AMENDMENT No. 5717

Strike lines 3 through 9 on page 2 and insert in lieu thereof: "The phrase "Nothing herein shall be construed to expand or narrow in any way the scope of coverage of this title as such existed on February 27, 1984.".

AMENDMENT No. 5718

On page 2, line 5, insert "law or" following the word "under".

AMENDMENT No. 5719

On page 10, insert at the end of line 1, *"Provided, however,* That nothing herein shall preclude any court of law otherwise possessing such authority from determining that any such regulation is inconsistent with the provisions of this title.".

AMENDMENT No. 5720

On page 9, line 31, insert "law or" after "under".

AMENDMENT No. 5721

On page 7, following line 26, insert the following: *"Provided, however,* That nothing herein shall preclude any executive agency from modifying any such regulation determined to be inconsistent with the provisions of this title.".

AMENDMENT No. 5722

On page 7, following line 26, insert the following: *"Provided, however,* That nothing herein shall preclude any court of law otherwise possessing such authority from determining that any such regulation is inconsistent with the provisions of this title.".

AMENDMENT No. 5723

On page 4, at the end of line 26, insert the following: *"Provided, however,* That nothing herein shall preclude any executive agency from modifying any such regulation determined to be inconsistent with the provisions of this title.".

AMENDMENT No. 5724

In lieu of the language proposed to be inserted by Amendment No. 4814, insert the provisions of S. 2910.

DANFORTH AMENDMENT NO. 5725

(Ordered to lie on the table.)

Mr. DANFORTH submitted an amendment intended to be proposed by him to amendment No. 4837 proposed by Mr. MOYNIHAN to the bill S. 2527, supra; as follows:

AMENDMENT No. 5725

On page 7, strike lines 25-33 (designated as section 203 and relating to a Post Office and Courthouse Designation).

In the amendment, redesignate the titles designated as titles I through III, and the sections within such titles, and all cross-references thereto, appropriately.

On pages 26 through 31, strike the section designated as section 311 (and relating to State Regulations) and insert in lieu thereof the following:

STATE REGULATIONS

SEC. 311. (a) Except as may otherwise be provided in this title or any other Act, all laws, rules, regulations, standards, and orders relating to commercial motor vehicle safety shall, to the extent necessary to promote public safety and reduce fatalities, be nationally uniform, to the extent practicable. A State may adopt or continue in effect any law, rule, regulation, standard, or order relating to commerical motor vehicle safety, other than hours-of-service regulations applicable to intrastate commerce, until the Secretary, pursuant to the provisions of this section, has adopted a new rule, regulation, standard, or order, or has continued in effect an existing Federal regulation which specifically addresses the same concern for promotion of public safety and the reduction of fatalities as such State requirements.

(b) Within 1 month after the date of enactement of this Act, the Secretary shall issue initial guidelines to assist the States in compiling and submitting materials related to commercial motor vehicle safety laws, rules, regulations, standards, or orders. Within nine months after the date of enactment of * * * and the States shall assist the Secretary in collecting each law, rule, regulation, standard and order for commerical motor vehicle safety which the State has adopted and has in effect.

(c)(1) A study of the laws, rules, regulations, standards and orders submitted under subsection (b) of this section shall be undertaken by a panel established by the Secretary for that purpose. The Secretary shall be the Chairman of the panel. In addition to the Secretary, the panel shall consist of 14 individuals, 7 of whom shall be representatives of State and regional interests and 7 of whom shall be representatives of diverse business, consumer and safety interests regarding commercial motor vehicles. The Secretary shall select these individuals on the basis of their knowledge, expertise or experience regarding commercial motor vehicle safety from lists of qualified individuals submitted to the Secretary by the Committee on Commerce, Science, and Transportation in the Senate and the Committee on Public Works and Transportation in the House of Representatives. Each such list shall consist of not less than 20 names of individuals qualified to serve on the panel. Members of the panel shall receive no compensation, but shall, in accordance with section 5703 of title 5, United States Code, be entitled to reimbursement for travel or transportation expenses incurred in the performance of responsibilities as a member of the panel.

(2) The study required by paragraph (1) of this subsection shall consider the material collected by the Secretary from the States under subsection (b) of this section, and shall identify those laws, rules, regulations, standards, and orders for commercial motor vehicle safety which are inconsistent with this chapter. In addition, the study shall consider those instances where inconsistency of such laws, rules, regulations, standards and orders is necessary or desirable. The study shall also evaluate the need, if any, for Federal assistance to States to enable States to enforce laws, rules, regulations, standards, and orders for commercial motor vehicle safety that are nationally uniform.

(3) Not later than eighteen months after the date of enactment of this Act, the Secretary shall submit the results of such study to the Congress, and shall make such results available for public inspection.

(d)(1) Within six months after the completion of the study required by subsection (c) of this section, the Secretary shall commence a rulemaking proceeding to promulgate rules regarding commercial motor vehicle safety. If the Secretary finds on the basis of such study that an existing Federal commercial motor vehicle safety regulation better serves the purposes of this title than would a new regulation, the Secretary shall continue such existing regulation in effect. Any rules promulgated under this paragraph shall be based upon such study, and any such rule shall only be promulgated if the Secretary finds that it does not adversely affect any State law, rule, regulation, standard, or order—

(A) for which there is a compelling local safety need; and

(B) which does not unduly burden interstate commerce.

(2) Any such rule shall be promulgated in accordance with section 553 of title 5, United States Code, except that the Secretary shall afford interested persons an opportunity for a hearing on the record.

(e)(1) After the promulgation of any rule under subsection (d) of this section, any State may petition the Secretary for a waiver from application to the State of such rule. The Secretary shall grant such waiver as expeditiously as possible, unless the Secretary finds that—

(A) there is no justifiable safety need within such State for such safety rule; or

(B) the grant of such waiver will unduly burden interstate commerce.

(2) The decision to grant or deny a petition for a waiver submitted under this section shall only be made after the Secretary has afforded the relevant State an opportunity for a hearing on the record.

(f)(1) Not later than 60 days after a rule is promulgated under subsection (d) or action is taken regarding a waiver under subsection (e) of this section, any person adversely affected by such rule or action may file with the United States court of appeals for the District of Columbia or for the circuit in which such person resides or has his principal place of business a petition for judicial review of such rule or action.

(2) Upon the filing of a petition under paragraph (1) of this subsection, the court shall have jurisdiction to review such rule or action in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief, including interim relief, as provided in such chapter. Such rule or action shall be affirmed unless the Secretary's findings under subsections (d) and (e) of this section are supported by substantial evidence on the record taken as a whole.

(3) The judgment of the court affirming or setting aside, in whole or in part, any such rule or action shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

(4) The remedies provided for in this subsection shall be in addition to and not in lieu of any other remedies provided by law.

(g) Nothing in this title shall affect existing hour-of-service regulations of any State applying to commercial motor vehicle operations occurring wholly within that State, unless the Secretary affirmatively finds upon review of a State's hour-of-service regulations that such regulations—

(1) materially diminish commercial motor vehicle safety or the health and safety of employees;

(2) are not required by compelling local conditions; or

(3) unduly burden interstate commerce.

If the Secretary makes such an affirmative determination, the Secretary may require such State to adopt Federal hour-of-service regulations.

(h) The Secretary shall conduct a study of the safety performance of commercial motor vehicles operating in intrastate commerce. This study shall examine the effectiveness of individual State regulations governing such transportation in promoting safety in commercial motor vehicle safety operations. Such study shall also investigate the need to subject such transportation to the Federal commercial motor vehicle safety regulations, either in whole or in part. The Secretary shall submit to Congress a report on the findings of this investigation and study not later than two years after the date of enactment of this Act.

HATCH AMENDMENT NO. 5726

Mr. BAKER (for Mr. HATCH) proposed an amendment to amendment No. 5508 proposed by Mr. BYRD (for Mr. KENNEDY and others) to the joint resolution (H.J. Res. 648), supra; as follows:

AMENDMENT No. 5726

At the end of amendment No. 5508, add the following:

SECTION . SHORT TITLE.

The amendment may be cited as the "Educational Opportunity and Equity Act of 1983".

SEC. . CONGRESSIONAL FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that it is the policy of the United States to foster educational opportunity, diversity, and choice for all Americans. Therefore, this Act recognizes that—

(1) pluralism is one of the great strengths of American society, diversity in education is an important contributor to that pluralism, and nonpublic schools play an indispensable role in making that diversity possible;

(2) the existence and availability of alternatives to public education tend to strengthen public education through competition and to improve the educational opportunities of all Americans;

(3) Americans should have equal opportunities to choose between the education offered by public schools and available in private educational systems and should not be compelled because of economic circumstances to accept education provided by government-created and government-operated school systems, and to force such a selection is an unfair and unjust discrimination against persons of lesser means;

(4) increasing numbers of American families are unable to afford nonpublic school tuition in addition to the State and local taxes that go to support public schools, and tax relief for nonpublic school tuition expenses is necessary if American families are to continue to have a meaningful choice be-

tween public and private education at the elementary and secondary levels;

(5) tax relief in the form of tuition tax credits is the fairest way to extend a choice in education to a wide range of individuals, tax relief in the form of tuition tax credits creates the least possible danger of interference in the lives of individuals and families consistent with achieving these ends, and tax relief in the form of tuition tax credits achieves these ends with a minimum of complexity so that those for whom the tax relief is intended will be able to understand and take advantage of it;

(6) the tax revenue loss occasioned by a tuition tax credit for a child would be small compared to the cost to State and local taxpayers of educating the child at a public school; and

(7) equality of educational opportunity is the policy of the United States, and the tax relief afforded by this legislation may not be used to promote racial discrimination.

The Congress finds that this Act will expand opportunities for personal liberty, diversity, and pluralism that constitute important strengths of education in America.

(b) PURPOSE.—The primary purpose of this Act is to enhance equality of educational opportunity, diversity, and choice for Americans.

SEC. . CREDIT FOR TUITION EXPENSES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44H the following new section:

SEC. . CREDIT FOR TUITION EXPENSES.

"(a) GENERAL RULES.—At the election of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the qualified tuition expenses paid by such individual during the taxable year for any qualified dependent.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT PER QUALIFIED DEPENDENT.—

"(A) IN GENERAL.—The amount of the credit allowable to the taxpayer under subsection (a) with respect to any qualified dependent for any taxable year shall not exceed the applicable amount.

"(B) APPLICABLE AMOUNT.—For purposes of this paragraph, the term 'applicable amount' means the excess, if any, of—

"(i) $300, over

"(ii) 3 percent (6 percent in the case of a married individual who does not file a joint return) of the amount, if any, by which the adjusted gross income of the taxpayer for the taxable year exceeds $40,000 ($20,000 in the case of such married individual).

"(C) TRANSITIONAL RULE.—For taxable years beginning after December 31, 1982, and before January 1, 1985, subparagraph (B) shall be applied—

"(i) in taxable years beginning in 1983, by substituting—

"(I) '$100' for '$300',

"(II) '1 percent' for '3 percent', and

"(III) '2 percent' for '6 percent', and

"(ii) in taxable years beginning in 1984, by substituting—

"(I) '$200' for '$300',

"(II) '2 percent' for '3 percent', and

"(III) '4 percent' for '6 percent'.

"(2) CREDIT NOT TO EXCEED TAX LIABILITY.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than credits allowable by sections 31, 39, and 43.

"(c) CREDIT DENIED FOR AMOUNTS PAID TO RACIALLY DISCRIMINATORY INSTITUTIONS.—

"(1) DECLARATORY JUDGMENT ENTERED.—

"(A) IN GENERAL.—No credit shall be allowed under this section for any amount paid to an educational institution during any taxable year if—

"(i) within the calendar year ending with or within such taxable year or in any preceding calendar year—

"(I) a judgment has been entered by a district court of the United States under section 7409 (regardless of whether such judgment is appealed) declaring that such educational institution follows a racially discriminatory policy, or

"(II) an order by any United States Court of Appeals has been made which, by its terms, requires the district court to enter such a judgment, and

"(ii) no order described in section 7409(f)(2) with respect to such educational institution has been entered which is in effect for the calendar year ending with or within such taxable year.

"(B) REVERSALS OF DECLARATORY JUDGMENTS OR ORDERS.—

"(i) IN GENERAL.—A judgment or order described in subparagraph (A)(i) entered in an action brought with respect to an educational institution shall not be taken into account under subparagraph (A) for any taxable year if, after all appeals in such action have been concluded or the time for filing such appeals has expired, the declaration contained in such judgment, or required to be entered under the terms of such order, that such institution has followed a racially discriminatory policy is negated (other than by reason of an order described in section 7409(f)(2)).

"(ii) WAIVER OF LIMITATIONS.—Notwithstanding section 6511(a) or any other period of limitation or lapse of time, a claim for credit or refund of overpayment of the tax imposed by this chapter which arises by reason of this subparagraph may be filed by any person at any time within the 1-year period beginning on the earlier of—

"(I) the date on which all appeals with respect to the judgment or order described in subparagraph (A)(i) have been concluded, or

"(II) the date on which the time for such appeals has expired.

Sections 6511(b) and 6514 shall not apply to any claim for credit or refund filed under this subparagraph within such 1-year period.

"(C) STAY OF DECLARATORY JUDGMENT.—

"(i) IN GENERAL.—Any judgment or order described in subparagraph (A)(i) shall not be taken into account under subparagraph (A) for any taxable year if such judgment or order is stayed as of the close of such taxable year.

"(ii) REMOVAL OF STAY.—If a stay entered againt a judgment or order described in subparagraph (A)(i) is vacated—

"(I) this subparagraph shall not apply with respect to such judgment or order for any taxable year preceding the taxable year in which such stay is vacated, and

"(II) notwithstanding any other provision of this title or of any other law, the statutory period for the assessment of a deficiency atributable to the disallowance of any credit under this section by reason of this clause shall not expire before the date which is 3 years after the close of the calendar year in which such stay is removed.

"(D) WAIVER OF LIMITATIONS IF INSTITUTION CEASES TO DISCRIMINATE.—Notwithstanding section 6511(a) or any other period of limitation or lapse of time a claim for credit or refund of overpayment of the tax imposed by this chapter which arises by reason of a reversal of any order denying a motion under section 7409(f)(1)(A) may be filed by any person at any time within the 1-year period beginning on the date on which such reversal is made. Sections 6511(B) and 6514 shall not apply to any claim for credit or refund filed under this subparagraph within such 1-year period.

"(2) REQUIRED STATEMENTS.—

"(A) STATEMENT FURNISHED BY INSTITUTIONS TO THE SECRETARY.—No credit shall be allowed under subsection (a) for amounts paid to any educational institution during the taxable year if such educational institution has not filed with the Secretary (in such manner and form as the Secretary shall by regulation prescribed) within 30 days after the close of the calendar year ending with or within such taxable year a verified statement which—

"(i) declares that such institution has not followed a racially discriminatory policy during such calendar year;

"(ii) indicates whether—

"(I) a declaratory judgment or order described in paragraph (1)(A)(i) has been entered against such institution in an action brought under section 7409;

SEC. . "(II) a stay against such judgment or order is in effect; and

"(III) an order described in section 7409(f)(2) is in effect; and

"(iii) attests that such institution has complied with the requirements of subsection (d)(3)(D) during such calendar year.

"(B) STATEMENTS FURNISHED TO TAXPAYERS.—Except as otherwise provided by regulations, within 30 days after the close of the calendar year to which the statement described in subparagraph (A) relates, the educational institution shall furnish a copy of such statement to all persons who paid tuition expenses to the institution in the calendar year to which such statement relates.

"(C) STATEMENTS FURNISHED BY TAXPAYERS TO THE SECRETARY.—No credit shall be allowed to a taxpayer under subsection (a) for amounts paid to an educational institution during the taxable year if the taxpayer does not attach to the return on which the taxpayer claims the credit the statement described in subparagraph (A) which is furnished by such institution for the calendar year ending with or within such taxable year of the taxpayer.

"(3) ENFORCEMENT RESPONSIBILITY.—The Attorney General shall have exclusive authority under this subsection to investigate and to determine whether an educational institution is following a racially discriminatory policy.

"(4) RACIALLY DISCRIMINATORY POLICY.—For purposes of this subsection—

"(A) IN GENERAL.—An educational institution follows a racially discriminatory policy if such institution refuses, on the basis of race to—

"(i) admit applicants as students;

"(ii) admit students to the rights, privileges, programs, and activities generally made available to students by the educational institution; or

"(iii) allow students to participate in its scholarship, loan, athletic, or other programs.

"(B) QUOTAS, ETC.—The term 'racially discriminatory policy' shall not include failure of any educational institution to pursue or

achieve any racial quota, proportion, or representation in the student body.

"(C) RACE.—The term 'race' shall include color or national origin.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED TUITION EXPENSES.—The term 'qualified tuition expenses' means the excess of—

"(A) the amount of tuition expenses paid by the taxpayer during the taxable year to any eligible educational institution for any qualified dependent of such taxpayer, over

"(B) any scholarship or financial assistance paid during such taxable year to such qualified dependent or to the taxpayer with respect to such qualified dependent.

"(2) QUALIFIED DEPENDENT.—The term 'qualified dependent' means any individual—

"(A) who is a dependent of the taxpayer (other than an individual described in paragraph (4), (5), (7), or (8) of section 152(a)),

"(B) who has not attained 20 years of age at the close of the taxable year, and

"(C) with respect to whom a deduction under section 151 is allowable to the taxpayer for the taxpayer year.

"(3) ELIGIBLE EDUCATION INSTITUTION.—The term 'eligible educational institution' means an educational institution—

"(A) which provides a full-time program of elementary or secondary education;

"(B) which is a privately operated, not-for-profit, day or residential school;

"(C) which is exempt from taxation under section 501(a) as an organization described in section 501(c)(3), including church-operated schools to which subsections (a) and (b) of section 508 do not apply; and

"(D) which includes in any published bylaws, advertisements, admission application forms, and other such published materials, a statement (in such form and manner as the Secretary may by regulations prescribe) that it does not discriminate against student applicants or students on the basis of race.

"(4) TUITION EXPENSES.—

"(A) In general.—The term 'tuition expenses' means tuition and fees paid for the full-time enrollment or attendance of a student at an educational institution, including required fees for courses.

"(B) CERTAIN EXPENSES EXCLUDED.—The term 'tuition expenses' does not include any amount paid for—

"(i) books, supplies, and equipment for courses of instruction;

"(ii) meals, lodging, transportation, or personal living expenses;

"(iii) education below the first-grade-level; or

"(iv) education above the twelfth-grade level.

"(5) SCHOLARSHIP OR FINANCIAL ASSISTANCE.—The term 'scholarship or financial assistance' means—

"(A) a scholarship or fellowship grant (within the meaning of section 117(a)(1)) which is not includible in gross income under section 117;

"(B) an educational assistance allowance under chapter 32, 34, or 35 of title 38, United States Code; or

(C) other financial assistance which—

"(i) is for educational expenses, or attributable to attendance at an educational institution, and

"(ii) is exempt from income taxation by any law of the United States (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)).

"(e) ELECTION.—The election provided under subsection (a) shall be made at such time and in such manner as the Secretary shall by regulations prescribe.".

(b) DISCLOSURE OF INFORMATION TO ATTORNEY GENERAL.—Subsection (h) of section 6103 of such Code (relating to disclosure to certain Federal officers and employees for tax administration purposes) is amended by adding at the end thereof the following new paragraph:

"(7) CERTAIN INVESTIGATIONS AND PROCEEDINGS REGARDING RACIALLY DISCRIMINATORY POLICIES.—Upon the request of the Attorney General or the Secretary's own motion, the Secretary shall disclose any return or return information which is relevant to—

"(A) any investigation conducted by the Attorney General under section 441(c) with regard to whether an educational institution is following a racially discriminatory policy (within the meaning of section 441(c)(4)), or

"(B) any proceeding which may be brought under section 7409, to any officer or employee of the Department of Justice who is directly and personally involved in such investigation or in preparation for such a proceeding.".

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44H the following:

"Sec. 441. Tuition expenses.".

(2) Section 6504 of such Code (relating to cross references with respect to period of limitation) is amended by adding at the end thereof the following new paragraph:

"(13) For disallowance of tuition tax credits because of a declaratory judgment that a school follows a racially discriminatory policy, see section 44I(c).".

(3) Section 6096(b) of such Code (defining income tax liability for designation of payments to the Presidential Election Campaign Fund) is amended by striking out all after "allowable under" and inserting in lieu thereof "subpart A of part IV of subchapter A of chapter 1 (other than section 31, 39, or 43)."

SEC. . DECLARATORY JUDGMENT PROCEEDING.

(a) IN GENERAL.—Subchapter A of chapter 76 of the Internal Revenue Code of 1954 (relating to judicial proceedings) is amended by redesignating section 7409 as section 7410 and by inserting after section 7408 the following new section:

"SEC. 7409. DECLARATORY JUDGMENT RELATING TO RACIALLY DISCRIMINATORY POLICIES OF SCHOOLS.

"(a) IN GENERAL.—Upon filing of an appropriate pleading by the Attorney General under subsection (b), the district court of the United States for the district in which an educational institution is located may make a declaration with respect to whether such institution follows a racially discriminatory policy. Any such declaration shall have the force and effect of a final judgment of the district court and shall be reviewable as such.

"(b) FILING OF PLEADING.—

"(1) IN GENERAL.—The Attorney General is authorized and directed to seek a declaratory judgment under subsection (a) against any educational institution upon—

"(A) receipt by the Attorney General within the previous 1-year period of any allegation of discrimination against such institution, and

"(B) a finding by the Attorney General of good cause.

"(2) ALLEGATION OF DISCRIMINATION.—For purposes of this section, the term 'allegation of discrimination' means an allegation made in writing by any person which alleges with specificity that—

"(A) a named educational institution has committed a racially discriminatory act against a named student applicant or student within one year preceding the date on which such allegation is made to the Attorney General, or

"(B) the educational institution made a communication, within one year preceding such date, expressing that the institution follows a racially discriminatory policy.

"(3) NOTICE OF ALLEGATIONS OF DISCRIMINATION.—Upon receipt of any allegation of discrimination made against an educational institution, the Attorney General shall promptly give written notice of such allegation to such institution.

"(4) OPPORTUNITY TO COMMENT.—Before any action may be filed against an educational institution by the Attorney General under subsection (a), the Attorney General shall give the institution a fair opportunity to comment on all allegations made against it and to show that the alleged racially discriminatory policy does not exist or has been abandoned.

"(5) AVAILABILITY OF CERTAIN INFORMATION TO COMPLAINANT.—

"(A) IN GENERAL.—If an allegation of discrimination against an educational institution is made to the Attorney General and the Attorney General—

"(i) declines to bring an action under subsection (a) against such institution, or

"(ii) enters into a settlement agreement with such institution under subsection (d) before such an action is brought,

the Attorney General shall make available to the person who made such allegation the information upon which the Attorney General based the decision not to bring such an action or to enter into such settlement agreement. The Attorney General shall promptly give written notice to such person that such information is available for his inspection.

"(B) PRIVACY LAWS.—Nothing in this paragraph shall be construed to authorize or require the Attorney General to disclose any information if such disclosure would violate any applicable State or Federal law relating to privacy.

"(c) REQUIREMENTS FOR A FINDING OF FOLLOWING A RACIALLY DISCRIMINATORY POLICY.—A district court may declare that an educational institution follows a racially discriminatory policy in an action brought under subsection (a) only if the Attorney General establishes in such action that—

"(1) the institution has, pursuant to such policy, committed a racially discriminatory act against a student applicant or student within the 2 years proceeding commencement of such action;

"(2) the institution has, within the 2 years preceding commencement of such action, made a communication expressing that it follows a racially discriminatory policy against student applicants or students; or

"(3) the institution has engaged in a pattern of conduct intended to implement a racially discriminatory policy, and that some act in furtherance of this pattern of conduct was committed within 2 years preceding commencement of such action.

"(d) SETTLEMENTS.—

"(1) IN GENERAL.—Prior to, and in lieu of, filing an action under subsection (a), the Attorney General may, at his discretion enter into a settlement agreement with the educational institution against which an allegation of discrimination has been made if the

Attorney General finds that the institution has been acting in good faith and has abandoned its racially discriminatory policy.

"(2) VIOLATION OF SETTLEMENT AGREEMENT.—If the Attorney General has entered into a settlement agreement with an educational institution under paragraph (1) and the Attorney General finds that such institution is in violation of such agreement, the Attorney General may—

"(A) notwithstanding subsection (b)(1)(A), bring an action under subsection (a) without having received any allegation of discrimination against such institution, or

"(B) bring an action to enforce the terms of such agreement.

"(3) COPY OF SETTLEMENT AGREEMENT TO COMPLAINANT.—The Attorney General shall give a copy of any settlement agreement which is entered into with any educational institution under paragraph (1) to any person from whom the Attorney General has received an allegation of discrimination against such institution.

"(e) RETENTION OF JURISDICTION.—Any district court which makes a declaration under subsection (a) that an educational institution follows a racially discriminatory policy shall retain jurisdiction of such case.

"(f) DICONTINUANCE OF RACIALLY DISCRIMINATORY POLICY.—

"(1) MOTION.—

"(A) IN GENERAL.—At any time after the date which is 1 year after the date on which a judgment is entered in an action brought under subsection (a) declaring that an educational institution follows a racially discriminatory policy, such institution may file with the district court a motion to modify such judgment to include a declaration that such institution no longer follows a racially discriminatory policy.

"(B) AFFIDAVITS.—Any motion filed under subparagraph (A) shall contain affidavits—

"(i) describing with specificity the ways in which the educational institution has abandoned its previous racially discriminatory policy;

"(ii) describing with specificity the ways in which such institution has taken reasonable steps to communicate its policy of nondiscrimination to students, to faculty, to school administrators, and to the public in the area it serves;

"(iii) averring that such institution has not, during the preceding year—

"(I) committed a racially discriminatory act against a student applicant or student pursuant to a racially discriminatory policy;

(II) made a communication expressing that it follows a racially discriminatory policy against student applicants or students; or

"(III) engaged in a pattern of conduct intended to implement a racially discriminatory policy, and committed some act in furtherance of this pattern of conduct; and

"(iv) averring that such institution has complied with the requirements of section 44I(d)(3)(D).

"(2) ORDER.—If a motion is made under paragraph (1), the district court shall issue an order modifying the judgment entered in the action to include a declaration that the educational institution no longer follows a racially discriminatory policy unless the Attorney General establishes that—

"(A) any affidavit provided by the institution under paragraph (1)(B) is false;

"(B) the institution has, during the preceding year, committed any act, made any communication, or engaged in any pattern of conduct described in paragraph (1)(B)(iii); or

"(C) the institution has not, in fact, complied with the requirements of clauses (ii) and (iv) of paragraph (1)(B).

"(3) APPEAL OF ORDERS.—Any order of the district court granting or denying a motion made under paragraph (1) shall be reviewable.

"(g) ATTORNEYS' FEES.—If an educational institution prevails in an action under this section, the court may award the institution costs and reasonable attorneys' fees in such action.

"(h) DEFINITIONS.—For purposes of this section—

"(1) RACIALLY DISCRIMINATORY POLICY.—The term 'racially discriminatory policy' has the meaning given to such term by section 441(c)(4).

"(2) RACIALLY DISCRIMINATORY ACT.—

"(A) IN GENERAL.—An educational institution commits a racially discriminatory act if such institution refuses, on the basis of race, to—

"(i) admit any applicant as a student;

"(ii) admit any student to the rights, privileges, programs, and activities generally made available to students by the educational institution; or

"(iii) allow any student to participate in its scholarship, loan, athletic, or other programs.

"(B) QUOTAS, ETC.—The term 'racially discriminatory act' shall not include the failure of such institution to pursue or achieve any racial quota, proportion, or representation in the student body.

"(C) RACE.—The term 'race' shall include color or national origin.

"(i) REPORT.—Within 90 days of the close of each calendar year, the Attorney General shall submit a report to the Congress concerning the disposition during such calendar year of—

"(1) any allegations of discrimination received by the Attorney General, and

"(2) any actions brought under this section.".

"(b) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter A of chapter 76 of such Code (relating to civil actions by the United States) is amended by striking out the item relating to section 7409 and inserting in lieu thereof:

"Sec. 7409. Declaratory judgment relating to racially discriminatory policies of schools.
"Sec. 7410. Cross references.".

(2) Section 2201 of title 28, United States Code (relating to creation of declaratory judgment remedy) is amended by striking out "section 7428" and inserting in lieu thereof "section 7409 or 7428".

SEC. . TAX CREDITS ARE NOT FEDERAL FINANCIAL ASSISTANCE.

Tax credits claimed under section 441 of the Internal Revenue Code of 1954 shall not constitute Federal financial assistance to educational institutions or to the recipients of such credits.

SEC. . EFFECTIVE DATE: SPECIAL RULE.

(a) CERTIFICATION REQUIRED.—The amendments made by this Act shall not take effect until the Attorney General certifies to the Secretary of the Treasury that, pursuant to—

(1) an Act of Congress which has been enacted, or

(2) a final decision of the United States Supreme Court,

the Internal Revenue Code of 1954 prohibits the granting of tax exemption under section 501(a) by reason of section 501(c)(3) to private educational institutions maintaining a racially discriminatory policy or practice as to students.

(b) APPLICATION WHEN CERTIFICATION IS MADE.—

(1) IN GENERAL.—If the certification described in subsection (a) is made to the Secretary of the Treasury—

(A) except as provided in paragraph (2), the amendments made by section 3 shall apply with respect to expenditures made after the date on which such certification is made to the Secretary of the Treasury in taxable years beginning after December 31, 1982, and ending after such date, and

(B) the amendments made by section 4 shall take effect on the date on which such certification is made to the Secretary of the Treasury.

(2) NO APPLICATION BEFORE AUGUST 1, 1983.—In no event shall the amendments made by section 3 apply with respect to expenditures made before August 1, 1983.

(c) ESTIMATED INCOME TAX AND WAGE WITHHOLDING.—

(1) ESTIMATED INCOME TAX.—Any credit allowable to any taxpayer under section 441 of the Internal Revenue Code of 1954 shall not be taken into account under section 6015(d) in determining the estimated tax of such taxpayer for any taxable year beginning before January 1, 1984.

(2) WAGE WITHHOLDING.—Any credit allowable under section 441 of such Code shall not be taken into account in determining the number of withholding exemptions to which any taxpayer is entitled under section 3402 of such Code with respect to remuneration paid before January 1, 1984.

HATCH AMENDMENT NO. 5727

Mr. BAKER (for Mr. HATCH) proposed an amendment to the language proposed to be stricken by the committee amendment; as follows:

AMENDMENT No. 5727

At the end of the language proposed to be stricken by the committee amendment, add the following:

That the Congress finds that the rights of citizens to keep and bear arms under the second amendment to the United States Constitution; their rights to security against illegal and unreasonable searches and seizures under the fourth amendment; their protections against uncompensated taking of property, double jeopardy, and assurance of due process of law under the fifth amendment; and their rights against unconstitutional exercise of authority under the ninth and tenth amendments; require additional legislation to correct existing firearms statutes and enforcement policies. The Congress further finds that additional legislation is required to reaffirm its intent, as expressed in section 101 of title I of the Gun Control Act of 1968, that "it is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trapshooting, target shooting, personal protection, or any other lawful activity, . . ." or "to discourage or eliminate the private ownership or use of firearms by law-abiding citizens for lawful purposes.".

TITLE I—AMENDMENTS TO TITLE 18, UNITED STATES CODE (18 U.S.C. 921-928)

AMENDMENTS TO SECTION 921

SEC. 101. Section 921 of title 18, United States Code, is amended—

(1) in subsection (a)(10) by deleting the words "manufacture of" and inserting in lieu thereof the words "business of manufacturing";

(2) in subsection (a)(11)(A) by deleting the words "or ammunition";

(3) in subsection (a)(12) by deleting the words "or ammunition";

(4) in subsection (a)(13) by deleting the words "or ammunition";

(5) by amending subsection (a)(20) to read as follows:

"(20) The term 'crime punishable by imprisonment for a term exceeding one year' shall not include (A) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices, or (B) any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less: *Provided, however,* That what constitutes a conviction shall be determined in accordance with the law of the jurisdiction in which the proceedings were held: *Provided further,* That any conviction which has been expunged, or set aside or for which a person has been pardoned or has had his or her civil rights restored shall not be considered a conviction under the provisions of this Act, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms."; and

(6) in subsection (a) by inserting new paragraphs (21) and (22) after paragraph (20), to read as follows:

"(21) The term 'engaged in the business' means—

"(A) As applied to a manufacturer of firearms, a person who devotes time, attention, and labor to manufacturing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms manufactured.

"(B) As applied to a manufacturer of ammunition, a person who devotes time, attention, and labor to manufacturing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition manufactured.

"(C) As applied to a dealer in firearms, as defined in section 921(a)(11)(A), a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms. The term shall not include a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or hobby, or who sells all or part of his personal collection of firearms.

"(D) As applied to a dealer in firearms, as defined in section 921(a)(11)(B), a person who devotes time, attention, and labor to engaging in such activity as a regular course of trade or business with the principal objective of livelihood and profit. The term shall not include a person who makes occasional repairs of firearms or who occasionally fits special barrels, stocks, or trigger mechanisms to firearms.

"(E) As applied to an importer of firearms, a person who devotes time, attention, and labor to importing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms imported.

"(F) As applied to an importer of ammunition, a person who devotes time, attention, and labor to importing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition imported.

"(22) The term 'with the principal objective of livelihood and profit' means that the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection.

AMENDMENTS TO SECTION 922

SEC. 102. Section 922 of title 18, United States Code, is amended—

(1) by amending subsection (a)(1) to read as follows:

"(1) for any person (A) except a licensed importer, licensed manufacturer, or licensed dealer to engage in the business of importing, manufacturing, or dealing in firearms, or in the course of such business to ship, transport, or receive any firearm in interstate or foreign commerce; and (B) except a licensed importer or licensed manufacturer to engage in the business of importing or manufacturing ammunition, or in the course of such business, to ship, transport, or receive any ammunition in interstate or foreign commerce";

(2) in subsection (a)(2)—

(A) By deleting the words, "or ammunition"; and

(B) by deleting the words "or licensed dealer for the sole purpose of repair or customizing," and inserting in lieu thereof the words, "licensed dealer, or licensed collector;";

(3) by amending clause (B) of subsection (a)(3) to read as follows: "(B) shall not apply to the transportation or receipt of a firearm obtained in conformity with the provisions of subsection (b)(3) of this section,";

(4) in subsection (b)—

(A) by deleting in paragraph (2) "or ammunition" each place it appears;

(B) by deleting clause (A) in paragraph (3) and inserting in lieu thereof the following: "(A) shall not apply to the sale or delivery of any firearm to a resident of a State other than a State in which the licensee's place of business is located if the sale, delivery and receipt fully comply with the legal conditions of sale in both such States: *Provided, however,* That any licensed manufacturer, importer or dealer shall be presumed, in the absence of evidence to the contrary, to have had actual knowledge of the State laws and published ordinances of both States,";

(C) by inserting "and" before "(B)" in paragraph (3);

(D) by striking out ", and" in clause (B) of paragraph (3) and inserting in lieu thereof a semicolon;

(E) by repealing clause (C) of paragraph (3); and

(F) by deleting from paragraph (5) "or ammunition except .22 rimfire ammunition";

(5) in subsection (d)—

(A) by deleting "licensed importer, licensed manufacturer, licensed dealer, or licensed collector" the first time they appear and inserting in lieu thereof "person";

(B) by deleting in paragraph (3) the word "or" following the semicolon;

(C) by replacing the period in paragraph (4) with a semicolon; and

(D) by inserting after paragraph (4) the following:

"(5) who, being an alien, is illegally or unlawful in the United States;

"(6) who has been discharged from the Armed Forces under dishonorable conditions; or

"(7) who, having been a citizen of the United States, has renounced his citizenship.";

(6) in subsection (g)—

(A) by deleting the words "is under indictment for, or who" in paragraph (1);

(B) by deleting in paragraph (3) the word "or" following the semicolon;

(C) by inserting after paragraph (4) the following:

"(5) who, being an alien, is illegally or unlawfully in the United States;

"(6) who has been discharged from the Armed Forces under dishonorable conditions; or

"(7) who, having been a citizen of the United States, has renounced his citizenship;"; and

(D) by deleting the words "to ship or transport any firearm or ammunition in interstate or foreign commerce" and inserting in lieu thereof the words "to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.";

(7) in subsection (h)—

(A) by inserting after the word "any" and before the word "person" the words "individual who to his knowledge and while being employed by any";

(B) by deleting the words "is under indictment for, or who" in paragraph (1);

(C) by deleting in paragraph (3) the word "or" following the semicolon;

(D) by inserting after paragraph (4) the following:

"(5) who, being an alien, is illegally or unlawful in the United States;

"(6) who has been discharged from the Armed Forces under dishonorable conditions; or

"(7) who having been a citizen of the United States, has renounced his citizenship;"; and

(E) by deleting the words "to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce" and inserting in lieu thereof the words "in the course of such employment to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce."; and

(8) by inserting after subsection (m) a new subsection to read as follows:

"(n) It shall be unlawful for any person who is under indictment for a crime punishable by imprisonment for a term exceeding one year to ship or transport in interstate or foreign commerce any firearm or ammunition or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.".

AMENDMENTS TO SECTION 923

SEC. 103. Section 923 of title 18, United States Code, is amended—

(1)(A) in subsection (a)—

(i) by deleting the words "No person shall engage in business as a firearms or ammunition importer, manufacturer, or dealer until he has filed an application with, and received a license to do so from the Secretary." and inserting in lieu thereof the words "No person shall engage in the business of importing, manufacturing, or dealing in firearms, or importing or manufacturing ammunition, until he has filed an application with and received a license to do so from the Secretary."; and

(ii) by deleting the words "and contain such information", and inserting in lieu thereof the words "and contain only that information necessary to determine eligibility for licensing.";

(B) in subsection (a)(3)(B) by deleting the words "or ammunition for firearms other than destructive devices";

(2) in subsection (b) by striking out "and contain such information", and inserting in lieu thereof "and contain only that information necessary to determine eligibility for licensing";

(3) in subsection (c) by adding at the end thereof the following: *"Provided, however,* That nothing in this chapter shall be construed to prohibit a licensed manufacturer, importer, or dealer from maintaining and disposing of a personal collection of firearms, subject only to such restrictions as apply in this chapter to dispositions by a person other than a licensed manufacturer, importer, or dealer: *Provided further,* That if any firearm is so disposed of by a licensee within one year of its transfer from his business inventory into his personal collection or if such disposition or any acquisition is made for the purpose of willfully evading the restrictions placed upon licensees by this chapter, then such firearm shall be deemed part of his business inventory.";

(4) in subsection (e) by inserting before the word "violated" the word "willfully";

(5) in subsection (f)—

(A) by inserting the words "de novo" before the word "judicial" in paragraph (3);

(B) by adding the words ", whether or not such evidence was considered at the hearing held under paragraph (2)." after the words "to the proceeding" in paragraph (3); and

(C) by inserting at the end thereof the following new paragraph:

"(4) If criminal proceedings are instituted against a licensee alleging violations of this chapter or regulations promulgated thereunder, and the licensee is acquitted of such charges, or such proceedings are terminated, other than upon motion of the Government prior to trial upon such charges, the Secretary shall be absolutely barred from denying or revoking any license granted under the provisions of this chapter where such denial or revocation is based in whole or in part on the facts which form the basis of such criminal charges. No proceedings for the revocation of a license shall be instituted by the Secretary more than one year after the filing of the indictment or information.";

(6) by amending subsection (g) to read as follows:

"(g)(1) Each licensed importer, licensed manufacturer, and licensed dealer, shall maintain such records of importation, production, shipment, receipt, sale, or other disposition, of firearms at his place of business for such period, and in such form, as the Secretary may by regulations prescribe. Such importers, manufacturers and dealers shall not be required to submit to the Secretary reports and information with respect to such records and the contents thereof, except as explicitly required by the Act entitled 'An Act to protect firearms owners' constitutional rights, civil liberties and rights to privacy'. The Secretary, when he has reasonable cause to believe a violation of this law has occurred, and that evidence thereof may be found on such premises may, upon demonstrating such cause before a Federal magistrate, and securing from him a warrant authorizing entry, enter during business hours the premises (including places of storage) of any licensed firearms importer, licensed manufacturer, licensed dealer, licensed collector or any licensed importer, or manufacturer of ammunition, for the purposes of inspecting or examining (1) any records or documents required to be kept by such licensed importer, licensed manufacturer, licensed dealer, or licensed collector under the provisions of this chapter or regulations issued under this chapter, and (2) any firearms or ammunition kept or stored by such licensed importer, licensed manufacturer, licensed dealer, or licensed collector, at such premises. The Secretary may inspect the inventory and records of a licensed importer, licensed manufacturer, or licensed dealer without such cause or warrant, (A) for a reasonable inquiry during the course of a criminal investigation of a person or persons other than the licensee; or (B) no more than once in any twelve consecutive months, upon reasonable notice, but no criminal charges shall be brought against the licensee based upon such inspection except for willful violations of the recordkeeping requirements of this chapter or sales or other dispositions of firearms to prohibited persons; or (C) when such inspections or inquiries may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation. The Secretary may inspect the inventory and records of a licensed collector without such reasonable cause or warrant (A) no more than once in any twelve consecutive month period, upon reasonable notice, but no criminal charges shall be brought against such licensee based upon such inspection except for willful violations of the recordkeeping requirements of this chapter or sales or other dispositions of firearms to prohibited persons; or (B) when such inspections or inquiries may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation. At the election of a licensed collector, the annual inspection of records and inventory permitted under this paragraph shall be performed at the office of the Secretary designated for such inspections which is located in closest proximity to the premises where the inventory and records of such licensed collector are maintained. Such procedure shall not be construed as authorizing the Secretary to seize any records or other documents other than those records or documents constituting material evidence of a violation of law. If the Secretary seizes such records or documents, copies shall be provided the licensee within a reasonable time. The Secretary may make available to any Federal, State, or local law enforcement agency any information which he may obtain by reason of the provisions of this chapter with respect to the identification of persons prohibited from purchasing or receiving firearms or ammunition who have purchased or received firearms or ammunition, together with a description of such firearms or ammunition and he may provide information to the extent such information may be contained in the records required to be maintained by the provisions of this chapter, when so requested by any Federal, State, or local law enforcement agency.

"(2) Each licensed collector shall maintain in a bound volume the nature of which the Secretary may by regulations prescribe, records of the receipt, sale, or other disposition, of firearm. Such records shall include the name and addresses of a firearm. Such collector shall not be required to submit to the Secretary reports and information with respect to such records and the contents thereof, except as explicitly required by the Act entitled 'An Act to protect firearms owners constitutional rights, civil liberties and rights to privacy'.

"(3)(A) Within thirty days of the absolute discontinuance of the business of a licensee, any records maintained by such licensee under this chapter shall be delivered to the joint custody of the Administrator of General Services and the Secretary to be stored in a records center maintained and operated by the Administrator of General Services, unless state law or local ordinance requires delivery to another authority, in which event the Administrator of General Services and the Secretary may arrange for delivery to such authority.

"(B) The Secretary shall have access to records stored under this paragraph solely for the purposes of tracing firearms, organizing and preserving such records, and certifying to facts on the basis of such records in any court or any administrative proceeding of the United States or of any state. The Secretary may remove such records from the record center maintained by the Administrator of General Services only in connection with proceedings in any court or any administrative proceeding of the United States or of any state.

"(C) The Administrator of General Services may promulgate regulations governing the storage, processing and servicing of records stored under this paragraph: *Provided,* That no such regulations may restrict the authority of the Secretary under this paragraph to have access to or to remove such records.

"(D) Notwithstanding any other provision of law, the Administrator of General Services shall dispose of records kept by licensed dealers and licensed collectors, and records relating to the disposition of firearms kept by manufacturers and importers, and stored under this paragraph twenty years after such records are received by the Administration of General Services and the Secretary.

"(4)(A) each licensee shall, when required by letter issued by the Secretary, and until notified to the contrary in writing by the Secretary, submit on a form specified by the Secretary, for the periods and at the times specified in such letter, all record information required by this chapter or such lesser record information as the Secretary in his letter may specify.

"(B) The Secretary may authorize the information to be submitted in a manner other than that prescribed in subparagraph (A) of this paragraph when it is shown by a licensee that an alternate method of reporting is reasonably necessary and will not unduly hinder the effective administration of this chapter.

"(C) No warrant shall issue nor shall any criminal charges be brought against the licensee based solely upon information provided pursuant to the provisions of this paragraph.

"(5)(A) Each licensee shall prepare a report of multiple sales or other disposition whenever the licensee sells or otherwise dis-

poses of, at one time or during any five consecutive business days, two or more pistols, or revolvers, or any combinations of pistols and revolvers totaling two or more to an unlicensed person. The report shall be prepared on a form specified by the Secretary and forwarded to the office specified thereon not later than the close of business on the day that the multiple sale or other disposition occurs.

"(B) Ten years after receiving any report submitted under subparagraph (A) of this paragraph, the Secretary shall deliver such report to the joint custody of the Administrator of General Services and the Secretary to be stored in a records centers maintained and operated by the Administrator of General Services, subject to the provisions of sections 923(g)(3)(B) and (C) of this title. Notwithstanding any other provision of law, the Administrator of General Services shall dispose of records stored under this subparagraph ten years after such records are received by the Administrator of General Services and the Secretary.

"(C) No record, form, or information delivered, submitted, or forwarded pursuant to this paragraph or paragraph (3) or (4) of this section may be kept by the Secretary at a centralized location, nor shall it be entered into a computer for storage or retrieval.". and

(7) by amending subsection (j) to read as follows:

"(j) A licensed importer, licensed manufacturer, or licensed dealer may, under regulations prescribed by the Secretary, conduct business temporarily at a location other than the location specified on the license if such other location is in the State which is specified on the license. Records of receipt and disposition of firearms transactions conducted at such temporary location shall include the location of the sale or other disposition and shall be entered in the permanent records of the licensee and retained on the location specified on the license. Nothing in this subsection shall authorize any licensee to conduct business in or from any motorized or towed vehicle. Notwithstanding the provisions of subsection (a) of this section, a separate fee shall not be required of a licensee with respect to business conducted under this subsection. Except for records directly related to receipts, sales, or other dispositions of firearms made at the temporary premises within the period of time the licensed importer, licensed manufacturer, or licensed dealer conducted the business of which such receipts, sales, or other dispositions were a part, nothing in this subsection shall be construed to authorize the Secretary to inspect or examine the inventory or records of a licensed importer, licensed manufacturer, or licensed dealer at any location other than the location specified on the license. Nothing in this subsection shall be construed to diminish in any manner any right to display, sell or otherwise dispose of firearms or ammunition which is in effect prior to the date of enactment of the Act entitled 'An Act to protect firearms owners' constitutional rights, civil liberties and rights to privacy'.".

AMENDMENTS TO SECTION 924

SEC. 104. Section 924 of title 18, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) Whoever—

"(1) knowingly makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under this chapter, or in applying for any license or exemption or relief from disability under the provisions of this chapter;

"(2) knowingly violates subsections (a)(4), (d)(6), (f), (g), (h), (i), (j), or (k) of section 922;

"(3) knowingly imports or brings into the United States or any possession thereof any firearm or ammunition in violation of section 922(l);

"(4) knowingly violates any provision of this section; or

"(5) willfully violates any other provision of this chapter,

shall be fined not more than $5,000, or imprisoned not more than five years, or both, and shall become eligible for parole as the Board of Parole shall determine: *Provided,* That no person shall be prosecuted under this subsection where the conduct of such person involves simple carelessness.

(2) by amending subsection (c) to read as follows:

"(c)(1) Whoever, during and in relation to any crime of violence, including a crime of violence which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device, for which he may be prosecuted in a court of the United States, uses a firearm, or carries a firearm in furtherance of any such crime of violence, shall, in addition to the punishment provided for such crime of violence, be sentenced to imprisonment for a term of five years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to imprisonment for a term of ten years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the * * *

* * * * *

* * * (1) in subsection (c)—

(A) by deleting the words "has been convicted of a crime punishable by imprisonment for a term exceeding one year (other than a crime involving the use of a firearm or other weapon or a violation of this chapter or of the National Firearms Act)" and inserting in lieu thereof the words "is prohibited from possessing, shipping, transporting, or receiving firearms or ammunition";

(B) by inserting the word "transportation," after the word "shipment";

(C) by deleting the words "and incurred by reason of such conviction,"; and

(D) by adding after the words "the public interest." the words "Any person whose application for relief from disabilities is denied by the Secretary may file a petition with the United States district court for the district in which he resides for a judicial review of such denial. In a proceeding conducted under this subsection, the scope of judicial review shall be governed by section 706 of title 5, United States Code. The court may in its discretion admit additional evidence where failure to do so would result in a miscarriage of justice.";

* * * * *

* * * words: *"Provided,* That no such rule or regulation promulgated after the effective date of this Act may require that records required to be maintained under this chapter or any portion of the contents of such records, be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or any political subdivision thereof, nor that any system of registration of firearms, firearms owners, or firearms transactions or dispositions be established: *Provided further,* That nothing in this section shall be deemed to expand or restrict the Secretary's authority to inquire into the disposition of one or more firearms pursuant to a criminal investigation."; and

(5) inserting at the end thereof the following:

"(b) The Secretary shall give not less than ninety days public notice, and shall afford interested parties opportunity for hearing, prior to prescribing such rules and regulations.

"(c) The Secretary shall not prescribe regulations that require purchasers of black powder under the exemption provided in section 845(a)(5) of title 18, United States Code, to complete affidavits or forms attesting to that exemption.".

AMENDMENTS TO SECTION 927

SEC. 107. Section 927 of title 18, United States Code, is amended by inserting before the period at the end thereof the following: ": *Provided, however,* That any provision of * * *

* * * * *

* * * any legislation enacted, or of any rule or regulation promulgated, by any State or a political subdivision which prohibits or has the effect of prohibiting the transportation of a firearm or ammunition in interstate commerce through such State, when such firearm is unloaded and not readily accessible, shall be null and void.".

EFFECTIVE DATE

SEC. 108. (1) All amendments (including any repeals) made by this Act shall become effective one hundred and eighty days after the date of enactment of this Act. At that time the Secretary shall publish and provide to all licensees a compilation of the State laws and published ordinances of which licensees are presumed to have knowledge pursuant to chapter 44 of title 18, United States Code, as amended by this Act. All amendments to such State laws and published ordinances as contained in the aforementioned compilation shall be published in the Federal Register, revised annually, and furnished to each person licensed under chapter 44 of title 18, United States Code, as amended by this Act.

(2) The provisions of sections 103(5)(C), 104(2), 105, and 107 of this Act shall be applicable to any action, petition, or appellate proceeding pending on the effective date of this Act. In considering any petitions for Presidential pardons submitted by persons convicted of violations of chapter 44 of title 18, United States Code, prior to the effective date of this Act, the Congress recommends that consideration be given to whether the violation would have been punishable under this Act, and to the purposes and findings contained in the preamble thereto.

HATCH AMENDMENT NO. 5728

Mr. BAKER (for Mr. HATCH) proposed an amendment to amendment No. 5727 proposed by him to the joint resolution (H.J. Res. 648), supra; as follows:

AMENDMENT NO. 5728

At the end of the pending amendment No. 5727 add the following:

SEC. . (a) This section may be cited as the "Neighborhood School Act of 1984".

(b) The Congress finds that—

(1) court orders requiring transportation of students to or attendance at public schools other than the one closest to their residences for the purpose of achieving

racial balance or racial desegregation have proven to be ineffective remedies to achieve unitary school systems;

(2) such orders frequently result in the exodus from public school systems of children causing even greater racial imbalance and diminished public support for public school systems;

(3) assignment and transportation of students to public schools other than the one closest to their residence is expensive and wasteful of scarce petroleum fuels;

(4) there is an absence of social science evidence to suggest that the costs of school busing outweigh the disruptiveness of busing; and

(5) assignment of students to public schools closest to their residence (neighborhood public schools) is the preferred method of public school attendance.

(c) The Congress is hereby exercising its power under article III, section 1, and under section 5 of the fourteenth amendment of the U.S. Constitution.

(d) Section 1651 of title 28, United States Code, is amended by adding the following new subseciton (c):

"(c)(1) No court of the United States may order or issue any writ directly or indirectly ordering any student to be assigned or to be transported to a public school other than that which is closest to the student's residence unless—

"(i) such assignment of transportation is provided incident to the voluntary attendance of a student at a public school, including a magnet, vocational, technical, or other school of specialized or individualized instruction; or

"(ii) the requirement of such transportation is reasonable.

"(2) The assignment or transportation of students shall not be reasonable if—

"(i) there are reasonable alternatives available which involve less time in travel, distance, danger, or inconvenience;

"(ii) such assignment or transportation requires a student to cross a school district having the same grade level as that of the student;

"(iii) such transportation plan or order or part thereof is likely to result in a greater degree of racial imbalance in the public school system than was in existence on the date of the order for such assignment or transportation plan or is likely to have a net harmful effect on the quality of education in the public school district;

"(iv) the total actual daily time consumed in travel by schoolbus for any student exceeds thirty minutes unless such transportation is to and from a public school closest to the student's residence with a grade level identical to that of the student; or

"(v) the total actual round trip distance traveled by schoolbus for any student exceeds 10 miles unless the actual round trip distance traveled by schoolbus is to and from the public school closest to the student's residence with a grade level identical to that of the student.".

(e) The school closest to the student's residence with a grade level identical to that of the student shall, for purpose of calculating the time and distance limitations of this Act, be deemed to be that school containing the appropriate grade level which existed immediately prior to any court order or writ resulting in the reassignment by whatever means, direct or indirect including rezoning, reassignment, pairing, clustering, school closings, magnet schools or other methods of school assignment and whether or not such court order or writ predated the effective date of this legislation.

(f) Section 407(a) of title IV of the Civil Rights Act of 1964 (Public Law 88-352, section 407(a); 78 Stat. 241, section 407(a); 42 U.S.C. 2000c—6(a)), is amended by inserting after the last sentence the following:

"Whenever the Attorney General receives a complaint in writing signed by a individual, or his parent, to the effect that he has been required directly or indirectly to attend or to be transported to a public school in violation of the Neighborhood School Act and the Attorney General believes that the complaint is meritorious and certifies that the signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceeding for relief, the Attorney General is authorized to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as many be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.".

(g) for the purpose of this Act "transportation to a public school in violation of the Neighborhood School Act" Shall be deemed to have occurred whether or not the order requiring directly or indirectly such transportation or assignment was entered prior to or subsequent to the effective date of this Act.

(h) If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of such provision to other persons of circumstances shall not be affected thereby.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON TACTICAL WARFARE

Mr. TOWER. Mr. President, I ask unanimous consent that the Subcommittee on Tactical Warfare, of the Committee on Armed Services, be authorized to meet during the session of the Senate on Thursday, September 27, to hold a hearing on development and use of training simulators.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PASSIVE RESTRAINTS IN AUTOMOBILES

● Mr. RIEGLE. Mr. President, for a number of years the issue of passive restraints in automobiles has been discussed in the Congress, the automobile industry, and throughout the Nation. Recently, the Department of Transportation announced a program which combined incentives for States to enact mandatory seatbelt laws with the possibility of mandated passive restraint devices in automobiles.

There is a firm consensus that the most important step that can be taken to improve automobile safety is the use of seatbelts. The United States lags far behind other nations in seatbelt usage, with less than 15 percent of our population regularly using belts. This compares to usage in Britain of over 90 percent.

Yesterday an article appeared in the New York Times which contains an illuminating discussion of the reasons behind our minimal usage of seatbelts. I commend the article to my colleagues, and ask that it be printed in the RECORD.

The article follows:

[From the New York Times, Sept. 26, 1984]

WHY MOTORISTS WON'T BUCKLE UP

(By Stephen Engelberg)

WASHINGTON, Sept. 25.—The driver's education instructor asks a simple question: "How many of you think it's important to buckle your seat belt every time you get in your car?" Only a few teen-agers shyly thrust up their hands, so the teacher fires off some sobering statistics. Every 10 minutes, someone dies in a car accident. Everyone can expect to be in an accident at least once in his lifetime. Safety belts double the chances of surviving a crash.

Like most such classes, the instructor here is moonlighting from a regular job. But the job is Secretary of Transportation and the teacher is Elizabeth Hanford Dole. The classroom appears in a new television commercial sponsored by the Federal Government and shown in the New York City area during the last few weeks.

Mrs. Dole's lesson clearly works; her students seem determined to buckle up. However, recent studies suggest that powerful psychological reasons make similar quick conversions unlikely for most drivers in this country. When it comes to seat belts, researchers say, a motorist's self-deception takes many forms, including faulty perceptions of vulnerability, poor assessments of accident risks and belief in the false notion that being belted is dangerous in the aftermath of a crash.

Thus, despite a two-year campaign by the Government and an independent effort by automobile manufacturers, fewer than 15 percent of Americans wear seat belts when they drive. This represents a slight increase from the all-time low of 11 percent in 1980-81 and is far below the 90 percent rates achieved by countries such as Britain whose laws require seat-belt use.

"To be perfectly candid, the only way you're going to get a real payoff is to make it mandatory," said Mike Brownlee, head of the National Highway Traffic Safety Administration office that coordinates the Federal seat-belt campaign. "Voluntary programs will have an effect, but it will probably never get higher than 20 to 25 percent compliance." To get belt use into the 70 to 80 percent range, he said, the nation needs legislation. Mrs. Dole apparently agrees. Addressing the National Conference of State Legislatures last week, she urged each state to enact mandatory seat-belt laws.

Paul Slovic, psychologist and analyst for Decision Research in Eugene, Ore., sees the problem in behavioral terms. Mr. Slovic, who has undertaken several studies for Federal agencies, said that each time a driver negotiates a trip without incident, he gets "positive reinforcement" for the notion that he is safe in a car and doesn't need a seat belt. "When they make trip after trip safely people think they're skilled," Mr. Slovic said, saying that "if you ask a room full of

people to rate themselves as drivers, they all say they are the top of the distribution."

Mr. Slovic said that between 1978 and 1982, his company tried out a series of commercials among small sample audiences in Eugene, Ore., and Los Angeles. The commercials, which were designed to change the way drivers look at the odds of being injured in a crash, emphasized that, during a lifetime, the chances of being in an accident were quite high.

The results were comparatively poor. "We got a very modest increase in belt use," Mr. Slovic said.

Gerald Wilde, a professor of psychology at Queen's University in Kingston, Ontario, agreed that for many motorists, the decision not to wear belts is a way to deny the risks of driving. "If you think of a car as a machine for action and pleasure, a seat belt is an unattractive feature in that it reminds people of the possibility of accidents," he said. "These people refuse to think about the belt because it is a spoilsport."

E. Scott Geller, a psychology professor at Virginia Polytechnic Institute and State University in Blacksburg, Va., said, "We avoid grabbing the belt to avoid the thought of danger. We don't think of 35,000 people being killed each year."

Researcher say that misperceptions about the uses of seat belts, in addition to the discomfort of wearing them, contribute to drivers' reluctance to buckle up. There is a persistent myth, for example, that it is safer to be thrown free of the car than to be restrained by a belt. In fact, the chances of being killed in a crash increases 25 times if an occupant flies from the vehicle. Others fear being trapped by a belt if the car catches fire or falls into water. Despite scenes repeatedly presented on television and in movies, fire or water is a factor in fewer than 0.5 percent of injury-causing automobile accidents.

Psychologists agree that, at best advertising and publicity campaigns can increase seat-belt popularity by only a few percentage points. But if commercials are going to be used, the experts advocate using them effectively. And that, they say, means concentrating on facts, not on grisly images of twisted metal. That is the inspiration for Mrs. Dole's commercials, which she made while doggedly pursuing seat-belt legislation.

In July, the Transportation Department said it would require all cars sold in this country to be equipped with air bags unless states representing two-thirds of the United States population passed mandatory seat belt laws by 1989. Earlier this year, New York became the first state to mandate seat-belt use. The law becomes fully effective on Jan. 1. Federal agencies and private industry have also promised to contribute $20 million each to a new campaign to spur voluntary use of the belts.

Such efforts have become ubiquitous of late. Government-produced television advertising has increased during the last two years. So have the automakers' magazine and television advertising campaigns. General Motors is even offering to pay $10,000 to the survivors of anyone killed in a G.M. car while wearing a safety belt. (This applies to cars sold after April 16, 1984 for one year. Money has been paid to the estates of 10 victims.)

Various corporations are running incentive programs to encourage seat-belt use among employees. One unit at Ford Motor Company, for example, rewards seat-belt use—verified by parking lot observers—with coffee cups, key chains and other prizes. This time last year, every half-gallon container of milk sold by the Safeway food chain urged the use of safety belts.

Mr. Geller at Virginia Polytechnic Institute is hoping to recruit television to the cause. Several years ago, officials from the nation's car manufacturers and the Government asked television producers to insure that actors who drove on camera were seen wearing seat belts. The producers were willing to accede in some situation comedies, but balked at showing hard-charging detectives belting up before driving after villains. Mr. Geller is now circulating a petition that calls on television series to show tough guys buckling up, too.

Based on the Canadian experience, Mr. Wilde of Queens University is not sanguine about American attempts to persuade or coerce citizens into seat belts. According to the Insurance Institute for Highway Safety in Washington, since the late 1970's, when four provinces mandated belting up, usage has more than doubled in those provinces, reaching about 50 percent in Ontario, 50 percent in Saskatchewan, 55 percent in British Columbia and 68 percent in Quebec. But fatalities have fallen, on average, only 11 percent; injuries have dropped a meager 6 percent.

Mr. Wilde suggested that laws won't work unless they are enforced so vigorously that usage tops 90 percent. "It may be that legislation doesn't reach those most at risk," he said, "that is, the young males most likely to have accidents."●

THE NOISE ACT

● Mr. PACKWOOD. Mr. President, on Tuesday, September 24, the Senate Committee on Appropriations adopted an amendment to the continuing resolution which effectively undermines the intent of Congress in enacting the Aviation Safety and Noise Abatement Act of 1979—the Noise Act.

Congress enacted the Noise Act only after extensive debate. The legislation set a January 1, 1985, deadline for complying with certain Federal Aviation Administration noise standards. In the 5 years since enactment of this law, U.S. carriers have spent millions of dollars to bring their fleets into compliance. Unfortunately, some foreign carriers and a few smaller U.S. carriers and charter operators have used the 5-year period in an attempt to delay the compliance date rather than to meet its requirements.

The action taken Tuesday by the Committee on Appropriations totally undermines the intent of the 1979 law. Not only does it thwart the important environmental goals of the law, it makes a mockery of the huge investment made by U.S. carriers. It is simply unconscionable to hand our carriers' competitors such an undeserved advantage.

The conference report accompanying the 1979 act contained clear and reasonable standards for issuing noise exemptions, after December 31, 1984. To relax those standards now would do a severe disservice to all concerned.

My concern is shared by many of my distinguished colleagues here in the Senate, and, as the following letter to Senator HATFIELD indicates, by numerous leaders in the House of Representatives. I urge the Senate to reject this attempt to weaken the Noise Act.

The letter follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 20, 1984.

Hon. MARK HATFIELD,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On January 1, 1985 the federal regulations requiring improved standards of source noise control for certain large jet aircraft are scheduled to take final effect. These regulations were adopted seven years ago and were reviewed and affirmed, with some modifications, by Congress four years ago through the Aviation Safety and Noise Abatement Act of 1979.

It is our understanding that an effort is being made in the Senate to include language, either in the Continuing Resolution or its accompanying report, which would in effect grant exemptions from the compliance date, exemptions which would primarily benefit certain foreign airlines operating jet aircraft into the United States. We are strongly opposed to any legislative exemption from the compliance date and to any such provisions in the Continuing Resolution or its accompanying report.

The January 1 compliance date is a central part of the noise rules. It is inconceivable to us that exemptions or waivers from this date should be granted by Congress since the operators of affected aircraft have known about the deadline for more than seven years, and since Congress reaffirmed these rules over four years ago. U.S. scheduled air carriers have known about this deadline and have acted responsibly in their fleet planning. They have invested, during a time of severe financial losses, an estimated $730 million in retrofitting more than 800 aircraft; they have retired more than 350 of the older, noisier aircraft; and they have acquired and placed orders for more than 800 new aircraft, valued at an estimated $20 billion, which meet the federal noise criteria. If these U.S. carriers can comply in the required timeframe, why can't those few foreign carriers make an equal effort?

It should be noted that many of the aircraft in question were purchased from U.S. carriers *after* the rule specifying the January 1 compliance date was already in place. These carriers therefore bought these aircraft from U.S. carriers at significantly discounted prices. It would be seriously unfair to now allow these few carriers to compete against U.S. scheduled carriers without having to incur the same costs.

Jet noise at many airports all across the country is a serious environmental problem for many of our citizens. Not only groups representing these citizens, but also the U.S. scheduled airlines, major aviation labor groups, and the organizations representing airport operators oppose any legislative grant of exemptions. We urge you to join us in opposing any legislative provisions which would weaken existing regulations on jet noise.

Sincerely,

James J. Florio, Joe Moakley, James J. Howard, Robert A. Young, Fortney H. (Pete) Stark, Brian J. Donnelly, Les AuCoin, Barbara Boxer, Julian C. Dixon, Norman Y. Mineta, Glenn M.

Anderson, Elliott H. Levitas, Edward J. Markey, George Miller, Mike Lowry, Norman D. Dicks, Patricia Schroeder, Gary Ackerman, Timothy E. Wirth, Dan Rostenkowski, Jim Wright, Tony Coelho, Richard Gephardt, Nicholas Mavroules, Anthony C. Beilenson, Thomas S. Foley, Bob Edgar, Frank Annunzio, James H. Scheuer, Tom Lantos, Howard L. Berman, Wyche Fowler, Jr., Robert T. Matsui, James M. Shannon, James Weaver, Newt Gingrich, Martin Olav Sabo, Edolphus Towns, Robert J. Mrazek, Edward R. Roybal, Vic Fazio, Barbara Mikulski, Jack Brooks, Edward P. Boland, and Jerry M. Patterson.●

DR. RICHARD BURACK'S EFFORTS ON GENERIC DRUG LEGISLATION

● Mr. HUMPHREY. Mr. President, President Reagan has signed legislation to make cost-saving generic pharmaceuticals more easily available to all citizens. A constituent of mine, Dr. Richard Burack of Jackson, NH, is deserving of recognition for his courageous and untiring efforts in pointing to the need for this legislation which has just been signed into law.

When Dr. Burack entered private medical practice in 1963, at the age of 37, after years of teaching and research as a faculty member of the Harvard Medical School, he discovered that it was the custom to prescribe medications by their copyrighted brand names. He had always urged students to write official [generic] names on prescriptions because he believed that using them was not only a hallmark of a well-educated doctor; he knew that applying a single name to each agent made prescribing easier and circumvented confusion.

Dr. Burack researched comparative costs of generic and brand name versions of pharmaceuticals and discovered that pharmacists very often had to pay wholesale prices 20 or more times greater for brand name items than for counterparts with the same efficacy and safety when sold by their generic names.

Furthermore, many States had "antisubstitution laws" which forbade pharmacists to dispense a less expensive generic drug if the doctor had written the brand name on the prescription blank. Dr. Burack decided if he were to write a book about generic drugs, someone would listen. He spent nearly all his spare time in 1965 and 1966 preparing "The Handbook of Prescription Drugs" describing in detail the higher prices of brand name medications.

While the New England Journal of Medicine praised "The Handbook of Prescription Drugs" and praised Dr. Burack for his courageous and scholarly work, many years were to pass before the public would reap the full benefit of what he was trying to accomplish. Shortly after Dr. Burack's handbood appeared, a Senate Subcommittee on Small Business recognized the importance of Dr. Burack's pioneering efforts. This subcommittee spent 12 years in researching and holding hearings on the issue and published 34 volumes of "Competitive Problems in the Pharmaceutical Industry."

These hearings focused public attention on generic drugs and helped set the stage for the new generic drug law which will make it easier for companies to gain approval to market generic drugs. By cutting unnecessary redtape and artificial barriers to the marketplace, we will foster even greater competition and make essential medications more affordable for all Americans.

Mr. President, as a Member of the Senate, I was pleased to support this important legislation. I am also pleased today to pay tribute to Dr. Burack for the vital role he played in these efforts to make low-cost generic drugs more available to the American people.●

THE AMERICAN STEEL INDUSTRY: MYTH VERSUS REALITY: XIII

● Mr. HEINZ. Mr. President, today I present the 13th in a series of brief statements which will appear periodically in an effort to elevate the level of debate on the crisis in the American steel industry.

I would like to discuss the contrast between the current economic surge in this country and the continued failure of the steel industry to recover. Both the American people and elected officials have erroneously assumed the inevitable relief of the steel industry as economic growth and recovery has blessed other industries.

In order to properly address the steel issue, all Americans must fully recognize the current dismal state of the industry. Therefore, I am offering some further myths and realities about the industry to help provide a common set of facts from which we can all work to restore health to our ailing steel industry. A clear understanding of the intensity of the problem at hand is crucial to policy recommendations necessary to the American steel industry's recovery.

MYTH

The U.S. steel industry has improved along with growth in the economy.

REALITY

The American steel industry has experienced major setbacks in the past weeks throughout the Nation. The latest troubles have included layoffs and the shutdown of equipment and plants. At its headquarters in Middletown, OH, Armco Inc., is dismissing 170 workers. This action will reduce the headquarter's staff to one-third of the 1982 level of employment. In addition, the United States Steel Corp. has announced that it will lay off 650 workers from its already underutilized northwest Indiana mills. United States Steel has also laid off an additional 300 workers at its Gary, IN, works where just one blast furnace is presently in use.

White-collar workers have also been in the mainstream of the recent layoffs. Hundreds of white-collar workers are planned to be dismissed from United States Steel's Mon Valley works. The estimated employment at Mon Valley is currently at 8,000 which is a large drop from the 22,700 figure of 1979. This recent United States Steel white-collar layoff has been preceded by four others which have taken place this summer in Loraine, OH, Fairless, PA, Gary, IN, and Geneva, UT. The Gary case is expecially vital due to the fact that steel worker employment in northwest Indiana is at the lowest point ever recorded.

More evidence in illustrating that the steel industry is troubled is revealed in the latest shutdown of blast furnaces in the Bethlehem, PA plant of Bethlehem Steel and the Gary plant of United States Steel.

MYTH

Current economic policy is effective in strengthening the U.S. steel industry.

REALITY

An obvious decline in the state of the steel industry is evident. While the country is witnessing the resurregence of many other lagging industries, steel continues to falter. The problem here is that no single component of the general economy can be blamed. Each of the following five major macroeconomic factors have had a large negative effect upon the demand of steel in the past 8 years: monetary policy, fiscal policy, exchange rate fluctuations, energy market turbulence and outside economies. In addition, a number of other factors not related to the general economy have negatively influenced the demand for American steel. These 11 different economic developments have been analyzed in a study by Walter F. Carter of Data Resources Inc. [DRI]. The study found that no factor had as much negative effects upon the revenue and cash flow of the steel industry as the rise of steel product imports. For instance, the increase in the import share of apparent consumption from 13.3 percent in the base period (73–76) to 18.6 percent in the impact period (77–83) caused a revenue loss of an average $5.7 billion per year in constant 1983 dollars.

The following table from the DRI study illustrates the impact of the five major macroeconomic factors considered. Declines are also noted in the remaining factors.

TABLE 1.—SUMMARY OF IMPACTS ON THE U.S. CARBON AND ALLOY STEEL INDUSTRY OF CHANGES IN MAJOR ECONOMIC FACTORS, 1977–83, ACTUAL VS. SIMULATED

Economic factors	Average annual changes due to changes in economic factors				
	Change in steel consumption	Change in steel shipments	Change (1983 dollars)		
	Million net tons	Million net tons	Steel price (net tons)	Steel revenue (millions)	Steel cash flow (millions)
1. Fiscal policy	−0.2	−0.1	−$2.3	−$217	−$134
2. Monetary policy	−4.2	−3.0	2.1	−1,486	−566
3. Energy prices	−2.3	−2.1	9.3	−387	−507
4. Exchange rates	0.9	1.2	5.8	1,089	262
5. Other economics	−1.9	−2.3	−8.2	−1,939	−967
6. Capital goods imports and exports	−0.3	−0.2	−0.2	−144	−59
7. Automotive imports and exports	−0.8	−0.6	−0.6	−376	−152
8. Steel per motor vehicle	−1.7	−1.5	−1.3	−850	−342
9. Steel per can	−1.7	−1.4	−1.3	−1,088	−587
10. Other markets	−2.1	−1.8	−1.6	−1,060	−432
11. Steel imports	—	−4.8	−35.7	−5,685	−4,025

Note: Items 1–5 refer to alternative macroeconomic simulations in 1977–83. Items 6–11 refer to steel usage coefficients, import shares, etc. of 1973–76 applied to actual economy conditions of 1977–83.●

CHAD COLLEY, NATIONAL COMMANDER OF DAV

● Mr. PRYOR. Mr. President, it is my great pleasure to speak today of one of Arkansas's most outstanding citizens, Mr. Chad Colley, the recently elected National Commander of the Disabled American Veterans.

We are proud of Chad Colley in Arkansas, and in the coming year as he speaks in behalf of the Disabled American Veterans I am sure my colleagues will come to understand and to share that pride and respect.

While serving our country in Vietnam, he was injured in a land mine explosion losing both legs and an arm. His courage and determination through the hospitalization following that injury have continued as he has become a successful businessman and community leader in Fort Smith and Barling, AR.

He is the owner and operator of a mobile home and land development company. Previously. he was sales manager for the largest home builder in Western Arkansas and loan department manager for First Federal Savings and Loan Association in Fort Smith, AR.

Mr. Colley graduated with honors from North Georgia College in 1966 where he was a campus leader, the recipient of the All Sports Award in his senior year, and included in Who's Who Among Students in American Universities. He was honored as a Distinguished Military Graduate.

After receiving his commission in the U.S. Army, he was a rifle company commander with the 101st Airborne Division in Vietnam. It was on a mission about 45 miles northwest of Saigon that he was severely wounded.

He has been awarded the Silver Star, the Purple Heart and the Army Commendation Medal. He has also received the Honor Medal of the Daughters of the American Revolution and was a finalist in the Jaycees National Oratorical Contest. He is a board director of the governing board of Barling, AR.

He has previously been recognized by the DAV by being chosen in 1970 as the national Outstanding Disabled Veteran of the Year. He has been active for a number of years in DAV Chapter No. 1 in Fort Smith and is a former commander of the chapter and a former senior and a junior vice commander of the DAV's Department of Arkansas.

Mr. Colley succeeds Dennis A. Joyner who served with great distinction as DAV's national commander. I had the pleasure of working with Dennis Joyner during his tenure and I know that his words of tribute to Chad Colley are especially meaningful to those of us who know of Mr. Joyner's fine leadership at DAV.

Mr. Joyner said, "Able-bodied or disabled, young or old, veteran or nonveteran, the wide spectrum of our population can find a common identity with this man. Chad's positive outlook, his productive record, and the shear weight of his example have strongly influenced the lives of everyone with whom he's ever had contact."

I also want to pay tribute to the fine individuals at DAV's national headquarters with whom Chad Colley will work during the coming year. I know all of us in Congress call on DAV for advice and counsel and I have certainly benefited from the help that Rick Heilman and others in the headquarters have provided.

I also want to recognize DAV State departments and local chapters who are able advisors to Members of Congress as well as important forces for civic, community, and individual service.

Mr. President, I would urge my colleagues to consider the comments of Mr. Colley as he assumed office. He said, "The heat's on to cut veterans' programs. With powerful members of both political parties demanding cuts in Federal spending, including programs for disabled vets, we're going to have a battle on our hands no matter who wins or loses in the November elections."

"I'm determined to make sure the Disabled American Veterans wins that battle. The plan is to build our membership strength, passing the million-member mark as soon as possible. And we're going to make the DAV's service and legislative programs even more effective than they've already proven to be."

I support Mr. Colley's efforts to make sure the Government honors its commitment to it veterans and I can think of no better leader on behalf of veterans in the coming year than Chad Colley.

Mr. President, I am proud to have Chad Colley, his wife Betty Ann and his children Ryan and Emily as my constituents and all Americans will benefit from Chad's service this year.●

TRIBUTE TO AMERICAN GAS ASSOCIATION'S GEORGE H. LAWRENCE

● Mr. BOREN. Mr. President, 3 months from now, January 1, 1985, the 30-year field price controls that choked new gas supply efforts will be gone. Effectively, 75 percent of all gas will be decontrolled—with 60 percent actually decontrolled and 15 percent subject to above market clearing prices—providing incentives for new exploration and drilling. Although I opposed the Natural Gas Policy Act of 1978 because it did not deregulate old gas, and it contained restrictions on the use of natural gas, the removal in a phased basis of the field price controls on new gas exploration and drilling has stimulated new gas drilling. In the 10-year period preceding the NGPA—1968–78—gas reserve additions were less than half of production. In 1979 that went to 70 percent. In the next 4 years, 1980–83, it averaged close to 100 percent. That is certainly improvement.

I believe a lot of the credit for the natural gas industry's positive future goes to George H. "Bud" Lawrence, president of the American Gas Association, a friend and a fellow Oklahoman from Bartlesville, OK. This November marks 8 years since Bud Lawrence became president of the American Gas Association, a trade association representing 300 natural gas distribution and transmission companies. He has made a significant impact on the natural gas industry and its future role in the Nation's energy mix.

In November 1983, Bud's alma mater Oklahoma State University honored him when he was inducted into the Oklahoma State University College of Engineering, Architecture and Technology Hall of Fame. Bud received his bachelor's degree in industrial engineering from OSU in 1949. He will soon be named a "Significant Sig," an honor bestowed on him by Sigma Chi; Bud was a member of the OSU's Delta Gamma Chapter. Bud's lovely wife of 36 years, Shirley, from Muskogee, OK, is also a graduate of Oklahoma State University.

Bud Lawrence's national leadership was recognized in 1980 by the National Energy Resources Organization when he received their Distinguished Service Award for "the individual who has contributed the most to solving the Nation's energy problems over the last year." The award reads:

The National Energy Resources Organization's Distinguished Service Award is presented to George H. Lawrence for his successful leadership of the U.S. Gas Industry

and the revival of the long-term prospects for gas energy to continue to make its key contribution to the nation's energy future.

Lawrence's leadership as President of the American Gas Association was pivotal to the enactment of the Natural Gas Policy Act of 1978 and subsequent major national energy policy decisions. All but abandoned as a key future U.S. energy source by government policymakers in 1977, gas is now projected to continue to provide its current contribution of about 25 percent of future U.S. energy supply well into the next century. This complete reversal of public policy affecting gas will have an increasingly visible and beneficial impact on this nation's future energy, economic, and environmental well-being.

Bud Lawrence's extraordinary advocacy of the "Gas Option," has unbounded energy and dogged determination has led this renaissance of the U.S. gas industry and deserves the special recognition conferred by NERO's Distinguished Service Award.

Bud Lawrence has had a distinguished 30-year career in the natural gas and petroleum industries starting as a rotary helper on drilling rigs in Oklahoma with Humble Oil.

Oklahoma State University and all Oklahomans can be proud of its home State product—George H. "Bud" Lawrence—whose effective leadership has helped greatly to advance our Nation's energy security and whose advice and friendship I value. I am pleased to join in saluting his achievements.●

THE 20TH ANNIVERSARY OF SCORE [SERVICE CORPS OF RETIRED EXECUTIVES]

● Mr. CHILES. Mr. President, 1984 marks the 20th anniversary of the Service Corps of Retired Executives [SCORE], a volunteer organization of retired businessmen and women who freely give of their time and experience to counsel beginning and expanding businesses. This year more than 12,000 SCORE volunteers operating in more than 400 chapters located in every State plus the District of Columbia, Puerto Rico, Guam, and the Virgin Islands celebrate this 20th anniversary as volunteer small business counselors. More than 1,200,000 small business clients have received free management counseling from this organization since its inception in 1964.

SCORE first began in Boston early in the 1960's when a few dedicated retirees decided to offer the benefit of their experience to aid struggling young businesses. The idea soon spread to other areas, and the Small Business Administration in 1964 took steps to utilize SCORE as a small business management assistance resource.

In 1969 ACE [Active Corps of Executives] was established by the SBA to supplement SCORE counseling services by utilizing the talents of volunteers not yet retired but still actively employed. In 1982 ACE was merged with SCORE into a single organization. Today, ACE members account for about one-fourth of the membership of SCORE.

SCORE members are dedicated to their program of offering free counseling to small business persons. SCORE members often donate 20 or more hours of their time each week guiding the head of a small business through the intricacies of basic accounting principles, or teaching management fundamentals, personnel policies and how to make major business judgments.

SCORE has its greatest effect on clients in one-on-one counseling, which is ordinarily the most costly form of management assistance. It is not unusual for a SCORE counselor to spend 40 hours a week on a specific case, guiding the small business around pitfalls such as inventory obsolescence, top-heavy personnel costs, failure to take into account tax consequences and the selection of an unprofitable location for the business.

SCORE counselors also conduct pre-business workshops and seminars which help small business men and women to understand the problems of ownership and management. These workshops provide a wealth of experience in sales, advertising, financial control and purchasing to teach the beginning or struggling businessperson the basic principles of management.

The Small Business Administration, which sponsors the SCORE program, affirms the country's debt to these men and women who selflessly contribute of their wisdom, experience, and time to this very important activity.

It is most appropriate, Mr. President, as the volunteers of SCORE mark their 20th anniversary that we commend them for their remarkable dedication and service to the Nation's small businesses.●

BURTON ELEMENTARY AN A+ SCHOOL

● Mr. LEVIN. Mr. President, all too often we hear of the shortfalls of our schools and educational system. I am pleased, therefore, to call attention to the Burton Elementary School in Huntington Woods, MI, which was recently recognized as an A+ school by Instructor magazine. One of only a handful of schools to be so evaluated nationwide, Burton is truly a school that works.

Burton Elementary, part of the Berkley School District, is a perfect blend of dedicated teachers, involved parents, eager students, and skilled administrators.

Burton is an innovative school where all fourth graders take 10 weeks of violin lessons, and where ethnic festivals, science, math, and computer fairs are regular events.

Mr. President, I ask that the text of the article "A+ Schools—Portraits of Schools That Work," be printed in the RECORD.

The article follows:

A+ SCHOOLS—PORTRAITS OF SCHOOLS THAT WORK

Visitors come in and out of Burton Elementary so much that a certain door has been designated for the upper grade visitors and another for primary grade visitors. The fact that the school is on the same street as the public library and a community recreation center with indoor swimming pool and tennis courts doesn't help the traffic problem much either! Add residents who feel that school functions are also neighborhood functions, and you begin to get the picture that this little school for 472 K-5 children in Huntington Woods, Michigan, gets a lot of attention from its community.

One of the reasons that local residents of this one-square mile "little city" feel so strongly about "their school" is that many actually attended it as students. Another is that Huntington Woods, 11 miles out of downtown Detroit, is a mecca for young urban professional people interested in education and cultural values.

More than one teacher comments, "Parents come to you more here than they do at other schools. They let you know if they like something and they let you know if they don't; they really communicate!"

They've communicated with their financial support as well as by their attendance at school. Millages in the past few years have been passed on a 7 to 1 basis. The curriculum gets its share of attention, too.

The music program is a case in point. Fortunate to have about 11 members of the Detroit Symphony within the community as well as many more musically inclined parents, the district offers two days a week of vocal music at the primary level and orchestra and band as daily offerings at the middle school level. All fourth graders take violin instruction for 10 weeks, and perhaps as a result of their early introduction, out of 580 students at middle school, 170 choose to play an instrument.

Music teacher Phyllis Turner explains that the 30-minute-a-day, four-day-a-week program for 10-year-olds is an experience children enjoy. "The Suzuki method is based on the idea that kids can learn step-by-step if they have a hands-on experience with real music and real instruments," she says. At the end of each term, kids can play "Twinkle, Twinkle, Little Star" and "Hail to the Victor." The last, the University of Michigan's fight song, meets with a particularly positive reaction at evening performances.

Cultural interests are manifested in another project that volunteers have begun. The Ethnic Festival, which will now alternate with the Science, Math, and Computer Fair every other year, started as a simple one-day celebration two years ago. Last year it became an enrichment activity that extended over several months and culminated in an Ethnic Festival Week. It was entirely planned by a committee of parents, but teachers could use the activities they chose.

Curriculum materials that the parents made and furnished were rich indeed. The half Beat, a weekly newsletter, not only updated everyone about which Caribbean dance troupe had just been scheduled and what Ukrainian delicacy would be served during Ethnic Festival Week, it also gave kids ideas for projects they could do. Activities taught kids to interpret Vietnamese folk rhyme, trace African treasure maps,

learn Italian vocabulary, design Israeli flags, study Dutch windmills, sing Portuguese songs, and play Chinese hopscotch. Completed festival books and projects were displayed during the special week.

"By the time the festival arrived, kids knew what they were looking at when local artists and artisans of many nationalities exhibited and performed," says Jan Adler, the parent who organized the event. "They also had a better appreciation of one another's culture and heritage."

So that kids realize science and math are important, too, this year the parents are planning the first Science, Math, and Computer Fair. This time local scientists will be the invited performers, and technology will be on display. The Half Beat will give kids plenty of experiments and information so that they can "go techno," too.

Aside from high parent involvement, Burton Elementary has other strong points according to teachers. One of the chief advantages is that a wide variety of teaching styles is appreciated and encouraged. Dale Van Eck, who runs an almost completely individualized classroom, says he was able to introduce his second graders to computers despite the fact that "the state of Michigan has been none too eager to embrace manufacturers' offers for free computers and has lagged behind in computer education."

Because he personally thinks it is important, he signs his students up for one of the school's four computers every chance he gets. By the end of last year his students were teaching some fifth graders how to program in Logo. "They were using the same method I used with them," Van Eck says. "When they need to debug something, I always ask them 'What's wrong?' instead of telling them what to do. It was great to see them taking the same approach with the fifth graders."

Another faculty member who takes advantage of the opportunity to innovate is Dennis Zamler, fifth grade teacher. Every year fourth and fifth grade teachers meet to discuss which kids might benefit from his nonstructured approach to teaching. As a result, many troubled kids have been turned around in a classroom that places an emphasis on communication, role-playing, and oral reports. "I do what I can to get kids talking in front of other kids. It builds their self-confidence and experience in giving each other constructive criticism. Everything we do we have to verbally share."

The annual Z (for Zamler) Productions have become famous among the kids. Their "Colonial Time Tunnel" and "Wagon Train People" have been performed for classmates, videotaped, and shown on cable TV.

Burton Elementary is lucky in many ways, says principal Richard Durda. Blessed with being next door to a library and recreation center, it cooperates with these institutions to provide activities both during and after school. Blessed with community interest, it does its best to meet the demands. But it also likes to give teachers opportunities to initiate programs.

Consequently, teacher Judy Bauer has developed a primary writing program. Ruth Wiener's art students have exhibited fantastic Mola embroidery, and Linda Stillwater's service squad has demonstrated a high degree of responsibility in enforcing safety rules around the school. Just last year the school applied for a grant from the Michigan Council of the Arts, and as a result a sculptor came to school and a children's author gave a workshop.

All the enrichment activities have a definite influence on everyday classes and on the books her third graders publish, Betty Horner says "Kids are always remembering their experiences—even some things you thought didn't make an impression."

All of this, of course, is in addition to a basic curriculum where goals and objectives are spelled out at every grade level. The kids' achievement scores (top one-fourth in the state) bear out that the system is working.

"We know how lucky we are," says Durda. "So far, our teachers have done a terrific job in rising to our community's expectations. We want to give our children every opportunity; the challenge comes in deciding which priorities to set."●

FLOSSIE PARKER SCHOLARSHIP FUND

● Mr. LEVIN. Mr. President, Flossie Parker was no ordinary person. She was a woman dedicated to the education of our young people. She feared that talented and industrious minds would go unrecognized, unchallenged, and unrewarded.

Flossie Parker was an active member of the Greater St. Peter's A.M.E. Zion Church. She began by teaching Sunday school and in 1958 she was appointed superintendent of the church school program. Flossie Parker loved the children and the children loved her. She served as supervisor of greater St. Peter's Youth Department and worked with several other organizations within the church.

In 1966 Flossie Parker was honored as "Churchwoman of the Year" by the Michigan Chronicle newspaper. She was active in her community and did volunteer work at Detroit General Hospital, for Muscular Dystrophy, Church Women United, and Women in Community Service. But Flossie Parker's heart was always with the children and the need for education.

Flossie Parker died on July 9, 1979, but her cause and concerns live on through the Flossie Parker Scholarship Fund. On Saturday, October 13, 1984, her friends at Greater St. Peter's A.M.E. Zion Church in Detroit, MI, will gather to honor her memory and to insure that the scholarship fund grows to help those that she loved.

I am pleased to have the opportunity to honor the deeds and dedication of Flossie Parker and to commend my friends at Greater St. Peter's for carrying on her works.●

ORDERS FOR FRIDAY

RECESS UNTIL TOMORROW AT 11 A.M.

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11 a.m. on tomorrow.

The PRESIDING OFFICER (Mr. JEPSEN). Without objection, it is so ordered.

RECOGNITION OF CERTAIN SENATORS AND ROUTINE MORNING BUSINESS ON TOMORROW

Mr. BAKER. Mr. President, I further ask unanimous consent that after the recognition of the two leaders there be three special orders of 15 minutes each as follows: Senators PROXMIRE, LEAHY, QUAYLE, MURKOWSKI, and MELCHER to be followed by a period for the transaction of routine morning business not past the hour of 12:30 p.m., in which Senators may be permitted to speak for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BAKER. Mr. President, on tomorrow, the Senate will convene at 11 a.m. After the recognition of the two leaders under the standing order, there will be five special orders to be followed by a period for the transaction of routine morning business until the hour of 12:30 p.m.

After the time for the transaction of routine morning business expires, the Senate will resume consideration of the pending business, which is House Joint Resolution 648, the continuing resolution. Senators can expect to be in very late tomorrow night, perhaps all night. I think there is a high probability that the Senate will be in on Saturday as well.

Mr. President, it is essential in the view of the leadership on this side that we complete action on the continuing resolution before the Senate adjourns for the weekend.

RECESS UNTIL 11 A.M. TOMORROW

Mr. STEVENS. Mr. President, I inquire of my good friend the distinguished minority leader if he has any further business to come before the Senate. I see that he has none.

I ask unanimous consent that the Senate stand in recess in accordance with the previous order.

Thereupon, at 7:55 p.m., the Senate recessed until tomorrow, Friday, September 28, 1984, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate September 27, 1984:

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Mark L. Edelman, of Missouri, to be an Assistant Administrator of the Agency for International Development, vice Frank J. Donatelli.

Cathryn C. Semerad, of Maryland, to be an Assistant Administrator of the Agency for International Development, vice Jay F. Morris.

EXTENSIONS OF REMARKS

RICHARD LOBENTHAL

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. LEVIN of Michigan. Mr. Speaker, I wish to pay tribute today to an outstanding resident of the 17th District of Michigan. Mr. Richard Lobenthal, of Huntington Woods, this month observes his 25th year with the Anti-Defamation League of B'nai B'rith, 20 years as Michigan director.

The Anti-Defamation League of B'nai B'rith is the largest and oldest private human relations agency in this country. The ADL has been in the forefront of the fight against bigotry wherever it occurs since its founding in 1913.

Before his association with the ADL, Mr. Lobenthal served as a U.S. representative to the United Nations Education, Scientific and Cultural Organization [UNESCO], a consultant with the U.S. State Department and the New York Department of Labor and director of a residential treatment home for disturbed adolescent boys. He was active in the fields of psychiatric and group social work, and affiliated with Dr. Carl Rogers and Dr. Bruno Bettleheim. In 1977, with Dr. Gregory Squires, he coauthored a book entitled "Affirmative Action: Guide to the Perplexed."

Currently, in addition to his duties as Michigan director of the ADL, Mr. Lobenthal is active as a volunteer in the Detroit metropolitan community. He is president of a nonprofit research corporation specializing in a variety of research services to civil rights, labor, and community groups. He is on the board of directors of the Y.W.C.A. Shelter for Battered Women and was appointed by Detroit Mayor Coleman Young to the Detroit Commission on the International Year of Children and Youth. He is a member of the Board of the Michigan Committee on Law and Housing. Finally, Mr. Lobenthal serves as a member of the Committee on the Status of Black Leadership of the National Association of Human Rights Workers.

In a decade which has seen a rise in hate incidents, Mr. Lobenthal has effectively worked with the media to confront and counteract this violence. Mr. Lobenthal attacks discrimination against all groups. His philosophy is that "a society that would permit discrimination against one minority group is a society that is deleterious to the interests of any single minority group." Mr. Lobenthal is an eloquent spokesman for tolerance and social justice and is heard regularly as a commentator on WDET-FM, where he serves as a contributing editor in the field of social issues. He also serves on the Michigan Advisory Commission of the U.S. Civil Rights Commission.

I join with many others in appreciation of Richard Lobenthal's 25 years of dedicated service to the Anti-Defamation League of B'nai B'rith, the Jewish community, and the State of Michigan. Our society has gained much from his leadership and strength, as well as his counsel and compassion. I wish him success in his next 25.●

THE EDUCATION REPORT RECONSIDERED

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. SIMON. Mr. Speaker, on September 13, 1984, the St. Louis Post-Dispatch, which serves a substantial portion of southern Illinois—my home district, included an editorial by Morris Freedman of the University of Maryland. The article summed up—in many important ways—some of my views about the much celebrated report "A Nation at Risk," and the fundamental problems affecting education. Dr. Freedman takes the report to task for being long on rhetoric and recommendations, and short on facts to support the conclusions it reached.

It is my view that the report was also short on solutions for the alleged ills. The Reagan administration, after attempting to rape the education budget and pillage many of our most important Federal education policies over the last 20 years—has sought to take advantage of popular concern about the need to improve education and claim education as its own. As Mr. Freedman so accurately states ". . . . the report, in its plundering of the past for the solutions for present and future problems, demonstrated reluctance to confront the true dimension and character of those problems in our time."

During the past year, many excellent reports have contributed to our knowledge about the status and the needs of public education in the United States. These reports have increased public interest in education, focused State legislative and local school board attention on some areas that needed policy and budgetary attention, and rekindled the interest of the Congress in the most important issue facing our Nation's future—the education of all of our children. The Congress has enacted a major mathematics and science improvement program, while the House has also passed the Talented Teacher Act (H.R. 4477) which includes the Carl D. Perkins Scholarships, and the Foreign Language Assistance for National Security Act to encourage foreign language study.

I hope that my colleagues in the House will take the opportunity to read this brief but important article as we consistently seek to expand both excellence and equity in education.

[From the St. Louis Post-Dispatch, Sept. 13, 1984]

THE EDUCATION REPORT RECONSIDERED

(By Morris Freedman)

Americans tend to overstate things. Only superlatives seem to get through our indifference or skepticism. In advertising or Hollywood or sports, language inflation may be harmless. But we should question it in national affairs.

Are we actually a "nation at risk," engaged in "unilateral educational disarmament," as asserted in last year's Report of the National Commission on Excellence in Education? Does a "rising tide of mediocrity" really threaten us? That tide has certainly been on the horizon a long time. It seems never to crest, let alone wash over us. Adm. Hyman Rickover himself, on perpetual watch, has been crying the alarm for a good quarter century.

The lament is ancient and sometimes ironic. A century ago, Americans worried that our public education was not as good as that in England and Germany. At the same time, Matthew Arnold, the English poet and essayist, deplored what young Englishmen were learning in those very schools we were envying. Today, we envy Japanese education while the Japanese take steps to make their schools more creative and more humane, more like American ones.

Few can question the value of the ongoing review of American education even if the rhetoric sometimes seems more appropriate to a Pentagon budget request. We do well to pause periodically and fine-tune the aims and methods of our schools. But it may be harmful simply to cry wolf, however masterfully that cry is masked. With a year's perspective, we can see that the commission's report was awash in an elitist nostalgia that saw no good in the present and would revive the past almost for its own sake.

Simply lengthening the school day or year and increasing homework, for example, would merely give students more of the same by the same teachers. We would again get near-idiot savants, able to win spelling bees but unable to read or write intelligibly or intelligently.

Learning changes as the world changes. Films and television have made Shakespeare available to millions. We now have a boom in Shakespeare publications. High school students can proceed more rapidly to advanced math and computer study because of calculators.

For all its pietistic references to the importance of learning for its own sake, the

report really stressed the competitive advantages of high grades and test scores. The appeal was both patriotic (we must beat the foreigners) and personal (get well-paid jobs).

Indeed, the report favored narrow, functional teaching, common in countries with autocratic histories, like Russia and Japan. It called for preparing experts mainly to advance materialistic and technological superiority. It gave virtually no attention to the intellectual development of the majority who will never go to college.

Perhaps nowhere was the reports ritualistic tone more evident than in its recommendation that foreign languages again be required universally for college bound students in spite of our long experience that such study commonly degenerates either into rote memory drills or into "culture appreciation," like the eating of quiche, tacos or pizza. The report said not a word about sustaining the living billingual consciousness of our Asian and Spanish populations, thus quite betraying the president and vice president who, both before and after the report, have strongly advocated billingual education.

The report echoed crude generations about declining test scores without accounting for such details as the vast increase of those who take all tests, or the fact that aptitude and achievement tests diagnose a condition rather than predict success. The report failed also to consider steadily improving math and reading performance. It said nothing about rising law and medical school admissions.

In sum, the report, in its plundering of the past for solutions to present and future problems, demonstrated reluctance to confront the true dimension and character of those problems in our time. We have no reason mechanically to emulate Russian or Japanese education. The Japanese keep up with us technologically, or surpass us, not because they have better schools but because of their responsive and adaptable management and government; the Russians, because of large-scale spying and an efficient tyranny. Both openly depend a good deal on American research and sophistication.

Our schools certainly need attention. Too many students slip through our elaborate educational nets. Our secondary teachers often do not root themselves solidly in the subjects they teach. We narrowly train rather than broadly educate our politicians and businessmen. Many of our doctors, scientists and engineers are illiterate in the humanities just as many humanists are ignorant in science and technology. Our service academies, which turn out many of our national leaders and most of our military ones, have never been noted for their liberal education.

American education can indeed offer more to everyone, but not by looking simply to the past or to foreign places, or by grossly demeaning our achievements and glibly exaggerating our failures.●

ALICE COHEN

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. LEHMAN of Florida. Mr. Speaker, the Miami Herald recently printed an article about Alice Cohen who has been a determined fighter for the preservation and maintenance of our environment in south Florida.

Alice Cohen has fought against political inertia, public indifference and her own physical and medical handicaps. There are certainly many others like Elmore Kerkela, Wesley Wilson, and Maureen Harwitz who have fought the same environmental battles. However, I believe a plaque should be embedded in the rebuilt natural bridge in Arch Creek Park naming the bridge for Alice Cohen. I hope that Dade County will decide to do this.

Mr. Speaker, I would like to share the following article about the efforts of Alice Cohen with my colleagues:

ARCH CREEK PARK GETS MONEY TO REBUILD BRIDGE

(By Phil Kuntz)

On a February afternoon in 1973, Alice Cohen stood with a federal geologist on the only natural bridge in South Florida in what is now Arch Creek Park. She was showing off land for which she had waged and won an environmental battle.

"I said, 'How long you figure this bridge is gonna be here' " she recalled Friday. "He said, 'It's been here since the ice age, and that's thousands of years ago, so it will probably be here for thousands more.' "

That night the limestone bridge collapsed.

Thursday, the Metro Commission approved a budget that includes $50,000 to rebuild the bridge at the county park, 1855 NE 135th St.

"I've been waiting for a long time for this to happen," said Cohen, now 68, suffering from cancer and crippled by arthritis.

"I'm determined I'm gonna live to see it. I know that the only thing that helps me along is that bridge. They better hurry up and fix it so they can get rid of me."

The appropriation grew out of an agreement reached last year between Dade County and the Arch Creek Trust. The county will pay the $96,000 cost of structurally rebuilding bridge with concrete and iron as soon as the group raises $24,000 to restore the bridge to its natural appearance, said William Bird, Metro parks director. Bird said the county will take the additional $46,000 out of a contigency fund.

The trust, through fund-raisers and donations from its 100 members, has about $6,000 saved, said Vice President Elmore Kerkela.

Lewis VanDercar, a Zephyr Hills sculptor, agreed to take on the restoration project years ago. He said Friday that by using various coloring techniques, "I can make the rock look like it's old. It'll be just like the old natural bridge."

The Arch Creek hammock was once the site of a Tequesta Indian settlement, and the bridge was the only way for them to travel south of the creek's 20-foot banks. It was also once part of old West Dixie Highway.

The Arch Creek Trust was formed in 1981 to better organize area residents like Cohen, whose not-always-successful crusade against development included lying in front of bulldozers. Cohen's efforts began in 1972 when she lobbied against plans for a used car lot in the hammock. The state later bought eight acres of the site and leased it to Dade County.

Now the trust has its sights set on expansion. At its urging, state officials are working on a land trade with some owners of land surrounding the park, Kerkela said. The aim of the group is to restore the park to its natural state. Trees not native to the area are being removed and native trees are being planted, he said.

For a time this year, as those interested in the park heard news of the county's financial woes, it looked as if money for the bridge might be delayed, said Paddy Cunningham, director of the park. She called the commission's move "a pleasant surprise."●

DAVID ROCKEFELLER'S DISMAL ADVICE TO DEVELOPING NATIONS

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. KEMP. Mr. Speaker, yesterday's Washington Times carried a story attributing to David Rockefeller, former chief executive officer of Chase Manhattan Bank, the opinion that the United States, which has given $130 billion in foreign aid since World War II, "is a cheapskate when it comes to foreign aid."

Mr. Rockefeller argued that we should give aid to countries which are hostile to the United States in the hope of appeasing them, and that we should lend to countries like the People's Republic of China even if they don't need the money. Then he went on to argue, in surprised tones, that despite American funding of a 48 percent increase in IMF quotas, a doubling of the capital of the World Bank, and additional funding increases elsewhere, there doesn't seem to be enough money to help the really needy nations of sub-Saharan Africa.

It is useful to remember that many developing nations got into trouble precisely by following the advice of people like David Rockefeller: try to develop through government debt and high tax rates rather than saving and production incentives, attempt a centrally planned economy, and don't base decisions on economic reality. Somehow it isn't surprising then that bankers proceed to argue for a bailout of their bad loans, when these countries fail to develop, under the guise of helping the needy. With friends like David Rockefeller, developing nations don't need enemies.

What developing nations need is a stable international monetary system instead of the current chaos, free markets and lower tax rates rather than government planning, economic growth instead of more debt, open markets for investment capital instead of nationalization and exchange controls, and humanitarian aid instead of the wasteful misdirection of resources through supranational bureaucracies. That's what they need, but that's not

what David Rockefeller is offering, he offers criticism of the United States and praise for the IMF.

When it comes to economic development, I have more faith in the first 2,000 names in the phone book than the economic expertise of the IMF's policy planners.

[From the Washington Times]

ROCKEFELLER WANTS SHARP INCREASE IN U.S. FOREIGN AID

(By Steven K. Beckner)

At age 69, David Rockefeller has long since relinquished command of giant Chase Manhattan Bank. But he hasn't stopped dispensing free advice to the U.S. government.

Mr. Rockefeller, who retired as Chase's chief executive officer in 1980 but still serves as chairman of the bank's international advisory committee, thinks the United States is a cheapskate when it comes to foreign aid.

Speaking informally with reporters over the weekend, Mr. Rockefeller said the United States should sharply increase its contributions to the International Monetary Fund and World Bank and not worry too much over which countries get their aid.

"My gut feeling is that both agencies need more money," he said. "We've been too reluctant in supporting increases."

Mr. Rockefeller said the United States has fallen from No. 1, at the end of World War II, to No. 16 in the percentage of gross national product it gives abroad. The U.S. share of total development assistance has fallen from 37 percent in 1970 to 22 percent in 1982, he said.

"This is a pretty shabby performance on the part of the richest nation on the globe and the leader of the free world," Mr. Rockefeller earlier told an American Bankers Association forum on international banking—a kind of sideshow to the annual IMF-World Bank meetings across town.

Some conservatives have urged the U.S. government to limit or abandon its contributions to agencies such as the IMF in favor of a bilateral approach in which it can limit its aid to allies of the United States.

But the last surviving son of oil baron John D. Rockefeller dismissed those suggestions. "To give assistance simply on the basis of whether they meet our test of whether they're good guys or bad guys is not a good basis," he said.

For one thing, said Mr. Rockefeller, "recipient nations tend to change." He cited the case of Mozambique, which is expected today to become the 148th member of the IMF and World Bank.

Once thought to be firmly in the Soviet orbit, Mozambique President Samora Machel "seems to be not getting much help from the Soviets, and he's moving toward the West," said Mr. Rockefeller. "If we give him help now, we may see him move more rapidly toward the West and be friendlier to us."

Mr. Rockefeller also defended the World Bank's plans to double lending to the People's Republic of China.

China has a balance-of-payments surplus, foreign exchange reserves and an apparent ability to borrow from commercial banks. Still, Mr. Rockefeller believes China "clearly needs assistance," even though such lending will limit the World Bank's ability to lend to needier nations.

Mr. Rockefeller blasted the Reagan administration for limiting its contributions to the International Development Association, an affiliate of the World Bank, and for opposing creation of a special fund for sub-Saharan Africa.

"The human tragedy there is beyond belief," said Mr. Rockefeller, who chairs the Trilateral Commission, the Council on Foreign Relations and the Council on the Americas.

The United States is providing 25 percent of the funding for IDA during its current capital replenishment period, but at U.S. insistence, the total capital contributions will be $9 billion over three years instead of $12 billion. IDA makes 40-year loans at no interest other than a nominal annual service fee.

"They ought to go back to the larger numbers," said Mr. Rockefeller. "The poorer nations are not going to be able to survive without more concessional assistance."

Despite Mr. Rockefeller's criticisms, the United States in recent years has supported a 48 percent increase in IMF quotas, a doubling of the World Bank's capital and a special "selective capital increase" for the bank.

Mr. Rockefeller called Mexico's recent debt rescheduling agreement with its bank creditors "a very encouraging development" and said he is "hopeful that Brazil would follow a similar pattern." Both countries have debts in excess of $95 billion.

"It seems to me the banks recognized the need to lower interest rates and stretch out the period over which the debt will be repaid, and the Mexican government recognized the need to take policies essential to put its house in order," said Mr. Rockefeller.

He said he is "hopeful" that Argentina will soon sign a loan agreement with the IMF that will enable it to make payments on its $45 billion debt but will require it to adopt economic austerity measures.

Mr. Rockefeller said each country must be treated differently. "I feel very strongly there could not and should not be a uniform, global solution, and the sensible people in those countries feel the same way," he said.●

H.R. 5790, THE AMUSEMENT PARK SAFETY ACT

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. DANNEMEYER. Mr. Speaker, next week, presumably, the House will be considering, under suspension of the rules, H.R. 5790 better known as the Amusement Park Safety Act. Although this bill is described by its proponents as a modest effort designed to assure that information concerning dangerous fixed site amusement park rides is acquired and circulated in a timely fashion, a closer reading of the bill suggests that there is much more to it than that. No one would argue with the premise that somebody should be notifying amusement park operators that one of their rides may have a defect that could result in a serious accident. The real question is—who can and who should do it and in what manner? And on this question, reasonable people can and will disagree, as the amusement park industry and proponents of this legislation have to date. Thus, H.R. 5790 is not the noncontroversial measure its consideration on the suspension Calendar would lead many to believe. Rather, it is a very controversial proposal that may be in need of amendment and should be considered under a procedure that would allow perfecting amendments to be offered.

Mr. Speaker, the legislation before us pretends to limit the inspection authority of the Consumer Product Safety Commission over fixed site amusement park rides to only those rides which are located in States or localities that do not have any authority to inspect fixed merry-go-rounds, ferris wheels, and the like. If, in fact, that was all this bill did, this Member could support it on the premise that some agency of Government should oversee these rides just like some agency of Government checks elevators, buildings, and the like. However, the fact of the matter is that most of the fixed site thrill rides—over 77 percent—are already inspected by either State or local governments, not to mention that several other provisions of the bill render the aforementioned exemption from Consumer Product Safety Commission [CPSC] inspection virtually meaningless. For one thing, the exemption would not apply if the ride in question suffered an accident involving a death or injury requiring hospitalization. For another, all rides, not just those that are otherwise unregulated, would be required to comply with the defect reporting requirements of the Consumer Product Safety Act. In the latter case, that would mean that the ride operator would have to report any defect that could present a substantial hazard to the public and, if the CPSC determined that it was indeed a hazard, the operator would be further required to implement a plan for its removal. How the CPSC could make such a hazard determination much less ensure that a corrective plan was implemented without some sort of inspection, keeping in mind that the ride is permanently fixed to a site, is anybody's guess? My guess, and the guess of others who have looked at this legislation, is that this bill effectively gives the CPSC the power to inspect all fixed site rides under section 15 of the Consumer Product Safety Act at the same time it exempts rides that are inspected by State and local government under section 16 of the act. At the very least, there is likely to be extensive litigation over which section takes precedent, so I think it would be better if we took the time now to clarify what is really intended.

And while we are at it, we should also clarify what is meant by a defect when it comes to these section 15 reporting requirements. Do we mean

something that can be corrected by routine maintenance or do we mean something that takes a new part or a special repair, or what? What difference does it make you ask? Well, put yourself in the shoes of the thrill ride operator for a moment. If the legislation doesn't spell out what is meant by a defect, doesn't distinguish between routine maintenance and major repairs, does that mean you are supposed to report everything that goes wrong with the ride regardless of how easy it is to fix it? And if you are supposed to report every little thing as a potential hazard, what is that going to do to your business? Will people stop riding your rides even though you do everything you can to make them safe, or will someone who misuses the ride and has an accident sue you for damages citing your report of a potential hazard in support of his or her claims? Either way, you are in trouble, but if you don't report something as a defect and the CPSC happens to find out about it, you are subject to serious civil and criminal penalties. In short, what you are faced with is a Hobson's Choice with your best hope being that the section 16 exemption precludes any checking or reporting violations under section 15. Somehow, I think we can and should do better than this.

I will be the first to admit that the language of the report that accompanies this bill attempts to address this problem. However, report language to the effect that routine maintenance isn't what proponents of H.R. 5790 have in mind when it comes to reporting defects, lacks the power and precision of statutory language. Also, some judge may be inclined to ask why, if Congress' intent was to exempt routine maintenance situations from defect reporting requirements, it didn't do so in the law itself?

My own feeling is that, if we are going to deal with fixed site amusement park ride safety, in those, and only those, parks that are otherwise unregulated, the best way to do that is to so provide in section 3 of the Consumer Product Safety Act and not in section 16. Section 3 defines what is meant by a consumer product and if it is specifically stated that fixed sites rides located in parks that are subject to either State or local ride safety authority do not fit that definition, then there will be no problem with the reporting requirements. Moreover, there will be assurance that accidents will be reported to a competent authority that can pass the information along because all rides will be subject to CPSC jurisdiction if they are not subject to State or local jurisdiction. Moreover, the States and localities, many of which have far more stringent requirements than would the CPSC, will be encouraged to pass more in the way of ride safety legislation. In fact, there is reason to believe that ride operators will be encouraging them to do just that.

At this point, it should also be pointed out that many rides are already subject to two forms of inspection already—State or local inspection and insurance company inspection—and that giving the CPSC authority to inspect, in one way or another, virtually all rides simply makes it three inspections. Moreover, it should also be noted that this double system of inspection—State or local plus insurance—has worked pretty well. Recent estimates by the Consumer Product Safety Commission itself indicate that fixed site amusement park rides rank only 134th on the list of national hazards. Even dancing and billiards rank higher on the list of dangers.

Mr. Speaker, there is one final point that I would like to make on behalf of sending this bill back to committee by means of a "no" vote next week. And that is even proponents of H.R. 5790 will acknowledge that the Consumer Product Safety Commission doesn't have either the engineers or the money to inspect all the fixed location rides in all the amusement and theme parks in this country. In fact, it has had difficulty keeping track of all the mobile rides over which it already has jurisdiction, only $35,000 being allocated to inspect those rides this year. So why are we considering legislation that, depending on how it is interpreted, may extend CPSC jurisdiction to most all rides? If it is just to make sure that information about ride accidents gets around to other ride operators, the States and localities can share that information with other potentially affected parties just as easily as the CPSC. And if it is something more than that, then the practicality of such an effort must be taken into serious question. Whatever the reason, a much more constructive approach would be to adopt the version of H.R. 5790 that was reported by the Subcommittee on Health and the Environment to the full Energy and Commerce Committee. But to do that, the version of H.R. 5790 coming up next week must be rejected and I urge my colleagues to reject it in the upcoming vote.●

TWO STEPS FORWARD, ONE STEP BACK SLOW PROGRESS TOWARD INTERNATIONAL UNDERSTANDING

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. SIMON. Mr. Speaker, the following article demonstrates why the crusade for improvement in foreign language and international education is as necessary as ever. Written by the person who chaired the President's Commission on Foreign Language and International Studies which produced "Strength Through Wisdom: A Critique of U.S. Capability" in 1979, this article outlines the slow progress made toward improving and expanding language and international studies. Also, it highlights some of the obstacles impending such progress. I am at once dismayed by the "inadequacy" of recent progress that the author makes apparent, and encouraged by the "faint hope" that he sees on the present situation.

I commend the attention of my colleagues to this brief and informative article:

[From the Forum for Liberal Education, Mar. 1984]

TWO STEPS FORWARD, ONE STEP BACK SLOW PROGRESS TOWARD INTERNATIONAL UNDERSTANDING

(By James A. Perkins, Chairman, International Council for Educational Development)

Just over four years ago the Commission on Foreign Languages and Internatinal Studies submitted it report entitled "Strength Through Wisdom" to President Jimmy Carter. He could not have been less interested and, except for the Foreign Language Institute, neither could the State Department.

On the other hand, important members of the Congress, the defense and intelligence communities, and educational and research institutions were concerned, received the report with enthusiasm, and went to work at all levels of our government and education establishment. They, for perhaps different reasons, shared a common conviction that our security and economic competitive position, our intellectual and research interests, and our very ability to understand and cope in an increasingly interdependent world would be crippled by a continuing decline in our capacity to communicate with and understand the world outside our borders.

These deep concerns were and are reinforced by an irrepressible curiosity about other peoples and other places. They were further reinforced by the growing visibility and demands of ethnic minorities that required competence in languages other than English, Spanish, for example, has almost become a domestic language. Two strong basic social drives have supported a continuing interest in the Commission's report. The internationalizing of our vital interests and the pluralizing of our Anglo-Saxon melting pot.

It would be pleasant but inaccurate to report that the Commission report and the grave and continuing concerns produced a dramatic change in public and private activities. But they did help to arrest the decline in language enrollments and the support for advanced research and training.

The barriers to dramatic change are formidable. The United States both geographically and historically is an isolated country—traditionally inward rather than outward looking. Our forebears escaped from Europe which they had come to believe was full of evil thoughts and dangerous practices. A wise stance was to stay one remove away and tend to our internal business of developing a free and prosperous society. A

conditioned reflex remains. In many quarters it is still believed that those who would try to understand and communicate with a foreign society are in danger of being subverted. This belief acts as a real constraint on the vigorous development of our internationsl capabilities.

An equally important restraint is the overwhelming dominance of English as the domestic language and the dominant second language for most other countries. Both circumstances have put a damper on the normal incentives for learning both in and out of education and employment. Consequently, deficiencies are sustained by the reinforcing factors of untrained personnel combined with a belief in little requirement. No talent, no requirement. No requirement, no talent will be produced.

But against these difficulties, all has not been lost. Offsetting steps have been taken with some results.

A private organization has been established to promote interest, concern and solutions to existing deficiencies. The National Council on Foreign Languages and International Studies was created on the recommendation of the President's Commission and the support of major foundations, government agencies, and a business corporation (see resources listing). Originally funded for three years it has recently been refunded for an additional three years. The National Council has concentrated its attention on the need for professional specialists, state and secondary school initiatives, business and government requirements, and general public interest. The Council has always recognized that a change in priorities requires the affirmative action of all the relevant institutions of society and at all levels.

It is, of course, difficult to measure the impact of those initiatives. Some leading institutions have reintroduced language requirements for graduation. Some members of Congress have formed an informal group to promote positive legislation and prevent the negative actions of the administration. Some schools have developed new ways to improve global teaching. And some foundations (notably Exxon) have begun to give attention to the necessity for improving our international competence.

Against these pluses there are minuses. Presidential leadership is still completely missing. Russian studies are actually declining. Neither government nor business has urged their prospective employees to acquire linguistic competence. And still only one percent of our primary schools even offer courses in foreign language.

There is still much to be done before out competence measures up to our responsibilities or our understanding becomes a constructive ingredient of our liberal and professional education.

Some activities already represent sparks in the ashes of our indifference. They must be fanned—gently.

The rising concern for quality education in the high school has accelerated in very recent years. While a taste for a foreign language should pre-date the high school (junior and senior) and the realization that difference does not mean inferiority must come at an early age, serious study of a foreign language and our international circumstances must surely be developed during the high school years. It is encouraging to note that the recent spate of reports, articles and books almost always strongly recommend increased attention to these twin international necessities.

The federal government and particularly the states have substantially increased their interests in supporting growth in these areas. The federal government, in both its legislative and administrative branches, must find ways better to coordinate their activities. A relative handful of Representatives, led by Paul Simon, has kept the spark of legislative interest alive while the Defense Department and the CIA have provided a continuing initiative in the Executive branch. Helpful but not enough!

The states have actually shown more interest than the federal government. The changing economic climate, an increased understanding of the importance of foreign markets for domestic products, and the pressure from linguistic minorities—all these have produced signs and portents of vigorous support at the state level.

Finally, the educational world has begun to shift in its sleep, reacting to outside interests rather than any internal recognition of new responsibilities. But even here there are signs of concern, not overwhelming, but significant. One watches with anticipation.

What is, therefore, the "bottom line?" The national interest, the education interest, and the personnel interests in increased competence in foreign language and international understanding are increasingly visible and understood. But they operate against the drag of history and personal necessity. The gap between need and capability is still wide. Perhaps we can say the situation has been upgraded from "scandalous" (the Commission's term) to inadequate but faintly hopeful.●

HOLOCAUST MEMORIAL CENTER

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. LEVIN of Michigan. Mr. Speaker, I wish to pay special tribute today to the Holocaust Memorial Center in West Bloomfield, MI, which is the first such facility outside of Israel which chronicles the horrors of the Nazi-perpetrated genocide. The idea for the Holocaust Memorial Center was conceived by Rabbi Charles Rosenzveig, himself a Holocaust survivor, who resides in Southfield, MI.

The unique character of the center lies in the fact that while its structure and function depict the darkest period in human history, it also portrays the spiritual, cultural, and social dynamics of the prewar European Jewish community.

In the Metropolitan Detroit community there has been a tremendous response, both in the Jewish and non-Jewish communities, to the memorial. A commitment has been made to learn the story and the lessons of the Holocaust, to preserve the memory of the 6 million Jews who perished during this tragic period, and to research and recapture the life and achievements of the 4,500 European Jewish communities destroyed during the Holocaust.

The center will contain the extensive library of Holocaust materials donated by Phillip Solomovitz, founding editor and editor emeritus of the Detroit Jewish News. This library numbers over 1,000 volumes and deals with all aspects of the Holocaust including rescue and resistance activities, eyewitness accounts, war crimes, pictorial works, and general histories. The Solomovitz collection is the nucleus of the center's library of informational and research materials on the Holocaust and prewar Jewish life.

Rabbi Rosenzveig, who serves as director of the center, recently returned from a trip to Germany. He met with government representatives during that trip about delivery of German Government documents. Among the documents donated by the German Government are rare war-crime-trial transcripts.

The Holocaust Memorial Center will also offer genealogical services to interested individuals. Visitors will be able to trace their family surname as it appears in the records of many Polish communities. In some cases, the records date back to the early 19th century. It is expected that this unique offering will be widely used, in light of a growing interest in Jewish genealogy.

Rabbi Rosenzveig and the other founders of the Holocaust Memorial Center envisioned a multifaceted institution that would serve as an appropriate and fitting memorial to those who perished in the Holocaust, as a regional educational facility for secondary and college students, and the general public, as well as a research center.

Mr. Speaker, I think that Rabbi Rosenzveig and the others have succeeded in meeting these objectives. I hope you will join me in wishing them every success in the memorial's upcoming opening.●

LET'S CUT SPENDING AND LOWER INTEREST RATES

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. HUBBARD. Mr. Speaker, I have received an excellent letter from my constituent, Mrs. R.L. (Barbara) Boswell of Henderson, KY. Mrs. Boswell has taken the time to contact me about her support of efforts to get our Nation moving again—specifically with regard to reducing Government spending, lowering interest rates, and helping our Nation's wage earners.

I hope my colleagues will take time to read her views about getting "more for our tax dollars." I want to share Barbara Boswell's letter, which follows:

SEPTEMBER 9, 1984.

Representative CARROLL HUBBARD, Jr.,
Rayburn House Office Building, Washington, DC.

DEAR SIR: Let's get more for our tax dollars. We're ignorant and poor citizens if we spend more money than we make in salaries. Isn't the government the same if they spend money recklessly?

Put our federal government on the bonus system to cut waste like private enterprise. Why don't we have closed bidding for contracts? Why aren't there many more contractors? Let's have competition to get ridiculous prices down to a reasonable level of market price.

The federal government is borrowing all the money keeping interest rates high. The U.S. wage earner who pays taxes can't even buy a modest home. Business can't afford to borrow money to remodel, add-on, re-tool or employ more people to boost production because of high interest rates.

Start doing something now. Domestic programs have been pared—see, it can be done! The defense budget can be trimmed, too. The annual deficit would be helped and people everywhere would start buying U.S. products again. In turn manufacturers could concentrate on quality and hiring more people to build more products, thus creating more tax dollars.

Yours respectfully,

BARBARA BOSWELL,
Teacher and homemaker.●

THE 150TH ANNIVERSARY OF THE BOOK OF ALEXANDER FARKAS DE BOLON ON AMERICAN DEMOCRACY

HON. MARK D. SILJANDER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. SILJANDER. Mr. Speaker, this year is the 150th anniversary of the first analysis of American democracy by a European writer outside of Great Britain. This writer was not Alexis de-Tocqueville as usually recognized but a Hungarian Transylvanian writer, Alexander Farkas de Bolon who had arrived here as the secretary of Count Beldi in 1831 and became enthusiastic about our republican system.

The 150th anniversary of the publication of his work in Hungarian was celebrated by the American Hungarian community, but also by the Library of Congress with an exhibition that drew notice even by the New York Times.

The foremost researcher on Alexander Farkas de Bolon in the United States is the Finnish-Ugrian specialist of the Library of Congress, Dr. Elemer Bako, a former associate professor of Hungarian and Finnish language and literature at the University of Debrecen, Hungary. Dr. Bako, at my request, prepared a statement on the writer and his work which I would like now share with my colleagues.

Dr. Bako's text follows:

150TH ANNIVERSARY OF THE FIRST EUROPEAN WORK ON THE AMERICAN DEMOCRACY, "JOURNEY IN NORTH AMERICA" (1834), BY THE HUNGARIAN WRITER SÁNDOR BÖLÖNI FARKAS

In this year American Hungarians celebrate the 150th anniversary of the publication of a fine, pioneering work by a Transylvanian Hungarian writer Sándor Bölöni Farkas (1795–1842) entitled "Útazás Észak-Amerikában" (Journey in North America. Kolozsvár, 1834). Thus, the author became the first European to publish a thorough analysis of the Amerian democracy as well as an excellent travel guide to the cities in the United States and Canada which were covered by his itinerary. (Alexis de Tocqueville's famous classic, "De la Democratie en Amérique", a four-volume work, began its publication in 1835, a year after Farkas' book.)

Sándor Bölöni Farkas was a public servant at Kolozsvár (now Napoca-Cluj, Romania), employed in the Transylvanian main office of the Austrian Imperial administration. (Although both Hungary and Transylvania were parts of the same land for centuries, and were recognized as countries of Hungarian character, they have been administered separately by the central government of the Austrian Empire.) Farkas, a highly educated man of modest means, had been active member of the political alliance which was at work to introduce substantial constitutional reforms both in Hungary and Transylvania.

Thus, it was a fulfillment of Farkas' fondest, dreams when he was invited by his friend, Count Ferenc Béldy, a rich landowner, (himself a member of that reform-minded group known as the "pro-British league") to escort him as his companion and secretary on a journey to Central and Western Europe, including Britian, and, then, to North America. These two men were not the only Hungarians to set out on such a journey. Two other teams of Hungarians were traveling simultaneously approximately the same route. One of the other teams consisting of a Baron Wessélnyi and a Dr. Balogh, continued also to the United States, and visited a large part of this country, including the city of Washington, together with Farkas and Béldy.

It is very edifying to recall the stations of the journey of these Transylvanian Hungarians. Farkas and Béldy left Kolozsvár on November 3, 1830. Having checked in at Vienna, the seat of the Empire, they visited the German cities of Munich, Augsburg, and Stuttgart. They entered France at Strassbourg, and spent "a wonderfully enlightening" winter in Paris. In March, 1831, they traveled through the North of France to Belgium, visiting the cities of Luttich (Liége), Brussels and Antwerp, and, having weathered the hostilities then going on between Belgium and Holland, they continued they journey via Dordrecht, The Hague, Leyden, Haarlem, Amsterdam and Rotterdam, which gave them the opportunity to get acquainted with that "industrious nation". On April 17, they boarded a steamboat, and, in 24 hours, they arrived in London. "After living in Paris—wrote Farkas—the traveler to London, if he does not want to be different, must learn to adopt himself to a new life style, customs and socializing. At the end of May, after several trips to the North, particularly to the cities of Manchester, York and New Castle, they arrived to Edinburgh in Scotland; then, in order to really know the Scottish nation, they traveled to the Highland, to the city of Perth, then, "across Ossian's and Walter Scott's land" to Glasgow. After a short visit to Ireland they returned to England, landing at Liverpool. The last leg of their journey, back to London, included stops at the cities of Manchester, Leeds, and Birmingham.

By this time, Farkas' interest and his travelog are turned more decidedly toward political matters. "At the end of June—he writes—"we returned to London for the opening of the new Parliament. Since we have attended the sessions of Diets or Parliaments in Hungary and France, in 1830, and in Belgium in 1831, we were particularly interested in the traditional opening ceremonies and proceedings of the English Parliament. They are highly instructive."

They have left England's capital city on July 27, aboard the American ocean-going ship Columbia, of 500-ton capacity. The hearts of the Hungarian travelers were heavy, "not so much for sadness but perhaps a sense of apprehension about the future." After 33 days of sailing, they have arrived to New York on September 3. In the course of their travels, the hungarians made the acquaintance of several distinguished men, among them the famous painter and ornithologist John James Audubon (1780-1851), French-born but already Americanized.

All these travels, studies, and meetings with prominent personalities, particularly in London, amounted to a great accumulation of experiences, impressions as well as good knowledge of the best of contemporary Europe, in addition to the clear understanding of the values which have been infused into the veins of the democratic political and system social system of the new United States of America.

The American part of the study trip of Farkas and Béldy lasted for more than three months. During this time, they have made excellent observations in New York, Albany, Boston, Pittsburgh, Baltimore, Philadelphia, and Washington, but also in some cities on the Canadian side, like Montreal, Quebec, and Kingston, to name only the larger ones in both countries of those which have been visited by the Hungarian travelers.

This journey in North America was then described by Farkas in an excellently documented work which is not only the first treaties on the democratic system of the United States by a Hungarian, and, for that matter, by a European author, but also a very consequential political deed. This work informed and influenced Hungary's most important political force in the first half of the 19th century, the "Reform Generation", led by Count István Széchenyi and Lajos Kossuth, the nation's great leader in the Hungarians' struggle for freedom and independence in 1848-49.

Farkas' work, in fact, electrified the political life in Hungary. Its first edition, which, somehow, bypassed the watchful eyes of the Austrian Imperial censors, was recognized as the most important work published by a Hungarian Writer: the Hungarian Academy of Sciences, founded by Court Szechenyi in 1825, awarded it its Grand Prize, and elected Farkas its corresponsing member. Both in Hungary and Transylvania, the work has been discussed and praised highly by an ever-increasing number of public leaders who were striving for a general reform of the Empire.

However, the work's next print, also in Hungarian language, has been suppressed by the censors of Prince Metternich, chan-

cellor of the Empire; the somewhat belated but still effective move has put the work on the list of prohibited publications for as long as the Imperial censors had power over Hungary. Simultaneously, the offical administrative machinery began to persecute and imprison Farkas' supporters, the leading reformist politicians, and the writer himself whose delicate health was destroyed by the constant pressure and harassment. Farkas died soon after his short-lived glory, at the age of 47. Thus, this great champion of democratic ideas was never given the opportunity to see his work appearing in any of the world's better known languages, to carry his message to all men: the maladies ailing the European monarchies could be healed by a sound, well-balanced application of the great principles of the Declaration of Independent and of the American Constitution, the first Hungarian translations of which appeared in Farkas' book also.

This great work by Farkas could not have been written without a through study of our entire political, administrative, economic, educational and judicial system. Farkas, a Unitarian, was all praise of the free exercise of religion, the separation of church and state, the freedom of expression, and of the press. His work contains a number of excellent translations of statistical and census reports, as well as a variety of substantial interviews with some of the great men of the contemporary scene in this country, including President Andrew Jackson (1767–1845) whose modest and frank personality is highly praised by the Hungarian author.

As it has been recognized as far back as the classic Roman times, "Habent sua fata libelli", (Books have their own fate), it was demonstrated in the case of Farkas' work also: a copy of its suppressed second edition, dated 1835, found its way to the Library of Congress, and, at the present, constitutes the central item of a commemorative exhibit in the Library's European Reading Room.

It is only fitting, in conclusion of these remarks, to listen to the farewell of Sándor Bölöni Farkas as he left our country on November 23, 1831:

"As we sailed further on the great ocean and left the American shores further behind, my eyes were still riveted to the bluish mountains in the distance. An enervating sense of depression and a vague feeling of sadness filled my very being. Deeply touched with melancholy I kept repeating with childlike pathos—God be with you, blessed land. I could not tear my eyes away from it. By now the outlines were barely visible. Goodbye for the last time, glorious land. Remain the eternal refuge and defender of the rights of man. Stand there forever in stern opposition to the spirit of despotism and be an eternal inspiration to all oppressed people of the world!"●

CARL VINSON INSTITUTE

HON. DOUG BARNARD, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. BARNARD. Mr. Speaker, on Monday, October 1, 1984, the University of Georgia will be celebrating its 200th anniversary. On this occasion, a dedication will be made of the Carl Vinson Institute of Government.

The Carl Vinson Institute of Government is named after Carl Vinson, a Member of the House of Representatives for 50 years, 2 months and 2 days—longer than any other person. This Georgian served his State and Nation for more than half a century, and he was one of the most influential legislators ever in military affairs.

The institute which carries his name is a bridge between the academic resources of the university and the practical needs of State and local governments. For more than 50 years, the Vinson Institute has been actively involved in helping achieve better government through research, technical assistance, and continuing education for State and local government officials. At the same time, it has trained a new crop of young men and women for effective public service. Through its programs, the Vinson Institute has given community leaders and government officials a broader understanding of public issues, and in so doing, has strengthened the State and Nation as a whole.

The institute enjoys a national reputation, and its staff has been recognized both for academic excellence and dedication to public service. It stands as a model for linking the resources of a university with the needs of government.

The demand for services of the Vinson Institute continues to grow. One impetus for this is the change in relationships among levels of government in the United States. Such changes are forcing State, county and municipal governments to undertake activities and assume responsibilities for which there are limited resources. To meet these new responsibilities, State and local officials will need increased understanding of the nature of governmental problems and their solutions. Such help is available from the Vinson Institute.

Unfortunately, the present facilities of the Vinson Institute are inadequate to meet even the present demand for services, much less an increase. Current space is limited, and communication and productivity are hampered.

The excellence is there in our faculty and our services, but not in our physical facilities. To remedy this problem, legislation has been introduced to authorize $3.5 million to renovate suitable property for the institute.

This action is part of H.R. 2878, the Library Services Act. A conference report on this bill has been filed in the House, and I am hopeful both the House and Senate will have an opportunity to vote on this measure in the next few days.

The $3.5 million from Congress would be used to renovate the Lucy Cobb property, an architectural landmark in Athens, GA. But that $3.5 million is a small sum to give this institute a permanent home. The various departments and programs of the institute are now scattered throughout several buildings at the University of Georgia campus, some up to 2 miles away from others.

The Vinson Institute needs the kind of distinctive, yet practical home that this bill would create. In so doing, the Congress would honor the memory of a great statesman as well.

Congressman Carl Vinson chaired the powerful House Committee on Naval Affairs and its successor, the House Committee on Armed Services. His Georgia district contained no body of water bigger than the Oconee River, yet at the end of his career, Vinson was hailed as the "father of the two-ocean navy."

Defense matters, however, were not his sole concern. He was an ally in redevelopment aid to depressed areas, low rent housing, and other concerns. Throughout his career, his actions were characterized by integrity, fairness, and dedication. At one point in his career, he said, "I want no day on the floor with kind colleagues making laudatory remarks about me. My deeds and actions will have to speak for themselves."

So they have. To extend Vinson's commitment into a new age, we need a better structure in which to house the Vinson Institute. To meet the growing demands of government officials, the Vinson Institute itself must have room to grow. Fortunately, the buildings exist to give the Vinson Institute the home it deserves.

The Lucy Cobb Institute was a boarding school for girls which closed in 1931 because of financial difficulties. Its main building is a beautiful example of Greek revival architecture, and the Seney-Stovall Chapel is an unusual octagonal building with a Victorian interior. The complex takes up an entire city block and is composed of seven structures. Renovating the Lucy Cobb complex would provide adequate office and library space and meeting rooms.

Georgia now has the opportunity to develop a school of nationwide stature, but we need the physical resources to support the excellence of our faculty and programs. The Lucy Cobb buildings would provide such a suitable home.

Congressman Robert Stephens, my predecessor in Congress for 16 years, is chairman of the institute's board of advisors. He is spearheading a nationwide fundraising effort to improve the institute's program. Senator MACK MATTINGLY and Senator SAM NUNN are members of the institute's board of directors, and a number of other Georgians are dedicated to improving the visibility and usefulness of the institute as well.

A new home for the Vinson Institute will satisfy three important needs at one time. It will help the Vinson Insti-

tute better serve people in government. It will give the Lucy Cobb complex a new, useful purpose. And it will provide a handsome, visible memorial to the distinguished service of Carl Vinson.

I urge the personal support of my colleagues for this measure.●

CONEY ISLAND HOSPITAL: GROWING AND STILL PROVIDING TREMENDOUS SERVICES TO THE COMMUNITY AFTER 75 YEARS

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. SOLARZ. Mr. Speaker, I rise today to pay tribute to Coney Island Hospital which will celebrate its 75th anniversary of service to the residents of southern Brooklyn on Sunday, October 7, 1984.

What began in 1875 as a summertime first aid station to treat beach-related injuries, grew in 1902 to a permanent emergency room to serve the increased number of persons who came to the shorefront area each summer. The first facility operated as an annex of Kings County Hospital and contained 20 beds. As more and more people followed the extension of the subway tracks, and moved to the southern end of Brooklyn for year-round living, the need for a permanent hospital became apparent. This led to construction of the first of Coney Island Hospital's buildings—the Hammett Pavilion—which contained 100 beds for acute care. As the area's population continued to increase after World War I, five stories were added to the pavilion; and the hospital in 1928 contained some 300 beds.

Nearly 30 years later, in 1956, the new building was completed; and the Hammett Pavilion was overhauled and modernized. When this was completed, the form of the hospital more closely resembled its present day configuration; and its inpatient capacity expanded to its current capacity of 445 beds.

Today, Coney Island Hospital is still undergoing change—change that will help this major municipal hospital continue to meet the growing and ever-changing needs of the varied population which needs the services it provides.

The hospital's current catchment area includes the communities of Coney Island, Brighton Beach, Manhattan Beach, Sheepshead Bay, Gravesend, Bensonhurst, Sea Gate, New Utrecht, and Bay Ridge. In 1983, the hospital recorded over 80,000 emergency room visits and over 250,000 clinic visits. The hospital boasts an average occupancy rate of almost 90 percent, with some services running as high as 99-percent occupancy. Almost 17,000 persons were admitted for treatment in 1983.

Coney Island Hospital provides a full range of inpatient and ambulatory services—from internal medicine to surgery, obstetric and gynecology, pediatrics, rehabilitative medicine, and psychiatry. The hospital operates a 24-hour emergency division and operates over 50 outpatient clinics—part of an innovative program to provide a multispecialty fee for service practice—one which closely approaches the private physician model and is the first such program implemented by the Health and Hospitals Corp. in New York City. The hospital also operates four free-standing satellite clinics to serve its clients in their own communities and was recently the recipient of a CAT scanner—the first facility in southern Brooklyn to have this state-of-the-art diagnostic equipment available for its patients.

And Coney Island Hospital continues to grow—its woefully inadequate and outdated emergency room will soon be closed for total renovation. This process will take nearly 2 years to complete; and during the interim, emergency care will continue to be provided in a temporary facility for this purpose and nearly ready for use.

Despite tremendous growth in demand for services from many different quarters in its catchment area, Coney Island Hospital has always risen to meet the challenge. Under the dynamic leadership of Howard Cohen, executive director of the hospital, Coney Island Hospital has continued to grow and implement innovative programs and services to serve the needs of the many thousands who turn to Coney Island Hospital for all their medical needs.

With the cooperation of a concerned and dedicated team of professionals, paraprofessionals, and other support staff and with the involvement of an active hospital community board, service delivery has continued to improve.

As the friends of Coney Island Hospital join to celebrate the accomplishments of its first 75 years, and begin to look forward to its first century of service, it has much to be proud of. What began as a summer first aid station, has grown to become a first-rate comprehensive medical center—one which serves its grateful community with dedication, concern, and pride.●

DR. EQUILLA BRADFORD

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. LEVIN of Michigan. Mr. Speaker, on September 28 the Congressional Black Caucus Education Braintrust will honor 24 black women school superintendents. I am proud to announce that Dr. Equilla Bradford of the Westwood School District of Inkster, MI, will be honored at that time.

Dr. Bradford has served as superintendent of the Westwood District since 1979. She became a classroom teacher at McNair Elementary School after her graduation from Wayne State University in 1954 with a bachelor of science degree. A master's degree in art in 1963 from Wayne State enabled her to become a district-wide art teacher. In 1968, she was promoted to principal of McNair.

She became a school administrator in 1971 and in 1972 received her Ph.D. in education-administration curriculum development. In 1977, she was promoted to executive superintendent for curriculum and personnel. At the beginning of the 1979-80 school year, she was appointed to her current position.

The Westwood School District has been her home base for the whole of her educational career. She has devoted her energy, talents, and passion for learning to this community which she deeply cares for. She also continues to serve as a resource professor at Wayne State University, Eastern Michigan University, and Michigan State University.

Mr. Speaker, I hope you will join me in congratulating Dr. Bradford on this honor. Dr. Bradford and the others being honored by the braintrust possess a devotion to excellence in education that serves as the backbone of our American educational system.●

REAGAN'S INDUSTRIAL POLICY FOR THE STEEL INDUSTRY: A PROTECTIONIST CHARADE

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. LaFALCE. Mr. Speaker, President Reagan recently announced a Government policy for the steel industry, a plan to solve that industry's import problems through voluntary restraints instead of formal quotas. That plan is—upon close scrutiny—a masterpiece of political manipulation masquerading as economic policy. President Reagan appealed to all constituencies at once, by announcing that he was rejecting the protectionism of quotas, but would, instead, use enforcement of existing trade laws and voluntary negotiations with our trading partners to reduce steel imports to 18.5 percent of the U.S. market, down from 34 percent this July.

This unilateral imposition of a Government policy for the steel industry certainly seems rather strange coming

from a President who has consistently denounced proposals which I and others have put forward for developing consensus sectoral industrial policies to rebuild the competitiveness of basic industries such as steel.

For Mr. Reagan's Government policy is, in fact, an industrial policy, but a bad one. It is primarily a politically motivated policy that deftly tries to embrace everybody's point of view no matter how inconsistent: industrial policy is justified with the rhetoric of competition and free markets, and protectionism is defended with the imagery of free trade.

But once we blow away the smoke which surrounded the announcement, the country will find that the Reagan administration has probably created the worst of all possible worlds: an industrial policy imposed without negotiation and without consensus, granted without conditions or even a request for a plan to enhance the steel industry's competitiveness; a policy of all carrots and no sticks; a policy of higher prices for all and higher profits for some; and a policy of perpetual protection for inefficient international competitors.

I believe that an 18.5-percent import rate arrived at by voluntary bargaining is little different from an 18.5-percent rate imposed by quotas. If this is the case, then what is the alternative. Is there any real difference, for example, between candidate Reagan's free trade promise to limit steel imports to 18.5 percent, and candidate Mondale's plan to limit imports to 17 percent which was denounced as protectionistic by Trade Representative Brock and other administration officials?

Clearly, there is no significant difference in the mathematics—1.5 percent is trivial in the face of today's penetration rate of 34 percent. There is, however, a great difference. It lies in how the restraint would be reached and what the country would get in return for higher prices on protected domestic steel. Reagan's policy for the steel industry asks for nothing from the steel industry or its workers: No modernization agreements, no retraining for displaced workers, no commitment to reinvest profits in steel, no work rule or wage concessions. And since the policy asks for nothing in return, nothing is precisely what the country is likely to get.

The Reagan approach will generate sharply higher prices for U.S. steel consumers (on the order of 7 to 10 percent), and greater earnings for domestic steel producers (some $2 billion per year), but there is no guarantee that this $2-billion-a-year subsidy will make the American steel industry more competitive. Under the Reagan plan, higher profits for firms which make steel do not necessarily mean enhanced competitiveness for the American steel industry. Further, as the voluntary agreements on Japanese automobiles show, protected industries like the easy profits they can earn in a protected environment, and resist giving up the protective umbrella. The Reagan decision may mean a period of essentially indefinite protection for the American steel industry.

On the other hand, Mr. Mondale's plan embraces the concept of conditionality which is the absolute cornerstone of proposals for an effective industrial strategy that I and other Members of Congress have been advocating. The steel industry could receive essentially the same sort of import restraint which they have been promised by the President—but they would have to develop a plan to enhance their international competitiveness in producing and marketing steel as a condition of that temporary relief. This approach, which would make trade relief temporary and dependent on negotiated agreements on such commitments as new investment, work rule and wage concessions, technological modernization, and export promotion would help ensure that the country got an increased ability to produce steel, not merely giving companies an increased ability to earn profits. This approach would help American industries and workers to compete in the world marketplace, instead of perpetuating Government giveaways in the form of assistance to business which now total over $100 billion a year according to the Congressional Budget Office.

Import relief is a form of subsidy, granted by Government and paid for by those who consume the products being protected. Because taxpayers and consumers are bestowing this benefit upon an industry, it is appropriate that we get something in return for the aid we are giving. Such an approach, based on conditionality, would provide some guarantee that we would get a competitive, world-class steel industry in return for trade relief. The Reagan plan provides no such guarantee, and for that reason the President's own International Trade Commission recently recommended that the steel industry be given trade relief only if it would agree to modernize and streamline its operations. Reagan rejected his own Commission's recommendation, and with the applause of the industry, launched his plan to provide trade relief with no strings attached.

From the industry's perspective, the Reagan plan is clearly superior to either the ITC program or the Mondale plan: Who would want a 17-percent ceiling with extensive conditions and requirements for modernization when they can get an 18.5 percent one with no strings attached?

But from the country's point of view, this is clearly a bad way to manage our trade policy. In an era of increasing international trade, we cannot afford a policy which increases the level of protection on domestic industry without creating the modernization necessary to eventually eliminate that protection. Mr. Reagan's industrial policy—voluntary trade restraints without conditions—has every possibility of becoming a permanent prop for an inefficent and uncompetitive steel industry. An alternative industrial strategy approach, based on consensus, conditionality, and competitiveness holds more hope for maintaining a open world trading system than does the Reagan approach of unconditional trade relief, no matter how much the President proclaims the "voluntary" nature of his proposals.

One would think that with the United States currently purchasing $400 million more a day in foreign goods than we are exporting, and with unprecedented balance-of-payment deficits about to turn us into a debtor country, we would be moving toward a serious bipartisan discussion of international trade and competitiveness problems confronting this country.

Instead, as proved once again this past week, the Reagan administration is more interested in style than substance: Talk free trade, practice protectionism as a last-minute political response, and pretend that everything is just fine.●

IDEAL SITE FOR SPACE RESEARCH

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. COUGHLIN. Mr. Speaker, the National Aeronautics and Space Administration is now considering a proposal for a new space research facility. The University City Science Center in Philadelphia, which is the Nation's first urban research park and has been developed through the cooperative efforts of government, corporations, and educational and scientific institutions, would be an ideal location for the NASA facility.

In a recent editorial, the Philadelphia Inquirer outlined the enormous accomplishments of the University City Science Center and expressed clearly and succinctly the appropriateness of developing a facility there for NASA's study of medical, pharmaceutical, and biotechnological applications of the space age.

Mr. Speaker, I ask that this editorial be printed in the CONGRESSIONAL RECORD.

The editorial follows:

IDEAL SITE FOR SPACE RESEARCH

The University City Science Center in West Philadelphia, celebrating its 20th anniversary this year, is one of the city's great

success stories. It will take another step forward if plans for a space research facility are implemented.

A Science Center proposal for the research unit is under consideration by the National Aeronautics and Space Administration. NASA needs a center for research in the medical, pharmaceutical and bio-technological applications of the space age. Philadelphia is ideally suited for that function.

Largely through the skillful and indefatigable leadership of its president, Randall M. Whaley, the University City Science Center has grown steadily and purposefully, now providing employment for 5,500 persons affiliated with 75 companies and institutions housed in Science Center buildings on a 16-acre campus in the vicinity of 36th and Market Streets. It is the nation's first urban research park—with 28 member institutions including colleges and universities, medical schools and hospitals.

Along the way it has become an urban developer in the best sense of that term, improving its surroundings, serving conscientiously in the role of good neighbor and working cooperatively with the business community. Isadore M. Scott, the Science Center chairman, personifies enlightened and progressive business leadership that has been attracted to this splendid venture.

NASA would benefit enormously from an affiliation with the Science Center, allowing it to plug into a wealth of scientific and educational resources in the Philadelphia area—including world leaders in the pharmaceutical industry and medical research. Rapid growth and development of high-technology industries and laboratories in the city and suburbs would be a major asset for space research and application.

The Advanced Technology Center of Southeastern Pennsylvania, based at the Science Center, is making impressive gains under the direction of Phillip Singerman in fostering economic development that is high-tech oriented. State funding through Gov. Thornburgh's Ben Franklin Partnership program and business support through the Greater Philadelphia First Corp. are helping to create new economic horizons at the Advanced Technology Center and the Science Center.

Corporate-insitutional-governmental team work is a hallmark of the University City Science Center that would serve NASA and its space research program well. Philadelphia would, of course, benefit from a NASA decision to locate research facilities here, but the nation would reap the greatest gains.●

THE STEEL IMPORT STABILIZATION ACT

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. ROSTENKOWSKI. Mr. Speaker, over the last week the whole issue of steel imports has come to a head. On September 18, President Reagan rejected the import quotas that were recommended by the International Trade Commission and instead committed the administration to a program of negotiated restraint agreements and vigorous use of unfair trade laws that would apparently control imports at about 20 percent of the U.S. market.

The Ways and Means Committee has been considering the Fair Trade in Steel Act, which would establish legislated quotas at approximately 15 percent. As I believe is appropriate under our trade laws, the committee awaited the outcome of the President's action on the International Trade Commission's request before taking any action.

I come before you now, having analyzed the President's decision and the reaction of the industry, the unions, and my colleagues in the congressional steel caucus, to offer what I think is a sensible and necessary response to the situation. Yesterday, I introduced, along with 19 of my colleagues, H.R. 6301, the Steel Import Stabilization Act. Yesterday afternoon, the Ways and Means Committee ordered the bill favorably reported to the full House. I want to offer my colleagues a brief description of the bill, but before I do, let me point out a few salient facts about the President's recent decision and the reaction it has prompted.

The major steel companies seem satisfied with the announced program, but point out that its success will depend on its implementation. The United Steelworkers, by contrast, have expressed "deep disappointment" at the President's action, and claimed that the plan's "weak and uncertain promises are an unacceptable substitute to the steel quota recommendation he rejected." They point out that the President's plan fails to tie import relief to modernization and investment—as does the Fair Trade in Steel Act—and that it doesn't commit the Government and industry to sufficient action to assist unemployed steelworkers.

While I share their concern for the industry's future, we all know that passage of a steel quota bill now would be nothing more than an empty political gesture. It would stand no chance of becoming law.

Instead, we should deal with the President's announced program by tying his authority to implement negotiated restraint agreements to the industry's efforts to modernize and invest and to remain internationally competitive in its price and cost structure. In exchange, the industry will get comprehensive restraint agreements covering all troublesome product sectors and exporting countries. I also propose that we limit the duration of his authority to 5 years, so that everyone knows in advance that after a fixed period the import restraints will cease.

My proposal would establish the sense of the Congress that the President utilize his authority to restore normal import shares—which we believe to be 17 percent, rather than the President's target of 20 percent.

The bill will also reauthorize the existing program for worker and firm trade adjustment assistance through 1987. The bill would direct the Secretary of Labor to draw up, and submit to Congress, proposals to assist unemployed steelworkers and facilitate retraining and relocation for workers unlikely to return to the steel mills.

In the crucial area of unfair trade, the bill would establish congressional monitoring of any injury to U.S. industry and force fast and vigorous action by the administration under existing unfair trade laws. Finally, the bill contains a sense of the Congress that if the President's program is not producing satisfactory results, further legislative action will be considered.

Mr. Speaker, we aren't here to debate the merits of free trade or protectionism. We are here to help one of America's most fundamental industries. To do nothing is to invite more foreign imports. To vote for quotas without hope of enactment is to invite the Nation's cynicism.

The compromise I have outlined will toughen our position against unfair trade; it will push back present levels of steel imports; it will assist unemployed steel workers—and most significantly, it will require the industry to put their earnings into modernization as a fair exchange for beefed up Federal restraints.

I hope that very shortly my committee will present this responsible and necessary piece of legislation to the House for swift action.●

SPECIAL DAIRY AWARD GIVEN TO ROBERT M. McCUNE

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. LEWIS of California. Mr. Speaker, on October 4, 1984, the Chino Valley Chamber of Commerce, along with the dairy committee, will honor Mr. Robert M. McCune with a special dairy award for his contributions to the dairy industry and his years of service in the Chino Valley dairy community. I take this opportunity to ask the Congress to join me, along with his colleagues and friends, in expressing our appreciation and gratitude to this remarkable man for his life-long commitment to his community.

Bob was the first dairyman in his area to become a member of the American Dairy Association of California, and served on the executive board and as president of district 10. In 1937, Mr. McCune became the publisher of the Dairyman magazine, and a year later, became editor of the California Dairyman.

Bob's genuine concern for the improvement of the dairy industry is exhibited in his involvement in many dairy-related organizations. He was a founding member and president of the Dairy Industry Credit Association as well as the Dairy Industry Adjustment Corp. He participated for 30 years as a board member of the Dairy Council of California, and was the chairman of its education and marketing committees for many years.

Mr. McCune dutifully represented the dairy industry in hearings before the California Legislature on milk prices, and acted as the industry's leading spokesman whenever issues of concern to dairymen were brought before the lawmakers in Sacramento. The California Assembly Rules Committee commended him by resolution for his many valuable contributions both to the dairy industry and to the State of California.

Bob is currently the co-owner of two large dairies, and is president of the largest dairy brokerage firm in the Western United States. His thorough knowledge of his industry, as well as his dedication to its improvement, have made Bob McCune one of the most well-respected men in his field.

Mr. Speaker, I take great pride in commending to my colleagues, Mr. Robert M. McCune, an inspiration to his fellow dairymen, a truly remarkable man who has made a lasting impression on his community in a most beneficial way.●

REPORT ON THE PROPOSED A-76 CONTRACT AT THE SELFRIDGE AIR NATIONAL GUARD BASE

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. BONIOR of Michigan. Mr. Speaker, last week I joined the distinguished chairman of the Subcommittee on Human Resources of the House Committee on the Post Office and Civil Service, Mr. ALBOSTA, in an on-site review of Selfridge Air National Guard Base in my home district in Michigan. The Air Force announced last May, pursuant to the directives of OMB Circular A-76, that it plans to study the cost effectiveness of converting certain functions currently being performed in-house at Selfridge to commercial contract. The study at Selfridge is the largest of several studies being conducted by the Air Force throughout the country, and will affect approximately 500 civilian employees.

The goal of the A-76 program, which we all support, is to find the most economical and efficient method of providing Government services. Whenever it seems feasible that Government services could be provided by the private sector, the A-76 Circular sets out guidelines and procedures to allow a cost comparison between continuing to provide the service in-house and moving to an outside contractor. The A-76 program, therefore, starts with the assumption, which again I think we all share, that the competitive market place is usually the best way to achieve efficiency.

Yet, as a result of my recent visit to the base in my district as well as my past knowledge of the situation at the base, I have serious reservations about the wisdom of the pending A-76 review. I believe that many of the questions I have about this particular case at Selfridge are applicable to the program in general.

What may add up to a neat column of cost savings in the eyes of OMB experts appears to be far less clear when considered on the ground, at the local workplace, and in the local community. Indeed, I am convinced there are significant costs—both tangible and intangible—that are not being taken into account by the A-76 program as it is currently being implemented.

Let me begin with some of the tangible costs that are not now being adequately measured. First, the costs of conducting an A-76 review itself are not taken into account. We were told at Selfridge that a special team will have to be trained to conduct the pending study and that the training alone will take nearly a year.

Second, the costs of contracting out are conceptualized far too narrowly. While at the time the initial bids are opened there may often appear to be a cost advantage to moving to an outside contractor, this is not necessarily the case in the long run. It is extremely difficult to write a performance work statement that adequately describes the jobs that need to be done.

In a previous case of contracting out by the Army at Selfridge, we have seen evidence of this in the fact that 51 contract modifications have been made, involving costs over and above the original contract granted less than 4 years ago.

On the same Army contract, Government employees have been called in on an emergency basis to perform work in the contracted areas. Thus, the success of contracting out by the Army, it seems, has relied on a residual government workforce—the very Air Force employees that are now under consideration for contracting out. No estimate has been made of the costs of performing this emergency work under contract.

We need a more sensitive measure to evaluate the benefits of employees who have spent years working with the same equipment, and the costs in terms of equipment maintenance, and so forth, of dismissing this experience. In many older facilities, such as Selfridge, much of the knowledge is reposited in decades of accumulated human experience. It is not found in charts or graphs that can easily be transferred to an outside contractor.

The A-76 review process also underestimates the cost of shifting personnel. Those who are displaced by contract employees often need retraining for new jobs. Thus, savings from contracting out may in part be a transfer of cost from one Government entity to another. As employees exercise their rights to employment in other Government agencies, a ripple effect begins where other workers are displaced. Representatives of Government employees estimate that for every job contracted out, another two are affected indirectly in this process.

In addition to these tangible costs that are not currently taken into account by the A-76 review process, there are intangible but no less significant costs that have also been overlooked. The most important of these is the effect on morale at a place like Selfridge where employees will live for the next several years in a climate of uncertainty about the future of their jobs.

Those who are charged with implementing this policy must take more seriously the obligation to workers who have dedicated so much of their lives to Government service, whose homes, families, and future have been planned around a career in Government.

Those of us in Congress should be especially concerned with the implications of this policy for other values that we have written into law. Moving from a system of Government employees to an outside contract works havoc with veteran's preference, and the protection of women and minority employment rights.

When proposals for contracting out are placed in the context of a local community, such as mine, the costs are compounded. Selfridge Air National Guard Base is a significant employer in an area that has one of the worst unemployment problems in the country. To ask 500 people to find new jobs in this environment is simply unrealistic.

Although the A-76 program requires that these employees be offered the first right of refusal in the jobs with the new contractor, when the Army contracted out 140 jobs at Selfridge only 12 employees were hired by the new contractor. Contract savings are, in fact, largely achieved through hiring a cheaper, nonunion workforce. For the local economy, reduced salaries means a loss of dollars for businesses throughout the community.

The benefits from contracting out in a large study, such as the Air Force study now pending at Selfridge, will

most likely go to a single, out of State contractor. The profits, the managerial pay will be taken out of the area. This is contrary to the recent efforts in Congress to target the benefits of Government spending, to the degree possible, on economically depressed areas of our country.

Finally, I believe there are important national security considerations that are being overlooked in the A-76 process as it now stands. The workforce at Selfridge right now is largely made up of employees who are valued not only for their experience and skill, but for their proven commitment to this country. Many of them are veterans and are currently in the Reserves. For some of the jobs now under consideration for contracting out, military service has been a prerequisite. Their dedication to our national security, their willingness to serve at a moment's notice in emergency situations is important to the efficient operation of a military installation.

If these jobs are turned over to a private contractor or contractors, the base commanders will lose a large measure of control over the workforce. They would in effect, be at the whim of the vendor. This has important implications for our ability to mobilize, especially in cases such as Selfridge where, as the base commander told us, "the base itself is a weapon," its support functions are "comparable to those of an aircraft carrier" in times of emergency.

There are, indeed, many reasons for extreme caution with the A-76 program. In conclusion, I would like to emphasize that once the decision to contract out has been made, and an experienced Government workforce has been dismantled in favor of an outside contractor, it is impossible to reverse. The egg is broken. If there are problems with the contract—and experience has shown that there will be—the only alternative is to modify the contract, at increasing cost to the taxpayer.

Before we proceed with this program on the scale that is now being considered by the Air Force, I think we need to pause and take a careful and comprehensive look at the experience we have already had with contracting out. And when we do, we must make certain that we have accurate methods of weighing the long-term costs and benefits of the program.●

HOW ABOUT THOSE CUBS!

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. LIPINSKI. Mr. Speaker, it has finally happened. The dream has come true. How About Those Cubs! What had previously been nothing short of impossible is now a sweet reality. They're dancing at Clark and Addison and all over Chicago after watching with great joy Monday night's Cub victory at Three Rivers Stadium in Pittsburgh. The Cubs are the champions of the National League's eastern division.

To their long suffering fans across the country, there can be few greater pleasures. This sentiment was reflected in one of the many banners in Pittsburgh Monday night that read simply: Now our lives are complete. Our lives are indeed complete, Mr. Speaker, because our faith has finally been rewarded. After all those great starts, after all those leads at the all-star break, and after all those crushing collapses in August and September, we have finally been rewarded with a team that would not quit.

The man most responsible for this amazing achievement is the Cubs' current general manager, Dallas Green. It was Dallas Green who took on the complacency that had permeated the entire Cubs organization and challenged it to win. It was Dallas Green who began to acquire players "who knew how to win." And most importantly, it was Dallas Green who dared to shun the dreams of next year for a run at the title this year.

The team that Dallas Green assembled has had a year almost too good to be true. The players that have made this season unforgettable are many, but each has contributed to the magic of 1984. Included in this list is Bobby Dernier the slick-fielding centerfielder who, as the front half of the "Daily-Double," was a catalyst for the National League's most potent run scoring team. Gary Matthews, also known as the "Sarge," once again proved his critics wrong by leading the league in game-winning runs batted in and provided crucial leadership during the final 2 months. Leon the "Bull" Durham hit for both power and average while steadily improving his defensive play at first base. Ron the "Penguin" Cey, despite injuring both wrists during the season, led the team in home runs, consistently delivered clutch hits, and played solid defense at the "hot corner." Keith Moreland led the team's second-half offensive surge by being among the league's leaders in runs batted in after the All-Star break in addition to displaying great defensive versatility. Jody Davis combined another surperlative offensive year with improved defensive leadership behind the plate. Larry Bowa's experience and leadership also proved to be invaluable as the team played down the stretch.

Along with superlative play in the field, the Cubs sported a pitching staff whose likes have not been seen at Wrigley Field in recent memory. Lee Smith anchored the bullpen again this year with his blazing fastball despite recurring knee problems. Both George Frazier and Tim Stoddard performed well as additional late inning relievers. Steve "Rainbow" Trout, the team's lone southpaw, recorded a career high in victories and won crucial games in New York and St. Louis during the team's stretch run. Newcomer Dennis Eckersely and Scott Sanderson combined to make the Cubs' starting rotation one of the best in baseball.

In addition, this team has candidates for three major baseball awards this year, including Cy Young candidate Rick Sutcliffe, who has recorded an amazing 16 to 1 record since his acquisition in June from the Cleveland Indians. Jim Frey, the odds-on-favorite for "Manager of the Year," led the team to the eastern division title in his first year with the Cubs. Ryne "Kid Natural" Sandburg, everyone's candidate for most-valuable-player, is among the league leaders in no less than eight offensive categories in addition to anchoring the right side of the Cubs infield.

Also important here has been the contribution of the "Tenth Man"—the over 2 million fans who have flocked to the "friendly confines" of Wrigley Field this year. These fans, following the millions who have supported the team through all the disappointment, are the ones who will cherish this season the most.

I offer my most sincere congratulations to the Tribune Co. and its chief executive officer Stanton R. Cook, to Andrew McKenna, chairman of the board of directors of the Chicago Cubs, and most of all to those millions of Cub fans who have suffered so long. The ghost of the 1969 team of Ernie Banks, Billy Williams, Don Kessinger, Glenn Beckert, Randy Hundley, Ron Santo, Fergie Jenkins and all the others has finally been laid to rest. Therefore, I believe it is most fitting for all Members of the House of Representatives to join with me in supporting a House resolution honoring these 1984 Chicago Cubs which I have introduced today.●

RESULTS OF CONGRESSIONAL POLL ON POW/MIA ISSUES

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. GILMAN. Mr. Speaker, I would like to take this opportunity to share with my colleagues the results of a congressional poll on the POW/MIA issue which was conducted by the National League of Families of American Prisoners and Missing in Southeast Asia. The poll, which was circulated among all Members of Congress, gauges the present sentiment in the

Congress with regard to the issue of Prisoners of War and Missing in Action, and the general status of relations with the Governments of Vietnam and Laos.

The poll covers a great many issues, and as chairman of the House Task Force on American Prisoners and Missing in Southeast Asia, I am pleased that the poll overwhelmingly indicates support for the present Government policy on the POW/MIA issue. Respondents indicated that the present priority being placed on the POW/MIA issue was satisfactory regardless of political preference, and the majority of Members responding to the poll also indicated that they agreed with the current Government policy of committing resources and manpower to the POW/MIA issue "based on the assumption that at least some Americans are still held captive."

The poll also confirmed that most Members of Congress believe that the Government of Vietnam could be more forthcoming with information on the POW/MIA issue, and that the Congress does not support the normalization of relations with the Socialist Republic of Vietnam until a full accounting is made for our missing Americans. Member of Congress also indicated that they would be willing to consider lifting the aid ban against Laos if a sustained pattern of progress was made by that nation in assisting the United States toward an accounting of servicemen missing in Laos.

One aspect of the poll which illustrated the fact that the Congress needs to be kept more informed about the POW/MIA issue was the response to a question concerning the Defense Intelligence Agency briefing which is available to all Members of Congress. While many Members have availed themselves of this briefing, many indicated that they were either unaware of the briefing, or had simply not taken advantage of it. However, the congressional poll seemed to call attention to the availability of this valuable briefing, and over 70 Members said that they would request it from the Defense Intelligence Agency.

I would like to ask now that the congressional poll questions and responses be published in their entirety at this point in the RECORD so that my colleagues will be able to note how the Congress feels about an issue of great humanitarian and foreign policy importance—the issue of our Prisoners of War and Missing in Action.

CONGRESSIONAL POLL

Please answer each question.

1. The President has declared resolution of the POW/MIA issue as a matter of the "highest national priority." Resolutions have been adopted by all major veterans organizations in support of the high priority effort. Do you support the priority as endorsed by the League and these veterans groups?

Yes 208; No—.

2. Current U.S. government policy concerning the existence of live American POWs is: "Although we have thus far been unable to prove that Americans are still detained against their will, information available precludes ruling out that possibility. Actions to investigate live-sighting reports receive and will continue to receive necessary priority and resources based on the assumption that at least some Americans are still held captive. Should any report prove true, we will take appropriate action to ensure their return." Do you agree with this policy statement?

Yes 205; No 1; and 2 no answer.

3. The U.S. government has stated that the SRV is withholding much information concerning our mission men (including very credible evidence that the remains of over 400 American servicemen are being withheld) and attempting to politicize this issue, while others argue the SRV is doing their best to be cooperative. What is your position?

SRV is using issue 183; SRV is doing their best 1; and 24 no answer.

4. The Defense Intelligence Agency offers a briefing to Members of Congress which includes up to date statistics on the POW/MIA issue. Have you requested this briefing?

Yes 64; No 40; unaware 70; and will request 74.

5. During the first session of the 98th Congress, a resolution introduced by Senator Robert Byrd (D-WVA) to establish a Commemorative POW/MIA medal was passed. Did you support this effort?

Yes 183; No 2; and 23 no answer.

6. Resolutions have been introduced in the Senate (S.J. Res. 171) and House (H.J. Res. 144) to proclaim July 20, 1984 as National POW/MIA Recognition Day. Have you yet supported a resolution on this subject?

Yes 188; No 16; and 4 no answer.

7. (Applicable only to Members of the House of Representatives) The Senate unanimously passed a measure to provide U.S. government transportation to POW/MIA family members to attend the League's annual meeting for the purpose of gaining information regarding official efforts to resolve the POW/MIA issue. The companion measure in the House is H.R. 2996. Will you support this measure sponsored by the Department of Defense?

Yes 151; No 6; and 14 no answer.

8. For many years, League policy maintained that no aid, trade or recognition should be given the SRV without first having obtained the fullest possible accounting for missing Americans. During the Carter Administration this position was altered to a process for simultaneous cooperation from both sides due to the policy at that time to normalize relations between the U.S. and Vietnam. Currently, the U.S. government position is that resolution of the POW/MIA issue is a humanitarian matter which should be resolved without political considerations. Do you favor normalization of relations with the Socialist Republic of Vietnam in the absence of the fullest possible accounting for Americans still missing in Southeast Asia?

Yes 14; No 174; and 20 no answer.

9. Since we have diplomatic relations with Laos, accounting for Americans missing in Laos is approached differently from efforts made to account for those missing in Vietnam. A series of reciprocal steps has been taken over the past several months which has led to the first U.S./Laos crash site survey since 1975. The President and Congressman Stephen Solarz, Chairman of the Subcommittee on Asian and Pacific Affairs, House Foreign Affairs Committee, have both committed themselves to an improvement of relations with Laos if a sustained pattern of progress is achieved on the POW/MIA issue. Do you support this position?

Yes 203; No 1; and 4 no answer.

10. The Lao government has expressed strong interest in removing the Congressional restriction on aid to their country. It is understood that this political gesture would not include an aid program. Medical disaster relief was provided in December 1981 and early 1982 which created the atmosphere for substantive Lao cooperation during the League's trip to Laos. The level of cooperation afforded was termed a major breakthrough by the Department of State. A subsequent breakthrough occurred when the Laos government agreed to an initial crash site survey which was conducted by U.S. and Lao personnel December 20-21, 1983. U.S. officials are attempting to obtain agreement from the Laos government for a full excavation of this crash site. With a sustained pattern of progress on accounting for nearly 600 Americans missing in Laos, would you support lifting the ban on aid, NOT AN AID PROGRAM, for Laos?

Yes 157; No 14; and 36 no answer.

11. Due to the commitment of the President and cabinet level officials to take decisive action to return American prisoners should their existence be confirmed, the fact that intelligence priorities were again raised, additional personnel were added to DIA's POW/MIA division and a general recognition that the U.S. government has the capability and willingness to undertake such actions, current League policy reflects opposition to irresponsible private, cross-border forays attempting to confirm the existence of POWs or to gain POW/MIA related data. Do you support this policy?

Yes 198; No 1; and 9 no answer.

12. Over the years, and even more recently, certain private groups and/or individuals have tried to insert themselves into the accounting process, claiming sympathetic access to Hanoi. The U.S. government position is that the only viable means to achieve the fullest possible accounting is through a process of government to government efforts although they will accept information from any source. Do you agree with this policy?

Yes 183; No 12; and 13 no answer.

13. Should the administration change, would it affect any of your responses to the foregoing questions?

Yes 8; No 182; and 18 no answer.

If so, please list by number.●

THE 25TH ANNIVERSARY OF THE UNIVERSITY OF MICHIGAN—DEARBORN

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. LEVIN of Michigan. Mr. Speaker, today the University of Michigan celebrates the 25th anniversary of the founding of the Dearborn campus. The University of Michigan-Dearborn opened its doors to undergraduate students in 1959 as a regional campus of

the University of Michigan committed to the continuation of the university's 160 year tradition of excellence in teaching and research.

University of Michigan-Dearborn, from its inception, was not conceived to be a mere extension of the Ann Arbor campus. As a regional center of learning, University of Michigan-Dearborn has developed academic programs and student services which are tailored to the specific needs of nearby students, businesses, and industrial communities of Metropolitan Detroit. This orientation has led to significant savings in tuition and fees to students, flexible course scheduling and program offerings designed to accommodate working adults, and a unique commitment to cooperative education and experimental learning which helps students gain valuable on-the-job training and in many cases earn money to help offset their educational expenses.

The overwhelming response from the community to University of Michigan-Dearborn is evidenced by growth from 34 students and 20 faculty and staff in 1959 to over 6,400 students and 435 full- and part-time faculty and staff today. The university has over 10,500 alumni and an operating budget exceeding $20 million. The average age of the student body is 24, with nearly 8 percent of the students above the age of 35, and over half the students working full or part time.

The University of Michigan-Dearborn is a model for undergraduate education in the eighties and the decades ahead. Through the experience of University of Michigan-Dearborn, we have clear evidence that an institution can serve the needs of a diverse urban constituency, maintain the highest standards for admission and academic achievement, and thrive. I am proud to represent so many students, faculty, staff, and alumni of the University of Michigan-Dearborn. I am grateful for the university's leadership in higher education and the contributions to the community this university has provided over the last 25 years. I am confident that University of Michigan-Dearborn will meet the challenges of the next quarter century with the same acumen it has displayed to date.●

JOBS BILL FUNDS ARE RUNNING OUT FOR PENNSYLVANIA'S FAMILY SUPPORT SERVICES PROGRAM

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. COYNE. Mr. Speaker, the jobs bill authorized by the Congress in 1983 was a small but important step toward addressing the high national unemployment of that period.

Fewer people are jobless than when the measure was signed into law, but areas of persistently high unemployment exist, especially in such regions as western Pennsylvania.

While unemployment continues in western Pennsylvania, support services for the unemployed funded through the jobs bill are threatened with loss of funds when this fiscal year ends next month. Pennsylvania's family support services, for example, a program which provides free maternity and pediatric care for the unemployed, will end on the thirtieth of this month. With job bill funds, the Commonwealth, working through the Allegheny County Health Department in the Pittsburgh area, has provided free maternity care for jobless workers which includes prenatal visits, delivery and hospital stay, and postpartum checkup. For children of the unemployed, visits to the doctor and certain hospital and emergency room care are provided.

Mr. Speaker, the jobs bill did not eliminate joblessness in all regions of the country. In western Pennsylvania, the need for health care and other related services for the unemployed remains strong. This Congress should consider a reauthorization of a jobs bill, with benefits targeted to those areas of the country experiencing high rates of joblessness. Failure to act promptly on this matter will mean the death of programs which have nurtured a healthier life among the unemployed.●

SOVIET JEWRY

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1984

● Mr. FLORIO. Mr. Speaker, I am pleased to join my colleagues today in this special order on behalf of the 2½ million Soviet Jews that encounter daily persecution at every step of their lives in the Soviet Union. It is vital that we constantly address this massive suppression of the human liberties and freedoms of an entire race and focus international attention on this persecution.

Mr. Speaker, the plight of Soviet Jewry has reached frightening dimensions. For the first time in a decade, emigration levels for Soviet Jews seeking to leave the Soviet Union for countries that respect the fundamental liberties of speech, religion, political beliefs, and press have reached an all-time low. Last year, only 1,315 Soviet Jews were granted the freedom to leave Soviet borders behind them and seek a free life elsewhere. This year, only 652 Soviet Jews were permitted to emigrate as of August 1984. This drastic and continuing reduction compared to the emigration peak of 51,320 in 1979 is of grave concern to all those who value the importance of human rights.

However, mere statistics cannot convey the hurt and the pain experienced by the individual Soviet Jews that have been subjected to years of harassment and deprivation. The continued persecution of Andrei Sakharov and Elena Bonner has focused international attention on this systematic attack on a particular race by the Soviet Government. The Sakharvs, Anatoly Shcharansky, and Ida Nudel are well-known symbols of all Soviet Jews who have been unfairly denied the most fundamental of human rights. They are well-known symbols of a daily battle for existence that has given new meaning to the word "courage."

There are millions of Soviet Jews, however, whose names are unfamiliar to us that struggle daily to withstand the repression and to gain rights that the free world often takes for granted. Despite this illegal infringement upon the human rights of all Soviet Jews and despite the international outcry at this situation, the Soviet authorities still remain reluctant to allow Soviet Jews to leave the country and seek asylum in countries that value the importance of religious and political freedom. Never before in the history of the Soviet Jewry movement have the emigration levels been so low. And I urge my colleagues, Mr. Speaker, to work to ensure that the levels never again reach such low proportions.

On September 28, 1984, our President will be meeting for the first time in his administration with Soviet Foreign Minister Andrei Gromyko. It is imperative that, at this meeting, our deep commitment to the basic principles of human rights and religious freedom be conveyed and reaffirmed. On behalf of the 400,000 Soviet Jews that have risked their lives, their careers and their peace of mind and declared their wish to emigrate from the Soviet Union to seek the right to exercise their beliefs, I join my colleagues in urging that the plight of Soviet Jewry be remembered and in helping to convey the message that we will neither forget nor abandon this case. We have a moral obligation to continue protesting human rights abuses at every step.●

THE SOVIET UNION—LAND OF EMIGRANTS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. LANTOS. Mr. Speaker, I rise today in a call for sanity by the Soviet Union in its treatment of its huge Jewish population.

I find it ironic that here in the United States we are in the midst of a growing national debate about immigrants. Our shores are surrounded by political and economic refugees wishing to enjoy the basic freedoms we take for granted: the right to worship, to speak freely and openly, and to assemble. The fact that the United States is considered a safe haven should surprise no one. We are a land of immigrants, a nation founded on the principle of tolerance to its new citizens.

When we examine that Soviet Union, however, we find a completely different situation. Soviet soldiers taken a prisoner in Afghanistan refuse to return to Mother Russia, perhaps remembering the barbaric fate that awaited many of the repatriated Soviet soldiers in World War II. Hundreds of Christian believers, most notably the Pentecostalist families which held out for several years in the American Embassy, yearn for the right to free emigration. Thus while America has become the land of immigrants, the Soviet Union has become the land of emigrants.

Most tragically, though, is the case of Soviet Jews. Many thousands wait to rejoin families in Israel, the United States, and other countries. The official refusal to emigrate is actually the last stage of a process of oppression and humailiation that the applicant must endure. After they apply for emigration visas, they often find themselves suffering deprivations—they are removed from their jobs or thrown out of their apartments. They are treated as traitors, which makes even more ominous the recent changes in the Soviet Criminal Code expanding the scope of criminal activities regarded as treasonous.

Individual cases help to illuminate the plight faced by Soviet Jews. Boris Braynin, the brother of one of my constituents, graduated from university as a civil engineer. He worked for many years as an engineer-technician for assembling gas turbines. After he applied to emigrate, he lost his job and was forced to become a maintenance man for a heating unit in the basement of a building. He finally was notified that his request had been denied, based on the pretext that his father still lived in the Soviet Union. The cruel truth is that his father had remarried, had another family, and had given Mr. Braynin his full blessing to rejoin relatives abroad.

Another family, Yakov and Olga Galperin, have applied repeatedly for permission to rejoin their family in Israel, and also to have the freedom to visit their relatives in California. Each application has been refused. Yet the inspirational fact about the Galperins is that no matter how many times they have been refused, no matter how difficult life has become for them in the Soviet Union, no matter how bleak the future looks, never have they given up their effort to gain their freedom.

In a recent letter to me, Yakov wrote,

> I would like to hope that your inquiry will exert proper pressure on corresponding Soviet authorities. On the other hand, it is difficult to estimate their reaction to your attention to us. It is very possible that your inquiry will only strengthen their enmity and provoke extra repressions. However, I am deeply convinced that justice is worthwhile to struggle for.

Justice is always worth the struggle, even when it is a struggle against such unfriendly odds as it is with the Soviet system. Never again will we stand silently aside while Jews are persecuted for their religion. Never again will we claim that the scope of our interests must be narrowed to those events which occurs in our own hemisphere. The struggle of Soviet Jews is our struggle, for our humanity is bound and tied when we ignore the chains of others.●

DR. NICHOLAS R. MONTESANO: A GREAT EDUCATOR

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. MINETA. Mr. Speaker, I rise to speak in honor of Dr. Nicholas R. Montesano, an American who deserves the highest praise and respect for devoting his life to the education of our country's youth.

Nic Montesano has been a distinguished educator for the past 32 years. He has served in a variety of roles, but is known best as the Superintendent of the Campbell Union High School District, having served there for the last 15 years. Recently, Nic retired from the school district and will be honored this October 6, at a dinner.

Professionally, Nic Montesano started out in our area as a guidance director in 1960. Shortly thereafter, he was made principal of Camden High School, then assistant superintendent, and then deputy superintendent. In 1969, Nic was made superintendent of the Campbell Union High School District. He is an expert in his field, holding the major degrees issued in the field of public education as well as being a State-licensed psychologist.

Mr. Speaker, as a former mayor, I am acutely aware of the difficulty in instituting and maintaining the quality of local education. Staffing, planning, curriculum, physical plant, and transportation are areas where many school districts around the country have had to compromise. In Nic's district that is not the case. The Campbell Union High School District is known for its excellent administration that not only has met these challenges, and others, but has maintained the quality of excellence while implementing new and innovative programs. That is why, in May of 1981, Nic was presented with the first Administrator of the Year Award ever presented by the Association of California School Administrators.

However, Mr. Speaker, what I draw special attention to today, is Dr. Montesano's accomplishments in a vital area in secondary education—counseling and guidance programs. Today, there are legions of adults who as youngsters were frustrated or shortchanged during their tenure in high school because they did not receive the guidance and counseling that they should have received during this critical period. I think of the countless lives that could have been guided to a more satisfying and productive role if they had been given the proper time and attention.

It is in this role, that Nic Montesano has truly excelled as a great educator. He has introduced programs that provided career guidance to youth for both their employment and postsecondary education. He also instituted a counseling program entitled, "Drug Abuse Diversion Program," for students and their parents, thereby saving many kids from the stigma of a juvenile drug record. Under Nic's administration, students and parents, teachers and staff—even taxpayers—were questioned about how the school district could improve its performance.

Mr. Speaker, the historian, Henry Brooks Adams said, "A teacher affects eternity; he can never tell where his influence stops." Nic Montesano meets this classic definition, for there are countless students who have entered adulthood better educated and able to contribute to society because of Nic. He is an honorable man who has served an honorable profession well. Therefore, I would like to ask you and all the Members of the U.S. House of Representatives to honor him here today by extending our warmest thanks to our friend, Dr. Nicholas R. Montesano.●

CONSTITUTIONAL AMENDMENT TO BALANCE THE BUDGET

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. MITCHELL. Mr. Speaker, the other party has launched a national media campaign challenging the House of Representatives to send him a constitutional amendment requiring a balanced Federal budget. Putting aside all the arguments against its viability and the multitude of practical problems and unanswered questions which would certainly arise in trying to enforce such an amendment, I am interested to know why the President has failed after four opportunities to submit a balanced budget to Congress. Not only has the President failed to formulate a plan to balance the budget in the foreseeable future, he hasn't even been able to propose a plan to get the deficit back down to where it was when he took office. On the contrary, the Reagan budgets have called for larger and larger deficits through 1987.

I would be among the first to suggest that the balanced-budget amendment is merely a campaign issue to force a vote in the House in the weeks before the elections so that the Republicans can charge fiscal irresponsibility against all those in opposition to it. The evidence supporting my argument is too compelling to ignore. Isn't it ironic that, at a time when Reagan is calling for a constitutional amendment to balance the budget, his own budgets have created the largest deficits in the history of our Nation. If the President is truly interested in balancing the budget, he should take the first step by releasing some specifics on just how it can be done. I suspect that since the President is unwilling to retreat from either his excessive military buildup or his tax cut program, he would have to publicly propose to virtually dismantle most of the civilian government.

Mr. Speaker, I suggest that President Reagan has led the American people on a trip to economic fantasyland when he confidently declares that military spending can be continually increased at unprecedented peacetime levels, taxes can be reduced, and the Federal Government can maintain the basic domestic programs that the public wants and expects. I would suggest further, Mr. Speaker, that the President and his allies in Congress, having no constructive plan to offer, are following a wise but dangerous political course, regardless of the ultimate consequences on the domestic economy. Even if a constitutional amendment were adopted by the Congress, the ratification process would consume enough time to permit this President to indulge further in his absurd economic fantasies without constraints being in place until after the 1988 election.

Mr. Speaker, rather than squabbling over amendments to the Constitution, we should get down to the hard fiscal choices that must be made now, and show the American people that Congress is effective in spite of election-year rhetoric and showy television advertisements from a President who would like nothing better than to serve a second term in office.●

ACADEMIC EXCELLENCE RUNS IN THE FAMILY

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. DANNEMEYER. Mr. Speaker, every once and a while, one comes across a success story that makes one sit up and take notice. Not just because it is particularly unique but also because it is, or should be, inspirational. Not long ago, just such a success story came to my attention and I'd like to take a moment to share it with my colleagues. For if ever there was a family that deserved some sort of recognition for academic excellence, the Grismer family of Placentia, CA, was, and is, that family.

Back in 1979, the California Assembly adopted a resolution commending Mike and Pat Grismer for their academic accomplishments in high school, most notably the fact that each of the boys maintained a perfect 4.0 average throughout. But, despite that accomplishment, who would have believed that they could duplicate that feat in a college program as tough as the one offered by the School of Business Administration at the University of Southern California. Yet when the grades were averaged up last spring, it was determined that is exactly what had happened. Pat Grismer, the statistics showed, was due to graduate with straight "A's" just like his brother had a year earlier. Not only that, but the younger Grismer had also won a $4,500 fellowship to do graduate work at Northwestern University, one of the Nation's more prestigious academic institutions.

What is amazing to me about the accomplishments of the Grismer boys is not just that they obviously set a standard of excellence for each other but that they did it in the face of what many would perceive to be adversity. Both boys were raised by a single parent and yet they never seemed to let that get in their way. Quite the contrary, they have made the pursuit of excellence a family hallmark, which says a great deal not only about them but also about their mother, Lucille Grismer, and the fine job she has obviously done in raising them. Indeed, the whole family has set an example, through hard work as well as ability, from which families everywhere can take heart.

Inasmuch as the Grismer family has lived for a number of years in the congressional district I am privileged to represent, I would like to extend my personal congratulations to Pat and Mike Grismer for their academic accomplishments and also to their mother for the role she played in making those accomplishments possible. Literally, theirs is a story worth repeating—in more ways than one.●

COMMEMORATING THE JEWISH HIGH HOLIDAYS

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. MURPHY. Mr. Speaker, the evening of September 26 will usher in the new year for all people of the Jewish faith with the celebration of Rosh Hashanah, the Day of Judgment.

It is also the beginning of the Days of Awe, a 10-day period of deep religious significance culminating in Yom Kippur, the most solemn of Jewish Holy Days.

Rosh Hashanah is a time for prayer, penitence, and introspection. The most dramatic element in the synagogue service on this day is the blowing of the shofar or ram's horn.

Although its sounding has been interpreted differently by religious scholars through the centuries, there is general agreement that the loud, piercing blast of the shofar is meant to awaken man's conscience and to summon all Jews to repentance.

The central theme for the next 10 days consists of the purging of man's evil and the forgiveness of sin.

The 10th day, Yom Kippur, or the Day of Atonement, is marked by fasting in order to allow the worshipper to devote full concentration to spiritual demands.

These Jewish high holidays should serve to recall in all of us—Jew and non-Jew alike—a sense of the suffering and oppression that those of the Jewish faith have experienced throughout history.

Even today many Jews, especially those trapped behind the Iron Curtain, are forced to endure deprivations and persecutions merely because they choose to practice their religion.

Every day, we witness the struggles of the State of Israel for its right to existence and self-determination

These miseries are not forgotten.

I would like to take this opportunity on the eve on Rosh Hashanah to

expend my heartfelt best wishes for a happy and prosperous new year to all my family members, friends and constituents of the Jewish faith.●

PERSONAL EXPLANATION

HON. WEBB FRANKLIN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. FRANKLIN. Mr. Speaker, at the request of the President of the United States and in conjunction with National Historically Black Colleges Week I visited Alcorn State University and Mississippi Valley State University in the beginning of this week. I had the pleasure of presenting to the school officials of Alcorn State a grant of $246,000 which will enable them to improve their mathematics and science programs. Both colleges have played a critical role in providing education opportunities for Mississippians, and I was proud to have had a chance to visit both schools.

Because of these obligations, I was unable to be present in the House of Representatives for consideration of the continuing resolution. I would like the record to show that had I been present, I would have supported this bill which would fund many important programs.

One of the programs incorporated into this bill was the Water Resources Conservation Development, and Infrastructure Improvement and Rehabilitation Act. Not since 1970 has the full Congress approved a water resources authorization bill and I feel that this action is long overdue. Another measure added to the bill was the Comprehensive Crime Control Act of 1984. I have spent most of my working life involved in the area of criminal justice and am glad to see this legislation approved.

Other important legislation added to this bill dealt with agriculture, transportation, foreign aid, defense, labor and health and human services. Some important funding included food stamps and child abuse programs. I support the provisions of the continuing resolution, and had I been present during consideration of this bill, I would have voted for passage.●

KURT WEISHAUPT RECEIVES THE COUNCIL ON CULTURE AND THE ARTS AWARD

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. ACKERMAN. Mr. Speaker, I rise today to pay a much-deserved tribute to Kurt Weishaupt of Flushing, NY, recipient of the first annual Flushing Council on Culture and the Arts Award.

Mr. Weishaupt will be honored on October 30, 1984, for his humanitarian contributions to the people of Queens.

Mr. Speaker, Kurt Weishaupt has committed himself to serving his community through many noble charitable and civic projects. But during his many years of hard work and service, these efforts have all had the same underlying theme—hope.

Kurt and his lovely wife, Trude, extend their boundless compassion to the sick, to the underprivileged, to the homeless, to any man, woman, or child who feels the pangs of hunger or the soreness of need.

Mr. Speaker, many years ago, the Weishaupts journeyed to America seeking refuge from horror and holocaust. They found hope and liberty, and they have made those ideals their own. But Kurt and Trude Weishaupt were not content with having achieved their own personal safety and success. Their hearts were too full and their love too great to turn blind eyes and deaf ears to the suffering of others.

Kurt Weishaupt has given hope and aid to countless individuals through his work with the Flushing Boys Club, Flushing Rotary, United Jewish Appeal, Booth Memorial Hospital, Flushing YMCA and the Gift of Life Program.

Mr. Speaker, at 71 years of age, Kurt Weishaupt is not resting on his many past accomplishments, though they far surpass what most people would consider praiseworthy. The Weishaupts' vision for a better America and for a better world has not been clouded by time. That vision is being realized through their perseverance—in Queens and across the world, as the Gift of Life Program that Kurt cherishes brings scores of suffering children from around the globe to American hospitals.

Mr. Speaker, no one is more deserving of the Council on Culture and the Arts award than Kurt Weishaupt. The bronze bust he will receive does him honor, but his true reward cannot be given in any ceremony and cannot be displayed on any mantle. Kurt Weishaupt's true reward over the many years of his unstinting generosity is the light in the eyes of the individuals he has helped, and the new-found hope in their hearts.

Mr. Speaker, I ask all of the Members of the Congress of the United States to join me in congratulating Kurt Weishaupt on receiving this distinguished honor from the Flushing Council on Culture and the Arts, and to thank him and Trude for the contribution they have made to this country and to a better understanding of all humanity.●

RELIGION IN POLITICS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, September 25, 1984, into the CONGRESSIONAL RECORD:

RELIGION IN POLITICS—PART I

My impression is that most Hoosiers are uneasy about the way religion and politics have become intertwined in the presidential campaign. They are interested in the matter, but they seem less willing to discuss it than other issues. Even so, the campaign has revived the debate on church involvement in state affairs. In this week's newsletter and the next, I offer a few thoughts about this involvement.

Some say that religious groups should not get involved in politics. Supporters of this view argue that our country's vitality over the years stems from the Founding Fathers' stern insistence on the separation of church and state. They point out that when religion is mixed with politics, the consequences may be divisiveness, persecution, inquisition, and holy war. Witness, they say, the bloody sectarian strife in Northern Ireland.

This view is not an empty one, but a complete ban on the political activity of religious groups is far too strict. First, the First Amendment's line between church and state restricts government involvement in religious matters, not church involvement in politics. In any case, cutting off the political expression of religious groups would abridge the most basic freedom secured by the First Amendment, the freedom of speech. Second, a political role for clergy and laity is nothing new—they figured very prominently in the civil rights movement only a few years ago. Sometimes we criticize the clergy for not being engaged in politics, as when we fault the religious leaders of Germany for doing so little to stop the Nazis. Third, the presence of religious people in politics can have clear benefits. The moral dimensions of public policy should not be ignored, and the leaders of our religious groups may have excellent ideas that ought to be reflected in the formulation of public policy. Those brought up in the Judeo-Christian tradition, for example, have been taught a concern for people's well-being, for decorum in public life, and for world peace.

Some say that religious groups should not inject specific religious issues into politics. Supporters of this view say that the problem is not clergy and laity who engage in political activity, but certain fundamentalists who pursue a religious agenda, advocating prayer in schools, aid to church schools, and so forth. This, it is argued, differs from the involvement of church people in general social activities such as helping the poor or combatting pornography.

This view also seems to strict to me. In the first place, the fundamentalist agenda stresses many secular ideas that have been around for years, such as support for Israel, opposition to abortion, and support for a strong national defense. Also, its religious proposals are not as extreme as earlier ones, current versions of school prayer legislation, for example, now being closer to constitutional guidelines. But even if the religious proposals eventually are found to be uncon-

stitutional, it does not mean that the fundamentalists therefore should be denied access to the political arena. President Roosevelt secured the enactment of several measures that later were declared unconstitutional, but no one said that he had no right to be in politics on account of what he did. This being so, the fundamentalists are justified in defining their agenda as they see fit, just like other groups. If a business can push for tax breaks, a church can push tuition tax credits.

Some say that religious groups should not attempt to impose their moral values on others. Supporters of this view have chided religious leaders for abusing government and legal process in the hope that they will be able to compel others to adopt moral values that they cannot pursuade them to accept. The idea here seems to be that "you can't legislate morality"—that the moral values typifying religious belief generally should not be embodied in law.

This view has a worthwhile intention behind it as well, but it is far too strong to be a basic principle. Church use of government and legal process to impose moral values on the public has a long and illustrious history. There are those who succeeded in imposing their anti-slavery attitudes on the country more than a century ago, and those today who would withhold our foreign aid from other nations as a means of promoting human rights abroad. Indeed, it is arguable that the nation as a whole is better off because of such "moral legislation." Religious groups have every right to use the political process to advance their moral views and what they believe to be true, just as others have the right to oppose them. We may disagree with specific moral precepts that religious groups are trying to impose on others, and their attempts may at times be futile and self-defeating (as we learned from Prohibition), but that is not to say that there is anything inherently wrong in what they are trying to do.

Finally, some say that religious leaders should not endorse particular candidates for public office. Supporters of this view say that while it is permissible for religious officials to support general social causes and programs, the endorsement of individual candidates is something that has great potential for abuse. The layman, it is argued, may make a serious mistake by imputing the religious leader's positive personal attributes to the politician endorsed.

This view, well-motivated though it may be, also strikes me as too strict. It may be unwise for a religious official to endorse a particular candidate, and it may be divisive in his community for him to do so, but at bottom it is no more improper than other endorsements of politicians by leading authority figures, whether they be professors, entertainers, businessmen, or labor leaders. Under our laws, religious officials may endorse as long as the individual clergymen, rather than the tax-exempt bodies that they represent, do the speaking.

[NOTE.—In my next newsletter, I will suggest that the problem is not the involvement per se of religious groups in politics, but the intolerance that characterizes some religious thinking.]●

JEWISH WAR VETERANS OF THE U.S.A.—89TH ANNIVERSARY

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. ADDABBO. Mr. Speaker, I would like to call to the attention of my colleagues to the upcoming 88th anniversary of the oldest veteran's organization in the country, the Jewish War Veterans of the United States of America. The JWV has a long-standing and important history of active involvement in community and civic affairs, and will celebrate its achievements at many commemorative events during the month of November.

This organization is to be praised, not only for the caring and much-needed services it provides for its veterans, but also for the place it has taken in the front lines of the battle of racism and discrimination in this country. Through its hospital visitation programs, service offices, and community social events, JWV members provide necessary companionship not only to their comrades, but to children and senior citizens as well, regardless of their race or religion.

The Jewish War Veterans brotherhood also fosters a sense of patriotism and unity in communities across the country by promoting involvement in local government and informing its members on important political issues.

As those in the JWV say, "We are our brothers' keepers", and the members of this organization live up to this creed every day in the small towns and crowded metropolitian areas where they are active. In my own district, the Queens County Jewish War Veterans spend countless hours every year at the St. Albans Veterans Extended Care Facility. For the last 50 years, members of the Queens County JWV have visited the Creedmore Psychiatric Center during the Jewish holidays to hold celebrations for those patients who cannot be at home with their families on these holy days.

Throughout November, the Queens JWV will sponsor many more visits to hospitals throughout the borough, as well as to the Creedmore Children's Development Center. The organization will also bring speakers to more than 20 synagogues to address citizens on the importance of civic awareness. On November 4, the JWV National Commander Samuel Greenberg of Pennsylvania and National President Jeannette Schneider of the Bronx, NY, will be honored at a luncheon at Larry Muss Memorial Hall in Queens.

I urge my colleagues to join me in commending the activities of this organization during this time of celebration, and to honor the JWV's efforts in their home districts. They bring hope and friendship to those who have suffered in the cause of peace—and remind all citizens that these veterans are not forgotten.●

EAST PALO ALTO JOB AND TRAINING CONFERENCE: A PROCESS IS BORN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. LANTOS. Mr. Speaker, a short time ago I sponsored a job and training opportunity conference in East Palo Alto. The city of East Palo Alto—ideally located on the edge of Silicon Valley—suffers from unemployment in excess of twice the rate for San Mateo County as a whole. It is a city badly in need of attention.

The tremendously successful companies in Silicon Valley have often had a cavalier attitude toward the misery of unemployment virtually on its doorstep. Only the Bayshore Freeway separates the splendid homes of Palo Alto from the struggling, newly incorporated, city of East Palo Alto. And yet that barrier serves effectively as a symbol of the inaccessibility of high-tech jobs for the residents of East Palo Alto.

There are a variety of solutions we have in our national arsenal to combat the miseries associated with unemployment. One is government assistance, the so-called safety net. But the long-term solution for the millions of unemployed people in our country is simply jobs. This is why I called on Silicon Valley to bring the tremendous power of private enterprise to the fight for jobs in East Palo Alto.

I attempted, through the jobs conference, to create a marriage between the residents of East Palo Alto and companies from Silicon Valley. This was to be a marriage between two dissimilar partners: One who was desperately eager for the relationship, the other benignly ignorant of the other's presence.

After an initial meeting in my office in San Mateo, six high-tech firms became committed to the conference. I was especially gratified that the giants of the industry—Hewlett-Packard, Rolm, and Lockheed—showed the greatest willingness to discuss long term solutions, as well as assisting our short-term goals of the jobs conference. The agenda we worked out gave equal emphasis to permanent solutions, such as discussions of training and education, and concrete immediate solutions: job interviews for some 200 jobs.

The response from the community was equally impressive. On the day of the conference, over 100 people lined up outside the Municipal Building 30 minutes before the doors were opened. When the conference began, almost

500 people packed the city council chamber to hear four Silicon Valley representatives join me to discuss the realities of working in the field of high technology. This tremendous outpouring of interest demonstrated in a dramatic manner that the people to East Palo Alto want jobs in high tech.

The conference attempted to prepare residents to apply for jobs in Silicon Valley. Workshops dealt with available training opportunities for the skills required by the firms for entry-level jobs. There was also a practical workshop on how to take interviews and how to fill out application forms. The workshops were effective: one interviewer from the Rolm Corp. said following the conference, "we had more qualified and more courteous applicants here than we get at our personnel department in Santa Clara."

The conference succeeded because of the tireless efforts by Silicon Valley representatives—namely Harry Portwood from Hewlett-Packard, Fred Tandy from Lockheed, and John Hill from Rolm—and Mayor Barbara Mouton of East Palo Alto. Our colleague, MERVYN DYMALLY, contributed perhaps the greatest spark of the conference in an impassioned speech during lunch. Silicon Valley has a responsibility to its community, he said, and should be commended for taking this first step at addressing it.

The marriage is now enjoying its honeymoon. Silicon Valley has spent a full day in East Palo Alto, demonstrated in a visible way their recognition of their social responsibility, and encouraged the residents that they have a chance at jobs in high-technology. It was a beautiful ceremony. I pray simply that the marriage is long and that it remains loving.●

SALUTING ERNIE ST. PIERRE

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. CARR. Mr. Speaker, I join with the Michigan Department of Agriculture in saluting Ernie St. Pierre, a Michigan businessman who has made a career of support for Michigan agriculture.

Ernie St. Pierre started the Hobie's chain while still a student at Michigan State University. Since that time his company has grown from a great idea to a great company. He now has five Hobie's restaurants and close to 100 employees. Hobie's soups, long renowned in the Lansing area, will soon be available throughout the Midwest, and eventually throughout the Nation.

Throughout Mr. St. Pierre's business career he has put Michigan first. He has bought Michigan produce whenever possible, going to great lengths to find in-State suppliers, even though it may cost a little more. Hobie's asparagus soup, for example, is made of ingredients produced entirely in Michigan. For sharing your success with other businessmen and farmers in your home State, Mr. St. Pierre, you have my gratitude and my best wishes for the future.●

SOVIET JEWRY

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1984

● Mr. OWENS. Mr. Speaker, today we are taking the opportunity to express the views of many Members of the Congress on the plight of Soviet Jews. The opportunity is compelled by the presence of Soviet Foreign Minister Andrei A. Gromyko who is visiting the United States. Although President Reagan will be meeting with Mr. Gromyko on Friday, it is important that Mr. Gromyko also be aware that the Members of Congress are concerned about the plight of Soviet Jews.

Although there are many issues involving the treatment of Jews in the Soviet Union, it is my belief that the virtual shutdown of emigration is the most significant issue and a reasonable surrogate for the other difficulties facing people of the Jewish faith in the Soviet Union.

From 1975 through 1979 there was a steady increase in Jewish emigration. From 1979 to 1980 there was a drop from over 51,000 to 21,472. The rate in 1984 has been less than 100 per month. This precipitous drop has caused incalculable suffering for the individuals involved.

It is my hope that Mr. Gromyko will urge a change in the restrictive policies which have shut off emigration. It is my hope that he will respond to the perception that the Jews are somehow being held hostage to issues over which they exercise no control. People have for too long been used as pawns in games in which they are really not the players. This is wrong wherever and whenever it occurs. This is neither a Russian nor an American problem. It is a human problem which diminishes the worth of those who engage in this behavior.●

PEER REVIEW

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. FLIPPO. Mr. Speaker, some of you may have noted that our friend and colleague, DON FUQUA, has been receiving considerable press criticism on the issue of so-called peer review. The comments have been particularly harsh in the Science Press.

I find this puzzling, because Mr. FUQUA, who chairs the Science and Technology Committee, has probably been the best friend that American science has ever had. I know that Mr. FUQUA can speak for himself, but for the record I would like to make a few comments of my own.

To get things right on the table, I want to say that we all support the concept of peer review when it is properly applicable. At the same time, let me point out that one man's peer review is another man's good-old-boy network.

The peer review system, applied to the extreme, will never recognize the immense demographic changes that have occurred in the South. The peer review system, applied to the extreme, will never recognize the strides that have been taken by a great number of middle-echelon schools and universities. The peer review system, applied to the extreme, has serious weaknesses in dealing with the ever-burgeoning area of interdisciplinary research. The peer review system, applied to the extreme, will never recognize the national needs and priorities for the regional, technological development that is linked to regional, scientific excellence.

I make no apologies. In fact, I am proud of the fact that I have played a role in obtaining a broader, geographic distribution of National Science Foundation funds that would occur through a strict peer review process.

As I said, all of us support peer review when it is properly applied. However, there will be decisions that we in the Congress will make within a larger context and with our own priority. If the science community chooses to claim that the concept of peer review is being violated whenever such actions are taken, the loser will be the concept of peer review. I would not like to see that happen and neither would DON FUQUA.●

MR. EJNAR KNUDSEN NAMED DAIRYMAN OF THE YEAR

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. LEWIS of California. Mr. Speaker, on October 4, 1984, the Chino Valley Chamber of Commerce in Chino, CA, along with the Dairy Committee, will honor Mr. Ejnar Knudsen as "Dairyman of the Year" for his lifetime commitment to the dairy industry and his years of service in the Chino Valley dairy community. I take this opportunity to ask the Congress to join me, along with his many

friends and admirers, in recognizing the outstanding contribution that Ejnar Knudsen has made to his community, the State, and the Nation.

Mr. Knudsen's experience in the dairy industry began in Burbank, CA. He and his brothers and sisters worked on their parents' dairy there until they moved to their present location in the Chino Valley in 1955.

Ejnar and his wife, Joye, are well respected members of their community. Mr. Knudsen is the vice president of the 4-H and Future Farmers of America Replacement Program, a program he has worked with for 15 years. Joye has worked as a poultry leader for 8 years, and together the Knudsens have acted as advisers on numerous dairy and poultry projects. This fine couple provides space on their property for neighboring children to have an opportunity to work on 4-H projects, as there would be no room for their projects in the mobile home park where they live.

Mr. Knudsen is an active member of the Chino Junior Fair Board and helped to raise $30,000 for the construction of barns on the fairgrounds. He and his brother, Robert, donated their time and expertise to wire the barns for electricity. Ejnar acted as dairy chairman of the dairy show 1 year and has consistently donated milk and cream to the fair.

When the Chino Rotary Club sponsored its Heifer Project International, Mr. Knudsen donated a dairy heifer for shipment to Guatemala in order to help the hunger problem there. He has also given several animals to the Cedu Program. Ejnar is a prime example of the kind of man whose generosity and dedication help make life better for all of us. It is difficult to summarize the remarkable contributions this man has made.

Mr. Knudsen is a member of the Chino Masonic Lodge and has served on the flood control board for the West End area. For 20 years, Ejnar served on the board of directors of the Los Angeles Mutual Dairyman, and was their president for 6 years.

Mr. Speaker, I take great pride in commending to my colleagues, Mr. Ejnar Knudsen, Dairyman of the Year, a truly remarkable man who has, through his selfless years of hard work, contributed to his world in a most beneficial way.●

RECOGNIZING HELEN AND STANLEY NIEDBALA ON THEIR 50TH WEDDING ANNIVERSARY

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. LIPINSKI. Mr. Speaker, I would like to recognize a significant event achieved by two residents from Illinois' Fifth Congressional District, which I am privileged to represent, and they are Helen and Stanley Niedbala. The Niedbalas will be celebrating their 50th wedding anniversary on Saturday, September 29.

Their 50 years together is certainly a noteworthy accomplishment. Their years together has provided them with one daughter, Barbara, who is married to William Radloff, and they have two granddaughters, Elaine and Joyce.

The Niedbalas have been residents of the 23d ward of Chicago for 6 years and are former residents of the Brighton Park community.

It gives me great pleasure in saluting this fine couple on the occasion of their 50th wedding anniversary and I know our fellow residents of the Fifth Congressional District join me in sending along our congratulations to Helen and Stanley Niedbala on this joyous date.●

REFUGEES AND SANCTUARY

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. RICHARDSON. Mr. Speaker, the plight of Salvadoran refugees fleeing the political violence in their homeland for the supposed safe haven of the United States has recently become an issue of concern to millions of Americans.

But to Hispanic-Americans, the continuing policy of deportation of Salvadorans is more than an article in the newspaper or a 30-second story on the network news.

Because the majority of refugees come to reside in Hispanic neighborhoods, it is from these communities that Salvadorans are seized, held, and then returned to their country. We Hispanics are the ones who see the fear and anxiety on their faces as they wait in jail; we Hispanics understand their dread at being newly separated from their relatives and friends here and sent back to the violence and uncertainty that still, even after the election of Jose Napoleon Duarte, grip El Salvador.

The Nation's oldest and largest Hispanic organization, the League of United Latin American Citizens [LULAC], responding to the human tragedy of the Salvadorans and their desire to stay here in the United States until peace returns to their tormented land, passed a resolution at their national conference in El Paso this past June that calls on Congress to support the pending Salvadoran refugee bill cosponsored by Representative JOE MOAKLEY of Massachusetts and Senator DENNIS DECONCINI of Arizona. The text of that resolution follows:

RESOLUTION

Whereas, The League of United Latin American Citizens (LULAC) supports the purpose of fostering and enlarging the opportunities for training, education, civil rights, job opportunities, housing, economic development, and welfare of all Hispanic citizens of the United States; and,

Whereas, some 300,000 to 500,000 Salvadorans have fled the violence and terror of civil war in their country to seek refuge in the United States; and,

Whereas, the Reagan Administration has refused to grant the Salvadorans "extended voluntary departure," a status that allows refugees to stay in the U.S. until secure repatriation is possible, a status that is currently enjoyed by Poles, Lebanese, Ethiopians, and Afghanis; and,

Whereas, The United States is the only North or Central American country which continues to deport Salvadorans, at the rate of 400 per month; and,

Whereas, there is solid evidence that because of the currently high level of random violence in El Salvador, many deported refugees were later discovered to have been murdered; and,

Whereas, the refusal to grant sanctuary to neighbors fleeing the horrors of war is contrary to the humanity and generosity of the American people.

Therefore, be it *Resolved*, That, at the 55th LULAC National Convention held in El Paso, Texas June 21–June 24, 1984 the General Assembly recommends that the U.S. government grant all Salvadoran refugees the status of "extended voluntary departure," a status that allows refugees to stay in the U.S. until conditions in their home countries permit safe repatriation; and,

Be it further *Resolved*, That, LULAC fully supports H.R. 4447 and S. 2131, the Moakley/DeConcini Bills, legislation currently pending in Congress that would suspend the deportation of refugees.

MARIO G. OBLEDO,
LULAC National President.●

QUESTIONNAIRE RESULTS

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. BEILENSON. Mr. Speaker, early last month I mailed my annual constituent questionnaire to residents of California's 23d Congressional District, an area that includes West Los Angeles, Beverly Hills, and the San Fernando Valley. As in previous years, the response to this survey was overwhelming—more than 14,000 people completed and returned questionnaires to our two district offices.

Once again, the survey has been useful in obtaining the views of those I represent. The poll this year contained questions about immigration reform, aid to El Salvador, tax reform, Federal spending, and other issues which confront Congress and the President.

To highlight some key findings:

IMMIGRATION REFORM

Despite varying levels of support for employer sanctions and amnesty, the

Simpson-Mazzoli immigration reform bill, as a package, was endorsed overwhelmingly by a margin of 3 to 1.

EL SALVADOR

Only 12 percent of those who responded to the poll supported continued military aid to El Salvador without any conditions on the funds sent to that country; 21 percent favored sending further military aid only if new aid is delivered with strict conditions attached mandating progress in the protection of human rights and progress in pursuing land reforms; 22 percent of the respondents supported economic aid to El Salvador but opposed all new military aid; and 40 percent opposed further aid of any kind—military or economic.

NEGOTIATIONS IN CENTRAL AMERICA

A very high number of those who responded to the poll—60 percent—expressed support for the peace proposal advanced by Mexico, Venezuela, Colombia, and Panama—members of the Contadora group—which offers hope for a comprehensive, regionwide settlement to the conflicts in Central America.

TAX REFORM

Seventy eight percent expressed support for a greatly simplified progressive tax system—one similar to the Bradley-Gephardt proposal.

These findings and others in the survey are, I think, interesting and significant. I feel my colleagues will find this information helpful, and I would like to share it with them at this time:

1984 POLL RESULTS

METRO RAIL

Metro Rail is a proposed 18.6-mile subway that would link downtown Los Angeles with Universal City and North Hollywood, via the Wilshire, Fairfax and Hollywood corridors. The estimated cost of the project is $3.3 billion.

1. Do you support the proposed Metro Rail subway?

Yes—42%; No—46%, No answer—12%.

IMMIGRATION REFORM

The U.S. Census Bureau estimates that 3.5 to 6 million illegal immigrants now live and work in the United States. To control illegal immigration, the House of Representatives has approved legislation that, for the first time, would make it unlawful for employers to hire undocumented workers. The bill also would allow immigrants who came to the U.S. illegally before 1982 to stay on as legal residents. The Senate approved a similar measure, although its version would legalize only those who came here illegally before 1980.

2. Do you support a law making it illegal for employers to knowingly hire undocumented immigrants and requiring them to verify the legal status of everyone they hire?

Yes—73%; No—25%; No answer—2%.

3. Should we allow immigrants who came to the United States illegally and who have lived here for several years to stay on as legal residents?

Yes—47%; No—48%; No answer—5%.

The differences between the House and Senate bills must be resolved by a conference committee; however, the final bill is virtually certain to include both employer sanctions and some type of legalization because both are considered integral to an effective immigration reform plan. Thus, when the final vote on immigration reform is taken, the actual issue before members of Congress will be this:

4. Would you support a bill to control illegal immigration that included both a strict prohibition against hiring illegal immigrants and some form of amnesty, if the choice were between that option or no action at all to deal with the problem?

Yes—74%; No—20%; No answer—6%.

CENTRAL AMERICA

Aid to El Salvador

For 1984 and 1985, President Reagan has requested more than $1 billion in economic and military aid to El Salvador, a country whose government is embroiled in a civil war with rebel guerrillas.

5. Which statement comes closest to reflecting your view about U.S. involvement in El Salvador?

A. Congress should approve the President's request for increased military aid to El Salvador with no human rights conditions attached. Yes—12%.

B. Congress should approve increased military aid to El Salvador only if the Salvadoran government makes a stronger effort to curb the lawlessness of government-associated "death squads" and to promote land reform. Yes—21%.

C. Congress should provide economic aid to help El Salvador's economy, but no new military aid. Yes—22%.

D. The U.S. should not provide any aid to El Salvador—military or economic. Yes—40%.

E. No Answer—5%.

What Should Our Policy Be?

The "Contadora" group—Mexico, Venezuela, Colombia and Panama—all countries friendly with the U.S., has been working for more than a year to promote a peace plan in Central America. The Contadora plan calls for an end to all outside military aid, the withdrawal of foreign military advisers, free elections, and regional negotiations to settle disputes.

6. Should the U.S. support the Contadora group's plan for settling the conflict in Central America?

Yes—69%; No—26%; No answer—5%.

TAX REFORM

There is a growing feeling among Americans that our income tax system is unfair and overly complex, and that cheating is becoming commonplace. These views have generated new interest in proposals to reform and simplify the federal tax system.

One suggestion is to replace the current tax structure with a greatly simplified progressive tax. This plan would eliminate most tax loopholes, but keep some of the most widely used deductions—those for home mortgage interest, charitable contributions, medical expenses, and state and local income and property taxes. The tax rates would be 14%, 25% and 30%, based on income. (Currently, tax rates range from 14% to 50%.)

7. Would you prefer this simpler progressive tax over the current tax system?

Yes—78%; No—14%; No answer—8%.

Some economists are discussing a plan to replace the current tax system with a "flat tax." This plan would also eliminate most tax deductions; however, it would levy the same tax rate on everyone, regardless of their income.

8. Would you prefer a "flat tax" over the current tax system?

Yes—34%; No—60%; No answer—6%.

A third proposal would replace the current income tax system with a "consumption" tax. Under this plan, individuals would pay taxes only on the amount of money they actually spend, not on the amount of money they earn.

9. Would you prefer a "consumption" tax over the current tax system?

Yes—28%; No—62%; No answer—10%.

FEDERAL SPENDING

In the next three years, the federal government is going to spend $600 billion more than it collects in taxes, increasing the national debt sharply. Already, the national debt has doubled since 1980, from $715 billion to more than $1.5 trillion. And, if nothing is done, that debt will double once again to $3 trillion or more by 1990—just six years from now.

10. Here is an opportunity for you to suggest where cuts in federal spending, if any, should be made. For each category below, please indicate whether you favor a cut in spending, an increase, or maintaining the current level of spending.

A. Defense ($288 billion—31% of the budget): Cut—67%; Increase—6%; Same—24%; No answer—3%.

B. Domestic Programs.—Education and job training, energy research and development, national parks, farm programs, science research, space flight, housing, highways, mass transit, foreign aid, FBI, etc. ($202 billion—22% of the budget): Cut—27%; Increase—28%; Same—38%; No answer—7%.

C. Social Security ($187 billion—20% of the budget): Cut—15%; Increase—24%; Same—57%; No answer—4%.

D. Medicare ($72 billion—8% of the budget): Cut—16%; Increase—30%; Same—47%; No answer—7%.

E. Programs for the Poor and Disabled—Medicaid, food stamps, Aid to Families with Dependent Children, child nutrition, Supplemental Security Income. ($59 billion—6% of the budget): Cut—20%; Increase—32%; Same—43%; No answer—5%.

F. Interest on Federal Debt—The remaining 13% share of the federal budget—$125 billion a year—pays for interest on the federal government's enormous debt. This is a mandatory expenditure; it cannot be cut and will increase sharply in future years unless the deficit can be controlled.●

IN TRIBUTE TO SENATOR JENNINGS RANDOLPH

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. RAHALL. Mr. Speaker, today, on behalf of the West Virginia delegation to the U.S. House of Representatives, I am introducing legislation to name the Federal building in Elkins, WV, after our senior Senator, the Honorable JENNINGS RANDOLPH.

First elected to the House in 1932, Senator RANDOLPH served 14 consecutive terms. In 1958, Senator RANDOLPH began his illustrious career in that distinguished institution, the U.S. Senate.

With the adjournment of the 98th Congress, Senator RANDOLPH has chosen not to return to the next Congress.

His service in Congress today dates back further than any sitting Member. As we all are indebted to and recall how that great President, Franklin Delano Roosevelt, pulled this Nation up from its knees, so we will recall and remember the Representative from West Virginia who came to Washington with FDR and who fought those battles in the Congress that have given our Nation's people their very survival.

Yes; people's programs are what this great U.S. Senator has fought long, hard, and successfully for. To him, when our Government helps people, builds or rebuilds our infrastructure, provides a helping hand when none other is available, we are not making expenditures, but are making a valuable investment in our Nation's future.

To name the Federal building in Elkins, Senator RANDOLPH'S hometown, is but our small way of expressing our gratitude for all that he has done for our State of West Virginia, our Nation, and indeed, the world.

In 1966, Senator RANDOLPH became the chairman of the Committee on Environment and Public Works, a position he held until the 97th Congress. As a member of that committee, and as its chairman, he has served the highway and public works needs of West Virginia well.

As such, I along with my colleagues HARLEY STAGGERS, JR., ALAN MOLLOHAN, and BOB WISE, are introducing this bill which will name the U.S. Post Office and Federal Building located at the corner of Randolph Avenue and 3d Street in Elkins, WV, the "Jennings Randolph Federal Center."

We urge prompt consideration of this legislation by the Congress.●

CALL TO CONSCIENCE VIGIL FOR SOVIET JEWS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. LEVINE of California. Mr. Speaker, tonight is erev Rosh Hashanah—the eve of the Jewish New Year. It is of the holiest evenings in Judaism. It is at this time that Jews look back on the past year—on all that has transpired—and assess what has come before, and what might come tomorrow.

It is at this time of year I, for one, am especially aware of how very lucky I am to be a member of the Jewish faith and privileged to live in the United States—lucky because I am able to practice my religion as I want to—freely and openly. It is at this time of year that I am even more keenly aware of the plight of Soviet Jews, for they must practice their religion clandestinely, lest they be harassed by Soviet authorities, publicly humiliated, or even arrested and imprisoned for their beliefs and practices.

Mr. Speaker, Jews in the Soviet Union are oppressed every day of the year, all year long. Their lives are difficult indeed. Soviet Jews are the third largest surviving Jewish community in the world. Every day of the year they are fighting for basic human rights—the right to maintain their own religion and culture, and the right to leave a country that is denying them their heritage.

Soviet Jews have persistently been denied the rights guaranteed to other national minorities and religious groups by the Soviet Constitution. The Soviet press incites hatred through never-ending anti-Jewish propaganda. Most synagogues and all Jewish schools have been closed. Teaching Hebrew is banned. Religious material is destroyed. Jewish cemeteries have been desecrated. Jews increasingly experience descrimination in education, employment and social life.

Unable to live according to their historic traditions, hundreds of thousands of Jews in recent years have requested the right to leave the Soviet Union. Such a person is Ilya Shostakovsky, my adopted refusenik.

Ilya Shostakovsky first applied for an exit visa with his parents in 1973. Several months after the application was filed, he was told by the visa office that his parents would be permitted to leave the Soviet Union right away, but that he would have to wait 1½ years before joining them in Israel. Labeled a "security risk" by Soviet authorities, Mr. Shostakovsky contended that he never had access to classified materials.

Employed as a computer engineer prior to his exit request, Mr. Shostakovsky was fired from his engineering position and found a minimal-paying job as a night watchman. As a result of KGB prodding, he was subjected to harsh, intolerable working conditions and was forced to quit.

Mr. Shostakovsky's 1½ year waiting period for exit permission was extended by the authorities to 5½ years more. When he reapplied in 1975, a second refusal was issued and another 5-year waiting period was added.

Mr. Shostakovsky married and his first child was born in 1977. He and his wife, Olga, are relentlessly plagued by KGB harassment. In late 1980 Olga was accosted and beaten by KGB agents and was incapacitated for several days following repeated strikes to her kidneys.

Mr. Shostakovsky's father died in 1980 and his mother died in the spring of 1981, unable to fulfill their dream of reunification with their son and his family. Mr. Shostakovsky currently teaches English to refuseniks and nonrefuseniks.

Mr. Shostakovsky's story is typical of the plight of Soviet Jews who want to leave the Soviet Union for Israel. It is a tragedy that is played out repeatedly every hour of every day, every day of every year.

It is fitting that we stop for a moment, on the eve of the Jewish New Year, to think of the Soviet Jews who are less fortunate than we are, and to speak out on their behalf, and for their human rights. As part of the 1984 Congressional Call to Conscience Vigil for Soviet Jews and as cochairman of the 98th Congressional Class for Soviet Jewry, I want to say to the Jews of the Soviet Union: Our concern for you is unending. Your plight is with us all, always. We join you in your never-ending, difficult fight for the freedom to live a Jewish life in the country of your choice, in the manner and with whom you wish, with your human rights and freedom intact and protected.

In the ancient words that have become the creed of the heroic refusenik movement: Next year in Jerusalem.●

THE FREE SPEECH MOVEMENT

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. DELLUMS. Mr. Speaker, I would like to call to the attention of my colleagues the following resolution which was passed by the Senate of the Associated Students of the University of California at Berkeley, commemorating the Free Speech Movement.

Whereas the Free Speech Movement arose in opposition to a ban imposed by the University of California restricting students from the right to assemble freely on University property to engage in appropriate political expression; and

Whereas the Free Speech Movement embraced ideals that extended beyond first amendment rights including the basic human right of people to exert control over the conditions of their own lives and the right of self-expression; and

Whereas the Free Speech Movement expanded the legitimate concepts of student participation in the educational process; and

Whereas many of the objectives won by the Free Speech Movement are now assumed to be fitting and proper to the deportment of a University environment, such as the use of Sproul Plaza as a free speech area; and

Whereas the Free Speech Movement contributed significantly to the development of many other social movements of the 1960's, most importantly the anti-Vietnam War movement; and

Whereas these social movements shared and emphasized the principles of participatory democracy; and

Whereas the University of California at Berkeley and the City of Berkeley have come to symbolize for many the spirit of the Free Speech Movement and of free speech; therefore be it

Resolved That the Senate of the Associated Students of the University of California at Berkeley declare October 1, 1984, Free Speech Day on the campus, in commemoration of this important movement.●

SOVIET JEWRY

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1984

● Mr. PATTERSON. Mr. Speaker, I rise in full support of this special order on behalf of the thousands of Soviet Jews who have been denied emigration from a country which punishes them for their religious beliefs, derides them as less than equal citizens, and denigrates their values. This is a chance to recognize and remember those who are imprisoned. For example, the four refusenik Hebrew teachers, Muscovite Aleksandr Kholmiansky, Yakov Levin, Yakov Gorodetsky, and Yuli Edelstein who were recently taken into custody. And there are the families, the family of Alexander Khozin, the family of Tashpulat and Lelia Katanov, and so many others who suffer from separation and anxiety for their loved ones who have sought permission to emigrate.

This week each of our Presidential candidates will sit down face to face with Foreign Minister Gromyko to discuss the relationship between our two nations. The issues before them cast their shadows over much of the world; the nuclear arms race, the tensions between our two countries, the military presence of the superpowers in Europe, Central America, the Middle East, and Afghanistan.

As these men seek to represent the views and concerns of the American people in their meetings with Mr. Gromyko, let them be aware that the welfare and human rights of Soviet Jews are high on the list of our priorities. We must not cease to speak out for those who have no political voice as long as we have the opportunity ourselves. We must take advantage of every forum to protest the decline in emigration—only 652 allowed to emigrate between January and August of this year—when we continue to receive disturbing reports of increases in anti-Semitic acts and well-determined efforts to destroy the Jewish culture and religious training for 2½ million Soviet Jews.

This week marks the celebration of Rosh Hashanah. The beginning of the Jewish New Year. A Holy day for Jews around the world. What better time to emphasize the threat to the Jewish population in the Soviet Union.

Our two nations have an obligation to meet in the interest of protecting peace and increasing understanding when the reality of our combined military strength threatens the existence of mankind. It is hard to remember that power can be a vehicle for good when so much attention is focused on the potential for destruction. Yet by taking action we deny that any situation is hopeless. Nor that any government is incapable to change. Those of us who have joined in today's special order implore Mr. Gromyko to use his power to alleviate the oppression of Soviet Jews.

I thank my colleagues, Mr. GREEN, Mr. DOWNEY, Mr. LEACH, and Mr. WAXMAN for organizing this special order.●

TRIBUTE TO HON. DAN MARRIOTT

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 1984

● Mr. HAMMERSCHMIDT. Mr. Speaker, I would like to add my own thanks and best wishes to the others being offered to my friend and colleague, DAN MARRIOTT.

In his 8 years in the House of Representatives DAN has distinguished himself as a champion of children's causes as the ranking minority member of the House Select Committee on Children, Youth, and Families. He has fought to preserve the traditional family unit as our national foundation through various Federal initiatives.

DAN has also been a watchdog for small businesses as a member of the Small Business Committee, and, in fact, he received an award this year as the outstanding Congressman in the area of small business.

His service on the Interior and Insular Affairs Committee has also been noteworthy, with his latest achievement being the Utah wilderness bill, which was signed into law this month.

I have been privileged to serve with DAN, who, through his untiring efforts in behalf of the Second District of Utah, has epitomized the best spirit of ability, concern, and cooperation within the Congress. I wish him the best in all his future endeavors.●

1984 CONGRESSIONAL CALL TO CONSCIENCE VIGIL FOR SOVIET JEWS: FELIX KOCHUBIEVSKY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1984

● Mr. BIAGGI. Mr. Speaker, at this time I would like to join my colleagues in the 1984 Congressional Call to Conscience Vigil for Soviet Jews on behalf of Felix Kochubievsky, my adopted Prisoner of Conscience.

Mr. Kochubievsky is currently serving a 2½-year sentence, ending in May of 1985, in a Soviet labor camp for his efforts to establish a U.S.S.R.-Israel Friendship Society. The local KGB maintained that his efforts in this area were anti-Soviet and this led to his arrest and imprisonment. Mr. Kochubievsky and his wife, Valentina, have been waiting more than 5 years to be granted visas to emigrate to Israel where both of their sons reside.

Unfortunately, Mr. Speaker, the case of Felix Kochubievsky is not unique. There are countless other Soviet Jews—both refuseniks and Prisoners of Conscience—who have been unjustly harassed, detained, arrested, and many times imprisoned for their desire to emigrate to Israel and freely practice their religion. As one who has been a long time supporter of Soviet Jewry, I feel that we cannot and must not remain silent in the face of such blatant violations of basic human rights. I am also extremely disturbed over the declining number of Soviet Jews who have been allowed to emigrate to Israel in recent years.

The plight of Felix and Valentina Kochubievsky is part of an ongoing human tragedy. It is a tragedy perpetrated by the callousness and inhumanity of Soviet communism. By adopting Mr. Kochubievsky as my Prisoner of Conscience and by constantly speaking out against Soviet repression of Soviet Jews it is my sincere belief that this public exposure will place some pressure on the Soviet authorities to allow more Soviet Jews to emigrate to Israel. The Soviet authorities must constantly be made aware that their actions are not going unnoticed and we here in the free world will never remain silent in the wake of their complete disregard for basic human rights.

By participating in this vigil and by continually expressing our deep concern and unbending support for all Soviet Jews will provide the countless number of refuseniks and Prisoners of Conscience—as well as their families—with hope and the knowledge that the free world is aware of their suffering and that we care. Felix Kochubievsky was imprisoned for his desire to establish himself, his family, and his beleaguered Jewish comrades a better life—one where their right to worship freely would be respected and upheld. Mr. Kochubievsky has sacrificed his own personal freedom on behalf of his struggle for the freedom of all Soviet Jews. His great personal courage and intestinal fortitude is typical of the refuseniks and Prisoners of Conscience. Let this vigil on behalf of all the Prisoners of Conscience serve as a re-

sounding reaffirmation of our support for and solidarity with all Soviet Jews. This vigil not only is an expression of our support for Soviet Jewry, it serves to demonstrate our strong resolve to achieve free and unrestricted Soviet Jewish emigration, as well as full recognition of all other basic human rights.●

THE 150TH ANNIVERSARY OF THE BOOK ON AMERICAN DEMOCRACY BY ALEXANDER FARKAS DE BOLON

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. FEIGHAN. Mr. Speaker, the democratic traditions of our country have been widely shared by European intellectuals and political leaders in the 19th century. It is important to note that some of the earliest, most enthusiastic supporters of our fledgling democracy were Hungarian like Count Stephen Szechenyi and, of course, Louis Kossuth.

What is less known is that a Hungarian-Transylvanian count and his secretary visited the United States in 1831. This secretary, Alexander Farkas de Bolon, published his "Utazas eszakamerikaban" "Journey to North America" in 1834, a year before the publication of Alexis deTocqueville's famous work "Democracy in America."

The book was eventually banned by Prince Metternich because of its republican principles, but its first edition escaped the censor's attention and was widely read by Szechenyi, Kossuth, and other Hungarian political leaders. It received the grand prize of the Hungarian Academy of Sciences in 1834.

The book was reprinted in English twice in the 1970's in the United States, and a German translation also appeared. The Library of Congress is sponsoring an exhibition on the book and its author in its European reading room.

The author had an interview with President Jackson at the White House and may I quote his description of the event:

There are moments in life when one is looking forward with spellbound anticipation to an event. All one's thoughts and emotions are concentrated on it and still the heart feels a measure of misgiving when the looked for moment arrives. Whoever has had a similar experience would appreciate my feelings of the moment. I was expecting to see a man whom thirteen million free citizens raised to this highest post of their own free will, and who earned this great honor neither by birth nor wealth nor a quirk of fate, but by his personal achievements.

Soon Mr. Jackson appeared. He is a tall, graying, friendly old man, dressed in a simple black suit without any decoration. As he entered we went up to him mentioning our names and nationality. He cordially shook hands with us, sat down, and offered us seats around him while introducing the other gentlemen by name. We spent about a half an hour with him, during which he inquired about our country and our journey. Then the conversation turned to American subjects. We lauded its institutions which seemed to please him very much. His simple manners and friendly behavior made us forget that we were talking to the chief executive of thirteen million people. In the meantime several others came into the room, all of whom he greeted with the same simple cordiality as if they were in the house of an ordinary citizen. Taking leave, he shook hands again and invited us to visit him again when Congress is in session.

I shall never forget the elation I felt when we left, to have been able to see and talk to this distinguished man. His handshake made me feel more proud than any honor in this world and in my memory I shall always treasure it.

Mr. Speaker, de Bolon's devotion to the cause of freedom, democracy, and republicanism is a shining example of the traditional Hungarian commitment to freedom and justice. The Hungarian people have not forgotten the principles of Alexander Farkas de Bolon. They shed their blood to achieve it in 1848–49 under Louis Kossuth, and rose in 1956 for the implementation of the same principles of democracy. Unfortunately, they were not successful in establishing the free and democratic state they desired. But both revolutions moderated oppression.

The heirs of Alexander Farkas de Bolon have not even been that lucky. In Transylvania, which was allotted in Trianon—1920—to Romania, the 2.5 million Hungarians cannot enjoy either their human nor their cultural rights as Hungarians.

For us, the message of the author is clear. We must defend our democratic institutions against the onslaught of any foreign ideologies and totalitarian tendencies, whether Communist or Fascist, and always act on the principles of the Constitution and the Declaration of Independence.●

C. DONALD ALLEN: A COMMUNITY LEADER

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. MINETA. Mr. Speaker, on behalf of Representative DON EDWARDS and myself, I rise to speak in honor of C. Donald Allen, Jr., an American who deserves the highest praise and respect.

Don Allen, whose distinguished civic and professional accomplishments serve as a model for all citizens, will be honored at a special dinner during which he will receive the San Jose Hospital Foundation's highest recognition—the Legacy Medal. Mr. Allen will receive this award for his many significant contributions to the community-at-large.

Professionally, Don recently celebrated his silver anniversary in banking, while serving as senior vice president at the Pacific Valley Bank. He has been recognized by his peers through his work as past chairman of the California Bankers Association, as a member of the working council of the Santa Clara County Manufacturing Group, and as a member—and past director—of the Institute for Computer Technology.

Don's contributions to the community are numerous. He is representative of the spirit of voluntarism; a caring, compassionate person who is involved with his community. Don has served in leadership positions as chair of the San Jose Chamber of Commerce, president of the Santa Clara Council of Boy Scouts, director of Big Brothers/Big Sisters, and foreman of the Santa Clara County Grand Jury. He is presently serving on the boards of the Eastfield Foundation, the San Jose Trolley Corp., and the Cultural Council of the Santa Clara County. These are but a few of Don's community activities.

It is therefore fitting that the Legacy Medal will be presented to Don by the San Jose Hospital Foundation on the evening of October 18 at a dinner gala in his honor.

Mr. Speaker, Mr. EDWARDS and I have enjoyed working with Don, and we are honored to have him as a friend. We know him as a true professional, and an individual with a dry wit and fine sense of humor. Don Allen deserves the thanks of all of us for his notable service to the community. Mr. Speaker, we ask you, and all Members of the U.S. House of Representatives to join us in extending our warmest thanks to our friend, C. Donald Allen, Jr.●

CENTRAL HIGH SCHOOL NFL CELEBRATES 50TH ANNIVERSARY

HON. GENE TAYLOR

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. TAYLOR. Mr. Speaker, on November 7, of this year, Central High School of Springfield, MO, will celebrate its 50th anniversary as a member of the National Forensic League.

During the past five decades the Central NFL Chapter has compiled an impressive record while developing speaking and leadership skills in its members.

Over 350 Central NFL members have received training in debate, oratory, and interpretation since its charter

was granted on November 7, 1934. Alumni includes dozens of lawyers, ministers, doctors, teachers, and business leaders. Two members later became U.S. Congressmen.

Central NFL members won the National High School Debate Championship in 1961. Central also was the State debate champion in both 1951 and 1961. More recently, Central NFL members won State championships in dramatic interpretation in 1979 and again in 1984.

Secretary of Education T.H. Bell summarizes the contributions of the Central NFL in a letter. He writes:

For over half a century your organization has encouraged in young people a love of language and a high regard for verbal expression which will serve them well in their adult years. Your sponsors as well as all of your members are to be congratulated for their involvement in this meaningful endeavor.

I join the President in sending good wishes for your continued success in the years ahead.

As the representative of the congressional district in which Central High School is located, I take considerable pride in adding my congratulations and best wishes.●

A MEMORIAL TRIBUTE TO MAYOR WILLIAM A. MIHELICH

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. HERTEL of Michigan. Mr. Speaker, on September 16, 1984, the State of Michigan lost a friend, a leader, and a great American. The death of Mayor William A. Mihelich of East Detroit, MI, deeply saddens those of us fortunate enough to have known him. Mayor Mihelich had the tremendous capacity to inspire others with his gracious charm and honest character. He was a dedicated public servant who was willing to sacrifice so others could benefit. Mayor Mihelich helped restore our faith in America by providing the necessary leadership that directed us toward prosperity in relation to these difficult economic times.

Mayor Mihelich always gave of himself, even during his illness with cancer. He continued to serve the people of East Detroit up until his death even though his illness grew more severe. At a time when most men would have become bitter and reclusive, Bill Mihelich continued to give of himself to others. Mayor Mihelich never lost sight of the fundamental responsibilities of representing his constituents and he always served them with great pride.

Mayor Mihelich epitomized how a public servant should serve his community. It is common practice for public officials to serve their community with tremendous patience, diligence, conviction, and dedication. Bill Mihelich possessed an extraordinary level of these qualities, moreover, it was his exceptional integrity that set him apart from other public officials. The community of East Detroit is forever grateful to Mayor William A. Mihelich for sharing his rare qualities with us.

I join the people of East Detroit in paying our highest respect to William Mihelich and we sorrowfully extend our deepest sympathy to his wife, Theresa; his three daughters, Susan Ulrich, Linda Henry, and Karen Smola; and his two sons, William II, and Louis. We greatly appreciate the outstanding contributions of Mayor Mihelich to the entire community and he will always be remembered in our prayers.●

FIRST ANNIVERSARY OF BANK AUDI

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. RAHALL. Mr. Speaker, on September 29, 1984, a New York bank will celebrate the first anniversary of its opening.

Bank Audi, U.S.A., was established in 1983 as a commercial bank, by virtue of a charter granted by the State of New York. It is also a member of the FDIC.

I would like to congratulate Bank Audi, U.S.A., on its first successful year of operation. The bank is headed by its young president, Joseph G. Audi. At age 34, Joseph Audi has already had an extraordinary career. While in his twenties, he played the major role in establishing Banque Audi in Paris. He and his staff can now look with pride to a first year in which Bank Audi, U.S.A., has operated in the black; it is already a bank with assets of well over $100 million.

Perhaps what is most striking about the bank and the Audi family is their dedication to excellence and to their customers. This dedication is best reflected in the extraordinary performance of Joseph Audi's father, Georges Audi, and his uncle, Raymond Audi, in operating the original bank in the Audi group, the bank, and its branches, in Lebanon. Throughout Lebanon's turmoil, through every day of its seemingly unending nightmare, these two men have insisted that the bank be open, that it offer critical services to its customers. Their attitude has been that if bank employees must be on the job, so must the officers. They have often accomplished this with great risk to their own lives.

It is that same spirit of determination which is now seen in what Joseph Audi, his talented executive vice president, Peter Tanous and their excellent staff are doing to make Bank Audi, U.S.A., a success. We are proud of this fine institution and wish it well in the future.●

PROTECTING STEEL: SHORTSIGHTED POLITICS AND ECONOMICS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. PHILIP M. CRANE. Mr. Speaker, recently, cries of protectionism have been echoing within the Halls of Congress and have been heard all around Washington, DC. These voices are, once again, heard loudest from large U.S. steel producers and their labor unions, all seeking to protect the U.S. steel industry. The International Trade Commission's recommendations to President Reagan outlined specific quotas and tariffs on foreign steel imports. Last week, President Reagan properly rejected mandatory restrictions and instead, insisted on the enforcement of already existing fair trade laws. By this action, the President has rejected what would have been an act of blatant protectionism while, at the same time, promising to enforce present laws.

In times such as these, when the U.S. trade balance is so out of line, it is essential for us to recognize the dangers of protectionism. Its impact on the economy can only be negative. This is precisely the message spelled out in the lead editorial of the Wall Street Journal on September 11, 1984. Consistent with their tradition, the Journal clarifies the need for long-term solutions to the steel situation. Unfortunately, too many Representatives continue to rehash the same old short term, expensive, and more importantly, ineffective and often detrimental proposals to correct the steel problem. It is time to emerge from the cave of political shortsightedness and strive for truly beneficial results. The suggestions outlined in the Wall Street Journal are certainly a good place to start. I commend this article to my colleague's attention.

PROTECTION IS BAD POLITICS

President Reagan was handed a lighted firecracker a few weeks ago by the U.S. International Trade Commission when it recommended additional import protection for the carbon steel industry. As the Journal's Art Pine reported yesterday, the president must decide in the next two weeks how much protection, if any at all, to provide. He may decide this week. Protectionists are telling him that if he doesn't give the industry something close to what it wants. Walter Mondale will make a big issue of it.

The president's best course would be to let Walter Mondale have the protectionist side

of the argument, if Mr. Mondale truly wants to back policies that damage low-income Americans the most. There is no support for protectionism in economics and, in our humble view, it is the weaker side politically as well. Americans may have been unsophisticated about trade barriers at some point in history, but that is certainly not the case today. They don't like to have the costs of cars, refrigerators, clothing and other needs raised to benefit some political pressure group. And their pressure groups that throw their weight around in Washington are less likely than they once were to logroll by supporting protectionists in return for support on their own pet issues. Some industries are finding protectionism too damaging to their own interests. Finally, there are economically sound alternatives to protectionism, including pressure on multilateral lending agencies not to subsidize overproduction of basic commodities abroad.

Import barriers disrupt markets, reduce the competitiveness of the sheltered industry, raise costs to consumers, invite retaliation against U.S. goods sold abroad, and, for the most part, don't really help the protected industry.

The American steel industry has gone through cycle after cycle of import protection only to keep coming back each time saying the last cycle didn't help enough. Something adverse always happens. If a price floor is put under steel sales in the U.S., the industry's domestic customers lose business to imported products made from cheaper steel. That means the U.S. steel industry loses ground, too. If import quotas are put on, then the foreign producers ship in more high-value products and skim off the most profitable part of the business. If you protect only against shipments from certain countries, steel from other countries comes in.

Protection of something as widely used as steel can push up prices, adding to pressure for higher wages. The resulting reduced competitiveness of American producers then creates demands for yet more protection.

Export industries long ago saw that trade barriers posed a threat to their own sales abroad. Farmers, not an inconsiderable political bloc in the U.S., aren't averse to having a little protection for themselves here and there, but don't want matters to reach the point where other countries will further expand barriers to U.S. farm products in retaliation.

Importers are a force as well. The American retail industry has often been cautious about public quarrels that might provoke a boycott from some buyers group. But when the Treasury recently did Jesse Helms a favor and toughened up "country-of-origin" restrictions on imports of textile products, retailers were deeply wounded. The restrictions posed a threat to their sources of low-cost merchandise—sweaters, for example. The Retail Industry Trade Action Coalition is trying to block the move in court, quite rightly complaining that the Treasury acted without giving opponents an adequate chance to be heard.

It is always tempting for a president to provide grease to the wheel that squeaks loudest, of course, and the protectionists can squeak loudly indeed. Western congressmen who have never done the president any favors, folks such as Morris Udall, are complaining very loudly about a decision last week not to grant import relief to the copper industry. The same can be expected from steel-state congressmen and the AFL-CIO if the president offers insufficient balm to steel. But then most of these people haven't done much for Ronald Reagan either.

U.S. basic-material producers have a possibly legitimate complaint that money lent by the IMF and other multilateral agencies subsidizes state industries in places such as Brazil and Chile, enabling them to undersell U.S. producers. The lenders and producing nations usually deny this, but clearly basic industries have received state subsidies. And the U.S. helps provide credit to governments, whether or not the money flows directly into subsidies. These foreign governments would improve their own economic efficiency and help stabilize world markets if they stopped doing this. The IMF has in some cases pressed them to stop. The U.S. should bring further pressure to bear.

But we hope the president will resist the protectionists. It makes very little economic or political sense to punish the great mass of voters just to appease a few.●

THE GREAT LAKES

HON. MARK D. SILJANDER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. SILJANDER. Mr. Speaker, today, I introduce the Great Lakes Preservation Act of 1984 in an effort to protect one of our most valuable natural resources, fresh water. The Great Lakes are not only the largest body of fresh water in the United States, but in the world. These lakes make up 95 percent of U.S. fresh water and 20 percent of that of the world.

The Great Lakes are among the world's major waterways, each year carrying tons of waterborne shipping to and from all parts of the world. The ecosystems of the Great Lakes which provide sustenance and recreation to the people of the United States and Canada have been severely affected, and are continually threatened by the introduction of foreign species into the lakes and by pollution. Diversion of water from the Great Lakes to other areas of the Nation may result in adverse economic and ecological consequences which are not now well understood or predictable.

Careful management of the Great Lakes will permit the rehabilitation and protection of the ecosystems, while continuing and expanding the use of our fresh water resource in industry, food production, transportation, and recreation. At this time, management of the Great Lakes is currently divided among many Federal, State, and international organizations. I believe effective management can be best accomplished through a partnership of the Great Lake States and the Federal Government.

The purposes of this act are: First, to provide for a rational and effective coordination of the management of the Great Lakes and of the federally supported research aimed at protecting, rehabilitating, and enhancing the environmental quality and natural resources of the Great Lakes; second, to identify issues of concern which are affecting or will affect the Great Lakes and their environment, and to develop and promote coordinated research, data synthesis, and management plans which address these issues; third, to provide for the development of the necessary data bases of information to support the rational, efficient, and equitable utilization, development, protection, and rehabilitation of the Great Lakes and their resources; fourth, to provide to the Department of State problems and issues to be referred to the International Joint Commission for study and action; fifth, to foster public understanding and appreciation, and to assure greater understanding at all levels of government, of the role of the Great Lakes' unique natural resources; and sixth, to achieve the goals embodied in the Great Lakes Water Quality Agreement of 1978 through improved organization and definition of mission on the part of the Federal Government.

I call upon you, my colleagues, to join with me in an effort to protect this important natural resource by offering your support for the Great Lakes Preservation Act of 1984.●

PRESIDENT REAGAN'S INVOLVEMENT IN LEBANON

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. MOODY. Mr. Speaker, the recent terrorist attack on our Embassy in Beirut is another tragic chapter in Ronald Reagan's legacy of United States involvement in Lebanon. There are those who may argue that all embassies in Beirut are open to terrorist attack and yet U.S. installations have suffered three attacks in the past 18 months.

While the President talks of "standing tall" and how the United States suffered through the national "disgrace" of the Iranian Embassy incident, 260 Americans have lost their lives as a result of our involvement in Lebanon; yet U.S. policy is still as unclear and fragmented as the first day that the Marines set foot in this beleaguered country. I consider it a far greater disgrace that the present administration had intelligence reports clearly pointing out the Embassy security lapses, and yet decided to ignore them.

The security lapses in Beirut and Ronald Reagan's explanations are inexcusable. What kind of President are we dealing with who can joke about nuclear war and rationalize the loss of

two more American lives by comparing the incomplete security to a kitchen remodeling job?

If the United States can ever hope to aid in a peaceful solution to the many problems in Lebanon, we should first make certain that the present administration's negligence does not lead us to complicate problems not only for the Lebanese but for the United States.●

PROTECT LAW ENFORCEMENT OFFICERS FROM COP-KILLER BULLETS

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. PATTERSON. Mr. Speaker, I rise today to express my serious disappointment that we will not be debating and taking action today on H.R. 6067. The action to pull this legislation denies us the opportunity to act on responsible legislation to protect our law enforcement officers from ammunition designed to pierce protective armor.

I was pleased to see that Mr. BROOKS was prepared to offer the full text of his bill, H.R. 5845, as a substitute to H.R. 6067. It is a solid bill that represents a consensus developed through months of negotiations between law enforcement, sportsmen, the administration, and our congressional colleagues to develop a bill that meets our concern over the manufacture of armor-piercing ammunition without impacting on law abiding American sportsmen and gun owners. However, because H.R. 6067 has been removed from floor consideration, so this important legislation will not be acted on this year.

This is unconscionable. Representatives of the law enforcement community have expressed serious concern over the production of so-called armor-piercing ammunition. H.R. 5845 is an appropriate response to this concern. It imposes a mandatory sentence for use of armor-piercing ammunition during the commission of a violent felony. It contains prohibitions on the manufacture and import of armor-piercing ammunition. And, it provides a succinct definition of this type of ammunition so that the restrictions are imposed solely on armor-piercing and not on conventional ammunition. Thus, it strikes an appropriate balance between our concern over armor-piercing ammunition without affecting law abiding sportsmen and gun owners.

It is clear that the goal of both the Brooks and Hughes bills is to protect law enforcement officers from armor-piercing ammunition—hence, the title, "Law Enforcement Officers Protection Act" for both bills. However, because the ultimate beneficiary of these bills is American's law enforcement community, it is imperative that we consider their opinion. It is worth noting that H.R. 5845 has been supported by virtually every major police organization, including the National Sheriff's Association, International Association of Chiefs of Police, Fraternal Order of Police, National Organization of Black Law Enforcement Executives, and the Police Research Forum.

Additionally, H.R. 5845 is supported by the administration and by the National Rifle Association because it will not hinder the pursuits of law-abiding sport shooters. That support comes from confidence that H.R. 5845's definitions are clear and concise, as opposed to the loosely constructed language of H.R. 6067.

Finally Mr. Speaker, H.R. 5845 enjoys widespread bipartisan support both in this Chamber and in the Senate. H.R. 5845 is cosponsored by more than 200 of my colleagues while S. 2766, by Senator THURMOND, has more than 90 cosponsors.

H.R. 5845 is a good, strong piece of legislation and represents a compromise that is the culmination of years of hard work by our congressional colleagues, law enforcement organizations, sportsmen's groups, and administration officials.

For these reasons, I am very disappointed that this legislation will not be considered, and thus we are denied the opportunity of passing the Brooks substitute. It is the best means of responsibily controlling armor-piercing ammunition in order to provide the steps necessary to offer protection for our Nation's law enforcement officers.●

TRIBUTE TO ERNEST W. KELLER

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. YATRON. Mr. Speaker, it is a distinct honor to bring to the attention of my colleagues in the U.S. Congress the noteworthy achievements of Mr. Ernest W. Keller, who has worked continuously for 55 years at the Wernersville State Hospital in Pennsylvania. Mr. Keller will be honored by the board of trustees and the staff of the Wernersville State Hospital in October for his years of service and dedication to this important institution.

Mr. Keller left the community named for his family, Kellertown, in 1929 at age 16 to begin his career at Wernersville State Hospital. He was educated on the grounds of the hospital and in fact, lived there for 23 years. During the Second World War, Mr. Keller mastered many skills and was always willing to help wherever he was needed. Mr. Keller has served as a chef in the kitchen, has worked at the switchboard, and has been of help on the farm, as well as fulfilling his duties as an aide. It is in this latter capacity that he has committed his talents and compassion to helping the patients at the hospital. The staff and the patients at the Wernersville State Hospital have been enriched through their association with Mr. Keller. He is a family man, a loving husband, a devoted father, and a most valuable member of the Berks County community. In addition to his work at the hospital, Mr. Keller has given tirelessly of his time for many important volunteer projects. Ernest W. Keller personifies every sense of the meaning of the word "compassion" and he exemplifies what we all know of the words "friendship" and "brotherhood." Through his love and respect for life and humanity he has affected the community and the Wernersville State Hospital for our betterment and added an unbounded degree of hope and goodwill.

It is indeed my pleasure to bring Mr. Keller's accomplishments to the attention of my colleagues. I know that you will join me in congratulating Mr. Keller and in wishing him many more years of continued success.●

ARMOR-PIERCING AMMUNITION

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. SIKORSKI. Mr. Speaker, I would like to thank Mr. HUGHES and Mr. BIAGGI for their efforts to protect our law enforcement officers, however, I am offering my support to Mr. BROOKS' bill, H.R. 5845, as a substitute to H.R. 6067.

H.R. 5845, the Law Enforcement Officers Protection Act of 1984, would, like H.R. 6067, protect our police personnel from armor-piercing ammunition, but would not infringe upon the rights of law-abiding gun owners and sportsmen.

Mr. BROOKS' bill would regulate the manufacture and importation of armor-piercing ammunition and give a clear definition of armor-piercing.

The burden on the Treasury Department of testing the many types of ammunition would not be necessary under H.R. 5845; the bill would clarify which bullets dealers could and could not use. The bill would ban only those bullets designed as armor-piercing and would not affect the millions of law abiding gun-owners and hunting citizens of this country.

Further, Mr. BROOKS' bill would impose a mandatory prison sentence for possession or use of armor-piercing ammunition during the commission of a violent felony. Mr. BROOKS' bill

would deter crime, not create criminals out of honest citizens.

H.R. 5845 is cosponsored by more than 200 Members of the House of Representatives and has the support of police organizations, sportsmen, and the National Rifle Association.

Mr. BROOKS' bill is an enforceable substitute to H.R. 6067 and I urge my colleagues to support H.R. 5845.●

TRIBUTE TO COL. RICHARD RUSHMORE

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. COURTER. Mr. Speaker, I rise to recognize the accomplishments of a distinguished citizen soldier in the U.S. Army Reserve who will retire this Sunday, September 30, 1984.

Col. Richard C. Rushmore is a Reserve officer of the Army's Dental Corps. A practicing civilian dentist in Scranton, PA, he has made himself available to serve his Nation over and over again on occasions which date back to his initial service in the Second War in 1943. His is a remarkable career of self-sacrifice and dedication to his country.

Richard Rushmore first answered his country's call in 1943, soon after high school, when he joined the Army Air Corps. While serving as a navigator in the Italian campaign, then-Lieutenant Rushmore's B-17 came under enemy fire over Yugoslavia and was shot down. Wounded and alone, he made his way to an eventual rendezvous with Marshal Tito's anti-Nazi partisans. With them he made the difficult journey across the Balkans.

After the close of the war, Richard Rushmore returned to civilian life, but, after completing his college and dental education, he was commissioned as a Reserve dental officer in 1960. The following year, Dr. Rushmore closed his office and became Captain Rushmore to bolster U.S. defenses in Berlin.

After a year's service, he served for a number of years as a Reserve dentist in Scranton's 317th Dental Detachment. In an atypical move, the 334th Medical Group commander in 1976 selected now-Colonel Rushmore to command the 300th Field Hospital, an Army Reserve mobile hospital of 400-bed capacity. As one of only two dental officers to command a field hospital, Colonel Rushmore acted in a distinguished manner throughout his 4-year tenure.

Such was his success that he was selected for a challenge which was the pinnacle of an already distinguished career. In that year, Colonel Rushmore was appointed as commander of the 338th Medical Group, a major Army Reserve medical organization. Never before had a dental officer commanded a medical group, and Colonel Rushmore's successes are a tribute to his singular qualities.

In 1982, Colonel Rushmore's abilities were again recognized when the active Army sought his participation in a special NATO classified exercise in Europe.

As Colonel Rushmore's active Reserve status comes to a close at the end of a distinguished career, for which he has twice been decorated with the Mentorrires Service Medal and is now nominated for the Legion of Merit, it is appropriate to reflect on the magnitude of one man's contribution and service. When so many are content to let others shoulder their burden, Richard Rushmore has risen to the call not once, but repeatedly, often at personal sacrifice, and always in the interest of the Nation. I applaud Colonel Rushmore for his dedicated service of over 30 years, and I am proud our Nation has had the opportunity to be served by such a man.●

REFUSENIK LEV ELBERT CELEBRATES HIS BIRTHDAY ON SEPTEMBER 30

HON. MIKE LOWRY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. LOWRY of Washington. Mr. Speaker, I would like to take this opportunity to express my very best wishes to Lev Elbert, who will celebrate his 36th birthday on September 30. Lev and Inna Elbert and their son Carmi are refuseniks who have paid a high price for their attempts to emigrate to Israel. They have been harassed; their health has suffered; they have lost jobs. Lev was imprisoned in a labor camp; Carmi was attacked and insulted by other students at his school. Yet repeated attempts to intimidate this brave family have not succeeded in breaking their spirit or determination.

The latest reports about the Elberts contain some better news. Lev has found work as a construction engineer, an especially welcome development because that is the profession for which he is trained. Carmi has transferred to another school.

These positive notes are sadly offset by the ominous increase in anti-Semitism in the Soviet Union. Indeed, Lev's arrest in April 1983 was a sign of this new trend. We must and shall continue to oppose this attack on the most basic and precious human rights.●

THE TRAGEDY OF MISSING CHILDREN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. LANTOS. Mr. Speaker, there is no more distressing experience in life than to lose one's child—and to do so without reason or explanation is doubly traumatic. There are two such instances in my district—instances where families once whole are now torn apart and are still searching for clues as to their childrens' whereabouts.

On November 8, 1981, 15-year-old John Davies walked casually out of his family's home to see people who had driven by to see him. He was wearing neither shoes nor shirt. The next morning, when his mother went to wake him for church, she found only his clothes neatly laid out. Jim and Joan Davies have not seen their son since, despite extensive inquiries and police searches.

In February 1983, Lora Owens' apartment was broken into. She was brutally attacked and left for dead—Mitchell, her 5-year-old son was the only witness. Lora's attacker left, taking Mitchell with him. Neither has been seen since that fateful day. Lora has recovered physically, but mentally she is permanently scarred by the loss of her son.

Mr. Speaker, my heart goes out to these two families who are trying to piece together the shattered remnants of their lives. Both continue the desperate search for their missing children, but as each day passes without news their hopes are further dashed.

But these tragic cases unfortunately are not unique. Mr. Speaker, every hour 205 children are reported missing in the United States. Many of the 2 million children reported missing each year do return to their homes, but an estimated 20,000 to 50,000 simply vanish. The problem is one that touches every community.

We have adopted legislation during this session of the Congress to help with this national tragedy. More remains to be done. Greater involvement of Federal law enforcement officials is required, more must be done to teach children to avoid strangers, and cooperation could be improved between local and Federal officials. Mr. Speaker, we must work to end the tragedy of missing children.●

SANTA ANA TO HONOR "GOLDEN CITY" AWARD RECIPIENTS

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. PATTERSON. Mr. Speaker, as the former mayor of the city of Santa Ana, CA, and now as the Congressman representing this great city, it is a pleasure to announce the annual Golden City Awards banquet which will be held on October 5, 1984.

In order to fully acknowledge individuals and groups for their community service, John Garthe, former fire chief and former mayor of Santa Ana, founded the Golden City Awards in 1976. The award is conferred for the imaginative and vigorous action Santa Ana citizens have taken to improve their community. Their effort is even more important today, for the use of local initiative and self-help is becoming more crucial as public sources of funding diminish for local community development and service delivery.

I am pleased to announce the group recipients in the following categories: The Boy's Club of Santa Ana, for service to youth; Santa Ana Community Oriented Policing Association, for citizenship; Santa Ana Neighborhood Housing Services, Inc., for city beautification; United Cerebral Palsy-Adult Day Training Activity Center Program, for health service; Wilson Elementary School Parent Teacher Association, for education; the North Santa Ana Kiwanis will receive a special award.

This year's outstanding individuals are: John M. Brander, for cultural arts education; John Garthe will receive the special award; Myrtle Hayman, for service to people with special needs; Majorie Kauth is the senior citizen of the year; Alice McCullough, for community leadership; Dr. Mary Nolan, for cultural arts education; Joan Wilkinson, for service to youth; Mary Morfin, for Valor; Jose Pena will receive a special award.

Mr. Speaker, and fellow colleagues, please join me in applauding these outstanding citizens of the city of Santa Ana for their hard work, commitment, and contribution to our community.●

CONGRESSIONAL SALUTE TO THE HONORABLE ROY P. GRIFFIN OF PATERSON, NJ., ESTEEMED PUBLIC SAFETY OFFICER, COMMUNITY LEADER, AND GREAT AMERICAN

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. ROE. Mr. Speaker, on Sunday, September 30, the residents of Paterson, county of Passaic, my congressional district and State of New Jersey will join together in testimony to an esteemed public safety officer, outstanding community leader and good friend—the Honorable Roy P. Griffin of Paterson, NJ—whose standards of excellence throughout his lifetime have earned him the most highly coveted Man of the Year Award of the Charles J. Alfano Association of Paterson, NJ. I know that you and our colleagues here in the Congress will want to join with me in extending our warmest greetings and felicitations to Roy Griffin upon receiving this citation of merit for his leadership efforts and share the pride of his wife Ann, daughter Cynthia and son-in-law Robert Slachman on this milestone of achievement in their family endeavors.

Mr. Speaker, the Charles F. Alfano Association is an outstanding citizens organization whose president I am pleased to state is my special assistant, Mr. William Burke, of my Paterson district office. Their good deeds on behalf of our people are immeasurable and we especially applaud their scholarship awards for the education of our young people.

Our man of the year Roy has brought great honor and prestige to the city of Paterson and we are deeply appreciative of his dedication and untiring efforts on behalf of our youth. He has earned the highest respect and esteem of all of us for his standards of excellence in seeking to achieve optimum public safety for all of our people.

Sergeant Griffin was a member of the Paterson Police Department for 29 years before retiring on January 1, 1983. He is a graduate of Central High School, Paterson, NJ, and attended the University of Virginia where he majored in community relations and is presently in command of the community relations division of the Paterson Police Department.

Throughout his lifetime, Sergeant Griffin has forged ahead with dedication, devotion and sincerity of purpose in combating crime and protecting the lives of our people. We applaud his knowledge, training, hard work, and personal commitment that has enabled him to achieve the fullest confidence and strongest support of the people of our community. He has always applied the most sophisticated and advanced techniques of his profession.

During his law enforcement career, he participated in many highly technical courses of training including: supervisory training course, defensive tactics, operation combine, advanced training-supervision, community relations school, narcotic school, criminal investigation, community relations seminar (FBI) in Quantico, VA, and rape seminar at John Jay College.

Roy has served our people and our country with distinction. He is a veteran of the U.S. Navy, having served during World War II from July 1943 until his honorable discharge in February 1946.

His personal commitment to the economic, social and cultural enhancement of our community has been a way of life for him. He was elected councilman at large of the city of Paterson on May 9, 1983. Among his many affiliations on behalf of our community, he has participated in many civic and community improvement projects including the following: he was commissioner, Youth Guidance Council; chairman, Greater Paterson Community Mental Health Consumers Advisory Board; member, Mental Health Professional Board; member, Bicentennial Commission; member, Great Falls Festival Commission; commissioner, Council on Youth; president, Paterson Police Holy Name Society; cochairman, northern division, New Jersey Human Rights-Share; active member, United Way; coordinator, Paterson Police Community Relations Projects; and member, National Association, Police Community Relations Officers.

Mr. Speaker, it is with great pleasure that I take this opportunity to call your attention to this year's recipient of an award of excellence that expresses appreciation for the untiring, unselfish, herculean efforts of a highly compassionate individual. We do indeed join the Charles J. Alfano Association in saluting an outstanding individual, esteemed public safety officer and great American—the Honorable Roy P. Griffin of Paterson, NJ.●

50TH ANNIVERSARY OF ST. JOHN NEUMANN HIGH SCHOOL, PHILADELPHIA

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. FOGLIETTA. Mr. Speaker, high school is the cornerstone of the American academic experience. A strong high school education opens doors to athletics, to professional skills, to college and higher education,

and to an understanding of the American experience.

This year, Philadelphia is witnessing the 50th anniversary of one of the city's finest secondary schools: St. John Neumann High School of South Philadelphia. St. John Neumann, or Southeast Catholic High School for Boys, as it was known when I was in school there, is an example of the finest in public, private, or parochial education.

From its beginning in 1934, when Southeast Catholic High School for Boys opened its doors with 15 Norbertine Fathers assigned the task of educating 582 students to today, St. John Neumann has graduated over 20,000 young men from the South Philadelphia community.

St. John Neumann's commitment to excellence can be seen daily in its students and faculty. But nowhere is that dedication better reflected than in the person of the men who have served as its principals. The Very Rev. C. Albert Koob, O. Praem, who served at St. John Neumann over 30 years ago, went on to become the first religious principal to be president of the National Catholic Education Association. Other principals have gone on to missions in Peru, become abbots, or taken on broader educational roles in the archdiocese of Philadelphia.

Mr. Speaker, as a native of South Philadelphia, who learned many of the principles that have become the foundation of my experiences in my life at this fine high school, I would like to recognize St. John Neumann High School, to commend it on the occasion of its 50th anniversary, and to wish it another 50 years of service as fine as its first.●

H.R. 5561

HON. JAMES McCLURE CLARKE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. CLARKE. Mr. Speaker, passage by the House of H.R. 5561, the Omnibus Insular Areas Assistance Act, will greatly help in facilitating the economic development of the U.S. territories by providing necessary assistance and removing unnecessary impediments to growth.

As a member of the House Insular Affairs Subcommittee, I am pleased to have worked closely with its distinguished chairman, the Delegate from Guam, TONY WON PAT. This bill, which he so skillfully developed, will assist the territories in developing more fully their economic potential. Among the important aspects of H.R. 5561 is the refinancing of the Guam Power Authority, providing assistance for water problems in Guam and the Northern Mariana Islands, modernization of the judicial systems in the Virgin Islands and Guam, and encouraging badly needed local investment projects.

I commend TONY WON PAT for his leadership on this important territorial legislation and for his hard work and dedication in support of the people he represents.●

TRIBUTE TO GRANT HIGH SCHOOL

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. BERMAN. Mr. Speaker, I rise to pay tribute to the 25th anniversary celebration of Grant High School in the east San Fernando Valley.

Since 1959 Grant High School has distinguished itself for the quality of its comprehensive academic program, its talented faculty and the achievements of its graduates.

In 1984 Grant has 130 presidential scholars and ranked fourth in the State of California in the number of students taking advanced placement exams. In addition, it has been recognized by the county of Los Angeles for having a model human relations program.

The administration of Grant High School has created an atmosphere of challenge and enrichment that can only serve to prepare its students for abundant success in the years ahead.

It is with pride and pleasure that I reflect on its impressive contribution to our community in southern California.●

COBB COUNTY ADULT AND COMMUNITY EDUCATION

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. DARDEN. Mr. Speaker, on Tuesday, September 11, 1984, I had the pleasure of hosting a group of educators and civic leaders from Cobb County, GA. This group came to Washington to meet with Secretary of Education Terrell Bell and receive recognition for their outstanding adult and community education program. In his message to the group, Secretary Bell said:

The Cobb County Community School Program is an inspiring example of creative use of a community's resources to open up possibilities for education, training, community service, and constructive recreation for citizens at every stage of life.

The cooperation and coordination of public and private facilities and institutions has created an environment of sharing that is the essence of community education.

Your efforts have not only enriched the lives of the thousands of individuals who have taken advantage of the opportunities offered in the program, but you have also extended to all members of the community the opportunity to contribute knowledge, skills, and resources for the benefit of their fellow citizens. You are making a significant contribution both to the future welfare and the daily quality of life of your community.

I offer my warmest congratulations and commend the Cobb County Community School Program to the attention of educators throughout the Nation.

I, too, am extremely proud of the Cobb County Adult and Community Education Program and want to commend them for their work. I am also pleased that this group, consisting of Mr. Bob Ash, Mr. Danny Lewis, Dr. Helen Earles, Ms. Plu Tribble, Dr. Harlon Crimm, Senator Carl Harrison, Mr. Paul Moore, Mr. Sam Whitfield, Mr. James Chastain, Mr. Nick Pedro, Mr. Murray Barber, Dr. Wade Scholes, Mr. Doyle Crum, Mr. Terry Shelton, Mr. Ken O'Leary, Ms. Janice Repasky, Mr. Wade Ash, Ms. Mary Amend, Mr. Charles Burrell, and Dr. Robert Burke, were able to come to Washington for this event.●

UNIVERSITY OF MICHIGAN-DEARBORN CELEBRATES 25TH ANNIVERSARY

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. FORD of Michigan. Mr. Speaker, I wish to extend congratulations on the 25th anniversary of the founding of the University of Michigan-Dearborn campus. The University of Michigan-Dearborn started with 34 students and 20 faculty and staff members when it opened its doors in 1959. Today there are over 6,400 students and 435 full- and part-time faculty and staff.

Although this campus is not located in the 15th District, many of the students, faculty, and staff do live in communities that I represent. Seldom does a day pass when I do not hear the University of Michigan-Dearborn mentioned. We are especially fortunate to have the University of Michigan-Dearborn close to so many communities and Metropolitan Detroit because the institution is a real center of learning and has developed programs and services for its students which accommodate all of their needs.

Last December 11, I had the privilege of delivering the commencement address at graduation ceremonies at the University of Michigan-Dearborn. It was a real thrill to be part of such a magnificent event. The University of Michigan-Dearborn is a first-rate institution and I know we will be congratulating them on many more anniversaries.●

PERSONAL EXPLANATION

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. CLINGER. Mr. Speaker, on September 25, 1984, I was absent from the floor of the House of Representatives for a part of the day. Had I been present, I would have voted in the following fashion:

Rollcall No. 411: House Joint Resolution 648, continuing appropriations, the House agreed to order the previous question, "no"; and

Rollcall No. 412: House Joint Resolution 648, continuing appropriations, the House agreed to the rule (H. Res. 588) under which the joint resolution was considered, "aye."●

HOUSE OF REPRESENTATIVES *Friday, September 28, 1984*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. WRIGHT].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 26, 1984.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore on Friday, September 28, 1984.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We recognize, O God, that our words can be used as weapons of hurt or as instruments of healing. Teach us, O loving God, to use our words in ways that reflect the good intent of our hearts. May they be expressions of justice and understanding and compassion. Help us to be of such good spirit that in all the occasions of life we may speak the good word and so contribute to our lives together. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 4968. An act to provide for the conveyance by the Secretary of Energy of surface rights to certain parcels of land located on Naval Petroleum Reserve Numbered 2 in the State of California on which private residences are located.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5167) "An act to authorize appropriations for fiscal year 1985 for the military functions of the Department of Defense, to prescribe military personnel levels for that fiscal year for the Department of Defense, and for other purposes."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1160. An act to authorize Douglas County of the State of Nevada to transfer certain land to a private owner.

The message also announced that pursuant to the provisions of Public Law 98-399, the President pro tempore appoints the following Members to the Martin Luther King, Jr., Federal Holiday Commission: Mr. MATHIAS, Mr. DOLE, Mr. HOLLINGS, and Mr. KENNEDY.

ADJOURNMENT TO MONDAY, OCTOBER 1, 1984

Mr. BARNARD. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BARNARD. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO FILE SUNDRY REPORTS

Mr. BARNARD. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations have until midnight tonight, September 28, 1984, to file 2 legislative reports and 16 investigative reports.

The legislative reports are on H.R. 6225 and H.R. 6259.

Mr. Speaker, this has been cleared with the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

CONFERENCE REPORT ON S. 1097, AUTHORIZING APPROPRIATIONS FOR THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Mr. FUQUA submitted the following conference report and statement on the Senate bill (S. 1097) to consolidate and authorize certain atmospheric and satellite programs and functions of the National Oceanic and Atmospheric Administration under the Department of Commerce:

CONFERENCE REPORT (H. REPT. No. 98-1093)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House to the bill (S. 1097) to consolidate and authorize certain atmospheric and satellite programs and functions of the National Oceanic and Atmospheric Administration under the Department of Commerce having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreements to the amendment of the Senate to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "National Oceanic and Atmospheric Administration's Atmospheric and Oceanic Research and Services Act of 1984".

TITLE I—DECLARATION OF FINDINGS AND PURPOSES

SEC. 101. The Congress of the United States finds that:

(1) The oceans and atmosphere surrounding and within the jurisdiction of the United States play a vital role in the Nation's welfare, economy, and security.

(2) The National Oceanic and Atmospheric Administration is the lead agency for oceanic and atmospheric matters in the Nation. It was created on October 3, 1970, by Reorganization Plan Numbered 4 of 1970 to bring together many of the Nation's civil programs related to the oceans and atmosphere. The National Oceanic and Atmospheric Administration's broad goals include the development and operation of national programs to—

(A) manage and conserve selected marine resources for the economic and social good of the Nation;

(B) monitor and predict weather and environmental conditions for the protection of life and property;

(C) archive, analyze, and disseminate data on oceanographic, climatic, geophysical, and solar-terrestrial phenomena;

(D) provide basic maps, charts, surveys, and specialized data for safe navigation; and

(E) provide research to advance oceanic and atmospheric science and technology for the better management of the environment and the rational use of our national resources.

SEC. 102. The purposes of the Congress in this Act are—

(1) to ensure that the National Oceanic and Atmospheric Administration, the lead agency for civil oceanic and atmospheric activities and programs, operates under a clear statutory charter; and

(2) to simplify, streamline, and consolidate the authorization of appropriations for the National Oceanic and Atmospheric Administration, within the Department of Commerce, such that the National Oceanic and Atmospheric Administration's programs can be viewed in a coherent fashion.

TITLE II—GENERAL PROGRAM AUTHORIZATIONS

SEC. 201. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its atmospheric and hydrological research and services functions and duties under law, $366,000,000 for fiscal year 1984, and $383,000,000 for fiscal year 1985. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to atmospheric and hydrological research and services specified by the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Service to the Department of Agriculture", approved October 1, 1890, as amended (15 U.S.C. 311), the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947, as amended (33 U.S.C. 883a), the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301), and any other law involving such duties. Such duties include, but are not limited to: meteorological, hydrological, and oceanographic public warnings and forecasting; and research for developing improved prediction capabilities for atmospheric and hydrological processes.

(b) The atmospheric and hydrological research and services functions and duties authorized by subsection (a) of this section shall be considered separate and distinct from such functions and duties performed pursuant to moneys authorized under sections 406 and 601 of this Act. The total authorization for all such functions and duties shall be the aggregate sum of the amounts provided in subsection (a) of this section and sections 406 and 601 for such functions and duties.

(c) Of the funds authorized by subsection (a) of this section, such amount as may be necessary is authorized for the planning and preliminary design for a remote weather radar station in the southeastern quadrant of the United States.

SEC. 202. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its satellite and environmental data and information services duties under law, $252,000,000 for fiscal year 1984, and $314,056,000 for fiscal year 1985. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to satellite and environmental data and information services specified by the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Service to the Department of Agriculture", approved October 1, 1890, as amended (15 U.S.C. 311), title II of the National Aeronautics and Space Administration Authorization Act, 1983, approved October 15, 1982 (96 Stat. 1597), and any other law involving such duties. Such duties include, but are not limited to: satellite maintenance and operations and satellite data analysis: spacecraft procurement, launch, and associated ground station system changes involving polar-orbiting and geosynchronous meteorological satellites and land and ocean remote-sensing satellites; and environmental data and information products and services in the atmospheric, marine, solid earth, and solar-terrestrial sciences.

(b) Upon the receipt of a commitment for reimbursement by the Secretary of the Navy for the cost of the NOAA-D spacecraft and upon a successful launch of the NOAA-F spacecraft, the Administrator of the National Oceanic and Atmospheric Administration (hereafter referred to in this section as the "Administrator") shall make the NOAA-D spacecraft available for the Navy Remote Ocean Sensing System. The Secretary of the Navy shall provide the Administrator with access to the civil data produced by the system, and the Administrator shall take such actions, including sponsorship of applied research, as may be necessary to assure the availability and usefulness of such data to the maritime community.

SEC. 203. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its oceanic research and services duties and its mapping, charting, and geodesy duties under law, $104,000,000 for fiscal year 1984, $96,509,000 for fiscal year 1985, and $115,000,000 for fiscal year 1986. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to ocean research and services programs and to mapping, charting, and geodesy programs specified by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947, as amended (33 U.S.C. 883a), and any other law involving such duties. Such duties include, but are not limited to: undersea marine resources, air-sea interaction, and ocean and Great Lakes environmental research; ocean dumping research; coordination of interagency research on marine pollution and provision of tide and current data for the safe and efficient use of the oceans and Great Lakes by government, commerce, and the private sector; and aeronautical and nautical mapping and charting activities and geodetic data collection and analysis.

(b) The functions and duties involving ocean research and services programs, and mapping, charting, and geodesy programs authorized by subsection (a) of this section shall be considered separate and distinct from such functions and duties performed pursuant to moneys authorized under sections 504 and 509 of this Act. The total authorization for all such functions and duties shall be the aggregate sum of the amounts provided in subsection (a) of this section and sections 504 and 509 for such functions and duties.

SEC. 204. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its executive direction and administration, its marine services, and its aircraft services duties under law, $113,000,000 for fiscal year 1984, $117,458,000 for fiscal year 1985, and $124,000,000 for fiscal year 1986. Moneys appropriated pursuant to this authorization shall be used to fund those duties specified by the Act entitled "An Act to clarify the status and benefits of commissioned officers of the National Oceanic and Atmospheric Administration, and for other purposes", approved December 31, 1970, as amended (33 U.S.C. 857-1), by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947, as amended (33 U.S.C. 883a), by the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Service to the Department of Agriculture", approved October 1, 1890, as amended (15 U.S.C. 311-329), and any other law involving such duties. Such duties include, but are not limited to: management, administrative support, retired pay of National Oceanic and Atmospheric Administration commissioned officers, and policy development; ship operations, maintenance, and support; and aircraft operations, maintenance, and support.

SEC. 205. (a) Funds may be transferred between categories authorized in sections 201, 202, 203, and 204, except that no funds may be transferred between any two categories if the amount transferred would exceed 10 per centum of the amount authorized for either category, unless a period of thirty days has passed after the Administrator of the National Oceanic and Atmospheric Administration or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate a written report containing a full and complete statement concerning the nature of the transfer involved and the reason therefor.

(b) None of the funds authorized under this Act may be used either to issue a request for proposals, or (in those cases for which such a request for proposals had been issued as of the date of enactment of this section) to award any contract, for the performance of any function or activity which was, on January 26, 1984, performed by National Oceanic and Atmospheric Administration employees, unless—

(1) the Administrator of the National Oceanic and Atmospheric Administration or his designee has presented, in writing, to the Speaker of the House of Representatives and the President of the Senate, to the Committee on Science and Technology and the Committee on Merchant Marine and Fisheries of the House of Representatives, and to the Committee on Commerce, Science, and Transportation of the Senate, a full and complete statement (including relevant supporting studies) concerning the proposed issuance or award and the reasons therefor; and

(2) a period of thirty days on which either the House of Representatives or the Senate is in session has expired after the date of presentation of such statement.

TITLE III—REPORTING REQUIREMENTS

SEC. 301. The Administrator of the National Oceanic and Atmospheric Administration shall keep the appropriate committees of the House of Representatives and the Senate fully and currently informed about all aspects of the atmospheric and oceanic research and services activities for such Administration.

SEC. 302. (a) The Administrator of the National Oceanic and Atmospheric Administration shall submit to the Congress and the President, on the date of submission of the

fiscal year 1986 budget request, a report on the importance of meteorological satellites to weather forecasting. Such report shall include—

(1) a quantitative analysis of the impacts of weather satellites on weather forecasting;

(2) a quantitative comparison of weather forecasts generated when two, one, or no polar-orbiting satellites are operating;

(3) the importance of National Oceanic and Atmospheric Administration weather satellite data to weather forecasting in other nations;

(4) a statistical analysis of expected lifetimes for National Oceanic and Atmospheric Administration weather satellites;

(5) an analysis of replacement time for a National Oceanic and Atmospheric Administration weather satellite in the event of a launch or operational failure or of consecutive launch or operational failures;

(6) a ten-year projection of the costs associated with a one- and a two-polar satellite system; and

(7) an assessment of efforts to promote greater international cost-sharing in civil meteorological satellite programs.

(b) Of the funds authorized pursuant to section 202 of this Act, $4,000,000 is authorized in fiscal year 1985 to plan for the continuation of a civil land remote-sensing satellite system in order to assure the preservation of data continuity for such system, if no alternative is implemented which will assure the preservation of such data continuity.

SEC. 303. (a)(1) The Secretary of Commerce, through the National Oceanic and Atmospheric Administration, shall enter into an agreement with the National Research Council of the Academies of Science and Engineering to conduct a study of the National Weather Service and related activities. Such study shall include but not be limited to—

(A) an analysis of the operations of the National Weather Service and associated activities of other agencies and the private sector, including supporting research and technological development;

(B) a review and assessment of analyses, findings, and recommendations for weather services contained in reports on the subject issued by public and private organizations during the past five years;

(C) independent analysis by the National Research Council as may be required for the purposes of the study;

(D) recommendations on how the National Weather Service and associated activities of other agencies might be organized and conducted to provide effective weather services to meet national needs in light of the availability of new technology, new scientific understanding, the international character of weather services, and the roles of the public (Federal, State, and local) and private sectors; and

(E) to the extent possible, information on priorities and costs of recommended changes and improvements in weather services.

(2) The Administrator shall report to the Congress within six months after the date of enactment of this Act regarding the status of the Agency's negotiations to implement the study required under this section.

(b) A report including major findings and recommendations resulting from the study required under this section shall be submitted to the Congress not later than two years after the date of enactment of this Act. The Secretary shall make such data and information available to the National Research Council as may be required for the study.

(c) Of the funds authorized pursuant to section 201 of this Act, there is authorized for the conduct of this study $500,000 for each of the fiscal years 1984 and 1985.

TITLE IV—NATIONAL CLIMATE PROGRAM

SEC. 401. This title may be cited as the "National Climate Program Amendments Act of 1984".

SEC. 402. Section 4 of the National Climate Program Act (15 U.S.C. 2904) is amended—

(1) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively, and

(2) by inserting before paragraph (2), as so redesignated, the following new paragraph:

"(1) The term 'Board' means the Climate Program Policy Board.".

SEC. 403. (a) Subsection (c) of section 5 of the National Climate Program Act (15 U.S.C. 2904(c)) is amended—

(1) by inserting "(1)" before "The Secretary",

(2) by designating the third sentence as paragraph (4), and

(3) by striking out the second sentence and inserting in lieu thereof the following new paragraphs:

"(2) The Office shall—

"(A) serve as the lead entity responsible for administering the program,

"(B) be headed by a Director who shall represent the Climate Program Policy Board and shall be the spokesman for the program,

"(C) serve as the staff for the Board and its supporting committees and working groups,

"(D) review each agency budget request transmitted under subsection (g)(1) and submit an analysis of the requests to the Board for its review,

"(E) be responsible for coordinating interagency participation in international climate-related activities, and

"(F) work with the National Academy of Sciences and other private, academic, State, and local groups in preparing and implementing the climate plan (described in subsection (d)(9)) and the program.

The analysis described in subparagraph (D) shall include an analysis of how each agency's budget request relates to the priorities and goals of the program established pursuant to this Act.

"(3) The Secretary may provide, through the Office, financial assistance, in the form of contracts or grant or cooperative agreements, for climate-related activities which are needed to meet the goals and priorities of the program set forth in the climate plan pursuant to subsection (d)(9), if such goals and priorities are not being adequately addressed by any Federal department, agency, or instrumentality.".

(b) Subsection (d) of such section is amended—

(1) by striking out the semicolon at the end of paragraph (7) and inserting in lieu thereof a period and the following: "Such mechanisms may provide, among others, for the following State and regional services and functions: (A) studies relating to and analyses of climatic effects on agricultural production, water resources, energy needs, and other critical sectors of the economy, (B) atmospheric data collection and monitoring on a statewide and regional basis, (C) advice to regional, State, and local government agencies regarding climate-related issues, (D) information to users within the State regarding climate and climatic effects, and (E) information to the Secretary regarding the needs of persons within the States for climate-related services, information, and data. The Secretary may make annual grants to any State or group of States, such grants to be made available to public or private educational institutions, to State agencies, and to other persons or institutions qualified to conduct climate-related studies or provide climate-related services;".

(2) by striking out "biennially" in paragraph (9) and inserting in lieu thereof "at a frequency (not more often than biennially or less often than quadrennially) determined by the Board", and

(3) by striking out "the intergovernmental program under section 6" in paragraph (9) and inserting in lieu thereof "the intergovernmental program described in paragraph (7)".

(c) Subsection (e) of such section is amended to read as follows:

"(e) CLIMATE PROGRAM POLICY BOARD.—(1) The Secretary shall establish and maintain an interagency Climate Program Policy Board, consisting of representatives of the Federal agencies specified in subsection (b)(2) and any other agency which the Secretary believes should participate in the program.

"(2) The Board shall—

"(A) be responsible for coordinated planning and progress review for the program,

"(B) review all agency and department budget requests related to climate transmitted under subsection (g)(1) and submit a report to the Office of Management and Budget concerning such budget requests,

"(C) establish and maintain such interagency groups as the Board determines to be necessary to carry out its activities, and

"(D) consult with and seek the advice of users and producers of climate data, information, and services to guide the Board's efforts, keeping the Director and the Congress advised of such contacts.

"(3) The Board biennially shall select a Chair from among its members. A Board member who is a representative of an agency may not serve as Chair of the Board for a term if an individual who represented that same agency on the Board served as the Board's Chair for the previous term.".

(d) Subsection (f)(2) of such section is amended by inserting "with the Office" after "shall cooperate".

(e) The first sentence of subsection (g)(1) of such section is amended by inserting before the period at the end the following: "and shall transmit a copy of such request to the National Climate Program Office".

SEC. 404. Section 6 of the National Climate Program Act (15 U.S.C. 2905) is repealed.

SEC. 405. Section 7 of the National Climate Program Act (15 U.S.C. 2906) is amended by striking out "January 30" before paragraph (a) and inserting in lieu thereof "March 31".

SEC. 406. There are authorized to be appropriated for purposes of carrying out the provisions of the amendments made by this title $2,000,000 for fiscal year 1984, $2,100,000 for fiscal year 1985, and $2,200,000 for fiscal year 1986. Of these funds at least 25 per centum shall be made available during each fiscal year for intergovernmental climate-related activities (described in section 5(d)(7) of the National Climate Program Act) and at least 20 per centum shall be made available during each fiscal year for experimental climate forecast centers (described in section 5(d)(8) of the National Climate Program Act).

TITLE V—SELECTED OCEAN AND COASTAL AUTHORIZATIONS

SEC. 501. Section 201 of the Marine Protection, Research, and Sanctuaries Act of 1972

(33 U.S.C. 1441) is amended by striking out all that follows "connecting waters" and inserting in lieu thereof a period.

SEC. 502. Section 202 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1442) is amended—

(1) by inserting "(1)" before "The Secretary" in subsection (a);

(2) by striking out "in consultation" in the first sentence of subsection (a) and inserting in lieu thereof "in close consultation";

(3) by adding at the end of subsection (a) the following new paragraph:

"(2) The Secretary shall ensure that the program under this section complements, when appropriate, the activities undertaken by other Federal agencies pursuant to title I and section 203. Such program shall include but not be limited to—

"(A) the development and assessment of scientific techniques to define and quantify the degradation of the marine environment;

"(B) the assessment of the capacity of the marine environment to receive materials without degradation;

"(C) continuing monitoring programs to assess the health of the marine environment, including but not limited to the monitoring of bottom oxygen concentrations, contaminant levels in biota, sediments, and the water column, diseases in fish and shellfish, and changes in types of abundance of indicator species;

"(D) the development of methodologies, techniques, and equipment for disposal of waste materials to minimize degradation of the marine environment."; and

(4) by striking out subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 503. Section 203 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1443) is amended by adding at the end thereof the following new subsections:

"(c) The Administrator, in cooperation with the Secretary, the Secretary of Commerce, and other officials of appropriate Federal, State, and local agencies, shall assess the feasibility in coastal areas of regional management plans for the disposal of waste materials. Such plans should integrate where appropriate Federal, State, regional, and local waste disposal activities into a comprehensive regional disposal strategy. These plans should address, among other things—

"(1) the sources, quantities, and types of materials that require and will require disposal;

"(2) the environmental, economic, social, and human health factors (and the methods used to assess these factors) associated with disposal alternatives;

"(3) the improvements in production processes, methods of disposal, and recycling to reduce the adverse effects associated with such disposal alternatives;

"(4) the applicable laws and regulations governing waste disposal; and

"(5) improvements in permitting processes to reduce administrative burdens.

"(d) The Administrator, in cooperation with the Secretary of Commerce, shall submit to the Congress and the President, not later than one year after the date of enactment of this provision, a report on sewage sludge disposal in the New York region. The report shall consider the factors listed in subsection (c) as they relate to landfilling, incineration, ocean dumping, or any other feasible disposal or reuse/recycling option; shall include an assessment of the cost of these alternatives; and shall recommend such regulatory or legislative changes as may be necessary to reduce the adverse impacts associated with sewage sludge disposal.".

SEC. 504. Section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1444) is redesignated as section 205; and such section as so redesignated is amended by striking out "and" immediately following "fiscal year 1981" and by striking out "1982." and inserting in lieu thereof the following: "1982, not to exceed $12,000,000 for fiscal year 1984, not to exceed $12,600,000 for fiscal year 1985, and not to exceed $13,300,000 for fiscal year 1986. In addition, $1,000,000 is authorized to be appropriated for the Environmental Protection Agency in each of the fiscal years 1984, 1985, and 1986 to carry out the studies authorized by section 203 of this Act.".

SEC. 505. Section 205 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1445) is transferred to a point immediately following section 203 of such Act and redesignated as section 204; and such section as so transferred and redesignated is amended to read as follows:

"SEC. 204. (a) In March of each year, the Secretary of Commerce shall report to the Congress on his activities under this title during the previous fiscal year. The report shall include—

"(1) the Secretary's findings made under section 201, including an evaluation of the short-term ecological effects and the social and economic factors involved with the dumping;

"(2) the results of activities undertaken pursuant to section 202;

"(3) with the concurrence of the Administrator and after consulting with officials of other appropriate Federal agencies, an identification of the short- and long-term research requirements associated with activities under title I, and a description of how Federal research under titles I and II will meet those requirements; and

"(4) activities of the Department of Commerce under section 5 of the Act of March 10, 1934 (48 Stat. 401; 16 U.S.C. 665).

"(b) In March of each year, the Administrator shall report to the Congress on his activities during the previous fiscal year under section 203 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1443).".

SEC. 506. (a) Section 2(a) of the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701) is amended by adding at the end thereof the following new paragraphs:

"(6) Numerous Federal agencies have initiated and supported research projects to study, enhance, manage, preserve, protect, or restore the resources of the Great Lakes.

"(7) Various research projects relating to the Great Lakes, including those conducted at the college and university level and those conducted at the State and local governmental level, can be more effectively coordinated in order to obtain maximum benefits.".

(b) Section 2(b) of the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701) is amended by striking out "and" at the end of paragraph (2), by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

"(3) to provide for the effective coordination of research conducted to support the preservation and protection of the environmental quality of the Great Lakes, and to encourage the use of such research in determinations that affect the environmental quality of the Great Lakes; and".

SEC. 507. Section 4(b)(2)(A) of the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1703) is amended by inserting after "general research on marine ecosystems" the following: ", including the Great Lakes".

SEC. 508. Section 8 of the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1707) is amended by adding "(a)" after "SEC. 8." and by adding at the end thereof the following new subsection:

"(b) The Administrator shall insure that the findings and information regarding ocean pollution research activities associated with the Great Lakes identified pursuant to section 4(b) be disseminated in a timely manner and in useful forms to relevant departments of the Federal Government, State governments, and other persons with an interest in such information.".

SEC. 509. Section 10 of the National Ocean Pollution Planning Act of 1978, as amended (33 U.S.C. 1709), is amended by striking out "and" after "1981," and by striking out "1982." and inserting in lieu thereof "1982, not to exceed $3,000,000 for fiscal year 1984, not to exceed $3,200,000 for fiscal year 1985, and not to exceed $3,400,000 for fiscal year 1986.".

TITLE VI—MISCELLANEOUS

SEC. 601. Section 6 of the Act of December 18, 1971, entitled "An Act to provide for the reporting of weather modification activities to the Federal Government" (15 U.S.C. 330e) is amended—

(1) by striking out "and"; and

(2) by inserting immediately after "1981," the following: "$100,000 for the fiscal year ending September 30, 1984, $100,000 for the fiscal year ending September 30, 1985, and $100,000 for the fiscal year ending September 30, 1986.".

SEC. 602. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its duties indicated under this Act, such additional sums as may be necessary for increases in salary, pay, and other employee benefits authorized by law.

SEC. 603. (a) The Secretary of Commerce, at least sixty days before making a determination as to the necessity for the closing or consolidation of any Weather Service Office or Weather Service Forecast Office, shall provide adequate public notice of his intention to make such a determination in order to ensure that all persons served by such Offices will have an adequate opportunity to present their views.

(b)(1) The Secretary, in deciding whether or not to carry out such a closing or consolidation, shall take fully into account any views expressed by persons served by the affected Office or Offices during the sixty-day period described in subsection (a), and shall specifically consider—

(A) the effect of such closing or consolidation on the community served by such Office or Offices;

(B) the effect of such closing or consolidation on employees of the National Weather Service employed at such Office or Offices;

(C) the economic savings to the Federal Government resulting from such closing or consolidation; and

(D) such other factors as the National Weather Service determines are necessary.

(2) In making a decision under paragraph (1) the Secretary may hold such hearings as he deems necessary.

(3) The Secretary shall compile a written record including or reflecting all views presented and information received or devel-

oped in the course of his consideration of the matters involved in making such a decision, whether or not hearings are held with respect thereto as authorized by paragraph (2). The Secretary shall retain all written materials received or developed in the course of such consideration, for possible use in any review under subsection (e).

(c) Any decision of the Secretary to carry out such a closing or consolidation shall be in writing and shall set forth the findings of the Secretary with respect to the matters set forth in subparagraphs (A) through (D) of subsection (b)(1) along with a statement of the reasons for such findings and of the basis on which the decision was made. The Secretary's decision shall be made available to persons served by the affected Office or Offices.

(d) The Secretary shall take no action to carry out such a closing or consolidation until sixty days after his written decision is made available to persons served by the affected Office or Offices as required by the last sentence of subsection (c).

(e) In addition to any other review which may be available by law, a decision of the Secretary to carry out such a closing or consolidation may be reviewed in accordance with chapter 7 of title 5, United States Code, in an action brought by any State served by the affected Office or Offices. For purposes of this subsection, the term "State" includes the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(f) For purposes of this section, any action taken by the Secretary resulting in the reduction of the staffing of a Weather Service Office or Weather Service Forecast Office of fifty per centum or more, or consolidating a Weather Service Office or a Weather Service Forecast Office with one or more other such Office or Offices, shall be held and considered to be a closing or consolidation within the meaning of such terms as used in this section.

SEC. 604. After fiscal year 1984, no funds shall be appropriated for any function, duty or responsibility provided for by this Act except pursuant to the authorization contained in this Act.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

DON FUQUA,
JAMES H. SCHEUER,
TIM VALENTINE,
TOM HARKIN,
MICHAEL A. ANDREWS,
WALTER B. JONES,
LARRY WINN, JR,
RAY MCGRATH,
CLAUDINE SCHNEIDER,
WILLIAM CARNEY,
Managers on the Part of the House.

BOB PACKWOOD,
SLADE GORTON,
BOB KASTEN,
FRITZ HOLLINGS,
WENDELL FORD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE ON CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House to the bill (S. 1097) to consolidate and authorize certain atmospheric and satellite programs and functions of the National Oceanic and Atmospheric Administration under the Department of Commerce submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text. The Senate amendment to the House amendment struck out all of the House amendment and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the Senate amendment to the House amendment to the text of the bill. The differences between the House amendment, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SUMMARY OF S. 1097—NOAA FISCAL YEAR 1985 AUTHORIZATION [1]

[In thousands of dollars]

Budget activity (section of the conference substitute)	Fiscal year 1984 appropriation	Fiscal year 1985— Budget request	House action [2]	Senate action [3]	Committee of conference
Ocean & coastal programs (sec. 203, 504, 509) [4]	103,603	99,238	[5] 37,673	[6] 124,800	112,309
Atmospheric programs (sec. 201, 406, 601) [7]	365,872	358,214	381,104	385,200	385,200
Satellite and EDIS programs (sec. 202)	249,340	271,669	264,624	326,000	314,056
Program support (sec. 204)	112,101	92,804		121,400	117,458
Grand total	830,916	821,925	683,401	957,400	929,023

[1] Table does not include Marine Fisheries Programs.
[2] S. 1097 as amended January 26, 1984.
[3] S. 1097 as amended April 12, 1984.
[4] Includes only ocean research, ocean services, and mapping, charting, and geodesy. Does not include non-living marine resources, Sea Grant, or Coastal Zone Management.
[5] Includes only ocean research exclusive of underseas research program.
[6] Senate level for Ocean and Coastal Programs authorized by House is $39.9 million.
[7] Includes funding for the National Climate Program Act and the Weather Modification Reporting Act.

AUTHORIZATION OF APPROPRIATIONS

House amendment.—The House amendment authorized to be appropriated $650,858,000 in fiscal year 1984 and $683,401,000 in fiscal year 1985, as follows: $35,879,000 in FY 1984 and $37,673,000 in FY 1985 for Ocean Research; $360,956,000 in FY 1984 and $379,004,000 in FY 1985 for Atmospheric Programs; $252,023,000 in FY 1984 and $264,624,000 in FY 1985 for Satellite and Environmental Data and Information Services; and $2,000,000 in FY 1984 and $2,100,000 in FY 1985 for the National Climate Program Office. Included in the funding for Ocean Research, for each of the fiscal years 1984 and 1985, is $12,000,000 to reauthorize Title II of the Marine Protection, Research, and Sanctuaries Act and $3,000,000 to reauthorize the National Ocean Pollution Planning Act. Included in the funding for Atmospheric Programs is $100,000 in each of the fiscal years 1984 and 1985 to reauthorize the Weather Modification Reporting Act.

The House amendment authorized appropriations for the following NOAA activities and subactivities: all Ocean Research Programs except the Undersea Research Program; all Atmospheric Programs; and all satellite and Environmental Data and Information Services. The House amendment did not address the following activities: all other Ocean and Coastal Programs; Marine Fishery Resource Programs; and Program Support.

Senate amendment.—The Senate amendment authorized to be appropriated $852,100,000 in fiscal year 1984, $957,400,000 in fiscal year 1985, and $258,000,000 in fiscal year 1986, as follows: $366,000,000 in FY 1984 and $383,000,000 in FY 1985 for atmospheric and hydrological research and services; $252,000,000 in FY 1984 and $326,000,000 in FY 1985 for satellite and environmental data and information services; $104,000,000 in FY 1984, $109,000,000 in FY 1985, and $115,000,000 in FY 1986 for oceanic research and services and mapping, charting, and geodesy; $113,000,000 in FY 1984, $121,400,000 in FY 1985, and $124,000,000 in FY 1986 for executive direction and administration, marine services, and aircraft services; $2,000,000 in FY 1984, $2,100,000 in FY 1985, and $2,200,000 in FY 1986 for the National Climate Program Act; $12,000,000 in FY 1984, $12,600,000 in FY 1985, and $13,300,000 in FY 1986 for Title II of the Marine Protection, Research, and Sanctuaries Act; $3,000,000 in FY 1984, $3,200,000 in FY 1985, and $3,400,000 in FY 1986 for the National Ocean Pollution Planning Act; and $100,000 in FY 1984, $100,000 in FY 1985, and $100,000 in FY 1986 for the Weather Modification Reporting Act. In addition, section 504 of the Senate amendment authorizes to be appropriated $1,000,000 in each of the fiscal years 1984, 1985, and 1986 for the Environmental Protection Agency to carry out the studies mandated by section 203 of the Marine Protection, Research, and Sanctuaries Act.

The Senate amendment authorized appropriations for the following NOAA activities and subactivities: Ocean Research, Ocean Services, and Mapping, Charting, and Geodesy; all Atmospheric Programs; all Satellite and Environmental Data and Information Services; and all Program Support. The Senate amendment did not address the following activities: Non-living Marine Resources, Sea Grant, and Coastal Zone Management; and Marine Fishery Resource Programs.

Conference Substitute.—For fiscal year 1984 and fiscal year 1986, the substitute maintains the authorization levels for NOAA contained in the Senate amendment.

For fiscal year 1985, the substitute authorizes $929,023,000 for NOAA as follows: $383,000,000 for atmospheric and hydrological research and services; $314,056,000 for satellite and environmental data and information services; $96,509,000 for oceanic research and services and mapping, charting, and geodesy; $117,458,000 for executive direction and administration, marine services, and aircraft services; $2,100,000 for the National Climate Program Act; $12,600,000 for Title II of the Marine Protection, Research, and Sanctuaries Act; $3,200,000 for the National Ocean Pollution Planning Act; and $100,000 for the Weather Modification Reporting Act.

NAVY REMOTE OCEAN SENSING SYSTEM (NROSS)

House amendment.—The House amendment contained no provision relating to the Navy Remote Ocean Sensing System (NROSS).

Senate amendment.—The Senate amendment provided that the Administrator of NOAA make available for NROSS the

NOAA-D "satellite launch vehicle" and directed NOAA to assure that data from NROSS be made available to the civilian maritime community.

Conference substitute.—Subsection 202(b) is intended to supersede in its entirety that provision in P.L. 98-411 dealing with availability of the NOAA-D spacecraft for NROSS. The conferees intend that the prerequisite of a successful launch of the NOAA-F spacecraft be in lieu of the proviso in P.L. 98-411 relating to a determination by the Secretary of Commerce.

Both the Congress and the Administration are in agreement that all polar-orbiting weather satellites currently on order should carry the SARSAT search-and-rescue package. NOAA-D will not accommodate the SARSAT package and therefore should be transferred to the NROSS program as soon as possible. In light of the current precarious state of NOAA's weather satellite fleet, however, the conferees believe that NOAA should retain NOAA-D until it is clear that the launch of NOAA-F has been successful.

CONTRACTING OF NOAA'S FUNCTIONS OR ACTIVITIES

House amendment.—Section 201(c) of the House amendment provided that none of the funds authorized under S. 1097 or under the Coast and Geodetic Survey Act could be used to develop or issue a request for proposals (RFP) to contract out functions or activities performed by Federal employees unless forty-five days in which either the House of Representatives or the Senate is in session has passed after the Administrator has submitted to Congress a report concerning the proposed contract.

Senate amendment.—Section 205(b) of the Senate amendment modified the House requirement in several respects. The Senate amendment requires the reporting to occur prior to issuance of a contract, rather than prior to the issuance of an RFP. In addition, the Senate amendment applies to functions performed by NOAA employees, rather than the "Federal employees" specified by the House amendment, and mandates a 30-day, rather than a 45-day, waiting period.

Conference substitute.—The substitute provides that none of the funds authorized under the Act may be used either to issue an RFP, or in those instances in which an RFP has been issued as of the date of enactment, to award any contract for the performance of any function that was on January 26, 1984, performed by NOAA employees unless the Administrator submits to the appropriate Congressional Committees a full and complete statement on the proposed issuance or award and waits 30 days. The conferees believe that Congressional review of NOAA's A-76 activities should commence at the RFP stage because certain findings relative to the inherently governmental nature of the functions or activities need to be reviewed at that stage. The conferees also feel that the reporting requirement should apply to those A-76 reviews for which RFPs have been issued prior to enactment of the Act but for which contracts have not yet been awarded. Applying reporting requirements to these reviews ensures that Congress will have a full and complete opportunity to consider A-76 actions in NOAA.

The 30-day stay of the A-76 process mandated by the substitute constitutes an appropriate balance between providing an adequate opportunity for Congress to consider and act upon A-76 proposals and ensuring that desirable management efficiencies are achieved without undue delay.

DON FUQUA,
JAMES H. SCHEUER,
TIM VALENTINE,
TOM HARKIN,
MICHAEL A. ANDREWS,
WALTER B. JONES,
LARRY WINN, Jr,
RAY MCGRATH,
CLAUDINE SCHNEIDER,
WILLIAM CARNEY,
Managers on the Part of the House.

BOB PACKWOOD,
SLADE GORTON,
BOB KASTEN,
FRITZ HOLLINGS,
WENDELL FORD,
Managers on the Part of the Senate.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON ENERGY AND COMMERCE

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Energy and Commerce:

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS OF THE COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, September 21, 1984.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House, House of Representatives, H-204, The Capitol, Washington, DC.

DEAR MR. SPEAKER: This is to notify you pursuant to Rule L (50) of the Rules of the House that Peter D.H. Stockton, a member of the staff of the Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce, has received a deposition subpoena issued by the United States District Court for the Middle District of Alabama.

In consultation with the General Counsel to the Clerk of the House, I will make the determinations required by the Rule and will promptly notify you of those findings.

JOHN D. DINGELL,
Chairman.

WHERE'S THE CHIEF?

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, to Vince Lombardi's "The best defense is a good offense," we can now add Ronald Reagan's "The best defense is a convenient scapegoat."

Indeed, I would not be surprised to learn that the White House announced a new security plan for our Embassy in Beruit: it will be guarded by a platoon of scapegoats, armed to the teeth with lame excuses.

There is a new sign on Mr. Reagan's desk: "The buck-passing starts here." And a billboard out on the front lawn: "Where's the Chief?" Well, I know. He's out on the campaign trail, herding his scapegoats.

TRIBUTE TO THE LATE JOHN FACENDA

(Mr. COUGHLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COUGHLIN. Mr. Speaker, I pay tribute to the late John Facenda, a pioneering force in Philadelphia television, a newscaster who was authorative but never overbearing, and a gentleman of probity and compassion.

Mr. Facenda died Wednesday at the age of 71 and his death brings a special sort of sadness to those of us from the Philadelphia area. For some two decades, he was the epitome of an anchorman—a term not yet invented when he made Philadelphia's first TV newscast on Channel 10, September 13, 1948.

A man of genuine dignity, Mr. Facenda was the steadying presence on Philadelphia TV that assured us the situation was under control. His mellow-toned voice, his paced delivery and his calm demeanor were reassuring to millions who viewed his evening newscasts. To many the day ended when Mr. Facenda concluded his broadcast with the words, "Have a nice night tonight and a good day tomorrow. Goodnight, all."

An engineering student at Villanova University during the depression, Mr. Facenda left school to go to work for the old Philadelphia Public Ledger. A chance shot on a local radio station when the regular announcer became sick was the start of his career in the broadcast field. Except for a few years in New York, Mr. Facenda stayed in Philadelphia and his career soon skyrocketed with the advent of television newscasts.

Off-camera, Mr. Facenda earned a reputation as a courteous and patient man, a willing helper in time of emergency. His generosity was legendary; his concern for friends and fellow workers was evident.

In the 1970's, as the style and complexion of TV newscasts began to change, Mr. Facenda's employer, WCAU-TV, had slipped in the ratings face. In 1972, a coanchor was hired for the newscasts. Mr. Facenda always had been the lone anchorman.

Known seldom to speak ill of anyone, Mr. Facenda, nonetheless, could not restrain himself. He reportedly said of the young coanchor, "I tried to get along with him, but he spent more time fixing his hair than in learning how to pronounce Bala Cynwyd."

Mr. Facenda's last night as a news anchor was March 23, 1973. He stepped down as the era of blow-dried hair, fresh-cheeked young men, superficial camera presence with minimal knowledge and perception, and on-air chit-chat dawned on the commercial television scene.

Whether the quintessential anchorman or the original voice of National Football League films, John Facenda will be remembered by millions—re-

membered, I trust, as much for his off-camera reputation as a decent and honorable human being as for his on-camera role as the ultimate professional.

I offer my sympathy to his widow and son with the condolence that John Facenda's gentle and caring nature will not be soon forgotten.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have taken this time for the purpose of inquiring of the majority leader as to the program for the balance of the day and the program for next week.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield to me?

Mr. MICHEL. I am happy to yield to the gentleman from Texas, the majority leader.

Mr. WRIGHT. I thank my distinguished colleague, the minority leader, for yielding to me.

Mr. Speaker, the program for this week is just about completed as far as the House is concerned. This is only a pro forma session today, so that the Senate may continue its efforts to finish its work on the continuing resolution.

We would hope they do that tonight because we have already appointed conferees, as the distinguished gentleman from Illinois knows.

If the other body finishes work on the continuing resolution today, the conferees may begin this evening, tonight, tomorrow, and work through the weekend in an effort to harmonize a conference committee report. We would hope to have that report available Monday.

There are of course other things which we have scheduled for Monday and Tuesday in the way of suspensions. The gentleman from Illinois has a copy of the suspensions that we plan, and I shall list them.

On Monday, October 1, the House will meet at noon. Following the call of the Consent Calendar, the House will consider the following bills on the Suspension Calendar:

H.R. 4103, Cable Franchise Policy and Communications Act of 1984;

H.R. 6311, combat international terrorism;

H.R. 6257, Motor Vehicle Theft Law Enforcement Act of 1984;

H.R. 2568, extension of Educational Assistance Program;

H.R. 5361, extension of Prepaid Group Legal Program;

H.R. 6266, Foster Care and SSI Amendments of 1984;

H.R. 6112, unemployment compensation technical amendment;

H.R. 5386, medicare hospice amendments;

H.R. 5538, Preventive Health Amendments of 1984;

H.R. 6101, DOD quarters allowance in Panama Canal Zone;

H.R. 4829, ocean dumping;

S. 1132, Federal Power Act Amendments re FERC;

H.J. Res. 482, National Law Enforcement Heroes Memorial;

H.R. 6216, technical corrections to the Bankruptcy Act;

H.R. 6286, Patent Law Amendments of 1984;

H.R. 6285, Trademark Amendments of 1984;

H.R. 4144, Federal Rules Enabling Act of 1983;

H. Con. Res. 337, Bulgarian resolution;

H.R. 6304, releasing certain films to the Boston educational station; and

H.R. 6225, ratify prior reorganization plans.

Recorded votes on suspensions will be clustered after debates on all suspensions on Monday.

On Tuesday, October 2, the House will meet at noon. Following consideration of bills on the Private Calendar, the House will consider the following bills on the Suspension Calendar:

H.R. 6299, Social Security COLA's;

H.R. 6259, change membership of Advisory Commission on Intergovernmental Relations;

H.R. 5790, Amusement Park Safety Act;

H.R. 2790, Colorado River salinity;

S. 1967, irrigation for Fort Belknap Indian community;

H.R. 5760, land in trust for Cocopah Indians, Arizona;

H.R. 4712, Federal water resource projects cooperative agreements;

H.R. 6234, Lake Sumner State Park, New Mexico;

S. 2125, Arkansas Wilderness Act of 1984;

H.R. 3971, State inheritance taxes on Osage Indians, Oklahoma;

H.R. 6303, technical corrections on Osage Indians legislation;

S. 1790, Art Barn Association and Pierce Mill, Washington, DC. and

S. 1868, Sleeping Bear Dunes National Lakeshore, Michigan.

Recorded votes on suspensions will be clustered after debates on all suspensions on Tuesday.

Mr. Speaker, I would call the attention of the gentleman to the second suspension listed for Monday, a bill to combat international terrorism, reported unanimously I think by a bipartisan majority in the Committee on Foreign Affairs.

□ 1010

In addition to the continuing appropriations, we feel it will be necessary at some time during the week to take action on the question of the budget resolution. The conference report on the budget resolution should be available Monday. If that is done, it, of course, will attend internally to the debt extension.

In addition to that, we expect to have action on a bill to require a balanced budget for each fiscal year; four bills regarding trade, subject to the granting of a rule; a steel import bill; a wine equity bill; and the Israel Free Trade Zone Act; and extension of generalized system of preferences.

On Wednesday and Thursday, we will meet at 10 o'clock. There are three bills that we have scheduled.

Conservation and management of Atlantic stripped bass; public broadcasting amendments; both open rules with 1 hour of general debate. And a bill, H.R. 5693, entitled Equity in Foreign and Domestic Credit and Tender Offer Reform Act, subject to the granting of a rule.

Of course, conference reports may be brought up at any time.

Mr. MICHEL. If I might inquire of the distinguished majority leader, would the votes on the suspensions on Monday come before or after the consideration of the continuing resolution?

Mr. WRIGHT. Well, we just had not really decided that. We would like to get the continuing resolution behind us whenever we can.

Mr. MICHEL. Could we assume that if the conferees agreed over the weekend or came to an agreement and it was ready for consideration immediately Monday that that would be the first order of the day?

Mr. WRIGHT. Well, the gentleman is aware, I suppose, there was a colloquy on the day before yesterday in which some Members sought some assurance that we would not be voting on that just immediately, that it would not be a situation in which we came in here at 12 o'clock noon and had an immediate vote. It may be that some Members may have difficulty returning from engagements to which they have committed themselves.

It would be my expectation, in any event, that we would not get to that vote at least for an hour or more in order that Members arriving tardily——

Mr. MICHEL. I gather from what the gentleman says that we might very well proceed with the suspensions and then recognizing that planes are in and weather is right and all the Members who wanted to come back would be here that we could proceed then with the continuing resolution so we could get an agreement signal to the other body as soon as possible, correct?

Mr. WRIGHT. The gentleman is reading my mind.

Mr. MICHEL. Well, it is like an open book out there.

Mr. WRIGHT. Well I hope that it will work out that way.

Mr. MICHEL. Then, too, I think Members ought to be apprised because earlier, before so many Members had already left for their districts, there was not the notice of 13 suspensions being scheduled for Tuesday. So that will be a very, very busy day, together with those other items that the gentleman referred to.

One item that I do not see listed here is the timber bill, a timber bailout bill, I am advised by the gentleman from Massachusetts. Is that scheduled for consideration here in the House? I see the gentleman from Oregon [Mr. WEAVER] is here.

Mr. WRIGHT. Perhaps the gentleman from Oregon could respond. I do not have the answer to the question.

Mr. MICHEL. I had inquired of the distinguished majority leader whether or not the timber bailout bill would be up for consideration sometime next week. I did not see it listed among the bills scheduled.

Mr. WEAVER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Oregon.

Mr. WEAVER. I thank the distinguished minority leader for yielding.

We hope after a thorough explanation to the Members what is the background of the bill and what is in the bill and after the Members have a thorough understanding of the bill, which I intend to begin this morning an explanation of it, to bring the bill to the floor early next week.

Mr. MICHEL. It would take unanimous consent, would it not, for that measure to come before the floor. If there is an objection to that, is there consideration for being given the granting of a rule?

Mr. WEAVER. We had considered all these options and believe, hoping that we would be able to get our message to the membership, we would bring it up under suspension, because we believe that almost all Members will vote for it once they know what is in the bill.

Mr. MICHEL. I thank the gentleman.

Mr. Speaker, I have no further questions.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
September 28, 1984.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5, Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit sealed envelopes received from the White House as follows:

(1) At 12:25 p.m. on Thursday, September 27, 1984 and said to contain a message from the President whereby he transmits the 1984 National Strategy for the Prevention of Drug Abuse and Drug Trafficking;

(2) At 12:25 p.m. on Thursday, September 27, 1984 and said to contain a message from the President whereby he transmits the 1983 annual report on activities of the United States in the United Nations; and

(3) At 12:25 p.m. on Thursday, September 27, 1984 and said to contain a message from the President regarding a request for supplemental appropriations to increase the security of United States Diplomatic Missions overseas.

With kind regards, I am

Sincerely,

BENJAMIN J. GUTHRIE,
Clerk, House of Representatives.

REQUEST FOR SUPPLEMENTAL APPROPRIATIONS TO INCREASE SECURITY OF U.S. DIPLOMATIC MISSIONS OVERSEAS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 98-268)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read, and together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

(For message, see proceedings of the Senate of yesterday, Thursday, September 27, 1984, at page 27497.

1984 NATIONAL STRATEGY FOR THE PREVENTION OF DRUG ABUSE AND DRUG TRAFFICKING—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce and the Committee on the Judiciary:

(For message, see proceedings of the Senate of today, Friday, September 28, 1984.)

ANNUAL REPORT OF ACTIVITIES OF THE UNITED STATES IN THE UNITED NATIONS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs:

(For message, see proceedings of the Senate of yesterday, Thursday, September 27, 1984, at page 27497.

□ 1020

CONTINUING RESOLUTION VOTES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. CORCORAN] is recognized for 5 minutes.

● Mr. CORCORAN. Mr. Speaker, had I been present on Tuesday, September 25, during consideration of House Joint Resolution 648, making continuing appropriations for fiscal year 1985, I would have cast my votes as follows:

On ordering the previous question in conjunction with the rule (roll No. 411), I would have voted "nay," as indicated by my pair on that vote, in an effort to amend the rule to make in order the consideration of the Senate-passed Comprehensive Crime Control Act of 1984. Inasmuch as substantive amendments to the continuing resolution were permitted under the rule, and with Congress scheduled to adjourn sine die very shortly, I believe it is important that final action be taken on this anticrime bill, yet there was little prospect of that without forcing its consideration by the House. Provisions of the bill relating to robbery of pharmacies, pretrial detention of dangerous persons, minimum sentences for the use of firearms, and laws on child pornography are similar to measures I am cosponsoring, and the bill is consistent with my views on crime and criminal justice.

On adopting the rule (roll No. 412), for the same reason I would have voted "no."

On adding the House-passed water resources development bill to the continuing resolution (roll No. 413), I would have voted "no." While I voted for passage of that bill on June 29 and trust that the Senate will act on it before adjournment, I do not believe an $18 billion water projects bill about which the administration has serious concerns should be included as part of the continuing resolution.

On imposing a prohibition on the contracting out of Job Corps centers (roll No. 415), I would have voted "no."

On reducing appropriations for foreign assistance programs (roll No. 417), I am concerned that such a reduction would have adversely affected the security interests of the United States and would have voted "no." This Member is not a fervent supporter of foreign assistance, but the programs which would be funded under the bill emphasize advancing our country's interests in the world while providing as well needed humanitarian aid.

On reducing all discretionary (nonentitlement) spending levels by 2 percent for programs in the Departments of Labor, Education, and Health and Human Services (roll No. 418), I would

have voted "aye," on the same basis as I voted against passage of the Labor-HHS appropriations bill on August 1: That the spending total was unwarrantedly excessive.

On the separate vote taken on providing funds for child care and prevention of child abuse program (roll No. 419), I would have voted "aye."

On the successful motion to recommit the resolution with instructions that it be reported back with the Comprehensive Crime Control Act as an amendment (roll No. 420), I would have voted "aye" and am most pleased that the motion was passed.

On passage of the continuing resolution, as amended (roll No. 421), I would have voted "no" due to the excessive funding allowed under it.●

THE 98TH CONGRESS: A SUMMATION OF SPECIAL ORDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, the 2d session of the 98th Congress is in its waning hours, and I take this opportunity to utilize a great privilege of what we call here special orders. A privilege that, as my respect for the House, I hold in very high esteem and try always to maintain the integrity and the purpose for which special orders were devised early in the organizational stages of the first Congresses, and then subsequently refined to the point that we take for granted today.

As a result, I think that as many times as I have risen to the occasion, and those have begun the very first month that I was sworn into the House of Representatives 22 years and 9 months ago. So that I have not at any time attempted to use this as a political stump or made any established rule violations that have been brought to my attention or knowledge, and rise on this occasion, as I have on prior occasions, at the inception of a session as well as at the termination point of a session.

In this case, to give an accountability and sum up the issues that have been developed during the course of the special orders during this Congress. Last year, in the first session and this year in the second session.

First and foremost, the terrible crime which I label the crime of the century, because it was the first, established case of an assassination of a member of the Federal judiciary; District Judge John W. Wood. After over 55 or more addresses, I had the great satisfaction, even though I was ridiculed, I was criticized, I was laughed at, and many people, and this was before we had televised coverage of the proceedings, I have always considered that the purpose of a special order was to further enlarge the opportunity of a Member as 1 of 435 Members, to extend and enlarge upon his participation in given issues which, because of the limitations of time during debate, he is prevented from.

So that the assassination of Judge Wood was such a horrendous crime followed by the attempted murder of one of the assistant district attorneys for the western district of the judiciary in Texas, and on which I had promptly risen and addressed the House and raised the question of the imminent specter of criminals so audacious, so contemptuous of our institutions that they would reach the point of attempting to intimidate the third branch of our Government: The judiciary.

It started out with the attempt to kill James Kerr, who was one of several assistant district attorneys for the western district, whose job made it necessary to prosecute cases within the jurisdiction and the courtroom of Judge John W. Wood. It looked to me very much that the same thing was going to happen, and still the truth has not been fully brought out, as had happened in the case of the still-unresolved murder of Jimmy Hoffa.

I addressed on several occasions, even before these incidents, the House and my colleagues, over the course of various Congresses about the fact that no nation is safe in its liberties that permits the extent of the criminal influence and depredations that pervade every single level of our society, from the highest levels of our Government to the lowest, and still maintain those freedoms. It is just impossible. No nation in history records that.

Our country has been and continues to be absolutely hag-ridden and victimized with the most sophisticated of organized crime that has penetrated even the highest levels of our governmental activities. When a society permits this close liaison between the criminals and the agents of government, and we have so degenerated in our processes of enforcing the law, that our law enforcement agents have to be cheek by jowl in active partnership and companionship with the most sophisticated criminals in order to attempt to resolve crimes. This, on the very face of it, is absurd. Yet, this is what is happening.

I saw that more would follow after the attempted assassination of James Kerr. Unfortunately, I was not heeded, and until I intervened with the White House and obtained an audience with the President's representative, a special assistant assigned to the Drug Enforcement Agency and to the Justice Department, and finally got one of his more prominent and intimate personal assistants to discuss the matter and finally got some recognition from the executive branch.

□ 1030

Then the marshals, the U.S. marshals were called upon to give protective custody to some of the judiciary's officials including the district judges.

About the second week in May 1979, I had a visit from James Kirk. I had never met him to thank me for having spoken out and having kept interest in attempting to resolve his case which, by the way, really has not been definitively solved, but at least some action has taken place just within the last 6 months as well as last year; the final bringing about of indictments in the case of the murder of Judge Wood.

I have the honor of having had the Director of the FBI, Judge Webster, call me 5 hours before the announcement of the indictments all the way to Texas to give me credit for the little I had done here.

Though, as I say, I had been ridiculed. In fact, even had active opposition from some colleagues.

So that at this point I will not go further because the processes are still in appeal and there have been some settlements because some witnesses have turned up that have turned State's evidence and since the processes are under appeal I think it wiser to refrain.

However, I will pick up, hopefully and God willing, in the beginning of the next Congress, the general idea of pursuing further the final resolution, the real, real culprits behind the murder of Judge Wood. It is very intricate but very disturbing and no man charged with any knowledge such as I feel I have, and a Member of the Congress I think has the luxury of remaining silent.

I think that we have had too much acquiescence through silence too long.

So I intend to do that and say happily for the record that at least the special orders as a means of a forum to address and transcend a sector beyond our own limited constitutional powers to the executive branch did succeed and I am proud of that because it justifies the time that I have been privileged to take from the deliberations of the House to address especially my colleagues in the House.

Second, the question of the Federal Reserve Board. When I first came to the Congress, I was assigned to the standing committee then known as the Banking and Currency Committee. I was also assigned to the same subcommittees that I now belong to and chair one of them; the largest subcommittee in the entire Congress, the Subcommittee on Housing and Urban Development.

There are only 10 members of the full committee that do not belong to this committee, so I think the importance and the popularity of this committee and the demand for membership on it is quite obvious from the

standpoint of the numerous memberships.

I found that in the very inception there was an unawareness of what now we, of course, take for granted and that is the insidious, extortionate, cruel, really literally criminal, usurious high rates of interest.

We take them for granted now and yet they, as the insidious penetrations of organized crime are just as destructive if not more so of the institutional vigor of our framework of government and society itself.

No country such as ours predicated upon this tremendous economy, unique in the world's history were premised first until World War II on mass production and mass consumption and then later after World War II particularly mass production based upon and considered with mass consumption and mass credit.

We Americans take for granted, for instance, the installment system of purchases. I can remember. I am old enough to remember when that was not a common practice. As a matter of fact, I have good memory, almost total recall, and I can remember the difference between the periods prior to what we call World War II and subsequent to, say, the period of 1945.

The abundance, the diversity, the array of goods available to us was simply never dreamed of before 1945.

I can remember where such things as the easy accessibility to a good suit of clothes cheaply with our manmade materials, that were wholly unknown before World War II or before 1945, means of communication, some methods that I first saw when I worked for naval and military intelligence during the war and was instrumental in forming what turned out to be the cable and radio censorship of our country.

I did not see the commercial applicability of some of the instruments and means we used until several years after 1945. So that when I say that the Federal Reserve Board early in the beginning of my career here in the Congress loomed large as an element that was beginning to usurp the authority and the powers intended by the Congress when it created it in 1913 by virtue of the adoption of the Federal Reserve Board Act of 1913, it is incredible just as it is in the case of our creation of the so-called intelligence agencies, and if we want to know how much feared these developments were and anticipated, we ought to study some of the utterances of some of our former colleagues at the turn of the century when the first so-called detective agencies were attempted to be funded, first by President Roosevelt and then by some of his successors.

And some men like a Representative from Kentucky got up and said, no, we are not because unless the Congress can supervise and hold accountable these men that will be exercising this tremendous grant of authority that is being asked, constitutional authority that is being asked of the Congress, this will be the gravest threat to our liberties ever.

How prophetic, yet we ignore his story and today we take it for granted that the Federal Reserve Board is freewheeling, independent to the point where it is unaccountable, that it does not have to account to the President or the Congress and if anybody dares say it should then it is a horrible attempt to try to bring the Federal Reserve Board into politics.

My goodness, it was through politics that we won our independence. It was through politics that we freed the slaves. It was through politics that we reached the point of development in our institutional lives that we have and when we created and let such a runaway powerful agency such as the Federal Reserve Board, and I say agency, not Federal agency because it is not a Federal Government institution.

It is now a private, controlled by six or seven of the principal banking firms and commercial corporate firms in this Nation. Now half of them are more committed to offshore international mega-operations than they are to domestic American responsibilities. They are calling the shots and they are the ones who determine what the interest rates should be. But the notion is current, and I noticed that as far back as 1962 here in the Congress with my colleagues that interest rates are an act of God. Nobody can do anything about them.

Well, of course, that is ridiculous. Governments have always intervened at one time or another. The question is not whether or not a government should intervene. The question is for whom and in whose behalf. And if you have people who are not committed and accountable to the people as the Congress should be, as the President elected by the people should be, then what can we expect?

Should we expect anything less than extortionate, usurious, what used to be criminal today is legal.

□ 1040

You pay over 18 percent if you are a little businessman for just a little inventory loan of $2,000 or $3,000. Men such as Thomas Jefferson, and even Hamilton, who was considered, I guess if we use the terminology and jargon of today, the conservative of that time, would have revolted. They would have taken arms, as they did for independence. But not us. We say, "Oh, well, what can you do about it?"

Balance the budget, and then make the victim the culprit. "It is these food stamp recipients. They are the ones causing it. If we did not have that, we could balance the budget and then we would not have these high interest rates."

But the truth of the matter is that there is no more connection between that than there is between democracy and an authoritarian government. It is just impossible to reconcile the power that resides just in the Open Market Committee, so-called Open Market Committee. Compare that power with any ever granted the most powerful potentate, Hitler, Mussolini, even the Russian leaders today.

Our President has more authoritarian power when he sits down with his counterpart Russian leader than the Russian leader talking to him. There is not a Russian leader who can make a deal with the President unless he communicates back with the Politburo and gets explicit instructions from them that it is all right to proceed along this way, that way, or the other way.

Not so our Presidents. We even had Presidents go overseas and tell a foreign potentate, "Hey, look, you know we like you so much we are going to let you have these 3 helicopters right here, right now. Here is a little gift. We are going to send over, like President Nixon did, to the Russian leaders a beautiful limousine for your use and comfort." I guess it was bullet-proof, too.

The Congress did not authorize that at any time. Nobody ever questioned it. There is no Russian leader, there was no Hitler, there was no Mussolini who could have done that, believe it or not. So here we are with the Federal Reserve Board, everybody saying, "Oh, it must be a government agency. It is the Federal Reserve Board." Well, of course it is not, and especially since 1923 and the ulta vires creation of the Open Market Committee and, of course, any time a govenment cares to it can determine and circumscribe the rates of interest.

What I am saying, and what I have said, and I am going to sum up now, is that I intend to continue, as I have in the last few Congresses, and that includes a resolution of impeachment of the Chairman of the Federal Reserve Board, and also some members of the Open Market Committees who were guilty of having breached great trust, such as it is, but being unaccountable, I do not blame them for feeling that there was nothing wrong, in which they leaked information that enabled only a few, exclusive huge, monopoly banking interests to make a big killing. Of course, the victims are the American public, the general public, but particularly the hard core of our economic well being, and that is what we call the shopkeeper or the really small businessman.

We cannot possibly have the continuation of these interest rates, such

as they are even now, and have anything but catastrophe.

I notice that I have a very distinguished gentleman from Oregon here who will be addressing the peculiar problems of the lumber industry, forest products. They are one of the victims. As a matter of fact, as chairman of housing, I developed the third theme that has taken the most time and energy this year, and that is the question of the financing and the lack of financing for long-term, fixed mortgages. They are now dead as a dodo bird and all of the little gimmicks and things that have been devised, certainly not to make housing affordable but to make it possible for some families to buy, even though they might have to give it up, as some are now because of the so-called payment shock.

All of the gimmicks, whether it is ARM's or GPM's or "Gyp-ems" as they call them out in the field, graduated payment mortgages, adjustable rate mortgages, and the like, these are all gimmicks, what I call the methadones of that kind of addiction to high interest rates, because high interest rates, all through mankind's history, interest is the most inflationary force of all by definition.

Ever since 7,000 years before Christ, and even during the time that Jesus Christ was preaching, there were severe laws against usury. It has been recognized because the fact that interest rates are the mechanism by virtue of which wealth is transferred within a society. This is simply what has been happening at consuming, ravaging rates in our society and our country.

I do not know of a businessman, whether here in Virginia, Maryland, or down in Texas, who can afford for long to borrow, just to build an inventory to keep his little business going, at the rates he must pay at this time, and still be in profitable business for long. There is no way.

Always, as I say, through history, even back to 7,000 years before Christ and the reign of Hammurabi, they had laws against usury. Today and we shrug and we have the apologists and those, naturally, who now are in a built-in vicious circle saying, "What is wrong with it? What are you going to do about it?"

Of course, there are a lot of things that can be done, some not as complicated as others, some now a little complicated. I have advocated some measures, some for 15 years in the case of the Federal Resrve Board, some for 10 years and some with respect to high interest rates of a specific nature and some more of a collateral or a peripheral nature, but all of which are necessary if ever the Congress sees fit to do something about controlling usury or extortionate rates of interest.

On the matter of housing, it has been very difficult because, as chairman of the Subcommittee on Housing and Urban Development, it has been very painful to see the complete reversal in congressional policy that has been in place for over 40 years and whose success is attested to by the fact that we performed the miracle of mankind over any country. We housed America by virtue of these programs. But there is such, as I say and repeat, an intricate interconnection between the purely housing policy programs, the subsidized housing programs, as we call it, and the others, nonsubsidized housing programs, FHA, for example, and the framework of institutional financial reference that makes it possible.

Well, first, we must have a national commitment to housing as we did 44 years ago and as every major industrialized nation has today, some of it funded at our expense, believe it or not—a repetition of what happened after World War I. And it is so intricately involved now because the world has shrunk and there is such an interdependence and there is such an immediate and astounding method of instantaneous communication today. What used to take days and hours does not even take a second today to communicate.

So this has brought a further compounding of the intricacy and the difficulty of the problem. We are in an election year, and the ins and the outs are all whistling in the dark, hoping that everything will hold up until after November 6.

I have always felt that if the main purpose of any man or woman, privileged enough to have been selected in America to represent his or her fellow Americans and that became his or her sole obsession, is to get elected, and second, to get reelected, our system is doomed because it is obvious that anybody who is cognizant of any public endeavor knows that there comes times in which there are very passionate and emotional and divisive issues over which honest and well-intended men and women can honestly differ but which nevertheless are passionate, arousing anger, arousing antipathy, temporary but nevertheless strong, and perhaps even hatred and contempt and ridicule of the particular individual advocating a particular stand or casting a particular vote.

But the beauty of our system up to now is evident. But there is nothing that says it is going to endure. We have no divine promise of permanence in our democracy. It is not self-perpetuating. We have got to work at it, and the whole basis and thesis of my utterances here has been that we have wanted to look the other way while these insidious forces have slowly but inexorably eroded, if not outrightly taken our basic freedoms away.

We have relative political freedom, but how much economic freedom do we have? How much less do we have now than, say, 60 years ago? Is there less or more? Are the basic factors involving the well-being of what we call our standard of living intact?

I do not think anybody would deny there is a problem. Even the chairman of the Federal Reserve Board told me to my face in answer to my question, "Yes, of course the standard of living of some is going to have to suffer."

I said, "That's what I am talking about, Mr, Chairman. Whose standard of living? Certainly not David Rockefeller's, but mostly the people I represent."

This is what the issue is all about today. And now the complexity is such that no matter what domestic, temporary, makeshift, glued-together programs we can develop temporarily, we cannot control those external forces, some of which we ourselves impelled and rebound. I picture it very much like these little gimmicks you buy at Christmas in which you have these little steel balls hitting each other and bouncing back and forth.

That is the way it is, and it is going to take a lot of wit and a lot of will, even with a united and a cohesive front and a consensus amongst us. But I see no signs of that developing. So I am afraid that only dire consequences will follow, and by then I feel that wise thinking is not apt to rule the day. Always anitcipatory action is worth 10 times anything that is done after or during crises.

In this I must admit that I have failed. Even in the case of my speeches on Judge Wood's assassination, there were no headlines, and I did not attempt to have any. I was speaking only to my colleagues. I do not go out and make press releases because the whole idea is that the policy-making body for the Nation is this Congress. Through an historical process, better described in history books, this has given way to the executive branch. Perhaps it was inevitable, I do not know, but as long as we hold to the Constitution and we are sworn to uphold it, then I feel the least we can do then is to speak.

In the case of housing, as I say and repeat, unfortunately I took some rather personally uncomfortable and unhappy positions in not going along and in even appearing to be in contradiction to the distinguished chairman of the committee of which I am now the ranking member. It is not pleasant. But I felt that what I said and the facts I developed had not been rebutted, and that is the way I have always been. If I ask a question and I do not get an answer or I take a position and the criticism or the approval does not show in error or my arguments are not answered, then I maintain steadfastly to my position.

So this is what I did when the legislation was passed as saving the S&L's. Well, of course, they are not only not

saved, they are perhaps in a worse position than they were 2 years ago.

Mr. Speaker, under my unanimous consent to include extraneous matter, I offer for the record at this point an article reported in the Business Section of the Dallas Morning News of Wednesday, September 19, entitled "Housing activity falls off. Building permits in area sink 63%." The first words of the article are: "Under the pressure of higher interest rates and slumping demand, Dallas-area housing construction activity"—which, incidentally, was boasted by the administration as being No. 1 just a year ago and about 6 or 7 months ago, pointing to that as a scene of great revival—"fell to its lowest level in 2 years last month."

Mr. Speaker, the entire text of the article is as follows:

[From the Dallas Morning News, Sept. 19, 1984]

HOUSING ACTIVITY FALLS OFF; BUILDING PERMITS IN AREA SINK 63 PERCENT

(By Steve Brown)

Under the pressure of higher interest rates and slumping demand, Dallas-area housing construction activity fell to its lowest level in two years last month.

The volume of building permits for residential construction fell by 63 percent in August, compared with building activity a year ago. Real estate market analysts with M/PF Research Inc. predict further declines in home building during the remainder of the year.

"We are past our housing peak in this business cycle," said Ron Witten, M/PF Research president. "I think that we can expect the rest of 1984 and 1985 to be slightly slower than where we are today in all the housing sectors.

"We see 1985 as a plateau year—no more strong housing growth but neither are we likely to see the beginning of a severe recession," Witten said.

Builders received permits to construct 3,076 houses, apartments and condominiums last month, compared with 8,226 residential building permits reported in August 1983.

The sharpest drop in building activity was in the Dallas-area apartment and condominium markets. Permits were filed to construct only 612 condominiums—a decline of 85 percent from last year. Builders received permits to construct 1,138 apartments in August, compared with 3,780 apartment building permits in the same month of 1983.

Both the condominium and apartment markets are overbuilt in the Dallas area, and Witten believes the declines in construction indicate builders and lenders are curtailing further development.

Permits for single-family home construction dropped by 18 percent in August to 1,508 units—the fifth consecutive month of declining permit volume. "The single-family home market in Dallas is still relatively strong. It's just that the numbers are slowing down from all-time record highs of 1983," Witten said.

August's single-family home building activity was still more than twice the volume during the same months of 1981 and 1982, when the recession was stifling new housing.

The slowdown in housing construction is in contrast to the steady increase in commercial building in the Dallas area, Witten said.

Commercial construction permits were up 58 percent during the first eight months of 1984 with more than $1.7 billion in projects started so far this year.

Mr. Speaker, one does not have to be a prophet or does not have to be even an expert to know that there are limits to how much any merchant or any citizen can pay for the use of money, like there are limits to anything any one of us may wish to purchase, and when interest rates are uncontrolled and subject to the untrammeled forces of the greedy, who have been greedy since the first written annals of mankind—and they will always be, and governments are established for the purpose of controlling those forces—we are going to be victimized. And at this point I see nothing that would indicate any kind of a concerted effort based on any sustained interest at the congressional level.

Some of us noted, for instance, that the repossession foreclosure rate last year on homes—which, let us face it, is the only identification that the average American family has with the country or with the soil, so to speak—had outpeaked the highest rate of foreclosure during the depression.

□ 1100

Sure, we are a nation now that is about 100 billion and some more in number and therefore the comparisons can be odious and I do not use them. That is not the point.

The point is that through no fault of their own, we have had honest, hardworking, toiling American families lose possession of their homes, some having paid for over 10, 15, 16 years on those homes faithfully and then because of economic conditions over which certainly they had no control, like say in Pueblo, CO, where about a year ago homeowners were losing their homes at the rate of about a hundred a month because the biggest employer, the steel mill there, was closing down and of the 5,000 work force, there were 4,000 out of work.

So we offered an emergency home mortgage assistance program with pride and joy.

I made a study of the Homeowners Loan Corporation during the depression. Our version last year was a weak copy. It was really not a big favor because it was not an entitlement program. It only provided a little opportunity for a family to be able to hold on to that house until they could through their own efforts manage to come back, get a job, pick up and continue.

It worked during the depression tremendously, very successful. Notwithstanding some attempts to distort that history, the facts are there. So we offered this as a modicum and I was glad to see the House passed it as an emergency matter 1 year and 6 months ago almost, by a good vote, better than a hundred. Unfortunately, it was strictly on a party line basis, because the administration was, as it is now, very steadfast against and opposed to it.

The very same arguments offered by the very same people against that were contradicted when they came back during the same time and wanted us to vote $8 billion in American taxpayers' money to help countries that cannot pay their interest payments through the so-called IMF. These same folks and unfortunately the same colleagues here say it was right to make it possible for the foreigner, but it was wrong to give that chance to the American homeowner, who certainly had proved stability by the very record of having kept payments up for over 10 years and a record of good payments.

Nevertheless, it is over in the Senate languishing. It is on the vine dying because the Senators over there, in fact, we had one of the Colorado Senators who wanted to be President and ran for the nomination, and I am sorry to say I could not get much enthusiasm for him because not one time has he lifted his voice over in the Senate about this bill which would have had the biggest impact to help homeowners in his own State, in one city, Pueblo, CO.

So my thinking is, to sum up, that as we close the 98th session in a political year, an election year, and of course for us Members of the House every 2 years is an election year, and it is a good thing. It was intended to be that way so that we would really and truly be representatives in close touch with those we presume to represent. That has been the faith all along, promised on the great faith that we in America have the good sense and have the ability to know how to govern ourselves.

These are the issues, and as I sum up, I pledge, God willing, upon my return to the 99th Congress to pick up where I left off this evening.

Mr. Speaker, I yield back whatever balance of time I have.

SPECTACULAR WINS OF THE CHICAGO CUBS

(Mr. HAYES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYES. Mr. Speaker, after 39 years of being the doormat of the National League, the Chicago Cubs have become winners by clenching the divisional title of the National League East. A team that was picked to finish fifth in the east, disproved the experts by rising above their individual shortcomings and accomplishing a series of spectacular wins. The Chicago Cubs, Mr. Speaker, have displayed determi-

nation that is the epitome of the motto of the city of Chicago, "I Will."

Baseball, a truly American sport, can serve as a rallying point to foster a sense of community solidarity among the diverse, ethnic, religious, and racial groups of our city.

Irrespective of our differences in the political arena, in Chicago one can certainly admit that we do not have two separate societies on the Cubs baseball team.

Their victory is an example of what can be accomplished by working together regardless of race or national origin. It is my hope that you and my other colleagues here in the House will join me in paying tribute to the Chicago Cubs and spurring them on to victory in the World Series.

MRS. GENEVA WALLACE

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, I speak today in tribute to and in memory of a longtime friend of mine, Mrs. Geneva Wallace of Cadiz, KY, who died on September 7 at the age of 76 at Trigg County Hospital in Cadiz.

Geneva Wallace will long be remembered in western Kentucky. A Lyon County native, she was a member of the Cadiz Baptist Church, the Women's Missionary Union of the church, and the Cadiz Day Homemakers Club.

A graduate of Murray State University in Murray, KY, Geneva Holland Wallace was a member of the Ophelia Chapter No. 55, Order of the Eastern Star. Geneva Wallace was a dedicated, popular schoolteacher who spent 42 years teaching students in Trigg County, KY. Before retiring in 1972, Geneva taught senior English for 22 years at the Trigg County High School. She certainly deserved the respect and admiration that was shown to her by her students, parents, and fellow teachers during her outstanding teaching career.

In fact, Geneva had a "teaching influence" on her son, Jim Wallace, who has been in the education field for 20 years. Jim has been the principal at Trigg County Middle School for the past 4 years. Prior to becoming principal at the middle school, he was assistant principal at Trigg County High School and has spent years teaching mathematics, his field of specialty. Jim's lovely wife, Penny Wallace, is also a schoolteacher in the Trigg County school system. Penny has been teaching for 16 years and is currently a fifth grade teacher at Trigg County Elementary School.

I am proud to have known Geneva Wallace and her late husband, Conley Wallace, an outstanding man and a dedicated political leader in Trigg County who died in 1972.

In addition to her son and daughter-in-law, Jim and Penny Wallace of Cadiz, Geneva's survivors include a daughter, Mrs. Linda Dunn of Union City, TN; a brother, Boyce Holland of Kingston, TN; and six grandchildren.

I extend my sympathy to the survivors and friends of this outstanding Kentuckian who was an inspiration to those of us who knew her.

GERRYMANDERING IN CALIFORNIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. McCANDLESS] is recognized for 60 minutes.

Mr. McCANDLESS. Mr. Speaker, a very important subject has come to be a national issue. That subject happens to deal with California reapportionment. To a lot of those who are involved, the word gerrymandering becomes synonymous with the history of this subject in California as well as other areas.

One might define gerrymandering as drawing district lines to maximize the advantage of a political party or interest group.

Webster has an excellent definition: To gerrymander, as to divide an area into political units to give special advantages to one group.

Roget's Thesaurus equates gerrymandering with manipulation, with maneuvering and finagling.

Gerrymandering has taken on additional aspects, odd names, to represent odd looking districts as a result of gerrymandering; the monkeywrench district of Iowa, the dumbell district of Pennsylvania, the horseshoe district of New York, and the shoestring district of Mississippi.

Because of the importance of this issue, proposition 39 in California, my colleagues and I have taken out this special order. It was brought about by the fact that the leadership of this House, the Democratic leadership, is now involved directly in a proposition which will appear on the ballot in November in California.

Recently a letter went out over the signatures of the Democratic leadership that said in essence that if proposition 39, Governor Deukmejian's reapportionment initiative, scheduled for the November ballot passes, it is likely that instead of 28 California Democrats in Congress, there will be as few as 15 by the 1990 election.

The letter goes on to say that there is going to be a reception and that the committee that has been formed is designed to raise contributions for the purpose of defeating proposition 39 in California.

That is why my colleagues, Mr. THOMAS and Mr. LEWIS and I, appear before you today, because we want you to hear the other side of the story.

At this time I would like to yield to my colleague, the gentleman from Bakersfield [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, I thank my colleague for yielding.

The gentleman's brief historical analysis of gerrymandering I think can be brought home to California very quickly, and that is from time immemorial from the beginning of the State of California and the redistricting, whichever party was in power did indeed draw the lines to its advantage. This was true through the 1940's and 1950's with Republicans in control and through the 1960's with the Democrats in control; however, the history of reapportionment in California took a unique turn in 1973, because although with a Republican Governor and Democratically controlled legislature, they were able to resolve their problems over the congressional districts. The Governor, who happened to be Ronald Reagan at the time, and the Democratic State legislature could not go over the State legislative districts.

□ 1110

What occurred was the court, the State Supreme Court of California, created what was called a Special Masters Committee, three retired judges, Martin J. Coughlin, who was at that time 71, an appellate justice from San Bernardino; Alvin E. Weinberger, who at that time was 68 years old, a San Francisco superior court judge; and Harold F. Collins, who at that time was 70 years old, a retired Los Angeles superior court judge. These three judges, all retired, 68 and older, met as the special masters.

They had computer experts. They had demographers. They had people who were familiar with the political and social and economic makeup of California.

They produced a reapportionment in 1973 which carried through for the rest of the decade, not only for the State legislature, but for the congressional districts. It had certain unique features.

For example, obviously the population was equal. We know that from previous Supreme Court decisions, the lead case being Baker against Carr and Westbury against Sanders for the States, that there has to be equal population.

But beyond that, the special masters used other criteria. They talked about the territory being compact and contiguous. They talked about the counties and the cities must be kept intact. They talked about communities of interest, both ethnic and racial being kept intact in creating districts. In fact, they set about drawing a plan

which produced those kinds of districts.

In California, we have 80 seats in our lower house of the assembly, and 40 seats in the upper house of the senate. They were able to construct districts that had 40 senate seats composed of two assembly seats. Two assembly seats isomorphic with a senate boundary made an awful lot of sense as far as people trying to understand where their representative's lines were, and it worked fine for the rest of the decade of the 1970's.

They did not take as their prime consideration incumbents or incumbency. Rather, they tried to create boundaries that would do a good job of reflecting the diversity of California within the appropriate number of assembly, State senate and congressional seats. In fact, they said in their report:

While protection of incumbents may be desirable to assure a core of experienced legislators, the objective of reapportionment should not be the political survival or the comfort of those already in office. It is best if an incumbent's continuation in office depended upon effectiveness and responsiveness to constituents rather than upon the design of district boundaries.

When the smoke cleared from the 1970 census we found that the Democrats were indeed in control of the legislature in California and of the governorship, and they set about redrawing the lines in the 1980's. And the districts that they drew did not have two assembly districts going into one senate seat. In fact, they did not really regard to any great extent city and county boundaries. The only criteria that they used was the one of population, and they wound up drawing relatively bizarre shaped districts, albeit equal in population, primarily for the purpose of perpetuating Democratic incumbents and for eliminating various Republican incumbents that they felt were not appropriate or proper for representing California, or who happened to be in the way of a chunk of territory that was necessary to make sure that one of their colleagues elevated from a lower level of serving either in the State legislature or elsewhere to make it to the congressional level.

So what we are talking about is the history in California of going from a group of retired judges drawing rational, reasonable boundaries, back into that political warfare that the gentleman from California indicated had occurred all over the United States.

The Governor's initiative, proposition 39, wants to take us back to retired judges doing a reasonable job once again.

I thank the gentleman.

Mr. LEWIS of California. Will the gentleman yield?

Mr. McCANDLESS. I yield to the gentleman from San Bernardino, the Redlands.

Mr. LEWIS of California. I appreciate my colleague yielding.

Before I go forward with some thoughts I have regarding proposition 39 and the difficulty we face with representative districts in California, I wonder if my colleague from California [Mr. McCANDLESS] would yield by way of responding to a couple of questions which I have?

Mr. McCANDLESS. I would be happy to.

Mr. LEWIS of California. I believe in your remarks you were referring to a letter written by the Speaker of the House of Representatives, TIP O'NEILL; is that correct?

Mr. McCANDLESS. That is correct. The letter was dated August 31 of this year.

Mr. LEWIS of California. Unless I misunderstood you, you indicated that that letter was sent to various interests here in the Nation's Capital, individuals representing special interest groups here in Washington in order to solicit funds from those individuals, 3,000 miles away from California, to help finance a campaign against a people's proposition in our State?

Mr. McCANDLESS. That is correct. The letter goes on to ask for contributions from corporations, because this being a State issue, corporate money is acceptable under the framework of the laws of California as they relate to matters like this.

Mr. LEWIS of California. Are you further suggesting that the Speaker would use the power of this office to attempt to influence a proposition that properly should be addressed by the people in California rather than here?

Mr. McCANDLESS. I think it is very apparent from this letter that the Speaker is very intensely interested in the subject of proposition 39 and the fairness issue.

Mr. LEWIS of California. The people to whom he is making this solicitation are lobbyists representing big corporations as well as major unions in the Nation's Capital, attempting to influence what the people might do in California.

Mr. McCANDLESS. Yes. In fact, his letter said it is a State committee that can accept contributions from labor unions, corporations, as well as individuals.

Mr. LEWIS of California. I think it is important that people certainly in California—but also I think people across the rest of our land—realize that the Speaker of the House of Representatives would actually use his office for that kind of overt attempt to influence the will of people on a subject that is properly their problem, not the Speaker's problem.

First I want to congratulate the gentleman from California, Mr. McCANDLESS, for taking out this special order and attempting to bring to the attention of the American public, as well as the Members of the House, this grave difficulty that we are facing in our State.

At this point in time California has 45 congressional districts, each made up of approximately 525,000 people. That is a little bit more than 10 percent of the total numbers that make up the House of Representatives. Forty-five seats in the State of California, and yet in this election year it is very clear that there will be almost no change or turnover in the representation in those seats.

It it not amazing that we can have lines drawn in a fashion that literally guarantees the reelection of almost 10 percent of the House without any turnover of incumbents? Is it not amazing that in district after district, like my own, there is so little competition between the parties that the party that happens to be in the minority in that district chooses to select no one, either no one at all to oppose the incumbent, or an individual of little base, or little strength, so that the competition that should be a part of our elective process is almost null and void in our State.

Reapportionment is the cause of that. Reapportionment, the redrawing of district lines, in the past handled by the State legislature, that is the assembly and the senate, have drawn these lines in a fashion that partisan politics totally dominates and by which incumbent representatives are totally protected. It is designed in a fashion so that where there should be competition, the people's voice, for all intents and purposes, is eliminated in terms of effective impact.

It is a fascinating reflection of the extremes to which partisans will carry themselves to maintain their power and deny an effective people's will.

This has been developed to the point, to the masterful degree in our State that it is time that the people recognize that they must exercise themselves to take this authority out of the hands of partisan legislators, Democrats or Republicans. And proposition 39 is, I believe, the most effective effort developed to date to take us in that direction.

□ 1120

Proposition 39 says: We do not believe the politicians can do the job effectively. So what we have decided to attempt is to change our Constitution and transfer this authority to redraw those representative lines to a group of retired judges—people who formerly had served at as high a level as the district court of appeals. Those retired judges' names would be put into two pools. One pool made up of judges who in the past, when they started their judicial careers, were selected by Republican Governors; and another

group, a pool who were selected or appointed by Democratic Governors.

Then, having served on the bench for a number of years, maybe 15 or 20, they retire. The manes of those individuals will have their names in the pool and four will be drawn from one pool and 4 will be drawn from another. And if they choose to serve on this new commission, they will be given the responsibility of crafting representative lines that hopefully will change this absolutely unacceptable distortion of our representative process.

To gentleman in the well [Mr. McCANDLESS], there is absolutely no question that it is critical, it is critical that his message be communicated to people all over this country. It is very, very fundamental that the people of California understand that their right to impact the legislative process has been significantly restricted and that proposition 39 provides them with an opportunity to change that.

So, with those remarks, I say to the gentleman in the well [Mr. McCANDLESS], let me commend you once again for making this effort to communicate to the people of our land.

Mr. McCANDLESS. I thank my collegue.

I see where we are joined by another of our colleagues from California, the gentleman from California [Mr. LUNGREN].

I yield to the gentleman from California.

Mr. LUNGREN. Mr. Speaker, I thank the gentleman for yielding.

I would just like to mention for a moment the feelings of a Member who would be adversely affected, probably, by any change in the present lines, and that comes as a result of not because in the gerrymandering that took place in our State capital, to create the districts in which we now serve, was done for my benefit but rather it was probably done to impede the chances of any member of the minority party being elected from districts that surround my district, and the manner in which that was done was to take any Republican voters or Republican-leaning voters and pile them into a district such that you took enough away from those districts to make them almost noncontestable. As a result, although I will of course view this race this year as a tough race, as I always do, if you look at it objectively my particular district becomes one that is noncontestable to a great degree.

A letter appeared in the Los Angeles Times not long ago of someone complaining, someone who has very different opinions than do I, who lives in my district and who said: "Because of the redistricting, it is very difficult for me"—this individual said—"to have a chance to try and knock out the Congressman that is in there," referring to this gentleman from California.

So, although it would probably make it more difficult for me in future political races, it seems to me that it is unfair to a liberal Democrat living in my district that their opportunity for having a contestable race has been diminished tremendously because some have decided that there is going to be a preordained pattern of voting and that no matter what the voters say, their opportunity to express their points of view will not be given them.

In California, at the present time, we have a mixture of Democrat to Republican representation in the House of Representatives that I think objectively, anyone would say, is not truly representative of the views of the people of California; when I believe the vote from one party to the other, total in the last congressional race was about 52 to 48 percent, yet the representation turns out to be 28 to 17, there seems to be something that has stood in the way of the voters.

So as one who would be impacted very directly by this change, I would suggest that the American people would be better served by it, the people of California would be better served by it, and I think that in any political situation in which you give an opportunity for both of the major parties to have a shot at capturing the seat, you do a service not only to the constituents but you do a service to both parties.

You refine the issues far more, when there is a real challenge there, you rethink your own ideas; you subject them to self-scrutiny as well as the scrutiny of the public and, as a result, you have a better opportunity that, if you come to Washington, your ideas will have been refined, will have been challenged, will be better thought out and there will be a better opportunity to do that which you want for your people than otherwise.

Contestable elections ought to be an aim at any reasonable redistricting effort. Any time you ask elected politicians, no matter of which party, to make that decision for themselves, it is akin, I would suggest, to being in college and having your college professor say that you will be given the opportunity to establish your own tests and give your own grade.

Any objective observer outside could not fail to view the results with some skepticism because there is an inherent conflict of interest and an inherent conflict has been manifest probably in the grossest form in what we have in California right now.

So while someone suggests that a redistricting effort that is different than what we have now might be to the benefit of one party or the other, the system that has been described, that is on the ballot in California, is something that guarantees nothing to the gentleman in the well, nothing to the gentleman speaking or to the other gentlemen who have spoken on the floor here today; it promises nothing to either party. All it suggests is setting up a system which is organized such that compromise will be the guiding light and partisan politics of either side will be avoided.

Mr. Speaker, I thank the gentleman [Mr. McCANDLESS] for having this time today to bring this to the attention of our colleagues here in the House, because it is important not only for California, it is important for the entire United States when you are talking about 45 congressional seats, more than 10 percent of this entire body.

I thank the gentleman for yielding.

Mr. McCANDLESS. I thank my colleagues from California.

Mr. Speaker, I would like to enter into a colloquy, with his permission, with my colleague, Mr. THOMAS.

A number of issues have been raised in articles and in other items that have been written on this subject, and they kind of center around the idea: Why reopen reapportionment? Was it not settled in 1982? Why not wait until 1991 to reapportion? Why do it again in 1986?

I wonder if my colleague would have some thoughts on that.

Mr. THOMAS of California. Well, it is true that reapportionment is done every 10 years as we get a new census.

As I indicated, in California the last time in the 1970's it took almost 4 full years to settle the question of reapportionment. Here we are in the 1980's and it is 1984 and we have not settled the question yet again.

Current history, I think, needs to be reviewed in order to understand why we have not settled it and why there still seems to be some concern about reapportionment.

The gentleman from California in the well [Mr. McCANDLESS] indicated that he is in possession of a letter from the Speaker indicating that he was requesting funds to help fight proposition 39 because, if in fact it passed, the Democratic representation from California would go from 28 Members to perhaps as few as 15, and it just seems to me that the reason such fear might be present on the part of the Speaker would be to examine the way in which the 28 Democratic districts were created, and that is in 1980, as I said earlier, the democratically controlled State legislature drew boundaries. But these were so onerous for the assembly, the State senate, and for the Congress, that the people of California took those statutes, passed by the legislature, and put them on a ballot in a form known in California as the referendum. We have that ability in California. You can take a State statute and ask the people, after the legislature has passed it, whether or not they want it to become law. If a

majority say yes, it becomes law. If a majority says no, it does not.

In essence, the legislature is rebuked.

Well, in June 1980, those three plans for the State senate, the State assembly, and for Congress were on the ballot and the people said "no" to the plan for the State assembly, to the plan for the State senate, and to the plan for Congress. But the State supreme court had said previous to the primary that even if those districts are defeated, there will be an election on those districts.

□ 1130

And lo and behold, at the end of 1980 the people who were drawing the lines, in 1982, were the people who were elected in those districts that the people had rejected. That is why we are here today talking about the Speaker's efforts to raise money to defeat proposition 39, because it might reduce the number of Democrats.

Let me tell you why it might reduce the number of Democrats and I will be reading briefly from the text of the initiative.

It says:

Each apportionment plan, assembly, State senate or Congress, shall have populations as nearly equal as practicable.

It says:

Each apportionment plan shall provide fair representation for all people of the State, including racial, ethnic, and language minorities consistent with the requirements of the United States Constitution.

It says:

To the extent it is practicable to do so, districts shall be geographically compact, be composed of contiguous territory, preserve identifiable communities of interest. To the extent it is practicable to do so apportionment plans shall minimum the division of countries and cities, not be drawn for the purpose of favoring any political party, and not be drawn for the purpose of favoring incumbents.

In other words, if you have a fair and reasonable plan the Speaker has indicated that it is possible that the Democratic representation from California can go from 28 seats to 15 seats.

Now, if it is that grossly misdrawn, it seems to me that you do not wait until the next census to redraw the lines; you do not wait until 1992, and the Governor has wisely said if we are going to change the system in which we draw the lines, let us talk about redrawing the lines immediately.

So it will have applicability in 1986.

Mr. McCANDLESS. One of the concerns that people have about government today is the cost of government. Will not this commission be just another expensive item on the State budget, and if it is as we say it is, how have these commissions worked in other parts of the country?

Mr. THOMAS of California. Well, the cost of reapportionment is high. There are costs to prepare a data base because everyone today utilizes computers for purposes of drawing various districts. It means you can do it more precisely and also more quickly if you remove the politics.

But let us not forget that the legislature went through the process of redrawing the lines. They had to provide computer technology. They had to provide the data base, and, in fact, they spent a considerable sum of money.

Written into the initiative by the Governor is a statement that says that this commission, when created, will spend no more than one-half of what was spent by the California legislature for redrawing lines.

I quizzed the Governor about that point that, well, if you are going to limit this commission to one-half of what was spent by the legislature, are you not going to hamstring, are you not going to restrict their ability to do it? He told me, no, not at all. There is more than enough money to provide a comprehensive clear, professional, support group to the commission for redrawing the lines at one-half the cost of the legislature's expense.

Mr. McCANDLESS. I thank my colleagues.

We have now been joined by another colleague from California [Mr. ZSCHAU].

Mr. ZSCHAU. Mr. Speaker, I want to commend the gentleman from California [Mr. McCANDLESS] for conducting this special order because reapportionment is a subject that is kind of technical. The people of California, the people of this country may not understand it fully, but it has a remarkable and significant impact on the degree of fairness in the representation in this body.

I was privileged, like my colleague [Mr. McCANDLESS] to join this body for the first time in January 1983, elected for the first term. I was thrilled being able to serve in what has been called the people's body. It is called the people's body because it is to represent the American people in as close a way as we can to the needs and the different perspectives of the people in our districts.

Yet, I represent a district, the 12th Congressional District of California, that is probably one of the prime examples of the distortions in that representation of the people's interests that can occur through gerrymander.

I represent a district that includes portions of three counties, not just restricted to one county, but portions of three counties, San Mateo County, Santa Clara County and Stanislaus County. In order to get from one portion of my district to another, I have to drive outside the district considerable distances because the Stanislaus County part of the district is in the Central Valley of California, almost at the foothills of the Sierra Nevada mountains; whereas the other portion of my district is along the Pacific Ocean and on the San Francisco Bay side.

In the one portion, the San Francisco Bay area, the Santa Clara Valley area, there is a lot of interest in high technology. There are some 700 high technology companies in that district. The focus there is on the technological revolution and entrepreneurship.

In the Stanislaus County portion of the district, the concerns are quite different. It is agriculture. It is the growing of crops, livestock, dairy. Problems that those people face are substantially different than the problems in the other portion of the district.

Yet, it was out of purely political partisan interest that such a district was constructed so that the number of Democrats that would be elected in the State of California would be greater than under a fair districting procedure.

This district was such an embarrassment that in the redistricting that took place after the original districts were revoked in the June 1982 election, there were changes made. Some of the obvious embarrassments of the 12th Congressional District were alleviated.

But I think the point is well taken that if this is to be the people's body, if this is to represent the American people in a truly democratic way, we have to have congressional districts that are designed to provide the best sort of good government, fair representation we can, rather than being based on purely partisan considerations.

The fact that the State legislature does the redistricting under current law and that the State legislators are elected out of districts that have been gerrymandered in the past, we are trapped. We cannot get out of this situation because the legislators will keep getting reelected according to those gerrymandered districts and then keep designing new districts that are similarly partisan based.

Proposition 39 provides a way to get out of the trap by throwing aside the old-fashioned partisan legislative approach and instituting a nonpartisan reapportionment program and procedure based upon the use of retired judges.

We have a way to get out of the trap of gerrymandering for the future and restore once again this body to become the people's body, truly representative of the people of California.

I thank the gentleman.

Mr. McCANDLESS. I thank my colleague.

Mr. LUNGREN. If the gentleman would yield further, since the gentleman from California [Mr. ZSCHAU] has described his district, maybe I could just describe my district to show the

lengths to which people will go to reach political objectives that make no sense for the people in the district.

I have a coastal district. I have both Los Angeles and Orange County. I have got all of the coastline that is closest to Los Angeles and Orange County. I have all of the coastline that is closest basically to Catalina Island, which has a community of 2,000 people.

I share Los Angeles Harbor with GLENN ANDERSON. You would think that one or the other of us would have Catalina Island. They share in the Long Beach Unified School District. GLENN ANDERSON and I share the Long Beach Unified School District in our own districts. All the transportation to Catalina is through my district—the airports, the harbors, and so forth.

But instead, they attach that to BOBBI FIEDLER's district which is about 55 miles north along the coast in Ventura County. They break L.A. Harbor between myself and GLENN ANDERSON, cutting right down the middle of a channel known as the Glenn Anderson Channel and cutting a bridge in half. Now, the only thing they did with some poetic justice is I have the side of the bridge that has the toll booths; Mr. ANDERSON has the free side.

□ 1140

And since I do not believe in free lunches, I guess that is appropriate. They go up there, and then they cut off part of the harbor, give it to GLENN ANDERSON, another part of the harbor, and give it to me.

There happened to be about 253 people who live on vessels. They are permanent residents on boats, small boats, in Los Angeles and Long Beach Harbors. Naturally, you would think that since I have all of Long Beach Harbor and I share Los Angeles Harbor with GLENN ANDERSON that they would have put those people in either my district or GLENN ANDERSON's. But they did not. So the next thought you would have is that they would have put it in BOBBI FIEDLER'S district because she has Catalina Island, and many times those boats go back and forth to Catalina Island. It is the closest land mass. They did not. Instead, they gave it to my friend, MEL LEVINE, in his district that is up the coast, and they said they did because those boats are contiguous by water to his district.

So you have the situation that if these people are having a good time on their boat and happen to accidentally fall over, they are no longer in their congressional district. They are in my district or in GLENN ANDERSON'S district. If they come ashore, if they go off their boat and step onto the berthing area, they are either in my district or GLENN ANDERSON'S district. They are no longer in their own district. And that shows the ridiculousness.

They cut the two campuses that are in my district in Long Beach. I have all of the parking lots of Long Beach State University and I have all of the parking lots of Long Beach City College, I have the athletic field, but the academic buildings are given to Mr. ANDERSON. Now, maybe that is supposed to be a comment on my relationship with some of the people in those buildings. I do not think that is probably true. But it shows the ridiculousness to which they have gone here. I have everything west of Long Beach State, I have everything south of Long Beach State University, I have everything east of Long Beach State University, but they managed to take the university out and put it in another area because it has one precinct that has more Democrats than Republicans.

People are absolutely astounded at the way this process has gone. In Mr. ANDERSON'S district that is next to mine, he goes from Lakewood, which is immediately north of my district and which I used to have, and gives him a two-block corridor through Bellflower so he can get into Downey. So everybody in Bellflower is in another district except those people along a two-block strip that happens to run next to the river, so that he could catch Downey. And you ask people, "Who is your Congressman?" They say, "I don't know." You have to get out a map and go block by block by block, and that certainly does not enhance political participation, it certainly does not infuse people with the idea that whoever drew those lines was thinking about the people rather than themselves.

I thank the gentleman for his time.

Mr. McCANDLESS. I thank my colleague for his remarks.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

Mr. McCANDLESS. I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Speaker, the description of my colleague, DAN LUNGREN, of his particular district can, of course, be repeated, as it was by our colleague, ED ZSCHAU. My district goes from the Pacific Ocean to the Nevada border, right across the center of California from the coast, over the coast range, the Great Central Valley, the Sierra Nevadas, and then in the valley on the other side of the Sierra Nevadas to the Nevada State line. If it were not so deplorable, in terms of the way in which the map of California was carved up, it would be kind of funny; but, really when you analyze it from the point of view of people wanting representation knowing who their Representative is, and for continuing communities of interest, it is a travesty.

Now, there is a saying in politics, you don't get mad, you get even. I think it is the mark of the man, in terms of the Governor of California, Gov. George Deukejian, that his response to this kind of arrogance and use and misuse of political power is to offer an initiative that does not do unto them what they did unto us, but rather goes back to the original concept which provided California with the finest apportionment it had in this century, the special masters, the retired judges, taking upon themselves, with professional help, to do a good and appropriate job of apportioning California, not using incumbency or political party advantage as not just the primary consideration but the sole consideration, because in this initiative, sponsored by Governor Deukmejian, we have a return to retired judges, using professional assistance, under the criteria that we had indicated earlier, where clearly you do not draw lines for purposes of favoring a political party, you do not draw lines for the purpose of favoring incumbents, and all of us are at risk under that kind of a program. But it really lends itself to a measured redistricting which provides equal opportunity between districts for individuals to feel that they have a fair shot at running for office, they have a fair shot of having someone who represents them who believes the way they do, they have a fair shot at what we call in this country democracy.

I want to thank the gentleman from California once again for his willingness to take this time to indicate to the people not just of the United States and California that what we have here in Washington is the Speaker of the House attempting to raise money to defeat a proposal which will return California to a sane reapportionment, trying to hang onto a grossly partisan gerrymander, and what we want in California is fariness, not politics.

Mr. McCANDLESS. I thank my colleague for those words.

One of the cornerstones of the legislative process is to avoid at all costs conflict of interest. That is written into all of our various and sundry regulations, "conflict of interest," whether you be a city councilman or county supervisor, special district elected representative, a Member of Congress, a member of the State legislature. It is virtually impossible—and I will say even stronger, impossible—that a State legislature can draw lines objectively which affect the individuals that make up that State legislature. That is why the concept of the commission as being proposed in proposition 39 is so good. It addresses that particular problem and corrects the deficiencies of the system that has been created by the gerrymandering of State legislators.

And so you say, well, that is fine, but who supports this kind of an activity?

And I am very pleased to say that in California, more than 77 newspapers, radio, and television stations are on record as supporting proposition 39 because of its basic concept to do away with conflict of interest on the part of the State legislators.

And so when we get down to the bottom line of this entire valid issue in California, we talk about the fairness issue, irrespective of what side of the aisle you happen to sit on in Congress, what your political flavor is. This is a fairness issue, and that is why my colleagues and I felt the need to share our thoughts with you this morning in this special order.

I want to thank my colleagues for their participation, and I yield back my time to Congressman LEWIS.

Mr. LEWIS of California. First, let me express my appreciation once again, Mr. MCCANDLESS, for your bringing this very critical topic to our attention. I am sure the people of California—ideally, people all over the country—will focus upon this very important issue and react in an appropriate fashion.

It has come to my attention, Mr. Speaker, that while the other body is currently considering the continuing resolution and may be completing that work regarding this important measure that finances most of our Government over the weekend, it has come to my attention that there is an important item within that package that I think the House should have brought to its attention.

I serve on the Subcommittee on Foreign Operations within the Appropriations Committee, and within that work we deal with all of the foreign assistance programs; the economic and security assistance are part of our foreign policy. A piece of that responsibility involves addressing ourselves to the World Bank, and the World Bank has a highly concessional loan affiliate within its total responsibility known as the International Development Association, often called IDA around this place. We periodically replenish our share of the funding of the International Development Association, and that entire issue came to my attention when I first arrived in Congress because of the fact that the new Reagan administration indicated to us in our subcommittee hearings that under IDA 6, the sixth replenishment of the International Development Asssociation, the new administration that had been elected was previously committed by the Carter administration to support the funding patterns that were then in place.

Most important, I want to bring to the attention of the Members that IDA, the International Development Association, is that arm of the World Bank which provides soft loans to developing countries. It provides loans at zero interest to developing countries like India and the People's Republic of China for 50 years, extension of periods of time that I find are really incredible.

□ 1150

I think it is very important for us to know that when IDA was replenished for the sixth time, that the procedures around here were used whereby that funding was attached to the very important 1981 reconciliation bill and thus the pros and cons of 50-year zero interest loans were never debated upon this floor. There was never a separate discussion, a separate vote on authorizing IDA VI.

We were told early on that when we got through that portion of the commitment from the Carter administration, and on to the IDA VII replenishment, then we would have the debate. Well, I am sorry to communicate to my colleagues and to the House that that appears very unlikely to be the case. We are presently approaching the funding of IDA VII, and it is my understanding that there will be an attempt to amend the continuing resolution so that the authorization of IDA VII will be approved in that huge measure.

I would like to share with the House the following. This comes from the report of our committee discussion of IDA VII, and reflects clearly the intention of the Appropriations Subcommittee that has this responsibility.

The Committee feels strongly that the seventh replenishment of the International Development Association should be authorized through the normal authorization procedure. IDA VI was authorized in the conference report on the reconciliation legislation in 1981 without an opportunity for full consideration or an opportunity for amendment on the House floor. The Committee is opposed to any authorization procedure for IDA VII which bypasses the regular process and prevents full consideration and opportunity for amendment on the House Floor. The Committee is opposed to including authorization in the Conference Report, in this bill, or in the Continuing Resolution.

I have included in today's extension of remarks a detailed outline of some of the difficulties and questions to be raised regarding the International Development Association. One element of that that I think my colleagues should focus upon initially is that presently within the World Bank and within IDA there is a clear policy shift that is reducing the amount of IDA that goes to existing recipients, and it is just beginning a very, very sizable soft loan lending program to the Peoples Republic of China.

IDA has begun a pattern whereby it has started to make, 50-year loans at zero interest to the Communist country known as the Peoples Republic of China. Now, I am not standing here today to suggest that we should not expand our relationships with the Peoples Republic, but before American taxpayers' dollars become committed in very sizable amounts, totaling to billions of dollars to loans where there is no interest to be paid for periods as long as 50 years, certainly there should be some discussion on this floor.

Certainly we should be able to review the policy of the past; certainly we should have an opportunity to amend that policy on the floor. To include IDA VII's authorization in the continuing resolution is a total violation of not only our committee's intent, but a clear violation of the people's opportunity to have their voice heard here in the House of Representatives.

Mr. MCCANDLESS. I thank my colleague for his contribution and I yield back the balance of my time.

PERMISSION TO FILE CONFERENCE REPORT ON S. 2819, HOUSING AND COMMUNITY DEVELOPMENT TECHNICAL AMENDMENTS ACT OF 1984

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the managers have until midnight tonight to file the conference report on the Senate bill (S. 2819) to make essential technical corrections to the Housing and Urban-Rural Recovery Act of 1983.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

THE PLIGHT OF THE TIMBER INDUSTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon [Mr. WEAVER] is recognized for 60 minutes.

Mr. WEAVER. Mr. Speaker, I take the floor of the House today under special orders to tell Members of the plight of the timber industry. I come from the Northwest, and in the Northwest, where we have long had the timber industry as our economic foundation, the timber industry is in deep depression.

We have not shared in the rise in the economy in other areas of the Nation. When we went into recession in the early eighties, we stayed there. Our lumber prices today are lower than they were in the sixties and seventies. We are like the farmers who have seen their commodity prices remain the same even though inflation has raised the prices of so many other things in this Nation. The retail price of lumber has not dropped, just like the retail price of food has continued to go up. But to the manufacturers, the growers, and the producers, the price of lumber is lower than it has been in many, many years, just as

the price to the farmer of agricultural commodities is very low.

With the timber industry remaining in deep depression for these past 4 years, this has affected other businesses in the Northwest. Particularly in the areas of Oregon and Washington and northern California and Idaho where the timber industry is the main industry, our communities have suffered terribly. Many small communities are totally dependent on the payrolls from lumber mills that are situated up in the mountains where the timber is.

Central cities, such as Eugene, OR, and other service centers throughout the Pacific Northwest are suffering because when the small communities and the workers in the timber industry are not purchasing their goods, people selling insurance, people selling clothes, people selling all kinds of services suffer as well.

We have many, many bankruptcies. We have storefronts vacant in our communities. The depression actually deepens; it does not get better. Workers, thousands of them laid off in our lumber and plywood mills, who have worked for these mills for 20 and 30 years, now are in this plight. They are perhaps in their fifties; they cannot get another job. No one will hire them. They cannot move away, because they have got their homes and the homes are paid for, but the prices of the homes are falling sharply.

In many of our communities, home real estate values have fallen 40 percent from the highs of the late seventies, leaving many times the worker who has been laid off simply unable to leave because of the losses he would take in selling his home. That is, if he could sell his home. If he could sell the home. There is little market. There are thousands of homes for sale in each of the cities and communities of my district, even smaller communities. The streets are just simply filled with "For Sale" signs on every block.

Banks have failed; businesses have failed. We remain in depression. Now, what are the causes of this depression in the timber industry? Actually, new home starts are not all that bad. They are around 1.7 million. We consider that kind of in the middle range. It is not the white hot heat homebuilding peaks of 2.5 million we have seen, nor is it down below 1 million which is usual in a homebuilding recession. It is 1.7 million, enough to keep our mills, many of them, producing.

But producing at what price? I mentioned that the lumber prices have fallen so sharply that they are below that obtained in the early seventies. The reason, basically today, is that Canada produces a great deal of lumber, particularly in our Northwest, in the British Columbia forests owned by the Government there. Our high dollar against other foreign currencies means that, with the Canadian dollar at 75 cents to our dollar, where it has been for years roughly on a par with our dollar, that the Canadian lumber is 25 percent cheaper.

□ 1200

They get the same amount of Canadian dollars but they are selling in our market for 25 percent less, in effect driving our prices down.

The Canadian Government also, the Government that owns the timber in British Columbia gives the logs, the stumpage, the trees to their lumber mills at almost no cost relative to what our Government requires our lumber mills to pay.

Therefore, where the Canadians usually ship into the United States from 5 to 10 billion board feet of lumber every year, 5 billion in a recession. Up to 10 billion when we have 2.5 million housing starts and this is helpful because when we have high housing starts we actually cannot produce as much lumber in this country as we need.

Today when we have a moderate number of housing starts, the Canadians are shipping over 12 billion board feet of lumber into our markets and particularly as the Pacific Northwest is concerned, have gone heavily into the southern California markets which have traditionally been the markets of the Pacific Northwest timber industry and have taken over almost as much as 50 percent of that market and nationally, they have now over 30 percent up to 40 percent of our market in this country. This has all driven the price of lumber down and taken some of our markets.

Likewise, the high dollar against such currencies as the Italian lira have made it impossible for us to sell our lumber to countries overseas.

I talked to the vice president of Bohemia Lumber Co., based in Lane County, OR, and he told me they are getting no Italian orders at all now that the lira is 1,900 lira to the dollar. Just a few years ago, the lira was 700 lira to the dollar. The Italians could no longer afford to buy the dollars to pay for our Pacific Northwest lumber.

This is comparable to industries such as steel and cooper. We are in the same boat with the timber industry as well as the farmers.

It has not always been thus. In the late 1970's, the timber industry was booming along with the rest of the economy. Then the problem for our small independent mills in the Northwest was to get a supply of timber to put into their mills to make the lumber and plywood.

We have hundreds of small, independent lumber mills and companies in the Pacific Northwest. We are very proud of that. Actually, there are many fewer than this 10 and 20 years ago, but even today we have small mills employing 50, 100, 300 people. These are small, independent businesses and they are the bulwark, to my mind, of our Nation and of these small businesses of our Nation and of our economy.

And they do not have, most of them, much timber themselves. They do not own timber lands. They rely mainly on the timber from the national forests. And so in the late 1970's when there was a boom, they had to bid for the timber among the national forests among themselves and without that timber if they could not get a national forest timber sale, they could not stay in business.

So, I want to explain how national forests sold their timber.

Unlike Canada which just simply licenses their lumber mills and allows them to go out and cut the timber, the National Forest Service auctions sales. The Forest Service puts up 30 acres, high up in the mountains in a national forest and actually they will put up two or three such sales usually at the same time and in the local forest supervisor's office in Eugene, OR, or Roseburg, OR, or Medord, OR, or cities in northern California or Washington State or Idaho.

They will hold an auction. People from the lumber mills will come into the room. The Forest Service will start the bidding at the appraised price. Let us say the appraised price is $100 a thousand board feet of timber that is standing in the trees in the forest.

The auction begins. Somebody says $100. Somebody says $150. Somebody says $200.

Well, in the late 1970's when everybody was desperate to get a supply of timber to stay in business, the small, independent mills needing those timber sales, or they would have had to close their doors, lay off their people. They had to bid against each other in this frenzy and the bids went up and up.

One hundred dollars a thousand board feet, $200, $300. The prices careened up in those inflationary years. They bid $400 a thousand board feet, $500, even $600. Unheard of prices because they were desperate to get that timber without which they could not have stayed in business.

They were not speculating. Good heavens, no. There may have been some speculators. I know of one, a man who bought up a great deal of timber and he has since, I think, gone bankrupt as he should have but these were mills who employ hundreds of people who needed the timber to stay in business and the reason they were bidding up so high is if they could not get the sales they would have had to close their doors.

And here in this room the auction underway, they bid $300, $400, $500, $600; desperate for that timber. Even

in those days some of the giant corporations in the timber industry that had had their own timber entered the market, making it more difficult for the small independents to buy the timber they needed.

Companies such as Louisiana Pacific and Georgia Pacific began entering the Federal timber auctions, bidding up the timber even higher.

The small mills, I might point out, are mostly family concerns started by their grandfathers or their fathers; have been in the family for generations and they have a deep feeling, a deep feeling that they wanted to keep this family concern. They have a feeling of responsibility for their workers. They have a feeling of responsibility for the communities in which they have lived all their lives.

They are not corporations run out of New York City or some such other place. The people who own these mills live right with the workers in the communities in which their mills exist.

And so they had to bid high to keep that timber.

Then suddenly came the crash. Interest rates skyrocketed. Housing starts were forced down and the boom ended. Housing starts fell to below levels not seen since the 1930's. and that brought in a 2-year recession or depression in the timber industry, but we usually come out of those and we get going again before too much damage is done.

Then the dollar began going up and the Canadian lumber was cheaper and it was more difficult to sell our lumber overseas against the high dollar and so the depression remained in the Pacific Northwest. Log prices fell dizzily. Small mills were left then with contracts that they had bid on in the late seventies that were at prices of $500, $600, way above what then logs and timber were selling for in 1983 and 1984; prices of $100 or $150 a thousand.

It was not their fault. They did their best just simply to stay in business and employ the workers in the communities in which they existed.

But now if they are forced to pay for those contracts they will be bankrupted. The Forest Service gave them extensions on the contracts. They said, "Well, you were supposed to cut the timber in 3 years after you bid for it. We will let you wait 5 years.

□ 1210

But those years have gone now, and still lumber prices are depressed and the log prices are way below what they bid for, so the extensions have run out, and now if they are forced to conclude those contracts, I will tell my colleagues what will happen.

A lot of people say doing something about this is a bailout. It is no bailout. The Government will not lose any money simply because all these mills will go bankrupt. Their net worth is far less than the loss they face on the difference between the high log prices that they had to bid in the late 1970's and the market price of logs today. They will default on the contracts. They have no money. They have no choice. These are honorable people but you cannot get blood out of a turnip, and believe me, with the depressed state of the timber industry today, we are in the same state as a bloodless turnip.

So if they are forced to default, the Government gets no money. The timber remains in Government hands. The Government gets no money. The mills go bankrupt, are driven out, communities are bereft, workers unemployed, and further bankruptcies spiraling on in the Northwest.

It is a terrible, terrible situation. So what can we do about it?

We have a bill in the Congress, a bill we have been working on for 3 years, a bill that has gone through revision after revision. There have been opponents of the bill, and these opponents have worked with our people and we have compromised again and again. This bill is designed not to bail anybody out, but just simply to give these mills, these small, independent mills, these family companies, a chance to survive.

Let me read what one party who has been, for the past few years, opposed to this bill and now supports it says. Adamant in his opposition at first, the party I am about to quote now supports it for this reason, and I quote this party:

> This is a dramatic improvement over the original bill. It will mean that many of the nonneedy companies—that is, mainly the larger corporations—will live up to the vast majority of their contracts. They will still have to fulfill their contracts. It means that the general taxpayer will not finance a multimillion dollar bailout—repeat—will not finance a multimillion dollar bailout of an industry victimized by its own poor business decisions, and it means that many small businesses facing bankruptcy will stay afloat to provide healthy competition for Federal timber.

I go on to quote this party who was opposed to the bill and now supports it, and he gives the reasons why he has changed his mind.

> Where the original bill would have allowed nonneedy companies to cancel 500 million or 600 million board feet of timber, the final bill permits them to cancel only 200 million board feet. As a result, they will be required to cut a vast majority of their high-priced timber and meet the original terms of the contracts.

I continue to quote:

> Where the original bill would have assessed companies a $3 per thousand board feet penalty for the right to cancel, this new bill charges them from $45 to $90 per thousand board feet. This provision alone will bring $400 million to the Treasury of the United States Government.

So what this bill does is give the Treasury, the U.S. Government, up to $400 million in cash. The Government does not put out a penny, not a penny. They get up to $400 million in cash, and the Government keeps every tree, every stick still out in the forest, untouched, to grow or to resell as the Forest Service determines.

So the result of this bill is $400 million to the U.S. Treasury from the companies who buy out on their contracts, have to pay, all the timber remains in the hands of the Government to resell, we hope, later on at a profit to the U.S. Government, and we give the small, independent timber firms a chance to survive. They still are in deep depression. They are on their way to bankruptcy, but they at least are given a chance to survive.

That is what the bill does. The bill is sponsored by a pipartisan group of Members of the House of Representatives from Oregon, Washington, and California. We have in the State of Washington, Congressman FOLEY, Congressman LOWRY, Congressman CHANDLER, Congressman PRITCHARD, Congressman DICKS, Congressman SWIFT, and the chief sponsor on the Republican side, our dear and distinguished colleague, Congressman SID MORRISON, who has led the drive for this bill in the Committee on Agriculture, and who has done an excellent and able job.

In Oregon, every member of the Oregon delegation, both Republican and Democrat, support the bill: Congressman AUCOIN, Congressman DENNY SMITH, Congressman ROBERT SMITH, Congressman WYDEN.

And in California, Congressman Bosco, Congressman CHAPPIE, Congressman COELHO and others have sponsored this bill. Broad bipartisan support.

The other body has passed the bill and it is that identical bill, passed by the other body, that we intend to bring up to the House next week.

I want to emphasize one thing to my colleagues, to the distinguished Members of the House of Representatives, and that is that while the bill we take up next week will be a House-passed bill, actually a bill that I sponsored to promote the planting of trees throughout the Nation by civic groups, and it has a Senate amendment which includes the timber contract bill we are talking about here today, that timber contract bill has had a great deal of attention by House committees. We held a hearing in the Committee on Agriculture, Subcommittee on Forests, chaired by the distinguished gentleman from North Carolina, Congressman WHITLEY of North Carolina. We held a hearing on the general subject, with many witnesses, including the administration witnesses, on the subject of timber con-

tracts, and it was a thorough airing of the issue.

□ 1220

Then we have this summer held a hearing on this bill, the bill we bring before the House with the modifications that I have mentioned previously. We held a hearing at which there was virtually no opposition. One large timber corporation, a giant corporation, testified that they were not happy with the bill because it did not do enough for them. Now, that is true. We do not do much for the giant corporations. We are after keeping the dozens and hundreds of small, independent lumber mills in business.

So really the only opposition at this hearing held in the Subcommittee on Forests of the Committee on Agriculture just 2 months ago came from this giant corporation. Everyone else testified in support of the bill. The environmentalists testified very strongly in support of the bill. They know that diversification in the timber industry is essential to proper management of our forests. They want to keep the small, independent mills in business, and so the environmentalists supported the bill strongly.

The southern timber industry, which at one time did not like the bill, now testified in support of the bill as it has come to us. The southern timber industry sees itself drowned in an avalance of desperation timber dumped on the market from bankruptcy and default sales if this bill does not pass, drowning them also and depressing their industries. So the southern timber industry said, "It is a healthy thing for us and a healthy thing for the Nation if we make sure that those companies can buy out the contracts and the Government gets the timber back and it is not just dumped on the market."

The Nation needs it. If the contracts are forced, mills will be forced into default. As I have said already, many bankruptcies and defaults have occurred. Every week the newspapers report more lumber companies in default and more lumber companies in bankruptcy, and the Government gets nothing when this happens. If they have purchased timber from the Forest Service and they default the purchase, the Government gets nothing. There are perhaps nasty lawsuits and perhaps there is the cost of litigation, but there is no money.

So with this bill enacted into law, I tell my colleagues, instead of the Government getting nothing, the big, wealthy corporations will continue to have to cut their high-priced timber and pay the Government for it. They can afford it. So the Government gets the high-priced contracts if the big corporations hold it. But for the small, independent mills that do not have any money that would go bankrupt if they are forced on the contracts, if they are allowed to buy out up to 200 million board feet of their contracts, they must pay the Government, and they must pay the Government a healthy amount.

The party I quoted earlier in his assessment says that the Government will get up to $400 million from the buy out that the small mills will have to pay to terminate the contracts. They cannot terminate all of them either—only 55 percent of them up to 200 million board feet. But the Government gets up to $400 million and the trees.

Is that too large a price to pay to save hundreds of mills that would otherwise go bankrupt, with their communities bereft, their workers out on the unemployment lines, and their houses up for sale, houses that cannot be sold? Is that too high a price to pay?

I ask my colleagues who call this a bailout, I ask my friends who say that this is a bailout, is that too high a price to pay when the Government gets $400 million in cash, does not put out a cent, and gets the trees? Every stick of them is still on the stump, still growing in the forest. Is that too high a price to pay?

Is that a bailout? Of course not. It is something that simply must be done. It is something that is fair, that is reasonable, and that is very, very satisfactory to the taxpayer and to the Government. And we in turn keep the small mills in business perhaps.

Perhaps. The depression continues. Low lumber prices continue. Workers are continuing to be laid off, and mills continue to go bankrupt. This is not a salvation for them. This bill only offers them a chance to survive. Let us give those mills a chance to survive. That is all it is.

That is all this bill is. We have not gotten to shore yet. We are throwing a life raft to a drowning person out in the stormy ocean, giving them a chance to survive, but they have not gotten to shore yet. It is going to take a lot of work and a lot of effort, a better economy, a dollar better in relationship to other currencies in the world, and many other things. But this is a life preserver thrown out in a stormy ocean to these small independent mills.

The big mills, the big corporations, and their big ships are in the storm, too, but they still have to pay for their contracts. They still have to pay the Government. What the small mills get is a chance to survive. The Government gets up to $400 million, does not put out a cent, and gets all the timber back.

Mr. Speaker, I would say that is a bill worth voting for, and I thank my colleagues for the consideration when we bring it to the floor.

CONFERENCE REPORT ON S. 2819

Mr. ST GERMAIN submitted the following conference report and statement on the bill (S. 2819) to make essential technical corrections to the Housing and Urban-Rural Recovery Act of 1983.

CONFERENCE REPORT (H. REPT. No. 98-1103)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2819) to make essential technical corrections to the Housing and Urban-Rural Recovery Act of 1983, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Housing and Community Development technical Amendments Act of 1984"

TITLE I—TECHNICAL AND CONFORMING AMENDMENTS TO HOUSING AND URBAN-RURAL RECOVERY ACT OF 1983

COMMUNITY AND NEIGHBORHOOD DEVELOPMENT AND CONSERVATON

SEC. 101. (a)(1) The last sentence of section 102(a)(4) of the Housing and Community Development Act of 1974 is amended—

(A) by striking out "while its population is included in an urban county for such fiscal year";

(B) by striking out "continues" and inserting in lieu thereof "elects"; and

(C) by striking out "such" the last place it appears and inserting in lieu thereof "an".

(2) Section 102(a)(6) of the Housing and Community Development Act of 1974 is amended—

(A) in the penultimate sentence, by inserting before the period at the end thereof the following: ", except that the provisions of this sentence shall not apply with respect to any county losing its classification as an urban county by reason of the election of any unit of general local government included in such county to have its population excluded under clause (B)(i) of the first sentence or to not renew a cooperation agreement under clause (B)(ii) of such sentence";

(B) by inserting before the semicolon at the end of clause (B) of the last sentence the following: ", (excluding the population of metropolitan cities therein) in all its un-incorporated areas that are not units of general local government and in all units of general local government located within such county"; and

(c) by inserting before the period at the end of clause (D) of the last sentence the following: "(excluding the population of metropolitan cities therein) in all its unincorporated areas that are not units of general local government and in all units of general local government located within such county".

(3) Section 102(a)(20) of the Housing and Community Development Act of 1974 is amended to read as follows:

"(20)(A) The terms 'persons of low and moderate income' and 'low- and moderate-income persons' mean families and individ-

uals whose incomes do not exceed 80 percent of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families. The term 'persons of low income' means families and individuals whose incomes do not exceed 52 percent of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families. The term 'persons of moderate income' means families and individuals whose incomes exceed 50 percent, but do not exceed 80 percent, of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families. For purposes of such terms, the area involved shall be determined in the same manner as such area is determined for purposes of assistance under section 8 of the United States Housing Act of 1937.

"(B) The Secretary may establish percentages of median income for any area that are higher or lower than the percentages set forth in subparagraph (A), if the Secretary finds such variations to be necessary because of unusually high or low family incomes in such area.".

(4) Section 102(a)(21) of the Housing and Community Development Act of 1974 is amended by striking out "capital or office buildings" and inserting in lieu thereof the following: "capitol or office buildings,".

(5) Section 104(a)(2)(E) of the Housing and Community Development Act of 1974 is amended by inserting before the period at the end thereof the following: "or in the method of distribution of such funds".

(6) Section 104(b)(5)(B) of the Housing and Community Development Act of 1974 is amended by striking out "low and moderate income who are not persons of very low" and inserting in lieu thereof "moderate".

(7) Section 104(d) of the Housing and Community Development Act of 1974 is amended—

(A) in the third sentence, by striking out the last comma;

(B) in the fifth sentence, by inserting "general" before "local" the last place it appears; and

(C) in the sixth sentence, by inserting "general" before "local".

(8)(A) Section 105(a)(8) of the Housing and Community Development Act of 1974 is amended by inserting "fiscal year 1982 or" before "fiscal year 1983".

(B) Section 105(a)(15) of the Housing and Community Development Act of 1974 is amended by striking out "including" and inserting in lieu thereof "and".

(9)(A) Section 105(c)(2) of the Housing and Community Development Act of 1974 is amended by striking out "(B)" and all that follows through "recipient" and inserting in lieu thereof the following: "(B) in any metropolitan city or urban county, the area served by such activity is within the highest quartile of all areas within the jurisdiction of such city or county in terms of the degree of concentration of persons of low and moderate income".

(B) The amendment made by subparagraph (A) shall take effect upon the enactment of this Act and shall be implemented through an interim instruction issued by the Secretary of Housing and Urban Development. Not later than June 1, 1985, the Secretary of Housing and Urban Development shall issue a final regulation regarding the provisions of such amendment.

(10) Section 106(d)(2)(A) of the Housing and Community Development Act of 1974 is amended—

(A) by striking out "a State that has elected, in such manner and at such time as the Secretary shall prescribe" any place it appears and inserting in lieu thereof "the State"; and

(B) in clause (i), as such clause may have been amended by subparagraph (A), by striking out "the State" and inserting in lieu thereof the following: "a State that has elected, in such manner and at such time as the Secretary shall prescribe, to distribute such amounts".

(11) Section 106(d)(3) of the Housing and Community Development Act of 1974 is amended—

(A) in the second sentence of subparagraph (A), by inserting after "title" the following: "or section 17(e)(1) of the United States Housing Act of 1973"; and

(B) in subparagraph (C), by inserting after "104" the following: "or to make the certifications required in subparagraphs (C) and (D) of paragraph (2)".

(12) Section 106(d)(5)(D)(ii) of the Housing and Community Development Act of 1974 is amended by striking out "low and moderate income who are not persons of very low" and inserting in lieu thereof "moderate".

(13)(A) Section 112 of the Housing and Community Development Act of 1974 is amended by striking out subsection (c).

(B)(i) Notwithstanding any other provision of law or other requirement, the city of Baltimore in the State of Maryland is authorized to retain any land disposition proceeds from financially closed-out urban renewal projects not paid to the Department of Housing and Urban Development, and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The city of Baltimore shall retain such proceeds in a lump sum and shall be entitled to retain and use all past and future earnings from such proceeds, including any interest.

(ii) Notwithstanding any other provision of law or other requirement, the City of Denver in the State of Colorado, or its designee, is authorized to receive all funds held by the Denver Urban Renewal Authority from the urban renewal project subject to civil litigation in the case of United States v. Denver Urban Renewal Authority, No. 84-K-67 (D. Colo.), for use as a direct grantee under and in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Denver shall retain such funds in a lump sum and shall be entitled to retain and use all past and future earnings from such funds, including any interest.

(14) The last sentence of section 810(f) of the Housing and Community Development Act of 1974 is amended by inserting ", State," after "government".

(b)(1) Section 110(b) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking out "section" and inserting in lieu thereof "part".

(2) Section 123(b)(3) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking out "(a)(4)" each place it appears and inserting in lieu thereof "(a)(1)".

(3) Section 123(c) of the Housing and Urban-Rural Recovery Act of 1983 is amended—

(A) by striking out "(1)" after the subsection designation; and

(B) by redesignating subparagraphs (A) through (D) as paragraphs (1) through (4), respectively.

HOUSING ASSISTANCE PROGRAMS

SEC. 102. (a)(1) Section 235(h)(1) of the National Housing Act is amended—

(A) in the penultimate sentence, by inserting after "1983," the first place it appears the following: "utilizing amounts approved in appropriation Acts before the date of the enactment of the Housing and Urban-Rural Recovery Act of 1983,"; and

(B) in the last sentence, by striking out "November 30, 1983" and inserting in lieu thereof "September 30, 1985".

(2) The first sentence of section 236(f)(4) of the National Housing Act is amended by striking out "up to".

(b)(1) Section 3(b)(2) of the United States Housing Act of 1937 is amended by adding at the end thereof the following new sentence: "Such ceilings shall be established in consultation with the Secretary of Agriculture for any rural area, as defined in section 520 of the Housing Act of 1949, taking into account the subsidy characteristics and types of programs to which such ceilings apply.".

(2) Section 3(b)(4) of the United States Housing Act of 1937 is amended by inserting before the period at the end thereof the following: ", in consultation with the Secretary of Agriculture".

(3) Section 3(b)(5)(C) of the United States Housing Act of 1937 is amended to read as follows:

(C) the amount by which the aggregate of the following expenses of the family exceeds 3 percent of annual family income: (i) medical expenses for any elderly family; and (ii) reasonable attendant care and auxiliary apparatus expenses for each handicapped member of any family, to the extent necessary to enable any member of such family (including such handicapped member) to be employed; and".

(4) Section 6(j) of the United States Housing Act of 1937 is amended—

(A) by inserting ", acquisition, or acquisition and rehabilitation" after "construction"; and

(B) by striking out "large families" and inserting in lieu thereof "families requiring three or more bedrooms".

(5) Section 6(m) of the United States Housing Act of 1937 is amended by striking out "hearing" and inserting in lieu thereof "housing".

(6) Section 8(d)(2) of the United States Housing Act of 1937 is amended by striking out the last two sentences and inserting in lieu thereof the following: "Where the Secretary enters into an annual contributions contract with a public housing agency pursuant to which the agency will enter into a contract for assistance payments with respect to an existing structure, the contract for assistance payments may not be attached to the structure unless (A) the Secretary and the public housing agency approve such action, and (B) the owner agrees to rehabilitate the structure other than with assistance under this Act and otherwise compiles with the requirements of this section.".

(7) Section 8(e)(2) of the United States Housing Act of 1937 is amended by adding at the end thereof the following new sentence: "The Secretary shall increase the amount of assistance provided under this paragraph above the amount of assistance otherwise permitted by this paragraph and subsection (c)(1), if the Secretary determines such increase necessary to assist in the sale of multifamily housing projects owned by the Department of Housing and Urban Development.".

(8) Section 8(n) of the United States Housing Act of 1937 is amended by striking out "In" and all that follows through "Secretary" and inserting in lieu thereof the following: "In making assistance available under subsections (b)(1) and (e)(2), the Secretary".

(9) The first sentence under section 8(o)(3) of the United States Housing Act of 1937 is amended—

(A) by striking out "or" before "(3)"; and

(B) by inserting before the period at the end thereof the following: ", or (c) a family that is determined to be a lower income family at the time it initially receives assistance and that is displaced by activities under section 17(c)".

(10) Section 8(o)(7)(D) of the United States Housing Act of 1937 is amended by inserting "unit of" before "general".

(c)(1) The first sentence of section 202(a)(4)(B)(1) of the Housing Act of 1959 is amended by striking out "1985" and inserting in lieu thereof "1984".

(2) Section 202(h) of the Housing Act of 1959 is amended—

(A) by inserting "and" at the end of paragraph (1); and

(B) by striking out "; and" at the end of paragraph (2) and inserting in lieu thereof a period.

(3) Section 202(1) of the Housing Act of 1959 is amended by adding at the end thereof the following new sentence: "The Secretary shall not impose difference requirements or standards with respect to construction change orders, increases in loan amount to cover change orders, errors in plans and specifications, and use of contingency funds, because of the method of contractor selection used by the sponsor or borrower.".

(d) The penultimate sentence of section 101(g) of the Housing and Urban Development Act of 1965 is amended by striking out "up to".

(e) Section 213(d)(2) of the Housing and Community Development Act of 1974 is amended by striking out "532" and inserting in lieu thereof "533".

(f) Section 411(a)(4) of the the Congregate Housing Services Act of 1978 is amended by adding at the end thereof a semicolon.

(g)(1) Section 216 of the Housing and Urban-Rural Recovery Act of 1983 is amended—

(A) by inserting "of Housing and Urban Development" after "Secretary" each place it appears; and

(B) by striking out "paragraph" each place it appears and inserting in lieu thereof "section".

(2) Section 220 of the Housing and Urban-Rural Recovery Act of 1983 is amended by inserting "of Housing and Urban Development" after "Secretary" each place it appears.

(3) Section 221 of the Housing and Urban-Rural Recovery Act of 1983 is amended—

(A) by striking out "chapter" and inserting in lieu thereof "part";

(B) by striking out ", up to the utility allowance,";

(C) by inserting "in lieu of any rental payment" after "made"; and

(D) by striking out "rental" and inserting in lieu thereof "shelter".

RENTAL HOUSING REHABILITATION AND PRODUCTION PROGRAM

SEC. 103. (a) Section 17(a)(1)(A) of the United States Housing Act of 1937 is amended by striking out. "to States and units of general local government".

(b) Section 17(b)(2)(B) of the United States Housing Act of 1937 is amended by striking out "(f)" and inserting in lieu thereof "(e)".

(C)(1) Section 17(C)(2)(H) of the United States Housing Act of 1937 is amended by striking out "State or unit of general local government that receives the assistance" and inserting in lieu thereof "grantee".

(2) Section 17(C)(3)(A) the United States Housing Act of of 1937 is amended by striking out "families, including large families with children" and inserting in lieu thereof the following: "families with children, particularly families requiring three or more bedrooms".

(d)(1) Section 17(d)(2) of the United States Housing Act of 1937 is amended—

(A) in the penultimate sentence, by inserting "general local" before "government"; and

(B) by inserting after the penultimate sentence the following new sentence: "Notwithstanding such minimum standards, a city shall also be eligible to submit such an application if (A) according to the most recent data compiled by the United States Bureau of the Census, such city has a population of not less than 450,000; and (B) the percentage of the total rental units in such city that are vacant and available for rent is less than 10 percent.".

(2) Section 17(d)(4)(E) of the United States Housing Act of 1937 is amended by striking out "persons" and all that follows through "income" and inserting in lieu thereof "lower income families".

(3) Section 17(d)(5)(H) of the United States Housing Act of 1937 is amended by striking out "families, including large families with children" and inserting in lieu thereof the following: "families with children, particularly families requiring three or more bedrooms".

(e)(1) Section 17(e)(1) of the United States Housing Act of 1937 is amended—

(A) in the first sentence, by striking out "(b)(2)" and inserting in lieu thereof "(b); and

(B) in the second sentence, by striking out "cities with populations of less than fifty thousand" and inserting in lieu thereof the following: "units of general local government and areas of the State that do not receive allocations under subsection (b)".

(2) Section 17(e)(2) of the United States Housing Act of 1937 is amended by striking out "(b)(2) of this section" and inserting in lieu thereof "(b)".

(f) Section 17(1)(3) of the United States Housing Act of 1937 is amended by striking out "structure" and inserting in lieu thereof "project".

(g)(1) Section 17(k)(5)(A) is amended by striking out "resources under this section" and inserting in lieu thereof the following: "resources under subsection (b), and any unit of general local government receiving resources under subsection (d)".

(2) Section 17(k)(5)(8) of the United States Housing Act of 1937 is amended by striking out "(f)" and inserting in lieu thereof "(e)".

(3) Section 17(k)(5)(C) of the United States Housing Act of 1937 is amended by striking out "(f)(2)" and inserting in lieu thereof "(e)".

(4) Section 17(k) of the United States Housing Act of 1937 is amended—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(C) by inserting after paragraph (5) the following new paragraphs:

"(6) the term 'State' means each of the several States and the Commonwealth of Puerto Rico; and

"(7) the term 'unit of general local government' means (A) any city, county, town, township, parish, village, or other general purpose political subdivision of a State; (B) any Indian tribe (as defined in section 102(a)(17) of the Housing and Community Development Act of 1974); and (C) the District of Columbia, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.".

(h)(1) Section 17(l)(1) of the United States Housing Act of 1937 is amended—

(A) by inserting a comma after "government"; and

(B) by striking out "(f)(1)" and inserting in lieu thereof "(e)(1)"; and

(2) Section 17(l)(2) of the United States Housing Act of 1937 is amended by striking out "(e)(2)" and inserting in lieu thereof "(e)(1)".

(i) Section 17 of the United States Housing Act of 1937 is amended by adding at the end thereof the following new subsection:

"(o) INAPPLICABILITY OF CERTAIN PROVISIONS.—Unless otherwise specifically provided in this section, the following provisions of this Act shall not apply to grants provided under this section: section 3(a), section 3(b)(1), the third sentence of section 3(b)(3), section 3(b)(7), the last sentence of section 6(a), and any other provision of this Act that is inconsistent with the provisions of this section.".

PROGRAM AMENDMENTS AND EXTENSIONS

SEC. 104. (a)(1) The section heading of section 232 of the National Housing Act is amended to read as follows: "MORTGAGE INSURANCE FOR NURSING HOMES, INTERMEDIATE CARE FACILITIES, AND BOARD AND CARE HOMES".

(2) Section 234(k) of the National Housing Act is amended—

(A) by striking out "or" before "(3)"; and

(B) by inserting before the period at the end thereof the following: ", or (4) before April 20, 1984 (A) application was made to the Secretary for a commitment to insure a mortgage covering any unit in the project, (B) in the case of direct endorsement, the mortgagee received the case number assigned by the Secretary for any unit in the project, or (C) application was made for approval of the project for guarantee, insurance, or direct loan under chapter 37 of title 38, United States Code".

(3) Section 235(j)(2)(C) of the National Housing Act is amended to read as follows:

"(C) bear interest at a rate not to exceed such percent per annum on the amount of the principal obligation outstanding at any time as the Secretary determines is necessary to meet the mortgage market, taking into consideration the yields on mortgages in the primary and secondary markets;".

(4) Section 236(j)(4)(B) of the National Housing Act is amended to read as follows:

"(B) bear interest at a rate not to exceed such percent per annum, on the amount of the principal obligation outstanding at any time as the Secretary determines is necessary to meet the mortgage market, taking into consideration the yields on mortgages in the primary and secondary markets; and".

(5) Section 244(d) of the National Housing Act is amended to read as follows:

"(d) No mortgage, advance, or loan shall be insured pursuant to this section after September 30, 1985, except pursuant to a

commitment to insure made before that date.".

(6) The section heading of section 526 of the National Housing Act is amended to read as follows: "MINIMUM PROPERTY STANDARDS".

(7) Section 531 of the National Housing Act is amended by striking out "title II" each place it appears and inserting in lieu thereof "this Act".

(8) Section 1101(c)(4) of the National Housing Act is amended to read as follows:

"(4) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee.".

(b) Section 7(o)(6)(C) of the Department of Housing and Urban Development Act is amended by striking out "3 of Public Law 90-301" and inserting in lieu thereof "235 or 236 of the National Housing Act".

(c)(1) Section 906(a) of the Housing and Urban Development Act of 1968 is amended—

(A) by striking out "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph;

"(4) for the purpose of generating income to support the building or rehabilitiation of housing primarily for the benefit of families and individuals of low or moderate income (A) design, develop, manufacture and sell products and services for use in the construction, sale, or financing of housing, and (B) design and develop commercial, industrial, or retail facilities that are not directly related to housing, except that the development and preservation of housing for families and individuals of low or moderate income shall be the primary activity of the corporation.".

(2) Section 906 of the Housing and Urban Development Act of 1968 is amended by adding at the end thereof the following:

"(e) The combined outstanding equity commitment of the corporation and the partnership with respect to activities undertaken under subsection (a)(4) may not exceed (1) 7 percent of their total combined equity commitment outstanding during the first 12-month period following the date of enactment of this subsection; (2) 14 percent of their total combined equity commitment outstanding during the second 12-month period following the date of enactment of this subsection; or (3) 20 percent of their total combined equity commitment outstanding at any time thereafter.".

(3) Section 908(a) of the Housing and Urban Development Act of 1968 is amended—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end thereof the following:

"(2) The report shall contain a description of the activities undertaken under section 906(a)(4), and shall specify, as a percentage of equity and in dollars, the extent of the corporation's and the partnership's investment in housing for the benefit of families and individuals of low or moderate income, the extent of the corporation's and the partnership's investment in other housing, and the extent of the corporation's and the partnership's activities which are undertaken under section 906(a)(4)."

(d)(1) Section 514(b)(5)(A) of the Solar Energy and Energy Conservation Bank Act is amended by striking out "loan" and inserting in lieu thereof "grant".

(2)(A) Section 520(b)(5) of the Solar Energy and Energy Conservation Bank Act is amended to read as follows:

"(5)(A) establish explicit criteria, and their relative weights, for the allocation of financial assistance under this subtitle among eligible financial institutions; and

"(B) provide that all amounts available for financial assistance under this subtitle as a result of any one appropriations law, or otherwise available for such assistance, shall be allocated at the same time; and".

(B) The Secretary shall issue the regulations required as a result of the amendment made by this paragraph not later than 90 days after the date of the enactment of this Act.

(e)(1) Section 463 of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking out "(c)(1)" the second place it appears and inserting in lieu thereof "(d)(1)".

(2) Section 482 of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking out "305(b)" and inserting in lieu thereof "305".

(f) The Secretary of Housing and Urban Development shall, not later than October 31, 1984, issue regulations to carry out the amendments made to section 242 of the National Housing Act by section 436 of the Housing and Urban-Rural Recovery Act of 1983.

RURAL HOUSING

Sec. 105. (a) Section 501(b)(4) of the Housing Act of 1949 is amended by striking out "by the Secretary of Housing and Urban Development".

(b)(1) Section 502(d) of the Housing Act of 1949 is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) not less than 40 percent of the funds approved in appropriation Acts for use under this section shall be set aside and made available only for very low-income families or persons; and

"(2) not less than 30 percent of the funds allocated to each State under this section shall be available only for very low-income families or persons.".

(2) Notwithstanding any other provision of law, the provisions of section 502(d) of the Housing Act of 1949, as amended by paragraph (1), shall apply with respect to fiscal year 1985 and thereafter, and the provisions of such section, as so amended, may not be changed or superseded except by another provision of law which amends such section.

(c) Section 510(e) of the Housing Act of 1949 is amended by striking out ". Such" and ". Where" and inserting in lieu thereof "; such" and "; where", respectively.

(d)(1) Section 513(a) of the Housing Act of 1949 is amended—

(A) by inserting "(1)" after the subsection designation; and

(B) by adding at the end thereof the followign new paragraph:

"(2) Notwithstanding any other provision of law, insured and guaranteed loan authority authorized in this title for any fiscal year beginning after September 30, 1984, shall not be transferred or used for any purpose not specified in this title.".

(2) Section 513(b)(7) of the Housing Act of 1949 is amended by striking out "531" and inserting in lieu thereof "533".

(e) Section 515(k)(2)(B) of the Housing Act of 1949 is amended by inserting ", at the option of the applicant, either that there is a reasonable assurance that the contract for assistance will be extended or renewed, or" after "five years, and ".

(f) Section 517(j)(4) of the Housing Act of 1949 is amended by inserting "and" after the semicolon at the end thereof.

(g) The last sentence of section 520 of the Housing Act of 1949 is amended by striking out "1984" and inserting in lieu thereof "1985".

(h) Section 521(d)(1) of the Housing Act of 1949 is amended to read as follows:

"(d)(1) In utilizing the rental assistance payments authority pursuant to subsection (a)(2)—

"(A) the Secretary shall make such assistance available in existing projects for units occupied by low income families or persons to extend expiring contracts or to provide additional assistance when necessary to provide the full amount authorized pursuant to existing contracts;

"(B) any such authority remaining after carrying out subparagraph (A) shall be used in projects receiving commitments under section 514, 515, or 516 after fiscal year 1983 for contracts to assist very low-income families or persons to occupy the units in such projects, except that not more than 5 percent of the units assisted may be occupied by low-income families or persons who are not very low-income families or persons; and

"(C) any such authority remaining after carrying out subparagraphs (A) and (B) may be used to provide further assistance to existing projects under section 514, 515, or 516.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS TO OTHER HOUSING AND COMMUNITY DEVELOPMENT AND BANKING LAWS

CONFORMING REFERENCES TO SECRETARY OF HEALTH AND HUMAN SERVICES AND SECRETARY OF EDUCATION

SEC. 201. (a)(1) Section 242(c) of the National Housing Act is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(2) Section 1104 of the National Housing Act is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(b) Section 302(c)(2)(B) of the Federal National Mortgage Association Charter Act is amended—

(1) by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Education"; and

(2) by striking out "Commissioner" and inserting in lieu thereof "Secretary".

(c) Section 522(a) of the Housing Act of 1949 is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health, and Human Services".

(d)(1) Section 402(c) of the Housing Act of 1950 is amended—

(A) by striking out paragraph (2); and

(B) by redesignating paragraphs (3) through (9) as paragraphs (2) through (8), respectively.

(2) Section 404(f) of the Housing Act of 1950 is amended by striking out "Housing and Urban Development" and inserting in lieu thereof "Education".

(e) Section 202(f) of the Housing Act of 1959 is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(f) Section 207 of the Demonstration Cities and Metropolitan Development Act of 1966 is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(g) Section 209 of the Housing and Community Development Act of 1974 is amended

by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(h) Paragraphs (1) and (2) of section 413(b) of the Energy Conservation in Existing Building Act of 1976 are amended by striking out "Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Health and Human Services".

(i) Section 207(c)(3) of the Public Housing Security Demonstration Act of 1978 is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(j) Section 405(i) of the Congregate Housing Services Act of 1978 is amended by striking out "the Department of Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

CONFORMING CROSS-REFERENCES TO TITLE 5, UNITED STATES CODE

SEC. 202. (a)(1) The second sentence of section 1 of the National Housing Act is amended by striking out "without" and all that follows through "States".

(2) Section 1247 of the National Housing Act is amended by striking out "the Administrative Procedure Act" and inserting in lieu thereof the following: "subchapter II of chapter 5, and chapter 7, of title 5, United States Code".

(b)(1) The first sentence of section 502(a) of the Housing Act of 1948 is amended by striking out "the Classification Act of 1949, as amended" and inserting in lieu thereof the following: "chapter 51 and subchapter III of chapter 53 of title 5, United States Code".

(2) Section 502(c)(1) of the Housing Act of 1948 is amended by striking out "5 U.S.C. 73b–2" and inserting in lieu thereof the following: "section 5703 of title 5, United States Code".

(c) Section 601 of the Housing Act of 1949 is amended by striking out "section 5 of the Act of August 2, 1946 (5 U.S.C. 73b–2)" and inserting in lieu thereof the following: "section 5703 of title 5, United States Code".

(d) Section 1416(b) of the Interstate Land Sales Full Disclosure Act is amended by striking out "the Administrative Procedure Act" and inserting in lieu thereof the following: "subchapter II of chapter 5, and chapter 7, of title 5, United States Code".

CONFORMING CROSS-REFERENCES TO TITLE 31, UNITED STATES CODE

SEC. 203. (a)(1) Section 304(c) of the Federal National Mortgage Association Charter Act is amended by striking out "the Second Liberty Bond Act, as now or hereafter in force" each place it appears and inserting in lieu thereof "chapter 31 of title 31, United States Code".

(2) Section 306(d) of the Federal National Mortgage Association Charter Act is amended by striking out "the Second Liberty Bond Act, as now or hereafter in force" each place it appears and inserting in lieu thereof "chapter 31 of title 31, United States Code".

(3) Section 309(b) of the Federal National Mortgage Association Charter Act is amended by striking out "the Government Corporation Control Act" and inserting in lieu thereof "chapter 91 of title 31, United States Code".

(4) Section 315(c) of the Federal National Mortgage Association Charter Act is amended by striking out "the Second Liberty Bond Act, as now or hereafter in force" each place it appears and inserting in lieu thereof "chapter 31 of title 31, United States Code".

(5) Section 316(c) of the Federal National Mortgage Association Charter Act is amended by striking out "the Second Liberty Bond Act, as now or hereafter in force" each place it appears and inserting in lieu thereof "chapter 31 of title 31, United States Code".

(b)(1) Section 4(b) of the United States Housing Act of 1937 is amended—

(A) by striking out "the Second Liberty Bond Act, as amended" and inserting in lieu thereof "chapter 31 of title 31, United States Code"; and

(B) by striking out "such Act, as amended," and inserting in lieu thereof "such chapter".

(2) Section 10(a) of the United States Housing Act of 1937 is amended by striking out "the Government Corporation Control Act, as amended" each place it appears and inserting in lieu there of "chapter 91 of title 31, United States Code".

(c) Section 502(c)(2) of the Housing Act of 1948 is amended by striking out "section 3648 of the Revised Statutes" and inserting in lieu thereof "subsections (a) and (b) of section 3324 of title 31, United States Code".

(d)(1) Section 102(f) of the Housing Act of 1949 is amended—

(A) by striking out "the Second Liberty Bond Act, as amended" and inserting in lieu thereof "chapter 31 of title 31, United States Code"; and

(B) by striking out "such Act, as amended," and inserting in lieu thereof "such chapter".

(2) Section 106(a) of the Housing Act of 1949 is amended by striking out "the Government Corporation Control Act, as amended" each place it appears and inserting in lieu thereof "chapter 91 of title 31, United States Code".

(3) Section 501(b)(6) of the Housing Act of 1949 is amended by striking out "the State and Local Fiscal Assistance Act of 1972 (Public Law 92-512)" and inserting in lieu thereof "chapter 67 of title 31, United States Code".

(4) Section 511 of the Housing Act of 1949 is amended—

(A) by striking out "the Second Liberty Bond Act, as amended" and inserting in lieu thereof "chapter 31 of title 31, United States Code"; and

(B) by striking out "such Act" and inserting in lieu thereof "such chapter".

(5) Section 517(h) of the Housing Act of 1948 is amended—

(A) by striking out "the Second Liberty Bond Act, as amended" and inserting in lieu thereof "chapter 31 of title 31, United States Code"; and

(B) by striking out "such Act" and inserting in lieu thereof "such chapter".

(6) Section 517(k) of the Housing Act of 1949 is amended by striking out "the Budget and Accounting Act, 1921" and inserting in lieu thereof "chapter 11 of title 31, United States Code".

(e)(1) Section 401(e) of the Housing Act of 1950 is amended—

(A) by striking out "the Second Liberty Bond Act, as amended" and inserting in lieu thereof "chapter 31 of title 31, United States Code"; and

(B) by striking out "such Act, as amended," and inserting in lieu thereof "such chapter".

(2) Section 402(a)(1) of the Housing Act of 1950 is amended by striking out "the Government Corporation Control Act, as amended" and inserting in lieu thereof "chapter 91 of title 31, United States Code".

(3) Section 402(a)(2) of the Housing Act of 1950 is amended by striking out "the Accounting and Auditing Act of 1950" and inserting in lieu thereof "chapter 35 of title 31, United States Code".

(4) Section 402(e) of the Housing Act of 1948 is amended—

(A) by striking out "section 309 of the Independent Offices Appropriation Act, 1950 (63 Stat. 662)" and inserting in lieu thereof "section 9107(a) title 31, United States Code";

(B) by striking out "the Government Corporation Control Act" and inserting in lieu thereof "chapter 91 of such title".

(f) Section 203(a) of the Housing Amendments of 1955 is amended—

(1) by striking out "the Second Liberty Bond Act, as amended" and inserting in lieu thereof "chapter 31 of title 31, United States Code"; and

(2) by striking out "such Act, as amended," and inserting in lieu thereof "such chapter".

(g) Section 15(e) of the Federal Flood Insurance Act of 1956 is amended—

(1) by striking out "the Second Liberty Bond Act, as amended," and inserting in lieu thereof "chapter 31 of title 31, United States Code"; and

(2) by striking out "such Act, as amended," and inserting in lieu thereof "such chapter".

(h) Section 202(a)(4)(B)(i) of the Housing Act of 1959 is amended—

(1) by striking out "the Second Liberty Bond Act" and inserting in lieu thereof "chapter 31 of title 31, United States Code"; and

(2) by striking out "that Act" and inserting in lieu thereof "such chapter".

(i)(1) Section 1222(c) of the Urban Property Protection and Reinsurance Act of 1968 is amended by striking out "section 3679(a) of the Revised Statutes of the United States (31 U.S.C. 665(a))" and inserting in lieu thereof "section 1341(a) of title 31, United States Code".

(2) Section 1243(d) of the Urban Property Protection and Reinsurance Act of 1968 is amended by striking out "law (sections 102, 103, and 104 of the Government Corporation Control Act (31 U.S.C. 847–849))" and inserting in lieu thereof "sections 9103 and 9104 of title 31, United States Code".

(j)(1) Section 1310(e) of the National Flood Insurance Act of 1968 is amended by striking out "law (sections 102, 103, and 104 of the Government Corporation Control Act (31 U.S.C. 847–849))" and inserting in lieu thereof "sections 9103 and 9104 of title 31, United States Code".

(2) Section 1360(b) of the National Flood Insurance Act of 1968 is amended by striking out "sections 3648 and 3709 of the Revised Statutes, as amended (31 U.S.C. 529 and 41 U.S.C. 5)" and inserting in lieu thereof "subsections (a) and (b) of section 3324 of title 31, United States Code", and section 3709 of the Revised Statutes (41 U.S.C. 5)".

(3) Section 1373 of the National Flood Insurance Act of 1968 is amended by striking out "the Government Corporation Control Act" and inserting in lieu thereof "chapter 91 of title 31, United States Code,".

(k) Section 502(e) of the Housing and Urban Development Act of 1970 is amended by striking out "section 3648 of the Revised Statutes" and inserting in lieu thereof "subsections (a) and (b) of section 3324 of title 31, United States Code,".

(l)(1) Section 102(a)(17) of the Housing and Community Development Act of 1974 is amended by striking out "the State and Local Fiscal Assistance Act of 1972 (Public Law 92-512)" and inserting in lieu thereof "chapter 67 of title 31, United States Code".

(2) Section 108(g) of the Housing and Community Development Act of 1974 is amended—

(A) by striking out "the Second Liberty Bond Act, as now or hereafter in force" and inserting in lieu thereof "chapter 31 of title 31, United States Code"; and

(B) by striking out "such Act" and inserting in lieu thereof "such chapter".

(3) Section 119(n)(2) of the Housing and Community Development Act of 1974 is amended by striking out "the State and Local Fiscal Assistance Act of 1972" and inserting in lieu thereof "chapter 67 of title 31, United States Code".

(4) Section 802(e)(2) of the Housing and Community Development Act of 1974 is amended—

(A) by striking out "the Second Liberty Bond Act" and inserting in lieu thereof "chapter 31 of title 31, United States Code"; and

(B) by striking out "that Act" and inserting in lieu thereof "such chapter".

(m) Section 608(d) of the Neighborhood Reinvestment Corporation Act is amended by striking out "the Budget and Accounting Act, 1921" and inserting in lieu thereof "chapter 11 of title 31, United States Code".

MISCELLANEOUS TECHNICAL CORRECTIONS

SEC. 204. (a)(1) Section 4 of the National Housing Act is amended by striking out "suuch" and inserting in lieu thereof "such".

(2) Section 203(n)(2)(A) of the National Housing Act is amended by striking out "an" and inserting in lieu thereof "a".

(3) The first sentence of section 207(i) of the National Housing Act is amended by inserting "section" before "221(g)".

(4)(A) The National Housing Act is amended by inserting the following section heading for section 214: "INSURANCE OF MORTGAGES ON PROPERTY IN ALASKA, GUAM, AND HAWAII".

(B) The third sentence of section 214 of the National Housing Act is amended by striking out "Nowithstanding" and inserting in lieu thereof "Notwithstanding".

(5) Section 217 of the National Housing Act is amended by inserting "section 244, section 245," after "236,".

(6) Section 221(d)(3)(iii) of the National Housing Act is amended by striking out "rehabilited" and inserting in lieu thereof "rehabilitated".

(7) The first sentence of section 223(f)(2) of the National Housing Act is amended by inserting "a" before "multifamily".

(8) Section 235(1)(3)(C) of the National Housing Act is amended by striking out "Seretary" and inserting in lieu thereof "Secretary".

(9) Section 236(j)(5)(C) of the National Housing Act is amended by striking out "or residents" and inserting in lieu thereof "of residents".

(10) Section 240(a) of the National Housing Act is amended by striking out "purchasers" and inserting in lieu thereof "purchases"

(11) The first sentence of section 241(a) of the National Housing Act is amended by striking out "to made" and inserting in lieu thereof "to make".

(12) Section 241(b)(1) of the National Housing Act is amended by striking out "of facility" and inserting in lieu thereof "or facility".

(13) Section242(d)(3)(A) of the National Housing Act is amended by striking out the comma at the end thereof and inserting in lieu thereof a semicolon.

(14) Section 243(d)(2) of the National Housing Act is amended by redesignating subparagraphs (1) through (3) as subparagraphs (A) through (C), respectively.

(15) Section 243(j)(3)(ii) of the National Housing Act is amended by striking out the period at the end thereof and inserting in lieu thereof "; and".

(16) The fourth sentence of section 302(b)(2) of the National Housing Act is amended by striking out "Corporation" and inserting in lieu thereof corporation".

(17) The National Housing Act is amended by inserting the following section heading for the first section 512: "PENALTIES".

(18) The National Housing Act is amended by inserting the following section heading for the first section 513: "PROHIBITION AGAINST TRANSIENT HOUSING".

(19) The National Housing Act is amended by redesignating the second section 513 as section 513A. Any reference in any law, regulation, order, document, record, or other paper of the United States to the section redesignated in this paragraph hereby is deemed to refer to section 513A of the National Housing Act.

(20) The National Housing Act is amended by inserting the following section heading for section 515: "AMENDMENT, EXTENSION, OR INCREASE OF COMMITMENT AMOUNTS".

(21) The National Housing Act is amended by inserting the following section heading for section 516: "PAYMENT OF CERTAIN FUNDS TO TREASURY".

(22) Section 527 of the National Housing Act is amended by inserting "(a)" after the section designation.

(23) The last sentence of section 904(d) of the National Housing Act is amended by striking out "auhorized" and inserting in lieu thereof "authorized".

(b)(1) The first sentence of section 6(a) of the United States Housing Act of 1937 is amended by striking out "convenants" and inserting in lieu thereof "covenants".

(2) Section 14(a) of the United States Housing Act of 1937 is amended by striking out the comma at the end of each of paragraphs (1) and (2) and inserting in lieu thereof a semicolon.

(c)(1) The last sentence of section 105(f) of the Housing Act of 1949 is amended by striking out "Committees on Banking and Currency of the Senate and the House of Representatives" and inserting in lieu thereof the following: "Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives".

(2) Section 523(g) of the Housing Act of 1949 is amended by inserting "Housing" before "Land" the second place it appears.

(3) The Housing Act of 1949 is amended by inserting the following section heading for 528: "TAXATION OF PROPERTY HELD BY SECRETARY".

(d) Section 402(a)(2) of the Housing Act of 1950 is amended by striking out "Administrator" each place it appears and inserting in lieu thereof "Secretary".

(e) Section 101(j)(1)(D) of the Housing and Community Development Act of 1965 is amended by striking out "divided" and inserting in lieu thereof "dividend".

(f) The second sentence of section 106(b)(1) of the Housing and Urban Development Act of 1968 is amended by striking out "architectual" and inserting in lieu thereof "architectural".

(g) The last sentence of section 1309(a) of the National Flood Insurance Act of 1968 is amended—

(1) by striking out "and Currency" and inserting in lieu thereof ", Finance and Urban Affairs"; and

(2) by inserting a comma after "Housing".

(h) Section 308(f) of the Federal Home Loan Mortgage Corporation Act is amended by striking out "United States Code" and inserting in lieu thereof "United States".

(i) Section 702(d)(8) of the National Urban Policy and New Community Development Act of 1970 is amended by striking out "of" the last place it appears.

(j) The last sentence of section 201(e) of the Flood Disaster Protection Act of 1973 is amended by striking out the quotation marks.

(k)(1) The first sentence of section 108(h) of the Housing and Community Development Act of 1974 is amended by striking out "subsection (g)" and inserting in lieu thereof "subsection (j)".

(2) Section 117(B) of the Housing and Community Development Act of 1974 is amended by striking out "of 1965 (Public Law 81-428;" and inserting in lieu thereof ", 1955 (Public Law 83-428;".

(l) Section 604(e) of the National Manufactured Housing Construction and Safety Standards Act of 1974 is amended by striking out "than" the last place it appears and inserting in lieu thereof "that".

(m)(1) Section 107 of the Emergency Homeowners' Relief Act is amended—

(A) by striking out "(a)(1)" and inserting in lieu thereof "(a)";

(B) by redesignating subparagaphs (A) through (C) of paragraph (1) as paragraphs (1) through (3), respectively;

(C) by redesignating paragraph (2) as subsection (b); and

(D) by redesignating subparagraphs (A) and (B) of paragraph (2) as paragraphs (1) and (2), respectively.

(2) Section 110 of the Emergency Homeowners' Relief Act is amended by striking out the subsection designation.

(n)(1) Section 201(c) of the Housing and Community Development Amendments of 1978 is amended by striking out "a" the first place it appears and inserting in lieu thereof "A".

(2) Section 201(j) of the Housing and Community Development Amendments of 1978 is amended by striking out "236(f)(3)(B)" and inserting in lieu thereof "236(f)(3)".

(3) Section 209(d) of the Housing and Community Development Amendments of 1978 is amended by striking out "conjuction" and inserting in lieu thereof "conjunction".

(4) Section 905(b)(1) of the Housing and Community Development Amendments of 1978 is amended by inserting "of 1974" after "Act".

AMENDMENT TO THE TRUTH IN LENDING ACT

SEC. 205. Section 125(e) of the Truth in Lending Act (15 U.S.C. 1635(e)) is amended—

(1) by striking out "(1)" after "(e)";

(2) by redesignating clauses (A) through (D) as clauses (1) through (4), respectively; and

(3) by striking out paragraph (2).

CREDIT UNION LOANS TO HOMEOWNERS

SEC. 206. Section 107(5)(A)(ii) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(ii)) is amended to read as follows:

"(ii) a loan to finance the purchase of a mobile home, which shall be secured by a first lien on such mobile home, to be used by the credit union member as his residence, a loan for the repair, alteration, or improvement of a residential dwelling which is the residence of a credit union member, or a second mortgage loan secured by a residen-

tial dwelling which is the residence of a credit union member, shall have a maturity not to exceed fifteen years unless such loan is insured or guaranteed as provided in subparagraph (iii);".

AMENDMENT TO THE FEDERAL HOME LOAN BANK ACT

SEC. 207. Section 5A(b)(1)(D) of the Federal Home Loan Bank Act (12 U.S.C. 1425a(b)(1)(D) is amended by striking out "solely to any of the obligations or other investments enumerated in subparagraphs (A) through (C)" and inserting in lieu thereof "solely to any of the obligations or other investments enumerated in subpargraphs (A) through (C), (F), and (G)".

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

FERNAND J. ST GERMAIN,
HENRY GONZALEZ,
WALTER E. FAUNTROY,
JERRY M. PATTERSON,
STAN LUNDINE,
CHALMERS WYLIE,
STEWART MCKINNEY,
Managers on the Part of the House.

JAKE GARN,
JOHN TOWER,
DON RIEGLE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2819) to make essential technical corrections to the House and Urban-Rural Recovery Act of 1983, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—TECHNICAL AND CONFORMING AMENDMENTS TO THE HOUSING AND URBAN-RURAL RECOVERY ACT OF 1983

COMMUNITY DEVELOPMENT BLOCK GRANT AMENDMENTS

The conference report contains a number of technical and conforming amendments to the Community Development Block Grant Program as well as several substantive changes, the most inportant of which is a clarification of the conditions under which a city or urban county having few areas with a majority of low and moderate income residents may have areawide community development activities qualify as principally benefitting low and moderate income families. If (in addition to the activity being designed to the needs of low and moderate income residents) the area served by the activity ranks among the top 25 percent of all areas within a community's jurisdiction having the highest concentration of low and moderate income residents, the activity will qualify as principally benefitting low and moderate income families. It is expected that the Secretary will implement this provision upon enactment and will issue final regulations by June 1, 1985.

The conference report also: permits local governments attaining metropolitan city status in 1984 or 1985 to defer such status in order to be included in an urban county Community Development Block Grant Program for 1984, 1985 and 1986; clarifies the conditions under which counties gaining or losing population may qualify as an urban county; permits communities to use either fiscal year 1982 or 1983 in calculating the maximum percentage of CDBG funds that may be used for public service activities; permits States to use CDBG funds to cover part of the administrative costs for the Section 17 Rental Rehabilitation Program; limits to the cities of Baltimore and Denver, the ability to retain the income generated from urban renewal projects as long as those proceeds are used to fund activities in accordance with all of the requirements of the Community Development Block Grant Program; and requires States participating in the Urban Homesteading Program to make lists of unoccupied properties available to the public.

HOUSING ASSISTANCE PROGRAMS

The conference report makes several changes in the assisted housing program in order to correct inadvertent errors in the Housing and Urban-Rural Recovery Act of 1983 and to assure that policies agreed to in that Act are carried out. These amendments include: clarifying the HUD Secretary's authority to enter into new contracts for assistance payments under the Section 235 homeownership program through fiscal year 1985; requiring the Secretary of HUD when setting maximum income limits for families qualifying for assisted housing in rural areas to consult with the Secretary of Agriculture and to take into account the subsidy characteristics and types of programs which are affected by those income limits; requiring the Secretary of HUD to consult with the Secretary of Agriculture in establishing definitions of income and deductions from income for the assisted housing programs; adding to the deductions from income permitted for families living in assisted housing, the cost of attendant care and auxiliary expenses (such as wheelchairs and vans) for a handicapped person necessary to permit a family member, including the handicapped person, to be gainfully employed to the extent such costs and medical expenses exceed three percent of a family's income; clarifying that for purposes of the public housing program, a large family is one that needs three or more bedrooms; requiring the Secretary, where Secretary determines it is necessary to assist in the sale of HUD-owned multifamily projects, to increase the amount of Section 8 moderate rehabilitation assistance beyond that permitted under existing law; permitting Section 8 vouchers to be given to families whose income is between 50 and 80 percent of area median if they are displaced by the Section 17 rental rehabilitation program; clarifying that in the Section 202 elderly housing program, the HUD Secretary may not impose different requirements regarding change orders, errors in specifications or contingency funds depending upon the method of contractor selection; clarifying the obligation of the HUD Secretary to provide payments under the rent supplement and rental assistance payments program to cover 90 percent of rent increases and changes in tenant income; clarifying that any payment made by a tenant to cover shelter or utility expenses in an assisted housing project shall be considered a rental payment. The conference report also clarifies that where the Secretary enters into a contract with a public housing agency regarding the provision of assistance under the Section 8 existing program, the contract may not be attached to a specific structure unless the Secretary and the public housing agency approve such action and the building owner agrees to rehabilitate the structure with funds other than those available pursuant to the U.S. Housing Act of 1937. This provision is intended to make clear that these conditions for tying the assistance to a particular structure or project do not apply to the circumstances under which HUD provides Section 8 existing assistance in connection with loan management property disposition, or conversion from other assistance programs to project-based subsidies administered by HUD nor do they apply to the Section 8(e) moderate rehabilitation program.

RENTAL HOUSING REHABILITATION AND PRODUCTION PROGRAMS

The conference report amends Section 17 of the United States Housing Act of 1937 which created two new rental housing rehabilitation and production programs. Other than correcting several inaccurate section references and terminology the amendment: clarifies that an equitable share of the rehabilitation grant funds should be used to provide housing for families with children requiring three or more bedrooms; permits cities containing at least 450,000 residents and having a rental vacancy rate of no more than 10 percent to apply for a rental development grant; clarifies that funds for the rental rehabilitation grant program will be allocated by formula to cities over 50,000 in population, urban countries, and states (including Puerto Rico) for use in non-rural areas and in units of general local government that do not qualify for assistance from FmHA and do not receive a formula allocation of rental rehabilitation funds; clarifies that eligible to apply for rental development grants are areas that are experiencing a severe shortage of rental housing which may be cities over 50,000 in population, urban countries, units of general local government. Indian tribes, the Virgin Islands, Trust Territories, Guam, American Samoa, and the Northern Marianas Islands; clarifies several specific provisions of U.S. Housing Act of 1937 that do not apply to the Section 17 programs and makes inapplicable any other provsions of the Act which are inconsistent with the requirements of Section 17.

PROGRAM AMENDMENTS AND EXTENSIONS

Section 104 of the conference agreement amends miscellaneous provisions of housing law by: permitting FHA mortgage insurance for units in a rental project converted to condominiums as long as prior to April 20, 1984, an application for FHA insurance or VA guarantee was made or, in the case of FAA direct endorsement, a case number was assigned, for any unit in the project; clarifying the HUD Secretary's authority to establish the interest rate for a Section 235 or Section 236 mortgage; providing the interest rate for an FHA mortgage on a group practice facility may be negotiated between the borrower and lender; clarifying that the legislative review provisions governing regula-

tions issued by HUD do not apply to the authority of the HUD Secretary to set the interest rate for the Section 235 and 236 programs; and permitting the National Corporation for Housing Partnership, in order to generate income to support housing for low and moderate income families, to expand its activities to those involving products and services for use in the construction, sale or financing of housing and the design and development of commercial, industrial or retail facilities that are not directly related to housing by committing to these new activities no more than 7 percent of the total outstanding equity commitments made by the corporation and the partnership in the first year and, no more than 14 percent in the second year or no more than 20 percent thereafter. These percentages are not cumulative; by the third year and any time thereafter the total amount of equity that may be committed to these new activities is limited to 20 percent of the combined equity of the corporation and the partnership outstanding at any time. The annual report of the corporation and partnership is to include a description of the new activities, the amount of funds committed to these new activities each year, a summary of the amount and percentage of equity committed to providing housing for families whose income is 80 percent of median and below as well as the amount and percentage of equity committed to housing families whose income exceeds 80 percent of median income.

The conference agreement requires the Solar Energy and Energy Conservation Bank to issue, within 90 days of enactment of this law, regulations establishing the explicit criteria and their relative weights for the allocation of Bank assistance. All funds appropriated or otherwise available in any fiscal year shall be allocated at the same time in order to facilitate the ability of states running solar bank programs to make reasonable projections and annual plans. Finally, the HUD Secretary is directed to issue regulations not later than October 31, 1984, to implement the FHA insurance program for public hospitals which was authorized in the Housing and Urban-Rural Recovery Act of 1983. To assure this insurance program is promptly implemented, the conferees direct the Secretary of Health and Human Services (HHS) to immediately begin accepting and processing applications from public hospitals for mortgage insurance with the expectation that regulations will be in effect by the time a final commitment is required.

RURAL HOUSING

The conference report contains several technical corrections necessary to clarify the intent of certain provisions adopted in the rural housing amendments contained in the Housing and Urban Rural Recovery Act of 1983, and a substantive provision clarifying the use of loan and grant authority. The conference report makes clear that: Secretary of Agriculture and the Secretary of Housing and Urban Development (HUD) are expected to work together in defining income and establishing the income eligibility limit applicable to an area in which both the Farmers Home Administration (FmHA) and HUD may provide housing assistance and that they must take into account the subsidy levels and the fact that both rental and homeownership assistance programs are involved when they establish such a limit; to assure that all eligible Sec. 502 applicants have their loans processed expeditiously and that the funds available for Sec. 502 homeownership loans are spent as intended, the Secretary of Agriculture shall set aside and make available at least forty percent of the funds appropriated for the Sec. 502 Homeownership Loan Program for families with incomes of fifty percent or less than the area median income and shall require that not less than thirty percent of the amount allocated for Sec. 502 loans in each State be made available to such very low-income families; loan authority authorized under Title V of the Housing Act of 1949 shall not be transferred for any other purpose such as has been done in the past under authority that has been questioned by the General Accounting Office; and areas that are defined as rural areas eligible for FmHA assistance are to remain as eligible rural areas through fiscal year 1985 as was intended when the 1983 amendments were adopted. The requirements for Sec. 515 loans for rental housing projects that will receive State or local rental assistance are clarified to provide that the State or local government contracting to provide such assistance has the alternative of demonstrating either that the project will be economically feasible after the period of assistance without such rental assistance or providing reasonable assurance that it will continue to provide rental assistance if necessary after the initial period of assistance for the remaining term of the Sec. 515 loan. The conferees expect reasonable assurance should not be so narrowly interpreted as to preclude the participation of an applicant. Therefore, the Secretary is directed to determine reasonableness from such factors as the past performance of the applicant in providing and renewing rental assistance in other programs or projects, a pledge of repayments or recaptures from other programs, a designation of welfare, shelter funds, or such similar factors. Other provisions are included in the rural housing section of the conference report that correct grammatical and typographical errors and inappropriate references.

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS TO MISCELLANEOUS HOUSING AND COMMUNITY DEVELOPMENT AND BANKING LAWS

The conference agreement contains several amendments to correct outdated references to the Department of Health, Education and Welfare, inaccurate cross references to the Administrative Procedures Act, and to title 31 of the United States Code, and to correct spelling, grammatical, and section designation errors in the housing and community development laws. Advances on open-end lines of credit secured by real estate are permanently exempt from Truth-in-Lending Act rescission rights; specific authority for federal credit unions to make unsecured 15 year home improvement loans, inadvertently deleted by Public Law 97-320, is restored; and a thrift institution may invest for liquidity purposes in mutual funds whose portfolios consist solely of highly rated corporate debt and commercial paper or other statutorily eligible liquidity investments.

FERNAND J. ST GERMAIN,
HENRY GONZALEZ,
WALTER E. FAUNTROY,
JERRY M. PATTERSON,
STAN LUNDINE,
CHALMERS WYLIE,
STEWART MCKINNEY,
Managers on the Part of the House.

JAKE GARN,
JOHN TOWER,
DON RIEGLE,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCCANDLESS) to revise and extend their remarks and include extraneous material:)

Mr. CORCORAN, for 5 minutes, today.
Mr. MCCANDLESS, for 60 minutes, today.
Mr. DICKINSON, for 60 minutes, October 1.

(The following Members (at the request of Mr. RICHARDSON) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 60 minutes, today.
Mr. WEAVER, for 60 minutes, today.
Mrs. SCHROEDER, for 60 minutes, October 4.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MCCANDLESS) and to include extraneous matter:)

Mr. PACKARD.
Mr. CONTE.
Mr. GINGRICH.
Mr. LEWIS of California in three instances.
Mr. BARTLETT.
Mrs. SCHNEIDER.
Mr. MOORHEAD.
Mr. WOLF.
Mr. SOLOMON.
Mr. BEREUTER.
Mr. GREEN.

(The following Members (at the request of Mr. RICHARDSON) and to include extraneous matter:)

Mr. LOWRY of Washington.
Mr. LAFALCE.
Mr. FORD of Michigan.
Mr. UDALL.
Mr. VENTO.
Mr. RODINO.
Mr. WALGREN.
Mr. ROSTENKOWSKI.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1160. An act to authorize Douglas County of the State of Nevada to transfer certain land to a private owner; to the committee on Interior and Insular affairs.

ADJOURNMENT

Mr. WEAVER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 28 minutes

p.m.) under its previous order, the House adjourned until Monday, October 1, 1984, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4083. A communication from the President of the United States, transmitting a request for supplemental appropriations for fiscal year 1985 in the amount of $306,600,000 for the Veterans' Administration, pursuant to 31 U.S.C. 1107 (H. Doc. No. 98-269); to the Committee on Appropriations and ordered to be printed.

4084. A communication from the President of the United States, transmitting requests for supplemental appropriations for fiscal year 1985 in the amount of $110,200,000 for the Department of State, pursuant to 31 U.S.C. 1107 (H. Doc. No. 98-270); to the Committee on Appropriations and ordered to be printed.

4085. A letter from the Assistant Secretary of Defense for Health Affairs, transmitting a report on special pays for military health professionals, pursuant to 37 U.S.C. 303a(c) (94 Stat. 592); to the Committee on Armed Services.

4086. A letter from the Deputy Assistant Secretary of the Air Force (Logistics and Communications), transmitting notification of the proposed decision to convert to contractor performance the consolidation/containerization point function at Robins Air Force Base, GA, pursuant to 10 U.S.C. 2304 (Public Law 96-342, section 502(b) (96 Stat. 747)); to the Committee on Armed Services.

4087. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter of offer to Korea for defense articles estimated to cost in excess of $50 million (Transmittal No. 84-68), pursuant to 10 U.S.C. 133b (96 Stat. 1288); to the Committee on Armed Services.

4088. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed letter of offer to Canada for defense articles estimated to cost in excess of $50 million (Transmittal No. 84-71), pursuant to 10 U.S.C. 133b (96 Stat. 1288); to the Committee on Armed Services.

4089. A letter from the Director, Selective Service System, transmitting notification of a proposed new computer matching program, pursuant to 5 U.S.C. 552a(o); to the Committee on Armed Services.

4090. A letter from the Acting Secretary of State, transmitting notification of his determination that it is in the national interest to grant assistance to Jamaica, notwithstanding that the Government of Jamaica is more than 6 months in default in payment to the United States of principal and interest on loans, pursuant to FAA, section 620(q) (80 Stat. 805); to the Committee on Foreign Affairs.

4091. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter of offer to Korea for defense articles and services estimated to cost $112 million (Transmittal No. 84-68), pursuant to AECA, section 36(b) (90 Stat. 741; 93 Stat. 708, 709, 710; 94 Stat. 3134; 95 Stat. 1520); to the Committee on Foreign Affairs.

4092. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed letter of offer to Canada for defense articles and services estimated to cost $68 million (Transmittal No. 84-71). This transmittal replaces Transmittal No. 84-39, pursuant to AECA, section 36(b) (90 Stat. 741; 93 Stat. 708, 709, 710; 94 Stat. 3134; 95 Stat. 1520); to the Committee on Foreign Affairs.

4093. A letter from the Deputy Associate Director for Royalty Management Operations, Department of the Interior, transmitting a report on proposed refunds of excess royalty payments in Outer Continental Shelf areas, pursuant to the act of August 7, 1953, chapter 345, section 10(b); to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on September 26, 1984, the following reports were filed on September 27, 1984]

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 6301. A bill to provide authority for enforcing arrangements restricting the importation of carbon and alloy steel products into the United States that are entered into for purposes of implementing the President's national policy for the steel industry, and for other purposes; with amendments (Rept. No. 98-1089). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 6023. A bill to amend the Trade Act of 1974 to renew the authority for the operation of the Generalized System of Preferences, and for other purposes; with an amendment (Rept. No. 98-1090). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 3795. A bill to harmonize, reduce, and eliminate barriers to trade in wine on a basis which assures substantially equivalent competitive opportunities for all wine moving in international trade; with amendments (Rept. No. 98-1091). Referred to the Committee on the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5377. A bill authorizing the President to enter into, and to proclaim modifications necessary to implement, a trade agreement with Israel providing for duty-free treatment for, and the elimination of import restrictions on, the products of Israel; with an amendment (Rept. No. 98-1092). Referred to the Committee of the Whole House on the State of the Union.

[Submitted September 28, 1984]

Mr. FUQUA: Committee of conference. Conference report on S. 1097 (Rept. No. 98-1093). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1967. A bill to compensate the Gros Ventre and Assiniboine Tribes of the Fort Belknap Indian Community for irrigation construction expenditures (Rept. No. 98-1094). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5760. A bill to declare that the United States holds in trust for the Cocopah Indian Tribe of Arizona certain land in Yuma County, AZ; with an amendment (Rept. No. 98-1095). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6234. A bill to authorize the Secretary of the Interior to sell certain property located in Lake Sumner State Park, in the State of New Mexico; with amendments (Rept. No. 98-1096). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 2125. A bill to designate certain national forest system lands in the State of Arkansas for inclusion in the National Wilderness Preservation System, and for other purposes; with an amendment (Rept. No. 98-1097, PT. I). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4712. A bill to provide for cooperative agreements between the Secretary of the Interior and State and local governments for law enforcement within Federal water resource projects; with amendments (Rept. No. 98-1098). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 6299. A bill to ensure the payment in 1985 of cost of living increases under the OASDI program in title II of the Social Security Act, and to provide for a study of certain changes which might be made in the provisions authorizing cost of living adjustments under that program (Rept. No. 98-1099). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5386. A bill to amend part A of title XVIII of the Social Security Act with respect to the payment rates for routine home care and other services included in hospice care; with an amendment (Rept. No. 98-1100). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committe on Ways and Means. H.R. 2116. A bill to amend title XVIII of the Social Security Act to authorize payment for occupational therapy services under part B of the medicare program; with an amendment (Rept. No. 98-1101, Pt. I). Ordered to be printed.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5989. A bill to amend the Social Security Act to protect beneficiaries under health care programs of that act from unfit health care practitioners, and to otherwise improve the antifraud provisions of that act; with an amendment (Rept. No. 98-1102, Pt I). Ordered to be printed.

Mr. ST GERMAIN: Committee of conference. Conference report on S. 2819 (Rept. No. 98-1103). Ordered to be printed.

Mr. BROOKS: Committee on Government Operations. H.R. 6225. A bill to prevent disruption of the structure and functioning of the Government by ratifying all reorganization plans as a matter of law; with an amendment (Rept. No. 98-1104). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. H.R. 6259. A bill to make certain changes in the membership and operations of the Advisory Commission on Intergovernmental Relations; with amendments (Rept. No. 98-1105). Referred to the

Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on questionable decisions by program managers undermine the Federal Government's audit process (Rept. No. 98-1106). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on DOD's payment of defense contractors' public relations expenses is costing millions of dollars (Rept. No. 98-1107). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on sale of Landsat could adversely affect international relations (Rept. No. 98-1108). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on future directions of the Institute of Museum Services (Rept. No. 98-1109). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on Justice Department management of the Law Enforcement Coordinating Committee Program (Rept. No. 98-1110). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on ignore the law and approve the form: FmHA's coordinated financial statement (Rept. No. 98-1111). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on Federal regulation of brokered deposits in problem banks and savings institutions (Rept. No. 98-1112). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

[Omitted from the Record of September 26, 1984]

By Mr. ADDABBO:

H.R. 6329. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1985, and for other purposes.

[Submitted September 28, 1984]

By Mr. BARNARD:

H.R. 6330. A bill to strengthen and refine the provisions of the Federal Home Bank Act and the National Housing Act, to protect the rights of State-chartered savings and loan associations to engage in activities and make investments authorized under State law, and to provide for additional funding of the primary reserve of the Federal Savings and Loan Insurance Corporation; to the Committee on Banking, Finance and Urban Affairs.

By Mr. FRANK:

H.R. 6331. A bill to abate the assessment of any deficiency for any taxable year beginning in 1979, 1980, or 1981 to the extent the assessment of such deficiency has not been collected and is attributable to the application of the dual plan restriction to the deduction for individual retirement plans; to the Committee on Ways and Means.

By Mr. LEWIS of California:

H.R. 6332. A bill to provide for modification and extension of the U.S. Gold Medallion Program; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LIVINGSTON:

H.R. 6333. A bill to limit the use of foreign icebreakers in U.S. waters; to the Committee on Merchant Marine and Fisheries.

By Mr. RICHARDSON:

H.R. 6334. A bill to amend the Atomic Energy Act of 1954 to revise certain procedures relating to the sale of uranium by the Secretary of Energy; to the Committee on Interior and Insular Affairs.

By Mr. YOUNG of Florida:

H.R. 6335. A bill to improve the provisions of law relating to former Presidents, and for other purposes; jointly, to the Committees on Government Operations, House Administration, the Judiciary, and Post Office and Civil Service.

By Mr. CONTE:

H.J. Res. 652. Joint resolution making continuing appropriations for the fiscal year 1985, and for other purposes; to the Committee on Appropriations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

474. By the SPEAKER: Memorial of the Legislature of the State of California, relative to the creation of United States-Soviet Union Mutual Nuclear Risk Reduction Centers and a Joint Crisis Management Center; to the Committee on Foreign Affairs.

475. Also, memorial of the Legislature of the State of California, relative to the creation of United States-Soviet Union Student Exchange for Peace Program; to the Committee on Foreign Affairs.

476. Also, memorial of the Legislature of the State of California, relative to the implementation of a nuclear freeze; to the Committee on Foreign Affairs.

477. Also, memorial of the Legislature of the State of California, relative to veterans of Lebanon and Grenada; jointly, to the Committees on Veterans' Affairs and Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 3177: Mr. ROBERT F. SMITH, Mr. MORRISON of Washington, Mr. CHANDLER, and Mr. DICKS.

H.R. 5689: Mr. SAWYER, Mr. SENSENBRENNER, and Mr. SHAW.

H.R. 5690: Mr. SAWYER, Mr. SENSENBRENNER, and Mr. SHAW.

H.R. 5975: Mr. ARCHER, Mr. DOWNEY of New York, Mr. FLIPPO, Mr. GEPHARDT, Mr. MATSUI, Mr. BOUCHER, Mrs. LLOYD, Mr. LUNDINE, Mr. MCCANDLESS, Mr. NELSON of Florida, Mr. ROE, Mr. SENSENBRENNER, Mr. YOUNG of Missouri, Mr. KRAMER, Mr. GINGRICH, Mr. ANDERSON, Mr. BONER of Tennessee, Mr. CHAPPELL, Mr. DAUB, Mr. DEWINE, Mr. HORTON, Mr. HUTTO, Mr. LEVINE of California, Mr. LUNGREN, Mr. MYERS, Mr. NEAL, Ms. OAKAR, Mr. PATTERSON, Mr. THOMAS of California, Mr. TRAXLER, Mr. WATKINS, Mr. WAXMAN, Mr. WILSON, Mr. WOLF, and Mr. WON PAT.

H.R. 6021: Mr. ANDREWS of North Carolina, Mr. WORTLEY, Mr. CORCORAN, Mr. MARRIOTT, Mr. DANIEL, Mr. MACKAY, Mr. VOLKMER, Mr. DAVIS, Mr. WILLIAMS of Ohio, Mrs. MARTIN of Illinois, Mr. BRITT, Mr. QUILLEN, Mr. YATRON, Mr. LOTT, Mr. DUNCAN, and Mr. LENT.

H.R. 6225. Mrs. COLLINS, Mr. HAWKINS, Mr. BIAGGI, and Mr. RINALDO.

H.R. 6295: Mr. STARK.

H.R. 6299: Mr. FRANKLIN and Mr. VANDERGRIFF.

H.R. 6300: Mr. OLIN, Mr. KILDEE, Mr. DINGELL, Mr. KOLTER, Mr. MCNULTY, Mr. LOWRY of Washington, Mr. PATTERSON, Mr. CLARKE, Mr. MARTINEZ, Mr. ENGLISH, Mrs. SCHROEDER, Mr. BOSCO, Mr. COELHO, Mr. LAFALCE, Mr. MURPHY, Mr. DERRICK, Mr. MINETA, Mr. SHARP, Mr. LUNDINE, Mr. BEDELL, Mr. ROSE, Mr. NICHOLS, Mr. WEAVER, Mr. TALLON, Mr. KOGOVSEK, Mr. SPRATT, Ms. KAPTUR, and Mr. AUCOIN.

H.J. Res. 528: Mr. TAUZIN.

H.J. Res. 547: Ms. OAKAR.

H.J. Res. 615: Mr. CONTE, Mr. COOPER, Mr. EDGAR, Mr. JONES of Tennessee, Mr. SWIFT, and Mr. WORTLEY.

H.J. Res. 638: Mr. QUILLEN, Mr. FASCELL, Mr. LEWIS of Florida, Mr. RAHALL, Mr. KINDNESS, Mr. HERTEL of Michigan, Mr. DANNEMEYER, Mr. LANTOS, Ms. SNOWE, Mr. PASHAYAN, Mr. LELAND, Mr. COLEMAN of Texas, Ms. MIKULSKI, Mr. DONNELLY, Mr. WAXMAN, Mr. AUCOIN, Mr. MILLER of California, Mr. DUNCAN, Mr. MCKERNAN, Mr. MARRIOTT, Mr. GORE, Mr. ROBERT F. SMITH, Mr. MCEWEN, Mr. KRAMER, Mr. JONES of Tennessee, Mr. PORTER, Mr. STENHOLM, Mr. WEAVER, Mrs. ROUKEMA, Mr. LATTA, Mr. ASPIN, Mr. ENGLISH, Mr. STOKES, Mr. WHITTAKER, Mr. ROEMER, Mrs. BOGGS, Mr. MOORE, Mr. EDWARDS of Alabama, Mr. KOSTMAYER, Mr. SCHEUER, Mr. KEMP, Mr. PURSELL, Mr. RINALDO, Mr. MINISH, Mr. ROYBAL, Mr. GREGG, Mr. GEJDENSON, Mr. BROWN of California, Mr. UDALL, Mr. WHEAT, Mr. HUGHES, Mr. MORRISON of Connecticut, Mr. ANDERSON, Mr. ERDREICH, Mr. EDWARDS of Alabama, Mr. FLIPPO, Mr. ARCHER, Mr. BRITT, Mr. CLAY, Mr. HANSEN of Utah, Mr. HATCHER, Mr. HARTNETT, Mr. VANDERGRIFF, Mr. GONZALEZ, Mr. LEVITAS, Mr. STUDDS, Mr. WILSON, Mr. MOORHEAD, Mr. SKEEN, Mr. HYDE, Mr. YOUNG of Florida, Mr. LEWIS of California, Ms. FIEDLER, Mr. MATSUI, Mr. DELLUMS, Mr. DARDEN, Mr. MCCURDY, Mrs. BURTON of California, Mr. SIMON, and Mr. BADHAM.

H. Con. Res. 339: Mr. GREEN, Mr. FOGLIETTA, Mr. NELSON of Florida, Mr. FAZIO, Mr. ROGERS, Mr. ROSE, Mr. WON PAT, Mr. WILSON, Mr. LIVINGSTON, Mr. DANIEL, Mr. EDWARDS of Oklahoma, and Mr. CHANDLER.

H. Res. 50: Mr. CONTE.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4444

By Mr. SOLOMON:

—Page 2, line 6, strike "$600,000,000" and insert in lieu thereof "$100,000,000".

SENATE—*Friday, September 28, 1984*

(Legislative day of Monday, September 24, 1984)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Father in Heaven, this morning I pray against the demon cynicism. All of us are vulnerable to this unproductive evil—people, press, public servants. May this negative, counterproductive attitude be dissolved in minds and hearts. Help the people understand that what is happening these stressful hours in the Senate is not simply Senators struggling for self-interests—but elected officials, representing the people, their personal interests or the interests of their city, State, region. We know Father, that Senators, being human are never totally free from self-interests, but the indictment that they are simply "political" in order to get elected is in actuality a testimony to their determination to represent their constituents.

Loving God, this will be a heavy day. Grace this place and these people with Your presence—Your peace—Your love. Demonstrate here today Your nearness and Your relevance to the struggle. In the Name of Him who is the Way, the Truth, and the Life. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished majority leader is recognized.

Mr. BAKER. I thank the Chair.

THE SENATE PHOTOGRAPHIC PORTRAIT

Mr. BAKER. Mr. President, as my colleagues will recall, on Tuesday of this week the Senators of the 98th Congress were immortalized by the excellent photographic staff of the National Geographic magazine.

This photographic portrait has become a Senate tradition in recent years, and it is my hope that this tradition will long endure.

A project of this nature requires something more than pointing a Brownie Starflash and saying "cheese," and I wish to commend the Senate's fine director of photography, Mr. Alan Porter, for his excellent supervision of this work.

I also wish to thank the members of Mr. Porter's staff including Jesse Holden, Basil Jewell, Steven Paine, and William Allen, for the long hours and large talent they contributed to the success of this project.

Special credit and thanks obviously goes to the National Geographic staff as well, including staff photographer Joe Bailey and his colleagues, Keith Moorehead, Phil Leonhardi, Nelson Brown, and William Geiger.

Each of these people deserves the Senate's thanks for making our portrait taking not only a painless but almost a pleasurable experience.

My fellow Senate shutterbugs—BARRY GOLDWATER, JAKE GARN, PATRICK LEAHY, and WARREN RUDMAN among them—will appreciate the creative and technical skill and the unflagging patience involved in this kind of enterprise.

And I believe all of my colleagues will find their unique and exquisite beauty has been so expertly captured on film that our likenesses will become objects of awe and marvel for this and future generations of Americans.

Thanks again to one and all, artists and subjects alike, for your contribution to this project.

THE CONTINUING RESOLUTION DILEMMA

Mr. BAKER. Mr. President, in dugout chatter, as they call it, that is the informal press conference in the Chamber for the benefit of reporters accredited to the Senate Press Gallery, I said certain things that I wish to repeat now for all Senators and for the record.

I would like to be wrong, but I do not believe I am when I say that at this moment it does not appear that we can finish the continuing resolution tonight. That is based on a number of things, not the least of which is there are perhaps hundreds of amendments now that are in preparation to be offered to the continuing resolution.

Parenthetically, last evening when I left this Chamber briefly, and this was after the Grove City vote, I found our reception room absolutely filled with people and I wondered at that until I realized that a lot of them were lobbyists and some lawyers who were circling about the carcass.

But, Mr. President, it seems to me that based on the probability that cloture motions will be filed today, which will not mature until Monday, it is unlikely, almost impossible, that we will finish the continuing resolution this day or tomorrow or this weekend.

If that is true, that means we cannot get to conference with the House of Representatives until next week and at least not before late Monday and maybe later than that.

What that means also, Mr. President, is that we are going to be very late in getting a continuing resolution through this Chamber, let alone through conference, to say nothing of placing a bill on the President's desk and awaiting his decision and judgment on whether he will sign it or veto it.

So I did something this morning of which I wish to notify the Senators. I have not yet been able to notify the minority leader but I will as soon as I have the opportunity. I have, however, notified the chairman of the Appropriations Committee of my view that I think it unlikely that we can finish this bill today. We will be in session tomorrow and we will be in session, of course, next week.

But what I have also done is notify the Speaker of the House of Representatives that I would today announce, as I am now announcing, that Senators should no longer depend on adjournment sine die on October 5 simply because good conscience and our public responsibility will not permit us to adjourn sine die until we have passed the continuing resolution and the debt limit, and right this minute I do not see how in the world we are going to do that by October 5.

I know that will discommode a lot of Senators, but better I should say it now than to wait until next week, better I should tell them sooner than later, so that Members can take account of this possibility.

I am not a betting man, but maybe I could put it in a betting man's terms, that if I were about to bet I would bet that the odds are about 4 to 1 that we will be here week after next.

Once again, we will not adjourn sine die, at least the leadership on this side does not wish to adjourn sine die and will try to prevent us adjourning sine die, until we have passed a continuing resolution and it has been signed by the President and until we have passed a debt limit and it has been signed by the President, and as of this moment I do not see how in the world

we are going to do that between now and October 5.

That is a terrible thing to say to a Senate that is anxious to finish its work for this year and go home, but for any Member in this Chamber who feels resentful of the prospect of this additional time, I wish to tell them right now there is not a person on this Earth nor in this solar system who wants to see Congress adjourn worse than I do.

SPECIAL ORDER PROCEDURE

Mr. President, there are five special orders this morning. I ask unanimous consent that Senators may claim those orders in the order in which they may appear and do so rather than in the order in which they are provided.

The PRESIDING OFFICER (Mr. MATTINGLY). Without objection, it is so ordered.

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I also note that if we execute five special orders at 75 minutes and 20 minutes leader time, that will be past 12:30 p.m. Therefore, I ask unanimous consent that the time for the transaction of routine morning business be extended until not later than 1 p.m. under the same terms and conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEADERSHIP TIME RESERVATION

Mr. BAKER. Mr. President, I ask unanimous consent that the time allocated to the minority leader and any time that I have remaining may be reserved for our use at any time during the course of this day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I yield the floor.

UMWA CONTRACT RATIFICATION

Mr. BYRD. Mr. President, the coal industry has entered a new era with the ratification of the 40-month contract between the United Mine Workers of America and the Bituminous Coal Operators Association.

The new contract is a tribute to the leadership of UMWA President Richard Trumka and to BCOA Chief Negotiator B.R. Brown of Consolidation Coal Co. and to all those others on both sides who worked out the agreement.

The agreement shows the world that the United States is a stable and dependable supplier of coal.

Incidentally, my State of West Virginia is the leading coal exporter among the States, and it shows that West Virginia is a stable and dependable source of coal.

I hail this achievement of the new contract as a very positive step forward toward America's energy future.

Mr. President, I ask unanimous consent that I may reserve the remainder of my time under the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin is recognized for a time not to exceed 15 minutes.

Mr. PROXMIRE. Thank you, Mr. President.

WHAT CHANCE REMAINS FOR THE NUCLEAR FREEZE?

Mr. PROXMIRE. Mr. President, consider the irony of the dim prospects for negotiating a nuclear freeze as we approach the 1984 Presidential election. The freeze has won overwhelming popular approval in statewide referenda and in professional public opinion polls. It enjoys the warm endorsement of Walter Mondale, the Democratic nominee for President. It has been resoundingly approved by a vote in the House of Representatives. So what kind of future does it have? Right now it is going nowhere. How can this happen in our democracy that takes great pride in the rule of the people? Why, in this case, is public opinion so feeble? After all, the fate of our country and every one of our citizens depends on the prevention of nuclear war. Most Americans earnestly believe this depends on ending the nuclear arms race. Most Americans also believe this country should negotiate a finish to the arms race with a comprehensive, mutual, verifiable end to the testing, production, or deployment of nuclear weapons. This is the proposition that millions of Americans have repeatedly supported. So why has the country failed to initiate talks with the Soviet Union to try to negotiate such an end to the arms race?

The answer is that this initiative does not depend on the will of the people or the will of the House of Representatives, it depends on the will of one person: the President of the United States. If the President wished to negotiate a nuclear freeze agreement with the Soviet Union, he could initiate such negotiations even if the overwhelming majority of the American people disagreed with such negotiations, and even if the House of Representatives opposed it. And, of course, the Senate could ratify such a treaty against the public will.

This is the strange dilemma in reverse that this great democracy of ours confronts. The President and the U.S. Senate oppose the nuclear freeze, so it is dead. The people and the people's branch of the Congress—the House of Representatives—support the freeze but that sentiment is just that: sentiment. It does not count. When it comes to negotiating treaties only the President counts. When it comes to ratifying treaties, only the U.S. Senate counts.

So what do we do about it? We try to convince the American voter that this issue—an end to the arms race—is more important than how handsome a President is, how attractive and soothing his voice may be, how smoothly he reads his lines on television, and even how amiable and likeable and appealing a human being he may be. Let us face it, Mr. President, Ronald Reagan is a phenomenon. Most Presidents suffer from overexposure. Anyone who reads a newspaper every day typically encounters two or three stories every day of the week, month in and month out, year in and year out, about the President. We see his face and hear his voice several nights a week on television. When we drive to work in the morning or to home at night we often hear his words on the car radio. By the end of 4 years, we want a change. We tire of the same voice, the same face, the same gestures of face and hand. But, once in awhile a real smoothie like Ronald Reagan comes along. Voters like him. They want to keep him. We may disagree with the President on the most important issues affecting our lives. We may agree with his opponent. But, too many of us think of the personality that will dominate our newspapers, our television, our radio for the next 4 long years. So, a majority apparently feels they would rather take a chance on being burned to a cinder in a nuclear holocaust than accept the certainty of 4 years of Walter Mondale. This is grossly unfair to Fritz Mondale. Mondale is a delightful, humorous, highly intelligent person. He understands this country, its national as well as its international problems. He has the energy and the diligence to make an excellent President. And even in the communications area, where President Reagan excels, Mondale would undoubtedly provide a far more responsive and understanding presence in Presidential news conferences. The 1984 election will test the American people even more than it will test the two men competing for the Presidency. The professional polls now show that given a choice on the one hand between an extraordinarily handsome man who reads his lines flawlessly on television but disagrees on the fundamental life and death issue of the nuclear arms race with their own judgment, and on the other, a man whose election will assure a prompt negotiation to try to end the nuclear arms race, most American voters will choose the pretty face and the smooth delivery ahead of the increased chance that they and their families and their coun-

try will perish in a nuclear war. Mass American opinions like this have changed rapidly in past Presidential elections; the only chance for a nuclear freeze is that they change again this time.

WORLD WAR II REFUGEES CELEBRATE THEIR RESCUE

Mr. PROXMIRE. Mr. President, in August, a tearful reunion was held in New York City to commemorate the 40th anniversary of the arrival in that city of a group of refugees who were fleeing Nazi persecution.

These refugees came to the United States on August 3, 1944, as the special guests of President Franklin Roosevelt. Roosevelt relaxed Government quotas to provide a haven for these European men and women. Of the 982 people fleeing persecution, almost all were Jews trying to escape Hitler's sadisic anti-Semitic campaign.

These refugees lived in Oswego, NY, until the end of the war 18 months later. The city of Oswego warmly welcomed the refugees into their community.

One man remembered arriving in New York City as a young boy from war-ravaged Europe. He recalled that:

> With all the colors, it looked like a circus, although I had never seen one. I was used to the sounds of war and here I was surrounded by the sounds of life.

The refugee children of Oswego, NY, have since distinguished themselves in the arts and sciences, as well as the business and academic worlds.

This reunion reminds one of the horrors of genocide and war and the preciousness of life. As one former refugee remarked:

> The shame lies out there with the world at large. So many more of us could—and should—have been saved.

This reunion also reminds one of the emphasis Americans correctly place on human rights. Unfortunately, the actions of Roosevelt and the community of Oswego were not enough to prevent the annihilation of 6 million Jews in Europe.

The Senate must ratify the Genocide Convention and, by doing so, announce to the world that the United States will not allow a heinous crime like genocide to be committed. Ratification will also reaffirm our longstanding commitment to human rights—most importantly, the precious right to live. In a time like ours when human rights are in peril, it is imperative that the United States denounce genocide and declare it illegal and punishable. I urge my colleagues to ratify this important convention.

WISCONSIN TROUT UNLIMITED WINS AWARD

Mr. PROXMIRE. Mr. President, I would like to recognize the excellent work performed by the Wisconsin chapter of Trout Unlimited. This dedicated band of individuals recently received the National Wildlife Federation's 1983 President's Award for exceptional conservation achievement. This prestigious award is given in recognition of some specific accomplishment in the field of conservation. In this case, the National Wildlife Federation applauded the work of Wisconsin's Trout Unlimited chapter for their investment of 3,725 hours of volunteer work in a series of stream improvement projects. Members spent weekends and evenings working on 30 Wisconsin streams—building enclosures for livestock so that the stream banks would not be worn down; installing structures in the streams to improve habitat; removing beaver dam obstacles; monitoring temperatures, and oxygen levels; and negotiating fisheries protection in the face of small scale hydropower development.

All of Wisconsin's citizens are proud of Trout Unlimited for improving the natural resources of our State.

RECOGNITION OF SENATOR LEAHY

The PRESIDING OFFICER. The Senator from Vermont is recognized for a time not to exceed 15 minutes.

ETHICAL RULES

Mr. LEAHY. Mr. President, as we move forward through this most intensive session wrapping up the 98th Congress, it is essential to think about the effect of pressure on everyone involved in the legislative process—Senators, staff, and constituents alike.

We all worry about the quality of legislation enacted under the pressure of time, but I would like to mention a problem that is at least as important, and that is pressure on the ethical rules that should guide contacts between lobby groups and the Congress at all times—even under the most stringent deadlines.

I have a specific example in mind, based on events that took place the last day before our adjournment in August. On August 10, 1984 I objected to waiving the 3-day rule on the committee report on S. 2433, the Paperwork Reduction Act Amendments of 1984, because of serious concerns about the impact of an amendment on the reporting and recordkeeping duties of Federal agencies.

An important small business lobby apparently took strong exception to my objections—which was its right. But it expressed that difference in a hand-carried letter stating that a "yea" vote by Members of my party would result in tangible financial benefits to them in later campaigns. It said a correct vote might result in a "voting record where we—the organization—will be able to provide them with substantial reelection help and some others that we would not have to oppose."

I responded that such a letter was outrageous and unethical and came close to a violation of the Federal criminal laws. I, of course, refused to drop my objections.

Subsequently someone who identified himself as the sender of the letter called a member of my staff to explain that he never saw the letter before it left his office and was completely unaware of its offensive language. He said a clarifying letter would follow retracting the impropriety, but as of this date I am still waiting to receive it.

All I can safely conclude is that the original letter still stands. And even if I view the letter in its most favorable light, it looks to me as if the pressure of time resulted in a major breach of acceptable, ethical conduct by this person.

The irony of this story is that the concerns I expressed about this bill made sense to a lot of other people, led to very productive discussions, and resulted in an amendment that makes this a far better piece of legislation. Senator CHILES and Senator DANFORTH contributed a great deal to this final result, and we owe them our thanks.

Had this lobbyist had his way, their fine work would not be a part of this bill today.

I do understand that mistakes—serious mistakes—can occur under pressure, and if this individual does eventually write to me with an explanation similar to the telephone call to my staff member, I will except that explanation of these particular events.

But I must at the same time cite this example to point out that in times of stress and pressure our sensitivity to ethical problems must be twice as great, not half as great, as during normal times. Anyone dealing with the Congress, as chief of staff of an organization or as a clerk, should realize that we conduct the legislative process as a trust for the American people, at the end of the session no less than at the beginning.

As we continue this period of intense legislative work, I hope that pressure will take the smallest possible toll on standards that guide the conduct of everyone here on Capitol Hill.

AMBASSADOR ELLSWORTH BUNKER

Mr. LEAHY. Mr. President, on an entirely different matter, and a very sad matter, as a Vermonter I wish to announce to my colleagues that Ambassador Ellsworth Bunker, one of Vermont's most distinguished statesmen, died yesterday after a long and distinguished career both in private life and in public life. Far more will be

said about Ambassador Bunker in the next few days. But I considered him not only a close friend, but a man I admired greatly for his unstinting devotion to his country and to his State.

I extend my condolences to Ambassador Carol Laise, his wife, and to the members of his family who are now gathering in Vermont from around the world. As I said, I will at a later time in fuller measure eulogize this fine man, who stood for all that was best in this country, a man who stood as one of the all-time giants of the State of Vermont.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PRESIDENT AND FREE TRADE

Mr. DECONCINI. Mr. President, on Tuesday, President Reagan spoke before 148 nations' finance chiefs during a joint World Bank/IMF meeting. I would have thought his remarks would be geared toward urging other nations to remove their protectionist trade barriers. I would have thought that the President would have issued a warning that it could not ignore for much longer the ruling of the International Trade Commission that certain foreign imports are competing unfairly with U.S. industries. I would have thought that the President would have reminded these nations of America's generous foreign aid programs that continue even though our domestic programs are being sharply curtailed.

But no. The President said, "We believe our record should put those doubts" about U.S. protectionism "to rest." "Requests for protection on tuna, stainless steel flatware, shoes, and copper have all been turned down." The President is correct in that statement; they have all been turned down.

The President neglects to mention that with his refusal to assist American industries in dealing with unfair foreign competition, the President is trading American jobs for foreign jobs and rewarding violations of the free market system. In the case of copper, the President does not even want to negotiate reductions in production which should have come about naturally through the free market system.

President Reagan came into office almost 4 years ago promising to reduce foreign aid, help rebuild American industries, and help alleviate unemployment. The policies he has implemented and statements such as this recent speech indicate that these are not really his goals. I urge the President to depart from his 9-to-5 workday at the White House and come take a look at the shut down copper mines in Arizona and speak to the unemployed men and women that he has decided not to help. Perhaps such a visit might change his world view, which seems to be directed toward helping other nations violate the principles of free trade at the expense of American jobs and industry.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR MELCHER

The PRESIDING OFFICER. Under the previous order, the Senator from Montana is recognized for not to exceed 15 minutes.

UNFINISHED BUSINESS

Mr. MELCHER. Much of the country's most urgent problems are still awaiting attention by its Government. The people await actions by Congress to correct the problems, and their business is our business. Congress and the administration are frequently like the weather here in Washington. When it's hot and humid, Government tends to be sluggish. When it rains, Congress or the administration or both put up an umbrella to shield themselves from the pelting and the public's clamor for action. Nevertheless the kind days are running out for needed legislation, and now those of us who attempt to bring the matters before Congress will be told we waited too long—that it's too late. Notwithstanding those objections, I shall attempt to bring to the Senate floor a number of measures of significant importance.

Some of these have been bottled up in committees for months or years. Some of them have been tinkered with by Congress, but the problem is either made worse for the taxpayers or the public's interests have been further complicated. Some of them have had hearings years ago and the problems were never properly addressed or resolved. Some of them have only been sheltered from constant public clamor by an umbrella put up by a few individuals seeking to evade the public interest.

Here are a few measures to correct injustice, inequity, or flaws in the law that I believe are in the public interest and should be addressed and resolved before Congress adjourns.

The first involves "imputed interest." The Internal Revenue Service will grossly interfere on sales of property by private citizens after January 1 by setting an interest rate of 15 percent or higher and collecting income taxes on that basis from the seller, even if the interest rate set by the seller is 9 or 10 percent. The outrageous interference by the IRS was enacted into tax law this past summer and, if allowed to stand, would halt a high percentage of ordinary sales of property.

Second, the issue is clean meat or dirty meat. To correct abuses of a very small number of the meatpackers selling dirty or contaminated meat the Food Safety and Inspection Service, of the Department of Agriculture after a 3-year siege of scandalous abuses, has had awaiting all this year a bill to tighten up the meat inspection law so they can work effectively to stop the guilty culprits. The plant must conform to sanitary requirements, and any official of a plant that is guilty of fraud in selling or rigging the price of meat must be removed from the meat packing company. This bill is absolutely needed to protect consumers, to give producers a fair chance to sell their product, and to remove from the industry the few bad apples that taint meat sales or rig meat sales to the detriment of all the rest. Despite the oft-quoted statement that this bill will never see the light of day, I hope to present the unshrouded bill for judgment and action by the people's elected representatives.

Third, Old Faithful needs protection. For several years before and after public hearings in Casper, WY, in 1982, I have urged a ban to prevent any geothermal Federal leases adjacent to Yellowstone National Park in order to prevent damage to the Old Faithful geyser basin within the park. Almost all of the world-renowned geyser basins have been lost forever because of man's drilling of the geothermal structures for energy development. This area, adjacent to the world's greatest geyser basin which contains Old Faithful, must not be drilled. Old Faithful, which has gone off its regular hourly eruption because of earthquakes, could be permanently stopped if drilling were allowed to take place in the area. To make sure that we are not guilty of that desecration, we should ban any Federal leases for geothermal drilling in the critical nearby area called Island Park.

Fourth, U.S. carmakers have perverted normal sales of cars they sell. Fleet car purchasers are those companies, or even individuals, that order 10 cars or more at greatly discounted prices from one of the U.S. car manu-

facturers which is set by the car manufacturers in the United States at a lower price than that allowed for authorized dealers. If that does not sound like a sweetheart deal, then consider this: Even one extra car purchased later will also receive the discount price. That means all ordinary car purchasers pay a higher price so the car manufacturers reap a bloated profit. That is Robin Hood in reverse—robbing from the poor and giving to the rich. But this deal is easy to correct and obviously should be corrected. The bill has been roosting in the wings and out in the rain all of this Congress. It is high time to dry it off and pass it and protect car manufacturers from themselves so U.S. automobiles can sell more competitively with those we import from abroad.

I would have preferred that all of these bills had been addressed by Congress earlier this year or last year or in the last Congress. But they have not. There is a natural question by the public, "Well, why haven't you?" Just as there are many ways to skin a cat, there are many ways to prevent consideration of good bills in Congress. However, I shall make every attempt to overcome the obstacles and bring these measures before the Senate in the next few days.

RECOGNITION OF SENATOR QUAYLE

The PRESIDING OFFICER (Mr. WARNER). The Senator from Indiana [Mr. QUAYLE] is recognized.

THE SENATE MAKES THE CASE FOR REFORM

Mr. QUAYLE. Mr. President, as the Senate winds up the Nation's business, in the final days of the 98th Congress, it will be a painful process where some legislation will survive the chaos. Many good bills will not be passed and many bad ones will pass. Sleep will be a precious item. There will be many all-nighters either on the floor or in conference. It will not be a pleasant time but I am hopeful that this experience we are about to endure will be a painful reminder to all of us that the Senate process must be changed.

Today, as the Senate prepares to continue the battle on the continuing resolution, we are really entering the twilight zone of the legislative process. There will be literally hundreds of amendments possibly offered to this catch-all bill in the next few days. The amendments offered will be important to the individual Senators but much less important to the Senate as a whole. I am sure every Senator has four or five possible ideas he, or she, would like to have passed. We will go through all sorts of gyrations, procedural tactics, long speeches, short speeches and political posturing.

During these last few days, we will witness the Senate at its absolute worst. This institution will pass nine appropriations in one bill. These appropriations represent over 80 percent of the amount in the Appropriations Committee's jurisdiction. If we can really pass 80 percent of the Government in a few days, then, perhaps, we ought to just meet for a few days a year and call it quits. I would save the taxpayers a bundle and it would accomplish about the same thing.

During the past few weeks, a number of Senators have risen to complain about the method of doing business. We have all heard complaints. Let me cite a few of them that have been made recently.

Senator BENTSEN said:

That's one of the deteriorations of this institution. You've got to have unanimous consent to get things done and I'm tired of it.

Senator HATFIELD said:

If the Senate cannot under its normal procedures finish the legislative calendar, then loading up appropriations bill is a poor excuse. We may enjoy certain political therapy by going through the motions and getting our little publicity out to the hometown newspapers, but this does violence to the institution. This does violence to the appropriations process, and to the Senate.

Senator HATFIELD went on to say:

When cloture was laid down Senator RUSSELL, the gentleman he was, the man who understood the Senate, the man who was a Senator's Senator, even though I might disagree with him on the civil rights issue, said, "There comes a time when my personal perspective and viewpoints have to be submerged to the institution."

Senator PACKWOOD said:

[We have managed from roughly 1970 or 1971 onward to so pervert and torture the processes of this body that we are approaching being inert.]

This is a sampling of pointed statements aimed at the heart of the Senate's actions.

I sincerely believe that at some time soon we are going to have to make changes for the presentation of the institution of the Senate. As Senators, we all talk about this being the greatest deliberative body. The history of the Senate is steeped in the tradition of great debate.

Yet, these last few days the Senate will radically depart from that honored tradition. We will not be deliberative; we will try to dispatch amendments as fast as they are offered; there will be no substantive debate on issues. The serious debate on any substantive amendments like the Civil Rights Act of 1984 will be made in the Cloakroom, the majority leader's office, or some other place besides the floor of the U.S. Senate. The Senate as a whole and the people will never know the substance of the issues. Furthermore, this bill was not ever debated in the committee having jurisdiction or any other Senate committee. The debate has been a small number of Senators in closed meetings. Unfortunately, this is the way the Senate does its business these days. So the world's greatest deliberative body will become a jungle of confusion. Matters considered will be many but discussion will be brief. The Senate process will churn and churn. Its final product will be about what the executive branch wants. In the closing days of any Congress the upper hand goes to the executive branch because they have possible veto and final say.

Mr. President, just 2 weeks ago, I stood on this floor and argued that if the Senate is to retain its rightful place as the premier institution in public policy formulation, it must reform not only its committee system but also many of its rules and procedures. I argued that the Senate suffers from the twin problems of proliferation of subcommittees and trivialization of the Senate itself. We deal with more and more matters, but pay less and less attention to the broad issues of public policy. We are doing a lot of things, but not very well and we are hardly doing anything well. We are not setting national priorities. We are not focusing our attention on crucial issues. I made those arguments 2 weeks ago. We are witnessing the atrophy of the Senate at its best and during these next few days the Senate itself will make abundantly clear the case for serious reform.

We are today, on September 28, 2 days before the end of the fiscal year and 7 days before scheduled adjournment, and I think that is an appropriate time to look at what we have done and, perhaps even more importantly, at what we have not done.

Look at what we have done the last 2½ weeks. We have invoked cloture five times: on the motion to proceed to S. 2851, the banking bill, on the banking bill itself, on the motion to proceed to Senate Resolution 66, TV in the Senate, on Senate Resolution 66 itself and on the motion to proceed to S. 2527, the highway bill.

We also have three cloture motions pending and more threatened.

From 1919 to 1926 cloture was also invoked five times on such issues as the Treaty of Versailles and the World Court. It took the Senate 7 years to use rule 22 as often as we have used it in the last 2 weeks.

From 1963 to 1965, cloture was invoked four times as the Senate considered the highly controversial topics of shutting off debate on amending rule 22 itself, the Civil Rights Act of 1964, the issue of the legislative apportionment, and the Voting Rights Act.

Cloture has indeed become trivialized. Not only do we routinely use rule 22 on the motion to proceed, but more significantly, cloture is now invoked at the very beginning of the consider-

ation of the measure. When the Treaty of Versailles was on the Senate floor it was debated for 51 days before cloture was invoked. When the Civil Rights Act of 1964 was on the Senate floor, it was debated for 57 days before cloture was invoked. When S. 2851, the Financial Services Competitive Equity Act, and Senate Resolution 66, TV in the Senate, were on the Senate floor, cloture was invoked on each measure the same day we began considering them.

The Senate has cloturitis. We invoke it here, there, everywhere—cloture was at one time a powerful tool and once invoked its impact was felt and its invocation respected. Now it is used so often—its respect and influence has declined. The same might be said for the institution of the Senate.

Mr. President, when is the real discussion of these issues going to take place?

While we have had rollcall votes, cloture motions, amendments, and bills, what we have not done is perhaps more important. Perhaps this is even more important than what we have done.

So, let us take a look.

First, we just passed the first budget resolution on September 27 instead of the statutory May 15 deadline.

The Senate has not passed 12 out of the 17 annual authorization bills, such as the Department of Justice, the Foreign Assistance Act, and the National Science Foundation.

Congress itself has not passed nine appropriation bills, though again we are well past the deadline for the completion of all appropriation bills in the Budget Act.

We have recently debated the question of televising Senate debates—and we have substantial differences of opinion on that question. But in looking over the debate, I am struck by the fact that both sides see the Senate deteriorating as an institution. They differ only on the question of whether television will redress or accelerate the decline. The senior Senator from Mississippi, Senator Stennis, gave, in my opinion, the most eloquent statements. He said:

> The Senate has lost much in the way of ability to debate and be heard, transmit ideas to other leaders and thereby produce conclusions. We have lost much of that since I came here. I am not blaming anybody else. I shall assume my part of the blame there. But I do have a chance to make comparisons between conditions that I think existed, where the Senate was far more influential in my time of service here than we are now.

Senator STENNIS came here in 1947, which was the year that I was born. He has been here 37 years; I have been here 4 years. His comments reflect years of experience in the Senate, and his observations are pertinent and most informative. My observations reflect more of what I expect the Senate to be and what it really is.

However, I believe we can all agree with Senator STENNIS not only on the facts of the charge but also on the objective toward which we must work. "We must," he says, "find a way that will give us a chance to have real debate, real exposure of the facts, opinions, conclusions, judgments, and recommendations, molded into law the best we can, for the general welfare of the people."

Mr. President, let me make plain that it is not my intention to criticize those who engage in filibuster, file cloture petitions, or offer amendments. We are all operating under the rules and practices of the Senate, and each of us takes advantage of them because we all do. No individual Senator can be expected to give up the rights and advantages that he has under our rules and customs unless we all do. Individual self-restraint cannot deal with this problem. What we need is collective self-restraint. It is my hope that the Temporary Select Committee on Committees can make recommendations that will make it easier for us to engage in that collective self-restraint which I believe is essential to return the Senate to its proper functioning as the world's greatest political institution, an institution that will debate the issues, discuss the facts, formulate opinions and establish public policy that will lead this Nation.

I can only say in conclusion let us not forget the next few days when Congress reconvenes in January. If we are to seriously contemplate constructive changes for the Senate, it will have to be done in the first few weeks of January. We must chart some different procedures if we want to maintain reverence for this institution in the formulation of the national public policy. To continue the status quo, in my opinion, will enhance the trivialization of the Senate into a lesser power than it has been or it deserves. For the Senate to do better, we must be willing as individuals to do better for the sake of the institution.

Mr. MATTINGLY. Mr. President, I commend the Senator from Indiana on his leadership on the special committee to look into change in the rules of the Senate and to change some of the so-to-speak barriers that are really in front of us and try to stop us from being effective legislators or getting things done in a more expeditious manner.

I wish to comment on one remark that he made when he said that the President has the final say with the veto, and that is where I may have some slight disagreement now with the Presidential veto on bills such as we are now faced with, House Joint Resolution 648, the continuing resolution, and others that reflect a need possibly for a change also in that procedure.

What I have been talking about and what the Senator has also been talking about is a need for a line item veto.

There will be an attempt by this Senator and others to try to introduce a line item veto before we recess because I think what we see happening at the end of this legislative session and specifically in the House Joint Resolution 648, the continuing resolution, I think sort of stands as a perfect case example. When it is finally passed and is in all its beauty, it is still going to be fresh in our minds, a need for a change, when we finish in the next few hours, how many hours it takes for us to finish this CR.

I think it is going to be obvious that neither the 435 Members of the House of Representatives nor the 100 Members of the Senate can control unless there is going to be a final judgment somewhere at the end of this legislative or executive cycle that although the voters judge once every 2 years, I observed it in probably not frequent enough to invoke really what I might term pork reform measures that seem to continually creep into the legislative process and especially the continuing resolution.

I think when we go to a House-Senate conference sometimes there is little judgment in those areas and there is some partial restraint or justice made there. But the final judgment must be changed, I think, from a sledgehammer-type approach by a veto by a President over bills that are now composed of scores and hundreds of pages whereas probably back in, I think, the late sixties a continuing resolution probably included only two or three pages, if my history is correct.

But I think that we also need, in addition to what the Senator from Indiana is talking about and which I know he supports, change and have a more refined type of veto for real justice, and I might add that that can create results by using a line item veto that really enhances this process that we are going through right now.

Mr. SYMMS. Mr. President, will the Senator yield on that point?

Mr. MATTINGLY. I yield.

Mr. SYMMS. Mr. President, I join in the Senator's commendation of our colleague from Indiana on his work that he is doing on Senate reform. Some of us in the Chamber heard a very good speech from my senior colleague in the Senate prayer breakfast about returning to our beginnings.

I want to ask Senator QUAYLE if his subcommittee staff has done any research on the history of the Senate prior to the days when Senators were elected. In other words, when Senators were appointed by the States was there less of a tendency for Senators to posture themselves—whether it be

on a gun control, civil rights, or busing issue?

I can say that on both sides of the aisle there is plenty of posturing today. One of the reasons we cannot do business is because we have so many nongermane amendments and the ability of one Senator to stop legislation literally though the rules process. Why would a Senator take these steps? Because they are appealing to their constituents to get reelected. If Senators only answered to the legislatures and Governors, I do not think there would be many legislators or Governors in Washington, DC, demanding recorded votes on some of the issues the Senate debates today. The States would be pushing to get the appropriations bills passed.

For example, I am chairman of the Subcommittee on Transportation. We have not been able to get a highway bill through the Senate because of various Senators objections.

It is probably one of the few bills that should pass this Congress. The money is already in the bank, and all we are trying to do is allow for a simple appropriations to the 50 State departments of transportation—in order that Federal highway program can continue. I would think we could pass a bill like that.

I am sure if you put it to a vote of the Governors and the State legislatures they would vote for us to set aside the different demonstration projects and different special interest items. They would say, "Get the civil rights amendment off the highway bill and pass the highway bill."

Has the Senator from Indiana had anyone look at the history to see how Senators used to operate before they were appealing to the masses and posturing?

Mr. QUAYLE. What we have done is go back and see where the Senate was and where it is now on a comparative basis. The cutoff time that we used for a rather indepth analysis was 1917. I believe the direct election of Senators was passed in 1913.

Mr. SYMMS. I mean, a lot of things have happened.

Mr. QUAYLE. Anyway, the line of demarcation we have used was about 1917. That was when cloture was first utilized by the Senate. Before that, the Senate never had cloture.

Mr. SYMMS. Maybe because they never had Senators posturing as much.

Mr. QUAYLE. It certainly is a different norm. I think that probably the Senator's observation has certainly some merit to it, that it is a different climate and it is a different situation than we had back in the turn of the century.

But in my remarks, I said what we have done, particularly with cloture, is we have just gotten so bogged down in detail. It took the Senate 7 years to invoke cloture five times. Now we have invoked cloture five times in the last 2 weeks. It has become meaningless to invoke cloture around here. We do it daily, sometimes twice a day.

The way we debate on cloture, its impact, its effect has sort of deteriorated. I think there is a question of whether the Senate itself has sort of followed that pattern. So what we need to do is put some meaning back into not only the rules and procedures and the process that we have but to have an understanding collectively that this institution is going to have to have some sort of procedural change if it is going to retain its rich heritage of being that great deliberative body and have the public policy debates and trying to be the premier political institution in the world.

Mr. SYMMS. I compliment the Senator. I think he is right. I am just saying that some of these procedures may call for a change. I think two or three simple changes would greatly help this institution, raise its esteem in the eyes of the public, and raise our ability to accomplish the things were were elected to accomplish. One would be, at least in the election years, that the Senate and the House both adjourn sine die by the Fourth of July, unless called back by the President for an emergency. Then you remove a great deal of posturing in this great body.

Being a political person myself, I do not condemn people for being in politics. In fact, I think it is most healthy aspect to have in a free society—a representative government; a republican form of government—and for people to participate in the system.

But I think if the Senate has an ironclad rule that we adjourn in election years by the Fourth of July, we would remove half our posturing because we would have the elections pressure removed.

The other staffs on item we need to address is the size of our committee legislative staff on Capitol Hill. These people dream up amendments for Senators to offer. They are ambitious, good people. They work hard. But, I imagine if we get rid of half of the staff, we could cut a proportional number of staff at all the agencies in town. If you go to the Pentagon, the Department of Transportation, or any other agency, half of the people in those places just write letters back and forth to the Congress. Many of these letters are simply generated by ambitious people on the Hill who want to look out for this or that various issues so they can posture their Congressman or Senator why? So he looks good back home; so he can get reelected.

Things have really changed is all I am saying. I am not talking about going back and repealing the amendment to the Constitution which deals with Senators being elected. I do not think that would be realistic. But we are not dealing in these modern times with the problems we have. We have television. I can have a press statement made right now and I could be on television live in Boise, Idaho in 20 minutes from now. That did not use to be the case for Senators from Idaho at the turn of the century. They did not have that driving motivation. They did not have a big staff to keep promoting ideas that they ought to be working on.

I think we could do much in a simple way. The Senator from Indiana is on the right track. I want to encourage him. I think his biennial budgeting would help. But I do think that we ought to adjourn, after passing a clean resolution. We should have adjourned 3 months ago—the country would be better for it. I am confident of that.

Constituents see this mess here, and all this parliamentary hodgepodge they realize that it does not mean anything to the people outside of the Washington. DC, 495 beltway. Only inside the beltway does our nonsense seem important. Many of these issues we debate at great length are not important issues outside the beltway to the large majority of this country's citizens. There is no demand for them out in the country. We create our own demand.

Mr. MATTINGLY. Will the Senator yield briefly to me?

Mr. SYMMS. I think the Senator from Georgia has the floor.

Mr. MATTINGLY. When the Senator started talking about staff, I think when I testified before the committee of the Senator from Indiana——

Mr. SYMMS. I might say, I do have a fine staff.

Mr. MATTINGLY. Yes; but we are not talking about the staff of the Senators. I think that needs to be clarified. When I testified before the committee, we had found that there are 1,250 staff members, not for the Senators, not what you have in your office, but there are 1,250 staff members on committees out there. That means every U.S. Senator sitting in this body has 12½ staff members each. So when you talk about what is going on, where this proliferation of the people——

Mr. SYMMS. Is the Senator talking about 12½ legislative staff members per Senator?

Mr. MATTINGLY. That is right, committee staff members.

Mr. SYMMS. Consider some of the legislation we pass. The majority leader stood on the floor one day when I was privileged to be in the Chair and held up a bill and challenged the Senate. He said, "I'll bet you there isn't 1 out of 10," No I'll take that back. There probably is not one Senator in this body that has read this. It is 1,200 pages long. It looks like something written by the bureaucracy

that should go in the Federal Register instead of national policy."

Right now there is a conference going on in S-207. I would defy Senators to go in there and try to figure out what is going on in the conference. It is so complicated. It is dealing with solid waste disposal, writing into the law specific little regulations-dotting the i's and crossing the t's how they are going to have liners in waste tanks.

Mr. MATTINGLY. I will bet the Senator's constituents do not even want that.

Mr. SYMMS. They do not want the waste and they do not want the problem, and certainly they are not excited. No, it not an issue that is on the heart and soul of every constituent in Idaho whether or not Congress acts on this legislation.

Mr. QUAYLE. Will the Senator yield?

Mr. MATTINGLY. Yes.

Mr. QUAYLE. The Senator from Georgia did appropriately bring that statistic to the committee's attention, that we have 12½ staff members, outside of the personal staff, per Senator. That is a lot of staff.

Now, one of the ways we might be able to deal with that problem, not in a direct way saying we are going to do this, this, and that, but if we would just limit the subcommittees around here, with the exception of the Appropriations Committee, to 5 subcommittees per committee, you would eliminate about 30 subcommittees. It is not going to be just saying, well, it is going to be this subcommittee or that subcommittee, or whatever subcommittee. It is going to be up to the chairmen of those particular committees to compact and reorganize the committee and five subcommittees instead of the eight or nine subcommittees that is the rule rather than the exception. By having that, I think you would find the process far more efficient. You would have a sorting out of the priorities on where we ought to be going or where we should not be going. Furthermore, you talk about a savings. There is a tremendous amount of savings that you would have in having a more efficient, less cumbersome process than what we have right now.

Mr. SYMMS. If the Senator would yield further. I am supportive of your suggestions. But we should understand we will have to change the basic premise of some of the operation we work under dispose of some of the Federal Government's, and return many of these things to the private sector. I have been working very carefully with the Grace Commission people, and with the Committee on Waste, which is a bipartisan offshoot of the Grace Commission. The major solution to Government waste is to privatize many of the current Government functions. We held hearings this morning on the continuation of the privatization process. For example, in Goverment public housing we have thousands of units with very high nonoccupancy rating. However, in the Government housing contracted to the private sector, most of the houses are occupied. We need to allow people to homestead those government places, and get the Government out. There is an army of people that work in HUD policy, for example, and Government housing. This is very interesting. I do not know if the U.S. Senate has time to really deal with all the HUD employees. The Senate should provide an environment where housing can be developed so that everybody gets a chance to have the American dream—a home. That process is basically on the economic process. Just to have more and more U.S. production slide into the hands of Government will do little to ultimately simplify and solve the housing problem.

We have to reduce the size of Government in order to reduce the legislative workload. That will take some time. But it would be, I think, nice to see some unneeded Government agencies finally abolished. I think many Government agencies seem to be closer to eternal life than any other thing we will ever know of.

I am afraid that your efforts for reform, if we are not careful, will also meet the same fate: It is a good idea, Senator QUAYLE, but we have to have this committee, we have to have that committee. Still I salute you and support you in your efforts. I hope we could get some major committee and Senate legislative procedure reform. The fact that we have only completed 4 of 13 appropriations bills this year, and are trying to do all our work in one package I think speaks to the problem better than anything else that can be said.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I want to commend the distinguished Senator from Indiana for his initiative as well as for his statement here this morning. I rather suspect that when we look at the hiatus we are in it gives us not only the motivation to look at the organization, to look at our procedures in this body, and I hope it will do that because we are involved in the tail end of the session, as the Senator has said, in some very unusual situations partly caused by procedures and partly produced by the organization of the Senate. We can do much better than that. But it may also give us an opportunity to use it, to look at some of those problems, and we will have some time. I rather suspect today and tomorrow we are going to have more time than we wanted to have. Maybe we could usefully use some of that time today and tomorrow as we try to unravel this situation to focus on how we got here, not just discuss the specific issue that is before us today in the legislation, or the various amendments that are involved, or the several overlapping cloture petitions that are now pending, and more will be filed, but take the time rather to determine what we can do next year to make certain that we do not prolong and exacerbate this kind of conduct in the Senate.

I commend the Senator for undertaking this task. I think it should be a first order of business for the new Congress, for this Senate in this next session, to analyze and examine ourselves with the critical view to making constructive changes in both rules and organization that will lead us to being a more efficient and more effective instrument of making policy for the people of this country. I know that is where the Senator wants us to go. This Senator supports that activity. I hope that we will go in that direction in the early weeks of next year.

Mr. QUAYLE. Will the Senator yield?

Mr. McCLURE. I would be happy to yield to the distinguished Senator from Indiana.

Mr. QUAYLE. I thank the Senator for his very astute observations, and he is absolutely correct that the window of opportunity for us is going to be those first couple weeks in January. Hopefully, our committee, with the support and help of the vice chairman, Senator FORD, and others, will be able to work with this and mark it up on November 29. We will have at least a recommendation that the Senate will have a chance to digest before January. But when we come back in January, I hope this painful experience that we are going to have these next few days is not forgotten. We all will talk a lot about it today. We will talk a lot about it tomorrow. If we are here Sunday, we will talk about it. We will talk about it all next week. But I certainly hope that this Senate does not go home, campaign, come back, say that was last year, and it will not happen again. It is going to happen again. It is going to happen again, again, and again until we make some positive constructive changes.

So I really relish and appreciate the observation that the Senator from Idaho, the senior Senator from Idaho, has made because it is right on target with what I have said in conjunction with what his colleague, the junior Senator from Idaho, has talked about—that is, we can, in fact, make a difference but we are going to have to do something. I hope this is indelibly impressed upon Senators' minds throughout the campaign season, when we come back, reorganize in late November, and then come back and reconvene the first week in January.

Mr. McCLURE. I want to commend the Senator from Indiana. I took the time primarily to do that but cannot escape the opportunity either to urge my colleagues in the next hours and days to focus on this problem as much as they focus on the individuals and personalities that may be involved in the impasse in which we find ourselves today because it is not the issue or the personality nearly so much as it is the process within this Congress that has brought us to this point. We may degenerate into name calling when we could devote those energies and emotion into a constructive analysis of how we can work better so we will not be involved in the same kind of an impasse again so often in the future. I again commend the distinguished Senator from Indiana.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I rise to join with those who have complimented the distinguished Senator from Indiana for the outstanding contribution he is making to this body in his effort to call attention to reforms that are long overdue, and that must be made if the Senate is going to continue to occupy a position of trust and influence in our National Government. I tend to agree with the fact that one reason we have difficulty in our procedures in this modern era is because we are directly responsible—and I think appropriately so—to all of our constituents back in our States which we represent.

There was some conversation a minute ago about the adoption of the amendment to the Constitution that required the direct popular election of Senators, rather than their selection by State governments. That amendment was ratified on February 3, 1913, when the final States approved the amendment. That was amendment No. 17 to the Constitution. I think this made it more difficult, as recent history has shown, for Senators to exercise that independent judgment, independent from the whim of the emotions of the moment that might have taken hold in the country that was expected of them by the founders and the framers of the Constitution.

I can recall one story that was told about one of the Founding Fathers being asked the purpose of the Senate. They said it is going to be like the House of Lords. Is that what you created? His response—I think it may have been Ben Franklin, but I am not certain—was that the Senate can be likened to the saucer where you pour the hot coffee and let it sit for a while before you drink it. You can more easily then deal with the heat of that coffee after it has been in the saucer for a time. That is what the Senate is for, he is supposed to have said, a place where you let tempers cool, emotions cool, and have a very deliberate, cautious, and careful approach to the decisions that are made by our National Government. I think that distinction is being lost. I think the distinguished Senator from Indiana is bringing to the attention of this Senate and to the country by the good work he is doing the fact that there is a special place in our National Government for the U.S. Senate. It has special responsibilities. It is not just another legislative House here in Washington that corresponds exactly with the House of Representatives.

It has different powers and responsibilities. It is unique. I am afraid the uniqueness of the body is being eroded and evaporated because of the pressure of public opinion and the rush to act on important issues of the day.

What we are seeing here, I think, the effort to attach to our continuing resolution all of these nongermane amendments, is clearly illustrative, as the distinguished Senator has pointed out, of one of the problems that we have as a result of that pressure to act, rather than the pressure to deliberate and to be cautious, to be careful, and then come out with a decision that complements the work of the other branches of Government and the other arm of the legislature.

I rose to simply praise the work of the distinguished Senator from Indiana. I am genuinely impressed with the quality of work being done by his committee under his leadership. I hope the Senate knows how important an effort is being undertaken and the fact that we should respond to this next year and enact some needed reforms. I think we will all be better off, not just the individual Senators, but every citizen of this country will be better off, because of the work being done.

SENATOR JENNINGS RANDOLPH

Mr. DIXON. Mr. President, I would like to bring to the attention of the Senate an article that appeared in today's Chicago Tribune that recognizes a very distinguished colleague who truly stands as a legend among us: Senator JENNINGS RANDOLPH.

The article very accurately portrays the deep and abiding legacy which our friend JENNINGS helped to shape and which he will leave with us at the end of this session.

As many of my colleagues may recall, during a very spirited debate in this Chamber last week, I mentioned that long before I ever came to the U.S. Senate, when I was just a kid in the Illinois Legislature, I had heard of the great JENNINGS RANDOLPH.

I had heard from people all over my State of how no one in the history of America has done more to build the fine roads and highways, bridges, and dams that have made this such a great Nation.

In fact, the list of this man's accomplishments would be too long to recite here, but I would advise my colleagues, it is not often one can walk in the shadow of a man who will undoubtedly stand as an American legend.

What is more, it is not often one can know a man with a heart as warm and as compassionate as that of our dear friend from West Virginia. For his personal friendship, I will be eternally grateful.

As JENNINGS RANDOLPH leaves the Senate at the end of this year, he leaves behind not only the record of his great accomplishments, but he also leaves us with a legacy of decency and integrity that we would all do well to emulate.

I ask unanimous consent that the Chicago Tribune article appear in the RECORD at this point.

The article follows:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LAWMAKER LEAVES NEW DEAL LEGACY—RANDOLPH LAST LINK TO AN ERA

(By James Worsham)

WASHINGTON.—He is Congress' last link to those historic First 100 Days of the New Deal, the bearer of its institutional memory of the early days of Franklin Roosevelt's efforts to pull the nation out of the Depression.

In fact, Jennings Randolph is a walking reference book of how much of today's federal government came into being, because he was there when a good deal of it was being created in the 1930s.

Randolph, a kindly, old-fashioned sort of legislator fond of Senate decorum and long, florid speeches, is retiring this year at the age of 82. Next year, he'll be spending a lot more time in his native West Virginia, a state rich in the legacies of the programs that this New Deal Democrat helped create over the last half century.

"Many people, without checking the facts, will say that the New Deal laws were just for the New Deal and they are gone, but they are not gone," said Randolph. Social Security, banking and securities regulation, collective bargaining and much more grew out of the New Deal, and later the Great Society, and are permanent parts of the government and the American landscape, he noted.

Because of this, Randolph is not disturbed by attacks on "big government" by Republican conservatives, although he has been fighting Reaganites for the last four years to save some programs important to West Virginia.

To Randolph, there will always be "periods of conservatism and periods of liberalism," but the "body politic, which I call the American people" will see that those institutions endure.

One surviving example he cities is the Economic Development Administration, the lender of last resort for financially troubled businesses, an agency once slated for extinction by President Reagan. Randolph can tick off various West Virginia businesses,

and the jobs they provide, that have been saved by the development agency.

Randolph, who wields substantial clout in the Senate, has seen to it that development agency has survived the White House assault so far. Reagan "has been the president for four years, and it's still there, because there's a need for it," said the calm, smiling senator.

Randolph was strongly influenced by the Depression when he was forming his ideas of what government ought to be—that it can and should provide a helping hand to those in need. He was named Jennings at the behest of the "Great Commoner" himself, William Jennings Bryan, a friend of his father.

A veteran of 26 years in the Senate and 14 years in the House [with a 12-year break in between], Randolph can rattle off numerous pieces of major legislation he sponsored that have become law. They include the interstate highway system, the Appalachian Regional Commission, mine safety, airports big and small, bridges and dams and the 26th Amendment lowering the vote age to 18, which he first proposed in 1942.

Today, as he takes stock of the hundreds of awards that have covered his office walls, he comes across a new one, a montage of dozens of small snapshots of people, a reminder of a 1936 law he sponsored to allow the blind to operate news-concession stands in federal buildings, a law copied by many states.

Randolph came to Washington in the Roosevelt sweep of 1932 and spent seven terms in the House, helping to enact programs that aided the poor, coal-mining regions in West Virginia. Many of those endure today. Such towns as Arthurdale, Tygart Valley and Eleanor [named for Mrs. Roosevelt] were built as rural resettlement, or subsistence, homesteads.

"I recall so very, very well that in that period we were not on our knees, but prone on our backs," says Randolph.

While in the House, Randolph developed an interest in transportation and first raised the idea of a national highway system in 1937, nearly 20 years before it won congressional approval as the interstate system. In the 1940s, he helped enact a measure to build 2,800 airports.

"I knew America was going to be a country on wheels, and a little later, I knew it was going to a country on wheels and wings," Randolph said. Years later, he would only reluctantly let mass transit dip into the Highway Trust Fund that was building roads.

In the Republican sweep of 1946, Randolph lost his seat and spent the next 12 years as an executive of Captial Airlines, which later became part of United Airlines. In 1958, he was elected to the Senate and served for 14 years as chairman of the Environment and Public Works Committee, where his interest in transportation deepened and his jurisdiction expanded to the new environmental legislation, including clean air and water laws and the Superfund toxic waste clean-up program.

He has also watched out for the coal industry, the backbone of West Virginia's economy, opposing environmental laws he felt adversely affected it and sponsoring black lung legislation that has brought more than $1 billion into his state to help miners.

As chairman of Public Works, Randolph presided over what is known in Congress simply as "pork," federal projects that pump money and jobs into states, districts and communities in the form of roads and highways, bridges, dams and federal buildings. They all had to be approved by his committee, and the genial Randolph passed them out to his colleagues and made sure West Virginia got its share.

In the Senate, Randolph can be seen scooting along a hallway and maybe offering a hearty "Good day, friend," to a passerby. But he thinks some changes in the Senate have not been good. There has been a decline in decorum, he said.

"I like to feel I'm on the very best of friendship with every member of the Senate, but they know how I feel about the lack of decorum," he said.

When Randolph leaves the Senate this year, his papers and memorabilia will be shipped to Salem [W.Va.] College, which his grandfather and father founded and where he graduated, and become part of a public affairs center. The brick house where he was born also is being moved down Main Street to the campus.

Randolph will once again hold forth there—as he once did when he taught public speaking—and will offer his views to students on the issues of the day. One view he's willing to share now concerns the presidential campaign.

"The people of this country want issues discussed," he said. "They don't want verbal brickbats, the cutting up that's now going on. Well, you read some of those speeches. People who are going to be president of the United States—they're not worthy of that kind of thing, as I see it."

A SALUTE TO BOB COOK

Mr. DIXON. Mr. President, earlier this month, Mr. Robert E. Cook was honored by the Illinois Association of Realtors and by his friends and associates in the State of Illinois on the occasion of his retirement as executive vice president of the association. I was privileged to play a role at this impressive event in Rosemont, IL, to mark the close of a distinguished 28-year partnership between Bob Cook and the Illinois Association of Realtors.

When Bob first joined the staff of the Illinois Association of Realtors, its membership consisted of 2,000, with a budget of $17,000. As an indication of his successful tenure as an officer of the association, the annual membership now stands at more than 23,000, with a budget of $2.5 million. This is just one of the many accomplishments Bob Cook has achieved during his years of service.

Bob Cook has also served honorably and well as a principal government lobbyist for real estate matters. His efforts have resulted in legislation pertaining to improved real estate licensing laws, the establishment of the real estate recovery fund, and other public acts serving equally well both real estate agents and property owners.

Bob Cook also developed precedent-setting programs which serve as guidelines for other associations. These programs encompass such areas as continuing education, governmental affairs, and political involvement. Also under his guidance, the Illinois Realtors Plaza became the first nonprofit headquarters financed by a limited partnership.

Bob Cook's colleagues, showing their respect for his achievements, have awarded him the highest honors in their field. He has been the recipient of awards and honors from the American Society of Association Executives, the National Association of Realtors and the Illinois Association of Realtors. Governor Thompson proclaimed August 31 of this year as "Bob Cook Day" in Illinois.

While Bob Cook has helped his colleagues through government work, he has also helped his community through civic work. He served as president of the Illinois Jaycees, as deacon, trustee and moderator for Cherry Hills Baptist Church, vice-chairperson and director of the Brazil Gospel Fellowship Mission, and chairman of the Governor's Prayer Breakfast.

A lifelong resident of Illinois, Bob Cook received his bachelor's degree in political science and economics from Wheaton College. He also served his country honorably as an officer in the U.S. Navy during World War II and again during the Korean war.

Bob Cook's varied endeavors demonstrate his dedication to the standards he sets for himself professionally and personally.

It has been a signal honor and privilege for me to have known and have worked with Bob Cook over many years and to mark the occasion of his retirement after a distinguished career. I know my fellow citizens join me in congratulating Bob Cook on his past achievements and in conveying to him our best wishes for continued success in all of his future endeavors.

THE CONTINUING RESOLUTION

Mr. BUMPERS. Mr. President, I want to join the mutual admiration society that has been convened this morning to congratulate the Senator from Indiana on the efforts the committee on committees is making to reform the committee system.

I might say to that committee and the chairman that in my first year in the Senate I had the Congressional Research Service do a study of the committee and subcommittee system, and I would highly recommend that report for his perusal and edification.

I am not certain, but I believe that report stated that there were 27 subcommittees—that had staffs and yet had not met in the preceding 2 years.

Since that time, because of the efforts of our former colleague from Illinois, Senator STEVENSON, we revised the committee system somewhat, reduced the number of subcommittees, and while things have been slightly better, there is still plenty of room for improvement—not only by the com-

mittee on committees, but by all of us in adopting some institutional reforms.

In all probability, the kinds of reforms I am talking about exceed the mandate or jurisdiction of the committee of the Senator from Indiana. I am afraid nobody is working on the basic rules changes that would be required to get at the very heart of the problem. The Senate is tied in a knot right now and the country is faced with a literal shutdown next Monday due to our inability to complete the continuing resolution.

Somebody has to be in charge, and I think the motion to bring up a bill ought not be debatable. That isn't the present problem but is a badly needed reform.

The people on my side of the aisle might look at this in rather limited, parochial terms, assuming that the Republican Party will always control the Senate. They will not, nor will any party always be in control. We ought to try to rise above the kind of partisan thinking we indulge in around here so often and look at what is in the long-range best interests of the U.S. Senate and the country.

A Senator who has been here a long time came up to me about midnight recently and said, "DALE, the Senate is disintegrating."

Of course, the Senate can act quickly when it has to, when there really is a genuine emergency.

I have seen us, for example, pass a 5-day continuing resolution when we could not get the regular continuing resolution out. We passed one for 5 days and passed it within 2 hours. But the reason we had to do that is that we could not function under the rules of the Senate in getting the continuing resolution out. The reason we were on the continuing resolution in the first place was because of the institutional problems of getting our appropriations bills passed.

Why are we on a continuing resolution? Because 9 of the 13 appropriations bills have not been passed. Why have they not been passed? Because the budget process broke down. Why did the budget process break down? Because of our inability to resolve the Defense spending dilemma.

The American people today are very cynical about Congress. Why is the President able to convince the American people that the deficits are caused by Congress? I will tell you why; because the American people think that every problem in the country is caused by Congress.

I am not going to get into that. Those people who have always talked about balanced budgets but now see things in a slightly different way love it because the President is able to convince the American people that Congress is the culprit. Those of us in Congress who do not believe that get defensive, and that just convinces people that much more that the President is right.

We passed the Budget Impoundment and Control Act in 1974, I believe it was, and we said:

> We are going to discipline ourselves under the Budget Act. We are going to pass a budget resolution, and any bill which comes up and appropriates more money than we have approved in the budget resolution will be subject to a point of order.

What has happened since then? Nothing; we go our merry way doing whatever we want to do. We do not have a Budget Act right now. We are not operating under a Budget Act. We are just appropriating money, without limit.

Just stop and think.

I do not like to criticize. I am not criticizing my colleagues; I am criticizing the rules of the Senate which allow us to get bogged down into this kind of morass and keep us from doing the Nation's business.

THE ARMS RACE

Mr. President, having said that, I am going to shift gears ever so slightly. Since we are not doing anything, I just want to say that I genuinely hope President Reagan and Foreign Minister Gromyko have a fruitful and productive discussion today. I consider that meeting one of the most serious and important President Reagan has ever had. I am not going to evaluate just how sincere the President is about his seeming sudden change in his desire for arms control, but I am willing to take it at face value, because I do not care about all of the partisanship involved. I do care about making sure that we or our children or our grandchildren are not incinerated. The way I see it right now, with the United States building three nuclear warheads a day and the Soviet Union building about three nuclear warheads a day, it appears to me the world is heading full mill toward nuclear destruction. So I wish the President well.

In that connection, Mr. President, on the defense appropriations bill, it is my intention to offer an amendment to cut $140 million off the so-called "Star Wars" appropriation. There is about $1.6 billion in the bill for research on that technology. I am doing it for two reasons. No. 1, we can take $140 million off that and put it into something else—namely, trying to improve the morale of our servicemen who are changing from one base to another, trying to help them with their housing and so on—and second, we can and should buy more trucks. We can do all of those things without jeopardizing Star Wars research.

But it goes without saying that what the President is about to embark upon on the Star Wars concept of antiballistic missile defense I consider to be a step in the wrong direction. I am not going to wholly oppose the research on that, but I am assuming that is going to be the No. 1 topic between the President and Mr. Gromyko today because the Soviets have consistently indicated a great interest in this.

If you just want to beat on the Soviet Union, as most of us do, that is one thing. Obviously, we are ahead of them in antisatellite technology, we certainly will soon be light years ahead of them in antiballistic missile technology. So, if you want to say, well, we have this big lead, let us capitalize on it and go ahead with the "Star Wars" concept, here is where it will take us. It will take us, No. 1, to spending $25 billion between now and 1989 just for the preliminary research on that technology. And if it looks even remotely feasible to put a particle beam or laser beam antiballistic missile apparatus in space to knock down incoming Soviet missiles, the lowest, the very lowest cost I have heard put on that is $500 billion, and the very highest figure I have heard for the effectiveness of such a system, under the very best conditions, is that it would be 90 percent effective against incoming Soviet missiles. In short, under the very best scenario, we will spend a minimum of $525 billion to put a system into space that will be at best 90 percent effective—which means if the Soviets chose to launch 10,000 warheads against the United States, 1,000 of them will get through under the most optimistic assumptions.

Mr. President, I ask this simple question: Will the United States be habitable after 1,000 nuclear warheads fall on it?

No. 2. What will the Soviet Union do while we are building this system? In my opinion, they will do what they have always done; namely, start building their own. I remember well, even though I was not here, the debate in the U.S. Senate about the desirability and the effectiveness of MIRV'ing our missiles. We developed the technology to put more than one warhead on a missile. I shall never forget how stunned and shocked I was to find out that we could put several individually targetable warheads on the same missile. At first, we thought two or three would be the maximum. Now we are up to 10, and we've tested up to 14, on one missile. And they tell me—at least David Jones told me before he resigned as Chairman of the Joint Chiefs of Staff—that the Soviets could put up to 30 warheads on their SS-18. Thirty warheads on one missile.

The debate was should the United States go ahead with MIRV'ing missiles or was that technology too destabilizing. Everybody said, "We have to do it because we are light years ahead of the Soviet Union; they will never catch up with us." And besides, it will be great for overcoming a Soviet ABM

system, which they may be building. And once we started it took the Soviet Union less than 5 years to start MIRV'ing their missiles. We started putting missiles on submarines, and they put missiles on theirs. We MIRV'd our missiles on submarines. What did the Soviets do? They started putting them on their submarines. We built an advanced cruise missile, three of them in fact: ALCM, SLCM, and GLCM. What did the Soviets do? They are building an advanced cruise missile, three of them, in fact: an ALCM, a SLCM, and a GLCM. History has taught us that every time we escalate the arms race the Soviets do the same thing.

But there are also two or three other possibilities as to what the Soviet Union might do in response to our research. One would be that they will build enough extra warheads and missiles to overwhelm our ABM system.

The Senator from Colorado is sitting here on the floor and he and I talked a lot about that so-called MAP system, the multiple aim point basing system for MX, in the West. We agreed that without a limitation on warheads, such as in SALT II, the U.S.S.R. could easily build enough warheads to overwhelm that system. In short, without an arms limitation, that system made no sense.

In this case, if they can't overwhelm our ABM system, they are likely to start developing countermeasures, and reputable scientists tell me that the technology to defeat such a system is a very distinct possibility.

The fourth thing the Soviets could do—God forbid—is to believe, genuinely believe, and firmly act upon the belief, that they cannot overwhelm the system and that they cannot emulate the system and that they cannot build countermeasures to it, and so are left with no alternative but to strike before we can deploy them.

Mr. President, under three of these scenarios, we have an unbelievable escalation of the arms race, an outright abrogation of the Antiballistic Missile Treaty, one of the few treaties we have left that raises the threshold for nuclear war, and under the last one nothing will matter anyway. And so I ask my colleagues, does any of this Star Wars technology make sense if there is any possibility whatever of the United States and the Soviet Union entering into an agreement to stop this insanity before it goes any further?

Mr. HART. Will the Senator yield for a question?

Mr. BUMPERS. I will be happy to yield.

Mr. HART. Is it possible to summarize the excellent argument the Senator is making by proposing what might be called Bumpers first law of nuclear weaponry, and that is that there is no permanent technological advantage? Is that not really the argument?

Mr. BUMPERS. I guess that sums it up better than I said it.

Mr. HART. I thank the Senator.

Mr. BUMPERS. Mr. President, I have said pretty much what I want to say. It is an interesting thing to me, and I presented this question one day in the Democratic caucus: are we going forward with this with no more debate than I have heard on the floor of the Senate? Are we going to embark on a $500 billion to $1 trillion escalation of the arms race, which is going to be the most destabilizing thing we have ever done, counterproductive and which probably will not work, with no more debate and discussion than we have had? Well so far as I am concerned, we are not. I may not prevail on my amendment. It does not go totally to the heart of the problem, but I am not going to face my children or yours and say that we have escalated the arms race as we have never escalated it before; that we are faced with $200 billion deficits as far as the eye can see, and we are going to do this despite the fact that there is not going to be much left to defend if we do not get deficits under control. I am not going to say any of those things to my children.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanmious consent that the time for the transaction of morning business be extended not past the hour of 1:30 p.m. under the same terms and conditions as the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. The reason for that is we have one more special order to execute and the previous order provided for not later than 1 p.m.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 p.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, the hour of 1:30 has arrived, I believe.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, is morning business closed?

The PRESIDING OFFICER. We have not as yet gone into morning business.

Mr. BAKER. We have not yet gone into morning business?

The PRESIDING OFFICER. That is the understanding of the Chair.

Mr. BAKER. There is an order, however, that morning business would extend no later than 1:30, is there not?

The PRESIDING OFFICER. That is correct.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the Murkowski special order, which has not yet been executed, be vitiated and that there be a period now for the transaction of routine morning business in which Senators may speak.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

SENATOR JEPSEN RECEIVES GOLDEN GAVEL AWARD

Mr. BAKER. Mr. President, shortly before the Senate recessed Thursday evening, Senator JEPSEN became the fifth Senator to receive the Golden Gavel Award during the 98th Congress. This achievement does not come easily, Mr. President. It takes a concerted effort on the part of each recipient to accumulate the 100 hours of chair duty needed to receive this award. Senator JEPSEN has been a willing Presiding Officer and his diligence has been greatly appreciated.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

CONTINUING APPROPRIATIONS, 1985

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 648) making continuing appropriations for the fiscal year 1985, and for other purposes.

The Senate resumed consideration of the joint resolution.

CLOTURE MOTION

Mr. BAKER. Mr. President, I send a cloture motion to the desk and ask that it be stated by the clerk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on committee amendment No. 1 to House Joint Resolution 648, making continuing appropriations for the fiscal year 1985, and for other purposes.

Senators Howard Baker, Ted Stevens, Paul Laxalt, James A. McClure, Orrin G. Hatch, Mack Mattingly, Steve Symms, Strom Thurmond, Dan Quayle, Chuck Grassley, Don Nickles, James Abdnor, Mark Andrews, Mark Hatfield, Chic Hecht, Lowell Weicker, and Slade Gorton.

Mr. BAKER. Mr. President, this is a cloture motion on the first committee amendment which will ripen into a vote on Monday.

Mr. President, the situation today is that the pending question is the first committee amendment and the pending question, I suppose, then is on one of the amendments to the first committee amendment. I may say that I am advised that there are objections to moving off the first committee amendment, perhaps on both sides. I know that, in any event, it is not going to be possible to move off the first committee amendment.

Mr. President, that leaves us with something of a problem, because we have cloture votes tomorrow. We are free to debate the first committee amendment or amendments thereto or amendments thereto today. And, of course, they could be disposed of if the Senate chooses to do that.

But, Mr. President, other than that, I suppose we will have to await the outcome of the cloture situation tomorrow. There is already an order for the Senate to convene tomorrow at 10 o'clock. May I say there will be votes tomorrow and Senators should assume that and assume there will be a full day tomorrow.

Now there is one other thing that occurs to me that we might do and that is to take up some other measure altogether, such as the highway bill, which has to be passed, or something else. I have not yet consulted with any Senator about that because my track record on consulting on these matters is so dismal lately that I just decided to say it out loud and to see what happens.

But, Mr. President, I will not pursue the matter at this point except to put Senators on notice that the leadership on this side does not plan to waste the day if we can help it and I will be checking around to see if we can find something worthwhile to do. I have no desire to cut off debate by any Senators on the first committee amendment or amendments thereto.

The distinguished Senator from Oregon, the chairman of the Appropriations Committee, is here and prepared to debate. I will consult with the minority leader after I yield the floor, which I intend to do momentarily. May I also announce that I anticipate that the Senate will be in session until approximately 6 p.m. today.

Mr. President, I yield the floor.

CLOTURE MOTION

Mr. BYRD. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned 18 Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on amendment No. 5508.

Senators Robert C. Byrd, George J. Mitchell, Ted Kennedy, Bill Bradley, Gary Hart, Lawton Chiles, Tom Eagleton, Jeff Bingaman, Howard Metzenbaum, Paul Sarbanes, Dale Bumpers, Jim Sasser, John Glenn, Jennings Randolph, Alan Cranston, Dennis DeConcini, Daniel K. Inouye, and Patrick Leahy.

CLOTURE MOTION

Mr. BYRD. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned 18 Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on amendment No. 5509.

Senators Robert C. Byrd, George J. Mitchell, Ted Kennedy, Bill Bradley, Gary Hart, Lawton Chiles, Tom Eagleton, Jeff Bingaman, Howard Metzenbaum, Paul Sarbanes, Dale Bumpers, Jim Sasser, John Glenn, Jennings Randolph, Alan Cranston, Dennis DeConcini, Daniel K. Inouye, and Patrick Leahy.

CONTINUING APPROPRIATIONS, 1985

Mr. BAKER. Mr. President, I do not think this means anything to anybody but, as I count now, there are three cloture votes tomorrow and three cloture votes on Monday, the possibility of such. Is that correct?

The PRESIDING OFFICER. There is a possibility.

Mr. BAKER. Mr. President, that would be six cloture votes in 2 legislative days. For whatever it is worth, it took us 7 years before the Senate voted five times on cloture after the rule was first enacted. I just thought I might show you how far we have come in our progress toward Valhalla.

I yield the floor.

Mr. KENNEDY. Will the majority leader yield for a brief question?

Mr. BAKER. Yes; I do.

Mr. KENNEDY. Mr. President, as one of the prime sponsors with Senator PACKWOOD, I again want to reiterate to the majority leader that those of us who are sponsors of this Civil Rights Act of 1984 would prefer to have a freestanding vote and, should we gain the 60 votes that are necessary for cloture, to move to the consideration of it, and should we not, then there would be no further effort to add this measure either to the continuing resolution or to the debt ceiling.

We are placed, as has been pointed out on a previous occasion, into this parliamentary situation. It is not our desire to delay the Senate from proceeding and considering extremely important funding programs that are essential for the continuation of vital services for the American people, but we have very little option if we are not given the chance to get a freestanding vote. And clearly the majority of Members of this body yesterday indicated that they wanted consideration of this legislation prior to the conclusion of this session.

So I want to indicate—and the majority leader has reiterated the fact that there is a cloture vote on cloture vote on cloture vote—that the proponents of the Civil Rights Act of 1984 are quite prepared to have one and one only cloture vote and abide that if we had the opportunity for sufficient notice. But to put us in a situation where we are being told that we are going to have to abide by a final vote on this issue on Saturday when many of the Members have longstanding and important commitments and to have that be the ultimate decision on what I consider to be the overriding issue of importance in this session is I think asking more than at least this Senator is prepared to accede to.

So I do think it is important, as we either act on the continuing resolution this afternoon or through tomorrow or tomorrow night or perhaps even Sunday, to understand who is at least responsible for the delay in the action. It is, as I have said before, our willingness to move expeditiously to an up-or-down vote on cloture in a way that would permit both the majority leader and the floor managers of the continuing resolution maximum opportunity for progress on this important piece of legislation.

Mr. BAKER. Mr. President, I thank the Senator.

I yield the floor.

Mr. SYMMS. Mr. President, I think there is one thing that ought to be stated here. Senator STAFFORD, chairman of the Environment and Public Works Committee, and the ranking Democrat, Senator RANDOLPH; Senator BENTSEN, the ranking member of the Subcommittee on Transportation, and

myself as chairman of the subcommittee, have worked long and hard to get the highway bill to the floor and then it ran into the Civil Rights Act.

Now the continuing resolution is running into the Civil Rights Act. It is my understanding—and the Senator from Massachusetts can correct me if I am wrong—that the proponents of the Civil Rights Act failed to show up in the Labor Committee for markup not once, but eight times, and boycotted the meetings so that Chairman HATCH could not get a quorum and vote the bill to the floor. I think we ought to set the record straight. All of this rhetoric here on the floor is really not the facts. If the Senator from Massachusetts wants to get a vote on it, go to the Labor Committee and vote it out—that is what I would say—then bring it in here, and we can all vote on it. Allow the highway bill to gain floor consideration, and let's vote on it. But we are not going to get funding for Massachusetts, Idaho, nor other States that are waiting for their highway funds without legislation. Amending and stalling tactics will not help any operations here.

It is not fair for the proponents of the Civil Rights Act who failed to make the committee meetings—and I think the record clearly shows that—not once, but eight times, to come to the floor and say the proponents of the Civil Rights Act are not holding up the continuing resolution. That just is not the case. The proponents are holding it up.

I yield the floor.

Mr. DOLE addressed the Chair.

Mr. SYMMS. I yield to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. I want the floor for 1 minute, I will say to the Senator from Nebraska. I want to make an observation while we are on this topic. It is my hope that there is still some middle ground, and I do not know if the Senator from Kansas can be of any assistance. But I have been meeting this morning with someone from the Justice Department who might be helpful in all of this. It would be my hope to meet sometime this afternoon with principals involved. It is just a thought. Maybe it is not worth the effort. But I hope we can resolve this very, very important matter. Many of us would like to vote on this issue. We understand there probably is not going to be such an opportunity because of the differences. But I say to my colleagues that there may be some possibility, if each side is willing to give a little, to resolve some of this dispute and move on to other business.

Mr. HATCH. Will the Senator yield?

Mr. DOLE. I do not have the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. BYRD. Mr. President, I will hold the floor for just a minute.

I have earlier today discussed with the majority leader the proposition that we might by unanimous consent, vote today on the cloture motion to the amendment in the first degree which I offered yesterday, if cloture is invoked, then rule XXII would govern until final action has been taken on that amendment to the exclusion of any other business. But if cloture fails to be invoked, then we will have had our shot, and by unanimous consent we could wipe out all other pending amendments at this time—which would do away with my second substitute and the tax credit, busing, and gun control amendments. Again, if we fail to invoke cloture on amendment No. 5508, that is the end of the ball game on Grove City, and all the other pending amendments would fall, and we would get on with the committee amendments.

Senator BAKER in return explored this matter, came back, and told me that he could not agree to that proposal because there were objections on his side. So I respect the majority leader for that decision, and I respect the Senators on that side who did not want to move as suggested, but I continue to hope that at some point in this day we might reach an agreement that would dispose of this matter. It would give Senators their vote on cloture, the will of the Senate would have been thus indicated, and we can get on to other committee amendments to the bill.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. I thank the Chair.

The Chair knows I rise to seek recognition. I had hoped the majority leader would be here when I made this appeal. It seems me that we can best be described as not the most deliberative body in the world, but as the most cloture-minded body in the world. When I stand here on Friday recognizing that we have done very little, if anything constructive, this week, I must say that unless the individual wills of all of the Senators including this one can be swayed to be more reasonable than we appear to be right now, we are heading for what I think is a pretty sad story in the U.S. Senate. Here we stand on Friday with the close of the fiscal year on Monday. Supposedly the Government would close down. I want to make an appeal, and it does not make any difference to this Senator now because I have canceled a rather extensive schedule for tomorrow and on Sunday. So I am going to be here. I do not understand why the majority leader comes on the floor at a pretty critical hour, I guess, and says that we are not going to be here until after 6 o'clock tonight. It seems to me that we should have stayed last night. But I am not running the Senate. I do not want to run the Senate. But sometimes I wish I had to run it for just a few days, once in a while. I do not know why we did not work last night. I do not know why we are not working tonight.

Mr. HATFIELD. Would the Senator yield for a question?

Mr. EXON. In just a moment I will yield.

I will certainly say that—speaking as one Member of this body, I would be agreeable—I think we can set aside some of the game playing that is going on right now. To schedule cloture votes on Saturday when some people might not be here I suggest is not the way the Constitution anticipated, nor the people of this country expected, us to run the U.S Senate. I would be in favor—I will be glad to yield the floor—of some kind of an agreement to dispose of all of these cloture votes today, starting within 5 minutes from now if necessary because I suggest that very few votes regardless of yeas or nays are going to be changed on this very important matter.

I simply say that while it is well to stand on the floor of the Senate and say that others are responsible for the delay we are in right now, the facts of the matter are we are all somewhat responsible. I think it leaves little to the imagination by saying something should have happened in the committee. The facts of the matter are these measures are before us. I think we should waive the 3-day rule on all six of these cloture motions and get on with the business that we were sent here to do.

I yield the floor.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. I would like to respond to the Senator from Nebraska because there is no mystery as to why we did not work last night. I think the Senator from Nebraska probably was aware of why we were not working last night. The committee and the managers of this bill were here in place ready to work. The simple fact of last night, I would say to the Senator from Nebraska, was this: we had to have a unanimous consent to set aside the controversial amendment that had been amended in order to get back to the committee amendment No. 4. I went to the side of the aisle which the Senator from Nebraska is on, and could not get an agreement to have a unanimous consent to set it aside. That is why. We could set it aside today right now and go on with the other committee amendments of which there are 31 others. But we cannot get a unanimous consent agreement to set this aside. We can be about the people's business today as

we could have been last night. But because of the parliamentary situation, which should be no mystery of how it got here—I stood right here in this position and indicated precisely where we would be, and that is where we are.

But I want the Senator from Nebraska to know the Committee on Appropriations has done its work. The Committee on Appropriations is here to do the business of the Senate. But the Committee on Appropriations does not control the unanimous-consent situation that is required now to get on with the business.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. It seems to me that some of the sensitivities that I suspected that I might have ignited have just taken over. The Senator from Oregon knows the high respect I have for him, not only for him as an individual but as a U.S. Senator and as the effective leader of the Appropriations Committee. The remarks were not intended toward the Senator from Oregon or his committee or any member of his committee. Those remarks were directed, if he listened carefully, to all Senators on both sides of the aisle. I think the response that the Senator has just made indicates that people do not listen.

I am not blaming the Senator from Oregon. If he thought I was blaming him, I apologize and take it back. I would simply like him to point out where the Senator from Nebraska indicated he was blaming the Senator from Oregon.

I noticed, though, that the Senator from Oregon has just played the usual game that is going on, and he knows it is a game, blaming someone on this side of the aisle, I think that is what he said, for not agreeing to setting aside the pending amendment last night.

I would suggest to the leadership on both sides of the aisle and all my colleagues, what we should do with the time constraints that we are in right now I outlined in my previous remarks. October 1 is the end of the fiscal year. It would seem to me that we should all give some consideration to moving ahead with the cloture vote.

I would say I am not blaming anyone, but I would like to ask the question, why have we not accepted the offer of Senator KENNEDY, the offer of the Senator from Oregon, to go ahead and vote on cloture today? I thought that offer was made last night. I believe Senator PACKWOOD said that. I do not believe that the holdup of not going to cloture is the responsibility for people on this side of the aisle. It is probably on that side.

But I am not standing here making accusations. I am standing here saying that I think the majority leader and the minority leader should get together. I think they should crack some whips. I think at a time like this the individual feelings and wishes of all 100 Members of this body should not stand in the way of moving ahead with the peoples' business.

Mr. BYRD. Will the Senator yield for a question?

Mr. EXON. Once again I emphasize I was not talking about my friend from Oregon. I hope he knows that. I am glad to yield to the minority leader.

Mr. BYRD. For a question.

The distinguished Senator mentioned a couple of other Senators. Would not the distinguished Senator also wish it to be included in the RECORD that the leader for the Democrats also proposed a time agreement a moment ago. The distinguished majority leader and I have discussed it. He is still working on it. Will the Senator include that?

Mr. EXON. I will be glad to include the remarks the distinguished minority leader made, which was the same offer make last night.

Mr. BYRD. I thank the Senator.

Mr. EXON. Once again I will emphasize while I still have the floor that here we are again. Last night supposedly we could not move ahead with the cloture vote and we could not move ahead with the consideration of other matters and work because that side or this side objected to it. We are playing games once again this afternoon when we should have started on it this morning, blaming who is holding up who.

I do not believe the people care so much as to who is holding up what. I think the people of the United States should legitimately question what we are doing.

Mr. HATFIELD. Mr. President, I thank the Senator from Nebraska for his clarification. I was not taking the matter personally, but I wanted to set the record straight. The Senator was asking a rhetorical question in his opening remarks, that he found it difficult to understand why we were not doing business. I wanted to give the Senator the benefit of the facts of the case why we were not doing business last night or today. Like any other kind of disease, it tends to spread. While it might have been in focus on the side of the aisle the Senator represents last night, I am afraid the disease has now spread over here. If I should ask for unanimous consent now to move on to committee amendment No. 4, I would probably get objections from both sides of the aisle.

I want to say something else. It is very easy at times when there is a collective responsibility to fuzz it over in terms of who is responsible, but I think we also have to go back to square one.

If you go back to square one, you had a motion made at a time on this floor when we were trying to consider an appropriation measure that had nothing to do with the appropriations bill. That is square one.

I stood here last night and indicated what would happen when we moved off of the appropriations business of the bill itself.

Now we are in this situation. Now it is the collective responsibility of everyone. Of course, it is. But more especially those who voted to go into other matters than on an appropriation matter than related to the CR. That is square one. Now we have a collective responsibility to get out of it.

Mr. President, I suggest the absence of a quorum.

Mr. SYMMS. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. SYMMS. Was the vote on the germaneness of the Civil Rights issue——

The PRESIDING OFFICER. The suggestion of the absence of a quorum has been made.

Mr. HATFIELD. I withdraw my suggestion, Mr. President.

Mr. SYMMS. I wanted to make an inquiry of the distinguished chairman. Was the vote on the Civil Rights germaneness question reconsidered?

Mr. HATFILED. I would ask the Senator from Idaho to address that question to the Chair.

The PRESIDING OFFICER. The motion to reconsider was laid on the table.

CALL OF THE ROLL

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER [Mr. SYMMS]. A quorum is not present. The clerk will call the names of the absent Senators.

The bill clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names.

[Quorum No. 16]

Boschwitz	Hatch	Riegle
Bradley	Hatfield	Stafford
Byrd	Hecht	Stennis
Cranston	Kennedy	Symms
Evans	Lautenberg	Thurmond
Exon	McClure	Weicker
Goldwater	Melcher	
Gorton	Nickles	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

The legislative clerk resumed the call of the roll and the following Senators answered to their names:

Baker	Hawkins	Pryor
Baucus	Huddleston	Randolph
Bumpers	Humphrey	Roth
Burdick	Inouye	Stevens
Dodd	Mathias	
Ford	Nunn	

The PRESIDING OFFICER. A quorum is not present.

Mr. BAKER. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee. The yeas and nays were ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BAKER. I announce that the Senator from Illinois [Mr. PERCY] is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Rhode Island [Mr. PELL] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 91, nays 5, as follows:

[Rollcall Vote No. 254 Leg.]

YEAS—91

Abdnor	Ford	Melcher
Andrews	Garn	Metzenbaum
Armstrong	Glenn	Mitchell
Baker	Gorton	Moynihan
Baucus	Grassley	Nickles
Bentsen	Hart	Nunn
Bingaman	Hatch	Packwood
Boren	Hatfield	Pressler
Boschwitz	Hawkins	Pryor
Bradley	Hecht	Randolph
Bumpers	Heflin	Riegle
Burdick	Heinz	Roth
Byrd	Helms	Rudman
Chafee	Hollings	Sarbanes
Chiles	Huddleston	Sasser
Cochran	Humphrey	Simpson
Cohen	Inouye	Specter
Cranston	Jepsen	Stafford
D'Amato	Kassebaum	Stennis
Danforth	Kasten	Stevens
DeConcini	Kennedy	Symms
Denton	Lautenberg	Thurmond
Dixon	Laxalt	Tower
Dodd	Leahy	Trible
Dole	Levin	Tsongas
Domenici	Long	Wallop
Durenberger	Lugar	Warner
Eagleton	Mathias	Wilson
East	Matsunaga	Zorinsky
Evans	Mattingly	
Exon	McClure	

NAYS—5

Goldwater	Proxmire	Weicker
Murkowski	Quayle	

NOT VOTING—4

Biden	Pell
Johnston	Percy

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Would all those Senators conversing in the back of the room please recede to the cloakroom so that we may hear the distinguished minority leader?

The minority leader is recognized.

CLOTURE MOTION

Mr. BYRD. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the cloture motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned 18 Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on committee amendment No. 1 to House Joint Resolution 648.

Senators Robert C. Byrd, George Mitchell, Ted Kennedy, Bill Bradley, Gary Hart, Lawton Chiles, Tom Eagleton, Jeff Bingaman, Pat Leahy, Dennis DeConcini, Howard Metzenbaum, Paul Sarbanes, Dale Bumpers, Jim Sasser, John Glenn, Jennings Randolph, Alan Cranston, and Daniel Inouye.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I really do not know why I sought recognition.

Mr. President, I cannot bring myself to say that I expect that we are going to do meaningful work, but I do hope that we can get on with the matters at hand. We have negotiations going on in every corner of the building. I hope that something results from those things, but, in the meantime, we are on this amendment, the first committee amendment, and the only alternative I know would be to go to the second committee amendment or a subsequent committee amendment.

I have received an indication there might be an objection to that, but I guess we are in a place where we need to try that. If the chairman of the committee wants to do that, I will yield the floor.

Mr. HATFIELD. Mr. President, I ask unanimous consent that we set aside the committee amendment numbered 1 and all amendments thereto temporarily and take up committee amendment No. 2.

The PRESIDING OFFICER. Is there objection?

Mr. BRADLEY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD. Mr. President, there is an objection on my part to proceeding to committee amendment No. 2. I objected to that in the first place. So I merely make that objection as to committee amendment No. 2.

Mr. HATFIELD. Mr. President, I would now ask unanimous consent that we temporarily set aside committee amendment No. 1 and all amendments thereto and go to committee amendment No. 4.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object.

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

COMMITTEE AMENDMENT NO. 5

Mr. HATFIELD. Mr. President, I would like to make one more try.

Mr. President, committee amendment No. 5 is the Labor-HHS. We have some very important programs in that. Let me just make this observation: If we are not going to be able to get a CR obviously before Monday we are going to have to offer probably a short version of a stripped-down CR, and that means current level. Now, in the Labor-HHS bill for healing and helping the hungry and the poor and all of those other wonderful programs that so many of us are so very strongly supportive of, I would like to be able to get to that and get some kind of level of reference.

So at this time I would like to, therefore, ask unanimous consent that we temporarily lay aside committee amendment No. 1 and all amendments thereto and move to committee amendment No. 5, which is the Labor-HHS amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, I hope there will be no objection to moving to committee amendment number 5.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

On page 3, strike lines 11 through 13 and add new language.

The amendment reads as follows:

On page 3, strike line 11, through and including line 13, and insert the following:

(d) Such amounts as may be necessary for projects or activities, not otherwise specifically provided for in this joint resolution, at a rule for operations and to the extent and in the manner provided for in H.R. 6028, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1985, as passed by the Senate on September 25, 1984.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum until the chairman of the subcommittee arrives.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, as I understand, the matter now before the Senate is the committee amendment No. 5. Is that correct?

The PRESIDING OFFICER. That is correct. Committee amendment No. 5 is the pending business.

Mr. HATFIELD. Mr. President, that committee amendment is now open for amendment.

Mr. President, I suggest the absence of a quorum.

Mr. BYRD. Mr. President, will the Senator withhold?

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. BYRD. Mr. President, I ask for regular order.

The PRESIDING OFFICER. The regular order is the first committee amendment. The clerk will report.

The legislative clerk read as follows:

On page 1, line 3, strike title 1.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, I now ask unanimous consent that we temporarily lay aside the committee amendment No. 1, and all amendments thereto, and that we take up the committee amendment No. 5, which is the Labor-HHS amendment.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Mr. President, I must confer with some colleagues. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Oregon has the floor. Does the Senator yield for a quorum call?

Mr. HATFIELD. I yield for that purpose.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HECHT). Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

Mr. President, let the Senator from North Carolina be sure that he understands the parliamentary situation.

When the distinguished minority leader called for regular order, that returned us to amendment No. 1; is that correct?

The PRESIDING OFFICER. And the amendments thereto.

Mr. HELMS. I understand. The Christmas tree of amendments, in other words.

Have the yeas and nays been obtained on the pending amendment; that is to say, the busing amendment?

The PRESIDING OFFICER. They have not been.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. HELMS. Mr. President, I notice an epidemic of sciatica in the Chamber. I suggest the absence of a quorum and it will have to go live.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

Once again, Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. HELMS. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DURENBERGER). Without objection, it is so ordered.

SANDINISTA PUBLIC POSTURE CONTRADICTS REALITY

Mr. DENTON. Mr. President, I anticipate that, at some point during debate on the continuing resolution, the subject of Contra funding will again be debated. Many factors will affect the decision that we in the Senate will make about whether or not our Government should continue to provide moral and material support to the anti-Sandinista forces that oppose consolidation of a Marxist-Leninist regime in Nicaragua. Not the least of those factors should be the policies pursued by the Sandinista regime.

In yesterday morning's Washington Post, there was considerable discussion about the Sandinista government's recent decision to sign the latest draft of the Contadora peace proposal. I would like to point out that the proposal is an incomplete draft, and that the Sandinista government has already stated that it will not accept any changes to it. Other Central American countries agreed to the proposal as a draft, not as a final text, and the key enforcement and verification provisions have not been fully fleshed out.

Nicaragua's stated refusal to allow changes, and its call for a U.S. signature on the document when we have not been a party to the negotiations, is an attempt to steal the propaganda high ground, not a genuine effort for peace in the region. It is an effort to create the perception that the other Central American nations, who now have functioning democracies or are moving in that direction, and the United States are delaying the peace process.

I suggest that there is another perception, which is a reflection of deeds rather than of words or diplomatic maneuverings. It is a perception that rests on facts that contradict the Sandinista regime's public posturing about its democratic process. In recent months, Sandinista government attacks on the Catholic Church have increased, government control over the flow of information has increased, and human rights violations continue unabated.

I call the attention of my colleagues to an article, in yesterday's Washington Times, which cites continued reports from Nicaragua that conditions in that country have not improved during the national election campaign. I ask unanimous consent that the text of the article be printed in the RECORD immediately following my statement. I urge my colleagues to read it carefully and to probe more deeply into the nature and character of the Sandinista regime.

Should this body decide to deny any new funding for those groups that are fighting for a restoration of the original 1979 revolution, we will give the Sandinistas a free hand to do what they want, including the conduct cited by the Times article. We will be giving the Sandinista government a blank check to terrorize its own population and to subvert its neighbors. We will relieve the pressure on the Sandinistas to deal fairly with Arturo Cruz, the leading spokesman for their democratic opposition. Incidently, the armed resistance has stated its full support for Arturo Cruz's efforts, suggesting that peace is within the grasp of the Sandinista government. What is the price of that peace? It is the recognition and

implementation of the original principles of the 1979 revolution.

In 1979, the United States supported an OAS resolution that withdrew recognition of the Somoza regime and, in effect, transferred it to a junta led by the Sandinista National Liberation Front [FSLN]. That action was based on our concern for human rights in Nicaragua and on pledges by the Sandinistas to maintain a mixed economy, establish a democratic, pluralist form of government, and respect for human rights and religious expression. The Sandinistas have violated their pledge to the OAS and the Nicaraguan people. I believe that we have a moral and legal obligation to require the Sandinista government to adhere to it.

I believe that Contra funding has contributed to effective pressure to move the Sandinistas in that direction. I believe that the Contra funding has given moral support to those who truly desire freedom in Nicaragua. It reaffirms our unshakable commitment to the original objectives of the 1979 revolution and says to the Nicaraguan people that we share their aspirations for freedom, peace, and prosperity. We will not, and dare not, stand by while those aspirations and basic human rights are trampled by an elite, unscrupulous, Marxist minority.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DESPITE PROMISES, SANDINISTAS CONTINUE HUMAN-RIGHTS ABUSES

(By Jay Mallin, Sr.)

MANAGUA, NICARAGUA.—Reports and letters from prisoners indicate the human-rights situation in Nicaragua has not improved despite promises by the ruling Sandinistas to ease conditions during the national election campaign.

One message, written on a thin wrapper from the inside of a cigarette package that had been folded several times and smuggled from a prison, read: "We were tortured with blows and kicks, and the testicles of two of the men became inflamed as a result of the kicks. Later, we were placed in punishment [extermination] cells. These are for one person, but they put six in each cell for 71 days. . . . Before that there were death threats. . . ."

The Sandinistas announced in August that press censorship would be relaxed, the right to strike would be restored, and prisoners would be given the right to petition courts for their release during the period leading up to the scheduled November elections.

The Permanent Commission on Human Rights has estimated there are 3,000 political prisoners in Nicaragua today. These are in addition to about 2,300 former national guardsmen jailed after the revolution.

The commission, an independent agency set up in 1977 that originally exposed human-rights violations under the regime of Anastasio Somoza, said that in the June 1983 to June 1984 period, some 600 persons were tried each month by the anti-Somoza popular tribunals, and most of these people were convicted of counter-revolutionary crimes and given prison terms.

The members of the tribunals also usually are members of the neighborhood watchdog organizations, the Sandinista defense committees, or CDs, modeled after Cuba's Committees for the Defense of the Revolution. The CDs are in charge of issuing food and gas-ration books and can use this power to pressure people to do such things as attend pro-government rallies.

Clergymen and journalists also have been arrested. One priest was shown undressed on television.

Pedro Joaquin Chamorro, co-editor of the opposition daily, La Prensa, said there had been an easing of censorship at the start of the electoral period, but in the past month or so it had again become "plenty hard."

In the past few weeks, the censors have scissored stories about a Social Christian leader being held in jail, the death of a cattleman at the hands of uniformed persons, Costa Rica giving asylum to 12 Nicaraguan students and the barring of a Colombian bishop from Nicaragua.

The censors also have arbitrarily cut stories about a construction workers' strike, the murder of two brothers, a prisoner pardoned after he had died and a wall being built to limit access to the street where Daniel Ortega, coordinator of the Sandinista governing junta, lives.

Systematically, mobs—the "turbas"—are called out for intimidation purposes. Last week, when opposition leader Arturo J. Cruz attended a political meeting in the city of Leon, police had to rescue him from a stone-throwing mob.

The government's effort to build a large military establishment through the draft—"the law of patriotic military service"—evidently has led to numerous rights violations. The rights commission stated that although the law is applicable only to youths 18 to 22, its interpretation has been stretched to include 17- to 23-year-olds on the basis that they can be drafted anytime in the year in which their birthday falls.

The rights commission said that on occasion people up to age 50 have been drafted. In three departments where the rebels have been particularly active—Matagalpa, Esteli and Jinotega—teen-agers as young as 13 reportedly have been taken into the army.

Lino Hernandez, director of the commission's legal department, told of violations in the southern area where the rebels also are active.

"We have heard that in San Juan houses have been burned, animals killed and people sent to settlements. They are forced to join the militia and to work in peasant cooperatives," he said.

● Mr. INOUYE. Mr. President, in the course of our deliberations on the contining resolution today, I fully expect that the subject of U.S. population assistance policies will come before the Senate. I believe it will be extremely useful if that discussion is held in the framework of a review of the two-decades-long leadership role played by the United States in the development and support of family planning programs of such outstanding organizations as the United Nations Family Planning Association and the International Planned Parenthood Federation. This role has, of course, been supported and administered by the Agency for International Development in its congressionally mandated approach to population issues.

Now this approach is in danger of being subverted by an isolated band of ideologues in the executive branch. At the recently held United Nations Conference on Population, the U.S. position reflected a fundamentalist, know-nothing political philosophy with respect to population and development in the less-developed nations. In sharp contrast to congressional policies, which have guided U.S. activities and assistance programs in population and development, the U.S. position at the Conference relied on misplaced analogies and a specious reading of the economic history of the western world to arrive at the nation that "population growth is, of itself, a neutral phenomenon" and that economic development alone can solve the world's population problem.

Mr. President, section 104 of the Foreign Assistance Act, which mandates U.S. participation in population assistance programs, reads in part: "The Congress recognizes that * * * uncontrolled population growth can vitiate otherwise successful development efforts" and "* * * voluntary population planning programs can make a substantial contribution to economic development, higher living standards, and improved health and nutrition." In April of this year, a bipartisan group of Senators, each with a record of service and experience in population and development assistance matters, wrote to the Secretary of State urging him to ensure that the development of U.S. positions for the U.N. Conference "be in full accord with policies which have been established by the Congress in cooperation with successive administrations."

Unfortunately, this message to the Secretary of State was not passed along to the U.S. delegation to the Conference, and delegates chosen by the White House advanced a position which has since been rejected not only by those in the Congress who have given thoughtful attention to these issues over the years, but also by the great majority of the participants at the Conference.

The United States, which has been constant in its efforts to bring education and enlightenment to the discussion of population issues, appeared to have turned its back on the world.

Mr. President, I look forward to an opportunity to discuss these issues further as our work on the continuing resolution progresses. In order that Members may have an opportunity to review the events and circumstances surrounding the U.N. Conference on Population, I ask that a series of articles and editorials from the Washington Post be printed in the RECORD at the conclusion of my remarks. It is my hope that all Members will read these materials and reflect upon what they

have to say about continued U.S. leadership in the world.

Mr. President, I expect that an amendment may be offered to reaffirm the right and authority of the Congress to establish development assistance policies. I fully intend to support that amendment and comparable provisions in the House-passed bill. In my view, restrictions on funding for the Agency for International Development do not apply to nongovernmental spending. Moreover, I believe that efforts to achieve through intimidation and coercion what cannot be achieved through the law and the courts debase the fundamental principles of our Government. In particular, I believe the eligibility for funding under U.S. population assistance programs should not be denied to family planning programs based on activities supported by other funds and conducted in accordance with U.S. law.

The material follows:

[From the Washington Post, Aug. 7, 1984]

MEXICO CITY MEETING

Delegates to the second International Conference on Population in Mexico City this week can take note of some progress in the past decade, while planning to meet a continuing crisis in the remaining years of the century. Since the first U.N.-sponsored meeting in Bucharest 10 years ago, there has been a measurable and important decline in the rate of population growth, not only in the developed world but in some poorer countries as well.

Mexico, host country for the conference, is a good example of both the progress and the problems seen by demographers. Ten years ago, the population was growing at a rate of 3.3 percent. Now, because that country has devoted resources and energy to population planning, the growth rate is only 2.6 percent. Unfortunately, even at this rate of growth, Mexico's population will double in the next 26 years, in part because death rates have been declining, too. In countries that have less successful programs, the situation is already critical. Forty-two percent of all children under 5 suffer from malnutrition: in the Third World, one in 10 die before their first birthday. One-fourth of the world's families live in makeshift shelter; 1 billion lack clean drinking water, 2 billion have no basic sanitation facilities. Those are today's figures.

In light of these statistics and projections recently published by the World Bank that can conservatively be described as frightening, what is the responsibility of the United States? Traditionally this country has provided leadership, resources, teachers and health experts to this international effort. But the position advocated in Mexico City by Reagan administration delegates heralds a change. Although U.S. law already prohibits the expenditure of any of our aid money for abortions, the administration would go far beyond this restriction, cutting off all funds to any organization—the International Planned Parenthood Federation for example—that uses other money for abortion programs. Because many of these groups are dependent on U.S. support, a withdrawal of funds would severely restrict the very population programs seen by the administration as an acceptable alternative to abortion.

American delegates go also with the message that if the free-enterprise system is allowed to work, there will be sufficient economic growth to sustain projected growth rates and forestall crisis. Robert McNamara, former president of the World Bank, rightly assesses this naive and dangerous theory: "Americans will be laughed out of the conference if they stress that theme. It's absured." It is tragic that political pressures in this country have threatened American commitment to international population assistance at the very time Third World countries seek this country's help and need it most.

[From the Washington Post, July 12, 1984]

WORLD CHOICES

In meticulously documented, unemotional terms, the World Bank's annual development report describes the dimensions and consequences of this planet's population explosion. The grimness of the forecast is accentuated by the fact that, in many ways, it rests on optimistic assumptions. But the report offers hope as well. In population growth, as in economic growth, sensible policies can make an important difference for the better.

The report makes short shrift of the notion—embodied in a recent White House draft position paper—that economic development can solve the world's population problem. The developing countries, which will add almost 5 billion people by the middle of the next century, are simply in far different circumstances from those of the developed nations when they went through their periods of rapid industrialization.

Not only do most developing countries lack comparable human and physical capital, opportunities for agricultural expansion or emigration and well-developed social and political institutions, but they are also starting from a vastly less favorable population situation. Their population bases are already much larger in relative terms, and their population growth rates are much higher. In the 19th century, rural population growth in the now-developed countries averaged only 1 percent a year. With mortality rates now much lower, most developing countries have averaged between 2 and 4 percent growth rates in recent decades.

While almost every country has experienced some economic growth, rapid population expansion has already greatly increased the per-capita income gap between the have and have-not nations. The worst victims of these trends are, of course, children. Frequent childbearing is a major cause of physical and mental defects in children, and of early death. The United Nations Children's Fund recently reported that infant mortality and malnutrition are again on the rise in parts of Africa and South and Central America. The World Bank report warns that further progress may not be possible without reduction in births.

Population growth rates—but not annual population increases—have declined slightly, but further progress cannot be counted upon. Most of the total slowdown is accounted for by one country—China. Growth rates in Central America and Africa are still rising, and progress in some other countries has stalled. The bank admits its overall forecast is optimistic because some of the lower growth rates it counts on are "based more on hope than on present trends."

The hope may be justified, however, by the fact that certain policies can help curtail population growth in ways acceptable to most countries. Economic growth—if income gains and social benefits are widely distributed—can help, but, alone, it is no guarantee. The two most important policies—which work together—are promotion of family planning and female education. Other incentives for family limitation are also helpful, especially those that offer old-age security for parents.

Total spending on family planning programs in developing countries is pathetically low—less than $2 billion a year. So inexpensive is this aid that another $1 billion could meet current worldwide demand for basic services. Is this country so callous—and so shortsighted—that it will not make this tiny investment in the world's future?

[From the Washington Post, July 19, 1984]

THE POLITICS OF FAMILY PLANNING

(By Hobart Rowen)

The World Bank made a compelling case the other day that drastic action must be taken to expand family planning guidance in poor Third World countries. One wonders how anyone can argue the other side.

Yet, in advance of the World Population Conference scheduled to take place early in August in Mexico City, there is a school of thought that contests the wisdom of population control. A Heritage Foundation senior fellow, Julian Simon, for example, says that population should be regarded as an asset rather than a burden.

Simon rejects the contention of the State Department, the World Bank and other experts that high rates of population growth lead to political instability and economic chaos.

A "population increase creates business opportunities and facilitates change. . . . Thus, there are more job opportunities, more young people working, and greater mobility within the labor force," says Simon in a Heritage Foundation paper.

I can't understand what kind of job opportunities Simon believes will exist in a poor country such as Bangladesh, which—its population growth unchecked—will explode from 100 million to 357 million by the year 2050. That's 50 percent more people than the entire present day United States.

The International Labor Organization last year calculated that just to take care of individuals already born, over 600 million new jobs will have to be created between now and the end of the century, the overwhelming percentage of them in poor countries, just to keep unemployment from rising further.

Right-wing Reagan administration politicians with an election year eye cocked on the anti-abortionists in the GOP, at one time planned to propose in Mexico City that U.S. family planning aid be banned to governments, such as India, that sanction abortions.

Instead, a revised statement limits itself to the proposition that government funds should be cut off from private international groups that support abortions. And it gives grudging support to birth control as one part of the antipoverty effort in the Third World.

But as Popline, a publication of the Population Institute, says, the Reagan White House has resurrected the old and uproven argument "that development is the best contraceptive."

The key fact brought home by the World Bank in its Annual Development Report is this: the high rate of population growth in the Third World won't come down by itself.

Governments have to provide family planning programs, complete with incentives to change the patterns ingrained over centuries. Failing that about 95 percent of the population growth that occurs over the next 65 years will be in the poor countries, already in a state of economic disrepair.

Most families in the poor countries have at least four children, and families in the rural areas have five, six or more. As is well understood, for poor parents, children are a form of investment. They can provide income if they work as youngsters, and support in their parents' old age.

Thus, women among the poor tend to become breeding machines to make sure that at least a few children survive. Given high infant mortality rates, a rule of thumb is that five children may be needed to ensure the survival of one boy—considered economically more useful than a girl.

In some places, the idea of birth control may be unknown or unacceptable. This allows only three alternatives to huge families; sexual abstinence, illegal abortions and infanticide—killing the babies, especially girl babies, right after birth.

Yet, paradoxically, it is the poor families that "lose out, as rapid population growth hampers development," the World Bank says. Society as a whole doesn't benefit because large individual families are a drain on the total resources of the community for schooling, health programs and simple but basic services such as roads and communications.

Ten years ago the World Population Conference in Bucharest debated whether economic development or family planning was the most efficient way to slow population growth. The evidence since then is that both help to slow the population explosion, but that economic expansion and free markets, despite the Reagan administration's bias, can't do the job alone.

The administration must get over its hangup on this issue; poverty is exacerbated by high fertility rates. And in the poorest of the poor countries, no economic progress at all will be possible unless birth control information is made widely available by publicly financed programs.

[From the Washington Post, Aug. 7, 1984]

MEXICANS LOWERING BIRTH RATE

(By William A. Orme, Jr.)

MEXICO CITY, Aug. 6.—This week, in the glass-sheathed headquarters of Mexico's Foreign Ministry building, delegates to the International Conference on Population will be energetically debating the ethics of abortion. A dozen blocks away, vendors at Mexico City's Sonora Market offer to end unwanted pregnancies with a dusty $3 batch of dried zoapatle, a plant used in this country since pre-Columbian times to induce miscarriage.

"Don't let her eat anything for 24 hours," a seller instructs a buyer. "Boil all the leaves in a pot, strain out the liquid, and make her drink at least a liter."

Often, said Margarita Vilez, a staff biologist at Mexico's National History and Anthropology Institute, the treatment works.

"But sometimes it can cause partial paralysis, or even death," she said. Zoapatle (Montanoa tomentosa) is "highly toxic," as are many other indigenous herbs used by poor Mexican women to terminate unwanted pregnancies. Abortion is illegal in Mexico, although there are private clinics that will perform them for a fee that is beyond the reach of most Mexican women. Others hire midwives who wield knitting needles and turkey quills.

"One out of six pregnancies in Mexico ends up as an illegal abortion," said Dr. Alberto de la Cruz Colorado, the former family planning chief of this city's largest public hospital. "More than 60 percent of the beds in Mexico's obstetrics wards are occupied by women suffering from the complications of abortion." Most of the 140,000 women estimated to die here each year from botched abortions, he said, are low-income mothers of several children, practicing Catholics who think nonetheless that they cannot manage larger families.

Mexico's ban on abortion, in force since 1931, is seen by population experts as the biggest anomaly in what is widely recognized as one of the world's most successful state-coordinated family planning programs. Begun after the first world population conference in Bucharest a decade ago, Mexico's birth control effort has succeeded in slowing the annual growth rate from 3.4 percent in 1970 to 2.3 percent today. While some demographers 10 years ago projected Mexico's population at 130 million in the year 2000, government planners now say 100 million is a realistic goal.

Attention at the current U.N. conference is focused on the abortion question and a Reagan administration threat to cut off U.S. aid to population control programs that permit abortion.

While the legality or morality of abortion is not directly at issue in Mexico, de la Cruz fears that the administration's opposition to abortion funding will strengthen the political position of the Catholic Church and other birth control critics here who oppose the successful Mexican program.

Among the major reasons for that success and the downturn in Mexico's population growth, experts agree, have been strong government backing and innovative programs that openly addressed what had long been a taboo subject.

One such program involved imaginative use of television. Airing so-called "social content" soap operas in which characters discussed contraception and family planning, Mexican commercial television was credited with a tripling of consumer demand for birth control devices in one year.

Praised by the United Nations, the Mexican soap operas were used as a model for similar television programs in India and radio serials in Indonesia.

But the key to the soap operas' success "was the fact that the government has the social infrastructure in place," said Miguel Sabido, the television producer who designed the programs. "A lot of countries have expressed interest in our work, but these programs won't have an impact unless the government also is doing its part," Sabido said. "You can't encourage women to go out and get contraceptives at the public clinic if there are no contraceptives and no clinics."

Given the government's commitment to population control, many observers expected the next Mexican administration to revise the country's half-century-old abortion statute shortly after coming into power in December 1982. But when Attorney General Horacio Garcia Ramirez tentatively proposed a liberalization of Mexico's abortion laws a year ago, the trial balloon was swiftly exploded.

The Catholic hierarchy, which had tolerated the government's earlier birth control efforts, led an attack on the bill that was soon joined by the conservative National Action Party, Mexico's strongest opposition group. Also voicing discontent were Mexican feminists, angered by a clause in the new abortion bill requiring the father's written consent.

"Garcia Ramirez as courageous to confront the issue, but criticism came crashing down on him from every direction," recalled de la Cruz, a supporter of the innitiative.

Mexico's ruling Institutional Revolutionary Party has since backed away from the issue of abortion reform, with such party stalwarts as labor leader Fidel Veleazquez publicly opposing revision of the law.

"The legalization of abortion cannot be said to be a valid instrument for controlling the birth rate," Mariano Pina Olaya, chairman of the judiciary committee of the Mexican House of Representatives, said last week, adding that the proposal has been "rejected by the Mexican people."

"We do not believe abortion is the way to achieve economic development or demographic goals," declared Geronimo Martinez, head of the government's National Population Council.

Emboldened by its successful campaign against legalized abortion, the Catholic Church here is now taking a more aggressive stance regarding legal birth control methods, singling out for special criticism the widespread practice of sterilization.

In Mexico, as in the rest of the developing world, the surgical sterilization of women is now the single most commonly employed method of contraception. The government requires the woman's written consent, but the church—and some Mexican women's groups—content that many women are coerced into signing. Last week, Mexico City's archbishop threatened to excommunicate doctors who perform abortions or sterilizations.

De la Cruz defends sterilizaion as "the most practical birth control method for women who already have large families," and says the U.S. plan to ban abortion funding will give aid and comfort to those opposed to birth control programs in general here.

"The United States had always been an active supporter of birth control," he said, "but now, just to pursue Catholic votes in the November elections, it is suddenly reversing its position."

MEXICAN LEADER CALLS FOR ACTION ON MIGRATION

MEXICO CITY, August 6,—President Miguel de la Madrid opened the United Nations International Conference on Population today by raising the issue of illegal Mexican migration to the United States.

De la Madrid did not specifically mention pending U.S. legislation that would affect millions of Mexicans living as illegal aliens in the United States, but said:

"Whether it concerns our citizens in our own country or foreigners in our country, the human dignity of migrants cannot be waived."

"We believe that only an internal policy of comprehensive and balanced development, or understanding between the governments concerned in the case of external migration, constitute suitable means of resolving the issues of geographic migration."

About 3,000 delegates and observers from 140 countries are registered for the week-long conference at the Fine Arts Palace.

Migration will be one of the major topics discussed at the conference here, a follow-

up to a U.N. sponsored forum on population held in Romania 10 years ago.

Rafael Salas of the Philippines, secretary general of the conference, outlined the population-growth problems in his address and said it is one area in which the world community has achieved some success.

"Our goal is the stabilization of global population within the shortest period possible before the end of the next century," he said.

Salas said expanding population affects international security.

"Although population pressure by itself does not necessarily cause conflict, in combination with other economic, political and social factors, it can be critical, as a struggle for scarce resources very often intensifies with the increased number of people involved," he said.

DELEGATES GATHER FOR POPULATION CONFERENCE

(By William A. Orme Jr.)

MEXICO CITY, Aug. 5.—Delegates from more than 140 nations gathered here today for the second United Nations-sponsored International Conference on Population, with a Reagan administration threat to cut off funds to programs permitting abortion expected to be a major subject of debate.

In a press conference this afternoon, former U.S. Senator James L. Buckley, head of the U.S. delegation, said that the United States is "continuing its full support for family planning programs" and that the administration's position "will not result in any decrease in family planning funding" abroad.

[U.S. delegates will be "laughed out of the conference" if they stress the new U.S. position, former World Bank president Robert S. McNamara said Sunday on CBS's "Face the Nation." Buckley, on the same program, disagreed, saying, "Frankly, I don't think that my delegation and I expect flak."]

Even countries such as Mexico where abortion is illegal have voiced resentment at what they view as a U.S. attempt to dictate international population control strategies.

"Nations have sovereignty over their population policies and the conference will of course endorse that principle," said Geronimo Martinez, the head of Mexico's state-run National Population Council.

Abortion funding is not expected to be the only emotional issue on the agenda, which will also include proposals on arms control, free-market economies and the plight of international refugees.

Of greatest concern to the conference's U.N. organizers is their fear that the Reagan administration will slash the present $38 million annual contribution to the U.N. Fund or Population Activities. The United States is the organization's largest single funding source. The U.N. agency supports national population control agencies with technical advice and direct financial aid.

While an estimated $2 billion is spent annually on population programs worldwide, U.N. officials and independent population control proponents like McNamara say these expenditures should at least be tripled—an increase they say would be impossible without a concomitant hike in U.S. funding. Through its Agency for International Development, the United States now channels about $240 million annually to population programs abroad, while indirectly financing others through U.S. contributions to the World Bank and other multilateral institutions.

Acknowledging the political strength of the religious-based opposition to abortion in the United States, Latin America and elsewhere, population control activists here are arguing that greater government support and subsidy of contraception would ultimately reduce the incidence of abortion.

"We believe family planning is the best way to prevent the millions of abortions practiced every year by women who resort to them regardless of whether they are legal or illegal," Avabai Wadia, president of the International Planned Parenthood Federation, said in a press conference.

Highlighting domestic opposition to the U.S. delegation's anticipated posture here, the results of a recent Gallup poll on the issue are being distributed to the press and delegates. Commissioned by the Rockefeller Foundation and conducted during the second week of July, the poll shows that 61 percent of Americans surveyed favored continued U.S. family planning assistance to countries where abortion is permitted. Only 24 percent disapproved, according to the poll.

U.N. officials, however, have tried to soft-pedal the importance of the abortion debate. Salas, calling abortion a "very minor" issue, noted the potential for divisive debate here on a gamut of population issues ranging from international migration patterns to urbanization to the ethics of voluntary sterilization.

Perhaps the most controversial of the 85 draft resolutions to be presented, Salas suggested, is the Soviet Union's proposed declaration urging participating countries "to implement disarmament measures," an issue "not immediately related to population," Salas said.

Another possible confrontation, pitting the United States against Third World bloc, could emerge from U.S. demands for a condemnation of "counterproductive" state regulation of free enterprise and the proposed attack by developing nations on the economic influence of private multinational investors.

Developing countries will issue calls for the protection of the rights of migrant laborers, increased food aid and agricultural development assistance.

Aside from the abortion issue, perhaps the subject provoking most comment among conference participants is the odd role reversal between the United States, once the world's leading booster of population limitation, and the Third World, much of which had long suspiciously perceived population control advocates as agents of imperialism intent on reducing the numbers of potential adversaries.

In the official U.S. policy statement to be presented to the conference, the administration argued that economic expansion offers a surer route to demographic stability than do birth control programs, a position similar to the stance adopted by the developing nations at the first International Population Conference in Bucharest 10 years ago.

"Development," the final declaration at Bucharest declared, "Is the best contraceptive." Since then, however, many Third World governments and academics have concluded that contraceptives may be the best contraceptive.

Demographic studies in the past decade have demonstrated no direct correlation between economic growth and birth rate decline, while population growth has slowed notably in countries with state-sponsored birth control campaigns. Most dramatic is the case of China, which slashed the rate of population increase from 2.5 percent annually in 1970 to its present estimated 1.2 percent.

While the world's population has swelled by 770 million since the Bucharest meeting adjourned—the equivalent of adding "a country the size of India," noted conference deputy secretary general P. Sankar Menon—the growth rate has been less rapid than originally projected.

[From the Washington Post, July 25, 1984]

BIRTHS POLICY BODES TROUBLE

(By Robert J. Samuelson)

One of the world's most intractable problems is population growth. Just how intractable is suggested by recent projections from the World Bank. The world's population today is about 4.8 billion. By the year 2050, the World Bank thinks it may reach 9.8 billion. Virtually all the increase would occur in developing countries. The population of the major industrialized nations would grow from 1.2 billion to only 1.4 billion.

Projections being what they are, these probably won't be exactly realized. Conceivably, they might be off by a few billion. But they're essentially correct, and they emphasize the shortsightedness of the administration's plan to cut international birth control assistance to groups whose family planning programs include or advocate abortion.

More is at issue here than birth control. We are destined to be surrounded by large, poor and growing nations whose ambitions don't always coincide with ours.

Expanding trade and advances in communications and transportation mean we won't be able to insulate ourselves from these countries. Learning to live with them and the inevitable conflict is no small chore.

The international debt crisis may foreshadow the type of problem that lies ahead.

The administration's approach to birth control is a graphic illustration of how not to think about changes in our global environment.

As the official American position before the United Nations' upcoming Conference on Population, it will send precisely the wrong message to developing countries. And perversely, it is unlikely to achieve its own objectives.

Less than $100 million of the $240 million the United States now provides in international birth control assistance is at risk, but funding cutbacks could produce more abortions and harsher government controls on couples' rights to have children.

More important, though, is the parochialism that produced this policy in the first place. We see others' problems in terms of our own experience and our own domestic political needs.

The administration's program derives from a political desire to please anti-abortion groups and a blinding faith in "free markets": if governments embrace correct economic policies, their economies will expand and birth rates will drop naturally.

All this is simplistic in the extreme. To appreciate this, you have to grasp the enormity of the population explosion.

In 1950, only two metropolitan areas had populations exceeding 10 million: New York and London. By the year 2000, the United Nations estimates there will be 25, but only five will be in the "developed" world (New York, Los Angeles, Tokyo, Osaka and Paris). And the largest will be Mexico City (estimated population: 31 million) and Sao Paulo, Brazil (26 million).

And, unfortunately, this growth will continue for decades, barring major wars or natural catastrophes.

Even if birth rates declined dramatically tomorrow, past population growth assures future population growth.

Between 1980 and 2000, according to the State Department, the number of adults of normal childbearing ages (20 to 39) will increase 600 million in developing countries. In the developed nations, the jump will be 20 million.

When Americans consider other nations' problems, they're prone to fall into two traps. The first is thinking that what's good for us is good for everyone else. It's true (as the administration says) that population growth and economic growth aren't basically incompatible. Expanding populations provide new markets and fresh blood; in Europe and America, they aided economic expansion.

And it's also true that basic economic policies are more important than birth control policies in determining birth rates. In poor societies, the World Bank points out, many couples regard children as an investment: children are extra family workers and a means of old age support; parents also assume that some of their chidlren will die young. As families become wealthier and better educated, they want fewer children and learn how to space them, which improves their chances for survival.

But it doesn't follow that birth control policies have no role. In today's developing countries, population growth rates are much higher than they were in America and Europe in the 19th and early 20th centuries. In countries like Colombia, Bangladesh and Kenya, from two-fifths to half the population is under 15 years old. Because the United States drew heavily on working-age immigrants, only a third of our population in 1900 was under 15.

Developing nations' higher rates of population growth create too many dependents and excessive demands for jobs, schools and food. At best, birth control programs are a limited means of checking the vicious cycle of poverty. In some countries, the use of contraceptives has increased dramatically. Among married women 15 to 44 in Thailand, use has risen from about 15 percent in 1970 to 60 percent now, according to the World Bank. But in other countries (Kenya, Nepal, Pakistan), it's below 10 percent.

The second common American trap is moral absolutism. Something is either good or bad: there's not much in between. However undesirable abortions may be, cutting birth control programs would probably increase them. According to population specialists such as Princeton's Jane Menken, these programs reduce unwanted pregnancies and, therefore, abortions; perhaps half of these are performed illegally. Likewise, persisting high birth rates and poverty mean high infant mortality; in the poorest countries, including India, about one child in 10 dies before age one.

As former World Bank president Robert S. McNamara argues, moral considerations and our political interests coincide on birth control. Failure to control birth rates by voluntary means may lead to authoritarian approaches. As governments become frustrated, they may limit families to a maximum number of children. McNamara points to China's harsh family planning as a possible prototype. Likewise, unchecked population growth implies political instability. A high number of adolescents creates a permanent breeding ground for every new political cult.

At best, our ability to influence events in the developing world is limited. What is disturbing about this episode is that the tendencies that produced it aren't isolated. The totally uncritical attitude toward "free markets" blinded the administration to the onrush of the international debt crisis, triggered in part by excessive private bank lending.

And letting domestic political considerations get in the way of sensible foreign policy is an old habit. These tendencies haven't served us well in the past, and they won't in the future.

[From the Washington Post, Aug. 8, 1984]

WORLD BANK OPPOSES U.S. STRESS ON GROWTH IN POPULATION DEBATE

(By William A. Orme, Jr.)

MEXICO CITY, Aug. 7.—World Bank President A.W. Clausen, urging industrialized nations to step up international family planning aid and challenging the official U.S. position on population control, announced here today that the World Bank plans to "at least double" its own family planning budget.

Speaking at the United Nations-sponsored International Conference on Population, Clausen said the World Bank will concerntrate its funding in Africa and Aisia, "where population and related health programs are still the most dramatic." Since 1970 the World Bank has spent some $500 million on population projects, plus another $100 million on related health programs, Clausen said.

The U.S delegation, meanwhile, proposed that the conference's draft declaration be amended to declare that when economic policies allow "the entrepreneurial spirit [to] flourish without governmental interference," resulting economic growth will "ultimately tend to lower fertility rates."

The proposal, yet to be debated by the conference, was criticized by some observers here as an attempt to downplay the importance of direct financing of population programs. The U.S. position represents "a triumph of optimism over reality," said Dr. Joseph Speidel, former acting director of the Office of Population of the U.S. Agency for International Development.

"We believe the international community has no alternative but to cooperate with a sense of urgency in this endeavor," said Clausen in his address today, noting that population programs worldwide now receive $500 million annually from donors—"less than 2 percent of official development aid." Yet this "small effort"now funds half of all family planning programs outside China, he said.

Clausen, at odds with the official U.S. position that population control is "a neutral phenomenon," said, "the evidence is overwhelming that rapid population growth impedes efforts to raise living standards in most of the developing world."

The United States is arguing here that population growth is not inherently problematic, and has "in many nations . . . been an essential element in economic progress."

"First and foremost, population growth is, of itself, a neutral phenomenon," says the U.S. policy statement expected to be formally presented to the conference Tuesday by U.S. delegation chief James Buckley. "It is not necessarily good or ill . . . more people do not necessarily mean less growth."

Some U.S. officials here privately take issue with this philosophy, articulated most prominently by University of Maryland economist Julian Simon, an unofficial advisor to the U.S. delegation.

Delegates from other nations voiced critical reactions. "In what way is it neutral?" asked Oscar Rodriguez of the Salvadoran Demographic Association. In El Salvador, he said, exploding population growth "has led directly to a vicious cycle of poverty, illiteracy, and unemployment" which is "one major cause" of his country's current political tumult.

"No one would argue that slower population growth can alone assure development growth can alone assure development," Clausen said. "But the evidence is clear that in many developing countries, development will be postponed indefinitely unless slower population growth can be achieved soon."

Nancy Birdsall, who coordinated the World Bank's newly published report on world population trends, said she was concerned that the U.S. position would undermine U.S. domestic support for what she and her colleagues see as the "urgent" need for a "substantial" increase in international population control funding. The United States now supplies world family planning programs with $240 million annually, nearly half the contribution of the industrialized world.

Because the United States has announced its intention to cut off all aid to private organizations which "perform or actively promote" abortions, the International Federation of Planned Parenthood "is extremely worried" that it will lose its own $11 million annual U.S. contribution. Frances Dennis, the federation's information director said.

Yet some informed observers said they doubted that the U.S. would cut population funding, at least in the short term. Buckley announced here that the Reagan administration favors a 15 percent increase in family planning aid next year, and the House of Representatives is now considering an even higher boost to $290 million for the 1985 fiscal year.

Speidel, however, said the Reagan administration may shift population funding toward organizations favoring "natural" birth control techniques such as the rhythm method.

[From the Washington Post, Aug. 9, 1984]

UNITED STATES SEES NO CRISIS IN POPULATION

(By William A Orme, Jr.)

MEXICO CITY, Aug. 8.—The United States rejects "the notion that we are caught up in a global population crisis," the head of the U.S. delegation to the United Nations population conference declared here today.

Former senator James L. Buckley spoke to reporters before addressing the conference, where he reiterated that Washington will cut off funds to all private organizations that "perform or actively promote abortion." He also argued that state-supported birth control programs are less important than the adoption of "market-oriented" economic policies.

He said the link between economic policy and family planning was necessary to avoid "disruption of the natural mechanism for slowing population growth."

"Population growth is of itself neither good nor bad," Buckley told the conference, expressing official U.S. policy. "It becomes an asset or a problem in conjunction with other factors, such as economic policy, social constraints, and the ability to put additional men and women to useful work.

"People, after all, are producers as well as consumers."

Reflecting dissension within the U.S. delegation, Buckley's speech today nonetheless acknowledged that "the current situation in many developed countries is such that relief from population pressures cannot be achieved overnight even under optimal economic policies. In the meantime, rapid population growth compounds already serious problems and increases the costs and difficulties of economic development."

In his address, Buckley emphasized that the United States has raised family planning aid 30 percent since 1980 and currently provides 44 percent "of the total population assistance provided by developed nations." The Reagan administration's position "does not represent a radical shift," Buckley said.

Critics of the U.S. position "should wait a year and see how the Reagan administration administers the policy," William Draper, president of the Export-Import bank and U.S. delegation member, said in an interview.

"I think every member of this delegation feels there should be more family planning, not less," Draper said.

One anticipated shift in U.S. population policy is an acceleration of funding of organizations promoting "natural" birth control methods supported by the Catholic Church. Such groups already are slated to receive $6 million this year, up from $800,000 in 1981, M. Peter McPherson, administrator of the Agency for International Development and a delegation member, said.

By stressing the U.S. commitment to both family planning and free-market economics, Buckley's brief address effectively embraced opposing viewpoints within the U.S. delegation, informed observers said.

"We are speaking here with one voice," said McPherson, who is seen as perhaps the most vocal advocate among the U.S. representatives of assistance in population control.

But in his press conference remarks, Buckley continued to emphasize the administration's official view that state-supported birth conrol programs are less important than the adoption of "market-oriented" economic policies. He also said the United States disputes forecasts that soaring birth rates will lead to "doom, gloom, and perpetual scarcities."

Comparing the present U.S. position to Washington's policy approach at the first international conference on population in Bucharest 10 years ago, Buckley said the U.S. view is closer to the Third World's argument that family planning programs must be accompanied by economic growth. At Bucharest, Buckley said, the developed nations tended to concentrate on reducing numbers, and the developing world concentrated on increasing development. Today, however, "99 percent" of the delegation believe the two issues are "inextricably linked," Buckley said.

In his address, Buckley repeated that the United States will cut funds to all private organizations that "perform or actively promote abortion," as well as to any government "which engages in forcible coercion to achieve population goals."

U.S. delegates have declined to specify how they expect U.S. foreign aid directors to define coercion," with some noting privately that even documented abuses in China and India were never the official policy of those governments.

In Singapore, often cited by U.S. spokesmen as a model of population and economic management, the government denies free public education to all but the eldest two children.

"Is that coercion? We don't think so, because no one is stopping Singaporeans from having as many children as they please," said one adviser to the U.S. delegation.

The U.S. delegation today introduced an amendment to the preamble of the conference's draft declaration that "calls attention to the . . . extraordinary progress registered in Third World health and economic conditions since the Bucharest meeting, advances which offer 'substantial hope' that the population problem will be resolved," Buckley said.

Debate on suggested alteration of the declaration's wording will not take place until later in the conference, scheduled to conclude Aug. 13 or 14. But Buckley, indicating that the United States is not eager for a floor fight, said today, "We cannot expect agreement on every item that has a necessary place on our agenda."

Washington Post staff writers Spencer Rich and Bosko Jaksic added:

On Capitol Hill, there was sharp bipartisan opposition to the new international population policy. In the House nearly 60 members including 11 Republicans released a letter to President Reagan opposing the new policy as likely to "increase unwanted pregnancies and abortions by reducing voluntary family planning efforts" and criticizing the policy as "radical and unsound." In the Senate, Sen. Bob Packwood (R-Ore.) and Bill Bradley (D-N.J.) introduced a sense of the Senate resolution refuting the policy and reaffirming Congress' commitment to furnishing population control assistance.

Packwood called the president's new international policy a "short-sighted policy reversal which . . . will contribute to misery and deprivation in other countries around the world."

Bradley said that if Congress were to go along with the president's policy it would "cut off about $50 to $70 million in federal funds to many nongovernmental organizations such as International Planned Parenthood."

Both Packwood and Bradley argued that abortion was not the issue because any use of U.S. funds for abortion was already forbidden. They said the only issue was whether all government family planning funds should be denied to an organization that with its own money provides abortion advice and services.

[From the Washington Post, Aug. 11, 1984]

UNITED STATES FORESEES DEFEAT ON POPULATION POLICY

(By William A. Orme, Jr.)

MEXICO CITY, Aug. 10.—In the face of public and private criticism of the official American position on family-planning policy, the chief U.S. delegate to the U.N.-sponsored International Conference on Population acknowledged today that the U.S. proposals here "may very well be defeated."

"We may be voted down, but we are not going to do this in a disruptive way," James Buckley said in an interview. "We're not here to make waves; we are to here to express a point of view."

Buckley outlined the official U.S. position, linking free-market economics with population policy and denying that worldwide population growth in itself constitutes a crisis, in a speech Wednesday.

The U.S. delegation has introduced two amendments to the conference draft declaration that is expected to emerge, without them, Monday or Tuesday. One urges the encouragement of the "entrepreneurial spirit" as the surest route to faster economic growth and slower birth rates, and the other "noting the enormous progress" toward population stability and improved living standards in the Third World.

The latter proposal, Buckley said in the interview, is a Reagan administration attempt "to deflate the Global 2000 balloon and put things in their proper perspective."

The Global 2000 report, prepared during the Carter administration, concluded that the United States should work to reduce world population expansion to conserve finite resources.

The U.S. stress on Third World development achievements also represents an effort to counteract a "steady stream of fairly gloomy rhetoric" from such population control advocates as World Bank President A. W. Clausen and his predecessor, Robert S. McNamara, delegation member Ben Wattenberg said at a press conference today.

In an interview, Wattenberg contended that while the World Bank characterizes population growth as "impending catastrophe," it should be examined as a series "of severe but selective population problems around the world."

Wattenberg also indicated he did not expect the U.S. amendments to be approved by the conference, which attempts to achieve a consensus among the 149 participating delegations. "The point is to make the point," he said.

Recognizing that the Communist Bloc and even many European nations would not accept a conference declaration lauding capitalist entrepreneurship, the U.S. delegation is not pressing for acceptance of its recommendations. This contributes to what Wattenberg called the "remarkably cordial" atmosphere in the closed working sessions where the presumed defeat is to occur.

But Wattenberg and others continued expounding their philosphy to the 700 journalists accredited here, raising the suggestion that the U.S. team might be aiming more at a home audience.

Objecting to the term "crisis," Buckley acknowledged the "very real and definite problems" of sub-Saharan Africa and East Asia. But to extrapolate these situations into an argument that there is a population crisis in "the entire globe is to indulge in fuzzy thinking," he said.

"Crisis is a highly emotive word," he said. "I would much rather say that there is a very critical problem" in East Asia and southern Africa.

Some delegates and many nongovernmental observers here contend the U.S. posture undermines the positions of organizations attempting to boost international support for population programs. Warning against "complacency," Spain called for greater funding of family-planning campaigns.

China, issuing the strongest public attack on the U.S. economic argument, called the proposed amendment "inappropriate and unnecessary" for an international document.

"We will not try to impose our ideas and experiences on other countries," Shen Guoxiang, spokesman for the Chinese delegation, said yesterday. "At the same time, we are not prepared to be imposed upon."

Wattenberg, the principal author of the U.S. delegation econmic policy recommendation, argued that the United States is simply stating its view that "a somewhat more free economy is better than a somewhat less free economy."

"This is not American-imposed ideology," Wattenberg said. "We didn't invent markets, we didn't invent supply and demand. The Chinese denounce our statement, but they are also going to markets."

The U.S. delegation has objected to the Soviet introduction of an amendment condemning the arms race "because it has nothing to do with what we are discussing," Buckley noted. He discounted contentions here that the United States is similarly introducing topics extraneous to the theme of population control. To reduce birth rates, Buckley said, developing countries need "a full-scale family-planning program that is voluntary" and "economic uplift."

Spokesmen here for such U.S.-based family-planning organizations as the Population Crisis Committee and The International Planned Parenthood Federation have voiced fears that the U.S. stance here may portend Reagan administration cuts in population programs. However, U.S. delegate M. Peter McPherson, administrator of the Agency for International Development and a U.S. delegation member, said in an interview that there is an administration consensus that family planning programs and economic growth "are mutually reinforcing" and population control assistance should be increased.

The United States has announced plans here to reexamine its financing of the United Nations Fund for Population Activities (UNFPA), which is receiving $38 million this year from Washington. But McPherson, noting that "the UNFPA has stated that it is not involved in abortions," said he expected it to continue to receive U.S. help.

Given the new U.S. emphasis on the link between economic and population policies, some private organizations have suggested that the administration is planning to channel population-control money to countries with free-market economies, much as it has already cut general economic assistance to Tanzania while boosting aid to Jamaica. But U.S. officials deny that any such "reprogramming" is planned.

[From the Washington Post, Aug. 12, 1984]

UNITED STATES TO FUND U.N. POPULATION UNIT, ACCEPTING VOW ON ABORTION

(By William A. Orme, Jr.)

MEXICO CITY, Aug. 11—The U.S. delegation to a conference on population announced today that a $19 million appropriation, which the Reagan administration had threatened to cancel for the U.N. Fund for Population Activities would "be disbursed immediately" as a result of assurances from its director on the abortion issue.

Conference delegates, meanwhile, tentatively accepted a resolution backed by the Vatican, U.S. and several Latin American delegations that rules out the use of abortion as "family-planning policy."

The announcement on freeing the $19 million was made by U.S. delegation members James Buckley and Peter McPherson, who were accompanied by the U.N. fund director, Rafael Salas.

Salas distributed copies of the letter sent Thursday to U.S. Ambassador to the United Nations Jeane Kirkpatrick saying, "The fund does not support abortion as a method of family planning nor does it sanction—nor has it ever sanctioned—coercion in the implementation of family planning programs."

The United States announced here earlier this week plans to cut off aid to the U.N. fund unless it received "concrete assurances" that the agency was not involved in abortion or "coercive" family planning programs. The U.N. Fund for Population Activities is the principal organizer of the Mexico City conference, and it receives more than a quarter of its annual budget from the United States. Another $19 million in U.S. funds was appropriated earlier in fiscal 1984.

Salas, in a brief interview, said that while he was "of course" pleased by the U.S. announcement, he never had "any doubts" that the appropriated funds would be disbursed. In his letter to Kirkpatrick, Salas noted that he had given the same assurances to her in a letter in April. Funding for fiscal 1985 "is another matter," he added.

The announcement was made before six congressional critics of the U.S. position at the conference complained at a press conference about what they alleged was failure to consult with Congress over the "radical departure" from the previous "bipartisan" U.S. position on support for international birth-control programs.

This year, when the House authorized funding "of up to $320 million for population assistance in 1985, [it] restated its longstanding opinion that current restrictions in the Foreign Assistance Act are sufficient protection against the use of U.S. funds for abortions," said the congressmen in a statement. The restrictions rule out any use of U.S. aid funds or abortions.

Congressional delegation chief Rep. James Scheuer (D-N.Y.), declaring that the U.S. aid funding "system doesn't work when there is sharp confrontation between Congress and the executive branch," stressed that the Congress "has never said" that U.S. funds cannot be used for "private family planning organizations that with their own funds, raised privately or publicly, finance abortions or abortion counseling."

In a private meeting this morning with the official U.S. delegation, the congressmen criticized the Reagan administration in far sharper terms and defended their unusual decision to criticize U.S policy on foreign soil, informed sources said. "You left us no choice," Scheuer reportedly told Buckley.

McPherson, who is administrator of the Agency for International Development, reportedly confirmed to the congressmen that the administration policy would endanger U.S. funding of the International Planned Parenthood Federation.

The congressioinal delegation decided to fly here "to convey our sense of frustration" about lack of administration consultation with Congress on the new population policy, Rep. Patricia Schroeder (D-Colo.) said.

The Congress may decide to "put in a few sentences stating very clearly" that its 1985 appropriations for international family planning programs cannot be suspended under the terms of the U.S. position put forth in Mexico, Scheuer said.

The U.S proposals to amend the conference's final document were still under discussion here today. Technically, the document to be approved before the conference adjourns Tuesday—to be titled the "Declaration of Mexico 1984"—is a revision of a declaration adopted in Bucharest 10 years ago.

Discussions here have focused on the rewording of the declaration's preamble and the inclusion of 91 proposed "recommendations" detailing the conference's position on the implementation and philosophy of population control programs.

[From the Washington Post, Aug. 13, 1984]

REAGAN POLICY ANCHORING UNITED STATES IN ISOLATION AT UNITED NATIONS

(By Joanne Omang)

The Reagan administration, with its position on population growth under attack at the World Population Conference in Mexico City, appears to be making a habit of standing before the United Nations in splendid isolation on policy questions.

Since the administration took office in 1981, it has put the United States out front on at least four other major issues and several minor ones, with hardly any other nation following initially.

On each occasion, White House officials have mustered weighty tomes of defense from assorted scholars. Often greeted at first by disbelief, these stands occasionally have won allies.

The White House clearly is hoping that will happen again in the flap over its position that no global population crisis exists. It won a partial victory Saturday when the conference tentatively accepted a resolution rejecting abortion as a method of family-planning policy.

However, most of the time, "our situation here is one of frustration," said Jose Sorzano, deputy U.S. permament representative to the United Nations. "Not only do our points of view not prevail, we can't even get a fair hearing for them."

Sorzano estimated that a U.S. position plowing lonely ground becomes the accepted view 10 percent of the time, but "90 percent of the time the United States lacks influence commensurate with its contributions to the U.N. as well as with its position in the world."

The United States refused in 1982 to sign the Law of the Sea treaty governing exploitation of resources in and on the bottom of the oceans, even though two previous administrations had taken the lead in negotiations on it. The U.S. delegation argued that the treaty unduly restricted private mining interests, but only three other nations voted against it.

Since then, West Germany and Japan have begun talks with the United States on a sort of mini-treaty to govern joint action. But the rest of the world is proceeding with administrative preparations without U.S. involvement.

A 6½-year international boycott of the Nestle Co. ended in January when the company agreed to comply with the infant formula sales code of the World Health Organization, a U.N. body. WHO had approved the code in May 1981 on a vote of 118 to 1, with the United States the sole holdout.

The code, designed to promote breast feeding, tightens formula labeling and bans free samples to mothers in Third World countries, whose infants historically have suffered when poor families diluted the formula, often with polluted water, to save money.

In two other major cases, rejection of World Court jurisdiction in Central America and the decision to withdraw from UNESCO, the administration sought to pull the rug from under countries it regards as unfriendly Marxist states.

The administration announced last April it would refuse World Court review of any U.S. actions in Central America for the next two years in order, it said, to avoid a "propaganda spectacular" by Nicaragua over the CIA mining of Nicaraguan harbors.

The court ruled against the United States in May anyway, ordering it to "cease and re-

frain" from the mining, which already had stopped, and to halt support for military attacks on Nicaragua. Other nations have withdrawn from World Court jurisdiction before, but so far no other country has endorsed this particular U.S. action.

President Reagan announced last December that the U.N. Educational, Scientific and Cultural Organization (UNESCO) had tilted too far to the left in calling for disarmament and new world economic order, condemning Israel and trying to license journalists. He said the United States would withdraw from UNESCO by the end of this year unless policies were changed.

The move shocked U.S. allies. A West German opposition politician called it "arrogant" and 50 African nations joined Britain and France to ask that the move be reconsidered. By April however, charges of financial mismanagement surfaced against UNESCO's secretary general and several other nations joined the United States in asking for budgetary revisions.

The United States is nearly alone in refusing to call for economic sanctions against the government of South Africa because of its racist apartheid policies. "But you have to distinguish between how it looks in New York and what is happening in the region," Sorzano said. "Many recent events there have been the result of intense U.S. [diplomatic] effort."

Israel's lone defender during many U.N. battles over its credentials has often been the United States. After Secretary of State George P. Shultz promised the United States would withdraw from any agency that banned Israel, "we won two substantial votes preventing the question from coming up," Sorzano said.

The U.S. delegation began attacking soaring U.N. budgets last year, voting against new spending even if it supported project ideas. "There were many, many votes of 140 to 1 and everybody thought this was a very extreme proposition," Sorzano said. "But within a year the whole OECD [developed nations] group plus the Soviet Union made the same point." The new U.N. budget calls for no spending increase, he said.

The Americans also have won converts to their view that human rights violations should be condemned in leftist countries as well as in military and right-wing dictatorships. "There's been visible embarrassment about the double standard since we started talking about it," Sorzano said. A resolution condemning human rights violations in poland two years ago was the first to pass against a leftist government, he said.

The United States also is isolated in its position on acid rain, an, issue that has not yet come before the United Nations. Washington calls for additional study while most of the industrialized world wants drastic cuts in industrial emissions of sulfur dioxide. This issue has sensitized relations with Canada, which claims that its rain is acidic from U.S. emissions in the Ohio River Valley.

Sorazano declined to comment on the population issue, but serveral other diplomats noted that the U.S. position is close to that held by most Third World countries 10 years ago, when the United States stood almost alone in urging worldwide birth control.

The 180-degree turn to the current stand may confuse people at first, one State Department official said, "but then they'll see that we're where they wanted to be all along. I don't anticipate any problem."●

HEALTH PLANNING

● Mr. HATCH. Mr. President, it has recently come to my attention that there is some question about the intent of Congress in language that appears in past continuing resolutions concerning health planning activities.

Although there are several States that are out of compliance with the provisions of the Health Planning and Resource Development Act of 1974 due to laws enacted by State legislatures, it is not Congress' intent to sanction these States in any way. Until a health planning bill is reauthorized, it is the intent of Congress to allow the States to proceed according to their own State laws.

I am aware of a lawsuit in California (Alameda-Contra Costa Health Systems Agency versus Office of Statewide Health Planning and Development) in which the California Office of Statewide Health Planning and Development was sued for granting applications for new beds to a number of hospitals and new health facilities without a public hearing. The judge hearing the case ruled that Federal law and not State law was controlling, since the State accepts Federal health planning funds, essentially ignoring the language in the continuing resolution prohibiting penalizing States for noncompliance.

This ruling could have significant consequences in many States that are currently out of compliance. Expensive and time-consuming hearings could be required to be held far in excess of available Federal health planning and State monetary resources, and this was not the intent of Congress. Furthermore, it appears that the Health Planning Act does not create a private right of action in any entity to force through any court compliance with the act or any of its provisions.

In the case of health planning activities, and in the absence of new authorization language and policy, it is the intent of Congress to allow the States to follow their own State laws, and if out of compliance with Federal law, to be protected from public or private sanctions.●

THE DEFENSE BUDGET COMPROMISE

● Mr. MOYNIHAN. Mr. President, in expressing my support for the conference report on the defense authorization bill for fiscal year 1985, I would like to take special note of two matters.

The first is that the compromise—reached after lengthy deliberation among Members of the two Chambers, including principally the Speaker of the House and the Senate majority leader—provides for an increase in defense spending next year of 5 percent, after inflation. This is a prudent and sensible amount, and it is, moreover, consistent with the level of defense spending provided for in the first concurrent budget resolution adopted this week. Speaker O'NEILL and Senator BAKER have made known their common understanding that, while the authorization bill before us authorizes spending in the amount of $297 billion in fiscal year 1985, the subsequent appropriations bills will appropriate $292.9 billion—which would result in the 5-percent real increase. I think it important to emphasize that it has been the agreement on 5 percent real growth in defense spending—not 3 or 4 percent; and not the 13-percent increase originally requested by the President—that has enabled agreement to be reached. And I look forward to the Senate's consideration of the appropriations measures with this is mind.

I note also the agreement reached with respect to the MX Missile Program the President has proposed to the Congress. I would offer the observation that the agreement in the conference report effectively halts deployment of the MX in Minuteman silos.

On June 14 of this year, 46 Senators joined Senator CHILES and I in voting for an amendment we had offered to this defense authorization bill, one which would have prohibited that deployment altogether, and redirected efforts toward the small, mobile ICBM program recommended in the Scowcroft Commission reports. The vote was tied on that occasion, 48 to 48, and it was only the Vice President's vote against the amendment that decided the issue that day.

I remarked at the time, and it seems more true today, that the MX would never be deployed as proposed. A consensus is emerging in the Senate in opposition to the deployment of the MX missiles in Minuteman silos. A number of Senators who had previously voted in favor of production and deployment voted against it on June 14.

The reason seems altogether clear: Deployment of the MX as the President has proposed would be counterproductive to our national security. The deployment of 100 MX missiles in Minuteman silos would mark a departure from the strategic doctrine of deterrence that this far has successfully guided this Nation, and the world, through the nuclear age.

The deployment, in short, would necessarily be viewed in the Soviet Union as movement toward a first-strike posture on the part of the United States. So powerful and accurate a missile as the MX, placed in highly vulnerable silos already targeted by Soviet missiles, could only be used before an attack on them arrived. Of course, the United States is not consciously moving to such a policy. But the decision about whether we ought to respond to an apparent Soviet attack would have to be made in the space of a few minutes time.

There would be just 10 or 12 minutes during which the President would have to decide whether the computer report of a Soviet attack was accurate, and whether he should order our MX missiles launched in response, because they would not be available 30 minutes later, to be used as a second-strike force. We would have to use them or lose them, as the phrase goes, and decide to do so in a matter of minutes.

The Chairman of the Joint Chiefs of Staff, Gen. John W. Vessey, Jr., testified to the Senate Appropriations Committee on May 5, 1983, that "The Soviets have no assurance that we will ride out the attack."

Which in the terminology of the subject means that we will have to launch on warning.

A new doctrine would accompany deployment of MX in Minuteman silos. A doctrine of launch-on-warning, instead of deterrence based on a capacity to retaliate.

It would be a dangerous thing to do.

Fortunately, as I said at the outset, it seems that the leaders of the Congress, in the persons of Speaker O'NEILL and Majority Leader BAKER, have agreed to postpone until next spring any further procurement of these MX missiles.

Under the terms of the conference report before us, not until the Congress enacts two separate joint resolutions after May 1, 1985—which enactment I believe will not occur—could any new missiles be funded.

One would have preferred to have the MX program halted altogether. But the conference report marks another measureable step toward the emerging consensus in the Congress that the MX ought not be deployed in Minuteman silos.

An eloquent and persuasive letter, from Margeret Guiton of Springfield Center, NY, to the editor of the New York Times, published yesterday, explains quite clearly why the MX is counterproductive to our security, and I ask that it appear in the RECORD.

The letter follows:

[From the New York Times, Sept. 27, 1984]

THE MX IS COUNTERPRODUCTIVE TO OUR SECURITY

To the Editor:

Former Senator Brady laments the breakdown of the 1983 Congressional "consensus" on the Scowcroft recommendation to deploy 100 MX missiles in existing Minuteman silos.

This, he ingeniously argues, was due to the machinations of the Soviets, who withdrew from the arms talks not because the U.S. deployed cruise missiles and Pershing 2's in Europe but in order to heat up the American political process. "They knew full well that we would break the fundamental principle of negotiation: never negotiate with yourself."

Mr. Brady forgets that the Scowcroft report itself was a shining example of the type of intramural negotiation he so deplores.

The original rationale for the MX was our need to offset the Soviet advantage in land-based strategic missiles—what Reagan, in his 1980 election campaign, referred to as "the window of vulnerability." No one, however, could think of a safe way of basing the MX missiles.

The Scowcroft Commission was unable to solve this problem. It freely admitted that MX missiles based in Minuteman silos would be vulnerable to Soviet attack. However, "To deter such surprise attacks we can reasonably rely both on our other strategic forces and on the range of operational uncertainties that the Soviets would have to consider in planning such aggression."

In other words—as was already apparent to most people outside the Reagan Administration—U.S. superiority in bomber- and submarine-launched missiles easily offsets the Soviet advantage in land-based missiles. Which means that there is no "window of vulnerability." Which means that we don't need the MX.

The Scowcroft Commission further recommended that the MX be replaced eventually by smaller and more mobile missiles and that, in future arms negotiations, we count warheads, rather than launchers. This would discourage the production of MIRVed missiles, which carry many inedependently targetable warheads on a single missile and, since they thus favor attack over defense, are destablizing weapons.

In other words, equipped with MIRV's the MX is not only unnecessary, it is extremely dangerous. In any crisis situation, we would have to lose it or use it, presumably as determined by a computerized launch-on-warning system.

Why, then, did the Scowcroft report nonetheless recommend that we base 100 of these multi-billion-dollar, unnecessary and destabilizing weapons in vulnerable Minuteman silos?

Not, as we gradually discovered, because of an objectively appraised defense need but because of a perceived need for a purely symbolic show of "American resolve" and because of words, for "a frankly political package deal designed to conciliate conflicting viewpoints" (news article April 12, 1983). Chairman Scowcroft himself later admitted in a Senate hearing that the commission's report had been shaped as much by political considerations as by military requirements (news story April 19, 1983).

Last May, the House and Senate scaled down the recommendation for 100 MX missiles, fairly drastically, but it did not entirely eliminate them. Politics apparently required a token number as a sop to the Reagan Administration.

"Never negotiate with yourself," says Mr. Brady. I fully agree. It would be far better to simply abolish the MX.

MARGARET MAC. GUITON.●

Mr. CRANSTON. Mr. President, in the House version of the continuing resolution there is language in section 110 that requires that the rates for power generated at the Hetch Hetchy Dam be based on the costs of generating and transmitting that power and that the rates be approved by the Secretary of the Interior. Inclusion of this language in the CR was one action taken in a dispute between the San Francisco Public Utilities Commission and the Modesto and Turlock Irrigation Districts, which purchase Hetch Hetchy power from the San Francisco PUC. In the dispute, I sided with neither party. Instead, I encouraged negotiations between the parties so that the legislative battle could be discontinued. My staff and I have been in touch with negotiators for both sides several times daily during the last week to encourage prompt negotiations and to impress on both sides the critical need to reach a compromise.

I am pleased and delighted to announce to my colleagues that the San Francisco PUC and MID and TID have now agreed to the rates at which the San Francisco PUC sell hydroelectric power to the two irrigation districts. It is my understanding that part of the agreement is that the House will recede in conference and that section 110 will be dropped completely. I wish to advise the managers of the bill that the problem has been resolved and that there is absolutely no reason for inclusion of language in the final bill.

So there one less issue that we need to contend with in the continuing resolution.

Mr. McCLURE Mr. President, will the Senator yield?

Mr. CRANSTON. I yield.

Mr. McCLURE. Having followed that legislative struggle, as the chairman of the committee of jurisdiction in which that fight would express itself, I cannot tell the Senator how delighted I am that it has been resolved. I appreciate the report that the Senator from California has given.

Mr. CRANSTON. I thank the distinguished chairman very much. I am delighted to have been able to play a part in resolving the matter.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I should have done this right after morning business. I ask unanimous consent that there now be an additional period for the transaction of routine morning business until 5 o'clock in which Senators may speak for not more than 5 minutes each with the exception of the two leaders, against whom no time limitation will apply.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. SAUNDERS, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry

nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON NATIONAL STRATEGY FOR THE PREVENTION OF DRUG ABUSE AND DRUG TRAFFICKING—MESSAGE FROM THE PRESIDENT—PM 174

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with title III, section 305 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act of 1972, as amended, I hereby transmit the 1984 National Strategy for the Prevention of Drug Abuse and Drug Trafficking. The strategy establishes a comprehensive national plan of action which includes prevention drug abuse through awareness and action, drug law enforcement, international cooperation to eliminate the production and trafficking of illegal drugs, and health-related treatment and research activities.

I am pleased with the progress in raising public awareness of drug abuse problems and in strengthening our efforts to reduce the supply of illicit drugs, both domestic and international. Most important is the widespread recognition that the situation is not hopeless; that drug abuse can be conquered. Our citizens have begun numerous grassroots efforts which are likely to accomplish far more in preventing drug abuse than the Federal Government, working alone, could hope to achieve.

I thank the Congress for its dedication and continuing support in the fight against drug abuse.

RONALD REAGAN.

THE WHITE HOUSE, *September 27, 1984.*

GOVERNING INTERNATIONAL FISHERY AGREEMENT BETWEEN THE UNITED STATES AND THE REPUBLIC OF ICELAND—MESSAGE FROM THE PRESIDENT—PM 175

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to Public Law 94-265, was referred jointly to the Committee on Foreign Relations and the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (Public Law 94-265; 16 U.S.C. 1801 et seq.), (the act), I transmit herewith the text of a governing international fishery agreement between the United States and the Republic of Iceland, which was signed at Washington on September 21, 1984.

This agreement is one of a series negotiated in accordance with the act. I hereby commend this agreement to the Congress and recommend early and favorable action to approve this agreement.

RONALD REAGAN.

THE WHITE HOUSE, *September 28, 1984.*

MEASURES PLACED ON THE CALENDAR

The Committee on Energy and Natural Resources was discharged from the further consideration of the following bill; which was placed on the calendar:

H.R. 3601. An act to modify the boundary of the Pike National Forest in the State of Colorado, and for other purposes.

The Committee on Governmental Affairs was discharged from the further consideration of the following bills; which were placed on the calendar:

H.R. 4994. An act to extempt from taxation by the District of Columbia certain property of the Jewish War Veterans, USA National Memorial, Incorporated; and

H.R. 6223. An act to amend the act providing for the incorporation of certain persons as Group Hospitalization, Inc.

The Committee on Agriculture, Nutrition, and Forestry was discharged from the further consideration of the following bills; which were placed on the calendar:

H.R. 5223. An act to extempt restaurant central kitchens from Federal inspection requirements; and

H.R. 5358. An act to enable honey producers and handlers to finance a nationally coordinated research, promotion, and consumer information program designed to expand their markets for honey.

The Committee on Commerce, Science, and Transportation was discharged from the further consideration of the following bill; which was placed on the calendar:

H.R. 5818. An act to amend the Federal Hazardous Substances Act to apply the notice and repair, replacement, and refund provisions of that act to defective toys and other articles intended for use by children.

MEASURES HELD AT THE DESK

The following bills were ordered held at the desk by unanimous consent:

H.R. 2300. An act to provide retirement equity for former spouses of civil service retirees, and for other purposes;

H.R. 4932. An act to withdraw certain public lands in Lincoln County, NV, and for other purposes; and

H.R. 5646. An act to provide for a 3-year extension in the authority to pay cash awards to Federal employees for certain cost savings disclosures, to clarify the authority to provide cash awards to members of the Armed Forces for such disclosures, to require a cost-benefit analysis of a Government program of furnishing workday care for dependents of Federal employees, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

H.R. 5782. A bill granting the consent of Congress to an amendment to the Delaware River Basin Compact.

H.R. 6163. A bill to amend title 28, United States Code, with respect to the places where court shall be held in certain judicial districts, and for other purposes.

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. Res. 452. An orginal resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3024.

S. Res. 453. An original resolution waiving section 303(a) of the Congressional Budget Act of 1974 for consideration of S. 3024.

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S. 2803. A bill to amend the Delaware River Basin Compact to allow the sale of bonds at market rates.

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 352. A joint resolution designating October 1984 as "National Head Injury Awareness Month."

S.J. Res 354. A joint resolution designating the week of January 7 through January 13, 1985, as "National Productivity Improvement Week".

By Mr. PERCY, from the Committee on Foreign Relations, without amendment:

S. 3037. An original bill to combat international terrorism.

By Mr. PERCY, from the Committee on Foreign Relations, with an amendment in the nature of a substitute; and an amendment to the preamble:

S. Res. 241. A resolution expressing the sense of the Senate that the foreign policy of the United States should take account of the genocide of the Armenian people, and for other purposes (Rept. No. 98-642).

Mr. DURENBERGER, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 2649. A bill to amend the Safe Drinking Water Act (title XIV of the Public Health service Act) to authorize funds for fiscal years 1984, 1985, 1986, 1987, 1988, 1989, and for other purposes (Rept. No. 98-641).

EXECUTIVE REPORTS OF COMMITTEES

By Mr. THURMOND, from the Committee on the Judiciary:

Frank H. Easterbrook, of Illinois, to be U.S. circuit judge for the seventh circuit;

H. Ted Milburn, of Tennessee, to be U.S. circuit judge for the sixth circuit;

James F. Holderman, Jr., of Illinois, to be U.S. district judge for the northern district of Illinois;

Richard F. Suhrheinrich, of Michigan, to be U.S. district judge for the eastern district of Michigan;

James H. Jarvis, II, of Tennessee, to be U.S. district judge for the eastern district of Tennessee;

Thomas A. Higgins, of Tennessee, to be U.S. district judge for the middle district of Tennessee;

Charles R. Norgle, Sr., of Illinois, to be U.S. district judge for the northern district of Illinois;

William D. Keller, of California, to be U.S. district judge for the central district of California.

Ronald E. Meredith, of Kentucky, to be U.S. district judge for the western district of Kentucky;

F. A. Little, Jr., of Louisiana, to be U.S. district judge for the western district of Louisiana;

William G. Young, of Massachusetts, to be U.S. district judge for the district of Massachusetts;

George La Plata, of Michigan, to be U.S. district judge for the eastern district of Michigan;

R. Allan Edgar, of Tennessee, to be U.S. district judge for the eastern district of Tennessee;

Walter S. Smith, Jr., of Texas, to be U.S. district judge for the western district of Texas;

Thomas J. Aquilino, Jr., of New York, to be a judge of the U.S. Court of International Trade;

John C. Lawn, of Virginia, to be Deputy Administrator of Drug Enforcement.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. NICKLES:

S. 3033. A bill to amend the Internal Revenue Code of 1954 by providing for the taxation of certain income at the flat rate of 10 percent, and for other purposes; to the Committee on Finance.

By Mrs. KASSEBAUM (for herself, Mr. BAKER, Mr. BAUCUS, Mr. BOSCHWITZ, Mr. BYRD, Mr. COCHRAN, Mr. DECONCINI, Mr. DENTON, Mr. DIXON, Mr. DURENBERGER, Mr. GOLDWATER, Mr. GRASSLEY, Mr. HATCH, Mr. HATFIELD, Mrs. HAWKINS, Mr. HECHT, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. INOUYE, Mr. JOHNSTON, Mr. LAXALT, Mr. LEVIN, Mr. LONG, Mr. LUGAR, Mr. MATSUNAGA, Mr. MATTINGLY, Mr. MELCHER, Mr. MITCHELL, Mr. NUNN, Mr. QUAYLE, Mr. RANDOLPH, Mr. RIEGLE, Mr. SASSER, Mr. STAFFORD, Mr. STENNIS, Mr. TRIBLE, and Mr. WARNER):

S. 3034. A bill to grant a Federal charter to the National Society, Daughters of the American Colonists; to the Committee on the Judiciary.

By Mr. HEINZ:

S. 3035. A bill to authorize appropriations for a 5-year period for training in geriatrics; to the Committee on Labor and Human Resources.

By Mr. DANFORTH (for himself and Mr. EAGLETON):

S. 3036. A bill to redesignate the Regional Veterans' Administration Medical Center located in Poplar Bluff, MO, as the "General Black Jack Pershing Regional Veterans' Administration Medical Center"; to the Committee on Veterans' Affairs.

By Mr. PERCY, from the Committee on Foreign Relations:

S. 3037. An original bill to combat international terrorism; placed on the calendar.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. D'AMATO (for himself, Mr. BOSCHWITZ, Mr. CHILES, Mr. COCHRAN, Mr. DOLE, Mr. HOLLINGS, Mr. INOUYE, Mr. LUGAR, Mr. PRESSLER, Mr. QUAYLE, and Mr. MATTINGLY):

S. Res. 457. Resolution condemning the government of the Union of Soviet Socialist Republics for 5 years of forced and oppressive military occupation of Afghanistan in the face of popular resistance to Soviet imperialism; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NICKLES:

S. 3033. A bill to amend the Internal Revenue Code of 1954 by providing for the taxation of certain income at the flat rate of 10 percent, and for other purposes; to the Committee on Finance.

TEN-PERCENT FLAT TAX RATE

● Mr. NICKLES. Mr. President, the Federal income tax system in the United States is due for a major revision. There is practically unanimous agreement among taxpayers and Federal officials alike that something must be done. The complexity and inefficiency of the present system has been well documented during the debate of tax reform. The President mentioned in his State of the Union Address in January that the Treasury Department is to present to him tax reform options by the end of this year. I am convinced that President Reagan is committed to seeing through a comprehensive change. The question remains how much and what type of change should be made. To address that question, I am proposing a 10-percent flat tax rate plan which will address many of the problems associated with tax complexity, inequity, and inefficiency.

It is no wonder that a comprehensive reform is indeed a monumental task. This is especially true when you consider the myriad of tax provisions that pertain to virtually every aspect of our society. The Internal Revenue Code has provisions for everything from almond grove planting and development costs to zoning change expenditures. The code contains approximately 5,000 pages and the Internal Revenue Service regulations total more than 10,000 pages. There has got to be an end to this profusion of statutes and regulations governing our Nation's tax policy. Even though these rules may have been well intentioned they have added to the confusion.

The cost to the American taxpayer of preparing the returns is nonproductive and creates hardships on those attempting to file their own return. I recently requested the Congressional Research Service to estimate the cost to taxpayers of filing their returns. According to their findings, "individual taxpayers spent the equivalent of at least $6.5 billion—in time or money—to keep the records and do the paperwork necessary to file their 1982 returns."

The present tax system is also inequitable. Many taxpayers are driven into investments and nonproductive areas simply because of the tax advantages. For this reason, some taxpayers with identical incomes pay varying amounts of tax by virtue of how they invest and utilize their assets. The Federal Government should not be in the business of determining how and where the Nation's assets are distributed. We must move to make the system more equitable for all taxpayers.

Therefore, today I am introducing the Ten Percent Flat Rate Act which would vastly simplify our present tax system. This bill is identical to H.R. 5432 which was introduced by Congressman MARK SILJANDER in the House of Representatives. Together, we hope this proposal will provide a foundation in the formulation of a legitimate reform of the Tax Code in 1985. It would change the present system as it applies to individuals and does not change the corporate provisions of the code. However, it does affect those businesses which operate as an individual or an entity other than a corporation.

The President and the American people are ready for a substantial revision simplification and reform of our present Tax Code. However, it is crucial that we achieve actual reform and not further complicate our tax laws.

The Ten Percent Flat Tax Rate Act which I am introducing would impose a 10-percent rate of tax on net income of the taxpayer. The tax base would be broadened by eliminating many of the present law tax credits, deductions, and exclusions. However, it would retain those provisions which are essential to a fair method of income taxation.

Under the proposal, gross income is broadly defined with several exclusions retained, including: alimony and separate maintenance payments, scholarship payments and fellowship grants, Social Security payments, Social Security tax payments withheld in excess of the amount prescribed by law, disability payments, payments under the Railroad Retirement Act, retirement benefits to former Government employees—the amount from

Social Security only—and interest payments received on bonds issued by States, counties, or municipalities.

Adjusted gross income would equal gross income minus: trade and business deductions, trade and business deductions of employees, and expenses relating to income production. Deductions from adjusted gross income include: an exemption of $2,000 each for the taxpayer, spouse, and each dependent—the exemption will also be indexed to inflation—deductions for interest, taxes, and charitable contributions, and deductions for certain retirement savings such as individual retirement accounts and Keough plans.

The plan would become effective 3 years after its passage. During this 3-year period, a tax amnesty program would be initiated which would allow taxpayers to pay their back taxes without criminal and civil penalties. This would encourage taxpayers who would otherwise never pay their overdue taxes to pay up. A trust fund would be established to accumulate the moneys collected under the amnesty program. This fund would be used to make up for the revenue shortfall, if any, during the plan's initial years of operation.

The Ten Percent Flat Tax Rate Act, which I have outlined, is fair since it provides for essential exclusions and deductions such as for Social Security benefits, $2,000 personal deduction, and interest expense. It is simple since it imposes one, flat rate of 10 percent on taxable income and broadly defines the tax base.

Next year the Senate will be looking at many options to make the necessary changes in our tax policy. I hope my colleagues will seriously evaluate this proposal when they are considering ways to make our tax system understandable, efficient, and equitable.

I intend to reintroduce this legislation in the next session of Congress when this issue will most likely be addressed and, hopefully, resolved. I am also soliciting economists and the tax department to give estimations of the amount of revenue they would anticipate under such a system and what rate of flat taxation with the above considerations would generate an equal amount of revenue as today.

If Congress has the courage to totally revamp our present tax system to a fair, simple, and low flat tax rate, our economy could see growth and expansion unequaled in our history.●

By Mrs. KASSEBAUM (for herself, Mr. BAKER, Mr. BAUCUS, Mr. BOSCHWITZ, Mr. BYRD, Mr. COCHRAN, Mr. DECONCINI, Mr. DENTON, Mr. DIXON, Mr. DURENBERGER, Mr. GOLDWATER, Mr. GRASSLEY, Mr. HATCH, Mr. HATFIELD, Mrs. HAWKINS, Mr. HECHT, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. INOUYE, Mr. JOHNSTON, Mr. LAXALT, Mr. LEVIN, Mr. LONG, Mr. LUGAR, Mr. MATSUNAGA, Mr. MATTINGLY, Mr. MELCHER, Mr. MITCHELL, Mr. NUNN, Mr. QUAYLE, Mr. RANDOLPH, Mr. RIEGLE, Mr. SASSER, Mr. STAFFORD, Mr. STENNIS, Mr. TRIBLE, and Mr. WARNER):

To the Committee on the Judiciary:

S. 3034. A bill to grant a Federal charter to the National Society, Daughters of the American Colonists; to the Committee on the Judiciary.

FEDERAL CHARTER FOR THE NATIONAL SOCIETY, DAUGHTERS OF THE AMERICAN COLONISTS

● Mrs. KASSEBAUM. Mr. President, earlier this year, I introduced legislation to grant a Federal charter to the National Society, Daughters of the American Colonists. Today I am introducing new legislation cosponsored by 36 of my colleagues designed to achieve the same goal. Thanks to very valuable assistance from my colleague from Alabama, Mr. DENTON and the staff of the Senate Judiciary Committee, technical changes have been made in the original legislation. The new bill clearly demonstrates that the society meets the standards for the granting of Federal charters as promulgated by the Senate and House Committees on the Judiciary.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3034

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CHARTER

SECTION 1. National Society, Daughters of the American Colonists, organized and incorporated under the laws of the District of Columbia in 1921, is hereby recognized as such and is granted a charter.

POWERS

SEC. 2. National Society, Daughters of the American Colonists (hereinafter referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes for which the corporation is organized shall be those provided in its articles of incorporation and shall include a continuing commitment, on a national basis, to—

(1) conduct research with respect to the history and deeds of the American colonists, and record and publish the result of such research;

(2) publish the memoirs of American colonists;

(3) erect memorials to commemorate the history and deeds of the American colonists;

(4) promote respect and admiration for the institutions, laws, and flag of the United States;

(5) engage in mutual improvement and educational activities; and

(6) establish scholarships to assist needy and deserving students and to promote the improvement of educational institutions, engage in volunteer service and make contributions to veterans hospitals, and perform such other charitable activities including the national presidents' projects as may be provided by the articles of incorporation or bylaws of the society.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

MEMBERSHIP

SEC. 5. Eligibility for membership in the corporation and the rights and privileges of members shall, except as provided in this Act, be as provided in the constitution and bylaws of the corporation, and terms of membership and requirements for holding office within the corporation shall not be discriminatory on the basis of race, color, religion, or national origin.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 6. The board of directors of the corporation and the responsibilites thereof shall be as provided in the articles of incorporation or bylaws of the corporation and in conformity with the laws of the State or States in which it is incorporated.

OFFICERS OF CORPORATION

SEC. 7. The officers of the corporation, and the election of such officers shall be as is provided in the articles of incorporation or bylaws of the corporation and in conformity with the laws of the State or States wherein it is incorporated.

RESTRICTIONS

SEC. 8. (a) No part of the income of assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

(f) The corporation shall retain and maintain its status as a corporation organized and incorporated under the laws of the State or States wherein it is incorporated.

EXCLUSIVE RIGHT TO NAME, EMBLEMS, SEALS, AND BADGES

SEC. 9. Subject to established or vested rights, the corporation shall have the sole and exclusive right to have and to use, in carrying out its purposes, the name National Society, Daughters of the American Colonists and any emblem, seal, or badge adopted or used by the corporation.

LIABILITY

SEC. 10. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

BOOKS AND RECORDS; INSPECTION

SEC. 11. The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 12. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following: "(66) National Society, Daughters of the American Colonists".

ANNUAL REPORT

SEC. 13. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit required by section 11 of the Act. The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 14. The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

DEFINITION OF "STATE"

SEC. 15. For purpose of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

TAX-EXEMPT STATUS

SEC. 16. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1954. If the corporation fails to maintain such status, the charter granted hereby shall expire.

TERMINATION

SEC. 17. If the corporation shall fail to comply with any of the restrictions or provisions of this Act, the charter granted hereby shall expire.●

By Mr. HEINZ:

S. 3035. A bill to authorize appropriations for a 5-year period for training in geriatrics; to the Committee on Labor and Human Resources.

GERIATRIC MANPOWER TRAINING AND EDUCATION ACT

● Mr. HEINZ. Mr. President, for many years now the Special Committee on Aging and other congressional committees have received testimony expressing grave concern about the ability of physicians and other health-care professionals to care for and manage the health problems of older Americans. Earlier this year, we received firm evidence concerning this problem when the U.S. Department of Health and Human Services issued its report on education and training in geriatrics and gerontology. This report, the product of the combined efforts of many Federal agencies with an interest in these problems, confirms that there is an enormous shortage of health personnel who are trained in geriatrics and gerontology to meet the needs of a burgeoning elderly population.

Mr. President, the problems that we already experience in caring for older Americans will reach crisis proportions with the unprecedented growth of the elderly population. By 1990, the population aged 65 and older will be 25 percent greater than it was in 1980. This group will grow yet another 10 percent by the turn of the century. This sudden growth will place heavy demands on hospital, long-term care, and community services. We are unable to meet the health needs of older Americans today and the situation will be much worse in the years to come.

As chairman of the Special Committee on Aging, I firmly believe that we cannot afford to wait any longer to set forth an agenda to ensure quality health care for all older Americans. Today, I am introducing comprehensive legislation to improve the adequacy of Federal support for geriatric training and education programs. This increase in funds will supplement existing programs within the Administration on Aging, the Health Resources and Services Administration, the National Institute on Aging, and the National Institute of Mental Health. These agencies are already contributing in a number of ways to the education and training of geriatric specialists. But, as the HHS report acknowledges, the present level of effort satisfies only a small portion of the demand.

A few facts will illustrate what I believe to be the inadequacy of geriatric medical training. First, we have 127 medical schools in this country, but only 15 of these schools require their students to take courses in geriatric care. Second, these 127 schools are affiliated with 417 teaching hospitals, but only 6 are affiliated with teaching nursing homes. Third, in a 1981 survey of physicians, fewer than 700 out of 480,000 physicians claimed to have any expertise in geriatric medicine.

What does this mean for older patients? In my home State of Pennsylvania, according to a recent survey, three out of five physicians know very little about the specific effects of prescription drugs on their elderly patients. Tragically, we know that the lack of geriatric training can lead to drug misuse, misdiagnosis, and even death.

All of these figures add up to one untenable conclusion: physicians are simply ill-prepared to provide the kind of specialized care that the graying of America needs. Unfortunately, the same holds true for other nonphysician health professionals.

The HHS report summarized recent studies that estimate the personnel needed to provide critical services to the aging in future years. Based on these studes, HHS projects the following personnel needs by the year 1990:

A more than tenfold increase in geriatric physicians, from 700 today to 8,000 in 1900.

A fivefold increase in geriatric medicine faculty, from 275 to 1,350.

A doubling of registered nurses with at least some training in geriatrics, from an estimated 77,000 to 150,000.

A substantial increase in geriatric nurse faculty; 750 nurse faculty are needed for general nursing courses and 450 are needed for psychiatric nursing in geriatrics.

A sixfold increase in geriatric dentistry faculty, from a mere 20 to 120.

A doubling of geriatric community health nurses, from 53,000 to 106,000.

A substantial increase in geriatric social workers; at present only about 6 percent of 50,000 practicing social workers have training in gerontology.

A doubling of biomedial, behavioral, and social scientists by 1990, from 1,700 to 2,600.

An enormous increase in social gerontologists and gerontological aides; by the year 2000, as many as 900,000 will be needed.

A tenfold increase in occupational therapist faculty, from 10 to 108.

As you can see Mr. President, there is a critically short supply of personnel needed to care for our aging population. Right now, we don't have sufficient faculty within health professional schools to teach professionals and to prepare researchers on aging and the aged. We don't even have enough established programs, courses, and curriculum needed to extend knowledge and skills concerning the aging process and the delivery of services to the aged. Based on these severe deficiencies, I have developed a bill which will bring training and education allotments to a level which will take us a long way toward filling these gaps. My bill will authorize a substantial increase in appropriations over a 5-year period to get this major Federal initiative underway.

This legislation will give enhanced support to programs under the Health Resources and Services Administration, which prepares doctors, dentists, and nurses to provide services, especially primary-care services, to elderly Americans. Over a 5-year period, HRSA would receive $65 million, divided among the variety of professional training programs on the basis of past allocation.

The Administration on Aging will receive a substantial increase to support the long-term-care gerontology centers. These centers help to develop the continum of care that emphasizes the provision of community-based care for older persons. This bill will also make additional funds available to AOA for other professional development and inservice training programs.

The training and recruitment of more teachers and professionals with special competence in the field of aging is a step in the right direction; but this alone is not enough. Only through intensive research initiatives can we begin to learn to prevent, cure, and treat the devastating diseases that affect the elderly. My bill will encourage interest in aging-related research and will increase funds to train professional researchers.

The current allocation of Federal dollars to aging research is shockingly limited. Estimates show that aging ranks at the very bottom in outlays for specific areas—accounting for only 1 percent of total Federal research expenditures. The elderly now constitution 11 percent of the population and 30 percent of health-care dollars are expended on the elderly. According to the Institute of Medicine, there is almost a thousandfold difference between estimated expenditures for research in aging—$42 million—and the outlays for health services for the aged—$41 billion. I believe that an investment in aging-related research today will reap dividends and budget savings in the future. To accomplish the needed research, however, we will need a much larger pool of trained researchers.

The National Institute on Aging currently supports research training and career development in biomedical, behavioral, and clinical fields. In 1984, however, an estimated appropriation of $6.8 million provided support for only 50 new research trainees and 20 new faculty positions. This is less than 10 percent of the projected need. This act would substantially increase these funds to foster research and careers in the field of aging.

Likewise, my legislation would give greatly needed support to the National Institute of Mental Health for both research and clinically oriented training in geriatrics and gerontology.

As we expand our research efforts in aging, Mr. President, I would hope that we might also pay closer attention to the procedures for allocating research dollars. Historically, we have relied almost solely on a peer-review system by which scientists review and evaluate each others proposals as the main determinant of funding decisions. This has proven to be successful in many areas and has produced some spectacular results. To complement this peer system, however, we need to enlarge our directed research efforts. Directed research projects can grow out of the community-based needs of people, from clinicians and practitioners who are in daily contact with patients and from those who recognize the fiscal and political implications of specific diseases and social problems. I would hope that the directors of each of the Institutes addressed by this bill would develop plans for expanding their directed research efforts.

Mr. President, I am acutely aware of the very real pressure felt by this Congress to decrease Federal expenditures, but my better judgment in this case dictates that action is required now before it is too late. Everything we know today tells us that there will be a greatly increased demand for persons trained and prepared to care for the growing elderly population. We want that care to be good. Over its 5-year life, this bill authorizes about $353 million for the education and training of health professionals, faculty, and researchers in geriatrics and gerontology. This is nearly a tripling of the amounts currently expended for this purpose and reflects the amounts needed to meet the health-care needs of present and future generations of older Americans. I urge my colleagues to join me in this endeavor.

Mr. President, I am resubmitting legislation which I originally introduced on September 19, 1984, to correct technical imperfections in the original bill.●

By Mr. DANFORTH (for himself and Mr. EAGLETON):

S. 3036. A bill to redesignate the regional Veterans' Administration medical center located in Poplar Bluff, MO, as the "General Black Jack Pershing Regional Veterans' Administration Medical Center"; to the Committee on Veterans' Affairs.

GEN. BLACK JACK PERSHING REGIONAL VETERANS' ADMINISTRATION MEDICAL CENTER

● Mr. DANFORTH. Mr. President, today my colleague from Missouri, Mr. EAGLETON, and I are introducing legislation to honor a great American, Gen. John J. Pershing, who is one of our State's most celebrated native sons. This measure renames the regional Veterans' Administration medical center in Poplar Bluff, MO, as the "General Black Jack Pershing Regional Veterans' Administration Medical Center."

Gen. John Joseph "Black Jack" Pershing was born near Laclede, MO, in 1860. He was educated in our State and began a teaching career in Missouri, before attending the U.S. Military Academy at West Point. The motto of his alma mater—"Duty, Honor, Country"—guided his entire life, and General Pershing's many achievements and contributions to our country are well known. Not only was he a great military commander and the only American ever to be named General of the Armies in his own lifetime, he also was an outstanding educator, author, and statesman.

Mr. President, this legislation is a fitting tribute to a great Missourian and a great American. It has been a longstanding wish of many Missourians to honor General Pershing in this way, and this measure is supported by the entire congressional delegation from Missouri, as well as by all federally chartered veterans groups with chapters in Missouri. I urge my colleagues to support this legislation honoring a great American soldier, citizen, and educator.●

ADDITIONAL COSPONSORS

S. 2003

At the request of Mr. DOMENICI, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 2003, a bill to amend the Tariff Schedules of the United States to impose duties on subsidized hydraulic cement, cement clinker, and concrete block and brick.

S. 2751

At the request of Mr. KASTEN, the names of the Senator from Maine [Mr. COHEN], the Senator from Iowa [Mr. JEPSEN], and the Senator from Florida [Mrs. HAWKINS] were added as cosponsors of S. 2751, a bill to provide for coordinated management and rehabilitation of the Great Lakes, and for other purposes.

S. 2930

At the request of Mr. SYMMS, the names of the Senator from Virginia [Mr. WARNER], the Senator from Missouri [Mr. EAGLETON], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Montana [Mr. BAUCUS] were added as cosponsors of S. 2930, a bill to repeal the changes made by the Tax Reform Act of 1984 with respect to the tax treatment of debt instruments issued for property.

S. 2995

At the request of Mr. MOYNIHAN, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2995, a bill to amend the Tax Reform Act of 1984 to provide a transitional rule for the tax treatment of certain air travel benefits provided to employees of airlines.

S. 3013

At the request of Mr. GORTON, the name of the Senator from Alabama [Mr. DENTON] was added as a cosponsor of S. 3013, a bill to provide that certain activities performed in space and certain articles produced in space shall be treated as activities performed and articles produced within the United States for purposes of any tax or customs law of the United States, and for other purposes.

S. 3032

At the request of Mr. DURENBERGER, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 3032, a bill to amend the Internal Revenue Code of 1954 to provide for more equitable test and imputed interest rates, and for other purposes.

SENATE JOINT RESOLUTION 352

At the request of Mr. DANFORTH, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of Senate Joint Resolution 352, a joint resolution designating October 1984 as "National Head Injury Awareness Month."

At the request of Mr. NUNN, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of Senate Joint Resolution 352, supra.

SENATE RESOLUTION 457—CONDEMNING THE SOVIET GOVERNMENT FOR THEIR MILITARY OCCUPATION OF AFGHANISTAN

Mr. D'AMATO (for himself, Mr. BOSCHWITZ, Mr. CHILES, Mr. COCHRAN, Mr. DOLE, Mr. HOLLINGS, Mr. INOUYE, Mr. LUGAR, Mr. PRESSLER, Mr. QUAYLE, and Mr. MATTINGLY) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 457

Whereas it has been five years since the Soviet Union invaded the nation of Afghanistan to establish a puppet government in Kabul,

Whereas the Soviet Government has implemented a draconian policy of terror on the Afghan peoples,

Whereas there is strong evidence that deadly chemical and toxic weapons have been used against Afghanistan,

Whereas severe food shortages are being induced by the Soviet Union, similar to methods used by the Soviet Government in the Ukrainian Famine of 1932-1933,

Whereas most hospitals and medical care facilities have been destroyed by the Soviet armies,

Whereas over 3 million freedom-seeking Afghans have fled to Pakistan,

Whereas the Soviet Union has repeatedly crossed the border of Pakistan to attack these refugee camps,

Whereas over 500,000 Afghans have been brutally killed as a result of this invasion, and

Whereas the Mujahidin, the Freedom Fighters, which enjoy wide support from the Afghans, have frustrated and valiantly fought the Soviet armies: Now, therefore, be it

Resolved, That the Senate of the United States of America (1) condemns the Government of the Union of Soviet Socialist Republics for five years of military terrorism and the attempted destruction of Afghanistan; and (2) strongly recommends that the President provide needed medical, military, and food assistance to the Afghan Freedom Fighters.

● Mr. D'AMATO. Mr. President, in December 1979, the U.S.S.R. invaded Afghanistan. Five years ago this December, the Soviet Union descended upon Kabul with the intention of quickly subjugating this small, but strategically located, nation. Instead, massive popular resistance and a viable force of freedom fighters has made the mighty Soviet military endure a state of war longer than their involvement in World War II.

Over 500,000 citizens of Afghanistan have perished as a result of the war. Over 3 million people have fled into neighboring Pakistan as refugees. This is one-fourth of the prewar population of Afghanistan. The Soviet military regularly bombs the 300 refugee camps in Pakistan. Seemingly on an annual basis, Soviet forces begin a new and more ruthless aerial bombing campaign against defenseless Afghan villages. It is an established fact that chemical weapons have been extensively used in at least 15 provinces of Afghanistan, directly causing up to 3,000 deaths. The Soviet military relies on a scorched earth policy to destroy crops that could feed the freedom fighters. This policy is causing a famine in this mostly agricultural nation that I fear will rival the Soviet induced Ukrainian famine in the early 1930's that killed millions. Finally, the Soviet military is destroying medical facilities, causing a serious health problem. These policies will lead to a death toll in the millions if not stopped soon.

The 5-year-old war is destroying the infrastructure of Afghanistan. Half of the nation's schools and three-quarters of its communication lines have been destroyed. Afghanistan is heading toward complete ruin.

The Afghan invasion is further evidence that the Soviet Union has a detailed plan for global expansion. Their plans have been indefinitely delayed, however, through the courageous resistance of the Afghans. Regardless of Soviet brutality, the Afghan freedom fighters, the Mujahidin, have prevented Soviet control of most of the nation. In fact, the Soviet Union can undisputedly claim only 10 percent of Afghanistan. For this 10 percent, however, the U.S.S.R. pays dearly. As many as 115,000 troops are stationed in Afghanistan, costing over $6 billion a year. Some estimates report that there have been over 20,000 Soviet casualties.

Regardless of the discouraging statistics, the Soviets persist in this effort because of the incentives to stay. The major advantages include: Soviet military presence in Afghanistan is destabilizing for the region; the Soviet Army has a testing ground for its troops and its weapons; and, most importantly, it is ever closer to its most desired goal, a warm water port.

The Afghan-Soviet war is not the front page news it once was, although it should be. Atrocities by the Soviet Union are unparalleled since the Second World War. It is important that, as a leader of the free world, the United States never cease its outrage over Soviet contempt for international laws, national sovereignty, and human rights. I urge my colleagues to cosponsor this resolution to show our strong support for the freedom fighters and our disdain for 5 years of barbarity in Afghanistan.●

AMENDMENTS SUBMITTED

CONTINUING APPROPRIATIONS, 1985

HATCH AMENDMENT NOS. 5729 THROUGH 5999

(Ordered to lie on the table.)

Mr. HATCH submitted 271 amendments intended to be proposed by him to the joint resolution (H.J. Res. 648) making continuing appropriations for the fiscal year 1985, and for other purposes; as follows:

AMENDMENT No. 5729

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude Federal tax exemptions.".

AMENDMENT No. 5730

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude a church or religious organization that administers Federal food programs.".

AMENDMENT No. 5731

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the extension of Federal financial assistance to a public entity shall not be deemed to constitute Federal financial assistance to a private entity providing goods or services to that entity.".

AMENDMENT No. 5732

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the extension of Federal financial assistance to a political subdivison of a State shall not be deemed to constitute Federal financial assistance to any other political subdivision of such State.".

AMENDMENT No. 5733

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the receipt of Federal funds by a political party organization under the Federal Election Campaign Act.".

AMENDMENT No. 5734

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act 'Federal financial assistance' to a particular subunit, department, or instrumentality of a political

subdivision shall not constitute 'Federal financial assistance' to another subunit, department, or instrumentality of such political subdivision.".

AMENDMENT No. 5735

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act 'Federal financial assistance' shall be construed to exclude food stamp reimbursements to grocery stores.".

AMENDMENT No. 5736

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to not include any entity not covered prior to the Supreme Court's decision in *Grove City* v. *Secretary of Education, Bell.*".

AMENDMENT No. 5737

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act, nothing in this Act shall be construed to extend authority to the Federal government to inquire into matters of discretion relating either to student grading, or the granting of academic tenure to individuals, at institutions of higher education .".

AMENDMENT No. 5738

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act 'Federal financial assistance' shall be construed to exclude reimbursement or payment for goods supplied or services rendered.".

AMENDMENT No. 5739

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude Federal tax exemptions for religious, charitable, and educational institutions.".

AMENDMENT No. 5740

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act, nothing in this Act or the amendments made by this Act shall be construed as changing the status of historically black colleges and universities.".

AMENDMENT No. 5741

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to not include technical assistance provided to a community from another community receiving Federal financial assistance.".

AMENDMENT No. 5742

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the use of facilities owned by a State or local government receiving Federal financial assistance shall not constitute Federal financial assistance to the entity making use of such facilities.".

AMENDMENT No. 5743

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act, nothing in this Act shall be construed as changing the status of historically black colleges and universities or historically single-sex colleges and universities.".

AMENDMENT No. 5744

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to not include Federal vocational or job training funds to businesses.".

AMENDMENT No. 5745

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude the ultimate beneficiary of any Federal financial assistance.".

AMENDMENT No. 5746

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act nothing herein shall be construed to affect the Revenue Sharing Act.".

AMENDMENT No. 5747

At the end of the language proposed to be stricken, add the term following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude loans made by the Rural Electrification Administration to rural electric and telephone cooperatives.".

AMENDMENT No. 5748

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act nothing herein shall be construed to extend authority to the Federal government to inquire into matters of discretion relating to student grading at institutions of higher education.".

AMENDMENT No. 5749

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act nothing herein shall be construed to affect the admissions policy of any institution of higher education.".

AMENDMENT No. 5750

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude contracts for the purposes of providing Federal assistance to handicapped persons.".

AMENDMENT No. 5751

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the receipt of a Federal license for operation to an entity.".

AMENDMENT No. 5752

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude direct and insured loans made by the Farmers Home Administration.".

AMENDMENT No. 5753

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude housing and mobile home loans made by the Veterans' Administration.".

AMENDMENT No. 5754

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal programs providing contracts of insurance or guaranty.".

AMENDMENT No. 5755

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the extension of Federal vocational or job training funds to businesses.".

AMENDMENT No. 5756

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal tax credits for businesses engaged in vocational training programs.".

AMENDMENT No. 5757

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude non-profit organizations devoted generally to the achievement of civil rights.".

AMENDMENT No. 5758

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act an entity does not 'receive support', as that term is used in this Act solely because its resources are made available for other purposes as a result of its subunit's receipt of Federal financial assistance.".

AMENDMENT No. 5759

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'subunit' shall refer to that part of a State or political subdivision thereof, or any private agency, institution, organization, or other entity which has a direct reporting and fiscal relationship to its parent entity. Political subdivisions that are separately incorporated, including towns, cities, or counties are not subunits of a State. State agencies and departments are subunits of a State; county agencies and departments are subunits of counties; and municipal agencies and departments are subunits of municipalities.".

AMENDMENT No. 5760

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act nothing here shall be construed to extend authority to the Federal government to inquire into matters of discretion relating to the granting of academic tenure to individuals at institutions of higher education.".

AMENDMENT No. 5761

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act Federal financial assistance extended to a State government shall not constitute Federal financial assistance to its political subdivisions.".

AMENDMENT No. 5762

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act an entity shall not be deemed to receive support from the extension of Federal financial assistance to a subunit unless it receives financial assistance from such subunit.".

AMENDMENT No. 5763

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act Federal financial assistance to a particular subunit, department, or instrumentality of a State government shall not constitute Federal financial assistance to another subunit, department, or instrumentality of such State government.".

AMENDMENT No. 5764

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act no State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof (including any subunit thereof) shall be deemed to receive Federal financial assistance unless it receives such assistance in fact.".

AMENDMENT No. 5765

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the reimbursement of Federal rent vouchers to landlords.".

AMENDMENT No. 5766

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Medicare or Medicaid reimbursements to pharmacies.".

AMENDMENT No. 5767

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Medicare or Medicaid reimbursements to providers of goods or services relating to health care.".

AMENDMENT No. 5768

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act Federal financial assistance to the political subdivision of a State shall not constitute Federal financial assistance to the State government itself.".

AMENDMENT No. 5769

At the end of the language poposed to be stricken add the following language: "Notwithstanding any other provisions of this Act, no institution of higher education shall be deemed a 'recipient' where the only Federal financial assistance extended consists of grants received directly by students in attendance at such institutions under 20 U.S.C. 107a (Basic Educational Opportunity Grant Program, ADS); or 38 U.S.C. 1681 (Veteran's Educational Assistance Program). This exclusion shall not apply to proprietary institutions of higher education, vocational schools, any school not entitled to tax exempt status under 26 U.S.C. 501(c)(3), or to any school which, during the five years preceding as a result of a final judgement of any court of the United States, has been found in violation of any provision of the United States Constitution or law of the United States relating to civil rights.".

AMENDMENT No. 5770

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the utilization of Federal facilities or the utilization of State or local governments which receive Federal financial assistance by non-profit organizations.".

AMENDMENT No. 5771

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude special exemptions received by newspapers under Federal antitrust laws.".

AMENDMENT No. 5772

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude any funds disbursed to private businesses or corporations under the veterans employment programs authorized under Title 38, United States Code.".

AMENDMENT No. 5773

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the grant of a Federal charter to an organizations.".

AMENDMENT No. 5774

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal tax exemptions under 26 U.S.C. 501(c)(3) and 501(c)(8), and eligibility to receive tax deductible contributions under 26 U.S.C. 170(c).".

AMENDMENT No. 5775

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude any benefits which accrue to an entity as a result of transacting business with individuals or other entities receiving Federal welfare or other social services benefits.".

AMENDMENT No. 5776

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude any fiscally autonomous entity which does not receive direct Federal financial assistance.".

AMENDMENT No. 5777

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal crop loans or subsidies.".

AMENDMENT No. 5778

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude loans from the Small Business Administration.".

AMENDMENT No. 5779

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the applicability of Federal rules and regulations to a business.".

AMENDMENT No. 5780

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the administration of medicare or medicaid programs by an entity engaged in the business of insurance.".

AMENDMENT No. 5781

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the provision of Federal air traffic controllers to an airport or an airline.".

AMENDMENT No. 5782

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude national or State political parties.".

AMENDMENT No. 5783

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the participation by a farmer in a federally administered program of marketing orders.".

AMENDMENT No. 5784

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the provisions of Federal school lunch program funds to a community.".

AMENDMENT No. 5785

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude contracts relating to agriculture research.".

AMENDMENT No. 5786

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be

construed to exclude loans made by the Rural Electrification Administration to rural electric and telephone cooperatives.".

AMENDMENT No. 5787

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal contracts in which private businesses provide goods or services in return for fair consideration.".

AMENDMENT No. 5788

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal tax credits for business engaged in vocational training programs.".

AMENDMENT No. 5789

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to mean:

"(A)(i) any State or political subdivision thereof;

(ii) any person or private agency, institution, organization, or other entity;

(iii) any subunit of any such State or political subdivision thereof, or any such private agency, institution, organization, or other entity, receiving Federal financial assistance (directly or through another entity or a person), or which receives support from the extension of Federal financial assistance to any of its subunits; or

(B)(i) the successor or assignee of any recipient as defined in (C)(2)(A); or

(ii) the transferee of Federal financial assistance from any recipient as defined in (C)(2)(A).".

AMENDMENT No. 5790

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act, Federal financial assistance received by a State or a political subdivision thereof shall, if it is extended to such State or political subdivision under terms which permit the State or political subdivision to allocate assistance to its subunits, shall be presumed to be extended to all its subunits unless, as to any one of them it can be shown, by clear and convincing evidence, that no Federal financial assistance was in fact received.".

AMENDMENT No. 5791

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act, Federal financial assistance received by a private agency, institution, organization, or other entity shall be presumed to be extended to all of its administratively separate units and subsidiary entities unless, as to any one of them it can be shown, by clear and convincing evidence, that any such unit or entity was not directly involved in providing the service or benefit supported by the Federal financial assistance .".

AMENDMENT No. 5792

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to include the Congress and the Federal judiciary.".

AMENDMENT No. 5793

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude any individual who receives Federal welfare or other social services benefits.".

AMENDMENT No. 5794

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude a church, convention, or association of churches, religious order, or other religious organization, or any subunit of the foregoing, whether or not separately organized or incorporated, which does not actually receive Federal financial assistance.".

AMENDMENT No. 5795

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act no charitable organization shall be deemed to receive Federal financial assistance because of any pattern and practice of participation in such organization by volunteers provided by an institution of higher education receiving Federal financial assistance.".

AMENDMENT No. 5796

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the provision of Federal safety or health inspectors for an industry, or to any individual business within the industry.".

AMENDMENT No. 5797

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal welfare or other social services benefits.".

AMENDMENT No. 5798

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act nothing herein shall be construed to require an educational institution to treat abortion in a manner indistinguishable from other medical procedures for purposes of student or employee health or leave policies.".

AMENDMENT No. 5799

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the receipt of subsidized water from water projects sponsored by the Bureau of Reclamation.".

AMENDMENT No. 5800

At the end of the language proposed to be stricken, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the use by a business of water purified in municipal wastewater treatment facilities constructed with Federal funds.".

AMENDMENT No. 5801

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to abridge the freedom of the press.".

AMENDMENT No. 5802

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to abridge the right of the people to peaceably assemble.".

AMENDMENT No. 5803

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to abridge the right to petition the Government for a redress of grievances.".

AMENDMENT No. 5804

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to abridge the right of the people to be secure in their persons.".

AMENDMENT No. 5805

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to abridge the right of the people to be secure in their houses.".

AMENDMENT No. 5806

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to abridge the right of the people to be secure in their papers and effects.".

AMENDMENT No. 5807

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to abridge the right of the people to be secure against unreasonable searches and seizures.".

AMENDMENT No. 5808

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to deprive any person of life, liberty, or property, without due process of law.".

AMENDMENT No. 5809

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to permit the taking of private property for public use without just compensation.".

AMENDMENT No. 5810

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to subject any person to criminal prosecution.".

AMENDMENT No. 5811

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to deny or disparage rights retained by the people under the IX Amendment to Constitution of the United States.".

AMENDMENT No. 5812

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to abridge the privileges or immunities of citizens of the United States.".

AMENDMENT No. 5813

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to deny any person the equal protection of the laws.".

AMENDMENT No. 5814

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to prohibit the free exercise of religion.".

AMENDMENT No. 5815

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to abridge the right of citizens to vote.".

AMENDMENT No. 5816

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to permit discrimination aganst any person because of race."

AMENDMENT No. 5817

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to permit discrimination against any person because of sex.".

AMENDMENT No. 5818

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to permit discrimination against any person because of creed.".

AMENDMENT No. 5819

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to permit the quartering of a soldier in any house in time of peace.".

AMENDMENT No. 5820

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to extend the Judicial power of the United States.".

AMENDMENT No. 5821

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to abridge the freedom of speech.".

AMENDMENT No. 5822

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to abridge the right of the people to keep and bear arms.".

AMENDMENT No. 5823

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to the States east of the Mississippi River.".

AMENDMENT No. 5824

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to the States west of the Mississippi River.".

AMENDMENT No. 5825

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to the Northern States of the United States.".

AMENDMENT No. 5826

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to the Southern States of the United States.".

AMENDMENT No. 5827

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to the Eastern States of the United States.".

AMENDMENT No. 5828

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to the Western States of the United States.".

AMENDMENT No. 5829

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to the Territories of the United States.".

AMENDMENT No. 5830

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to any federal enclaves within any States.".

AMENDMENT No. 5831

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to the Northeastern States of the United States.".

AMENDMENT No. 5832

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to the Southeastern States of the United States.".

AMENDMENT No. 5833

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to the States adjoining the Pacific Ocean.".

AMENDMENT No. 5834

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to the States adjoining the Atlantic Ocean.".

AMENDMENT No. 5835

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to the States whose borders are contiguous to Canada.".

AMENDMENT No. 5836

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to the States whose borders are contiguous to Mexico.".

AMENDMENT No. 5837

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to the Virgin Islands.".

AMENDMENT No. 5838

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to Puerto Rico.".

AMENDMENT No. 5839

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to Southwestern States of the United States.".

AMENDMENT No. 5840

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to Northwestern States of the United States.".

AMENDMENT No. 5841

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to the Middle Atlantic States of the United States.".

AMENDMENT No. 5842

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to the States within whose borders flows the Missouri River.".

AMENDMENT No. 5843

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to the States within whose borders flows the Potomac River.".

AMENDMENT No. 5844

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to States adjoining the Gulf of Mexico.".

AMENDMENT No. 5845

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to the States adjoining the Chesapeake Bay.".

AMENDMENT No. 5846

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to Guam.".

AMENDMENT No. 5847

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to American Samoa.".

AMENDMENT No. 5848

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to States adjoining the Snake River.".

AMENDMENT No. 5849

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to vessels on the navigable waters of the United States.".

AMENDMENT No. 5850

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to Nantucket Island.".

AMENDMENT No. 5851

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to Martha's vineyard Island.".

AMENDMENT No. 5852

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to Barnstable County of the State of Massachusetts.".

AMENDMENT No. 5853

At the end of the language proposed to be stricken, add the following: "Nothing herein

shall be construed to apply this title to States adjoining the Ohio River.".

AMENDMENT No. 5854

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to States contiguous to Lake Superior.".

AMENDMENT No. 5855

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to States contiguous to Lake Michigan.".

AMENDMENT No. 5856

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to States contiguous to Lake Huron.".

AMENDMENT No. 5857

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed apply this title to States contiguous to Lake Erie.".

AMENDMENT No. 5858

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed apply this title to States contiguous to Lake Ontario.".

AMENDMENT No. 5859

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to States contiguous to the Hudson River.".

AMENDMENT No. 5860

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to the outer Continental Shelf.".

AMENDMENT No. 5861

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to the Eighth Congressional District of the State of Massachusetts.".

AMENDMENT No. 5862

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply this title to the First Congressional District of the State of Colorado.".

AMENDMENT No. 5863

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Wisconsin.".

AMENDMENT No. 5864

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Wyoming.".

AMENDMENT No. 5865

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of West Virginia.".

AMENDMENT No. 5866

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Washington.".

AMENDMENT No. 5867

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Virginia.".

AMENDMENT No. 5868

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Vermont.".

AMENDMENT No. 5869

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Utah.".

AMENDMENT No. 5870

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Texas.".

AMENDMENT No. 5871

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Tennessee.".

AMENDMENT No. 5872

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of South Dakota.".

AMENDMENT No. 5873

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of South Carolina.".

AMENDMENT No. 5874

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Rhode Island.".

AMENDMENT No. 5875

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Pennsylvania.".

AMENDMENT No. 5876

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Oregon.".

AMENDMENT No. 5877

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Oklahoma.".

AMENDMENT No. 5878

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Ohio.".

AMENDMENT No. 5879

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of North Carolina.".

AMENDMENT No. 5880

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of North Dakota.".

AMENDMENT No. 5881

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of New York.".

AMENDMENT No. 5882

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Nevada.".

AMENDMENT No. 5883

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of New Mexico.".

AMENDMENT No. 5884

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of New Jersey.".

AMENDMENT No. 5885

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of New Hampshire.".

AMENDMENT No. 5886

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Nebraska.".

AMENDMENT No. 5887

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Montana.".

AMENDMENT No. 5888

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Mississippi.".

AMENDMENT No. 5889

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Missouri.".

AMENDMENT No. 5890

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Minnesota.".

AMENDMENT No. 5891

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Michigan.".

AMENDMENT No. 5892

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Massachusetts.".

AMENDMENT No. 5893

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Maryland.".

AMENDMENT No. 5894

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Maine.".

AMENDMENT No. 5895

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Louisiana.".

AMENDMENT No. 5896

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Kentucky.".

AMENDMENT No. 5897

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Kansas.".

AMENDMENT No. 5898

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Iowa.".

AMENDMENT No. 5899

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Illinois.".

AMENDMENT No. 5900

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Indiana.".

AMENDMENT No. 5901

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Idaho.".

AMENDMENT No. 5902

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Hawaii.".

AMENDMENT No. 5903

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Georgia.".

AMENDMENT No. 5904

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Florida.".

AMENDMENT No. 5905

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Delaware.".

AMENDMENT No. 5906

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Connecticut.".

AMENDMENT No. 5907

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Colorado.".

AMENDMENT No. 5908

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of California.".

AMENDMENT No. 5909

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Arkansas.".

AMENDMENT No. 5910

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Arizona.".

AMENDMENT No. 5911

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Alaska.".

AMENDMENT No. 5912

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Alabama.".

AMENDMENT No. 5913

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until October 1, 1985.".

AMENDMENT No. 5914

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until October 2, 1985.".

AMENDMENT No. 5915

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until October 3, 1985.".

AMENDMENT No. 5916

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until October 4, 1985.".

AMENDMENT No. 5917

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until October 5, 1985.".

AMENDMENT No. 5918

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until October 6, 1985.".

AMENDMENT No. 5919

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until October 7, 1985.".

AMENDMENT No. 5920

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until October 8, 1985.".

AMENDMENT No. 5921

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until October 9, 1985.".

AMENDMENT No. 5922

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until October 10, 1985.".

AMENDMENT No. 5923

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until November 12, 1985.".

AMENDMENT No. 5924

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until November 13, 1985.".

AMENDMENT No. 5925

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until November 14, 1985.".

AMENDMENT No. 5926

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until November 15, 1985.".

AMENDMENT No. 5927

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until November 16, 1985.".

AMENDMENT No. 5928

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until November 17, 1985.".

AMENDMENT No. 5929

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until November 18, 1985.".

AMENDMENT No. 5930

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until November 19, 1985.".

AMENDMENT No. 5931

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until November 20, 1985.".

AMENDMENT No. 5932

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until November 22, 1985.".

AMENDMENT No. 5933

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until December 1, 1985.".

AMENDMENT No. 5934

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until December 2, 1985.".

AMENDMENT No. 5935

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until December 3, 1985.".

AMENDMENT No. 5936

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until December 4, 1985.".

AMENDMENT No. 5937

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until December 5, 1985.".

AMENDMENT No. 5938

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until December 6, 1985.".

AMENDMENT No. 5939

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until December 7, 1985.".

AMENDMENT No. 5940

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until December 8, 1985.".

AMENDMENT No. 5941

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until December 9, 1985.".

AMENDMENT No. 5942

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until December 10, 1985.".

AMENDMENT No. 5943

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until December 11, 1985.".

AMENDMENT No. 5944

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until December 12, 1985.".

AMENDMENT No. 5945

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until December 13, 1985.".

AMENDMENT No. 5946

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until December 14, 1985.".

AMENDMENT No. 5947

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until December 15, 1985.".

AMENDMENT No. 5948

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until December 16, 1985.".

AMENDMENT No. 5949

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until January 1, 1986.".

AMENDMENT No. 5950

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until January 2, 1986.".

AMENDMENT No. 5951

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until January 3, 1986.".

AMENDMENT No. 5952

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until January 4, 1986.".

AMENDMENT No. 5953

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to take effect until January 5, 1986.".

AMENDMENT No. 5954

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of veterinarians.".

AMENDMENT No. 5955

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of barbers.".

AMENDMENT No. 5956

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of chiropractors.".

AMENDMENT No. 5957

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of social workers.".

AMENDMENT No. 5958

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of air traffic controllers.".

AMENDMENT No. 5959

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of those employed by the mining industry.".

AMENDMENT No. 5960

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of custodians.".

AMENDMENT No. 5961

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of those employed by institutions of higher learning.".

AMENDMENT No. 5962

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of shipyard workers.".

AMENDMENT No. 5963

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of journalists.".

AMENDMENT No. 5964

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of travel agents.".

AMENDMENT No. 5965

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of those employed by the insurance industry.".

AMENDMENT No. 5966

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of pharmacists.".

AMENDMENT No. 5967

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of retailers.".

AMENDMENT No. 5968

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of grocers.".

AMENDMENT No. 5969

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of railroad employees.".

AMENDMENT No. 5970

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of bakers.".

AMENDMENT No. 5971

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of lawyers.".

AMENDMENT No. 5972

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of truck drivers.".

AMENDMENT No. 5973

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of realtors.".

AMENDMENT No. 5974

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of building contractors.".

AMENDMENT No. 5975

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of those employed by the automobile industry.".

AMENDMENT No. 5976

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of government employees.".

AMENDMENT No. 5977

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of firefighters.".

AMENDMENT No. 5978

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of police officers.".

AMENDMENT No. 5979

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of teachers.".

AMENDMENT No. 5980

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of those serving in the armed forces.".

AMENDMENT No. 5981

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of medical doctors.".

AMENDMENT No. 5982

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of medical and dental technicians.".

AMENDMENT No. 5983

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of nurses.".

AMENDMENT No. 5984

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of food service workers".

AMENDMENT No. 5985

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of plumbers".

AMENDMENT No. 5986

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of electricians".

AMENDMENT No. 5987

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to affect the rights of carpenters".

AMENDMENT No. 5988

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to affect the rights of clerical workers".

AMENDMENT No. 5989

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to affect the rights of farmers".

AMENDMENT No. 5990

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of ranchers".

AMENDMENT No. 5991

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to limit the rights of beauticians".

AMENDMENT No. 5992

On page 5, strike the following: lines 32 through 34.

AMENDMENT No. 5993

On page 5, strike the following: lines 29 through 31.

AMENDMENT No. 5994

On page 5, line 31, strike the following: "is amended—".

AMENDMENT No. 5995

On page 5, strike lines 1 through 25.

AMENDMENT No. 5996

On page 6, strike lines 1 through 6.

AMENDMENT No. 5997

On page 6, strike lines 28 and 29.

AMENDMENT No. 5998

On page 6, strike line 6.

AMENDMENT No. 5999

On page 6, strike lines 14 and 15.

MATTINGLY (AND EVANS) AMENDMENT NO. 6000

(Ordered to lie on the table.)

Mr. MATTINGLY (for himself and Mr. EVANS) submitted an amendment intended to be proposed by them to the joint resolution (H.J. Res. 648) supra; as follows:

AMENDMENT No. 6000

At the appropriate place in the bill, insert the following new section:

SEPARATE ENROLLMENT OF ITEMS OF CERTAIN BILLS AND JOINT RESOLUTIONS MAKING APPROPRIATIONS

SEC. . (a)(1) Notwithstanding any other provision of law, when any general or special appropriation bill or any bill or joint resolution making supplemental, deficiency, or continuing appropriations passes both Houses of the Congress in the same form, the Secretary of the Senate (in the case of a bill or joint resolution originating in the Senate) or the Clerk of the House of Representatives (in the case of a bill or joint resolution originating in the House of Representatives) shall cause the enrolling clerk of such House to enroll each item of such bill or joint resolution as a separate bill or joint resolution, as the case may be.

(2) A bill or joint resolution that is required to be enrolled pursuant to paragraph (1)—

(A) shall be enrolled without substantive revision,

(B) shall conform in style and form to the applicable provisions of chapter 2 of title 1, United States Code (as such provisions are in effect on the date of the enactment of this section), and

(C) shall bear the designation of the measure of which it was an item prior to such enrollment, together with such other designation as may be necessary to distinguish such bill or joint resolution from other bills or joint resolutions enrolled pursuant to paragraph (1) with respect to the same measure.

(b) A bill or joint resolution enrolled pursuant to paragraph (1) of subsection (a) with respect to an item shall be deemed to be a bill under Clauses 2 and 3 of Section 7 of Article 1 of the Constitution of the United States and shall be signed by the presiding officers of both Houses and presented to the President for approval or disapproval (and otherwise treated for all purposes) in the manner provided for bills and joint resolutions generally.

(c) For purposes of this section, the term "item" means any numbered section and any unnumbered paragraph of—

(1) any general or special appropriation bill, and

(2) any bill or joint resolution making supplemental, deficiency, or continuing appropriations.

(d) The provisions of this section shall apply to bills and joint resolutions agreed to by the Congress during the two-calendar-year period beginning with the date of the enactment of this section.

HATCH AMENDMENT NOS. 6001 THROUGH 6124

(Ordered to lie on the table.)

Mr. HATCH submitted one hundred and twenty-four amendments intended to be proposed by him to the joint resolution H.J. Res. 648, supra; as follows:

AMENDMENT No. 6001

On page 6, strike line 16.

AMENDMENT No. 6002

On page 6, strike lines 26 and 27.

AMENDMENT No. 6003

On page 6, beginning on line 30, strike everything through line 1 on page 7.

AMENDMENT No. 6004

On page 7, strike lines 2 through 5.

AMENDMENT No. 6005

On page 7, strike lines 6 through 12.

AMENDMENT No. 6006

On page 7, line 10, strike the word "solely".

AMENDMENT No. 6007

On page 7, strike lines 13 through 16.

AMENDMENT No. 6008

On page 7, strike line 17.

AMENDMENT No. 6009

On page 7, strike lines 32 through 34.

AMENDMENT No. 6010

On page 7, strike lines 21 through 26.

AMENDMENT No. 6011

On page 7, strike lines 27 through 34.

AMENDMENT No. 6012

On page 8, strike lines 3 through 11.

AMENDMENT No. 6013

On page 8, strike lines 18 through 25.

AMENDMENT No. 6014

On page 8, line 3, strike the words "all or a portion of".

AMENDMENT No. 6015

On page 8, strike lines 28 through 30.

AMENDMENT No. 6016

On page 8, line 9, strike the words ", by clear and convincing evidence,".

AMENDMENT No. 6017

On page 9, strike lines 1 through 3.

AMENDMENT No. 6018

On page 9, strike lines 4 through 9.

AMENDMENT No. 6019

On page 9, strike lines 8 and 9.

AMENDMENT No. 6020

On page 9, line 24, strike the word "solely".

AMENDMENT No. 6021

On page 9, strike lines 20 through 26.

AMENDMENT No. 6022

Beginning on line 29, page 9, strike everything through line 1 on page 10.

AMENDMENT No. 6023

On page 10, line 23, strike the following: "to a private corporation.".

AMENDMENT No. 6024

On page 10, line 18, strike the following: "by clear and convincing evidence.".

AMENDMENT No. 6025

On page 10, line 13, strike the following: "to a political subdivision".

AMENDMENT No. 6026

On page 10, line 13, strike the following: "to a State".

AMENDMENT No. 6027

On page 10, line 12, strike the following: "Federal financial".

AMENDMENT No. 6028

On page 10, line 12, strike the following: "or a portion".

AMENDMENT No. 6029

On page 10, line 12, strike the following: "all or".

AMENDMENT No. 6030

On page 10, line 5, strike the following: "or other such component".

AMENDMENT No. 6031

On page 10, line 5, strike the following: "agency".

AMENDMENT No. 6032

On page 10, line 4, strike the following: "To a political subdivision".

AMENDMENT No. 6033

On page 10, line 5, strike the following: "Department".

AMENDMENT No. 6034

On page 10, line 3, strike the following: "Federal financial".

AMENDMENT No. 6035

On page 10, line 4, strike the following: "to a State".

AMENDMENT No. 6036

On page 1, strike lines 18 and 19.

AMENDMENT No. 6037

On page 1, strike lines 15 through 17.

AMENDMENT No. 6038

On page 2, line 4, strike the following: "entity".

AMENDMENT No. 6039

On page 2, line 12, strike the following: "to a State or".

AMENDMENT No. 6040

On page 2, lines 12 and 13, strike the following: "to a political subdivision".

AMENDMENT No. 6041

On page 2, line 24, strike the following: "or other such component part".

AMENDMENT No. 6042

On page 2, line 26, strike the following: ", by clear and convincing evidence".

AMENDMENT No. 6043

On page 2, line 13, strike the following: "a department,".

AMENDMENT No. 6044

On page 2, line 13, strike the following: "agency,".

AMENDMENT No. 6045

On page 2, line 13 and 14, strike the following: "or other such component part of the State".

AMENDMENT No. 6046

On page 2, line 14, strike the following: "or political subdivision".

AMENDMENT No. 6047

On page 2, strike lines 15 through 17.

AMENDMENT No. 6048

On page 2, line 20, strike the following: "or a portion".

AMENDMENT No. 6049

On page 2, line 21, strike the following: "or to a political subdivision".

AMENDMENT No. 6050

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply to any conduct of any person before May 4, 1984.".

AMENDMENT No. 6051

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply to any conduct of any person before May 9, 1984.".

AMENDMENT No. 6052

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply to any conduct of any person before May 14, 1984.".

AMENDMENT No. 6053

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply to any conduct of any person before May 19, 1984.".

AMENDMENT No. 6054

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply to any conduct of any person before May 24, 1984.".

AMENDMENT No. 6055

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply to any conduct of any person before June 3, 1984.".

AMENDMENT No. 6056

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply to any conduct of any person before June 8, 1984.".

AMENDMENT No. 6057

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply to any conduct of any person before June 13, 1984.".

AMENDMENT No. 6058

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply to any conduct of any person before June 18, 1984.".

AMENDMENT No. 6059

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply to any conduct of any person before June 23, 1984.".

AMENDMENT No. 6060

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply to any conduct of any person before June 28, 1984.".

AMENDMENT No. 6061

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply to any conduct of any person before July 3, 1984.".

AMENDMENT No. 6062

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply to any conduct of any person before July 8, 1984.".

AMENDMENT No. 6063

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to apply to any conduct of any person before July 13, 1984.".

AMENDMENT No. 6064

On page 2, lines 21 and 22, strike the following: "without restriction.".

AMENDMENT No. 6065

On page 2, line 22, strike the following: "shall be presumed".

AMENDMENT No. 6066

On page 2, line 24, strike the following: "department".

AMENDMENT No. 6067

On page 2, line 24, strike the following: "agency".

AMENDMENT No. 6068

On page 2, line 28, strike the following: "department."

AMENDMENT No. 6069

On page 2, line 28, strike the following: ", agency."

AMENDMENT No. 6070

On page 2, line 28, strike the following: ", or other component part.".

AMENDMENT No. 6071

On page 2, lines 29 and 30, strike the following: ", except as provided in subparagraphs (B) and (C).".

AMENDMENT No. 6072

On page 3, strike lines 1-8.

AMENDMENT No. 6073

On page 3, strike lines 9-10.

AMENDMENT No. 6074

On page 3, strike lines 16-17.

AMENDMENT No. 6075

On page 3, line 30, strike the following: "Federal financial".

AMENDMENT No. 6076

On page 3, line 31, strike the following: "By or with respect".

AMENDMENT No. 6077

On page 3, line 32, strike the following: "Such".

AMENDMENT No. 6078

On page 3, line 34, strike the following: "To that part".

AMENDMENT No. 6079

On page 3, line 34, strike the following: "Other".

AMENDMENT No. 6080

On page 4, strike lines 1-2.

AMENDMENT No. 6081

On page 4, strike lines 4-6.

AMENDMENT No. 6082

On page 4, line 17, strike the following: "Further".

AMENDMENT No. 6083

On page 4, line 19, strike the following: "At the end thereof".

AMENDMENT No. 6084

On page 5, line 3, strike the following: "Federal financial".

AMENDMENT No. 6085

On page 5, line 4, strike the following: "Or to a political subdivision".

AMENDMENT No. 6086

On page 5, line 9, strike the following: "By clear and convincing evidence".

AMENDMENT No. 6087

On page 5, line 10, strike the following: "Federal financial".

AMENDMENT No. 6088

On page 5, line 11, strike the following: "Or other component part".

AMENDMENT No. 6089

On page 5, strike lines 12-17.

AMENDMENT No. 6090

On page 5, strike lines 18-25.

AMENDMENT No. 6091

On page 9, strike lines 4-7.

AMENDMENT No. 6092

On page 9, strike lines 8-9.

AMENDMENT No. 6093

On page 9, strike lines 20-26.

AMENDMENT No. 6094

On page 9, strike lines 27-28.

AMENDMENT No. 6095

On page 9, line 22, strike the following: "Federal financial".

AMENDMENT No. 6096

On page 9, line 23, strike the following: "By or with respect".

AMENDMENT No. 6097

On page 9, line 24, strike the following: "Solely".

AMENDMENT No. 6098

On page 3, line 32, strike the following: "Solely".

AMENDMENT No. 6099

On page 5, strike lines 26-27.

AMENDMENT No. 6100

On page 5, line 3, strike the following: "All or".

AMENDMENT No. 6101

On page 5, line 2, strike the following: "Not".

AMENDMENT No. 6102

On page 5, line 1, strike the following: "Not".

AMENDMENT No. 6103

On page 4, line 32, strike the following: "Primary".

AMENDMENT No. 6104

On page 4, line 29, strike the following: "To a State or".

AMENDMENT No. 6105

On page 4, line 28, strike the following: "Federal financial".

AMENDMENT No. 6106

On page 4, strike lines 20-26.

AMENDMENT No. 6107

At an appropriate place in the pending question, add the following: "Notwithstanding any other provision of this Act, no funds appropriated hereunder shall be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.".

AMENDMENT No. 6108

At the end of the stricken language, add the following: That this Act may be cited as the "Respect Human Life Act of 1983".

SEC. . The Congress finds that—

(a) it is the policy of the Government of the United States to protect innocent life, both before and after birth, and that the Government of the United States affirms that all human beings are endowed by their Creator with certain unalienable rights among which is the right to life, as embodied in our Declaration of Independence;

(b) the American Convention on Human Rights of the Organization of American States in 1969 affirmed that every person has the right to have his life protected by law from the moment of conception and that no one shall be arbitrarily deprived of life;

(c) the Declaration of the Rights of the Child of the United Nations in 1959 affirmed that every child needs appropriate legal protection before as well as after birth;

(d) at the Nurenberg International Military Tribunal for the trial of war criminals the promotion of abortion among minority populations, especially the denial of the protection of the law to the unborn children of Russian and Polish women, was considered a crime against humanity;

(e) as early as 1859 the American medical profession affirmed the independent and actual existence of the child before birth as a living being and condemned the practice of abortion at every period of gestation as the destruction of human life;

(f) scientific evidence demonstrates the life of each human being begins at conception;

(g) the Supreme Court of the United States in the case of Roe against Wade erred in not recognizing the humanity of the unborn child and the compelling interest of the several States in protecting the life of each person before birth;

(h) the Supreme Court of the United States in the case of Roe against Wade erred in excluding unborn children from the safeguards afforded by the equal protection and due process provisions of the Constitution of the United States; and

(i) a growing tolerance of infanticide in America has followed the "quality of life" ethic as was established by the United States Supreme Court in the Roe against Wade decision, and as recently evidenced by the starvation death of an innocent handicapped newborn child in Bloomington, Indiana.

SEC. . No agency of the United States shall perform abortions, except when the life of the mother would be endangered if the child were carried to term.

SEC. . No funds appropriated by Congress shall be used to perform abortions, to reimburse or pay for abortions, or to refer for abortions, except when the life of the mother would be endangered if the child were carried to term.

SEC. . No agency of the United States shall promote, encourage, counsel, refer, pay for, including travel expenses, or assist in the performance of abortions abroad as a

matter of our foreign policy, except when the life of the mother would be endangered if the child were carried to term.

SEC. . The United States shall not enter into any contract for insurance that provides for payment or reimbursement for abortions other than when the life of the mother would be endangered if the child were carried to term.

SEC. . No institution that receives Federal financial assistance shall discriminate against any employee, applicant for employment, student, or applicant for admission as a student, on the basis of that person's opposition to abortion or refusal to counsel or assist in the performance of abortions.

SEC. . No institution that receives Federal financial assistance shall withhold from a handicapped infant nutritional sustenance or medical or surgical treatment required to correct a life threatening condition if: (1) the withholding based on the fact that the infant is handcapped; and (2) the handicap does not render treatment medically contraindicated. Any institution or agency in violation of such restrictions shall be denied any further Federal assistance.

SEC. . In light of the provisions of this title, and to expedite Supreme Court consideration of the interest of the States in protecting the lives of all human beings within their jurisdiction, if any State enforces or enacts legislation which prohibits or restricts abortions or infanticide and such legislation is invalidated by interlocutory or final order of any court of the United States, any party to such case shall have a right to direct appeal to the Supreme Court of the United States, under the same provisions as govern appeals pursuant to section 1252 of title 28, United States Code, notwithstanding the absence of the United States as a party to such case. Notwithstanding any other provision of Federal law, attorneys' fees shall not be allowable in any civil action involving, directly or indirectly, the provisions of this title.

SEC. . If any provision of this title or the application thereof to any person or circumstances is judicially determined to be invalid, the validity of the remainder of this title and the application of such provision to other persons and circumstances shall not be affected by such determination.

AMENDMENT NO. 6109

At the end of the stricken language, add the following:

SECTION . SHORT TITLE.

This Amendment may be cited as the "Educational Opportunity and Equity Act of 1983".

SEC. . CONGRESSIONAL FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that it is the policy of the United States to foster educational opportunity, diversity, and choice for all Americans. Therefore, this Act recognizes that—

(1) pluralism is one of the great strengths of American society, diversity in education is an important contributor to that pluralism, and nonpublic schools play an indispensable role in making that diversity possible;

(2) the existence and availability of alternatives to public education tend to strengthen public education through competition and to improve the educational opportunities of all Americans;

(3) Americans should have equal opportunities to choose between the education offered by public schools and available in private educational systems and should not be compelled because of economic circumstances to accept education provided by government-created and government-operated school systems, and to force such a selection is an unfair and unjust discrimination against persons of lesser means;

(4) increasing numbers of American families are unable to afford nonpublic school tuition in addition to the State and local taxes that go to support public schools, and tax relief for nonpublic school tuition expenses is necessary if American families are to continue to have a meaningful choice between public and private education at the elementary and secondary levels;

(5) tax relief in the form of tuition tax credits is the fairest way to extend a choice in education to a wide range of individuals, tax relief in the form of tuition tax credits creates the least possible danger of interference in the lives of individuals and families consistent with achieving these ends, and tax relief in the form of tuition tax credits achieves these ends with a minimum of complexity so that those for whom the tax relief is intended will be able to understand and take advantage of it;

(6) the tax revenue loss occasioned by a tuition tax credit for a child would be small compared to the cost to State and local taxpayers of educating the child at a public school; and

(7) equality of educational opportunity is the policy of the United States, and the tax relief afforded by this legislation may not be used to promote racial discrimination.

The Congress finds that this Act will expand opportunities for personal liberty, diversity, and pluralism that constitute important strengths of education in America.

(b) PURPOSE.—The primary purpose of this Act is to enhance equality of educational opportunity, diversity, and choice for Americans.

SEC. . CREDIT FOR TUITION EXPENSES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44H the following new section:

"SEC. 44I. CREDIT FOR TUITION EXPENSES.

"(a) GENERAL RULE.—At the election of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the qualified tuition expenses paid by such individual during the taxable year for any qualified dependent.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT PER QUALIFIED DEPENDENT.—

"(A) IN GENERAL.—The amount of the credit allowable to the taxpayer under subsection (a) with respect to any qualified dependent for any taxable year shall not exceed the applicable amount.

"(B) APPLICABLE AMOUNT.—For purposes of this paragraph, the term 'applicable amount' means the excess, if any, of—

"(i) $300, over

"(ii) 3 percent (6 percent in the case of a married individual who does not file a joint return) of the amount, if any, by which the adjusted gross income of the taxpayer for the taxable year exceeds $40,000 ($20,000 in the case of such married individual).

"(C) TRANSITIONAL RULE.—For taxable years beginning after December 31, 1982, and before January 1, 1985, subparagraph (B) shall be applied—

"(i) in taxable years beginning in 1983, by substituting—

"(I) '$100' for '$300',

"(II) '1 percent' for '3 percent', and

"(III) '2 percent' for '6 percent', and

"(ii) in taxable years beginning in 1984, by substituting—

"(I) '$200' for '$300',

"(II) '2 percent' for '3 percent', and

"(III) '4 percent' for '6 percent'.

"(2) CREDIT NOT TO EXCEED TAX LIABILITY.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than credits allowable by sections 31, 39, and 43.

"(c) CREDIT DENIED FOR AMOUNTS PAID TO RACIALLY DISCRIMINATORY INSTITUTIONS.—

"(1) DECLARATORY JUDGMENT ENTERED.—

"(A) IN GENERAL.—No credit shall be allowed under this section for any amount paid to an educational institution during any taxable year if—

"(i) within the calendar year ending with or within such taxable year or in any preceding calendar year—

"(I) a judgment has been entered by a district court of the United States under section 7409 (regardless of whether such judgment is appealed) declaring that such educational institution follows a racially discriminatory policy, or

"(II) an order by any United States Court of Appeals has been made which, by its terms, requires the district court to enter such a judgment, and

"(ii) no order described in section 7409(f)(2) with respect to such educational institution has been entered which is in effect for the calendar year ending with or within such taxable year.

"(B) REVERSALS OF DECLARATORY JUDGMENTS OR ORDERS.—

"(i) IN GENERAL.—A judgment or order described in subparagraph (A)(i) entered in an action brought with respect to an educational institution shall not be taken into account under subparagraph (A) for any taxable year if, after all appeals in such action have been concluded or the time for filing such appeals has expired, the declaration contained in such judgment, or required to be entered under the terms of such order, that such institution has followed a racially discriminatory policy is negated (other than by reason of an order described in section 7409(f)(2)).

"(ii) WAIVER OF LIMITATIONS.—Notwithstanding section 6511(a) or any other period of limitation or lapse of time, a claim for credit or refund of overpayment of the tax imposed by this chapter which arises by reason of this subparagraph may be filed by any person at any time within the 1-year period beginning on the earlier of—

"(I) the date on which all appeals with respect to the judgment or order described in subparagraph (A)(i) have been concluded, or

"(II) the date on which the time for such appeals has expired.

Sections 6511(b) and 6514 shall not apply to any claim for credit or refund filed under this subparagraph within such 1-year period.

"(C) STAY OF DECLARATORY JUDGMENT.—

"(i) IN GENERAL.—Any judgment or order described in subparagraph (A)(i) shall not be taken into account under subparagraph (A) for any taxable year if such judgment or order is stayed as of the close of such taxable year.

"(ii) REMOVAL OF STAY.—If a stay entered against a judgment or order described in subparagraph (A)(i) is vacated—

"(I) this subparagraph shall not apply with respect to such judgment or order for

any taxable year preceding the taxable year in which such stay is vacated, and

"(II) notwithstanding any other provision of this title or of any other law, the statutory period for the assessment of a deficiency attributable to the disallowance of any credit under this section by reason of this clause shall not expire before the date which is 3 years after the close of the calendar year in which such stay is removed.

"(D) WAIVER OF LIMITATIONS IF INSTITUTION CEASES TO DISCRIMINATE.—Notwithstanding section 6511(a) or any other period of limitation or lapse of time, a claim for credit or refund of overpayment of the tax imposed by this chapter which arises by reason of a reversal of any order denying a motion under section 7409(f)(1)(A) may be filed by any person at any time within the 1-year period beginning on the date on which such reversal is made. Sections 6511(B) and 6514 shall not apply to any claim for credit or refund filed under this subparagraph within such 1-year period.

"(2) REQUIRED STATEMENTS.—

"(A) STATEMENTS FURNISHED BY INSTITUTIONS TO THE SECRETARY.—No credit shall be allowed under subsection (a) for amounts paid to any educational institution during the taxable year if such educational institution has not filed with the Secretary (in such manner and form as the Secretary shall by regulation prescribe) within 30 days after the close of the calendar year ending with or within such taxable year a verified statement which—

"(i) declares that such institution has not followed a racially discriminatory policy during such calendar year;

"(ii) indicates whether—

"(I) a declaratory judgment or order described in paragraph (1)(A)(i) has been entered against such institution in an action brought under section 7409;

"(II) a stay against such judgment or order is in effect; and

"(III) an order described in section 7409(f)(2) is in effect; and

"(iii) attests that such institution has complied with the requirements of subsection (d)(3)(D) during such calendar year.

"(B) STATEMENTS FURNISHED TO TAXPAYERS.—Except as otherwise provided by regulations, within 30 days after the close of the calendar year to which the statement described in subparagraph (A) relates, the educational institution shall furnish a copy of such statement to all persons who paid tuition expenses to the institution in the calendar year to which such statement relates.

"(C) STATEMENTS FURNISHED BY TAXPAYERS TO THE SECRETARY.—No credit shall be allowed to a taxpayer under subsection (a) for amounts paid to an educational institution during the taxable year if the taxpayer does not attach to the return on which the taxpayer claims the credit the statement described in subparagraph (A) which is furnished by such institution for the calendar year ending with or within such taxable year of the taxpayer.

"(3) ENFORCEMENT RESPONSIBILITY.—The Attorney General shall have exclusive authority under this subsection to investigate and to determine whether an educational institution is following a racially discriminatory policy.

"(4) RACIALLY DISCRIMINATORY POLICY.—For purposes of this subsection—

"(A) IN GENERAL.—An educational institution follows a racially discriminatory policy if such institution refuses, on the basis of race, to—

"(i) admit applicants as students;

"(ii) admit students to the rights, privileges, programs, and activities generally made available to students by the educational institution; or

"(iii) allow students to participate in its scholarship, loan, athletic, or other programs.

"(B) QUOTAS, ETC.—The term 'racially discriminatory policy' shall not include failure of any educational institution to pursue or achieve any racial quota, proportion, or representation in the student body.

"(C) RACE.—The term 'race' shall include color or national origin.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED TUITION EXPENSES.—The term 'qualified tuition expenses' means the excess of—

"(A) the amount of tuition expenses paid by the taxpayer during the taxable year to any eligible educational institution for any qualified dependent of such taxpayer, over

"(B) any scholarship or financial assistance paid during such taxable year to such qualified dependent or to the taxpayer with respect to such qualified dependent.

"(2) QUALIFIED DEPENDENT.—The term 'qualified dependent' means any individual—

"(A) who is a dependent of the taxpayer (other than an individual described in paragraph (4), (5), (7), or (8) of section 152(a)),

"(B) who has not attained 20 years of age at the close of the taxable year, and

"(C) with respect to whom a deduction under section 151 is allowable to the taxpayer for the taxable year.

"(3) ELIGIBLE EDUCATION INSTITUTION.—The term 'eligible educational institution' means an eductional institution—

"(A) which provides a full-time program of elementary or secondary education;

"(B) which is a privately operated, not-for-profit, day or residential school;

"(C) which is exempt from taxation under section 501(a) as an organization described in section 501(c)(3), including church-operated schools to which subsections (a) and (b) of section 508 do not apply; and

"(D) which includes in any published bylaws, advertisements, admission application forms, and other such published materials, a statement (in such form and manner as the Secretary may by regulations prescribe) that it does not discriminate against student applicants or students on the basis of race.

"(4) TUITION EXPENSES.—

"(A) IN GENERAL.—The term 'tuition expenses' means tuition and fees paid for the full-time enrollment or attendance of a student at an educational institution, including required fees for courses.

"(B) CERTAIN EXPENSES EXCLUDED.—The term 'tuition expenses' does not include any amount paid for—

"(i) books, supplies, and equipment for courses of instruction;

"(ii) meals, lodging, transportation, or personal living expenses;

"(iii) education below the first-grade-level; or

"(iv) education above the twelfth-grade level.

"(5) SCHOLARSHIP OR FINANCIAL ASSISTANCE.—The term 'scholarship or financial assistance' means—

"(A) a scholarship or fellowship grant (within the meaning of section 117(a)(1)) which is not includible in gross income under section 117;

"(B) an educational assistance allowance under chapter 32, 34, or 35 of title 38, United States Code; or

"(C) other financial assistance which—

"(i) is for educational expenses, or attributable to attendance at an educational institution, and

"(ii) is exempt from income taxation by any law of the United States (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)).

"(e) ELECTION.—The election provided under subsection (a) shall be made at such time and in such manner as the Secretary shall by regulations prescribe.".

(b) DISCLOSURE OF INFORMATION TO ATTORNEY GENERAL.—Subsection (h) of section 6103 of such Code (relating to disclosure to certain Federal officers and employees for tax administration purposes) is amended by adding at the end thereof the following new paragraph:

"(7) CERTAIN INVESTIGATIONS AND PROCEEDINGS REGARDING RACIALLY DISCRIMINATORY POLICIES.—Upon the request of the Attorney General or the Secretary's own motion, the Secretary shall disclose any return or return information which is relevant to—

"(A) any investigation conducted by the Attorney General under section 44I(c) with regard to whether an educational institution is following a racially discriminatory policy (within the meaning of section 44I(c)(4)), or

"(B) any proceeding which may be brought under section 7409,

to any officer or employee of the Department of Justice who is directly and personally involved in such investigation or in preparation for such a proceeding.".

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44H the following:

"Sec. 44I. Tuition expenses.".

(2) Section 6504 of such Code (relating to cross references with respect to periods of limitation) is amended by adding at the end thereof the following new paragraph:

"(13) For disallowance of tuition tax credits because of a declaratory judgment that a school follows a racially discriminatory policy, see section 44I(c).".

(3) Section 6096(b) of such Code (defining income tax liability for designation of payments to the Presidential Election Campaign Fund) is amended by striking out all after "allowable under" and inserting in lieu thereof "subpart A of part IV of subchapter A of chapter 1 (other than section 31, 39, or 43)".

SEC. . DECLARATORY JUDGMENT PROCEEDING.

(a) IN GENERAL.—Subchapter A of chapter 76 of the Internal Revenue Code of 1954 (relating to judicial proceedings) is amended by redesignating section 7409 as section 7410 and by inserting after section 7408 the following new section:

"SEC. 7409. DECLARATORY JUDGMENT RELATING TO RACIALLY DISCRIMINATORY POLICIES OF SCHOOLS.

"(a) IN GENERAL.—Upon filing of an appropriate pleading by the Attorney General under subsection (b), the district court of the United States for the district in which an educational institution is located may make a declaration with respect to whether such institution follows a racially discriminatory policy. Any such declaration shall have the force and effect of a final judg-

ment of the district court and shall be reviewable as such.

"(b) FILING OF PLEADING.—

"(1) IN GENERAL.—The Attorney General is authorized and directed to seek a declaratory judgment under subsection (a) against any educational institution upon—

"(A) receipt by the Attorney General within the previous 1-year period of any allegation of discrimination against such institution, and

"(B) a finding by the Attorney General of good cause.

"(2) ALLEGATION OF DISCRIMINATION.—For purposes of this section, the term 'allegation of discrimination' means an allegation made in writing by any person which alleges with specificity that—

"(A) a named educational institution has committed a racially discriminatory act against a named student applicant or student within one year preceding the date on which such allegation is made to the Attorney General, or

"(B) the educational institution made a communication, within one year preceding such date, expressing that the institution follows a racially discriminatory policy.

"(3) NOTICE OF ALLEGATIONS OF DISCRIMINATION.—Upon receipt of any allegation of discrimination made against an educational institution, the Attorney General shall promptly give written notice of such allegation to such institution.

"(4) OPPORTUNITY TO COMMENT.—Before any action may be filed against an educational institution by the Attorney General under subsection (a), the Attorney General shall give the institution a fair opportunity to comment on all allegations made against it and to show that the alleged racially discriminatory policy does not exist or has been abandoned.

"(5) AVAILABILITY OF CERTAIN INFORMATION TO COMPLAINANT.—

"(A) IN GENERAL.—If an allegation of discrimination against an educational institution is made to the Attorney General and the Attorney General—

"(i) declines to bring an action under subsection (a) against such institution, or

"(ii) enters into a settlement agreement with such institution under subsection (d) before such an action is brought,

the Attorney General shall make available to the person who made such allegation the information upon which the Attorney General based the decision not to bring such an action or to enter into such settlement agreement. The Attorney General shall promptly give written notice to such person that such information is available for his inspection.

"(B) PRIVACY LAWS.—Nothing in this paragraph shall be construed to authorize or require the Attorney General to disclose any information if such disclosure would violate any applicable State or Federal law relating to privacy.

"(c) REQUIREMENTS FOR A FINDING OF FOLLOWING A RACIALLY DISCRIMINATORY POLICY.—A district court may declare that an educational institution follows a racially discriminatory policy in an action brought under subsection (a) only if the Attorney General establishes in such action that—

"(1) the institution has, pursuant to such policy, committed a racially discriminatory act against a student applicant or student within the 2 years preceding commencement of such action;

"(2) the institution has, within the 2 years preceding commencement of such action, made a communication expressing that it follows a racially discriminatory policy against student applicants or students; or

"(3) the institution has engaged in a pattern of conduct intended to implement a racially discriminatory policy, and that some act in furtherance of this pattern of conduct was committed within 2 years preceding commencement of such action.

"(d) SETTLEMENTS.—

"(1) IN GENERAL.—Prior to, and in lieu of, filing an action under subsection (a), the Attorney General may, at his discretion, enter into a settlement agreement with the educational institution against which an allegation of discrimination has been made if the Attorney General finds that the institution has been acting in good faith and has abandoned its racially discriminatory policy.

"(2) VIOLATION OF SETTLEMENT AGREEMENT.—If the Attorney General has entered into a settlement agreement with an educational institution under paragraph (1) and the Attorney General finds that such institution is in violation of such agreement, the Attorney General may—

"(A) notwithstanding subsection (b)(1)(A), bring an action under subsection (a) without having received any allegation of discrimination against such institution, or

"(B) bring an action to enforce the terms of such agreement.

"(3) COPY OF SETTLEMENT AGREEMENT TO COMPLAINANT.—The Attorney General shall give a copy of any settlement agreement which is entered into with any educational institution under paragraph (1) to any person from whom the Attorney General has received an allegation of discrimination against such institution.

"(e) RETENTION OF JURISDICTION.—Any district court which makes a declaration under subsection (a) that an educational institution follows a racially discriminatory policy shall retain jurisdiction of such case.

"(f) DISCONTINUANCE OF RACIALLY DISCRIMINATORY POLICY.—

"(1) Motion.—

"(A) IN GENERAL.—At any time after the date which is 1 year after the date on which a judgment is entered in an action brought under subsection (a) declaring that an educational institution follows a racially discriminatory policy, such institution may file with the district court a motion to modify such judgment to include a declaration that such institution no longer follows a racially discriminatory policy.

"(B) AFFIDAVITS.—Any motion filed under subparagraph (A) shall contain affidavits—

"(i) describing with specificity the ways in which the educational institution has abandoned its previous racially discriminatory policy;

"(ii) describing with specificity the ways in which such institution has taken reasonable steps to communicate its policy of nondiscrimination to students, to faculty, to school administrators, and to the public in the area it serves;

"(iii) averring that such institution has not, during the preceding year—

"(I) committed a racially discriminatory act against a student applicant or student pursuant to a racially discriminatory policy;

"(II) made a communication expressing that it follows a racially discriminatory policy against student applicants or students; or

"(III) engaged in a pattern of conduct intended to implement a racially discriminatory policy, and committed some act in furtherance of this pattern of conduct; and

"(iv) averring that such institution has complied with the requirements of section 44I(d)(3)(D).

"(2) ORDER.—If a motion is made under paragraph (1), the district court shall issue an order modifying the judgment entered in the action to include a declaration that the educational institution no longer follows a racially discriminatory policy unless the Attorney General establishes that—

"(A) any affidavit provided by the institution under paragraph (1)(B) is false;

"(B) the institution has, during the preceding year, committed any act, made any communication, or engaged in any pattern of conduct described in paragraph (1)(B)(iii); or

"(C) the institution has not, in fact, complied with the requirements of clauses (ii) and (iv) of paragraph (1)(B).

"(3) APPEAL OF ORDERS.—Any order of the district court granting or denying a motion made under paragraph (1) shall be reviewable.

"(g) ATTORNEYS' FEES.—If an educational institution prevails in an action under this section, the court may award the institution costs and reasonable attorneys' fees in such action.

"(h) DEFINITIONS.—For purposes of this section—

"(1) RACIALLY DISCRIMINATORY POLICY.—The term 'racially discriminatory policy' has the meaning given to such term by section 44I(c)(4).

"(2) RACIALLY DISCRIMINATORY ACT.—

"(A) IN GENERAL.—An educational institution commits a racially discriminatory act if such institution refuses, on the basis of race, to—

"(i) admit any applicant as a student;

"(ii) admit any student to the rights, privileges, programs, and activities generally made available to students by the educational institution; or

"(iii) allow any student to participate in its scholarship, loan, athletic, or other programs.

"(B) QUOTAS, ETC.—The term 'racially discriminatory act' shall not include the failure of such institution to pursue or achieve any racial quota, proportion, or representation in the student body.

"(C) RACE.—The term 'race' shall include color or national origin.

"(i) REPORT.—Within 90 days of the close of each calendar year, the Attorney General shall submit a report to the Congress concerning the disposition during such calendar year of—

"(1) any allegations of discrimination received by the Attorney General, and

"(2) any actions brought under this section.".

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter A of chapter 76 of such Code (relating to civil actions by the United States) is amended by striking out the item relating to section 7409 and inserting in lieu thereof:

"Sec. 7409. Declaratory judgment relating to racially discriminatory policies of schools.

"Sec. 7410. Cross references.".

(2) Section 2201 of title 28, United States Code (relating to creation of declaratory judgment remedy) is amended by striking out "section 7428" and inserting in lieu thereof "section 7409 or 7428".

SEC. . TAX CREDITS ARE NOT FEDERAL FINANCIAL ASSISTANCE.

Tax credits claimed under section 44I of the Internal Revenue Code of 1954 shall not constitute Federal financial assistance to educational institutions or to the recipients of such credits.

SEC. . EFFECTIVE DATE: SPECIAL RULE.

(a) CERTIFICATION REQUIRED.—The amendments made by this Act shall not take effect until the Attorney General certifies to the Secretary of the Treasury that, pursuant to—

(1) an Act of Congress which has been enacted, or

(2) a final decision of the United States Supreme Court,

the Internal Revenue Code of 1954 prohibits the granting of tax exemption under section 501(a) by reason of section 501(c)(3) to private educational institutions maintaining a racially discriminatory policy or practice as to students.

(b) APPLICATION WHEN CERTIFICATION IS MADE.—

(1) IN GENERAL.—If the certification described in subsection (a) is made to the Secretary of the Treasury—

(A) except as provided in paragraph (2), the amendments made by section 3 shall apply with respect to expenditures made after the date on which such certification is made to the Secretary of the Treasury in taxable years beginning after December 31, 1982, and ending after such date, and

(B) the amendments made by section 4 shall take effect on the date on which such certification is made to the Secretary of the Treasury.

(2) NO APPLICATION BEFORE AUGUST 1, 1983.—In no event shall the amendments made by section 3 apply with respect to expenditures made before August 1, 1983.

(c) ESTIMATED INCOME TAX AND WAGE WITHHOLDING.—

(1) ESTIMATED INCOME TAX.—Any credit allowable to any taxpayer under section 44I of the Internal Revenue Code of 1954 shall not be taken into account under section 6015(d) in determining the estimated tax of such taxpayer for any taxable year beginning before January 1, 1984.

(2) WAGE WITHHOLDING.—Any credit allowable under section 44I of such Code shall not be taken into account in determining the number of withholding exemptions to which any taxpayer is entitled under section 3402 of such Code with respect to remuneration paid before January 1, 1984.

AMENDMENT NO. 6110

At the end of the stricken language, add the following:

SEC. . Paragraph (4)(A) of section 552(a) of title 5, United States Code, is amended to read as follows:

"(4)(A)(i) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to the processing of requests under this section and establishing procedures and guidelines for determining when such fees should be waived or reduced. Such schedules shall conform to the guidelines which shall be promulgated, pursuant to notice and receipt of public comment, by the Office of Management and Budget and which shall provide for a uniform schedule of fees for all agencies. Such regulations—

"(I) shall provide for the payment of all costs reasonably and directly attributable to responding to the request, which shall include reasonable standard charges for the costs of services by agency personnel in search, duplication, and other processing of the request. The term 'processing' does not include services of agency personnel in resolving issues of law and policy of general applicability which may be raised by a request, but does include services involved in examining records for possible withholding or deletions to carry out determinations of law or policy. Such regulations may also provide for standardized charges for categories of requests having similar processing costs,

"(II) shall provide that no fee is to be charged by any agency with respect to any request or series of related requests whenever the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee, and

"(III) in the case of any request or series of related requests for records containing commercially valuable technological information which was generated or procured by the Government at substantial cost to the public, is likely to be used for a commercial purpose, and will deprive the Government of its commercial value, may provide for the charging of a fair value fee, in addition to or in lieu of any processing fees otherwise chargeable, taking into account such factors as the estimated commercial value of the technological information, its costs to the Government, and any public interest in encouraging its utilization.

Nothing in this subparagraph shall supersede fees chargeable under a statute specifically providing for setting the level of fees for particular types of records.

"(ii) With respect to search and duplication charges, documents shall be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public and not the commercial or other private interests of the requester. With respect to all other charges, documents shall be furnished without such charges where the agency determines that the information is not requested for a commercial use and the request is being made by or on behalf of (a) an individual, or educational, or noncommercial scientific institution, whose purpose is scholarly or scientific research; (b) a representative of the news media; or (c) a nonprofit group that intends to make the information available to the general public.

"(iii) One-half of the fees collected under this section shall be retained by the collecting agency to offset the costs of complying with this section. The remaining fees collected under this section shall be remitted to the Treasury's general fund as miscellaneous receipts, except that any agency determined upon an investigation and report by the General Accounting Office or the Office of Management and Budget not to have been in substantial compliance with the applicable time limits of paragraph (6) of this subsection shall not thereafter retain any such fees until determined by the agency making such finding to be in substantial compliance.".

TIME LIMITS

SEC. . Paragraph (6) of section 552(a) of title 5, United States Code, is amended to read as follows:

"(6)(A) Except as otherwise provided in this paragraph, each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection, shall—

"(i) determine within ten working days after the receipt of any such request whether to comply with such request and shall immediately notify the requester of such determination and the reasons therefor, and of the right of such person to appeal to the head of the agency any adverse determination; and

"(ii) make a determination with respect to any appeal within twenty working days after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the requester of the provisions for judicial review of that determination under paragraph (4) of this subsection.

"(B) In unusual circumstances as defined in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the requester setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in extensions of more than an aggregate of thirty working days. As used in this subparagraph, 'unusual circumstances' means, but only to the extent reasonably necessary to the proper processing of the particular request—

"(i) the need to search for and collect the requested records from field facilities or other establisments that are separate from the office processing the request;

"(ii) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request;

"(iii) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein;

"(iv) a request which the head of the agency has specifically stated in writing cannot be processed within the time limits stated in paragraph (6)(A) without significantly obstructing or impairing the timely performance of a statutory agency function;

"(v) the need for notification of submitters of information and for consideration of any objections to disclose made by such submitters; or

"(vi) an unusually large volume of requests or appeals at an agency, creating a substantial backlog.

"(C) Any requester shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records. An agency shall not be considered to have violated the otherwise applicable time limits until a court rules on the issue.

"(D) Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to the requester, subject to the provisions of paragraph (7). Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.

"(E) Each agency shall promulgate regulations, pursuant to notice and receipt of public comment, by which a requester who demonstrates a compelling need for expedited access to records shall be given expedited access.".

BUSINESS CONFIDENTIALITY PROCEDURES

SEC. . Section 552(a) of title 5, United States Code, is amended by adding after paragraph (6) the following new paragraph:

"(7)(A) Each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying procedures by which—

"(i) a submitter may be required to designate, at the time it submits or provides to the agency or thereafter, any information consisting of trade secrets, or commercial, research, financial, or business information which is exempt from disclosure under subsection (b)(4);

"(ii) the agency shall notify the submitter that a request has been made for information provided by the submitter, within ten working days after the receipt of such request, and shall describe the nature and scope of the request and advise the submitter of his right to submit written objections in response to the request;

"(iii) the submitter may, within ten working days of the forwarding of such notification, submit to the agency written objection to such disclosure, specifying all grounds upon which it is contended that the information should not be disclosed; and

"(iv) the agency shall notify the submitter of any final decision regarding the release of such information.

"(B) An agency is not required to notify a submitter pursuant to subparagraph (A) if—

"(i) the information requested is not designated by the submitter as exempt from disclosure in accordance with agency regulations promulgated pursuant to subparagraph (A)(i), if such designation is required by the agency;

"(ii) the agency determines, prior to giving such notice, that the request should be denied;

"(iii) the disclosure is required by law (other than this section) and the agency notified the submitter of the disclosure requirement prior to the submission of the information;

"(iv) the information lawfully has been published or otherwise made available to the public; or

"(v) the agency is a criminal law enforcement agency that acquired the information in the course of a lawful investigation of possible violations of criminal law.

"(C) Whenever an agency notifies a submitter of the receipt of a request pursuant to subparagraph (A), the agency shall notify the requester that the request is subject to the provisions of this paragraph and that notice of the request is being given to a submitter. Whenever an agency notifies a submitter of final decision pursuant to subparagraph (A), the agency shall at the same time notify the requester of such final decision.

"(D) Whenever a submitter has filed objections to disclosure of information pursuant to subparagraph (A)(iii), the agency shall not disclose any such information for ten working days after notice of the final decision to release the requested information has been forwarded to the submitter.

"(E) The agency's disposition of the request and the submitter's objections shall be subject to judicial review pursuant to paragraph (4) of this subection. If a requester files a complaint under this section, the administrative remedies of a submitter of information contained in the requested records shall be deemed to have been exhausted.

"(F) Nothing in this paragraph shall be construed to be in derogation of any other rights established by law protecting the confidentiality of private information.".

JUDICIAL REVIEW

SEC. . Section 552(a)(4) of title 5, United States Code, is amended—

(1) by amending subparagraph (B) to read as follows:

"(B) On complaint filed by a requester within one hundred and eighty days from the date of final agency action or by a submitter after a final decision to disclose submitted information but prior to its release, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction—

"(i) to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the requester;

"(ii) to enjoin the agency from any disclosure of records which was objected to by a submitter under paragraph (7)(A)(iii) or which would have been objected to had notice been given as required by paragraph (7)(A)(i); or

"(iii) to enjoin the agency from failing to perform its duties under subsections (a) (1) and (2).".

(2) by redesignating subparagraphs (C), (D), (E), (F), and (G) as subparagrahs (F), (G), (H), (I), and (J), respectively, and by adding after subparagraph (B) the following new subparagraphs:

"(C) In an action based on a complaint—

"(i) by a requester, the court shall have jurisdiction over any submitter of information contained in the requested records, and any such submitter may intervene as of right in the action; and

"(ii) by a submitter, the court shall have jurisdiction over any requester of records containing information which the submitter seeks to have withheld, and any such requester may intervene as of right in the action.

"(D) The agency that is the subject of the complaint shall promptly, upon service of a complaint—

"(i) seeking the production of records, notify each submitter of information contained in the requested records that the complaint was filed; and

"(ii) seeking the withholding of records, notify each requester of the records that the complaint was filed.

"(E) In any case to enjoin the withholding or the disclosure of records, or the failure to comply with subsection (a) (1) or (2), the court shall determine the matter de novo. The court may examine the contents of requested agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section. The burden is on the agency to sustain its action to withhold information and the burden is on any submitter seeking the withholding of information."; and

(3) in redesignated subparagraph (H)—

(A) by adding "or any submitter who is a party to the litigation" after "United States"; and

(B) by striking out "complainant" and inserting in lieu thereof "requester".

PUBLIC RECORD REQUESTS

SEC. . Section 552(a) of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(8) In any instance in which a portion of the records requested under this subsection consists of newspaper clippings, magazine articles, or any other item which is a public record or otherwise available in public records, the agency may offer the requester a choice of (A) furnishing the requester with an index identifying such clippings, articles, or other items by date and source: *Provided*, That such index is already in existence, or (B) notwithstanding the waiver requirements contained in this section, furnishing the requester with copies of such clippings, articles, or other items at the reasonable standard charge for duplication established in the agency's fee schedule.".

CLARIFY EXEMPTIONS

SEC. . So much of section 552(b) of title 5, United States Code, as precedes paragraph (1) thereof is amended to read as follows:

"(b) The compulsory disclosure requirements of this section do not apply to matters that are—".

MANUALS AND EXAMINATION MATERIALS

SEC. . Section 552(b)(2) of title 5, United States Code, is amended by inserting a comma in lieu of the semicolon at the end thereof and adding the following: "including such materials as (A) manuals and instructions to investigators, inspectors, auditors, or negotiators, to the extent that disclosure of such manuals and instructions could reasonably be expected to jeopardize investigations, inspections, audits, or negotiations, and (B) examination material used solely to determine individual qualifications for employment, promotion, or licensing to the extent that disclosure could reasonably be expected to compromise the objectivity or fairness of the examination process;".

PERSONAL PRIVACY

SEC. . Section 552(b)(6) of title 5, United States Code, is amended to read as follows:

"(6) records or information concerning individuals, including compilations or lists of names and addresses that could be used for solicitation purposes, the release of which could reasonably be expected to constitute a clearly unwarranted invasion of personal privacy;".

LAW ENFORCEMENT

SEC. . (a) Section 552(b)(7) of title 5, United States Code, is amended to read as follows:

"(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any natural person;".

(b) Section 552(a) of title 5, United States Code, is amended by adding after paragraph (8) thereof the following new paragraph:

"(9) Nothing in this section shall be deemed applicable in any way to the informant records maintained by a law enforcement agency under an informant's name or personal identifier, whenever access to such records is sought by a third party according to the informant's name or personal identifier.".

ADDITIONAL EXEMPTIONS

SEC. . Section 552(b) of title 5, United States Code, is amended by striking out "or" at the end of paragraph (8), by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; or", and by adding the following new paragraph after paragraph (9):

"(10) records or information maintained or originated by the Secret Service in connection with its protective functions to the extent that the production of such records or information could reasonably be expected to adverseiy affect the Service's ability to perform its protective functions.".

REASONABLY SEGREGABLE

SEC. . Section 552(b) of title 5, United States Code, is amended by adding after the last sentence thereof the following: "In determining which portions are reasonably segregable in the case of records containing material covered by paragraph (1) or (7) of this subsection, the agency may consider whether the disclosure of particular information would, in the context of other information available to the requester, cause the harm specified in such paragraph.".

PROPER REQUESTS

SEC. . Section 552(a)(3) of title 5, United States Code, is amended to read as follows:

"(3)(A) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, upon any request by a requester who is a United States person for records which (i) reasonably describes such records and (ii) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to the requester.

"(B) The time limits prescribed in subparagraph (A) of paragraph (6) shall be tolled whenever the requester (or any person on whose behalf the request is made) is a party to any ongoing judicial proceeding or administrative adjudication in which the Government is also a party and may be requested to produce the records sought. Nothing in this subparagraph shall be construed to bar (i) a request for any records which are not related to the subject matter of such pending proceeding, or (ii) a request for any records which have been denied to a party in the course of a judicial proceeding or administrative adjudication that is no longer pending.

"(C) The Attorney General, in accordance with public rulemaking procedures set forth in section 553 of this title, may by regulation prescribe such limitations or conditions on the extent to which and on the circumstances or manner in which records requested under this paragraph or under section 552a of this title shall be made available to requesters who are persons imprisoned under sentence for a felony under Federal or State law or who are reasonably believed to be requesting records on behalf of such persons, as he finds to be (i) appropriate in the interests of law enforcement, or foreign relations or national defense, or of the efficient administration of this section, and (ii) not in derogation of the public information purposes of this section.".

ORGANIZED CRIME

SEC. . Section 552 of title 5, United States Code, is amended by adding a new subsection (c) as follows and redesignating the current subsections (c), (d), and (e) as (d), (e), and (f) respectively.

"(c) Nothing in this section shall be deemed applicable to documents compiled in any lawful investigation of organized crime, designated by the Attorney General for the purposes of this subsection and conducted by a criminal law enforcement authority for law enforcement purposes, if the requested document was first generated or acquired by such law enforcement authority within five years of the date of the request, except where the agency determines pursuant to regulations promulgated by the Attorney General that there is an overriding public interest in earlier disclosure or in longer exclusion not to exceed three years. Notwithstanding any other provision of law, no document described in the preceding sentence may be destroyed or otherwise disposed of until the document is available for disclosure in accordance with subsections (a) and (b) of this section for a period of not less than ten years.".

REPORTING UNIFORMITY

SEC. . Section 552(e) of title 5, United States Code (as redesignated), is amended—

(1) by striking out "calendar" the second and fourth places it appears and inserting in lieu thereof "fiscal";

(2) by striking out "March" each place it appears and inserting in lieu thereof "December";

(3) in paragraph (4), by striking out "subsection (a)(4)(F)" and inserting in lieu thereof "subsection (a)(4)(I)"; and

(4) in the next to last sentence, by striking out "subsections (a)(4) (E), (F), and (G)" and inserting in lieu thereof "subsections (a)(4) (H), (I), and (J)".

DEFINITIONS

SEC. . Section 552(f) of title 5, United States Code (as redesignated), is amended to read as follows:

"(f) For purposes of this section—

"(1) 'agency' means any executive department, military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency;

"(2) 'submitter' means any person who has submitted to an agency (other than an intelligence agency), or provided an agency access to, trade secrets, or commercial, research, or financial information (other than personal financial information) in which the person has a commercial or proprietary interest;

"(3) 'requester' means any person who makes or causes to be made, or on whose behalf is made, a proper request for disclosure of records under subsection (a);

"(4) 'United States person' means a citizen of the United States or an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(20)), an unincorporated association a substantial number of members of which are citizens of the United States or aliens lawfully admitted for permanent residence, or a corporation which is incorporated in the United States but does not include a corporation or an association that is a foreign power, as defined in section 101(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(a));

"(5) 'working days' means every day excluding Saturdays, Sundays, and Federal legal holidays; and

"(6) 'organized crime' means those structured and disciplined associations of individuals or of groups of individuals who are associated for the purpose of obtaining monetary or commercial gains or profits, wholly or in part by illegal means, while generally seeking to protect and promote their activities through a pattern of graft or corruption, and whose associations generally exhibits the following characteristics:

"(A) their illegal activities are conspiratorial,

"(B) in at least part of their activities, they commit acts of violence or other acts which are likely to intimidate,

"(C) they conduct their activities in a methodical or systematic way and in a secret fashion.

"(D) they insulate their leadership from direct involvement in illegal activities by their organizational structure,

"(E) they attempt to gain influence in government, politics, and commerce through corruption, graft, and illegitimate means, and

"(F) they engage in patently illegal enterprises such as dealing in drugs, gambling, loan-sharking, labor racketeering, or the investment of illegally obtained funds in legitimate businesses.".

PUBLICATION OF EXEMPTION 3 STATUTES

SEC. . Section 552 of title 5, United States Code, is amended by adding a new subsection (g) as follows:

"(g) Within two hundred and seventy days of the date of the enactment of this subsection, any agency which relies or intends to rely on any statute which was enacted prior to the date of enactment of this subsection, or during the thirty-day period after such date to withhold information under subsection (b)(3) of this section, shall cause to be published in the Federal Register a list of all such statutes and a description of the scope of the information covered. The Justice Department shall also publish a final compilation of all such listings in the Federal Register upon the completion of the two-hundred-and-seventy-day period described in the preceding sentence. No agency may rely, after two hundred and seventy days after the date of enactment of this subsection, on any such statute not listed in denying a request. Nothing in this subsection shall affect existing rights of any party other than an agency.".

AMENDMENT NO. 6111

At the end of the stricken language, insert the following new section:

SEPARATE ENROLLMENT OF ITEMS OF CERTAIN BILLS AND JOINT RESOLUTIONS MAKING APPROPRIATIONS

SEC. . (a)(1) Notwithstanding any other provision of law, when any general or special appropriation bill or any bill or joint resolution making supplemental, deficiency, or continuing appropriations passes both Houses of the Congress in the same form, the Secretary of the Senate (in the case of a bill or joint resolution originating in the Senate) or the Clerk of the House of Representatives (in the case of a bill or joint resolution originating in the House of Representatives) shall cause the enrolling clerk of such House to enroll each item of such bill or joint resolution as a separate bill or joint resolution, as the case may be.

(2) A bill or joint resolution that is required to be enrolled pursuant to paragraph (1)—

(A) shall be enrolled without substantive revision,

(B) shall conform in style and form to the applicable provisions of chapter 2 of title 1, United States Code (as such provisions are in effect in the date of the enactment of this section), and

(C) shall bear the designation of the measure of which it was an item prior to such enrollment, together with such other designation as may be necessary to distinguish such bill or joint resolution from other bills or joint resolutions enrolled pursuant to paragraph (1) with respect to the same measure.

(b) A bill or joint resolution enrolled pursuant to paragraph (1) of subsection (a) with respect to an item shall be deemed to be a bill under Clauses 2 and 3 of Section 7 of Article 1 of the Constitution of the United States and shall be signed by the presiding officers of both Houses and presented to the President for approval or disapproval (and otherwise treated for all purposes) in the manner provided for bills and joint resolutions generally.

(c) For purposes of this section, the term "item" means any numbered section and any unnumbered paragraph of—

(1) any general or special appropriation bill, and

(2) any bill or joint resolution making supplemental, deficiency, or continuing appropriations.

(d) The provisions of this section apply to bills and joint resolutions agreed to by the Congress during the two-calendar-year period beginning with the date of the enactment of this section.

AMENDMENT No. 6112

At the end of the stricken language, add the following:

AMENDMENT No. 6895

At the appropriate place, add the following:

That this Amendment may be cited as the "Regulatory Reform Act".

DEFINITION OF RULE

SEC. . Section 551(4) of title 5, United States Code, is amended by inserting before the semicolon at the end thereof a comma and the following: "except that the term 'rule' does not include agency statements involving a matter relating to public property or contracts or general statements of policy of the Tennessee Valley Authority except where an applicable statute requires notice and hearing pursuant to this chapter or the statement to be made on the record after opportunity for an agency hearing".

RULEMAKING

SEC. . Section 553 of title 5, United States Code, is amended to read as follows:

"§ 553. Rule making

"(a) This section applies to every rule making, according to the provisions thereof, except to the extent that there is involved—

"(1) a matter pertaining to a military or foreign affairs function of the United States;

"(2) a matter relating to the management and personnel practices of an agency;

"(3) an interpretive rule, general statement of policy, or rule of agency organization, procedure, or practice, unless such rule or statement has general applicability and substantially alters or creates rights or obligations of persons outside the agency; or

"(4) a rule relating to the acquisition, management, or disposal by an agency of real or personal property or of services that is promulgated in compliance with criteria and procedures established by the Administrator for Federal Procurement Policy or the Administrator of General Services.

"(b)(1) General notice of proposed rule making shall be published in the Federal Register, unless all persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. Each notice of proposed rule making shall include—

"(A) a statement of the time, place, and nature of public rule making proceedings;

"(B) a succinct explanation of the need for and specific objectives of the proposed rule;

"(C) an explanation of the specific statutory authority under which the rule is proposed;

"(D) the proposed provisions of the rule;

"(E) a statement that the agency seeks proposals from the public and from State and local governments for alternative methods to accomplish the objectives of the rule making that are more effective or less burdensome than the approach used in the proposed rule;

"(F) a description of any data, methodologies, reports, studies, scientific evaluations, or other similar information on which the agency plans to substantially rely in the rule making, including an identification of each author or source of such information and the purposes for which the agency plans to rely on such information; and

"(G) a statement specifying where the file of the rule making proceeding maintained pursuant to subsection (f) of this section may be inspected and how copies of the items in the file may be obtained.

"(2) Except when notice or hearing is required by statute, a final rule may be adopted and may become effective without prior compliance with the provisions of this subsection and subsections (c) and (f) of this section if—

"(A) the agency for good cause finds that providing notice and public procedure thereon before the rule becomes effective is impracticable or contrary to an important public interest;

"(B) the agency publishes the rule in the Federal Register with such finding and a succinct explanation of the reasons therefor; and

"(C) the agency complies with the provisions of this subsection and subsections (c) and (f) of this section to the maximum extent feasible prior to the promulgation of the final rule and fully complies with such provisions as soon as reasonably practicable after the promulgation of the rule.

"(3) Except when notice or hearing is required by statute, this subsection and subsections (c) and (f) of this section do not apply to a rule when the agency for good cause finds that notice and public procedure thereon are unnecessary due to the insignificant impact of the rule and publishes, at the time of publication of the final rule, such finding and a succinct explanation of the reason therefor.

"(4) Whenever the provisions of a final rule that an agency plans to adopt are so different from the provisions of the proposed rule that the original notice of proposed rule making did not fairly apprise the public of the issues ultimately to be resolved in the rule making or of the substance of the rule, the agency shall publish in the Federal Register a notice of the final rule the agency plans to adopt, together with the information relevant to such rule which is required by the applicable provisions of this section and which has not previously been published in the Federal Register. The agency shall allow a reasonable period for comment on such final rule.

"(c)(1) After providing the notice required by this section, the agency shall give interested persons at least sixty days to participate in the rule making through the submission of written data, views, or arguments.

"(2) In order to collect relevant information, and to identify and elicit full and representative public comment on the significant issues of a particular rule making, the agency may use such other procedures as the agency determines are appropriate, including—

"(A) the publication of an advance notice of proposed rule making;

"(B) the provision of notice, in forms which are more direct than notice published in the Federal Register, to persons who would be substantially affected by the proposed rule, but who are unlikely to receive notice of the proposed rule making through the Federal Register;

"(C) the provision of opportunities for oral presentation of data, views, information, or rebuttal arguments at informal public hearings, which may be held in the District of Columbia and other locations;

"(D) the provision of summaries, explanatory materials, or other technical information in response to public inquiries concerning the issues involved in the rule making; and

"(E) the adoption or modification of agency procedural rules to reduce the cost or complexity of participation in a rule making.

The decision of the agency to use or not to use such other procedures in a rule making pursuant to this paragraph shall not be subject to judicial review.

"(3)(A) The opportunity for participation in a rule making for a major rule (as defined in section 621(4) of this title) shall include the opportunity for oral presentation of data, views, and information at informal public hearings. Such public hearings—

"(i) may include an opportunity for oral rebuttal or argument where appropriate; and

"(ii) shall include an opportunity for direct and cross-examination of the principal agency employees or other persons who prepared for the agency data on which the agency substantially relied in formulating the rule, and of any other persons who present testimony, documents, or other information at such hearings, where other procedures, such as the convening of public meetings, conferences or panel discussions, or the presentation of staff arguments for comment and rebuttal, are determined to be inadequate for the resolution of significant issues of fact upon which the rule is based.

"(B) No court shall hold unlawful or set aside an agency rule because of a failure by the agency to use a particular procedure pursuant to subparagraph (A) of this paragraph unless—

"(i) an objection to the failure to use such procedure was presented to the agency in a timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection; and

"(ii) the court finds that such failure substantially precluded a fair consideration and informed resolution of a central issue of the rule making taken as a whole.

"(4) To ensure an orderly and expeditious proceeding, the agency may establish reasonable procedures to regulate the course of informal public hearings under paragraphs (2) and (3) of this subsection, including the designation of representatives to make oral presentations or engage in direct or cross-examination on behalf of several parties with a common interest in a rule making. Transcripts shall be made of all such public hearings.

"(5) An agency shall publish any final rule it adopts in the Federal Register, together with a concise statement of the basis and purpose of the rule and a statement of when the rule may become effective. The statement of basis and purpose shall include—

"(A) an explanation of the need for, objectives of, and statutory authority for the rule;

"(B) a discussion of any significant issues raised by the comments on the proposed rule, including a description of the reasonable alternatives to the rule proposed by the agency and by interested persons, and the reasons why each such alternative was rejected; and

"(C) an explanation of how the factual conclusions upon which the rule is based are substantially supported in the rule making file maintained pursuant to subsection (f) of this section.

"(6) When rules are required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 of this title apply instead of this subsection.

"(d)(1) An agency shall publish the final rule adopted in the Federal Register at least thirty days before the effective date of the rule. An agency may make a rule effective in less than thirty days after publishing the final rule in the Federal Register in the case of a rule that grants or recognizes an exemption or relieves a restriction, or in the case of a rule for which the agency for good cause finds that such a delay in the effective date would be contrary to an important public interest and publishes such finding and an explanation of the reasons therefor, with the final rule.

"(2) In promulgating a final rule, the agency may not substantially rely on any factual or methodological material that was not placed in the rule making file maintained pursuant to subsection (f) of this section in time to afford an adequate opportunity for public comment thereon during the period for public participation in the rule making. Notwithstanding the preceding sentence, an agency may rely on such material—

"(A) if, in the case of material developed by or for the agency, such material was placed in the rule making file promptly upon its completion and, if such material is of central relevance to the rule making, was made available in time for interested persons to have an adequate opportunity to comment thereon;

"(B) if, in the case of material submitted by a person outside the agency, such material was placed in the rule making file promptly upon its receipt by the agency and, if such material is of central relevance to the rule making, the agency provided not less than fifteen days for interested persons to comment thereon in addition to the period for comment provided under paragraph (1) of subsection (c);

"(C) if such material is material of which the agency properly can take official notice; or

"(D) if such material is material referred to in subsection (f)(3) of this section and the agency has complied with the requirements of that subsection.

"(e) Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule, for an interpretation regarding the meaning of a rule, and for a variance or exemption from the terms of a rule if the agency may grant such variance or exemption. The agency shall act on such petitions with reasonable promptness. The response of the agency to each such petition shall be in writing accompanied by a statement of reasons.

"(f)(1) The agency shall maintain a file for each rule making proceeding conducted pursuant to this section and shall maintain a current index to such file. The file and the material excluded from the file pursuant to paragraph (2) of this subsection shall constitute the rule making record for purposes of judicial review. Except as provided in paragraph (2) of this subsection, the file shall be made available to the public beginning on the date on which the agency makes an initial publication concerning the rule. The file shall include—

"(A)(i) the notice of proposed rule making and any supplement to or modification or revision of such notice; and

"(ii) any advance notice of proposed rule making;

"(B) copies of all written comments received on the proposed rule;

"(C) a transcript of any public hearing conducted in the rule making;

"(D) copies, or an identification of the place at which copies may be obtained, of all material described by the agency pursuant to subsection (b)(1)(F) of this section and of other factual and methodological material not described by the agency pursuant to such subsection that pertains directly to the rule making and that the agency considered in connection with the rule making, or that was prepared by or for the agency in connection with the rule making;

"(E) any statement, description, analysis, or any other material that the agency is required to make public in connection with the rule making, including any preliminary or final regulatory analysis issued by the agency pursuant to chapter 6 of this title;

"(F) copies of all written material pertaining to the rule, including any drafts of the proposed and the final rule, submitted by the agency to the President or his designee directed by the President to review proposed or final rules for their regulatory impact; and

"(G) a written explanation of the specific reasons for any significant changes made by the agency in the drafts of the proposed or final rule which respond to any comment received by the agency on the draft proposed rule, the proposed rule, the draft final rule, or the final rule, made by the President or his designee directed by the President to review proposed or final rules for their regulatory impact.

"(2) The agency shall place the materials described in clauses (A) through (H) of the last sentence of paragraph (1) in the file required by such paragraph as soon as practicable after such materials become available to the agency.

"(3) The file required by paragraph (1) of this subsection need not include any material that need not be made available to the public under section 552 of this title if the agency includes in such file a statement that notes the existence of such material and the basis upon which the material is exempt from public disclosure under such section. The agency may not substantially rely on any such material in formulating a rule unless it makes the substance of such material available for adequate comment by interested persons. The agency may use summaries, aggregations of data, or other appropriate mechanisms so as to protect the confidentiality of such material to the maximum extent possible.

"(4) No court shall hold unlawful or set aside an agency rule because of a violation of paragraph (1) of this subsection unless the court finds that such violation has precluded fair public consideration of a material issue of the rule making taken as a whole. Judicial review of compliance or noncompliance with paragraph (1) of this subsection shall be limited to review of action or inaction on the part of an agency.

"(g) For a period of one year after the effective date of a final rule issued pursuant to this section, such rule shall not substantially change the requirements of any contract, cooperative agreement, or grant existing on such effective date between a Federal agency and a State or local government. The preceding sentence does not apply to any case in which the agency for good cause finds that a delay in the effect of the rule would be contrary to an important public interest and publishes such finding and an explanation of the reasons therefor, with the final rule.

"(h) Nothing in this section authorizes the use of appropriated funds available to any agency to pay the attorney's fees or other expenses of persons participating or intervening in agency proceedings.".

REGULATORY ACTIVITIES: ANALYSIS; PRIORITIES AND REVIEW; REPORT

SEC. . (a) Chapter 6 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER II—ANALYSIS OF AGENCY PROPOSALS

"§ 621. Definitions

"For purposes of this subchapter and subchapters III and IV of this chapter:

"(1) The term 'agency' has the same meaning as in section 551(1) of this title.

"(2) The term 'person' has the same meaning as in section 551(2) of this title.

"(3) The term 'rule' has the same meaning as in section 551(4) of this title, except that such term does not include—

"(A) a rule of particular applicability that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers or acquisitions, or accounting practices or disclosures bearing on any of the foregoing;

"(B) a rule relating to monetary policy proposed or promulgated by the Board of Governors of the Federal Reserve System; or

"(C) a rule issued by the Federal Election Commission or a rule issued by the Federal Communications Commission pursuant to sections 312(a)(7) and 315 of the Communications Act of 1934.

"(4) The term 'major rule' means—

"(A) a rule or a group of closely related rules that the agency, the President, or the officer selected under section 624 of this title reasonably determines is likely to have an annual effect on the economy of $100,000,000 or more in reasonably quantifiable direct and indirect costs; and

"(B) a rule or a group of closely related rules that is otherwise designated a major rule by the agency proposing the rule, or is so designated by the President, or by the of-

ficer selected under section 624 of this title, on the ground that the rule is likely to result in—

"(i) a substantial increase in costs or prices for wage earners, consumers, individual industries, nonprofit organizations, Federal, State, or local government agencies, or geographic regions; or

"(ii) significant adverse effects on competition, employment, investment, productivity, innovation, the environment, public health or safety, or the ability of enterprises whose principal places of business are in the United States to compete in domestic or export markets.

For purposes of subparagraph (A) of this paragraph, the term 'rule' does not mean—

"(I) a rule that involves the internal revenue laws of the United States;

"(II) a rule that authorizes the introduction into commerce or recognizes the marketable status of a product, pursuant to sections 408, 409(c), and 706 of the Federal Food, Drug, and Cosmetic Act;

"(III) a rule exempt from notice and public procedure pursuant to section 553(a) of this title; or

"(IV) a rule relating to the viability, stability, asset powers, or categories of accounts of, or permissible interest rate ceilings applicable to, depository institutions the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the Share Insurance Fund of the National Credit Union Administration Board.

"(5) The term 'benefit' means the reasonably identifiable significant benefits and beneficial effects, including social and economic benefits and effects, that are expected to result directly or indirectly from implementation of a rule or an alternative to a rule.

"(6) The term 'cost' means the reasonably identifiable significant costs and adverse effects, including social and economic costs and effects, that are expected to result directly or indirectly from implementation of a rule or an alternative to a rule.

"§ 622. Regulatory analysis

"(a) Prior to publishing notice of proposed rule making for any rule, each agency shall determine whether the rule is or is not a major rule within the meaning of section 621(4)(A) of this title and, if it is not, whether it should be designated a major rule under section 621(4)(B) of this title. For the purpose of any such determination or designation, a group of closely related rules shall be considered as one rule. Every notice of proposed rule making shall include a succinct statement and explanation of the agency's determination of whether or not the rule is a major rule within the meaning of section 621(4)(A) of this title and, if applicable, of its designation as a major rule under section 621(4)(B) of this title.

"(b) The President or the officer selected by the President under section 624 of this title may determine that a rule is a major rule within the meaning of section 621(4)(A) of this title or may designate a rule as a major rule under section 621(4)(B) of this title not later than thirty days after the publication of the notice of proposed rule making for that rule. Such determination or designation shall be published in the Federal Register, together with a succinct statement of the basis for the determination or designation. The President or the officer selected by the President under section 624 of this title may designate not more than seventy-five rules as major rules under section 621(4)(B) of this title in any fiscal year.

"(c)(1) When the agency publishes a notice of proposed rule making for a major rule, the agency shall issue and place in the rule making file maintained under section 553(f) of this title a preliminary regulatory analysis and shall include in such notice of proposed rule making a summary of the analysis. When the President or the officer selected by the President under section 624 of this title has published a determination or designation that a rule is a major rule after the publication of the notice of proposed rule making for that rule, the agency shall promptly issue and place in the rule making file maintained under section 553(f) of this title a preliminary regulatory analysis for the rule and shall publish in the Federal Register a summary of such analysis. Following the issuance of a preliminary regulatory analysis under the preceding sentence, the agency shall give interested persons an opportunity to comment thereon pursuant to section 553 of this title in the same manner as if the preliminary regulatory analysis had been issued with the notice of proposed rule making.

"(2) Each preliminary regulatory analysis shall contain—

"(A) a succinct description of the benefits of the proposed rule, including any beneficial effects that cannot be quantified, and an explanation of how the agency anticipates each benefit will be achieved by the proposed rule, including a description of the persons, classes of persons, or particular levels of Government likely to receive such benefits;

"(B) a succinct description of the costs of the proposed rule, including any costs that cannot be quantified, and an explanation of how the agency anticipates each such cost will result from the proposed rule, including a description of the persons, classes of persons, or particular levels of Government likely to incur such costs;

"(C) a succinct description of reasonable alternatives for achieving the identified benefits of the proposed rule, including alternatives that—

"(i) require no Government action;

"(ii) will accommodate differences between geographic regions; and

"(iii) employ performance or other standards which permit the greatest flexibility in achieving the identified benefits of the proposed rule;

"(D) a statement—

"(i) identifying any source of funds available from the Federal Government to pay State and local governments the costs incurred by such governments as a result of the proposed rule; or

"(ii) specifying that the agency does not know of any such source;

"(E) in any case in which the proposed rule is based on scientific evaluations or information, a description of action undertaken by the agency to verify the quality, reliability, and relevance of such scientific evaluations or scientific information; and

"(F) where it is not expressly or by necessary implication inconsistent with the provisions of the enabling statute pursuant to which the agency is proposing the rule, an explanation of how the identified benefits of the proposed rule are likely to justify the identified costs of the proposed rule, and an explanation of how the proposed rule is likely to substantially achieve the rule making objectives in a more cost-effective manner than the alternatives to the proposed rule.

"(d)(1) When the agency publishes a final major rule, the agency shall also issue and place in the rule making file maintained under section 553(f) of this title a final regulatory analysis, and shall include a summary of the analysis in the statement of basis and purpose required by section 553(c)(6) of this title. Notwithstanding the preceding sentence, in any case in which an agency, under section 553(b)(2) of this title, is not required to comply with subsections (b) through (f) of section 553 of this title prior to the adoption of a final rule, an agency is not required to comply with the preceding sentence prior to the adoption of the final rule but shall comply with such sentence when complying with section 553(b)(2)(C) of this title.

"(2) Each final regulatory analysis shall contain—

"(A) a description and comparison of the benefits and costs of the rule and of the reasonable alternatives to the rule described in the rule making; and

"(B) where it is not expressly or by necessary implication inconsistent with the provisions of the enabling statute pursuant to which the agency is acting, a reasonable determination, based upon the rule making file considered as a whole, that the benefits of the rule justify the costs of the rule, and that the rule will substantially achieve the rule making objectives in a more cost-effective manner than the alternatives described in the rule making.

"(e)(1) An agency shall describe the nature and extent of the nonquantifiable benefits and costs of a proposed and a final rule pursuant to this section in as precise and succinct a manner as possible. The description of the benefits and costs of a proposed and a final rule required under this section shall include a quantification or numerical estimate of the quantifiable benefits and costs. Such quantification or numerical estimate shall be made in the most appropriate unit of measurement and shall specify the ranges of predictions and explain the margins of error involved in the quantification methods and in the estimates used.

"(2) In evaluating and comparing costs and benefits, the agency shall not rely on cost or benefit information submitted by any person that is not accompanied by data, analysis, or other supporting materials that would enable the agency and other persons interested in the rule making to assess the accuracy and reliability of such information. The agency evaluations of the relationships of the benefits of a proposed and final rule to its costs required by this section shall be clearly articulated in accordance with the provisions of this section. An agency is not required to make such evaluation primarily on a mathematical or numerical basis.

"(f) The preparation of the preliminary or final regulatory analysis required by this section shall only be performed by an officer or employee of the agency. The provisions of the preceding sentence do not preclude a person outside the agency from gathering data or information to be used by the agency in preparing any such regulatory analysis or from providing an explanation sufficient to permit the agency to analyze such data or information. If any such data or information is gathered or explained by a person outside the agency, the agency shall specifically identify in the preliminary or final regulatory analysis the data or information gathered or explained and the person who gathered or explained it, and shall describe the arrangement by which the information was procured by the

agency, including the total amount of funds expended for such procurement.

"(g) The requirements of this section do not alter the criteria for rule making otherwise applicable under other statutes.

"§ 623. Judicial review

"(a) Compliance or noncompliance by an agency with the provisions of this subchapter shall not be subject to judicial review except according to the provisions of this section.

"(b) Any determination by the President or by the officer selected under section 624 of this title that a rule is a major rule within the meaning of section 621(4)(A) of this title, and any designation by the President or the officer selected under section 624 of this title that a rule is a major rule under section 621(4)(B) of this title, or any failure to make such a designation, shall not be subject to judicial review in any manner.

"(c) The determination of an agency of whether a rule is or is not a major rule within the meaning of section 621(4)(A) of this title shall be set aside by a reviewing court only upon a clear and convincing showing that the determination is erroneous in light of the information available to the agency at the time it made the determination. Any designation by an agency that a rule is a major rule under section 621(4)(B) of this title, or any failure to make such a designation, shall not be subject to judicial review in any manner.

"(d) Any regulatory analysis prepared under section 622 of this title shall not be subject to judicial consideration separate or apart from review of the rule to which it relates. When an action for judicial review of a rule is instituted, any regulatory analysis for such rule shall constitute part of the whole rule making record of agency action for the purpose of judicial review of the rule and shall, to the extent relevant, be considered by a court in determining the legality of the rule.

"§ 624. Executive oversight

"(a) The President shall have the authority to establish procedures for agency compliance with this subchapter and subchapter III of this chapter. The President shall have the authority to monitor, review, and ensure agency implementation of such procedures. The President shall report annually to the Congress on agency compliance or noncompliance with the requirements of this chapter.

"(b) Any procedures established pursuant to the authority granted under subsection (a) of this section shall be adopted after the public has been afforded an opportunity to comment thereon, and shall be consistent with the prompt completion of rule making proceedings. If such procedures include review of preliminary or final regulatory analyses to ensure that they comply with the procedures established pursuant to subsection (a), the time for any such review of a preliminary regulatory analysis shall not exceed thirty days following the receipt of that analysis by the President or by an officer to whom the authority granted under subsection (a) of this section has been delegated pursuant to subsection (c) of this section, and the time for such review of a final regulatory analysis shall not exceed thirty days following the receipt of that analysis by the President or such officer. The times for each such review may be extended for good cause by the President or such officer for an additional thirty days. Notice of any such extension, together with a succinct statement of the reasons therefor, shall be inserted in the rule making file.

"(c) The President may delegate the authority granted by subsection (a) of this section, in whole or in part, to the Vice President or to an officer within the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate. Any such notice with respect to a delegation to the Vice President shall contain a statement by the Vice President that the Vice President will make every reasonable effort to respond to congressional inquiries concerning the exercise of the authority delegated under this subsection. Notice of any such delegation, or any revocation or modification thereof, shall be published in the Federal Register.

"(d) The authority granted under subsection (a) of this section shall not apply to rules issued by the Nuclear Regulatory Commission.

"(e) Any exercise of the authority granted under this section, or any failure to exercise such authority, by the President or by an officer to whom such authority has been delegated under subsection (c) of this section, shall not be subject to judicial review in any manner under this Act.

"SUBCHAPTER III—REGULATORY PRIORITIES AND REVIEW

"§ 631. Review of agency rules

"(a)(1)(A) Not later than nine months after the effective date of this section, each agency shall prepare and publish in the Federal Register a proposed schedule for the review, in accordance with this section, of—

"(i) each rule of the agency which is in effect on such effective date and which, if adopted on such effective date, would be a major rule under section 621(4)(A) of this title, and

"(ii) each rule of the agency in effect on such effective date (in addition to the rules described in clause (i)) which the agency has selected for review.

"(B) Each proposed schedule required by subparagraph (A) shall include—

"(i) a brief explanation of the reasons the agency considers each rule on the schedule to be such a major rule under section 621(a)(4)(A) of this title or of the reasons why the agency selected the rule for review;

"(ii) a date set by the agency, in accordance with the provisions of subsection (b)(1) of this section, for the completion of the review of each such rule; and

"(iii) a statement that the agency requests comments from the public on the proposed schedule.

"(C) The agency shall set a date to initiate review of each rule on the schedule in a manner which will ensure the simultaneous review of related items and which will achieve a reasonable distribution of reviews over the period of time covered by the schedule.

"(2) At least ninety days before publishing in the Federal Register the proposed schedule required under paragraph (1), each agency shall make the proposed schedule available to the President, or to the Vice President or other officer to whom oversight authority has been delegated under section 624(b) of this title. The President or that officer may select for review in accordance with this section any additional rule that the President or such officer determines to be a major rule under section 621(4)(A) of this title.

"(3) Not later than one year after the effective date of this section, each agency shall publish in the Federal Register a final schedule for the review of the rules referred to in paragraphs (1) and (2) of this subsection. Each agency shall publish with the final schedule the response of the agency to comments received concerning the proposed schedule.

"(b)(1) Except where explicitly provided otherwise by statute, the agency shall, pursuant to subsections (c) through (e) of this section, review—

"(A) each rule on the schedule promulgated pursuant to subsection (a) of this section;

"(B) each major rule under section 621(4) of this title promulgated, amended, or otherwise renewed by an agency after the date of the enactment of this section; and

"(C) each rule promulgated after the date of enactment of this section which the President or the officer designated by the President pursuant to subsection (a)(2) of this section determines to be a major rule under section 621(4)(A) of this title.

Except where an extension has been granted pursuant to subsection (f) of this section, the review of a rule required by this section shall be completed within ten years after the effective date of this section or within ten years after the date on which the rule is promulgated, amended, or renewed, whichever is later.

"(2) A rule required to be reviewed under the preceding subsection on grounds that it is a major rule need not be reviewed if the agency determines that such rule, if adopted at the time of the planned review, would not be a major rule under the definition previously applied to it. When the agency makes such a determination, it shall publish a notice and explanation of the determination in the Federal Register.

"(c) An agency shall publish in the Federal Register a notice of its proposed action under this section with respect to a rule being reviewed. The notice shall include—

"(1) an identification of the specific statutory authority under which the rule was promulgated and a statement specifying the agency's determination of whether the rule continues to fulfill the intent of Congress in enacting that authority;

"(2) an assessment of the benefits and costs of the rule during the period in which it has been in effect;

"(3) an explanation of the proposed agency action with respect to the rule; and

"(4) a statement that the agency seeks proposals from the public for modifications or alternatives to the rule which may accomplish the objectives of the rule in a more effective or less burdensome manner.

"(d) If an agency proposes to repeal or amend a rule under review pursuant to this section, the agency shall, after issuing the notice required by subsection (c) of this section, comply with the provisions of this chapter and chapter 5 of this title or other applicable law. The requirements of such provisions and related requirements of law shall apply to the same extent and in the same manner as in the case of a proposed agency action to repeal or amend a rule which is not taken pursuant to the review required by this section.

"(e) If an agency proposes to renew without amendment a rule under review pursuant to this section, the agency shall—

"(1) give interested persons not less than sixty days after the publication of the notice required by subsection (c) of this section to comment on the proposed renewal; and

"(2) publish in the Federal Register notice of the renewal of such rule and an explanation of the continued need for the rule, and, if the renewed rule is a major rule under

section 621(4) of this title, include with such notice an explanation of the reasonable determination of the agency that the rule complies with the provisions of section 622(d)(2)(B) of this title.

"(f)(1) Any agency, which for good cause finds compliance with this section with respect to a particular rule to be impracticable during the period provided in subsection (b) of this section, may request the President, or the officer designated by the President pursuant to subsection (a)(2) of this section, to establish a period longer than ten years for the completion of the review of such rule. The President or that officer may extend the period for review of a rule to a total period of not more than fifteen years. Such extension shall be published in the Federal Register with an explanation of the reasons therefor.

"(2) An agency may, with the concurrence of the President or the officer designated by the President pursuant to subsection (a)(2) of this section, or shall, at the direction of the President or that officer, alter the timing of review of rules under any schedule required by this section for the review of rules if an explanation of such alteration is published in the Federal Register at the time such alteration is made.

"(g) In any case in which an agency has not completed the review of a rule within the period prescribed by subsection (b) or (f) of this section, the agency shall immediately publish in the Federal Register a notice proposing to amend, repeal, or renew the rule under subsection (c) of this section, and shall complete proceedings pursuant to subsection (d) or (e) of this section within one hundred and eighty days after the date on which the review was required to be completed under subsection (b) or (f) of this section.

"(h)(1) Agency compliance or noncompliance with the provisions of subsection (a) of this section shall not be subject to judicial review in any manner.

"(2) Agency compliance or noncompliance with the provisions of subsections (b), (c), (e), (f), and (g) of this section shall be subject to judicial review only pursuant to section 706(a)(1) of this title.

"(i) Nothing in this section shall relieve any agency from its obligation to respond to a petition to issue, amend, or repeal a rule, for an interpretation regarding the meaning of a rule, or for a variance or exemption from the terms of a rule, submitted pursuant to section 553(e) of this title.

"§ 632. Regulatory agenda and calendar

"(a) Each agency shall publish in the Federal Register in April and October of each year an agenda of the rules that the agency expects to propose, promulgate, renew, or repeal in the succeeding twelve months. For each such rule, the agenda shall contain, at a minimum, and in addition to any other information required by law—

"(1) a general description of the rule, including a citation to the authority under which the action with respect to the rule is to be taken, or a specific explanation of the congressional intent to which the objectives of the rule respond;

"(2) a statement of whether or not the rule is or is expected to be a major rule;

"(3) an approximate schedule of the significant dates on which the agency will take action relating to the rule, including the dates for any notice of proposed rule making, hearing, and final action on the rule;

"(4) the name, address, and telephone number of an agency official responsible for answering questions from the public concerning the rule;

"(5) a statement specifying whether each rule listed on the previous agenda has been published as a proposed rule, has been published as a final rule, has become effective, has been repealed, or is pending in some other status; and

"(6) a cumulative summary of the status of the rules listed on the previous agenda in accordance with clause (5) of this subsection.

"(b) The President or an officer in the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate shall publish in the Federal Register in May and November of each year a Calendar of Federal Regulations listing each of the major rules identified in the regulatory agendas published by agencies in the preceding month. Each rule listed in the calendar shall be accompanied by a summary of the information relating to the rule that appeared in the most recent regulatory agenda in which the rule was identified.

"(c) An agency may propose or promulgate a major rule that was not listed in the regulatory agenda required by subsection (a) of this section only if the agency publishes with the rule an explanation of the omission of the rule from such agenda and otherwise complies with this section with respect to that rule.

"(d) Any compliance or noncompliance by the agency with the provisions of this section shall not be subject to judicial review.

"§ 633. Establishment of deadlines

"(a)(1) Whenever any agency publishes a notice of proposed rule making pursuant to section 553 of this title, the agency shall include in such notice an announcement of the date by which it intends to complete final agency action on the rule.

"(2) If any agency announcement under this section indicates that the proceeding relating to such rule will require more than one year to complete, the agency shall also indicate in the announcement the date by which the agency intends to complete each major portion of that proceeding. In carrying out the requirements of this subsection, the agency shall select dates for completing agency action which will assure the most expeditious consideration of the rule which is possible, consistent with the interests of fairness and other agency priorities.

"(3) The requirements of this subsection shall not apply to any rule on which the agency intends to complete action within one hundred and twenty days after providing notice of the proposed action.

"(b) If an agency fails to complete action in a proceeding, or a major portion of the proceeding, by the date announced pursuant to subsection (a) of this section, or, in the case of a proceeding described in paragraph (3) of such subsection, if an agency fails to complete action within one hundred and twenty days after providing notice of such proposed action, and the expected delay in completing action will exceed thirty days, the agency shall promptly announce the new date by which the agency intends to complete action in such proceeding and new dates by which the agency intends to complete action on each major portion of the proceeding.

"(c) Compliance or noncompliance by an agency with the provisions of this section shall not be subject to judicial review except in accordance with subsection (d).

"(d) In determining whether to compel agency action unreasonably delayed pursuant to section 706(a)(1) of this title, the reviewing court shall consider, in addition to any other relevant factors, the extent to which the agency has failed to comply with this section.

"SUBCHAPTER IV—REPORT TO THE CONGRESS

"§ 641. Annual report

"Not later than January 31 of each year, the President shall report to the Congress on the regulatory activities of the Government. The report shall include—

"(1) a description of the regulatory functions and activities of the Government, and the relationship of such functions and activities to national needs; and

"(2) an estimate, for the national economy and for each of the major sectors of the national economy, of the costs and benefits resulting from—

"(A) all major rules promulgated during the preceding fiscal year;

"(B) all major rules included on the regulatory agenda published under section 632 of this title during April and October of the year preceding the year in which the report is made; and

"(C) all major rules scheduled for review under section 631 of this title to the extent possible.".

(b) Such chapter is further amended—

(1) by inserting after the chapter analysis the following new subchapter heading:

"SUBCHAPTER I—REGULATORY FLEXIBILITY";

and

(2) by striking out "this chapter" each place it appears in subchapter I and inserting in lieu thereof in each such place "this subchapter".

(c) The chapter analysis of such chapter is amended—

(1) by inserting after the chapter heading the following new subchapter heading:

"SUBCHAPTER I—REGULATORY FLEXIBILITY";

and

(2) by adding at the end thereof the following:

"SUBCHAPTER II—ANALYSIS OF AGENCY PROPOSALS

"Sec.
"621. Definitions.
"622. Regulatory analysis.
"623. Judicial review.
"624. Executive oversight.

"SUBCHAPTER III—REGULATORY PRIORITIES AND REVIEW

"631. Review of agency rules.
"632. Regulatory agenda and calendar.
"633. Establishment of deadlines.

"SUBCHAPTER IV—REPORT TO THE CONGRESS

"641. Annual report.".

JUDICIAL REVIEW

SEC. . Section 706 of title 5, United States Code, is amended to read as follows:

"§ 706. Scope of review

"(a) To the extent necessary to decision and when presented, the reviewing court shall independently decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of agency action. The reviewing court shall—

"(1) compel agency action unlawfully withheld or unreasonably delayed; and

"(2) hold unlawful and set aside agency action, findings, and conclusions found to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity;

"(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

"(D) without observance of procedure required by law;

"(E) unsupported by substantial evidence in a proceeding subject to sections 556 and 557 of this title or otherwise reviewed on the record of an agency hearing provided by statute; or

"(F) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

"(b) In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

"(c) In making determinations concerning statutory jurisdiction or authority under subsection (a)(2)(C) of this section, the court shall require that action by the agency is within the scope of the agency jurisdiction or authority on the basis of the language of the statute or, in the event of ambiguity, other evidence of ascertainable legislative intent. In making determinations on other questions of law, the court shall not accord any presumption in favor of or against agency action, but in reaching its independent judgment concerning an agency's interpretation of a statutory provision, the court shall give the agency interpretation such weight as it warrants, taking into account the discretionary authority provided to the agency by law.

"(d) In making a finding under subsection (a)(2)(A) of this section, the court shall determine whether the factual basis of a rule adopted in a proceeding subject to section 553 of this title is without substantial support in the rule making file.".

VENUE

SEC. . (a) Section 2112 of title 28, United States Code, is amended—

(1) by striking out the last three sentences of subsection (a);

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(3) by inserting after subsection (a) the following new subsection:

"(b)(1) If proceedings have been instituted in two or more courts of appeals with respect to the same agency action and the first such proceeding was instituted more than five days before the second, the record shall be filed in that court in which the proceeding was first instituted. If the first such proceeding was not instituted more than five days before the institution of a later proceeding with respect to the same agency action, and the agency, board, commission, or officer concerned has received written notice from the parties instituting each of these proceedings, the agency, board, commission, or officer concerned shall promptly advise in writing the Administrative Office of the United States Courts, with respect to the first proceeding and all proceedings initiated within five days of the first proceeding, that such multiple proceedings have been instituted and shall identify each court for which it has notice that such proceedings are pending. Pursuant to a system of random selection devised for this purpose, the Administrative Office thereupon shall select the court in which the record shall be filed from among those identified by the agency. Upon notification of such selection, the agency, board, commission, or officer concerned shall promptly file the record in such court. For the purpose of review of agency action which has previously been remanded to the agency, board, commission, or officer concerned, the record shall be filed in the court of appeals which remanded such order.

"(2) Where proceedings have been instituted in two or more courts of appeals with respect to the same agency action and the record has been filed in one of such courts pursuant to paragraph (1), the other courts in which such proceedings are pending shall promptly transfer such proceedings to the court of appeals in which the record has been filed. Pending selection of a court pursuant to subsection (1), any court in which a proceeding has been instituted may postpone the effective date of the agency action until fifteen days after the Administrative Office has selected the court in which the record shall be filed. Such postponement by the court may thereafter be modified, revoked, or extended by the court in which the record is to be filed.

"(3) Any court in which a proceeding with respect to any agency action is pending, including any court selected pursuant to paragraph (1), may transfer such proceeding to any other court of appeals for the convenience of the parties or otherwise in the interest of justice.".

(b) Section 604(a) of title 28, United States Code, is amended—

(1) by redesignating paragraphs (17) and (18) as paragraphs (18) and (19), respectively, and

(2) by inserting after paragraph (16) the following new paragraph:

"(17) Pursuant to section 2112 of this title, where proceedings with respect to action of any agency, board, commission, or officer have been instituted in two or more courts of appeals, administer a system of random selection to determine the appropriate court in which the record is to be filed.".

ADVISORY COMMITTEE

SEC. . Clause (iii) of section 3(2)(C) of the Federal Advisory Committee Act is amended to read as follows: "(iii) any committee which is composed wholly of full-time officers or employees of the Federal Government, or elected officials of State or local governments acting in their official capacities or their representatives or representatives of their national organizations.".

RESOLUTION OF AGENCY JURISDICTIONAL CONFLICT

SEC. . (a) Section 2201 of title 28, United States Code, is amended by inserting "(a)" before "In" and by adding at the end thereof the following new subsections:

"(b)(1) Except as provided in paragraph (3), upon the filing of an appropriate pleading by a regulatory agency or a public utility, the district courts shall have original jurisdiction of any civil action or proceeding to resolve a controversy between two or more regulatory agencies, with respect to jurisdiction to regulate any of the rates, services, or records relating thereto, of a public utility unless all of such agencies are agencies of the same State.

"(2) If any party shall apply to the court before whom the pleading is filed for leave to adduce additional evidence relevant to a finding of jurisdiction, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such additional evidence in proceedings before one or more of the regulatory agency parties to the action brought hereunder, the court may order such additional evidence to be taken before any of such regulatory agencies and to be adduced upon the hearing in such manner and upon such terms and conditions as the court deems proper.

"(3) If the courts of appeals have exclusive original jurisdiction to review agency action of a regulatory agency, then an action or proceeding under this subsection with respect to a controversy to which such regulatory agency is a party shall be brought in such court of appeals rather than in the district court.

"(c) The court may declare the rights and other legal relations of the parties to an action or proceeding brought under subsection (b) to the extent necessary to resolve the controversy with respect to jurisdiction and may take any action necessary to maintain the status quo pending such declaration, or pending appeal of such declaration, including staying any civil action or proceeding that might be affected by such declaration. Such action or declaration shall not be withheld—

"(1) on the ground that a controversy with respect to matters other than jurisdiction to regulate may exist between or among the parties,

"(2) due to failure to pursue or exhaust any administrative remedies, or

"(3) due to inconsistent provisions of other statutes providing for judicial review of such agency action, including the regulatory statutes under which the controversy has arisen.

Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such.

"(d) For purposes of this subsection—

"(1) the term 'State' includes the District of Columbia and any territory or possession of the United States;

"(2) the term 'public utility' is any entity which offers its services to the public or any segment thereof, and whose rates are subject to regulation on a cost of service or rate of return basis by one or more regulatory agencies;

"(3) the term 'regulatory agency' includes any agency having or exercising any regulatory function with respect to any public utility; and

"(4) the term 'agency' means the United States, a State or political subdivision of a State, or any agency or instrumentality of the United States or any such State subdivision or agency.".

(b)(1) Chapter 151 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 2203. Process and procedure

"In any civil action or proceeding under section 2201(b) of this title, (1) the United States or any agency of the United States may join or be joined as a party, (2) any State or State subdivision or agency thereof may join or, with its consent where necessary, be joined as a party, and a district court may issue its process for such purposes without regard to territorial limitations.".

(2) The table of sections for chapter 151 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"2203. Process and procedure.".

(c)(1) Chapter 87 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1409. Public utility jurisdictional controversies

"Any civil action or proceeding for a declaratory judgment under section 2201(b) of this title may be brought in any judicial district in which the public utility resides or has its principal office, or in the United States District Court for the District of Columbia, except that whenever one or more States or subdivisions thereof or the agencies of a State or a subdivision thereof are parties, the civil action or proceeding must be brought in a judicial district within one of such States.".

(2) The table of sections for chapter 87 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1409. Public utility jurisdictional controversies.".

PROHIBITION AGAINST INTERVENOR FUNDING

SEC. . (a) Subchapter II of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 560. Prohibition against intervenor funding

"Except as provided in section 504 of this title, section 2412 of title 28, section 319 of the Federal Power Act, section 18(h) of the Federal Trade Commission Act, section 7(c) of the Consumer Product Safety Act, section 22 of the Act entitled 'An Act to provide certain basic authority for the Department of State', approved August 1, 1956, and paragraphs (4) and (5) of section 6(c) of the Toxic Substances Control Act, and except as otherwise expressly authorized by statute, no appropriated funds available to any agency may be used to pay the expenses of persons participating or intervening in agency proceedings.".

(b) The table of sections for such chapter is amended by adding at the end thereof the following:

"560. Prohibition against intervenor funding.".

USE OF STATE AND LOCAL REQUIREMENTS

SEC. . (a) Subchapter II of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 561. Use of duplicative State or local requirements

"(a) Except as otherwise provided by law, the head of each Federal agency is authorized, in the administration of a Federal statute with respect to any State or locality, to adopt as a Federal rule a regulation of that State or local government or use as a Federal recordkeeping or reporting requirement or implementation procedure a recordkeeping or reporting requirement or implementation procedure of that State or locality if the head of the agency determines—

"(1) that such State or local government regulation, implementation procedure, recordkeeping requirement, or reporting requirement duplicates a Federal regulation, procedure, recordkeeping requirement, or reporting requirement; and

"(2) that such State or local government regulation, implementation procedure, recordkeeping requirement, or reporting requirement is substantively equivalent to or more stringent than the Federal regulation, procedure, recordkeeping requirement, or reporting requirement.

"(b) When the head of an agency determines to use a State or local recordkeeping or reporting requirement, or implementation procedure, as a Federal recordkeeping or reporting requirement or implementation procedure in that State or locality, the head of the agency shall prepare, at a minimum, a written statement of the reasons for any determination made under subsection (a), and shall make such statement available to the public.

"(c) This section does not limit the authority or responsibility of the head of any agency to enforce Federal law.".

(b) Section 551(5) of title 5, United States Code, is amended by inserting a comma and "or the adoption of a rule pursuant to section 561 of this title" before the semicolon.

(c) The table of sections for chapter 5 of such title is amended by inserting after the item relating to section 560 the following new item:

"561. Use of duplicative State or local requirements.".

PRESIDENTIAL AUTHORITY

SEC. . Nothing in this Act (1) limits the exercise by the President of the authority and responsibility that the President otherwise possesses under the Constitution and other laws of the United States with respect to regulatory policies, procedures, and programs of departments, agencies, and offices, or (2) alters in any manner rulemaking authority vested by law in an agency to initiate or complete a rule making proceeding, or to issue, modify, or rescind a rule.

CONFORMING AMENDMENTS

SEC. . (a) Section 33(c) of the Federal Energy Administration Act of 1974 (15 U.S.C. 789(c)) is amended by striking out "(without regard to subsection (a)(2) thereof)" and inserting in lieu thereof "(without regard to clauses (2) and (4) of subsection (a) of such section)".

(b)(1) Section 3(e)(1) of the Federal Hazardous Substances Labeling Act (15 U.S.C. 1262(e)(1)) is amended by striking out "(other than clause (B) of the last sentence of subsection (b) of such section)" and inserting in lieu thereof "(other than paragraphs (2)(A) and (3) of subsection (b) of such section)".

(2) Section 3(e)(3)(C) of such Act (15 U.S.C. 1262(e)(3)(C)) is amended by inserting "(a)" after "section 706".

(c)(1) Section 5(a) of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1474(a)) is amended by striking out "(other than paragraph (3)(B) of the last sentence of subsection (b) of such section)" and inserting in lieu thereof "(other than paragraphs (2)(A) and (3) of subsection (b) of such section)".

(2) Section 5(b)(3) of such Act (15 U.S.C. 1474(b)(3)) is amended by inserting "(a)" after "section 706".

(d) Section 19(c)(1)(B)(iii)(II) of the Toxic Substances Control Act (15 U.S.C. 2618(c)(1)(B)(iii)(II)) is amended by striking out "section 553(c)" and inserting in lieu thereof "section 553(c)(6)".

(e) Section 4218(b) of title 18, United States Code, is amended—

(1) by striking out "section 553(b)(3)(A)" and inserting in lieu thereof "section 553(a)(3)"; and

(2) by striking out "statements" and inserting in lieu thereof "statement".

(f) Section 409 of the General Education Provisions Act (20 U.S.C. 1221e-4) is amended by striking out "exception provided under section 553(b)" and inserting in lieu thereof "exceptions provided under subsection (a)(3) and paragraphs (2)(A) and (3) of subsection (b) of section 553".

(g)(1) Section 508 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 358) is amended—

(A) by striking out "section 4 of the Administrative Procedure Act (5 U.S.C. 1003)" in subsection (c) and inserting in lieu thereof "section 553"; and

(B) by striking out "section 4 of the Administrative Procedure Act (5 U.S.C. 1003)" in subsection (e) and inserting in lieu thereof "section 553".

(2) Section 514(e)(4) of such Act (21 U.S.C. 360d(e)(4)) is amended by striking out "subsection (b)(A)" and inserting in lieu thereof "subsection (a)(3)".

(h) Section 426(a) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 936(a)) is amended by striking out "subsection (a) thereof" and inserting in lieu thereof "subsection (a) (1), (2), and (4) of such section".

(i) Section 5(a) of the Deepwater Port Act of 1974 (33 U.S.C. 1504(a)) is amended by striking out "without regard to subsection (a) thereof" and inserting in lieu thereof "without regard to clauses (1), (2), and (4) of subsection (a) of such section".

(j) Section 10(a) of the Act of June 30, 1936 (49 Stat. 2036, as amended; 41 U.S.C. 43a(a)) is amended by striking out "section 4 of the Administrative Procedure Act, such Act" and inserting in lieu thereof "section 553 of title 5, United States Code, the provisions of chapters 5, 6, and 7 of such title".

(k) Section 2(a)(2) of the Act of June 25, 1936 (52 Stat. 1196; 41 U.S.C. 47(a)(2)) is amended by striking out "subsections (b), (c), (d), and (e) of section 553 of title 5, United States Code," and inserting in lieu thereof "section 553 of title 5, United States Code (without regard to clauses (1), (2), and (4) of subsection (a) of such section)".

(l) Section 170A(c) of the Atomic Energy Act of 1954 (42 U.S.C. 2210a(c)) is amended by striking out "(without regard to subsection (a)(2) thereof)" and inserting in lieu thereof "(without regard to clauses (2) and (4) of subsection (a) of such section)".

(m) Section 6(c)(2) of the Noise Control Act of 1972 (42 U.S.C. 4905(c)(2)) is amended by striking out "the first sentence of".

(n) Section 501(b)(3) of the Department of Energy Organization Act (42 U.S.C. 7191(b)(3)) is amended by striking out "subsection (a)(2) of such section with respect to public property, loans, grants, or contracts" and inserting in lieu thereof "subsection (a)(4) of such section".

(o) Section 307(d) of the Clean Air Act (42 U.S.C. 7607(d)) is amended by striking out "subparagraphs (A) or (B) of subsection 553(b)" in paragraph (1)(N) and inserting in lieu thereof "subsection (a)(3) and paragraphs (2)(A) and (3) of subsection (b) of section 553".

(p) Section 102(a) of the Ocean Thermal Energy Conversion Act of 1980 (42 U.S.C. 9112(a)) is amended by striking out "without regard to subsection (a) thereof" and inserting in lieu thereof "without regard to clauses (1), (2), and (4) of subsection (a) of such section".

(q) Section 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740) is amended by striking out "section 553(a)(2)" and inserting in lieu thereof "clauses (2) and (4) of section 553(a)".

CONGRESSIONAL REVIEW

SEC. . (a) Title 5, United States Code, is amended by inserting immediately after chapter 7 the following new chapter:

"CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULE MAKING

"Sec.
"801. Definitions.
"802. Congressional review of agency rules.
"803. Procedures for consideration of resolutions of disapproval.

"§ 801. Definitions

"For purposes of this chapter—

"(1) the term 'agency' has the same meaning as in section 551(1) of this title;

"(2) the term 'rule' means any rule which is subject to section 553 of this title;

"(3) the term 'resolution of disapproval' means a concurrent resolution of the Congress, the matter after the resolving clause of which is as follows: 'That the Congress disapproves the recommended final rule issued by dealing with the matter of , which rule was transmitted to the Congress on .', the first blank being filled with the name of the agency issuing the rule, the second blank being filled with the title of the rule and such further description as may be necessary to identify it, and the third blank being filled with the date of transmittal of the rule to the Congress; and

"(4) the term 'appropriate committee' means the committee of the House of Representatives and the committee of the Senate which has primary legislative jurisdiction over the statute pursuant to which an agency issues a rule.

"§ 802. Congressional review of agency rules

"(a)(1) The provisions of this section do not apply to—

"(A) any rule for which an agency makes a finding under section 553(b)(3) of this title;

"(B) any rule of particular applicability that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing; and

"(C) any rule if—

"(i) the agency made a finding with respect to such rule under section 553(b)(2) of this title; or

"(ii) the head of the agency determines that the rule is being issued in response to an emergency situation or other exceptional circumstances requiring immediate agency action in the public interest; and

"(iii) on the date on which the agency issues the rule, the head of the agency submits to the chairman and ranking minority member of the appropriate committees a written notice specifying the reasons for the determination of the agency under clause (i) or (ii) of this subparagraph.

"(2) Notwithstanding any other provision of law, unless earlier withdrawn by the agency or earlier set aside by judicial action, a rule to which paragraph (1)(C) of this subsection applies shall terminate one hundred and twenty days after the date on which it is issued.

"(b)(1) Notwithstanding any other provision of law, any final rule subject to this section shall be considered a recommendation of the agency to the Congress and shall have no force and effect as a rule unless such rule has become effective in accordance with this section.

"(2)(A) Notwithstanding any other provision of law, no recommended final rule of an agency may become effective until the expiration of a period of forty-five days of continuous session of Congress after the date on which the rule is received by the Congress under paragraph (4) of this subsection. If before the expiration of such forty-five-day period, either appropriate committee orders reported or is discharged from consideration of a resolution of disapproval with respect to such rule, such rule may not become effective if within thirty days of continuous session of Congress after the date on which such committee orders reported or is discharged from further consideration of such resolution, one House of Congress agrees to such resolution of disapproval of the rule and within thirty additional days of continuous session of Congress after the date of transmittal of the resolution of disapproval to the other House, such other House agrees to such resolution of disapproval.

"(B) Whenever an appropriate committee reports a resolution of disapproval pursuant to this paragraph, the resolution shall be accompanied by a committee report specifying the reasons for the committee's action.

"(C) Notwithstanding subparagraph (A) of this paragraph, a recommended final rule may become effective at any time after the day on which either House of Congress defeats a resolution of disapproval, and, in the case of the Senate, a motion to reconsider such resolution is disposed of.

"(3)(A) Except as provided in subparagraph (B) of this paragraph, if Congress adjourns sine die at the end of a Congress prior to the expiration of the periods specified in paragraph (2)(A) of this subsection with respect to a recommended final rule, the rule shall not become effective during that Congress. The agency which issued such recommended final rule may transmit such rule at any time after the first day of the following Congress in accordance with paragraph (4) of this subsection, and the periods specified in paragraph (2)(A) of this subsection with respect to any such rule shall begin on the date such rule is transmitted to the Congress.

"(B) If—

"(i) Congress adjourns sine die at the end of a Congress prior to the expiration of the periods specified in paragraph (2)(A) of this subsection with respect to a recommended final rule;

"(ii) an agency transmits such recommended final rule to the Congress at least forty-five days of continuous session of Congress prior to the day on which Congress adjourns sine die at the end of a Congress; and

"(iii) either House of Congress does not adopt a resolution of disapproval with respect to such recommended final rule prior to the day on which Congress adjourns sine die at the end of a Congress,

such rule may become effective at any time after the day on which Congress adjourns sine die at the end of a Congress.

"(4)(A) On the day on which a recommended final rule is transmitted for publication to the Federal Register, an agency shall transmit to the Secretary of the Senate and the Clerk of the House of Representatives a copy of the complete text of such recommended final rule and a copy of any other materials transmitted to the Federal Register with such rule.

"(B)(i) If either House of Congress is not in session on the day on which a recommended final rule is transmitted for publication to the Federal Register, the periods specified in paragraph (2)(A) of this subsection with respect to such rule shall begin on the first day thereafter when both Houses of Congress are in session.

"(ii) The Secretary of the Senate and the Clerk of the House of Representatives are authorized to receive recommended final rules and materials transmitted under this paragraph on days when the Senate or the House of Representatives, as the case may be, is not in session.

"(C) On the day on which the Secretary of the Senate and the Clerk of the House of Representatives receive a recommended final rule and the materials transmitted with such rule, the Secretary and the Clerk shall transmit a copy of such rule and such materials to the appropriate committees.

"(c)(1) If a recommended final rule of an agency is disapproved under this section, the agency may issue a recommended final rule which relates to the same acts or practices as the disapproved rule. Such recommended final rule—

"(A) shall be based upon—

"(i) the rule making record of the recommended final rule disapproved by the Congress; or

"(ii) such rule making record and the record established in supplemental rule making proceedings conducted by the agency in accordance with section 553 of this title, in any case in which the agency determines that it is necessary to supplement the existing rule making record; and

"(B) may reflect such changes as the agency considers necessary or appropriate including such changes as may be appropriate in light of congressional debate and consideration of the resolution of disapproval with respect to the rule.

"(2) An agency, after issuing a recommended final rule under this subsection, shall transmit such rule to the Secretary of the Senate and the Clerk of the House of Representatives in accordance with subsection (b) of this section, and such rule shall only become effective in accordance with such subsection.

"(d) Congressional inaction on or rejection of a resolution of disapproval with respect to a recommended final rule shall not be deemed an expression of approval of such rule.

"§ 803. Procedures for consideration of resolutions of disapproval

"(a) The provisions of this section, paragraphs (3) and (4) of section 801, and paragraphs (2)(B) and (4)(C) of section 802(b) are enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions of disapproval; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(b) Except as provided in subsection (e) of this section, resolutions of disapproval shall, upon introduction or receipt from the other House of Congress, be immediately referred by the presiding officer of the Senate or the House of Representatives to the appropriate committee of the Senate or the House of Representatives, as the case may be.

"(c)(1)(A) Except as provided in subparagraph (B) of this paragraph, if the committee to which a resolution of disapproval has been referred does not report such resolu-

tion within thirty days of continuous session of Congress after the date of transmittal to the Congress of the recommended final rule to which such resolution relates, it shall be in order to move to discharge the committee from further consideration of such resolution.

"(B) If the committee to which a resolution of disapproval transmitted from the other House has been referred does not report such resolution within twenty days after the date of transmittal of such resolution from the other House, it shall be in order to move to discharge such committee from further consideration of such resolution.

"(2) Any motion to discharge under paragraph (1) of this subsection must be supported in writing by one-fifth of the Members, duly chosen and sworn, of the House of Congress involved, and is highly privileged in the House and privileged in the Senate (except that it may not be made after a resolution of disapproval has been reported with respect to the same rule); and debate thereon shall be limited to not more than one hour, the time to be divided in the House of Representatives equally between those favoring and those opposing the motion to discharge and to be divided in the Senate equally between, and controlled, by the majority leader and the minority leader or their designees. An amendment to the motion is not in order.

"(d)(1) Except as provided in paragraphs (2) and (3) of this subsection, consideration of a resolution of disapproval shall be in accord with the rules of the Senate and of the House of Representatives, respectively.

"(2) When a committee has reported or has been discharged from further consideration of a resolution of disapproval, or when the companion resolution from the other House has been placed on the calendar of the first House, it shall be in order, notwithstanding the provisions of rule XXII of the Standing Rules of the Senate or any other rule of the Senate or the House of Representatives, at any time thereafter (even though a previous motion to the same effect has been disagreed to) to move to proceed to the immediate consideration of either such resolution. The motion is highly privileged in the House and privileged in the Senate and is not debatable. An amendment to the motion is not in order.

"(3) Debate on a resolution of disapproval shall be limited to not more than two hours (except that when one House has debated its resolution of disapproval, the companion resolution shall not be debatable), which shall be divided in the House of Representatives equally between those favoring and those opposing the resolution and which shall be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees. A motion further to limit debate is not in order. An amendment to, or motion to recommit the resolution is not in order. A motion to reconsider shall be in order only on the day on which occurs the vote on adoption of the resolution of disapproval, and shall not be debatable. Any other motions shall be decided without debate.

"(e) If a resolution of disapproval has been ordered reported or discharged from the committee of the House to which it was referred, and that House receives a resolution of disapproval with respect to the same rule from the other House, the resolution of disapproval of the other House shall be placed on the appropriate calendar of the first House. If prior to the disposition of a resolution of disapproval of one House, that House receives the companion resolution of disapproval from the other House, the vote in the first House shall occur on the resolution of disapproval of the other House.

"(f) The provisions of this chapter supersede any other provision of law requiring action by both Houses of Congress for congressional review or disapproval of agency rules to the extent such other provisions are inconsistent with this chapter. The provisions of this chapter do not supersede any other provisions of law requiring action by only one House of Congress for congressional review or disapproval of agency rules.

"(g) For the purposes of this chapter—

"(1) continuity of session is broken only by an adjournment sine die at the end of a Congress; and

"(2) the days on which either House is not in session because of an adjournment or recess of more than fifteen days are excluded in the computation of days of continuous session.".

(b) The table of chapters for part I of title 5, United States Code, is amended by inserting immediately after the item relating to chapter 7 the following:

"8. Congressional Review of Agency Rule Making ..... 801".

SEVERABILITY

SEC. . If the provisions of any part of this Act or the amendments made by this Act, or the application thereof, to any person or circumstances is held invalid, the provisions of the other parts of this Act or the amendments made by this Act and their application to other persons or circumstances shall not be affected.

OPEN MEETINGS

SEC. . Section 552b(a)(1) of title 5, United States Code, is amended by inserting before the semicolon a comma and "and also means the Chrysler Corporation Loan Guarantee Board".

EFFECTIVE DATES

SEC. . (a)(1) The provisions of sections 2, 3, 5, and 12 of this Act and the amendments made by such sections, and the provisions of subchapter II of chapter 6 of title 5, United States Code (as added by section 4 of this Act), shall take effect on January 1, 1985, and shall not apply to any proceeding for which a notice of proposed rule making was issued before such effective date or to any other agency action initiated before such effective date.

(2) The provisions of section 621(4)(IV) of title 5, United States Code (as added by section 4 of this Act) shall not be in effect after June 30, 1985, unless the President certifies that the extension or reinstitution of such provisions is necessary to allow the Federal agencies authorized to issue rules identified in that section to take expeditious and appropriate action to preserve the viability, safety, or soundness of federally insured depository institutions. Any certification by the President under this subsection may only be made for a single one-year period beginning after June 30, 1985.

(b) The provisions of subchapter III of chapter 6 of title 5, United States Code (as added by section 4 of this Act) shall take effect six months after the date of enactment of this Act.

(c) The provisions of section 6 of this Act shall take effect three months after the date of enactment of this Act and shall apply, according to the provisions thereof, to review proceedings instituted after such date.

(d) The provisions of subchapter IV of chapter 6 of title 5, United States Code (as added by section 4 of this Act), and the provisions of sections 7, 9, 10, 11, and 15 of this Act and the amendments made by such sections shall take effect on the date of enactment of this Act.

(e) The amendments made by section 8 of this Act shall take effect on the date of enactment of this Act, and shall not apply to any civil action commenced prior to such date.

(f) The provisions of section 13 of this Act and the amendments made by such section shall take effect on the first day of the Ninety-ninth Congress.

AMENDMENT NO. 6113

At the end of the stricken language, add the following: That this amendment may be cited as the "Youth Employment Opportunity Wage Act of 1984".

STATEMENT OF FINDINGS AND PURPOSES

SEC. . (a) The Congress hereby finds that one of the Nation's most serious and long standing problems is proving adequate employment opportunities for our young people; the Congress finds, as well, that many youth are unemployed because they lack the job skills to earn the minimum wage which has the effect of pricing unskilled youth out of the job market.

(b) The Congress finds that a youth employment opportunity wage could make it possible for employers to expand job opportunities for young people during a period of special need—when young people are looking for summer jobs. The Congress also finds that such a program has never been adequately tested and that there should be a demonstration period for a youth employment opportunity wage in order to allay any doubts as to the ameliorative impact of the youth wage. The purpose of this legislation is to provide a period during which a youth employment opportunity wage can be paid by employers, and evaluated for its effectiveness in creating employment opportunities and helping young people develop job skills.

SEC. . Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) is amended by adding a new subsection at the end thereof to read as follows:

"(g) Notwithstanding any provision of this Act (except for the first sentence of section 18(a)), during the period from May 1 through September 30 of each year, an employer may employ any person who is under 20 years of age at a wage not less than $2.50 per hour or 75 per centum of the otherwise applicable wage rates established pursuant to this section, section 8 or subsection (e) of section 5, whichever is less. No special certificate shall be required under section 14 for an employee who is employed in accordance with this subsection. All references in any other law to the Federal minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938 shall be interpreted as referring to the wage established by this subsection (g) with respect to the employment herein covered. This subsection shall not affect requirements for compliance with applicable child labor laws or recordkeeping requirements. This subsection shall only be applicable to hours worked by eligible employees in compliance with applicable child labor laws. This subsection shall not, with respect to any year, be applicable to any youth who has been employed by the employer at any time during the 90-day period prior to May 1 of such year. No employer

shall discharge, transfer or demote any employee of such employer who is ineligible for the wage established by this subsection, on account of such ineligibility, for the purpose of employing a person eligible for such wage, and any such discharge, transfer or demotion shall be deemed a violation of section 15(a)(3)."

SEC. . Subsection (a) of section 142 of the Job Training Partnership Act (29 U.S.C. 1552) is amended by adding a new paragraph after paragraph (3) to read as follows:

"(4) Notwithstanding paragraphs 2 and 3 of this subsection, individuals who would be paid wages during the period from May 1 through September 30 of any calendar year who have not attained 20 years of age before May 1 of the Year shall be paid at not less than the higher of (A) the minimum wage provided under section 6(g) of the Fair Labor Standards Act, or (B) the minimum wage under the applicable State or local minimum wage law.".

SEC. . The amendments made by this Act shall not apply with respect to hours worked after September 30, 1987.

SEC. . The Secretary of Labor shall monitor the implementation of this Act and shall prepare and submit to the Congress a report concerning the employment effects of the youth employment opportunity wage, and such other information and recommendations as the Secretary of Labor determines to be appropriate.

AMENDMENT NO. 6114

At the end of the stricken language, add the following: This amendment may be cited as the "Public School Civil Rights Act of 1983".

SEC. . The Congress finds that—

(1) the assignment of students to public schools on the basis of or with regard to race, color, or national origin by inferior Federal courts—

(A) violates constitutional and legal guarantees that individuals shall not be denied equal protection of the law;

(B) violates constitutional and legal guarantees that individual rights shall not be abridged on the basis of race, color, or national origin;

(C) has failed to demonstrate educational benefits commensurate with the disruption caused by such assignment;

(D) has failed to demonstrate social benefits commensurate with the disruption caused by such assignment;

(E) has contributed to a significant deterioration of public schools in the districts subject to such orders regarding assignment by inducing large numbers of families to migrate away from such districts;

(F) has contributed to the deterioration of public education by removing the neighborhood school as the focus of such education;

(G) has disrupted the education of countless schoolchildren who must endure lengthy transportation to and from school each day, and, as a result, must often forego participation in extracurricular activities occurring after school;

(H) has eroded community commitment to public school and public education;

(I) interferes with the right of parents to make decisions regarding the education of their children;

(J) disrupts racial harmony by characterizing and classifying students on the basis of race or color and assigning them to schools on such basis;

(K) diverts significant amounts of financial resources away from direct improvement of the quality of education;

(L) usurps the responsibilities and traditional functions of State and local authorities to provide an educational system meeting the distinct needs of the community; and

(M) undermine public respect for the Government and its system of administering law and justice;

(2) past unconstitutional segregation, such as racial segregation enforced by law, is not a significant cause of existing racial imbalances in public schools,

(3) since assignment of students to public schools on the basis of or with regard to race cannot be justifed as a means of preventing or undoing racial discrimination by school authorities, such assignment is itself an unjustifiable practice of racial discrimination by the Government in violation of the fourteenth amendment; and

(4) whatever the basic cause of racial imbalance in the public schools, assignment of students to public schools on the basis of or with regard to race, color, or national origin results in more segregation of the races by inducing large numbers of families to migrate away from school systems subject to such assignment or by inducing large number of families to seek alternatives to public school education.

SEC. . (a) The Congress finds the remedies listed in subsection (b) are available for unconstitutional segregation exclusive of court orders which assign students to public schools on the basis of or with regard to race, color, or national origin, finding that such orders themselves have the effect of excluding students from public schools on the basis of or with regard to race, color, or national origin.

(b) The remedies which the Congress finds are available are—

(1) legal injunctions suspending all implementation of a segregative law or other racially discriminatory Government action;

(2) contempt of court proceedings where such injunctions are not scrupulously obeyed;

(3) programs without coercion or numerical quotas or specific goals based on racial balance that permit students to voluntarily transfer to other schools within the school district where they reside; and

(4) other local initiatives and plans to improve education for all students without regard to race, color, or national origin.

SEC. . The Congress, pursuant to its authority and powers granted under article III of the Constitution, and under section 5 of the fourteenth amendment to the Constitution, enacts the provisions of this Act in order to protect public school students against discrimination on the basis of or with regard to race, color, or national origin.

SEC. . Section 1343 of title 28, United States Code, is amended by designating the current language as section (a) and adding at the end thereof the following:

"(b)(1) Notwithstanding any other provision of law, no inferior court established by Congress shall have jurisdiction to issue any order requiring the assignment or transportation of any student to public elementary or secondary schools on the basis of or with regard to race, color, or national origin or to issue any order which excludes any student from any public school on the basis of or with regard to race, color, or national origin.

"(2) In the case of court orders entered prior to the date of this Act that require the assignment or transportation of any student to a public elementary or secondary school on the basis of or with regard to race, color, or national origin or which excludes any student from any school on the basis of or with regard to race, color, or national origin, any individual or school board or other school authority subject to such an order shall be entitled to seek relief from such order in any court and unless that court can make conclusive findings based on clear and convincing evidence that—

"(1) the acts that gave rise to the existing court order intentionally and specifically caused, and in the absence of the order would continue intentionally and specifically to cause students to be assigned to or excluded from public schools on the basis of or with regard to race, color, or national origin; for purposes of this finding, these 'acts that gave rise to the existing court order and intentionally and specifically caused, and in the absence of the order would continue intentionally and specifically to cause, students to be assigned to or excluded from public schools on the basis of race, color, or national origin' (including but not limited to school district reorganization, school boundary line changes, school construction, and school closings) shall not include legitimate efforts to employ public education resources to meet public education needs without regard to race, creed, or national origin,

"(2) the totality of circumstances have not changed since issuance of the order to warrant reconsideration of the order,

"(3) no other remedy, including those mentioned herein, would preclude the intentional and specific segregation,

"(4) the economic, social, and educational benefits of the order have clearly outweighed the economic, social, and educational costs of the order, and

"(5) either (a) the total actual daily time consumed in travel by schoolbus for any student does not exceed thirty minutes unless such transportation is to and from a public school closest to the student's residence with a grade level identical to that of the student; or

"(b) the total actual round trip distance traveled by schoolbus for any student does not exceed 10 miles unless the actual round trip distance traveled by schoolbus is to and from the public school closest to the student's residence with a grade level identical to that of the student, then such plaintiffs shall be entitled to relief which is consistent with the provisions of this subsection and the Public School Civil Rights Act of 1981 from such order.".

SEC. . Chapter 89 of title 28 of the United States Code (relating to district courts' removal of cases from State courts) is amended by adding after section 1455(c) the following new subsection:

"(d) A civil action in any State court seeking a judgment for any relief described in this Act may not be removed to any district court of the United States.".

AMENDMENT NO. 6115

At the end of the stricken language add the following: That (a) chapter 223 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3505. Elimination of exclusionary rule as it pertains to the fourth amendment.

"Evidence, otherwise admissible in a Federal criminal proceeding, shall not be excluded on the grounds that such evidence was obtained in violation of the fourth amendment to the United States Constitution.".

(b) The table of sections for chapter 223 of title 18, United States Code, is amended

by adding at the end thereof the following new item:

"3505. Elimination of exclusionary rule as it pertains to the fourth amendment.".

SEC. . (a) Title 28, United States Code, is amended by adding immediately after chapter 171 a new chapter 172 as follows:

"CHAPTER 172.—ILLEGAL SEARCH AND SEIZURE

"Sec.
"2691. Definitions.
"2692. Tort claims; illegal search and seizure.
"2693. Sanctions against investigative or law enforcement officers; illegal search and seizure.
"2694. Judgment as a bar.
"2695. Attorney fees and costs.
"2696. Applicability of other tort claims procedures.

"§ 2691. Definitions

"As used in this chapter, and section 1346(g) of this title, the term—

"(1) 'Federal agency' includes the executive departments, military departments, independent establishments of the United States, and corporations primarily acting as instrumentalities or agencies of the United States, but does not include any contractor with the United States; and

"(2) 'Investigative or law enforcement officer' means any officer of the United States who is empowered by law to execute searches, to seize evidence, or to make arrests for any violation of Federal law, or any person acting under or at the request of such officer.

"§ 2692. Tort claims; illegal search and seizure

"(a) The United States shall be liable for any damages resulting from a search or seizure conducted by an investigative or law enforcement officer, acting within the scope of his office or employment, in violation of the fourth amendment to the United States Constitution.

"(b) Any person aggrieved by such a violation may recover actual damages and such punitive damages as the court may award under subsection (c).

"(c) Punitive damages may be awarded by the court, upon consideration of all of the circumstances of the case, including—

"(1) the extent of the investigative or law enforcement officer's deviation from permissible conduct;

"(2) the extent to which the violation was willful, reckless, or grossly negligent;

"(3) the extent to which the aggrieved person's privacy was invaded;

"(4) the extent of the aggrieved person's personal injury, both physical and mental;

"(5) the extent of any property damage; and

"(6) the effect such an award would have in preventing future violations of the fourth amendment to the United States Constitution.

"(d) Notwithstanding subsections (b) and (c), the recovery of any person who is convicted of any offense for which evidence of such offense was seized in violation of the fourth amendment to the United States Constitution is limited to actual physical personal injury and to actual property damage sustained as a result of the unconstitutional search and seizure.

"(e) No judgment, award, compromise, or settlement of any action brought under this section shall exceed the amount of $25,000, including actual and punitive damages. The United States shall not be liable for interest prior to judgment.

"(f) Any action under this section shall be brought within the period of limitations provided in section 2401(b) of this title.

"§ 2693. Sanctions against investigative or law enforcement officers; illegal search and seizure

"An investigative or law enforcement officer who conducts a search or seizure in violation of the fouth amendment to the United States Constitution shall be subject to appropriate discipline in the discretion of the Federal agency employing such officer, if that agency determines, after notice and hearing, that the officer conducted such search or seizure lacking a good faith belief that such search or seizure was constitutional.

"§ 2694. Judgment as a bar

"The remedy against the United States provided under this chapter shall be the exclusive civil remedy for a violation of the fourth amendment to the United States Constitution by any investigative or law enforcement officer acting within the scope of his office of employment whose act or omission gave rise to the claim.

"§ 2695. Attorney fees and costs

"In any action brought under this chapter, the court may award any claimant who prevails in such action reasonable attorney fees, and other litigation costs reasonably incurred.

"§ 2696. Applicability of other tort claims procedures

"The procedure provided in sections 2672, 2675, 2677, 2678, 2679, and 2680 of this title apply to any action brought under this chapter. For the purposes of such sections, any investigative or law enforcement officer who conducts a search and seizure in violation of the fourth amendment to the Constitution shall be treated as if he were an 'employee of the government'.".

(b) The table of chapters for title 28, United States Code, and for part VI of title 28, United States Code, are each amended by inserting immediately after the item relating the chapter 171 the following:

"172. Illegal Search and Seizure..... 2691".

SEC. . Section 1346 of title 28, United States Code, is amended by adding immediately after subsection (f) the following new subsection:

"(g) The district courts, together with the United States District Court for the District of the Canal Zone, the United States District for the Territory of Guam, the District Court for the Nothern Mariana Islands, and the District Court of the Virgin Islands, shall have exclusive original jurisdiction of any civil action on a claim against the United States, for money damages, brought under chapter 172 of this title.".

SEC. . (a) Section 1402(b) of title 28, United States Code, is amended by inserting after "subsection (b)" the following: "or subsection (g)".

(b) Section 1504 of title 28, United States Code, is amended by striking "section 1346(b)" and inserting in lieu thereof "under subsection (b) or subsection (g) of section 1346".

SEC. . The civil action against the United States provided by amendments to title 28, United States Code, made by this Act shall apply only to claims arising on or after the date of enactment of this Act.

AMENDMENT NO. 6116

At the end of the stricken language, add the following:

SEC. . Chapter 1 of Title 18, United States Code, is amended by adding at the end thereof the following:

"§ 20. Insanity defense

"(a) STATE OF MIND.—It shall be a defense to a prosecution under any Federal statute, that the defendant, as a result of mental disease or defect, lacked the state of mind required as an element of the offense charged. Mental disease or defect does not otherwise constitute a defense.

"(b) APPLICATION OF THIS SECTION.—This section applies to prosecutions under any Act of congress other than—

"(1) an Act of Congress applicable exclusively in the District of Columbia;

"(2) the Canal Zone Code; or

"(3) the Uniform Code of Military Justice (10 U.S.C. 801 et seq.).

"§ 21. Determination of the existence of insanity at the time of the offense

"(a) MOTION FOR PRETRIAL PSYCHIATRIC EXAMINATION.—Upon the filing of a notice, as provided in rule 12.2 of the Federal Rules of Criminal Procedure, the court, upon motion of the attorney for the Government, may order that a psychiatric examination of the defendant be conducted, and that a psychiatric report be filed with the court pursuant to the provisions of section 24 (b) and (c).

"(b) SPECIAL VERDICT.—If the issue of insanity is raised by notice as provided in rule 12.2 of the Federal Rules of Criminal Procedure on a motion by the defendant or by the attorney for the Government, or on the court's own motion, the jury shall be instructed to find, or, in the event of a nonjury trial, the court shall find, the defendant—

"(1) guilty;

"(2) not guilty; or

"(3) not guilty only by reason of insanity.

"§ 22. Hospitalization of a person acquitted by reason of insanity

"(a) DETERMINATION OF PRESENT MENTAL CONDITION OF ACQUITTED PERSON.—If a person is found not guilty only by reason of insanity at the time of the offense charged, he shall be committed to a suitable facility until such time as he is eligible for release pursuant to subsection (d) of this section. The court shall order a hearing to determine whether the person is currently suffering from a mental disease or defect and that his release would create a significant risk of bodily injury to another person or serious damage to property of another.

"(b) PSYCHIATRIC EXAMINATION AND REPORT.—Prior to the date of the hearing, the court shall order that a psychiatric examination of the defendant be conducted, and that psychiatric report be filed with the court, pursuant to the provisions of section 4 (b) and (c).

"(c) HEARING.—The hearing shall be conducted pursuant to the provisions of section 24(d), and shall be corducted not later than forty days after the date of the finding of guilty only by reason of insanity.

"(d) DETERMINATION AND DISPOSITION.—If, after the hearing, the court finds by clear and convincing evidence that the acquitted person is currently suffering from a mental disease or defect and that this release would create a significant risk of bodily injury to another person or serious damage to property of another, the court shall commit the person to the custody of the Attorney General. The Attorney General shall release the person to the appropriate offcial of the State in which the person is domiciled or

was tried if such State will assume responsibility for his custody, care, and treatment. The Attorney General shall make all reasonable efforts to cause such a State to assume such responsibility. If, notwithstanding such efforts, neither such State will assume such responsibility, the Attorney General shall hospitalize the person for treatment in a suitable facility until—

"(1) such a State will assume such responsibility; or

"(2) the person's mental condition is such that his release would not create a significant risk of bodily injury to another person or serious damage to property of another;

whichever is earlier. The Attorney General shall continue periodically to exert all reasonable efforts to cause such a State to assume such responsibility for the person's custody, care, and treatment.

"(e) DISCHARGE FROM SUITABLE FACILITY.—When the director of a facility determines that an acquitted person, hospitalized pursuant to subsection (d), has recovered from his mental disease or defect to such an extent that his release would no longer create a significant risk of bodily injury to another person or serious damage to property of another, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to such person's counsel and to the attorney for the Government. The court shall order the discharge of the acquitted person or, on the motion of the attorney for the Government or on its own motion, shall hold a hearing, conducted pursuant to the provisions of section 24(d), to determine whether he should be released. If, after the hearing, the court finds by a preponderance of evidence that the person has recovered from his mental disease or defect to such an extent that his release would no longer create a significant risk of bodily injury to another person or serious damage to property of another, the court shall order his immediate discharge.

"§ 23. Hospitalization of a convicted person suffering from mental disease or defect

"(a) MOTION TO DETERMINE PRESENT MENTAL CONDITION OF CONVICTED DEFENDANT.—A defendant found guilty of an offense, or the attorney for the Government, may, within ten days after the defendant is found guilty, and prior to the time the defendant is sentenced, file a motion for a hearing on the present mental condition of the defendant. Such motion must be supported by substantial information indicating that the defendant may currently be suffering from a mental disease or defect and that he is in need of custody for care or treatment in a suitable facility for such disease or defect. The court shall grant the motion, or at any time prior to the sentencing of the defendant shall order a hearing on its own motion if the court deems that there is reasonable cause to believe that the defendant may currently be suffering from a mental disease or defect and that he is in need of custody for care or treatment in a suitable facility.

"(b) PSYCHIATRIC EXAMINATION AND REPORT.—Prior to the date of the hearing, the court may order that a psychiatric examination of the defendant be conducted, and that a psychiatric report be filed with the court, pursuant to the provisions of section 24 (b) and (c). In addition to the information required to be included in the psychiatric report pursuant to the provisions of section 24(c), if the report includes an opinion by the examiners that the defendant is currently suffering from a mental disease or defect but that such disease or defect does not require his custody for care or treatment, the report shall also include an opinion by the examiner concerning the sentencing alternatives that could best provide the defendant with the kind of treatment needed.

"(c) HEARING.—The hearing shall be conducted pursuant to the provisions of section 24(d).

"(d) DETERMINATION AND DISPOSITION.—If, after the hearing, the court finds by a preponderance of evidence that the defendant is presently suffering from a mental disease or defect and that he should, in lieu of being sentenced to probation or imprisonment, be committed to a suitable facility for care or treatment, the court shall commit the defendant to the custody of the Attorney General. The Attorney General shall hospitalize the defendant for care or treatment in a suitable facility. Such a commitment constitutes a provisional sentence to the maximum term authorized by law for the offense of which the defendant was found guilty.

"(e) DISCHARGE FROM SUITABLE FACILITY.—When the director of the facility determines that the defendant, hospitalized pursuant to subsection (d), has recovered from his mental disease or defect to such an extent that he is no longer in need of custody for care or treatment in such a facility, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the defendant's counsel and to the attorney for the Government. If, at the time of the filing of the certificate, the provisional sentence imposed pursuant to subsection (d) has not expired, the Court shall proceed finally to sentencing, and may modify the provisional sentence.

"§ 24. General provisions.

"(a) DEFINITIONS.—As used in this title—

"(1) 'insanity' means a mental disease or defect of a nature constituting a defense to a Federal criminal prosecution; and

"(2) 'suitable facility' means a facility that is suitable to provide care or treatment given the nature of the offense and the characteristics of the defendant.

"(b) PSYCHIATRIC EXAMINATION.—A psychiatric examination ordered pursuant to this title shall be conducted by a licensed or certified psychiatrist, or a clinical psychologist and a medical doctor, or, if the court finds it appropriate, by additional examiners. Each examiner shall be designated by the court if the examination is ordered under section 21, 22, or 23. For the purposes of an examination pursuant to an order under section 23, the court may commit the person for a reasonable period not exceeding thirty days, in order to conduct such examination, or pursuant to section 21 or 22, the court may commit such person to the custody of the Attorney General for placement in a suitable facility for a reasonable period, but not to exceed forty days. Unless impracticable, the psychiatric examination shall be conducted in the suitable facility closest to the court. The director of the facility may apply for a reasonable extension not exceeding fifteen days under section 23, or not exceeding twenty days under section 21 or 22, upon a showing of good cause that additional time is necessary to observe and evaluate the defendant.

"(c) PSYCHIATRIC REPORTS.—A psychiatric report ordered pursuant to this title shall be prepared by the examiner designed to conduct the psychiatric examination, shall be filed with the court with copies provided to the counsel for the person examined and to the attorney for the Government, and shall include—

"(1) the person's history and present symptoms;

"(2) a description of the psychological and medical tests employed and their results;

"(3) the examiner's findings; and

"(4) the examiner's opinions as to diagnosis, prognosis, and—

"(A) if the examination is ordered under section 21, whether the person was insane at the time of the offense charged;

"(B) if the examination is ordered under section 22, whether the person is currently suffering or in the reasonable future is likely to suffer from a mental disease or defect which would create a significant risk of bodily injury to another person or serious damage to property of another; or

"(C) if the examination is ordered under section 23, whether the person is currently suffering or in the reasonable future is likely to suffer from a mental disease or defect for which he is in need of custody in a suitable facility for care or treatment.

"(d) HEARING.—At a hearing ordered pursuant to this title the person whose mental condition is the subject of the hearing shall be represented by counsel and, if he is financially unable to obtain adequate representation, counsel shall be appointed for him pursuant to law. The person shall be afforded an opportunity to testify, to present evidence, to subpena witnesses on his behalf, and to confront and

"(e) PERIODIC REPORT AND INFORMATION REQUIREMENTS FOR SUITABLE FACILITIES.—(1) The director of the facility in which a person is hospitalized pursuant to section 22 or 23, shall prepare annual reports concerning the mental condition of such person, and shall make recommendations concerning the need for his continued hospitalization. The reports shall be submitted to the court that ordered the person's commitment to the facility, and copies of the reports shall be submitted to such other persons as the court may direct.

"(2) The director of the facility in which a person is hospitalized pursuant to section 22, 23, or 24, shall inform such person of any rehabilitation programs that are available for persons hospitalized in that facility.

"(f) ADMISSIBILITY OF A DEFENDANT'S STATEMENT AT TRIAL.—A statement made by the defendant during the course of a psychiatric examination pursuant to section 21 is not admissible as evidence against the accused on the issue of guilt in any criminal proceeding, but is admissible on the issue of whether or not the defendant suffers from a mental disease or defect.

"(g) HABEAS CORPUS UNIMPAIRED.—Nothing contained in section 22 precludes a person who is committed under such section from establishing by writ of habeas corpus the illegality of his detention.

"(h) DISCHARGE FROM SUITABLE FACILITY.—Regardless of whether the director of the facility in which a person is hospitalized has filed a certificate pursuant to the provisions of subsections (e) of either section 22 or 23, counsel for the person or his legal guardian may, during such person's hospitalization, file a motion with the court ordering such commitment for a hearing to determine whether the person should be discharged from such facility. Such motion may be filed at any time except that no such motion may be filed within one hundred and eighty days after a court determines that the person should continue to be hospi-

talized. A copy of the motion shall be sent to the director of the facility in which the person is hospitalized and to the attorney for the Government.

"(i) AUTHORITY AND RESPONSIBILITY OF THE ATTORNEY GENERAL.—Before a person is placed in a suitable facility pursuant to section 22 or 23, the Attorney General shall request the director of each facility under consideration to furnish information describing rehabilitation programs that would be available to such person, and, in making a decision as to the placement of such person, shall consider the extent to which the available programs would meet the needs of such person.

"(2) The Attorney General may contract with a State, a locality, or a private agency for the confinement, hospitalization, care, or treatment of, or the provision of services to, a person committed to his custody pursuant to this title.".

(b) The table of sections for chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following:

"20. Insanity defense.
"21. Determination of the existence of insanity at the time of the offense.
"22. Hospitalization of a person acquitted by reason of insanity.
"23. Hospitalization of a convicted person suffering from mental disease or defect.
"24. General provisions.".

AMENDMENT No. 6117

At the end of the stricken language, add the following:

That the Congress finds that the rights of citizens to keep and bear arms under the second amendment to the United States Constitution; their rights to security against illegal and unreasonable searches and seizures under the fourth amendment; their protections against uncompensated taking of property, double jeopardy, and assurance of due process of law under the fifth amendment; and their rights against unconstitutional exercise of authority under the ninth and tenth amendments; require additional legislation to correct existing firearms statutes and enforcement policies. The Congress further finds that additional legislation is required to reaffirm its intent, as expressed in section 101 of title I of the Gun Control Act of 1968, that "it is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trapshooting, target shooting, personal protection, or any other lawful activity, . . . " or "to discourage or eliminate the private ownership or use of firearms by law-abiding citizens for lawful purposes.".

TITLE I—AMENDMENTS TO TITLE 18, UNITED STATES CODE (18 U.S.C. 921-928)

AMENDMENTS TO SECTION 921

SEC. 101. Section 921 of title 18, United States Code, is amended—

(1) in subsection (a)(10) by deleting the words "manufacture of" and inserting in lieu thereof the words "business of manufacturing";

(2) in subsection (a)(11)(A) by deleting the words "or ammunition";

(3) in subsection (a)(12) by deleting the words "or ammunition";

(4) in subsection (a)(13) by deleting the words "or ammunition";

(5) by amending subsection (a)(20) to read as follows:

"(20) The term 'crime punishable by imprisonment for a term exceeding one year' shall not include (A) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices, or (B) any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less: *Provided, however,* That what constitutes a conviction shall be determined in accordance with the law of the jurisdiction in which the proceedings were held: *Provided further,* That any conviction which has been expunged, or set aside or for which a person has been pardoned or has had his or her civil rights restored shall not be considered a conviction under the provisions of this Act, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms." and

(6) in subsection (a) by inserting new paragraphs (21) and (22) after paragraph (20), to read as follows:

"(21) The term 'engaged in the business' means—

"(A) As applied to a manufacturer of firearms, a person who devotes time, attention, and labor to manufacturing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms manufactured.

"(B) As applied to a manufacturer of ammunition a person who devotes time, attention, and labor to manufacturing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition manufactured.

"(C) As applied to a dealer in firearms, as defined in section 921(a)(11)(A), a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms. The term shall not include a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or hobby, or who sells all or part of his personal collection of firearms.

"(D) As applied to a dealer in firearms, as defined in section 921(a)(11)(B), a person who devotes time, attention, and labor to engaging in such activity as a regular course of trade or business with the principal objective of livelihood and profit. The term shall not include a person who makes occasional repairs of firearms or who occasionally fits special barrels, stocks, or trigger mechanisms to firearms.

"(E) As applied to an importer of firearms, a person who devotes time, attention, and labor to importing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms imported.

"(F) As applied to an importer of ammunition, a person who devotes time, attention, and labor to importing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition imported.

"(22) The term 'with the principal objective of livelihood and profit' means that the intent underlying the sale or disposition of firearms is predominantly of obtaining livelihood and pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection.".

AMENDMENTS TO SECTION 922

SEC. 102. Section 922 of title 18, United States Code, is amended—

(1) by amending subsection (a)(1) to read as follows:

"(1) for any person (A) except a licensed importer, licensed manufacturer, or licensed dealer to engage in the business of importing, manufacturing, or dealing in firearms, or in the course of such business to ship, transport, or receive any firearm in interstate or foreign commerce; and (B) except a licensed importer or licensed manufacturer to engage in the business of importing or manufacturing ammunition, or in the course of such business, to ship, transport, or receive any ammunition in interstate of foreign commerce";

(2) in subsection (a)(2)—

(A) By deleting the words "or ammunition"; and

(B) by deleting the words "or licensed dealer for the sole purpose of repair or customizing," and inserting in lieu thereof the words, "licensed dealer, or licensed collector;";

(3) by amending clause (B) of subsection (a)(3) to read as follows: "(B) shall not apply to the transportation or receipt of a firearm obtained in conformity with the provisions of subsection (b)(3) of this section,";

(4) in subsection (b)—

(A) by deleting in paragraph (2) "or ammunition" each place it appears;

(B) by deleting clause (A) in paragraph (3) and inserting in lieu thereof the following: "(A) shall not apply to the sale or delivery of any firearm to a resident of a State other than a State in which the licensee's place of business is located if the sale, delivery and receipt fully comply with the legal conditions of sale in both such States: *Provided, however,* That any licensed manufacturer, importer or dealer shall be presumed, in the absence of evidence to the contrary, to have had actual knowledge of the State laws and published ordinances of both States,";

(C) by inserting "and" before "(B)" in paragraph (3);

(D) by striking out ", and" in clause (B) of paragraph (3) and inserting in lieu thereof a semicolon;

(E) by repealing clause (C) of paragraph (3); and

(F) by deleting from paragraph (5) "or ammunition except .22 rimfire ammunition";

(5) in subsection (d)—

(A) by deleting "licensed importer, licensed manufacturer, licensed dealer, or licensed collector" the first time they appear and inserting in lieu thereof "person";

(B) by deleting in paragraph (3) the word "or" following the semicolon;

(C) by replacing the period in paragraph (4) with a semicolon; and

(D) by inserting after paragraph (4) the following:

"(5) who, being an alien, is illegally or unlawful in the United States;

"(6) who has been discharged from the Armed Forces under dishonorable conditions; or

"(7) who, having been a citizen of the United States, has renounced his citizenship.";

(6) in subsection (g)—

(A) by deleting the words "is under indictment for, or who" in paragraph (1);

(B) by deleting in paragraph (3) the word "or" following the semicolon;

(C) by inserting after paragraph (4) the following:

"(5) who, being an alien, is illegally or unlawfully in the United States;

"(6) who has been discharged from the Armed Forces under dishonorable conditions, or

"(7) who, having been a citizen of the United States, has renounced his citizenship;"; and

(D) by deleting the words "to ship or transport any firearm or ammunition in interstate or foreign commerce" and inserting in lieu thereof the words "to ship or transport in interstate, or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition, which has been shipped or transported in interstate or foreign commerce.";

(7) in subsection (h)—

(A) by inserting after the word "any" and before the word "person" the words "individual who to his knowledge and while being employed by any";

(B) by deleting the words "is under indictment for, or who" in paragraph (1);

(C) by deleting in paragraph (3) the word "or" following the semicolon;

(D) by inserting after paragraph (4) the following:

"(5) who, being an alien, is illegally or unlawful in the United States;

"(6) who has been discharged from the Armed Forces under dishonorable conditions; or

"(7) who having been a citizen of the United States, has renounced his citizenship;"; and

(E) by deleting the words "to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce" and inserting in lieu thereof the words "in the course of such employment to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.", and

(8) by inserting after subsection (m) a new subsection to read as follows:

"(n) It shall be unlawful for any person who is under indictment for a crime punishable by imprisonment for a term exceeding one year to ship or transport in interstate or foreign commerce any firearm or ammunition or receive any firearm or ammunition which has been shipped or transported in interstate of foreign commerce.".

AMENDMENTS TO SECTION 923

SEC. 103. Section 923 of title 18, United States Code, is amended—

(1)(A) in subsection (a)—

(i) by deleting the words "No person shall engage in business as a firearms or ammunition importer, manufacturer, or dealer until he has filed an application with, and received a license to do so from the Secretary." and inserting in lieu thereof the words "No person shall engage in the business of importing, manufacturing, or dealing in firearms, or importing or manufacturing ammunition, until he has filed an application with and received a license to do so from the Secretary."; and

(ii) by deleting the words, "and contain such information", and inserting in lieu thereof the words "and contain only that information necessary to determine eligibility for licensing,";

(B) in subsection (a)(3)(B) by deleting the words "or ammunition for firearms other than destructive devices";

(2) in subsection (b) by striking out "and contain such information", and inserting in lieu thereof "and contain only that information necessary to determine eligibility for licensing";

(3) in subsection (c) by adding at the end thereof the following: *"Provided, however,* That nothing in this chapter shall be construed to prohibit a licensed manufacturer, importer, or dealer from maintaining and disposing of a personal collection of firearms, subject only to such restrictions as apply in this chapter to dispositions by a person other than a licensed manufacturer, importer, or dealer: *Provided further,* That if any firearm is so disposed of by a licensee within one year of its transfer from his business inventory into his personal collection or if such disposition or any acquisition is made for the purpose of willfully evading the restrictions placed upon licensees by this chapter, then such firearms shall be deemed part of his business inventory.";

(4) in subsection (e) by inserting before the word "violated" the word "willfully";

(5) in subsection (f)—

(A) by inserting the words "de novo" before the word "judicial" in paragraph (3);

(B) by adding the words ", whether or not such evidence was considered at the hearing held under paragraph (2)." after the words "to the proceeding" in paragraph (3); and

(C) by inserting at the end thereof the following new paragraph:

"(4) If criminal proceedings are instituted against a licensee alleging violations of this chapter or regulations promulgated thereunder, and the licensee is acquitted of such charges, or such proceedings are terminated, other than upon motion of the Government prior to trial upon such charges, the Secretary shall be absolutely barred from denying or revoking any license granted under the provisions of this chapter where such denial or revocation is based in whole or in part of the facts which form the basis of such criminal charges. No proceedings for the revocation of a license shall be instituted by the Secretary more than one year after the filing of the indictment or information.",

(6) by amending subsection (g) to read as follows:

"(g)(1) Each licensed importer, licensed manufacturer, and licensed dealer, shall maintain such records of importation, production, shipment, receipt, sale, or other disposition, of firearms at his place of business for such period, and in such form, as the Secretary may by regulations prescribe. Such importers, manufacturers and dealers shall not be required to submit to the Secretary reports and information with respect to such records and the contents thereof, except as explicity required by the Act entitled 'An Act to protect firearms owners' constitutional rights, civil liberties and rights to privacy'. The Secretary, when he has reasonable cause to believe a violation of this law has occurred and that evidence thereof may be found on such premises may, upon demonstrating such cause before a Federal magistrate, and securing from him a warrant authorizing entry, enter during business hours the premises (including places of storage) of any licensed firearms importer, licensed manufacturer, licensed dealer, licensed collector or any licensed importer, or manufacturer of ammunition, for the purposes of inspecting or examining (1) any records or documents required to be kept by such licensed importer, licensed manufacturer, licensed dealer, or licensed collector under the provisions of this chapter or regulations issued under this chapter, and (2) any firearms or ammunition kept or stored by such licensed importer, licensed manufacturer, licensed dealer, or licensed collector, at such premises. The Secretary may inspect the inventory and records of a licensed importer, licensed manufacturer, or licensed dealer without such cause or warrant, (A) for a reasonable inquiry during the course of a criminal investigation of a person or persons other than the licensee; or (B) no more than once in any twelve consecutive months, upon reasonable notice, but no criminal charges shall be brought against the licensee based upon such inspection except for willful violations of the recordkeeping requirements of this chapter or sales or other dispositions of firearms to prohibited persons; or (C) when such inspections or inquiries may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation. The Secretary may inspect the inventory and records of a licensed collector without such reasonable cause or warrant (A) no more than once in any twelve consecutive month period, upon reasonable notice, but no criminal charges shall be brought against such licensee based upon such inspection except for willful violations of the recordkeeping requirements of this chapter or sales or other dispositions of firearms to prohibited persons; or (B) when such inspections or inquiries may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation. At the election of a licensed collector, the annual inspection of records and inventory permitted under this paragraph shall be performed at the office of the Secretary designated for such inspection which is located in closest proximity to the premises where the inventory and records of such licensed collector are maintained. Such procedure shall not be construed as authorizing the Secretary to seize any records or other documents other than those records or documents constituting material evidence of a violation of law. If the Secretary seizes such records or documents, copies shall be provided the licensee within a reasonable time. The Secretary may make available to any Federal, State, or local law enforcement agency any information which he may obtain by reason of the provisions of this chapter with respect to the identification of persons prohibited from purchasing or receiving firearms or ammunition who have purchased or received firearms or ammunition, together with a description of such firearms or ammunition and he may provide information to the extent such information may be contained in the records required to be maintained by the provisons of this chapter, when so requested by any Federal, State, or local law enforcement agency

"(2) Each licensed collector shall maintain in a bound volume the nature of which the Secretary may by regulations prescribe, records of the receipt, sale, or other disposition, of firearm. Such records shall include the name and addresses to the Secretary reports and information with respect to such records and the contents thereof, except as explicitly required by the Act entitled 'An Act to protect firearms owners' constitutional rights, civil liberties and rights to privacy'.

"(3)(A) Within thirty days of the absolute discontinuance of the business of a licensee, any records maintained by such licensee under this chapter shall be delivered to the joint custody of the Administrator of General Services and the Secretary to be stored in a records center maintained and operated by the Administrator of General Services, unless state law or local ordinance requires delivery to another authority, in which event the Administrator of General Services and the Secretary may arrange for delivery to such authority.

"(B) The Secretary shall have access to records stored under this paragraph solely for the purposes of tracing firearms, organizing and preserving such records, and certifying to facts on the basis of such records in any court or any administrative proceeding of the United States or of any state. The Secretary may remove such records from the record center maintained by the Administrator of General Services only in connection with proceedings in any court or any administrative proceeding of the United States or of any state.

"(C) The Administrator of General Services may promulgate regulations governing the storage, processing and servicing of records stored under this paragraph: Provided, That no such regulations may restrict the authority of the Secretary under this paragraph to have access to or to remove such records.

"(D) Notwithstanding any other provision of law, the Administrator of General Services shall dispose of records kept by licensed dealers and licensed collectors, and records relating to the disposition of firearms kept by manufacturers and importers, and stored under this paragraph twenty years after such records are received by the Administrator of General Services and the Secretary.

"(4)(A) each licensee shall, when required by letter issued by the Secretary, and until notified to the contrary in writing by the Secretary, submit on a form specified by the Secretary, for the periods and at the times specified in such letter, all record information required by this chapter or such lesser record information as the Secretary in his letter may specify.

"(B) The Secretary may authorize the information to be submitted in a manner other than that prescribed in subparagraph (A) of this paragraph when it is shown by a licensee that an alternate method of reporting is reasonably necessary and will not unduly hinder the effective administration of this chapter.

"(C) No warrant shall issue nor shall any criminal charges be brought against the licensee based solely upon information provided pursuant to the provisions of this paragraph.

"(5)(A) Each licensee shall prepare a report of multiple sales or other disposition whenever the licensee sells or otherwise disposes of, at one time or during any five consecutive business days, two or more pistols, or revolvers, or any combination of pistols and revolvers totaling two or more, to an unlicensed person. The report shall be prepared on a form specified by the Secretary and forwarded to the office specified thereon not later than the close of business on the day that the multiple sale or other disposition occurs.

"(B) Ten years after receiving any report submitted under subparagraph (A) of this paragraph, the Secretary shall deliver such report to the joint custody of the Administrator of General Services and the Secretary to be stored in a records center maintained and operated by the Administrator of General Services, subject to the provisions of sections 923(g)(3) (B) and (C) of this title. Notwithstanding any other provision of law, the Administrator of General Services shall dispose of records stored under this subparagraph ten years after such records are received by the Administrator of General Services and the Secretary.

"(C) No record, form, or information delivered, submitted, or forwarded pursuant to this paragraph or paragraph (3) or (4) of this subsection may be kept by the Secretary at a centralized location, nor shall it be entered into a computer for storage or retrieval."; and

(7) by amending subsection (j) to read as follows:

"(j) A licensed importer, licensed manufacturer, or licensed dealer may, under regulations prescribed by the Secretary, conduct business temporarily at a location other than the location specified on the license if such other location is in the State which is specified on the license. Records of receipt and disposition of firearms transactions conducted at such temporary location shall include the location of the sale or other disposition and shall be entered in the permanent records of the licensee and retained on the location specified on the license. Nothing in this subsection shall authorize any licensee to conduct business in or from any motorized or towed vehicle. Notwithstanding the provisions of subsection (a) of this section, a separate fee shall not be required of a licensee with respect to business conducted under this subsection. Except for records directly related to receipts, sales, or other dispositions of firearms made at the temporary premises within the period of time the licensed importer, licensed manufacturer, or licensed dealer conducted the business of which such receipts, sales, or other dispositions were a part, nothing in this subsection shall be construed to authorize the Secretary to inspect or examine the inventory or records of a licensed importer, licensed manufacturer, or licensed dealer at any location other than the location specified on the license. Nothing in this subsection shall be construed to diminish in any manner any right to display, sell or otherwise dispose of firearms or ammunition which is in effect prior to the date of enactment of the Act entitled 'An Act to protect firearms owners' constitutional rights, civil liberties and rights to privacy'.".

AMENDMENTS TO SECTION 924

SEC. 104. Section 924 of title 18, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) Whoever—

"(1) knowingly makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under this chapter or in applying for any license or exemption or relief from disability under the provisions of this chapter;

"(2) knowingly violates subsections (a)(4), (d)(6), (f), (g), (h), (i), or (k) of section 922;

"(3) knowingly imports or brings into the United States or any possession thereof any firearm or ammunition in violation of section 922(l);

"(4) knowingly violates any provision of this section; or

"(5) willfully violates any other provision of this chapter,

shall be fined not more than $5,000, or imprisoned not more than five years, or both, and shall become eligible for parole as the Board of Parole shall determine: *Provided,* That no person shall be prosecuted under this subsection where the conduct of such person involves simple carelessness.".

(2) by amending subsection (c) to read as follows:

"(c)(1) Whoever, during and in relation to any crime of violence, including a crime of violence which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device, for which he may be prosecuted in a court of the United States, uses a firearm, or carries a firearm in furtherance of any such crime of violence, shall, in addition to the punishment provided for such crime of violence, be sentenced to imprisonment for a term of five years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to imprisonment for a term of ten years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the

* * * * *

(1) in subsection (c)—

(A) by deleting the words "has been convicted of a crime punishable by imprisonment for a term exceeding one year (other than a crime involving the use of a firearm or other weapon or a violation of this chapter or of the National Firearms Act)" and inserting in lieu thereof the words "is prohibited from possessing, shipping, transporting, or receiving firearms or ammunition";

(B) by inserting the word "transportation," after the word "shipment";

(C) by deleting the words "and incurred by reason of such conviction,"; and

(D) by adding after the words "the public interest." the words "Any person whose application for relief from disabilities is denied by the Secretary may file a petition with the United States district court for the district in which he resides for a judicial review of such denial. In a proceeding conducted under this subsection, the scope of judicial review shall be governed by section 706 of title 5, United States Code. The court may in its discretion admit additional evidence where failure to so so would result in a miscarriage of justice."; and

* * * words: "*Provided,* That no such rule or regulation promulgated after the effective date of this Act may require that records required to be maintained under this chapter or any portion of the contents of such records, be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or any political subdivision thereof, nor that any system of registration of firearms, firearms owners, or firearms transactions or dispositions be established: Provided further, That nothing in this section shall be deemed to expand or restrict the Secretary's authority to inquire into the disposition of one or more firearms pursuant to a criminal investigation."; and

(5) inserting at the end thereof the following:

"(b) The Secretary shall give not less than ninety days public notice, and shall afford interested parties opportunity for hearing, prior to prescribing such rules and regulations.

"(c) The Secretary shall not prescribe regulations that require purchasers of black powder under the exemption provided in section 845(a)(5) of title 18, United States Code, to complete affidavits or forms attesting to that exemption.".

AMENDMENTS TO SECTION 927

SEC. 107. Section 927 of title 18, United States Code, is amended by inserting before the period at the end thereof the following: ": Provided, however, That any provision of any legislation enacted, or of any rule or regulation promulgated, by any State or a political subdivision which prohibits or has the effect of prohibiting the transportation of a firearm or ammunition in interstate commerce through such State, when such firearm is unloaded and not readily accessible, shall be null and void.".

EFFECTIVE DATE

SEC. 108. (1) All amendments (including any repeals) made by this Act shall become effective one hundred and eighty days after the date of enactment of this Act. At that time the Secretary shall publish and provide to all licensees a compilation of the State laws and published ordinances of which licensees are presumed to have knowledge pursuant to chapter 44 of title 18, United States Code, as amended by this Act. All amendments to such State laws and published ordinances as contained in the aforementioned compilation shall be published in the Federal Register, revised annually, and furnished to each person licensed under chapter 44 of title 18, United States Code, as amended by this Act.

(2) The provisions of sections 103(5)(C), 104(2), 105, and 107 of this Act shall be applicable to any action, petition, or appellate proceeding pending on the effective date of this Act. In considering any petitions for Presidential pardons submitted by persons convicted of violations of chapter 44 of title 18, United States Code, prior to the effective date of this Act, the Congress recommends that consideration be given to whether the violation would have been punishable under this Act, and to the purposes and findings contained in the preamble thereto.

AMENDMENT No. 6118

At the end of the stricken language, add the following:

SEC. . Title 18 of the United States Code is amended—

(a) by adding the following new chapter after chapter 227:

"CHAPTER 228. DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3591. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title, if the offense constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(c) any other offense for which a sentence of death is provided, if the defendant—

"(1) intentionally killed the victim;

"(2) intentionally inflicted serious bodily injury that resulted in the death of the victim; or

"(3) intentionally participated in an act that he knew, or reasonably should have known, would create a grave risk of death to a person, other than one of the participants in the offense, and the victim died as a direct result of the act;

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) the defendant was less than eighteen years of age at the time of the offense;

"(2) the defendant's mental capacity was significantly impaired, although the impairment was not such as to constitute a defense to prosecution;

"(3) the defendant was under unusal and substantial duress, although not such duress as would constitute a defense to prosecution; and

"(4) the defendant was an accomplice whose participation in the offense was relatively minor.

The jury, or if there is no jury, the court, may consider whether any other mitigating factor exists.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), a the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the defendant has previously been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; and

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (b) or (c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(2) the defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

"(4) the defendant, in the commission of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(8) the defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism; or

"(9) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified.

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of an offense decribed in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Prior to such a hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the provisions of Rule 32(e) of the Federal Rule of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—At the hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The attorney for the government shall open the argument. The defendant shall be permitted to reply. The attorney for the government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return a special finding as to each mitigating and aggravating factor, concerning which information is presented at the hearing, required to be considered under section 3592. The jury must find the existence of a mitigating or aggravating factor by a unanimous vote, although it is unnecessary that there be a unanimous vote on any specific mitigating or aggravating factor if a majority of the jury finds the existence of such a specific factor.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591(b) or (c), an aggravating factor required to be considered under section 3592(c) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether all the aggravating factors found to exist sufficiently outweigh all the mitigating factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether a sentence of death is justified.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, national origin, creed, or sex of the defendant. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, national origin, creed, or sex of the defendant was not involved in reaching the juror's individual decision.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Upon a finding under section 3593(e) that a sentence of death is not justified, or under section 3593(d) that no aggravating factor required to be found exists, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of an aggravating factor required to be considered under section 3592;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law. A sentence of death shall not be carried out upon a woman while she is pregnant.

"§ 3597. Use of State facilities

"A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.";

(b) by repealing sections 3566 and 3567;

(c) in the chapter analysis of part II, by adding the following new item after the item relating to chapter 227:

"228. Death sentence ..... 3591"

and

(d) in the section analysis of chapter 227, by amending the items relating to sections 3566 and 3567 to read as follows:

"3566. Repealed.

"3567. Repealed.".

SEC. . Section 34 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. . Section 794(a) of title 18 of the United States Code is amended by changing the period at the end of the section to a comma and by adding immediately thereaf-

ter the words "except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

SEC. . Section 844(d) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. . Section 844(f) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. . Section 844(i) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. . The second paragraph of section 1111(b) of title 18 of the United States Code is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

SEC. . Section 1116(a) of title 18 of the United States Code is amended by striking the words "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

SEC. . Chapter 51 of title 18 of the United States Code is amended—

(a) by adding at the end thereof the following:

§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of parole.

"(b) For the purposes of this section—

"(1) 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death;

"(3) 'murders' means committing first degree or second degree murder as defined by section 1111 of this title."; and

(b) by amending the section analysis to add:

"1118. Murder by a Federal prisoner.".

SEC. . Section 1201 of title 18 of the United States Code is amended by inserting after the words "or for life" in subsection (a) the words "and, if the death of any person results, shall be punished by death or life imprisonment".

SEC. . The last paragraph of section 1716 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the paragraph.

SEC. . Subsection (c) of section 1751 of title 18 of the United States Code is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

SEC. . The second to the last paragraph of section 1992 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. . Section 2031 of title 18 of the United States Code is amended by deleting the words "death, or".

SEC. . Section 2113(e) of title 18 of the United States Code is amended by striking the words "or punished by death if the verdict of the jury shall so direct" and inserting in lieu thereof the words "or if death results shall be punished by death or life imprisonment".

SEC. . Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. . The provisions of chapter 228 of title 18 of the United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

AMENDMENT NO. 6119

At the end of the stricken language, add the following:

SECTION . This Amendment may be cited as the "Product Liability Act".

DEFINITIONS

SEC. . As used in this Act—

(1) "claimant" means any person who brings a product liability action, and if such an action is brought through or on behalf of an estate, the term includes the claimant's decedent, or if such an action is brought through or on behalf of a minor, the term includes the claimant's parent or guardian;

(2) "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established; the level of proof required to satisfy this standard is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt;

(3) "commerce" means trade, traffic, commerce, or transportation (A) between a place in a State and any place outside of that State; or (B) which affects trade, commerce, or transportation described in clause (A);

(4) "exercise of reasonable prudence" includes conduct of an ordinary person or class of persons, in the same or similar circumstances, exercising the care, attention, knowledge, intelligence, and judgment that society requires of its members for the protection of their own interests and the interests of others;

(5) "express warranty" means any affirmation of fact, promise, or description relating to a product, but does not include a general opinion about, or general praise of, a product or its quality; the term does not require that a manufacturer use the terms "warrant" or "guarantee", or that the manufacturer have the specific intention to make an express warranty;

(6) "harm" means (A) physical damage to property other than the product itself; (B) personal physical illness, injury, or death of the claimant; or (C) mental anguish or emotional harm of the claimant caused by the claimant's personal physical illness or injury; the term does not include commercial loss;

(7) "manufacturer" means (A) any person who is engaged in a business to design or formulate and to produce, create, make, or construct any product (or component part of a product); (B) a product seller with respect to all aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller designs or formulates and produces, creates, makes, or constructs an aspect of a product (or component part of a product) made by another; or (C) any product seller not described in clause (B) which holds itself out as a manufacturer to the user of the product;

(8) except for purposes of section 12(f), "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(9) "practical technological feasibility" means the technical, medical, and scientific knowledge relating to the safety of a product which, at the time of production or manufacture of a product, was developed, available and capable of use in the manufacture of a product, and economically feasible for use by a manufacturer;

(10) "preponderance of the evidence" is that measure or degree of proof which, by the weight, credit, and value of the aggregate evidence on either side, establishes that it is more probable than not that a fact occurred or did not occur;

(11) "product" means any object, substance, mixture or raw material in a gaseous, liquid or solid state which is capable of delivery itself, or as an assembled whole in a mixed or combined state or as a component part or ingredient, which is produced for introduction into trade or commerce, which has intrinsic economic value, and which is intended for sale or lease to persons for commercial or personal use; the term does not include human tissue, blood, or organs;

(12) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, installs, prepares, blends, packages, labels, markets, repairs, maintains, or otherwise is involved in placing a product in the stream of commerce; the term does not include—

(A) a seller of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor;

(13) "product user" means any person, including the claimant's employer, who owns, operates, or has control of a product;

(14) "reasonably anticipated conduct" means the conduct which is expected, ordinary, and familiar of the class of persons likely to use or be exposed to the product; and

(15) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory

or possession of the United States, or any political subdivision thereof.

PREEMPTION OF OTHER LAWS

SEC. . (a) No person may recover for any loss or damage caused by a product except to the extent that the loss or damage constitutes harm. A civil action for loss or damage caused to a product itself or for commercial loss is not a product liability action, and shall be governed by applicable commercial or contract law.

(b)(1) This Act supersedes any State law regarding recovery for any loss or damage caused by a product to the extent that this Act establishes a rule of law applicable to any civil action brought against a manufacturer or product seller for loss or damage caused by a product, including any action which before the effective date of this Act would have been based on (A) strict or absolute liability in tort; (B) negligence or gross negligence; (C) breach of express or implied warranty; (D) failure to discharge a duty to warn or instruct; or (E) any other theory that is the basis for an award for damages for loss or damage caused by a product. Any issue arising in such an action that is not governed by any such rule of law shall be governed by applicable State law. This Act shall not be construed to waive or affect any defense of sovereign immunity asserted by any State under any provision of law.

(2) Nothing in this Act shall be construed to supersede any Federal law, except the Federal Employees Compensation Act.

(3) Nothing in this Act shall be construed to waive or affect any defense of sovereign immunity asserted by the United States.

(4) Nothing in this Act shall be construed to affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976 (28 U.S.C. 1602 et seq.).

(c) Nothing in this Act is intended to preempt any State law creating a cause of action for damages caused by the release of a hazardous substance or waste, as defined by State law.

(d) Nothing in this Act is intended to affect in any way application of any rule of law regarding whether a claimant must identify the manufacturer of the product that caused the claimant's harm.

(e) The district courts of the United States shall not have jurisidiction over any civil action arising under this Act, based on sections 1331 or 1337 of title 28, United States Code.

RESPONSIBILITY OF MANUFACTURERS

SEC. . In any product liability action, a manufacturer is liable to a claimant if—

(1) the claimant establishes by a preponderance of the evidence that—

(A) the product was unreasonably dangerous in construction or manufacturer, as defined in section 5(a);

(B) the product was unreasonably dangerous in design or formulation, as defined in section 5(b);

(C) the product was unreasonably dangerous because the manufacturer failed to provide adequate warnings or instructions about a danger connected with the product or about the proper use of the product, as defined in section 6; or

(D) the product was unreasonably dangerous because the product did not conform to an express warranty made by the manufacturer with respect to the product, as defined in section 7; and

(2) the claimant establishes by a preponderance of the evidence that the unreasonably dangerous aspect of the product was a proximate cause of the harm complained of by the claimant.

PRODUCT CONSTRUCTION AND DESIGN

SEC. . (a) A product is unreasonably dangerous in construction or manufacture if, when the product left the control of the manufacturer, it deviated in a material way—

(1) from the design specifications, formula, or performance standards of the manufacturer; or

(2) from otherwise identical units manufactured to the same manufacturing specification or formula.

(b)(1) A product is unreasonably dangerous in design or formulation if, at the relevant point in time—

(A) the manufacturer knew or, through the exercise of reasonable prudence, should have known about the danger which allegedly caused the claimant's harm; and

(B) a reasonably prudent person in the same or similar circumstances would not have manufactured the product or used the design or formulation that the manufacturer used.

(2) A product is not unreasonably dangerous in design or formulation if the manufacturer proves by a preponderance of the evidence that, at the relevant point in time—

(A) a means to eliminate the danger that caused the harm was not within practical technological feasibility, and the benefits and usefulness of the product to the public outweighed the likelihood and probable seriousness of the harm;

(B) the harm was caused by an unavoidably dangerous product; or

(C) the harm was caused by an unsafe aspect of a product which was an inherent characteristic of the product and which would be recognized by the ordinary person who uses or consumes the product with the ordinary knowledge common to the community.

(3) As used in paragraph (2)(B), "an unavoidably dangerous product" means a product that, at the relevant point in time—

(A) is useful and desirable to the public;

(B) has a known but reasonable risk which, in light of the state of scientific and technical knowledge at that time, can not be made safe without impairing the effectiveness of the product's intended and ordinary use; and

(C) would have been made by a reasonable manufacturer using that particular design or formulation.

(4) As used in this subsection, "relevant point in time" means the earlier of the time of manufacture of a product or certification of an aircraft or its parts or accessories by the Federal Aviation Administration.

PRODUCT WARNINGS OR INSTRUCTIONS

SEC. . (a) A product is unreasonably dangerous because of the failure of the manufacturer to provide warnings or instructions about a danger connected with the product or about the proper use of the product if—

(1) adequate warnings or instructions were not provided, under subsection (b); or

(2) adequate post-manufacture warnings or instructions were not provided, under subsection (c).

(b) A product is unreasonably dangerous for lack of adequate warnings or instructions if, at the time the product left the control of the manufacturer—

(1) the manufacturer knew or, through the exercise of reasonable prudence, should have known about the danger which allegedly caused the claimant's harm;

(2) the manufacturer failed to provide the warnings or instructions that a reasonably prudent person in the same or similar circumstances would have provided with respect to the danger which caused the harm alleged by the claimant, given the likelihood that the product would cause harm of the type alleged by the claimant and given the seriousness of that harm; and

(3) those warnings or instructions, if provided, would have led a product user in the course of reasonably anticipated conduct either to decline to use the product or to use it in a manner so as to avoid harm of the type alleged by the claimant.

(c)(1) A product is unreasonably dangerous for lack of post-manufacture warnings or instructions if, after the product left the control of the manufacturer—

(A) the manufacturer knew or, through the exercise of reasonable prudence, should have known about the danger which allegedly caused the claimant's harm; and

(B) adequate post-manufacture warnings or instructions would have been provided by a reasonably prudent person in the same or similar circumstances, given the likelihood that the product would cause harm of the type alleged by the claimant and given the seriousness of that harm.

(2) A product is not unreasonably dangerous under this subsection if the manufacturer made reasonable efforts to provide adequate post-manufacture warnings or instructions to a product user or to another person, in accordance with subsection (d).

(d) Where warnings or instructions are required under subsection (b) or (c), such warnings and instructions shall be given to the product user, unless—

(1) in light of the practical and economic difficulties of giving the warnings or instructions directly to the product user, the likelihood that the product would cause harm of the type alleged by the claimant, and the probable seriousness of that harm, a reasonably prudent person would have given such warnings or instructions to a third person, including an employer, who could be expected to take action to avoid the product user's harm or to assure that the risk of harm is explained to the product user; or

(2) the product is one which may be legally used only by or under the supervision of a using or supervising expert, in which case the manufacturer shall act with reasonable prudence to warn or instruct the expert.

(e) A product is not unreasonably dangerous for lack of warnings regarding—

(1) dangers that are obvious;

(2) the consequences of product misuse, as defined in section 9(c); or

(3) the consequences of product alterations or modifications, as defined in section 9(d).

As used in paragraph (1) of this subsection, "dangers that are obvious" are those dangers, including the magnitude of the danger, of which a product user in the course of reasonably anticipated conduct or a person identified in subsection (d), if applicable, would have been aware without a warning and dangers, including the magnitude of the danger, which were a matter of common knowledge to persons in the same or similar position as the claimant.

PRODUCT EXPRESS WARRANTY

SEC. . (a) A product is unreasonably dangerous because it did not conform to an express warranty made by the manufacturer if—

(1) the product failed to conform to such warranty; and

(2) the failure of the product to conform to such warranty caused the claimant's harm.

(b) A product may be unreasonably dangerous for failure to conform to an express warranty although the manufacturer did not engage in negligent or fraudulent conduct in making the express warranty.

RESPONSIBILITY OF PRODUCT SELLERS

SEC. . (a) In any product liability action, a product seller other than a manufacturer is liable to a claimant, if the claimant establishes by a preponderance of the evidence that—

(1)(A) the individual product unit which allegedly caused the harm complained of was sold by the defendant;

(B) the product seller failed to exercise reasonable prudence with respect to the product; and

(C) such failure to exercise reasonable prudence was a proximate cause of the claimant's harm; or

(2)(A) the product seller made an express warranty, independent of any express warranty made by a manufacturer as to the same product;

(B) the product failed to conform to such warranty; and

(C) the failure of the product to conform to such warranty caused the claimant's harm.

(b)(1) In determining whether a product seller is subject to liability under subsection (a)(1), the trier of fact may consider the effect of the conduct of the seller with respect to the construction, inspection, or condition of the product, and any failure of the seller to transmit adequate warnings or instructions about the dangers and proper use of the product.

(2) A product seller shall not be liable under this Act where there was no reasonable opportunity to inspect the product in a manner which would or should, in the exercise of reasonable care, have revealed the aspect of the product which allegedly rendered it unreasonably dangerous.

(c) A product seller shall be treated as the manufacturer of a product and shall be liable for harm to the claimant caused by a product as if it were the manufacturer of the product if—

(1) the manufacturer is not subject to service of process under the laws of the State in which the action is brought; or

(2) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

DETERMINATION OF RESPONSIBILITY IN A PRODUCT LIABILITY ACTION

SEC. . (a) All claims under this Act shall be governed by the principles of comparative responsibility. Comparative responsibility attributed to the claimant's conduct shall not bar recovery in a product liability action, but shall reduce any damages awarded to the claimant in an amount proportionate to the responsibility of the claimant.

(b)(1) In any product liability action, the court, unless otherwise agreed by all parties, shall instruct the jury to answer special interrogatories (or, if there is no jury, the court shall make findings) indicating—

(A) the total amount of damages to each claimant for that claimant's harm; and

(B) the percentage of total responsibility for each claimant's harm attributable to each claimant, each defendant, each third-party defendant, and to any other cause or person who is not a party to the action (other than the claimant's employer or coemployee, where the provisions of section 10 apply).

(2) In making the determinations specified in paragraph (1)(B), evidence of conduct defined in subsections (c), (d), (e), and (f) shall be considered. For purposes of this subsection, the court may determine that two or more persons are to be treated as a single party.

(3) The percentage attributable under paragraph (1)(B) to each defendant or each third-party defendant shall be determined by—

(A) subtracting the percentage of responsibility attributable to the claimant and to any other cause or person who is not a party to the action (other than the claimant's employer or coemployee, where the provisions of section 10 apply) from 100 percent; and

(B) allocating the percentage which is the result of the subtraction under subparagraph (A) among the defendants and third-party defendants according to their individual responsibility for the claimant's harm.

(c) Evidence that misuse of a product by any person other than the claimant's employer or coemployee (where the provisions of section 10 apply) has caused all or a portion of the claimant's harm shall be considered in determining the percentage of total responsibility for the claimant's harm allocable under subsection (b). Misuse shall be considered to occur when a product is used for a purpose or in a manner which is not consistent with the reasonably anticipated conduct of users, which may include use for a purpose or in a manner which is not consistent with adequate warnings or instructions available to the user or failure of a person who would reasonably be expected to train another person or otherwise provide for the safe use of the product and who does not train or provide for the safe use of the product.

(d)(1) Evidence that an alteration or modification of the product by any person other than the claimant's employer or coemployee (where the provisions of section 10 apply) has caused all or a portion of the claimant's harm shall be considered in determining the percentage of total responsibility for the claimant's harm allocable under subsection (b). Alteration or modification shall be considered to occur when a product is changed in a manner which is not consistent with the reasonably anticipated conduct of users, which may include a change in the product design or formulation, or a change in or removal of warnings, instructions, or safety devices that accompanied the product.

(2) Alteration or modification shall not be considered to occur if—

(A) ordinary wear and tear of a product has occurred;

(B) the alteration or modification was in accordance with instructions or specifications of the manufacturer or product seller; or

(C) the alteration or modification was made with the express consent of the manufacturer or product seller.

(e) Evidence that the conduct of the claimant involving negligence, contributory negligence, or assumption of risk has caused all or a portion of the claimant's harm shall be considered in determining the percentage of total responsibility for the claimant's harm allocable under subsection (b). Conduct of the claimant involving negligence, contributory negligence, or assumption of risk shall be considered to occur—

(1) when the claimant, while using the product, was injured by a defective condition of which he was not aware and which would have been apparent, without inspection, to a reasonably prudent person; or

(2) when the claimant knew about the product's defective condition, understood that there was a risk of harm and the potential severity of that harm, and voluntarily used the product or voluntarily assumed the risk of harm from the product.

(f) Evidence of product misuse, alteration, or modification, as defined in subsections (c) and (d), by the claimant's employer or coemployee (where the provisions of section 10 apply) or other acts or omissions by the claimant's employer or coemployee shall be considered on the issue of whether the employer's or coemployee's misuse, alteration, modification, or other act or omission was a superseding cause of the claimant's harm.

(g) The court shall—

(1) unless section 10(a) requires a different result, enter judgment against each defendant or third-party defendant determined to be liable in accordance with its individual percentage of responsibility, as determined under subsection (b), or, where a defendant or third-party defendant is jointly and severally liable with another person, enter judgment against the defendant or third-party defendant on the basis of joint and several liability; and

(2) state in the judgment each party's percentage of responsibility for the claimant's harm.

Joint and several liability and contribution among joint tortfeasors shall be determined in accordance with applicable State law, except that the basis for contribution shall be each joint tortfeasor's percentage of responsiblity for the claimant's harm.

(h) Upon motion made by a joint tortfeasor not later than 1 year after judgment is entered, the court shall determine whether all or part of the amount for which another joint tortfeasor is responsible is uncollectible from contribution from that joint tortfeasor, and shall reallocate any uncollectible amount among the other joint tortfeasors, according to their comparative percentages of responsibility. The joint tortfeasor whose responsibility is reallocated is nonetheless subject to contribution and to any continuing liability to the claimant.

EFFECT OF WORKERS' COMPENSATION BENEFITS

SEC. . (a) In any product liability action in which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers' compensation law, the judgment entered against each defendant and third-party defendant found liable shall be determined by applying the defendant's percentage of responsibility, as determined under section 9(b), to the amount remaining after the claimant's total damages, as determined under section 9(b)(1)(A), are reduced by the sum of the amount paid as workers' compensation benefits for that harm and the present value of all workers' compensation benefits to which the employee is or would be entitled for the harm. Where a defendant or third-party defendant is jointly and severally liable with another person, the judgment against the defendant or third-party defendant shall be entered on the basis of joint and several liability, and the court shall state in the judgment each party's percentage of responsibility for the claimant's harm. The determination of workers' compensation benefits by the trier of fact in a product liability action shall have no binding effect on and shall not be used as evidence in any other proceeding.

(b) Unless the manufacturer or product seller has expressly agreed to indemnify or hold an employer harmless for harm to an employee caused by a product neither the

employer nor the workers' compensation insurance carrier of the employer shall have a right of subrogation, contribution, or implied indemnity against the manufacturer or product seller or a lien against the claimant's recovery from the manufacturer or product seller if the harm is one for which a product liability action may be brought under this Act.

(c) In any product liability action in which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers' compensation law, no third-party tortfeasor may maintain any action for implied indemnity or contribution against the employer or any coemployee of the person who was injured.

(d) Nothing in this Act shall be construed to affect any State or Federal workers' compensation law provision which prohibits a person who is or would have been entitled to receive compensation under any such law, or any other person whose claim is or would have been derivative from such a claim, from recovering in any action other than a workers' compensation claim against a present or former employer or workers' compensation insurer of the employer or any coemployee for harm caused by a product. Such other actions shall be prohibited, except that nothing in this Act shall be construed to affect any State or Federal workers' compensation law which permits recovery based on a claim of an intentional tort by the employer or coemployee where the claimant's harm was caused by such an intentional tort.

(e) As used in this section, "employer" does not include a State, where the State is acting in its capacity as an employer.

(f) Without regard to when the harm giving rise to the claim occurred, the provisions of this section do not apply to any person subject to or covered by the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.), as amended.

TIME LIMITATION ON LIABILITY

SEC. . (a)(1) If any product is a capital good, no claim alleging unsafe design or formulation as provided in section 5(b), or failure to give adequate warnings or instructions as provided in section 6(a), may be brought for harm caused by such a product more than 25 years from the date of delivery of the product to its first purchaser or lessee who was not engaged in the business of selling or leasing the product or using the product as a component in the manufacture of another product.

(2) As used in this subsection, "capital good" means any product, other than a motor vehicle, or a vessel, aircraft, or railroad used primarily to transport passengers, or any component of any such product, if it is also of a character subject to allowance for depreciation under the Internal Revenue Code of 1954, as amended, and was—

(A) used in a trade or business;

(B) held for the production of income; or

(C) sold, leased, or donated to a governmental or private entity for the production of goods, for training, for demonstration, or other similar purposes.

(b) Subsection (a) is not applicable if—

(1) the manufacturer or product seller intentionally misrepresented facts about the product or fraudulently concealed information about the product, and that conduct was a cause of the claimant's harm;

(2) the harm of the claimant was caused by the cumulative effect of prolonged exposure to a defective product; or

(3) the harm, caused within the period referred to in subsection (a), did not manifest itself until after the expiration of that period.

(c) Nothing in subsection (a) shall affect the right of any person who is subject to liability for harm under this Act to seek and obtain contribution or indemnity from any other person who is responsible for that harm.

PUNITIVE DAMAGES

SEC. . (a)(1) Following a determination of the manufacturer's or product seller's liability for compensatory damages and the amount of such damages, a claimant may move that punitive damages be assessed against the manufacturer or product seller. Nothing in this section shall be construed to permit the admission of evidence relating solely to the assessment of punitive damages in a proceeding to determine liability for and the amount of compensatory damages.

(2) Punitive damages may be assessed against any manufacturer or product seller if the claimant establishes by clear and convincing evidence that the harm suffered was the result of the reckless disregard of the manufacturer or product seller for the safety of product users, consumers, or persons who might be harmed by the product. Except as provided in subsection (k), punitive damages may not be assessed in the absence of liability for compensatory damages.

(b) The trier of fact, in determining under subsection (a) whether punitive damages should be awarded, shall consider—

(1) the manufacturer's or product seller's awareness of the likelihood that serious harm would arise from the sale or manufacture of a product;

(2) the conduct of the manufacturer or product seller upon discovery that the product caused harm or was related to harm caused to users or others, including whether upon confirmation of the problem the manufacturer or product seller took appropriate steps to reduce the risk of harm; and

(3) the duration of the conduct and any concealment of it by the manufacturer or product seller.

(c) If the trier of fact determines under subsection (a) that punitive damages should be assessed against a manufacturer or product seller, the court shall determine the amount of those damages. The court shall make findings of fact in connection with its award. In making its determination, the court shall consider—

(1) all relevant evidence relating to the factors set forth in subsection (b);

(2) the profitability of the conduct to the manufacturer or product seller;

(3) all resolved and pending claims against the manufacturer or product seller with respect to the product;

(4) the quality of the conduct that gave rise to liability for punitive damages;

(5) the total resources and the condition of the business of the manufacturer or product seller;

(6) the nature of the harm for which the punitive damage award is assessed; and

(7) the total effect of other sanctions imposed upon the manufacturer or product seller as a result of the misconduct, including any criminal fines, civil penalties, or other sanctions to which the manufacturer or product seller has been or may be subjected.

(d) Notwithstanding the provisons of section 13, a manufacturer or product seller may introduce relevant evidence of post-manufacturing improvements in defense of punitive damages.

(e) After determining the amount of punitive damages to be assessed under subsection (c), the court shall order a distribution of such portion of the award to the plaintiff as the court determines appropriate. The distribution shall not exceed the amount of the award of compensatory damages to the plaintiff.

(f)(1) After making the distribution under subsection (e), the court shall order the distribution of any remainder to a person to be used for a public purpose designated by the court. The public purpose shall further the national interest in health, safety, education, or the environment and may reflect the nature of the harm for which the punitive damage award is assessed.

(2) The person to whom the remainder is distributed shall serve in a fiduciary capacity with respect to such remainder by—

(A) acting in accordance with the court order governing such remainder and using the funds exclusively for the public purpose designated by the court;

(B) using the care, skill, prudence and diligence under the circumstances then prevailing that a reasonably prudent person acting in a similar capacity and familiar with such matters would use in the conduct of an enterprise of a similar character and with similar aims; and

(C) defraying reasonable expenses of administering such remainder.

(3) Unless the court otherwise orders, the person to whom the remainder is distributed shall submit to the court an annual financial statement and opinion of such remainder prepared by an independent qualified public accountant, as defined in section 103(a)(3)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023(a)(3)(D)). The public accountant shall conduct, in accordance with generally accepted accounting standards and such other tests as are considered necessary by the accountant, an examination of such financial statements, books, and records as the accountant may consider necessary and as are available for inspection consistent with any applicable provision of law.

(4) The court may, at any time after ordering distribution of the remainder under paragraph (1)—

(A) hold a hearing and appoint an expert to conduct an examination of such financial statements, books, and records as the expert considers necessary and as are available for inspection consistent with any applicable provision of law, in order to determine whether the person to whom the remainder is distributed has met its fiduciary duties, as specified in paragraph (2); and

(B) impose penalties or revise its distribution order as it considers appropriate, if the court finds that the person to whom the remainder is distributed has not met its fiduciary duties, as specified in paragraph (2).

(5) If a court orders under paragraph (1) that the remainder be distributed to a trust, the court shall designate a qualified financial institution to serve as trustee of the remainder.

(6) As used in this subsection, "person" means any governmental agency, an existing nonprofit organization, a nonprofit organization established for the purpose of receiving and administering the punitive damage award, or a trust; the term does not include any entity whose primary purpose is to assist in or influence the passage or defeat of any legislation by the Congress of the United States or the legislature of any

State, or to secure the election or defeat of any candidate for elective office.

(g) If a court assesses punitive damages under this section and an appeal is taken from the assessment, all other claims for punitive damages which are based on the same allegations of reckless disregard shall be stayed pending such appeal, except that, in any case in which the trier of fact has begun to take evidence relevant to liability for punitive damages, any such claim shall only be stayed after the jury has made a determination regarding liability for punitive damages. If no such appeal is made, or upon affirmance of the assessment on appeal, all other claims for punitive damages based on the same allegations of reckless disregard shall be barred. If the assessment is reversed (without remand) upon appeal, the stay of such other claims shall be lifted.

(h) After the trier of fact has begun to take evidence relating to liability for punitive damages under subsection (a)(1), a claim for punitive damages in any proceeding under this section may be compromised, if the court approves that compromise. The court shall not approve a compromise which it finds is not in the public interest or is not commensurate with the damages appropriate to the gravity and nature of the defendant's conduct, as determined under subsection (c). The court shall not approve a compromise if it lacks sufficient evidence to make such a finding. Any such compromise shall have the same effect as an assessment made by the court under this section.

(i) Notwithstanding the provisions of section 18, this section shall apply to all product liability actions in which no jury has been selected or, if the action is to be tried without a jury, in which the court has not begun to take evidence on the effective date of this Act. A payment or adjudication of liability for punitive damages against a manufacturer or product seller before the effective date of this Act shall not bar a proceeding under this section for punitive damages. In making an assessment of punitive damages under this section, the court shall consider, in addition to the factors listed in subsection (c), any amount of punitive damages a manufacturer or product seller, based on the same evidence of reckless disregard, has paid or has been determined to be liable for before the effective date of this Act.

(j) As used in this section, "reckless disregard" means conduct of the manufacturer or product seller manifesting a conscious, flagrant indifference to the safety of those persons who might be harmed by a product and constituting an extreme departure from accepted practice. A negligent choice among alternative product designs or warnings, when made in the ordinary course of business, does not by itself constitute reckless disregard.

(k) In any action in which the alleged harm to the claimant is death and the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant is liable for any such damages regardless of whether a claim is asserted under this section, and the recovery of any such damages shall not bar a claim under this section.

SUBSEQUENT REMEDIAL MEASURES

SEC. . (a) Except as provided in subsection (b), evidence of any measure taken after an event, which if taken previously would have made the event less likely to occur, is not admissible.

(b) This section does not require the exclusion of evidence of a subsequent measure in an action alleging a product was unreasonably dangerous in design or formulation, if offered to impeach a witness for the manufacturer or product seller who has expressly denied the feasibility of such a measure.

STATUTE OF LIMITATIONS

SEC. . Any civil action brought under this Act shall be barred unless the complaint is filed within 2 years of the time the claimant discovered or, in the exercise of reasonable prudence, should have discovered the harm and its cause, except that any such action of a person under legal disability may be commenced within 2 years after the disability ceases. If the commencement of such an action is stayed or enjoined, the running of the statute of limitations under this section shall be suspended for the period of the stay or injunction.

SEPARABILITY CLAUSE

SEC. . If any provision of this Act or the application of it to any person or circumstance is held invalid, the remainder of this Act and the application of the provision to any other person or circumstance shall not be affected by that invalidation.

EFFECTIVE DATE

SEC. . (a) This Act shall be effective 60 days after the date of its enactment, and shall apply to all product liability actions commenced on or after that date, including any action in which the harm or the conduct which caused the harm occurred before the effective date.

(b) If any provision of this Act would shorten the period during which a manufacturer would otherwise be exposed to liability, the claimant may, notwithstanding the otherwise applicable time period, bring any such action within 1 year after the effective date of this Act.

PRODUCT LIABILITY REVIEW PANEL

SEC. . (a) The Judicial Conference of the United States shall establish a Product Liability Review Panel (hereinafter in this section referred to as the "Panel") to conduct the studies required by this section. The Panel shall consist of three individuals selected on the basis of their expertise regarding civil actions and recovery for loss or damage caused by a product.

(b) The Panel shall conduct a study of the need for Federal legislation providing appropriate and predictable benefits, compensation or damages, through efficient and expeditious means, to any claimant who, through no fault of the claimant, is harmed by a product and who is unable to recover in any civil action based on liability in tort either because—

(1) the manufacturer of the product did not know and could not in the exercise of reasonable prudence have known at the relevant point in time (as defined in section 5(b)(4)) about the danger that caused the harm; or

(2) the product that caused the harm was unreasonably dangerous (as defined in this Act), but the manufacturer could not be identified.

The results of the study required by this section shall be submitted to the Congress within 18 months after the date of enactment of this Act.

(c) The Panel shall conduct a study to determine the feasibility or availability, or both, of providing compensation without regard to fault to claimants for any loss or damage caused by a product. The study shall include an assessment of current legislative or other actions regarding that compensation undertaken by Federal and State governments. The results of the study shall be submitted to the Congress within 2 years after the date of enactment of this Act, and shall contain recommendations for future legislative or other actions to provide compensation without regard to fault to claimants for any loss or damage caused by a product.

(d)(1) The Panel shall conduct an ongoing review of the adequacy of existing common law and statutory remedies in providing recovery for any loss or damage caused by a product.

(2) As part of the review required by this subsection, the Panel shall evaluate—

(A) the nature, adequacy, and availability of remedies and compensation under present law in providing recovery for any loss or damage caused by a product;

(B) the nature and scope of substantive, procedural and evidentiary barriers to that recovery, including statutes of limitation and statutes of repose, and the role of those barriers in the legal system; and

(C) the scope of liability for loss or damage caused by a product under present law and the consequences, including insurability, of any changes in that liability.

(3) The Panel shall submit the results of the review required by this subsection at such times as it considers appropriate, but in no event less often than January 15 of each year in which occurs the first session of a Congress.

(e) A member of the Panel who is not an officer or employee of the Federal Government shall be entitled to receive compensation at a rate not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule pursuant to section 5332 of title 5, United States Code, for each day (including traveltime) during which the member is engaged in the actual performance of the duties of the Panel.

(f) There are authorized to be appropriated for the purposes of this section such sums as may be necessary in fiscal year 1985. Such sums shall remain available until expended.

REVIEWABILITY

SEC. . It is the intent of the Congress that, in other than exceptional cases, the Supreme Court of the United States shall not review issues relating solely to the sufficiency of the evidence in cases arising under this Act which have been finally decided by the highest court of any State.

AMENDMENT NO. 6120

At the end of the stricken language, add the following: That this amendment may be referred to as the "Labor Management Racketeering Act of 1983".

SEC. . (a) Subsection (d) of section 302 of the Labor Management Relations Act, 1947 (29 U.S.C. 186) is amended to read as follows:

"(d)(1) Any person who participates in a transaction involving a payment, loan, or delivery of money or other thing of value to a labor organization in payment of membership dues or to a joint labor-management trust fund as defined by clause (B) of the proviso to clause (5) of subsection (c) of this section or to a plant, area, or industrywide labor-management committee that is received and used by such labor organization, trust fund, or committee, which transaction does not satisfy all the applicable requirements of subsections (c)(4) through (c)(9) of this section, and willfully and with intent to benefit himself or to benefit other persons he knows are not permitted to receive a pay-

ment, loan, money, or other thing of value under subsections (c)(4) through (c)(9) violates this subsection, shall, upon conviction thereof, be guilty of a felony and be subject to a fine of not more than $15,000, or imprisoned for not more than five years, or both; but if the value of the amount of money or thing of value involved in any violation of the provisions of this section does not exceed $1,000, such person shall be guilty of a misdemeanor and be subject to a fine of not more than $10,000, or imprisoned for not more than one year, or both.

"(2) Except for violations involving transactions covered by subsection (d)(1) of this section, any person who willfully violates this section shall, upon conviction thereof, be guilty of a felony and be subject to a fine of not more than $15,000, or imprisoned for not more than five years, or both; but if the value of the amount of money or thing of value involved in any violation of the provisions of this section does not exceed $1,000, such person shall be guilty of a misdemeanor and be subject to a fine of not more than $10,000, or imprisoned for not more than one year, or both.".

(b) Subsection (e) of such section is amended to read as follows:

"(e) The district courts of the United States and the United States courts of the territories and possessions shall have jurisdiction, for cause shown, and subject to the provisions of rule 65 of the Federal Rules of Civil Procedure (relating to notice to opposite party), over—

"(1) suits alleging a violation of this section brought by any person directly affected by the alleged violation, and

"(2) suits brought by the United States alleging that a transaction involving a payment, loan, or delivery of money or other thing of value to a labor organization in payment of membership dues or a joint labor-management trust fund as provided for in clause (B) of the proviso to clause (5) of subsection (c) of this section or to a plant, area, or industrywide labor-management committee violates this section,

to restrain such violations without regard to the provisions of section 6 of the Clayton Act (15 U.S.C. 17), section 20 of such Act (29 U.S.C. 52), and sections 1 through 15 of the Act entitled 'An Act to amend the Judicial Code to define and limit the jurisdiction of courts sitting in equity, and for other purposes', approved March 23, 1932 (29 U.S.C. 101-115).".

SEC. . (a) So much of subsection (a) of section 411 of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111) as follows "the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 401)," is amended to read as follows: "any felony involving abuse or misuse of such person's labor organization or employee benefit plan position or employment, or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element, shall serve or be permitted to serve—

"(1) as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, employee, or representative in any capacity of any employee benefit plan,

"(2) as a consultant or adviser to an employee benefit plan, including but not limited to any entity whose activities are in whole or substantial part devoted to providing goods or services to any employee benefit plan, or

"(3) in any capacity that involves decisionmaking authority or custody or control of the moneys, funds, assets, or property of any employee benefit plan,

during or for the period of ten years after such conviction or after the end of such imprisonment, whichever is later, unless the sentencing court on the motion of the person convicted sets a lesser period of at least five years after such conviction or after the end of such imprisonment, whichever is later, or unless prior to the end of such period, in the case of a person so convicted or imprisoned (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) the United States Parole Commission determines that such person's service in any capacity referred to in paragraphs (1) through (3) would not be contrary to the purposes of this title. Prior to making any such determination the Commission shall hold an administrative hearing and shall give notice to such proceeding by certified mail to the Secretary of Labor and to State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Commission's determination in any such proceeding shall be final. No person shall knowingly hire, retain, employ, or otherwise place any other person to serve in any capacity in violation of this subsection. Notwithstanding the preceding provisions of this subsection, no corporation or partnership will be precluded from acting in any position proscribed in clauses (1) through (3) of this subsection without a notice, hearing, and determination by such Parole Commission that such service would be inconsistent with the intention of this section.".

(b) Subsection (b) of such section is amended to read as follows:

"(b) Any person who intentionally violates this section shall be fined not more that $10,000 or imprisoned for not more than five years, or both.".

(c) Subsection (c) of such section is amended to read as follows:

"(c) For the purpose of this section:

"(1) A person shall be deemed to have been 'convicted' and under the disability of 'conviction' from the date of the judgment of the trial court, regardless of whether that judgment remains under appeal.

"(2) The term 'consultant' means any person who, for compensation, advises, or represents an employee benefit plan or who provides other assistance to such plan, concerning the establishment or operation of such plan.

"(3) A period of parole shall not be considered as part of a period of imprisonment.".

(d) Such section is amended by adding at the end thereof the following:

"(d) Whenever any person—

"(1) by operation of this section, has been barred from office or other position in an employee benefit plan as a result of a conviction, and

"(2) has filed an appeal of that conviction,

any salary which would be otherwise due such person by virtue of such office or position, shall be placed in escrow by the individual or organization responsible for payment of such salary. Payment of such salary into escrow shall continue for the duration of the appeal or for the period of time during which such salary would be otherwise due, whichever period is shorter. Upon the final reversal of such person's conviction on appeal, the amounts in escrow shall be paid to such person. Upon the final sustaining of that person's conviction on appeal, the amounts in escrow shall be returned to the individual or organization responsible for payments of those amounts. Upon final reversal of such person's conviction, such person shall no longer be barred by this statute from assuming any position from which such person was previously barred.".

SEC. . (a) So much of subsection (a) of section 504 of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 504) as follows "or a violation of title II or III of this Act" is amended to read as follows: "any felony involving abuse or misuse of such person's labor organization or employee benefit plan position or employment, or conspiracy to commit any such crimes, shall serve or be permitted to serve—

"(1) as a consultant or adviser to any labor organization,

"(2) as an officer, director, trustee, member of any executive board or similar governing body, business agent, manager, organizer, employee, or representative in any capacity of any labor organization,

"(3) as a labor relations consultant or adviser to a person engaged in an industry or activity affecting commerce, or as an officer, director, agent, or employee of any group or association of employers dealing with any labor organization, or in a position having specific collective bargaining authority or direct responsibility in the area of labor-management relations in any corporation or association engaged in an industry or activity affecting commerce,

"(4) in a position which entitles its occupant to a share of the proceeds of, or as an officer or executive or administrative employee of, any entity whose activities are in whole or substantial part devoted to providing goods or services to any labor organization, or

"(5) in any capacity, other than in his capacity as a member of such labor organization, that involves decisionmaking authority concerning, or decisionmaking authority over, or custody of, or control of the moneys, funds, assets, or property of any labor organization,

during or for the period of ten years after such conviction or after the end of such imprisonment, whichever is later, unless the sentencing court on the motion of the person convicted sets a lesser period of at least five years after such conviction or after the end of such imprisonment, whichever is later, or unless prior to the end of such period, in the case of a person so convicted or imprisoned, (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) the United States Parole Commission determines that such person's service in any capacity referred to in clauses (1) through (5) would not be contrary to the purposes of this Act. Prior to making any such determination the Commission shall hold an administrative hearing and shall give notice of such proceeding by certified mail to the Secretary of Labor and to State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Commission's determination in any such proceeding shall be final. No person shall knowingly hire, retain, employ, or otherwise place or permit any other person to serve in any capacity in violation of this subsection.".

(b) Subsection (b) of such section is amended to read as follows:

"(b) Any person who willfully violates this section shall be fined not more than $10,000 or imprisoned for not more than five years, or both.".

(c) Subsection of such section is amended to read as follows:

"(c) For the purpose of this section:

"(1) A person shall be deemed to have been 'convicted' and under the disability of 'conviction' from the date of the judgment of the trial court, regardless of whether that judgment remains under appeal.

"(2) A period of parole shall not be considered as part of a period of imprisonment.".

(d) Such section 504 is amended by adding at the end thereof the following:

"(d) Whenever any person—

"(1) by operation of this section, has been barred from office or other position in a labor organization as a result of a conviction, and

"(2) has filed an appeal of that conviction, any salary which would be otherwise due such person by virtue of such office or position, shall be placed in escrow by the individual employer or organization responsible for payment of such salary. Payment of such salary into escrow shall continue for the duration of the appeal or for the period of time during which such salary would be otherwise due, whichever period is shorter. Upon the final reversal of such person's conviction on appeal, the amounts in escrow shall be paid to such person. Upon the final sustaining of such person's conviction on appeal, the amounts in escrow shall be returned to the individual employer or organization responsible for payments of those amounts. Upon final reversal of such person's conviction, such person shall no longer be barred by this statute from assuming any position from which such person was previously barred.".

SEC. . (a) The first paragraph of section 506 of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by striking out "In order" and inserting in lieu thereof the following:

"(a) COORDINATION WITH OTHER AGENCIES AND DEPARTMENTS.—In order".

(b) Such section is amended by adding at the end thereof the following new subsection:

"(b) RESPONSIBILITY FOR DETECTING AND INVESTIGATING CIVIL AND CRIMINAL VIOLATIONS OF EMPLOYEE RETIREMENT INCOME SECURITY ACT AND RELATED FEDERAL LAWS.—The Secretary shall have the responsibility and authority to detect and investigate and refer, where appropriate, civil and criminal violations related to the provisions of this title and other related Federal laws, including the detection, investigation, and appropriate referrals of related violations of title 18 if United States Code. Nothing in this subsection shall be construed to preclude other appropriate Federal agencies from detecting and investigating civil and criminal violations of this title and other related Federal laws.".

(c) The title of such section is amended to read as follows:

"COORDINATION AND RESPONSIBILITY OF AGENCIES ENFORCING EMPLOYEE RETIREMENT INCOME SECURITY ACT AND RELATED FEDERAL LAWS".

SEC. . (a) The amendments made by section 3 and section 4 of this Act shall take effect with respect to any judgment of conviction entered by the trial court after the date of enactment of this Act, except that that portion of such amendments relating to the commencement of the period of disability shall apply to any judgment of conviction entered prior to the date of enactment of this Act if a right of appeal or an appeal from such judgment is pending on the date of enactment of this Act.

(b) Subject to subsection (a) the amendments made by sections 3 and 4 shall not affect any disability under section 411 of the Employee Retirement Income Security Act of 1974 or under section 504 of the Labor-Management Reporting and Disclosure Act of 1959 in effect on the date of enactment of this Act.

AMENDMENT No. 6121

At the end of the stricken language, add the following:

AMENDNENT No. 6889

At the appropriated place, add the following:

(a) SHORT TITLE.—This amendment may be cited as the "Enterprise Zone Act of 1984".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. . PURPOSES.

It is the purpose of this Act to provide for the establishment of enterprise zones in order to stimulate the creation of new jobs, particularly for disadvantaged workers and long-term unemployed individuals, and to promote revitalization of economically distressed areas primarily by providing or encouraging—

(1) tax relief at the Federal, State, and local levels;

(2) regulatory relief at the Federal, State, and local levels; and

(3) improved local services and an increase in the economic stake of enterprise zone residents in their own community and its development, particularly through the increased involvement of private, local, and neighborhood organizations.

SEC. . DESIGNATION OF ZONES.

(a) GENERAL RULE.—Chapter 80 (relating to general rules) is amended by adding at the end thereof the following new subchapter:

"Subchapter D—Designation of Enterprise Zones

"Sec. 7891. Designation.

"SEC. 7891. DESIGNATION.

"(a) DESIGNATION OF ZONES.—

"(1) DEFINITIONS.—For purposes of this title, the term 'enterprise zone' means any area—

"(A) which is nominated by one or more local governments and the State or States in which it is located for designation as an enterprise zone (hereinafter in this section referred to as a 'nominated area'), and

"(B) which the Secretary of Housing and Urban Development, after consultation with—

"(i) the Secretaries of Agriculture, Commerce, Labor, and the Treasury; the Director of the Office of Management and Budget; and the Administrator of the Small Business Administration, and

"(ii) in the case of an area on an Indian reservation, the Secretary of the Interior,

designates as an enterprise zone.

"(2) LIMITATIONS ON DESIGNATIONS.—

"(A) PUBLICATION OF REGULATIONS.—Before designating any area as an enterprise zone and not later than 4 months following the date of the enactment of this section, the Secretary of Housing and Urban Development shall prescribe by regulation, after consultation with the officials described in paragraph (1)(B)—

"(i) the procedures for nominating an area under paragraph (1)(A),

"(ii) the parameters relating to the size and population characteristics of an enterprise zone, and

"(iii) the manner in which nominated areas will be compared based on the criteria specified in subsection (d) and the other factors specified in subsection (f).

"(B) TIME LIMITATIONS.—The Secretary of Housing and Urban Development shall designate nominated areas as enterprise zones only during the 36-month period beginning on the later of—

"(i) the first day of the first month following the month in which the effective date of the regulations described in subparagraph (A) occurs, or

"(ii) January 1, 1985.

"(C) NUMBER OF DESIGNATIONS.—

"(i) IN GENERAL.—The Secretary of Housing and Urban Development may not designate—

"(I) more than 75 nominated areas as enterprise zones under this section, and

"(II) more than 25 nominated areas as enterprise zones during the first 12-month period beginning on the date determined under subparagraph (B) and each subsequent 12-month period.

"(ii) MINIMUM DESIGNATION IN RURAL AREAS.—Of the areas designated under clause (i), at least one-third must be areas—

"(I) which are within a local government jurisdiction or jurisdictions with a population of less than 50,000 (as determined under the most recent census data available),

"(II) which are outside of a metropolitan statistical area (within the meaning of section 103A(l)(4)(B)), or

"(III) which are determined by the Secretary of Housing and Urban Development, after consultation with the Secretary of Commerce, to be rural areas.

"(D) PROCEDURAL RULES.—The Secretary of Housing and Urban Development shall not make any designation under paragraph (1) unless—

"(i) the local government and the State in which the nominated area is located have the authority—

"(I) to nominate such area for designation as an enterprise zone,

"(II) to make the State and local commitments under subsection (d), and

"(III) to provide assurances satisfactory to the Secretary of Housing and Urban Development that such commitments will be fulfilled,

"(ii) a nomination therefor is submitted in such a manner and in such form, and contains such information, as the Secretary of Housing and Urban Development shall by regulation prescribe,

"(iii) the Secretary of Housing and Urban Development determines that any information furnished is reasonably accurate, and

"(iv) the State and local governments certify that no portion of the area nominated is already included in an enterprise zone or in an area otherwise nominated to be an enterprise zone.

"(3) NOMINATION PROCESS FOR INDIAN RESERVATIONS.—In the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to such area.

"(4) NOMINATION PROCESS FOR CERTAIN AREAS LOCATED OUTSIDE RESERVATIONS.—An Indian tribal government may nominate an area described in subsection (c)(2)(C)(iii), in

conjunction with the local government and the State in which such area is located, for designation as an enterprise zone.

"(b) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(1) IN GENERAL.—Any designation of an area as an enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

"(A) December 31 of the 24th calendar year following the calendar year in which such date occurs,

"(B) the termination date designated by the State and local governments as provided in the nomination submitted under subsection (a)(2)(D)(ii), or

"(C) the date the Secretary of Housing and Urban Development revokes such designation under paragraph (2).

"(2) REVOCATION OF DESIGNATION.—The Secretary of Housing and Urban Development, after consultation with the officials described in subsection (a)(1)(B), may revoke the designation of an area if the Secretary of Housing and Urban Development determines that the local government or the State in which it is located is not complying substantially with the State and local commitments under subsection (d).

"(3) DESIGNATION SHALL NOT TAKE EFFECT UNLESS INVENTORY OF HISTORIC PROPERTIES.—Notwithstanding paragraph (1)—

"(A) within 60 days after the date of the designation of an area as an enterprise zone (determined without regard to this paragraph), the State or local government of such area shall submit to the Secretary of Housing and Urban Development an inventory of historic properties within such area, and

"(B) the date of such designation shall not be earlier than the date on which such inventory is submitted.

"(c) AREA AND ELIGIBILITY REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary of Housing and Urban Development may make a designation of any nominated area under subsection (a)(1) only if it meets the requirements of paragraphs (2) and (3).

"(2) AREA REQUIREMENTS.—A nominated area meets the requirements of this paragraph if—

"(A) the area is within the jurisdiction of the local government,

"(B) the boundary of the area is continuous, and

"(C) the area—

"(i) has a population, as determined by the most recent census data available, of at least—

"(I) 4,000 if any portion of such area (other than a rural area described in subclause (I) or (III) of subsection (a)(2)(C)(ii)) is located within a metropolitan statistical area (within the meaning of section 103A(1)(4)(B)) with a population of 50,000 or more, or

"(II) 1,000 in any other case,

"(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior),

"(iii) is—

"(I) nominated by the local government and State government of such area and by an Indian tribal government, and

"(II) located entirely within a radius of 50 miles from any point on the border of the reservation over which such Indian tribal government has jurisdiction, or

"(iv) is located in Alaska—

"(I) within the jurisdiction of an Indian tribal government, or

"(II) within a municipality at least 50 percent of the resident population of which (as determined by the 1980 census of the United States) consists of Indians, Eskimos, or Aleuts.

"(3) ELIGIBILITY REQUIREMENTS.—For purposes of paragraph (1), a nominated area meets the requirements of this paragraph if the State and local governments in which it is located certify and the Secretary of Housing and Urban Development, after such review of supporting data as he deems appropriate, accepts such certification, that—

"(A) the area is one of pervasive poverty, unemployment, and general distress,

"(B) the area is located wholly within the jurisdiction of a local government which is eligible for Federal assistance under section 119 of the Housing and Community Development Act of 1974, as in effect on the date of the enactment of this section, and

"(C) one of the following criteria is met—

"(i) the unemployment rate, as determined by the appropriate available data, was at least 1½ times the national unemployment rate for that period, or

"(ii) the poverty rate (as determined by the most recent census data available) for each populous census tract (or where not tracted, the equivalent county division as defined by the Bureau of the Census for the purpose of defining poverty areas) within the area was at least 20 percent for the period to which such data relates, or

"(iii) at least 70 percent of the households living in the area have incomes below 80 percent of the median income of households of the local government (determined in the same manner as under section 119(b)(2) of the Housing and Community Development Act of 1974), or

"(iv) the population of the area decreased by 20 percent or more between 1970 and 1980 (as determined from the most recent census available).

"(4) SPECIAL AREAS OUTSIDE RESERVATIONS.—For purposes of this section, any area described in paragraph (2)(C)(iii) which is designated by an Indian tribal government shall be treated as meeting the requirements of paragraph (3) if any area within the reservation over which such tribal government has jurisdiction meets the requirements of paragraph (3).

"(5) WAIVER UNDER CERTAIN CIRCUMSTANCES.—The Secretary of Housing and Urban Development may waive the requirements of paragraph (3)(B) for one area in each State if no area in such State otherwise meets the requirements of paragraph (3)(B).

"(d) REQUIRED STATE AND LOCAL COMMITMENTS.—

"(1) IN GENERAL.—No nominated area shall be designated as an enterprise zone unless the local government and the State in which it is located agree in writing that, during any period during which the area is an enterprise zone, such governments will follow a specified course of action designed to reduce the various burdens borne by employers or employees in such area.

"(2) COURSE OF ACTION.—The course of action under paragraph (1) may be implemented by both such governments and private nongovernmental entities, may be funded from proceeds of any Federal program, and may include, but is not limited to—

"(A) a reduction of tax rates or fees applying within the enterprise zone,

"(B) an increase in the level or efficiency of local services within the enterprise zone, for example, crime prevention,

"(C) actions to reduce, remove, simplify, or streamline governmental requirements applying within the enterprise zone,

"(D) involvement in the program by private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a commitment from such private entities to provide jobs and job training for, and technical, financial or other assistance to, employers, employees, and residents of the nominated area, and

"(E) mechanisms to increase the equity ownership of residents and employees within the enterprise zone.

"(3) LATER MODIFICATION OF A COURSE OF ACTION.—The Secretary of Housing and Urban Development may by regulation prescribe procedures for modifying a course of action under paragraph (1) following designation.

"(e) SPECIAL AREAS OUTSIDE RESERVATIONS.—A nominated area described in subsection (c)(2)(C)(iii) may be designated an enterprise zone only if the Secretary determines that a substantial portion of the benefits of such designation will accrue to the members of the Indian tribe that nominated such area.

"(f) PRIORITY OF DESIGNATION.—In choosing nominated areas for designation, the Secretary of Housing and Urban Development shall give special preference to the areas with respect to which the strongest and highest quality contributions described in subsection (d)(2) have been promised as part of the course of action, taking into consideration the fiscal ability of the nominating State and local governments to provide tax relief. The Secretary shall also give preference to—

"(1) the nominated areas with respect to which the nominating State and local governments have provided the most effective and enforceable guarantees that the proposed course of action under subsection (d) will actually be carried out during the period of the enterprise zone designation,

"(2) the nominated areas with high levels of poverty, unemployment, and general distress, particularly the areas—

"(A) which are near areas with concentrations of disadvantaged workers or long-term unemployed individuals, and

"(B) with respect to which there is a strong likelihood that residents of the area described in subparagraph (A) will receive jobs if the area is designated as an enterprise zone,

"(3) the nominated areas the size and location of which—

"(A) will primarily stimulate new economic activity, and

"(B) minimize unnecessary tax losses to the Federal Government,

"(4) the nominated areas with respect to which private entities have made the most substantial commitments in additional resources and contributions, including the creation of new or expanded business activities, and

"(5) the nominated areas which best exhibit such other factors determined by the Secretary of Housing and Urban Development as are—

"(A) consistent with the intent of the enterprise zone program, and

"(B) important to minimizing the unnecessary loss of tax revenues to the Federal Government.

"(g) DEFINITIONS.—For the purposes of this title—

"(1) GOVERNMENTS.—If more than one government seeks to nominate an area as an en-

terprise zone, any reference to, or requirement of, this section shall apply to all such governments.

"(2) STATE.—The term 'State' shall also include Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other possession of the United States.

"(3) LOCAL GOVERNMENT.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State,

"(B) any combination of political subdivisions described in subparagraph (A) recognized by the Secretary of Housing and Urban Development, and

"(C) the District of Columbia.".

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 80 is amended by adding at the end thereof the following new item:

"Subchapter —Designation of Enterprise Zones".

SEC. . EVALUATION AND REPORTING REQUIREMENTS.

Not later than the close of the fourth calendar year after the calendar year in which the Secretary of Housing and Urban Development first designates areas as enterprise zones under section 7891 of the Internal Revenue Code of 1954, and at the close of each fourth calendar year thereafter, the Secretary of Housing and Urban Development shall prepare and submit to the Congress a report on the effects of such designation in accomplishing the purposes of this Act.

SEC. . INTERACTION WITH OTHER FEDERAL PROGRAMS.

(a) TAX REDUCTIONS.—Any reduction of taxes under any required program of State and local commitment under section 7891(d) of the Internal Revenue Code of 1954 shall be disregarded in determining the eligibility of a State or local government for, or the amount or extent of, any assistance or benefits under any law of the United States.

(b) COORDINATION WITH RELOCATION ASSISTANCE.—The designation of an enterprise zone under section 7891 of the Internal Revenue Code of 1954 shall not—

(1) constitute approval of a Federal or federally assisted program or project (within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601)), or

(2) entitle any person displaced from real property located in such zone to any rights or any benefits under such Act.

(c) COORDINATION WITH ENVIRONMENTAL POLICY.—Designation of an enterprise zone under section 7891 of the Internal Revenue Code of 1954 shall not constitute a Federal action for purposes of applying the requirements of the National Environmental Policy Act (42 U.S.C. 4341) or other provisions of Federal law relating to the protection of the environment.

TITLE —FEDERAL INCOME TAX INCENTIVES

Subtitle —Credits for Employers and Employees

SEC. . CREDIT FOR ENTERPRISE ZONE EMPLOYERS.

(a) CREDIT FOR INCREASED ENTERPRISE ZONE EMPLOYMENT AND EMPLOYMENT OF DISADVANTAGED WORKERS.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end thereof the following new section:

"SEC. 42. CREDIT FOR ENTERPRISE ZONE EMPLOYMENT.

"(a) IN GENERAL.—For purposes of section 38, the amount of the enterprise zone credit determined under this section for any taxable year shall be an amount equal to the sum of—

"(1) 10 percent of the qualified increased employment expenditures of the taxpayer for the taxable year, and

"(2) the economically disadvantaged credit amount of the taxpayer for such taxable year.

"(b) QUALIFIED INCREASED EMPLOYMENT EXPENDITURES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified increased employment expenditures' means the excess of—

"(A) the qualified wages paid or incurred by the employer during the taxable year to qualified employees with respect to all enterprise zones, over

"(B) the base period wages of the employer with respect to all such zones.

"(2) LIMITATIONS AS TO QUALIFIED WAGES TAKEN INTO ACCOUNT.—

"(A) DOLLAR AMOUNT.—The amount of any qualified wages taken into account under paragraph (1) for any taxable year with respect to any qualified employee may not exceed 2.5 times the dollar limitation in effect under section 3306 (b)(1) for the calendar year with or within which such taxable year ends.

"(B) APPLICATION WITH ECONOMICALLY DISADVANTAGED CREDIT AMOUNT.—Qualified wages shall not be taken into account under paragraph (1) if such wages are taken into account in determining the economically disadvantaged credit amount under subsection (c).

"(3) BASE PERIOD WAGES.—

"(A) IN GENERAL.—The term 'base period wages' means, with respect to any enterprise zone, the amount of wages paid to employees during the 12-month period preceding the earlier of—

"(i) the date on which the enterprise zone was designated as such under section 7891, or

"(ii) the date on which the enterprise zone was designated as such under any State law enacted after January 1, 1981,

which would have been qualified wages paid to qualified employees if such designation had been in effect for such period.

"(B) RULES OF SPECIAL APPLICATION.—For purposes of subparagraph (A)—

"(i) subsection (e)(1) shall be applied by substituting '12-month period' for 'taxable year' each place it appears, and

"(ii) the dollar limitation taken into account under paragraph (2)(A) in computing qualified wages shall be the amount in effect under section 3306(b)(1) for the calendar year with or within which the taxable year for which the amount of the credit under subsection (a) is being computed ends.

"(c) ECONOMICALLY DISADVANTAGED CREDIT AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'economically disadvantaged credit amount' means the sum of the applicable percentage of qualified wages paid to each qualified economically disadvantaged individual.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means, with respect to any qualified economically disadvantaged individual, the percentage determined in accordance with the following table:

"If the qualified wages are paid for services performed:	The applicable percentage is:
Within 36 months of starting date	50
More than 36 months but less than 49 months after such date	40
More than 48 months but less than 61 months after such date	230
More than 60 months but less than 73 months after such date	20
More than 72 months but less than 85 months after such date	10
More than 84 months after such date	0

"(3) STARTING DATE; BREAKS IN SERVICE.—For purposes of this subsection—

"(A) STARTING DATE.—The term 'starting date' means the day which the qualified economically disadvantaged individual begins work for the employer within an enterprise zone.

"(B) BREAKS IN SERVICE.—The periods described in the table under paragraph (2) (other than the first such period) shall be extended by any period of time—

"(i) during which the individual is unemployed, and

"(ii) by any period of time before the designation of the area as an enterprise zone under section 7891 during which the individual is employed by the employer while the area is designated as an enterprise zone under State law enacted after January 1, 1981.

"(d) QUALIFIED WAGES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified wages' has the meaning given to the term 'wages' by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

"(2) REDUCTION FOR CERTAIN FEDERALLY FUNDED PAYMENTS.—For purposes of this section, the wages paid or incurred by an employer for any period shall not include the amount of any federally funded payments the employer receives or is entitled to receive for on-the-job training of such individual for such period.

"(3) SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.—Under regulations prescribed by the Secretary, rules similar to the rules of section 51(h) shall apply with respect to services described in subparagraphs (A) and (B) of section 51(h)(1).

"(e) QUALIFIED EMPLOYEE DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified employee' means an individual—

"(A) at least 90 percent of whose services for the employer during the taxable year are directly related to the conduct of the employer's trade or business located in an enterprise zone, and

"(B) who performs at least 50 percent of his services for the employer during the taxable year in an enterprise zone.

"(2) EXCEPTION FOR INDIVIDUALS WITH RESPECT TO WHOM TARGETED JOBS CREDIT IS ALLOWED.—The term 'qualified employee' shall not include an individual any portion of whose wages is taken into account by the employer for the taxable year in computing the amount of the targeted jobs credit under section 51(a).

"(f) QUALIFIED ECONOMICALLY DISADVANTAGED INDIVIDUAL.—

"(1) For purposes of this section, the term 'qualified economically disadvantaged individual' means an individual—

"(A) who is a qualified employee,

"(B) who is hired by the employer during the period a designation under section 7891 is in effect for the area in which the services which qualify such individual as a qualified employee are performed, and

"(C) who is certified as—

"(i) an economically disadvantaged individual,

"(ii) an eligible work incentive employee (within the meaning of section 51(d)(9)), or

"(iii) a general assistance recipient (within the meaning of section 51(d)(6)).

"(2) ECONOMICALLY DISADVANTAGED INDIVIDUAL.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'economically disadvantaged individual' means any individual who is certified by the designated local agency as being a member of a family which had a combined family income (including the cash value of food stamps) during the 6 months preceding the month in which such determination occurs which, on an annual basis, was equal to or less than the sum of—

"(i) the highest amount which would ordinarily be paid to a family of the same size without any income or resources in the form of payments for aid to families with dependent children under the State plan approved under part A of title IV of the Social Security Act for the State in which such individual resides, plus,

"(ii) the highest cash value of the food stamps to which a family of the same size without any income or resources would be paid aid to families with dependent children under such State plan in the amount determined under clause (i).

Any such determination shall be valid for the 45-day period beginning on the date such determination is made.

"(B) SPECIAL RULE FOR FAMILIES WITH ONLY ONE INDIVIDUAL.—For purposes of clause (i) of subparagraph (A), in the case of a family consisting of only one individual, the 'highest amount which would ordinarily be paid' to such family under the State's plan approved under part A of title IV of the Social Security Act shall be an amount determined by the designated local agency on the basis of a reasonable relationship to the amounts payable under such plan to families consisting of two or more persons.

"(3) CERTIFICATION.—Certification of an individual as an individual described in paragraph (1)(C) shall be made in the same manner as certification under section 51.

"(g) SPECIAL RULES.—For purposes of this section—

"(1) APPLICATION TO CERTAIN ENTITIES, ETC.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (f) and (i) of section 51, section 52, and section 30(f)(3) shall apply.

"(2) PERIODS OF LESS THAN A YEAR.—If designation of an area as an enterprise zone under section 7891 occurs, expires, or is revoked on a date other than the first or last day of the taxable year of the taxpayer, or in the case of a taxable year of less than 12 months—

"(A) the limitation specified in subsection (b)(2)(A), and the base period wages determined under subsection (b)(3), shall be adjusted on a pro rata basis (based upon the number of days), and

"(B) the reduction specified in subsection (d)(2) and the 90 percent and 50 percent tests set forth in subsection (e)(1) shall be determined by reference to the portion of the taxable year during which the designation of the area as an enterprise zone is in effect.

"(3) SPECIAL RULE IF PERIOD OF ZONE EXTENDS MORE THAN 15 YEARS.—For purposes of applying section 39 to business credit carryovers determined under subsection (a) or section 46(a), if the number of taxable years during the period—

"(A) beginning with the taxable year after the unused credit year, and

"(B) ending with the taxable year in which the designation of the enterprise zone expires under section 7891,

exceeds 15, then such number shall be substituted for '15', such number plus 3 shall be substituted for '18', and such number plus 2 shall be substituted for '17' each place they appear in section 39(a).

"(h) PHASEOUT OF CREDIT.—In determining the amount of the credit for a taxable year under subsection (a) with respect to qualified wages paid or incurred for services performed in an enterprise zone—

"(1) the following percentages shall be substituted for '10 percent' in subsection (a)(1):

"(A) 7.5 percent in the earlier of—

"(i) the taxable year which includes the date which is 21 years after the date on which such enterprise zone was designated under section 7891, or

"(ii) the taxable year which includes the date which is 4 years before the date (if any) on which such enterprise zone ceases to be a zone under section 7891(b)(1)(B),

"(B) 5 percent in the next succeeding taxable year,

"(C) 2.5 percent in the second next succeeding taxable year, and

"(D) zero thereafter, and

"(2) the amount determined under subsection (a)(2) shall be reduced by—

"(A) 25 percent in the case of the taxable year described in paragraph (1)(A),

"(B) 50 percent in the next succeeding taxable year,

"(C) 75 percent in the second next succeeding taxable year, and

"(D) 100 percent thereafter.

"(i) EARLY TERMINATION OF EMPLOYMENT BY EMPLOYER IN CASE OF QUALIFIED ECONOMICALLY DISADVANTAGED INDIVIDUALS, ETC.—

"(1) GENERAL RULE.—Under regulations prescribed by the Secretary, if the employment of any qualified economically disadvantaged individual with respect to whom qualified wages are taken into account under subsection (a) is terminated by the taxpayer at any time during the 270-day period beginning on the date such individual begins work for the employer, the tax under this chapter for the taxable year in which such employment is terminated shall be increased by an amount (determined under such regulations) equal to the credit determined under subsection (a) and allowed under section 38 for such taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to such employee.

"(2) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to—

"(i) a termination of employment of an employee who voluntarily leaves the employment of the employer,

"(ii) a termination of employment of an individual who, before, the close of the period referred to in paragraph (1), becomes disabled and therefore is unable to perform the services of such employment, unless such disability is removed before the close of such period and the employer fails to offer reemployment to such individual,

"(iii) a termination of employment of an individual, if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual, or

"(iv) a termination of employment of an individual due to a substantial reduction in the trade or business operations of the employer.

"(B) CHANGE IN FORM OF BUSINESS, ETC.—For purposes of paragraph (1), the employment relationship between the employer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies, if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer, if the employee continues to be employed in such trade or business and the employer retains a substantial interest in such trade or business.

"(3) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit allowable under this subpart.".

(b) ALLOWANCE OF CREDIT.—Section 38(b) (defining current year business credit) is amended by striking out "plus" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", plus", and by adding at the end thereof the following new paragraph:

"(5) the enterprise zone credit determined under section 42(a).".

(c) NO DEDUCTION ALLOWED.—Section 280C (relating to disallowance of deductions for certain expenses for which credits are allowable is amended by adding at the end thereof the following new subsection:

"(c) RULE FOR ENTERPRISE ZONE CREDITS.—No deduction shall be allowed for that portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit determined under section 42. This subsection shall be applied under a rule similar to the rule of the last sentence of subsection (a).".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting at the end thereof the following new item:

"Sec. 42. Credit for enterprise zone employment.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

SEC. . CREDIT FOR ENTERPRISE ZONE EMPLOYEES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by adding at the end thereof the following new section:

"SEC. 26. CREDIT FOR ENTERPRISE ZONE EMPLOYEES.

"(a) IN GENERAL.—In the case of a qualified employee, there is allowed as a credit against the tax imposed on such employee by this chapter for the taxable year an amount equal to 5 percent of the qualifed wages for the taxable year.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED EMPLOYEE.—The term 'qualified employee' means an individual—

"(A) who is described in section 42(e)(1), and

"(B) who is not an employee of the Federal Government, of any State or local government, or any political subdivision of a State or local government.

"(2) QUALIFIED WAGES.—

"(A) IN GENERAL.—The term 'qualified wages' has the meaning given to 'wages' under subsection (b) of section 3306, except that such wages—

"(i) must be attributable to services performed for an employer with respect to whom the employee is a qualified employee, and

"(ii) may not be taken into account to the extent such wages exceed 1½ times the dollar limitation specified in such subsection.

"(B) EXCEPTION.—The term 'qualified wages' does not include any compensation received from the Federal Government, any State or local government, or any political subdivision of a State or local government.

"(c) PHASEOUT OF CREDIT.—In determining the amount of the credit for any taxable year under subsection (a) with respect to qualified wages paid to qualified employees for services performed in an enterprise zone, the following percentages shall be substituted for '5 percent' in subsection (a):

"(1) 3¾ percent in the taxable year in which the date which is—

"(A) 21 years after the date on which such enterprise zone was designated under section 7891 occurs, or

"(B) if earlier, the date 4 years before the date the zone designation is to expire;

"(2) 2½ percent in the next succeeding taxable year;

"(3) 1¼ percent in the second next succeeding taxable year; and

"(4) zero thereafter.".

(b) REPORTING REQUIREMENTS.—Subpart C of part III of subchapter A of chapter 61 (relating to information regarding wages paid employees) is amended by adding at the end thereof the following new section:

"SEC. 6054. REPORTING OF ENTERPRISE ZONE EMPLOYEE CREDITS.

"Every employer shall furnish to each employee who is a qualified employee of the employer (within the meaning of section 26(b)(1)) a written statement showing the amount of qualified wages (within the meaning of section 26(b)(2)) paid by the employer to such employee. The statement required to be furnished pursuant to this section shall be furnished at such time, shall contain such other information, and shall be in such form as the Secretary may by regulations prescribe. When required by such regulations, a duplicate of any such statement shall be filed with the Secretary.".

(c) PENALTIES.—

(1) Subparagraph (A) of section 6652(a)(1) (relating to failure to file information returns) is amended—

(A) by striking out "or" at the end of clause (v), and

(B) by inserting after clause (vi) the following new clause:

"(vii) section 6054 (relating to reporting of enterprise zone employee credits),".

(2) Section 6674 (relating to fraudulent statement or failure to furnish statement to employee) is amended by striking "or 6053(b)" each place it appears and inserting in lieu thereof ", 6053(b), or 6054".

(d) TECHNICAL AMENDMENTS.—

(1) The table of sections for subpart C of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6054. Reporting of enterprise zone employee credits.".

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 26. Credit for enterprise zone employees.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

Subtitle —Credits for Investment in Tangible Property in Enterprise Zones

SEC. . INVESTMENT TAX CREDIT FOR ENTERPRISE ZONE PROPERTY.

(a) AMOUNT OF CREDIT.—

(1) IN GENERAL.—Section 46(a) (relating to amount of investment tax credit) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(4) in the case of enterprise zone property, the enterprise zone percentage.".

(2) ENTERPRISE ZONE PERCENTAGE DEFINED.—Section 46(b) (relating to determination of percentages) is amended by adding at the end thereof the following new paragraph:

"(5) ENTERPRISE ZONE PERCENTAGE.—

"(A) IN GENERAL.—

"For purposes of this paragraph—

"In the case of enterprise zone expenditures with respect to:	The enterprise zone percentage is:
Zone personal property (within the meaning of section 48(s)(3))	5
New zone construction property (within the meaning of section 48(s)(4))	10

"(B) PHASEOUT OF CREDIT AS ENTERPRISE ZONE ENDS.—Subparagraph (A) shall be applied by substituting the following percentages for 5 percent and 10 percent, respectively:

"(i) For the taxable year described in section 42(h)(1)(A), 3.75 and 7.5.

"(ii) For the next succeeding taxable year, 2.5 and 5.

"(iii) For the second next succeeding taxable year, 1.25 and 2.5.

"(iv) For any subsequent taxable year, zero.

"(C) REGULAR PERCENTAGE NOT TO APPLY TO CERTAIN PROPERTY.—For purposes of this section, the regular percentage shall not apply to any enterprise zone property which, but for section 48(s)(1), would not be section 38 property.".

(3) CONFORMING AMENDMENT.—Section 48(o) (defining certain credits) is amended by adding at the end thereof the following new paragraph:

"(9) ENTERPRISE ZONE CREDIT.—The term 'enterprise zone credit' means that portion of the credit allowable by section 38 which is attributable to the enterprise zone percentage.".

(c) DEFINITIONS AND TRANSITIONAL RULES.—Section 48 (relating to definitions and special rules) is amended by redesignating subsection (s) as subsection (t) and by inserting after subsection (r) the following new subsection:

"(s) ENTERPRISE ZONE PROPERTY.—For purposes of this subpart—

"(1) TREATMENT AS SECTION 38 PROPERTY.—In the case of enterprise zone property—

"(A) such property shall be treated as meeting the requirements of subsection (a), and

"(B) paragraph (3) of subsection (a) shall not apply to such property.

"(2) The term 'enterprise zone property' means property—

"(A) which is—

"(i) zone personal property, or

"(ii) new zone construction property,

"(B) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 168(e)(4)(D)), and

"(C) acquired and first placed in service by the taxpayer in an enterprise zone during the period the designation as a zone is in effect under section 7891.

"(3) ZONE PERSONAL PROPERTY DEFINED.—The term 'zone personal property' means property which is—

"(A) 3-year property;

"(B) 5-year property;

"(C) 10-year property; and

"(D) 15-year public utility property,

which is used by the taxpayer predominantly in the active conduct of a trade or business within an enterprise zone. Property shall not be treated as 'zone personal property' if it is used or located outside the enterprise zone on any regular basis.

"(4) NEW ZONE CONSTRUCTION PROPERTY DEFINED.—The term 'new zone construction property' means 15-year real property, 18-year real property, or low-income housing which is—

"(A) located in an enterprise zone,

"(B) used by the taxpayer predominantly in the active conduct of a trade or business within an enterprise zone, and

"(C) either—

"(i) the construction, reconstruction, or erection of which is completed by the taxpayer during the period the designation as a zone is in effect under section 7891, or

"(ii) acquired during such period if the original use of such property commences with the taxpayer and commences during such period.

In applying section 46(c)(1)(A) in the case of property described in subparagraph (C)(i), there shall be taken into account only that portion of the basis which is properly attributable to construction, reconstruction, or erection during such period.

"(5) REAL ESTATE RENTAL.—For purposes of this section, ownership of residential, commercial, or industrial real property within an enterprise zone for rental purposes shall be treated as the active conduct of a trade or business in an enterprise zone.

"(6) DEFINITIONS.—For purposes of this subsection, the terms '3-year property,' '5-year property,' '10-year property,' '15-year real property,', '18-year real property', '15-year public utility property', and 'low-income housing', have the meanings given such terms by section 168.

"(7) CROSS REFERENCE.—

"For extension of carryover period for enterprise zone credit, see section 42(g)(3).".

(d) RECAPTURE.—Subsection (a) of section 47 (relating to certain dispositions, etc., of section 38 property) is amended by adding at the end thereof the following new paragraph:

"(9) SPECIAL RULES FOR ENTERPRISE ZONE PROPERTY.—

"(A) IN GENERAL.—If, during any taxable year, property with respect to which the taxpayer claimed an enterprise zone credit—

"(i) is disposed of, or

"(ii) otherwise ceases to be section 38 property with respect to the taxpayer, or

"(iii) is removed from the enterprise zone, converted, or otherwise ceases to be enter-

prise zone property (other than by the expiration or revocation of the designation as an enterprise zone),

the tax under this chapter for such taxable year shall be increased by the amount described in subparagraph (B).

"(B) AMOUNT OF INCREASE.—The increase in tax under subparagraph (A) shall equal the aggregate decrease in the credits allowed under section 38 and determined under section 46(a)(4) (or any corresponding provision of prior law) for all preceding taxable years which would have resulted solely from reducing the expenditures taken into account with respect to the property by an amount which bears the same ratio to such expenditures as—

"(i) the number of taxable years that the property was held by the taxpayer, bears to

"(ii) the applicable recovery period for earnings and profits under section 312(k).".

(e) BASIS ADJUSTMENT TO REFLECT INVESTMENT CREDIT.—Paragraph (3) of section 48(q) (relating to basis adjustment to section 38 property) is amended to read as follows:

"(3) SPECIAL RULE FOR QUALIFIED REHABILITATION AND ENTERPRISE ZONE EXPENDITURES.—In the case of any credit determined under section 46(a) for—

"(A) any qualified rehabilitation expenditure in connection with a qualified rehabilitated building other than a certified historic structure, or

"(B) any expenditure in connection with new zone construction property (within the meaning of section 48(s)(4)),

paragraphs (1) and (2) shall be applied without regard to the phrase '50 percent of'.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 1984, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.

Subtitle —Repeal of Capital Gains Tax

SEC. . CORPORATIONS.

(a) GENERAL RULE.—Paragraph (2) of section 1201 (relating to alternative tax for corporations) is amended to read as follows:

"(2) a tax of 28 percent of the excess (if any) of—

"(A) the net capital gain, over

"(B) the qualified enterprise zone net capital gain of the taxpayer for the taxable year.".

(b) DEFINITION OF QUALIFIED ENTERPRISE ZONE NET CAPITAL GAIN.—Section 1201 is amended by redesignating subsections (b) and (c) as subsections (c) and (d) and by inserting after subsection (a) the following new subsection:

"(b) QUALIFIED ENTERPRISE ZONE NET CAPITAL GAIN.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified enterprise zone net capital gain' means the amount of net capital gain for any taxable year determined by taking into account only gains and losses which are—

"(A) attributable to the sale or exchange of qualified enterprise zone property, and

"(B) properly allocable only to periods during which such property is qualified enterprise zone property.

"(2) SPECIAL RULES RELATING TO INTERESTS IN BUSINESSES.—

"(A) CERTAIN GAINS AND LOSSES NOT TAKEN INTO ACCOUNT.—In determining the amount of qualified enterprise zone net capital gain for any taxable year under paragraph (1), there shall not be taken into account any gains or losses attributable to the sale or exchange of an interest in a qualified enterprise zone business to the extent such gain or losses are attributable to—

"(i) any property contributed to such qualified enterprise zone business during the 12-month period before such sale or exchange,

"(ii) any interest in any business which is not a qualified enterprise zone business, or

"(iii) any intangible property to the extent not properly attributable to the active conduct of a trade or business within an enterprise zone.

"(B) PERIODS FOR WHICH GAINS AND LOSSES ALLOCABLE.—For purposes of determining under paragraph (1)(B) gains or losses properly allocable to an interest in a qualified enterprise zone business, there shall only be taken into account the taxable years of such business during which it meets the requirements of paragraph (3)(B).

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) The term 'qualified enterprise zone property' means—

"(i) any tangible personal property used by the taxpayer predominantly in an enterprise zone in the active conduct of a trade or business within such enterprise zone,

"(ii) any real property located in an enterprise zone used by the taxpayer predominantly in the active conduct of a trade or business within such enterprise zone, and

"(iii) any interest in a corporation, partnership, or other entity if, for the two most recent taxable years of such entity—

"(I) ending before the date of disposition of such interest, and

"(II) beginning after the date of the designation as an enterprise zone of the area in which such entity is engaged in the active conduct of a trade or business,

such entity was a qualified enterprise zone business.

"(B) QUALIFIED ENTERPRISE ZONE BUSINESS.—The term 'qualified enterprise zone business' means, with respect to any taxable year, any person—

"(i) actively engaged in the conduct of a trade or business within an enterprise zone during such taxable year,

"(ii) with respect to which at least 80 percent of such person's gross receipts for such taxable year are attributable to the active conduct of a trade or business within an enterprise zone, and

"(iii) substantially all of the tangible assets of which are located within an enterprise zone during such taxable year.

"(C) REAL ESTATE RENTAL.—For purposes of this subsection, ownership of residential, commercial, or industrial real property within an enterprise zone for rental shall be treated as the active conduct of a trade or business in an enterprise zone.

"(D) PROPERTY REMAINS QUALIFIED AFTER ZONE DESIGNATION CEASES TO APPLY.—

"(i) IN GENERAL.—The treatment of property as qualified enterprise zone property under subparagraph (A) shall not terminate when the designation of the enterprise zone in which the property is located or used expires or is revoked.

"(ii) EXCEPTIONS.—Clause (i) shall not apply after the first sale or exchange of property occurring after the designation expires or is revoked.".

SEC. . TAXPAYERS OTHER THAN CORPORATIONS.

Subsection (a) of section 1202 (relating to deduction for capital gains) is amended to read as follows:

"(a) DEDUCTION ALLOWED.—

"(1) IN GENERAL.—If for any taxable year a taxpayer other than a corporation has a net capital gain, there shall be allowed as a deduction from gross income an amount equal to the sum of—

"(A) 100 percent of the lesser of—

"(i) the net capital gain, or

"(ii) the qualified enterprise zone net capital gain (as defined in section 1201(b)), plus

"(B) 60 percent of the excess (if any) of—

"(i) the net capital gain, over

"(ii) the amount of the net capital gain taken into account under subparagraph (A).".

SEC. . MINIMUM TAX.

Paragraph (9) of section 57(a) (relating to tax preference for capital gains) is amended by adding at the end thereof the following new subparagraph:

"(E) For purposes of this paragraph, gain attributable to qualified enterprise zone net capital gain (within the meaning of section 1201(b)) shall not be taken into account.".

SEC. . EFFECTIVE DATE.

The amendments made by this subtitle shall apply to sales or exchanges after December 31, 1984.

Subtitle —Rules Relating to Industrial Development Bonds

SEC. . INDUSTRIAL DEVELOPMENT BONDS.

(a) LIMITATION ON ACCELERATED COST RECOVERY DEDUCTION NOT TO APPLY TO ENTERPRISE ZONE PROPERTY.—Subparagraph (C) of section 168(f)(12) (relating to limitations on property financed with tax-exempt bonds) is amended by inserting "or which is placed in service as enterprise zone property (within the meaning of section 48(s))" after "section 103(b)(4)(A)".

(b) TERMINATION OF SMALL ISSUE EXEMPTION NOT TO APPLY.—Subparagraph (N) of section 103(b)(6) (relating to termination of small issue exemption after December 31, 1986) is amended by adding at the end thereof the following new clause:

"(iv) EXCEPTION FOR ENTERPRISE ZONE FACILITIES.—This subparagraph shall not apply to any obligation which is part of an issue substantially all of the proceeds of which are used to finance facilities within an enterprise zone if such facilities are placed in service while the designation as such a zone is in effect under section 7891.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 1984, in taxable years ending after such date.

Subtitle —Sense of the Congress With Respect to Tax Simplification

SEC. . TAX SIMPLIFICATION.

It is the sense of the Congress that the Secretary of the Treasury and his delegates should in every way possible simplify the administration and enforcement of any provision of the Internal Revenue Code of 1954 added to, or amended by, this Act.

TITLE —REGULATORY FLEXIBILITY

SEC. . DEFINITION OF SMALL ENTITIES IN ENTERPRISE ZONES FOR PURPOSES OF ANALYSIS OF REGULATORY FUNCTIONS.

Section 601 of title 5, United States Code, is amended by—

(1) striking out "and" at the end of paragraph (5); and

(2) striking out paragraph (6) and inserting in lieu thereof the following:

"(6) the term 'small entity' means—

"(A) a small business, small organization, or small governmental jurisdiction within the meaning of paragraphs (3), (4), and (5) of this section, respectively; and

"(B) any qualified enterprise zone business; any governments which designated and approved an area which has been desig-

nated as an enterprise zone (within the meaning of section 7891 of the Internal Revenue Code of 1954) to the extent any rule pertains to the carrying out of projects, activities, or undertakings within such zone; and any not-for-profit enterprise carrying out a significant portion of its activities within such a zone; and

"(7) the term 'qualified enterprise zone business' means any person, corporation, or other entity—

"(A) which is engaged in the active conduct of a trade or business within an enterprise zone (within the meaning of section 7891 of the Internal Revenue Code of 1954); and

"(B) for whom at least 50 percent of its employees are qualified employees (within the meaning of section 42(e) of such Code).".

SEC. . WAIVER OR MODIFICATION OF AGENCY RULES IN ENTERPRISE ZONES.

(a) Chapter 6 of title 5, United States Code, is amended by redesignating sections 611 and 612 as sections 612 and 613, respectively, and inserting the following new section immediately after section 610:

"§ 611. Waiver or modification of agency rules in enterprise zones

"(a) Upon the written request of the governments which designated and approved an area which has been designated as an enterprise zone under section 7891 of the Internal Revenue Code of 1954, an agency is authorized, in order to further the job creation, community development, or economic revitalization objectives of the zone, to waive or modify all or part of any rule which it has authority to promulgate, as such rule pertains to the carrying out of projects, activities or undertakings within the zone.

"(b) Nothing in this section shall authorize an agency to waive or modify any rule adopted to carry out a statute or Executive order which prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, sex, marital status, national origin, age, or handicap.

"(c) A request under subsection (a) shall specify the rule or rules to be waived or modified and the change proposed, and shall briefly describe why the change would promote the achievement of the job creation, community development, or economic revitalization objectives of the enterprise zone. If a request is made to an agency other than the Department of Housing and Urban Development, the requesting governments shall send a copy of the request to the Secretary of Housing and Urban Development at the time the request is made.

"(d) In considering a request, the agency shall weigh the extent to which the proposed change is likely to further job creation, community development, or economic revitalization within the enterprise zone against the effect the change is likely to have on the underlying purposes of applicable statutes in the geographic area which would be affected by the change. The agency shall approve the request whenever it finds, in its discretion, that the public interest which the proposed change would serve in furthering such job creation, community development, or economic revitalization outweighs the public interest which continuation of the rule unchanged would serve in furthering such underlying purposes. The agency shall not approve any request to waive or modify a rule if that waiver or modification would—

"(1) directly violate a statutory requirement (including any requirement of the Fair Labor Standards Act of 1938 (52 Stat. 1060; 29 U.S.C. 201 et seq.)); or

"(2) be likely to present a significant risk to the public health, including environmental health or safety, such as a rule with respect to occupational safety or health, or environmental pollution.

"(e) If a request is disapproved, the agency shall inform the requesting governments in writing of the reasons therefor and shall, to the maximum extent possible, work with such governments to develop an alternative, consistent with the standards contained in subsection (d).

"(f) Agencies shall discharge their responsibilities under this section in an expeditious manner, and shall make a determination on requests not later than 90 days after their receipt.

"(g) A waiver or modification of a rule under subsection (a) shall not be considered to be a rule, rulemaking, or regulation under chapter 5 of this title. To facilitate reaching its decision on any requested waiver or modification, the agency may seek the views of interested parties and, if the views are to be sought, determine how they should be obtained and to what extent, if any, they should be taken into account in considering the request. The agency shall publish a notice in the Federal Register stating any waiver or modification of a rule under this section.

"(h) In the event that an agency proposes to amend a rule for which a waiver or modification under this section is in effect, the agency shall not change the waiver or modification to impose additional requirements unless it determines, consistent with standards contained in subsection (d), that such action is necessary.

"(i) No waiver or modification of a rule under this section shall remain in effect for a longer period than the period for which the enterprise zone designation remains in effect for the area in which the waiver or modification applies.

"(j) For purposes of this section, the term 'rule' means (1) any rule as defined in section 551(4) of this title or (2) any rulemaking conducted on the record after opportunity for an agency hearing pursuant to sections 556 and 557 of this title.".

(b) The table of sections for such chapter is amended by redesignating the items relating to sections 611 and 612 as sections 612 and 613, respectively, and inserting the following new item immediately after the item relating to section 610:

"Sec. 611. Waiver or modification of agency rules in enterprise zones.".

(c) Section 601(2) of such title is amended by inserting "(except for purposes of section 611)" immediately before "means.".

(d) Section 613 of such title, as redesignated by subsection (a) of this section, is amended by—

(1) inserting "(except section 611)" immediately after "chapter" in subsection (a); and

(2) inserting "as defined in section 601(2)" immediately before the period at the end of the first sentence of subsection (b).

SEC. . COORDINATION OF HOUSING AND URBAN DEVELOPMENT PROGRAMS IN ENTERPRISE ZONES.

Section 3 of the Department of Housing and Urban Development Act is amended by adding at the end thereof the following new subsection:

"(d) The Secretary of Housing and Urban Development shall—

"(1) promote the coordination of all programs under his jurisdiction which are carried on within an enterprise zone designated pursuant to section 7891 of the Internal Revenue Code of 1954;

"(2) expedite, to the greatest extent possible, the consideration of applications for programs referred to in paragraph (1) through the consolidation or forms or otherwise; and

"(3) provide, whenever possible, for the consolidation of periodic reports required under programs referred to in paragraph (1) into one summary report submitted at such intervals as may be designated by the Secretary.".

TITLE —ESTABLISHMENT OF FOREIGN-TRADE ZONES IN ENTERPRISE ZONES

SEC. . FOREIGN-TRADE ZONE PREFERENCES.

(a) PREFERENCE IN ESTABLISHMENT OF FOREIGN-TRADE ZONES IN REVITALIZATION AREAS.—In processing applications for the establishment of foreign-trade zones pursuant to an Act entitled "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", approved June 18, 1934 (48 Stat. 998), the Foreign-Trade Zone Board shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a foreign-trade zone within an enterprize zone designated pursuant to section 7891 of the Internal Revenue Code of 1954.

(b) APPLICATION PROCEDURE.—In processing applications for the establishment of ports of entry pursuant to an Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and fifteen, and for other purposes", approved August 1, 1914 (38 Stat. 609), the Secretary of the Treasury shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a port of entry which is necessary to permit the establishment of a foreign-trade zone within an enterprise zone (as so designated).

(c) APPLICATION EVALUATION.—In evaluating applications for the establishment of foreign-trade zones and ports of entry in connection with enterprise zones (as so designated), the Foreign-Trade Zone Board and the Secretary of Treasury shall approve the applications to the maximum extent practicable, consistent with their respective statutory responsibilities.

AMENDMENT NO. 6122

At the end of the stricken language, add the following new title:

"Title —.Freedom of Workplace

That section 11(d) of the Fair Labor Standards Act of 1938 is amended—

(1) by striking out the word "The" and inserting in lieu thereof "(1) Subject to the provisions of paragraph (2), the"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Nothing in paragraph (1) of this subsection shall be construed to prohibit an individual from engaging in industrial homework (including sewing, knitting, jewelry or craftmaking) or performing any service in or about the individual's place of residence as an employee of any employer covered by the provisions of this Act if the employer pays the minimum wage rate prescribed by

this Act and complies with the maximum hours provision of this Act.".

AMENDMENT NO. 6123

At the end of the stricken language, add the following:

SEC. . (a) Subsection (a) of the first section of the Act of March 3, 1931, commonly known as the Davis-Bacon Act (40 U.S.C. 276a(a)), is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Secretary of Labor shall base his determination of the wages prevailing for the corresponding classes of laborers, mechanics, and helpers under paragraph (1) on—

"(A) the wage paid on 50 per centum or more of the corresponding classes of laborers, mechanics, and helpers employed on projects of a character similar to the contract work in the urban or rural civil subdivision of the State in which the work is to be performed, or in the District of Columbia if the work is to be performed there; or

"(B) if the same wage is not paid to 50 per centum or more of the laborers, mechanics, and helpers in the corresponding classes, the weighted average of the wages paid to the corresponding classes of laborers, mechanics, and helpers employed on projects of a character similar to the contract work in the urban or rural civil subdivision of the State in which the work is to be performed, or in the District of Columbia if the work is to be performed there.".

(b) The first section of such Act is further amended by striking out "$20,000" and inserting in lieu thereof "$100,000".

(c)(1) The first section of such Act is further amended—

(A) by striking out "mechanics and/or laborers" in subsection(a)(1) and inserting in lieu thereof "laborers, mechanics, helpers, or any combination thereof";

(B) by striking out "laborers and mechanics" wherever it appears and inserting in lieu thereof "laborers, mechanics, and helpers";

(C) by striking out "mechanics and laborers" in subsection (a)(1) and inserting in lieu thereof "laborers, mechanics, and helpers"; and

(D) by striking out "laborer or mechanic" in subsection (b) and inserting in lieu thereof "laborer, mechanic, or helper";

(2) Section 2 of such Act (40 U.S.C. 276a-1) is amended by striking out "laborer and mechanic" and inserting in lieu thereof "laborer, mechanic, or helper".

(3) Section 3 of such Act (40 U.S.C. 276a-2) is amended by striking out "laborers and mechanics" wherever it appears and inserting in lieu thereof "laborers, mechanics, and helpers".

AMENDMENT NO. 6124

At the end of the striken language add the following: That this Amendment may be cited as the "Voluntary School Prayer Act of 1983".

SEC. . (a) Chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1259. Appellate jurisdiction; limitations

"(a) Notwithstanding the provisions of sections 1253, 1254, and 1257 of this chapter, the Supreme Court shall not have jurisdiction to review, by appeal, writ of certiorari, or otherwise, any case arising out of any State statute, ordinance, rule, regulation, practice, or any part thereof, or arising out of any Act interpreting, applying, enforcing, or effecting any State statute, ordinance, rule, regulation, or practice, which relates to voluntary prayer, Bible reading, or religious meetings in public schools or public buildings.

"(b) As used herein, 'voluntary' means an activity in which a student is not required to participate by school authorities.".

(b) The section analysis of chapter 81 of title 28 is amended by adding at the end therof the following new item:

"1259. Appellate jurisdiction; limitations.".

SEC. . (a) Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1364. Limitations on jurisdiction

"Notwithstanding any other provision of law, the district courts shall not have jurisdiction of any case or question which the Supreme Court does have jurisdiction to review under section 1259 of this title.".

(b) The section analysis at the beginning of chapter 85 of title 28 is amended by adding at the end thereof the following new item:

"1364. Limitations on jurisdiction.".

SEC. . The amendments made by this Act shall take effect on the date of enactment, except that such amendments shall not apply to any case which, on such date of enactment, was pending in any court of the United States.

COHEN AMENDMENT NO. 6125

(Ordered to lie on the table.)

Mr. COHEN submitted an amendment intended to be proposed by him to the joint resolution (H.J. Res. 648), supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. ( ). The Dickey-Lincoln School project, Saint John River, Maine, as authorized by section 204 of the Flood Control Act of 1965, is hereby deauthorized.

EXON AMENDMENT NO. 6126

(Ordered to lie on the table.)

Mr. EXON submitted an amendment intended to be proposed by him to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of the joint resolution, add the following:

(a) the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to establish and conduct at multiple sites within the State of Nebraska for a period beginning on the date of enactment of this section and ending five years after such date a demonstration program consisting of projects for streambank erosion prevention and flood control.

(b) Demonstration projects carried out under this section shall include projects for the construction, operation, and maintenance of flood damage reduction measures, including bank protection and stabilization works, embankments, clearing, snagging, dredging, and all other appropriate flood control measures.

(c) For each demonstration project under this section, the Secretary shall evaluate the environmental impacts of such project with respect to both riverine and adjacent land use values, with the view of enhancing wildlife and wildlife habitat as a major purpose coequal with all other purposes and objectives, and with the view of minimizing environmental losses.

(d) Demonstration projects authorized by this section shall be undertaken to reflect a variety of geographical and environmental conditions, including naturally occurring erosion problems and erosion caused or incurred by man-made structures or activities. At a minimum, demonstration projects shall be conducted at sites on—

(1) that reach of the Platte River between Hershey, Nebraska, and the boundary between Lincoln and Dawson Counties, Nebraska;

(2) that reach of the Platte River from the boundary between Colfax and Dodge Counties, Nebraska, to its confluence with the Missouri River;

(3) that reach of the Elkhorn River from the boundary between Antelope and Madison Counties, Nebraska, to its confluence with the Platte River; and

(4) other areas identified by the State of Nebraska.

(e) The Secretary shall condition the construction, operation, and maintenance of any project under this section upon the availability to the United States of such land and interests in land as he deems necessary to carry out such project and to protect and enhance the river in accordance with the purposes of this section.

(f) The Secretary shall establish a Nebraska Advisory Group consisting of representatives of the State of Nebraska and political subdivisions thereof, affected Federal agencies, and such private organizations as the Secretary deems desirable. Projects under this section shall be carried out in coordination and consultation with such Advisory Group.

(g)(1) Except as provided in paragraph (2), projects carried out under this section shall be at full Federal expense.

(2) Prior to construction of any project under this section, non-Federal interests shall agree that they will—

(A) provide without cost to the United States lands, easements and rights-of-way necessary for construction, operation, and maintenance of such project;

(B) hold and save the United States free from damages due to construction, operation, and maintenance of such project (other than damages due to the fault or negligence of the United States or its contractors); and

(C) operate and maintain the projects upon completion.

(h) There are authorized to be appropriated for fiscal years beginning after September 30, 1984, $25,000,000 to carry out the provisions of this section.

(i) Beginning twelve months after the date of enactment of this section, and at intervals of twelve months thereafter, but not later than five years after such date, the Secretary shall prepare and transmit to the Congress a report describing the progress achieved in carrying out the demonstration program established pursuant to this section.

(j) The Congress finds that demonstration projects established pursuant to this section are economically feasible. Such projects shall emphasize the development of low-cost erosion control measures.

HATCH AMENDMENT NO. 6127

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him

to the joint resolution House Joint Resolution 648, supra; as follows:

Strike "Title I" and insert in lieu thereof "Title 1".

GORTON AMENDMENT NO. 6128

(Ordered to lie on the table.)

Mr. GORTON submitted an amendment intended to be proposed by him to the joint resolution House Joint Resolution 6128, supra; as follows:

At the appropriate place in the bill add the following: In addition to funds appropriated in PL 98-360 for Energy Supply, Research and Development Activities of the Department of Energy, there is hereby appropriated $6.2 million which shall be allocated by the Secretary of Energy to the Hanford Engineering Development Laboratory to allow for the orderly completion of the Secure Automated Fabrication Line and the Cored Demonstration Experiment and for operation of the Fast Flux Test Facility.

BRADLEY (AND OTHERS) AMENDMENT NO. 6129

(Ordered to lie on the table.)

Mr. BRADLEY (for himself, Mr. PROXMIRE, Mr. HUMPHREY, and Mr. NICKLES) submitted an amendment intended to be proposed by them to the joint resolution, House Joint Resolution 648, supra; as follows:

Of the funds appropriated to the Energy Security Reserve by the Department of the Interior and Related Agencies Appropriations Act, 1980 (Public Law 96-126) and subsequently made available to carry out Title I, part B of the Energy Security Act (Public Law 96-294) by Public Law 96-304 and 96-514, $9,000,000,000 are rescinded;

Provided, That none of the funds made available to carry out Title I, part B of the Energy Security Act shall be obligated to projects whose products will cost significantly more than projected market prices of competing fuels over the lifetime of the project;

Provided further, That of the Energy Security Reserve funds remaining available to carry out Title I of the Energy Security Act, funds shall be obligated only to projects whose primary conversion technologies comply with and promote diversity objectives set forth in Title I of the Energy Security Act;

Provided further, That Sections 116(f) and 121 of Title I, part B of the Energy Security Act are repealed and that Section 175 of the United States Synthetic Fuels Corporation Act of 1980 (42 USC 8775) is amended by adding the following new subsections:

"(1) Chapters 5 and 7 of title 5, United States Code (containing provisions popularly known as the Administrative Procedure Act, the Freedom of Information Act, and the Government in the Sunshine Act) shall apply to the Corporation as if it were an agency of the United States.

"(m) Section 1905 of title 18, United States Code (relating to disclosure of confidential information) shall apply—

"(1) to Directors, officers and employees of the Corporation as if they were officers or employees of the United States; and

"(2) to the Corporation as if it were an agency of the United States."

Section 118(a) of the Energy Security Act of 1980 (Public Law 96-294) is amended by striking out "the Directors and officers of the Corporation and to" and inserting in lieu thereof "all the Directors and to the officers and".

Section 118(c)(3) of the Energy Security Act of 1980 (Public Law 96-294) is repealed.

Provided further, That Section 117(b)(2) of the Energy Security Act of 1980 (Public Law 96-294) is amended—

(1) by striking out "taking into consideration" and inserting in lieu thereof "in accordance with"; and

(2) by striking out ". If the Board of Directors; and all that follows through "Board of Directors to such effect".

The amendments made by subsection (a) of this section shall take effect 30 days after the date of enactment of this Act.

GOLDWATER (AND DECONCINI) AMENDMENT NOS. 6130 AND 6131

(Ordered to lie on the table.)

Mr. DECONCINI (for Mr. GOLDWATER, for himself, and Mr. DECONCINI) submitted two amendments intended to be proposed by them to the joint resolution House Joint Resolution 648, supra; as follows:

AMENDMENT NO. 6130

At the end of the resolution add the following new section:

SEC. . (a) This section may be cited as the "Malt Beverage Interbrand Competition Act".

(b) Nothing contained in any antitrust law shall render unlawful the inclusion and enforcement in any written contract in effect on or entered into after the effective date of this section by any brewer, importer, trademark owner, or trademark licensee of a trademarked malt beverage with any wholesale distributor, of provisions granting the wholesale distributor the sole and exclusive right to distribute and to sell such product in any defined geographic area within any State and limiting such exclusive distributor to the distribution and sale, directly or indirectly, of such product only for ultimate resale to consumers within that defined geographic area when such product is in substantial and effective completion with other malt beverage products within that defined geographic area.

(c) Nothing in this section shall be construed to legalize the enforcement of provisions described in subsection (b) in any written contract described in such subsection by means of price-fixing agreements, horizontal restraints of trade, or group boycotts, if such agreement, restraints, or boycotts would otherwise be unlawful.

(d) As used in this section the term—

(1) "antitrust law" means the Sherman Act (15 U.S.C. 1), the Federal Trade Commission Act (15 U.S.C. 41), and the Clayton Act (15 U.S.C. 12), and all amendments to such Acts;

(2) "malt beverage" shall mean and include beer of all types and varieties as defined in any Federal or State statute, ale, porter, stout, and all other similarly designated fermented beverages containing one-half of 1 per centum or more alcohol by volume; and

(3) "State" includes the District of Columbia and any territory or possession of the United States.

(e) This section shall not invalidate or affect any provision of the laws of any State.

AMENDMENT NO. 6131

At the end of the pending amendment add the following:

SEC. . (a) This section may be cited as the "Malt Beverage Interbrand Competition Act".

(b) Nothing contained in any antitrust law shall render unlawful the inclusion and enforcement in any written contract in effect on or entered into after the effective date of this section by any brewer, importer, trademark owner, or trademark licensee of a trademarked malt beverage with any wholesale distributor, of provisions granting the wholesale distributor the sole and exclusive right to distribute and to sell such product in any defined geographic area within any State and limiting such exclusive distributor to the distribution and sale, directly or indirectly, of such product only for ultimate resale to consumers within that defined geographic area when such product is in substantial and effective competition with other malt beverge products within that defined geographic area.

(c) Nothing in this section shall be construed to legalize the enforcement of provisions described in subsection (b) in any written contract described in such subsection by means of price-fixing agreements, horizontal restraints of trade, or group boycotts, if such agreement, restraints, or boycotts would otherwise be unlawful.

(d) As used in this section the term—

(1) "antitrust law" means the Sherman Act (15 U.S.C. 1), the Federal Trade Commission Act (15 U.S.C. 41), and the Clayton Act (15 U.S.C. 12), and all amendments to such Acts;

(2) "malt beverage" shall mean and include beer of all types and varieties as defined in any Federal or State statute, ale, porter, stout, and all other similarly designated fermented beverages containing one-half of 1 per centum or more alcohol by volume; and

(3) "State" includes the District of Columbia and any territory or possession of the United States.

(e) This section shall not invalidate or affect any provision of the laws of any State.

HATCH AMENDMENT NOS. 6133 THROUGH 6474

(Ordered to lie on the table.)

Mr. HATCH submitted 342 amendments intended to be proposed by him to the joint resolution House Joint Resolution 648, supra; as follows:

AMENDMENT NO. 6133

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the use by a business of water purified in municipal wastewater treatment facilities constructed with Federal funds.".

AMENDMENT NO. 6134

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the receipt of subsidized water from water projects sponsored by the Bureau of Reclamation.".

AMENDMENT NO. 6135

At the end of the pending question, add the following: "Notwithstanding any other

provisions of this Act nothing herein shall be construed to require an educational institution to treat abortion in a manner indistinguishable from other medical procedures for purposes of student or employee health or leave policies.".

AMENDMENT No. 6136

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal welfare or other social services services benefits.".

AMENDMENT No. 6137

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the provision of Federal safety or health inspectors for an industry, or to any individual business within the industry.".

AMENDMENT No. 6138

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act no charitable organization shall be deemed to receive Federal financial assistance because of any pattern and practice of participation in such organization by volunteers provided by an institution of higher education receiving Federal financial assistance.".

AMENDMENT No. 6139

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude a church, convention, or association of churches, religious order, or other religious organization, or any subunit of the foregoing, whether or not separately organized or incorporated, which does not actually receive Federal financial assistance.".

AMENDMENT No. 6140

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude any individual who receives Federal welfare or other social services benefits.".

AMENDMENT No. 6141

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to include the Congress and the Federal judiciary.".

AMENDMENT No. 6142

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act Federal financial assistance received by a private agency, institution, organization, or other entity shall be presumed to be extended to all of its administratively separate units and subsidiary entities unless, as to any one of them it can be shown, by clear and convincing evidence, that any such unit or entity was not directly involved in providing the service or benfit supported by the Federal financial assistance.".

AMENDMENT No. 6143

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act Federal financial assistance received by a State or a political subdivision thereof shall, if it is extended to such state or political subdivision under terms which permit the State or political subdivision to allocate assistance to its subunits, shall be presumed to be extended to all its subunits unless, as to any one of them it can be shown, by clear and convincing evidence, that no Federal financial assistance was in fact received.".

AMENDMENT No. 6144

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to mean:

"(A)(i) any State or political subdivision thereof;

(ii) any person or private agency, institution, organization, or other entity;

(iii) any subunit of any such State or political subdivision thereof, or any such private agency, institution, organization, or other entity,

receiving Federal financial assistance (directly or through another entity or a person), or which receives support from the extension of Federal financial assistance to any of its subunits; or

(B)(i) the successor or assignee of any recipient as defined in (c)(2)(A); or

(ii) the transferee of Federal financial assistance from * * *.

AMENDMENT No. 6145

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal tax credits for businesses engaged in vocational training programs.".

AMENDMENT No. 6146

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal contracts in which private businesses provide goods or services in return for fair consideration.".

AMENDMENT No. 6147

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude loans made by the Rural Electrification Administration to rural electric and telephone cooperatives.".

AMENDMENT No. 6148

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude contracts relating to agricultural research.".

AMENDMENT No. 6149

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the provision of Federal school lunch program funds to a community".

AMENDMENT No. 6150

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the participation by a farmer in a Federally administered program of marketing orders".

AMENDMENT No. 6151

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude national or state political parties.".

AMENDMENT No. 6152

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude technical assistance provided to businesses employing fifteen or fewer persons from State or local economic development programs which receive funds from the Federal government.".

AMENDMENT No. 6153

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the provision of Federal air traffic controllers to an airport or an airline.".

AMENDMENT No. 6154

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the administration of medicare or medicaid programs by an entity engaged in the business of insurance.".

AMENDMENT No. 6155

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the applicability of Federal rules and regulations to a business.".

AMENDMENT No. 6156

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude loans from the Small Business Administration.".

AMENDMENT No. 6157

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal crop loans or subsidies.".

AMENDMENT No. 6158

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude any fiscally autonomous entity which does not receive direct Federal financial assistance.".

AMENDMENT No. 6159

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude any benefits which accrue to an entity as a result of transacting business with individuals or other entities receiving Federal welfare or other social services benefits.".

AMENDMENT No. 6160

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to ex-

clude federal tax exemptions under 26 U.S.C. 501(c)(3) and 501(c)(8), and eligibility to receive tax deductible contributions under 26 U.S.C. 170(c).".

AMENDMENT No. 6161

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the grant of a Federal charter to an organization.".

AMENDMENT No. 6162

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude any funds disbursed to private businesses or corporations under the veterans employment programs authorized under title 38, United States Code.".

AMENDMENT No. 6163

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude special exemptions received by newspapers under Federal antitrust laws.".

AMENDMENT No. 6164

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the utilization of Federal facilities or the utilization of State or local governments which receive Federal financial assistance by nonprofit organizations.".

AMENDMENT No. 6165

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act, no institution of higher education shall be deemed a 'recipient' where the only Federal financial assistance extended consists of grants received directly by students in attendance at such institutions under 20 U.S.C. 1070a (Basic Educational Opportunity Grant Program, ADS; or 38 U.S.C. 1681 (Veteran's Educational Assistance Program). This exclusion shall not apply to proprietary institutions of higher education, vocational schools, any school not entitled to tax exempt status under 26 U.S.C. 501(c)(3), or to any school which, during the five years preceding as a result of a final judgement of any court of the United States, has been found in violation of any provision of the United States Constitution or law of the United States relating to civil rights.".

AMENDMENT No. 6166

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act Federal financial assistance to the political subdivision of a State shall not constitute Federal financial assistance to the State government itself.".

AMENDMENT No. 6167

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude medicare or medicaid reimbursements to providers of goods or service relating to health care.".

AMENDMENT No. 6168

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude medicare or medicaid reimbursements to pharmacies.".

AMENDMENT No. 6169

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the reimbursement of Federal rent vouchers to landlords.".

AMENDMENT No. 6170

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act no State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof (including any subunit thereof) shall be deemed to receive Federal financial assistance unless it receives such assistance in fact.".

AMENDMENT No. 6171

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act Federal financial assistance to a particular subunit, department, or instrumentality of a State government shall not constitute Federal financial assistance to another subunit, department, or instrumentality of such State government.".

AMENDMENT No. 6172

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act an entity shall not be deemed to receive support from the extension of Federal financial assistance to a subunit unless it receives financial assistance from such subunit.".

AMENDMENT No. 6173

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act Federal financial assistance extended to a State government shall not constitute Federal financial assistance to its political subdivisions.".

AMENDMENT No. 6174

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act nothing herein shall be construed to extend authority to the Federal government to inquire into matters of discretion relating to the granting of academic tenure to individuals at institutions of higher education.".

AMENDMENT No. 6175

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'subunit' shall refer to that part of a State or political subdivision thereof, or any private agency, institution, organization, or other entity which has a direct reporting and fiscal relationship to its parent entity. Political subdivisions that are separately incorporated, including towns, cities, or counties are not subunits of a State. State agencies and departments are subunits of a State; county agencies and departments are subunits of counties; and municipal agencies and department are subunits of municipalities.".

AMENDMENT No. 6176

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act, an entity does not 'receive support' as that term is used in this Act solely because its resources are made available for other purposes as a result of its subunit's receipt of Federal financial assistance.".

AMENDMENT No. 6177

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act, the term 'recipient' shall be construed to exclude nonprofit organizations devoted generally to the achievement of civil rights.".

AMENDMENT No. 6178

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act, the term 'Federal financial assistance' shall be construed to exclude Federal tax credits for businesses engaged in vocational training programs.".

AMENDMENT No. 6179

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act, the term 'Federal financial assistance' shall be construed to exclude the extention of Federal vocational or job training funds to businesses.".

AMENDMENT No. 6180

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act, the term 'Federal financial assistance' shall be construed to exclude Federal programs providing contracts of insurance or guaranty.".

AMENDMENT No. 6181

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act, the term 'Federal financial assistance' shall be construed to exclude housing and mobile home loans made by the Veterans Administration.".

AMENDMENT No. 6182

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act, the term 'Federal financial assistance' shall be construed to exclude direct and insured loans made by the Farmers Home Administration.".

AMENDMENT No. 6183

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act, the term 'Federal financial assistance' shall be construed to exclude the receipt of a Federal license for operation to an entity.".

AMENDMENT No. 6184

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act, the term 'Federal financial assistance' shall be construed to exclude contracts for the purposes of providing Federal assistance to handicapped persons.".

AMENDMENT No. 6185

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act nothing herein shall be construed to affect the admissions policy of any institution of higher education.".

AMENDMENT No. 6186

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act nothing herein shall be construed to extend authority to the Federal government to inquire into matters of discretion relating to student grading at institutions of higher education.".

AMENDMENT No. 6187

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude loans made by the Rural Electrification Administration to rural electric and telephone cooperatives.".

AMENDMENT No. 6188

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act nothing herein shall be construed to affect the Revenue Sharing Act.".

AMENDMENT No. 6189

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude the ultimate beneficiary of any Federal financial assistance.".

AMENDMENT No. 6190

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to not include Federal vocational or job training funds to businesses.".

AMENDMENT No. 6191

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act nothing in this Act shall be construed as changing the status of historically black colleges and universities or historically single-sex colleges and universities.".

AMENDMENT No. 6192

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the use of facilities owned by a State or local government receiving Federal financial assistance shall not constitute Federal financial assistance to the entity making use of such facilities.".

AMENDMENT No. 6193

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to not include technical assistance provided to a community from another community receiving Federal financial assistance.".

AMENDMENT No. 6194

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act, nothing in this Act or the amendments made by this Act shall be construed as changing the status of historically black colleges and universities.".

AMENDMENT No. 6195

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude Federal tax exemptions for religious, charitable, and educational institutions.".

AMENDMENT No. 6196

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude reimbursement or payment for goods supplied or services rendered.".

AMENDMENT No. 6197

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act, nothing in this Act shall be construed to extend authority to the Federal government to inquire into matters of discretion relating either to student grading, or the granting of academic tenure to individuals, at institutions of higher education.".

AMENDMENT No. 6198

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to not include any entity not covered prior to the Supreme Court's decision in Grove City v. Secretary of Education, Bell.".

AMENDMENT No. 6199

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude food stamp reimbursements to grocery stores.".

AMENDMENT No. 6200

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act, Federal financial assistance to a particular subunit, department, or instrumentality of a political subdivision shall not constitute Federal financial assistance to another subunit, department, or instrumentality of such political subdivision.".

AMENDMENT No. 6201

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the receipt of Federal funds by a political party organization under the Federal Election Campaign Act.".

AMENDMENT No. 6202

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the extension of Federal financial assistance to a political subdivision of a State shall not be deemed to constitute Federal financial assistance to any other political subdivision of such State.".

AMENDMENT No. 6203

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the extension of Federal financial assistance to a public entity shall not be deemed to constitute Federal financial assistance to a private entity providing goods or services to that entity.".

AMENDMENT No. 6204

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude a church or religious organization that administers Federal food programs.".

AMENDMENT No. 6205

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude Federal tax exemptions.".

AMENDMENT No. 6206

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to activities occurring before 1 a.m., of a particular day.".

AMENDMENT No. 6207

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to activities occurring before 2 a.m. on any particular day.".

AMENDMENT No. 6208

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to activities occurring before 4 a.m. on any particular day.".

AMENDMENT No. 6209

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to activities occurring before 5 a.m. on any particular day.".

AMENDMENT No. 6210

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to activities occurring before 6 a.m. on any particular day.".

AMENDMENT No. 6211

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to activities occurring before 7 a.m. on any particular day.".

AMENDMENT No. 6212

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to activities occurring before 8 a.m. on any particular day.".

AMENDMENT No. 6213

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any activities occurring before 9 a.m. on any particular day.".

AMENDMENT No. 6214

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to activities before 10 a.m. on any particular day.".

AMENDMENT No. 6215

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the operation of National Parks.".

AMENDMENT No. 6216

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the activities of the National Ski Patrol.".

AMENDMENT No. 6217

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the activities of the 'Shriners'.".

AMENDMENT No. 6218

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the activities of B'nai B'rith.".

AMENDMENT No. 6219

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the activities and operations of State capitol buildings.".

AMENDMENT No. 6220

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the activities of county wildlife preserves.".

AMENDMENT No. 6221

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the activities of the Brownie Scouts.".

AMENDMENT No. 6222

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Sioux Indians.".

AMENDMENT No. 6223

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Seminole Indians.".

AMENDMENT No. 6224

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Apache Indians.".

AMENDMENT No. 6225

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Navaho Indians.".

AMENDMENT No. 6226

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Comanche Indians.".

AMENDMENT No. 6227

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Arapaho Indians.".

AMENDMENT No. 6228

At the end of the pending question, add the following "Nothing herein shall be construed to limit or restrict the rights of Algonquin Indians.".

AMENDMENT No. 6229

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Plains Indians.".

AMENDMENT No. 6230

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the activities of the Cub Scouts.".

AMENDMENT No. 6231

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the activities of the Camp Fire Girls.".

AMENDMENT No. 6232

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the activities of the Girl Scouts.".

AMENDMENT No. 6233

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the activities of the Boy Scouts.".

AMENDMENT No. 6234

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the municipal swimming pools.".

AMENDMENT No. 6235

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the municipal fire departments.".

AMENDMENT No. 6236

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the municipal police forces.".

AMENDMENT No. 6237

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the function of state court functions.".

AMENDMENT No. 6238

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the Marines.".

AMENDMENT No. 6239

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the Air Force .".

AMENDMENT No. 6240

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the Navy.".

AMENDMENT No. 6241

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the Army.".

AMENDMENT No. 6242

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with church-sponsored activities.".

AMENDMENT No. 6243

On page 5, strike the following: lines 32 through 34.

AMENDMENT No. 6244

On page 5, strike the following: lines 29 through 31.

AMENDMENT No. 6245

On page 5, line 31, strike the following: "is amended—".

AMENDMENT No. 6246

On page 5 strike lines 1 through 25.

AMENDMENT No. 6247

On page 6 strike lines 1 though 6.

AMENDMENT No. 6248

On page 6 strike lines 28 and 29.

AMENDMENT No. 6249

On page 6, strike line 6.

AMENDMENT No. 6250

On page 6, strike lines 14 and 15.

AMENDMENT No. 6251

On page 6, strike line 16.

AMENDMENT No. 6252

On page 6, strike lines 26 and 27.

AMENDMENT No. 6253

On page 6, beginning on line 30, strike everything through line 1 on page 7.

AMENDMENT No. 6254

On page 7, strike lines 2 through 5.

AMENDMENT No. 6255

On page 7, strike lines 6 through 12.

AMENDMENT No. 6256

On page 7, line 10, strike the word "solely".

AMENDMENT No. 6257

On page 7, strike lines 13 through 16.

AMENDMENT No. 6258

On page 7, strike line 17.

AMENDMENT No. 6259

On page 7, strike lines 32 through 34.

AMENDMENT No. 6260

On page 7, strike lines 21 through 26.

AMENDMENT No. 6261

On page 7, strike lines 27 through 34.

AMENDMENT No. 6262

On page 8, strike lines 3 through 11.

AMENDMENT No. 6263

On page 8, strike lines 18 through 25.

AMENDMENT No. 6264

On page 8, line 3, strike the words "all or a portion of".

AMENDMENT No. 6265

On page 8, strike line 28 through 30.

AMENDMENT No. 6266

On page 8, line 9, strike the words "by clear and convincing evidence,".

AMENDMENT No. 6267

On page 9, strike lines 1 through 3.

AMENDMENT No. 6268

On page 9, strike lines 4 through 9.

AMENDMENT No. 6269

On page 9, strike lines 8 and 9.

AMENDMENT No. 6270

On page 9, line 24, strike the word "solely".

AMENDMENT No. 6271

On page 9, strike lines 20 through 26.

AMENDMENT No. 6272

Beginning on line 29, page 9, strike everything through line 1 on page 10.

AMENDMENT No. 6273

On page 10, line 23, strike the following: "to a private corporation".

AMENDMENT No. 6274

On page 10, line 18, strike the following: "by clear and convincing evidence".

AMENDMENT No. 6275

On page 10, line 13, strike the following: "to a political subdivision".

AMENDMENT No. 6276

On page 10, line 13, strike the following: "to a State".

AMENDMENT No. 6277

On page 10, line 12, strike the following: "Federal financial".

AMENDMENT No. 6278

On page 10, line 12, strike the following: "or a portion".

AMENDMENT No. 6279

On page 10, line 12, strike the following: "all or".

AMENDMENT No. 6280

On page 10, line 5, strike the following: "or other such component".

AMENDMENT No. 6281

On page 10, line 5, strike the following: "agency".

AMENDMENT No. 6282

On page 10, line 4, strike the following: "to a political subdivision".

AMENDMENT No. 6283

On page 10, line 5, strike the following: "Department".

AMENDMENT No. 6284

On page 10, line 3, strike the following: "Federal financial".

AMENDMENT No. 6285

On page 10, line 4, strike the following: "To a Stale".

AMENDMENT No. 6286

On page 1 strike lines 18 and 19.

AMENDMENT No. 6287

On page 1 strike lines 15 through 17.

AMENDMENT No. 6288

On page 1 strike lines 18 and 19.

AMENDMENT No. 6289

On page 2, line 4, strike the following: "entity".

AMENDMENT No. 6290

On page 2, line 12, strike the following: "to a State or ".

AMENDMENT No. 6291

On page 2, lines 12 and 13, strike the following: "to a political subdivision".

AMENDMENT No. 6292

On page 2, line 24, strike the following: "or other such component part".

AMENDMENT No. 6293

On page 2, line 26, strike the following: ", by clear and convincing evidence,".

AMENDMENT No. 6294

On page 2, line 13, strike the following: "a department,".

AMENDMENT No. 6295

On page 2, line 13, strike the following: "agency,".

AMENDMENT No. 6296

On page 2, lines 13 and 14, strike the following: "or other such component part of the State".

AMENDMENT No. 6297

On page 2, line 14, strike the following: "or political subdivision".

AMENDMENT No. 6298

On page 2, strike lines 15 through 17.

AMENDMENT No. 6299

On page 2, line 20, strike the following: "or a portion".

AMENDMENT No. 6300

On page 2, line 21, strike the following: "or to a political subdivision".

AMENDMENT No. 6301

On page 2, lines 21 and 22, strike the following: "without restriction".

AMENDMENT No. 6302

On page 2, line 22, strike the following: "shall be presumed".

AMENDMENT No. 6303

On page 2, line 24, strike the following: "department".

AMENDMENT No. 6304

On page 2, line 24, strike the following: "agency,".

AMENDMENT No. 6305

On page 2, line 28, strike the following: "department".

AMENDMENT No. 6306

On page 2, line 28, strike the following: ", agency,".

AMENDMENT No. 6307

On page 2, line 28, strike the following: ", or other component part".

AMENDMENT No. 6308

On page 2, lines 29 and 30, strike the following: ", except as provided in subparagraphs (B) and (C),".

AMENDMENT No. 6309

On page 3, strike lines 1-8.

AMENDMENT No. 6310

On page 3, strike lines 9-10.

AMENDMENT No. 6311

On page 3, strike lines 16-17.

AMENDMENT No. 6312

On page 3, line 30, strike the following: "Federal financial".

AMENDMENT No. 6313

On page 3, line 31, strike the following: "by or with respect".

AMENDMENT No. 6314

On page 3, line 32, strike the following: "Such".

AMENDMENT No. 6315

On page 3, line 34, strike the following: "To that part".

AMENDMENT No. 6316

On page 3, line 34, strike the following: "Other".

AMENDMENT No. 6317

On page 4, strike lines 1-2.

AMENDMENT No. 6318

On page 4, strike lines 4-6.

AMENDMENT No. 6319

On page 4, line 17, strike the following: "Further".

AMENDMENT No. 6320

On page 4, line 19, strike the following: "At the end thereof".

AMENDMENT No. 6321

On page 5, line 3, strike the following: "Federal financial".

AMENDMENT No. 6322

On page 5, line 4, strike the following: "Or to a political subdivision".

AMENDMENT No. 6323

On page 5, line 9, strike the following: "By clear and convincing evidence".

AMENDMENT No. 6324

On page 5, line 10, strike the following: "Federal financial".

AMENDMENT No. 6325

On page 5, line 11, strike the following: "Or other component part".

AMENDMENT No. 6326

On page 5, strike lines 12-17.

AMENDMENT No. 6327

On page 5, strike lines 18-25.

AMENDMENT No. 6328

On page 9, strike lines 4-7.

AMENDMENT No. 6329

On page 9, strike lines 8-9.

AMENDMENT No. 6330

On page 9, strike lines 20-26.

AMENDMENT No. 6331

On page 9, strike lines 27-28.

AMENDMENT No. 6332

On page 9, line 22, strike the following: "Federal financial".

AMENDMENT No. 6333

On page 9, line 23, strike the following: "By or with respect".

AMENDMENT No. 6334

On page 9, line 24, strike the following: "Solely".

AMENDMENT No. 6335

On page 3, line 32, strike the following: "Solely".

AMENDMENT No. 6336

On page 5, strike lines 26-27.

AMENDMENT No. 6337

On page 5, line 3, strike the following: "All or".

AMENDMENT No. 6338

On page 5, line 2, strike the following: "Not".

AMENDMENT No. 6339

On page 5, line 1, strike the following: "Not".

AMENDMENT No. 6340

On page 4, line 32, strike the following "Primary".

AMENDMENT No. 6341

On page 4, line 29, strike the following: "To a State or".

AMENDMENT No. 6342

On page 4, line 28, strike the following: "Federal financial".

AMENDMENT No. 6343

On page 4, strike lines 20-26.

AMENDMENT No. 6344

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before January 1, 1986."

AMENDMENT No. 6345

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before January 5, 1986."

AMENDMENT No. 6346

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before January 10, 1986.".

AMENDMENT No. 6347

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before January 15, 1986.".

AMENDMENT No. 6348

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before January 20, 1986.".

AMENDMENT No. 6349

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before January 25, 1986.".

AMENDMENT No. 6350

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before February 1, 1986.".

AMENDMENT No. 6351

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before February 5, 1986.".

AMENDMENT No. 6352

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before February 10, 1986.".

AMENDMENT No. 6353

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before February 15, 1986.".

AMENDMENT No. 6354

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before February 20, 1986.".

AMENDMENT No. 6355

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before March 1, 1986.".

AMENDMENT No. 6356

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before March 5, 1986.".

AMENDMENT No. 6357

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before March 10, 1986.".

AMENDMENT No. 6358

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before March 15, 1986.".

AMENDMENT No. 6359

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before March 20, 1986.".

AMENDMENT No. 6360

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before March 25, 1986.".

AMENDMENT No. 6361

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before April 1, 1986.".

AMENDMENT No. 6362

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before April 5, 1986.".

AMENDMENT No. 6363

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before April 10, 1986.".

AMENDMENT No. 6364

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before April 15, 1986.".

AMENDMENT No. 6365

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before April 20, 1986.".

AMENDMENT No. 6366

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before April 25, 1986.".

AMENDMENT No. 6367

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before May 1, 1986.".

AMENDMENT No. 6368

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before July 25, 1984.".

AMENDMENT No. 6369

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before July 29, 1984.".

AMENDMENT No. 6370

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before May 5, 1986.".

AMENDMENT No. 6371

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before May 10, 1986.".

AMENDMENT No. 6372

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before May 15, 1986.".

AMENDMENT No. 6373

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before May 20, 1986.".

AMENDMENT No. 6374

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before May 25, 1986.".

AMENDMENT No. 6375

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before June 1, 1986.".

AMENDMENT No. 6376

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before June 5, 1986.".

AMENDMENT No. 6377

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before June 10, 1986.".

AMENDMENT No. 6378

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before June 15, 1986.".

AMENDMENT No. 6379

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before June 20, 1986.".

AMENDMENT No. 6380

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before June 25, 1986.".

AMENDMENT No. 6381

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before July 1, 1986.".

AMENDMENT No. 6382

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before July 5, 1986.".

AMENDMENT No. 6383

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before July 10, 1986.".

AMENDMENT No. 6384

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before July 15, 1986.".

AMENDMENT No. 6385

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before July 20, 1986.".

AMENDMENT No. 6386

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before July 25, 1986.".

AMENDMENT No. 6387

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before July 27, 1986.".

AMENDMENT No. 6388

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before July 30, 1986.".

AMENDMENT No. 6389

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before August 1, 1986.".

AMENDMENT No. 6390

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before August 5, 1986.".

AMENDMENT No. 6391

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before August 10, 1986.".

AMENDMENT No. 6392

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before August 15, 1986.".

AMENDMENT No. 6393

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before August 20, 1986.".

AMENDMENT No. 6394

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before August 25, 1986.".

AMENDMENT No. 6395

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before September 1, 1986.".

AMENDMENT No. 6396

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Alabama.".

AMENDMENT No. 6397

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Alaska.".

AMENDMENT No. 6398

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Arizona.".

AMENDMENT No. 6399

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Arkansas.".

AMENDMENT No. 6400

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of California.".

AMENDMENT No. 6401

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Colorado.".

AMENDMENT No. 6402

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Connecticut.".

AMENDMENT No. 6403

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Delaware.".

AMENDMENT No. 6404

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Florida.".

AMENDMENT No. 6405

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Georgia.".

AMENDMENT No. 6406

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Hawaii.".

AMENDMENT No. 6407

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Illinois.".

AMENDMENT No. 6408

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Indiana.".

AMENDMENT No. 6409

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Iowa.".

AMENDMENT No. 6410

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Idaho.".

AMENDMENT No. 6411

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Kentucky.".

AMENDMENT No. 6412

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Kansas.".

AMENDMENT No. 6413

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Nebraska.".

AMENDMENT No. 6414

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Oregon.".

AMENDMENT No. 6415

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Ohio.".

AMENDMENT No. 6416

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Oklahoma.".

AMENDMENT No. 6417

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Puerto Rico.".

AMENDMENT No. 6418

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Pennsylvania.".

AMENDMENT No. 6419

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Rhode Island.".

AMENDMENT No. 6420

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of South Dakota.".

AMENDMENT No. 6421

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of South Carolina.".

AMENDMENT No. 6422

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Tennessee.".

AMENDMENT No. 6423

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Texas.".

AMENDMENT No. 6424

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Utah.".

AMENDMENT No. 6425

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Vermont.".

AMENDMENT No. 6426

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Virginia.".

AMENDMENT No. 6427

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Washington.".

AMENDMENT No. 6428

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of West Virginia.".

AMENDMENT No. 6429

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Wisconsin.".

AMENDMENT No. 6430

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Wyoming.".

AMENDMENT No. 6431

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Louisiana.".

AMENDMENT No. 6432

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Maine.".

AMENDMENT No. 6433

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Maryland.".

AMENDMENT No. 6434

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Massachusetts.".

AMENDMENT No. 6435

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Minnesota.".

AMENDMENT No. 6436

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Missouri.".

AMENDMENT No. 6437

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Michigan.".

AMENDMENT No. 6438

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Montana".

AMENDMENT No. 6439

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Mississippi".

AMENDMENT No. 6440

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of New Mexico".

AMENDMENT No. 6441

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of North Carolina".

AMENDMENT No. 6442

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of North Dakota".

AMENDMENT No. 6443

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of New Hampshire".

AMENDMENT No. 6444

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Nevada.".

AMENDMENT No. 6445

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of New York.".

AMENDMENT No. 6446

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of New Jersey.".

AMENDMENT No. 6447

On page 1, line 3, change "Title I" to "Title II".

AMENDMENT No. 6448

On page 1, line 3, change "Title I" to "Title III".

AMENDMENT No. 6449

On page 1, line 3, change "Title I" to "Title IV".

AMENDMENT No. 6450

On page 1, line 3, change "Title I" to "Title V".

AMENDMENT No. 6451

On page 1, line 3, change "Title I" to "Title X".

AMENDMENT No. 6452

On page 1, line 3, change "Title I" to "Title XX".

AMENDMENT No. 6453

At the end of the pending question, add the following: "Nothing herein shall be construed to abridge the right of petition the Government for a redress of grievances.".

AMENDMENT No. 6454

At the end of the pending question, add the following: "Nothing herein shall be construed to abridge the right of the people to be secure in their persons.".

AMENDMENT No. 6455

At the end of the pending question, add the following: "Nothing herein shall be construed to abridge the right of people to be secure in their houses.".

AMENDMENT No. 6456

At the end of the pending question, add the following: "Nothing herein shall be construed to abridge the right of people to be secure in their papers and effects.".

AMENDMENT No. 6457

At the end of the pending question, add the following: "Nothing herein shall be construed to abridge the right of people to be secure against unreasonable searches and seizures.".

AMENDMENT No. 6458

At the end of the pending question, add the following: "Nothing herein shall be construed to deprive any person of life, liberty, or property, without due process of law.".

AMENDMENT No. 6459

At the end of the pending question, add the following: "Nothing herein shall be construed to permit the taking of private property for public use without just compensation.".

AMENDMENT No. 6460

At the end of the pending question, add the following: "Nothing herein shall be construed to subject any person to criminal prosecution.".

AMENDMENT No. 6461

At the end of the pending question, add the following: "Nothing herein shall be construed to abridge the privileges or immunities of citizens of the United States.".

AMENDMENT No. 6462

At the end of the pending question, add the following: "Nothing herein shall be construed to deny any person the equal protection of the laws.".

AMENDMENT No. 6463

At the end of the pending question, add the following: "Nothing herein shall be construed to prohibit the free exercise of religion.".

AMENDMENT No. 6464

At the end of the pending question, add the following: "Nothing herein shall be construed to abridge the right of citizens to vote.".

AMENDMENT No. 6465

At the end of the pending question, add the following: "Nothing herein shall be construed to permit discrimination against any person because of race.".

AMENDMENT No. 6466

At the end of the pending question, add the following: "Nothing herein shall be construed to permit discrimination against any person because of sex.".

AMENDMENT No. 6467

At the end of the pending question, add the following: "Nothing herein shall be construed to permit discrimination against any person because of creed.".

AMENDMENT No. 6468

At the end of the pending question, add the following: "Nothing herein shall be construed to permit the quartering of a soldier in any house in time of peace.".

AMENDMENT No. 6469

At the end of the pending question, add the following: "Nothing herein shall be construed to extend the Judicial power of the United States.".

AMENDMENT No. 6470

At the end of the pending question, add the following: "Nothing herein shall be construed to abridge the freedom of speech.".

AMENDMENT No. 6471

At the end of the pending question, add the following: "Nothing herein shall be construed to abridge the right of the people to keep and bear arms.".

AMENDMENT No. 6472

At the end of the pending question, add the following: "Nothing herein shall be construed to abridge the freedom of the press.".

AMENDMENT No. 6473

At the end of the pending question, add the following: "Nothing herein shall be construed to deny or disparage rights retained by the people under the IX Amendment to the Constitution of the United States.".

AMENDMENT No. 6474

At the end of the pending question, add the following: "Nothing herein shall be construed to abridge the right of the people to peaceably assemble.".

FEDERAL RECOGNITION OF CERTAIN INDIANS

ANDREWS AMENDMENT NO. 6475

Mr. STEVENS (for Mr. ANDREWS) proposed an amendment to the bill (H.R. 5540) to provide for restoration of Federal recognition to the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians, to institute for such tribe those Federal services provided to Indians who are recognized by the Federal Government and who receive such services because of Federal trust responsibility, and for other purposes; as follows:

On page 9, line 12, strike out "ninety days after" and insert in lieu thereof "the date that is 1 year after".

HEALTH SERVICES AND PREVENTIVE HEALTH SERVICES ACT

HATCH AND (KENNEDY) AMENDMENT NO. 6476

Mr. STEVENS (for Mr. HATCH, for himself, and Mr. KENNEDY) proposed an amendment to the bill (S. 2301) to revise and extend programs for the provision of health services and preventive health services, to establish a program for the provision of home and community-based services, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Health Services and Preventive Health Services Act of 1984".

REFERENCE

SEC. 2. Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

CHILDHOOD IMMUNIZATION

SEC. 3. Section 317(j)(1) is amended by striking out "and" after "1983," and by inserting before the period a comma and "$51,400,000 for the fiscal year ending September 30, 1985, $56,000,000 for the fiscal year ending September 30, 1986, and $60,000,000 for the fiscal year ending September 30, 1987".

PREVENTIVE HEALTH SERVICE PROGRAMS FOR TUBERCULOSIS

SEC. 4. Section 317(j)(2) is amended by striking out "and" after "1983," and by inserting before the period a comma and "$8,000,000 for the fiscal year ending September 30, 1985, $9,000,000 for the fiscal year ending September 30, 1986, and $10,000,000 for the fiscal year ending September 30, 1987".

PROJECTS AND PROGRAMS FOR THE PREVENTION AND CONTROL OF VENEREAL DISEASE

SEC. 5. The first sentence of section 318(d)(1) is amended by striking out "and" after "1983," and by inserting before the period a comma and "$50,000,000 for the fiscal year ending September 30, 1985, $55,000,000 for the fiscal year ending September 30, 1986, and $55,000,000 for the fiscal year ending September 30, 1987".

HOME HEALTH SERVICES

SEC. 6. (a) Section 339(a)(5) is amended by striking out "and" after "1983," and by inserting before the period a comma and "September 30, 1985, September 30, 1986, and September 30, 1987".

(b) Section 339(b)(5) is amended by striking out "and" after "1983," and by inserting before the period a comma and "September 30, 1985, September 30, 1986, and September 30, 1987".

PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT

SEC. 7. (a) Section 1901(a) is amended by striking out "and" after "1983," and by inserting before the period a comma and "$93,000,000 for fiscal year 1985, $98,000,000 for fiscal year 1986, and $102,000,000 for fiscal year 1987".

(b) Section 1904(a)(1)(F) is amended to read as follows:

"(F) Feasibility studies and planning for emergency medical services systems and the establishment, expansion, and improvement of such systems, including the establishment, expansion, and improvement of emergency medical services for children who need treatment for trauma or critical care. Amounts for such systems may not be used for the costs of operation of the systems.".

(c) Section 1905(c) is amended—

(1) by striking out paragraphs (2) and (4); and

(2) by redesignating paragraphs (3), (5), (6), (7), and (8) as paragraphs (2), (3), (4), (5), and (6), respectively.

(d) Subsection (e) of section 1905 is repealed.

(e) Section 1906 is amended by adding at the end thereof the following new subsection:

"(d) The Secretary, in consultation with appropriate national organizations, shall develop model criteria and forms for the collection of data and information with respect to services provided under this part in order to enable States to share uniform data and information with respect to the provision of such services.".

GRANTS TO STATES FOR DEMONSTRATION PROJECTS CONCERNING EMERGENCY MEDICAL SERVICES FOR CHILDREN

SEC. 8. Part A of title XIX is amended by inserting after section 1909 the following new section:

"EMERGENCY MEDICAL SERVICES FOR CHILDREN

"SEC. 1909A. (a) For activities in addition to the activities which may be carried out by States under section 1904(a)(1)(F), the Secretary may make grants to not more than four States in any fiscal year to support a program of demonstration projects in such States for the expansion and improvement of emergency medical services for children who need treatment for trauma or critical care. Any grant made under this section shall be for a one-year period.

"(b) The Secretary may renew a grant made under this section to a State for one additional one-year period only if the Secretary determines that renewal of such grant

will provide significant benefits through the collection, analysis, and dissemination of information or data which will be useful to other States.

"(c) To carry out this section, there are authorized to be appropriated $2,000,000 for fiscal year 1985 and each of the two succeeding fiscal years.".

STATE PLANNING GRANTS

SEC. 9. Part A of title XIX (as amended by section 8 of this Act) is further amended by adding at the end thereof the following new section:

"STATE PLANNING CONCERNING HEALTH PROMOTION AND DISEASE PREVENTION

"SEC. 1909B. (a) The Secretary may make grants to assist States to—

"(1) develop long range plans to achieve the goals, objectives and priorities established by the Secretary pursuant to title XVII;

"(2) identify particular needs within States for services and activities that may be conducted with payments made under allotments under section 1902; and

"(3) determine the progress of States in achieving the goals, objectives, and priorities described in paragraph (1) and, to the extent feasible, use scientifically valid measures to make such determinations.

"(b) To carry out this section, there are authorized to be appropriated $5,000,000 for each of the fiscal years 1985, 1986, and 1987.".

EFFECTIVE DATE

SEC. 10. This Act and the amendments and repeals made by this Act shall take effect on October 1, 1984.

FEDERAL RECOGNITION OF CERTAIN INDIANS

ANDREWS AMENDMENT NO. 6477

Mr. STEVENS (for Mr. ANDREWS) proposed an amendment to the bill (S. 1151) to compensate heirs of deceased Indians for improper payments from trust estates to States for political subdivisions thereof as reimbusements for old age assistance received by decedents during their lifetime; as follows:

On page 8, at the conclusion of Section 7, add a new section 8 as follows:

TREATMENT OF FUNDS

SEC. 8. Funds distributed under the provisions of this Act shall not be considered as income or resources nor otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled under the Social Security Act or, except for per capita shares in excess of $2,000, any Federal or federally assisted program.

CONTINUING APPROPRIATIONS, 1985

HATCH AMENDMENT NOS. 6478 THROUGH 6853

(Ordered to lie on the table.)

Mr. HATCH submitted 376 amendments intended to be proposed by him to the joint resolution (H.J. Res. 648), supra; as follows:

AMENDMENT NO. 6478

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Hungarian Americans.".

AMENDMENT NO. 6479

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Portuguese Americans.".

AMENDMENT NO. 6480

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Spanish Americans.".

AMENDMENT NO. 6481

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of French Americans.".

AMENDMENT NO. 6482

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Passamaquoddy Indians.".

AMENDMENT NO. 6483

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Potawatomus Indians.".

AMENDMENT NO. 6484

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Cherokee Indians.".

AMENDMENT NO. 6485

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Chipawa Indians.".

AMENDMENT NO. 6486

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Ute Indians.".

AMENDMENT NO. 6487

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Eskimo Indians.".

AMENDMENT NO. 6488

At the end of the pending question, add the following: "Nothing herein shall be construed to restrict or limit the rights of Blackfoot Indians.".

AMENDMENT NO. 6489

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Ozark Indians.".

AMENDMENT NO. 6490

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Piute Indians.".

AMENDMENT NO. 6491

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Mohawk Indians.".

AMENDMENT NO. 6492

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Penobscot Indians.".

AMENDMENT NO. 6493

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Italian Americans.".

AMENDMENT NO. 6494

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Modoc Indians.".

AMENDMENT NO. 6495

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Irish Americans.".

AMENDMENT NO. 6496

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Hungarian Americans.".

AMENDMENT NO. 6497

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Modoc Indians.".

AMENDMENT NO. 6498

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Italian Americans.".

AMENDMENT NO. 6499

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Irish Americans.".

AMENDMENT NO. 6500

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Portugese Americans.".

AMENDMENT NO. 6501

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Spanish Americans.".

AMENDMENT NO. 6502

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of French Americans.".

AMENDMENT NO. 6503

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Passanaquaddy Indians.".

AMENDMENT NO. 6504

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Potowatomis Indians.".

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AMENDMENT No. 6505

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Cherokee Indians.".

AMENDMENT No. 6506

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Chippewa Indians.".

AMENDMENT No. 6507

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of the Ute Indians.".

AMENDMENT No. 6508

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Eskimo Indians.".

AMENDMENT No. 6509

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Blackfoot Indians.".

AMENDMENT No. 6510

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Ozark Indians.".

AMENDMENT No. 6511

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Piute Indians.".

AMENDMENT No. 6512

* * * * *

AMENDMENT No. 6513

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Penobscot Indians".

AMENDMENT No. 6514

At the end of the pending question, add the following: "Nothing herein shall be construed to exclude the use by a business of water purified in municipal wastewater treatment facilities constructed with Federal funds.".

AMENDMENT No. 6515

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the receipt of subsidized water from water projects sponsored by the Bureau of Reclamation.".

AMENDMENT No. 6516

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act nothing herein shall be construed to require an educational institution to treat abortion in a manner indistinguishable from other medical procedures for purposes of student or employee health or leave policies.".

AMENDMENT No. 6517

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal welfare or other social services benefits.".

AMENDMENT No. 6518

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the provision of Federal safety or health inspectors for an industry, or to any individual business within the industry.".

AMENDMENT No. 6519

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act no charitable organization shall be deemed to receive Federal financial assistance because of any pattern and practice of participation in such organization by volunteers provided by an institution of higher education receiving Federal financial assistance.".

AMENDMENT No. 6520

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude a church, convention, or association of churches, religious order, or other religious organization, or any subunit of the foregoing, whether or not separately organized or incorporated, which does not actually receive Federal financial assistance.".

AMENDMENT No. 6521

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude any individual who receives Federal welfare or other social services benefits.".

AMENDMENT No. 6522

At the end of the pending question add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to include the Congress and the Federal judiciary.".

AMENDMENT No. 6523

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act Federal financial assistance received by a private agency, institution, organization, or other entity shall be presumed to be extended to all of its administratively separate units and subsidiary entities unless, as to any one of them it can be shown, by clear and convincing evidence, that any such unit or entity was not directly involved in providing the service or benefit supported by the Federal financial assistance.".

AMENDMENT No. 6524

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act Federal financial assistance received by a State or a political subdivision thereof shall, if it is extended to such State or political subdivision under terms which permit the State or political subdivision to allocate assistance to its subunits, shall be presumed to be extended to all its subunits unless, as to any one of them it can be shown, by clear and convincing evidence, that no Federal financial assistance was in fact received.".

AMENDMENT No. 6525

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to mean:

"(A)(i) any State or political subdivision thereof;

"(ii) any person or private agency, institution, organization, or other entity;

"(iii) any subunit of any such State or political subdivision thereof, or any such private agency, institution, organization, or other entity,

receiving Federal financial assistance (directly or through another entity or a person), or which receives support from the extension of Federal financial assistance to any of its subunits; or

"(B)(i) the successor or assignee of any recipient as defined in (c)(2)(A); or

"(ii) the transferee of Federal financial assistance from * * *.".

AMENDMENT No. 6526

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal tax credits for business engaged in vocational training programs.".

AMENDMENT No. 6527

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal contracts in which private businesses provide goods or services in return for fair consideration.".

AMENDMENT No. 6528

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude loans made by the Rural Electrification Administration to rural electric and telephone cooperatives.".

AMENDMENT No. 6529

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude contracts relating to agricultural research.".

AMENDMENT No. 6530

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the provision of Federal school lunch program funds to a community.".

AMENDMENT No. 6531

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the participation by a farmer in a federally administered program of marketing orders.".

AMENDMENT No. 6532

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude national or state political parties.".

AMENDMENT No. 6533

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude technical assistance provided to businesses employing fifteen or fewer persons from State or local economic development programs which receive funds from the Federal government.".

AMENDMENT No. 6534

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the provisions of Federal air traffic controllers to an airport or an airline.".

AMENDMENT No. 6535

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the administration of Medicare or Medicaid programs by an entity engaged in the business of insurance.".

AMENDMENT No. 6536

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance ' shall be construed to exclude the applicability of Federal rules and regulations to a business.".

AMENDMENT No. 6537

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude loans from the Small Business Administration.".

AMENDMENT No. 6538

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal crop loans or subsidies.".

AMENDMENT No. 6539

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude any fiscally autonomous entity which does not receive direct Federal financial assistance.".

AMENDMENT No. 6540

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude any benefits which accrue to an entity as a result of transacting business with individuals or other entities receiving Federal welfare or other social services benefits.".

AMENDMENT No. 6541

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal tax exemptions under 26 U.S.C. 501(c)(3) and 501(c)(8), and eligibility to receive tax deductible contributions under 26 U.S.C. 170(c).".

AMENDMENT No. 6542

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the grant of a Federal charter to an organization.".

AMENDMENT No. 6543

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude any funds disbursed to private businesses or corporations under the veterans employment programs authorized under title 38, United States Code.".

AMENDMENT No. 6544

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude special exemptions received by newspapers under Federal antitrust laws.".

AMENDMENT No. 6545

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the utilization of Federal facilities or the utilization of State or local governments which receive Federal financial assistance by non-profit organizations.".

AMENDMENT No. 6546

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act, no institution of higher education shall be deemed a 'recipient' where the only Federal financial assistance extended consists of grants received directly by students in attendance at such institutions under 20 U.S.C. 1070a (Basic Educational Opportunity Grant Program, ADS); or 38 U.S.C. 1681 (Veteran's Educational Assistance Program). This exclusion shall not apply to proprietary institutions of higher education, vocational schools, any school not entitled to tax exempt status under 26 U.S.C. 501(c)(3), or to any school which, during the five years preceding as a result of a final judgment of any court of the United States, has been found in violation of any provision of the United States Constitution or law of the United States relating to civil rights.".

AMENDMENT No. 6547

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act Federal financial assistance to the political subdivision of a State shall not constitute Federal financial assistance to the State government itself.".

AMENDMENT No. 6548

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude medicare or medicaid reimbursements to providers of goods or services relating to health care.".

AMENDMENT No. 6549

At the end of the pending question, add the following: "Notwithstanding any other provisions of this act the term 'Federal financial assistance' shall be construed to exclude medicare or medicaid reimbursements to pharmacies.".

AMENDMENT No. 6550

At the end of the pending question, add the following: "Notwithstanding any other provisions of this act the term 'Federal financial assistance' shall be construed to exclude the reimbursement of Federal rent vouchers to landlords.".

AMENDMENT No. 6551

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act no State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof (including any subunit thereof) shall be deemed to receive Federal financial assistance unless it receives such assistance in fact.".

AMENDMENT No. 6552

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act Federal financial assistance to a particular subunit, department, or instrumentality of a State government shall not constitute Federal financial assistance to another subunit, department, or instrumentality of such State government.".

AMENDMENT No. 6553

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act an entity shall not be deemed to receive support from the extension of Federal financial assistance to a subunit unless it receives financial assistance from such subunit.".

AMENDMENT No. 6554

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act Federal financial assistance extended to a State government shall not constitute Federal financial assistance to its political subdivisions.".

AMENDMENT No. 6555

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act nothing herein shall be construed to extend authority to the Federal government to inquire into matters of discretion relating to the granting of academic tenure to individuals at institutions of higher education.".

AMENDMENT No. 6556

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'subunit' shall refer to that part of a State or political subdivision thereof, or any private agency, institution, organization, or other entity which has a direct reporting and fiscal relationship to its parent entity. Political subdivisions that are separately incorporated, including towns, cities, or counties are not subunits of a State. State agencies and departments are subunits of a State; county agencies and departments are subunits of counties; and municipal agencies and departments are subunits of municipalities.".

AMENDMENT No. 6557

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act an entity does not 'receive support', as that term is used in this Act solely because its resources are made available for other purposes as a result of its subunit's receipt of Federal financial assistance.".

AMENDMENT No. 6558

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude non-profit organizations devoted generally to the achievement of civil rights.".

AMENDMENT No. 6559

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal tax credits for businesses engaged in vocational training programs.".

AMENDMENT No. 6560

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the extension of Federal vocational or job training funds to businesses.".

AMENDMENT No. 6561

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude Federal programs providing contracts of insurance or guaranty.".

AMENDMENT No. 6562

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude housing and mobile home loans made by the Veterans Administration.".

AMENDMENT No. 6563

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude direct and insured loans made by the Farmers Home Administration.".

AMENDMENT No. 6564

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the receipt of a Federal license for operation to an entity.".

AMENDMENT No. 6565

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude contracts for the purposes of providing Federal assistance to handicapped persons.".

AMENDMENT No. 6566

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act nothing herein shall be construed to affect the admissions policy of any institution of higher education.".

AMENDMENT No. 6567

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act nothing herein shall be construed to extend authority to the Federal government to inquire into matters of discretion relating to student grading at institutions of higher education.".

AMENDMENT No. 6568

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude loans made by the Rural Electrification Administration to rural electric and telephone cooperatives.".

AMENDMENT No. 6569

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act nothing herein shall be construed to affect the Revenue Sharing Act.".

AMENDMENT No. 6570

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude the ultimate beneficiary of any Federal financial assistance.".

AMENDMENT No. 6571

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to not include Federal vocational or job training funds to businesses.".

AMENDMENT No. 6572

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act, nothing in this Act shall be construed as changing the status of historically black colleges and universities or historically single-sex colleges and universities.".

AMENDMENT No. 6573

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the use of facilities owned by a State or local government receiving Federal financial assistance shall not constitute Federal financial assistance to the entity making use of such facilities.".

AMENDMENT No. 6574

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to not include technical assistance provided to a community from another community receiving Federal financial assistance.".

AMENDMENT No. 6575

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act, nothing in this Act or the amendments made by this Act shall be construed as changing the status of historically black colleges and universities.".

AMENDMENT No. 6576

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude Federal tax exemptions for religious, charitable, and educational institutions.".

AMENDMENT No. 6577

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude reimbursement or payment for goods supplied or services rendered.".

AMENDMENT No. 6578

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act, nothing in this Act shall be construed to extend authority to the Federal government to inquire into matters of discretion relating either to student grading, or the granting of academic tenure to individuals, at institutions of higher education.".

AMENDMENT No. 6579

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to not include any entity not covered prior to the Supreme Court's decision in *Grove City* v. *Secretary of Education, Bell.*.".

AMENDMENT No. 6580

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude food stamp reimbursements to grocery stores.".

AMENDMENT No. 6581

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act Federal financial assistance to a particular subunit, department, or instrumentality of a political subdivision shall not constitute Federal financial assistance to another subunit, department, or instrumentality of such political subdivision.".

AMENDMENT No. 6582

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'Federal financial assistance' shall be construed to exclude the receipt of Federal funds by a political party organization under the Federal Election Campaign Act.".

AMENDMENT No. 6583

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the extension of Federal financial assistance to a political subdivision of a State shall not be deemed to constitute Federal financial assistance to any other political subdivision of such State.".

AMENDMENT No. 6584

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the extension of Federal financial assistance to a public entity shall not be deemed to constitute Federal financial assistance to a private entity providing goods or services to that entity.".

AMENDMENT No. 6585

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude a church or religious organization that administers Federal food programs.".

AMENDMENT No. 6586

At the end of the pending question, add the following: "Notwithstanding any other provisions of this Act the term 'recipient' shall be construed to exclude Federal tax exemptions.".

AMENDMENT No. 6587

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to activities occurring before 1 a.m. of a particular day.".

AMENDMENT No. 6588

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to activities occurring before 2 a.m. of any particular day.".

AMENDMENT No. 6589

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to activities occurring before 3 a.m. on any particular day.".

AMENDMENT No. 6590

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to activities occurring before 4 a.m. on any particular day.".

AMENDMENT No. 6591

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to activities occurring before 5 a.m. on any particular day.".

AMENDMENT No. 6592

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to activities occurring before 6 a.m. on any particular day.".

AMENDMENT No. 6593

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to activities occurring before 7 a.m. on any particular day.".

AMENDMENT No. 6594

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to activities occurring before 8 a.m. on any particular day.".

AMENDMENT No. 6595

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any activities occurring before 9 a.m. on any particular day.".

AMENDMENT No. 6596

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to activities before 10 a.m. on any particular day.".

AMENDMENT No. 6597

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the operation of National Parks.".

AMENDMENT No. 6598

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the activities of the National Ski Patrol.".

AMENDMENT No. 6599

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the activities of the 'Shriners'.".

AMENDMENT No. 6600

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the activities of the B'nai B'rith.".

AMENDMENT No. 6601

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the activities and operations of State capitol buildings.".

AMENDMENT No. 6602

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the activities of county wildlife preserves.".

AMENDMENT No. 6603

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the activities of the Brownie Scouts.".

AMENDMENT No. 6604

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Sioux Indians.".

AMENDMENT No. 6605

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Seminole Indians.".

AMENDMENT No. 6606

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Apache Indians.".

AMENDMENT No. 6607

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Navaho Indians.".

AMENDMENT No. 6608

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Comanche Indians.".

AMENDMENT No. 6609

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Arapaho Indians.".

AMENDMENT No. 6610

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Algonquin Indians.".

AMENDMENT No. 6611

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of Plains Indians.".

AMENDMENT No. 6612

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the activities of the Cub Scouts.".

AMENDMENT No. 6613

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the activities of the Camp Fire girls.".

AMENDMENT No. 6614

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the activities of the Girl Scouts.".

AMENDMENT No. 6615

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with activities of the Boy Scouts.".

AMENDMENT No. 6616

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with Municipal Swimming pools.".

AMENDMENT No. 6617

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with municipal fire departments.".

AMENDMENT No. 6618

* * * * *

AMENDMENT No. 6619

At the end of the pending question, add the following: "Nothing herein shall be construed to intefere with the functioning of state court systems.".

AMENDMENT No. 6620

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the Marines.".

AMENDMENT No. 6621

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the Air Force.".

AMENDMENT No. 6622

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the Navy.".

AMENDMENT No. 6623

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with the Army.".

AMENDMENT No. 6624

At the end of the pending question, add the following: "Nothing herein shall be construed to interfere with church-sponsored activities.".

AMENDMENT No. 6625

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before January 1, 1984.".

AMENDMENT No. 6626

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before January 5, 1984.".

AMENDMENT No. 6627

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before January 9, 1984.".

AMENDMENT No. 6628

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before January 13, 1984.".

AMENDMENT No. 6629

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before January 17, 1984.".

AMENDMENT No. 6630

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before January 21, 1984.".

AMENDMENT No. 6631

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before January 25, 1984.".

AMENDMENT No. 6632

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before January 29, 1984.".

AMENDMENT No. 6633

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before February 1, 1984.".

AMENDMENT No. 6634

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before February 5, 1984.".

AMENDMENT No. 6635

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before February 9, 1984.".

AMENDMENT No. 6636

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before February 14, 1984.".

AMENDMENT No. 6637

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before February 19, 1984.".

AMENDMENT No. 6638

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before February 23, 1984.".

AMENDMENT No. 6639

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before February 27, 1984.".

AMENDMENT No. 6640

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before March 1, 1984.".

AMENDMENT No. 6641

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before March 5, 1984.".

AMENDMENT No. 6642

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before March 9, 1984.".

AMENDMENT No. 6643

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before March 13, 1984.".

AMENDMENT No. 6644

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before March 17, 1984.".

AMENDMENT No. 6645

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before March 21, 1984.".

AMENDMENT No. 6646

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before March 25, 1984.".

AMENDMENT No. 6647

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before March 29, 1984.".

AMENDMENT No. 6648

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before April 3, 1984.".

AMENDMENT No. 6649

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before April 7, 1984.".

AMENDMENT No. 6650

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before April 11, 1984.".

AMENDMENT No. 6651

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before April 15, 1984.".

AMENDMENT No. 6652

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before April 19, 1984.".

AMENDMENT No. 6653

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before April 23, 1984.".

AMENDMENT No. 6654

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before April 27, 1984.".

AMENDMENT No. 6655

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before May 2, 1984.".

AMENDMENT No. 6656

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before May 6, 1984.".

AMENDMENT No. 6657

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before May 10, 1984.".

AMENDMENT No. 6658

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before May 14, 1984.".

AMENDMENT No. 6659

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before May 18, 1984.".

AMENDMENT No. 6660

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before May 22, 1984.".

AMENDMENT No. 6661

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before May 26, 1984.".

AMENDMENT No. 6662

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before June 5, 1984.".

AMENDMENT No. 6663

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before June 9, 1984.".

AMENDMENT No. 6664

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before June 13, 1984.".

AMENDMENT No. 6665

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before June 17, 1984.".

AMENDMENT No. 6666

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before June 21, 1984.".

AMENDMENT No. 6667

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before June 24, 1984.".

AMENDMENT No. 6668

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before June 28, 1984.".

AMENDMENT No. 6669

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before July 1, 1984.".

AMENDMENT No. 6670

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before July 5, 1984.".

AMENDMENT No. 6671

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before July 9, 1984.".

AMENDMENT No. 6672

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before July 13, 1984.".

AMENDMENT No. 6673

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before July 17, 1984.".

AMENDMENT No. 6674

At the end of the pending question, add the following: "Nothing herein shall be construed to apply to any conduct of any person before July 21, 1984.".

AMENDMENT No. 6675

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Alabama.".

AMENDMENT No. 6676

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Alaska.".

AMENDMENT No. 6677

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Arizona.".

AMENDMENT No. 6678

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Arkansas.".

AMENDMENT No. 6679

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of California.".

AMENDMENT No. 6680

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Colorado.".

AMENDMENT No. 6681

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Connecticut.".

AMENDMENT No. 6682

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Delaware.".

AMENDMENT No. 6683

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Florida.".

AMENDMENT No. 6684

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Georgia.".

AMENDMENT No. 6685

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Hawaii.".

AMENDMENT No. 6686

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Illinois.".

AMENDMENT No. 6687

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Iowa.".

AMENDMENT No. 6688

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Indiana.".

AMENDMENT No. 6689

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Idaho.".

AMENDMENT No. 6690

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Kentucky.".

AMENDMENT No. 6691

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Kansas.".

AMENDMENT No. 6692

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Louisiana.".

AMENDMENT No. 6693

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Maine.".

AMENDMENT No. 6694

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Maryland.".

AMENDMENT No. 6695

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Massachusetts.".

AMENDMENT No. 6696

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Minnesota.".

AMENDMENT No. 6697

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Missouri.".

AMENDMENT No. 6698

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Michigan.".

AMENDMENT No. 6699

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Montana.".

AMENDMENT No. 6700

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Mississippi.".

AMENDMENT No. 6701

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of North Carolina.".

AMENDMENT No. 6702

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of North Dakota.".

AMENDMENT No. 6703

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of New Hampshire.".

AMENDMENT No. 6704

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of New Jersey.".

AMENDMENT No. 6705

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of New York.".

AMENDMENT No. 6706

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Nebraska.".

AMENDMENT No. 6707

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Ohio.".

AMENDMENT No. 6708

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Oklahoma.".

AMENDMENT No. 6709

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Pennsylvania.".

AMENDMENT No. 6710

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Oregon.".

AMENDMENT No. 6711

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Rhode Island.".

AMENDMENT No. 6712

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of South Carolina.".

AMENDMENT No. 6713

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of South Dakota.".

AMENDMENT No. 6714

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Tennessee.".

AMENDMENT No. 6715

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Texas.".

AMENDMENT No. 6716

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Utah.".

AMENDMENT No. 6717

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Vermont.".

AMENDMENT No. 6718

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Virginia.".

AMENDMENT No. 6719

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Washington.".

AMENDMENT No. 6720

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of West Virginia.".

AMENDMENT No. 6721

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Wyoming.".

AMENDMENT No. 6722

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Wisconsin.".

AMENDMENT No. 6723

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of Nevada.".

AMENDMENT No. 6724

At the end of the pending question, add the following: "Nothing herein shall be construed to limit or restrict the rights of citizens of New Mexico.".

AMENDMENT No. 6725

On Page 1, line 3, change "title I" to "title XX.".

AMENDMENT No. 6726

On page 1, line 3, change "title I" to "title X.".

AMENDMENT No. 6727

On page 1, line 3, change "title I" to "title V.".

AMENDMENT No. 6728

On page 1, line 3, change "title I" to "title IV.".

AMENDMENT No. 6729

On page 1, line 3, change "title I" to "title III.".

AMENDMENT No. 6730

On page 1, line 3, change "title I" to "title II.".

AMENDMENT No. 6731

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to abridge the freedom of the press.".

AMENDMENT No. 6732

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to abridge the right of the people to keep and bear arms.".

AMENDMENT No. 6733

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to abridge the freedom of speech.".

AMENDMENT No. 6734

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to extend the Judicial power of the United States.".

AMENDMENT No. 6735

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to permit the quartering of a soldier in any house in time of peace.".

AMENDMENT No. 6736

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to permit discrimination against any person because of creed.".

AMENDMENT No. 6737

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to permit discrimination against any person because of sex.".

AMENDMENT No. 6738

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to permit discrimination against any person because of race.".

AMENDMENT No. 6739

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to abridge the right of citizens to vote.".

AMENDMENT No. 6740

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to prohibit the free exercise of religion.".

AMENDMENT No. 6741

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to deny any person the equal protection of the laws.".

AMENDMENT No. 6742

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to abridge the privileges or immunities of citizens of the United States.".

AMENDMENT No. 6743

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to deny or disparage rights retained by the people under the IX Amendment to Constitution of the United States.".

AMENDMENT No. 6744

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to subject any person to criminal prosecution.".

AMENDMENT No. 6745

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to permit the taking of private property for public use without just compensation.".

AMENDMENT No. 6746

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to deprive any person of life, liberty, or property, without due process of laws.".

AMENDMENT No. 6747

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to abridge the right of the people to be secure against unreasonable searches and seizures.".

AMENDMENT No. 6748

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to abridge the right of the people to be secure in their papers and effects.".

AMENDMENT No. 6749

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to abridge the right of the people to be secure in their houses.".

AMENDMENT No. 6750

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to abridge the right of the people to be secure in their persons.".

AMENDMENT No. 6751

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to abridge the right to petition the Government for a redress of grievances.".

AMENDMENT No. 6752

At the end of the language proposed to be stricken, add the following: "Nothing herein shall be construed to abridge the right of the people to peaceably assemble.".

AMENDMENT No. 6753

On page 5 strike the following: lines 32 through 34.

AMENDMENT No. 6754

On page 5 strike the following: lines 29 through 31.

AMENDMENT No. 6755

On page 5, line 31, strike the following: "is amended—".

AMENDMENT No. 6756

On page 5 strike lines 1 through 25.

AMENDMENT No. 6757

On page 6 strike lines 1 through 6.

AMENDMENT No. 6758

On page 6 strike lines 28 and 29.

AMENDMENT No. 6759

On page 6 strike line 6.

AMENDMENT No. 6760

On page 6 strike lines 14 and 15.

AMENDMENT No. 6761

On page 6 strike line 16.

AMENDMENT No. 6762

On page 6 strike lines 26 and 27.

AMENDMENT No. 6763

On page 6, beginning on line 30, strike everything through line 1 on page 7.

AMENDMENT No. 6764

On page 7 strike lines 2 through 5.

AMENDMENT No. 6765

On page 7 strike lines 6 through 12.

AMENDMENT No. 6766

On page 7, line 10, strike the word "solely".

AMENDMENT No. 6767

On page 7 strike lines 13 through 16.

AMENDMENT No. 6768

On page 7, strike line 17.

AMENDMENT No. 6769

On page 7, strike lines 32 through 34.

AMENDMENT No. 6770

On page 7, strike lines 21 through 26.

AMENDMENT No. 6771

On page 7, strike lines 27 through 34.

AMENDMENT No. 6772

On page 8, strike lines 3 through 11.

AMENDMENT No. 6773

On page 8, strike lines 18 through 25.

AMENDMENT No. 6774

On page 8, line 3, strike the words "all or a portion of".

AMENDMENT No. 6775

On page 8, strike lines 28 through 30.

AMENDMENT No. 6776

On page 8, line 9, strike the words "; by clear and convincing evidence,".

AMENDMENT No. 6777

On page 9, strike lines 1 through 3.

AMENDMENT No. 6778

On page 9, strike lines 4 through 9.

AMENDMENT No. 6779

On page 9, strike lines 8 and 9.

AMENDMENT No. 6780

On page 9, line 24, strike the word "solely".

AMENDMENT No. 6781

On page 9, strike lines 20 through 26.

AMENDMENT No. 6782

Beginning on line 29, page 9, strike everything through line 1 on page 10.

AMENDMENT No. 6783

On page 10, line 23, strike the following: "to a private corporation".

AMENDMENT No. 6784

On page 10, line 18, strike the following: "by clear and convincing evidence".

AMENDMENT No. 6785

* * * * *

AMENDMENT No. 6786

On page 10, line 13, strike the following: "to a State".

AMENDMENT No. 6787

On page 10, line 12, strike the following: "Federal financial".

AMENDMENT No. 6788

On page 10, line 12, strike the following: "or a portion".

AMENDMENT No. 6789

On page 10, line 12, strike the following: "all or".

AMENDMENT No. 6790

On page 10, line 5, strike the following: "or other such component".

AMENDMENT No. 6791

On page 10, line 5, strike the following: "agency".

AMENDMENT No. 6792

On page 10, line 4, strike the following: "To a political subdivision".

AMENDMENT No. 6793

On page 10, line 5, strike the following: "Department".

AMENDMENT No. 6794

On page 10, line 3, strike the following: "Federal financial".

AMENDMENT No. 6795

On page 10, line 4, strike the following: "To a State".

AMENDMENT No. 6796

On page 1, strike lines 18 and 19.

AMENDMENT No. 6797

On page 1, strike lines 15 through 17.

AMENDMENT No. 6798

On page 1, strike lines 18 and 19.

AMENDMENT No. 6799

On page 2, line 4, strike the following: "entity".

AMENDMENT No. 6800

On page 2, line 12, strike the following: "to a State or".

AMENDMENT No. 6801

On page 2, lines 12 and 13, strike the following: "to a political subdivision".

AMENDMENT No. 6802

On page 2, line 24, strike the following: "or other such component part".

AMENDMENT No. 6803

On page 2, line 26, strike the following: ", by clear and convincing evidence,".

AMENDMENT No. 6804

On page 2, line 13, strike the following: "a department,".

AMENDMENT No. 6805

On page 2, line 13, strike the following: "agency,".

AMENDMENT No. 6806

On page 2, lines 13 and 14, strike the following: "or other such component part of the State".

AMENDMENT No. 6807

On page 2, line 14, strike the following: "or political subdivision".

AMENDMENT No. 6808

On page 2, strike lines 15 through 17.

AMENDMENT No. 6809

On page 2, line 20, strike the following: "or a portion".

AMENDMENT No. 6810

On page 2, line 21, strike the following: "or to a political subdivision".

AMENDMENT No. 6811

On page 2, lines 21 and 22, strike the following: "without restriction".

AMENDMENT No. 6812

On page 2, line 22, strike the following: "shall be presumed".

AMENDMENT No. 6813

On page 2, line 242, strike the following: "department".

AMENDMENT No. 6814

On page 2, line 24, strike the following: "agency,".

AMENDMENT No. 6815

On page 2, line 28, strike the following: "department".

AMENDMENT No. 6816

On page 2, line 28, strike the following: ", agency,".

AMENDMENT No. 6817

On page 2, line 28, strike the following: ", or other component part.".

AMENDMENT No. 6818

On page 2, lines 29 and 30, strike the following: ", except as provided in subparagraphs (B) and (C),".

AMENDMENT No. 6819

On page 3, strike lines 1-8.

AMENDMENT No. 6820

On page 3, strike lines 9-10.

AMENDMENT No. 6821

On page 3, strike lines 16-17.

AMENDMENT No. 6822

On page 3, line 30, strike the following: "Federal financial".

AMENDMENT No. 6823

On page 3, line 31, strike the following: "By or with respect".

AMENDMENT No. 6824

On page 3, line 32, strike the following: "Such".

AMENDMENT No. 6825

On page 3, line 34, strike the following: "To that part".

AMENDMENT No. 6826

On page 3, line 34, strike the following; "Other".

AMENDMENT No. 6827

On page 4, strike lines 1-2.

AMENDMENT No. 6828

On page 4, strike lines 4-6.

AMENDMENT No. 6829

On page 4, line 17, strike the following: "Further".

AMENDMENT No. 6830

On page 4, line 19, strike the following: "At the end thereof".

AMENDMENT No. 6831

On page 5, line 3, strike the following: "Federal financial".

AMENDMENT No. 6832

On page 5, line 4, strike the following; "Or to a political subdivision".

AMENDMENT No. 6833

On page 5, line 9, strike the following; "By clear and convincing evidence".

AMENDMENT No. 6834

On page 5, line 10, strike the following; "Federal financial".

AMENDMENT No. 6835

On page 5, line 11, strike the following; "Or other component part".

AMENDMENT No. 6836

On page 5, strike lines 12 and 17.

AMENDMENT No. 6837

On page 5, strike lines 18 and 25.

AMENDMENT No. 6838

On page 9, strike lines 4 and 7.

AMENDMENT No. 6839

On page 9, strike lines 8 and 9.

AMENDMENT No. 6840

On page 9, strike lines 20 and 26.

AMENDMENT No. 6841

On page 9, strike lines 27 and 28.

AMENDMENT No. 6842

On page 9, line 22, strike the following: "Federal financial".

AMENDMENT No. 6843

On page 9, line 23, strike the following: "By or with respect.".

AMENDMENT No. 6844

On page 9, line 24, strike the following: "Solely".

AMENDMENT No. 6845

On page 3, line 32, strike the following: "Solely".

AMENDMENT No. 6846

On page 5, strike lines 26-27.

AMENDMENT No. 6847

On page 5, line 3, strike the following: "All or".

AMENDMENT No. 6848

On page 5, line 2, strike the following: "Not".

AMENDMENT No. 6849

On page 5, line 1, strike the following: "Not".

AMENDMENT No. 6850

On page 4, line 32, strike the following: "Primary".

AMENDMENT No. 6851

On page 4, line 29, strike the following: "To a State or.".

AMENDMENT No. 6852

On page 4, line 28, strike the following: "Federal financial.".

AMENDMENT No. 6853

On page 4, strike lines 20-26.

HELMS AMENDMENT NOS. 6854 THROUGH 6857

Mr. HELMS submitted four amendments intended to be proposed by him to amendment No. 5508 proposed by Mr. BYRD (for Mr. KENNEDY) to the joint resolution House Joint Resolution 648, supra; as follows:

AMENDMENT No. 6854

At the end of amendment 5508 insert the following:

No corporation that is principally engaged in the business of farming shall be considered to be a recipient of Federal financial assistance for purposes of this bill.

AMENDMENT No. 6855

At the end of amendment 5508 insert the following:

For the purposes of this bill, nothing shall be construed to apply to any producer of agricultural commodities or any organization or cooperative which manufactures, distributes, or sells products, implements, or services principally to such producers of agricultural commodities receiving Federal financial assistance from their status as of January 1, 1984.

AMENDMENT No. 6856

At the end of amendment 5508 insert the following:

Neither the acceptance nor the redemption of coupons under the food stamp program by a person authorized under the Food Stamp Act of 1977 to accept and redeem such coupons shall be construed as receipt of Federal financial assistance for purposes of this bill.

AMENDMENT No. 6857

At the end of amendment 5508 insert the following:

No individual who is engaged in the business of farming shall be considered to be a recipient of Federal financial assistance for purposes of this bill.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, September 28, to hold a hearing to consider the fiscal year 1985 embassy security supplemental authorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

A TRIBUTE TO VOTER 84 AND THE NATIONAL NONPARTISAN VOTER REGISTRATION CAMPAIGN

● Mr. MOYNIHAN. Mr. President, the right to vote is the cornerstone of our democracy. Yet, too many American citizens fail to exercise this precious franchise. We all must make every reasonable effort to ensure as

broad participation as possible in our electoral process—local, State and Federal.

One worthy organization making that effort is the National Nonpartisan Voter Registration Campaign. This fine group has sponsored a program, VOTER 84, to make it easier for the citizens of my State and of California to register and vote.

VOTER 84 is also a telephone number in New York and California, one easily remembered, for citizens to call to ask for voter registration forms from their local boards of elections. VOTER 84 can be called at any hour and is answered in English and Spanish.

Tens of thousands of New Yorkers have registered to vote thanks to this simple program, making VOTER 84 one of the most successful enrollment drives in recent years. I urge other States to follow this fine example set by New York and California and consider the VOTER 84 model.●

SENATOR ORRIN HATCH

● Mr. GARN. Mr. President, recently, the Salt Lake Tribune published an article written by Bob Barker in response to a Jack Landau piece on Senator HATCH's role in the Civil Rights Act of 1984.

As those of us who are genuinely concerned about the far-reaching ramifications this bill may have on the private sector know, you cannot be cautious without being labeled anticivil rights. No one understands this better than my colleague, Senator HATCH. Because he has attempted to address some of these concerns through the committee process he has been labeled as the chief anticivil rights advocate.

The article aptly points out that Senator HATCH is not alone in his concern for this bill and to the contrary is attempting to pass legislation that is limited to the original purpose of title IX.

I ask that the September 5, 1984, Salt Lake Tribune article be printed in the RECORD at this point.

The article follows:

CIVIL RIGHTS BILL OF '84 WORRY TO PRIVATE COLLEGES IN UNITED STATES

(By Robert W. Barker)

The Aug. 21 edition of The Salt Lake Tribune carried a piece written in Washington, D.C., by Jack Landau entitled "Hatch Holding Up Bias Bill." Because of the fundamental errors in that column and its unfair criticism of Sen. Orrin Hatch and his Senate committees, being quite well informed on the subject as counselor for the American Association of Presidents of Independent Colleges and Universities (AAPICU), I have, without solicitation, prepared these comments.

Mr. Landau represents that those who oppose the so-called Civil Rights Act of 1984 are biased and against civil rights. This is not the case.

Many informed groups including private colleges and universities, large and small business organizations, agricultural groups, churches (including the U.S. Catholic conference), and others experienced in civil rights enforcement, the Office of Management and Budget, the Department of Education, the assistant attorney general for civil rights and many others have expressed grave concern over the tremendously far-reaching impact on the private sector of the "trickle up and trickle down effect" of the "indirect assistance" language in the definition of "recipient" of federal assistance proposed in the bill. Qualified and experienced witnesses have demonstrated well founded concern before two of Sen. Hatch's committees (Labor and Human Resources and Constitutional Rights). The objections have not been based on or related to beliefs or practices of any church or religion.

The legislation arose from a simple issue in the Hillsdale College and Grove City College cases. In those cases, two colleges which had long and splendid records of civil rights, and particularly of enhancing the status of women, had opposed federal regulatory intervention in private colleges. The colleges had intentionally refused vast sums of available federal financial grants and assistance in order to avoid federal intervention and regulation of their private institutions.

There was no record or any charge of sex discrimination or other discrimination. That was never an issue. The sole question was whether a federal loan or grant of assistance to a student who enrolled in the college constituted federal financial assistance to the school so that federal regulatory jurisdiction attached to the school and student would be denied such grants or loans unless the school filed with the Department of Education a statement that the entire institution was in compliance with federal nondiscrimination requirements.

The issue was one of federal intervention in the private sector. The rights of Hillsdale and Grove City students as well as the future of private college and universities were at stake, in the judgment of the schools.

The Supreme Court held that loans or grants to students, either directly or through the school, constituted federal financial assistance to the college, but that the assistance only affected the department or function receiving the funds and that the required statement of compliance need only cover the part of the school benefitted by the grant and not the entire institution, i.e., the statue and its history showed that it was "program specific.". The so-called Civil Rights Act of 1984 was proposed purportedly to require that the entire institution be deemed a recipient of the funds and must be in compliance.

Sen. Hatch has said that a simple bill to place the law in that posture would be acceptable to him and he has invited civil right advocates, including those on his committee headed by Sen. Kennedy, to propose such limited legislation. They have repeatedly refused to do so.

On several occasions, the Democrats on Sen. Hatch's Labor and Human Resources Committee have boycotted committee markups so there would be no quorum to amend the bill and send it forward to the Senate in an acceptable form. It is not Sen. Hatch who is holding up action in the Senate.

Bruce C. Hafen, president of Ricks College (president of AAPICU) said that the bill was so broad in its impact that it properly should be called a "bill to terminate private colleges and universities." The U.S. Catholic Conference and other church groups with long civil rights histories have pointed out that under the bill's broad language, assistance to students at a church-related college could be considered indirect assistance to the concerned church and give federal jurisdiction over the church. They have suggested that this be clarified and remedied.

Fundamental First Amendment religious freedom questions have been raised. Some businesses have questioned whether a recipient of Social Security spending money at a mom and pop store would impose federal regulatory jurisdiction on the store.

Sen. Hatch and his responsible associates have expressed concern that the bill needs limiting amendments. The civil rights lobby is trying to force the broad bill through in the same form which passed the House, to avoid any amendments to deal with expressed concerns of a cross section of the private sector, responsible government spokesmen and many informed persons. It is hnow feared that riding on the civil rights label, an effort will be made by Sen. Kennedy and his associates to call up and vote on the House bill in the Senate and thereby detour the responsible Senate committees and regular safeguarding procedures. This is a process which produces bad law.

The bill raises simple illustrative questions. Should a private college which has intentionally eschewed federal aid to assure its own character, quality and standards, and with a history of nondiscrimination, be infected by federal regulation merely because one of its students gets federal financial assistance and enrolls (solicited or unsolicited; known or unknown) at the college? Should a student eligible for student assistance be denied the right of selecting a private institution suitable to the student's standards and tastes (whether academic, social, moral or religious) unless the student injects federal supervision and regulation on the college?

Should a church-related college with a student enrolled using funds from a federal grant be the basis for injecting federal jurisdiction over the concerned church? These and similar questions are of a broad impact and are being considered by the State Labor and Judiciary Committees.

Some have suggested that Mr. Landau's noting that Sen. Hatch comes from a Mormon-dominated state and that Mormons believe that males have rights which females do not, is bigoted. I attribute it to lack of information concerning the matter. If Mr. Landau had checked he would have learned that the Mormon Church has taken no position nor communicated with the Congress on this legislation.

He would also have learned that for many years, the Mormon position on civil rights has been clear. In a general conference of the church in 1963, President Hugh B. Brown of the first presidency of the church stated in an open conference of the church: "We would like it to be known that there is in this church no doctrine, belief, or practice that is intended to deny the enjoyment of full civil rights by any person regardless of race, color, or creed. We call upon all men everywhere, both within and outside the church, to commit themselves to the establishment of full civil equality for all of God's children. Anything less defeats our high ideals of brotherhood of man.

"We say again, as we have said many times before, that we believe that all men are the children of the same God, and that

it is a moral evil for any person or groups of persons to deny any human being the right to gainful employment, to full educational opportunity and to every privilege of citizenship, just as it is a moral evil to deny him the right to worship according to the dictates of his own conscience."

Contrary to Mr. Landau's suggestions, all Sen. Hatch and his conscientious associates are trying to do is give enough substantive attention to the legislation to assure that it is limited to its announced purpose and does not have far-reaching and unintended impacts, directly, or indirectly, on the private sector of society which they feel should be free from intrusion by federal regulators.●

FRANK AMENDMENT TO SIMPSON-MAZZOLI BILL

● Mr. SYMMS. Mr. President, on Thursday, August 9, the New York Times ran an article by Robert Pear discussing a precedent-setting amendment to the House version of the Simpson-Mazzoli immigration reform bill.

That amendment, offered by Representative BARNEY FRANK, creates an entirely new enforcement unit within the Department of Justice to investigate an entirely new form of discrimination—discrimination based on alienage.

The Chamber of Commerce of the United States and many other members of the business community have voiced serious reservations and opposition to the Frank amendment, which:

Creates a special counsel to pursue such claims of discrimination;

Provides a private right of action to persons alleging national origin/alienage discrimination;

Imposes civil fines of up to $4,000 for each individual against whom an employer discriminates;

Permits suits by legal aliens as well as U.S. citizens;

Subjects employers to suits by both the special counsel and EEOC based on the same claim of misconduct; and

Overrules Espinoza against Farah Manufacturing which permits employers to limit job openings exclusively to U.S. citizens.

I wish to stress that this amendment does not provide any defenses such as those found in title VII. Therefore, the amendment eliminates virtually all employer defenses against national origin claims that are available under title VII.

I also wish to remind my colleagues in the Senate and our conferees working on a compromise Simpson-Mazzoli bill that last year, as we considered immigration reform legislation, the Senate rejected this approach in the form of an amendment offered by Senators HART and LEVIN by a vote of 59 to 29.

I commend the New York Times article to the attention of my colleagues and ask that the article be printed in the RECORD.

The article follows:

REAGAN RAISES NEW OBSTACLE TO HOUSE BILL ON IMMIGRATION

(By Robert Pear)

WASHINGTON, Aug. 8.—The Reagan Administration has raised a new objection to the House version of a comprehensive immigration bill, saying it goes too far in protecting the rights of legal aliens and Hispanic workers.

Senator Alan K. Simpson, a Wyoming Republican who is the chief sponsor of the Senate bill, said Attorney General William French Smith had objected to a provision of the House bill that would, for the first time, prohibit employers from discriminating against legal aliens in hiring or recruiting workers.

Representative Barney Frank, a Massachusetts Democrat who proposed this section of the bill, said it was "a thoughtful and very practical scheme to protect potential victims of discrimination." Hispanic groups contend that such discrimination is likely to arise from another section of the bill that forbids employers to hire illegal aliens and penalizes those who knowingly do so.

The Administration's objection creates a new obstacle for the immigration bill, which is already in trouble because of opposition from Hispanic groups and many Democrats, including Walter F. Mondale, the party's Presidential nominee.

A NEW BUREAUCRATIC ENTITY

Administration officials contend that the House bill would create a costly, unnecessary bureaucratic entity within the Justice Department to investigate complaints of job discrimination.

In June the House approved Mr. Frank's proposal by an overwhelming margin, 404 to 9, with 150 Republicans supporting it. The House then passed the entire immigration bill by a narrow margin, 216 to 211. The Senate passed a similar bill but, by a vote of 59 to 29, rejected the sort of remedies for discrimination approved by the House.

On Tuesday the Senate asked for a House-Senate conference to reconcile differences between the two bills. The Senate appointed seven conferees, and the Speaker of the House, Thomas P. O'Neill, Jr., said he would try to appoint the House conferees by Thursday.

William Bradford Reynolds, Assistant Attorney General for civil rights, expressed "serious reservations" about the antidiscrimination provision, saying it "charts an unprecedented course in civil rights law."

A PREFERENCE FOR CITIZENS

Mr. Reynolds said the existing statutes enforced his office did not prohibit "discrimination in hiring on the basis of alienage." Further, he said, "It is understandable that some private employers might prefer to provide employment for United States citizens rather than for citizens of other countries who come here to work."

Lobbyists for business organizations, including the National Association of Manufacturers and the Chamber of Commerce of the United States, expressed similar concerns.

In 1980, the last year for which the Immigration and Naturalization Service has complete data, there were 5.4 million legal aliens in the United States, including 4.5 million permanent resident aliens. Permanent resident aliens have most of the rights of citizens except the right to vote.

The House bill would create a new enforcement apparatus within the Justice Department to investigate complaints of employment discrimination based on either national origin or "alienage." Employers who violated the ban on discrimination would be subject to civil penalties of up to "$4,000 for each individual discriminated against." That is twice the maximum penalty that could be imposed on employers who knowingly hired illegal aliens.

An employer accused of discrimination would be entitled to a hearing before an administrative law judge working for a new Justice Department agency known as the United States Immigration Board. The board could award back pay to victims of discrimination and could order employers to "cease and desist" from discriminatory hiring practices.

Individual employees could file complaints directly with the board if the agency's special counsel failed to do so after an investigation lasting 30 days.

Title VII of the Civil Rights Act of 1964 forbids employers to discriminate on the basis of race, color, religion, sex or national origin. But it does not cover employers with fewer than 15 employees. And the Supreme Court has held that "nothing in the act makes it illegal to discriminate on the basis of citizenship or alienage."

The House bill, with Mr. Frank's proposal, would cover employers with four or more employees.

Representative Peter W. Rodino Jr., a New Jersey Democrat who is chairman of the House Judiciary Committee, assured his colleagues that he would fight to preserve the safeguards against discrimination.

But aides to Senator Simpson said that on this issue he tended to agree with the Administration and opposed the idea of creating a new legal remedy, or "private right of action," for employees charging discrimination.

However, the measure drew support from many conservatives, including Representative Steve Bartlett, a Texas Republican, who said, "What the Frank amendment does is to state specifically and categorically that discrimination will not be tolerated."

In a speech to a Hispanic group last month, Vice President Bush said President Reagan "will not sign any legislation that would permit employers to discriminate against Hispanics or anyone else."●

AGREEMENT ON THE FUTURE OF HONG KONG

● Mr. MURKOWSKI. Mr. President, I rise to offer my congratulations to the Governments of Great Britain and the People's Republic of China on the occasion of the initialing of the draft agreement on the future of Hong Kong. This agreement was initialed yesterday in Beijing and has been published as a white paper in both London and Hong Kong. This is indeed an historic and remarkable accomplishment. It deserves worldwide recognition as an example of how two governments can work patiently together to resolve complex and difficult problems. And surely the question of Hong Kong's future has been one of the most sensitive political, economic, and social issues to have confronted two sovereign governments in recent years. It has represented a problem which has literally been a century in the making.

It is to be hoped that this agreement will be a formula under which the 5½ million people of the Hong Kong community can live and work under Chinese sovereignty from the year 1997 up to the year 2047. For the next 12 years, the people of Hong Kong will remain under the flag of Great Britain and prepare for their future status. For now, I can only express my personal recognition of the importance of the agreement which has been initialed and state my hope that it will be respected by all sides throughout its duration. I understand that the administration has expressed similar hopes. I want to add my voice to that sentiment.

For my colleagues I think it may be useful to note briefly the main points of this important agreement:

The joint declaration and its three annexes make up an international agreement, legally binding in all its parts.

The agreement deals in considerable detail with Chinese policies toward Hong Kong after 1997. It provides a framework in which the people of Hong Kong can work for a secure and prosperous future.

The policies set out in the joint declaration and in the annexes will be included in a basic law to be passed by the National People's Congress of the People's Republic of China, and will be maintained for 50 years after 1997. Under the Agreement:

Hong Kong will enjoy a high degree of autonomy as a special administrative region [SAR] of the People's Republic of China. Socialist policies applies in the mainland will not be applied to the SAR.

The people of Hong Kong will continue to enjoy their existing rights and freedoms under Hong Kong law. The international covenant on civil and political rights and the international convenant on economic, social, and cultural rights will continue to be applied to Hong Kong.

The legislature of the Hong Kong SAR will make laws for the Hong Kong SAR. The legislature will be elected and the executive will be accountable to the legislature and to the Courts.

Hong Kong's legal and judicial systems, including the common law, will be maintained. A court of final appeal will be established in the Hong Kong SAR.

The Hong Kong SAR will be able to negotiate agreements and participate in international organizations in appropriate fields. Hong Kong will be able to continue to participate in GATT and so forth.

The Hong Kong SAR will have autonomy in economic, financial, and monetary fields. There will be no exchange control and the Hong Kong dollar will continue to be freely convertible. Investors will be able to put in or withdraw their capital freely.

The Hong Kong SAR will determine its own shipping policies, and be given authority to negotiate its own air service agreements for international flights which do not touch the mainland of China.

Existing land rights will be recognized. There is provision for the Hong Kong government to grant new leases extending until 2047.

There will be continuation of employment for members of Hong Kong's public service, including—up to certain levels—expatriate members. All responsibilities for the payment of pensions will be taken over by the SAR government.

The right of free entry to and exit from Hong Kong will be guaranteed. The agreement sets out the criteria for the right of abode in Hong Kong and the issue and use of passports and other travel documents. Residents of the SAR will be able to travel on documents issued by other governments, including British passports. Hong Kong BDTCS holding British passports prior to July 1, 1977, will retain a form of British nationality after July 1, 1997. This status will not, however, be transmissible by descent.

Let me emphasize one important point in conclusion. This agreement must be self-enforcing. It must be based upon the clear recognition of national self-interest on the part of China. China knows that the maintenance of stability and prosperity in Hong Kong is essential to continuation of the economic and commercial advantages which China already enjoys through the existence of Hong Kong. The agreement provides for a high degreee of continuity and autonomy. It enshrines the imaginative concept of "one country, two systems," and it is to be profoundly hoped that Hong Kong's economic and social systems, which are so different from those in the mainland of China, will remain unchanged. These are the characteristics which have contributed to Hong Kong's success in the past. Their preservation is the best way to ensure Hong Kong's continued success in the years up to and beyond 1997.●

THE INTELLIGENCE BREAKDOWN ALLEGATION

● Mr. BENTSEN. Mr. President, I want to associate myself with the vice chairman of the Select Committee on Intelligence, Senator MOYNIHAN, in expressing concern about the President's references on September 26 to intelligence and the recent bombing of our Embassy facilities in Beirut.

Yesterday, the President was reported to have "blamed 'the near destruction of our intelligence agency' during the Carter years for what he said was a breakdown in intelligence against terrorists." I understand that UPI reported President Reagan has subsequently spoken to reporters of "the way you distorted my remarks on the CIA," but that he said no more in explanation. I certainly hope the President dispels the notion that he might actually believe that the Carter administration was responsible for a breakdown in intelligence. As a Member of the Senate Select Committee on Intelligence I can tell you that it simply is not true. In fact, it was just the opposite.

In the early 1970's, our intelligence community confronted very serious problems. There had been a serious draw down in resources dating from the Veitnam war period. These events were unfortunate, and they did adversely affect our intelligence capabilities in the mid-70's. The implications of the President's reported statement, however, are that nothing was done to rebuild these capabilities until his administration took office. This is just not the case.

First of all, as Director Casey acknowledged in his March 8, 1984, letter to Senator MOYNIHAN, the turnaround in the intelligence community's resources occurred early in the Carter administration. Director Casey stated "that the increase in the personnel and budgetary strength of the Agency began in 1979" and that "it was planned and proposed earlier."

In fact, on the narrow question of CIA personnel, the increases from fiscal 1977 to 1983 under both the Carter and Reagan administrations have been, as described by Senator MOYNIHAN, modest. But the overall agency budget has gone up every year since 1977, with significant increments beginning in the late 1970's and early 1980's.

Mr. Casey has stated that the rebuilding effort, which began as a bipartisan effort in 1979, "cannot be completed without strong bipartisan support." All of us on the Senate Intelligence Committee agree. And we look forward to a word of reassurance from the President.●

NATIONAL PEACE THROUGH STRENGTH WEEK

● Mr. TOWER. Mr. President, on Sunday, September 23, this Nation began the observance of National Peace Through Strength Week. Its purpose is to call attention to the need to maintain a commonsense, reasonable approach to peace and security. Activities across the country, in all 50 States, are being conducted by a bipartisan coalition of Americans under the auspices of the Coalition of Peace Through Strength and the American Security Council.

The issues these organizations bring before us during this week are of im-

mense importance to our Nation. We are a nation of peace and have no designs on anyone else's territory. We seek to project our national interests and encourage freedom in the world. Yet, history has shown us that weakness in one nation encourages aggression in another. Without a strong American defense, any peace we may enjoy would be only a temporary and fragile one. Those nations with aggressive tendencies and dreams of expansion will be dissuaded from this behavior only if they are convinced their actions would be for naught. Potentially aggressive nations will not be persuaded by appeasement and concessions.

We long for a world in which we can beat our swords into plowshares, but I strongly believe that sound, lasting arms control agreements can be reached only through negotiations based upon a strong defense. The United States views its defense in the same way Americans view their insurance; we must have it, but we hope we never have to use it. We try to promote freedom in the world through peaceful means—negotiations, foreign assistance and, most of all, by example. The United States, along with our friends around the world, believe democracy is the way to a more peaceful world. The ultimate goal of Peace Through Strength Week is a world where the people of each nation are free to determine their own destiny and where no state threatens its neighbors.

Mr. President, I urge my colleagues to lend their support to the observance of this special week.●

THE 25TH ANNIVERSARY OF THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

● Mr. KENNEDY. Mr. President, yesterday, the Organization of American States celebrated the 25th anniversary of the creation of the Inter-American Commission on Human Rights. This Commission deserves our recognition and applause. It has become an effective source of protest, investigation, counsel, and rescue for the victims of humans rights abuses.

During the past decade, it investigated abuses in Chile under Pinochet, raising the first international protest against the tortures and disappearances in that country. In Argentina, its on-site visit, permitted only after enormous pressure from the United States and other governments, yielded the first real public information in that country of the official apparatus of repression that had produced thousands of disappearances. In Nicaragua, it documented the killings and torture by Somoza's national guard, and, more recently, it made trips to Nicaragua to investigate the mistreatment of the Miskitos. And it has become one of the few balanced sources of criticism of human rights violations in Cuba.

When the new Government of Argentina deposited its ratification of the Inter-American Convention on Human Rights with the Commission a few weeks ago, its Ambassador stated, "I wish to express my recognition and special appreciation for the noble work done by the Inter-American Commission, which meant so much to my country during a tragic period in its recent history, when the rights and freedoms essential to mankind were systematically trampled upon." That recognition from the new democratic government of the work of the Commission is impressive.

The Commission also was a key intermediary, respected both by the Government of Colombia and by the guerrillas, in arranging the freedom of the hostages at the Embassy of the Dominican Republic in Bogota in 1980. And it has been effective more often than is known publicly as a way to communicate to governments the concerns of the international community. The outcome often has been the release of prisoners or a reduction in the use of torture, even if only for the duration of the Commission's visit.

The tragedy is that 25 years after its creation, it still needs to exist. All too many government security forces still view repression rather than the law as the avenue to social and political stability. If the United States or any other government wants to take an effective step in promoting human rights, it could provide greater support to the Commission in its work.

The Commission was created in August 1959 in Santiago during the Fifth Consultation of Foreign Ministers. The meeting had been called to examine the hemispheric threat posed by the dictatorship of General Trujillo in the Dominican Republic. In a resolution on human rights adopted in that session, the members called for the creation of the Commission as an element in a juridical system for the protection of rights and individuals within the hemisphere.

The resolution stated that it was "essential that such rights be protected by a juridical system, so that men would not be driven to the extreme expedient of revolt against tyranny and oppression."

The statute establishing the Commission was adopted in 1960. In 1965, it was authorized to receive denunciations for human rights violations committed by member States. In 1967, it was incorporated as one of the principal organs of the OAS. In 1969, with the signing of the American Convention on Human Rights, the San Jose Treaty, the Commission became the body specifically charged under the Convention with monitoring the protection of those rights contained within the Convention.

The San Jose Pact entered into force in 1978 and today 18 member States are party to it. For those not signatories, the Commission retains its jurisdiction through its own original charter.

The Commission is comprised of seven members each of whom must be from a different member State. The current President is a Mexican jurist, Cesar Sepulveda. The Commission has a permanent secretariat located in Washington, headed by Chilean attorney Edmundo Vargas Carreno.

In its 25-year history, the Commission has received some 10,000 complaints of human rights abuses affecting 25,000 victims. The majority referred to the right to life, particularly the problem of the disappeared; the right to personal liberty, protesting arbitrary detentions; the right to due process and the right to the security of his person.

The Commission has issued specific reports on Argentina, Bolivia, Chile, Colombia, Cuba, El Salvador, Guatemala, Haiti, Nicaragua, Panama, Suriname, and Uruguay.

The real growth period for the Commission was during the Carter administration, in terms of the numbers of on-site investigations and the initiatives it took for institutional reform. It was that period in which the American Convention went from 2 signatories going back to the late 1960's to the 11 needed for the Convention to go into effect. It also was the period when the Commission obtained resolutions directing it to prepare regional conventions against the use of torture and against disappearances.

Mr. President, we should take this moment to recognize the many accomplishments of the Inter-American Commission on Human Rights, and to applaud its contribution to human rights throughout this hemisphere. I submit for the RECORD an article about the Inter-American Commission on Human Rights by Stephen S. Rosenfeld that appeared in this morning's edition of the Washington Post.

The article follows:

[From the Washington Post, Sept. 28, 1984]

NOBLE WORK

(By Stephen S. Rosenfeld)

During the cold days of September 1979 in Buenos Aires," an Argentine woman wrote not long ago to the Inter-American Commission on Human Rights, "an entire family disappeared while the Inter-American Commission was visiting. The disappeared family was mine—my husband, my daughters and myself. . . . There was an intercession by the Commssion for me and my daughters. For that reason alone, we are alive."

Today, Argentina has an elected democratic government which is seized of the consequences of the thousands of deaths and "disappearances" attributed to the former military regime, I met President Raul Alfonsin in New York this week and came away feeling he was coping valiantly with 1) heartbreaking grass-roots demands

for a full factual and judicial accounting, 2) a still-powerful military's resistance to such an accounting and 3) his government's and the public's many distractions.

Alfonsin's strategy has been to get massive amounts of information about past atrocities out to the public, and meanwhile to give the military a first crack at self-policing before bringing in the civil courts. "If people see justice being done," he told me, "we'll achieve reconciliation. No one wants revenge. But we can't pretend that nothing happened."

Back in 1979, however, that pretense was very much alive. The Argentine govenment of the day was not striving in difficult circumstances to seek justice and reconciliation. In the name of fighting terrorism, it was itself responsible for terrible injustice and social division. Too often in Latin America, this has been the case. People looking to lighten the resulting cruelties have had to look outside for relief.

That's where the Inter-American Commission on Human Rights, whose 25th anniversary was yesterday, comes in.

For the Argentine woman who wrote the recent letter, the commission's intercession in Buenos Aires was a matter of life and death. Otherwise, the commission is increasingly effective—to a degree that startles many who are familiar with the lumbering ways of its parent, the Organization of American States—as a source of protest, investigation, counsel and rescue for victims of human rights abuse.

Thanks mainly to the quality of people nominated by member states to serve on it, the commisson has managed to avoid most symptoms of ideological blindness. It has condemned human violations by governments of both the left and the right and spared itself the controversy and ineffectiveness that have overtaken, for instance, so many agencies of the United Nations.

On the right, the Inter-American Commission raised the first international cry against the tortures and disappearances in Chile under Gen. Pinochet. In Argentina, its on-site visit in 1979 broke the junta-imposed barrier of silence and generated the first widespread public information on the official apparatus of repression.

On the left, having documented the killings and torture by Somoza's national guard in Nicaragua, the commission went on to investigate the Sandinistas' gross mistreatment of the Miskitos and took up a conciliator's role. It has been a balanced source of criticism of Cuban human rights violations, too hot a potato for any other international organization to handle.

Meanwhile, the commission has quietly transmitted international human rights concerns to wayward governments—casework resulting sometimes in the release of prisoners and the reduction of torture. It circulates its reports and recommendations to governments prior to publication, giving the government the chance to make remedies and to have those remedies made public in the report.

The Carter people are justly proud of their contribution to making the Inter-American Commission an agency of stature. It was well suited to dealing with the dominant hemispheric human rights problem in that period, the thousands of disappearances in Argentina, Chile and Uruguay.

In the Reagan period, the political and geographical focus has tended to shift to Central America, where things are more complicated. For instance, the responsibility of the government of El Salvador for the death squads is not so clear. Necessarily working through established structures, the commission can better address governments that control their military than those that do not.

In Argentina, said ambassador Lucio Garcia Del Solar recently, the Inter-American Commission on Human Rights did "noble work." It deserves to be recognized and it needs to be strengthened so that it can do more.●

OLDER AMERICANS ACT OF 1984

● Mr. PRESSLER. Mr. President, I rise today to salute the Senate and the House of Representatives for acting expeditiously and approving the conference report on the Older Americans Act of 1984. The Older Americans Act of 1965 has proved to be one of the most important pieces of legislation passed by this body. South Dakotans have profited greatly from the establishment of senior citizen centers and from the Senior Community Service Employment Program. South Dakotans of all ages know of the success of the Green Thumb Program administered by the National Farmers' Union. The authorization and reauthorization of the Older Americans Act also has brought congregate nutrition services and home delivered "Meals on Wheels" to the far corners of my fine State. Rural America has benefited greatly by this act. Recently, I was asked by the Senate Aging Committee chairman, Senator JOHN HEINZ to prepare a report on the rural elderly. That informational paper is now available for distribution. The report on "The Rural and Small City Elderly" discusses the need for a strategy to reverse the discrimination against the rural elderly. In order to prepare this report, which I hope my colleagues will use in addressing legislation affecting the elderly, I contacted each of the 50 State offices on aging. Twenty-seven State offices which are part of our national network on aging responded to my request for comments on the problems faced by the rural aged. My letter solicited an evaluation of the appropriateness of Federal programs and suggestions on how Congress might overcome the roadblocks which exist. Many of the points raised by States evaluated the effectiveness of the Older Americans Act were addressed in this reauthorization. I am pleased to be part of that step forward. Mr. Chairman, our senior citizens have paid their dues to our country. I want to urge prompt action on the senior citizens bill which provides funds for programs that are vitally important to the older citizens of our country. Our senior citizens must not be deprived. We must be responsible. Congress must approve needed appropriations which will allow funding for State and community programs on aging, community service employment programs like Green Thumb, and programs authorized under the Domestic Volunteer Service Act of 1973. Under this latter program administered by ACTION are the Older American Volunteer Programs. With the funding approved in the Labor, HHS, portion of the continuing resolution, the Retired Senior Volunteer Program, the Foster Grandparent Program and the Senior Companion Program will go forward. These volunteers do much for America. It is time for Congress to act. The appropriations which allow our senior citizen programs to operate must be approved now.●

THE PLOT TO KILL THE POPE

● Mr. D'AMATO. Mr. President, today I once again bring to the attention of my colleagues the plot to kill Pope John Paul II. In its October issue, the Reader's Digest published David Shiflett's article entitled "Solving the Plot To Kill the Pope."

This article reviews Claire Sterling's efforts, begun at the request of the editors of the Reader's Digest, to unearth this plot. It covers the reactions of the Bulgarian Government to the continuing disclosures of its role as the Kremlin's instrument in constructing and conducting this international criminal act of terrorism.

I commend this article to my colleagues and ask that it be printed in the RECORD at the close of these remarks.

The article follows:

SOLVING THE PLOT TO KILL THE POPE

(An editorial review by David Shiflett)

One intrepid journalist refused to believe that John Paul II's would-be assissin was a loner and a crackpot. Here is the inside story of her dogged investigation and its appalling conclusions.

On May 13, 1981, in St. Peter's Square, a 23-year-old Turk named Mehmet Ali Agca held a Browning 9-mm, semiautomatic over his head in classic terrorist form, and shot and seriously wounded Pope John Paul II. Arrested on the spot, the would-be assassin was soon identified as a convicted murderer who had escaped from a Turkish prison and was connected with a Turkish right-wing terrorist band, the Gray Wolves. With both gunman and gun in police hands, the shooting would apparently be an easy one to solve.

Two days after the assassination attempt, the New York Times reported from Rome: "Police are convinced, according to government sources, that Mr. Agca acted alone." It was soon clear that the Western press, Western governments and their intelligence agencies all seemed eager to accept the conclusion that Agca was a lone gunman, a right-wing crackpot.

Claire Sterling, a well-respected, Rome-based journalist and author of "The Terror Network," a thorough examination of international terrorist activities, could not accept that seemingly ready-made characterization of Agca. After discussing the case with her, neither could the editors at Reader's Digest, who told Sterling to "take as long as you like, go wherever you please, spend as much

as you must to get as close to the truth as you can."

In "The Time of the Assassins," Sterling tells the story of her investigation. Her findings—first published in the September 1982 Reader's Digest ("The Plot to Murder the Pope") and now expanded and updated—offer strong evidence that the trail ultimately ends inside the headquarters of the Soviet KGB.

Sterling was not altogether alone in her search for evidence. A few other Western reporters also kept digging at the story. So did a discreet but stubborn Italian judge named Ilario Martella. He was charged with investigating Agca's international connections in November 1981, 2½ months after Agca's trial and soon after the Rome Court of Assizes issued a 51-page Statement of Motivation for Agca's life sentence. The Statement was virtually ignored by the world press. It affirmed that Agca had been dispatched by "hidden minds." He was not a "delirious ideologue" and felt "no hostility" toward the Pope.

Filed with information on Agca's life and political contacts, the Statement portrayed a figure quite different from the one seen in the world press. Among other things, Agca confessed to having received 40 days of guerrilla training in a Palestinian camp south of Beirut, and to have established clandestine relations with six radical underground groups of both the extreme right and extreme left in Turkey. Agca also stated that he had spent 50 days in Bulgaria. There, in Sofia, he had met a fellow Turk named Omer Mersan who, Agca had claimed in an early deposition, helped him obtain a fake Turkish passport.

The Statement of Motivation provided Claire Sterling with the questions that would direct her investigation:

Who was Mehmet Ali Agca?

Who helped him escape from a Turkish prison, and then supplied cover, fake passports and funds to keep him going?

Why, if he was not a "delirious ideologue," did he shoot the Pope? What "hidden minds" had sent him?

Sudden Spotlight. Sterling began by visiting Agca's hometown of Malatya, Turkey, where the principal of his high school described him as a model student. He was a lonely boy, but, noted his former language teacher, "he always said he'd be famous someday."

Agca was ten years old when Turkey exploded with terrorist violence. But he seemed to be uninterested in politics. "All he cared about was reading," said his mother, who believed the trouble began after he left home in 1976 for the University of Ankara.

He apparently spent two years there. And though the university was a center of terrorism, Sterling and others could find no evidence that Agca was ever involved before transferring to Istanbul University in the autumn of 1978.

Then, in July 1979, Agca abruptly jumped into the international spotlight by confessing—when there was practically no evidence against him—to the murder of Abdi Ipekci, editor of the moderate-left newspaper Milliyet and the most respected commentator in Turkey. Seeking to trace any financial backers the killer—supposedly a penniless student—might have had, Ipekci's family lawyer discovered several bank accounts opened in Agca's name "by somebody forging his signature." Between December 1977 and the end of 1978, $12,000 was deposited to these accounts.

But that mystery couldn't compare with what happened five months after Agca was imprisoned. On November 25, 1979, clad in an army uniform, Agca escaped from Istanbul's Kartal-Maltepe military prison, walking calmly through eight heavily guarded doors. Agca's presence in Sofia, Bulgaria, was established from around July 10, 1980, to August 31. He stayed at deluxe hotels like the Vitosha. For the next nine months, Agca traveled to a score of European capitals on a bizarre $50,000 journey more befitting an Onassis than a poor man from Turkey's Anatolian plains. He shopped at Yves Saint Laurent boutiques, drank champagne and ate smoked salmon with Milan's opera buffs at Biffi's, wintered at elegant resorts in Tunisia's Hammamet and Spain's Palma de Mallorca.

How could this be? Who could arrange for Agca to stay in Bulgaria for 50 days when visiting Turks are officially restricted to a 30-hour stay? His mysterious bank accounts, his ready admission in the Ipekci killing, his escape, his travels, all indicated to Sterling an operation with far more savvy than local terrorists could manage.

The Bulgarian Connection. Sterling shuttled between Rome and Munich, Bonn, Hamburg, Ankara and Istanbul, making side trips to Malatya, Vienna, Frankfurt, Zurich, Tel Aviv, Tunis, Washington and Paris. She battled unwilling or hostile officials, conflicting stories and outright lies, collecting notebooks full of information and searching for Agca's accomplices.

Finally, early in 1982, a breakthrough came from Milliyet's correspondent in West Germany, Orsan Oymen. An old friend of the slain editor Ipekci, Oymen had collected information indicating that Omer Mersan—who, according to Agca, had helped procure a fake Turkish passport for him in Bulgaria—was a "contact man" for Abuzer Ugurlu, who in turn was a top boss of the Turkish Mafia, a smuggling ring operating out of Sofia. Sterling was discovering the link that would become known as the Bulgarian Connection.

As the name of Abuzer Ugurlu kept cropping up, Sterling sensed she was getting closer. According to a letter from a jailed drug runner for Ugurlu: "The Bulgarian secret service has annexed the Turkish Mafia in the tightest way. Because in Bulgaria, everything—from cigarettes to heavy weapons—is sold to smugglers by the state company Kintex . . . essentially a branch of the Bulgarian secret service."

Then came another breakthrough. During a trip to Washingtn, Sterling was "given the gist" of a confidential dossier on Kintex by a member of a U.S. intelligence agency: Kintex's personnel, he told her, were "clearly members of the Bulgarian secret service. By mid-1982 numerous Soviet advisers held positions in Kintex at all levels, including senior posts."

Further information in the dossier tied the knot tight: "Starting around 1969, Ugurlu worked with Bulgaria. In exchange for services rendered, he was allowed to run smuggling operations from Varna. In 1974 he was recruited as an agent of the Bulgarian secret service."

Sterling already knew of the close ties between the Bulgarians and the KGB. (Striking confirmation came later from Col. Stefan Sverdlev, the highest-ranking Bulgarian secret-service officer ever to defect, who told her that an estimated 400 KGB officers are stationed in the Bulgarian secret-service command and in all its departments.) Agca was now linked to Mersan, Mersan to Ugurlu, Ugurlu to the Bulgarian secret service, the Bulgarians to the KGB. Coincidence? Not in Sterling's opinion.

Her article in the September 1982 Reader's Digest presented her documented revelations about the Bulgarian Connection for the first time. Agca worked for the Turkish Mafia, which was controlled by the Bulgarian secret service, which in turn was intimately linked to the KGB. At the time of the shooting in May 1981 the KGB was directed by Yuri Andropov, who in November 1982 went on to become the leader of the Soviet Union.

Cold shoulder. The Communist bloc, and especially Bulgaria, was enraged by The Digest's article. Beginning with a communiqué on September 8, 1982, and culminating in a 177-page broadside entitled "Dossier on the Anatomy of a Calumny," the Bulgarians systematically attempted to strip Sterling of all credibility. The whole affair, said a Bulgarian official at an international press conference on December 17, was part of an "anti-Bulgarian campaign" that began "three months ago with an article in Reader's Digest."

In the meantime, Agca—who dropped only hints of the truth after his arrest—had begun confessing in full, implicating his Bulgarian contacts. As a result, in late November and early December 1982, Judge Martella signed warrants for the arrest of three Bulgarians: Sergei Antonov, deputy director of the Bulgarian state airline in Rome, Todor Aivasov, former treasurer of the Bulgarian embassy in Rome, and Zelio Vasilev, former aide to the embassy's military attaché. Antonov was taken into custody in Rome; the other two had already skipped to Bulgaria.

But for the most part, the Sterling revelations and other accumulating evidence pointing to Bulgaria were downplayed or ignored by the Western media. The New York Times ran a story in December citing Israeli and West German intelligence sources who were "skeptical of charges of a Bulgarian connection" and claimed the Italian secret service was not "of the highest standard." And reporters weren't the only ones who cold-shouldered the disclosures. Denial after denial came from official Western sources of any Eastern-bloc complicity in the shooting. "It is an Italian matter," a senior U.S. intelligence officer told the New York Times, "and it would be inappropriate for the United States to interfere."

Yet the CIA later did interfere—to take the Bulgarian line. On March 23, 1983, Iordan Mantarov, a defector from the Bulgarian secret service, was reported by the New York Times as saying that Agca was picked by the Bulgarians as the hit man after discussions with the KGB "because he was known as a rightist and had no links with any communist country." But the May 28, 1983, Los Angeles Times reported that CIA director William Casey had ruled out Mantarov's admissions and reverted to the earlier view of CIA professionals that "the Bulgarians very probably did not direct Agca to shoot the Pope."

Skeptics in the press and elsewhere even disregarded a public confession by Agca. "Yes, I said the attempt on the Pope was done by the Bulgarian secret service," he told reporters on July 8, 1983, as he was being led to a police van. "Yes, I said I have been trained specially by the KGB."

But Sterling's position gradually gained converts. Former CIA director Richard Helms asserted the papal shooting "had all the earmarks of a KGB operation." Zbig-

niew Brzezinski, President Carter's national-security adviser, was more direct: "It takes an act of faith not to believe the Bulgarians were involved."

Behind the Curtain. On January 16, 1984, Istanbul's martial-law court issued a 56-page indictment for a new trial in the Ipekci case. The indictment indicated that Ipekci was killed at the instigation of Abuzer Ugurlu to prevent the editor from exposing Ugurlu's ties to the Turkish Mafia and to the Bulgarians.

Then on May 8, Italian state prosecutor Antonio Albano filed a 78-page report based on some 25,000 pages of documentation gathered by Judge Martella, which confirmed everything Sterling had uncovered, and more.

It asserted that the legal recognition of the Solidarity movement in Poland in August 1980 and "consequent social convulsions" were perceived as "a mortal danger" to Eastern Europe, and "the Polish rebellion might be greatly weakened and fragmented" by the "elimination" of the Polish Pope who was the movement's spiritual father. Although mentioning no names, the report stated that "some political figure of great power took note of this most grave situation and, mindful of the vital needs of the Eastern bloc, decided it was necessary to kill [the] Pope."

"Every declaration of Agca's, every circumstance and detail, was checked and investigated," the prosecutor's report said. "Agca is convincing in his reconstruction of the crime." The report noted as well that "Agca participated in the murder of the Turkish editor Abdi Ipekci on orders from Ugurlu." His escape from prison was thanks to "the power of money and the efficiency of the Turkish Mafia."

In Sofia during the summer of 1980, the report said, Agca was given money on the orders of Ugurlu and furnished documents allowing him the unusually long stay in Bulgaria. Also in Sofia at this time were Oral Celik, a Turk who was a leader of the Gray Wolves, and one "Sotir Kolev," a Bulgarian secret-service agent who would turn out to be Todor Aivasov.

The plot, says the report, was set up like this: The Bulgarian secret service contracted with Agca and Oral Celik "for the organization and execution of the plan." In return, the Bulgarians would pay Agca, Celik and Musa Serdar Celibi* three million deutsche marks, roughly $1.7 million. Their escape from Italy would be carried out by diplomatic vehicle or TIR (Transport International Routier) truck, which could pass through custom check points with little or no inspection.

Why didn't the plot come off?

Celik, who accompanied Agca to St. Peter's Square on the day of the shooting, was supposed to set off two "panic bombs," perhaps to cover Agca's escape. But Celik also carried a gun to St. Peter's, leading investigators to speculate he was supposed to use the bombs as cover while he shot Agca. Whatever the case, just after he shot the Pope, Agca was grabbed by a tenacious nun who held him until help arrived. Celik was probably taken out of Italy in the TIR truck that left the Bulgarian embassy grounds in Rome just after the shooting. He has not been seen since.

* Celibi was the Gray Wolves' leader in West Germany. According to plans, his organization would provide Agca with safe houses and cash for any eventualities in Europe.

Albano's report shattered the alibi of Bulgarian agent Sergei Antonov, repudiating his claimed activities on the day of the shooting as well as his supposed inability to speak English with Agca. The alibis of the other two Bulgarians came off no better. "Aivasov's alibi has not only proved unverifiable but has been denied by witnesses and incontestable documents," the report states. The same held true for Vasilev. In fact, the report states that evidence points to the Bulgarian embassy's active involvement in the plot to kill the Pope.

In conclusion Albano asked for the formal indictment and trial of Antonov, Aivasov and Vasilev, and the Turks who had been implicated, including Omer Mersan, Musa Serdar Celibi, Orak Celik and Agca himself (on new charges).

The most disturbing question about the assassination plot is: why such silence from so many for so long? Former CIA official Harry Gelman stated in the Washington Post that "to many in the West, the consequences of concluding that the Soviets took part in the plot to kill the Pope are so appalling that the matter will simply not bear thinking about."

Like the Italian judicial authorities, Sterling chose a different track. Realizing that she "was making grave charges against a superpower with which the United States and its Western allies had to maintain civilized relations," she nonetheless decided that uncovering the truth was the best policy.

"To my mind," she wrote, "the best way to dissuade Soviet leaders from still more dangerous secret ventures was to see to it that they knew that we knew." ●

REAGAN'S REASONS FOR THE "SECRET WAR"

● Mr. KENNEDY. Mr. President, over the last 3 years the Reagan administration has spent at least $73 million, and staked the prestige of the United States, on a force of anti-Sandinista Nicaraguan rebels. The Congress was first told that this force was intended to interdict arms the Sandinistas were supposedly smuggling into El Salvador. When this force failed to interdict any arms, and grew far beyond its initial size, we were informed that its purpose was to pressure the Sandinistas into stopping their support for the guerrillas in El Salvador, and that our actions were justified as a form of collective self-defense undertaken with the Government of El Salvador.

But despite endless repetition of its charges, the administration has never provided evidence that Nicaragua is, in fact, sending substantial quantities of arms and material to the guerrillas in El Salvador.

This question is addressed in a research memorandum by Scott Seavert and Colin Danby, Research Associates of the Council on Hemispheric Affairs, which I ask be printed in the RECORD. I urge my colleagues to examine it, and to ask themselves whether the administration has really made a good enough case to warrant allowing it to continue spending public funds on this questionable venture.

The memorandum follows:

SUPPORT FOR THE CONTRA: ON WHAT GROUNDS?

(COHA Research Memorandum by Scott Seavert and Colin Danby, COHA Research Associates)

When the Congress was initially asked to fund the Honduras based contra operations in 1981, it was told that it was essentially an interdiction force, intended to stop the alleged flow of weaponry from the Sandinistas to the Salvadoran insurgents. But during the intervening years, the counterrevolutionary forces grew dramatically, without a single interdiction to show for their efforts and after a public expenditure by the United States of an admitted $73 million. (The actual cost to the United States is probably far higher if one includes the turning over to the contras of U.S. aircraft free of charge, the building of a supply infrastructure in Honduras under the guise of military "exercises," and other means by which the CIA has stretched its budget.) Speaking to a closed Senate Foreign Relations Committee meeting in 1982, then-ambassador to El Salvador Deane Hinton replied "Not a pistola, Senator," when asked how many arms the original $19 million in covert aid had caused to be interdicted.

As the U.S.-backed incursions have grown in armed strength and depth of penetration, and the contra's operations have increasingly focused on large-scale sabotage and terrorism in Nicaragua, the flimsiness of the interdiction force argument has become apparent. Instead, the administration now makes a broader argument that Managua is committing aggression against El Salvador, and therefore the United States is justified in taking action "in collective self defense" against Nicaragua on behalf of El Salvador.

But this explanation, just like the previous "interdiction force" argument, rests on the supposition that Nicaragua is indeed carrying on aggression against El Salvador. In fact, the basis for the administration's entire Central American policy, including aid to the contras and helping to run El Salvador's anti-guerrilla campaign, hangs on the slender thread of alleged Sandinista gunrunning. The provision of ever-increasing amounts of military aid to El Salvador has repeatedly been justified on the grounds that it is needed to counter the aid that the guerrillas are receiving from their Nicaraguan sponsors, who in turn are acting to further the dark designs of their Soviet-bloc backers.

Since over a billion dollars has been appropriated for El Salvador's government and the Nicaraguan contras, largely on the strength of administration claims of Sandinista gunrunning, it is well to review the evidence. The burden of proof rests squarely on the administration, which has had more than three years to come up with persuasive evidence. If the Nicaraguan government had indeed been supplying the Salvadoran insurgency, which has grown from an estimated 3,000 in 1981 to somewhere over 10,000 combatants today, one would expect a surfeit of evidence by the very fact that covert supply operations are risky and haphazard. Planes crash, shipments are dropped in the wrong place, trucks break down. In the case of U.S. covert supply operations for the Nicaraguan contras, for example, evidence of these activities repeatedly appear in the daily press despite the fact that the contras have sanctuary in Honduras, operate in areas of scant population, and preside over a long, mountainous border permeated with smuggling routes.

Nicaraguan arms shipments, by contrast, would have to cross through hostile Honduras or Guatemala, or come into El Salvador by sea or air. The Gulf of Fonseca, across which the administration continues to assert arms are being smuggled, is one of the most heavily monitored bodies of water in the world. U.S. intelligence ships have patrolled the gulf for several years; a Marine Air Surveillance detachment operated out of San Lorenzo, on the Honduran Gulf coast, during the six-month "Big Pine II" maneuvers in late 1983 and early 1984; Marines have operated a sophisticated radar station atop Tiger Island in the middle of the gulf during the first half of this year; and U.S.-trained Salvadoran and Honduran Naval patrols operate in the area.

Administration estimates of the Nicaraguan supply effort vary from week to week and spokesman to spokesman, but supplying a force of upwards of 10,000 requires more than an occasional nighttime canoe trip. Despite this and the difficult conditions under which such arms smuggling would have to operate, not to mention the intensity of the effort to interdict traffic by the greatest military power on earth, there has been no interdiction since January 1981, when a false-roofed truck was stopped at the Honduran border. That truck had come from Costa Rica, transiting through Nicaragua.

On August 8th General Paul Gorman of the U.S. Southern Command and Ambassador to El Salvador Thomas Pickering showed a film to a congressional audience and then to journalists that purported to be evidence of arms smuggling. Taken at night from a spy plane allegedly operating over El Salvador, the film reportedly showed moving splotches which were identified by intelligence officials as a "mother ship" offloading arms crates onto a smaller craft which then came into the coast. Yet this movie raises more questions than it answers. Why were Salvadoran forces unable to intercept these crates, given the fact that aerial intelligence operations conducted by U.S. aircraft elsewhere over El Salvador are used routinely to pinpoint rebel concentrations for bombing raids and infantry attack? Why was the "mother ship" not tracked back to its home port to establish the source of the shipment? How can one be sure that the pictures did not in fact depict shrimp smuggling, an activity routinely carried on by security force commanders in southeastern El Salvador? Even if one does put credence in Washington's claim that guerrilla arms were indeed being off-loaded in this movie, that only proves that arms are being smuggled in, not that the Nicaraguans are responsible.

In the absence of tangible evidence, the administration has relied on various indirect arguments to support its public relations efforts, none of which withstand scrutiny. The first attempt was the much-heralded "White Paper," released in February 1981. This paper consisted of a sheaf of documents purportedly belonging to Salvadoran communist leader Shafik Handal, together with an introduction by State Department sleuth Jon Glassman, a Soviet affairs specialist. Credulous journalists initially were convinced by Glassman's claims that the Handal papers proved the key role played by international communism in the Salvadoran insurgency. When a few enterprising reporters, intrigued by the administration's different versions of how the diary fell into its hands, closely examined the documents, they found they proved nothing of the kind. Indeed, Handal's writings showed that he had had little success in receiving Soviet-bloc backing, and was bitter because of that. Confronted with this evidence, Glassman was forced to admit to a Wall Street Journal reporter that the White Paper relied heavily on "guessing," that it was "overembellished" and "misleading," and that "mistakes" had been made.

After the February 1981 paper, the administration's next formal presentation of its illicit arms-shipments case against Nicaragua came in the form of a May 27, 1983 "Background Paper: Central America." The new edition essentially reshuffled the charges presented in the 1981 brief, while adding that "today, far more than at any time in the past, extreme leftist forces in Central America are supported by an extensive foreign intelligence and training apparatus, modern military equipment and a large and extensive propaganda network."

On the day of the background paper's release, Thomas O. Enders was ousted from his post as assistant secretary of state for inter-American affairs, in part because he reportedly had opposed the paper's issuance as "warmed-up leftovers" that could later prove embarrassing to the administration. Enders' internal advocacy of a "two-track" policy towards El Salvador—involving continued U.S. military support of the Salvadoran government, while initiating low-key contracts with the leftist rebels—also found few sympathetic ears at the White House.

Administration reports since have added little. Asked for evidence of illicit arms shipments, State Department personnel routinely make the mechanical response that "to do so would jeopardize clandestine sources of information." The most recent effort to make the administration's case was contained in a document entitled "Nicaragua's Military Build-Up and Support for Central American Subversion," released July 18. This work is remarkable in the paucity of the evidence presented, and the extent to which the reader is asked to use his or her imagination. For example, a picture of a captured map showing arms smuggling routes is included, but the map depicts routes only within El Salvador and makes no reference, implicit or explicit, to Nicaragua. There are aerial photographs of Nicaraguan canoes, as though the very existence of such insidious craft were damning.

Most of the sources cited in the document were newspaper accounts, including a reference to the extreme right-wing publication Human Events.

When pressed for additional evidence, U.S. spokesmen at times refer to the capture of guerrilla weapons in El Salvador whose serial numbers reveal them to be guns lost by the United States in Vietnam. But this, like the aerial photographs, is an argument that can persuade only the ill-informed and those already convinced. There is an enormous international black market in arms; surely it is not difficult to imagine that the Vietnamese sold some of their enormous stockpile of captured U.S. small arms to raise hard currency. If there were solid evidence, such as canoes captured in the Gulf of Fonseca or mule-trains interdicted in Honduras, the administration would surely have produced it by now.

Observers are beginning to show a healthy skepticism toward the way the administration labels aerial photographs. In a report entitled "Report on Military and Political Situation in Central America," written by Lt. Col. Edward L. King, USA (Ret.) and released September 11th by the Unitarian Universalist Service Committee, King recounts a visit to Potosi, a Nicaraguan town on the end of the peninsula into the Gulf of Fonseca, whence the administration alleges smuggling operations are carried on: "There were two open tin-roofed sheds on each side of the customs house which were empty except for piles of dirt and debris on the floors. From their appearance the sheds had not been used for a very long time. These sheds were listed in the Department of Defense Green Book as 'auxiliary buildings' just as the run down guard hut was noted as a military barracks. My impression after visiting the Potosi area and then later seeing DOD aerial photos taken before my visit was that DOD claims and photos did not reflect the reality of what I saw on the ground with first hand observation." After visiting Potosi, King toured "the coastal area from which it is alleged dugout canoes sail nightly to El Salvador carrying arms and ammunition to the FMLN guerrillas. There was no sign of any inhabitants in the area, there is no road nor sign of the passage of vehicles that might have been carrying heavy cargo to a debarkation point, nor was there evidence of any of the normal residue that would be left at an unloading and loading site."

David MacMichael, a former CIA analyst whose responsibility was to assess evidence of Nicaraguan arms shipments, came forward recently with charges that there is no evidence of Nicaraguan arms supplying since early 1981. He also claimed that the administration overlooked evidence of numerous non-Nicaraguan sources of arms in its single-minded zeal to pin the blame on the Sandinistas. He has noted, moreover, that the actual interdiction of such arms was never a serious objective: " . . . there was hardly any discussion of the arms traffic, the routes it followed, the amount involved, the ways it could be stopped, and the impact of interdiction on the guerrillas in El Salvador."

MacMichael is not alone among former CIA case officers who have charged that the Reagan administration both tailors intelligence that is in hand, and simply ignores other available data, in order to buttress pre-conceived policy goals. In an interview with the Portland Press Herald published Sept. 7, John R. Horton, a former career CIA officer and most recently chairman of the inter-agency National Intelligence Council's team on Latin America, stated that "Where there's a strong political feeling in the administration, there's pressure to skew intelligence estimates." Horton currently supports U.S. Central America policy but resents the politicization of the agency. He resigned from the CIA in May following an incident in which a national intelligence estimate, prepared by his team, on a "major Latin America country," according to the Herald, was rejected by CIA Director William Casey, who "wanted the estimate to come out a certain way" to fit administration policy, according to Horton. Casey "kept constant pressure on me to redo it," Horton added, stating that "he finally had the thing rewritten over my dead body, so to speak." Horton assailed the "zealotry" and "very strong ideological clamps" within the Reagan White House that deterred full consideration of policy options based on all national intelligence available to the CIA. It is within this kind of atmosphere that CIA intelligence estimates are produced.

Not the least of the likely sources of arms for the guerrillas are the Salvadoran forces themselves. Writing in World Policy Journal in the Fall of 1983, Eldon Kenworthy of

Cornell cites reliable sources to the effect that 40 percent of the equipment given the Salvadoran army by the United States ends up in the hands of the insurgency. This occurs both through captures and, it is frequently alleged, direct sales by corrupt officers.

In fact, Fred C. Ikle, undersecretary of defense for policy, admitted in testimony on March 27 before the House Appropriations Subcommittee on Foreign Operations that the Salvadoran guerrillas were receiving a full 50 percent of their weapons from Salvadoran army sources.

David MacMichael claims that the administration is misrepresenting the Nicaraguan government's role in order to justify efforts to overthrow it. If so, this means not only that the administration has lied to Congress, but also has turned its back on commitments under the charters of the United Nations and the Organization of American States not to intervene in the internal affairs of another country, and to seek peaceful resolutions of disputes.●

PROPOSED ARMS SALES

(By request of Mr. BAKER, the following statement was ordered to be printed in the RECORD:)

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I ask to have printed in the RECORD, at this point, the notification I have received.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 27, 1984.

In reply refer to: I-13540/84.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 84-68, concerning the Department of the Air Force's proposed Letter of Offer to Korea for defense articles and services estimated to cost $112 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

PHILIP C. GAST,
Director.

TRANSMITTAL NO. 84-68

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchase: Korea.

(ii) Total estimated value:

	Million
Major Defense Equipment [1]	$0
Other	112
Total	112

[1] As defined in Section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: Supply support arrangement (FMSO II), for follow-on spare parts and supplies to support aircraft and other systems and subsystems of U.S. origin.

(iv) Military department: Air Force (KBT).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Case not included in section 28 report.

(viii) Date report delivered to Congress: September 27, 1984.

POLICY JUSTIFICATION

KOREA—SUPPLY SUPPORT ARRANGEMENT (FMSO II)

The Government of Korea has requested the purchase of a supply support arrangement (FMSO II), for follow-on spare parts and supplies to support aircraft and other systems and subsystems of U.S. origin at an estimated cost of $112 million.

This sale will contribute to the foreign policy and national security objectives of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress to Eastern Asia.

The Republic of Korea needs these spare parts and supplies to assure that aircraft previously procured from the United States are maintained in a mission capable status. The Korea Air Force will have no difficulty in absorbing these spare parts and supplies.

The sale of this equipment and support will not affect the basic military balance in the region.

Procurement of these items and services will be from the many contractors providing similar items and services to the U.S. forces.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to Korea.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

RECENT DEVELOPMENTS IN SOUTH AFRICA

● Mr. KENNEDY. Mr. President, the recent killings and jailings in South Africa are powerful evidence to support the following propositions:

First, the people of South Africa still live with oppression, in a police state that maintains power and keeps order only at the point of a gun.

Second, the plight of the people of South Africa has not improved in the past few years. They are still poor, they are still hungry, they are still landless, and they are still victimized by apartheid. There may be a new constitution, and they may even be an outbreak of peace agreements with neighboring states. But the conditions of life for the 23 million black people who live in South Africa have not changed. If anything, life has gotten worse for the overwhelming majority of the people of South Africa.

Third, the Reagan administration's policy of constructive engagement has been a disaster. Despite the best efforts of the Reagan administration to put a good face on its diplomatic initiatives in South Africa, there is still no freedom for the people of Namibia; the forced relocation of the people of South Africa to artificially defined "homelands" has not just continued, it has increased; and that region of the world remains a tinderbox. But we have paid a high price for constructive engagement, too. The United States has become identified with South Africa. As one expert put it:

> In South Africa, the assumption that the American and South African Governments are making common cause is so widespread, that some white liberals, fearful for their reputations, have begun to shun contact with and invitations from American officials.

That the United States is now generally perceived as South Africa's only friend is an affront to the fundamental values which have made this country special to all the people of the world throughout our history.

While Pieter W. Botha was being sworn in on September 14, as South Africa's first Executive President under the new constitution, violence was raging on the streets of Soweto and Durban. These two contrasting events aptly symbolized the continuing tragedy in that country.

President Botha hailed South Africa's new constitution as "the threshold of a new dawn." But the riots and violence that greeted the recent South African elections are in reality a harbinger not of dawn but of twilight, to be followed by a bitter night.

Under the South African Government's program of devolution of power, a few of the country's policies toward the small mixed-race and Indian populations are being modified. But this is merely an attempt at divide-and-rule, one which has been overwhelmingly rejected by the very groups it is designed to appease. Meanwhile, the fundamental core of the apartheid system—the entrenchment of minority white power and the total exclusion of the black majority—remains unchanged.

The new constitution permits the so-called colored and Indian populations to be represented in the tricameral legislature that has now been formed. Political power will remain with the 4.5 million whites, however, and the Indian and mixed-race communities will still be required to live apart from whites and even to sit in segregated chambers of the parliament. In addition, the legislative powers of the Indian and mixed-race representatives will extend only to their communities' own affairs, which include day-to-day health and educational services but

not larger social or economic issues. President Botha may believe that "the new constitution creates a wider basis for participation in the political decisionmaking process in South Africa than ever before," but even for the Indian and mixed-race communities the constitution is actually no more than a symbolic concession.

To their credit, these two minorities have decisively rejected white attempts to buy them off at the expense of the black majority. At the Indian elections 3 weeks ago, a highly effective boycott campaign resulted in only an 18-percent turnout of those eligible to vote. This level of abstentions matched that of a week earlier in the elections for mixed-race representatives, thus dealing a serious blow to the Government's whole strategy.

South Africa's 23 million blacks, of course, will be prohibited from even nominal participation in the new parliament. Indeed, the new constitutional arrangements offer nothing to blacks except a continuation of apartheid and racist oppression. What is more, the projected establishment of additional black homelands by the white regime may eventually threaten to bring about Pretoria's long-sought goal of the creation of an all-white South Africa. When each of the first four tribal homelands received its token independence from South Africa, the blacks living in the region, including those who had been forcibly relocated there, became citizens of the new state and lost their South African citizenship. This trend suggests that when all 10 homelands eventually become independent, no blacks will remain citizens of South Africa.

Resentment about this erosion of black citizenship—a right which previously was the one thing blacks could claim under the stifling apartheid system—underlies much of the current unrest. The unrest also derives from a broader dissatisfaction with the injustices of Afrikaner rule, which the new constitution reinforces, and from economic and educational grievances, ranging from disputes over pay and rent increases to discontent spawned by rising unemployment, double-digit inflation, and the poor quality of black schools.

Reflecting these grievances, riots have spread over the past few weeks from Westonaria to Soweto, from Sharpeville to Sebokeng, from Welkom to Roodesport, and elsewhere around the country. Incidents of sabotage have been numerous in recent weeks. Shops, including those owned by Indian merchants, have been looted and destroyed. At least four black town councilors who were suspected of being government agents have been assassinated, as have supporters of Chief Gatsha Buthelezi's Inkatha movement. Students of mixed-race descent have held protests, demonstrations, and boycotts at universities and colleges in several cities. Even young shoolchildren from black schools took to the streets of Natal in violent protest against the visit of a cabinet minister to the inauguration of a new local authority.

More than 60 deaths have already resulted from the recent violence, and hundreds more have been injured. Some 350 to 400 black gold miners were injured and 7 were killed in 2 days of riots alone last week. Police have used tear gas, attack dogs, rubber bullets, and shotguns to quell the unrest. Under South Africa's stringent security laws, which permit the authorities to proscribe all gatherings, the police arrested 500 blacks this past weekend for attending the funeral of Joseph Sithole and another 130 in Bophelong for attending an illegal gathering. The violence has not been on the scale of the 1976 Soweto riots, when the death toll exceeded 500, but it nonetheless has made a mockery of President Botha's assertion that his Government is moving "along the road * * * to create a community of peace, prosperity, and justice on the southern tip of Africa."

The problems of South Africa were recently discussed by Pope John Paul II in a meeting with the Chairman of the U.N. Special Committee Against Apartheid. The Pope gave particular attention to two key issues: The continued failure of South Africa to grant independence to Namibia and the forced relocation of black South Africans to the homelands. As he rightly notes, "What is at stake (in both cases) is the dignity of the human person and the well-being of all mankind." The Pope's comments are thoughtful and precise, and I will ask that they be printed in the RECORD at the conclusion of my remarks.

The developments in South Africa are necessarily a cause for concern in the United States. We and our allies have a strong interest in seeing lasting political stability come to Southern Africa. South Africa is a vital source of minerals for the West, producing 70 percent of the non-Communist world's gold, 52 percent of its vanadium, 87 percent of its platinum-metals, and similar quantities of other scarce materials. South Africa is the key strategic actor in the sub-Saharan region, not only because of its critical position along the sea lanes in the Cape of Good Hope, through which oil shipments flow to the West, but also because of its preeminent military power in southern Africa. Moreover, South Africa is the leading agricultural producer in all of Africa, and its potential contribution to the economic development and growth of other African countries cannot be understated.

But lasting political stability will never come to South Africa until racial justice is achieved and majority rule is implemented. The oppression of the black majority will inevitably be a persistent source of turmoil and instability. "The triumph of justice," as the poet Robert Ingersoll wrote 100 years ago, "is the only peace."

Our long-term strategic and economic interests in southern Africa can best be protected through the advent of majority rule and the stability it would bring. Our relations with black African countries, including such important countries as Nigeria, will be served if we work actively to promote majority rule. That development, in turn, will help prevent further Soviet encroachments in Africa. Finally, our moral obligations and democratic values demand that we support the achievement of racial justice and majority rule.

The transition to majority rule will not come easily and will not occur overnight. But if change is what we seek, we must begin immediately to work for change, not just to talk about it. Although the lack of open revolutionary feeling and the government's extensive security apparatus make a revolution unlikely in the near or medium term, many observers have suggested that a peaceful transition in South Africa is no longer possible. If these forecasts are to be proven wrong, timing will be crucial.

Constructive engagement has not worked—either in reaching a settlement on Namibia or in promoting genuine reform in South Africa's domestic politics. The United States must never compromise on its position that apartheid cannot be tolerated and must be ended before normal relations between our two countries can be restored.

There are six steps we can take to help bring about desired change in South Africa.

First, the U.S. Government must express its vigorous opposition, both publicly and privately, to the system of apartheid. We must never pretend that apartheid is anything but an abomination that must be ended.

Second, the U.S. Government should immediately reimpose the export controls on equipment and supplies to the South African military and police forces that were lifted earlier this year.

Third, in keeping with this last objective, the United States must scrupulously abide by the 1977 U.N. arms embargo against South Africa. We can strengthen the embargo by paying special attention to clandestine, dual-use, and gray area violations. We must encourage other countries, including Britain, to do the same.

Fourth, we must revive our efforts with the other Western contact group members and the front line African states to reach a comprehensive settlement in Namibia. An agreement was nearly at hand in the closing months

of the Carter administration, but the deal fell through when the Reagan administration encouraged the South African Government to insist on a strict linkage between Namibian independence and the prior withdrawal of Cuban troops from Angola. Today the Cuban troops are still in Angola, and Namibia is no closer to independence. The departure of Cuban troops from African shores is desirable, but it is foolish and self-defeating and illogical to insist that their removal must precede the granting of independence to Namibia.

Fifth, U.S. companies that violate U.N. decree No. 1, which forbids foreign exploitation of Namibia's mineral resources until the region attains its independence, should be fined heavily and should have their international trading licenses suspended.

Sixth, the U.S Government should prohibit new loans by U.S. businesses to the South African Government and maintain strict supervision over all new loans to, and investments in, the South African private sector. At a minimum, such investments should be conducted in full accordance with the Sullivan principles. We should also work to cease the extension of further IMF loans to South Africa.

Even with these six measures in place, the task of achieving majority rule in South Africa and independence for Namibia will be daunting. Setbacks and disappointments will inevitably occur. Our efforts must never flag, however, for it is only through the elimination of apartheid that lasting peace, stability, and justice can come to southern Africa.

Mr. President, I ask that the aforementioned comments be printed in the RECORD.

The comments follow:

JUSTICE AND PEACE IN SOUTHERN AFRICA

(Special Message by His Holiness Pope John Paul II to the Chairman of the United Nations Special Committee against Apartheid)

NOTE

On 7 July 1984, His Holiness Pope John Paul II received in audience at the Vatican, the Chairman of the United Nations Special Committee against *Apartheid,* H.E. Major-General J. N. Garba, and Mr. E. S. Reddy, Assistant Secretary-General of the United Nations in charge of the Centre against *Apartheid.*

They were accompanied by: Mr. Kennedy Apoe, Assistant to General Garba; Ms. Hazel Ferreira, Assistant to Mr. Reddy; and Dr. Georgio Pagnanelli, Director of the United Nations Information Centre in Rome.

On that occasion, His Holiness gave the following message.

Mr. Chairman, Dear Friends, 1. I have accepted very willingly your request to be received in audience, for I have seen in it a sign of your appreciation of what the Catholic Church is doing to defend the dignity of the human person, and in particular to combat all forms of racial discrimination.

Your Committee is no stranger to this place, and it is familiar with the often reaffirmed teaching of the Church and the position of the Holy See on racial discrimination and apartheid.

Ten years ago, on 22 May 1974, my predecessor Paul VI received your Committee and indicated the bases of the Christian commitment to the cause of promoting human dignity. Today's meeting gives me an opportunity to emphasize once more the principles governing this commitment. Man's creation by God "in his own image" (Gen 1:27) confers upon every human person an eminent dignity; it also postulates the fundamental equality of all human beings. For the Church, this equality, which is rooted in man's being, acquires the dimension of an altogether special brotherhood through the Incarnation of the Son of God, whose sacrifice redeemed all people. In the Redemption effect by Jesus Christ the Church sees a further basis of the rights and duties of the human person. Hence every form of discrimination based on race, whether occasional or systematically practised, and whether it is aimed at individuals or whole racial groups, is absolutely unacceptable. The Apostle Saint Paul says very clearly: "Here there cannot be Greek and Jew, circumcised and uncircumcised, barbarian, Scythian, slave, free man, but Christ is all, and in all" (Col. 3:11).

2. Unfortunately, as I had to note on the occasion of the celebration of the International Day for the Elimination of Racial Discrimination: ". . . the scourge of racial discrimination, in all its many forms, still disfigures our age. It denies the fundamental equality of all men and women, proclaimed by the different Declarations of the United Nations, but above all rooted in God" (21 May 1984).

I would also like to recall the fact that Paul VI, in his last address to the Diplomatic Corps accredited to the Holy See, spoke about the racial conflict in Africa and mentioned "the attempt to create juridical and political structures in violation of the principles of universal suffrage and the self-determination of peoples" (14 January 1978).

The Holy See is following with close attention the development of the situation in Southern Africa, and has repeatedly shown its concern that the rights of the individuals and peoples living there be respected.

3. In this context, I would like to make reference to two particular aspects of the problem that exists in that part of the world. It is a question of two aspects that raise questions which are complex, serious and difficult, but which are fundamental for the future of the region and for the well-being of the people living there. I am speaking of the problem of the independence of Namibia, which I referred to in my address to the Diplomatic Corps on 14 January last, and the problem of the displacement of vast numbers of people in South Africa.

My reason for mentioning these two issues today is not that the Holy See wishes to put forward proposals of a political nature. The Holy See is not unaware of the numerous political implications surrounding these issues, but its interest is on another level: the level of the human person. And it is at this level that these matters cause deep disquiet, for the weight of suffering affecting the individuals and communities concerned is very heavy. The Catholic Church, faithful to her mission in the world, shares these sufferings and cannot pass them over in silence, for if she did, her witness of love and service to man would be compromised. The Good News which she received from her divine Founder obliges the Church to proclaim the message of salvation and human dignity and to condemn injustices and attacks on human dignity.

As for Namibia, the Holy See expresses the hope that it will be possible for the negotiations, which have been going on for a long time, to be translated, without too much delay, into clear decisions which will recognize without ambiguity the right of this nation to be sovereign and independent. This will be an important contribution towards restoring peace in the region, and a valuable sign of reconciliation between the different peoples that live there. It will similarly be an exemplary application of the principles of international law which cannot fail to extend its positive influence to other conflicts on the African continent and also elsewhere.

The recent agreements which have marked relations between different countries in Southern Africa seem to constitute an advance in this direction. In the meantime, it is of capital importance that the conduct of the civil and military authorities in Namibian territory should be inspired by respect for the rights of the inhabitants, even in the situations of confrontation that may exist.

Concerning the second issue that I have mentioned, namely the displacement of vast numbers of South African citizens to the places of residence assigned to them by the Government, the local Catholic Church has already expressed its protest, since this procedure represents a grave violation of the rights of the human person, and at the same time is deeply damaging to family life and the social fabric.

A joint ecumenical initiative has been taken by the Southern Africa Catholic Bishops' Conference and the South African Council of Churches, in order to draw the attention of the public and of International organizations to these facts, which are a consequence of the system of apartheid. The Holy See, for its part, expresses its concern at procedures contrary to the dignity of individuals and whole communities. It earnestly hopes that a different policy will be established, in order that a population already so sorely tried and whose right to be treated without discrimination is systematically flouted may be spared further painful and tragic experiences. It likewise desires the revision of such a policy so that other catastrophic consequences can be avoided in the future, for the true good of all who live in the region and for the sake of world peace.

4. My dear friends: your delicate work demands firmness in the defence of principles and prudence in the choice of means suitable for attaining your purpose. I assure you that the Church, keeping in mind her own level of responsibilities and competencies, is at your side as you travel your difficult road, and she is ready to support every effort aimed at removing the temptation to violence and at helping to solve the problem of apartheid in a spirit of dialogue and fraternal love that respects the rights of the parties involved.

May Almighty God inspire good will in all people concerned, and help those in positions of responsibility to make wise decisions, so that in that region of the world justice and peace may prevail. What is at stake is the dignity of the human person and the well-being of all mankind.

From the Vatican, 7 July 1984.●

ORDERS FOR SATURDAY

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the convening of the Senate tomorrow be changed from 10 to 11 a.m.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR RECOGNITION OF SENATOR PROXMIRE AND ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order, there be a special order in favor of the distinguished Senator from Wisconsin [Mr. PROXMIRE], to be followed by a period for the transaction of routine morning business until not later than 12 o'clock, in which Senators may speak for not more than 3 minutes each.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

PROGRAM

Mr. BAKER. Mr. President, let me point out that when the Senate convenes tomorrow and after the formalities are out of the way, 1 hour after we convene, plus quorum time, the vote on cloture will occur on the first of the three cloture motions that have been filed and which will mature on Saturday.

I estimate, Mr. President, since we are coming in at 11 and it takes a little while on Saturday morning to get a quorum, that vote will occur probably around 12:30. Senators should not depend on that and the hour is not set for 12:30. It is 1 hour after we convene, plus the time necessary to establish a quorum. But my estimate is that it will be around 12:30 p.m. when the first cloture vote occurs.

Mr. President, it is anticipated that we will be on this measure during the day tomorrow and, after I get a better feeling for how things are going tomorrow, I will try to make a further announcement about how late we will be, but I do not expect that it will be abnormally late. However, I do expect a full day in the Senate tomorrow.

ORDER FOR RECESS FROM SATURDAY UNTIL 11 A.M. MONDAY

Mr. BAKER. Mr. President, the minority leader has made a chilling suggestion. He has suggested, in an abundance of precaution, that perhaps I should get a time to convene on Monday as well. I will not even describe why that is a good suggestion, but it is. I ask unanimous consent, therefore, that when the Senate completes its business on Saturday, it stand in recess until 11 a.m. on Monday next.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. I thank the Chair.

Mr. DECONCINI. Will the majority leader yield for a question? Is there a cloture vote set for Monday 1 hour after we convene?

Mr. BAKER. Mr. President, there are three cloture votes that may occur on Monday.

Mr. DECONCINI. On Monday.

Mr. BAKER. Yes.

Mr. President, I will repeat that on tomorrow there could be as many as three cloture votes. I should point out as well that there could be as many as four cloture votes on Monday. I phrase it in that way because the number depends on what happens on each succeeding cloture vote.

CLOTURE MOTION

Mr. BAKER. Mr. President, the Senator from Utah was trying to get my attention at the time I asked the Chair to put us in morning business. He was trying diligently to do that, and I was plowing ahead. I consulted the minority leader on this.

I ask unanimous consent that it be in order at this time for the Senator from Utah to file a cloture motion on an amendment to committee amendment No. 1.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HATCH. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion will be stated.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Baker amendment No. 5727 to the language proposed to be stricken.

Orrin G. Hatch, Strom Thurmond, Jesse Helms, Steve Symms, Chic Hecht, John P. East, Don Nickles, Paula Hawkins, Chuck Grassley, Paul Laxalt, Bill Armstrong, Jake Garn, James Abdnor, Jeremiah Denton, Barry Goldwater, James A. McClure.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

CITIZENSHIP CONFERRED POSTHUMOUSLY ON CPL. WLADYSLAW STANISZEWSKI

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate H.R. 960, a bill to confer citizenship posthumously on Cpl. Wladyslaw Staniszewski, which is being held at the desk.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 960) to confer citizenship posthumously on Corporal Wladyslaw Staniszewski.

Mr. STEVENS. Mr. President, I ask that the Senate proceed to the immediate consideration of H.R. 960.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. STEVENS. Mr. President, I yield to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the U.S. Senate for favorable consideration of this particular private legislation. This involves a constituent of mine, Senator TSONGAS, and Congressman DONNELLY, who was a resident alien, who joined the U.S. Marine Corps, and was killed in action in Vietnam.

When he came to this country, he had two desires: one was to become a citizen, and the other was to serve as a U.S. marine. His father and family have for a period of 17 years tried to have this day come to pass. And I applaud the action of the Senate in granting this citizenship posthumously to a very brave and gallant young man who served this Nation in war.

I thank the Members and my colleagues for supporting this particular private bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 960) was ordered to a third reading, was read the third time, and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RESTORATION OF FEDERAL RECOGNITION TO CERTAIN INDIAN TRIBES

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate Calendar No. 1230, which is H.R. 5540.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5540) to provide for restoration of Federal recognition to the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians, to institute for such Tribe those Federal services provide to Indians who are reccgnized by the Federal Government and who receive such services because of Federal trust responsibility, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 6475

(Purpose: To make a technical amendment)

Mr. STEVENS. Mr. President, I send an amendment to the desk on behalf of Senator ANDREWS and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. ANDREWS, proposes an amendment numbered 6475.

Mr. STEVENS. Mr. President, I ask unamimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, line 12, strike out "ninety days after" and insert in lieu thereof "the date that is 1 year after".

Mr. HATFIELD. Mr. President, today I join with my distinguished colleague from Oregon and the distinguished chairman of the Select Committee on Indian Affairs in support of H.R. 5540, legislation to grant Federal recognition status to the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians.

As was the case for 61 other tribes in Oregon, the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians had their Federal recognition status suddenly revoked as a result of the Western Oregon Termination Act of 1954. This termination came without notice, explanation, or hearings to defend their standing. It appears the only reason the tribes were terminated was because they resided west of the Cascade Mountains. According to advocates of the 1954 act, termination was to lift the Indians of western Oregon from the ranks of second-class citizens and bestow upon them the privileges and responsibilities of full U.S. citizenship. The Indians were told that this would most certainly be to their benefit. However, termination really only served to bring an abrupt end to the tribe's eligibility for Federal services available to Indian tribes. No longer were they eligible to participate in the benefits of the Indian health services or Indian education programs. Indian students wishing to attent college were not eligible to receive special scholarship money, and tribal meeting places were abolished—all this, in an experimental effort to bring the American Indian into mainstream America.

Well, Mr. President, it has taken Congress more than 20 years to conclude that instead of raising the level of life among the American Indian people, termination served to cast them deeper into the ranks of the poor and impoverished. Among the terminated tribes, education declined and unemployment became chronic. Health problems and alcoholism multiplied as these Indians found they could not cope with life away from their reservations.

Mr. President, despite the obstacles which termination created, the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians have endured; their spirit and cultural identity have remained strong. My office has received numerous letters from the Oregon Legislature, city governments, churches, businessmen, and concerned citizens. Each one expressed wholehearted support of this legislation and spoke positively of the impact the confederated tribes have had in their communities. This is a fine tribute to the confederated tribes' commitment to their heritage and their principles. I am proud to be associated with efforts to restore Federal recognition to the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians and to help reverse the ruinous effects of termination. This bill will enable the tribes to participate in the panoply of Federal programs available to other recognized tribes. It will open doors of assistance in areas of education, health services, and economic development—keys to improving the Indians' standard of living, and maintaining a vibrant Indian culture.

Thank you, Mr. President.

Mr. PACKWOOD. Mr. President, my 16 years in the Senate have been spent in large part defending the civil rights of American citizens. It is with satisfaction, therefore, that I rise today with the committee chairman, MARK ANDREWS and my distinguished colleague, Senator MARK O. HATFIELD, in support of H.R. 5540, a bill that rectifies an injustice perpetrated upon the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw.

The injustice about which I speak is the now discredited policy of tribal termination, as embodied in the 1954 Western Oregon Indian Termination Act. This law severed the trust relationship between the Federal Government and an arbitrarily drawn list of western Oregon tribes. In the case of the Coos, Lower Umpqua, and Siuslaw, this action was taken against the plainly stated will of the tribes' leaders.

Termination robbed these people of their tribal identity in a misguided attempt to push native Americans into our society's homogeneous mainstream. The tribe was fortunate to have strong leadership and a tradition of participation by its members in tribal affairs. Nonetheless, termination was a crushing blow to Native Americans attempting to preserve their traditional culture in an oftentimes hostile modern world.

Termination meant the loss of tribal allocation lands. When termination was passed, Indians lost their tax-exempt status. Property taxes on their Dawes Act trust allotments, including much of the area's choicest lands, came due, tax burdens that Indians did not and could not meet. This resulted in the loss of the lands to foresclosure, often within only a few years of termination.

Termination also meant the loss of educational opportunities at Bureau of Indian Affairs' schools; terminated Indian adults were offered a few months of vocational education hundreds of miles from home, while children were offered nothing.

Termination meant loss of State acquiescence to Indian hunting and fishing regulations, activities crucial to tribal diet and central to customs and ceremony. It also means the closure of the tribes' food processing facility, where fish, game, fruits, and nuts were prepared and preserved for tribal use.

Termination precipitated the social decline of the tribes. In 1982, unemployment among tribal members stood at 47 percent, while unemployment in Coos County was 13 percent. Seventy-two percent of the tribe exists on less than the poverty level of $9,300 per year, while in Oregon, statewide, only 8 percent of the population lives below that line.

Tribal government did not end with termination, however. The tribe continued to meet, both for Government purposes and to observe traditional ceremonies. Following termination, 1957, the tribes sought international help by filing a petition with the United Nations alleging that termination violated the U.N. Declaration on Human Rights. Always active in defending their interests, the tribe continued to retain counsel throughout this period. In 1967, the tribes got title to their tribal hall from Coos County. There they conducted a CETA manpower training program, built a coastal Indian museum, and a cooperative store. The tribes also took an active part in the community, especially Indian education in local schools. They have maintained the tribal roll since the three tribes confederated in 1855 and a base roll, recorded by the Bureau of Indian Affairs in 1940, pro-

vides the documented genealogical record of each tribal member.

The list of tribal activities is extensive, especially in preserving and advancing the tribes' cultural heritage. There is no question that the Indians of the Coos, Lower Umpqua, and Siuslaw are a tribe in every way but one—they lack only recognition by the Federal Government.

Mr. President, it is imperative that this legislation, advanced in the House by our colleague, Congressman JIM WEAVER, be passed in this session of Congress. Restoration will open the door to tribal participation in much needed educational, medical, housing, and employment services provided by the Federal Government. It will put a final end to the tragedy of termination for this group of native Americans.

Mr. STEVENS. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6475) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 5540), as amended, was read the third time and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL PLACED ON CALENDAR—H.R. 3601

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be discharged from further consideration of H.R. 3601, a bill to modify the boundary of the Pike National Forest in the State of Colorado, and for other purposes, and it be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

EDUCATION AMENDMENTS

Mr. STEVENS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2496.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 2496) to amend the Adult Education Act in order to simplify requirements for States and other recipients participating in Federal adult education programs, and for other purposes.

(The amendment of the House is printed in the RECORD of July 26, 1984 beginning at page 21272.)

Mr. STEVENS. Mr. President, I move that the Senate disagree to the House amendments and agree to the conference requested by the House of Representatives, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer [Mr. HECHT] appointed Mr. HATCH, Mr. STAFFORD, Mr. QUAYLE, Mr. KENNEDY, and Mr. PELL conferees on the part of the Senate.

HEALTH SERVICES, PREVENTIVE HEALTH SERVICES, AND HOME AND COMMUNITY-BASED SERVICES ACT OF 1984

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate Calendar No. 773, which is S. 2301.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2301) to revise and extend programs for the provision of health services and preventive health services, to establish a program for the provision of home and community-based services, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources.

AMENDMENT NO. 6476

(Purpose: To substitute alternate provisions)

Mr. STEVENS. Mr. President, I send an amendment to the desk on behalf of the distinguished Senator from Utah [Mr. HATCH] in the nature of a substitute.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. HATCH and Mr. KENNEDY, proposes an amendment numbered 6476.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Health Services and Preventive Health Services Act of 1984".

REFERENCE

SEC. 2. Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

CHILDHOOD IMMUNIZATION

SEC. 3. Section 317(j)(1) is amended by striking out "and" after "1983," and by inserting before the period a comma and "$51,400,000 for the fiscal year ending September 30, 1985, $56,000,000 for the fiscal year ending September 30, 1986, and $60,000,000 for the fiscal year ending September 30, 1987".

PREVENTIVE HEALTH SERVICE PROGRAMS FOR TUBERCULOSIS

SEC. 4. Section 317(j)(2) is amended by striking out "and" after "1983," and by inserting before the period a comma and "$8,000,000 for the fiscal year ending September 30, 1985, $9,000,000 for the fiscal year ending September 30, 1986, and $10,000,000 for the fiscal year ending September 30, 1987".

PROJECTS AND PROGRAMS FOR THE PREVENTION AND CONTROL OF VENEREAL DISEASE

SEC. 5. The first sentence of section 318(d)(1) is amended by striking out "and" after "1983," and by inserting before the period a comma and "$50,000,000 for the fiscal year ending September 30, 1985, $55,000,000 for the fiscal year ending September 30, 1986, and $55,000,000 for the fiscal year ending September 30, 1987".

HOME HEALTH SERVICES

SEC. 6. (a) Section 339(a)(5) is amended by striking out "and" after "1983," and by inserting before the period a comma and "September 30, 1985, September 30, 1986, and September 30, 1987".

(b) Section 339(b)(5) is amended by striking out "and" after "1983," and by inserting before the period a comma and "September 30, 1985, September 30, 1986, and September 30, 1987".

PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT

SEC. 7. (a) Section 1901(a) is amended by striking out "and" after "1983," and by inserting before the period a comma and "$93,000,000 for fiscal year 1985, $98,000,000 for fiscal year 1986, and $102,000,000 for fiscal year 1987".

(b) Section 1904(a)(1)(F) is amended to read as follows:

"(F) Feasibility studies and planning for emergency medical services systems and the establishment, expansion, and improvement of such systems, including the establishment, expansion, and improvement of emergency medical services for children who need treatment for trauma or critical care. Amounts for such systems may not be used for the costs of operation of the systems.".

(c) Section 1905(c) is amended—

(1) by striking out paragraphs (2) and (4); and

(2) by redesignating paragraphs (3), (5), (6), (7), and (8) as paragraphs (2), (3), (4), (5), and (6), respectively.

(d) Subsection (e) of section 1905 is repealed.

(e) Section 1906 is amended by adding at the end thereof the following new subsection:

"(d) The Secretary, in consultation with appropriate national organizations, shall develop model criteria and forms for the collection of data and infomation with respect to services provided under this part in order to enable States to share uniform data and infomation with respect to the provision of such services.".

GRANTS TO STATES FOR DEMONSTRATION PROJECTS CONCERNING EMERGENCY MEDICAL SERVICES FOR CHILDREN

SEC. 8. Part A of title XIX is amended by inserting after section 1909 the following new section:

"EMERGENCY MEDICAL SERVICES FOR CHILDREN

"SEC. 1909. (a) For activities in addition to the activities which may be carried out by States under section 1904(a)(1)(F), the Secretary may make grants to not more than four States in any fiscal year to support a program of demonstration projects in such States for the expansion and improvement of emergency medical services for children who need treatment for trauma or critical care. Any grant made under this section shall be for a one-year period.

"(b) The Secretary may renew a grant made under this section to a State for one additional one-year period only if the Secretary determines that renewal of such grant will provide significant benefits through the collection, analysis, and dissemination of infomation or data which will be useful to other States.

"(c) To carry out this section, there are authorized to be appropriated $2,000,000 for fiscal year 1985 and each of the two succeeding fiscal years.".

STATE PLANNING GRANTS

SEC. 9. Part A of title XIX (as amended by section 8 of this Act) is further amended by adding at the end thereof the following new section:

"STATE PLANNING CONCERNING HEALTH PROMOTION AND DISEASE PREVENTION

"SEC. 1909B. (a) The Secretary may make grants to assist States to—

"(1) develop long range plans to achieve the goals, objectives, and priorities established by the Secretary pursuant to title XVII;

"(2) identify particular needs within States for services and activities that may be conducted with payments made under allotments under section 1902; and

"(3) determine the progress of States in achieving the goals, objectives, and priorities described in paragraph (1) and, to the extent feasible, use scientifically valid measures to make such determinations.

"(b) To carry out this section, there are authorized to be appropriated $5,000,000 for each of the fiscal years 1985, 1986, and 1987.".

EFFECTIVE DATE

SEC. 10. This Act and the amendments and repeals made by this Act shall take effect on October 1, 1984.

Mr. STEVENS. Mr. President, I move adoption of the Hatch substitute.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6476) was agreed to.

Mr. HATCH. Mr. President, I urge the Senate to approve S. 2301, the Health Services and Preventive Health Services Act of 1984, as amended by my proposed amendment in the form of a substitute. Unchanged are the key provisions of this legislation which will reauthorize the preventive health and health service block grant and extend critical public health programs in childhood immunization, tuberculosis, and venereal disease.

The Preventive Health and Health Services [PHHS] Block Grant Program has proved to be an effective mechanism by which to maintain a Federal commitment to important national health objectives while attempting to ensure that resources are focused on real needs and problems. The PHHS block has functioned as my committee expected when it authorized the program in 1981. It has provided States greater freedom and flexibility to target resources on areas of highest priority, as these are defined by State and local governments. In addition, the block has also contributed to an improved planning process by allowing greater consistency, uniformity, and control in the administration of preventive health and health services programs. It has done so not only by providing States greater responsibility and authority for decisions on the expenditure of funds, but also by streamlining Federal regulations and easing the Federal administrative burden that accompanied the various categorical programs consolidated in the block.

This bill as passed by committee also included the Home and Community Based Services Block Grant. However, there has been strong opposition to adoption of this provision due to the authorization of new funds. Although I believe this money would be well and wisely spent, and likely result in decreased expenditures in the medicare and medicaid programs, I have agreed to postpone until the next Congress further consideration of the new provision and thus it is dropped from the amended text I am offering today. In this regard, I received a letter from David Stockman, Director of the Office of Management and Budget and I will ask unanimous consent that the text of the letter be printed in the RECORD at the conclusion of my remarks.

I will continue to be an advocate for the need for the Home and Community Based Services Block Grant Program, which authorizes States to use block grant funds for home- and community-based activities and services. Its purpose was well stated in the Labor and Human Resources Committee's Report (S. Rept. 98-393), accompanying S. 2301:

By including Home and Community-Based Services Block provisions in S. 2301, the committee emphasizes and affirms its commitment to an approach which is particularly relevant and appropriate at this time. The Committee is well aware that the present system of long-term care in the country is biased toward institutional care and that publicly financed health programs provide substantially more support for hospital and nursing home care than for home health and other community-based service. The Committee is also convinced that home and community-based care can result in significant cost-savings over the long-run for elderly and disabled individuals. Unless viable community-based services are developed to prevent unnecessary institutionalization of the elderly and disabled, the Nation can only expect that the number of persons in nursing homes will grow, especially as the proportion of elderly individuals in the population increases at a faster rate than other age categories.

The Committee believes that the block grant approach for home and community-based services is especially relevant at this time. Over the past several years, States have begun to focus increased attention on restructuring their existing policies and programs on long-term care. States have established commissions or task forces to plan for a reorientation for State programing and/or have developed new approaches to the coordination of available Federal and State funds to support a variety of community-based services.

A block grant for home and community-based services will assist the States and localities not only by providing support for planning and coordinating existing localities and coordinating existing Federal, State, and local programs for community-based long-term care, but also by providing assistance for an expansion of services. The Committee believes that it is important to build upon the past and current State activities and not create another Federal program having still one more set of requirements for the States. The Committee's block grant approach will provide the necessary incentives for improving the current system of care by allowing States to continue and/or initiate innovative programs to coordinate and expand their long-term care systems. At the same time, a block grant will assure States flexibility they need to provide services efficiently and effectively.

Subsequent to committee consideration, an amendment was proposed to be offered by Senators BRADLEY, HEINZ, and PACKWOOD, and with which I concur. This amendment would allow States who wish to conduct such demonstrations in their States to award funds to entities who have entered into contracts under section 1876(g) of the Social Security Act for the purpose of providing home- and community-based services to the elderly as part of comprehensive health care services provided by such organizations. Block grant funds, under these demonstrations, could not be used to subsidize section 1876 funds and the reverse would be true for section 1876 funds. This option would offer States still another alternative in developing innovative and cost-effective systems of maintaining individuals in their homes and preventing institutionalization. I would like to thank the Senators for their cooperation and assistance in development of this amendment. I pledge to work with them next year in having this provision included in the home health bill.

Also deleted from the amended text of S. 2301 is a provision calling for a study of the Hill-Burton Act requirements imposed on certain nursing homes. I am pleased to report that this provision has already become law as section 2391 of Public Law 98-369.

I am pleased to incorporate in my amended text of S. 2301 a provision

worked out with my colleagues, Senators HAWKINS, KENNEDY, and BUMPERS to raise the authorization level for the Childhood Immunization Program. There is a compelling reason to raise the authorization level for this critically important health program; that is the recent, dramatic increase in the cost of diptheria, pertussis, and tetanus [DPT] vaccine. I have just learned that during the past year, the cost of vaccines for the Utah State Department of Health has increased 433 percent. One pharmaceutical company recently withdrew from the manufacture of DPT vaccine, leaving only one major supplier of this vaccine for the U.S. market. This remaining pharmaceutical manufacturing company has increased their price several fold, reportedly to accommodate for increased investments in research for safer vaccines, and expenditures for liability. Regardless of the reasons, some States are faced with dramatic shortfalls in funding to maintain their childhood vaccination programs.

I would like to commend Senator BUMPERS, my colleague from Arkansas, for bringing this problem to the attention of the Senate. He has been a longtime advocate of effective preventive medicine, particularly the Childhood Immunization Program. Senator HAWKINS, who serves on the Labor and Human Resources Committee with me has also taken the lead in this area and has introduced legislation to deal with one of the most important aspects of our Federal immunization program, the National Childhood Vaccine-Injury Compensation Act (S. 2117). She is also to be commended for her tireless efforts to make certain our Nation's children have the right to safe and effective vaccines.

I am assured that the Appropriations Subcommittee on Labor and HHS, chaired by Senator WEICKER, will carefully evaluate the specific needs of the Immunization program. However, we must act now to guarantee our children have the opportunity to be immunized against the crippling and fatal diseases which are entirely preventable.

Mr. President, I thank the leadership for their assistance in bringing this bill before the Senate and urge my colleagues to expeditiously approve S. 2301 as amended. I also ask unanimous consent for a section-by-section analysis of S. 2301, as amended, to be inserted in the RECORD along with the letter from Mr. Stockman to which I referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEPTEMBER 20, 1984.

Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR ORRIN: The recent discussions that we had were extremely productive and useful in developing a mutual effort to make home health services more effective. We share you belief that home health care providers have played a central role bringing sound health and related care to many that are home bound. Effective use of home health services can lead to less institutional care and a reduced demand for expensive nursing home and hospital health services.

We are pleased to work with you in a joint effort to design and structure a more integrated and effective approach to home health services. We agree that community resources, volunteers, and family are the foundation of support to our elderly and disabled that live at home. Coupling these critical groups with well delivered health care is necessary to meet growing needs of the growing elderly population. Deferring action on home health issues provides us with the time necessary to develop a comprehensive approach to more effective and less costly health care.

I look forward to working with you on this issue.

Sincerely,

DAVID A. STOCKMAN,
Director.

SECTION-BY-SECTION SUMMARY OF S. 2301, AS AMENDED

Section 1 establishes the short title of the Act as the Health Services and Preventive Health Services Act of 1984.

REFERENCE

Section 2 provides that, except when otherwise specifically provided, whenever in the bill an amendment or repeal is expressed in terms of an amendment to or repeal of, a section or other provision, the reference shall be considered to be made to the Public Health Service Act.

CHILDHOOD IMMUNIZATION

Section 3 amends section 317(j)(1) of the PHS Act to extend the authorization of appropriations for childhood immunization programs for three years, at $51.4 million for FY 1985, $56 million for FY 1986, and $60 million for FY 1987.

PREVENTIVE HEALTH SERVICE PROGRAMS FOR TUBERCULOSIS

Section 4 amends section 317(j)(2) of the PHS Act to extend for three years the authorization of appropriations for preventive health service programs for tuberculosis, at $8 million for FY 1985, $9 million for FY 1986, and $10 million for FY 1987.

PROJECTS AND PROGRAMS FOR THE PREVENTION AND CONTROL OF VENEREAL DISEASE

Section 5 amends section 318(d)(1) of the PHS Act to extend for three years the authorization of appropriations for projects and programs for the preventive and control of venereal disease, at $50 million for FY 1985, and $55 million each year for FY 1986, and FY 1987.

HOME HEALTH SERVICE

Section 6 amends section 339 of the PHS Act to extend for three years through FY 1987 the authorization of $5 million a year for the establishment and operation of home health programs and $2 million a year for training programs in home health services.

PREVENTIVE HEALTH AND HEALTH SERVICE BLOCK GRANT

Section 7(a) amends section 1901(a) of the PHS Act to extend for three years the authorization of appropriations for the Preventive Health and Health Services Block Grant, at $93 million for FY 1985, $97 million for FY 1986, and $102 million for FY 1987.

Section 7(b) amends section 1904(a)(1)(F) of the PHS Act to include in the list of activities for which funds under this block grant can be used by the States for the establishment, expansion, and improvement of emergency medical services for children who need treatment for trauma or critical care.

Section 7(c) amends section 1905(c) of the PHS Act by striking requirements that States:

1. Must award in FY 1982 emergency medical services grants and contracts to those entities which were funded in the State in FY 1981 and which would have been eligible for Federal assistance in FY 1982; and

2. Must agree to fund hypertension programs in FY 1982, 1983, and 1984 at specific percentages of the amounts spent in that State in FY 1981.

Secton 7(d) repeals subsection (e) of section 1905 referring to the requirement in section 1905(c)(2) regarding grants for emergency medical services systems.

Section 7(e) adds a new subsection (d) to section 1906 of the PHS Act requiring the Secretary, in consultation with appropriate national organizations, to develop model criteria and forms for data and information collection with respect to services provided under this block grant in order to enable States to share uniform data and information on the provision of such services.

GRANTS TO STATES FOR DEMONSTRATION PROJECTS CONCERNING EMERGENCY MEDICAL SERVICES FOR CHILDREN

Section 8 amends part A of title XIX of the PHS Act (Preventive Health and Health Services Block Grant) by adding a new section 1909A which authorizes $2 million a year for FY 1985, 1986, and 1987 for the Secretary to make grants to not more than four States in a fiscal year to support a program of demonstration projects for the expansion and improvement of emergency medical services for children who need treatment for trauma or critical care. Such a grant shall be for a one-year period; the Secretary may review a grant for an additional year only if the Secretary determines that such a renewal will provide significant benefits through the collection, analysis, and dissemination of information or data which will be useful to other States.

STATE PLANNING GRANTS

Section 9 further amends part A of title XIX of this PHS Act by adding a new section 1909B which authorizes $5 million each year for FY 1985, FY 1986, and 1987 for the Secretary to make grants to States to assist them to:

1. Develop long-range plans to achieve the goals, objectives, and priorities established by the Secretary pursuant to title XVII of the PHS Act (Health Information and Health Promotion);

2. Identify needs within States for services and activities that may be conducted with allotments under this block grant; and

3. Determine the progress of States in achieving the above mentioned goals, objectives, and priorities, and to extent feasible, use scientifically valid measures to make such determinations.

Mrs. HAWKINS. Mr. President, I rise today to express my support for S. 2301, the Preventive Health Services Act of 1984.

This act includes large block grants of almost $300 million over 3 years to

the States for their health services program. However, there are several other projects of lesser monetary significance that certainly merit our attention and that I would like to focus on.

For years, tuberculosis ravaged this country. Now the advances of medical science have made the detection and treatment of this horrible disease a comparatively simple process. However, I am greatly saddened to report that TB still plagues this Nation, especially in urban areas experiencing a large influx of refugees. For instance Miami, the focal point for many immigrants from the Caribbean and Central America, has a tuberculosis rate six times greater than the national average. Cities such as Miami badly need funds to contain these virulent outbreaks, and I hope that the $27 million allocated for this purpose will be sufficient to achieve this important goal. Thankfully, some results are already being produced. Interim funding for the Dade County Public Health Department has helped dramatically improve treatment services. Spanish- and Creole-speaking outreach workers and directly observed therapy has led to a marked increase in treatment completion, from 35 to 85 percent. The extra funding can only serve to improve this track record.

Another significant aspect of this legislation is the support for home and community-based health services. Too often, Government medical programs are structured toward the traditional, hospital-oriented health care. However, in cases of mild or minor illnesses, this type of treatment is more expensive and impersonal. S. 2301 provides funds that will allow the elderly to receive treatment on an outpatient or home visit basis. This will not only save the Government considerable expense, but allow the elderly to recover in the comfort of their own home and family. It is my own feeling that this important change is the next significant step upward in the evolution of health care.

The success of our national health care programs has stumbled recently with developments within the vaccine industry. For several decades, this Nation has attempted to wage an effective war on childhood diseases. However, despite the best efforts of health officials, the only available national survey indicates that about 20 percent of the 1 to 4 age group remains incompletely vaccinated against one or more of the seven common vaccine-preventable diseases of childhood: measles, rubella, polio, mumps, diphtheria, pertussis, and tetanus.

These children are at risk; unprotected by vaccines and susceptible to the debilitating effects of these diseases, thousands, even millions, of American children are needlessly in danger of crippling illnesses. Indeed, there is a multiplier effect to this failure to immunize so many children. The herd effect of immunization protects us all; yet when millions remain unprotected by vaccines, the danger of an outbreak is dramatically increased.

While thousands of children remain incompletely protected, much progress has been realized over the past few years. In some ways, the ultimate goal of wiping out these terrible illnesses in a few short decades does not seem unreasonable anymore. The safety of our children is at stake, and our best efforts could culminate in the complete protection of this Nation's future.

However, this goal has recently been dealt several severe blows. Due to the increase in the number and magnitude of vaccine lawsuits and the decision by Merke to drop production of the DPT vaccine, Lederle Laboratories announced in early July that it was going to more than triple the price for its DPT vaccine. Although Lederle has agreed to pick up the slack provided by Merke's failure, this change has brought a large cost. Reacting to the increase in demand, Lederle is raising their price from $.90 to $2.80 a dose. The higher prices for the DPT vaccine will place enormous burdens on the entire immunization program, and it may be placed in jeopardy unless this Congress reacts quickly. The State block grants program needs $9 million more in order to compensate for the higher prices of the DPT vaccine. To my mind, this is a small price to pay to insure the safety of our children.

Mr. President, the recent price increases by Lederle and other manufacturers of the DPT vaccine could prove to be a severe blow to the immunization program. However, the allocation of an extra $9 million will put the program back on an even course and accelerate the laudable and important goals of this project. I strongly urge all my colleagues to join me in support of this significant and timely measure.

Mr. KENNEDY. Mr. President, I am pleased to cosponsor this substitute amendment for the committee prevention reauthorization bill. The substitute changes the bill in two respects. First, it raises the amount for childhood immunizations, primarily in order to provide fuller Federal coverage than the bill reported out of our committee for DPT vaccine. The escalating cost of this vaccine is a matter of serious concern and threatens to deny many children the benefits of the vaccine. The committee bill—at my urging—included Federal funding for purchase of this vaccine for the first time. This amendment increases the amount provided. Senator BUMPERS was instrumental in securing this additional authorization and I salute his contribution.

The second change in the bill is to drop the new home and community-based block grant program from the bill. This provision was developed collaboratively by Senator HATCH and me and would be a modest attempt to partially redress the institutional bias in current financing and service delivery programs. This bias unnecessarily forces many elderly and disabled persons out of their homes and communities into more costly inpatient settings. This provision is being dropped because the administration has threatened to block the bill indefinitely if it is retained. Once again, the Reagan administration has shown its indifference to the needs of the elderly and disabled.

In addition to childhood immunizations, the bill includes reauthorizations for the vital categorical prevention programs for tuberculosis and venereal disease and for the prevention block grant.

With regard to the prevention block grant, I am pleased that this bill establishes a new planning grant authority to help States design an effective prevention effort. A new planning grant authority for prevention was included in the omnibus health services and health services research reauthorization bill that I introduced on March 20 and that was cosponsored by all the Democratic members of the Labor and Human Resources Committee. A systematic planning and reporting effort is essential to an effective prevention effort.

While this bill is a step in the right direction, it does not go far enough. Lacking are adequate funding levels, a planning requirement, and a mandated reporting system to assure measurement of progress toward national prevention goals.

Since the days when I first attempted to place health promotion and disease prevention at the center of our national health agenda, there has been a growing recognition that a comprehensive, aggressive prevention strategy can be our most effective weapon in the struggle to secure health and well-being for the American people. As Assistant Secretary Brandt recently stated:

> The time has come for us to turn our attention as a nation to the preservation of good health, the promotion and enhancement of healthful lifestyles, and the prevention of disease and disability.

The knowledge base for rapid improvements in the health of the American people through an effective prevention strategy is now in place. The 1979 Surgeon General's report, "Health People," identified major health problems for each of five broad age groups and 15 priority areas for further action. The Surgeon General's 1980 followup report, "Promoting Health/Preventing Disease," established 226 measurable prevention objectives for these 15 priority areas. The Center for Disease Control has

developed model prevention standards for community health services. The prevention-oriented activities of the Public Health Service have been inventoried and given renewed emphasis.

Implementation of the goals outlined in this series of reports will result in dramatic improvements in the health and well-being of the American people. By the end of this decade, we can anticipate: a 35 percent reduction in infant mortality, 20 percent drop in deaths among children, 20 percent decline in adolescent deaths, 25 percent death rate among adults, and 20 percent less disability for older Americans.

But these lower death and disability rates and all they imply for healthier, happier, more active and productive lives will not occur simply because we have a roadmap showing how to get from here to there. An aggressive national policy can help us not only achieve but surpass these goals.

The major missing ingredient in our national prevention strategy has been the lack of an effective Federal-State partnership to assure comprehensive prevention planning and service delivery at the State and community level where people can be reached most effectively.

The preventive health block grant should be the key vehicle for development of an effective Federal-State partnership. Instead, this block grant is an example of the Reagan so-called New Federalism at its worst. Essentially a thinly disguised attempt to eliminate the Federal responsibility for a grab bag of categorical programs, this block was established without standards, priorities, accountability, measurement, or a clear relationship to either national or local objectives.

I believe this block grant should be restructured into an effective vehicle for achieving the goals and objectives established in the Surgeon General's report. As a condition for receiving block grant funds, States should be required to go through a conscious prevention planning process to establish goals and objectives in each of the Surgeon General's 15 preventive areas, to establish at least one high priority prevention objective for each of the five age groups identified in "Healthy People," and to develop a plan for meeting the priority objectives selected by the State itself utilizing not only PHS funds, but other appropriate public and private resources, and to measure progress toward fulfillment of the State plan and national prevention goals. As the witness from the Association of State and Territorial Health officials stated, "We want to be held accountable."

A number of States, including my own State of Massachusetts, Utah, and Texas have already gone through this process of establishing comprehensive State prevention plans and developing a measurement and reporting system to ensure the plan objectives are achieved.

In addition to the lack of a comprehensive planning and reporting requirement, the funding levels in the bill are not high enough. All the witnesses before this committee who dealt with the question of funding indicated Federal support was inadequate. Prevention is our most cost-effective health investment; it does not make good sense to spend over $100 billion on Federal service and financing programs and less than $100 million on the prevention block grant.

Mr. BUMPERS. Mr. President, I rise to express my support for S. 2301, the Health Services, Preventive Health Services, and Home and Community Based Services Act of 1984. This is an extremely important preventive health bill which reauthorizes several important preventive health programs including child immunizations, which is near and dear to my heart, tuberculosis control, venereal disease control, and others. In addition, it extends and reauthorizes the preventive health block grant.

Several weeks ago, Mr. President, I told the distinguished chairman of the Labor and Human Resources Committee, Mr. HATCH, that I intended to offer an amendment to this bill to increase the authorized level of spending for both the childhood immunizations program and the preventive health block grant, and so we have been negotiating these spending levels for several weeks. The bill authorizes $42.4 million for the childhood immunization program for fiscal year 1985, $47 million for fiscal year 1986, and $51 million for fiscal year 1987. I was concerned, however, that primarily because of the recent staggering increases in the cost of the diphtheria-tetanus-pertussis [DTP] vaccine, these authorization levels would be inadequate. Until recently, the cost of this vaccine was roughly 11 cents a dose. Reliable estimates project, however, that in the near future this vaccine will cost anywhere from $2 to $2.50 a dose, a truly staggering increase. Unfortunately, this vaccine, although generally effective, does in extremely rare cases cause a neurologic reaction, and aggressive plaintiffs lawyers have been eager to sue the vaccine manufacturers. As a result, the manufacturers say that their insurance costs have increased dramatically and they have had to pass these increased costs on to the purchasers of the vaccine.

In order to ensure an adequate supply of the DTP vaccine for the States, I intended to offer an amendment to increase the funding for the childhood immunization program by $16 million for each of the next 3 years. I am pleased that the Senator from Utah [Mr. HATCH] has agreed that this is a serious problem and has offered to increase the authorization by $9 million for each of the next 3 years. I am not sure that this will be adequate, but in the spirit of compromise so that this important bill can pass, I have agreed to this increased authorization. I am confident that, because of the proven benefit of the childhood immunization program, Members of Congress will respond if down the road we determine that due to increases in vaccine cost the program is not adequately funded. In my judgment, this is the most cost-effective program the Federal Government has, and I intend to continue to review it regularly to make sure that it is sufficiently funded. I commend the Senator from Utah for agreeing to this modest increase in funding.

I had also intended to offer an amendment to increase by $22 million a year the authorized funding level for the prevention block grant. A few weeks ago, the director of the Arkansas State Department of Health, Dr. Ben Saltzman, telephoned me to say that in his judgment the programs within this block grant were inadequately funded. The programs within this block grant are also highly cost-effective. No one can argue for example, with the cost-effectiveness of hypertension screening. There is absolutely no question but that hypertension screening saves lives.

The bill that is before the Senate provides for $93 million for the prevention block grant for fiscal year 1935, $98 million for fiscal year 1986, and $102 million for fiscal year 1987. The bill in the House of Representatives would authorize $98.5 million for each of these 3 years. I am pleased to report that the chairman of the committee, Mr. HATCH, has made a firm commitment to me that in conference with the House he will press for funding for the higher of the House or Senate levels for each of these 3 years—in other words $98.5 million for fiscal year 1985, $98.5 million for fiscal year 1986, and $102 million for fiscal year 1987. Based on this commitment, I have agreed to withhold my amendment. I appreciate the Senator from Utah's commitment to this vital program.

Mr. President, I would also like to commend the Senator from Massachusetts [Mr. KENNEDY], for all his hard work on this bill. As the ranking minority member of the Labor and Human Resources Committee, he was labored tirelessly to bring to the Senate a sound preventive health bill. His commitment to these programs is unquestioned and long abiding.

I commend this important measure to my colleagues, and urge its quick passage. I hope the House and Senate can agree on a final measure which can be passed quickly and sent to the President for signature.

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on the engrossment and the third reading of the bill.

The bill (S. 2301), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2301

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Health Services and Preventive Health Services Act of 1984".

REFERENCE

SEC. 2. Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

CHILDHOOD IMMUNIZATION

SEC. 3. Section 317(j)(1) is amended by striking out "and" after "1983," and by inserting before the period a comma and "$51,400,000 for the fiscal year ending September 30, 1985, $56,000,000 for the fiscal year ending September 30, 1986, and $60,000,000 for the fiscal year ending September 30, 1987".

PREVENTIVE HEALTH SERVICE PROGRAMS FOR TUBERCULOSIS

SEC. 4. Section 317(j)(2) is amended by striking out "and" after "1983," and by inserting before the period a comma and "$8,000,000 for the fiscal year ending September 30, 1985, $9,000,000 for the fiscal year ending September 30, 1986, and $10,000,000 for the fiscal year ending September 30, 1987".

PROJECTS AND PROGRAMS FOR THE PREVENTION AND CONTROL OF VENEREAL DISEASE

SEC. 5. The first sentence of section 318(d)(1) is amended by striking out "and" after "1983," and by inserting before the period a comma and "$50,000,000 for the fiscal year ending September 30, 1985, $55,000,000 for the fiscal year ending September 30, 1986, and $55,000,000 for the fiscal year ending September 30, 1987".

HOME HEALTH SERVICES

SEC. 6. (a) Section 339(a)(5) is amended by striking out "and" after "1983," and by inserting before the period a comma and "September 30, 1985, September 30, 1986, and September 30, 1987".

(b) Section 339(b)(5) is amended by striking out "and" after "1983," and by inserting before the period a comma and "September 30, 1985, September 30, 1986, and September 30, 1987".

PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT

SEC. 7. (a) Section 1901(a) is amended by striking out "and" after "1983," and by inserting before the period a comma and "$93,000,000 for the fiscal year ending September 30, 1985, $98,000,000 for the fiscal year ending September 30, 1986, and $102,000,000 for the fiscal year ending September 30, 1987".

(b) Section 1904(a)(1)(F) is amended to read as follows:

"(F) Feasibility studies and planning for emergency medical services systems and the establishment, expansion, and improvement of such systems, including the establishment, expansion, and improvement of emergency medical services for children who need treatment for trauma or critical care. Amounts for such systems may not be used for the costs of operation of the systems.".

(c) Section 1905(c) is amended—

(1) by striking out paragraphs (2) and (4); and

(2) by redesignating paragraphs (3), (5), (6), (7), and (8) as paragraphs (2), (3), (4), (5), and (6), respectively.

(d) Subsection (e) of section 1905 is repealed.

(e) Section 1906 is amended by adding at the end thereof the following new subsection:

"(d) The Secretary, in consultation with appropriate national organizations, shall develop model criteria and forms for the collection of data and information with respect to services provided under this part in order to enable States to share uniform data and information with respect to the provision of such services.".

GRANTS TO STATES FOR DEMONSTRATION PROJECTS CONCERNING EMERGENCY MEDICAL SERVICES FOR CHILDREN

SEC. 8. Part A of title XIX is amended by inserting after section 1909 the following new section:

"EMERGENCY MEDICAL SERVICES FOR CHILDREN

"SEC. 1909A. (a) For activities in addition to the activities which may be carried out by States under section 1904(a)(1)(F), the Secretary may make grants to not more than four States in any fiscal year to support a program of demonstration projects in such States for the expansion and improvement of emergency medical services for children who need treatment for trauma or critical care. Any grant made under this section shall be for a one-year period.

"(b) The Secretary may renew a grant made under this section to a State for one additional one-year period only if the Secretary determines that renewal of such grant will provide significant benefits through the collection, analysis, and dissemination of information or data which will be useful to other States.

"(c) To carry out this section, there are authorized to be appropriated $2,000,000 for fiscal year 1985 and each of the two succeeding fiscal years.".

STATE PLANNING GRANTS

SEC. 9. Part A of title XIX (as amended by section 8 of this Act) is further amended by adding at the end thereof the following new section:

"STATE PLANNING CONCERNING HEALTH PROMOTION AND DISEASE PREVENTION

"SEC. 1909B. (a) The Secretary may make grants to assist States to—

"(1) develop long range plans to achieve the goals, objectives, and priorities established by the Secretary pursuant to title XVII;

"(2) identify particular needs within States for services and activities that may be conducted with payments made under allotments under section 1902; and

"(3) determine the progress of States in achieving the goals, objectives, and priorities described in paragraph (1) and, to the extent feasible, use scientifically valid measures to make such determinations.

"(b) To carry out this section, there are authorized to be appropriated $5,000,000 for each of the fiscal years 1985, 1986, and 1987.".

EFFECTIVE DATE

SEC. 10. This Act and the amendments and repeals made by this Act shall take effect on October 1, 1984.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO PLACE H.R. 6223 ON THE CALENDAR

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be discharged from further consideration of H.R. 6223, a bill to amend the act providing for the incorporation of certain persons as Group Hospitalization, Inc., and it be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

REIMBURSEMENT OF THE HEIRS OF CERTAIN DECEASED INDIANS

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate Calendar No. 1186, which is S. 1151.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1151) to compensate heirs of deceased Indians for improper payments from trust estates to States or political subdivisions thereof as reimbursements for old age assistance received by decedents during their lifetime.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Select Committee on Indian Affairs with an amendment to strike out all after the enacting clause and insert the following:

That this act may be cited as the Old Age Assistance Claims Settlement Act.

DEFINITIONS

SEC. 2. For purposes of this Act, the term—

(1) "Secretary" means the Secretary of the Interior;

(2) "unauthorized disbursement" means a disbursement made from the trust estate of a deceased Indian which was made by the Secretary to a State or a political subdivision of a State for the purpose of reimbursing the State or political subdivision for any old age assistance made to the deceased Indian before death in violation of Federal laws governing Indian trust property; and

(3) "trust estate" means that portion of the estate that consists of real or personal property, title to which is held by the United States for the benefit of the Indian or which may not be alienated without the consent of the Secretary.

PAYMENT OF CLAIMS

SEC. 3. (a) The Secretary is authorized and directed to determine the portion of any unauthorized disbursement to which any individual under this Act is entitled, and to pay to such individual the amount which the Secretary determines such individual to be entitled. Any payment under this provision shall include interest at a rate of 5 per centum per annum, simple interest, from the date on which such disbursement was made from the trust estate of the deceased Indian.

(b) No payment shall be made under subsection (a) with respect to any unauthorized disbursement from the trust estate of a deceased Indian if the total amount of unauthorized disbursement from such trust estate was less than $50.

NOTICE

SEC. 4. (a) Within one hundred and eighty days after the date of enactment of this Act, the Secretary shall publish in the Federal Register a list of all trust estates from which unauthorized disbursements are known to have been made, including the amount of the unauthorized disbursement made from each such trust estate.

(b) Within thirty days after the publication of this list, the Secretary shall provide a copy of this Act and a copy of the Federal Register containing this list, or such parts as may be pertinent, to each Indian tribe, band, or group the rights of whose members may be affected by this Act.

(c) Any tribe, band or group of Indians, or any individual Indian shall have one hundred and eighty days after the date of the publication in the Federal Register of the list provided for in subsection (b) of this section to submit to the Secretary any additional unauthorized disbursement claims not contained on the list.

(d) Not more than thirty days after the expiration of the one hundred and eighty day period provided for in subsection (c) of this section, the Secretary shall publish in the Federal Register a list containing the additional unauthorized disbursement claims submitted during such period.

INDENTIFICATION OF RIGHT TO PAYMENT AND EXPEDITED CLAIM PAYMENT

SEC. 5. (a) The Secretary shall conduct a search of the records of the Department of the Interior to identify individuals who are entitled to any portion of the unauthorized disbursements which were made and to ascertain the amount of such unauthorized disbursements to which each of such individuals is entitled.

(b) In any case in which the Secretary ascertains the name and location of any individual who is entitled to any portion of an unauthorized disbursement and determines the amount of such unauthorized disbursement to which such individual is entitled, the Secretary shall pay such amount, including interest thereon as provided in section 3, to such individual immediately without requiring such individual to file a formal claim for payment.

(c) The Secretary shall use the best available means of notifying each individual who is identified in the search conducted under subsection (a) of the right of such individual to receive payment under this Act. The means of notification available to the Secretary shall include—

(1) notice provided directly to such individual;

(2) notification of the next of kin of such individual;

(3) notification of the chairman or chief executive officer of the tribe of which such individual is a member or of which the deceased Indian was a member; and

(4) publication of notice in newspapers of general circulation in the appropriate area.

DISCHARGE AND BARRING OF CLAIMS

SEC. 6. (a) The payment and acceptance of any claim, after its determination in accordance with this Act, shall be a full discharge to the United States or any State or political subdivision thereof of all claims and demands touching any of the matters involved in the controversy.

(b) The provisions of this Act shall not affect claims arising from any unauthorized disbursement which were filed in any court of competent jurisdiction prior to the date of enactment of this Act.

AUTHORIZATIONS

SEC. 7. (a) There are authorized to be appropriated for the purpose of carrying out the provisions of this Act $2,500,000 for each of the fiscal years 1986 and 1987, and such sums as may be necessary for any subsequent fiscal year. The amounts appropriated under the authority of this subsection shall remain available without fiscal year limitation for purposes of carrying out the provisions of this Act until all claims filed under this Act have been resolved.

(b) Funds necessary to pay the expenses of administering this Act shall be appropriated and expended under the authority of the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13), popularly known as the Snyder Act.

Mr. STEVENS. It was reported with an amendment?

The PRESIDING OFFICER. There is an amendment in the nature of a substitute.

AMENDMENT NO. 6477

Mr. STEVENS. Mr. President, I send to the desk an amendment by the Senator from North Dakota [Mr. ANDREWS] as an amendment to the committee substitute.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. ANDREWS, proposes an amendment numbered 6477:

On page 8, at the conclusion of section 7, add a new section 8 as follows:

TREATMENT OF FUNDS

SEC. 8. Funds distributed under the provisions of this Act shall not be considered as income or resources nor otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled under the Social Security Act of, except for per capita shares in excess of $2,000, any Federal or federally assisted program.

Mr. ANDREWS. Mr. President, the purpose of this legislation is to provide compensation to heirs of deceased Indians from whose estates payments were made by the Secretary of the Interior to various States as reimbursement for general assistance provided by the States to the deceased Indians prior to their death. In fact, these payments were contrary to Federal laws protecting the trust property of Indians, and in fact, as much as 70 to 80 percent paid out of the Indians trust estate was returned to the Federal Government.

The amendment I offer to this legislation provides that funds distributed under this act shall not be considered as income or resources for purposes of denying or reducing financial assistance or other benefits to households or persons who would otherwise be entitled under the Social Security Act, or, except for per capital shares in excess if $2,000, any Federal or federally assisted program. Testimony of witnesses of the department of the Interior indicates that the vast majority of payments under this act will be in the range of $200 to $300. The funds involved are properly considered as newly located property improperly omitted from the estate as originally probated. A good number of the persons who will receive payments under this act are presently receiving general assistance either from the Department of the Interior or through other federally assisted programs.

The amendment will provide clarification to Federal and State agencies on the treatment to be accorded funds under this act. This treatment corresponds with treatment provided judgment funds distributed under the Judgment Fund Distribution Act of 1973, as amended (25 U.S.C. 1401 et seq.) and funds distributed by tribes under the act of August 2, 1983 (Public Law 98-64; 25 U.S.C. 117a et seq.) authorizing tribes to distribute trust funds to tribal members.

Mr. President, I urge that S. 1151 with this amendment be agreed to and the bill, as amended, be adopted by the Senate.

Mr. STEVENS. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6477) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 1151), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1151

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Old Age Assistance Claims Settlement Act.

DEFINITIONS

SEC. 2. For purposes of this Act, the term—

(1) "Secretary" means the Secretary of the Interior:

(2) "unauthorized disbursement" means a disbursement made from the trust estate of a deceased Indian which was made by the Secretary to a State or a political subdivision of a State for the purpose of reimbursing the State or political subdivision for any old age assistance made to the deceased Indian before death in violation of Federal laws governing Indian trust property; and

(3) "trust estate" means that portion of the estate that consists of real or personal property, title to which is held by the United States for the benefit of the Indian or which may not be alienated without the consent of the Secretary.

PAYMENT OF CLAIMS

SEC. 3. (a) The Secretary is authorized and directed to determine the portion of any unauthorized disbursement to which any individual under this Act is entitled, and to pay to such individual the amount which the Secretary determines such individual to be entitled. Any payment under this provision shall include interest at a rate of 5 per centum per annum, simple interest, from the date on which such disbursement was made from the trust estate of the deceased Indian.

(b) No payment shall be made under subsection (a) with respect to any unauthorized disbursement from the trust estate of a deceased Indian if the total amount of unauthorized disbursement from such trust estate was less than $50.

NOTICE

SEC. 4. (a) Within one hundred and eighty days after the date of enactment of this Act, the Secretary shall publish in the Federal Register a list of all trust estates from which unauthorized disbursements are known to have been made, including the amount of the unauthorized disbursement made from each such trust estate.

(b) Within thirty days after the publication of this list, the Secretary shall provide a copy of this Act and a copy of the Federal Register containing this list, or such parts as may be pertinent, to each Indian tribe, band, or group the rights of whose members may be affected by this Act.

(c) Any tribe, band or group of Indians, or any individual Indian shall have one hundred and eighty days after the date of the publication in the Federal Register of the list provided for in subsection (b) of this section to submit to the Secretary any additional unauthorized disbursement claims not contained on the list.

(d) Not more than thirty days after the expiration of the one hundred and eighty day period provided for in subsection (c) of this section, the Secretary shall publish in the Federal Register a list containing the additional unauthorized disbursement claims submitted during such period.

IDENTIFICATION OF RIGHT TO PAYMENT AND EXPEDITED CLAIM PAYMENT

SEC. 5. (a) The Secretary shall conduct a search of the records of the department of the Interior to identify individuals who are entitled to any portion of the unauthorized disbursements which were made and to ascertain the amount of such unauthorized disbursements to which each of such individuals is entitled.

(b) In any case in which the Secretary ascertains the name and location of any individual who is entitled to any portion of an unauthorized disbursement and determines the amount of such unauthorized disbursement to which such individual is entitled, the Secretary shall pay such amount, including interest thereon as provided in section 3, to such individual immediately without requiring such individual to file a formal claim for payment.

(c) The Secretary shall use the best available means of notifying each individual who is identified in the search conducted under subsection (a) of the right of such individual to receive payment under this Act. The means of notification available to the Secretary shall include—

(1) notice provided directly to such individual;

(2) notification of the next of kin of such individual;

(3) notification of the chairman or chief executive officer of the tribe of which such individual is a member or of which the deceased Indian was a member; and

(4) publication of notice in newspapers of general circulation in the appropriate area.

DISCHARGE AND BARRING OF CLAIMS

SEC. 6. (a) The payment and acceptance of any claim, after its determination in acceptance of any claim, after its determination in accordance with this Act, shall be a full discharge to the United States or any State or political subdivision thereof of all claims and demands touching any of the matters involved in the controversy.

(b) The provisions of this Act shall not affect claims arising from any unauthorized disbursement which were filed in any court of competent jurisdiction prior to the date of enactment of this Act.

AUTHORIZATIONS

SEC. 7. (a) There are authorized to be appropriated for the purpose of carrying out the provisions of this Act $2,500,000 for each of the fiscal years 1986 and 1987, and such sums as may be necessary for any subsequent fiscal year. The amounts appropriated under the authority of this subsection shall remain available without fiscal year limitation for purposes of carrying out the provisions of this Act until all claims filed under this Act have been resolved.

(b) Funds necessary to pay the expenses of administering this Act shall be appropriated and expended under the authority of the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C 13), popularly known as the Snyder Act.

TREATMENT OF FUNDS

SEC. 8. Funds distributed under the provisions of this Act shall not be considered as income or resources not otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled under the Social Security Act or, except for per capita shares in excess of $2,000, any Federal or federally assisted program.

Mr. STEVENS. I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE DISCHARGED FROM CONSIDERATION OF H.R. 4994

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be discharged from further consideration of H.R. 4994, a bill to exempt from taxation by the District of Columbia certain property of the Jewish War Veterans, U.S.A. National Memorial, Inc. and that the bill be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL HELD AT DESK—H.R. 4932

Mr. STEVENS. Mr. President, I ask unanimous consent that once the Senate receives from the House H.R. 4932, a bill to withdraw and reserve for the Department of the Air Force certain public lands within the Nellis Air Force Range, within Clark, Nye, and Lincoln Counties, NV, for use as a training and weapons testing area, and for other purposes, be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHILD ABUSE AMENDMENTS OF 1984—CONFERENCE REPORT

Mr. STEVENS. Mr. President, I submit a report of the committee of conference on H.R. 1904 and ask for its immediate consideration.

The PRESIDING OFFICER [Mr. HECHT]. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1904) to extend and improve the provisions of the Child Abuse Prevention and Treatment Act and the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 19, 1984.)

Mr. HATCH. Mr. President, I am pleased to report that the Senate/House conference on H.R. 1904, the Child Abuse Adoption Reform Act of 1984, has been approved by the House and now comes to the Senate for final passage. This vital piece of legislation provides for the continued Federal support for numerous programs affecting the well-being of children and families. It addresses the issues of adoption, infants born with life-threatening conditions, child abuse, and family violence.

Now, it is the responsibility of the Senate to facilitate the legislative process and forward H.R. 1904 to the White House for the President's signature.

Child abuse in any form is unacceptable in our society. It is an obscenity which preys upon the defenseless, a serious cancer that weakens our socie-

ty which is built upon the family foundation. If not addressed and treated now, it may drag down an otherwise civilized nation. Children, according to design, are the responsibility of adults. Their physical and emotional welfare is directly related to the treatment and nurturing they receive from those adults. It is vital that we reauthorize the use of Federal funds for child abuse prevention and research as well as treatment programs.

The conference agreement amends and extends the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 through fiscal year 1987 at an authorization level of $38.5 million for fiscal year 1984, $45 million for fiscal year 1985, $46.5 million for fiscal year 1986, and $48.1 million for fiscal year 1987.

During the past year, the reported incidence of child abuse in States across the Nation has increased by over 10 percent. The conferees intend that the increased authorization will enable further research and the funding of additional demonstration projects to better determine the underlying causes of child abuse. States will have additional resources to help prevent child abuse, which has been estimated at over 1 million reported cases during 1982. In addition, the conferees have authorized the funding of programs for identification, prevention, and treatment of sexual abuse in response to reports that sexual abuse is also increasing.

The conferees learned that State agencies are ill-equipped to handle the increasing number of child abuse cases, and there are reports of children being abused more severely and increased numbers of deaths caused by child abuse—as well as an increase in the amount of reported sexual abuse. These increased funding levels should assist programs to address these problems.

Furthermore, I support the efforts of the Advisory Board on Child Abuse and Neglect to coordinate Federal programs that serve abused and neglected children and their families. The participation of the military services has been important to the effectiveness of the Advisory Board. Recognizing the progress made by the military in developing programs for the prevention and treatment of child abuse and neglect, the conferees instruct the Advisory Board to promote better coordination of services by encouraging cooperation in exchanging case information between State protective service agencies and the military services. Such reciprocity should better enable the military to perform its child abuse and neglect programs supported by congressional appropriations.

A great deal of recent national attention has been focused on the treatment of disabled infants with life-threatening conditions. The public is concerned over the decisionmaking process that determines if a disabled infant will receive life-sustaining measures.

In early April 1982, a handicapped child, known to the public as Infant Doe, was born in Bloomington, IN. The child was born with Downs Syndrome and other respiratory and digestive complications which required immediate medical intervention. The parents of the child made the decision to withhold medical treatment and nourishment from the child. The hospital brought this decision to the attention of county prosecutors who sought a court order removing the infant from his parents' custody and allowing corrective medical treatment. State and local courts approved the withholding of treatment and nourishment, and the infant died 6 days after birth, while attorneys, on behalf of the infant, were preparing an appeal to the U.S. Supreme Court.

Now, out of concern for the welfare of both disabled infants and their parents, Congress, via this legislation, has provided direction to assure that States have in place procedures within State child protective service systems, for the purpose of responding to reports of cases of medical neglect, including instances of withholding of medical treatment to disabled infants.

Furthermore, these procedures should include methods to assure that the best medical information is being used and that the life of the handicapped infant is appropriately protected.

It is the intent of H.R. 1904 that disabled infants not be denied medical treatment for associated disorders because of their handicap and that that treatment be denied only when it would merely prolong dying or not be effective in correcting the life-threatening conditions.

Programs and funding include the reauthorization of the Federal adoption opportunities program. This program assists in the placement into permanent homes of the 100,000 children currently available for adoption. Of those 100,000 children, the majority are children with special needs, many of them infants with multiple handicaps. They share with other children the common, universal human need for love, security, and permanence. H.R. 1904, through increased funding and more Federal direction, facilities the adoption of these and all other children deprived of the benefit of a permanent home. The conference report authorizes appropriations for those adoption assistance programs at $5 million for each fiscal year—1984 to 1987.

Closely akin to child abuse is the equally unacceptable incidence of family violence. H.R. 1904 provides for State demonstration projects providing funding for immediate shelters for victims of family violence, training for law enforcement officers who deal firsthand with family violence, counseling for the offending family member, and drug and alcohol rehabilitation programs.

Congress, by passing this legislation which requires a State to match Federal dollars, indicates a limited Federal role in the provision of family violence service. Mr. President, as you can see, this legislation addresses important issues—issues affecting the physical and emotional well-being of children, our country's most precious resource. I encourage immediate consideration of this important legislation.

Mr. DENTON. Mr. President, as the sponsor of the Senate bill reauthorizing the Federal Child Abuse Prevention and Treatment Program, I am pleased that the opportunity is at hand for the Senate to act affirmatively on the conference report on the legislation.

The conference report is a carefully crafted compromise, and I urge my colleagues to support it. The authorizations for the Child Abuse Prevention Program and the Adoption Opportunities Program expired 1 year ago, so the Senate should approve the conference report promptly and send it to the President for his signature.

I want to thank several of my colleagues for their work in securing passage of S. 1003, the Senate version of the reauthorization legislation. Senators HATCH, KENNEDY, NICKLES, DODD, KASSEBAUM, CRANSTON, and STEVENS all played important roles in shaping the bill. They and the members of their staffs should be commended for their perseverance during the almost 15 months that the negotiations required.

As my colleagues know, the legislation addresses four important issues: child abuse prevention and treatment; adoption opportunties; preventing the withholding of medically indicated treatment from handicapped infants; and family violence prevention and treatment. There was a debate and compromise among the conferees on all of the issues, and the conference negotiations were carried out in good faith. I want to commend our counterparts in the House for their hard work in working out the compromise and making it possible for us to act on legislation that is badly needed.

I am especially pleased that the Senate-passed language dealing with preventing the withholding of medically indicated treatment from handicapped infants was retained by the conferees. The Senate language on that sensitive subject was negotiated painstakingly among Senate staff members and representatives from the medical, disability, and pro-life communities. Twenty-one organizations support the language before us. I am confident that the approach embodied

in the conference report does not intrude unduly in the practice of medicine, yet provides protection to handicapped infants.

Mr. President, this is an important piece of legislation, and one that deserves prompt Senate passage. I have worked hard, and the other Senators involved in the shaping of this legislation have worked hard, to get the best possible compromise on all parts of the legislation. I am not pleased with everything in the bill, and I doubt that any Senator is, but I believe that the compromise is a good one. I urge my colleagues to support it.

I thank the Chair.

Mrs. HAWKINS. Mr. President, I am delighted that the conferees have resolved the differences betweeen S. 1003 and H.R. 1904 and reached agreement on the reauthorization of the Child Abuse Prevention and Treatment and Adoption Opportunities Act. The programs and services funded under this act are of vital importance to society and the children of our Nation. This was not a simple reauthorization. This legislation recommends dramatic increases in the level of funding and expansion of the Federal role in protecting handicapped newborns and victims of family violence.

Because of the controversial nature of these issues, the enactment of this legislation had been in doubt. The fact that this final conference report is before us today and ready for the President's signature is really a tribute to the skills, talents, and dedication of the conferees. As a member of the Senate Labor and Human Resources Committee, I know the long hours and tireless work that Senator ORRIN HATCH, Senator JEREMIAH DENTON, and others put into the enactment of this legislation.

This final agreement contains authorization levels for child abuse prevention and treatment programs which are significantly higher than current law. It represents a doubling of the Federal financial commitment to programs serving abused and neglected children. The legislation also contains $63 million in new Federal authority for a 3-year program of funding for programs serving victims of family violence. The new funding for domestic violence programs and the increase in funding for child abuse programs indicates the growing realization on the part of the Federal Government that all of society suffers from unchecked violence and all levels of government have a responsibility to assist the victims of this type of violence. The programs funded under this act may make the difference between life and death, may protect a child from abuse, may prevent an abused child from growing up to be an abuser.

I view the enactment of this legislation as a beginning. An important beginning because it signals that the Federal Government recognizes the need for and importance of Federal support for programs designed to prevent and treat the victims of violence. But this legislation, despite its increased funding and its increased scope, is still just a small step toward protecting our Nation's children against abuse, neglect, and violence. Much, much more needs to be done. This conference agreement is an excellent foundation on which to build. I would like to thank both the House and Senate conferees for their excellent efforts in developing this compromise legislation.

Mr. STEVENS. Mr. President, I take this opportunity to thank all those involved in the conference agreement before us today—it has been a long process, I know, and the commitment and dedication of the many Members and staff that have brought this about deserve special recognition.

I am particularly gratified by the provisions of title III, the Family Violence Prevention and Services Act. Violence between family members, such as spouse abuse and abuse of the elderly, is a problem the magnitude of which we as a society can no longer ignore. This new act authorizes grants to States to fund services assisting victims of family violence, such as battered women's shelters, which provide emergency shelter and other services to victims of spouse abuse and their dependents. In addition, the Family Violence Prevention and Services Act will support and coordinate research into the problem of family violence and methods to prevent it. To date, research on this subject indicates that violent and abusive behavior is passed on from generation to generation within families by example. A child who is abused, or sees his or her mother beaten, is more likely to be abusive as an adult. It is important to break this cycle of abuse that is learned and acquired in the family.

The integrity of the family unit in our society has made the problem of family violence a particularly difficult one to bring out into the open. This year, the hearings held by the Attorney General's Task Force on Family Violence were an important step in focusing public attention on this problem. Passage of the bill before us today will allow us to begin to address some of the issues made abundantly clear when family violence is discussed—how to treat the abuser; how best to assist members of families, including elderly dependents, that must separate, at least temporarily, because of violent behavior by a family member; what causes such behavior; and how it can be prevented. Hundreds of locally based organizations have intitiated programs to deal with these problems, and this new Federal program is designed to complement these ongoing activities, not overwhelm or usurp them. Grants will be made to help start up or expand ongoing community-based efforts to assist victims of family violence, but the lion's share of funding for these projects must still be from sources other than the Federal Government. The problem of family violence affects us all, as it tears apart the fundamental unit of our society—the family. I urge my colleagues to join with me in supporting this bill.

Mr. KENNEDY. Mr. President, I would like to congratulate every member of this conference for their role in bringing this important bill to conference. I hope we will move quickly to pass this conference agreement in the Senate.

In a series of meetings, House and Senate conferees have resolved virtually all differences between H.R. 1904 and S. 1003, the child abuse reauthorization bills. These bills extend and increase the authorization for child abuse prevention and treatment programs; amend the act to include services and treatment for disabled infants; and establishes authorization for State demonstration projects for the prevention and treatment of family violence.

CHILD ABUSE

Under the child abuse title, the agreement provides for services and treatment for disabled infants, victims of child abuse and the sexual abuse of children as well as research, demonstrating service, training and technical assistance grants and contracts in the area of child abuse.

The conference agreement authorizes appropriations for 4 years: fiscal year 1984, $33.5 million; 1985, $50.0 million; 1986, $41.5 million; 1987, $43.1 million. Of these funds, not less than $9 million each year is to be made available for grants to States to provide direct services for the treatment and prevention of child abuse.

Regional child abuse resource centers originally established with Federal support should be given special consideration when grants are given for research, technical assistance, and demonstration projects. These centers have survived Federal funding cutbacks and have a great deal of experience in treating family unity and providing treatment and related services to persons who have committed acts of sexual abuse against children.

I cannot stress too strongly the need for Federal support in this area. The incidence of child abuse is on the rise throughout this Nation. Child Protective Services is overburdened with cases in every State in the Nation: Overworked social workers identify abused children, but have no alternative placement for them; agencies define child abuse in a manner that excludes older children; child abuse is

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found even among those we entrust with our children; the deaths from child abuse increase.

These funds are in my estimation less than the need demands. They are, however, more than we have authorized for several years.

In Massachusetts, in every State in the Nation children are crying, children are at risk, children are hurting and needing our help. This bill will increase the help we are giving, but our children need more, our children deserve more.

FAMILY VIOLENCE

The conference agreement provides for the Secretary of HHS to make grants to the States for the administration of demonstration projects within the State. Many States, Massachusetts among them, have already begun to support shelters to provide services to the victims of domestic violence. These funds will allow States to provide services in under served areas, improve the quality of services available, and provide services when none presently exist.

The authorizations provided by this agreement are modest. However, combined with local resources, State funds and volunteer efforts, they should make an important contribution to families in distress from domestic violence. The agreement provides $11 million in fiscal year 1985, $26 million fiscal year 1986, and $26 million in fiscal year 1987. The overwhelming bulk of these funds, 85 percent, will go to provide direct services in the States.

The States are required to use a minimum of 60 percent of their funds to support organizations providing immediate shelter. This is one of the most important features of this bill. My original bill provided a 75 percent minimum for shelters, and I consider this 60 percent figure to be an absolute minimum. Shelters provide virtually every kind of service contemplated by this bill including family counseling, community education, prevention and working with law enforcement. Shelters should be able to compete favorably for more than the minimum of 60 percent.

Community leaders, local and State officials must be sensitized to the importance of shelter programs. Thus, the conference agreement provides for a local share, in cash or kind for the projects receiving Federal funds from the States. The first year the local share must be 35 percent, the second year 55 percent, the third year 65 percent.

The focus of this bill is to provide shelter, services and treatment for victims of family violence and their dependents. However, we must learn more about this problem and effective solutions. Therefore, the Secretary is instructed to: coordinate Federal programs concerning family violence; provide for the conduct of research with respect to family violence; provide for the study of elder abuse; provide for training and technical assistance for personnel in family violence programs; and operate the National Clearinghouse on Family Violence which should coordinate with the National Center on Child Abuse and Neglect.

Through the national clearinghouse, information regarding a variety of strategies must be collected and disseminated, including: law enforcement intervention, counselling with abusers; techniques to empower victims of abuse; family counselling; group therapy; restraining orders; and provisions of immediate emergency shelters.

The availability of assistance will encourage victims of family violence to end their silent suffering. The availability of funds, information and technical assistance will help us to document the magnitude of this crisis.

While I would prefer that the family violence title, was identical to the bill I introduced in the Senate in the spring of 1983, the conference agreement is a fair compromise of the many interests involved. A balance was struck between shelters and other treatment and prevention programs. Shelters perform a number of essential services—immediate emergency shelter, counseling, community education and referral services—and it is important that they be given the financial support they deserve.

The authorization for family violence programs is a truimph for the grassroots movement which has worked so hard to educate our society on the problem of family violence. This Congress has been reluctant to acknowledge the need for Federal support of these grassroots efforts. Meanwhile, countless women and their children have been turned away from already crowded shelters. Finally funds will be available to assist local organizations and States in meeting the need for services for the victims of family violence.

In Massachusetts, the State assists 26 shelters in combination with local and private contributions. Yet, the funds the State can provide are inadequate to meet the enormous need for these services. Every year thousands of victims and dependents are inadequately served or denied services due to lack of space. Federal legislation will support and encourage the Massachusetts' activities in family violence services and allow us to begin to identify the most effective Federal role for responding to this grave national crisis.

Mr. DODD. Mr. President, today the Senate acts to help national, State, and local agencies better to meet the truly national emergency posed by child abuse.

By adopting this conference report reauthorizing the Federal Child Abuse Prevention and Treatment Act, the Senate renews its commitment to combat child abuse and neglect across the country.

I commend Senators HATCH, CRANSTON, DENTON, NICKLES, KASSEBAUM, and STEVENS for joining me in hard-fought efforts to pass this reauthorization.

We were able to resolve the controversies which had previously blocked Senate consideration of this child abuse legislation for over a year by working closely with a wide range of organizations. At this point I would like to commend the broad spectrum of parent and disability rights, health, and pro-life organizations that worked so hard with Senate staff to arrive at a compromise measure concerning the care of disabled infants with life-threatening conditions. They include: The American Academy of Pediatrics, American Hospital Association, Catholic Health Association, National Association of Children's Hospitals and Related Institutions, American College of Obstetricians and Gynecologists, American Nurses Association, American College of Physicians, California Association of Children's Hospitals, Nurses Association of the American College of Obstetricians and Gynecologists, American Association on Mental Deficiency, Association for Retarded Citizens (U.S.), Spina-Bifida Association of America, Downs-Syndrome Congress, People First of Nebraska, the Association for Persons with Severe Handicaps [TASH], Disability Rights Center, Operational Real Rights, Christian Action Council, and the National Right to Life Committee.

I would also like to applaud the efforts of all those groups working on behalf of abused and neglected children and victims of domestic violence. They helped shape the provisions pertaining to child abuse and family violence in this conference report. Just as importantly, they worked very hard to ensure the child abuse reauthorization was never laid aside nor forgotten.

Given the virtual epidemic of child abuse now confronting this Nation, I urge my colleagues to join us in passing this conference report without delay.

CHILD ABUSE REAUTHORIZATION

First and foremost, the conference agreement before us restores essential funding for child abuse prevention and treatment programs. The authorization levels had been cut virtually in half during action on the Omnibus Reconciliation Act of 1981. I am particularly indebted to Senator HATCH, the distinguished chairman of the Labor and Human Resources Committee, for accepting my provision to restore this critical funding. Although 45 States reported an increase in child abuse cases last year, budget cuts forced over half of them to reduce

services for abused children. Thus, Senate action to restore funding for services to protect children comes none too soon. The conference agreement being considered today, provides not less than $11 million each year through fiscal year 1987 for research, demonstration, and services pertaining to child abuse prevention and treatment. Not less than $9 million each year, in turn, is to be allocated to States for programs to protect children.

This conference agreement further authorizes $5 million each year through fiscal year 1987 for sexual abuse prevention and treatment programs. The budget actions of 1981 abolished any separate funding or focus on services of child sexual abuse. Given that children who have been sexually abused face a greater risk of running away, falling prey to prostitution and pornographic activities, and becoming dependent on alcohol and drugs, this funding is returned none too soon.

To ensure that this restored funding for the prevention and treatment of child abuse is well invested, it is imperative that the National Center on Child Abuse and Neglect in HHS be adequately staffed. Likewise, it is important that ongoing programs with expertise in treating sexual abuse victims and offenders within the context of the family unit receive favorable consideration of requests for funding. And, annual reports on the incidence of child abuse and neglect are essential.

The conference agreement focuses new attention on definitions pertaining to child abuse. It specifies that children in institutions, like all other children, are to be protected against abuse and neglect. Likewise, it adds a new definition of sexual abuse, including all forms of sexual exploitation of children.

CARE OF DISABLED INFANTS WITH LIFE-THREATENING CONDITIONS

The conference report also focuses on the care of disabled infants with life-threatening conditions. It adopts the majority of provisions which passed the Senate on July 26, 1984. Thus, this legislation relies on existing State child protective service systems to respond to reports of medical neglect involving disabled infants with life-threatening conditions. It includes carefully crafted provisions spelling out the areas of concern regarding medical treatment for such infants. It relies on reasonable medical judgment as a determinative factor in the decisionmaking process. It provides for coordination and consultation with designated individuals within health-care facilities to enhance that decisionmaking process. It authorizes the setting up of programs to assist the families of such infants in finding necessary support services, including financial assistance.

At this point, I would like to express my deep gratitude to the Rossow family of Ellington, CT. Rachel and Carl, who have three children of their own, have also given 12 handicapped children a permanent home. Rachel and Carl entered the debate on this issue very early on, urging that the parents of handicapped infants be provided with support services. The Rossows never let anyone overlook the importance of assisting the families of handicapped youngsters and thus helped shape the provisions being adopted today. The Rossow family has served as an inspiration to us all.

SPECIAL NEEDS ADOPTION

Let me also thank the Rossows for their guidance on the special needs adoption provisions of this legislation. Convinced that many families would be willing to give special needs children permanent homes, they joined other families and organizations in asking the Senate to retain the focus on special needs adoption. I am pleased to report that this conference report does just that. I am equally pleased the conferees agreed to restore the funding for this program back to $5 million each year through fiscal year 1987 as I had proposed during Labor Committee deliberations.

FAMILY VIOLENCE PROVISIONS

Last but not least, this conference agreement focuses on family violence. Like child abuse, family violence is a problem which is reaching crisis proportions in this country. This report authorizes $63 million over the next 3 years for family violence programs; 85 percent of these funds will be earmarked for State demonstration grants. Not more than $2 million of the funds appropriated for family violence programs will be channeled into law enforcement training and technical assistance.

In summary, Mr. President, this conference agreement is an important step toward ensuring that abused younger Americans or those in danger of abuse will not be ignored or forgotten. To do any less for the 64 million Americans who are children would not only seriously jeopardize their future, but that of the Nation as well. I urge my colleagues to join me in passing the conference agreement.

Mr. CRANSTON. Mr. President, it is with great pleasure that I join my colleagues in urging the adoption of the conference report on H.R. 1904, the proposed Child Abuse Amendments of 1984.

INTRODUCTION

This conference report embodies the legislation that the Senate passed on July 26 after many, many months of negotiations. There are some who thought it never could be done. Certainly, bringing together so many different groups and individuals on several highly controversial issues was a monumental task. The legislation, in fact, encompasses four separate areas: child abuse, adoption reform, family violence, and the so-called Baby Doe issue. Resolution of the differences in the House and Senate-passed measures relating to each of these areas was a major task in itself.

Although I was not a member of the conference committee, as a principal Senate sponsor of two of the most controversial provisions—the family violence and the Baby Doe amendments—and as the original Senate author of two of the underlying statutes—the 1978 Child Abuse Amendments and the 1978 Adoption Reform Act—I followed deliberations of the conference committee very closely. I appreciate very much the courtesy of the Senate conferees in inviting staff assisting me to be fully involved in the staff discussions that lead to the conference agreement.

Mr. President, I believe that all the conferees, both on the part of the House and Senate, should be congratulated for the work they have accomplished. This is a good conference report; it blends the best features of the product of both bodies' hard work into a strong bill. It promises to provide for appropriate Federal leadership and coordination in areas of great delicacy and intricacy. It would strengthen existing laws relating to Federal assistance to State and local programs dealing with child abuse, and neglect, and adoption opportunities for children with special needs. It would establish a long overdue program of assistance, through the States, to local programs attempting to assist victims of family violence and their dependents and attempting to find ways to reduce the incidence of these problems. Finally, it would provide a thoughtful, balanced resolution to the difficult dilemma of delineating an appropriate Federal role regarding situations involving the withholding of medically indicated treatment from disabled infants with life-threatening conditions.

Mr. President, as I have indicated, the conference report deals with four distinct programs. Title I involves revisions to and the reauthorization of appropriations for the existing Child Abuse Prevention and Treatment Act in part A and provisions relating to disabled infants with life-threatening conditions in part B. Title II deals with revisions to and the reauthorization of appropriations for the 1978 Adoption Reform Act. Title III would establish a new program relating to family violence.

PROVISIONS OF THE CONFERENCE REPORT

I would like now to describe some of the major provisions of the conference

report relating to each of these important programs.

TITLE 1A—CHLD-ABUSE PREVENTION AND TREATMENT ACT PROVISIONS

Mr. President, title IA of the conference report contains provisions revising and extending the authorization of appropriations for the Child Abuse Prevention and Treatment Act.

As the author of the 1978 legislation which extended the authorization of appropriations for this program, I applaud the provisions of the conference report relating to the child abuse and neglect program. This program, established 10 years ago with the enactment of Public Law 93-247, provides for a focal point for Federal efforts to assist States and public and private agencies working in the field of child abuse and neglect.

BACKGROUND: THE 1974 ACT

Prior to passage of the 1974 legislation, funding and support for these activities was fragmented at the Federal level. The 1974 legislation dealt with this problem in several different ways. First, it provided for the establishment of a National Center on Child Abuse and Neglect within HHS—then HEW. This Center was given the responsibility for collecting and disseminating information relating to child abuse and neglect. Second, the act provided for a source of funding for basic research and demonstration projects. Third, the act established a State grant program to encourage States to develop, strengthen, and carry out State child-abuse prevention and treatment programs. Finally, the 1974 act provided for an advisory board to assist the Secretary of HHS in seeking to coordinate Federal programs related to child abuse and neglect.

The original advisory board consisted entirely of representatives of Federal agencies. The 1974 legislation also contained a provision, which I authored, to authorize funding under the demonstration project authority for self-help parent organizations. I am particularly proud to have been the original author of this provision since it helped provide support to Parents Anonymous, an enormously successful self-help program which began in California and has now spread throughout the United States. With the assistance of Federal funds, Parents Anonymous has grown enormously and has helped thousands and thousands of parents and families in overcoming their problems.

THE 1978 CHILD ABUSE AMENDMENTS

Mr. President, the 1978 Child Abuse and Neglect Amendments, enacted as title I of Public Law 96-266, represented the first major revision of the original act. I was privileged to be the Senate author of that legislation when serving as the chairman of the Subcommittee on Child and Human Development. The 1978 amendments strengthened the 1974 law in the following ways.

First, the composition of the Federal advisory board was expanded to include not less than three representatives of the general public with experience and expertise in the field of child abuse and neglect.

Second, the responsibilities of the National Center were expanded to require a greater emphasis on dissemination, as well as the analysis and compilation, of research and training materials. The National Center was also directed to prepare a comprehensive plan for maximum coordination of activities in the field of child abuse and neglect. The Secretary was also explicitly directed to make available to the National Center the necessary staff and resources for the Center to carry out its functions effectively. Mr. President, I might note that this provision was added in response to strong feelings that insufficient staff and resources had been made available to the Center during its first 4 years and that this understaffing had been harmful to carrying out the law.

Third, the 1978 amendments required the Secretary to begin publishing, in the Federal Register for public comment, proposed priorities for research activities. This amendment was designed to encourage the active participation of researchers and program personnel in the development of research activities carried out under the Child Abuse and Neglect Act.

Fourth, a new program relating to sexual abuse of children was established.

Fifth, the various allocations of funds between the State grant program and the discretionary grant program were revised. The discretionary grant program authorities were also amended to make it clear that service programs could be funded under that authority.

Mr. President, after enactment of the 1978 amendments, the child abuse program continued to expand with the additional funding for the sexual-abuse program in 1979 and implementation of the requirements of the 1978 amendments. Unfortunately, however, concerns have continued about inadequate staffing of the National Center and the difficulties such inadequate staffing have created in allowing the Center to fulfill its leadership role in the area of child abuse and neglect. Additionally, in 1981, the program came under serious attack by the Reagan administration. The first Reagan budget called for the abolishment of the child abuse program entirely. Fortunately, the program survived, in truncated fashion, the 1981 devastation of social programs. The 1984 amendments before us, which extend and revise the authorizations of appropriations, attest to the bipartisan support for this program and the bipartisan recognition in the Congress of the need for the Federal Government to continue to provide a leadership role in efforts to deal with the devastating problems of child abuse and neglect.

CONFERENCE REPORT PROVISIONS

Mr. President, as I have indicated, the 1984 amendments would extend the authorizations of appropriations for the basic child abuse and neglect prevention and treatment program and revise certain provisions of the underlying statute. I would like to highlight some of the major provisions of those revisions.

First, as I will discuss at length in a few moments, new provisions are added—as a new clause (K) in section 4(b)(1) of the act—to specify that certain procedures and/or programs must be established within State child-protective-services systems with respect to the reporting of medical neglect cases, including the withholding of medically indicated treatment from disabled infants with life-threatening conditions.

Second, the legislation would amend the act to clarify that employees of residential facilities and persons providing out-of-home care for children are included among the persons covered by the definition of child abuse and neglect. In 1979, at extensive hearings I held on the problems of abuse and neglect of children in residential facilities, it was generally agreed that the basic child-abuse laws should be interpreted to cover abuse by persons in institutional settings. This amendment explicitly includes such persons in the definition in the Federal act.

Third, the legislation would provide for the National Center to study and investigate the national incidence of child abuse and neglect and make findings about any relationship between nonpayment of child support and between various other factors and child abuse and neglect, and the extent to which incidents of child abuse and neglect are increasing in number and severity. The joint statement of managers, accompanying the conference report, discusses other factors which the National Center might also study and investigate in relation to child abuse and neglect.

Fourth, the National Center would be required, in consultation with the Advisory Board on Child Abuse and Neglect to report, on a biennial basis, to Congress on efforts to bring about coordination of the efforts of agencies and organizations dealing with child abuse and neglect. The statement of managers states that the conferees believe that it would be appropriate for a study to be made of the coordination of activities of child-protective-services agencies and law-enforcement agencies.

Fifth, the legislation would require that a proportionate share of assist-

ance provided under the act be available for activities related to the prevention of child abuse and neglect. This provision is aimed at emphasizing the need to devote a greater proportion of resources upon prevention activities. All too often, the demand for service and treatment programs overshadow the need for allocation of resources to programs focused upon prevention. In this connection, I am pleased to note that I have joined the distinguished Senator from Connecticut [Mr. DODD] as an original cosponsor of legislation he has introduced which would establish a Federal challenge grant program to encourage States to set up programs, through trust funds or appropriations, focused upon the prevention of child abuse and neglect. Although this new program, if enacted, would help stimulate greater allocation of funding to prevention activities, a similar emphasis is needed in the basic child-abuse program. The amendment in this conference report should help provide that emphasis.

Sixth, the conference agreement would provide that States which do not meet the requirements of the act for assistance under the State grant program may participate under a waiver provision. This new provision would allow a 1-year waiver if the Secretary makes a finding that the State is making a good-faith effort to comply with the requirements of the act, and a second 1-year period if the Secretary finds that the State is making substantial progress toward achieving such compliance. This new waiver authority has a special provision for States with legislatures that meet only biennially; it would allow in such States a 2-year waiver upon a finding of a good-faith effort to comply.

Mr. President, this provision is intended to encourage those handful of States which have not yet come into compliance with the requirements of the act to do so. It also would cover a State which currently meets the requirements and might need additional time to satisfy any new requirement under the 1984 amendments.

One of the most remarkable achievements of the Federal Child Abuse and Neglect Act has been its widespread acceptance by the States and the extent to which, over its 10-year existence, almost every State has upgraded its child abuse and neglect laws to satisfy the requirements for funding under the act. Only three States were eligible for funding during the first year—fiscal year 1974. However, by fiscal year 1975, the number had increased to 16, and in fiscal year 1976, 29 States received grants. In fiscal year 1982, 48 States or territories were awarded State grants.

Mr. President, this progress is, I believe, truly remarkable in view of the fact that the total amount awarded under the State grant program has never exceeded $6.7 million. The States, nevertheless, have significantly updated and upgraded their State child-abuse laws in order to qualify for the State grant program. This program is an excellent example of how a small amount of Federal money can be used as an incentive to assist States in moving forward to deal effectively with pressing social problems.

Seventh, the conference report contains a provision derived from the House-passed legislation which would explicitly provide that no funds appropriated under the act for any grant or contract may be used for any purpose other than that for which such funds were specifically authorized. This provision is designed to prevent HHS from attempting to fold child-abuse research and demonstration grant funds into a large, discretionary fund where it would be pooled with funds from other sources to support activities which may not be directly related to child abuse and neglect activities.

Mr. President, Congress established the child abuse and neglect program in order to provide a focus in the Federal Government for efforts to prevent and treat child abuse and because it was agreed that insufficient efforts were being made in this area. That continues to be the view of Congress, as this extension of the 1974 program exemplifies. When Congress authorizes and appropriates funds for such a purpose, they ought to be spent for those purposes. This is not the first administration which has attempted to divert the child abuse and neglect moneys into a general pool of research and demonstration moneys, but hopefully it will be the last.

Eighth, the bill would amend the definition of sexual abuse used in the act and revise the sexual-abuse treatment program authorized by the 1978 legislation. The new legislation would earmark $5 million dollars of the Child Abuse Act appropriations to be used for grants and contracts for programs dealing with sexual abuse. Although the legislation would eliminate some of the items in the list of activities specified in the 1978 amendments, the joint statement of the managers expressly notes that ongoing programs involving treatment of family units, treatment and related services to persons who have committed acts of sexual abuse against children, and the training of personnel to deal with sexual-abuse cases are fully eligible to compete for sexual-abuse grants or contracts in order to expand those activities. Each of the original five Centers dealing with sexual-abuse funding as a result of the 1978 legislation would be eligible to seek funding under the new authorization of appropriations for sexual-abuse programs.

Ninth, and finally, the conference report would extend the authorizations of appropriations for the programs authorized under the Child Abuse Prevention and Treatment Act. I am delighted to note that the conference report contains the higher authorization levels proposed in the Senate amendment. The legislation would authorize appropriations of $33.5 million for fiscal year 1984, $40 million for fiscal year 1985, $41.5 million for fiscal year 1986, and $43.1 million for fiscal year 1987. It also would provide that not less than $9 million of the funds appropriated each year will be made available for the State grant program, not less than $11 million for the basic research, demonstration, and information-dissemination program as well as the training, technical assistance, and information-dissemination program relating to the withholding of medically indicated treatment from disabled infants with life-threatening conditions, and $5 million each for grants or contracts for the identification, treatment, and prevention of sexual abuse, and for additional State grants related to the implementation of the new requirements relating to programs and/or procedures for responding to reports of medical neglect, including the withholding of medically indicated treatment from disabled infants with life-threatening conditions

The legislation also would place a limit of $1 million on the training, technical assistance, and information dissemination funds which can be allocated to programs related to the withholding of medically indicated treatment from disabled infants with life-threatening conditions, and provide that, if less than $30 million is appropriated in any fiscal year for the child-abuse program, then the funds will be allotted as indicated to the State grant and discretionary grant program, and the remaining amount will be divided equally between the sexual-abuse program and the program relating to disabled infants with life-threatening conditions.

Finally, Mr. President, the conference agreement modifies the provision in the Senate amendment which would require a report to Congress not later than October 1, 1987, on implementation of the entire bill. The conference agreement would limit the report to the implementation and effects of the provisions of part B of title I, which relates to treatment and services for disabled infants with life-threatening conditions. Additionally, the joint statement of the managers expresses the desire of the conferees that that report include a discussion of the results of an administrative review of the effects, if any, that the new regulations relating to disabled infants with life-threatening conditions

have had on the religious practice of a parent or guardian who has either withheld or desired to withhold medical treatment from his or her child in accordance with religious beliefs as well as the effects, if any, that the current regulations under the Child Abuse Act have had on religious practices in this regard, and include any recommendations that the Secretary may wish to make for administrative or legislative action as a result of such review. At the time of Senate action on this legislation, a provision in the committee-reported bill dealing with the religious exemption issue was deleted by an amendment offered by the distinguished chairman of the Labor and Human Resources Committee [Mr. HATCH] because of an inability to resolve some conflicting views on this issue. At that time, I indicated that I shared the view of the Senator from Utah that this issue needed to be examined carefully, particularly in light of the confusion which has surrounded its relationship to the child-abuse State grant program. The administration's review of these issues as part of the congressionally mandated report on implementation of the disabled infants provisions of this legislation should help provide for a thorough and careful analysis of this matter.

Mr. President, I am satisfied that the changes in the basic child-abuse statutes that would be made by the 1984 amendments will serve to further strengthen and refine the program to meet the changing and new problems which have been identified since the 1978 reauthorization legislation was enacted. The increased authorization levels are particularly good news and I want to pay special tribute to the Senator from Connecticut [Mr. DODD], the ranking Democratic member of the Family and Human Services Subcommittee, who fought for these higher authorization levels during the Labor and Human Resources Committee's consideration of this legislation and who continued throughout the conference negotiations to stand firm on the need to restore funding to this program which had been devastated by the 1981 reconciliation legislation. That act dealt this program, among many others, a major blow, reducing appropriations from $22.9 million in fiscal year 1981 to $16 million in fiscal year 1982.

Since that time, funding levels have remained frozen while the incidence of child abuse throughout the country has risen to epidemic levels, brought on in large part by the economic stresses and family dysfunction caused by the deep unemployment and economic upheavals in the first several years of the Reagan administration. Although the authorization levels contained in the conference report appear to be significant increases over the existing levels, they represent in large part merely restoration of funds lost in the past several years. Indeed, the authorization level set for fiscal year 1981 in the 1978 legislation was $34 million; today's legislation sets the authorization level for fiscal year 1984 at $33.5 million. Considering that that level must also accommodate the authority for the new programs relating to disabled infants with life-threatening conditions, it is clear that we have merely regained the ground lost in the past several years. The new authorization levels, if fully funded, will barely provide adequate funds to maintain the existing programs at current service levels as well as meet the new obligations contained in the 1984 legislation.

Nevertheless, I believe that enactment of these authorization levels, given the fact that the Reagan administration had proposed in 1981 to eliminate the child-abuse program entirely, will represent a significant achievement and a tribute to the recognition on both sides of the aisle that this is basically a sound program that deserves continued and increased support.

TITLE I.B—PROVISIONS RELATING TO DISABLED INFANTS WITH LIFE-THREATENING CONDITIONS

Mr. President, the conference agreement contains the Senate-passed provisions relating to disabled infants with life-threatening conditions with only a few minor modifications.

First, the conference agreement would make explicit, as did the House bill, that the new clause (K) requirements which the States must meet to be eligible for receipt of Federal child-abuse State grant funds be in place within 1 year after enactment. The clarification is intended to make clear that the States can establish these programs and/or projects prior to the deadline.

Second, the time periods for promulgation of implementing regulations for the new clause (K) State plan requirements and public comment were modified to shorten the period for publication by the Secretary from 90 days to 60 days and to specify a period for public comment on the proposed regulations of not less than 60 days. Similar changes were made with respect to publication of model guidelines relating to health-care facility committees.

Third, the provisions of the Senate amendment relating to the establishment and operation of national and regional information and resource clearinghouses for the purpose of providing the most current and complete information regarding medical treatment procedures and resources and community resources for the provision of services and treatment for disabled infants with life-threatening conditions have been modified to include provisions—in a parenthetical derived in part from certain provisions of the House bill—specifying that the clearinghouse functions will include compiling, maintaining, updating, and disseminating regional directories of community services and resources, including the names and phone numbers of State and local medical organizations, and seeking to coordinate the availability of appropriate regional educational resources for health-care personnel.

Fourth, the conference agreement contains a provision, derived from the House bill, to require the Secretary to have the capability, and to initiate action, to provide the designated training and technical assistance to States and others within 210 days after the date of enactment.

Finally, Mr. President, as I indicated earlier, a ceiling of $1 million has been placed on the amount of funds that the Secretary may allocate from the Child Abuse Act appropriations to carry out the training, technical assistance, and information clearinghouse activities—under new section 4(c)(2) of the act—relating to disabled infants with life-threatening conditions.

With the exception of those changes, the language relating to disabled infants with life-threatening conditions contained in the conference agreement is that which was adopted by the Senate on July 26 and was authoritatively described in the Joint Explanatory Statement of the principal sponsors which appeared in the CONGRESSIONAL RECORD on that date at S9309-9310. Of much significance, Mr. President, is that the conferees also expressly adopted as their own that joint explanatory statement, except to the extent modified by the changes I have just outlined, and it thus continues to provide the authoritative legislative history for these provisions of the conference agreement.

Mr. President, a few weeks ago, some misunderstandings arose in connection with the adoption of an amendment to the Labor-HHS appropriations bill on the House floor. In order to clarify some of those misunderstandings as they pertained to the scope and interpretation of the Senate amendment on this subject, which is now on its way to enactment, the six principal Senate sponsors of the provisions of the Senate amendment relating to disabled infants with life-threatening conditions joined in a letter to the distinguished chairman of the Subcommittee on Labor-HHS of the Senate Appropriations Committee. That letter appeared in the CONGRESSIONAL RECORD on September 21, 1984, at S11699 and so that no further such misunderstandings might occur, I ask that the text of the letter appear in the CONGRESSIONAL RECORD at the conclusion of my remarks.

(See exhibit 1.)

Mr. President, as I indicated at the time of Senate passage of the amend-

ment relating to disabled infants with life-threatening conditions, it was developed as the product of many, many long hours of negotiations with representatives from the disability community, the health-care community and the pro-life community. This process contended over 4 months and virtually nonstop for 4 days and nights at the end of June.

Mr. President, those negotiations were absolutely remarkable in every respect. These divergent groups met repeatedly with the Senate staff to attempt to hammer out an agreement. Some of the parties to the negotiations would have preferred no Federal legislation in this area; others would have preferred a stronger Federal role. Nevertheless, in an effort to develop a workable and appropriate amendment they all worked constructively together.

The compromise has the support of virtually all of the groups involved, including the American Association on Mental Deficiency, Association for Retarded Citizens, U.S. Spina-Bifida Association of America. Downs-Syndrome Congress, People First of Nebraska, American Coalition of Citizens With Disabilities, the Association for Persons with Severe Handicaps [TASH], Disability Rights Center, Operation Real Rights, Christian Action Council, National Right to Life Committee, American Hospital Association, Catholic Health Association, National Association of Children's Hospital & Related Institutions, American Academy of Pediatrics, American College of Obstetricians & Gynecologists, American Nurses Association, American College of Physicians, California Association of Children's Hospitals, and Nurses Association of the American College of Obstetricians & Gynecologists.

It represents an appropriate response to a very difficult problem. It relies upon the existing State child protective services system to respond to reports of medical neglect involving the withholding of medically indicated treatment from disabled infants with life-threatening conditions. It includes carefully worded provisions to delineate the areas of concern regarding medical treatment for these infants. It relies heavily upon reasonable medical judgment as a determinative factor in decisionmaking. It provides for coordination and consultation with designated individuals within health-care facilities to enhance the decisionmaking process involving these cases. It would authorize the establishment of training and technical assistance programs to improve the provision of services to these infants and programs to assist their families in finding the necessary support services, including financial assistance. It also includes a provision for additional funding so that the already sorely overtaxed child protective services agencies will receive some additional resources to carry out their responsibilities in an effective manner.

I am truly delighted that the House conferees were able to accept the Senate amendment in this area without any substantial changes. I very much hope that this measure, once enacted, will provide an approach to dealing with these difficult cases which will help improve the decisionmaking process without creating unnecessary Government intervention. Certainly all of the individuals and organizations which have worked hard on developing this approach share that view.

TITLE II—PROVISIONS RELATING TO THE ADOPTION REFORM ACT

Mr. President, I am particularly pleased with the provisions of the conference report relating to the Adoption Reform Act, title II of Public Law 95-266. The Adoption Reform Act was first enacted in 1978 and the 1984 amendments represent the first substantive revisions of that law. As the author of the Adoption Reform Act, I have been deeply concerned that the principle purposes of the 1978 legislation—to facilitate the adoptive placement of children with special needs—be retained in the 1984 amendments. I am delighted to report that these purposes have been continued.

The 1978 statute grew out of legislation I first introduced in the 93d Congress. It was intended to serve as a companion to the landmark legislation enacted in 1980, the Adoption Assistance and Child Welfare Act (Public Law 96-272)—of which I also was the principal Senate sponsor. Both laws were focused upon eliminating those barriers which have helped to keep thousands upon thousands of children with special needs in foster care.

I believe that the 1978 act has contributed significantly to breaking down those barriers. The 1978 legislation was enacted in April of that year and by October, we had succeeded in appropriating $5 million to carry out its provisions. Those funds supported the development of a national adoption information exchange system, which is now being used to help bring together children who would benefit from adoption and qualified prospective adoptive parents, along with development of a national adoption and foster care information data gathering and analysis system. Both of these systems, however, really only became operational in 1983, and their true potential for assisting in the adoptive placement of children with special needs has still not been fully tested. Hopefully, as these systems are operational and function alongside the adoption assistance program authorized by the Adoption Assistance and Child Welfare Act of 1980, we will begin to see some real progress made in reducing the number of special-needs children who are left to languish in foster care while potential adoptive families are available.

Additionally, Mr. President, the 1978 legislation authorized the establishment of information, training, and technical assistance programs to help facilitate the adoptive placement of special-needs children. A number of important programs to carry out these activities were funded under the fiscal year 1979-80 appropriations. In April of 1980, I chaired an oversight hearing before the Subcommittee on Child and Human Development to assess the progress that was being made under the 1978 legislation. At that time, a significant amount of activity was underway. In addition to laying the groundwork for establishment of the national adoption exchange and data gathering systems, funds had been awarded to adoptive-parent organizations at both the national and regional levels to help establish new adoptive-parent groups and strengthen existing ones, to develop training and recruitment materials, to support families interested in adoption of special-needs children, and to develop networks of assistance for adoptive parents. Ten regional adoption resource centers had also been established to help States and local adoption agencies carry out the purposes of the act and provide the necessary technical assistance.

Unfortunately, the 1981 Reagan administration budget priorities brought on massive problems for the fledgling adoption reform program. Like the adoption assistance program authorized by Public Law 96-272 and the child abuse program, the adoption reform act was originally slated for abolishment by the Reagan administration. However, it survived the first assault and has managed to continue albeit at substantially reduced funding levels of $4 million for fiscal years 1982-83.

Mr. President, the legislation before us today authorizes appropriations for the program through fiscal year 1987 at the same levels initially proposed in the 1978 legislation—$5 million for each fiscal year. Again, I am truly delighted to report that the other body has agreed to the higher authorization levels contained in the Senate amendment.

As I have indicated earlier, the conference agreement amendments retain the focus of the original 1978 legislation upon the adoptive placement of special-needs children.

Briefly, these amendments would make the following changes in the legislation. First, disabled infants with life-threatening conditions would be added to the general categories of special-needs children. The Secretary would be directed to review all model adoption legislation and procedures published pursuant to the original act

and propose such changes as are appropriate to facilitate adoption opportunities for such infants. Second, certain changes were made in the existing provisions of the law relating to the national adoption and foster care information data-gathering and analysis system to include consultation with the Bureau of the Census as well as appropriate State and local agencies. Third, the reference to assistance to parent groups was modified to refer to adoptive-family groups and minority groups.

This change is made with the understanding of the conferees, as expressed in the joint statement of managers, that parent groups, including single parent groups, are encompassed within the new terminology. Fourth, a new provision was added to encourage the involvement of corporations and small businesses in supporting adoption, including the establishing of adoption benefit programs for employees who adopt children. Fifth and finally, the Advisory Board on Child Abuse and Neglect would be authorized, at the request of the Secretary, to assist in the coordination of adoption-related activities within the Federal Government.

Mr. President, I am hopeful that with the reauthorization of appropriations for the Adoption Reform Act through fiscal year 1987 we will have the opportunity actually to achieve the goals and purposes laid out in the original 1978 legislation and begin moving decisively to help break down the barriers to the adoptive placement of the thousands of special-needs children who have been left in the past in foster care when many, many loving families are desirous of adopting them.

TITLE III—PROVISIONS RELATING TO FAMILY VIOLENCE PREVENTION AND SERVICES

Mr. President, of special significance for me is title III of the conference report, the proposed "Family Violence Prevention and Services Act." Efforts began in the Senate to enact family violence legislation in 1978 when I introduced S. 2759, which passed the Senate twice—as S. 2759 during the 95th Congress and as S. 1843 in 1980 during the 96th Congress. Unfortunately, it was not enacted into law. Mr. President, for too long, we have failed at the Federal level to deal with the devastating problem of family violence. With the enactment of this conference report, we will finally have completed a legislative initiative begun over 6 years ago when national attention first focused upon the need for Federal leadership and assistance in dealing with the problem of family violence.

Mr. President, the conference agreement significantly strengthens the provisions of the family violence amendment passed by the Senate in July. I believe that the final bill incorporates the most important aspects of both the House and Senate versions of this title and will provide the basis for the Federal Government to assist States and local public and private agencies in providing the necessary services to victims of family violence, as well as training and technical assistance for the personnel in agencies which deal with these problems and research into this area.

Briefly, the legislation would establish a demonstration program of grants to the States along with a technical assistance, research, and training program at the Federal level. The vast bulk of the funds appropriated—85 percent—would be distributed in demonstration grants to eligible States. The State would then distribute the funds to public and private nonprofit agencies. Not less than 60 percent of the funds allocated by the States would have to be distributed to programs providing immediate shelter and related assistance to victims of family violence and their dependents. Not more than 5 percent of funds received by a State could be used for State administrative expenses associated with operation of the program. Funds would be distributed among the eligible States on the basis of population. Grants could be made by the Secretary directly to Indian tribes or intertribal organizations, as those entities are defined in the Indian Self-Determination Act.

States would be required to give special emphasis in the distribution of the demonstration grants to community-based projects of demonstrated effectiveness carried out by nonprofit private organizations; to provide for procedures designed to involve knowledgeable individuals and interested organizations and to assure an equitable distribution of grants and grant funds within the State and between urban and rural areas; to provide assurances that procedures will be developed to protect the confidentiality of records pertaining to any individual receiving assistance and to protect the identity of any shelter facility; and to designate a State agency to be responsible for the administration of the program within the State.

The bill also would provide that no demonstration grants awarded by the States to any single entity may exceed $50,000 in any fiscal year and that any such entity may not receive more than $150,000 nor be awarded a demonstration grant for more than 3 years. It would further prohibit any income eligibility standard from being imposed upon any individual with respect to eligibility for services or assistance supported by funds appropriated to carry out this program and prohibit any of the funds from being used for direct payments to any victim of family violence or any dependents of victims.

Additionally, the bill would require any project receiving a demonstration grant from a State to provide a local share equal to 35 percent of the Federal grant in project's first project year, 55 percent in its second year, and 65 percent in its third year. The local share could be provided in cash or in kind, but at least 50 percent would have to be raised from private sources, and no Federal funds from any other authority could be used in computing the required local share. Finally, the Secretary would be required to assure that at least 60 percent of the funds distributed by the States go to programs providing immediate shelter and related assistance to victims of family violence and their dependents.

In addition to establishing the State demonstration program authority, the new family violence legislation would authorize the Secretary to undertake certain activities at the Federal level. The Secretary would be required to appoint an employee of the Department of HHS with experience in the field of family violence prevention to carry out the Federal program.

The Secretary would be required to coordinate all programs within HHS relating to family violence and seek to coordinate all other Federal programs and to provide for the conduct of research activities and training and technical assistance programs in this area.

The legislation would also require the operation of a national information and research clearinghouse on family violence which is specifically identified as including the abuse of elderly persons. The clearinghouse activities would be required to be coordinated with the clearinghouse activities carried on by the National Center on Child Abuse and Neglect. Likewise, all aspects of activity with respect to family violence that relate to abuse of elderly individuals would be coordinated with the National Institute on Aging and the Administration on Aging.

The Secretary would also be directed to establish a program for law enforcement training and technical assistance grants and contracts and to delegate responsibility for operation of this program to the Attorney General. Not in excess of $2 million would be transferred to the Attorney General each fiscal year for these purposes.

Finally, Mr, President, the authorization of appropriations for the new family violence program would be as follows: $11 million for fiscal year 1985 and $26 million for each of fiscal years 1986-87.

I believe that the conference agreement provides for a sound and reasonable basis for extending Federal assistance, through the States, to local public and private organizations providing much needed assistance in this area. The conference agreement re-

tains the focus upon providing assistance to programs providing emergency shelter for victims of family violence and their dependents while also providing for support for the type of training, technical assistance, and research activities that are much needed to enhance the efforts being made at the local level. The legislation provides a vital opportunity for the Federal Government to lead the way forward forging a partnership with public and private entities at the State and local level involved in dealing with the problem of family violence. I am personally very gratified that after so many years on congressional inaction and so much effort by so many concerned individuals we are finally going to enact this important legislation.

CONCLUSION

Mr. President, as I have indicated, I believe that this is an excellent piece of legislation and I urge adoption of the conference report.

In the development of such a product, there are many, many individuals and organizations who contributed enormously, both of their time and their knowledge.

In the Senate, the distinguished chairman of the Labor and Human Resources Committee, the Senator from Utah [Mr. HATCH], the ranking minority member of the committee, the Senator from Massachusetts [Mr. KENNEDY], the chairman of the Family and Human Services Subcommittee, the Senator from Alabama [Mr. DENTON], the ranking minority member of that subcommittee, the Senator from Connecticut [Mr. DODD], as well as the Senator from Oklahoma [Mr. NICKLES] who also serves on that subcommittee, all contributed significantly to the development of this legislation. in addition to the members of the Labor and Human Resources Committee, I would also note the contributions made by the Senator from Kansas [Mrs. KASSEBAUM] on the development of the provision relating to disabled infants with life-threatening conditions as well as those made by the Senator from Alaska [Mr. STEVENS] with respect to the family violence provision. Despite differences in basic philosophical approaches among the various Senators who were principal sponsors of the Senate legislation, we were able to work in a remarkably nonpartisan and harmonious fashion on these issues. The result, I believe, has been a highly responsible piece of legislation that strikes an appropriate balance in many difficult areas.

The House Members who participated in the conference and worked on the legislation in that body also deserve special tribute for their efforts as do the House staff members. Gary Caruso and Roseanne Tulley of Representative MURPHY's staff, Mary Jane Fiske of Representative ERLENBORN's staff and Ann Rosewater of Representative MILLER's staff deserve particular recognition for their work on the conference agreement. The contributions of staff representing other members of the House are also reflected in the final product.

Many organizations lent their support to this legislation. Those involved in the Baby Doe compromise devoted many hours to this effort and they each deserve special thanks. In particular, I would like to extend my appreciation to Jan Carroll of the National Right to Life Committee and Doug Badger of the Christian Action Council for their dedicated work in representing the concerns of the right-to-life organizations and to Paul Marchand of the Association of Retarded Citizens and Martin Gerry who often served as spokespersons during the negotiations for the interests of the disability community. From the medical community, Alex Calcagno, Ann Weisman, and Stephan Lawton representing the American Academy of Pediatrics, Patricia Goldman from the American Hospital Association, Jack Bresch from the Catholic Hospital Association, Tom Nickels from the American Nurses Association, Denise Shysp and Robert Sweeney from the National Association of Children's Hospitals, Lynne DesJardins and Bonnie Conners from the American College of Obstetrics and Gynecology, Michael Romansky and Bill Bailey from the California Association of Children's Hospitals, Deborah Prout from the American College of Physicians, and Carol Barr from the Nursing Association of the American College of Obstetrics and Gynecology each participated in the lengthy meetings and negotiations preceding the introduction of the Senate amendment on June 29. These medical community representatives deserve special recognition for their willingness to stay at the negotiating table and help fashion a responsible compromise when other medical groups departed. Without the benefit of the contributions of these supporters, a quite different and less acceptable approach would very likely have been adopted by the Congress.

Finally, Mr. President, I want to pay tribute to the many Senate staff members who put in countless hours in developing and completing action on this legislation. On the majority side, Nancy Taylor, Deborah Turner, and Steve Grossman of Senator HATCH's staff, David Yensen of Senator DENTON's staff, Laura Clay of Senator NICKLES' staff, Susan Hatton of Senator KASSEBAUM's staff, and Susan Arnold of Senator STEVEN's staff; on the minority side, Marsha Renwanz of Senator DODD's staff, and Deborah Curtis and Andrea Young of Senator KENNEDY's staff all worked tirelessly on this legislation. Finally, Susanne Martinez and Jon Steinberg of my own staff, both of whom previously had worked for me on the Labor and Human Resources Committee, were deeply involved in every aspect of the development of this legislation and contributed importantly to the final product.

Mr. President, I urge adoption of the conference report.

COMMITTEE ON LABOR AND
HUMAN RESOURCES,
Washington, DC, August 20, 1984.

Hon. LOWELL WEICKER,
Chairman, Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR LOWELL: We are writing with regard to the House version of the FY 1985 Labor, Health and Human Services, and Education Appropriations bill (H.R. 6028) and an amendment which added $1,095,000 to the appropriation for the activities of the HHS Office for Civil Rights (OCR) in order to restore the FY 1984 funding level.

The purpose of the amendment, according to its sponsor, was to allow that office to "pursue 'Baby Doe' complaints with sufficient resources." The discussion in the August 1, 1984, Congressional Record (H 8151), with regard to OCR enforcement activities, made reference to a House bill "setting up a procedure under which the States and the Federal Government will investigate complaints of mistreatment or nontreatment" and further stated that the Senate had passed a "similar bill." While we are unable to offer an authoritative interpretation of the House legislation, as the principal sponsors of the Senate measure we can state authoritatively that the House sponsor's interpretation of the Senate provision is incorrect.

The Senate, on July 26, 1984, adopted by a vote of 89–0, the provisions of S. 1003 as amended, the "Child Abuse Prevention and Treatment and Adoption Reform Act." S. 1003 was designed to address situations of withholding of medical treatment to disabled infants by relying upon existing *state* child protective services systems. Throughout the statutory language and accompaning explanatory material, we refer to authority under state law as the mechanism for pursuing legal remedies under our amendment. This legislation does not itself authorize direct federal involvement in individual cases.

An important element of this compromise was that S. 1003 is neutral with regard to the on-going controversy over the applicability of a federal remedy to Baby Doe situations under section 504 of the Rehabilitation Act of 1973. This policy of neutrality is expressly set forth in section 205(a) of the Senate-passed Baby Doe amendment as follows:

No provision of the Act or any amendment made by this Act is intended to affect any right or protection under section 504 of the Rehabilitation Act of 1973.

Lowell, our principal concern is that the House appropriations amendment, by linking OCR funds to "Baby Doe" complaints and to H.R. 1904 and S. 1003, violates the policy of neutrality we intend for that legislation and jeopardizes the broad coalition supporting the Baby Doe amendment.

As you know, S. 2836, the Senate Labor-HHS-Education Appropriations Act, as reported, does not include the additional OCR add-on. We are writing to ask that, if you recede to the House OCR add-on in confer-

ence, the Statement of Managers provide expressly that the add-on is for a purpose other than that of the House amendment. We would also ask that, if you do not recede, you not agree to include any Statement of Managers language that would deal with Baby Doe questions.

In order to clarify Congressional intent, we would like to enter into a colloquy with you when the Senate takes up the Appropriations Act. The purpose of the colloquy would generally be to secure your agreement to ensure that any legislative history underlying action on HHS appropriations would be silent as to the questions surrounding the authority of HHS to pursue Baby Doe complaints under section 504 of the Rehabilitation Act of 1973. We know that you, as Chairman of the Subcommittee on the Handicapped of the Labor and Human Resources Committee as well as Chairman of the Appropriations Subcommittee on Labor/Health and Human Services/Education, understand very well the great delicacy of this matter and the legal disputes surrounding it.

Senate adoption of the Baby Doe compromise was possible only because it was endorsed by a broad coalition of disability, pro-life, and health groups. Enclosed is a copy of an August 6, 1984, letter to Chairman Hatch, from six of the disablity, pro-life groups that endorsed the compromise and also were listed in the House debate as endorsing the House OCR add-on amendment, expressing support for our efforts to make the clarification described in this letter.

We wish to make clear that we are writing this letter as partners in the authorship of the Senate Baby Doe measure. Although individually we may differ on the merits of the policy underlying the House amendment, we are united in the positions expressed in this letter. We look forward to working together with you to develop an appropriate colloquy.

Sincerely,

ORRIN G. HATCH,
Chairman;
JEREMIAH DENTON,
Chairman, Subcommitte on Family and Human Services;
DON NICKLES,
NANCY KASSEBAUM,
CHRISTOPHER DODD,
Ranking Minority Member;
Subcommittee on Family and Human Services;
ALAN CRANSTON.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. STEVENS. I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

USE OF CERTAIN FUNDS TO SUPPORT THE NATIONAL MARITIME MUSEUM IN SAN FRANCISCO, CA

The Senate proceeded to consider the bill (S. 1647) to authorize the use of funds from rental of floating drydock and other marine equipment to support the National Maritime Museum in San Francisco, CA, which has been reported from the Committee on Energy and Natural Resources with an amendment:

On page 2, line 1, after "460bb-3(f)," insert "as amended"

So as to make the bill read:

S. 1647

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (f) of section 4 of the Act entitled "An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes", approved October 27, 1972 (Public Law 92-589; 16 U.S.C. 460bb-3(f)), as amended, is amended to read as follows:

"(f) Notwithstanding any provisions of law, in the administration of those parcels known as Haslett Warehouse, Cliff House Properties, and Louis' Restaurant and the AFDL-38 Drydock vessel and other heavy marine equipment located in San Francisco, California, the Secretary shall credit any proceeds from the rental of space in such parcels, and rental of such vessel and other heavy marine equipment, to the appropriation for the maintenance, repair, and related expenses of the vessels which are part of the National Maritime Museum in San Francisco, California. Surplus funds, if any, shall be deposited in the Treasury of the United States.".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS TO CERTAIN SERVICE CONTRACT FOR THE FRENCHMAN UNIT OF THE PICK-SLOAN MISSOURI RIVER BASIN PROGRAM

The Senate proceeded to consider the bill (H.R. 3130) to authorize amendments to a certain repayment and water service contract for the Frenchman Unit of the Pick-Sloan Missouri River Basin Program.

Mr. ZORINSKY. Mr. President, I am pleased today to address my colleagues about a piece of legislation, H.R. 3130, which is of great importance to many of my constituents in Nebraska.

The purpose of H.R. 3130 is to repair an otherwise inequitable situation with regard to a repayment and water-service contract between the Federal Government, represented by the Secretary of the Interior and the Bureau of Reclamation—the Bureau—and the H&RW Irrigation District—the district—in Nebraska.

In 1956, the district and the Bureau entered into a contract to repair and expand facilities at the Frenchman unit of the Pick-Sloan Missouri Basin Program. Among other things, the contract provided for a district repayment schedule based on an assumed delivery of 17,500 acre-feet of water per year. Under this contract, the district has made yearly payments to the Federal Government of $37,487. The district has made payments totaling nearly $300,000, with an unpaid obligation of $1.2 million remaining.

Due to unforeseen local circumstances causing some dramatic surface-supply depletion, however, the amount of water draining into the Frenchman unit has been severely reduced. Best estimates indicate that inflow to the unit dropped to 6,000 acre-feet for the past 3 years, and that inflows will drop to zero by 1992. The result of this unfortunate situation is that the reduced water supply into the system makes it impossible for the district to meet the current repayment schedule.

Mr. President, one of the great difficulties in this matter is that the district seems to have no recourse to restore its water supply. In a letter dated March 2, 1984, Deputy Assistant Secretary of the Interior Harold W. Furman II succinctly stated the plight of the district to the Honorable MORRIS K. UDALL, chairman of the House Committee on Interior and Insular Affairs:

> We believe that H.R. 3130 would provide an equitable solution to the District's repayment problems caused by the groundwater depletion. . . . The situation in which the District finds itself is unique. Although their water supply has been irreversibly depleted, they appear to have no remedy existing in state law.

The Secretary added that "no viable plan has been identified to augment the District's water supply."

In short, the District finds itself caught between a rock and a hard place, or in this case, a dry place and the U.S. Treasury. It is currently saddled with repayment obligations based on outdated 1956 figures projecting inflows far greater than it is actually receiving and ever will receive. Under these circumstances, the District has no way of generating the income necessary to maintain the repayment schedule outlined in the 1956 contract.

H.R. 3130 will authorize the Secretary of the Interior to execute an amendatory contract with the District to take into account the reduced inflows, and consequently, the District's ability to repay. The new contract will rescind unpaid construction charges up to September 30, 1980, as well as any interest or penalty charges thereon, and implement charges commensurate with the District's ability to repay for water delivered.

Mr. President, I don't see any reasonable recourse other than to pass this bill and allow the amendatory contract to replace the 1956 agreement. In the best of circumstances, we would not need to reduce the pay back from the Frenchman unit, a schedule which the District would otherwise be willing and able to make. But the re-

ality is that the Frenchman inflows are low, getting lower, and will eventually end altogether. There would be little point to continuing to assess charges under the current contract. I am reminded of one of the great guiding principles in law: "you can't squeeze blood out of a rock." Well, I think it fitting that we alter that somewhat and say that "you can't squeeze water out of a dry creekbed"—and we shouldn't try.

Even with the amendatory contract contemplated by H.R. 3130, the district patrons will not be in an entirely enviable position. After all is said and done, the district patrons will not be receiving the water benefits that they anticipated, which was the point in building the unit. The bill will, however, restore the relationship between water received and water paid for. This appears to be all we may hope for at this point.

Mr. President, this bill enjoys support from several quarters. As you may imagine, the district and the State of Nebraska are fully in favor of passage, and the Department of the Interior has recommended enactment of H.R. 3130. The House passed the bill by voice vote on June 18 of this year, and the Senate Committee on Energy and Natural Resources ordered it reported on September 12.

My good friend and colleague, Senator EXON, has also been very active in his support of H.R. 3130. I have enjoyed working with the distinguished and hard-working junior Senator from Nebraska in our support of the Senate version of this bill, S. 1428, and in making the case for the H&RW Irrigation District with our Senate colleagues. I would like to thank and congratulate my friend, Senator EXON, for his dedication in seeing this matter resolved in a fair and timely fashion.

Mr. President, I would be remiss if I did not take some time to thank another of our number, the junior Senator from Oklahoma. Senator NICKLES, as chairman of the Water and Power Subcommittee, has demonstrated an amazing ability for taking legislation under his jurisdiction, working with it in a careful and judicious manner, and moving it through the Senate. My friend from Oklahoma is someone we may all count on for a job well done. As I look at the long list of important matters remaining before the 98th Congress, and I assess the chances for the Senate completing its work in something resembling a timely fashion, I think we may all look to the fine example of Senator NICKLES and the way in which he is able to take charge in a decisive manner.

I greatly appreciate the special interest and cooperation that Senator NICKLES has given with regard to H.R. 3130, and I am happy to note this already fine record of service since his relatively recent election to the Senate. And of course, it is always a pleasure to work with the chairman of the Energy and Natural Resources Committee, my good friend Senator MCCLURE, and his distinguished colleagues on the committee.

Mr. President, I appreciate this opportunity to show my support for H.R. 3130, and I urge its immediate passage by the Senate.

Mr. EXON. Mr. President, I am pleased the Senate is about to pass legislation to authorize the Secretary of the Interior to amend the current repayment contract with the Frenchman Unit in Nebraska which is a part of the Pick-Sloan Missouri River Basin Program.

Intensive ground water development upstream from the Enders Reservoir on Frenchman Creek in southwest Nebraska has resulted in depletion of the inflows for storage and has decreased the water supply available for irrigation of the farmland in the Hitchcock and Red Willow Irrigation District. The District is now receiving about 40 percent of its full water supply, and the Bureau of Reclamation estimates that within 10 years, under current ground water development conditions, inflows will be essentially nonexistent.

This unforeseen and irrevocable depletion of the water supply from the Enders Reservoir has affected the irrigation district's ability to meet its repayment obligations under its existing contract with the United States. The Bureau has reached agreement with the District officials on a proposed amendatory contract which will convert the District's repayment contract to a water service contract with charges for water actually delivered based upon the district's full payment capacity.

Mr. President, this legislation approves the contract to base payments on the available water. The District's benefits have declined and will continue to decline. Amending the existing fixed obligation to base the repayment obligation on the actual water delivered to the district will provide a fair resolution to the district's problem.

To date, no viable plan has been identified to augment the district's water supply. The Bureau of Reclamation's Regional Director has negotiated an amended contract which is designed to minimize the loss of certain reimbursable costs without imposing an undue financial burden on the District water users. The Bureau has indicated that the amended contract, which requires the approval of the Congress, is the best available long-term solution for the district and the United States. Should the water supply problem be resolved, a new contract will be negotiated which will adequately protect the Government's investment in this project.

Mr. President, I thank the Senate for its most expeditious consideration of this measure which provides an equitable solution to this unforseen problem. I am especially grateful to my colleague from Oklahoma [Mr. NICKLES] and the most able Chairman of the Senate Energy Committee [Mr. MCCLURE] for their cooperation and assistance with this most important bill.

The bill (H.R. 3130), was ordered to a third reading, read the third time, and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL HOUSING WEEK

The joint resolution (H.J. Res. 606) to designate the week of October 14, 1984, through October 21, 1984, as "National Housing Week," was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL PLACED ON CALENDAR—H.R. 5223

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition and Forestry be discharged from further consideration of H.R. 5223, a bill to exempt restaurant central kitchens from Federal inspection requirements, and it be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL PLACED ON CALENDAR—H.R. 5358

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be discharged from further consideration of H.R. 5358, an act to enable honey producers and handlers to finance a nationally coordinated research, promotion, and consumer information program designed to expand their markets for honey, and that the bill be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE HELD AT DESK—H.R. 2300

Mr. STEVENS. Mr. President, I ask unanimous consent that once the Senate receives from the House H.R. 2300, Civil Service Spouse Retirement Equity Act of 1983, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE HELD AT DESK—H.R. 5646

Mr. STEVENS. Mr. President, I ask unanimous consent that once the Senate receives from the House H.R. 5646, a bill to repeal the expiration of authority for awards for cost savings disclosures, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL HELD AT DESK—H.R. 6225

Mr. STEVENS. Mr. President, I ask unanimous consent that once the Senate receives from the House H.R. 6225, a bill to prevent disruption of the structure and functioning of the Government by ratifying all reorganization plans as a matter of law, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

TECHNICAL CORRECTIONS IN ENROLLMENT OF H.R. 1904

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 364, making technical corrections in the conference report to accompany H.R. 1904, being held at the desk.

The concurrent resolution will be stated.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 364) to correct technical errors in the enrollment of H.R. 1904.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE ON COMMERCE DISCHARGED FROM FURTHER CONSIDERATION OF H.R. 5818

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Commerce be discharged from further consideration of H.R. 5818, the toy safety bill, and that it be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET ACT WAIVER

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1247, Senate Resolution 446, the budget waiver to accompany H.R. 5221.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 446) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5221.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to, as follows:

S. RES. 446

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 5221, an Act to extend through September 30, 1988, the period during which amendments to the United States Grain Standards Act contained in section 155 of the Omnibus Budget Reconciliation Act of 1981 remain effective, and for other purposes.

The waiver of section 402(a) of the Congressional Budget Act of 1974 is necessary to permit Senate consideration of H.R. 5221, since the bill was not reported on or before May 25, 1984, as required under section 402(a) of the Congressional Budget Act of 1974. H.R. 5221, among other things, authorizes the enactment of new budget authority for fiscal year 1985 to carry out the United States Grain Standards Act.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENSION OF AMENDMENTS TO THE GRAIN STANDARDS ACT

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1198, H.R. 5221.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5221) to extend through September 30, 1988, the period during which amendments to the United States Grain Standards Act contained in section 115 of the Omnibus Budget Reconciliation Act of 1981 remain effective, and for other purposes.

Mr. HELMS. Mr. President, H.R. 5221 extends the authority of the Federal Grain Inspection Service to collect user fees to cover the costs of the Service associated with the official inspection and weighing of grain, including administrative and supervisory costs.

Mr. President, the mission of the Federal Grain Inspection Service [FGIS] is to establish official United States type and quality standards for grain and to promote the uniform application of these standards by official inspection personnel, to provide an official inspection system for grain, and to regulate the weighing and the certification of the weight of grain shipped in interstate or foreign commerce, as authorized by the U.S. Grain Standards Act. Thus FGIS aids in the orderly and efficient marketing and distribution of U.S. grain from the Nation's farms to domestic and foreign buyers.

In 1981, Congress required the collection of user fees to pay for the supervision and administration of the official grain inspection and weighing program which has previously funded through appropriations. If we fail to enact H.R. 5221, costs incurred by the Federal Grain Inspection Service that are covered by user fees, would have to once again be funded by appropriations.

Mr. President, no appropriations have been provided for fiscal year 1985 to cover such expenses, and the 1985 fiscal year begins on October 1, 1984. It is imperative that we pass this legislation so that we do not disrupt the marketing and distribution of U.S. grain. Also, passage of the bill will ensure annually savings of taxpayers' dollars totaling over $13 million a year for each of the next 4 years.

Mr. President, there are several other changes in current law incorporated in H.R. 5221. The measure increases the cap on administrative and supervisory cost from 35 to 40 percent of total inspection costs. Retention of the cap at 40 percent will promote effective management of the grain inspection and weighing programs and still provide an effective limit on agency growth.

Another provision which is extended by the bill is the requirement for the establishment of an advisory committee constituted of experts in the industry to advise the Administrator of FGIS on the implementation of the United States Standards Act. I believe that the beneficial work of the Advisory Committee should be continued.

Under current practice, the FGIS revolving fund, consisting of user fees paid for services rendered to the grain industry, has been maintained in a U.S. Treasury account until needed by FGIS to pay its operating expenses. H.R. 5221 would allow the Secretary of Agriculture to invest user fee moneys collected from the industry in insured or fully collateralized, interest-bearing accounts or in U.S. Government debt instruments. This change would result in grain industry paid user fees being treated in a manner similar to user fees collected by the Government in connection with warehouse examination programs, as well as cotton classing and various other inspection or grading programs for agricultural commodities such as

meat, poultry, eggs, fruits, and vegetables under the Agricultural Marketing Act of 1946. This change would put the grain inspection and weighing program on a basis comparable with these other programs, provide additional revenues for FGIS operations, and reduce the need for the agency to increase user fee charges or request additional appropriations.

Finally, the bill prohibits the establishment of a new class of wheat, designated "Red Wheat," as was proposed by the Administrator of the Federal Grain Inspection Service in volume 49 of the Federal Register, pages 1730-35, on January 13, 1984. The concern is that establishing this new class of wheat could result in some types of Hard Red Winter Wheat being discounted to a lower price. Representatives of the grain industry have stated that establishment of an eighth wheat class would disrupt the wheat market. I would like to note that the Department of Agriculture indicated in a notice published in the Federal Register on May 16, 1984, that the Department had decided not to establish a new "Red Wheat" class as previously proposed.

Mr. President, implementation of user fees, and input by the Advisory Committee, have resulted in increased efficiency of program administration as well as a more cost-effective delivery of program services. Passage of H.R. 5221 will maintain efficiency in the national grain inspection and weighing system and maintain the quality of grain exported from the United States. I urge its passage.

Mr. HUDDLESTON. Mr. President, H.R. 5221 would extend, for 4 years, the current grain inspection and weighing user fee system.

The current fee system was implemented as a result of changes in the law—effective for the 1982 through 1984 fiscal years—made by the Omnibus Budget Reconciliation Act of 1981. Without action by Congress, the authority for the current system provided in the 1981 legislation will end this Sunday, September 30.

The most important change in the fee system made in 1981 was to require the Federal Grain Inspection Service to collect reasonable fees to cover the Service's costs incurred in supervising grain inspection and weighing. These fees, together with the fees charged by the service for inspection and weighing performed by the Service itself, have enabled the Service to cover the bulk of its costs with funds paid by the users of grain inspection and weighing services.

The administration supports an extension of the current user fee system and has requested that enabling legislation be enacted.

The bill would also increase—from 35 percent to 40 percent—the portion of Federal Grain Inspection Service expenditures that can be devoted to administration and supervision, while extending the percentage limitation for 4 years. The increase in the limitation has been made necessary by the substantial reduction in grain exports in recent years. The supervision program overseeing the national grain inspection and weighing system has substantial fixed costs that should be maintained, even though Federal inspections and weighing activities are down temporarily. The grain trade has indicated a willingness to accept this increase.

The bill would extend—for 4 years—the requirement for the establishment of an advisory committee of industry experts to advise the Government on the implementation of the U.S. Grain Standards Act. The advisory committee has served the Federal grain inspection and weighing program well, and the beneficial work it does should be continued.

The bill would authorize the Secretary of Agriculture to invest moneys of the grain inspection and weighing user-fee fund in interest-bearing accounts. This will result in grain industry-paid user fees being treated in a manner similar to user fees collected in connection with other Federal inspection or grading programs for agricultural commodities. It will also provide additional revenues for Federal Grain Inspection Service operations and reduce the need for the agency to increase user charges or request additional appropriations.

Mr. President, the efficient operation of the national grain inspection and weighing system is important to U.S. farmers. This system is essential to the orderly and timely marketing of grain, and provides assurances to our foreign customers as to the quality and quantity of grain they purchase.

I urge the Senate to act expeditiously on this bill to avoid any possible disruption of the Federal Grain Inspection Service's supervisory operations or the smooth functioning of the national inspection and weighing system.

The PRESIDING OFFICER. The question is on the third reading of the bill.

The bill was read the third time and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONSIDERATION OF CERTAIN ITEMS ON THE CALENDAR

Mr. STEVENS. Mr. President, I call the attention of the Democratic leader to Calendar No. 1221 and Calendar No. 1250.

Mr. BYRD. There is no objection.

Mr. STEVENS. 1251.

Mr. BYRD. No objection.

Mr. STEVENS. 1252.

Mr. BYRD. No objection.

Mr. STEVENS. 1255.

Mr. BYRD. There is no objection.

Mr. STEVENS. 1256.

Mr. BYRD. There is no objection.

Mr. STEVENS. 1257.

Mr. BYRD. There is no objection.

CENTRAL INTELLIGENCE AGENCY INFORMATION ACT

The Senate proceeded to consider the bill (H.R. 5164) to amend the National Security Act of 1947 to regulate public disclosure of information held by the Central Intelligence Agency, and for other purposes.

Mr. GOLDWATER. Mr. President, I rise in strong support of H.R. 5164, the Central Intelligence Agency Information Act. The purpose of this legislation is to amend the National Security Act of 1947 in order to relieve the Central Intelligence Agency of the unproductive burden of searching and reviewing certain operational files under the Freedom of Information Act. This relief will enable the CIA to become more efficient so that requests under the provisions of the Freedom of Information Act may be answered more quickly.

BACKGROUND OF LEGISLATION

On June 21 and June 28, 1983, the Senate Select Committee on Intelligence held open hearings on S. 1324—the counterpart legislation to H.R. 5164. The Central Intelligence Agency, American Bar Association, American Civil Liberties Union, Association of Former Intelligence Officers, newspaper publishers, historians and journalists were all there to provide their comments on this bill. We listened to them carefully then we worked hard to combine all their special concerns into one piece of legislation.

The work in our committee included extensive staff and member consultations with CIA representatives. The end result was that even those Senators who expressed the greatest concern about the risk of excessive secrecy signed a joint statement supporting S. 1324, as it was amended in the course of committee debate. The statement, signed by Senators DURENBERGER, HUDDLESTON, INOUYE, and LEAHY, said in part:

> We are satisfied that S. 1324 will serve not just the CIA's interest in preserving secrecy about sensitive intelligence operations, but the public's right to information about their Government. For these reasons we urge favorable Senate action on the bill.

Following our open hearings on this subject S. 1324 was reported unanimously from the Senate Intelligence Committee. Every single Senator on the committee voted in favor of this legislation. Subsequently, on Novem-

ber 17, 1983, this bill was passed unanimously by voice vote by the full Senate.

SECURITY CONCERNS

Mr. President, presently the Freedom of Information Act mandates that when someone requests information from the CIA on a certain subject, all CIA files containing such information have to be searched. Obviously, most responsive information in operatinal files is properly classified. But that does not end the Agency's job. An experienced person must go through stacks and stacks of these papers—sometimes they are many feet tall—to justify why almost every single sentence shoud not be released. If this is not done properly, a court could order the information released.

However, in the past, very little information has been released from CIA operational files, which are used to store information concerning the sources and methods used to collect intelligence. Even when information is released, it is fragmented and difficult to understand.

Also, there is always the risk there will be a mistake in disclosure or that some court could order the release of information which might unintentionally reveal a source's identity or liason relationship. This is why these most sensitive operational files—and only such files—would be exempt from search and review under the provisions of this bill.

GREATER EFFICIENCY IN PROCESSING

In return for this exemption, requesters under the Freedom of Information Act are going to get something as well. They are expected to get better service.

I have talked with officials of the Central Intelligence Agency and they have agreed not to reduce the budgetary and personnel allocations for Freedom of Information Act processing for 2 years immediately following passage of this bill. This means that, to the extent that resources are freed up as a result of this legislation, the Agency would utilize those sources to reduce the backlog of FOIA requests.

HOUSE ACTION ON H.R. 5164

Mr. President, on September 19, 1984, the House of Representatives, by a vote of 369 to 36, passed H.R. 5164, which has the same basic features as S. 1324. I think the overwhelming bipartisan support for this legislation demonstrates that this is a bill whose time has come. H.R. 5164 will effectively end a debilitating waste of resources without significantly diminishing the proper public release of information about the CIA. It will enable the CIA to respond more quickly and more efficiently to Freedom of Information Act requests. This legislation will also positively contribute to security in the conduct of intelligence activities.

Finally, a bipartisan House amendment to the legislation makes clear that the Privacy Act is not a nondisclosure statute displacing the disclosure provisions of the Freedom of Information Act. This provision restores the relationship between the Freedom of Information Act and the Privacy Act which was intended by the Congress when it considered both statutes in 1974.

During House debate on this legislation in March of this year, Representative WHITEHURST of Virginia, stated that "We have forged a bipartisan consensus on legislation to modify the application of the Freedom of Information Act to the Central Intelligence Agency." Representative WHITEHURST went on to say:

The bill is carefully crafted to achieve three purposes.

First, the bill will relieve the CIA from an unproductive FOIA requirement to search and review certain specifically defined CIA operational files consisting of records which, after line-by-line security review, almost invariably prove not to be releasable under the FOIA.

Second, the bill will provide more effective security for the identities and operational activies abroad of individuals who risk their lives and livelihoods to assist the United States by cooperating with the Central Intelligence Agency.

Third, the bill will improve the ability of the CIA to respond to FOIA requests from the public in a timely and efficient manner, while preserving undimished the amount of information releasable to the public under the FOIA.

ADMINISTRATION POSITION

The Director of Central Intelligence has told us that H.R. 5164, as passed by the House of Representatives, will make an important contribution to the safeguarding of intelligence sources and methods. He also has said it will improve CIA responsiveness to Freedom of Information Act requests. The administration supports Senate acceptance of H.R. 5164 as passed by the House, and this is also the position of the American Civil Liberties Union.

I urge my colleagues to join me, Vice Chairman MOYNIHAN, and other members of the Senate Intelligence Committee in voting in favor of this legislation without amendment. I hope that we do not lose this opportunity to enact an important piece of legislation which will simultaneously enhance intelligence effectiveness and further the aims of the Freedom of Information Act.

In closing, I want to thank Senator THURMOND, the distinguished chairman of the Judiciary Committee, for his support in cointroducing this legislation last year. As well, I want to thank Senators MOYNIHAN, CHAFEE, DURENBERGER, HUDDLESTON, and LEAHY for their time and interest in helping the committee to reach agreement on this bill. Finally, I want to thank Senator HATCH for his help and understanding in getting this legislation to the floor at this late date in this session.

Once again, I urge my colleagues to support this important legislation.

Mr. HUDDLESTON. Mr. President, the Senate passage today of the Central Intelligence Agency Information Act will mark the end of a long and difficult effort by several of us on the Intelligence Committee to find a way to help the CIA with some of its problems under the Freedom of Information Act. It has taken over 5 years since CIA Director Stansfield Turner came to us with the proposal to exempt the CIA's most sensitive operational files from search and review under the FOIA.

The intelligence charter legislation which I introduced as the National Intelligence Act of 1980 included this proposal. Although the charter was not enacted, several of its provisions have become law as separate legislation since 1980. The CIA Information Act carries on the process of building a new framework for a strong and effective CIA that continues to respect the principles of our free society.

The fact that this bill is fully supported by the CIA, the administration, and the American Civil Liberties Union makes it an extraordinary achievement. Great credit is due to Senator GOLDWATER who, as chairman of the Intelligence Committee, recognized over a year ago that the time had come to reach an agreement between the CIA and those concerned about public access to Government information.

Two individuals should be singled out for their role in breaching the barriers that appeared to block legislative action on this problem. They are Mr. Mark Lynch of the American Civil Liberties Union and Mr. Ernest Mayerfeld of the Central Intelligence Agency, outstanding lawyers who vigorously represented opposing viewpoints and successfully framed the basic elements of a bill that could serve the interests of both sides.

The broad consensus that has developed in support of this legislation reflects the bipartisan approach that the Intelligence Committee has consistently taken, over the years since the Select Committee was established. For this bill to work its way through the House and Senate, it was important to have an Intelligence Committee in each body that could work closely with other committees and members to accommodate their concerns.

It is my hope that the two Intelligence Committees can, in the years ahead, continue addressing the practical problems of our intelligence community in the same manner.

As a result of this legislation, the American people should have greater confidence that the men and women who serve their Nation at the CIA are

fully committed to the maintenance of our open society. As the committee reports on H.R. 5164 and S. 1324 state,

The Agency's acceptance of the obligation under the FOIA to provide information to the public not exempted under the FOIA is one of the linchpins of this legislation. The Act has played a vital part in maintaining the American people's faith in their government, and particularly in agencies like the CIA that must necessarily operate in secrecy. In a free society, a national security agency's ability to serve the national interest depends as much on public confidence that its powers will not be misused as it does on the confidence of intelligence sources that their relationships with the CIA will be protected.

The CIA Information Act is an outstanding legislative accomplishment that should meet both the CIA's need to reassure its sources and the public's need for improved CIA responsiveness to FOIA requests. Therefore, I strongly urge the Senate to pass H.R. 5164 and express my thanks to all those who have worked so hard on this legislation.

Mr. LEAHY. Mr. President, I am indeed pleased that the Senate is accepting the House revisions to the Central Intelligence Agency Information Act. This means that the important legislation will soon become law. Two major goals will be accomplished: The Central Intelligence Agency will be relieved of the obligation to search and review its sensitive operational files, from which it almost never releases information in response to Freedom of Information Act requests. At the same time, relief from this obligation will enable the CIA to respond in a more timely way to FOIA requests not involving its operational files. Thus, both the CIA and the user of FOIA will benefit.

When S. 1324 first came to the Select Committee on Intelligence for hearings, I had considerable reservations about it. In fact, I doubted that it could, in its original form, pass the Senate. Nevertheless, I believed the basic arguments made by the CIA in support of the bill made sense. The Agency said that the FOIA requirement that it search and review its operational files, which contain the most sensitive data on intelligence sources, broke down the vital compartmentation necessary to protect the identities of sources. Moreover, the Agency said that it virtually never releases information from its operational files, and never any significant information. Yet, the requirement to search and review those files contributed greatly to the growing backlog of FOIA cases of the Agency. Relief from the search and review of operation files would thus not only improve security, but would improve the CIA's FOIA performance.

The fact that the ACLU shared the CIA's views also indicated that, with some improvements and modifications, S. 1324 could be made acceptable to those of us who believe the FOIA is an indispensable bulwark of the public's right to know what their government is doing. In an intensive series of meetings with representatives from the ACLU, CIA, Department of Justice, press groups and others, I and other members of the Select Committee on Intelligence worked to amend the original language. We were successful, thanks in large part to the constructive attitude of the CIA, ACLU representatives, and others from private interest groups, as well as the leadership of several members of the Select Committee on Intelligence.

When S. 1324 went to the House, further changes were made. In my judgment, these House amendments have additionally strengthened the bill's protections against misuse of the exemption being granted the CIA from search and review of its operational files. The Central Intelligence Agency Information Act will provide that FOIA may still be used by individuals to request any information held by the CIA on themselves. It will permit continued search and review of files on covert actions where the existence of the operation is not exempt from disclosure under the FOIA. It will also permit continued search and review of matters which are the subject of official investigations for illegality or impropriety. The bill also continues the present FOIA standard for judicial review. Finally, in an important amendment introduced in the House, the bill prohibits the use of the Privacy Act as a basis for nondisclosure under section (b)(3) of the FOIA. This closes a potential loophole created by recent ambiguous court decisions.

Mr. President, this is an important piece of legislation, which I believe will serve the interests of both the Central Intelligence Agency and the public. It has come a long way since it was first introduced and referred to the Select Committee on Intelligence. I am pleased to have been a part of the process which led to its present form.

I also want to applaud the efforts of Eric Newsom and John Podesta of my office for their help.

I am well aware of the hours and hours they spent negotiating in my conference room, with all the parties involved. The final product was worth it.

The bill was ordered to a third reading, read the third time, and passed.

CONVEYANCE OF CERTAIN REAL PROPERTY

The bill (S. 2721) to confirm a conveyance of certain real property by the Southern Pacific Transportation Company to Ernest Pritchett and his wife, Dianna Pritchett, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2721

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to section 3, the conveyance described in section 2(a) of this Act involving certain real property in Jackson County, Oregon, forming a part of the right-of-way granted by the United States to the California and Oregon Railroad Company under the Act entitled "An Act granting Lands to aid in the Construction of a Railroad and Telegraph Line from the Central Pacific Railroad, in California, to Portland, in Oregon", approved July 25, 1866 (14 Stat. 239), is confirmed in Ernest Pritchett and his wife, Dianna Pritchett, the grantees in such conveyance, and their successors in interest, with respect to all interests of the United States in the rights to the real property described in section 2(b) of this Act.

SEC. 2. (a) The conveyance confirmed by this Act was made by a deed dated July 23, 1982, by the Southern Pacific Transportation Company to Ernest Pritchett and his wife, Dianna Pritchett, and recorded on October 20, 1982, in the official records of Jackson County, Document Numbered 82-15174.

(b) The real property referred to in the first section of this Act is a parcel of land in the northwest quarter of section 26, township 36 south, range 4 west, Willamette Meridian, County of Jackson, State of Oregon, more particularly described as follows:

Commencing at the west quarter corner of such section 26; thence south 89 degrees 46 feet 45 inches east along the southerly line of such northwest quarter of section 26 a distance of 1082.50 feet to a point in a line parallel with and distant 100 feet northeasterly, measured at right angles, from the original located center line of Southern Pacific Transportation Company's main track (Siskiyou Branch), and also the true point of beginning of the parcel to be described; thence north 65 degrees 2 feet 35 inches west along such parallel line 1191.92 feet to the westerly line of such section 26; thence south zero degrees 12 feet 52 inches west along such westerly line 55.05 feet to a point in a line parallel with and distant 50 feet northeasterly, measured at right angles, from such center line; thence south 65 degrees 2 feet 35 inches East along last such parallel line, as last such parallel line being also the northeasterly line of that certain parcel of land described in deed dated June 23, 1883, from Frederick G. Birdsey to Oregon and California Railroad Company, recorded July 28, 1883, in Deed Book 10, Page 463, records of such county, a distance of 1060.35 feet to such southerly line; thence south 89 degrees 46 feet 45 inches east along such southerly line 119.49 feet to the true point of beginning, containing an area of 1.293 acres, more or less.

SEC. 3. (a) Nothing in this Act shall—

(1) diminish the right-of-way referred to in the first section of this Act to a width of less than 50 feet on each side of the center of the main track or tracks established and maintained by the Southern Pacific Transportation Company on the date of enactment of this Act; or

(2) validate or confirm any right or title to, or interest in, the land referred to in the first section of this Act arising out of adverse possession, prescription, or abandon-

ment, and not confirmed by conveyance by the Southern Pacific Transportation Company before the date of enactment of this Act.

(b) There is reserved to the United States all oil, coal, or other minerals in the land referred to in the first section of this Act, together with the right to prospect for, mine, and remove such oil, coal, or other minerals under such rules and regulations as the Secretary of the Interior may prescribe.

AID FOR CHILD VICTIMS OF SEXUAL ASSAULT DURING ADMINISTRATIVE AND JUDICIAL PROCEEDINGS

The concurrent resolution (S. Con. Res. 120) expressing the sense of the Congress that the legislatures of the States should develop and enact legislation designed to provide child victims of sexual assault with protection and assistance during administrative and judicial proceedings, was considered, and agreed to.

The preamble was ageeed to.

The concurrent resolution, and the preamble, are as follows:

S. CON. RES. 120

Whereas 1,500,000 children in this country are victims of abuse and neglect;

Whereas national estimates show that at a minimum one out of eight girls is a victim of sexual abuse before attaining the age 18;

Whereas ninety-five percent of the individuals who abuse children are relatives and friends of such children;

Whereas the incidence of sexual abuse is highest among adolescent females ages 12 through 17, but half of the victms of sexual abuse are under the age of 11;

Whereas each year 6,000 children are killed by their parents or guardians and the majority of children under age three who die are killed by their parents;

Whereas only a small percentage of court jurisdictions have established interdisciplinary teams of law enforcement officers, child protection service workers, prosecutors, child advocates, mental health professionals, medical personnel, and other individuals;

Whereas the Supreme Court has upheld the right of a court to close the trail to press and public during the victim's testimony;

Whereas few States laws concerning child abuse and reporting child neglect laws define the acts which constitute sexual abuse;

Whereas as many as 70 percent of the individuals who commit sexual offenses on children were themselves abused as children;

Whereas among the States that have authorized civil protection orders to prevent violence by one member of a household against another, there is great variation and confusion regarding what relationship must exist between victim and abuser for protection to be available;

Whereas because of the nature of the crime, a child victim's testimony is critical in the prosecution of a sexual abuser, and the requirements of prior qualification of a child's competency to testify often prevents prosecution of individuals who have abused children under the age of 4; and

Whereas the current hearsay exceptions are inadequate and do not permit most statements of child sexual abuse to be admitted into evidence: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the National Conference of States Legislatures should survey the States to compile and categorize child protection legislation introduced or enacted by the legislatures of all States; and

(2) the legislatures of the States should consider and enact laws which contain innovative approaches to the handling of child sexual abuse cases, which protect the victim's legal rights, including—

(A) providing for the establishment of interdisciplinary teams of sexual child abuse professionals;

(B) coordinating court proceedings involving victims;

(C) providing a victim-witness advocate or guardian ad litem for the witness;

(D) the establishment of procedures for a suitable environment for interviews of a child victim and the avoidance of duplicate interviews;

(E) vertical prosecution which allows one prosecutor to handle a case from complaint to conviction;

(F) establishing procedures for the videotaping of victims statements and testimony;

(G) the enactment of a statutory hearsay exception;

(H) providing for specialized training of law enforcement, legal, judicial, and child welfare personnel to deal with child victims;

(I) provision to define sexual abuse of children;

(J) establish procedures to check the criminal records of adults working or volunteering to work with young children in a supervisory position;

(K) the repeal of the corroboration requirement in child sexual abuse cases;

(L) establishing procedures for the granting of civil protection orders to protect children from further abuse;

(M) authorizing procedures to permit evidence of prior convictions of sexual abuse to be admissible in child sexual abuse cases; and

(N) establishing procedures to permit child victims of sexual abuse to testify without prior qualification of competency.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JUDICIAL SERVICE OF RETIRED JUDGES OF DISTRICT OF COLUMBIA COURTS

The Senate proceeded to consider the bill (H.R. 6007) to establish certain procedures regarding the judicial service of retired judges of District of Columbia courts, and for other purposes, which had been reported from the Committee on Governmental Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

H.R. 6007

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "District of Columbia Retired Judge Service Act".

SERVICE OF RETIRED JUDGES

SEC. 2. (a) Section 11-1504 of the District of Columbia Code is amended to read as follows:

"§ 11-1504. Services of Retired Judges.

"(a)(1) A judge, retired for reasons other than disability, who has been favorably recommended and appointed as a senior judge, in accordance with subsection (b), may perform such judicial duties as such senior judge is assigned and willing and able to undertake. A senior judge shall be subject to reappointment every two years in accordance with subsection (b). Except as provided under this section, retired judges may not perform judicial duties in District of Columbia courts.

"(2) Within 180 days of the date of retirement, a judge may request recommendation from the District of Columbia Commission on Judicial Disabilities and Tenure (herein after in this section referred to as the "Commission") to be appointed as a senior judge in acordance with this section.

"(3) Retired judges actively serving on the date of enactment of the District of Columbia Retired Judge Service Act and willing to continue to perform judicial duties shall request recommendation from the Commission to be appointed as senior judges within 180 days of the date of enactment of such Act in accordance with this section.

"(b)(1) A retired judge willing to perform judicial duties may request a recommendation as a senior judge from the Commission. Such judge shall submit to the Commission such information as the Commission considers necessary to a recommendation under this subsection.

"(2) The Commission shall submit a written report of its recommendations and findings to the appropriate chief judge and the judge requesting appointment within 180 days of the date of the request for recommendation. The Commission, under such criteria as it considers appropriate, shall make a favorable or unfavorable recommendation to the appropriate chief judge regarding an appointment as senior judge. The recommendation of the Commission shall be final.

"(3) The appropriate chief judge shall notify the Commission and the judge requesting appointment of such chief judge's decision regarding appointment within 30 days after receipt of the Commission's recommendation and findings. The decision of such chief judge regarding such appointment shall be final.

"(c) A judge may continue to perform judicial duties upon retirement, without appointment as a senior judge, until such judge's successor assumes office.

"(d) A retired judge, actively performing judicial duties as of the date of enactment of the District of Columbia Retired Judge Service Act, may continue to perform such judicial duties as he or she may be willing and able to assume, subject to the approval of the appropriate chief judge, for a period not to exceed one year from the date of enactment of such Act, without appointment as a senior judge.".

(b) Section 431(g) of the District of Columbia Self-Government and Governmental Reorganization Act is amended by inserting "and to make recommendations regarding the appointment of senior judges of the District of Columbia Code" after "in section 432".

RETIREMENT BENEFITS FOR EXECUTIVE OFFICER OF THE DISTRICT OF COLUMBIA COURTS

SEC. 3. Section 11-1703(c) of title 11, District of Columbia Code, is amended by inserting ", including retirement benefits," after "compensation".

CHANGES IN THE SMALL CLAIMS COURT OF THE DISTRICT OF COLUMBIA

SEC. 4. That section 1321 of title 11 of the District of Columbia Code is amended by striking out "$750" and inserting in lieu thereof "$2,000".

EFFECTIVE DATE

SEC. [4.] *5.* The provisions of this Act shall take effect on the date of the enactment of this Act.

Mr. MATHIAS. Mr. President, I would like to take a moment to explain the provisions of H.R. 6007 to my colleagues. It is an important piece of legislation that will address three separate situations in the DC courts which should be remedied.

First, the bill establishes a system for review of the fitness of retired DC judges to continue to serve the court in the status of senior judge.

Second, H.R. 6007 corrects a technical GAO interpretation of congressional enactments which keeps the executive officer of the DC courts out of the city's judicial retirement system.

Finally, as amended by the Governmental Affairs Committee, the bill will increase the jurisdictional amount of the DC small claims court from $750 to $2,000.

BACKGROUND

The present court system of the District of Columbia is the result of two enactments of Congress: the District of Columbia Court Reform and Criminal Procedure Act of 1970 (Public Law 91-358, 84 Stat. 475, DC Code, section 11-101 et seq.) and the District of Columbia Self-Government and Governmental Reorganization Act of 1973 (Public Law 93-198, 87 Stat. 774).

These acts established a two-court system for the District of Columbia, the judges of which are selected by the President with the advice and consent of the Senate, for 15-year terms. Upon retirement, judges of both the superior court of the District of Columbia and the DC court of appeals may be designated by a chief judge to continue to perform "those judicial duties which he is willing and able to undertake."[1] Also established was the DC Commission on Judicial Disabilities and Tenure with the power to suspend, retire or remove a judge of DC court when necessary and appropriate, according to standards set out in both the 1970 Court Reform Act and the 1973 Home Rule Act.

[1] DC Code § 1-1504.

Despite the authority of retired judges to continue to sit by designation, no mechanism exists to review the fitness of a retired judge to continue to serve the court. This legislation would create that review process, so that the court can encourage the continued assistance of retired judges in senior status to deal with the escalating case loads facing both courts.

As part of the 1970 Court Reform Act, the position of executive officer was established. The executive officer is responsible for the administration of the court system, subject to supervision by the court itself. The Court Reform Act set the compensation of the executive officer as "the same compensation as an associate judge of the superior court."[2]

When the position was established in 1970, the retirement system in which DC judges participated was the Federal civil service retirement system. However, in 1979, Congress enacted a new retirement system for DC judges (among other city employees) which created a new DC judges' retirement fund.[3] At that time, judges of the DC superior court and court of appeals transferred out of the civil service system and into the new DC judges' retirement system. The executive officer would have also transferred into the judges' system at the same time, but the Office of the Comptroller General of the United States issued a technical ruling interpreting "compensation" in DC Code section 11-1703(c) not to include retirement benefits. As a result, contrary to congressional intent, the executive officer has remained in the civil service system. H.R. 6007 would correct this incorrect interpretation and allow the executive officer to participate in the DC judges' retirement system.

Finally, the Court Reform Act of 1970 established the jurisdictional ceiling of $750 for the small claims branch of the superior court, often referred to the small claims court. This jurisdictional ceiling is exclusive: the small claims court is the only local adjudicative body empowered to hear civil cases filed by either individuals or businesses involving monetary damages of less than $750. Proceeding in the small claims court affords litigants streamlined and informal procedures, low costs, speedy disposition and pro se representation. However, the jurisdictional amount of $750, unchanged in 14 years, has forced many would-be small claims court litigants into the superior court civil division, where an attorney is generally a necessity and where most of the special attributes of small claims court litigation are unavailable. H.R. 6007 addresses this problem by increasing the small claims court jurisdiction ceiling to $2,000.

[2] DC Code § 11-1703(c).

[3] District of Columbia Retirement Reform Act of 1979, Public Law 96-122, 93 Stat. 866.

EXPLANATION OF THE BILL

First, H.R. 6007 establishes a procedure by which the DC Commission on Judicial Disabilities and Tenure will review the fitness of retired judges to continue to serve the courts of the District of Columbia. A retired judge is required to request a recommendation from the commission that he/she be appointed as a senior judge. The recommendation of the commission is final and is made to the appropriate chief judge who must make a final decision as to whether the judge may be appointed a senior judge. Senior judges, once appointed, will be subject to reappointment every 2 years. No retired judge will be able to perform judicial duties in the DC court unless appointed a senior judge.

This legislation applies to all DC judges, active and retired. Active judges must request a commission recommendation within 180 days of retirement. Retired judges, actively serving as of the date of enactment of this legislation, must make a similar request within 180 days of enactment. Retired judges, not actively serving at present, may also request a recommendation. Finally, a retired judge, actively performing judicial duties as of the date of enactment, is authorized to continue to so serve without senior judge designation for 1 year after enactment.

Second, the legislation amends DC Code, section 11-1703(c) to clarify congressional intent that the executive officer of the courts is authorized to participate in the same retirement system as associate judges of the superior court. With respect to the current executive officer, participation retroactive to his date of hire will be contingent on payment of the appropriate amount of contributions to the DC judges' retirement fund from that date.

Third, finally, the legislation increases the small claims jurisdictional ceiling to $2,000.

Mr. President, I urge the speedy approval of this legislation, so that it can be returned to the House for its concurrence.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The amendments were agreed to.

The amendments were ordered to be engrossed, the bill was read the third time, and passed, as amended.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

GRATUITY TO JOAN M. SHUTE AND ARTHUR G. MITTON III

The resolution (S. Res. 455) to pay a gratuity to Joan M. Shute and Arthur G. Mitton III, was considered, and agreed to; as follows:

S. RES. 455

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Joan M. Shute, niece of Richard H. Van Kleeck, and Arthur G. Mitton III, nephew of Richard H. Van Kleeck, an employee of the Senate at the time of his death, a sum to each equal to one-half of three months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

GRATUITY TO MARY E. HINTON

The resolution (S. Res. 456) to pay a gratuity to Mary E. Hinton was considered, and agreed to, as follows:

S. RES. 456

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Mary E. Hinton, widow of Harry A. Hinton, an employee of the Senate at the time of his death, a sum equal to eight and one-half months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

USE OF THE ROTUNDA OF THE CAPITOL IN CONNECTION WITH THE INAUGURATION OF THE PRESIDENT-ELECT AND VICE PRESIDENT-ELECT

The concurrent resolution (S. Con. Res. 144) authorizing the rotunda of the U.S. Capitol to be used on January 21, 1985, in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President-elect of the United States, was considered, and agreed to; as follows:

S. CON. RES. 144

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the United States Capitol is hereby authorized to be used on January 21, 1985, by the Joint Congressional Committee on Inaugural Ceremonies in connection with the proceedings and ceremonies conducted for the inauguration of the President-elect and the Vice President-elect of the United States. Such Committee is authorized to utilize appropriate equipment and the services of appropriate personnel of departments and agencies of the Federal Government, under arrangements between such Committee and the heads of such departments and agencies, in connection with such proceedings and ceremonies.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business during which Senators may speak for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. STEVENS. Mr. President, if I could call my good friend's attention to the Executive Calendar, it would be my intention to request unanimous consent to go into executive session to consider the nominations commencing with Calendar Order No. 961, the Farm Credit Administration, through the nominations on pages 6, 7, 8, and 9.

Would there be problems concerning those?

Mr. BYRD. Mr. President, in response to the inquiry of the distinguished assistant majority leader, the Members on this side of the aisle are ready to proceed on Calendar Orders numbered—I believe the Senator began with Calendar Order No. 961—are ready to proceed on Calendar Orders numbered 961, 962, 963, 976, 989, 990, 991, 996, 997, and 998.

Mr. STEVENS. Very well, Mr. President, I amend my request and ask unanimous consent to go into executive session for the purpose of considering the nominations that have been enumerated by both the distinguished Democratic leader and myself, the ones that he has just read, the ones that we have in common.

Let me repeat them. Calendar Orders numbered 961, 962, 963, 976, 989, 990, 991, 996, 997, and 998.

Mr. BYRD. I am sorry. I beg the Senator's pardon. He read them a little fast for me. Would he please go through them again?

Mr. STEVENS. Yes; Calendar Orders numbered 961, 962, 963, 965——

Mr. BYRD. No; not 965.

Mr. STEVENS. That is my error; 963, 976, 989, 990, 991, 996, 997, and 998.

Mr. BYRD. Mr. President, there is no objection.

Mr. STEVENS. Mr. President, I make that request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that the nominations that I have enumerated be considered en bloc and that they be confirmed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered en bloc and confirmed en bloc are as follows:

FARM CREDIT ADMINISTRATION

Melvin A. Ensley, of Washington, to be a member of the Federal Farm Credit Board, Farm Credit Administration, for a term expiring March 31, 1990.

Crete B. Harvey, of Illinois, to be a member of the Federal Farm Credit Board, Farm Credit Administration, for a term expiring March 31, 1990.

COMMODITY FUTURES TRADING COMMISSION

Robert R. Davis, of Illinois, to be a Commissioner of the Commodity Futures Trading Commission for the term expiring April 13, 1989.

COPYRIGHT ROYALTY TRIBUNAL

Mario F. Aguero, of New York, to be a Commissioner of the Copyright Royalty Tribunal for the term of 7 years from September 27, 1984. (Reappointment).

FEDERAL HOSPITAL INSURANCE TRUST FUND

The following-named persons to be members of the Board of Trustees of the Federal Hospital Insurance Trust Funds for terms of 4 years: (New Positions—Public Law 98-21 of April 20, 1983)

Mary Falvey Fuller, of California.

Suzanne Denbo Jaffe, of New York.

OLD-AGE AND SURVIVORS AND DISABILITY INSURANCE TRUST FUNDS

The following-named persons to be members of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for terms of 4 years: (New Positions—Public Law 98-21 of April 20, 1983)

Mary Falvey Fuller, of California.

Suzanne Denbo Jaffe, of New York.

FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND

The following-named persons to be members of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund for terms of 4 years: (New Positions—Public Law 98-21 of April 20, 1983)

Mary Falvey Fuller, of California.

Suzanne Denbo Jaffe, of New York.

SENIOR FOREIGN SERVICE

The following-named career members of the Senior Foreign Service, class of Career Minister, for the personal rank of Career Ambassador in recognition of especially distinguished service over a sustained period:

Thomas R. Pickering, of New Jersey.

Ronald I. Spiers, of Vermont.

NATIONAL CREDIT UNION ADMINISTRATION

P. A. Mack, Jr., of the District of Columbia, to be a member of the National Credit Union Administration Board for the term of 6 years expiring August 2, 1989. (Reappointment)

THE JUDICIARY CENTER

Lawrence A. Wright, of Vermont, to be a judge of the U.S. Tax Court for a term expiring 15 years after he takes office.

Mr. STEVENS. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONFIRMATION OF THE NOMINATIONS OF SUZANNE DENBO JAFFE AND MARY FALVEY FULLER

Mr. DOLE. Mr. President, I am pleased to report the recommendation of the Committee on Finance that the Senate gave its advice and consent to the nominations of Suzanne Denbo Jaffe of New York and Mary Falvey Fuller of San Francisco, CA. These individuals have been nominated for the two public member positions on the Board of Trustees of the OASDI, HI, and SMI trust funds. These are new positions created by the Social Security Amendments of 1983 and are the result of a recommendation by the National Commission on Social Security.

It was the Commission's belief that by increasing the membership of the Board of Trustees of the OASDI, HI, and SMI trust funds to include two individuals from outside the executive branch, the confidence in the integrity of the trust funds and in the investment procedures used by the trustees would be enhanced.

I am pleased to note that, following the pattern of recent nominations considered by the committee, President Reagan again has chosen persons of fine qualifications to carry out the Government's responsibilities in these new positions for which each has been nominated.

Since 1983, Ms. Jaffe has been the deputy comptroller of the State of New York, division of investments and cash management. Ms. Jaffe has a long history of having held important positions with companies whose focus was on the management of large investment accounts.

Prior to taking on her current responsibilities, she held the position of executive vice president for the Lehman Management Co., Inc. from 1982–83, which was in turn preceded by a position with Century Capital Associates in 1971–81. Ms. Jaffe was born in Washington, DC, and graduated with a B.A. from the University of Pennsylvania and an M.A. from New York University.

Ms. Fuller has been an independent management consultant specializing in strategic and business planning, finance, and product/market strategy since 1982. Prior to that time, she held the position of vice president for finance for the Shaklee Corp. from 1981–82. Ms. Fuller also served as the senior vice president and director of Blyth Eastman Dillion & Co., Inc. from 1978–80.

Clearly both Ms. Fuller and Ms. Jaffe are qualified to hold these important positions and it is an honor for me to recommend that my colleagues approve these nominations.

APPOINTMENT OF PUBLIC MEMBERS TO THE SOCIAL SECURITY BOARD OF TRUSTEES

Mr. MOYNIHAN. Mr. President, I rise today to endorse and strongly support the nominations of Suzanne Denbo Jaffe and Mary Falvey Fuller as the first public members of the Social Security Board of Trustees.

The legislation proposing public members for these Boards grew out of the recommendations of the National Commission on Social Security Reform. The Commission believed that increasing the membership of the Board of Trustees, to include two public members, would "inspire more confidence in the investment procedure and would help to assure that the demographic and economic assumptions for the cost estimates of the future operations of the program would continue to be developed in an objective manner."

The Social Security Amendments of 1983, Public Law 98–21, stated that section 341 of the amendments would become effective upon the date of enactment of the legislation. President Reagan signed the Social Security Amendments of 1983 on April 20, 1983. On July 25, 1984, after waiting 15 months for the President to nominate public members, I offered an amendment to the Treasury appropriations bill, stipulating that no funds for the Office of the Secretary of the Treasury would be expended, until the public members were appointed. That, at least, worked. On September 10, 1984, the President announced his intentions to appoint Suzanne Denbo Jaffe and Mary Falvey Fuller to the Board of Trustees.

I have examined the backgrounds and qualifications of these two nominees and believe that both will provide the additional review and insight into the financial matters of the Social Security trust funds that the National Commission envisioned. Mary Fuller is a management consultant specializing in business planning and finance. She was a member of the 1979 Advisory Council on Social Security and was appointed by President Reagan to the National Commission on Social Security Reform. Suzanne Denbo Jaffe is deputy comptroller of the State of New York, responsible for the pension funds of the State of New York.

On January 15, 1983, the National Commission on Social Security Reform agreed to a set of recommendations to place the Social Security system on a firm financial footing. The Commission's recommendations became law 3 months later, and our early hopes about their efficacy would seem vindicated. On April 5 of this year, the trustees of the Social Security trust funds—Treasury Secretary Donald T. Regan, Labor Secretary Raymond J. Donovan, and Health and Human Services Secretary Margaret M. Heckler—reported that benefits to be provided "under these programs can be paid well into the next century."

The OASDI Trust Funds are in even sounder condition today than the Trustee's Report last April had estimated. That report forecast a trust fund balance of $37 billion at the end of 1985. According to Social Security actuaries, the military adjustment payment to the trust funds will exceed the trustees' expectations by some $2.4 billion. Moreover, the current economic recovery is increasing revenues for the funds at a faster rate than expected. The net result of all these developments is that at the end of 1985, the trust fund surplus now is expected to be closer to $45 billion than to the $37 billion forecast last April.

The 1983 amendments have gone a long way already in restoring the integrity of the Old-Age, Survivors and Disability Insurance Programs. With the confirmation of these outstanding persons we will take another important step toward restoration of full confidence in these programs that form the basis of our national income security system.

CONFIRMATION OF THE NOMINATION OF LAWRENCE A. WRIGHT

Mr. LEAHY. Mr. President, I rise in support of the nomination of Lawrence A. Wright for service on the Tax Court.

I have known Larry Wright for a number of years, and think he is one of the top tax lawyers in my State of Vermont. Not only is he an expert on taxation, his temperament is uniquely suited to the position for which he has been nominated.

Support for Larry Wright transcends partisan politics. My good friend and colleague Senator STAFFORD wholeheartedly endorses this nomination. Both of us have said on a number of occasions that immediate confirmatio of Larry Wright is in the best interests of all Americans. I am pleased to lend my support to this effort.

CONFIRMATION OF THE NOMINATION OF RONALD I. SPIERS

Mr. LEAHY. Mr. President, I rise to support the nomination of Ronald Ian Spiers for the personal rank of career Ambassador in recognition of his distinguished service to the United States. I am proud that this honor is being paid to Ambassador Spiers, a fellow Vermonter from Windham County.

Ambassador Spiers' career has been spent in service to the Nation in difficult and demanding positions. He has represented the United States as Ambassador to the Bahamas, then Turkey, and later, Pakistan. As a member of the Senate Select Committee on Intelligence, I have firsthand knowledge of his superior performance as Director of the Bureau of Intelligence and Research in the Depart-

ment of State. In his current position as Under Secretary for Management, Ambassador Spiers has been seeking to modernize and increase the effectiveness of our diplomatic service.

Mr. President, to be awarded the personal rank of career Ambassador is the greatest honor that can be rendered to a Foreign Service Officer. I am pleased that the State Department has granted this recognition of the outstanding career of Ambassador Ronald Spiers. I am delighted, though not surprised, that this dedicated Vermonter continues to receive the many honors and promotions he so well deserves.

LEGISLATIVE SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR HECHT RECEIVES GOLDEN GAVEL AWARD

Mr. STEVENS. Mr. President, it is my privilege, a real privilege, to announce to the Senate that this is an auspicious occasion for the present occupant of the chair.

Mr. President, I call attention to the Senate of the fact that the distinguished Senator from Nevada, the junior Senator from Nevada, is the sixth Senator to receive the Golden Gavel Award for the 98th Congress, but he has a singular distinction in that he is the first new Senator in the freshman class to have earned this honor.

I would point out to the Senate that Senator HECHT has served with dedication and with, I might say, great effort. And my good friend from West Virginia will note that the Senator from Nevada has been here with us late at night and has been here on occasion early in the morning to take the chair following the opening of the Senate by the distinguished President pro tempore.

So on behalf of the Senate, and I might say at the request of the majority leader, it is my privilege to commend the present occupant of the chair for having been willing to spend so much time to help the management of the Senate. We are grateful to him and we believe that he deserves the commendation of every Member of the Senate for the time he has taken from his other duties to perform 100 hours of service here in the chair during this session of the Congress.

The PRESIDING OFFICER. The Chair appreciates the remarks of the distinguished Senator from Alaska.

Mr. BYRD. Mr. President, I congratulate the distinguished Senator and all other Senators who have this year received the Golden Gavel Award. It is not an easy task; sometimes it is a thankless task to serve—as the Senator has—over 100 hours in the chair.

The PRESIDING OFFICER. The Chair thanks the distinguished minority leader.

Mr. BYRD. There are several of my colleagues on this side who likewise have earned the Golden Gavel Award in the years gone by.

ELLSWORTH BUNKER

Mr. BYRD. Mr. President, one of this Nation's premier diplomats—Ellsworth Bunker—died yesterday at the age of 90. Over a span of 35 years, Ambassador Bunker served seven Presidents with dignity and distinction.

Perhaps the crowning achievement in Ellsworth Bunker's illustrious career was the negotiation, with Ambassador Sol Linowitz, of the 1977 Panama Canal treaties. to this day, the new Panama Canal Treaties have anchored solidly this critical relationship with Panama in a region of the world torn by strife and turmoil. Had these treaties not been negotiated and the Senate given its consent to their ratification, the United States today would be facing even greater problems in Central America.

Ellsworth Bunker entered public service after first devoting 32 years to private business, working for his father's company, the National Sugar Refining Co. This citizen-diplomat demonstrated that men of private achievement can also become men of public achievement.

Mr. President, the Nation has lost an extraordinary public figure. However, I know my colleagues share the gratitude with me, that a man of the stature of Ellsworth Bunker chose to give of his intellect, talents, and loyalty in long and distinguished service to his country.

Mr. STEVENS. Mr. President, I join with the distinguished minority leader in commenting upon the passing of the distinguished Ambassador, Ellsworth Bunker.

I remember him so well. I remember how impressed I was that a man of his obvious years had such great capacity and was a man of such great dignity in days of turmoil.

I first met him in Saigon with the distinguished former Senator from Oklahoma, Senator Henry Bellmon. We both remarked on the occasion of first meeting Ellsworth Bunker what a fantastic man he was and what a magnificent mind he possessed.

We have lost a person who served this country well in many, many capacities.

ORDERS FOR SATURDAY

ORDER FOR RECESS UNTIL 11 A.M.

Mr. STEVENS. Mr. President, when the Senate stands in recess today, I ask unanimous consent that it convene tomorrow at the hour of 11 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS

Mr. STEVENS. Mr. President, following the time for the two leaders under the standing order, I ask unanimous consent for a special order not to exceed 15 minutes for the Senator from Wisconsin [Mr. PROXMIRE].

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, following that special order, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond the hour of 12 noon, during which statements therein will be limited to 15 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. STEVENS. Mr. President, at the hour of 12 noon, under the provisions of rule XXII, a live quorum will begin. Once a quorum has been established, the Senate will proceed to the vote on cloture on amendment No. 5508, which has been offered by the Senator from West Virginia [Mr. BYRD], for the Senator from Massachusetts [Mr. KENNEDY], dealing with Grove City. If cloture is not invoked on amendment 5508, the Senate will then proceed immediately to cloture vote on amendment No. 5509, which has been offered by the Senator from West Virginia for the Senator from Massachusetts on Grove City.

If cloture is not invoked on amendment No. 5509, the Senate will proceed to immediately vote on cloture on amendment No. 5727, which was offered by the Senator from Tennessee, the distinguished majority leader, for the Senator from Utah [Mr. HATCH], dealing with gun control. If cloture is not invoked on any of the three abovementioned amendments, the Senate will resume committee amendment No. 1 to the continuing resolution, and the pending amendment is No. 5728 offered by the Senator from Tennessee, the majority leader, for the Senator from Utah [Mr. HATCH], dealing with busing.

Obviously, if cloture is agreed to on any of the positions, we will immediately go into the cloture procedure required by rule XXII.

RECESS UNTIL 11 A.M. TOMORROW

Mr. STEVENS. Mr. President, is there further business to come before the Senate? If not, I ask unanimous consent that the Senate stand in recess in accordance with the previous order.

There being no objection, the Senate, at 5:46 p.m., recessed until Saturday, September 29, 1984, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate September 28, 1984:

In the Army

The following-named officers for appointment in the Regular Army of the United States to the grade indicated under the provisons of title 10, United States Code, sections 611(a) and 624:

To be brigadier general

Col. Marvin G. O'Connell, [redacted], U.S. Army.
Col. George M. Baxter, [redacted], U.S. Army.
Col. James W. Ray, [redacted], U.S. Army.
Col. Ward M. LeHardy, [redacted], U.S. Army.
Col. James W. Wurman, [redacted], U.S. Army.
Col. William J. Fiorentino, [redacted], U.S. Army.
Col. George H. Akin, [redacted], U.S. Army.
Col. Paul C. Hurley, [redacted], U.S. Army.
Col. Arnold Schlossberg, Jr., [redacted], U.S. Army.
Col. George J. Walker, [redacted], U.S. Army.
Col. Michael J. Pepe, [redacted], U.S. Army.
Col. Stanley H. Hyman, [redacted], U.S. Army.
Col. Richard L. Reynard, [redacted], U.S. Army.
Col. William A. Fitzgerald, Jr., [redacted], U.S. Army.
Col. Harold T. Fields, Jr., [redacted], U.S. Army.
Col. Ross W. Crossley, [redacted], U.S. Army.
Col. Billy J. Stalcup, [redacted], U.S. Army.
Col. Thomas C. Foley, [redacted], U.S. Army.
Col. Thomas H. Harvey, Jr., [redacted], U.S. Army.
Col. Donald R. Williamson, [redacted], U.S. Army.
Col. Louis J. DelRosso, [redacted], U.S. Army.
Col. Rodney D. Wolfe, [redacted], U.S. Army.
Col. Marvin D. Brailsford, [redacted], U.S. Army.
Col. Harry G. Karegeannes, [redacted], U.S. Army.
Col. John D. Wakelin, [redacted], U.S. Army.
Col. William F. Streeter, [redacted], U.S. Army.
Col. John S. Drosdeck, Jr., [redacted], U.S. Army.
Col. David H. Stem, [redacted], U.S. Army.
Col. John P. Dreska, [redacted], U.S. Army.
Col. Wallace C. Arnold, [redacted], U.S. Army.
Col. Robert D. Chelberg, [redacted], U.S. Army.
Col. Travis N. Dyer, [redacted], U.S. Army.
Col. Herbert M. Wassom, [redacted], U.S. Army.
Col. Edmond S. Solymosy, [redacted], U.S. Army.
Col. Charles A. Hines, [redacted], U.S. Army.
Col. Charles E. Dominy, [redacted], U.S. Army.
Col. John A. Renner, [redacted], U.S. Army.
Col. Howard C. Eggleston, [redacted], U.S. Army.
Col. Lawrence J. Schumann, [redacted], U.S. Army.
Col. William E. Harmon, [redacted], U.S. Army.
Col. Sherian G. Cadoria, [redacted], U.S. Army.
Col. Merle Freitag, [redacted], U.S. Army.
Col. Fred A. Gorden, [redacted], U.S. Army.
Col. Wayne A. Downing, [redacted], U.S. Army.
Col. Craig H. Boice, [redacted], U.S. Army.
Col. Thomas P. Carney, [redacted], U.S. Army.
Col. Richard B. Griffitts, [redacted], U.S. Army.
Col. Thomas G. Rhame, [redacted], U.S. Army.
Col. Patrick H. Brady, [redacted], U.S. Army.
Col. Leon E. Salomon, [redacted], U.S. Army.
Col. Horace G. Taylor, [redacted], U.S. Army.
Col. Daniel R. Schroeder, [redacted], U.S. Army.
Col. Peter A. Kind, [redacted], U.S. Army.
Col. Richard D. Beltson, [redacted], U.S. Army.
Col. Leo J. Pigaty, [redacted], U.S. Army.
Col. Joe W. Rigby, [redacted], U.S. Army.
Col. Paul G. Cerjan, [redacted], U.S. Army.
Col. Alonzo E. Short, Jr., [redacted], U.S. Army.
Col. Roger K. Bean, [redacted], U.S. Army.
Col. Jerry C. Harrison, [redacted], U.S. Army.
Col. Rudolph Ostovich, III, [redacted], U.S. Army.
Col. Charles R. Henry, [redacted], U.S. Army.
Col. Henry M. Hagwood, [redacted], U.S. Army.
Col. Ronald E. Brooks, [redacted], U.S. Army.

The Judiciary

Howard D. McKibben, of Nevada, to be U.S. district judge for the district of Nevada vice a new position created by Public Law 98-353, approved July 10, 1984.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 28, 1984:

Farm Credit Administration

Melvin A. Ensley, of Washington, to be a member of the Federal Farm Credit Board, Farm Credit Administration, for a term expiring March 31, 1990.

Crete B. Harvey, of Illinois, to be a member of the Federal Farm Credit Board, Farm Credit Administration, for a term expiring March 31, 1990.

Commodity Futures Trading Commission

Robert R. Davis, of Illinois, to be a Commissioner of the Commodity Futures Trading Commission for the term expiring April 13, 1989.

National Credit Union Administration

P. A. Mack, Jr., of the District of Columbia, to be a member of the National Credit Union Administration Board for the term of 6 years expiring August 2, 1989.

Senior Foreign Service

The following-named career members of the Senior Foreign Service, class of Career Minister, for the personal rank of Career Ambassador in recognition of especially distinguished service over a sustained period:

Thomas R. Pickering, of New Jersey.
Ronald I. Spiers, of Vermont.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Copyright Royalty Tribunal

Mario F. Aguero, of New York, to be a Commissioner of the Copyright Royalty Tribunal for the term of 7 years from September 27, 1984.

Old-Age and Survivors and Disability Insurance Trust Funds

The following-named persons to be members of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for terms of 4 years, new positions—Public Law 98-21 of April 20, 1983.

Mary Falvey Fuller, of California.
Suzanne Denbo Jaffe, of New York.

Federal Hospital Insurance Trust Fund

The following-named persons to be members of the Board of Trustees of the Federal Hospital Insurance Trust Fund for terms of 4 years, new positions—Public Law 98-21 of April 20, 1983

Mary Falvey Fuller, of California.
Suzanne Denbo Jaffe, of New York.

Federal Supplementary Medical Insurance Trust Fund

The following-named persons to be members of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund for terms of 4 years, new positions—Public Law 98-21 of April 20, 1983.

Mary Falvey Fuller, of California.
Suzanne Denbo Jaffe, of New York.

The Judiciary

Lawrence A. Wright, of Vermont, to be a judge of the U.S. Tax Court for a term expiring 15 years after he takes office.

EXTENSIONS OF REMARKS

BEDELL AMENDMENT TO H.R. 4444

HON. BERKLEY BEDELL
OF IOWA
IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Mr. BEDELL. Mr. Speaker, I am today introducing an amendment to H.R. 4444, the Small Reclamation Projects Act amendments, which the House will consider shortly. I include the text of the amendment, along with some other materials, at the end of this statement.

H.R. 4444 would double the appropriation ceiling for loans under the Small Reclamation Projects Act of 1956, from $600 million to $1.2 billion. The majority of funds loaned under the provisions of the Small Reclamation Projects Act are used to supply irrigation water. Under current law, interest is not paid on irrigation loans unless the recipient owns and receives U.S. Bureau of Reclamation [USBR] water on more than 960 acres. This and other generous criteria result in most recipients not being charged interest and in the Government providing huge subsidies for irrigation.

While this is a major issue worthy of future comprehensive study, I am today proposing a very modest amendment focused on a narrow issue—double subsidies. The problem is that, while the USBR is subsidizing interest-free irrigation loans for farmers to grow more crops, the Department of Agriculture is paying farmers not to grow these same crops. This hurts not only the taxpayers of every region of the country, but it hurts the many farmers who are at a disadvantage because they do not receive subsidized water. In the end, this wasteful conflict between long-term irrigation policy and short-term agricultural policy hurts everyone by driving up the deficits.

My amendment would require that, in the future, USBR charge interest on that portion of the loan which is used to provide irrigation benefits for crops which the USDA is paying farmers not to grow that year. Note that this amendment is fair because it would only apply to the additional $600 million authorized in H.R. 4444. The amendment would not apply to funds already authorized, so no current recipients would be subject to unexpected interest costs. The required interest rate defined in section 5(c)(2) of the Small Reclamation Projects Act would be the same as is charged for municipal water supply purposes and for irrigation of more than 960 acres.

This amendment is the product of careful consideration and past legislative compromise, and is the culmination of 2 years of study of this issue by the Department of Agriculture. It does not employ a meat ax approach and, after years of consideration of this proposal, I think it is time for action. I introduced a similar version of this amendment as a bill in the 97th Congress. This bill would have flatly prohibited the use of USBR water on surplus crops, not just denied the subsidy. The bill was offered in 1982 as an amendment to H.R. 5539, which was enacted into law as the Reclamation Reform Act (Public Law 97-239). During consideration of the bill in the House, my amendment was accepted by voice vote. Unfortunately, the Senate version of the bill contained a weaker version of that amendment which simply required a study of the problem. The conference report incorporated the Senate language, and section 222 of the Reclamation Reform Act read as follows:

EXCESS CROP RESTRICTIONS

SEC. 222. (a) Within one year of the date of enactment of this Act, the Secretary of Agriculture, with the cooperation of the Secretary of the Interior, shall transmit to the Congress a report on the production of surplus crops on acreage served by irrigation water. The report shall include—

(1) data delineating the production of surplus crops on lands served by irrigation water;

(2) the percentage of participation of farms served by irrigation water in set-aside programs, by acrage, crop, and State;

(3) the feasibility and appropriateness of requiring the participation in acreage set-aside programs of farms served by irrigation water and the costs of such a requirement; and

(4) any recommendations concerning how to coordinate national reclamation policy with agriculture policy to help alleviate recurring problems of surplus crops and low commodity prices.

(b) In addition, notwithstanding any other provision of law, in the case of any Federal reclamation project authorized before the date of enactment of this Act, any restriction prohibiting the delivery of irrigation water for the production of excess basis agricultural commodities shall extend for a period no longer than ten years after the date of the initial authorization of such project.

We now have this study in hand. It confirms our fears that millions of dollars are being wasted and it suggests that the amendment I am introducing today—full-cost pricing for water used on crops in surplus—is one of the best ways to address this problem. We estimate that the amendment could recover more than $40 million in interest payments. According to the study:

Under (full cost pricing), USBR-served farmers would be placed on a comparable basis with other program crop producers in the Nation. National production efficiency would be expected to improve as production would move towards areas of comparative advantage. Program costs would be reduced due to lower production and higher prices; administrative costs would increase somewhat to assure compliance. The use of full-cost pricing for project water on farms in excess of 960 acres is already a feature of Public Law 97-293; rules and regulations are pending.

The USDA study noted that it would be unfair to make this proposal apply to current recipients. As I have stated, I have protected this group by writing the amendment to apply only to future loans.

In administering the program as modified by my amendment, the USBR would determine each year what portion of the loan amount was being used to pay for irrigation of surplus program crops, and compute the interest expenses for that year accordingly. Under current law, the portion of the loan attributable to providing municipal water supply or commercial power benefits (as opposed to irrigation benefits) must be repaid with interest. Because many reclamation projects are multipurpose and because the portion of the loan attributable to each purpose sometimes varies from year to year, USBR is already experienced in allocating project benefits on a yearly basis for purposes of repayment.

The USDA report analyzed the extra administrative costs required for a similar proposal which would require separation of irrigation water sources, mandatory acreage reduction program participation for recipients of USBR water, and found that total administrative costs would increase only slightly.

When, after 80 years, we determine that current irrigation policy is in conflict with current agricultural policy and is granting a double subsidy to produce commodities the Nation does not need, it is clearly time to make a change.

I believe that the amendment I am offering today is a small and reasonable step in the direction of reducing the deficit without denying any group benefits it already is receiving. I urge my colleagues to support this modest amendment and I include hereafter the text of the amendment and some

excerpts from the USDA report on this subject.

AMENDMENT TO H.R. 4444, AS REPORTED OFFERED BY MR. BEDELL

Page 2, after line 6, insert the following:

Before the first sentence, insert "(a)" and at the end of section 10 insert the following new subsection:

"(b) Notwithstanding any other provision of this Act, in the case of any loan authorized after the date of enactment of this subsection and funded with the additional monies authorized to be appropriated under subsection (a), any contract negotiated by the Secretary under section 5 with respect to any such loan shall include provisions for the repayment by the organization of interest, as determined under section 5(c)(2), on that portion of the loan attributable to furnishing irrigation benefits in each particular year for use with respect to crops for which there is in effect for that year a program to limit production of such crops, as announced by the Secretary of Agriculture."

PRODUCTION OF SURPLUS CROPS ON IRRIGATED LAND SERVED BY THE U.S. BUREAU OF RECLAMATION

[U.S. Department of Agriculture, Economic Research Service, February 1984]

SUMMARY

The U.S. Department of Agriculture provides incentives to farmers to limit agricultural production. At the same time, the U.S. Department of the Interior's U.S. Bureau of Reclamation (USBR) subsidizes irrigation water for farmers in 17 Western States in order to increase production and bolster farmer income. The authors of this study examine the effects of each type of program on the other and develop options for resolving the apparent conflict of these two Federal programs. Some of the major findings are:

Reclamation and commodity program goals conflict:

Commodity programs emphasize short-term price and income levels and stability;

Reclamation programs emphasize, among other objectives, maintaining and expanding agricultural capacity over time;

A safe minimum level of capacity is warranted; no clear policy exists for determining the level.

One-fifth of the 50 million acres of irrigated land is served by USBR water:

USBR-served lands account for more than one-fourth of the value of production on irrigated cropland;

USBR-served farmers produce high-value crops; subsidized water provides a cost advantage to these farmers.

USBR farmers devote a smaller proportion of their land to program crops than do other farmers:

High-value crops—vegetables, fruits, and nuts—are important on USBR-served lands;

Proportion of USBR crops harvested that are cotton, rice, and barley is higher than for the United States; other USBR program crops are a lower proportion than for the United States.

Reclamation farmers participated in commodity programs at a lower rate than the rest of the United States in 1982:

USBR-served farmers participated at lower than U.S. rates for cotton, wheat, barley, sorghum, and oats;

Corn participation was higher than for the United States; rice participation was about the same.

Payment limitations and livestock demands for feed influence participation;

Budget examples suggest that typical USBR rice and cotton producers would have gained by participation.

Mandatory participation increases farmer's income overall; efficiency gains are mixed:

Required participation in 1982 would have increased U.S. farmers' income $300 million, or about 2 percent;

Value of commodities at the farm gate would have increased $260 million;

U.S. Treasury outlays would have decreased $50 million;

Without existing water subsidies, cotton, rice, and wheat costs per unit of output would increase; per unit costs for the other program crops would decrease;

Mandatory participation resolved part of the inconsistency of program goals, the basic conflict remains; complex administrative rules would be required.

Other options were considered—do nothing, full-cost pricing, limits on water use, changes in justification and repayment:

Full-cost pricing or limits on use of water would be more effective than mandatory participation in resolving program inconsistencies;

Changes in justification procedures to reflect future free market conditions and full cost recovery would establish consistent policy on new projects;

Policy is needed to link long-term agricultural capacity and short-term farm income goals.

PROGRAM CROPS GROWN ON ACREAGES SERVED BY USER

Surplus crops are defined for this analysis as the crops for which an acreage reduction program was in effect in 1982. These program crops include wheat, corn, grain sorghum, barley, oats, cotton, and rice. The 1982 commodity programs are considered representative of programs in recent years; 1982 is the most recent year with complete participation data. Sugar beets and extra long staple cotton were not considered since there were no effective acreage reduction programs for these crops.

EPILOGUE

Two of the options considered would have a limited effect because they would deal only with new projects—limiting water use on new projects and changing justification and repayment procedures for new projects. Although these options would have limited impact, the option to modify justification and repayment procedures has technical merit. Projects would be justified on the basis of expected market clearing prices; production efficiency would be improved and Treasury costs would be recovered. The procedure would introduce an element of fairness among producing regions. Further, the modification of justification and repayment procedures would establish a policy position that would deal with the reconciliation of the reclamation and commodity programs.●

THE OLDER AMERICANS ACT, CONFERENCE REPORT

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1984

● Mr. REGULA. Mr. Speaker, I would like to express my strong support for the conference report on the reauthorization of the Older Americans Act [OAA]. I regret that I was unable to be here for the actual vote. As many of you know, President Reagan was in my district touring the Timken Steel plant. This is the only new plant of its kind under construction in the entire United States. This plant is the product of cooperation between management, labor, and various levels of government. These forces combined their talents to create a source of income that not only for the people of the 16th Congressional District of Ohio, but also for others who depend on the growth of our infrastructure of which steel is an integral part. This is a fine example of people helping each other for the benefit of all, a sign of progress.

I believe that the Older Americans Act is another example of cooperation among people. The Older Americans Act represents a codification of policies designed to protect the interests of the elderly. Indeed, the existence of this legislation demonstrates our recognition of the necessity to address the concerns of the aging in America. As representatives of the people, we are entrusted with the responsibility of ensuring that all citizens' concerns are heard. The elderly have served their country well through various contributions of their time and talents. It is only fitting that we provide some level of security and comfort to them in their remaining years.

This reauthorization provides for funding for the Federal Council on Aging under title II of the act. Under titles III through VI, moneys are allocated for various community services such as supportive services and senior centers, congregate meals, education, research, and training, community service jobs, and a personal health education and training program. Moreover, this report places further emphasis on the needs of minorities so that this sector of the elderly population receives adequate assistance. Another problem that is addressed is that of elder abuse.

Certainly, the comprehensive scope of this legislation demonstrates our commitment to older Americans. I believe that the progressive nature of this legislation means that we are headed in the right direction.●

STAR WARS—FACT OR FANTASY?

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Mr. VENTO. Mr. Speaker, as the House considers our Federal budget, it is appropriate to look at our defense priorities. In particular, I would like to discuss President Reagan's strategic

defense initiative, his Star Wars plan. In theory, Reagan's Star Wars proposal calls for a multistage missile defense program that is designed to stop Soviet missiles at different points in their trajectories. In reality, this plan is a unworkable for a number of reasons.

Of obvious concern is the effectiveness of this program: Does it really work? How reliable of a plan is it? Many leading scientists and analysts have declared that the administration's plan is not technically valid, and even Pentagon officials have expressed concern about the plausibility of constructing a successful ABM system.

The Congressional Office of Technology Assessment in its report on missile defense in space substantiates concerns about the workability of the "Star Wars" plan. The OTA states:

> The prospect that emerging Star Wars technologies, when further developed, will provide a perfect or near-perfect defense system, literally removing from the hands of the Soviet Union the ability to do socially mortal damage to the United States with nuclear weapons, is so remote that it should not serve as the basis of public expectation or national policy about ballistic missile defense [BMD]. This judgment appears to be the consensus among informed members of the defense technical community.

Another aspect of effectiveness is cost. The President's proposal is a phenomenal drain on our budget. The long-term cost of this program is estimated from $500 billion to over $1 trillion. This is well over 125 times the total cost of the ground-launched cruise missile, and more than 20 times the cost of the controversial MX missile. Programs that aid the elderly, the handicapped, and the otherwise disadvantaged are being curtailed; effective defense programs are shortchanged; record megadeficits are rung up—we cannot keep pouring money into an impractical plan that races us toward destruction.

President Reagan claims that heightened stability will be one of the byproducts of the strategic defense initiative [SDI]. This is inaccurate on several counts. First and foremost is the erroneous implication that the Star Wars plan will lead to a dismantling of nuclear weapons, that if we can create a foolproof space defense then the use of nuclear weapons will become obsolete. On the contrary, this will encourage a competitive response from the Soviets as they try and hold their ground; their logical reaction will be to build up their own forces and thus the intensified arms race will be instigated.

This initiative, aside from being one of the most costly plans concocted thus far, undermines hope for any meaningful negotiations between the United States and the Soviet Union. Since the ABM Treaty of 1972 there has been an understanding that ballistic missile defense systems can only debilitate efforts toward a defense agreement between the United States and the U.S.S.R. This antagonistic fueling of the arms race puts the Soviets on the defensive and any serious prospects for arms moderation or international agreements will remain unrealized. Our national policy cannot proceed with an unprecedented U.S. buildup while expecting the Russians to take it lying down and comply with our demands for an arms builddown. Our nuclear arsenal must be moderated, not endlessly increased in search of a position of nuclear superiority or absolute power. Our search for this position of control will further stimulate the Soviet arms buildup as they try and match and then beat U.S. strength.

Another threat to stabilty that results from the Star Wars plan is the reaction within the NATO allies. There is serious concern from our allies about this program. They are worried about how it affects them. Will the United States weaken our commitment to Europe, and will these countries have to develop their own weapons systems? Such a development would further threaten stability within the alliance and between the two superpowers.

Mr. Speaker, I believe Congress must critically examine this program. There is more than enough evidence and reason to halt this program. The President must be made aware that Star Wars is not a video game, not a casual venture into some kind of space adventure movie. A closer look at President Reagan's idea reveals a lack of attention to and interest in accuracy.

I would like to bring to my colleagues' attention an article from the New York Times by Flora Lewis, which elaborates just how massive a mistake this program could be:

THE DEFENSE ILLUSION

There is an enormous gap between arguments presented to the public for the "Star Wars" program, officially called Strategic Defense Initiative, and what the experts talk about.

Debates at the annual conference of the International Institute for Strategic Studies show the gap is widening to the point of flat contradiction.

First, no one who is well informed, not the most ardent advocate, suggests that Star Wars will get rid of nuclear weapons or end the possibility of nuclear war. On the contrary, all assume nuclear arsenals will be maintained. There are conflicting views on whether they will in fact be enlarged to overcome defenses if such technologies are developed.

Second, no one pretends the best defense now conceivable can be even "nearly leakproof," the experts' euphemism for saying a devastating number of warheads would not get through. The most optimistic claim is that 94 percent could be shot down. If that is 94 percent of 10,000, it means 600 could get through, more than enough for holocaust.

The proponents do not say deterrence can be abandoned. They say the basis of deterrence can be shifted from threat of retaliation, as now, to denying military advantage to the attacker. The reasoning is based on the assertion that the Russians do not and never would intend to attack American cities.

This insistence comes oddly from these gung-ho military specialists. But it is crucial to their position because they know they can't fool other specialists with a vision of removing the nuclear menace. So they say it must be taken for granted that a Soviet attack would only be against military targets, maybe spilling over to nearby cities but not really aiming at them.

If the Russians know they can't wipe out most of these military targets because of defenses, the argument goes, they won't attack at all. Therefore, the new deterrence is by denial, although deterrence by retaliation is preserved because Moscow would still have to fear the U.S. would strike back.

This is a strange position. If the purpose of Star Wars is only to reduce each side's missiles, not to protect people, there is a much safer, cheaper, better way of doing it: by diplomacy.

Nor do any experts take seriously President Reagan's initial suggestion, not repeated, that the U.S. might share the technology with Moscow once it is developed. That would make sure the Russians could devise better ways to beat defenses that the U.S. had spent hundreds of billions to deploy.

Other problems are also emerging as the strategic implications of Star Wars are probed. The European allies are united in opposition, although the Administration sought to catch up on its original neglect of their concerns by proposing to defend them too.

American specialists complain that the Europeans are inconsistent in fearing the U.S. might grow reckless and provoke the Russians if America felt really safe, or might withdraw to its fortress and abandon them. But this is not illogic. It is two aspects of a single fear of anything that would increase the difference between the security of the U.S. and Europe.

The U.S. formed the Atlantic alliance because it had come to consider Europe its own first line of defense. Any change in that stand necessarily terrifies Europeans.

They are sensibly as frightened of conventional war with modern weapons as of nuclear war. If the U.S. thought it didn't need them any longer, they would rush for accommodation with Moscow as the only other way to assure their survivial.

There are many arguments against Star Wars. The first is whether it is technically really possible, and the vast cost of finding out. But there are also fears, shared by Europeans and Americans who either oppose the idea or lean to cautious favor, of the tremendous danger during a long period of development.

The proposal does not include a companion arms control program.

It would abrogate SALT I, and without new accords it would not only expand the arms race into space. It would almost certainly accelerate competition in offensive missiles. President Reagan has admitted that combining offense and defense would appear to reach for "first-strike" capacity, the ability to destroy the other side without grave risk.

That could invite pre-emptive attack, the idiocy of launching nuclear war first so as not to be the first victim. There is really no

tolerable alternative to seeking agreement with Moscow now, before the U.S. slides down an irreversible slope. President Reagan should make the offer to the Soviet Foreign Minister, Andrei Gromyko, next week.●

IN MEMORY OF MSGR. GENO BARONI

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Ms. MIKULSKI. Mr. Speaker, Msgr. Geno Baroni, a friend, a patroit, and someone who devoted his life to the cause of social justice died on August 27 at the age of 53, after a long bout with cancer.

I would like to call the attention of my colleagues to three news articles that honor the memory of Msgr. Geno Baroni. The articles are from the Catholic Standard, the National Catholic Reporter, and the National Catholic News Service.

The articles follow:

[From the Catholic Standard, Washington, DC, Aug. 30, 1984]

MSGR. BARONI: FAMED PRIEST-ACTIVIST DIES, WAS SOCIAL JUSTICE CHAMPION

(By Kaki Roberts)

A nationally acclaimed champion of working people and of urban ethnic and racial minorities, Msgr. Geno Charles Baroni, 53, died Monday at Providence Hospital after a long battle with cancer.

A priest of the Archdiocese of Washington since 1960, Msgr. Baroni was Archbishop James A. Hickey's special assistant for community affairs at the time of his death.

From humble beginnings as the son of a Pennsylvania coal miner, Msgr. Baroni was an outspoken advocate of the oppressed. His advocacy prompted a rapid rise to leadership roles in the U.S. Catholic Conference and to prominence on the national political scene as an undersecretary in the Department of Housing and Urban Development during the Carter Administration.

Mass of Christian Burial will be held Friday at 7 p.m. at St. Augustine Church, 14th and V Streets, N.W. Archbishop James A. Hickey will be the principal celebrant, and Father J. Bryan Hehir, Secretary for Social Development and World Peace of the U.S. Catholic Conference, will give the homily. There will be visitation at the church today (Thursday) from 5 to 8 p.m., with a wake service at 8 p.m. Burial will be in Husband Cemetery in Somerset, Pa., near Msgr. Baroni's birthplace.

Born Oct. 24, 1930, in a striker's shack during a union struggle in the Pennsylvania coalfields, Msgr. Baroni was the eldest child of Italian immigrants Josephine Tranquellini Baroni and the late Guido Baroni. As his activities in the years ahead were to prove, his heart always remained close to his roots in the struggles for labor and civil rights.

Msgr. Baroni's early education took place in the public schools of his birthplace, Acosta, Pa., and the regional high school. During those years, he worked after-school hours in a grocery store and on a farm. Following high school graduation in 1948 and a summer as a laborer in a plywood factory, he enrolled in the seminary of Mount St. Mary's at Emmitsburg, Md., where he remained until his ordination in 1956.

Msgr. Baroni's first parish assignments were in Altoona, Pa., where he also taught in the Catholic high school. There he established a tradition which he was later to transplant to Washington—the celebration of working people at an annual Labor Day Mass. He also organized in Altoona the first of the many low-income credit unions which owe their existence to him, and which, years later, were to bring him an award from the National Credit Union.

After a year's service at a parish in Johnstown, Pa., Msgr. Baroni transferred his dedication to ethnic, racial and worker rights from rural Pennsylvania to inner-city Washington, D.C., where in 1960 he joined the staff of Sts. Paul and Augustine (now St. Augustine) parish. There the young priest with dark, wavy hair and intense blue eyes soon took a place in the forefront of the struggle against urban poverty and spent the next decade combining the role of parish priest with that of energetic activist in the movement to end racial discrimination.

Msgr. Baroni's activities led to his designation in 1965 as executive secretary of Cardinal Patrick O'Boyle's Commission on Community Relations. In 1967 he became founder and executive director of the Archdiocese's Office of Urban Affairs. Among his achievements in that post were the establishment of several nonprofit housing programs, including the Urban Rehabilitation Corporation which applied federal funds to the rejuvenation of decaying housing units.

His accomplishments brought recognition at the national level and Msgr. Baroni was tapped to serve from 1968 to 1970 as program director of the Task Force on Urban Problems of the U.S. Catholic Conference. There he devised the program concept and was instrumental in creating the Campaign for Human Development, the U.S. Catholic bishops' major self-help, anti-poverty program.

Pope Paul VI named him Prelate of Honor with the title of Monsignor in 1970.

1971 brought the establishment of the National Center for Urban Ethnic Affairs, an affiliate of the Ford Foundation, with Msgr. Baroni as its founder and president. The agency was one more link in his continuing efforts to promote pride in ethnic and neighborhood community cultures and to meet the housing and financial needs of the urban poor.

The object of Time Magazine kudos in 1974 as one of the nation's 200 rising young leaders, Msgr. Baroni fulfilled the periodical's prediction when on April 11, 1977, he was sworn in as assistant secretary for neighborhoods, voluntary associations and consumer protection of the U.S. Department of Housing and Urban Development. Nominated for the HUD post by President Jimmy Carter, he was the first Catholic priest in U.S. history to be appointed to a subcabinet-level position.

His long-time advocacy of low and moderate income city dwellers was expanded in his government post where he was responsible for the formulation of government policy programs for the elderly, the handicapped, and American Indians. His job included spending long hours on Capitol Hill convincing federal legislators to pass laws benefiting these populations.

Among his major achievements at HUD were the establishment of an Office of Neighborhood Development and working for the passage of the National Consumer Cooperative Bank program and the Neighborhood SelfHelp Act.

When he resigned from HUD in 1980, Msgr. Baroni discussed his government service with a reporter for Our Sunday Visitor. His political involvement had been spurred by a belief that social issues are moral issues as well, he said.

Affluence is one such moral issue, Msgr. Baroni explained. "I think the thing to do is create a public will so we don't let affluence stop us from caring about other people," he said. "This is the real issue. We have to help people help themselves."

Msgr. Baroni held leadership roles in four White House conferences—Youth, Civil Rights, Hunger-Nutrition, and Ethnicity and Neighborhood Revitalization. He served on the boards of directors of Common Cause, National Urban Coalition, Robert F. Kennedy Memorial Foundation, Leadership Conference on Civil Rights, National Committee for Full Employment, Council for Urban Economic Development, and the National Italian American Foundation.

Among the numerous awards bestowed on him were the Community Service Award given by the Office of Black Catholics in 1980, and the first Associated Catholic Charities Advocacy Award presented last October. He will be posthumously awarded the Cardinal Gibbons Award at the Archdiocese's 32nd Annual Labor Day Mass Monday. The award is given in recognition of outstanding leadership in the Church and in society on issues of social justice and human rights.

During the years of his fight against the cancer which took his life, Msgr. Baroni's face grew hagard and chemotherapy treatments left his head sparsely covered with grayed strands of hair. Yet he summoned the energy to stroll proudly, smiling to friends, along the route of the 20th Anniversary March on Washington for Jobs, Peace and Freedom last August. Then a few weeks later he brought the congregation at the 1983 Labor Day Mass to their feet as they applauded his emotion-charged homily challenging them to become "new prophets, new voices of justice."

In addition to his mother, Msgr. Baroni is survived by two brothers. Angelo Baroni and John Baroni, two sisters. Mary Halkias and Rose Hebda, and several nieces and nephews.

[From the National Catholic Reporter, Washington, DC, Sept. 7, 1984]

GENO BARONI

"I was born in a tar-paper 'strike barracks' shack in a Pennsylvania coal camp because my parents were evicted from a company house by the mine owners because my father supported John L. Lewis and was an organizer of the coal miners' right to organize into a labor union.

"My mother and father could not read or write in any language, but they were the first voices of justice in my life."

With those words Monsignor Geno Baroni talked about the fight for justice he lived and the fight with death caused by cancer he faced. For he regretted, as all Christians regret, that he had not done "enough."

To the people gathered at Sacred Heart Shrine, Washington, D.C., on Labor Day 1983, Baroni spoke of his 27 years as a priest, and of his struggle:

"Lord, I pray, help me to know that our limited charity is not enough. Lord, help me

to know that it is not enough for the church to be the ambulance service that goes about picking up the broken pieces of humanity for American society. Lord, help us all to know that God's judgment demands justice from us as a rich and powerful nation."

Geno Baroni was born Oct. 24, 1930, in Acosta, Pa., the son of Italian immigrants. He studied at Mount St. Mary's College, Emmitsburg, Md., the University of Notre Dame, the Catholic University of America and was ordained in 1956.

From 1956 to 1960, he served as an assistant pastor in Altoona and Johnstown, Pa., before coming to Washington, D.C., as assistant pastor to the city's oldest black Catholic parish, then St. Paul-Augustine, now St. Augustine's, at 15th and V Streets NW.

The exuberant Baroni took over an abandoned cloister and began the Baroni version of the social justice gospel as he understood it—a community center with "outreach" programs. His work was one more embodiment of the labor rights-based Catholic teaching arising from the social encyclicals which formed his generation of Catholic men and women.

Chance brought the young priest into contact with the social problem-solving ambitions of the early Kennedy administration. Under Robert Kennedy, a juvenile delinquency study, under David Hackett, was conducted in the neighborhood where Baroni was active.

"I had been working on a project with a teacher from the National Institutes of Health to teach infants. This was pre-Head Start. As the Kennedy people got into the juvenile delinquency studies," said Baroni, "they began to realize the problem was jobs, bad homes, poor housing—the lot, education and health care, too."

Finally the "Kennedy gang," as Baroni called them, decided they wanted trial programs in Washington. Geno Baroni became treasurer of the first Head Start, on Capitol Hill.

In 1965 he was appointed Washington archdiocesan urban affairs director. He was already serving on the district's Human Relations Council and the Mayor's Commission on Economic Development. Then came the Easter 1967 riot. Baroni would recall it as the one year he never made his Easter vigil.

Whether he experienced fear during those riots, for he was highly visible and the core of the rioting was in his neighborhood, he did not say. The fear, if such it was, set in when, as a result of his work, one black publication called him "the most important white man in Washington." Typical of the self-effacing Baroni behind the wall of confidence, he felt he could not live up to it, that he was not doing enough.

His answer was always to drive himself harder and to think bolder. He was instrumental with others in the U.S. bishops' urban crisis statement. Later, while at the U.S. Catholic Conference (USCC) in 1968–1970, as urban task force director, he helped bring about the Campaign for Human Development, the bishops' national self-help and antipoverty agency. He was a fellow at the John F. Kennedy School of Government at Harvard University.

To list Baroni's involvement, from the boards of foundations to leadership roles in four White House conferences (youth, civil rights, hunger-nutrition and ethnicity and neighborhood revitalization) is to describe the man and his work:

—Board member of Common Cause, the National Urban Coalition, the Robert F. Kennedy Memorial Foundation, the National Italian-American Foundation, the Small Business Administration national advisory council. The roll seems endless. To describe Baroni the priest is less easy. If his social conscience was evident in almost everything he worked at, his deep-seated faith and private counseling abilites as spiritual adviser were the quiet side of his nature. But one word holds both sides together—compassion.

In worldly terms, Baroni achieved his highest level under the Carter administration when he was named Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection—a quasi-Cabinet level post and the first ever to be held by a priest.

Baroni's influence as a priest was much in the tradition of such predecessors as Father John A. Ryan, the social activist and thinker influential in the early days of the National Conference of Catholic Bishops when it was the National Catholic Welfare Conference, and among such peers as Monsignor George Higgins, the "labor" priest.

Baroni personified the growing Catholic impact on post-World War II U.S. society and U.S. social thought—not through his writings but through his work. The book which one day will undoubtedly be written about him should set him squarely in the setting of U.S. social and political history, circa 1960s and 1970s.

He was a man of dry wit who was tested by cancer. But more, he was tested by the sadness of the injustices he saw all around him. Often he relieved that tension with amusing stories from his own life. But there was always an edge to his stories, a moral of sorts.

One lunchtime he told of his mother, in her 80s, attempting to adjust to the "new" church. Each year the young, bearded priest came by. One year he told her she had to stop eating lettuce. As Baroni recalled it, she did, but wasn't exactly certain why, except it had to do with justice. The next year it was grapes, and she went along with that, too. The third year he told her we were all responsible for the problems of the Third World. At that point Mrs. Baroni decided it was time to contact Geno.

"Geno," she said, "I think because of the changes there's no purgatory anymore. Just heaven and hell. What's this Third World?"

By leaning on humor, Baroni was able to keep going beyond the limits imposed by his cancer-ridden condition. He lived with his sister and brother-in-law in suburban Virginia while continuing on as special assistant for urban affairs to Washington's Archbishop James A. Hickey.

Baroni was, of course, correct when, in his Labor Day 1983 speech, he warned that charity was not enough. Those who knew him, however, would have liked to reassure him that as priest and citizen he nontheless did more than his share.

[From the National Catholic News Service, Sept 4, 1984]

MONSIGNOR BARONI SERVED WHERE CHURCH MET WORLD, FUNERAL TOLD

WASHINGTON, NC.—Msgr. Geno C. Baroni, ethnic affairs specialist and former Housing and Urban Development assistant secretary, carried out his ministry at the edge of the church "because it was at the edge of the church that it met the world," Father J. Bryan Hehir said at Msgr. Baroni's funeral Mass Aug. 31.

Msgr. Baroni, 53, died Aug. 27 in Washington after a lengthy battle with cancer.

"Sorrow is not our posture tonight," Father Hehir, U.S. Catholic Conference secretary for social development and world peace, told the congregation at St. Augustine Church in Washington. "We can grieve the brevity of this life, but we have to celebrate its richness. It's quality over quantity this night."

More than a thousand people—white and black, poor and prominent—filled the church and flowed out onto the sidewalk. They were a picture of the constituencies Msgr. Baroni served during his life as pastor, civil and labor rights activist, community organizer and first Catholic priest to serve as assistant secretary in a cabinet-level U.S. government agency.

In a brief eulogy after the Mass, Archbishop James A. Hickey of Washington praised Msgr. Baroni as "a dear friend, a splendid priest, a valued adviser." Msgr. Baroni was named Archbishop Hickey's special assistant for community affairs in 1981.

The archbishop said: "Our Geno was a shining example of the church's commitment to work for justice, to confront the issues, to serve those in need. In what he said, in what he did, in who he was, Geno showed us how to take our social teaching off the shelf and put it to work in our communities, neighborhood and nation.

"In his first 50 years Geno taught us a lot about how to live and what to live for. And then in his three years he taught us a great deal about how to die and how in the end death is really the final healing," Archbishop Hickey said.

Father Hehir said that the friends and family of Msgr. Baroni were gathered "to celebrate his passage into the completion of the kingdom" and to "probe the ways he called to build the new kindom now."

Father Hehir described his friend as an artist. "When you watch an artist, you see that they act by instinct . . . some things you don't teach, they are just there. Geno was an artist of the human condition who could touch human suffering in so many ways.

"Geno was sort of a priest of the nation," Father Hehir said, referring to Msgr. Baroni's national prominence.

Archbishop Hickey was principal celebrant of the Mass of Christian Burial. Retired Cardinal Patrick O'Boyle of Washington presided. Six bishops and about 40 of Msgr. Baroni's fellow priests joined in concelebrating the Mass.

Democratic presidential candidate Walter F. Mondale, who worked with Msgr. Baroni during the Carter administration, said in a written statement the day before the funeral that it was "an honor and a privilege to work with Geno in many of the great struggles of his life."

Mondale said Msgr. Baroni "took on the toughest tasks in order to help the least fortunate in our society, and he fought for them with a passion for justice and a heart full of courage and compassion."

Msgr. Baroni was buried Sept. 1 in Somerset, Pa., near his birthplace.●

BASIC RIGHTS FOR SOVIET JEWS

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1984

● Mr. GARCIA. Mr. Speaker, America and the rest of the world cannot ignore the mistreatment of thousands of Jews in the Soviet Union. A great freedom that is all too often taken for granted in our country is the freedom of religion.

Unfortunately, thousands of Jews in the Soviet Union are not free to worship as they please. We have an obligation to speak for those who can't speak for themselves. We must convey our deep concern over the persecution of Soviet Jews at every opportunity. Thanks to the 1984 Call to Conscience Vigil, I have been provided with an opportunity to help those who struggle for religious freedom in the Soviet Union. The United States must stand up for the Andrei Sakharovs, and all others who are willing to sacrifice their lives for the good of all Soviet Jewry. We must not let their efforts be in vain. We must continually protest the injustices of Soviet anti-Semitic policy. I urge the Soviet Government to end its campaign of harassment of Soviet Jews, and to respect the most basic of human rights: the freedom to worship.

Just as troubling as this anti-Semitic activity in the Soviet Union is the Soviet emigration policy. A fact sheet prepared by the National Conference on Soviet Jewry sums it up nicely: "It's a tough place to live. It's a tougher place to leave." Unfortunately, emigration figures from the Soviet Union reflect this reality. In 1979, the peak year for Jewish emigration, over 51,000 Jews left the Soviet Union. Last year, barely over 1,000 Jews were allowed to leave. This is the lowest emgration figure for Soviet Jews in 12 years.

There are countless Soviet infractions of basic human rights. This is sad. But my purpose, and the purpose of many of my colleagues, is to vigorously protest the treatment of Soviet Jews, and to make the world aware of their mistreatment. Hopefully, pressure from outside sources will move the Soviets to change their oppressive policies toward Soviet Jewry.●

LET'S HELP AMERICA'S FARMERS

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Mr. HUBBARD. Mr. Speaker, I recieved an excellent letter from my constituent, State Representative Sam M. McElroy of Waverly, KY. State Representative McElroy serves on the agriculture and natural resource committee in the Kentucky Legislature.

As many of you know, America's farmers are still facing dire economic problems, even though our economic picture has been brightening in recent months. In 1985, Congress will consider legislation to extend or replace the Agriculture and Food Act of 1981 (Public Law 97-98), a comprehensive law which governs the current operation of Federal farm programs. I hope my colleagues will carefully read Sam McElroy's suggestions for assisting farmers. His letter follows:

WAVERLY, KY, *September 7, 1984.*

Congressman CARROLL HUBBARD,
Washington, DC.

DEAR CONGRESSMAN HUBBARD: I am a State Representative and serve on the Agriculture and Natural Resource Committee in the Kentucky Legislature. I would like to present some drastically needed measures to immediately curtail the disastrous farming situation confronting the farmers of America. Time is of the essence. Implementation of a plan to alleviate this situation must come at once. Much irrevocable loss to the American economy has already occurred. I fully realize the long-term programs that are needed in Agriculture, such as soil conservation programs for erosion control, development of additional export markets, preservation of the family farms, and many other problems.

The problem of farm foreclosures must be addressed immediately with forceful action. I know the Department of Agriculture and the Agriculture Committees of Congress fully realize that land has lost value and immediate action of some degree has to be taken. My recommendations for immediate action will be in two categories. One will be for land debts, and one for production loans for farmers.

First, I would like to address the burden of land debts and the loss of land values across our country's agricultural industry.

Action must be taken by United States Department of Agriculture and Agriculture Committees of Congress to work with Commercial Banks, Federal Land Banks, Production Credit Administration and other Credit Institutions in order to "Restructure Loans." This would be accomplished by:

1. 10% of debt would be written off.

2. 50% of debt would be set-aside with no interest or principal payment for 5 years.

3. 40% of a loan would stay as is and farmers will continue to pay principal and interest. This would result in the farmer paying a manageable 5% toward his total loan. This would save the family farm as we know it in this country today. No farmer can make 13 or 14 percent return on investment. If the present situation continues, farmers who owe money cannot survive. There are segments of the economy who are in a situation that allows them to stop borrowing when interest rates go up; farmers cannot. They have to have money to continue to operate.

4. The Federal Government will help Commercial and Credit Banks to restructure their loans which will result not only with assistance to farmers, but also create the dual benefit of insuring repayment of loans held by the lending institutions.

5. This would put the farmer in a more favorable situation and stop the farm foreclosures, until the long range programs can be put in operation in order to have a sound agricultural economy.

6. This, in effect, is how Iacocca bailed out Chrysler. He arranged with the banks holding loans to set aside Chrysler's debt and then obtained a Federal loan. He was able to pay the Government back because he had the other debts set aside for a period of time. This allowed him time to recover and then to become once again a large taxpayer to the Federal Government.

7. Assisting farmers through this process would again make the farmer a taxpayer, raising federal revenue with which to repay federal deficits.

Secondly, I would like to present my program to solve the production loan problems that are being incurred by farmers.

United States Department of Agriculture and Agriculture Committees of Congress work with all Commercial Banks and Production Credit Administration to make production loans to all farmers in the Spring of 1985.

To address this problem farmers should be extended loans to be repaid within six months at 5% interest.

The Federal Government will pay the difference between 5% and the percent charged by banks. This difference will only be one half, since the loan is only six months. There will be three criteria that farmers must abide by in order to be eligible for these loans.

1. Farmer must participate in Set-Aside Program.

2. Farmer must take out crop insurance.

3. Since this is only for production expenses, farmers must show evidence (paid bills) that the seed, chemical and fertilizer dealers have been paid.

This program would not cost as much money for the Federal Government as is now being spent for present programs that have not proven to be cost effective.

Criterion one would insure profitable farm prices due to all farmers participating in the set-aside program. It would also greatly assist the soil conservation problems by insuring that we would have some soil conservation land on every farm each year.

Criteria two would stop all extremely costly programs for disaster loans by ASCS and Farmers Home Administration because all farmers would have crop insurance. It would also greatly strengthen the Federal Crop Insurance. It would also greatly strengthen the Federal Crop Insurance Program. This would help set-aside Farmers Home Administration, which I think is needed. I think they have gotten far too big, due to the fact that they are today the largest single bank in America.

Criteria three would insure that all banks would be paid, along with all Agribusinesses, such as seed, chemical and fertilizer dealers. Figures show that of all bills owed seed, chemical and fertilizer dealers, 30% are not paid. This is one reason for the increased costs to the other 70% of farmers.

The programs herein presented would greatly help the ills that are so prevalent in rural America today. To aid agriculture, by far the largest business in America, would do more to help our economy than anything we could do, both on the domestic as well as the foreign scene.

Thank you for your time in considering this proposal. I would be available at any time to meet with you or any committee in order to further discuss or expand on this

suggested solution to Agriculture's very complex problem.

Sincerely,

SAM M. MCELROY,
State Representative.●

THE MARCH OF THE MORMON BATTALION

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Mr. PACKWOOD. Mr. Speaker, I want to share with my colleagues the following article about the Mormon Battalion whose march was one of the seminal events in southern California history.

The article follows:

[From the San Diego Union, Sept. 13, 1984]

UNDER DESERT SUN, SOME STEPS INTO HISTORY

(By Hugh A. Crumpler)

BORREGO SPRINGS.—My own footsteps on the sand and stones were the only sounds in Box Canyon in Anza-Borrego Desert State Park.

The desert sun had cooked all cooling moisture from the air. Nothing moved.

A recurrent sense of unease followed me as I walked. I stopped. No sound. No breeze. No movement. Nothing.

I realized then that the unease was an intuitive reaction to the unfamiliar. Our senses are attuned to the perceived and subliminal sounds and movement of everyday life—of "civilization," if you prefer.

In the absence of those familiar sounds, the body's warning system was signaling: "Be alert," even though no real danger existed.

Explosive sounds filled Box Canyon one day in another century. The clatter of iron on stone, the creaking of leather harness and hickory singletrees, and the heated grunts and exclamations of men and mules floated from the narrow desert corridor.

That day was Jan. 19, 1847. The Mormon Battalion was cutting its way through Box Canyon.

Before entering the canyon, I had stopped to read the bronze marker at the turnout on Highway S2. The marker recorded that the Mormon Battalion, "using hand tools hewed a passage through the rocky walls of the narrow gorge for their wagons and opened the first road into Southern California."

Walking in the canyon made it easier for me to visualize the hardships faced by the Mormon Battalion, even though forced passage through Box Canyon was but a one-day ordeal in the battalion's 195-day march from Council Bluffs to San Diego by way of Fort Leavenworth and Santa Fe.

The Mormon Battalion was unique in American history.

It had been formed by agreement between President James Knox Polk and Mormon Leader Brigham Young. Polk probably saw the Mormon Battalion as a means of obtaining Mormon loyalty to the United States. Events had led to a wide breach between Mormons and other Americans.

Historian Wallace Stegner, in his book "The Gathering of Zion, the Story of the Mormon Trail," characterized initial reaction of rank-and-file Mormons as follows: ". . . after permitting bloodthirsty mobs to drive them from their homes and kill their leader (Joseph Smith), the United States had the gall to come asking for volunteers to help it fight the war it had started with Mexico."

But Brigham Young was a pragmatist. He probably saw the battalion as a cost-free trek west for some 500 of his followers. In addition, the Mormon leader would use the pay of Mormon soldiers to help finance the westward immigration of other Mormons. He made certain that recruiting was successful.

The Mormon Battalion had two objectives. The first was to join up with Gen. Philip Kearny's Army of the West in California. The second objective was to pioneer, improve and mark a wagon trail to California.

The man who led the Mormon Battalion was not a Mormon himself. He was Lt. Col. Philip St. George Cooke, a West Pointer who had been selected by General Kearny for the onerous assignment of commanding 500 recalcitrant Mormon recruits across a thousand miles of mountain and desert.

It is not hard today to recognize the discouraging aspects of the view that greeted Cooke when he led his troops into Box Canyon in 1847. Much of the canyon appears to be a labyrinth. The viewer sees a rock wall ahead, only to find it is a jog in the canyon leading to another illusionary dead-end and still another section of canyon.

Plant life in the Canyon is typical of this desert region. It includes sagebrush, ocotillo, mesquite and yucca. I saw many barrel-cactus plants that had fallen onto the canyon floor from the slopes. Perhaps they were victims of winter rains that had loosened their footing in the rocky ground.

One interesting plant was an ancient juniper. it was wide and strong at the base, but it narrowed rapidly upward as a result of maybe a century of pruning by wind, water and fire. Man and animal, too, had probably "cut back" the growing juniper.

The only animal life I found in the canyon was of ancient origin—lizards and insects. Shadows crossing the sand came from birds flying far above the canyon.

The overwhelming impression in the canyon is of quiet and heat. With its rocky walls that sometimes seem to be closing in, Box Canyon is no place for one who suffers from claustrophobia.

When Cooke, who was a strict disciplinarian, led his men into Box Canyon he was in no mood for delay. He had spent three days, Jan. 9-11, crossing the Colorado River at Yuma. The crossing, he thought, should have taken one day.

During the crossing, the Mormons witnessed an example of Cooke's sense of humor (which they had previously observed many times before, usually without any great appreciation). A boatload of men and livestock had drifted into deep water and out of control.

When Cooke's shouted instructions had no effect on the runaway boat, he removed his hat with a flourish, bowed deeply, and asked the errant boatmen to give his regards to the folks on the Gulf of California at the mouth of the river.

After crossing the Colorado, Cooke wrote that the battalion then consisted of "360 nearly worn-out footmen" and the wagons and livestock.

The battalion crossed into present-day San Diego County on Jan. 16 after marching, as Cooke recorded, "for near three days without water . . . for the working animals."

Cooke was exultant when the battalion reached Carrizo Creek. He wrote on Jan. 16:

"Finally, near eleven, I reached, with the foremost wagon, the first water of the Cariza; a clear running stream gladdened the eyes, after the anxious dependence on muddy wells for five or six days."

The exhausted battalion camped 15 miles beyond Palm Springs (San Diego County) on the night of Jan. 17.

On the 18th, Cooke wrote that the men "were eating their last four ounces of flour, of sugar and coffee, there has been none for some weeks. I have remaining only five public wagons . . . three, private property."

But there was good news before the day was over. Indian runners arrrived with letters of welcome from authorities in San Diego. The letters provided a greatly-needed psychological boost.

"The men, who this morning were prostrate, worn out, hungry, heartless, have recovered their spirits tonight," Cooke wrote, "and are singing and playing the fiddle."

So it was on an upbeat note that the battalion reached Box Canyon on Jan. 19, 1847. Here is the story of that historic passage in the words of Cooke:

". . . the march was resumed the 19th, with more military order, and with baggage in the rear. The guides had reported a good firm road, with a rather narrow canyon, etc.

"After marching three or four miles, up hill, I came to advance guard pioneers and guides, at a standstill.

"Weaver (a guide) coolly remarked, 'I believe we are penned up,' there was a rugged ridge in front, some 200 feet high; I ordered him to find a crossing, or I should send a company who would soon do it.

"With much active work, I got the wagons over in about an hour and a half.

"Then up the dry bed of a mountain stream, I came to the canyon and found it much worse than I had been led to expect; there were many rocks to surmount, but the worst was the narrow pass.

"Setting the example myself, there was much work done on it before wagons came; the rock was hewn with axes to increase the opening. I thought it was wide enough, and going on, found a hill to be ascended, to avoid a still narrower pass, with a great rock to be broken, before it could be crossed.

"But when a trail was made, at the first pass, it was found too narrow by a foot of solid rock. More work was done and several trails made.

"The sun was now only an hour high, and it was about seven miles to the first water.

"I had a wagon taken to pieces, and carried through.

"Meanwhile, we still hewed and hammered at the mountainside; but the best tools had been lost (in a crossing of the Gila River).

"The next wagon body was lifted through and then the running gear, by lifting one side; then I rode on again, and saw a wagon up the very steep hill, and down again to the canyon.

"The work on the pass was perseveringly continued, and the last two wagons were pulled through by the mules, with loads undisturbed."

Cooke and his 360 men marched over the ridge and into what is now called Blair Valley. They had conquered Box Canyon in one day.

I had spent only two hours in Box Canyon. When I climbed out of the canyon and up to the roadway, I was greeted by a breeze. It was a hot breeze, but still welcome after the suspended stillness of the canyon

air. It had been nine degrees hotter in the canyon than here on the rim.

Birds sang. A car went by on S2. The sounds seemed unnaturally loud after the quiet of the canyon.

The Mormon Battalion reached Warner's Ranch on Jan. 21, two days after they had conquered Box Canyon. The march to Warner's had been uneventful, although the men were alert for trouble as Cooke had received reports that the trail was "very unsafe from hostile Californians."

At Warner's Ranch, the men of the Mormon Battalion, the true heroes of this road-blazing epic of American history, rested and ate their fill for the first time in months.

Cooke hired "Chief Antonio and ten San Luis Indians" as scouts and cattle drovers for the march ahead.

On Jan. 29, 1847, Lt. Col. Philip St. George Cooke, Army of the United States, noted the successful completion of his mission with this laconic entry in his diary:

"The evening of this day of the march, I rode down, by moonlight, and reported to the General in San Diego."

The Mormon Battalion had completed the objectives set out by President Polk: It had joined up with the Army of the West, and it had blazed a wagon road to the Pacific Ocean.

The Box Canyon road was soon abandoned for a wider wagon road. But it remains a symbol: Determination in adversity.

The men of the Mormon Battalion had it aplenty.●

PROTECTING MEMBERS OF THE INTELLIGENCE COMMUNITY AND FEDERAL PROBATION OFFICERS

HON. FREDERICK C. BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Mr. BOUCHER. Mr. Speaker, the House Judiciary Committee's Subcommittee on Criminal Justice, without opposition, recently reported favorably upon H.R. 6272, a bill that I introduced that would make it a Federal crime to assault or kill a member of the intelligence community or a Federal probation or pretrial services officer.

H.R. 6272 has the support of those directly concerned. The Director of Central Intelligence, William J. Casey, and the Chief of the Probation Division of the Administrative Office of the U.S. Courts, Donald L. Chamlee, have written to express support for the legislation. I am including in the RECORD a copy of both letters.

In addition, the president of the Federal Probation Officers Association has written in support of the bill. His letter states that "The Federal Probation Officers Association strongly endorses H.R. 6272 and we wish that all Members of Congress would also support the passage of this legislation this congressional term."

CENTRAL INTELLIGENCE AGENCY,
Washington, DC, September 24, 1984.

Hon. PETER W. RODINO,
Chairman, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to state the support of the Intelligence Community for H.R. 6272, a bill to extend the protection of federal criminal law to Intelligence Community personnel and probation pretrial services employees.

The Executive Branch and Congress have been in agreement as to the need for legislation of this type for some time. The Intelligence Community has sought the inclusion of its personnel within the list of protected federal officials for many years. Earlier this year, Vice Admiral E.A. Burkhalter, Jr., U.S.N., Director of the Intelligence Community Staff, restated this support in his testimony before the Subcommittee on Criminal Justice of the House Judiciary Committee. Additionally, there is a long history of Congressional consideration and support of similar proposals in both the 96th and 97th Congresses. During this Congress, the Senate has twice passed similar legislation in S. 779 and S. 1762. Finally, I want to stress that the President has previously indicated his support for protection of Intelligence Community personnel. In commenting on an earlier bill containing a similar provision, the President said: "I completely support some of the features of H.R. 3963, such as the Federal Intelligence Personnel Protection Act."

This legislation is essential to ensure that Intelligence Community personnel have the same protection under current law as many other employees of the Federal Government. I commend your Committee for its support of the bill and urge its enactment.

This letter is also being sent to Chairman John Conyers, Jr., Subcommittee on Criminal Justice. The Office of Management and Budget has advised that there is no objection to the submission, of this letter from the standpoint of the Administration's program.

Sincerely,

WILLIAM J. CASEY,
Director of Central Intelligence.

ADMINISTRATIVE OFFICE
OF THE U.S. COURTS,
Washington, DC, September 26, 1984.

Hon. JOHN CONYERS, Jr.,
Chairman, House Subcommittee on Criminal Justice, Washington, DC.

DEAR CHAIRMAN CONYERS: I write concerning H.R. 6272, a bill to amend title 18 of the United States Code to extend the protection of certain assault and homicide provisions to probation officers and members of the intelligence community. The Judicial Conference of the United States and the Administrative Office of the United States Courts support this bill, which was reported favorably by your subcommittee on September 13, 1984. For over 30 years our aim has been the inclusion of U.S. probation (and in later years pretrial services) officers and employees in the protection against assault and homicide provided other Federal law enforcement personnel under 18 USC 114.

Sincerely,

DONALD L. CHAMLEE.●

REFRAIN FROM EMBARRASSING THE SOVIETS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Mr. BEREUTER. Mr. Speaker, there are times to come out slugging and there are times when diplomacy is needed. President Reagan made a prudent decision to withhold public release of the alleged Soviet Arms Treaty violations found by the General Advisory Commission on Arms Control and Disarmament. If the meeting goes badly, he can release the information later. But, there is no reason to embarrass or annoy Foreign Minister Andrei Gromyko before the meeting. This would only reinforce the very hard lines on both sides.

Mr. Speaker, a recent editorial in the Omaha World Herald eloquently argues this point. I commend it to my colleagues.

REPORT ON SOVIETS CAN WAIT

The people of the United States—and the world—have not had sufficient access to specific information on arms control violations by the Soviet Union.

But it might be necessary to wait some more.

Over the years, some information about Soviet violations has been leaked to the press or alluded to in speeches by some officials of the United States and other Western countries. But detailed reports of incidents in which the Soviet Union has not complied with treaties and other agreements have not been made available.

This is largely because several presidents of the United States, the signer of arms control agreements with the Soviet Union, have accepted the advice of the State Department, which has been reluctant to offend the Kremlin.

There is no evidence that this restraint in any way caused the Soviets to take their treaty obligations more seriously. In recent years, some members of Congress and others have been pushing for a release of details in order to give the public a better understanding of the nature of the Soviet Union.

President Reagan went further than some of his predecessors last January when, in a message to Congress, he referred to seven alleged or probable violations of six agreements by the Soviets.

This summer, Reagan indicated plans to send to Congress a report that reportedly details at least 18 violations occurring over the last 23 years. He received the report last January from the General Advisory Committee on Arms Control and Disarmament but has kept it secret.

Reagan's plan was to send the report to Capitol Hill and release a declassified version of it to the public in the next few days.

But the president has reconsidered and will wait until after his scheduled meeting Sept. 28 with Soviet Foreign Minister Andrei Gromyko. The State Department reportedly persuaded Reagan to sit on the report for at least two more weeks to avoid offending Gromyko.

Said a Reagan aide: "We would be accused of purposely spoiling the atmosphere."

The decision to wait was prudent. While there is little reason to think the Gromyko meeting will produce a major breakthrough in U.S.-Soviet relations, little purpose would be served in unnecessarily embarrassing the Soviets at at time when they are showing a willingness to talk.●

WHY AUTHORIZE IDA VII ON AN APPROPRIATIONS BILL?

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Mr. LEWIS of California. Mr. Speaker, the International Development Association [IDA] is the arm of the World Bank which makes zero interest, 50 year loans to the poorest of countries. Over the years, the United States has contributed nearly $10 billion directly to IDA. Congress is now being requested to authorize another $2.25 billion. Yet in the past, Congress has not been allowed to address the serious policy issues regarding IDA. In 1981, the authorization of IDA VI was attached to the omnibus reconciliation bill and was not brought to a separate House vote. This year a similar effort may be made by attaching the IDA VII authorization to the 1985 continuing resolution for appropriations. Such legislative manuvering to preclude a House vote on a most controversial issue should not continue this year. IDA issues you should be aware of include:

IDA LOANS TO CREDITWORTHY AND UNFRIENDLY NATIONS

Nearly 50 percent of IDA VII credits will be given to Red China and India. Red China is one of the most creditworthy Nations in the world. The People's Republic of China is among the world's top six foreign currency holders; it is buying foreign bonds at a rapid rate, and it invests heavily in foreign investments and development projects. The PRC is even directly investing funds in projects located in the United States and Japan. Even more surprising, PRC is a net creditor to the rest of the world—that is it is lending more funds to the rest of the world than it is borrowing. What is the logic of having IDA grant zero interest credits to the People's Republic of China, which turns around and provides credit to other nations at market rates of interest?

India also has access to commercial credit markets. It has the tenth largest GNP in the world and a low debt service ratio. One of the reasons for India's creditworthiness is the fact that India has shunned borrowing in private capital markets in favor of highly concessional multilateral aid. Of the $20.6 billion in total disbursed Indian debt by 1982, only $551 million was private market nonexport credit.

While India has been the heaviest user of U.S. taxpayer subsidized multilateral credits, it has adopted a foreign policy which is anti-American. For example, while India would not condemn the Soviets for their invasions of Hungary, Czechoslovakia, Afghanistan or the shooting down of the Korean Airliner 007, India did support a United Nations resolution deploring the U.S. intervention in Grenada. Moreover, while developing close military ties with the Soviet Union, including visitation rights for Soviet warships at Indian ports, India has led efforts to restrict U.S. naval deployments in the Indian Ocean.

In light of this, I find it exceedingly difficult to justify to my constituents the U.S. appropriations to IDA which grants 50 percent of its zero interest credits to the People's Republic of China and India.

DISCRIMINATION AGAINST U.S. SUPPLIERS

Although the United States has provided over 33 percent of IDA funds, U.S. suppliers have only received 15.5 percent of IDA procurement disbursements. In recent years this figure has fallen even further to 12.5 percent. This compares unfavorably with countries such as the United Kingdom and Germany which each receive about 14 percent of IDA procurements, yet respectively provide only 10 percent and 11 percent of the funding. To further aggravate this situation, IDA has set up a special fund to disburse credits from which U.S. suppliers are barred from competing. This is blatant discrimination of Americans who have been IDA's largest supporters.

LOSS OF U.S. JOBS

For those members whose constituents in copper, other mining or heavy manufacturing industries are losing their jobs to foreign competition, part of the subsidies supporting such competition are coming from IDA. Not only has IDA supported the initial construction of these foreign plants, but once established, the facilities are turned into public works projects operating without regard to costs or to supply and demand conditions with operating subsidies obtained from the international development organizations. American workers become the marginal workers, with their taxes being used to subsidize their own competition. The most effective moment for members to voice their concern about these issues is when the authorizations for programs such as IDA are debated and amended on the floor of the House.

LACK OF IDA SUPPORT FOR PRO-DEVELOPMENT ACTIVITIES

There are many activities to positively stimulate economic development which are not being promoted by IDA. First, there is private international investment. However, IDA does not penalize those nations which receive IDA funds but also nationalize and expropriate foreign investments without compensation. The United States votes against all credits to Ethiopia, because of that nation's failure to compensate Americans from that government's expropriations. Yet, Ethiopia continues to receive IDA credits. If poor nations will not even create a positive climate in their own countries to attract private capital, why should they continue to receive subsidized credits?

Second, IDA does not sufficiently encourage countries to mature out of its subsidized borrowing program. A country which consistently fails to improve the economic status of its citizens is deemed worthy for more not less subsidies. There are no timetables for maturation from IDA which depend on attainment of reasonable rates of economic growth.

Third, conditionality requirements removing host government barriers to economic growth are not sufficiently promoted. Economic growth is primarily a function of proper domestic economic policies. The carrot of subsidized loans is supposed to be the lever to obtain removal of internal policy impediments to growth. Too often nations are unwilling to change their harmful policies, and IDA proceeds to financially underwrite their inimical programs.

MARXIST DICTATORSHIPS

Congress has repeatedly expressed its displeasure with IDA's, as well as other international organization's, funding of Marxist Dictatorships with American taxpayer dollars. Yet we have been powerless to prevent our own aid from flowing to countries such as Ethiopia, South Yemen and Laos. Our influence over this issue is at its highest when we deliberate on the authorization of this program. Attaching IDA's authorization to a continuing resolution will not allow members the opportunity to express their dissatisfaction with this aspect of IDA.

UNDEREVALUATION OF AMERICAN CONTRIBUTIONS

Although the United States has provided over 33 percent of IDA funding in nominal terms, in hard currency our percentage is much higher. Many nations are allowed to contribute in their own, nonconvertible currencies which cannot be spent outside the donating county. Thus while the United States provides IDA with real resources, many other nations provide IDA with paper currency of little value which in any event is given back to the donating country. Taking this factor into account, the ratio of donations to procurement contracts is even worse for the United States than the 33 percent (donations)/15.5 percent (contracts) ratio discussed above.

In terms of voting power, the situation is much worse. For its 33 percent of the contributions, the United States

is allowed 19.54 percent of the votes. However, for 109 third world countries who only contribute 4.68 percent of the total—and most of that in restricted, nonconvertible currencies—these nations receive 36.62 percent of the vote.

UNREALISTIC CREDIT TERMS

Due to inflation, the subsidy element of IDA credits has increased sharply. IDA credits are for a term of 50 years and carry a zero interest rate. When market interest rates were around 5 percent, a healthy subsidy was involved. However, since rates have increased to the 10 percent to 15 percent range, a healthy subsidy has grown into an enormous one. While the World Bank has sought to index its other loans to market conditions, no similar adjustment has been made for IDA. Unless we want to allow inflation to significantly continue to alter the program, we should change the program's term to allow for shorter maturities, avoidance of negative real interest rates and accelerated paybacks when nations mature to harder, less concessional loans.

Unfortunately, in the past the debates and votes over IDA were primarily concerned with the level of the contribution to IDA. Either you were for a particular level of funding—and thus were a supporter of IDA—or you were considered an opponent of IDA. However, I am suggesting there are important policy considerations pertaining to IDA, independent of the level of funding. If the House is not allowed to consider the authorization of IDA as a separate issue, we will lose the opportunity to make our voices heard on these and other important policy issues.●

PERSONAL EXPLANATION

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Mr. OXLEY. Mr. Speaker, due to official business, I was in Ohio on September 19 and 26, and was prevented from casting three votes. Had I been present, my votes would have been:

SEPTEMBER 19, 1984

Roll No. 403, House Resolution 579, providing for consideration of H.R. 3082, Emergency Wetlands Resources Act of 1983; "yea."

Roll No. 404, conference report on on H.R. 3755, Social Security Disability Benefits Reform Act of 1984; "yea."

SEPTEMBER 26, 1984

Roll No. 423, conference report on S. 2603, Older Americans Act Amendments of 1984; "yea."●

THE PLIGHT OF SOVIET REFUSENIKS

HON. STEVE BARTLETT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1984

● Mr. BARTLETT. Mr. Speaker, I speak today on behalf of individuals whose situation may seem distant from the ongoing domestic policy issues, ranging from the budget to educational standards, that are currently facing this country. While we must focus our attention on these and other extremely important problem, there is another matter which cuts to even more profound issues than the crucial legislative questions currently under discussion in this distinguished body: that is the plight of the Soviet "Refuseniks." As I address the House today as part of the Congressional Call to Conscience Vigil for Soviet Jewry, I must emphasize that when one speaks of the Refuseniks, one is referring to persons who cannot openly discuss or participate in freedoms we take for granted in the United States, basic freedoms of peaceful assembly, cultural identification, and religious expression. I speak now for those who would be silenced by the Soviet Government simply for attempting to retain that most basic of human diginities, the maintenance of cultural and religious beliefs which greatly comprise one's personal identity.

As I am sure many of my colleagues are aware, since the 1970's, the Soviet Union has placed increasingly severe restrictions on the practice of Jewish culture within its borders. The mere act of reaffirming one's religious heritage, whether through prayer or religious instruction, has met with arrests and harsh punishment by Soviet authorities. On this day, I seek to honor and focus attention on the plight of Soviet Refuseniks, Soviet Jews who have applied for exit visas for the purpose of family reunification or freedom of religious expression abroad, and who have repeatedly been turned down as part of the ongoing practice or religious intolerance within the Soviet Union.

The flow of Soviet Jews to Israel and the West is now down to a trickle. The year 1983 was the most disappointing year in at least a decade for Jewish emigration. According to recent figures, approximately 1,300 Jews left the Soviet Union in 1983, down from a peak of well over 50,000 in 1979. With this descent of a new "iron curtain" on Jewish emigration, persecution of Jews has intensified internally within the Soviet Union, with Jews placed on trial for attempting to emigrate or to promote Jewish customs and religious work.

Prisons, labor camps, and internal exile have all been meted out to those who have expressed yearnings for fundamental religious freedom and who have had the courage to pursue this freedom in the face of frustrating bureaucratic obstacles and interferences. Refuseniks now in prisons or labor camps have endured restrictions on or rescinding of correspondence and visitation rights.

Additionally, there are reports that unreasonable labor quotas and physical punishment are common, with the weak and disabled special targets for such abuse. Typically, either no reason at all or sketchy justifications are given for denying a Refusenik an exit visa. "Security risk" or "lacking parental consent" are typical labels applied to the cases of Refuseniks, even when such designations are blatantly inappropriate.

Some Refuseniks, such as Andrei Sakharov and his wife, Elena Bonner, have become "nonpersons," frozen out of Soviet society and professionally ostracized. Refuseniks may abruptly lose their jobs or schooling and generally be forced to live on the fringes of their own communities. Like Mr. Sakharov, many refuseniks suffer demotions, with titles and degrees withdrawn and professional works subject to open plagiarization.

This cruel treatment is delivered simply because some individuals dare to engage in what we, in the United States, take to be an unspoken, yet deeply important, right, the ability to pray to God in the tradition of our fathers and grandfathers before us. As citizens of this great country, we are fortunate indeed that the Founding Fathers had the foresight to embrace and protect the principle of religious freedom within the Constitution.

The refusenik I have adopted, Aron Bukhman, does not enjoy such liberty and endures constant harassment, along with other members of his family, because of their desire to emigrate and practice their religion freely and openly. He was denied permission to emigrate on the pretext that his military service, which ended over 15 years ago, made him privy to sensitive military information. Such misrepresentations of fact are merely disguises for the true reasons behind such responses, primarily the intention of the Soviet Government to repress religious conviction and independence among refuseniks such as Aron Bukhman, Andrei Sakharov, and countless others.

Today, I speak for those who have been censured in their capacity to present their disturbing experiences to those outside the Soviet Union who are willing to listen. We must remember the courage of the refuseniks to retain a distinct identity within a society that constantly attempts to con-

form the thoughts and outlook of its citizenry to a monolithic and uncritical standard. We must also continue to work for increased recognition of the efforts of the refuseniks and for an improvement of their circumstances.●

PIK PROGRAM CAUSES HARDSHIP TO AGRICULTURAL SUPPORT INDUSTRIES

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Mr. SKELTON. Mr. Speaker, almost 2 years ago, our Government established the Payment-In-Kind Land Diversion Program of 1983 (known as PIK) which took one-third of our cropland out of production and reduced existing surpluses of stored grain. The PIK Program also caused hardship to hundreds of agricultural support industries that are vital to our continued world leadership in agricultural productivity. When farmers don't plant and harvest, then they don't need fertilizer, chemicals, seeds, fuel or machinery. Businesses providing those products or services suffered a loss from which some may never recover. Hearings were held on this subject and finally, this past April, legislation was passed to reactivate the nonphysical disaster loan program offered by the Small Business Administration to provide loans (not grants) from existing but unused disaster funds.

What has happened since then is a textbook example of this administration's disregard of the needs of the farmers, agri-business, and rural America and their contempt for the will of this Congress. Though regulations already existed for this loan program, 6 more months were wasted under the guise of needing to draw new regulations. The new regulations make it next to impossible for any PIK affected business to receive a loan. I would like to include in the RECORD my comprehensive comments to the SBA concerning these proposed regulations as well as the comments of other groups that were affected by PIK.

The administration's clever manipulation of this nonphysical disaster loan program through the Administrative Procedures Act and the implementing regulations has played a cruel trick on these ailing agricultural support businesses. It offers help for which no one can qualify. The sad part is, that in the long run, when the Government takes action that harms agricultural industries, the joke is on us.

HOUSE OF REPRESENTATIVES,
Washington, DC, September 20, 1984.

Deputy Associate Administrator for Disaster Assistance,

U.S. Small Business Administration, Washington, DC.

DEAR MR. KULIK: This letter is intended to comment on the proposed rule that would add parts 123.50 through 123.53 to 13 CFR. These regulations would implement P.L. 98-270 section 302 which authorizes the reactivation of the Small Business Act section 7(b)3 loan program and provides $100,000,000 funding per year for three years. More specifically, these comments will address the regulations as they implement section 308 of P.L. 98-270 which clarified that, for purposes of the 7(b)3 loan program, the Payment-in-Kind Land Diversion Program of 1983 constitutes federal action.

THE PROPOSED RULE IN GENERAL

The stated reason for delaying the implementation of the non-physical disaster loan program passed by Congress five months ago, was that new regulations were needed in the event that a huge, unquenchable demand for these loans exists that would overwhelm the Small Business Administration (SBA) and exceed the $100,000,000 per year ceiling set by Congress. (See Compilation of Presidential Documents, volume 20, number 16, page 571; and the Federal Register, volume 49, Number 163, page 33198. bottom of the second column.)

There is no credible evidence that has been provided to Congress that tends to indicate that the $100,000,000 ceiling is unnecessarily low. In the last ten years of the existence of the 7(b)3, 7(b)4, 7(b)5, 7(b)6, 7(b)7, 7(b)8, and 7(b)9, loan programs, when reviewed all together the $100,000,000 level was only exceeded twice, and by small margins. For eight of those ten years the total lending was substantially below the $100,000,000 level. P.L. 98-270 reactivates only one small part of the past 7(b) loan system. (See enclosure #1 for the record of all disaster loans approved from 1971 through the third quarter of 1983.) Finally, the funds on hand to be loaned and Congress set a ceiling, so fears of a runaway loan progam are unfounded. It should be noted in addition that, in spite of the complex qualification scheme established as a control by these proposed rules, the SBA acknowledges that they may ultimately have to rely on a first come first served selection method anyway. It makes one wonder if all these regulations and all the delay were necessary in the first place.

There is, on the other hand, an abundance of evidence that there is an immediate need for loans to those agricultural support businesses damaged by PIK. Their 7(b)3 program received full consideration by the Small Business Committee and the faster it can be implemented, the more effective it will be. (Enclosure #2 for your record, is a copy of the transcript of the hearing held by my Small Business Subcommittee entitled "The PIK Program and its Effect on Agricultural Support Businesses".)

Finally, basing eligibility for the loans on extraordinary, sudden and temporary dislocation in a county or other political subdivision bears very little relationship to which businesses are actually hurt by the PIK program. These kinds of criteria will weed out potential participants who are no less qualified than others save for technical geographic or historical local economy grounds. That policy seems unfair.

COMMENTS ON SPECIFIC SECTIONS OF THE PROPOSED REGULATIONS

Substantial Economic Injury: Section 123.51(b) lists two criteria 'conditions of business' necessary to qualify for a loan: inability to market a product or substantial economic injury. It has been almost two years since the PIK program started so we can assume that anyone who could not market a product is, by now, bankrupt; therefore substantial economic injury' is the operative phrase for PIK 7(b)3 loan applicants. Section 123.52 defines 'substantial economic injury' as a 40 percent decrease in profit or cash position when compared to a similar period in a previous year. The previous year, 1982, was a disasterous one for the farm community, throughout the midwest. In Missouri, for example, floods and a tornado lead to agricultural disaster declarations. As a result, some agricultural support businesses were coming off a bad year when the PIK program took effect. Having them prove now that their profits dropped another 40 percent in 1983 would not truly reflect their difficulty. Perhaps an average profit over a three year period could be substituted.

Acreage by Political Subdivision: Part 123.51(c) requires that the county in which a directly affected business is situated must have either 20 percent or more of its available farm acreage diverted from production by the PIK program. There are several problems with this. First, there is a difference between 'available farming acreage' and cropland that provides a market within the county for an agricultural support industry. Farming acreage, according to the ASCS, could include pastures, woodland, or other areas unsuitable for crops. No county in Missouri, for example, would qualify under this definition. Furthermore, few farm support industries observe county lines or even state lines in providing their product or service. Many of the affected businesses such as harvestors or fertilizer spreaders travel widely to fill their customer needs. Under the proposed regulations, no consideration will be given to their lost business unless these businesses are fortunate enough to *live* in a county that had a 20 percent reduction. To use Missouri as an example, even if 'available farm acreage' were re-defined to mean cropland, only 50 percent of our farming counties would qualify.

Certification by Governor: Section 123.51(d) requires that the Governor certify that 25 businesses in the county of an applying business have substantial economic injury and that these 25 need aid that they cannot get from other sources. Either a business was hurt by the loss of customers due to the PIK program or it was not. In the case of the PIK program, there is no good reason why the Governor must certify that there are other businesses in an affected county that were also hurt.

The Congress, by P.L. 98-270 specifically established that the PIK program was federal action. The relevant consideration should be damage to an individual business not a body count of businesses per county.

Thank you for your consideration of these comments. As presently constituted, these regulations would have the effect of denying eligibility to many of the businesses we in Congress intended to assist. It is my hope that we can make the necessary changes and bring this program on line as quickly as possible while there is still time to do some good.

Very truly yours,

IKE SKELTON,
Member of Congress.

DISASTER LOAN APPROVALS

[Dollars in millions]

Fiscal year	Home		Business [1]		Farm		Nonphysical	
	Number	Dollar	Number	Dollar	Number	Dollar	Number	Dollar
1971	52457	$196.9	4932	$101.0			404	$41.0
1972	88834	251.1	4375	56.2			469	52.8
1973	192758	871.2	22063	630.2			539	62.9
1974	45156	193.0	5678	150.2			606	66.9
1975	7513	48.0	1634	79.9			1465	145.8
1976	17480	69.6	2928	66.3			384	68.8
TQ	4376	58.3	522	41.2			69	17.5
1977	12901	106.4	5090	181.1	798	$41.1	343	46.8
1978	74546	360.3	10932	335.3	46792	1827.3	497	46.6
1979	48386	268.0	5280	209.9	15592	897.3	229	33.6
1980	52395	372.2	10359	384.3	5650	361.2	1691	118.1
1981	23510	163.1	15944	824.8	15234	886.6	709	49.2
1982	7866	81.6	1550	72.1	368	83.2		
1983 (8/1)	8289	89.8	1668	72.6	3	.7		

[1] Includes economic injury loans.

THE FERTILIZER INSTITUTE,
Washington, DC, September 19, 1984.

Re Disaster Loans Subpart D, 13 CFR, Part 123

Deputy Associate Administrator for Disaster Assistance,
Small Business Administration, Washington, DC.

DEAR SIR: The Fertilizer Institute (TFI) [1] commends the Small Business Administration for moving quickly to implement rules governing disaster loans for small businesses that suffered losses due to the U.S. Department of Agriculture's 1983 Payment-In-Kind (PIK) Program.

[1] TFI is a voluntary, non-profit association whose members represent approximately 95 percent of the domestic fertilizer production in the United States. TFI's membership includes producers, manufacturers, traders, retail dealers and distributors of fertilizer materials who are a vital link in America's agricultural food chain.

American farmers took 83 milion acres out of production to participate in the PIK program. The effect on small farm input businesses—such as fertilizer, feed, equipment and agri-chemical dealers—was disastrous. Many buinesses, caught with high inventory levels, had no choice but to close facilities and lay off employees. For some, the impact was of such magnitude that their only alternative was declaring bankruptcy. Thus, implementation of SBA's economic injury loan program for PIK-impacted rural agri-businesses is needed now.

TFI has reviewed SBA's proposed rules to administer PIK-related disaster loans that appeared in the Federal Register, Tuesday, August 21, 1984. We submit the following comments for SBA's consideration.

Included in SBA's proposed rule is the requirement that the governor of each state must certify that at least 25 small business concerns have directly suffered substantial economic injury in a county and are in need of financial assistance which is not otherwise available on reasonable terms. As required by other SBA disaster loans, we support the requirement that the governor be involved in the disaster preparation.

However, the requirement that at least 25 small businesses be affected before economic injury is found is too restrictive for SBA's PIK-impacted loan program. In rural areas, there may be no more than 5 to 6 farm imput businesses per county. If SBA maintains this high requirement certification level, very few, if any, businesses seriously impacted by the PIK program will be unable to participate in the loan program simply because the governor cannot certify 25 impacted businesses.

In its proposal, SBA indicated that the number 25 was selected to conform with the existing definition of substantial impact. Indeed, a governor of the state must certify that 25 homes or businesses have been impacted in making a physical disaster declaration (49 CFR, 123.23). However, a physical disaster declaration includes not only businesses but also individual homes or a combination of both. USDA's PIK program only affected farm input businesses. Thus, we question using the 25-business minimum requirement before economic injury is found.

SBA should lower the certification level to five (5) small businesses as outlined in SBA's regulations 49 CFR, 123.24(C). In this provision, when a disaster damage is insufficient for a major disaster declaration, the governor of the state in which the disaster occurred may certify to SBA that at least five (5) small business concerns have suffered economic injury and are in need of financial assistance not otherwise available on reasonable terms. We submit that such a certification level more appropriately reflects the economic injuries suffered under the PIK program.

Sincerely,

GARY D. MYERS.

AG-ONE SEEDS,
Delavan, WI, August 27, 1984.

Re Comment to SBA 13 CFR Part 123 Disaster Loans, proposed rule as applies to PIK

Deputy Associate Administrator for Disaster Assistance,
Small Business Administration, Washington, DC.

We are a seed company who had an extremely negative impact due to the 1983 Payment-in-Kind program. Our economic loss due to PIK was in excess of 60% and was the cause of a reorganization of our company under Chapter 11 of the Federal Bankruptcy code.

We were very encouraged after hearing of the passage of Public Law 98-270, the Omnibus Budget Reconcilliation Act of 1984. However, in checking further with an official of the SBA Disaster Relief unit in Atlanta, Georgia, we find that we do not qualify because "county" eligibility is a limiting requirement. We, like most companies marketing hybrid corn, cannot confine our activities to one county or even to one state, yet we were impacted most severely by PIK and cannot qualify for even modest relief through a program which specifically addresses the Payment-in-Kind program.

Our company is not the only seed company who has been damaged by the Federal Government in this manner. There must be a way that this program can be of benefit to us by providing relief for an act that was certainly a disaster as far as our small business goes.

The Federal Government helped to cause our dilemma, will the Federal Government now come to our aid?

We need assistance immediately as a matter of survival.

Sincerely,

ROBERT G. BRITT,
Ag-One Seeds President, Headquarters.●

THE VIGIL FOR SOVIET JEWRY

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1984

● Mr. UDALL. Mr. Speaker, President Reagan has vowed that "the United States will continue to view human rights as the moral center of our foreign policy. Our hope is for a time when all the people of the world can enjoy the blessings of personal liberty." He will have an opportunity to act on the hope when he meets with Soviet Foreign Minister Gromyko today.

Jews in the Soviet Union do not enjoy the blessings of personal liberty. The bleak situation faced by Jews in the Soviet Union clearly exhibits a callous Soviet disregard for basic human rights. Antisemitism is officially sanctioned in the Soviet Union. And in recent years there has been a dramatic decrease in Jewish emigration, which

has effectively trapped 2½ million Soviet Jews. In several cases, continuous Soviet harassment has prevented them from even communicating freely with friends and relatives overseas.

Americans are rightly concerned about the individuals who are suffering, many for several years, at the hands of their Soviet persecutors. A few special cases have recently come to my attention.

Aleksander Kholmiansky, once a computer scientist, now works as a janitor. He had been warned that his Hebrew teachings should cease. On July 25, he was arrested on the testimony of a "friend." He was sentenced to 10 days for trampling on flowers, but wasn't released. On August 29, the KGB searched his apartment and "found" a pistol. His brother was mugged in Moscow, and his whole family has been under attack. A few days ago, he was placed on trial on charges of mailbox tampering.

Yakov Levin, even though he is 25 years old has been denied emigration repeatedly because of parental disapproval. Levin is a Hebrew teacher. His home has been searched and his books have been confiscated. He has been warned to stop seeing his fiancee, Yehudit Nepomniashchy, whose family is also active in trying to emigrate.

Mark Rakovsky, his wife Sofia and their children Yanna and Edward have been waiting 9 long years to emigrate. They have repeatedly applied and have been repeatedly denied exit visas without ever having been given a reason.

Erlena Matlina was once a distinguished professor in Moscow, internationally known for her work. In 1979, she applied for exit visas to Israel to be reunited with her brother and sister. Three years later she was officially denied on the incredible grounds of insufficient kinship. As a result of her application, she was fired from her position. Neither she nor her husband, Simeon, have been able to find a regular job since. Professor Matlina now makes scarves as her only means of support. Her entire family has been reduced to poverty.

As Americans, and as fellow human beings, it is our duty to speak out for those who cannot speak for themselves. Human dignity and religious freedom should be observed in every society.

We must not rest until these brave men and women are free of Soviet oppression and their human dignity and religious freedom are restored. Their struggle is our struggle. I have only mentioned a fraction of those who are yearning to leave. The Soviet Jewry issue must be placed prominently on President Reagan's agenda of topics to discuss with Foreign Minister Gromyko. I urge my colleagues to join me in calling upon the Soviet Union to set free these brave men and women.●

IN MEMORY OF HIGH CHIEF FANO SHIMASAKI

HON. FOFO I.F. SUNIA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Mr. SUNIA. Mr. Speaker, today I rise to speak in memory of a friend, High Chief Fano Shimasaki of American Samoa, whose untimely passing last week was mourned by the Government and people of the Territory of American Samoa.

A few years ago, Chief Fano was a colleague of mine in the territorial senate. There I learned from him the value of being simple, humble, yet forceful in the search for a desired goal. Indeed, this chief was the exemplification of the "river that ran deep"—silent but deep. Fano was more than just another high chief or senator in our territorial Fono, he was truly a gentleman.

When John F. Kennedy sent H. Rex Lee as Governor to American Samoa in response to the Reader's Digest charges that the territory was "America's shame in the South Seas," improving health services was one of the major goals. A Yale study group pinpointed Fano family lands in the village of Faga'alu as the best site for a major health facility. Chief Fano practically gave away the land for free—several acres with the best location on the island—to the Government for the hospital which today proudly bears the name of Lyndon Baines Johnson.

The chief was head of the Fano family, the village of Faga'alu, and the Shimasaki family business. He was the last surviving son of Masaitchido "Frank" Shimasaki, one of our territory's first businessmen from Japan. His mother, Solinuu, held the title "Fano" as one of the first chieftesses to become a senator in American Samoa.

Chief Fano was a deacon of the Faga'alu Christian Congregational Church. He was dedicated to his church.

When he retired in 1975, he began to spend more time with the family business—and also at the golf course. I played with him many times, and his strategy in play mirrored his strategy in life. He did not hit very far, but straight, managing a par more times than not. "The object of this game," he used to tell me, "is to sink the ball in the number of shots allowed for that hole." That philosophy took him far and served well in life.

In ceremonies appropriate to his rank, and as a high chief who once served in the senate, High Chief Fano was honored by the Fono with the traditional service in the Chamber before his final trip to rest in the village where he was born, Faga'alu.

I join many of my constituents in extending to his widow, Lydia, and the Fano family my deepest sympathies and condolences.●

LEGISLATION TO CURB FORMER PRESIDENTS' BENEFITS BECOMES A NATIONAL PRIORITY

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Mr. YOUNG of Florida. Mr. Speaker, today, after much deliberation, I am introducing legislation to limit the escalating costs associated with benefits for our former Presidents. Although I am a strong supporter of America's highest public office and do not wish to diminish its importance or dignity, I am concerned about the increasing costs we, as taxpayers, are being asked to pay.

Current benefits for the three living former Presidents, for one Presidential widow, and for Presidential libraries, will cost taxpayers $29 million in this fiscal year. In 1955, the cost was $64,000. In addition, former Presidents are entitled to full Secret Service protection, 24 hours a day for life. Their spouses receive full protection for life or until they remarry, and their children receive protection until they reach age 18. Current Presidential libraries range from less than 30,000 square feet for President Hoover's library to more than 110,000 square feet for President Johnson's in Austin, TX. Although these libraries are constructed with privately donated funds, they are operated and maintained by the Federal Government. Finally, office allowances for former Presidents are currently set at $300,000.

Although I supported an amendment to H.R. 5798, the Treasury appropriations bill for fiscal year 1985, cutting $890,000 from the $1.7 million fund used to pay for pensions, staffs, and other expenses, it was ultimately rejected. However, $147,000 was finally deleted from the fund with my support and approval. While this amendment was an important first step, additional action must be taken. That is why I am introducing today the Former President's Benefits Containment Act of 1984.

My bill requires the administrator of General Services to ensure that Presidential libraries maximize the space allocated to them. Each President is limited to one library no larger than 40,000 square feet. The administrator cannot accept any land, building or equipment unless an endowment has been established which will provide sufficient income to cover all administrative and operational costs.

Title II places an authorized cap on all staff, office, travel expenses, and

communications services at $250,000 for each of the first 4 fiscal years, $175,000 for the fifth, sixth, seventh, and eighth fiscal years, and $100,000 for each subsequent fiscal year. Former Vice Presidents are limited to those services and facilities necessary to winding up their affairs. Funds provided under this act may not be used for partisan political activities or income generating activities. An exception is made, however, for Presidential memoirs that are exclusively printed and sold by the Public Printer.

Title III limits Federal protection of a former President to 5 years, protection of a former President's widow or widower to 6 months and only provides incidental protection to the spouse or minor child of a former President. This protection may be reinstated, however, upon a finding that a serious threat to the individual exists. Protection of a former Vice President can only be authorized upon written request and based on the finding of a serious threat.

This is a comprehensive approach to an increasingly difficult problem. I believe my legislation strikes a balance between America's respect for the Presidency and its legitimate concern for the costs of these benefits. I urge my colleagues to strongly support this measure.●

REVISED AND EXTENDED REMARKS ON ENHANCEMENT OF THE SAVINGS AND LOAN SYSTEM

HON. DOUG BARNARD, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Mr. BARNARD. Mr. Speaker, I have today introduced legislation designed to strengthen the facilities of the Federal Savings and Loan Insurance Corporation. I offer this legislation to encourage and provoke discussion and consideration of steps which need to be considered early in the next Congress to reform our deposit insurance system.

Earlier this year, the Federal Home Loan Bank Board published proposed regulations which would have the effect of sharply restricting the direct investment activities of federally insured State-chartered associations in several States. Along with many others—both in and out of Congress—I filed a formal letter with the Federal Home Loan Bank Board objecting to these proposed regulations. My objections were that the use of generalized regulations were to me inappropriate in circumstances where specific supervisory actions seemed to be indicated; and, furthermore, I was greatly troubled by the imposition of Federal regulations which overrode legislative decisions made in various States, and was thus sharply at variance with our longstanding traditions of dual Federal and State regulation of depository institutions.

I do, however, understand the concerns which underlie the proposed actions of the Federal Home Loan Bank Board; namely, the dilution of the financial resources of the FSLIC which has occurred over the past several years, due to a variety of problems that have beset the thrift industry. I agree with the Directors of the Home Loan Bank Board that there is need for the Congress to direct its attention to specific legislative actions aimed at strengthening the insurance fund of the FSLIC, as well as assisting the Board in developing enhanced capacity for effective supervision.

The bill which I have introduced today proposes three separate actions designed to contribute to the overall strengthening of the Federal savings and loan insurance system. This proposed legislation grants to the Federal Home Loan Bank Board the authority to establish minimum standards of supervisory practice to be achieved by State agencies regulating federally insured State-chartered savings and loan associations. As an incentive to encourage States to comply with these Federal minimum standards, the bill provides that associations operating in States which do comply will be permitted, if mandated by State law, to undertake investment activities up to 40 percent of total assets, even if such activities are not authorized for federally chartered associations. This provision endeavors to maintain the historic right of States to authorize activities for their chartered financial institutions which may be of a different type and character than permitted federally chartered institutions, but at the same time gives the Federal regulators some real leverage in establishing acceptable supervisory practice by State regulatory agencies for those institutions which benefit from Federal deposit insurance.

A second provision of the proposed regulation gives the Federal Home Loan Bank Board the express authority to undertake an experimental program of risk-related deposit insurance premiums. This program would be authorized until July 1, 1986, and the Federal Home Loan Bank Board would be required to report to the Congress on the operating results of the program and to provide the Congress with a recommendation as to whether permanent authority should be granted for a program of risk-related deposit insurance premiums. Unquestionably, if we can find a practice and effective means for implementing a system of deposit insurance premiums related to the varying degrees of risk among deposit institutions, we will have made a solid step in the direction of strengthening the financial resources of the deposit insurance system.

As a further effort to give immediate strength to the FSLIC, the proposed legislation authorizes the Federal Home Loan Bank Board, in consultation with the Secretary of the Treasury and the Board of Governors of the Federal Reserve System, to call upon the Federal Home Loan banks to transfer up to 50 percent of their capital and surplus to the primary reserve of the Federal Savings and Loan Insurance Corporation. This provision is but to serve as a further backstop, along with the existing authority to call upon the Treasury, to sustain public confidence in the capacity of the FSLIC to perform its stated mission. Obviously, this provision contemplates that such a call upon the capital and surplus of the individual Federal Home Loan banks would only occur in the context of a genuine financial emergency. For this reason, the provision requires that the Federal Home Loan Bank Board could only exercise this emergency authority in consultation with the Secretary of the Treasury and the Board of Governors of the Federal Reserve.

I wish to emphasize that my primary aim in introducing this legislation is to provoke serious discussion and thought about practical and reasonable steps which we can take in the next Congress to augment the resources of the Federal Savings and Loan Insurance Corporation. I share the concerns of the Federal Home Home Loan Bank Board on this important financial issue, but I am most anxious that we seek answers to this problem which, if at all possible, avoid the knee-jerk resort to generalized regulation. I do not think that approach is effective; indeed, I believe that approach delays our moving to take the steps which are necessary to enhance the capacity of effective supervision by both Federal and State agencies and strengthen the financial reserves which undergird our deposit insurance system. I pledge that the Subcommittee on Commerce, Consumer, and Monetary Affairs of the Committee on Government Operations will be giving active attention to the related issues of effective supervision and a strengthened and modernized deposit insurance system, and I know that both the House and Senate Banking Committees can be expected to give high priority attention to this critical subject matter.●

IN HONOR OF JUDGE ALMERIC CHRISTIAN

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Mr. DE LUGO. Mr. Speaker, many people seek justice in this world by having their day in court. But let me tell you of a judge who recently had his day in court. The Honorable Almeric Christian, chief judge of the District Court of the U.S. Virgin Islands, was feted by his colleagues and associates, by lawyers, and law clerks on August 9 in recognition of his appointment to the bench 15 years ago.

Judge Christian, joined by his wife, Shirley, and children, Adam and Rebecca, received the congratulations of well-wishers in the court chamber, congratulations that were cloaked in verdicts that were unanimous—Judge Almeric Christian is objective and strong, learned and fair.

Judge Christian's notoriety over these past 15 years is recognized by everyone residing in the Virgin Islands, and he will always be viewed as someone who brought beneficial changes to our community and, most of all, who upheld the ideals of liberty and justice for all.

Mr. Speaker, I ask that the Members of the U.S. House of Representatives join with me in honoring this esteemed member of our judicial system. The following editorial in the Daily News of the Virgin Islands says it best when it comes to offering the recognition that is due Judge Almeric Christian:

The editiorial follows:

HEAR YE, HEAR YE

They came to praise Almeric Christian, not to bury him, and though the good judge twitted the speakers for delivering remarks that resembled eulogies, he clearly was touched by the tributes paid him by fellow judges, lawyers and friends last week.

The occasion was the 15th anniversary of his appointment to the bench by President Richard M. Nixon. It was a simple ceremony in Christian's own courtroom at the Federal Building, a ceremony thrust on him by colleagues who wanted to take historic note of a milestone—and a man who has touched everyone in these islands.

"He's had more impact on the lives of the people of the Virgin Islands in the last 15 years than any other single individual—and that, in fact, has been for good," said fellow District Court Judge David O'Brien.

That, in our view, is a fair assessment.

And so were the assessments offered by other speakers:

Of Almeric Christian the judicial giant, a learned man whose legal scholarship, eloquence, and sense of fairness would have made him an outstanding judge anywhere.

Of Almeric Christian the Virgin Islander, who wants the best for his people.

Of Almeric Christian the man of strength and principle, standing firm in his defense of the Bill of Rights and refusing to bend to public pressure even in the face of torrential windstorms of criticism.

Of Almeric Christian the person, sometimes cantankerous, sometimes loving, as demanding of others as he is of himself, a bit of a sexist but liberated enough to push women to open new doors for themselves, a man of wit and honor.

Though we, like everyone at last week's ceremony, have disagreed with Judge Christian on specific issues and decisions, we have done so with respect and admiration. He is not, after all, infallible, a fact that this fine man and outstanding jurist would be the first to admit.

We join his well-wishers in hoping for many more years of Almeric Christian's continued service to this community. It has, indeed, been very much for the good.●

DYMALLY ANNOUNCES INSTITUTE FOR SPACE, AND TECHNOLOGY AWARDS

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Mr. DYMALLY. Mr. Speaker, I am pleased to inform the Members that on October 2, 1984, the Research Institute for Space, Science and Technology will hold an awards banquet to honor a number of people who have made outstanding contributions to the area of science policy and to the application of scientific research to technical development. Among those being honored are three of our most outstanding colleagues in the Congress: Mr. WINN, Mr. FUQUA, and Mr. TSONGAS. The awards banquet will also serve to launch the Institute, which will be dedicated to nonpartisan research in the area of public policy for science and technology. I wish to submit for the CONGRESSIONAL RECORD a copy of the press release which gives further details about the awards and the Institute.

RESEARCH INSTITUTE FOR SPACE, SCIENCE AND TECHNOLOGY ANNOUNCES HIGH TECHNOLOGY WEEK AWARDS BANQUET

The Research Institute for Space, Science and Technology today announced the names of those who will receive distinguished achievement and service awards at a Washington, D.C. banquet on October 2 in celebration of National High Technology Week.

A total of 10 awards will be presented for outstanding achievements in the fields of energy research, communications, computer science, bio-medical technology, robotics, nuclear research, and aerospace engineering and exploration.

Three additional awards will be presented to members of Congress for exceptional public service on behalf of the science and technology communities.

The awards banquet and ceremonies are a means of initiating National High Technology Week, which was established by a joint resolution of the 98th Congress. The resolution was sponsored by more than 200 members of the Congress and was recently signed by the President.

These achievement and service awards will be presented at a dinner the evening of October 2 at the Washington Hilton Hotel in the District of Columbia. Guests at the dinner will include Members of Congress, senior officials of the Federal government, high technology industry representatives, executives of trade and professional associations, university and foundation executives.

The proceeds of the $250-a-plate banquet will provide initial funding for the newly created Institute for Space, Science and Technology, a non-profit organization created by Rep. Mervyn M. Dymally and others. The Institute will foster better communication between the private sector and government on major issues of public policy in the areas of science and technology.

Awardees from the private sector will include:

1. Dr. Lewis M. Branscomb, Vice President and Chief Scientist of IBM Corporation.
2. Dr. Irving S. Johnson, Vice President of Lilly Research Laboratories.
3. William C. Norris, Chairman and Chief Executive Officer of Control Data Corporation.
4. Dr. Chauncey Starr, founding President and now Vice Chairman of the Electric Power Research Institute.
5. Joel Slutzky, Chairman and Chief Executive Officer of Odetics, Inc.
6. Dr. Alwin E. Nashman, President, Systems Group, Computer Sciences Corporation.
7. Dr. Sally K. Ride, Astronaut, National Aeronautics and Space Administration.
8. Dr. Walter Massey, Vice President of Research Programs, the University of Chicago.
9. The Scientists of Bell Laboratories (An Institutional Award).
10. The Engineers of Grumman Aerospace Corporation (An Institutional Award).

The members of Congress scheduled to receive special service awards include: Representative Don Fuqua, Chairman of the House Science and Technology Committee, Representative Larry Winn, Ranking Minority Member of the House Science and Techology Committee, and Senator Paul Tsongas.

Honorary co-chairmen of the awards banquet are Senator Bob Packwood, Representative Norman Y. Mineta, and Representative Mervyn M. Dymally.●

NEWARK PLANS GALA COLUMBUS DAY PARADE

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Mr. RODINO. Mr. Speaker, I look forward with great anticipation to the honor of participating once again in the annual Columbus Day Parade at noon on Sunday, October 7, in Newark.

The parade takes on a special meaning this year as the Nation embarks on planning to celebrate in 1992 the Christopher Columbus Quincentenary Jubilee. The landing of Columbus on the island of San Salvador nearly 500 years ago was a remarkable feat, one that was destined to change the course of world history. We, the American

people, are the prime beneficiaries of Columbus' vision and courage, so it is fitting that we have a truly national observance that will be carried out with dignity and distinction.

All of our people, not just Italian-Americans, will be honoring Columbus for his discovery of this blessed land. I like to think that the great story of Columbus and his discovery is part of a continuing story, of which an important chapter was written recently when we saw the first woman and the first Italo-American honored as the Vice Presidential candidate of one of our major political parties. The discovery of Geraldine Ferraro is, in a larger sense, the rediscovery of America's meaning—and the fulfillment of its promise—that the American dream can indeed be realized by any man or woman no matter where he or she comes from. That is America's real greatness—and that is what we celebrate on Columbus Day.

The Newark parade will be an outstanding and a memorable affair, thanks in large measure to the dedicated efforts of Ace Alagna, executive director of the observance and publisher of the Italian Tribune, sponsor of the festivities.

The grand marshal will be the popular singer and actor, Frankie Avalon. Leading the parade will be the U.S. Military Academy Marching Bank, followed by the West Point Cadets Color Corps. The Knights of Columbus Color Guards, in full dress, will also be at the head of the line of march. They will be followed by marching bands and drill units from dozens of schools and other organizations, colorful floats, and contingents from police and fire departments in the area. Gov. Thomas Kean and other State, county, and city officials will be in the parade and on the reviewing stand.

The festivities will culminate that evening with the traditional annual awards dinner at Biase's Restaurant in Newark, the official Columbus Day headquarters.

The Newark festivities further attest to the fact that Columbus Day is indeed a national holiday, one in which Americans of all ethnic heritages join in celebration all across our land. This broad participation on this day exemplifies the working partnership nurtured among the diverse cultures of America, a diversity that has contributed to our greatness and is a continuing source of our strength.

America has fulfilled the dreams of countless millions who have come to our shores in quest of a land where all people, regardless of origin, can reach their full potential. And I am proud that this fulfillment can be traced to Christopher Columbus, who is rightly called, "The Father of Immigration."

So it is with pride and pleasure that I will join in the Newark celebration.●

JOINT CHIEFS OF STAFF REFORM MEASURES IN THE FISCAL YEAR 1985 DEFENSE AUTHORIZATION BILL

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Mr. SKELTON. Mr. Speaker, over 20 studies in the past 40 years, from the McNarney plan of 1944 to the one of former Joint Chiefs of Staff [JCS] Chairman David Jones in 1982, have looked at the issue of improving the workings of the Organization of the Joint Chiefs of Staff.

Criticisms of the organization have centered on: First, the competence of the Joint Chiefs themselves, second, the competence of the Joint Staff, those staff officers from the four services who assist the Joint Chiefs, and third, the problem of interservice rivalry in the "tank."

Over the past 3 years, the House of Representatives has dealt with this important issue in a thoughtful and responsible manner. In 1982, the Investigations Subcommittee of the Armed Services Committee conducted 15 days of hearings. The bill it produced, H.R. 6954, was passed with broad bipartisan support in the House. The Senate did not have a chance to deal with the matter that year, and as a result, it died.

The House took up the matter once again in 1983 and, at my urging, held 3 further days of hearings on the issue. In close collaboration with former JCS Chairman Maxwell Taylor, I introduced a bill to reform the workings of the JCS, H.R. 2560. A number of the bill's provisions were incorporated in the Armed Services Committee bill, H.R. 3718, that passed with broad bipartisan support in the House.

This is the first time since 1958 that the Congress has addressed the issue of the workings of the Joint Chiefs of Staff. Twenty-six years ago, the law was changed to allow the chiefs of military services to delegate duties to the vice chiefs. This time around, the changes will be more substantial.

First, the Chairman of the JCS will be allowed to set the agenda. The Investigation Subcommittee found that members of the JCS in the past employed delaying tactics to prevent an issue from being resolved if they felt the resolution would not serve the parochial interests of their service. This reform would prevent that.

Second, the Chairman will be empowered to act as the spokesman of the nine specified and unified commanders—CINCEUR, CINCPAC, CINCLANT, and so forth. Too often in the past, the needs and concerns of combatant commands were neglected in Washington. This provision will help correct that problem.

Third, the Chairman will be able to select those officers to be assigned to the Joint Staff. Previously, some of the services have preferred to keep their best officers available for duty on the service staff rather than on the Joint Staff.

Yet this year's accomplishments are only the beginning. The House Armed Services Committee will come back to this matter again next year. There are strong indications already that the Senate will also give much keener attention to this vital matter. It is not a glamorous issue, but over the past few years, it has caught the attention of serious thinkers concerned about the workings of our defense establishment.●

TRIBUTE TO E. BROOKE LEE

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Mr. BARNES. Mr. Speaker, I would like to call the attention of my colleagues to two tributes to the late E. Brooke Lee of Montgomery County, MD, one from the Washington Post and one from the Montgomery Journal. Colonel Lee, as he was known because of his military accomplishments, was the patriarch of a powerful Maryland political family and a pivotal force in shaping the community of Montgomery County as we know it today. Montgomery County's schools, roads, parks, and many other characteristics, as well as its reputation for strong, effective government, all bear the mark of the foresight and determination displayed by Colonel Lee many decades ago.

The articles, which delineate the remarkable legacy of E. Brooke, Lee, follows:

COL. E. BROOKE LEE

In 1892, when Col. E. Brooke Lee was born, Montgomery County was farm land and something of a backwater. Unlike its better-located neighbor, Prince George's, it lacked the access to ports and the rail connections required for large-scale commercial farming, let alone industry. Montgomery seemed a poor prospect for development.

When he returned from the First World War, Col. Lee looked over Montgomery—Silver Spring was originally the name of a farm his family owned there—and he saw a different future. Among other things, he foresaw the meaning of the automobile. Suburban housing construction was getting slowly under way, but Col. Lee's purposes went well beyond dealing in land—although he did that very successfully. Over the vociferous objections of many voters, he began organizing the foundation for a local government sufficiently strong and competent to guide the kind of development that he had in mind.

He pushed bond issues, first to build a courthouse and then to build schools. Farmers charged that he was driving up their

taxes, and they derided the bonds as "Brooke Lee's mortgages." But the character of the schools began to change from a rural system with a bare-boned budget to one that could reliably prepare the children of suburban families for college. Col. Lee was instrumental in establishing a county police force. He was the leader in founding the Maryland-National Capital Park and Planning Commission, which became a national model in the use of land planning and zoning laws to guide development.

The irony of his career was that, after World War II, his friends and his adversaries changed places. The farmers and the land owners, seeing the rise in the value of their land, supported him. But the great wave of post-war development had brought into the county newcomers who considered developers in general and Col. Lee in particular to be their enemy. It is axiomatic in suburban politics that the people who moved into the last big subdivision are the most determined opponents of the next one. By the end of the 1950s he had been pushed out of active political life by the suburban voters whom he had labored to bring into the county.

But Col. Lee was the central figure in Montgomery's transformation from rural countryside to a densely populated suburb with an admirably strong tradition of good government and fine schools. Recent arrivals to the county sometimes assume that those public virtues cam with the post-war subdivisions. In fact, they were established a generation earlier by a strong-willed politician who died last Friday, at the age of 91, at his home in Damascus.

E. BROOKE LEE'S LEGACY REACHES DEEP IN COUNTY

(By Michael Blankenheim)

Anyone who drives down a county road, goes to a county park or school, calls on the police or buys some beer at a county liquor store is touched by the legacy of E. Brooke Lee Sr., who died Friday.

Lee, the man who helped shape Montgomery County, died at 91 of pneumonia at his home in Damascus.

A former speaker of the Maryland House of Delegates and state comptroller, Mr. Lee's impact on Montgomery County and Maryland probably will be felt well into the next century.

During the past 60 years, Mr. Lee was either responsible for or had a hand in determining how the county's schools, Police Department, roads, parks, sewers, planning, real estate development and liquor sales would run.

Mr. Lee was a successful businessman, soldier, politican, real estate developer, farmer and patriarch of a powerful political family. "He would not do something unless he could be number one; that was his style," said Blair Lee IV, Mr. Lee's grandson.

"He was a pivotal figure in our history. His accomplishments were just incredible," said County Executive Charles W. Gilchrist.

Mr. Lee continued a family tradition of public service that goes back to before the Revolutionary War. His great-grandfather, Richard Henry Lee, signed the Declaration of Independence.

His great uncle was postmaster general for Abraham Lincoln; his father, Blair Lee, was a U.S. senator from Maryland. The family is also related to Confederate Gen. Robert E. Lee.

And the current generations have carried on the family's tradition of accomplishment.

His son, Blair Lee III, was governor of Maryland, while Blair Lee IV, a former county lobbyist, is now running the gubernatorial campaign of Maryland Attorney General Stephen Sachs. Brooke Lee III has taken the reins of the family's real estate business, which Mr. Lee started in the 1920s and is now valued at about $25 million.

"I knew the Colonel (Mr. Lee) for over 30 years, and I want to tell you that he was a visionary who was 50 years ahead of his time," said long-time family friend Buck Gladhill of Damascus.

"The Colonel would see things long before anyone else would, and years later they would happen. It will be a long time before we get another like him," Gladhill said:

Gladhill called Mr. Lee "Colonel" because of Mr. Lee's accomplishments in the military.

In 1912, he fought with the U.S. Army in Mexico during the days of Pancho Villa. During World War I, Mr. Lee was decorated for heroism and bravery by both the United States and France. He remained active in the national and state guards, rising to the rank of colonel.

He was born Oct. 23, 1892, at Blair House, across the street from the White House.

Mr. Lee was a student at Princeton University and received his law degree from Georgetown University before going off to fight in World War I.

After the war, he was elected state comptroller from 1920-1922. The next two years he was Maryland's secretary of state; from 1926-1930 he was speaker of the Maryland House of Delegates.

He also served as state chairman of the Maryland Democratic Party and was on the National Democratic Party's Platform Committee in 1924 and 1932.

He fell from political power during the late 1950s, and in the later years of his life he became one of the world's largest breeders of polled Hereford beef cattle on his Damascus farm.

Mr. Lee is survived by his wife, Nina G.; three sons, former Gov. Blair Lee III, E. Brooke Lee Jr. and Bruce Lee; 18 grandchildren; and 17 great-grandchildren.

A private burial will take place this Saturday. A public memorial service will be held Oct. 3 at the Grace Episcopal Church in Silver Spring on Georgia Avenue.

The family suggests that memorial contributions be made to the Grace Episcopal Church.

Blair Lee IV says that his grandfather's death, a month before Mr. Lee's 92nd birthday, came as no surprise to the family.

But even as his grandfather lay bedridden during the last two years of his life, Mr. Lee still exerted a larger-than-influence over the family he ruled for so long, said Blair Lee IV.

"In that sense, there is a very large vacuum now. He will be sorely missed," said Blair Lee IV.●

TRIBUTE TO MART NIKLUS ON HIS 50TH BIRTHDAY

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Ms. OAKAR. Mr. Speaker, it is an honor and privilege to be able to join the friends of Mart Niklus in honoring him on the occasion of his 50th birthday, for he is truly one of the giant figures of our time. For all of his adult life, Mart Niklus has been leading the struggle for the rights of Estonia to exist as an independent country, for her people to be free, for her rich culture to enjoy a natural, unfettered development. Estonia, like so many other countries dominated by the Soviet Union, has been waging a struggle against Russification, against national extinction. Through the courageous work of Mart Niklus and other members of the human and national rights movement in Estonia and other countries dominated by Moscow, that threat is being successfully resisted.

The cost for brave people like Mart Niklus has been severe. Most of his adult life has been spent in prisons, labor camps, and under constant KGB surveillance and supervision. His resolve and courage, however, remain unshaken. His example and his leadership are contributing to Estonia's continued viability as a nation and to the continued aspirations of her sons and daughters for freedom and independence.

By speaking for the rights of Estonia, Mart Niklus is standing in the forefront of the struggle for universal principles of human rights. This means that ultimately, he speaks for all of us. If the rights of Estonians are denied, that diminishes all of us. If, on the other hand, we join Mart Niklus in his cause, we stand with him in behalf of all humanity struggling for its rights. I have been proud to be associated with Mart Niklus' struggle and join his many friends and admirers in wishing him a happy birthday and in rededicating myself to the principles that give him strength and the rest of us renewed dedication.●

AN AMERICAN GOLD COINAGE

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Mr. LEWIS of California. Mr. Speaker, I am offering this bill today because at the end of 1984 the only ongoing gold coinage program at the U.S. Mint is scheduled to expire. What that will mean is a surge of new business for the gold coins of South Africa, Red China, Swiss banks and other foreign nations because the U.S. Mint will drop out of production.

We don't think this should be allowed to happen. This bill will extend the U.S. gold coinage program established in 1979 by Public Law 95-630 beyond its scheduled December 31 expiration date. It will also make several statutory improvements to give the Mint a "superior product" that can immediately take a giant share of the gold coin market away from South

Africa and the other foreign governments that sell so many gold coins in the United States today.

This bill is supported by the Treasury and the Mint. The Commission on the Role of Gold, chaired by Secretary Donald T. Regan, in its report to Congress on March 31, 1982, recommended a U.S. gold coinage of this type to compete with the foreign coins that sell about 3 million ounces in the United States each year. The Senate Banking Committee has held hearings on April 15, 1983, and the House of Representatives held hearings on substantially the same proposal in the 97th Congress—with all witnesses in favor of this legislation. Both times, Assistant Secretary of the Treasury for Economic Affairs Manuel Johnson testified in favor of the coinage legislation.

This bill will bring several benefits to the Treasury and the U.S. economy: it will improve America's balance of trade, promote competition in the coin markets around the word, restore at least symbolically the U.S. coinage that was discontinued 50 years ago, reduce about $10 million in new revenue to help reduce the budget deficit and strike an important blow against the repugnant practice of apartheid. This is a bipartisan measure, a measure with widespread support among both liberal and conservative Members of both Houses of Congress, a measure with administration support, and we believe it is a proposal with almost universal support among the American people.

The South African krugerrand coins have been sold in the United States for 10 years, and they are advertised as "world money"—in competitition with the U.S. dollar, which really is the world's money. Since 1986 is the centennial of the Statue of Liberty, and since liberty is the one thing the black gold miners of South Africa don't enjoy, this new legal-tender U.S. gold bullion coin will be emblazoned with the most famous American symbols of liberty. And you can bet they will be a popular coin even in the Republic of South Africa.

This bill is not a "gold stand" bill—so all the technical, economic, and legal objections against returning to the gold standard need not be debated here now. We do know that millions of Americans want to own and use gold coins as a hedge against inflation, or as a form of enduring savings to pass on to their grandchildren.

Now that we are finally up against the deadline for extending the gold coin program of the Mint, I urge my colleagues to join me in cosponsoring this bill now to keep the United States in the competition.●

SOVIET JEWISH REFUSENIK, ALEKSANDER IOFFEE

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Mr. GINGRICH. Mr. Speaker, during these Jewish holidays I think it's important to remember the difficult situation facing Jews in the Soviet Union. I'd like to call special attention to the plight of Aleksander Ioffee, 1 of the 3 million Jews in the U.S.S.R. The conditions these people face compel me to participate in the 1984 Congressional Call to Conscience Vigil for Soviet Jews.

Aleksander Ioffee is a refusenik, which means he's a Soviet Jew prohibited from emigrating to Israel and persecuted by the KGB. Like other refuseniks, he's not allowed to have a job bearing any responsibility. This is despite the fact that he's a prominent scholar in his country.

Ioffee's received degrees from the Mathematics Department of Moscow University and the Central Institute of Aero- and Hydrodynamics. He was appointed to a professorship at the Moscow Institute of Automobile and Road Building in 1971. At the same time, he became a member of the Moscow Mathematical Society and a member of the editorial board of the Society for Industry and Mathematics [SIAM], of Philadelphia.

In 1976, Ioffee applied to emigrate to Israel. He was immediately demoted from his professorship, becoming a researcher at the same institute. Furthermore, he's been offered a number of temporary teaching posts at universities in Europe and the United States (including one in Georgia), but the Soviets have declared he's irreplaceable and necessary to the teaching process. The Soviet Union won't allow him to accept any post outside of his country.

The Deputy Minister of Internal Affairs initially told Ioffee that his emigration case wouldn't be considered until 1982. But in 1978, he said that the refusal period for Ioffee could last indefinitely. Also, since applying to emigrate, Ioffee's mail has been tampered with and his telephone was disconnected for a full year.

Ioffee used to attend scientific seminars sponsored by the prominent Soviet Jew Viktor Brailovsky. After Brailovsky's arrest and imprisonment in 1980, Ioffee hosted these seminars. He's since been consistently harassed by the KGB, his apartment door has been set on fire, and the seminars have been outlawed.

Aleksander Ioffee is 1 of more than 300,000 Soviet Jews who've said they'd like to emigrate from the U.S.S.R. and who've been denied this right. Since 1979, Jewish emigration has declined 98 percent. At the same time, officially sanctioned anti-Semitic campaigns and restrictions against refuseniks have increased dramatically.

We Americans must continue to decry the persecution of Jews in the Soviet Union. The dilemma of Aleksander Ioffee and Soviet Jewry is an issue we need to recognize and respond to, now during Rosh Hashanah and during the rest of the year.●

NEWARK PLANS GALA COLUMBUS DAY PARADE

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Mr. RODINO. Mr. Speaker, I look forward with great anticipation to the honor of participating once again in the annual Columbus Day Parade at noon on Sunday, October 7, in Newark.

The parade takes on a special meaning this year as the Nation embarks on planning to celebrate in 1992 the Christopher Columbus Quincentenary Jubilee. The landing of Columbus on the island of San Salvador nearly 500 years ago was a remarkable feat, one that was destined to change the course of world history. We, the American people, are the prime beneficiaries of Columbus' vision and courage, so it is fitting that we have a truly national observance that will be carried out with dignity and distinction.

The Newark parade will be an outstanding and a memorable affair, thanks in large measure to the dedicated efforts of Ace Alagna, executive director of the observance and publisher of the Italian Tribune, sponsor of the festivities.

The grand marshal will be the popular singer and actor, Frankie Avalon. Leading the parade will be the U.S. Military Academy Marching Band, followed by the West Point Cadets Color Corps. The Knights of Columbus Color Guards, in full dress, will also be at the head of the line of march. They will be followed by marching bands and drill units from dozens of schools and other organizations, colorful floats and contingents from police and fire departments in the area. Gov. Thomas Kean and other State, county, and city officials will be in the parade and on the reviewing stand.

The festivities will culminate that evening with the traditional annual awards dinner at Biase's Restaurant in Newark, the official Columbus Day headquarters.

The Newark festivities further attest to the fact that Columbus Day is indeed a national holiday, one in which Americans of all ethnic heritages join in celebration all across our land. This broad participation on this day exemplifies the working partner-

ship nurtured among the diverse cultures of America, a diversity that has contributed to our greatness and is a continuing source of our strength.

America has fulfilled the dreams of countless millions who have come to our shores in quest of a land where all people, regardless of origin, can reach their full potential. And I am proud that this fulfillment can be traced to Christopher Columbus, who is rightly called, "The Father of Immigration."

So it is with pride and pleasure that I will join in the Newark celebration.●

H.R. 4684 NUTRITION MONITORING

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Mr. WALGREN. Mr. Speaker, I want to inform our colleagues about the status of and need for H.R. 4684, the National Nutrition Monitoring and Related Research Act of 1984. The Science and Technology Committee favorably reported the bill on September 20. The committee's report, House Report 98-1076, clearly documents the need for a legislative mandate to ensure that a comprehensive, national nutrition monitoring system be in place. The report also provides a history of nutrition monitoring in the United States which illustrates that the responses of this administration, as well as previous administrations, have not been adequate to fulfill the needs of the users of nutrition monitoring products and services. In fact, the limited resources available for nutrition monitoring are not being effectively used due to the lack of a central focus for Federal activities and a comprehensive plan to guide those activities.

During joint hearings on H.R. 4684 before the Subcommittee on Science, Research and Technology, which I chair, and the Subcommittee on Department Operations, Research, and Foreign Agriculture, chaired by our colleague GEORGE E. BROWN, JR., non-Federal witnesses assessed the adequacy of the Federal nutrition monitoring activities since the 1981 implementation plan was submitted to the Congress. We received testimony from over 50 organizations ranging from scientific societies, State and local governments, health, and service organizations, consumer, antihunger, senior, and religious groups, and food producers and processors. I would like to share the following excerpts from the testimony of various witnesses:

"The original plans for a comprehensive nutrition monitoring system were first proposed in 1978 and developed in more detail in 1981 by USDA and DHHS. In spite of the more than 6 years since the inception of the idea, there is little progress in evidence and, in fact, plans for the first steps in integration of HANES (Health and Nutrition Examination Survey) and NFCS (Nationwide Food Consumption Survey) have been delayed."

"Presently the data obtained from these various sources are not integrated to provide the timely and comprehensive view of food practices, trends and health implications that could be constructed from the comprehensive data collected by the surveys cited. This should be a major function of a national nutrition monitoring system. In most instances, agencies have not had sufficient resources to insure timely analysis and release of national survey data. These resources should also be provided so that the research and academic community in the United States could play its complementary role in analysis and interpretation of national survey results."

"There is little practically-oriented epidemiologic research to develop shorter and cheaper methods of monitoring nutritional status, food consumption, nutrition knowledge, and food scarcity suitable for use by States, localities, and others needing such methods."

I would also like to congratulate Senator JEFF BINGAMAN for introducing, on September 25, a Senate companion measure to H.R. 4684, S. 3022. Senator BINGAMAN has identified numerous reasons which demonstrate the need for a legislative mandate. I would especially like to emphasize his view that nutrition monitoring is fundamental to effective health promotion and that, "If the Federal Government assumed an aggressive role in health promotion and disease prevention, millions of taxpayer dollars now spent for medical services would be saved". I would also like to underscore the importance of providing State and local governments technical assistance in developing the capacity to conduct nutrition monitoring and obtaining access to nutritional status data which they urgently need.

On September 24, Senator DOLE introduced S. 3017, a bill to improve and extend certain domestic food assistance programs. I was pleased to see that title II of the bill focused on nutritional status monitoring and surveillance. Although title II of the Dole bill is less comprehensive than H.R. 4684 and S. 3022, the nutrition monitoring objectives are compatible and consistent with H.R. 4684 and S. 3022 which are identical.

I encourage our colleagues to become familiar with our constituents' nutrition monitoring needs and support H.R. 4684 which Mr. MACKAY, Mr. BROWN of California, and I introduced in response to the users who rely on a national nutrition monitoring system.●

AMERICAN ACADEMY OF DRAMATIC ARTS CENTENNIAL

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Mr. GREEN. Mr. Speaker, I am honored to bring to my colleagues' attention an historic cultural event taking place in my district on October 3, 1984. This date marks the centennial of the American Academy of Dramatic Arts, the oldest acting school in the United States and Great Britain. I would like to submit for the RECORD my remarks to the academy in honor of this momentous occasion.

REMARKS OF HON. BILL GREEN TO THE AMERICAN ACADEMY OF DRAMATIC ARTS, IN HONOR OF ITS CENTENNIAL, OCTOBER 3, 1984

I take great pride in having this opportunity to join with Mayor Koch and members of the arts community in this tribute to the American Academy of Dramatic Arts.

When Franklin Sargent and James Steele MacKay founded the Academy one hundred years ago today, they formed one of the world's finest schools for the dramatic arts. Little did they know at that time that the Academy would continue to thrive one hundred years later, still drawing students from around the world for training in drama, voice, dance and other theatrical skills. Today the Academy can boast alumni who include Cecil B. DeMille, Edward G. Robinson, Spencer Tracy, Grace Kelly, Rosalind Russell, Jason Robards, Ann Bancroft and Robert Redford.

When most of us attend the theatre, we watch a performance and accept a fine actor's portrayal of his character. Seldom do we stop to think about the skills required to make that character believable. It is the quality of education and training provided by the Academy that make such outstanding performances possible.

New York City is recognized around the globe as the world's greatest cultural center. Millions of visitors come to the "Big Apple" specifically for the arts. Only London or ancient Athens can rival New York City as the home of the theatre.

The American Academy of Dramatic Arts has played an integral part in our city's cultural achievement. I commend George Cuttingham, President of the Academy, as well as the faculty and students here, for their continuing dedication to the dramatic arts. Let me extend particular appreciation to the members of the Academy for their significant contributions to the theatrical community in New York City. I congratulate you on your centennial, and wish you continued success in the next hundred years and beyond.●

FREEDOM FRIDAY

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Mr. VENTO. Mr. Speaker, the cost of alcohol and drug abuse to our country is a national catastrophe. The

Office of Technology Assessment estimated that the cost from alcohol abuse alone in 1983 was near $120 billion. The Drug Enforcement Administration—DEA—estimates that the 1983 marijuana production is valued at some $13.9 billion. The Research Triangle Institute estimates that the cost of drug abuse in this country was an incredible $59.7 billion. Half of that figure alone is attributed to lost production due to worker absenteeism.

The most tragic consequence of alcohol and drug abuse is the human toll; the nearly 150,000 people who die directly or indirectly from alcohol abuse, the countless broken homes, bankruptcies, and other unnecessary disruptions of people's personal and professional lives. Alcohol and drugs are involved in over 60 percent of all homicides committed in this country every year. It is estimated that at least 100 million Americans are directly affected by drug abuse. This problem does not recognize boundaries of age, color, gender, or profession.

Fortunately, today there are many good community resources and programs which help in the prevention, identification, treatment, and recovery of chemcial and drug abusers and their families. One of these new programs is Freedom Friday, advocated and sponsored by Ramsey Action Programs of St. Paul, MN. Freedom Friday is a day dedicated to the celebration of being free from dependence upon alcohol and other mood altering drugs. Freedom Friday issues a challenge to all Americans to abstain from using alcohol or other nonprescribed mood-altering drugs on Friday, March 8, 1985. Additionally, people are asked to sign a pledge statement to avoid driving while under the influence of drugs or alcohol.

By doing so, we remind ourselves again that the emphasis on the prevention of alcohol and drug abuse prevents both a human and financial catastrophe. Similarly, Freedom Friday celebrates the success that many in our society have had in coping with alcohol and drug abuse. The long lonely path that they have traveled to overcome alcohol and drug abuse deserves recognition and praise.

I commend Freedom Friday, and Mr. Mike Port, a driving force behind this initiative, and indeed all of those associated with the Ramsey Action Program for their important work in this area of community service.●

TRIBUTE TO RAY WEIGEL

HON. DONALD JOSEPH ALBOSTA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Mr. ALBOSTA. Mr. Speaker, I want to talk for a moment about a remarkable gentleman from my district who, through his years of unselfish deeds for the good people of Cadillac and northern Michigan, has brought the meaning of the word "greatness" into sharp focus.

The man I'm referring to is Ray Weigel, president and chief executive officer of Kysor Industries Corp., a position he cherishes, a position from which he has turned countless visions into bold realities. Ray is flag waver, one of northern Michigan's most ardent boosters. His belief in people and what they can accomplish through persistence is legendary.

To say that Ray has community spirit is an understatement. Since way back in 1946, when he first planted roots in Cadillac, he has devoted his energies to organizing the major financial institution in the area. He has served on an impressive list of State and Federal panels, donated his time as "Industrial Ambassador" to the Seattle World's Fair of 1962 and the International Trade Advisory Council. He has taken young entrepreneurs and taught them to reach for the stars. And they have.

Given his drive and his unswerving faith in people, how can a man like Ray Weigel best be honored? One way is through a testimonial dinner on October 5 in Cadillac which I will attend. Many of Ray's friends from all over Michigan will be on hand to say "thanks" for a job well done. Ray Weigel is a special person, a breed apart. Our State has been enriched by his presence.●

H.R. 3601, PIKE NATIONAL FOREST BOUNDARY BILL

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Mr. DERRICK. Mr. Speaker, I rise today in support of H.R. 3601, the Pike National Forest boundary bill which was passed by the House on September 24, 1984.

Specifically, I rise in support of a provision offered by my colleague Representative CLARKE during markup of this bill in the Interior Committee, which would designate the segment of the Horsepasture River between Bahayee Road and Lake Jocassee in Transylvania County, NC, to be studied for potential designation as a wild and scenic river.

This portion of the Horsepasture River has been a favorite spot for trout fishermen, hikers, and waterfall lovers in upstate South Carolina and western North Carolina for many years. The Horsepasture River drops 1,700 feet in 4 miles off the Blue Ridge escarpment in western North Carolina above the South Carolina-North Carolina border. In this drop there are five spectacular waterfalls.

It is important that the Horsepasture River be studied for designation as a wild and scenic river because of its potential destruction by a small hydroelectric power project. The proposed project would divert a significant portion of the river's flow through a pipeline. This diversion would bypass the falls area along the river and would ultimately channel the river's flow through a hydroelectric facility at the base of the falls area. Flow within the Horsepasture River, from the headgate to the tailrace of this project, would be reduced from a majestic river, comprised of five spectacular falls areas, to a dry river bed with only a trickle of water flowing over the falls areas.

Mr. Speaker, a tremendous number of residents of my district as well residents of Congressman CLARKE's district have contacted me and expressed their concern about the possible loss of this most scenic river. Therefore, I believe that the study included in this bill is most appropriate, and wish to join with and congratulate my border State colleague for his successful efforts on this matter.

Mr. Speaker, for these reasons, I strongly support H.R. 3601. I urge our colleagues in the Senate to take expeditious action on this measure.●

EXPLANATORY STATEMENT

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Mr. SOLOMON. Mr. Speaker, today I am introducing an amendment to H.R. 4444, the bill to amend the Small Reclamation Projects Act. The bill, as reported by the Committee on Interior and Insular Affairs, would double the appropriations ceiling for the small projects loan program, from $600 million, to $1.2 billion. This amount of additional authority is intended to allow new loans to be made without further Congressional authorization for the next 5 years.

If we in this body are serious about reducing our chronic Federal deficit, then I believe that new domestic spending commitments such as this must be examined with the utmost care. I am concerned that an authorization increase of this size would be extended for the reclamation loan program without considering reforms that might be useful in reducing costs to the Treasury. Perhaps the purposes of this program can be advanced in a less costly way. Perhaps the basic premises of a no-interest loan program for irrigated farms in the Western States warrant reevaluation. In either event, I believe that the prudent course for

us to take at this late date in the 98th Congress would be an authorization increase limited to 1-year's worth of new loan expenditures. Let us not commit an extra half billion dollars to this program without the opportunity for futher oversight.●

THE 75TH BIRTHDAY FOR H. ALLEN SMITH

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Mr. MOORHEAD. Mr. Speaker, on October 8, a distinguished and esteemed former Member of the House will have his 75th birthday. I am speaking of my predecessor H. Allen Smith of Glendale, CA.

For 16 years, Al Smith served with distinction, efficiency, and productiveness. He is remembered with respect and admiration. He worked hard. He was just and evenhanded.

H. Allen Smith was born in 1909 in Dixon, IL, where he had a playmate named Ronald Reagan. At the age of 15, he moved with his family to Los Angeles, CA. He was educated at Hollywood High School, UCLA and USC where he earned a law degree. Shortly thereafter, he joined the FBI and served ably for 7 years.

In 1943, he began his political career as a member of the California State Assembly. After 8 years, he ran for the House upon the death of Carl Henshaw. He served from the 86th through the 92d Congress. During his tenure, he became the ranking Republican on the Rules Committee where he enjoyed great success playing a key role in House legislative matters and as the Republican Party's foremost authority on rules and procedures.

Upon his retirement, former Congressman Hale Boggs said,

> There have been occasions, of course, when he and I have been on different sides. This is as it should be in a two-party system. But I have never known a time when he has deliberately obstructed the consideration of legislation, regardless of how he may have felt about it personally. Nor have I ever known a time when he has not shown total and complete respect for this institution and the rules under which we are governed.

Mr. Speaker, during his eight terms as a Member of Congress, H. Allen Smith brought only honor and respect to the House and himself. He was a man of high principle with an unyielding commitment to duty. He served with courage and fairness.

I'm delighted to remember him to all his friends in the House on his 75th birthday. I wish him and his lovely wife, Elizabeth, who also has a birthday in early October, what they gave to this institution for 16 years and that is the very best.●

NORTH AND SOUTH WILL UNITE

HON. BUDDY MacKAY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Mr. MACKAY. Mr. Speaker, it is not very often that people of differing backgrounds, party affiliations, and political ideologies come together.

Today I would like to share with you my excitement and enthusiasm about the engagement of Miss Amee Fouche to Mr. Andrew Vermilye. Amee, an attractive Republican southerner from Mississippi, has agreed to wed Andy, a handsome northern Democrat.

We are always searching for the woman/man of our dreams—and it seems Andy and Amee agree that their dreams have been answered. They wish to spend the rest of their lives with one another.

Each person who has had the pleasure of seeing Andy and Amee together truly can notice how deeply they share their love for one another.

I truly am honored today to congratulate them both and wish them many joyous years filled with health and happiness.

Andy and Amee, the best to you both.●

RULE ON TRADE LEGISLATION

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Mr. ROSTENKOWSKI. Mr. Speaker, I take this opportunity to inform my colleagues that the Committee on Ways and Means yesterday favorably reported to the House of Representatives the following bills:

H.R. 6301, to provide authority for enforcing arrangements restricting the importation of carbon and alloy steel products into the United States that are entered into for purposes of implementing the President's national policy for the steel industry, and for other purposes, as amended;

H.R. 6023, to amend the Trade Act of 1974 to renew the authority for the operation of the generalized system of preferences, and for other purposes, as amended;

H.R. 3795, to harmonize, reduce and eliminate barriers to trade in wine on a basis which assures substantially equivalent competitive opportunities for all wine moving in international trade, as amended; and

H.R. 5377, authorizing the President to enter into, and to proclaim modifications necessary to implement, a trade agreement with Israel providing for duty-free treatment for, and the elimination of import restrictions on, the products of Israel, as amended.

I wish to serve notice, pursuant to the rules of the Democratic caucus, that I have been instructed by the Committee on Ways and Means to seek less than an open rule for the consideration of the provisions of this bill within the jurisdiction of the Committee on Ways and Means by the House of Representatives.●

H.R. 5290, COMPASSIONATE PAIN RELIEF ACT

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1984

● Mrs. SCHNEIDER. Mr. Speaker, I would like the RECORD to show that my vote, on September 19, in favor of H.R. 5290, the Compassionate Pain Relief Act, was miscast. I mistakenly voted for this bill although I was strongly set against it. While I believe that we must commit ourselves to finding therapies to alleviate the pain experienced by terminal cancer patients, this legislation is clearly not the solution. With the availability of Dilaudid-HP, a new analgesic which is both more potent and more soluble than heroin, the case to approve heroin seems less compelling. There is no question that the legalization of heroin, would pose significant safety, enforcement, and security problems.

Prior to this vote, I had communicated with the Secretary of the Department of Health and Human Services and voiced my strong objections to the legalization of heroin, and assured her of my active role in defeating this bill.●

SENATE—*Saturday, September 29, 1984*

(Legislative day of Monday, September 24, 1984)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Our prayer this morning will be offered by the son of our Senate Chaplain, the Reverend Richard Christian Halverson, Jr., pastor, Chesterbrook Presbyterian Church, Falls Church, VA.

PRAYER

The Reverend Richard Christian Halverson, Jr., pastor, Chesterbrook Presbyterian Church, Falls Church, VA, offered the following prayer:

Let us pray.

God, our Saviour, You have commanded Your servants to enter and salute the house in the city to which they have been sent. In obedience to this they have entered here.

You have said that when others receive Your emissary, they are receiving You. Have You not, therefore, been hospitably invited into the midst of these friends through their warm and generous reception of Your representative?

Inasmuch as You have promised to benefit those among whom You reside and to bless those who bless Your own, we humbly request, in these days as these things have taken place in accord with Your word, that You richly reward this house and all the households here represented in such a way that we may bear witness to Your good gifts and know that You are God. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

REV. HALVERSON'S PRAYER

Mr. STEVENS. Mr. President, once again, it is a privilege to have with us the Reverend Halverson, who is the son of our distinguished Chaplain. It is, I know, a real feeling of great pride that comes to the Chaplain because his son is able to carry on his work in the way he does so well. So we thank him for being with us today.

SENATE SCHEDULE

Mr. STEVENS. Mr. President, there is a period for the leader time this morning, and then a special order for the distinguished Senator from Wisconsin for not to exceed 15 minutes. After that, there will be a period for the transaction of routine morning business not to extend beyond the hour of noon during which Senators may speak therein for not to exceed 3 minutes. Following that, there will occur the quorum call required by rule XXII to commence the cloture procedure. There will occur a vote once a quorum is established on the cloture petition filed by the distinguished minority leader for the Senator from Massachusetts on amendment No. 5508. If cloture is not achieved on that petition, we will automatically go to a vote on cloture on second cloture petition filed by the distinguished minority leader for the Senator from Massachusetts on amendment No. 5509. If cloture is not achieved on that, there will be a vote on the cloture petition filed by the distinguished majority leader for the Senator from Utah on amendment No. 5727.

If cloture is not invoked on any of those three amendments, we will resume consideration of the committee amendment No. 1, and the pending amendment is the Baker amendment introduced for Senator HATCH, amendment No. 5728 which deals with busing.

Should cloture be achieved on the first amendment, I am informed that all of the other cloture motions fall. If I am improperly stating this sequence, I am happy to have the Chair correct me. That is what I am informed. If cloture is achieved on the first cloture motion, all of the other cloture motions are no longer in order because they involve amendments which would no longer be in order if the cloture procedure is to be followed on the first amendment. Is that correct?

The PRESIDING OFFICER (Mr. MATTINGLY). The acting majority leader is correct.

Mr. STEVENS. Mr. President, the distinguished majority leader is here. He may have something to add. His useful wisdom is being demonstrated in that he is keeping his mouth closed. [Laughter.]

Mr. President, we reserve the remainder of our time.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The minority leader is recognized.

Mr. BYRD. Mr. President, I ask unanimous consent that I may reserve the balance of my time under the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin is recognized for not to exceed 15 minutes.

Mr. PROXMIRE. I thank the Chair.

THE NUCLEAR ARMS RACE OR ARMS CONTROL: OUR CHOICE

Mr. PROXMIRE. Mr. President, what is the principal pitch made to those of us who serve here in the Senate to persuade us to vote to fund the MX, the B–1B, or to build up our nuclear arsenal? The prime argument we encounter hits us right in the eye. Beware the Russian buildup. The argument we hear goes like this: The Russians were behind us in deliverable nuclear power. But first, they gained on us. Then they caught up and passed us. Now they move further ahead with every passing year.

Give Secretary Weinberger and his crew a shot at it and they will trundle out graphs, charts, and even an array of nuclear missile models. The models show the growth of Soviet nuclear missiles not only in numbers but in the size of the missiles. They picture a Soviet supermissile that stands out there like a National Football League defensive lineman who sports 275 pounds of muscle on a 6-foot, 7-inch frame compared to a 97-pound weakling—that portrays the United States—teeny-weeny missile just shivering there, waiting for sand to be kicked in his face.

In an article in Arms Control Today for June 1984, Marie Hoguet delivers a masterful debunking job that I hope other Members of this body will read and ponder. Miss Hoguet provides a whole series of reasons why the Defense Department's pitch is a slippery slider we should watch with the most skeptical care. She omits at least one vital Pentagon distortion that I will come to later. Consider the Hoguet indictment:

First, the typical DOD comparison of U.S. and U.S.S.R. missiles shows the U.S. missiles as smaller. Does that mean weaker? No indeed, U.S. missiles are smaller because as Hoguet writes:

(U.S. Minuteman missiles) are smaller because superior technology in miniaturizing explosive devices and guidance systems and in using more efficient, less bulky solid fuel

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

propellants allowed the U.S. deliberately to scale down the size of its missiles. If size were important, the U.S. would not be phasing out of its arsenal its largest ICBMs, the gargantuan Titans.

Second, the variety of the Soviet missiles stems from their difficulty in producing one missile whose reliability they can count on.

Third, since the advent of multiple independently targetable reentry vehicles, or MIRV's, each missile can carry between 3 and 14 separate warheads, each of which can hit a separate target. One missile could knock out 3 cities or 14 cities. So, counting each side's missiles does not measure the capability of each side to deliver their payload on advesary targets.

Fourth, even the number of warheads does not give a useful comparisons by itself.

The destructive capability of a weapon depends on its explosive power plus its accuracy. It depends also on the nature of the target. Is it a city? Is it a bomber base? Is it a hardened missile silo? Accuracy is critical. But it is difficult to measure accuracy. Tests cannot be conducted over the path the missile would fellow in a war. Weather is unpredictable and weather seriously affects the accuracy of missiles.

Mr. President, every time we debate our nuclear weapons policy on the floor of the Senate, those who favor a buildup of bigger and bigger missiles carry these charts to the floor of the Senate. The advocates of more and bigger nuclear weapons try to overwhelm us with depictions of a massive Russian nuclear arsenal, growing much faster than the U.S. nuclear deterrent. In addition to what I have just discussed they overlook three elements.

The first element, the arms control article by Marie Hoguet also overlooks. It is the vulnerability of the Soviet arsenal compared to the American nuclear arsenal. Sure, the Soviets have more stationary, land-based missiles than the United States. In fact, they have more than 70 percent of their missiles in that mode. Now how about that, Mr. President? Does that mean we better get moving in this body and appropriate a lot more money for more American missiles? No way. That Soviet concentration on land-based missiles is not their advantage. It is their problem. They have put most of their deterrent in the most vulnerable mode. We know precisely where those land-based missiles are located. We know they were there yesterday. We know they are there today. We know they will be there next month. We know they will be there next year. Now, how about American strategic missiles? How many of our missiles are stationary and land based? Less than 25 percent. How many are submarine and bomber based? Seventy-five percent.

So we have three times as high a proportion of our missiles in a relatively invulnerable mode as the Soviet Union does. And three times as high a proportion of our three times larger arsenal of bomber and submarine based missiles are constantly in the air and at sea compared to the Russian sub- and bomber-based missiles. That gives our country a roughly ninefold advantage. Ninefold, Mr. President, in the number of nuclear weapons that our adversary cannot reach. What does this mean? It means that we know where most of the Soviet MX missile bases are and we can take them out. The Russians do not know where much of the American deterrent is. They cannot take ours out. Their deterrent is vulnerable. Our deterrent is not.

Mr. President, the biggest lesson of all comes at the conclusion of the Hoguet argument. It is the same conclusion that millions of Americans and hundreds of millions of persons throughout the world share. It is this: Why argue about or plan to spend vast billions of dollars striving to stay a little ahead of our superpower adversary. If nuclear war between the Soviet Union and the United States should ever come, both sides would suffer utter and almost instantaneous destruction. Both would lose. Both would lose everything. This would be true if only a small proportion of the nuclear weapons on each side found targets in the adversary country. The nuclear arms race today makes absolutely no sense from any standpoint. We must find a way to achieve an end to the arms race, a comprehensive, mutual, verifiable nuclear freeze, followed by deep reductions in nuclear arms, and reinforced by vigorous strengthening of treaties that will end the spread of nuclear weapons to other countries.

Mr. President, I ask unanimous consent that the article to which I have referred entitled "Beancounting and Wargaming" by Marie Hoguet, printed in the June 1984 issue of Arms Control Today be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BEANCOUNTING AND WARGAMING—HOW TO ANALYZE THE STRATEGIC BALANCE

Sooner or later most discussions of the arms race lead to the question of "who's ahead"—which side has more, or bigger, or better nuclear weapons; whose buildup has been more unprecedented; and what it all means for our defense policies. Many teachers and students have seen graphs and charts comparing the numbers of U.S. and Soviet intercontinental ballistic missiles (ICBMs), submarine-launched ballistic missiles (SLBMs), warheads, bombers and so on.

Comparisons of U.S. and Soviet nuclear forces are both inevitable and necessary in considering our relative strengths and weaknesses. But very often they are misleading because they omit so much relevant information and fail to disclose their underlying assumptions. They tend to give an incorrect impression of precision where in fact it is impossible to be precise.

There are two basic approaches to comparing U.S. and Soviet nuclear forces. The first and more familiar approach compares the characteristics and destructive potential of the two sides' weapons. Sometimes called "beancounting," it looks at specific weapons or characteristics of weapons and attempts to show, often in graphic form, what the U.S. and the Soviet Union each has in the discrete categories. This approach provides a static picture, a snapshot, of the various components of each side's forces at a particular time, in peacetime. Or it can provide a picture of the change in the quantity of these components over a certain period of time. This approach does not, and cannot, show how these components would interact in a war, or what extrinsic factors would affect their performance or importance in actual combat.

Let us look at one of the more frequently encountered comparisons—the one between U.S. and Soviet ICBMs and SLBMs—and note some of its limitations. A typical graph depicts a small forest of the many different kinds of Soviet missiles and a more modest array of the U.S. missiles. It will show that Soviet ICBMs and SLBMs are larger, more varied, and more numerous than their U.S. counterparts. One's intuitive conclusion, on seeing such a graph, would be that the Soviets are better armed and stronger.

But this sort of graph does not reveal that U.S. Minuteman missiles, which make up the vast bulk of our ICBM arsenal, are smaller because superior technology in miniaturizing explosive devices and guidance systems and in using more efficient, less bulky solid fuel propellants allowed the U.S. deliberately to scale down the size of its missiles. (If size itself were important, the U.S. would not be phasing out of its arsenal its largest ICBMs, the garganthun Titans.) Nor does such a graph show that the variety of the U.S.S.R.'s ICBMs and SLBMs is in no small part attributable to the Soviets' persistent problems in producing one reliable model in which they have confidence. This graph gives no indication, moreover, of the qualitative differences between the Soviet and American ICBMs and SLBMs—differences which are at least as significant as differences in quantity, size and variety. For example, a submarine's ability to glide silently through the water and thus evade detection and destruction is a critically valuable feature. And the U.S.'s SLMB-carrying submarines can move much more quietly than Soviet submarines.

One frequently sees charts showing the relative increase in the number of U.S. and Soviet ICBMs and SLBMs over a particular span of time. This too can create a misleading effect. A graph showing the tremendous growth in the number of Soviet missiles and the much flatter growth of the U.S. arsenal from 1970 to 1980, for example, suggests a truly alarming Soviet build-up. However, a graph including the period from 1950, say, to 1980, would reveal that the U.S. too engaged in an enormous build-up—but in the decades preceding the Soviet effort. The point here is simply that the choice of period can radically alter the message of a graph comparing quantities of weapons over a span of time.

Another common way of comparing nuclear forces is by counting the number of warheads. Initially, both U.S. and Soviet mis-

siles carried only one warhead apiece. Each missile could therefore be aimed at only one target. In the early 1970s, however, first the U.S. and then the Soviet Union mastered the technology of multiple independently-targetable reentry vehicles, or MIRVs, which allows one to load onto a single missile a number of warheads, each of which can be programmed to strike a different target. (The reentry vehicle of a missile basically contains the explosive device or warhead.)

By now, most of the superpowers' missiles are MIRVed, carrying between 3 and 14 warheads on each missile. Counting each side's ICBMs and SLBMs has therefore become an even less useful exercise than before, because it does not tell one how many bombs each side can deliver with these systems. So graphs comparing the number of deliverable warheads have become more common.

This measure, however, has its own limits. It is very difficult to determine just how many warheads the various delivery systems actually carry. The Strategic Arms Limitation Treaty of 1979 between the U.S. and U.S.S.R. (SALT II—signed, unratified by the U.S., but observed by both parties) put ceilings on the numbers of reentry-vehicles that ICBMs and SLBMs may carry. But in order to make their forces as versatile as possible, both the U.S. and the Soviet Union deploy their missiles with differing numbers of warheads, as well as differing megatonnage, range, and guidance systems. Thus in many cases missiles carry fewer than the maximum permitted them by SALT II. Bombers too vary in the amounts and kinds of warheads they carry. Comparisons of each superpower's warheads can therefore be based only on educated guesses.

Comparisons of numbers of warheads, like comparisons of delivery systems, also do not tell one about qualitative differences. The effectiveness—that is, the destructive potential—of a weapon is a function of the weapon's explosive power and its accuracy and must be judged in relation to the kind of target it is intended to destroy. A weapon with a certain combination of explosiveness and accuracy may be devastating against a "soft" civilian or military target such as a city or submarine base, but ineffective against a "hardened" target such as a missile silo or command-and-control bunker buried deep in reinforced concrete and steel. The importance of accuracy is thus especially great in relation to hard targets, which are built to withstand enormous explosions unless they occur almost precisely on point. Accuracy, therefore, is a key variable in comparing U.S. and Soviet forces.

Like the number and distribution of each side's warheads, however, accuracy can only be estimated. These estimates are based on observations of test firings of missiles. But there are too few tests for any particular model to permit an exact evaluation of its accuracy; the tests cannot be conducted over the path that the missile would have to follow if ever actually used; and weather and wartime conditions can also cause unpredictable variations. In addition, when observing Soviet missile tests, we cannot be sure how accurate the missiles are because we do not know the precise point at which they are aimed. And since estimates of accuracy are in turn used in other, more complex qualitative measurements of weapons' capabilities, the uncertainties inherent in assessments of accuracy are compounded in any subsequent measurements.

Beancounting and qualitative measurements can be useful when the limitations both of the underlying data and of the significance of the comparisons are kept in mind. As former Defense Secretary Harold Brown pointed out in the 1982 Annual Report of the Defense Department (DoD), however, these measures are isolated "from 'real world' factors inherent in any actual attack situation."

The second basic approach to weighing U.S. and Soviet nuclear forces seeks to approximate, in a very theoretical way, what could happen in "actual attack situations." It attempts to predict, through a series of calculations—computer wargames—how the superpower forces would interact in a nuclear war. These are often called force exchange comparisons, and they seek to measure the ability of one side to attack military targets of the other side, the ability of the other side to retaliate, and the outcome of the exchange. Force exchange analysis allows a more sophisticated comparison of the two sides' forces, but depends entirely on the validity of the many underlying assumptions.

For example, one scenario seeks to determine the outcome of a surprise nuclear attack. It assumes that at the time of the attacker's initial strike, the other side's forces are on normal peacetime alert during which certain percentages of its ICBMs, SLBMs and bombers are kept fully readied to respond to the attack. Another scenario assumes that the other side has received warning of a likely attack and thus has readied a higher percentage of its forces to survive and retaliate. Many other factors, however, may enter into the calculations but are unlikely to be articulated.

Furthermore, as Harold Brown noted in the 1982 DoD Annual Report, force exchange analysis also omits from its calculation certain "real, important, yet hard-to-quantify factors such as leadership, motivation, C3 (command, control and communication facilities), training and maintenance." It does not attempt to treat the military and political context in which such exchanges occur, or the military plans and tactics which would of course come into play in any real combat situation.

Beyond these important but unquantifiable factors is yet another range of very significant elements in comparing the military capabilities of the two superpowers. Alliances, industrial capacities, natural resources, population, geography, national morale, and political leadership and values all must figure in any realistic consideration of two potential adversaries' ability to wage war against each other. And although it is impossible to quantify these factors in a way that relates them meaningfully to an overall military balance assessment, they must nonetheless be borne in mind. Similarly, one must remember that while force exchange analyses have an artificial, even surrealistic, air, they are not merely theoretical constructs. Although abstract themselves, these analyses are based on real weapons—and weapons so powerful and so numerous that, if ever used, they would only serve, in Winston Churchill's oft-quoted phrase, to "make the rubble bounce."

AN UNFULFILLED DREAM

Mr. PROXMIRE. Mr. President, this last August marked 25 years since the death of Raphael Lemkin. The story of this man was recounted recently by William Korey in the summer 1984 issue of Present Tense magazine. William Korey, who is the director of international policy for B'nai B'rith, has long labored on behalf of the Genocide Convention. I express my gratitude for his work from which I now draw.

Raphael Lemkin had a dream—to see genocide be declared a crime by all. Long before the Holocaust, he recognized the potential for, and the horror of, acts of genocide. This led him to urge that it be outlawed as early as 1933. The Holocaust then illustrated how that potential could become manifest as a reality. Forty-seven members of Lemkin's family, including his mother and father, were murdered by the Nazis.

The postwar years saw Raphael Lemkin become the moving force behind what became the Genocide Convention. He devoted himself to its creation and adoption. Despite doctor's orders, he went to New York and appealed for the genocide topic to be on the U.N. agenda. During the treaty's creation, Raphael Lemkin so fully devoted himself to his worthy goal that for days he would eat little or nothing. He represented no country. He only represented his ideals.

The answer to his dream came into sight in 1948 when the U.N. General Assembly unanimously adopted the Genocide Convention. The Convention defined genocide, proclaimed it as an international crime, and sought to codify rules to deal with the punishment of offenders.

Ninety-two countries have embraced this document. Yet Lemkin's dream remains unfulfilled because one of the most powerful countries, the United States, continues not to accept the treaty.

For years we have failed to officially proclaim to the world that we recognize genocide as an international crime. So long as we do not ratify this treaty, we bypass an opportunity to demonstrate our leadership in human rights. So long as we do not ratify this treaty, we leave our critics an avenue to confuse others about our commitment to human rights.

Now, 25 years after Raphael Lemkin's death, the opportunity to fulfill his dream is still here. Let us do so. Let us ratify the Genocide Convention.

Mr. President, now is a golden opportunity. Now is our great chance. The Reagan administration has recommended the ratification of the Genocide Convention. The majority leader intends to bring this up, I believe, although there is terrific pressure to conclude this session of the Senate. I am still concerned that the treaty may be lost.

But, Mr. President, this golden opportunity we must not lose with respect to the Genocide Convention.

Mr. President, I yield the floor.

Mr. PELL. Mr. President, I congratulate the Senator from Wisconsin on bringing to our attention once again, as he has every day for many years, the importance of ratifying the Genocide Convention.

I would like to doubly congratulate him on his pointing out to us the contribution of Raphael Lemkin. I well remember Raphael Lemkin as he went through the corridors of the United Nations and the corridors of the Senate, as he carried out his early solitary crusade to make genocide a world crime.

Mr. President, to think that now his dream may be within the grasp of being fulfilled is a wonderful thing. Lord knows this convention needs to be ratified.

We can think back a few years ago, those of us who recall the years before World War II, and I remember seeing in eastern Europe, the Jews with their yellow stars, German soldiers goosestepping along, destroyed synagogues. Hitler at that point was seeking to eliminate Jews in his sphere of influence. He was moving in that direction. What he wanted to do originally was to remove them.

But what did we do, the rest of the world at that time, as the years went on? Absolutely nothing. We wrung our hands and did nothing.

Mr. President, did we change our immigration laws one jot? No, not one jot. We turned back a ship, the *St. Louis* with 900 Jews aboard, to go back to Germany to burn.

We could see that the world countenanced what Rafel Lamkin was later to call "genocide."It made us realize that we must do something to bring to the people's attention the dreadful crime that is genocide.

Among the people who turned the Jews back, who did not change their immigration laws one jot, was the United States. The only countries that substantially sought to help the Jews were the Dominican Republic and the Scandinavian countries.

Mr. President, I think this effort of the Senator from Wisconsin in bringing this matter to our attention is great and I congratulate him.

Mr. PROXMIRE. Mr. President, I thank my friend from Rhode Island. The Senator from Rhode Island has been a valiant fighter on this matter for many years. Of course, he serves on the Foreign Relations Committee and I do not. He is very responsible for the action the Foreign Relations Committee is taking.

Mr. President, not only has the Senator been fighting for the Genocide Convention, but his father was very instrumental in persuading the United Nations to adopt the Genocide Convention. So it is a great honor to work side by side with my friend from Rhode Island in seeking ratification of the Genocide Convention.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. BAKER. Mr. President, we are going to have a cloture vote as soon as a quorum is established after 12 o'clock, and we are coming up on the end of the fiscal year. I think it is prudent on the part of the Senate—and I have conferred with the minority leader on this point—to make certain provisions for what happens in the event that cloture is invoked on further debate on the Byrd amendment to the first committee amendment.

Mr. President, I ask unanimous consent that even if cloture is invoked, and notwithstanding the post-cloture provisions of rule XXII, it be in order thereafter to call up a House message on H.R. 3103, which is here, and to propose an amendment that would provide that in lieu thereof in effect we would provide a simple continuing resolution through Tuesday of next week. I send the form of the amendment to the desk to identify it for the purposes of this unanimous-consent request.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object—I do not intend to object—I think we ought to do this.

Mr. BAKER. I thank the Senator.

Mr. BYRD. And that makes everything safe into Tuesday. Moreover, I would hope, if cloture was invoked on this first amendment today, we will be able to get this continuing resolution, the big one, passed no later than sometime Monday.

Mr. BAKER. So do I, Mr. President.

Mr. BYRD. The majority leader and I have discussed this. May I ask the majority leader if he will include in his request a time limit on that temporary resolution and proscribe any other amendments?

Mr. BAKER. Mr. President, I add to my request that there be a time limitation of 10 minutes equally divided, the control thereof to be——

Mr. BYRD. Say not more than an hour.

Mr. BAKER. All right, not more than an hour, and that the time will be controlled by the distinguished chairman of the Appropriations Committee and the distinguished ranking minority member; that no other amendments be in order, and that if a motion to reconsider is made after disposition of the vote, that no debate be in order to any point of order, if the same is submitted, to the motion.

Mr. BYRD. No other motion except a motion to table and reconsider.

Mr. BAKER. No other motion will be in order except the motion to table the motion to reconsider.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, reserving the right to object—and I do not intend to object—as I understand it, then, this is a continuing resolution up until Tuesday night at midnight; is that correct?

Mr. BAKER. If it is adopted by the House. May I explain to the Senator that the House is not now in session. There is no way that the House can act and send us something. They will not be in session until Monday. This is the Senate's effort to provide that protection in the event cloture is invoked.

Mr. KENNEDY. I do not object, although I would hope that if we were able to have a successful cloture vote, we could go about the business of completing this matter and there would not be dilatory tactics on this particular measure which is so important. But I will not object to a 2-day extension, although I certainly want to reserve my rights in regard to any further extensions after the first of the week.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. Mr. President, reserving the right to object—I do not believe I will object—may I ask the distinguished majority leader a couple of questions? As I understand this—I was not on the floor, and I apologize—it is just a simple request to be able to enact a stopgap resolution until Tuesday?

Mr. BAKER. Yes.

Mr. President, let me explain it this way. If cloture is invoked today at 12:30, I could not do this except by unanimous consent.

Mr. HATCH. I understand.

Mr. BAKER. But this would not affect the continuing effort to pass the continuing resolution. It would simply be our proposal to the House that there be a 2-day continuing resolution in the event cloture is invoked and in the event we cannot do something else.

Mr. HATCH. As I understand, it would not affect any of the rights of those who disagree on either side of this issue as we proceed through Tuesday.

Mr. BAKER. It would not.

Mr. HATCH. Then I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, am I correct now that the majority leader, even if cloture is invoked, may call up under the order the bobtail resolution

at any time—and I know he would consult with me before doing so; we might have some time problem involving some Senator and there will be no motion in order other than the motion to reconsider, on which there will be no time for debate, and a motion to table?

Mr. BAKER. That is correct.

Mr. BYRD. I thank the Chair.

Mr. BAKER. May I inquire of the Chair, is that the Chair's interpretation?

The PRESIDING OFFICER. That is correct.

Mr. BAKER. I thank the Chair. Mr. President, I thank the minority leader, I thank the Senator from Massachusetts and the Senator from Utah, I thank the chairman of the Appropriations Committee and anybody else on whom my gaze will fall.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. There is now a period for the transaction of routine morning business for Senators to be recognized for not longer than 5 minutes.

Mr. CRANSTON. Mr. President, when will we be on the pending matter, the cloture vote?

The PRESIDING OFFICER. It will follow a live quorum, which will begin at noon.

Mr. CRANSTON. I yield the floor at this point.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

AMENDMENTS RE GROVE CITY

Mr. DOLE. Mr. President, I do not know if it makes any difference what happens later, but today I have filed two amendments which are alternative approaches to the Byrd amendment to reverse the Grove City decision.

The first amendment is a composite of proposals given me by those who have grave concerns about the language of the Byrd amendment. The intent of this proposal is to make title IX apply on an institutionwide basis, while avoiding the controversial ramifications of trying to amend the other three laws, which are not limited to education.

This proposal would amend title IX to provide that where Federal financial assistance is extended, by whatever means, to an education institution, public or private agency, organization, corporation, partnership, or any other entity, any and all education programs or activities of such entities are covered by the prohibitions against discrimination under title IX.

The first amendment also contains a grandfathering provision which provides that the other three laws should continue to be construed in a manner consistent with the law prior to Grove City. This provision is intended to ensure that coverage under section 504, title VI, and the ADA will remain unaltered by reason of the new legislation and that the Supreme Court's decision in Grove City as to title IX coverage will not provide an independent basis for arguing that the companion statutes should be read any more narrowly than was the interpretation given to them in law prior to Grove City.

In short, the purpose of this approach, as I understand it, is to amend title IX so as to substitute institutionwide coverage for what the Supreme Court in Grove City held to be program-specific coverage, while retaining the status quo ante as of the Grove City decision with respect to coverage under the other three statutes.

The second amendment I am filing would amend all four laws to clarify that where an education institution is extended Federal aid, the entire education institution is covered. The phrase "education institution" is defined to include any school, college, or department, but excludes geographically separate and distinct campuses. Thus, Federal aid to UCLA would not trigger coverage of other campuses in the University of California system, though UCLA would be covered in its entirety.

The amendment is consistent with the testimony of Secretary Bell and prior administration officials regarding what they viewed to be the covered program prior to Grove City.

Section 2 of the amendment contains a grandfathering provision which states that in other areas the phrase "program or activity" should be construed without reference to how the phrase was construed in Grove City. Thus, to the extent other issues arise with regard to what is a covered program they should be resolved in accordance with the law prior to Grove City.

In short, the second amendment reverses Grove City on its facts, but does not seek to define what the phrase "program of activity" means in other contexts. In other contexts, the phrase would simply continue to have the meaning it always had prior to the Grove City case.

Mr. President, I am not certain when we will resolve the Grove City matter, but I believe it will happen sometime in the next few days.

If cloture is invoked—and this Senator does not know how he is going to vote on cloture—I do not believe there is going to be a consensus on the Byrd amendment that is going to be achieved in the next 4 or 5 days. I understand that the Senator from Utah has several hundred amendments and is prepared to offer them, and that would put us well into next week, probably as late as Friday.

As one who has been involved in negotiations, I still believe there is some room for accommodation on both sides. If not, then we will have to see what happens. But virtually everyone wants to reverse the Grove City decision. I do not know of any Member of the Senate who does not want to reverse the Grove City decision.

I hope both sides will be willing to give a little, so that we can find some way out of this impasse. I am certain that the Senator from Oregon, the distinguished chairman of the Appropriations Committee, would like to move on with his legislation.

The Senator from Kansas has the Superfund, the debt ceiling, and some other matters. At least the debt ceiling must be taken up before we adjourn next Friday or the Friday after that. I hope there will be some accommodation by all parties soon.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I will not take very long. I see that the distinguished Senator from Massachusetts would like to say something. I want to comment on what Senator DOLE has just said.

I am interested in what Senator DOLE has suggested here. There is no question that we are ready, willing, and able to resolve this issue and to resolve it in the best interests of the civil rights of all Americans. I will have difficulty resolving it, however, if we have to take language that incorporates into these four statutes all the regulations as they existed 1 day before the Grove City case was decided. That writes into law many, many pages of regulations, thousands and thousands of words. Nobody knows the full scope of those regulations. Neither side of this issue understands the sweep of those regulations and bureaucratic pronouncements.

To my knowledge, this would be the first time in the history of this country that the Senate has incorporated into statutory form such a broad sweep of rules and regulations. This may be the first time in history all the agency regulations, with regard to statutes, let alone these four sensitive, technical, and complex statutes have been incorporated wholesale into law.

To elevate agency regulation, however inconsistent with the statutes, to permanent legal status is poor legislative practice. It is the sure way to have

nothing but difficulties in this particular area for years to come.

The bill says:

For the purpose of this title, the term "recipient" shall not be construed to include any entity which would not have been a recipient under agency regulations implementing this title in effect on February 27, 1984, nor to exclude any entity which would have been a recipient under agency regulations implementing this title in effect on February 27, 1984.

It would elevate all the vague and controversial agency regulations to statutory form that would be unchangeable except by subsequent statute. I do not know how any legislator can do that, because I know, as a surety, that there is not anybody on the floor of the Senate, out of the 100 Members, who knows the full legal effect of such an action. To elevate agency regulations, which may or may not be consistent with the statutes, to the form of statutory law is providing for complexities in the area of civil rights that can only be detrimental to civil rights. Certainly, if you read the rest of this statute, it would be detrimental to State and local governments and their powers vis-a-vis the Federal Government's power, to private business institutions, to religious institutions, to nonprofit corporations. We have to stop and think what we are doing here. We must be sure what we are legislating.

This is not a simple overrule of Grove City and a return to the status quo ante. We have offered to have a simple overrule of Grove City with a return to the status quo ante. Such a proposal would return the law to the way it existed 1 day before the Grove City case was decided. I could do that, and I have also offered to do that if these four statutes would be construed narrowly with regard to traditional civil rights concepts from that point on. But it is not likely that these laws would be construed narrowly if we attempted to return to the status quo ante even in a responsible manner.

I could spend hours on the wording in this statute, to show that it is an unprecedented arrogation of power by the Federal Government. This would mean all kinds of complexities and difficulties that we would have to live with for many years.

Mr. DOLE. Mr. President, will the Senator yield for a question?

Mr. HATCH. I yield.

Mr. DOLE. I want to reaffirm what the Senator from Utah has indicated. I think many of us involved in the negotiations have different views; and the Senator from Kansas is not as expert in this as are the Senator from Utah and the Senator from Massachusetts, because they have spent more time on it.

It seems to me that if we are going to work out a compromise, we must have something to base it on. We cannot compromise if we have to have it the way of the Senator from Utah or the way of the Senator from Massachusetts. I am trying to decide whether or not I want cloture invoked. If cloture is invoked, then we will probably be off and running on a series of amendments. If cloture is not invoked, we have until Monday to reach an agreement. But I am not going to vote against cloture unless there is a chance we can do that.

My first amendment is not the administration proposal, but it is language that Brad Reynolds, who has worked in good faith, indicated might resolve the dilemma. It is not administration language. I understand that neither side likes it, so it should be the seeds of a compromise.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. HATCH. Mr. President, I ask unanimous consent that I may answer the Senator's question.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. In response to the question of the distinguished Senator from Kansas, I say that I am not locked in concrete on my position.

Its language intrigues me. I am willing to examine it. It certainly goes farther than what we have been willing to do up until this point, but I am still willing to examine it carefully. But I have not seen any desire, except in early negotiations which broke down—and there was some desire on both parties part of that time—to try to resolve it on the other side.

Let me just say this: I do not want anyone to mistake what I mean. Nor do I want to irritate my colleagues. But this is a matter of principle to me, a matter of constitutional principle, a matter of principle with regard to federalism, separation of powers, and protection of individual constitutional rights. It is a matter of principle to me. I will either get this matter resolved satisfactorily to clarify these two statutes or to fight this with everything I have. I believe there are others who will stand with me with regard to that fight.

It is unfortunate that this amendment was attached to the continuing resolution at this time and that germaneness was voted, one of the few times in the history of the Senate that that has happened.

I think it is unfortunate that, in my opinion, the rules of the Senate have been abused. It is unfortunate that through eight committee markups, the proponents did not show up when I guaranteed them I would give them a chance to approve their bill. I even offered to cloture my own side in committee to give them that chance. I do not know how I can be more fair as a committee chairman. The committee process was not used. It was abused in my opinion.

Be that as it may, if cloture is invoked I have no choice. I have to fight this. It is a matter of principle. I think others feel the same way on both sides.

I also say that I understand that is a matter of principle on the other side as well. We do differ on these interpretations. So I do not mean by saying it is a matter of principle to me that it is not to them.

But I think people need to know my intentions and I would say that we would have to have a very long time to discuss this matter.

Mr. KENNEDY. Mr. President, in just a few moments we will be asked to vote either yea or nay on the Civil Rights Act of 1984, and the issue, as I have stated previously, is very clear. It is whether Federal taxpayers' money will be permitted to be used for discriminatory purposes in the areas of age or sex or handicapped or on the basis of color of one's skin.

Mr. President, I think most Americans would understand that for the last 20 years there has been a prohibition of using taxpayers' funds for the purposes of discrimination in those areas.

The Supreme Court undermined in an ill-advised decision one piece of legislation, but all of us know that unless we are going to deal with the basic core legislation we will not really deal effectively with the overall issue of using Federal taxpayers' funds for discriminatory purposes.

The fact of the matter is the Hatch amendments basically open up little loopholes on that basic concept on that basic view. Discrimination is wrong. A little discrimination is not right. But the 200 various amendments of the Senator from Utah open up little windows to permit individuals to use the Federal funds to be able to under certain circumstances to discriminate.

I think that is wrong, and we are quite prepared to debate those issues and the questions in detail. But make no mistake about it. Once you start writing exceptions into the rules those exceptions can be windows in which the state of discrimination can take place.

Finally, because I know the time is short, those of us who supported this legislation worked for 6 months to work out a definition which would meet the responsibility which we thought we had to have the law prior to the Grove City decision, and we worked with those who supported the Grove City decision and opposed our position, and we were unable to work out a satisfactory process and way of doing that other than incorporating regulations and providing definitions within the scope of the legislation.

That is what we have attempted to do and now we are being criticized be-

cause of that particular process, even though those who have opposed what we are attempting to do in principle have agreed that if they were committed to doing what we agreed in principle that that would be a satisfactory way to proceed.

So, Mr. President, this is the issue. It is whether we are going to permit Federal funds, taxpayers' funds to be used for discriminatory purposes in those four areas of public policy. That is the issue before the Senate.

I thought we had resolved that, Mr. President, some 15 years ago. It is back before the Senate and we will call the roll shortly and I hope in the tradition of this body Republicans and Democrats alike by an overwhelming vote will say no, no more use of taxpayers' funds for discriminatory purposes.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. BYRD. Mr. President, is this my time now under the morning business hour?

The PRESIDING OFFICER. It has a 5-minute time limitation.

Mr. BYRD. I thank the distinguished Presiding Officer.

Mr. President, I wish to keep 1 minute for myself or 2 minutes.

I ask unanimous consent that I may yield to whichever of these two Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I yield to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, I only have 2 minutes.

THE TAX STRUCTURE

Mr. HATFIELD. Mr. President, we hear a lot in the Presidential campaign now about the question of taxes, whether we should raise or not raise taxes. I think both candidates for the Presidency are really a little off on taxes.

In my view it is not a question of raising or not raising taxes; it is a question of abolishing the tax structure and starting all over with a new tax structure.

I have an illustration of what I proposed 12 years ago. It is a simple form which has five lines for tax information, which would not only be equitable, it would be enforceable and understandable.

Today we lose about $100 billion because of the unenforceability of a very complex tax structure. This is an illustration I wish to use. It is from a very distinguished law firm in my State of Oregon in which they sent me their tax statement the other day, and this happens to be from the official IRS.

They had on their tax return $24,756.54, and they had tax credit of $24,765.52 and the unpaid tax was 2 cents—two pennies. But the penalty is $618.92 to collect 2 cents of unpaid tax.

I wish to submit the entire document for the RECORD as again an illustration of the complexity of the tax structure that cannot afford another reform to add to the complexity but should be abolished and recreated, and I so ask unanimous consent for this material to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BEDINGFIELD, JOELSON, GOULD, WILGERS & DORSEY, P.C.,
Coos Bay, OR, September 24, 1984.

Senator MARK HATFIELD,
Senate Office Building,
Washington, DC.

DEAR MARK: I enclose a copy of a request for payment from the IRS directed to our law firm as a result of our failure to pay two cents ($0.02) in additional money and notice of a $618.92 penalty as a result of it.

This is a good example of why the people of this country lost all respect for the Internal Revenue Service and the tax system.

Sincerely,

J.B. BEDINGFIELD.

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Ogden, UT, September 24, 1984.

BEDINGFIELD, JOELSON, GOULD & WILGERS, PC,
West Commercial,
Coos Bay, OR.

Request for payment: Our records show you owe $618.94 on your return for the tax and tax period shown above. If you believe our records are not correct, please see the information about the amount you owe on the back of this notice. Make your check or money order payable to the Internal Revenue Service. Please write your taxpayer identifying number on your payment and mail it with the bottom part of this notice. An envelope is enclosed for your convenience. You should allow enough mailing time to be sure we receive your payment by October 4, 1984.

Thank you for your cooperation.

Tax statement:	*Amount*
Tax on return	$24,756.54
Total credits	24,756.52
Unpaid tax	.02
Penalty [1]	618.92
Interest [1]	.00
Amount you owe	618.94

[1] Code 11: A penalty has been added because, from the information shown on your return, it appears you did not deposit the correct amounts on time (a complete tax liability breakdown for each monthly deposit period was not provided), or the amounts reported did not equal your net tax liability. If your total net tax for the quarter is greater than $500, you must complete the Record of Federal Tax Liability portion on your tax form. The penalty is 5 percent of the amount we determined to be the underpayment. We figured the underpayment by dividing the total tax liability for the period by the number of deposits that should have been made and then compared your deposits with the resulting average. If you believe that the penalty should not be asserted, see "Elimination of Penalty—Reasonable Cause" on this page. Before we can review the penalty, we need a complete breakdown of your tax liabilities for the period. Form 4977, Schedule of Tax Liability, is enclosed for this purpose. In the future, be sure to complete the Record of Federal Tax Liability column on your tax return.

Mr. BYRD. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Maryland for not to exceed 1 minute. I wish to keep 1 minute for myself.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. MATHIAS. Mr. President, I thank the distinguished minority leader for yielding me this time.

CIVIL RIGHTS ACT OF 1984

Mr. MATHIAS. Mr. President, the amendment offered on behalf of a number of Senators by the distinguished Senator from West Virginia [Mr. BYRD] contains one of the most important pieces of legislation to come before the Senate during the 98th Congress. This amendment would overcome the decision of the U.S. Supreme Court in the case of Grove City College against Bell, a decision that crippled the civil rights enforcement efforts of the Federal Government. By restoring the coverage of the civil rights laws as they existed prior to the Grove City decision, we renew our pledge to members of racial minorities, to women, to the handicapped, and to the elderly, that the Federal taxes that they pay will never be used to subsidize invidious discrimination against them.

The amendment before us is based upon S. 2568, the Civil Rights Act of 1984, which I cosponsored at the time it was introduced, on April 12 of this year. Like that bill, it not only corrects the Supreme Court's reading of title IX of the Education Amendments of 1972; it also forestalls similarly restrictive readings of the statute upon which title IX is based-title VI of the 1964 Civil Rights Act—and of the laws banning Federal support of discrimination against handicapped and elderly Americans, both of which are also derived from title VI. It makes clear that the entire institution that receives Federal grant money, and not simply the specific program or activity that benefits from the funds, has a duty to avoid discrimination.

This amendment differs from S. 2568 in one significant respect. It includes some modest changes intended to clarify the intent of its sponsors: To reestablish the status quo in civil rights enforcement that existed immediately prior to the Supreme Court decision in the Grove City case. The amendment bans discrimination by "recipients" of Federal funds, and explicitly incorporates the definition of "recipient" that prevailed in agency regulations in effect before Grove City. Federal coverage will not be any broader if this amendment becomes law than it was before that decision; nor will it be any narrower.

As a rule, it is not particularly difficult to draft legislation intended to

overcome the effect of a single Supreme Court decision interpreting a single phrase in a single statute. The slow progress of the amendment before us demonstrates that this rule, like any other, has its exceptions. In part, this is because the Grove City decision had repercussions far beyond the higher education context from which it arose. But to a great extent, the Civil Rights Act of 1984 has encountered difficulties because of misunderstandings about its intent and effect. In some quarters, the effects upon our society of enactment of this bill have been grossly exaggerated. Adoption of the amendment before us should put to rest the fear that either side in this debate seeks to exploit the response to the Grove City decision as a means to attain some other objective in the civil rights arena.

I hope that the clarifying changes included in this amendment will answer the legitimate questions that have been raised, and will still the strident chorus of those who would divine in this legislation an intent that is wholly foreign to its authors. For those who sincerely want to correct the misstep taken by the Supreme Court in the Grove City decision, and to set the Federal Government back on the path of fair, vigorous, and comprehensive civil rights enforcement, there is no better vehicle than the amendment that is now before us. The Senators from Oregon and Massachusetts, and their staffs, deserve our thanks for the hard work and difficult negotiations that have resulted in the presentation of this measure to the Senate. I ask unanimous consent to add my name as a cosponsor of the amendment, and I urge its immediate adoption.

The PRESIDING OFFICER. The minority leader is now recognized.

Mr. BYRD. Mr. President, I ask unanimous consent that I may yield to Mr. CRANSTON for not more than 30 seconds without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

CIVIL RIGHTS ACT OF 1984

Mr. CRANSTON. Mr. President, I am proud to rise today in strong support of the proposed Civil Rights Act of 1984. This legislation is intended to restore the strength and vitality of four basic civil rights statutes in the wake of the devastating decision of the U.S. Supreme Court in the Grove City College case.

I applaud the bipartisan leadership that Senator KENNEDY and Senator PACKWOOD have provided in this cause, and the help the minority leader, Senator BYRD, has given in handling the cause. It's been a pleasure to work with them and others in this vitally important matter.

Mr. President, there is no more important business before this body in the closing days of the 98th Congress than enactment of this measure. The U.S. Senate is called upon to reaffirm and rededicate the moral and legal force of our National Government to eliminate unjust discrimination in our society, whether it be based upon race, color, sex, age, or disability. It is a task which we should not, which we cannot shirk.

Mr. President, we have struggled too long and we have traveled too far to allow a handful of individuals and organizations to turn back the clock on civil rights. Our Nation truly stands at a crossroads today. We can continue the efforts begun in the fifties, sixties, and seventies to put bigotry and prejudice behind us, or we can slide back to the days when their dark shadows eclipsed the bright hopes and dreams of those Americans whose color is not white, whose sex is not male, and whose bodies or minds are not young or whole.

Mr. President, this Nation was founded upon a dream of opportunity. It is a dream that must live for all Americans, not just for the fortunate few.

In the past several months, the opponents of this legislation have attempted to stir up every conceivable groundless charge, ignite every possible fear, and drag out every preposterous spectre across the path of this legislation.

But the arguments and voices of the opposition are not new.

They are the same arguments and voices raised against the original civil rights laws, against the Voting Rights Act, against the fair housing laws, against the equal rights amendment, and against programs like legal services for the poor. We have heard these distortions and scare tactics every time this Nation has moved forward to secure the rights of all Americans to equality of opportunity and fairness under the law.

Mr. President, they were wrong in 1964 when the Civil Rights Act was enacted. They have been wrong time and time again. This Nation has now lived for two decades under a fabric of civil rights laws, from public accommodations to voting rights. We know that these most fundamental of laws have worked and that all Americans have benefited from a society where segregation and discrimination is not accepted.

The opponents of these laws did not prevail in the past and they will not prevail today. This Nation is not willing to turn back the progress that has been made in putting discrimination and prejudice behind us. We will not stand by and let the civil rights laws of this land be dismantled. The stakes are too high.

Much of the debate that has taken place involves the charges that the opponents of the legislation have made that the language goes beyond the stated intent. That line of attack provides a convenient smokescreen behind which to hide their true intent—to use the opportunity created by the Supreme Court decisions to tear apart these statutes. As each hypothetical problem they have posed has been answered and rebutted, new ones have been formulated to confuse and distort the dialog.

This legislation, as it was introduced and as it has been modified, is designed to restore the status quo that existed under the four basic civil rights laws prior to the devastation created by the Supreme Court decisions.

And that is what it will do and all it will do when it is enacted.

I urge a vote for cloture so that we can get on with the important business of passing the Civil Rights Act of 1984.

Mr. CHAFEE. Mr. President, no other endeavor has consumed so much of our Nation's energies during the past 100 years as the drive for civil rights. It is a debate which has accentuated both the strengths and weaknesses of our national character. Each civil rights victory has been hard fought, and the quest for equality has enriched our society. Strenuous efforts must be made to protect the gains which we have made.

In this legislation Congress has an opportunity to reaffirm our Nation's commitment to equality of opportunity.

The Grove City amendment will clarify the broad scope of coverage of title IX by prohibiting discrimination by any education recipient of Federal financial assistance. This makes it clear that institutionwide coverage of title IX is entailed when an educational institution receives Federal assistance in any form, whether through student aid, direct Federal support to the institution, or Federal support for a particular program.

The Supreme Court's Grove City decision raised disturbing questions about the scope of coverage of three other laws intended to prohibit discrimination based upon race, national origin, disability, and age. These could also be jeopardized by the Court's narrow reading of the title IX statute. Thus, it is imperative for Congress to restate its intention to provide institutionwide protection against discrimination in these areas.

I believe that an institution which receives even a single dollar of Federal financial assistance should not be permitted to practice any form of discrimination. In order to make continued progress in assuring equal rights for all our citizens, Congress must act now

to clarify the broad scope of coverage it intended for these statutes.

Complete equality of opportunity is not yet a reality for all our citizens. But these four statutes have helped our country make significant strides in eliminating discrimination in a variety of important areas. They have opened doors to groups in our society whose aspirations and opportunities had previously been limited. Now is not the time to turn back.

I hope you will join in voting for the enactment of this vital legislation.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. BYRD. I thank the Chair.

Mr. President, if cloture is invoked on this amendment, the first amendment in the first degree which I offered on behalf of others, and if that amendment is adopted then all of the other seven cloture motions will be automatically wiped out as will the other pending amendments going to gun control, tuition tax credit, and busing, some of which I support, but not on this measure.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. PACKWOOD. Objection.

The PRESIDING OFFICER. Objection is heard.

The bill clerk resumed the call of the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. BOSCHWITZ). Without objection, it is so ordered.

CONTINUING APPROPRIATIONS, 1985

CLOTURE MOTION ON AMENDMENT NO. 5508

The PRESIDING OFFICER. One hour having elapsed since the Senate convened, the clerk will state the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the pending amendment.

Senators Don Riegle, Christopher Dodd, Bill Bradley, Bill Cohen, Claiborne Pell, Howard Metzenbaum, Daniel Patrick Moynihan, Gary Hart, Frank R. Lautenberg, George J. Mitchell, James Sasser, Charles McC. Mathias, Alan Cranston, Bob Packwood, Patrick Leahy, Tom Eagleton, Edward M. Kennedy, Joe Biden, and Dale Bumpers.

CALL OF THE ROLL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The bill clerk called the roll, and the following Senators answered to their names:

[Quorum Vote No. 17]

Baker	Gorton	Melcher
Biden	Grassley	Packwood
Bingaman	Hart	Proxmire
Boschwitz	Hatch	Pryor
Byrd	Hatfield	Randolph
Cochran	Inouye	Sarbanes
Cranston	Kassebaum	Sasser
Danforth	Kennedy	Stafford
Dixon	Laxalt	Stennis
Dole	Long	Symms
Exon	Mathias	Trible
Garn	Mattingly	
Goldwater	McClure	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

The bill clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

Andrews	Hecht	Rudman
Boren	Huddleston	Specter
Burdick	Lautenberg	Stevens
Chiles	Leahy	Tsongas
Ford	Percy	Wallop

The PRESIDING OFFICER. A quorum is present.

VOTE ON CLOTURE MOTION ON AMENDMENT NO. 5508

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on amendment No. 5508 shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Florida [Mrs. HAWKINS] and the Senator from Texas [Mr. TOWER] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Ohio [Mr. GLENN] and the Senator from Louisiana [Mr. JOHNSTON] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 92, nays 4, as follows:

[Rollcall Vote No. 255 Leg.]

YEAS—92

Abdnor	Cohen	Gorton
Andrews	Cranston	Grassley
Armstrong	D'Amato	Hart
Baker	Danforth	Hatch
Baucus	DeConcini	Hatfield
Bentsen	Denton	Hecht
Biden	Dixon	Heflin
Bingaman	Dodd	Heinz
Boren	Dole	Hollings
Boschwitz	Domenici	Huddleston
Bradley	Durenberger	Humphrey
Bumpers	Eagleton	Inouye
Burdick	Evans	Jepsen
Byrd	Exon	Kassebaum
Chafee	Ford	Kasten
Chiles	Garn	Kennedy
Cochran	Goldwater	Lautenberg
Laxalt	Nunn	Specter
Leahy	Packwood	Stafford
Levin	Pell	Stennis
Long	Percy	Stevens
Mathias	Pressler	Symms
Matsunaga	Proxmire	Thurmond
Mattingly	Pryor	Trible
McClure	Randolph	Tsongas
Melcher	Riegle	Wallop
Metzenbaum	Roth	Warner
Mitchell	Rudman	Weicker
Moynihan	Sarbanes	Wilson
Murkowski	Sasser	Zorinsky
Nickles	Simpson	

NAYS—4

East	Lugar
Helms	Quayle

NOT VOTING—4

Glenn	Johnston
Hawkins	Tower

The PRESIDING OFFICER. On this vote, the yeas are 92, the nays are 4. Three-fifths of Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that I may proceed for not more than 3 minutes, without it being charged against any time.

The PRESIDING OFFICER Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, we have had a very decisive vote on cloture, which has been invoked. We are in the very special set of circumstances that rule XXII provides for the disposition of this amendment under post-cloture circumstances.

I have checked and, believe me, there are enough amendments at the desk which appear to qualify so that we could be voting very constantly, very steadily, and very often for the rest of this afternoon, and maybe into the night.

I do not know yet how we should best try to arrange the affairs of the Senate for today, but I think we ought to give some thought to that question and to confer with each other on how best to arrange it.

What I would propose, if the minority leader and other Senators would agree, is that we now have a recess of 30 minutes, with the time being charged against the post-cloture time, so that we can confer, each side with its own supporters and then with each other, to see if we can arrange an orderly way to dispose of this amendment and this bill.

I inquire of the minority leader if he would object to a unanimous-consent request that we recess for 30 minutes, but with the time being charged against the post-cloture time.

Mr. BYRD. I have no objection. I think it is a wise thing to do, and I wish the majority leader good luck. [Laughter.]

Mr. BAKER. I am very grateful for that. If that happens, it will be the first fulfilled wish I have had for several days.

I yield to the distinguished Senator from Massachusetts and ask if he would object to that arrangement.

Mr. KENNEDY. Mr. President, I say to the majority leader I will not object.

I only wish to say that I do think that this is an outstanding day for the Senate and an outstanding day for this country and its commitment to civil rights of its citizens and to the commitment that we will not use Federal funds for discriminatory purposes.

I have no objection.

Mr. BAKER. I thank the Senator.

I inquire now of the Senator from Utah if he objects to that.

Mr. HATCH. I do not think I will, but I wish to have it understood, is this time going to be charged to any particular Senator?

Mr. BAKER. No. Mr. President, the request would be that the time be charged against the 100 hours post cloture.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. HECHT). The Senator will state it.

Mr. BAKER. Mr. President, in that formulation, if I make that request, the time will not charge against any Senator; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATCH. Then, I do not object.

RECESS UNTIL 1:30 P.M.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate stand in recess until 1:30 p.m. and that the time be charged against the 100 hours permitted under rule XXII.

There being no objection, the Senate, at 1:02 p.m., recessed until 1:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. HECHT].

AMENDMENT NO. 5728

The PRESIDING OFFICER. Amendment No. 5728 falls as nongermane.

Mr. HATCH. Mr. President, I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask for the yeas and nays.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Mr. President, on what are the yeas and nays being requested?

The PRESIDING OFFICER. On the question, Shall the ruling of the Chair stand as the judgment of the Senate?

Mr. HATCH. That is with regard to the busing amendment?

The PRESIDING OFFICER. Amendment No. 5728.

Mr. HATCH. Which amendment is that? What is the substance?

The PRESIDING OFFICER. The Chair cannot interpret amendments.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. Who is the sponsor of the amendment No. 5728?

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeding to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, I move to table the appeal from the ruling of the Chair and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Florida [Mrs. HAWKINS], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Texas [Mr. TOWER], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "nay."

Mr. CRANSTON. I announce that the Senator from Ohio [Mr. GLENN] and the Senator from Louisiana [Mr. JOHNSTON] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 55, nays 39, as follows:

[Rollcall Vote No. 256 Leg.]

YEAS—55

Andrews	Bumpers	Dixon
Baker	Burdick	Dodd
Baucus	Byrd	Dole
Bentsen	Chafee	Domenici
Bingaman	Cohen	Durenberger
Boschwitz	Cranston	Eagleton
Bradley	Danforth	Evans
Gorton	Mathias	Riegle
Hart	Matsunaga	Rudman
Hatfield	Melcher	Sarbanes
Humphrey	Metzenbaum	Sasser
Inouye	Mitchell	Specter
Kassebaum	Moynihan	Stafford
Kennedy	Murkowski	Stennis
Lautenberg	Packwood	Stevens
Leahy	Pell	Tsongas
Levin	Percy	Weicker
Long	Quayle	
Lugar	Randolph	

NAYS—39

Abdnor	Goldwater	Nickles
Armstrong	Grassley	Nunn
Biden	Hatch	Pressler
Boren	Hecht	Proxmire
Chiles	Heflin	Pryor
Cochran	Helms	Roth
D'Amato	Hollings	Simpson
DeConcini	Huddleston	Symms
Denton	Jepsen	Thurmond
East	Kasten	Trible
Exon	Laxalt	Warner
Ford	Mattingly	Wilson
Garn	McClure	Zorinsky

NOT VOTING—6

Glenn	Heinz	Tower
Hawkins	Johnston	Wallop

So the motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, let me say that we have potentially a great number of votes ahead of us this afternoon. Let me also say that we have good attendance and most Senators are on the floor, and votes from here on out are going to be 15 minutes, with my apologies to those who may get left out, but at 15 minutes the leadership on this side will call for the regular order.

Mr. President, I yield the floor.

Mr. McCLURE and Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. McCLURE. Mr. President, the next amendment which will be subject to a ruling of the Chair is the McClure-Volkmer bill dealing with amendments to the 1968 Gun Control Act.

Mr. President, I did not offer this as an amendment to the pending measure, but I would hope Members would recognize that the Judiciary Committee, after having listened to that bill and debating it at length, has reported a version of the bill which has the support of all members of the Judiciary Committee, or so I am advised, and by their vote it would so indicate. Our only opportunity to get to any version of that bill would be to appeal the ruling of the Chair and to refuse to set that matter aside so that we will have the opportunity to work the will of the Senate on that measure as well as on others that may come before us.

So I appeal to Members, and I assume that when the ruling is sought, the Chair would rule it nongermane, that there would be an appeal from the ruling of the Chair, and that there would be a motion to table that appeal.

Mr. KENNEDY. Mr. President——

Mr. McCLURE. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the Senator from Idaho is not correct in his understanding of the parliamentary situation. I think it is important for the Members to understand now an issue which reaches the whole question of rule XXII, and that is whether, by majority vote, we are going to overturn rule XXII. That is effectively what we are doing on these two particular votes that we are having, because the question of germaneness applies when rule XXII is invoked.

We are not considering other amendments to Grove City which would be germane. We are considering two other items which have been offered previously, which have not been ruled by the Chair as nongermane.

So for all those Members of the Senate who are concerned about majority rule on cloture, they should certainly support the Chair.

The McClure-Volkmer gun amendment is in order, if the Chair so rules, in other provisions of the continuing resolution. But cloture now has been invoked on this particular measure; and under the time-honored precedents of this body we should be addressing the 1,500 amendments that the Senator from Utah has, which either are declared germane or nongermane. But on these other two, if we do not support the Chair, basically what we are saying is majority rule when it comes to cloture. Make no mistake about it.

The McClure-Volkmer bill, which I did support in the Senate Judiciary Committee, will be available to be considered under the continuing resolution at another time, when we consider other amendments in the continuing resolution.

So I think it is important what we are doing to rule XXII, for those who are going to vote to override the Chair, basically for majority rule on the question of cloture.

If that is where this body wants to go on that particular issue, so be it.

Mr. McCLURE. Mr. President, is it not strange that germaneness is now the issue, when just a short while ago we overturned the rules on an issue of germaneness by voting that the pending amendment is germane? It seems to depend upon the subject matter.

Mr. KENNEDY. Mr. President, will the Senator yield on this point?

Mr. McCLURE. Not at this time.

Mr. KENNEDY. Well, on the accuracy of his assessment.

Mr. McCLURE. Mr. President, the Senator can have his own time and make his own statement on his own time.

I say to my friends in this body that this is likely the only opportunity you will have to vote on this issue in this session of Congress, and we can indeed deal with that issue, and we can resolve that issue, and we can do that expeditiously, without holding up the vote of the Senate with respect to this pending civil rights measure. I hope we will have the opportunity to do that.

Mr. STEVENS and Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I do not remember voting to overrule the Chair very often in my time in the Senate, but I agree with the Senator from Utah on this, that the Grove City matter came before the Senate on a matter of germaneness. The Senator from Massachusetts says that we do not have to vote on germaneness now because we can vote on it later, after this is over. It is the same vote. It is a question of whether it is germane to the bill, now that the bill has been opened up.

I want everyone to realize that, so far as I am concerned, this is the only gun control vote we are going to have, and it is a question of germaneness. It is exactly the one that will come up later; and I intend to vote, if the Chair rules that this is nongermane, that it should, in fact, be considered, because this is now a question of timing of the Senate. Why put it off until later? There is no question that it is going to come up, and under those circumstances, we should vote on it.

As a matter of fact, the people who are most interested in this issue are in this town right now, and we have discussed it this morning.

The bill having been opened up—I opposed that; I opposed the concept that we should open up this continuing resolution—but having opened it up to nongermane matters, I think it is strange that the Senator from Massachusetts now says that we cannot have majority rule. It was majority rule by a vote of 50 to 49 that opened up this bill, and it should be a majority rule in terms of whether or not this issue also comes before the Senate.

Mr. BYRD. Mr. President, our friends on the other side of the aisle would have you believe that a vote on this gun control amendment right now will resolve that matter.

If you look at this chart, you see two lines of amendments—one on the right, which are the amendments that I offered on behalf of Mr. KENNEDY, and one on the left in which gun control, busing, and tuition tax credit appear. The real war is being fought on the line on the right. There are those who are trying to shift the battle to the line of amendments on the left.

Let me say to you that a vote for this gun control amendment in the present circumstances, is not worth a hill of beans. Let us say we work our way through this and that the gun control amendment is adopted. We shall have just wasted so much time, because once the amendment of Mr. KENNEDY and others dealing with Grove City, which is a substitute, is adopted, as it ultimately probably will be, it wipes out everything on the left line. So if the gun control amendment carries, we are just shoveling smoke, because the complete substitute—once it is adopted today or Monday or whenever—wipes out anything the Senate might adopt in the left line of amendments.

I will vote to uphold the Chair; and if the majority leader moves to table the appeal, I will vote to table it.

Do not fool the people of this country. Let us not make them believe that if you table an appeal from the ruling of the Chair, the gun control amendment will carry and become law. The American people should know that even if it is adopted, it would just be a futile exercise under the circumstances here.

Once the substitute, on which cloture was voted earlier today, is adopted, it wipes out everything that is not germane that we see on this chart in the left line of perfecting amendments that would include the busing amendment if it had been adopted.

Mr. BAKER. Mr. President, I did something a moment ago that I have not done in 18 years, or at least not since the Supreme Court got into the business of busing schoolchildren, and that is, I cast a vote that somebody, sometime is going to interpret as being a vote in favor of busing. That is not the case, and I think every person in this Chamber must understand that is not the case.

What I voted for was to uphold the ruling of the Chair, based on the precedents and rules of the Senate, and the consequences of overturning it would be to establish majority cloture in this body.

If you want to establish majority cloture, we will lose more often than the Democrats will. What we are trying to do is have our cake and eat it, too. We are trying to cast a vote—92 to 4, or some such—for cloture and then say, "But we really didn't mean it, and now we are going to fight all the other fights—the fight on busing, the fight on gun control, the fight on this, that, and the other. We didn't really mean we want to invoke cloture. We just wanted to get that free ride on that boat."

Mr. President, we have to decide whether we are going to live by the rules or not. We have to decide whether we want to live by the spirit of those rules or not.

There is no doubt in my mind that the Senator from Utah is entitled to do what he is doing, and that is to challenge the procedural ruling of the Chair, the routine ruling of the Chair, that these amendments fall, in the

face of cloture, and try to overturn it. There is no doubt about that. But I saw Members on both sides go up there and agonize over whether they dared vote for what they knew was right. I saw Member after Member on both sides change their vote because they were afraid to vote for busing.

I want to tell Senators they are not voting for busing; they are voting for whether or not they are going to uphold the spirit of the rules of the Senate.

I want to tell Senators something. If we go on with this, if we keep trivializing, if we keep distorting the rules of the Senate and their spirit by doing this, we are going to go back to square 1.

There has been no motion made yet to reconsider the vote by which we tabled the appeal from the ruling of the Chair. If we do that, we are going to go back and we are going to start all over. But when that happens, my friends, my colleagues in the Senate, I want to tell you that if you thought the fat was in the fire before, "you ain't seen nothing yet," and we will have a situation where you cannot shut down with cloture. We will be back to the situation before 1917. We will be back to the place where we become a body that legislates by trial and by physical endurance, and we will be here until Christmas, as far as I am concerned, until we do what we have to do.

We are not voting on busing, we are not voting on gun controls, we are not voting on abortion; we are voting on a continuing resolution to operate the Government past Sunday midnight.

If we do not have the guts enough every now and then to do some things that are unpleasant and politically dangerous in order to keep this Government running, we have forfeited our fundamental responsibility as Members of the Senate.

My urging, Mr. President, is that we forget about the collateral issues and focus instead on the primary issue, and that is keeping this Government running.

You win some; you lose some. But it has been my experience in the Senate that no one wins all of them and no one loses all of them all the time.

There will be a chance and there will be adequate chance even yet this session for Members to speak on things like busing and gun control, and all the rest.

But do not do it by trivializing the rules of the Senate. Do not do it by avoiding the responsibility of keeping this Government running, and do not do it 2 days before this fiscal year expires.

Mr. President, if there is an appeal from the ruling of the Chair, which I anticipate that the second amendment, which is the gun control amendment fails because it is nongermane under rule XXII, which is an entirely different germaneness rule than any other rule, if it falls for that reason, if there is an appeal, I will once again move to table that appeal even though I have an absolutely unblemished record of opposition to gun control and have the trophies to prove it.

But this is not the time for that, Mr. President, and we have to get on with the matter at hand.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. BAKER. I yield the floor.

Mr. BYRD. No; will the Senator yield?

Mr. BAKER. I yield.

Mr. BYRD. Mr. President, there were 26 Senators on that cloture vote who voted no, and then came the disappearing act when those 26 switched and switched and switched until only four Senators ended up voting no on cloture.

So all those Senators who voted for cloture, even the 22 who originally voted no and later switched, were voting to rule out nongermane amendments. That is what we are voting on—cloture.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. BAKER. Mr. President, I yield the floor.

Mr. BENTSEN. Mr. President, will the majority leader yield?

Mr. McCLURE. Mr. President, if I may make just a brief comment, and I shall be very brief, Mr. President, the majority leader has made a very eloquent speech and he made a somewhat similar speech prior to the vote on germanensess on the civil rights bill; and we are in a different situation now because it is postcloture. We are under rule XXII and it may well be that Members of the Senate wish to make a distinction on their vote because we are in a postcloture situation.

But we were wrong in trampling the rules of the Senate with respect to the Grove City bill. Clearly, the civil rights bill is legislation on an appropriations bill and clearly it is nongermane, and 51 Members of this Senate voted that it was germane because they wanted to deal with the subject matter. They were willing to trample the rules and the traditions of this Senate and usual decorum and practice in the Senate under their feet in order to get to that, but they now appeal to the same sensibilities in order to avoid getting to another issue that they do not want to consider.

Mr. President, I agree with the Senator from Tennessee that it is time for this Senate to stop trivializing the rules, but it is not this Senator who did it. It was the 51 who voted to do it that got us into this mess in the first place, because they wanted to reach an issue they could not othewise reach under the rules of the Senate.

Yes, Mr. President, the ox is in the ditch. Who put it there? This Senator is not going to take the responsibility for that because I voted against that defense of germaneness, against that question of germaneness, as I think the rules of the Senate require.

So we have a situational ethic involved, in which it is fine to overturn the rules for one thing because some people want to do it but, it is terrible to do it on another thing because they do not want to reach that issue.

The Senator from Tennessee at least has the virtue of consistency, which is more than some others can say.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, the Senator from Idaho has misstated what the ruling of the Chair was when the Senate voted to accept germaneness with regards to this legislation and to the current appeal of the ruling of the Chair. At the time when the Senate decided about the germaneness issue on the civil rights issue, the question was put, if I could have the attention of the Senator from Idaho, the question was put to the Senate, Is it germane?

Mr. McCLURE. The Senator is right.

Mr. KENNEDY. It was not the question of overruling the Chair.

Under the rules of the Senate, if it was sufficiently obscure, the Chair can rule that it is nongermane, but in this instance on the Civil Rights Act they asked the Senate whether it was germane, and the point that the majority leader has stated is that we are being asked in this instance to overturn the ruling of the Chair, and that is a very significant and substantial difference.

Now, Mr. President, as one of the principal sponsors with my colleague from Oregon, Senator PACKWOOD, I, for one, would welcome the opportunity to separate this whole issue from the continuing resolution and have an opportunity to debate this issue separate from our responsibilities, as outlined by the majority leader, to meet the requirements under the continuing resolution and establish the time on Monday or Tuesday and have a final disposition of this question and resolve this issue for once and for all so that the Senate could debate the issues involved in the continuing resolution.

The unanimous-consent request is generally offered by the majority leader and the minority leader, and I would not interpose myself in taking that opportunity to so propose, but I, for one, certainly would welcome the opportunity to consider this issue in-

dependent of the continuing resolution, to debate it on Monday or Tuesday and have a final vote on amendments and on a final ultimate decision on this bill. If my colleague from Oregon would accede in that, I would put that as a proposition to the leadership to see if we could get this resolved once and for all and we could get on with the business of the continuing resolution.

Mr. PACKWOOD. Mr. President, if the Senator will yield so that I may respond to my friend from Massachusetts. This is an offer that we have tried to make for 3 months. We did not ask for a specific time. We first asked for the bill that is on the Senate calendar—having come from the House of Representatives in June—to be brought to the Senate floor to give the Senate a chance to vote on the Civil Rights Act of 1984. We wanted a free forum with no guarantee of a time, no guarantee of cloture, no guarantee of anything. I understand the rules and we could have had that bill before us. Everyone should stand behind the majority leader, Republican and Democrat, on his terms upon calling the bill before us, because if you do not stand behind him on that, you will not stand on anything.

But we never got that bill up. I offered to debate this in the first week in September. The Senate did not have one vote the first week we came back. But I could not get it up.

I wanted to offer it to the banking bill. The response was: "Please don't offer it to the banking bill." I wanted to offer it to the trade bill. Again, the response was: "Please don't offer it to the trade bill. Don't offer it to anything until we get the continuing resolution and the debt ceiling out of the way and then you can come and debate the Civil Rights Act of 1984 after we have recessed and adjourned."

Please, do not talk to me about offending the process. I do not like it either. But when you cannot get a bill up—a bill that is the most important bill for the civil rights of millions of Americans in this country—in any other way than attaching it to another measure, we will do it and we need to bear no shame.

I will make this offer. Let us have a vote on Monday at 10, Monday at noon, Monday at 4, or Tuesday at 10 on this bill. Just give us a time to vote. But do not con us with pie-in-the-sky promises that we can offer it to some other bill with no time agreement, if we do not offer it to the continuing resolution. Because we will then pass the continuing resolution and we will pass the debt limit and the liberties of this country will be gone with it.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I have seen a lot of deep feelings on this issue. [Laughter.]

I think I understand them. You see, I stand here as the chairman of the Labor and Human Resources Committee, the committee that had jurisdiction over this so-called Civil Rights Act of 1984, and as the chairman who has not approached this in some frivolous or obsequious way but has gone through it line by line and can state his criticisms about it and was prepared to do it in open committee forum, eight of them, eight committee markups.

I will say that Senator KENNEDY came to about four or five of these scheduled meetings and maybe one other Senator. I praise Sentor KENNEDY for that as the ranking minority member. Senator JENNINGS RANDOLPH came to a few. But in the last two, there was not one proponent in the room.

I also said, and I think everybody ought to know this, that as chairman of that committee opposed to the language in that bill that I would cloture my own committee against my own interest in order to let them have their vote and put it out of committee. This was a genuine effort to be fair. Yet they did not come to these meetings. They did not debate it and they did not argue the amendments.

All I asked was a reasonable time for Senators with strong feelings to bring up their amendments. I said I would cloture the amendment process after a reasonable period and I made that commitment early in the game.

I hear a lot of feelings about what is right and what is wrong Senate procedure right now. I would like to go back, if we want to preserve the Senate processes, to the committee and ask where the critics of this process were when we were prepared to debate in committee, knowing we were going to lose? I will say this, I feel pretty deeply about it for two reasons: One is because I feel deeply about civil rights. And it is not easy to confront an issue like the Civil Rights Act of 1984, regardless of how many ways this act will actually frustrate civil rights. And I venture to say there probably has not been more than two or three Senators in this whole Chamber who has read that bill and analyzed it. If you would read it, you would find they want to lock into law, into the statutes, the four statutes, every vague regulation that exists today on all four statutes.

Now, tell me that this is wise legislative procedure. Tell me that is the way to legislate. Tell me that is the way you want to send the message back to your people back home that you legislate.

There is something wrong with this system when we are willing to lock thousands of words and pages of rules and regulations into law so that if Walter Mondale is elected President he cannot change what he thinks should be changed and if Ronald Reagan is reelected President he cannot change what he thinks should be changed.

I have even said I will stand up for a broad interpretation to these three laws. I even said I will overrule Grove City and I will lead the fight to overrule it and we will return to the status quo ante by putting a grandfather clause in that says that the law that existed the day before the Grove City case shall be the law.

I even said I would consider how that law should be interpreted in legislative history. What more can the committee chairman do?

And I see some piety here from people and it really bothers me, because I believe in the country, I believe in the Constitution, I believe in civil rights and I believe in what really should be done here without all this arguing and controversy.

But, now, all of a sudden, what was right for one side to do is not right for the other side to do. Let me tell you, I do not care what anybody says, I know that this body's votes, a series of votes, afterward, whether they move to table or not, are going to be counted for as votes for the substance or against. And I do not think anybody can doubt that because this is a tough issue.

We are not just standing here trying to be obnoxious. We believe in this. I have offered to sit down at any time—I will sit down today, tomorrow, the next day, and I will give on my position if I can. But I am not going to lock in thousands of words and pages of regulations that nobody, including the sponsors of this bill, understand or even nobody in the Senate, and, I venture to say, nobody in the law knows. It just is not the way we should legislate things.

Well, I have taken enough time. Make no mistake: This is a serious issue and only one of many. I have no choice but to raise these issues. I apologize to my colleagues, because I hate to do this. But, on the other hand, it is all I have left, because I think it is important that we look at a lot of issues here and they are all going to be important.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, the distinguished Senator from Idaho a few minutes ago reiterated what the minority leader and the majority leader had stated, that there is a real difference between germaneness before cloture is voted and after cloture is voted. And I appreciate his willingness to state that forthrightly for the entire body. There is a clear difference.

But then the distinguished Senator from Idaho went on to make the point that his opposition to the germaneness question on the civil rights bill was that it was legislation on an appropriations bill. Clearly that is what the distinguished Senator from Idaho said. And he made his point concerning consistency.

It seems to me that 2 days ago I was here on the floor of the Senate when the distinguished Senator from Idaho was attempting to put on the Interior appropriations bill as a committee amendment to this bill. The Chair tells me that that is also legislation on an appropriations bill. So I think that what we should do is to keep in mind that we can make our arguments any way we would like and ultimately the distinguished Senator from Idaho will make his appeal or he will not make his appeal, but he is not blameless in that regard.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, the Senator from New Jersey is partially right and mostly wrong with respect to the attempt that this Senator made as chairman of the Subcommittee on Interior and Related Agencies in the attempt to move that bill as an amendment to this continuing resolution. It was adopted in the committee. Surely, the Senator knows if it is adopted in the committee that is different than if it is offered as an amendment on the floor.

Second, it is an appropriations measure. That is the business of the continuing resolution appropriations. In candor and fairness, I must say there are some legislative items embedded in that bill, but action taken in the Appropriations Committee before the bill was reported to the floor and clearly under the rules, that occupies a different position.

There is a difference between invoking the rule of germaneness before and after cloture. My concern is that the argument is now being raised that we should trample the rules on legislation or germaneness precloture, so long as we scrupulously follow them after cloture. It is that subjective evaluation that I find abhorrent. I want to apply the same standard in both cases. But I do not want to compel the rule of the Senate in one case, and then have somebody turn around and say, "You must vote against your own interests to uphold the rules, when we refused to uphold the rules before."

Let me suggest, too, that I think the postcloture actions are relatively new under the amended rule XXII. We do not have the great wealth of precedent under rule XXII, as amended, that we have under the rest of the rules.

But there have been two instances in which nongermane amendments were voted by the body after cloture. It is not as though it has never been done before, and I am reluctant to say this because I do not like the practice. But it has been done before. It was done on the Selective Service Act in two instances, one in which there was a committee amendment, and the second in which the distinguished Senator from Kansas, Mrs. KASSEBAUM, offered an amendment. And it was not germane. But it was voted by the Senate.

If we are going to uphold the rules of the Senate, let us do it on a fair and consistent basis. Otherwise, we always get down to the tyranny of the majority who desire, for other reasons, to subvert the rules under selective cases, and for selective legislative packages.

Mr. President, I believe that is what we are arguing about today, and I hope when the question is submitted—as I believe it will be—to the Chair as to whether or not the amendment must fall because it is nongermane, there is an appeal from the ruling of the Chair, and when the majority leader makes a motion to table that appeal, that the motion to table will be defeated. And we can get on with the business of determining what this Senate wants to do with respect to the amendment of the 1968 Gun Control Act, just as others have argued that we ought to allow the Senate to get on with the business of determining what it wants to do with respect to the Civil Rights Act.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BYRD. Mr. President, we hear impassioned pleas that we should uphold the rules of the Senate. What is the rule of the Senate in this case, and in this situation? The rule of the Senate—and the precedents indicate clearly—is that once cloture has been invoked it is incumbent upon the Chair, without a point of order being made from the floor, to rule out any amendment which on its face is nongermane, or for other reasons, does not qualify.

Mr. KENNEDY. Mr. President, may we have order?

Mr. BYRD. That is the rule of the Senate. That is the precedent of the Senate. So we are proceeding under the rules now.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, a parliamentary inquiry. Since the time the Senate has invoked cloture, on how many occasions has the Chair been overruled on the issue of germaneness in the history of the Senate?

The PRESIDING OFFICER. Twice.

Mr. KENNEDY. Two times in the history of the Senate. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. On the question of germaneness, once cloture is invoked. I thank the Chair.

The PRESIDING OFFICER. Both amendments were, in fact, nongermane.

Mr. EAST addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. EAST. Mr. President, I would like to take an opportunity—even though it is Saturday and people are anxious to move on—to make an observation or two on the current proceedings. First, I would like to associate myself with the remarks made by the Senator from Idaho, Senator McCLURE. It is a question here obviously of whose ox is being gored. We have been told very eloquently by those in support of the Civil Rights Act that it ought to be attached to the continuing resolution. And it was. Now we come to other items such as gun control, busing, and so forth, and all of a sudden we are now told these matters are not germane. If I could have order, Mr. President.

Mr. SYMMS. Mr. President, may we have order, please?

The PRESIDING OFFICER. The Senate will be in order. Will the Senators please take their seats?

Mr. EAST. Mr. President, let us be clear as to what the strategy is of those supporting the Civil Rights Act of 1984. It is quite clear. It is to get that matter and that matter alone on the continuing resolution, strip everything off, and however convoluted their reasoning goes in terms of the parliamentary situation, that is the goal they are after—to strip off every amendment, every potential amendment except the Civil Rights Act of 1984.

I would like to comment briefly on this matter. I have found in my short tenure in Washington the most powerful lobby in this city is not big oil, big steel, nor big railroads. It is the big civil rights lobby. And yesterday when this amendment was attached, this reception room out here filled up like a hornet's nest. If you put the words civil rights on a bill in the U.S. Congress today, you can get anything passed because the knees buckle and people will go along with it no matter what.

I would like to say this because I am on the Labor Committee, and Senator HATCH has stated it correctly. That was the committee of jurisdiction. He has tried time and time again to have hearings on this matter. I will tell you this about the Civil Rights Act of 1984: It is the most massive shift of power that this Congress will ever have made to the Federal bureaucracy, and to the Federal courts, if it is al-

lowed to pass. And it probably will pass because the label civil rights is on it, and the knees buckle. And the spines cave. I will tell you why they do. You can look in the lobby out here. You can read the liberal media. You can see it tonight on the major networks. You can read it in the great liberal newspapers of America tomorrow. But they will cave, and they will go in with it. They know down deep in their heart it is wrong as rain, not because anybody is against civil rights in a prudent, proper, appropriate, sensible, and constitutional way. But this is a massive shift of power—the greatest shift of power I would argue. I do not wish to pull rank, but I have a law degree and a Ph.D. in political science. I have specialized in constitutional law. This is the most massive shift of power—and I say this as chairman of the Separation of Powers Subcommittee, of the Judiciary Committee—the U.S. Congress, and the Senate in particular today, will make to the Federal bureaucracy and the Federal courts in your lifetime.

And you wonder why we are reduced to impotence as a policymaker in this country. That is why, because on late Saturday afternoon, you vote first this thing is germane, and then without even knowing what it does, you vote for it. I do not mean to sound too much like an evangelist or a preacher on this. But I feel very strongly about it. I support the idea we would add nothing to the continuing resolution. We would keep it clean, move it through so the Government can pay its bills, social security checks could be met, and so on and so forth. But, no. No, the very Senators who refuse to help make a quorum before the Labor Committee got it on as an amendment. Now they want to strip off everything else, leave this one on, put on the pressure from the civil rights lobby, and pass it as the only one amendment to the continuing resolution. I know political cant and I know political hypocrisy when I see it. And I want to go on record as making myself clear. I am not opposed to civil rights. But this is no more germane to the continuing resolution than gun control, busing, prayer, abortion, or anything else you can come up with. And you know it, and I know it.

But when we are out here lectured by Senators that only the Civil Rights Act is germane for some convoluted reasoning I cannot get a handle on, but nothing else is, I do not follow that line of reasoning at all.

No, again, and I will conclude, I know what is going on, and I am probably one of the most uninitiated and uninterested in the intricacies of the parliamentary rules of this Chamber which drive the normal man mad—insane" is the word. I know what is going on. I can see the forest for the trees. It is this: Get the continuing resolution through, have one amendment on it, the Civil Rights Act of 1984, strip everything else off.

But it is not right because if this is germane, all of these other things are germane. That is the first reason.

Second is the massive shift of power. I cannot stress it too much, and I might be saying it ad nauseum. But you ought to vote against this measure. It is not a Civil Rights Act; it is a massive grant of power from your Chamber, the major policymaker that we ought to be in the American system of government of representative democracy. It is the most massive shift of power from this Chamber to the Federal bureaucracy and the Federal courts that we will make in our congressional lifetime.

I do not care if there is a civil rights lobby out there that has put its imprimatur on it and said, "It must go through or we will consider you anti-civil rights."

I say as the only Member of this Chamber in a wheelchair, suppose it will benefit the handicapped, it is wrong, wrong. It is bad constitutional law. It is a bad parliamentary situation.

I am a little weary of being lectured to by those in the self-righteous tones who say that if we do not pass this bill, we miss a wonderful and marvelous opportunity to strike a blow for additional freedom for civil rights.

No, you do not. I hope that we are at least consistent. If the Civil Rights Act is germane, so are these other matters. When we get into voting on the merits of the Civil Rights Act of 1984, I would remind you, and I hope in due course that your constituents remind you, you have made a horrible mistake in terms of giving up the policymaking power of this Congress to the Federal bureaucracy and the Federal Courts. I yield the floor.

Several Senators addressed the Chair.

Mr. GOLDWATER. Mr. President, will the Senator yield to me for a parliamentary inquiry?

Mr. HATFIELD. I yield for the purpose of making a parliamentary inquiry, without losing my right to the floor.

Mr. GOLDWATER. This is not a parliamentary inquiry directed to the desk, but it is a parliamentary question I wish to pose to the proponents of this to see if we can get something started.

I have heard the distinguished Senator from Massachusetts on any number of occasions make the statement that he is perfectly willing to have this civil rights bill brought up for a vote on the floor, either this afternoon, Monday, Tuesday, Wednesday, at a time to be agreed to.

I think that is a very good suggestion. I think it is a normal suggestion. I would like to ask my friend, the junior Senator from Oregon, if he would agree to such a procedure.

Mr. PACKWOOD. Is the Senator asking if we would be willing to take the Civil Rights Act of 1984 off this continuing resolution with a time certain for final passage and a vote on it?

Mr. GOLDWATER. That is what I am asking.

Mr. PACKWOOD. Absolutely. I would be willing to do that. I would be willing to accept a unanimous-consent order for any particular time to be agreed on.

Mr. GOLDWATER. I might extend my question. I wish the majority leader were on the floor. I see the minority leader. I might address the minority leader. I was wondering what the minority leader might think about it.

Mr. BYRD. I would approve it. I am very much for it. I am for getting on with this measure, this matter on which we voted cloture, on which all but four voted for cloture. I know Mr. KENNEDY and Mr. PACKWOOD have already indicated their willingness, their desire.

Mr. GOLDWATER. I am glad to hear the minority leader say that. I wish we could find the majority leader and pose the question to him. I understand my friend from Utah has quite a number of amendments. I have three very obnoxious amendments that I will offer at the proper time. [Laughter.]

I wish we could in some way get the leadership of the Senate to agree to hold this measure up, to take this off the continuing resolution and have a vote on it. Come Monday, when people do not get paid in this country, all hell breaks loose and we all know that. Just to avoid the problem of bookkeeping, for one thing, to get this matter up or down, I want to pose that to the leader when he gets here.

I yield to my friend from Utah and ask if he would give his approval.

Mr. HATCH. I am sure the leader would agree with that, and perhaps others as well. The problem is that there is a potential that all rights are not likely to be preserved. We could take it off this bill and bring it up later as long as everybody's rights would by fully preserved. Even at that I do not think everybody will agree to that. It is certainly an interesting thought.

Mr. BYRD. Will the Senator yield?

Mr. HATFIELD. I have the floor. I yield.

Mr. BYRD. I thank the Senator.

The distinguished Senator said that it would be all right to pull this off the measure and have a vote on it, so long as all Members' rights are preserved.

Mr. HATCH. If the Senator will yield, I would be willing to sit down and negotiate as to when to take this up, in what form, and what the rules

and rights would be. But there would have to be at least some negotiations on the bill itself before we do that.

I am prepared to negotiate this amendment. I have been from the beginning. There are still issues that really separate us. For instance, are we going to lock in all these regulations into a statutory form, or how do we resolve this issue satisfactorily for both sides that would leave the law basically the way it was the day before the Grove City decision? Even then we must reserve the right to have a few more amendments brought up under a time certain with limited debate so that some of the key issues in this matter can be resolved in that way, letting the chips fall where they may.

All I say is I stand ready, willing, and able to negotiate. I would be happy to. I have offered that to the distinguished Senator from Oregon. But there are still issues that really divide us on this matter. I think there are crucial issues to everybody in this body and certainly everybody in this country.

These issues have to be resolved. If they are not resolved, there is no other way we can resolve this, other than the present situation.

I apologize, but that is the way it has to be.

Mr. BYRD. Mr. President, will the Senator from Oregon allow me enough time to finish what I am about to say or ask?

Mr. HATFIELD. Mr. President, I shall be happy to do that without losing my right to the floor.

Mr. BYRD. Mr. President, the Senator from Utah has indicated that he would be willing to or at least interested in talking "as long as all Senators' rights are reserved."

What Senators' rights does he have in mind?

Mr. HATCH. Mr. President, let me say this: I am willing to sit down and negotiate and we shall talk about those rights at that time. We shall certainly talk about what form we can take. I shall be happy to do it. I am open for it. I have been open for negotiating now, and willing to negotiate—there has not been too much negotiating, but I have been willing to negotiate for the whole last year.

I would like to do that. I would like to break this logjam. I would like to break this impasse so we can go ahead with the CR.

But I did not bring up the civil rights bill in this form, disregarding the committee, at the last minute, in this manner, and abuse the rules in the process that we are now all complaining about. I have been left with only one course of conduct to take.

I think I have acted honorably throughout this and I think we can continue that way. So I am open to negotiation and I shall be happy to do my level best to resolve it in the interest of every Senator. There is no one who would like more to resolve this controversy.

Mr. GOLDWATER. Will the Senator from Oregon allow me some time?

Mr. HATFIELD. Yes, Mr. President.

Mr. GOLDWATER. Mr. President, I understand the majority leader has been located and is on his way. I think this is of such great importance, to reach a resolution on this, that I ask the indulgence of my friend from Oregon so we might see if some approach might be made.

If a continuing resolution gets burdened down with over 1,200 attempts to amend it, it can keep us here until Christmas—not that any of us particularly wants to get home except those people who are running. But I do think we should resolve this. I shall not vote for civil rights under this condition, but I think the Senate has a right to do it, though I do not like to see it here as a controversial amendment to a bill that we have to pass in order to keep this Government operating.

I am waiting for my friend from Tennessee. He must be up in the hills of that beautiful State, a long way off. So I shall continue to indulge myself just a bit.

Mr. President, I am sincere in this. I am with my friend from Utah in his efforts. I oppose the adding of this bill to this measure. I do not think it should be included in this measure, but I do think the Senate should now have a chance to cast their vote for or against the so-called Civil Rights Act of 1985. If it wins, fine. If it loses, fine. But I do not particularly think encouraging this kind of action on a continuing resolution is wise at this time of the year, in this year. Nor will it be wise as a precedent in the coming years if we are going to look upon a continuing resolution as nothing but a gigantic Christmas tree to which we can, without any worry at all, think about 1,200 amendments being added. I have not counted the number of amendments offered in this year, but it is around 5,000. This would be one-fifth of all the amendments.

I ask unanimous consent that——

Mr. WALLOP. Mr. President, will the Senator yield?

Mr. GOLDWATER. I am using the time of the Senator from Oregon. If it is not taken away from the Senator from Oregon. I do not want to pursue it without the leader being here, so I am kind of at a loss.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the time that is now being used be charged against the Senator from Arizona rather than against me.

The PRESIDING OFFICER. Is there objection?

Mr. WALLOP. Reserving the right to object, Mr. President, I have great respect for my friend and colleague from Arizona.

Mr. HATFIELD. Mr. President, I will not yield if we have to count that time against me.

Mr. WALLOP. Mr. President, I do not object to that request.

Mr. HATFIELD. Very well, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. I beg the Senator's pardon.

Speaking to my good friend from Arizona, Mr. President, clearly, the Senator from Arizona would not put his colleague from Utah or any of the rest of his colleagues in the situation of voting on a bill that had no committee action or no opportunity for any amendment. I think that, given what has been raised here, the seriousness of the issue here, surely, some amendments ought to be in order. It is the most unaccountable legislating that I can see that we would be asked to vote on things that have a good and significant national consequence on the one side, and an evil and significant national consequence on the other side that have had no committee action, and then come to the floor and we must vote either up or down. That is no position to put either supporters or opponents in.

Mr. GOLDWATER. Mr. President, if the Senator will yield further, I am in complete agreement with him. I do not think a continuing resolution should contain any amendments that are legislation. That is the rule.

Mr. WALLOP. The Senator will get no quarrel from me on that, but there are a number of people in this body who were quite willing to toss over the Senate's rule, and the whole purpose by which we deal with these things, and the whole purpose for which the rule was established in the first place.

Clearly, I think my friend from Utah—I do not know whether I agree with his amendments or disagree with them, all or in part, but the fact is what he has raised in debate here are points which should clearly concern the Senator from Arizona and the rest of us. To be asked to vote up or down on a bill at a time certain someplace else, with no opportunity to amend it, where the committee chairman wanted to work on it but the members of the committee refused to work on it, is an unacceptable situation and puts the proponents in an untenable position.

Mr. GOLDWATER. I agree with the Senator, Mr. President, but I remember we have passed many, many pieces of legislation that come over from the House, are laid on the table and get passed. No committee has ever acted on it. I agree with the Senator this should have many hearings, but it has not. But this is already on a continu-

ing resolution and faces the President's acceptance or rejection.

Mr. WALLOP. Mr. President, I do not doubt that we do that and I know that we do it, and in many instances, the result is not very enlightening, nor does it make me particularly proud to have been a part of it. But in point of fact, we know what is here, there were committee hearings, there just was not a willingness of the committee members to work on it. The chairman of that committee has expressed his frustration time and time again here that those who had the opportunity in the committee to vote to pass those amendments would not show up to do it. That is profoundly unfair to a good and decent and hard-working chairman and I do not think we ought to override that.

Mr. GOLDWATER. Mr. President, the chairman will tell you that I stand 100 percent behind him but every once in a while, I find it possible to rise above principle. This happens to be one of those times. I think the Senate is beginning to look like a bunch of jackasses. I think we ought to do something about that, so I made my suggestion.

That is all I have to say.

Mr. WALLOP. Why in the world would the Senator say we are beginning to look like a bunch of jackasses? We have been there for some time.

Mr. PACKWOOD. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Oregon has the floor. Will he yield?

Mr. HATFIELD. Mr. President, I yield to the majority leader.

Mr. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BAKER. This is probably more order than it deserves. I do not have that much to say. But I thank the Senator from Mississippi for suggesting it.

SURFACE TRANSPORTATION AMENDMENTS

CONTINUING APPROPRIATION, 1985

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3103.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendment to the amendment of the Senate to the bill (H.R. 3103) entitled "An Act to increase the amount authorized to be expended for emergency relief under title 23, United States Code, in fiscal year 1983 from $100,000,000 to $250,000,000, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. HOWARD, Mr. ANDERSON, Mr. ROE, Mr. BREAUX, Mr. SNYDER, Mr. SHUSTER, and Mr. HAMMERSCHMIDT be the managers of the conference on the part of the House.

AMENDMENT NO. 6869

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendment with a further Senate amendment, which I send to the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. BAKER] proposes an amendment numbered 6869.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following: That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, or other organizational units of the Government for the fiscal year 1985, and for other purposes, namely:

SEC. 101. Such amounts as may be necessary to continue projects and activities which were conducted in the fiscal year 1984, and for which provision was made in the following appropriation Acts for the fiscal year 1984, at the current rate and under the current terms and conditions unless otherwise specifically provided by this joint resolution:

Agriculture, Rural Development, and Related Agencies Appropriation Act, 1984, as enacted by section 101(d) of Public Law 98-151;

Department of Defense appropriation Act, 1984, Public Law 98-212;

District of Columbia Appropriation Act, 1984, Public Law 98-125;

Foreign Assistance Appropriations, 1984, as enacted by section 101(b) of Public Law 98-151;

Department of the Interior and Related Agencies Appropriation Act, 1984, Public Law 98-146;

Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1984, Public Law 98-139;

Military Construction Appropriation Act, 1984, Public Law 98-116;

Department of Transportation and Related Agencies Appropriation Act, 1984, Public Law 98-78;

Treasury, Postal Service and General Government Appropriation Act, 1984, as enacted by section 101(f) of Public Law 98-151.

SEC. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1984, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation act by both Houses without any provision for such project or activity, or (c) October 2, 1984, whichever first occurs.

SEC. 103. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 105. Any appropriation for the fiscal year 1985 required to be apportioned pursuant to subchapter II of chapter 15 of title 31, United States Code, may be apportioned on a basis indicating the need (to the extent any such increases cannot be absorbed within available appropriations) for a supplemental or deficiency estimate of appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees and to active and retired military personnel. Each such appropriation shall otherwise be subject to the requirements of subchapter II of chapter 15 of title 31, United States Code.

SEC. 106. No appropriation or funds made available or authority granted to the Department of Defense pursuant to this resolution shall be used for new production of items not funded for production in fiscal year 1984 of prior years, for the increase in production rates above those sustained with fiscal year 1984 funds or to initiate, resume or continue any project, activity, operation or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds or other authority were not available during the fiscal year 1984.

No appropriation or funds made available or authority granted to the Department of Defense pursuant to this resolution shall be used to initiate multiyear procurements utilizing advance procurement funding for economic order quantity procurement.

The appropriations or funds made available or authority granted to the Department of Defense pursuant to this resolution for procurement of MX missiles shall be in accordance with and subject to all the limitations, restrictions, and conditions set forth in the Department of Defense Authorization Act, 1985 (H.R. 5167), as passed by the Congress on September 27, 1984.

The appropriations or funds made available or authority granted to the Department of Defense pursuant to this resolution for testing of the Space Defense System (anti-satellite weapon) shall be in accordance with and subject to all the limitations, restrictions and conditions set forth in the Department of Defense Authorization Act, 1985 (H.R. 5167), as passed by the Congress on September 27, 1984.

Mr. BAKER. Mr. President, I remind Senators that this is the short, simple CR previously discussed which extends funds and makes appropriations through Tuesday next at midnight.

This is the matter that we discussed earlier today. The amendment nor the House message is subject to amendment. It cannot be amended by unanimous consent.

Mr. President, there is 1 hour of time for debate, and it is under the control of the distinguished chairman and ranking minority member of the Appropriations Committee. I hope that they might see fit to yield back that time and go on and vote by voice vote.

Mr. HATFIELD. Mr. President, I am prepared to yield back the half hour that has been allocated under the unanimous-consent agreement, and I yield to the Senator from Mississippi.

Mr. STENNIS. Mr. President, this is a highly important matter. It deserves more than an hour, but I yield back all of whatever time I have.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee.

The motion was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONTINUING APPROPRIATIONS, 1985

AMENDMENT NO. 5727

Mr. BAKER. Mr. President, what is the question before the Senate?

The PRESIDING OFFICER. Amendment No. 5727 is not germane.

Mr. McCLURE. Mr. President, I appeal the ruling of the Chair.

Mr. BAKER. Mr. President, I move to table the appeal and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Florida [Mrs. HAWKINS], the Senator from Pennsylvania [Mr. HEINZ], and the Senator from Texas [Mr. TOWER] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Ohio [Mr. GLENN], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Michigan [Mr. LEVIN] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 31, nays 63, as follows:

[Rollcall Vote No. 257 Leg.]

YEAS—31

Bentsen	Hatfield	Pell
Biden	Inouye	Quayle
Bradley	Kennedy	Riegle
Byrd	Lautenberg	Rudman
Chafee	Long	Sarbanes
Danforth	Lugar	Stafford
Dixon	Mathias	Stennis
Dodd	Matsunaga	Tsongas
Evans	Metzenbaum	Weicker
Gorton	Moynihan	
Hart	Packwood	

NAYS—63

Abdnor	East	Mitchell
Andrews	Exon	Murkowski
Armstrong	Ford	Nickles
Baker	Garn	Nunn
Baucus	Goldwater	Percy
Bingaman	Grassley	Pressler
Boren	Hatch	Proxmire
Boschwitz	Hecht	Pryor
Bumpers	Heflin	Randolph
Burdick	Helms	Roth
Chiles	Hollings	Sasser
Cochran	Huddleston	Simpson
Cohen	Humphrey	Specter
Cranston	Jepsen	Stevens
D'Amato	Kassebaum	Symms
DeConcini	Kasten	Thurmond
Denton	Laxalt	Trible
Dole	Leahy	Wallop
Domenici	Mattingly	Warner
Durenberger	McClure	Wilson
Eagleton	Melcher	Zorinsky

NOT VOTING—6

Glenn	Heinz	Levin
Hawkins	Johnston	Tower

So the motion was rejected.

Mr. CRANSTON. Mr. President, Senator LEVIN was unable to cast his vote on the previous vote because he is necessarily absent in order to meet a commitment to dedicate Michigan's section of the Medal of Honor Grove in Valley Forge, PA. This was a longstanding commitment to the recipients of the Congressional Medal of Honor and their families from Michigan who will be at the dedication and to the officials of the Freedoms Foundation.

AMENDMENT NO. 5728

Mr. BAKER. Mr. President, may I inquire, has the vote on the motion to table the appeal of the Chair's ruling on amendment No. 5728 been reconsidered?

The PRESIDING OFFICER. That vote has not been reconsidered.

Mr. BAKER. Mr. President, I move to reconsider that vote, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. BAKER. Mr. President, once more, I have not the foggiest idea where we are going, but we are in deeper and deeper procedural trouble.

The Senate has spoken on its preference about what it is going to do on these amendments, and I have no choice but to abide by the decision of the Senate.

But in order to let the leadership try to figure out where we are and how we are finally going to get through this morass and to a final passage of the congressional resolution, I am going to suggest now, if my friend, the minority leader, will agree and if no other Senator objects, that the Senate stand in recess until the hour of 4 p.m. so that Members may confer, each in their own caucus, and so that we may try to decide how we are going to proceed next.

Mr. BYRD. Mr. President, I ask my colleagues to visit with me in the LBJ Room during the recess.

Mr. BAKER. Mr. President, may I say that Members on this side should gather in S-207.

RECESS UNTIL 4 P.M.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate stand in recess until 4 p.m. today.

There being no objection, the Senate, at 3:21 p.m., recessed until 4 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ABDNOR].

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent, notwithstanding there is a nondebatable motion pending, that I may proceed for not more than 5 minutes and the distinguished minority leader for like period to sort of explain where we are, if we can figure that out.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I really do not know quite where to begin, except to say that there have been two periods this afternoon when Members on both sides of the aisle have conferred together to try to find a solution to the present impasse, once in our respective informal caucuses—at least with the Republicans it was an informal caucus—and once together with a meeting of Republican and Democratic Senators.

I am sorry to report that while we may have made progress we have not reached a solution.

In short, Mr. President, it seems to me that there are two problems, and to a degree they are inconsistent problems but both important.

The first problem is, Mr. President, at least from my standpoint, and without repeating the speech that I made earlier, I think the Senate has done a very dangerous thing in moving toward the establishment of a precedent that would permit majority cloture. I need not elaborate that except to say that, through the procedural steps that have been taken on the McClure-Volkmer amendment, the Senate by majority vote has sustained an appeal from the ruling of the Chair and by a majority vote created a very difficult situation from a procedural standpoint.

Mr. McCLURE. We have not done that.

Mr. BAKER. The precedent is not yet fully fixed.

Mr. McCLURE. The Senator is right.

Mr. BAKER. In the sense that the motion to table was defeated.

Mr. McCLURE. The Senator is right.

Mr. BAKER. And the appeal has not yet been sustained or denied.

Mr. McCLURE. The Senator is right.

Mr. BAKER. But we are within a hair's breadth of establishing a precedent that will not serve the Senate well in future years, in my opinion.

One of the tests this afternoon was to try to devise a way to avoid setting that precedent and still to accommodate the legitimate needs and requirements of many Members, including the distinguished Senator from Idaho who is involved very intimately in the McClure-Volkmer amendment now pending or which was pending.

The other question, Mr. President, is a little more difficult; that is, I know of my own certain knowledge that in some cases Members have voted on procedural motions that are at variance with their position on the substantive side of two very volatile and politically dangerous issues, that is, busing and gun control.

Mr. President, how we provide an opportunity for Senators to express their true position on both issues and still avoid establishing an unfortunate precedent is the test before the leadership and I presume even to say the joint leadership, and that we have not yet resolved.

That is the description, Mr. President, of the dilemma. I will not try to describe the negotiations that have gone on so far except to say that I think there is no alternative now except to continue those negotiations, to do so over the weekend, with the hope that we can arrive at some sort of accommodation when we reconvene on Monday.

So after I yield the floor and the Chair recognizes the minority leader and after he speaks, it would be my intention to propound a unanimous-consent request that the Senate then stand in recess until Monday at noon instead of 11 a.m., and that the time between now and 12 o'clock will be charged against the 100 hours post cloture provided for under rule XXII in lieu of us staying all night and all day tomorrow and all night Sunday night, because frankly I think we have a better chance of unraveling this situation with a night's sleep and a little free time than we do by staying here and doing whatever we do for that length of time.

Mr. President, before I make these requests, I yield the floor so that the minority leader may claim his time if he chooses to do so.

Mr. BYRD. Mr. President, I do not choose to claim the 5 minutes. I do not think there is much point in my saying anything further. I think the majority leader has covered the circumstances very well.

If I would say anything, it would be concerning the rules and precedents and what is happening to the precedents and the provisions of rule XXII if this precedent, which is at least a long way down the road in the making, were to be allowed to stand. I see no point in going over that at this time. We will have a future opportunity, I am sure, when I can do that. So, therefore, I yield back to the majority leader the balance of my time.

Mr. BAKER. Mr. President, I thank the minority leader.

CIVIL RIGHTS ACT OF 1984

Mr. EXON. Mr. President, I am proud to be an original cosponsor of the Civil Rights Act of 1984 on which there has been great debate today.

Title IX of the Education Amendments of 1972 barred sex discrimination in "any education program or activity receiving Federal financial assistance." Violation of title IX could result in the termination of Federal assistance.

For over a decade, the Nixon, Ford, and Carter administrations interpreted this congressional mandate to apply broadly to entire institutions accepting any Federal financial assistance. The same interpretation was given to similar language for nearly two decades in the Civil Rights Act of 1964.

However, in February of this year, the Supreme Court ruled in Grove City College against Bell that a college which received Federal funds in the form of student financial aid provided to its students, but no other Federal money, is required to comply with title IX only in its student financial aid program.

Under the Grove City decision, a university could provide equal opportunity in its financial aid program and proceed to discriminate in any of its other programs. This logic not only allows educational institutions to freely discriminate on the basis of sex, it also cripples title VI of the Civil Rights Act of 1964 applying to racial and ethnic discrimination, section 504 of the Rehabilitation Act of 1973 applying discrimination against the Handicapped and the Age Discrimination Act of 1978.

The purpose of the Civil Rights Act of 1984 is to restore the pre-Grove City interpretation to our Nation's key civil rights laws. It does no more; it does no less. The reach of the law will not extend to new areas. The law is merely being restored to its original purpose and intent. The language of the Civil Rights Act of 1984 is clear and the legislative history being developed strongly supports this proposition.

The Grove City case is especially unfortunate because title IX has been a huge success. Let me review, for the record, some of those successes.

Mr. President, one of the most important changes we have seen since the implementation of title IX is the movement of women into the higher paying careers traditionally dominated by men.

High school counselors once widely used something called the strong vocational interest blank survey to help advise high school students on their choice of careers. The girls' forms were pink, and the boys' forms were blue. In all other respects the questions were the same. A girl and a boy could get the same score and the girl would be advised to become a nurse, while the boy would be advised to become a doctor. Or, the boy might be advised to become a lawyer and the girl would be advised to become a legal secretary.

When title IX was enacted, use of the strong vocational interest blank survey was eventually discontinued. In the 10 years following the enactment of title IX, the number of women enrolled in law schools had increased 337 percent; veterinary schools—120 percent; medical schools—296 percent; and dental schools—1,011 percent.

Mr. President, the best way for women to achieve economic equality is for them to exercise the educational opportunities which will once again be made available to all Americans following the passage of the Civil Rights Act of 1984.

One of those educational opportunities is participation in competitive sports. Now, Mr. President, as you know, we Nebraskans are very proud of the University of Nebraska at Lincoln's outstanding football team, and we have reason to be. What you may not know is that we also have reason to be very proud of the University of Nebraska's women's athletic teams.

For just a sample, last year in the big eight conference, the University of Nebraska at Lincoln's women's softball team won the conference championship and placed third in the College World Series; the women's track team won both the indoor and the outdoor conference championships: And the women's volleyball team won the big eight conference championship for the eighth year in a row.

These successes are due, in part, to the increased financial support of girls' and women's athletic programs, brought about by title IX regulations.

For example: In the 1975–76 school year, the women's athletics budget at the University of Nebraska at Lincoln was $60,000. For the 1984–85 school year that budget is $1.3 million.

One of the most significant funding increases has been in the area of athletic scholarships for women. As re-

cently as the 1978–79 school year, the 61 women on athletic scholarships at the University of Nebraska at Lincoln received a grand total of $64,429. For the 1984–85 school year, 77 women will receive a total of $332,800 in athletic scholarships.

Mr. President, you can bet that a good part of those big eight championships are the direct result of the fair and adequate funding of women's athletics.

In Nebraska's elementary and secondary schools you see that, even though enrollments are declining, the number of girls participating in sports programs continues to increase.

My colleague, the Senator from New Jersey, has already alluded to the great pride all Americans felt when the American women Olympians claimed the gold. That gold might not have been ours, but for the title IX program.

Joseph Califano, then Secretary of Health, Education, and Welfare, made a keen observation:

> Anyone who doubts the importance of equal athletic opportunity for women need only remember those things that we have all heard throughout our lives about participation in sports: That athletics teach both teamwork and leadership; that athletics create pride in accomplishment; that athletics teach * * * how to win and how to lose; that competitive sports build character. Does anyone think for a moment that those benefits apply only to men?

With that, Mr. President, I ask my colleagues to vote for the Civil Rights Act of 1984, so that my granddaughters have the same opportunities that my son and daughters have had.

● Mr. DANFORTH. Mr. President, I oppose the forced busing of school children to achieve racial balance. I also oppose gun control.

On the merits, I agree completely with the amendments offered to the continuing resolution which would restrict busing and restrict gun control. If I have the chance to vote on the merits on these two amendments, I will vote for them.

I have cast two procedural votes to sustain the ruling of the Chair that these amendments are not germane to the amendment now before us.

I think their nongermaneness is clear and that to vote that they are germane does grave violence to the Senate's rules. We have invoked cloture on the Grove City amendment. If cloture means anything, it means that these amendments are not in order at the present time.

Moreover, I believe that we must pass a continuing resolution to fund the operations of Government and that we must resist the temptation, however strong, to add all our most deeply felt causes to this essential appropriations bill.●

● Mr. RUDMAN. Mr. President, I would like to take this opportunity to explain my vote earlier that amendment No. 5727, which was the language of Senator McCLURE's Federal Firearms Owners Protection Act (S. 914), was not germane. At the outset, Mr. President, I believe it is important for my colleagues to understand that I stand second to nobody in my support for S. 914. The bill makes needed and long overdue changes in the Gun Control Act of 1968. In another context, whether S. 914 was considered in its own right or offered as a free-standing amendment to the pending bill, I would definitely support it. There were, however, two critical problems with the context in which this measure was brought before the full Senate.

First, Mr. President, the vote in question was whether the Chair was going to be overruled in a post-cloture situation so as to make an amendment which was clearly nongermane in order. To the best of my knowledge, the Chair has never been overruled on that question. Setting such a precedent is, clearly, extremely dangerous in terms of the functioning of the Senate as a legislative body for it creates a situation which I, nor do I believe any of my colleagues, wish to see. We are, as a body, saying that a majority of the Senate can, in effect, invoke cloture on a measure. In such a situation, we are either disposing of the filibuster, with the protections it provides the minority, as a meaningful tool or, worse yet, we establish a climate in which most Senators will always be unwilling to invoke cloture. If the latter begins to apply, the Senate will soon dissolve into anarchy and cease to function as a legislative body. It will not even function as an ineffective legislative body.

The second reason I voted to uphold the Chair was because of my unwillingness to delude the many citizens in my State and around the country that we were actually moving forward on S. 914. Adopting the amendment embodying S. 914 in this context—let me emphasize that, Mr. President, in this context—is totally meaningless. It is meaningless because the subsequent adoption of the Grove City College amendment, on which cloture was invoked earlier today by a vote of 92 to 4, would delete S. 914 from the bill. With the one hand, the Senate gives; with the other hand, it takes away.

In conclusion, Mr. President, those who voted to overrule the Chair, whatever their motivation, have done both the Senate and the millions of people throughout the country who support S. 914 a great disservice. A dangerous precedent for the Senate has been set, and millions of people misled.●

ORDER FOR RECESS UNTIL MONDAY, OCTOBER 1, 1984

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 12 noon on Monday next. I further ask unanimous consent that the time between the time of recess today and the convening of the Senate at 12 noon on Monday next be charged against the 100 hours permitted on debate after cloture according to the provisions of rule XXII.

The PRESIDING OFFICER. Is there objections? Without objection, it is so ordered.

Mr. BRADLEY. Will the majority leader yield for a question?

Mr. BAKER. Yes.

Mr. BRADLEY. At what time would he expect the earliest vote on Monday?

Mr. BAKER. Mr. President, there will be pending a motion to reconsider a motion to table. The yeas and nays have been ordered. That motion is nondebatable since it deals with a nondebatable matter. I would anticipate that the first vote would come around 1 or 1:30 on Monday.

Mr. BYRD. Will the majority leader yield?

Mr. BAKER. Yes.

Mr. BYRD. I would like to point out that the cloture votes that were going to occur on Monday will not occur until final action is taken on the amendment on which cloture has already been invoked.

Mr. BAKER. I agree with that.

Mr. BYRD. And if that amendment carries all those cloture votes are out.

Mr. BAKER. They will be wiped out.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business until 6 p.m. in which Senators may speak for 1 minute each, with the exception of the two leaders against whom no time will apply.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, there will be no more rollcall votes today.

THERE IS NO BETTER BARGAIN IN COMMUNITY SERVICE THAN OUR VOLUNTEER FIREFIGHTERS

Mr. BIDEN. Mr. President, this past Friday I was honored to speak at the 64th annual Delaware Volunteer Firemen's Association convention in Rehoboth Beach, DE. I was also happy to have been present at the luncheon at which Lawrence Mergenthaler was elected as the new president of the association.

Larry currently serves as first vice president of the Delaware Volunteer Firemen's Association, and is the chief of the Mill Creek Volunteer Fire Co. I look forward to working with Larry over the coming year, just as I worked with his predecessor Richard Mitchell of Rehoboth Beach, in addressing the concerns of the dedicated volunteers who provide fire protection, and other services, to most of the citizens of Delaware.

Mr. President, volunteer firefighters are an essential part of communities all over this Nation. This is even more true in Delaware. My State has 61 fire companies, with all but 1 of them staffed by volunteer firefighters; 57 of those departments serve rural areas.

There is no better bargain on any level—Federal, State, or local—than our volunteer fire companies. Not only do volunteer firefighters provide the essential services of fire prevention and control, they also conduct educational programs for our citizens. Millions of children all over the Nation have had their awareness of fire safety strengthened by volunteer firefighters.

Volunteer firefighters provide essential first aid services and, in many States including Delaware, provide marine rescue services—especially important now as the Coast Guard's budget for these activities has been reduced.

Volunteer fire departments give most of the people in my State, as well as tens of millions of people all over the Nation, these and other critical community services without drawing a nickel in compensation from the pockets of taxpayers. Stop for a second, Mr. President, and think about what it would cost for the already overburdened taxpayers of this Nation to pay someone to do all those things—and those are services people have come to expect. If that were the case, governments at all levels would have to raise taxes by billions of dollars all over this country.

There are few things we can do here in Washington that are more effective and more economical than helping volunteer firefighters do their important work. That is why I have worked to increase penalties for arson. That is why I joined with Senator LUGAR in offering legislation to make it easier for banks to offer low-interest loans to volunteer fire companies for the purchase of equipment. Likewise, that is why I have fought against cuts in the budget for the U.S. Fire Administration and the Rural Community Fire Protection Program. And that is why, Mr. President, I have volunteer firefighters from all over the State to my house each year so I can hear their concerns and learn what I can do to help, and why I invite the firefighters to send representatives to the Senate Budget Committee field hearings I have held in Delaware in each of the last 3 years.

There has been a great deal of talk, and rightfully so, about the importance of community. Our efforts to recognize and aid the work of volunteer firefighters will go a long way toward turning the rhetoric on community into concrete and useful action.

Delaware's volunteer firefighters have picked a fine leader for the association in Larry Mergenthaler. I pledge that I will work closely with them in the coming year.

CITIZENSHIP GRANTED TO SCOTTY STANISZEWSKI

Mr. KENNEDY. Mr. President, I am pleased to have been part of the effort to expedite Senate action on the bill to grant posthumous citizenship to Scotty Staniszewski.

This legislation is an act of simple justice for a brave young man who loved America and who give the last full measure of devotion for our country in Vietnam.

He was called Scotty, because he was born in Scotland, the son of a Polish father and a Scottish mother. His parents had emigrated to America in 1963 and settled in Brockton, MA, where so many generations of immigrants before them had made their home.

Scotty joined them in 1964, at the age of 17. He loved this country, and his fondest dream was to become a citizen. In 1966, 8 days after he turned 19, he enlisted in the U.S. Marine Corps. And in 1967, 2 weeks after he turned 20, Cpl. Scotty Staniszewski was dead in Vietnam, the victim of a shrapnel blast from a Vietcong hand grenade.

He had not hestitated when the orders came sending him to war. As he said of America, "I want to make my roots here. If a country is worth living in, it is worth fighting for."

Scotty Staniszewski was an authentic American hero—in every respect but one. Although Scotty gave his life for America in battle, he was not yet a citizen of his adopted land. By our action today—in a measure that is 17 years overdue—Congress remedies that injustice and declares, at long last, that Scotty Staniszewski has become a citizen of the United States.

Finally, let me add that this legislation would never have reached final action in the Congress without the extraordinary efforts of all those who look up Scotty's cause. I commend Scotty's family, who never gave up hope that justice would be done. I commend my colleague in the Senate, PAUL TSONGAS, Congressman BRIAN DONNELLY and all the other members of the Massachusetts delegation in the House of Representatives, who worked long and hard for Scotty's bill. And I commend the Boston Herald and its reporter Michael Lasalandra, whose inspiring article last July touched the conscience of America and insured that our efforts would succeed.

I am proud that the Senate has approved this legislation, proud to be part of this effort, and proud Scotty Stanizewski is a citizen of the United States.

HURRICANE DIANA

Mr. HOLLINGS. Mr. President, 2 weeks ago, Hurricane Diana struck the Southeastern United States, ravaging coastal areas from Florida to North Carolina. Although property damage was substantial in some areas, there wasn't one death attributed to the storm. Not one. We were lucky. But we must also recognize that the zero death toll in the wake of Hurricane Diana was a significant human achievement.

The normally low death toll for hurricanes in recent years is especially significant upon comparison with those for hurricanes earlier in the century. The Galveston hurricane of 1900 claimed more than 6,000 lives, while the Florida hurricane of 1928 claimed more than 1,800 lives.

In my own State of South Carolina, the worst hurricane ever to hit our shores was the August hurricane of 1893. It came ashore at midnight, August 27, near the Georgia-South Carolina border. The National Weather Service estimates that 1,000 people lost their lives.

The most intense storm on record was the Labor Day hurricane of 1935. It first struck the Florida Keys, then moved northward up the gulf coast. It had the lowest barometric pressure ever recorded for a hurricane in the Western Hemisphere at 26.35 inches. Top winds were 200 miles per hour and the death toll was 408.

The fact that no one died during Hurricane Diana 2 weeks ago has less to do with luck than it does with the great progress we have made over the years in our ability to respond more effectively to these massive, tropically bred cyclones.

Advances in the areas of meterology and communications are to be credited in part for this achievement. In my own State of South Carolina, we knew of Diana's approach several days before it reached our shores. Meteorologists provided frequent updates on the status of the hurricane—its location, its intensity, and its direction.

I would like to make special mention of those within the National Oceanic and Atmospheric Administration [NOAA] who contributed to this effort—the National Weather Service, under the inspired leadership of Dr. Richard Hallgren, the National Hurricane Center and its superb Director, Dr. Neil L. Frank, and the Office of

Aircraft Operations and its adroit Director, Capt. F.D. Moran. Because of their efforts, our citizens were kept up to date with the latest information on the hurricane. It is important that my colleagues be aware of the lifesaving work NOAA is doing and that they fully support the continuation of this valuable contribution to the safety of our citizens.

I would also like to make note of a couple of individual efforts. Dick Shenot of the National Weather Service office in Charleston stayed on the job 72 straight hours during the crisis, making sure local television stations, radio stations, newspapers, and emergency preparedness officials received the latest information on the position of the hurricane. Col. Paul Landers, the commander of the 437th Military Airlift Wing at Charleston Air Force Base, made a special, excellent effort to keep us up to date on Diana.

While information gathering and dissemination by these Federal agencies is key to our hurricane preparedness, the effort would be worthless without an effective program on the local level to formulate and implement an emergency plan in the event of a hurricane. This includes notifying threatened residents and letting them know when to evacuate, routes to take and where to go, and having emergency shelter and food ready for the evacuated citizens.

In South Carolina, the effort began months—even years—before Diana threatened our coastal area. State agencies—in cooperation with local governments, volunteer groups, the Federal Emergency Management Agency, and the National Hurricane Center—have been busy educating private citizens about hurricanes and preparing emergency response plans. Because our coastal regions are becoming ever more populous—with many newcomers never before having experienced the fury of a hurricane—I cannot begin to describe in full the importance of this education and advice preparation.

When Diana reached hurricane status at 10 a.m. on September 10, its eye was hovering 60 to 90 miles off the coast of South Carolina. Information on the storm's approach had been collected and rapidly distributed to the media. Preparations had been underway for the orderly evacuation of almost 25,000 people in the State, some 9,200 were sent to inland shelters the next day. As the hurricane moved ashore on September 13, 15,500 were evacuated. These evacuations were carried out without incident, and not one life was lost in South Carolina.

Our neighbors in the State of North Carolina were not as fortunate as we, for Diana unleashed greater fury upon their shores. But the tragedy was not as great as it could have been—thanks in large part to NOAA and North Carolina's own disaster preparedness efforts.

At this point I would like to recognize our State agencies in South Carolina and their tireless staffs who contributed so much to make the preparation and evacuation efforts a success. They include the State emergency preparedness division of the adjutant general's office, the State law enforcement division, the department of social services, the department of education, and the county emergency preparedness directors and their staffs in Georgetown, Charleston, Beaufort, and Horry Counties. In addition, I would like to commend the mayors, the local officials, the police departments, and the rescue squads along South Carolina's Grand Strand that contributed to the outstanding response to Hurricane Diana.

Last, I would like to recognize the countless South Carolinians who, through their volunteer efforts, helped make the emergency effort a success. Without the personal contributions of these selfless people, the operations would not have been carried out as smoothly nor as efficiently as they were.

I am proud of South Carolina's response to Hurricane Diana. What we saw during this crisis demonstrates the benefits our society can reap when Federal, State, and local agencies, and private citizens all work together. We were prepared had the expected disaster struck.

A paramount function of our Government is the safety of its citizens. All too often the good that an agency does is overlooked, while even the slightest lapse of excellence immediately becomes a great cause for public concern. In the case of Hurricane Diana, the merest error on the part of the National Weather Service could have meant a substantial loss of life. As we saw last week, that agency handled this entire situation with the great professionalism we have come to expect and even take for granted.

The success in meeting the threat of Hurricane Diana must not lull us into complacency. Nor would the lack of deaths lead anyone to think that the evacuation efforts were in vain and that future evacuation requests could be ignored. It is precisely at that point that disaster will strike. Not only must we maintain our current level of responsiveness, but we must improve it.

Nearly five decades have passed without a hurricane hitting the United States as intense as the Labor Day hurricane of 1935. We must ask ourselves—would we be prepared if another one like that struck today? This is very important as more and more of our citizens move into coastal areas. Here in Congress, we must continue to lend our wholehearted support to Federal and State efforts to meet this challenge.

To all those who were a part of the effort to respond to Hurricane Diana—I salute you for a job well done.

UNITED STATES-ISRAEL TRANSSHIPMENTS

Mr. HOLLINGS. Mr. President, last week I took the floor of the Senate to protest the Reagan administration's refusal to commit to a prohibition against transshipment of goods in any free trade area agreement negotiated between the United States and Israel. My concern was—and is—that any agreement without such a prohibition could make Israel a funnel for the shipment of textile and apparel goods into the United States from third country producers. With 72 mills closed in South Carolina and 22,000 textile jobs lost in the past 4 years because of the import hemorrhage, we just cannot tolerate any more loophole agreements.

We were refused that commitment last week in the letter which Ambassador Brock sent our distinguished colleague from Maine, Mr. MITCHELL. We were told instead about Senate passage of an amendment covering transshipments. But amendments get lost, particularly in these hectic last days of the Congress. And we needed a positive statement from the administration about its intentions.

I am happy to report that I have today received a letter from Ambassador Brock saying that:

> The administration is acutely aware of the issue and of its importance to many U.S. industries. I can assure you that any agreement which is concluded between the United States and Israel will provide for meaningful protection against transshipment abuse.

I welcome this commitment. Of course I try not to be naive, and I know that there's a long distance between a pledge made and a pledge carried out. Candidate Ronald Reagan made a commitment in 1980 to relate the growth of textile imports to the growth of the domestic market. Had he carried out that pledge, the textile-apparel trade deficit last year would have been $5.8 billion. Instead it was $10.6 billion and it will surpass $14 billion in 1984. So I will be watching, and if the administration comes back to the Senate with an agreement falling short of the promise, it can plan on hearing from me again. But hopefully this letter will prove a step in the right direction, and it's a far better response than the one we got last week.

Mr. President, I ask unanimous consent that the text of Ambassador Brock's letter be printed in the CONGRESSIONAL RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE U.S. TRADE REPRESENTATIVE,
Washington, DC, September 24, 1984.

Hon. ERNEST F. HOLLINGS,
U.S. Senate,
Washington, DC.

DEAR FRITZ: I am writing you in response to your remarks on the floor on Thursday afternoon with regard to potential transshipment problems in the proposed U.S.-Israel Free Trade Area. The Administration is acutely aware of the issue and of its importance to many U.S. industries. I can assure you that any agreement which is concluded between the United States and Israel will provide for meaningful protection against transshipment abuse.

I would also like to bring to your attention an amendment to the Canada and Israel Free Trade Area bill that was offered by Senator Wilson on Wednesday afternoon, September 19. This amendment provides that an agreement with Israel must contain the same restrictive rules of origin regulations as were included in the Caribbean Basin Initiative. A similar provision can be found in the House version of the bill which has been marked up by the Subcommittee on Trade.

I trust that this may clarify this issue and the Administration's position with regard to transshipment problems. I look forward to working with you in the completion of the U.S.-Israel Free Trade Area.

Very truly yours,

WILLIAM E. BROCK.

RESPONSE OF CHAIRMAN ELLINGWOOD ON SELECTION OF MRS. THOMAS

Mr. STEVENS. Mr. President, a few months ago there were reports that the Chairman of the Merit Systems Protection Board, Herbert Ellingwood, had used his position to influence the selection of Mrs. Gretchen Thomas for an attorney position in the Merit Systems Protection Board. As chairman of the subcommittee overseeing the Merit Systems Protection Board, I was concerned with the suggestion of impropriety. It was especially disastrous in light of the fine work emanating from the MSPB.

I asked Mr. Ellingwood a series of questions regarding the hiring of Mrs. Thomas. I am pleased that these reports, like so many others, have proven to be without foundation. I ask unanimous consent to insert in the RECORD the complete text of Chairman Ellingwood's responses.

There being no objection, the responses were ordered to be printed in the RECORD, as follows:

MERIT SYSTEMS
PROTECTION BOARD,
Washington, DC, August 21, 1984.

Hon. TED STEVENS,
Chairman, Subcommittee on Civil Service, Post Office, and General Services, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your letter of June 19, 1984, in which you requested certain information relating to my role in the hiring of Mrs. Gretchen Thomas, an attorney in the U.S. Merit Systems Protection Board's San Francisco Regional Office.

My responses to your questions are as follows:

1. Describe the professional relationship between you and Mrs. Thomas both before and since her selection.

My professional relationship with Mrs. Thomas began with a brief internship which she completed during the time when I was employed at the White House as Deputy Counsel to the President. During this time, Mrs. Thomas served in an unpaid capacity but did receive credit toward the requirements necessary to obtain her law degree from The Catholic University of America.

Since her selection as a presiding official, we have maintained a professional relationship consistent with those established with other presiding officials within the agency.

2. Provide a narrative of any role, direct or indirect, which you played in the MSPB hiring of Mrs. Thomas.

Mrs. Thomas was hired as part of a nationwide recruiting plan intended to augment the Board's field staff to process over 11,000 air traffic controller appeals which were pending at that time. Mrs. Thomas, along with the other attorneys we hired, assisted the Board in establishing its commendable record in the adjudication of not only the air traffic controller cases but also the thousands of other appeals filed during this time. I am extremely proud of this agency's record of hiring the best employees which is reflected in this superb achievement.

Mrs. Thomas was hired pursuant to my longstanding practice of relying on appropriate staff officials to make personnel selections without my involvement. Specifically, my role in the hiring of Mrs. Thomas was limited strictly to referring her resume, without endorsement or instructions, to the Board's managing director for routine handling.

3. Did Mr. Edwin Meese have any bearing upon the selection of Mrs. Thomas? If so, please describe.

At no time did Mr. Meese, or any representative of Mr. Meese, make any effort or play any role in the selection of Mrs. Thomas.

4. To your knowledge, did any Board officials or employees try to favorably influence the candidacy of Mrs. Thomas for a position at the MSPB?

Prior to the hiring of Mrs. Thomas as a presiding official in the Board's San Francisco Regional Office, I was not aware of any effort by any Board employee to favorably influence her candidacy. It has been subsequently brought to my attention that some misunderstanding may have occurred between the Board's Managing Director and Assistant Managing Director for Regional Operations resulting in an unintended impression that Mrs. Thomas' application should be approved without further consideration.

However, it is important to emphasize the circumstances which led to her hiring. Recruitment for attorney-examiners and support staff in all regional offices commenced in March, 1982. The increase was necessary to process the air traffic controller appeals filed in late 1981. The regional directors were advised of how many positions they would be able to fill once a supplemental appropriations bill was enacted and they were delegated the authority to distribute their allotment among professional and support staff positions based on the availability of funds and the needs of their individual offices. Later, when the supplemental bill was finally approved, adjustments were made in the allotments to reflect changes in workload in the various regions. In the San Francisco Regional Office, Mrs. Thomas was one of 16 appointments ultimately made during a six-month hiring period.

In context, it was incumbent on the Board to distribute its resources in a cost-effective manner which required balancing the need to process adverse action appeals by experienced attorney-examiners and routine cases by entry level attorneys. Mrs. Thomas was highly qualified for her entry level position and made a substantial contribution, as did all professional staff, towards the orderly and efficient processing of appeals filed in the San Francisco office.

Finally, since the time Mrs. Thomas was hired, the Board has concentrated its efforts to process not only the above-mentioned appeals, but also to establish effective management procedures throughout its entire operations. Among these initiatives have been the implementation of a computerized case-tracking system, the establishment of a pilot fast-track appeals process and the implementation of improved appeals procedures such as simplified discovery and fixed-site hearing forums. Additionally, the Board has returned to expedited time-frames for case adjudication. We are very proud of these accomplishments which were only made possible by the contributions of all our employees, including Mrs. Thomas, during this period.

5. Was Mrs. Thomas qualified for the position for which she was hired?

It is the policy of this agency to hire the highest quality applicants from representative segments of our society, including public and private sector, as well as recent law school graduates. We are proud of the talented group of attorneys which resulted from this hiring policy. Consistent with this standard, Mrs. Thomas was found to be highly qualified as a GS-11 entry level presiding official.

She graduated in the top one-third of her law school class which qualified her for quality graduate status. Mrs. Thomas also graduated with honors as an undergraduate from the University of California.

I should also like to point out that she received a highly favorable performance appraisal resulting in a promotion within one year, based on an exacting agency-wide promotion plan, which further confirmed the Board's original selection.

6. Did you discuss Gretchen Thomas' employment situation with Mr. Edwin Thomas in connection with office space needs for MSPB's San Franciso Regional Office?

There has never been a time when the selection of Mrs. Thomas for employment with the Board was ever discussed with Mr. Edwin Thomas, including during my meeting with him to discuss the office space needs for MSPB's San Francisco Regional Office.

7. What procedures were used in hiring Mrs. Thomas and how are those procedures designed to safeguard merit principles?

As the agency empowered by statute to protect merit principles, we hold ourselves to a higher standard in ensuring the protection of those principles when they apply to our own procedures. Consistent with published Board guidance, the San Francisco Regional Director advertised available vacancies throughout the greater San Francisco Bay area. This included posting announcements with law schools, bar associations, legal publications and distributing additional announcements through the Office

of Personnel Management's government-oriented personnel distribution system. The purpose of this comprehensive exercise was to inform and identify as many qualified attorneys as possible to ensure the broadest possible applicant pool.

After receipt of the applications, each was reviewed by the administrative chief and the regional director to determine which had the necessary qualifications for further consideration. Candidates with strong academic records and compatible grade experience were identified and interviewed by the regional director and, in some cases, by the managing director.

Final selections were based on the best, most highly qualified candidates for the grades available consistent with merit principles.

8. To your knowledge, did any violations of merit principles occur in connection with the hiring of Mrs. Thomas?

After carefully reviewing the facts surrounding Mrs. Thomas' hiring action, I am certain that no merit principles were violated. Mrs. Thomas was one of four highly qualified applicants selected for newly established attorney positions in the San Francisco Regional Office. She was chosen consistent with the Board's overall appointment plan to hire the best candidates from diversified backgrounds and experience levels who could fill various attorney-examiner grades in that office. That assessment was based on the Board's obligation to adjudicate not only the ATC appeals but also the relatively rountine appeals which would otherwise constitute the bulk of the regional office's case load.

In my view, the circumstances surrounding Mrs. Thomas' hiring were wholly consistent with all applicable laws and regulations governing merit principles.

I hope you find this information helpful. If there is any way I may be of further assistance, please do not hesitate to call upon me.

Sincerely,

HERBERT, E. ELLINGWOOD.

A TRIBUTE TO THAD HOLT

Mr. HEFLIN. Mr. President, it is with a great deal of sadness that I announce that my home State of Alabama lost one of its most outstanding citizens when Thad Holt of Birmingham passed away. Mr. Holt has been called a civic saint because he was truly a great and concerned civil leader and a progressive community builder. He was also a most dedicated public servant.

Few Alabamians or Americans have devoted as much time and energy as he did to good causes. I was privileged to have had Thad Holt as a friend. I will miss not only his enthusiastic commitment to civic community and public affairs, but also his friendship of many years.

Mr. Holt was born in Sumter County, AL, in 1898, and moved to Birmingham as a child. Although he would also spend time in Montgomery and Washington during his life, it was with the Birmingham community that he was most often identified.

In the 1920's, Mr. Holt served as vice president and advertising and sales manager for Wofford Oil Co. He left that company to serve the public, accepting an appointment to work with the New Deal programs of President Franklin D. Roosevelt.

During the New Deal era, Mr. Holt first served as State director of the Works Progress Administration, and the Civil Works Administration, to provide work for needy persons on public works projects; the Federal Emergency Relief Administration, guiding the cooperation of Alabama with the Federal Government in relieving hardships caused by unemployment and drought; and the National Youth Administration, to provide job training for unemployed youths and part-time work for needy students.

After a few years of this service at the State level, Mr. Holt was called to Washington where he served as Assistant National Administrator of the WPA under Harry Hopkins. Throughout the rest of his life, he would refer to himself as the "Last of the New Dealers," being particularly proud of his work in helping put people to work on public work projects and giving farm families help in becoming self-sufficient after the Great Depression.

After returning to Birmingham from Washington, Mr. Holt helped start the Alabama Public Television Network, which was the first educational network in the United States. He was a cofounder of the "The Voice of Alabama" radio network and also brought the first television station to Birmingham.

In more recent years, it was through his civic involvement, even more than his ingenuity in communications, that he was known to his fellow citizens. In the 1950's, Mr. Holt helped launch Operation New Birmingham, with the objective of revitalizing the city's central business district. This group is still active and functioning today. During the civil rights fight era in Birmingham, Thad Holt's voice for reason, concern, and the well-being of all citizens was immeasurable helpful for efforts to find peaceful solutions.

In addition, Mr. Holt was a board member of the Birmingham Museum of Art, a trustee of the Birmingham Civic Ballet, a past president of both the Birmingham Jaycees and the Birmingham Kiwanis Club, and an active member of the Community Action Committee. I served many years on the board of directors of the Alabama Motorists Association with him.

Thad Holt was an outstanding citizen in every respect, Mr. President. His uncompromising dedication was reflected in his service to his community, to his Nation, and by this unyielding devotion to his family. I wish to extend my most sincere sympathies to his wife, Mrs. Sarah Ames Oliver Holt, and his two sons, Thad Holt, Jr., and Samuel C.D. Holt.

Thad Holt will be greatly missed, Alabama, and America, have lost a great citizen.

Mr. President, I ask unanimous consent that two articles from the Birmingham News be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

THAD HOLT, RADIO/TV PIONEER AND BIRMINGHAM CIVIC LEADER, DIES AT 86

Broadcasting pioneer and longtime Birmingham civic leader Thad Holt died Monday in Washington, D.C., at the home of one of his sons. He was 86.

In the forefront of the television and radio industry of the state, Mr. Holt helped start the Alabama Public Television Network, which was the first educational network in the United States.

Along with the late Edward L. Norton, Mr. Holt founded "The Voice of Alabama" radio network in the 1930s and also brought the first television station to Birmingham.

His work in Birmingham didn't stop with broadcasting, however. Political leaders remember countless hours he spent to improve the city.

"There's no way to measure the hours he gave to the city and Operation New Birmingham and Community Affairs," said former Mayor David Vann.

"His whole life was helping people," Vann said. "He rarely missed a day at his unpaid desk at City Hall."

A native of Sumter County, Mr. Holt moved to Birmingham as a child. He was graduated from Colorado College, where he played on the basketball team. After a stint in the U.S. Army during World War I, he returned to Alabama.

In the 1920s, Mr. Holt served as a vice president and advertising and sales manager of Wolford Oil Co. But he left Wolford to work with the New Deal programs of President Franklin Roosevelt's administration.

Mr. Holt headed the Works Program Administration in Alabama during the New Deal period and then served in Washington as assistant national administrator of WPA under Harry Hopkins.

He often referred to himself as the "last of the New Dealers" and was especially proud of the projects that put men to work on public relief projects and gave farm families help in becoming self-supporting after the Depression.

In the 1950s, Mr. Holt helped launch Operation New Birmingham with the objective of revitalizing the city's central business district, and he often researched problems for the city's leaders, said Vann.

"He filled notebooks with facts to help people in leadership positions," Vann said. "He was a warm person who really cared and spent his whole life helping people."

A former board member of the Birmingham Museum of Art, Mr. Holt worked with the Community Action Committee and Jefferson County Office for Economic Opportunity.

Honored many times for his civic work, Mr. Holt has been described as a "gentle giant of a public servant" by Mayor Richard Arrington.

He was a longtime supporter of the statewide U.S. Savings Bond drive and pushed Alabama to the forefront of bond sales.

He served as a board member of the Birmingham Museum of Art and a trustee of the Birmingham Civic Ballet.

Ferd F. Weil, a Birmingham businessman who worked with Mr. Holt on this Community Affairs Committee said, "He was a wonderful citizen who gave a lot to the city. We're going to miss him."

He served on the local draft board during World War II and was awarded the Selective Service Medal.

Mr. Holt was a member of the Cathedral Episcopal Church of the Advent, past president of the Birmingham Jaycees and Kiwanis, and a member of the Birmingham Area Chamber of Commerce, the Committee on Foreign Affairs, the American Legion, the Birmingham Country Club, the Mountain Brook Club and the Redstone Club.

He also was a member of Phi Beta Kappa and Phi Gamma Delta.

Mr. Holt is survived by his wife, Mrs. Sarah Agnes Oliver Holt, two sons, Thad Holt Jr., New York City, and Samuel C.O. Holt, Washington, D.C.

The family will announce funeral arrangements later.

THAD HOLT

"His whole life was helping people. He rarely missed a day at his unpaid desk at City Hall." Those sentences by former Birmingham Mayor David Vann aptly characterize Thad Holt, businessman, promoter, public servant, and most of all civic worker.

If cities canonized men and women who give fully of themselves to their communities, Thad would be what one might call a "civic saint." A pioneer in commercial radio and televison, he was one of the founders of WAPI, "The Voice of Alabama," WAPI-TV. He was also influential in helping create the Alabama Public Television Network, the first educational TV network in the country.

He headed the WPA in Alabama and later served as assistant WPA administrator under Harry Hopkins during Franklin D. Roosevelt's administration. He served on numerous local boards and helped to form Operation New Birmingham and the Community Affairs Committee.

Thad had an inquiring and restless mind that continually examined and measured institutions and ideas. He was always eager to share his thoughts on improvement of the city with those willing to listen. Even long after his health began to fail, he continued to share his views through brief notes and phone calls to people who he thought would be interested.

Thad was honored for contribution many times during his life, but the memorial that best fits his service is the mark he left on the thriving forward-looking city he leaves for those who come after him.

AMBASSADOR ELLSWORTH BUNKER

Mr. MOYNIHAN. Mr. President, this weekend the Nation will mourn the death, at age 90, of Ellsworth Bunker, one of the most beloved and distinguished diplomats the American republic has ever known.

He began his service under President Truman in 1951, when he was sent as Ambassador to Argentina. He thereafter was Ambassador to Italy under President Truman. President Eisenhower appointed him Ambassador to India and Nepal. Later, President Johnson made him the U.S. Representative to the Organization of American States. In that regard he made a historic effort to resolve the internal troubles of the Dominican Republic, troubles which eventually led to American intervention. President Johnson later sent him to be our Ambassador to South Vietnam in the midst of the great wars of that region. He returned to the United States and was appointed by President Nixon as chief negotiator to the then highly secret talks involving the Panama Canal Treaties. He was here in the Senate gallery 6 years ago when, after a historic and frightful debate, the Senate finally agreed to the ratification of those two treaties, absent which agreement we would now know a very different Western Hemisphere. Absent such a diplomat, I would dare to say, we would be a very different country in a different world, such was his extraordinary influence over diplomacy of the postwar world. It was an influence that was most conspicuous by its lack of outward evidence. It was always the role of Ellsworth Bunker in diplomacy to represent his Nation and never himself—not that he was a man without views—but his views were internal to his Government, and not to the world.

I once served as Ambassador to India later on in the postwar period, and I once asked a series of senior Indian officials, of the many distinguished Ambassadors the United States had sent to India in the years following its independence, who had most impressed them, who had served our country best in their view. It was striking that without exception they would say, "Ellsworth Bunker." When one would ask why, apart from his personal qualities, which were so evident, the answer invariably came, "Because he always told us what the policy of his Government was, not what he wishes it were." This is exactly the man. When asked in 1975 why he had left a highly successful business career to devote then almost 20 years in diplomatic service of the President, he said simply, "When the President calls on you to do a job, you do it." And asked why had he continued, job after job, one frustration after another, in his characteristic and somewhat acquired Vermont taciturnity he simply said, "Same reason." He was in every sense a Vermonter in his later years, but I would wish it known that he was born in Yonkers and his business career was entirely in our State.

He leaves behind an extraordinary legacy. This Chamber itself need only ask: What would be our relations in Central America and what would be the conditions in that region had he not, over nearly a decade, patiently put together the agreements that ended in those two treaties?

I mentioned that he had been Ambassador to India and Nepal, and surely one of the shining experiences of his later years was his engagement, and then marriage, to one of the great Foreign Service officers of our time, the Honorable Carol C. Laise, who herself became Ambassador to Nepal. Southeast Asia had the pleasure of seeing Ambassador Bunker, on every weekend it was possible, flying from Saigon down through Bangkok and up into the Himalayas, first to court his bride-to-be, and then to be with her. He described that courtship as the most delicate diplomatic mission he had ever undertaken. And to see them thereafter, you could only agree it was most surely successful. This body has more than once confirmed Ambassador Carol Laise for posts of high honor, and confidence, and trust in this Government. I think we would overwhelmingly agree to send our sympathies to her and the Bunker family on this occasion, which is not one for mourning but, rather, for celebrating a life lived fully, and of great honor and high achievement.

Mr. President, I ask unanimous consent that I might place in the RECORD at this point the obituary of Ambassador Bunker that appeared in the New York Times this morning, and an editorial in the Washington Post.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept, 28, 1984]

ELLSWORTH BUNKER IS DEAD AT 90; ENVOY HAD A KEY ROLE IN SAIGON

(By Albin Kerbs)

Ellsworth Bunker, a high-ranking United States diplomat for three decades, died Thursday night at Brattleboro Memorial Hospital in Vermont. He was 90 years old and lived in Dummerston, Vt.

Mr. Bunker was admitted to the hospital with a general viral infection on Sept. 13 and, according to a hospital spokesman, died of complications attributable to his advanced age.

One of this country's most skilled and patient negotiators, Mr. Bunker, who was a businessman for 30 years before turning diplomat, capped a distinguished career by serving as Ambassador to South Vietnam during the six years in which the United States became most deeply embroiled in the Vietnam War.

Before his service in Vietnam, Mr. Bunker had been involved in top-level negotiations to forestall war between the Netherlands and Indonesia when those countries were quarreling over Dutch New Guinea.

SENT TO THE DOMINICAN REPUBLIC

In 1965 he was part of a three-man team sent to the Dominican Republic to keep a cease-fire between warring factions there.

His last major assignment, with the rank of Ambassador at Large, was as the chief United States negotiator in the delicate, protracted and ultimately successful effort to come to agreement with Panama on the Panama Canal treaties.

In these and other assignments, which included stints as Ambassador to Argentina and to India, Mr. Bunker, a tall, stoical, taciturn diplomat who seemed happiest when operating in secrecy, won a reputation as "the unflappable Bunker."

He was also known, in some diplomatic circles, as "The Refrigerator" because of his ability to adapt to trying circumstances without showing emotion. The sobriquet was not always used in a pejorative sense.

PRESIDENTIAL CONFIDENCE

"Bunker could stick with the most tiresomely complex situation without revealing dismay, disappointment or frustration," a former high-level aide to the diplomat said."He could listen as well as present our viewpoints clearly. He wrote lucid, valuable reports for the President. All Presidents had confidence in him, starting with Harry Truman and going on to Eisenhower, Kennedy, Nixon and Ford."

When asked, in 1975, what had brought him into the diplomatic service after a highly successful business career, Mr. Bunker said simply, "When the President calls on you to do a job, you do it."

And why had he continued the often frustrating life of the diplomat for so many years? "Same reason."

"I'm an old-fashioned patriot," Mr. Bunker said. "I have always assumed that my country was fundamentally right in its dealings with others." In his view, he said, the United States, as a great power, assumed a set of major responsibilities, and it was a matter of national honor sullied when the nation failed to live up to them.

"For example, Vietnam," he said "During my entire stay there, I had to remember that what we did involved our reputation as a great power internationally. We had to persuade the Vietnamese to do for themselves. The object of our diplomacy there, as elsewhere, was the quite proper one of not winning arguments but achieving goals."

EDUCATED AT YALE

Mr. Bunker was born in Yonkers on May 11, 1894. His mother was the former Jean Polhemus Cobb, and his father was George R. Bunker, co-founder of the National Sugar Refining Company. He went to private schools in Dobbs Ferry, N.Y., and was a 1916 graduate of Yale.

As his family had planned for him all along, Mr. Bunker went into the sugar business, learning it from the bottom up, first as a laborer on a raw sugar unloading dock in Yonkers. He spent 13 years learning about refinery operations. Shortly after being elected a director of National Sugar in 1927, he was forced to retire for almost a year because of severe arthritis. The ailment plagued him on and off for the rest of his life.

In the early 1930's Mr. Bunker was an officer of National Sugar and of several of its subsidiaries, and a director of the American-Hawaiian Steamship Company. As the first chairman of the Cane Sugar Refiners Association, founded in 1936, he supported lobbies dedicated to lifting quotas on the importation of foreign sugar.

In the 1940's Mr. Bunker invested heavily in sugar-refining companies in Cuba, Puerto Rico and Mexico. He also helped in the formation of the Sugar Research Foundation in New York and was chairman of a governmental advisory agency, the Cane Sugar Refiners War Committee. He became board chairman of National Sugar in 1948.

APPOINTED BY TRUMAN

Mr. Bunker's active business career ended in 1951, when President Truman appointed him to the sensitive post of Ambassador to Argentina. President Juan Domingo Peron was at the height of his power and Argentine-American relations were at an all-time low, notably following President Peron's expropriation of the influential independent newspaper La Prensa.

In his year in Buenos Aires, the fledgling diplomat mastered Spanish and enveloped himself in Argentine culture, even attending concerts by backwoods child prodigies in the hope that the people he met on such occasions would give him insights into the Argentine way of life. He won sufficient favor with President Peron to hear the Argentine dictator refer to him as "our country's good friend."

In 1952 Mr. Bunker was appointed Ambassador to Italy, even though he had never seen that country, not even as a tourist, until he took over the embassy in Rome. That did not seem to be a particular disadvantage, however, and in the year he spent in Rome he was credited with being an effective negotiator in a controversy involving the Government's closing of several missions of the Protestant Church of Christ in Italy.

Having joined the State Department at the behest of his Yale classmate, Secretary of State Dean Acheson—like him a Democrat—Mr. Bunker resigned his post in Rome when the Republican Administration of Dwight D. Eisenhower took over in 1953. For the next three years he served as the first salaried president of the American Red Cross.

In 1956 Mr. Bunker was appointed Ambassador to India and Nepal by President Eisenhower. Before he left New Delhi in 1961, American aid to India had increased to more than $5 billion. Mr. Bunker supervised distribution of that aid.

MAJOR ROLE IN SETTLEMENT

In 1962 Mr. Bunker was credited with having taken a major role in the settlement of one of the knottiest problems of postwar diplomacy, the dispute between the Netherlands and Indonesia over West New Guinea. For 12 years they had been at loggerheads over the area, whose status had been left in abeyance when the rest of the Dutch East Indies became independent.

Indonesia was girding for a military showdown with the Dutch when the Kennedy Administration asked Mr. Bunker to try to mediate the dispute under United Nations auspices. The "Bunker plan" that emerged from his efforts and was finally accepted on all sides led to the relinquishing of Dutch claims on the disputed area, which is now the part of Indonesia known as West Irian.

Of the accord, the man who engineered it had a typically understated and laconic comment: "What was successfully attempted was an effort to resolve the issue before it had deteriorated into open warfare."

President Kennedy also sent Mr. Bunker to the Middle East, in 1963, to mediate a dispute between Prince Faisal of Saudi Arabia and President Gamal Abdel Nasser of Egypt over the future of the emerging Republic of Yemen. He was largely unsuccessful, and the dispute continued for years.

In 1964 President Johnson appointed Mr. Bunker, by then officially retired, his representative on the council of the Organization of American States, which elected the diplomat as its chairman.

DOMINICAN DISPUTE

Mr. Bunker honed his reputation for coolness under fire in the year he spent, beginning in 1965, as the key member of a three-man O.A.S. team sent to the Dominican Republic to end factional fighting in the wake of the fall of the Government of the dictator Rafael Trujillo, who had been assassinated.

Attired in a well-cut suit with high starched collar and Panama hat, the imperturbable Mr. Bunker seemed in startling contrast to the sweating, bearded rebels in fatigues he dealt with. He kept his aplomb throughout negotiations with all sides and was able to have a provisional civilian President installed. The Dominicans, responding to his discreet manner, nicknamed Mr. Bunker the Sly Fox.

After the Dominican political situation stabilized, President Johnson said of the diplomat: "Mr. Bunker belongs not only to the United States but to the Hemisphere. He has rendered great service to both."

Mr. Bunker would have perferred to live in retirement on his 600-acre farm in Vermont, but in 1967 President Johnson needed an able troubleshooter to serve as Ambassador to South Vietnam. He tapped Mr. Bunker to preside over what he hoped, at the time, would be the ending of American involvement in the war there and the transition from military to constitutional rule.

THE TUNNEL WAS LONGER

But Mr. Bunker was in Vietnam for six years, the longest tour served by an American Ambassador there, and in that time the American participation in the war expanded greatly.

When he left Saigon on his 79th birthday in May 1973, after a cease-fire had been brought about and direct American involvement in the war had ended, Mr. Bunker observed, "The tunnel was longer and the light was dimmer and farther away than any of us realized at the time I came here."

Although some critics thought that Mr. Bunker was "soft" in his dealings with President Nguyen Van Thieu, and that he was too optimistic about the Saigon Government's ability to function after the pullout of American forces, he was trusted by both President Johnson and President Nixon in his work in Saigon.

While he was there, Mr. Bunker ran the political-military war effort, in effect as American proconsul, and played a significant role in the election of 1971, in which President Thieu ran unopposed—although Mr. Bunker tried unsuccessfully to persuade Gen. Duong Van Minh to run in opposition.

Mr. Bunker was also Ambassador during an ill-fated invasion of Laos, an attempt to cut the Ho Chi Minh trail near Tchepone, in which South Vietnamese troops suffered heavy losses.

During his tenure President Nixon began the process of the "Vietnamization" of the war. In 1972, when the North Vietnamese made the first direct attempt to come across the border with tanks and troops in main-force battle formations, Mr. Bunker saw to it that the United States came to President Thieu's aid with air support and naval bombardment.

He also helped persuade President Thieu to agree to the 1973 cease-fire with North Vietnam, which was later used by the North Vietnamese to infiltrate more troops and supplies south, enabling them to mount the attack that ended in the military defeat of the Thieu Government in 1975.

Mr. Bunker returned to Washington with the rank of Ambassador at Large. In 1974 he took on the job of chief negotiator to the highly secret talks with Panama concerning a new and revised canal treaty.

His patient negotiations in the often bitter struggle for a settlement was regarded as the greatest tour de force of his career. In 1978, when he retired permanently, the Senate, after 38 days of debate, rati-

fied two treaties for which Mr. Bunker had served as principal negotiator.

The first treaty called for turning over the Panama Canal to Panama by the year 2000, and the second guaranteed the United States the right to defend the canal after that date.

Without the treaties, Mr. Bunker said in an interview shortly before his 90th birthday this year, Panama would have been plunged into internal turmoil and the canal would be in great jeopardy.

"Any terrorist with a hand grenade can shut the canal for a while," he said. "It's not really defensible except through a partnership where everybody works together, and that's what the treaty achieved."

Mr. Bunker stood ramrod straight, 6 feet 2 inches tall. He loved the theater and enjoyed reading, particularly the novels of Joseph Conrad.

Mr. Bunker's first wife, the former Harriet Butler, died in 1964. They had three children, Ellen, John and Samuel.

In 1967 he married a career Foreign Service officer, Carol C. Laise, who was then Ambassador to Nepal. The couple maintained a Washington apartment as well as the 600-acre Bunker dairy farm at Dummerston.

Burial will be in Vermont on Monday, a family spokesman said yesterday.

[From the Washington Post, Sept. 29, 1984]

ELLSWORTH BUNKER

At the age of 57, Ellsworth Bunker retired from the sugar refining business and, starting at the top as an ambassador, opened a career in diplomacy which kept him on the go for nearly 30 more years. He was uncommonly good at one particular aspect of it: bringing parties together in a negotiation. In the vexing circumstances of Dutch New Guinea, the Dominican Republic, Vietnam and Panama, he helped produce agreements, in the process gaining a public eminence and—this is unusual—high respect for personal decency. He enjoyed, quietly, being hailed as the fellow who in his 60s, in his 70s, in his 80s, was still going strong.

Lean, slightly bent at the waist, impeccable in herringbone, Ambassador Bunker was courtly and wore a characteristic expression of alertness and serenity. He looked to be a man of the old school, and he was: a gentleman of means performing his obligation of public service. From Harry Truman on, successive presidents found his talents and his reputation too valuable not to employ.

If some wondered whether he had been sent to Vietnam as the American ambassador (1967-73) to put a face of New England probity on a controversial policy, no one who knew him well doubted that he had gone in response to a devotion to duty. Primarily an implementer of policy, he simply could not say no to any president who asked him to take on a new mission.

The nation agonized over Vietnam. Not Ellsworth Bunker. A businessman, not a philosopher, he accepted the common premises of American capacity and rectitude that produced and sustained the American involvement, and he gave no public sign that he questioned them as the ship went down. At once he took on a new assignment as conegotiator of the Panama Canal treaties. He was, a colleague later wrote, "the good gray rock of Vermont who really got the show on the road."

Afterward Ambassador Bunker went back to Vermont to stay. His home looked east across the Connecticut River into the soft New Hampshire hills. As usual, he and his wife, Ambassador Carol Laise, whom he had married in what he was pleased to call his "most difficult and delicate diplomatic negotiation," rolled down Brattleboro's Main Street in an antique car last summer in the annual Fourth of July parade. He delivered his typical speech: short and patriotic. On Thursday he died at 90 years of age.

MEASURE PLACED ON THE CALENDAR

The Committee on Environment and Public Works was discharged from the further consideration of the following bill; which was placed on the calendar:

H.R. 5997. An act to designate the U.S. Post Office and Courthouse in Pendleton, OR, as the "John F. Kilkenny United States Post Office and Courthouse."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MATHIAS, from the Committee on Rules and Administration, without amendment:

S. Res. 458. An original resolution to provide for the closing of the office of a Senator who dies or resigns, and for other purposes (Rept. No. 98-643).

H.J. Res. 551. A joint resolution to provide for the reappointment of Anne Legendre Armstrong as a citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 98-644).

H.J. Res. 552. A joint resolution to provide for the reappointment of A. Leon Higginbotham, Jr., as a citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 98-645).

By Mr. CHAFEE, from the Committee on Environment and Public Works, with amendments:

H.R. 5464. A bill to establish the Chimon Island National Wildlife Refuge (Rept. No. 98-646).

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

H.R. 1438. A bill to provide for the restoration of the fish and wildlife in the Trinity River Basin, CA, and for other purposes (Rept. No. 98-647).

By Mr. STAFFORD, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute and an amendment to the title:

S. 65. A bill to extend the Appalachian Regional Development Act to provide transitional assistance to the Appalachian region (Rept. No. 98-648).

By Mr. STAFFORD, from the Committee on Environment and Public Works, without amendment:

S. 2947. A bill to designate the lock and dam on the Warrior River in Hale County, AL, as the "Armistead I. Selden Lock and Dam" (Rept. No. 98-649).

S. 3021. A bill to name the Federal Building in Elkins, WV, the "Jennings Randolph Federal Center" (Rept. 98-650).

By Mr. STAFFORD, from the Committee on Environment and Public Works and the Committee on Rules and Administration, jointly without amendment:

H.R. 4025. A bill to authorize the Administrator of General Services to transfer to the Smithsonian Institution without reimbursement the General Post Office Building and the site thereof located in the District of Columbia, and for other purposes (Rept. No. 98-651).

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

H.R. 437. A bill for the relief of Patrick Starkie.

H.R. 440. A bill for the relief of Frederick Francisco Akers; Susan Ferniz Akers, spouse; Christopher Ferniz Akers, son; and Christina Ferniz Akers, daughter.

H.R. 932. A bill for the relief of Harry Chen Tak Wong.

H.R. 1072. A bill for the relief of Margot Hogan.

H.R. 1152. A bill for the relief of Tomoko Jessica Kyan.

H.R. 1426. A bill for the relief of Phillip Harper.

H.R. 1713. A bill for the relief of Yelizaveta Fankukhina.

H.R. 1865. A bill for the relief of Nery De Maio.

H.R. 1932. A bill for the relief of Mireille Laffite.

H.R. 2418. A bill for the relief of Anis-Ur-Rahman.

H.R. 2859. A bill for the relief of John Brima Charles.

H.R. 3382. A bill for the relief of Dennis L. Dalton.

H.R. 5691. A bill for the relief of Sutu Bungani William Beck.

S. 794. A bill for the relief of Edwina Carol Baxter.

S. 1946. A bill for the relief of Catherine and Robert Fossez.

S. 2518. A bill for the relief of Therese Nyuwir Poupele Kpoda.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DURENBERGER:

S. 3038. A bill to amend title 31, United States Code, to include in the President's budget of the U.S. Government a statement of the interest which accrues for each fiscal year on outstanding zero-coupon bonds; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MATHIAS, from the Committee on Rules and Administration:

S. Res. 458. An original resolution to provide for the closing of the office of a Senator who dies or resigns, and for other purposes; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURENBERGER:

S. 3038. A bill to amend title 31, United States Code, to include in the President's budget of the U.S. Government a statement of the interest which accrues for each fiscal year on outstanding zero-coupon bonds; to the Committee on Governmental Affairs.

STATEMENT OF THE INTEREST ON OUTSTANDING ZERO-COUPON BONDS

● Mr. DURENBERGER. Mr. President, last month, I read a disturbing article in the New York Times that recommended the U.S. Treasury Department issue zero-coupon bonds [ZCB's] and thus defer interest payments on the national debt. By the use of ZCB's, the Federal Government would borrow money and pay no annual interest on the bonds until the bond matures at which time the accumulated interest and principal would be due and payable.

It is sad indeed that we are mortgaging our future by borrowing large sums of money to finance the deficit and leaving the repayment of the principal to the next generation—our children. With the use of ZCB's as recommended by the New York Times, not only would the principal amount of the loans be repaid by our children, but all the interest on the principal of the loans would also be shifted to our children. Without a doubt, the size of the Federal deficit is one of the most important issues facing the Congress and this Nation. However, we should not and we cannot impose unreasonable burdens on the next generation for our irresponsible deficit spending policy.

I am also concerned about the extent to which the issues of a ZCB would tend to establish a floor on interest rates; particularly where the underlying obligation has a long maturity. In addition, I am concerned about the uncertainty under existing governmental accounting procedures as to whether the interest accrued on zero-coupon obligations would be properly reflected in the annual interest expense of the Federal Government.

In order to better understand ZCB's, I ask unanimous consent that a letter I wrote to the New York Times that was published September 3, 1984, be printed following these remarks, and I urge my distinguished colleagues to take a minute to read it.

Recently, in a meeting with my staff, Treasury officials assured us that the Department has no plans to issue ZCB's at the present time. But in case the Treasury at some later time decides to issue ZCB's, I am firmly convinced that the accrued interest should be properly reflected in the President's budget when it is submitted to the Congress.

To make certain that the President's budget reflects the accrued interest on any ZCB that might be issued by the Treasury, I am today introducing a bill which amends section 1105 and title 31 of the United States Code—relating to various items that must be included in the President's budget—to require a separate statement in each budget setting forth the interest that would accrue on any ZCB's.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3038

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 1105 of title 31, United States Code, is amended by adding at the end thereof the following new clause:

"(26) a separate statement estimating the total interest which would accrue in the fiscal year for which the budget is submitted on all outstanding obligations issued on a discount basis under sections 3102 through 3104 of this title if such obligations had been issued on an interest-bearing basis.".

COMMITTEE ON FINANCE,
Washington, DC, August 28, 1984.

LETTERS TO THE EDITOR,
The New York Times,
New York, NY.

TO THE EDITOR: I am alarmed that the New York Times would so casually recommend abusing zero-coupon bonds (ZCBs) to defer interest payments on the national debt ("Cut the Debt Caused by Debt," August 15). There ought to be a law against seizing the wealth of the next generation and, frankly, I can't think of a better place to start than with ZCBs.

Sadly, zero-coupon bonds are only the latest and most effective of a long line of popular schemes my generation has devised to pass the costs of our lifestyles onto our children. Under decades of bipartisan leadership, this country has run down its infrastructure and passed regressive taxes on future wage-earners to fund bloated middle-class entitlement programs; we have stimulated non-productive speculation in housing that has made it all but impossible for today's young to buy homes.

Worst of all, we have run up an enormous national debt rather than pay for the cost of our federal programs. The size of this mortgage on our nation's future is so staggering that the payments almost defy description.

For fiscal year 1985, for example, Congress will budget $67 billion more for interest payments on the national debt than we did in fiscal 1980. By fiscal 1989, continually-mounting deficits could raise the annual interest bill to $219 billion—$40 billion more than we currently pay for Social Security.

Now, the Treasury has come up with a dangerous new gimmick to help my generation avoid some of these interest payments altogether. Zero-coupon bonds would permit the government to borrow money on its promise to repay the lender all of the interest plus the principal. This "balloon payment" would come at the end of a bond's life, instead of the yearly "coupon" installments that most bonds require. With ZCBs we could borrow $1,000 at today's 13 percent interest rate and not have to make a single payment during the next 20 years. At the end of this period, our children, not we, would come up with $13,300. It's a deal our kids can't refuse.

Borrowing with ZCBs would not be so reprehensible if we actually used the money to make productive investments in America's future. But we would not. The vast majority of our tax and spending policies over-indulge the living comforts of every interest group and voting bloc that has the power to influence an election. The natural outflow of this process is government that imposes sacrifice only on those who are least able to resist.

I fear that history will one day show that Congress stopped representing the interest of all Americans in the mid-20th Century, and began kow-towing to a selfish generation of voters who wouldn't be taxed or part with their benefits. Perhaps it will reflect that the consequence of this short-sightedness was a bitter struggle between the generations. For when our children comprehend the legacy of encumbrance we have provided them, they will justifiably respond with anger and indignation.

I will lead the fight in Congress to see that the Treasury cannot use zero-coupon bonds to rip off our young. Yet, this is only the first of many steps Congress must take if it is to again represent the long-term national interest. America is at a crossroads. We can either rediscover the nobility of self-sacrifice, or plague our children with the ignoble consequences of our own shortsightedness and greed.

Sincerely,

DAVE DURENBERGER,
U.S. Senator.●

ADDITIONAL COSPONSORS

S. 1746

At the request of Mr. RUDMAN, the name of the Senator from North Carolina [Mr. EAST] was added as a cosponsor of S. 1746, a bill to require that the Federal Government procure from the private sector of the economy the goods and services necessary for the operations and management of certain Government agencies and that the Director of the Office of Management and Budget and the Comptroller General of the United States identify the activities of the Federal Government to produce, manufacture, or otherwise provide goods and services which should be provided by the private sector and prepare a schedule for transferring such activities to the private sector.

S. 2105

At the request of Mr. HATFIELD, the name of the Senator from Connecticut [Mr. WEICKER] was added as a cosponsor of S. 2105, a bill to amend the Internal Revenue Code of 1954 to provide that a taxpayer conscientiously opposed to participation in war may elect to have his income, estate, or gift tax payments spent for nonmilitary purposes; to create a trust fund (the World Peace Tax Fund) to receive these tax payments; to establish a World Peace Tax Fund Board of Trustees; and for other purposes.

S. 2930

At the request of Mr. SYMMS, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 2930, a bill to repeal the changes made by the Tax Reform Act of 1984 with respect to the tax treat-

ment of debt instruments issued for property.

S. 2939

At the request of Mr. PERCY, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 2939, a bill to provide for an additional bankruptcy judgeship for the central district of Illinois.

S. 3021

At the request of Mr. STAFFORD, the names of the Senator from Montana [Mr. BAUCUS], the Senator from South Dakota [Mr. ABDNOR], the Senator from Maryland [Mr. MATHIAS], the Senator from Washington [Mr. EVANS], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Hawaii [Mr. INOUYE], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 3021, a bill to name the Federal Building in Elkins, WV, the "Jennings Randolph Federal Center."

SENATE JOINT RESOLUTION 249

At the request of Mr. INOUYE, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of Senate Joint Resolution 249, a joint resolution designating the week beginning March 4, 1984, as "National Weights and Measures Week."

SENATE RESOLUTION 458—ORIGINAL RESOLUTION REPORTED RELATING TO THE CLOSING OF THE OFFICE OF A SENATOR WHO DIES OR RESIGNS

Mr. MATHIAS, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 458

Resolved,

SECTION 1. (a) In the case of the death or resignation of a Senator during his term of office, the employees in the office of such Senator who are on the Senate payroll on the date of such death or resignation shall be continued on such payroll at their respective salaries for a period of not to exceed sixty days, or such greater number of days as may, in any particular case, be established by the Senate Committee on Rules and Administration as being required to complete the closing of the office of such Senator. Such employees so continued on the payroll of the Senate shall, while so continued, perform their duties under the direction of the Secretary of the Senate, and such Secretary shall remove from such payroll any such employees who are not attending to the duties for which their services are continued.

(b) In the case of the death or resignation of a Senator while holding the Office of President pro tempore, Deputy President pro tempore, Majority Leader, Minority Leader, Majority Whip, Minority Whip, Secretary of the Conference of the Majority, or Secretary of the Conference of the Minority, of the Senate, the employees of such office who are on the payroll of the Senate on the date of such death or resignation shall be continued on the Senate payroll in like manner and under the same conditions as are employees in the office of such Senator under subsection (a) of this section.

(c) No employee of the Senate who is continued on the payroll of the Senate under the preceding provisions of this section on account of the death or resignation of a Senator shall be continued on such payroll after the date of the expiration of the term of office of such Senator as a Senator, or, such later date as may, in any particular case, be established by the Senate Committee on Rules and Administration as being required to complete the closing of the office of such Senator.

(d) Payment of salaries of employees who are continued on the Senate payroll under authority of this section, and payment of agency contributions with respect to such salaries, shall be made from the account for Miscellaneous Items within the contingent fund of the Senate.

(e) During any period for which the employees of the office of a Senator, who has died or resigned, are continued on the Senate payroll under the first section of this resolution, official office expenses which are necessary in closing such Senator's office (or offices in case of a Senator who dies or resigns while holding an office referred to in subsection (b) of this section) shall be made from the account for Miscellaneous Items within the contingent fund of the Senate upon vouchers approved by the Secretary of the Senate; except that the aggregate of such expenses shall not exceed an amount equal to one-tenth of such Senator's official office expense account for the year in which he died or resigned.

(f) Duties to be performed by the Secretary of the Senate under this section and under section 2 of this resolution shall be performed under the direction of the Senate Committee on Rules and Administration.

SEC. 2. In the case of the death of any Senator, the Secretary of the Senate may, with respect to any item of expense for which payment had been authorized to be made from such Senator's official office expense account, certify for such deceased Senator for any sum already obligated but not certified to at the time of such Senator's death for payment to the person or persons designated as entitled to such payment by such Secretary.

SEC. 3. (a) The Sergeant at Arms and Doorkeeper of the Senate shall make such arrangements as may be necessary, in accordance with such regulations as the Senate Committee on Rules and Administration may prescribe, for:

(1) the funeral of a deceased Senator; and

(2) any committee appointed to attend the funeral of a deceased Senator.

(b) Expenses incurred in carrying out the provisions of subsection (a) of this section shall be paid from the account for Miscellaneous Items within the contingent fund of the Senate, on vouchers approved by the Sergeant at Arms and Doorkeeper of the Senate.

SEC. 4. The following Senate resolutions are repealed: S. Res. 5, 82d Congress (agreed to April 11, 1951), and S. Res. 354, 95th Congress (agreed to January 20, 1978).

SEC. 5. (a) Except as provided in subsection (b) of this section, the provisions of this resolution shall take effect upon the date it is agreed to by the Senate.

(b) The first section of this resolution shall take effect on the date that there is hereafter enacted a provision of law which (1) makes inapplicable to any employee of the Senate the provisions of the third paragraph under the heading "Clerical assistance to Senators" of the first section of the Legislative Appropriation Act for the fiscal year ending June 30, 1928 (2 U.S.C. 92a), and (2) repeals (A) the last paragraph under the heading "Clerical assistance to Senators" of the first section of the Legislative Branch Appropriation Act, 1944 (2 U.S.C. 92e), (B) the last paragraph under the heading "Clerical assistance to Senators" of the first section of the Legislative Branch Appropriations Act, 1945 (2 U.S.C. 92e), (C) the next-to-last paragraph under the heading "Clerical assistance to Senators" of the first section of the Legislative Branch Appropriation Act, 1946 (2 U.S.C. 92e), and (D) the next-to-last paragraph under the heading "Clerical assistance to Senators" of the first section of the Legislative Branch Appropriation Act, 1947 (2 U.S.C. 92e).

(c) After the date this resolution is agreed to, the Chairman of the Senate Committee on Rules and Administration shall make no further certifications under authority of section 506 (g) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58)(g)).

AMENDMENTS SUBMITTED

CONTINUING APPROPRIATIONS, 1985

METZENBAUM AMENDMENT NOS. 6858 THROUGH 6864

(Ordered to lie on the table.)

Mr. METZENBAUM submitted seven amendments intended to be proposed by him to amendment No. 5727 proposed by Mr. HATCH to the joint resolution (H.J. Res. 648) making continuing appropriations for the fiscal year 1985, and for other purposes; as follows:

AMENDMENT No. 6858

Beginning with "and" at the end of section 101(5), strike out through the end of section 101 and insert in lieu thereof a period.

AMENDMENT No. 6859

Strike out section 102(4)(B) of the amendment.

AMENDMENT No. 6860

Strike out section 103(3) of the amendment.

AMENDMENT No. 6861

Beginning with the comma at the end of section 103(5) of the amendment, strike out through "(7)" in section 103(7) and insert in lieu thereof "; and "(6)".

AMENDMENT No. 6862

In section 104, beginning with "is amended—", strike out through "(2)" the second place it appears and insert in lieu thereof "is amended".

AMENDMENT No. 6863

Beginning with "; and" at the end of section 103(b)(6) of the amendment, strike out through the end of section 103 and insert in lieu thereof a period.

AMENDMENT No. 6864

Beginning with the heading to section 107, strike out all of section 107.

DOLE AMENDMENTS NOS. 6865 THROUGH 6868

(Ordered to lie on the table.)

Mr. DOLE submitted four amendments intended to be proposed by him to the joint resolution House Joint Resolution 648, supra; as follows:

AMENDMENT No. 6865

Strike out all after the first section and insert in lieu thereof the following:

SEC. . (a) Section 901 of the Education Amendments of 1972 is amended to read as follows:

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity of an education institution, of a public or private agency, organization, corporation or partnership, or of any other entity to which Federal financial assistance is extended.".

SEC. 2. (b) Nothing in this section shall be construed to expand or narrow in any way the scope of coverage of the Age Discrimination Act of 1975, section 504 of the Rehabilitation Act of 1973, or Title VI of the Civil Rights Act of 1964 as such existed on February 27, 1984.

AMENDMENT No. 6866

In lieu of the matter proposed to be inserted, insert the following:

SEC. . (a) Section 901 of the Education Amendments of 1972 is amended to read as follows:

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity of an education institution, of a public or private agency, organization, corporation or partnership, or of any other entity to which Federal financial assistance is extended.".

SEC. 2. (b) Nothing in this section shall be construed to expand or narrow in any way the scope of coverage of the Age Discrimination Act of 1975, section 504 of the Rehabilitation Act of 1973, or Title VI of the Civil Rights Act of 1964 as such existed on February 27, 1984.

AMENDMENT No. 6867

In lieu of the matter proposed to be inserted, insert the following:

GROVE CITY DECISION

SEC. . (a) Title IX of the Education Amendments of 1972 is amended by adding at the end thereof the following new section:

"CONSTRUCTION

"SEC. 908. (a)(1) For purposes of this title, in the case of Federal financial assistance extended to an education institution, the phrase 'program or activity' shall include the entire educational institution to which the assistance is extended.

"(2) For the purposes of this subsection, the term 'educational institution' includes any school, college, or department thereof, but does not include any geographically separate and distinct campus.

"(b) In the application of the provisions of this title, the phrase 'program or activity' shall be construed without reference to the construction given to that phrase in the decision of the Supreme Court in *Grove City College, et al.* v. *Bell, Secretary of Education, et al.* (No. 82-792), decided February 28, 1984.".

(b) Section 504 of the Rehabilitation Act of 1973 is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection:

"(b)(1)(A) For purposes of this section, in the case of Federal financial assistance extended to an educational institution the phrase 'program or activity' shall include the entire educational institution to which the assistance is extended.

"(B) For the purposes of this paragraph, the term 'educational institution' includes any school, college, or department thereof, but does not include any geographically separate and distinct campus.

"(2) In the application of the provisions of this section, the phrase 'program or activity' shall be construed without reference to the construction given to that phrase in the decision of the Supreme Court in *Grove City College, et al.* v. *Bell, Secretary of Education, et al.* (No. 82-792), decided February 28, 1984.".

(c) The Age Discrimination Act of 1975 is amended by adding at the end thereof the following new section:

"CONSTRUCTION

"SEC. 310. (a)(1) For purposes of this title, in the case of Federal financial assistance extended to an educational institution the phrase 'program or activity' shall include the entire educational institution to which the assistance is extended.

"(2) For the purposes of this subsection, the term 'educational institution' includes any school, college, or department thereof, but does not include any geographically separate and distinct campus.

"(b) In the application of the provisions of this title, the phrase 'program or activity' shall be construed without reference to the construction given to that phrase in the decision of the Supreme Court in *Grove City College, et al.* v. *Bell, Secretary of Education, et al.* (No. 82-792), decided February 28, 1984.".

(d) Title VI of the Civil Rights Act of 1964 is amended by adding at the end thereof the following:

"CONSTRUCTION

"SEC. 606. (a)(1) For purposes of this title, in the case of Federal financial assistance extended to an educational institution the phrase 'program or activity' shall include the entire educational institution to which the assistance is extended.

"(2) For the purposes of this subsection, the term 'educational institution' includes any school, college, or department thereof, but does not include any geographically separate and distinct campus.

"(b) In the application of the provisions of this title, the phrase 'program or activity, shall be construed without reference to the construction given to that phrase in the decision of the Supreme Court in *Grove City College, et al.* v. *Bell, Secretary of Education, et al.* (No. 82-792), decided February 28, 1984."

AMENDMENT No. 6868

Strike out all after the first section and insert in lieu thereof the following:

GROVE CITY DECISION

SEC. . (a) Title IX of the Education Amendments of 1972 is amended by adding at the end thereof the following new section:

"CONSTRUCTION

"SEC. 908. (a)(1) For purposes of this title, in the case of Federal financial assistance extended to an education institution, the phrase 'program or activity' shall include the entire educational institution to which the assistance is extended.

"(2) For the purposes of this subsection, the term 'educational institution' includes any school, college, or department thereof, but does not include any geographically separate and distinct campus.

"(b) In the application of the provisions of this title, the phrase 'program or activity' shall be construed without reference to the construction given to that phrase in the decision of the Supreme Court in *Grove City College, et al.* v. *Bell, Secretary of Education, et al.* (No. 82-792), decided February 28, 1984.".

(b) Section 504 of the Rehabilitation Act of 1973 is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection:

"(b)(1)(A) For purposes of this section, in the case of Federal financial assistance extended to an educational institution the phrase 'program or activity' shall include the entire educational institution to which the assistance is extended.

"(B) For the purposes of this paragraph, the term 'educational institution' includes any school, college, or department thereof, but does not include any geographically separate and distinct campus.

"(2) In the application of the provisions of this section, the phrase 'program or activity' shall be construed without reference to the construction given to that phrase in the decision of the Supreme Court in *Grove City College, et al.* v. *Bell, Secretary of Education, et al.* (No. 82-792), decided February 28, 1984.".

(c) The Age Discrimination Act of 1975 is amended by adding at the end thereof the following new section:

"CONSTRUCTION

"SEC. 310. (a)(1) For purposes of this title, in the case of Federal financial assistance extended to an educational institution the phrase 'program or activity' shall include the entire educational institution to which the assistance is extended.

"(2) For the purposes of this subsection, the term 'educational institution' includes any school, college, or department thereof, but does not include any geographically separate and distinct campus.

"(b) In the application of the provisions of this title, the phrase 'program or activity' shall be construed without reference to the construction given to that phrase in the decision of the Supreme Court in *Grove City College, et al.* v. *Bell, Secretary of Education, et al.* (No. 82-792), decided February 28, 1984.".

(d) Title VI of the Civil Rights Act of 1964 is amended by adding at the end thereof the following:

"CONSTRUCTION

"SEC. 606. (a)(1) For purposes of this title, in the case of Federal financial assistance extended to an educational institution the phrase 'program or activity' shall include the entire educational institution to which the assistance is extended.

"(2) For the purposes of this subsection, the term 'educational institution' includes any school, college, or department thereof, but does not include any geographically separate and distinct campus.

"(b) In the application of the provisions of this title, the phrase 'program or activity' shall be construed without reference to the construction given to that phrase in the decision of the Supreme Court in *Grove City College, et al.* v. *Bell, Secretary of Education, et al.* (No. 82-792), decided February 28, 1984.".

SURFACE TRANSPORTATION AMENDMENTS

BAKER AMENDMENT NO. 6869

Mr. BAKER proposed an amendment to the amendment of the House to the amendment of the Senate to the bill (H.R. 3103) to increase the amount authorized to be expended for emergency relief under title 23, United States Code, in fiscal year 1983 from $100 million to $250 million, and for other purposes; as follows:

AMENDMENT No. 6869

In lieu of the language proposed to be inserted, insert the following: That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, or other orgnizational units of the Government for the fiscal year 1985, and for other purposes, namely:

SEC. 101. Such amounts as may be necessary to continue projects and activities which were conducted in the fiscal year 1984, and for which provision was made in the following appropriation Acts for the fiscal year 1984, at the current rate and under the current terms and conditions unless otherwise specifically provided by this joint resolution:

Agriculture, Rural Development, and Related Agencies Appropriations Act, 1984, as enacted by section 101(d) of Public Law 98-151;

Department of Defense Appropriation Act, 1984, Public Law 98-212;

District of Columbia Appropriation Act, 1984, Public Law 98-125;

Foreign Assistance Appropriations, 1984, as enacted by section 101(b) of Public Law 98-151;

Department of the Interior and Related Agencies Appropriation Act, 1984, Public Law 98-146;

Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1984, Public Law 98-139;

Military Construction Appropriation Act, 1984, Public Law 98-116;

Department of Transportation and Related Agencies Appropriation Act, 1984, Public Law 98-78;

Treasury, Postal Service and General Government Appropriation Act, 1984, as enacted by section 101(f) of Public Law 98-151.

SEC. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1984, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation act by both Houses without any provision for such project or activity, or (c) October 2nd 1984, whichever first occurs.

SEC. 103. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 105. Any appropriation for the fiscal year 1985 required to be apportioned pursuant to subchapter II of chapter 15 of title 31, United States Code, may be apportioned on a basis indicating the need (to the extent any such increases cannot be absorbed within available appropriations) for a supplemental or deficiency estimate of appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees and to active and retired military personnel. Each such appropriation shall otherwise be subject to the requirements of subchapter II of chapter 15 of title 31, United States Code.

SEC. 106. No appropriation or funds made available or authority granted to the Department of Defense pursuant to this resolution shall be used for new production of items not funded for production in fiscal year 1984 or prior years, for the increase in production rates above those sustained with fiscal year 1984 funds or to initiate, resume or continue any project, activity, operation or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during the fiscal year 1984.

No appropriation or funds made available or authority granted to the Department of Defense pursuant to this resolution shall be used to initiate multiyear procurements utilizing advance procurement funding for economic order quantity procurement.

The appropriations or funds made available or authority granted to the Department of Defense pursuant to this resolution for procurement of MX missiles shall be in accordance with and subject to all the limitations, restrictions, and conditions set forth in the Department of Defense Authorization Act, 1985 (H.R. 5167), as passed by the Congress on September 27, 1984.

The appropriations or funds made available or authority granted to the Department of Defense pursuant to this resolution for testing of the Space Defense System (anti-satellite weapon) shall be in accordance with and subject to all the limitations, restrictions and conditions set forth in the Department of Defense Authorization Act, 1985 (H.R. 5167), as passed by the Congress on September 27, 1984.

CONTINUING APPROPRIATIONS, 1985

SPECTER AMENDMENTS NOS. 6870 THROUGH 6872

(Ordered to lie on the table.)

Mr. SPECTER proposed three amendments to the joint resolution House Joint Resolution 648, supra; as follows:

AMENDMENT No. 6870

At the end of the joint resolution, add the following:

SEC. . The land acquisition and relocation authorized for Centralia Pennsylvania under Chapter IV of Public Law 98-181 shall not require any matching share of funding from the State of Pennsylvania under Section 407(e) of the "Surface Mining Control and Reclamation Act of 1977".

AMENDMENT No. 6871

At the end of the joint resolution, add the following:

SEC. . Within available funds, the Secretary of the Army, Acting through the Chief of Engineers, is authorize and directed to perform necessary channel and associate work in connection with the Turtle Creek, Pennsylvania, local protection project.

AMENDMENT No. 6872

At the end of the joint resolution, add the following:

SEC. . The Secretary of the Army, acting through the Chief of Engineers, is authorized to implement a project for flood damage prevention at Milton, Northumberland, County, Pennsylvania, on the west branch of the Susquehanna River, substantially in accordance with the report of the Corps of Engineers entitled "Local Flood Protection Study at Milton, Pennsylvania" dated July 13, 1977, at an estmated cost of $87,000,000.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION, 1985

SPECTER AMENDMENT NO. 6873

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill (H.R. 5973) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1985, and for other purposes; as follows:

On page 56, line 26, strike out "$30,295,000" and insert in lieu thereof "$32,295,000".

On page 57, line 2, after "expended" insert the following: ", of which $2,000,000 shall be available for the purchase of subsurface mineral rights in Allegheny National Forest, Pennsylvania".

CONTINUING APPROPRIATIONS, 1985

SPECTER AMENDMENT NO. 6874

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the joint resolution House Joint Resolution 648, supra; as follows:

At the appropriate place in the resolution, insert the following: "Section 9(1) of the

Urban Mass Transportation Act is extended through September 30, 1985.

MATHIAS AMENDMENT NO. 6875

(Ordered to lie on the table.)

Mr. MATHIAS submitted the following amendment intended to be proposed by him to the continuing resolution House Joint Resolution 648, supra; as follows:

At the appropriate place in the continuing resolution, insert the following new section:

SEC. . (a) The provisions of the third paragraph under the heading "Clerical assistance to Senators" of the first section of the Legislative Branch Appropriation Act for the fiscal year ending June 30, 1982 (2 U.S.C. 92a) shall not be applicable to any employee of the Senate.

(b) The following provisions of law are hereby repealed: (1) the last paragraph under the heading "Clerical assistance to Senators" of the first section of the Legislative Branch Appropriation Act, 1944 (2 U.S.C. 92e), (2) the last paragraph under the heading "Clerical assistance to Senators" of the first section of the Legislative Branch Appropriation Act, 1945 (2 U.S.C. 92e), (3) the next-to-last paragraph under the heading "Clerical assistance to Senators" of the first section of the Legislative Branch Appropriation Act, 1946, (2 U.S.C. 92e), and (4) the next-to-last paragraph under the heading "Clerical assistance to Senators" of the first section of the Legislative Branch Appropriation Act, 1947 (2 U.S.C. 92e).

(c) The second proviso of the paragraph of section 101 of the Legislative Branch Appropriation Act, 1974, which appears under the heading "Committee Employees" (2 U.S.C. 68-1) is amended by striking out "the committee Auditor and the committee Assistant Auditor" and inserting in lieu thereof "any employee or employees of such Committee".

● Mr. MATHIAS. Mr. President, the amendment I am proposing is a measure complementary to an original resolution reported by the Rules Committee establishing administrative guidelines to be followed in the event of the death or resignation of a Senator. Simply stated, the amendment will make inapplicable to the Senate a 1928 law which retains the staff of deceased Members of Congress on the payroll of the respective Houses for a period of not to exceed 1 month. The amendment also repeals statutory language enacted by the legislative branch Appropriations Acts for the years 1944 through 1947 which authorizes the staff of deceased Senators to be retained on the Senate payroll, notwithstanding the 1928 act, for a period of up to 60 days. The resolution reported by the Rules Committee will authorize the retention of the staff of a deceased or resigned Senator for a period not to exceed 60 days or the expiration of the Senator's term of office, whichever comes first. However, with the removal of the statutory restrictions previously mentioned, the Committee on Rules and Administration would be authorized to retain staff beyond 60 days if circumstances should warrant such an extension. Such circumstances existed just 1 year ago after the death of Senator Henry Jackson. Because of the volume of files and records amassed over 30 years of Senate service, the 60-day period provided by law was not sufficient for the retained staff to complete the various tasks required for closing the office. In fact, some of the staff worked well beyond their removal from the Senate payroll in order to see the job finished properly.

This amendment also includes language which amends the current law allowing the chairman of the Committee on Rules and Administration to designate two employees to approve voucher payments from the contingent fund of the Senate. Because of the increasing volume of vouchers processed annually by the Rules Committee auditors created the need to hire a third auditor last year, this amendment will allow the chairman to designate such employees as may be necessary to approve vouchers on his behalf. It is anticipated that this provision will ultimately result in an increased turn around time for voucher payments.

I urge the adoption of this amendment.●

FEDERAL-AID HIGHWAY ACT

MATHIAS AMENDMENT NO. 6876

(Ordered to lie on the table.)

Mr. MATHIAS submitted an amendment intended to be proposed by him to the bill (S. 3024) to approve the interstate and interstate substitute cost estimates, to amend title 23 of the United States Code, and for other purposes; as follows:

In section 138(b) strike "1989" and insert in lieu thereof "1985".

CONTINUING APPROPRIATIONS, 1985

DECONCINI AMENDMENT NO. 6877

(Ordered to lie on the table.)

Mr. DECONCINI submitted an amendment intended to be proposed by him to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of the amendment add the following new section:

SEC. . (a)(1) Notwithstanding any provision of title XX of the Social Security Act, the amount applicable under section 2003(c)(3) of such Act shall be $2,725,000,000 for fiscal year 1985. Of such amount, $25,000,000 shall be allotted and used in accordance with this section.

(2) In addition to any other amounts appropriated under this resolution or any Act, there are hereby appropriated $35,000,000 for fiscal year 1985 for carrying out title XX of the Social Security Act, to be used in accordance with the provisions of this section.

(3) Amounts appropriated under this section shall remain available until September 30, 1985, without regard to section 102 of this resolution.

(4) Except as otherwise provided in this section, each State's allotment of the additional amounts authorized and appropriated under this section shall be the same proportion of $25,000,000 as such State's proportional allotment of other title XX funds for fiscal year 1985, as determined under section 2003 of the Social Security Act.

(b) The additional $25,000,000 made available to the States for fiscal year 1985 pursuant to subsection (a) shall—

(1) be used only for the purpose of providing training and retraining in the prevention of child abuse (including training in the prevention of child abuse in child care settings) to providers of licensed or registered child care services, operators and staffs (including those receiving in-service training) of facilities where licensed or registered child care services are provided, State licensing and enforcement officials, and parents;

(2) be expended only to supplement the level of any funds that would, in the absence of the additional funds appropriated under this section, be available from other sources (including any amounts available under title XX of the Social Security Act without regard to this section) for the purpose specified in paragraph (1), and shall in no case supplant such funds from other sources or reduce the level thereof; and

(3) be separately accounted for in the reports and audits provided for in section 2006 of the Social Security Act.

(c) No more than one-half of the amount by which any State's allotment under title XX of the Social Security Act is increased as a result of subsection (a) shall actually be paid to such State unless such State has in effect procedures (established by or under State law and funded from sources other than title XX of the Social Security Act) for appropriately screening and conducting background and criminal history record checks of providers of licensed or registered child care services and operators and staffs of facilities where licensed or registered child care services are provided, in accordance with standards specified in or established under State law, with the objective of protecting the children involved and promoting their safety and welfare while such children are receiving child care services.

(d) The determination and promulgation required by section 2003(b) of the Social Security Act with respect to the fiscal year 1985 (to take into account the preceding provisions of this section) shall be made as soon as possible after the date of the enactment of this Act.

GOLDWATER AMENDMENT NO. 6878

(Ordered to lie on the table.)

Mr. GOLDWATER submitted an amendment intended to be proposed by him to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of the resolution, add the following new section:

SEC. . Notwithstanding any other provision of law, no funds appropriated by this joint resolution may be used to administer, enforce or implement any agreement which denies the equal opportunity of every person to obtain and retain employment without discrimination on the basis of union membership or nonmembership.

GOLDWATER AMENDMENTS NOS. 6879 AND 6880

(Ordered to lie on the table.)

Mr. GOLDWATER submitted two amendments intended to be proposed by him to amendment No. 5508 proposed by Mr. BYRD (for Mr. KENNEDY) to the joint resolution (H.J. Res. 648), supra; as follows:

AMENDMENT No. 6879

At the end of the section in the amendment headed "NONDISCRIMINATION BY RECIPIENTS OF FEDERAL FINANCIAL ASSISTANCE" add the following:

(d) Section 601 of title VI is further amended by inserting immediately after "color" a comma and "union membership or nonmembership".

AMENDMENT No. 6880

At the end of the amendment, add the following new section:

NONDISCRIMINATION ON THE BASIS OF UNION MEMBERSHIP OR NONMEMBERSHIP

SEC. . Title VII of the Civil Rights Act of 1964 is amended by adding at the end thereof the following new section:

"SEC. 719. In order to secure and protect the Constitutional right of association, the fundamental liberty of free labor and the Fourteenth Amendment right to enjoy equal protection of the laws and to prevent employment discrimination, the equal opportunity of every person to obtain and retain employment shall not be denied on the basis of union membership or nonmembership. The Equal Employment Opportunity Commission shall have authority to enforce this section through appropriate remedies in accordance with the procedure set forth in section 706 of this title."

STAFFORD (AND OTHERS) AMENDMENT NO. 6881

(Ordered to lie on the table.)

Mr. STAFFORD (for himself, Mr. RANDOLPH, Mr. CHAFEE, Mr. MITCHELL, Mr. HUMPHREY, Mr. LAUTENBERG, Mr. HART, Mr. MOYNIHAN, Mr. BINGAMAN, Mr. BRADLEY, Mr. CRANSTON, and Mr. LEAHY) submitted an amendment intended to be proposed by them to the joint resolution House Joint Resolution 648, supra; as follows:

At the appropriate place, insert the following new title:

TITLE —SUPERFUND AMENDMENTS

This title may be cited as the "Superfund Amendments of 1984".

Subtitle A—Provisions Relating to Response, Compensation, and Liability

INDIAN TRIBES

SEC. . (a) Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended—

(1) by striking "and" at the end of paragraph (31), striking the period at the end of paragraph (32), and adding a new paragraph as follows:

"(33) 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village but not including any Alaska Native regional or village corporation, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and";

(2) in paragraph (16) by striking "or" the last time it appears and by inserting before the semicolon at the end thereof the following: ", any Indian tribe, or, if such resources are subject to a trust restriction on alienation, any member of an Indian tribe".

(b) Section 104(c)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following: "In the case of remedial action to be taken on land or water held by an Indian tribe, held by the United States in trust for Indians, held by a member of an Indian tribe (if such land or water is subject to a trust restriction on alienation), or otherwise within the borders of an Indian reservation, the requirements of this paragraph for assurances regarding future maintenance and cost-sharing shall not apply, and the President shall provide the assurance required by this paragraph regarding the availability of a hazardous waste disposal facility.".

(c) Section 104(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting "or Indian tribe" after the phrase "political subdivision thereof" both times that phrase occurs, and by inserting "or Indian tribe" after the phrase "political subdivision" both times that phrase occurs.

(d) Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended—

(1) in subsection (a) by inserting "or an Indian tribe" after "State";

(2) in subsection (f) by inserting after "State" the third time that word appears the following: "and to any Indian tribe for natural resources belonging to, managed by, controlled by, or appertaining to such tribe, or held in trust for the benefit of such tribe, or belonging to a member of such tribe if such resources are subject to a trust restriction on alienation:"; by inserting "or Indian tribe" after "State" the fourth time that word appears; by adding before the period at the end of the first sentence the following: ", so long as, in the case of damages to an Indian tribe occuring pursuant to a Federal permit or license, the issuance of that permit or license was not inconsistent with the fiduciary duty of the United States with respect to such Indian tribe"; and by inserting "or the Indian tribe" after "State government";

(3) in subsection (i) by inserting "or Indian tribe" after "State" the first time it appears; and

(4) in subsection (j) by inserting "or Indian tribe" after "State" the first time it appears.

(e) Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended—

(1) in subsection (b) by inserting before the period at the end thereof the following: ", or by any Indian tribe or by the United States acting on behalf of any Indian tribe for natural resources belonging to, managed by, controlled by, or appertaining to such tribe, or held in trust for the benefit of such tribe, or belonging to a member of such tribe if such resources are subject to a trust restriction on alienation";

(2) in subsection (c)(2) by inserting "or Indian tribe" after "State";

(3) in subsection (f) by inserting "or Indian tribe" after "State"; and

(4) in subsection (i) by inserting after "State," the following: "and by the governing body of any Indian tribe having sustained damage to natural resources belonging to, managed by, controlled by, or appertaining to such tribe, or held in trust for the benefit of such tribe, or belonging to a member of such tribe if such resources are subject to a trust restriction on alienation,".

(f) Section 112(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as rewritten by this Act) is amended by adding before the period at the end of the proviso the following: ", nor against an Indian tribe until the United States, in its capacity as trustee for the tribe, gives written notice to the governing body of the tribe that it will not present a claim or commence an action on behalf of the tribe or fails to present a claim or commence an action within the time limitations specified in this subsection".

(g) Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following new section:

"INDIAN TRIBES

"SEC. 116. The governing body of an Indian tribe shall be afforded substantially the same treatment as a State with respect to the provisions of section 103(a) (regarding notification of releases), section 104(c)(2) (regarding consultation on remedial actions), section 104(e) (regarding access to information), section 104(i) (regarding cooperation in establishing and maintaining national registries), and section 105 (regarding roles and responsibilities under the national contingency plan and submittal of priorities for remedial action, but not including the provision regarding the inclusion of at least one facility per State on the national priority list).".

COMMUNITY RELOCATION

SEC. . (a) The second sentence of paragraph (23) of section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Public Law 96-510) is amended by inserting after "not otherwise provided for," the phrase "costs of permanent relocation of residents where it is determined that such permanent relocation is cost effective or may be necessary to protect health or welfare," and by striking out the semicolon at the end thereof and inserting in lieu thereof a period and the following: "In the case of a business located in an area of evacuation or relocation, the term may also include the payment of those installments of principal and interest on business debt which accrue between the date of evacuation or temporary relocation and thirty days following the date that permanent relocation is actually accomplished or, if permanent relocation is formally rejected as the appropriate response, the date on which evacuation or temporary relocation ceases. In the case of an individual unemployed as a result of such evacuation or relocation, it may also include the provision of assistance identical to that authorized by sections 407, 408, and 409 of the Disaster Relief Act of 1974: *Provided,* That the costs of such assistance shall be paid from the Trust Fund;".

(b) Section 104(c)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Public Law 96-510) is amended by inserting before "authorized by subsection (b) of this section," the phrase "for permanent relocation or".

ALTERNATIVE WATER SUPPLIES

SEC. . Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, is amended by striking the period at the end of paragraph (30) and inserting in lieu thereof a semi-

colon; and by adding after new paragraph (33) the following new paragraph:

"(34) 'alternative water supplies' includes, but is not limited to, drinking water and household water supplies.".

STATE CREDIT

SEC. . (a) Section 104(c)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking "The President shall grant the State a credit against the share" and all that follows down through the end of such section 104(c)(3) and inserting in lieu thereof the following: "In determining the portion of the costs referred to in this section which is required to be paid by a participating State, the President shall grant the State a credit for amounts expended or obligated by such State or by a political subdivision thereof after January 1, 1978, and before December 11, 1980, for any response action costs which are covered by section 111(a) (1) or (2) and which were incurred at a facility or release listed pursuant to section 105(8). Such credit shall have the effect of reducing the amount which the State would otherwise be required to pay in connection with assistance under this section.".

(b)(1) Section 104(d)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new sentence: "For the purposes of the last sentence of subsection (c)(3) of this section, the President may enter into a contract or cooperative agreement with a State under this paragraph under which such State will take response actions in connection with releases listed pursuant to section 105(8)(B), using non-Federal funds for such response actions, in advance of and without any obligation by the President of amounts from the Fund for such response actions.".

(2) Section 104(c)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is further amended by adding the following sentence: "The President shall grant the State a credit against the share of costs for which it is responsible under this paragraph for any reasonable, documented, direct out-of-pocket non-Federal funds expended or obligated by the State under a contract or cooperative agreement under the last sentence of subsection (d)(1).".

FUNDING OF REMEDIAL ACTION AT FACILITY OWNED BY A STATE OR POLITICAL SUBDIVISION BUT OPERATED PRIVATELY

SEC. . Section 104(c)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended—

(1) by amending section 104(c)(3)(C)(ii) to read as follows:

"(ii) 50 per centum (or such greater amount as the President may determine appropriate, taking into account the degree of responsibility of the State or political subdivision for the release) of the capital, future operation, and future maintenance costs of the response action relating to a release at a facility, primarily used for treatment, storage, or disposal, that was owned and operated by the State or a political subdivision thereof at the time of any disposal of hazardous substances in such facility. For the purpose of subparagraph (c)(ii) of this paragraph, the term 'facility' does not include navigable waters or the beds underlying those waters."; and

(2) by adding at the end thereof the following: "In the case of any State which has paid, at any time after the date of the enactment of the Superfund Amendments of 1984, in excess of 10 percent of the costs of remedial action at a facility owned but not operated by such State or by a political subdivision thereof, the President shall use money in the Fund to provide reimbursement to such State for the amount of such excess.".

SELECTION OF REMEDIAL ACTIONS

SEC. . Section 104(c)(4) of the comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

"(4)(A) The President shall select appropriate remedial actions determined to be necessary to carry out this section which, to the extent practicable, are in accordance with the national contingency plan and which provide for cost-effective response. In evaluating the cost-effectiveness of proposed alternative remedial actions, the President shall take into account the total short- and long-term costs of such actions, including the costs of operation and maintenance for the entire period during which such activities will be required.

"(B) Remedial actions in which treatment which significantly reduces the volume, toxicity or mobility of the hazardous substances is a principal element, are to be preferred over remedial actions not involving such treatment. The offsite transport and disposal of hazardous substances or contaminated materials without such treatment should be the least favored alternative remedial action, where practicable treatment technologies are available.

"(C) Remedial actions selected under this paragraph or otherwise required or agreed to by the President under this Act shall attain a degree of cleanup of hazardous substances, pollutants and contaminants from the environment and of control of further release at a minimum which assures protection of human health and the environment. Such remedial actions shall be relevant and appropriate under the circumstances presented by the release or threatened release of such substance, pollutant, or contaminant.

"(D) No permit shall be required under subtitle C of the Solid Waste Disposal Act for the portion of any removal or remedial action conducted pursuant to this Act entirely onsite: *Provided*, That any onsite treatment, storage, or disposal of hazardous substances, pollutants or contaminants shall comply with the requirements of subparagraph (C).

"(E) Subject to the requirements of this paragraph, the President, shall select the appropriate remedial action which provides a balance between the need for protection of public health and welfare and the environment at the facilty under consideration, and the availability of amounts from the Fund to respond to other sites which present or may present a threat to public health or welfare or the environment, taking into consideration the relative immediacy of such threats.".

STATE AND FEDERAL CONTRIBUTIONS TO OPERATION AND MAINTENANCE

SEC. . Section 104(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new paragraphs:

"(5) For the purposes of paragraph (3) of this subsection, in the case of ground or surface water contamination, completed remedial action includes the completion of treatment or other measures, whether taken onsite or offsite, necessary to restore ground and surface water quality to a level that assures protection of human health and the environment. With respect to such measures, the operation of such measures for a period up to five years after the construction or installation and commencement of operation shall be considered remedial action. Activities required to maintain the effectiveness of such measures following such period or the completion of remedial action, whichever is earlier, shall be considered operation or maintenance.

"(6) During any period after the availability of funds received by the Trust Fund under sections 4611 and 4661 of the Internal Revenue Code of 1954 or section 221(b)(2) of this Act, the Federal share of the payment of costs for operation and maintenance pursuant to paragraph (3)(C)(1) or paragraph (5) of this subsection shall be from funds received by the Trust Fund under section 221(b)(1)(B).".

SITING OF HAZARDOUS WASTE FACILITIES

SEC. . Section 104(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new paragraph:

"(7) Effective four years after the date of enactment of this paragraph, the President shall not provide any remedial actions pursuant to this section unless the State in which the release occurs first enters into a contract or cooperative agreement with the President providing assurances deemed adequate by the President that the State will assure the availability of hazardous waste treatment or disposal facilities acceptable to the President and in compliance with the requirements of subtitle C of the Solid Waste Disposal Act with adequate capacity for the destruction, treatment, or secure disposition of all hazardous wastes that are reasonably expected to be generated within the State during the 20-year period following the date of such contract or cooperative agreement and to be disposed of, treated, or destroyed.".

COOPERATIVE AGREEMENTS

SEC. . Section 104(d)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking all of the existing paragraph (other than that added by this Act) and substituting the following:

"(d)(1) Where the President determines that a State or political subdivision has the capability to carry out any or all the actions authorized in this section, the President may, in his discretion, enter into a contract or cooperative agreement and combine any existing cooperative agreements with such State or political subdivision to take such actions in accordance with criteria and priorities established pursuant to Section 105(8) of this title and to be reimbursed from the Fund for the reasonable response costs and related activities associated with the overall implementation, coordination, enforcement, training, community relations, site inventory and assessment efforts, and administration of remedial activities authorized by this Act. Any contract made hereunder shall be subject to the cost-sharing provisions of subsection (c) of this section.".

HEALTH-RELATED AUTHORITIES

SEC. . (a) Section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting "(1)" after "(i)", by redesignating paragraphs (1), (2), (3), (4), and (5) as subparagraphs (A), (B), (C), (D), and (E),

and by adding the following new paragraphs:

"(2) The Agency for Toxic Substances and Disease Registry shall provide consultations upon request on health issues relating to exposure to hazardous or toxic substances, on the basis of available information, to the Environmental Protection Agency, State officials, and local officials. Such consultations to individuals may be provided by States under cooperative agreements established under this Act.

"(3)(A) The Administrator shall perform a health assessment for each release, threatened release or facility on the National Priority List established under section 105. Such health assessment shall be completed not later than two years after the date of enactment of the Superfund Amendments of 1984 for each release, threatened release or facility proposed for inclusion on such list prior to such date of enactment or not later than one year after the date of proposal for inclusion on such list for each release, threatened release or facility proposed for inclusion on such list after such date of enactment. The Administrator shall also perform a health assessment for each facility for which one is required under section 3005(j) of the Solid Waste Disposal Act and, upon request of the Administrator of the Environmental Protection Agency or a State, for each facility subject to this Act or subtitle C of the Solid Waste Disposal Act, where there is sufficient data as to what hazardous substances are present in such facility.

"(B) The Administrator may perform health assessments for releases or facilities where individual persons or licensed physicians provide information that individuals have been exposed to a hazardous substance, for which the probable source of such exposure is a release. In addition to other methods (formal or informal) of providing such information, such individual persons or licensed physicians may submit a petition to the Administrator providing such information and requesting a health assessment. If such a petition is submitted and the Administrator does not initiate a health assessment, the Administrator shall provide a written explanation of why a health assessment is not appropriate.

"(C) In determining sites at which to conduct health assessments under this paragraph, the Administrator of the Agency for Toxic Substances and Disease Registry shall give priority to those facilities or sites at which there is documented evidence of release of hazardous substances, at which the potential risk to human health appears highest, and for which in the judgment of the Administrator of such Agency existing health assessment data is inadequate to assess the potential risk to human health as provided in subparagraph (E).

"(D) Any State or political subdivision carrying out an assessment shall report the results of the assessment to the Administrator of such Agency, and shall include recommendations with respect to further activities which need to be carried out under this section. The Administrator of such agency shall include the same recommendation in a report on the results of any assessment carried out directly by the Agency, and shall issue periodic reports which include the results of all the assessments carried out under this paragraph.

"(E) For the purposes of this subsection and section 111(c)(4), the term 'health assessments' shall include preliminary assessments of the potential risk to human health posed by individual sites and facilities, based on such factors as the nature and extent of contamination, the existence of potential for pathways of human exposure (including ground or surface water contamination, air emissions, and food chain contamination), the size and potential susceptibility of the community within the likely pathways of exposure, the comparison of expected human exposure levels to the short-term and long-term health effects associated with identified contaminants and any available recommended exposure or tolerance limits from such contaminants, and the comparison of existing morbidity and mortality data on diseases that may be associated with the observed levels of exposure. The assessment shall include an evaluation of the risks to the potentially affected population from all sources of such contaminants, including known point or nonpoint sources other than the site or facility in question. A purpose of such preliminary assessments shall be to help determine whether full-scale health or epidemiological studies and medical evaluations of exposed populations shall be undertaken.

"(F) At the completion of each health assessment the Administrator shall provide the Administrator of the Environmental Protection Agency and each affected State with the results of such assessment, together with any recommendations for further action under this subsection or otherwise under this Act.

"(G) In any case in which a health assessment performed under the paragraph (including one required by section 3005(j) of the Solid Waste Disposal Act) discloses the exposure of a population to the release of a hazardous substance, the cost of such health assessment may be recovered as a cost of response under section 107 of this Act from persons causing or contributing to such release of such hazardous substance or, in the case of multiple releases contributing to such exposure, to all such releases.

"(4) Whenever, in the judgment of the Administrator, it is appropriate on the basis of the results of a health assessment, the Administrator shall conduct a pilot study of health effects for selected groups of exposed individuals, in order to determine the desirability of conducting full scale epidemiological or other health studies of the entire exposed population. Whenever in the judgment of the Administrator it is appropriate on the basis of the results of such pilot study, the Administrator shall conduct such full scale epidemiological or other health studies as may be necessary to determine the health effects for the population exposed to hazardous substances in a release or suspected release.

"(5) In any case in which the results of a health assessment indicate a potential significant risk to human health, the administrator shall consider whether the establishment of a registry of exposed persons would contribute to accomplishing the purposes of this subsection, taking into account circumstances bearing on the usefulness of such a registry, including the seriousness or unique character of idenfified diseases or the likelihood of population migration from the affected area.

"(6) The Administrator shall conduct a study, and report to the Congress within two years after the date of enactment of the Superfund Amendments of 1984, on the usefulness, costs, and potential implications of medical surveillance programs as a part of the health studies authorized by this section. Such study shall include, at a minimum, programs which identify diseases for which an exposed population is at excess risk, provide periodic medical testing to screen for such diseases in subgroups of the exposed population at highest risk, and provide for a mechanism to refer for treatment individuals who are diagnosed as having such diseases.

"(7) If a health assessment or other study carried out under this subsection contains a finding that the exposure concerned presents a significant risk to human health, the President shall take such steps as may be necessary to reduce such exposure and eliminate or substantially mitigate the significant risk to human health. Such steps may include the use of any authority under this Act, including, but not limited to—

"(1) provision of alternative water supplies, and

"(2) permanent or temporary relocation of individuals.

"(8) In any case which is the subject of a petition, a health assessment or study, or a research program under this subsection, nothing in this subsection shall be construed to delay or otherwise affect or impair the authority of the President or the Administrator of the Environmental Protection Agency to exercise any authority vested in the President or such Administrator under any other provision of law (including, but not limited to, the imminent hazard authority of section 7003 of the Solid Waste Disposal Act) or the response and abatement authorities of this Act.

"(9)(A) The Administrator shall, within six months after the date of enactment of the Superfund Amendments of 1984, prepare a list of at least one hundred hazardous substances which the Administrator, in his sole discretion, determines are those posing the most significant potential threat to human health due to their common presence at the location of responses under section 104 or at facilities on the National Priority List or in releases to which a response under section 104 is under consideration. Within twenty-four months after enactment, the Administrator shall prepare a list of an additional one hundred or more such hazardous substances. The Administrator shall not less often than once every year thereafter add to such list other substances which are frequently so found or otherwise pose a potentially significant threat to human health by reason of their physical, chemical, or biological nature.

"(B) For each such hazardous substances listed pursuant to subparagraph (A), the Administrator shall assess whether adequate information on the health effects of such substance is available. For any such substance for which adequate information is not available (or under development), the Administrator shall assure the initiation of a program of research designed to determine the health effects (and techniques for development of methods to determine such health effects) of such substance. Where feasible, such program shall seek to develop methods to determine the health effects of such substance in combination with other substances with which it is commonly found. Such program shall include, but not be limited to—

"(i) laboratory and other studies to determine short, intermediate, and long-term health effects;

"(ii) laboratory and other studies to determine organ-specific, site-specific, and system-specific acute and chronic toxicity;

"(iii) laboratory and other studies to determine the manner in which such sub-

stances are metabolized or to otherwise develop an understanding of the biokinetics of such substances; and

"(iv) where there is a possibility of obtaining human data, the collection of such information.

"(C) In assessing the need to perform laboratory and other studies, as required by subparagraph (B), the Administrator shall consider—

"(i) the availability and quality of existing test data concerning the substance on the suspected health effect in question;

"(ii) the extent to which testing already in progress will, in a timely fashion, provide data that will be adequate to support the preparation of toxicological profiles as required by subparagraph (F) of this paragraph; and

"(iii) such other scientific and technical factors as the Administrator may determine are necessary for the effective implementation of this subsection.

"(D) In the development and implementation of any research program under this paragraph, the Administrator of the Agency for Toxic Substances and Disease Registry and the Administrator of the Environmental Protection Agency shall coordinate such research program implemented under this paragraph with programs of toxicological testing established under the Toxic Substances Control Act and the Federal Insecticide, Fungicide and Rodenticide Act. The purpose of such coordination shall be to avoid duplication of effort and to assure that the hazardous substances listed pursuant to this subsection are tested thoroughly at the earliest practicable date. Where appropriate in the discretion of the Administrator and consistent with such purpose, a research program under this paragraph may be carried out using such programs of toxicological testing.

"(E) It is the sense of the Congress that the costs of research programs under this paragraph be borne by the manufacturers of the hazardous substance in question, as required in programs of toxicological testing under the Toxic Substances Control Act. Where this is not practical, the costs of such research programs should be borne by parties responsible for the release of the hazardous substance in question. To carry out such intention, the costs of conducting such a research program under this paragraph shall be deemed a cost of response for the purposes of recovery under section 107 of such costs from a party responsible for a release of such hazardous substance.

"(F) Based on all available information, including data developed and collected on the health effects of hazardous substances under this paragraph, the Administrator shall prepare toxicological profiles sufficient to establish the likely effect on human health of each of the substances listed pursuant to subparagraph (A). Such profiles shall be revised and republished as necessary, but no less often than once every five years. Such profiles shall be provided to the States and made available to other interested parties.

"(10) All studies and results of research conducted under this subsection (other than health assessments) shall be reported or adopted only after appropriate peer review. Such peer review shall be conducted by panels consisting of no less than three nor more than seven members, who shall be disinterested scientific experts selected for such purpose by the Administrator on the basis of their reputation for scientific objectivity and the lack of institutional ties with any person involved in the conduct of the study or research under review. Support services for such panels shall be provided by the Agency for Toxic Substances and Disease Registry.

"(11) In the implementation of this subsection and other health-related authorities of this Act, the Administrator is authorized to establish a program for the education of physicians and other health professionals on methods of diagnosis and treatment of injury or disease related to exposure to toxic substances, through such means as the Administrator deems appropriate. Not later than one year after the date of enactment of the Superfund Amendments of 1984, the Administrator shall report to the Congress on the implementation of this paragraph.

"(12) For the purpose of implementing this subsection and other health-related authorities of this Act, the President shall provide adequate personnel to the Agency for Toxic Substances and Disease Registry, which shall be no fewer than one hundred full time equivalent employees.

"(13) The activities described in this subsection and section 111(c)(4) shall be carried out by the Agency for Toxic Substances and Disease Registry established by paragraph (1), either directly, or through cooperative agreements with States (or political subdivisions thereof) in the case of States (or political subdivisions) which the Administrator of such Agency determines are capable of carrying out such activities. Such activities shall include the provision of consultations on health information, and the conduct of health assesments, including those required under section 3005(j) of the Solid Waste Disposal Act, health studies and registries.".

(b) Section 111(c)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended—

(1) by inserting "in accordance with subsection (n) of this section and section 104(i)," after "(4)"; and

(2) by striking "epidemiologic studies" and inserting in lieu thereof "epidemiologic and laboratory studies and health assessments".

(c) Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following new subsection:

"(n) For fiscal year 1985, not less than $18,000,000 and, for each fiscal year thereafter, not less than five per centum of all sums appropriated from the Trust Fund or $50,000,000, whichever is less, shall be directly available to the Agency for Toxic Substances and Disease Registry and used for the purpose of carrying out activities described in subsection (c)(4) and section 104(i), including any such activities related to hazardous waste stored, treated, or disposed of at a facility having a permit under section 3005 of the Solid Waste Disposal Act. Any funds so made available which are not obligated by the beginning of the fourth quarter of the fiscal year in which made available shall be made available in the Trust Fund for other purposes.".

(d) Section 3005 of the Solid Waste Disposal Act is amended by adding the following new subsection:

"(j) EXPOSURE INFORMATION AND HEALTH ASSESSMENTS.—(1) Beginning on the date nine months after the enactment of the Solid Waste Disposal Act Amendments of 1984, each completed application for a permit under subsection (c) for a landfill or surface impoundment shall be accompanied by information reasonably ascertainable by the owner or operator on the potential for the public to be exposed to hazardous wastes or hazardous constituents through releases related to the unit. At a minimum, such information must address—

"(A) reasonably foreseeable potential releases from both normal operations and accidents at the unit, including releases associated with transportation to or from the unit;

"(B) the potential pathways of human exposure to hazardous wastes or constituents resulting from the releases described under subparagraph (A); and

"(C) the potential magnitude and nature of the human exposure resulting from such releases.

The owner or operator of a landfill or surface impoundment for which a completed application for a permit under subsection (c) has been submitted prior to such date shall submit the information required by this paragraph to the administrator (or the State, in the case of a State with an authorized program) no later than the date nine months after such date of enactment.

"(2) The administrator (or the State, in the case of a State with an authorized program) shall make the information required by paragraph (1), together with other relevant information, available to the Agency for Toxic Substances and Disease Registry established by section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. Whenever in the judgment of the Administrator of such Agency, the Administrator, or the State (in the case of a State with an authorized program), a landfill or a surface impoundment poses a substantial potential risk to human health, due to the existence of releases of hazardous constituents, the magnitude of contamination with hazardous constitutents which may be the result of a release, or the magnitude of the population exposed to such release or contamination, the Administrator of the Agency for Toxic Substances and Disease Registry shall conduct a health assessment in connection with such facility in accordance with section 104(i)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and take other appropriate action with respect to such risks as authorized by section 104 (b) and (i) of such act.

"(3) Any member of the public may submit evidence of releases of or exposure to hazardous constitutents from such a facility, or as to the risks or health effects associated with such releases or exposure, to the Administrator of the Agency for Toxic Substances and Diseases Registry, the Administrator, or the State (in the case of a State with an authorized program).".

(e) Section 104(i)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by—

(1) striking "the Surgeon General of the United States" and inserting in lieu thereof "the Secretary of Health and Human Services";

(2) inserting in the second sentence thereof after "of said Agency" the following: "(hereinafter in this subsection referred to as 'the Administrator')";

(3) striking "chromosomal testing" in subparagraph (D) and inserting in lieu thereof "appropriate testing".

PUBLIC PARTICIPATION

SEC. . Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following new subsection:

"(j) Before selection of appropriate remedial action to be undertaken by the United States or a State or before entering into a covenant not to sue or to forebear from suit or otherwise settle or dispose of a claim arising under this Act, notice of such proposed action and an opportunity for a public meeting in the affected area, as well as a reasonable opportunity to comment, shall be afforded to the public prior to final adoption or entry. Notice shall be accompanied by a discussion and analysis sufficient to provide a reasonable explanation of the proposal and alternative proposals considered.".

LOVE CANAL PROPERTY ACQUISITION

SEC. . Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding a new subsection as follows:

"(k) In determining priorities among releases and threatened releases under the National Contingency Plan and in carrying out remedial action under this section, the Administrator shall establish a high priority for the acquisition of all properties (including nonowner occupied residential, commercial, public, religious, and vacant properties) in the area in which, before May 22, 1980, the President determined an emergency to exist because of the release of hazardous substances and in which owner occupied residences have been acquired pursuant to such determination.

NATIONAL CONTINGENCY PLAN—HAZARD RANKING SYSTEM

SEC. . Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting "(a)" immediately following "105." and by adding the following at the end thereof:

"(b) Not later than twelve months after the date of enactment of the Superfund Amendments of 1984, the President shall revise the National Contingency Plan to reflect the requirements of such amendments. The portion of such Plan known as 'the National Hazardous Substance Response Plan' shall be revised to provide procedures and standards for remedial actions undertaken pursuant to this Act which are consistent with amendments made by the Superfund Amendments of 1984 relating to the selection of remedial action.

"(c) Not later than twelve months after the date of enactment of the Superfund Amendments of 1984 and after publication of notice and opportunity for submission of comments in accordance with section 553 of title 5, United States Code, the President shall by rule promulgate amendments to the hazard ranking system in effect on September 1, 1984. Such amendments shall assure, to the maximum extent feasible, that the hazard ranking system accurately assesses the relative degree of risk to human health and the environment posed by sites and facilities subject to review. The President shall establish an effective date for the amended hazard ranking system which is not later than eighteen months after the date of enactment of the Superfund Amendments of 1984 and such amended hazard ranking system shall be applied to any site or facility to be newly listed on the National Priority List after the effective date established by the President. Until such effective date of the regulations, the hazard ranking system in effect on September 1, 1984, shall continue in full force and effect.".

STATE AND LOCAL GOVERNMENT LIABILITY

SEC. . Section 107(d) of the Comprehensive Environmental Response, Compensation, and Liability Act to 1980 is amended by inserting "(1)" after "(d) and adding the following new language:

"(2) No State or local government shall be liable under this title for costs or damages as a result of nonnegligent actions taken in response to an emergency created by the release of a hazardous substance, pollutant, or contaminant generated by or from a facility owned by another person.".

CONTRACTOR INDEMNIFICATION

SEC. . Section 107(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting after paragraph (1) the following new paragraph and redesignating the succeeding paragraph accordingly:

"(2) The Administrator may, in contracting or arranging for response action to be undertaken under this Act, agree to hold harmless and indemnify a contracting party against claims, including the expenses of litigation or settlement, by third persons for death, bodily injury or loss of or damage to property arising out of performance of a cleanup agreement to the extent that such claim does not arise out of the negligence of the contracting party.".

DIRECT ACTION

SEC. . (a) Section 108 (c) and (d) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 is amended to read as follows:

"(c) In any case where the owner or operator is in bankruptcy, reorganization, or arrangement pursuant to the Federal Bankruptcy Code or where with reasonable diligence jurisdiction in the Federal Courts cannot be obtained over an owner or operator likely to be solvent at the time of judgment, any claim authorized by section 107 or 111 may be asserted directly against the guarantor providing evidence of financial responsibility. In the case of any action pursuant to this subsection, such guarantor shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

"(d) The total liability under this Act of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this Act: *Provided,* That nothing in this subsection shall be construed to limit any other State or Federal statutory, contractual or common law liability of a guarantor to its owner or operator including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim: *Provided further,* That nothing in this subsection shall be construed, interpreted or applied to diminish the liability of any person under section 107 or 111 of this Act or other applicable law.".

(b) Section 108(b)(2) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 is amended by adding the following: "Financial responsibility may be established by any one, or any combination, of the following: insurance, guarantee, surety bond, letter of credit, or qualification as a self-insurer. In promulgating requirements under this section, the President is authorized to specify policy or other contractual terms, conditions, or defenses which are necessary or are unacceptable in establishing such evidence of financial responsibility in order to effectuate the purposes of this Act.".

VICTIM ASSISTANCE DEMONSTRATION PROGRAM

SEC. . (a) Section 111(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking "and" at the end of the paragraph (5); by striking the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and by adding the following new paragraph:

"(7) the costs of grants, to each of five States selected by the Administrator, not to exceed a total of $30,000,000 per year, to establish and operate a program of assistance to individuals suffering injury resulting from exposure to the release of hazardous substances, as authorized under subsection (m).".

(b) Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new subsection:

"(m)(1) The Administrator shall, upon application pursuant to procedures established by the Administrator, select by no later than July 1, 1985, five States to each establish and operate for not less than a five-year period a program of assistance to individuals suffering injury resulting from exposure to hazardous substances. Each grant shall be in an amount of not less than $3,000,000 and not more than $18,000,000 for each of the fiscal years of 1986, 1987, 1988, 1989, and 1990. States shall be selected in the sole discretion of the Administrator on the basis of the following criteria:

"(A) the experience of State and local governments in administering programs which deal with the regulation of toxic chemicals;

"(B) the existence of an experience with a statutory scheme of response and liability of breadth similar to that ot this Act; and

"(C) the representative nature of the hazardous substance releases and exposures in terms of the identities and toxic characteristics of the substances found, the manner and degree of exposures, and the seriousness and duration of the diseases or illnesses caused.

"(2) Programs funded pursuant to this subsection shall, at a minimum, provide the following:

"(A) In the case of the population of any area or class of individuals in which no solvent responsible party who may be liable under section 107 is paying compensation for claims or providing assistance, comparable to assistance under this subsection, nor has accepted liability for such claims or assistance, and where the State determines, based on available information (including that submitted by members of such population or class or developed under section 104(i)), that—

"(i) exposure to a hazardous substance in a release has caused injury, illness, or disease;

"(ii) the population or class has been exposed to a hazardous substance in a release and a peer-reviewed epidemiological or other health study demonstrates a positive correlation between such exposure and an adverse health effect in such population or class;

"(iii) the population or class has been exposed to a hazardous substance in a release and there is evidence that members of the population or class have adverse health effects that enter remission when exposure is temporarily eliminated; or

"(iv) members of the population or class have an injury, illness, or disease which is only associated with exposure to a particular hazardous substance (where such injury, illness, or disease cannot be attributed to exposure in the workplace),

such population, or class shall be eligible for the assistance provided in subparagraph (B).

"(B) Subject to subparagraph (C), the State shall provide each member of an eligible population or class under paragraph (1) with the following assistance:

"(i) a group insurance policy providing burial benefits, where death is reasonably related to injury, illness, or disease associated with exposure to a hazardous substance in a release;

"(ii) a group medical benefits insurance policy providing the reasonable costs of all medical and surgical treatment and hospitalization, excluding treatment or hospitalization solely arising from accidental injury, routine pregnancy, and well baby care, and subject to an annual deductible of $500, with no copayment requirement or annual or lifetime limitation on expenditures; and

"(iii) a group disability insurance policy, for those members of the population or class currently employed or with a history of employment.

"(C) Such policies provided under subparagraph (B) shall be secondary to, and provide for nonduplication of benefits with, any other policy in favor of such individual. The benefits of such other policy shall be those determined to be in force as of the date the State initiates proceedings toward a determination under subparagraph (A).

"(D) Assistance under this subsection shall be provided on the condition that the costs thereof in connection with any individual pursuing a claim against a potentially responsible party shall be repaid to the Fund out of the proceeds of any award or settlement of such claim.".

FUND USE OUTSIDE FEDERAL PROPERTY BOUNDARIES

SEC. . Section 111(e)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting before the period a colon and the following: "*Provided*, that money in the Fund shall be available for the provision of alternative water supplies (including the reimbursement of costs incurred by a municipality) in any case involving groundwater contamination outside the boundaries of a federally owned facility in which the federally owned facility is not the only potentially responsible party.".

STATUTE OF LIMITATIONS

SEC. . Section 112(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

"(d) No claim may be presented, nor may any action be commenced, under this title—

"(1) for the costs of response, unless that claim is presented or action commenced within three years after the date of completion of the response action;

"(2) for damages under subparagraph (C) of section 107(a), unless that claim is presented or action commenced within three years after the date on which final regulations are promulgated under section 301(c) or within three years after the date of the discovery of the loss and its connection with the release in question or the date of enactment of this Act, whichever is later; or

"(3) for any other damages, unless that claim is presented or action commenced within three years after the date of the discovery of the loss and its connection with the release in question or the date of enactment of this Act, whichever is later: *Provided, however,* That the time limitations contained in this paragraph shall not begin to run against a minor until he reaches eighteen years of age or a legal representative is duly appointed for him, nor against an incompetent person until his incompetency ends or a legal representative is duly appointed for him. No claim may be presented or action be commenced under this paragraph for any damages if, prior to the date of enactment of the Superfund Amendments of 1984, the statute of limitations which would otherwise apply under this paragraph has expired.".

JUDICIAL REVIEW

SEC. . Section 113(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

"SEC. 113. (a)(1) Review of any regulation promulgated under this Act may be had upon application by any interested person in the Circuit Court of Appeals of the United States for the District of Columbia or in any United States Court of Appeals for a circuit in which the applicant resides or transacts business which is directly affected by such regulation. Any such application shall be made within one hundred and twenty days from the date of promulgation of such regulation, or after such date only if such application is based solely on grounds which arose after such one hundred and twentieth day. Any matter with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or to obtain damages or recovery of response costs.

"(2)(A) If applications for review of the same agency action have been filed in two or more United States Courts of Appeals and the Administrator has received written notice of the filing of the first such application more than thirty days before receiving written notice of the filing of the second application, then the record shall be filed in that court in which the first application was filed. If applications for review of the same agency action have been filed in two or more United States Courts of Appeals and the Administrator has received written notice of the filing of one or more applications within thirty days or less after receiving written notice of the filing of the first application, then the Administrator shall promptly advise in writing the Administrative Office of the United States Courts that applications have been filed in two or more United States Courts of Appeals, and shall identify each court for which he has written notice that such applications have been filed within thirty days or less of receiving written notice of the filing of the first such application. Pursuant to a system of random selection devised for this purpose, and within three business days after receiving such notice from the Administrator, the Administrative Office thereupon shall select the court in which the record shall be filed from among those identified by the Administrator. Upon notification of such selection, the Administrator shall promptly file the record in such court. For the purpose of review of agency action which has previously been remanded to the Administrator, the record shall be filed in the United States Court of Appeals which remanded such action.

"(B) Where applications have been filed in two or more United States Courts of Appeals with respect to the same agency action and the record has been filed on one of such courts pursuant to subparagraph (A), the other courts in which such applications have been filed shall promptly transfer such applications to the United States Court of Appeals in which the record has been filed. Pending selection of a court pursuant to subparagraph (A) any court in which an application has been filed may postpone the effective date of the agency action until fifteen days after the Administrative Office has selected the court in which the record shall be filed.

"(C) Any court in which an application with respect to any agency action has been filed, including any court selected pursuant to subparagraph (A), may transfer such application to any other United States Court of Appeals for the convenience of the parties or otherwise in the interest of justice.".

CLARIFICATION OF PREEMPTION LANGUAGE

SEC. . Section 114(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting after the first sentence thereof the following: "Nothing in this section shall preclude any State from requiring any person to contribute to a fund to pay (1) the costs of the non-Federal share or other State responsibilities under section 104(c)(3), or (2) the direct and indirect costs of response actions at facilities or locations where the President has not responded under this Act or in addition to response actions taken under this Act, or, (3) any other management, enforcement, or administration activities related to response actions or other cleanup of hazardous substances or hazardous wastes.".

FEDERAL FACILITIES

SEC. . Section 115 of the Comprehensive Environmental, Compensation, and Liability Act of 1980 is amended by inserting before the period at the end thereof a colon and the following: "*Provided*, That with respect to a Federal facility or activity for which such duties or powers are delegated to an officer, employee or representative of the department, agency or instrumentality which owns or operates such facility or conducts such activity, the concurrence of the Administrator (and the responsible State official where a cooperative agreement has been entered into) shall be required for the selection of appropriate remedial action and the administrative order authorities of section 106(a) are hereby delegated to the Administrator".

ADMINISTRATIVE CONFERENCE RECOMMENDATION

SEC. . The Congress finds that Recommendation 84-4 of the Administrative Conference of the United States (Adopted June 29, 1984) is generally consistent with the goals and purposes of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and that the Administrator should consider such Recommendation and implement it to the extent that the Administrator determines that such implementation will expedite the cleanup of hazardous substances which have been released into the environment.

Subtitle B—Provisions Relating to Financing

PART I—AUTHORIZATION OF APPROPRIATIONS

SEC. . AUTHORIZATION OF APPROPRIATIONS.

Paragraph (2) of section 221(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

"(2) AUTHORIZATION FOR APPROPRIATIONS.—There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Emergency Response Trust Fund for fiscal year—

"(A) 1981, $44,000,000,
"(B) 1982, $44,000,000,
"(C) 1983, $44,000,000,
"(D) 1984, $44,000,000,
"(E) 1985, $44,000,000,
"(F) 1986, $206,000,000,
"(G) 1987, $206,000,000,
"(H) 1988, $206,000,000,
"(I) 1989, $206,000,000, and
"(J) 1990, $206,000,000,

plus for each fiscal year an amount equal to so much of the aggregate amount authorized to be appropriated under subparagraphs (A) through (I) as has not been appropriated before the beginning of the fiscal year involved.".

PART II—REVISION OF EXISTING TAXES ON PETROLEUM AND CHEMICALS

SEC. . TAX ON PETROLEUM.

(a) INCREASE IN TAX.—Subsections (a) and (b) of section 4611 of the Internal Revenue Code of 1954 (relating to environmental tax on petroleum) are each amended by striking out "0.79 cent" and inserting in lieu thereof "4.5 cents".

(b) TERMINATION OF TAX.—

(1) Subsection (d) of section 4611 of such Code (relating to termination) is amended to read as follows:

"(d) TERMINATION.—The tax imposed by this section shall not apply after the earlier of—

"(1) September 30, 1990, or

"(2) the date on which the Secretary, in the manner prescribed by regulations, reasonably estimates that the sum of the amounts received in the Treasury of the United States by reason of the taxes imposed by this section and sections 4661, 4691, and 4696 will equal $6,470,000,000.".

(2) Section 303 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1985.

SEC. . INCREASE IN TAX ON CERTAIN CHEMICALS.

(a) INCREASE IN RATE OF TAX; ADDITIONAL CHEMICALS TAXED.—Subsection (b) of section 4661 of the Internal Revenue Code of 1954 (relating to amount of tax imposed on certain chemicals) is amended by striking out the table contained in such subsection and inserting in lieu thereof the following:

"In the case of:	The tax is the following amount per ton:
Organic substances:	
Acetylene	$7.95
Benzene	5.94
Butadiene	8.81
Butane	4.87
Butylene	4.87
Ethylene	6.20
Methane	3.44
Napthalene	6.20
Propylene	5.28
Toluene	4.87
Xylene	6.93
Inorganic substances:	
Ammonia	$2.64
Antimony	30.00
Antimony trioxide	30.00
Arsenic	30.00
Arsenic trioxide	11.67
Barium sulfide	6.42
Bromine	8.75
Cadmium	30.00
Chlorine	2.75
Chromite	1.52
Chromium	30.00
Cobalt	30.00
Cupric oxide	30.00
Cupric sulfate	20.86
Cuprous oxide	30.00
Hydrochloric acid	0.85
Hydrogen fluoride	21.15
Lead	7.44
Mercury	30.00
Nickel	30.00
Nitric acid	2.75
Phosphorus	27.86
Potassium dichromate	13.53
Potassium hydroxide	8.85
Sodium dichromate	16.63
Sodium hydroxide	2.54
Stannic chloride	30.00
Stannous chloride	30.00
Sulfuric acid	0.70
Zinc chloride	9.50
Zinc sulfate	7.47
Other Organic or Inorganic Substances:	
Acetone	$8.64
Barium	0.81
Bis (2-ethylhexyl) phthalate	8.64
Carbon tetrachloride	8.43
Chlorobenzene	27.66
Chloroform	25.93
1, 2-Dichloroethane	4.54
Ethylbenzene	27.33
Methylene chloride	21.61
Methyl ethyl ketone	14.26
Pentachlorophenol	28.59
Phenol	44.95
1, 1, 2, 2-Tetrachloroethane	6.05
1, 1, 2, 2-Tetrachloroethene	21.18
Trichloroethylene	60.51
1, 1, 1-Trichloroethane	39.33
Vinylchloride	11.24

(b) Inflation Adjustments in Amount of Tax.—Section 4661 of such Codeis amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) INFLATION ADJUSTMENTS IN AMOUNT OF TAX.—

"(1) IN GENERAL.—In the case of any taxable chemical sold in a calendar year after 1985, the amount of the tax imposed by subsection (a) shall be the amount determined under subsection (b) increased by the applicable inflation adjustment for such calendar year.

"(2) APPLICABLE INFLATION ADJUSTMENT.—

"(A) IN GENERAL.—In the case of a taxable chemical, the applicable inflation adjustment for the calendar year is the percentage (if any) by which—

"(i) the applicable price index for the preceding calendar year, exceeds

"(ii) the applicable price index for 1984.

"(B) APPLICABLE PRICE INDEX.—For purposes of subparagraph (A), the applicable price index for any calendar year is the average for the months in the 12-month period ending on September 30 of such calendar year of—

"(i) in the case of organic substances, the producer price index for basic organic chemicals as published by the Secretary of Labor, or

"(ii) in the case of inorganic substances, the producer price index for basic inorganic chemicals as published by the Secretary of Labor.

"(3) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of 1 cent, such increase shall be rounded to the nearest multiple of 1 cent (or if the increase determined under paragraph (1) is a multiple of ½ of 1 cent, such increase shall be increased to the next higher multiple of 1 cent).".

(c) EXEMPTION FOR EXPORTS OF TAXABLE CHEMICALS.—

(1) Section 4662 of such Code (relating to definitions and special rules) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) EXEMPTION FOR EXPORTS OF TAXABLE CHEMICALS.—

"(1) TAX-FREE SALES.—

"(A) IN GENERAL.—No tax shall be imposed under section 4661 on the sale by the manufacturer or producer of any taxable chemical for export, or for resale by the purchaser to a second purchaser for export.

"(B) PROOF OF EXPORT REQUIRED.—Rules similar to the rules of section 4221(b) shall apply for purposes of subparagraph (A).

"(2) CREDIT OR REFUND WHERE TAX PAID.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if—

"(i) tax under section 4661 was paid with respect to any taxable chemical, and

"(ii) such chemical was exported by any person.

credit or refund (without interest) of such tax shall be allowed or made to the person who paid such tax.

"(B) CONDITION TO ALLOWANCE.—No credit or refund shall be allowed or made under subparagraph (A) unless the person who paid the tax establishes that he—

"(i) has repaid or agreed to repay the amount of the tax to the person who exported the taxable chemical, or

"(ii) has obtained the written consent of such exporter to the allowance of the credit or the making of the refund.

"(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection."

(2) Paragraph (1) of section 4662(d) of such Code (relating to refund or credit for certain uses) is amended—

(A) by striking out "the sale of which by such person would be taxable under such section" and inserting in lieu thereof "which is a taxable chemical", and

(B) by striking out "imposed by such section on the other substance manufactured or produced" and inserting in lieu thereof "imposed by such section on the other substance manufactured or produced (or which would have been imposed by such section on such other substance but for subsection (e) of this section)".

(d) EXEMPTION FOR SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—

(1) IN GENERAL.—Subsection (b) of section 4662 of the Internal Revenue Code of 1954 (relating to definitions and special rules with respect to the tax on certain chemicals) is amended by adding at the end thereof the following paragraph:

"(7) SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—

"(A) IN GENERAL.—In the case of nitric acid, sulfuric acid, phosphoric acid, ammo-

nia, or methane used to produce ammonia, which is a qualified animal feed substance, no tax shall be imposed under section 4661(a).

"(B) QUALIFIED ANIMAL FEED SUBSTANCE.—For purposes of this section, the term 'qualified animal feed substance' means any substance—

"(1) used in a qualified animal feed use by the manufacturer, producer, or importer,

"(ii) sold for use by any purchaser in a qualified animal feed use, or

"(iii) sold for resale by any purchaser for use, or resale for ultimate use, in a qualified animal feed use.

"(C) QUALIFIED ANIMAL FEED USE.—The term 'qualified animal feed use' means any use in the manufacture or production of animal feed or animal feed supplements, or of ingredients used in animal feed or animal feed supplements.

"(D) TAXATION OF NONQUALIFIED SALE OR USE.—For purposes of section 4661(a), if no tax was imposed by such section on the sale or use of any chemical by reason of subparagraph (A), the first person who sells or uses such chemical other than in a sale or use described in subparagraph (A) shall be treated as the manufacturer of such chemical.".

(2) REFUND OR CREDIT FOR SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—Subsection (d) of section 4662 of such Code (relating to refunds and credits with respect to the tax on certain chemicals) is amended by adding at the end thereof the following new paragraph:

"(4) USE IN THE PRODUCTION OF ANIMAL FEED.—Under regulations prescribed by the Secretary, if—

"(A) a tax under section 4661 was paid with respect to nitric acid, sulfuric acid, phosphoric acid, ammonia, or methane used to produce ammonia, without regard to subsection (d)(7), and

"(B) any person uses such substance as a qualified animal feed substance.

then an amount equal to the excess of the tax so paid over the tax determined with regard to subsection (b)(7) shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.".

"(e) Effective Dates.—

(1) In general.—The amendments made by this section shall take effect on January 1, 1985.

(2) The amendments made by subsection (d) shall take effect on the date of enactment of this Act.

PART III—WASTE-END TAX

SEC. . TAX ON HAZARDOUS WASTE.

(a) IN GENERAL.—Chapter 38 of the Internal Revenue Code of 1954 is amended by adding the following new subchapter:

"Subchapter D—Tax on Disposal or Long-Term Storage of Hazardous Waste

"Section 4691. Imposition of Tax
"Section 4692. Definitions
"Section 4693. Records, Statements and Returns

"Sec. 4691. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax on the receipt of a hazardous waste for—

"(1) disposal at a qualified hazardous waste disposal facility, or

"(2) long-term storage of a hazardous waste in a qualified hazardous waste storage or treatment facility.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) shall be equal to the following:

"(1) $45 for each ton of hazardous waste which is disposed of by landfill, in waste piles, or by surface impoundment.

"(2) $25 for each ton of hazardous waste which is disposed of by ocean dumping or land treatment.

"(3) $5 for each ton of hazardous waste which is disposed of by underground injection.

"(4) $45 for each ton of hazardous waste which is placed in long-term storage.

"(c) ALTERNATIVE COMPUTATION OF TAX.—Under regulations provided by the Secretary, if the owner or operator of a qualified hazardous waste disposal or qualified hazardous waste storage or treatment facility can establish the amount of water of the hazardous waste deposited for disposal or for long-term storage, then such owner or operator may elect to pay, in lieu of the taxes which would otherwise be paid under this section, a tax equal to $50 per ton on the amount of waste deposited for disposal or storage, reduced by the weight of water.

"(d) EXCLUSION FOR CERTAIN WASTES.—No tax shall be imposed under subsection (a) on any of the following:

"(1) The disposal or long-term storage of wastes which are, as of the date of enactment of this section, exempt from regulation as a hazardous waste under Section 3001 of the Solid Waste Disposal Act. In the event that any such waste is determined by the Administrator of the Environmental Protection Agency, following studies as required under section 8002 of such Act, to pose a potential danger to human health and environment, and the Administrator of the Environmental Protection Agency promulgates regulations for the disposal of such waste, then the Administrator shall transmit to both Houses of Congress, along with such regulations, his recommendation for imposing a tax, if any, on the disposal or long-term storage of such waste. A tax shall be imposed under subsection (a) on such waste only when authorized by Act of Congress.

"(2) The disposal or long-term storage of wastes which are not, as of the date of enactment of this section, identified or listed under section 3001 of the Solid Waste Disposal Act. A tax shall be imposed under subsection (a) on such waste only when authorized by Act of Congress.

"(3) The disposal or long-term storage of wastes in a surface impoundment which—

"(A) contains treated waste water during the secondary or subsequent phase of a biological treatment facility subject to a permit issued under section 402 of the Clean Water Act (or which holds such treated waste after treatment and prior to discharge), and

"(B) is in compliance with generally applicable ground water monitoring requirements for facilities with permits under section 3005(c) of the Solid Waste Disposal Act.

"(4) The disposal or long-term storage of—

"(A) any waste by any person in the course of carrying out any removal or remedial action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 if such disposal is carried out in accordance with a plan approved by the Administrator of the Environmental Protection Agency or the State,

"(B) any waste removed from any facility listed on the National Priorities List (NPL), or

"(C) any waste removed from a facility for which notification has been provided to the Administrator of the Environmental Protection Agency pursuant to the provisions of section 103(c) or 105 of the comprehensive Environmental Response, Compensation and Liability Act of 1980.

"(e) LIABILITY FOR THE TAX.—The tax imposed by this section shall be imposed on the following:

"(1) IN GENERAL.—The owner or operator of the qualified hazardous waste disposal facility or qualified hazardous waste storage or treatment facility at which the hazardous waste is disposed of or stored.

"(2) PERSON DISPOSING OF WASTE.—In the case of hazardous waste that is required by regulation to be disposed of or stored at a qualified hazardous waste disposal facility or a qualified hazardous waste storage or treatment facility but is disposed of or stored for a long term at other than a qualified hazardous waste disposal facility or a qualified hazardous waste storage or treatment facility, the person disposing of the hazardous waste.

"(f) CREDIT FOR PRIOR TAX.—

"(1) IN GENERAL.—A credit shall be allowed in the computation of any tax due under this section on the disposal of a hazardous waste for any tax previously paid under this section by the disposer on the long-term storage of such hazardous waste.

"(2) LONG-TERM STORAGE.—In the event that a person who has paid a tax under this section on the long-term storage of a hazardous waste causes such hazardous waste to be delivered to and received by another person who is the owner or operator of a qualified hazardous waste disposal facility, then such person who paid the tax on the long-term storage shall be allowed a credit for such tax in the computation of any tax subsequently due on the long-term storage or disposal of a hazardous waste.

"(3) SPECIAL RULE FOR FUNGIBLE WASTE.—For purposes of determining any credit allowances for fungible waste under the provisions of paragraphs (1) and (2), it shall be presumed that the last of such waste placed in a qualified hazardous waste storage facility shall be the first to be removed from such facility.

"(g) FRACTIONAL PART OF TON.—In the case of a fraction of a ton, the tax imposed by this section shall be the same fraction of the amount of such tax imposed on a whole ton.

"(h) PROSPECTIVE APPLICATION OF TAX.—Any taxes imposed by this section shall not apply to the hazardous waste which is received for disposal or placed into long-term storage before the effective date of this section.

"(i) TERMINATION.—The taxes imposed in this section shall not apply after September 30, 1990.

"SEC. 4692. DEFINITIONS.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) DISPOSAL.—The term 'disposal' means the discharge, deposit, injection, dumping or placing of any hazardous waste into or on any land or water so that such hazardous waste may enter the environment. The term 'disposal' shall not include the treatment or reclamation of hazardous wastes or the storage of hazardous wastes in a facility described in the definition of 'Qualified Hazardous Waste Storage Facility' below.

"(2) LONG-TERM STORAGE.—The term 'long-term storage' means remaining within the confines of a qualified hazardous waste storage or treatment facility for 1 year or more. For the purpose of determining the length of time in storage, it shall be presumed in the case of fungible waste that the last waste placed in a qualified hazardous waste

storage or treatment facility shall be the first to be removed from such facility.

"(3) QUALIFIED HAZARDOUS WASTE STORAGE OR TREATMENT FACILITY.—The term 'qualified hazardous waste storage or treatment facility' means by storage facility, hazardous waste treatment facility, waste pile or surface impoundment, with respect to which a permit is issued or interim status accorded under section 3005 of the Solid Waste Disposal Act.

"(4) WASTE PILE.—The term 'waste pile' is a quantity of hazardous waste heaped together as a means of storage as defined under regulations promulgated by the Administrator or the Environmental Protection Agency pursuant to section 3005 of the Solid Waste Disposal Act.

"(5) SURFACE IMPOUNDMENT.—The term 'surface impoundment' is an impoundment in which quantities of hazardous wastes are collected as a means of storage as defined under regulations promulgated by the Administrator of the Environmental Protection Agency pursuant to section 3005 of the Solid Waste Disposal Act.

"(6) QUALIFIED HAZARDOUS WASTE DISPOSAL FACILITY.—The term 'qualified hazardous waste disposal facility' means any disposal facility with respect to which a permit is issued or interim status accorded under section 3005 of the Solid Waste Disposal Act or under section 102 of the Marine Protection, Research and Sanctuaries Act, or Part C of the Safe Drinking Water Act. The term 'qualified hazardous waste facility' shall not include any qualified hazardous waste treatment facilities.

"(7) HAZARDOUS WASTE TREATMENT FACILITIES.—The term 'hazardous waste treatment facilities' means any facility employing any method, technique, or process designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to convert such waste to a nonhazardous waste.

"(8) TREATMENT.—The term 'treatment', when used in connection with hazardous waste, means a method, technique or process designed to change the physical, chemical or biological character or composition of any hazardous waste so as to convert such a waste to a nonhazardous waste; except that there may be a byproduct or residue from such method, technique or process that would be considered a hazardous waste under section 3001 of the Solid Waste Disposal Act.

"(9) HAZARDOUS WASTE.—The term 'hazardous waste' means any waste:

"(A) identified or listed under section 3001 of the Solid Waste Disposal Act, other than waste the regulation of which has been suspended by Act of Congress, and

"(B) subject to the recording or record-keeping requirements of section 3002 and 3004 of such Act.

"(10) TON.—The term 'ton' means 2000 pounds.

"(11) RECEIPT.—The term 'receipt' means the act of the owner or operator of a qualified hazardous waste disposal facility by which such owner or operator, at an offsite facility, signs, or is required by regulation to sign, the manifest or shipping paper accompanying the hazardous waste, or at an onsite facility, enters, or is required to do so by regulation, the description and quantity of the hazardous waste in the qualified hazardous waste disposal facility operating record.

"(12) RECLAMATION OF HAZARDOUS WASTES.—The term 'reclamation of hazardous waste' means any hazardous waste that is processed to recover a usable product or any such waste that is regenereated. The term also includes hazardous wastes that are employed as an ingredient (including use as an intermediate) in an industrial process to make a product. The term also includes hazardous wastes that are employed in a particular function or application as an effective substitute for a commercial product. The term does not include hazardous wastes that are reused in a manner analogous to land disposal or incineration, including but not limited to, hazardous wastes that are used to produce products that are applied to the land or hazardous wastes burned for energy recovery used to produce a fuel or contained in fuels.

"SEC. 4693. RECORDS, STATEMENTS, AND RETURNS.

"Every person who disposes of, or stores hazardous wastes for one year or more subject to taxation under this subchapter shall keep records, render such statements, make such returns, and comply with rules and regulations as the Secretary may prescribe to ensure proper assessment, payment, and collection of the taxes imposed by section 4691. The Secretary shall consult with the Administrator of the Environmental Protection Agency to assure that records, statements, and returns required to be kept, rendered, and made under this section shall be consistent, to the extent possible, with the reports required to be submitted to the Administrator under the Solid Waste Disposal Act. The Secretary may require any person who generates, transports, disposes of, or stores hazardous wastes for one year or more and who is required to maintain records under the Solid Waste Disposal Act, the Marine Protection, Research and Sanctuaries Act or the Safe Drinking Water Act, to submit copies of such reports or make such reports available to the Secretary as required.".

(b) CONFORMING AMENDMENTS.—

(1) The table of subchapers for chapter 38 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new item:

"SUBCHAPTER D—TAX ON DISPOSAL OR LONG-TERM STORAGE OF HAZARDOUS WASTE"

(2) Section 221(b)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 is amended by striking out "and" at the end of subparagraph (D), by striking out the period at the end of subparagraph (E) and inserting a comma and "and", and by adding a new subparagraph as follows:

"(F) the amounts received in the Treasury under section 4691 of the Internal Revenue Code of 1954.".

(c) STUDY.—

(1) IN GENERAL.—Not later than January 1, 1987, and annually thereafter through 1989, the Secretary of the Treasury, in consultation with the Administrator of the Environmental Protection Agency, shall submit to the Congress a report on the amount of revenues being collected in accordance with subchapter D of chapter 38 of the Internal Revenue Code of 1954 and his recommendations, if any, for changes in the tax imposed under such subchapter in order to—

(A) raise an amount of revenue equivalent to the anticipated amount of revenue from the tax originally imposed under such subchapter,

(B) assure that the tax is discouraging the disposal of waste in an environmentally unsound manner, and

(C) assure that the tax is being collected with maximum administrative feasibility.

(2) ADDITION OF CERTAIN WASTES.—The Secretary of the Treasury shall also study, and recommend to the Congress whether wastes from the following sources should be subject to tax under subchapter D of chapter 38 of such Code:

(A) Pesticides identified for a rebuttable presumption against registration under the Federal Insecticide, Fungicide and Rodenticide Act.

(B) Chemicals which, according to the International Agency for Research on Cancer, have substantial evidence of carcinogenicity.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on January 1, 1986.

PART IV—CORPORATE TAX ON NET RECEIPTS

SEC. . CORPORATE TAX ON NET RECEIPTS.

(a) IN GENERAL.—Chapter 38 of the Internal Revenue Code of 1954 (relating to environmental taxes) is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER E—TAX ON CORPORATE NET PROFITS

"SEC. 4696. ENVIRONMENTAL NET PROFITS TAX.

"(a) GENERAL RULE.—There is hereby imposed on each C corporation a tax equal to .014 percent of the taxable net receipts of such corporation for the taxable year.

"(b) TAXABLE NET RECEIPTS.—For purposes of this section—

"(1) IN GENERAL.—The term 'taxable net receipts' means the excess (if any) of—

"(A) the gross receipts of the taxpayer for any taxable year, over

"(B) the sum of—

"(i) the costs of goods sold by the taxpayer for such taxable year, plus

"(ii) $75,000,000.

"(2) AGGREGATION OF CONTROLLED GROUPS.—

"(A) IN GENERAL.—For purposes of this section, all members of the same controlled group of corporations shall be treated as one taxpayer.

"(B) OTHER GROUPS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, a rule similar to the rule of subparagraph (A) shall apply to trades or businesses (whether or not incorporated) which are under common control.

"(C) CONTROLLED GROUP DEFINED.—For purposes of this paragraph, the term 'controlled group of corporations' has the meaning given such term by section 1563(a), except that—

"(i) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(c) SPECIAL RULE FOR TAX-EXEMPT ORGANIZATIONS.—In the case of any taxpayer which is exempt from tax under section 501(a), taxable net receipts shall be computed only by reference to the unrelated business taxable income (within the meaning of section 512) of the taxpayer.

"(d) TERMINATION.—No tax shall be imposed under this section for taxable years beginning after December 31, 1990.".

(b) ALLOCATION OF REVENUES TO TRUST FUND.—Section 221(b)(1) of the Comprehensive, Environmental Response, Compensation and Liability Act of 1980, as amended by part III, is amended by striking out "and" at the end of subparagraph (E), by striking out the period at the end of subparagraph (F) and inserting in lieu thereof

", and", and by adding at the end thereof the following new subparagraph:

"(G) the amounts received in the Treasury under section 4696 of the Internal Revenue Code of 1954.".

(c) CONFORMING AMENDMENT.—The table of subchapters for chapter 38 is amended by adding at the end thereof the following new item:

"SUBCHAPTER E—TAX ON CORPORATE NET PROFITS"

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

PART V—STUDY OF IMPORTS OF CERTAIN CHEMICALS

SEC. . STUDY ON IMPORTED DERIVATIVES.

(a) GENERAL RULE.—

(1) The Secretary of the Treasury shall conduct a study on (A) the economic effects of the tax imposed by section 4661 of the Internal Revenue Code of 1954, and (B) the feasibility and desirability of imposing a tax on imported derivative of substances subject to the tax imposed by section 4661. Such study shall develop the methodology for selecting the list of substances and shall list the substances which would be subject to the tax referred to in subparagraph (B) and their corresponding item numbers in the Tariff Schedules of the United States.

(2) The U.S. International Trade Commission should conduct a study on (A) the trade effects of the tax imposed by section 4661 with and without the tax on derivatives; and (B) the means of making such a tax on derivatives compatible with current international trade agreements.

(b) REPORT.—

(1) Not later than March 1, 1985, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the list of substances (and corresponding item numbers in the Tariff Schedules of the United States) prepared as part of the study conducted under subsection (a)(1). Not later than June 1, 1985, the Secretary of the Treasury shall submit the report on the study conducted under subsection (a)(1).

(2) The Commission shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate its report on the study conducted under (a)(2) within four months from the date of receipt of the Secretary of Treasury's list of substances provided for in paragraph (1), but not before June 1, 1985.

Mr. STAFFORD. Mr. President, I am sending to the desk an amendment that would extend and expand the Superfund law for a 5-year period at a total cost of $7.5 billion. I am submitting this amendment on behalf of myself, Senators RANDOLPH, CHAFEE, MITCHELL, MOYNIHAN, LAUTENBERG, HUMPHREY, HART, BRADLEY, CRANSTON, BINGAMAN, and LEAHY.

The amendment contains two titles. The first proposes certain program changes in the Superfund law. All but three of these changes are drawn from the Superfund extension bill approved by the Committee on Environment and Public Works by a vote of 17 to 1. The remaining three amendments were contained in the Senate-passed reauthorization of the Resource Conservation and Recovery Act, which was approved by the Senate 93 to 0. Unfortunately, these amendments were dropped during conference at the insistence of the other body.

The second title of this amendment would raise $7.5 billion through a combination of general revenues, a new tax on corporate net receipts, a new tax on the disposal of hazardous wastes, an increased tax on crude oil and chemical feedstocks, and a new tax on hazardous products found at Superfund sites.

Mr. President, I am convinced that the Superfund law must be expanded and extended this year. I hope that other Members will agree and, when this amendment is brought to a vote, will support this proposal.

HATCH AMENDMENTS NOS. 6882 THROUGH 6901

(Ordered to lie on the table.)

Mr. HATCH submitted 20 amendments intended to be proposed by him to the joint resolution House Joint Resolution 648, supra; as follows:

AMENDMENT NO. 6882

At the appropriate place, add the following:

SEC. . (a) Subsection (a) of the first section of the Act of March 3, 1931, commonly known as the Davis-Bacon Act (40 U.S.C. 276a(a)), is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Secretary of Labor shall base his determination of the wages prevailing for the corresponding classes of laborers, mechanics, and helpers under paragraph (1) on—

"(A) the wage paid to 50 per centum or more of the corresponding classes of laborers, mechanics, and helpers employed on projects of a character similar to the contract work in the urban or rural civil subdivision of the State in which the work is to be performed, or in the District of Columbia if the work is to be performed there; or

"(B) if the same wage is not paid to 50 per centum or more of the laborers, mechanics, and helpers in the corresponding classes, the weighted average of the wages paid to the corresponding classes of laborers, mechanics, and helpers employed on projects of a character similar to the contract work in the urban or rural civil subdivision of the State in which the work is to be performed, or in the District of Columbia if the work is to be performed there.".

(b) The first section of such Act is further amended by striking out "$2,000" and inserting in lieu thereof "$100,000".

(c)(1) The first section of such Act is further amended—

(A) by striking out "mechanics and/or laborers" in subsection (a)(1) and inserting in lieu thereof "laborers, mechanics, helpers, or any combination thereof";

(B) by striking out "laborers and mechanics" wherever it appears and inserting in lieu thereof "laborers, mechanics, and helpers";

(C) by striking out "mechanics and laborers" in subsection (a)(1) and inserting in lieu thereof "laborers, mechanics, and helpers"; and

(D) by striking out "laborer or mechanic" in subsection (b) and inserting in lieu thereof "laborer, mechanic, or helper".

(2) Section 2 of such Act (40 U.S.C. 276a-1) is amended by striking out "laborer or mechanic" and inserting in lieu thereof "laborer, mechanic, or helper".

(3) Section 3 of such Act (40 U.S.C. 276a-2) is amended by striking out "laborers and mechanics" wherever it appears and inserting in lieu thereof "laborers, mechanics, and helpers".

AMENDMENT NO. 6883

At the appropriate place, add the following:

SEC. . Title 18 of the United States Code is amended—

(a) by adding the following new chapter after chapter 227:

CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
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"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title, if the offense constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(c) any other offense for which a sentence of death is provided, if the defendant—

"(1) intentionally killed the victim;

"(2) intentionally inflicted serious bodily injury that resulted in the death of the victim; or

"(3) intentionally participated in an act that he knew, or reasonably should have known, would create a grave risk of death to a person, other than one of the participants in the offense, and the victim died as a direct result of the act;

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) Mitigating Factors.—In determining whether a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) the defendant was less than eighteen years of age at the time of the offense;

"(2) the defendant's mental capacity was significantly impaired, although the impairment was not such as to constitute a defense to prosecution;

"(3) the defendant was under unusual and substantial duress, although not such duress

as would constitute a defense to prosecution; and

"(4) the defendant was an accomplice whose participation in the offense was relatively minor.

The jury, or if there is no jury, the court, may consider whether any other mitigating factor exists.

"(b) Aggravating Factors for Espionage and Treason.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the defendant has previously been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; and

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) Aggravating Factors for Homicide and for Attempted Murder of the President.—In determining whether a sentence of death is justified for an offense described in section 3591 (b) or (c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy):

"(2) the defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

"(4) the defendant, in the commission of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(8) the defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism; or

"(9) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) Notice by the Government.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) Hearing Before a Court or Jury.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Prior to such a hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the provisions of Rule 32(e) of the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) Proof of Mitigating and Aggravating Factors.—At the hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The attorney for the government shall open the argument. The defendant shall be permitted to reply. The attorney for the government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) Return of Special Findings.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return a special finding as to each mitigating and aggravating factor, concerning which information is presented at the hearing, required to be considered under section 3592. The jury must find the existence of a mitigating or aggravating factor by a unanimous vote, although it is unnecessary that there be a unanimous vote on any specific mitigating or aggravating factor if a majority of the jury finds the existence of such a specific factor.

"(e) Return of a Finding Concerning a Sentence of Death.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (b) or (c), an aggravating factor required to

be considered under section 3592(c) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether all the aggravating factors found to exist sufficiently outweigh all the mitigating factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether a sentence of death is justified.

"(f) Special Precaution To Assure Against Discrimination.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, national origin, creed, or sex of the defendant. The jury, upon return of a finding udner subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, national origin, creed, or sex of the defendant was not involved in reaching the juror's individual decision.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Upon a finding under section 3593(e) that a sentence of death is not justified, or under section 3593(d) that no aggravating factor required to be found exists, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) Appeal.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of an aggravating factor required to be considered under section 3592;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law. A sentence of death shall not be carried out upon a woman while she is pregnant.

"§ 3597. Use of State facilities

"A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.";

(b) by repealing sections 3566 and 3567;

(c) in the chapter analysis of part II, by adding the following new item after the item relating to chapter 227:

"228. Death sentence ..... 3591"

and

(d) in the section analysis of chapter 227, by amending the items relating to sections 3566 and 3567 to read as follows:

"3566. Repealed.
"3567. Repealed.".

SEC. . Section 34 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. . Section 794(a) of title 18 of the United States Code is amended by changing the period at the end of the section to a comma and by adding immediately thereafter the words "except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

SEC. . Section 844(d) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. . Section 844(f) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. . Section 844(i) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. . The second paragraph of section 1111(b) of title 18 of the United States Code is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

SEC. . Section 1116(a) of title 18 of the United States Code is amended by striking the words "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

SEC. . Chapter 51 of title 18 of the United States Code is amended—

(a) by adding at the end thereof the following:

§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, murders shall be punished by death or by life imprisonment without the possibility of parole.

"(b) For the purposes of this section—

"(1) 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, and indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death;

"(3) 'murders' means committing first degree or second degree murder as defined by section 1111 of this title."; and

(b) by amending the section analysis to add:

"1118. Murder by a Federal prisoner.".

SEC. . Section 1201 of title 18 of the United States Code is amended by inserting after the words "or for life" in subsection (a) the words "and, if the death of any person results, shall be punished by death or imprisonment".

SEC. . The last paragraph of section 1716 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the paragraph.

SEC. . Subsection (c) of section 1751 of title 18 of the United States Code is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

SEC. . The second to the last paragraph of section 1992 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. . Section 2031 of title 18 United States Code is amended by deleting the words "death, or".

SEC. . Section 2113(e) of title 18 of the United States Code is amended by striking the words "or punished by death if the verdict of the jury shall so direct" and inserting in lieu thereof the words "or if death results shall be punished by death or life imprisonment".

SEC. . Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. . The provisions of chapter 228 of title 18 of the United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

AMENDMENT No. 6884

At the appropriate place, add the following: That this Amendment may be cited as the "Voluntary School Prayer Act of 1983".

SEC. . (a) Chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1259. Appellate jurisdiction: limitations

"(a) Notwithstanding the provisions of sections 1253, 1254, and 1257 of this chapter, the Supreme Court shall not have jurisdiction to review, by appeal, writ of certiorari, or otherwise, any case arising out of any State statute, ordinance, rule, regulation, practice, or any part thereof, or arising out of any Act interpreting, applying, enforcing, or effecting any State statute, ordinance, rule, regulation, or practice, which relates to voluntary prayer, Bible reading, or religious meetings in public schools or public buildings.

"(b) As used herein, 'voluntary' means an activity in which a student is not required to participate by school authorities.".

(b) The section analysis of chapter 81 of title 28 is amended by adding at the end thereof the following new item:

"1259. Appellate jurisdiction; limitations.".

SEC. . (a) Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1364. Limitations on jurisdiction.".

"Notwithstanding any other provision of law, the district courts shall not have jurisdiction of any case or question which the Supreme Court does not have jurisdiction to review under section 1259 of this title.".

(b) The section analysis at the beginning of chapter 85 of title 28 is amended by adding at the end thereof the following new item:

"1374. Limitations on jurisdiction.".

SEC. . The amendments made by this Act shall take effect on the date of enactment, except that such amendments shall not apply to any case which, on such date of enactment, was pending in any court of the United States.

AMENDMENT No. 6885

At the appropriate place, add the following:

SECTION . This Amendment may be cited as the "Product Liability Act".

DEFINITIONS

SEC. . As used in this Act—

(1) "claimant" means any person who brings a product liability action, and if such an action is brought through or on behalf of an estate, the term includes the claimant's decedent, or if such an action is brought through or on behalf of a minor, the term includes the claimant's parent or guardian;

(2) "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established; the level of proof required to satisfy this standard is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt;

(3) "commerce" means trade, traffic, commerce, or transportation (A) between a place in a State and any place outside of that State; or (B) which affects trade, commerce, or transportation described in clause (A);

(4) "exercise of reasonable prudence" includes conduct of an ordinary person or class of persons, in the same or similar circumstances, exercising the care, attention, knowledge, intelligence, and judgment that society requires of its members for the protection of their own interests and the interests of others;

(5) "express warranty" means any affirmation of fact, promise, or description relating to a product, but does not include a general opinion about, or general praise of, a product or its quality; the term does not require that a manufacturer use the terms "warrant" or "guarantee", or that the manufacturer have the specific intention to make an express warranty;

(6) "harm" means (A) physical damage to property other than the product itself; (B) personal physical illness, injury, or death of the claimant; or (C) mental anguish or emotional harm of the claimant caused by the claimant's personal physical illness or injury; the term does not include commercial loss;

(7) "manufacturer" means (A) any person who is engaged in a business to design or formulate and to produce, create, make, or construct any product (or component part of a product); (B) a product seller with respect to all aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller designs or formulates and produces, creates, makes, or constructs an aspect of a product (or component part of a product) made by another; or (C) any product seller not described in clause (B) which holds itself out as a manufacturer to the user of the product;

(8) except for purposes of section 12(f), "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(9) "practical technological feasibility" means the technical, medical, and scientific knowledge relating to the safety of a product which, at the time of production or manufacture of a product, was developed, available and capable of use in the manufacture of a product, and economically feasible for use by a manufacturer;

(10) "preponderance of the evidence" is that measure or degree of proof which, by the weight, credit, and value of the aggregate evidence on either side, establishes that it is more probable than not that a fact occurred or did not occur;

(11) "product" means any object, substance, mixture or raw material in a gaseous, liquid or solid state which is capable of delivery itself, or as an assembled whole in a mixed or combined state or as a component part or ingredient, which is produced for introduction into trade or commerce, which has intrinsic economic value, and which is intended for sale or lease to persons for commercial or personal use; the term does not include human tissue, blood, or organs;

(12) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, installs, prepares, blends, packages, labels, markets, repairs, maintains, or otherwise is involved in placing a product in the stream of commerce; the term does not include—

(A) a seller of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor;

(13) "product user" means any person, including the claimant's employer, who owns, operates, or has control of a product;

(14) "reasonably anticipated conduct" means the conduct which is expected, ordinary, and familiar of the class of persons likely to use or be exposed to the product; and

(15) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

PREEMPTION OF OTHER LAWS

SEC. . (a) No person may recover for any loss or damage caused by a product except to the extent that the loss or damage constitutes harm. A civil action for loss or damage caused to a product itself or for commercial loss is not a product liability action, and shall be governed by applicable commercial or contract law.

(b)(1) This Act supersedes any State law regarding recovery for any loss or damage caused by a product to the extent that this Act establishes a rule of law applicable to any civil action brought against a manufacturer or product seller for loss or damage caused by a product, including any action which before the effective date of this Act would have been based on (A) strict or absolute liability in tort; (B) negligence or gross negligence; (C) breach of express or implied warranty; (D) failure to discharge a duty to warn or instruct; or (E) any other theory that is the basis for an award for damages for loss or damage caused by a product. Any issue arising in such an action that is not governed by any such rule of law shall be governed by applicable State law. This Act shall not be construed to waive or affect any defense of sovereign immunity asserted by any State under any provision of law.

(2) Nothing in this Act shall be construed to supersede any Federal law, except the Federal Employees Compensation Act.

(3) Nothing in this Act shall be construed to waive or affect any defense of sovereign immunity asserted by the United States.

(4) Nothing in this Act shall be construed to affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976 (28 U.S.C. 1602 et seq.).

(c) Nothing in this Act is intended to preempt any State law creating a cause of action for damages caused by the release of a hazardous substance or waste, as defined by State law.

(d) Nothing in this Act is intended to affect in any way application of any rule of law regarding whether a claimant must identify the manufacturer of the product that caused the claimant's harm.

(e) The district courts of the United States shall not have jurisidiction over any civil action arising under this Act, based on sections 1331 or 1337 of title 28, United States Code.

RESPONSIBILITY OF MANUFACTURERS

SEC. . In any product liability action, a manufacturer is liable to a claimant if—

(1) the claimant establishes by a preponderance of the evidence that—

(A) the product was unreasonably dangerous in construction or manufacturer, as defined in section 5(a);

(B) the product was unreasonably dangerous in design or formulation, as defined in section 5(b);

(C) the product was unreasonably dangerous because the manufacturer failed to provide adequate warnings or instructions about a danger connected with the product or about the proper use of the product, as defined in section 6; or

(D) the product was unreasonably dangerous because the product did not conform to an express warranty made by the manufacturer with respect to the product, as defined in section 7; and

(2) the claimant establishes by a preponderance of the evidence that the unreasonably dangerous aspect of the product was a proximate cause of the harm complained of by the claimant.

PRODUCT CONSTRUCTION AND DESIGN

SEC. . (a) A product is unreasonably dangerous in construction or manufacture if, when the product left the control of the manufacturer, it deviated in a material way—

(1) from the design specifications, formula, or performance standards of the manufacturer; or

(2) from otherwise identical units manufactured to the same manufacturing specification or formula.

(b)(1) A product is unreasonably dangerous in design or formulation if, at the relevant point in time—

(A) the manufacturer knew or, through the exercise of reasonable prudence, should have known about the danger which allegedly caused the claimant's harm; and

(B) a reasonably prudent person in the same or similar circumstances would not have manufactured the product or used the design or formulation that the manufacturer used.

(2) A product is not unreasonably dangerous in design or formulation if the manufacturer proves by a preponderance of the evidence that, at the relevant point in time—

(A) a means to eliminate the danger that caused the harm was not within practical technological feasibility, and the benefits and usefulness of the product to the public outweighed the likelihood and probable seriousness of the harm;

(B) the harm was caused by an unavoidably dangerous product; or

(C) the harm was caused by an unsafe aspect of a product which was an inherent characteristic of the product and which would be recognized by the ordinary person who uses or consumes the product with the ordinary knowledge common to the community.

(3) As used in paragraph (2)(B), "an unavoidably dangerous product" means a product that, at the relevant point in time—

(A) is useful and desirable to the public;

(B) has a known but reasonable risk which, in light of the state of scientific and technical knowledge at that time, can not be made safe without impairing the effectiveness of the product's intended and ordinary use; and

(C) would have been made by a reasonable manufacturer using that particular design or formulation.

(4) As used in this subsection, "relevant point in time" means the earlier of the time of manufacture of a product or certification of an aircraft or its parts or accessories by the Federal Aviation Administration.

PRODUCT WARNINGS OR INSTRUCTIONS

SEC. . (a) A product is unreasonably dangerous because of the failure of the manufacturer to provide warnings or instructions about a danger connected with the product or about the proper use of the product if—

(1) adequate warnings or instructions were not provided, under subsection (b); or

(2) adequate post-manufacture warnings or instructions were not provided, under subsection (c).

(b) A product is unreasonably dangerous for lack of adequate warnings or instructions if, at the time the product left the control of the manufacturer—

(1) the manufacturer knew or, through the exercise of reasonable prudence, should have known about the danger which allegedly caused the claimant's harm;

(2) the manufacturer failed to provide the warnings or instructions that a reasonably prudent person in the same or similar circumstances would have provided with respect to the danger which caused the harm alleged by the claimant, given the likelihood that the product would cause harm of the type alleged by the claimant and given the seriousness of that harm; and

(3) those warnings or instructions, if provided, would have led a product user in the course of reasonably anticipated conduct either to decline to use the product or to use it in a manner so as to avoid harm of the type alleged by the claimant.

(c)(1) A product is unreasonably dangerous for lack of post-manufacture warnings or instructions if, after the product left the control of the manufacturer—

(A) the manufacturer knew or, through the exercise of reasonable prudence, should have known about the danger which allegedly caused the claimant's harm; and

(B) adequate post-manufacture warnings or instructions would have been provided by a reasonably prudent person in the same or similar circumstances, given the likelihood that the product would cause harm of the type alleged by the claimant and given the seriousness of that harm.

(2) A product is not unreasonably dangerous under this subsection if the manufacturer made reasonable efforts to provide adequate post-manufacture warnings or instructions to a product user or to another person, in accordance with subsection (d).

(d) Where warnings or instructions are required under subsection (b) or (c), such warnings and instructions shall be given to the product user, unless—

(1) in light of the practical and economic difficulties of giving the warnings or instructions directly to the product user, the likelihood that the product would cause harm of the type alleged by the claimant, and the probable seriousness of that harm, a reasonably prudent person would have given such warnings or instructions to a third person, including an employer, who could be expected to take action to avoid the product user's harm or to assure that the risk of harm is explained to the product user; or

(2) the product is one which may be legally used only by or under the supervision of a using or supervising expert, in which case the manufacturer shall act with reasonable prudence to warn or instruct the expert.

(e) A product is not unreasonably dangerous for lack of warnings regarding—

(1) dangers that are obvious;

(2) the consequences of product misuse, as defined in section 9(c); or

(3) the consequences of product alterations or modifications, as defined in section 9(d).

As used in paragraph (1) of this subsection, "dangers that are obvious" are those dangers, including the magnitude of the danger, of which a product user in the course of reasonably anticipated conduct or a person identified in subsection (d), if applicable, would have been aware without a warning and dangers, including the magnitude of the danger, which were a matter of common knowledge to persons in the same or similar position as the claimant.

PRODUCT EXPRESS WARRANTY

SEC. . (a) A product is unreasonably dangerous because it did not conform to an express warranty made by the manufacturer if—

(1) the product failed to conform to such warranty; and

(2) the failure of the product to conform to such warranty caused the claimant's harm.

(b) A product may be unreasonably dangerous for failure to conform to an express warranty although the manufacturer did not engage in negligent or fraudulent conduct in making the express warranty.

RESPONSIBILITY OF PRODUCT SELLERS

SEC. . (a) In any product liability action, a product seller other than a manufacturer is liable to a claimant, if the claimant establishes by a preponderance of the evidence that—

(1)(A) the individual product unit which allegedly caused the harm complained of was sold by the defendant;

(B) the product seller failed to exercise reasonable prudence with respect to the product; and

(C) such failure to exercise reasonable prudence was a proximate cause of the claimant's harm; or

(2)(A) the product seller made an express warranty, independent of any express warranty made by a manufacturer as to the same product;

(B) the product failed to conform to such warranty; and

(C) the failure of the product to conform to such warranty caused the claimant's harm.

(b)(1) In determining whether a product seller is subject to liability under subsection (a)(1), the trier of fact may consider the effect of the conduct of the seller with respect to the construction, inspection, or condition of the product, and any failure of the seller to transmit adequate warnings or instructions about the dangers and proper use of the product.

(2) A product seller shall not be liable under this Act where there was no reasonable opportunity to inspect the product in a manner which would or should, in the exercise of reasonable care, have revealed the aspect of the product which allegedly rendered it unreasonably dangerous.

(c) A product seller shall be treated as the manufacturer of a product and shall be liable for harm to the claimant caused by a product as if it were the manufacturer of the product if—

(1) the manufacturer is not subject to service of process under the laws of the State in which the action is brought; or

(2) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

DETERMINATION OF RESPONSIBILITY IN A PRODUCT LIABILITY ACTION

SEC. . (a) All claims under this Act shall be governed by the principles of comparative responsibility. Comparative responsibility attributed to the claimant's conduct shall not bar recovery in a product liability action, but shall reduce any damages awarded to the claimant in an amount proportionate to the responsibility of the claimant.

(b)(1) In any product liability action, the court, unless otherwise agreed by all parties, shall instruct the jury to answer special interrogatories (or, if there is no jury, the court shall make findings) indicating—

(A) the total amount of damages to each claimant for that claimant's harm; and

(B) the percentage of total responsibility for each claimant's harm attributable to each claimant, each defendant, each third-party defendant, and to any other cause or person who is not a party to the action (other than the claimant's employer or coemployee, where the provisions of section 10 apply).

(2) In making the determinations specified in paragraph (1)(B), evidence of conduct defined in subsections (c), (d), (e), and (f) shall be considered. For purposes of this subsection, the court may determine that two or more persons are to be treated as a single party.

(3) The percentage attributable under paragraph (1)(B) to each defendant or each third-party defendant shall be determined by—

(A) subtracting the percentage of responsibility attributable to the claimant and to any other cause or person who is not a party to the action (other than the claimant's employer or coemployee, where the provisions of section 10 apply) from 100 percent; and

(B) allocating the percentage which is the result of the subtraction under subparagraph (A) among the defendants and third-party defendants according to their individual responsibility for the claimant's harm.

(c) Evidence that misuse of a product by any person other than the claimant's employer or coemployee (where the provisions of section 10 apply) has caused all or a portion of the claimant's harm shall be considered in determining the percentage of total responsibility for the claimant's harm allocable under subsection (b). Misuse shall be considered to occur when a product is used for a purpose or in a manner which is not consistent with the reasonably anticipated conduct of users, which may include use for a purpose or in a manner which is not consistent with adequate warnings or instructions available to the user or failure of a person who would reasonably be expected to train another person or otherwise provide for the safe use of the product and who does not train or provide for the safe use of the product.

(d)(1) Evidence that an alteration or modification of the product by any person other than the claimant's employer or coemployee (where the provisions of section 10 apply) has caused all or a portion of the claimant's harm shall be considered in determining the percentage of total responsibility for the claimant's harm allocable under subsection (b). Alteration or modification shall be considered to occur when a product is changed in a manner which is not consistent with the reasonably anticipated conduct of users, which may include a change in the product design or formulation, or a change in or removal of warnings, instructions, or safety devices that accompanied the product.

(2) Alteration or modification shall not be considered to occur if—

(A) ordinary wear and tear of a product has occurred;

(B) the alteration or modification was in accordance with instructions or specifications of the manufacturer or product seller; or

(C) the alteration or modification was made with the express consent of the manufacturer or product seller.

(e) Evidence that the conduct of the claimant involving negligence, contributory negligence, or assumption of risk has caused all or a portion of the claimant's harm shall be considered in determining the percentage of total responsibility for the claimant's harm allocable under subsection (b). Conduct of the claimant involving negligence, contributory negligence, or assumption of risk shall be considered to occur—

(1) when the claimant, while using the product, was injured by a defective condition of which he was not aware and which would have been apparent, without inspection, to a reasonably prudent person; or

(2) when the claimant knew about the product's defective condition, understood that there was a risk of harm and the potential severity of that harm, and voluntarily used the product or voluntarily assumed the risk of harm from the product.

(f) Evidence of product misuse, alteration, or modification, as defined in subsections (c) and (d), by the claimant's employer or coemployee (where the provisions of section 10 apply) or other acts or omissions by the claimant's employer or coemployee shall be considered on the issue of whether the employer's or coemployee's misuse, alteration, modification, or other act or omission was a superseding cause of the claimant's harm.

(g) The court shall—

(1) unless section 10(a) requires a different result, enter judgment against each defendant or third-party defendant determined to be liable in accordance with its individual percentage of responsibility, as determined under subsection (b), or, where a defendant or third-party defendant is jointly and severally liable with another person, enter judgment against the defendant or third-party defendant on the basis of joint and several liability; and

(2) state in the judgment each party's percentage of responsibility for the claimant's harm.

Joint and several liability and contribution among joint tortfeasors shall be determined in accordance with applicable State law, except that the basis for contribution shall be each joint tortfeasor's percentage of responsiblity for the claimant's harm.

(h) Upon motion made by a joint tortfeasor not later than 1 year after judgment is entered, the court shall determine whether all or part of the amount for which another joint tortfeasor is responsible is uncollectible from contribution from that joint tortfeasor, and shall reallocate any uncollectible amount among the other joint tortfeasors, according to their comparative percentages of responsibility. The joint tortfeasor whose responsibility is reallocated is nonetheless subject to contribution and to any continuing liability to the claimant.

EFFECT OF WORKERS' COMPENSATION BENEFITS

SEC. . (a) In any product liability action in which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers' compensation law, the judgment entered against each defendant and third-party defendant found liable shall be determined by applying the defendant's percentage of responsibility, as determined under section 9(b), to the amount remaining after the claimant's total damages, as determined under section 9(b)(1)(A), are reduced by the sum of the amount paid as workers' compensation benefits for that harm and the present value of all workers' compensation benefits to which the employee is or would be entitled for the harm. Where a defendant or third-party defendant is jointly and severally liable with another person, the judgment against the defendant or third-party defendant shall be entered on the basis of joint and several liability, and the court shall state in the judgment each party's percentage of responsibility for the claimant's harm. The determination of workers' compensation benefits by the trier of fact in a product liability action shall have no binding effect on and shall not be used as evidence in any other proceeding.

(b) Unless the manufacturer or product seller has expressly agreed to indemnify or hold an employer harmless for harm to an employee caused by a product neither the employer nor the workers' compensation insurance carrier of the employer shall have a right of subrogation, contribution, or implied indemnity against the manufacturer or product seller or a lien against the claimant's recovery from the manufacturer or product seller if the harm is one for which a product liability action may be brought under this Act.

(c) In any product liability action in which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers' compensation law, no third-party tortfeasor may maintain any action for implied indemnity or contribution against the employer or any coemployee of the person who was injured.

(d) Nothing in this Act shall be construed to affect any State or Federal workers' compensation law provision which prohibits a person who is or would have been entitled to receive compensation under any such law, or any other person whose claim is or would have been derivative from such a claim, from recovering in any action other than a workers' compensation claim against a present or former employer or workers' compensation insurer of the employer or any coemployee for harm caused by a product. Such other actions shall be prohibited, except that nothing in this Act shall be construed to affect any State or Federal workers' compensation law which permits recovery based on a claim of an intentional tort by the employer or coemployee where the claimant's harm was caused by such an intentional tort.

(e) As used in this section, "employer" does not include a State, where the State is acting in its capacity as an employer.

(f) Without regard to when the harm giving rise to the claim occurred, the provisions of this section do not apply to any person subject to or covered by the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.), as amended.

TIME LIMITATION ON LIABILITY

SEC. . (a)(1) If any product is a capital good, no claim alleging unsafe design or formulation as provided in section 5(b), or failure to give adequate warnings or instructions as provided in section 6(a), may be brought for harm caused by such a product more than 25 years from the date of deliv-

ery of the product to its first purchaser or lessee who was not engaged in the business of selling or leasing the product or using the product as a component in the manufacture of another product.

(2) As used in this subsection, "capital good" means any product, other than a motor vehicle, or a vessel, aircraft, or railroad used primarily to transport passengers, or any component of any such product, if it is also of a character subject to allowance for depreciation under the Internal Revenue Code of 1954, as amended, and was—

(A) used in a trade or business;

(B) held for the production of income; or

(C) sold, leased, or donated to a governmental or private entity for the production of goods, for training, for demonstration, or other similar purposes.

(b) Subsection (a) is not applicable if—

(1) the manufacturer or product seller intentionally misrepresented facts about the product or fraudulently concealed information about the product, and that conduct was a cause of the claimant's harm;

(2) the harm of the claimant was caused by the cumulative effect of prolonged exposure to a defective product; or

(3) the harm, caused within the period referred to in subsection (a), did not manifest itself until after the expiration of that period.

(c) Nothing in subsection (a) shall affect the right of any person who is subject to liability for harm under this Act to seek and obtain contribution or indemnity from any other person who is responsible for that harm.

PUNITIVE DAMAGES

SEC. . (a)(1) Following a determination of the manufacturer's or product seller's liability for compensatory damages and the amount of such damages, a claimant may move that punitive damages be assessed against the manufacturer or product seller. Nothing in this section shall be construed to permit the admission of evidence relating solely to the assessment of punitive damages in a proceeding to determine liability for and the amount of compensatory damages.

(2) Punitive damages may be assessed against any manufacturer or product seller if the claimant establishes by clear and convincing evidence that the harm suffered was the result of the reckless disregard of the manufacturer or product seller for the safety of product users, consumers, or persons who might be harmed by the product. Except as provided in subsection (k), punitive damages may not be assessed in the absence of liability for compensatory damages.

(b) The trier of fact, in determining under subsection (a) whether punitive damages should be awarded, shall consider—

(1) the manufacturer's or product seller's awareness of the likelihood that serious harm would arise from the sale or manufacture of a product;

(2) the conduct of the manufacturer or product seller upon discovery that the product caused harm or was related to harm caused to users or others, including whether upon confirmation of the problem the manufacturer or product seller took appropriate steps to reduce the risk of harm; and

(3) the duration of the conduct and any concealment of it by the manufacturer or product seller.

(c) If the trier of fact determines under subsection (a) that punitive damages should be assessed against a manufacturer or product seller, the court shall determine the amount of those damages. The court shall make findings of fact in connection with its award. In making its determination, the court shall consider—

(1) all relevant evidence relating to the factors set forth in subsection (b);

(2) the profitability of the conduct to the manufacturer or product seller;

(3) all resolved and pending claims against the manufacturer or product seller with respect to the product;

(4) the quality of the conduct that gave rise to liability for punitive damages;

(5) the total resources and the condition of the business of the manufacturer or product seller;

(6) the nature of the harm for which the punitive damage award is assessed; and

(7) the total effect of other sanctions imposed upon the manufacturer or product seller as a result of the misconduct, including any criminal fines, civil penalties, or other sanctions to which the manufacturer or product seller has been or may be subjected.

(d) Notwithstanding the provisons of section 13, a manufacturer or product seller may introduce relevant evidence of post-manufacturing improvements in defense of punitive damages.

(e) After determining the amount of punitive damages to be assessed under subsection (c), the court shall order a distribution of such portion of the award to the plaintiff as the court determines appropriate. The distribution shall not exceed the amount of the award of compensatory damages to the plaintiff.

(f)(1) After making the distribution under subsection (e), the court shall order the distribution of any remainder to a person to be used for a public purpose designated by the court. The public purpose shall further the national interest in health, safety, education, or the environment and may reflect the nature of the harm for which the punitive damage award is assessed.

(2) The person to whom the remainder is distributed shall serve in a fiduciary capacity with respect to such remainder by—

(A) acting in accordance with the court order governing such remainder and using the funds exclusively for the public purpose designated by the court;

(B) using the care, skill, prudence and diligence under the circumstances then prevailing that a reasonably prudent person acting in a similar capacity and familiar with such matters would use in the conduct of an enterprise of a similar character and with similar aims; and

(C) defraying reasonable expenses of administering such remainder.

(3) Unless the court otherwise orders, the person to whom the remainder is distributed shall submit to the court an annual financial statement and opinion of such remainder prepared by an independent qualified public accountant, as defined in section 103(a)(3)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023(a)(3)(D)). The public accountant shall conduct, in accordance with generally accepted accounting standards and such other tests as are considered necessary by the accountant, an examination of such financial statements, books, and records as the accountant may consider necessary and as are available for inspection consistent with any applicable provision of law.

(4) The court may, at any time after ordering distribution of the remainder under paragraph (1)—

(A) hold a hearing and appoint an expert to conduct an examination of such financial statements, books, and records as the expert considers necessary and as are available for inspection consistent with any applicable provision of law, in order to determine whether the person to whom the remainder is distributed has met its fiduciary duties, as specified in paragraph (2); and

(B) impose penalties or revise its distribution order as it considers appropriate, if the court finds that the person to whom the remainder is distributed has not met its fiduciary duties, as specified in paragraph (2).

(5) If a court orders under paragraph (1) that the remainder be distributed to a trust, the court shall designate a qualified financial institution to serve as trustee of the remainder.

(6) As used in this subsection, "person" means any governmental agency, an existing nonprofit organization, a nonprofit organization established for the purpose of receiving and administering the punitive damage award, or a trust; the term does not include any entity whose primary purpose is to assist in or influence the passage or defeat of any legislation by the Congress of the United States or the legislature of any State, or to secure the election or defeat of any candidate for elective office.

(g) If a court assesses punitive damages under this section and an appeal is taken from the assessment, all other claims for punitive damages which are based on the same allegations of reckless disregard shall be stayed pending such appeal, except that, in any case in which the trier of fact has begun to take evidence relevant to liability for punitive damages, any such claim shall only be stayed after the jury has made a determination regarding liability for punitive damages. If no such appeal is made, or upon affirmance of the assessment on appeal, all other claims for punitive damages based on the same allegations of reckless disregard shall be barred. If the assessment is reversed (without remand) upon appeal, the stay of such other claims shall be lifted.

(h) After the trier of fact has begun to take evidence relating to liability for punitive damages under subsection (a)(1), a claim for punitive damages in any proceeding under this section may be compromised, if the court approves that compromise. The court shall not approve a compromise which it finds is not in the public interest or is not commensurate with the damages appropriate to the gravity and nature of the defendant's conduct, as determined under subsection (c). The court shall not approve a compromise if it lacks sufficient evidence to make such a finding. Any such compromise shall have the same effect as an assessment made by the court under this section.

(i) Notwithstanding the provisions of section 18, this section shall apply to all product liability actions in which no jury has been selected or, if the action is to be tried without a jury, in which the court has not begun to take evidence on the effective date of this Act. A payment or adjudication of liability for punitive damages against a manufacturer or product seller before the effective date of this Act shall not bar a proceeding under this section for punitive damages. In making an assessment of punitive damages under this section, the court shall consider, in addition to the factors listed in subsection (c), any amount of punitive damages a manufacturer or product seller, based on the same evidence of reckless disregard, has paid or has been determined to be liable for before the effective date of this Act.

(j) As used in this section, "reckless disregard" means conduct of the manufacturer

or product seller manifesting a conscious, flagrant indifference to the safety of those persons who might be harmed by a product and constituting an extreme departure from accepted practice. A negligent choice among alternative product designs or warnings, when made in the ordinary course of business, does not by itself constitute reckless disregard.

(k) In any action in which the alleged harm to the claimant is death and the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant is liable for any such damages regardless of whether a claim is asserted under this section, and the recovery of any such damages shall not bar a claim under this section.

SUBSEQUENT REMEDIAL MEASURES

SEC. . (a) Except as provided in subsection (b), evidence of any measure taken after an event, which if taken previously would have made the event less likely to occur, is not admissible.

(b) This section does not require the exclusion of evidence of a subsequent measure in an action alleging a product was unreasonably dangerous in design or formulation, if offered to impeach a witness for the manufacturer or product seller who has expressly denied the feasibility of such a measure.

STATUTE OF LIMITATIONS

SEC. . Any civil action brought under this Act shall be barred unless the complaint is filed within 2 years of the time the claimant discovered or, in the exercise of reasonable prudence, should have discovered the harm and its cause, except that any such action of a person under legal disability may be commenced within 2 years after the disability ceases. If the commencement of such an action is stayed or enjoined, the running of the statute of limitations under this section shall be suspended for the period of the stay or injunction.

SEPARABILITY CLAUSE

SEC. . If any provision of this Act or the application of it to any person or circumstance is held invalid, the remainder of this Act and the application of the provision to any other person or circumstance shall not be affected by that invalidation.

EFFECTIVE DATE

SEC. . (a) This Act shall be effective 60 days after the date of its enactment, and shall apply to all product liability actions commenced on or after that date, including any action in which the harm or the conduct which caused the harm occurred before the effective date.

(b) If any provision of this Act would shorten the period during which a manufacturer would otherwise be exposed to liability, the claimant may, notwithstanding the otherwise applicable time period, bring any such action within 1 year after the effective date of this Act.

PRODUCT LIABILITY REVIEW PANEL

SEC. . (a) The Judicial Conference of the United States shall establish a Product Liability Review Panel (hereinafter in this section referred to as the "Panel") to conduct the studies required by this section. The Panel shall consist of three individuals selected on the basis of their expertise regarding civil actions and recovery for loss or damage caused by a product.

(b) The Panel shall conduct a study of the need for Federal legislation providing appropriate and predictable benefits, compensation or damages, through efficient and expeditious means, to any claimant who, through no fault of the claimant, is harmed by a product and who is unable to recover in any civil action based on liability in tort either because—

(1) the manufacturer of the product did not know and could not in the exercise of reasonable prudence have known at the relevant point in time (as defined in section 5(b)(4)) about the danger that caused the harm; or

(2) the product that caused the harm was unreasonably dangerous (as defined in this Act), but the manufacturer could not be identified.

The results of the study required by this section shall be submitted to the Congress within 18 months after the date of enactment of this Act.

(c) The Panel shall conduct a study to determine the feasibility or availability, or both, of providing compensation without regard to fault to claimants for any loss or damage caused by a product. The study shall include an assessment of current legislative or other actions regarding that compensation undertaken by Federal and State governments. The results of the study shall be submitted to the Congress within 2 years after the date of enactment of this Act, and shall contain recommendations for future legislative or other actions to provide compensation without regard to fault to claimants for any loss or damage caused by a product.

(d)(1) The Panel shall conduct an ongoing review of the adequacy of existing common law and statutory remedies in providing recovery for any loss or damage caused by a product.

(2) As part of the review required by this subsection, the Panel shall evaluate—

(A) the nature, adequacy, and availability of remedies and compensation under present law in providing recovery for any loss or damage caused by a product;

(B) the nature and scope of substantive, procedural and evidentiary barriers to that recovery, including statutes of limitation and statutes of repose, and the role of those barriers in the legal system; and

(C) the scope of liability for loss or damage caused by a product under present law and the consequences, including insurability, of any changes in that liability.

(3) The Panel shall submit the results of the review required by this subsection at such times as it considers appropriate, but in no event less often than January 15 of each year in which occurs the first session of a Congress.

(e) A member of the Panel who is not an officer or employee of the Federal Government shall be entitled to receive compensation at a rate not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule pursuant to section 5332 of title 5, United States Code, for each day (including travel-time) during which the member is engaged in the actual performance of the duties of the Panel.

(f) There are authorized to be appropriated for the purposes of this section such sums as may be necessary in fiscal year 1985. Such sums shall remain available until expended.

REVIEWABILITY

SEC. . It is the intent of the Congress that, in other than exceptional cases, the Supreme Court of the United States shall not review issues relating solely to the sufficiency of the evidence in cases arising under this Act which have been finally decided by the highest court of any State.

AMENDMENT No. 6886

At the appropriate place, add the following new title:

"TITLE —FREEDOM OF WORKPLACE

That section 11(d) of the Fair Labor Standards Act of 1938 is amended—

(1) by striking out the word "The" and inserting in lieu thereof "(1) Subject to the provisions of paragraph (2), the"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Nothing in paragraph (1) of this subsection shall be construed to prohibit an individual from engaging in industrial homework (including sewing, knitting, jewelry or craftmaking) or performing any service in or about the individual's place of residence as an employee of any employer covered by the provisions of this Act if the employer pays the minimum wage rate prescribed by this Act and complies with the maximum hours provision of this Act.".

AMENDMENT No. 6887

At the appropriate place, add the following:

That the Congress finds that the rights of citizens to keep and bear arms under the second amendment to the United States Constitution; their rights to security against illegal and unreasonable searches and seizures under the fourth amendment; their protections against uncompensated taking of property, double jeopardy, and assurance of due process of law under the fifth amendment; and their rights against unconstitutional exercise of authority under the ninth and tenth amendments; require additional legislation to correct existing firearms statutes and enforcement policies. The Congress further finds that additional legislation is required to reaffirm its intent, as expressed in section 101 of title I of the Gun Control Act of 1968, that "it is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trapshooting, target shooting, personal protection, or any other lawful activity, . . ." or "to discourage or eliminate the private ownership or use of firearms by law-abiding citizens for lawful purposes.".

TITLE I—AMENDMENTS TO TITLE 18, UNITED STATES CODE (18 U.S.C. 921-928)

AMENDMENTS TO SECTION 921

SEC. 101. Section 921 of title 18, United States Code, is amended—

(1) in subsection (a)(10) by deleting the words "manufacture of" and inserting in lieu thereof the words "business of manufacturing";

(2) in subsection (a)(11)(A) by deleting the words "or ammunition";

(3) in subsection (a)(12) by deleting the words "or ammunition";

(4) in subsection (a)(13) by deleting the words "or ammunition";

(5) by amending subsection (a)(20) to read as follows:

"(20) The term 'crime punishable by imprisonment for a term exceeding one year' shall not include (A) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices, or (B) any State offense classified by the laws of the State as a misdemeanor and punishable by a term of

imprisonment of two years or less: *Provided, however,* That what constitutes a conviction shall be determined in accordance with the law of the jurisdiction in which the proceedings were held: *Provided further,* That any conviction which has been expunged, or set aside or for which a person has been pardoned or has had his or her civil rights restored shall not be considered a conviction under the provisions of this Act, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms."; and

(6) in subsection (a) by inserting new paragraphs (21) and (22) after paragraph (20), to read as follows:

"(21) The term 'engaged in the business' means—

"(A) As applied to a manufacturer of firearms, a person who devotes time, attention, and labor to manufacturing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms manufactured.

"(B) As applied to a manufacturer of ammunition, a person who devotes time, attention, and labor to manufacturing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition manufactured.

"(C) As applied to a dealer in firearms, as defined in section 921(a)(11)(A), a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms. The term shall not include a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or hobby, or who sells all or part of his personal collection of firearms.

"(D) As applied to a dealer in firearms, as defined in section 921(a)(11)(B), a person who devotes time, attention, and labor to engaging in such activity as a regular course of trade or business with the principal objective of livelihood and profit. The term shall not include a person who makes occasional repairs of firearms or who occasionally fits special barrels, stocks, or trigger mechanisms to firearms.

"(E) As applied to an importer of firearms, a person who devotes time, attention, and labor to importing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms imported.

"(F) As applied to an importer of ammunition, a person who devotes time, attention, and labor to importing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition imported.

"(22) The term 'with the principal objective of livelihood and profit' means that the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection.

AMENDMENTS TO SECTION 922

SEC. 102. Section 922 of title 18, United States Code, is amended—

(1) by amending subsection (a)(1) to read as follows:

"(1) for any person (A) except a licensed importer, licensed manufacturer, or licensed dealer to engage in the business of importing, manufacturing, or dealing in firearms, or in the course of such business to ship, transport, or receive any firearm in interstate or foreign commerce; and (B) except a licensed importer or licensed manufacturer to engage in the business of importing or manufacturing ammunition, or in the course of such business, to ship, transport, or receive any ammunition in interstate or foreign commerce;";

(2) in subsection (a)(2)—

(A) By deleting the words "or ammunition"; and

(B) by deleting the words "or licensed dealer for the sole purpose of repair or customizing," and inserting in lieu thereof the words, "licensed dealer, or licensed collector;";

(3) by amending clause (B) of subsection (a)(3) to read as follows: "(B) shall not apply to the transportation or receipt of a firearm obtained in conformity with the provisions of subsection (b)(3) of this section,";

(4) in subsection (b)—

(A) by deleting in paragraph (2) "or ammunition" each place it appears;

(B) by deleting clause (A) in paragraph (3) and inserting in lieu thereof the following: "(A) shall not apply to the sale or delivery of any firearm to a resident of a State other than a State in which the licensee's place of business is located if the sale, delivery and receipt fully comply with the legal conditions of sale in both such States: *Provided, however,* That any licensed manufacturer, importer or dealer shall be presumed, in the absence of evidence to the contrary, to have had actual knowledge of the State laws and published ordinances of both States,";

(C) by inserting "and" before "(B)" in paragraph (3);

(D) by striking out ", and" in clause (B) of paragraph (3) and inserting in lieu thereof a semicolon;

(E) by repealing clause (C) of paragraph (3); and

(F) by deleting from paragraph (5) "or ammunition except .22 rimfire ammunition";

(5) in subsection (d)—

(A) by deleting "licensed importer, licensed manufacturer, licensed dealer, or licensed collector" the first time they appear and inserting in lieu thereof "person";

(B) by deleting in paragraph (3) the word "or" following the semicolon;

(C) by replacing the period in paragraph (4) with a semicolon; and

(D) by inserting after paragraph (4) the following:

"(5) who, being an alien, is illegally or unlawful in the United States;

"(6) who has been discharged from the Armed Forces under dishonorable conditions; or

"(7) who, having been a citizen of the United States, has renounced his citizenship.";

(6) in subsection (g)—

(A) by deleting the words "is under indictment for, or who" in paragraph (1);

(B) by deleting in paragraph (3) the word "or" following the semicolon;

(C) by inserting after paragraph (4) the following:

"(5) who, being an alien, is illegally or unlawfully in the United States;

"(6) who has been discharged from the Armed Forces under dishonorable conditions; or

"(7) who, having been a citizen of the United States, has renounced his citizenship;"; and

(D) by deleting the words "to ship or transport any firearm or ammunition in interstate or foreign commerce" and inserting in lieu thereof the words "to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.";

(7) in subsection (h)—

(A) by inserting after the word "any" and before the word "person" the words "individual who to his knowledge and while being employed by any";

(B) by deleting the words "is under indictment for, or who" in paragraph (1);

(C) by deleting in paragraph (3) the word "or" following the semicolon;

(D) by inserting after paragraph (4) the following:

"(5) who, being an alien, is illegally or unlawful in the United States;

"(6) who has been discharged from the Armed Forces under dishonorable conditions; or

"(7) who having been a citizen of the United States, has renounced his citizenship;"; and

(E) by deleting the words "to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce" and inserting in lieu thereof the words "in the course of such employment to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce."; and

(8) by inserting after subsection (m) a new subsection to read as follows:

"(n) It shall be unlawful for any person who is under indictment for a crime punishable by imprisonment for a term exceeding one year to ship or transport in interstate or foreign commerce any firearm or ammunition or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.".

AMENDMENTS TO SECTION 923

SEC. 103. Section 923 of title 18, United States Code, is amended—

(1)(A) in subsection (a)—

(i) by deleting the words "No person shall engage in business as a firearms or ammunition importer, manufacturer, or dealer until he has filed an application with, and received a license to do so from the Secretary." and inserting in lieu thereof the words "No person shall engage in the business of importing, manufacturing, or dealing in firearms, or importing or manufacturing ammunition, until he has filed an application with and received a license to do so from the Secretary."; and

(ii) by deleting the words "and contain such information", and inserting in lieu thereof the words "and contain only that information necessary to determine eligibility for licensing.";

(B) in subsection (a)(3)(B) by deleting the words "or ammunition for firearms other than destructive devices";

(2) in subsection (b) by striking out "and contain such information", and inserting in lieu thereof "and contain only that information necessary to determine eligibility for licensing";

(3) in subsection (c) by adding at the end thereof the following: "*Provided, however,* That nothing in this chapter shall be construed to prohibit a licensed manufacturer,

importer, or dealer from maintaining and disposing of a personal collection of firearms, subject only to such restrictions as apply in this chapter to dispositions by a person other than a licensed manufacturer, importer, or dealer: *Provided further,* That if any firearm is so disposed of by a licensee within one year of its transfer from his business inventory into his personal collection or if such disposition or any acquisition is made for the purpose of willfully evading the restrictions placed upon licensees by this chapter, then such firearm shall be deemed part of his business inventory.";

(4) in subsection (e) by inserting before the word "violated" the word "willfully";

(5) in subsection (f)—

(A) by inserting the words "de novo" before the word "judicial" in paragraph (3);

(B) by adding the words ", whether or not such evidence was considered at the hearing held under paragraph (2)." after the words "to the proceeding" in paragraph (3); and

(C) by inserting at the end thereof the following new paragraph:

"(4) If criminal proceedings are instituted against a licensee alleging violations of this chapter or regulations promulgated thereunder, and the licensee is acquitted of such charges, or such proceedings are terminated, other than upon motion of the Government prior to trial upon such charges, the Secretary shall be absolutely barred from denying or revoking any license granted under the provisions of this chapter where such denial or revocation is based in whole or in part on the facts which form the basis of such criminal charges. No proceedings for the revocation of a license shall be instituted by the Secretary more than one year after the filing of the indictment or information.";

(6) by amending subsection (g) to read as follows:

"(g)(1) Each licensed importer, licensed manufacturer, and licensed dealer, shall maintain such records of importation, production, shipment, receipt, sale, or other disposition, of firearms at his place of business for such period, and in such form, as the Secretary may by regulations prescribe. Such importers, manufacturers and dealers shall not be required to submit to the Secretary reports and information with respect to such records and the contents thereof, except as explicity required by the Act entitled 'An Act to protect firearms owners' constitutional rights, civil liberties and rights to privacy'. The Secretary, when he has reasonable cause to believe a violation of this law has occurred, and that evidence thereof may be found on such premises may, upon demonstrating such cause before a Federal magistrate, and securing from him a warrant authorizing entry, enter during business hours the premises (including places of storage) of any licensed firearms importer, licensed manufacturer, licensed dealer, licensed collector or any licensed importer or manufacturer of ammunition, for the purposes of inspecting or examining (1) any records or documents required to be kept by such licensed importer, licensed manufacturer, licensed dealer, or licensed collector under the provisions of this chapter or regulations issued under this chapter, and (2) any firearms or ammunition kept or stored by such licensed importer, licensed manufacturer, licensed dealer, or licensed collector, at such premises. The Secretary may inspect the inventory and records of a licensed importer, licensed manufacturer, or licensed dealer without such cause or warrant, (A) for a reasonable inquiry during the course of a criminal investigation of a person or persons other than the licensee; or (B) no more than once in any twelve consecutive months, upon reasonable notice, but no criminal charges shall be brought against the licensee based upon such inspection except for willful violations of the record-keeping requirements of this chapter or sales or other dispositions of firearms to prohibited persons; or (C) when such inspections or inquiries may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation. The Secretary may inspect the inventory and records of a licensed collector without such reasonable cause or warrant (A) no more than once in any twelve consecutive month period, upon reasonable notice, but no criminal charges shall be brought against such licensee based upon such inspection except for willful violations of the recordkeeping requirements of this chapter or sales or other dispositions of firearms to prohibited persons; or (B) when such inspections or inquiries may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation. At the election of a licensed collector, the annual inspection of records and inventory permitted under this paragraph shall be performed at the office of the Secretary designated for such inspections which is located in closest proximity to the premises where the inventory and records of such licensed collector are maintained. Such procedure shall not be construed as authorizing the Secretary to seize any records or other documents other than those records or documents constituting material evidence of a violation of law. If the Secretary seizes such records or documents, copies shall be provided the licensee within a reasonable time. The Secretary may make available to any Federal, State, or local law enforcement agency any information which he may obtain by reason of the provisions of this chapter with respect to the identification of persons prohibited from purchasing or receiving firearms or ammunition who have purchased or received firearms or ammunition, together with a description of such firearms or ammunition and he may provide information to the extent such information may be contained in the records required to be maintained by the provisions of this chapter, when so requested by any Federal, State, or local law enforcement agency.

"(2) Each licensed collector shall maintain in a bound volume the nature of which the Secretary may by regulations prescribe, records of the receipt, sale, or other disposition, of firearm. Such records shall include the name and addresses of any person to whom the collector sells or otherwise disposes of a firearm. Such collector shall not be required to submit to the Secretary reports and information with respect to such records and the contents thereof, except as explicitly required by the Act entitled 'An Act to protect firearms owners' constitutional rights, civil liberties and rights to privacy'.

"(3)(A) Within thirty days of the absolute discontinuance of the business of a licensee, any records maintained by such licensee under this chapter shall be delivered to the joint custody of the Administrator of General Services and the Secretary to be stored in a records center maintained and operated by the Administrator of General Services, unless state law or local ordinance requires delivery to another authority, in which event the Administrator of General Services and the Secretary may arrange for delivery to such authority.

"(B) The Secretary shall have access to records stored under this paragraph solely for the purposes of tracing firearms, organizing and preserving such records, and certifying to facts on the basis of such records in any court or any administrative proceeding of the United States or of any state. The Secretary may remove such records from the record center maintained by the Administrator of General Services only in connection with proceedings in any court or any administrative proceeding of the United States or of any state.

"(C) The Administrator of General Services may promulgate regulations governing the storage, processing and servicing of records stored under this paragraph: *Provided,* That no such regulations may restrict the authority of the Secretary under this paragraph to have access to or to remove such records.

"(D) Notwithstanding any other provision of law, the Administrator of General Services shall dispose of records kept by licensed dealers and licensed collectors, and records relating to the disposition of firearms kept by manufacturers and importers, and stored under this paragraph twenty years after such records are received by the Administrator of General Services and the Secretary.

"(4)(A) each licensee shall, when required by letter issued by the Secretary, and until notified to the contrary in writing by the Secretary, submit on a form specified by the Secretary, for the periods and at the times specified in such letter, all record information required by this chapter or such lesser record information as the Secretary in his letter may specify.

"(B) The Secretary may authorize the information to be submitted in a manner other than that prescribed in subparagraph (A) of this paragraph when it is shown by a licensee that an alternate method of reporting is reasonably necessary and will not unduly hinder the effective administration of this chapter.

"(C) No warrant shall issue nor shall any criminal charges be brought against the licensee based solely upon information provided pursuant to the provisions of this paragraph.

"(5)(A) Each licensee shall prepare a report of multiple sales or other disposition whenever the licensee sells or otherwise disposes of, at one time or during any five consecutive business days, two or more pistols, or revolvers, or any combination of pistols and revolvers totaling two or more, to an unlicensed person. The report shall be prepared on a form specified by the Secretary and forwarded to the office specified thereon not later than the close of business on the day that the multiple sale or other disposition occurs.

"(B) Ten years after receiving any report submitted under subparagraph (A) of this paragraph, the Secretary shall deliver such report to the joint custody of the Administrator of General Services and the Secretary to be stored in a records center maintained and operated by the Administrator of General Services, subject to the provisions of sections 923(g)(3) (B) and (C) of this title. Notwithstanding any other provision of law, the Administrator of General Services shall dispose of records stored under this subparagraph ten years after such records are received by the Administrator of General Services and the Secretary.

"(C) No record, form, or information delivered, submitted, or forwarded pursuant to

this paragraph or paragraph (3) or (4) of this subsection may be kept by the Secretary at a centralized location, nor shall it be entered into a computer for storage or retrieval."; and

(7) by amending subsection (j) to read as follows:

"(j) A licensed importer, licensed manufacturer, or licensed dealer may, under regulations prescribed by the Secretary, conduct business temporarily at a location other than the location specified on the license if such other location is in the State which is specified on the license. Records of receipt and disposition of firearms transactions conducted at such temporary location shall include the location of the sale or other disposition and shall be entered in the permanent records of the licensee and retained on the location specified on the license. Nothing in this subsection shall authorize any licensee to conduct business in or from any motorized or towed vehicle. Notwithstanding the provisions of subsection (a) of this section, a separate fee shall not be required of a licensee with respect to business conducted under this subsection. Except for records directly related to receipts, sales, or other dispositions of firearms made at the temporary premises within the period of time the licensed importer, licensed manufacturer, or licensed dealer conducted the business of which such receipts, sales, or other dispositions were a part, nothing in this subsection shall be construed to authorize the Secretary to inspect or examine the inventory or records of a licensed importer, licensed manufacturer, or licensed dealer at any location other than the location specified on the license. Nothing in this subsection shall be construed to diminish in any manner any right to display, sell or otherwise dispose of firearms or ammunition which is in effect prior to the date of enactment of the Act entitled 'An Act to protect firearms owners' constitutional rights, civil liberties and rights to privacy'.".

AMENDMENTS TO SECTION 924

SEC. 104. Section 924 of title 18, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) Whoever—

"(1) knowingly makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under this chapter, or in applying for any license or exemption or relief from disability under the provisions of this chapter;

"(2) knowingly violates subsections (a)(4), (a)(6), (f), (g), (h), (i), (j), or (k) of section 922;

"(3) knowingly imports or brings into the United States or any possession thereof any firearm or ammunition in violation of section 922(l);

"(4) knowingly violates any provision of this section; or

"(5) willfully violates any other provision of this chapter,

shall be fined not more than $5,000, or imprisoned not more than five years, or both, and shall become eligible for parole as the Board of Parole shall determine: *Provided,* That no person shall be prosecuted under this subsection where the conduct of such person involves simple carelessness.".

(2) by amending subsection (c) to read as follows:

"(c)(1) Whoever, during and in relation to any crime of violence, including a crime of violence which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device, for which he may be prosecuted in a court of the United States, uses a firearm, or carries a firearm in furtherance of any such crime of violence, shall, in addition to the punishment provided for such crime of violence, be sentenced to imprisonment for a term of five years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to imprisonment for a term of ten years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence in which the firearm was used or carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein: *Provided,* That no person shall be sentenced under this subsection if he establishes to the satisfaction of the court that the use of the firearm or destructive device was to protect his person or the person of another from the good faith perception of immediate danger other than the danger which was the direct result of the commission of or attempt to commit a felony by either such person and the court must find that a sentence under this subsection would constitute a severe and substantial miscarriage of justice and such court must provide in writing each finding of fact and law necessary to establish the applicability of this proviso.

"(2) For purposes of this subsection the term 'crime of violence' means an offense that is a felony and—

"(A) has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or

"(B) that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.".

(3) by amending subsection (d) to read as follows:

"(d)(1) Any firearm or ammunition involved in or used in any knowing violation of subsections (a)(4), (a)(6), (f), (g), (h), (i), (j), or (k) of section 922, or knowing importation or bringing into the United States or any possession thereof any firearm or ammunition in violation of section 922(l), or knowing violation of section 924, or willful violation of any other provision of this chapter or any rule or regulation promulgated thereunder, or any violation of any other criminal law of the United States, or any firearm or ammunition intended to be used in any offense referred to in paragraph (3) of this subsection, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1954 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter: *Provided,* That upon acquittal of the owner or possessor, or dismissal of the charges against him other than upon motion of the Government prior to trial, the seized firearms or ammunition shall be returned forthwith to the owner or possessor or to a person delegated by the owner or possessor unless the return of the firearms or ammunition would place the owner or possessor or his delegate in violation of law. Any action or proceeding for the forfeiture of firearms or ammunition shall be commenced within one hundred and twenty days after such seizure.

"(2)(A) In any action or proceeding for the return of firearms or ammunition seized under the provisions of this chapter, the court shall allow the prevailing party, other than the United States, a reasonable attorney's fee, and the United States shall be liable therefor.

"(B) In any other action or proceeding under the provisions of this chapter, the court, when it finds that such action was without foundation, or was initiated vexatiously, frivolously, or in bad faith, shall allow the prevailing party, other than the United States, a reasonable attorney's fee, and the United States shall be liable therefor.

"(C) Only those firearms or quantities of ammunition particularly named and individually identified as involved in or used in any violation of the provisions of this chapter or any rule or regulation issued thereunder, or any other criminal law of the United States, or as intended to be used in any offense referred to in paragraph (3) of this subsection, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure, forefeiture, and disposition.

"(3) The offenses referred to in paragraphs (1) and (2)(C) of this subsection are—

"(A) any crime of violence, as that term is defined in section 924(c)(2) of this title;

"(B) any offense punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.);

"(C) any offense described in sections 922(a)(1), 922(a)(3), 922(a)(5), or 922(b)(3) of this title, where the firearm or ammunition intended to be used in any such offense is involved in a pattern of activities which includes a violation of any offense described in sections 922(a)(1), 922(a)(3), 922(a)(5), or 922(b)(3) of this title;

"(D) any offense described in section 922(d) of this title where the firearm or ammunition is intended to be used in such offense by the transferor of such firearm or ammunition;

"(E) any offense described in sections 922(i), 922(j), 922(l), 922(n), or 924(b) of this title; and

"(F) any offense which may be prosecuted in a court of the United States which involves the exportation of firearms or ammunition.".

AMENDMENTS TO SECTION 925

SEC. 105. Section 925 of title 18, United States Code, is amended—

(1) in subsection (c)—

(A) by deleting the words "has been convicted of a crime punishable by imprisonment for a term exceeding one year (other than a crime involving the use of a firearm or other weapon or a violation of this chapter or of the National Firearms Act)" and inserting in lieu thereof the words "is prohibited from possessing, shipping, transporting, or receiving firearms or ammunition";

(B) by inserting the word "transportation," after the word "shipment";

(C) by deleting the words "and incurred by reason of such conviction,"; and

(D) by adding after the words "the public interest." the words "Any person whose application for relief from disabilities is denied by the Secretary may file a petition with the United States district court for the dis-

trict in which he resides for a judicial review of such denial. In a proceeding conducted under this subsection, the scope of judicial review shall be governed by section 706 of title 5, United States Code. The court may in its discretion admit additional evidence where failure to do so would result in a miscarriage of justice."; and

(2) in subsection (d)—

(A) by deleting the words "may authorize" and inserting in lieu thereof the words "shall authorize";

(B) by deleting the words "the person importing or bringing in the firearm or ammunition establishes to the satisfaction of the Secretary that"; and

(C) by deleting in paragraph (3) the words "generally recognized an particularly"; and

(D) by deleting the words "may permit" and inserting in lieu thereof the words "shall permit".

AMENDMENTS TO SECTION 925

SEC. 106. Section 926 of title 18, United States Code, is amended by—

(1) inserting "(a)" before "The Secretary" the first place it appears;

(2) inserting the word "only" after the word "prescribe";

(3) deleting the words "as he deems reasonable" and inserting in lieu thereof the words "as are";

(4) deleting the words "The Secretary shall give reasonable public notice, and afford interested parties opportunity for hearing, prior to prescribing such rules and regulations" and inserting in lieu thereof the words: "*Provided,* That no such rule or regulation promulgated after the effective date of this Act may require that records required to be maintained under this chapter or any portion of the contents of such records, be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or any political subdivision thereof, nor that any system of registration of firearms, firearms owners, or firearms transactions or dispositions be established: *Provided further,* That nothing in this section shall be deemed to expand or restrict the Secretary's authority to inquire into the disposition of one or more firearms pursuant to a criminal investigation."; and

(5) inserting at the end thereof the following:

"(b) The Secretary shall give not less than ninety days public notice, and shall afford interested parties opportunity for hearing, prior to prescribing such rules and regulations.

"(c) The Secretary shall not prescribe regulations that require purchasers of black powder under the exemption provided in section 845(a)(5) of title 18, United States Code, to complete affidavits or forms attesting to that exemption.".

AMENDMENTS TO SECTION 927

SEC. 107. Section 927 of title 18, United States Code, is amended by inserting before the period at the end thereof the following: ": *Provided, however,* That any provision of any legislation enacted, or of any rule or regulation promulgated, by any State or a political subdivision which prohibits or has the effect of prohibiting the transportation of a firearm or ammunition in interstate commerce through such State, when such firearm is unloaded and not readily accessible, shall be null and void.

EFFECTIVE DATE

SEC. 108. (1) All amendments (including any repeals) made by this Act shall become effective one hundred and eighty days after the date of enactment of this Act. At that time the Secretary shall publish and provide to all licensees a compilation of the State laws and published ordinances of which licensees are presumed to have knowledge pursuant to chapter 44 of title 18, United States Code, as amended by this Act. All amendments to such State laws and published ordinances as contained in the aforementioned compilation shall be published in the Federal Register, revised annually, and furnished to each person licensed under chapter 44 of title 18, United States Code, as amended by this Act.

(2) The provisions of sections 103(5)(C), 104(2), 105, and 107 of this Act shall be applicable to any action, petition, or appellate proceeding pending on the effective date of this Act. In considering any petitions for Presidential pardons submitted by persons convicted of violations of chapter 44 of title 18, United States Code, prior to the effective date of this Act, the Congress recommends that consideration be given to whether the violation would have been punishable under this Act, and to the purposes and findings contained in the preamble thereto.

AMENDMENT NO. 6888

At the appropriate place, add the following: That this amendment may be referred to as the "Labor Management Racketeering Act of 1983".

SEC. . (a) Subsection (d) of section 302 of the Labor Management Relations Act, 1947 (29 U.S.C. 186) is amended to read as follows:

"(d)(1) Any person who participates in a transaction involving a payment, loan, or delivery of money or other thing of value to a labor organization in payment of membership dues or to a joint labor-management trust fund as defined by clause (B) of the proviso to clause (5) of subsection (c) of this section or to a plant, area, or industrywide labor-management committee that is received and used by such labor organization, trust fund, or committee, which transaction does not satisfy all the applicable requirements of subsections (c)(4) through (c)(9) of this section, and willfully and with intent to benefit himself or to benefit other persons he knows are not permitted to receive a payment, loan, money, or other thing of value under subsections (c)(4) through (c)(9) violates this subsection, shall, upon conviction thereof, be guilty of a felony and be subject to a fine of not more than $15,000, or imprisoned for not more than five years, or both; but if the value of the amount of money or thing of value involved in any violation of the provisions of this section does not exceed $1,000, such person shall be guilty of a misdemeanor and be subject to a fine of not more than $10,000, or imprisoned for not more than one year, or both.

"(2) Except for violations involving transactions covered by subsection (d)(1) of this section, any person who willfully violates this section shall, upon conviction thereof, be guilty of a felony and be subject to a fine of note more than $15,000, or imprisoned for not more than five years, or both; but if the value of the amount of money or thing of value involved in any violation of the provisions of this section does not exceed $1,000, such person shall be guilty of a misdemeanor and be subject to a fine of not more than $10,000, or imprisoned for not more than one year, or both.".

(b) Subsection (e) of such section is amended to read as follows:

"(e) The district courts of the United States and the United States courts of the territories and possessions shall have jurisdiction, for cause shown, and subject to the provisions of rule 65 of the Federal Rules of Civil Procedure (relating to notice to opposite party), over—

"(1) suits alleging a violation of this section brought by any person directly affected by the alleged violation, and

"(2) suits brought by the United States alleging that a transaction vinvolving a payment, loan, or delivery of money or other thing of value to a labor organization in payment of membership dues or a joint labor-management trust fund as provided for in clause (B) of the proviso to clause (5) of subsection (c) of this section or to a plant, area, or industrywide labor-management committee violates this section,

to restrain such violations without regard to the provisions of section 6 of the Clayton Act (15 U.S.C. 17), section 20 of such Act (29 U.S.C. 52), and sections 1 through 15 of the Act entitled 'An Act to amend the Judicial Code to define and limit the jurisdiction of courts sitting in equity, and for other purposes', approved March 23, 1932 (29 U.S.C. 101-115).".

SEC. . (a) So much of subsection (a) of section 411 of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111) as follows "the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 401)," is amended to read as follows: "any felony involving abuse or misuse of such person's labor organization or employee benefit plan position or employment, or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element, shall serve or be permitted to serve—

"(1) as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, employee, or representative in any capacity of any employee benefit plan,

"(2) as a consultant or adviser to an employee benefit plan, including but not limited to any entity whose activities are in whole or substantial part devoted to providing goods or services to any employee benefit plan, or

"(3) in any capacity that involves decision-making authority or custody or control of the moneys, funds, assets, or property of any employee benefit plan,

during or for the period of ten years after such conviction or after the end of such imprisonment, whichever is later, unless the sentencing court on the motion of the person convicted sets a lesser period of at least five years after such conviction or after the end of such imprisonment, whichever is later, or unless prior to the end of such period, in the case of a person so convicted or imprisoned (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) the United States Parole Commission determines that such person's service in any capacity referred to in paragraphs (1) through (3) would not be contrary to the purposes of this title. Prior to making any such determination the Commission shall hold an administrative hearing and shall give notice to such proceeding by certified mail to the Secretary of Labor and to State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Commission's determination in any such proceeding shall be final. No person shall knowingly hire, retain, employ, or otherwise place any other person to serve in any capacity in violation of this subsection. Notwithstanding

the preceding provisions of this subsection, no corporation or partnership will be precluded from acting in any position proscribed in clauses (1) through (3) of this subsection without a notice, hearing, and determination by such Parole Commission that such service would be inconsistent with the intention of this section.".

(b) Subsection (b) of such section is amended to read as follows:

"(b) Any person who intentionally violates this section shall be fined not more than $10,000 or imprisoned for not more than five years, or both.".

(c) Subsection (c) of such section is amended to read as follows:

"(c) For the purpose of this section:

"(1) A person shall be deemed to have been 'convicted' and under the disability of 'conviction' from the date of the judgment of the trial court, regardless of whether that judgment remains under appeal.

"(2) The term 'consultant' means any person who, for compensation, advises, or represents an employee benefit plan or who provides other assistance to such plan, concening the establishment or operation of such plan.

"(3) A period of parole shall not be considered as part of a period of imprisonment.".

(d) Such section is amended by adding at the end thereof the following:

"(d) Whenever any person—

"(1) by operation of this section, has been barred from office or other position in an employee benefit plan as a result of a conviction, and

"(2) has filed an appeal of that conviction, any salary which would be otherwise due such person by virtue of such office or position, shall be placed in escrow by the individual or organization responsible for payment of such salary. Payment of such salary into escrow shall continue for the duration of the appeal or for the period of time during which such salary would be otherwise due, whichever period is shorter. Upon the final reversal of such person's conviction on appeal, the amounts in escrow shall be paid to such person. Upon the final sustaining of that person's conviction on appeal, the amounts in escrow shall be returned to the individual or organization responsible for payments of those amounts. Upon final reversal of such person's conviction, such person shall no longer be barred by this statute from assuming any position from which such person was previously barred.".

SEC. . (a) So much of subsection (a) of section 504 of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 504) as follows "or a violation of title II or III of this Act" is amended to read as follows: "any felony involving abuse or misuse of such person's labor organization or employee benefit plan position or employment, or conspiracy to commit any such crimes, shall serve or be permitted to serve—

"(1) as a consultant or adviser to any labor organization,

"(2) as an officer, director, trustee, member of any executive board or similar governing body, business agent, manager, organizer, employee, or representative in any capacity of any labor organization,

"(3) As a labor relations consultant or adviser to a person engaged in an industry or activity affecting commerce, or as an officer, director, agent, or employee of any group or association of employers dealing with any labor organization, or in a position having specific collective bargaining authority or direct responsibility in the area of labor-management relations in any corporation or association engaged in an industry or activity affecting commerce,

"(4) in a position which entitles its occupant to a share of the proceeds of, or as an officer or executive or administrative employee of, any entity whose activities are in whole or substantial part devoted to providing goods or services to any labor organization, or

"(5) in any capacity, other than in his capacity as a member of such labor organization, that involves decisionmaking authority concerning, or decisionmaking authority over, or custody of, or control of the moneys, funds, assets, or property of any labor organization,

during or for the period of ten years after such conviction or after the end of such imprisonment, whichever is later, unless the sentencing court on the motion of the person convicted sets a lesser period of at least five years after such conviction or after the end of such imprisonment, whichever is later, or unless prior to the end of such period, in the case of a person so convicted or imprisoned, (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) the United States Parole Commission determines that such person's service in any capacity referred to in clauses (1) through (5) would not be contrary to the purposes of this Act. Prior to making any such determination the Commission shall hold an administrative hearing and shall give notice of such proceeding by certified mail to the Secretary of Labor and to State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Commission's determination in any such proceeding shall be final. No person shall knowingly hire, retain, employ, or otherwise place or permit any other person to serve in any capacity in violation of this subsection.".

(b) Subsection (b) of such section is amended to read as follows:

"(b) Any person who willfully violates this section shall be fined not more than $10,000 or imprisoned for not more than five years, or both.".

(c) Subsection (c) of such section is amended to read as follows:

"(c) For the purpose of this section:

"(1) A person shall be deemed to have been 'convicted' and under the disability of 'conviction' from the date of the judgment of the trial court, regardless of whether that judgment remains under appeal.

"(2) A period of parole shall not be considered as part of a period of imprisonment.".

(d) Such section 504 is amended by adding at the end thereof the following:

"(d) Whenever any person—

"(1) by operation of this section, has been barred from office or other position in a labor organization as a result of a conviction, and

"(2) has filed an appeal of that conviction, any salary which would be otherwise due such person by virtue of such office or position, shall be placed in escrow by the individual employer or organization responsible for payment of such salary. Payment of such salary into escrow shall continue for the duration of the appeal or for the period of time during which such salary would be otherwise due, whichever period is shorter. Upon the final reversal of such person's conviction on appeal, the amounts in escrow shall be paid to such person. Upon the final sustaining of such person's conviction on appeal, the amounts in escrow shall be returned to the individual employer or organization responsible for payments of those amounts. Upon final reversal of such person's conviction, such person shall no longer be barred by this statute from assuming any position from which such person was previously barred.".

SEC. . (a) The first paragraph of section 506 of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by striking out "In order" and inserting in lieu thereof the following:

"(a) COORDINATION WITH OTHER AGENCIES AND DEPARTMENTS.—In order".

(b) Such section is amended by adding at the end thereof the following new subsection:

"(b) RESPONSIBILITY FOR DETECTING AND INVESTIGATING CIVIL AND CRIMINAL VIOLATIONS OF EMPLOYEE RETIREMENT INCOME SECURITY ACT AND RELATED FEDERAL LAWS.—The Secretary shall have the responsibility and authority to detect and investigate and refer, where appropriate, civil and criminal violations related to the provisions of this title and other related Federal laws, including the detection, investigation, and appropriate referrals of related violations of title 18 of the United States Code. Nothing in this subsection shall be construed to preclude other appropriate Federal agencies from detecting and investigating civil and criminal violations of this title and other related Federal laws"

(c) The title of such section is amended to read as follows:

"COORDINATION AND RESPONSIBILITY OF AGENCIES ENFORCING EMPLOYEE RETIREMENT INCOME SECURITY ACT AND RELATED FEDERAL LAWS"

SEC. . (a) The amendments made by section 3 and section 4 of this Act shall take effect with respect to any judgment of conviction entered by the trial court after the date of enactment of this Act, except that that portion of such amendments relating to the commencement of the period of disability shall apply to any judgment of conviction entered prior to the date of enactment of this Act if a right of appeal or an appeal from such judgment is pending on the date of enactment of this Act.

(b) Subject to subsection (a) the amendments made by sections 3 and 4 shall not affect any disability under section 411 of the Employee Retirement Income Security Act of 1974 or under section 504 of the Labor-Management Reporting and Disclosure Act of 1959 in effect on the date of enactment of this Act.

AMENDMENT NO. 6889

At the appropriate place, add the following:

(a) SHORT TITLE.—This amendment may be cited as the "Enterprise Zone Act of 1984".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. . PURPOSES.

It is the purpose of this Act to provide for the establishment of enterprise zones in order to stimulate the creation of new jobs, particularly for disadvantaged workers and long-term unemployed individuals, and to promote revitalization of economically dis-

tressed areas primarily by providing or encouraging—

(1) tax relief at the Federal, State, and local levels;

(2) regulatory relief at the Federal, State, and local levels; and

(3) improved local services and an increase in the economic stake of enterprise zone residents in their own community and its development, particularly through the increased involvement of private, local, and neighborhood organizations.

SEC. . DESIGNATION OF ZONES.

(a) GENERAL RULE.—Chapter 80 (relating to general rules) is amended by adding at the end thereof the following new subchapter:

"Subchapter D—Designation of Enterprise Zones

"Sec. 7891. Designation.

"SEC. 7891. DESIGNATION.

"(a) DESIGNATION OF ZONES.—

"(1) DEFINITIONS.—For purposes of this title, the term 'enterprise zone' means any area—

"(A) which is nominated by one or more local governments and the State or States in which it is located for designation as an enterprise zone (hereinafter in this section referred to as a 'nominated area'), and

"(B) which the Secretary of Housing and Urban Development, after consultation with—

"(i) the Secretaries of Agriculture, Commerce, Labor, and the Treasury; the Director of the Office of Management and Budget; and the Administrator of the Small Business Administration, and

"(ii) in the case of an area on an Indian reservation, the Secretary of the Interior,

designates as an enterprise zone.

"(2) LIMITATIONS ON DESIGNATIONS.—

"(A) PUBLICATION OF REGULATIONS.—Before designating any area as an enterprise zone and not later than 4 months following the date of the enactment of this section, the Secretary of Housing and Urban Development shall prescribe by regulation, after consultation with the officials described in paragraph (1)(B)—

"(i) the procedures for nominating an area under paragraph (1)(A),

"(ii) the parameters relating to the size and population characteristics of an enterprise zone, and

"(iii) the manner in which nominated areas will be compared based on the criteria specified in subsection (d) and the other factors specified in subsection (f).

"(B) TIME LIMITATIONS.—The Secretary of Housing and Urban Development shall designate nominated areas as enterprise zones only during the 36-month period beginning on the later of—

"(i) the first day of the first month following the month in which the effective date of the regulations described in subparagraph (A) occurs, or

"(ii) January 1, 1985.

"(C) NUMBER OF DESIGNATIONS.—

"(i) IN GENERAL.—The Secretary of Housing and Urban Development may not designate—

"(I) more than 75 nominated areas as enterprise zones under this section, and

"(II) more than 25 nominated areas as enterprise zones during the first 12-month period beginning on the date determined under subparagraph (B) and each subsequent 12-month period.

"(ii) MINIMUM DESIGNATION IN RURAL AREAS.—Of the areas designated under clause (i), at least one-third must be areas—

"(I) which are within a local government jurisdiction or jurisdictions with a population of less than 50,000 (as determined under the most recent census data available),

"(II) which are outside of a metropolitan statistical area (within the meaning of section 103A(1)(4)(B)), or

"(III) which are determined by the Secretary of Housing and Urban Development, after consultation with the Secretary of Commerce, to be rural areas.

"(D) PROCEDURAL RULES.—The Secretary of Housing and Urban Development shall not make any designation under paragraph (1) unless—

"(i) the local government and the State in which the nominated area is located have the authority—

"(I) to nominate such area for designation as an enterprise zone,

"(II) to make the State and local commitments under subsection (d), and

"(III) to provide assurances satisfactory to the Secretary of Housing and Urban Development that such commitments will be fulfilled,

"(ii) a nomination therefor is submitted in such a manner and in such form, and contains such information, as the Secretary of Housing and Urban Development shall by regulation prescribe,

"(iii) the Secretary of Housing and Urban Development determines that any information furnished is reasonably accurate, and

"(iv) the State and local governments certify that no portion of the area nominated is already included in an enterprise zone or in an area otherwise nominated to be an enterprise zone.

"(3) NOMINATION PROCESS FOR INDIAN RESERVATIONS.—In the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to such area.

"(4) NOMINATION PROCESS FOR CERTAIN AREAS LOCATED OUTSIDE RESERVATIONS.—An Indian tribal government may nominate an area described in subsection (c)(2)(C)(iii), in conjunction with the local government and the State in which such area is located, for designation as an enterprise zone.

"(b) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(1) IN GENERAL.—Any designation of an area as an enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

"(A) December 31 of the 24th calendar year following the calendar year in which such date occurs,

"(B) the termination date designated by the State and local governments as provided in the nomination submitted under subsection (a)(2)(D)(ii), or

"(C) the date the Secretary of Housing and Urban Development revokes such designation under paragraph (2).

"(2) REVOCATION OF DESIGNATION.—The Secretary of Housing and Urban Development, after consultation with the officials described in subsection (a)(1)(B), may revoke the designation of an area if the Secretary of Housing and Urban Development determines that the local government or the State in which it is located is not complying substantially with the State and local commitments under subsection (d).

"(3) DESIGNATION SHALL NOT TAKE EFFECT UNLESS INVENTORY OF HISTORIC PROPERTIES.—Notwithstanding paragraph (1)—

"(A) within 60 days after the date of the designation of an area as an enterprise zone (determined without regard to this paragraph), the State or local government of such area shall submit to the Secretary of Housing and Urban Development an inventory of historic properties within such area, and

"(B) the date of such designation shall not be earlier than the date on which such inventory is submitted.

"(c) AREA AND ELIGIBILITY REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary of Housing and Urban Development may make a designation of any nominated area under subsection (a)(1) only if it meets the requirements of paragraphs (2) and (3).

"(2) AREA REQUIREMENTS.—A nominated area meets the requirements of this paragraph if—

"(A) the area is within the jurisdiction of the local government,

"(B) the boundary of the area is continuous, and

"(C) the area—

"(i) has a population, as determined by the most recent census data available, of at least—

"(I) 4,000 if any portion of such area (other than a rural area described in subclause (I) or (III) of subsection (a)(2)(C)(ii)) is located within a metropolitan statistical area (within the meaning of section 103A(1)(4)(B)) with a population of 50,000 or more, or

"(II) 1,000 in any other case,

"(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior),

"(iii) is—

"(I) nominated by the local government and State government of such area and by an Indian tribal government, and

"(II) located entirely within a radius of 50 miles from any point on the border of the reservation over which such Indian tribal government has jurisdiction, or

"(iv) is located in Alaska—

"(I) within the jurisdiction of an Indian tribal government, or

"(II) within a muncipality at least 50 percent of the resident population of which (as determined by the 1980 census of the United States) consists of Indians, Eskimos, or Aleuts.

"(3) ELIGIBILITY REQUIREMENTS.—For purposes of paragraph (1), a nominated area meets the requirements of this paragraph if the State and local governments in which it is located certify and the Secretary of Housing and Urban Development, after such review of supporting data as he deems appropriate, accepts such certification, that—

"(A) the area is one of pervasive poverty, unemployment, and general distress,

"(B) the area is located wholly within the jurisdiction of a local government which is eligible for Federal assistance under section 119 of the Housing and Community Development Act of 1974, as in effect on the date of the enactment of this section, and

"(C) one of the following criteria is met—

"(i) the unemployment rate, as determined by the appropriate available data, was at least 1½ times the national unemployment rate for that period, or

"(ii) the poverty rate (as determined by the most recent census data available) for each populous census tract (or where not tracted, the equivalent county division as defined by the Bureau of the Census for the purpose of defining poverty areas) within

the area was at least 20 percent for the period to which such data relates, or

"(iii) at least 70 percent of the households living in the area have incomes below 80 percent of the median income of households of the local government (determined in the same manner as under section 119(b)(2) of the Housing and Community Development Act of 1974), or

"(iv) the population of the area decreased by 20 percent or more between 1970 and 1980 (as determined from the most recent census available).

"(4) SPECIAL AREAS OUTSIDE RESERVATIONS.—For purposes of this section, any area described in paragraph (2)(C)(iii) which is designated by an Indian tribal government shall be treated as meeting the requirements of paragraph (3) if any area within the reservation over which such tribal government has jurisdiction meets the requirements of paragraph (3).

"(5) WAIVER UNDER CERTAIN CIRCUMSTANCES.—The Secretary of Housing and Urban Development may waive the requirements of paragraph (3)(B) for one area in each State if no area in such State otherwise meets the requirements of paragraph (3)(B).

"(d) REQUIRED STATE AND LOCAL COMMITMENTS.—

"(1) IN GENERAL.—No nominated area shall be designated as an enterprise zone unless the local government and the State in which it is located agree in writing that, during any period during which the area is an enterprise zone, such governments will follow a specified course of action designed to reduce the various burdens borne by employers or employees in such area.

"(2) COURSE OF ACTION.—The course of action under paragraph (1) may be implemented by both such governments and private nongovernmental entities, may be funded from proceeds of any Federal program, and may include, but is not limited to—

"(A) a reduction of tax rates or fees applying within the enterprise zone,

"(B) an increase in the level or efficiency of local services within the enterprise zone, for example, crime prevention,

"(C) actions to reduce, remove, simplify, or streamline governmental requirements applying within the enterprise zone,

"(D) involvement in the program by private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a commitment from such private entities to provide jobs and job training for, and technical, financial or other assistance to, employers, employees, and residents of the nominated area, and

"(E) mechanisms to increase the equity ownership of residents and employees within the enterprise zone.

"(3) LATER MODIFICATION OF A COURSE OF ACTION.—The Secretary of Housing and Urban Development may by regulation prescribe procedures for modifying a course of action under paragraph (1) following designation.

"(e) SPECIAL AREAS OUTSIDE RESERVATIONS.—A nominated area described in subsection (c)(2)(C)(iii) may be designated an enterprise zone only if the Secretary determines that a substantial portion of the benefits of such designation will accrue to the members of the Indian tribe that nominated such area.

"(f) PRIORITY OF DESIGNATION.—In choosing nominated areas for designation, the Secretary of Housing and Urban Development shall give special preference to the areas with respect to which the strongest and highest quality contributions described in subsection (d)(2) have been promised as part of the course of action, taking into consideration the fiscal ability of the nominating State and local governments to provide tax relief. The Secretary shall also give preference to—

"(1) the nominated areas with respect to which the nominating State and local governments have provided the most effective and enforceable guarantees that the proposed course of action under subsection (d) will actually be carried out during the period of the enterprise zone designation,

"(2) the nominated areas with high levels of poverty, unemployment, and general distress, particularly the areas—

"(A) which are near areas with concentrations of disadvantaged workers or long-term unemployed individuals, and

"(B) with respect to which there is a strong likelihood that residents of the area described in subparagraph (A) will receive jobs if the area is designated as an enterprise zone,

"(3) the nominated areas the size and location of which—

"(A) will primarily stimulate new economic activity, and

"(B) minimize unnecessary tax losses to the Federal Government,

"(4) the nominated areas with respect to which private entities have made the most substantial commitments in additional resources and contributions, including the creation of new or expanded business activities, and

"(5) the nominated areas which best exhibit such other factors determined by the Secretary of Housing and Urban Development as are—

"(A) consistent with the intent of the enterprise zone program, and

"(B) important to minimizing the unnecessary loss of tax revenues to the Federal Government.

"(g) DEFINITIONS.—For the purposes of this title—

"(1) GOVERNMENTS.—If more than one government seeks to nominate an area as an enterprise zone, any reference to, or requirement of, this section shall apply to all such governments.

"(2) STATE.—The term 'State' shall also include Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other possession of the United States.

"(3) LOCAL GOVERNMENT.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State,

"(B) any combination of political subdivisions described in subparagraph (A) recognized by the Secretary of Housing and Urban Development, and

"(C) the District of Columbia.".

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 80 is amended by adding at the end thereof the following new item:

"Subchapter D—Designation of Enterprise Zones"

SEC. . EVALUATION AND REPORTING REQUIREMENTS.

Not later than the close of the fourth calendar year after the calendar year in which the Secretary of Housing and Urban Development first designates areas as enterprise zones under section 7891 of the Internal Revenue Code of 1954, and at the close of each fourth calendar year thereafter, the Secretary of Housing and Urban Development shall prepare and submit to the Congress a report on the effects of such designation in accomplishing the purposes of this Act.

SEC. . INTERACTION WITH OTHER FEDERAL PROGRAMS.

(a) TAX REDUCTIONS.—Any reduction of taxes under any required program of State and local commitment under section 7891(d) of the Internal Revenue Code of 1954 shall be disregarded in determining the eligibility of a State or local government for, or the amount or extent of, any assistance or benefits under any law of the United States.

(b) COORDINATION WITH RELOCATION ASSISTANCE.—The designation of an enterprise zone under section 7891 of the Internal Revenue Code of 1954 shall not—

(1) constitute approval of a Federal or federally assisted program or project (within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601)), or

(2) entitle any person displaced from real property located in such zone to any rights or any benefits under such Act.

(c) COORDINATION WITH ENVIRONMENTAL POLICY.—Designation of an enterprise zone under section 7891 of the Internal Revenue Code of 1954 shall not constitute a Federal action for purposes of applying the requirements of the National Environmental Policy Act (42 U.S.C. 4341) or other provisions of Federal law relating to the protection of the environment.

TITLE —FEDERAL INCOME TAX INCENTIVES

Subtitle —Credits for Employers and Employees

SEC. . CREDIT FOR ENTERPRISE ZONE EMPLOYERS.

(a) CREDIT FOR INCREASED ENTERPRISE ZONE EMPLOYMENT AND EMPLOYMENT OF DISADVANTAGED WORKERS.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end thereof the following new section:

"SEC. 42. CREDIT FOR ENTERPRISE ZONE EMPLOYMENT.

"(a) IN GENERAL.—For purposes of section 38, the amount of the enterprise zone credit determined under this section for any taxable year shall be an amount equal to the sum of—

"(1) 10 percent of the qualified increased employment expenditures of the taxpayer for the taxable year, and

"(2) the economically disadvantaged credit amount of the taxpayer for such taxable year.

"(b) QUALIFIED INCREASED EMPLOYMENT EXPENDITURES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified increased employment expenditures' means the excess of—

"(A) the qualified wages paid or incurred by the employer during the taxable year to qualified employees with respect to all enterprise zones, over

"(B) the base period wages of the employer with respect to all such zones.

"(2) LIMITATIONS AS TO QUALIFIED WAGES TAKEN INTO ACCOUNT.—

"(A) DOLLAR AMOUNT.—The amount of any qualified wages taken into account under paragraph (1) for any taxable year with respect to any qualified employee may not exceed 2.5 times the dollar limitation in effect under section 3306 (b)(1) for the cal-

endar year with or within which such taxable year ends.

"(B) APPLICATION WITH ECONOMICALLY DISADVANTAGED CREDIT AMOUNT.—Qualified wages shall not be taken into account under paragraph (1) if such wages are taken into account in determining the economically disadvantaged credit amount under subsection (c).

"(3) BASE PERIOD WAGES.—

"(A) IN GENERAL.—The term 'base period wages' means, with respect to any enterprise zone, the amount of wages paid to employees during the 12-month period preceding the earlier of—

"(i) the date on which the enterprise zone was designated as such under section 7891, or

"(ii) the date on which the enterprise zone was designated as such under any State law enacted after January 1, 1981,

which would have been qualified wages paid to qualified employees if such designation had been in effect for such period.

"(B) RULES OF SPECIAL APPLICATION.—For purposes of subparagraph (A)—

"(i) subsection (e)(1) shall be applied by substituting '12-month period' for 'taxable year' each place it appears, and

"(ii) the dollar limitation taken into account under paragraph (2)(A) in computing qualified wages shall be the amount in effect under section 3306(b)(1) for the calendar year with or within which the taxable year for which the amount of the credit under subsection (a) is being computed ends.

"(c) ECONOMICALLY DISADVANTAGED CREDIT AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'economically disadvantaged credit amount' means the sum of the applicable percentage of qualified wages paid to each qualified economically disadvantaged individual.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means, with respect to any qualified economically disadvantaged individual, the percentage determined in accordance with the following table:

"If the qualified wages are paid for services performed:	The applicable percentage is:
Within 36 months of starting date	50
More than 36 months but less than 49 months after such date	40
More than 48 months but less than 61 months after such date	230
More than 60 months but less than 73 months after such date	20
More than 72 months but less than 85 months after such date	10
More than 84 months after such date	0

"(3) STARTING DATE; BREAKS IN SERVICE.—For purposes of this subsection—

"(A) STARTING DATE.—The term 'starting date' means the day which the qualified economically disadvantaged individual begins work for the employer within an enterprise zone.

"(B) BREAKS IN SERVICE.—The periods described in the table under paragraph (2) (other than the first such period) shall be extended by any period of time—

"(i) during which the individual is unemployed, and

"(ii) by any period of time before the designation of the area as an enterprise zone under section 7891 during which the individual is employed by the employer while the area is designated as an enterprise zone under State law enacted after January 1, 1981.

"(d) QUALIFIED WAGES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified wages' has the meaning given to the term 'wages' by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

"(2) REDUCTION FOR CERTAIN FEDERALLY FUNDED PAYMENTS.—For purposes of this section, the wages paid or incurred by an employer for any period shall not include the amount of any federally funded payments the employer receives or is entitled to receive for on-the-job training of such individual for such period.

"(3) SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.—Under regulations prescribed by the Secretary, rules similar to the rules of section 51(h) shall apply with respect to services described in subparagraphs (A) and (B) of section 51(h)(1).

"(e) QUALIFIED EMPLOYEE DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified employee' means an individual—

"(A) at least 90 percent of whose services for the employer during the taxable year are directly related to the conduct of the employer's trade or business located in an enterprise zone, and

"(B) who performs at least 50 percent of his services for the employer during the taxable year in an enterprise zone.

"(2) EXCEPTION FOR INDIVIDUALS WITH RESPECT TO WHOM TARGETED JOBS CREDIT IS ALLOWED.—The term 'qualified employee' shall not include an individual any portion of whose wages is taken into account by the employer for the taxable year in computing the amount of the targeted jobs credit under section 51(a).

"(f) QUALIFIED ECONOMICALLY DISADVANTAGED INDIVIDUAL.—

"(1) For purposes of this section, the term 'qualified economically disadvantaged individual' means an individual—

"(A) who is a qualified employee,

"(B) who is hired by the employer during the period a designation under section 7891 is in effect for the area in which the services which qualify such individual as a qualified employee are performed, and

"(C) who is certified as—

"(i) an economically disadvantaged individual,

"(ii) an eligible work incentive employee (within the meaning of section 51(d)(9)), or

"(iii) a general assistance recipient (within the meaning of section 51(d)(6)).

"(2) ECONOMICALLY DISADVANTAGED INDIVIDUAL.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'economically disadvantaged individual' means any individual who is certified by the designated local agency as being a member of a family which had a combined family income (including the cash value of food stamps) during the 6 months preceding the month in which such determination occurs which, on an annual basis, was equal to or less than the sum of—

"(i) the highest amount which would ordinarily be paid to a family of the same size without any income or resources in the form of payments for aid to families with dependent children under the State plan approved under part A of title IV of the Social Security Act for the State in which such individual resides, plus,

"(ii) the highest cash value of the food stamps to which a family of the same size without any income or resources would be paid aid to families with dependent children under such State plan in the amount determined under clause (i).

Any such determination shall be valid for the 45-day period beginning on the date such determination is made.

"(B) SPECIAL RULE FOR FAMILIES WITH ONLY 1 INDIVIDUAL.—For purposes of clause (i) of subparagraph (A), in the case of a family consisting of only one individual, the 'highest amount which would ordinarily be paid' to such family under the State's plan approved under part A of title IV of the Social Security Act shall be an amount determined by the designated local agency on the basis of a reasonable relationship to the amounts payable under such plan to families consisting of two or more persons.

"(3) CERTIFICATION.—Certification of an individual as an individual described in paragraph (1)(C) shall be made in the same manner as certification under section 51.

"(g) SPECIAL RULES.—For purposes of this section—

"(1) APPLICATION TO CERTAIN ENTITIES, ETC.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (f) and (i) of section 51, section 52, and section 30(f)(3) shall apply.

"(2) PERIODS OF LESS THAN A YEAR.—If designation of an area as an enterprise zone under section 7891 occurs, expires, or is revoked on a date other than the first or last day of the taxable year of the taxpayer, or in the case of a taxable year of less than 12 months—

"(A) the limitation specified in subsection (b)(2)(A), and the base period wages determined under subsection (b)(3), shall be adjusted on a pro rata basis (based upon the number of days), and

"(B) the reduction specified in subsection (d)(2) and the 90 percent and 50 percent tests set forth in subsection (e)(1) shall be determined by reference to the portion of the taxable year during which the designation of the area as an enterprise zone is in effect.

"(3) SPECIAL RULE IF PERIOD OF ZONE EXTENDS MORE THAN 15 YEARS.—For purposes of applying section 39 to business credit carryovers determined under subsection (a) or section 46(a), if the number of taxable years during the period—

"(A) beginning with the taxable year after the unused credit year, and

"(B) ending with the taxable year in which the designation of the enterprise zone expires under section 7891,

exceeds 15, then such number shall be substituted for '15', such number plus 3 shall be substituted for '18', and such number plus 2 shall be substituted for '17' each place they appear in section 39(a).

"(h) PHASEOUT OF CREDIT.—In determining the amount of the credit for a taxable year under subsection (a) with respect to qualified wages paid or incurred for services performed in an enterprise zone—

"(1) the following percentages shall be substituted for '10 percent' in subsection (a)(1):

"(A) 7.5 percent in the earlier of—

"(i) the taxable year which includes the date which is 21 years after the date on which such enterprise zone was designated under section 7891, or

"(ii) the taxable year which includes the date which is 4 years before the date (if any) on which such enterprise zone ceases to be a zone under section 7891(b)(1)(B),

"(B) 5 percent in the next succeeding taxable year,

"(C) 2.5 percent in the second next succeeding taxable year, and

"(D) zero thereafter, and

"(2) the amount determined under subsection (a)(2) shall be reduced by—

"(A) 25 percent in the case of the taxable year described in paragraph (1)(A),

"(B) 50 percent in the next succeeding taxable year,

"(C) 75 percent in the second next succeeding taxable year, and

"(D) 100 percent thereafter.

"(i) EARLY TERMINATION OF EMPLOYMENT BY EMPLOYER IN CASE OF QUALIFIED ECONOMICALLY DISADVANTAGED INDIVIDUALS, ETC.—

"(1) GENERAL RULE.—Under regulations prescribed by the Secretary, if the employment of any qualified economically disadvantaged individual with respect to whom qualified wages are taken into account under subsection (a) is terminated by the taxpayer at any time during the 270-day period beginning on the date such individual begins work for the employer, the tax under this chapter for the taxable year in which such employment is terminated shall be increased by an amount (determined under such regulations) equal to the credit determined under subsection (a) and allowed under section 38 for such taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to such employee.

"(2) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to—

"(i) a termination of employment of an employee who voluntarily leaves the employment of the employer,

"(ii) a termination of employment of an individual who, before, the close of the period referred to in paragraph (1), becomes disabled and therefore is unable to perform the services of such employment, unless such disability is removed before the close of such period and the employer fails to offer reemployment to such individual,

"(iii) a termination of employment of an individual, if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual, or

"(iv) a termination of employment of an individual due to a substantial reduction in the trade or business operations of the employer.

"(B) CHANGE IN FORM OF BUSINESS, ETC.—For purposes of paragraph (1), the employment relationship between the employer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies, if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer, if the employee continues to be employed in such trade or business and the employer retains a substantial interest in such trade or business.

"(3) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit allowable under this subpart.".

(b) ALLOWANCE OF CREDIT.—Section 38(b) (defining current year business credit) is amended by striking out "plus" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", plus", and by adding at the end thereof the following new paragraph:

"(5) the enterprise zone credit determined under section 42(a).".

(c) NO DEDUCTION ALLOWED.—Section 280C (relating to disallowance of deductions for certain expenses for which credits are allowable is amended by adding at the end thereof the following new subsection:

"(c) RULE FOR ENTERPRISE ZONE CREDITS.—No deduction shall be allowed for that portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit determined under section 42. This subsection shall be applied under a rule similar to the rule of the last sentence of subsection (a).".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting at the end thereof the following new item:

"Sec. 42. Credit for enterprise zone employment.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

SEC. . CREDIT FOR ENTERPRISE ZONE EMPLOYEES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by adding at the end thereof the following new section:

"SEC. 26. CREDIT FOR ENTERPRISE ZONE EMPLOYEES.

"(a) IN GENERAL.—In the case of a qualified employee, there is allowed as a credit against the tax imposed on such employee by this chapter for the taxable year an amount equal to 5 percent of the qualifed wages for the taxable year.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED EMPLOYEE.—The term 'qualified employee' means an individual—

"(A) who is described in section 42(e)(1), and

"(B) who is not an employee of the Federal Government, of any State or local government, or any political subdivision of a State or local government.

"(2) QUALIFIED WAGES.—

"(A) IN GENERAL.—The term 'qualified wages' has the meaning given to 'wages' under subsection (b) of section 3306, except that such wages—

"(i) must be attributable to services performed for an employer with respect to whom the employee is a qualified employee, and

"(ii) may not be taken into account to the extent such wages exceed 1½ times the dollar limitation specified in such subsection.

"(B) EXCEPTION.—The term 'qualified wages' does not include any compensation received from the Federal Government, any State or local government, or any political subdivision of a State or local government.

"(c) PHASEOUT OF CREDIT.—In determining the amount of the credit for any taxable year under subsection (a) with respect to qualified wages paid to qualified employees for services performed in an enterprise zone, the following percentages shall be substituted for '5 percent' in subsection (a):

"(1) 3¾ percent in the taxable year in which the date which is—

"(A) 21 years after the date on which such enterprise zone was designated under section 7891 occurs, or

"(B) if earlier, the date 4 years before the date the zone designation is to expire;

"(2) 2½ percent in the next succeeding taxable year;

"(3) 1¼ percent in the second next succeeding taxable year; and

"(4) zero thereafter.".

(b) REPORTING REQUIREMENTS.—Subpart C of part III of subchapter A of chapter 61 (relating to information regarding wages paid employees) is amended by adding at the end thereof the following new section:

"SEC. 6054. REPORTING OF ENTERPRISE ZONE EMPLOYEE CREDITS.

"Every employer shall furnish to each employee who is a qualified employee of the employer (within the meaning of section 26(b)(1)) a written statement showing the amount of qualified wages (within the meaning of section 26(b)(2)) paid by the employer to such employee. The statement required to be furnished pursuant to this section shall be furnished at such time, shall contain such other information, and shall be in such form as the Secretary may by regulations prescribe. When required by such regulations, a duplicate of any such statement shall be filed with the Secretary.".

(c) PENALTIES.—

(1) Subparagraph (A) of section 6652(a)(1) (relating to failure to file information returns) is amended—

(A) by striking out "or" at the end of clause (v), and

(B) by inserting after clause (vi) the following new clause:

"(vii) section 6054 (relating to reporting of enterprise zone employee credits),".

(2) Section 6674 (relating to fraudulent statement or failure to furnish statement to employee) is amended by striking "or 6053(b)" each place it appears and inserting in lieu thereof ", 6053(b), or 6054".

(d) TECHNICAL AMENDMENTS.—

(1) The table of sections for subpart C of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6054. Reporting of enterprise zone employee credits.".

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 26. Credit for enterprise zone employees.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

Subtitle —Credits for Investment in Tangible Property in Enterprise Zones

SEC. . INVESTMENT TAX CREDIT FOR ENTERPRISE ZONE PROPERTY.

(a) AMOUNT OF CREDIT.—

(1) IN GENERAL.—Section 46(a) (relating to amount of investment tax credit) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(4) in the case of enterprise zone property, the enterprise zone percentage.".

(2) ENTERPRISE ZONE PERCENTAGE DEFINED.—Section 46(b) (relating to determination of percentages) is amended by adding at the end thereof the following new paragraph:

"(5) ENTERPRISE ZONE PERCENTAGE.—

"(A) IN GENERAL.—

"For purposes of this paragraph—

"In the case of enterprise zone expenditures with respect to:	The enterprise percentage zone is:
Zone personal property (within the meaning of section 48(s)(3))	5
New zone construction property (within the meaning of section 48(s)(4))	10

"(B) PHASEOUT OF CREDIT AS ENTERPRISE ZONE ENDS.—Subparagraph (A) shall be applied by substituting the following percentages for 5 percent and 10 percent, respectively:

"(i) For the taxable year described in section 42(h)(1)(A), 3.75 and 7.5.

"(ii) For the next succeeding taxable year, 2.5 and 5.

"(iii) For the second next succeeding taxable year, 1.25 and 2.5.

"(iv) For any subsequent taxable year, zero.

"(C) REGULAR PERCENTAGE NOT TO APPLY TO CERTAIN PROPERTY.—For purposes of this section, the regular percentage shall not apply to any enterprise zone property which, but for section 48(s)(1), would not be section 38 property.".

(3) CONFORMING AMENDMENT.—Section 48(o) (defining certain credits) is amended by adding at the end thereof the following new paragraph:

"(9) ENTERPRISE ZONE CREDIT.—The term 'enterprise zone credit' means that portion of the credit allowable by section 38 which is attributable to the enterprise zone percentage.".

(c) DEFINITIONS AND TRANSITIONAL RULES.—Section 48 (relating to definitions and special rules) is amended by redesignating subsection (s) as subsection (t) and by inserting after subsection (r) the following new subsection:

"(s) ENTERPRISE ZONE PROPERTY.—For purposes of this subpart—

"(1) TREATMENT AS SECTION 38 PROPERTY.—In the case of enterprise zone property—

"(A) such property shall be treated as meeting the requirements of subsection (a), and

"(B) paragraph (3) of subsection (a) shall not apply to such property.

"(2) The term 'enterprise zone property' means property—

"(A) which is—

"(i) zone personal property, or

"(ii) new zone construction property,

"(B) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 168(e)(4)(D)), and

"(C) acquired and first placed in service by the taxpayer in an enterprise zone during the period the designation as a zone is in effect under section 7891.

"(3) ZONE PERSONAL PROPERTY DEFINED.—The term 'zone personal property' means property which is—

"(A) 3-year property;

"(B) 5-year property;

"(C) 10-year property; and

"(D) 15-year public utility property,

which is used by the taxpayer predominantly in the active conduct of a trade or business within an enterprise zone. Property shall not be treated as 'zone personal property' if it is used or located outside the enterprise zone on any regular basis.

"(4) NEW ZONE CONSTRUCTION PROPERTY DEFINED.—The term 'new zone construction property' means 15-year real property, 18-year real property, or low-income housing which is—

"(A) located in an enterprise zone,

"(B) used by the taxpayer predominantly in the active conduct of a trade or business within an enterprise zone, and

"(C) either—

"(i) the construction, reconstruction, or erection of which is completed by the taxpayer during the period the designation as a zone is in effect under section 7891, or

"(ii) acquired during such period if the original use of such property commences with the taxpayer and commences during such period.

In applying section 46(c)(1)(A) in the case of property described in subparagraph (C)(i), there shall be taken into account only that portion of the basis which is properly attributable to construction, reconstruction, or erection during such period.

"(5) REAL ESTATE RENTAL.—For purposes of this section, ownership of residential, commercial, or industrial real property within an enterprise zone for rental purposes shall be treated as the active conduct of a trade or business in an enterprise zone.

"(6) DEFINITIONS.—For purposes of this subsection, the terms '3-year property,' '5-year property,' '10-year property,' '15-year real property,', '18-year real property', '15-year public utility property', and 'low-income housing', have the meanings given such terms by section 168.

"(7) CROSS REFERENCE.—

"For extension of carryover period for enterprise zone credit, see section 42(g)(3).".

(d) RECAPTURE.—Subsection (a) of section 47 (relating to certain dispositions, etc., of section 38 property) is amended by adding at the end thereof the following new paragraph:

"(9) SPECIAL RULES FOR ENTERPRISE ZONE PROPERTY.—

"(A) IN GENERAL.—If, during any taxable year, property with respect to which the taxpayer claimed an enterprise zone credit—

"(i) is disposed of, or

"(ii) otherwise ceases to be section 38 property with respect to the taxpayer, or

"(iii) is removed from the enterprise zone, converted, or otherwise ceases to be enterprise zone property (other than by the expiration or revocation of the designation as an enterprise zone),

the tax under this chapter for such taxable year shall be increased by the amount described in subparagraph (B).

"(B) AMOUNT OF INCREASE.—The increase in tax under subparagraph (A) shall equal the aggregate decrease in the credits allowed under section 38 and determined under section 46(a)(4) (or any corresponding provision of prior law) for all preceding taxable years which would have resulted solely from reducing the expenditures taken into account with respect to the property by an amount which bears the same ratio to such expenditures as—

"(i) the number of taxable years that the property was held by the taxpayer, bears to

"(ii) the applicable recovery period for earnings and profits under section 312(k).".

(e) BASIS ADJUSTMENT TO REFLECT INVESTMENT CREDIT.—Paragraph (3) of section 48(q) (relating to basis adjustment to section 38 property) is amended to read as follows:

"(3) SPECIAL RULE FOR QUALIFIED REHABILITATION AND ENTERPRISE ZONE EXPENDITURES.—In the case of any credit determined under section 46(a) for—

"(A) any qualified rehabilitation expenditure in connection with a qualified rehabilitated building other than a certified historic structure, or

"(B) any expenditure in connection with new zone construction property (within the meaning of section 48(s)(4)),

paragraphs (1) and (2) shall be applied without regard to the phrase '50 percent of'.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 1984, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.

Subtitle —Repeal of Capital Gains Tax

SEC. . CORPORATIONS.

(a) GENERAL RULE.—Paragraph (2) of section 1201 (relating to alternative tax for corporations) is amended to read as follows:

"(2) a tax of 28 percent of the excess (if any) of—

"(A) the net capital gain, over

"(B) the qualified enterprise zone net capital gain of the taxpayer for the taxable year.".

(b) DEFINITION OF QUALIFIED ENTERPRISE ZONE NET CAPITAL GAIN.—Section 1201 is amended by redesignating subsections (b) and (c) as subsections (c) and (d) and by inserting after subsection (a) the following new subsection:

"(b) QUALIFIED ENTERPRISE ZONE NET CAPITAL GAIN.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified enterprise zone net capital gain' means the amount of net capital gain for any taxable year determined by taking into account only gains and losses which are—

"(A) attributable to the sale or exchange of qualified enterprise zone property, and

"(B) properly allocable only to periods during which such property is qualified enterprise zone property.

"(2) SPECIAL RULES RELATING TO INTERESTS IN BUSINESSES.—

"(A) CERTAIN GAINS AND LOSSES NOT TAKEN INTO ACCOUNT.—In determining the amount of qualified enterprise zone net capital gain for any taxable year under paragraph (1), there shall not be taken into account any gains or losses attributable to the sale or exchange of an interest in a qualified enterprise zone business to the extent such gain or losses are attributable to—

"(i) any property contributed to such qualified enterprise zone business during the 12-month period before such sale or exchange,

"(ii) any interest in any business which is not a qualified enterprise zone business, or

"(iii) any intangible property to the extent not properly attributable to the active conduct of a trade or business within an enterprise zone.

"(B) PERIODS FOR WHICH GAINS AND LOSSES ALLOCABLE.—For purposes of determining under paragraph (1)(B) gains or losses properly allocable to an interest in a qualified enterprise zone business, there shall only be taken into account the taxable years of such business during which it meets the requirements of paragraph (3)(B).

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) The term 'qualified enterprise zone property' means—

"(i) any tangible personal property used by the taxpayer predominantly in an enterprise zone in the active conduct of a trade or business within such enterprise zone,

"(ii) any real property located in an enterprise zone used by the taxpayer predominantly in the active conduct of a trade or business within such enterprise zone, and

"(iii) any interest in a corporation, partnership, or other entity if, for the two most recent taxable years of such entity—

"(I) ending before the date of disposition of such interest, and

"(II) beginning after the date of the designation as an enterprise zone of the area in which such entity is engaged in the active conduct of a trade or business,

such entity was a qualified enterprise zone business.

"(B) QUALIFIED ENTERPRISE ZONE BUSINESS.—The term 'qualified enterprise zone business' means, with respect to any taxable year, any person—

"(i) actively engaged in the conduct of a trade or business within an enterprise zone during such taxable year,

"(ii) with respect to which at least 80 percent of such person's gross receipts for such taxable year are attributable to the active conduct of a trade or business within an enterprise zone, and

"(iii) substantially all of the tangible assets of which are located within an enterprise zone during such taxable year.

"(C) REAL ESTATE RENTAL.—For purposes of this subsection, ownership of residential, commercial, or industrial real property within an enterprise zone for rental shall be treated as the active conduct of a trade or business in an enterprise zone.

"(D) PROPERTY REMAINS QUALIFIED AFTER ZONE DESIGNATION CEASES TO APPLY.—

"(i) IN GENERAL.—The treatment of property as qualified enterprise zone property under subparagraph (A) shall not terminate when the designation of the enterprise zone in which the property is located or used expires or is revoked.

"(ii) EXCEPTIONS.—Clause (i) shall not apply after the first sale or exchange of property occurring after the designation expires or is revoked.".

SEC. . TAXPAYERS OTHER THAN CORPORATIONS.

Subsection (a) of section 1202 (relating to deduction for capital gains) is amended to read as follows:

"(a) DEDUCTION ALLOWED.—

"(1) IN GENERAL.—If for any taxable year a taxpayer other than a corporation has a net capital gain, there shall be allowed as a deduction from gross income an amount equal to the sum of—

"(A) 100 percent of the lesser of—

"(i) the net capital gain, or

"(ii) the qualified enterprise zone net capital gain (as defined in section 1201(b)), plus

"(B) 60 percent of the excess (if any) of—

"(i) the net capital gain, over

"(ii) the amount of the net capital gain taken into account under subparagraph (A).".

SEC. . MINIMUM TAX.

Paragraph (9) of section 57(a) (relating to tax preference for capital gains) is amended by adding at the end thereof the following new subparagraph:

"(E) For purposes of this paragraph, gain attributable to qualified enterprise zone net capital gain (within the meaning of section 1201(b)) shall not be taken into account.".

SEC. . EFFECTIVE DATE.

The amendments made by this subtitle shall apply to sales or exchanges after December 31, 1984.

Subtitle —Rules Relating to Industrial Development Bonds

SEC. . INDUSTRIAL DEVELOPMENT BONDS.

(a) LIMITATION ON ACCELERATED COST RECOVERY DEDUCTION NOT TO APPLY TO ENTERPRISE ZONE PROPERTY.—Subparagraph (C) of section 168(f)(12) (relating to limitations on property financed with tax-exempt bonds) is amended by inserting "or which is placed in service as enterprise zone property (within the meaning of section 48(s))" after "section 103(b)(4)(A)".

(b) TERMINATION OF SMALL ISSUE EXEMPTION NOT TO APPLY.—Subparagraph (N) of section 103(b)(6) (relating to termination of small issue exemption after December 31, 1986) is amended by adding at the end thereof the following new clause:

"(iv) EXCEPTION FOR ENTERPRISE ZONE FACILITIES.—This subparagraph shall not apply to any obligation which is part of an issue substantially all of the proceeds of which are used to finance facilities within an enterprise zone if such facilities are placed in service while the designation as such a zone is in effect under section 7891.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 1984, in taxable years ending after such date.

Subtitle —Sense of the Congress With Respect to Tax Simplification

SEC. . TAX SIMPLIFICATION.

It is the sense of the Congress that the Secretary of the Treasury and his delegates should in every way possible simplify the administration and enforcement of any provision of the Internal Revenue Code of 1954 added to, or amended by, this Act.

TITLE —REGULATORY FLEXIBILITY

SEC. . DEFINITION OF SMALL ENTITIES IN ENTERPRISE ZONES FOR PURPOSES OF ANALYSIS OF REGULATORY FUNCTIONS.

Section 601 of title 5, United States Code, is amended by—

(1) striking out "and" at the end of paragraph (5); and

(2) striking out paragraph (6) and inserting in lieu thereof the following:

"(6) the term 'small entity' means—

"(A) a small business, small organization, or small governmental jurisdiction within the meaning of paragraphs (3), (4), and (5) of this section, respectively; and

"(B) any qualified enterprise zone business; any governments which designated and approved an area which has been designated as an enterprise zone (within the meaning of section 7891 of the Internal Revenue Code of 1954) to the extent any rule pertains to the carrying out of projects, activities, or undertakings within such zone; and any not-for-profit enterprise carrying out a significant portion of its activities within such a zone; and

"(7) the term 'qualified enterprise zone business' means any person, corporation, or other entity—

"(A) which is engaged in the active conduct of a trade or business within an enterprise zone (within the meaning of section 7891 of the Internal Revenue Code of 1954); and

"(B) for whom at least 50 percent of its employees are qualified employees (within the meaning of section 42(e) of such Code).".

SEC. . WAIVER OR MODIFICATION OF AGENCY RULES IN ENTERPRISE ZONES.

(a) Chapter 6 of title 5, United States Code, is amended by redesignating sections 611 and 612 as sections 612 and 613, respectively, and inserting the following new section immediately after section 610:

"§ 611. Waiver or modification of agency rules in enterprise zones

"(a) Upon the written request of the governments which designated and approved an area which has been designated as an enterprise zone under section 7891 of the Internal Revenue Code of 1954, an agency is authorized, in order to further the job creation, community development, or economic revitalization objectives of the zone, to waive or modify all or part of any rule which it has authority to promulgate, as such rule pertains to the carrying out of projects, activities or undertakings within the zone.

"(b) Nothing in this section shall authorize an agency to waive or modify any rule adopted to carry out a statute or Executive order which prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, sex, marital status, national origin, age, or handicap.

"(c) A request under subsection (a) shall specify the rule or rules to be waived or modified and the change proposed, and shall briefly describe why the change would promote the achievement of the job creation, community development, or economic revitalization objectives of the enterprise zone. If a request is made to an agency other than the Department of Housing and Urban Development, the requesting governments shall send a copy of the request to the Secretary of Housing and Urban Development at the time the request is made.

"(d) In considering a request, the agency shall weigh the extent to which the proposed change is likely to further job creation, community development, or economic revitalization within the enterprise zone against the effect the change is likely to have on the underlying purposes of applicable statutes in the geographic area which would be affected by the change. The agency shall approve the request whenever it finds, in its discretion, that the public interest which the proposed change would serve in furthering such job creation, community development, or economic revitalization outweighs the public interest which continuation of the rule unchanged would serve in furthering such underlying purposes. The agency shall not approve any request to waive or modify a rule if that waiver or modification would—

"(1) directly violate a statutory requirement (including any requirement of the Fair Labor Standards Act of 1938 (52 Stat. 1060; 29 U.S.C. 201 et seq.)); or

"(2) be likely to present a significant risk to the public health, including environmental health or safety, such as a rule with respect to occupational safety or health, or environmental pollution.

"(e) If a request is disapproved, the agency shall inform the requesting governments in writing of the reasons therefor and shall, to the maximum extent possible, work with such governments to develop an alternative, consistent with the standards contained in subsection (d).

"(f) Agencies shall discharge their responsibilities under this section in an expeditious manner, and shall make a determination on requests not later than 90 days after their receipt.

"(g) A waiver or modification of a rule under subsection (a) shall not be considered to be a rule, rulemaking, or regulation under chapter 5 of this title. To facilitate reaching its decision on any requested waiver or modification, the agency may seek the views of interested parties and, if the views are to be sought, determine how they should be obtained and to what extent, if any, they should be taken into account in considering the request. The agency shall publish a notice in the Federal Register stating any waiver or modification of a rule under this section.

"(h) In the event that an agency proposes to amend a rule for which a waiver or modification under this section is in effect, the agency shall not change the waiver or modification to impose additional requirements unless it determines, consistent with standards contained in subsection (d), that such action is necessary.

"(i) No waiver or modification of a rule under this section shall remain in effect for a longer period than the period for which the enterprise zone designation remains in effect for the area in which the waiver or modification applies.

"(j) For purposes of this section, the term 'rule' means (1) any rule as defined in section 551(4) of this title or (2) any rulemaking conducted on the record after opportunity for an agency hearing pursuant to sections 556 and 557 of this title.".

(b) The table of sections for such chapter is amended by redesignating the items relating to sections 611 and 612 as sections 612 and 613, respectively, and inserting the following new item immediately after the item relating to section 610:

"Sec. 611. Waiver or modification of agency rules in enterprise zones.".

(c) Section 601(2) of such title is amended by inserting "(except for purposes of section 611)" immediately before "means.".

(d) Section 613 of such title, as redesignated by subsection (a) of this section, is amended by—

(1) inserting "(except section 611)" immediately after "chapter" in subsection (a); and

(2) inserting "as defined in section 601(2)" immediately before the period at the end of the first sentence of subsection (b).

SEC. . COORDINATION OF HOUSING AND URBAN DEVELOPMENT PROGRAMS IN ENTERPRISE ZONES.

Section 3 of the Department of Housing and Urban Development Act is amended by adding at the end thereof the following new subsection:

"(d) The Secretary of Housing and Urban Development shall—

"(1) promote the coordination of all programs under his jurisdiction which are carried on within an enterprise zone designated pursuant to section 7891 of the Internal Revenue Code of 1954;

"(2) expedite, to the greatest extent possible, the consideration of applications for programs referred to in paragraph (1) through the consolidation or forms or otherwise; and

"(3) provide, whenever possible, for the consolidation of periodic reports required under programs referred to in paragraph (1) into one summary report submitted at such intervals as may be designated by the Secretary.".

TITLE —ESTABLISHMENT OF FOREIGN-TRADE ZONES IN ENTERPRISE ZONES

SEC. . FOREIGN-TRADE ZONE PREFERENCES.

(a) PREFERENCE IN ESTABLISHMENT OF FOREIGN-TRADE ZONES IN REVITALIZATION AREAS.—In processing applications for the establishment of foreign-trade zones pursuant to an Act entitled "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", approved June 18, 1934 (48 Stat. 998), the Foreign-Trade Zone Board shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a foreign-trade zone within an enterprize zone designated pursuant to section 7891 of the Internal Revenue Code of 1954.

(b) APPLICATION PROCEDURE.—In processing applications for the establishment of ports of entry pursuant to an Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and fifteen, and for other purposes", approved August 1, 1914 (38 Stat. 609), the Secretary of the Treasury shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a port of entry which is necessary to permit the establishment of a foreign-trade zone within an enterprise zone (as so designated).

(c) APPLICATION EVALUATION.—In evaluating applications for the establishment of foreign-trade zones and ports of entry in connection with enterprise zones (as so designated), the Foreign-Trade Zone Board and the Secretary of Treasury shall approve the applications to the maximum extent practicable, consistent with their respective statutory responsibilities.

AMENDMENT NO. 6890

At the appropriate place, add the following:

That this Amendment may be cited as "The Sex Discrimination in the United States Code Reform Act of 1983".

TITLE I—ARMED FORCES, SOLDIERS' HOME, COAST GUARD, LIGHTHOUSE SERVICE, AND MERCHANT MARINE

PART A—AMENDMENTS RELATING TO THE ARMED FORCES AND THE SOLDIERS' HOME

AMENDMENTS TO TITLE 10, UNITED STATES CODE, RELATING TO THE UNIFORM CODE OF MILITARY JUSTICE

SEC. . Section 920 of title 10, United States Code, is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) Any person subject to this chapter who commits an act of sexual intercourse with another person not his or her spouse, by force and without the consent of such other person, is guilty of rape and shall be punished by death or such other punishment as a court-martial may direct.

"(b) Any person subject to this chapter who, under circumstances not amounting to rape, commits an act of sexual intercourse with another person not his or her spouse who has not attained the age of sixteen years, is guilty of carnal knowledge and shall be punished as a court-martial may direct.".

AMENDMENTS TO TITLE 10, UNITED STATES CODE, RELATING TO THE ARMY

SEC. . (a) Section 3683 of title 10, United States Code, is repealed.

(b) Section 3963 of such title is repealed.

(c) Section 4309(b) of such title is amended by striking out "males" and inserting in lieu thereof "persons".

(d) Section 4651 of such title is amended to read as follows:

"§ 4651. Arms, tentage, and equipment: educational institutions not maintaining units of R.O.T.C.

"Under such conditions as the Secretary of the Army may prescribe, such Secretary may issue arms, tentage, and equipment that such Secretary considers necessary for proper military training, to any educational institution at which no unit of the Reserve Officers' Training Corps is maintained, but which has a course in military training prescribed by such Secretary and which has at least one hundred physically fit students over fourteen years of age.".

(e) Section 4712(d) of such title is amended by striking out clauses (1) through (9) and inserting in lieu thereof the following:

"(1) The surviving spouse or legal representative.

"(2) A child of the deceased.

"(3) A parent of the deceased.

"(4) A brother or sister of the deceased.

"(5) The next of kin of the deceased.

"(6) A beneficiary named in the will of the deceased to receive the property.".

(f) Section 4713(a)(2) of such title is amended by striking out subclauses (A) through (I) and inserting in lieu thereof the following:

"(A) The surviving spouse or legal representative.

"(B) A child of the deceased.

"(C) A parent of the deceased.

"(D) A brother or sister of the deceased.

"(E) The next of kin of the deceased.

"(F) A beneficiary named in the will of the deceased to receive the property.".

AMENDMENTS TO TITLE 10, UNITED STATES CODE, RELATING TO THE NAVY

SEC. . (a) Section 7601 of title 10, United States Code, is amended—

(1) in subsection (a) by striking out "widows" and inserting in lieu thereof "surviving spouses"; and

(2) in the first sentence of subsection (b)—

(A) by striking out "him" and inserting in lieu thereof "the Secretary"; and

(B) by striking out "he" each place it appears and inserting in lieu thereof in each such place "the Secretary".

(b) Section 6964(e) of title 10, United States Code, is amended by striking out "men" and inserting in lieu thereof "persons".

AMENDMENTS TO TITLE 10, UNITED STATES CODE, RELATING TO THE AIR FORCE

SEC. . (a) Section 8683 of title 10, United States Code, is repealed.

(b) Section 8963 of such title is repealed.

(c) Section 9651 of such title is amended to read as follows:

"§ 9651. Arms, tentage, and equipment: educational institutions not maintaining units of A.F.R.O.T.C.

"Under such conditions as the Secretary of the Air Force may prescribe, such Secretary may issue arms, tentage, and equipment that such Secretary considers necessary for proper military training, to any educational institution at which no unit of the Air Force Reserve Officers' Training Corps is maintained, but which has a course in military training prescribed by such Secretary and which has at least 100 physically fit students over 14 years of age.".

(d) Section 9712(d) of such title is amended by striking out clauses (1) through (9), and inserting in lieu thereof the following:

"(1) The surviving spouse or legal representative.

"(2) A child of the deceased.

"(3) A parent of the deceased.

"(4) A brother or sister of the deceased.

"(5) The next of kin of the deceased.

"(6) A beneficiary named in the will of the deceased to receive the property.".

(e) Section 9713(a)(2) of such title is amended by striking out subclauses (A) through (I) and inserting in lieu thereof the following:

"(A) The surviving spouse or legal representative.

"(B) A child of the deceased.
"(C) A parent of the deceased.
"(D) A brother or sister of the deceased.
"(E) The next of kin of the deceased.
"(F) A beneficiary named in the will of the deceased to receive the property.".

REPEAL OF AUTHORITY TO MAKE TEMPORARY APPOINTMENTS AS OFFICERS IN THE ARMY

SEC. . The Act entitled "An Act to authorize temporary appointment as officers in the Army of the United States of members of the Army Nurse Corps, female persons having the necessary qualifications for appointment in such corps, female dietetic and physical-therapy personnel of the Medical Department of the Army (exclusive of students and apprentices), and female persons having the necessary qualifications for appointment in such department as female dietetic or physical-therapy personnel, and for other purposes.", approved June 22, 1944 (58 Stat. 324; 50 U.S.C. App. 1591 et seq.) is repealed.

AMENDMENTS RELATING TO ALLOTMENT OF PENSIONS OF INMATES OF THE SOLDIERS' HOME

SEC. . Section 4 of the Act entitled "An Act prescribing regulations for the Soldiers' Home located at Washington, in the District of Columbia, and for other purposes.", approved March 3, 1883 (22 Stat. 564; 24 U.S.C. 52) is amended—
(1) in the first sentence—
(A) by striking out "wife" each place it appears and inserting in lieu thereof in each such place "spouse"; and
(B) by striking out "his" and inserting in lieu thereof "the inmate's";
(2) in the third sentence—
(A) by striking out "him" each place it appears and inserting in lieu thereof in each such place "the pensioner"; and
(B) by striking out "his";
(3) in the fourth sentence—
(A) by striking out "his" each place it appears and inserting in lieu thereof in each such place "the inmate's"; and
(B) by striking out "he" and inserting in lieu thereof "the pensioner"; and
(4) in the fifth sentence—
(A) by striking out "him" and inserting in lieu thereof "the pensioner"; and
(B) by striking out "his" and inserting in lieu thereof "the pensioner's".

TECHNICAL AMENDMENTS

SEC. . (a) The table of sections at the beginning of chapter 353 of title 10, United States Code, is amended by striking out the item relating to section 3683.
(b) The table of sections at the beginning of chapter 369 of such title is amended by striking out the item relating to section 3963.
(c) The table of sections at the beginning of chapter 853 of such title is amended by striking out the item relating to section 8683.
(d) The table of sections at the beginning of chapter 869 of such title is amended by striking out the item relating to section 8963.

SAVING PROVISIONS

SEC. . (a) The repeal made by section 102(a) shall not apply in the case of any person who performed active service described in section 3683 of title 10, United States Code, as such section was in effect on the day before the effective date of such repeal.
(b) The repeal made by section 102(b) shall not apply in the case of any member of the Regular Army described in section 3963 of title 10, United States Code, as such section was in effect on the day before the effective date of such repeal.
(c) The repeal made by section 104(a) shall not apply in the case of any person who performed active service described in section 8683 of title 10, United States Code, as such section was in effect on the day before the effective date of such repeal.
(d) The repeal made by section 104(b) shall not apply in the case of any Air Force nurse or medical specialist described in section 8963 of title 10, United States Code, as such section was in effect on the day before the effective date of such repeal.
(e) The repeal made by section 105 shall not apply in the case of any officer in the Army appointed and assigned under the first section of the Act referred to in section 105, as such Act was in effect on the day before the date of enactment of this Act.

PART B—AMENDMENTS RELATING TO THE COAST GUARD, THE LIGHTHOUSE SERVICE, AND THE CREW OF THE MERCHANT MARINE

AMENDMENTS RELATING TO THE COAST GUARD

SEC. . (a) Section 371 of title 14, United States Code, is amended—
(1) in the second sentence of subsection (a) by striking out "male" each place it appears; and
(2) in subsection (c)(1)—
(A) by striking out "he agrees in writing that upon his" and inserting in lieu thereof "the person agrees in writing that upon"; and
(B) by striking out "he will" and inserting in lieu thereof "the person will"; and
(3) in subsection (c)(2) by striking out "he has the consent of his parent or guardian to his agreement" and inserting in lieu thereof "the person has the consent of the person's parent or guardian to the agreement".
(b) The first sentence of section 487 of such title is amended—
(1) by striking out "men" each place it appears and inserting in lieu thereof in each such place "members"; and
(2) by striking out "widows" and inserting in lieu thereof "surviving spouses".
(c) Section 41 of title 14, United States Code, is amended by striking out "men" each place it appears and inserting in lieu thereof "members".
(d) Section 192 of title 14, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".
(e) Section 351(a) of title 14, United States Code, is amended by striking out "men" and inserting in lieu thereof "members".
(f) Section 353 of title 14, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".
(g) Section 354 of title 14, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".
(h) Section 355 of title 14, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".
(i) Section 357 of title 14, United States Code, is amended—
(1) by striking out "men" each place it appears and inserting in lieu thereof "members"; and
(2) by striking out "man" each place it appears and inserting in lieu thereof "member".
(j) Section 359 of title 14, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".
(k) Section 360 of title 14, United States Code, is amended by striking out "man" each place it appears and inserting in lieu thereof "member".
(l) Section 361 of title 14, United States Code, is amended by striking out "man" each place it appears and inserting in lieu thereof "member".
(m) Section 362 of title 14, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".
(n) Section 365 of title 14, United States Code, is amended by striking out "man" each place it appears and inserting in lieu thereof "member".
(o) Section 366 of title 14, United States Code, is amended by striking out "man" each place it appears and inserting in lieu thereof "member".
(p) Section 367 of title 14, United States Code, is amended—
(1) in the first sentence, by striking out "man" and inserting in lieu thereof "member"; and
(2) in the third sentence, by striking out "men" and inserting in lieu thereof "members".
(q) Section 370 of title 14, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".
(r) Section 421(a) of title 14, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".
(s) Section 424 of title 14, United States Code, is amended by striking out "man" each place it appears and inserting in lieu thereof "member".
(t) Section 483 of title 14, United States Code, is amended by striking out "man" each place it appears and inserting in lieu thereof "member".
(u) Section 487 of title 14, United States Code, including the section heading, is amended by striking out "men" each place it appears and inserting in lieu thereof "members".

AMENDMENTS RELATING TO THE LIGHTHOUSE SERVICE

SEC. . (a) The first section of the Act entitled "An Act to provide benefits for the widows of certain persons who were retired or are eligible for retirement under section 6 of the Act entitled 'An Act to authorize aids to navigation and for other works in the Lighthouse Service, and for other purposes', approved June 20, 1918, as amended.", approved August 19, 1950 (64 Stat. 465; 33 U.S.C. 771), is amended—
(1) by striking out "he" in clause (1) and inserting in lieu thereof "that employee"; and
(2) by striking out clause (2) and inserting in lieu thereof the following:
"(2) the surviving spouse of such former employee was married to such former employee prior to the retirement of such former employee from the Lighthouse Service and has not remarried—"; and
(3) by striking out "widow, so long as she" in the flush material after clause (2) and inserting in lieu thereof "surviving spouse, so long as such surviving spouse".
(b) Section 2 of such Act (64 Stat. 466; 33 U.S.C. 772) is amended—
(1) by striking out clause (2) and inserting in lieu thereof the following:
"(2) the surviving spouse of such employee has not since remarried,"; and
(2) by striking out "widow, so long as she" in the flush material after clause (2) and inserting in lieu thereof "surviving spouse, so long as such surviving spouse".

AMENDMENTS RELATING TO THE CREW OF THE MERCHANT MARINE

SEC. 111. (a) Section 4509 of the Revised Statutes (46 U.S.C. 561) is amended—
(1) in the first sentence—
(A) by striking out "boys" and inserting in lieu thereof "youths";

(B) by striking out "his power" and inserting in lieu thereof "the power of such official";

(C) by striking out "boy" each place it appears and inserting in lieu thereof in each such place "youth"; and

(D) by striking out "he has attained" and inserting in lieu thereof "the youth has attained"; and

(2) in the third sentence by striking out "him" and inserting in lieu thereof "such official".

(b) Section 10(b)(1) of the Act entitled "An Act to remove certain burdens on the American merchant marine and encourage the American foreign carrying trade and for other purposes", approved June 26, 1884 (23 Stat. 55; 46 U.S.C. 599(b)), is amended by—

(1) striking out "wages he may earn" and inserting in lieu thereof "wages he or she may earn";

(2) striking out "wife, sister" and inserting in lieu thereof "spouse, sibling"; and

(3) striking out "opened by him and maintained in his name" and inserting in lieu thereof "opened by him or her and maintained in his or her name".

(c) Section 10(c) of such Act (23 Stat. 55; 46 U.S.C. 599(c)) is amended by striking out "during his absence" and inserting in lieu thereof "during his or her absence".

(d) Chapter 231 of the Act of March 3, 1911 (36 Stat. 1167; 46 U.S.C. 627) is amended by—

(1) striking out "part of his effects" and inserting in lieu thereof "part of his or her effects";

(2) striking out "his money and effects" and inserting in lieu thereof "his or her money and effects";

(3) striking out "his widow or children" and inserting in lieu thereof "the surviving spouse or children of such person"; and

(4) striking out "his will" and inserting in lieu thereof "his or her will.".

AMENDMENTS RELATING TO THE ARMED FORCES

SEC. . (a) Section 311(a) of title 10, United States Code, is amended—

(1) by striking out "males" and inserting in lieu thereof "persons"; and

(2) by striking out "and of female citizens of the United States who are commissioned officers of the National Guard" and inserting in lieu thereof a period.

(b) Section 772(c) of title 10, United States Code, is amended—

(1) by inserting "or her," after "his" in the first sentence; and

(2) by striking out the second sentence.

(c) Section 1431(b)(3) of title 10, United States Code, is amended by striking out "widow" and inserting in lieu thereof "surviving spouse".

(d) Section 1451(a)(2) of title 10, United States Code, is amended—

(1) by adding "or widower" after "widow" each place it appears; and

(2) by inserting "or father's" after "mother's".

(e) Section 4313(a) of title 10, United States Code, is amended by striking out "man" and inserting in lieu thereof "competitor".

(f) Section 6160(a) of title 10, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".

(g) The Act entitled "An Act to authorize the burial in national cemeteries of the remains of certain commissioned officers of the Public Health Service," approved April 30, 1956 (70 Stat. 124; 42 U.S.C. 213, note) is amended by striking out "wife, widow" wherever it appears and inserting in lieu thereof "spouse, surviving spouse".

(h) Section 551(1)(A) of title 37, United States Code, is amended by striking out "wife" and inserting in lieu thereof "spouse".

(i) Section 3402(c) of title 38, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".

(j) Section 300 of the Soldier's and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 530) is amended—

(1) in subsection (1) by striking out "wife" and inserting in lieu thereof "spouse";

(2) in subsection (4) by inserting "or she" after "he"; and

(3) in subsection (4) by striking out "wife" and inserting in lieu thereof "spouse".

TITLE II—ELIMINATION OF GENDER-BASED DISTINCTIONS UNDER THE SOCIAL SECURITY ACT AND THE RAILROAD RETIREMENT ACT

SOCIAL SECURITY ACT PROVISIONS

SEC. . (a) Section 213(a) of the Social Security Act (42 U.S.C. 413a(2)(B)) is amended by striking out "(if a woman) or age 65 (if a man)".

(b) Section 215(f)(5) of such Act (42 U.S.C. 415(f)(5)) is amended by striking out "a man" and inserting in lieu thereof "an individual".

(c) Section 402(a)(19)(G)(iv) of such Act (42 U.S.C. 602(a)(19)(G)(iv)) is amended by striking out "mother" and inserting in lieu thereof "parent", and by striking out "she".

(d) Section 1107(b) of such Act (42 U.S.C. 1307(b)) is amended by striking out "former wife divorced" each place it appears and inserting in lieu thereof in each instance "divorced spouse".

(e) The amendments made by this section shall apply on and after the date of the enactment of this Act, and in the case of monthly benefits under title II of the Social Security Act shall only apply to benefits payable for months beginning on or after such date of enactment.

RAILROAD RETIREMENT

SEC. . (a) Section 2(c) of the Railroad Retirement Act of 1974 *(45 U.S.C. 213a)* is amended—

(1) in subdivision (1)(ii)(C) (45 U.S.C. 231a(c)(1)(ii)(C)), by striking out ", in the case of a wife, has in her care (individually or jointly with her husband)" and inserting in lieu thereof "has in his or her care (individually or jointly with his or her spouse)";

(2) in subdivision (2) (45 U.S.C. 231a(c)(2)), by inserting "or divorced husband" after "divorced wife" each place it appears;

(3) in subdivision (3) (45 U.S.C. 231a(c)(3))—

(A) by striking out "who (i)" and inserting in lieu thereof "who", and

(B) by striking out "and (ii)" and all that follows and inserting in lieu thereof a period; and

(4) by amending subdivision (4) (45 U.S.C. 231a(c)(4) to read as follows:

"(4) The divorced wife (as defined in section 216(d) of the Social Security Act) or divorced husband (as defined in such section) of an individual, if—

"(i) such individual (A) is entitled to an annuity under subsection (a)(1) of this section, and (B) has attained age 62;

"(ii) such divorced wife or divorced husband (A) has attained age 65, and (B) is not married; and

"(iii) such divorced wife or divorced husband would have been entitled to a benefit under section 202(b) or 202(c) of the Social Security Act as the divorced wife or divorced husband of such individual if all of such individual's service as an employee after December 31, 1936, had been included in the term 'employment' as defined in such Act,

shall, subject to the conditions set forth in subsections (e), (f), and (h) of this section, be entitled to a divorced wife's or divorced husband's annuity, if she or he has filed an application therefor, in the amount provided under section 4 of this Act.".

(b) Section 2(d) (45 U.S.C. 231a(d)) of such Act is amended—

(1) in subdivision (1)(i) (45 U.S.C. 231a(d)(1)(i)), by striking out "and who, in the case of a widower" and all that follows and inserting in lieu thereof a semicolon;

(2) in subdivision (1)(ii) (45 U.S.C. 231a(d)(1)(ii)), by inserting "or widower (as defined in section 216(g) and (k) of the Social Security Act)" after "a widow (as defined in section 216(c) and (k) of the Social Security Act)", and by striking out "her care" and inserting in lieu thereof "her or his care";

(3) by amending subdivision (1)(v) (45 U.S.C. 231a(d)(1)(v)) to read as follows:

"(v) the widow (as defined in section 216(c) of the Social Security Act), who is married, or has been married after the death of the employee, the widower (as defined in section 216(g) of the Social Security Act) who is married, or has been married after the death of the employee, the surviving divorced wife (as defined in section 216(d) of the Social Security Act), the surviving divorced husband (as defined in section 216(d) of the Social Security Act), the surviving divorced mother (as defined in section 216(d) of the Social Security Act), and the surviving divorced father (as defined in section 216(d) of the Social Security Act) if such widow, widower, surviving divorced wife, surviving divorced husband, surviving divorced mother, or surviving divorced father would have been entitled to a benefit under section 202(e), 202(f), or 202(g) of the Social Security Act as the widow, widower, surviving divorced wife, surviving divorced husband, surviving divorced mother, or surviving divorced father of the employee if all of the employee's service as an employee after December 31, 1936, had been included in the term 'employment' as defined in that Act. For the purpose of this paragraph—

"(A) the references in section 202(e)(3) and 202(g)(3) of the Social Security Act to an individual entitled under section 202(f) of that Act shall include an individual entitled to an annuity under paragraph (i) of this subdivision and an individual entitled to an annuity under paragraph (ii) of this subdivision,

"(B) the reference in section 202(f)(4) of the Social Security Act to an individual entitled under section 202(b) of that Act shall include an individual entitled to an annuity under subsection (c) of this section,

"(C) the reference in section 202(f)(4) of the Social Security Act to an individual entitled under section 202(e) or (g) of that Act shall include an individual entitled to an annuity under paragraph (i) of this subdivision and an individual entitled to an annuity under paragraph (ii) of this subdivision,

"(D) the reference in section 202(f)(4) of the Social Security Act to an individual entitled under section 202(h) of that Act shall include an individual entitled to an annuity under paragraph (iv) of this subdivision,

"(E) the reference in section 202(f)(4) of the Social Security Act to an individual entitled under section 202(d) of that Act shall include an individual entitled to an annuity under paragraph (iii) of this subdivision,

"(F) the reference in section 202(e)(3) and section 202(g)(3) of the Social Security Act to an individual entitled under section 202(d) or section 202(h) of that Act shall include an individual entitled to an annuity under paragraph (iii) or paragraph (iv) of this subdivision, and

"(G) the references in section 202(g)(3) and section 223(a) of that Act shall include an individual entitled to an annuity under subsection (a)(1) of this section."; and

(4) by amending subdivision (2)(B) (45 U.S.C. 231a(d)(2)(B)) to read as follows: "the last month for which the widow or widower was entitled to an annuity under paragraph (2) of subdivision (1) as the widow or widower of the deceased employee, or".

(c) Section 2(e)(5) (45 U.S.C. 231a(e)(5)) of such Act is amended by inserting "or divorced husband" after "divorced wife" each place it appears.

(d) Section 2(f)(2) (45 U.S.C. 231a(f)(2)) of such Act is amended by inserting "or divorced husband's" after "divorced wife's" each place it appears.

(e) Section 2(h) (45 U.S.C. 231a(h)) of such Act is amended by inserting "or divorced husband" after "divorced wife" each place it appears.

(f) Section 4(a)(1) (45 U.S.C. 231c(a)(1) of such Act is amended by inserting "or divorced husband" after "divorced wife" each place it appears.

(g) Section 4(f)(2)(iii) (45 U.S.C. 231c(f)(2)(iii)) of such Act is amended to read as follows:

"(iii) the provisions of paragraphs (i) and (ii) of this subdivision shall not apply to the annuity of a widow, widower, surviving divorced wife, surviving divorced husband, surviving divorced mother, or surviving divorced father, who is entitled to such annuity on the basis of the provisions of section 2(d)(1)(v) of this Act.".

(h) Section 4(g)(5) (45 U.S.C. 231c(g)(5)) of such Act is amended to read as follows:

"(5) This subsection shall not apply to the annuity of a widow, widower, surviving divorced wife, surviving divorced husband, surviving divorced mother, or surviving divorced father, who is entitled to such annuity on the basis of the provisions of section 2(d)(1)(v) of this Act.".

(i) Section 4(h)(2) (45 U.S.C. 231c(h)(2)) of such Act is amended by striking out the first sentence thereof and inserting in lieu thereof the following: "Subdivision (1) of this subsection shall not apply to the annuity of a widow, widower, surviving divorced wife, surviving divorced husband, surviving divorced mother, or surviving divorced father, who is entitled to such annuity on the basis of the provisions of section 2(d)(1)(v) of this Act.".

(j) Section 4(i) (45 U.S.C. 231c(i)(1)) of such Act is amended by inserting "or divorced husband" after "divorced wife" each place it appears.

(k) Section 5(c)(3) (45 U.S.C. 231d(c)(3)) of such Act is amended—

(1) by inserting "or husband" after "wife" each place it appears in the first sentence thereof;

(2) by striking out "her care" and inserting in lieu thereof "her or his care"; and

(3) by inserting "or divorced husband" after "divorced wife" each place it appears in the second sentence thereof.

(l) Section 5(c)(6) (45 U.S.C. 231d(c)(6)) of such Act is amended—

(1) by inserting "or widower" after "widow";

(2) by inserting "or he" after "she" each place it appears; and

(3) by striking out "her care" and inserting in lieu thereof "her or his care".

(m) Section 6(a)(3) (45 U.S.C. 231e(a)(3)) of such Act is amended by inserting "or divorced husband" after "divorced wife" and by inserting "or divorced husband's" after "divorced wife's".

(n) Section 6(b)(2) (45 U.S.C. 231e(b)(2)) of such Act is amended by inserting "surviving divorced husband," after "widower," the first place it appears.

(o) Section 6(c)(2) (45 U.S.C. 231e(c)(2)) of such Act is amended by inserting "or divorced husband" after "divorced wife".

(p) Section 7(b)(2)(B) (45 U.S.C. 231f(b)(2)(B)) of such Act is amended by inserting "or divorced husband" after "husband".

(q) Section 7(d)(2)(i)(B) (45 U.S.C. 231f(d)(2)(i)(B)) of such Act is amended by inserting "or divorced husband" after "divorced wife".

(r) The amendments made by this section shall be effective with respect to annuities payable for months after December 1983.

WORK INCENTIVE PROGRAM

SEC. . (a) Section 433(a) of the Social Security Act (42 U.S.C. 633(a)) is amended by striking out all after the colon in the last sentence thereof and inserting in lieu thereof the following: "first, unemployed parents; second, dependent children and relatives who have attained age 16 and who are not in school or engaged in work or manpower training; and third, all other individuals so certified.".

(b) The amendment made by this section shall become effective on the date of the enactment of this Act.

TITLE III—AMENDMENTS TO UNITED STATES CODE

TITLE 5

SEC. . (a) Section 2108(3) of title 5, United States Code, is amended by striking out subparagraphs (F) and (G) and inserting in lieu thereof the following:

"(F) any parent of an individual who lost his or her life under honorable conditions while serving in the armed forces during a period named by paragraph (1)(A) of this section, if—

"(i) such parent's spouse is totally and permanently disabled;

"(ii) such parent is widowed, divorced, or separated from the other parent and has not remarried; or

"(iii) such parent has remarried but is widowed, divorced, or legally separated when preference is claimed; and

"(G) any parent of a service-connected permanently and totally disabled veteran, if—

"(i) such parent's spouse is totally and permanently disabled;

"(ii) such parent is widowed, divorced, or separated from the other parent and has not remarried; or

"(iii) such parent has remarried but is widowed, divorced, or legally separated when preference is claimed;".

(b) Section 5561(3)(A) of title 5, United States Code, is amended by striking out "wife" and inserting in lieu thereof "spouse".

(c) Section 8332(j)(1) of title 5, United States Code, is amended by striking out "widow" each place it appears and inserting in lieu thereof "surviving spouse".

IMMIGRATION

SEC. . (a) The first sentence of section 283 of the Immigration and Nationality Act (8 U.S.C. 1353) is amended by striking out "wives" and inserting in lieu thereof "spouses".

(b) Section 340 of such Act (8 U.S.C. 1451) is amended—

(1) in subsection (a) by—

(A) striking out "his naturalization" and inserting in lieu thereof "his or her naturalization";

(B) striking out "his subversive" and inserting in lieu thereof "his or her subversive"; and

(C) striking out "his residence" and inserting in lieu thereof "his or her residence".

(2) in subsection (b) by—

(A) striking out "his residence" and inserting in lieu thereof "his or her residence"; and

(B) striking out "upon him".

(3) in subsection (d) by—

(A) striking out "his nativity" and inserting in lieu thereof "his or her nativity"; and

(B) striking out "his petition" and inserting in lieu thereof "his or her petition";

(4) in subsection (e) by—

(A) striking out "his certificate" and inserting in lieu thereof "his or her certificate"; and

(B) striking out "wife" and inserting in lieu thereof "spouse"; and

(5) in subsection (f) by—

(A) striking out "he may" and inserting in lieu thereof "he or she may"; and

(B) striking out "his citizenship" and inserting in lieu thereof "his or her citizenship".

(c) The first sentence of section 341 of such Act (8 U.S.C. 1452) is amended by striking out "husband" and inserting in lieu thereof "spouse".

(d) Section 357 of such Act (8 U.S.C. 1489) is amended—

(1) by striking out "woman" each of the two places it appears and inserting in lieu thereof "person"; and

(2) by inserting before "her" each of the two places it appears "his or".

(e) The Act entitled "An Act to further regulate interstate and foreign commerce by prohibiting the transportation therein for immoral purposes of women and girls, and for other purposes", approved June 25, 1910 (36 Stat. 826, chapter 395; 8 U.S.C. 1557) is amended—

(1) by amending the title to read as follows: "An Act to further regulate interstate and foreign commerce by prohibiting the transportation therein for immoral purposes of adults and youths, and for other purposes"; and

(2) by striking out "women and girls" each of the five places it appears and inserting in lieu thereof "adults and youths".

(f) Section 1 of the Act entitled "An Act Making appropriations for the Diplomatic and Consular Service for the fiscal year ending June 30, 1921", approved June 4, 1920 (41 Stat. 750, chapter 223; 22 U.S.C. 214) is amended by—

(1) inserting "or her" after "his" each place it appears; and

(2) striking out in the third sentence "widow" and inserting in lieu thereof "surviving spouse".

(g) Section 321 of the Immigration and Nationality Act (8 U.S.C. 1432) is amended in paragraph (3) of subsection (a) by striking out "the naturalization of the mother",

WALSH-HEALEY

SEC. . (a) Subsection (d) of the first section of the Act entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes" (commonly referred to as the Walsh-Healey Act), approved June 30, 1936 (49 Stat. 2036; 41 U.S.C. 35) is amended by striking out "no male person under sixteen years of age and no female person under eighteen years of age" and inserting in lieu thereof "no person under sixteen years of age".

(b) The first sentence of section 2 of such Act (49 Stat. 2037; 41 U.S.C. 36) is amended by striking out "each male person under sixteen years of age or each female person under eighteen years of age," and inserting in lieu thereof "each person under sixteen years of age".

AGRICULTURE

SEC. . Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) is amended—

(1) by striking out "of working mothers" in the third sentence of subsection (c) and inserting in lieu thereof "from households in which both parents work or from single parent households in which the parent works"; and

(2) by striking out "his" in the third sentence of subsection (f) and inserting in lieu thereof "the Secretary's".

INDIAN AFFAIRS

SEC. . The Act entitled "An Act authorizing appropriations and expenditures for the administration of Indian affairs, and for other purposes" approved November 2, 1921 (42 Stat. 208, chapter 115; 25 U.S.C. 13) is amended by striking out "field matrons,".

SEC. . Section 3 of the Act of March 3, 1875 (18 Stat. 449, chapter 132; 25 U.S.C. 137) is hereby repealed.

SEC. . The Act entitled "An Act in relation to marriage between white men and Indian women" approved August 9, 1888 (25 Stat. 392; 25 U.S.C. 181 et seq.) is amended—

(1) by amending the title to read as follows: "An Act in relation to marriage between non-Indians and Indians";

(2) in section 1 (25 Stat. 392; 25 U.S.C. 181) by—

(A) striking out "white man" and inserting in lieu thereof "non-Indian"; and

(B) striking out "woman";

(3) by repealing section 2 (25 Stat. 392; 25 U.S.C. 182); and

(4) in section 3 (25 Stat. 392; 25 U.S.C. 183) by—

(A) striking out "white man" and inserting in lieu thereof "non-Indian"; and

(B) striking out "woman".

SEC. . The Act of June 7, 1897 (30 Stat. 62, chapter 3) is amended—

(1) in section 1 (30 Stat. 90, chapter 3; 25 U.S.C. 184) by—

(A) striking out "white man" and inserting in lieu thereof "non-Indian";

(B) striking out "woman" each place it appears;

(C) striking out "her death" each place it appears and inserting in lieu thereof "his or her death"; and

(D) striking out "mother" and inserting in lieu thereof "Indian parent"; and

(2) in section 1 (30 Stat. 83, chapter 3; 25 U.S.C. 274) by striking out "girls as assistant matrons and Indian boys" and inserting in lieu thereof "youths as dormitory aides and".

SEC. . (a) Section 3 of the Act of September 21, 1959 (73 Stat. 592; 25 U.S.C. 933(c)) is amended by striking out "wife" and inserting in lieu thereof "or her spouse".

(b) Section 3(c) of the Act of September 5, 1962 (76 Stat. 429; 25 U.S.C. 973(c)) is amended by striking out "wife" and inserting in lieu thereof "or her spouse".

SEC. 310. Section 5 of the Act of February 28, 1891 (26 Stat. 795, chapter 383; 25 U.S.C. 371) is amended by—

(1) striking out "husband and wife" and inserting in lieu thereof "spouses"; and

(2) striking out "father" and inserting in lieu thereof "parents".

TRANSPORTATION

SEC. . Section 1 of the Act entitled "An Act to abolish certain fees for official services to American vessels, and to amend the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes", approved June 19, 1886 (46 U.S.C. 331) is amended by striking out "boys" and inserting in lieu thereof "youths".

SEC. . Section 12 of the Act entitled "An Act to promote the welfare of American seamen in the merchant marine of the United States; to abolish arrest and imprisonment as a penalty for desertion and to secure the abrogation of treaty provisions in relation thereto; and to promote safety at sea", approved March 4, 1915 (46 U.S.C. 601) is amended by striking out the first proviso of the second sentence and inserting in lieu thereof "*Provided*, That nothing contained in this or any preceding section shall interfere with the order by any court regarding the payment by any master or seaman of any part of his or her wages for the support and maintenance of his or her spouse and minor children:".

TITLE 18

SEC. . (a) Section 3056(a) of title 18, United States Code, is amended—

(1) in the first sentence in the matter before the first semicolon by striking out "the members of his immediate family" and inserting in lieu thereof "the members of his or her immediate family";

(2) in the first sentence in the clause after the first semicolon by striking out "his wife during his lifetime, the person of a widow of a former President until her death or remarriage" and inserting in lieu thereof "his or her spouse during the former President's lifetime, the person of a surviving spouse of a former President until the surviving spouse's death or remarriage"; and

(3) in the first sentence in the clause after the eighth semicolon by striking out "his certificate" and inserting in lieu thereof "his or her certificate".

(b) Subsection (b) of section 245 of title 18, United States Code, is amended by—

(1) redesignating paragraphs (3) through (5) as paragraphs (4) through (6); and

(2) inserting a new paragraph after paragraph (2) to read as follows:

"(3) any person because of such person's sex, in violation of such other person's right not to be subject to discrimination on that account and because such other person is or has been participating, or in order to intimidate any person from participating, in any benefit or activity described in paragraph (2); or".

(c) Section 1153 of title 18, United States Code, is amended by striking out "carnal knowledge of any female, not his wife, who has not attained the age of sixteen years" and inserting in lieu thereof "sexual abuse of a minor".

(d)(1) Section 2032 of title 18, United States Code, is amended by—

(1) striking out "female" and inserting in lieu thereof "person"; and

(2) striking out "wife" and inserting in lieu thereof "spouse".

(2) The heading for section 2032 of title 18, United States Code, is amended to read as follows:

"§ 2032. Sexual abuse of a minor".

(3) The table of sections for chapter 99 of title 18, United States Code, is amended by striking out the item for section 2032 and inserting in lieu thereof the following:

"2032. Sexual abuse of a minor.".

(e) Sections 2198, 2424, *3286*, and 3614 of title 18, United States Code, *and all references to such sections including the items relating to such sections in the table of sections*, are repealed.

(f) Section 1114 of title 18, United States Code, is amended by striking out "any officer or enlisted man of the Coast Guard" and inserting in lieu thereof "any officer or enlisted member of the Coast Guard".

(g) Section 2421 of title 18, United States Code, is amended—

(1) by striking out "Whoever" each place it appears and inserting in lieu thereof "Any individual who";

(2) by striking out "person" in the second paragraph and inserting in lieu thereof "individual";

(3) by striking out "woman or girl" each place it appears and inserting in lieu thereof "other person";

(4) by inserting "himself or" before "herself" each place it appears; and

(5) by striking out "her" in the second paragraph and inserting in lieu thereof "such other person".

(h) Section 2422 of title 18, United States Code, is amended—

(1) by striking out "Whoever" and inserting in lieu thereof "Any individual who";

(2) by striking out "person" and inserting in lieu thereof "individual";

(3) by striking out "woman or girl" each place it appears and inserting in lieu thereof "other person"; and

(4) by striking out "her" and inserting in lieu thereof "such other person's".

PUBLIC LANDS

SEC. . Section 2287 of the Revised Statutes (43 U.S.C. 161) is amended—

(1) in the first sentence by striking out "Every person who is the head of a family, or who has" and inserting in lieu thereof "Every person who is married or who has one or more dependents or who has"; and

(2) by inserting after "his" each place it appears the following: "or her".

SEC. . Section 2290 of the Revised Statutes (43 U.S.C. 162) is amended in the matter before the first semicolon by striking out "the head of a family, or is over twenty-one years of age," and inserting in lieu thereof "is married, or has one or more dependents, or is over twenty-one years of age,".

SEC. . Section 2291 of the Revised Statutes (43 U.S.C. 164) is amended by—

(1) striking out "No certificate shall be given or patent issued therefor until the expiration of three years from the date of such entry; and if at the expiration of such time, or at any time within two years thereafter, the person making such entry, or if he be dead his widow, or in case of her death his heirs or devisee, or in case of a widow making such entry her heirs or devisee, in case of her death, proves by himself" and insert in lieu thereof "No certificate shall be given or patent issued therefor until the expiration of three years from the date of such entry; and if at the expiration of such

time, or at any time within two years thereafter, the person making such entry, or if such enterer be dead, the surviving spouse, or in case of the surviving spouse's death the enterer's heirs or devisee, or in case of a surviving spouse making such entry the surviving spouse's heirs or devisee, in case of the surviving spouse's death, proves by the enterer";

(2) striking out "he, she, or they" each place it appears and inserting in lieu thereof "they";

(3) striking out "entryman" each place it appears and inserting in lieu thereof "enterer";

(4) in the second proviso by—

(A) striking out "date of his death" and inserting in lieu thereof "date of his or her death"; and

(B) striking out "had he lived" and inserting in lieu thereof "had he or she lived"; and

(5) in the third proviso by—

(A) striking out "area of his entry" and inserting in lieu thereof "area of his or her entry"; and

(B) striking out "by him".

SEC. . Section 3 of the Act entitled "An Act for the relief of settlers on public lands", approved May 14, 1880 (21 Stat. 141; 43 U.S.C. 166) is amended—

(1) in the first sentence by—

(A) striking out "time to file his" and inserting in lieu thereof "time to file his or her";

(B) striking out "perfect his original entry" and inserting in lieu thereof "perfect original entry";

(C) striking out "and his right" and inserting in lieu thereof "and the right"; and

(D) striking out "if he settled" and inserting in lieu thereof "if the settler settled";

(2) in the matter before the first proviso in the second sentence by—

(A) striking out "unmarried woman" and inserting in lieu thereof "unmarried person";

(B) striking out "she" and inserting in lieu thereof "the person";

(C) striking out "her marriage" and inserting in lieu thereof "the marriage"; and

(D) striking out "her right" and inserting in lieu thereof "his or her right";

(3) in the first proviso by striking out "she does not abandon" and inserting in lieu thereof "the person does not abandon his or";

(4) by striking out the second proviso; and

(5) in the remaining provisos by—

(A) striking out "he" and inserting in lieu thereof "the settler"; and

(B) striking out "his" both places it appears and inserting in lieu thereof "his or her".

SEC. . The Act entitled "An Act providing that the marriage of a homestead entryman to a homestead entrywoman shall not impair the right of either to a patent after compliance with the law a year, to apply to existing enterers", approved April 6, 1914 (38 Stat. 312; 43 U.S.C. 167) is amended to read as follows:

"The marriage of one homestead enterer to another after each shall have fulfilled the requirements of the homestead law for one year next preceding such marriage shall not impair the right of either to a patent, but if they choose to live together, they shall together elect on which of the two entries the home shall thereafter be made and residence thereon by both spouses shall constitute a compliance with the residence requirements upon each entry: *Provided*, That the provisions of this action shall apply to entries existing on April 6, 1914: *Provided further*, That in the administration of this section the term 'enterer' shall be construed to include bona fide settlers who have complied with the homestead law for at least one year next preceding such marriage.".

SEC. . The Act entitled "An Act to provide for certificate of title to homestead entry by a female American citizen who has intermarried with an alien", approved October 17, 1914 (38 Stat. 740; 43 U.S.C. 168) is repealed.

SEC. . The Act entitled "An Act to provide for issuing patents for public lands claimed under the homestead laws by deserted wives", approved October 22, 1914 (38 Stat. 766; 43 U.S.C. 170) is amended—

(1) in the matter before the first proviso by—

(A) striking out "wife" both places it appears and inserting in lieu thereof "spouse";

(B) striking out "by her husband" and inserting in lieu thereof "by the enterer spouse";

(C) striking out "in her name" and inserting in lieu thereof "in his or her name"; and

(D) striking out "entryman" and inserting in lieu thereof "enterer";

(2) in the first proviso by—

(A) striking out "wife" and inserting in lieu thereof "deserted spouse";

(B) striking out "herself" and inserting in lieu thereof "such deserted spouse"; and

(C) striking out "her husband" and inserting in lieu thereof "the enterer spouse"; and

(3) in the second proviso by—

(A) striking out "wife" and inserting in lieu thereof "spouse"; and

(B) striking out "husband" and inserting in lieu thereof "deserting enterer spouse".

SEC. . The Act entitled "An Act for the protection of homestead settlers who enter the military or naval service of the United States in time of war", approved June 16, 1898 (30 Stat. 473; 43 U.S.C. 240) is amended by—

(1) inserting after "his" each place it appears the following: "or her"; and

(2) inserting after "he" each place it appears "or she".

SEC. . The Act entitled "An Act to allow credit in connection with homestead entries to widows of persons who served in certain Indian wars", approved March 3, 1933 (47 Stat. 1424; 43 U.S.C. 243a) is amended by striking out "widow" each place it appears and inserting in lieu thereof "surviving spouse".

SEC. . Section 2293 of the Revised Statutes (43 U.S.C. 255) is amended by—

(1) striking out "himself" and inserting in lieu thereof "himself or herself";

(2) striking out "he" and inserting in lieu thereof "the person"; and

(3) striking out "wife" and inserting in lieu thereof "spouse".

SEC. . Section 2305 of the Revised Statutes (43 U.S.C. 272) is amended—

(1) in the matter before the first semicolon by adding after "he" the following: "or she";

(2) in the clause after the first semicolon by striking out "his homestead for a period of at least one year after he shall have commenced his improvements" and inserting in lieu thereof "his or her homestead for a period of at least one year after the improvements were commenced"; and

(3) by striking out the proviso and inserting in lieu thereof the following: "*Provided*, That in every case in which a settler on the public land of the United States under the homestead laws died while actually engaged in the Army, Navy, or Marine Corps of the United States as private soldier, officer, seaman, or marine, during the war with Spain or the Philippine insurrection the settler's survivors, if unmarried, or in case of the surviving spouse's death or marriage, then the minor orphan children or their legal representatives, may proceed forthwith to make final proof upon the land so held by the deceased soldier and settler, and that the death of such soldier while so engaged in the service of the United States shall, in the administration of the homestead laws, be construed to be equivalent to a performance of all requirements as to residence and cultivation for the full period of five years, and shall entitle the surviving spouse, if unmarried, or in case of the surviving spouse's death or marriage, then the minor orphan children or their legal representatives, to make final proof upon and receive Government patent for said land; and that upon proof produced to the officers of the proper local land office by the surviving spouse, if unmarried, or in case of the surviving spouse's death or marriage, then the minor orphan children or their legal representatives, that the applicant for patent is the surviving spouse, if unmarried, or in case of the surviving spouse's death or marriage, the orphan children or their legal representatives, and that such soldier, sailor, or marine died while in the service of the United States as hereinbefore described, the patent for such land shall issue.".

SEC. . (a) Section 2307 of the Revised Statutes (43 U.S.C. 278) is amended by—

(1) striking out "his widow" and inserting in lieu thereof "the surviving spouse"; and

(2) striking out "entrywoman" and inserting in lieu thereof "enterer".

(b) Section 2304 of the Revised Statutes (43 U.S.C. 271) is amended by striking out "after locating his homestead and filing his declaratory statement within which to make his entry and commence his settlement and improvement." and inserting in lieu thereof "after locating a homestead and filing a declaratory statement within which to make entry and commence settlement and improvement of the land.".

CIVIL RELIEF ACT

SEC. . (a) Section 503 of the Soldiers' and Sailors' Civil Relief Act of 1940 (54 Stat. 1187; 50 U.S.C. App. 563) is amended—

(1) in subsection (1) by striking out "his widow, if unmarried, or in the case of her death or marriage, his minor children, or his or" and inserting in lieu thereof "the surviving spouse, if unmarried, or in the case of the surviving spouse's death or marriage, the minor children, or"; and

(2) in subsection (2) by inserting after "he" the following: "or she".

(b) Section 504 of the Soldiers' and Sailors' Civil Relief Act of 1940 (54 Stat. 1187; 50 U.S.C. App. 564) is amended—

(1) by striking out "entryman" each place it appears and inserting in lieu thereof "enterer";

(2) by striking out "his" each place it appears and inserting in lieu thereof "his or her"; and

(3) by striking out "he" each place it appears and inserting in lieu thereof "he or she".

(c) Section 510 of the Soldiers' and Sailors' Civil Relief Act of 1940 (54 Stat. 1189; 50 U.S.C. App. 570) is amended—

(1) by striking out "entryman" each place it appears and inserting in lieu thereof "enterer";

(2) by striking out "his" each place it appears and inserting in lieu thereof "his or her"; and

(3) by striking out "he" each place it appears and inserting in lieu thereof "he or she".

MISCELLANEOUS

SEC. . Section 8 of the Act of March 22, 1882 (22 Stat. 31, chapter 47; 48 U.S.C. 1461) is repealed.

SEC. . Section 604(a)(7) of title 28, United States Code, is amended by striking out "widows" and inserting in lieu thereof "surviving spouses".

SEC. . Section 2 of the Act of August 16, 1941 (55 Stat. 623 chapter 357; 42 U.S.C. 1652) is amended in subsection (b) by—

(1) striking out "surviving wife" the first place it appears and inserting in lieu thereof "the surviving spouse";

(2) striking out "surviving wife" the second place it appears and inserting in lieu thereof "surviving spouse"; and

(3) striking out "his option" and inserting in lieu thereof "his or her option".

SEC. . (a) Section 1981 of the Revised Statutes (42 U.S.C. 1986) is amended by—

(1) striking out "his legal representative" and inserting in lieu thereof "his or her legal representative"; and

(2) striking out "widow" each place it appears and inserting in lieu thereof "surviving spouse".

(b) Section 4 of the Act entitled "An Act to clarify the status and benefits of commissioned officers of the National Oceanic and Atmospheric Administration, and for other purposes" (84 Stat. 1863, 33 U.S.C. 857-4) is amended—

(1) in subsection (a) by striking out "enlisted men" and inserting in lieu thereof "enlisted persons"; and

(2) in subsection (c) by striking out "their widows" and inserting in lieu thereof "the surviving spouses of such members".

(c) Section 222 of the National Housing Act (12 U.S.C. 1715m), is amended—

(1) by striking out "servicemen" each place such term appears and inserting in lieu thereof "persons in the service";

(2) by striking out "serviceman" each place such term appears and inserting in lieu thereof "person in the service"; and

(3) in subsection (g) by—

(A) striking out "surviving widow" and inserting in lieu thereof "surviving spouse";

(B) striking out "serviceman's" each place such term appears and inserting in lieu thereof "person's in the service"; and

(C) striking out "such widow" and inserting in lieu thereof "such surviving spouse".

(d) Section 2 of the Act of July 5, 1946, commonly known as the Trademark Act of 1946 (15 U.S.C. 1052), is amended in subsection (c) by—

(1) striking out "his widow" and inserting in lieu thereof "the surviving spouse of such President"; and

(2) striking out "the widow" and inserting in lieu thereof "such surviving spouse".

(e) Section 5572 of the Revised Statutes (48 U.S.C. 1413) is amended in the first sentence by striking out "his widow, heir, executor, or administrator" and inserting in lieu thereof "the surviving spouse, heir, executor, or administrator of the discoverer".

(f) Section 5574 of the Revised Statutes (48 U.S.C. 1415) is amended in the second sentence by striking out "his widow, heir, executor, administrator, or assigns" and inserting in lieu thereof "the surviving spouse, heir, executor, administrator, or assigns of the discoverer".

(g) Section 5577 of the Revised Statutes (48 U.S.C. 1418) is amended by striking out "his widow, heir, executor, administrator, or assigns" and inserting in lieu thereof "the surviving spouse, heir, executor, administrator, or assigns of the discoverer".

SAINT ELIZABETHS HOSPITAL

SEC. . (a) Section 4839 of the Revised Statutes (24 U.S.C. 165) is amended—

(1) by striking out "he" each place it appears in the second sentence;

(2) by inserting "or her" after "his" in the second sentence;

(3) by striking out "and, in the case of a male pensioner, his wife, minor children, and dependent parents, or, if a female pensioner, her minor children, if any," in the last sentence before the proviso and inserting in lieu thereof "and the spouse, minor children, and dependent parents of the pensioner,";

(4) by striking out "shall, if a female pensioner, be paid to her minor children, and, in the case of a male pensioner, be paid to his wife, if living; if no wife survives him, then to his minor children; and in case there is no wife" in the last sentence before the proviso and inserting in lieu thereof "shall be paid to the spouse of the pensioner, if living, or if no spouse survives the pensioner, then to the minor children of the pensioner; and in case there is no spouse";

(5) by inserting "or her" before "credit at said home" in the proviso;

(6) by striking out "his said transfer" in the proviso and inserting in lieu thereof "the transfer";

(7) by striking out "be transferred with him" in the proviso and inserting in lieu thereof "also be transferred";

(8) by striking out "placed to his" in the proviso and inserting in lieu thereof "placed to the pensioner's";

(9) by striking out "his return from said hospital" in the proviso and inserting in lieu thereof "the pensioner's return from such hospital"; and

(10) by inserting "or her" before "credit at said hospital" in the proviso.

(b) The third clause of section 4843 of the Revised Statutes (24 U.S.C. 191) is amended by striking out "Men" and inserting in lieu thereof "Persons".

FEDERAL MINE SAFETY AND HEALTH ACT OF 1977

SEC. . (a) Section 203 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 843) is amended—

(1) in subsection (a)—

(A) by striking out "commencement of his employment" in the second sentence and inserting in lieu thereof "the commencement of employment";

(B) by striking out "he" the first place it appears in the second sentence and inserting in lieu thereof "the worker";

(C) by inserting "or she" after "he" the second place it appears in the second sentence;

(D) by inserting "or her" after "his" in the fourth sentence; and

(E) by striking out "advise him of his rights" in the fifth sentence and inserting in lieu thereof "advise the miner of the miner's rights";

(2) in subsection (b)—

(A) by striking out "from his position" each place it appears in paragraphs (1) and (2);

(B) by striking out "him" in paragraph (3) and inserting in lieu thereof "the miner"; and

(C) by striking out "his" in paragraph (3); and

(3) by striking out "him" in the first sentence of subsection (c) and inserting in lieu thereof "the miner"; and

(4) by striking out "such miner" in the first sentence of subsection (d) and all that follows through the end of the sentence and inserting in lieu thereof "such miner, with the consent of the surviving spouse or, if there is no such surviving spouse, then with the consent of the surviving next of kin.".

(b) Section 402 of such Act (30 U.S.C. 902) is amended—

(1) in subsection (a)(2)—

(A) by inserting "or husband" after "wife" in the first sentence;

(B) by striking out "her" the first place it appears in the first sentence;

(C) by striking out "husband" in the first sentence and inserting in lieu thereof "spouse";

(D) by inserting "his or" before "her" each place it appears (after the amendment made by subparagraph (B));

(E) by inserting "or 'husband' " after " 'wife' " in the second sentence; and

(F) by striking out "The term 'wife' also includes a 'divorced wife' " in the third sentence and inserting in lieu thereof "The terms 'wife' and 'husband' also include a 'divorced wife' and a 'divorced husband', respectively,";

(2) in subsection (e)—

(A) by striking out "The term 'widow' includes the wife" in the first sentence and inserting in lieu thereof "The terms 'widow' and 'widower' include the spouse";

(B) by striking out "his" each place it appears and inserting in lieu thereof "the miner's";

(C) by inserting "or 'widower' " after " 'widow' " in the second sentence;

(D) by striking out "a 'surviving divorced wife' as defined in section 216(d)(2) of the Social Security Act" in the third sentence and inserting in lieu thereof "a 'surviving divorced wife' and a 'surviving divorced husband' as defined in paragraphs (2) and (5), respectively, of section 216 of the Social Security Act";

(E) by inserting "his or" before "her" each place it appears in the third sentence; and

(F) by striking out "Such term also includes" in the third sentence and inserting in lieu thereof "Such terms also include"; and

(3) by striking out "widow" each place it appears in the third sentence of subsection (g) and inserting in lieu thereof "the miner's widow or widower".

(c) Section 411 of such Act (30 U.S.C. 921) is amended—

(1) in subsection (a)—

(A) by striking out "him" and inserting in lieu thereof "the Secretary"; and

(B) by striking out "his"; and

(2) in subsection (c)—

(A) by striking out "his" in paragraph (1) and inserting in lieu thereof "the";

(B) by striking out "his" in the first sentence of paragraph (2);

(C) by striking out "he" each place it appears in paragraph (3) and inserting in lieu thereof "the miner";

(D) by striking out "his" each place it appears in paragraph (3) and each place it appears in the first sentence of paragraph (4);

(E) by striking out "widow's," in the first sentence of paragraph (4) (after the amendment made by subparagraph (D)) and inserting in lieu thereof "or the miner's widow's, widower's";

(F) by striking out "he" in the first sentence of paragraph (4) and inserting in lieu thereof "the miner";

(G) by inserting "or husband's" after "wife's" in the second sentence of paragraph (4);

(H) by striking out "he" in the third sentence of paragraph (4) and inserting in lieu thereof "the Secretary"; and

(I) by striking out "his" in the fourth sentence of paragraph (4) and inserting in lieu thereof "such miner's".

(d) Section 412 of such Act (30 U.S.C. 922) is amended—

(1) in subsection (a)—

(A) by striking out "his widow" in paragraph (2) and inserting in lieu thereof "the widow or widower";

(B) by striking out "he were" in paragraph (2);

(C) by striking out "his" each place it appears in the first sentence of paragraph (3);

(D) by inserting "or widower" after "widow" each place it appears in paragraph (3);

(E) by striking out "her" in the first sentence of paragraph (3) and inserting in lieu thereof "the widow's or widower's";

(F) by striking out "he" in the first sentence of paragraph (3) and inserting in lieu thereof "the child";

(G) by inserting "or she" after "he" in the first proviso of paragraph (3);

(H) by striking out "his" the first place it appears in the first sentence of paragraph (5);

(I) by striking out "at the time of his death" each place it appears in the first sentence of paragraph (5) (after the amendment made by subparagraph (H));

(J) by striking out "a widow or a child" each place it appears in the first sentence of paragraph (5) and inserting in lieu thereof "a widow, widower, or child";

(K) by striking out "a widow, child, or parent" each place it appears in the first sentence of paragraph (5) and inserting in lieu thereof "a widow, widower, child, or parent";

(L) by striking out "at the time of his or her death" each place it appears in the first sentence of paragraph (5);

(M) by striking out "a brother only if he is—" in the fourth sentence of paragraph (5) and inserting in lieu thereof "a brother or sister only if the brother or sister is—";

(N) by striking out "who is" after "(2)" in paragraph (5); and

(O) by striking out "him" in paragraph (6) and inserting in lieu thereof "the Secretary"; and

(2) by striking out "his widow," each place it appears in the first sentence of subsection (b) and inserting in lieu thereof "the miner's widow, widower,".

(e) Section 413 of such Act (30 U.S.C. 923) is amended—

(1) in subsection (b)—

(A) by striking out "he uses" in the first sentence and inserting in lieu thereof "used";

(B) by striking out "his wife's" in the second sentence and inserting in lieu thereof "the wife's or husband's"; and

(C) by striking out ", widow," in the ninth sentence and inserting in lieu thereof "or the miner's widow, widower,"; and

(2) by inserting "or her" after "his" in subsection (c).

(f) Section 414 of such Act (30 U.S.C. 924) is amended—

(1) in subsection (a)—

(A) by inserting "or widower" after "widow" in paragraph (1);

(B) by striking out "her husband" and inserting in lieu thereof "the miner" in paragraph (1); and

(C) by striking out "his" in paragraph (2)(C) and inserting in lieu thereof "the claimant's"; and

(2) in subsection (e)—

(A) by inserting "widower," after "widow," in the matter preceding clause (1); and

(B) by striking out "his" in clause (1) and inserting in lieu thereof "the miner's".

(g) Section 421 of such Act (30 U.S.C. 931) is amended—

(1) by inserting "widowers," after "widows," in subsection (a); and

(2) in subsection (b)(2)—

(A) by striking out "if he finds" in the matter preceding subparagraph (A) and inserting in lieu thereof "upon finding"; and

(B) by striking out "by him" in subparagraph (F).

LONGSHOREMEN'S AND HARBOR WORKERS COMPENSATION ACT

SEC. . (a) Section 9(b) of the Longshoremen's and Harbor Workers Compensation Act (33 U.S.C. 909(b)), is amended by striking out "dependent".

(b) Section 9(c) of the Longshoremen's and Harbor Workers Compensation Act (33 U.S.C. 909(c)), is amended by striking out "dependent husband" and inserting in lieu thereof "widower".

(c) Section 9(g) of the Longshoremen's and Harbor Workers Compensation Act (33 U.S.C. 909(g)), is amended by striking out "wife" each place it appears and inserting in lieu thereof "spouse".

(d) Section 14(j) of the Longshoremen's and Harbor Workers Compensation Act (33 U.S.C. 914(j)), is amended by—

(1) striking out "during which he is entitled" and inserting in lieu thereof "during which he or she is entitled"; and

(2) placing a period after "Mortality" in the second sentence and striking out the rest of the sentence.

CONSERVATION

SEC. . The last proviso of the subparagraph entitled "Federal Aid in Wildlife Restoration" under the paragraph "Fish and Wildlife Service" of the first section of the Act entitled "An Act making appropriations for the Department of the Interior for the fiscal year ending June 30, 1943, and for other purposes", approved July 2, 1942 (56 Stat. 557; 16 U.S.C. 754) is amended by striking out "per man per day" and inserting in lieu thereof "per day".

MISCELLANEOUS

SEC. . Section 1 of title 1, United States Code, is amended by striking out the clause beginning "words importing the masculine gender" and inserting in lieu thereof "words importing the masculine or feminine gender include the other as well".

BENEFITS FOR INTERNEES

SEC. . Section 2004 of title 50, Appendix, United States Code, is amended—

(1) In subsection (d) by—

(A) inserting "or her" after "his";

(B) striking out "husband" each place it appears in paragraphs (1), (2) and (3) and inserting in lieu thereof "widower"; and

(C) striking out "husband" in paragraph (4) and inserting in lieu thereof "widow, widower";

(2) In subsection (f)(7) by—

(A) inserting "or widower" after "widow"; and

(B) inserting "herself or" before "himself"; and

(3) in subsections (g)(4) and (i)(4) by—

(A) inserting "or her" after "his";

(B) striking out "husband" in subparagraph (A) and inserting in lieu thereof "widower"; and

(C) striking out "dependent husband" each place it appears in subparagraphs (B) and (C) and inserting in lieu thereof "widower".

SPOUSES OF FORMER PRESIDENTS

SEC. . The Act of August 25, 1958, as amended (72 Stat. 838; 3 U.S.C. 102 Note), is amended in subsection (e) by—

(1) striking out "widow" each place it appears and inserting in lieu thereof "surviving spouse"; and

(2) inserting "he or" before "she".

TITLE IV—EFFECTIVE DATE

SEC. . Except as otherwise provided, the amendments made by this Act shall become effective upon the date of enactment.

AMENDMENT No. 6891

At the appropriate place, add the following:

That this amendment may be cited as the "Fiscal Responsibilities Act of 1983".

To discourage taxation by requiring an affirmative vote of Congress before tax receipts increase as a percentage of gross national product

SEC. . (a) Section 301(a) of the Congressional Budget Act of 1974 (31 U.S.C. 1322) is amended by renumbering paragraphs (6) and (7) and (8) respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) an estimate of the gross national product at the close of such fiscal year and of the fiscal year in progress;".

(b) Such Act is amended by inserting after section 301 the following new section:

"INCREASES IN REVENUES AS A PERCENTAGE OF GROSS NATIONAL PRODUCT

SEC. 301A. If, immediately prior to the final vote on the adoption of any concurrent resolution on the budget for any fiscal year (or the conference report thereon) in either the House of Representatives or the Senate, the percentage which the recommended level of Federal revenues for such fiscal year is of the estimated gross national product at the close of such fiscal year exceeds the percentage which the estimated level of Federal revenues for the fiscal year in progress is of the estimated gross national product at the close of the fiscal year in progress, then a separate vote shall be taken on agreeing to the recommended level of Federal revenues for such fiscal year. In the case of a concurrent resolution on the budget for a fiscal year after such fiscal year has begun, the level of Federal revenues for the preceding fiscal year shall be substituted for the estimated level of Federal revenues for the fiscal year in progress, and the gross national product at the close of the preceding fiscal year shall be substituted for the estimated gross national product at the close of the fiscal year in progress.".

To require approval by three-fifths of the Members of the House of Representatives and the Senate of any budget which provides for a deficit

SEC. . (a) Section 305(a)(6) of the Congressional Budget Act of 1974 (31 U.S.C. 1326(a)(5)) is amended by inserting before the period at the end of the first sentence the following: ", except that after all amendments to the figures set forth pursuant to paragraph (1) and paragraphs (3)

through (6) of section 301(a) have been considered, a vote shall be taken on such figures, but such vote shall not prevent further amendment of such figures as provided by this paragraph".

(b) Section 301(b)(1) of such Act (31 U.S.C. 1326(b)(1)) is amended by adding at the end thereof the following new sentence: "Prior to the consideration of any amendments to the figures set forth pursuant to paragraph (2) of section 301(a), (A) action shall be concluded, except as provided by paragraph (7) of this subsection, on all amendments to the figures set forth pursuant to paragraph (1) and paragraphs (3) through (6) of such section, and (B) a vote shall be taken on the figures as then set forth pursuant to paragraph (1) and paragraphs (3) through (6) of such section, but such vote shall not prevent further amendment of such figures as provided by paragraph (7) of this subsection.".

SEC. . The Congressional Budget Act of 1974 is amended by inserting after section 301A (as added by section 2 of this Act) the following new section:

"THREE-FIFTHS MAJORITY REQUIRED FOR DEFICIT BUDGETS

"SEC. 301B. On the question of adoption of any concurrent resolution on the budget for any fiscal year (or the conference report thereon) in either the House of Representatives or the Senate, if a deficit in the budget is set forth as appropriate, an affirmative vote of three-fifths of the Members present and voting, a quorum being present, shall be required.".

To require the President to submit a balanced budget in which neither expenditures nor revenues exceed 21 per centum of the gross national product

SEC. . The Budget and Accounting Act, 1921 (31 U.S.C. 1 et seq.), is amended by inserting after section 201 the following new section:

"SEC. 201A. (a) If the budget transmitted pursuant to section 201 for any fiscal year sets forth—

"(1) estimated expenditures of the Government during such fiscal year exceeding 21 per centum of the estimated gross national product at the close of such fiscal year; or

"(2) estimated expenditures of the Government during such fiscal year exceeding 21 per centum of the estimated gross national product at the close of such fiscal year; or

"(3) estimated expenditures in excess of estimated receipts,

the President shall transmit an alternate budget for that fiscal year in which estimated expenditures and estimated receipts which do not exceed such percentage of the estimated gross national product, and in which estimated receipts exceed estimated expenditures.

"(b) An alternative budget transmitted pursuant to subsection (a) or (b) for any fiscal year shall be transmitted on the same day as the budget transmitted pursuant to section 201 for such fiscal year and shall be in the same form and detail as the budget so transmitted, except that, at the discretion of the President, such alternate budget may omit the detail of matters that are the same as the budget so transmitted.".

AMENDMENT NO. 6892

At the appropriate place, add the following:

That this amendment may be cited as "The Sex Discrimination in the United States Code Reform Act of 1983".

TITLE I—ARMED FORCES, SOLDIERS' HOME, COAST GUARD, LIGHTHOUSE SERVICE, AND MERCHANT MARINE

PART A—AMENDMENTS RELATING TO THE ARMED FORCES AND THE SOLDIERS' HOME

AMENDMENTS TO TITLE 10, UNITED STATES CODE, RELATING TO THE UNIFORM CODE OF MILITARY JUSTICE

SEC. . Section 920 of title 10, United States Code, is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) Any person subject to this chapter who commits an act of sexual intercourse with another person not his or her spouse, by force and without the consent of such other person, is guilty of rape and shall be punished by death or such other punishment as a court-martial may direct.

"(b) Any person subject to this chapter who, under circumstances not amounting to rape, commits an act of sexual intercourse with another person not his or her spouse who has not attained the age of sixteen years, is guilty of carnal knowledge and shall be punished as a court-martial may direct.".

AMENDMENTS TO TITLE 10, UNITED STATES CODE, RELATING TO THE ARMY

SEC. . (a) Section 3683 of title 10, United States Code, is repealed.

(b) Section 3963 of such title is repealed.

(c) Section 4309(b) of such title is amended by striking out "males" and inserting in lieu thereof "persons".

(d) Section 4651 of such title is amended to read as follows:

"§ 4651. Arms, tentage, and equipment: educational institutions not maintaining units of R.O.T.C.

"Under such conditions as the Secretary of the Army may prescribe, such Secretary may issue arms, tentage, and equipment that such Secretary considers necessary for proper military training, to any educational institution at which no unit of the Reserve Officers' Training Corps is maintained, but which has a course in military training prescribed by such Secretary and which has at least one hundred physically fit students over fourteen years of age.".

(e) Section 4712(d) of such title is amended by striking out clauses (1) through (9) and inserting in lieu thereof the following:

"(1) The surviving spouse or legal representative.

"(2) A child of the deceased.

"(3) A parent of the deceased.

"(4) A brother or sister of the deceased.

"(5) The next of kin of the deceased.

"(6) A beneficiary named in the will of the deceased to receive the property.".

(f) Section 4713(a)(2) of such title is amended by striking out subclauses (A) through (I) and inserting in lieu thereof the following:

"(A) The surviving spouse or legal representative.

"(B) A child of the deceased.

"(C) A parent of the deceased.

"(D) A brother or sister of the deceased.

"(E) The next of kin of the deceased.

"(F) A beneficiary named in the will of the deceased to receive the property.".

AMENDMENTS TO TITLE 10, UNITED STATES CODE, RELATING TO THE NAVY

SEC. . (a) Section 7601 of title 10, United States Code, is amended—

(1) in subsection (a) by striking out "widows" and inserting in lieu thereof "surviving spouses"; and

(2) in the first sentence of subsection (b)—

(A) by striking out "him" and inserting in lieu thereof "the Secretary"; and

(B) by striking out "he" each place it appears and inserting in lieu thereof in each such place "the Secretary".

(b) Section 6964(e) of title 10, United States Code, is amended by striking out "men" and inserting in lieu thereof "persons".

AMENDMENTS TO TITLE 10, UNITED STATES CODE, RELATING TO THE AIR FORCE

SEC. . (a) Section 8683 of title 10, United States Code, is repealed.

(b) Section 8963 of such title is repealed.

(c) Section 9651 of such title is amended to read as follows:

"§ 9651. Arms, tentage, and equipment: educational institutions not maintaining units of A.F.R.O.T.C.

"Under such conditions as the Secretary of the Air Force may prescribe, such Secretary may issue arms, tentage, and equipment that such Secretary considers necessary for proper military training, to any educational institution at which no unit of the Air Force Reserve Officers' Training Corps is maintained, but which has a course in military training prescribed by such Secretary and which has at least 100 physically fit students over 14 years of age.".

(d) Section 9712(d) of such title is amended by striking out clauses (1) through (9), and inserting in lieu thereof the following:

"(1) The surviving spouse or legal representative.

"(2) A child of the deceased.

"(3) A parent of the deceased.

"(4) A brother or sister of the deceased.

"(5) The next of kin of the deceased.

"(6) A beneficiary named in the will of the deceased to receive the property.".

(e) Section 9713(a)(2) of such title is amended by striking out subclauses (A) through (I) and inserting in lieu thereof the following:

"(A) The surviving spouse or legal representative.

"(B) A child of the deceased.

"(C) A parent of the deceased.

"(D) A brother or sister of the deceased.

"(E) The next of kin of the deceased.

"(F) A beneficiary named in the will of the deceased to receive the property.".

REPEAL OF AUTHORITY TO MAKE TEMPORARY APPOINTMENTS AS OFFICERS IN THE ARMY

SEC. . The Act entitled "An Act to authorize temporary appointment as officers in the Army of the United States of members of the Army Nurse Corps, female persons having the necessary qualifications for appointment in such corps, female dietetic and physical-therapy personnel of the Medical Department of the Army (exclusive of students and apprentices), and female persons having the necessary qualifications for appointment in such department as female dietetic or physical-therapy personnel, and for other purposes.", approved June 22, 1944 (58 Stat. 324; 50 U.S.C. App. 1591 et seq.) is repealed.

AMENDMENTS RELATING TO ALLOTMENT OF PENSIONS OF INMATES OF THE SOLDIERS' HOME

SEC. . Section 4 of the Act entitled "An Act prescribing regulations for the Soldiers' Home located at Washington, in the District of Columbia, and for other purposes.", approved March 3, 1883 (22 Stat. 564; 24 U.S.C. 52) is amended—

(1) in the first sentence—
(A) by striking out "wife" each place it appears and inserting in lieu thereof in each such place "spouse"; and
(B) by striking out "his" and inserting in lieu thereof "the inmate's";
(2) in the third sentence—
(A) by striking out "him" each place it appears and inserting in lieu thereof in each such place "the pensioner"; and
(B) by striking out "his";
(3) in the fourth sentence—
(A) by striking out "his" each place it appears and inserting in lieu thereof in each such place "the inmate's"; and
(B) by striking out "he" and inserting in lieu thereof "the pensioner"; and
(4) in the fifth sentence—
(A) by striking out "him" and inserting in lieu thereof "the pensioner"; and
(B) by striking out "his" and inserting in lieu thereof "the pensioner's".

TECHNICAL AMENDMENTS

SEC. . (a) The table of sections at the beginning of chapter 353 of title 10, United States Code, is amended by striking out the item relating to section 3683

(b) The table of sections at the beginning of chapter 369 of such title is amended by striking out the item relating to section 3963.

(c) The table of sections at the beginning of chapter 853 of such title is amended by striking out the item relating to section 8683.

(d) The table of sections at the beginning of chapter 869 of such title is amended by striking out the item relating to section 8983.

SAVING PROVISIONS

SEC. . (a) The repeal made by section 102(a) shall not apply in the case of any person who performed active service described in section 3683 of title 10, United States Code, as such section was in effect on the day before the effective date of such repeal.

(b) The repeal made by section 102(a) shall not apply in the case of any member of the Regular Army described in section 3963 of title 10, United States Code, as such section was in effect on the day before the effective date of such repeal.

(c) The repeal made by section 104(a) shall not apply in the case of any person who performed active service described in section 8683 of title 10, United States Code, as such section was in effect on the day before the effective date of such repeal.

(d) The repeal made by section 104(b) shall not apply in the case of any Air Force nurse or medical specialist described in section 8963 of title 10, United States Code, as such section was in effect on the day before the effective date of such repeal.

(e) The repeal made by section 105 shall not apply in the case of any case of any officer in the Army appointed and assigned under the first section of the Act referred to in section 105, as such Act was in effect on the day before the date of enactment of this Act.

PART B—AMENDMENTS RELATING TO THE COAST GUARD, THE LIGHTHOUSE SERVICE, AND THE CREW OF THE MERCHANT MARINE

AMENDMENTS RELATING TO THE COAST GUARD

SEC. . (a) Section 371 of title 14, United States Code, is amended—

(1) in the second sentence of subsection (a) by striking out "male" each place it appears; and

(2) in subsection (c)(1)—

(A) by striking out "he agrees in writing that upon his" and inserting in lieu thereof "the person agrees in writing that upon"; and

(B) by striking out "he will" and inserting in lieu thereof "the person will"; and

(3) in subsection (c)(2) by striking out "he has the consent of his parent or guardian to his agreement" and inserting in lieu thereof "the person has the consent of the person's parent or guardian to the agreement".

(b) The first sentence of section 487 of such title is amended—

(1) by striking out "men" each place it appears and inserting in lieu thereof in each such place "members"; and

(2) by striking out "widows" and inserting in lieu thereof "surviving spouses".

(c) Section 41 of title 14, United States Code, is amended by striking out "men" each place it appears and inserting in lieu thereof "members".

(d) Section 192 of title 14, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".

(e) Section 351(a) of title 14, United States Code, is amended by striking out "men" and inserting in lieu thereof "members".

(f) Section 353 of title 14, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".

(g) Section 354 of title 14, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".

(h) Section 355 of title 14, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".

(i) Section 357 of title 14, United States Code, is amended—

(1) by striking out "men" each place it appears and inserting in lieu thereof "members"; and

(2) by striking out "man" each place it appears and inserting in lieu thereof "member".

(j) Section 359 of title 14, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".

(k) Section 360 of title 14, United States Code, is amended by striking out "man" each place it appears and inserting in lieu thereof "member".

(l) Section 361 of title 14, United States Code, is amended by striking out "man" each place it appears and inserting in lieu thereof "member".

(m) Section 362 of title 14, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".

(n) Section 365 of title 14, United States Code, is amended by striking out "man" each place it appears and inserting in lieu thereof "member".

(o) Section 366 of title 14, United States Code, is amended by striking out "man" each place it appears and inserting in lieu thereof "member".

(p) Section 367 of title 14, United States Code, is amended—

(1) in the first sentence, by striking out "man" and inserting in lieu thereof "member"; and

(2) in the third sentence, by striking out "men" and inserting in lieu thereof "members".

(q) Section 370 of title 14, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".

(r) Section 421(a) of title 14, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".

(s) Section 424 of title 14, United States Code, is amended by striking out "man" each place it appears and inserting in lieu thereof "member".

(t) Section 483 of title 14, United States Code, is amended by striking out "man" each place it appears and inserting in lieu thereof "member".

(u) Section 487 of title 14, United States Code, including the section heading, is amended by striking out "men" each place it appears and inserting in lieu thereof "member".

AMENDMENTS RELATING TO THE LIGHTHOUSE SERVICE

SEC. . (a) The first section of the Act entitled "An Act to provide benefits for the widows of certain persons who were retired or are eligible for retirement under section 6 of the Act entitled 'An Act to authorize aids to navigation and for other works in the Lighthouse Service, and for other purposes', approved June 20, 1918, as amended.", approved August 19, 1950 (64 Stat. 465; 33 U.S.C. 771), is amended—

(1) by striking out "he" in clause (1) and inserting in lieu thereof "that employee"; and

(2) by striking out "clause (2) and inserting in lieu thereof the following:

"(2) the surviving spouse of such former employee was married to such former employee prior to the retirement of such former employee from the Lighthouse Service and has not remarried—"; and

(3) by striking out "widow, so long as she" in the flush material after clause (2) and inserting in lieu thereof "surviving spouse, so long as such surviving spouse".

(b) Section 2 of such Act (64 Stat. 466; 33 U.S.C. 772) is amended—

(1) by striking out clause (2) and inserting in lieu thereof the following:

"(2) the surviving spouse of such employee has not since remarried,"; and

(2) by striking out "widow, so long as she" in the flush material after clause (2) and inserting in lieu thereof "surviving spouse, so long as such surviving spouse".

AMENDMENTS RELATING TO THE CREW OF THE MERCHANT MARINE

SEC. . (a) Section 4509 of the Revised Statutes (46 U.S.C. 561) is amended—

(1) in the first sentence—

(A) by striking out "boys" and inserting in lieu thereof "youths";

(B) by striking out "his power" and inserting in lieu thereof "the power of such official";

(C) by striking out "boy" each place it appears and inserting in lieu thereof in each such place "youth"; and

(D) by striking out "he has attained" and inserting in lieu thereof "the youth has attained"; and

(2) in the third sentence by striking out "him" and inserting in lieu thereof "such official".

(b) Section 10(b)(1) of the Act entitled "An Act to remove certain burdens on the American merchant marine and encourage the American foreign carrying trade and for other purposes"; approved June 26, 1884 (23 Stat. 55; 46 U.S.C. 599(b)), is amended—

(1) by striking out "wages he may earn" and inserting in lieu thereof "wages he or she may earn";

(2) by striking out "wife, sister" and inserting in lieu thereof "spouse, sibling"; and

(3) by striking out "opened by him and maintained in his name" and inserting in lieu thereof "opened by him or her and maintained in his or her name".

(c) Section 10(c) of such Act (23 Stat. 55; 46 U.S.C. 599(c)) is amended by striking out "during his absence" and inserting in lieu thereof "during his or her absence".

(d) Chapter 231 of the Act of March 3, 1911 (36 Stat. 1167; 46 U.S.C. 627) is amended by—

(1) by striking out "part of his effects" and inserting in lieu thereof "part of his or her effects";

(2) by striking out "his money and effects" and inserting in lieu thereof "his or her money and effects";

(3) by striking out "his widow or children" and inserting in lieu thereof "the surviving spouse or children of such person"; and

(4) by striking out "his will" and inserting in lieu thereof "his or her will.".

AMENDMENTS RELATING TO THE ARMED FORCES

SEC. . (a) Section 311(a) of title 10, United States Code, is amended—

(1) by striking out "males" and inserting in lieu thereof "persons"; and

(2) by striking out "and of female citizens of the United States who are commissioned officers of the National Guard" and inserting in lieu thereof a period.

(b) Section 772(c) of title 10, United States Code, is amended—

(1) by inserting "or her," after "his" in the first sentence; and

(2) by striking out the second sentence.

(c) Section 1431(b)(3) of title 10, United States Code, is amended by striking out "widow" and inserting in lieu thereof "surviving spouse".

(d) Section 1451(a)(2) of title 10, United States Code, is amended—

(1) by adding "or widower" after "widow" each place it appears; and

(2) by inserting "or father's" after "mother's".

(e) Section 4313(a) of title 10, United States Code, is amended by striking out "man" and inserting in lieu thereof "competitor".

(f) Section 6160(a) of title 10, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".

(g) The Act entitled "An Act to authorize the burial in national cemeteries of the remains of certain commissioned officers of the Public Health Service," approved April 30, 1956 (70 Stat. 124; 42 U.S.C. 213, note) is amended by striking out "wife, widow" wherever it appears and inserting in lieu thereof "spouse, surviving spouse".

(h) Section 551(1)(A) of title 37, United States Code, is amended by striking out "wife" and inserting in lieu thereof "spouse".

(i) Section 3402(c) of title 38, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".

(j) Section 300 of the Soldier's and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 530) is amended—

(1) in subsection (1) by striking out "wife" and inserting in lieu thereof "spouse";

(2) in subsection (4) by inserting "or she" after "he"; and

(3) in subsection (4) by striking out "wife" and inserting in lieu thereof "spouse".

TITLE II—ELIMINATION OF GENDER-BASED DISTINCTIONS UNDER THE SOCIAL SECURITY ACT AND THE RAILROAD RETIREMENT ACT

SOCIAL SECURITY ACT PROVISIONS

SEC. . (a) Section 213(a) of the Social Security Act (42 U.S.C. 413a(2)(B)) is amended by striking out "(if a woman) or age 65 (if a man)".

(b) Section 215(f)(5) of such Act (42 U.S.C. 415(f)(5)) is amended by striking out "a man" and inserting in lieu thereof "an individual".

(c) Section 402(a)(19)(G)(iv) of such Act (42 U.S.C. 602(a)(10)(G)(iv) is amended by striking out "mother" and inserting in lieu thereof "parent", and by striking out "she".

(d) Section 1107(b) of such Act (42 U.S.C. 1307(b)) is amended by striking out "former wife divorced" each place it appears and inserting in lieu thereof in each instance "divorced spouse".

(e) The amendments made by this section shall apply on and after the date of the enactment of this Act, and in the case of monthly benefits under title II of the Social Security Act shall only apply to benefits payable for months beginning on or after such date of enactment.

RAILROAD RETIREMENT

SEC. . (a) Section 2(c) of the Railroad Retirement Act of 1974 (45 U.S.C. 213a) is amended—

(1) in subdivision (1)(ii)(C) (45 U.S.C. 231a(c)(1)(ii)(C)), by striking out ", in the cae of a wife, has in her care (individually or jointly with her husband)" and inserting in lieu thereof "has in his or her care (individually or jointly with his or her spouse)";

(2) in subdivision (2) (45 U.S.C. 231a(c)(2)), by inserting "or divorced husband" after "divorced wife" each place it appears;

(3) in subdivision (3) (45 U.S.C. 231a(c)(3))—

(A) by striking out "who (i)" and inserting in lieu thereof "who", and

(B) by striking out "and (ii)" and that follows and inserting in lieu thereof a period; and

(4) by amending subdivision (4) (45 U.S.C. 231a(c)(4) to read as follows:

"(4) The divorced wife (as defined in section 216(d) of the Social Security Act) or divorced husband (as defined in such section) of an individual, if—

"(i) such individual (A) is entitled to an annuity under subsection (a)(1) of this section, and (B) has attained age 62;

"(ii) such divorced wife or divorced husband (A) has attained age 65, and (B) is not married; and

"(iii) such divorced wife or divorced husband would have been entitled to a benefit under section 202(b) or 202(c) of the Social Security Act as the divorced wife or divorced husband of such individual if all of such individual's service as an employee after December 31, 1936, had been included in the term 'employment' as defined in such Act,

shall, subject to the conditions set forth in subsections (e), (f), and (h) of this section, be entitled to a divorced wife's or divorced husband's annuity, if she or he has filed an application therefor, in the amount provided under section 4 of this Act.".

(b) Section 2(d) (45 U.S.C. 231a(d)) of such Act is amended—

(1) in subdivision (1)(i) (45 U.S.C. 231a(d)(1)(i)), by striking out "and who, in the case of a widower" and all that follows and inserting in lieu thereof a semicolon;

(2) in subdivision (1)(ii) (45 U.S.C. 231a(d)(1)(ii)), by inserting "or widower (as defined in section 216(g) and (k) of the Social Security Act)" after "a widow (as defined in section 216(c) and (k) of the Social Security Act)", and by striking out "her care" and inserting in lieu thereof "her or his care";

(3) by amending subdivision (1)(v) (45 U.S.C. 231a(d)(1)(v)) to read as follows:

"(v) the widow (as defined in section 216(c) of the Social Security Act), who is married, or has been married after the death of the employee, the widower (as defined in section 216(g) of the Social Security Act) who is married, or has been married after the death of the employee, the surviving divorced wife (as defined in section 216(d) of the Social Security Act), the surviving divorced husband (as defined in section 216(d) of the Social Security Act), the surviving divorced mother (as defined in section 216(d) of the Social Security Act), and the surviving divorced father (as defined in section 216(d) of the Social Security Act) if such widow, widower, surviving divorced wife, surviving divorced husband, surviving divorced mother, or surviving divorced father would have been entitled to a benefit under section 202(e), 202(f), or 202(g) of the Social Security Act as the widow, widower, surviving divorced wife, surviving divorced husband, surviving divorced mother, or surviving divorced father of the employee if all of the employee's service as an employee after December 31, 1936, had been included in the term 'employment' as defined in that Act. For the purpose of this paragraph—

"(A) the references in section 202(e)(3) and 202(g)(3) of the Social Security Act to an individual entitled under section 202(f) of that Act shall include an individual entitled to an annuity under paragraph (i) of this subdivision and an individual entitled to an annuity under paragraph (ii) of this subdivision,

"(B) the reference in section 202(f)(4) of the Social Security Act to an individual entitled under section 202(b) of that Act shall include an individual, entitled to an annuity under subsection (c) of this section,

"(C) the reference in section 202(f)(4) of the Social Security Act to an individual entitled under section 202 (e) or (g) of that Act shall include an individual entitled to an annuity under paragraph (i) of this subdivision and an individual entitled to an annuity under paragraph (ii) of this subdivision,

"(D) the reference in section 202(f)(4) of the Social Security Act to an individual entitled under section 202(h) of that Act shall include an individual entitled to an annuity under paragraph (iv) of this subdivision,

"(E) the reference in section 202(f)(4) of the Social Security Act to an individual entitled under section 202(d) of that Act shall include an individual entitled to an annuity under paragraph (iii) of this subdivision,

"(F) the reference in section 202(c)(3) and section 202(g)(3) of the Social Security Act to an individual entitled under section 202(d) or section 202(h) of that Act shall include an individual entitled to an annuity under paragraph (iii) or paragraph (iv) of this subdivision, and

"(G) The references in section 202(g)(3) and section 223(a) of that Act shall include an individual entitled to an annuity under subsection (a)(1) of this section."; and

(4) by amending (2)(B) (45 U.S.C. 231a(d)(2)(B)) to read as follows: "the last month for which the widow or widower was entitled to an annuity under paragraph (2) of subdivision (1) as the widow or widower of the deceased employee, or".

(c) Section 2(e)(5) (45 U.S.C. 231a(e)(5)) of such Act is amended by inserting "or divorced husband" after "divorced wife" each place it appears.

(d) Section 2(f)(2) (45 U.S.C. 231a(f)(2)) of such Act is amended by inserting "or divorced husband's" after "divorced wife's" each place it appears.

(e) Section 2(h) (45 U.S.C. 231a(h)) of such Act is amended by inserting "or di-

vorced husband" after "divorced wife" each place it appears.

(f) Section 2(a)(1) (45 U.S.C. 231c(a)(1)) of such Act is amended by inserting "or divorced husband" after "divorced wife" each place it appears.

(g) Section 4(f)(2)(iii) (45 U.S.C. 231c(f)(2)(iii)) of such Act is amended to read as follows:

"(iii) the provisions of paragraphs (i) and (ii) of this subdivision shall not apply to the annuity of a widow, widower, surviving divorced wife, surviving divorced husband, surviving divorced mother, or surviving divorced father, who is entitled to such annuity on the basis of the provisions of section 2(d)(1)(v) of this Act.".

(h) Section 4(g)(5) (45 U.S.C. 231c(g)(5)) of such Act is amended to read as follows:

"(5) This subsection shall not apply to the annuity of a widow, widower, surviving divorced wife, surviving divorced husband, surviving divorced mother, or surviving divorced father, who is entitled to such annuity on the basis of the provisions of section 2(d)(1)(v) of this Act.".

(i) Section 4(h)(2) (45 U.S.C. 231c(h)(2)) of such Act is amended by striking out the first sentence thereof and inserting in lieu thereof the following: "Subdivision (1) of this subsection shall not apply to the annuity of a widow, widower, surviving divorced wife, surviving divorced husband, surviving divorced mother, or surviving divorced father, who is entitled to such annuity on the basis of the provisions of section 2(d)(1)(v) of this Act.".

(j) Section 4(i) (45 U.S.C. 231c(i)(1)) of such Act is amended by inserting "or divorced husband" after "divorced wife" each place it appears.

(k) Section 5(c)(3) (45 U.S.C. 231d(c)(3)) of such Act is amended—

(1) by inserting "or husband" after "wife" each place it appears in the first sentence thereof;

(2) by striking out "her care" and inserting in lieu thereof "her or his care"; and

(3) by inserting "or divorced husband" after "divorced wife" each place it appears in the second sentence thereof.

(l) Section 5(c)(6) (45 U.S.C. 231d(c)(6)) of such Act is amended—

(1) by inserting "or widower" after "widow";

(2) by inserting "or he" after "she" each place it appears; and

(3) by striking out "her care" and inserting in lieu thereof "her or his care".

(m) Section 6(a)(3) (45 U.S.C. 231e(a)(3)) of such Act is amended by inserting "or divorced husband" after "divorced wife" and by inserting "or divorced husband's" after "divorced wife's".

(n) Section 6(b)(2) (45 U.S.C. 231e(b)(2)) of such Act is amended by inserting "surviving divorced husband," after "widower," the first place it appears.

(o) Section 6(c)(2) (45 U.S.C. 231e(c)(2)) of such Act is amended by inserting "or divorced husband" after "divorced wife".

(p) Section 7(b)(2)(B) (45 U.S.C. 231f(b)(2)(B)) of such Act is amended by inserting "or divorced husband" after "husband".

(q) Section 7(b)(2)(i)(B) (45 U.S.C. 231f(d)(2)(i)(B)) of such Act is amended by inserting "or divorced husband" after "divorced wife".

(r) The amendments made by this section shall be effective with respect to annuities payable for months after December 1983.

WORK INCENTIVE PROGRAM

SEC. . (a) Section 433(a) of the Social Security Act (42 U.S.C. 633(a)) is amended by striking out all after the colon in the last sentence thereof and inserting in lieu thereof the following: "first, unemployed parents; second, dependent children and relatives who have attained age 16 and who are not in school or engaged in work or manpower training; and third, all other individuals so certified.".

(b) The amendment made by this section shall become effective on the date of the enactment of this Act.

TITLE III—AMENDMENTS TO UNITED STATES CODE

TITLE 5

SEC. . (a) Section 2108(3) of title 5, United States Code, is amended by striking out subparagraphs (F) and (G) and inserting in lieu thereof the following:

"(F) any parent of an individual who lost his or her life under honorable conditions while serving in the armed forces during a period named by paragraph (1)(A) of this section, if—

"(i) such parent's spouse is totally and permanently disabled;

"(ii) such parent is widowed, divorced, or separated from the other parent and has not remarried; or

"(iii) such parent has remarried but is widowed, divorced, or legally separated when preference is claimed; and

"(G) any parent of a service-connected permanently and totally disabled veteran, if—

"(i) such parent's spouse is totally and permanently disabled;

"(ii) such parent is widowed, divorced, or separated from the other parent and has not remarried; or

"(iii) such parent has remarried but is widowed, divorced, or legally separated when preference is claimed;".

(b) Section 5561(3)(A) of title 4, United States Code, is amended by striking out "wife" and inserting in lieu thereof "spouse".

(c) Section 8332(j)(1) of title 5, United States Code, is amended by striking out "widow" each place it appears and inserting in lieu thereof "surviving spouse".

IMMIGRATION

SEC. . (a) The first sentence of section 283 of the Immigration and Nationality Act (8 U.S.C. 1353) is amended by striking out "wives" and inserting in lieu thereof "spouses".

(b) Section 340 of such Act (8 U.S.C. 1451) is amended—

(1) in subsection (a) by—

(A) striking out "his naturalization" and inserting in lieu thereof "his or her naturalization";

(B) striking out "his subversive" and inserting in lieu thereof "his or her subversive"; and

(C) striking out "his residence" and inserting in lieu thereof "his or her residence".

(2) in subsection (b) by—

(A) striking out "his residence" and inserting in lieu thereof "his or her residence"; and

(B) striking out "upon him".

(3) in subsection (d) by—

(A) striking out "his nativity" and inserting in lieu thereof "his or her nativity"; and

(B) striking out "his petition" and inserting in lieu thereof "his or her petition";

(4) in subsection (e) by—

(A) striking out "his certificate" and inserting in lieu thereof "his or her certificate"; and

(B) striking out "wife" and inserting in lieu thereof "spouse"; and

(5) in subsection (f) by—

(A) striking out "he may" and inserting in lieu thereof "he or she may"; and

(B) striking out "his citizenship" and inserting in lieu thereof "his or her citizenship".

(c) The first sentence of section 341 of such Act (8 U.S.C. 1452) is amended by striking out "husband" and inserting in lieu thereof "spouse".

(d) Section 357 of such Act (8 U.S.C. 1489) is amended—

(1) by striking out "woman" each of the two places it appears and inserting in lieu thereof "person"; and

(2) by inserting before "her" each of the two places it appears "his or".

(e) The Act entitled "An Act to further regulate interstate and foreign commerce by prohibiting the transportation therein for immoral purposes of women and girls, and for other purposes", approved June 25, 1910 (36 Stat. 826, chapter 395; 8 U.S.C. 1557) is amended—

(1) by amending the title to read as follows: "An Act to further regulate interstate and foreign commerce by prohibiting the transportation therein for immoral purposes of adults and youths and for other purposes"; and

(2) by striking out "women and girls" each of the five places it appears and inserting in lieu thereof "adults and youths".

(f) Section 1 of the Act entitled "An Act Making appropriations for the Diplomatic and Consular Service for the fiscal year ending June 30, 1921", approved June 4, 1920 (41 Stat. 750, chapter 223; 22 U.S.C. 214) is amended by—

(1) inserting "or her" after "his" each place it appears; and

(2) striking out in the third sentence "widow" and inserting in lieu thereof "surviving spouse".

(g) Section 321 of the Immigration and Nationality Act (8 U.S.C. 1432) is amended in paragraph (3) of subsection (a) by striking out "the naturalization of the mother".

WALSH-HEALEY

SEC. . (a) Subsection (d) of the first section of the Act entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes" (commonly referred to as the Walsh-Healey Act), approved June 30, 1936 (49 Stat. 2036; 41 U.S.C. 35) is amended by striking out "no male person under sixteen years of age and no female person under eighteen years of age" and inserting in lieu thereof 'no person under sixteen years of age".

(b) The first sentence of section 2 of such Act (49 Stat. 2037; 41 U.S.C. 36) is amended by striking out "each male person under sixteen years of age or each female person under eighteen years of age," and inserting in lieu thereof "each person under sixteen years of age".

AGRICULTURE

SEC. . Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) is amended—

(1) by striking out "of working mothers" in the third sentence of subsection (c) and inserting in lieu thereof "from households in which both parents work or from single parent households in which the parent works"; and

(2) by striking out "his" in the third sentence of subsection (f) and inserting in lieu thereof "the Secretary's".

INDIAN AFFAIRS

SEC. . The Act entitled "An Act authorizing appropriations and expenditures for the administration of Indian affairs, and for other purposes" approved November 2, 1921 (42 Stat. 208, chapter 115; 25 U.S.C. 13) is amended by striking out "field matrons,".

SEC. . Section 3 of the Act of March 3, 1875 (18 Stat. 449, chapter 132; 25 U.S.C. 137) is hereby repealed.

SEC. . The Act entitled "An Act in relation to marriage between white men and Indian women" approved August 9, 1888 (25 Stat. 392; 25 U.S.C. 181 et seq.) is amended—

(1) by amending the title to read as follows: "An Act in relation to marriage between non-Indians and Indians";

(2) in section 1 (25 Stat. 392; 25 U.S.C. 181) by—

(A) striking out "white man" and inserting in lieu thereof "non-Indian"; and

(B) striking out "woman";

(3) by repealing section 2 (25 Stat. 392; 25 U.S.C. 182); and

(4) in section 3 (25 Stat. 392; 25 U.S.C. 183) by—

(A) striking out "white man" and inserting in lieu thereof "non-Indian"; and

(B) striking out "woman".

SEC. . The Act of June 7, 1897 (30 Stat. 62, chapter 3) is amended—

(1) in section 1 (30 Stat. 90, chapter 3; 25 U.S.C. 184) by—

(A) striking out "white man" and inserting in lieu thereof "non-Indian";

(B) striking out "woman" each place it appears;

(C) striking out "her death" each place it appears and inserting in lieu thereof "his or her death"; and

(D) striking out "mother" and inserting in lieu thereof "Indian parent"; and

(2) in section 1 (30 Stat. 83, chapter 3; 25 U.S.C. 274) by striking out "girls as assistant matrons and Indian boys" and inserting in lieu thereof "youths as dormitory aids and".

SEC. . (a) Section 3 of the Act of September 21, 1959 (73 Stat. 592; 25 U.S.C. 933(c)) is amended by striking out "wife" and inserting in lieu thereof "or her spouse".

(b) Section 3(c) of the Act of September 5, 1962 (76 Stat. 429; 25 U.S.C. 973(c)) is amended by striking out "wife" and inserting in lieu thereof "or her spouse".

SEC. . 310. Section 5 of the Act of February 28, 1891 (26 Stat. 795, chapter 383; 25 U.S.C. 371) is amended by—

(1) striking out "husband and wife" and inserting in lieu thereof "spouses"; and

(2) striking out "father" and inserting in lieu thereof "parents".

TRANSPORTATION

SEC. . Section 1 of the Act entitled "An Act to abolish certain fees for official services to American vessels, and to amend the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes", approved June 19, 1886 (46 U.S.C. 331) is amended by striking out "boys" and inserting in lieu thereof "youths".

SEC. . Section 12 of the Act entitled "An Act to promote the welfare of American seamen in the merchant marine of the United States; to abolish arrest and imprisonment as a penalty for desertion and to secure the abrogation of treaty provisions in relation thereto; and to promote safety at sea", approved March 4, 1915 (46 U.S.C. 601) is amended by striking out the first proviso of the second sentence and inserting in lieu thereof *"Provided,* That nothing contained in this or any preceding section shall interfere with the order by any court regarding the payment by any master or seaman of any part of his or her wages for the support and maintenance of his or her spouse and minor children:".

TITLE 18

SEC. . (a) Section 3056(a) of title 18, United States Code, is amended—

(1) in the first sentence in the matter before the first semicolon by striking out "the members of his immediate family" and inserting in lieu thereof "the members of his or her immediate family";

(2) in the first sentence in the clause after the first semicolon by striking out "his wife during his lifetime, the person of a widow of a former President until her death or remarriage" and inserting in lieu thereof "his or her spouse during the former President's lifetime, the person of a surviving spouse of a former President until the surviving spouse's death or remarriage"; and

(3) in the first sentence in the clause after the eighth semicolon by striking out "his certificate" and inserting in lieu thereof "his or her certificate".

(b) Subsection (b) of section 245 of title 18, United States Code, is amended by—

(1) redesignating paragraphs (3) through (5) as paragraphs (4) through (6); and

(2) inserting a new paragraph after paragraph (2) to read as follows:

"(3) any person because of such person's sex, in violation of such other person's right not to be subject to discrimination on that account and because such other person is or has been participating, or in order to intimidate any person from participating, in any benefit or activity described in paragraph (2); or".

(c) Section 1153 of title 18, United States Code, is amended by striking out "carnal knowledge of any female, not his wife, who has not attained the age of sixteen years" and inserting in lieu thereof "sexual abuse of a minor".

(d)(1) Section 2032 of title 18, United States Code, is amended by—

(1) striking out "female" and inserting in lieu thereof "person"; and

(2) striking out "wife" and inserting in lieu thereof "spouse".

(2) The heading for section 2032 of title 18, United States Code, is amended to read as follows:

"§ 2032. Sexual abuse of a minor".

(3) The table of sections for chapter 99 of title 18, United States Code, is amended by striking out the item for section 2032 and inserting in lieu thereof the following:

"2032. Sexual abuse of a minor.".

(c) Sections 2198, 2424, 3286, and 3614 of title 18, United States code, and all references to such sections including the items relating to such sections in the table of sections, are repealed.

(f) Section 1114 of title 18, United States Code, is amended by striking out "any officer or enlisted man of the Coast Guard" and inserting in lieu thereof "any officer or enlisted member of the Coast Guard".

(g) Section 2421 of title 18, United States Code, is amended—

(1) by striking out "Whoever" each place it appears and inserting in lieu thereof "Any individual who";

(2) by striking out "person" in the second paragraph and inserting in lieu thereof "individual";

(3) by striking out "woman or girl" each place it appears and inserting in lieu thereof "other person";

(4) by inserting "himself or" before "herself" each place it appears; and

(5) by striking out "her" in the second paragraph and inserting in lieu thereof "such other person".

(h) Section 2422 of title 18, United States Code, is amended—

(1) by striking out "Whoever" and inserting in lieu thereof "Any individual who";

(2) by striking out "person" and inserting in lieu thereof "individual";

(3) by striking out "woman or girl" each place it appears and inserting in lieu thereof "other person"; and

(4) by striking out "her" and inserting in lieu thereof "such other peerson's".

PUBLIC LANDS

SEC. . Section 2287 of the Revised Statutes (43 U.S.C. 161) is amended—

(1) in the first sentence by striking out "Every person who is the head of a family, or who has" and inserting in lieu thereof "Every person who is married or who has one or more dependents or who has"; and

(2) by inserting after "his" each place it appears the following: "or her".

SEC. . Section 2290 of the Revised Statutes (43 U.S.C. 162) is amended in the matter before the first semicolon by striking out "the head of a family, or is over twenty-one years of age," and inserting in lieu thereof "is married, or has one or more dependents, or is over twenty-one years of age,".

SEC. . Section 2291 of the Revised Statutes (43 U.S.C. 164) is amended by—

(1) striking out "No certificate shall be given or patent issued therefor until the expiration of three years from the date of such entry; and if at the expiration of such time, or at any time within two years thereafter, the person making such entry, or if he be dead his widow, or in case of her death his heirs or devisee, or in case of a widow making such entry her heirs or devisee, in case of her death, proves by himself" and insert in lieu thereof "No certificate shall be given or patent issued therefor until the expiration of three years from the date of such entry; and if at the expiration of such time, or at any time within two years thereafter, the person making such entry, or if such enterer be dead, the surviving spouse, or in case of the surviving spouse's death the *enterer's* heirs or devisee, or in case of a surviving spouse making such entry the surviving spouse's heirs or devisee, in case of the surviving spouse's death, proves by the enterer";

(2) striking out "he, she, or they" each place it appears and inserting in lieu thereof "they";

(3) striking out "entryman" each place it appears and inserting in lieu thereof "enterer";

(4) in the second proviso by—

(A) striking out "date of his death" and inserting in lieu thereof "date of his or her death"; and

(B) striking out "had he lived" and inserting in lieu thereof "had he or she lived"; and (5) in the third proviso by—

(A) striking out "area of his entry" and inserting in lieu thereof "area of his or her entry"; and

(B) striking out "by him".

SEC. . Section 3 of the Act entitled "An Act for the relief of settlers on public lands", approved May 14, 1880 (21 Stat. 141; 43 U.S.C. 166) is amended—

(1) in the first sentence by—
(A) striking out "time to file his" and inserting in lieu thereof "time to file his or her";
(B) striking out "perfect his original entry" and inserting in lieu thereof "perfect original entry";
(C) striking out "and his right" and inserting in lieu thereof "and the right"; and
(D) striking out "if he settled" and inserting in lieu thereof "if the settler settled";
(2) in the matter before the first proviso in the second sentence by—
(A) striking out "unmarried woman" and inserting in lieu thereof "unmarried person";
(B) striking out "she" and inserting in lieu thereof "the person";
(C) striking out "her marriage" and inserting in lieu thereof "the marriage"; and
(D) striking out "her right" and inserting in lieu thereof "his or her right";
(3) in the first proviso by striking out "she does not abandon" and inserting in lieu thereof "the person does not abandon his or";
(4) by striking out the second proviso; and
(5) in the remaining provisos by—
(A) striking out "he" and inserting in lieu thereof "the settler"; and
(B) striking out "his" both places it appears and inserting in lieu thereof "his or her".

SEC. . The Act entitled "An Act providing that the marriage of a homestead entryman to a homestead entrywoman shall not impair the right of either to a patent after compliance with the law a year, to apply to existing enterers", approved April 6, 1914 (38 Stat. 312; 43 U.S.C. 167) is amended to read as follows:

"The marriage of one homestead enterer to another after each shall have fulfilled the requirements of the homestead law for one year next preceding such marriage shall not impair the right of either to a patent, but if they choose to live together, they shall together elect on which of the two entries the home shall thereafter be made and residence thereon by both spouses shall constitute a compliance with the residence requirements upon each entry: *Provided*, That the provisions of this action shall apply to entries existing on April 6, 1914: *Provided further*, That in the administration of this section the term 'enterer' shall be construed to include bona fide settlers who have complied with the homestead law for at least one year next preceding such marriage.".

SEC. . The Act entitled "An Act to provide for certificate of title to homestead entry by a female American citizen who has intermarried with an alien", approved October 17, 1914 (38 Stat. 740; 43 U.S.C. 168) is repealed.

SEC. . The Act entitled "An Act to provide for issuing patents for public lands claimed under the homestead laws by deserted wives", approved October 22, 1914 (38 Stat. 766; 43 U.S.C. 170) is amended—
(1) in the matter before the first proviso by—
(A) striking out "wife" both places it appears and inserting in lieu thereof "spouse";
(B) striking out "by her husband" and inserting in lieu thereof "by the enterer spouse"; and
(C) striking out "in her name" and inserting in lieu thereof "in his or her name"; and
(D) striking out "entryman" and inserting in lieu thereof "enterer";
(2) in the first proviso by—
(A) striking out "wife" and inserting in lieu thereof "deserted spouse";
(B) striking out "herself" and inserting in lieu thereof "such deserted spouse"; and
(C) striking out "her husband" and inserting in lieu thereof "the enterer spouse"; and
(3) in the second proviso by—
(A) striking out "wife" and inserting in lieu thereof "spouse"; and
(B) striking out "husband" and inserting in lieu thereof "deserting enterer spouse".

SEC. . The Act entitled "An Act for the protection of homestead settlers who enter the military or naval service of the United States in time of war", approved June 16, 1898 (30 Stat. 473; 43 U.S.C. 240) is amended by—
(1) inserting after "his" each place it appears the following: "or her"; and
(2) inserting after "he" each place it appears "or she".

SEC. . The Act entitled "An Act to allow credit in connection with homestead entries to widows of persons who served in certain Indian wars", approved March 3, 1933 (47 Stat. 1424; 43 U.S.C. 243a) is amended by striking out "widow" each place it appears and inserting in lieu thereof "surviving spouse".

SEC. . Section 2293 of the Revised Statutes (43 U.S.C. 255) is amended by—
(1) striking out "himself" and inserting in lieu thereof "himself or herself";
(2) striking out "he" and inserting in lieu thereof "the person"; and
(3) striking out "wife" and inserting in lieu thereof "spouse".

SEC. . Section 2305 of the Revised Statutes (43 U.S.C. 272) is amended—
(1) in the matter before the first semicolon by adding after "he" the following: "or she";
(2) in the clause after the first semicolon by striking out "his homestead for a period of at least one year after he shall have commenced his improvements" and inserting in lieu thereof "his or her homestead for a period of at least one year after the improvements were commenced"; and
(3) by striking out the proviso and inserting in lieu thereof the following: "*Provided*, That in every case in which a settler on the public land of the United States under the homestead laws died while actually engaged in the Army, Navy, or Marine Corps of the United States as private soldier, officer, seaman, or marine, during the war with Spain or the Philippine insurrection the settler's survivors, if unmarried, or in case of the surviving spouse's death or marriage, then the minor orphan children or their legal representatives, may proceed forthwith to make final proof upon the land so held by the deceased soldier and settler, and that the death of such soldier while so engaged in the service of the United States shall, in the administration of the homestead laws, be construed to be equivalent to a performance of all requirements as to residence and cultivation for the full period of five years, and shall entitle the surviving spouse, if unmarried, or in case of the surviving spouse's death or marriage, then the minor orphan children or their legal representatives, to make final proof upon and receive Government patent for said land; and that upon proof produced to the offcers of the proper local land office by the surviving spouse, if unmarried, or in case of the surviving spouse's death or marriage, then the minor orphan children or their legal representatives, that the applicant for patent is the surviving spouse, if unmarried, or in case of the surviving spouse's death or marriage, the orphan children or their legal representatives, and that such soldier, sailor, or marine died while in the service of the United States as hereinbefore described, the patent for such land shall issue.".

SEC. . (a) Section 2307 of the Revised Statutes (43 U.S.C. 278) is amended by—
(1) striking out "his widow" and inserting in lieu thereof "the surviving spouse"; and
(2) striking out "entrywoman" and inserting in lieu thereof "enterer".

(b) Section 2304 of the Revised Statutes (43 U.S.C. 271) is amended by striking out "after locating his homestead and filing his declaratory statement within which to make his entry and commence his settlement and improvement." and inserting in lieu thereof "after locating a homestead and filing a declaratory statement within which to make entry and commence settlement and improvement of the land.".

CIVIL RELIEF ACT

SEC. . (a) Section 503 of the Soldiers' and Sailors' Civil Relief Act of 1940 (54 Stat. 1187; 50 App. U.S.C. U.S.C. App. 563) is amended—
(1) in subsection (1) by striking out "his widow, if unmarried, or in the case of her death or marriage, his minor children, or his or" and inserting in lieu thereof "the surviving spouse, if unmarried, or in the case of the surviving spouse's death or marriage, the minor children, or"; and
(2) in subsection (2) by inserting after "he" the following: "or she".

(b) Section 504 of the Soldiers' and Sailors' Civil Relief Act of 1940 (54 Stat. 1187; 50 U.S.C. App. 564) is amended—
(1) by striking out "entryman" each place it appears and inserting in lieu thereof "enterer";
(2) by striking out "his" each place it appears and inserting in lieu thereof "his or her"; and
(3) by striking out "he" each place it appears and inserting in lieu thereof "he or she".

(c) Section 510 of the Soldiers' and Sailors' Civil Relief Act of 1940 (54 Stat. 1189; 50 U.S.C. App. 570) is amended—
(1) by striking out "entryman" each place it appears and inserting in lieu thereof "enterer";
(2) by striking out "his" each place it appears and inserting in lieu thereof "his or her"; and
(3) by striking out "he" each place it appears and inserting in lieu thereof "he or she";

MISCELLANEOUS

SEC. . Section 8 of the Act of March 22, 1882 (22 Stat. 31, chapter 47; 48 U.S.C. 1461) is repealed.

SEC. . Section 604(a)(7) of title 28, United States Code, is amended by striking out "widows" and inserting in lieu thereof "surviving spouses".

SEC. . Section 2 of the Act of August 16, 1941 (55 Stat. 623 chapter 357; 42 U.S.C. 1652) is amended in subsection (b) by—
(1) striking out "surviving wife" the first place it appears and inserting in lieu thereof "the surviving spouse";
(2) striking out "surviving wife" the second place it appears and inserting in lieu thereof "surviving spouse"; and
(3) striking out "his option" and inserting in lieu thereof "his or her option".

SEC. . (a) Section 1981 of the Revised Statutes (42 U.S.C. 1986) is amended by—
(1) striking out "his legal representative" and inserting in lieu thereof "his or her legal representative"; and

(2) striking out "widow" each place it appears and inserting in lieu thereof "surviving spouse".

(b) Section 4 of the Act entitled "An Act to clarify the status and benefits of commissioned officers of the National Oceanic and Atmospheric Administration, and for other purposes" (84 Stat. 1863, 33 U.S.C. 857-4) is amended—

(1) in subsection (a) by striking out "enlisted men" and inserting in lieu thereof "enlisted persons"; and

(2) in subsection (c) by striking out "their widows" and inserting in lieu thereof "the surviving spouses of such members".

(c) Section 222 of the National Housing Act (12 U.S.C. 1715m), is amended—

(1) by striking out "servicemen" each place such term appears and inserting in lieu thereof "persons in the service";

(2) by striking out "serviceman" each place such term appears and inserting in lieu thereof "person in the service"; and

(3) in subsection (g) by—

(A) striking out "surviving widow" and inserting in lieu thereof "surviving spouse";

(B) striking out "serviceman's" each place such term appears and inserting in lieu thereof "person's in the service"; and

(C) striking out "such widow" and inserting in lieu thereof "such surviving spouse".

(d) Section 2 of the Act of July 5, 1946, commonly known as the Trademark Act of 1946 (15 U.S.C. 1052), is amended in subsection (c) by—

(1) striking out "his widow" and inserting in lieu thereof "the surviving spouse of such President"; and

(2) striking out "the widow" and inserting in lieu thereof "such surviving spouse".

(e) Section 5572 of the Revised Statutes (48 U.S.C. 1413) is amended in the first sentence by striking out "his widow, heir, executor, or administrator" and inserting in lieu thereof "the surviving spouse, heir, executor, or administrator of the discoverer".

(f) Section 5574 of the Revised Statutes (48 U.S.C. 1415) is amended in the second sentence by striking out "his widow, heir, executor, administrator, or assigns" and inserting in lieu thereof "the surviving spouse, heir, executor, administrator, or assigns of the discoverer".

(g) Section 5577 of the Revised Statues (48 U.S.C. 1418) is amended by striking out "his widow, heir, executor, administrator, or assigns" and inserting in lieu thereof "the surviving spouse, heir, executor, administrator, or assigns of the discoverer".

SAINT ELIZABETHS HOSPITAL

SEC. . (a) Section 4839 of the Revised Statues (24 U.S.C. 165) is amended—

(1) by striking out "he" each place it appears in the second sentence;

(2) by inserting "or her" after "his" in the second sentence;

(3) by striking out "and, in the case of a male pensioner, his wife, minor children, and dependent parents, or, if a female pensioner, her minor children, if any," in the last sentence before the proviso and inserting in lieu thereof "and the spouse, minor children, and dependent parents of the pensioner,";

(4) by striking out "shall, if a female pensioner, be paid to her minor children, and, in the case of a male pensioner, be paid to his wife, if living; if no wife survives him, then to his minor children; and in case there is no wife" in the last sentence before the proviso and inserting in lieu thereof "shall be paid to the spouse of the pensioner, if living, or if no spouse survives the pensioner, then to the minor children of the pensioner; and in case there is no spouse";

(5) by inserting "or her" before "credit at said home" in the proviso;

(6) by striking out "his said transfer" in the proviso and inserting in lieu thereof "the transfer";

(7) by striking out "be transferred with him" in the proviso and inserting in lieu thereof "also be transferred";

(8) by striking out "placed to his" in the proviso and inserting in lieu thereof "placed to the pensioner's";

(9) by striking out "his return from said hospital" in the proviso and inserting in lieu thereof "the pensioner's return from such hospital"; and

(10) by inserting "or her" before "credit at said hospital" in the proviso.

(b) The third clause of section 4843 of the Revised Statutes (24 U.S.C. 191) is amended by striking out "Men" and inserting in lieu thereof "Persons".

FEDERAL MINE SAFETY AND HEALTH ACT OF 1977

SEC. . (a) Section 203 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 843) is amended—

(1) in subsection (a)—

(A) by striking out "commencement of his employment" in the second sentence and inserting in lieu thereof "the commencement of employment";

(B) by striking out "he" the first place it appears in the second sentence and inserting in lieu thereof "the worker";

(C) by inserting "or she" after "he" the second place it appears in the second sentence;

(D) by inserting "or her" after "his" in the fourth sentence; and

(E) by striking out "advise him of his rights" in the fifth sentence and inserting in lieu thereof "advise the miner of the miner's rights";

(2) in subsection (b)—

(A) by striking out "from his position" each place it appears in paragraphs (1) and (2);

(B) by striking out "him" in paragraph (3) and inserting in lieu thereof "the miner"; and

(C) by striking out "his" in paragraph (3); and

(3) by striking out "him" in the first sentence of subsection (c) and inserting in lieu thereof "the miner"; and

(4) by striking out "such miner" in the first sentence of subsection (d) and all that follows through the end of the sentence and inserting in lieu thereof "such miner, with the consent of the surviving spouse or, if there is no such surviving spouse, then with the consent of the surviving next of kin.".

(b) Section 402 of such Act (30 U.S.C. 902) is amended—

(1) in subsection (a)(2)—

(A) by inserting "or husband" after "wife" in the first sentence;

(B) by striking out "her" the first place it appears in the first sentence;

(C) by striking out "husband" in the first sentence and inserting in lieu thereof "spouse";

(D) by inserting "his or" before "her" each place it appears (after the amendment made by subparagraph (B));

(E) by inserting "or husband" after "'wife'" in the second sentence; and

(F) by striking out "The term 'wife' also includes a 'divorced wife'" in the third sentence and inserting in lieu thereof "The terms 'wife' and 'husband' also include a 'divorced wife' and a 'divorced husband', respectively,";

(2) in subsection (e)—

(A) by striking out "The term 'widow' includes the wife" in the first sentence and inserting in lieu thereof "The terms 'widow' and 'widower' include the spouse";

(B) by striking out "his" each place it appears and inserting in lieu thereof "the miner's";

(C) by inserting "or 'widower'" after "'widow'" in the second sentence;

(D) by striking out "a 'surviving divorced wife' as defined in section 216(d)(2) of the Social Security Act" in the third sentence and inserting in lieu thereof "a 'surviving divorced wife' and a 'surviving divorced husband' as defined in paragraphs (2) and (5), respectively, of section 216 of the Social Security Act";

(E) by inserting "his or" before "her" each place it appears in the third sentence; and

(F) by striking out "Such terms also includes" in the third sentence and inserting in lieu thereof "Such terms also include"; and

(3) by striking out "widow" each place it appears in the third sentence of subsection (g) and inserting in lieu thereof "the miner's widow or widower".

(c) Section 411 of such Act (30 U.S.C. 921) is amended—

(1) in subsection (a)—

(A) by striking out "him" and inserting in lieu thereof "the Secretary"; and

(B) by striking out "his"; and

(2) in subsection (c)—

(A) by striking out "his" in paragraph (1) and inserting in lieu thereof "the";

(B) by striking out "his" in the first sentence of paragraph (2);

(C) by striking out "he" each place it appears in paragraph (3) and inserting in lieu thereof "the miner";

(D) by striking out "his" each place it appears in paragraph (3) and each place it appears in the first sentence of paragraph (4);

(E) by striking out "widow's," in the first sentence of paragraph (4) (after the amendment made by subparagraph (D)) and inserting in lieu thereof "or the miner's widow's, widower's";

(F) by striking out "he" in the first sentence of paragraph (4) and inserting in lieu thereof "the miner";

(G) by inserting "or husband's" after "wife's" in the second sentence of paragraph (4);

(H) by striking out "he" in the third sentence of paragraph (4) and inserting in lieu thereof "the Secretary"; and

(I) by striking out "his" in the fourth sentence of paragraph (4) and inserting in lieu thereof "such miner's".

(d) Section 412 of such Act (30 U.S.C. 922) is amended—

(1) in subsection (a)—

(A) by striking out "his widow" in paragraph (2) and inserting in lieu thereof "the widow or widower";

(B) by striking out "he were" in paragraph (2);

(C) by striking out "his" each place it appears in the first sentence of paragraph (3);

(D) by inserting "or widower" after "widow" each place it appears in paragraph (3);

(E) by striking out "her" in the first sentence of paragraph (3) and inserting in lieu thereof "the widow's or widower's";

(F) by striking out "he" in the first sentence of paragraph (3) and inserting in lieu thereof "the child";

(G) by inserting "or she" after "he" in the first proviso of paragraph (3);

(H) by striking out "his" the first place it appears in the first sentence of paragraph (5);

(I) by striking out "at the time of his death" each place it appears in the first sentence of paragraph (5) (after the amendment made by subparagraph (H));

(J) by striking out "a widow or a child" each place it appears in the first sentence of paragraph (5) and inserting in lieu thereof "a widow, widower, or child";

(K) by striking out "a widow, child, or parent" each place it appears in the first sentence of paragraph (5) and inserting in lieu thereof "a widow, widower, child, or parent";

(L) by striking out "at the time of his or her death" each place it appears in the first sentence of paragraph (5);

(M) by striking out "a brother only if he is—" in the fourth sentence of paragraph (5) and inserting in lieu thereof "a brother or sister only if the brother or sister is—";

(N) by striking out "who is" after "(2)" in paragraph (5); and

(O) by striking out "him" in paragraph (6) and inserting in lieu thereof "the Secretary"; and

(2) by striking out "his widow," each place it appears in the first sentence of subsection (b) and inserting in lieu thereof "the miner's widow, widower,".

(e) Section 413 of such Act (30 U.S.C. 923) is amended—

(1) in subsection (b)—

(A) by striking out "he uses" in the first sentence and inserting in lieu thereof "used";

(B) by striking out "his wife's" in the second sentence and inserting in lieu thereof "the wife's or husband's"; and

(C) by striking out ", widow," in the ninth sentence and inserting in lieu thereof "or the miner's widow, widower,"; and

(2) by inserting "or her" after "his" in subsection (c).

(f) Section 414 of such Act (30 U.S.C. 924) is amended—

(1) in subsection (a)—

(A) by inserting "or widower" after "widow" in paragraph (1);

(B) by striking out "her husband" and inserting in lieu thereof "the miner" in paragraph (1); and

(C) by striking out "his" in paragraph (2)(C) and inserting in lieu thereof "the claimant's"; and

(2) in subsection (e)—

(A) by inserting "widower," after "widow," in the matter preceding clause (1); and

(B) by striking out "his" in clause (1) and inserting in lieu thereof "the miner's".

(g) Section 421 of such Act (30 U.S.C. 931) is amended—

(1) by inserting "widowers," after "widows," in subsection (a); and

(2) in subsection (b)(2)—

(A) by striking out "if he finds" in the matter preceding subparagraph (A) and inserting in lieu thereof "upon finding"; and

(B) by striking out "by him" in subparagraph (F).

LONGSHOREMEN'S AND HARBOR WORKERS COMPENSATION ACT

SEC. . (a) Section 9(b) of the Longshoremen's and Harbor Workers Compensation Act (33 U.S.C. 909(b)), is amended by striking out "dependent".

(b) Section 9(c) of the Longshoremen's and Harbor Workers Compensation Act (33 U.S.C. 909(c)), is amended by striking out "dependent husband" and inserting in lieu thereof "widower".

(c) Section 9(g) of the Longshoremen's and Harbor Workers Compensation Act (33 U.S.C. 909(g)), is amended by striking out "wife" each place it appears and inserting in lieu thereof "spouse".

(d) Section 14(j) of the Longshoremen's and Harbor Workers Compensation Act (33 U.S.C. 914(j)), is amended by—

(1) striking out "during which he is entitled" and inserting in lieu thereof "during which he or she is entitled"; and

(2) placing a period after "Mortality" in the second sentence and striking out the rest of the sentence.

CONSERVATION

SEC. . The last proviso of the subparagraph entitled "Federal Aid in Wildlife Restoration" under the paragraph "Fish and Wildlife Service" of the first section of the Act entitled "An Act making appropriations for the Department of the Interior for the fiscal year ending June 30, 1943, and for other purposes", approved July 2, 1942 (56 Stat. 557; 16 U.S.C. 754) is amended by striking out "per man per day" and inserting in lieu thereof "per day".

MISCELLANEOUS

SEC. . Section 1 of title 1, United States Code, is amended by striking out the clause beginning "words importing the masculine gender" and inserting in lieu thereof "words importing the masculine or feminine gender include the other as well".

BENEFITS FOR INTERNEES

SEC. . Section 2004 of title 50, Appendix, United States Code, is amended—

(1) In subsection (d) by—

(A) inserting "or her" after "his";

(B) striking out "husband" each place it appears in paragraphs (1), (2) and (3) and inserting in lieu thereof "widower"; and

(C) striking out "husband" in paragraph (4) and inserting in lieu thereof "widow, widower";

(2) In subsection (f)(7) by—

(A) inserting "or widower" after "widow"; and

(B) inserting "herself or" before "himself"; and

(3) in subsections (g)(4) and (i)(4) by—

(A) inserting "or her" after "his";

(B) striking out "husband" in subparagraph (A) and inserting in lieu thereof "widower"; and

(C) striking out "dependent husband" each place it appears in subparagraphs (B) and (C) and inserting in lieu thereof "widower".

SPOUSES OF FORMER PRESIDENTS

SEC. . The Act of August 25, 1958, as amended (72 Stat. 838; 3 U.S.C. 102 Note), is amended in subsection (e) by—

(1) striking out "widow" each place it appears and inserting in lieu thereof "surviving spouse"; and

(2) inserting "he or" before "she".

TITLE IV—EFFECTIVE DATE

SEC. . Except as otherwise provided, the amendments made by this Act shall become effective upon the date of enactment.

AMENDMENT No. 6893

Viz: At the appropriate place, add the following:

SECTION . SHORT TITLE.

This Amendment may be cited as the "Educational Opportunity and Equity Act of 1983".

SEC. . CONGRESSIONAL FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that it is the policy of the United States to foster educational opportunity, diversity, and choice for all Americans. Therefore, this Act recognizes that—

(1) pluralism is one of the great strengths of American society, diversity in education is an important contributor to that pluralism, and nonpublic schools play an indispensable role in making that diversity possible;

(2) the existence and availability of alternatives to public education tend to strengthen public education through competition and to improve the educational opportunities of all Americans;

(3) Americans should have equal opportunities to choose between the education offered by public schools and available in private educational systems and should not be compelled because of economic circumstances to accept education provided by government-created and government-operated school systems, and to force such a selection is an unfair and unjust discrimination against persons of lesser means;

(4) increasing numbers of American families are unable to afford nonpublic school tuition in addition to the State and local taxes that go to support public schools, and tax relief for nonpublic school tuition expenses is necessary if American families are to continue to have a meaningful choice between public and private education at the elementary and secondary levels;

(5) tax relief in the form of tuition tax credits is the fairest way to extend a choice in education to a wide range of individuals, tax relief in the form of tuition tax credits creates the least possible danger of interference in the lives of individuals and families consistent with achieving these ends, and tax relief in the form of tuition tax credits achieves these ends with a minimum of complexity so that those for whom the tax relief is intended will be able to understand and take advantage of it;

(6) the tax revenue loss occasioned by a tuition tax credit for a child would be small compared to the cost to State and local taxpayers of educating the child at a public school; and

(7) equality of educational opportunity is the policy of the United States, and the tax relief afforded by this legislation may not be used to promote racial discrimination.

The Congress finds that this Act will expand opportunities for personal liberty, diversity, and pluralism that constitute important strengths of education in America.

(b) PURPOSE.—The primary purpose of this Act is to enhance equality of educational opportunity, diversity, and choice for Americans.

SEC. . CREDIT FOR TUITION EXPENSES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44H the following new section:

"SEC. 44I. CREDIT FOR TUITION EXPENSES.

"(a) GENERAL RULE.—At the election of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the qualified tuition expenses paid by such individual during the taxable year for any qualified dependent.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT PER QUALIFIED DEPENDENT.—

"(A) IN GENERAL.—The amount of the credit allowable to the taxpayer under subsection (a) with respect to any qualified dependent for any taxable year shall not exceed the applicable amount.

"(B) APPLICABLE AMOUNT.—For purposes of this paragraph, the term 'applicable amount' means the excess, if any, of—

"(i) $300, over

"(ii) 3 percent (6 percent in the case of a married individual who does not file a joint return) of the amount, if any, by which the adjusted gross income of the taxpayer for the taxable year exceeds $40,000 ($20,000 in the case of such married individual).

"(C) TRANSITIONAL RULE.—For taxable years beginning after December 31, 1982, and before January 1, 1985, subparagraph (B) shall be applied—

"(i) in taxable years beginning in 1983, by substituting—

"(I) '$100' for '$300',

"(II) '1 percent' for '3 percent', and

"(III) '2 percent' for '6 percent', and

"(ii) in taxable years beginning in 1984, by substituting—

"(I) '$200' for '$300',

"(II) '2 percent' for '3 percent', and

"(III) '4 percent' for '6 percent'.

"(2) CREDIT NOT TO EXCEED TAX LIABILITY.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than credits allowable by sections 31, 39, and 43.

"(c) CREDIT DENIED FOR AMOUNTS PAID TO RACIALLY DISCRIMINATORY INSTITUTIONS.—

"(1) DECLARATORY JUDGMENT ENTERED.—

"(A) IN GENERAL.—No credit shall be allowed under this section for any amount paid to an educational institution during any taxable year if—

"(i) within the calendar year ending with or within such taxable year or in any preceding calendar year—

"(I) a judgment has been entered by a district court of the United States under section 7409 (regardless of whether such judgment is appealed) declaring that such educational institution follows a racially discriminatory policy, or

"(II) an order by any United States Court of Appeals has been made which, by its terms, requires the district court to enter such a judgment, and

"(ii) no order described in section 7409(f)(2) with respect to such educational institution has been entered which is in effect for the calendar year ending with or within such taxable year.

"(B) REVERSALS OF DECLARATORY JUDGMENTS OR ORDERS.—

"(i) IN GENERAL.—A judgment or order described in subparagraph (A)(i) entered in an action brought with respect to an educational institution shall not be taken into account under subparagraph (A) for any taxable year if, after all appeals in such action have been concluded or the time for filing such appeals has expired, the declaration contained in such judgment, or required to be entered under the terms of such order, that such institution has followed a racially discriminatory policy is negated (other than by reason of an order described in section 7409(f)(2)).

"(ii) WAIVER OF LIMITATIONS.—Notwithstanding section 6511(a) or any other period of limitation or lapse of time, a claim for credit or refund of overpayment of the tax imposed by this chapter which arises by reason of this subparagraph may be filed by any person at any time within the 1-year period beginning on the earlier of—

"(I) the date on which all appeals with respect to the judgment or order described in subparagraph (A)(i) have been concluded, or

"(II) the date on which the time for such appeals has expired.

Sections 6511(b) and 6514 shall not apply to any claim for credit or refund filed under this subparagraph within such 1-year period.

"(C) STAY OF DECLARATORY JUDGMENT.—

"(i) IN GENERAL.—Any judgment or order described in subparagraph (A)(i) shall not be taken into account under subparagraph (A) for any taxable year if such judgment or order is stayed as of the close of such taxable year.

"(ii) REMOVAL OF STAY.—If a stay entered against a judgment or order described in subparagraph (A)(i) is vacated—

"(I) this subparagraph shall not apply with respect to such judgment or order for any taxable year preceding the taxable year in which such stay is vacated, and

"(II) notwithstanding any other provision of this title or of any other law, the statutory period for the assessment of a deficiency attributable to the disallowance of any credit under this section by reason of this clause shall not expire before the date which is 3 years after the close of the calendar year in which such stay is removed.

"(D) WAIVER OF LIMITATIONS IF INSTITUTION CEASES TO DISCRIMINATE.—Notwithstanding section 6511(a) or any other period of limitation or lapse of time, a claim for credit or refund of overpayment of the tax imposed by this chapter which arises by reason of a reversal of any order denying a motion under section 7409(f)(1)(A) may be filed by any person at any time within the 1-year period beginning on the date on which such reversal is made. Sections 6511(B) and 6514 shall not apply to any claim for credit or refund filed under this subparagraph within such 1-year period.

"(2) REQUIRED STATEMENTS.—

"(A) STATEMENTS FURNISHED BY INSTITUTIONS TO THE SECRETARY.—No credit shall be allowed under subsection (a) for amounts paid to any educational institution during the taxable year if such educational institution has not filed with the Secretary (in such manner and form as the Secretary shall by regulation prescribe) within 30 days after the close of the calendar year ending with or within such taxable year a verified statement which—

"(i) declares that such institution has not followed a racially discriminatory policy during such calendar year;

"(ii) indicates whether—

"(I) a declaratory judgment or order described in paragraph (1)(A)(i) has been entered against such institution in an action brought under section 7409;

"(II) a stay against such judgment or order is in effect; and

"(III) an order described in section 7409(f)(2) is in effect; and

"(iii) attests that such institution has complied with the requirements of subsection (d)(3)(D) during such calendar year.

"(B) STATEMENTS FURNISHED TO TAXPAYERS.—Except as otherwise provided by regulations, within 30 days after the close of the calendar year to which the statement described in subparagraph (A) relates, the educational institution shall furnish a copy of such statement to all persons who paid tuition expenses to the institution in the calendar year to which such statement relates.

"(C) STATEMENTS FURNISHED BY TAXPAYERS TO THE SECRETARY.—No credit shall be allowed to a taxpayer under subsection (a) for amounts paid to an educational institution during the taxable year if the taxpayer does not attach to the return on which the taxpayer claims the credit the statement described in subparagraph (A) which is furnished by such institution for the calendar year ending with or within such taxable year of the taxpayer.

"(3) ENFORCEMENT RESPONSIBILITY.—The Attorney General shall have exclusive authority under this subsection to investigate and to determine whether an educational institution is following a racially discriminatory policy.

"(4) RACIALLY DISCRIMINATORY POLICY.—For purposes of this subsection—

"(A) IN GENERAL.—An educational institution follows a racially discriminatory policy if such institution refuses, on the basis of race, to—

"(i) admit applicants as students;

"(ii) admit students to the rights, privileges, programs, and activities generally made available to students by the educational institution; or

"(iii) allow students to participate in its scholarship, loan, athletic, or other programs.

"(B) QUOTAS, ETC.—The term 'racially discriminatory policy' shall not include failure of any educational institution to pursue or achieve any racial quota, proportion, or representation in the student body.

"(C) RACE.—The term 'race' shall include color or national origin.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED TUITION EXPENSES.—The term 'qualified tuition expenses' means the excess of—

"(A) the amount of tuition expenses paid by the taxpayer during the taxable year to any eligible educational institution for any qualified dependent of such taxpayer, over

"(B) any scholarship or financial assistance paid during such taxable year to such qualified dependent or to the taxpayer with respect to such qualified dependent.

"(2) QUALIFIED DEPENDENT.—The term 'qualified dependent' means any individual—

"(A) who is a dependent of the taxpayer (other than an individual described in paragraph (4), (5), (7), or (8) of section 152(a)),

"(B) who has not attained 20 years of age at the close of the taxable year, and

"(C) with respect to whom a deduction under section 151 is allowable to the taxpayer for the taxable year.

"(3) ELIGIBLE EDUCATION INSTITUTION.—The term 'eligible educational institution' means an eductional institution—

"(A) which provides a full-time program of elementary or secondary education;

"(B) which is a privately operated, not-for-profit, day or residential school;

"(C) which is exempt from taxation under section 501(a) as an organization described in section 501(c)(3), including church-operated schools to which subsections (a) and (b) of section 508 do not apply; and

"(D) which includes in any published bylaws, advertisements, admission application forms, and other such published materials, a statement (in such form and manner as the Secretary may by regulations prescribe) that it does not discriminate against student applicants or students on the basis of race.

"(4) TUITION EXPENSES.—

"(A) IN GENERAL.—The term 'tuition expenses' means tuition and fees paid for the full-time enrollment or attendance of a student at an educational institution, including required fees for courses.

"(B) CERTAIN EXPENSES EXCLUDED.—The term 'tuition expenses' does not include any amount paid for—

"(i) books, supplies, and equipment for courses of instruction;

"(ii) meals, lodging, transportation, or personal living expenses;

"(iii) education below the first-grade-level; or

"(iv) education above the twelfth-grade level.

"(5) SCHOLARSHIP OR FINANCIAL ASSISTANCE.—The term 'scholarship or financial assistance' means—

"(A) a scholarship or fellowship grant (within the meaning of section 117(a)(1)) which is not includible in gross income under section 117;

"(B) an educational assistance allowance under chapter 32, 34, or 35 of title 38, United States Code; or

"(C) other financial assistance which—

"(i) is for educational expenses, or attributable to attendance at an educational institution, and

"(ii) is exempt from income taxation by any law of the United States (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)).

"(e) ELECTION.—The election provided under subsection (a) shall be made at such time and in such manner as the Secretary shall by regulations prescribe.".

(b) DISCLOSURE OF INFORMATION TO ATTORNEY GENERAL.—Subsection (h) of section 6103 of such Code (relating to disclosure to certain Federal officers and employees for tax administration purposes) is amended by adding at the end thereof the following new paragraph:

"(7) CERTAIN INVESTIGATIONS AND PROCEEDINGS REGARDING RACIALLY DISCRIMINATORY POLICIES.—Upon the request of the Attorney General or the Secretary's own motion, the Secretary shall disclose any return or return information which is relevant to—

"(A) any investigation conducted by the Attorney General under section 44I(c) with regard to whether an educational institution is following a racially discriminatory policy (within the meaning of section 44I(c)(4)), or

"(B) any proceeding which may be brought under section 7409,

to any officer or employee of the Department of Justice who is directly and personally involved in such investigation or in preparation for such a proceeding.".

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44H the following:

"Sec. 44I. Tuition expenses.".

(2) Section 6504 of such Code (relating to cross references with respect to periods of limitation) is amended by adding at the end thereof the following new paragraph:

"(13) For disallowance of tuition tax credits because of a declaratory judgment that a school follows a racially discriminatory policy, see section 44I(c).".

(3) Section 6096(b) of such Code (defining income tax liability for designation of payments to the Presidential Election Campaign Fund) is amended by striking out all after "allowable under" and inserting in lieu thereof "subpart A of part IV of subchapter A of chapter 1 (other than section 31, 39, or 43)".

SEC. . DECLARATORY JUDGMENT PROCEEDING.

(a) IN GENERAL.—Subchapter A of chapter 76 of the Internal Revenue Code of 1954 (relating to judicial proceedings) is amended by redesignating section 7409 as section 7410 and by inserting after section 7408 the following new section:

"SEC. 7409. DECLARATORY JUDGMENT RELATING TO RACIALLY DISCRIMINATORY POLICIES OF SCHOOLS.

"(a) IN GENERAL.—Upon filing of an appropriate pleading by the Attorney General under subsection (b), the district court of the United States for the district in which an educational institution is located may make a declaration with respect to whether such institution follows a racially discriminatory policy. Any such declaration shall have the force and effect of a final judgment of the district court and shall be reviewable as such.

"(b) FILING OF PLEADING.—

"(1) IN GENERAL.—The Attorney General is authorized and directed to seek a declaratory judgment under subsection (a) against any educational institution upon—

"(A) receipt by the Attorney General within the previous 1-year period of any allegation of discrimination against such institution, and

"(B) a finding by the Attorney General of good cause.

"(2) ALLEGATION OF DISCRIMINATION.—For purposes of this section, the term 'allegation of discrimination' means an allegation made in writing by any person which alleges with specificity that—

"(A) a named educational institution has committed a racially discriminatory act against a named student applicant or student within one year preceding the date on which such allegation is made to the Attorney General, or

"(B) the educational institution made a communication, within one year preceding such date, expressing that the institution follows a racially discriminatory policy.

"(3) NOTICE OF ALLEGATIONS OF DISCRIMINATION.—Upon receipt of any allegation of discrimination made against an educational institution, the Attorney General shall promptly give written notice of such allegation to such institution.

"(4) OPPORTUNITY TO COMMENT.—Before any action may be filed against an educational institution by the Attorney General under subsection (a), the Attorney General shall give the institution a fair opportunity to comment on all allegations made against it and to show that the alleged racially discriminatory policy does not exist or has been abandoned.

"(5) AVAILABILITY OF CERTAIN INFORMATION TO COMPLAINANT.—

"(A) IN GENERAL.—If an allegation of discrimination against an educational institution is made to the Attorney General and the Attorney General—

"(i) declines to bring an action under subsection (a) against such institution, or

"(ii) enters into a settlement agreement with such institution under subsection (d) before such an action is brought,

the Attorney General shall make available to the person who made such allegation the information upon which the Attorney General based the decision not to bring such an action or to enter into such settlement agreement. The Attorney General shall promptly give written notice to such person that such information is available for his inspection.

"(B) PRIVACY LAWS.—Nothing in this paragraph shall be construed to authorize or require the Attorney General to disclose any information if such disclosure would violate any applicable State or Federal law relating to privacy.

"(c) REQUIREMENTS FOR A FINDING OF FOLLOWING A RACIALLY DISCRIMINATORY POLICY.—A district court may declare that an educational institution follows a racially discriminatory policy in an action brought under subsection (a) only if the Attorney General establishes in such action that—

"(1) the institution has, pursuant to such policy, committed a racially discriminatory act against a student applicant or student within the 2 years preceding commencement of such action;

"(2) the institution has, within the 2 years preceding commencement of such action, made a communication expressing that it follows a racially discriminatory policy against student applicants or students; or

"(3) the institution has engaged in a pattern of conduct intended to implement a racially discriminatory policy, and that some act in furtherance of this pattern of conduct was committed within 2 years preceding commencement of such action.

"(d) SETTLEMENTS.—

"(1) IN GENERAL.—Prior to, and in lieu of, filing an action under subsection (a), the Attorney General may, at his discretion, enter into a settlement agreement with the educational institution against which an allegation of discrimination has been made if the Attorney General finds that the institution has been acting in good faith and has abandoned its racially discriminatory policy.

"(2) VIOLATION OF SETTLEMENT AGREEMENT.—If the Attorney General has entered into a settlement agreement with an educational institution under paragraph (1) and the Attorney General finds that such institution is in violation of such agreement, the Attorney General may—

"(A) notwithstanding subsection (b)(1)(A), bring an action under subsection (a) without having received any allegation of discrimination against such institution, or

"(B) bring an action to enforce the terms of such agreement.

"(3) COPY OF SETTLEMENT AGREEMENT TO COMPLAINANT.—The Attorney General shall give a copy of any settlement agreement which is entered into with any educational institution under paragraph (1) to any person from whom the Attorney General has received an allegation of discrimination against such institution.

"(e) RETENTION OF JURISDICTION.—Any district court which makes a declaration under subsection (a) that an educational institution follows a racially discriminatory policy shall retain jurisdiction of such case.

"(f) DISCONTINUANCE OF RACIALLY DISCRIMINATORY POLICY.—

"(1) Motion.—

"(A) IN GENERAL.—At any time after the date which is 1 year after the date on which a judgment is entered in an action brought under subsection (a) declaring that an educational institution follows a racially discriminatory policy, such institution may file with the district court a motion to modify such judgment to include a declaration that such institution no longer follows a racially discriminatory policy.

"(B) AFFIDAVITS.—Any motion filed under subparagraph (A) shall contain affidavits—

"(i) describing with specificity the ways in which the educational institution has abandoned its previous racially discriminatory policy;

"(ii) describing with specificity the ways in which such institution has taken reasonable steps to communicate its policy of nondiscrimination to students, to faculty, to school administrators, and to the public in the area it serves;

"(iii) averring that such institution has not, during the preceding year—

"(I) committed a racially discriminatory act against a student applicant or student pursuant to a racially discriminatory policy;

"(II) made a communication expressing that it follows a racially discriminatory policy against student applicants or students; or

"(III) engaged in a pattern of conduct intended to implement a racially discriminatory policy, and committed some act in furtherance of this pattern of conduct; and

"(iv) averring that such institution has complied with the requirements of section 44I(d)(3)(D).

"(2) ORDER.—If a motion is made under paragraph (1), the district court shall issue an order modifying the judgment entered in the action to include a declaration that the educational institution no longer follows a racially discriminatory policy unless the Attorney General establishes that—

"(A) any affidavit provided by the institution under paragraph (1)(B) is false;

"(B) the institution has, during the preceding year, committed any act, made any communication, or engaged in any pattern of conduct described in paragraph (1)(B)(iii); or

"(C) the institution has not, in fact, complied with the requirements of clauses (ii) and (iv) of paragraph (1)(B).

"(3) APPEAL OF ORDERS.—Any order of the district court granting or denying a motion made under paragraph (1) shall be reviewable.

"(g) ATTORNEYS' FEES.—If an educational institution prevails in an action under this section, the court may award the institution costs and reasonable attorneys' fees in such action.

"(h) DEFINITIONS.—For purposes of this section—

"(1) RACIALLY DISCRIMINATORY POLICY.—The term 'racially discriminatory policy' has the meaning given to such term by section 44I(c)(4).

"(2) RACIALLY DISCRIMINATORY ACT.—

"(A) IN GENERAL.—An educational institution commits a racially discriminatory act if such institution refuses, on the basis of race, to—

"(i) admit any applicant as a student;

"(ii) admit any student to the rights, privileges, programs, and activities generally made available to students by the educational institution; or

"(iii) allow any student to participate in its scholarship, loan, athletic, or other programs.

"(B) QUOTAS, ETC.—The term 'racially discriminatory act' shall not include the failure of such institution to pursue or achieve any racial quota, proportion, or representation in the student body.

"(C) RACE.—The term 'race' shall include color or national origin.

"(i) REPORT.—Within 90 days of the close of each calendar year, the Attorney General shall submit a report to the Congress concerning the disposition during such calendar year of—

"(1) any allegations of discrimination received by the Attorney General, and

"(2) any actions brought under this section.".

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter A of chapter 76 of such Code (relating to civil actions by the United States) is amended by striking out the item relating to section 7409 and inserting in lieu thereof:

"Sec. 7409. Declaratory judgment relating to racially discriminatory policies of schools.

"Sec. 7410. Cross references.".

(2) Section 2201 of title 28, United States Code (relating to creation of declaratory judgment remedy) is amended by striking out "section 7428" and inserting in lieu thereof "section 7409 or 7428".

SEC. . TAX CREDITS ARE NOT FEDERAL FINANCIAL ASSISTANCE.

Tax credits claimed under section 44I of the Internal Revenue Code of 1954 shall not constitute Federal financial assistance to educational institutions or to the recipients of such credits.

SEC. . EFFECTIVE DATE: SPECIAL RULE.

(a) CERTIFICATION REQUIRED.—The amendments made by this Act shall not take effect until the Attorney General certifies to the Secretary of the Treasury that, pursuant to—

(1) an Act of Congress which has been enacted, or

(2) a final decision of the United States Supreme Court,

the Internal Revenue Code of 1954 prohibits the granting of tax exemption under section 501(a) by reason of section 501(c)(3) to private educational institutions maintaining a racially discriminatory policy or practice as to students.

(b) APPLICATION WHEN CERTIFICATION IS MADE.—

(1) IN GENERAL.—If the certification described in subsection (a) is made to the Secretary of the Treasury—

(A) except as provided in paragraph (2), the amendments made by section 3 shall apply with respect to expenditures made after the date on which such certification is made to the Secretary of the Treasury in taxable years beginning after December 31, 1982, and ending after such date, and

(B) the amendments made by section 4 shall take effect on the date on which such certification is made to the Secretary of the Treasury.

(2) NO APPLICATION BEFORE AUGUST 1, 1983.—In no event shall the amendments made by section 3 apply with respect to expenditures made before August 1, 1983.

(c) ESTIMATED INCOME TAX AND WAGE WITHHOLDING.—

(1) ESTIMATED INCOME TAX.—Any credit allowable to any taxpayer under section 44I of the Internal Revenue Code of 1954 shall not be taken into account under section 6015(d) in determining the estimated tax of such taxpayer for any taxable year beginning before January 1, 1984.

(2) WAGE WITHHOLDING.—Any credit allowable under section 44I of such Code shall not be taken into account in determining the number of withholding exemptions to which any taxpayer is entitled under section 3402 of such Code with respect to remuneration paid before January 1, 1984.

AMENDMENT NO. 6894

At the appropriate place, add the following:

That (a) chapter 223 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3505. Elimination of exclusionary rule as it pertains to the fourth amendment.

"Evidence, otherwise admissible in a Federal criminal proceeding, shall not be excluded on the grounds that such evidence was obtained in violation of the fourth amendment to the United States Constitution.".

(b) The table of sections for chapter 223 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"3505. Elimination of exclusionary rule as it pertains to the fourth amendment.

SEC. . (a) Title 28, United States Code, is amended by adding immediately after chapter 171 a new chapter 172 as follows:

"CHAPTER 172.—ILLEGAL SEARCH AND SEIZURE

"Sec.
"2691. Definitions.
"2692. Tort claims; illegal search and seizure.
"2693. Sanctions against investigative or law enforcement officers; illegal search and seizure.
"2694. Judgment as a bar.
"2695. Attorney fees and costs.
"2696. Applicability of other tort claims procedures.

"§ 2691. Definitions

"As used in this chapter, and section 1346(g) of this title, the term—

"(1) 'Federal agency' includes the executive departments, military departments, independent establishments of the United States, and corporations primarily acting as instrumentalities or agencies of the United States, but does not include any contractor with the United States; and

"(2) 'Investigative or law enforcement officer' means any officer of the United States who is empowered by law to execute searches, to seize evidence, or to make arrests for any violation of Federal law, or any person acting under or at the request of such officer.

§ 2692. Tort claims; illegal search and seizure

"(a) The United States shall be liable for any damages resulting from a search or seizure conducted by an investigative or law enforcement officer, acting within the scope of his office or employment, in violation of the fourth amendment to the United States Constitution.

"(b) Any person aggrieved by such a violation may recover actual damages and such punitive damages as the court may award under subsection (c).

"(c) Punitive damages may be awarded by the court, upon consideration of all of the circumstances of the case, including—

"(1) the extent of the investigative or law enforcement officer's deviation from permissible conduct;

"(2) the extent to which the violation was willful, reckless, or grossly negligent;

"(3) the extent to which the aggrieved person's privacy was invaded;

"(4) the extent of the aggrieved person's personal injury, both physical and mental;

"(5) the extent of any property damage; and

"(6) the effect such an award would have in preventing future violations of the fourth amendment to the United States Constitution.

"(d) Nothwithstanding subsections (b) and (c), the recovery of any person who is convicted of any offense for which evidence of such offense was seized in violation of the

fourth amendment to the United States Constitution is limited to actual physical personal injury and to actual property damage sustained as a result of the unconstitutional search and seizure.

"(e) No judgment, award, compromise, or settlement of any action brought under this section shall exceed the amount of $25,000, including actual and punitive damages. The United States shall not be liable for interest prior to judgment.

"(f) Any action under this section shall be brought within the period of limitations provided in section 2401(b) of this title.

"§ 2693. Sanctions against investigative or law enforcement officers; illegal search and seizure

"An investigative or law enforcement officer who conducts a search or seizure in violation of the fourth amendment to the United States Constitution shall be subject to appropriate discipline in the discretion of the Federal agency employing such officer, if that agency determines, after notice and hearing, that the office conducted such search or seizure lacking a good faith belief that such search or seizure was constitutional.

"§ 2694. Judgment as a bar

"The remedy against the United States provided under this chapter shall be the exclusive civil remedy for a violation of the fourth amendment to the United States Constitution by any investigative or law enforcement officer acting within the scope of his office or employment whose act or omission gave rise to the claim.

"§ 2695. Attorney fees and costs

"In any action brought under this chapter, the court may award any claimant who prevails in such action reasonable attorney fees, and other litigation costs reasonably incurred.

"§ 2696. Applicability of other tort claims procedures

"The procedures provided in sections 2672, 2675, 2677, 2678, 2679, and 2680 of this title apply to any action brought under this chapter. For the purposes of such sections, any investigative or law enforcement officer who conducts a search and seizure in violation of the fourth amendment to the Constitution shall be treated as if he were an 'employee of the government'.".

(b) The table of chapters for title 28, United States Code, and for part VI of title 28, United States Code, are each amended by inserting immediately after the item relating to chapter 171 the following:

"172. Illegal Search and Seizure ..... 2691".

SEC. . Section 1346 of title 28, United States Code, is amended by adding immediately after subsection (f) the following new subsection:

"(g) The district courts, together with the United States District Court for the District of the Canal Zone, the United States District for the Territory of Guam, the District Court for the Northern Mariana Islands, and the District Court of the Virgin Islands, shall have exclusive original jurisdiction of any civil action on a claim against the United States, for money damages, brought under chapter 172 of this title.".

SEC. . .(a) Section 1402(b) of title 28, United States Code, is amended by inserting after "subsection (b)" the following: "or subsection (g)".

(b) Section 1504 of title 28, United States Code, is amended by striking "section 1346(b)" and inserting in lieu thereof "under subsection (b) or subsection (g) of section 1346".

SEC. . The civil action against the United States provided by the amendments to title 28, United States Code, made by this Act shall apply only to claims arising on or after the date of enactment of this Act.

AMENDMENT No. 6895

At the appropriate place, add the following:

That this Amendment may be cited as the "Regulatory Reform Act".

DEFINITION OF RULE

SEC. . Section 551(4) of title 5, United States Code, is amended by inserting before the semicolon at the end thereof a comma and the following: "except that the term 'rule' does not include agency statements involving a matter relating to public property or contracts or general statements of policy of the Tennessee Valley Authority except where an applicable statute requires notice and hearing pursuant to this chapter or the statement to be made on the record after opportunity for an agency hearing".

RULEMAKING

SEC. . Section 553 of title 5, United States Code, is amended to read as follows:

"§ 553. Rule making

"(a) This section applies to every rule making, according to the provisions thereof, except to the extent that there is involved—

"(1) a matter pertaining to a military or foreign affairs function of the United States;

"(2) a matter relating to the management and personnel practices of an agency;

"(3) an interpretive rule, general statement of policy, or rule of agency organization, procedure, or practice, unless such rule or statement has general applicability and substantially alters or creates rights or obligations of persons outside the agency; or

"(4) a rule relating to the acquisition, management, or disposal by an agency of real or personal property or of services that is promulgated in compliance with criteria and procedures established by the Administrator for Federal Procurement Policy or the Administrator of General Services.

"(b)(1) General notice of proposed rule making shall be published in the Federal Register, unless all persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. Each notice of proposed rule making shall include—

"(A) a statement of the time, place, and nature of public rule making proceedings;

"(B) a succinct explanation of the need for and specific objectives of the proposed rule;

"(C) an explanation of the specific statutory authority under which the rule is proposed;

"(D) the proposed provisions of the rule;

"(E) a statement that the agency seeks proposals from the public and from State and local governments for alternative methods to accomplish the objectives of the rule making that are more effective or less burdensome than the approach used in the proposed rule;

"(F) a description of any data, methodologies, reports, studies, scientific evaluations, or other similar information on which the agency plans to substantially rely in the rule making, including an identification of each author or source of such information and the purposes for which the agency plans to rely on such information; and

"(G) a statement specifying where the file of the rule making proceeding maintained pursuant to subsection (f) of this section may be inspected and how copies of the items in the file may be obtained.

"(2) Except when notice or hearing is required by statute, a final rule may be adopted and may become effective without prior compliance with the provisions of this subsection and subsections (c) and (f) of this section if—

"(A) the agency for good cause finds that providing notice and public procedure thereon before the rule becomes effective is impracticable or contrary to an important public interest;

"(B) the agency publishes the rule in the Federal Register with such finding and a succinct explanation of the reasons therefor; and

"(C) the agency complies with the provisions of this subsection and subsections (c) and (f) of this section to the maximum extent feasible prior to the promulgation of the final rule and fully complies with such provisions as soon as reasonably practicable after the promulgation of the rule.

"(3) Except when notice or hearing is required by statute, this subsection and subsections (c) and (f) of this section do not apply to a rule when the agency for good cause finds that notice and public procedure thereon are unnecessary due to the insignificant impact of the rule and publishes, at the time of publication of the final rule, such finding and a succinct explanation of the reason therefor.

"(4) Whenever the provisions of a final rule that an agency plans to adopt are so different from the provisions of the proposed rule that the original notice of proposed rule making did not fairly apprise the public of the issues ultimately to be resolved in the rule making or of the substance of the rule, the agency shall publish in the Federal Register a notice of the final rule the agency plans to adopt, together with the information relevant to such rule which is required by the applicable provisions of this section and which has not previously been published in the Federal Register. The agency shall allow a reasonable period for comment on such final rule.

"(c)(1) After providing the notice required by this section, the agency shall give interested persons at least sixty days to participate in the rule making through the submission of written data, views, or arguments.

"(2) In order to collect relevant information, and to identify and elicit full and representative public comment on the significant issues of a particular rule making, the agency may use such other procedures as the agency determines are appropriate, including—

"(A) the publication of an advance notice of proposed rule making;

"(B) the provision of notice, in forms which are more direct than notice published in the Federal Register, to persons who would be substantially affected by the proposed rule, but who are unlikely to receive notice of the proposed rule making through the Federal Register;

"(C) the provision of opportunities for oral presentation of data, views, information, or rebuttal arguments at informal public hearings, which may be held in the District of Columbia and other locations;

"(D) the provision of summaries, explanatory materials, or other technical information in response to public inquiries concerning the issues involved in the rule making; and

"(E) the adoption or modification of agency procedural rules to reduce the cost

or complexity of participation in a rule making.

The decision of the agency to use or not to use such other procedures in a rule making pursuant to this paragraph shall not be subject to judicial review.

"(3)(A) The opportunity for participation in a rule making for a major rule (as defined in section 621(4) of this title) shall include the opportunity for oral presentation of data, views, and information at informal public hearings. Such public hearings—

"(i) may include an opportunity for oral rebuttal or argument where appropriate; and

"(ii) shall include an opportunity for direct and cross-examination of the principal agency employees or other persons who prepared for the agency data on which the agency substantially relied in formulating the rule, and of any other persons who present testimony, documents, or other information at such hearings, where other procedures, such as the convening of public meetings, conferences or panel discussions, or the presentation of staff arguments for comment and rebuttal, are determined to be inadequate for the resolution of significant issues of fact upon which the rule is based.

"(B) No court shall hold unlawful or set aside an agency rule because of a failure by the agency to use a particular procedure pursuant to subparagraph (A) of this paragraph unless—

"(i) an objection to the failure to use such procedure was presented to the agency in a timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection; and

"(ii) the court finds that such failure substantially precluded a fair consideration and informed resolution of a central issue of the rule making taken as a whole.

"(4) To ensure an orderly and expeditious proceeding, the agency may establish reasonable procedures to regulate the course of informal public hearings under paragraphs (2) and (3) of this subsection, including the designation of representatives to make oral presentations or engage in direct or cross-examination on behalf of several parties with a common interest in a rule making. Transcripts shall be made of all such public hearings.

"(5) An agency shall publish any final rule it adopts in the Federal Register, together with a concise statement of the basis and purpose of the rule and a statement of when the rule may become effective. The statement of basis and purpose shall include—

"(A) an explanation of the need for, objectives of, and statutory authority for the rule;

"(B) a discussion of any significant issues raised by the comments on the proposed rule, including a description of the reasonable alternatives to the rule proposed by the agency and by interested persons, and the reasons why each such alternative was rejected; and

"(C) an explanation of how the factual conclusions upon which the rule is based are substantially supported in the rule making file maintained pursuant to subsection (f) of this section.

"(6) When rules are required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 of this title apply instead of this subsection.

"(d)(1) An agency shall publish the final rule adopted in the Federal Register at least thirty days before the effective date of the rule. An agency may make a rule effective in less than thirty days after publishing the final rule in the Federal Register in the case of a rule that grants or recognizes an exemption or relieves a restriction, or in the case of a rule for which the agency for good cause finds that such a delay in the effective date would be contrary to an important public interest and publishes such finding and an explanation of the reasons therefor, with the final rule.

"(2) In promulgating a final rule, the agency may not substantially rely on any factual or methodological material that was not placed in the rule making file maintained pursuant to subsection (f) of this section in time to afford an adequate opportunity for public comment thereon during the period for public participation in the rule making. Notwithstanding the preceding sentence, an agency may rely on such material—

"(A) if, in the case of material developed by or for the agency, such material was placed in the rule making file promptly upon its completion and, if such material is of central relevance to the rule making, was made available in time for interested persons to have an adequate opportunity to comment thereon;

"(B) if, in the case of material submitted by a person outside the agency, such material was placed in the rule making file promptly upon its receipt by the agency and, if such material is of central relevance to the rule making, the agency provided not less than fifteen days for interested persons to comment thereon in addition to the period for comment provided under paragraph (1) of subsection (c);

"(C) if such material is material of which the agency properly can take official notice; or

"(D) if such material is material referred to in subsection (f)(3) of this section and the agency has complied with the requirements of that subsection.

"(e) Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule, for an interpretation regarding the meaning of a rule, and for a variance or exemption from the terms of a rule if the agency may grant such variance or exemption. The agency shall act on such petitions with reasonable promptness. The response of the agency to each such petition shall be in writing accompanied by a statement of reasons.

"(f)(1) The agency shall maintain a file for each rule making proceeding conducted pursuant to this section and shall maintain a current index to such file. The file and the material excluded from the file pursuant to paragraph (2) of this subsection shall constitute the rule making record for purposes of judicial review. Except as provided in paragraph (2) of this subsection, the file shall be made available to the public beginning on the date on which the agency makes an initial publication concerning the rule. The file shall include—

"(A)(i) the notice of proposed rule making and any supplement to or modification or revision of such notice; and

"(ii) any advance notice of proposed rule making;

"(B) copies of all written comments received on the proposed rule;

"(C) a transcript of any public hearing conducted in the rule making;

"(D) copies, or an identification of the place at which copies may be obtained, of all material described by the agency pursuant to subsection (b)(1)(F) of this section and of other factual and methodological material not described by the agency pursuant to such subsection that pertains directly to the rule making and that the agency considered in connection with the rule making, or that was prepared by or for the agency in connection with the rule making;

"(E) any statement, description, analysis, or any other material that the agency is required to make public in connection with the rule making, including any preliminary or final regulatory analysis issued by the agency pursuant to chapter 6 of this title;

"(F) copies of all written material pertaining to the rule, including any drafts of the proposed and the final rule, submitted by the agency to the President or his designee directed by the President to review proposed or final rules for their regulatory impact; and

"(G) a written explanation of the specific reasons for any significant changes made by the agency in the drafts of the proposed or final rule which respond to any comment received by the agency on the draft proposed rule, the proposed rule, the draft final rule, or the final rule, made by the President or his designee directed by the President to review proposed or final rules for their regulatory impact.

"(2) The agency shall place the materials described in clauses (A) through (H) of the last sentence of paragraph (1) in the file required by such paragraph as soon as practicable after such materials become available to the agency.

"(3) The file required by paragraph (1) of this subsection need not include any material that need not be made available to the public under section 552 of this title if the agency includes in such file a statement that notes the existence of such material and the basis upon which the material is exempt from public disclosure under such section. The agency may not substantially rely on any such material in formulating a rule unless it makes the substance of such material available for adequate comment by interested persons. The agency may use summaries, aggregations of data, or other appropriate mechanisms so as to protect the confidentiality of such material to the maximum extent possible.

"(4) No court shall hold unlawful or set aside an agency rule because of a violation of paragraph (1) of this subsection unless the court finds that such violation has precluded fair public consideration of a material issue of the rule making taken as a whole. Judicial review of compliance or noncompliance with paragraph (1) of this subsection shall be limited to review of action or inaction on the part of an agency.

"(g) For a period of one year after the effective date of a final rule issued pursuant to this section, such rule shall not substantially change the requirements of any contract, cooperative agreement, or grant existing on such effective date between a Federal agency and a State or local government. The preceding sentence does not apply to any case in which the agency for good cause finds that a delay in the effect of the rule would be contrary to an important public interest and publishes such finding and an explanation of the reasons therefor, with the final rule.

"(h) Nothing in this section authorizes the use of appropriated funds available to any agency to pay the attorney's fees or other expenses of persons participating or intervening in agency proceedings.".

REGULATORY ACTIVITIES: ANALYSIS; PRIORITIES AND REVIEW; REPORT

SEC. . (a) Chapter 6 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER II—ANALYSIS OF AGENCY PROPOSALS

"§ 621. Definitions

"For purposes of this subchapter and subchapters III and IV of this chapter:

"(1) The term 'agency' has the same meaning as in section 551(1) of this title.

"(2) The term 'person' has the same meaning as in section 551(2) of this title.

"(3) The term 'rule' has the same meaning as in section 551(4) of this title, except that such term does not include—

"(A) a rule of particular applicability that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers or acquisitions, or accounting practices or disclosures bearing on any of the foregoing;

"(B) a rule relating to monetary policy proposed or promulgated by the Board of Governors of the Federal Reserve System; or

"(C) a rule issued by the Federal Election Commission or a rule issued by the Federal Communications Commission pursuant to sections 312(a)(7) and 315 of the Communications Act of 1934.

"(4) The term 'major rule' means—

"(A) a rule or a group of closely related rules that the agency, the President, or the officer selected under section 624 of this title reasonably determines is likely to have an annual effect on the economy of $100,000,000 or more in reasonably quantifiable direct and indirect costs; and

"(B) a rule or a group of closely related rules that is otherwise designated a major rule by the agency proposing the rule, or is so designated by the President, or by the officer selected under section 624 of this title, on the ground that the rule is likely to result in—

"(i) a substantial increase in costs or prices for wage earners, consumers, individual industries, nonprofit organizations, Federal, State, or local government agencies, or geographic regions; or

"(ii) significant adverse effects on competition, employment, investment, productivity, innovation, the environment, public health or safety, or the ability of enterprises whose principal places of business are in the United States to compete in domestic or export markets.

For purposes of subparagraph (A) of this paragraph, the term 'rule' does not mean—

"(I) a rule that involves the internal revenue laws of the United States;

"(II) a rule that authorizes the introduction into commerce or recognizes the marketable status of a product, pursuant to sections 408, 409(c), and 706 of the Federal Food, Drug, and Cosmetic Act;

"(III) a rule exempt from notice and public procedure pursuant to section 553(a) of this title; or

"(IV) a rule relating to the viability, stability, asset powers, or categories of accounts of, or permissible interest rate ceilings applicable to, depository institutions the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the Share Insurance Fund of the National Credit Union Administration Board.

"(5) The term 'benefit' means the reasonably identifiable significant benefits and beneficial effects, including social and economic benefits and effects, that are expected to result directly or indirectly from implementation of a rule or an alternative to a rule.

"(6) The term 'cost' means the reasonably identifiable significant costs and adverse effects, including social and economic costs and effects, that are expected to result directly or indirectly from implementation of a rule or an alternative to a rule.

"§ 622. Regulatory analysis

"(a) Prior to publishing notice of proposed rule making for any rule, each agency shall determine whether the rule is or is not a major rule within the meaning of section 621(4)(A) of this title and, if it is not, whether it should be designated a major rule under section 621(4)(B) of this title. For the purpose of any such determination or designation, a group of closely related rules shall be considered as one rule. Every notice of proposed rule making shall include a succinct statement and explanation of the agency's determination of whether or not the rule is a major rule within the meaning of section 621(4)(A) of this title and, if applicable, of its designation as a major rule under section 621(4)(B) of this title.

"(b) The President or the officer selected by the President under section 624 of this title may determine that a rule is a major rule within the meaning of section 621(4)(A) of this title or may designate a rule as a major rule under section 621(4)(B) of this title not later than thirty days after the publication of the notice of proposed rule making for that rule. Such determination or designation shall be published in the Federal Register, together with a succinct statement of the basis for the determination or designation. The President or the officer selected by the President under section 624 of this title may designate not more than seventy-five rules as major rules under section 621(4)(B) of this title in any fiscal year.

"(c)(1) When the agency publishes a notice of proposed rule making for a major rule, the agency shall issue and place in the rule making file maintained under section 553(f) of this title a preliminary regulatory analysis and shall include in such notice of proposed rule making a summary of the analysis. When the President or the officer selected by the President under section 624 of this title has published a determination or designation that a rule is a major rule after the publication of the notice of proposed rule making for that rule, the agency shall promptly issue and place in the rule making file maintained under section 553(f) of this title a preliminary regulatory analysis for the rule and shall publish in the Federal Register a summary of such analysis. Following the issuance of a preliminary regulatory analysis under the preceding sentence, the agency shall give interested persons an opportunity to comment thereon pursuant to section 553 of this title in the same manner as if the preliminary regulatory analysis had been issued with the notice of proposed rule making.

"(2) Each preliminary regulatory analysis shall contain—

"(A) a succinct description of the benefits of the proposed rule, including any beneficial effects that cannot be quantified, and an explanation of how the agency anticipates each benefit will be achieved by the proposed rule, including a description of the persons, classes of persons, or particular levels of Government likely to receive such benefits;

"(B) a succinct description of the costs of the proposed rule, including any costs that cannot be quantified, and an explanation of how the agency anticipates each such cost will result from the proposed rule, including a description of the persons, classes of persons, or particular levels of Government likely to incur such costs;

"(C) a succinct description of reasonable alternatives for achieving the identified benefits of the proposed rule, including alternatives that—

"(i) require no Government action;

"(ii) will accommodate differences between geographic regions; and

"(iii) employ performance or other standards which permit the greatest flexibility in achieving the identified benefits of the proposed rule;

"(D) a statement—

"(i) identifying any source of funds available from the Federal Government to pay State and local governments the costs incurred by such governments as a result of the proposed rule; or

"(ii) specifying that the agency does not know of any such source;

"(E) in any case in which the proposed rule is based on scientific evaluations or information, a description of action undertaken by the agency to verify the quality, reliability, and relevance of such scientific evaluations or scientific information; and

"(F) where it is not expressly or by necessary implication inconsistent with the provisions of the enabling statute pursuant to which the agency is proposing the rule, an explanation of how the identified benefits of the proposed rule are likely to justify the identified costs of the proposed rule, and an explanation of how the proposed rule is likely to substantially achieve the rule making objectives in a more cost-effective manner than the alternatives to the proposed rule.

"(d)(1) When the agency publishes a final major rule, the agency shall also issue and place in the rule making file maintained under section 553(f) of this title a final regulatory analysis, and shall include a summary of the analysis in the statement of basis and purpose required by section 553(c)(6) of this title. Notwithstanding the preceding sentence, in any case in which an agency, under section 553(b)(2) of this title, is not required to comply with subsections (b) through (f) of section 553 of this title prior to the adoption of a final rule, an agency is not required to comply with the preceding sentence prior to the adoption of the final rule but shall comply with such sentence when complying with section 553(b)(2)(C) of this title.

"(2) Each final regulatory analysis shall contain—

"(A) a description and comparison of the benefits and costs of the rule and of the reasonable alternatives to the rule described in the rule making; and

"(B) where it is not expressly or by necessary implication inconsistent with the provisions of the enabling statute pursuant to which the agency is acting, a reasonable determination, based upon the rule making file considered as a whole, that the benefits of the rule justify the costs of the rule, and that the rule will substantially achieve the rule making objectives in a more cost-effective manner than the alternatives described in the rule making.

"(e)(1) An agency shall describe the nature and extent of the nonquantifiable

benefits and costs of a proposed and a final rule pursuant to this section in as precise and succinct a manner as possible. The description of the benefits and costs of a proposed and a final rule required under this section shall include a quantification or numerical estimate of the quantifiable benefits and costs. Such quantification or numerical estimate shall be made in the most appropriate unit of measurement and shall specify the ranges of predictions and explain the margins of error involved in the quantification methods and in the estimates used.

"(2) In evaluating and comparing costs and benefits, the agency shall not rely on cost or benefit information submitted by any person that is not accompanied by data, analysis, or other supporting materials that would enable the agency and other persons interested in the rule making to assess the accuracy and reliability of such information. The agency evaluations of the relationships of the benefits of a proposed and final rule to its costs required by this section shall be clearly articulated in accordance with the provisions of this section. An agency is not required to make such evaluation primarily on a mathematical or numerical basis.

"(f) The preparation of the preliminary or final regulatory analysis required by this section shall only be performed by an officer or employee of the agency. The provisions of the preceding sentence do not preclude a person outside the agency from gathering data or information to be used by the agency in preparing any such regulatory analysis or from providing an explanation sufficient to permit the agency to analyze such data or information. If any such data or information is gathered or explained by a person outside the agency, the agency shall specifically identify in the preliminary or final regulatory analysis the data or information gathered or explained and the person who gathered or explained it, and shall describe the arrangement by which the information was procured by the agency, including the total amount of funds expended for such procurement.

"(g) The requirements of this section do not alter the criteria for rule making otherwise applicable under other statutes.

"§ 623. Judicial review

"(a) Compliance or noncompliance by an agency with the provisions of this subchapter shall not be subject to judicial review except according to the provisions of this section.

"(b) Any determination by the President or by the officer selected under section 624 of this title that a rule is a major rule within the meaning of section 621(4)(A) of this title, and any designation by the President or the officer selected under section 624 of this title that a rule is a major rule under section 621(4)(B) of this title, or any failure to make such a designation, shall not be subject to judicial review in any manner.

"(c) The determination of an agency of whether a rule is or is not a major rule within the meaning of section 621(4)(A) of this title shall be set aside by a reviewing court only upon a clear and convincing showing that the determination is erroneous in light of the information available to the agency at the time it made the determination. Any designation by an agency that a rule is a major rule under section 621(4)(B) of this title, or any failure to make such a designation, shall not be subject to judicial review in any manner.

"(d) Any regulatory analysis prepared under section 622 of this title shall not be subject to judicial consideration separate or apart from review of the rule to which it relates. When an action for judicial review of a rule is instituted, any regulatory analysis for such rule shall constitute part of the whole rule making record of agency action for the purpose of judicial review of the rule and shall, to the extent relevant, be considered by a court in determining the legality of the rule.

"§ 624. Executive oversight

"(a) The President shall have the authority to establish procedures for agency compliance with this subchapter and subchapter III of this chapter. The President shall have the authority to monitor, review, and ensure agency implementation of such procedures. The President shall report annually to the Congress on agency compliance or noncompliance with the requirements of this chapter.

"(b) Any procedures established pursuant to the authority granted under subsection (a) of this section shall be adopted after the public has been afforded an opportunity to comment thereon, and shall be consistent with the prompt completion of rule making proceedings. If such procedures include review of preliminary or final regulatory analyses to ensure that they comply with the procedures established pursuant to subsection (a), the time for any such review of a preliminary regulatory analysis shall not exceed thirty days following the receipt of that analysis by the President or by an officer to whom the authority granted under subsection (a) of this section has been delegated pursuant to subsection (c) of this section, and the time for such review of a final regulatory analysis shall not exceed thirty days following the receipt of that analysis by the President or such officer. The times for each such review may be extended for good cause by the President or such officer for an additional thirty days. Notice of any such extension, together with a succinct statement of the reasons therefor, shall be inserted in the rule making file.

"(c) The President may delegate the authority granted by subsection (a) of this section, in whole or in part, to the Vice President or to an officer within the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate. Any such notice with respect to a delegation to the Vice President shall contain a statement by the Vice President that the Vice President will make every reasonable effort to respond to congressional inquiries concerning the exercise of the authority delegated under this subsection. Notice of any such delegation, or any revocation or modification thereof, shall be published in the Federal Register.

"(d) The authority granted under subsection (a) of this section shall not apply to rules issued by the Nuclear Regulatory Commission.

"(e) Any exercise of the authority granted under this section, or any failure to exercise such authority, by the President or by an officer to whom such authority has been delegated under subsection (c) of this section, shall not be subject to judicial review in any manner under this Act.

"SUBCHAPTER III—REGULATORY PRIORITIES AND REVIEW

"§ 631. Review of agency rules

"(a)(1)(A) Not later than nine months after the effective date of this section, each agency shall prepare and publish in the Federal Register a proposed schedule for the review, in accordance with this section, of—

"(i) each rule of the agency which is in effect on such effective date and which, if adopted on such effective date, would be a major rule under section 621(4)(A) of this title, and

"(ii) each rule of the agency in effect on such effective date (in addition to the rules described in clause (i)) which the agency has selected for review.

"(B) Each proposed schedule required by subparagraph (A) shall include—

"(i) a brief explanation of the reasons the agency considers each rule on the schedule to be such a major rule under section 621(a)(4)(A) of this title or of the reasons why the agency selected the rule for review;

"(ii) a date set by the agency, in accordance with the provisions of subsection (b)(1) of this section, for the completion of the review of each such rule; and

"(iii) a statement that the agency requests comments from the public on the proposed schedule.

"(C) The agency shall set a date to initiate review of each rule on the schedule in a manner which will ensure the simultaneous review of related items and which will achieve a reasonable distribution of reviews over the period of time covered by the schedule.

"(2) At least ninety days before publishing in the Federal Register the proposed schedule required under paragraph (1), each agency shall make the proposed schedule available to the President, or to the Vice President or other officer to whom oversight authority has been delegated under section 624(b) of this title. The President or that officer may select for review in accordance with this section any additional rule that the President or such officer determines to be a major rule under section 621(4)(A) of this title.

"(3) Not later than one year after the effective date of this section, each agency shall publish in the Federal Register a final schedule for the review of the rules referred to in paragraphs (1) and (2) of this subsection. Each agency shall publish with the final schedule the response of the agency to comments received concerning the proposed schedule.

"(b)(1) Except where explicitly provided otherwise by statute, the agency shall, pursuant to subsections (c) through (e) of this section, review—

"(A) each rule on the schedule promulgated pursuant to subsection (a) of this section;

"(B) each major rule under section 621(4) of this title promulgated, amended, or otherwise renewed by an agency after the date of the enactment of this section; and

"(C) each rule promulgated after the date of enactment of this section which the President or the officer designated by the President pursuant to subsection (a)(2) of this section determines to be a major rule under section 621(4)(A) of this title.

Except where an extension has been granted pursuant to subsection (f) of this section, the review of a rule required by this section shall be completed within ten years after the effective date of this section or within ten years after the date on which the rule is promulgated, amended, or renewed, whichever is later.

"(2) A rule required to be reviewed under the preceding subsection on grounds that it is a major rule need not be reviewed if the agency determines that such rule, if adopted at the time of the planned review, would not be a major rule under the definition previously applied to it. When the agency

makes such a determination, it shall publish a notice and explanation of the determination in the Federal Register.

"(c) An agency shall publish in the Federal Register a notice of its proposed action under this section with respect to a rule being reviewed. The notice shall include—

"(1) an identification of the specific statutory authority under which the rule was promulgated and a statement specifying the agency's determination of whether the rule continues to fulfill the intent of Congress in enacting that authority;

"(2) an assessment of the benefits and costs of the rule during the period in which it has been in effect;

"(3) an explanation of the proposed agency action with respect to the rule; and

"(4) a statement that the agency seeks proposals from the public for modifications or alternatives to the rule which may accomplish the objectives of the rule in a more effective or less burdensome manner.

"(d) If an agency proposes to repeal or amend a rule under review pursuant to this section, the agency shall, after issuing the notice required by subsection (c) of this section, comply with the provisions of this chapter and chapter 5 of this title or other applicable law. The requirements of such provisions and related requirements of law shall apply to the same extent and in the same manner as in the case of a proposed agency action to repeal or amend a rule which is not taken pursuant to the review required by this section.

"(e) If an agency proposes to renew without amendment a rule under review pursuant to this section, the agency shall—

"(1) give interested persons not less than sixty days after the publication of the notice required by subsection (c) of this section to comment on the proposed renewal; and

"(2) publish in the Federal Register notice of the renewal of such rule and an explanation of the continued need for the rule, and, if the renewed rule is a major rule under section 621(4) of this title, include with such notice an explanation of the reasonable determination of the agency that the rule complies with the provisions of section 622(d)(2)(B) of this title.

"(f)(1) Any agency, which for good cause finds compliance with this section with respect to a particular rule to be impracticable during the period provided in subsection (b) of this section, may request the President, or the officer designated by the President pursuant to subsection (a)(2) of this section, to establish a period longer than ten years for the completion of the review of such rule. The President or that officer may extend the period for review of a rule to a total period of not more than fifteen years. Such extension shall be published in the Federal Register with an explanation of the reasons therefor.

"(2) An agency may, with the concurrence of the President or the officer designated by the President pursuant to subsection (a)(2) of this section, or shall, at the direction of the President or that officer, alter the timing of review of rules under any schedule required by this section for the review of rules if an explanation of such alteration is published in the Federal Register at the time such alteration is made.

"(g) In any case in which an agency has not completed the review of a rule within the period prescribed by subsection (b) or (f) of this section, the agency shall immediately publish in the Federal Register a notice proposing to amend, repeal, or renew the rule under subsection (c) of this section, and shall complete proceedings pursuant to subsection (d) or (e) of this section within one hundred and eighty days after the date on which the review was required to be completed under subsection (b) or (f) of this section.

"(h)(1) Agency compliance or noncompliance with the provisions of subsection (a) of this section shall not be subject to judicial review in any manner.

"(2) Agency compliance or noncompliance with the provisions of subsections (b), (c), (e), (f), and (g) of this section shall be subject to judicial review only pursuant to section 706(a)(1) of this title.

"(i) Nothing in this section shall relieve any agency from its obligation to respond to a petition to issue, amend, or repeal a rule, for an interpretation regarding the meaning of a rule, or for a variance or exemption from the terms of a rule, submitted pursuant to section 553(e) of this title.

"§ 632. Regulatory agenda and calendar

"(a) Each agency shall publish in the Federal Register in April and October of each year an agenda of the rules that the agency expects to propose, promulgate, renew, or repeal in the succeeding twelve months. For each such rule, the agenda shall contain, at a minimum, and in addition to any other information required by law—

"(1) a general description of the rule, including a citation to the authority under which the action with respect to the rule is to be taken, or a specific explanation of the congressional intent to which the objectives of the rule respond;

"(2) a statement of whether or not the rule is or is expected to be a major rule;

"(3) an approximate schedule of the significant dates on which the agency will take action relating to the rule, including the dates for any notice of proposed rule making, hearing, and final action on the rule;

"(4) the name, address, and telephone number of an agency official responsible for answering questions from the public concerning the rule;

"(5) a statement specifying whether each rule listed on the previous agenda has been published as a proposed rule, has been published as a final rule, has become effective, has been repealed, or is pending in some other status; and

"(6) a cumulative summary of the status of the rules listed on the previous agenda in accordance with clause (5) of this subsection.

"(b) The President or an officer in the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate shall publish in the Federal Register in May and November of each year a Calendar of Federal Regulations listing each of the major rules identified in the regulatory agendas published by agencies in the preceding month. Each rule listed in the calendar shall be accompanied by a summary of the information relating to the rule that appeared in the most recent regulatory agenda in which the rule was identified.

"(c) An agency may propose or promulgate a major rule that was not listed in the regulatory agenda required by subsection (a) of this section only if the agency publishes with the rule an explanation of the omission of the rule from such agenda and otherwise complies with this section with respect to that rule.

"(d) Any compliance or noncompliance by the agency with the provisions of this section shall not be subject to judicial review.

"§ 633. Establishment of deadlines

"(a)(1) Whenever any agency publishes a notice of proposed rule making pursuant to section 553 of this title, the agency shall include in such notice an announcement of the date by which it intends to complete final agency action on the rule.

"(2) If any agency announcement under this section indicates that the proceeding relating to such rule will require more than one year to complete, the agency shall also indicate in the announcement the date by which the agency intends to complete each major portion of that proceeding. In carrying out the requirements of this subsection, the agency shall select dates for completing agency action which will assure the most expeditious consideration of the rule which is possible, consistent with the interests of fairness and other agency priorities.

"(3) The requirements of this subsection shall not apply to any rule on which the agency intends to complete action within one hundred and twenty days after providing notice of the proposed action.

"(b) If an agency fails to complete action in a proceeding, or a major portion of the proceeding, by the date announced pursuant to subsection (a) of this section, or, in the case of a proceeding described in paragraph (3) of such subsection, if an agency fails to complete action within one hundred and twenty days after providing notice of such proposed action, and the expected delay in completing action will exceed thirty days, the agency shall promptly announce the new date by which the agency intends to complete action in such proceeding and new dates by which the agency intends to complete action on each major portion of the proceeding.

"(c) Compliance or noncompliance by an agency with the provisions of this section shall not be subject to judicial review except in accordance with subsection (d).

"(d) In determining whether to compel agency action unreasonably delayed pursuant to section 706(a)(1) of this title, the reviewing court shall consider, in addition to any other relevant factors, the extent to which the agency has failed to comply with this section.

"SUBCHAPTER IV—REPORT TO THE CONGRESS

"§ 641. Annual report

"Not later than January 31 of each year, the President shall report to the Congress on the regulatory activities of the Government. The report shall include—

"(1) a description of the regulatory functions and activities of the Government, and the relationship of such functions and activities to national needs; and

"(2) an estimate, for the national economy and for each of the major sectors of the national economy, of the costs and benefits resulting from—

"(A) all major rules promulgated during the preceding fiscal year;

"(B) all major rules included on the regulatory agenda published under section 632 of this title during April and October of the year preceding the year in which the report is made; and

"(C) all major rules scheduled for review under section 631 of this title to the extent possible.".

(b) Such chapter is further amended—

(1) by inserting after the chapter analysis the following new subchapter heading:

"SUBCHAPTER I—REGULATORY FLEXIBILITY";

and

(2) by striking out "this chapter" each place it appears in subchapter I and inserting in lieu thereof in each such place "this subchapter".

(c) The chapter analysis of such chapter is amended—

(1) by inserting after the chapter heading the following new subchapter heading:

"SUBCHAPTER I—REGULATORY FLEXIBILITY";

and

(2) by adding at the end thereof the following:

"SUBCHAPTER II—ANALYSIS OF AGENCY PROPOSALS

"Sec.
"621. Definitions.
"622. Regulatory analysis.
"623. Judicial review.
"624. Executive oversight.

"SUBCHAPTER III—REGULATORY PRIORITIES AND REVIEW

"631. Review of agency rules.
"632. Regulatory agenda and calendar.
"633. Establishment of deadlines.

"SUBCHAPTER IV—REPORT TO THE CONGRESS

"641. Annual report.".

JUDICIAL REVIEW

SEC. . Section 706 of title 5, United States Code, is amended to read as follows:

"§ 706. Scope of review

"(a) To the extent necessary to decision and when presented, the reviewing court shall independently decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of agency action. The reviewing court shall—

"(1) compel agency action unlawfully withheld or unreasonably delayed; and

"(2) hold unlawful and set aside agency action, findings, and conclusions found to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity;

"(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

"(D) without observance of procedure required by law;

"(E) unsupported by substantial evidence in a proceeding subject to sections 556 and 557 of this title or otherwise reviewed on the record of an agency hearing provided by statute; or

"(F) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

"(b) In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

"(c) In making determinations concerning statutory jurisdiction or authority under subsection (a)(2)(C) of this section, the court shall require that action by the agency is within the scope of the agency jurisdiction or authority on the basis of the language of the statute or, in the event of ambiguity, other evidence of ascertainable legislative intent. In making determinations on other questions of law, the court shall not accord any presumption in favor of or against agency action, but in reaching its independent judgment concerning an agency's interpretation of a statutory provision, the court shall give the agency interpretation such weight as it warrants, taking into account the discretionary authority provided to the agency by law.

"(d) In making a finding under subsection (a)(2)(A) of this section, the court shall determine whether the factual basis of a rule adopted in a proceeding subject to section 553 of this title is without substantial support in the rule making file.".

VENUE

SEC. . (a) Section 2112 of title 28, United States Code, is amended—

(1) by striking out the last three sentences of subsection (a);

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(3) by inserting after subsection (a) the following new subsection:

"(b)(1) If proceedings have been instituted in two or more courts of appeals with respect to the same agency action and the first such proceeding was instituted more than five days before the second, the record shall be filed in that court in which the proceeding was first instituted. If the first such proceeding was not instituted more than five days before the institution of a later proceeding with respect to the same agency action, and the agency, board, commission, or officer concerned has received written notice from the parties instituting each of these proceedings, the agency, board, commission, or officer concerned shall promptly advise in writing the Administrative Office of the United States Courts, with respect to the first proceeding and all proceedings initiated within five days of the first proceeding, that such multiple proceedings have been instituted and shall identify each court for which it has notice that such proceedings are pending. Pursuant to a system of random selection devised for this purpose, the Administrative Office thereupon shall select the court in which the record shall be filed from among those identified by the agency. Upon notification of such selection, the agency, board, commission, or officer concerned shall promptly file the record in such court. For the purpose of review of agency action which has previously been remanded to the agency, board, commission, or officer concerned, the record shall be filed in the court of appeals which remanded such order.

"(2) Where proceedings have been instituted in two or more courts of appeals with respect to the same agency action and the record has been filed in one of such courts pursuant to paragraph (1), the other courts in which such proceedings are pending shall promptly transfer such proceedings to the court of appeals in which the record has been filed. Pending selection of a court pursuant to subsection (1), any court in which a proceeding has been instituted may postpone the effective date of the agency action until fifteen days after the Administrative Office has selected the court in which the record shall be filed. Such postponement by the court may thereafter be modified, revoked, or extended by the court in which the record is to be filed.

"(3) Any court in which a proceeding with respect to any agency action is pending, including any court selected pursuant to paragraph (1), may transfer such proceeding to any other court of appeals for the convenience of the parties or otherwise in the interest of justice.".

(b) Section 604(a) of title 28, United States Code, is amended—

(1) by redesignating paragraphs (17) and (18) as paragraphs (18) and (19), respectively, and

(2) by inserting after paragraph (16) the following new paragraph:

"(17) Pursuant to section 2112 of this title, where proceedings with respect to action of any agency, board, commission, or officer have been instituted in two or more courts of appeals, administer a system of random selection to determine the appropriate court in which the record is to be filed.".

ADVISORY COMMITTEE

SEC. . Clause (iii) of section 3(2)(C) of the Federal Advisory Committee Act is amended to read as follows: "(iii) any committee which is composed wholly of full-time officers or employees of the Federal Government, or elected officials of State or local governments acting in their official capacities or their representatives or representatives of their national organizations.".

RESOLUTION OF AGENCY JURISDICTIONAL CONFLICT

SEC. . (a) Section 2201 of title 28, United States Code, is amended by inserting "(a)" before "In" and by adding at the end thereof the following new subsections:

"(b)(1) Except as provided in paragraph (3), upon the filing of an appropriate pleading by a regulatory agency or a public utility, the district courts shall have original jurisdiction of any civil action or proceeding to resolve a controversy between two or more regulatory agencies, with respect to jurisdiction to regulate any of the rates, services, or records relating thereto, of a public utility unless all of such agencies are agencies of the same State.

"(2) If any party shall apply to the court before whom the pleading is filed for leave to adduce additional evidence relevant to a finding of jurisdiction, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such additional evidence in proceedings before one or more of the regulatory agency parties to the action brought hereunder, the court may order such additional evidence to be taken before any of such regulatory agencies and to be adduced upon the hearing in such manner and upon such terms and conditions as the court deems proper.

"(3) If the courts of appeals have exclusive original jurisdiction to review agency action of a regulatory agency, then an action or proceeding under this subsection with respect to a controversy to which such regulatory agency is a party shall be brought in such court of appeals rather than in the district court.

"(c) The court may declare the rights and other legal relations of the parties to an action or proceeding brought under subsection (b) to the extent necessary to resolve the controversy with respect to jurisdiction and may take any action necessary to maintain the status quo pending such declaration, or pending appeal of such declaration, including staying any civil action or proceeding that might be affected by such declaration. Such action or declaration shall not be withheld—

"(1) on the ground that a controversy with respect to matters other than jurisdiction to regulate may exist between or among the parties,

"(2) due to failure to pursue or exhaust any administrative remedies, or

"(3) due to inconsistent provisions of other statutes providing for judicial review of such agency action, including the regulatory statutes under which the controversy has arisen.

Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such.

"(d) For purposes of this subsection—

"(1) the term 'State' includes the District of Columbia and any territory or possession of the United States;

"(2) the term 'public utility' is any entity which offers its services to the public or any segment thereof, and whose rates are subject to regulation on a cost of service or rate of return basis by one or more regulatory agencies;

"(3) the term 'regulatory agency' includes any agency having or exercising any regulatory function with respect to any public utility; and

"(4) the term 'agency' means the United States, a State or political subdivision of a State, or any agency or instrumentality of the United States or any such State subdivision or agency.".

(b)(1) Chapter 151 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 2203. Process and procedure

"In any civil action or proceeding under section 2201(b) of this title, (1) the United States or any agency of the United States may join or be joined as a party, (2) any State or State subdivision or agency thereof may join or, with its consent where necessary, be joined as a party, and a district court may issue its process for such purposes without regard to territorial limitations.".

(2) The table of sections for chapter 151 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"2203. Process and procedure.".

(c)(1) Chapter 87 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1409. Public utility jurisdictional controversies

"Any civil action or proceeding for a declaratory judgment under section 2201(b) of this title may be brought in any judicial district in which the public utility resides or has its principal office, or in the United States District Court for the District of Columbia, except that whenever one or more States or subdivisions thereof or the agencies of a State or a subdivision thereof are parties, the civil action or proceeding must be brought in a judicial district within one of such States.".

(2) The table of sections for chapter 87 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1409. Public utility jurisdictional controversies.".

PROHIBITION AGAINST INTERVENOR FUNDING

SEC. . (a) Subchapter II of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 560. Prohibition against intervenor funding

"Except as provided in section 504 of this title, section 2412 of title 28, section 319 of the Federal Power Act, section 18(h) of the Federal Trade Commission Act, section 7(c) of the Consumer Product Safety Act, section 22 of the Act entitled 'An Act to provide certain basic authority for the Department of State', approved August 1, 1956, and paragraphs (4) and (5) of section 6(c) of the Toxic Substances Control Act, and except as otherwise expressly authorized by statute, no appropriated funds available to any agency may be used to pay the expenses of persons participating or intervening in agency proceedings.".

(b) The table of sections for such chapter is amended by adding at the end thereof the following:

"560. Prohibition against intervenor funding.".

USE OF STATE AND LOCAL REQUIREMENTS

SEC. . (a) Subchapter II of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 561. Use of duplicative State or local requirements

"(a) Except as otherwise provided by law, the head of each Federal agency is authorized, in the administration of a Federal statute with respect to any State or locality, to adopt as a Federal rule a regulation of that State or local government or use as a Federal recordkeeping or reporting requirement or implementation procedure a recordkeeping or reporting requirement or implementation procedure of that State or locality if the head of the agency determines—

"(1) that such State or local government regulation, implementation procedure, recordkeeping requirement, or reporting requirement duplicates a Federal regulation, procedure, recordkeeping requirement, or reporting requirement; and

"(2) that such State or local government regulation, implementation procedure, recordkeeping requirement, or reporting requirement is substantively equivalent to or more stringent than the Federal regulation, procedure, recordkeeping requirement, or reporting requirement.

"(b) When the head of an agency determines to use a State or local recordkeeping or reporting requirement, or implementation procedure, as a Federal recordkeeping or reporting requirement or implementation procedure in that State or locality, the head of the agency shall prepare, at a minimum, a written statement of the reasons for any determination made under subsection (a), and shall make such statement available to the public.

"(c) This section does not limit the authority or responsibility of the head of any agency to enforce Federal law.".

(b) Section 551(5) of title 5, United States Code, is amended by inserting a comma and "or the adoption of a rule pursuant to section 561 of this title" before the semicolon.

(c) The table of sections for chapter 5 of such title is amended by inserting after the item relating to section 560 the following new item:

"561. Use of duplicative State or local requirements.".

PRESIDENTIAL AUTHORITY

SEC. . Nothing in this Act (1) limits the exercise by the President of the authority and responsibility that the President otherwise possesses under the Constitution and other laws of the United States with respect to regulatory policies, procedures, and programs of departments, agencies, and offices, or (2) alters in any manner rule making authority vested by law in an agency to initiate or complete a rule making proceeding, or to issue, modify, or rescind a rule.

CONFORMING AMENDMENTS

SEC. . (a) Section 33(c) of the Federal Energy Administration Act of 1974 (15 U.S.C. 789(c)) is amended by striking out "(without regard to subsection (a)(2) thereof)" and inserting in lieu thereof "(without regard to clauses (2) and (4) of subsection (a) of such section)".

(b)(1) Section 3(e)(1) of the Federal Hazardous Substances Labeling Act (15 U.S.C. 1262(e)(1)) is amended by striking out "(other than clause (B) of the last sentence of subsection (b) of such section)" and inserting in lieu thereof "(other than paragraphs (2)(A) and (3) of subsection (b) of such section)".

(2) Section 3(e)(3)(C) of such Act (15 U.S.C. 1262(e)(3)(C)) is amended by inserting "(a)" after "section 706".

(c)(1) Section 5(a) of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1474(a)) is amended by striking out "(other than paragraph (3)(B) of the last sentence of subsection (b) of such section)" and inserting in lieu thereof "(other than paragraphs (2)(A) and (3) of subsection (b) of such section)".

(2) Section 5(b)(3) of such Act (15 U.S.C. 1474(b)(3)) is amended by inserting "(a)" after "section 706".

(d) Section 19(c)(1)(B)(iii)(II) of the Toxic Substances Control Act (15 U.S.C. 2618(c)(1)(B)(iii)(II)) is amended by striking out "section 553(c)" and inserting in lieu thereof "section 553(c)(6)".

(e) Section 4218(b) of title 18, United States Code, is amended—

(1) by striking out "section 553(b)(3)(A)" and inserting in lieu thereof "section 553(a)(3)"; and

(2) by striking out "statements" and inserting in lieu thereof "statement".

(f) Section 409 of the General Education Provisions Act (20 U.S.C. 1221e-4) is amended by striking out "exception provided under section 553(b)" and inserting in lieu thereof "exceptions provided under subsection (a)(3) and paragraphs (2)(A) and (3) of subsection (b) of section 553".

(g)(1) Section 508 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 358) is amended—

(A) by striking out "section 4 of the Administrative Procedure Act (5 U.S.C. 1003)" in subsection (c) and inserting in lieu thereof "section 553"; and

(B) by striking out "section 4 of the Administrative Procedure Act (5 U.S.C. 1003)" in subsection (e) and inserting in lieu thereof "section 553".

(2) Section 514(e)(4) of such Act (21 U.S.C. 360d(e)(4)) is amended by striking out "subsection (b)(A)" and inserting in lieu thereof "subsection (a)(3)".

(h) Section 426(a) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 936(a)) is amended by striking out "subsection (a) thereof" and inserting in lieu thereof "subsection (a) (1), (2), and (4) of such section".

(i) Section 5(a) of the Deepwater Port Act of 1974 (33 U.S.C. 1504(a)) is amended by striking out "without regard to subsection (a) thereof" and inserting in lieu thereof "without regard to clauses (1), (2), and (4) of subsection (a) of such section".

(j) Section 10(a) of the Act of June 30, 1936 (49 Stat. 2036, as amended; 41 U.S.C. 43a(a)) is amended by striking out "section 4 of the Administrative Procedure Act, such Act" and inserting in lieu thereof "section 553 of title 5, United States Code, the provisions of chapters 5, 6, and 7 of such title".

(k) Section 2(a)(2) of the Act of June 25, 1936 (52 Stat. 1196; 41 U.S.C. 47(a)(2)) is amended by striking out "subsections (b), (c), (d), and (e) of section 553 of title 5, United States Code," and inserting in lieu thereof "section 553 of title 5, United States Code (without regard to clauses (1), (2), and (4) of subsection (a) of such section)".

(l) Section 170A(c) of the Atomic Energy Act of 1954 (42 U.S.C. 2210a(c)) is amended by striking out "(without regard to subsection (a)(2) thereof)" and inserting in lieu thereof "(without regard to clauses (2) and (4) of subsection (a) of such section)".

(m) Section 6(c)(2) of the Noise Control Act of 1972 (42 U.S.C. 4905(c)(2)) is amended by striking out "the first sentence of".

(n) Section 501(b)(3) of the Department of Energy Organization Act (42 U.S.C. 7191(b)(3)) is amended by striking out "subsection (a)(2) of such section with respect to public property, loans, grants, or contracts" and inserting in lieu thereof "subsection (a)(4) of such section".

(o) Section 307(d) of the Clean Air Act (42 U.S.C. 7607(d)) is amended by striking out "subparagraphs (A) or (B) of subsection 553(b)" in paragraph (1)(N) and inserting in lieu thereof "subsection (a)(3) and paragraphs (2)(A) and (3) of subsection (b) of section 553".

(p) Section 102(a) of the Ocean Thermal Energy Conversion Act of 1980 (42 U.S.C. 9112(a)) is amended by striking out "without regard to subsection (a) thereof" and inserting in lieu thereof "without regard to clauses (1), (2), and (4) of subsection (a) of such section".

(q) Section 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740) is amended by striking out "section 553(a)(2)" and inserting in lieu thereof "clauses (2) and (4) of section 553(a)".

CONGRESSIONAL REVIEW

SEC. . (a) Title 5, United States Code, is amended by inserting immediately after chapter 7 the following new chapter:

"CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULE MAKING

"Sec.
"801. Definitions.
"802. Congressional review of agency rules.
"803. Procedures for consideration of resolutions of disapproval.

"§ 801. Definitions

"For purposes of this chapter—

"(1) the term 'agency' has the same meaning as in section 551(1) of this title;

"(2) the term 'rule' means any rule which is subject to section 553 of this title;

"(3) the term 'resolution of disapproval' means a concurrent resolution of the Congress, the matter after the resolving clause of which is as follows: 'That the Congress disapproves the recommended final rule issued by dealing with the matter of , which rule was transmitted to the Congress on .', the first blank being filled with the name of the agency issuing the rule, the second blank being filled with the title of the rule and such further description as may be necessary to identify it, and the third blank being filled with the date of transmittal of the rule to the Congress; and

"(4) the term 'appropriate committee' means the committee of the House of Representatives and the committee of the Senate which has primary legislative jurisdiction over the statute pursuant to which an agency issues a rule.

"§ 802. Congressional review of agency rules

"(a)(1) The provisions of this section do not apply to—

"(A) any rule for which an agency makes a finding under section 553(b)(3) of this title;

"(B) any rule of particular applicability that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing; and

"(C) any rule if—

"(i) the agency made a finding with respect to such rule under section 553(b)(2) of this title; or

"(ii) the head of the agency determines that the rule is being issued in response to an emergency situation or other exceptional circumstances requiring immediate agency action in the public interest; and

"(iii) on the date on which the agency issues the rule, the head of the agency submits to the chairman and ranking minority member of the appropriate committees a written notice specifying the reasons for the determination of the agency under clause (i) or (ii) of this subparagraph.

"(2) Notwithstanding any other provision of law, unless earlier withdrawn by the agency or earlier set aside by judicial action, a rule to which paragraph (1)(C) of this subsection applies shall terminate one hundred and twenty days after the date on which it is issued.

"(b)(1) Notwithstanding any other provision of law, any final rule subject to this section shall be considered a recommendation of the agency to the Congress and shall have no force and effect as a rule unless such rule has become effective in accordance with this section.

"(2)(A) Notwithstanding any other provision of law, no recommended final rule of an agency may become effective until the expiration of a period of forty-five days of continuous session of Congress after the date on which the rule is received by the Congress under paragraph (4) of this subsection. If before the expiration of such forty-five-day period, either appropriate committee orders reported or is discharged from consideration of a resolution of disapproval with respect to such rule, such rule may not become effective if within thirty days of continuous session of Congress after the date on which such committee orders reported or is discharged from further consideration of such resolution, one House of Congress agrees to such resolution of disapproval of the rule and within thirty additional days of continuous session of Congress after the date of transmittal of the resolution of disapproval to the other House, such other House agrees to such resolution of disapproval.

"(B) Whenever an appropriate committee reports a resolution of disapproval pursuant to this paragraph, the resolution shall be accompanied by a committee report specifying the reasons for the committee's action.

"(C) Notwithstanding subparagraph (A) of this paragraph, a recommended final rule may become effective at any time after the day on which either House of Congress defeats a resolution of disapproval, and, in the case of the Senate, a motion to reconsider such resolution is disposed of.

"(3)(A) Except as provided in subparagraph (B) of this paragraph, if Congress adjourns sine die at the end of a Congress prior to the expiration of the periods specified in paragraph (2)(A) of this subsection with respect to a recommended final rule, the rule shall not become effective during that Congress. The agency which issued such recommended final rule may transmit such rule at any time after the first day of the following Congress in accordance with paragraph (4) of this subsection, and the periods specified in paragraph (2)(A) of this subsection with respect to any such rule shall begin on the date such rule is transmitted to the Congress.

"(B) If—

"(i) Congress adjourns sine die at the end of a Congress prior to the expiration of the periods specified in paragraph (2)(A) of this subsection with respect to a recommended final rule;

"(ii) an agency transmits such recommended final rule to the Congress at least forty-five days of continuous session of Congress prior to the day on which Congress adjourns sine die at the end of a Congress; and

"(iii) either House of Congress does not adopt a resolution of disapproval with respect to such recommended final rule prior to the day on which Congress adjourns sine die at the end of a Congress,

such rule may become effective at any time after the day on which Congress adjourns sine die at the end of a Congress.

"(4)(A) On the day on which a recommended final rule is transmitted for publication to the Federal Register, an agency shall transmit to the Secretary of the Senate and the Clerk of the House of Representatives a copy of the complete text of such recommended final rule and a copy of any other materials transmitted to the Federal Register with such rule.

"(B)(i) If either House of Congress is not in session on the day on which a recommended final rule is transmitted for publication to the Federal Register, the periods specified in paragraph (2)(A) of this subsection with respect to such rule shall begin on the first day thereafter when both Houses of Congress are in session.

"(ii) The Secretary of the Senate and the Clerk of the House of Representatives are authorized to receive recommended final rules and materials transmitted under this paragraph on days when the Senate or the House of Representatives, as the case may be, is not in session.

"(C) On the day on which the Secretary of the Senate and the Clerk of the House of Representatives receive a recommended final rule and the materials transmitted with such rule, the Secretary and the Clerk shall transmit a copy of such rule and such materials to the appropriate committees.

"(c)(1) If a recommended final rule of an agency is disapproved under this section, the agency may issue a recommended final rule which relates to the same acts or practices as the disapproved rule. Such recommended final rule—

"(A) shall be based upon—

"(i) the rule making record of the recommended final rule disapproved by the Congress; or

"(ii) such rule making record and the record established in supplemental rule making proceedings conducted by the agency in accordance with section 553 of this title, in any case in which the agency determines that it is necessary to supplement the existing rule making record; and

"(B) may reflect such changes as the agency considers necessary or appropriate including such changes as may be appropriate in light of congressional debate and con-

sideration of the resolution of disapproval with respect to the rule.

"(2) An agency, after issuing a recommended final rule under this subsection, shall transmit such rule to the Secretary of the Senate and the Clerk of the House of Representatives in accordance with subsection (b) of this section, and such rule shall only become effective in accordance with such subsection.

"(d) Congressional inaction on or rejection of a resolution of disapproval with respect to a recommended final rule shall not be deemed an expression of approval of such rule.

"§ 803. Procedures for consideration of resolutions of disapproval

"(a) The provisions of this section, paragraphs (3) and (4) of section 801, and paragraphs (2)(B) and (4)(C) of section 802(b) are enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions of disapproval; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(b) Except as provided in subsection (e) of this section, resolutions of disapproval shall, upon introduction or receipt from the other House of Congress, be immediately referred by the presiding officer of the Senate or the House of Representatives to the appropriate committee of the Senate or the House of Representatives, as the case may be.

"(c)(1)(A) Except as provided in subparagraph (B) of this paragraph, if the committee to which a resolution of disapproval has been referred does not report such resolution within thirty days of continuous session of Congress after the date of transmittal to the Congress of the recommended final rule to which such resolution relates, it shall be in order to move to discharge the committee from further consideration of such resolution.

"(B) If the committee to which a resolution of disapproval transmitted from the other House has been referred does not report such resolution within twenty days after the date of transmittal of such resolution from the other House, it shall be in order to move to discharge such committee from further consideration of such resolution.

"(2) Any motion to discharge under paragraph (1) of this subsection must be supported in writing by one-fifth of the Members, duly chosen and sworn, of the House of Congress involved, and is highly privileged in the House and privileged in the Senate (except that it may not be made after a resolution of disapproval has been reported with respect to the same rule); and debate thereon shall be limited to not more than one hour, the time to be divided in the House of Representatives equally between those favoring and those opposing the motion to discharge and to be divided in the Senate equally between, and controlled, by the majority leader and the minority leader or their designees. An amendment to the motion is not in order.

"(d)(1) Except as provided in paragraphs (2) and (3) of this subsection, consideration of a resolution of disapproval shall be in accord with the rules of the Senate and of the House of Representatives, respectively.

"(2) When a committee has reported or has been discharged from further consideration of a resolution of disapproval, or when the companion resolution from the other House has been placed on the calendar of the first House, it shall be in order, notwithstanding the provisions of rule XXII of the Standing Rules of the Senate or any other rule of the Senate or the House of Representatives, at any time thereafter (even though a previous motion to the same effect has been disagreed to) to move to proceed to the immediate consideration of either such resolution. The motion is highly privileged in the House and privileged in the Senate and is not debatable. An amendment to the motion is not in order.

"(3) Debate on a resolution of disapproval shall be limited to not more than two hours (except that when one House has debated its resolution of disapproval, the companion resolution shall not be debatable), which shall be divided in the House of Representatives equally between those favoring and those opposing the resolution and which shall be divided in the Senate equally between, and controlled, by the majority leader and the minority leader or their designees. A motion further to limit debate is not in order. An amendment to, or motion to recommit the resolution is not in order. A motion to reconsider shall be in order only on the day on which occurs the vote on adoption of the resolution of disapproval, and shall not be debatable. Any other motions shall be decided without debate.

"(e) If a resolution of disapproval has been ordered reported or discharged from the committee of the House to which it was referred, and that House receives a resolution of disapproval with respect to the same rule from the other House, the resolution of disapproval of the other House shall be placed on the appropriate calendar of the first House. If prior to the disposition of a resolution of disapproval of one House, that House receives the companion resolution of disapproval from the other House, the vote in the first House shall occur on the resolution of disapproval of the other House.

"(f) The provisions of this chapter supersede any other provision of law requiring action by both Houses of Congress for congressional review or disapproval of agency rules to the extent such other provisions are inconsistent with this chapter. The provisions of this chapter do not supersede any other provisions of law requiring action by only one House of Congress for congressional review or disapproval of agency rules.

"(g) For the purposes of this chapter—

"(1) continuity of session is broken only by an adjournment sine die at the end of a Congress; and

"(2) the days on which either House is not in session because of an adjournment or recess of more than fifteen days are excluded in the computation of days of continuous session.".

(b) The table of chapters for part I of title 5, United States Code, is amended by inserting immediately after the item relating to chapter 7 the following:

"8. Congressional Review of Agency Rule Making ..... 801".

SEVERABILITY

SEC. . If the provisions of any part of this Act or the amendments made by this Act, or the application thereof, to any person or circumstances is held invalid, the provisions of the other parts of this Act or the amendments made by this Act and their application to other persons or circumstances shall not be affected.

OPEN MEETINGS

SEC. . Section 552b(a)(1) of title 5, United States Code, is amended by inserting before the semicolon a comma and "and also means the Chrysler Corporation Loan Guarantee Board".

EFFECTIVE DATES

SEC. . (a)(1) The provisions of sections 2, 3, 5, and 12 of this Act and the amendments made by such sections, and the provisions of subchapter II of chapter 6 of title 5, United States Code (as added by section 4 of this Act), shall take effect on January 1, 1985, and shall not apply to any proceeding for which a notice of proposed rule making was issued before such effective date or to any other agency action initiated before such effective date.

(2) The provisions of section 621(4)(IV) of title 5, United States Code (as added by section 4 of this Act) shall not be in effect after June 30, 1985, unless the President certifies that the extension or reinstitution of such provisions is necessary to allow the Federal agencies authorized to issue rules identified in that section to take expeditious and appropriate action to preserve the viability, safety, or soundness of federally insured depository institutions. Any certification by the President under this subsection may only be made for a single one-year period beginning after June 30, 1985.

(b) The provisions of subchapter III of chapter 6 of title 5, United States Code (as added by section 4 of this Act) shall take effect six months after the date of enactment of this Act.

(c) The provisions of section 6 of this Act shall take effect three months after the date of enactment of this Act and shall apply, according to the provisions thereof, to review proceedings instituted after such date.

(d) The provisions of subchapter IV of chapter 6 of title 5, United States Code (as added by section 4 of this Act), and the provisions of sections 7, 9, 10, 11, and 15 of this Act and the amendments made by such sections shall take effect on the date of enactment of this Act.

(e) The amendments made by section 8 of this Act shall take effect on the date of enactment of this Act, and shall not apply to any civil action commenced prior to such date.

(f) The provisions of section 13 of this Act and the amendments made by such section shall take effect on the first day of the Ninety-ninth Congress.

AMENDMENT NO. 6896

At the appropriate place in the bill, insert the following new section:

SEPARATE ENROLLMENT OF ITEMS OF CERTAIN BILLS AND JOINT RESOLUTIONS MAKING APPROPRIATIONS

SEC. . (a)(1) Notwithstanding any other provision of law, when any general or special appropriation bill or any bill or joint resolution making supplemental, deficiency, or continuing appropriations passes both Houses of the Congress in the same form, the Secretary of the Senate (in the case of a bill or joint resolution originating in the Senate) or the Clerk of the House of Representatives (in the case of a bill or joint resolution originating in the House of Repre-

sentatives) shall cause the enrolling clerk of such House to enroll each item of such bill or joint resolution as a separate bill or joint resolution, as the case may be.

(2) A bill or joint resolution that is required to be enrolled pursuant to paragraph (1)—

(A) shall be enrolled without substantive revision,

(B) shall conform in style and form to the applicable provisions of chapter 2 of title 1, United States Code (as such provisions are in effect on the date of the enactment of this section), and

(C) shall bear the designation of the measure of which it was an item prior to such enrollment, together with such other designation as may be necessary to distinguish such bill or joint resolution from other bills or joint resolutions enrolled pursuant to paragraph (1) with respect to the same measure.

(b) A bill or joint resolution enrolled pursuant to paragraph (1) of subsection (a) with respect to an item shall be deemed to be a bill under Clauses 2 and 3 of Section 7 of Article 1 of the Constitution of the United States and shall be signed by the presiding officers of both Houses and presented to the President for approval or disapproval (and otherwise treated for all purposes) in the manner provided for bills and joint resolutions generally.

(c) For purposes of this section, the term "item" means any numbered section and any unnumbered paragraph of—

(1) any general or special appropriation bill, and

(2) any bill or joint resolution making supplemental, deficiency, or continuing appropriations.

(d) The provisions of this section shall apply to bills and joint resolutions agreed to by the Congress during the two-calendar-year period beginning with the date of the enactment of this section.

AMENDMENT No. 6897

At the appropriate place, add the following:

SEC. . Paragraph (4)(A) of section 552(a) of title 5, United States Code, is amended to read as follows:

"(4)(A)(i) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to the processing of requests under this section and establishing procedures and guidelines for determining when such fees should be waived or reduced. Such schedules shall conform to the guidelines which shall be promulgated, pursuant to notice and receipt of public comment, by the Office of Management and Budget and which shall provide for a uniform schedule of fees for all agencies. Such regulations—

"(I) shall provide for the payment of all costs reasonably and directly attributable to responding to the request, which shall include reasonable standard charges for the costs of services by agency personnel in search, duplication, and other processing of the request. The term 'processing' does not include services of agency personnel in resolving issues of law and policy of general applicability which may be raised by a request, but does include services involved in examining records for possible withholding or deletions to carry out determinations of law or policy. Such regulations may also provide for standardized charges for categories of requests having similar processing costs,

"(II) shall provide that no fee is to be charged by any agency with respect to any request or series of related requests whenever the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee, and

"(III) in the case of any request or series of related requests for records containing commercially valuable technological information which was generated or procured by the Government at substantial cost to the public, is likely to be used for a commercial purpose, and will deprive the Government of its commercial value, may provide for the charging of a fair value fee, in addition to or in lieu of any processing fees otherwise chargeable, taking into account such factors as the estimated commercial value of the technological information, its costs to the Government, and any public interest in encouraging its utilization.

Nothing in this subparagraph shall supersede fees chargeable under a statute specifically providing for setting the level of fees for particular types of records.

"(ii) With respect to search and duplication charges, documents shall be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public and not the commercial or other private interests of the requester. With respect to all other charges, documents shall be furnished without such charges where the agency determines that the information is not requested for a commercial use and the request is being made by or on behalf of (a) an individual, or educational, or noncommercial scientific institution, whose purpose is scholarly or scientific research; (b) a representative of the news media; or (c) a nonprofit group that intends to make the information available to the general public.

"(iii) One-half of the fees collected under this section shall be retained by the collecting agency to offset the costs of complying with this section. The remaining fees collected under this section shall be remitted to the Treasury's general fund as miscellaneous receipts, except that any agency determined upon an investigation and report by the General Accounting Office or the Office of Management and Budget not to have been in substantial compliance with the applicable time limits of paragraph (6) of this subsection shall not thereafter retain any such fees until determined by the agency making such finding to be in substantial compliance.".

TIME LIMITS

SEC. . Paragraph (6) of section 552(a) of title 5, United States Code, is amended to read as follows:

"(6)(A) Except as otherwise provided in this paragraph, each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection, shall—

"(i) determine within ten working days after the receipt of any such request whether to comply with such request and shall immediately notify the requester of such determination and the reasons therefor, and of the right of such person to appeal to the head of the agency any adverse determination; and

"(ii) make a determination with respect to any appeal within twenty working days after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the requester of the provisions for judicial review of that determination under paragraph (4) of this subsection.

"(B) In unusual circumstances as defined in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the requester setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in extensions of more than an aggregate of thirty working days. As used in this subparagraph, 'unusual circumstances' means, but only to the extent reasonably necessary to the proper processing of the particular request—

"(i) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

"(ii) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request;

"(iii) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein;

"(iv) a request which the head of the agency has specifically stated in writing cannot be processed within the time limits stated in paragraph (6)(A) without significantly obstructing or impairing the timely performance of a statutory agency function;

"(v) the need for notification of submitters of information and for consideration of any objections to disclosure made by such submitters; or

"(vi) an unusually large volume of requests or appeals at an agency, creating a substantial backlog.

"(C) Any requester shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records. An agency shall not be considered to have violated the otherwise applicable time limits until a court rules on the issue.

"(D) Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to the requester, subject to the provisions of paragraph (7). Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.

"(E) Each agency shall promulgate regulations, pursuant to notice and receipt of public comment, by which a requester who demonstrates a compelling need for expedited access to records shall be given expedited access.".

BUSINESS CONFIDENTIALITY PROCEDURES

SEC. . Section 552(a) of title 5, United States Code, is amended by adding after paragraph (6) the following new paragraph:

"(7)(A) Each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying procedures by which—

"(i) a submitter may be required to designate, at the time it submits or provides to

the agency or thereafter, any information consisting of trade secrets, or commercial, research, financial, or business information which is exempt from disclosure under subsection (b)(4);

"(ii) the agency shall notify the submitter that a request has been made for information provided by the submitter, within ten working days after the receipt of such request, and shall describe the nature and scope of the request and advise the submitter of his right to submit written objections in response to the request;

"(iii) the submitter may, within ten working days of the forwarding of such notification, submit to the agency written objection to such disclosure, specifying all grounds upon which it is contended that the information should not be disclosed; and

"(iv) the agency shall notify the submitter of any final decision regarding the release of such information.

"(B) An agency is not required to notify a submitter pursuant to subparagraph (A) if—

"(i) the information requested is not designated by the submitter as exempt from disclosure in accordance with agency regulations promulgated pursuant to subparagraph (A)(i), if such designation is required by the agency;

"(ii) the agency determines, prior to giving such notice, that the request should be denied;

"(iii) the disclosure is required by law (other than this section) and the agency notified the submitter of the disclosure requirement prior to the submission of the information;

"(iv) the information lawfully has been published or otherwise made available to the public; or

"(v) the agency is a criminal law enforcement agency that acquired the information in the course of a lawful investigation of possible violations of criminal law.

"(C) Whenever an agency notifies a submitter of the receipt of a request pursuant to subparagraph (A), the agency shall notify the requester that the request is subject to the provisions of this paragraph and that notice of the request is being given to a submitter. Whenever an agency notifies a submitter of final decision pursuant to subparagraph (A), the agency shall at the same time notify the requester of such final decision.

"(D) Whenever a submitter has filed objections to disclosure of information pursuant to subparagraph (A)(iii), the agency shall not disclose any such information for ten working days after notice of the final decision to release the requested information has been forwarded to the submitter.

"(E) The agency's disposition of the request and the submitter's objections shall be subject to judicial review pursuant to paragraph (4) of this subsection. If a requester files a complaint under this section, the administrative remedies of a submitter of information contained in the requested records shall be deemed to have been exhausted.

"(F) Nothing in this paragraph shall be construed to be in derogation of any other rights established by law protecting the confidentiality of private information.".

JUDICIAL REVIEW

SEC. . Section 552(a)(4) of title 5, United States Code, is amended—

(1) by amending subparagraph (B) to read as follows:

"(B) On complaint filed by a requester within one hundred and eighty days from the date of final agency action or by a submitter after a final decision to disclose submitted information but prior to its release, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction—

"(i) to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the requester;

"(ii) to enjoin the agency from any disclosure of records which was objected to by a submitter under paragraph (7)(A)(iii) or which would have been objected to had notice been given as required by paragraph (7)(A)(i); or

"(iii) to enjoin the agency from failing to perform its duties under subsections (a) (1) and (2).".

(2) by redesignating subparagraphs (C), (D), (E), (F), and (G) as subparagraphs (F), (G), (H), (I), and (J), respectively, and by adding after subparagraph (B) the following new subparagraphs:

"(C) In an action based on a complaint—

"(i) by a requester, the court shall have jurisdiction over any submitter of information contained in the requested records, and any such submitter may intervene as of right in the action; and

"(ii) by a submitter, the court shall have jurisdiction over any requester of records containing information which the submitter seeks to have withheld, and any such requester may intervene as of right in the action.

"(D) The agency that is the subject of the complaint shall promptly, upon service of a complaint—

"(i) seeking the production of records, notify each submitter of information contained in the requested records that the complaint was filed; and

"(ii) seeking the withholding of records, notify each requester of the records that the complaint was filed.

"(E) In any case to enjoin the withholding or the disclosure of records, or the failure to comply with subsection (a) (1) or (2), the court shall determine the matter de novo. The court may examine the contents of requested agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section. The burden is on the agency to sustain its action to withhold information and the burden is on any submitter seeking the withholding of information."; and

(3) in redesignated subparagraph (H)—

(A) by adding "or any submitter who is a party to the litigation" after "United States"; and

(B) by striking out "complainant" and inserting in lieu thereof "requester".

PUBLIC RECORD REQUESTS

SEC. . Section 552(a) of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(8) In any instance in which a portion of the records requested under this subsection consists of newspaper clippings, magazine articles, or any other item which is a public record or otherwise available in public records, the agency may offer the requester a choice of (A) furnishing the requester with an index identifying such clippings, articles, or other items by date and source: *Provided*, That such index is already in existence, or (B) notwithstanding the waiver requirements contained in this section, furnishing the requester with copies of such clippings, articles, or other items at the reasonable standard charge for duplication established in the agency's fee schedule.".

CLARIFY EXEMPTIONS

SEC. . So much of section 552(b) of title 5, United States Code, as precedes paragraph (1) thereof is amended to read as follows:

"(b) The compulsory disclosure requirements of this section do not apply to matters that are—".

MANUALS AND EXAMINATION MATERIALS

SEC. . Section 552(b)(2) of title 5, United States Code, is amended by inserting a comma in lieu of the semicolon at the end thereof and adding the following: "including such materials as (A) manuals and instructions to investigators, inspectors, auditors, or negotiators, to the extent that disclosure of such manuals and instructions could reasonably be expected to jeopardize investigations, inspections, audits, or negotiations, and (B) examination material used solely to determine individual qualifications for employment, promotion, or licensing to the extent that disclosure could reasonably be expected to compromise the objectivity or fairness of the examination process;".

PERSONAL PRIVACY

SEC. . Section 552(b)(6) of title 5, United States Code, is amended to read as follows:

"(6) records or information concerning individuals, including compilations or lists of names and addresses that could be used for solicitation purposes, the release of which could reasonably be expected to constitute a clearly unwarranted invasion of personal privacy;".

LAW ENFORCEMENT

SEC. . (a) Section 552(b)(7) of title 5, United States Code, is amended to read as follows:

"(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any natural person;".

(b) Section 552(a) of title 5, United States Code, is amended by adding after paragraph (8) thereof the following new paragraph:

"(9) Nothing in this section shall be deemed applicable in any way to the informant records maintained by a law enforcement agency under an informant's name or personal identifier, whenever access to such records is sought by a third party according to the informant's name or personal identifier.".

ADDITIONAL EXEMPTIONS

SEC. . Section 552(b) of title 5, United States Code, is amended by striking out "or" at the end of paragraph (8), by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; or", and by adding the following new paragraph after paragraph (9):

"(10) records or information maintained or originated by the Secret Service in connection with its protective functions to the extent that the production of such records or information could reasonably be expected to adversely affect the Service's ability to perform its protective functions.".

REASONABLY SEGREGABLE

SEC. . Section 552(b) of title 5, United States Code, is amended by adding after the last sentence thereof the following: "In determining which portions are reasonably segregable in the case of records containing material covered by paragraph (1) or (7) of this subsection, the agency may consider whether the disclosure of particular information would, in the context of other information available to the requester, cause the harm specified in such paragraph.".

PROPER REQUESTS

SEC. . Section 552(a)(3) of title 5, United States Code, is amended to read as follows:

"(3)(A) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, upon any request by a requester who is a United States person for records which (i) reasonably describes such records and (ii) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to the requester.

"(B) The time limits prescribed in subparagraph (A) of paragraph (6) shall be tolled whenever the requester (or any person on whose behalf the request is made) is a party to any ongoing judicial proceeding or administrative adjudication in which the Government is also a party and may be requested to produce the records sought. Nothing in this subparagraph shall be construed to bar (i) a request for any records which are not related to the subject matter of such pending proceeding, or (ii) a request for any records which have been denied to a party in the course of a judicial proceeding or administrative adjudication that is no longer pending.

"(C) The Attorney General, in accordance with public rulemaking procedures set forth in section 553 of this title, may by regulation prescribe such limitations or conditions on the extent to which and on the circumstances or manner in which records requested under this paragraph or under section 552a of this title shall be made available to requesters who are persons imprisoned under sentence for a felony under Federal or State law or who are reasonably believed to be requesting records on behalf of such persons, as he finds to be (i) appropriate in the interests of law enforcement, or foreign relations or national defense, or of the efficient administration of this section, and (ii) not in derogation of the public information purposes of this section.".

ORGANIZED CRIME

SEC. . Section 552 of title 5, United States Code, is amended by adding a new subsection (c) as follows and redesignating the current subsections (c), (d), and (e) as (d), (e), and (f) respectively.

"(c) Nothing in this section shall be deemed applicable to documents compiled in any lawful investigation of organized crime, designated by the Attorney General for the purposes of this subsection and conducted by a criminal law enforcement authority for law enforcement purposes, if the requested document was first generated or acquired by such law enforcement authority within five years of the date of the request, except where the agency determines pursuant to regulations promulgated by the Attorney General that there is an overriding public interest in earlier disclosure or in longer exclusion not to exceed three years. Notwithstanding any other provision of law, no document described in the preceding sentence may be destroyed or otherwise disposed of until the document is available for disclosure in accordance with subsections (a) and (b) of this section for a period of not less than ten years.".

REPORTING UNIFORMITY

SEC. . Section 552(e) of title 5, United States Code (as redesignated), is amended—

(1) by striking out "calendar" the second and fourth places it appears and inserting in lieu thereof "fiscal";

(2) by striking out "March" each place it appears and inserting in lieu thereof "December";

(3) in paragraph (4), by striking out "subsection (a)(4)(F)" and inserting in lieu thereof "subsection (a)(4)(I)"; and

(4) in the next to last sentence, by striking out "subsections (a)(4) (E), (F), and (G)" and inserting in lieu thereof "subsections (a)(4) (H), (I), and (J)".

DEFINITIONS

SEC. . Section 552(f) of title 5, United States Code (as redesignated), is amended to read as follows:

"(f) For purposes of this section—

"(1) 'agency' means any executive department, military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency;

"(2) 'submitter' means any person who has submitted to an agency (other than an intelligence agency), or provided an agency access to, trade secrets, or commercial, research, or financial information (other than personal financial information) in which the person has a commercial or proprietary interest;

"(3) 'requester' means any person who makes or causes to be made, or on whose behalf is made, a proper request for disclosure of records under subsection (a);

"(4) 'United States person' means a citizen of the United States or an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(20)), an unincorporated association a substantial number of members of which are citizens of the United States or aliens lawfully admitted for permanent residence, or a corporation which is incorporated in the United States, but does not include a corporation or an association that is a foreign power, as defined in section 101(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(a));

"(5) 'working days' means every day excluding Saturdays, Sundays, and Federal legal holidays; and

"(6) 'organized crime' means those structured and disciplined associations of individuals or of groups of individuals who are associated for the purpose of obtaining monetary or commercial gains or profits, wholly or in part by illegal means, while generally seeking to protect and promote their activities through a pattern of graft or corruption, and whose associations generally exhibits the following characteristics:

"(A) their illegal activities are conspiratorial,

"(B) in at least part of their activities, they commit acts of violence or other acts which are likely to intimidate,

"(C) they conduct their activities in a methodical or systematic and in a secret fashion,

"(D) they insulate their leadership from direct involvement in illegal activities by their organizational structure,

"(E) they attempt to gain influence in government, politics, and commerce through corruption, graft, and illegitimate means, and

"(F) they engage in patently illegal enterprises such as dealing in drugs, gambling, loan-sharking, labor racketeering, or the investment of illegally obtained funds in legitimate businesses.".

PUBLICATION OF EXEMPTION 3 STATUTES

SEC. . Section 552 of title 5, United States Code, is amended by adding a new subsection (g) as follows:

"(g) Within two hundred and seventy days of the date of the enactment of this subsection, any agency which relies or intends to rely on any statute which was enacted prior to the date of enactment of this subsection, or during the thirty-day period after such date to withhold information under subsection (b)(3) of this section, shall cause to be published in the Federal Register a list of all such statutes and a description of the scope of the information covered. The Justice Department shall also publish a final compilation of all such listings in the Federal Register upon the completion of the two-hundred-and-seventy-day period described in the preceding sentence. No agency may rely, after two hundred and seventy days after the date of enactment of this subsection, on any such statute not listed in denying a request. Nothing in this subsection shall affect existing rights of any party other than an agency.".

AMENDMENT NO. 6898

At the appropriate place, add the following:

That this amendment may be cited as the "Public School Civil Rights Act of 1983".

SEC. . The Congress finds that—

(1) the assignment of students to public schools on the basis of or with regard to race, color, or national origin by inferior Federal courts—

(A) violates constitutional and legal guarantees that individuals shall not be denied equal protection of the law;

(B) violates constitutional and legal guarantees that individual rights shall not be abridged on the basis of race, color, or national origin;

(C) has failed to demonstrate educational benefits commensurate with the disruption caused by such assignment;

(D) has failed to demonstrate social benefits commensurate with the disruption caused by such assignment;

(E) has contributed to a significant deterioration of public schools in the districts subject to such orders regarding assignment by inducing large numbers of families to migrate away from such districts;

(F) has contributed to the deterioration of public education by removing the neighborhood school as the focus of such education;

(G) has disrupted the education of countless schoolchildren who must endure lengthy transportation to and from school each day, and, as a result, must often forego participation in extracurricular activities occurring after school;

(H) has eroded community commitment to public schools and public education;

(I) interferes with the right of parents to make decisions regarding the education of their children;

(J) disrupts racial harmony by characterizing and classifying students on the basis of race or color and assigning them to schools on such basis;

(K) diverts significant amounts of financial resources away from direct improvement of the quality of education;

(L) usurps the responsibilities and traditional functions of State and local authorities to provide an educational system meeting the distinct needs of the community; and

(M) undermines public respect for the Government and its system of administering law and justice;

(2) past unconstitutional segregation, such as racial segregation enforced by law, is not a significant cause of existing racial imbalances in public schools,

(3) since assignment of students to public schools on the basis of or with regard to race cannot be justified as a means of preventing or undoing racial discrimination by school authorities, such assignment is itself an unjustifiable practice of racial discrimination by the Government in violation of the fourteenth amendment; and

(4) whatever the basic cause of racial imbalance in the public schools, assignment of students to public schools on the basis of or with regard to race, color, or national origin results in more segregation of the races by inducing large numbers of families to migrate away from school systems subject to such assignment or by inducing large numbers of families to seek alternatives to public school education.

SEC. . (a) The Congress finds the remedies listed in subsection (b) are available for unconstitutional segregation exclusive of court orders which assign students to public schools on the basis of or with regard to race, color, or national origin, finding that such orders themselves have the effect of excluding students from public schools on the basis of or with regard to race, color, or national origin.

(b) The remedies which the Congress finds are available are—

(1) legal injunctions suspending all implementation of a segregative law or other racially discriminatory Government action;

(2) contempt of court proceedings where such injunctions are not scrupulously obeyed;

(3) programs without coercion or numerical quotas or specific goals based on racial balance that permit students to voluntarily transfer to other schools within the school district where they reside; and

(4) other local initiatives and plans to improve education for all students without regard to race, color, or national origin.

SEC. . The Congress, pursuant to its authority and powers granted under article III of the Constitution, and under section 5 of the fourteenth amendment to the Constitution, enacts the provisions of this Act in order to protect public school students against discrimination on the basis of or with regard to race, color, or national origin.

SEC. . Section 1343 of title 28, United States Code, is amended by designating the current language as section (a) and adding at the end thereof the following:

"(b)(1) Notwithstanding any other provision of law, no inferior court established by Congress shall have jurisdiction to issue any order requiring the assignment or transportation of any student to public elementary or secondary schools on the basis of or with regard to race, color, or national origin or to isssue any order which excludes any student from any public school on the basis of or with regard to race, color, or national origin.

"(2) In the case of court orders entered prior to the date of this Act that require the assignment or transportation of any student to a public elementary or secondary school on the basis of or with regard to race, color, or national origin or which excludes any student from any school on the basis of or with regard to race, color, or national origin, any individual or school board or other school authority subject to such an order shall be entitled to seek relief from such order in any court and unless that court can make conclusive findings based on clear and convincing evidence that—

"(1) the acts that gave rise to the existing court order intentionally and specifically caused, and in the absence of the order would continue intentionally and specifically to cause, students to be assigned to or excluded from public schools on the basis of or with regard to race, color, or national origin; for purposes of this finding, these 'acts that gave rise to the existing court order and intentionally and specifically caused, and in the absence of the order would continue intentionally and specifically to cause, students to be assigned to or excluded from public schools on the basis of race, color, or national origin' (including but not limited to school district reorganization, school boundary line changes, school construction, and school closings) shall not include legitimate efforts to employ public education resources to meet public education needs without regard to race, creed, or national origin,

"(2) the totality of circumstances have not changed since issuance of the order to warrant reconsideration of the order,

"(3) no other remedy, including those mentioned herein, would preclude the intentional and specific segregation,

"(4) the economic, social, and educational benefits of the order have clearly outweighed the economic, social, and educational costs of the order, and

"(5) either (a) the total actual daily time consumed in travel by schoolbus for any student does not exceed thirty minutes unless such transportation is to and from a public school closest to the student's residence with a grade level identical to that of the student; or

"(b) the total actual round trip distance traveled by schoolbus for any student does not exceed 10 miles unless the actual round trip distance traveled by schoolbus is to and from the public school closest to the student's residence with a grade level identical to that of the student, then such plaintiffs shall be entitled to relief which is consistent with the provisions of this subsection and the Public School Civil Rights Act of 1981 from such order.".

SEC. . Chapter 89 of title 28 of the United States Code (relating to district courts' removal of cases from State courts) is amended by adding after section 1455(c) the following new subsection:

"(d) A civil action in any State court seeking a judgment for any relief described in this Act may not be removed to any district court of the United States.".

AMENDMENT No. 6899

At the appropriate place, add the following:

That this amendment may be cited as the "Youth Employment Opportunity Wage Act of 1984".

STATEMENT OF FINDINGS AND PURPOSES

SEC. . (a) The Congress hereby finds that one of the Nation's most serious and longstanding problems is providing adequate employment opportunities for our young people; the Congress finds, as well, that many youth are unemployed because they lack the job skills to earn the minimum wage which has the effect of pricing unskilled youth out of the job market.

(b) The Congress finds that a youth employment opportunity wage could make it possible for employers to expand job opportunities for young people during a period of special need—when young people are looking for summer jobs. The Congress also finds that such a program has never been adequately tested and that there should be a demonstration period for a youth employment opportunity wage in order to allay any doubts as to the ameliorative impact of the youth wage. The purpose of this legislation is to provide a period during which a youth employment opportunity wage can be paid by employers, and evaluated for its effectiveness in creating employment opportunities and helping young people develop job skills.

SEC. . Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) is amended by adding a new subsection at the end thereof to read as follows:

"(g) Notwithstanding any provision of this Act (except for the first sentence of section 18(a)), during the period from May 1 through September 30 of each year, an employer may employ any person who is under 20 years of age at a wage not less than $2.50 per hour or 75 per centum of the otherwise applicable wage rates established pursuant to this section, section 8 or subsection (e) of section 5, whichever is less. No special certificate shall be required under section 14 for an employee who is employed in accordance with this subsection. All references in any other law to the Federal minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938 shall be interpreted as referring to the wage established by this subsection (g) with respect to the employment herein covered. This subsection shall not affect requirements for compliance with applicable child laws or recordkeeping requirements. This subsection shall only be applicable to hours worked by eligible employees in compliance with applicable child labor laws. This subsection shall not, with respect to any year, be applicable to any youth who has been employed by the employer at any time during the 90-day period prior to May 1 of such year. No employer shall discharge, transfer or demote any employee of such employer who is ineligible for the wage established by this subsection, on account of such ineligibility, for the purpose of employing a person eligible for such wage, and any such discharge, transfer or demotion shall be deemed a violation of section 15(a)(3)."

SEC. . Subsection (a) of section 142 of the Job Training Partnership Act (29 U.S.C. 1552) is amended by adding a new paragraph after paragraph (3) to read as follows:

"(4) Notwithstanding paragraphs 2 and 3 of this subsection, individuals who would be paid wages during the period from May 1 through September 30 of any calendar year

who have not attained 20 years of age before May 1 of the year shall be paid at not less than the higher of (A) the minimum wage provided under section 6(g) of the Fair Labor Standards Act, or (B) the minimum wage under the applicable State or local minimum wage law.".

SEC. . The amendments made by this Act shall not apply with respect to hours worked after September 30, 1987.

SEC. . The Secretary of Labor shall monitor the implementation of this Act and shall prepare and submit to the Congress a report concerning the employment effects of the youth employment opportunity wage, and such other information and recommendations as the Secretary of Labor determines to be appropriate.

AMENDMENT NO. 6900

At the appropriate place, add the following:

That this Act may be cited as the "Respect Human Life Act of 1983".

SEC. . The Congress finds that—

(a) it is the policy of the Government of the United States to protect innocent life, both before and after birth, and that the Government of the United States affirms that all human beings are endowed by their Creator with certain unalienable rights among which is the right to life, as embodied in our Declaration of Independence;

(b) the American Convention on Human Rights of the Organization of American States in 1969 affirmed that every person has the right to have his life protected by law from the moment of conception and that no one shall be arbitrarily deprived of life;

(c) the Declaration of the Rights of the Child of the United Nations in 1959 affirmed that every child needs appropriate legal protection before as well as after birth;

(d) at the Nurenberg International Military Tribunal for the trial of war criminals the promotion of abortion among minority populations, especially the denial of the protection of the law to the unborn children of Russian and Polish women, was considered a crime against humanity;

(e) as early as 1859 the American medical profession affirmed the independent and actual existence of the child before birth as a living being and condemned the practice of abortion at every period of gestation as the destruction of human life;

(f) scientific evidence demonstrates the life of each human being begins at conception;

(g) the Supreme Court of the United States in the case of Roe against Wade erred in not recognizing the humanity of the unborn child and the compelling interest of the several States in protecting the life of each person before birth;

(h) the Supreme Court of the United States in the case of Roe against Wade erred in excluding unborn children from the safeguards afforded by the equal protection and due process provisions of the Constitution of the United States; and

(i) a growing tolerance of infanticide in America has followed the "quality of life" ethic as was established by the United States Supreme Court in the Roe against Wade decision, and as recently evidenced by the starvation death of an innocent handicapped newborn child in Bloomington, Indiana.

SEC. . No agency of the United States shall perform abortions, except when the life of the mother would be endangered if the child were carried to term.

SEC. . No funds appropriated by Congress shall be used to perform abortions, to reimburse or pay for abortions, or to refer for abortions, except when the life of the mother would be endangered if the child were carried to term.

SEC. . No agency of the United States shall promote, encourage, counsel, refer, pay for, including travel expenses, or assist in the performance of abortions abroad as a matter of our foreign policy, except when the life of the mother would be endangered if the child were carried to term.

SEC. . The United States shall not enter into any contract of insurance that provides for payment or reimbursement for abortions other than when the life of the mother would be endangered if the child were carried to term.

SEC. . No institution that receives Federal financial assistance shall discriminate against any employee, applicant for employment, student, or applicant for admission as a student, on the basis of that person's opposition to abortion or refusal to counsel or assist in the performance of abortions.

SEC. . No institution that receives Federal financial assistance shall withhold from a handicapped infant nutritional sustenance or medical or surgical treatment required to correct a life threatening condition if: (1) the withholding is based on the fact that the infant is handicapped; and (2) the handicap does not render treatment medically contraindicated. Any institution or agency in violation of such restrictions shall be denied any further Federal assistance.

SEC. . In light of the provisions of this title, and to expedite Supreme Court consideration of the interest of the States in protecting the lives of all human beings within their jurisdiction, if any State enforces or enacts legislation which prohibits or restricts abortions or infanticide and such legislation is invalidated by interlocutory or final order of any court of the United States, any party to such case shall have a right to direct appeal to the Supreme Court of the United States, under the same provisions as govern appeals pursuant to section 1252 of title 28, United States Code, notwithstanding the absence of the United States as a party to such case. Notwithstanding any other provision of Federal law, attorneys' fees shall not be allowable in any civil action involving, directly or indirectly, the provisions of this title.

SEC. . If any provision of this title or the application thereof to any person or circumstances is judicially determined to be invalid, the validity of the remainder of this title and the application of such provision to other persons and circumstances shall not be affected by such determination.

AMENDMENT NO. 6901

At the appropriate place, add the following:

SEC. . Chapter 1 of Title 18, United States Code, is amended by adding at the end thereof the following:

"§ 20. Insanity defense

"(a) STATE OF MIND.— It shall be a defense to a prosecution under any Federal statute, that the defendant, as a result of mental disease or defect, lacked the state of mind required as an element of the offense charged. Mental disease or defect does not otherwise constitute a defense.

"(b) APPLICATION OF THIS SECTION.— This section applies to prosecutions under any Act of Congress other than—

"(1) an Act of Congress applicable exclusively in the District of Columbia;

"(2) the Canal Zone Code; or

"(3) the Uniform Code of Military Justice (10 U.S.C. 801 et seq.).

"§ 21. Determination of the existence of insanity at the time of the offense

"(a) MOTION FOR PRETRIAL PSYCHIATRIC EXAMINATION.—Upon the filing of a notice, as provided in rule 12.2 of the Federal Rules of Criminal Procedure, the court, upon motion of the attorney for the Government, may order that a psychiatric examination of the defendant be conducted, and that a psychiatric report be filed with the court pursuant to the provisions of section 24 (b) and (c).

"(b) SPECIAL VERDICT.— If the issue of insanity is raised by notice as provided in rule 12.2 of the Federal Rules of Criminal Procedure on a motion by the defendant or by the attorney for the Government, or on the court's own motion, the jury shall be instructed to find, or, in the event of a nonjury trial, the court shall find, the defendant—

"(1) guilty;

"(2) not guilty; or

"(3) not guilty only by reason of insanity.

"§ 22. Hospitalization of a person acquitted by reason of insanity

"(a) DETERMINATION OF PRESENT MENTAL CONDITION OF ACQUITTED PERSON.—If a person is found not guilty only by reason of insanity at the time of the offense charged, he shall be committed to a suitable facility until such time as he is eligible for release pursuant to subsection (d) of this section. The court shall order a hearing to determine whether the person is currently suffering from a mental disease or defect and that his release would create a significant risk of bodily injury to another person or serious damage to property of another.

"(b) PSYCHIATRIC EXAMINATION AND REPORT.—Prior to the date of the hearing, the court shall order that a psychiatric examination of the defendant be conducted, and that a psychiatric report be filed with the court, pursuant to the provisions of section 24 (b) and (c).

"(c) HEARING.—The hearing shall be conducted pursuant to the provisions of section 24(d), and shall be conducted not later than forty days after the date of the finding of guilty only by reason of insanity.

"(d) DETERMINATION AND DISPOSITION.—If, after the hearing, the court finds by clear and convincing evidence that the acquitted person is currently suffering from a mental disease or defect and that his release would create a significant risk of bodily injury to another person or serious damage to property of another, the court shall commit the person to the custody of the Attorney General. The Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried if such State will assume responsibility for his custody, care, and treatment. The Attorney General shall make all reasonable efforts to cause such a State to assume such responsibility. If, notwithstanding such efforts, neither such State will assume such responsibility, the Attorney General shall hospitalize the person for treatment in a suitable facility until—

"(1) such a State will assume such responsibility; or

"(2) the person's mental condition is such that his release would not create a significant risk of bodily injury to another person or serious damage to property of another;

whichever is earlier. The Attorney General shall continue periodically to exert all reasonable efforts to cause such a State to assume such responsibility for the person's custody, care, and treatment.

"(e) DISCHARGE FROM SUITABLE FACILITY.—When the director of a facility determines that an acquitted person, hospitalized pursuant to subsection (d), has recovered from his mental disease or defect to such an extent that his release would no longer create a significant risk of bodily injury to another person or serious damage to property of another, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to such person's counsel and to the attorney for the Government. The court shall order the discharge of the acquitted person or, on the motion of the attorney for the Government or on its own motion, shall hold a hearing, conducted pursuant to the provisions of section 24(d), to determine whether he should be released. If, after the hearing, the court finds by a preponderance of evidence that the person has recovered from his mental disease or defect to such an extent that his release would no longer create a significant risk of bodily injury to another person or serious damage to property of another, the court shall order his immediate discharge.

"§ 23. Hospitalization of a convicted person suffering from mental disease or defect

"(a) MOTION TO DETERMINE PRESENT MENTAL CONDITION OF CONVICTED DEFENDANT.—A defendant found guilty of an offense, or the attorney for the Government, may, within ten days after the defendant is found guilty, and prior to the time the defendant is sentenced, file a motion for a hearing on the present mental condition of the defendant. Such motion must be supported by substantial information indicating that the defendant may currently be suffering from a mental disease or defect and that he is in need of custody for care or treatment in a suitable facility for such disease or defect. The court shall grant the motion, or at any time prior to the sentencing of the defendant shall order a hearing on its own motion if the court deems that there is reasonable cause to believe that the defendant may currently be suffering from a mental disease or defect and that he is in need of custody for care or treatment in a suitable facility.

"(b) PSYCHIATRIC EXAMINATION AND REPORT.—Prior to the date of the hearing, the court may order that a psychiatric examination of the defendant be conducted, and that a psychiatric report be filed with the court, pursuant to the provisions of section 24 (b) and (c). In addition to the information required to be included in the psychiatric report pursuant to the provisions of section 24(c), if the report includes an opinion by the examiners that the defendant is currently suffering from a mental disease or defect but that such disease or defect does not require his custody for care or treatment, the report shall also include an opinion by the examiner concerning the sentencing alternatives that could best provide the defendant with the kind of treatment needed.

"(C) HEARING.—The hearing shall be conducted pursuant to the provisions of section 24(d).

"(d) DETERMINATION AND DISPOSITION.—If, after the hearing, the court finds by a preponderance of evidence that the defendant is presently suffering from a mental disease or defect and that he should, in lieu of being sentenced to probation or imprisonment, be committed to a suitable facility for care or treatment, the court shall commit the defendant to the custody of the Attorney General. The Attorney General shall hospitalize the defendant for care or treatment in a suitable facility. Such a commitment constitutes a provisional sentence to the maximum term authorized by law for the offense of which the defendant was found guilty.

"(e) DISCHARGE FROM SUITABLE FACILITY.—When the director of the facility determines that the defendant, hospitalized pursuant to subsection (d), has recovered from his mental disease or defect to such an extent that he is no longer in need of custody for care or treatment in such a facility, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the defendant's counsel and to the attorney for the Government. If, at the time of the filing of the certificate, the provisional sentence imposed pursuant to subsection (d) has not expired, the court shall proceed finally to sentencing, and may modify the provisional sentence.

"§ 24. General provisions

"(a) DEFINITIONS.—As used in this title—

"(1) 'insanity' means a mental disease on defect of a nature constituting a defense to a Federal criminal prosecution; and

"(2) 'suitable facility' means a facility that is suitable to provide care or treatment given the nature of the offense and the characteristics of the defendant.

"(b) PSYCHIATRIC EXAMINATION.—A psychiatric examination ordered pursuant to this title shall be conducted by a licensed or certified psychiatrist, or a clinical psychologist and a medical doctor, or, if the court finds it appropriate, by additional examiners. Each examiner shall be designated by the court if the examination is ordered under section 21, 22, or 23. For the purposes of an examination pursuant to an order under section 23, the court may commit the person for a reasonable period not exceeding thirty days, in order to conduct such examination, or pursuant to section 21 or 22, the court may commit such person to the custody of the Attorney General for placement in a suitable facility for a reasonable period, but not to exceed forty days. Unless impracticable, the psychiatric examination shall be conducted in the suitable facility closest to the court. The director of the facility may apply for a reasonable extension not exceeding fifteen days under section 23, or not exceeding twenty days under section 21 or 22, upon a showing of good cause that additional time is necessary to observe and evaluate the defendant.

"(c) PSYCHIATRIC REPORTS.—A psychiatric report ordered pursuant to this title shall be prepared by the examiner designated to conduct the psychiatric examination, shall be filed with the court with copies provided to the counsel for the person examined and to the attorney for the Government, and shall include—

"(1) the person's history and present symptoms;

"(2) a description of the psychological and medical tests employed and their results;

"(3) the examiner's findings; and

"(4) The examiner's opinions as to diagnosis, prognosis, and—

"(A) if the examination is ordered under section 21, whether the person was insane at the time of the offense charged;

"(B) if the examination is ordered under section 22, whether the person is currently suffering or in the reasonable future is likely to suffer from a mental disease or defect which would create a significant risk of bodily injury to another person or serious damage to property of another; or

"(C) if the examination is ordered under section 23, whether the person is currently suffering or in the reasonable future is likely to suffer from a mental disease or defect for which he is in need of custody in a suitable facility for care or treatment.

"(d) HEARING.—At a hearing ordered pursuant to this title the person whose mental condition is the subject of the hearing shall be represented by counsel and, if he is financially unable to obtain adequate representation, counsel shall be appointed for him pursuant to law. The person shall be afforded an opportunity to testify, to present evidence, to subpena witnesses on his behalf, and to confront and cross-examine witnesses who appear at the hearing.

"(e) PERIODIC REPORT AND INFORMATION REQUIREMENTS FOR SUITABLE FACILITIES.—(1) The director of the facility in which a person is hospitalized pursuant to section 22 or 23, shall prepare annual reports concerning the mental condition of such person, and shall make recommendations concerning the need for his continued hospitalization. The reports shall be submitted to the court that ordered the person's commitment to the facility, and copies of the reports shall be submitted to such other persons as the court may direct.

"(2) The director of the facility in which a person is hospitalized pursuant to section 22, 23, or 24, shall inform such person of any rehabilitation programs that are available for persons hospitalized in that facility.

"(f) ADMISSIBILITY OF A DEFENDANT'S STATEMENT AT TRIAL.—A statement made by the defendant during the course of a psychiatric examination pursuant to section 21 is not admissible as evidence against the accused on the issue of guilt in any criminal proceeding, but is admissible on the issue of whether or not the defendant suffers from a mental disease or defect.

"(g) HABEAS CORPUS UNIMPAIRED.—Nothing contained in section 22 precludes a person who is committed under such section from establishing by writ of habeas corpus the illegality of his detention.

"(h) DISCHARGE FROM SUITABLE FACILITY.—Regardless of whether the director or the facility in which a person is hospitalized has filed a certificate pursuant to the provisions of subsections (e) of either section 22 or 23, counsel for the person or his legal guardian may, during such person's hospitalization, file a motion with the court ordering such commitment for a hearing to determine whether the person should be discharged from such facility. Such motion may be filed at any time except that no such motion may be filed at any time except that no such motion may be filed within one hundred and eighty days after a court determines that the person should continue to be hospitalized. A copy of the motion shall be sent to the director of the facility in which the person is hospitalized and to the attorney for the Government.

"(i) AUTHORITY AND RESPONSIBILITY OF THE ATTORNEY GENERAL.—(1) Before a person is placed in a suitable facility pursuant to section 22 or 23, the Attorney General shall request the director of each facility under consideration to furnish information describing rehabilitation programs that would be available to such person, and, in making

a decision as to the placement of such person, shall consider the extent to which the available programs would meet the needs of such person.

"(2) The Attorney General may contract with a State, a locality, or a private agency for the confinement, hospitalization, care, or treatment of, or the provision of services to, a person committed to his custody pursuant to this title.".

(b) The table of sections for chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following:

"20. Insanity defense.
"21. Determination of the existence of insanity at the time of the offense.
"22. Hospitalization of a person acquitted by reason of insanity.
"23. Hospitalization of a convicted person suffering from mental disease or defect.
"24. General provisions.".

BRADLEY (AND OTHERS) AMENDMENT NO. 6902

(Ordered to lie on the table.)

Mr. BRADLEY (for himself, Mr. MOYNIHAN, and Mr. MITCHELL) submitted an amendment intended to be proposed by him to the joint resolution (H.J. Res. 648), supra; as follows:

Strike out the table contained on pages 32 and 33, and insert in lieu thereof the following new table:

"In the case of: The tax (before any inflation adjustment) is the following amount per ton:

	Sales during 1985	Sales after 1985
Organic Chemicals:		
Acetylene	8.83	10.23
Benzene	6.60	8.80
Butadiene	9.79	10.23
Butane	4.87	5.60
Butylene	5.15	6.87
Ethylene	6.89	9.19
Methane	3.44	3.44
Napthalene	6.89	9.19
Propylene	5.87	7.82
Toluene	5.19	6.92
Xylene	7.70	10.23
Inorganic Chemicals:		
Ammonia	2.64	3.52
Antimony	9.34	9.34
Antimony trioxide	7.87	7.88
Arsenic	9.34	9.34
Arsenic trioxide	7.16	7.16
Barium sulfide	4.83	4.83
Bromine	9.34	9.34
Cadmium	9.34	9.34
Chlorine	3.05	4.07
Chromite	1.52	1.52
Chromium	9.34	9.34
Cobalt	9.34	9.34
Cupric oxide	7.54	7.54
Cupric sulfate	3.93	3.93
Cuprous oxide	8.34	8.34
Hydrochloric acid	0.61	0.61
Hydrogen fluoride	8.88	8.88
Lead	8.27	11.03
Mercury	9.34	9.34
Nickel	9.34	9.34
Nitric acid	0.50	0.50
Phosphorus	9.34	9.34
Potassium dichromate	3.55	3.55
Potassium hydroxide	0.46	0.46
Sodium dichromate	3.93	3.93
Sodium hydroxide	0.59	0.59
Stannic chloride	4.45	4.45
Stannous chloride	5.98	5.98
Sulfuric acid	0.55	0.55
Zinc chloride	4.66	4.66
Zinc sulfate	3.99	3.99

ADDITIONAL STATEMENTS

THE U.S. CONGRESS TAKES POSITIVE ACTION IN THE CREATION OF OUR INSTITUTE OF PEACE

● Mr. RANDOLPH. Mr. President, in the early morning hours of last Tuesday, House and Senate conferees on the Defense authorization bill approved a proposal to establish a U.S. Institute of Peace. The conferees worked diligently among themselves and with the staff, modifying a Senate passed amendment for a U.S. Academy of Peace to make it acceptable to the Conference Committee.

On Thursday, the Senate approved the DOD conference report, following House action on Wednesday. This action clears the way for the President's signature on the measure.

On Thursday, it was my privilege to express appreciation to the Senator from Georgia [Mr. NUNN] for his effective efforts to secure enactment of a U.S. Institute of Peace. His work was constructive and meaningful.

I take this opportunity to call attention to the affirmative action of other Members of the Senate and House on the bill.

It was through the initiative and concern of the Senator from Oregon [Mr. HATFIELD] that we were able to amend the DOD authorization bill on June 21, 1984 to include provisions for a U.S. Academy of Peace. Senator HATFIELD was joined by the Senator from Hawaii [Mr. MATSUNAGA], many other Senators and myself in sponsoring the amendment. The Peace Institute would not be going to the President for signature were it not for the constant devotion of Senator HATFIELD and Senator MATSUNAGA who also served as chairman of the National Commission which recommended establishment of the Peace Academy. I commend them.

The history of the U.S. Institute of Peace is a long and arduous one, with many Senate and House Members exercising crucial roles at various times.

There were members of the Senate Labor and Human Resources Committee and the Education Subcommittee, who helped bring the bill out of committee so that it could be passed by the full Senate.

I thank the chairman of our Committee on Labor and Human Resources, Senator ORRIN G. HATCH, and our esteemed Education Subcommittee chairman, ROBERT STAFFORD, for holding hearings on S. 564 and expediting the subcommittee and full committee markups that led to the reporting of the bill.

Senator ROBERT STAFFORD was an original cosponsor, as well as a strong supporter throughout the committee process. Although Senator HATCH did not cosponsor the legislation, it was his 17 amendments adopted in committee that strengthened the bill and assured that it would be reported favorably.

To my friend and the ranking minority member of the Education Subcommittee, Senator CLAIBORNE PELL, I express special thanks. Senator PELL an original cosponsor of S. 564, But he as much more.

In 1976, a bill was introduced by former Senator Vance Hartke of Indiana to create George Washington Academy of Peace, on which Senator PELL conducted hearings. Based on that testimony PELL suggested the creation of a blue-ribbon commission to study the need and feasibility of establishing a Peace Academy and if so, how?

Subsequently, I introduced S. 469 creating the Commission. This proposal was adopted as an amendment to the 1978 Elementary and Secondary Education Act amendments. Once the nine members of that Commission were appointed, they selected as their chairman the hard working Senator SPARK MATSUNAGA. Senator MATSUNAGA and his commission held 12 hearings nationwide, and from literally hundreds of pages of testimony, their report and draft bill, submitted in October 1981, showed a need for such an academy and how it would be structured and operated. The Labor and Human Resources Committee reported a bill, S. 1889 in 1982, but no action was taken by the Senate. In the 98th Congress, the measure, S. 564, was reported in September 1983.

Unfortunately, Mr. President, we were not able to advance this committee reported bill to the floor of the Senate. It was then that my cherished friend and sponsor of the legislation, Senator MARK HATFIELD, took the responsibility of offering the bill, with a major modification, as an amendment to the Defense authorization bill. The Hatfield amendment, modified the Peace Academy as reported, by dropping the authority for the academy to receive private gifts and contributions. This amendment, agreed to by cosponsors of the bill, was done to alleviate the concerns of Senator GORDON HUMPHREY of New Hampshire. Senator HUMPHREY had said that if we could accommodate his concern in the area

of private donations to the academy, he would not only support the amendment in conference on the DOD bill, but that he would add his name as a cosponsor.

Mr. President, at the conclusion of these remarks, I shall insert the names of the 56 cosponsors of this legislation, including Senator HUMPHREY, prior to its adoption by the Conference Committee. I also thank Senator ROGER JEPSEN not only for his original support for S. 564, but for his support as a member of the Defense Authorization Conference Committee.

My cooperative colleagues in the House, such as DAN GLICKMAN, the principal sponsor of the House companion bill, H.R. 1249 which has 178 cosponsors, worked with the conferees and staff to modify the language in the amendment so that it would be acceptable to a majority of the conferees. He knows I am deeply grateful. Representative DANTE FASCELL, chairman of the House Foreign Affairs Committee and a staunch supporter of the Peace Academy—or Institute—bill, worked increasingly to help develop approved language in the conference. I am very grateful to him also, and to Representatives HAMILTON, YATRON, SOLARZ, BONKER, MICA, and PRITCHARD who serve with Chairman FASCELL.

The conferees from the House Education and Labor Committee, particularly its Chairman GUS HAWKINS, and Representatives WILLIAM D. FORD of Michigan, IKE ANDREWS of North Carolina, and PAUL SIMON of Illinois, a long time sponsor of House legislation to create the academy, were also crucial votes in favor of the bill, and I thank them. From the House Armed Services Committee conferees, we are indebted to Representative LES ASPIN, who worked closely with other members and staff to fashion the modifications to the amendment, and to Representative RON DELLUMS, and Representative CHARLES BENNETT, Representative SONNY MONTGOMERY, Representative MARJORIE HOLT, and others who were House Armed Services conferees.

On Thursday, in brief remarks, I expressed my genuine thanks to Senator SAM NUNN, ranking minority member of the Senate Armed Services Committee, for his assistance during the conference on the peace initiative.

But Senator NUNN was flanked by his Democratic colleagues on the Armed Services Committee who gave unstintingly of their time and effort to protect our amendment, and without their help it would never have been possible. I wish to express thanks to Senator EDWARD KENNEDY, Senator ALAN DIXON, Senator GARY HART, Senator JAMES EXON, Senator CARL LEVIN, and Senator JEFF BINGAMAN. On the majority side of the Armed Services Committee conferees, who gave their support to the Peace Academy to Senators HUMPHREY and JEPSEN mentioned earlier, I add Senator WILLIAM COHEN who also voted in favor of the Peace Institute amendment.

The majority leader of the Senate [Mr. BAKER] and the minority leader of the Senate [Mr. BYRD] cooperated in providing the opportunity for the consideration of this Peace proposal as an amendment to the Defense authorization measure.

Mr. President I mention our colleagues by name, not only because it was through their long efforts that brought the Peace Institute to reality, but because it shows a strong bipartisan support in both the House and Senate for the only peace initiative enacted by the Congress this year.

Many of us are aware that the American public is not too sure whether we who vote for defense spending, care very much about peace. We do. We always have. We do not want to go to war—conventional or nuclear—but we must be prepared to go to the battlefields if we must to protect our own Nation, and other Nations who rely on us for crucial support.

This peace initiative—the U.S. Institute for Peace—is a strong message to the American people and peoples abroad that we possess the resolve to defend ourselves, to protect the collective national security not just through our warmaking capability, but wherever and whenever possible to defend ourselves and others through nonviolent, nonmilitary responses to global conflicts.

The Institute legislation permits the appointment of scholars and leaders in peace from the United States and abroad to pursue scholarly inquiry and other appropriate forms of communication on international peace and conflict resolution, and to enter into formal and informal relationships with other institutions, public and private for purposes of peacemaking, to conduct research and make studies on the causes of war and other international conflicts and the element of peace among the nations and peoples of the world—just to name a few of the services, activities and functions.

This peace initiative will have unlimited possibilities as it evolves and becomes more and more relevant to Government, and more and more credible in the eyes of the American public and other nations. It may well turn out to be one of the best investments this Government ever made—and our very lives may possibly depend on it.

Mr. President, I submit for the RECORD a list of Senate sponsors of the Peace Academy proposal.

56 SENATE COSPONSORS OF S. 564, JUNE 1984

Mark Andrews of North Dakota.
Max Baucus of Montana.
Joseph R. Biden, Jr. of Delaware.
Jeff Bingaman of New Mexico.
Rudy Boschwitz of Minnesota.
Bill Bradley of New Jersey.
Dale Bumpers of Arizona.
Quentin N. Burdick of North Dakota.
Robert C. Byrd of West Virginia.
John Chafee of Rhode Island.
Lawton Chiles of Florida.
Thad Cochran of Mississippi.
Alan Cranston of California.
John C. Danforth of Missouri.
Dennis DeConcini of Arizona.
Christopher J. Dodd of Connecticut.
David Durenberger of Minnesota.
Thomas F. Eagleton of Missouri.
J. James Exon of Nebraska.
Wendell H. Ford of Kentucky.
John Glenn of Ohio.
Gary Hart of Colorado.
Mark Hatfield of Oregon.
H. John Heinz III of Pennsylvania.
Ernest F. Hollings of South Carolina.
Walter D. Huddleston of Kentucky.
Daniel K. Inouye of Hawaii.
Roger W. Jepsen of Iowa.
J. Bennett Johnston, Jr. of Louisiana.
Nancy L. Kassebaum of Kansas.
Edward M. Kennedy of Massachusetts.
Frank R. Lautenberg of New Jersey.
Patrick J. Leahy of Vermont.
Carl Levin of Michigan.
Russell B. Long of Louisiana.
Charles McC. Mathias, Jr. of Maryland.
Spark M. Matsunaga of Hawaii.
John J. Melcher of Montana.
Howard Metzenbaum of Ohio.
George J. Mitchell of Maine.
Daniel Patrick Moynihan of New York.
Frank T. Murkowski of Arkansas.
Claiborne Pell of Rhode Island.
Larry Pressler of South Dakota.
David Pryor of Arizona.
Jennings Randolph of West Virginia.
Donald W. Riegel, Jr. of Michigan.
William V. Roth of Delaware.
Paul S. Sarbanes of Maryland.
Jim Sasser of Tennessee.
Alan K. Simpson of Wyoming.
Arlen Specter of Pennsylvania.
Robert T. Stafford of Vermont.
John C. Stennis of Mississippi.
Paul E. Tsongas of Massachusetts.

(Senator Gordon Humphrey of New Hampshire has agreed to become the 56th Cosponsor of the bill, S. 564, as amended.)●

IMPUTED INTEREST

● Mr. WALLOP. Mr. President, today my name was added as a cosponsor of S. 2930, a bill introduced by my colleague on the Finance Committee, Senator SYMMS, which would repeal what are generally referred to as the "imputed interest" rules passed as a part of the Tax Reform Act which we enacted just a few months ago. When the Congress enacts a 1,300-page bill in the name of tax reform it is probably inevitable that we will make a mistake along the way. Indeed, I wouldn't be all that surprised if we discover, when all is said and done, that the Tax Reform Act of 1984 contains one or two mistakes other than the one which is the subject of S. 2930.

When the conferees had completed their long, hard work on the 1984 tax bill, I reviewed the outcome of their deliberations and found few surprises other than the so-called imputed interest rules. And while those rules had their foundation not in the conference

committee, but in the Senate Finance Committee and House Ways and Means Committee, the true impact the interaction of several of the interest rate provisions we had passed would have was just beginning to come to light. The problems pointed out at that point, and the further problems which have come to light since then have served to make it clear that we, quite simply, have gone too far.

Mr. President, I am not going to suggest that there is no need for some reasonable rules regarding the necessity to impute an interest rate to certain commercial transactions. But to throw this broad blanket over nearly every transaction and say you must charge a going commercial rate of interest in almost every instance must certainly be considered overkill. Indeed, since returning from the August recess the CONGRESSIONAL RECORD has been replete with examples of the problems the new imputed interest rules are going to create, and those examples are just the ones which have been brought to Members' attention. Who knows how many others we can expect.

I have listened to the realtors, farmers, ranchers, and small businessmen in my home State of Wyoming and none of them can find a logical basis for the imputed interest rules just recently adopted, and many are just plain insulted that the Federal Government has taken it upon itself to dictate a rate of interest for legitimate commercial transactions which is just plain unrealistic in many instances. Their judgment is reasonable and is shared not only by me but by such national organizations as the National Federation of Independent Business, the Homebuilders, and the Realtors, not to mention a host of agricultural groups.

Quite frankly, it has been my hope that a legislative solution could be crafted which addressed some of the obvious problems which exist in this area. I know that Senator DOLE's staff has been working hard on a compromise which has to date, failed to yield a comfortable solution. Unfortunately time is drawing short and I feel we must seek to address this situation before the end of next week when the Senate is scheduled to adjourn sine die. Unless Senator DOLE is successful in drafting the agreement he and his staff are working very hard to achieve, the alternative is clear. We should act and act quickly to repeal the imputed interest rate rules passed as a part of the Tax Reform Act and address the issue in a timely fashion next year. The Symms bill will do that, and for that reason I am joining him in an effort to reach what appears to be one of the few reasonable alternatives we have left to consider.●

UMW PACT—TRUMKA VICTORY

● Mr. METZENBAUM. Mr. President, I want to call to the attention of the Senate the signing yesterday of a new contract between the United Mine Workers Union and the Bituminous Coal Operation Association.

This is a very important agreement—the first one reached in the past 20 years in the coal industry without a national strike.

It is a good agreement—good for the coal miners, who made gains at a time when "givebacks" have become the rule in major industries and good for the coal operators, who can now be assured of at least 40 months of stable relations between labor and management.

But above all, Mr. President, this agreement is a testimony to the skill and dedication of President Richard Trumka of the UMW.

Richard Trumka is a remarkable man—a third generation miner who earned degrees in law and accounting and then returned to the mines in order to become what he calls a "miner's lawyer."

He did more than that.

He became the Nation's youngest president of a major union.

And in negotiating this settlement in an industry that has long been plagued by enmity between labor and management, be laid to rest the fears expressed by industry officials that "young radicals" in the union leadership would promote destructive confrontation.

Mr. President, I believe that the UMW and the BCOA have done a real service to the country as well as to themselves by reaching this sound, moderate agreement. I congratulate them and ask that an article on the settlement by Peter Perl that appeared in the September 29 edition of the Washington Post be printed in the RECORD.

The article follows:

SETTLEMENT REACHED WITHOUT STRIKE: UMW PACT IS PERSONAL VICTORY FOR TRUMKA

(By Peter Perl)

The signing yesterday of a new 40-month labor contract covering more than 100,000 of the nation's coal miners represents a much-needed boost for a struggling industry, and it is a triumphant conclusion of what United Mine Workers President Richard L. Trumka describes as his personal "Olympic trials."

Trumka, 35, became the first UMW president in 20 years to conclude a coal settlement without a nationwide strike.

Miners from Alabama to Pennsylvania overwhelmingly approved a new pact with the Bituminous Coal Operators Association by an 84 percent vote.

In an interview following the BCOA contract-signing in his spacious office near the White House, Trumka, a third-generation Pennsylvania coal miner, yesterday compared his effort to an athlete's life-long training for an Olympic competition, with the one-time possibility to become a hero or a loser who quickly fades from memory.

"My whole life and my whole upbringing were channeled to this," he said describing his ambition, starting at age 12, to become a "miners' lawyer" to help people like his father, Frank, who underwent long stretches of unemployment and abuses in the mines, culminating in disabling black lung disease.

Like most boys growing up along the Monongahela River in southwestern Pennsylvania, Trumka worked in the coal mines during his school years.

Unlike most, however, he earned an accounting degree at Penn State and a law degree from Villanova, giving him credentials and a businesslike style that is dramatically different from his rough-hewn predecessors in a union known for its militance and unpredictability.

After a brief stint as a UMW lawyer, here Trumka resigned in protest, he said, because he could not support the policies of then-president Arnold Miller.

He returned to Pennsylvania and worked in the mines again to satisfy the UMW's rule that candidates for office must work five years. He then recruited a cadre of bright, young reformist miners who were eager to oust what they considered to be lackluster leaders.

As the youngest president of a major union, Trumka's success where his three predecessors failed has undoubtedly increased his status in the labor movement. But he acknowledged that it is still a preliminary victory because the once-mightly UMW—which had more than 500,000 members under the leadership of the late John L. Lewis—is still threatened by powerful forces that have left more than 30 percent of UMW members unemployed.

At yesterday's signing, BCOA's chief negotiator, Bobby R. Brown, chief executive of Consolidated Coal Co. said that the new agreement is "fair and modest" and that it would ensure the soft coal industry an 80-month stretch from 1981 to 1987 without a national strike.

"Eighty months of stability gives a clear message to our customers and competitors" that the industry will be a dependable energy source, said Brown, whose bargaining group includes 32 major coal companies which have been seriously undercut by competition with oil producers, nuclear power and foreign and domestic coal firms.

The contract calls for 10.25 percent wage increases over three years that will raise top pay to $125 a day. It includes moderate pension increases that would pay a miner as much as $525 a month after 30 years, and it improves job-security provisions to give laid-off miners a better chance of being rehired.

But the UMW, with more than 50,000 unemployed miners, failed to win broader rehiring rights or a curb on overtime, which could have created more jobs.

The BCOA retained its flexibility to apportion work and to sublease mines without what the companies would consider undue constraints.

Trumka's three predecessors were Miller and Sam Church, both regarded as unable to control the union, and W.A. (Tony) Boyle, whose iron-handed rule culminated in the 1969 murder of UMW dissident Joseph (Jock) Yablonsky, in which Boyle was convicted.

For many within the union, Trumka's election was regarded as an effort to emerge from the dark ages.

But others were suspicious of the young, reformist candidate. Industry officials warned that he would cripple the industry with hard-line approaches, whole some union opponents suggested that he was under Soviet influence.

At yesterday's signing, the BCOA's Brown concluded his remarks by turning to Trumka, shaking hands, and congratulating the union president for "the fine way you handled negotiations throughout the process," which was considered lavish praise considering the bitter labor-management feuds that had spawned six consecutive national strikes since 1964.

Trumka's success was in part a triumph of diminished expectations:

He pledged at his 1982 election not to win gains for the UMW, but to avoid concessions.

Yet even that goal was an ambitious one then, when major unions were in full retreat, as the United Auto Workers and the United Steelworkers had accepted major concessions during severe industry recessions.

Trumka is grappling with issues that are far more complex than his predecessors faced: legislation aimed at reducing "acid rain" could shut many mines and threaten an estimated 60,000 UMW jobs; a national energy policy that was to make coal the keystone for developing "synfuels" has failed to materialize; and foreign coal production in Poland, Australia, South Africa and South America is penetrating both the overseas and American markets to an unprecedented degree.

With the contract behind him, Trumka said he will push to organize the 30 percent of the industry that is nonunion and for legislation aimed at threats such as foreign coal production by American firms.

U.S.-based multinational firms are "taking American capital and technology to underdeveloped countries, exploiting workers there, and importing the coal back here," he said, while taxpayers subsidize the process through foreign investment tax credits which he said the UMW would push to change.●

VIOLENCE IN SOUTH AFRICA

● Mr. KENNEDY. Mr. President, on Thursday, violence spread all across South Africa as blacks increased their protests against the racist system of apartheid. In Port Elizabeth, Tembisa, Grahamstown, Soweto, and many other townships, riots broke out, buses were set afire, and shops and vehicles were looted. In Natal, private homes were firebombed. Meanwhile, school boycotts continued throughout the country as the unrest intensified. As they have done for the past month, the police responded with tear gas, batons, and rubber bullets.

In a Senate statement yesterday, I discussed the reasons behind the recent outbreak of violence. Essentially, nothing has changed in South Africa over the past 20 years. The country's 23 million blacks still live under the oppression of the 4.6 million whites. Poverty and suffering are still rampant, and all political channels remain closed to blacks. The South African Government not only has continued but has accelerated the forcible relocation of blacks to the homelands. The Government also refuses to grant independence to Namibia, despte the repeated attempts of Western governments to facilitate a negotiated settlement in that territory.

In all these ways, South Africa's institutionalized racism has made it an outcast among nations. Yet nothing will change in South Africa until the apartheid system is abolished, majority rule is achieved, and gross social and economic inequities are alleviated.

The South African authorities have cited minor grievances, which can be easily remedied, as the cause of the recent violence; and they have also intimated that political agitation has sparked the unrest. "But," as Prof. Lawrence Schlemmer observed in a recent column in the Washington Post, "whether the unrest is said to be due to 'agitation' or to 'mobilization' is largely a choice of words. It could not have occurred without a welling of political sentiment and grievances that have made black youth amenable to calls for demonstrations and boycotts." Whatever the importance of political mobilization and economic grievances in stimulating the unrest, it is the pervasive oppression of apartheid that is ultimately responsible for the violence.

Professor Schlemmer offers a timely and incisive analysis of the recent developments in South Africa, and I ask that his column be printed in the RECORD.

The column follows:

[From the Washington Post, Sept. 18, 1984]

SOUTH AFRICA: TIME OF VIOLENCE

(Lawrence Schlemmer)

The wheel of civil unrest has turned full circle in South Africa, and once again mobs of stonethrowing and petrol-bombing black youths are pitted against police in almost a dozen townships. The violence could yet be in its early stages, and a death toll so far of nearly 40 people may not be the end of the tragedy. As usual, most of the public commentary on the events is superficial, reflecting partisan viewpoints on both sides. The situation defies easy diagnosis.

The present unrest has had a fairly long buildup. In 1983, after two quiet years, school boycotts involving 10,000 black pupils occurred throughout the country. Up to early September of this year, well over 100,000 school pupils have been involved in a spreading pattern of boycotts and demonstrations. Six school pupils have been killed in these demonstrations, one 6 years old and one aged 14.

In the past few weeks parallel violence has broken out in black townships. Although most of those involved are also youths, the immediate issues have been rent increases and cost-of-living increases. A sharp political focus is evident in the brutal murders of four black town councilors seen to be agents of the authority. Evidence of other motives is also seen in the destruction and looting of scores of shops, 45 of them belonging to Indian traders.

Accompanying these events were other boycotts protesting the election of Indian and colored representatives for the new three-chamber parliament, which excludes Africans, during which over 600,000 colored schoolchildren and students and eight universities and colleges went out on strike. At some institutions the protests continued to coincide with the inauguration of P.W. Botha as the new executive state president.

Also coinciding with the general pattern of unrest is a running conflict between black supporters of the United Democratic Front, a nonracial federation of community organizations operating in the tradition of the banned ANC, and Inkatha under the leadership of Chief Buthelezi, head of the nonindependent homeland of Kwazulu. Individual attacks and petrol bombings of supporters' homes are currently in the news.

Add to all this the violent demonstrations by black school-children in a Natal township against an official visit by Cabinet Minister Piet Koornhof to inaugurate a new municipal authority. Over 40 incidents of violence occurred during the elections for the Indian chamber of parliament in late August. There has also been a noticeable increase in sabotage over the past four weeks.

The immediate reasons for all these events as given by spokesmen are always very specific. In the school boycotts, it is capital punishment, lack of recognition of pupil representatives, the supply of school books, the poor quality of teachers, alleged sexual misdemeanors among teachers and the exclusion of overaged pupils. In the township disturbances, the reasons given are rent increases; in the Eastern Cape, transportation problems; and in Natal, a government decision to incorporate certain townships into the Kwazulu homeland. At the universities, the protests are directed against the new constitution.

It is quite clear, however, that underlying factors and organization are more important in understanding these events than the superficial triggers. Dr. Motlana, the well-known opposition community leader in Soweto, has blamed the disenfranchisement of Africans, saying that voteless people are compelled to vote with petrol bombs. The black student organization, the Congress of South African Students (COSAS), which is most closely associated by the authorities with the school unrest, has written in a student journal that "the education struggle goes hand in hand with other struggles in society . . . we must mobilize women, students, workers and so on." On Aug. 19, at one of the nationwide first anniversary meetings of the United Democratic Front, introductory speaker Cassim Salojee observed that "a spirit of defiance against race rule is alive in the land."

Some suspicion might exist among the authorities that the United Democratic Front is directly involved in the disturbances, but this issue is complex. There was a degree of violence that could have been contagious in the days of the colored and Indian elections, and the UDF was prominent in calling for opposition to the elections. The UDF also held a prominent meeting in the township in which the recent major wave of school boycotts first started shortly afterwards. The UDF, through an affiliate, the Joint Rent Action Committee in Natal, is involved in the dispute with Inkatha. The enthusiastic response to the UDF and the rising tensions among black youth, however, may both simply be symptoms of the same underlying factors.

In attempting to assess the causes the following are relevant: The government's recent constitutional reforms, whereby white members of parliament are joined and

fomented a mood of political restiveness. Controversy over the exclusion of Africans from the new constitution and last year a furious debate over African urban rights, after which the government temporarily withdrew new legislation to control the movements and residence of Africans, has created a political climate in which simmering frustrations have come to the surface.

These developments have occurred at a time of deepening recession with rising African unemployment and sustained double-digit inflation. At a time like this, rent increases are a particularly sensitive issue. It is the African youth for whom anxiety is greatest. The pass rates in an increasingly overstressed black educational system have been falling dramatically in recent years, and unemployment among black school leaders is rising equally dramatically.

The mobilization of black youth is extensive. There are scores of committees and organizations in the black pupil community. COSAS, the major student organization, has 44 well organized branches linked with local committees. When COSAS joined the UDF, hundreds of thousands of black pupils because, fairly self-consciously, members of a national political movement with romantic similarities to those of the banned ANC.

The authorities are probably correct in claiming that political organization is behind the disturbances. No political movement anywhere in the world is entirely spontaneous in the sense that it develops without leadership and mobilization. But whether the unrest is said to be due to "agitation" or to "mobilization" is largely a choice of words. It could not have occurred without a welling of political sentiment and grievances that have made black youth amenable to calls for demonstration and boycotts.

The state has taken action to damp down the political mood. Several leading members of the UDF have been detained, and a ban has been placed on all indoor meetings in major centers unless official permission is obtained. As before in our history, if the unrest continues, the government will use its large and effective security machinery to scoop off the leadership and induce caution among the rank and file. This was the pattern in 1976 and in the early '60s.

Governments that are in full control of modern security resources are not easily dislodged by violence. This is an issue which the black movement of South Africa will have to ponder increasingly in the months and years to come. For the first time in decades the South African state and the influential business community are conceding the need for reform in South Africa. The restlessness and the frustrations of the black communities fully deserve sympathetic understanding, but the realities may require that alternatives to violent confrontation must be sought.●

WORLD PEACE TAX FUND

● Mr. HATFIELD. Mr. President, every hour, the world spends more than $30 million to prepare for and engage it in war. World military expenditures in 2 weeks could provide food, clothing, and housing for all poor men, women, and children around the globe.

Few industrial or developed nations can claim innocence to the charge of ignoring the needs of their citizens while blindly building increasingly destructive arsenals. But the United States stands in the forefront; the budget approved for the Department of Defense exceeds $290 billion for next year.

While all U.S. citizens must question the Federal spending priorities which have brought us to the edge of the nuclear abyss, conscientious objectors are in an especially difficult position. Those who are opposed to participation in war in any form are nonetheless forced to pay for their country's preparation for war. More than one-third of every tax dollar is spent for military purposes by the United States.

Conscientious objectors must either compromise deeply held moral and religious principles by paying the military portion of their taxes or break the law of our land. The world peace tax fund bill, S. 2105, seeks to provide a resolution to that dilemma by allowing the conscientious objector to channel his income, estate, and gift tax payments into nonmilitary programs and special peacemaking projects.

In each Congress since 1977, I have introduced this legislation. Last year, our distinguished colleague, Senator MATHIAS, brought this bill before the Senate with me.

Recently we have been joined by Senator LOWELL WEICKER, a longtime champion of civil rights, peace, and humanitarian concerns. Senator WEICKER's work as chairman of the Senate Appropriations Subcommittee on Labor, Health, and Human Services and Education is testament to his commitment to the welfare of our citizens. His votes on military spending and military aid are a reflection of his dedication to peace and social responsibility. His sponsorship of the world peace tax fund is consistent with Senator WEICKER's well-earned reputation.

During the Vietnam war, 1.57 percent of all draftees were recognized as conscientious objectors. If that same percentage of American taxpayers diverted their tax payments to the world peace tax fund, $1.68 billion would be channeled into the active pursuit of peace. Instead, those Americans are annually plagued by the horrible dilemma of choosing between conflicting allegiances and ultimately suffering the consequences. And the war machine continues to grow.

The idea is a simple one. And it makes sense. I laud Senator WEICKER for his courage and vision. Together, Senators WEICKER, MATHIAS, and I will continue to work to see that the world peace tax fund becomes a reality.

Mr. President, I have asked that Senator WEICKER be added as a cosponsor of S. 2105.●

BILL PLACED ON CALENDAR—H.R. 5997

Mr. BAKER. Mr. President, I have a request which appears to be cleared with the minority leader.

Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 5997, a bill to designate the U.S. Post Office and Courthouse in Pendleton, OR, as the John F. Kilkenny U.S. Post Office and Courthouse, and it be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, OCTOBER 1, 1984

Mr. BAKER. Mr. President, I ask unanimous consent that, on Monday next, after the recognition of the two leaders under the standing order, there be a special order in favor of the distinguished Senator from Wisconsin [Mr. PROXMIRE] of not to exceed 15 minutes, to be followed by a period for the transaction of routine morning business not past the hour of 1:30 p.m. in which Senators may speak for not more than 5 minutes each. That is my request, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, first, may I ask, the request has already been granted that the time be charged against the 100 hours between now and 12 noon, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. BAKER. Mr. President, I amend my request so that the time will be charged between now and 1:30 p.m. on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BAKER. Mr. President, when we finish morning business on Monday, we will be on a nondebatable motion. That seems to be a fairly awkward procedure given the fact that Sunday will have intervened, and we have a fairly complex procedural situation on hand. Therefore, I ask unanimous consent that at 1:30 p.m. on Monday there be 1 hour of debate on the motion to reconsider, and the time to be equally divided between the two leaders or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, what this means is that at 2:30 p.m. on Monday, we will have a vote on the tabling motion on the busing amendment. Other votes are expected in the course of the day, and perhaps in rapidfire order after that vote. So Senators are urged to be here on Monday,

to anticipate votes beginning at 2:30, and running throughout the afternoon and into the evening.

Mr. President, there is one other matter. I now ask unanimous consent that the time utilized from the time of my request for 10 minutes to be equally divided by me and the minority leader will not count for the 1 hour allocated to Senators under rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL MONDAY, OCTOBER 1, 1984

Mr. BAKER. Mr. President, if there are no other Senators seeking recognition, and I see none, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 12 noon on Monday next.

The motion was agreed to; and the Senate, at 5:59 p.m., recessed until Monday, October 1, 1984, at 12 noon.

SENATE—*Monday, October 1, 1984*

(Legislative day of Monday, September 24, 1984)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

With man it is impossible, but with God all things are possible.—Luke 18:27.

Sovereign God, Doer of the impossible, we come to You in our extremity. You know all the facts past, present, and future. There is no detail of the present situation which is hidden from You. You know what is in our hearts: our concerns, our desires, our hopes, aborted plans, disappointments, discouragements, and frustrations—the sense of futility which at times haunts our best intentions. I pray for Your gracious intervention in this situation which will bring just resolution to the present stalemate. Help these 100 strong leaders to find agreement.

Thank You, Father, for our beloved majority leader and his many years of uncommon public service. Thank You for the strong, quiet, gentle, fair, tough, leadership Senator BAKER has given. Grant, dear God, that his final days in the Senate will be days of satisfaction and fulfillment—which will be pleasant to memory. Make him aware of our respect, admiration, and affection. May all that is past be prolog to an even greater future. In the name of the Lord Whom he faithfully serves. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

Mr. STEVENS. I thank the Chair.

THE CHAPLAIN'S PRAYER

Mr. STEVENS. Mr. President, I wonder if we could call the Chaplain back about 5 o'clock and see if he would repeat that prayer when more of our colleagues have returned from the weekend.

I do thank the Chaplain for his remarks about our majority leader. I am delighted that he has reminded the Senate that these are the final days of service of our distinguished majority leader. It would be a great tribute to the Senate if it can show its feelings for the work the majority leader has done and find a way out of this hiatus that we face.

THE CONTINUING RESOLUTION DILEMMA

Mr. STEVENS. Mr. President, I have enjoyed being assistant leader. At times, my staff tells me that they think I am sort of like a designated hitter in baseball. I feel that, today, I have entered the batter's box with a count of no balls and two strikes.

We have more than our work cut out for us this week: a continuing resolution is unresolved and we do hope that we will find a way to break the gridlock that exists here in the Senate now on that issue. We have heard from the other Chamber and Members should be informed that the possibility exists that the House will originate a short-term extension of more than 2 days to the continuing resolution and send that over to us early in the session today. We must continue to consider the continuing resolution where we left off on Saturday.

SENATE SCHEDULE

Mr. STEVENS. Mr. President, after the recognition of the two leaders under the standing order, my good friend from Wisconsin [Mr. PROXMIRE], who is here with me today, has a special order. Then there will be a period for the transaction of routine morning business not to extend beyond the hour of 1:30 p.m., with statements therein limited to 5 minutes each.

Following the conclusion of that routine morning business, the Senate will resume consideration of the pending motion, which is the motion to reconsider the vote by which the Senate tabled an appeal from the ruling of the Chair wherein the Chair held that the Baker amendment No. 5728, which he introduced for Senator HATCH, relating to school busing, was not germane. There is 1 hour of debate on the motion to reconsider and a vote on that motion is scheduled to occur at approximately 2:30 p.m.

Mr. President, the majority leader is obviously not here at the moment. We expect him here sometime just before 2 o'clock. I remind the Senate that after we deal with the issues that are pending before us now, the nongermane issues, in my opinion, the Senate will have to turn to some of the subjects that are contained in the continuing resolution. One is the bill that I shall manage, the defense appropriations bill.

Included in that bill are issues which I estimate will take up to 20 hours of the Senate's time just from the amendments that I know will be brought to the Senate concerning the defense bill.

After we finish the continuing resolution, we have the constitutional amendment to balance the budget, the debt limit extension, available conference reports, the Genocide Treaty, and product liability.

Mr. President, I am in hopes that the majority leader will have a statement later today. I ask unanimous consent that his statement appear at this point in the RECORD if he does wish to file one.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ALASKAN FISHERMEN

Mr. STEVENS. Mr. President, the job of the Alaskan fishermen is often dangerous and fraught with hardships. The financial risks facing our fishermen are great, and the economic rewards can be slim. Yet Alaskan fishermen continue to perform a great service, providing our Nation with abundant seafood products of the highest quality. These individuals are characterized by attributes that helped to build America, a spirit of independence, and a willing acceptance of their rugged lifestyle. As my colleagues know, I have been a proponent of programs to ease the financial burdens of our fishermen and to encourage the development of America's fishing industry. The Wall Street Journal, on September 26, carried an article by Carrie Dolan which describes the rigors associated with harvesting shellfish in Alaska. Mr. President, I wish to share this article with my colleagues, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Sept. 26, 1984]

DIGGING FOR CLAMS IN WILDS OF ALASKA HAS A CERTAIN APPEAL

(By Carrie Dolan)

CRESCENT BEACH, ALASKA.—Patty Seaman is spending this rainy night indoors. Her one-room hut has walls of plastic, a floor of rocks, and stumps for chairs. Above her sleeping bag hangs her mirror, taken from a truck. The place has no electricity or run-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

ning water. Ms. Seaman lives here five months a year.

In a gun rack made of Y-shaped sticks is the 7-mm Winchester rifle she says she "borrowed" from a former employer who ran off without paying money he owed her. The dwelling has one glaring design flaw: a lopsided shelf, stocked with cornmeal, flour and a box of Lucky Charms cereal. The board was nailed into a live tree, she explains, so "every year, as the tree grows, my shelf gets a little more crooked."

Raindrops periodically fall through the roof and sizzle on top of Ms. Seaman's wood-burning stove. By the light of a single lantern, she cleans clams and plunks their innards into a bucket. She stamps her foot at a small mouse edging toward her. "You've got a lot of nerve," she scolds. "You've already chewed some of my clams."

Ms. Seaman, who is 29 years old, used to be a secretary in a Washington state cedar mill. Now, "Clam Patty" is beach boss for a small band of diggers pulling clams out of some of the coldest water anywhere—the lower Cook Inlet of Alaska.

Digging begins as soon in the spring as ice melts from the beach. The nearest town is 70 miles away, and no roads lead to the camp. Access is primarily by bush planes, which land on the sand when the tides, rain, wind and snow permit.

THE EDGE IN RAZORS

"The remoteness of our site gives us a competitive edge," says Jerry Cartee, the general manager of the clam business that employs the crew. "Not too many people make it out there to dig."

Razors, which are touted by Mr. Cartee as "the Cadillac of clams," apparently don't have much of a reputation outside the Pacific Northwest. But in the Portland, Ore., area, as well as along the Oregon coastline and in parts of Washington, people clamor for them and have been known to shell out $9 a pound for the chewy delicacies. Dahmen Seafoods Inc. flies clams out of the camp, cleans them at a small processing plant in North Kenai, and sends them southward by air freight. The clams can appear in chowder in Oregon within three or four days of leaving the sand at Ms. Seaman's camp.

Frank Dulcich, the general manager of Pacific Seafoods in Portland, the distributor of the razor clams, plans to enter new markets next year. But, he says, "the next big push has to be in education." People unfamiliar with razors tend to overcook them, Mr. Dulcich says, and when that happens, "you might as well wear them on your shoes, because you'll never get a knife through them."

Dahmen Seafoods, a four-year-old operation based in Alaska, expects to post sales of about $500,000 this year. Ms. Seaman is the first female beach boss people around here know of. "I was very skeptical," says owner Farol Dahmen. "It's a rough place, and I didn't know if they'd listen to a woman. It's not just a brain job; it's a brawn job. But she's done better than any of the men we've had out there."

CLAM TOSS

Each digging day, Ms. Seaman races from clammer to clammer, jumping out of a moving Ford pickup and letting it roll to a halt. (The brakes were lost last year when the truck sat submerged in salt water for a whole day. It also is permanently rusted into four-wheel drive.) Dressed in hip boots and rubber overalls with twisted yellow suspenders, the lanky woman heaves the 40-pound buckets into the back.

She speeds over the rippled mud to dry land, where she unloads her haul unassisted. And in little more than three minutes, she has thrown around 1,600 pounds of clams. "The tide doesn't wait," she says, grabbing a chocolate-chip cookie from a bag on the dashboard.

Bugzy, Skeeter, Dee, Wild Bill Elliott and the other diggers have only about three hours a day in which to make money before the icy waters wash over the sand bars. They earn 50 cents a pound for clams, plus a bonus for staying through the season. During the five-month season, an average digger earns between $4,000 and $5,000. He must pay his own airfare to Alaska and buy his own food.

"It would be tougher to get people up here if there was work at home" in Washington, says Ms. Seaman. "But there's no job market there anymore."

Most of the diggers she hired are from towns near her home in western Washington, and many are victims of the collapse of the wood-products industry there. Some used to dig clams at beaches around home, but too many tourists and toxins killed local clamming. "We go from one dying art to another," says Ms. Seaman.

Practicing their art, the clammers walk bent over banging the sand with long-handled shovels. The shock prompts the startled clams to blow a tiny hole in the sand, and that blows its cover. A digger will then take a single stab with his spade, reach elbow-deep into the frigid mud, and yank out his prey. Then he tosses the captured clam between his legs into a five-foot-long sack he drags along. Digging too close to another digger—a practice called "sea-gulling"—is considered to be in poor taste. "It's just not clam-digger courtesy," says Ms. Seaman, who was a professional digger for four years before she became the boss. "You don't want to be walking somebody's else territory and sending their clams digging to China."

Razor clams, which average four to eight inches in length, are sometimes called "racer clams" because of the speedy way they try to burrow away from shovels. Their white, rubbery bodies hang out both ends of their oblong, thin shells, so clammers must be careful not to smash them or cut their necks off.

Clamming in Alaska also poses some unique challenges. The water, fed by melting glaciers, is sometimes "so cold, you can't get a grip on the shell," says Ms. Seaman, "but you don't want to get beat by a clam. If you hold steady pressure on 'em, you choke 'em, and then you can pull them up." One day, David "Bugzy" Frank digs wearing just his shorts and a "Hot to Trot" baseball cap. "If you're cold, you dig a lot faster to keep warm," he says. "Then you make more money."

In addition to hauling clams, Ms. Seaman repairs the truck, fills out the daily fish tickets, chops wood, delivers mail and groceries dropped off by the plane, and leads expeditions several miles upstream to obtain fresh water. Her salary is $2,150 a month. She also is paid an extra fee for bookkeeping, but this year she swapped two months of that for 100 pounds of cleaned clams.

Commodity trading is big here. Diggers wager buckets of clams in poker games. High rollers bet with "kahunas," the largest clams. Others barter for feathers collected from molting bald eagles. One fellow traded a bed for the prized feathers.

It costs money to leave camp (one-way air-taxi fare to Kenai, the closest town, is about $170), so few stray away to civilization. Instead they catch fish, pick blueberries, or toss horseshoes. Industrious clammers built a smokehouse, a greenhouse and a sauna in their spare time. Ms. Seaman and a colleague once held a race to see whose clam was the fastest. "It doesn't take a whole lot to amuse us," she says.

Clammers like retelling favorite tales, such as the one about the time the door fell off the camp's lone outhouse and a digger found himself facing a grizzly bear. Another time a crew member was freshening up in a pond and was joined, they say, by a moose.

Occasionally, people here sneak a drink. But not often. Ms. Seaman's first act as boss was to ban alcohol from camp. Last year, after a late-night drinking binge "one guy hit another guy in the head with a hammer and put holes in his skull," Ms. Seaman recalls. "Out here, no one can come help you in the middle of the night." (The man didn't die but suffered lasting injuries.)

The ban caused grumbling, but most diggers agree that camp is more wholesome under Ms. Seaman's direction. About half the diggers, who range in age from 17 to 57, are related. Men outnumber women five to one. There's a husband and wife clamming duo, assorted children and a large mutt named Max. "It's a family kind of atmosphere," says Pam Cahill, a former bartender who carries a pack of Marlboros in her wading boots. She felt comfortable about bringing her eight-year-old son to clam camp. "Patty doesn't let the troublemakers, knotheads and town clowns come up here," she says.

Ms. Seaman, who is unmarried, left behind her in Washington a small family-ranch, and her post as captain of the Ocean City Tavern women's pool team to become a clamming boss in Alaska. She also left behind some skeptics. "A lot of people at home bet I couldn't do this job," she says. "I wanted to show I could do more than drink beer and shoot pool."

She has mixed emotions about the close of the season each year. "Sometimes I think I could be a hermit," she says. She is glad to see her young nephews again, she says, and enjoys going out for a pizza. But she leaves behind in Alaska the solitude of a beach-front lined with spruce and cottonwoods, two snow-coated volcanos that still vent steam, and the sight of arctic swans and bald eagles.

There are other adjustments to be made, too. "When you go back to town, you have to remind yourself not to spit on the floor when you're done brushing your teeth."

Mr. STEVENS. Mr. President, I reserve the remainder of our time.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The distinguished minority leader is recognized.

Mr. BYRD. I thank the Chair.

Mr. President, I yield to my distinguished colleague, the Senator from Wisconsin [Mr. PROXMIRE].

RECOGNITION OF SENATOR PROXMIRE

The PRESIDENT pro tempore. The Senator from Wisconsin is recognized.

Mr. PROXMIRE. I thank the Chair.

(Mr. DENTON assumed the Chair).

SENATE FAILURE TO RATIFY THE GENOCIDE CONVENTION ONLY HELPS THE SOVIETS' ANTIAMERICAN PROPAGANDA CAMPAIGN, ACCORDING TO THE REAGAN ADMINISTRATION

Mr. PROXMIRE. Mr. President, I am often puzzled by the misinformation campaign regarding the Genocide Convention that has been launched by such groups as Liberty Lobby, the John Birch Society, the Eagle Forum and others. By trying to paint the Genocide Convention as some one-worlder, internationalist plot, they do a tremendous disservice to their members and others patriotic Americans by turning their backs on the facts.

And what are the facts?

First, the Soviet Union and its allies could not be happier with the campaign against the treaty. It's clear that our failure to ratify the Genocide Convention has been a useful propaganda club against the United States which they are not anxious to lose.

Is that just the view of long-time proponents such as myself? Hardly. Listen to what Elliot Abrams, Assistant Secretary for Human Rights, in the Reagan administration testified before the Foreign Relations Committee on September 12th:

It is interesting to note that the news agency TASS has already started to attack the Reagan Administration for expressing its support for the convention. The Soviets harshly criticized a State Department spokesman because he referred to the Convention's symbolic value, but the Soviets frequently attack what they fear the most. They know that symbols convey meaning and they also know that the United States lending its political and moral prestige to the convention will enormously enhance its value as an instrument of world opinion to prevent genocide.

Now, Mr. President, at the present time, there is nobody in the country, aside from the President of the United States, who is more highly regarded by conservatives than our Ambassador to the United Nations, Jeane Kirkpatrick. Miss Kirkpatrick's dynamic address to the Republican Convention was particularly noteworthy. Here is what she says about the Genocide Convention:

I believe that the Senate's ratification of the Genocide Convention will enhance the standing of the United States in the United Nations and other international organizations. The Soviets and others hostile to the United States have long focused on the United States' failure to ratify the Convention as part of their anti-American propaganda. It is contrary to our national interest to provide fuel to this campaign by failing to reaffirm clearly and unequivocally U.S. support for the important objectives of this Convention.

Is Ambassador Kirkpatrick some type of one-worlder internationalist? Hardly. She is an outspoken proponent of hard-line Realpolitik. Unlike these organizations who spend their time trying to live in a dream world of wishing away the United Nations, Ambassador Kirkpatrick has taken the world and the United Nations as she has found them and has fought on the frontlines against those who wish us ill and she has concluded that this treaty is very much in America's interest.

Second, all of the supposed legal arguments regarding the Genocide Convention were settled long, long ago. While opponents dutifully trot out arguments from 1950 and try again and again to put a new twist on them to make them sound current, the simple fact is that they have all been resolved—decisively and conclusively—many years ago.

That was the judgment of the Nixon administration and President Reagan's Department of Justice has reached the same conclusion.

In testimony before the Foreign Relations Committee, Theodore Olson, Assistant Attorney General, Office of Legal Counsel in this administration, cited the testimony of one of his predecessors, Solicitor General Perlman, who noted:

In 1950, some of the questions concerning Federal jurisdiction and the treaty power (surrounding the Genocide Convention) were considered somewhat novel. However, developments in the intervening years—the extensive use of the treaty power and the growth of federal criminal jurisdiction—have, it seems, illuminated both of these areas where I believe I can safely say that the questions before the committee and the Senate are more matters of policy than questions of legal power.

Former Assistant Attorney General—now Supreme Court Justice William Rhenquist regarded as a conservative Justice—and he is—in his 1970 appearance before the Foreign Relations Committee, made precisely the same points that the Genocide Convention was constitutional, a proper exercise of our treaty power and that it posed no threat whatsoever to our constitutional safeguards—no threat to the rights of any American.

Mr. President, I urge my colleagues and their staffs to review the testimony of the Reagan administration spokesmen before the Foreign Relations Committee as well as the endorsements of ratification by Ambassador Kirkpatrick, Ambassador Dobriansky, and Gov. George Deukmejian, who, incidentally, is the Republican Governor of California and regarded as a leading conservative Republican spokesman in the country, who has written a very impassioned and powerful letter to the chairman of the Foreign Relations Committee pleading for ratification. He says in part:

I respectfully urge this committee and the United States Senate to act without further delay to ratify the convention on the prevention and punishment of the crime of genocide.

Mr. President, I ask unanimous consent that excerpts of the Reagan administration testimony as well as several endorsements to which I have referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF HON. ELLIOTT ABRAMS, ASSISTANT SECRETARY OF STATE FOR HUMAN RIGHTS AND HUMANITARIAN AFFAIRS

Mr. ABRAMS. Mr. Chairman, it is an honor for me to be here this morning in support of the Convention on the Prevention and Punishment of the Crime of Genocide.

I would like to begin by expressing my own personal gratitude to you for scheduling a hearing with such dispatch after the administration's endorsement—the President's endorsement of the treaty last week.

A long list of eminent Americans from Congress, from the executive branch, and many dedicated private citizens have labored over these past 35 years to see the convention receive the advice and consent of the Senate. Both Republican and Democratic administrations have worked for ratification.

Today's hearing marks another milestone in this distinguished effort. It is the administration's hope that the Senate will finally provide its advice and consent to the U.S. ratification of the Genocide Convention and add America's moral and political prestige to this landmark in international law.

As Senator Helms noted, the Genocide Convention was born from the ashes of the Holocaust. The horrors of the Nazi death camps prompted the rise of an international treaty that recognized that in this, the bloodiest of centuries, technology employed in the hands of totalitarian tyrants made possible mass murder of a special kind. As stated precisely in the language of the Convention, genocide is defined as certain specified acts committed with intent to destroy, in whole or in part, a national, ethical, racial, or religious group as such. These acts include:

First, killing members of the group.

Second, causing serious bodily or mental harm to members of the group.

Third, deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.

Fourth, imposing measures intended to prevent births within the group.

Fifth, forcibly transferring children of the group to another group.

As Senator Javits remarked eloquently in hearings before this committee in 1977, "genocide is murder and more." Such acts are a crime against humanity itself and merit the special sanctions of the international community.

Mr. Chairman, the United States distinguishes itself by the moral dimension it brings to its foreign policy. As Secretary of State Shultz has stated, human rights are at the core of our foreign policy because they are essential to our conception of ourselves. The United States, one of the chief recipients of the survivors of the Holocaust, has found itself in the embarrassing position in international fora of having failed to ratify the convention, thereby not expressing formally through an international treaty our staunch opposition to the heinous crime of genocide.

Many of our adversaries in the world, particularly the Soviet Union, have ratified the convention and they frequently use our failure to do so to castigate us unfairly and propagandistically, and to denigrate our strong human rights posture and divert attention from their abuses.

Ratification of the Genocide Convention will reduce, for those to whom human rights are only empty words, the opportunity to attack the United States.

Of course, reasons have been stated in the past for opposing the treaty. Some make the point that present U.S. laws, particularly the Federal civil rights laws, prohibit and punish acts that fall under the Genocide Convention, and that we need not enter into another international convenant.

However, such arguments ignore both the unique character of this horrible crime and the fact that one of the major purposes of the convention is to oblige states to pass national legislation against it.

Moreover, such arguments ignore the great symbolic value of the Genocide Convention and the benefits which will accrue to our public diplomacy by U.S. adherence to the convention. It is interesting that the news agency TASS has already started to attack the Reagan administration for expressing its support for the convention. The Soviets harshly criticized a State Department spokesman because he referred to the convention's symbolic value, but the Soviets frequently attack what they fear most. They know that symbols convey meaning and they also know that the United States lending its political and moral prestige to the convention will enormously enhance its value as an instrument of world opnion to prevent genocide.

Constitutional questions have been raised in the past over the convention. It is quite understandable that people are concerned that internatinal law not trifle with or contradict the American Constitution, one of the gretest documents in the fragile history of human liberty and a document which has spawned institutions that have guaranteed and extended liberty for 200 years.

After comprehensive legal review by both the State and Justice Departments and with the one declaration and three understandings, which the committee in 1976 proposed for inclusion in the resolution of ratification, we are firm in our conviction that all constitutional questions have been answered. These questions have centered mainly on the issues of states rights and extradition. The other witnesses today are prepared to address these issues in detail.

Before closing, I would like to note that when the history of U.S. ratification of the convention is written—and our feverent hope is that it can begin to be written shortly—the endorsement by the American Bar Association of the Genocide Convention in 1976, after having previously opposed it, will prove, I think, to have been a decisive event. The ABA has worked tirelessly since then to see the convention ratified, and its legal explanation and defense of the present proposals should satisfy all of the prior constitutional objections to the convention.

Mr. Chairman, we have all delayed too long. The best time for advice and consent to ratification is right now.

Thank you.

The CHAIRMAN. Thank you very much.

Mr. Robinson.

STATEMENT OF DAVIS R. ROBINSON, LEGAL ADVISER, DEPARTMENT OF STATE

Mr. ROBINSON. Thank you very much, Mr. Chairman.

Mr. Chairman and members of the committee, I am honored and pleased to appear before you this morning to address the convention on the Prevention and Punishment of the Crime of Genocide or the Genocide Convention as it is generally known.

The executive branch has now completed an extensive review of the Genocide Convention, including the questions raised in the past in connection with its consideration by the Senate of the United States. The President undertook this review to examine anew whether ratification of this convention continued to be in the best interests of the United States.

I am very pleased to inform the committee that, having completed that review, this administration believes that no legal impediment exists to the ratification of this important convention, subject to the three understandings and the one declaration which the Committee on Foreign Relations itself reported in 1976.

The Genocide Convention can be briefly summarized. The convention defines the act of genocide, confirms that it is a crime under international law, obliges states which are parties to the convention to enact legislation to make genocide a crime under national law, and specifies that the parties pledge themselves to grant extradition in accordance with their laws and treaties in force. For the purpose of extradition, genocide shall not be considered a political offense.

The convention also provides that disputes between parties relating to the convention's interpretation, application, or fulfillment shall be submitted to the International Court of Justice [ICJ].

The main thrust of the convention is to require parties to outlaw genocide within the structure of their own legal systems. Thus, in addition to the Senate's providing advice and consent to the convention's ratification, the Congress in order to implement the convention must also enact legislation which would add to the Criminal Code a new crime called genocide, and set forth criminal penalties for its commission.

Articles II and III of the convention provide the contours of what such legislation would contain. As Assistant Secretary Abrams has already pointed out, article II defines genocide to be any one of five types of acts committed with "intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such."

Article III of the convention provides for the punishment of genocide itself, conspiracy to commit genocide, direct and public incitement to commit genocide, attempted genocide, and complicity in the commission of genocide.

Since its submission to the Senate by President Truman in 1949, the Genocide Convention has been considered by this distinguished committee on at least seven occasions. The committee has heard from distinguished scholars concerning whether significant legal impediments existed to ratification of this convention. I will not today attempt to restate comprehensively these legal discussions. Instead, I would like to discuss briefly two major legal issues which have previously been considered in testimony before this committee. And then my colleague, Assistant Attorney General Olson, will add another.

It has been argued that genocide is not a proper subject for treaty making and is essentially a subject within the domestic jurisdiction of sovereign states. The United States is already a party to numerous multilateral treaties which deal with diverse matters of concern to the international community, including in the human rights area treaties on slavery and refugees.

Recent actions by the Senate, for example, in giving advice and consent to the convention on the taking of hostages, reflect the wide range of legitimate topics for international concern. In the present case, 96 countries by ratifying or acceding to the Genocide Convention have indicated their belief that the subject of genocide is a proper concern of nations. International human rights are, in our view, properly a subject of international concern. Accordingly, I believe that the Genocide Convention is clearly within the treaty making powers of the United States.

It has also been argued that the ratification of the Genocide Convention might force the United States at some future date to extradite Americans for trial abroad on trumped-up charges of genocide. I would like, with your permission, to take this opportunity to allay any apprehensions on this point. The careful definition of genocide contained in the convention, as clarified by the first two proposed understandings of this committee in 1976, and the procedural safeguards built into our own extradition process, will prevent such a contingency from occurring.

The definition of genocide in the convention requires the presence of specific elements, in particular, a specific intent and the commission of one or more defined overt acts. Under the convention, genocide requires for its commission the specific "intent to destroy the group, in whole or in part, as such."

The administration supports the clarification in the first understanding proposed by the Foreign Relations Committee in 1976 to the effect that this intention must be one to destroy the group by specified acts—and I quote—"in such manner as to affect a substantial part of the group concerned." This, in effect, distinguishes the international crime of genocide—that is, acts taken with intent to destroy groups—from the domestic crime of homicide—that is, acts taken with the intent to destroy individuals.

The second understanding proposed by the committee and supported by the administration specifies that "mental harm" means permanent impairment of mental faculties. Under article VII of the convention, the parties pledge to grant extradition of persons charged with genocide—and I quote—"in accordance with their laws and treaties in force." Thus, the United States would not be required to surrender an individual to any nation if, for example, that country fails to make a showing of probable cause or the United States finds the request for extradition to have been politically motivated.

Under the terms of the convention, once it has entered into force, there shall, however, be no defense to extradition on the grounds that the crime itself was a political one.

It should be emphasized that the Genocide Convention does not purport to be an extradition treaty itself. Furthermore, no person could be extradited from the United States for trial in a foreign country on a genocide charge unless we have a bilateral extradition treaty with that country making

genocide an extraditable offense. No U.S. treaty presently in force does so.

Six recent treaties, those with Costa Rica, Ireland, Italy, Jamaica, Sweden, and Thailand, to which the Senate recently gave its advice and consent, but which have not as yet entered into force, contain a general formula under which extradition would lie for offenses that are crimes punishable in both the United States and the country for more than a specified period of imprisonment. For all but these six treaties, amendment of U.S. bilateral extradition treaties to include genocide will require Senate advice and consent before they would afford a basis for extradition as a result of United States ratification of the Genocide Convention.

Furthermore, no existing bilateral extradition treaty, whether the older type which lists specific crimes or the more recent type containing the formula, will cover genocide unless and until the U.S. Congress adopts the necessary implementing legislation, to execute or implement this non-self-executing treaty. In this connection, the proposed declaration states that the United States will not deposit its instrument of ratification to the convention until after such legislation has been enacted.

Thus, in every case, further congressional action would be required before genocide would become an extraditable offense. This would include passage of implementing legislation and, in addition, in all but these six extradition treaties I mentioned, Senate approval of amendments to those treaties.

I should also note that our extradition treaties contain several procedural safeguards which apply regardless of the extraditable offense. For example, under each bilateral extradition treaty the state requesting extradition must produce sufficient evidence to persuade both a U.S. court and the Secretary of State that there is probable cause to believe the person sought committed the offense with which he is charged.

Finally, the negotiating history of the convention, confirmed in the third proposed understanding, makes clear that trial for genocide may also occur in the country of which the defendant is a national. In this regard, the implementing legislation, in our view, should enable the U.S. authorities to prosecute a genocide offense committed by U.S. nationals outside the United States as an alternative to responding affirmatively to a request for extradition.

As previously noted, as the 1976 Foreign Relations Committee declaration supported by the administration makes clear, the United States will not deposit the instrument of ratification to the Genocide Convention until after such implementing legislation has been enacted.

Mr. Chairman and members of the committee, I have not attempted to canvas in detail the other legal issues which have been debated before the committee in the past during its consideration of the Genocide Convention. Previous discussions before this committee by representatives of the Office of the Legal Adviser of the Department of State and by representatives of the Department of Justice have already addressed these questions comprehensively.

I will, of course, be happy to answer any questions. This concludes my statement.

I would be pleased if you would permit my colleague, Mr. Olson, to make a brief statement.

STATEMENT OF THEODORE, B. OLSON, ASSISTANT ATTORNEY GENERAL, OFFICE OF LEGAL COUNSEL, DEPARTMENT OF JUSTICE

Mr. OLSON. Thank you, Mr. Chairman.

Mr. Chairman, members of the committee, I will be very brief and very general. As Senator Pell noted, this Convention has been considered by this committee on a number of occasions before, and indeed has been reported out of this committee on a number of occasions.

There is a great deal of testimony and analysis on the record already, and I will attempt not to burden the record with anything further except in a very brief way.

Thank you for affording me the opportunity to appear before you today on behalf of the Department of Justice. On September 5, 1984, President Reagan asked the Senate to give its advice and consent to the ratification of the Genocide Convention. Although the Department of State has been the primary agency working for U.S. adoption of the convention since its inception, the Department of Justice, both in past administrations and in this administration, has reviewed the convention carefully with regard to its constitutional and criminal law aspects.

The Attorney General has recently expressed to the President his legal opinion that there are currently no domestic legal obstacles to ratification of the convention. He has authorized me to reaffirm his opinion today.

Legal discussions and issues, of course, are by no means over or settled because there is implementing legislation which must be enacted by this body and the House of Representatives.

Shortly after President Truman initially transmitted the Genocide Convention to the Senate for its advice and consent in June 1949, then-Solicitor General Philip Perlman provided a detailed and scholarly statement to a subcommittee of this committee regarding the constitutional and other legal questions surrounding the Genocide Convention. Commenting on that statement more than 20 years later during his testimony before a subcommittee of this committee, then Assistant Attorney General William Rehnquist, one of my predecessors, endorsed and expanded on Solicitor General Perlman's testimony with the following statement:

"In 1950, some of the questions concerning Federal jurisdiction and the treaty power [surrounding the Genocide Convention] were considered somewhat novel. However, developments in the intervening years—the extensive use of the treaty power and the growth of Federal criminal jurisdiction—have, it seems, illuminated both of these areas to the point where I believe I can safely say that the questions before the committee and the Senate are more matters of policy than questions of legal power."

In our view, the legal correctness of this statement made more than 14 years ago, is even more apparent today. Since Assistant Attorney General Rehnquist made his statement in 1970, this committee has favorably reported on this convention four times, in 1970, 1971, 1973, and 1976. On each occasion, the committee has urged the Senate to give its advice and consent to ratification of the convention along with the three understandings and one declaration that this administration, currently favors.

Since 1976, the American Bar Association has similarly urged that the United States ratify the convention conditioned on the adoption of this package of three understandings and one declaration. And, I was visited by representatives of the American Bar Association this summer, once again reaffirming that position.

It is our view that there are currently no domestic legal obstacles to the ratification of the convention, particularly if the Senate were to give its advice and consent to ratification conditioned on the adoption of this historically approved package of understandings and a declaration.

Thank you, Mr. Chairman.

[Mr. Olson's prepared statement follows:]

PREPARED STATEMENT OF THEODORE B. OLSON

Mr. Chairman and Members of the Committee: Thank you for affording me the opportunity to appear before you today on behalf of the Department of Justice. On September 5, 1984, President Reagan asked the Senate to give its advice and consent to the ratification of the Convention on the Prevention and Punishment of the Crime of Genocide, known popularly as the genocide Convention. Although the Department of State has been the primary agency working for United States' adoption of the Convention since its inception, the Department of Justice both in past Administrations and in this Administration has reviewed the Convention carefully with regard to both its constitutional and its criminal law aspects. The Attorney General has recently expressed to the President his legal opinion that there are currently no domestic legal obstacles to ratification of the Convention.

As Assistant Attorney General in charge of the Office of Legal Counsel, I have participated in the deliberations which led to the Attorney General's decision. He has authorized me to reaffirm his opinion today.

Shortly after President Truman initially transmitted the Genocide Convention to the Senate for its advice and consent in June 1949, then-Solicitor General Philip B. Perlman provided a detailed and scholarly statement to a subcommittee of this Committee regarding the constitutional and other legal questions surrounding the genocide Convention. Commenting on that statement more than 20 years later during his testimony before a subcommittee of this Committee, then-Assistant Attorney General William H. Rehnquist, one of my predecessors, endorsed and expanded on Solicitor General Perlman's testimony with the following statement:

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adoption of this "package" of three understandings and one declaration. It is our view that there are currently no domestic legal obstacles to the ratification of the Convention, particularly if the Senate were to give its advice and consent to ratification conditioned on the adoption of this historically approved package of understandings and a declaration. I believe that the other witnesses appearing before you today in support of this treaty fully share this view.

I am now at your service to answer any remaining questions that you may have.

STATEMENT OF HON. JEANE J. KIRKPATRICK; PERMANENT REPRESENTATIVE OF THE UNITED STATES TO THE UNITED NATIONS

President Reagan has joined Presidents Truman, Kennedy, Johnson, Nixon, Ford and Carter in asking the Senate to ratify the Convention on the Prevention and Punishment of the Crime of Genocide. I, of course, fully endorse and welcome President Reagan's initiative in seeking Senate ratification of this important Convention, which the United States first signed in 1948.

I believe that the Senate's ratification of the Convention will enhance the standing of the United States in the United Nations and other international organizations. The Soviets and others hostile to the United States have long focused on the United States' failure to ratify the Convention as a part of their anti-American propaganda. It is contrary to our national interest to provide fuel to this campaign by failing to reaffirm clearly and unequivocally U.S. support for the important objectives of this Convention.

Despite the horrors of the Second World War which gave rise to the term genocide, and despite various international efforts, genocidal practices continue. This Convention can be of only limited value in combatting this scourge. It has no automatic enforcement provisions and is essentially self-implementing. Ratification of the Convention would, however, as President Reagan has stated, reaffirm "the fundamental and timeless American commitment to human rights." Ratification would also advance our shared objective of realizing the goal of the Convention—a world free from genocide.

STATE OF CALIFORNIA,
GOVERNOR'S OFFICE,
Sacramento.

Hon. CHARLES PERCY,
Committee on Foreign Relations,
Washington, DC.

DEAR MR. CHAIRMAN: I respectfully urge this committee and the United States Senate to act without further delay to ratify the Convention on the Prevention and Punishment of the Crime of Genocide.

The atrocities committed against the Armenian people during World War I by Ottoman Turks, against the Jewish people by the Nazis during World War II and against the Cambodian people in the 1970's must never be forgotten, ignored or repeated.

Ninety-six nations have ratified this treaty since it was adopted by the United Nations General Assembly on December 9, 1948. It is incomprehensible that the nation which above all others stands for the rule of law, respect for human life and the dignity of the individual has not ratified it.

My parents came to this country because America provided the hope that they could live, work and raise their family in a community free from violence and lawlessness. Our country is far from perfect in this regard. Yet every day we are strengthening our commitment to public safety, and we are succeeding in getting more criminals off our streets. Surely, it also behooves us to take a stand against criminal nations who would commit wholesale murder and robbery against an entire people.

It would be most fitting for the United States Senate to ratify the Convention in 1984 which marks the 25th anniversary of the death of the treaty's principal author, Raphael Lemkin.

Lemkin, a Polish jew, first took interest in the issue of the deliberate destruction of a people following the extermination of 1.5 million Armenians in Ottoman Turkey during World War I. Less than three decades later, Lemkin lost 49 of his own family members in the Nazi Holocaust. From that point on until his life ended in 1959, this courageous man worked tirelessly to make genocide an international crime.

We must dedicate ourselves to the ideal for which Raphael Lemkin persevered: the right of all people of the world to live and work and raise their children in peace and freedom. Ratification of the Genocide Convention will be a strong message of commitment by our freedom-loving nation to preserve basic human rights and to prevent a recurrence of this heinous crime against humanity.

Most cordially,

GEORGE DEUKMEJIAN.

September 1984.

From American Embassy; Nassau.
To Secretary of State; Wash; DC.
Subject: Ratification of Genocide Convention.

Hon. CHARLES H. PERCY,
U.S. Senate
Washington, DC.

DEAR SENATOR. I was personally elated with the President's announcement of the administrations support for the long overdue ratification of the Genocide Convention. Your announcement of hearings on this subject at the end of this month also is a source of great delight to me. They would be most timely and helpful to bring this vital matter to its successful culmination.

Mr. Chairman, I should like to be given the opportunity to at least submit a written statement in favor of ratification. There aren't too many of us about now, but it was my privilege to participate in the very first hearings on the issue at the beginning of the 50's, and two others since. In fact, I was honored to work closely with Dr. Raphael Lemkin, who literally sacrificed his life for the convention. The statement would be concise and pointed.

With all best wishes and warmest regards,

Sincerely,

LEV E. DOBRIANSKY,
U.S. Ambassador to the Bahamas.

STATEMENT OF THE LUTHERAN COUNCIL IN THE U.S.A., WASHINGTON, DC

More than a decade ago, in 1973, the Lutheran Council in the U.S.A. called upon the U.S. Senate to approve the ratification of the United States Convention on the Prevention and Punishment of the Crime of Genocide, better known as the Genocide Treaty. During the ensuing years, the Council has continued its commitment to human rights on a broad front. We are especially pleased that the Genocide Treaty now has the support of President Reagan, and hopes that the Committee on Foreign Relations will act in an expeditious manner to approve of it.

The March 1973 statement of the Lutheran Council is as follows:

The Lutheran Council in the United States of America;

Commends the United States for having exercised an important influence in the United Nations in drafting and adopting the Declaration of Human Rights and international covenants intended to move toward the implementation of those rights;

Affirms that the practice of genocide which attempts to destroy in whole or in part particular national, ethnic, racial or religious groups is barbaric and rightfully abhorrent to all people of justice and good will;

Notes that President Nixon has asked the Senate, as President Truman did two decades earlier, to ratify the United Nations Convention on the Prevention and Punishment of the Crime of Genocide, which was adopted by the U.N. General Assembly in 1984, and that the Senate Foreign Relations Committee, after extensive hearings, recommended ratification with the addition of certain statements of understanding.

Encourages the U.S. Government to assert its moral leadership in the promotion of human rights and the development of international law by ratifying the Genocide Convention, which has been ratified by 75 other nations;

Urge the United States Senate in the 93rd Congress to advise and consent promptly to ratification of the Convention on the Prevention and Punishment of the Crime of Genocide;

Suggests to the participating Lutheran Church bodies that they encourage their congregations and members to study materials for this purpose, and that they stimulate the exercise of citizenship by their members in communicating insights arising from such study to senators and to other appropriate government officials.

The Luthern Council in the U.S.A. again urges the Senate to act swiftly to advise and consent to the ratification of the Genocide Treaty, with the appropriate understandings and declaration, before the end of the current session of Congress.

SEPTEMBER 18, 1984.

DEAR SENATOR: We, the undersigned representatives of national religious and civic organizations, are deeply encouraged by President Reagan's endorsement of the Genocide Convention, and we urge your support for ratification.

The Genocide Convention was the very first human rights treaty enacted by the United Nations. Largely a result of American initiative, it was adopted in December, 1948 as a worldwide response to the Nazi Holocaust and as a mechanism to prevent its recurrence. At present, the Genocide Convention has been ratified by ninety-three nations, representating three-quarters of the world's population and virtually every democracy and Great Power, with the exception of the United States.

Although the treaty was transmitted to the Senate on June 16, 1949 by President Harry S. Truman, it has yet to be ratified. Sadly, it is today one of the longest-standing proposals ever before the U.S. Senate. Our failure to ratify has brought us nothing but embarrassment around the world, and has impaired America's role as a champion of human rights. That is why ratification is a major and continuing priority for our organizations.

As an expression of international morality, the Genocide Convention shows that humanity will never again tolerate crimes against religious, ethnic or racial groups.

We hope you will support ratification and speedy action on this important treaty before Congress adjourns for the year.

Sincerely,

Warren W. Eisenberg, Director, International Council, B'nai B'rith International; Nancy Sylvester, IHM, National Coodinator, NETWORK, A Catholic Social Justice Agency; James Hamilton, Associate General Secretary, National Council of Churches; Edward F. Snyder, Executive Secretary, Friends Committee on National Legislation; Henry Siegman, National Executive Director, American-Jewish Congress; Dr. David Gordis, Executive Vice President, American Jewish Committee; Edward R. Killackey, Director, Maryknoll Washington Office of Justice and Peace; Craig Biddle III, National Director, IMPACT, Inc.; Robert W. Tiller, Director, Governmental Relations, American Baptish Churches, USA; Robert Z. Alpern, Director, Washington Office, Unitarian Universal Association of Churches in North America; Delton Franz, Director, Washington Office, Mennonite Central Committee (U.S. Peace Section); Joseph R. Hacala, S.J., Jesuit Social Ministries; Dr. William L. Weiler, Washington Office of the Episcopal Church; James H. Matlack, Director, Washington Office, American Friends Service Committee; Leland Wilson, Director, Washington Office, Church of Brethren; Gretchen Eick, Associate for Policy Advocacy, Office of Church and Society, United Church of Christ; Rabbi David Saperstein, Director, Union of American Hebrew Congregations, Religious Action Center; George Chauncey, Director, Presbyterian Church (U.S.A.); Mary Jane Patterson, Director, Presbyterian Church (U.S.A.)

SHOULD WE HAND OVER THE MULTI-BILLION STAR WARS RESEARCH TO THE U.S.S.R?

Mr. PROXMIRE. Mr. President on Saturday night, September 8, the National Broadcasting network carried a remarkable television documentary entitled, "The Real Star Wars—Defense in Space." That documentary included a debate between the present Secretary of Defense Caspar Weinberger who champions "Star Wars" and former Secretary of Defense Robert McNamara who emphatically opposes "Star Wars." In the course of the debate, Secretary Weinberger was asked by moderator Bernard Kalb whether we would share this antimissile technology with the Russians. A real bombshell. Weinberger responded as follows:

You've got to look at the purpose. Yes, the President has said that we would certainly consider sharing it because that would be a way to have both sides missiles rendered obsolete and impotent and that would be the way to remove them from the earth. If the Soviets develop it first, and bear in mind as I have said they've been working on it a long time—then there is the not the slightest question in my mind they would not share it. And it would be very dangerous if they could render our missiles impotent and we did not have a similar capability. So I think we have to work on it.

Here was former Secretary McNamara's reply:

It's inconceivable to me that we would share the foundations of this defense system. It would be the most advanced technology we have; as a matter of fact, technology not yet developed. And that technology could be used to enhance one's conventional war capability and to enhance one's offensive nuclear capability. It's inconceivable when we won't give the Japanese the Apple computer, in effect; we won't give the Chinese the Apple computer, that we've going to give the 50th generation of Apple computer to the Soviets to use against us. I can't believe it.

There it is, Mr. President. Our Secretary of Defense has stated on national television that he and the President have agreed to hand over to the Soviet Union our principal military adversary in the world, a technology that will cost our taxpayers tens of billions of dollars to research and develop and would, in the view of Secretary Weinberger himself, render our land-based intercontinental ballistic missiles "obsolete and impotent."

Mr. President, if the Democratic candidate, Walter Mondale, made such a suggestion, he would be utterly destroyed. If any statement proves that President Reagan and his administration can get away with proposing literally anything, it is this suggestion that we spend billions of dollars to advance this system the Secretary of Defense believes would provide a decisive military advantage and then hand it over to the Russians. This Senator cannot understand why this preposterous statement has not been seriously discussed by other Members of the Congress, or the press, or the public generally. Is it because such a proposition is so far out, so outrageously ridiculous that we cannot believe it? Do we believe that the Secretary of Defense and the President have become so sure that even their most absurd statements will not arouse even a peep out of the Congress? We have now been put on notice, Mr. President, by the highest military authority that when we in the Congress appropriate funds for the antimissile or Star Wars Research Program, we are appropriating money for the Kremlin, for the Soviet Union.

At the dawn of this Republic, an early American hero shouted to his countrymen: "Millions for defense, but not one cent for tribute." We can bring that slogan into the 1984 congressional action by declaring that we will appropriate hundreds of billions for defense but not 1 cent for the Soviet military force.

For nearly 10 years this Senator has been giving a Golden Fleece every month to the Government agency that wastes the taxpayer's money in the most ridiculous and outrageous manner during the preceding month. Occasionally I give a Golden Fleece of the year for a real whopper, for the most conspicuous and useless Government extravagance during the preceding 12 months. Mr. President, I would have to give a Golden Fleece of the decade, maybe of the century, to the Secretary of Defense and the President who have proposed to give the billions of dollars of Star Wars defense to the Soviet Union. They would have to share that Fleece with the Congress that appropriates the give-away, if we do it.

As Secretary McNamara asserted, this technology we would give to the Soviet Union would not only enable them to shoot down our deterrent missiles, it would enhance their conventional war capability. What does that mean? It means the Soviet Union could use this technology paid for by American taxpayers against our aircraft and, of course, to destroy our vital military intelligence satellites. McNamara also argues that the American technology the Reagan administration would give away would also enhance the Soviet's offensive nuclear capability. Why is this true? It is true because the Soviets, equipped with this technology, could much more quickly and easily determine how to design, produce, and deploy offensive missiles that would frustrate the antimissile system, evade it, and overcome it. They could promptly diagnose the antimissile's strengths and weaknesses. They would have the advantage of a football team that not only is able to secure its opponent's game plan but the signals that indicate precisely who will carry the ball and where the ball carrier will try to go.

Mr. President, as a Member of the Senate, as a member of the Appropriations Committee, and as a member of the Defense Subcommittee that recommends this appropriation, I shall do all I can to remind my colleagues that if and when they vote funds for this Star Wars Program, they are voting billions of dollars for military power that the highest military authority in our Government has assured us will be handed over to the Soviet Union. In other words, any Senator voting for this program is now on notice that he is voting to strengthen the Soviet military force. Can anyone read what the Secretary of Defense himself has announced on national television and not believe that this is precisely what those who vote for these appropriations are voting for? How about it, my colleagues? On every vote we cast, from now on, support the Defense Department's antimissile or Star Wars Program, we know that we are voting billions for the Soviet Union.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond 1:30 p.m., with statements therein limited to 5 minutes each.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BEIRUT BOMBINGS RESPONSIBILITY

Mr. MOYNIHAN. Mr. President, I thank my distinguished and gallant friend. I wish to use some of the time in this opening day of the Senate to discuss, if I may, in a quiet way and I hope a reflective way, some of the issues that were raised last week by the discussion of the responsibility for the bombing of the American temporary Embassy in Beirut.

In the presence of the presiding officer, who has so distinguished himself and brought such honor to the service of the U.S. Navy in the face of the utmost adversity, "in the fog of war," as Clausewitz once described it, I feel very tentative about observations I would make. And yet it is perhaps precisely this image of the fog of war that helps us to understand and I think to reach some reconciliation about the events last week as we move forward in the political campaign and the affairs of our Nation.

Senators will recall that in the course of a question-and-answer session last Wednesday in Bowling Green, OH, President Reagan blamed what he called the "near destruction of our intelligence agency" during the Carter years for what he said was a breakdown in the intelligence against terrorists and the subsequent events in Beirut.

I came to the Chamber shortly thereafter to state a different view, and to point out that, following the horrendous experience, the massacre of our marines in their Marine barracks in Beirut in October, a year ago, the same charge was made. I quoted a New York Times article which had a headline, quoting Mr. Larry Speakes, the White House spokesman. It said simply, "White House Contends Carter Crippled CIA."

Another article in the Wall Street Journal a few weeks later, speaking on the general theme that the CIA was expanding its antiterrorism effort, even so said:

> The CIA has sharply increased its analytical staff and output after losing about half its analysts between 1978 and 1980.

On that occasion, Mr. President, I wrote the Director of the Central Intelligence Agency, Mr. Casey, to say that he knew this was not the case and that it was disturbing that it would be made, particularly because it brought a partisan political theme into the question of the life and death of American military men. Mr. Casey, in the heads-up way that he does respond to issues, wrote back and said he agreed. He said:

> I was very unhappy about the article in the Wall Street Journal. I am particularly pained at the suggestion that one "Agency's revival" would be a partisan political theme in the reelection campaign.

He continued:

> All of us know that the incease in the personnel and budgetary strength of the Agency began in 1979, that it was planned and proposed earlier, and that it cannot be completed without strong bipartisan support.

I come back to this theme this morning, Mr. President, to say that I believe we may have reconstituted the basis for that bipartisan support and I do hope that is so.

A simple bit of chronology is in order here. President Carter's first intelligence budget, that was his singularly, was sent to Congress in January 1978 for fiscal 1979. That is what President do: They live with their predecessor's budgets for quite a while. In that budget, and in each of the four budgets that President Carter presided over, the intelligence budget was increased.

Those are the facts, and they are not in disagreement.

The day after the President spoke at Bowling Green, he said to the press here in Washington that he observed that his remarks had been distorted. That did not help matters.

It is a simple fact that the remarks were wrong, but people make mistakes, and they can be corrected. We all make mistakes.

The problem with this mistake is that there was a pattern to it: After one bombing the previous administration was charged; and after another bombing the previous administration was charged again.

Mr. President, remarks of this nature are unpresidential. I do not have to tell the Chamber presided over by the distinguished Presiding Officer that there is a proposition in the Navy that says, if it happened on your watch, you take responsibility for it. Mr. President, responsibility is not blame. I means, if it happened on your watch, you are responsible. Then the question is, what do you do? If the issue is something that can be remedied, what do you do to see that it does not happen again?

President Ford, speaking in Mankato, MN, on September 28, said of President Reagan that he has to assume the responsibility for any problems that arise "in military and diplomatic affairs, including the recent bombing." That is President Ford's view. He served in the Navy as well. I served in his Cabinet and will attest that this was his view then as it is now.

Vice President BUSH, again I have to say a naval officer of great gallantry during the Second World War, made the same point. The long running down of our intelligence capacity was under first a Democratic administration. Now it continues under a Republican administration.

And there is an end to it. Why make the issue otherwise.

On Friday Mr. Reagan called Mr. Carter and said that he had been misunderstood in his remarks and for practical purposes retracted them.

I had said in my first statement in this Chamber, Mr. President, that I thought an apology was in order, and I am prepared to suggest that I might have found a better term, that Presidents find such an injunction unwelcome and they would not like their responses described in those terms. A retraction will do.

A telephone call was made. The matter is over. The matter is over as regards the President and the previous President who felt he would not ignore this matter and spoke publicly on it. And they have made their peace.

However, Mr. President, I do want to call the attention of this Chamber and, perhaps through these remarks, to the administration, that the matter is not completely over.

Not long before the President's telephone call to President Carter, which was a manly thing to do, an honorable thing to do, the same Mr. Speakes—who a year ago in December charged the Carter administration with some responsibility for the deaths of our marines through its conduct in the CIA, which the Director of the CIA promptly disavowed—suggested the President thinks that Congress is at least indirectly to blame, that Congress somehow bears some responsibility for this most recent bloodshed in Beirut.

According to the Washington Post, Mr. Speakes cited "a decade long trend of a climate in Congress that resulted in inadequate funding and support for intelligence gathering capabilities." The Reagan administration "reversed that trend," he said.

He said that in a briefing to the Washington press.

Now, Mr. President, this does not get us anywhere. Maybe Mr. Speakes needs a briefing. The Director of the Central Intelligence said such a claim is wrong. It is not only wrong, it is less than honorable. I said that, Mr. Presi-

dent, with great care. It is less than honorable. You do not speak of the deaths of Americans in such terms.

On the day of this bombing, the most recent in Beirut, as vice chairman of the Intelligence Committee, I was asked to speak on television by WNBC in New York. The question I was asked: "Do you think this will be an issue in the political campaign"?

I answered, I said:

Oh, my Lord, I hope not. There are some things that should never divide America. No matter what is going on here, let us keep in mind what is going on out there. There are Americans dying.

And if you don't think the diplomatic service is a serious service look at what happened. Look at the lives lost.

I completely agree with what Secretary Shultz said this weekend on this matter. Of course, he knows that something went wrong and, of course, he is doing what he can about it. He is not trying to blame anybody. He is not that kind of person. And when asked whether anybody needs to resign he said, "I'm right here. I will resign if anybody wants me to resign." I mean that is the sort of thing a former marine officer will do in those situations. The Marines are part of the Navy.

That is the pattern in which adults, responsible men and women, will respond to a set of national injuries and continuing national problems. But it is not the pattern in which the White House has responded. As I noted earlier, on December 28, a New York Times story carried the headline, "White House Contends Carter Crippled CIA." Mr. Speakes said:

We don't quarrel with the fact the CIA and other intelligence-gathering agencies have been crippled by decisions of the previous administration.

This after the terrorist bombing of our marine barracks.

Perhaps in anticipation of President Reagan's call to President Carter, Mr. Speakes appeared to assign blame on the Congress. Shortly after this call, an unnamed White House official, who might well have been Mr. Speakes, appeared to repeat the accusation of congressional blame; he certainly did not retract it.

Mr. President, the issue is not blame. No one is blaming anyone. We are trying to ask who are the responsible persons in order that that responsibility will be exercised in a more effective manner in the future.

So, Mr. President, I have to say to you I think Mr. Speakes or the unnamed White House spokesman owes us an explanation. He might start with an acknowledgment of the facts cited by the Director of Central Intelligence in his letter to me of March 8, 1984:

All of us know that the increase in personnel and budgetary strength of the Agency began in 1979, that it was planned and proposed earlier . . .

. . . [I]t is only through the bi-partisan support of Congress that the Agency can continue to stay firmly on the path of progress which we have charted together. You have my assurance that I will not tolerate any attempt to politicize the Agency or its work, or use the fact of its revitalization for partisan political purposes. Any such use of the Agency would be damaging to the trust and confidence that must exist between your committee and this Agency, and must be avoided in the interest of maintaining an effective Congressional relationship which will serve as the continuing basis for maintaining and building the intelligence capabilities required for both today and the future.

Let George Shultz be the exemplar of behavior in the executive branch: a man who accepts responsibility and acts accordingly.

Mr. President, I am speaking only in the hope this matter will be taken out of politics, as I asked Mr. Casey that it be in my letter early last year, and which he said it would be. He said most emphatically that it would be. He said to me in his letter of March 8:

I am particularly pained at the suggestion that our agency's revival will be a partisan political theme in the reelection campaign.

He said:

You have my assurance that I will not tolerate any attempt to politicize the agency or its work use the fact of its revitalization for partisan political purposes.

WATER RESOURCES

Mr. MOYNIHAN. I read in this morning's Washington Post an article by Mr. Ward Sinclair, the well-known and greatly respected member of the staff of the Washington Post, that there is a new water bill making its way through Congress in this last week of the Congress. Referring to Chevron U.S.A., a major oil company, the opening paragraph states:

Chevron USA and several big California farmers could benefit from a $37 million no-interest federal loan and possibly federal irrigation subsidies if Congress passes legislation being pushed by some California Democrats.

Mr. President, I make it clear that I rise on the Democratic side of the aisle to speak about a measure which Democrats have advocated. At this point, Mr. President, I ask unanimous consent that the article by Mr. Ward Sinclair be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WATER BILL COULD HELP CHEVRON, HANDFULL OF CALIFORNIA FARMERS

(By Ward Sinclair)

Chevron USA and several big California farmers could benefit from a $37 million no-interest federal loan and possibly federal irrigation subsidies if Congress passes legislation being pushed by some California Democrats.

The bill, engineered by Rep. Tony Coelho (D-Calif.), passed the House Interior and Insular Affairs Committee last week and is scheduled for a floor vote Tuesday on the "suspension" calendar, a process usually reserved for noncontroversial legislation.

Coelho's proposal, designed to benefit farmers in Fresno County who want access to lower-cost federal irrigation water, was tacked onto a noncontroversial bill sponsored by Rep. Richard H. Lehman (D-Calif.), also of Fresno. Sen. Alan Cranston (D-Calif.) is pushing a similar water-subsidy bill in the Senate.

The Coelho plan has been challenged by the Department of the Interior and by Rep. Charles Pashayan, Jr. (R-Calif.) of Fresno, although they have not objected outright to its passage. Pashayan and the department contend that other California water issues should be considered at the same time.

The Environmental Defense Fund (EDF) and the National Wildlife Federation, although cut off guard by the bill's swift trip through the House in September, are opposing the legislation.

EDF attorney Thomas J. Graff, based in Berkeley, Calif., charged that the measure is "special treatment" and "a substantial subsidy" for a few agricultural interests.

The proposal involves the 35,000-acre Pleasant Valley Water District, centered around Coalinga in southwest Fresno County, where farmers now irrigate their arid land by pumping water from deep wells. The year-to-year drawdown of well water has increased pumping costs and limited the crops that can be grown.

The farmers contend that with federally provided water they could increase employment in the area by diversifying from cotton and grain. Although they say they plan to turn more to vegetables and melons, they also intend to expand the planting of cotton—a crop frequently in surplus.

Chevron owns about 17,000 acres in the Pleasant Valley district, but leases its land to farmers while pumping oil from beneath it. The remainder of the district's acreage, owned by about 150 persons, is leased by five farmers, according to testimony at a House hearing in September.

The Coelho-Cranston bill would expand the boundaries of the San Luis Unit of the Central Valley Project, a federal water-collection and distribution system, to include the Pleasant Valley group.

This would clear the way for the district to get a no-interest loan of $37 million, most of the cost of a water-distribution system. Such loans are authorized by a 1955 federal law.

The committee's action last week posed new questions about application of the 1982 reclamation revision act, which raised from 160 acres to 960 the land one farmer may irrigate with low-cost federal water. Beyond 960 acres, the water user is supposed to pay the full cost.

The new law limited corporations, such as Chevron, to no more than 640 acres' worth of subsidized water. If Pleasant Valley were to become part of the San Luis Unit, the firm would be required by the 1982 law to dispose of irrigated acreage beyond the 640 limit.

According to sources, Chevron, after private talks with Coelho, agreed to support its neighbors' move to seek federal water and to sell its excess land on several conditions. One condition would require a change in the 1982 law to allow Chevron to reserve mineral rights and "broad" easements on any land it might sell.

Chevron also has insisted on issuance of an Interior solicitor's opinion that would allow the company to suspend the required

sale of any excess land under which oil is found.

Meanwhile, if those conditions were met and if Pleasant Valley entered the San Luis Unit, all 17,000 acres of Chevron's land apparently would be eligible for subsidized water for at least five years. The 1982 law gives an owner five years to dispose of excess holdings. After that, at least 640 acres of the Chevron property would be eligible for subsidized water, enhancing its value for leasing purposes.

EDF attorney Graff, in an August letter to Cranston and Coelho, protested that the legislation would give Chevron (formerly Standard Oil of California) unreasonable assistance.

"Whatever assurances are given that Standard will sell its land . . . under the reclamation laws, the massive abuses that have long characterized the history of the Bureau of Reclamation's enforcement of acreage limitations give scant confidence that in selling its land Standard will not profit from prospect of the district's receiving a new firm surface water supply," he wrote.

Graff added: "The district's own consultant projects only a very thin margin between the cost of new delivered water and its value to Pleasant Valley farmers. So the chances are high that the purchasers of Standard's interest will soon be looking to the United States for still more subsidies to maintain their operation."

Pashayan, worried that the bill would clear the way for Pleasant Valley to be assured of federally subsidized water in the future, said last week that he is bothered by the haste with which the measure is moving. He said Congress should deal at the same time with a number of other water issues involving California—a position rejected by Coelho.

"I am not against Pleasant Valley, and I am not against big farmers," Pashayan said. "But my constituents who are small water users are concerned that their problems find some support in Congress."

Mr. MOYNIHAN. I thank the Chair.

Mr. President, what this represents, I fear, is yet another example of a curious insensitivity on the part of some regions of the Nation to the efforts that we have been making in this body. I for certain know that the distinguished Senator from New Mexico [Mr. DOMENICI] came to me when I first arrived in the Senate and spoke of this matter. We agreed that the Federal water program had become so heavily biased in favor of some regions of the country to the exclusion of other regions that for practical purposes no water resources legislation was passing anymore. The last major water resources bill that passed this body, Mr. President, was in 1970, 14 years ago.

A small bill was passed in 1976. But the whole administration of Mr. Carter came and went without a water resources bill, as the first administration of Mr. Reagan may do. One of the reasons is that we have never been willing to undertake a national water policy which by definition would include the whole of the Nation as against the practices of the past which have excluded so many regions.

To give some detail, Mr. President, during the period 1956 to 1980, the four major Federal water agencies spent 36 percent of their construction money in the West and 40 percent in the South, and they spent 6 percent in the Northeast. In those 25 years, Mr. President, the State of Montana received over $1,200 for every man, woman, and child. And how much was spent for each New Yorker, Mr. President? $36.

It is not just a question of an imbalanced expenditure. It is expenditure on the wrong things. One can ask, Is our corner of the continent so well endowed with water that we do not need water resource development? I think not. To be sure, it rains more in New York than in Utah, but nature is unpredictable. The water does not always come at the right time or in the right place.

The great tradition of internal improvements that began in the 1820's in our country was extended to water resource development, and has made the desert bloom in the most unlikely places. But the problems of the great urban centers of the Nation, the vulnerability to drought and the deteriorating water delivery systems, have been ignored. The city of New York, which is spending 10 percent of its capital budget on a new water tunnel, a project that is absolutely essential, has not received a penny of Federal funds for the rehabilitation of its water supply system. There needs to be some equity. There needs to be some acknowledgment that other persons and regions have rights and responsibilities. Members of the Senate are responsible for seeing that these rights are recognized, and that there be some equity. Mr. DOMENICI and I 7 years ago introduced a measure in this regard. We proposed to end the chaotic, system under which we now operate, to let each State receive a fair share of funding for the priority water problems in that State. There has been no action. Instead, we find in the last week of the Congress reports that a giant oil company and a half dozen corporate farmers in a particular valley—in this case in Fresno County, and Pleasant Valley is the particular location—are going to get themselves huge Federal subsidies for water.

Do you know what they will do with that, Mr. President? Do you know what those subsidies will do? It is a rather interesting point. I ask my colleagues particularly from this side of the aisle to consider what they will do. They will get this Federal subsidy for water. It will be paid for by persons who pay taxes in this country, particularly in our region of the country. They will get this subsidy. They will considerably increase their profits, and that will enable them to considerably increase their contributions to political action committees that denounce Federal subsidies. They will go on and on about wasteful Federal programs introduced by profligate eastern liberals of the sort that have led the country into bankruptcy deficits and doom while they grab, grab, suck, suck, grab, grab, suck, suck, and forever $100 million in profits—because the profits get up that large— a tithe is paid to the political organizations that denounce the very system which has created these rewards.

Mr. President, we get weary of this, and ought to be. If the Federal Government cannot charge the real value of this resource, then elementary market economics says that the resource will be misused. It is not only misused, but then in turn some portion of the consequence is directed to a distortion of Federal policy, to the implication that if you are an oil company, it is not a subsidy. If you are an urban, unemployed family, then it is.

Economic incentives may never be given to the low-income persons, but may with abandon be provided to the corporate farmer and the corporation.

Mr. President, may I just say that Mr. Ward Sinclair very properly points out that this is our water too—our water, too. It is the Nation's water. The Bureau of Reclamation is not something one would ever regret. Theodore Roosevelt of New York proposed it. But there comes a time when sharing is in order. There comes a time when there is something perverse about a system which provides vast uneconomic returns to some individuals in the society from Government which they in part will divert to denouncing such activities for others who are considerably, vastly more in need.

Mr. President, I will close with this simple thought. We are not going to get a national water policy as the Senator from New Mexico and I had hoped until it is established once and for all that this kind of special interest raiding of a resource will not work.

If it is thought by any that this is going to get through the Congress in this last week when everyone will be busy with other matters, half-dazed with fatigue by the time we get to Thursday night, to Friday, I would like to suggest that I will try to reserve some small measure of energy to be on hand when the effort is made to insure that it does not succeed.

Mr. President, I thank you for your thoughtful and courteous attention as always. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I have been asked to remain on the floor for a moment and will. I will take the opportunity, as the phrase goes in the CONGRESSIONAL RECORD, to extend my remarks with respect to this most recent raid on the Nation's water supplies which the Washington Post reported this morning.

Mr. President, as you know, the Bureau of Reclamation was established by the Congress at the behest of Theodore Roosevelt of New York at the turn of the century and it was confined to the 18 States in the Western United States. It brought immense benefit to the Nation, and not incidentally immense benefits to those regions. They really were desert regions. They have been made to be agricultural regions.

The degree to which this has been the work of the Federal Government seems only lost to persons who have benefited from it.

I suggest a simple test that any of us might make. There is no shortage of banquets in this town or in this Nation, and a goodly share are made for political purposes. It is generally the case that the more plentiful the banquet, the more mean-spirited will be the general atmosphere with respect to the role of the Federal Government in regard to the welfare of the Nation at large.

Mean-spirited may be too strong a term. More narrow might be the range in which they think the Federal Government ought to intervene.

I would like to suggest to those Members of the Senate who have to vote these moneys that they might sometime in the face of this attitude ask a simple question of the diners whom they are addressing. Ask, "Where do you think the lettuce came from and the salad that is in front of you or has just been taken away? Do you think it was grown in some naturally salubrious climate here in the Nation, filled with water and water resources in which leafy vegetables with large water content could be naturally produced?" It was not. Overwhelmingly the lettuce grown in this Nation is grown in areas that were desert 80 years ago, mostly California, mostly in the Central Valley, deserts until the Federal Government came along and was able to see the potential for agriculture in those regions, able to muster the resources from the Nation to bring the water to the land, and through the Department of Agriculture able to suggest the kinds of agriculture that would work.

Ask those banqueters what they would do for lettuce if it were not for the Federal Government.

Many of them would manage to find some in another way, but it is right there visibly in front of them all, the fact that the Federal Government has a role and has played it in so many parts of the country and, in the view of Senator DOMENICI and I, ought to play in all parts of the country.

CHILD VICTIMS OF SEXUAL ASSAULT

Mr. ROTH. Mr. President, I rise in support of Senate Concurrent Resolution 120, a resolution which states the sense of the Congress that the State legislatures need to develop, consider and enact reforms that protect the legal rights of child victims of sexual abuse. I congratulate Senator HAWKINS for her leadership in this very important matter and am proud to be a cosponsor of the resolution.

Mr. President, in the last decade there has been greater awareness and increased reporting of sexual and physical abuse of children, particularly where the perpetrator is a parent or other family member. Recent newspaper articles and television news coverage testify to the public attention this very serious problem is now receiving.

Yet, it has only been recently that the full dimensions of the child abuse problem have become apparent. Some one and a half million children, according to recent estimates, are victims of neglect and abuse. Statistics from the Justice Department show that an estimated 1 out of 8 girls is a victim of sexual abuse before attaining the age of 18. Tragically, 95 percent of the individuals who abuse children are related to them or were their friends.

Recently, many of the States and local governments have begun to overhaul their laws concerning child abuse. For example, survey data from the American Bar Association indicates that one-half of the States and cities now have special units that are trained to handle nothing but sexual abuse cases. Half of these States and cities also have victim/witness assistance programs to assist children through the court process. Many of the States and cities surveyed have also begun to modernize the laws which govern child sexual abuse cases.

However, there is still much to be done to ensure better protection for victims of sexual or physical abuse. This resolution encourages the States and local governments to consider a number of reforms which have been suggested by a variety of distinguished groups including the American Bar Association's National Legal Resource Center for Child Advocacy and Protection. I believe it is a timely and appropriate resolution. It has been approved by my Committee on Governmental Affairs.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WILSON). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

CONTINUING APPROPRIATIONS, 1985

The PRESIDING OFFICER. The Senate will resume consideration of the pending business, which the clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 648) making continuing appropriations for the fiscal year 1985, and for other purposes.

Mr. STEVENS. Mr. President, it is my understanding that there is a pending motion to reconsider the vote by which the Baker amendment, which he offered for the Senator from Utah, was tabled, and that there is an order that the time on this motion be limited to 1 hour and be equally divided, and the vote will occur at 2:30 p.m. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Under the previous order, the hour of 1:30 p.m. having arrived, the Senate will now proceed to the motion to reconsider the vote by which the appeal of the ruling of the Chair on amendment No. 5728 was laid on the table.

Under the previous order, the time for debate on the motion to reconsider is limited to 1 hour, equally divided and controlled by the majority leader and the minority leader or their designees.

Mr. STEVENS. Mr. President, since this was the Hatch amendment in the first instance—as I understand it, it was offered by the distinguished majority leader—I designate the Senator from Utah to handle the time on our side.

The PRESIDING OFFICER. The time is to be equally divided and controlled by the minority leader and the majority leader or their designees.

Mr. HATCH. A parliamentary inquiry, Mr. President: Which of the three Hatch amendments is this?

The PRESIDING OFFICER. This is No. 5728, dealing with the subject of busing.

Mr. HATCH. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, to whom will the time under the quorum be charged?

The PRESIDING OFFICER. To the Senator controlling that time.

Mr. HATCH. Mr. President, a parliamentary inquiry. Will that time come off the hour of the Senator from Utah that he is limited to in postcloture?

The PRESIDING OFFICER. If the absence of a quorum is suggested by the Senator, the time will come from his time. The time for the quorum call is charged to the Senator suggesting the absence of a quorum.

Mr. HATCH. A further parliamentary inquiry: If there is a quorum call, is the time charged against that time allotted to me by the distinguished assistant majority leader, or does it come from the time I have available to me as a Senator, postcloture?

The PRESIDING OFFICER. The time was yielded to the Senator from Utah by the acting majority leader. It is that time against which the quorum call is charged.

Mr. HATCH And not the Senator's personal time?

The PRESIDING OFFICER. That is correct.

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that the time be divided equally on the quorum call.

Mr. BYRD. Mr. President, what is the request? I cannot hear.

Mr. HATCH. My request is that I am going to put in a quorum call, and I ask that the time be divided equally against both sides.

Mr. BYRD. Both sides?

Mr. HATCH. Yes.

Mr. BYRD. Under the hour?

Mr. HATCH. Under the hour. If either side wants to speak, I will be happy to yield time.

Mr. BYRD. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Who yields time? If neither side yields time, the time will run equally against both.

Mr. CHAFEE. Mr. President, I wonder if the distinguished Senator from Utah will yield for a few comments.

Mr. HATCH. I am happy to yield to the distinguished Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I am deeply disturbed over what I understand took place here last Saturday. If someone can tell me I am wrong, I will be glad to hear it.

As I understand the situation, the claim is now made that a vote on germaneness before cloture and after cloture is exactly the same matter. So that when we are in a situation when cloture is invoked, and someone comes along with a totally nongermane amendment, the Chair rules it is nongermane, the appeal is taken to the ruling of the Chair, 51 Senators vote that it is germane, the matter then comes up for consideration, and because cloture has been invoked, the matter no longer can be debated beyond the postcloture limit of 100 hours and 51 Senators can go on and approve it.

That is the situation. No one has yet disputed to me that it is, and if it is, we are really in an extraordinarily different situation than any of us have known previously. If that is indeed the situation why would any Senator ever again vote for cloture?

Let me give you an illustration: Let's say we are debating an agriculture bill. Some people disagree with it. Finally, we invoke cloture on the agriculture bill. Before cloture has been invoked someone has filed an amendment to the agriculture bill dealing with tuition tax credits, which would not otherwise be clotured here. We then vote cloture on the agriculture bill. After cloture, a Senator steps up and says, "I call up my amendment dealing with the tuition tax credit." The Chair says it is nongermane. The Senator appeals the ruling of the Chair. Fifty-one votes say it is germane, and then 51 votes can pass that tuition tax credit amendment to an agriculture bill, and subsequently this bill passes, as amended.

What has happened in the example is we have taken up and passed legislation, namely the tuition tax credit, that would have been filibustered and would have required 60 votes to invoke cloture. But because a simple majority declare it germane, it falls under cloture rules that apply to the agriculture bill.

I think this is an extraordinary development. I, for one, want to register my deep concern over what has taken place here. We have not quite crossed the Rubicon yet, as I understand it, and we can retreat; but I for one, if this is the way it is going to be, would find it extraordinary were I ever to vote for cloture again.

If someone can correct me and say that I am off on the wrong track, I would be delighted to hear it. But that is the way I see the vote that we took on Saturday in relation to the germaneness of amendment 5727.

I just want to register my protest and deep, deep concern.

Those are the only comments that I have.

Mr. KENNEDY. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield myself time on the leader's time.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, the Senator from Rhode Island is exactly correct in his analysis of the situation.

A point was made during the discussion last Saturday that those of us who had supported the Civil Rights Act of 1984 on the issue of germaneness prior to the time cloture was actually enacted were somehow violating the accepted practice and procedure of the Senate. Just so the record is clear on this point I want to state that the question of germaneness regarding the Civil Rights Act of 1984 was actually put to the Senate by the Chair, who made a threshold judgment that the amendment was arguably germane and, as is required by the rules then submitted that question to the Senate. So rather than overriding the Chair, after cloture had been invoked, the supporters of the Civil Rights Act of 1984 acted entirely in accordance with the rules and precedents on the issue of germaneness. And by majority vote the Senate decided that our amendment was in fact germane to the continuing resolution.

That ruling was correct in my judgment. There is substantial funding for a number of the programs in the continuing resolution that should be covered by the Civil Rights Act. Rather than tagging on an antidiscriminatory provision into each and every one of those items, we are instead dealing with it in the generic way. I think that is both responsible, justified and, in fact imperative.

So on the issue of the germaneness, we were following the rules of the Senate. That is entirely different than the course followed by those who supported or who are prepared to support a motion overruling the Chair's judgment on the germaneness of either the busing or the gun control or tuition tax credit in a postcloture situation.

But I wish to commend the Senator from Rhode Island for his analysis. It is consistent with that stated previously by the majority leader and by the minority leader and by others whose familiarity with the rules I know is considerable.

The final point that I wish to make is that when I inquired of the Chair

about how many times that the Chair has been overruled on germaneness in a postcloture situation, the Parliamentarian's response was that this situation had occurred only two times in the history of the Senate. So I believe we are doing violence not only to the reason and the logic as stated by the Senator from Rhode Island, we are also overriding in a fundamental way the time-honored precedents of this body.

And I want to thank the Senator for his comment and for his analysis.

Mr. CHAFEE. I wish to thank the senior Senator from Massachusetts.

Mr. BYRD. Mr. President, whose time is being used?

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. The Senator from Utah did yield me some time before.

Mr. HATCH. I yield time to the Senator.

Mr. CHAFEE. It seems to me, as I believe I heard the minority leader describe it, that we are quite simply adopting "cloture by 51 percent". Once you pass the cloture threshold, than you can bring up any kind of an amendment, and get that approved by 51 percent. Then this unrelated amendment is covered by cloture and a Senator's right to extended debate is curtailed.

So I think what is happening here is that those of us who believe in eventually shutting off debate on matters, and I have been one to vote for cloture after prolonged discussions, would be very, very reluctant ever to vote for cloture again if this is the way postcloture germaneness questions are going to be decided.

I thank the distinguished Senator from Utah for granting me this time.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged to both sides.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Utah?

Mr. BYRD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Who yields time?

Mr. BYRD. Mr. President, as far as I am concerned, the Senator will have the last word.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 25 minutes remaining.

Mr. BYRD. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I yield time which is under my control.

Mr. President, we are on the way toward nailing down, if we are not very, very careful, precedents that will put the matter of cloture back to a pre-1917 situation.

There are very clear precedents which were nailed down by the Senate in 1977 during the great debate on the tax deregulation measure. The effect of one of those precedents was that the Chair may, without a point of order being made from the floor, take the initiative to rule out an amendment if it is clear on its fact that the amendment does not qualify by virtue of various prohibitions, such as nongermaneness or because the amendment goes to different places in the bill that are not contiguous or the amendment was not timely filed or because the amendment is in the third degree, or whatever. The Chair may do that and, under cloture, the Chair may rule out any amendment that is at the desk before that amendment is even called up and read by the clerk.

The rules under cloture are very different from the rules that guide the Senate from day to day through its normal process. What we saw Saturday was an action by a super majority of the Senate to invoke cloture on the Grove City substitute amendment, No. 1. And then we saw a majority that came along after that and sought to overrule the Chair.

The Chair was following the precedents and rules of the Senate when the Chair ruled out of order the busing amendment and the gun control amendment. As to the busing amendment, the pending question right now, or at 2:30, will be the motion to reconsider the vote by which the appeal from the ruling of the Chair was tabled. It is obvious that the busing amendment was not germane. The Chair ruled it out of order on its face and the Chair was acting in conformity with the precedents of the Senate and the rules.

So now, after the Chair has done what the Chair is required to do and has ruled out of order an amendment that was patently on its face nongermane, and the Senate having tabled the motion to appeal that ruling, we are going to reconsider that vote. The question is not on the substance of the amendment but on procedure.

If the Senate reverses its vote on tabling the appeal from the ruling of the Chair, the Senate will then be back on the appeal. And if the Senate then supports the appeal and overrules the Chair, we will have firmly nailed down a precedent that guts the previous precedent which was an effective tool in dealing with postcloture filibusters.

Then we will come to the second matter which would be pending, and that would be the appeal from the ruling of the Chair that the gun control amendment on its face under cloture is out of order.

So it all adds up to this, Mr. President: If the Senate continues in the same direction that it was traveling on Saturday and these new precedents are nailed down, then, Mr. President, it can rightly be said that the most destructive procedural votes that have occurred in my 26 years in the Senate, with respect to clotured matters and postcloture filibusters, will have taken place.

Cloture in the future will be less effective and in some respects the Senate will be back to where it was prior to 1917 when the first cloture rule was adopted. It would make it possible, Mr. President, for Senator *x* to rise to his feet after cloture has been invoked on any motion or measure and offer a third-degree amendment. The Chair could rule the third-degree amendment out of order and the Senator would only need to appeal the ruling of the Chair. And if he has a majority that will support him, the Chair's ruling would be overturned and his third-degree amendment would be in order.

If the Senator goes down that road this afternoon and in the final analysis the Chair is overruled on both these questions and the amendments then are no longer disqualified under cloture, I would suggest that any Senator may wish to come into the Chamber and pull out of his pocket an amendment dealing with campaign financing or an amendment what would require the President before the election to unveil his mystical plan to balance the budget in 1985, or any number of other proposals. And the Chair would say, "The amendment is out of order. First of all, it is not germane. Second, it goes to 27 places in the bill. Third, it was not filed in a timely fashion under the cloture rule. Fourth, it is an amendment in the third degree. It is out of order on its face."

All that Senator would then have to do is appeal the ruling of the Chair, and if a majority were to support Senator *x*, the amendment would be before the Senate. Cloture would no longer amount to anything.

We shall have made a shell out of rule XXII. Under the rules as they now stand, an appeal from the ruling of the Chair, under cloture, is nondebatable. A point of order is not debatable under cloture. So the heck with rule XXII. We shall have given it the coup de maitre. And if I have 51 Senators who will uphold or sustain me, and say that the ruling of the Chair should not stand, I can offer an amendment under cloture which will do a number of things. It may affect campaign financing. It may deal with the item veto. It could have to do with Mr. D'Aubuisson, or whatever else one can imagine. There it is.

I hope the Senate will not continue down this road to the point that it puts the final nail in the coffin of rule XXII.

So what I am prepared to propose, Mr. President, is a motion to recomit this continuing resolution to the Appropriations Committee with instructions that it be reported back forthwith with only the amendment that has been clotured. That would be the Grove City amendment. The busing amendment and the gun control amendment would be given the standing of pending amendments to the concurrent resolution at other places in the resolution.

So the motion to commit and report back forthwith would provide that we would have before the Senate the Grove City amendment on which cloture has been invoked, and at other places in the resolution amendments on busing and gun control would be given the standing of pending amendments. My proposal would allow a vote on the Grove City matter. It would allow a vote on busing. It would allow a vote on gun control. If any Senator will look at rule XXII, he will find that a motion to recommit has precedence over an amendment. And that obtains under cloture as well.

Those who want to vote on gun control may do so, and those who want to vote on busing may do so, and those who want to vote on tuition tax credit may do so, because those are the amendments which are now standing in place on the line of battle, on the left, as I referred to it Saturday, we will still have the Grove City amendment which is the complete substitute, and it will be standing still in its place.

It seems to me, and I should have hoped there would be bipartisan support for such a motion to recommit because, as I have said already, it would give those who want to vote on busing a vote and give those who want to vote on gun control a vote. I would like at least one amendment to be in order to each. And it would give those Senators who have a right to a vote on Grove City—I say "have a right" because the Senate has already invoked cloture on that amendment—they will have a vote on that amendment. That would get us out of this parliamentary snarl which the Senate will rule many times if rule XXII is gutted.

I merely put my good friends on notice on both sides of the aisle. I hope we will have bipartisan support for that recommittal motion because, if we do not, and if we go down this road in the direction we are now heading, we can all forget rule XXII, go back 67 years into the past, and start all over again with no cloture rule.

Mr. President, how much time do I have left?

The PRESIDENT pro tempore. The Senator has 5 minutes remaining.

Mr. BYRD. I reserve the remainder of my time.

The PRESIDENT pro tempore. Who yields time?

If neither side uses time, the time runs equally against both sides.

Mr. KENNEDY. Mr. President, how much time remains on each side?

The PRESIDENT pro tempore. Five minutes to the minority, 17 minutes and 56 seconds to the majority.

Who yields time?

Mr. HATCH. Mr. President, how much time remains to both sides.

The PRESIDENT pro tempore. All time of the minority has expired. The time left to the majority is between now and 2:30 p.m., 10½ minutes.

Mr. HATCH. Mr. President, I have listened carefully to the debate thus far on this particular issue, the issue of obeying the rules. It seems to me that those who are now suddenly concerned about the rules should have been more concerned about them earlier in the game. It is somewhat spurious to make the distinction that rule XVI is not important while rule XXII is. Rule XVI was flaunted when it was announced by the sponsors of the so-called Grove City bill that their amendment was not germane and they knew it was not germane, but they brought it up anyway in violation of rule XVI and voted that it was a germane bill, ignoring the explicit wording of rule XVI.

Now the very same people want to say, "Aha, but rule XXII is different." I admit it is different or it would not be called rule XXII. But suddenly, it is terrible for people who disagree with them on the merits of their bill which they ruled germane in an abusive violation of the rules to protect themselves in the only way they have left to protect themselves.

Keep in mind, Mr. President, we are debating one of the most massive changes in civil rights history, postcloture, with little time to debate—no more than an hour to any Senator. We must remember that we could have resolved these issues in eight committee markups; we could have debated this bill through the committee process; and we could have brought up a freestanding bill. In that regard, the Washington Post was wrong this morning. Contrary to that report, Senator BAKER was willing to bring up a freestanding bill, but he wanted that bill to come through the process, through the committee.

I was willing to accommodate the bill as committee chairman. The reason I was willing to do that is that we knew we had eight votes against it. In other words, it would have been either 10 to 8 or 9 to 9 in committee. I think that would have been a message sent across America, that the precipitous conduct of the House in passing the bill as it did was exactly that, precipitous conduct.

The Parliamentarian has told us that if he had ruled on germaneness with regard to the Grove City amendment to an ongoing appropriations bill, albeit the continuing resolution, he would have ruled the Grove City bill nongermane as legislation on an appropriations bill. Yet this orderly process was flaunted by the proponents of this so-called Grove City amendment.

Mr. President, you know I have always been willing to work through the process. I knew I was going to lose in committee, but I knew I would not lose by more than two votes and there might have been a 9 to 9 tie. I wanted to report the bill out because I knew that that would send a message that was very important. But second, I wanted to report out one of the highest rated Reagan appointees, a woman who was nominated to the Chairmanship of the National Labor Relations Board. I suspect that had something to do with the proponent's reluctance to attend committee markup sessions.

I suspect there was another reason why they did not want to work through the committee process. They figured that because this had the words "civil rights" imprinted on it, everybody in the Senate would just roll over and play dead because it is too tough to vote against anything labeled "civil rights."

Well, I cannot roll over and play dead. I just cannot do that. Because, you see, I do not believe in legislation by title. We must be willing to read and review any legislation before voting, even so-called civil rights legislation.

I might add I do not believe that that is the way to legislate at all. As a matter of fact, I believe that had we debated this in the committee, the press, the media, and everybody else, including those often heralded 63 cosponsors, would know that what the sponsors represented as a bill was not really as represented; that is, a simple overrule of Grove City with a return to the status quo ante-Grove City, or in other words, the laws that existed 1 day before the Grove City case was decided. The other cosponsors and the Nation would have found out that this is a great overreach masquerading as a simple overturning of Grove City.

We now have before us the so-called civil rights bill and the bill dealing with second amendment rights to keep and bear arms. What can be more germane to civil rights than second amendment rights if you stop and think about it? The rules leave it open to the Senate to find what germaneness is. There is no question that a third-degree amendment is a third-degree amendment.

So those who are shedding crocodile tears now because it is all right for them to violate rule XVI, but it is not all right to protect yourself with the only process that is left once the whole process has been subverted by the proponents of ths bill should re-

consider the consistency of their arguments. I shall be honest, Mr. President, I am concerned about this whole question. I wanted a debate, I wanted discussion on the amendment, I wanted to look beyond the title because I think it is time in this country's history when even civil rights bills ought to be scrutinized for bad language and inappropriate legislative language.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. HATCH. I am delighted to yield to the distinguished Senator from Louisiana.

Mr. LONG. Mr President, I really plead that we are entitled to have a copy of that amendment for everybody to see. May I ask unanimous consent that that amendment be printed and put on everybody's desk so we can see what it is?

Mr. HATCH. Does the Senator mean——

Mr. LONG. I mean the civil rights bill that the Senator from Utah is talking about.

Mr. HATCH. I agree. I wish the proponents had done it before we got into this postcloture situation.

Mr. LONG. Mr. President, will the Senator let me do that?

Mr. HATCH. I shall be glad to ask unanimous consent that that be printed and put on everybody's desk. It is legislation on an appropriations bill, ruled germane in clear-cut violation of rule XVI.

The PRESIDENT pro tempore. Does the Senator from Utah make a motion? Does he yield for that purpose?

Mr. HATCH. Mr. President, I ask unanimous consent that a copy of the two Grove City amendments be placed on everybody's desk.

Mr. KENNEDY. Reserving the right to object.

Mr. HATCH. What is wrong with that, Mr. President?

Mr. KENNEDY. As I understand, Mr. President, the material has already been printed in the RECORD.

Mr. HATCH. Mr. President, who has the floor?

The PRESIDENT pro tempore. The Senator from Utah has the floor.

Mr. HATCH. I shall be glad to see that everybody gets a copy with my handwritten notations——

Mr. LONG. I shall be glad to pay for the printing myself.

Mr. HATCH [continuing]. So they will know.

Mr. LONG. Mr. President, was the request granted?

The PRESIDENT pro tempore. There was objection to the request. Does the Senator from Massachusetts object to the printing of the bill in the RECORD?

Mr. KENNEDY. To represent it in the RECORD? Is that the request, Mr. President?

Mr. LONG. No, Mr. President, I am talking about printing it so we can see it, the way it used to be. I mean a printed amendment.

The PRESIDENT pro tempore. Does the Senator from Massachusetts object to its being printed in the RECORD——

Mr. LONG. Mr. President, I mean as a printed amendment.

Mr. KENNEDY. I have no objection.

The PRESIDENT pro tempore. The Senator from Massachusetts does not object?

Is there objection to the amendment being printed in the RECORD?

Mr. LONG. Mr. President, I am not talking about printed in the RECORD. I am talking about printing it so we can see it out here as we used to do.

Mr. HATCH. Mr. President, I ask unanimous consent that we print two amendments and put them on every Senator's desk.

The PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. HATCH. Mr. President, I have only a minute or two left. Unless I have misread the RECORD, and I apologize if I have, I have not seen the answers to the 50 questions I have submitted to the distinguished Senator from Massachusetts. I did see him wave a sheaf of papers on the first day this came up that he was going to file, answers to my questions that we were going to raise that we were never able to raise in committee. Then we go through this problem here.

I am saying that this whole process has been subverted. It has not been subverted by this side of the floor, it has not been subverted by this side of the issue. There are those on the other side of the floor who are feeling the same way I do about this process. But I have asked 50 questions and I ask unanimous consent that they be again printed in the RECORD today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The questions are as follows:

"A FEW QUESTIONS"

(Directed to the Sponsors of Kennedy-Packwood Substitute to S. 2568):

1. Is it your intent that Federal aid to a single agency of a State Social Services Department would trigger the application of Federal rules to every agency within that Department, whether or not such agency itself receives Federal aid? *(Not present law)*

2. Is it your intent that Federal education aid to a State education department would trigger coverage of even agencies outside the department that do not receive such aid but which may be performing some education functions? *(Not present law)*

3. Is it your intent that Federal aid to a college would trigger coverage, not only of the education programs of the college, but also of its commercial holdings? *(Not present law)*

4. Are you in agreement with the House manager of this bill that grocery stores would be covered by Federal regulations (i.e. paperwork, compliance reviews, affirmative action) as "recipients" because they redeem Federal food stamps? *(Not present law)*

5. Is it your intent that pharmacists would be covered by Federal regulations as "recipients" because they fill Medicare or Medicaid prescriptions? *(Not present law)*

6. Is it your intent that landlords and apartment owners be covered by Federal regulations as "recipients" because they accept Federal rental vouchers? *(Not present law)*

7. Is it your intent that general Federal assistance extended to a private corporation would trigger the application of an estimated 75,000 words of Federal rules and regulations to every plant, every division, every facility, and every outlet of that corporation, no matter how limited the assistance? *(Not present law)*

8. Is it your intent that any corporation or non-profit entity performing "education health, or social services" functions, no matter how incidental to their primary purpose, would be covered in their entirety if they receive Federal aid, however narrowly that aid may be targeted? *(Not present law)*

9. Is it your intent that any Federal and program that allows the State Administrator to use some funds for discretionary purposes would trigger coverage of the entire State unless some political subdivision could demonstrate by "clear and convincing" evidence that it didn't receive such funds? *(Not present law)*

10. Is it your intent that Federal aid to a county or municipality would trigger coverage of every department or agency in that county or municipality, no matter how limited the actual aid, if any administrative overhead funds remained in the county or municipality? *(Not present law)*

11. If a college or university is covered by Title IX (and is not formally "controlled" by a church), is it your intention that such college or university will be required to abide by Title IX regulations prohibiting them from distinguishing between abortion and other "medical procedures" (for purposes of student and employee health and leave policies) no matter how genuine their moral or religious objections?

12. If a State chooses to discontinue a particular program because continuation of that program results in the State being covered by Federal rules in unsatisfactory ways, will the State be allowed to do this under S. 2568?

13. Is it your intent to flatly rule out tax exemptions and tax credits as the kind of "Federal assistance" that would trigger the application of coverage under this bill?

14. Is it your intent that to flatly rule out Federal licensing, Federal safety regulations, Federal insurance, and Federal marketing orders as the kind of "Federal assistance" that would trigger the application of coverage under the bill?

15. The Educational Testing Service frequently uses public facilities to administer its various tests, e.g. SAT, LASAT. Would they be considered a direct or indirect recipient of Federal assistance under this bill?

16. If a franchiser receives Federal assistance, would each of its franchisees be considered a "recipient" under this bill?

17. If General Motors receives Federal assistance, would every General Motors-authorized dealer be considered a "recipient" under this bill?

18. Is it your intent that the "disproportionate impact" concept of discrimination will be applied under this bill to local police/firefighting examinations, occupa-

tional licensing examinations, college admissions, tests, and so forth?

19. Will any business be considered a "recipient" of Federal assistance by virtue of any procurement contract, fair market transaction, or arms-length commercial transaction with the Federal government?

20. Is a medical doctor incorporated as a professional "corporation" included within the definition of a "corporation . . . engaged in health care" for purposes of this bill if his or her patients pay their bills with Medicare benefits?

21. Is a lawyer incorporated as a professional "corporation" included within the definition of a "corporation . . . engaged in social services" for purposes of this bill if their clients bills are paid with public assistance funds?

22. Is a health insurance company "engaged in health care" for purposes of this bill if it is a Medicare or Medicaid carrier?

23. Does the so-called "grandfather" clause of this bill implicitly ratify agency rules and regulations that would otherwise be illegal because they exceeded the authority of Title IX, Title VI, Section 504, or the Age Discrimination Act?

24. Is it the purpose of the so-called "grandfather" clause to elevate to the status of law each of several thousand existing rules and regulations and (a) preclude incumbent Administrations from altering such regulations; and (b) preclude courts from finding such regulations to be inconsistent with the terms of the four civil rights statutes?

25. Is it permissible for an agency that is currently lacking rules and regulations to promulgate rules and regulations following passage of this bill?

26. Is it your intent that Federal job training programs in which many businesses participate will constitute Federal assistance to participating firms?

27. If it is not the intent to expand Federal fund termination ("pinpointing") authority in this bill, why does it contain significant amendments to present laws relating to this matter?

28. Is it your intent to flatly exclude from the definition of "recipient" any customer or purchaser or similar "transferee" of an entity receiving Federal assistance?

29. Is it your intent that Federal highway funds trigger coverage of trucking firms as "recipients", or that Federal airport assistance (e.g. controllers) triggers coverage of airline firms?

30. Given your intent to cover various forms of loan guarantees as Federal assistance that were not covered in this manner before *Grove City*, e.g. GSLs, is it your intent to extend coverage over other institutions benefitting from Federal loan guarantee programs?

31. Is it your intent that Federal direct loans constitute Federal assistance to entities of the sort that would trigger the coverage of the four laws in question?

32. Is it your intent to include within coverage those entities which themselves do not receive Federal assistance but which, in the words of the House report, receive "significant assistance" from those entities which do? What does this cover?

33. If HHS provides Federal aid to the medical school of a college and the Department of Education provides aid to the mathematics department of a college, under the "institution wide" coverage contemplated by this bill could both HHS and the Department of Education impose its regulations upon both the medical school and the mathematics department, as well as the other programs of the college?

34. Is it your intent that the exceptions presently contained in Title VII (relating to employment discrimination) would also be implicit in employment discrimination actions that could now be pursued under Title VI, Title IX, Section 504, and the Age Discrimination Act?

35. Is it your intent that the present coverage of States and localities under the Revenue Sharing Act would be maintained intact under the present bill?

36. It is your intent that every college be subject to Federal coverage, in its entirety, even if it refuses all Federal education assistance, if even so much as a single attending student receives a Federal guaranteed student loan, or GI benefit?

37. Is it your intent that "discrimination" under these four statutes be defined in terms of purposeful discrimination on account of sex, race, handicap, age, etc, or that these statutes will incorporate the "disparate impact" or unequal results concept of discrimination?

38. Is it your intent that postal privileges or antitrust exemptions (e.g. newspapers) would constitute Federal assistance that would trigger the coverage of Federal rules and regulations under this bill?

39. Is it your intent that the status of traditionally all-black colleges, or "single sex" colleges not be affected by this bill?

40. Is it your intent that a wholesaler not be considered the "transferee" of a retail business receiving some form of Federal financial assistance?

41. Is it your intent that Federally subsidized water not constitute Federal assistance that would trigger coverage under this bill?

42. Is it your intent that State and local officials would be personally liable for using Federal aid in a manner that resulted in the violation of any of the four civil rights laws?

43. If a political party receives nominating convention assistance from the Federal government, or other operating or campaign funds, would it be considered a "recipient" of Federal financial assistance under this Act?

44. Is it your intent to reject the amendment adopted recently in the House extending coverage of these civil rights laws, for the first time, to the legislative and judicial branches of the national government?

45. Is it your intent to incorporate the statement of the House floor manager that private parties have authority to seek Federal fund termination to "recipients" along coterminous lines with Federal agencies?

46. Would organizations receiving Federal assistance such as PUSH, the Urban League, and the NAACP be required to conform, in all respects, to Federal rules and regulations under this bill?

47. Is it your intent that Federal assistance to a single department at a single campus of the University of California university system trigger coverage of every department at every campus of that system?

48. Is it your intent that crop subsidies to farmers, no matter how they structure their business operations, be insufficient to trigger Federal coverage of their farming operations?

49. Is it your intent that the receipt of a Federal charter not subject organizations to the full coverage of Federal rules and regulations under this bill?

50. What precisely are the circumstances under which churches and other religious organizations can be considered the "recipients" of Federal assistance under this bill?

Mr. HATCH. I also ask unanimous consent that the distinguished Senator from Massachusetts have every right in this RECORD today to answer these questions, and I hope he will at this time.

Mr. KENNEDY. Did the Senator want the answers behind each question?

Mr. HATCH. I would like to have the answers. I have not had them yet and they certainly were not put in the RECORD as I saw it. Did the Senator put them in the RECORD?

Mr. KENNEDY. The questions in the Senator's first two letters were responded to last week.

The new questions which the Senator——

Mr. HATCH. No, no, these are the very same questions.

Mr. KENNEDY. If the Senator will permit an answer, the most recent 50 which were made available last Friday have not been answered.

Mr. HATCH. The Senator responded to my criticisms of his original bill by referring to language from his second bill. He did not respond to the 50 questions he said he would respond to, and that has been typical of this whole process. If we let this continue without looking at the background and consequences of this bill and look at the language of this bill and realize what a tremendous overreach it is, then the consequences will be serious.

(Mr. KENNEDY's answers to the question of Mr. HATCH were submitted later in the day, as follows:)

ANSWERS BY MR. KENNEDY TO MR. HATCH'S QUESTIONS

A FEW ANSWERS BY SENATORS KENNEDY AND PACKWOOD TO "A FEW QUESTIONS" BY SENATOR HATCH ON THE CIVIL RIGHTS ACT OF 1984

(1) Is it your intent that Federal aid to a single agency of a State Social Service Department would trigger the application of Federal rules to every agency within that Department, whether or not such agency itself receives Federal aid?

Yes. Federal financial assistance extended to a State department or part of a State department, would trigger coverage of the entire department.

This is similar to coverage triggered by federal financial assistance to a part of a college. Such assistance triggers coverage of the whole college, not just the part recieving the aid.

This is consistent with pre-Grove City law.

(2) Is it your intent that Federal education aid to a State education department would trigger coverage of even agencies outside the department that did not receive such aid but which may be performing some education functions?

No. Federal aid to a State education department would trigger coverage of the education department only. Agencies outside the department would be covered only if they receive aid.

However, in the specific case of federal block grants for education, the State itself is the recipient, and all State agencies whose primary function is education would be covered.

(3) Is it your intent that Federal aid to a college would trigger coverage, not only of the education programs of the college, but also of its commercial holdings?

Yes. The inclusion of the commercial activities of universities in the Title IX prohibition on discrimination is not the result of anything in the Civil Rights Act of 1984. The broad scope of the law, reflected in regulations which encompass even non-educational activities, give strong indication that university-owned commercial or residential buildings are covered. Such a building would also be covered under Title VI Section 504 and the Age Discrimination Act. These laws make no distinction between educational and non-educational activities.

This result is the same as under pre-Grove City law.

(4) Are you in agreement with the House manager of this bill that grocery stores would be covered by Federal regulations (i.e. paperwork, compliance reviews, affirmative action) as "recipients" because they redeem Federal food stamps?

Under the USDA § 504 regulations, small grocery stores (those with 15 or fewer employees) would not be carried.

The coverage of grocery stores which accept food stamps remains the same under our bill as prior to the Grove City decision. The grandfather provision makes clear that any person or entity which was not a recipient prior to the Grove City decision is not a recipient under the bill. Any person or entity which was a recipient before is a recipient now.

This bill does not create any new recipient now. It does not resolve any unsettled questions about whether a given entity or person is a recipient of federal financial assistance under the civil rights laws. It simply leaves the law as it was before on this issue of who or what is a recipient.

(5) Is it your intent that pharmacists would be covered by Federal regulations as "recipients" because they fill Medicare or Medicaid prescriptions?

Yes. Medicare and Medicaid are forms of federal financial assistance. The individual patient is not covered because she-he is an ultimate beneficiary. However, hospitals and nursing homes are covered by virtue of their receipt of Medicaid and Medicare payments. *See e.g. U.S.* v. *Baylor Medical Center* 736 F 2d 1039 (5th Cir. 1984).

Pharmacies filling prescriptions paid for by Medicaid or Medicare are also covered. The statement preceding the publication of the HEW § 504 regulations in final form lists druggist as one of the examples of health care providers covered by Medicaid and Medicare. See 42 FR 22689 (May 4, 1977).

No change in coverage is caused by the bill. Entities which were recipients prior to Grove City are recipients under the bill.

Fears of accessibility burdens are unfounded because the Justice Department's government-wide § 504 regulations allow small providers additional flexibility in how they become accessible to disabled customers. 28 C.F.R. 42.521 in 45 FR 37625 (June 3, 1980) See, also letter of David S. Tatle, Director of Office for Civil Rights, HEW to Robert J. Bolger, President, National Association of Chain Drug Stores, Inc. June 20, 1977. The necessary flexibility was built in prior to the Grove City decision.

(6) Is it your intent that landlords and apartment owners be covered by Federal regulations as "recipients" because they accept Federal rental vouchers?

Yes. A housing voucher program was authorized by Congress in 1983, but has not been implemented. However, it represents the type of federal aid that has always been considered financial assistance. Rent supplement programs are listed as a form of federal financial assistance in the HUD regulations (24 C.F.R. §§ 1.1 et. seq., App. A) and housing certificates are expressly subject to Title VI (24 C.F.R. §§ 882.111).

The legislation does not change the test for who is considered a recipient.

(7) Is it your intent that general Federal assistance extended to a private corporation would trigger the application of an estimated 75,000 words of Federal rules and regulations to every plant, every division, every facility, and every outlet of that corporation, no matter how limited the assistance?

If programs provide assistance to a company as a whole, e.g. subsidies to bail out a failing company, the entire company is covered.

However, if the funding is for a limited purpose, the coverage would apply only to those establishments that actually receive the funds.

(8) Is it your intent that any corporation or non-profit entity performing "education, health, or social services" functions, no matter how incidental to their primary purpose, would be covered in their entirety if they receive Federal aid, however narrowly that aid may be targeted?

No. Such private corporations are covered only if their primary function is health, education or social services. E.g., if IBM receives federal financial assistance and loans one of its executives to a university to teach a course in business, IBM would not be covered as a corporation performing "education services".

(9) Is it your intent that any Federal aid program that allows the State Administrator to use some funds for discretionary purposes would trigger coverage of the entire State unless some political subdivision could demonstrate by "clear and convincing" evidence that it didn't receive such funds?

If a State receives unrestricted federal financial assistance, all state agencies would be presumed to be covered. This presumption could be rebutted by a showing by the State that any particular State agency did not actually receive funds.

This is consistent with the treatment of unrestricted federal aid under the Revenue Sharing Act.

Political subdivisions, i.e., cities, counties, towns and other municipalities are not considered part of the State government for coverage by these laws. They are not covered.

(10) Is it your intent that Federal aid to a county or municipality would trigger coverage of every department or agency in that county or municipality, no matter how limited the actual aid, if any administrative overhead funds remained in the county or municipality?

If administrative overhead aid is unrestricted, that is, it may be used at the discretion of the county or municipality, all parts of the county or municipality are presumed to be covered. This presumption could be rebutted by a showing that any particular county or municipal agency did not actually receive funds.

This is consistent with the treatment of unrestricted federal aid under the Revenue Sharing Act.

(11) If a college or university is covered by Title IX (and is not formally "controlled" by a church), is it your intention that such college or university will be required to abide by Title IX regulations prohibiting them from distinguishing between abortion and other "medical procedures" (for purposes of student and employee health and leave policies) no matter how genuine their moral or religious objections?

Title IX prohibits education institutions from discriminating on the basis of sex in the provision of health care services. There is no affirmative requirement that any particular institution provide abortion services. In addition, educational institutions controlled by a religious organzation are protected by an exemption already included in Title IX. This exemption removes these institutions from coverage to the extent that such coverage would not be consistent with the religious tenets of the organization.

(12) If a State chooses to discontinue a particular program because continuation of that program results in the State being covered by Federal rules in unsatisfactory ways, will the State be allowed to do this under S. 2568?

Yes. If a State wishes to avoid the requirement of nondiscrimination, it can do so by rejecting Federal Aid.

(13) Is it your intent to flatly rule out tax exemptions and tax credits as the kind of "Federal assistance" that would trigger the application of coverage under this bill?

Yes. Tax exemptions and tax credits are not considered Federal financial assistance under these antidiscrimination laws.

(14) It is your intent to flatly rule out Federal licensing, Federal safety regulations, Federal insurance, and Federal marketing orders as the kind of "Federal assistance" that would trigger the application of coverage under the bill?

Yes. This bill makes no change whatsoever to the definition of Federal financial assistance for purposes of these four civil rights statutes.

In the past, Federal licensing, Federal safety regulations, Federal insurance, and Federal marketing orders have not been considered Federal financial assistance for purposes of these statutes.

(15) The Educational Testing Service frequently uses public facilities to administer its various tests, e.g. SAT, LASAT. Would they be considered a direct or indirect recipient of Federal assistance under this bill?

No. The mere use of public facilities by private organizations is not regarded as Federal financial aid, and there is no coverage.

(16) If a franchiser receives Federal assistance, would each of its franchisers be considered a 'recipient' under the bill?

No. Only those franchises actually receiving the assistance will be covered pursuant to S. 2568 as clarified. This situation is a private business corporation operating with multiple establishments. Each franchise would be treated as an "establishment" under the terms of the bill.

(17) If General Motors receives Federal assistance, would every General Motors authorized dealer be considered a 'recipient' under this bill?

No. General Motors dealers are franchises of General Motors, so coverage of GM dealers is not affected by coverage of General Motors Corporation.

(18) Is it your intent the 'disproportionate impact' concept of discrimination will be applied under this bill to local police/firefighting examinations, occupational licensing examinations, college admissions tests, and so forth?

The Grove City discussion did not address this issue, and neither does this bill.

This bill does not in any way change the standard for determining discrimination

under the four statutes. To the extent that judicial decisions, such as the Supreme Court's ruling in the Guardian's case, apply a "disproportionate impact" or "results" standard for determining a violation, those decisions will remain in effect after enactment of this bill. The bill does not alter in any way the current standards for determining violations.

(19) Will any business be considered a "recipient" of Federal assistance by virtue of any procurement contract, fair market transaction, or arms-length commercial transaction with the Federal government?

No. Procurement contracts do not constitute federal financial assistance under these statutes. Such relationships are covered by Executive Order 11246 (race, sex, national origin, religion) and § 503 (disability).

(20) Is a medical doctor incorporated as a professional "corporation" included within the definition of a "corporation. . . . engaged in health care" for purposes of this bill if his or her patients pay their bills with Medicare benefits?

Physicians providing care to medicare patients have not historically been covered by these civil rights statutes under regulations of HHS. Incorporation as a professional corporation will not change that practice.

(21) Is a lawyer incorporated as a professional "corporation. . . . engaged in social services" for purposes of this bill if their clients' bills are paid with public assistance funds?

No. A lawyer whose clients pay their bills with money from welfare checks is not covered.

This is consistent with pre-Grove City law.

(22) Is a health insurance company "engaged in health care" for purposes of this bill if it is a Medicare or Medicaid carrier?

No. Health insurance companies which serve as contractors of state Medicaid or Medicare administrators are not regarded as recipients of Federal financial assistance.

(23) Does the so-called grandfather clause of this bill implicitly ratify agency rules and regulations that would otherwise be illegal because they exceeded the authority of Title IX, Title VI, Section 504, or the Age Discrimination Act?

No. Agency rules and regulations on the meaning of the term recipient which clearly exceed the authority under the four statutes are not ratified by the grandfather clause.

(24) Is it the purpose of the so-called grandfather clause to elevate to the status of law each of several thousand existing rules and regulations and (a) preclude incumbent Administrations from altering such regulations; and (b) preclude courts from finding such regulations to be inconsistent with the terms of the four civil rights statutes?

No. The only rules or regulations codified by the grandfather clause are those defining the term recipient. No other rules or regulations and no agency practices, opinions, interpretations, etc. are codified by the grandfather clause. Future Administrations are precluded from changing—either contracting or expanding—the definition of recipient. Courts would not be precluded from finding such regulations inconsistent with the four statutes.

(25) Is it permissible for an agency that is currently lacking rules and regulations to promulgate rules and regulations following passage of this bill?

Agencies lacking regulations under these statutes will be permitted to issue regulations as long as they are consistent with the regulatory definitions of recipient which are grandfathered into the statutes by this bill.

(26) Is it your intent that Federal job training programs in which many businesses participate will constitute Federal assistance to participating firms?

Yes, if a business receives federal financial assistance from a federal job training effort, it will be covered.

(27) If it is not the intent to expand Federal fund termination ("pinpointing") authority in this bill, why does it contain significant amendments to present laws relating to this matter?

It is not the sponsors intent to expand fund termination authority with § 2568. The words program or activity found in the enforcement sections of the respective statutes must be changed to prevent those sections from being narrower than they had been before the Grove City decision interpreted these words narrowly. The changes are intended to restore the pinpointing application of fund termination.

[Use of the phrase "supports the discrimination is from the *Board of Public Instruction, Taylor County, Florida v. Finch*, 414 F. 2d 1068 (5th Cir. 1969) which has been followed consistently by HEW and then the Department of Education].

(28) Is it your intent to flatly exclude from the definition of "recipient" any customer or purchaser or smiliar "transferee" of an entity receiving Federal assistance?

Customers are not recipients of federal financial assistance merely because they have a business relationship with a recipient of federal financial assistance.

For example, those who purchase electricity generated by a federally constructed power company would not be recipients of federal financial assistance. If the ownership of the federally constructed power company changes, the new owner would be a recipient of federal financial assistance as a transferee.

(29) Is it your intent that Federal highway funds trigger coverage of trucking firms as 'recipients' or that Federal airport assistance (e.g. controllers) triggers coverage of airline firms?

No.

(30) Given your intent to cover various forms of loan guarantees as Federal assistance that were not covered in this manner before Grove City, e.g. DSL's, is it your intent to extend coverage over other institutions benefitting from Federal loan guarantee programs?

The District Court in *Grove City College* v. *Bell* determined that GSL's were federal financial assistance. This part of the decision was not challenged by either the government nor the college. This bill makes no change in the law.

(31) Is it your intent that Federal direct loans constitute Federal assistance to entities of the sort that would trigger the coverage of the four laws in question?

Yes. Direct federal loans and payments of interest charges on loans both constitute federal financial assistance. Other examples will be federal subsidies for interest rates and federal revolving loan funds. No change is made by this bill as to such assistance.

Note, however, that only institutions receiving such aid are covered, not individuals. Individuals who receive Federal aid (food stamps, student loans, medicare, etc.) are not covered under any of the statutes.

(32) Is it your intent to include within coverage those entities which themseles do not receive Federal assistance but which, in the words of the House report, receive "significant assistance" from those entities which do? What does this cover?

The concept of significant assistance predates this legislation and is unchanged by this bill. It is found in the regulations under Title IX and § 504, 34 CFR 106.31(b)(6), and 7 CFR 15b.4(b)(v) for example.

These regulations prohibit, for example, a school which is a recipient from placing a study in an internship with an employer that discriminates against the students on the basis of race, sex, handicap or age or a state employment service from accepting or filling job listings which are discriminatory.

(33) If HHS provides Federal aid to the medical school of a college and the Department of Education provides aid to the mathematics department of a college, under the "institution wide" coverage contemplated by this bill could both HHS and the Department of Education impose its regulations upon both the medical school and the mathematics department, as well as the other programs of the college?

In higher education it is frequently possible that more than one agency will extend funding to a university—the most common are the Department of Education, HHS and Agriculture (land grant institutions). This bill will not change this pre-existing situation. There already exists an Executive Order 12250 which assigns coordinating responsibility to the Justice Department. Moreover there would be no conflict between the agencies because both HHS and Education have very similar and for many provisions identical regulations under Title IX, Title VI and § 504. This situation has existed for over a decade. It predates the Grove City dispute and ruling and is addressed by Executive Order 12250 designating Justice as the coordinator.

(34) Is it your intent that the exceptions presently contained in Title VII (relating to employment discrimination) would also be implicit in employment discrimination actions that could not be pursued under Title VI, Title IX, Section 504, and the Age Discrimination Act?

No. The statutory limitations in Title VII are not part of the four statutory provisions at issue in our amendment, and our amendment makes no change in this current law.

(35) Is it your intent that the present coverage of States and localities under the Revenue Sharing Act would be maintained intact under the present bill?

Yes. This bill is not intended to modify in any way the provisions that exist under the State and Local Fiscal Assistance Act of 1972 as amended. The present coverage of states and localities under the Revenue Sharing Act would not be altered by this bill. It is not our intent to diminish or alter the civil rights enforcement structure or system that has been created specifically for Revenue Sharing funds.

(36) It is your intent that every college be subject to Federal coverage, in its entirety, even if it refuses all Federal education assistance, if even so much as a single attending student receives a Federal guaranteed student loan, or GI benefits?

In practice, a de minimis standard would obviously apply. However, the Supreme Court has unanimously held that student financial assistance is financial assistance to the school. At Grove City College, for example, hundreds of thousands of dollars of federal student financial aid went to the treasury of the school. The example is impractical. We know of no educational institution at which only one student uses federal

money to pay the school for his or her education.

(37) Is it your intent that "discrimination" under these four statutes be defined in terms of purposeful discrimination on account of sex, race, handicap, age, etc. or that these statutes will incorporate the "disparate impact" or unequal results concept of discrimination?

This bill does not in any way address the subject of the standard for determining substantive violations of the four statutes the bill amends. To the extent that judicial decisions, such as the Supreme Court's ruling in the Guardians' case, have held that the statutes on implementing regulations authorize the use of a "disproportionate impact" or results standard for determining a violation, those decisions will remain in effect after enactment of this bill. The bill does not alter in any way the current standards for determining violations.

(38) Is it your intent that postal privileges or antitrust exemptions (e.g. newspapers) would constitute Federal assistance that would trigger the coverage of Federal rules and regulations under this bill?

Neither postal privileges nor antitrust exemptions have been considered federal financial assistance in the past and will not become federal assistance under this bill. No change will occur.

(39) Is it your intent that the status of traditionally all-black colleges, or "single sex" colleges not be affected by this bill?

Yes. Historically black colleges and single-sex colleges will not be affected by this bill. NAFEO, the organization which represents historically black colleges, supports the legislation.

Title IX does not cover undergraduate admissions to private colleges. 20 U.S.C. 1681a(1). It also contains a special exception for public undergraduate school admissions for schools that have been consistently single sex since their start. 20 U.S.C. 1681(a)(5).

(40) Is it your intent that a wholesaler not be considered the "transferee" of a retail business receiving some form of Federal financial assistance?

The wholesaler is not a transferee of the retailer under the meaning of transferee as used in this bill. Transferee has the same meaning it has always had in the regulations. No change is intended from pre *Grove City* interpretation.

(41) Is it your intent that Federally subsidized water does not constitute Federal assistance that would trigger coverage under this bill?

This bill makes no change in existing law.

Yes. Recipients of Federally subsidized water were not covered under prior law and are not covered by this bill.

(42) Is it your intent that State and local officials would be personally liable for using Federal aid in a manner that resulted in the violation of any of the four civil rights laws?

This bill makes no change in existing law governing the personal liability of State and local officials who use federal aid in a discriminatory manner. To the extent that judicial decisions have held that such officials may be held personally liable for their actions those decisions would continue to be applicable. This bill will neither expand nor contract such liability.

(43) If a political party receives nominating convention assistance from the Federal government, or other operating or campaign funds, would it be considered a "recipient" of Federal financial assistance under this Act?

No. A 1980 federal court decision found that § 504 did not apply to the two presidential campaign headquarters. See *Paralyzed Veterans of America* v. *Civiletti*. The amendment does not change this prior law.

(44) Is it your intent to reject the amendment adopted recently in the House extending coverage of these civil rights laws, for the first time, to the legislative and judicial branches of the national government?

The provision was adopted as a floor rider to the Grove City bill in the House of Representatives, and is not part of the Senate amendment.

(45) Is it your intent to incorporate the statement of the House floor manager that provides parties have authority to seek Federal fund termination to "recipients" along coterminous lines with Federal agencies?

No. Whether and to what extent private suits may be filed to seek fund termination has not been decided by the courts. This bill does not change the law in this area.

(46) Would organizations receiving Federal assistance such as PUSH, the Urban League, and the NAACP be required to conform, in all respects, to Federal rules and regulations under this bill?

Any public, private profit or non-profit organization which receives federal financial assistance will be covered. If such organizations are recipients, then they are not exempted by any provisions of this bill.

(47) Is it your intent that Federal assistance to a single department at a single campus of the University of California university system trigger coverage of every department at every campus of that system?

No. The assistance to one department will bring all other departments of that campus under coverage, but not other campuses. However, if the university system itself receives assistance, then all campuses are covered.

(48) Is it your intent that crop subsidies to farmers, no matter how they structure their business operations, be insufficient to trigger Federal coverage of their farming operations?

Farmers receiving crop subsidies, whether operating as individuals, in partnership or in a corporate form, are not covered. However, when farmers form cooperatives or associations which then distribute benefits to producers, the cooperatives or associations as distributors are covered. *See Title VI,* Agriculture regulations 7 C.F.R. 15.3(d)(7).

(49) Is it your intent that the receipt of a Federal charter not subject organizations to the full coverage of Federal rules and regulations under this bill?

Current federal regulations do not include federal charters in the definitions of federal financial assistance. No change in this interpretation is caused by this bill.

(50) What precisely are the circumstances under which churches and other religious organizations can be considered the "recipients" of Federal assistance under this bill?

There will be no change from existing law in the circumstances under which churches and other religious organizations are considered recipients of federal financial assistance.

As to the coverage of churches that are recipients of federal financial assistance, it will be governed by the provisions of section (d) of each of the titles of the bill.

Churches which are private corporations will fall under the provisions of section (d)(1) which states that separate establishments of a recipient corporation that are not extended federal financial assistance will not be deemed recipients. Thus, for example, the receipt by a church of federal assistance to provide help to refugees would not extend coverage to a seminary which is not involved in refugee aid.

Other types of church-controlled corporations, such as schools, hospitals, adoption agencies, nursing homes or other social service agencies would fall under the provisions of d(3) which says that limitations on coverage contained in (d)(1) do not apply to corporations engaged in education, health care or social services. But, this provision does not apply to the church itself, even if it engages in some education, health care or social service activity. The church itself would be deemed a religious corporation, not a corporation engaged in education, health care or social services.

Mr. BAKER addressed the Chair.

The PRESIDENT pro tempore. The distinguished majority leader has the floor.

Mr. BAKER. Mr. President, I have consulted with the minority leader on this subject. First of all, I apologize to the Senate for being late in my return to Washington, but I was unavoidably delayed by factors beyond my control, mostly the weather.

Mr. President, I ask unanimous consent that the vote scheduled to occur at 2:30 today occur at 3 o'clock instead.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, seemingly, endless negotiations have gone on about the current dilemma. I think further negotiations are in order. Certainly, we owe the obligation to try.

RECESS UNTIL 4 P.M.

Mr. BAKER. Mr. President, I ask unanimous consent, after first consulting with the minority leader, that the Senate now stand in recess until the hour of 4 p.m., except that at the request of the majority leader, after first consulting with the minority leader, a request may be made to the Chair to reconvene the Senate prior to that hour.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

Mr. DECONCINI. Mr. President, I object temporarily.

I wish to state to the majority leader that I think I understand the struggle he is going through. Some of us have things to do today that we would not have been here had we not been assured of the vote at 2:30 p.m., and I do not want to put my colleagues at risk for those who are not here, but I think we should take into consideration

those who have hung around here diligently for a vote this afternoon.

It puts us in a very bad position because I myself and, I suspect, other Senators canceled some commitments that we had all on the basis that there was going to be a vote at 2:30. Had I known there was going to be a vote at 4:30, I could have made my commitments.

I do not say that admonishing in any sense the efforts and the predicament the leadership and this body finds itself in. But I think it is unfair to operate this place without sticking to the time when we have a committed vote.

Mr. BAKER. Mr. President, I thank the Senator. I understand his dilemma. But I hope that he will not object, because if he does we will forfeit, I think, an opportunity to try to find our way out of this thing. I am not sure we can, but, as I said earlier, I think we owe the obligation to try.

The PRESIDING OFFICER pro tempore. Is there objection? Without objection, it is so ordered.

There being no objection, the Senate, at 3 p.m., recessed until 4 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer [Mr. TOWER].

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the role.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I ask unanimous consent that I may proceed for 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST

Mr. BAKER. Mr. President, once again I wish to report to the Senate that there are a great number of Senators involved in negotiations. Maybe it is because hope springs eternal, but I hope we will be able to find a solution with respect to committee amendment No. 1. Rather than recess the Senate or having extended quorum calls, it seems to me best to try to go to another committee amendment. I have consulted with the distinguished minority leader, the chairman of the committee, and other Senators. I ask unanimous consent that the Senate temporarily lay aside committee amendment No. 1 and proceed to the consideration of committee amendment No. 10 for a time not to exceed 3 hours.

I further ask unanimous consent that during that period of 3 hours no call for regular order will bring back committee amendment No. 1.

I further ask unanimous consent that no nongermane amendments to committee amendment 10 be in order.

Finally, I ask unanimous consent that the time used in debate and disposition of committee amendment No. 1 not be charged to the time permitted in postcloture debate with respect to the Byrd amendment.

Mr. BYRD. Mr. President, I understand that a Senator on this side of the aisle wishes to offer an amendment which would not be germane. If we could exclude his, that would be all right, although neither of us should be concerned, may I say to the distinguished majority leader, because we are almost at the point now where a provision in any time agreement that rules out nongermane amendment will not be worth anything. We are about to the point where we destroy the cloture rule and we destroy unanimous-consent agreements that have nongermane amendment provisions in them.

Mr. BAKER. I could not agree with the Senator more. We almost did that once, I remember. The Senate was sorely tempted, I believe, to overturn a provision of a unanimous-consent order that no nongermane amendments be in order by an appeal on germaneness to the ruling of the Chair. I recall, I believe, that the minority leader and I both worked pretty hard to make sure that did not happen. But it is a loaded gun ready to go off. I agree with the Senator's observation and I fear the consequences if we continue with that course of action.

Could we know what the amendment is, may I inquire?

Mr. BYRD. Mr. President, I am advised that the amendment by a Senator on this side of the aisle would not, after examination, be offered to this particular committee amendment. I have no objection.

The PRESIDING OFFICER. Is there objection?

Mr. DECONCINI. Reserving the right to object, Mr. President, I have an amendment which I would offer that is not germane to committee amendment No. 10. It deals with the malt beverage amendment. I am prepared to have a very quick vote on it, with a short debate or no debate, but I want to reserve the right to offer that amendment at some time on this continuing resolution. So I am going to object.

The PRESIDING OFFICER. The objection is heard.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will receive a message from the House of Representatives.

MESSAGE FROM THE HOUSE

At 4:41 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 2955. An act to facilitate economic development in the territories of the United States through the mobilization of private capital and skills, and for other purposes;

H.R. 3697. An act to modify Federal land acquisition and disposal policies carried out with respect to Fire Island National Seashore, and for other purposes;

H.R. 4966. An act to recognize the organization known as the Women's Army Corps Veterans' Association; and

H.J. Res. 653. Joint resolution making continuing appropriations for the fiscal year 1985, and for other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 2040. An act to amend the Securities Exchange Act of 1934 with respect to the treatment of mortgage backed securities, to increase the authority of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, and for other purposes;

S. 2603. An act to extend the authorization of appropriations for, and to revise the Older Americans Act;

S. 2688. An act to authorize appropriations for fiscal year 1985 to carry out the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes;

H.R. 1904. An act to extend and improve the provisions of the Child Abuse Prevention and Treatment Act and the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978;

H.R. 3979. An act to establish a national program to increase the availability of information on the health consequences of smoking, to amend the Federal Cigarette Labeling and Advertising Act to change the label requirements for cigarettes, and for other purposes; and

H.R. 4968. An act to provide for the conveyance by the Secretary of Energy of surface rights to certain parcels of land located on Naval Petroleum Reserve Numbered 2 in the State of California on which private residences are located.

The enrolled bills were subsequently signed by the President pro tempore [Mr. THURMOND].

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER [Mr. HECHT]. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that I may proceed for 1 minute to explain a procedure I would like to undertake.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTINUING APPROPRIATIONS, 1985

HOUSE JOINT RESOLUTION 653

Mr. BAKER. Mr. President, there is a continuing resolution here from the House, House Joint Resolution 653. It just arrived by messenger. It continues appropriations for agencies and departments of Government through Wednesday midnight. It is not much, but it is all we have. [Laughter.]

Mr. President, I am advised that it is cleared on this side; and if the minority leader is prepared to do so, I now ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 653; that there be a time limitation thereon of not to exceed 10 minutes; that the time for debate thereon be equally divided and controlled in the usual manner; that no amendments be in order; that no time for debate be allowed on a motion to reconsider; that any appeal, if it is submitted to the Senate, be nondebatable; and that no other motion be in order.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 653) making continuing appropriations for the fiscal year 1985, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. BAKER. Mr. President, I yield back the time on this side.

Mr. STENNIS. I yield back the time on this side.

The PRESIDING OFFICER. The question is on the third reading of the joint resolution.

The joint resolution was ordered to a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. STENNIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONTINUING APPROPRIATIONS, 1985

The Senate continued with the consideration of House Joint Resolution 648.

Mr. BAKER. Mr. President, I assume that the time just consumed is not charged against the 100 hours. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. BAKER. But the quorum call I am about to put now will be?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUESTION: MOTION TO RECONSIDER VOTE BY WHICH APPEAL OF AMENDMENT NO. 5728 WAS LAID ON THE TABLE

The question is on the motion to reconsider the vote by which the appeal with regard to amendment No. 5728 was laid on the table. On this question the yeas and nays have been ordered.

Mr. BYRD. Mr. President, this vote is one of the votes which could take us down the road to the complete destruction of rule XXII of the standing rules of the Senate.

So far as I am concerned, there is nothing to do but to let the Senate work its will; and if the Senate wants to destroy Senate rule XXII insofar as that rule deals with cloture, it may do so. I can cast only one vote. I have done my best to alert the Senate to what it has done already to destroy the cloture rule and what it is about to do.

I would only add that if those provisions dealing with cloture under rule XXII are eradicated, in essence, by this vote and votes that occurred on Saturday and votes that will follow, we had better stop and think about unanimous consent time agreements in the future. Those time agreements will not be worth, as I say from time to time, a hill of beans.

"The usual form" will not mean anything then, except that it will mean the designation of certain Senators who will control and divide the time. It will no longer assure Senators that nongermane amendments will be out of order on time agreements entered into by unanimous consent.

With respect to nongermaneness, as it is comprehended in the words "the usual form," or if it is explicitly and indubitably clear in the time agreements that no nongermane amendments are in order, forget it, because all a Senator has to do is call up an amendment, have the Chair rule that it is out of order because it is not germane, whereupon that Senator need only appeal the ruling of the Chair, and if he has 51 votes, or a majority of whatever size quorum happens to be here, down goes the ship so far as nongermane amendments are concerned.

So it is not only with respect to rule XXII. It is also the same with respect to time agreements that we have to enter into in this Senate often, almost every day, if the Senate is to attend to its business. Without those time agreements there would not be a great deal done in this Senate.

So I am almost blue in the face in my efforts to warn the Senate as to what we are doing to the Senate. For me to speak any further at this time on this subject would be to do a vain thing.

I yield the floor.

Mr. BAKER. Mr. President, I ask unanimous consent that I may proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I cannot honestly say I disagree with a single word that the minority leader has uttered, but the key words in his remarks are "going down the road toward creating that precedent."

Let me point out that we have not yet created the precedent that the minority leader has identified and I also fear for its future consequences to the Senate; that is to say, no appeal has yet been overturned. We have simply in the case of the gun control bill declined to table that appeal. At the point, it left a lot of people high and dry on the merits of these two issues, that is, gun control and busing.

I have three objectives in mind, and I will state them very frankly to the Senate in their order of importance.

The first one is to avoid an unfortunate precedent that will misserve the Senate for many years, and I believe the step I am now taking will move us in that direction.

The second thing is to pass a continuing resolution in a timely way and to discharge our responsibility to the Senate, to the Government, and to the country.

The third thing I have is to make amends, very frankly, to Senators in this Chamber who followed the leadership initiative, that is to say, an attempt to sustain the ruling of the Chair when their strong and undeviating political position in the past had been on the other side of that issue. For instance, I know of people in here who voted to table the gun control amendment, for instance, who are vitally opposed to gun control, and that sends a strong signal.

So my three objectives are to give people an opportunity to amend that vote, to give us an opportunity to stop short of creating that precedent, and then to back away from it, and I have other plans for trying to do that, and to pass a continuing resolution.

So my plan, Mr. President, is to try to reconsider the tabling motion on the busing amendment. I hope it is reconsidered and at that point then the appeal will be pending but undisposed of. No precedent has been set. And

then when I can be recognized I am going to make a motion to reconsider the vote by which the gun control appeal was not tabled. In that case I think it will not be tabled again but it will give Senators an opportunity to vote the way they wish. And when that is done, then I hope that the leadership can take us down the road toward a way to get out of this dilemma and get this continuing resolution in shape so that we can get on with its passage and the orderly disposition of the responsibilities of Government.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee.

On this motion, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Illinois [Mr. PERCY], and the Senator from South Dakota [Mr. PRESSLER] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Montana [Mr. MELCHER] is necessarily absent.

I further announce that, if present and voting, the Senator from Montana [Mr. MELCHER] would vote "nay".

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 60, nays 37, as follows:

[Rollcall Vote No. 258 Leg.]

YEAS—60

Abdnor	Grassley	Nickles
Andrews	Hatch	Nunn
Armstrong	Hatfield	Proxmire
Baker	Hawkins	Pryor
Bentsen	Hecht	Quayle
Biden	Heflin	Randolph
Boren	Helms	Roth
Chiles	Hollings	Sasser
Cochran	Huddleston	Simpson
D'Amato	Humphrey	Specter
Danforth	Jepsen	Stennis
DeConcini	Johnston	Stevens
Denton	Kassebaum	Symms
Dole	Kasten	Thurmond
Domenici	Laxalt	Tower
East	Long	Trible
Exon	Lugar	Wallop
Ford	Mattingly	Warner
Garn	McClure	Wilson
Goldwater	Murkowski	Zorinsky

NAYS—37

Baucus	Eagleton	Metzenbaum
Bingaman	Evans	Mitchell
Boschwitz	Glenn	Moynihan
Bradley	Gorton	Packwood
Bumpers	Hart	Pell
Burdick	Heinz	Riegle
Byrd	Inouye	Rudman
Chafee	Kennedy	Sarbanes
Cohen	Lautenberg	Stafford
Cranston	Leahy	Tsongas
Dixon	Levin	Weicker
Dodd	Mathias	
Durenberger	Matsunaga	

NOT VOTING—3

Melcher	Percy	Pressler

So the motion was agreed to.

Mr. BAKER. Mr. President, a parliamentary inquiry: The motion to table is pending. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. This is the motion to table the appeal.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, it is not debatable. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, the yeas and nays have been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. BAKER. And, therefore, would apply to this vote.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, I yield the floor.

Mr. GOLDWATER. Mr. President, has the vote been reconsidered?

The PRESIDING OFFICER. No.

Mr. GOLDWATER. Mr. President, I move to reconsider the vote by which the motion to reconsider was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

QUESTION ON MOTION TO TABLE APPEAL

The PRESIDING OFFICER. The question is on the motion to table. The yeas and nays have been ordered.

The clerk will call the roll.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. BYRD. Mr. President, I realize no debate is in order.

I ask unanimous consent to proceed for not more than 2 minutes.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

Mr. BYRD. Mr. President, I know my words are not going to persuade anyone in this situation. But for the record, I want to say that now we are going——

Mr. SYMMS. Mr. President, may we have order so we can hear the minority leader?

The PRESIDING OFFICER. The Senate will be in order. Please take your seats. Clear the well.

The minority leader.

Mr. BYRD. Mr. President, on page 234 of the Book of Precedents, I read as follows under Senate precedents. "The Chair may take the initiative and rule amendments out of order as not being germane without a point of order being made."

We are talking about the situation under cloture.

"And, when obviously nongermane—as obviously this amendment was, and is—the Chair may rule the amendment out of order even before it has been read or stated by the clerk."

So, Mr. President, what we are talking about at the moment is a busing amendment. I probably favor the busing amendment, and in the past have probably voted a number of times in support of such an amendment. The busing amendment which on its face, a blind man could see, is not in order under this cloture because it is not germane. The Chair ruled that the amendment was not germane. The Chair was absolutely correct.

The appeal came. The appeal was tabled. Now the motion to reconsider the vote by which the appeal was tabled has carried. Now we are back on the motion to table. My vote will be to table again because I do not want the previous Senate precedent to be struck down. I do not want it to be wiped out.

I say again that I hope we will uphold the Chair, and uphold the previous precedents of the Senate because, if we do not, in the future each Senator here will some day be sorry. Take myself, for example. There are some acid rain amendments around which, if passed, would shut half of the coal mines down in West Virginia, create ghost cities, increase utility bills, and put people out of work.

If Senator X offered such an acid rain amendment and the Chair should say, "It is out of order for all of these reasons," Senator X could appeal the Chair's ruling. You have no time to debate an appeal under cloture. Senator RANDOLPH and I would have not time to debate the appeal. If Senator X has the majority of votes, then West Virginia and other coal States would have been knocked out and we would get the acid rain amendment imposed upon them in less than 5 minutes.

Senator MITCHELL has it right in his hand. He has the amendment in his hand right now and is threatening to offer it. [Laughter.]

I am just saying that it can be your ox that is being gored the next time, it might be your State, rather than West Virginia.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BYRD. Mr. President, I ask for 1 more minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I am saying that today we are going closer and closer and closer to the final nailing down of that rule XXII coffin. Again I say, this will ultimately not only pertain to rule XXII. For example, what good is a unanimous consent time agreement on any measure or matter if a time agreement thereon says that no nongermane amendments shall be in order? What good is that? Simply offer whatever amendment you want to offer and if the Chair rules it out of order on the basis that it is not germane, simply appeal the ruling of the Chair. If you have a majority of votes, you will win. It will be easy. I am not sure I will enter into any more time agreements, and I am not so sure that I will vote for cloture anymore. But—I may.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. I ask unanimous consent that I may proceed, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Once again, I cannot say that I really disagree with anything the minority leader has said. He is absolutely right, we are heading to a bad practice in the Senate when we overturn the purpose of rule XXII or a unanimous consent by a majority vote. We teetered close to that brink sometime ago. I can recall it took a special effort by the two leaders to keep that from happening on a unanimous consent agreement that provided that nongermane amendments would not be offered. An amendment was offered and the Chair ruled it nongermane. An appeal was taken and the Chair was almost overturned but not quite. We have been skating near the edge for a long time.

The minority leader is absolutely right. This is not the way it ought to be. One day, some future leader is going to have to figure out how we shore up the ramparts against that challenge. But it is here now.

The problem right now, Mr. President, is the boat will sink with one hole as it will with two. While we sustained the ruling of the Chair in the case of busing, we did not do it in the case of gun control. I was besieged by a number of Senators, and may I say a number of Senators on both sides of the aisle, who came to me and said, "Look, the leadership failed on this thing. They failed in trying to do the right thing. But see where that leaves me? It leaves me out with a vote that appears to be contrary to the way I really feel on this issue."

Some Members asked me a minute ago on this vote, "How do you want to vote?"

I said the first vote I had in my leadership was a combination of Senators who wanted to express their views as they perceived them on that issue. I do not think it really does express their view, but that is what the Senators wanted. After we failed, after the boat got a hole in it, this was the best I could do to give them an opportunity to express their views. In a moment, I will do that again. I will make a motion to reconsider the vote on the gun control. In that case, we voted to table. I tried hard to get the Senate to table that appeal and I failed. This time, I am going to vote to not reconsider and leave that the way it is. But that will leave us then with two appeals from the ruling of the Chair undisposed of. That will be the appeal on the busing amendment and the appeal on the gun amendment as to whether they qualify.

Mr. President, let me say that there are some ways that are complicated or perhaps awkward ways to deal with the situation at that point. It would not be my intention to ask the Senate to deal with those two appeals tonight. I do not want that precedent set. It has not yet been set. We are teetering on the brink, but at this moment, we have a motion to table an appeal pending and if the motion to table fails, then we will have two appeals before the Senate undisposed of.

We will not yet have created a precedent. I intend to do everything in my power to keep us from establishing that precedent. But I am going to try to give Senators an opportunity to vote on the merits of these two issues as they see them, although once again I say I do not think they are voting on the merits. But that is the reason for this procedure.

Mr. President, I have not told the minority leader this yet and I will apologize for that, but after this vote on the motion I am about to make it would be the intention of the leadership to ask the Senate to recess until tomorrow. I have tried all afternoon to get us on another amendment. We tried without success to gain unanimous consent to go to the defense amendment, to go to the transportation amendment, to go to another amendment, and there has been an objection in each instance.

Mr. President, there is simply no point in the Senate wasting its time by the continuation of rollcalls and recesses.

What I do intend to do is this: I intend to ask the participants in the controversy over Grove City once more to sit down and try to work this thing out so we can dispose of it. If that works, we are all better served for it. If it does not work, and I suppose the odds are against it, then there are certain things that can still be done. The minority leader has in mind some things and I have in mind some things. They can still be done.

But I think tonight is not the time to do that. In a moment, after this is done, I will make a motion to reconsider the vote on the tabling motion on the gun bill. Right now the yeas and nays have been ordered on the tabling motion on the appeal from the ruling of the Chair that the busing amendment is not germane. Absent unanimous consent, we will now vote on that. As far as I am concerned, I would be perfectly willing to vacate the yeas and nays on that, have a voice vote, and to go on with a vote on the gun control reconsideration on which there would be the yeas and nays.

Mr. BYRD. Mr. President, this is too important a vote to vote by voice. I think the record ought to at some future date be clear for all to see.

I hope, as one Senator's hope, that the majority leader will not recess the Senate today at 6 o'clock. There are Senators here who have made schedules, who have made appointments, who have made commitments for Monday, Tuesday, Wednesday, Thursday, of next week and so on, on the strength of the assertions that have been made that we would go out this week sine die. I am looking at 1 Senator right now who has commitments from 10 Senators to attend some functions that that Senator has set up for next Monday, Tuesday, and Wednesday. I know how he is going to feel. Some of us who said, "we will be with you," are going to have to go back to him and say, "Sorry, we can't be with you, because we are going to have votes in the Senate on Monday, Tuesday, and Wednesday.

Mr. President, what I say is certainly not meant to be instructive to the majority leader. I am simply saying I hope we shall stay and work on the continuing resolution tonight so Senators who have engagements for Monday, Tuesday, Wednesday, and so on next week will still be able to keep those engagements.

I thank the majority leader.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from South Dakota [Mr. PRESSLER] is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Michigan [Mr. LEVIN] and the Senator from Montana [Mr. MELCHER] are necessarily absent.

I further announce that, if present and voting, the Senator from Montana [Mr. MELCHER] would vote "yea."

The PRESIDING OFFICER (Mr. WALLOP). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 41, nays 56—as follows:

[Rollcall Vote No. 259 Leg.]

YEAS—41

Baucus	Evans	Mitchell
Bentsen	Glenn	Moynihan
Bingaman	Gorton	Packwood
Boschwitz	Hart	Pell
Bradley	Hatfield	Percy
Burdick	Heinz	Randolph
Byrd	Inouye	Riegle
Chafee	Kennedy	Rudman
Cohen	Lautenberg	Sarbanes
Cranston	Leahy	Specter
Dixon	Long	Stafford
Dodd	Mathias	Tsongas
Durenberger	Matsunaga	Weicker
Eagleton	Metzenbaum	

NAYS—56

Abdnor	Dole	Hollings
Andrews	Domenici	Huddleston
Armstrong	East	Humphrey
Baker	Exon	Jepsen
Biden	Ford	Johnston
Boren	Garn	Kassebaum
Bumpers	Goldwater	Kasten
Chiles	Grassley	Laxalt
Cochran	Hatch	Lugar
D'Amato	Hawkins	Mattingly
Danforth	Hecht	McClure
DeConcini	Heflin	Murkowski
Denton	Helms	Nickles

Nunn	Simpson	Trible
Proxmire	Stennis	Wallop
Pryor	Stevens	Warner
Quayle	Symms	Wilson
Roth	Thurmond	Zorinsky
Sasser	Tower	

NOT VOTING—3

Levin	Melcher	Pressler

So upon reconsideration, the motion to lay on the table was rejected.

Mr. BAKER. Mr. President, a parliamentary inquiry.

Has there been a motion to reconsider the vote by which the Senate did not table amendment No. 5727?

The PRESIDING OFFICER. There has not been a vote to reconsider the motion by which the Senate did not table the appeal with regard to that amendment.

Mr. BAKER. I thank the Chair for that abundantly lucid explanation of the parliamentary situation.

MOTION TO RECONSIDER VOTE BY WHICH SENATE DID NOT TABLE APPEAL ON AMENDMENT NO. 5727

Mr. President, I move to reconsider the vote by which the Senate did not table the appeal from the ruling of the Chair on amendment No. 5727, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that I may speak for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, for a statement?

Mr. METZENBAUM. Yes.

Mr. RIEGLE. Mr. President, may we have order?

Mr. BYRD. Mr. President, will the Senator withhold until the Senate is in order?

The PRESIDING OFFICER. The Senate appears to be in order.

Mr. BYRD. The Senate is not in order, Mr. President, and I insist on order. What the Senator is about to say is what I wanted to say.

Mr. METZENBAUM. I thank the minority leader.

Mr. President, I have not been an active participant in this matter, but I think we ought to understand what is going on at the moment on the floor of the Senate.

I have been one who has not hesitated to use postcloture filibuster by amendment and have seen fit to do so on a number of occasions.

At an early point in this session, the leader saw fit to appoint a committee, and that committee was to meet in an effort to devise some procedures that would foreshorten postcloture filibusters. That committee did meet. It was headed, if my recollection serves me correctly, by the Senator from Maryland, the chairman of the Rules Committee, and the ranking minority member was the distinguished Senator from Hawaii [Mr. INOUYE].

Several meetings were held. As a consequence of that, the Members on both sides of the aisle came to an agreement as to some means by which we could cut short postcloture filibusters in the future. Three letters were sent by Senator INOUYE and the chairman of the committee in connection with that effort. I have inquired of Senator INOUYE, and he has indicated to me, the last time I inquired of him, that no response was received.

So we have gone through this entire session without any action on the part of this body to foreshorten postcloture filibusters.

This evening, we are in the process of providing a new means of extending postcloture filibusters. It does not have to do with busing, and it does not have to do with gun control, or any other issue. But the fact is that we are changing the rules and opening the door very widely when we are reconsidering the action in connection with the matter of tabling the appeal from the decision of the Chair.

I think the Members of this body should understand what is taking place, because the Senate is not adding to its means of operating more efficiently and more effectively. In this Senator's opinion, the Senate is making it possible for additional means to drag out the debate for those of us who might see fit to do so on some particular occasion.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. BAKER. Mr. President, I ask unanimous consent to proceed.

Mr. KENNEDY. Mr. President, will the majority leader be good enough to yield for 2 minutes?

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Let me have 1 minute. I wish to reply to the Senator from Ohio, and then I will be happy to yield so that the Senator from Massachusetts may seek the opportunity to speak.

Let me say that I really respectfully disagree with that. I point out that the rules of the Senate clearly provide that only one reconsideration motion is in order, and in these two cases no reconsideration motion was made, and this is the first time we have done that. There is nothing new about that and there is nothing sinister about that. It is simply the way the Senate has always done business.

The only difference in this case is that no motion to reconsider was made immediately after the previous votes, and it is in order to make them at this time, and that is what I have done.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. KENNEDY. Mr. President, I will speak after the vote, if I can get the time, rather than delay the vote.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from South Dakota [Mr. PRESSLER] is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Michigan [Mr. LEVIN] and the Senator from Montana [Mr. MELCHER] are necessarily absent.

I further announce that, if present and voting, the Senator from Montana [Mr. MELCHER] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 20, nays 77, as follows:

[Rollcall Vote No. 260 Leg.]

YEAS—20

Bentsen	Gorton	Metzenbaum
Bradley	Hart	Moynihan
Byrd	Inouye	Pell
Chafee	Kennedy	Rudman
Dodd	Lautenberg	Sarbanes
Evans	Mathias	Tsongas
Glenn	Matsunaga	

NAYS—77

Abdnor	Ford	Nickles
Andrews	Garn	Nunn
Armstrong	Goldwater	Packwood
Baker	Grassley	Percy
Baucus	Hatch	Proxmire
Biden	Hatfield	Pryor
Bingaman	Hawkins	Quayle
Boren	Hecht	Randolph
Boschwitz	Heflin	Riegle
Bumpers	Heinz	Roth
Burdick	Helms	Sasser
Chiles	Hollings	Simpson
Cochran	Huddleston	Specter
Cohen	Humphrey	Stafford
Cranston	Jepsen	Stennis
D'Amato	Johnston	Stevens
Danforth	Kassebaum	Symms
DeConcini	Kasten	Thurmond
Denton	Laxalt	Tower
Dixon	Leahy	Trible
Dole	Long	Wallop
Domenici	Lugar	Warner
Durenberger	Mattingly	Weicker
Eagleton	McClure	Wilson
East	Mitchell	Zorinsky
Exon	Murkowski	

NOT VOTING—3

Levin	Melcher	Pressler

So the motion was rejected.

Mr. BAKER. Mr. President, I know the Senator from Massachusetts wishes to speak, and I will yield the floor so that he may do so.

Mr. BYRD. Mr. President, is there time for debate or not?

The PRESIDING OFFICER. Appeals are not debatable.

Mr. BAKER. Does the Senator wish to speak at this time?

Mr. KENNEDY. If I could, for 3 or 4 minutes.

Mr. BAKER. I ask unanimous consent that the Senator from Massachusetts may be recognized for not to exceed 4 minutes and I may be recognized for 1 minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, last Thursday the Senate made a collective judgment as to whether this particular amendment, the Civil Rights Act of 1984, was germane or was not. In the judgment of the Senate, it was germane. Then on Saturday, by an overwhelming majority, the Senate invoked cloture on that particular measure. Since that time, as has been outlined by the Senator from Ohio and others, we have been embroiled in a series of parliamentary maneuvers and other amendments, nongermane or whatever definition one might use, to the underlying Civil Rights Act of 1984.

Mr. President, I am at this time on Monday evening, as I was on Saturday evening and again on Sunday, prepared to have what debate we would need on this matter, and get to a final resolution of this particular amendment to the continuing resolution. But we have not been able to do so. And it has been frustrating to those of us who support this legislation, perhaps even more so than it has been to the majority leader.

Mr. President, I think it is tragic indeed that in the 1980's we are forced to fight again the battles of the 1960's and the 1970's on the issue of fundamental civil rights. When we talk about amendments to the Civil Rights Act of 1984, we are only talking about what new openings are going to be created which may permit discrimination in one form or another against women, against minorities, against the handicapped, or against the aged by those who receive Federal funding.

For me, the Civil Rights Act of 1984 is the overriding piece of legislation which we will consider in this Congress. I have stated that before. I feel it very deeply. I had thought that we would continue to be here this evening and have an opportunity to debate amendments to the Civil Rights Act of 1984 and to reach a final resolution.

I want to indicate at this time, even though we will follow the recommendation of the leader in accepting the motion to adjourn, that those of us who believe deeply in this proposal and who have followed the procedures from last Thursday through today believe that we should be at the point of calling the roll and voting yea or nay on whether we are going to permit any funds whatsoever that are contributed by taxpayers to be used for discriminatory purposes.

I hope, Mr. President, that we can get about the business of that issue tomorrow. I will look forward to the debate on it. I thank the majority leader.

Mr. BAKER. Mr. President, I join the Senator from Massachusetts in hoping that we can get on this tomorrow, too; I really do. May I say, if we could get to it tonight, I would be the first to ask the Senate to stay tonight and work on it, but I do not think we can. I think it would be a better investment of our time if we tried to work out an arrangement that maybe only has a flicker of a possibility of resolving this issue but at least there is the hope of that.

I can assure the Senator that even yet after we recess, if we do recess, that there will be an effort to try to accommodate the desires of many Senators to fashion a plan that will break this impasse for us and that tomorrow morning I hope I can meet with the minority leader, if he will agree to do so, and the Senator from Massachusetts and others to discuss an approach to this matter.

But, Mr. President, I am sure all Members will recall that we are tightly locked in a post-cloture situation in which there are, I believe, 1,386 amendments that are at the desk and qualified and there are about 45 or 50 hours of debate left.

This is just on cloture for the Byrd amendment to the first committee amendment. There are 33 amendments, if I remember correctly. So the light at the end of the tunnel, if there is any, is so dim and indistinct that it is not perceptible to the naked eye.

I think the best way out of this is to try to find some accommodation, and some solution that we can agree on to proceed, or at least a procedure for resolving it.

So, Mr. President, in a moment I am going to ask the Senate to have a brief period for the transaction of routine morning business.

Mr. KENNEDY. Mr. President, may I inquire of the leader? If we go out this evening, is that time going to be charged against the post-cloture 100 hours?

Mr. BAKER. Mr. President, I would like to do that. Yes.

At this time, Mr. President, I ask unanimous consent that the time between now and the time the Senate reconvenes tomorrow be charged against the post-cloture 100 hours.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. BAKER. I thank the Chair.

Mr. BYRD. Mr. President, will the majority leader yield?

Mr. BAKER. Yes.

Mr. BYRD. I wonder if there is a chance that the Senate could proceed to do some work on the pending business today by unanimous consent, temporarily lay this amendment aside, and go to other amendments so that in the long run we will have expedited the overall work that has to be done on the amendment.

Speaking for all Senators, I am sure—including the majority leader, and perhaps most of all the majority leader—we would like to get out Friday, and no later than Saturday. I understand Saturday is a Jewish holiday. We would like to adjourn sine die, and not be back in next week. I do not mind coming back next week. But many Senators, as we all know, have engagements, which will be difficult for them to break. I assume that would apply to Senators on both sides of the aisle.

Mr. BAKER. Mr. President, I thank the minority leader. What I am about to say may be facetious, but it is also serious. I said the other day that there is no person in the solar system who wished for the Congress to adjourn quicker than I do. I extend that now to this galaxy, and any that has been preserved so far. I want us to get out of here as soon as we can. But I do not think there is anything else we can do tonight. I tried earlier to take us off the first amendment and put us on the second, third, fourth, and I do not remember if I tried for the fifth. I tried then the 10th. In each case, for one reason or another—and they are all good reasons, and I have never challenged the motive of Senators—there were objections.

I guess that points up the fact that until we cut this Gordian knot on amendment No. 1, we are not likely to be able to accomplish much else. But, Mr. President, I can assure the minority leader that I share with him the great concern about the lack of haste with which the Senate is doing its business. All I can say is it is my considered judgment that we will best serve the Senate, the Government, and the country by going out now and seeing if we cannot work out a way to approach this solution.

● Mr. LEVIN. Mr. President, I have opposed busing children away from their neighborhood schools under almost all circumstances, but the issue here is not busing. The issue here is a totally procedural issue related to the question of germaneness.●

● Mr. BENTSEN. Mr. President, I oppose the forced busing of schoolchildren to achieve racial balance. I also oppose gun control.

On the merits, I agree completely with the amendments offered to the continuing resolution which would restrict busing and restrict gun control. In fact, I am a cosponsor of the gun control legislation. If I have the chance to vote on the merits on these two amendments, I will vote for them.

I have cast procedural votes to sustain the ruling of the Chair that these amendments are not germane to the pending amendment.

I think that nongermaneness is clear and that to vote that they are germane does grave violence to the Senate's rules. We have invoked cloture on the Grove City amendment. If cloture means anything, it means that

these amendments are not in order at the present time.

I also believe that we must pass a continuing resolution to fund the orderly operations of the Federal Government and to that end should sustain the rulings of the Chair on germaness.

On Saturday, by the overwhelming margin of 92–4, the Senate voted to end debate on a pending civil rights measure to the continuing resolution. This had the effect of preventing anyone from offering any amendments except those that related directly to the question at hand. Amendments offered on the subjects of gun control and busing were correctly ruled by the Chair to be nongermane.

I voted to sustain the Chair's ruling in each instance. What I voted in favor of on Saturday was the orderly transaction of business in the Senate. I voted in favor of the rules that this body has worked so hard over the years to establish. I voted the only way I could possibly vote if I believe that the invocation of cloture is to have any meaning at all.

What I voted against was a backdoor attempt to change the cloture rule, rule XXII, and render it absolutely meaningless. What I voted against was a course of action that had the potential of turning this Senate into a house of bedlam, where the rules limiting debate do not have any meaning whatsoever. Yes, we could go back to the days before there was provision for cloture, back to the days when the Senate could be tied into knots and reduced to inaction by a small group of willful Members. But I have too much respect for the traditions of this body, and for the needs of the people of this country, to stand idly by and allow this to happen.●

ROUTINE MORNING BUSINESS

Mr. BAKER Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business until not past the hour of 7 p.m., in which Senators may speak for not more than 1 minute, with the exception of the two leaders, against whom no limitations of time will apply.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGRICULTURE EXPORT COMMISSION

Mr. DOLE. Mr. President, in June, several of my colleagues and I introduced the Agricultural Trade and Export Policy Act to establish a commission to study and make recommendations concerning agriculture-related trade and export policies.

I'm pleased to see that the names of the 20 private citizens selected by Congress are now in place. We have a strong representation of farmers, exporters, processors, suppliers, farm organizations, and credit interests on the commission as well as from private industry to ensure the commission's success. I also want to congratulate Fritz Gwin of Farmland Industries for his appointment to the commission.

When the legislation proposing the commission was introduced in June, I mentioned that farm exports have played a vital role in building market outlets for domestic production and that the recent decline of these exports has had a dire effect on farm prices as surpluses have begun to stockpile.

Unfortunately for farmers, many of their problems are a result of factors which affect agriculture, but are outside of their control. Common examples are the broad economic conditions such as high interest rates, inflation, and the strong dollar. In addition, trade barriers established by other countries, unfair foreign subsidies, and the grain embargo which wrecked our markets and our image as a reliable supplier have all played a role in our export problems.

REPORTS

The commission's initial report is scheduled for March 1985, with a final report due in 1986. As Congress begins what is likely to be a very time-consuming debate on the 1985 farm bill, we will need to look closely at our ability to compete internationally over the next 4 years and beyond. Hopefully, the commission findings will give us some answers to the tough questions we face and provide a useful resource in the event the United States enters into another round of multilateral negotiations under the General Agreement on Tariffs and Trade [GATT].

As chairman of the Senate Finance Committee, which has jurisdiction over international trade, I look forward to beginning the work of evaluating this important policy area with other commission members.

COMMISSION APPOINTMENTS

Mr. President, I ask unanimous consent that the 20 private citizens chosen by the President pro tempore of the Senate and the Speaker of the House of Representatives be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

LIST OF COMMISSION APPOINTEES

1. Francis B. (Fritz) Gwin of Beloit, Kans., general manager of Farmway Co-op, Inc., and chairman of the board of Farmland Industries.

2. Edward Andersen of Waterloo, Neb., a farmer and the Master of the National Grange.

3. Dr. Kenneth L. Bader of St. Louis, Mo., chief executive officer of the American Soybean Association and chairman of the U.S. Agricultural Export Development Council.

4. Lloyd Bentsen, Sr., a rancher of Mission, Tex.

5. Irvin J. Elkin, a dairy farmer in Amery, Wis., who is president of Associated Milk Producers, Inc.

6. Charles M. "Mike" Harper, chairman of the board and chief executive officer of ConAgra, Inc. a diversified basic food company with headquarters in Omaha, Neb.

7. Dale V. Hunt of Houston, Tex., a rice grower who is also president of American Rice Inc., a producer marketing and exporting cooperative.

8. Earl Pryor of Condon, Ore., a grain farmer and cattle producer who is president of the National Association of Wheat Growers.

9. Bernard Steinweg, senior vice president of Continental Grain Co., New York, the chairman of the International Trade Committee of the National Grain Feed Association.

10. E. Linwood Tipton of Washington, executive vice president of the Milk Industry Foundation and the International Association of Ice Cream Manufacturers.

11. Jack Parsons, a farmer from Wapello, Iowa, and immediate past president of the National Corn Growers Association.

12. Marshall Grant, a tobacco and peanut grower from Garysburg, N.C.

13. Joe Hatfield, president of the Fieldale Corp. of Baldwin, Ga., a broiler chicken producer-processor and a director of the National Broiler Council.

14. Frank Light, president of Sun-Diamond of Stockton, Calif., a marketing cooperative which markets walnuts, raisins, prunes and figs.

15. Donald E. Nordlund, chairman of A.E. Staley Manufacturing Co. of Decatur, Ill., a processing and exporting firm.

16. L.L. Jaquier, executive vice president of W.R. Grace and Company of New York and chairman of the board of The Fertilizer Institute.

17. Dr. Earl Stennis, professor of agricultural economics at Mississippi State University, Starkville, Miss.

18. Robert Delano, farmer from Warsaw, Va., and president of the American Farm Bureau Federation.

19. D. Paul Algia, Jr., a senior partner in the law firm of Barnett and Alagia of Louisville, Ky.

20. John S. Barr, III a cotton grower from Oak Ridge, La., and president of the National Cotton Council.

ALTERNATES

Ed Rast, cotton and grain producer, South Carolina.

Burton M. Joseph, grain and feed processor, Minnesota.

MESSAGE FROM THE HOUSE

At 4:41 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 2955. An act to facilitate economic development in the territories of the United States through the mobilization of private capital and skills, and for other purposes;

H.R. 3697. An act to modify Federal land acquisition and disposal policies carried out with respect to Fire Island National Seashore, and for other purposes;

H.R. 4966. An act to recognize the organization known as the Women's Army Corps Veterans' Association; and

H.J. Res. 653. Joint resolution making continuing appropriations for the fiscal year 1985, and for other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 2040. An act to amend the Securities Exchange Act of 1934 with respect to the treatment of mortgage backed securities, to increase the authority of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, and for other purposes;

S. 2603. An act to extend the authorization of appropriations for, and to revise the Older Americans Act;

S. 2688. An act to authorize appropriations for fiscal year 1985 to carry out the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes;

H.R. 1904. An act to extend and improve the provisions of the Child Abuse Prevention and Treatment Act and the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978;

H.R. 3979. An act to establish a national program to increase the availability of information on the health consequences of smoking, to amend the Federal Cigarette Labeling and Advertising Act to change the label requirements for cigarettes, and for other purposes; and

H.R. 4968. An act to provide for the conveyance by the Secretary of Energy of surface rights to certain parcels of land located on Naval Petroleum Reserve Numbered 2 in the State of California on which private residences are located.

The enrolled bills were subsequently signed by the President pro tempore (Mr. THURMOND).

At 5:05 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6257. An act to amend the Motor Vehicle and Information Cost Savings Act to impede those motor vehicles thefts which occur for purposes of dismantling the vehicles and reselling the major parts by requiring passenger motor vehicles and major replacement parts to have identifying numbers or symbols, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 2955. An act to facilitate economic development in the territories of the United States through the mobilization of private capital and skills, and for other purposes; to the Committee on Energy and Natural Resources.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 6257. An act to amend the Motor Vehicle and Information Cost Savings Act to impede those motor vehicles thefts which occur for purposes of dismantling the vehicles and reselling the major parts by requiring passenger motor vehicles and major replacement parts to have identifying numbers or symbols, and for other purposes.

MEASURE HELD AT THE DESK

The following bill was held at the desk by unanimous consent pursuant to the order of September 26, 1984:

H.R. 3697. An act to modify Federal land acquisition and disposal policies carried out with respect to Fire Island National Seashore, and for other purposes;

ENROLLED BILLS PRESENTED

The Secretary reported that on today, October 1, 1984, he had presented to the President of the United States the following enrolled bills:

S. 2040. An act to amend the Securities Exchange Act of 1934 with respect to the treatment of mortgage backed securities, to increase the authority of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, and for other purposes:

S. 2603. An act to extend the authorization of appropriations for, and to revise the Older Americans Act; and

S. 2688. An act to authorize appropriations for fiscal year 1985 to carry out the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3835. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the President's 13th special message for fiscal year 1984; pursuant to the order of January 30, 1975, referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Energy and Natural Resources.

EC-3836. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to law, the Stockpile Report to the Congress for October 1983 to March 1984; to the Committee on Armed Services.

EC-3837. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Navy's proposed letter of offer to Canada for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-3838. A communication from the Assistant Secretary of Defense (Health Affairs), transmitting, pursuant to law, a review of the special pays for military health professionals for the period July 1, 1982 to June 30, 1984; to the Committee on Armed Services.

EC-3839. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Air Force's proposed letter of offer to Korea for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-3840. A communication from the Deputy Assistant Secretary of the Air Force (Logistics and Communications), transmitting, pursuant to law, a report on converting the consolidation/containerization point function at Robins Air Force Base, Georgia, to performance by contract; to the Committee on Armed Services.

EC-3841. A communication from the Secretary of Transportation, transmitting, pursuant to law, a study of High Speed Waterborne Transportation Services Worldwide; to the Committee on Commerce, Science, and Transportation.

EC-3842. A communication from the Deputy Associate Director for Royalty Management Operations, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain excess royalty payments; to the Committee on Energy and Natural Resources.

EC-3843. A communication from the Deputy Associate Director for Royalty Management Operations, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain excess royalty payments; to the Committee on Energy and Natural Resources.

EC-3844. A communication from the Acting Administrator of the General Services Administration, transmitting, pursuant to law, a report of Building Project Survey for the St. Louis, MO, area; to the Committee on Environment and Public Works.

EC-3845. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the 60-day period prior to September 21, 1984; to be Committee on Foreign Relations.

EC-3846. A communication from the Secretary of the Treasury as Chairman of the National Advisory Council on International Monetary and Financial Policies, transmitting, pursuant to law, the annual report of the Council for fiscal year 1983; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STAFFORD, from the Committee on Environment and Public Works, without amendment:

S. Res. 460: An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 65; referred to the Committee on the Budget.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DURENBERGER (for himself, Mr. GORTON, Mr. DOMENICI, and Mrs. KASSEBAUM):

S. 3039. A bill to provide for procedures to eliminate the structural deficit in the Federal budget, to establish a National Bipartisan Commission on the Balanced Budget, and

for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee has 30 days of continuous session to report or be discharged.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SPECTER:

S. Res. 459. A resolution recommending certain improvements in the process by which the American Bar Association's Standing Committee on Federal Judiciary conducts evaluations of the qualifications of potential nominees for Federal judgeships; to the Committee on the Judiciary.

By Mr. STAFFORD: from the Committee on Environment and Public Works:

S. Res. 460. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 65; to the Committee on the Budget.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURENBERGER (for himself, Mr. GORTON, Mr. DOMENICI, and Mrs. KASSEBAUM):

S. 3039. A bill to provide for procedures to eliminate the structural deficit in the Federal budget, to establish a National Bipartisan Commission on the Balanced Budget, and for other purposes; pursuant to the order of August 4, 1977, referred jointly to the Committee on Governmental Affairs and the Committee on the Budget.

BALANCED BUDGET PROCEDURES ACT

● Mr. DURENBERGER. Mr. President, it is with mounting concern for the long-term public interest that I introduce today the Balanced Budget Procedures Act of 1984. This act would require the President and the Congress to consider the difficult choices required to balance the Federal budget by fiscal year 1989, and would create a National Bipartisan Commission on the Balanced Budget to help facilitate constructive action on the deficit early next year.

Election-year rhetoric notwithstanding, today's monumental deficit is of bipartisan making. Politicians of both parties have conspired in recent years to craft budgets that entail massive and growing "structural" deficits. These deficits exist not because of cyclical downturns in the economy, which temporarily depress revenues and increase spending for unemployment benefits, food stamps, and so on. They exist because the revenues generated under current law are insufficient to cover our spending programs, even in the best of times.

Sadly, this tendency toward ever-higher deficits is rooted in our fundamental lack of faith in the prudence in the American people. A consensus has evidently emerged among the Nation's elected officials that the voters are too selfish to accept sacrifices in the long-term national good. We seem to have concluded that, if the alternative is cutting benefits or raising taxes, Americans would rather see the cost of today's Government transferred to future taxpayers.

Mr. President, I have to reject this notion that Americans are so selfish they don't care any more about the futures of their children and grandchildren. The Americans I know are not like that. Yet, at the same time, our system of government requires that Congress respond to public opinion. If, out of concern for our own popularity, we fail to inform Americans on the dangers of the deficit, or on what needs to be done to close it, we can scarcely expect their mandate for dealing with this enormous problem.

The legislation I am proposing would be put a stop to this failure of communication. Beginning next January, it would require the President to submit to Congress budget proposals that phase in the deficit reductions needed to achieve a balanced budget under conditions of high employment by fiscal year 1989. Although the President could still submit budgets showing higher deficits, he would also have to submit the alternative that takes us toward a balanced budget. Similarly, Congress too would have to consider these alternative budgets.

To accomplish this, we would require the President to submit with his budgets for fiscal years 1986, 1987, and 1988 alternative budgets designed to take us toward a balanced budget by fiscal year 1989. For fiscal year 1989, and every year thereafter, we would require the President to submit alternative balanced budgets whenever his own budget does not envision a balance. These alternatives could reflect deficits, but only to the extent that they would result from cyclical downturns in the economy. In short, they must be designed to produce a balanced budget in times of high employment.

By the same token, the House and Senate Budget Committees would also have to do their part. We would require that the Budget Committees report to their respective House every year an alternative first concurrent resolution on the budget that assumes a deficit no greater than that mandated for the President's budget should their recommendations entail higher deficits.

Finally, in the interests of consensus, the legislation would establish a National Bipartisan Commission on the Balanced Budget. Composed of 15 private citizens, the Commission would comment on both the President's fiscal year 1986 budget and the alternative budget required by this act, and would make recommendations to the President and the Congress on ways to achieve a balanced budget by fiscal year 1989 not later than March 15 of next year.

Mr. President, regardless of whether the solution entails tax or spending reforms—or both, as I happen to believe—our first responsibility is to this Nation's future. And that means that we have to dramatically cut the deficits. Each dollar that we borrow to finance the deficit at today's interest rates translates to as much as $28 future taxpayers must repay over the next 30 years. The delayed effect of this problem is reflected in the annual interest payment on the national debt. According to the Congressional Budget Office, this annual bill will permanently increase to $219 billion by fiscal year 1989 under current policies—$40 billion more than we currently pay for Social Security.

It goes without saying that the half of the population under age 30 does not, and for the most part cannot, participate in electoral politics. Yet it is hardly wise for Congress to ignore the interests of these generations, simply because they cannot vote against us at the next election. Indeed, our failure to take our children's interests into account will invite generational conflict later on. The same generations that will be called upon to support rising defense, Social Security, and medicare spending well into the next century cannot also be made to pay usurious interests on the cost of today's budget.

Next year, Congress and the President must start sharing honest and responsible budgets with the American public in order to encourage public support for cutting the deficits. We may not be very popular as a result. But we should sleep better for having faced up to this manifold problem. I urge my colleagues to join me in advocating timely changes to the budget process through which the executive branch and the Congress can achieve a balanced budget by fiscal year 1989.

Mr. President, I ask that a copy of the Balanced Budget Procedures Act be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3039

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Balanced Budget Procedures Act of 1984".

(b) The Congress finds and declares that—

(1) in recent years, historically high Federal budget deficits have resulted in the rapid growth of the national debt;

(2) as a direct result of such growth, the interest payments on the national debt have increased faster than any other major component of the Federal budget, a trend which, if left unchecked, will encumber

future taxpayers with unreasonable debt service;

(3) the effect of such fiscal policy is to subsidize the prive of current consumption with future production;

(4) the President and the Congress must take immediate action to further the long-term national interest by dramatically reducing the Federal budget deficit for fiscal year 1986 and for all subsequent fiscal years';

(5) such deficit reductions will require actions that many individual Americans will be reluctant to accept; and

(6) because neither the President nor the Congress has been required to consider the choices necessary to produce a balanced budget, the American people have not been made aware of the sacrifices necessary to promote thereby the long-term national interest.

(c) It is the purpose of this section to—

(1) require the President to submit to the Congress—

(A) for each of the fiscal years beginning after September 30, 1985, and before October 1, 1988—

(i) a budget under section 1105 of title 31, United States Code, that would, if implemented, result in a balance between outlays and revenues under conditions of high employment by fiscal year 1989, or

(ii) if the budget submitted under such section for any such fiscal year would not, if implemented, achieve such a balance by fiscal year 1989, an alternative budget in detail equal to that of the budget submitted under such section that would, if implemented, achieve such balance by fiscal year 1989,

(B) for each fiscal year, beginning after September 30, 1988, in which a budget is submitted to the Congress under section 1105 of title 31, United States Code, that would not be balanced under conditions of high employment, an alternative budget that would be in balance under conditions of high employment, and

(C) any legislative proposals necessary to implement any such alternative budget;

(2) require the committee on the Budget of each House of the Congress to report to such House for any fiscal year beginning after September 30, 1985—

(A) a first concurrent resolution on the budget under section 301 of the Congressional Budget Act of 1974 that would, if implemented—

(i) in the case of fiscal years beginning before October 1, 1988, result in a balance between revenues and outlays under conditions of high employment by fiscal year 1989, or

(ii) in the case of any fiscal year beginning after September 30, 1988, result in a balance between revenues and outlays for such fiscal year under conditions of high employment; or

(B) if the concurrent resolution on the budget reported by such committee for a fiscal year does not comply with the applicable requirements of subparagraph (A), an alternative concurrent resolution on the budget in equal detail to the concurrent resolution reported by the Committee that would, if implemented, achieve such result.

(d)(1)(A) If the total outlays set forth for fiscal year 1989 would exceed the total revenues set forth for such fiscal year under conditions of high employment in any budget submitted by the President under section 1105 of title 31, United States Code, for a fiscal year beginning after September 30, 1985, and before October 1, 1988, such budget shall be accompanied by an alternative budget in which total outlays for fiscal year 1989 would not exceed total revenues for such fiscal year under conditions of high employment.

(B)(i) An alternative budget submitted by the President pursuant to this paragraph for a fiscal year shall be in detail equal to that of the budget submitted by the President under section 1105 of title 31, United States Code, for such fiscal year and shall include a clear and understandable explanation of the differences between such alternative budget and the budget submitted by the President pursuant to such section.

(ii) Not later than March 15 of any year in which the President submits an alternative budget pursuant to this paragraph, the President shall submit recommendations and proposals for changes in the laws of the United States which would be required to be enacted during such year in order to achieve a balance between total outlays and total revenues under conditions of high employment by fiscal year 1989.

(c)(1) Not later than April 15 prior to any fiscal year beginning after September 30, 1985, and before October 1, 1989, the Committee on the Budget of each House of the Congress shall report to such House—

(I) a first concurrent resolution on the budget, for such fiscal year pursuant to section 301 of the Congressional Budget Act of 1974 in which total outlays and total revenues for fiscal year 1989 would be in balance under conditions of high employment, or

(II) if the first concurrent resolution on the budget reported by such committee for a fiscal year under such section does not comply with the requirements of subclause (I), an alternative concurrent resolution on the budget in equal detail to the concurrent resolution reported by the committee pursuant to such section that complies with such requirements.

(ii) The provisions of sections 305 and 310 of the Congressional Budget Act of 1974 shall apply to an alternative concurrent resolution on the budget reported pursuant to subsection (i) and any reconciliation bill reported pursuant to such alternative concurrent resolution.

(2)(A) Section 1105 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) If the President submits a budget for any fiscal year pursuant to subsection (a) that—

"(A) assumes that conditions of high employment will exist during such fiscal year; and

"(B) recommends that total outlays exceed total revenues for such fiscal year,

such budget shall be accompanied by an alternative budget for such fiscal year in which total outlays do not exceed total revenues.

"(2) If the President submits a budget for any fiscal year pursuant to subsection (a) that—

"(A) assumes that high employment will not exist during such fiscal year; and

"(B) recommends that total outlays exceed total revenues for such fiscal year by an amount that is greater than the amount by which such excess would be reduced if conditions of high employment were assumed to exist during such fiscal year,

such budget shall be accompanied by an alternative budget for such fiscal year in which total outlays would not exceed total revenues under conditions of high employment.

"(3)(A) An alternative budget submitted by the President pursuant to this subsection for a fiscal year shall be in detail equal to that of the budget submitted pursuant to subsection (a) for such fiscal year and shall include a clear and understandable explanation of the differences between such alternative budget and the budget submitted by the President pursuant to subsection (a) for such fiscal year.

"(B) Not later than March 15 of any year in which the President submits an alternative budget pursuant to this subsection, the President shall submit recommendations and proposals for changes in the laws of the United States which will, if enacted, reduce the amount by which total outlays exceed total revenues for the fiscal year to which such alternative budget relates to the amount of the deficit set forth in such alternative budget.".

(B) The amendment made by subparagraph (A) shall apply to fiscal years beginning after September 30, 1988.

(e)(1) There is established on December 1, 1984, a National Bipartisan Commission on the Balanced Budget. The Commission shall be composed of fifteen private citizens of the United States appointed as follows:

(A) five members appointed by the President, no more than three of whom shall be of the same political party;

(B) five members appointed by the President pro tempore of the Senate, three of whom shall be appointed upon the recommendation of the majority leader of the Senate, and two of whom shall be appointed upon the recommendation of the minority leader of the Senate;

(C) five members appointed by the Speaker of the House of Representatives, two of whom shall be appointed upon the recommendation of the minority leader.

(2) The Chairman of the Commission shall be elected by a majority vote of the members of the Commission.

(3) A vacancy in the Commission shall not alter its powers, and shall be filled in the same manner in which the original appointment was made.

(4) The Commission shall—

(A) review the budget, and the alternative budget, if any, submitted by the President for fiscal year 1986;

(B) review such other budget proposals or information as the members of the Commission shall deem relevant;

(C) consult with other private and public sector experts for recommendations about reforms that would best address Federal budget deficits; and

(D) make recommendations for levels of spending and changes in the laws of the United States which may be necessary to achieve a balanced budget by fiscal year 1989.

(5) The Commission may, for the purpose of carrying out paragraph (4), hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commissioner considers appropriate. The Commissioner may administer oaths or affirmations to witnesses appearing before it.

(6)(A) The heads of the executive agencies and the legislative agencies shall, to the extent permitted by law, provide the Commission such information as it may require for the purpose of carrying out its functions.

(B) Members of the Commission shall serve without compensation. However, members may be allowed travel expenses, including per diem in lieu of subsistence, in the

same amount as persons employed intermittently in the Government service are allowed expenses under sections 5702 and 5703 of title 5, United States Code. Such expenses shall be paid equally from the contingent fund of the Senate and the contingent fund of the House of Representatives.

(7) The Commission shall transmit to the President and to each House of Congress a report not later than March 15, 1985. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such levels of spending, legislation, and administrative actions as it considers appropriate.

(8) The Commission shall cease to exist thirty days after submitting its report pursuant to paragraph (7).

(f) Subsections (a), (b), (c), and (d) of this section and the amendments made by such subsections shall not apply to any fiscal year for which a declaration of war by the Congress is in effect.●

ADDITIONAL COSPONSORS

S. 2904

At the request of Mr. D'AMATO, the name of the Senator from Oklahoma [Mr. NICKLES], was added as a cosponsor of S. 2904, a bill directing the President to conduct a comprehensive review of United States policy toward Bulgaria.

S. 2958

At the request of Mr. BINGAMAN, the name of the Senator from Illinois [Mr. DIXON], the Senator from Kentucky [Mr. FORD], the Senator from Vermont [Mr. LEAHY], the Senator from Michigan [Mr. LEVIN], the Senator from Mississippi [Mr. COCHRAN], the Senator from West Virginia [Mr. RANDOLPH], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Oklahoma [Mr. BOREN], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of S. 2958, a bill to amend the Public Works and Economic Development Act of 1965 to authorize appropriations for additional fiscal years.

S. 2995

At the request of Mr. MOYNIHAN, the name of the Senator from South Dakota [Mr. ABDNOR], was added as a cosponsor of S. 2995, a bill to amend the Tax Reform Act of 1984 to provide a transitional rule for the tax treatment of certain air travel benefits provided to employees of airlines.

S. 3000

At the request of Mr. PERCY, the names of the Senator from Mississippi [Mr. COCHRAN], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of S. 3000, a bill to authorize the provision of foreign assistance for agricultural activities in Poland.

S. 3008

At the request of Mr. ARMSTRONG, the names of the Senator from Georgia [Mr. MATTINGLY], and the Senator from South Carolina [Mr. HOLLINGS], were added as cosponsors of S. 3008, a bill to recognize the organization known as the Retired Enlisted Association, Inc.

S. 3022

At the request of Mr. BINGAMAN, the name of the Senator from Hawaii [Mr. MATSUNAGA], was added as a cosponsor of S. 3022, a bill to establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment and maintenance of the nutritional and dietary status of the U.S. population and the nutritional quality of the U.S. food supply, with provision for the conduct of scientific research and development in support of such program and plan.

S. 3032

At the request of Mr. DURENBERGER, the name of the Senator from Pennsylvania [Mr. HEINZ], was added as a cosponsor of S. 3032, a bill to amend the Internal Revenue Code of 1954 to provide for more equitable test and imputed interest rates, and for other purposes.

SENATE JOINT RESOLUTION 262

At the request of Mr. PACKWOOD, the names of the Senator from Colorado [Mr. ARMSTRONG] and the Senator from California [Mr. WILSON] were added as cosponsors of Senate Joint Resolution 262, a joint resolution to designate March 16, 1985, as "'Freedom of Information Day."

SENATE JOINT RESOLUTION 339

At the request of Mr. HOLLINGS, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of Senate Joint Resolution 339, a joint resolution designating March 1985 as "National Mental Retardation Awareness Month."

SENATE JOINT RESOLUTION 346

At the request of Mr. LEVIN, the names of the Senator from Oklahoma [Mr. BOREN] and the Senator from Oklahoma [Mr. NICKLES] were added as cosponsors of Senate Joint Resolution 346, a joint resolution to designate the year of 1985 as the "Year of the Teacher."

SENATE JOINT RESOLUTION 352

At the request of Mr. DANFORTH, the names of the Senator from Utah [Mr. GARN], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Montana [Mr. BAUCUS] were added as cosponsors of Senate Joint Resolution 352, a joint resolution designating October 1984 as "National Head Injury Awareness Month."

SENATE CONCURRENT RESOLUTION 120

At the request of Mrs. HAWKINS, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of Senate Concurrent Resolution 120, a concurrent resolution expressing the sense of the Congress that the legislatures of the States should develop and enact legislation designed to provide child victims of sexual assault with protection and assistance during administrative and judicial proceedings.

SENATE CONCURRENT RESOLUTION 131

At the request of Mr. D'AMATO, the name of the Senator from Oklahoma [Mr. NICKLES] was added as cosponsor of Senate Concurrent Resolution 131, a concurrent resolution concerning Bulgaria's abuses of the Customs Convention on the International Transport of Goods under cover of TIR Carnets in facilitating the transportation of illicit narcotics, smuggled arms, and terrorists.

SENATE RESOLUTION 386

At the request of Mr. LEVIN, the names of the Senator from Illinois [Mr. DIXON] and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of Senate Resolution 386, a resolution entitled the "Mandela Freedom Resolution."

AMENDMENT NO. 6876

At the request of Mr. MATHIAS, the names of the Senator from Maryland [Mr. SARBANES] and the Senator from Connecticut [Mr. DODD] were added as cosponsors of Amendment No. 6876 intended to be proposed to House Joint Resolution 648, a joint resolution making continuing appropriations for the fiscal year 1985, and for other purposes.

SENATE RESOLUTION 459—RELATING TO THE EVALUATION OF NOMINEES FOR FEDERAL JUDGESHIPS

Mr. SPECTER submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 459

Whereas, the Constitution of the United States, in Article II, Section 2, provides for the appointment of Federal judges subject to the advice and consent of the United States Senate;

Whereas, the proper exercise of the Senate's responsibility of advice and consent necessarily involves a thorough investigation and full evaluation of the particular qualifications and fitness of each of the scores of individuals nominated every year to serve on the Federal bench;

Whereas, the American Bar Association's Standing Committee on Federal Judiciary has, at the request of the Senate Judiciary Committee and for the declared purpose of helping to promote a better Federal judiciary, conducted thorough evaluations of the professional qualifications of all prospective nominees to the Federal bench since 1948;

Whereas, such evaluations have historically been given very great weight by the Senate in the confirmation process;

Whereas, questions have arisen, particularly in the context of hearings and other Senate proceedings concerning the nomination of James Harvie Wilkinson III to be a judge of the United States Court of Appeals for the Fourth Circuit, regarding the need for certain procedural safeguards and improvements in the evaluation process utilized by the American Bar Association's Standing Committee on Federal Judiciary, to ensure that the usefulness of such eval-

uations to the Senate is not compromised by any avoidable imperfections, whether real or perceived, in such process; and

Whereas, the American Bar Association's Standing Committee on Federal Judiciary has expressed, in Section IV of its rules, a commendable openness to recommendations for improvements, by stating that "the Committee constantly seeks to learn from its experiences and to refine and improve its standards and procedures" and that "to this end, the Committee welcomes suggestions from members of the bar and the public": Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the usefulness to the Senate of the reviews conducted by the American Bar Association Standing Committee of Federal Judiciary (hereinafter in this resolution referred to as the "ABA Committee") lies in the ability of the ABA Committee to perform its investigative and evaluative functions in a manner which all Senators may justifiably trust in and rely upon for its independence, objectivity, impartiality and fundamental fairness;

(2) the ABA Committee should, at its first full committee meeting following passage of this resolution, review all of its evaluation and rating criteria and all standards governing investigations and confidentiality, to ensure comportment with the policy expressed in clause (2), such review to include consideration of adoption of formal standards and procedures which would—

(A) require that, with respect to each potential nominee evaluated, one member of the ABA Committee be designated to serve as principle investigator for purposes of such evaluation, to whom shall be directed all inquiries, information, material and contacts regarding such potential nominee, and whose duty it shall be to prepare an evaluation report based on all material matter so directed or assembled, and to revise or update such report, in light of any new material matter, up to the time of the ABA Committee vote on the potential nominee's qualifications;

(B) require that the President, the Attorney General, the Senate Judiciary Committee and the potential nominee be promptly notified of the identity and function (as set forth in subclause (A)) of such principle investigator;

(C) require that each ABA Committee member shall promptly forward or disclose to the principle investigator and inquiries, information, material or contacts directed to such member, and no such member shall give any weight or consideration, at the time of the ABA Committee vote on the potential nominee's qualifications, to any information whatsoever regarding such potential nominee other than the evaluation report prepared by the principle investigator regarding such potential nominee;

(D) provide for the reconsideration of any vote with respect to which the requirements of subclause (C) have in any material respect not been met;

(E) establish clear criteria setting forth the circumstances under which a second or further additional investigator will be designated;

(F) require that any additional investigator designated under subclause (E) maintain comprehensive records of all inquiries, information, material and contacts which are material to the evaluation of the potential nominee, and deliver such records, together with appropriate conclusions and recommendations, upon conclusion of such additional investigator's investigation, to the principle investigator for use by such principle investigator in preparing the evaluation report on the potential nominee;

(G) require that no potential nominee to the Circuit Courts of Appeals may be rated "qualified" or higher who would not be found qualified to serve on a Federal district court;

(H) modify the policy expressed in section III of the ABA Committee rules (relating to confidentiality) that the ABA Committee process operates principally "as an aid [to the President] in making the nomination", to more properly reflect an understanding and appreciation of the Senate's constitutional role in the appointment of Federal judges, and to affirm and demonstrate the independence and impartiality which are absolutely essential if the ABA is to continue to exercise its dual function of advising both the President and the Senate regarding the qualifications of candidates for the Federal bench; and

(I) establish criteria under which contacts between representatives of the Executive Branch and members of the ABA Committee concerning specific potential nominees would, during the period beginning with submission of the potential nominee's name for evaluation and ending with the rendering of a final ABA Committee rating of the potential nominee's qualifications, be strictly limited to (i) the exchange of factual information regarding the timing of ABA Committee action, (ii) the exchange of factual information regarding suspension or discontinuance of the evaluation process, or (iii) necessary and appropriate consultations regarding a specific and discrete relationship between the potential nominee and any agency of the Executive Branch (such as an employer/employee relationship) which predates and is independent of the potential nominator/nominatee relationship; and

(3) the ABA Committee should, not later than 180 days after passage of this resolution, submit to the Senate Judiciary Committee a report describing in full any action taken or proposed to be taken in connection with the matters specified in clause (3), together with a statement of the reasons therefor.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President, the Attorney General, the president of the American Bar Association and the chairman of the ABA Committee.

Mr. SPECTER. Mr. President, I am submitting a Senate resolution relating to the confirmation process in the Senate for nominees to the Federal courts. It deals with the role of the American Bar Association in conducting thorough evaluations of the qualifications of all nominees, stressing the importance of the ABA role and recommending certain improvements in the ABA process.

It may be preferable in the long run for the Senate Judiciary Committee to expand its investigative resources to do the full scale inquiries now being undertaken by the American Bar Association. It is doubtful, however, that this will occur at least in the short run. Therefore, it is desirable, at least at the present, to strengthen the procedures of the American Bar Association and correct the deficiencies which were noted in the Wilkinson confirmation hearings.

In submitting this resolution, it is obvious that the Senate Judiciary Committee, and ultimately the Senate itself, cannot act on this matter during the course of the 98th Congress. By introducing this resolution at this time with its inclusion in the CONGRESSIONAL RECORD, the proposal will be on record for consideration by the members of the Judiciary Committee and the entire Senate until the 99th Congress reconvenes. At that time, the resolution will be resubmitted, perhaps with some strengthening modifications from continuing study in the interim.

The nomination of J. Harvie Wilkinson to be a judge for the Fourth Circuit Court of Appeals provided the Senate with a rare opportunity. It led us to focus on the ABA process, and for the first time in the 36 years of the Senate's reliance upon that process, to gain an in-depth understanding and appreciation of its inner workings and its behind-the-scenes relationships with outside entities.

When it first became evident that the ABA's evaluation process with regard to Mr. Wilkinson may have been subject to lobbying activities by certain Justice Department officials and by Justice Powell, I proposed that the Judiciary Committee hold hearings to look into those activities and the process itself. I maintained this position throughout Senate consideration of the nomination. Finally, on Tuesday, August 7, of this year, following extensive negotiations involving Chairman THURMOND, Senator KENNEDY, myself and other interested Senators, the full Judiciary Committee held on extraordinary day-long hearing regarding the Wilkinson nomination, the ABA process, and the role that outside forces may have played in the findings of the ABA Standing Committee on Federal Judiciary that Mr. Wilkinson was "qualified" to serve as a Federal court of appeals judge.

We learned several disturbing things at that hearing. We learned that it is possible for the various members of the ABA committee, in casting their votes on the qualifications of a potential nominee, to have before them different information upon which to cast their vote. That is, Member X might have received a very positive telephone call regarding the candidate, or Member Y might have received a very negative letter, but under present ABA committee rules, they are under no obligation whatsoever to share any such information with the other members, or to disregard it if it is not shared. Even if that phone call or letter was the deciding factor in their mind, no one need ever know of its existence.

We learned that the ABA committee has no standards governing the occasional practice of having more than one of its members conduct the investigation of the candidate's background and qualifications. Usually there is only one investigator, but sometimes there are two or more—perhaps as many as five. In the Wilkinson case, there were two, but because there are no clear standards, and because of the intensive lobbying campaign mounted by Justice Department officials and the nominee himself, and because of the time lag in designating the second investigator after the first one had reached a conclusion unfavorable to the nominee, questions were raised as to whether the designation of the second investigator was simply a device to neutralize the adverse finding of the first, and to improve the candidate's chances in the full ABA committee vote. Whatever the reasons for the designation of the second investigator in the Wilkinson case, it seems clear to me that its effect—given the favorable conclusion reached by that investigator—was to help the nomination. Even if we conclude that the designation of that second investigator was entirely proper, the lack of clear standards cannot help but contribute to an outward appearance of impropriety and undue influence—and this appearance can only compromise the usefulness and the integrity of the ABA process in the Senate's eyes.

We also learned, Mr. President, that a candidate who is unqualified to serve as a district court judge can nevertheless be rated "qualified" by the ABA to serve on a court of appeals—that is, on a court which is one step below the Supreme Court, and which is responsible for reviewing the broad range of actions taken by the district courts—actions which involve not just principles of constitutional law, but also the most arcane procedural niceties and the myriad of small "technical" points of trial and pretrial practice.

We also learned that there may be a constant stream of informal contacts regarding a particular candidate between the Justice Department and the ABA committee, particularly the committee chairman, in the course of the ABA evaluation process, and that these contacts are generally defended as being useful in maintaining a free and thorough flow of information between the two entities.

Mr. President, it is my view that the Senate's constitutional role in the confirmation of Federal judges is one of the most important and far-reaching responsibilities we have in this body. Because the Constitution grants life tenure to Federal judges, the effect of our action in approving a Federal judge continues to be felt long after our meager 2-, 4-, or 6-year terms, and cannot be altered by mere legislation. Add to this the fact that under the landmark 1803 Supreme Court case of Marbury against Madison, the Federal courts have the final word on what the Constitution means, and the fact that the judiciary is the only one of the three branches of our Government which is nonelective and thus not subject to the constant ebb and flow of political forces. The conclusion is inescapable that the Federal judiciary occupies a position of preeminence in our system of government. Our role in determining its composition, therefore, is critical.

Unfortunately, as we know all too well, the demands upon the time of Senators, and constraints upon Senate resources, make it difficult for individual Senators, or even the Judiciary Committee, to conduct the necessary indepth investigations and evaluations of the qualifications and backgrounds of all of the many dozens of individuals nominated to the Federal bench every year. Thus, the Senate has come to rely upon the ABA committee to perform this function, and to furnish the Senate with formal evaluations of the qualifications of each and every nominee since 1948.

Implicit in the Senate's reliance on the ABA has been a faith that the ABA evaluation process will be carried out fairly and objectively, with safeguards to ensure that all appropriate evidence will be given full consideration and inappropriate evidence will be given none. But perhaps our faith has been too blind. In trusting to the good intentions of the ABA committee, we might have overlooked the possibility that resolute outside forces—perhaps equally well-intentioned—could compromise the impartiality of the process. And if we cannot be assured of the impartiality and fairness of the ABA committee process, then that process is useless to us and, I believe, fundamentally misleading to a Senate which takes these qualities for granted.

The resolution that I offer today proposes to add a number of safeguards and improvements to preserve the process's usefulness to the Senate. It provides for the consolidation in a single evaluation report of all information which is material to the candidate's qualifications, and for the exclusion of all information which is not. Each committee member would be furnished a copy of the report, and no member would be permitted to take into consideration any information other than that contained in it. Breach of this rule would be grounds for reconsideration of the committee vote.

The mechanism for this consolidation of information would be the designation of one committee member to serve as the principle investigator with respect to each candidate under consideration. That member would be responsible for assembling all relevant information and preparing the evaluation report. All major players in the nomination process—including the President, the Attorney General, and the nominee—would be promptly notified of the identity of that principle investigator, and of the fact that all information or contacts of any sort regarding the nominee should be directed exclusively to that investigator. If any contacts are made to a noninvestigating member by any individual, the contact should be referred immediately—preferably before the substance of the contact has been disclosed—to the appropriate investigating member. If any contact is made, or caused to be made, by any of the duly notified major players or their representatives, it should be noted—whether the substance of the contact was material or not—in the evaluation report.

Mr. President, uncontrolled ex parte contacts simply cannot be permitted in an independent evidentiary process as vital to the national welfare as the ABA process is. If the ABA committee is to gather evidence and make findings which will profoundly influence the actions of the Senate in approving individuals for lifetime service in the Federal courts, it must adopt formally and explicitly some of the most basic safeguards utilized by any jury or other tribunal at any level.

Indeed, when I asked the chairman of the ABA committee at the August 7 hearing whether he would agree that it would be useful to make a modification in the committee rules so that all information which comes to any one member would be shared with the others, as with members of a jury, and all members would have the same factual basis for coming to a judgment, he replied: "I would agree, Senator SPECTER, that that certainly would be desirable," and further "that every piece of information which is furnished to us ought to be supplied to all committee members."

Another recommendation made in the resolution which would follow up on a recommendation I made to the ABA committee chairman relates to the designation of a second investigator to assist the first. The point was made at the hearing that there are legitimate circumstances under which more than one investigator may be appropriate, such as where the candidate has had significant professional dealings in more than one geographic region or judicial circuit. Such circumstances should be translated into formal standard and strictly adhered to. But care should be taken to ensure that the role of the additional investigators is consistent with that of the principal investigator: the latter should remain responsible for preparing the final report and for handling all contacts originating outside the circuit of the additional investigator.

Most importantly, the additional investigator should, at the conclusion of his or her investigation, turn over to the principal investigator all resulting information relating in any way to the candidate—whether legally material or not—so that a single complete file might be assembled by the principal investigator, who would then alone be responsible for making determinations of materiality with regard to inclusion in the final evaluation report. I would also recommend that the standards adopted provide that the designation of additional investigators shall take place, except where impracticable, simultaneously with the designation of the principle investigator.

Again, the ABA committee chairman stated his support for this policy at the hearing. When I proposed the adoption of specific formal standards governing the circumstances under which a second investigator would be appointed, he stated flatly: "I think we could do that."

A final specific recommendation which I made at the hearing relates to the ABA committee chairman's assertion that the committee is free to find a candidate qualified to be a circuit court judge while unqualified to be a district court judge. Given the role of the circuit courts in reviewing the action of the district courts, this policy could be justified only if there were not enough circuit court candidates with district court qualifications to go around. This clearly is not the case.

This issue is of such significant import that it should be presented not only to the full ABA committee, but also, failing action there, to the ABA itself, at next year's annual convention.

Recommendation (H) contained in the proposed resolution relates to the ABA committee's own fundamental perception of its mission. The committee's rules indicate a clear orientation toward the administation, as reflected, for example, in the statement that:

> The nomination process is a Presidential function, and the President should be able to obtain a confidential assessment of prospective nominees as an aid in making the nomination.

With all due respect to the ABA committee, Mr. President, the nomination function is only one-half of the constitutional process. Senate confirmation constitutes the other half, and we take it very seriously.

It is also worthy of note, I think, that the ABA's first involvement in the process came at the request of the Senate Judiciary Committee, in 1948. It was not until 4 years later, in 1952, that the executive branch decided to hop on the bandwagon and begin consulting the ABA on its own.

The point here is not to suggest that the ABA owes primary fealty to the Senate, or that it should be just as deferential to political considerations in the Senate as to those in the administration. The point is that in order for the ABA committee process to be equally useful to the two coequal bodies of Government with coequal constitutional functions in the appointment of Federal judges, it must strenuously assert and maintain its independence and impartiality.

This leads to the final recommendation regarding contacts between the administration and the ABA committee. The relationship between the Senate and the ABA committee is a very narrow one, limited essentially to receiving the final one-paragraph determination of the ABA committee characterizing the nominee as either exceptionally well qualified, well qualified, qualified or not qualified. This is the bottom line, and if we trust in the process, it's all we need to know. No protracted discussions between us and the ABA committee are needed to help them perform their task.

Similarly, no protracted discussions should be necessary with the Justice Department—at least not in the context of any particular nominee. All that the ABA committee generally needs to know is the identity of the candidate. They then request the candidate to complete a detailed personal data questionnaire, which forms the basis for the investigation. No further statements of support or cajoling by administration officials are necessary, no high level pow-wows to discuss the fact that a nominee might be "in trouble." The submission of the name to the ABA by the Justice Department speaks for itself, and the administration's strong support for the candidate may safely be inferred from it. If the candidate is indeed in trouble in the ABA committee process, that fact will be revealed with sufficient clarity at the conclusion of the process, and the administration will be free to proceed to nominate or not, as it sees fit, on the basis of the committee's recommendation.

Nevertheless, the resolution contemplates three areas of legitimate exception to the proposed no-contact rule: First, where the discussion is limited to the timing of the final ABA committee action—for example, to coordinate it with a security check or with the submission of other nominations; second, where it relates to the suspension or discontinuance of the ABA process, as in a case where the administration desires to withdraw the candidate's name from further consideration; and third, where information is needed from the administration with regard to some relationship between the candidate and the administration other than the nominator/nominee relationship. This third exception would cover certain contacts in the Wilkinson case relating to his previous employment in the Civil Rights Division of the Justice Department. It would also cover any other previous interaction between the candidate and any other Federal agency with regard to matters within that agency's jurisdiction. Administration representatives would be free to initiate contacts in any of these three areas of exception, provided, of course, that the contacts are directed through the appropriate ABA committee investigating member.

Finally, the resolution would direct the ABA to report back to the Senate within 6 months of Senate passage of the resolution, to inform us, in all appropriate detail and with all their reasoning laid out, regarding all actions taken or planned to be taken with respect to any of the recommendations made in the resolution. This would of course include an explanation of the reasons for taking no action on any particular recommendation.

Mr. President, the issues addressed in this resolution are vital to the Senate's continued ability to effectively perform this most critical constitutional function. I urge my colleagues to join me in moving toward swift and favorable Senate consideration of this resolution before the adjournment of the present Congress.

SENATE RESOLUTION 460—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. STAFFORD, from the Committee on Environment and Public Works, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 460

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 65, a bill to authorize appropriations for the Appalachian Regional Development program.

Such waiver is necessary because section 402(a) of the Congressional Budget Act of 1972 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

The Committee on Environment and Public Works met and made a good faith effort to report S. 65 prior to the May 25, 1984, reporting deadline for FY 1985 authorizations. However, due to circumstances beyond their control, the Committee was unable to report this bill prior to May 25, 1984.

Pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to S. 65 as reported by the Committee on Environment and Public Works.

AMENDMENTS SUBMITTED

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1985

WILSON (AND OTHERS) AMENDMENT NO. 6903

(Ordered to lie on the table.)

Mr. WILSON. (for himself, Mr. CRANSTON, Mr. TOWER, and Mr. BENTSEN) submitted an amendment intended to be proposed by them to the bill (H.R. 5973) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1985, and for other purposes; as follows:

At the end of the bill insert the following: Notwithstanding section 3 of the Mineral Leasing Act for Acquired Lands (30 USC 352), the fact that acquired lands are incorporated into and are a part of the City of Corpus Christi, Texas, or the City of Port Hueneme, California, shall not prevent the leasing of such lands (provided that, prior to any such leasing the Department of Interior must do a detailed reevaluation to determine if the lands are within a known geologic structure), by the Secretary of the Interior for oil and gas exploration and extraction, and such lands shall be available for such leasing as if they were not in an incorporated city, except that no such leasing activity shall proceed without the permission of the appropriate city.

CONTINUING APPROPRIATIONS, 1985

GRASSLEY (AND OTHERS) AMENDMENT NO. 6904

(Ordered to lie on the table.)

Mr. GRASSLEY (for himself, Mr. JEPSEN, Mr. ABDNOR, Mr. BAUCUS, Mr. DURENBERGER, Mr. HUMPHREY, Mr. PACKWOOD, Mr. PRESSLER, Mr. PRYOR, and Mr. SYMMS) submitted an amendment intended to be proposed by them to the joint resolution (H.J. Res. 648) making continuing appropriations for the fiscal year 1985, and for other purposes; as follows;

At the appropriate place, insert the following:

SEC. . Section 119(d)(1) of the Housing and Community Development Act of 1974 is amended—

(1) by striking out "as the primary criterion," in clause (A); and

(2) by adding at the end thereof the following: "In applying the foregoing selection criteria, the Secretary shall give a weight of not less than 60 percent to the criteria specified in clause (C).".

MITCHELL (AND COHEN) AMENDMENT NO. 6905

(Ordered to lie on the table.)

Mr. MITCHELL (for himself and Mr. COHEN) submitted an amendment intended to be proposed by them to the joint resolution House Joint Resolution 648, supra; as follows:

On page 43, line 1, insert the following between "Airport" and "if": "and Bangor International Airport,"

On page 44, line 14, insert the following between "Airport" and "if": "and Bangor International Airport,"

On page 44, line 18, insert the following between "Airport" and "over": "and Bangor International Airport,"

VETERANS AND SURVIVORS COMPENSATION RATE INCREASE ACT

SIMPSON (AND OTHERS) AMENDMENT NO. 6906

(Ordered to lie on the table.)

Mr. SIMPSON (for himself, Mr. CRANSTON, and Mr. COHEN) submitted an amendment intended to be proposed by them to the bill (S. 2736) to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans and to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans, and for other purposes; as follows:

On page —, line —, insert "(a)" after "SEC. 604.".

On page —, between lines — and —, insert the following new subsection:

(b)(1) Paragraph (1) of section 3203(b) is amended—

(A) by designating the first and second sentences as subparagraphs (A) and (B), respectively;

(B) by striking out the comma after "treatment" in subparagraph (A), as so designated, and inserting in lieu thereof "or"; and

(C) by adding at the end the following new subparagraph:

"(C) The Administrator may, pursuant to regulations which the Administrator shall prescribe, waive the discontinuation under this paragraph of payments to a veteran with respect to not more than 60 days of care of the veteran during any calendar year if the Administrator determines that a waiver of such discontinuation is necessary in order to avoid a hardship for the veteran.".

(2) Not later than 60 days after the date of the enactment of this Act, the Administrator shall prescribe regulations pursuant to subparagraph (C) of section 3203(b)(1) of title 38, United States Code, as added by subsection (a).

Mr. COHEN. Mr. President, the amendment that I am offering today, along with Senators SIMPSON and CRANSTON, is intended to begin to change an inequitable aspect of the Veterans' Administration compensation system which operates against mentally incompetent disabled veterans.

Before I explain why I believe that it is necessary to offer this amendment, I want to extend my sincere gratitude to both Senators SIMPSON and CRANSTON for the interest that they have taken in this matter and for the compassion that they have shown in agreeing to accept this amendment as part of the VA compensation bill that is before us today.

Mr. President, some months ago, I was contacted by a constituent from northern Maine who is the father of a 100-percent service-connected disabled Vietnam veteran and who related to me the inequitable situation that his son is trapped in under the current law.

This man and his wife act as the fiduciary for their son's affairs because the veteran, who is diagnosed as chronic schizophrenic, is classified as incompetent by the VA due to the fact that he is unable to manage his financial affairs.

Although the veteran requires periodic, temporary inpatient care for his psychological condition at the VA Medical Center at Togus, ME, his father has advised me that his son has improved to a stage of independent living with his parents since his discharge from the service in 1971, and that he now spends most of his life outside institutions.

This veteran has been declared incompetent because he needs guidance on financial matters, but he does have his own checking account and can supervise $100 per week through it. The larger amount of his monthly compensation check is held by his parents in a joint account which pays his utilities, rent, and various time payments on such things as his automobile.

Under existing law, each time this veteran needs to become an inpatient at Togus, his compensation is cut off because this estate totals more than $1,500 and because he has no dependents. The financial obligations that he has assumed, to encourage an active life outside of an institution, continue.

When this veteran is discharged from the hospital, usually within a few days, his benefits are restored by the VA. No other group of disabled veterans is subject to this kind of estate limitation requirement. The requirement is unfair, subjects veterans who are trying to live outside of VA institutions to hardships which no other service-connected veteran must endure, and produces an extremely complicated relationship between these incompetent veterans and the VA.

Because the compensation system cannot adequately adjust to the requirement that payments be discontinued and reinstated several times each year, these veterans end up owing the Government money as a result of regular overpayments by the VA. This situation has gotten to the point where my constituent cannot afford to go to Togus for treatment of his service-connected disability.

Beyond this hardship, incredibly, the $1,500 estate limitation was established, and has not been adjusted, since 1933. If this limitation was inflated, using the Consumer Price Index as a guide, to 1984 levels—as

Congress has done over the years for VA disability compensation and dependency and indemnity compensation—the estate limitation would be slightly higher than $12,000, a figure which I submit would be a much more equitable one for these veterans to be subjected to.

Mr. President, before I conclude, I ask unanimous consent that a letter that I received in May from the VA's General Counsel, which explains the VA's policy in this matter, be included in the RECORD immediately following my remarks.

The General Counsel's letter explains that the current law was intended to protect the integrity of the VA compensation system in situations where mentally incompetent veterans have all of their needs met by a tax-supported institution. As a result of these veterans spending their lives in institutions these veterans may accrue large estates from the accumulation of their compensation payments because they incur no significant expenses to consume their monthly benefits.

In many cases, these estates have been claimed after the veteran's death by people who had contributed nothing to the care of the veteran over all of the years of institutionalized care.

When this law was written, in 1933, a common diagnosis for mentally ill veterans was a life of institutionalized care. Today, the treatment is different and many mentally incompetent veterans are encouraged to spend as much time as they can outside of institutions in order to expedite their recovery and their ability to live as contributing members of our society.

The Maine veteran whose case I have described is subject, along with an unknown number of other similarly disabled veterans, to an outdated anomaly in existing law that my amendment will begin to change.

When I first asked Senator SIMPSON and Senator CRANSTON if this inequitable law could be addressed in this compensation bill, it was my intention to both increase the 1933, $1,500 estate limitation to a more reasonable amount and waive the requirements of section 3203(b)(i) when mentally incompetent veterans are inpatients for only short periods of time.

The amendment that we are offering today is a compromise of my request and requires the Administrator to develop regulations that would remove the hardship imposed by existing law for those incompetent veterans who are inpatients for not more than 60 days of each calendar year.

I am grateful that this change will be made this year, but I want to state clearly that it is my intention to go even further in this area next year.

Because it is unclear how many other mentally incompetent veterans must also give up the disability compensation that I believe they are entitled to—due to the limitations imposed by section 3203(b)(1)—and because of the unknown budgetary impact of the changes that I had originally proposed, the Committee on Veterans' Affairs wisely decided that this amendment should be an interim step in changing this inequitable portion of VA compensation law.

While I support this cautious approach at this time, I am pleased that Senator SIMPSON and Senator CRANSTON see the need for the VA to report to the committee, once the next Congress convenes, how many mentally incompetent veterans, with no dependents, and with estates valued over $1,500, there are in the country today so that we can pursue this issue.

I thank the distinguished chairman and ranking member of the committee for their support in this matter.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF GENERAL COUNSEL,
VETERANS' ADMINISTRATION,
Washington, DC, May 29, 1984.

Hon. WILLIAM S. COHEN,
U.S. Senate,
Washington, DC.

DEAR SENATOR COHEN: The Administrator has asked me to respond to your May 4 referral of a letter you received from the Reverend Robert M. Butler, of Houlton, Maine. His inquiry does indeed indicate that he has given careful thought regarding the $1,500 estate limitation rule. I trust my remarks that follow will assist you in making a meaningful response to him.

The provision about which the Reverend Butler is concerned is found in section 3203(b)(1) of title 38, United States Code. It requires discontinuance of pension, compensation, or emergency officers' retirement pay to a mentally incompetent veteran without spouse or child, institutionalized at government expense, whose estate equals or exceeds $1,500. It is true, as he suggests, that the provision treats mentally incompetent veterans in the described circumstances differently from competent veterans. Valid historical reasons led Congress to make this distinction.

Experience had demonstrated that mentally incompetent veterans without spouses or children, whose basic needs were being met by tax-supported institutions, tended to amass large monetary estates, because they incurred no significant expenses to consume their monthly VA benefits. Under State descent and distribution laws, many such estates were eventually inherited by remote heirs, who had had little or no contract with the veteran and had no equitable reason to expect windfalls consisting of the veteran's Federal benefits. Additionally, in cases in which there were no heirs, such estates were often, under State escheat statutes, absorbed by the State in which the assets were situated. The $1,500 estate limitation was one of the safeguards created by Congress many years ago to prevent substantial gratuitous VA funds from falling into the hands of those who have no valid claims against the United States on account of such veterans' military service.

In doing so, however, Congress carefully enacted protective devices to assure that such veteran, to the extent possible, would enjoy the full benefit of his or her VA moneys. For example, if the veteran becomes mentally capable of managing his or her own financial affairs, and so remains for a sufficient period (6 months) to demonstrate the likelihood that such capacity will continue, all funds previously not paid because of the $1,500 limitation are released to the veteran. Even in cases in which the limitation has been applied, full monthly benefits are resumed when the estate becomes less than $500. During periods in which the veteran's benefits are discontinued, the law provides means by which lawful charges for the veteran's care and maintenance may be paid to non-VA, tax-supported institutions. Benefits discontinued because of the estate limitation also may be apportioned to meet the needs of dependent parents of the veteran. Of course, full benefits are paid during periods in which such veteran is not institutionalized. The law, therefore, is intended to strike a balance that will assure such veterans' needs are met and, at the same time, prevent gratuitous funds from falling into the hands of those for whom VA benefits were not intended.

We recognize that the application of such provisions may sometimes, in individual cases, work to the disadvantage of those affected. The VA seeks to minimize opportunities for such inequities to occur. The VA and Congress continue to consider new ways to further achieve the basic purposes of the law and still reduce the opportunity for such provisions to cause disadvantage to affected veterans. There have been bills introduced, from time to time, to increase the amount of the estate limitation. Thus far, Congress has declined to do so.

Allow me to comment briefly on the Reverend Butler's statement, "The over encompassing title of 'incompetency because of mental illness' outdates the system." It is difficult to choose precise terminology to be used in programs designed to protect benefits paid on behalf of legally-disabled beneficiaries. As you know, many persons suffering from mental illness are well able to manage their personal business affairs. Further, in recent years, courts have made clear that the need for mental health care in an institution does not, of itself, mean that a patient does not possess the capacity to manage money. Consistent with these concepts, the VA rating standard is that "[a] mentally incompetent person is one who because of injury or disease lacks the mental capacity to contract or to manage his or her own affairs, including disbursement of funds without limitation." The decision to rate a beneficiary incompetent is not made without first providing opportunity (including a hearing, if desired) to present evidence that he or she is competent to manage his or her own business affairs without the assistance of a fiduciary. Further, if a beneficiary is rated incompetent, VA periodically reviews his or her ability to manage money without supervision and stands ready to revise the rating if the facts so indicate.

Thank you for giving me the opportunity to discuss the issues raised by the Reverend Butler. Please let me know if I may be of further assistance to you.

Sincerely yours,

JOHN P. MURPHY,
General Counsel.

Mr. SIMPSON. Mr. President, I wish to first note that I appreciate the intentions and concerns of the Senator from Maine. I always enjoy working with him and have been impressed with his involvement and attention to

matters affecting the concerns of our Nation's veterans. The committee bill, S. 2736, contains a provision that would address the concerns of certain single veterans who are rated as incompetent. The committee bill would exclude the value of the veteran's home from his estate during the period of hospitalization or institutionalization at Government expense, unless there is no reasonable likelihood that the veteran will again reside in his or her home. Under current law, a single incompetent veteran would have his or her home considered within the $1,500 limit of the veteran's estate. That veteran's pension or compensation benefits would be discontinued and not be reinstated until the estate is reduced to $500 during any period of institutionalization. The exclusion of the home from this computation of the veteran's estate is intended to provide relief for veterans who own their homes and need periods of institutionalization. I do understand the motives of Senator COHEN who is attempting to deal with veterans who may be renting a home, yet still need to make payments while institutionalized and would not benefit from the above-mentioned provision.

The VA has very little information on the numbers of such veterans and the circumstances surrounding their lives in and out of hospitals. Therefore, it is very difficult to determine the need for a change in the current law which, as Senator COHEN has noted, was designed to protect the veteran from possible abuses by the fiduciary or others. Therefore, I have agreed to accept Senator COHEN's modified amendment. I certainly do endorse his desire to accumulate more information from the VA on incompetent veterans and have a better understanding of the frequency of periods of hospitalization, whether it is for their mental disability or other health problems, the average lengths of stay in institutions and the impact of the income ceiling for single incompetent veterans with respect to their attempts to live independently. Senator COHEN's modified amendment would provide for regulations to allow for a period of up to 60 days of hospitalization during a year during which time the veteran could be hospitalized without having VA payments reduced. This will be a first step in gathering data on the numbers of such veterans and the circumstances surrounding the hospitalizations. I appreciate Senator COHEN's willingness to compromise on his original amendment. I am in agreement with Senator COHEN that the VA let us know in writing, early in the next Congress, how they will begin to gather the information which I have mentioned as well as that which Senator COHEN has noted.

Mr. CRANSTON. Mr. President, I, too, want to thank the distinguished Senator from Maine [Mr. COHEN] for his interest in this matter and his willingness to work with the committee in fashioning an appropriate interim approach to resolve it. I would also like to note that I share his concerns regarding the provisions of existing law as they affect veterans who have been declared incompetent. It would be my hope that in the next Congress the committee could make a comprehensive review of the provisions relating to incompetents' estates with a view toward updating and revising provisions that are obsolete, outmoded, or unnecessary. In any event, I can assure the Senator that I have requested the minority staff of the committee to initiate such a review.

CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1985

MITCHELL (AND COHEN) AMENDMENT NO. 6907

(Ordered to lie on the table.)

Mr. MITCHELL (for himself and Mr. COHEN) submitted an amendment intended to be proposed by them to the joint resolution House Joint Resolution 648, supra; as follows:

Strike from line 1 on page 43 through line 18 on page 44 and insert thereof the following:

international operations at Miami International Airport and Bangor International Airport if, on or before January 1, 1985, applicants for such exemptions have posted bonds committing them to sign contracts with known suppliers of equipment that would bring said applicants into compliance with the provisions of Public Law 96-193, with such exemptions to be granted as follows:

(1)(A) applicants currently operating aircraft for which equipment to assure compliance ("husk kits") is currently under development shall be required to enter into contracts for such equipment or replacement aircraft three months after the certification by the Department of such equipment by two or more competing suppliers; and

(B) applicants currently operating aircraft for which no such compliance equipment is currently under development shall be required to contract for aircraft or equipment which will comply with the provisions of Public Law 96-193 no later than December 31, 1985, unless extended by the Secretary and

(C) except for circumstances beyond the control of the applicant, all exemptions granted under this subsection shall expire no later than December 31, 1986; or

(2) in the case of a foreign applicant where the Secretary of the Department of Transportation determines, after consultation with the Secretary of State and other interested departments and agencies of the Government, that the applicant faces financial circumstances whereby compliance would impose unreasonable burdens on the applicant and such burden would not be in the interests of the foreign policy of the United States, the Secretary shall provide an exemption to such time certain as he determines to be reasonable under the circumstances, not to extend beyond December 31, 1987.

(c) No applicant receiving an exemption under the provisions of this section may increase its frequency of international operations of noncompliant aircraft on an annualized basis at Miami International Airport and Bangor International Airport beyond that existing on an annualized basis during calendar year 1984.

(d) No applicant receiving an exemption under the provisions of this section may add to the number of noncompliant aircraft operated at Miami International Airport and Bangor International Airport over that which it operated during calendar year 1984.

GLENN AMENDMENT NO. 6908

(Ordered to lie on the table.)

Mr. GLENN submitted an amendment intended to be proposed by him to a committee amendment to the joint resolution House Joint Resolution 648, supra; as follows:

At the end of the Committee Amendment insert the following new section:

SEC. . Notwithstanding any other provision of this joint resolution, there is appropriated to the Navy for procurement of the MK-48 torpedo an additional amount of $29,000,000 and for the procurement of the MK-48 (ADCAP) torpedo an additional amount of $18,300,000.

ADDITIONAL STATEMENTS

THE INTERNATIONAL EXECUTIVE SERVICE CORPS

● Mr. DOLE. Mr. President, in a recent letter to me, Wallace W. Elton, senior vice president of the International Executive Service Corps, has reminded me once again of the outstanding work of this volunteer organization.

In the 20 years since the founding of the corps, it has undertaken more than 9,000 consulting projects in 77 developing countries. In the process, it has made a major contribution to the economic development of those countries. Simultaneously, it has done important overseas missionary work in the benefits of the free enterprise system, which we know to be the real source of long term prosperity.

I am especially pleased and proud to learn that Kansas businessmen and businesswomen have played a significant role in the programs of the IESC. Some 42 Kansans have completed assignments in 24 foreign countries, in a variety of free enterprise projects, bringing lasting benefit to those countries and reflecting great credit on our own Nation. Kansas is a great exporting State, but this record of service in IESC reflects the fact that we have no export product more valued on the world market than the skill, experience and creativity of the Kansas businessman and woman.

My congratulations to the 42 Kansas, and to all the other IESC vol-

unteers, who are making such an important contribution. Keep up the good work.●

HERBERT D. VOGEL: ARMY OFFICER, ENGINEER, AND STATESMAN

● Mr. HELMS. Mr. President, one of the privileges of serving in the Senate is becoming acquainted with outstanding leaders in various fields of endeavor.

One such leader was Brig. Gen. Herbert D. Vogel of the U.S. Army whose distinguished career transcended the limits of his profession and qualified him as a statesman. General Vogel's experience during World War II included service in the southwest Pacific and Japan, 1944-45, under Gen. Douglas MacArthur, whom he greatly admired.

During the lengthy debate on the Panama Canal Treaties, one of my most helpful consultants was General Vogel, who strongly advocated the retention of undiluted U.S. sovereign control over the Canal Zone. His engineering training and service in important positions on the isthmus enabled him to advise with authority based on his extensive experience on matters vital not only to the security of the United States but also of the free world.

Mr. President, General Vogel consulted with me in the preparation of my debate material, including the following:

"Panama Canal: Evolution of a Plan." CONGRESSIONAL RECORD, volume 124, part 21 (August 25, 1978), pages 27878-82; and U.S. Isthmus Canal Policy." CONGRESSIONAL RECORD, volume 128 (March 30, 1982), pages S33075-76 (temp.).

After his retirement from active military service in 1954, General Vogel served as Chairman of the TVA until 1962 when he undertook other significant activities, including his chairmanship of a Water Resources Board for the Panama Canal, 1971-72.

The major qualities in an officer of the Armed Forces include intelligence, knowledge and courage—and in all three of which General Vogel excelled.

Mr. President, General Vogel's death on August 26, was a national loss. His life and contributions serve as models for emulation, especially for the youth of our Nation. I ask that the details of his career, as related in Who's Who in America, and obituaries in the Washington Times and the Washington Post be printed in the RECORD at the conclusion of my remarks.

The information follows:

WHO'S WHO IN AMERICA 1982-19

Vogel, Herbert Davis, exec. engr.; b. Chelsea, Mich., Aug. 26, 1900; s. Lewis P. and Pearl M. (Davis) V.; B.S., U.S. Mil. Acad., 1924; M.S. in Civil Engring., U. Calif., 1928; Dr.-Ing., Berlin Tech. U., 1929; C.E., U. Mich., 1933; m. Loreine Elliott, Dec. 23, 1925; children—Herbert D., Richard E. Commd. 2d. lt. U.S. Army, 1924, advanced through grades to brig. gen.; founder, builder, dir. U.S. Army Engrs. Waterways Expt. Sta., Vicksburg, Miss., 1929-34; student Command and Gen. Staff Sch., 1934-36; with 3d Engrs., Hawaii, 1936-38; instr. Army Engrs. Sch., 1938-40; asst. to dist. engr., chief inspection div., Pitts., 1940-41; dist. engr., 1942-43; grad. Army-Navy Staff Coll., 1943; with S.W. Pacific Theatre Operations, 1944; chief of staff intermediate sect. (New Guinea), then base comdr. Base M (Philippines), 1944-45; with Army of Occupation, Yokohama, Japan, 1945; dist. engr. C.E., Buffalo, 1945-49, engr. maintenance Panama Canal, v.p., dir. Panama R.R. Co., 1949-50, lt. gov. C.Z. Govt., v.p. Panama Canal Co., 1950-52, div. engr. Southwestern div. C.E., 1952-54; chmn. bd. TVA, 1954-62; engr. adviser World Bank, 1963-67, including Indus Basin project, 1964-67, resource devel. engring. cons., 1967—; 1st occupant George W. Goethals chair mil. constrn. U.S. Army Engr. Sch., 1973—. Dir. Internat. Gen. Industries, 1973-80, Planning and Devel. Collaborative, 1968-74. Mem. Beach Erosion Bd., 1946-49, Internat. Boundary Commn., 1946-49; mem. Miss. River Commn., 1952-54, Bd. Engrs. for Rivers and Harbors, 1952-54; chmn. Ark., White, Red Basin Inter-Agy. Com., 1952-54; mem. permanent internat. com. Permanent Internat. Assn. Navigation Congresses, 1957-64, hon. mem., 1967; chmn. bd. consultants to Panama Canal, 1971-72; mem. cons. panel Ludington pumped storage project, 1969-73; engring. cons. GAO, 1977. Mem. visitors com. Sch. Engring., Vanderbilt U., 1967-80. Decorated D.S.M., Legion of Merit, Philippine Liberation and Independence medals, knight Grand Cross (Thailand), Colon Alfaro medal; recipient Distinguished Alumnus award U. Mich., 1953; Meritorious Service award for service to engring. profession Cons. Engrs. Council, 1967. Benjamin Franklin fellow Royal Soc. Arts. Registered profl. engr., N.Y., Tex., Tenn., D.C. Fellow Am. Cons. Engrs. Council; mem. U.S. Com. Large Dams, Am. Power Conf., ASCE (hon.; mem. nat. water policy com. 1971-74, chmn. 1974-76, mem. nat. energy policy com. 1976—, pres.'s award, 1979), Soc. Am. Mil, Engrs. (hon., nat. dir. 1956-62, 66 treas. 1974-76), Nat. Acad. Engring., Nat. Soc. Profl. Engrs., Pub. Works Hist. Soc. (hon.), Order of Carabao. Episcopalian. Clubs: Army-Navy, Cosmos (Washington). Writer numerous papers on hydraulic models and lab. procedures, 1930-40, articles and speeches on TVAF, 1954-63, papers defining U.S. position on inland navigation. Home: 3033 Cleveland Ave NW Washington DC 20008 Office: 601-2 Washington Bldg Washington DC 20005

[From the Washington Times, Aug. 29, 1984]

GEN. HERBERT D. VOGEL, EX-TVA CHIEF

Retired Army Brig. Gen. Herbert Davis Vogel, 84, a former chairman of the Tennessee Valley Authority, died Sunday in Walter Reed Army Medical Center after a heart attack. He lived in Washington.

Gen. Vogel was graduated from the U.S. Military Academy in 1924 and served in the Army Corps of Engineers from that time until he retired from active duty in 1954.

In the 1930s he designed and supervised construction of the U.S. Waterways Experiment Station in Vicksburg, Miss. He was stationed in the Pacific during World War II.

After the war, Gen. Vogel was lieutenant governor of the Panama Canal Zone. At the time of his military retirement, he was the Southwest Division engineer in Dallas. In conjunction with that assignment, Gen. Vogel was chairman of the Arkansas-White-Red River Basins Interagency Committee, a member of the Beach Erosion Board, the Board of Engineers for Rivers and Harbors, and the Mississippi River Commission. His military decorations included the Legion of Merit and the Distinguished Service Medal.

An authority on flood control and water and soil conservation, Gen. Vogel was appointed by President Dwight D. Eisenhower in 1954 as chairman of TVA, a job in which he was an advocate of agency power projects.

He retired from TVA in 1963 and was an engineering consultant for the World Bank until 1967, when he founded Herbert D. Vogel & Associates, an engineering consulting firm.

Gen. Vogel was born in Chelsea, Mich. While serving in the Army he also received a doctorate in engineering from the University of Berlin.

He was a fellow of the American Society of Civil Engineers and a member of the National Academy of Engineering, the Society of American Military Engineers, the Cosmos Club and the Army & Navy Club.

He is survived by his wife, the former Loreine Elliott; two sons, Richard Elliot, of Woodbridge and retired Army Col. Herbert D. Jr. of Arlington; two brothers, Lewis Phillip Jr. of Chelsea and Karl, of Huntington, W. Va.; three sisters, Ruth Dunstone of Angel Fire, N.M., and Betty Oesterle and Florence Vogel of Chelsea; four grandchildren; and two great-grandchildren.

[From the Washington Post, Aug. 28, 1984]

RETIRED GENERAL HERBERT VOGEL IS DEAD AT 84

Herbert Davis Vogel, 84, a retired brigadier general in the Army Corps of Engineers and a former chairman of the Tennessee Valley Authority, died Aug. 26 at Walter Reed Army Medical Center after a heart attack.

Gen. Vogel, who lived in Washington, was born in Chelsea, Mich. He graduated from the U.S. Military Academy at West Point in 1924. He served in the Corps of Engineers until 1954, when he retired from the Army and was appointed chairman of the TVA by President Eisenhower.

He remained in that post until 1963. On his second retirement, he moved to Washington and worked for the World Bank. He then was a private engineering consultant until his death.

An authority on flood control and on water and soil conservation, Gen. Vogel was noted for his advocacy of power projects for the TVA. In more recent years he expressed the view that the entire watershed of the Potomac River should be developed with a view to meeting the long-range water needs of the Washington metropolitan area.

In the course of his military career, Gen. Vogel earned a doctorate in engineering at the Technical High School of the University of Berlin. He designed and supervised construction of the U.S. Waterways Experiment Station at Vicksburg, Miss., in the early 1930s. During World War II, he served in the Pacific and the Philippines.

His postwar assignments included duty as lieutenant governor of the Panama Canal Zone and service as southwest division engineer with headquarters in Dallas, the post from which he retired. He was a member of the Mississippi River Commission, the

Beach Erosion Board, the Board of Engineers for Rivers and Harbors and the Arkansas-White-Red River Basins Interagency Committee, of which he was chairman.

His military decorations included the Distinguished Service Medal and the Legion of Merit.

After retiring from the TVA, Gen. Vogel was an engineering consultant at the World Bank until about 1967, when he founded Herbert D. Vogel & Associates, an engineering consulting firm.

Gen. Vogel was a member of the Society of American Military Engineers and the National Academy of Engineering. He was a fellow of the American Society of Civil Engineers. He also was a member of the Army & Navy Club in Washington and the Cosmos Club.

Survivors include his wife, Loreine Elliott Vogel, of Washington; two children, Richard Elliott Vogel of Woodbridge and retired Army Col. Herbert Davis Vogel Jr. of Arlington; two brothers, Karl, of Huntington, W. Va., and Lewis Phillip Jr., of Chelsea; three sisters, Ruth Dunstone, of Angel Fire, N.M., and Betty Oesterle and Florence Vogel, both of Chelsea; four grandchildren, and two great-grandchildren.●

WOMEN INVOLVED IN FARM ECONOMICS

● Mr. BUMPERS. Mr. President, on September 21, 1984, I was pleased to join with my Senate colleagues in adopting House Joint Resolution 554 which establishes the week of November 11 through November 17 as "Women in Agriculture Week." I believe this is a fitting tribute, because probably in no other profession do entire families, women and men, work as a mutually supportive team. I believe the work of women in agriculture deserves the recognition and commendation of the Nation.

As we near the week of November 11, I wanted to take a moment to pay tribute to an Arkansas organization that embodies the spirit of women in agriculture—the Arkansas chapter of WIFE—women involved in farm economics—which began with a small meeting of concerned farm women in Arkansas County, AR, on October 19, 1982. Just a few days after this meeting I began to receive a trickle, then a flood, of letters from an organization calling itself the "Concerned Farm Wives." A copy of this letter follows:

DEAR SIR: I am an American farmer's wife who is desperately trying to help my husband stay in farming and I have some questions for you and for others in government.

Could you live on the same income now as you lived on in 1962? Do you know of anyone else who is taking the same price for their product today that they took in 1945 and who are paying today's inflated prices to produce that product? Any product manufactured in the United States today sells for more than it costs to produce, yet our product is being sold for far less than the cost of production.

In 1973, our farmers were selling rice for $8.00 to $10 per bushel and soybeans for $9.00 to $12 per bushel. At that time, the cost of a new tractor was $15,000 and a new combine sold for $24,000. Today, the cost of a comparable tractor is $60,000 and a comparable combine sells for $88,000-$100,000. Our crops being harvested this season are bringing bids of $2.20-$3.40 per bushel for rice and $5.09 per bushel for soybeans. Could you purchase your family's necessities with this drastic cut in your income? We can't either. We cannot stay in business this way. And I don't see how anyone with a conscience could expect us to try.

We live on the Grand Prairie in Southeastern Arkansas which has some of the most fertile farm land in our United States today. Even by using conservation practices and good management, we are still unable to pay the expenses of growing our crops, much less make a profit. January 1983 will be too late for many American farmers. An answer must be found now before foreclosure forces many more family farmers out of business. The American farmer is the backbone of this once great nation; can the world survive if we do not?

We are depending on God, the true Provider, to bring us and the other American farmers out of this dilemma, and we would like to be able to say that you were one of the instruments that He used to help.

Sincerly,

NAN MILLIKEN.

This letter, authored by Nan Milliken of Dewitt, AR, was the catalyst that led to the formal organization of the Arkansas Chapter of WIFE at the First Christian Church in Stuttgart, AR, on December 13, 1982. The Arkansas chapter has organized seven local chapters in the Arkansas Grand Prairie—Almyra, Crocketts Bluff, DeWitt, Gillett, Humphrey, Slovak, and Stuttgart, and has expanded to western Arkansas with the establishment of a local chapter in Mena. The Arkansas chapter joined with the National WIFE organization, further establishing a communications network of rural agricultural women spanning the country.

The stated purposes of Arkansas WIFE are: First, education—both of members and the public—on agricultural issues; second, lobbying for the implementation of effective and beneficial agricultural legislation; and third, the promotion of an agricultural coalition. To these ends, Arkansas WIFE has been extremely active. On the State level they have participated in numerous seminars, promotions, civic meetings, media events, task forces, fairs, and educational meetings—many sponsored by Arkansas WIFE.

On the national level, Arkansas WIFE has participated in the National Steering Committee meetings in Denver and Washington, DC, the USDA's annual Farm Women's Forum in Washington, and the Farm Women's Summit held in Wisconsin in 1983. Arkansas WIFE is also represented with three officials in the National WIFE organization. I have visited with Arkansas WIFE representatives on more than one occasion, and have been impressed with their knowledge, sincerity, and dedication.

Without question, Arkansas WIFE, in just 2 short years, has become an effective and strong voice for all agriculture. They have pursued their goals with the knowledge that failure could mean the end of the way of life they know and love. I am proud that I have been able to work with such a fine group and I am particularly pleased that I am able to pay tribute today to Arkansas WIFE.●

BOSTON CAMERATA

● Mr. KENNEDY. Mr. President, this year the Boston Camerata celebrates its 13th anniversary, three decades dedicated to the presentation of early music. They are innovators in a largely unexplored area of fine music. At its inception the Camerata was a performing extension of the Boston Museum of Fine Arts' Collection of Musical Instruments. Their unique and important collection of old instruments was donated to the museum by grieving parents in memory of their music-loving daughter who lost her life on the Titanic.

From this tragedy, the Camerata was given life and it has since enjoyed tremendous growth. Camerata audiences and repertoire have become increasingly sophisticated; performances consistently earn high marks from lovers of early music and critics alike.

Joel Cohen has been the Camerata's spirited director since 1968. His innovative approach to programming and production have led the ensemble to its current level of artistic accomplishment. Their concert series and regional tours are well received and widely attended. Their Christmas concert for children is a once a year delight for area youngsters. And annual trips to France have won high praise for Camerata from international audiences as well.

A Boston Globe article in May 1983 captured the spirit of the Camerata and I would like to share their observations with you:

The Camerata, like all lively musical organizations, works out on a cutting edge of research, scholarship and imaginative re-creation; in doing so it inevitably reflects its own time as well. Its performances are a perpetually developing interchange between past and present, and one from which all listeners learn.

I am proud of the contribution Boston Camerata has made to Massachusetts' rich and diverse cultural community. I commend them on this festive occasion and encourage my colleagues in the Senate to share an evening with Boston Camerata during this landmark season.●

THE FRENCH GOVERNMENT AWARD OF THE NATIONAL ORDER OF MERIT TO DR. JAN MOOR-JANKOWSKI

● Mr. D'AMATO. Mr. President, I call the Senate's attention to the great honor the French Government has extended to the director of the Laboratory for Experimental Medicine and Surgery in Primates [LEMSIP]. Dr. Jan Moor-Jankowski was awarded the French National Order of Merit both for his heroism fighting in the Resistance during World War II and for his contributions to scientific research. I ask that the letter notifying Dr. Moorjankowski of this honor be printed in the RECORD in its entirety at the conclusion of my remarks.

Dr. Moor-Jankowski's work has earned for LEMSIP designation as a World Health Organization regional primate blood resource. Work at LEMSIP has led to the development of artificial veins for humans. Blood samples and blood-typing services needed in the course of sickle cell research also are provided by LEMSIP.

It is regrettable that Dr. Moor-Jankowski and LEMSIP have not been honored in this country as they have elsewhere. I plan to continue to work for the designation of LEMSIP as a regional primate center to correct this situation. Until that goal is accomplished, I ask my colleagues to reflect on the injustice this failure to designate represents and to ask themselves why the American bureaucracy opposes granting regional primate center status to a laboratory whose excellence the world Health Organization, British and Israeli medical teams, and now the French Government have all acknowledged.

The letter follows:

AMBASSADE DE FRANCE,
AUX ETATS-UNIS,
17 février 1984.

L AMBASSADEUR.

Prof. JAN MOOR-JANKOWSKI,
Director, Laboratory for Experimental Medicine and Surgery in Primates.

DEAR PROFESSOR: This is a great pleasure to me to inform you that by decision of the President of the Republic you were nominated the Cavalier of the National Order of Merit.

On this occasion I send you my best congratulations.

By this gesture the French Government wanted to express its esteem and gratitude to the eminent resistance fighter which you were and for the high contribution that you have brought to the scientific research.

Please accept, once more, my congratulations and my sincere regards.

BERNARD VERNIER-PALLIEZ.●

SMOKING: AN OUNCE OF PREVENTION IS WORTH A POUND OF CURE

● Mr. LAUTENBERG. Mr. President, I was pleased to support the passage of the Comprehensive Smoking Education Act. This legislation will improve and strengthen the warning labels which must be placed on cigarette packages and included in cigarette advertising. It also will require manufacturers to provide the Secretary of the Department of Health and Human Services with a list of the ingredients added to tobacco in their manufacture. The Secretary is also asked to report on research regarding the health effects of these ingredients in cigarettes.

For over 20 years, since the first report of the Surgeon General's Advisory Committee on Smoking and Health, the Government has been collecting information which demonstrates the dangers to health resulting from smoking. The Assistant Secretary for Health has called cigarette smoking the "single most important preventable cause of premature illness and death in the United States." More than 300,000 people in this country die each year from illnesses associated with smoking. Cigarette smoking is considered a major cause of certain types of cancer, including cancer of the lung, and is a contributory factor in other cancers. Many of the deaths in this country from heart disease are associated with smoking. The risk of complications during pregnancy are increased for women who smoke.

Mr. President, this legislation is intended to provide ways to increase public awareness of the hazards of smoking. Although cigarette packages have carried a health warning since 1965, many people are still not informed about the risks. This bill, S. 772, is intended to provide consumers with more specific information about the consequences of smoking. The new warnings will describe the disease and risks associated with smoking, the dangers of smoking to pregnant women, the advantages of quitting, and the inclusion of carbon monoxide in cigarette smoke. These four warnings are to be rotated quarterly, with each one being used for 3 months at a time. The greater specificity of the warnings and the variety resulting from the rotation is expected to increase public knowledge about this problem.

Not much is known about the ingredients other than tobacco in cigarettes. This bill will require manufacturers, packagers, and distributors of cigarettes to report on their ingredients. The reporting requirement is set up with procedures to protect trade secrets, but still allow health researchers to have the information needed to investigate the effects of the ingredients.

Evidence already exists on the devastating health problems resulting from smoking. The human cost is very high. So is the economic cost. The combined cost of lost work time and added health care resulting from smoking-related illness is estimated to be $38 billion. The cost to the Federal health programs—medicare and medicaid—is estimated at about $4 billion. If this new program of labeling, education, and research is able to reduce the amount of smoking in this country, it will be very beneficial to the overall health of our citizens. The potential health benefit from the straight-forward, noncoercive measures required under this bill is very high. This is an important step in the fight against cancer and other diseases.●

A LIFE OF SERVICE

● Mr. BUMPERS. Mr. President, I have seldom been more proud of a native of Arkansas than I am today of Chad Colley. Chad was reared in Fort Smith, near my own hometown of Charleston. During 1968, when he was serving in South Vietnam as rifle company commander of the 101st Airborne, First Lieutenant Colley walked into a Vietcong boobytrap. His injuries resulted in the loss of both legs and an arm.

But Chad Colley had the courage to do what the rest of us would like to think we would do, but are afraid we might not do in a similar situation. And that is to keep his cool, to keep his courage and faith, and not to give in to feelings of sorrow. He wrote his wife from the hospital, "I'll need your help, not your sympathy."

Today Chad is in a position to provide his own "help, not sympathy" to others. He has just been elected national commander of the Disabled American Veterans. He will travel all over this country, in fact all over the world, to represent the interests of all those Americans who were disabled as a result of serving their country during a time of war.

Chad showed that he was a man of quality even before he left for Vietnam. He graduated from North Georgia College where he was a member of "Who's Who," and won the school's sports and distinguished military graduate awards. As a result of his action in Vietnam, he was awarded the Silver Star, the Purple Heart, and the Army Commendation Medal. In 1970 he was named Outstanding Disabled Veteran of the Year, and he is currently serving as DAV national senior commander. He worked his way through the ranks of the Arkansas DAV, through which he worked tirelessly to help his fellow veterans in our beloved State. He lives today in Barling with his wife and two children, Emily and Ryan. He owns and operates a mobile home and land development company near Fort Smith.

Mr. President, Chad's wife, Betty Ann, told a newspaper reporter recently that "Chad's biggest handicap is that he doesn't know he's handicapped." If Chad had done nothing else, he would have served his fellow man more than sufficiently by demon-

strating how noble man can be when human will is combined with understanding, compassion, and a dedication to serve. I know you will join me in wishing Chad and his wife and two children Godspeed, as he continues his life of service.●

SCIOTO COUNTY MULTIPURPOSE SENIOR CENTER

● Mr. GLENN. Mr. President, I am pleased to announce the grand opening of the Scioto County Multipurpose Senior Center in Portsmouth, OH. The grand opening celebration was held September 4, 1984, and was sponsored by United Scioto Senior Activities, Inc. This senior center is a focal point in the community for older citizens to meet, receive a variety of services, and participate in recreational activities.

The Scioto County Multipurpose Senior Center represents the product of many years of hard work and cooperation between the citizens of Scioto County, community organizations, and Federal, State, and local government agencies. Funding for the center was received from the Appalachian Regional Commission, the Older Americans Act title III grant program, Scioto Memorial Hospital, the Community Development Block Grant, United Scioto Senior Activities, Inc., and the Economic Development Association. I commend the dedicated staff and volunteers at the center, including Ruth Griffin, president of the board of directors, and Linda Sollberger and Renee Ellis, codirectors, and especially the seniors of Scioto County for their efforts in making this senior center a reality.

United Scioto Senior Activities, Inc., provides a variety of services for older residents at the senior center and in the community. The services include transportation, information and referral, health screening, nutrition, outreach, nursing home resident advocacy, recreation, homemaker, and homebound adult services. A health clinic will soon be opened at the center. Services are funded by the Older Americans Act title III, the Social Services Block Grant, the Scioto County Board of Commissioners, and private donations.

While we celebrate the grand opening of this senior center, we should also recognize the importance of all the senior centers in Ohio and across the Nation. Since 1943, when the first senior center was established in New York City, the senior center concept has grown into a nationwide service system utilized by over 8,000 communities, including 423 in Ohio. Senior centers have become the primary source on the local level for senior citizen activities. I was pleased to cosponsor legislation recently to reauthorize the Older Americans Act, which funds senior centers and supportive services. Through the extension of this act for 3 more years, we reaffirmed our strong support for multipurpose senior centers and the valuable services they provide.

I am proud to recognize the opening of the Scioto County Multipurpose Senior Center and I commend the staff and volunteers for the important work they are doing on behalf of the seniors in Portsmouth. Through neighborhood senior centers such as this one, senior citizens can remain active, obtain necessary services, and be active members of their communities.●

BUDGET STATUS REPORT

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate a status report on the budget for fiscal year 1985 pursuant to section 311 of the Congressional Budget Act.

This is the first status report for fiscal year 1985.

The report follows:

REPORT TO THE PRESIDENT OF THE U.S. SENATE FROM THE COMMITTEE ON THE BUDGET STATUS OF THE FISCAL YEAR 1985 CONGRESSIONAL BUDGET ADOPTED IN HOUSE CONCURRENT RESOLUTION 280

REFLECTING COMPLETED ACTION AS OF SEPT. 30, 1984

[In millions of dollars]

	Budget authority	Outlays	Revenues
Budget resolution level	1,021,350	932,050	750,900
Current level	626,068	704,599	751,200
Amount remaining	395,282	227,451	300

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate and which exceeds $395,282 million for fiscal year 1985, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 280 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate and which would result in outlays exceeding $227,451 million for fiscal year 1985, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 280 to be exceeded.

REVENUES

Any measure that would result in revenue loss exceeding $300 million for fiscal year 1985, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 280.●

JEWISH HOLOCAUST SURVIVORS

● Mr. LEVIN. Mr. President, I have just read the text of an address delivered by David T. Chase, president of Chase Enterprises, to the gathering of Jewish Holocaust survivors a year ago April in Washington, DC.

It is so extraordinarily compelling and moving that I want to share this with all of my colleagues and I ask that it be printed in the RECORD.

The address follows:

TEXT OF AN ADDRESS DELIVERED AT THE AMERICAN GATHERING OF JEWISH HOLOCAUST SURVIVORS

(By Mr. David T. Chase)

DEAR FRIENDS: I stand in front of you today in fulfillment of a silent promise given to two condemned men who were my fellow in-mates at the Auschwitz Concentration Camp in the Spring of 1944.

They were condemned to die for attempting to escape from the camp. As an example, the S.S. guards assembled all of the remaining in-mates to witness the hanging of the two young Jewish boys who were in the prime of life.

Their guilt was their desire to survive. Their tragedy was that they were born Jews. Moments before the executioner removed the bench on which they stood, with their last breath, they screamed out to us; "Don't let this day be forgotten—Never forget this inhumanity."

I don't believe that I ever knew their names, and I don't even remember their faces, but their dying wish and mandate I shall never forget for the rest of my life.

How many times has this episode been repeated in so many different forms and incidents during the Holocaust years? Is there any one of us alive, in this room, who has not lost a family member? I am fortunate to still have one sister who survived the Holocaust from my immediate family. Approximately 60 members including my parents, grandparents, aunts, uncles and cousins became victims of the Holocaust.

But, as Jews we believe that everything is *bashert*, good or bad. As Jews, we are taught *gam zu l'tova*, everything happens for the best. That was a most difficult premise for me to accpet at the age of 15. When I learned that my mother and 6 year old sister were no longer alive, that little flower cut down before she had a chance to bloom, that wonderful woman who used to take her children on Friday afternoons to the poor seciton of town, that angel of mercy brought food, clothing and money to the sick and the poor. How could I accept this Jewish philosophy of *bashert* when that *golden neshama* perished in the gas chambers?

But, I remembered the voice of my beloved mother ringing in my ears, "Never question the will of the Al-mighty, *gam zu l'tova*—Everthing is meant for the best. It is G-D's will!!!" I have accepted her request. I have agreed not to question the will of the Almightly! And for the past 18 years I have been most fortunate to have been involved with the Lubavitch Movement. For the past 18 years I have had the privilege to know our great Rebbe, the spiritual leader of the Lubavitch Movement, Rabbi Menachem M. Schneerson, whose philosophies and teachings of kindess, goodness and unquestionable belief in G-d helped me to find peace within myself.

At the Rebbe's request, I have begun praying every morning for the past 3 years and have been putting on the *talis* and *tefilin* each morning. I am grateful for the opportunity to know this great man. I am grateful that I am a Jew.

Dear friends, today we are in Washington, the capital of our beloved country. We are here today to pay homage and express our

deep gratitude to America; America which gave us a home when we had none; America which embraced us when we felt rejected; America which gave us a feeling of belonging when we were stateless.

We are here today to say, "Thank you, America" for your kindness, for your love, and for your understanding. Thank you for the trust and your confidence in us. Thank you for giving us the opportunity to become proud Americans. Today we are here to tell you America, that you indeed can be proud of your adopted children—the Holocaust survivors.

Today my friends, if you check statistics you will find that there are more doctors, lawyers, business leaders and professional people per capita in this group among you, your children and grandchildren, than any other group of this comparable size in our country. The largest builders of residences, office buildings, and commercial real estate in the world are among this group; people like the Reichmanns, the Chapells, the Wilfs, the Halperns, the Konovers and the Levies. More hospitals, schools, and houses of worship—Jewish and non-Jewish are being funded and supported by this group, and of course, our everyday commitment to the State of Israel.

Every Jewish mother's dream and aspiration is for her child to be a doctor, a lawyer. In 1978 *bashert* again entered my life when I received a Doctor of Laws degree from my beloved Rabbinical College of America. I was honored at that time to share the podium with President Gerald Ford. My mother's wishes came true.

Today, my friends, we can proudly say to the world, "No longer do we need your sympathy for our sufferings." We proudly ask, "Give us credit for our achievements and contributions to society." The initials "D.P." which identified us as displaced persons years ago have taken on a new meaning. Today, the letters "D.P." identify us as Delayed Pilgrims. Today, my brothers and sisters, we can walk with our heads high. Today, my friends, we are proud to be Americans.

But, what about tomorrow? Can we become complacent or indifferent to the injustice which takes place in this world? Can we limit our concern to ourselves only? Or as good Americans and true to our Jewish heritage, we acknowledge our responsibility to our fellow man, and acclaim that indeed all men are the children of God and all have been created equal with liberty and justice for all.

We have suffered and paid a terrible price in the past for our indifference to reality. We have taken too many things for granted and paid the consequences. From now on we must teach our children and their children that to be a Jew is a privilege. To be a Jew is a commitment to God and fellow man. United in a single voice, we must secure the future. United we must assure our future generations that no other Holocaust can ever occur.

With a single voice we must help to fulfill the mandates and rights which our forefathers forged in blood in our Bill of Rights. United with a single voice of justice and in pursuit of equality, we can and will make this world a better place to live. With the help of God, remembering the past, grateful for today, and securing tomorrow, we can say to our future generations with pride, "We have done our share; now it is up to you."

Am Israel Chai! GOD Bless Our America! GOD Bless Us All!●

GETTING RUNAWAY YOUTH OFF THE INTERSTATE

● Mr. WALLOP. Mr. President, my colleague and friend, Senator ALAN K. SIMPSON, recently drew attention to the serious problem of runaway youth and the often tragic fate they meet as they travel the Nation's Interstate Highway System. His article, "Interstate Orphans," describes an outstanding effort launched by the Cathedral Home for Children in Laramie, WY, and by the Wyoming Trucking Association to assist runaway youth—and the truck drivers they often approach for free rides—to find alternatives to life "on the road."

The film on this subject prepared by Cathedral Home, under the direction of Mr. William Hogan, executive director, is available for distribution as a public service. Its message and guidance is applicable to all States and I strongly commend it to my colleagues.

Bill Hogan and the Wyoming Trucking Association deserve special credit for tackling a difficult and perplexing subject and offering a useful and commonsense response for our "interstate orphans."

Mr. President, I ask that my colleague's column be printed in the RECORD at this point, and I salute Senator SIMPSON for his timely effort to bring this effort in Wyoming to light.

The article follows:

WASHINGTON UPDATE: INTERSTATE ORPHANS

(By Senator Al Simpson)

Most of us will recall our first youthful "revolt"—that remembered day we determined there would be no more taking of baths, cleaning of our rooms, eating of vegetables, or any of the other "chores" usually required by parents. It was then time to "run away from home." With a ragged collection of our worldly possessions carefully packed, we departed home and set a course for "freedom."

But for most of us, the dinner bell soon signaled time for some serious reconsideration, and our brief journey was relegated to a later time that fortunately never came.

There is another, much more serious, and very real version of this story. Each year as many as 2 million "runaways" leave home for ever more crushing reasons—divorce, alcohol or drug problems in the home and, among many others, threats of physical and sexual abuse. Many factors form to separate young people from their homes and put them "on the road," where their future can swiftly turn bleak—and sometimes tragic. Each year, for thousands of runaways, the outcome is fatal. The "cold, cruel world" can indeed be just that.

Fortunately, a creative new effort to locate and assist runaways with their special problems is being initiated right in our own state of Wyoming. Conceived and funded by the Catherdral Home for Children in Laramie and by the Wyoming Trucking Association, a short film on this issue, title "Interstate Orphans," is now available for distribution. The film's sponsors intend that it be shown in truck stops, in schools, and to all civic and parent organizations. It will appeal not only to those young people who are already "on the road"—or many who soon urge to be—but, just as importantly, to truck drivers, who are the most frequently asked for rides. The message will be a simple one: Help is available.

Viewers will be presented with pamphlets directing individuals who need assistance to agencies that provide shelter to youth, and also referring them to concerned church and school groups, service clubs or individuals who desire to help runaways.

Hopefully when a "runaway" knows these alternatives are available, he or she will take the offered helping hand and escape from a difficult situation—and potentially tragic fate.

"Interstate Orphans" is a very gripping video production—and it was written and filmed in Wyoming. It will provide a very valuable and needed public service for young people who need help but really do not know where to turn.

The Wyoming Trucking Association and the Cathedral Home for Children are the heart and soul of this common sense effort to address a national tragedy. This new program—which has the fine potential to spread nationally—is public service at its very best.●

THE "YEAR OF THE TEACHER"

● Mr. PRYOR. Mr. President, for the past year we have focused a great deal of attention on excellence in education. Local communities as well as State legislatures have developed proposals to improve our educational system. Congress passed, and President Reagan signed into law, an extensive education reform package, the Education for Economic Security Act. The ABC television network devoted 3 hours of prime-time programming in a single evening to explore the state of the Nation's schools. Newspapers and magazines have published articles noting the return of education to the country's list of priorities.

Educators have been besieged with criticism. The recent cover story of Newsweek reports on the "failure" of teachers throughout the Nation. We have seen many educators become so discouraged they consider leaving the teaching profession altogether. Those who do remain often feel as if they are fighting a losing battle. By concentrating so heavily on the deficiencies of our teachers, their continuing sacrifices and contributions have been overlooked.

Senate Joint Resolution 346, introduced by my colleague from Michigan [Mr. LEVIN], designates 1985 as the "Year of the Teacher." This measure pays tribute to the more than 3 million extraordinary men and women who daily give of themselves to enrich the lives of our children.

I am a proud cosponsor of Senate Joint Resolution 346, which recognizes teachers as the major source of the insight and direction of the development of our Nation. This resolution can be regarded as one small expression of gratitude to educators throughout the country, and I urge my colleagues to

offer their strong support for its adoption.●

MISS WILLIE LAWSON, ARTA'S "FIRST LADY"

● Mr. PRYOR. Mr. President, I rise to pay tribute to one of Arkansas' Great Lady's—Miss Willie A. Lawson, who recently celebrated her 90th birthday. No person in Arkansas has enjoyed more success in so many fields as has Miss Willie, as she is affectionately known by her many friends. She was honored recently by the Arkansas Retired Teachers Association on "Miss Willie Lawson Day," and on that occasion was named the association's "First Lady." Her many firsts were cited and they include the following:

First woman county superintendent of schools in Arkansas;

First woman executive secretary, Arkansas Education Association;

First woman secretary, National Association of Executive Secretaries;

First Arkansan to serve as secretary, National Department of Adult Education;

First woman chairman, education committee, Little Rock Chamber of Commerce;

First woman ever to serve as deputy State superintendent of education;

First woman member, executive board of National School Supply and Equipment Association;

First Arkansas woman to serve on the board, National Congress of Parents and Teachers;

First woman to hold every office in the Arkansas Retired Teachers Association;

First woman vice president, Democrat Printing and Lithographing Co.;

First woman member, Arkansas Citizens Committee on Education;

First woman member, Arkansas Highway Commission; and

First lady, Arkansas Retired Teachers Association.

Miss Willie's unusual and successful career—and indeed her life itself—is an inspiration to all of us. I am proud to call her my friend, and I commend her example of a life well-lived to my colleagues.●

A TRIBUTE TO DR. CHARLES H. WRIGHT

● Mr. RIEGLE. Mr. President, on October 8, Peace Links will be hosting its second "Peace Panel" in Michigan and the first one in the city of Detroit. This occasion gives me the opportunity to rise in grateful recognition of the outstanding contributions made to health related and nuclear disarmament issues by the hosts of this event: The Infant Health Coalition; Women's Conference of Concerns; the YWCA; and DAZS. It also allows me the opportunity to recognize an honored member of Michigan's medical community and activist in maternal and child health, Dr. Charles H. Wright.

The October 8 Peace Panel will concentrate on the relationship between the amount of money spent on nuclear weapons and infant health care. Studies note that developed nations spending billions on nuclear weapons each year have higher infant mortality rates than developing nations with small military budgets. It is sad that combating unacceptable levels of infant mortality is a fight we must still wage today in the United States.

Even though the last 2 years has seen an encouraging decline in infant mortality rates, this improvement has not yet occurred in Detroit. Mortality rates continue to be twice as high among black children as white children and prenatal care and education is inexcusably inadequate. In a country with the resources of the United States, we should be leaders in the fight to combat infant mortality and disease.

Peace Links takes an important step toward focusing our national priorities on this issue. I am greatly heartened by their work. It is exciting when so many diverse people combine their expertise and commitment and discuss approaches to addressing difficult questions and propose workable solutions.

It is also appropriate that this Peace Panel take a moment to honor Dr. Wright. His dedication to the field of maternal and child health and his fight to raise the public's consciousness on these issues is unparalleled. His contributions to the community, through his writings, medical practice, and as the founder and president of the African Medical Education Fund and founder and chairman of the Afro-American Museum of Detroit, deserve our heartfelt gratitude. As a practicing physician of obstetrics and gynecolgy and assistant clinical professor at Wayne State School of Medicine, he has firsthand knowledge and experience in the areas the panel will be discussing. Dr. Wright's hard work, commitment and spirit single him out as a humanitarian deserving of special recognition on this occasion.

Other important sponsors to this Peace Links Panel deserve our thanks and recognition. They include: The American Association of University Women; ARCC-Detroit; Church of Women United; Coalition of Black Trade Unionists—Women's Committee; Concerned Citizens Council; Coordinating Council on Human Relations; Detroit City Council members Maryann Mahaffey and John W. Peoples; Focus: HOPE; Groundwork for a Just World; Metropolitan Detroit AFL-CIO; NAACP; National Association of Negro Professional and Business Women—Detroit Club; National Association of Negro Professional and Busines Women—Metro Chapter; New Detroit, Inc., Youth Caucus; United Auto Workers—SEM-CAP; W.S.U. Center for Peace and Conflict Studies; WomenCenter—Oakland County Community College; Women's International League for Peace and Freedom; and Women's Source and Resources.●

CLOVIS BRYANT RETIRES

● Mr. PRYOR. Mr. President, Clovis Bryant of Van Buren, AR, is retiring from the Arkansas State senate after serving in public office longer than any elected official from Crawford County. He is my friend, and he is the friend of all Arkansans. We will miss his dedicated service, his spirited defense of the district he has represented, and his devotion to the State of Arkansas.

Clovis Bryant is a model to all public servants, Mr. President. He was elected coroner of his county in 1958, followed 4 years later by his election to the State house of representatives. He served 11 terms in that body, where he distinguished himself on the labor committee and in banking and agriculture.

As a member of the State senate, Clovis Bryant has been a member of committees on public health, retirement and social security, and budget and human resources. He is one of only two Arkansans to serve as chair of a southern legislative council committee.

Always considering education as a major priority for the State of Arkansas, Clovis remembers when teachers made $3,500 a year. He was instrumental in seeing that this salary structure was improved, and the teachers of our State have him to thank for much of the improvement in this area.

Speaking of salaries, Mr. President, when Clovis became a member of the State house of representatives, his salary was $72 a month after taxes. He also received an expense account of $20 a day during meetings of the legislature. In spite of this constraint, Clovis dedicated his time and money to the expensive task of staying in touch with his people. He was determined to solve their problems, and his people became accustomed to his persistence and the low-key manner of efficiency he brought to the job.

Clovis Bryant was a conductor for the Missouri Pacific Railroad, and for 35 years, he traveled the tracks from Van Buren, AR, to Coffeyville, KS. He is also a distinguished veteran of World War II, having served in the European theater from 1941 to 1945. He was there when his country needed him.

And, Mr. President, Clovis Bryant has always been there when his home State needed him. I worked with my friend Clovis Bryant when I was Governor of Arkansas. From him I learned

all the attributes of a dedicated legislator, and it is people like him I keep in mind when those talents and attributes are discussed. He is a champion of the people of Arkansas, and I am proud to recognize him in this Chamber today.●

NATIONAL INDEPENDENT LABORATORIES WEEK

● Mr. D'AMATO. Mr. President, I wish today to offer my support for and cosponsorship of Senate Joint Resolution 311, expressing the sense of the Senate that the week of October 13, 1984, through October 19, 1984, be designated as "National Independent Laboratories Week."

Independent testing laboratories play an inimitable role throughout our Nation. Always working in the interest of health and safety, scientists, technicians, and engineers form a bank of objectivity and expertise from which government, commerce, industry, and the ultimate consumer may borrow and benefit. Integrally involved in state of the art developments, laboratory professionals protect a certain caliber standard for the products available to American consumers.

The contributions of independent laboratories end not with the promotion of public health and safety, rather, independent laboratories constitute a stimulus to the national economy. Assuming responsibility for testing, inspection, and research and development, independent laboratories create jobs twice as quickly as the aggregate of U.S. industry.

In recognizing the important and indispensable contributions made by independent laboratories in the United States, I join as a cosponsor of Senate Joint Resolution 311.

Thank you, Mr. President.●

ORDERS FOR TUESDAY

ORDER FOR RECESS UNTIL 11 A.M.

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order there be special orders in favor of two Senators, as follows: Senator STEVENS, and Senator PROXMIRE for not to exceed 15 minutes each. Mr. President, I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY TO SIGN DULY ENROLLED BILLS AND RESOLUTIONS

Mr. BAKER. Mr. President, earlier today we passed a continuing resolution with the House of Representatives through Wednesday night. I ask unanimous consent that it may be in order for the Secretary of the Senate to receive, and for the President pro tempore, or the Vice President, or the acting President pro tempore to sign all duly enrolled bills and resolutions for the balance of this day.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 11 A.M. TOMORROW

Mr. BAKER. Mr. President, if no other Senator seeks recognition—I see none—I move in accordance with the order previously entered that the Senate stand in recess until the hour of 11 a.m. tomorrow.

Thereupon, at 6:44 p.m., the Senate recessed until tomorrow, Tuesday, October 2, 1984, at 11 a.m.

HOUSE OF REPRESENTATIVES—*Monday, October 1, 1984*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

May Your power, O gracious God, give us the strength to withstand the pressures of life; may Your peace, O God, give us the serenity even amid the tensions of life; may Your love, O God, cause us to overcome evil with good; and may grace, O God, forgive us and give us new life and hope. In Your holy name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills, a joint resolution, and a concurrent resolution of the House of the following titles:

H.R. 960. An act to confer citizenship posthumously on Cpl. Wladyslaw Staniszewski;

H.R. 3130. An act to authorize amendments to a certain repayment and water service contract for the Frenchman Unit of the Pick-Sloan Missouri River Basin Program;

H.R. 5164. An act to amend the National Security Act of 1947 to regulate public disclosure of information held by the Central Intelligence Agency, and for other purposes;

H.R. 5221. An act to extend through September 30, 1988, the period during which amendments to the United States Grain Standards Act contained in section 155 of the Omnibus Budget Reconciliation Act of 1981 remain effective, and for other purposes;

H.J. Res. 606. Joint resolution to designate the week of October 14, 1984, through October 21, 1984, as "National Housing Week"; and

H. Con. Res. 364. Concurrent resolution to correct technical errors in the enrollment of the bill H.R. 1904.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1904) "An act to extend and improve the provisions of the Child Abuse Prevention and Treatment Act and the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate with an amendment to a bill of the House of the following title:

H.R. 3103. An act to increase the amount authorized to be expended for emergency relief under title 23, United States Code, in fiscal year 1983 from $100,000,000 to $250,000,000, and for other purposes.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 2496) "An act to amend the Adult Education Act in order to simplify requirements for States and other recipients participating in Federal adult education programs, and for other purposes," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HATCH, Mr. STAFFORD, Mr. QUAYLE, Mr. KENNEDY, and Mr. PELL to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the amendments of the House with amendments to the bill (S. 2574) "An act to revise and extend title VIII of the Public Health Service Act, relating to nurse education," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HATCH, Mr. STAFFORD, Mr. QUAYLE, Mr. KENNEDY, and Mr. RANDOLPH to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the concurrent resolution (H. Con. Res. 280) "concurrent resolution revising the congressional budget for the U.S. Government for the fiscal year 1984 and setting forth the congressional budget for the U.S. Government for the fiscal years 1985, 1986, and 1987."

The message also announced that the Senate recedes from its amendment to the concurrent resolution (H. Con. Res. 280) and concurs in the resolution with an amendment.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2838. An act to authorize the Secretaries of the Interior and Agriculture to provide assistance to groups and organizations volunteering to plant tree seedlings on public lands, and for other purposes;

H.R. 5540. An act to provide for restoration of Federal recognition to the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians, to institute for such Tribe those Federal services provided to Indians who are recognized by the Federal Government and who receive such services because of Federal trust responsibility, and for other purposes; and

H.R. 6007. An act to establish certain procedures regarding the judicial service of retired judges of District of Columbia courts, and for other purposes.

The message also announced that the Senate had passed bills a joint resolution, and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 1151. An act to compensate heirs of deceased Indians for improper payments from trust estates to States or political subdivisions thereof as reimbursements for old age assistance received by decedents during their lifetime;

S. 1647. An act to authorize the use of funds from rental of floating drydock and other marine equipment to support the National Maritime Museum in San Francisco, CA;

S. 2301. An act to revise and extend programs for the provision of health services and preventive health services, and for other purposes;

S. 2583. An act to authorize U.S. participation in the Office International de la Vigne et du Vin (the International Office of the Vine and Wine);

S. 2721. An act to confirm a conveyance of certain real property by the Southern Pacific Transportation Company to Ernest Pritchett and his wife, Dianna Pritchett;

S. 2764. An act to authorize U.S. participation in the International Jute Organization;

S.J. Res. 277. Joint resolution to authorize the Armored Force Monument Committee, the U.S. Armor Association, the World Wars Tank Corps Association, the Veterans of the Battle of the Bulge, and the 1st, 4th, 8th 9th, 11th, 14th, and 16th Armored Division Associations jointly to erect a memorial to the "American Armored Force" on U.S. Government property in Arlington, VA, and for other purposes;

S. Con. Res. 120. Concurrent resolution expressing the sense of the Congress that the legislatures of the States should develop and enact legislation designed to provide child victims of sexual assault with protection and assistance during administrative and judicial proceedings; and

S. Con. Res. 144. Concurrent resolution authorizing the rotunda of the U.S. Capitol to be used on January 21, 1985, in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President-elect of the United States.

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar day. The Clerk will call the bill on the Consent Calendar.

ESTABLISHMENT OF RUSSELL LAKES WATERFOWL MANAGEMENT AREA AS REPLACEMENT FOR MISHAK NATIONAL WILDLIFE REFUGE

The Clerk called the bill (H.R. 2823) to amend title I of the Reclamation Project Authorization Act of 1972 in order to provide for the establishment of the Russell Lakes Waterfowl Management Area as a replacement for the authorized Mishak National Wildlife Refuge, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

H.R. 2823

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That title I of the Reclamation Project Authorization Act of 1972 (Public Law 92-514; 86 Stat. 964), as amended by Public Law 96-375 (94 Stat. 1507), is amended as follows:

(1) Section 101 is amended by striking out "establishing the Mishak National Wildlife Refuge and furnishing a water supply for the operation of the Mishak National Wildlife Refuge and the Alamosa National Wildlife Refuge and for conservation and development of other fish and wildlife resources" and inserting in lieu thereof "establishing the Russell Lakes Waterfowl Management Area and furnishing a water supply for the Russell Lakes Waterfowl Management Area by purchase of required lands with a pertinent water right and a partial water supply for the operation of the Blanca Wildlife Habitat Area and Alamosa National Wildlife Refuge essentially as shown in the Revised Fish and Wildlife Coordination Act Report for the San Luis Valley project, dated June 1982".

(2) Section 101 is amended by inserting ", and as modified by the plans essentially as shown in the Revised Fish and Wildlife Coordination Act Report for the San Luis Valley project, dated June 1982" after "November 1979".

(3) Section 104(b)(2) is amended to read as follows:

"(2) To maintain the Alamosa National Wildlife Refuge and the Blanca Wildlife Habitat Area: *Provided,* That the amount of water delivered from the conveyance channel to the Alamosa National Wildlife Refuge and the Blanca Wildlife Habitat Area shall not exceed five thousand three hundred acre-feet annually.".

(4) Section 105 is amended by striking out "project plan" and inserting in lieu thereof "Revised Fish and Wildlife Coordination Act Report for the San Luis Valley project, dated June 1982".

(5) Section 105 is amended by striking out "restricted to easements and rights-of-way in order to minimize the removal of land from local tax rolls." and inserting in lieu thereof "acquired by easements in order to minimize the removal of land from local tax rolls. Lands required for permanent project facilities shall be acquired by fee title.".

With the following committee amendments:

Page 2, lines 11 and 12, strike out "apertinent water right" and insert in lieu thereof "appurtenant water rights".

Page 2, line 24, strike out "water delivered from the conveyance channel to" and insert in lieu thereof "project salvaged water delivered to".

Page 3, lines 7 through 12, amend paragraph (5) to read:

(5) Section 105 is amended by adding at the end thereof a new sentence to read: Private lands required for permanent project facilities may, at the option of the United States, be acquired by fee title.

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FLIPPO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The SPEAKER. This concludes the call of the Consent Calendar.

APPOINTMENT OF CONFEREES ON H.R. 6028, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATION ACT, 1985

Mr. NATCHER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6028) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1985, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky? The Chair hears none, and appoints the following conferees: Messrs. NATCHER, SMITH of Iowa, OBEY, ROYBAL, STOKES, EARLY, DWYER of New Jersey, HOYER, WHITTEN, CONTE, O'BRIEN, PURSELL, PORTER, and YOUNG of Florida.

WHAT A DIFFERENCE A MINUTE MAKES

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, in this 1 minute allotted to me, the Federal Government will have to borrow $326,350.94 to finance this year's deficit. This is true for every minute of every month of this entire year.

And in this 1 minute, in order to pay interest on the debt caused by that deficit, the Federal Government will have to pay $211,000. That applies for every minute of every week of every month of this year.

Put it another way: We have to borrow $480 million every day. The deficit soaks up almost a half billion dollars every day of every month of this year. And we have to pay $303 million in interest costs every day of every week of every month this year.

Unless there is dramatic change in present policies, by 1989 we will be borrowing not $470 million every day, but $720 million every day of every month. We will have to pay out in interest $586 million of the taxpayer's money every day of 1989.

Perhaps these figures will help us put in some perspective the immensity of the problem. It will not be wished away. It will respond only to a concerted plan of action.

CONGRESS IS TO BLAME

(Mr. WEBER asked and was given permission to address the House for 1 minute.)

Mr. WEBER. Mr. Speaker, the country once again is being subjected to the melodrama of the continuing resolution. They are told that if Congress does not act by a certain time, the Government will grind to a halt. This causes concern all across the land.

That, of course, Mr. Speaker, is a bunch of bunk, as we all know. The one thing that Congress is certain to do is spend money.

But there is a real issue here that is unfortunately being obscured and that is the very serious breakdown of the congressional budgeting process. We now have a situation where major issues, numbers of major issues, are tied up in this continuing resolution. The civil rights bill, the crime bill. The Senate now is talking about gun control and tuition tax credits.

Mr. Speaker, all of these issues deserve independent consideration. They should not be tied onto a continuing resolution.

But this is not an issue in our campaign because it is one issue that we cannot blame either Reagan or Mondale for. The blame for the breakdown of this process belongs right here in the House of Representatives and we ought to face up to it.

MAKING IN ORDER CONSIDERATION ON TODAY OF A JOINT RESOLUTION MAKING CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 1985

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that it shall be in order today to consider in the House, any rule of the House to the contrary notwithstanding, a joint resolution making continuing appropriations for the fiscal year 1985, and for other purposes, to be introduced by myself, and that debate be limited to 1 hour, the time to be equally divided between

myself and the gentleman from Massachusetts [Mr. CONTE], and that the previous question shall be considered as ordered on the resolution to final passage without intervening motion.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. CONTE. Mr. Speaker, I reserve the right to object, and I do not intend to object, but I want to be realistic. There is no way in the world that the other body can complete the big continuing resolution by October 2.

I think a more realistic approach would be to put October 4 in this resolution. Even that would stretch things the way things are being loaded down on the other side.

I would hope that the chairman of the committee, the gentleman from Mississippi, would change the date in this resolution to October 4. I know that he is going to say we are keeping their feet to the fire. I do not agree. The damage has been done. There is a civil rights bill over there. This is not going to be done by October 2. We are going to be in here again this week asking for an extension of this continuing resolution.

Now, on this floor about 3 weeks ago I begged the House to pass a clean continuing resolution. It fell on deaf ears. I predicted at the time that we would find ourselves in a monumental mess.

I am wondering if the gentleman would consider October 4 rather than October 2.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Mississippi.

Mr. WHITTEN. I thank the gentleman for yielding.

May I reply to my colleague that I discussed this with the leaders in the Senate. Of course, we have all read through the press or followed the debate on that side. They have some 2,000 amendments over there to the pending resolution.

After conferring with them, they asked that the extension be limited to 2 days for the reason that they wanted to keep the heat on so they could proceed and get through. I realize the point the gentleman makes, but we are trying to cooperate with our friends on the other side of the Capitol who have their hands full trying to handle this matter.

I would suggest and I did suggest to them that we make it 3 days. The reason I say 3, that gives us an extra day where we might be able to handle the matter in case they get together. So, I wonder if the gentleman would be agreeable to 3 days which I suggested.

Mr. CONTE. I think that would be a lot more realistic, Mr. Chairman. I would like to see my continuing resolution which says October 12 come out of the hopper. That would really keep their feet to the fire because everybody wants to go home and campaign by Thursday or Friday. If they look back at the 12th they would start moving.

But I think 3 days would be a lot more realistic.

Mr. WHITTEN. May I say that is what I suggested earlier today so as to give us an extra day to act. The resolution, not having been introduced, may be changed. I assure the gentleman, I will now change the termination date in section 102(c) from October 2, 1984, to October 3, 1984.

Mr. CONTE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi [Mr. WHITTEN]?

There was no objection.

CONTINUING APPROPRIATIONS, 1985

Mr. WHITTEN. Mr. Speaker, I call up the joint resolution (H.J. Res. 653) making continuing appropriations for the fiscal year 1985, and for other purposes, which I send to the desk, and, pursuant to the order of the House of today, I ask for its immediate consideration.

The SPEAKER. The Clerk will report the joint resolution.

The Clerk read the joint resolution, as follows:

H.J. RES. 653

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1985, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary for continuing projects and activities which were conducted in the fiscal year 1984, and for which provision was made in the following appropriation Acts, at the rate for operations, under the terms and conditions, and to the extent and in the manner provided for in the fiscal year 1984 unless otherwise provided for in this joint resolution:

Agriculture, Rural Development, and Related Agencies Appropriation Act, 1984;

Department of Defense Appropriation Act, 1984;

District of Columbia Appropriation Act, 1984;

Foreign Assistance and Related Programs Appropriation Act, 1984;

Department of the Interior and Related Agencies Appropriation Act, 1984;

Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1984;

Military Construction Appropriation Act, 1984;

Department of Transportation and Related Agencies Appropriation Act, 1984; and

Treasury, Postal Service and General Government Appropriation Act, 1984.

(b) Such amounts as may be necessary for continuing the following activities, not otherwise provided for in this joint resolution, which were conducted in the fiscal year 1984, under the terms and conditions provided in applicable appropriation Acts for the fiscal year 1984, at the current rate:

Health planning activities authorized by title XV of the Public Health Service Act;

National Research Service Awards authorized by section 472(d) of the Public Health Service Act;

National Arthritis Advisory Board, National Diabetes Advisory Board, and National Digestive Diseases Advisory Board authorized by section 437 of the Public Health Service Act;

Medical Library Assistance programs authorized by title III of the Public Health Service Act;

Refugee and entrant assistance activities under the provisions of title IV of the Immigration and Nationality Act, title IV and part B of title III of the Refugee Act of 1980, and sections 501 (a) and (b) of the Refugee Education Assistance Act of 1980: *Provided,* That such funds may be expended for individuals who would meet the definition of "Cuban and Haitian entrant" under section 501(e) of the Refugee Education Assistance Act of 1980 but for the application of paragraph (2)(B) thereof;

Child abuse prevention and treatment and adoption opportunities activities authorized by the Child Abuse Prevention and Treatment Act;

Activities under the Domestic Volunteer Service Act of 1973, as amended; and

Emergency immigrant education activities authorized by section 101(g) of Public Law 98–151.

SEC. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1984, and shall remain available until (a), enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) October 3, 1984, whichever first occurs.

SEC. 103. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 105. Any appropriation for the fiscal year 1985 required to be apportioned pursuant to subchaper II of chapter 15 of title 31, United States Code, may be apportioned on a basis indicating the need (to the extent any such increases cannot be absorbed within available appropriations) for a supplemental or deficiency estimate of appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees and to active and retired military personnel. Each such appropriations shall otherwise be subject to the requirements of subchapter II of chapter 15 of title 31, United States Code.

SEC. 106. (a) No appropriation or funds made available or authority granted to the Department of Defense pursuant to this

joint resolution shall be used for new production of items not funded for production in fiscal year 1984 or prior years, for the increase in production rates above those sustained with fiscal year 1984 funds or to initiate, resume or continue any project, activity, operation or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during the fiscal year 1984.

(b) No appropriation or funds made available or authority granted to the Department of Defense pursuant to this joint resolution shall be used to initiate multiyear procurements utilizing advance procurement funding for economic order quantity procurement.

(c) No appropriations or funds made available pursuant to this joint resolution to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement or individual.

(d) The appropriations or funds made available or authority granted to the Department of Defense pursuant to this joint resolution for procurement of MX missiles shall be in accordance with and subject to all the limitations, restrictions, and conditions set forth in section 110 of the Department of Defense Authorization Act, 1985, as enacted by the Congress and shall be subject to the provision that no funds may be obligated for the procurement of additional operational MX missiles (excluding funds necessary for spare parts, advance procurement of parts and materials, maintenance of the contractor base and procurement related to the deployment of MX missiles funded in fiscal year 1984) until Congress enacts additional appropriation legislation after March 1, 1985 providing for the obligation of such funds.

(e) The appropriations or funds made available or authority granted to the Department of Defense pursuant to this joint resolution for testing of the Space Defense System (anti-satellite weapon) shall be in accordance with and subject to all the limitations, restrictions and conditions set forth in section 205 of the Department of Defense Authorization Act, 1985 as enacted by the Congress.

The SPEAKER. The gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes, and the gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, may I say that we have mentioned briefly the situation on the other side of the Capitol.

As you know, under a prior opinion of the Attorney General beginning today much of the government would close down for lack of appropriations.

Now temporary arrangements with the executive branch and with their cooperation the Departments and agencies affected, as I understand it, have been told to proceed this morning counting on the Congress taking action on the extension of time contained in this measure.

As I pointed out, the other body does have considerable problems with which we are familiar in some detail. With the problems that they have I think it is absolutely essential that we act on a short-term basis.

May I say again that the suggestion I received from leaders on the other side was that 2 days would be best. I agree with my colleague from Massachusetts, however, that 3 days is better than 2 from our viewpoint so far as completing our business.

□ 1210

May I say again that, in the absence of action today, we will have much of the Government closed down, with tremendous expense. Many problems will arise. It is for that reason that, without further ado, I hope that we may agree to this joint resolution.

Now, you may wonder why we are not acting on the measure passed by the other body on Saturday. May I say there are some unintentional omissions in the resolution from the other body which could cause program disruptions. In addition to that, they have taken the legislative bill, stricken out what was involved in it, and added an appropriation to it. That is a problem. Also, we are all familiar with the history of the Congress where appropriation bills, as well as other financial bills, originate in the House. I think it is important that we retain that right.

But the primary purpose today of passing this new joint resolution is to provide for the activities overlooked in the action of the other body. So for these reasons I would hope that our colleagues would go along with this recommendation so that the Government will not have the expense and the trouble that would follow if the departments have to close down and then reopen.

Mr. Speaker, I reserve the balance of my time.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may require.

As the chairman explained, the continuing resolution now under consideration provides continuing appropriations through October 3, 1984, at the current rate, for all nine of the 1985 bills which have not been enacted into law.

It includes the restrictions the MX and the antisatellite programs that were passed by the House and the Senate in the conference agreement on the Defense authorization bill.

I just hope and pray that someone will see the wisdom of cleaning up this act. I have been informed—I waited around here all week, hoping we would go to conference with the Senate—by the administration that, surely, if we do not clean up our act and knock out these extraneous matters that have been put in the continuing resolution and do not send them a clean continuing resolution that we are going to get a veto, and we are going to have a great time here this weekend.

I yield to my good friend, the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Do I understand, though, that this is not a completely clean continuing resolution, that in fact there is at least one $30 million item down in here that has never been regularly authorized by the Congress and is, in fact, a program that we are giving to one Member of the body within the body of this legislation?

Mr. CONTE. Well, I would have to term this continuing resolution a piece of Ivory soap. It is about 99 and 44/100 percent pure. There is a little item on page 3. Look at page 3. Have you got that?

Mr. WALKER. Where it says "Emergency Immigrant Educational Activities," I understand.

Mr. CONTE. About $30 million.

Mr. WALKER. That is about $30 million.

And as I understand it, that $30 million is in there for the majority leader, who was just out here a few minutes ago telling us how terrible it is that all this spending is going on for big deficits in the country. Is that the same person?

Mr. CONTE. Well, you are putting me on the spot. I guess I will have to answer "Yes."

Mr. WALKER. That was my understanding of the situation.

Every time we get one of these bills out, we find a little more pork in it, and I want to thank the gentleman for pointing out that even with this one we cannot keep the pork out.

Mr. CONTE. Well, he will have to correct his figures because the figures he gave down here, what it costs the Government on interest on the national debt every minute, is going to rise; when this goes through, he is going to have to include interest on another $30 million. We will have to get the clock down to the jeweler and have it repaired, I guess.

Mr. WALKER. I thank the gentleman.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I will be glad to yield to my colleague, the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, to clarify the record, in my opinion this was

authorized and appropriated for in the continuing resolution last year. And I assure the gentleman it is nothing new. We tried to go ahead as is, and we tried to add nothing new and stop nothing. This program was provided for in November of last year. The continuing resolution the House passed last week included this item. It is not new, it was new last year.

Mr. CONTE. I might say that this has never been authorized through the regular authorization process. The authorization bill has passed the House. It is still over in the Senate. Now you are authorizing an appropriation through a continuing resolution.

Mr. WALKER. Through a 3-day continuing resolution. And so we are in the process of using an emergency bill for adding a little more pork and another program to the Federal Government.

Mr. CONTE. Through the mini CR.

Mr. WALKER. The mini CR, that is right.

I thank the gentleman.

Mr. CONTE. Mr. Speaker, I have no further requests for time.

Mr. WHITTEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER. Pursuant to the order to the House of today, the previous question is considered as ordered on the joint resolution.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the joint resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 240, nays 79, not voting 113, as follows:

[Roll No. 424]

YEAS—240

Ackerman	Bonior	Conte
Addabbo	Bonker	Conyers
Anderson	Borski	Cooper
Andrews (NC)	Boucher	Coughlin
Andrews (TX)	Boxer	Coyne
Annunzio	Brown (CA)	Crockett
Anthony	Broyhill	Darden
Aspin	Bryant	Daschle
Barnard	Burton (CA)	de la Garza
Barnes	Byron	Derrick
Bartlett	Carper	Dickinson
Bates	Carr	Dicks
Bedell	Chandler	Dorgan
Beilenson	Clarke	Downey
Bennett	Clinger	Durbin
Berman	Coelho	Dwyer
Bevill	Coleman (MO)	Dymally
Boner	Conable	Early
Eckart	Lantos	Ridge
Edgar	Leath	Rinaldo
Edwards (AL)	Lehman (CA)	Robinson
Edwards (OK)	Leland	Roe
Emerson	Levin	Rogers
English	Levine	Rose
Erdreich	Lipinski	Rostenkowski
Evans (IL)	Livingston	Roukema
Fascell	Lloyd	Rowland
Fazio	Loeffler	Roybal
Feighan	Long (LA)	Rudd
Flippo	Long (MD)	Savage
Florio	Lowery (CA)	Sawyer
Foglietta	Lowry (WA)	Schneider
Foley	Luken	Schroeder
Ford (MI)	Lundine	Schulze
Ford (TN)	MacKay	Shannon
Frank	Madigan	Sharp
Frost	Markey	Shelby
Garcia	Mavroules	Sisisky
Gaydos	Mazzoli	Smith (NE)
Gejdenson	McCurdy	Snowe
Gephardt	McHugh	Snyder
Gilman	McKernan	Spratt
Glickman	McKinney	St Germain
Gonzalez	McNulty	Staggers
Gore	Mica	Stark
Gradison	Michel	Stokes
Gray	Mikulski	Stratton
Green	Miller (CA)	Studds
Gunderson	Mineta	Sundquist
Hall (OH)	Minish	Swift
Hall, Ralph	Mitchell	Synar
Hamilton	Moakley	Tallon
Hance	Mollohan	Taylor
Harkin	Montgomery	Thomas (GA)
Hatcher	Moody	Torres
Hawkins	Moore	Torricelli
Hayes	Morrison (WA)	Towns
Hightower	Mrazek	Udall
Holt	Murtha	Valentine
Horton	Natcher	Vento
Howard	Neal	Walgren
Hoyer	Nichols	Watkins
Huckaby	Nowak	Waxman
Hughes	O'Brien	Weiss
Hunter	Oakar	Wheat
Hutto	Oberstar	Whitehurst
Hyde	Ottinger	Whitley
Ireland	Panetta	Whitten
Jenkins	Patterson	Williams (MT)
Johnson	Pease	Williams (OH)
Jones (NC)	Pepper	Wirth
Jones (OK)	Pickle	Wise
Jones (TN)	Price	Wolf
Kasich	Pritchard	Wolpe
Kazen	Quillen	Wortley
Kennelly	Rahall	Wright
Kildee	Rangel	Wyden
Kleczka	Ratchford	Yates
Kogovsek	Ray	Yatron
Lagomarsino	Reid	Young (MO)

NAYS—79

Applegate	Hopkins	Roberts
Archer	Hubbard	Roemer
AuCoin	Kindness	Roth
Badham	Kramer	Russo
Bateman	Latta	Schaefer
Bereuter	Leach	Sensenbrenner
Bilirakis	Lent	Shaw
Bliley	Lewis (CA)	Shumway
Brown (CO)	Lungren	Sikorski
Chappie	Marlenee	Skeen
Coats	Marriott	Smith, Denny
Craig	Martin (IL)	Smith, Robert
Crane, Philip	McCandless	Stenholm
Daniel	McDade	Stump
Dannemeyer	McEwen	Tauke
Daub	Miller (OH)	Thomas (CA)
DeWine	Molinari	Vander Jagt
Dreier	Moorhead	Vandergriff
Duncan	Nelson	Vucanovich
Fields	Nielson	Walker
Frenzel	Oxley	Weaver
Goodling	Packard	Weber
Gregg	Patman	Winn
Hammerschmidt	Penny	Young (AK)
Hansen (ID)	Petri	Zschau
Hansen (UT)	Porter	
Hertel	Regula	

NOT VOTING—113

Akaka	Alexander	Biaggi
Albosta	Bethune	Boehlert
Boggs	Gibbons	Myers
Boland	Gingrich	Obey
Bosco	Gramm	Olin
Breaux	Guarini	Ortiz
Britt	Hall (IN)	Owens
Brooks	Hall, Sam	Parris
Broomfield	Harrison	Pashayan
Burton (IN)	Hartnett	Paul
Campbell	Hefner	Pursell
Carney	Heftel	Richardson
Chappell	Hiler	Ritter
Cheney	Hillis	Rodino
Clay	Jacobs	Sabo
Coleman (TX)	Jeffords	Scheuer
Collins	Kaptur	Schumer
Corcoran	Kastenmeier	Seiberling
Courter	Kemp	Shuster
Crane, Daniel	Kolter	Siljander
D'Amours	Kostmayer	Simon
Davis	LaFalce	Skelton
Dellums	Lehman (FL)	Slattery
Dingell	Levitas	Smith (FL)
Dixon	Lewis (FL)	Smith (IA)
Donnelly	Lott	Smith (NJ)
Dowdy	Lujan	Solarz
Dyson	Mack	Solomon
Edwards (CA)	Martin (NC)	Spence
Erlenborn	Martin (NY)	Stangeland
Evans (IA)	Martinez	Tauzin
Ferraro	Matsui	Traxler
Fiedler	McCain	Volkmer
Fish	McCloskey	Whittaker
Fowler	McCollum	Wilson
Franklin	McGrath	Wylie
Fuqua	Morrison (CT)	Young (FL)
Gekas	Murphy	

□ 1230

Messrs. GOODLING, BADHAM, and BATEMAN changed their votes from "yea" to "nay."

Mr. HUNTER changed his vote from "nay" to "yea."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EXPLANATION OF ABSENCE

Mr. KOSTMAYER. Mr. Speaker, my flight from Philadelphia to Washington was delayed by the bad weather this morning, and it arrived 35 minutes late.

As a result, I was unavoidably detained, and I missed the first vote of the day on House Joint Resolution 653. Had I been present I would have voted "yea."

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter on House Joint Resolution 653, the joint resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

□ 1240

THE HOUSE FAILED ITS CONSTITUENTS ON CRIME BILL

(Mr. REID asked and was given permission to address the House for 1

minute and to revise and extend his remarks.

Mr. REID. Mr. Speaker, during my first term in Congress I have been impressed with the ability of the leadership—both majority and minority—to move legislation through the 435-Member House of Representatives. Generally speaking, the flow both of quality and quantity of material is amazing.

What happened this past week regarding the continuing resolution was, however, anything but quality work. A prime example of the problem is one amendment to the continuing resolution, the so-called omnibus crime package. The amendment, attached on a motion to recommit, contained 416 pages. Allowed debate on this mammoth piece of legislation was 5 minutes for each side.

Even a cursory review of what we did by pasing this bill last week reveals how inappropriate this method of legislating actually is. The House had already passed bills in 12 areas addressed by the crime bill: sentencing reform, forfeiture, drug enforcement, justice assistance, currency and foreign transactions, escape from civil committment, receiving stolen property, bank fraud, possession of contraband in prison, witness protection program amendments, and foreign evidence.

The bill was amended with abandon when it was considered by the Senate. The numerous Senate amendments were not carefully considered by the other body, and have, in great part, not been the subject of debate or hearings in the House. By passing this bill we have actually made it harder to impose life imprisonment on the perpetrator of arson if a police officer or firefighter is killed as a result of arson.

Most important however, is that, by passing the amendment last week, we undid in 10 minutes some of the best work we have done this term in the areas of child pornography and drug control. The President has already signed into law bills with provisions that will now be substantially weakened by this new legislation. The amendment we passed last week omits, and thereby repeals, many of the strong provisions of the Child Protection Act of 1984 including the much higher fines, the wiretapping for all offenses, the closing of the loophole regarding persons who merely reproduce child pornography but do not actually sexually abuse the children, and the forfeiture of the property used in th commission of the offense. The amendment weakens our present ability to control pharmacy robbery by limiting prosecutions only to those cases personally approved by the Attorney General or his immediate deputies, "unless assistance is requested by a State or local law enforcement official."

Despite the verbal pyrotechnics displayed on this floor by the proponents of the amendment, passing this bill in this form was wrong. Attaching it to a continuing resolution by motion to recommit, with only 10 minutes of debate borders on the absurd. Our constituents elected us to make laws in a careful and reasoned fashion. We failed them last week.

HANGUP ON ALIENAGE

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, as had been mentioned in the press in some quarters, I had intended today to offer a privileged resolution, a motion to instruct the conferees currently still in conference on the immigration bill on the matter that has us hung up, the matter of alienage; that is, the question of whether or not we ought to create a new civil right, the right for someone who is in the United States but not a citizen to sue a prospective employer because that employer wished to hire a citizen over a noncitizen.

However, Mr. Speaker, after my intention surfaced, our staff was informed by the staff of some Members on the other side of the aisle from some of the other committees involved that if we did that on the only one issue that has us hung up, they would then bring forward a series of motions to instruct on a number of other issues that have already been resolved to the satisfaction of the conference. In other words, Mr. Speaker, I was told that if I made an effort to attempt to dislodge us from the one sticking point that is now in the conference and stopping us from completing action on the conference, others would use that device to kill the bill effectively.

Mr. Speaker, I do not want to be a party to killing this bill, and even though it may only have one last gasp left, I felt that I would not offer that motion today.

MOROCCAN PAVILION OPENS AT EPCOT

(Mr. NELSON of Florida asked and was given permission to address the House and to revise and extend his remarks.)

Mr. NELSON of Florida. Mr. Speaker, last week the Moroccan Pavilion opened at EPCOT Center at Walt Disney World. As the host Congressman for Walt Disney World, I had the privilege of being part of the party that received the Royal Princess from Morocco at this gala opening event.

This cultural and people-to-people exchange was a main reason for the pavilions from 10 nations that now occupy world showcases at EPCOT Center in Walt Disney World. The creation and planning process for this pavilion took over 2 years, with American workers learning and gaining a great respect for the dedication and skill of Moroccan artisans, especially in handlaid tile and plaster carving. So I am delighted that this is a new part of the family of nations at EPCOT Center.

Eighty royally appointed Moroccan entertainers are performing at EPCOT for a month to help celebrate the opening. The pavilion includes shops featuring Moroccan handicrafts, brass, leather goods, rugs, and ceramics. The shops are staffed by Moroccan natives. The focal point of the pavilion is the Marrakesh Restaurant featuring authentic Moroccan food such as couscous, bastila, a meat pie, and hot mint tea.

The atmosphere is so authentic that you feel you are in Morocco—with narrow streets winding through a village filled with the mystery one expects to find in Morocco.

Morocco is an important additional country in World Showcase at EPCOT Center.

GLIMMER OF HOPE ON BALANCED BUDGET AMENDMENT

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker and Members, for the last several months, many of us in the House have been trying to get a vote on House Joint Resolution 243, the proposed constitutional amendment calling for a balanced budget to be submitted to the States of the Union. In case some Members here yearn to sign Discharge Petition 10, we now have 193 Members and need a few more.

A little glimmer of hope has now appeared on the horizon. Some of our colleagues may have heard that last week, in response to this pressure, one of our Members from Oklahoma has introduced a bill (a statute) that will call on the President to submit a balanced budget to the Congress. This resolution (H.J. Res. 243) calls on the responsible agency, Congress, to propose a constitutional amendment to the States, and I hope the Committee on Rules this morning or today when it deliberates will make in order House Joint Resolution 243 so that Members of Congress in this, the 98th Congress, will have an opportunity of identifying, in the sense of accountability, where they stand on this most important issue. Congress should propose this constitutional amendment before adjourning the 98th Congress.

H.R. 6300 AND THE BALANCED BUDGET AMENDMENT

(Mr. CRAIG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRAIG. Mr. Speaker, I join with my colleague from California in urging the Committee on Rules this afternoon to make in order consideration of House Joint Resolution 243 as it relates to H.R. 6300, the Jones bill, that would require the President to offer a balanced budget.

It is interesting that in these final days of Congress many of our colleagues are rushing to protect their political backsides by having a vote by which they can return to their districts and say, "In some form, I do support a balanced budget."

I will tell my colleagues that if they vote for H.R. 6300, the Jones bill, they will in fact, not be voting for a balanced budget because that legislation, in itself, does absolutely nothing. It requires the Congress to do nothing in response to something. It requires the Congress to do nothing as it relates to telling why a balanced budget is or is not justifiable, why it is or is not good for the economy of this country. It does only one thing, and in no binding way whatsoever. It requires the President to submit a balanced budget.

THE "BLAME AMERICA FIRST" CROWD

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, at the Republican National Convention, Ambassador Jeane Kirkpatrick in her magnificent speech referred to the San Francisco Democrats as those who would blame America first for all of our foreign policy failures. Apparently Walter Mondale has become the leader of the "Blame America First" crowd over the last few days.

Does he blame the terrorists for the recent tragedy in Beirut? No. He blames America first. Does he blame the Soviets for being unwilling to respond to initiatives aimed at improving relations between the United States and the Soviet Union? No. He blames America first.

Well, if he is going to blame America first, then it is about time that he acknowledges that the problems stem from the policies of weakness and retreat that all too often characterized the Carter-Mondale administration. But no, he does not think it is fair to raise that as an issue. The "Blame America First" crowd and their leader, Walter Mondale, do not like to accept any blame; they just like to dish it out. But that is hardly leadership that anyone can trust.

FORD MOTOR CO. TO OFFER DRIVER-SIDE AIR BAGS

(Mr. WALGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALGREN. Mr. Speaker, I want to call attention to the fact that the Ford Motor Co., it was said in the newspaper the other day, will be providing driver-side airbags on a number of models in the year 1986.

I would like the president of the Ford Motor Co. to know that he has one more order for a new car from me that he would not have had without the inclusion of airbags. As someone who has traditionally been sold on General Motors cars and would not normally be buying a new car next year, I am eager to switch and buy because Ford has the right idea. I am sure I am not alone in my reaction. Ford should be able to look forward to a banner year.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore (Mr. MURTHA). Laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC, *October 1, 1984.*

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5, Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House at 4:30 p.m. on Friday, September 28, 1984 and said to contain a message from the President whereby he transmits a Governing International Fishery Agreement between the U.S.A. and Iceland.

With kind regards, I am,
Sincerely,

BENJAMIN J. GUTHRIE,
Clerk, House of Representatives.

□ 1250

GOVERNING INTERNATIONAL FISHERY AGREEMENT BETWEEN THE UNITED STATES AND THE REPUBLIC OF ICELAND—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 98–)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Merchant Marine and Fisheries and ordered to be printed:

(For message, see proceedings of the Senate of Friday, September 28, 1982, at page S12293.)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4, rule XV.

Such rollcall votes, if postponed, will be taken after debate has been concluded on all motions to suspend the rules.

CABLE FRANCHISE POLICY AND COMMUNICATIONS ACT OF 1984

Mr. WIRTH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4103) to amend the Communications Act of 1934 to provide a national policy regarding cable television, as amended.

The Clerk read as follows:

H.R. 4103

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE: TABLE OF CONTENTS

SECTION 1. (a) This Act may be cited as the "Cable Franchise Policy and Communications Act of 1984".

(b) The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Amendment of Communications Act of 1934.
"TITLE VI—CABLE COMMUNICATIONS
"PART I—GENERAL PROVISIONS.
"Sec. 601. Purposes.
"Sec. 602. Definitions.
"PART II—USE OF CABLE CHANNELS AND OWNERSHIP RESTRICTIONS
"Sec. 611. Cable channels for public, educational, or governmental use.
"Sec. 612. Cable channels for commercial use.
"Sec. 613. Ownership restrictions.
"PART III—FRANCHISING AND REGULATION
"Sec. 621. General franchise requirements.
"Sec. 622. Franchise fees.
"Sec. 623. Regulation of rates.
"Sec. 624. Regulation of services, facilities, and equipment.
"Sec. 625. Modification of franchise obligations.
"Sec. 626. Renewal.
"Sec. 627. Conditons of sale.
"PART IV—MISCELLANEOUS PROVISIONS
"Sec. 631. Protection of subscriber privacy.
"Sec. 632. Consumer protection.
"Sec. 633. Unauthorized reception of cable service.
"Sec. 634. Equal employment opportunity.
"Sec. 635. Judicial proceedings.
"Sec. 636. Coordination of Federal, State, and local authority.
"Sec. 637. Existing franchises.
"Sec. 638. Criminal and civil liability.
"Sec. 639. Obscene programming.".
Sec. 3. Jurisdiction.
Sec. 4. Pole attachments.
Sec. 5. Unauthorized reception of certain communications.
Sec. 6. Technical and conforming amendments.

Sec. 7. Effective date.

AMENDMENT OF COMMUNICATIONS ACT OF 1934

SEC. 2. The Communications Act of 1934 is amended by inserting after title V the following new title:

"TITLE VI—CABLE COMMUNICATIONS

"PART I—GENERAL PROVISIONS

"PURPOSES

"SEC. 601. The purposes of this title are to—

"(1) establish a national policy concerning cable communications;

"(2) establish franchise procedures and standards which encourage the growth and development of cable systems and which assure that cable systems are responsive to the needs and interests of the local community;

"(3) establish guidelines for the exercise of Federal, State, and local authority with respect to the regulation of cable systems;

"(4) assure that cable communications provide the widest possible diversity of information sources and services to the public; and

"(5) establish a process which protects cable operators against unfair denials of renewal by franchising authorities and which provides for an orderly process for consideration of renewal proposals.

"DEFINITIONS

"SEC. 602. For purposes of this title—

"(1) the term 'affiliate', when used in relation to any person, means another person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person;

"(2) the term 'basic cable service' means any service tier which includes the retransmission of local television broadcast signals;

"(3) the term 'cable channel' or 'channel' means a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television channel (as television channel is defined by the Commission by regulation);

"(4) the term 'cable operator' means any person or group of persons (A) who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system, or (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system;

"(5) the term 'cable service' means—

"(A) the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and

"(B) subscriber interaction, if any, which is required for the selection of such video programming or other programming service;

"(6) the term 'cable system' means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include (A) a facility or combination of facilities that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility or combination of facilities that serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities use any public right-of-way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of title II of this Act, except that such facility shall be considered a cable system (other than for purposes of section 621(c)) to the extent such facility is used in the transmission of video programming directly to subscribers; or (D) any facilities of any electric utility used solely for operating its electric utility system;

"(7) the term 'Federal agency' means any agency of the United States, including the Commission;

"(8) the term 'franchise' means an initial authorization, or renewal thereof (including a renewal of an authorization which has been granted subject to section 626), issued by a franchising authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of a cable system;

"(9) the term 'franchising authority' means any governmental entity empowered by Federal, State, or local law to grant a franchise;

"(10) the term 'grade B contour' means the field strength of a television broadcast station computed in accordance with regulations promulgated by the Commission;

"(11) the term 'other programming service' means information that a cable operation makes available to all subscribers generally;

"(12) the term 'person' means an individual, partnership, association, joint stock company, trust, corporation, or governmental entity;

"(13) the term 'public, educational, or governmental access facilities' means—

"(A) channel capacity designated for public, educational, or governmental use; and

"(B) facilities and equipment for the use of such channel capacity;

"(14) the term 'service tier' means a category of cable service or other services provided by a cable operator and for which a separate rate is charged by the cable operator;

"(15) the term 'State' means any State, or political subdivision, or agency thereof; and

"(16) the term 'video programming' means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

"PART II—USE OF CABLE CHANNELS AND CABLE OWNERSHIP RESTRICTIONS

"CABLE CHANNELS FOR PUBLIC, EDUCATIONAL, OR GOVERNMENTAL USE

"SEC. 611. (a) A franchising authority may establish requirements in a franchise with respect to the designation or use of channel capacity for public, educational, or governmental use only to the extent provided in this section.

"(b) A franchising authority may in its request for proposals require as part of a franchise, and may require as part of a cable operator's proposal for a franchise renewal, subject to section 626, that channel capacity be designated for public, educational, or governmental use, and channel capacity on institutional networks be designated for educational or governmental use, and may require rules and procedures for the use of the channel capacity designated pursuant to this section.

"(c) A franchising authority may enforce any requirement in any franchise regarding the providing or use of such channel capacity. Such enforcement authority includes the authority to enforce any provisions of the franchise for services, facilities, or equipment proposed by the cable operator which relate to public, educational, or governmental use of channel capacity, whether or not required by the franchising authority pursuant to subsection (b).

"(d) In the case of any franchise under which channel capacity is designatd under subsection (b), the franchising authority shall prescribe—

"(1) rules and procedures under which the cable operator is permitted to use such channel capacity for the provision of other services if such channel capacity is not being used for the purposes designated, and

"(2) rules and procedures under which such permitted use shall cease.

"(e) Subject to section 624(d), a cable operator shall not exercise any editorial control over any public, educational, or governmental use of channel capacity provided pursuant to this section.

"(f) For purposes of this section, the term 'institutional network' means a communication network which is constructed or operated by the cable operator and which is generally available only to subscribers who are not residential subscribers.

"CABLE CHANNELS FOR COMMERCIAL USE

"SEC. 612. (a) The purpose of this section is to assure that the widest possible diversity of information sources are made available to the public from cable systems in a manner consistent with growth and development of cable systems.

"(b)(1) A cable operator shall designate channel capacity for commercial use by persons unaffiliated with the operator in accordance with the following requirements:

"(A) An operator of any cable system with 36 or more (but not more than 54) activated channels shall designate 10 percent of such channels which are not otherwise required for use (or the use of which is not prohibited) by Federal law or regulation.

"(B) An operator of any cable system with 55 or more (but not more than 100) activated channels shall designate 15 percent of such channels which are not otherwise required for use (or the use of which is not prohibited) by Federal law or regulation.

"(C) An operator of any cable system with more than 100 activated channels shall designate 15 percent of all such channels.

"(D) An operator of any cable system with fewer than 35 activated channels shall not be required to designate channel capacity for commercial use by persons unaffiliated with the operator, unless the cable system is required to provide such channel capacity under the terms of a franchise in effect on the date of the enactment of this title.

"(E) An operator of any cable system in operation on the date of the enactment of this title shall not be required to remove any service actually being provided on July 1, 1984, in order to comply with this section, but shall make channel capacity available for commercial use as such capacity becomes available until such time as the cable operator is in full compliance with this section.

"(2) Any Federal agency, State, or franchising authority may not require any cable system to designate channel capacity for commercial use by unaffiliated persons in excess of the capacity specified in paragraph (1), except as otherwise provided in this section.

"(3) A cable operator may use any unused channel capacity designated pursuant to this section until the use of such channel capacity is obtained, pursuant to a written agreement, by a person unaffiliated with the operator.

"(4) For the purposes of this section—

"(A) the term 'activated channels' means those channels engineered at the headend of the cable system for the provision of services generally available to residential subscribers of the cable system, regardless of whether such services actually are provided, including any channel designated for public, educational, or governmental use; and

"(B) the term 'commercial use' means the provision of video programming, whether or not for profit.

"(5) Any channel capacity which has been designated for public, educational, or governmental use may not be considered as designated under this section for commercial use for purpose of this section.

"(c)(1) If a person unaffiliated with the cable operator seeks to use channel capacity designated pursuant to subsection (b) for commercial use, the cable operator shall establish, consistent with the purpose of this section, the price, terms, and conditions of such use which are at least sufficient to assure that such use will not adversely affect the operation, financial condition, or market development of the cable system.

"(2) A cable operator shall not exercise any editorial control over any video programming provided pursuant to this section, or in any other way consider the content of such programming, except that an operator may consider such content to the minimum extent necessary to establish a reasonable price for the commercial use of designated channel capacity by an unaffiliated person.

"(3) Any cable system channel designated in accordance with this section shall not be used to provide a cable service that is being provided over such system on the date of the enactment of this title, if the provision of such programming is intended to avoid the purpose of this section.

"(d) Any person aggrieved by the failure or refusal of a cable operator to make channel capacity available for use pursuant to this section may bring an action in the district court of the United States for the judicial district in which the cable system is located to compel that such capacity be made available. If the court finds that the channel capacity sought by such person has not been made available in accordance with this section, or finds that the price, terms, or conditions established by the cable operator are unreasonable, the court may order such system to make available to such person the channel capacity sought, and further determine the appropriate price, terms, or conditions for such use consistent with subsection (c), and may award actual damages if it deems such relief appropriate. In any such action, the court shall not consider any price, term, or condition established between an operator and an affiliate for comparable services.

"(e)(1) Any person aggrieved by the failure or refusal of a cable operator to make channel capacity available pursuant to this section may petition the Commission for relief under this subsection upon a showing of prior adjudicated violations of this section. Records of previous adjudications resulting in a court determination that the operator has violated this section shall be considered as sufficient for the showing necessary under this subsection. If the Commission finds that the channel capacity sought by such person has not been made available in accordance with this section, or that the price, terms, or conditions established by such system are unreasonable under subsection (c), the Commission shall, by rule or order, require such operator to make available such channel capacity under price, terms, and conditions consistent with subsection (c).

"(2) In any case in which the Commission finds that the prior adjudicated violations of this section constitute a pattern or practice of violations by an operator, the Commission may also establish any further rule or order necessary to assure that the operator provides the diversity of information sources required by this section.

"(3) In any case in which the Commission finds that the prior adjudicated violations of this section constitute a pattern or practice of violations by any person who is an operator of more than one cable system, the Commission may also establish any further rule or order necessary to assure that such provides the diversity of information sources required by this section.

"(f) In any action brought under this section in any Federal district court or before the Commission, there shall be a presumption that the price, terms, and conditions for use of channel capacity designated pursuant to subsection (b) are reasonable and in good faith unless shown by clear and convincing evidence to the contrary.

"(g) Notwithstanding sections 621(c) and 623(a), at such time as cable systems with 36 or more activated channels are available to 70 percent of households within the United States and are subscribed to by 70 percent of the households to which such systems are available, the Commission may promulgate any additional rules necessary to provide diversity of information sources. Any rules promulgated by the Commission pursuant to this subsection shall not preempt authority expressly granted to franchising authorities under this title.

"(h) Any cable service offered pursuant to this section shall not be provided, or shall be provided subject to conditions, if such cable service in the judgment of the franchising authority is obscene, or is in conflict with community standards in that it is lewd, lascivious, filthy, or indecent or is otherwise unprotected by the Constitution of the United States.

"OWNERSHIP RESTRICTIONS

"SEC. 613. (a) It shall be unlawful for any person to be a cable operator if—

"(1) such person is, directly or through one or more affiliates owns or controls, the licensee of a television broadcast station and the predicted grade B contour of such station covers any portion of the community served by such operator's cable system; or

"(2) such person, directly or through one or more affiliates, owns or controls a daily newspaper published in a community served by such operator's cable system.

"(b)(1) It shall be unlawful for any common carrier, subject in whole or in part to title II of this Act, to provide video programming directly to subscribers in its telephone service area, either directly or indirectly through an affiliate owned by, operated by, controlled by, or under common control with the common carrier.

"(2) It shall be unlawful for any common carrier, subject in whole or in part to title II of this Act, to provide channels of communications or pole line conduit space, or other rental arrangements, to any entity which is directly or indirectly owned by, operated by, controlled by, or under common control with such common carrier, if such facilities or arrangements are to be used for, or in connection with, the provision of video programming directly to subscribers in the telephone service area of the common carrier.

"(3) This subsection shall not apply to any common carrier to the extent such carrier provides telephone exchange service in any rural area (as defined by the Commission).

"(4) In those areas where the provision of video programming directly to subscribers through a cable system demonstrably could not exist except through a cable system owned by, operated by, controlled by, or affiliated with the common carrier involved, or upon other showing of good cause, the Commission may, on petition for waiver, waive the applicability of paragraphs (1) and (2) of this subsection. Any such waiver shall be made in accordance with section 63.56 of title 47, Code of Federal Regulations (as in effect September 20, 1984) and shall be granted by the Commission upon a finding that the issuance of such waiver is justified by the particular circumstances demonstrated by the petitioner, taking into account the policy of this subsection.

"(c) The Commission may prescribe rules with respect to the ownership or control of cable systems by persons who own or control other media of mass communications which serve the same community served by a cable system.

"(d) Any State or franchising authority may not prohibit the ownership or control of a cable system by any person because of such person's ownership or control of any media of mass communications or other media interests.

"(e)(1) Subject to paragraph (2), a State or franchising authority may hold any ownership interest in any cable system.

"(2) Any State of franchising authority shall not exercise any editorial control regarding the content of any cable service on a cable system in which such governmental entity holds ownership interest (other than programming on any channel designated for educational or governmental use), unless such control is exercised through an entity separate from the franchising authority.

"(f) This section shall not apply to prohibit any combination of any interest held by any reason on July 1, 1984, to the extent of the interests so held as of such date, if the holding of such interests was not inconsistent with any applicable Federal or State law or regulations in effect on that date.

"(g) For purposes of this section, the term 'media of mass communications' shall have the meaning given such term under section 309(i)(3)(C)(i) of this Act.

"PART III—FRANCHISING AND REGULATION

"GENERAL FRANCHISE REQUIREMENTS

"SEC. 621. (a)(1) A franchising authority may award, in accordance with the provisions of this title, one or more franchises within its jurisdiction.

"(2) Any franchise shall be construed to authorize the construction of a cable system over public rights-of-way, and through easements, which is within the area to be served by the cable system and which have been dedicated for compatible uses, except that in using such easements the cable operator shall ensure—

"(A) that the safety, functioning, and appearance of the property and the convenience and safety of other persons not be adversely affected by the installation or construction of facilities necessary for a cable system;

"(B) that the cost of the installation, construction, operation, or removal of such facilities be borne by the cable operator or subscriber, or a combination of both; and

"(C) that the owner of the property be justly compensated by the cable operator for any damages caused by the installation,

construction, operation, or removal of such facilities by the cable operator.

"(3) In awarding a franchise or franchises, a franchising authority shall assure that access to cable service is not denied to any group of potential residential cable subscribers because of the income of the residents of the local area in which such group resides.

"(b)(1) Except to the extent provided in paragraph (2), a cable operator may not provide cable service without a franchise.

"(2) Paragraph (1) shall not require any person lawfully providing cable service without a franchise on July 1, 1984, to obtain a franchise unless the franchising authority so requires.

"(c) Any cable system shall not be subject to regulation as a common carrier or utility by reason of providing any cable service.

"(d)(1) A State or the Commission may require the filing of informational tariffs for any intrastate communications service provided by a cable system, other than cable service, that would be subject to regulation by the Commission or any State if offered by a common carrier subject, in whole or in part, to title II of this Act. Such informational tariffs shall specify the rates, terms, and conditions for the provision of such service, including whether it is made available to all subscribers generally, and shall take effect on the date specified therein.

"(2) Nothing in this title shall be construed to affect the authority of any State to regulate any cable operator to the extent that such operator provides any communication service other than cable service, whether offered on a common carrier or private contract basis.

"(3) For purposes of this subsection, the term 'State' has the meaning given it in section 3(v).

"(e) Nothing in this title shall be construed to affect the authority of any State to license or otherwise regulate any facility or combination of facilities which serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management and which does not use any public right-of-way.

"FRANCHISE FEES

"SEC. 622. (a) Subject to the limitation of subsection (b), any cable operator may be required under the terms of any franchise to pay a franchise fee.

"(b) For any 12-month period, the franchise fees paid by a cable operator with respect to any cable system shall not exceed 5 percent of such cable operator's gross revenues derived in such period from the operation of the cable system. For purposes of this section, the 12-month period shall be the 12-month period applicable under the franchise for accounting purposes. Nothing in this subsection shall prohibit a franchising authority and a cable operator from agreeing that franchise fees which lawfully could be collected for any such 12-month period shall be paid on a prepaid or deferred basis; except that the sum of the fees paid during the term of the franchise may not exceed the amount, including the time value of money, which would have lawfully been collected if such fees had been paid per annum.

"(c) A cable operator may pass through to subscribers the amount of any increase in a franchise fee, unless the franchising authority demonstrates that the rate structure specified in the franchise reflects all costs of franchise fees and so notifies the cable operator in writing.

"(d) In any court action under subsection (c), the franshising authority shall demonstrate that the rate structure reflects all costs of the franchise fees.

"(e) Any cable operator shall pass through to subscribers the amount of any decrease in a franchise fee.

"(f) A cable operator may designate that portion of a subscriber's bill attributable to the franchise fee as a separate item on the bill.

"(g) For the purposes of this section—

"(1) the term 'franchise fee' includes any tax, fee, or assessment of any kind imposed by a franchising authority or other governmental entity on a cable operator or cable subscriber, or both, solely because of their status as such;

"(2) the term 'franchise fee' does not include—

"(A) any tax, fee, or assessment of general applicability (including any such tax, fee, or assessment imposed on both utilities and cable operators or their servcies but not including a tax, fee, or assessment which is unduly discriminatory against cable operators or cable subscribers);

"(B) in the case of any franchise in effect on the date of the enactment of this title, payments which are required by the franchise to be made by the cable operator during the term of such franchise for, or in support of the use of, public educational, or governmental access facilities;

"(C) in the case of any franchise granted after such date of enactment, capital costs which are required by the franchsie to be incurred by the cable operator for public, educational, or govenmental access facilities;

"(D) requirements or charges incidental to the awarding or enforncing of the franchise, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages; or

"(E) any fee imposed under title 17, United States Code.

"(h)(1) Nothing in this Act shall be construed to limit any authority of a franchising authority to impose a tax, fee, or other assessment of any kind on any person (other than a cable operator) with respect to cable service or other communications service provided by such person over a cable system for which charges are assessed to subscribes but not received by the cable operator.

"(2) For any 12-month period, the fees paid by such person with respect to any such cable service or other communications service shall not exceed 5 percent of such person's gross revenues derived in such period from the provision of such service over the cable system.

"(i) Any Federal agency may not regulate the amount of the franchise fees paid by a cable operator, or regulate the use of funds derived from such fees, except as provided in this section.

"REGULATION OF RATES

"SEC. 623. (a) Any Federal agency or State may not regulate the rates for the provision of cable service except to the extent provided under this section. Any franchising authority may regulate the rates for the provision of cable service, or any other communications service provided over a cable system to cable subscribers, but only to the extent provided under this section.

"(b)(1) Within 180 days after the date of the enactment of this title, the Commission shall prescribe and make effective regulations which authorize a franchising authority to regulate rates for the provision of basic cable service in circumstances in which a cable system is not subject to effective competition. Such regulations may apply to any franchise granted after the effective date of such regulations. Such regulations shall not apply to any rate while such rate is subject to the provisions of subsection (c).

"(2) For purposes of rate regulation under this subsection, such regulations shall—

"(A) define the circumstances in which a cable system is not subject to effective competition; and

"(B) establish standards for such rate regulation.

"(3) The Commission shall periodically review such regulations, taking into account developments in technology, and may amend such regulations, consistent with paragraphs (1) and (2), to the extent the Commission determines necessary.

"(c) In the case of any cable system for which a franchise has been granted on or before the effective date of this title, until the end of the 2-year period beginning on such effective date, the franchising authority may, to the extent provided in a franchise—

"(1) regulate the rates for the provision of basic cable service, including multiple tiers of basic cable service;

"(2) require the provision of any service tier provided without charge (disregarding any installation or rental charge for equipment necessary for receipt of such tier); or

"(3) regulate rates for the initial installation or the rental of one set of the minimum equipment which is necessary for the subscriber's receipt of basic cable service.

"(d) Any request for an increase in any rate regulated pursuant to subsection (b) or (c) for which final action is not taken within 180 days after receipt of such request by the franchising authority shall be deemed to be granted, unless the 180-day period is extended by mutual agreement of the cable operator and the franchising authority.

"(e)(1) In addition to any other rate increase which is subject to the approval of a franchising authority, any rate subject to regulation pursuant to this section may be increased after the effective date of this title at the discretion of the cable operator by an amount not to exceed 5 percent per year if the franchise (as in effect on the effective date of this title) does not specify a fixed rate or rates for basic cable service for a specified period or periods which would be exceeded if such increase took effect.

"(2) Nothing in this section shall be construed to limit provisions of a franchise which permits a cable operator to increase any rate at the operator's discretion; however, the aggregate increases per year allowed under paragraph (1) shall be reduced by the amount of any increase taken such year under such franchise provisions.

"(f) Nothing in this title shall be construed as prohibiting any Federal agency, State or a franchising authority, from—

"(1) prohibiting discrimination among customers of basic cable service, or

"(2) requiring and regulating the installation or rental of equipment which facilitates the reception of basic cable service by hearing impaired individuals.

"(g) Not later than 6 years after the date of the enactment of this title, the Commission shall prepare and submit to the Congress a report regarding rate regulation of cable services, including such legislative recommendations as the Commission considers appropriate. Such report and recommendations shall be based on a study of such regulation which the Commission shall conduct regarding the effect of competition in the marketplace.

"REGULATION OF SERVICES, FACILITIES, AND EQUIPMENT

"SEC. 624. (a) Any franchising authority may not regulate the services, facilities, and equipment provided by a cable operator except to the extent consistent with this title.

"(b) In the case of any franchise granted after the effective date of this title, the franchising authority, to the extent related to the establishment or operation of a cable system—

"(1) in its request for proposals for a franchise (including requests for renewal proposals, subject to section 626), may establish requirements for facilities and equipment, but may not establish requirements for video programming or other information services; and

"(2) subject to section 625, may enforce any requirements contained within the franchise—

"(A) for facilities and equipment; and

"(B) for broad categories of video programming or other services.

"(c) In the case of any franchise in effect on the effective date of this title, the franchising authority may, subject to section 625, enforce requirements contained within the franchise for the provision of services, facilities, and equipment, whether or not related to the establishment or operation of a cable system.

"(d)(1) Nothing in this title shall be construed as prohibiting a franchising authority and a cable operator from specifying, in a franchise or renewal thereof, that certain cable services shall not be provided or shall be provided subject to conditions, if such cable services are obscene or are otherwise unprotected by the Constitution of the United States.

"(2)(A) In order to restrict the viewing of programming which is obscene or indecent, upon the request of a subscriber, a cable operator shall provide (by sale or lease) a device by which the subscriber can prohibit viewing of a particular cable service during periods selected by that subscriber.

"(B) Subparagraph (A) shall take effect 180 days after the effective date of this title.

"(e) The Commission may establish technical standards relating to the facilities and equipment of cable systems which a franchising authority may require in the franchise.

"(f)(1) Any Federal agency, State, or franchising authority may not impose requirements regarding the provision or content of cable services, except as expressly provided in this title.

"(2) Paragraph (1) shall not apply to—

"(A) any rule, regulation or order issued under any Federal law, as such rule, regulation, or order (i) was in effect on September 21, 1983, or (ii) may be amended after such date if the rule, regulation, or order as amended is not inconsistent with the express provisions of this title; and

"(B) any rule, regulation or order under title 17, United States Code.

"MODIFICATION OF FRANCHISE OBLIGATIONS

"SEC. 625. (a)(1) During the period a franchise is in effect, the cable operator may obtain from the franchising authority modifications of the requirements in such franchise—

"(A) in the case of any such requirement for facilities or equipment, including public, educational, or governmental access facilities or equipment, if the cable operator demonstrates that (i) it is commercially impracticable for the operator to comply with such requirement, and (ii) the proposal by the cable operator for modification of such requirement is appropriate because of commercial impracticability; or

"(B) in the case of any such requirement for services, if the cable operator demonstrates that the mix, quality, and level of services required by the franchise at the time it was granted will be maintained after such modification.

"(2) Any final decision by a franchising authority under this subsection shall be made in a public proceeding. Such decision shall be made within 120 days after receipt of such request by the franchising authority, unless such 120-day period is extended by mutual agreement of the cable operator and the franchising authority.

"(b)(1) Any cable operator whose request for modification under subsection (a) has been denied by a final decision of a franchising authority may obtain modification of such franchise requirements pursuant to the provisions of section 635.

"(2) In the case of any proposed modification of a requirement for facilities or equipment, the court shall grant such modification only if the cable operator demonstrates to the court that—

"(A) it is commercially impracticable for the operator to comply with such requirement; and

"(B) the terms of the modification requested are appropriate because of commercial impracticability.

"(3) In the case of any proposed modification of a requirement for services, the court shall grant such modification only if the cable operator demonstrates to the court that the mix, quality, and level of services required by the franchise at the time it was granted will be maintained after such modification.

"(c) Notwithstanding subsections (a) and (b), a cable operator may, upon 30 days' advance notice to the franchising authority, rearrange, replace, or remove a particular cable service required by the franchise if—

"(1) such service is no longer available to the operator; or

"(2) such service is available to the operator only upon the payment of a royalty required under section 801(b)(2) of title 17, United States Code, which the cable operator can document—

"(A) is substantially in excess of the amount of such payment required on the date of the operator's offer to provide such service, and

"(B) has not been specifically compensated for through a rate increase or other adjustment.

"(d) Nothwithstanding subsections (a) and (b), a cable operator may take such actions to rearrange a particular service from one service tier to another, or otherwise offer the service, if the rates for all of the service tiers involved in such actions are not subject to regulation under section 623.

"(e) A cable operator may not obtain modification under this section of any requirement for services relating to public, educational, or government access.

"(f) For purposes of this section, the term 'commercially impracticable' means, with respect to any requirement applicable to a cable operator, that it is commercially impracticable for the operator to comply with such requirement as a result of a change in conditions which is beyond the control of the operator and the nonoccurrence of which was a basic assumption on which the requirement was based.

"RENEWAL

"SEC. 626. (a) During the 6-month period which begins with the 36th month before the franchise expiration, the franchising authority may on its own initiative, and shall at the request of the cable operator, commence proceedings for the purpose of—

"(1) indentifying the future cable-related community needs and interests; and

"(2) reviewing the performance of the cable operator under the franchise during the then current franchise term.

"(b)(1) Upon completion of a proceeding under subsection (a), a cable operator seeking renewal of a franchise may, on its own initiative or at the request of a franchising authority, submit a proposal for renewal.

"(2) Subject to section 624, any such proposal shall contain such material as the franchising authority may require, including proposals for an upgrade of the cable system.

"(3) The franchising authority may establish a date by which such proposal shall be submitted.

"(c)(1) Upon submittal by a cable operator of a proposal to the franchising authority for the renewal of a franchise, the franchising authority shall provide prompt public notice of such proposal and, during the 4-month period which begins on the completion of any proceedings under subsection (a), renew the franchise or, issue a preliminary assessment that the franchise should not be renewed and, at the request of the operator or on its own initiative, commence an administrative proceeding, after providing prompt public notice of such proceeding, in accordance with paragraph (2) to consider whether—

"(A) the cable operator has substantially complied with the material terms of the existing franchise and with applicable law;

"(B) the quality of the operator's service, including signal quality, response to consumer complaints, and billing practices, but without regard to the mix, quality, or level of cable services or other services provided over the system, has been reasonable in light of community needs;

"(C) the operator has the financial, legal, and technical ability to provide the services, facilities, and equipment as set forth in the operator's proposal; and

"(D) the operator's proposal is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.

"(2) In any proceeding under paragraph (1), the cable operator shall be afforded adequate notice and the cable operator and the franchise authority, or its designee, shall be afforded fair opportunity for full participation, including the right to introduce evidence (including evidence related to issues raised in the proceeding under subsection (a)), to require the production of evidence, and to question witnesses. A transcript shall be made of any such proceeding.

"(3) At the completion of a proceeding under this subsection, the franchising authority shall issue a written decision granting or denying the proposal for renewal based upon the record of such proceeding, and transmit a copy of such decision to the cable operator. Such decision shall state the reasons therefor.

"(d) Any denial of a proposal for renewal shall be based on one or more adverse findings made with respect to the factors described in subparagraphs (A) through (D) of subsection (c)(1), pursuant to the record of the proceeding under subsection (c). A fran-

chising authority may not base a denial of renewal on a failure to substantially comply with the material terms of the franchise under subsection (c)(1)(A) or on events considered under subsection (c)(1)(B) in any case in which a violation of the franchise or the events considered under subsection (c)(1)(B) occur after the effective date of this title unless the franchising authority has provided the operator with notice and the opportunity to cure, or in any case in which it is documented that the franchising authority has waived its right to object, or has effectively acquiesced.

"(e)(1) Any cable operator whose proposal for renewal has been denied by a final decision of a franchising authority made pursuant to this section, or has been adversely affected by a failure of the franchising authority to act in accordance with the procedural requirements of this section, may appeal such final decision or failure pursuant to the provisions of section 635.

"(2) The court shall grant appropriate relief if the court finds that—

"(A) any action of the franchising authority is not in compliance with the procedural requirements of this section; or

"(B) in the event of a final decision of the franchising authority denying the renewal proposal, the operator has demonstrated that the adverse finding of the franchising authority with respect to each of the factors described in subparagraphs (A) through (D) of subsection (c)(1) on which the denial is based is not supported by a preponderance of the evidence, based on the record of the proceeding conducted under subsection (c).

"(f) Any decision of a franchising authority on a proposal for renewal shall not be considered final unless all administrative review by the State has occurred or the opportunity therefor has lapsed.

"(g) For purposes of this section, the term 'franchise expiration' means the date of the expiration of the term of the franchise, as provided under the franchise, as it was in effect on the date of the enactment of this title.

"(h) Notwithstanding the provisions of subsections (a) through (g) of this section, a cable operator may submit a proposal for the renewal of a franchise pursuant to this subsection at any time, and a franchising authority may grant or deny such proposal at any time (including after proceedings pursuant to this section have commenced). The provisions of subsections (a) through (g) of this section shall not apply to a decision to grant or deny a proposal under this subsection. The denial of a renewal pursuant to this subsection shall not affect action on a renewal proposal that is submitted in accordance with subsections (a) through (g).

"CONDITIONS OF SALE

"SEC. 627. (a) If a renewal of a franchise held by a cable operator is denied and the franchising authority acquires ownership of the cable system or effects a transfer of ownership of the system to another person, any such acquisition or transfer shall be—

"(1) at fair market value, determined on the basis of the cable system valued as a going concern but with no value allocated to the franchise itself, or

"(2) in the case of any franchise existing on the effective date of this title, at a price determined in accordance with the franchise if such franchise contains provisions applicable to such an acquisition or transfer.

"(b) If a franchise held by a cable operator is revoked for cause and the franchising authority acquires ownership of the cable system or effects a transfer of ownership of the system to another person, any such acquisition or transfer shall be—

"(1) at an equitable price, or

"(2) in the case of any franchise existing on the effective date of this title, at a price determined in accordance with the franchise if such franchise contains provisions applicable to such an acquisition or transfer.

"PART IV—MISCELLANEOUS PROVISIONS

"PROTECTION OF SUBSCRIBER PRIVACY

"SEC. 631. (a)(1) At the time of entering into an agreement to provide any cable service or other service to a subscriber and at least once a year thereafter, a cable operator shall provide notice in the form of a separate, written statement to such subscriber which clearly and conspicuously informs the subscriber of—

"(A) the nature of personally identifiable information collected or to be collected with respect to the subscriber and the nature of the use of such information;

"(B) the nature, frequency, and purpose of any disclosure which may be made of such information, including an identification of the types of persons to whom the disclosure may be made;

"(C) the period during which such information will be maintained by the cable operator;

"(D) the times and place at which the subscriber may have access to such information in accordance with subsection (d); and

"(E) the limitations provided by this section with respect to the collection and disclosure of information by a cable operator and the right of the subscriber under subsections (f) and (h) to enforce such limitations.

In the case of subscribers who have entered into such an agreement before the effective date of this section, such notice shall be provided within 180 days of such date and at least once a year thereafter.

"(2) For purposes of this section, the term 'personally identifiable information' does not include any record of aggregate data which does not identify particular persons.

"(b)(1) Except as provided in paragraph (2), a cable operator shall not use the cable system to collect personally identifiable information concerning any subscriber without the prior written or electronic consent of the subscriber concerned.

"(2) A cable operator may use the cable system to collect such information in order to—

"(A) obtain information necessary to render a cable service or other service provided by the cable operator to the subscriber; or

"(B) detect unauthorized reception of cable communications.

"(c)(1) Except as provided in paragraph (2), a cable operator shall not disclose personally identifiable information concerning any subscriber without the prior written or electronic consent of the subscriber concerned.

"(2) A cable operator may disclose such information if the disclosure is—

"(A) necessary to render, or conduct a legitimate business activity related to, a cable service or other service provided by the cable operator to the subscriber;

"(B) subject to subsection (h), made pursuant to a court order authorizing such disclosure, if the subscriber is notified of such order by the person to whom the order is directed; or

"(C) a disclosure of the names and addresses of subscribers to any cable service or other service, if—

"(i) the cable operator has provided the subscriber the opportunity to prohibit or limit such disclosure, and

"(ii) the disclosure does not reveal, directly or indirectly, the—

"(I) extent of any viewing or other use by the subscriber of a cable service or other service provided by the cable operator, or

"(II) the nature of any transaction made by the subscriber over the cable system of the cable operator.

"(d) A cable subscriber shall be provided access to all personally identifiable information regarding that subscriber which is collected and maintained by a cable operator. Such information shall be made available to the subscriber at reasonable times and at a convenient place designated by such cable operator. A cable subscriber shall be provided reasonable opportunity to correct any error in such information.

"(e) A cable operator shall destroy personally identifiable information if the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information under subsection (d) or pursuant to a court order.

"(f)(1) Any person aggrieved by any act of a cable operator in violation of this section may bring a civil action in a United States district court.

"(2) The court may award—

"(A) actual damages but not less than liquidated damages computed at the rate of $100 a day for each day of violation or $1,000, whichever is higher;

"(B) punitive damages; and

"(C) reasonable attorneys' fees and other litigation costs reasonably incurred.

"(3) The remedy provided by this section shall be in addition to any other lawful remedy available to a cable subscriber.

"(g) Nothing in this title shall be construed to prohibit any State or any franchising authority from enacting or enforcing laws consistent with this section for the protection of subscriber privacy.

"(h) A governmental entity may obtain personally identifiable information concerning a cable subscriber pursuant to a court order only if, in the court proceeding relevant to such court order—

"(1) such entity offers clear and convincing evidence that the subject of the information is reasonably suspected of engaging in criminal activity and that the information sought would be material evidence in the case; and

"(2) the subject of the information is afforded the opportunity to appear and contest such entity's claim.

"CONSUMER PROTECTION

"SEC. 632. (a) A franchising authority may require, as part of a franchise (including a franchise renewal, subject to section 626), provisions for enforcement of—

"(1) customer service requirements of the cable operator; and

"(2) construction schedules and other construction-related requirements of the cable operator.

"(b) A franchising authority may enforce any provision, contained in any franchise, relating to requirements described in paragraph (1) or (2) of subsection (a), to the extent not inconsistent with this title.

"(c) Nothing in this title shall be construed to prohibit any State or any franchising authority from enacting or enforcing

any consumer protection law, to the extent not inconsistent with this title.

"UNAUTHORIZED RECEPTION OF CABLE SERVICE

"SEC. 633. (a)(1) No person shall intercept or receive or assist in intercepting or receiving any communications service over a cable system, unless specifically authorized to do so by a cable operator or as may otherwise be specifically authorized by law.

"(2) For the purpose of this section, the term 'assist in intercepting or receiving' shall include the manufacture or distribution of equipment intended by the manufacturer or distributor (as the case may be) for unauthorized reception of any communications service offered over a cable system in violation of subparagraph (1).

"(b)(1) Any person who willfully violates subsection (a)(1) shall be fined not more than $1,000 or imprisoned for not more than six months, or both.

"(2) Any person who violates subsection (a)(1) willfully and for purposes of commercial advantage or private financial gain shall be fined not more than $25,000 or imprisoned for not more than one year, or both, for the first such offense and shall be fined not more than $50,000 or imprisoned for not more than two years, or both, for any subsequent offense.

"(c)(1) Any person aggrieved by any violation of subsection (a)(1) may bring a civil action in a United States district court or in any other court of competent jurisdiction.

"(2) The court may—

"(A) grant temporary and final injunctions on such terms as it may deem reasonable to prevent or restrain violations of subsection (a)(1);

"(B) award damages as described in paragraph (3); and

"(C) direct the recovery of full costs, including awarding reasonable attorneys' fees to an aggrieved party who prevails.

"(3)(A) Damages awarded by any court under this section shall be computed in accordance with either of the following clauses:

"(i) the party aggrieved may recover the actual damages suffered by him as a result of the violation and any profits of the violator that are attributable to the violation which are not taken into account in computing the actual damages; in determining the violator's profits, the party aggrieved shall be required to prove only the violator's gross revenue, and the violator shall be required to prove his deductible expenses and the elements of profit attributable to factors other than the violation; or

"(ii) the party aggrieved may recover an award of statutory damages for all violations involved in the action, in a sum of not less than $250 or more than $10,000 as the court considers just.

"(B) In any case in which the court finds that the violation was committed willfully and for purposes of commercial advantage or private financial gain, the court in its discretion may increase the award of damges, whether actual or statutory under subparagraph (A), by an amount of not more than $50,000.

"(C) In any case where the court finds that the violator was not aware and had no reason to believe that his acts constituted a violation of this section, the court in its discretion may reduce the award of damages to a sum of not less than $100.

"(d) Nothing in this title shall prevent any State or franchising authority from enacting or enforcing laws, consistent with this section, regarding the unauthorized interception or reception of any cable service or other communications service.

"EQUAL EMPLOYMENT OPPORTUNITY

"SEC. 634. (a) This section shall apply to any corporation, partnership, association, joint-stock company, or trust engaged primarily in the management or operation of any cable system.

"(b) Equal opportunity in employment shall be afforded by each entity specified in subsection (a), and no person shall be discriminated against in employment by such entity because of race, color, religion, national origin, age, or sex.

"(c) Any entity specified in subsection (a) shall establish, maintain, and execute a positive continuing program of specific practices designed to ensure equal opportunity in every aspect of its employment policies and practices. Under the terms of its program, each such entity shall—

"(1) define the responsibility of each level of management to ensure a positive application and vigorous enforcement of its policy of equal opportunity, and establish a procedure to review and control managerial and supervisory performance;

"(2) inform its employees and recognized employee organizations of the equal employment opportunity policy and program and enlist their cooperation;

"(3) communicate its equal employment opportunity policy and program and its employment needs to sources of qualified applicants without regard to race, color, religion, national origin, age, or sex, and solicit their recruitment assistance on a continuing basis;

"(4) conduct a continuing program to exclude every form of prejudice or discrimination based on race, color, religion, national origin, age, or sex, from its personnel policies and practices and working conditions; and

"(5) conduct a continuing review of job structure and employment practices and adopt positive recruitment, training, job design, and other measures needed to ensure genuine equality of opportunity to participate fully in all its organizational units, occupations, and levels of responsibility.

"(d)(1) Not later than 180 days after the effective date of this section, and after notice and opportunity for hearing, the commission shall prescribe rules to carry out this section.

"(2) Such rules shall specify the terms under which an entity specified in subsection (a) shall, to the extent possible—

"(A) disseminate its equal opportunity program to job applicants, employees, and those with whom it regularly does business;

"(B) use minority organizations, organizations for women, media, educational institutions, and other potential sources of minority and female applicants, to supply referrals whenever jobs are available in its operation;

"(C) evaluate its employment profile and job turnover against the availability of minorities and women in its franchise area;

"(D) undertake to offer promotions of minorities and women to positions of greater responsibility;

"(E) encourage minority and female entrepreneurs to conduct business with all parts of its operation; and

"(F) analyze the results of its efforts to recruit, hire, promote, and use the services of minorities and women and explain any difficulties encountered in implementing its equal employment opportunity program.

"(3) Such rules also shall require an entity specified in subsection (a) with more than 5 full-time employees to file with the Commission an annual statistical report identifying by race and sex the number of employees in each of the following full-time and part-time job categories:

"(A) officials and managers;
"(B) professionals;
"(C) techinicans;
"(D) sale persons;
"(E) office and clerical personnel;
"(F) skilled craft persons;
"(G) semiskilled operatives;
"(H) unskilled laborers; and
"(I) service workers.

The statistical report shall be available to the public at the central office and at every location where more than 5 full-time employees are regularly assigned to work.

"(4) The Commission may amend such rules from time to time to the extent necessary to carry out the provisions of this section. Any such amendment shall be made after notice and opportunity for comment.

"(e)(1) Except as provided in paragfraphs (5) and (6) and subsections (b) and (c), an entity specified in subsection (a) shall be certified by the Commission as in compliance with subsection (c) if, on the basis of statistical reports under subsection (d)(3) and other information in the possession of the Commission—

"(a) the total number of women employed by such entity is equal to at least 50 percent of the number which bears the same ratio to the total number of all persons employed by such entity as the portion of the available workforce in the area which are women;

"(B) the total number of women employed by such entity in each of the four job categories described in subsection (d)(3)(A)-(D) is equal to at least 50 percent of the number which bears the same ratio to the total number of all persons employed by such entity in such category as the portion of the available work force in the area which are women available for positions in such category;

"(C) the total number of members of each minority group employed by such entity is equal to at least 50 percent of the number which bears the same ratio to the total number of all persons employed by such entity as the portion of the available work force in the area which are of that minority group;

"(D) the total number of members of each minority group employed by such entity in each of the four job categories described in subsection (d)(3)(A)-(D) is equal to at least 50 percent of the number which bears the same ratio to the total number of all persons employed by such entity in such category as the portion of the available workforce in the area which are of that minority group and available for positions in such category; and

"(E) notwithstanding subparagraphs (B) and (D), the total number of women and members of each minority group respectively employed by such entity in the job categories of officials and managers, professionals, technicians, and sales persons, in the aggregate, is equal to at least 50 percent of the number which bears the same ratio to the total number of all persons employed by such entity in such categories as the portion of the available workforce in the area which are women and members of each minority group, respectively.

"(2)(A) For purposes of this subsection, the term 'portion of the available work force in the area', when used with respect to

any group, means the ratio that (i) the number of such group available in the labor recuritment area involved bears to (ii) the total number of persons available in the overall work force in such area.

"(B) In determining such ratio for purposes of paragraph (1)(B) and (D), only persons available for the positions involved shall be taken into account. In determining the availability of such persons for a specific job category under paragraph (1)(B) and (D), the Commission shall consider any Census data, statistics of the United States Department of Labor, or other similar evidence provided by any entity described in subsection (a) as to the lack of sufficient numbers of women or members of each minority group possessing the requisite skills in a specific job category, upon a showing that such entity used best efforts in attempting to recruit women and members of each minority group for that specific job category.

"(3) For purposes of this subsection, the term 'labor recruitment area' means, in the case of a cable system, an area designated by the Commission. In the case of any other entity described in subsection (a), such term means the United States.

"(4)(A) In the case of any entity described in subsection (a) having 5 or fewer full-time employees, the entity shall not be required to be certified under this subsection.

"(B) In the case of any entity described in subsection (a) having 11 or more full-time employees, the provisions of paragraph (1) shall be applied by substituting '60 percent' for '50 percent' each place it appears.

"(C) The requirements of this subsection shall not apply with respect to minority groups if minority group members constitute less than 5 percent, in the aggregate, of the work force in the entity's labor recruitment area.

"(5)(A) The Commission shall prescribe regulations pursuant to this subsection not later than one year after the effective date of this section.

"(B) Paragraph (1) shall not be effective for any entity during the 3-year period beginning on the date regulations are prescribed under this subsection.

"(C) During such 3-year period, the rules of the Commission implementing this subsection shall provide that any such entity specified in subsection (a) shall comply with the requirements applicable to such entity on the day before the date of the enactment of this section or such interim standards as the Commission may by rule prescribe.

"(f)(1) If the Commission finds after notice and hearing that the entity involved has willfully or repeatedly without good cause failed to comply with the requirements of this section, such failure shall constitute a substantial failure to comply with this title and the Commission shall revoke any certification under subsection (e) of this section; however, the failure to obtain certification under subsection (e) shall not itself constitute the basis for a determination of substantial failure to comply with this title. For purposes of this paragraph, the term 'repeatedly', when used with respect to failures to comply, refers to 3 or more failures during any 7-year period.

"(2) Any person who is determined by the Commission to have failed to meet or failed to make best efforts to meet the requirements of this section, or rules under this section, shall be liable to the United States for a forfeiture penalty or $200 for each violation. Each day of a continuing violation shall constitute a separate offense. Any entity defined in subsection (a) shall not be liable for more than 180 days of forfeitures which accrued prior to notification by the Commission of a potential violation. Nothing in this paragraph shall limit the forfeiture imposed on any person as a result of any violation that continues subsequent to such notification. In addition, any person liable for such penalty may also have license under this Act for cable auxiliary relay service suspended until the Commission determines that the failure involved has been corrected.

"(3) The provisions of paragraphs (3) and (4), and the last 2 sentences of paragraph (2), of section 503(b) shall apply to forfeitures under this subsection.

"(4) The Commission shall provide for notice to the public and appropriate franchising authorities of any penalty imposed under this section.

"(g) Employees or applicants for employment who believe they have been discriminated against in violation of the requirements of this section, or rules under this section, or any other interested person, may file a complaint with the Commission. A complaint by any such person shall be in writing, and shall be signed and sworn to by that person. The regulations under subsection (d)(1) shall specify a program, under authorities otherwise available to the Commission, for the investigation of complaints and violations, and for the enforcement of this section.

"(h)(1) For purposes of this section, the term 'cable operator' includes any operator of any satellite master antenna television system, including a system described in section 602(6)(A).

"(2) Such term does not include any operator of a system which, in the aggregate, serves fewer than 50 subscribers.

"(3) In any case in which a cable operator is the owner of a multiple unit dwelling, the requirements of this section shall only apply to such cable operator with respect to its employees who are primarily engaged in cable telecommunications.

"(i)(1) Nothing in this section shall affect the authority of any State or any franchising authority—

"(A) to establish or enforce any requirement which is consistent with the requirements of this section, including any requirement generally applicable to cable operators and other employers which affords greater equal employment opportunity protection for employees than is available under this section,

"(B) to establish or enforce any provision requiring or encouraging any cable operator to conduct business with enterprises which are owned or controlled by members of minority groups (as defined in section 309(i)(3)(C)(ii)) or which have their principal operations located within the community served by the cable operator; or

"(C) to enforce any requirement of a franchise in effect on the effective date of this title.

"(2) The remedies and enforcement provisions of this section are in addition to, and not in lieu of, those available under this or any other law.

"(3) The provisions of this section shall apply to any cable operator, whether operating pursuant to a franchise granted before, on, or after the date of the enactment of this section.

"JUDICIAL PROCEEDINGS

"SEC. 636. (a) Any cable operator adversely affected by any final determination made by a franchising authority under section 625 or 626 may commence an action within 120 days after receiving notice of such determination, which may be brought in—

"(1) the district court of the United States for any judicial district in which the cable system is located; or

"(2) in any State court of general jurisdiction having jurisdiction over the parties.

"(b) The court may award any appropriate relief consistent with the provisions of the relevant section described in subsection (a).

"COORDINATION OF FEDERAL, STATE, AND LOCAL AUTHORITY

"SEC. 636. (a) Nothing in this title shall be construed to affect any authority of any State, political subdivision, or agency thereof, or franchising authority, regarding matters of public health, safety, and welfare, to the extent consistent with the express provisions of this title.

"(b) Nothing is this title shall be construed to restrict a State from exercising jurisdiction with regard to cable services consistent with this title.

"(c) Except as provided in section 637, any provision of law of any State, political subdivision, or agency thereof, or franchising authority, or any provision of any franchise granted by such authority, which is inconsistent with this Act shall be deemed to be preempted and superseded.

"(d) For purposes of this section, the term 'State' has the meaning given such term in section 3(v).

"EXISTING FRANCHISES

"SEC. 637. (a) The provisions of—

"(1) any franchise in effect on the effective date of this title, including any such provisions which relate to the designation, use, or support for the use of channel capacity for public, educational, or governmental use, and

"(2) any law of any State (as defined in section 3(v)) in effect on the date of the enactment of this section, or any regulation promulgated pursuant to such law, which relates to such designation,use or support of such channel capacity,

shall remain in effect, subject to the express provisions of this title, and for not longer than the then current remaining term of the franchise as such franchise existed on such effective date.

"(b) for purposes of subsection (a) and other provisions of this title, a franchise shall be considered in effect on the effective date of this title if such franchise was granted on or before such effective date.

"CRIMINAL AND CIVIL LIABILITY

"SEC. 638. Nothing in this title shall be deemed to affect the criminal or civil liability of cable programmers or cable operators pursuant to the Federal, State, or local law of libel, slander, obscenity, incitement, invasions of privacy, false or misleading advertising, or other similar laws, except that cable operators shall not incur any such liability for any program carried on any channel designated for public, educational, governmental use or on any other channel obtained under section 612 or under similar arrangements.

"OBSCENE PROGRAMMING

"SEC. 639. Whoever transmits over any cable system any matter which is obscene or otherwise unprotected by the Constitution of the United States shall be fined not more than $10,000 or imprisoned not more than two years, or both.".

JURISDICTION

SEC. 3. (a)(1) Section 2(a) of the Communications Act of 1934 is amended by adding at the end thereof the following: "The provisions of this Act shall apply with respect to cable service, to all persons engaged within the United States in providing such service, and to the facilities of cable operators which relate to such service, as provided in title VI."

(2) Section 2(b) of such Act is amended by inserting after "section 301" the following: "and title VI".

(b) The provisions of this Act and amendments made by this Act shall not be construed to affect any jurisdiction the Federal Communications Commission may have under the Communications Act of 1934 with respect to any communication by wire or radio (other than cable service, as defined in section 602(5) of such Act) which is provided through a cable system, or persons or facilities engaged in such communications.

POLE ATTACHMENTS

SEC. 4. Section 224(c) of the Communications Act of 1934 is amended by adding at the end thereof the following new paragraph:

"(3) for purposes of this subsection, a State shall not be considered to regulate the rates, terms, and conditions for pole attachments—

"(A) unless the State has issued and made effective rules and regulations implementing the State's regulatory authority over pole attachments; and

"(B) with respect to any individual matter, unless the State takes final action on a complaint regarding such matter—

"(i) Within 180 days after the complaint is filed with the State, or

"(ii) Within the applicable period prescribed for such final action in such rules and regulations of the State, if the prescribed period does not extend beyond 360 days after the filing of such complaint.".

UNAUTHORIZED RECEPTION OF CERTAIN COMMUNICATIONS

SEC. 5. (a) Section 705 of the Communications Act is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsections:

"(b) The provisions of subsection (a) shall not apply to the interception or receipt by any individual, or the assisting (including the manufacture or sale) of such interception or receipt of any satellite cable programming for private viewing if—

"(1) the programming involved is not encrypted; and

"(2)(A) a marketing system is not established under which—

"(i) an agent or agents have been lawfully designated for the purpose of authorizing private viewing by individuals, and

"(ii) such authorization is available to the individual involved from the appropriate agent or agents; or

"(B) a marketing system described in subparagraph (A) is established and the individual receiving such programming has obtained authorization for private viewing under that system.

"(c) For purposes of this subsection—

"(1) the term 'satellite cable programming' means video programming which is transmitted via satellite and which is primarily intended for the direct receipt by cable operators for their retransmission to cable subscribers;

"(2) the term 'agent', with respect to any person, includes any employee of such person;

"(3) the term 'encrypt', when used with respect to satellite cable programming, means to transmit such programming in a form whereby the aural or visual characteristics (or both) are modified or altered for the purpose of preventing the unauthorized receipt of such programming by persons without authorized equipment which is designed to eliminate the effects of such modification or alteration; and

"(4) the term 'private viewing' means the viewing for private use in an individual's dwelling unit by means of equipment, owned or operated by such individual, capable or receiving satellite cable programming directly from a satellite.

"(d)(1) Any person who willfully violates subsection (a) shall be fined not more than $1,000 or imprisoned for not more than six months, or both.

"(2) Any person who violates subsection (a) willfully and for purposes of direct or indirect commercial advantage or private financial gain shall be fined not more than $25,000 or imprisoned for not more than one year, or both, for the first such offense and shall be fined not more than $50,000 or imprisoned for not more than two years, or both for any subsequent offense.

"(3)(A) Any person aggrieved by any violation of subsection (a) may bring a civil action in a United States district court or in any other court of competent jurisdiction.

"(B) The court may—

"(i) grant temporary and final injunctions on such terms as it may deem reasonable to prevent or restrain violations of subsection (a);

"(ii) award damages as described in subparagraph (C); and

"(iii) direct the recovery of full costs, including awarding reasonable attorneys' fees to an aggrieved party who prevails.

"(C)(i) Damages awarded by any court under this section shall be computed, at the election of the aggrieved party, in accordance with either of the following subclauses:

"(I) the party aggrieved may recover the actual damages suffered by him as a result of the violation and any profits of the violator that are attributable to the violation which are not taken into account in computing the actual damages; in determining the violator's profits, the party aggrieved shall be required to prove only the violator's gross revenue, and the violator shall be required to prove his deductible expenses and the elements of profit attributable to factors other than the violation; or

"(II) the party agrieved may recover an award of statutory damages for each violation involved in the action in a sum of not less than $250 or more than $10,000, as the court considers just.

"(ii) In any case in which the court finds that the violation was committed willfully and for purposes of direct or indirect commerical advantage or private financial gain, the court in its discretion may increase the award of damages, whether actual or statutory, by an amount of not more than $50,000.

"(iii) In any case where the court finds that the violator was not aware and had no reason to believe that his acts constituted a violation of this section, this section, the court in its discretion may reduce the award of damages to a sum of not less than $100.

"(4) The importation, manufacture, sale, or distribution of equipment by any person with the intent of its use to assist in the interception or receipt of radio communications prohibited by subsection (a) shall be subject to penalties and remedies under this subsection to the same extent and in the same manner as a person who has engaged in such prohibited interception or receipt.

"(5) The penalties under this subsection shall be in addition to those prescribed under any other provision of this title.

"(6) Nothing in this subsection shall prevent any State, or political subdivision thereof, from enacting or enforcing any laws with respect to the importation, sale, manufacture, or distribution of equipment by any person with the intent of its use to assist in the interception or receipt of radio communications prohibited by subsection (a).

"(d) Nothing in this section shall affect any right, obligation, or liability under title 17, United States Code, any rule, regulation, or order thereunder, or any other applicable Federal, State, or local law.".

(b) The amendments made by subsection (a) shall take effect on the effective date of this Act.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 6. (a) title VI of the Communications Act of 1934 (as in effect before the enactment of the this Act) is redesignated as title VII, and sections 601 through 610 are redesignated as sections 701 through 710, respectively.

(b)(1) Section 309(h) of the Communications Act of 1934 is amended by striking out "section 606" and inserting in lieu thereof "section 706".

(2) Section 2511 of title 18, United States Code, is amended—

(A) in subsection (2)(e), by striking out "section 605 or 606" and inserting in lieu thereof "section 705 or 706"; and

(B) in subsection (2)(f), by striking out "section 605" and inserting in lieu thereof "section 705".

(3) Section 105(f)(2)(C) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(f)(2)(C)) is amended by striking out "section 605" and inserting in lieu thereof "section 705".

EFFECTIVE DATE

SEC. 7. (a) Except where otherwise expressly provided, the provisions of this Act and the amendments made thereby shall take effect 60 days after the date of enactment of this Act.

(b) Nothing in section 623 or 624 of the Communications Act of 1934, as added by this Act, shall be construed to allow a franchising authority, or a State or any political subdivision of a State, to require a cable operator to restore, retier, or reprice any cable service which was lawfully eliminated, retiered, or repriced as of September 26, 1984.

The SPEAKER pro tempore. Is a second demanded?

Mr. RINALDO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Colorado [Mr. WIRTH] will be recognized for 20 minutes and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. WIRTH].

Mr. WIRTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am delighted that the full House finally has this opportunity to set national policy concerning cable television. The consensus legislation before us today, H.R. 4103, is a major milestone in the decade long effort to update the Communications Act of 1934.

America stands on the threshold of an information revolution which promises to enrich and enhance the life of every citizen. Cable television, perhaps more than any other medium, has the potential to deliver the benefits of the information age into the homes of our citizens. The Communications Act of 1934 was passed well before the advent of cable television, and it is time that we update that law to encourage the growth and development of cable television. Cable television holds a unique potential to deliver an enormous diversity of information services and sources to the American public. We must bring our outdated communications laws into the information age.

H.R. 4103 represents sound public policy. This legislation has not been put together hastily; it is a carefully crafted set of compromises that has emerged from over 3 years of hearings, discussions, and negotiations by members of the Committee on Energy and Commerce, and representatives of the cities, the cable industry, and many others. Today, we stand before the full House with a compromise bill that both the cities and the cable industry can wholeheartedly support.

I commend and congratulate the representatives of the Nation's cities and the representatives of the cable industry for reaching the final compromise agreement which cleared the way for this bill to move forward on a noncontroversial, consensus basis. This bill is strongly supported by the National League of Cities and the U.S. Conference of Mayors, and the National Cable Television Association. I also wish to commend JOHN DINGELL, the chairman of the Committee on Energy and Commerce, for his patient and repeated efforts to bring the parties together to forge a compromise agreement.

The end result of this long and, at times, difficult compromise process—H.R. 4103—is sound public policy that will work to serve the best interests of consumers, local franchising authorities, and the cable television industry.

It is important to know that the concerns expressed by the telephone industry with the original draft of H.R. 4103 were addressed and resolved during full committee consideration of the legislation. A compromise amendment offered by Representative SWIFT to narrow the definition of cable service was adopted by the full committee, and is supported by the cable industry, the Communication Workers of America, and representatives of Pacific Telephone.

Before we proceed, I would like to inform my colleagues that section 633, consumer access to cable service, was deleted from H.R. 4103 and is not part of the legislation we will consider today. I am disappointed and consider this very unfortunate. I included this section in H.R. 4103 when I introduced the original bill last year, and have fought for its retention at every step of the legislative process. Were I the sole decisionmaker on this bill, the section would still be part of the package in front of you.

The purpose of that provision was to ensure that all consumers including those who reside in apartments and mobile home parks, had the opportunity to receive cable service, which is an increasingly important source of information and programming in the American home. The provision prohibited landlords from interfering with a consumer's ability to receive cable service—an increasing troublesome problem whereby landlords become the ultimate electronic editors, deciding to what sources of electronic information, if any, a consumer shall have access.

A number of States have enacted laws to provide for citizen access so that consumers would not be denied access to the increasing wealth of programming and services available over cable television. I applaud these efforts and, of course, the fact that a similar provision is no longer part of H.R. 4103 in no way affects the applicability of those State laws. I hope my colleagues will join with me in the future to see to it that a similar Federal provision is enacted.

H.R. 4103 establishes a comprehensive national policy that clarifies the current patchwork of local, State, and Federal regulation of cable television. Existing cable regulation has frustrated the development of cable television, depriving the viewing public of the full diversity of informaiton and services cable has the potential to provide.

The bill sets forth franchise procedures and standards to encourage the growth of cable, and to ensure that cable systems are responsive to the needs and interests of the local communities they serve. The legislation also contains provisions to help ensure that cable systems provide the widest possible diversity of information services and sources to the public, consistent with the first amendment's promise of a vibrant marketplace of ideas.

For instance, H.R. 4103:

Grants cities explicit authority to require public, governmental, and educational [PEG] access channels, providing the opportunity for local governments, schools, and community groups to reach the public;

Requires cable operators, to set aside channels for commercial leased access, free from the editorial control of the cable operator, to encourage an increase in the sources of programming available to the public;

Requires that cable service be made available in all areas of a city, so that residents of low-income areas are not deprived of the cable services and programming;

Includes measures to safeguard and protect the privacy of cable subscribers;

Establishes restrictions on the ownership of a cable system by the owners of a local television station, owners of a daily newspaper published in the same community, and local telephone companies to promote a greater diversity of ownership of cable systems; and

Requires a cable operator to establish a program to ensure equal employment opportunity in all aspects of its employment policies and practices, in order to foster participation by women and minorities in the cable industry.

Municipal authority over cable television has, and continues to be, challenged at the FCC and in the courts. The legislation protects local authority over cable television in several important respects. H.R. 4103 as amended:

Grants cities the authority to award one or more cable franchises in its jurisdiction;

Permits cities to collect a franchise fee of up to 5 percent of the operator's gross revenues to compensate the city for regulatory costs and for other purposes;

Gives the franchising authority the explicit authority to require the upgrading of facilities and channel capacity during the renewal process;

Allows cities the authority to deny an incumbent operator's renewal proposal if any of four standards are not met by the cable operator;

Preserves municipal authority to enforce franchise agreements and to establish provisions for the enforcement of customer service requirements; and

Finally, under the most recent compromise agreement between the cities and cable industry, municipal rate regulation for basic service is grandfathered for 2 years, but cable operators cannot be forced to retier, replace, or reprice services which have already been lawfully changed.

By establishing a national regulatory framework for cable television, H.R. 4103 will encourage the growth and development of cable television. The legislation contains several provisions to provide the industry with the certainty and stability it needs to make large financial investments to construct and operate cable systems. For instance, as amended, H.R. 4103:

Establishes procedures and standards to protect the cable operator

from an unfair renewal process by the franchising authority;

Deregulates the rates charged for basic cable service in 2 years, allowing the marketplace to dictate the price for cable programming and services;

Establishes criminal penalties for the unauthorized reception or theft of cable services which currently robs cable operators and subscribers of millions of dollars of revenue each year;

Ensures a cable operator will receive an equitable or fair market price for the cable system if the franchise is revoked or not renewed; and

Allows operators to seek modification of a franchise's service requirements if the operator can show that the mix, quality, and level of services originally required will be maintained under the modification.

H.R. 4103 AS AMENDED

H.R. 4103 as amended incorporates the recent agreement on rate regulation reached by representatives of the cities and the cable industry. The legislation before us today also includes several clarifying changes to sharpen the bill's language to make it more in line with the committee's intent in the sections on renewal, franchise fees, and equal employment opportunity.

RATE REGULATION

H.R. 4103 as amended before us today reduces the 4-year transitional period for municipal rate regulation which was in the bill, to 2 years. In addition, the bill provides that cable systems which have retiered or repriced cable services in reliance upon the FCC's Nevada decision cannot be required to restore, retier, or replace such services where the change in pricing or tiering occurred as of September 26 1984.

In addition to the compromise agreement on rate regulation, several clarifying and noncontroversial changes in H.R. 4103 were also agreed to. The clarifying changes in the renewal, franchise fee, judicial proceedings, telephone cross-ownership, and equal employment opportunity provisions include:

Clarification of renewal provisions, allowing a franchising authority and the incumbent operator to agree to a renewal of the franchise without implementing administrative procedures, and a statement of purpose that the cable operator is protected against an unfair denial of the franchise;

Clarification of the franchise fee provisions to permit the prepayment or deferred payment of a franchise fee, as long as the 5 percent of gross revenues annual cap is not exceeded;

Extension from 60 to 120 days for the time period in which an operator may bring actions in court under sections 626 or 625;

H.R. 4103 as amended would allow the FCC in certain circumstances to grant waivers to telephone companies to allow them to own cable systems where cable service would otherwise be denied to local residents; and

Clarification of the equal employment opportunity provisions stating that the failure of an operator to obtain certification shall not itself constitute the basis for a determination of substantial failure to comply with this title. This amendment is further intended to clarify that failure to employ members of minority groups and women at the prescribed parity levels is not by itself a violation of this title.

H.R. 4103 is consensus legislation and sound public policy that will work to better serve consumers, municipalities, and the cable industry. The legislation will encourage the growth and development of cable, enhancing cable's programming and services and, by preserving municipal authority in key areas, work to ensure that cable operators are responsive to the needs and interests of the communities they serve.

I urge my colleagues to join me in support of H.R. 4103.

Mr. Speaker, there are a number of amendments which have been made to H.R. 4103 as reported by the committee which are contained in the bill before us today. The amendments made to the bill as reported by committee are indicated below. (The page and line designations correspond to the Union Calendar Print—No. 533.) A short description of each amendment follows the list of amendments:

AMENDMENT NO. 1

Page 23, line 11, strike out "four-year period" and insert in lieu thereof "two-year period".

Page 60, line 6, insert "(a)" after the section designation.

Page 60, after line 9, add the following:

(b) Nothing in section 623 or 624 of the Communications Act of 1934, as added by this Act, shall be construed to allow a franchising authority, or a State or any political subdivision of a State, to require a cable operator to restore, retier, or reprice any cable service which was lawfully eliminated, retiered, or repriced as of September 26, 1984.

AMENDMENT NO. 2

Page 31, line 13, after the second comma, insert "issue a preliminary assessment that the franchise should not be renewed and,".

AMENDMENT NO. 3

Page 3, line 17, strike out "and".

Page 3, line 20, strike out the period and insert "; and".

Page 3, after line 20, insert the following:

"(5) establish a process which protects cable operators against unfair denials of renewal by franchising authorities and which provides for an orderly process for consideration of renewal proposals.".

AMENDMENT NO. 4

Page 3, line 20, after "service" insert ", including signal quality, response to consumer complaints, and billing practices, but without regard to the mix, quality, or level of cable services or other services provided over the system,".

AMENDMENT NO. 5

Page 34, after line 2, insert the following:

"(h) Notwithstanding the provisions of subsections (a) through (g) of this section, a cable operator may submit a proposal for the renewal of a franchise pursuant to this subsection at any time, and a franchising authority may grant or deny such proposal at any time (including after proceedings pursuant to this section have commenced). The provisions of subsections (a) through (g) of this section shall not apply to a decision to grant or deny a proposal under this subsection. The denial of a renewal pursuant to this subsection shall not affect action on a renewal proposal that is submitted in accordance with subsections (a) through (g)."

AMENDMENT NO. 6

Page 32, line 23, after the period insert the following: "A franchising authority may not base a denial of renewal on a failure to substantially comply with the material terms of the franchise under subsection (c)(1)(A) or on events considered under subsection (c)(1)(B) in any case in which a violation of the franchise or the events considered under subsection (c)(1)(B) occur after the effective date of this title unless the franchising authority has provided the operator with notice and the opportunity to cure, or in any case in which it is documented that the franchising authority has waived its right to object, or has effectively acquiesced.".

AMENDMENT NO. 7

Page 55, line 18, strike out "sixty" and insert in lieu thereof "one hundred twenty".

AMENDMENT NO. 8

Page 19, line 22, insert after the period the following: "Nothing in this subsection shall prohibit a franchising authority and a cable operator from agreeing that franchise fees which lawfully could be collected for any such twelve-month period shall be paid on a prepaid or deferred basis; except that the sum of the fees paid during the term of the franchise may not exceed the amount, including the time value of money, which would have lawfully been collected if such fees had been paid per annum.".

AMENDMENT NO. 9

Page 27, line 22, after the comma, insert "including public, educational, or governmental access facilities or equipment,".

Page 30, line 6, strike out "facilities".

AMENDMENT NO. 10

Page 16, after line 10 insert the following new paragraph:

"(4) In those areas where the provision of video programming directly to subscribers through a cable system demonstrably could not exist except through a cable system owned by, operated by, controlled by, or affiliated with the common carrier involved, or upon other showing of good cause, the Commission may, on petition for waiver, waive the applicability of paragraphs (1) and (2) of this subsection. Any such waiver shall be made in accordance with section 63.56 of title 47, Code of Federal Regulations (as in effect September 20, 1984) and shall be granted by the Commission upon a finding that the issuance of such waiver is justified by the particular circumstances demonstrated by the petitioner, taking into account the policy of this subsection.".

AMENDMENT NO. 11

Page 13, line 13, strike out everything beginning with "If" through "subsection (b)," on line 15, and insert in lieu thereof the following: "If the Commission finds that the channel capacity sought by such person has

not been made available in accordance with this section,".

AMENDMENT NO. 12

Page 52, strike out paragraph (5) of section 635(e), beginning on line 1 and ending on line 9.

Page 52, line 10, redesignate paragraph (6) as paragraph (5).

Page 52, after line 21, insert the following new paragraph:

"(f)(1) If the Commission finds after notice and hearing that the entity involved has willfully or repeatedly without good cause failed to comply with the requirements of this section, such failure shall constitute a substantial failure to comply with this title and the Commission shall revoke any certification under subsection (e) of this section; however, the failure to obtain certification under subsection (e) shall not itself constitute the basis for a determination of substantial failure to comply with this title. For purposes of this paragraph, the term 'repeatedly', when used with respect to failures to comply, refers to 3 or more failures during any 7-year period.".

Page 52, line 22, redesignate subsection (f)(1) as paragraph (2).

Page 53, line 12, redesignate paragraph (2) as paragraph (3).

Page 53, line 15, redesignate paragraph (3) as paragraph (4).

AMENDMENT NO. 13

Page 59, strike out lines 7 through 10 and insert in lieu thereof the following:

"(B) with respect to any individual matter, unless the State takes final action on a complaint regarding such matter—

"(i) within 180 days after the complaint is filed with the State, or

"(ii) within the applicable period prescribed for such final action in such rules and regulations of the State, if the prescribed period does not extend beyond 360 days after the filing of such complaint.".

AMENDMENT NO. 14

Page 57, strike out lines 3 through 5 and insert in lie thereof the following:

"(2) any law of any State (as defined in section 3(v)) in effect on the date of the enactment of this section, or any regulation promulgated pursuant to such law, which relates to such designation, use or support of such channel capacity,".

AMENDMENT NO. 15

Page 17, beginning on line 21, strike out "except that in using such easements" and all that follows down through line 23 and insert in lieu thereof the following: "except that in using such easements the cable operator shall ensure—

"(A) that the safety, functioning, and appearance of the property and the convenience and safety of other persons may be adversely affected by the installation or construction of facilities necessary for cable system;

"(B) that the cost of the installation, construction, operation, or removal of such facilities be borne by the cable operator or subscriber, or a combination of both; and

"(C) that the owner of the property be justly compensated by the cable operator for any damages caused by the installation, construction, operation, or removal of such facilities by the cable operator.".

Page 40, strike out section 633, beginning on line 3 and ending on line 18 of page 42.

Redesignate the following sections and conform the table of contents and cross references accordingly.

AMENDMENT NO. 16

Page 59, after line 10, insert the following new section:

"unauthorized reception of certain communications

"SEC. 5. (a) Section 605 of the Communications Act (47) U.S.C. 605) is amended by inserting '(a)' after the section designation and by adding at the end thereof the following new subsections:

"(b) The provisions of subsection (a) shall not apply to the interception or receipt by any individual, or the assisting (including the manufacture or sale) of such interception or receipt of any satellite cable programming for private viewing if—

"(1) the programming involved is not encrypted; and

"(2)(A) a marketing system is not established under which—

"(i) an agent or agents have been lawfully designated for the purpose of authorizing private viewing by individuals, and

"(ii) such authorization is available to the individual involved from the appropriate agent or agents; or

"(B) a marketing system described in subparagraph (A) is established and the individual receiving such programming has obtained authorization for private viewing under that system.

"(c) For purposes of this subsection—

"(1) the term 'satellite cable programming' means video programming which is transmitted via satellite and which is primarily intended for the direct receipt by cable operators for their retransmission to cable subscribers;

"(2) the term 'agent', with respect to any person, includes an employee of such person;

"(3) the term 'encrypt', when used with respect to satellite cable programming, means to transmit such programming in a form whereby the aural or visial characteristics (or both) are modified or altered for the purpose of preventing the unauthorized receipt of such programming by persons without authorized equipment which is designed to eliminate the effects of such modification or alteration; and

"(4) the term 'private viewing' means the viewing for private use in an individual's dwelling unit by means of equipment, owned or operated by such individual, capable of receiving satellite cable programming directly from a satellite.

"(d)(1) Any person who willfully violates subsection (a) shall be fined not more than $1,000 or imprisoned for not more than six months, or both.

"(2) Any person who violates subsection (a) willfully and for purposes of direct or indirect commercial advantage or private financial gain shall be fined not more than $25,000 or imprisoned for not more than one year, or both, for the first such offense and shall be fined not more than $50,000 or imprisoned for not more than two years, or both, for any subsequent offense.

"(3)(A) Any person aggrieved by any violation of subsection (a) may bring a civil action in a United States district court or in any other court of competent jurisdiction.

"(B) The court may—

"(i) grant temporary and final injunctions on such terms as it may deem reasonable to prevent or restrain violations of subsection (a);

"(ii) award damages as described in subparagraph (C); and

"(iii) direct the recovery of full costs, including awarding reasonable attorneys' fees to an aggrieved party who prevails.

"(C)(i) Damages awarded by any court under this section shall be computed, at the election of the aggrieved party, in accordance with either of the following subclauses:

"(I) the party aggrieved may recover the actual damages suffered by him as a result of the violation and any profits of the violator that are attributable to the violation which are not taken into account in computing the actual damages; in determining the violator's profits, the party aggrieved shall be required to prove only the violator's gross revenue, and the violator shall be required to prove his deductible expenses and the elements of profit attributable to factors other than the violation; or

"(II) the party aggrieved may recover an award of statutory damages for each violation involved in the action in a sum of not less than $250 or more than $10,000, as the court considers just.

"(ii) In any case in which the court finds that the violation was committed willfully and for purposes of direct or indirect commercial advantage or private financial gain, the court in its discretion may increase the award of damages, whether actual or statutory, by an amount of not more than $50,000.

"(iii) In any case where the court finds that the violator was not aware and had no reason to believe that his acts constituted a violation of this section, the court in its discretion may reduce the award of damages to a sum of not less than $100.

"(4) The importation, manufacture, sale, or distribution of equipment by any person with the intent of its use to assist in the interception or receipt of radio communications prohibited by subsection (a) shall be subject to penalties and remedies under this subsection to the same extent and in the same manner as a person who has engaged in such prohibited interception or receipt.

"(5) The penalties under this subsection shall be in addition to those prescribed under any other provision of this title.

"(6) Nothing in this subsection shall prevent any State, or political subdivision thereof, from enacting or enforcing any laws with respect to the importation, sale, manufacture, or distribution of equipment by any person with the intent of its use to assist in the interception or receipt of radio communications prohibited by subsection (a).

"(d) Nothing in this section shall affect any right, obligation, or liability under title 17, United States Code, any rule, regulation, or order thereunder, or any other applicable Federal, State, or local law.".

(b) The amendments made by subsection (a) shall take effect on the effective date of this Act.

Page 59, line 12, redesignate section 5 as section 6.

Page 60, line 6, redesignate section 6 as section 7.

SECTION 623—REGULATION OF RATES

Amendment No. 1

Under H.R. 4103 as amended, the four-year transition period established for municipal regulation is reduced to two years. That is, municipal authority to regulate the rates for basic service, as defined in H.R. 4103 (and not by the FCC), will be permitted for two years after the effective date of the legislation.

Under H.R. 4103 as amended, the cable operators who have already realigned programming or changed rates as of September 26, 1984 in accordance with the FCC's

Nevada decision cannot be required to rollback program packages or rates to their pre-*Nevada* status. However, H.R. 4103 as amended does not affect any legal challenge available to *Nevada* decision, or arising from the *Nevada* decision.

SECTION 626—RENEWAL

Amendment No. 2

An amendment to require a franchising authority to make a preliminary assessment that a franchise should not be renewed prior to the commencement of the administrative proceeding in Section 626.

SECTION 601—PURPOSES

Amendment No. 3

An amendment to include as a purpose of H.R. 4103 establishment of a process to protect cable operators against an unfair denial or renewal, and the establishment of an orderly process for consideration of an incumbent operator's renewal proposal.

SECTION 626—RENEWAL

Amendment No. 4

An amendment to clarify that the word "service" in the 626(c)(1)(B) standard for renewal should not be construed to mean programming or other services offered over the system.

Amendment No. 5

An amendment to clarify that the franchising authority and the incumbent cable operator may agree to renewal of the franchise without implementing the administrative procedures set forth in Section 626.

Amendment No. 6

An amendment to condition a denial or renewal under 626(C)(1)(A) or (B), for events occuring after the effective date, on the franchising authority having provided notice and opportunity to cure, and to preclude denial in any case where the franchising authority has waived its right to object or has acquiesced.

SECTION 636—JUDICIAL PROCEEDINGS

Amendment No. 7

An amendment to extend to 120 days the time period in which a cable operator may bring a court action under section 636.

SECTION 622—FRANCHISE FEES

Amendment No. 8

An amendment to clarify that the franchise fee cap of 5 percent of gross revenues per twelve months does not preclude up front lump sum or deferred payments if the effect of such payments will not increase the operator's financial liability in excess of that which would have accrued if such fees had been paid annually.

SECTION 624—REGULATION OF SERVICES, FACILITIES, AND EQUIPMENT

SECTION 625—MODIFICATION OF FRANCHISE OBLIGATIONS

Amendment No. 9

An amendment to clarify that the contract modification section does apply to public, educational, and governmental access facilities and equipment provisions in franchises.

SECTION 613—TELEPHONE/CABLE CROSS-OWNERSHIP RESTRICTIONS

Amendment No. 10

The policy of subsection 613(b) is that telephone companies should not provide video programming directly to subscribers in their telephone service areas. The Commission's waiver authority should be narrowly construed and not exercised in a manner that would undermine this basic policy.

SECTION 612—CABLE CHANNELS FOR COMMERCIAL USE

Amendment No. 11

An amendment to clarify that the FCC is to make the same finding that a court is instructed to make with respect to whether channel capacity was made available in accordance with the section.

SECTION 635—EQUAL EMPLOYMENT OPPORTUNITY

Amendment No. 12

An amendment to clarify that the failure of a cable operator to obtain certification under subsection (e) does not in and of itself constitute a violation of the EEO provisions. Moreover, the amendment clarifies the Committee's intent that failure of an operator to employ members of minority groups and/or women at the prescribed parity levels does not in and of itself constitute a violation of this title.

SECTION 4—POLE ATTACHMENTS

Amendment No. 13

An amendment which allows a state up to 360 days to take action on a pole attachment case, if such a period is provided for in the state's rules and procedures governing pole attachments, before a state shall not be considered to regulate the rates, terms, and conditions of pole attachments.

SECTION 638—EXISTING FRANCHISES

Amendment No. 14

An amendment clarifying that only an existing state law, and any regulation promulgated under such a law, related to public, educational or governmental access, are subject to grandfathering under section 638.

SECTION 621--GENERAL FRANCHISE REQUIREMENTS

Amendment No. 15

An amendment which places in section 621 the standards applicable to the cable operator's use of easements.

The amendment deletes section 633 of the bill as reported by Committee.

A new section has been added which amends section 705 of the Communications Act of 1934, as redesignated by this Act. A complete explanation of this amendment follows:

Amendment No. 16

Explanation of Section 705 as Redesignated and Amended by H.R. 4103

Introduction

A new section has been added to H.R. 4103 as amended which adds new provisions to existing section 605 of the Communications Act (to be redesignated as section 705). These provisions deal with issues that the Subcommittee on Telecommunications first examined some three years ago—the growing practice of individuals taking down satellite delivered programming for private, home viewing by means of privately owned backyard earth stations, as well as the increasing need to adopt stronger penalties and remedies for the unauthorized interception of signals prohibited under section 605.

Before explaining various aspects of this new provision, I would like to commend my colleague, Congressman Al Gore, for his tireless efforts aimed at protecting individuals who receive unscrambled video programming signals by means of backyard satellite dishes. I would also like to take this opportunity to especially thank the representatives of the motion picture industry, and to express my appreciation to the representatives of pay cable services, the commercial television networks, professional sports and the satellite dish industry, for their diligent efforts aimed at arriving at a fair and balanced resolution of this issue.

The bill before us today includes a provision, to be a part of new section 705 of the Communications Act, dealing with the private reception of satellite cable programming and the unauthorized interception of such programming.

Section 705 will provide a strengthened statutory basis for deterring satellite video piracy. At the same time, it provides a specific, limited exemption under which individual satellite dish owners can be authorized to receive unscrambled signals without being subject to liability. In that respect, the intent of new section 705 is to facilitate the creation of an efficient, non-burdensome marketplace mechanism to authorize satellite dish owners to receive unencrypte satellite programming.

By adopting this provision there is no intention to pass judgment on any particular case that was, or was not decided under section 605 of the Communications Act as that section presently exists (prior to this amendment). The amendments made by this legislation are intended, however, to provide satellite cable program suppliers in the future with two clear alternatives for the protection of their satellite transmissions. They may either scramble their signal, or leave their signal unscrambled and establish a marketing system that results in individuals being authorized to receive the satellite cable programming through a compensation scheme. If unauthorized interception of satellite cable programming occurs after either of these two approaches have been followed, then a satellite cable programmer will have the ability to pursue the greatly strengthened penalties and remedies new section 705 provides.

What the amendment made by section 5 of H.R. 4103 accomplishes is to retain the language of the current section 605, while adding a provision dealing solely with authorizing the receipt and use of unencrypted satellite programming. This authorization is carefully designed as a specific, limited excepted to the general liability associated with unauthorized use.

By participating in the authorization program, the individual satellite dish owner can protect himself from liability for unauthorized use of unencrypted satellite programming. Similarly, the manufacturers, importers, distributors or sellers of satellite receiving equipment may secure protection against liability under section 705(a) for assisting in the unauthorized use of unencrypted satellite programming. In addition, unauthorized use liability, in the context of unencrypted satellite programming, would not attach to either the individual dish owner or the manufacturer, importer, distributor or seller if an authorization program for the receipt of payment is not established and made available.

Moreover, section 5 of the bill adds a provision strengthening penalties for the unauthorized reception and use of all communications protected by section 605, including satellite cable programming. This provision is designed to deter so-called "video piracy" and protect the legitimate proprietary interest of satellite delivered cable programmers.

Scope of committee amendment

H.R. 4103 a reported by Committee recodifies without modification section 605 to the Communications Act of 1934 as new section 705(a). In amending existing section 605, it is intended to leave undisturbed the case

law that has developed confirming the broad reach of section 605 as a deterrent against piracy of protected communications. Over the years federal courts, consistent with congressional intent, have recognized that section 605 provided broad protection against the unauthorized interception of various forms of radio communications. It is the Committee's intention that the amendment preserve these broad protections; that all acts which presently constitute a violation of present section 605 shall continue to be unlawful under that section as amended and redesignated by H.R. 4103.

Section 605 not only prohibits unauthorized interception of traditional radio communications, but also communications transmitted by means of new technologies. For example, existing section 605 provides protection against the unauthorized reception of subscription television (STV), multipoint distribution services (MDS), and satellite communications. This amendment made by section 5 of the bill is intended to preserve this broad reach of existing section 605 and to make clear that all communications covered under section 605, will continue to be protected under new section 705(a).

Moreover, existing section 605 is not limited to holding liable only those who, without authorization, actually receive a particular communication. Those who "assist" (including sellers and manufacturers) in receiving such communications are similarily liable under section 605, and it is intended that this liability also remain undisturbed by this amendment.

SUBSECTION (b)

New section 705(b) prescribes a very limited exception to liability under subsection (a) to enable an individual to receive authorization to intercept or receive satellite cable programming that is unencrypted as defined in paragraph 2(B). The purpose of section 705(b) is to facilitate a marketplace solution to the specific situation in which an individual using a backyard earth station intercepts or receives unencrypted satellite cable programming for private use in his own dwelling.

Specifically, subsection (b) states that the provisions of subsection (a) shall not apply to the interception or receipt of unencrypted satellite cable programming if the following conditions are met:

(1) the satellite cable programming involved is unencrypted;

(2) a program exists under which an agent or agents has been appointed for the purpose of authorizing private viewing of satellite cable programming by individuals, and such authorization is made available pursuant to a marketplace negotiation; and

(3) the individual receiving such satellite cable programming has obtained authorization, which is made available pursuant to (b)(2), to receive such programming.

One of the underlying premises of the subsection (b) exemption is that the marketplace is fully capable of reaching, without any government intervention, a solution to the problem of unauthorized interception and receipt of encrypted satellite cable programming. The technology associated with encrypting, encoding, scrambling or otherwise altering a signal so that a special device is required to receive an intelligible signal, enables parties with the rights to the programming to control the distribution of their product in a manner that provides an incentive for them to make their product available to the satellite home viewer. Accordingly, the narrow exception to subsection (a) applies only to the more difficult problem of receipt or interception or unencrypted or unaltered satellite cable programming.

Moreover, subsection (b) is based on the premise that even in the case of unencrypted or otherwise unaltered satellite cable programming, government involvement should be minimized. Therefore, subsection (b)(2)(A) envisions the creation of a marketing system or other marketplace mechanism whereby individuals can enjoy the private viewing of unencrypted satellite cable programming if they receive authorization from those that have the proprietary interest in that which is being intercepted or received. The burden of establishing such a system or mechanism rests with those who control the unencrypted satellite cable programming intercepted or received. If such a machanism is not established, liability under subsection (a) for the interception or receipt of unencrypted satellite cable programming shall not apply. Furthermore, subsection (b) envisions a licensing mechanism that is put forward in good faith and is truly operational, and is not a mere sham or avoidance scheme to deny individuals the opportunity to privately view unencrypted satellite cable programming free from liability. Finally, subsection (b) requires that the individual actually obtain the authorization that is made available under (b)(2).

It is important to understand that if those with a proprietary interest in the satellite cable programming do not authorize through the lawful designation of an agent or some other mechanism the private viewing of unencrypted programming, then no liability can be found. At the same time, should an agency be established and made operational and the individual fail to obtain authorization, liability under subsection (a) for the private viewing of unencrypted satellite cable programming shall apply and the full penalties available under subsection (d) shall be applicable.

The provisions of subsection (b) grant maximum flexibility to the marketplace to permit a reasonable, flexible and efficient system to emerge. An agent or agents can be designated by those who can lawfully authorize the reception or interception of the satellite cable programming transmitted. It should be noted that this subsection addresses only the requirement that a program for the purpose of authorizing receipt of an unencrypted signal for private viewing be established as a prerequisite to applying the civil and criminal penalties contained in this section. The issue of who may provide such authorization, and for what program or program service, will continue to be governed by existing copyright law and contract.

Proprietary interest holders are free to joint together to form collection associations. Moreover, authorization for an individual might be obtained through cooperation with manufacturers and deales in a point of equipment sale licensing plan for particular signals. it is clearly envisioned that a marketplace solution will emerge to meet the needs of satellite dish owners while protecting those with the proprietary rights in the transmitted programming.

SUBSECTION (c): DEFINITIONS

"Satellite cable programming"

As noted above, subsection (b) of this amendment is intended to create a limited and strictly conditioned exception to the liability which applies under subsection (a) for the interception of satellite programming signals. Where a satellite signal does not satisfy the definition of "satellite cable programming", an individual's liability for unauthorized interception and use of the signal is not subject to the exemption provided under subsection (b).

"Satellite cable programming" includes video programming and its accompanying audio. The definition does not contemplate programming qualitatively different than what is commonly understood to be "video programming". Thus, the definition does not include, for example, data transmissions in alphanumeric or other forms. These remain covered under new section 705(a) with no exception to liability provided.

The interception of the "satellite cable programming" must in fact be directly from the satellite feed in order to come within the terms of the exemption to liability set forth in subsection (b). Unauthorized interception of such programming in its retransmitted form, where the form of retransmission is otherwise protected under subsection (a) or other relevant law, is clearly prohibited. Thus, if the programming intercepted is transmitted, for instance, by means of the multipoint distribution service (MDS), or subscription television (STV), liability for such interception shall apply regardless of whether those controlling satellite cable programming have established a system under subsection (b) (2).

Closed-circuit sports and special events transmissions, whether on a regular or ad hoc basis, may be primarily intended for viewing by paying customers in public places where local promoters have acquired public performance rights (e.g. in movie theaters, stadia, or public performance halls). If the sender of such a transmission licenses retransmission rights to certain cable operators, one must look to the facts of the case to determine whether this is the "primary" intent of the sender.

"Encrypt"

As used in this subsection, "encrypt" signifies a wide range of technological methods used to provide some level of security to a satellite transmitted signal. It is intended to encompass both analog and digital methods, or other methods yet to be developed, to modify or alter a satellite signal and thus to render intelligible viewing of the signal difficult or impossible without authorized equipment (or without illegal tampering with such equipment)

The exemption to liability provided under subsection (b)(1) only relates to unencrypted signals, and not to encrypted signals. A determination that a signal is encrypted or unencrypted for purposes of this section does not depend upon the level of security which the encrypting or scrambling technology chosen by the sender may impart to the video or accompanying audio signal. The fact that the sender takes some reasonable measure to ensure that no person may simply tune in and receive the signal in intelligible form, unless that person acquires authorized equipment necessary to eliminate the effects of the technological impediment, is sufficient to render the signal "encrypted".

"Private viewing"

The exception to subsection (a) liability created under subsection (b) is intended only to facilitate "private viewing" of satellite cable programming under the terms set forth here-under.

The term "private viewing" is intended to describe a situation whereby an individual purchases or otherwise acquires satellite receiving equipment and uses such equipment to receive satellite cable programming

which he views within his private dwelling place. The "individual's dwelling place" is a place not open to the public. It is a place where generally the persons present are within the normal circle of a family or its social acquaintances.

No retransmission, public performance, or display for direct or indirect commercial advantage is contemplated to be "private viewing." The grant of authority for such uses remains purely the prerogative of the party sending the programming or the program supplier.

Thus, it is not intended that "private viewing" include any retransmission by so-called "private cable" or "satellite master antenna television" systems. Nor is it contemplated that an individual may redistribute programming received by his satellite equipment to the homes or residences of his neighbors. Nor is it contemplated that "private viewing" includes display of satellite cable programming in the public area of an apartment building, condominium, or housing complex, or in taverns, restaurants or fraternal halls. However, if a sale or distribution of satellite receiving equipment is exempt from liability under (b)(1), a demonstration of such equipment in connection with such a sale or distribution would also be exempt. The demonstrations contemplated here are very limited—such as a showroom demonstration in the ordinary course of business, and not a demonstration such as public display of in a movie theatre.

SUBSECTION (d): PENALTIES/REMEDIES

The Committee amendment includes a new subsection (c) which provides for civil and criminal remedies against those who violate subsection (a).

The sanctions provided in subsection (d)(1) apply to those who have violated subsection (a) willfully. For these parties, misdemeanor sanctions are applicable in addition to the civil remedies available for an aggrieved party under (d)(3). It is intended that the Department of Justice actively pursue willful violations under this subsection.

It is further intended that the term "direct or indirect commercial advantage or private financial gain" be interpreted broadly by both the courts in deciding actions, and the Department of Justice in pursuing actions, under this section. Those who willfully violate subsection (a) and directly *or* indirectly enjoy commercial gain from those violations, may be reached.

Under subsection (3)(A), the term "any person aggrieved" shall be broadly interpreted by the courts in such cases and shall include those with any rights in the intercepted radio communications. Such persons would include but are not limited to, owners of the programming being transmitted as well as senders of the signal embodying the programming transmitted. Thus, the Committee amendment provides an explicit right of action for any person aggrieved by the violations of Section 705(a).

Subsection (3)(B) grants the courts in such actions general powers of relief including the power to grant injunctions and to award damages. It is the intent of the Committee that the power to direct the recovery of all costs under (3)(B)(iii) shall include reasonable investigative fees (related to the action brought) of an aggrieved party.

Subsection (3)(C) sets forth the award of damages which the courts may make to parties judged aggrieved by a violation of subsection (a). Subsection (c)(iii) recognizes that in those situations where the violation of subsection (a) was committed willfully and for the purposes of direct or indirect commercial advantage or private financial gain, these factors shall merit consideration of awarding substantial additional damages—up to $50,000 beyond what would otherwise be the applicable amount.

Subsection (C)(iii) also embodies the recognition that in those rare situations in which a violator of subsection (a) had absolutely no reason to believe that his acts constituted a violation of the law, the court may reduce the award to $100. It is not intended that this provision serve in any way as a defense to a determination of liability under subsection (a), but rather only as a provision to be exercized in the court's discretion for those rare instances of ignorance of the law on the part of one adjudged to have violated it.

Subsection (d)(4) is intended to make clear that those who may be subject to penalties and remedies for violations of subsection (a) include any importer, seller, manufacturer or distributor or any equipment intended by such party to assist in any manner in the interception or reception of radio communications prohibited by subsection (a). Those found to have taken such action with such intent shall be subject to penalties and remedies to the same extent and in the same manner as a person who has engaged in a prohibited interception or reception. Obviously this is not intended to apply to manufacturers or dealers who are acting lawfully in providing satellite earth station equipment designed to receive unencrypted video programming. A number of States have enacted State laws which may have an impact on the sale or distribution of equipment relevant to this section. Subsection (d)(4) further provides that such laws, now in effect or adopted in the future, which are consistent with, or afford greater protection than this subsection, shall not be affected.

SUBSECTION (d): SAVINGS CLAUSE

Subsection (d) is intended to make explicit that this amendment has no effect on any right, obligation or liability under the copyright laws or any applicable Federal, State or local law. For example, the rates of compensation established pursuant to a program under subsection (b)(1) is not intended to have any relevance in the establishment of copyright royalty rates for the retransmission of distant signal equivalents. Further, by adopting this provision there is no intent whatsoever to have equipment capable of receiving satellite cable programming considered a receiving apparatus for purposes of an exemption under 17 U.S.C. 110(5).

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the legislation we are considering today, H.R. 4103, the Cable Franchise and Communications Act of 1984.

This legislation reflects an agreement that was recently reached between repesentatives of the National League of Cities, the U.S. Conference of Mayors and the cable industry. I believe that it is sound public policy which will enable the cable industry to continue to grow and prosper, while at the same time ensuring that local community needs for public, educational and governmental programming are met. This form of programming is extraordinarily important to the citizens in the communities that are served by cable, and it promises to bring with it a more enlightened and better informed citizenry in the years to follow.

As in all compromises, and perhaps as in all legislation, I can point my finger to provisions in the bill of which I am less than enamored. Nevertheless, I am prepared to set aside some of these small differences in the interest of passing legislation which will reap substantial benefits for our citizens in the years to follow.

In considering this bill in both the Subcommittee on Telecommunications as well as the full Energy and Commerce Committee, I, along with a number of my colleagues, had some serious concerns about the definition of cable services. The bill brought to the full committee defined "cable service" so broadly as to prohibit regulation of rates for services provided by cable systems which are identical or similar to those offered by telephone companies. This could have allowed cable companies to use these deregulated rates to attract high volume telecommunications users away from the local phone company, thereby meaning higher local rates for residential and business subscribers.

An amendment which was offered by Congressman SWIFT and adopted by the committee did much to allay my concerns about this potential problem. The Swift amendment limits the definition of cable services to only include the type of video and other general programming that are made available to all subscribers, as well as interaction that may be needed for the retrieval of video programming.

Expanding upon this, the committee report states on page 29 that existing regulatory authority over all other communications services offered by a cable system, including the lucrative private line voice and data transmission services that compete with communication services offered by telephone companies, would not be affected by this legislation. Thus, these services would continue to be regulated by the FCC and State utility authorities.

I am pleased to join the chairman of the Telecommunications Subcommittee in support of this legislation and urge its passage by my colleagues.

Mr. BLILEY. Mr. Speaker, will the gentleman yield?

Mr. RINALDO. I am pleased to yield to my distinguished colleague, the gentleman from Virginia.

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Mr. BLILEY. Mr. Speaker, I thank the gentleman for yielding.

I want to commend the gentleman. I want to commend the chairman of the subcommittee and the chairman of the

full committee and all the members of the committee who have worked so hard on this legislation, as well as the representatives of the National League of Cities, the U.S. Mayors Conference, and the National Cable TV Association.

Mr. Speaker, I wonder if I might engage the chairman of the subcommittee in a colloquy.

Mr. WIRTH. Yes.

Mr. BLILEY. The Federal set-aside of channels for commercial use under section 612 is triggered by the number of "activated channels" on the cable system. Does that mean the system's total channel capacity?

Mr. WIRTH. Mr. Speaker, if the gentleman will yield, "activated channels" means only the number of channels that subscribers actually are receiving. Although this would include any so-called dark channels which subscribers receive but which currently carry no programming, it would not equate to the total channel capacity of the system—the maximum number of channels that the system could carry—unless the operator actually had the equipment in place at the headend of the system to deliver that maximum number of channels.

Mr. BLILEY. In determining whether the price for commercial use of channels under section 612 is reasonable, courts may look to the price arrangements for comparable services. Yet if such services are offered by the operator, typically the operator will pay a programmer for them. Is it the committee's intent that a commercial user, or lessee, may require the cable operator to pay him a comparable price for his programming?

Mr. WIRTH. The term "price" is intended to encompass any commercial arrangement consistent with the section. For example, such arrangements might include fee per channel, fees per subscriber, profit sharing, or any combination of these arrangements. The channel lessee cannot, however, demand that, rather than the lessee paying the cable operator for access to the cable system, the cable operator must pay the lessee who uses an access channel. The fact that the cable operator may pay for programming made available over channels other than leased access channels has no relevance to the arrangements that may be established for the use of channel capacity designated pursuant to this section.

Mr. BLILEY. I understand that cable operators have an obligation not to fill their commercial access channels in order to avoid bona fide access use. Would it be accurate to say, however, that cable operators may only enter into leased access arrangements where the operator is opposed to granting the programmer access to the cable system?

Mr. WIRTH. No. There does not need to be a "hostile" or "adversarial" relationship between the operator and the programmer for a grant of access to an unaffiliated programmer to be a legitimate use of channel capacity designated pursuant to this section.

Mr. BLILEY. Some have construed the committee report's explanation of section 612 to suggest that the absence of any commercial users on a system is in itself evidence that the operator's rates, terms, and conditions are unreasonable. Is that interpretation correct?

Mr. WIRTH. Section 612 alllows cable operators to establish price, terms, and conditions which at least assure that leased access use will not adversely affect an operator's economic position. Indeed, price, terms, and conditions are presumed to be reasonable absent clear and convincing evidence to the contrary. In view of the flexibility that this section grants an operator to establish rates, terms, and conditions, an operator cannot be found to have acted in bad faith or to have established unreasonable rates simply because parties seeking access choose not to meet the offered rate.

Mr. BLILEY. The committee package of amendments includes an amendment to section 635 relating to equal employment opportunity. What is the purpose and intent of the provision contained in the committee's package of amendments?

Mr. WIRTH. The provision the gentleman refers to is intended to clarify the committee's intent under section 635. The provision indicates that the failure of a cable operator to obtain certification under subsection (e) does not itself constitute a violation of the EEO provisions of H.R. 4103. Moreover, I wish to make clear the legislation's intent that the failure to employ members of minority groups and/or women at the prescribed parity levels does not in and of itself constitute a violation of this title.

Mr. BLILEY. Some have suggested that the committee report, including language stating that section 627 "does not require fair market value to be linked to depreciated book value," may permit depreciated book value to be used in a 627(a)(1) acquisition. Is that a correct reading of the committee's intent?

Mr. WIRTH. No. The committee intends that valuation under 627(a)(1) acquisitions should be based on the value of the cable system as a going concern that will continue in operation and not on book value.

Mr. BLILEY. What is the relationship between permissible franchise fees and public, educational, and governmental access commitments in new franchises?

Mr. WIRTH. Subsection 622(g)(2)(C) establishes a specific provision for PEG access in new franchises. In general, this section defines as a franchise fee only monetary payments made by the cable operator, and does not include as a "fee" any franchise requirements for the provision of services, facilities or equipment. As regards PEG access in new franchises, payments for capital costs required by the franchise to be made by the cable operator are not defined as fees under this provision. These requirements may be established by the franchising authority under section 611(b) or section 624(b)(1). In addition, any payments which a cable operator makes voluntarily relating to support of public, educational and govermental access and which are not required by the franchise would not be subject to the 5 percent franchise fee cap.

Mr. BLILEY. Section 621(a)(3) obligates a franchising authority to assure that access to cable service is not denied to any group of potential residential subscribers because of the income of the residents of the local area in which such group resides. Some have interpreted the committee report on this section to require franchising authorities to force cable operators to build line extensions to every home in a franchise area. Is this interpretation correct?

Mr. WIRTH. No. This provision is intended to asssure that franchising authorities meet the responsibility they already have to prevent economic redlining in granting cable franchises. It is not designed to require a cable operator to, for example, build a line extension to a home which may be too remote to wire economically.

Mr. BLILEY. Mr. Speaker, I thank the gentleman.

Mr. WIRTH. Mr. Speaker, I might say I thank the gentleman for his great concern about the legislation and the detail in the legislation, and I thank him again for his support and help in putting the legislation together.

Mr. BLILEY. Mr. Speaker, I thank the gentleman for yielding for the colloquy, and I thank the gentleman from New Jersey for yielding me this time.

Mr. RINALDO. Mr. Speaker, I want to thank both the gentleman from Virginia and the chairman of the subcommittee for clarifying some of the more difficult parts of this legislation.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I rise in strong support of H.R. 4103, the Cable Franchise Policy and Communications Act of 1984. Passage of this important bill will go a long way toward establishing a rational, cohesive Federal policy for cable television.

I was an original cosponsor of H.R. 4103, and remain as strong a supporter now as I was when it was introduced. I commend the chairman of the Energy and Commerce Committee for his ef-

forts in getting the major parties involved in developing this legislation back to the bargaining table—not just once, but a number of times, the last meeting resulting in the bill we are considering today.

I realize that the compromise finally reached is not wholly satisfactory to everyone. No compromise is. I truly believe, however, that the bill we are today considering adequately addresses the concerns of cable operators and local franchising authorities alike.

H.R. 4103 is good legislation. It is in the national interest to setup a framework to allow cable to develop and to establish guidelines for that development that are not excessively regulatory.

The other body has already passed, by a large margin, a measure substantially similar to H.R. 4103. I urge my colleagues to vote for this bill so that hours of negotiations do not go down the drain, and so that we can send cable legislation to the President prior to our adjournment.

Mr. RINALDO. Mr. Speaker, I yield 2 minutes to the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL].

□ 1310

Mr. DINGELL. Mr. Speaker, I am pleased to come before the House today to speak in support of cable television legislation. The bill we will consider today is the product of compromise. Last week, representatives of the National League of Cities, the U.S. Conference of Mayors, and the cable industry reached a final compromise agreement on the last remaining point of contention—municipal authority to regulate the rates for basic cable service. This most recent compromise agreement is included in measure before the House today.

Eight months ago this bill was stalled, mired in controversy between the cities and the cable industry. I requested the National League of Cities and the U.S. Conference of Mayors to sit at the negotiating table with the National Cable Television Association to work out joint legislative recommendations to the Energy and Commerce Committee regarding cable legislation.

After months of difficult negotiations, the parties arrived at a compromise agreement. The bill we are considering today is supported by all of these groups.

I would like to commend the negotiators for the cities and the cable industry for their dedication, patience, tenacity, and hard work in reaching this compromise. Carol Bellamy of New York City; Tom Volgy of Tucson, AR; Minette Trosch of Charlotte, NC; Richard Caliguiri of Pittsburgh, PA; Richard Fulton of Nashville, TN; Paul Zeltner of Lakewood, CA; and Tom Wheeler and Jim Mooney of NCTA, represented the parties ably and honorably throughout these negotiations and this bill would not be before us today but for their untiring efforts.

I would also like to commend my colleague, Tim Wirth, the chairman of the Subcommittee on Telecommunications, for his commitment and leadership on the legislation that is before us today and for his diligence and perseverance in promoting the compromises that have allowed the legislation to go forward. My colleague, MICKEY LELAND, also deserves special commendation for his work in developing the provisions in the bill relating to equal employment opportunity.

My colleague, AL GORE, worked hard to ensure that provisions relating to the reception of satellite cable programming for private viewing were incorporated in the bill. Finally, I would like to thank my colleagues from the minority, especially Mr. BROYHILL, Mr. RINALDO, Mr. TAUKE, and Mr. OXLEY, for their support and efforts in moving this legislation forward.

It is important to know that the concerns expressed by the telephone industry with the original draft of this legislation have been resolved fairly. Concerns relating to regulatory authority over communications services offered by cable companies were addressed by a series of amendments offered by Representative SWIFT and adopted by the committee during consideration of this legislation. These amendments were supported by the cable industry, Pacific Telesis, and the Communication Workers of America.

The measure the House is considering today contains additional protections for telephone companies regarding cross-ownership and pole attachment rules. With these additions, all issues of concern to the telephone industry have been fully and fairly resolved. I am aware of no formal objection to this legislation at this time from the telephone industry. Indeed, I have received support for the telephone-related parts of this measure from additional segments of the telephone industry, including Ameritech, Bell South, and Bell Atlantic.

The legislation the House considers today establishes a national policy on cable television which will provide the cable industry and our Nation's cities with the stability and certainty that are essential to cable's growth and development in the public interest. This national policy recognizes the crucial role that the local communities must continue to play in assuring that the cable system in their community does, indeed, serve the interests and the needs of the citizens in the community.

The measure now under consideration differs in certain respects from H.R. 4103 as reported from the committee. The basic differences are:

A shortening of the transition period during which cities may regulate basic cable rates from 4 to 2 years.

A limited grandfather of those cable systems who have acted under or in accordance with the FCC's Nevada decision while preserving the ability of municipalities to challenge these changes in court.

Certain clarifying changes concerning nonrate regulation issues of concern to the cities and cable industry.

Certain clarifying changes concerning the EEO and leased access provisions of the legislation.

The establishment in subsection 613(b) of a waiver procedure for telephone companies seeking to provide video programming. It is the policy of this subsection that telephone companies should be prohibited from providing video programming directly to subscribers in their telephone service areas. The waiver authority should be narrowly construed and exercised in a manner that does not undermine the basic policy of this subsection.

Addition of provisions authorizing the receipt of satellite cable programming for private viewing by individuals, while preventing the interception of such programming by those who have not obtained authorization for private viewing under an established marketing system.

Deletion of section 633 concerning access to customer premises.

Extension of the time for appeal of State pole attachment rules to at most 360 days if authorized in State rules.

I urge all my colleagues to support this crucial legislation.

Mr. WIRTH. Mr. Speaker, I yield 1 minute to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. I only want to compliment the chairman of the subcommittee and the chairman of the full committee on the tremendous amount of effort that has been made over months and months and months to put this legislation together.

I would also like to comment on that portion of the bill that I had something to do with with regard to telephones. The CWA, Pacific Telephone and others were extremely helpful to us in trying to resolve some of those very complex issues as well and they deserve commendation as well.

Mr. WIRTH. I thank the gentleman from Washington for his great help.

Mr. Speaker, I now yield 3 minutes to the gentleman from Tennessee [Mr. GORE].

Mr. GORE. Mr. Speaker, I could make do with 2 minutes, but I want to spend part of the additional minute bragging on the chairman of the subcommittee and the chairman of the full committee. I hope my colleagues in this body on both sides of the aisle recognize and fully appreciate how valuable a contribution has been made

by the gentleman from Colorado, not only on this bill but on the whole broad area of communications policy.

We are in the midst of an unprecedented revolution in communications, and we are fortunate indeed to have such distinguished leadership on these issues from the gentleman from Colorado.

Here again on this legislation he has brought legal order out of legal chaos. We are going to see tremendous benefits for the cable industry, for all facets of the communications industry and, most importantly, for the American people as a result of this legislation.

Where the chairman of the full committee is concerned, once again, I hope my colleagues have noticed that there has been a long series of bills involving delicate and complex negotiations between industry groups that have been at loggerheads for years and Chairman DINGELL has forced them to sit down and work out their differences and allow the public interest to shine through, and he has done so again on this legislation.

I want to specifically thank Chairman WIRTH for his leadership in helping me produce a difficult but fair compromise on the issue of home satellite Earth stations. This bill removes the legal cloud that has been hovering over the reception of signals from satellites by people with home dishes. It is a good compromise that protects the interests of programmers and protects and promotes the interest, of the many hundreds of thousands of rural Americans who are buying satellite dishes because they are the only way they have to participate in this magnificent telecommunications revolution.

Over the past several days and throughout the weekend my staff and Chairman WIRTH's staff have worked with the programming industry and with the satellite dish industry, and as a result the provisions of this bill will promote the public interest in ensuring that the dramatic, indeed revolutionary, growth of the satellite home Earth station industry is going to continue to accelerate.

In only 3 or 4 years we have seen 600,000 home satellite Earth stations installed here in the United States. In April of next year this industry will pass the 1 million mark and I predict that before the end of the century this method of receiving television signals is going to be a technology of choice. There are approximately 125 channels available to someone with one of these Earth stations.

Mr. Speaker, I would like to congratulate Chairman WIRTH and Chairman DINGELL on the completion of the difficult and arduous task of bringing about the cable legislation contained in H.R. 4103. I am particularly pleased that the legislation now incorporates many of the concepts concerning home Earth station satellite viewing contained in H.R. 5176, The Satellite TV Viewing Rights Act of 1984 which I introduced on March 19, 1984, along with Congressman TAUZIN and Congressman ROSE. I am pleased that H.R. 5176 has the bipartisan support, at this time, of 27 cosponsors and would like unanimous consent to insert their names in the RECORD.

As you know, many Americans cannot view programs that many cable subscribers receive including coverage of the U.S. Congress, broadcast superstations, movie and sports channels, religious channels and others. However, thousands, of families every month are now purchasing satellite Earth stations to view such programs. Recently this activity has been challenged in a Federal court in Wichita, KS, where, in the case AirCapital Cablevision, Inc. against Starlink Communications Group, Inc., a dealer that sells satellite Earth stations was sued by the local cable company for allegedly violating section 605 of the Communications Act of 1934.

It is important to clarify the law on this important area of satellite communications to the home and by doing so we are not meaning to pass judgment on any case that was or was not decided in the past under section 605 of the Communications Act of 1934. Nor are we passing judgment on any activities or programs not specified in the legislation. It is also my understanding that the provisons of H.R. 4103 concerning home satellite Earth station vewing of cable programing are not meant to change any copyright law under title 17 of the United States Code or any rule, regulation or order thereunder, or any other such law.

It is also my understanding that the provision of section 5 of H.R. 4103 also permits the marketing of programs to home Earth station users—even if the transmissions are not encoded or scrambled—if a good faith marketing program is in place.

This is based on the representations of the satellite Earth station industry in congressional testimony and elsewhere of the general willingness to pay for programs for which a charge is made by the programmer. The intention of the legislation is not to force programmers to establish a marketing program for home Earth stations but to make it clear that nothing in the legislation is meant to foreclose the establishment of a marketplace for the selling of such programming to home Earth station users in negotiations between the parties. It is also my understanding that the legislation anticipates that if programmers want to enter into such a marketing system, it must be done in good faith and not as a mechanism to deny home viewing of the satellite-delivered television programming.

It is also my understanding that manufacturers, dealers or distributors cannot be forced into paying a tax or royalty on the sale of equipment under this legislation.

The program providers and the satellite Earth station industry could certainly cooperate in arranging a point-of-sale licensing plan as a means of fulfilling any obligation that may arise of a home Earth station user to pay for programming.

Mr. WIRTH. Mr. Speaker, once more, this is a very thorny issue that the gentleman from Tennessee has taken the lead on, as well as the gentleman from Louisiana [Mr. TAUZIN] and others. It was complicated, and we have worked that one out as well.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. I thank the chairman of the subcommittee for yielding me this time. I want to extend my great admiration to the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL] for bringing about this compromise, and also to the chairman of our subcommittee, the gentleman from Colorado [Mr. WIRTH] for bringing us into the 20th century with regard to cable policy, and also thank the National League of Cities for persevering in the face of great adversity in protecting the interests of the public; that is, as expressed through the interest of the public in having the cities be able to regulate the cable television.

Most importantly, H.R. 4103 establishes the authority of local governments to regulate cable franchises. I think beyond question the cities do not have to fear continuous court challenges to this authority. I believe both sides in the process, the cities and the cable operators, came out in good shape.

The cities get continued rate regulation for 2 years and a guaranteed 5-percent franchise fee. Cable operators, on the other hand, have assurance that they will not be unfairly denied renewal of their franchises and, after the 2-year transition period, will be able to set rates to reflect market forces and competition.

Finally, consumers and viewers benefit greatly from this proposal because public, governmental, and educational access is guaranteed so the needs of the community can be met.

I urge the Members of the House to support this bill and I again congratulate the membership of our committee and the membership of the National League of Cities for persevering and bringing about this compromise.

Mr. WIRTH. Mr. Speaker, again I want to note that the gentleman from Texas [Mr. BRYANT] has been a steadfast advocate, especially on behalf of the city of Dallas, on the concerns of the big cities in this very, very difficult

negotiation. I want to thank him for his help.

Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, cable television holds great potential as the new entertainment and information forum of tomorrow. If we let cable loose, cable TV can be the telephone of the future—allowing consumers to communicate with stores, banks, and schools. Unfortunately, our current patchwork quilt of local, State, and Federal regulation stifles that potential and robs consumers of the chance to enjoy the full range of cable services.

This compromise deserves our support since it will enhance cable TV for consumers everywhere. It unleashes the great potential of cable with the admonition: Go out and serve the consumer. And in the process, this bill protects consumers and the legitimate interests of cable companies and the cities.

The compromise of 4103 took many months to reach and was achieved through lengthy negotiations and painful compromise. Of course, not everyone is happy with all parts of the bill. But anyone who cares about the consumer and the cities must be happy with the final compromise. Anyone who wants to see consumers enjoy the communication form of the future and anyone who wants to see cities have any control over local cable companies must be pleased with this bill.

Everyone also should understand that if the House fails to pass a Federal cable policy, then our cities will be robbed of their control over cable TV. The era of deregulation, affirmed by the FCC and the Supreme Court, has hit cable regulation with a crippling force.

One result of the deregulation mania is that unless Congress enacts a cable bill, the Supreme Court will do it for us. I can assure you of one thing: The cities and the consumer are not included in the Supreme Court-FCC view of cable policy. Consequently, the question before us is this: Will we allow the cities to regulate the local cable companies? The question before us is this: Will we give consumers the ability to get the services they want at prices they can afford?

In order to be fair to consumers and fair to the cities, I believe we must answer those questions yes. We must not abdicate our responsibility and turn cable regulation over to the FCC and the Supreme Court. Instead, we should be bold in our stance in support of the cities and the consumers. We should pass this compromise since it is good for consumers and fair to the cities and the cable industry. Cable TV will be the telephone of tomorrow if we let it flourish. This bill serves to promote cable TV and protect consumers. It deserves our support.

Mr. RINALDO. Mr. Speaker, I yield 2 minutes to the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Speaker, most of what I had to say has already been said. But let me repeat a couple of things that I think are important.

When I first was asked to cosponsor this bill, I was reluctant because I was not sure that the cities and the cable television industry could get together on the bill. However, I was assured that they could and so I cosponsored the bill very happily.

We have had a lot of give-and-take on this bill. There has been a lot of good work done.

I particularly would like to mention Representative FIELDS who helped us resolve a real estate problem we had, as well as Representative SWIFT, who helped resolve the telephone industry concerns. I would like to commend the chairman of the subcommittee, Mr. WIRTH, for doing a very good job of negotiating, and I would like to especially commend the League of Cities and also the cable TV industry for negotiating their differences on several occasions.

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The bill was passed by the Senate very handily. When it came over here, the cities changed their minds and withdrew their support. The cable TV spokesmen went back and worked with the cities and were able to come up with something that worked pretty well. We then had a series of Supreme Court decisions that looked for a while as though we could not pass this bill.

Mr. Speaker, I am happy to support the bill. I think both the cities and Mr. Wheeler and Mr. Mooney of the cable television industry should be commended. We now have deregulation of the cable industry while at the same time giving additional revenue to the cities and also retaining local rights to control over obscenity.

Mr. Speaker, I would like to again commend all those involved, particularly Chairman DINGELL, Chairman WIRTH, Congresswoman RINALDO, Congressman TAUKE, Congressman SWIFT, Congresswoman FIEDLER, Congressman OXLEY, and all others who have been involved in this bill.

Mr. RINALDO. I thank the gentleman from Utah [Mr. NIELSON] for his contribution.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Speaker, I rise in support of H.R. 4103, the Cable Franchise Policy and Communications Act and urge its expeditious passage by the House. As an early cosponsor of this legislation, I continue to believe a national cable policy is in the best interest of our Nation's consumers.

I am particularly pleased with the version of the legislation before us today which differs slightly from the bill reported from the Commerce Committee in June. The bill before us today does not contain a provision I had particular concern about in committee, the so-called consumer access to cable.

Under that provision, if one tenant in an apartment building requested cable, a property owner would have been forced to wire the entire building. Although I concur with the intent of this provision, to make cable service available to the greatest number of individuals, I believe this goal can be achieved in a better, more orderly manner through a negotiated agreement between the cable operator and the property owner, and not by legislative fiat as this legislation had provided.

Fortunately, since the time of the committee markup and following the most recent series of negotiations between representatives from the cities and the cable industry, this objectionable section was deleted from this legislation, thus clearing the way for what I hope will be early enactment of H.R. 4103.

The diversity of programming now available from cable television as well as the potential for additional information services from cable warrants a national cable policy which facilitates and encourages further developmenit of cable technology. I believe all Americans will be better served and better informed through the establishment of a cable policy. In closing, I would like to compliment both the chairman of the full committee, Mr. DINGELL, the ranking minority member, Mr. BROYHILL, the chairman of the subcommittee, Mr. WIRTH, and the ranking subcommittee member, Mr. RINALDO, for their diligence and commitment to developing this legislation. I am glad to support the legislation before us today and urge its approval by my colleagues in the House.

Mr. RINALDO. Mr. Speaker, I yield 1 minute to the gentleman from Iowa [Mr. TAUKE].

Mr. TAUKE. I thank the gentleman for yielding.

First, Mr. Speaker, I wish to commend the chairman of the full committee and the chairman of the subcommittee as well as the ranking member of the subcommittee for their outstanding work in pulling this legislation together.

It seems to me, however, during the course of this debate, we have not really explained to the Members of the House why it is that we should be considering cable legislation.

In fact, many of the Members of the House have from time to time said time, "What is the Federal interest in all of this? Why can't we leave it to

the States or to the local governments?"

It seems to me that the Federal interest is quite simple. Our first amendment responsibility is to try to ensure that as many people have access to as broad and as diverse a choice of viewing possibilities on their television sets as we can reasonably give to them. Under the current law the cable systems of this country have not prospered as they should. In fact, millions of our citizens, especially those in the major cities, do not have access to cable. Something has been wrong.

This legislation, among other things, tries to ensure that we extend access to cable to as many people as possible.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. RINALDO] has 1 minute remaining.

Mr. RINALDO. Mr. Speaker, I have no further requests for time.

Mr. WIRTH. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. I thank the gentleman for yielding.

Mr. Speaker, let me too commend the chairman of our subcommittee [Mr. WIRTH], and the chairman of our full committee [Mr. DINGELL], and the ranking members of both the committee and subcommittee, on the fine work they did in bringing this bill to a conclusion.

More importantly, I think we ought to thank all those who labored so hard in the vineyard between the cities and cable operators of this country and the local county authorities in trying to iron out differences that have continued to plague the progress of this bill.

I am particularly pleased to note that in this bill there is language to guarantee the home satellite viewers' rights to view programs that are broadcast via satellite and received by homes with private satellite viewing capabilities. The bill does protect those rights and does, at the same time, protect those producers of programs such as HBO and Movie Channel and others with the right to sell and market their products with a proper marketing plan.

Those folks who have put up home satellite installations in their yards have done so with the intent to pay for that specialty program; they simply want to right to view it, and that is guaranteed in this bill. I commend those who have helped to make sure that that came about.

Let me also say that in my own city of New Orleans there is a battle going on between the city council and the Cox Cable that is in court today. This bill, as I understand it, would guarantee to the city at least 2 more years of basic regulation and would not disturb at all the court challenges that are going forward. So that that court decision may be rendered and the city may have 2 years hence to regulate the basic service.

Thereafter, as my colleague from Iowa [Mr. TAUKE] indicated, this bill guarantees to American citizens as much of the diversity of programming and the beautiful advantages that cable offers to the American public by opening up cable to as much of a possibility of extending cable to every home in America as is possible and giving those Americans the chance to fully participate in this beautiful new instrument of communications.

Mr. GORE. Mr. Speaker, will the gentleman yield?

Mr. TAUZIN. I will be happy to yield to my colleague from Tennessee [Mr. GORE].

Mr. GORE. I thank the gentleman for yielding.

Mr. Speaker, I just wanted to remedy an oversight in my earlier statement. I had extended by remarks for the RECORD but I wanted to say it here on the floor how grateful I am for the help of the gentleman from Louisiana [Mr. TAUZIN] and also the gentleman from North Carolina [Mr. ROSE], who have been of invaluable assistance in the long effort to try to work out these problems with the home Earth station industry, the people who rely on it, the programmers, the distributors.

Mr. Speaker, I just wanted to thank my colleague [Mr. TAUZIN] for his help.

Mr. TAUZIN. I thank my colleague [Mr. GORE] and point out that my colleague from Tennessee has been the preeminent leader in this area, along with my colleague from North Caroline [Mr. ROSE].

I think the provisions in this bill do go a long way in guaranteeing the home satellite viewers' rights.

I thank the chairman, the gentleman from Colorado [Mr. WIRTH].

Mr. WIRTH. Mr. Speaker, I yield myself such time as I may consume.

Finally, Mr. Speaker, I want to commend the gentleman from Texas [Mr. LELAND], the gentlewoman from Illinois [Mrs. COLLINS]. We have not discussed, other than in the colloquy with the gentleman from Virginia [Mr. BLILEY], the very important EEO provisions for which the two of them are responsible in the legislation. A very precedent-setting and important piece of legislation has been written here.

Mr. Speaker, I have no further requests for time.

● Mr. WAXMAN. Mr. Speaker, I want to take this opportunity to recognize and commend Representative DINGELL, Representative WIRTH, the National Cable Television Association, and the National League of Cities for their persistent and dedicated efforts at reaching this compromise. H.R. 4103 is a comprehensive bill that is fair to all interests and will ensure that millions of Americans have access to a wide and diverse range of information sources.

However, there is a question regarding H.R. 4103's effect on California's rate deregulation statute that is of particular concern to many Californians. I want to assure all my colleagues that the record is clear that there is no inconsistency between California's rate deregulation statute and H.R. 4103. We discussed this question during the Energy and Commerce Committee's markup on H.R. 4103 and agreed that the California statute should be kept in place during H.R. 4103's 2-year deregulation transition. In my view, that debate, as well as the committee's report on the bill, makes it absolutely clear that the California statute is consistent with title VI of H.R. 4103.

As a result, my understanding is that the California rate deregulation statute will remain in effect until total deregulation, which occurs 2 years after enactment of H.R. 4103, is implemented. At the conclusion of the 2-year period, H.R. 4103's provisions would prevail over the California statute, since that statute would then be inconsistent with H.R. 4103.

H.R. 4103 is a fair compromise, and I urge all my colleagues to give it their support.●

● Mr. FRENZEL. Mr. Speaker, I believe the compromise achieved in H.R. 4103 is one that is unsatisfactory to the municipalities which have negotiated, or will negotiate, contracts with cable television companies.

However, carefully and earnestly the compromise was put together, and however it was endorsed by the National League of Cities and the U.S. Conference of Mayors, it still invades municipal authorities with respect to rates, regulations, renewal procedures, and conditions of sale.

I realize that since the bill has been formally called a compromise, and agreed to by major affected organizations, it is going to become law. Because I believe it is unwise policy and runs counter to the feelings of municipal officials in my district, I am compelled to vote no.●

● Mr. MARKEY. Mr. Speaker, cable television holds great potential as the new entertainment and information forum of tomorrow. If we let cable loose, cable TV can be the telephone of the future—allowing consumers to cummunicate with stores, banks, and schools. Unfortunately, our current patchwork quilt of local, State, and Federal regulation stifles that potential and robs consumers of the chance to enjoy the full range of cable services.

This compromise deserves our support since it will enhance cable TV for consumers everywhere. It unleashes the great potential of cable with the admonition: Go out and serve the con-

sumer. And in the process, this bill protects consumers and the legitimate interests of cable companies and the cities.

The compromise of 4103 took many months to reach and was achieved through lengthy negotiations and painful compromise. Of course, not everyone is happy with all parts of the bill. But anyone who cares about the consumer and the cities must be happy with the final compromise. Anyone who wants to see consumers enjoy the communication form of the future and anyone who wants to see cities have any control over local cable companies must be pleased with this bill.

Everyone also should understand that if the House fails to pass a Federal cable policy, then our cities will be robbed of their control over cable TV. The Reagan era of deregulation, affirmed by the FCC and the Supreme Court, has hit cable regulation with a crippling force.

One result of the deregulation mania is that unless Congress enacts a cable bill, the Supreme Court will do it for us. I can assure you of one thing: The cities and the consumer are not included in the Supreme Court-FCC view of cable policy. Consequently, the question before us is this: Will we allow the cities to regulate the local cable companies? The question before us is this: Will we give consumers the ability to get the services they want at prices they can afford?

In order to be fair to consumers and fair to the cities, I believe we must answer those questions yes. We must not abdicate our responsibility and turn cable regulation over to the FCC and the Supreme Court. Instead, we should be bold in our stance in support of the cities and the consumers. We should pass this compromise since it is good for consumers and fair to the cities and the cable industry. Cable TV will be the telephone of tomorrow if we let it flourish. This bill serves to promote cable TV and protect consumers. It deserves our support.●

● Mr. TAUZIN. Mr. Speaker it is my understanding that the intention of this legislation places limitations on the right to view satellite television programming in one's home or other dwelling place. The first limitation is that the legislation applies only to unscrambled signals. The second is that if a programmer that sells cable programming wishes to market unscrambled signals to home earth station users and establishes a good faith system to do so, then there is a lawful requirement for payment. The intention of the legislation, however, is that there must be realistic selling of the programming and there cannot be an attempt to deprive any individual of satellite viewing rights. The legislation contemplates that if programmers desire to sell in this manner, the marketplace will work and that rate regulation is not necessary. I believe that programmers can negotiate fair arrangements should they wish to market unscrambled signals. But no unrealistic or sham marketing plan can be tolerated. Nor can manufacturers, dealers, or distributors be forced into paying a royalty on the sale of equipment. On the other hand, the law would sanction payments if such a plan were negotiated. Programmers and the viewing public and manufacturers of equipment now have broad room to reach marketplace accommodations.●

● Mr. ROSE. Mr. Speaker, I would like to congratulate the gentleman from Colorado [Mr. WIRTH] and the gentleman from Michigan [Mr. DINGELL] on their excellent work in bringing about the cable legislation in H.R. 4103. I am gratified that the legislation now incorporates similar principles on home earth station satellite viewing contained in H.R. 5176, the Satellite TV Viewing Rights Act of 1984, introduced by Congressman GORE, of which I was an original cosponsor along with Congressman TAUZIN.

I first became concerned about satellite earth stations in 1980 when I was informed that C-SPAN, which carries our House proceedings, did not want home earth station owners to have access to C-SPAN. Since then, there have been legislative initiatives that would have virtually outlawed home satellite earth stations, and there is a case pending in Federal court in Wichita, KS, challenging the sale of home earth stations under section 605 of the Communications Act of 1934 (AirCapital Cablevision, Inc., v. Starlink Communications Group, Inc.).

Today, we come a long way by making it clear that the manufacture, sale, and home use of earth stations are legal activities. This bill does not address the issue of access to scrambled signals when and if program services do scramble. This issue was addressed in H.R. 5716 and I believe should be quickly considered by the Members of Congress at our earliest opportunity.

In contrast to H.R. 5176, H.R. 4103 contemplates that programmers that sell product to cable can sell it to home earth station users even if the signal is not encrypted (or scrambled) and users must, under penalty of law, then pay for the programs. While I believe that the better course is for those who wish payment to scramble their signal, I agree that the parties involved should be allowed to negotiate in the marketplace to establish a "marketing system" for unencrypted programs delivered by satellite, which marketing system can be enforced by law. If any program suppliers that sell programming for cable viewing wish to embark on this course, I believe the marketplace can be made to work. I believe that Congress should keep an eye on this issue to make sure the paramount interest of the public in viewing of satellite television is not abused. My understanding is that any marketing plan must be negotiated in good faith and realistically designed to facilitate authorized viewing. It is also my understanding that equipment suppliers cannot be forced under this legislation into paying royalties. But the door is opened to the possibility of a legally enforceable negotiated royalty on the sale of equipment as providing a means to establishing a marketing system for program providers desiring to sell unscrambled satellite television services to members of the public.

This legislation, in my view, is one of the most important of this Congress. With respect to cable, it defines the appropriate role between cities and cable operators. It further ensures the right for all Americans to view television programming delivered via satellite in their homes.●

● Mr. MATSUI. Mr. Speaker, today we are considering legislation which strikes an equitable balance between the interests of consumers, local communities, and the cable industry. I am pleased to support H.R. 4103, the Cable Franchise Policy and Communications Act of 1984, which is the product of over 3 years of hearings, negotiations, and compromise.

H.R. 4103 establishes an overarching Federal framework to provide needed clarification in regulating the cable television industry. This legislation reaffirms the rights of local communities to regulate cable television services through franchise agreements. It also places telephone companies and cable companies on an equal regulatory footing in the provision of data transmission services.

I have watched the progress of this legislation over the last 3 years with great interest. During consideration of this matter, it became clear that local government's ability to enforce the terms of cable franchise contracts to protect the public interest must be preserved. The measure before us today largely achieves this goal.

Some of the enforcement tools the bill maintains include allowing local authorities, when issuing new franchises or renewing existing franchises, to set minimum facility and equipment requirements. It permits State and local governments to regulate rates charged by cable companies for 2 years after the bill's enactment. The bill also grants State and local authorities the right to establish requirements for the designation and use of public, educational, and governmental access channels.

In addition, H.R. 4103 makes clear that cable companies are subject to

the same kind of regulatory guidelines as local telephone companies when providing data transmission services. By including this provision, we ensure that all parties seeking to compete in this field are subject to the same rules and standards of public oversight.

I commend all the parties involved in crafting this compromise measure. In particular, I would like to express my appreciation for the advice and recommendations the Sacramento Cable Television Commission provided me during the consideration of this measure. H.R. 4103 will bring certainty to consumers, cities, and cable operators. I urge my colleagues to adopt this measure.●

● Mr. MARKEY. Mr. Speaker, I believe that public participation is an important issue that was not fully addressed during debate on the cable bill, H.R. 4103. During consideration of the cable bill in committee, I offered two amendments to increase the role the public has in the renewal process and to open up cable proceedings to public scrutiny and public participation. These amendments were accepted and improved the bill with respect to the public participation question. However, I think the bill needed further amendment to augment the public participation provisions.

Unfortunately, there are several other questions concerning public participation that were not fully addressed during debate. I support the final compromise of H.R. 4103 and the extraordinary procedures under which it was considered. I think enactment of a Federal cable policy is of paramount importance and overshadows other considerations. Nonetheless, I think the views expressed in the letter I am submitting for the RECORD are important and should be considered by everyone.

OCTOBER 1, 1984.

DEAR REPRESENTATIVE: The role of the general public in the policy decisions that guide cable television development may be severely diminished if the House of Representatives fails to amend H.R. 4103, the Cable Franchise Policy and Communications Act of 1984. H.R. 4103, as reported by the Energy and Commerce Committee, would establish federal behavioral standards, procedural guidelines and a right of judicial review for the cable industry and franchising authorities (i.e., cities and states) but provide no federal protection for those who watch cable television.

If cable television is an appropriate object of federal legislation, the public should be granted the same federal rights as apply to other forms of broadcasting in the Communications Act of 1934. The 1934 Act gave the public a right to challenge the Federal Communications Commission decisions in court. H.R. 4103 would add a new title to the 1934 Act that provides the public none of these rights for cable television.

We believe H.R. 4103 should be amended to open cable policy decisions to the general public. The evaluation of a cable operator's performance, determination of community needs and franchise renewal decision should involve maximum public input to reflect the interests of cable subscribers. Since H.R. 4103 would elevate the needs of the cable industry and franchising authorities to a matter of federal concern, we think it should do the same for the public needs.

It should come as no surprise that H.R. 4103, the legislative product of private negotiations between the cable industry and city officials, contains no assurance of public participation in the cable decision-making process. Neither party to the agreement has an interest in opening the franchise process to the general public. By claiming that the cable/cities "deal" is extremely fragile, proponents of H.R. 4103, hope to prevent the House from considering the legitimate concerns of groups not party to the "deal."

Whether the fragility argument is just a smokescreen or the result of too narrow a "deal," we believe the House should consider issues of importance to the general public in its deliberations on H.R. 4103. It would be inappropriate for the Congress to codify a private "deal" without debating the concerns of groups with a strong interest in the legislation—especially when such groups include the entire universe of cable TV viewers!

We urge you to support our efforts to assure that H.R. 4103 is open to amendments that would protect cable viewers' rights to participate in the cable franchise process.

Sincerely,

Joan Claybrook, President, Public Citizen; Gene Kimmelman, Legislative Director, Consumer Federation of America; Linda Lipsen, Legislative/Regulatory Counsel, Consumers Union; Henry Geller.●

Mr. WIRTH. Mr. Speaker, I yield back the balance of my time.

Mr. RINALDO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado [Mr. WIRTH] that the House suspend the rules and pass the bill, H.R. 4103, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WIRTH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. WIRTH. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the Senate bill (S. 66) to amend the Communications Act of 1934, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 66

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Cable Telecommunications Act of 1983".

(b) The Communications Act of 1934 is amended by inserting immediately after title V the following new title:

"TITLE VI—CABLE TELECOMMUNICATIONS ACT

"FINDINGS

"SEC. 601. The Congress hereby finds that—

"(1) cable systems are engaged in interstate commerce through the origination, transmission, distribution, and dissemination of broadband telecommunications services;

"(2) the provision of broadband telecommunications is of concern to governmental entities;

"(3) a uniform national policy for broadband telecommunications can serve to eliminate and prevent conflicting and counterproductive regulations in order to allow unhampered growth and development of cable as a competitive medium which will be responsive to and serve the needs and interests of the public;

"(4) competition is a more efficient regulator than government of the provision of diverse telecommunications services and as competition continues to develop, the deregulation of telecommunications services should occur; and

"(5) recognizing the longstanding tradition of the Congress of promoting universal telephone service at reasonable rates, and recognizing the rapid technological changes of the types and delivery of services offered by the telecommunications industry, it is in the public interest to ensure that all providers of telecommunications services share in the obligation of providing universal service.

"PURPOSES

"SEC. 602. The purposes of this title are to—

"(1) establish a national policy concerning broadband telecommunications and to encourage a competitive environment for the growth and development of broadband telecommunications;

"(2) establish guidelines for the exercise of Federal, State, and local regulatory authority;

"(3) allow cable systems to be responsive to the needs and interests of the public on an equal basis without a competitive disadvantage with other providers of telecommunications services; and

"(4) eliminate government regulation in order to prevent the imposition of an unnecessary economic burden on cable systems in their provision of service to the public.

"DEFINITIONS

"SEC. 603. For purposes of this title, the term—

"(1) 'basic service' means the lowest cost tier, other than a tier offered at a discounted fee, of service which is available to subscribers for a fee and which includes the provision of retransmission of local broadcast signals, public, educational, and governmental programing and any other programing service as offered by a cable operator as part of the tier, and specified in the franchise agreement as part of basic service,

which is distributed by coaxial cable or any other closed transmission medium;

"(2) 'basic telephone service' means two-way voice grade communications that is held out to the public and that would be subject to regulation by the Commission or any State if offered by a common carrier subject, in whole or in part, to title II of this Act;

"(3) 'broadband telecommunications' means any receipt or transmission of electromagnetic signals, including basic service, cable service, and telecommunications service, over coaxial cable or any other closed transmission medium;

"(4) 'broadcasting' means telecommunications by radio intended to be received by the public, directly or by the intermediary of relay stations;

"(5) 'cable channel' or 'channel' means that portion of the electromagnetic frequency spectrum used in a cable system for the propagation of an electromagnetic signal;

"(6) 'cable operator' or 'cable system operator' means any person or persons, or an agent or employee thereof, that provides basic service, cable service, or telecommunications service over a cable system, or that directly or indirectly owns a significant interest in any cable system, or that otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system;

"(7) 'cable service' means the provision by a channel programer of one-way programing on a per channel, per program, or other basis which is distributed by coaxial cable or any other closed transmission medium, but such term shall not include basic service;

"(8) 'cable subscriber' means any person who receives or transmits electromagnetic signals distributed over a cable system;

"(9) 'cable system' means a facility or combination of facilities under the ownership or control of any person or persons, which consist of a primary control center used to receive and retransmit, or to originate broadband telecommunications service over one or more coaxial cables, or other closed transmission media, from the primary control center to a point of reception at the premises of a cable subscriber, but such term does not include: (A) a facility or combination of facilities that serves only to retransmit the television signals of television broadcast stations; (B) a facility or combination of facilities that serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management; or (C) a common carrier subject to the provisions of title II of this Act whenever such carrier transmits broadband telecommunications services other than basic service or cable service;

"(10) 'channel programer' or 'programer' means any person having an agreement to provide basic service or cable service to a cable system operator, or any person who leases, rents, or is otherwise authorized to use the facilities of a cable system for the provision of basic service or cable service, and such term shall include a cable system operator to the extent that such operator, or person or persons under common ownership or control with such operator, is engaged in the provision of such service;

"(11) 'closed transmission medium' or 'closed transmission media' means media having the capacity to transmit electromagnetic signals over a common transmission path such as coaxial cable, optical fiber, wire, waveguide, or other such signal conductor or device;

"(12) 'franchise' means a permit, license, ordinance, resolution, right-of-way, contract, certificate, agreement, or similar authorization issued by a franchising authority which authorizes the provision of basic service, cable service, or telecommunications service by a cable operator;

"(13) 'franchising authority' means any State, political subdivision, or agency thereof, or any other governmental entity empowered to grant a franchise;

"(14) 'grade B contour' means the field strength of a television broadcast station computed in accordance with regulations promulgated by the Commission;

"(15) 'information' means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or other symbols;

"(16) 'law' includes any regulation, rule, order, standard, policy, requirement, procedure, or restriction;

"(17) 'person' means an individual, partnership, association, joint stock company, trust, corporation or any governmental authority;

"(18) 'telecommunications' means the transmission of information by electromagnetic means, with or without benefit of any closed transmission medium, including all instrumentalities, facilities, apparatus, and services (including the collection, storage, forwarding, switching, and delivery of such information) essential to such transmission;

"(19) 'telecommunications service' means the offering of telecommunications facilities, or of telecommunications but such term shall not include basic service or cable service; and

"(20) 'United States' means the several States and territories, the District of Columbia, and the possessions of the United States.

"STATEMENT OF AUTHORITY

"SEC. 604. The provisions of this title shall apply as follows:

"(1) The Commission shall have jurisdiction and exercise authority with respect to broadband telecommunications in accordance with the provisions of this title and other applicable provisions of law.

"(2) Nothing in this title shall be construed as prohibiting any State or political subdivision or agency thereof, or franchising authority, from awarding, in accordance with the provisions of this title, one or more cable franchises within its jurisdiction.

"(3)(A) Except to the extent provided in paragraph (B), no cable system shall provide basic service or cable service without a cable franchise in compliance with this title.

"(B) The provision of paragraph (A) shall not be applicable in the case of any cable system in operation on April 21, 1983.

"OWNERSHIP OR CONTROL OF CABLE SYSTEMS

"SEC. 605. (a) No State or political subdivision or agency thereof, or franchising authority, shall have the authority to prohibit, directly or indirectly, the ownership of cable systems by any person by reason of that person's ownership of any other media or other interests, including broadcast, cable, newspaper, programing service, or other printed or electronic information service.

"(b)(1) Notwithstanding the provisions of subsection (a) of this section, for the purpose of ensuring fair and equitable treatment of United States cable enterprises seeking access to markets in a foreign country, the Commission shall have authority to conduct inquiries applicable to foreign persons from that country seeking access to domestic markets in the United States in connection with the construction, ownership and operation of cable enterprises as to whether such United States cable enterprises are permitted fair and equitable access to such foreign markets.

"(2) The Commission shall submit any information obtained through such inquiries to the United States Trade Representative to assist the Trade Representative in his identification and analysis of acts, policies or practices which constitute significant barriers to, or distortions of, United States exports of services.

"(3) For purposes of this subsection, the term 'foreign persons' includes any individual who is not a citizen of the United States, any subsidiary (although established under the laws of the United States or any State thereof) of a corporation or other business entity which was established under the laws of a foreign country, any corporation or other business entity established under the laws of a foreign country, or any corporation or other business entity established under the laws of the United States or any State thereof, if 25 percent or more of the capital stock or equivalent ownership is owned or controlled by an individual who is not a citizen of the United States or by a corporation or other business entity established under the laws of a foreign country, or any subsidiary of a corporation or other business entity established under the laws of a foreign country.

"(c)(1) Notwithstanding the provisions of subsection (a) of this section, a State or political subdivision or agency thereof, or franchising authority, may not acquire an ownership interest in any cable system pursuant to a buy-back provision of a franchise or require a sale of a cable system to any other person pursuant to a franchise, upon the expiration of the franchise, unless such State, subdivision, agency, authority, or person acquires such ownership or interest at not less than fair market value based upon the ongoing business value of the system. In the event that the cable operator and a State or political subdivision or agency thereof, or franchising authority, are unable to agree upon any such fair market value, then the matter of determining fair market value shall be submitted to binding arbitration. For purposes of arbitration, each of the affected parties shall select one arbitrator and the two arbitrators so selected shall choose a third arbitrator.

"(2) Notwithstanding the provisions of paragraph (1) of this subsection, in the event of termination for cause of a franchise due to a material breach, a State or political subdivision or agency thereof, or franchising authority, may acquire an ownership interest in such cable system but only upon written notice of the breach, reasonable opportunity to remedy the breach, and other due process. Any such termination shall be subject to de novo review by a court of competent jurisdiction.

"(d) In any case in which any such State, subdivision, agency, or authority has or acquires any such ownership or interest, such State, subdivision, agency, or authority shall, in no case, own or control, directly or indirectly, the content of any of the programing on such cable system, except for programing on government access channels, unless such State or political subdivision or agency thereof, or franchising authority, establishes an independent board or a separate management company. Such board or company shall not include any State or local office holder.

"ACCESS CHANNELS

"SEC. 606. (a) A cable system operator may be required, as part of the franchise request for proposals, to dedicate or set aside channels for public, educational, or governmental users, and the cable system operator may offer in a franchise to dedicate or set aside channels for other channel users.

"(b) The franchising authority and the cable operator may establish rules and procedures for the use of the channels set aside or dedicated pursuant to this section.

"(c) Until such time as there is demand for each channel full time for its designated use, public, educational, governmental, or other channel programing may be combined by the cable system operator on one or more channels, and to the extent time is available on such channels, they may be used by the cable system operator for the provision of other services.

"REGULATION OF RATES AND SERVICES

"SEC. 607. (a) Nothing in this title shall be construed as prohibiting any State or political subdivision or agency thereof, or franchising authority, from establishing, fixing, or otherwise restricting the rates charged by cable operators—

"(1) to subscribers for the receipt of basic service,

"(2) to subscribers for equipment necessary for the receipt of basic service, and

"(3) to subscribers for equipment which facilitates the reception of basic service by hearing impaired individuals.

"(b)(1) Any rate regulated pursuant to this section may be increased annually at the discretion of the cable operator by an amount not to exceed the regional consumer price index for the preceding 12 months, upon 30 days prior notice. The ability to affect such increases shall be cumulative for not more than 3 successive years.

"(2) Notwithstanding the provisions of paragraph (1) of this subsection, nothing in this title shall be construed as prohibiting any State or political subdivision or agency thereof, or franchising authority, from providing that such automatic increases shall not apply to a franchise which is in existence on the date of the enactment of the Cable Telecommunications Act of 1983 and which provides for a fixed rate for basic service over a specified period.

"(c) Notwithstanding the provisions of subsections (a) and (b) of this section, a cable system operator may automatically increase basic service rates which exceed the basic rates allowed pursuant to subsection (a) or (b) of this section if—

"(1) such operator has requested the increase in rates; and

"(2) the request is not acted on within 90 days following the date of its receipt.

"(d)(1) Notwithstanding the provisions of subsection (a) of this section, the authority to establish, fix, or otherwise restrict the rates charged to subscribers for the provision of basic services set forth in subsection (a) of this section, except to the extent otherwise provided in paragraph (2) of this subsection, shall not be applicable in any case where the cable system is located within the grade B contour of not less than four television signals of which there shall be one affiliate of each of the three major television networks.

"(2) The provisions of paragraph (1) of this subsection shall not be applicable in the case of any franchise in existence prior to the date of the enactment of the Cable Telecommunications Act of 1983, if the rates charged to subscribers for the provision of basic services are subject to regulation or are restricted by any State or political subdivision or agency thereof, or any franchising authority. The provisions of this paragraph relating to existing rate regulation of basic service shall be applicable for a period of 5 years following the date of the enactment of such Act, or for a period equal to one-half of the period of the remaining term of such franchise, as of the date of the enactment of such Act, whichever is greater. The provisions of paragraph (1) shall be applicable to any renewal or other extension of any such franchise.

"(3) The provisions of paragraph (1) of this subsection shall not be applicable where the cable system is subscribed to by at least 80 percent of the residences to which cable service is available, unless the cable operator demonstrates that 90 percent of the time, adequate on-site reception of the four television signals is available to more than 50 percent of the households to which cable service is available. Such a determination shall be made by the Commission. Failure by the Commission to make a determination within 180 days after the filing of an application by the cable operator shall be deemed to be a determination that such satisfactory reception is available.

"(e) No executive agency of the United States, including the Commission, and no State or political subdivision or agency thereof, or franchising authority, shall have authority to regulate or restrict the rates for reconnection, additional sets to the same subscriber, or sales of equipment.

"(f) No executive agency of the United States, including the Commission, and no State or political subdivision or agency thereof, or franchising authority, shall have authority to regulate or restrict the provision of or nature of cable services offered over a cable system except as provided in section 613 of this Act.

"(g)(1) No executive agency of the United States, including the Commission, and no State or political subdivision or agency thereof, or franchising authority, shall have authority to regulate or restrict the provision of or nature of telecommunications services offered over a cable system, except with respect to the provision of basic telephone service, intrastate telecommunications services, and except as provided in section 613 of this Act.

"(2)(A) Subject to the provisions of subparagraph (B), a State may require only the filing of informational tariffs for intrastate telecommunications services that would be subject to regulation by the Commission or any State if offered by a common carrier subject, in whole or in part, to title II of this Act, which are offered over a cable system. Such informational tariffs shall specify only the rates, terms, and conditions for the provision of service and shall take effect on the date specified therein.

"(B) Subparagraph (A) shall not apply to any private telecommunications service which is a discrete service dedicated to a single customer and operated by such customer.

"(3) A State shall deregulate the provision of intrastate telecommunications services if it finds that such services are subject to effective competition.

"(4) For purposes of this subsection, an intrastate telecommunications service shall be considered to be subject to effective competition in a particular geographic area or market if there are reasonably available alternatives. In determining whether there are reasonably available alternatives, the State shall consider—

"(A) the number and size of providers of services;

"(B) the extent to which services are available from providers in the relevant geographic area or market;

"(C) the ability of such providers to make services readily available at comparable rates, terms, and conditions; and

"(D) other indicators of the extent of competition, including affiliation of providers of services.

"(5) Nothing in paragraphs (2), (3), and (4) of this subsection shall be construed as being applicable to basic telephone services.

"(h) Nothing in this Act shall be construed as prohibiting a franchising authority and a cable operator from specifying, in a franchise agreement or renewal thereof, that certain cable services shall not be provided or shall be provided subject to conditions, if such cable services are obscene or are otherwise unprotected by the United States Constitution.

"(i) The provisions of subsections (b), (c), and (d) shall not apply to a franchise agreement in existence on the date of enactment of this Act for a period of 5 years following the date of enactment of this Act, or for the remaining term of such franchise agreement, whichever is greater, in any State which has in effect, and has had in effect since January 1, 1983, a statutory scheme deregulating rates which contains a requirement regarding minimal channel capacity.

"FRANCHISE FEES

"SEC. 608. (a) Cable operators may be required in a franchise to pay to a State or political subdivision or agency thereof, or franchising authority, a franchise fee.

"(b)(1) No franchise fee paid by a cable system operator for the privilege of holding a franchise, shall exceed an annual aggregate of 5 percent of such cable operator's gross revenues derived from the operation of the cable system which is the subject of the franchise.

"(2) Nothing in this section shall be construed as limiting fees required by a franchise in effect on the date of enactment of the Cable Telecommunications Act of 1983 to be paid directly or indirectly to entities established for the purpose of facilitating the use of channels set aside for public, educational, or governmental use.

"(c) Any cable system operator may pass the cost of any increase in a franchise fee through to subscribers, and may designate the total franchise fee as a separate item on the subscribers' bills.

"(d) For the purposes of this section—

"(1) 'franchise fee' shall include any tax, fee or assessment of any kind imposed by a franchising authority or governmental authority on a cable system operator or cable subscriber because of their status as such; and

"(2) 'assessment' shall not include bonds, security funds, letters of credit, insurance, indemnification, penalties, liquidated damages or similar requirements which are incidental to the enforcement of the franchising agreement.

"(e) Nothing in this section shall be deemed to require a cable operator to renegotiate the provisions of an existing franchise.

"RENEWALS AND EXTENSIONS

"SEC. 609. (a) In any case in which a cable system operator submits an application to the franchising authority for the renewal or other extension of such operator's franchise authorization, the franchising authority

shall grant such renewal or other extension unless it finds that—

"(1) the cable system operator has not substantially complied with the material terms of such franchise and with applicable law, or has been convicted of a felony;

"(2) there has been a material change in the legal, technical, or financial qualifications of the cable system operator that would substantially impair the continued provision of service by such operator;

"(3) the facilities to be provided by such operator, including facilities for governmental access, are unreasonable in light of the community need for and cost of such facilities;

"(4) the signal delivered by the cable system within the control of the cable system operator, has not generally met technical standards as established by the Commission; or

"(5) the proposals contained in the renewal application are otherwise unreasonable.

"(b) A cable system operator must file for renewal at least 24 months, but not more than 36 months, before the expiration of the franchise. The franchising authority must consider the renewal within 120 days of submission of the application and conduct any proceedings necessary to adequately consider the application.

"(c) A cable system operator with a franchise which shall expire within 24 months after the date of enactment of the Cable Telecommunications Act of 1983, shall be in compliance with subsection (b) if he files an application for renewal within 60 days after such date of enactment.

"(d) The franchising authority shall—

"(1) negotiate in good faith with any cable system operator regarding franchise renewal within 30 days after the completion of proceedings pursuant to subsection (b); and

"(2) make a final decision on granting or denying renewal within 12 months after receipt of an application;

"(3) in the case of denial of an application—

"(A) not make the final decision for at least 7 months from the date of receipt of the application; and

"(B) notify the applicant by written statement, within 7 days after the final decision, of the reasons for the denial.

"(e) Any renewal applicant adversely affected or aggrieved by a final decision of a franchising authority made pursuant to subsection (d), or by a failure of the franchising authority to act in accordance with subsection (d), may obtain judicial review of such final decision in any court of competent jurisdiction. The existing franchise shall remain in effect pending the completion of such judicial review. Such judicial review shall be de novo, unless the renewal applicant has been afforded a hearing on record before an independent hearing examiner or administrative law judge consistent with State law that requires—

"(1) adequate notice;

"(2) fair opportunity for participation by the renewal applicant, which includes—

"(A) discovery;

"(B) the filing of pleadings, motions, or objections;

"(C) the introduction of written or oral testimony; and

"(D) cross-examination of opposing parties; and

"(3) a written decision by the examiner or judge based exclusively on the full record of the hearings and stating the specific findings of fact and conclusions of law on which the decision is based.

"UNAUTHORIZED INTERCEPTION OR RECEPTION

"SEC. 610. (a) No person or government authority shall intercept or receive broadband telecommunications unless specifically authorized to do so by a cable system operator, channel programer, or originator of broadband telecommunications or as may otherwise be specifically authorized by Federal law.

"(b) In order to safeguard the right to privacy and security of broadband telecommunications, such broadband telecommunications shall be deemed to be a 'wire communication' within the meaning of section 2510(1) of title 18 of the United States Code.

"(c) In the event that there may be any difference between the provisions of this section and chapter 119 of title 18 of the United States Code, or any regulations promulgated thereunder, it is the intent of the Congress that such chapter 119 shall be controlling.

"PROTECTION OF SUBSCRIBER PRIVACY

"SEC. 611. (a)(1) Except as provided in paragraph (2) of this subsection, no cable operator, channel programer, or originator of broadband telecommunications may use the cable system to collect personally identifiable information with respect to a cable subscriber, except upon the prior written or electronic consent of that subscriber.

"(2) The provisions of paragraph (1) of this subsection shall not apply to the collection of information solely for billing purposes or to monitor whether there is unauthorized reception of cable telecommunications.

"(3) A cable operator, channel programer, or originator of broadband telecommunications shall ensure that any such information is destroyed when the information is no longer used or to be used for the purposes for which it was collected.

"(b) No cable operator, channel programer, or originator of broadband telecommunications shall disclose personally identifiable information obtained pursuant to subsection (a) of this section with respect to a cable subscriber, or personally identifiable information with respect to the services provided to or received by a particular cable subscriber by way of a cable system, except upon the prior written or electronic consent of the subscriber, or pursuant to a lawful court order authorizing such disclosure.

"(c) If a court shall authorize or order disclosure, the cable subscriber shall be notified of such order by the person to whom such order may be directed, within a reasonable period of time before the disclosure is made, but in no event less than 14 calendar days.

"(d) Each cable operator shall, at the time of entering into an agreement to provide cable telecommunications, and regularly thereafter, inform every subscriber of the rights of the subscriber under this section. Such information shall include a description of the nature of the information to be maintained by the cable operator, channel programer, or originator of broadband telecommunications, and the location and availability of such information.

"(e) A cable subscriber shall have access to all personally identifiable information regarding that subscriber which is collected and maintained by a cable operator, channel programer, or originator of broadband telecommunications. Such information shall be available to the subscriber at reasonable times and at a place designated by the cable operator, channel programer, or originator of broadband telecommunications.

"(f) Any cable subscriber whose privacy is violated in contravention of this section, shall be entitled to recover civil damages as authorized and in the manner set forth in section 2520 of title 18 of the United States Code. This remedy shall be in addition to any other remedy available to such subscriber.

"CRIMINAL AND CIVIL LIABILITY

"SEC. 612. Nothing in this title shall be deemed to affect the criminal or civil liability of channel programers or cable operators pursuant to the law of libel, slander, obscenity, incitement, invasions of privacy, false or misleading advertising, or other similar laws, except that cable operators shall not incur such liability for any program carried on any public, educational, governmental, or other channel referred to in subsection (a) of section 606, or for any program required by law to be carried on any other channel.

"PROGRAMING, SERVICES, AND FACILITIES

"SEC. 613. (a) No State or political subdivision or agency thereof, or franchising authority, may require the provision of particular programing or other broadband services, or facilities, equipment, services, or other items of value which are not related to the provision of broadband telecommunications service.

"(b) A franchising authority may require, as part of the franchise request for proposals—

"(1) channel capacity for public, educational or governmental access purposes; and

"(2) the construction of cable system facilities or provision of other cable-related equipment.

"(c) A cable operator may offer, but may not be required to provide, as part of basic service or any other tier of service—

"(1) channel capacity for other access uses; and

"(2) particular services.

"(d)(1) The cable operator may replace or remove a particular service specified in the cable franchise as part of the basic service or any other tier of cable service or telecommunications service in any case in which there has been a significant change in circumstances since the cable operator's offer to provide such service. The cable operator may not be required to retain a specified service in any particular category of service other than basic service.

"(2) In any case in which a cable operator submits a showing that, as a result of a significant change in circumstances, particular facilities and equipment required by the franchise are ecomomically, technically, or otherwise impracticable, the franchising authority shall enter into negotiations with the cable operator for the termination, modification, or deferral of such requirement. If such terms and conditions cannot be agreed upon within 45 days, the matter shall be submitted to binding arbitration. For purposes of arbitration, each of the affected parties shall select 1 arbitrator and the 2 arbitrators so selected shall choose a third arbitrator. The existing franchise provisions, except for those which are the subject of arbitration, shall not be affected by the arbitrators' final decision.

"(e) Except as provided in subsection (c) of this section, a franchising authority may, in accordance with the provisions of this section, enforce any offer to provide particular basic service set forth in subsection (c) or particular cable services or telecommunications services or cable system facilities or cable-related equipment offered by a

cable operator provided that the provision of such services, facilities, or equipment is specifically required by the franchise agreement.

"(f) Notwithstanding the preceding provisions of this section, in any case in which a franchise agreement in effect on the date of the enactment of the Cable Telecommunications Act of 1983 requires the cable operator to provide particular programing, services, facilities, cable related equipment, or channel capacity for access uses, such requirements, subject to subsections (d) and (e), shall remain in effect for the term of the franchise and in accordance with the provisions thereof. For purposes of this subsection, a franchise agreement containing such requirements shall be considered to have been in effect on such date of enactment if such agreement was the result of a franchise proceeding for which a request for proposals was originally issued, however subsequently modified or replaced, on or prior to September 30, 1982.

"NO REGULATION AS COMMON CARRIER

"SEC. 614. No executive agency of the United States, including the Commission, and no State or political subdivision or agency thereof, or franchising authority, shall have authority to impose on a cable system regulation as a common carrier or a utility to the extent that such cable system provides broadband telecommunications service other than basic telephone service.".

EXCLUSIVE JURISDICTION

SEC. 2. (a) Except to the extent otherwise specifically provided in title VI of the Communications Act of 1934, as added by the first section of this Act and as provided in section 607 of such title, the Federal Government shall have exclusive jurisdiction over broadband telecommunications regarding matters covered by such title.

(b) Any law of any State or political subdivision or agency thereof, or franchising authority, in effect on the effective date of title VI of the Communications Act of 1934, as added by the first section of this Act, which is in conflict with the provision of subsection (a) of this section relating to the exclusive jurisdiction of the Federal Government, shall be deemed superseded, as of the expiration of the 6-month period following the date of the enactment of this Act, and shall thereafter be null and void and of no effect.

(c) Except to the extent otherwise provided by this Act and the amendments made thereby, any State or political subdivision or agency thereof, or franchising authority, may exercise jurisdiction over matters which are of strictly local concern and which are necessary for reasons of public health, safety, and welfare, including the terms and conditions for the granting of a franchise, the construction and operation of a cable system, and the enforcement and administration of a franchise.

NEW AND ADDITIONAL SERVICES

SEC. 3. Title I of the Communications Act of 1934 is amended by inserting after section 6 the following new sections:

"NEW AND ADDITIONAL SERVICES

"SEC. 7. (a) Consistent with sound spectrum management, the Commission shall, to the maximum feasible extent, encourage the introduction of new and additional services by new applicants, existing licensees, or other persons. In any proceeding in which new or additional services are proposed, such services shall be presumed to be in the public interest whenever the Commission finds that such services are technically feasible without causing significant technical degradation to or interference with radio transmissions by other licensees.

"(b) Any person may file with the Commission a petition to establish or an application to offer a new or additional service.

"(c) The Commission must determine whether the new or additional service proposed in a petition or application is in the public interest within 1 year after such petition or application is filed. If the Commission initiates its own proceeding for a new or additional service, such proceeding must be completed within 12 months after it is initiated.

"DECLARATION

"SEC. 8. The Congress declares that competition is a more efficient regulator than government of the provision of diverse communications services and as competition continues to develop, the deregulation of communications services should occur.".

EFFECTIVE DATE

SEC. 4. The provisions of this Act and the amendments made thereby shall take effect upon the date of enactment of this Act.

REDESIGNATION

SEC. 5. The existing title VI of the Communications Act of 1934 is redesignated as title VII, and sections 601 through 609 are redesignated as sections 701 through 709, respectively.

MOTION OFFERED BY MR. WIRTH

Mr. WIRTH. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WIRTH moves to strike all after the enacting clause of the Senate bill, S. 66, and to insert in lieu thereof the provisions of the bill, H.R. 4103, as passed by the House.

□ 1330

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "an Act to amend the Communications Act of 1934 to provide a national policy regarding cable television."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 4103) was laid on the table.

APPOINTMENT OF CONFEREES ON S. 66

Mr. WIRTH. Mr. Speaker, I ask unanimous consent that the House insist on its amendments to the Senate bill, S. 66, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado? The Chair hears none, and, without objection, appoints the following conferees: Messrs. DINGELL, WIRTH, and BROYHILL.

There was no objection.

AUTHORIZING THE CLERK TO MAKE TECHNICAL AND CONFORMING CHANGES IN ENGROSSMENT OF THE HOUSE AMENDMENTS TO S. 66

Mr. WIRTH. Mr. Speaker, I ask unanimous consent that the Clerk, in the engrossment of the House amendments to the Senate bill, S. 66, be authorized to make technical and conforming changes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

1984 ACT TO COMBAT INTERNATIONAL TERRORISM

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6311) to combat international terrorism, as amended.

The Clerk read as follows:

H.R. 6311

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "1984 Act to Combat International Terrorism".

TITLE I—REWARDS FOR INFORMATION ON INTERNATIONAL TERRORISM AUTHORITY OF THE ATTORNEY GENERAL

SEC. 101. (a) Title 18 of the United States Code is amended by adding the following new chapter after chapter 203:

"CHAPTER 204—REWARDS FOR INFORMATION CONCERNING TERRORIST ACTS

"Sec.
"3071. Information for which rewards authorized.
"3072. Determination of entitlement; maximum amount; Presidential approval; conclusiveness.
"3073. Protection of identity.
"3074. Exception of governmental officials.
"3075. Authorization for appropriations.
"3076. Eligibility for witness security program.
"3077. Definitions.

"§ 3071. Information for which rewards authorized "With respect to acts of terrorism primarily within the territorial jurisdiction of the United States, the Attorney General may reward any individual who furnishes information—

"(1) leading to the arrest or conviction, in any country, of any individual or individuals for the commission of an act of terrorism against a United States person or United States property; or

"(2) leading to the arrest or conviction, in any country, of any individual or individuals for conspiring or attempting to commit an act of terrorism against a United States person or property; or

"(3) leading to the prevention, frustration, or favorable resolution of an act of terrorism against a United States person or property.

"§ 3072. Determination of entitlement; maximum amount; Presidental approval; conclusiveness

"The Attorney General shall determine whether an individual furnishing information described in section 3071 is entitled to a reward and the amount to be paid. A reward under this section may be in an amount not to exceed $500,000. A reward of $100,000 or more may not be made without the approval of the President or the Attorney General personally. A determination made by the Attorney General or the President under this chapter shall be final and conclusive, and no court shall have power or jurisdiction to review it.

"§ 3073. Protection of identity

"Any reward granted under this chapter shall be certified for payment by the Attorney General. If it is determined that the identity of the recipient of a reward or of the members of the recipient's immediate family must be protected, the Attorney General may take such measures in connection with the payment of the reward as deemed necessary to effect such protection.

"§ 3074. Exception of governmental officials

"No officer or employee of any governmental entity who, while in the performance of his or her official duties, furnishes the information described in section 3071 shall be eligible for any monetary reward under this chapter.

"§ 3075. Authorization for appropriations

"There are authorized to be appropriated, without fiscal year limitation, $5,000,000 for the purpose of this chapter.

"§ 3076. Eligibility for witness security program

"Any individual (and the immediate family of such individual) who furnishes information which would justify a reward by the Attorney General under this chapter or by the Secretary of State under section 36 of the State Department Basic Authorities Act of 1956 may, in the discretion of the Attorney General, participate in the Attorney General's witness security program authorized under title V of the Organized Crime Control Act of 1970.

"§ 3077. Definitions

"As used in this chapter, the term—

"(1) 'act of terrorism' means an activity that—

"(A) involves a violent act or an act dangerous to human life that is a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; and

(B) appears to be intended—

"(i) to intimidate or coerce a civilian population;

"(ii) to influence the policy of a government by intimidation or coercion; or

"(iii) to affect the conduct of a government by assassination or kidnapping.

"(2) 'United States person' means—

"(A) a national of the United States as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(B) an alien lawfully admitted for permanent residence in the United States as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

"(C) any person within the United States;

"(D) any employee or contractor of the United States Government, regardless of nationality, who is the victim or intended victim of an act of terrorism by virtue of that employment;

"(E) a sole proprietorship, partnership, company, or association composed principally of nationals or permanent resident aliens of the United States; and

"(F) a corporation organized under the laws of the United States, any State, the District of Columbia, or any territory or possession of the United States, and a foreign subsidiary of such corporation.

"(3) 'United States property' means any real or personal property which is within the United States or, if outside the United States, the actual or beneficial ownership of which rests in a United States person or any Federal or State governmental entity of the United States.

"(4) 'United States'—

"(A) when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States; and

"(B) when used in the context of section 3073 shall have the meaning given to it in the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

"(5) 'State' includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other possession or territory of the United States.

"(6) 'government entity' includes the Government of the United States, any State or political subdivision thereof, any foreign country, and any state, provincial, municipal, or other political subdivision of a foreign country.

"(7) 'Attorney General' means the Attorney General of the United States or that official designated by the Attorney General to perform the Attorney General's responsibilities under this chapter.".

(b) The chapter analysis of part II of title 18, United States Code, is amended by adding after the item relating to chapter 203 the following new item:

"204. Rewards for information concerning terrorists acts ..... 3071".

AUTHORITY OF THE SECRETARY OF STATE

SEC. 102. The State Department Basic Authorities Act of 1956 is amended by redesignating existing section 36 as section 37 and by inserting the following new section 36 after section 35:

"SEC. 36. (a) The Secretary of State may pay a reward to any individual who furnishes information—

"(1) leading to the arrest or conviction, in any country, of any individual for the commission of an act of international terrorism, or

"(2) leading to the arrest or conviction, in any country, of any individual for conspiring or attempting to commit an act of international terrorism, or

"(3) leading to the prevention, frustration, or favorable resolution of an act of international terrorism,

if the act of international terrorism is against a United States person or United States property and is primarily outside the territorial jurisdiction of the United States.

"(b) A reward under this section may not exceed $500,000. A reward of $100,000 or more may not be made without the approval of the President or the Secretary of State personally.

"(c) Before making a reward under this section in a matter over which there is Federal criminal jurisdiction, the Secretary of State shall advise and consult with the Attorney General.

"(d) Any reward granted under this section shall be certified for payment by the Secretary of State. If the Secretary determines that the identity of the recipient of a reward or of the members of the recipient's immediate family must be protected, the Secretary may take such measures in connection with the payment of the reward as he deems necessary to effect such protection.

"(e) An officer or employee of any governmental entity who, while in the performance of his or her official duties, furnishes information described in subsection (a) shall not be eligible for a reward under this section.

"(f) There are authorized to be appropriated, without fiscal year limitation, $5,000,000 for use in paying rewards under this section. Additional funds to pay rewards under this section shall be authorized to be appropriated in the annual authorizing legislation for the Department of State.".

TITLE II—INTERNATIONAL COOPERATION

INCREASING INTERNATIONAL COOPERATION TO COMBAT TERRORISM

SEC. 201. (a) The President is urged to seek more effective international cooperation in combatting international terrorism, including—

(1) severe punishment for acts of terrorism, which endanger the lives of diplomatic staff, military personnel, other government personnel, or private citizens; and

(2) extradition of all terrorists and their accomplices to the country where the terrorist incident occurred or whose citizens were victims of the incident.

(b) High priority should also be given to negotiations leading to the establishment of a permanent international working group which would combat international terrorism by—

(1) promoting international cooperation among countries;

(2) developing new methods, procedures, and standards to combat international terrorism;

(3) negotiating agreements for exchanges of information and intelligence and for technical assistance; and

(4) examining the use of diplomatic immunity and diplomatic facilities to further international terrorism.

This working group should have subgroups or appropriate matters, including law enforcement and crisis management.

TITLE III—SECURITY OF UNITED STATES MISSIONS ABROAD

ADVISORY PANEL ON SECURITY OF UNITED STATES MISSIONS ABROAD

SEC. 301. In light of continued terrorist incidents and given the ever increasing threat of international terrorism directed at United States missions and diplomatic personnel abroad, the Congress believes that it is imperative that the Department of State review its approach to providing security against international terrorism. Not later than February 1, 1985, the Secretary of State shall report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on the findings and recommendations of the Advisory Panel on Security of United States Missions Abroad.

SECURITY ENHANCEMENT AT UNITED STATES MISSIONS ABROAD

SEC. 302. (a) In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated, without fiscal year limitation—

(1) $350,963,000 for the Department of State for "Administration of Foreign Affairs", and

(2) $5,315,000 for the United States Information Agency,

which amounts shall be for security enhancement at United States missions abroad.

(b) Not later than February 1, 1985, the Secretary of State and the Director of the United States Information Agency shall each report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on how their respective agencies have allocated the funds authorized to be appropriated by this section.

STATE DEPARTMENT BASIC AUTHORITIES

SEC. 303. (a) Section 2 of the State Department Basic Authorities Act of 1956 is amended—

(1) in paragraph (c)—

(A) by striking out "aliens" and inserting in lieu thereof "individuals or organizations", and

(B) by inserting immediately before the semicolon at the end of the paragraph ", and individuals employed by contract to perform such services shall not by virture of such employment be considered to be employees of the United States Government"; and

(2) by striking out "and" at the end of paragraph (e), by striking out the period at the end of paragraph (f) and inserting in lieu thereof a semicolon, and by adding at the end of the section the following new paragraphs:

"(g) obtain services as authorized by section 3109 of title 5, United States Code, at a rate not to exceed the maximum rate payable for GS-18 under section 5332 of such title 5; and

"(h) directly procure goods and services in the United States or abroad, solely for use by United States Foreign Service posts abroad when the Secretary of State, in accordance with guidelines established in consultation with the Administrator of General Services, determines that use of the Federal Supply Service or otherwise applicable Federal goods and services acquisition authority would not meet emergency overseas security requirements determined necessary by the Secretary, taking into account overseas delivery, installation, maintenance, or replacement requirements, except that the authority granted by this paragraph shall cease to be effective when the amendment made by section 2711 of the Competition in Contracting Act of 1984 takes effect and thereafter procurement by the Secretary of State for the purposes described in this paragraph shall be in accordance with section 303(c)(2) of the Federal Property and Administrative Services Act of 1949.".

(b) Section 11 of such Act is amended to read as follows:

"SEC. 11. Notwithstanding section 1344(a) of title 31, United States Code, the Deputy Secretary of State is authorized to use Government-owned vehicles for security purposes for travel between his or her residence and places where official functions are performed.".

(c) Section 32 of such Act is amended by adding at the end therof the following new sentence: "The authorities available to the Secretary of State under this section with respect to the Department of State shall be available to the Director of the United States Information Agency and the Director of the United States International Development Cooperation Agency with respect to their respective agencies, except that the authority of clause (2) shall be available with respect to those agencies only in the case of members of the Foreign Service and employees of the agency who are performing security-related functions abroad.".

DANGER PAY

SEC. 304. In recognition of the current epidemic of worldwide terrorist activity and the courage and sacrifice of employees of United States agencies overseas, civilian as well as military, it is the sense of Congress that the provisions of section 5928 ot title 5, Unites States Code, relating to the payment of danger pay allowance, should be more extensively utilized at United States missions abroad.

The SPEAKER pro tempore. Is a second demanded?

Mr. WINN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes and the gentleman from Kansas [Mr. WINN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6311, as amended, to combat international terrorism and to provide for emergency supplemental authority to enhance security at U.S. diplomatic missions abroad.

At the outset, let me commend the various committees and individuals who had a part in bringing this legislation to the floor so promptly. I am speaking, of course, of the ranking minority member of the committee [Mr. BROOMFIELD] and especially of my own subcommittee chairman, the gentleman from Florida, Mr. DAN MICA, chairman of the Subcommittee on International Operations; and the ranking member, the gentleman from New York, Mr. BEN GILMAN; and also our colleagues on the House Judiciary Committee, the chairman, the gentleman from New Jersey [Mr. RODINO] and the ranking member, the gentleman from New York [Mr. FISH]; and the gentleman from New Jersey [Mr. HUGHES], the chairman of the Subcommittee on Crime, and the gentleman from Michigan, HAL SAWYER, the subcommittee's ranking member, and the chairperson of the Post Office and Civil Service Subcommittee on Civil Service, PAT SCHROEDER, because it took all of these committees to move promptly to get this legislation here and we are very grateful for that.

Now, I know that there is a lot of frustration and anger about the events related to the last bombing at our Embassy annex in Beirut, and I just want to say that in venting frustration and anger over that tragic event, it ought not to be directed at the Congress in any way. The program for security enhancement of our diplomatic missions was a House initiative that started in 1979 in the Committee on Foreign Affairs. The chairman of the Subcommittee on International Operations which has jurisdiction over this important program is the gentleman from Florida, DAN MICA. That subcommittee has put in place a program to ensure that our people were protected at our diplomatic missions and that our property was sufficiently secure against terrorist acts.

The Department of State undertook at that time, pursuant to that authorization of appropriations, to establish priorities around the world for the security enhancement of our facilities.

Unfortunately, from 1979 what has happened has been that the program has been cut, deferred, slipped, and extended. It has not been for the lack of authority or funds from the Congress that we are here today. As a matter of fact, the additional authorization for security enhancement which is before the Members now was only submitted to the Congress last Tuesday. We are on the floor today with the bill.

The Subcommittee on International Operations, of which the chairman is the gentleman from Florida, DAN MICA, and the gentleman from New York [Mr. GILMAN] is the ranking member, specifically was following and tracking the problems in Beirut and approved the additional $17 million to ensure that the security was in place prior to that move. They were assured that that was the case.

So, I just want to make it very, very clear at the outset that the Congress has responded to every request by the administration with respect to this program. We are doing it again today as promptly as we know how.

What we have here, Mr. Speaker, is a bill now that authorizes the Attorney General and the Secretary of State to pay rewards to individuals who furnish information on terrorist action and authorizes the appropriation of $10 million for that purpose as requested by the executive branch.

The bill urges the President to seek greater international cooperation against terrorism. It requires a report by February 1 from the Secretary of State's Advisory Panel on the Security of U.S. Diplomatic Missions Abroad. It authorizes the appropriation of $356,278,000 for the enhancement of security at U.S. diplomatic missions abroad as requested by the executive branch just last week. And again, we have this frustration that confronts us because OMB, as far as the appropriation is concerned, only requested $110 million, but we in the committee now and by this action today will authorize the full amount to ensure the adequate implementation of this program.

I would hope that before this Congress adjourns that the full appropriation is made available so that the program which was envisioned in 1979 can go ahead with all possible speed. I do not understand why anybody would think or feel or have the understanding that the Congress has not acted promptly when the Congress has acted promptly and has responded to every administration request.

Last April, the President sent to the Congress four separate legislative requests to combat international terrorism. The Committee on Foreign Affairs immediately began hearings on these requests. Prior to the executive branch's legislative requests, I directed the staff to begin a worldwide review of the adequacy of security at U.S. diplomatic missions abroad and the U.S. Government's efforts to combat international terrorism. A summary of the staff findings and recommendations will be included in the RECORD at the end of my statement. As a result of the committee's effort, we have before the House today H.R. 6311, which includes part of the President's initial antiterrorism request and his emergency security enhancement request. I am also pleased to note that House Judiciary Committee has before the House this week two bills which implement treaties already ratified by the United States: The Montreal Convention on Aircraft Sabotage; and the U.N. Convention on Hostage Taking.

It is my understanding that the other body will follow the action of the House today by approving these bills for the President's signature. As a result, the Congress will have enacted three of the four legislative requests on antiterrorism, as well as the emergency security enhancement supplemental.

Mr. Speaker, then Secretary of State Haig testified before the Committee on Foreign Affairs 3½ years ago that combating international terrorism would be a top priority of the Reagan administration. A lot of water has gone under the bridge since that pronouncement. The tragic events in Beirut over the past 2 years and other attacks on U.S. missions abroad including the machinegunning of the U.S. Embassy in Lima, Peru, just last week demonstrate clearly that the bureaucracy has not been geared up sufficiently to overcome its inertia in order to meet the daily threat of international terrorism. This failure continues despite the fact that the Committee on Foreign Affairs and the Congress as a whole, has over the years provided the money and authorities requested by the administration to address these problems.

We are prepared now, once again, to authorize additional sizable sums and new authorities to enhance our security and to combat international terrorism. But as I have said so often in the past, simply throwing money at the problem is not the solution. That being said, additional funding is needed for additional security personnel which unfortunately the Office of Management and Budget has consistently rejected till now. In my view, the previous failure of OMB to allow the State Department to increase its security personnel and to provide funds necessary to implement effectively security enhancement of our high threat posts was dangerous false economy. OMB continues to be blind to the emergency nature of the situation confronting our diplomats and has refused to request a full appropriation for the $365 million authorization they have belatedly approved. On the other hand, unless and until the problems within the antiterrorism structure and organization of the State Department are resolved, more money will not alone provide the tools necessary to address the complex problems surrounding the U.S. Government's efforts to combat international terrorism.

It is, therefore, the clear and emphatic intent of the Foreign Affairs Committee that a decisive and immediate effort must be undertaken to unsnarl the bureaucratic knot in the Department's antiterrorism program. I urge the leadership of the administration to move to concerted action.

Mr. Speaker, I urge the adoption of H.R. 6311.

A summary of the committee's actions of H.R. 6311 and related material follows:

COMMITTEE ACTION ON H.R. 6311, TO COMBAT INTERNATIONAL TERRORISM

April 26, 1984.—A message from the President transmitting four drafts of proposed legislation to attack the pressing and urgent problem of international terrorism was referred to the Committee on Foreign Affairs, as well as Committees on the Judiciary and Public Works and Transportation.

May 8, 1984—Two bills, H.R. 5612, to permit the payment of rewards for information concerning terrorist acts, and H.R. 5613, to prohibit the training, supporting, or inducing of terrorism, and for other purposes, introduced by Representatives Fascell and Broomfield, were jointly referred to the Committees on Foreign Affairs and the Judiciary.

May 11, 1984—H.R. 5612 and 5613 were referred jointly to the Subcommittees on International Security and Scientific Affairs and International Operations.

June 7, 1984—Joint hearing held by Subcommittees on International Security and Scientific Affairs and International Operations on the administration's proposed antiterrorism legislation. Witnesses at this hearing included Hon. Willard DePree, Acting Secretary of State for Management; Terrell Arnold, Senior Deputy for Counter-Terrorism, Office for Counter-Terrorism and Emergency Planning, Department of State; Brian Jenkins, Director of the Security and Subnational Program, the Rand Corporation; and Robert Kupperman, director for Science and Technology and senior associate, CSIS, Georgetown University.

June 13, 1984—Hearing held by the full committee on executive branch policy on terrorism and the administration's related legislative requests. Hon. George P. Shultz, Secretary of State, testified.

June 19, 1984—Joint hearing held by Subcommittees on International Security and Scientific Affairs and International Operations continuing consideration of the administration's antiterrorism legislative request.

September 20, 1984—Briefing held by the Subcommittee on International Operations on the third bombing of the American Embassy in Beirut. The briefing was conducted by Assistant Secretary Robert Lamb, Bureau of Administration, Department of State.

September 26, 1984—Briefing was held by the full committee on the Beirut bombing. The briefing was conducted by Robert Oakley, Director and Coordinator for Security Policies and Programs, Office for Combatting Terrorism, Department of State. This briefing was immediately followed by a full committee markup session of H.R. 6311, to combat international terrorism. Testimony was received by Hon. Ronald Spiers, Under Secretary for Management, Department of State; Hon. Robert Lamb, Assistant Secretary, Bureau of Administration, Department of State; David Fields, Deputy Assistant Secretary for Security, Bureau of Administration, Department of State; Harvey Buffalo, Deputy Assistant Secretary for Foreign Buildings, Bureau of Administration, Department of State; Roger Feldman, Comptroller, Department of State; and Frank Conahan, Director, National Security and International Affairs Division, General Accounting Office. H.R. 6311, as amended, was ordered reported by the committee by unanimous voice vote.

JUSTIFICATION OF THE EXECUTIVE BRANCH SECURITY SUPPLEMENTAL REQUEST

In the wake of the bombing of the U.S. Embassy in Beirut, in September 20, 1984, the administration has requested an emergency supplemental authorization of $366,278,000 with no-year authorization to enhance the security of U.S. diplomats and facilities located abroad. Specifically, $350,963,000 are requested for the Department of State, $5,315,000 for the U.S. Information Agency, and $10 million to be divided equally between the Secretary of State and the Attorney General for the purpose of awarding money for information relating to threats and acts of terrorism.

REWARDS FOR INFORMATION CONCERNING TERRORISTS ACTS

The executive branch has requested $10 million without fiscal year limitation for a new program which is to be authorized under chapter 204 of title 18 of the United States Code. The program authorizes the payments of awards for information concerning acts of terrorism both within and outside the United States. As such, this program falls under the respective jurisdictions of the Secretary of State and of the Attorney General. The funds requested will be equally divided between the two departments.

Terrorism against U.S. Government civilian personnel, members of our armed forces, and American citizens abroad has become a serious danger in the past 15 years. In the last decade alone, Americans have been the victims of 2,500 terrorist incidents. The rewards program can be invaluable in obtaining information necessary to resolve success-

fully incidents such as kidnapings or hostage takings and in bringing perpetrators of terrorist acts to justice.

More importantly, this program will enable the U.S. Government to improve its ability to obtain information regarding plans and threats of future acts of terrorism. A crucial component of an embassy's defenses against acts of terrorism is intelligence. Knowledge of terrorist groups' intentions is central to the Department's effort to anticipate and deter future acts of terrorism.

This request would authorize the establishment of a fund large enough to demonstrate that the United States will aggressively use the rewards program to impede terrorists. It is also important that enough funds remain available for the U.S. Government to act quickly if critical information can be obtained. For these reasons, and because it is impossible to predict the frequency and the size of rewards to be granted annually, it is necessary that the fund be authorized with no-year limitation.

DEPARTMENT OF STATE

The Department of State requested $350,963,000 for the enhancement of security of U.S. diplomats and facilities abroad. This authorization request included: $173,421,000 for salaries and expenses; $175,542,000 for acquisition, operations, and maintenance of buildings abroad; $2 million for the Office of Foreign Building's special foreign currency acccount; $5,315,000 for the United States Information Agency; and $10 million to pay rewards for individuals who furnish information on terrorist actions against the United States.

In response to the threat of international terrorism directed at U.S. personnel and installations abroad, the Department is seeking a significant increase of authorization for its physical security, antiterrorism, research and development, and foreign buildings programs.

The thrust of this proposal addresses all aspects of the Department of State's security function. The Department seeks to upgrade physical security, purchase more armored vehicles and communications equipment, increase personnel, and to provide more resources for security-related research and development.

Specifically, the additional authority will be used for the following purposes:

The Office of Security

The Department of State requested $132,091,000 and 136 new positions for the Office of Security for the following purposes:

Physical security

The Department will enhance the security of as many as 70 high-threat posts through such measures as enhancing perimeter barriers by installing walls, fences, lighting, vehicle arrest barriers, guard booths, ballistic and forced entry-resistant doors, bollard, and earth berms. Funds are also requested for additional public access control projects at 10 posts lacking such protection. In addition, the Department will provide internal physical security systems to approximately 50 short term lease office buildings. This will include closed-circuit television, walk-through metal detectors, access-denial systems and alarm systems, and ballistic materials for internal protection.

Armored vehicles

The armored vehicle program continues to be a concern. The Department will provide fully armored vehicles to ambassadors and consuls general in all category I threat posts as well as to provide light armoring for the approximately 403 motor pool vehicles at all category I and category II (high) threat posts.

Marine security guards

The Department is requesting funds to install 10 computer-assisted marine security guard booths which will enable the marine guard in the main control booth to simultaneously: (1) Survey the entrance lobby; (2) operate and monitor up to 12 CCTV systems; (3) monitor access controls; (4) monitor radio nets; (5) direct visitors; (6) log entries and exits; (7) control packages and deliveries; (8) check alarms; (9) telephone duties; (10) operate metal detectors; (11) issue keys; (12) operate warning systems; and (13) monitor ambassadors' vehicle alarm system.

In addition, the Department has requested $780,000 to procure and ship 52 emergency vehicles for the marine security guard force.

The Department also plans to recruit an additional 307 marine guards for embassy protection.

Overseas physical security management system

In order to support the above improvement, the Department will develop an Overseas Physical Security Management System. Such a data base will automate and enhance the regional security officers' post surveys. Currently, there is no central management information system capable of producing instantaneously a total post security profile.

Research and development

A new and very critical component of the proposal is the Research and Development Program in Support of Overseas Operations. Currently, the Office of Security has very limited in-house testing and evaluation capability to investigate or design new physical security products. The security needs of an embassy are truly unique. U.S. diplomatic missions abroad possess unique security characteristics and requirements in that they must be accessible to the public while, at the same time, they must be protected from terrorist acts. The Department, in short, can only rely on its own research and development efforts to formulate timely and imaginative security programs. To this end, the Department is proposing various programs which will cover such areas as advanced ballistic and forced entry materials, electronic countermeasure, and unprobed vehicle armoring.

Personnel

The Office of Security has requested 136 new positions. These include 51 new regional security officer (RSO) positions. Currently, the Department does not have regional security officers assigned to many high-threat posts. In other areas, the regional security officers' geographic responsibilities extend over too large an area. These new positions will enable the department to: (1) Assign RSO's to all high-threat posts; (2) to reduce the number of posts a security officer must cover; and (3) to assign protective security officers to selected posts to improve control and training of foreign national security guards and bodyguards.

These positions are sought for the following posts: Three for Beirut, one for Abu Dhabi, five each for Tegucigalpa and San Salvador, one for N'Djamena, two for Lusaka, two for Manama, one for Harare, one for Athens, one for Lagos, two for San Jose, one for Accra, two for La Paz, and one for Geneva. In addition, 14 of the new positions will be used to bolster the emergency response teams and the same number for the Overseas Protective Officers Program.

The remaining 85 positions will be for technical, engineering, research and development, and other support staffing requirements.

Threat analysis operations

The Office of Security is also seeking an additional $286,000 and six new positions for the threat analysis operations. This group which provides tactical analysis for the Secretary, foreign dignitaries, and diplomatic personnel, needs additional staff to respond to the real-time demands for analysis and recommendations relative to terrorism.

In addition $134,000 and one position have been requested to be used to enable the Office of Counter-Terrorism and Emergency Planning to become part of the interagency computer library, DESIST, which contains worldwide terrorism information.

Specialized security training program

The Department requested $3,170,000 and 25 positions in order to provide training to U.S. Government employees and the dependents as well as specialized training to security officers and other technical and engineering staff.

Office of Communications

The Department has requested $31,423,000 and 15 positions for overseas communications support. In order to improve security related communications posture worldwide, the Department proposes to procure an additional 25 Tacsat (Tactical Satellite) systems to be placed at our 20 most threatened posts and our 5 regional communications centers. This would increase the number of systems from currently 8 to 33. This request will also augment the Department's inventory and bases for standard UHF/VHF radios used by security officers.

Office of Counter-Terrorism and Emergency Planning

The Department has requested $1,389,000 and 12 new positions for this office which is responsible for the improving crisis management of the department.

Bureau of Administration

Finally, the Department has requested $8,518,000 for administrative support and security improvement of the main building of the Department of State in Washington, DC, which will fund 40 new positions and $2,603,000 to upgrade the physical security.

Office of Foreign Buildings—Acquisition, operation, and maintenance of buildings abroad

The second and largest component of the supplemental is the $175,542,000 and 42 positions for the Office of Foreign Buildings. The Department has carefully reviewed the status of its worldwide facilities with regard to location, access, vehicle protection, physical security, and other such limitations. On the basis of the review, it has identified 13 of the most threatened posts where new buildings or renovation of existing structures is required. Among the major impediments to additional security improvements of existing buildings at these posts are such factors as the location of the buildings directly on a major urban street, the unsuitability of the materials used to construct the building to renovation activities and the fact that many of these properties are under short-term lease instead of being owned by,

and thus completely under, the control of the U.S. Government.

The posts where either new buildings or renovation are required are: Manama, Doha, Kuwait, Mogadishu, Muscat, Dhaka, Sanaa, Amman, Damascus, Tegucigalpa, Djibouti, and Cairo.

In order to support these projects, the Department has requested 43 new positions, 27 domestic and 15 overseas.

U.S. INFORMATION AGENCY [USIA]

USIA has requested $5,315,000 in supplemental funds to enhance security measures at its 190 cultural centers, libraries, regional service centers, offices, and VOA relay stations worldwide which are located independent from embassy buildings. Because of the public nature of these facilities and the Agency's mission to foster free and open exchange of opinion in most cases a complete securing of these facilities is not possible. However, all facilities do require perimeter and public access controls including vehicle countermeasures. Other enhancements proposed by the Agency include vehicle armoring, emergency radios, additional contract guards, and other support personnel. This will also include domestic security equipment.

COMMITTEE COMMENTS

The committee supports these long-overdue new projects and enhancement of existing ones. The committee commends the request for the resources that will be dedicated to the area of research and development that the Department has recommended in virtually all areas pertaining to security. While the committee recognizes the difficulty of providing total security 100 percent of the time, an aggressive and anticipatory posture will dramatically augment successful deterrence.

It is essential that the Department seek the most efficient and flexible approach to security funding and operations. It is imperative that better coordination exist within the Department and among the various agencies of government represented abroad.

Effective organization and structures and intelligent planning are necessary to the success of a security program. However, when organization becomes topheavy, cumbersome, and starts being its own reason for existence, it becomes counterproductive. It begins to work against the very objective for which it was created. This is clearly the case at the Department of State. A critical problem in this area is the ultimate authority of the ambassador to override recommendations of the Office of Security which often weakens the overall security of our diplomatic missions. The Secretary of State must make clear to all American diplomatic personnel that security has the highest priority and that any actions which may undermine security enhancement programs will not be tolerated.

Finally the committee expects the Department to propose such changes as may be necessary to improve the timeliness of each project. It is the intention of this committee to request timely progress reports to ascertain the proper implementation of this package.

SECTION-BY-SECTION ANALYSIS TO ACCOMPANY H.R. 6311, AS AMENDED

Section 1 states the short title of H.R. 6311 as the "1984 Act to Combat International Terrorism."

TITLE I.—REWARDS FOR INFORMATION ON INTERNATIONAL TERRORISM

Section 101(a) provides the authority of the Attorney General to pay rewards by amending Title 18 United States Code with six new sections as follows:

The Attorney General is authorized to pay rewards for information which: (1) leads to the arrest or conviction in any country for the commission of an act of terrorism against a U.S. person or property; (2) leads to the arrest or conviction in any country for a conspiracy or an attempt to commit an act of terrorism against a U.S. person or property; or (3) leads to the prevention, frustration, or favorable resolution of an act of terrorism against a U.S. person or property.

The Attorney General is required to make a determination as to whether a particular person is entitled to a reward and sets a ceiling of $500,000 of total compensation and a subceiling of $100,000 which requires the approval of the President or the Attorney General.

The Attorney General is authorized to provide protective action for the recipient of a reward or the members of a recipient's immediate family and further stipulates that protection in connection with the paperwork necessary to the accomplishment of the payment of the reward.

Government employees who furnish information concerning terrorism in the performance of their official duties are not eligible for a monetary reward under this chapter.

Five million dollars is authorized to be appropriated to the Attorney General without fiscal year limitation for this purpose.

Individuals who furnish information which would justify a reward under this chapter or under section 36 of the State Department Basic Authorities Act would be eligible to participate in the witness security program.

Definitions are contained in this section which apply to this new chapter.

Authority of the Secretary of State

Section 102 amends the State Department Basic Authorities Act of 1956 by adding a new section 36.

New section 36 authorizes the Secretary of State to pay a reward for the information leading to the arrest or conviction of an individual for commiting a terrorist act or for conspiring or attempting to commit a terrorist act. A reward may also be paid for information which results in the prevention or favorable resolution of an act of terrorism.

New section 36(b) provides that a reward under this section may not exceed $500,000 and further stipulates that a reward of $100,000 may not be made without the prior approval of the President or the Secretary of State.

New section 36(c) provides that the Secretary of State will consult with the Attorney General before making a reward relating to a matter under Federal criminal jurisdiction.

New section 36(d) provides that the Secretary of State will certify the payment of any reward. The Secretary may also take measures to protect the identity of an individual who receives a reward as well as the identities of the members of the recipient's immediate family.

New section 36(e) provides that Government employees are not eligible for rewards if they provide such information during the course of their official duties.

New section 36(f) authorizes an appropriation of $5 million to be used to pay rewards. These funds are authorized to remain available until expended. Future authorizations to fund rewards would be provided in the annual Department of State authorization legislation.

New section 201(a) urges the President to seek more effective international cooperation in dealing with international terrorists. Areas of cooperation would include the punishment of terrorists for acts which threaten diplomatic staff, military or other government personnel, and private citizens, and cooperation in the extradition of terrorists.

New section 201(b) encourages the United States to enter into negotiations which might lead to a permanent international working group to combat terrorism. The purpose of this group would be to increase international cooperation, develop new methods to deal with terrorism, negotiate agreements for the exchange of intelligence and technical assistance, and examine how terrorists may use diplomatic immunities and diplomatic facilities to further their goals.

TITLE III—SECURITY OF UNITED STATES MISSIONS ABROAD

Section 301 requires the Secretary of State to report to the House Foreign Affairs and Senate Foreign Relations Committees on the findings of the Secretary's Panel on Security of U.S. Missions Abroad.

Section 302(a) provides for the authorization of $350,963,000 for the Department of State and $5,315,000 for USIA for emergency security enhancement at U.S. diplomatic missions.

Section 302(b) requires a report by February 1, 1985, from the Secretary of State and the Director of USIA on how their respective agencies have allocated these funds.

Section 303(a) amends section 2 of the State Department Basic Authorities Act of 1956 by:

Clarifying the Secretary of State's current authority to hire by contract individuals or organizations for services abroad;

Extending the Secretary of State's current authority for overseas personnel services contracting to enable the Secretary of State to hire local American nationals. These individuals employed by contract to perform these services would not be considered for the purposes of this section to be employed by the U.S. Federal Government;

Providing authority for the Secretary of State to hire outside experts and consultants and stipulates the rate of pay may not exceed the GS–18;

Providing the necessary flexibility and authority for the Secretary of State in consultation with the Administrator of General Services to provide for sole source procurement to meet overseas security requirements. This new authority to allow for sole source procurement preserves the requirements of the Competition and Contracting Act of 1984;

Providing the authority for the Deputy Assistant Secretary of State to use Government-owned vehicles for security purposes, for travel between his or her residence and places where official functions are performed; and

Including USIA and AID in the authority to extend additional per diem benefits to security personnel and to members of the Foreign Service and employees of that Agency who are performing security related functions abroad who by virtue of their official duties are required to engage in extended travel. It is intended that USIA and AID would follow the State Department regula-

tions regarding the definition of extended travel.

Section 304 expresses the sense of Congress that due to the current epidemic of worldwide terrorist activity, U.S. missions abroad should more extensively utilize the danger pay allowance.

The following correspondence from the Committees on Government Operations and on Post Office and Civil Service and the Deputy-Secretary of State, relate to the provisions of H.R. 6311 as amended.

COMMITTEE ON
GOVERNMENT OPERATIONS,
Washington, DC, October 1, 1984.

Hon. DANTE B. FASCELL,
Chairman, Committee on Foreign Affairs, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: It is my understanding that the House is expected to consider H.R. 6311, the "1984 Act to Combat International Terrorism," in the near future. As you are aware, there are a couple of provisions in that bill which affect the jurisdiction of the Committee on Government Operations. Specifically, these are in section 303(a) and 303(c) relating to procurement and to per diem allowances.

Section 303(a) contains language permitting the Department of State to directly procure goods and services in the United States and abroad, solely for use by United States foreign service posts abroad when the Secretary of State, in accordance with guidelines established in consultation with the Administrator of General Services, determines that use of the Federal Supply Service or otherwise applicable Federal goods and services acquisition authority would not meet overseas security requirements determined necessary by the Secretary taking into account overseas delivery, installation, maintenance, or replacement requirements. It is my understanding that this authority is to be used only to facilitate the expeditious acquisition and installation of items needed to enhance security at Department of State foreign service posts abroad and is not to be used to avoid the normal procurement process in acquiring goods and services for normal everyday activities of the Department of State.

It is further my understanding that this authority expires when the amendment made by section 2711 of the Competition in Contracting Act becomes effective. The Competition in Contracting Act was recently passed by Congress as a part of the Deficit Reduction Act. Its basic purpose is to require full and open competition in the procurement of goods and services by all Federal agencies. However, there are provisions in that act providing for the use of less than full and open competition when the procurement is to meet an unusual and urgent need. Section 303(a) of this bill specifies that the Secretary of State may use such limited competition provisions of that act to expedite procurements for security enhancement at our overseas posts. The Competition in Contracting Act is expected to become effective on April 1, 1985.

Section 303(c) of H.R. 6311 will allow the Director of the United States Information Agency and the Director of the International Development Corporation Agency to authorize the payment of additional per diem allowances to security personnel and to members of the Foreign Service and employees who are on extended foreign travel in the performance of security related functions. This authority is similar to authority already available to the Secretary of State with regard to certain State Department personnel.

I appreciate the opportunity to discuss these provisions with you. I have reviewed the language contained in H.R. 6311 and agree that it reflects our understandings. Many thanks for the cooperation of your committee with the Committee on Government Operations.

Sincerely,

JACK BROOKS, *Chairman.*

COMMITTEE ON POST OFFICE
AND CIVIL SERVICE,
Washington, DC, October 1, 1984.

The Hon. DANTE B. FASCELL,
Chairman, Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I understand that you intend to bring to the House floor today, under suspension of the rules, H.R. 6311, the 1984 Act of Combat International Terrorism, with an amendment in the nature of a substitute.

Certain provisions in H.R. 6311, as amended, amend the Foreign Service Act of 1980 or otherwise fall within the jurisdiction of the Committee on Post Office and Civil Service. However, in view of the lateness of the session and the urgency of dealing with the growing problem of international terrorism, I have no intention of seeking sequential referral of the bill.

I look forward to working with you in the future on matters falling within the jurisdictions of both of our committees.

Sincerely yours,

WILLIAM D. FORD,
Chairman.

DEPARTMENT OF STATE,
Washington, DC, October 1, 1984.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: I understand that the following bills will be on the suspension calendar this week: H.R. 6311 (as amended); H.R. 5689 (as amended); and H.R. 5690 (as amended).

H.R. 6311 (as amended) authorizes $366 million for improved Embassy security, improved security of USIA facilities and money so that the Attorney General and the Secretary can provide rewards to those providing information on terrorism. H.R. 5689 (as amended) is implementing legislation for the International Convention Against the Taking of Hostages and H.R. 5690 (as amended) is implementing legislation for the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.

The Administration strongly supports the passage of all three of these bills. They are important in strengthening the security of our installations abroad and in improving our capability to combat terrorism.

The Office of Management and Budget has advised that enactment of these three bills would be in accord with the program of the President.

Sincerely,

KENNETH W. DAM,
Acting Secretary.

SELECTIVE SUMMARY OF FINDINGS FROM THE HOUSE FOREIGN AFFAIRS COMMITTEE STAFF STUDY REPORT ON DIPLOMATIC SECURITY AND COUNTERTERRORISM EFFORTS

GENERAL FINDINGS

Despite improved efforts and reasonably effective intelligence, regrettably little is known about terrorist groups. On the whole, such groups are intelligent, efficent, highly dedicated and motivated, small but well organized and disciplined.

Indigenous terrorism, like revolutions, thrive in the atmosphere of social unrest, economic deprivation, and other root-problem causes.

Generally, terrorist groups are deterred by strong security programs. Accordingly, they seek the easiest, least secure targets. Away from hardened mission facilities, isolated U.S. diplomats and military personnel going to or from work in their own vehicles are typical and frequent "easy" targets.

Improved coordination of security programs and antiterrorism efforts will, at best, minimize but never completely eliminate the risk to Americans abroad.

Even in high-threat diplomatic posts, failure to implement security enhancement programs expeditiously has subjected American personnel to undue risks.

EFFECTIVENESS OF STATE DEPARTMENT SECURITY AND ANTITERRORISM EFFORTS

The Department's performance has been plagued by overlapping and sometimes competing bureaucratic structures. This bureaucratic labyrinth results in too many delays, breakdowns, and confusion. Examples abound of extended wasteful and counterproductive time delays.

The Department lacks an efficient structure to deal with the increasing security problems encountered by our diplomats at U.S. facilities abroad. Rather, it is an amalgamation of offices and bureaus with overlapping interests vying for turf and attention which results in unnecessary division of funding responsibilities. Rigid decisionmaking on funding hampers flexible use of monies and prevents effective and prompt response.

The Department's Office of Security lacks adequate staffing. Often unpredictable and frequently spontaneous demands require the Office to draw resources and manpower away from the Security Enhancement Program—an already thinly-staffed function both in the Department and abroad—to the labor-intensive duties of protecting the Secretary of State, ambassadors and other visiting dignitaries, and of conducting security investigations. The Office of Security also lacks adequate staffing to allow emergency reaction teams to be deployed without jeopardizing other functions.

Coordinated and conscious attention is necessary regarding the problem of installing complex security systems in American diplomatic missions. For example, greater use of the Navy's Seabees should be made in installing such systems. In addition, further research and development on such systems is needed.

American embassies, especially those located in old and historic buildings, are subject to strict and sometimes unworkable restrictions imposed by host governments. As a result, various aspects of security enhancement programs are often precluded or delayed by time-consuming negotiations.

The security enhancement of U.S. missions abroad is hampered by the fact that many such facilities are located in rented buildings.

Changes in embassy personnel, especially ambassadors and administrative officers, too often produce delays and cost increases in security enhancement programs. In addition, security personnel levels, including Marine guards, are frequently not filled to authorized strengths.

The ultimate authority of the ambassador to override recommendations of the Office of Security often weakens the overall security of our diplomatic missions.

An impediment to the Department's efforts to protect U.S. diplomatic personnel abroad is a certain sense of fatalism. Despite determined training programs, periodic briefings and reminders, and other precautionary measures, many U.S. diplomats continue to slide into carelessness or apathy.

In a number of U.S. diplomatic missions abroad, glaring deficiencies exist which have not been corrected.

ROLE OF INTELLIGENCE

Strong and timely intelligence is clearly the most effective first-line defense against terrorism. Generally, U.S. and host country cooperation with respect to antiterrorism intelligence is effective. This cooperative effort is best left to an ad hoc arrangement rather than a formalized, structured system. Relatedly, a number of countries express an interest in receiving additional counterterrorism training for their police and security officials.

Within the United States own many-faced intelligence gathering and dissemination effort there appears to be a proliferation of reporting. That problem is compounded by periodic lack of complete analysis of raw intelligence information. The combined end result of these problems is qualitatively and quantitatively negative. Too many "false alarm" reports have the effect of inuring intelligence consumers. Quantitatively, an excess of intelligence reporting—sometimes conflicting and even contradictory in fact—generates a confusion and frustration within the intelligence consumer community.

Advance intelligence on planned terrorist attacks is extremely difficult if not impossible to obtain because of the difficulty of infiltrating terrorists groups.

Because terrorist operations are becoming increasingly sophisticated and internationalized, it is difficult to predict when, where, and how an attack will occur. Where terrorists once operated in a few regions of the world and resorted to such simple tactics as kidnappings and random assassinations, they have now expanded their areas of operation and employ such tactics as rocket attacks and bombings. The likelihood is that terrorists will begin to resort to such sophisticated techniques as aircraft, helicopters, and chemical and biological warfare attacks.

HOST COUNTRY ATTITUDE TOWARD TERRORISM

The question of a host country's attitude toward terrorism is one of degree determined by a number of factors. For example, the need and desire to increase economic and commercial opportunities with a given country or region can and does influence the host country's decisions on how forcefully it may pursue a potential threat, allow the presence of known terrorists or permit the arrest of suspected terrorists.

The diplomatic, political, and historical aspects of a host country strongly influence that country's own susceptibility to terrorism and the vigor with which it pursues an antiterrorism policy or works cooperatively with the United States in doing so.

Generally, one of the best and most effective first-line defenses for American diplomatic missions abroad lies with host country security resources. While the U.S. efforts—ranging from marine guards to the most sophisticated technology—are important and necessary, they are ultimately futile without the direct and prompt support of local police.

THE INTERNATIONALIZATION OF TERRORISM

There is compelling evidence of growing cooperation among separate terrorist groups throughout the world. Beyond the ideological bent which provides them a natural cohesiveness, there are increasing indications of overt cooperation and mutual support among national and regional terrorist groups.

The basis for terrorist groups cooperation is often built on personal relationships which start when they train together. In turn, such friendships make "contract cooperation" actions easier to arrange. This cooperation can also involve operational coordination and financial assistance among various terrorist groups as well as logistical help, specialized training, and intelligence sharing. For the United States a negative aspect of this growing cooperation is that events in one part of the world can produce terrorist reactions against U.S. diplomats in other parts of the globe.

STATE-SUPPORTED TERRORISM

Countries which provide direct support to international terrorist groups or engage in terrorist attacks do so in order to influence policies of other countries, to establish or strengthen their influence regionally or worldwide, and to eliminate or terrorize dissident exiles and nationals from adversary countries. A number of countries are extremely active and aggressive in supporting and using organized terrorist groups to accomplish these various objectives.

Such countries systematically provide money (including proceeds from narcotics trafficking and other illicit activities), arms, false documents, safe havens, use of diplomatic pouches to transport weapons and explosives, and giving diplomatic status to terrorists in their embassies.

SELECTIVE RECOMMENDATIONS BASED ON THE FINDINGS OF THE HOUSE FOREIGN AFFAIRS COMMITTEE REPORT ON DIPLOMATIC SECURITY AND COUNTERTERRORISM EFFORTS

The Secretary of State must make clear to all American diplomatic personnel that security has the highest priority and that any actions which may undermine security enhancement programs will not be tolerated.

The Department of State should establish worldwide standards for the physical security and operating procedures at all U.S. diplomatic missions abroad which should be implemented by the Office of Security and which cannot be countermanded by the resident ambassador.

The current diffusion of budgetary, planning, and execution responsibilities within the State Department's security program must be corrected immediately by drawing together all of the Department's various overlapping, confusing, and wasteful activities into a single, coordinated authority.

Although there are problems with any sole-source procurement arrangement, the Department of State should give serious consideration to such arrangements for the various elements of its security enhancement program for American missions abroad. A sole-source procurement procedure would greatly facilitate installation, repair, and maintenance of such complex items as security doors and other equipment.

The United States should increase specialized antiterrorism training to the appropriate law-enforcement units of allied and friendly nations. Supportive reinforcement should also be considered for antiterrorism training programs sponsored by such organizations as the International Association of Chiefs of Police.

The United States should immediately expand its program of technical and financial assistance to the immigration and customs agencies of allied and friendly countries in order to improve control of border crossings. Linking such systems into an international network would help greatly to minimize the current free movement of terrorists.

Where feasible and possible, every consideration should be given to exploring with host governments the issuance of regular license plates to American diplomatic and military personnel. The use of special and easily identifiable diplomatic and military license plates single out such personnel and make them easy targets for terrorists assassins.

American ambassadors, usually the highest profile and most lucrative target for terrorists, should continue to be provided nondescript armored cars of foreign make and well-trained drivers. Larger American-made cars only single out its occupant and make evasive action more difficult in crowded traffic and narrow streets.

One short-range but effective means of enhancing the security of U.S. diplomatic and military personnel abroad is to convene regular and periodic meetings of those responsible for antiterrorism programs. Such regularized meetings would help to increase idea-sharing, coordinate efforts, and standardize procedures. Currently, such meetings are conducted only ad hoc, usually after a crisis, and have no systematic follow-through mechanisms.

The Department of State should increase the number of professional security personnel assigned to our diplomatic facilities abroad. This would include augmenting the current number of Regional Security Officers and Security Engineering Officers. An increase in the number of these personnel overseas is necessary in light of the size and complexity of the Department's security program abroad.

Mr. WINN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill, H.R. 6311.

We have waited too long to do something about the growing threat of terrorism. Before us today is legislation which can enable us to better protect our diplomatic facilities overseas. We must do everything we can to protect our civilian and military personnel serving in our diplomatic missions around the world. As a cosponsor of this resoltuion, I strongly support this important piece of antiterrorism legislation.

Before us is a bill which represents a critical element in our Government's fight against terrorism. The "Act to Combat International Terrorism" provides financial rewards to an individual providing information about a planned terrorist attack. The act also urges the President to seek more international cooperation in fighting international terrorism.

In this resolution, the Secretary of State is required to report to the Congress the findings of the Secretary's "Advisory Panel on Security of United

States Missions Abroad." The panel is being chaired by Adm. Bobby Inman, a respected intelligence expert.

Finally, the bill includes an emegency supplemental request from the Department of State totaling $366 million. This money will be used to protect our embassies overseas from the menace of increasing terrorist attacks. We must do our best to ensure that tragic attacks like the ones in Beirut do not happen again.

In the fight against terrorist, we must never forget that good human intelligence is the cutting edge of our antiterrorism effort. We in this Congress must do all that we can to rebuild our Nation's collecting capabilities in the human intelligence area.

All of us here today know the growing threat which our dedicated personnel fact overseas. The brutal threat of terrorism must be dealt with firmly and quickly. This legislation before us is clearly a step in the right direction, It merits our support. I call upon my colleagues to join me in this vital national effort.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. WINN. I yield to the gentleman from Arizona.

Mr. RUDD. Mr. Speaker, I rise in support of H.R. 6311.

International terrorism—the secret war against civilized society—is becoming increasingly frequent, indiscriminate and state-supported. Between 1973 and 1983, 5,175 recorded terrorist incidents worldwide left 3,689 people dead and another 7,791 wounded. In 1983 alone, there were more than 500 attacks staged by international terrorists—40 percent of these were directed against the United States.

The emergency funding contained in H.R. 6311 for security at U.S. missions abroad is urgently needed. We need only recall last week's cowardly attack on the U.S. Embassy annex in Beirut.

An investigation of that incident will follow over any lapses in security. But let's not forget that the ultimate responsibility for these heinous acts rests with those who support and encourage it, and those who carry it out. One President is no more personally responsible for an attack on an embassy, than Members of Congress are for the bomb planted in this Capitol Building last November.

This is an issue over which all Americans—civilization itself—is pitted against barbaric forces who will use whatever amount of force and violence to intimidate peace-loving peoples to further their own ends.

Let's also not forget that in the diplomatic world, security of foreign embassy personnel is considered the responsibility of the host country as well.

If a country cannot provide security for U.S. citizens—if our personnel are repeatedly attacked, their lives placed in jeopardy and their presence is unwanted—then we ought to consider removing our embassy. We must assure security for our citizens abroad.

We should begin sending more than "diplomatic communiques" to countries which host and harbor terrorist groups. I would suggest terminating U.S. aid and economic assistance, reassessing our diplomatic relations and terminating U.S. presence in these countries. We must also undertake preemptive punishing and defensive actions against terrorist groups worldwide to protect our citizens. That action is all terrorists will respect—the only deterrent.

H.R. 6311 is essential to the ongoing fight against terrorism. I urge my colleagues' support. I also urge this more comprehensive look at U.S. policy to formulate an effective response to the growing terrorist threat.

Mr. WINN. Mr. Speaker, I thank the gentleman.

● Mr. BROOMFIELD. Mr. Speaker, before us today is the opportunity to protect our fellow citizens overseas from the ugly specter of terrorism. I commend the administration for its initiative in requesting more resources in the battle against terrorism. As a cosponsor of the original resolution, I eagerly offer my support for this important piece of antiterrorism legislation.

The bill before us is a key element in our Government's fight against the growing threat of terrorism. The "Act to Combat International Terrorism" provides financial rewards to an individual for information regarding threats and acts of international terrorism.

We must remember that good human intelligence is a key to stopping terrorist attacks. We must do everything possible to rebuild the human intelligence capability dedicated to this urgent task.

The resolution also urges the President to seek more international cooperation in combatting international terrorism. It calls for severe punishment for acts of terrorism, and requires the extradition of all terrorists.

Another key aspect of the act requires the Secretary of State to report to the House and the Senate the findings of the Secretary's "Advisory Panel on Security of the United States Missions Abroad." This panel was wisely established earlier in the year by the administration, it will focus on more effective ways to combat terrorism overseas.

Most important, the administration recently identified a requirement for $366 million in emergency funds to strengthen our embassy security programs. The administration is at this time formally seeking an appropriation of $110 million, the balance to be provided when Congress returns next year. This badly needed money will be used to protect our embassies overseas from the cowardly and senseless terrorist acts that we have seen in recent weeks. In particular, the increased funding will be used for additional security personnel, emergency communications, equipment, expanded counter-terrorism capabilities, and related security enhancement.

I believe that all of us in this Chamber clearly realize the growing threat which our personnel face overseas. Terrorist attacks are on the upswing and we must be prepared to deal with this international scourge. This growing menace must be dealt with firmly and quickly. The legislation before us is clearly a step in the right direction. It merits our support, and I call upon my colleagues to take action now.●

Mr. FASCELL. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Florida [Mr. MICA], the chairman of the subcommittee.

Mr. MICA. Mr. Speaker, I rise in support of H.R. 6311.

First, I would like to commend our chairman of the full Foreign Affairs Committee, Congressman, DANTE FASCELL, for his leadership and the magnificent job he has done, not only in helping get this bill to the floor today, but also in the years of leadership he has given to this very issue.

If you look at the background and history of this Congress and this committee and the job we have done, and the concerns we have expressed, Embassy security is not a new issue for this Congress. In the wake of mob violance that occurred in Pakistan, Iran, and Libya in 1979 Congress approved the security enhancement program which was intended to improve the security posture of 125 posts at a cost of $192 million in 5 years. Subsequently the administration cut this back to $145 million over 7 years for half as many posts over the past 5 years the Congress has supported these programs by appropriating $700 million. Never has the State Department or any other agency come and asked for funds for security for our missions and our personnel abroad that we have not looked at it. We tried to be helpful whenever possible. In fact, as a new chairman of that subcommittee, I have been urging not only the funding requests that is before us today, but also that the State Department indeed come forward as quickly as possible with requests so that we could assure, be absolutely certainly, that we would have all the security measures and devices in place at every embassy where there was a concern.

I would like to reiterate what my chairman said. This particular piece of legislation requesting emergency $350 million for security just came to the Congress and to our committee last Tuesday. The committee acted on that request on the following day, Wednes-

day. We had excellent staff work, and excellent preparations. The Department indicated to us what their needs were and how to fulfill them. We moved; and we moved very rapidly. In this request, we are talking about buildings, land, security equipment, security enhancement, and communications equipment. These are items that the State Department and this committee and the Congress feel are important for our personnel abroad. Long gone are the days when our diplomats enjoyed total immunity. We have known this for some time. I think this request will go a long way in addressing the concerns that we have.

Also I would like to add that the terrorism package included in this bill, has two of three components that were originally presented to us. One of course, would allow rewards to be paid for information concerning terrorism. We think this is very important. It had nearly unanimous and bipartisan support in the committee and I think will in this Congress. The other section is to implement treaties that have been on the books for some time and there was no decision to move forward to implement them until just recently.

And the third provision, dropped during committee hearings which I think Members should know was a very controversial provision, is not in this bill. It would have allowed the Secretary of State to publish lists with the names of countries and groups who are viewed as supportive of terrorism. It was the bipartisan wisdom of the committee, with the agreement of the administration, not to establish such a system given the concerns that it would raise. So the package before you was put together. I think there was tremendous bipartisan support.

Today, the Congress will unanimously approve this antiterrorism package and $366 million for embassy security. The House will do it in a few moments; the Senate will do it tomorrow. But throwing money at the problem is not the only answer. This committee and my subcommittee will have intense—intense—oversight hearings to make sure that the money and the promises that are given to us are kept and used appropriately. We have had too many instances in the past where my committee was promised that items would be taken care of, inadequacies would be addressed. That has not been the case.

So, along with the $366 million that will probably pass nearly unanimously in a few moments on this floor will be commitment for heavy oversight from the Foreign Affairs Committee.

Mr. WINN. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. GILMAN], who has been so instrumental in bringing this legislation to the floor.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of H.R. 6311, an important measure to help us combat international terrorism. I wish to associate myself with the remarks of the gentleman from Kansas [Mr. WINN] and I commend the distinguished chairman of the committee, the gentleman from Florida [Mr. FASCELL], and our subcommittee chairman, the gentleman from Florida [Mr. MICA], for their perseverance in guiding this measure to the floor today and for the prompt manner in which our committee has responded to this essential funding on our fight against terrorism.

Mr. Speaker, terrorism knows no boundaries, cases not for human life, and seeks to cripple the legitimate activities of civilized nations. Passage of the measure before us today will demonstrate that our nation is determined to intensify its efforts against terrorists. H.R. 6311 authorizes substantial rewards for information relating to threats and acts of international terorrism and calls on the President to explore ways that greater international cooperation can be brought to bear against terrorism.

In addition, the measure recognizes the pressing need during an era of suicidal terrorist attacks, to enhance significantly the security of U.S. diplomatic missions abroad. We must review every option to assure that U.S. facilities are adequately protected and that the tragedy of Beirut is not repeated at other American posts. Accordingly, this legislation directs the Secretary of State to report to Congress by February 1, 1985, the findings of the recently established Advisory Panel on Security of United States Missions Abroad.

H.R. 6311 also authorizes $366,278,000 to begin an early program of security enhancement, including improved fortification of posts, enhanced communications capability, and increased counter terrorism and emergency planning.

Mr. Speaker, terrorists are determined to ply their inhumane and cowardly trade and to seek, increasingly, to exploit any vulnerabilities they identify.

There were 5,175 recorded terrorism incidents worldwide from 1973 to 1983 claiming the lives of 3,689 people and wounding another 7,791. In 1983 alone, the world witnessed some 500 attacks; of these, 70 were State supported.

Forty percent of the attacks in 1983 were directed at the United States, leaving 271 Americans dead and 116 others wounded, more than in the 15 preceding years. While 1983 stood out from previous years because of the sheer violence of the attacks, figures for the first 6 months of 1984 showed a 25 percent increase in terrorist incidents. It is my hope that this legislation will reduce those opportunities for terrorist attacks and signal to the world that the United States has taken an important first step to counter the deadly threat that stalks civilized society.

Accordingly, I urge my colleagues to suspend the rules and pass H.R. 6311.

Mr. FASCELL. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER], the distinguished chairperson of the Subcommittee on Civil Service of the Committee on Post Office and Civil Service.

Mrs. SCHROEDER. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of H.R. 6311 the 1984 act to combat international terrorism. The bombing of our Embassy annex in Beirut 2 weeks ago is a national disgrace, a major scandal. Secretary of State Shultz said yesterday that he should be blamed for the loss of life and, if anyone needs to be fired, he should be. Maybe he should be. The more important task, however, is to act swiftly to prevent this from recurring, something which the administration failed to do after the first attack on our Embassy and something which the administration again failed to do after the shameful attack on our marines.

H.R. 6311 contains a number of provisions to combat international terrorism. It authorizes the expenditure of about $356 million for the enhancement of security at our missions abroad. This is about three times the amount that the penny-wise, pound-foolish administration wants. It is very strange that we have an administration which is willing to subject hundreds of thousands of civil servants to lifetime censorship to guard against embarassing books and articles, but is unwilling to spend two-thirds of the price of the worthless DIVAD air defense gun to provide security to our diplomats abroad.

Representative JIM LEACH also added language saying that danger pay allowances should be utilized more extensively for employees abroad. I completely agree. I was shocked that at the time of the first bombing of our Embassy a year and a half ago, no one was getting danger pay. Similarly, our soldiers were not receiving hostile fire pay. We changed the law to push the administration to pay both groups. Representative LEACH is absolutely right that greater use should be made of this authority. If our people, civilian or military, are asked to work in exceedingly dangerous environments, the least we can do is show our appreciation through the payment of danger pay.

H.R. 6311 amends the Foreign Service Act of 1980 and otherwise affects provisions within the jurisdiction of the Committee on Post Office and Civil Service. I am pleased to report that Chairman FORD has written Chairman FASCELL to waive sequential

referral, because of the lateness of the session and the urgency of dealing with the terrorist problem.

I congratulate Chairman FASCELL and Chairman MICA for acting so promptly on this needed legislation and I urge its adoption.

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Mr. FASCELL. Mr. Speaker, I want to commend the gentlewoman from Colorado because of her insistence, in the Foreign Service Act, on this provision and many others that have made tremendous improvement in the Foreign Service, and also for her interest in this particular bill, especially with respect to danger pay allowances and for the cooperation of her subcommittee.

Mr. WINN. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. I thank the gentleman for yielding me this time.

Mr. Speaker. I rise in strong support of H.R. 6311, a bill to combat international terrorism and to provide emergency funding authorization to improve security at U.S. diplomatic posts abroad. I commend the Chairmen DANTE FASCELL, Chairman DAN MICA, and ranking Republican BEN GILMAN.

The recent bombing outside the Beirut Embassy has served to focus our attention once again on the urgent need to protect American lives in the service of their Government overseas. There can be no question that terrorist groups, whose mission is to destroy human life and property even at the cost of their own lives, will often succeed in their suicide attacks. But it is vital that we do everything in our power to deter such attacks and lessen the opportunity to kill and injure Americans.

In the past weeks, a great deal of fingerpointing has taken place, with the appearance of trying to place or shift blame. Being in the heat of a political campaign makes it all too easy to want to posture and outshout an opponent in cries of indignation and dismay. Unless we learn from this tragedy, neither side will benefit from any attempt to politicize the threat international terrorism poses for us both overseas and in our own country as well. We must seek and implement a policy that recognizes the reality of the threat that confronts us, and implement that policy in a way that reduces the danger to the absolute minimum.

Suicide terrorists will obviously stop at nothing to accomplish their goal. U.S. embassies are public buildings that must be accessible to the people in the country where they are located. Understanding both of those factors, we must implement a security system for our embassies that provides the most effective way to screen and deter terrorists while still permitting the embassy to serve its basic functions. Steps have been taken in recent years to initiate the upgrading of security at vulnerable embassies around the world. It is obvious now that more has to be done more quickly. The funding authority in this bill is a necessary addition to help improve the security for our personnel serving overseas. We must not fall into the trap of thinking we can proceed at the usual bureaucratic pace. We must act urgently and deliberately, and put aside the arguing over blame, which only takes our time and attention away from the real issue: Protecting American lives.

Another significant element of this bill are the provisions to establish a series of rewards for information concerning terrorist acts. Knowledge of terrorist groups' intentions can be critical in preventing or lessening the blow of a terrorist attack. By means of rewards for information, we should be able to increase our intelligence capabilities and thereby improve our response to the terrorist threat.

I urge my colleagues to support this measure, and I urge the administration to promptly implement its provisions.

Mr. FASCELL. Mr. Speaker, I yield 4 minutes to the distinguished Chairman of the Subcommittee on Crime of the Committee on the Judiciary [Mr. HUGHES].

Mr. HUGHES. I thank the gentleman for yielding me this time.

Mr. Speaker, on September 26, 1984, the Subcommittee on Crime reported H.R. 5612, which authorized the Attorney General and the Secretary of State to pay rewards for information about terrorist acts. The substance of that bill has now been consolidated into H.R. 6311, sponsored by the distinguished chairman of the Committee on Foreign Affairs, Mr. FASCELL, Mr. BROOMFIELD, the ranking Republican, DAN MICA, the subcommittee chairman and BEN GILMAN, his ranking Republican. H.R. 6311 amends title 18 of the United States Code to grant such authority to the Attorney General; in a companion amendment to the State Department Basic Authorities Act of 1956, the Secretary of State is granted similar authority.

Unfortunately, in recent years, the number of terrorist actions, both in and outside the United States, has increased. While for many years the United States appeared relatively immune from such attacks, this is no longer the case, as the recent bombings of our Embassy in Beirut demonstrate. We must do all we can to deter and punish crimes of terrorism and, where possible, prevent such conduct before it occurs. I believe that this bill, by authorizing large rewards for information about terrorist acts, will encourage those with such information to act responsibly and assist the United States in combating terrorism. Those who give such information may risk their personal safety and well-being; this legislation thus authorizes the Attorney General to provide appropriate protection to them.

In essence, the amendment to title 18, in proposed section 3071, authorizes the Attorney General to pay a reward of up to $500,000 to any individual who furnishes information that leads to the arrest or conviction of a person who commits an act of terrorism, or conspires or attempts to do so, when the object of the offense is either a "United States person" or "United States property." In addition, the Attorney General may pay such a reward for any information that leads to the prevention, frustration, or favorable resolution of such an act of terrorism.

The jurisdiction of the Attorney General extends to acts of terrorism primarily within the territorial jurisdiction of the United States. The use of the term "primarily" indicates that not all of the components of the act of terrorism must occur within the United States. However, if most of the components of the act occur outside the United States, the authority to pay rewards is given to the Secretary of State pursuant to the amendment to the State Department Basic Authorities Act of 1956.

Pursuant to proposed section 3072, the Attorney General, or someone designated by the Attorney General, must determine both whether the person giving information is entitled to a reward and, if so, how much the reward will be. As noted above, the maximum amount of the reward is $500,000. If the amount to be paid exceeds $100,000, the President or the Attorney General personally must approve the amount. This requirement obviates the need for judicial review of the grant of a reward of such a large amount; proposed section 3072 therefore specifically precludes such review.

The Attorney General, or someone designated by the Attorney General, must certify any reward for payment out of the U.S. Treasury. Proposed section 3073.

The Attorney General, or his or her designee, may also take any appropriate measures to protect the identity of a person who has received a reward, and the identities of the members of that person's immediate family. Proposed section 3073.

Proposed section 3074 provides that no individual who is an officer or employee of any governmental entity may receive a monetary reward if the information about terrorist acts is given pursuant to the performance of that individual's official duties. However, such an individual may be eligible for participation in the Attorney General's witness security program, authorized under title V of the Orga-

nized Crime Control Act of 1970. Proposed section 3076. Eligibility for this program depends only on whether the individual has furnished information which would justify a reward. The reward need not actually be granted.

While it is not appropriate to reward a Government employee financially for furnishing information as part of that person's official duties, it is incumbent on the Government to provide personal protection for such an individual. As with the Attorney General's authority to protect the individual's identity, discussed above, eligibility for the witness security program extends to members of the individual's immediate family. An individual will be eligible for such protection whether the reward is authorized by the Attorney General or by the Secretary of State.

Proposed section 3075 authorizes $5 million to be appropriated for the payment of such rewards. The authorization is without fiscal year limitation.

The definitions of terms used in this legislation are set forth in proposed section 3077. The definition of "act of terrorism," set forth in paragraph (1), is based on the definition of "international terrorism" in the foreign Intelligence Surveillance Act, 50 U.S.C. Section 1801(c). The latter definition, however, extends only to those acts that have international effects. Because, under this legislation, the Secretary of State has authority over rewards with international effects, the jurisdictional scope of the Attorney General's authority extends to those acts that have domestic effects.

The definition of "act of terrorism" makes clear that this legislation does not permit the payment of rewards for ordinary criminal acts. Such rewards are governed by other provisions of Federal law. This legislation is limited to those acts that are not only violations of either Federal or State law, or that would be if committed within Federal or State jurisdictional boundaries, but are also intended to intimidate or coerce a civilian population—rather than, for example, a single individual—or a government, or to affect the conduct of a government through an act of assassination or kidnaping. The authorized amount of reward is large because the acts at which such rewards are aimed have widespread domestic consequences, and because these acts are among the most heinous and unjustified of any criminal acts.

The definitions of "United States person," "United States property," "United States," "State," "Government entity," and "Attorney General," set forth in paragraphs (2) through (7) of proposed section 3077, are self-explanatory.

Mr. FASCELL. Mr. Speaker, let me just add my commendation and thanks to the gentleman from New Jersey, the chairman of the subcommittee, for his cooperation in dealing with this legislation, and for the promptness by which it was considered by his subcommittee and in the full committee under Chairman RODINO.

Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. WINN. Mr. Speaker, so that there is no misunderstanding, I want to point out that the administration strongly supports the enactment of H.R. 6311.

Mr. Speaker, I yield back the balance of my time.

● Mr. YOUNG of Florida. Mr. Speaker, I rise in support of H.R. 6311, legislation that will strengthen U.S. efforts to combat international terrorism.

My colleague from Florida DANTE FASCELL, the distinguished chairman of the Foreign Affairs Committee, and BILL BROOMFIELD, the ranking minority member, are to be commended for their concern about the increasing threat from international terrorists and their resolve to take legislative steps to improve our Nation's ability to reduce this threat.

As a member of the Permanent Select Committee on Intelligence, I repeatedly have brought to the attention of my colleagues the staggering toll of international terrorism in deaths, injuries and destroyed property. Since American citizens and property are the targets of almost half of all terrorist attacks, I have advocated strong U.S. leadership in a worldwide effort to curtail this threat by apprehending and punishing terrorists and their accomplices.

The committee has incorporated in H.R. 6311 legislation I introduced this year urging the President to seek international cooperation in establishing severe punishment for acts of terrorism and for extradition of all terrorists and their accomplices to the country where the terrorist incident occurred or whose citizens were victims of the incident. H.R. 6311 also includes the section from my legislation providing for a means by which all nations can meet to share intelligence about terrorist organizations and discuss counterterrorism strategy and techniques.

The September 20 bombing of our Embassy in Beirut is only the most recent example of the type of cowardly attacks American citizens abroad and here in the United States have had to endure. For too long, the terrorists who have roamed the world killing and maiming innocent people and destroying billions of dollars in property, have not been held accountable for their actions.

The adoption of the legislation before us today is a major step in providing U.S. leadership in an international effort to capture terrorists and to issue a warning that they no longer are immune from prosecution and extradition and that their crimes will not go unpunished.●

● Mr. PATTERSON. Mr. Speaker, the people of the United States are shocked and dismayed over repeated terrorist attacks on our embassies abroad. With the sudden brutal slaying of American diplomats in Beirut last week, everyone is asking questions. Fortunately, today we in the House of Representatives have some answers.

First, we question whether security features at U.S. Embassies are adequate to protect our diplomatic personnel? In recent studies requested by the House Foreign Affairs Committee and completed by the State Department, we learn that improvements must be made. Uniform security features on all State Department premises must be developed and all diplomatic personnel must adhere to strict, new rules. Spontaneous demands for protection of visiting dignitaries which in the past drew upon limited security resources must not in the future diminish emergency backup protection.

Second, are there countries where civil unrest and associated hostilities are so great as to endanger the presence of any U.S. citizen? When our marines in Lebanon were massacred 11 months ago, I was one among our colleagues who demanded that we have a firm foreign policy objective in mind before we allow our troops to be sitting ducks for terrorist attackers. Now, as our embassy is assaulted a second time, and our diplomats are maimed or lose their lives, we must again ask why.

There isn't one among us who would deny that U.S. Embassies serve an important purpose abroad. At each and every station, foreign service officers represent our Nation as one of peace and protection. They encourage international trade, foster economic development, and provide advice to civilians and military personnel stationed abroad. In sum, our embassies exist under friendly terms of reciprocity with other nations.

But, in some cases, we are bewildered as to why our diplomatic personnel become the targets of terrorist attackers at Embassy sites in friendly nations. In war-torn areas, like Lebanon and Central America, we have a strong desire to do something to protect our diplomats and to secure peaceful and productive relations among nations.

What terrorist group or groups are responsible for the deaths of our American diplomats? Who are these terrorists who threaten our security and frighten us all?

In the State Department study issued last week, compelling evidence was presented that small isolated groups of individual insurgents are now working together. Such groups

use sophisticated, violent tactics to force social and political change. Sometimes cooperating with one another, terrorists operate quickly, quietly, and effectively. Launching sudden, direct attacks, they are able to work their will on individuals or groups through vicious acts and fear.

We are not alone in our disdain for terrorism. The United States has been cooperating with many nations throughout the world to stop terrorist attacks. International and local police forces are sharing information, developing training techniques, and promoting quick responses to emergency situations. Our goals is to uproot the malicious mentality of terrorism.

In voting to affirm H.R. 6311, the Anti-Terrorism and Embassy Security Act, we are offering answers to President Reagan and the American people. Our foreign diplomats must serve in security. We as a nation must do all we can to keep the world safe, to protect our own citizens, and to end the desperate, hateful acts of terrorists.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and pass the bill, H.R. 6311, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries.

MOTOR VEHICLE THEFT LAW ENFORCEMENT ACT OF 1984

Mr. WIRTH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6257) to amend the Motor Vehicle and Information Cost Savings Act to impede those motor vehicle thefts which occur for purposes of dismantling the vehicles and reselling the major parts by requiring passenger motor vehicles and major replacement parts to have identifying numbers or symbols, and for other purposes, as amended.

The Clerk read as follows:

H.R. 6257

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. (a) This Act may be cited as the "Motor Vehicle Theft Law Enforcement Act of 1984".

(b) The table of contents for this Act follows:

Sec. 1. Short title; table of contents.
Sec. 2. Purpose.
TITLE I—IMPROVED IDENTIFICATION FOR PASSENGER MOTOR VEHICLES AND PARTS
Sec. 101. Motor vehicle theft prevention standard.
Sec. 102. Report regarding theft prevention systems.
TITLE II—ANTIFENCING MEASURES
Sec. 201. Motor vehicle identification numbers; forfeitures.
Sec. 202. Definition of securities.
Sec. 203. Sale or receipt of stolen motor vehicles.
Sec. 204. Trafficking in certain motor vehicles, motor vehicle parts, or motor vehicle components.
Sec. 205. Definition of racketeering activity.
TITLE III—IMPORTATION AND EXPORTATION MEASURES
Sec. 301. Amendment to title 18, United States Code.
302. Amendment to Tariff Act of 1930.

PURPOSE

SEC. 2. It is the purpose of this Act—

(1) to provide for the identification of certain motor vehicles and their major replacement parts to impede motor vehicle theft;

(2) to augment the Federal criminal penalties imposed upon persons trafficking in stolen motor vehicles;

(3) to encourage decreases in premiums charged consumers for motor vehicle theft insurance; and

(4) to reduce opportunities for exporting or importing stolen motor vehicles and off-highway mobile equipment.

TITLE I—IMPROVED IDENTIFICATION FOR PASSENGER MOTOR VEHICLES AND PARTS

MOTOR VEHICLE THEFT PREVENTION STANDARD

SEC. 101. (a) The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 and following) is amended by adding at the end the following new title:

"TITLE VI—THEFT PREVENTION

"DEFINITIONS

"SEC. 601. For purposes of this title:

"(1) The term 'passenger motor vehicle' does not include any multipurpose passenger vehicle (including any vehicle commonly known as a 'passenger van').

"(2) The term 'line' means a name which a manufacturer applies to a group of motor vehicle models of the same make which have the same body or chassis, or otherwise are similar in construction or design.

"(3) The term 'existing line' means any line introduced into commerce before the beginning of the 2-year period specified in section 603(a)(1)(A).

"(4) The term 'new line' means any line introduced into commerce on or after the beginning of the 2-year period specified in section 603(a)(1)(A).

"(5) The term 'first purchaser' means first purchaser for purposes other than resale.

"(6) The term 'covered major part' means any major part selected in accordance sections 602(d)(1)(B) and 603 for coverage by the vehicle theft prevention standard issued under section 602.

"(7) The term 'major part' means—

"(A) the engine;

"(B) the transmission;

"(C) each door allowing entrance or egress to the passenger compartment;

"(D) the hood;

"(E) the grille;

"(F) each bumper;

"(G) each front fender;

"(H) the deck lid, tailgate, or hatchback (whichever is present);

"(I) rear quarter panels;

"(J) the trunk floor pan;

"(K) the frame or, in the case of a unitized body, the supporting structure which serves as the frame; and

"(L) any other part of a passenger motor vehicle which the Secretary, by rule, determines is comparable in design or function to any of the parts listed in subparagraphs (A) through (K).

"(8) The term 'major replacement part' means any major part—

"(A) which is not installed in or on a motor vehicle at the time of its delivery to the first purchaser, and

"(B) the equitable or legal title to which has not been transferred to any first purchaser.

"(9) The term 'model year' has the meaning given such term under section 501(12) of this Act.

"(10) The term 'vehicle theft prevention standard' means a minimum performance standard for the identification of—

"(A) major parts of new motor vehicles, and

"(B) major replacement parts,

by inscribing or affixing numbers or symbols to such parts.

"THEFT PREVENTION STANDARD

"SEC. 602. (a) The Secretary shall by rule promulgate, in accordance with this section, a vehicle theft prevention standard which conforms to the requirements of this title and which applies with respect to—

"(1) the covered major parts which are installed by manufacturers into passenger motor vehicles in lines designated under section 603 as high theft lines; and

"(2) the major replacement parts for the major parts described in paragraph (1).

"(b) The standard under this section shall be practicable, and shall provide relevant objective criteria.

"(c)(1) Not later than 3 months after the date of the enactment of this title, the Secretary shall prescribe and publish a proposed vehicle theft prevention standard.

"(2) As soon as practicable after the 30th day following the publication of the proposed standard under paragraph (1), but not later than 6 months after such date of enactment, the Secretary shall promulgate a final rule establishing such a standard.

"(3) The Secretary may, for good cause, extend the 3-month and 6-month periods under paragraphs (1) and (2) if the Secretary publishes the reasons therefor. Either such period may not, in the aggregate, be extended by more than 5 months.

"(4) Such standard shall take effect not earlier than 6 months after the date such final rule is prescribed, except that the Secretary shall prescribe an earlier effective date if the Secretary—

"(A) finds, for good cause shown, that the earlier date is in the public interest, and

"(B) publishes the reasons for such finding.

"(5) The standard may apply only with respect to—

"(A) major parts which are installed by the motor vehicle manufacturer in any passenger motor vehicle which has a model year designation later than the calendar year in which such standard takes effect, and

"(B) major replacement parts manufactured after such standard takes effect.

"(d)(1) In the case of major parts installed by the motor vehicle manufacturer, the standard under this section may not require—

"(A) any part to have more than a single identification, and

"(B) any motor vehicle to have identification of more than 14 of its major parts.

"(2) In the case of major replacement parts, the standard under this section may not require—

"(A) identification of any part which is not designed as a replacement for a major part required to be identified under such standard, and

"(B) the inscribing or affixing of any identification other than a symbol identifying the manufacturer and a common symbol identifying the part as a major replacement part.

"(e) Nothing in this title shall be construed to grant authority to require any person to keep records or make reports, except as expressly provided in sections 603(c), 605(b), 606(a), and 612.

"DESIGNATION OF HIGH THEFT VEHICLE LINES AND PARTS

"SEC. 603. (a)(1) For purposes of the standard under section 602, the following motor vehicle lines are high theft lines:

"(A) passenger motor vehicles of any line which is determined under subsection (b) to have had a new passenger motor vehicle theft rate in the 2 calendar years immediately preceding the year in which the final standard is promulgated which exceeds the median theft rate for all new passenger motor vehicle thefts in such 2-year period;

"(B) passenger motor vehicles of any line initially introduced into commerce in the United States at any time after the beginning of the 2-year period specified in subparagraph (A) which is determined under paragraph (2) to be likely to have a theft rate exceeding such median theft rate; and

"(C) passenger motor vehicles of any line which is below the median theft rate (in the case of existing lines) or which is likely to be below the median theft rate (in the case of new lines) if the major parts contained in such vehicles are determined under paragraph (2) to be interchangeable with the majority of the major parts which are subject to the standard and which are contained in the motor vehicles of a line subject to the standard pursuant to subparagraph (A) or (B); except that such standard shall not apply to such major parts of any line specified by this paragraph if all the passenger motor vehicles of lines—

"(i) which are or are likely to be below the median theft rate, and

"(ii) which contain parts which are interchangeable with the major parts of the line involved,

account (in the case of existing lines) or the Secretary determines are likely to account (in the case of new lines) for more than 90 percent of the total annual production of all lines of that manufacturer which contain those interchangeable parts.

"(2) The specific lines, and the major parts of the vehicles within such lines, which are to be subject to the standard may be selected by agreement between that manufacturer and the Secretary. If the manufacturer and the Secretary disagree as to such selection, the Secretary shall select such lines and parts, after notice to the manufacturer and opportunity for written comment, and subject to the confidentiality requirements of this title.

"(3) Notwithstanding paragraph (1), of those passenger motor vehicle lines initially introduced by a manufacturer into commerce in the United States before the effective date of the standard, no more than 14 of the lines of any manufacturer shall be selected as high theft lines under paragraph (1) (A) and (B). Any such selection shall be made under paragraph (2) within one year after the date of the enactment of the Motor Vehicle Theft Law Enforcement Act of 1984.

"(4) The Secretary shall prescribe reasonable procedures designed to assure that, to the maximum extent practicable, any selection under paragraph (2) or (3) is made at least 6 months before the first applicable model year beginning after such selection.

"(5) A manufacturer shall not be required to begin to comply with the standard pursuant to any selection made under paragraph (2) or (3) for a model year beginning earlier than 6 months after the date of selection.

"(b)(1) For purposes of subsection (a), the theft rate for passenger motor vehicles of a line shall be determined by a fraction, the numerator of which is the number of new passenger motor vehicle thefts for that line during the 2 calendar years specified in subsection (a)(1)(A), and the denominator of which is the sum of the respective production volumes of all passenger motor vehicles of that line (as reported to the Environmental Protection Agency under title V of this Act) which are of the 2 model years having the same model-year designations as the 2 calendar years specified in subsection (a)(1)(A) and which are distributed for sale in commerce within the United States.

"(2) For purposes of subsection (a), the median theft rate for all new passenger motor vehicle thefts during such 2-year period is that theft rate midway between the highest and the lowest theft rates determined under paragraph (1). If there is an even number of theft rates determined under paragraph (1), the median theft rate is the arithmetic average of the two adjoining theft rates midway between the highest and the lowest of such theft rates.

"(3) Immediately upon enactment of this title, and periodically thereafter, the Secretary, in consultation with the Director of the Federal Bureau of Investigation, shall obtain from the most reliable source or sources accurate and timely theft and recovery data and publish such data for review and comment. To the greatest extent possible, the Secretary shall utilize theft data reported by Federal, State, or local police. After such publication and opportunity for comment, the Secretary shall utilize the theft data to determine the median theft rate under this subsection. The Secretary and such Director shall take such actions as may be necessary to improve the accuracy, reliability, and timeliness of such data, including ensuring that vehicles represented as stolen are in fact stolen.

"(4) In calculating the median theft rate, the Secretary shall take into account the theft rate of lines which are exempted by reason of the 14-line limitation in subsection (a)(3).

"(5) As used in this section, the term 'new passenger motor vehicle thefts', when used with respect to any calendar year, refers to those thefts in the United States in such year which are of passenger motor vehicles with the same model-year designation as the calendar year.

"(c) The Secretary shall, by rule, require each manufacturer to provide information necessary to select pursuant to subsection (a)(2) the high theft lines and the major parts to be subject to the standard.

"(d) Except as provided in section 605, the Secretary may not render the standard inapplicable to any line which at any time has been subject to the standard.

"COST LIMITATION

"SEC. 604. (a) The standard under section 602 may not—

"(1) impose costs upon any manufacturer of motor vehicles to comply with such standard in excess of $15 per motor vehicle, or

"(2) impose costs upon any manufacturer of major replacement parts to comply with such standard in excess of such reasonable lesser amount per major replacement part as the Secretary specifies in such standard.

"(b) In the case of any manufacturer engaged in identifying engines or transmissions on the effective date of this title in a manner which substantially complies with the requirements of the theft prevention standard promulgated under section 602—

"(1) the cost of identifying engines and transmissions shall not be taken into account in calculating such manufacturer's costs under subsection (a); and

"(2) the manufacturer shall not be required, pursuant to the standard or any subsequent modification, to conform to any identification system for engines and transmissions which imposes greater costs on the manufacturer than are incurred under the identification system used by the manufacturer on such effective date.

"(c)(1) At the beginning of each calendar year commencing on or after January 1, 1985, as there becomes available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Secretary and publish in the Federal Register the percentage difference between the price index for the 12 months preceding the beginning of such calendar year and the price index for the base period. Effective for model years beginning in such calendar year, the amounts specified under subsections (a)(1) and (2) shall be adjusted by such percentage difference.

"(2) For purposes of paragraph (1)—

"(A) The term 'base period' means calendar year 1984.

"(B) The term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

"EXEMPTION FOR VEHICLES EQUIPPED WITH ANTITHEFT DEVICES

"SEC. 605. (a)(1) Any manufacturer may petition the Secretary for an exemption from the application of any of the requirements of the vehicle theft prevention standard under section 602 for any line or lines of passenger motor vehicles which are equipped as standard equipment with an antitheft device which the Secretary determines is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the requirements of such standard.

"(2) For the initial model year to which such standard applies, the Secretary may not grant an exemption for more than 2 lines of any manufacturer. For each subsequent model year, the Secretary may grant exemption for not more than 2 additional lines of any manufacturer, and such exemption shall not affect the validity of the exemption of any line previously exempted under this paragraph.

"(3) For purposes of paragraph (1), the term 'standard equipment' means equipment which is installed in a vehicle at the time it is delivered from the manufacturer and which is not an accessory or other item which the first purchaser customarily has the option to have installed.

"(b) Any such petition shall be filed with the Secretary not later than 8 months before the commencement of production for the first model year covered by the petition. Such petition shall include—

"(1) a detailed description of such device,

"(2) the reasons for the manufacturer's conclusion that such device will be effective in reducing and deterring theft of motor vehicles, and

"(3) such additional information as the Secretary determines may be reasonably required to make the determination specified in subsection (a)(1).

"(c) Such determination shall be made, based upon substantial evidence, within 120 days after the date of filing of such petition. The Secretary may approve such petition in whole or in part. If the Secretary fails to make such determination within such time period, the petition shall be considered approved, and the manufacturer shall be exempt from the application of such standard for the susequent model year.

"(d) Nothing in this section shall preclude the Secretary from rescinding any such exemption for any model year after the model year in which such rescission occurs if the Secretary determines that such device has not been as effective in reducing and deterring motor vehicle theft as compliance with the requirements of the standard under section 602, except that such rescission shall not be effective until at least 6 months after the manufacturer receives written notice from the Secretary of such rescission.

"(e) As used in this section, the term 'antitheft device' means a device to reduce or deter theft which is in addition to the theft-deterrent devices requires by Federal motor vehicle safety standard numbered 114 (49 CFR 571.114) which the manufacturer believes will be effective in reducing or deterring theft of motor vehicles, and which does not utilize any signaling device which is reserved by a provision of any State law for use on police, emergency, or official vehicles, or on school buses.

"DETERMINATION OF COMPLIANCE OF MANUFACTURER

"SEC. 606. (a) Every manufacture of any motor vehicle any part of which is subject to the standard under section 602, and any manufacturer of major replacement parts subject to such standard, shall—

"(1) establish and maintain such records, make such reports, and provide such items and information as the Secretary may reasonably require to enable the Secretary to determine whether such manufacturer has acted or is acting in compliance with this title and such standard, and

"(2) upon request of an officer or employee duly designated by the Secretary, permit such officer or employee to inspect (A) vehicles and major parts which are subject to such standard, and (B) appropriate books, papers, records, and documents relevant to determining whether such manufacturer has acted or is acting in compliance with this title and any motor vehicle theft prevention standard promulgated pursuant to this title; such manufacturer shall make available all such items and information in accordance with such reasonable rules as the Secretary may prescribe.

"(b) For purposes of enforcing this title, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, may enter and inspect any facility in which motor vehicles containing major parts subject to such standard, or major replacement parts subject to such standard, are manufactured, held for instruction into interstate commerce, or are held for sale after such introduction. Each such inspection shall be conducted at reasonable times and in a reasonable manner and shall be commenced and completed with reasonable promptness.

"(c)(1) Every manufacturer of a motor vehicle subject to the standard promulgated under section 602, and every manufacturer of any major replacement part subject to such standard, shall furnish at the time of delivery of such vehicle or part a certification that such vehicle or replacement part conforms to the applicable motor vehicle theft prevention standard. Such certification shall accompany such vehicle or replacement part until delivery to the first purchaser. The Secretary may issue rules prescribing the manner and form of such certification.

"(2) Paragraph (1) shall not apply to any motor vehicle or major replacement part—

"(A) which is intended solely for export,

"(B) which is so labeled or tagged on the vehicle or replacement part itself and on the outside of the container, if any, until exported, and

"(C) which is exported.

"(d) If a manufacturer obtains knowledge that (1) the identification applied, to conform to the standard under section 602, to any major part installed by the manufacturer in a motor vehicle during its assembly, or to any major replacement part manufactured by the manufacturer, contains an error, and (2) such motor vehicle or major replacement part has been distributed in interstate commerce, the manufacturer shall furnish notification of such error to the Secretary.

"PROHIBITED ACTS

"SEC. 607. (a) No person shall—

"(1) manufacture for sale, sell, offer for sale, or introduce or deliver for introduction in interstate commerce, or import into the United States—

"(A) any motor vehicle subject to the standard under section 602, or

"(B) any major replacement part subject to such standard,

which is manufactured on or after the date the standard under section 602 takes effect under this title for such vehicle or major replacement part unless it is in conformity with such standard;

"(2) fail to comply with any rule prescribed by the Secretary under this title;

"(3) fail to keep specified records or refuse access to or copying of records, or fail to make reports or provide items or information, or fail or refuse to permit entry or inspection, as required by this title; or

"(4) fail to—

"(A) furnish certification required by section 606(c), or

"(B) issue a certification required by section 606(c) if such person knows, or in the exercise of due care has reason to know, that such certification is false or misleading in a material respect.

"(b) Subsection (a)(1) shall not apply to any person who establishes that he did not have reason to know in the exercise of due care that the vehicle or major replacement part is not in conformity with an applicable theft prevention standard.

"ENFORCEMENT PROVISIONS

"SEC. 608. (a)(1) Whoever violates section 607(a) may be assessed a civil penalty of not to exceed $1,000 for each violation. The failure of more than one part of a single motor vehicle to conform to an applicable motor vehicle theft prevention standard shall constitute only a single violation.

"(2) Any such penalty shall be assessed by the Secretary and collected in a civil action brought by the Attorney General of the United States. Any such civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered.

"(3) The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owned by the United States to the person charged.

"(4) The maximum civil penalty shall not exceed $250,000 for any related series of violations.

"(b)(1) Upon petition by the Attorney General on behalf of the United States, the United States district courts shall have jurisdiction, for cause shown and subject to the provisions of rule 65 (a) and (b) of the Federal Rules of Civil Procedure, to restrain violations of this title, or to restrain the sale, offer for sale, or the introduction or delivery for introduction in interstate commerce, or the importation into the United States, of—

"(A) any passenger motor vehicle containing a major part, or

"(B) any major replacement part,

which is subject to the standard under section 602 and is determined, before the sale of such vehicle or such major replacement part to a first purchaser, not to conform to such standard. Whenever practicable, the Secretary shall give notice to any person against whom an action for injunctive relief is contemplated and afford the person an opportunity to present his views, and except in the case of a knowing and willful violation, shall afford the person reasonable opportunity to achieve compliance. The failure to give such notice and afford such opportunity shall not preclude the granting of appropriate relief.

"(2) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this subsection, which violation also constitutes a violation of this title, trial shall be by the court, or, upon demand of the accused, by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

"(3) Actions under paragraph (1) and under subsection (a) may be brought in the district wherein any act or transaction constituting the violation occurred, or in the district wherein the defendant is found or is an inhabitant or transacts business, and

process in such cases may be served in any other district in which the defendant is an inhabitant or wherever the defendant may be found.

"(4) In any actions brought under paragraph (1) and under subsection (a), subpenas for witnesses who are required to attend a United States district court may run into any other district.

"CONFIDENTIALITY OF INFORMATION

"SEC. 609. All information reported to, or otherwise obtained by, the Secretary or the Secretary's representative under this title which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, or in section 552(b)(4) of title 5, United States Code, shall be considered confidential for the purpose of the applicable section of this title, except that such information may be disclosed to other officers or employees concerned with carrying out this title or when relevant in any proceeding under this title (other than a proceeding under section 603(a)(2) or (3) of this title). Nothing in this section shall authorize the withholding of information by the Secretary or any officer or employee under the Secretary's control from any committee of the Congress.

"JUDICIAL REVIEW

"SEC. 610. Any person who may be adversely affected by any provision of any standard or other rule under this title may obtain judicial review of such standard or rule in accordance with section 504. Nothing in this section shall preclude the availability to any person of other remedies provided by law in the case of any standard, rule, or other action under this title.

"COORDINATION WITH STATE AND LOCAL LAW

"SEC. 611. Whenever a vehicle theft prevention standard established under section 602 is in effect, no State or political subdivision of a State shall have any authority either to establish, or to continue in effect, with respect to any motor vehicle, or major replacement part, any vehicle theft prevention standard which is not identical to such vehicle theft prevention standard.

"INSURANCE REPORTS AND INFORMATION

"SEC. 612. (a)(1) In order to—

"(A) prevent or discourage the theft of motor vehicles, particularly those vehicles which are stolen for the removal of certain parts,

"(B) prevent or discourage the sale and distribution in interstate commerce of used parts that are removed from such vehicles, and

"(C) help reduce the cost to consumers of comprehensive insurance coverage for motor vehicles,

each insurer of such coverage (or their designated agents) shall provide to the Secretary the information required by this subsection. Such information shall be provided annually, beginning 2 years after the date of the enactment of this section.

"(2) Such information shall include—

"(A) the thefts and recoveries (in whole or in part) of motor vehicles;

"(B) the number of vehicles which have been recovered intact;

"(C) the rating rules and plans, such as loss data and rating characteristics, used by such insurers to establish premiums for comprehensive insurance coverage for motor vehicles, including the basis for such premiums, and premium penalties for motor vehicles considered by such insurers as more likely to be stolen;

"(D) the actions taken by such insurers to reduce such premiums, including changes in rate levels for automobile comprehensive coverages, due to a reduction in thefts of motor vehicles;

"(E) the actions taken by such insurers to assist in deterring or reducing thefts of motor vehicles; and

"(F) such other information as the Secretary may require to administer this title and to make the report and findings required by this title.

The information on thefts and recoveries of such vehicles shall include an explanation about how such information is obtained by the insurer, the accuracy and timeliness of such information, and the use made of such information, including the extent to which such information is reported, including the frequency of such reporting, to national, public, and private entities, such as the Federal Bureau of Investigation and State and local police.

"(3) For purposes of this section, the term 'insurer' includes any person which has a fleet of 20 or more motor vehicles (other than any governmental entity) which are used primarily for rental or lease and which are not covered by theft insurance policies issued by insurers of passenger motor vehicles.

"(4) The Secretary shall exempt from the requirements of this section, for one or more years, any insurer if the Secretary determines that such insurer should be exempted because—

"(A) the cost of preparing and furnishing reports and information is excessive in relation to the size of the business of the insurer, and

"(B) such reports and information will not significantly contribute to carrying out the purposes of this title.

"(5)(A) Subject to subparagraph (B), the Secretary shall, by rule, exempt from the requirements of this section small insurers if the Secretary finds that such exemption will not significantly affect the validity or usefulness of the information collected and compiled under this section, nationally or State-by-State.

"(B) The Secretary may not, under subparagraph (A), exempt any person who is considered an insurer under this section solely by reason of paragraph (3).

"(C)(i) Subject to clause (ii), for purposes of this paragraph, the term 'small insurer' means any insurer whose premiums for motor vehicle insurance issued directly or through any affiliate, including any pooling arrangement established under State law or regulation for the issuance of motor vehicle insurance, account for less than one percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the United States. The regulations under this paragraph shall provide that eligibility as a small insurer shall be based on the most recent calendar year for which adequate data is available, and that, once attained, such eligibility shall continue without further demonstration of qualification for one or more years, as the Secretary considers appropriate.

"(ii) For purposes of the reporting requirements under this section for an insurer's operations within any State, the term 'small insurer' shall not include any insurer whose premiums for motor vehicle insurance issued directly or through any affiliate, including any pooling arrangement described in clause (i), account for 10 percent or more of the total premiums for all forms of motor vehicle insurance issued by insurers within such State.

"(b) The information obtained by the Secretary under this section shall be periodically compiled and (subject to section 552 of title 5, United States Code) published by the Secretary in a form that will be helpful to the public, including Federal, State, and local police, and Congress.

"(c) The Secretary shall consult with such State and insurance regulatory agencies and other agencies and associations, both public and private, as the Secretary deems appropriate.

"(d) If, in paying claims pursuant to adjustment or negotiations between the insurer and the insured for any stolen motor vehicle, any insurer reduces such payment by the amount of the value, salvage or otherwise, of any part subject to the standard which is recovered and such reduction is not made at the express election of the insured, the insurer shall promptly report such action in writing to the Secretary.

"(e) The information required by this section shall be furnished in such form as the Secretary shall prescribe by regulation or otherwise.

"(f) For purposes of this section, the term 'motor vehicle' includes trucks, multipurpose passenger vehicles, and motorcycles.

"VOLUNTARY VEHICLE IDENTIFICATION STANDARDS

"SEC. 613. (a) The Secretary may, by rule, promulgate a vehicle theft prevention standard under which any person may elect to inscribe or affix an identifying number or symbol on major parts of any motor vehicle manufactured or owned by such person for purposes of section 511 of title 18, United States Code and related provisions. Such standard may include provisions for registration of such identification with the Secretary or any person designated by the Secretary.

"(b) The standard under this section shall be practicable, and shall provide relevant objective criteria.

"(c) Compliance with such standard shall be voluntary, and any failure to comply shall not be subject to penalty or enforcement under this title.

"(d) Compliance with such standard shall not relieve any manufacturer of any requirement under the standard under section 602.

"3-YEAR AND 5-YEAR STUDIES REGARDING MOTOR VEHICLE THEFT

"SEC. 614. (a)(1) Not later than 3 years after the date of the enactment of this title, the Secretary, shall submit a report to the Congress which includes the information and legislative recommendations required under paragraphs (2) and (3).

"(2) The report required by this subsection shall include—

"(A) data on the number of trucks, multipurpose passenger vehicles, and motorcycles, stolen and recovered annually, compiled by model, make, and line for all such motor vehicles distributed for sale in interstate commerce;

"(B) information on the extent to which trucks, multipurpose passenger vehicles, and motorcycles, stolen annually are dismantled to recover parts or are exported;

"(C) a description of the market for such stolen parts;

"(D) information concerning the premiums charged by insurers of comprehensive insurance coverage of trucks, multipurpose passenger vehicles, or motorcycles, including any increase in such premiums charged

because any such motor vehicle is a likely candidate for theft; and

"(E) an assessment of whether the identification of parts of trucks, multipurpose passenger vehicles, and motorcyles is likely to have (i) a beneficial impact in decreasing the rate of theft of such vehicles; (ii) improve the recovery rate of such vehicles; (iii) decrease the trafficking in stolen parts of such vehicles; (iv) stem the export and import of such stolen vehicles or parts; or (v) benefits which exceed the costs of such identification.

"(3) The report under this subsection shall recommend to Congress whether, and to what extent, the identification of trucks, multipurpose passenger vehicles, and motorcycles should be required by statute.

"(b)(1) Not later than 5 years after the promulgation of the standard required by this title, the Secretary shall submit a report to the Congress which includes the information and legislative recommendations required under paragraphs (2) and (3).

"(2) The report required by this subsection shall include—

"(A) information about the methods and procedures used by public and private entities for collecting, compiling, and disseminating information concerning the theft and recover of motor vehicles, including classes thereof, and about the reliability, accuracy, and timeliness of such information, and how such information can be improved;

"(B) data on the number of motor vehicles stolen and recovered annually, compiled by the class of vehicle, model, make, and line for all such motor vehicles distributed for sale in interstate commerce;

"(C) information on the extent to which motor vehicles stolen annually are dismantled to recover parts or are exported;

"(D) a description of the market for such stolen parts;

"(E) information concerning the costs to manufacturers, as well as to purchasers of passenger motor vehicles, in complying with the standard promulgated under this title, as well as the identification of the beneficial impacts of the standard and the monetary value of any such impacts, and the extent to which such monetary value is greater than the costs;

"(F) information concerning the experience of Federal, State, and local officials in making arrests and successfully prosecuting persons for violations of the provisions of law set forth in titles II and III of the Motor Vehicle Theft Law Enforcement Act of 1984, in preventing or reducing the number, and rate of, thefts of motor vehicles that are dismantled for parts subject to this title, and in preventing or reducing the availability of used parts that are stolen from motor vehicles subject to this title;

"(G) information concerning the premiums charged by insurers of comprehensive insurance coverage of motor vehicles subject to this title, including any increase in such premiums charged because a motor vehicle is a likely candidate for theft, and the extent to which such insurers have reduced for the benefit of consumers such premiums as a result of this title or have foregone premium increases as a result of this title;

"(H) information concerning the adequacy and effectiveness of Federal and State laws aimed at preventing the distribution and sale of used parts that have been removed from stolen motor vehicles and the adequacy of systems available to enforcement personnel for tracing parts to determine if they have been stolen from a motor vehicle;

"(I) an assessment of whether the identification of parts of other classes of motor vehicles is likely to have (i) a beneficial impact in decreasing the rate of theft of such vehicles; (ii) improve the recovery rate of such vehicles; (iii) decrease the trafficking in stolen parts of such vehicles; (iv) stem the export and import of such stolen vehicles, parts, or components; or (v) benefits which exceed the costs of such identification; and

"(J) other pertinent and reliable information available to the Secretary concerning the impact, including the beneficial impact, of this title and titles II and III of the Motor Vehicle Theft Law Enforcement Act of 1984 on law enforcement, consumers, and manufacturers.

"(3) The report submitted under this subsection to the Congress shall include recommendations for (A) continuing standard established by this title without change, (B) modifying this title to cover more or fewer lines of passenger motor vehicles, (C) modifying this title to cover other classes of motor vehicles, or (D) terminating the standard for all future motor vehicles. The report may include, as appropriate, legislative and administrative recommendations.

"(c)(1) The reports under subsections (a) and (b) shall each be based on (A) the information reported under this title by insurers of motor vehicles and manufacturers of such vehicles and major replacement parts, (B) information provided by the Federal Bureau of Investigation, (C) experience obtained in the implementation, administration, and enforcement of this title, (D) experience gained by the Government under titles II and III of the Motor Vehicle Theft Law Enforcement Act of 1984, and (E) any other reliable and relevant information available to the Secretary.

"(2) In preparing each such report, the Secretary shall consult with the Attorney General of the United States and with State and local law enforcement officials, as appropriate.

"(3) The report under subsection (b) shall (A) cover a period of at least four years subsequent to the promulgation of the standard required by this title, and (B) reflect any information, as appropriate, from the report under subsection (a) updated from the time of such report.

"(4) At least 90 days before submitting each such report to Congress, the Secretary shall publish the proposed report for public review and for an opportunity for written comment of at least 45 days. The Secretary shall consider such comments in preparing the final report and shall include a summary of such comments with the final report.".

"(b) Section 2 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901) is amended by inserting "and except as provided in section 601 of this Act" immediately after "title V".

REPORT REGARDING THEFT PREVENTION SYSTEMS

SEC. 102. (a) The Secretary of Transportation, not later than one year after the date of the enactment of this Act, shall submit a report to the Congress regarding security devices and systems which are designed to deter individuals from entering a locked motor vehicle and starting the motor vehicle for the purpose of stealing the motor vehicle.

(b) The report required in subsection (a) shall contain—

(1) a determination by the Secretary of whether a Federal standard regarding security devices and systems can be devised which does not result in the compromising of motor vehicle theft prevention devices and systems in the process of demonstrating compliance with such standard;

(2) a determination by the Secretary of whether the purposes of theft prevention would be better served by such a standard or whether owners of motor vehicles used primarily in areas having high crime rates should be encouraged to equip their vehicles with security devices or systems; and

(3) a description of the costs and effectiveness of such devices and systems.

(c) The report required in subsection (a) also may include an examination and review of any matters relating to motor vehicle theft prevention which the Secretary of Transportation considers appropriate to examine and review. The Secretary shall prepare such report after consulting with the Attorney General of the United States. Such report shall include recommendations for such legislative or administrative action as the Secretary considers necessary or appropriate.

TITLE II—ANTIFENCING MEASURES

MOTOR VEHICLE IDENTIFICATION NUMBERS; FORFEITURES

SEC. 201. (a) Chapter 25 of title 18, United States Code, is amended by adding at the end the following new sections:

"§ 511. Altering or removing motor vehicle identification numbers

"(a) Whoever knowingly removes, obliterates, tampers with, or alters an identification number for a motor vehicle, or motor vehicle part, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

"(b)(1) Subsection (a) of this section does not apply to a removal, obliteration, tampering, or alteration by a person specified in paragraph (2) of this subsection (unless such person knows that the vehicle or part involved is stolen).

"(2) The persons referred to in paragraph (1) of this subsection are—

"(A) a motor vehicle scrap processor or a motor vehicle demolisher who complies with applicable State law with respect to such vehicle or part;

"(B) a person who repairs such vehicle or part, if the removal, obliteration, tampering, or alteration is reasonably necessary for the repair; and

"(C) a person who restores or replaces an identification number for such vehicle or part in accordance with applicable State law.

"(c) As used in this section, the term—

"(1) 'identification number' means a number or symbol that is inscribed or affixed for purposes of identification under the National Traffic and Motor Vehicle Safety Act of 1966, or the Motor Vehicle Information and Cost Savings Act;

"(2) 'motor vehicle' has the meaning given that term in section 2 of the Motor Vehicle Information and Cost Savings Act;

"(3) 'motor vehicle demolisher' means a person, including any motor vehicle dismantler or motor vehicle recycler, who is engaged in the business of reducing motor vehicles or motor vehicle parts to metallic scrap that is unsuitable for use as either a motor vehicle or a motor vehicle part;

"(4) 'motor vehicle scrap processor' means a person—

"(A) who is engaged in the business of purchasing motor vehicles or motor vehicle parts for reduction to metallic scrap for recycling;

"(B) who, from a fixed location, uses machinery to process metallic scrap into prepared grades; and

"(C) whose principal product is metallic scrap for recycling;

but such term does not include any activity of any such person relating to the recycling of a motor vehicle or a motor vehicle part as a used motor vehicle or a used motor vehicle part.

"§ 512. Forfeiture of certain motor vehicles and motor vehicle parts

"(a) If an identification number for a motor vehicle, motor vehicle part is removed, obliterated, tampered with, or altered, such vehicle or part shall be subject to seizure and forfeiture to the United States unless—

"(1) in the case of a motor vehicle part, such part is attached to a motor vehicle and the owner of such motor vehicle does not know that the identification number has been removed, obliterated, tampered with, or altered;

"(2) such motor vehicle or part has a replacement identification number that—

"(A) is authorized by the Secretary of Transportation under the National Traffic and Motor Vehicle Safety Act of 1966; or

"(B) conforms to applicable State law;

"(3) such removal, obliteration, tampering, or alteration is caused by collision or fire or is not described in section 511(b) of this title; or

"(4) such motor vehicle or part is in the possession or control of a motor vehicle scrap processor who does not know that such identification number was removed, obliterated, tampered with, or altered in any manner other than by collision or fire or as described in section 511(b) of this title.

"(b) All provisions of law relating to—

"(1) the seizure and condemnation of vessels, vehicles, merchandise, and baggage for violation of customs laws, and procedures for summary and judicial forfeiture applicable to such violations;

"(2) the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from such disposition;

"(3) the remission or mitigation of such forfeiture; and

"(4) the compromise of claims and the award of compensation to informers with respect to such forfeiture;

shall apply to seizures and forfeitures under this section, to the extent that such provisions are not inconsistent with this section. The duties of the collector of customs or any other person with respect to seizure and forfeiture under such provisions shall be performed under this section by such persons as may be designated by the Attorney General.

"(c) As used in this section, the terms 'identification number', 'motor vehicle', and 'motor vehicle scrap processor' have the meanings given those terms in section 511 of this title.".

(b) The table of sections for chapter 25 of title 18, United States Code, is amended by adding at the end the following new items:

"511. Altering or removing motor vehicle identification numbers.
"512. Forfeiture of certain motor vehicles and motor vehicle parts.".

DEFINITION OF SECURITIES

SEC. 202. Section 2311 of title 18, United States Code, is amended in the fifth definition by inserting after "voting-trust certificate;" the following: "valid or blank motor vehicle title;".

SALE OR RECEIPT OF STOLEN MOTOR VEHICLES

SEC. 203. Section 2313 of title 18, United States Code, is amended—

(1) by inserting "possesses," after "receives,"; and

(2) by striking out "moving as, or which is a part of, or which constitutes interstate or foreign commerce," and inserting in lieu thereof "which has crossed a State or United States boundary after being stolen,".

TRAFFICKING IN CERTAIN MOTOR VEHICLES OR MOTOR VEHICLE PARTS

SEC. 204. (a) Chapter 113 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2320. Trafficking in certain motor vehicles or motor vehicle parts

"(a) Whoever buys, receives, possesses, or obtains control of, with intent to sell or otherwise dispose of, a motor vehicle or motor vehicle part, knowing that an identification number for such motor vehicle or part has been removed, obliterated, tampered with, or altered, shall be fined not more than $20,000 or imprisoned not more than ten years, or both.

"(b) Subsection (a) does not apply if the removal, obliteration, tampering, or alteration—

"(1) is caused by collision or fire; or

"(2) is not a violation of section 511 of this title.

"(c) As used in this section, the terms 'identification number' and 'motor vehicle' have the meaning given those terms in section 511 of this title.".

(b) The table of sections for chapter 113 of title 18, United States Code, is amended by adding at the end the following new item:

"2320. Trafficking in certain motor vehicles or motor vehicle parts.".

DEFINITION OF RACKETEERING ACTIVITY

SEC. 205. SECTION 1961(1) OF TITLE 18, UNITED STATES CODE, IS AMENDED—

(1) by inserting "sections 2312 and 2313 (relating to interstate transportation of stolen motor vehicles)," after "section 1955 (relating to the prohibition of illegal gambling businesses),"; and

(2) by inserting "section 2320 (relating to trafficking in certain motor vehicles or motor vehicle parts)," after "sections 2314 and 2315 (relating to interstate transportation of stolen property),".

TITLE III—IMPORTATION AND EXPORTATION MEASURES

AMENDMENTS TO TITLE 18, UNITED STATES CODE

SEC. 301. (a) Chapter 27 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 553. Importation or exportation of stolen motor vehicles, off-highway mobile equipment, vessels, or aircraft

"(a) Whoever knowingly imports, exports, or attempts to import or export—

"(1) any motor vehicle, off-highway mobile equipment, vessel, aircraft, or part of any motor vehicle, off-highway mobile equipment, vessel, or aircraft, knowing the same to have been stolen; or

"(2) any motor vehicle or off-highway mobile equipment or part of any motor vehicle or off-highway mobile equipment, knowing that the identification number of such motor vehicle, equipment, or part has been removed, obliterated, tampered with, or altered;

shall be fined not more than $15,000 or imprisoned not more than five years, or both.

"(b) Subsection (a)(2) shall not apply if the removal, obliteration, tampering, or alteration—

"(1) is caused by collision or fire; or

"(2) is not a violation of section 511 of this title.

"(c) As used in this section, the term—

"(1) 'motor vehicle' has the meaning given that term in section 2 of the Motor Vehicle Information and Cost Savings Act;

"(2) 'off-highway mobile equipment' means any self-propelled agricultural equipment, self-propelled construction equipment, and self-propelled special use equipment, used or designed for running on land but not on rail or highway;

"(3) 'vessel' has the meaning given that term in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401);

"(4) 'aircraft' has the meaning given that term in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301); and

"(5) 'identification number'—

"(A) in the case of a motor vehicle, has the meaning given that term in section 511 of this title; and

"(B) in the case of any other vehicle or equipment covered by this section, means a number or symbol assigned to the vehicle or equipment, or part thereof, by the manufacturer primarily for the purpose of identifying such vehicle, equipment, or part.".

(b) The table of sections for chapter 27 of title 18, United States Code, is amended by adding at the end the following new item:

"553. Importation or exportation of stolen motor vehicles, off-highway mobile equipment, vessels, or aircraft.".

AMENDMENT TO TARIFF ACT OF 1930

SEC. 302. Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 627. UNLAWFUL IMPORTATION OR EXPORTATION OF CERTAIN VEHICLES AND EQUIPMENT; INSPECTIONS.

"(a)(1) Whoever knowingly imports, exports, or attempts to import or export—

"(A) any motor vehicle, off-highway mobile equipment, vessel, aircraft, or part of any motor vehicle, off-highway mobile equipment, vessel, or aircraft, knowing the same to have been stolen; or

"(B) any motor vehicle or off-highway mobile equipment, or part of any motor vehicle or off-highway mobile equipment, knowing that the identification number has been removed, obliterated, tampered with, or altered;

shall be subject to a civil penalty in an amount determined by the Secretary, not to exceed $10,000 for each violation.

"(2) Any violation of this subsection shall make such motor vehicle, off-highway mobile equipment, vessel, aircraft, or part thereof subject to seizure and forfeiture under this Act.

"(3) The provisions of paragraph (1)(B) shall not apply in the case of any vehicle, equipment, or part, if the removal, obliteration, tampering with, or alteration of the identification number for such vehicle, equipment, or part—

"(A) was caused by any collision or fire which results in damage to that portion of such vehicle, equipment, or part on which such identification number is displayed; or

"(B) was carried out in accordance with the provisions of section 511(b) of title 18, United States Code.

"(b) The Secretary shall prescribe regulations under which a person attempting to export any used motor vehicle or any used off-highway mobile equipment shall present to the appropriate customs officer both the vehicle or equipment, as the case may be,

and a document describing such vehicle or equipment, as the case may be, which includes the vehicle or equipment identification number, as the case may be, before lading if the vehicle or equipment, as the case may be, is to be transported by vessel or aircraft, or before export if the vehicle or equipment, as the case may be, is to be transported by rail, highway, or under its own power. Failure to comply with such regulations of the Secretary shall subject such person to a civil penalty of not more than $500 for each violation.

"(c) For purposes of this section—

"(1) the term 'motor vehicle' includes any automobile, truck, bus, motorcycle, or motor home, but such term does not include any off-highway mobile equipment;

"(2) the term 'off-highway mobile equipment' means self-propelled agricultural equipment, self-propelled construction equipment, and self-propelled special use equipment, used or designed for running on land but not on rail or highway;

"(3) the term 'aircraft' has the meaning given it in section 101(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(5));

"(4) the term 'used' refers to any motor vehicle or off-highway mobile equipment the equitable or legal title to which has been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser;

"(5) the term 'ultimate purchaser' means the first person, other than a dealer purchasing in his capacity as a dealer, who in good faith purchases a motor vehicle or off-highway mobile equipment for purposes other than resale; and

"(6) the term 'identification number' has the meaning given such term in section 553(b)(5) of title 18, United States Code.

"(d) Customs officers may cooperate and exchange information concerning motor vehicles, off-highway mobile equipment, vessels, or aircraft, either before exportation or after exportation or importation, with such Federal, State, local, and foreign law enforcement or governmental authorities, and with such organizations engaged in theft prevention activities, as may be designated by the Secretary.".

The SPEAKER pro tempore. Is a second demanded?

Mr. RINALDO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Colorado [Mr. WIRTH] will be recognized for 20 minutes and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. WIRTH].

Mr. WIRTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6257, the Motor Vehicle Theft Law Enforcement Act of 1984, is a comprehensive package of proposals designed to curb the theft of motor vehicles and their parts. It also gives law enforcement officials at all levels the much-needed prosecutory tools to crack criminal theft rings and related racketeering activities.

Motor vehicle theft continues to be a problem of major proportion with thefts totaling over 1 million vehicles annually. While the incidence of theft is increasing, the recovery rate of stolen vehicles is sharply declining. The profile of motor vehicle theft has changed dramatically over the last 20 years. In 1960, theft was considered to be primarily a juvenile problem with approximately 94 percent of thefts attributed to joyriders. However, Justice Department statistics show that juvenile thefts are decreasing and motor vehicle theft is becoming more professional in nature. As a result, auto theft has grown to a $5 billion per year problem with costs borne by all Americans in increased law enforcement costs and through higher insurance costs.

Professional thieves usually steal automobiles in order to chop them up into component parts and then sell the parts. The decreasing rate of vehicle recovery indicates that chop shops are playing an increasingly large role in vehicle theft. Currently the chopping of vehicles in to their component parts and the subsequent fencing of those parts is done with minimal risk and yields high profits—the car owner is paid by his or her insurance company and the thief profits by selling stolen parts. Thus, auto theft has become very attractive to organized theft rings.

Vehicle engines and transmissions, which now bear identifying markings are usually junked by thieves rather than risk criminal liability for possession of traceable components. Parts without identification numbers such as hoods, doors, fenders, and others are fenced to salvage and repair shops. The likelihood of apprehension and prosecution of these thieves is extremely slim because parts cannot be traced back to the original stolen vehicle.

The heart of this bill is the requirement that manufacturers affix or inscribe identification numbers to various parts of automobiles. Indeed many law enforcement authorities believe that numbering motor vehicle parts is the only effective method of deterring theft while at the same time increasing recovery rates.

The success of several limited programs conducted in Detroit, Cleveland, Chicago, and Kentucky support this view. Although only a limited number of cars were marked with identifying numbers, national car rental, for example, experienced an 85 percent drop in the number of its cars stolen in Cleveland; in Chicago the recovery rate of marked vehicles increased nearly 30 percent; and the Automobile Club of Michigan has experienced a 45-percent decline in the theft rate of cars marked with numbers on the windows. In Kentucky, police etched the windows of about 100,000 vehicles. Only three of them have been stolen and two have been returned intact. The national theft rate is about 1,000 cars stolen out of 100,000.

In addition to numbering major automobile parts, the legislation enacts criminal penalties for altering vehicle identification numbers—VIN's—and for possessing, trafficking, importing, or exporting stolen vehicles and their parts to complement this effort.

This is an anticrime bill. It is based on years of study and congressional hearings, beginning with the interagency task force on auto theft, established in 1975 by President Ford. Over the years the bill has been introduced and reintroduced. It has been modified and fine-tuned and finally, I believe we have a compromise that will go a long way toward curbing the auto theft problem.

Auto theft bills introduced in previous sessions of Congress required manufacturers to number all automobiles, vans, and trucks. H.R. 6257 takes a slightly different approach and requires numbering only high-theft automobiles—those above the median theft rate—their replacement parts, and parts interchangeable with cars that have lower theft rates. Although the median theft rate calculation may not be perfect, I anticipate that about 80 percent of the cars actually stolen—based on 1982 data—and over 60 car lines will initially be numbered. While this of course will leave many cars without identifying numbers, H.R. 6257 requires the Department of Transportation to recommend to Congress whether the program should be expanded to include more cars after 4 years of experience.

Similarly, DOT must report to Congress within 3 years on whether trucks, vans, and motorcycles should be numbered. Because light trucks and vans are quickly replacing ordinary passenger vehicles in many areas of the country, I am particularly interested that consumers who choose to buy these vehicles be afforded the same protection against theft as those who buy passenger cars. Therefore, I would urge DOT to review the matter expeditiously and recommend action to Congress, if warranted, as soon as possible.

Mr. Speaker, H.R. 6257 enjoys strong bipartisan support of many Members of the House and Senate. In fact, it was reported from the Energy and Commerce Committee unanimously, by voice vote. It is backed by a coalition of police and other law enforcement officials, consumer groups, insurance companies, and businesses that lease, recycle, and dismantle automobiles. I am told that the Motor Vehicle Manufacturers Association does not object to the enactment of this legislation.

I urge my colleagues to support this bill as a first step toward controlling

this Nation's $5 billion auto theft problem. It is legislation which is long overdue.

□ 1400

Mr. Speaker, I reserve the remainder of my time.

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6257, the Motor Vehicle Theft Law Enforcement Act of 1984.

I have been a long-time supporter of this legislation, and my efforts on behalf of this legislation go back to the 96th and 97th Congresses. Motor vehicle theft continues to be a problem of major proportion with thefts totaling over 1 million annually. Statistics indicate that every 31 seconds a car is stolen in this country. The costs of increased insurance and replacement parts borne by the American people total over $4 billion annually.

In a field hearing held in Newark, NJ, on June 20, 1983, the Subcommittee on Telecommunications Consumer Protection and Finance heard from a number of witnesses who told about the evolving nature of auto theft. Once limited almost exclusively to young joyriders, auto theft is becoming increasingly professional in nature. Professional thieves with sophisticated methods of operation are in existence in almost every State of this Nation. They steal automobiles not necessarily for resale, but in order to chop them into components and then sell the parts.

The sum value of these disassembled component parts when sold at the retail level is several times higher than the car sold by a manufacturer. Because the parts are not marked, it is almost impossible for law enforcement officials to trace them back to the original vehicle. Thus, law enforcement agencies have found it extremely difficult to apprehend and successfully prosecute motor vehicle thieves.

Indeed the evolution of this crime is best evidenced by the recovery rate for stolen motor vehicles. In 1967, 86 percent of all cars stolen were recovered. In 1983, it was down to 52.8 percent.

Currently, the chopping of vehicles into their component parts has become a large, lucrative, and relatively low-risk business. This practice has become so prevalent that it is threatening the legitimate salvage industry. While the honest businessman may have to obtain a part from his manufacturers in order to fulfill an order, the chop shop criminal need only steal a car to obtain the requested parts. The parts are not marked and therefore not traceable by law enforcement officials.

The bill also provides for criminal penalties for persons who knowingly remove or tamper identification numbers. It exempts, however, scrap processors, dismantlers, and repairers who routinely come into contact with these marked parts. The legitimate dealer has nothing to fear from this legislation.

The original legislative proposal addressed by the Subcommittee on Telecommunications, Consumer Protection and Finance was introduced by our colleague, Congressman BILL GREEN of New York, Congressman WIRTH, and myself on March 22, 1983. This legislation would have required that all cars manufactured for sale in the United States have their component parts identified. At a later time, we agreed to modify our proposal so that it requires that only those passenger cars which have a high incidence of theft contain these identification numbers. In the interest of allaying the concerns of our Nation's largest automobile manufacturer, we went even further and agreed to cap the number of cars produced by any single manufacture subject to this requirement to 14.

Despite my concerns with the insurance and reporting provisions and the "black box" provision which exempts automobile manufacturers from marking parts upon the Secretary of Transportation's approval of standard antitheft devices, I nevertheless believe that this legislation will aid law enforcement officials in apprehending and prosecuting motor vehicle thieves and thereby reduce incidences of auto theft. I urge my colleagues to join me in support of this bill.

Mr. Speaker, at this time I would also like to clear up what may be construed to be a slight ambiguity in the committee report.

The issue I am concerned about deals with the rustproofing and undercoating of new cars which is performed by dealers and other automotive service facilities.

During a discussion of section 602(e), dealing with promulgation of standards by the Secretary, the report states,

> The Secretary should consider the location of the number so that it will not be easily susceptible to damage in the normal course of dealer preparation (for such procedures as rustproofing and undercoating), or be easily damaged in the course of repair or regular automotive maintenance by repair shops or car owners.

Later in the report during the discussion of the exceptions granted to "protect innocent business people and their employees from prosecution" when repairing a vehicle, the report states, "painting, rustproofing or undercoating, in the committee's view would quality under the exception."

This language also applies to rustproofing or undercoating on new cars. This is a legitimate business practice that many consumers desire and it is not my intention to prohibit this type of activity, nor do I think it is the intention of the committee.

□ 1410

Mr. WIRTH. If the gentleman will yield, the gentleman is correct, and the record should show that the gentleman is absolutely correct in his interpretation of that section of the legislation.

Mr. RINALDO. Mr. Speaker, while the chairman of the subcommittee, who has cooperated and worked extremely hard to have this legislation come to the floor today, is on his feet, I would like to ask him a question, if he would submit to a short colloquy.

Mr. WIRTH. If it is on the subject of reducing, I would love to do that.

Mr. RINALDO. In the legislation at the desk, I understand that after discussions with the Committee on the Judiciary, the term "processing" as defined in section 201 of H.R. 6257 was replaced by the term "reducing" or "reduction" in various places in the bill.

Is my understanding correct that this change is merely technical, and that the term "reducing" is intended to include the term "processing" as originally defined in section 201's amendment to chapter 25 of title 18 of the United States Code?

Mr. WIRTH. The gentleman is correct, and I might, if the gentleman would yield further, go on to further define what is meant by "processing."

"Processing," as the gentleman understands, means loading, unloading, crushing, flattening, destroying, grinding up, handling or otherwise reducing a motor vehicle or a motor vehicle part into metallic scrap.

Mr. RINALDO. I thank the chairman for his help on this legislation and once again reiterate that this is a long overdue bill, urge my colleagues to support it.

Mr. Speaker, at this time I yield 5 minutes to one of the original sponsors of the legislation, the gentleman from New York [Mr. GREEN].

Mr. GREEN. I thank the distinguished gentleman from New Jersey for yielding this time to me.

Mr. Speaker, if anyone had any doubt that legislation is not a process for those who are short of wind, this bill certainly will prove it. I introduced the original version of this almost six years ago to the day. It was in the 95th Congress, H.R. 14252, and it was introduced by me on October 5, 1978.

The bill, although simple in concept, proved to be very complicated in execution. For example, at various points in its history it has been referred to five different committees of this House, and obviously with the many interests involved, consumer groups, legitimate parts recyclers, the automobile manufacturers, the law enforcement community, the casualty insurance industry and others, it has not been easy to get to where we are today.

Mr. Speaker, I think I can say that we should not be here if it were not for the outstanding effort that the distinguished chairman of the full committee, the gentleman from Michigan [Mr. DINGELL] made to bring all these groups together to produce a bill that I think can accomplish most of what we set out to accomplish, while protecting the very legitimate interests of those who had concerns about the original version of the bill.

I should also like to thank the distinguished ranking minority member of the full committee, the gentleman from North Carolina [Mr. BROYHILL]; the distinguished chairman of the subcommittee that labored so hard to produce this bill, and so successfully, the gentleman from Colorado [Mr. WIRTH]; and the distinguished ranking minority member of that subcommittee, the gentleman from New Jersey [Mr. RINALDO], whose hearing in New Jersey did much to spark interest in the bill. Finally, I should be remiss if I did not also include among those deserving praise for their efforts on behalf of the bill my colleague and good friend, the gentleman from New York [Mr. SCHEUER], who did so much in the early days of this bill to call public attention to the problem so that we could get the bill moving. I deeply appreciate what he did for this legislation.

Mr. Speaker, auto theft is a $4 billion business. Organized crime has a major stake in the operation of this business. The $4 billion cut is ultimately paid by the car owner in the form of higher insurance premiums. If we want to have an effective anticrime program to deal with auto theft, it is necessary that we do what we are doing today to require vehicle identification numbers on more auto parts in order to make it harder for organized crime to operate profitably in this field.

I have been with my police department, the New York City Police Department, and seen the large number of engines and transmissions they have found when they have gone into the so-called chop shops where these cars are brought by professional criminals and chopped up into parts. It is very interesting that although most of the parts are readily saleable and have long since left the chop shop, what you would consider the two most valuable parts of the car, the engine and the transmission, the chop shops do not try to sell. Why? Of course it is because they have vehicle identification numbers so that those parts could readily be traced and identified as stolen parts.

So I think the basic concept of this legislation is a sound one. We need only a modest reduction in the amount of auto theft to produce a very effective cost-benefit ratio from the very modest expense per car that will be involved in these additional vehicle identification numbers, which, under the bill, are limited to a $15 cost per car to be incurred by the manufacturer.

I might add that in the other body, the Commerce Committee has produced virtually identical legislation, so I am optimistic that if this body will move the bill forward today, we can see this enacted before we leave here this month.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. GREEN. I am delighted to yield to my colleague, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I want to commend the distinguished committee chairman, the gentleman from Michigan [Mr. DINGELL], the chairman of the subcommittee, the gentleman from Colorado [Mr. WIRTH], and the ranking minority member, the gentleman from New Jersey [Mr. RINALDO], for bringing this measure to the floor at this time. But I particularly would like to commend the gentleman from New York [Mr. GREEN] for his perseverance and long fought campaign in support of this important anticrime measure.

I recall going back to the early days of the consideration of this measure in the late 1970's when, together with the gentlemen from New York [Mr. SCHEUER and Mr. GREEN], we witnessed a demonstration in New York City of the manner in which a professional auto thief can quite readily overcome all of the anticrime devices on a vehicle and make off with that vehicle within 1 minute or 2. That demonstration left an indelible impression on the minds of many of us who were seeking to adopt an antiauto theft measure.

This is an extremely important anticrime measure and I hope that it will find strong approval by the House and a prompt approval by the Senate and the President. Earlier this Congress. I was pleased to cosponsor similar legislation introduced by the gentleman from New York [Mr. GREEN] which I believe, was the forerunner of the measure before us today.

H.R. 6257, the Motor Vehicle Theft Law Enforcement Act of 1984, seeks to amend the Motor Vehicle and Information Cost Savings Act to curb automobile thefts by decreasing the ease with which certain cars and their parts can be dismantled and resold. This measure also increases the prosecutory authority of law enforcement officials in their efforts against thieves of motor vehicles.

The principal provisions of the pending legislation require the Department of Transportation to develop a uniform, standard identification system for passenger cars and their major replacement parts. The Department is to consult with the manufacturers of automobiles in order to determine which specific lines of cars and parts are to be numbered, and the Federal Bureau of Investigation is to be consulted with respect to the types of theft and the median theft rate. It is anticipated that this type of legislation will help to combat what has become an increasingly large problem—the proliferation of chop shops. The component parts of a car costing $6,000 may be worth over $25,000 when sold separately, and criminals know that while the risks involved in automobile theft are minimal, the profits high. Consequently, the legitimate salvage industry is on the verge of insolvency in many parts of the country. H.R. 6257 is a modest approach to a serious crime problem. It would exempt those vehicles from the theft-prevention standard on which antitheft devices are standard equipment, and have been determined by DOT to be effective in reducing auto theft. Furthermore, another provision would refuse entry into the United States of any motor vehicle that does not comply with the standard of prevention, or whose manufacturer does not prescribe with the Department's rules on this matter. Civil penalties for violations of the bill, including failure to comply with the standard or keep compliance records, can be levied in the amount of up to $1,000 per violation, although the maximum cumulative penalty cannot exceed $250,000 for a related series of violations.

Mr. Speaker, it is expected that these provisions can begin to be implemented within the next year or so. Although quick action is required immediately, it is hoped that passage of this legislation will assist law enforcement officials sooner, and that ongoing consideration will be a deterrent to this particular type of criminal action. Accordingly, I urge my colleagues to join us in passage of this legislation.

Mr. GREEN. I thank my colleague from New York for his comments.

The SPEAKER pro tempore. The time of the gentleman from New York [Mr. GREEN] has expired.

Mr. RINALDO. I yield 1 additional minute to the gentleman from New York, Mr. Speaker.

□ 1420

Mr. GREEN. Mr. Speaker, I thank the gentleman for yielding further time to me.

Mr. Speaker, I think this bill does offer an effective way for the first time to start to cut down on this very expensive criminal problem. I commend all those who have had a part in it, and I urge the adoption of this measure by the House.

Mr. WIRTH. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. SCHEUER], who in the subcommittee has carried the responsibility for a great part of this legislation.

Mr. SCHEUER. Mr. Speaker, I thank the gentleman from Colorado [Mr. WIRTH].

Mr. Speaker, I rise in strong support of H.R. 6257, the Motor Vehicle Theft Law Enforcement Act of 1984.

There can be little doubt among my colleagues that professional auto theft constitutes one of the most serious and costly criminal problems facing our Nation today.

I am very familiar with both the nature of the problem and with the development of the bill before us today.

During the 96th Congress, I had the opportunity to chair 3 days of hearings on an earlier version of this bill.

The approach embodied in this legislation enjoyed then, as it continues to enjoy today, enthusiastic support from law enforcement agencies at all levels of government—domestic as well as international—the insurance industry and a wide variety of consumer groups and other organizations concerned with cracking down on auto theft.

Since those first hearings, the situation has not improved: if anything, it has only become worse.

Over 1 million auto thefts occur each year—1 out of every 143 registered vehicles.

The American Automoble Association with more than 23 million members nationwide, estimates that one car is stolen every 32 seconds in the United States.

In 1982, the last year for which complete statistics are available, over 104,000 cars were reported stolen in New York City.

The New York City Police Department identified two precincts in Northern Queens and the South Bronx, both of which are in the Eighth Congressional District which I represent, as having the highest percentage of auto thefts in New York City.

The result of professional auto theft is a $4 billion a year ripoff, affecting not just the victimized carowners but all taxpayers and consumers through higher law enforcement costs and higher insurance premiums.

The Motor Vehicle Theft Law Enforcement Act provides a cost-effective and innovative solution to the epidemic problem of professional car theft.

The bill is designed to crack down on professional "chop shop" operators by requiring indelible vehicle identification numbers on all major component parts.

The bill also increases criminal penalties for those convicted of trafficking in stolen vehicles and their parts.

H.R. 6257 also reduces the opportunities for exporting stolen vehicles, a recent but increasingly more common practice of professional thiefs.

In short, Mr. Speaker, I am convinced this bill provides law enforcement agencies with badly needed tools to wage an effective war on auto theft.

I urge my colleagues to join with me in support of this farsighted legislation.

Mr. WIRTH. Mr. Speaker, I thank my colleague, the gentleman from New York [Mr. SCHEUER].

Mr. Speaker, I yield such time as he may consume to the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, H.R. 6257, the Motor Vehicle Theft Law Enforcement Act of 1984, is the product of considerable discussions with the chairman of the subcommittee, Congressman WIRTH, the subcommittee's ranking minority member, Congressman RINALDO, and myself, that resulted in its introduction on September 17, 1984, by its original sponsors, including myself. I commend those gentlemen and their staff for their efforts at reducing the opportunities for those who would steal certain passenger cars in order to cut up the parts and sell them, and at providing greater information concerning the theft and recovery of motor vehicles, and the cost of insurance policies. The bill should also be a help to consumers by reducing insurance costs.

I also want to express my appreciation for the cooperation we received from the Coalition to Halt Automotive Theft, the automobile industry, and others with a significant interest in the legislation. All were helpful in working out this bill, which is quite similar to Senate legislation, S. 1400, which was reported by the Senate Committee on Commerce, Science, and Transportation, after some very helpful amendments by Senator RIEGLE.

I want to express my appreciation to the chairman of the Committee on Ways and Means, the Committee on Foreign Affairs, and the Committee on the Judiciary for expressing no objection to titles II and III of this bill which are primarily in their jurisdiction. The bill also reflects some largely technical changes worked out with the chairman of the Committee on the Judiciary, and I concur in the colloquy between Congressmen WIRTH and RINALDO.

It is a workable and reasonable bill. I urge a favorable vote today on this anticrime bill.

H.R. 6257 is a package proposal covering such diverse interests as: Car lines subject to identification, reporting requirements, certification of parts, consumer information from insurance companies, antitheft devices, enforcement, and other matters. All of these parts are delicately intertwined. A change in one provision could unravel the entire package and, of course, lose some significant support for moving the bill to final passage, including my support. It is my hope that the other body will accept it, as there really is no time remaining for a conference.

Earlier versions of this legislation, including H.R. 3999, imposed broad and costly regulatory requirements on the auto industry which is already heavily regulated. Many more motor vehicles would have been covered, even though theft of those vehicles for so-called chop shop purposes was nil, or nearly so. These requirements would have been costly both in terms of money and other resources with far too little assurance that they would achieve any appreciable reduction of theft. Such costs would ultimately increase the costs of motor vehicles, making them more difficult to sell. That would be harmful to the people in my congressional district and elsewhere who work in this industry and related industries. That bill clearly did not provide any assurances that the consumer would benefit through reduced premiums.

H.R. 6257, on the other hand, is a more modest proposal, while still a significant costly and regulatory bill for the auto industry. It offers the hope that thefts of chop shop cars will be reduced and that premiums also would be cut. It provides an opportunity to see to what extent the numbering of motor vehicles will help law enforcement officials catch and convict auto thieves and otherwise deter or halt auto thefts.

I have been skeptical that such a bill could, in fact, reduce auto thefts. While I am still not totally convinced, I am satisfied that we should try in the hope that it will succeed. H.R. 6257 provides that opportunity. I expect all to cooperate to make it work.

Like the Senate bill, this bill applies to certain passenger cars, namely, those determined to be high theft cars. It requires a vehicle theft prevention standard for not more than 14 major parts of such cars and for the replacement of those parts in those cars.

The bill has been cast to be significantly different from its earlier versions, such as H.R. 3999. The role of the Department of Transportation [DOT] in promulgating a vehicle theft prevention standard is far more modest than the vague, but sweeping role spelled out in H.R. 3999.

Simplicity in regulation is the watchword for the DOT. Keep costs to a minimum is the command. The bill provides an outer cost limitation of $15 per vehicle, per manufacturer. If DOT's proposed standard exceeds that limit for any manufacturer, the DOT simply lacks authority to finalize that proposal. It must recast it to come under the limit. While I do not know if all passenger car makers will use labels, it would seem that they comply with the intent of this bill and should

be acceptable to DOT. But if DOT insists on more, such as stamping, through some tortuous interpretation of this bill, I can imagine that costs could skyrocket for a manufacturer—because it could require changes in assembly lines in a brief time period—although they may not reach or exceed $15 per car. My point is simple for DOT. Make the standard work and effective. But keep costs down. DOT does not have to approach the cost limitation ceiling. Remember, the primary reason and justification for this bill is to deter the reported criminal element that steals cars for parts or export, not to stop joyriding or other use. Where a car is not cut up, the existing VIN number provides an ample basis or tracing it by law enforcement officials.

But I stress that $15 is an outer limitation. The sponsors of H.R. 6257 firmly believe that the simplified standard provisions of the bill should enable all auto companies to keep their costs to half or less that limit.

Much will depend, however, on DOT. The standard is a performance standard, not a design standard. The choice of how each manufacturer will inscribe or affix a number or symbol on a part is intended to be the manufacturer's, not DOT. For example, pilot efforts by Ford and GM have relied on tamper resistent labels. I was told in a meeting in the summer with all of the principal organizations concerned with this bill that this was an effective and acceptable method.

The bill, which applies to domestic and foreign passenger cars, also provides a procedure by which an auto manufacturer can petition the Department of Transportation [DOT] to install antitheft devices in lieu of numbering. The idea for this provision was first proposed by the automakers in the Senate as a sincere effort by them to halt thefts before they began. I fully support it, although I also agreed to a limitation on the number of petitions annually by a manufacturer.

It is consistent with the bill's provisions which are to prevent thefts. Such a device could be far more effective in halting thefts than any identification number or symbol. Such devices are sold in the aftermarket sector to car owners on the basis that they will halt thefts. If those work to halt thefts, they too are better than numbering. But that standard device must work or DOT is empowered to rescind the exemption. That is a sound approach. I point out that the committee has no evidence that such devices would not be effective, just as we had no evidence about the effectiveness or cost of such devices added to a car by the ultimate purchaser.

It has been suggested that the costs of this standard equipment "will be far greater than the costs of numbering." That is pure speculation, principally on the part of the aftermarket antitheft representatives who somehow contend that a device installed by a manufacturer will be anticompetitive to them. They are not in the business of manufacturing passenger cars. They do not know what it will cost to number high theft passenger cars or what it will cost to manufacture antitheft devices as standard equipment on new high theft passenger cars which are often high priced cars not bought by everyone.

The automaker is in the business of selling a product. If that automaker would add a substantial cost to a high theft car that makes it less salable, I think we can be assured that the automaker will never petition DOT for an exemption. The manufacturer will make that choice. The DOT will never be faced with it, because this section of the law does not provide for consideration of costs by the DOT. If the manufacturer chooses wrong, I feel certain that the next petition will be long in coming. For once a petition is granted, the manufacturer lives with it for the life of the line—model year after model year—unless rescinded because it does not work.

The majority of our committee supported the idea of these petitions. They rejected arguments that they will not achieve a decrease in stolen high theft passenger cars subject to the petition, that professional criminals or any kind of criminals will defeat such antitheft devices any more than such criminals defeat such devices when added by the aftermarket industry, or any other argument put forth by those not in account with this provision.

Mr. Speaker, I encourage the installation of the automakers and the aftermarket industry to market and install antitheft devices in high theft passenger cars that are effective in preventing thefts, and are not costly to the consumer. I also warn all that no one should make wild or unsubstantiated claims about the effectiveness or costs of these devices. In the case of section 605, the granting of a petition should not be used by the manufacturer in advertising in a way that might mislead a consumer to believe that the device is a federally sanctioned device, although such a grant of a petition will carry with it a statement that DOT thinks it is likely to be as effective as numbering.

One of the principal reasons why I support H.R. 6257 is that there is a possibility that if thefts are reduced through this program, the consumer will benefit from a reduction of premiums for auto insurance. That is, after all, a very worthwhile objective, given the high cost of insurance. Toward this end, the bill includes provisions requiring DOT to obtain information from insurance firms and for insurance firms to keep records about thefts and recoveries of motor vehicles, the basis for establishing premiums charged the consumer for auto insurance, actions taken by insurance companies to reduce premiums, actions taken by them to deter thefts, and other relevant information that will help DOT administer the law, as amended by this bill. The prime objective of obtaining this information is, as stated in the bill, to:

(A) Prevent or discourage the theft of motor vehicles, particularly those vehicles which are stolen for the removal of certain parts,

(B) Prevent or discourage the sale and distribution in interstate commerce of used parts that are removed from such vehicles, and

(C) Help reduce the cost to consumers of comprehensive insurance coverage for motor vehicles.

Without this information, we will never know whether or not this objective has been met. It is the consumer information portion of the bill.

The bill also requires DOT to undertake two important studies to help Congress decide whether or not the provisions of title I of H.R. 6257 should be expanded to cover trucks, motorcycles, and multiuse vehicles, as well as more lines of cars or terminated. The studies are intended to be balanced. The purpose is to insure that Congress and the public will receive a wide range of information on which to decide. They are vastly different from those in H.R. 3999.

Finally, title I contains no termination or sunset date. At the same time, it does not authorize any expansion of the standard to more than high theft passenger cars or to other vehicles. Only Congress can terminate or expand the standard. The studies will consider what should be done in the future and make recommendations to Congress.

I also want to commend the staff on the majority and minority sides of the aisle for their work on this bill and the people in the office of legislative counsel who helped the committee.

Again, I want to thank my colleagues, particularly Chairman WIRTH, for their efforts in joining with me to develop this compromise bill and I urge your support. I strongly urge all to work cooperatively to make this bill work fairly, effectively, and without delay.

WYMAN, BAUTZER, ROTHMAN,
KUCHEL & SILBERT,
Washington, DC, September 21, 1984.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, Rayburn House Office Building, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Coalition to Halt Automotive Theft deeply appreciates the action of the Committee on Energy and Commerce on Tuesday in ordering reported H.R. 6257, the Motor Vehicle Theft Law Enforcement Act of 1984. We are particularly

grateful for the time and effort you have personally given to this matter.

Although some members of the Coalition have had reservations about certain sections of the bill, we recognize it is a product of careful compromise and negotiation. The Coalition is contacting all members of the House of Representatives to urge that they support H.R. 6257 as reported by the Committee when it is considered on the floor. At this time, we know of no effort to amend or defeat the bill and would oppose any such effort if it were attempted. We hope you will bring it to the floor next week under the Suspension of the Rules procedure.

Thank you again for bringing H.R. 6257 out of Committee. We believe experience will prove it to be a major deterrant to automotive crime with great benefit to law enforcement agencies and to the general public.

Sincerely,

WILLIAM E. SUDOW.

Mr. WIRTH. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Speaker, I, too, join my other colleagues in commending my friends, the gentleman from Colorado, and the gentleman from New Jersey, and the gentleman from New York, as well for their efforts in behalf of this legislation.

H.R. 6527 will go a long way toward making the job for people like me a lot easier. The investment in our enforcement capabilities through the use of vehicle identification numbers is helpful. In fact, in Cleveland, in one test in a particular fleet car program there was an 85-percent reduction in thefts from that fleet alone, and those were brand new 1983 and 1984 cars. We can put the "chop shop" operators out of business by putting the auto thieves out of business.

This legislation is, in the best sense of the word, a carefully crafted piece of legislation that deserves the quick consideration of the other body, not only for law enforcement officials and former assistant prosecutors like myself, but for consumers all across America who bear the heavy burden of the illegal activities of stolen car and "chop shop" operations.

Mr. Speaker, this is a good bill, and it deserves our support. I commend its sponsors and all those who have worked so hard on it.

Mr. RINALDO. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I want to take this opportunity to commend my colleagues, particularly the chairman of the full committee for his cooperation in a very difficult piece of legislation. I commend the gentleman from Michigan [Mr. DINGELL] and the chairman of the subcommittee, the gentleman from Colorado [Mr. WIRTH], who worked with us during the difficult months and weeks in which we tried to put this legislation together. I also commend the gentleman from New York [Mr. GREEN] for his persistence and interest in getting this bill to the floor and the other gentleman from New York [Mr. SCHEUER] for his efforts in behalf of this legislation, along with everyone else who worked with us long hours through difficult negotiations to put together a very, very important piece of legislation.

● Mr. BIAGGI. Mr. Speaker, I rise in support of the bill, H.R. 6257, to help combat motor vehicle thefts in our Nation. As a 23-year veteran of the New York City Police Department, I have long been concerned about this serious problem. In fact, I am an original cosponsor of the bill, H.R. 2235, introduced by my distinguished colleague and fellow New Yorker, Mr. GREEN, which ultimately evolved into the measure before us today.

The need for this legislation is clear. Auto theft in the United States has grown to become a highly professionalized $4 billion-a-year business. The number of motor vehicle thefts reported in the United States exceeds 1 million annually. Approximately 40 percent of all stolen vehicles are never recovered, and only about 15 percent of the cases ever result in an arrest. In fact, it is estimated that the chance of an auto thief going to prison is only about 1 in 1,200.

These figures are totally unacceptable and this legislation will help us greatly improve the situation. The major substance of this measure is based on the fact that professional auto thieves usually dismantle stolen vehicles at "chop shops" so that indistinguishable parts of the auto can then be resold, often through classified ads in the newspaper. This bill would make it far easier for police to track down and identify stolen auto parts by requiring that manufacturers place identification numbers on the major parts of their autos.

The major provisions of the bill would:

Require auto manufacturers to place identification numbers on the 14 major parts of vehicles that have a higher than average rate of theft;

Limit to 14 the number of car lines any single manufacturer would be required to mark; and

Provides incentives for auto manufacturers to install antitheft devices approved by the Transportation Department.

Although the precise identification requirements will be left up to the Secretary of Transportation, the bill does stipulate that any standard of identification must not cost the manufacturer more than $15 per vehicle.

In addition to the vehicle identification numbers [VIN's] required by the bill, H.R. 6257 would also increase the penalties for trafficking in, importing, or exporting stolen motor vehicles and their parts. Under this measure, persons convicted of removing or altering an identification number would be fined up to $5,000, or sentenced to a maximum of 5 years in prison, or both. Those convicted of trafficking in stolen motor vehicles would receive up to a $25,000 fine, or a maximum 10-year prison sentence, or both. Those who knowingly import or export stolen vehicles and their parts would be fined up to $10,000 and/or sentenced up to 5 years in prison. Mr. Chairman, in my home city of New York, there were 104,056 motor vehicle thefts in 1982. The police estimate there are approximately 1,000 secret "chop shops" throughout the city, handling about $400 million worth of stolen vehicles a year.

We have already learned that the criminal element is not paying the price for these crimes. But somebody is—namely the consumer, who gets stuck with higher insurance and law enforcement costs that result from motor vehicle thefts.

Mr. Chairman, H.R. 6257 would help to shift those costs back to where they belong, with the criminal element. This bill would make it far easier to apprehend car thieves and, once convicted, those criminals would pay a much higher price than is currently the case. In the end, the conviction rate for auto thieves will go up, while the number of auto thefts will go down. That is an objective worthy of our support.●

● Mr. ADDABBO. Mr. Speaker, the administration is always boasting about its efforts to cut down on crime, why then do they refuse to support H.R. 6257? This bill, the Motor Vehicle Theft Law Enforcement Act, places stricter demands on the automobile manufacturers, in an effort to cut down on the serious crime of auto theft.

The guidelines by which the automobile manufacturers are instructed to place identification numbers of those parts of the vehicle with the highest incidence of theft, are fairly liberal. Auto manufacturers are even allowed two exemptions each, and are limited to $15 per vehicle for the cost of compliance.

Other provisions of the bill, strenthening the penalties for trafficking in, importing, or exporting stolen motor vehicles and their parts, are needed as well. The auto theft business must be stopped as it encourages an underground economy to exist. Categorizing auto theft under the Racketeer Influenced and Corrupt Organization (RICO) statute will assist in the prosecution of those individuals involved in this criminal act.

After speaking with several State and New York City officials who claim that this business deals in the hundreds of millions, I am confident that stricter measures are needed. When we talk about deterrence to serious crime, our message must be tougher penalties for those convicted. I urge my col-

leagues to support this measure and cut down on the illegal auto trade which exists in America and abroad.●

Mr. RINALDO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WIRTH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado [Mr. WIRTH] that the House suspend the rules and pass the bill, H.R. 6257, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1430

TWO-YEAR EXTENSION OF EXCLUSION WITH RESPECT TO EDUCATIONAL ASSISTANCE PLANS

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2568) to amend the Internal Revenue Code of 1954 to repeal the provision which terminates the exclusion for amounts received under certain educational assistance programs, as amended.

The Clerk read as follows:

H.R. 2568

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS RELATING TO EDUCATIONAL ASSISTANCE PROGRAMS.

(a) 2-YEAR EXTENSION OF EXCLUSION FROM GROSS INCOME.—Subsection (d) of section 127 of the Internal Revenue Code of 1954 (relating to educational assistance programs) is amended by striking out "December 31, 1983" and inserting in lieu thereof "December 31, 1985".

(b) ANNUAL EXCLUSION LIMITED TO $5,000.—Subsection (a) of section 127 of such Code is amended to read as follows:

"(a) EXCLUSION FROM GROSS INCOME.—

"(1) IN GENERAL.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for educational assistance to the employee if the assistance is furnished pursuant to a program which is described in subsection (b).

"(2) $5,000 MAXIMUM EXCLUSION.—If, but for this paragraph, this section would exclude from gross income more than $5,000 of educational assistance furnished to an individual during a calendar year, this section shall apply only to the first $5,000 of such assistance so furnished."

(c) SPECIAL RULE FOR CERTAIN GRADUATE STUDENTS.—Subsection (c) of section 127 of such Code is amended by adding at the end thereof the following paragraph:

"(8) COORDINATION WITH SECTION 117(D).—In the case of the education of an individual who is a graduate student at an educational organization described in section 170(b)(1)(A)(ii) and who is engaged in teaching or research activities for such organization, section 117(d)(2) shall be applied as if it did not contain the phase '(below the graduate level)'."

(d) REPORTING AND RECORDKEEPING REQUIREMENTS.—

(1) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 of such Code is amended by inserting after section 6039C the following new section:

"SEC. 6039D. RETURNS AND RECORDS WITH RESPECT TO CERTAIN FRINGE BENEFIT PLANS.

"(a) IN GENERAL.—Every employer maintaining a specified fringe benefit plan during any year beginning after December 31, 1984, for any portion of which the applicable exclusion applies, shall file a return (at such time and in such manner as the Secretary shall by regulations prescribe) with respect to such plan showing for such year—

"(1) the number of employees of the employer,

"(2) the number of employees of the employer eligible to participate under the plan,

"(3) the number of employees participating under the plan,

"(4) the total costs of the plan during the year, and

"(5) the name, address, and taxpayer identification number of the employer and the type of business in which the employer is engaged.

"(b) RECORDKEEPING REQUIREMENT.—Each employer maintaining a specified fringe benefit plan during any year shall keep records as may be necessary for purposes of determining whether the requirements of the applicable exclusion are met.

"(c) ADDITIONAL INFORMATION WHEN REQUIRED BY THE SECRETARY.—Any employer—

"(1) who maintains a specified fringe benefit plan during any year for which a return is required under subsection (a), and

"(2) who is required by the Secretary to file an additional return for such year,

shall file such addition return. Such additional return shall be filed at such time and in such manner as the Secretary shall prescribe and shall contain such information as the Secretary shall prescribe.

"(d) DEFINITIONS.—For purposes of this section—

"(1) SPECIFIED FRINGE BENEFIT PLAN.—The term 'specified fringe benefit plan' means—

"(A) any cafeteria plan (as defined in section 125), and

"(B) any educational assistance program (as defined in section 127).

"(2) APPLICABLE EXCLUSION.—The term 'applicable exclusion' means—

"(A) section 125, in the case of a cafeteria plan, and

"(B) section 127, in the case of an educational assistance program."

(2) PENALTY.—Subsection (f) of section 6652 of such Code (relating to failure to file certain information returns, registration statements, etc.) is amended by striking out "125(h) (relating to information with respect to cafeteria plans)" and inserting in lieu thereof "6039D (relating to returns and records with respect to certain fringe benefit plans)".

(3) CONFORMING AMENDMENTS.—

(A) Section 125 of such Code (relating to cafeteria plans) is amended by striking out subsection (h) and inserting in lieu thereof the following:

"(h) CROSS REFERENCE.—

"For reporting and recordkeeping requirements, see section 6039D."

(B) Section 127 of such Code is amended by adding at the end thereof the following new subsection:

"(e) CROSS REFERENCE.—

"For reporting and recordkeeping requirements, see section 6039D."

(4) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6039C the following new item:

"Sec. 6039D. Returns and records with respect to certain fringe benefit plans."

(e) CLARIFICATION OF DISALLOWANCE OF CREDIT OR DEDUCTION.—Paragraph (7) of section 127(c) of such Code (relating to definitions; special rules) is amended by inserting "to the employee" after "allowed".

(f) EXCLUSION FROM RAILROAD RETIREMENT TAXES OF AMOUNTS WHICH MAY BE EXCLUDED UNDER SECTION 127.—Subsection (e) of section 3231 of such Code (defining compensation for purposes of the railroad retirement taxes) is amended by adding at the end thereof the following new paragraph:

"(6) The term 'compensation' shall not include any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127."

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1983.

(2) SUBSECTION (d).—The amendments made by subsection (d) shall take effect on January 1, 1985.

(3) SUBSECTION (f).—The amendment made by subsection (f) shall apply to remuneration paid after December 31, 1984.

(4) NO PENALTIES OR INTEREST ON FAILURE TO WITHHOLD.—No penalty or interest shall be imposed on any failure to withhold under subtitle C of the Internal Revenue Code of 1954 (relating to employment taxes) with respect to amounts excluded from gross income under section 127 of such Code (as amended by this section and determined without regard to subsection (a)(2) thereof) with respect to periods during 1984.

(5) COORDINATION WITH SECTION 117(d).—In the case of education described in section 127(c)(8) of the Internal Revenue Code of 1954, as added by this section, section 117(d) of such Code shall be treated as in effect on and after January 1, 1984.

(h) STUDY.—

(1) IN GENERAL.—The Secretary of the Treasury shall conduct a study of the effect of the provisions of section 127 of the Internal Revenue Code of 1954.

(2) REPORT.—Not later than October 1, 1985, the Secretary of the Treasury shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the study conducted under paragraph (1) (together with such recommendations as he may deem advisable).

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 20 minutes and the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2568, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2568 would extend for 2 years, through December 31, 1985, the income and employment tax exclusion for up to $5,000 annually provided to an employee for employee educational benefits. The exclusion for employee educational benefits, originally enacted in 1978, expired December 31, 1983. The bill would waive penalties on employers for failure to withhold during 1984. In addition, the bill would require employers providing educational assistance to file an information return with the IRS on the program. To enable Congress to better evaluate the program, the Treasury Department would be required to report on the effects of the provision by October 1, 1985.

The Committee on Ways and Means decided to extend the program for only 2 years, so that Congress would have the opportunity to review the program in light of the additional information generated by the new reporting study requirements and in the context of a comprehensive examination next year of the effect of the exclusion of statutory fringe benefits from the income, wage, and benefit bases.

The bill would reduce revenues for fiscal year 1985–87 by $186 million.

Mr. Speaker, H.R. 2568 enjoys broad, bipartisan support. I urge the House to support its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the passage of H.R. 2568, which would extend for 2 years the exclusion from gross income for income and employment tax purposes for educational assistance payments to employees by employers. This provision expired on December 31, 1983. As a result, in the interim, employers with such plans have been somewhat confused relative to the income and employment tax treatment of payments provided under these plans. This confusion existed partially as a result of certain informal assurances that they were given that Congress would favorably extend this exclusion.

The continuance of the exclusion on a short-term basis is appropriate in order to provide Congress with an opportunity to further evaluate the exclusion. These provisions were enacted in 1978 and studies by the Treasury Department and the Internal Revenue Service of the effect of them have not been completed. Upon completion of these studies, it would be appropriate for Congress to consider whether to make these provisions permanent or allow them to expire. In the interim, employers will be able to continue making these payments available on a tax-free basis to their employees.

Mr. GRADISON was successful in including an amendment to the provisions to cap the amount of benefits which any employee can receive tax-free per year at $5,000. I would have favored a slightly lower cap along the lines that Mr. GRADISON initially offered of $2,000 per employee on the theory that tax-free forms of compensation should be limited to an appropriate level per employer. Certainly most of the programs that are currently provided by employers can fit comfortably under a $2,000 cap and, therefore, a $5,000 cap is more generous. I would certainly encourage the Congress to consider applying these types of caps to other forms of tax-free compensation in view of the overwhelming need to preserve the income tax base as a means of raising revenue.

On one other point, the committee did briefly consider the possibility of including these payments in the Social Security tax base. While I opposed doing that on an isolated basis to this form of fringe benefit, I believe that it would be entirely appropriate to examine the overall question of whether or not fringe benefits should be included in the Social Security tax base. I am quite confident that Mr. PICKLE will continue that review process in the next Congress.

I urge my colleagues to approve H.R. 2568.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, I rise today to point out to my colleagues that we will be voting shortly on bills extending the exemptions for two employee fringe benefits, educational assistance and group legal services plans. I have submitted "additional views" in the committee report.

I support the principle of these measures which extend these tax exemptions through 1985. However, I do not believe that we should have continued to exempt these fringe benefits from the various employment taxes. In the next Congress, I expect a thorough review of the whole area of employee fringe benefits both from a Social Security and income tax perspective.

We must all be aware that in the past decade, tax exempt employee benefits have grown at a phenomenal rate. While a great deal of good comes from these benefits, it must be recognized they also cause a significant erosion of the Federal tax bases. We cannot let business and employees continue to have it both ways—without Uncle Sam being the loser.

As the following editorial from last Wednesday's Washington Post points out, if the Federal budget crisis is ever to be fully addressed, the Congress must make an earnest effort to strike a proper balance in the treatment of employee benefits programs. I urge my colleagues to join in that effort next year.

[From The Washington Post, Sept. 26, 1984]

TWO STEPS BACKWARD

This is the moment in the legislative year when Congress takes back most of those few reforms it had the courage to pass earlier in the session. Today, for example, the House is scheduled to vote on two bills that would reverse the modest curbs on tax-free fringe benefits that were put into law as part of last July's tax-and-budget bill.

The measures in question would allow companies to continue providing employees with tax-free legal services—without limit—and with tuition for courses unrelated to their jobs. Proponents argue that the tax code should encourage firms to provide these valuable benefits. The virtue of subsidizing still more litigation in this lawyer-ridden economy is far from obvious. But even in the case of educational benefits, the case is weak.

Of course, the larger society has an interest in having an educated work force. If there were evidence of specific skill shortages that the market couldn't cure, directed subsidies would be justified. And if firms need better trained workers, they can still, under current law, deduct the costs of training them. But the benefits from undirected educational subsidies go overwhelmingly to the individuals lucky enough to have them. Why should other taxpayers be called upon to pay more taxes so that a relatively few workers, already lucky enough to have better-than-average jobs, can upgrade their education or sue their irritating neighbors with tax-free dollars? It is worth remembering that any tax exclusion is worth much more to high-bracket taxpayers than to those with less income, so the unfairness is compounded.

The same argument, of course, applies with equal force to all tax-free fringe benefits. As less and less compensation gets taxed, income and payroll taxes on wages and salaries have to go up to make up for the lost taxes. So large are projected tax losses from untaxed fringes that much of Social Security's long-term financial uncertainty could be resolved by limiting the growth of tax-free benefits.

The Ways and Means Committee is well aware of the erosion of the tax base by fringe benefits—earlier in the year, in fact, it tried to persuade the Senate to extend the payroll tax to legal and educational benefits. But now an election is near, only the lobbies are watching and—after all—it's just another $260 million in lost taxes. True, those millions add to the deficit just as much as if they were money added to a direct spending program. But it's much easier to hide a subsidy in a revenue bill. That's why the tax code is such a mess. And it is also, in no small part, why the deficit is so big. That's something for the House to

think about before it takes two more steps back from budget sanity.

Mr. DUNCAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. FRENZEL], a member of the Committee on Ways and Means.

Mr. FRENZEL. Mr. Speaker, I rise in suppoort of the bill. I concur in the remarks of the distinguished chairman and the distinguished ranking member of the subcommittee describing the bill

I would also like to commend the original sponsor, the gentleman from Massachusetts [Mr. SHANNON]. I am his original cosponsor. Mr. SHANNON will not be with us next year, and I want our colleagues to know that he will be sorely missed by the committee, and by me personally.

I believe this bill is an important extension of the 1978 law. I suspect we have even improved the 1978 act by establishing a limit of $5,000 on this working fringe benefit.

I sympathize with the gentleman from Texas [Mr. PICKLE], is his desire to insure that there will be adequate money in the Social Security fund. However, I do not believe that we should focus on this single fringe benefit going into the Social Security tax base until we totally review all fringe benefits.

Therefore I think the committee was wise not to heed the gentleman's admonitions on this one fringe benefit. For the long term the gentleman from Texas has an excellent point, and it will have to be considered.

I hope the bill will be promptly passed.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts [Mr. SHANNON].

Mr. SHANNON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I am very happy to be speaking today in support of a bill that I introduced a year and a half ago, H.R. 2568. This bill will remedy a serious omission in the Deficit Reduction Act by extending for another 2 years the tax-free status of employer-provided educational assistance which expired at the end of 1983.

Every provision of the Internal Revenue Code has it own particular advocates, but rarely have we seen one that can claim such a broad spectrum of supporters as section 127, the provision that this bill would extend. Since H.R. 2568 was introduced, and particularly in the last few weeks, corporations in every area of business, from banking to high tech; business groups; labor unions; educational associations; colleges and universities—all have come forward to express the importance of section 127 to their members or employees and their support for its extension. These groups, which often line up on opposite sides of many issues, have come together in an active coalition to work for the continuation of tax-free educational assistance.

These groups are supporting this legislation because they realize that it is in their own interest, and in the country's interest, for employees to have access to the education and training they need to improve their work skills, qualify for new and better employment, and keep abreast of the ever-changing demands of a technologically innovative economy. The high tech industries have found that section 127 programs are as good way of keeping their employees up to date with the rapid changes in technology that are the key to their growth and competitiveness. Basic industries, such as automobile and heavy equipment manufacturers, have used employee educational assistance to retrain employees who are being laid off from obsolete jobs, and this assistance has become an important element in many union contracts. Colleges and universities reap a double benefit from section 127—not only does it provide them with students who would otherwise be unable to afford a postsecondary education, but many of them use section 127 plans to provide educational benefits to their own employees.

And the employees themselves have found that section 127 programs have provided them with a chance that they would not otherwise have to obtain an education and improve their employment prospects. Although we do not yet have as much evidence as we would like on just who is benefiting from these programs, the data we have seen indicate that they are principally benefiting those we want to help: those at the lower income levels, women, and minorities. For example, the Mobil Oil Corp., has released data on employees who used its tuition assistance program in 1982. Fifty-three percent of them earned less than $25,000, and 84 percent earned less than $35,000. And in testimony before the Senate Finance Committee, the vice president of the Chase Manhattan Bank stated that a typical profile of bank employees in educational assistance programs was largely made up of women and of those at the clerk or secretary level.

Perhaps as important to consider as the positive effects of section 127 is what will happen if we don't extend it. First of all, employees would be taxed on any educational assistance that is not directly job-related. A graphic example of what this means was provided by a laid-off worker from Ohio at a recent press conference held by advocates of this legislation: The $1,000 promised by his employer for retraining courses dwindled to $654 once taxes were withheld, leaving him to make up the $346 difference himself. And as employers found before 1978, differentiating job-related from non-job-related is a constant headache. Participation in educational assistance programs by both employers and employees would probably drop sustantially. And employers who did not withhold taxes on these benefits in 1984 in the good faith belief that Congress would soon extend section 127 could be liable for back taxes, interest, and penalties.

The people who would be hurt by this would be the very people that we should be trying to help—women, minorities, those on the low end of the income scale who are working hard to make something better of their lives. People who have already been hurt by cuts in Federal programs, who have found that Federal student aid is either not available or not adequate to meet their educational costs. One of the things that we have been trying to encourage and support in the Federal Government is initiatives by the private sector to complement Government efforts in such areas as education and social services. Section 127 programs, undertaken on an individual basis by employers of every variety across the country and benefiting millions of employees at a relatively low cost to the Federal treasury, are just the sort of initiative we need. The revenue foregone so that these employees may have the chance to develop their potential to the fullest should not be regarded as just another tax expenditure, but as an investment in the future.

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Mr. DUNCAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. GRADISON], a valuable member of the committee.

Mr. GRADISON. Mr. Speaker, H.R. 2568 extends the practice of excluding employee educational benefits from tax, and I support it. It wisely includes a cap on the tax-free portion of these benefits, a cap which this Member proposed to the Ways and Means Committee. Since this is a change from past law, a word of explanation may be in order.

Fringe benefits have been growing as a percentage of total compensation, and tax-free fringes have been growing as a proportion of all fringes. This would be of no concern except that it erodes the tax base, keeping income and Social Security taxes higher than they otherwise would be or increasing the deficit or both. Runaway tax expenditures can increase deficits every bit as much as runaway spending—and both deserve public and congressional scrutiny.

There is an urgent call today for tax simplification—uncapped fringes will make it harder to simplify and harder to reduce rates. Were all of the present fringes shared equally this might not be a problem. But that is

not the case. Higher paid employees benefit more than lower paid, and the self-employed such as farmers are excluded.

Capping tax-free fringes is not a new idea. For years the first $50,000 of group life insurance has been tax-free to employees, and the cost of the excess over $50,000 has been taxable.

H.R. 2568 takes a modest step toward restraining the revenue loss from tax-free fringe benefits. The $5,000 level approved by the Committee on Ways and Means on a record vote is far higher than the $2,000 originally approved by the committee on a voice vote. But this at least sends a signal that caps are worth considering, that we care about the tax base as well as the tax rates, and that the Ways and Means Committee should review tax-free fringes across-the-board to see if additional caps are appropriate.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Speaker, I take this opportunity to encourage swift passage of H.R. 2568, the tax exclusion for educational assistance, which was heard and reported out of our Select Revenue Subcommittee.

I want to also take this time to thank the distinguished ranking member, the gentleman from Tennessee [Mr. DUNCAN], for his cooperation in conducting the hearings and helping us report this excellent legislation out.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. I thank the gentleman for yielding.

Mr. Speaker, although we speak frequently about the need for incentives for work training and retraining, seldom do we ever get a chance to do something about it. Today H.R. 2568 gives us a real opportunity to do something about a very real problem.

I would like to commend the chairman for bringing this bill to the floor so expeditiously. I would for sure like to commend the gentleman from Massachusetts [Mr. SHANNON] who after so many months of hard work and perseverance and dedication to this issue is able to see his legislative victory come to an end.

We will miss that perseverance and that dedication in future sessions of Congress, but that same spirit that helps to bring Mr. SHANNON's bill here I hope wil carry him forward in other successes in future times.

Often when our constituents get laid off in the course of their employment we do not have the opportunity to learn the new skills that we need. It is not enough simply to retool our factories. We have to reskill our workers as well.

This legislation will give to people who truly are in need and seek retraining that opportunity. It is a good bill and we need to pass it.

Mr. Speaker, it is universally agreed that America's work force needs improved, job-related training to keep pace with the changing economy. Although we speak frequently about the need to provide incentives for worker training and retraining, it is rare that we get the chance to do something about it. Six years ago, the Congress determined that it was desirable to provide a tax incentive to encourage worker training beyond present job responsibilities. Until last January, workers could receive tax-exempt educational assistance from their employer if the training would help them advance their career or keep their present job. On January 1, 1984, the tax provision governing career advancement courses expired. The opportunity to reinstate this important tax provision in the Deficit Reduction Act was lost when it was dropped in conference. Today we can remedy that situation. H.R. 2568 would simply extend the educational assistance tax exemption for the first $5,000 per year. It is supported by a strong, bipartisan coalition in the House and a broad alliance of business, academic, and labor groups.

Failure to reinstate this education assistance tax exemption will place a disproportionate burden on employees at the lower income levels, such as women and minorities, who are attempting to develop skills compatible with the changing American workplace. Let me give you an example. William Dukes is a former employee of a Caterpillar plant in my congressional district. Mr. Dukes was laid off permanently in 1983 because of a plant closing and received $1,000 from Caterpillar for education or relocation. Because he had no desire to uproot his family and move elsewhere, he chose to use the funds to retrain in a new career as an electronics specialist. After Federal withholding, FICA, State, and city taxes were assessed, Mr. Dukes was left with an award of $655 out of the original $1,000. He will now have to pay the difference—$345—himself.

A recent study by the American Society for Training and Development shows that of the jobs most affected by the need for retraining—40 percent are secretarial/clerical and 54 percent are technicians. Furthermore, the study shows that 64 percent of the worker retraining takes place in public and private vocational schools.

I commend the chairman and members of the Ways and Means Committee for acting so expeditiously on this issue. The ability of America's economy to continue to prosper and flourish is largely dependent on the ability of American workers to get the training necessary to compete. Employer assisted training is a key element in bringing this about.

Mr. DUNCAN. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. DAUB].

Mr. DAUB. Mr. Speaker, I rise in strong support of H.R. 2568, which will extend the Educational Assistance Benefit Program through December of 1985. As a cosponsor of this important legislation, I think it is important that we not lose sight of the forest for the trees. Tuition reimbursement has provided a positive and functional incentive that allows individuals, businesses, educational institutions, and this entire Nation to grow. To sell this bill as anything but positive seems to me to be a problem of being nearsighted in our Federal perspective. The growth of individuals through expanded educational opportunities provides this Nation with a tremendous national resource.

I urge my colleagues to support passage of this bill.

● Mr. PORTER. Mr. Speaker, I rise in support today of H.R. 2568, a bill, which I cosponsored, to extend for 2 years section 127 of the Internal Revenue Code which excludes from an employee's taxable income the value of educational assistance provided by his or her employer. This provision expired on December 31, 1983.

I applaud the Ways and Means Committee for putting forward this legislation for our consideration. Without this section in effect, only payment for courses that are directly related to the employee's current job are excluded from taxes; income, Social Security and unemployment tax must be withheld from any other type of payment.

This legislation was brought to my attention by university administrators and financial assistance counselors in my State, from both public and private institutions, that are providing training and continuing education to working students. Though the legislation will result in a loss of revenue from the Treasury, I have been convinced by the arguments I have heard that the loss is well worth the benefit that will be gained by having a better educated work force.

This tax incentive act to encourage workers to attend classes to improve their education and, as a result, possibly strive toward higher skilled and higher paying jobs. With higher paying jobs, these individuals will be contributing more to the Treasury through increased income taxes. Though this information is based on projections, it is but one reason I offer to my colleagues to look carefully at this measure.

There are other reasons as well. According to John Hurley, vice president of the Chase Manhattan Bank, when he spoke in support of this legislation

on behalf of the American Society for Training and Development before the Senate, the pre-1979 rules, which now again apply for employer educational assistance, resulted in demonstrably severe discrimination against lower level members of the work force—women and minorities—disproportionately.

In my view, the most important reason to support this legislation is the American worker. For the United States to produce superior work products and remain competitive in the world market, its work force must be educated. This legislation will help meet that goal.

I urge its adoption.●

● Mr. FIELDS. Mr. Speaker, as a cosponsor of H.R. 2568, I am pleased we have this oportunity to restore tax-free educational benefits for all Americans.

While I regret H.R. 2568 does not make these benefits a permanent feature of our Tax Code, this legislation is a positive step in the right direction and I am pleased that it is retroactive to December 31, 1983.

Mr. Speaker, the sole purpose of this bill is to rectify a mistake this Congress made in failing to extend this important educational assistance program.

As a result, the pre-1979 tax rules, which discriminated against millions of lower-income, unskilled, and displaced workers, now apply.

These rules, found in Treasury Regulation 162-5, stipulate that employer educational assistance is taxable income to an employee unless it is directly related to his or her current employment.

For example, if a person with little or no work experience is employed in an entry-level position and receives training from his employer to advance to a job requiring some greater skills or experience, the value of that training may be taxable.

At a recent press conference in Washington, one worker explained how the Congress' failure to extend the Employee Educational Assistance Program had affected him personally. When he was laid off permanently from a major machinery company due to a plant closing in 1983, he received $1,000 from his former employer for education or relocation. But when taxes were withheld from his benefits, he received only $654—not the $1,000 he needed to gain the skills necessary to obtain a new job.

Without this legislation, thousands of workers will be denied the opportunity to obtain the training they need to get a better and higher paying job. Clearly, these rules are a major disincentive for self-improvement and advancement in this Nation.

And, who is adversely affected by these rules? According to a study conducted by the Massachusetts Continuing Education Institute the major beneficiaries of company sponsored tuition aid programs are women, minorities, former welfare recipients and people who have never attended high school.

This bill will give them the chance to enjoy a better life for themselves and their families.

Groups supporting H.R. 2568—and the expanded education benefits it would make possible for millions of Americans—include the U.S. Chamber of Commerce, the National Organization of Women, the National Manufacturers Association, the National Education Association and a host of major companies which have used the program to provide education and training to their workers.

In fact, despite their recent disagreements on other issues, General Motors and the United Auto Workers Union issued a joint statement endorsing extension of this cost-effective program.

In its letter to the Congress, the UAW noted that:

> Educational assistance programs have been instrumental in providing active and laid-off workers with job retraining and educational opportunities needed for career advancement.

Mr. Speaker, I believe our Government can play a constructive role in providing all working Americans with opportunities for career advancement. Passing this bill would be a responsible step in that direction.

I urge my colleagues to strongly support H.R. 2568 and to join with me in encouraging the other body to act quickly on this important legislation.

Thank you, Mr. Speaker.●

● Mr. BIAGGI. Mr. Speaker, I rise to express my support for the pending legislation to extend for 2 years the current exemption provided for wages and income of employees who participate in employer-provided educational assistance programs.

This bill will assure that we continue to provide educational opportunity to working adults who must remain in the work force while continuing their education. The provision in current law, which exempts employees from income or Social Security taxes, expired on December 31, 1983. H.R. 2568 extends this provision through December 31, 1985, on up to $5,000 per year of such assistance.

Extension of this program is important at this point in time as we approach the reauthorization of the Higher Education Act by Congress next year. One of the reasons why this exemption is so important is that it provides what our financial aid programs for graduate students fail to provide—namely funds through employers in lieu of direct grants-in-aid from the Federal Government.

As a senior member of the House Education and Labor Committee and a strong supporter of educational opportunity for adults and nontraditional students, I urge support for this legislation. It will enhance our current national higher education policy and will build momentum for next year's reauthorization of the Higher Education Act.●

Mr. DUNCAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and pass the bill, H.R. 2568, as amended.

The question was taken; (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend the Internal Revenue Code of 1954 to extend for 2 years the exclusion from gross income with respect to educational assistance programs, and for other purposes."

A motion to reconsider was laid on the table.

ONE-YEAR EXTENSION OF EXCLUSION WITH RESPECT TO GROUP LEGAL SERVICES PLANS

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5361) to extend for 5 years a tax provision to encourage employers to provide legal services for their employees, as amended.

The Clerk read as follows:

H.R. 5361

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS RELATING TO QUALIFIED GROUP LEGAL SERVICES PLANS.

(a) 1-YEAR EXTENSION OF EXCLUSION FROM GROSS INCOME.—Subsection (e) of section 120 of the Internal Revenue Code of 1954 (relating to amounts received under qualified group legal services plans) is amended by striking out "December 31, 1984" and inserting in lieu thereof "December 31, 1985".

(b) REPORTING AND RECORDKEEPING REQUIREMENTS.—

(1) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 of such Code is amended by inserting after section 6039C the following new section:

"SEC. 6039D. RETURNS AND RECORDS WITH RESPECT TO CERTAIN FRINGE BENEFIT PLANS.

"(a) IN GENERAL.—Every employer maintaining a specified fringe benefit plan during any year beginning after December 31, 1984, for any portion of which the applicable exclusion applies, shall file a return (at such time and in such manner as the Secretary shall by regulations prescribe) with respect to such plan showing for such year—

"(1) the number of employees of the employer,

"(2) the number of employees of the employer eligible to participate under the plan,

"(3) the number of employees participating under the plan,

"(4) the total cost of the plan during the year, and

"(5) the name, address, and taxpayer identification number of the employer and the type of business in which the employer is engaged.

"(b) RECORDKEEPING REQUIREMENT.—Each employer maintaining a specified fringe benefit plan during any year shall keep such records as may be necessary for purposes of determining whether the requirements of the applicable exclusion are met.

"(c) ADDITIONAL INFORMATION WHEN REQUIRED BY THE SECRETARY.—Any employer—

"(1) who maintains a specified fringe benefit plan during any year for which a return is required under subsection (a), and

"(2) who is required by the Secretary to file an additional return for such year,

shall file such additional return. Such additional return shall be filed at such time and in such manner as the Secretary shall prescribe and shall contain such information as the Secretary shall prescribe.

"(d) DEFINITIONS.—For purposes of this section—

"(1) SPECIFIED FRINGE BENEFIT PLAN.—The term 'specified fringe benefit plan' means—

"(A) any qualified group legal services plan (as defined in section 120), and

"(B) any cafeteria plan (as defined in section 125).

"(2) APPLICABLE EXCLUSION.—The term 'applicable exclusion' means—

"(A) section 120, in the case of a qualified group legal services plan, and

"(B) section 125, in the case of a cafeteria plan."

(2) PENALTY.—Subsection (f) of section 6652 of such Code (relating to failure to file certain information returns, registration statements, etc.) is amended by striking out "125(h) (relating to information with respect to cafeteria plans)" and inserting in lieu thereof "6039D (relating to returns and records with respect to certain fringe benefit plans)".

(3) CONFORMING AMENDMENTS.—

(A) Section 120 of such Code is amended by adding at the end thereof the following new subsection:

"(f) CROSS REFERENCE.—

"For reporting and recordkeeping requirements, see section 6039D."

(B) Section 125 of such Code (relating to cafeteria plans) is amended by striking out subsection (h) and inserting in lieu thereof the following:

"(h) CROSS REFERENCE.—

"For reporting and recordkeeping requirements, see section 6039D."

(4) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6039C the following new item:

"Sec. 6039D. Returns and records with respect to certain fringe benefit plans."

(c) EXCLUSION FROM RAILROAD RETIREMENT TAXES FOR AMOUNTS WHICH MAY BE EXCLUDED UNDER SECTION 120.—Subsection (e) of section 3231 of such Code (defining compensation for purposes of the railroad retirement taxes) is amended by adding at the end thereof the following new paragraph:

"(6) The term 'compensation' shall not include any contribution, payment, or service provided by an employer which may be excluded from the gross income of an employee, his spouse, or his dependents, under the provisions of section 120 (relating to amounts received under qualified group legal services plans)."

(d) EFFECTIVE DATES.—

"(1) SUBSECTION (A).—The amendment made by subsection (a) shall apply to taxable years ending after December 31, 1984.

"(2) SUBSECTION (B).—The amendments made by subsection (b) shall take effect on January 1, 1985.

"(3) SUBSECTION (C).—The amendment made by subsection (c) shall apply to remuneration paid after December 31, 1984.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 20 minutes and the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 5361.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

H.R. 5361 would extend for 1 year, through December 31, 1985, the income and employment tax exclusion for qualified group legal services plans and the tax exemption for group legal services organizations. The exclusion for prepaid legal services and exemption for group legal services organizations are scheduled to expire December 31, 1984. In addition, the bill would require an employer with a group legal services plan to file an information return with the IRS on the program.

The Committee on Ways and Means decided to extend the program for only 1 year, so that Congress would have the opportunity to review this program and the educational assistance program at the same time and in the light of the additional information generated by the new reporting requirements. Further, the committee believed that these two fringe benefits should be considered together with the other statutory fringe benefits in the context of a comprehensive examination next year of the effect of the exclusion of statutory fringe benefits from the income, wage, and benefit bases.

The bill would reduce revenues by $75 million in fiscal year 1985–87.

Mr. Speaker, H.R. 5361 enjoys broad, bipartisan support. I urge the House to support its passage.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5361, a bill which would provide a 1-year extension of the exclusion from gross income for income and employment tax purposes with respect to group legal service plans provided by employers to employees. This provision of the Internal Revenue Code will expire at the end of 1985. Under the bill, it would be extended for 1 additional year. This extension will eliminate uncertainty which would otherwise exist for these plans after 1985 and will permit Congress to review whether this exception should be made permanent. To that end, the bill also requires that the Treasury Department report with respect to the effectiveness of the exclusion as expeditiously as possible so that Congress will have an opportunity to consider whether the provision should be made permanent well before its expiration. To assist in developing data for this report, the bill also imposes certain reporting requirements on employers who have group legal service plans.

Mr. Gradison and other members of the committee offered an amendment which would have placed a cap on the total amount of benefits which an employee could receive for a year from these plans, although this amendment was defeated. I support that type of amendment and would recommend that such a modification of the exclusion be considered if this provision is to be made permanent. I believe it is entirely appropriate to place a cap on the amount of tax-free compensation which any employee can receive from these types of exclusions. The importance of preserving the Federal income tax base should be of paramount consideration in reviewing the appropriateness of extending or making permanent any type of fringe benefit which provides employees with tax-free compensation.

I urge my colleagues to vote in favor of H.R. 5361.

Mr. Speaker, I now yield such time as he may desire to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I think this is a different kind of animal than the last bill we passed. It is the most recent of the expensive tax benefits which we allow to be granted without imputing any income to the beneficiaries.

It allows employers to furnish legal services for their employees.

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In this case, the benefits happen to be concentrated on a small group of organized employees. It is the kind of fringe benefits whose cost comes out of the hide of all employees, but from which, in my judgment, very few get benefits.

I think that the House would be well advised to reject this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. STARK. Mr. Speaker, I yield 2 minutes to myself.

Mr. Speaker, today we consider H.R. 5361, a bill which I introduced. It allows group legal services to remain tax exempt as employee fringe benefits.

Working men and women have benefited from free or low cost quality legal services since 1973 when Congress enacted an amendment to the Taft-Hartley Act. Through the bargaining power of group plans, employers have been able to hire lawyers to provide legal services to their employees at a modest cost per employee.

Qualified group legal services plans have provided a valuable benefit to employees who face commonplace legal matters such as preparing a will or buying a family home. Prompt access to legal advice has, in many instances, saved employees from time-consuming and costly litigation. Furthermore, the availability of legal services has provided employees with the resources to fight for their legal rights where those rights would otherwise go undefended due to lack of legal representation.

Mr. Speaker, section 120 of the Internal Revenue Code allows employers to offer group legal services to employees by keeping this fringe benefit tax exempt. This provision is due to expire at the end of this year. By extending section 120 for another year, H.R. 5361 assures that many American workers will continue to have quality legal services available to them that they otherwise could not afford.

I ask support for H.R. 5361 to continue the tax-exempt status of qualified legal services plans so that American workers will be able to afford to exercise their legal rights.

A person who needs a lawyer is like a person who needs a surgeon; you do not necessarily volunteer to be sued or become embroiled in a legal controversy. Therefore it is in the nature of a casualty insurance and very few people, hopefully, will need to use it.

As we do in other casualty insurance proposals we pay small amounts so that the few people who suffer a loss or catastrophe will have their financial burden lightened.

I think it is as good as making any other type of life insurance or benefit tax free.

Mr. Speaker, I urge that we continue it, and we extend it to be considered with all other fringe benefits in the ensuing year.

Mr. Speaker, I urge its adoption.

● Mr. BIAGGI. Mr. Speaker, I rise in support, although somewhat qualified, of the bill H.R. 5361, to extend for 1 year, through December 31, 1985, the exclusion from income and payroll taxes for employer contributions to qualified prepaid legal services plans for employees, their spouses and dependents.

The reason I can only express qualified support is because I believe the preferable approach is embodied in H.R. 5028, a bill I first introduced last March. It would have made the tax exclusion permanent. However, my bill did not get consideration by the committee in sufficient time to allow it to come before us for a vote in this session. This leaves us with two options. The first would be to allow the exclusion to expire—or do as this bill proposes—extend it for 1 year. To me the choice is clear. That is why I urge passage of H.R. 5361.

These employer sponsored prepaid legal plans we address in this bill have enjoyed tax free status since 1976 but unless we act today will in fact expire on December 31. Despite some reservations by the committee, I contend that a clear case has been made to extend the exclusion if not make it permanent.

At the time in 1976 when Congress first provided for the temporary tax exempt status for these plans—it wanted to see if this incentive would stimulate growth of these plans while not draining too much revenues from Treasury. Some results are in and they seem to justify an extension. According to the National Resources Center for Consumers of Legal Services—since 1975 the number of these plans has grown from 75 to 100. Further the number of individuals benefiting from these plans has soared to more than 10 million in the 12 short years that these plans have been in existence.

On the revenue loss side of the issue—estimates show that only a $20 million loss was registered in 1982—which in my mind demonstrates good cost effectiveness of these programs.

Legislation identical to mine was introduced by the distinguished Senator from Oregon [Mr. PACKWOOD]. It is obvious that there is support for these programs—and the provision in law which allowed them to flourish; namely the tax exclusion by employers. The plans we seek to protect—do like all good legal service programs should—they help people. They help individuals in such areas as will drafting, guardianships, and family law matters. Their continuation in many instances may well depend on the action we take today. Therefore I urge passage. It will be a vote reaffirming the principle that where there are legal services available to all—it helps to promote equal justice for all.●

Mr. DUNCAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and pass the bill, H.R. 5361, as amended.

The question was taken.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

FOSTER CARE AND SSI AMENDMENTS OF 1984

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6266) to extend for 1 year certain provisions (presently scheduled to expire in 1984) relating to foster care assistance under part E of title IV of the Social Security Act, and to require the establishment or continuation of regional Child Welfare Resource Centers to assist in the implementation of child welfare, foster care, and adoption assistance programs, as amended.

The Clerk read as follows:

H.R. 6266

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foster Care and SSI Amendments of 1984".

TITLE I—FOSTER CARE ASSISTANCE AND REGIONAL CHILD WELFARE RESOURCE CENTERS

TABLE OF CONTENTS

Sec. 101. Foster care maintenance payments for children voluntarily placed in foster care.
Sec. 102. One-year extension of State option to use foster care assistance for child welfare services in certain cases.
Sec. 103. Child Welfare Resource Centers.

FOSTER CARE MAINTENANCE PAYMENTS FOR CHILDREN VOLUNTARILY PLACED IN FOSTER CARE

SECTION . (a) Section 102(a)(1) of the Adoption Assistance and Child Welfare Act of 1980 (Public Law 96-272; 42 U.S.C. 672 note) is amended by striking out "October 1, 1984" and inserting in lieu thereof "October 1, 1985".

(b) Section 102(c) of such Act is amended by striking out "October 1, 1984" each place it appears and inserting in lieu thereof "October 1, 1985".

ONE-YEAR EXTENSION OF STATE OPTION TO USE FOSTER CARE ASSISTANCE FOR CHILD WELFARE SERVICES IN CERTAIN CASES

SEC. 102. (a) Section 474(b) of the Social Security Act is amended—

(1) in paragraphs (1), (2)(B), and (4)(B), by striking out "1981 through 1984" and inserting in lieu thereof "1981 through 1985";

(2) in paragraph (2)(A)—

(A) by striking out "and" at the end of clause (iii),

(B) by striking out the period at the end of clause (iv) and inserting in lieu thereof "; and", and

(C) by adding after clause (iv) the following new clause:

"(v) with respect to fiscal year 1985, only if the amount appropriated under section 420 for such fiscal year is equal to $266,000,000."; and

(3) in paragraph (5)(A)—

(A) by striking out "October 1, 1984" and inserting in lieu thereof "October 1, 1985", and

(B) by striking out "fiscal year 1984" in clause (ii) and inserting in lieu thereof "each of fiscal years 1984 and 1985".

(b) Section 474(c) of such Act is amended by striking out "1981 through 1984" in paragraphs (1) and (2) and inserting in lieu thereof "1981 through 1985".

CHILD WELFARE RESOURCE CENTERS

SEC. 103. Part E of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"CHILD WELFARE RESOURCE CENTERS

"SEC. 477. (a) The Secretary shall provide for the establishment or continuation of a network of Child Welfare Resource Centers to help in the implementation of programs relating to child welfare under part B and programs relating to foster care and adoption assistance under this part.

"(b) The purposes of the Centers shall include (without being limited to)—

"(1) the provision of assistance in the development, and adoption by the States, of uniform systems for the collection and evaluation of information and data on the programs referred to in subsection (a);

"(2) the provision of assistance to individual States and groups of States in the development of education and training courses and activities relating to such programs for the staffs of child welfare agencies and for foster families, adoptive families, and other individuals and organizations;

"(3) the provision of assistance in the exchange, between States, of innovations for use in the administration and implementation of such programs; and

"(4) the provision of assistance in the dissemination of research and the findings of demonstration programs relating to child welfare, foster care, and adoption to public and private child welfare agencies, voluntary organizations, and members of the judiciary (Federal, State, and local) who are concerned with foster care, adoption, and other problems involving or relating to child welfare.

"(c) The Secretary shall provide the necessary funding for the Child Welfare Resource Centers established or continued in accordance with this section, and shall use for this purpose during any period (1) any funds to which States are entitled under section 474(a) for such period but which remain unpaid and unclaimed after the application of sections 474(b) and 474(c), and (2) such sums as may be appropriated for purposes of this section. The use of the funds described in clause (1) of the preceding sentence for this purpose (to the extent that such funds are appropriated on or after the date of the enactment of this section), and the appropriations referred to in clause (2) of such sentence, are hereby expressly authorized.".

TITLE II—SSI AMENDMENTS

TABLE OF CONTENTS

PART 1—TREATMENT OF INCOME

Sec. 201. Exclusion of certain real and personal property from income.

Sec. 202. Exclusion of interest and dividends from income.

Sec. 203. Exclusion of certain temporary income in retrospective budgeting.

Sec. 204. Exclusion of reparations received by holocaust survivors.

PART 2—TREATMENT OF RESOURCES

Sec. 211. Modification of penalties where assets are transferred at less than fair market value.

Sec. 212. Computation of vehicle value in assets test.

PART 3—DETERMINATION OF BENEFIT AMOUNTS

Sec. 221. Changes in one-third reduction formula.

Sec. 222. Increases in benefit standard for institutionalized recipients.

PART 4—PROVISIONS RELATING TO ELIGIBILITY

Sec. 231. Eligibility for benefits due deceased recipients.

Sec. 232. Modification of certain filing requirements.

Sec. 233. Eligibility of couples living apart.

PART 5—OVERPAYMENTS, EMERGENCY PAYMENTS, AND INTERIM ASSISTANCE

Sec. 241. Extension of interim assistance program.

Sec. 242. Study of alternative methods of promoting the establishment and effective enforcement of standards for group living facilities.

Sec. 243. Increased emergency advance payments for presumptively eligible individuals.

Sec. 244. Notice to recipients regarding overpayments.

PART 6—EXTENSION OF SSI PROGRAM

Sec. 251. Study of extension of SSI program to Puerto Rico, Guam, the Virgin Islands, and American Samoa.

PART 7—OTHER AMENDMENTS

Sec. 261. Extension of outreach efforts.

Sec. 262. Requirement of increased clarity and readability for written materials to be used by SSI applicants or recipients.

Sec. 263. Special notice to blind recipients.

Sec. 264. General effective date.

PART 1—TREATMENT OF INCOME

EXCLUSION OF CERTAIN REAL AND PERSONAL PROPERTY FROM INCOME

SEC. 201. Section 1612(b) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(14) unearned income, within such limit or limits as the Secretary may by regulation prescribe, received in kind in the form of real or personal property which is not converted into cash in the month of receipt if (A) any part of its value qualifies for exclusion from the resources of such individual (and spouse if any), or (B) section 1613(b) will be applicable to such property after such month of receipt.".

EXCLUSION OF INTEREST AND DIVIDENDS FROM INCOME

SEC. 202. (a) Section 1612(b)(12) of the Social Security Act (as amended by section 201(1) of this Act) is amended by inserting after "(12)" the following: "(A) income in the form of interest and dividends (other than interest income described in clause (B)) to the extent that such income is derived from resources the value of which does not exceed the applicable dollar amount specified in paragraph (1)(B) or (2)(B) of section 1611(a), and (B)".

(b) Section 1613(d)(4) of such Act is amended by striking out "may provide" and inserting in lieu thereof "shall provide".

(c) Nothing in the amendments made by this section shall affect any exclusion of interest or dividends from income for SSI purposes which may be provided by any other law.

EXCLUSION OF CERTAIN TEMPORARY INCOME IN RETROSPECTIVE BUDGETING

SEC. 203. (a) Section 1611(c)(2) of the Social Security Act is amended by adding at the end thereof (after and below subparagraph(B)) the following new sentence: "Any income which is received by an individual in the month in which such individual's application for benefits under this title becomes effective (or, if the Secretary so determines, in such month and the following month) or in any month immediately following a month of such individual's ineligibility for such benefits (or if the Secretary so determines, in such month and the following month), and which constitutes income in an amount which such individual does not continue to receive in subsequent months, shall be taken into account in determining the amount of the benefit of such individual (and his eligible spouse if any) only for that month and shall not be taken into account in determining the amount of the benefit for any subsequent month.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1985, or on such earlier date (on or after January 1, 1985) as the Secretary of Health and Human Services may detemine and specify.

EXCLUSION OF REPARATIONS RECEIVED BY HOLOCAUST SURVIVORS

SEC. 204. Section 1612(b) of the Social Security Act (as amended by section 101 of this Act) is further amended—

(1) by striking out "and" after the semicolon at the end of paragraph (13);

(2) by striking out the period at the end of paragraph (14) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (14) the following new paragraph:

"(15) amounts received as reparations under the Federal Law on the Compensation of victims of the National Socialist Persecution (Federal Compensation Law), as enacted by the Federal Republic of Germany on June 29, 1956, or received as reparations under laws of the German Democratic Republic having the same general purposes of objectives.".

PART 2—TREATMENT OF RESOURCES

MODIFICATION OF PENALTIES WHERE ASSETS ARE TRANSFERRED AT LESS THAN FAIR MARKET VALUE

SEC. 211. (a) Section 1613(c)(1) of the Social Security Act is amended by inserting immediately after "the exclusions under subsection (a)" the following: ", and subject to the provisions of paragraph (4) of this subsection".

(b) Section 1613(c) of such Act is further amended by adding at the end thereof the following new paragraph:

"(4) The Secretary may by regulation provide for suspending the application of paragraph (1) to the extent (in any instance) that the Secretary determines that such

suspension is necessary to avoid undue hardship.".

COMPUTATION OF VEHICLE VALUE IN ASSETS TEST

SEC. 212. Section 1613(a)(2) of the Social Security Act is amended—

(1) by striking out "(A) household goods, personal effects, and an automobile, to the extent" and inserting in lieu thereof the following:

"(A) an automobile;

"(B) household goods and personal effects, to the extent"; and

(2) by striking out "(B) the value" and inserting in lieu thereof "(C) the value".

PART 3—DETERMINATION OF BENEFIT AMOUNTS

CHANGES IN ONE-THIRD REDUCTION FORMULA

SEC. 221. Section 1612(a) of the Social Security Act is amended by adding at the end thereof (after and below paragraph (2)(F)) the following new sentences:

"For purposes of paragraph (2)(A)(i), an individual (and his eligible spouse, if any) will not be determined to be living in the household of another for puroses of determining eligibility or benefit amount, upon application or following a period of suspension, if (i) the individual states that, upon receipt of benefits under this title, he will pay his pro rata share of the expenses of the household in which he is living, and (ii) his pro rata share of such expenses does not exceed two-thirds of the dollar amount of income applicable to such individual (and spouse) as specified in section 1611(a) (and increased by the applicable amount of any federally-administered State supplementation unreduced by income). Notwithstanding the preceding sentence, if the Secretary, upon redetermination of such individual's (and spouse's) eligibility and benefit amount, determines that he any portion of the individual's benefits paid for the period prior to such redetermination shall be considered overpayments to the extent that they would not have been paid but for the individual's statement of intent under clause (i) of the preceding sentence.".

INCREASES IN BENEFIT STANDARD FOR INSTITUTIONALIZED RECIPIENTS

SEC. 222. Section 1611(e)(1)(B) of the Social Security Act is amended—

(1) by striking out "$300 per year" in clauses (i) and (ii)(I) and inserting in lieu thereof "$420 per year"; and

(2) by striking out "$600 per year" in clause (iii) and inserting in lieu thereof "$840 per year".

PART 4—PROVISIONS RELATING TO ELIGIBILITY

ELIGIBILITY FOR BENEFITS DUE DECEASED RECIPIENTS

SEC. 231. Section 1631(b)(1) of the Social Security Act is amended—

(1) by inserting "(A)" after "(1)";

(2) by striking out "by recovery from" where it first appears in the first sentence and all that follows down through "The Secretary (A) shall make" and inserting in lieu thereof the following:

"by recovery from such individual or his eligible spouse (or from the estate of either) or by payment to such individual or his eligible spouse, or, if such individual is deceased, by payment—

"(i) to any surviving husband or wife (whether or not the individual's eligible spouse) with whom the individual was living at the time of his death or within the 6 months immediately preceding such death, or

"(ii) if such individual was a disabled or blind child who was living with his parent or parents at the time of his death or within the 6 months immediately preceding such death, to such parent or parents.

"(B) The Secretary (i) shall make";

(3) by striking out "and (B) shall in any event" and inserting in lieu thereof "and (ii) shall in any event";

(4) by striking out "(i) the amount" and "(ii) an amount" and inserting in lieu thereof "(I) the amount" and "(II) an amount", respectively; and

(5) by striking out "clause (B)" and "clause (A)" in the last sentence and inserting in lieu thereof "clause (ii)" and "clause (i)", respectively.

MODIFICATION OF CERTAIN FILING REQUIREMENTS

SEC. 232. Section 1611(e)(2) of the Social Security Act is amended—

(1) by inserting "(A)" before "No person"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) Subparagraph (A) shall not require any person who has attained the age of 60 but not the age of 65 and who is applying for or receiving benefits under this title, in order to be an eligible individual or eligible spouse for purposes of this title, to apply for and (if eligible) obtain any benefits which may be payable to such person under subsection (e) or (f) of section 202 (or under any other subsection of section 202 if such person is also eligible for benefits under such subsection (e) or (f)), in any case where the receipt of such benefits under section 202 would render such person ineligible for benefits under this title. The Secretary shall inform each person to whom the preceding sentence applies of his or her potential eligibility for benefits under title II, of the potential risk of loss of his or her eligibility for assistance under title XIX, and of his or her right to elect (in view of that risk) not to apply for such benefits.".

ELIGIBILITY OF COUPLES LIVING APART

SEC. 233. Section 1614(b) of the Social Security Act is amended by striking out "for more than six months" in the first sentence and inserting in lieu thereof "for more than three months".

PART 5—OVERPAYMENTS, EMERGENCY PAYMENTS, AND INTERIM ASSISTANCE

EXTENSION OF INTERIM ASSISTANCE PROGRAM

SEC. 241. (a) Section 1631(g)(2) of the Social Security Act is amended by striking out "at the time the Secretary makes the first payment of benefits" and inserting in lieu thereof "at the time the Secretary makes the first payment of benefits (with respect to the period described in clause (A) of paragraph (3)) or at any time after the termination or suspension of the individual's benefits (with respect to a period described in clause (b) of such paragraph)".

(b) Section 1631(g)(3) of such Act is amended—

(1) by inserting "(A)" after "basic needs"; and

(2) by inserting before the period at the end thereof the following: ", or (B) during any period following the termination or suspension of the individual's benefits, if and to the extent that (i) the individual is subsequently found to have been eligible for such benefits and (ii) a retroactice payment of benefits for months in that period is due the individual".

(c) The amendments made by this section shall take effect on October 1, 1985, or on such earlier date (on or after January 1, 1985) as the Secretary of Health and Human Services may determine and specify.

STUDY OF ALTERNATIVE METHODS OF PROMOTING THE EFFECTIVE ENFORCEMENT OF STANDARDS FOR GROUP LIVING FACILITIES

SEC. 242. The Secretary of Health and Human Services and the Comptroller General of the United States shall each study and analyze alternative methods which might be adopted—

(1) to promote the enforcement of appropriate State standards (governing such matters as admission policies, safety, sanitation, and protection of civil rights) by institutions, foster homes, and group living arrangements in which significant numbers of SSI recipients are residing or are likely to reside, and

(2) to carry out more effectively the objectives of section 1616(e) of the Social Security Act without the necessity (in cases where a State makes payments to provide medical or remedial care for SSI recipients in a facility not approved as meeting such standards) of imposing penalties of the type presently provided by that section.

The Secretary and the Comptroller General shall each submit to the Congress, no later than July 1, 1985, a full and complete report of the results of his study and analysis under this section together with such recommendations as may be deemed appropriate.

INCREASED EMERGENCY ADVANCE PAYMENTS FOR PRESUMPTIVELY ELIGIBLE INDIVIDUALS

SEC. 243. Section 163(a)(4)(A) of the Social Security Act is amended by striking out "a cash advance against such benefits in an amount not exceeding $100" and inserting in lieu thereof "a cash advance against such benefits in an amount not exceeding the amount of the monthly benefit for which he is presumptively eligible, including any federally-administered State supplementary payments, for the first month of such presumptive eligibility".

NOTICE TO RECIPIENTS REGARDING OVERPAYMENTS

SEC. 244. Section 1631(b) of the Social Security Act is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) No action shall be taken by the Secretary to provide for the adjustment or recovery of any overpayment made with respect to an individual (whether such action is the initial action of the Secretary with respect to the overpayment or is subsequently taken) until the Secretary has sent to such individual a notice, in clear and understandable language, setting forth—

"(A) the exact amount of the overpayment;

"(B) the period or periods with respect to which the overpayment occurred;

"(C) the reason why the overpayment occurred;

"(D) a statement of the manner in which, and the rate at which, the overpayment is proposed to be adjusted or recovered;

"(E) a statement of the individual's right to seek a waiver of the overpayment (or relief from the proposed manner or rate of adjustment or recovery) under the second sentence of paragraph (1) and to seek reconsideration of the Secretary's determination that an overpayment exists (or that the overpayment is to be adjusted or recovered in the proposed manner or at the proposed rate); and

"(F) that if the individual seeks such a waiver or reconsideration, no adjustment in or recovery from such individual's benefits will be undertaken or carried out until a decision is made on the waiver or reconsideration sought.

PART 6—EXTENSION OF SSI PROGRAM

STUDY OF EXTENSION OF SSI PROGRAM TO PUERTO RICO, GUAM, THE VIRGIN ISLANDS, AND AMERICAN SAMOA

SEC. 251. (a) The Secretary of Health and Human Services shall conduct a full and complete study of the feasibility of extending the program of supplemental security income benefits to the jurisdictions of Puerto Rico, Guam, the Virgin Islands, and American Samoa, and shall submit to the Congress, on or before October 1, 1985, a report setting forth the results of such study together with such recommendations as the Secretary may deem appropriate in the light of such results.

(b) The study under subsection (a) shall specifically include consideration of—

(1) the potential cost of extending the existing SSI program to each of the jurisdictions referred to in subsection (a);

(2) the size of the population in each such jurisdiction that would be eligible for SSI benefits if the existing program were so extended;

(3) the extent to which such potential cost and population size might be reduced in each such jurisdiction if the SSI benefit standard were different from SSI benefit standard which applies to individuals in other States, and the various kinds of different standards that might be so applied;

(4) the desirability of feasibility of gradually phasing in the SSI program in any or all of such jurisdictions;

(5) the extend to which the implementation of the SSI program in each such jurisdiction would produce offsetting saving in the food stamp program or in other Federal programs; and

(6) any other factors which might bear upon the feasibility of extending the SSI program to any or all or such jurisdictions.

PART 7—OTHER AMENDMENTS

EXTENSION OF OUTREACH EFFORTS

SEC. 261. (a)(1) The Secretary of Health and Human Services shall establish and conduct an ongoing program designed to provide information about SSI benefits (and federally-administered State supplementary benefits) to individuals who are not currently receiving such benefits.

(2) In conducting the program under this section, the Secretary (without being limited to the following) shall (A) provide notice of the availability of SSI benefits to all elderly and disabled individuals who are recipients of benefits under title II of the Social Security Act, and who (in the light of the relatively low level of their benefits under such title II) may be eligible for SSI benefits, (i) at the time when any such individual attains age 65 and at least every two years thereafter, (ii) at the time when any such individual (before attaining age 65) applies for or is awarded disability insurance benefits, and (iii) at the time when any such individual is notified of his or her eligibility for supplementary medical insurance benefits, and (B) encourage all such recipients to contact their local Social Security district offices for further information.

(b) To the maximum extent possible in the conduct of the program under this section, the Secretary shall regularly consult and cooperate with other Federal, State, and private agencies which have knowledge of potential SSI recipients, and shall enter into appropriate arrangements under which such agencies will send notices of the type described in subsection (a) to individuals receiving benefits or services under programs administered by them. The Secretary shall address separately and specifically the best mechanisms available for outreach to potentially eligible disabled children.

(c) The Secretary shall from time to time (not less often than annually) submit to the Congress a full and complete report on the program under this section, together with such recommendations as may be deemed appropriate.

REQUIREMENT OF INCREASED CLARITY AND READABILITY FOR WRITTEN MATERIALS TO BE USED BY SSI APPLICANTS OR RECIPIENTS

SEC. 262. Section 1631(e) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(3)(A) The Secretary shall take steps to assure (i) that all forms, notices, pamphlets, and other documents which are issued or distributed by the Secretary for use by applicants for or recipients of SSI benefits are written and arranged in a manner that is clear, readable, readily understandable, and suited to the needs and purposes of the particular documents involved, and (ii) that each such form, notice, pamphlet, or other document will fully and fairly provide the applicant or recipient with the information necessary to enable him or her to assess his or her rights and to know what if any action is required.

"(B) In carrying out subparagraph (A), the Secretary shall—

"(i) review all of the forms, notices, pamphlets, and other documents in use on the effective date of this paragraph, and complete whatever revisions or modifications may be necessary in order to achieve the objectives of such subparagraph, no later than 12 months after such date; and

"(ii) review any form, notice, pamphlet, or other document (intended for use by applicants for or recipients of SSI benefits) which may be proposed for issuance or distribution on or after the effective date of this paragraph, prior to its actual issuance or distribution, in order to assure that it is written and arranged in the manner required by subparagraph (A).

"(C) Except to the extent that it is affirmatively determined by the Secretary not to be feasible, the Secretary shall contract with recognized experts to conduct the reviews required by this paragraph and to make any revisions in the documents involved which may be required to achieve the objectives of subparagraph (A).".

SPECIAL NOTICE TO BLIND RECIPIENTS

SEC. 3. (a)(1) Section 1631 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"SPECIAL NOTICE TO BLIND INDIVIDUALS WITH RESPECT TO HEARINGS AND OTHER OFFICIAL ACTIONS

"(j)(1) In any case where an individual who is applying for or receiving benefits under this title on the basis of blindness is entitled (under subsection (c) or otherwise) to receive notice from the Secretary of any decision or determination made or other action taken or proposed to be taken with respect to his or her rights under this title, such individual shall at his or her election be entitled either (A) to receive a supplementary notice of such decision, determination, or action, by telephone, with 5 working days after the initial notice is mailed, or (B) to receive the initial notice in the form of a certified letter.

"(2) The elections described in paragraph (1) may be made at any time; but an opportunity to make such an election shall in any event be given (A) to every individual who is an applicant for benefits under this title on the basis of blindness, at the time of his or her application, and (B) to every individual who is a recipient of such benefits on the basis of blindness, at the time of each recertification of his or her eligibility. Such an election, once made by an individual, shall apply with respect to all notices of decisions, determinations, and actions which such individual may thereafter be entitled to receive under this title until such time as it is revoked or changed.".

(2) The amendment made by paragraph (1) shall take effect on January 1, 1985; and the Secretary of Health and Human Services shall take appropriate steps, no later than one year after the date of the enactment of this Act, to ensure that every individual already receiving benefits under title XVI of the Social Security Act on the basis of blindness is given an early opportunity to make the election provided for in section 1631(j) of such Act (as added by such amendment).

(b) The Secretary of Health and Human Services shall study the desirability and feasibility of extending special or supplementary notification rights of the type conferred upon blind individuals by section 1631(j) of the Social Security Act (as added by subsection (a) of this section) to other individuals who may lack the ability to read and comprehend regular written notices, and shall report the results of such study to the Congress, along with such recommendations as may appear appropriate, within 6 months after the date of the enactment of this Act.

GENERAL EFFECTIVE DATE

SEC. 264. Except as otherwise specifically provided, this title and the amendments made by this title shall become effective January 1, 1985.

The SPEAKER pro tempore. Is a second demanded?

Mr. CAMPBELL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 20 minutes and the gentleman from South Carolina [Mr. CAMPBELL] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 6266, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6266, the Foster Care and SSI Amendments of 1984, extends for 1 year, through September 30, 1985, two expiring provisions of the Adoption Assistance and Child Welfare Amendments of 1980 and provides for a 1 year authorization for regional child welfare resource centers. The bill also makes a number of needed improvements in the SSI program which provides benefits to over four million aged, blind and disabled individuals and couples in this country.

The most important SSI provision in the bill increases from $25 to $35 a month the personal needs allowance for residents of nursing homes and other medical institutions. The $25 personal needs allowance has not been increased since the SSI Program went into effect over 10 years ago in January 1984.

H.R. 6266 contains a number of other improvments in the SSI program which will simplify the administration of the program.

This bill was approved on a bipartisan basis by the Committee on Ways and Means and I urge its adoption.

I yield at this time to Congressman HAROLD FORD, the chairman of the Subcommittee on Public Assistance and Unemployment Compensation for a more detailed explanation of the bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee [Mr. FORD], the chairman of the Subcommittee on Public Assistance and Unemployment Compensation of the Committee on Ways and Means.

Mr. FORD of Tennessee. Mr. Speaker, I rise in support of H.R. 6266, the Foster Care and SSI Amendments of 1984 and urge its adoption by the House. The foster care provisions in this bill will affect the lives of over one million children and families who each year come in contact with the child welfare and foster care system in this country. Included among the SSI amendments in this bill is a provision which will improve the lives of 800,000 residents of nursing homes and other medical facilities by increasing to $35 the current $25 personal needs allowance for the aged, blind and disabled who are residents of such institutions.

I am proud of the work of the Subcommittee on Public Assistance and Unemployment Compensation, which I chair, in approving this important legislation. I also want to thank Chairman ROSTENKOWSKI of the Committee on Ways and Means for providing the opportunity for this bill to be brought to the committee and to the House floor for consideration.

Under title IV of the Social Security Act, Federal matching funds are provided to States for child welfare services, foster care, and adoption services.

The 1980 child welfare reform legislation was enacted because of concern about inadequate efforts to provide services to prevent the need for foster care and lack of services to reunify children with their families or, where appropriate to place foster care children in adoption.

H.R. 6266 would extend for another year the provision adopted in 1980 whereby States can claim matching funds for children placed in foster care under a voluntary placement agreement between the child welfare agency and the child's parents. Voluntary placement is in contrast to court removal of children from a home. It is often temporary foster care requested by the parents because of a crisis in the home or involving handicapped children who need placement outside the home so the child can receive needed services.

H.R. 6266 also extends for 1 year through September 1985 the authority for States to transfer funds allocated to them for foster care to use for child welfare services. The intent of this option is to encourage States to redirect their efforts toward lessening dependence on foster care as a means of protecting children and toward the use of Federal funds for preventive services and family reunification or adoption services. In fiscal year 1984, $40 million will be transferred by States from their foster care allocation to use for child welfare services.

The bill also provides for a specific 1 year authorization for the continuation of a network of regional child welfare resources centers, which are now providing assistance to States and other organizations in implementing the provisions of the 1980 child welfare legislation.

These centers are currently funded by the Department of Health and Human Services under general discretionary grant authority. The administration has proposed to eliminate funding for the 10 regional and one national child welfare resource centers for fiscal year 1985. The fiscal year 1984 funding for the centers is $3.5 million.

The basic idea behind the establishment and function of the centers is that there should be in each region of the country a staff of experts, usually based at a university, that can provide state-of-the-art information and technical assistance to the various child welfare programs in the States. The resource center in Boston enabled the establishment of a network of judges in the New England States who are identifying and attempting to eliminate problems in the court system which interfere with improvements in child welfare programs. In the Southeastern States black child adoption units have been established based on a model developed by the regional resource center at the University of Tennessee.

Title II of H.R. 6266 contains amendments to the Supplemental Security Income Program. The SSI Program provides cash assistance benefits to nearly 4 million aged, blind, and disabled individuals and couples. The program is administered by the Social Security Administration and is financed from general revenues.

The SSI benefit standard is increased each year by the same cost-of-living percentage as Social Security benefits. However, for SSI recipients and other medicaid eligible individuals in nursing homes and other medicaid institutions, the actual funds they have available for personal needs have never been increased since the SSI Program began in January 1974. SSI recipients with no other income who are patients in hospitals, nursing homes, and other medical institutions where a major part of the bill is being paid by the medicaid program only receive a $25 SSI benefit payment. Approximately 211,000 SSI recipients receive this $25 payment.

For those individuals whose income from non-SSI sources exceeds the $25 benefit standard but are eligible for medicaid, the medicaid program requires States to allow such individuals to retain $25 a month of their income as a personal needs allowance. For example, an elderly widow may be receiving a $250 Social Security payment and an $84 SSI check each month. When she becomes a patient in a nursing home she no longer receives SSI and all but $25 of her Social Security benefit must be applied toward the cost of the nursing home care with the remaining cost covered by medicaid.

H.R. 6266 would increase from $25 to $35 the SSI benefit standard for residents of medical institutions and because of provisions in medicaid law the personal needs allowance under medicaid.

This is the only cash available to nearly 800,000 residents of nursing homes when they want to purchase items not required to be provided by the medicaid facilities. They may include personal toilet articles, haircuts, a gift for a grandchild, magazines, candy, and other items which can help to make life in an institutional setting more personal and bearable.

There are a number of other SSI amendments in this bill that would simplify the administration of the SSI Program and make it more humane. Many of these provisions were originally included in H.R. 5341, the SSI Equitable Improvement Amendments of 1984 which was introduced in April this year by Mr. STARK and myself and nearly 70 other Members of the House.

Just a few examples of the results of other SSI amendments in the bill are as follows:

No longer would an SSI recipient have a reduction in his or her SSI check because they receive a few dollars interest income on a small savings account.

No longer will reparation payments received by a Nazi Holocaust survivor from the German Government reduce their SSI benefits.

No longer will a disabled widow upon turning age 60 lose her SSI benefits and thus eligibility for medicaid because she is eligible for a few more dollars of Social Security benefits as an aged widow.

With the agreement of the ranking minority member of the subcommittee, there is a minor difference between the bill before the House today and the bill reported out of the committee. Subsection (b) of section 251 as reported by the committee is not included in the bill and, therefore, the study regarding extending the SSI provision to Puerto Rico, Guam, the Virgin Islands, and American Samoa will not deal with the broader fiscal relationship between the Federal Government and those jurisdictions.

I would like to thank the ranking minority member of the subcommittee, Mr. CAMPBELL of South Carolina, and the minority staff of the subcommittee for their bipartisan cooperation and participation in developing these foster care and SSI amendments. I urge adoption of H.R. 6266.

□ 1500

Mr. CAMPBELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as ranking minority member of the Public Assistance and Unemployment Compensation Subcommittee of the Committee on Ways and Means, I rise to speak in favor of passage of H.R. 6266. This bill has been cosponsored by Chairman HAROLD FORD, our distinguished colleague from Tennessee, and myself. It was approved September 19 by the full Ways and Means Committee and has broad bipartisan support.

The first title provides for a 1-year extension of two expiring foster-care provisions and a 1-year authorization for child-welfare resource centers. Title II of the bill provides for significant improvements in the Supplemental Security Income Program which benefits the blind, disabled, and aged.

One of the most necessary provisions in the SSI title of this bill would raise the monthly personal needs allowance. As it now stands, when a beneficiary enters a nursing home all but $25 of the SSI check goes to pay the hospital costs. The remaining $25 is general spending money, which a beneficiary may use to buy toiletries and other personal items. H.R. 6266 would raise this monthly allowance for recipients in long-term-care facilities from $25 to $35 a month. This is the first increase in the personal needs allowance since the beginning of the program in 1974. This provision was part of a bill offered by the distinguished minority leader, Mr. MICHEL.

Other meritorious provisions included in this bill would: First, provide medicaid eligibility for disabled widowers who at age 60 qualify for reduced title II benefits; and second, increase the emergency-assistance benefit for most SSI recipients in need of immediate subsistence. Such reforms are long overdue.

I encourage your support of this package because it benefits those in this society who are least able to provide for themselves.

Mr. Speaker, I yield 4 minutes to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, the section of this bill providing an increase in the special-needs allowance for supplemental security income recipients residing in nursing homes is identical to legislation I introduced last year, and I commend the committee for bringing it to the floor.

The special-needs allowance would increase from $25 per month to $35 per month under the provisions of the bill.

A number of my constituents last year called to my attention the fact that this allowance has not been increased since 1974.

The allowance is used to provide for personal expenses not normally covered by the nursing home but on which most people are dependent, such as clothing, tobacco, personal grooming needs, et cetera.

With the rise in the inflation being what it was during the intervening period, particularly in the late seventies, I felt an increase was certainly warranted and thus introduced legislation accordingly.

According to the Congressional Budget Office, the increase in the special-needs allowance would cover about 200,000 supplemental security income recipients currently residing in nursing homes at a cost of $25 million annually.

In addition, it would also apply to approximately 600,000 medicaid beneficiaries in nursing homes, due to a provision in current law requiring that medicaid beneficiaries be treated the same as supplemental security income recipients.

The medicaid section will cost an additional $40 million, for a total cost of $65 million annually.

I know the committee explored the possibility of detaching the one from the other in an effort to keep down costs, but was not able to come up with any satisfactory solution.

I would hope efforts will continue in this regard, because clearly we ought to be able to make a decision regarding supplemental security income recipients without it also impacting on medicaid beneficiaries.

This increase in the special-needs allowance is important to the most needy of our nursing home residents, and I urge its adoption.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Speaker, as an original cosponsor of the supplemental security income [SSI] provisions contained in H.R. 6266, I would like first to thank the distinguished chairman of the Subcommittee on Public Assistance and Unemployment Compensation for his hard work and quick handling of this important legislation.

I would also like to take this opportunity to commend the gentleman from South Carolina [Mr. CAMPBELL] the ranking minority member of the subcommittee, for his cooperative efforts in making this a truly bipartisan bill.

The SSI program is designed to aid the poorest of the poor. Some 4 million needy aged, blind, and disabled receive cash assistance and medicaid under this program. These are people who cannot afford to mount a campaign to redress their grievances. They have no expensive lobbyists pleading their cause; 38 percent of the aged receiving SSI are over 80 years old. Two-thirds of the recipients are women. In fact, the typical aged SSI recipient is a low-income woman over age 75 who maintains her own household and lives alone. Over 2 million are disabled or blind who either do not qualify for social security or their social security benefit is too low to cover even the barest of necessities.

We hear from these people only on a case-by-case basis. Many of my colleagues, I am sure, have received barely legible letters from SSI recipients complaining of a system which needlessly harassed them with rules and regulations that do not take into consideration the deprivation of their poverty, ill health, and lack of education. In part it is the collection of these true life horror stories which forms the basis of this legislation.

SSI has been the stepchild of the welfare system—little known and easily forgotten, yet to the 4 million who receive SSI benefits it is their lifeline.

The provisions contained in this bill are very modest, low, for no-cost changes aimed at reducing the meanness factor in SSI. The total price tag amounts to only about $1.43 per beneficiary per month.

If anything the proposals are too modest. For example, in increasing the personal needs allowance for nursing home residents to $35 a month these sick and elderly people will now have about $1 a day to spend on necessities like haircuts and laundry, rather than

the 80 cents they now have. Yet we must begin somewhere.

In other areas the bill does provide significant benefits to this very vulnerable population. An SSI disabled widow who turns 60 will no longer have to apply for social security and wait 2 years for health-care coverage. Instead she will have the choice to remain on SSI and keep her vitally important medicaid coverage. So too, an SSI beneficiary who moves into the home of a low-income relative will no longer have his or her benefits reduced by one-third, even when the relative is not providing anything near that amount of support. Survivors of the Holocaust will not be further punished by having their small reparation payments included as income for SSI eligibility. And truly desperate elderly individuals will be able to receive 1 month's worth of SSI while waiting for their application to be processed.

Taking into consideration that the average SSI recipient has only a fourth grade education, notices will now have to be clearer and more readable. This is a goal I am sure all those who have dealt with the Federal bureaucracy would like to see accomplished across the board.

I urge the adoption of H.R. 6266.

Mr. ROSTENKOWSKI. Mr. Speaker I yield 2 minutes to the gentleman from Illinois [Mr. EVANS].

Mr. EVANS of Illinois. Mr. Speaker, shortly into my first term in office, I visited a nursing home in Canton, IL. While there, I met Ruth Howard, a vigorous woman in her seventies, confined to a wheelchair by her arthritis. She told me about the plight of nursing home recipients who receive SSI—supplemental security income.

Mrs. Howard advised me that while SSI pays the nursing home directly for their care, the individual receives only $25, less than $1 a day, for all other personal needs, such as clothes, toiletries, cigarettes, and gum. In other words, the SSI paid for their absolute necessities such as room and board and prescribed medicines, but the $25 was supposed to cover everything else.

The $25 "personal needs allowance" was established in 1974 and has not been increased since even though the cost of some of the goods has doubled or tripled. While some States supplement this allowance, not all States do. And some States provide much greater supplements than others.

Upon returning to Washington and investigating the matter, I introduced H.R. 3990, legislation to increase the personal needs allowance by $25 and to provide cost-of-living adjustments.

With Mrs. Howard's help, the bill gained national attention and this last May, the Subcommittee on Public Assistance and Unemployment Compensation of the House Ways and Means Committee invited Ruth Howard and me to testify on this matter. Mrs. Howard made the difficult trip from Canton and appeared before the panel to describe what the $25 personal needs allowance means in terms of daily living for SSI recipients in nursing homes.

The bill before us today is a step in the right direction, but not the leap that is needed. It includes only a $10 raise and does not have a cost-of-living adjustment.

However, I am rising in support for this bill as the beginning of efforts to recognize the hard times for individuals such as Ruth Howard who still have their fighting spirit, and in the hope of further success in the future.

I want to thank the chairman of the committee for bringing this bill up expeditiously. I would also like to thank the gentleman from California, [Mr. STARK], and the gentleman from Tennessee [Mr. FORD], for their help on this matter. And I would like to thank the staff of the committee who were helpful to us, particularly Allen Jensen.

But most credit goes to Mrs. Howard.

Mr. CAMPBELL. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Speaker, I rise in support of H.R. 6266. This bill was considered by the full Ways and Means Committee September 19 and passed by voice vote.

Many of the provisions contained in this bill are long overdue improvements in the supplemental security income program. My colleagues on the Public Assistance and Unemployment Compensation Subcommittee worked many hours to produce a measure that will make a difference in the lives of society's least able population.

One provision reflects an effort by my friend and colleague from Illinois, the distinguished minority leader Mr. MICHEL, who introduced H.R. 4541 to increase the personal needs allowance for recipients in long-term care facilities from $25 to $35 a month. This reform has been incorporated in H.R. 6266, in recognition that the $25 figure may have been realistic in 1974, but is no longer adequate to serve its purpose.

Another meritorious provision of H.R. 6266 would extend for 1 year two expiring foster care and child welfare provisions of Public Law 96-272.

I know of no opposition within our committee and I urge my colleagues to support this bill.

□ 1510

Mr. CAMPBELL. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, the penalty for misconduct or being junior on the Ways and Means Committee is to serve on the Public Assistance and Unemployment Compensation Committee.

Every case that comes before that subcommittee, on which I am obliged to serve, every suggestion to change the law, presents heartrending circumstances, the proposed solutions to which are fiercely expensive. Our bills are highly controversial.

The members of the subcommittee are to be commended merely for serving. When they can agree on a bill, they ought to get three cheers.

It pleases me greatly that the members of that committee have produced a bill which meets the satisfaction of both the majority and the minority. I know it will meet the satisfaction of the House, too.

Its principal expense is in the increase for personal allowances of SSI recipients described by the gentleman from Illinois, [Mr. MICHEL]. The rest of the changes cost relatively small sums. Altogether, the total is in the neighborhood of $½ billion.

I hope that it is promptly passed.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I rise in support of H.R. 6266, the Foster Care and SSI Amendments of 1984, which was introduced by Representative HAROLD FORD, Chair of the Subcommittee on Public Assistance and Unemployment Compensation and Representative CARROLL A. CAMPBELL, the ranking minority.

The child welfare provisions of this bill are essential because authority for the foster care provisions and funding for the child welfare resource centers terminate on September 30, 1984. H.R. 6266 provides a 1 year extension for States' authority to claim Federal matching funds for children voluntarily placed in foster care and extends States' options to transfer Federal funds allocated for foster care under title IV-E to child welfare services under title IV-B.

The bill would also provide a specific authorization and 1 year extension for the 10 child welfare resource centers located in Denver, Boston, Ithaca, Richmond, Knoxville, Milwaukee, Austin, Iowa City, Los Angeles, and Seattle and the national center.

I would like to speak in strong support of the child welfare resource centers which have played a valuable role in providing technical information to State governments and private sector agencies concerned with the welfare of children, as well as parents groups. These centers have focused attention of the needs of children in the foster care system, as well as coordinating services dealing with child welfare, foster care and adoption assistance. They have brought together social workers, lawyers, and judges to work together on implementation of the

Adoption Assistance and Child Welfare Amendments of 1980. In view of the serious problems we encounter with child abuse and neglect and its increased incidence, it is essential that the work of these centers be continued. The centers can promote regional discussions and reviews, collect data on child welfare, foster care, and adoption assistance, and sponsor education and training courses and the exchange of information between States on innovative practices, while they disseminate research and findings about child welfare issues.

I applaud my colleagues on their timely action on this bill and the inclusion of the SSI amendments which will increase the personal needs allowance for nursing home residents, most of whom are women, from $25 to $35 per month.

● Mr. ADDABBO. Mr. Speaker, lately I cannot avoid hearing the President invoke some good old Democratic themes. It appears his penchant for the words of popular Democratic administrations is nothing more than a love for alliteration, metaphor, and ringing rhetoric. Unlike the Roosevelt, Truman, and Kennedy years, this administration is rhyme without reason, soliloquys without substance, and chatter that lacks commitment.

His latest divestment of his Republican roots is just a facade. For Roosevelt, Truman, and Kennedy all would have stood up for the legislation facing us today. They believed in legislation such as the foster care and supplemental security income amendments. Their words and actions still echo in our halls, our homes, and our hearts. Mr. Reagan's bounce off our satellites.

Americans want the orphaned, the aged, the young and the old to be enfranchised and Roosevelt, Truman and Kennedy set this as their goals. This administration knows not these goals, and uses its persuasion not to create unity but to encourage dissension.

It is very clear to me that by voting against the child welfare and foster care amendments they are moving toward alienating Americans from America. Not only does this amendment seek to extend a viable, necessary program but it also seeks reforms which will require the Department of Health and Human Services [HHS] to improve child welfare services in the fiscal year 1986 budget.

Even if we could overlook this faut pas, we cannot overlook the resistance the administration has to the SSI program. Roosevelt, Truman, and Kennedy would have wholeheartedly supported the necessary increases and reforms called for in these amendments. The proposed legislation would increase the stipend of individuals in hospitals, nursing homes, and other medical institutions from $25 to $35, something that has not been done since 1974. It also proposes technical and administrative changes to assist in determining eligibility. Another reform instructs the HHS to conduct outreach programs because so many of those in need have difficulty understanding and applying for the program.

Presidents Roosevelt, Truman, and Kennedy were responsible leaders and infused America with great social change. Today, as I ask my colleagues for their support on this legislation, all that I request is that we look at the direction the President is taking us. Change if it is not a step forward can be very harmful. Wise words if they are not followed by responsible actions can lead us down a very deceptive path. The President may invoke Democratic themes but instead of infusing us with change, he infects us with cuts. It is clear to me that we must stand up for all Americans and vote for this legislation today as a means of helping our disenfranchised and bringing them back into the fold.●

● Mr. ROYBAL. Mr. Speaker, I rise in support of H.R. 6266, the Foster Care and SSI Amendments of 1984. As an original cosponsor of H.R. 5341, which was the initial SSI provisions of 1984, I wish to commend my colleagues Mr. STARK and Mr. FORD, chairman of the Public Assistance and Unemployment Compensation Subcommittee of Ways and Means, for their vigilant efforts on behalf of SSI beneficiaries.

The Deficit Reduction Act, which Congress passed in August, included the major provisions of H.R. 5341. Many of the provisions included in the Foster Care and SSI Amendments of 1984, H.R. 6226, were part of the original bill and I am pleased that we have a chance to pass the remaining provisions. The changes, although minor and technical will have a substantial impact on those affected by them.

This bill will raise the SSI benefit for residents in medicaid facilities for the first time in 10 years, from $25 to $35. The cost-of-living has skyrocketed in the past 10 years, and $25 a month in personal spending money is not enough. The bill also requires HHS to conduct an ongoing outreach effort for those title II beneficiaries who are eligible and do not receive SSI benefits. It is obvious from the increase in the size of the SSI's applicants that the outreach effort has been more effective than SSA had expected. There is a need to extend the outreach effort and to make it routine. In addition, the bill increases the maximum amount of emergency payments which can be paid at a SSA district office from a maximum of $100 to a maximum of 1 month's SSI benefits. This increase is fair since beneficiaries who use these benefits on an emergency basis use them to pay rent and buy groceries. The bill also specifies changes in the notification procedures to beneficiaries who have been overpaid. These changes will enable beneficiaries to understand and contest alleged overpayments.

The SSI provisions in this bill cost little, and in relation to the large impact of these changes on SSI beneficiaries, the cost is trivial. I urge my colleagues to pass this important bill.●

● Mr. BONER of Tennessee. Mr. Speaker, I rise in support of H.R. 6266, the Foster Care and Supplemental Security Income Amendments of 1984, and I commend the gentleman from Tennessee [Mr. FORD] and the other members of the House Ways and Means Committee for bringing this important measure to the floor of the House.

As a cosponsor of the original bill introduced by Mr. STARK, I joined a number of my House colleagues in working to improve these two important benefits programs. As my colleagues know, both the foster care and SSI programs serve some of the neediest of our Nation.

One provision in the SSI portion of the bill deserves particular attention. Earlier this Congress, it was brought to my attention that, under present law, only an eligible spouse may receive the retroactive payment that was due a deceased SSI recipient. During the time that it takes the Social Security Administration to process an SSI application, there have been a number of cases where the SSI recipient has died before receiving the SSI retroactive payment. I am personally aware of one heart-felt case where a disabled child was found eligible for SSI benefits but, prior to the awarding of the first payment, the child died. Under current law, that payment could not be made to the child's parents, even though they and a portion of their income deemed in determining their child's eligibility.

Under the bill before the House today, this provision is changed. The bill expands the current law provision to require payment of retroactive benefits to a surviving spouse or to the parent of a disabled child. While I am somewhat disappointed that an effort to change the effective date of this provision failed during the subcommittee's markup, I nonetheless want to express my appreciation to the Ways and Means Committee for making this needed change.●

● Mr. CONTE. Mr. Speaker, I rise in support of H.R 6266, the Foster Care and SSI Amendments of 1984, and in particular that section of the bill designed to provide an authorization for the regional child welfare resource centers. These centers provide State and local organizations with information and technical assistance on matters of child abuse, foster care, runaway youth and adoption. They are presently funded out of moneys on the

Office of Human Development Services in the Department of Health and Human Services [HHS].

Since passage of the Adoption Assistance and Child Welfare Act of 1980 these centers, one in each of the 10 HHS regions, have been providing the Nation with the combined services of the former child abuse and neglect, adoption, and child welfare centers which were established over the years since 1975. Their work has brought together social workers, lawyers, and judges to make each aware of the plight of children left adrift in the foster care system. In New England our resource center has proven its value many times over, serving as a source of materials and information for professionals working in the area of child welfare, aiding in the development of a comprehensive emergency system to provide coordinated 24-hour services for at-risk families, and holding conferences with professionals from many areas and States to examine ways to improve services to avoid out-of-home placement. The resource center staff has also worked to establish a vast network of shelters for the region's runaway and homeless youth. Similarly, they have developed networks of parent aides to work with families in their communities who are at-risk of child abuse or neglect, with special assistance targeted at young minority parents in the area's urban centers.

I am a cosponsor of the original bill to authorize these centers, H.R. 5758, and I also worked to include language in the fiscal year 1985 Labor, Health and Human Services, and education appropriations bill report urging the Department to continue operating the centers. On September 7, I joined with several of my colleagues here in writing a letter to Secretary Heckler to bring this important matter to her attention.

H.R. 6266 provides a 1-year authorization for the centers, which are funded annually at a total cost of $3 million. The Department had proposed that all funding for the centers be cut off in fiscal year 1985. I congratulate the gentleman from Tennessee [Mr. FORD] and the gentleman from South Carolina [Mr. CAMPBELL] for their efforts in bringing this bill to the floor. With the passage of this bill it is my hope that we can keep the centers open and give Congress the appropriate amount of time to evaluate the role of these centers that have served this country so well the last 10 years. I urge my colleagues to support the bill.●

● Mr. MATSUI. Mr. Speaker, I rise in strong support of H.R. 6266, Foster Care and Supplemental Security Income [SSI] Amendments of 1984. As a member of the Ways and Means Subcommittee on Public Assistance and Unemployment Compensation, I would like to commend Chairman HAROLD FORD, Representative PETE STARK, and the members of the subcommittee for their fine efforts in crafting this bill.

H.R. 6266 reauthorizes two provisions of Public Law 96-272, pertaining to the foster care and child welfare programs. Without congressional action, the programs authorized by these sections of law will expire today, October, 1, 1984. The measure will reauthorize these programs for 1 year.

The measure would permit States to continue claiming Federal matching funds for children placed in foster care under a voluntary agreement between the State agency and a child's parents. Under prior law, States could only receive Federal foster care matching funds to pay for the cost of care for children removed from their home as a result of a judicial decision that continuance in the home would not be in the child's best interest.

The bill also would allow States to continue pursuing the option of transferring funds from their foster care programs to their child welfare programs. This change is designed to lessen dependence on foster care and encourage preventive services and family reunification.

H.R. 6266 also requires the Department of Health and Human Services to fund through fiscal year 1986 the current network of 11 child welfare resource centers. These centers provide assistance to States and other organizations in implementing the Child Welfare and Adoption Assistance Act.

Among the most important changes it makes in the SSI program, H.R. 6266 increases SSI benefits for nursing home residents from $25 per month to $35 per month. This allowance enables SSI recipients to purchase basic necessities such as soap, shampoo, clothing, and other personal items.

In addition, the measure would require the Social Security Administration to give blind SSI recipients the option to receive supplementary notice by certified letter or telephone of any official notices. This provision will help blind individuals to respond to important notices about their benefits' rights expeditiously.

I believe these amendments represent important and responsible changes in these public assistance programs. I urge my colleagues to support this bill.●

● Mr. WAXMAN. Mr. Speaker, I strongly support H.R. 6266, the Foster Care and SSI Amendments of 1984, which includes a measure I introduced last June to exclude from income war reparations received from East or West Germany by victims of the Holocaust when eligibility for supplemental security income is determined.

In 1980, the Social Security Administration discontinued monthly SSI benefit of $119 to my constituent, Felicia Grunfeder, because she was receiving about $200 a month in reparations from the West German Government for the physical and psychological injuries she suffered during World War II. Her reparations payments pushed our outside annual income over the eligibility level of $1,752 by some $648.

I do not believe when Congress passed the Social Security Act that it intended to deny welfare and health benefits to poor persons like Ms. Grunfeder who otherwise would be eligible were she not receiving token payments from Germany for the anguish she undewent at the hands of the Nazis. I introduced legislation last June after the U.S. Court of Appeals for the Ninth Circuit in San Francisco ruled that the law did not allow the Social Security Administration to disregard reparations payments to determine SSI eligibility.

The measure would not affect many people or involve much money. It would not be retroactive. It only would affect Americans who would be eligible for SSI benefits if their reparations payments were not counted as income. The Ways and Means Committee estimates that only about 4,000 people share Ms. Grunfeder's situation.

The measure also is not unprecedented. Federal disaster relief and tribal settlement payments already are excluded from income when SSI eligibility is determined.

Our Government should move quickly to correct this oversight in our laws which is causing Ms. Grunfeder and others in the same predicament to suffer unjustly.●

● Mr. BIAGGI. Mr. Speaker, I rise in support of H.R. 6266, the Foster Care and SSI Amendments of 1984. There are a number of meritorious features associated with this legislation but there is one in particular that I would like to address.

Under the terms of this legislation, the so-called personal needs allowance available to residents of nursing homes is finally proposed to be increased. At the present time, this allowance, which is used to take care of small personal expenses, is set at $25 per month. That is the same level it was in 1974 when the SSI program was established. H.R. 6266 would raise it to $35, a modest increase when one takes into account the effect of inflation over the past 10 years. The legislation further specifies that this increase is to go directly to the beneficiary and should not serve as a basis to reduce other benefits.

The fact that we have this bill before us and the fact that it is likely to pass with the personal allowance increase is a testament to a number of advocacy groups around the Nation who work on behalf of the rights and interests of nursing home patients.

One of these groups is based in my congressional district—the Coalition for the Institutionalized Aged. I wish to pay a special tribute to the Coalition and their executive director, Vic Rosenthal, who has made the issue of increasing the personal allowance a personal crusade which I am happy to say is finally reaching fruition.

I also want to note the language of the committee report in this area which directs the Secretary of the Department of Health and Human Services to take steps to assure that the full $35 payment to beneficiaries in residential facilities will accrue to them directly. It further notes that this increase will not be subject to misuse by operators of these institutions or can be used by States to lower medicaid reimbursement rates to such institutions.

As a cosponsor of this legislation, I am also pleased to note that it incorporates many of the provisions embodied in my own bill to assist SSI beneficiaries, H.R. 5072. In section 244 of the bill before us, the Secretary of HHS is required to alert beneficiaries of alleged SSI overpayments in a fashion which is easily understandable and makes clear that repayment can be made over a period of time.

I introduced H.R. 5072 when it was brought to my attention that current policies place beneficiaries in a position of fighting for benefits to which they are lawfully entitled. If the beneficiary does not notify the Social Security Administration within 30 days of receipt of a notice of overpayment, SSA withholds the entire check until repayment is accomplished. This practice forces many needy individuals into destitution when their entire check is withheld—which is also in violation of current regulations.

I wish to pay tribute to the Brookdale Center on Aging and the Institute on Law and Rights of Older Adults at Hunter College in New york which first brought this matter to my attention. The bill before us is the culmination of hard work by a number of individuals and organizations, such as Brookdale, which successfully advocate on behalf of older Americans.

As an original member of the House Select Committee on Aging, I strongly support the pending bill and urge its adoption.

Mr. CAMPBELL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and pass the bill, H.R. 6266, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to extend for one year certain provisions relating to foster care assistance under part E of title IV of the Social Security Act, to require the establishment or continuation of regional Child Welfare Resource Centers to assist in implementing child welfare, foster care, and adoption assistance programs, and to amend title XVI of the Social Security Act to make necessary improvements in the SSI program with the objective of assuring that such program will more realistically and more equitably reflect the needs and circumstances of applicants and recipients thereunder."

A motion to reconsider was laid on the table.

SMALL BUSINESS UNEMPLOYMENT TAX ACT

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6112) to amend the Tax Equity and Fiscal Responsibility Act of 1982 with respect to the effect of the 1985 increase in the Federal unemployment tax rate on certain small business provisions contained in State unemployment compensation laws.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the subsection (b) of section 271 of the Tax Equity and Fiscal Responsibility Act of 1982, relating to effective dates for such section, is redesignated as subsection (d) and is amended by adding at the end thereof the following new paragraph:

"(4) TRANSITIONAL RULE FOR CERTAIN SMALL BUSINESSES.—

"(A) IN GENERAL.—Notwithstanding section 3303 of the Internal Revenue Code of 1954, in the case of taxable years beginning after December 31, 1984, and before January 1, 1989, a taxpayer shall be allowed the additional credit under section 3302(b) of such Code with respect to any employee covered by a qualified small business provision if the requirements of subparagraph (B) are met with respect to such employee.

"(B) REQUIREMENTS.—The requirements of this subparagraph are met for any taxable year with respect to any employee covered by a qualified small business provision if the amount of contributions required to be paid for the taxable year to the unemployment fund of the State with respect to such employee are not less than the product of the required rate multipled by the wages paid by the employer during the taxable year.

"(C) REQUIRED RATE.—For the purposes of subparagraph (B), the required rate for any taxable year is the sum of—

"(i) 3.1 percent, plus

"(ii) the applicable percentage (as defined in paragraph (3)(D)) of the excess of 5.4 percent over the rate described in clause (i).

"(D) QUALIFIED SMALL BUSINESS PROVISIONS.—For purposes of this paragraph, the term 'qualified small business provision' means a provision contained in a State unemployment compensation law (as in effect on the date of the enactment of this paragraph) which provides a maximum rate at which an employer is subject to contribution for wages paid during a calendar quarter if the total wages paid by such employer during such calendar quarter are less than $50,000.

"(E) DEFINITION.—For purposes of this paragraph, the term 'wages' means the remuneration subject to contributions under the State unemployment compensation law, except that for purposes of subparagraph (D) the amount of total wages paid by an employer shall be determined without regard to any limitation on the amount subject to contribution."

(b) The amendment made by subsection (a) shall apply to remuneration paid after December 31, 1984.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 20 minutes, and the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 6112, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6112 provides that small employers in the State of Illinois, whose State tax rate is capped at a level less than the full FUTA tax credit of 5.4 percent, can claim the full FUTA tax credit while the State unemployment tax cap is gradually raised to 5.4 percent.

Mr. Speaker, under present law employers pay a gross Federal Unemployment Tax [FUTA] of 3.5 percent of the first $7,000 in wages paid to each employee. Employers can receive a credit against their FUTA liability for State unemployment taxes paid up to a maximum of 2.7 percent. If an employer's State unemployment tax rate is based on experience, he can claim the full credit even though his State tax is less than 2.7 percent. If an employer's State tax rate is not based on experience, he can claim the FUTA tax credit only in the amount of State taxes actually paid. An experience rated tax system is one that determines an employer's tax rate based on the amount of unemployment benefits paid to his employees.

The Tax Equity and Fiscal Responsibility Act of 1982 [TEFRA] raises the gross FUTA tax to 6.2 percent and the FUTA credit to 5.4 percent effective January 1, 1985. Under TEFRA, cer-

tain industries in New York State whose State taxes were capped, and thus not based on experience, will be allowed to claim the full FUTA credit even though their State taxes are capped at a rate less than 5.4 percent. They can claim the full FUTA credit while their State tax rate is gradually increased to 5.4 percent. H.R. 6112 would give small employers in Illinois, whose State tax rate is capped at an amount less than 5.4 percent and thus not experience rated, this same transition rule.

The bill calls for the State to increase the State tax cap for small employers from the rate payable on August 10, 1982, the effective date of the transition provision for New York industries, to 5.4 percent by 20 percent a year beginning on January 1, 1985. Small employers in the State will be allowed to claim the full FUTA tax credit during this period.

The Committee on Ways and Means found that small employers in Illinois pay their fair share of unemployment taxes even at the capped State tax rate. The cap was instituted by the State because the State method of experience rating employers was biased against small employers. Without the cap, the State found that the tax rate for small employers would increase to 6.7 percent rate the maximum rate in the State. At a 6.7 percent rate, small employers would be paying a disproportionate share of State unemployment taxes.

The effect of Federal law allowing the full FUTA credit only when the employer's State tax rate is based on experience is to force the State to increase the tax on small employers to 5.4 pecent on January 1, 1985. They are currently capped at 3.7 percent. Such a substantial and immediate increase in their State unemployment taxes would be a great burden to small employers in the State; 52,000 employers would be affected by the increase. It would cost those employers approximately $144 a year per employee in increased taxes.

This legislation is designed to phase in the tax increase. It is supported by the administration, and received bipartisan support in committee. I want to thank the many members of the Illinois delegation for their support, including the cosponsors of the bill, Representatives RUSSO, COLLINS, EVANS, LIPINSKI, CRANE, MARTIN, MADIGAN, and O'BRIEN.

I urge my colleagues to suspend the rules and pass the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the suspension of the rules in order to pass H.R. 6112, the Small Business Unemployment Tax Act.

H.R. 6112 will allow the State of Illinois to adjust its unemployment system gradually over 4 years to conform with changes in the Federal law. The Tax Equity and Fiscal Responsibility Act of 1982 increases the Federal unemployment tax rate from 3.5 to 6.2 percent on January 1, 1985. It also increases the Federal unemployment tax credit from 2.7 to 5.4 percent. Therefore the effect on most employers will be that their net Federal unemployment tax will remain 0.8 percent.

One Federal requirement which employers must meet in order to be eligible for the full Federal unemployment credit is that their State unemployment tax be experience rated. The experience rating permits an employer to receive a full Federal credit even though his State unemployment tax may be less than the amount of the Federal credit.

Illinois has capped the State unemployment tax at 3.7 percent for small business. This means that small businesses are not being taxed in an experience-rated manner. Until January 1985 this failure of Illinois to experience rate small businesses had no adverse effect. This is because the capped State tax of 3.7 percent was higher than the Federal credit of 2.7 percent. Therefore small businesses still could receive a 2.7-percent Federal credit.

This situation will change in January 1985 when the Federal unemployment tax credit increases to 5.4 percent. At that time the Illinois capped unemployment tax rate of 3.7 percent will be less than the Federal credit. It means that small businesses will be eligible for a Federal credit equal only to their actual tax rate of 3.7 percent, rather than the higher Federal credit of 5.4 percent generally available to other employers.

H.R. 6112 will allow Illinois to increase its capped rate on small businesses to 5.4 percent over 4 years. This will prevent an inadvertent loss of the full Federal credit for small businesses in Illinois. A gradual increase in the capped rate is justified in order to avoid a sudden increase in the payroll tax burden on small businesses.

Mr. Speaker, H.R. 6112 is a good bill. It respects the prerogative of a State to address the special situation of small businesses in manner consistent with overall Federal guidelines.

● Mr. MICHEL. Mr. Speaker, H.R. 6112 is designed to ease the burden on Illinois small businessmen when the Federal unemployment tax rises to 5.4 percent on January 1, 1985.

Without this bill, these small businessmen would face a precipitious 46-percent increase in their unemployment tax bill. This would average $144 a year for each employee—a cost that has the potential for putting a number of such employers out of business.

The problem has arisen because the Illinois Legislature in 1981 capped the small employee tax at 2.7 percent in order to ease the burden on small businesses during adverse economic times.

The cap was increased to 3.7 percent in January of this year, resulting in a 21-percent tax increase.

If the 46-percent scheduled increase were allowed to take effect in January 1985, the total would be a 67-percent tax increase in just a little over a year.

This bill will allow a phase-in of the tax increase over a 4-year period. It is similar to a provision in existing law which allows a phase-in of the tax for employers in New York.

This bill is important for small business in Illinois.

I urge its adoption.●

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DUNCAN. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and pass the bill, H.R. 6112.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

PAYMENT RATES FOR HOSPICE HOME CARE UNDER MEDICARE

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5386) to amend part A of title XVIII of the Social Security Act with respect to the payment rates for routine home care and other services included in hospice care, as amended.

The Clerk read as follows:

H.R. 5386

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1814(i)(1) of the Social Security Act (42 U.S.C. 1395(i)(1)) is amended—

(1) by inserting "(A)" after "(i)(1)", and

(2) by adding at the end the following new subparagraphs:

"(B) Notwithstanding subparagraph (A), the rate of payment per day for routine home care furnished during fiscal year 1985 shall be $53.17.

"(C) With respect to care and services furnished on or after October 1, 1985, the Secretary shall, not less often than annually, review and make appropriate adjustments to the payment rate for routine home care and the payment rates for other services included in hospice care based on the costs that are reasonable and related to the costs of furnishing such care and services. The Secretary shall report to Congress on October 1 each year on such review and such adjustments and on the adequacy of the rates under this paragraph to ensure participa-

tion by an adequate number of hospice programs under this title.".

(b) The amendments made by this Act shall apply to routine home care and other services included in hospice care furnished on or after October 1, 1984.

The SPEAKER pro tempore. Is a second demanded?

Mr. DUNCAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 20 minutes and the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

□ 1520

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5386 provides for an increase in the reimbursement rate for home care under the medicare hospice benefit.

As you know, Mr. Speaker, hospice care emphasizes pain control and the relief of stress and focuses care largely in the home setting rather than in an inpatient acute hospital setting.

The medicare hospice benefit was originally established by the Tax Equity and Fiscal Responsibility Act of 1982. It provided a comprehensive set of hospice benefits for terminally ill medicare beneficiaries.

Last December the Department of Health and Human Services published regulations to implement the hospice legislation. These regulations established payment rates which many of us felt were inadequate.

Nearly a year later, only 119 hospices are participating in the medicare program. It seems clear that a major reason for the low participation rate is the inadequacy of the payment amounts for hospice home care.

The Committee on Ways and Means has approved legislation to increase the hospice home rate from $46.25 to $53.17 a day.

We hope this modest payment increase will increase the number of hospices participating in the medicare program.

During the next year, we are expecting the administration to collect data on the costs of delivering care under the hospice benefit and to adjust the rates to reflect these costs.

Mr. Speaker, this hospice legislation has received broad bipartisan support, although I understand the administration is opposing this bill.

I urge my colleagues to show their continued support for hospice care as a humane and cost effective alternative to traditional medical care.

I now yield to the gentleman from Indiana, the chairman of the Subcommittee on Health, Mr. JACOBS, for a more detailed explanation of this legislation.

Mr. Speaker, I yield such time as he may consume to the chairman of the Subcommittee on Health, the gentleman from Indiana, Mr. JACOBS.

Mr. JACOBS. I thank the gentleman for yielding to me.

Mr. Speaker, actually, I think a more detailed explanation is not required. We have a problem with the new law, that is going to save the Government an awful lot of money, I think, has fallen short of reimbursement levels which will implement itself in the home phase of the hospice care for people who are terminally ill.

We think, I believe on a fairly bipartisan basis, that this modest adjustment in the home care reimbursement will get the show on the road so that the people in this country who are eligible under medicare can participate in the hospice system.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. I thank the gentleman for yielding to me.

Mr. Speaker, I want to just express my own gratitude to members of the committee and the chairman of the full committee. Your leadership as the ranking member on the subcommittee, and Congressman PANETTA and others for all the good work they did in this.

This is one of the more humane things that I think we have done in Congress this year. I know it took an awful lot of work to work out the regulations so that we could see the implementation of something that is so necessary in terms of giving the proper health care to those who are critically ill. I just want to commend all who are responsible for it.

Mr. JACOBS. I thank the gentlewoman and note that she has given me the fastest demotion I have ever had in my life.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5386 as reported by the Ways and Means Committee and commend the sponsors of this legislation, Mr. PANETTA and Mr. GRADISON, for their perseverance in this matter.

H.R. 5386 would establish the hospice daily home care rate at $53.17. This amount was originally proposed in August 1983 by the Department of Health and Human Services, but was later reduced to $46.25 by the Office of Management and Budget.

The bill also would require the Secretary of HHS to review and adjust appropriately, at least once a year, the payment rates under the hospice program, in order to reflect reasonable increases in the cost of furnishing care and services. The Secretary also would be required to report to the Congress on the adequacy of the rates, to insure participation of an adequate number of hospice programs.

Many of us have been concerned about the low participation in the hospice program. Increasing the reimbursement rate for home care should help to improve that unfortunate situation.

Despite this improvement Mr. Speaker, the cost of H.R. 5386 is very modest—about $1 million for the first full year, and I urge the House to adopt the measure.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. GRADISON], who perhaps, with the gentleman from California [Mr. PANETTA] has put in more time on this particular subject and has shown great expertise.

Mr. GRADISON. I thank the gentleman for yielding time to me.

Mr. Speaker, I am very pleased that H.R. 5386, which the gentleman from California [Mr. PANETTA] and I introduced, has been brought to the floor. This legislation would increase the routine home care rate under the hospice medicare benefit.

Last year, significant concerns were raised during the development of regulations to implement the hospice medicare benefit. Although the hospice benefit became effective in November 1983, to date, only 119 hospice programs nationwide have been certified as medicare providers. Concerns have increased regarding the adequacy and appropriateness of the payment rates that were published in the final regulations.

Many providers of hospice services in Ohio and around the country have advised me that they cannot provide the comprehensive services required under the hospice statute within the payment rates established in the final regulations. Because home care is an essential component in the delivery of hospice services and, in fact, constitutes about 80 percent of the care provided, hospices have been particularly concerned with the level of payment of the routine home care rate.

In an effort to determine the validity of these concerns, the gentleman from California and I have made several informal and official requests that the Department of Health and Human Services provide us with the appropriate data and a detailed analysis of the

basis for the decisions made on the hospice payment rates.

To date, we have not received the information we requested—nor has Congress received the long overdue final report from HHS on the hospice demonstration projects.

Hospice groups have advised us that the routine home care rate of $53.17, which was published in the proposed hospice regulations last August, is still below their actual costs of providing routine home care services under the hospice medicare benefit. The current per diem rate for routine home care under the final regulations is $46.25. Hospice groups have advised me that the increase in the rate to $53.17 could make the difference in their being able to operate under the hospice medicare benefit. I feel we should raise the routine home care rate by this modest per diem increase of $6.92.

This legislation also requires HHS to review at least annually, and adjust hospice payment rates based on the reasonable costs related to furnishing such care. HHS would be required to report to Congress annually on this review and on the effects of reimbursement rates on program participation.

To date, hospice—the innovative, compassionate approach to caring for the terminally ill—has enjoyed wide bipartisan support. We must continue to work to ensure that hospice care is a viable alternative to traditional acute care for terminally ill elderly Americans.

I urge my colleagues to support this legislation.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of H.R. 5386, legislation to increase the medicare reimbursement rate for routine home care provided to hospice programs. The changes proposed in this legislation are essential to facilitate greater participation in the medicare hospice program and to ensure that the full benefits of hospice care are available to terminally ill medicare patients around the country.

At present, hospice programs are reimbursed at a rate of $46.25 for routine home care. The legislation we are considering today would increase this rate to $53.17. This is the rate which was included in the proposed regulations issued by the Department of Health and Human Services issued in August 1983. Routine home care is problably the most essential component of hospice care and it is estimated that it constitutes about 80 percent of hospice care.

Mr. Speaker, the current problem is that hospice programs are finding it very difficult to participate in the hospice program under the current payment rates. The payment level, particularly for the routine home care rate, has proven to be critically low and places real financial hardships on programs participating in the hospice benefit. At the same time, many hospice programs are being discouraged from seeking hospice certification because of the inappropriate reimbursement rates. The National Hospice Organization and individual hospice programs have both indicated that the rate of $53.17 more closely reflects their actual cost for the delivery of routine home care.

This legislation also requires the Secretary to make adjustments in the routine home care rate and other hospice rates after a 24-month period. Future adjustments are to be based on the cost data received from participating programs. The 24-month period should give the department sufficient time to obtain and analyze cost data and formulate more appropriate rates.

The medicare hospice benefit was authorized under the Tax Equity and Fiscal Responsibility Act of 1982. The hospice provision became effective on November 1, 1983. Since that time, only 119 hospice programs have requested and obtained certification to provide services to medicare patients. From the comments received from hospice programs around the country, the low payment rates is the major reason for the low level of participation.

As my colleagues may know, Congress must reauthorize the hospice program in 1986. I think is is important that we take necessary actions at this time to facilitate a high level of participation in the hospice program to allow us to carry out a complete and thorough analysis in 1986. In this regard, the increase in the routine home care rate is essential.

The medicare hospice program and the hospice concept have received strong bipartisan support in Congress. The hospice concept is widely recognized as a compassionate, humane, and cost-effective alternative way of caring for the terminally ill. There is a critical need to aid hospice programs at this time in their efforts to care for the dying and to help family members accept the reality of the terminal illness. As we consider this legislation, I urge my colleagues' support for this measure.

● Mr. MATSUI. Mr. Speaker, I rise in strong support of H.R. 5386, legislation to reform the current reimbursement system for hospice services under the Medicare Program. This needed measure will enable a larger number of terminally ill Americans to spend their final days at home or in a hospice facility.

Hospice care represents a significant alternative to the traditional manner in which we have addressed the needs of the dying. One of the most humane aspects of the hospice concept is the opportunity for the terminally ill patient to remain at home with his family and live out the remainder of his days in dignity and peace. Hospice care emphasizes palliative—medical relief of pain—rather than curative care for patients and is designed to address the physical, psychological and spiritual needs of the patient and the emotional needs of the family. It is also a humane and relatively inexpensive alternative to high-technology hospital care.

In 1982, Congress expanded the Medicare Program to provide payment for hospice care. Since that time, only 119 hospices have applied and been certified to serve medicare patients. Many other facilities, including Sacramento's Sutter Community Hospital/Visiting Nurse Association, have not opted to join the program due to inadequate payment rates.

The legislation we are considering today should provide greater incentives for hospice organizations to participate in medicare. H.R. 5386 will increase the daily rate for routine home care from $46.25 per day to $53.17 per day beginning October 1, 1984. A patient receiving routine home care remains at home and needs less than 8 hours of care a day.

To prevent the same disincentives from arising again, the bill also requires the Department of Health and Human Services to review and adjust the payment rates for the various types of hospice care in October 1985 and at least once a year thereafter. The Department would also be required to report to Congress on October 1 of each year regarding this review and the adequacy of the payment rates in ensuring the participation of an sufficient number of hospices.

I believe this bill will remove some of the obstacles that have prevented many hospice groups from providing this humane form of care to medicare patients. I urge my colleagues to support this legislation.●

● Mr. BIAGGI. Mr. Speaker, I rise to indicate my full support of H.R. 5386 which once again puts Congress on record in support of providing an adequate and realistic reimbursement rate under medicare for routine home care services provided by hospices.

One of the most enlightened bills we enacted in this decade was the provision of Public Law 97-248 which for the first time expanded medicare to cover both inpatient and other forms of care provided by a hospice. From the outset—the position of Congress was clear—not only did we feel that medicare should assume this important new responsibility—the reimbursement rates it provided for should be reflective of the costs involved.

Again almost from the outset—this administration has set out to sabotage this program by approving levels of reimbursement insufficient to compensate true costs. The fact is the medicare reimbursement issue only became effective on November 1, 1983—we have seen disturbing signs that the reimbursement rates proposed by HHS are discouraging participation by hospices. At the present time only some 119 hospice programs nationwide are participating in the program and according to the Committee on Ways and Means many hundreds more have failed to participate due to the reimbursement rates.

Therefore, in an effort to bring the reimbursement rate closer to the original intent of Congress—we have before us H.R. 5386, which I have cosponsored. It provides for an increase in the daily medicare reimbursement rate for routine home care provided by hospices from $46.25 a day to $53.17 a day effective from this day through September 1985.

Further this important bill requires the Department of Health and Human Services to review and adjust the payment rates for the various types of hospice care in October of 1985 and at least once a year thereafter. The Department would also be required to report to Congress on October 1 of each year regarding the reviewing and the adequacy of the payment rates in ensuring the participation of an adequate number of hospices.

As an original member of the House Select Committee on Aging, I have had a longstanding interest and more important appreciation for the work performed by hospices. I consider it so very callous that we find bureaucrats quibbling over reimbursement rates for services provided to the terminally ill. Congress from the outset has been right on this issue and HHS has been wrong. It is not simply an issue of dollars and sense—it is an issue of compassion. Hospices are not wasteful entities. They provide a humane alternative to institutionalization for the terminally ill. They allow for home care services or community outpatient services to be provided. They are the manifestation of an enlightened Federal policy for the care of the terminally ill.

I urge passage of this legislation and an end to the attempts of the administration to chill participation by hospices in this reimbursement program.●

● Mr. VANDERGRIFF. Mr. Speaker, I rise today to express my strong support for H.R. 5386, a bill which will raise the routine home rate under the Medicare Hospice Program. I also wish to commend the authors of this bill, Mr. PANETTA and Mr. GRADISON.

Mr. Speaker, this measure is similar to a bill I introduced earlier this year, H.R. 5141, although it is less broad in its scope. My bill would raise all four of the medicare daily reimbursement rates for hospice care to levels originally proposed by the Health Care Financing Administration in August of last year. You will recall that, due to pressure from OMB, those rates were subsequently revised downward and published on December 16, 1983. The rates were set, however, as a result of information from controversial demonstration project data.

Although hospice care is a relatively new concept in the United States, Congress has, on numerous occasions, expressed support for its humane and cost-effective approach of providing care to the terminally ill and their families. In 1982, Congress authorized medicare reimbursement for hospice care until October 1, 1986, at which time it is expected we will evaluate the effectiveness of the program and make any necessary adjustments. Congress may very well be faced with the difficult task of evaluating the program with inadeqate information unless action is taken to encourage participation in the hospice program.

In the first 10 months of the program, only 108 hospices have become certified, and many of the hospices which are certified are not applying for reimbursement. Twenty States still have no medicare certified hospices. Mr. Speaker, the No. 1 reason cited for the poor level of participation is that it is simply not financially feasible to do so. The current reimbursement rates are simply unrealistic. We must take action to bring the rates to a level which attracts sufficient participants to have an adequate data base on which to evaluate the program.

It is my belief that with sufficient participation, we will be able to substantiate our contention that the hospice program is cost-effective. I would like to point out that the CBO estimate which states H.R. 5386 will cost $1 million in fiscal year 1985 and $3 million in fiscal year 1986 does not factor in the fact that daily medicare rates for hospice services will be $53.17 as compared with average daily hospital rates of $356 for the elderly. Then too, and very importantly, no financial projection can place a value on the humane considerations available under hospice. The peace of mind one could derive from spending their last days in their own home and within their own family circle is priceless—a point, I know, that is recognized by many Members of this body.

Mr. Speaker, I commend the authors of this bill for addressing the routine home rate problem, and I hope its enactment will provide an incentive to hospices throughout the country to participate in the Medicare Program. I remain hopeful we will be able to go further to set the other daily reimbursement rates at more reasonable levels in the near future, and I certainly look forward to working on this next year. I hope we will be able to enlist the support of other Members who are aslo concerned about the solvency of medicare and who recognize the benefits of encouraging programs which provide a cost-effective alternative to conventional institutional care.

Mr. Speaker, hospices throughout the country are calling for our help, and this is an excellent first step. H.R. 5386 should be passed.●

□ 1530

Mr. DUNCAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and pass the bill, H.R. 5386, as amended.

The question was taken; (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PERMISSION TO LIST COSPONSORS OF H.R. 6301, STEEL IMPORT STABILIZATION ACT

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the gentleman from Alabama [Mr. BEVILL] and the gentleman from Montana [Mr. WILLIAMS] be listed in the CONGRESSIONAL RECORD as cosponsors of H.R. 6301.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERMISSION TO LIST COSPONSORS OF H.R. 5377, UNITED STATES-ISRAEL FREE TRADE AREA

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the following Members be listed in the CONGRESSIONAL RECORD as cosponsors of H.R. 5377:

Mr. GUARINI; Mr. MATSUI; Mr. FLIPPO; Mr. PICKLE; Mr. HYDE; Mrs. HOLT; Mr. LOEFFLER; Mr. LEVITAS; Mr. LONG of Maryland; Mr. MARKEY; Mr. EDWARDS of Alabama; Mr. LOTT; Mr. BERMAN; Mr. KASICH; Mr. COYNE; Mr. SWIFT; Mr. BLILEY; Mr. ORTIZ; Mr. LUJAN; Mr. HERTEL of Michigan; Mr. CHANDLER; Mr. DYSON; Mr. LENT; Mr. FOGLIETTA; Mr. NELSON of Florida; Mr. AUCOIN; and Mr. MOODY.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

OCEAN DUMPING AMENDMENTS ACT OF 1984

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4829) to amend title I of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended.

The Clerk read as follows:

H.R. 4829

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Ocean Dumping Amendments Act of 1984".

SEC. 2. DUMPING PERMIT PROGRAM.

(a) Section 102 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1412) is amended as follows:

(1) Subsection (a) is amended—

(A) by inserting "(1)" after "(a)";

(B) by striking out ", and in relation to radiological, chemical, and biological warfare agents and high-level radioactive waste, for which no permit may be issued," and inserting ", and except as provided in paragraphs (2) and (3),";

(C) by amending paragraph (C) by striking out "and beaches." and inserting in lieu thereof ", beaches, and wetlands."; and

(D) by adding at the end thereof the following new paragraphs:

"(2) No permit may be issued under this title in relation to the following:

"(A) Radiological, chemical, and biological warfare agents.

"(B) High-level radioactive waste.

"(3) No permit may be issued or renewed under this title that authorizes the dumping, or the transportation for purposes of dumping, after December 31, 1986, of municipal sludge, whether or not the sludge is subject to section 104A, unless—

"(A) the sewerage authority or other unit of State or local government operating the plant at which the municipal sludge is generated is in compliance with all requirements of sections 307(b) and 402(b)(8) of the Federal Water Pollution Control Act (33 U.S.C. 1317(b) and 1342(b)(8), relating to requirements for an effective and comprehensive pretreatment program); and

"(B) the Administrator, in consultation with the Governor of the State in which the unit is located, finds that a suitable land-based alternative to the ocean disposal of the sludge is not currently available.".

(2) Subsection (c) is amended to read as follows:

"(c)(1) The Administrator shall designate sites at which materials may be dumped pursuant to this section and, after consultation with the Secretary, at which materials may be dumped pursuant to section 103; except that no site may be designated by the Administrator under this subsection until the Administrator undertakes and completes an analysis of the characteristics of the site and its suitability for dumping and of the environmental effects which will likely result from dumping. In undertaking such an analysis of each site, the Administrator shall take into consideration the criteria established pursuant to subsection (a) and shall specifically take into account the following factors:

"(A) The types and quantities of wastes and pollutants projected to be deposited in, and adjacent to, the site from dumping and other sources.

"(B) The ability of the waters at the site to disperse, detoxify, or neutralize the materials.

"(C) The importance of the site to the surrounding biological community, including the presence of breeding, spawning, nursery or foraging areas, migratory pathways, or areas necessary for other functions or critical stages in the life cycle of marine organisms.

"(D) The immediate and cumulative effects on human health and on the ecosystem adjacent to the site and the persistent effects on the ecosystem within the site.

Nothing contained in this paragraph shall be construed to limit the authority of the Secretary under section 103.

"(2) The Administrator shall—

"(A) periodically monitor, or cause to be monitored, the effects of the dumping of materials at or adjacent to each site for which the Administrator determines, on the basis of the characteristics of the site and the materials to be dumped, that such monitoring is necessary to accomplish the purposes of this title; and

"(B) at the close of the third year after the site designation and at every three-year interval thereafter until such time as the designation is terminated, estimate the extent of the dumping and other waste inputs that will occur in and adjacent to each site during the next three-year period.

"(3) If at any time the Administrator, on the basis of the factors taken into account under subparagraphs (A) through (D) of paragraph (1), or on the basis of the monitoring or estimates, or both, required under paragraph (2), determines that the site is no longer suitable for such dumping, the Administrator shall—

"(A) limit dumping at the site to certain materials or at certain times or both; or

"(B) suspend or terminate the designation of the site under paragraph (1)

In making a determination under the preceding sentence that a site is no longer suitable for dumping pursuant to section 103, the Administrator shall consult with the Secretary.".

(b) Section 103(b) of the Marine Protection Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413(b)) is amended by striking out "recommended" in the last sentence.

SEC. 3. PERMIT CONDITIONS.

Section 104 of the Marine Protection Research, and Sanctuaries Act of 1972 (33 U.S.C. 1414) is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a) Permits issued under this title shall designate and include—

"(1) the type of material authorized to be transported for dumping or to be dumped;

"(2) the amount of material authorized to be transported for dumping or to be dumped;

"(3) the location where such transport for dumping will be terminated or where such dumping will occur;

"(4) the length of time for which the permits are valid and their expiration date;

"(5) any special provisions deemed necessary by the Administrator or the Secretary, as the case may be, to minimize the harm from dumping, which may include measures that the permittee must take to plan, develop, acquire, or implement, as appropriate—

"(A) alternatives for the disposal of the material,

"(B) process for reducing or eliminating any contaminants in the material, or

"(C) processes for recycling the material;

"(6) after consultation with the Secretary of the Department in which the Coast Guard is operating, any special provisions deemed necessary by the Administrator or the Secretary, as the case may be, for the monitoring and surveillance of the transportation or dumping; and

"(7) such other matters as the Administrator or the Secretary, as the case may be, deems appropriate.".

(2) Subsection (b) is amended to read as follows:

"(b)(1) The Administrator or the Secretary, as the case may be, shall prescribe and collect from the applicant, unless the applicant is a Federal agency, an application fee in an amount commensurate with the reasonable administrative costs incurred or expected to be incurred by the Administrator or Secretary in processing the permit. The application fee shall be deposited to the principal appropriation account or accounts used to carry out the processing of permits under this title.

"(2)(A) The Administrator shall prescribe by regulation and collect a special fee for permits issued under section 102 to recover the costs incurred, or expected to be incurred, in undertaking activities directly associated with the issuance of permits (including site designations), the undertaking of measures to determine compliance with permit terms, the assessment of the direct effects of the dumping, and surveillance and enforcement activities undertaken by Federal agencies. The special fee shall be deposited to the principal appropriation account or accounts used to carry out site designation, site and compliance monitoring, surveillance and enforcement, and other activities directly associated with the issuance of permits.

"(B) The funds collected under subparagraph (A) may be transferred in part to other Federal agencies for the costs incurred or expected to be incurred in connection with activities described in subparagraph (A).".

(3) Subsection (e) is redesignated as subsection (e)(1) and after it the following new subsection is inserted:

"(2) The Administrator and the Secretary shall establish and maintain quality assurance programs to ensure the validity, accuracy, and sufficiency of information submitted to or used by the Administrator or the Secretary in connection with applications for permits or other activities undertaken pursuant to this title. Such quality assurance programs shall encompass, but not be limited to, the design, implementation, and analysis of sampling, testing, and monitoring procedures and results. The Administrator and the Secretary shall each individually report annually, in conjunction with the report required under section 112 of this title, on the status of implementation of this subsection: *Provided, however,* That the first such quality assurance report shall be submitted to the Congress no later than two hundred and seventy days after the effective date of this subsection.".

(4) The following new subsection is added at the end thereof:

"(j) The Administrator or Secretary, as the case may be, may prescribe such reporting requirements as he or she deems appropriate with regard to actions taken by permittees pursuant to permits issued under this title.".

SEC. 4. CONVENTION ADHERENCE.

Section 106 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33

U.S.C. 1416) is amended by adding at the end thereof the following new subsection:

"(g) To the extent that they may do so without relaxing the requirements of this title, the Administrator and the Secretary shall adhere to and apply the requirements of the Convention, including its annexes, that are binding upon the United States.".

SEC. 5. TRANSITIONAL PROVISIONS.

Until completion of the site designation or denial of site designation by the Administrator of the Environmental Protection Agency with respect to any areas of ocean water approved for dumping on an interim basis before July 1, 1982, and any areas of ocean waters used for dumping pursuant to a court order, the amendments made by this Act to the Marine Protection, Research, and Sanctuaries Act of 1972 (other than section 102(a) as amended by section (2)(a)(1), other than subsection (c) (2) and (3) of section 102 as amended by section (2)(a)(2), and other than those made by sections 2(b), 3, 6, 7, 8, 10, 11, and 12 of this Act) shall not be applicable to those areas of ocean water.

SEC. 6. DEFINITIONS.

Section 3 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 402) is amended—

(1) by inserting ", and the subjacent areas," immediately after "those waters" in subsection (b);.

(2) by striking out "sewage sludge." in subsection (c) and inserting in lieu thereof "municipal sludge,"; and

(3) by adding at the end thereof the following new subsections:

"(m) 'Monitoring' means the systematic, time-series observation of materials, contaminants, or pertinent components of the marine ecosystem over a period of time sufficient to determine the existing levels, trend, and natural variations of measured components in the water column, sediments, and biota for the purpose of ensuring that immediate harmful effects of dumping are detected, and cumulative and long-term effects are detected, forecasted, and evaluated. Observations may include, but are not limited to, the following procedures, depending upon the type of waste to be dumped and the characteristics of the site (1) seasonal sampling and analyses of the infaunal community and sediment for purposes of characterizing structural composition and size distribution; (2) sampling and analyses of sediment and selected organisims to determine levels of hydrocarbon, trace metals, and chemical and pathogenic contaminants identified as constituents of waste to be dumped; (3) profiling measurements of standard oceanographic parameters including dissolved oxygen, salinity, and water temperature; (4) characterization of large-scale surface topography and megafaunal structure and composition; and (5) sampling and analyses to determine levels of nutrients and organic carbon.

"(n) 'Municipal sludge' means solid, semisolid, or liquid waste generated by a waste treatment plant of a sewerage authority or other unit of State or local government or a privately owned or operated waste water treatment plant which treats predominately domestic sewage.".

SEC. 7. PENALTIES.

Subsection 105(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1415) is redesignated as section 105(b)(1), and the following new paragraph is inserted thereafter.

"(2) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this title or who falsifies, tampers with, or knowingly renders inaccurate any monitoring, sampling, or testing device or method required to be maintained or implemented under this title, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both. For purposes of this section, the term 'person' shall mean, in addition to the definition contained in section 3(e) of this title, any responsible corporate officer.".

SEC. 8. WRITS OF MANDAMUS.

Section 105(g) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1415) is amended—

(1) by redesignating paragraph (5) as paragraph (6) and by inserting immediately after paragraph (4) the following:

"(5) Upon application of any person, the district courts of the United States shall have jurisdiction to issue writs of mandamus directing the Administrator to implement in a timely manner the site designation provisions of this title for those sites for which site designation proceedings are incomplete and at which dumping is authorized pursuant to permits or regulations issued under sections 102 and 103. Nothing in this paragraph is intended to affect the conduct of any dumping which is authorized by permits or regulations issued under this title pending the completion of site designation proceedings. Paragraph (4) of this subsection shall not apply to any suit brought pursuant to this paragraph."; and

(2) by striking out "injunctive" in paragraph (6), as so redesignated.

SEC. 9. SCHEDULE FOR COMPLETION.

The Administrator of the Environmental Protection Agency shall establish a schedule for expeditiously completing the study and designation or denial of designation of all areas of ocean waters approved before July 1, 1982, for dumping on an interim basis and areas of ocean waters used for dumping pursuant to a court order. The Administrator shall submit this schedule to Congress not later than the one hundred and eightieth day after the date of enactment of this Act.

SEC. 10. ANNUAL REPORTS.

Section 112 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1421) is amended to read as follows:

"SEC. 112. In March of each year, the Administrator and the Secretary shall each individually report to the Congress on the administration of this title during the previous calendar year.".

SEC. 11. NEW YORK BIGHT APEX.

(a) The Congress finds that the New York Bight Apex is no longer a suitable location for the ocean dumping of municipal sludge.

(b) Title I of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.) is further amended by inserting after section 104 the following new section:

"SPECIAL PROVISIONS REGARDING THE NEW YORK BIGHT APEX

"SEC. 104A. (a) For the purposes of this section—

"(1) The term 'Apex' means the New York Bight Apex consisting of the ocean waters of the Atlantic Ocean westward of 73 degrees 30 minutes west longitude and northward of 40 degrees 10 minutes north latitude.

"(2) The term 'Apex site' means that site within the Apex at which the dumping of municipal sludge occurred before October 1, 1983.

"(c) The term 'eligible authority' means any sewerage authority or other unit of State or local government that on November 2, 1983, was authorized under court order to dump municipal sludge at the Apex site.

"(b) No person may apply for a permit under this title in relation to the dumping of, or the transportation for purposes of dumping, municipal sludge within the Apex unless that person is an eligible authority.

"(c) The Administrator may not issue, or renew, any permit under this title that authorizes the dumping of, or the transportation for purposes of dumping, municipal sludge within the Apex after whichever of the following days first occurs:

"(1) The last day of the eighteen-month period beginning on the date of the enactment of this section.

"(2) The day determined by the Administrator to be the first day on which municipal sludge generated by eligible authorities can reasonably be dumped at a site designated under section 102 other than a site within the Apex.

"(d)(1) Within three years after the date of the enactment of this section, the Administrator shall prepare, and submit to the Congress a New York Bight Apex Restoration Plan. In preparing the plan, the Administrator shall hold public hearings in order to obtain the views and comments of interested persons.

(2) The New York Bight Apex Restoration Plan required to be prepared under paragraph (1) shall—

"(A) identify and assess the impact of pollutant inputs, such as treated and untreated sewage discharge, industrial outfalls, agricultural and urban runoff, storm sewer overflow, upstream contaminant sources, atmospheric fallout, and dumping that are affecting the water quality and marine resources of the Apex;

"(B) identify those uses in the Apex that are being inhibited because of those inputs;

"(C) determine the fate of the contaminants from those inputs and their effect on the marine environment;

"(D) identify technolgoies and management practices, and determine the costs, necessary to control those inputs;

"(E) identify impediments to the cleanup of those inputs;

"(F) devise a schedule of economically feasible projects to implement the controls identified under subparagraph (D) and to remove the impediments identified under subparagraph (E); and

"(G) develop recommendations for funding and coordinating the various Federal, State, and local government programs necessary to implement the projects devised under subparagraph (F).

Within six months after the date of the enactment of this section, the Administrator shall submit to the Congress a detailed schedule (and the associated funding requirements) for completing the restoration plan required by this subsection.

"(e) Within one year after the date of the enactment of this section, the Administrator shall prepare and submit to Congress a report on the technological and economic feasibility of establishing and implementing quality standards for the disposal of municipal sludge through ocean or land-based methods. The quality standards shall set forth maximum permissible concentrations of heavy metals, PCB's, persistent plastics, microbiological constituents, pathogens, and any other material found in municipal

sludge regarding which the Administrator considers the establishment of a maximum permissible concentrations to be warranted.

"(f) There are authorized to be appropriated to the Environmental Protection Agency, for purposes of preparing the New York Bight Apex Restoration Plan required under subsection (d)(1), the following amounts:

"(1) $2,000,000 for fiscal year 1985.

"(2) $2,000,000 for fiscal year 1986.

"(3) $1,000,000 for fiscal year 1987.

"(g)(1) There is authorized to be appropriated to the Environmental Protection Agency $40,000,000 in each of the fiscal years 1986 through 1991 for projects to improve the water quality of the Hudson-Raritan Estuary and the New York Bight consistent with the plan under subsection (d) of this section. These funds may be transferred to other federal, state, and local agencies to fund projects within the Administrator's discretion.

(2) The Administrator may use the funds authorized by subsection (1) to reimburse eligible authorities for up to 100 percent of the costs of transporting municipal sludge for dumping at a designated site outside of the Apex in excess of the costs of transporting the sludge for dumping at the Apex site in fiscal year 1986 and for up to 50 percent of the costs of such excess in fiscal year 1987.".

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

Section 111 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1420) is amended—

(1) by striking out "title," and inserting in lieu thereof "title (other than section 104A(d)(1)),";

(2) by striking out "and" immediately following "fiscal year 1981."; and

(3) by inserting "and not to exceed $4,250,000 for each of fiscal years 1985, 1986, and 1987," immediately after "fiscal year 1982,".

SEC. 13. TERMINATION OF HARMFUL MUNICIPAL SLUDGE DUMPING.

Section 4 of the Act entitled "An Act to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such Act for fiscal year 1978", approved November 4, 1977 (33 U.S.C. 1412a), is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a) The Administrator of the Environmental Protection Agency (hereinafter in this section referred to as the 'Administrator') shall—

"(1) end the dumping of harmful municipal sludge into ocean waters or into waters described in section 101(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 as soon as possible after the date of the enactment of the Ocean Dumping Amendments Act of 1984, except that in no case may any dumping of harmful municipal sludge—

"(A) occur after the last day of the 18-month period beginning on the date of the enactment of such Amendments Act of 1984: or

"(B) be authorized under such Act of 1972 for other than an eligible authority within the meaning of section 104A(a)(3) of that Act; and

"(2) end the dumping of industrial waste into such waters, except as provided in subsections (b) and (c).".

(2) Subsection (d) is amended—

(A) by amending paragraph (1) to read as follows:

"(1) The term 'harmful municipal sludge' means municipal sludge (as defined in section 3(n) of such Act of 1972) the ocean dumping of which may be harmful to human health, welfare, amenities, or the marine environment, ecological systems, and economic potentialities. Municipal sludge shall be considered to be harmful, for purposes of this section, if it fails to meet the environmental impact criteria of the Environmental Protection Agency's regulations issued under title I of the Marine Protection, Research, and Sanctuaries Act of 1972."; and

(B) by striking out "(2) the" and inserting in lieu thereof "(2) The".

The SPEAKER pro tempore. Is a second demanded?

Mr. PRITCHARD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes and the gentleman from Washington [Mr. PRITCHARD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join with my colleagues—Mr. D'AMOURS, Mr. HOWARD, and Mr. ROE—in urging the House to pass H.R. 4829, as amended, a bill to amend and reauthorize title I of the Marine Protection, Research and Sanctuaries Act of 1972 [MPRSA].

Title I instructs the Administrator of the Environmental Protection Agency [EPA] and the U.S. Army Corps of Engineers to issue permits for the dumping of materials in ocean waters when such dumping will not unreasonably degrade the marine environment.

Mr. Speaker, this bill addresses our deep concern that, as the oceans are looked to more and more as a suitable medium for the disposal of various wastes, we have in place an ocean dumping program that ensures the protection of those waters from unreasonable degradation. H.R. 4829 achieves this by proposing several improvements to the current ocean-dumping program. First, it prohibits, after December 31, 1986, the disposal of all municipal sludge that does not meet Clean Water Act pre-treatment requirements, or when EPA finds that suitable land-based alternatives exist. In addition, it requires EPA to designate specific ocean disposal sites and to monitor those sites periodically for any harmful effects from dumping.

Second, Mr. Speaker, H.R. 4829, as amended, contains special provisions regarding ocean dumping in the New York Bight apex. These provisions strictly prohibit the dumping of any municipal sludge in the apex 18 months after enactment of the bill, or upon determination by EPA that dumping may reasonably be carried out at a site outside of the apex, whichever occurs first. EPA is further directed to develop a plan designed to restore the overall water quality of the bight.

Finally, H.R. 4829, as amended, authorizes $4.25 million for each fiscal year 1985 through 1987 to implement title I of the Ocean Dumping Act; $5 million over a 3-year period 1985 through 1987, to prepare the New York Bight restoration plan, and $40 million for each fiscal year 1986 through 1991 to implement the restoration plan.

In closing, Mr. Speaker, I want to extend my special thanks to certain colleagues for their support in bringing this bill to the floor. First, I would like to thank Mr. HOWARD and Mr. ROE, of the Committee on Public Works and Transportation, who, through their cooperation, helped to see this bill through many long hours of discussion. Second, I wish to thank Mr. HUGHES, Mr. D'AMOURS, and Mr. CARPER, whose active involvement in the ocean-dumping issue on the Committee on Merchant Marine and Fisheries has been instrumental to the support of this bill.

I urge my colleagues to support these important improvements in our ocean-dumping program by passing the bill, H.R. 4829.

Mr. PRITCHARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4829, to amend title I of the Marine Protection, Research, and Sanctuaries Act of 1972.

I would like to compliment Chairman JONES, Chairman HOWARD, Congressman ROE, Congressman D'AMOURS, Congressman HUGHES, Congressman BIAGGI, and Congressman CARPER for forging the compromise which will allow us to move forward with this important legislation.

The bill provides for a number of important revisions to the ocean-dumping permit title of the Marine Protection, Research, and Sanctuaries Act, including mandatory user fees to recoup Federal expenses, and strengthened monitoring requirements.

Of utmost importance, the bill addresses, for the first time in a comprehensive fashion, the problems of pollution of the New York Bight apex. Ocean dumping of municipal sludge in that area will cease within 18 months of enactment. In additional, EPA is required to prepare a comprehensive New York Bight restoration plan to address all of the pollutant inputs which impact upon the marine resources of the New York Bight apex. This is vitally needed since the causes

and effects of marine degradation in the areas are multiple and complex.

We recognize that the economic burdens on those municipal sewage authorities which presently use the apex dumpsite for disposal of their municipal sludge will be significant. Therefore, I am pleased that the amendment under consideration includes a compromise satisfactory to the gentleman from New Jersey, Mr. ROE, which provides authorization for reimbursement to those authorities for 100 percent of the excess costs of moving to a deepwater dumpsite for fiscal year 1986 and 50 percent of those costs for fiscal year 1987. This will allow for an orderly transition period.

Mr. Speaker, once again I would like to compliment the parties who worked so energetically to arrive at this compromise, and I urge my colleagues to join me in supporting this legislation. Thank you.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. HOWARD].

Mr. HOWARD. I thank the gentleman for yielding this time to me.

Mr. Speaker, H.R. 4829, the Ocean Dumping Amendments Act of 1984, attempts to complete a job that Congress started more than a decade ago. With this bill, if enacted, we would eliminate the disposal of municipal sludge at a site just 12 miles form New Jersey shore. Within 18 months of passage, the handful of communities that have not responded to previous congressional action on this matter will have to abandon the convenient, cheap but environmentally unacceptble 12-mile site. They will be forced to go farther out in the ocean to the 106-mile site or to seek to dispose of their contaminated sludge on land just as other municipalities have been doing.

Congress first expressed its intent on this matter in 1972 with the passage of the Marine Protection, Research and Sanctuaries Act. That legislation sent a clear message that Congress would no longer tolerate unlimited use of the ocean for waste disposal. Passage of that act prompted many communities using the New York Bight to implement plans for land-based disposal. The city of Philadelphia, not a minor contributor, developed a schedule to be out of the ocean by 1980. However, the dumping by others continued.

In 1977, the Congress amended the Marine Protection Act to prohibit sludge dumping that unreasonably degrades the ocean after December 31, 1981. Unfortunately, the U.S. District Court, acting on a petition filed by the largest sludge disposer in the New York Bight, said the Environmental Protection Agency had erred in not investigating whether sludge degrades the environment when it rejected New York City's application for a sludge disposal permit.

Despite the clear congressional mandates, therefore, sludge is still being dumped in massive quantities at the 12-mile site. In 1982, for example, the handful of communities that are still using the site dumped 8.3 million wet tons, or an average of 22,739 wet tons each day, or 31,581 pounds every minute. That is obviously a major disposal operation and it has major implications of the environment of the New Jersey shore.

This sludge dump site is located just 12 miles from Sandy Hook in New Jersey, the site of the Gateway National Recreation Area which is used by mllions of beachgoers every summer. There are also important fishing ports near Sandy Hook and a wide range of recreational activities are centered in that area. Swimming, fishing, and boating in waste-polluted waters is not something that the people of the New Jersey shore must tolerate because of the economic advantages or convenience to the sludge disposers of using the 12-mile site.

My concern in this matter is both an environmental and an economic one because they are so closely related. Since the sluge dumpers will not on their own consider the environmental impacts of their activities or the economic impact, except to themselves, this Congress must compel them to heed these concerns. According to the National Oceanic and Atmospheric Administration, sludge dumping adds 25 percent of the PCB's and 50 percent of the mercury in the New York Bight as well as other contaminants. There have been fishkills and red tides, even this past summer, along the New Jersey shore. On an environmental basis, we cannot allow the New York Bight to remain a cesspool for a handful of communities while the entire shore depends on a clean ocean.

Of all the sewage sludge dumped in the Nation's coastal waters, 95 percent of it is dumped just 12 miles from Sandy Hook. Let me describe how this dumping affects the New York Bight by quoting from a scientist who did research on the question. He said:

> In an area of about five square miles immediately to the west of the dumpsite, in the Christiaensen Basin, there are essentially no bottom living organisms except for one species of worm. Many other animals either cannot survive in the vicinity of the dump or, if they do, are so severely stressed that they are subject to diseases sich as fin rot, degeneration of their shells (lobsters), gill fouling, and parasitism.

He was talking about an area 5 miles to the west of the dump or almost halfway to the beaches.

This massive strain on the environment of the New York Bight obviously has effects on the economy. The oxygen depletion of 1976 resulted in a $70 million loss to New Jersey fishermen and a loss of $430 million to the clammers of the area. A modest investment to protect the environment could prevent these more expensive, catastrophic losses later.

H.R. 4829 requires the closing of the 12-mile site in 18 months or whenever the dumping authorities can reasonably use another site. The designation process for the 106-mile site is already underway.

The bill also requires that the Administrator report back to Congress within 3 years with a New York Bight apex restoration plan to identify the source of pollutants, determine the technology and management practices necessary to control those pollutants, and devise a schedule to implement the controls. This restoration plan is authorized at $40 million per fiscal year for 5 years beginning in 1986.

However, to ease the transition for those communities still using the 12-mile site, the restoration funds may be used to reimburse them for the added cost of barging the sludge to the 106-mile site. The Administrator is authorized to reimburse the eligible authorities for 100 percent of their additional costs in the first year and 50 percent in the second year. With that additional transition time, the sludge dumpers should begin the process of developing alternatives to ocean disposal or they will be forced to bear the higher costs.

I am extremely pleased that the Committee on Public Works and Transportation and the Committee on Merchant Marine and Fisheries have agreed on this proposal and I hope we can convince the other body to take action in the few days remaining. I would like to thank my colleague from New Jersey, Republican BOB ROE, and the Subcommittee on Water Resources for their work on this legislation. I would also like to thank Chairman JONES of the Merchant Marine and Fisheries Committee for his help. Special praise is due to another colleague from New Jersey, Republican BILL HUGHES, a member of the Merchant Marine and Fisheries Committee, who has put extraordinary effort into the New York Bight provisions along with our former colleague, Ed Forsythe, who unfortunately died before this bill could be brought to the floor.

With these important environmental and economic implications that I have cited, I believe the House should reaffirm the congressional intent that the ocean is not a waste disposal site. I urge the House to suspend the rules and pass H.R. 4829.

Mr. JONES of North Carolina. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. BIAGGI].

□ 1540

Mr. BIAGGI. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in mixed support and opposition of the bill, H.R. 4829, the Ocean Dumping Amendments of

1984 incorporated in the joint committee substitute agreed to by the Committees on Merchant Marine and Fisheries and Public Works and Transportation. I commend my colleagues on both committees for their diligent efforts in reshaping the long-term debate and future direction of the ocean dumping regulatory program reflected to a large extent in the carefully crafted legislation now before the House.

While I can in good conscience support most of those provisions in the legislation which apply generally to the disposal of dredged material and sewage sludge in the marine environment, I am vigorously opposed to those provisions which have special application to the New York Bight apex. Throughout my congressional career I have consistently opposed congressional intervention which seeks to legislatively truncate ongoing judicial and administrative decisionmaking processes before a final judgment is rendered on the merits by the authority exercising subject matter jurisdiction.

The instant case is an egregious example of a predisposition toward unnecessary and unwarranted intervention at its worst. Those aspects of this legislation which would terminate ongoing administrative and judicial proceedings are purportedly based on the exercise of congressional factfinding. In reality they constitute a travesty totally devoid of any specific findings of fact, evidentiary support, or inclusion of an objective standard or criterion in support of the determination to arbitrarily and capriciously terminate the continued disposal of municipal sewage sludge at the 12-mile site.

In effect, an affirmative decision by this body ratifying the unsupported conclusive presumption incorporated in the legislation as to the suitability of a single site for ocean disposal of sewage sludge would have these practical results.

First, it would effectively preempt an ongoing formal rulemaking proceeding by the Administrator of the Environmental Protection Agency concerning the proposed redesignation of the 12-mile site and alternate designation of the 106-mile site with respect to which the legislation is silent;

Second, it would prohibit the exercise of adjudicatory authority by the Administrator of the Environmental Protection Agency to consider an application by an affected municipality for a special permit to dispose of municipal sludge at the 12-mile site were that site to be redesignated; and

Third, it would remove, or otherwise interfere with, the continuing exercise of expressly reserved supervisory jurisdiction over the administrative rulemaking and adjudicatory proceedings now being implemented by the Administrator by the Federal District Court for the Southern District of New York acting pursuant to its final decision in the case of City of New York against EPA.

While the Constitution clearly permits the Congress to intervene in a specific instance to preempt pending administrative and judicial proceedings and to determine the ultimate outcome of such proceedings, I submit the embarkation upon such an approach should be reserved for the most extreme circumstances of an emergency or crisis nature. Such is not the case in this instance and I predict that pursuit of such a course—justified merely as an attempt to expedite what has been characterized as an inevitable outcome of the administrative and judicial process already underway—is to establish an unfavorable precedent which may come back to haunt us in another setting.

Having warned my colleagues of the ill-advised nature of the action proposed in the legislation concerning this specific issue, I submit there is much in the legislation to be commended for the approval of this body.

First, it fills an obvious void in the original statute in setting forth for the first time a logical, administrative framework for the future designation of sites for the ocean disposal of dredged material, an activity vitally necessary to permit the maintenance and facilitate the construction of navigable channels in our ports and harbors in support of international trade.

Second, it resolves a longstanding dispute concerning the designation of a finite number of historical sites for the continued disposal of dredged material in the marine environment.

Third, it adds certain specific management criteria applicable to the issuance of permits for the disposal of material other than dredged material in the marine environment, including the imposition of reasonable administrative processing fees applicable to permit processing and approval.

Fourth, and from my perspective most importantly, it points a new direction in the administrative and regulatory thrust of the Ocean Dumping Act in the direction of multimedia waste management, permitting the weighing of the risk and benefits of ocean waste disposal against those of other waste media in the context of a regional approach to overall waste management.

This is reflected for the first time in the inclusion in this legislation of a joint committee-mandated New York Bight restoration plan designed to identify and quantify all pollutant contaminant sources to the New York Bight and formulate a synoptic approach to reducing or eliminating those same point source contaminants from a multimedia waste management perspective. I am proud to have offered the central provision of this approach which provides a multiyear authorization of appropriations:

First, to mitigate the adverse economic impacts of legislated termination of municipal sludge disposal at the 12-mile site and anticipated relocation to an alternative disposal site upon the affected municipal authorities; and

Second, to implement projects to reduce or eliminate other point source contaminants to the New York Bight in order to improve overall regional water quality.

In my judgment, the cooperative regional approach to water quality improvement and environmental issues embodied in this legislation is long overdue. I am proud to be a part of this landmark undertaking, which represents the first tangible step toward resolving a regional water quality dispute initiated in 1924. Regardless of the eventual outcome of this legislation, I believe that these two committees have demonstrated for the first time a real commitment to resolving our waste management problems not on the basis of emotion and rhetoric which have overshadowed the debate in this issue far too long, but in the context of a balanced and objective decisionmaking framework.

In addition from a committee leadership perspective, we have resolved to my satisfaction the procedural issues underlying the future consideration of marine pollution issues in a manner which speaks well of our ability to cooperatively develop common policies and to fashion joint solutions to those problems which cut across our respective committee jurisdictions.

Once more I commend my colleagues on both the Merchant Marine and Public Works Committees for the considerable time and effort expended in the development of the compromise proposal before us today.

Mr. JONES of North Carolina. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. I thank the gentleman for yielding this time to me.

Mr. Speaker, first let me thank the distinguished chairman of the full committee, the gentleman from North Carolina [Mr. JONES] for his great work in this legislation.

I rise in support of H.R. 4829 and urge my colleagues to adopt this important measure.

H.R. 4829 is the result of several years of work by members of the Merchant Marine and Fisheries Committee and the New Jersey delegation who have been concerned over the continued ocean dumping of millions of tons of sewage sludge just off the coast of New Jersey and its impact on the region's coastal water quality.

Before his death, Congressman Ed Forsythe and I worked hand-in-hand

to develop a bipartisan proposal aimed at improving the coastal water quality in the New York/New Jersey area. Many of our recommendations have been incorporated in H.R. 4829. Among other things, the Hughes-Forsythe proposal would permanently close the 12-mile dumpsite within 18 months after the date of enactment, and require EPA to develop a comprehensive plan to improve the overall quality of the region's coastal waters. The plan is designed to address a number of pollution sources in the area, including runoff from agricultural and urban areas, and the disposal of dredged materials and industrial wastes.

The legislation also assures better coordination of State and Federal environmental programs. The bill requires municipalities which ocean dump after December 31, 1986, to be in compliance with the Clean Water Act's pretreatment requirements, and provides for EPA consultation with the States to determine whether appropriate land-based alternatives are available. The bill also contains an important amendment authored by Congressman TOM CARPER of Delaware which requires the Administrator of EPA to end the ocean dumping of all municipal sludge which fails EPA's environmental impact criteria. TOM's amendment, I think, strengthens that legislation.

All of us who live, work, or vacation along the shore know the importance of protecting the quality of our coastal waters and marine resources. New Jersey's coastal communities depend on clean water and clean beaches. The region's commercial and recreational fishing industry is based on healthy fishery resources and the integrity of the marine environment.

In 1977, Congress overwhelmingly approved legislation which I sponsored to end the ocean dumping of harmful sewage sludge. Although the legislation created a 1981 deadline on the disposal of sewage sludge which unreasonably degrades the marine environment, about 8.3 million tons of treated municipal sewage was dumped at the 12-mile site just last year along. That's almost double the amount that was ocean dumped in 1972 when the Marine Protection, Research and Sanctuaries Act was signed into law.

There is no doubt that the New York Bight apex is one of our most severely degraded coastal areas. The cumulative effects of waste disposal in the area have resulted in elevated levels of bacteria, viruses, pathogens, toxic metals, and organohalogens in the water column and sediments around the 12-mile site. A large portion of the New York Bight apex has been closed to fishing and shellfishing due to severe pollution problems. Commercial and recreational fishery resources in adjacent waters have been seriously impacted, causing economic harm to the region's multi-million dollar fishing industry. New Jersey officials have repeatedly expressed concern over the high levels of PCB's that have been found in several species of fish taken from coastal and estuarine waters in the area, including popular commercial and recreational species such as striped bass and bluefish.

The New York Bight apex is our country's last great dumping ground. It is, in all likelihood, the most degraded coastal area in the entire country if not the world. To my mind, this alone is cause for alarm. The area is without a doubt unreasonably degraded. Continued ocean dumping in the bight apex is a disaster waiting to happen.

The time has come for Congress to take definitive action to close the 12-mile sludge dumpsite and to begin the process of improving the quality of our coastal waters.

I look forward to the day when we can look back and see a marked improvement in the quality of these waters and the return of a vital fishery to this area. I urge my colleagues to enact this important legislation.

Mr. Speaker, I want to commend a number of my colleagues who have worked very hard. First my colleague from New Hampshire [Mr. D'AMOURS] the chairman of the Subcommittee on Oceanography. My colleague from New Jersey, JIM HOWARD, who shares the adjoining district, who has worked very diligently to bring this legislation to the floor, and I commend him, and our colleague, BOB ROE, on Public Works for his willingness to compromise on this most difficult issue.

I want to commend also TOM CARPER the gentleman from Delaware who has worked so hard on this issue this past year and a half. I want to thank also the gentleman from Washington JOEL PRITCHARD, the ranking minority member for his work in moving this legislation along. He succeeded our late colleague, our friend Ed Forsythe, who really put so much effort in this bill.

I also want to thank the gentleman from New York, MARIO BIAGGI, for his cooperation in moving this legislation and helping to craft the compromise.

Finally, I want to thank both the minority and majority staff for their excellent work on this legislation.

Mr. Chairman, you have done a superb job, and I thank you.

Mr. HOWARD. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from New Jersey.

Mr. HOWARD. I thank the gentleman for yielding.

Mr. Speaker, I thank the gentleman for thanking all the people he thanked, and I am sure all of us wish to thank him for the great work that he has done on this legislation.

Mr. PRITCHARD. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. LENT].

Mr. LENT. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of H.R. 4829, to amend the Ocean Dumping Act, and urge my colleagues to vote for its passage.

At the same time, I want to join with my other colleagues in commending both the gentleman from New Jersey [Mr. HUGHES], and also, from my side of the aisle, the gentleman from Washington, Mr. JOEL PRITCHARD.

Mr. Speaker, one of the most important provisions in this bill establishes a statutory ban on any new dumping in the New York Bight, a site located just 12 miles off Long Island's south shore.

The bill also provides for the development of a New York Bight Restoration Plan to address all of the pollutant inputs impacting on the marine resources in the bight. This is important because Long Island fishermen have complained for years about sludge dumping at the 12-mile site and its adverse impact on marine resources associated with the dump site and nearby areas. These areas are used by fish and shellfish for breeding, spawning, and feeding, and they are heavily utilized by commercial and recreational fishing interests alike. Long Island fishermen tell me nets used miles from the actual dump site have been fouled with sludge, and I have seen what some of them pulled up in their nets. It is not a pretty sight. Futhermore, they have reported to me that they are netting fish in the bight area with cancerous ovaries.

As a lifelong resident of Long Island and as a Representative from a portion of that community, I am committed to protect our many and varied marine resources, and I have been working to put an end to the reckless use of our oceans as a national dump site.

I have studied this issue long and hard, and I have heard about it repeatedly from my constituents. Their message is clear; they want the 12-mile site closed.

A new municipal sludge dump site, 100 times deeper than the bight, is ready for use. EPA is currently reviewing public comments on administrative closure of the bight in favor of the new deepwater, 106-mile site.

Passage of H.R. 4829 will keep EPA's feet to the fire, and help assure an end to dumping of sewage sludge in the New York Bight.

I urge my colleagues to support this important legislation.

Mr. JONES of North Carolina. Mr. Speaker, I yield 3 minutes to the gentleman from Delaware [Mr. CARPER] but before doing so I would like the record to reflect that the people of

Delaware should be extremely grateful to Mr. CARPER for his contribution to this legislation and his ability to craft something that we can all agree upon.

Mr. CARPER. I thank the gentleman for yielding this time to me. I also thank the chairman of the committee for the leadership that he has shown on this very, very important subject.

Mr. Speaker, I rise in support of this bill which clearly states the intent of Congress to bring an end to irresponsible and harmful dumping of municipal sewage sludges in the ocean.

The practice of sludge dumping and its effects are a regional problem with national policy implications. Ocean dumping of sludge is a vestige of an old waste management strategy whose sole purpose is to keep waste out of sight and out of mind. So far in this 98th Congress, the House has passed important environmental initiatives—notably the RCRA and Superfund reauthorizations—which refute this shortsighted waste handling policy. The bill before us today takes a big step toward declaring that the out-of-sight, out-of-mind approach is no longer acceptable in the ocean, either.

Last year, I introduced legislation which would ban, once and for all, the disposal of harmful municipal sludges in our coastal waters. The bill before us contains that prohibition. I also introduced a bill which would require dumpers to pay the Federal Government for the cost of administering and monitoring sludge dumping activities. This provision, now also a part of this legislation, will end a taxpayer subsidy which benefits a very small minority of the sludge producers in this country and which encourages an irresponsible practice.

The taxpayers of my State of Delaware and in the cities and towns which produce 96 percent of the municipal sludge produced in this Nation are supporting land-based techniques which are not only environmentally responsible, but in many cases provide a clear benefit to farmers, horticulturists, nursery operators, park managers, homeowners and a host of others who benefit from this highly organic and nutrient-rich soil additive.

The citizens of my State are particularly tired of seeing certain municipalities barging their sewage out to sea and forcing their neighbors to pick up whatever social costs might be incurred. We have fought for decades to halt sludge dumping just outside of Delaware Bay—we finally succeeded. Now we face the prospect of more dumping at a site 140 miles off our coast. Delawareans are justifiably incensed at this prospect because they have supported very successful efforts to recycle their municipal sludges into useful product for which an enthusiastic market exists.

Mr. Speaker and fellow colleagues, the ocean dumping of municipal sludge is indeed an outdated and potentially dangerous practice. It is incumbent on us to encourage a new look at this material as the resource it truly is, to stimulate recycling efforts, and to end wasteful and irresponsible ocean dumping. This legislation represents an important step in the right direction, and it deserves our support.

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Mr. Speaker, I particularly want to thank the gentleman from New Jersey [Mr. HUGHES], who showed great foresight, the gentleman from New York [Mr. BIAGGI], our colleagues on the Committee on Public Works and Transportation, and particularly the gentleman from New Hampshire [Mr. D'AMOURS], chairman of our subcommittee.

● Mr. STANGELAND. Mr. Speaker, I rise in support of H.R. 4829, the Ocean Dumping Amendments Act of 1984, as reported out of the Merchant Marine and Fisheries Committee on May 15 and the Public Works and Transportation Committee on July 31, 1984. This legislation amends the Marine Protection, Research, and Sanctuaries Act of 1972, commonly known as the Ocean Dumping Act. The Ocean Dumping Act prohibits entirely the ocean dumping of radiological, chemical, and biological warfare agents and high-level radioactive waste. Permits are required to dump any materials in the ocean waters at specific designated sites.

This legislation is similar to H.R. 1761 which was passed by this House last year. It amends title I of the Marine Protection, Research and Sanctuaries Act to ensure a quick review of potential ocean dumping sites and the completion of site designation procedures. It also provides additional criteria for the Administrator of EPA to consider when designating sites and establishing monitoring programs. This bill authorizes additional permit conditions, clarifies existing provisions of title I, requires the collection of reasonable administrative fees, and reauthorizes the program for several years.

This legislation has some specific differences from H.R. 1761 which are important and worth noting here. A special provision calling for an end to municipal dumping in the New York Bight apex has been added. After growing controversy over the apex and extensive hearings, the Committee on Merchant Marine and Fisheries adopted a provision developed by two gentleman from New Jersey and is known as the Hughes-Forsythe amendment which specifically calls for an end to dumping at the 12-mile site.

The Committee on Public Works and Transportation added a provision to provide assistance in the added cost incurred in using a more distant site. The version being offered on the floor today modifies this concept to provide the assistance for 2 years. In fiscal year 1986 all of the excess costs will be paid and in fiscal year 1987 half of the excess costs will be paid. I believe this is a fair and equitable solution.

Another new provision has been added that requires that before any permit for municipal sludge dumping would be issued, the applicant would have to comply with certain requirements of the Federal Water Pollution Control Act. Also, this legislation requires the Administrator to consult with the Governor of the State in which the applicant is located before the Administrator determines if a suitable land-based alternative to ocean dumping is available.

H.R. 4829 requires an additional special fee to be collected from applicants of section 102 permits. These fees will enable the Administrator to recoup the costs of activities directly associated with issuing permits. The term "sewage sludge" is replaced with the term "municipal sludge," and a new section amends the termination date for ocean dumping of sewage sludge and directs EPA to end the dumping of harmful municipal sludge no later than 18 months after the date of enactment.

As you can see from my remarks, this legislation is similar to H.R. 1761 that was passed last year by this House. However, several new features have been added to strengthen this legislation. I think it is legislation we can all support here today and urge my colleagues to joing me passing this legislation now.●

● Mr. D'AMOURS. Mr. Speaker, as sponsor of H.R. 4829, I rise in strong support of the amendment in the nature of a substitute and urge my colleagues to support the bill.

H.R. 4829 reauthorizes title I of the Marine Protection, Research and Sanctuaries Act for 3 years at $4.25 million for each year and makes several substantive changes to existing law.

The bill, as reported by the Committee on Merchant Marine and Fisheries and the Committee on Public Works and Transportation is designed to accomplish two major aims. First, the bill seeks to guarantee that, to the extent we must ocean dump, we do all we can to make sure we have selected the most appropriate dumping sites, that they have been sufficiently studied, and that subsequent dumping is adequately monitored. Second, the bill attempts, after many years of indecision, inaction, stalling, and political manipulation, to get on with the business of cleaning up the degraded New York Bight apex.

To accomplish these aims, the bill changes the Administrator's heretofore discretionary site designation au-

thority to a mandatory duty; it requires the Administrator to establish an explicit schedule for completing site designation studies and provides interested parties with the right to seek a writ of mandamus when those studies are not completed; and it requires the Administrator to develop appropriate monitoring programs.

Additionally, the bill changes a discretionary permit processing fee to a mandatory one; it seeks to clarify our obligations under this act to follow the provisions of the London Dumping Convention; it provides for a program of quality control regarding information that is submitted to EPA and the Corps of Engineers; it clarifies that subseabed disposal of wastes falls under the purview of the act; and it provides criminal penalties for submitting false information or tampering with monitoring devices. These provisions are nearly identical to ones previously adopted by the House in H.R. 1761 on October 31, 1983.

The committee also adopted two proposals that were offered by Mr. CARPER of Delaware. The first directs the EPA to end the dumping of harmful municipal sludge no later than 18 months after the date of enactment and no new entrants would be allowed to dump during the 18-month period. "Harmful municipal sludge" is defined as that which fails to meet EPA's environmental impact criteria. The second directs EPA to collect a special fee from nondredged material permittees to recover costs directly associated with issuing and enforcing permits.

In addition to the features outlined above, H.R. 4829 also contains several provisions aimed at addressing the problem of continued dumping in the New York Bight apex. These include a congressional finding that the apex is no longer suitable for dumping of municipal sewage sludge, provisions to halt all such dumping within 18 months, a directive to EPA to report on the feasibility of implementing sludge quality standards, a directive to EPA to prepare a plan for improving the overall water quality of the apex, and special conditions that would apply to municipal sludge dumping.

The provisions dealing with the New York Bight apex deserve special mention at this time. The bight apex has been characterized by the National Oceanic and Atmospheric Administration as "one of the most severely degraded open coastal areas in the world." Over the past 15 years, the Merchant Marine and Fisheries Committee has spent a great amount of time studying the problems associated with dumping in the apex. Several times in the past we thought we had stopped the dumping of harmful materials into these waters only to be frustrated by misinterpretation of congressional intent, first by the courts and then by EPA. The Environmental Protection Agency has been on the verge of halting sewage sludge dumping in the apex for a number of years, but definitive action never seems to come. With this bill, the House will be saying it is time to stop studying and restudying the problem and get on with the business of cleaning up the mess.

The first step in the process is stopping the pollutant inputs that contaminate the resources of the area. The committee has taken the first step by closing the 12-mile site to dumping after 18 months. However, dumping is only one source of contamination. Therefore the committee has directed EPA to develop within 3 years a plan identifying the sources of pollutants in the apex, their impacts, methods to control the sources, and an economically feasible schedule to implement these controls. A total of $5 million has been authorized to develop the plan and up to $40 million for each of fiscal years 1986 through 1991 have been authorized to implement the plan. This represents a considerable improvement over the original standing authorization that was reported by our committee.

One other feature of the substitute, the provision authorizing funds to reimburse eligible authorities for the difference in transportation costs between the 12-mile and 106-mile sites, also needs to be addressed. The Committee on Public Works and Transportation, which shared jurisdiction over Corps of Engineers-related aspects of H.R. 4829, reported the bill with an amendment that authorized EPA to reimburse municipalities that are currently dumping sewage sludge at the apex site for the added costs incurred by them when moving to a dumpsite further offshore. Although this amendment is outside the jurisdiction of the Public Works Committee, our committee agreed to a modified version of the provision. As reported by the Public Works Committee, an eligible authority could be reimbursed for the amount by which the transportation costs to a site further offshore exceed the cost of dumping at the apex site. The authorization was open-ended and had no cap. The compromise provision limits reimbursement to 100 percent of the cost differential for fiscal year 1986 and 50 percent for fiscal year 1987. Also, the funds are tied to the funds available for implementing the New York Bight apex restoration plan.

Mr. Speaker, H.R. 4829 offers important protections for our ocean resources both in the New York Bight apex and other ocean waters. These measures are long overdue. For that reason, I strongly urge my colleagues to support this legislation.●

Mr. PRITCHARD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 4829, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members who wish to do so may have 5 legislative days in which to revise and extend their remarks on H.R. 4829, as amended, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PANAMA CANAL ACT OF 1979 AMENDMENTS AUTHORIZING QUARTERS ALLOWANCES FOR CERTAIN EMPLOYEES

Mr. HUBBARD. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6101) to amend the Panama Canal Act of 1979 to authorize quarters allowances for certain employees of the Department of Defense serving in the area formerly known as the Canal Zone, as amended.

The Clerk read as follows:

H.R. 6101

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That (a) subchapter II of chapter 2 of title I of the Panama Canal Act of 1979 is amended by adding after section 1217 the following new section:

"QUARTERS ALLOWANCES

"SEC. 1217a. (a) Notwithstanding paragraphs (2) and (3) of section 1211 of this Act, as used in this section—

"(1) 'position' means a civilian position; and

"(2) 'employee' means an individual serving in a position in the Department of Defense whose permanent duty station is in the area which, before October 1, 1979, was known as the Canal Zone.

"(b) Under regulations prescribed by or under authority of the President, the Department of Defense may grant a quarters allowance in the case of—

"(1) any employee who is a citizen of the United States and who, before October 1, 1979, was employed by the Panama Canal Company, the Canal Zone Government, or any other agency, in the area then known as the Canal Zone; and

"(2) any other employee who is a citizen of the United States and who (before, on, or

after the effective date of this section) is or was recruited within the United States;

for whom adequate Government owned or leased quarters are not made available.

"(c) The amount of any quarters allowance granted to an employee under this section shall be determined in accordance with the regulations prescribed under subsection (b) of this section, except that such allowance for any period may not exceed the amount, if any, by which—

"(1) the lesser of—

"(A) the actual expenses for rent and utilities incurred by the employee during such period while occupying quarters other than Government owned or leased quarters; or

"(B) the maximum amount which would be authorized for such employee with respect to such period under the Department of State Standardized Regulations (Government Civilians, Foreign Areas) if such employee were covered by those regulations;

exceeds

"(2) the estimated total cost of rent and utilities which the employee would have been charged if Government owned or leased quarters had been provided on a rental basis during such period.

"(d) The provisions of this section shall apply without regard to whether any election by the Department of Defense under section 1212(b) of this Act is then in effect.".

(b) The table of contents for the Panama Canal Act of 1979 is amended by inserting after the item relating to section 1217 the following new item:

"1217a. Quarters allowances.".

SEC. 2. The amendments made by this Act shall take effect on October 1, 1984, and shall apply with respect to utility costs incurred, and rent payable for any period beginning, on or after that date.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Kentucky [Mr. HUBBARD] will be recognized for 20 minutes and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6101, introduced by my distinguished colleague, the Hon. MARY ROSE OAKAR, who chairs the Subcommittee on Compensation and Employee Benefits of the Committee on the Post Office and Civil Service, was referred jointly to the Committee on Merchant Marine and Fisheries and to the Committee on the Post Office and Civil Service. As chairman of the Subcommittee on Panama Canal/Outer Continental Shelf, I cosponsored this bill along with many members of both committees.

H.R. 6101 would amend the Panama Canal Act of 1979 (Public Law 96-70) to authorize the Department of Defense to pay a housing allowance to its U.S.-citizen civilian employees working in the former Canal Zone for whom Government quarters are not available.

As mandated by the Panama Canal Treaty and its implementing agreements, a number of employees were transferred from the Panama Canal Company and Canal Zone Government to the Department of Defense. These so-called transfer of function employees, primarily school teachers and medical personnel, were permitted to remain in, and continue to rent, Panamanian owned housing under the control of the Panama Canal Commission. This right, however, was limited to a 5-year period, which expired on September 30, 1984, when the Republic of Panama became entitled to take possession of these housing units.

The Department of Defense does not have sufficient housing to accommodate these employees and they will have to find housing on the Panamanian economy. The rent for Panamanian housing comparable to current quarters is estimated to be between $12,000 and $16,000 per year, an increase in rent of 300 to 500 percent, and an increase that these employees simply cannot afford!

H.R. 6101 authorizes the Department of Defense to pay its U.S.-citizen civilian employees a housing allowance to offset the vastly increased housing and utility costs these employees will have to pay on the Panamanian economy. The Department of Defense's authority to pay a housing allowance, however, is subject to the restrictions that: First, the amount of the allowance must be reduced by the amount that the employee would have paid in rent for Government quarters; and second, the allowance may never exceed the maximum set by the State Department regulations governing overseas allowances. Moreover, the housing allowance will not be paid if suitable Government housing is available, but is refused by the employee.

On September 11, 1984, the Subcommittee on Panama Canal/Outer Continental Shelf conducted a hearing and markup to approve H.R. 6101 for full committee consideration. On September 25, 1984, the full Merchant Marine and Fisheries Committee ordered H.R. 6101 reported to the House by a unanimous voice vote. The Honorable WILLIAM FORD of Michigan, chairman of the Committee on Post Office and Civil Service, sent a letter to you, Mr. Speaker, on September 27, 1984, stating that the Committee on Post Office and Civil Service would interpose no objection to the consideration of H.R. 6101 as reported by the Committee on Merchant Marine and Fisheries.

Mr. Speaker, H.R. 6101 provides the needed solution to the problem of the diminishing number of Government housing units available and the increasing cost of housing on the Panamanian economy. It is imperative that we pass this legislation today as the 5-year lease arrangement expired yesterday and many Department of Defense teachers and medical personnel have been forced to seek housing on the Panamanian economy.

The other body has indicated that it will move swiftly on this bill. Therefore, I request that the House suspend the rules, and I urge my colleagues to join me in passing House Bill 6101.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Ohio [Ms. OAKAR], the sponsor of the bill.

Ms. OAKAR. Mr. Speaker, today I rise in strong support of H.R. 6101, a bill which, as the subcommittee chairman has explained, will provide the necessary housing assistance to a group of U.S. Department of Defense civilian employees working in the former Panama Canal Zone.

Mr. Speaker, I want to especially compliment the chairman and the minority leader of the committee and all the members of the Committee on Merchant Marine and Fisheries for expeditiously moving this bill out. They really did it in record time, and as the subcommittee chairman already mentioned, the 5 years has already expired as of yesterday and it is a hardship for these dedicated employees that we have working for our Federal Government.

Mr. Speaker, H.R. 6101 was introduced on August 8, 1984. Joining me as cosponsors are Chairmen WILLIAM FORD, ED JONES, CARROLL HUBBARD, and Congressmen DOUGLAS BOSCO, FRANK MCCLOSKEY, THOMAS FOGLIETTA, ROBERT BORSKI, SOLOMON ORTIZ, and Congresswoman BARBARA MIKULSKI.

Mr. Speaker, the purpose of my legislation is to amend section 1217(D) of the Panama Canal Act of 1979, which implemented the Panama Canal Treaty of 1977. As you may know, this section of the act precludes payment of any overseas differentials and allowances to an employee whose permanent duty station is in the Republic of Panama and who is employed by an executive agency of the U.S. Government.

Due to the implementation of the Panama Canal Treaty of 1977, a number of functions and associated personnel were transferred from the Panama Canal Co. and Canal Zone Government to the U.S. Department of Defense.

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These transfer-of-function employees, principally school teachers and medical personnel, were permitted to remain in, and continue to rent Panamanian-owned housing under the control of the Panama Canal Commission. This right, however, was limited by an executive agreement between our Government and the Republic of Panama to a 5-year period ending October 1, 1984. Of course, it expired yesterday.

This reduction is necessary to ensure equity between employees living in

U.S. Government housing who pay rent and utilities at the fair market value and those who will receive assistance in meeting local housing costs.

Mr. Speaker, as I mentioned a moment ago, suitable housing in Panama is extremely expensive and beyond the means of many Department of Defense employees. Without the ability of the Department of Defense to provide adequate housing support to this important group of employees, I believe a significant loss of personnel would result and recruitment of replacements would be extremely difficult. The inability to recruit and retain quality teachers and medical staff would have a detrimental effect on the quality of education and medical services to the entire U.S. Government community in Panama.

Mr. Speaker, I believe it is very significant that this legislation has the support of the Department of Defense and many of my Republican colleagues. Moreover, this legislation is fair, equitable, and economical. A total annual outlay of $5 million will permit our Department of Defense employees to secure appropriate housing in the Panamanian economy.

Mr. Speaker, I ask all my colleagues to support this important legislation.

Mr. Speaker, I would just add that this allowance is so very necessary if we are trying to get dedicated people to work for our Government abroad, particularly in areas like the Panama Canal Zone that is so important to our own security, then we have got to give them the proper allowances. It is a real hardship for them when they do not have the proper living allowance that they need. That is why it is so important.

Again, I want to thank the chairman. He has just been terrific, and my own chairman, the gentleman from Michigan [BILL FORD] for waiving our right to hear the legislation so that the chairman of the subcommittee, the gentleman from Kentucky [Mr. HUBBARD] could expeditiously pass the bill.

I ask my House Members to please vote for it unanimously. It is a very, very important bill.

Again, I thank my colleague, the gentleman from Kentucky.

Mr. HUBBARD. Mr. Speaker, I reserve the balance of my time.

Mr. FIELDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to compliment Chairman CARROLL HUBBARD for his leadership in moving this urgent bill in such a timely and expedited manner. As Chairman HUBBARD has indicated, H.R. 6101 will allow the Department of Defense to pay a housing allowance to certain DOD employees. This legislation is necessary because, as of today, over 350 U.S. employees who were transferred from the Panama Canal Company to the Department of Defense will lose their PCC housing.

Because the Department of Defense does not have adequate facilities for these employees, we must act on this legislation or these teachers and medical personnel will be faced with the unhappy prospect of having to pay much higher costs for housing and utilities on the local Panamanian economy. Under normal conditions, title V of the United States Code would provide for all overseas allowances, such as housing, cost-of-living increases, educational allowances, and others that go to all U.S. employees working abroad. As a matter of fact, the allowances are provided without being counted as income to an employee for purposes of our Federal income tax laws. Regrettably, however, those working within the area that was the U.S. Canal Zone are not eligible for these allowances. The legislation we are considering today corrects part of this problem by at least providing a housing allowance for these transferred employees.

H.R. 6101 amends section 1217(d) of the Panama Canal Act of 1979. The bill authorizes the Department of Defense to pay living quarter allowances to those employees transferred from the Panama Canal Company to the Department of Defense, as well as center other personnel for which there is not adequate Department of Defense housing. The amount of allowance will not exceed the difference between what the employees would actually pay for housing and what they would have paid for U.S. Government housing. The act also requires that if Department of Defense housing does become available and is offered to the employee in good condition, of the proper size, and located within a reasonable distance from his place of work, it must be accepted or the housing allowance will not be paid.

The Department of Defense is currently negotiating with the Government of Panama to lease back from Panama, housing that was once the property of the Panama Canal Company and declared surplus. Unfortunately, to date, these negotiations have not been successful and Department of Defense is not confident that any equitable agreement will be forthcoming.

Mr. Speaker, there is one additional issue that must be thoroughly reviewed in the future. This issue concerns the teachers who represent the overwhelming number of transferred employees. According to Public Law 96-88—Department of Education Organization Act—all overseas teachers will be transferred to the Department of Education no sooner than May 4, 1986. Because of this situation and because there are other unanswered questions concerning title V allowances, I believe this subject should be looked at closely in the next Congress. These transferred employees have been caught in a position completely beyond their control. They should not be forced to suffer the consequences of an action resulting from a treaty obligation. While H.R. 6101 does not provide all of the benefits received by other U.S. citizens working abroad, it does correct the immediate problem.

I urge the House to join me in voting for this legislation.

Mr. Speaker, I yield such time as he may consume to the ranking minority member of the Committee on Merchant Marine and Fisheries, the gentleman from Washington [Mr. PRITCHARD].

Mr. PRITCHARD. Mr. Speaker, I support the purposes for which H.R. 6101 has been introduced, and I hope the Members of the House will join me in voting for this legislation in order that it can be enacted at the earliest possible date.

As of October 1 of this year, over 350 Department of Defense civilian employees who were transferred from the Panama Canal Company to the Department of Defense because of the requirements of the Panama Canal Treaty will have to vacate the Panama Canal Commission housing they now occupy. Currently the Department of Defense does not have adequate housing for these personnel and therefore, they must seek housing in the private sector in Panama at approximately four to five times the cost of Government housing. Unfortunately, there is no authority to pay housing allowances to assist them in paying the additional costs. This is because of the quirk that exists in section 1217 of the Panama Canal Act of 1979.

Subsection (d) of section 1217 prohibits the payment of overseas allowances such as housing, education, cost of living, and others that would normally be available to overseas U.S. civilian employees. As a matter of fact, these allowances are available to all other U.S. civilian employees in Panama who are not located in the area that was once the canal zone. Permitting the teachers and medical personnel who have transferred from the Panama Canal Commission to DOD to get housing allowances is what this legislation will accomplish.

While H.R. 6101 solves the immediate problem of the allowance, it does not provide these transferred employees with the benefits that are available to every other U.S. overseas employee working outside the area once known as the canal zone. Because of this, it is important that this issue be closely examined in the next Congress.

I agree with the Department of Defense that the state of morale of the U.S. employees remaining in Panama is extremely important, and feel that this legislation will improve those conditions as well as provide at least a

degree of equity for the personnel caught in a situation beyond their control.

Mr. Speaker, I hope that, in the limited time that is available in this Congress, this legislation can be forwarded to the White House for the President's signature.

Mr. FIELDS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Speaker, I rise in support of H.R. 6101 to provide living quarters allowances to certain DOD civilian employees—mostly teachers and doctors—in Panama.

Through no fault of their own, these employees today face up to $16,000 in increased living cost because Panama Canal Commission housing is no longer available to them. Our teachers and doctors in Panama deserve our support and this bill provides it.

Mr. FIELDS. Mr. Speaker, I yield back the balance of my time.

Mr. HUBBARD. Mr. Speaker, I yield myself such time as I may consume, and I will be brief, just to sum up by simply saying that obviously this bill is not controversial. It is for the benefit of our U.S.-citizen employees in Panama. It is badly needed at this time, since the expiration date we are talking about, which they benefited, expired yesterday.

The administration supports it. Obviously, the minority and the majority are in agreement. The House Merchant Marine and Fisheries Committee passed it unanimously.

I would like to express my appreciation to Chairman WALTER JONES, Chairman WILLIAM FORD, and the ranking minority member of our subcommittee, the Honorable JACK FIELDS of Texas, and to the members of the staff for their cooperation in regard to this bill coming before us today.

● Mr. FORD of Michigan. Mr. Speaker, I am an original sponsor of H.R. 6101, and I fully support its passage by the House. This bill provides the urgently needed authorization for a housing allowance for American personnel, primarily teachers and medical personnel, working in the Republic of Panama.

As a result of the Panama Canal Treaty of 1977, approximately 350 employees were transferred from the Panama Canal Company and Canal Zone Government to the Department of Defense. They were permitted to remain in, and continue to rent, Government housing under the control of the Panama Canal Commission. That right, however, was limited to a negotiated agreement between our two Governments to a 5-year period, ending on September 30, 1984.

The legislation before us today is simple and straightforward, and it enjoys bipartisan support. It is a noncontroversial and inexpensive measure. H.R. 6101 entitles teachers and medical personnel in Panama to receive an allowance that will assist them in affording housing on the local economy, similar to benefits received by most other Department of Defense teachers overseas.

Mr. Speaker, this legislation assists dedicated Americans who teach the children of military personnel in Panama and who provide medical services for them and their families. I urge the expeditious enactment of H.R. 6101 so that these employees can continue their services with as little disruption as possible to their personal lives.●

Mr. HUBBARD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. HUBBARD] that the House suspend the rules and pass the bill, H.R. 6101, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HUBBARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 6101, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 280, FIRST CONCURRENT RESOLUTION ON THE BUDGET, 1985

Mr. JONES of Oklahoma. Mr. Speaker, pursuant to the order of the House of September 25, 1984, I call up the conference report on the concurrent resolution (H. Con. Res. 280) revising the congressional budget for the U.S. Government for the fiscal year 1984 and setting forth the congressional budget for the U.S. Government for the fiscal years 1985, 1986, and 1987.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The Clerk will read the conference report.

The Clerk read the conference report.

(For conference report and statement, see proceedings of the House of September 25, 1984.)

The SPEAKER pro tempore. The Clerk will report the Senate amendment.

The Clerk read the Senate amendment, as follows:

Strike out all after the resolving clause and insert:

That the Congress hereby determines and declares that the concurrent resolution on the budget for fiscal year 1984 is hereby revised and replaced, the first concurrent resolution on the budget for fiscal year 1985 is hereby established, and the appropriate budgetary levels for fiscal years 1986 and 1987 are hereby set forth:

(a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1983, October 1, 1984, October 1, 1985, and October 1, 1986:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1984: $672,900,000,000.
Fiscal year 1985: $750,900,000,000.
Fiscal year 1986: $810,800,000,000.
Fiscal year 1987: $881,000,000,000.

and the amounts by which the aggregate levels of Federal revenues should be changed are as follows:

Fiscal year 1984: $0.
Fiscal year 1985: −$300,000,000.
Fiscal year 1986: −$100,000,000.
Fiscal year 1987: −$100,000,000.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1984: $40,000,000,000.
Fiscal year 1985: $45,400,000,000.
Fiscal year 1986: $52,000,000,000.
Fiscal year 1987: $57,200,000,000.

and the amounts for Federal Insurance Contributions Act revenues for old-age, survivors, and disability insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1984: $166,200,000,000.
Fiscal year 1985: $188,700,000,000.
Fiscal year 1986: $204,500,000,000.
Fiscal year 1987: $221,100,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1984: $918,900,000,000.
Fiscal year 1985: $1,021,350,000,000.
Fiscal year 1986: $1,103,800,000,000.
Fiscal year 1987: $1,200,250,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1984: $845,600,000,000.
Fiscal year 1985: $932,050,000,000.
Fiscal year 1986: $1,003,550,000,000.
Fiscal year 1987: $1,088,600,000,000.

(4) The amounts of the deficits in the budget which are appropriate in the light of economic conditions and all other relevant factors are as follows:

Fiscal year 1984: $172,700,000,000.
Fiscal year 1985: $181,150,000,000.
Fiscal year 1986: $192,750,000,000.
Fiscal year 1987: $207,600,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1984: $1,575,700,000,000.
Fiscal year 1985: $1,823,800,000,000.
Fiscal year 1986: $2,090,000,000,000.
Fiscal year 1987: $2,377,600,000,000.

and the amounts by which the statutory limits on such debt should be accordingly increased are as follows:

Fiscal year 1984: $2,700,000,000.
Fiscal year 1985: $248,100,000,000.
Fiscal year 1986: $266,200,000,000.
Fiscal year 1987: $287,600,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1983, October 1, 1984, October 1, 1985, and October 1, 1986, are as follows:

Fiscal year 1984:

(A) New direct loan obligations, $37,600,000,000.
(B) New primary loan guarantee commitments, $105,550,000,000.
(C) New secondary loan guarantee commitments, $68,250,000,000.
Fiscal year 1985:
(A) New direct loan obligations, $38,100,000,000.
(B) New primary loan guarantee commitments, $112,100,000,000.
(C) New secondary loan guarantee commitments, $68,250,000,000.
Fiscal year 1986:
(A) New direct loan obligations, $40,900,000,000.
(B) New primary loan guarantee commitments, $117,150,000,000.
(C) New secondary loan guarantee commitments, $69,950,000,000.
Fiscal year 1987:
(A) New direct loan obligations, $42,600,000,000.
(B) New primary loan guarantee commitments, $123,300,000,000.
(C) New secondary loan guarantee commitments, $71,700,000,000.

(b) The Congress hereby determines and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations and new loan guarantee commitments for fiscal years 1984 through 1987 for each major functional category are:

(1) National Defense (050):
Fiscal year 1984:
(A) New budget authority, $264,150,000,000.
(B) Outlays, $230,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1985:
(A) New budget authority, $292,900,000,000.
(B) Outlays, $262,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1986:
(A) New budget authority, $324,700,000,000.
(B) Outlays, $288,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1987:
(A) New budget authority, $359,800,000,000.
(B) Outlays, $321,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

(2) International Affairs (150):
Fiscal year 1984:
(A) New budget authority, $22,000,000,000.
(B) Outlays, $12,300,000,000.
(C) New direct loan obligations, $9,100,000,000.
(D) New primary loan guarantee commitments, $8,650,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1985:
(A) New budget authority, $20,800,000,000.
(B) Outlays, $16,500,000,000.
(C) New direct loan obligations, $9,500,000,000.
(D) New primary loan guarantee commitments, $9,300,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1986:
(A) New budget authority, $18,750,000,000.
(B) Outlays, $16,000,000,000.
(C) New direct loan obligations, $11,800,000,000.
(D) New primary loan guarantee commitments, $10,000,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1987:
(A) New budget authority, $19,500,000,000.
(B) Outlays, $16,000,000,000.
(C) New direct loan obligations, $12,800,000,000.
(D) New primary loan guarantee commitments, $10,400,000,000.
(E) New secondary loan guarantee commitments, $0.

(3) General Science, Space, and Technology (250):
Fiscal year 1984:
(A) New budget authority, $8,550,000,000.
(B) Outlays, $8,300,000,000.
(C) New direct loan obligations, $150,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1985:
(A) New budget authority, $8,750,000,000.
(B) Outlays, $8,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1986:
(A) New budget authority, $8,800,000,000.
(B) Outlays, $8,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1987:
(A) New budget authority, $8,950,000,000.
(B) Outlays, $8,850,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

(4) Energy (270):
Fiscal year 1984:
(A) New budget authority, $1,100,000,000.
(B) Outlays, $2,450,000,000.
(C) New direct loan obligations, $4,700,000,000.
(D) New primary loan guarantee commitments, $500,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1985:
(A) New budget authority, $4,200,000,000.
(B) Outlays, $4,050,000,000.
(C) New direct loan obligations, $4,700,000,000.
(D) New primary loan guarantee commitments, $100,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1986:
(A) New budget authority, $4,000,000,000.
(B) Outlays, $4,050,000,000.
(C) New direct loan obligations, $4,800,000,000.
(D) New primary loan guarantee commitments, $50,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1987:
(A) New budget authority, $4,000,000,000.
(B) Outlays, $3,850,000,000.
(C) New direct loan obligations, $5,000,000,000.
(D) New primary loan guarantee commitments, $100,000,000.
(E) New secondary loan guarantee commitments, $0.

(5) Natural Resources and Environment (300):
Fiscal year 1984:
(A) New budget authority, $12,250,000,000.
(B) Outlays, $12,300,000,000.
(C) New direct loan obligations, $50,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1985:
(A) New budget authority, $11,850,000,000.
(B) Outlays, $12,000,000,000.
(C) New direct loan obligations, $50,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1986:
(A) New budget authority, $12,100,000,000.
(B) Outlays, $12,050,000,000.
(C) New direct loan obligations, $50,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1987:
(A) New budget authority, $12,350,000,000.
(B) Outlays, $11,950,000,000.
(C) New direct loan obligations, $50,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

(6) Agriculture (350):
Fiscal year 1984:
(A) New budget authority, $5,100,000,000.
(B) Outlays, $11,800,000,000.
(C) New direct loan obligations, $11,450,000,000.
(D) New primary loan guarantee commitments, $5,100,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1985:
(A) New budget authority, $17,100,000,000.
(B) Outlays, $16,400,000,000.
(C) New direct loan obligations, $13,500,000,000.
(D) New primary loan guarantee commitments, $4,200,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1986:
(A) New budget authority, $14,750,000,000.
(B) Outlays, $16,500,000,000.
(C) New direct loan obligations, $14,000,000,000.
(D) New primary loan guarantee commitments, $3,200,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1987:
(A) New budget authority, $14,100,000,000.
(B) Outlays, $15,850,000,000.
(C) New direct loan obligations, $14,500,000,000.
(D) New primary loan guarantee commitments, $3,200,000,000.

(E) New secondary loan guarantee commitments, $0.
(7) Commerce and Housing Credit (370):
Fiscal year 1984:
(A) New budget authority, $5,500,000,000.
(B) Outlays, $4,400,000,000.
(C) New direct loan obligations, $6,150,000,000.
(D) New primary loan guarantee commitments, $50,000,000,000.
(E) New secondary loan guarantee commitments, $68,250,000,000.
Fiscal year 1985:
(A) New budget authority, $6,450,000,000.
(B) Outlays, $2,000,000,000.
(C) New direct loan obligations, $6,350,000,000.
(D) New primary loan guarantee commitments, $52,250,000,000.
(E) New secondary loan guarantee commitments, $68,250,000,000.
Fiscal year 1986:
(A) New budget authority, $6,300,000,000.
(B) Outlays, $2,200,000,000.
(C) New direct loan obligations, $6,450,000,000.
(D) New primary loan guarantee commitments, $54,700,000,000.
(E) New secondary loan guarantee commitments, $69,950,000,000.
Fiscal year 1987:
(A) New budget authority, $7,700,000,000.
(B) Outlays, $3,400,000,000.
(C) New direct loan obligations, $6,650,000,000.
(D) New primary loan guarantee commitments, $56,900,000,000.
(E) New secondary loan guarantee commitments, $71,700,000,000.
(8) Transportation (400):
Fiscal year 1984:
(A) New budget authority, $29,550,000,000.
(B) Outlays, $24,900,000,000.
(C) New direct loan obligations, $1,150,000,000.
(D) New primary loan guarantee commitments, $450,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1985:
(A) New budget authority, $30,050,000,000.
(B) Outlays, $27,100,000,000.
(C) New direct loan obligations, $50,000,000.
(D) New primary loan guarantee commitments, $450,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1986:
(A) New budget authority, $30,100,000,000.
(B) Outlays, $28,550,000,000.
(C) New direct loan obligations, $50,000,000.
(D) New primary loan guarantee commitments, $500,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1987:
(A) New budget authority, $31,150,000,000.
(B) Outlays, $30,050,000,000.
(C) New direct loan obligations, $50,000,000.
(D) New primary loan guarantee commitments, $500,000,000.
(E) New secondary loan guarantee commitments, $0.
(9) Community and Regional Development (450):
Fiscal year 1984:
(A) New budget authority, $7,250,000,000.
(B) Outlays, $7,250,000,000.
(C) New direct loan obligations, $1,400,000,000.
(D) New primary loan guarantee commitments, $350,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1985:
(A) New budget authority, $6,900,000,000.
(B) Outlays, $8,200,000,000.
(C) New direct loan obligations, $1,500,000,000.
(D) New primary loan guarantee commitments, $300,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1986:
(A) New budget authority, $7,500,000,000.
(B) Outlays, $8,050,000,000.
(C) New direct loan obligations, $1,400,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1987:
(A) New budget authority, $7,800,000,000.
(B) Outlays, $8,150,000,000.
(C) New direct loan obligations, $1,400,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
(E) New secondary loan guarantee commitments, $0.
(10) Education, Training, Employment, and Social Services (500):
Fiscal year 1984:
(A) New budget authority, $31,600,000,000.
(B) Outlays, $28,000,000,000.
(C) New direct loan obligations, $800,000,000.
(D) New primary loan guarantee commitments, $7,400,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1985:
(A) New budget authority, $30,800,000,000.
(B) Outlays, $29,900,000,000.
(C) New direct loan obligations, $800,000,000.
(D) New primary loan guarantee commitments, $7,800,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1986:
(A) New budget authority, $30,700,000,000.
(B) Outlays, $30,600,000,000.
(C) New direct loan obligations, $900,000,000.
(D) New primary loan guarantee commitments, $8,000,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1987:
(A) New budget authority, $32,100,000,000.
(B) Outlays, $31,100,000,000.
(C) New direct loan obligations, $900,000,000.
(D) New primary loan guarantee commitments, $8,200,000,000.
(E) New secondary loan guarantee commitments, $0.
(11) Health (550):
Fiscal year 1984:
(A) New budget authority, $31,700,000,000.
(B) Outlays, $30,750,000,000.
(C) New direct loan obligations, $50,000,000.
(D) New primary loan guarantee commitments, $200,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1985:
(A) New budget authority, $33,150,000,000.
(B) Outlays, $34,150,000,000.
(C) New direct loan obligations, $50,000,000.
(D) New primary loan guarantee commitments, $200,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1986:
(A) New budget authority, $36,350,000,000.
(B) Outlays, $36,150,000,000.
(C) New direct loan obligations, $50,000,000.
(D) New primary loan guarantee commitments, $200,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1987:
(A) New budget authority, $39,300,000,000.
(B) Outlays, $38,800,000,000.
(C) New direct loan obligations, $50,000,000.
(D) New primary loan guarantee commitments, $200,000,000.
(E) New secondary loan guarantee commitments, $0.
(12) Medical Insurance (570):
Fiscal year 1984:
(A) New budget authority, $62,800,000,000.
(B) Outlays, $58,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1985:
(A) New budget authority, $70,300,000,000.
(B) Outlays, $65,350,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1986:
(A) New budget authority, $81,900,000,000.
(B) Outlays, $72,650,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1987:
(A) New budget authority, $96,600,000,000.
(B) Outlays, $81,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(13) Income Security (600):
Fiscal year 1984:
(A) New budget authority, $121,800,000,000.
(B) Outlays, $95,900,000,000.
(C) New direct loan obligations, $1,000,000,000.
(D) New primary loan guarantee commitments, $14,700,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1985:
(A) New budget authority, $143,600,000,000.
(B) Outlays, $111,700,000,000.
(C) New direct loan obligations, $50,000,000.
(D) New primary loan guarantee commitments, $14,700,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1986:
(A) New budget authority, $154,300,000,000.
(B) Outlays, $119,150,000,000.
(C) New direct loan obligations, $50,000,000.
(D) New primary loan guarantee commitments, $14,700,000,000.
(E) New secondary loan guarantee commitments, $0.

Fiscal year 1987:
(A) New budget authority, $161,300,000,000.
(B) Outlays, $124,450,000,000.
(C) New direct loan obligations, $50,000,000.
(D) New primary loan guarantee commitments, $14,700,000,000.
(E) New secondary loan guarantee commitments, $0.
(14) Social Security (650):
Fiscal year 1984:
(A) New budget authority, $175,650,000,000.
(B) Outlays, $178,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1985:
(A) New budget authority, $199,450,000,000.
(B) Outlays, $188,750,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1986:
(A) New budget authority, $213,750,000,000.
(B) Outlays, $200,850,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1987:
(A) New budget authority, $227,050,000,000.
(B) Outlays, $215,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(15) Veterans Benefits and Services (700):
Fiscal year 1984:
(A) New budget authority, $26,350,000,000.
(B) Outlays, $25,900,000,000.
(C) New direct loan obligations, $1,350,000,000.
(D) New primary loan guarantee commitments, $18,650,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1985:
(A) New budget authority, $26,850,000,000.
(B) Outlays, $26,350,000,000.
(C) New direct loan obligations, $1,300,000,000.
(D) New primary loan guarantee commitments, $22,800,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1986:
(A) New budget authority, $27,150,000,000.
(B) Outlays, $26,750,000,000.
(C) New direct loan obligations, $1,100,000,000.
(D) New primary loan guarantee commitments, $25,400,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1987:
(A) New budget authority, $27,600,000,000.
(B) Outlays, $26,950,000,000.
(C) New direct loan obligations, $900,000,000.
(D) New primary loan guarantee commitments, $28,700,000,000.
(E) New secondary loan guarantee commitments, $0.
(16) Administration of Justice (750):
Fiscal year 1984:
(A) New budget authority, $6,000,000,000.
(B) Outlays, $5,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1985:
(A) New budget authority, $6,150,000,000.
(B) Outlays, $6,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1986:
(A) New budget authority, $6,250,000,000.
(B) Outlays, $6,150,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1987:
(A) New budget authority, $6,350,000,000.
(B) Outlays, $6,350,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(17) General Government (800):
Fiscal year 1984:
(A) New budget authority, $5,100,000,000.
(B) Outlays, $5,050,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1985:
(A) New budget authority, $5,700,000,000.
(B) Outlays, $5,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1986:
(A) New budget authority, $5,800,000,000.
(B) Outlays, $5,650,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1987:
(A) New budget authority, $5,900,000,000.
(B) Outlays, $5,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(18) General Purpose Fiscal Assistance (850):
Fiscal year 1984:
(A) New budget authority, $6,800,000,000.
(B) Outlays, $6,800,000,000.
(C) New direct loan obligations, $250,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1985:
(A) New budget authority, $6,450,000,000.
(B) Outlays, $6,450,000,000.
(C) New direct loan obligations, $250,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1986:
(A) New budget authority, $6,450,000,000.
(B) Outlays, $6,450,000,000.
(C) New direct loan obligations, $250,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1987:
(A) New budget authority, $6,800,000,000.
(B) Outlays, $6,750,000,000.
(C) New direct loan obligations, $250,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(19) Net Interest (900):
Fiscal year 1984:
(A) New budget authority, $111,100,000,000.
(B) Outlays, $111,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1985:
(A) New budget authority, $133,800,000,000.
(B) Outlays, $133,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1986:
(A) New budget authority, $149,750,000,000.
(B) Outlays, $149,750,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1987:
(A) New budget authority, $167,950,000,000.
(B) Outlays, $167,950,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(20) Allowances (920):
Fiscal year 1984:
(A) New budget authority, $500,000,000.
(B) Outlays, $550,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1985:
(A) New budget authority, −$750,000,000.
(B) Outlays, −$700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1986:
(A) New budget authority, $1,850,000,000.
(B) Outlays, $2,050,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1987:
(A) New budget authority, $3,150,000,000.

(B) Outlays, $3,350,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(21) Undistributed Offsetting Receipts (950):
Fiscal year 1984:
(A) New budget authority, −$15,950,000,000.
(B) Outlays, −$15,950,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1985:
(A) New budget authority, −$33,150,000,000.
(B) Outlays, −$33,150,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1986:
(A) New budget authority, −$37,450,000,000.
(B) Outlays, −$37,450,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1987:
(A) New budget authority, −$39,200,000,000.
(B) Outlays, −$39,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

GENERAL PROVISIONS

SEC. 2. (a) For fiscal years 1985, 1986, and 1987, any revenues raised by legislation enacted on or after March 15, 1984, shall only be used to reduce the Federal budget deficits for such fiscal years except to the extent that such legislation earmarks all or any part of such revenues for specific spending programs.

(b) For fiscal years 1985, 1986, and 1987, increased funding would be appropriate if authorizations are enacted for education programs, environmental protection, health research activities, and such specific low-income programs as employment initiatives for disadvantaged youth, public works jobs for community renewal, increased funding for aid to families with dependent children and the State component of the Supplemental Security Income Program in order to ensure that the purchasing power of recipients is maintained, increased funding for title XX of the Social Security Act, and an increase in the earned income tax credit, pursuant to subsection (a) above, if sufficient outlay reductions or new revenues are also enacted to ensure that the legislation is deficit neutral.

ADMINISTRATIVE SAVINGS

SEC. 3. It is the sense of the Congress that the executive branch shall achieve as much of the $153.2 billion in savings as is feasible, but in no case less than $2.0 billion over fiscal years 1985 through 1987 which have been recommended by the President's private sector survey on cost control and which can be achieved through administrative action within that branch of Government. It is further the sense of the Congress that the President should report to Congress each year, in conjunction with the annual budget submission, on the progress made in achieving the savings required by this section, and that the budget submission for fiscal year 1986 should contain information regarding such administrative savings as have already been achieved.

AUTOMATIC SECOND BUDGET RESOLUTION

SEC. 4. (a) Effective October 1, 1984, this concurrent resolution shall be deemed to be the concurrent resolution on the budget for fiscal year 1985 required to be reported under section 310(a) of the Congressional Budget Act of 1974, for the purposes of the prohibitions contained in section 311 of such Act.

(b) Section 311(a) of the Congressional Budget Act of 1974, as made applicable by subsection (a) of this section, shall not apply to bills, resolutions, or amendments within the jurisdiction of a committee, or any conference report on any such bill or resolution, if—

(1) the enactment of such bill or resolution as reported;

(2) the adoption and enactment of such amendment; or

(3) the enactment of such bill or resolution in the form recommended in such conference report;

would not cause the appropriate allocation for such committee of new discretionary budget authority or new spending authority as described in section 401(c)(2)(C) of the Congressional Budget Act of 1974 made pursuant to section 302(a) of such Act for fiscal year 1985 to be exceeded.

(c) The provisions of this section shall cease to apply when Congress completes action on a subsequent concurrent resolution on the budget for fiscal year 1985 pursuant to section 304 or 310 of the Congressional Budget Act of 1974.

SECTION 302(b) FILING REQUIREMENT

SEC. 5. (a) It shall not be in order in the House of Representatives to consider any bill or resolution, or amendment thereto, providing—

(1) new budget authority for fiscal year 1985;

(2) new spending authority described in section 401(c)(2)(C) of the Congressional Budget Act first effective in fiscal year 1985; or

(3) direct loan authority, primary loan guarantee authority, or secondary loan guarantee authority for fiscal year 1985;

within the jurisdiction of any committee which has received an allocation pursuant to section 302(a) of the Congressional Budget Act of discretionary budget authority or new spending authority, as described above, for such fiscal year, unless and until such committee makes the allocation or subdivisions required by section 302(b) of the Congressional Budget Act, in connection with the most recently agreed to concurrent resolution on the budget.

(b) The prohibition contained in subsection (a) shall not apply until twenty-one days of continuous session, as defined in section 1011(5) of the Impoundment Control Act of 1974, after Congress completes action on this concurrent resolution.

Mr. JONES of Oklahoma (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

MOTION OFFERED BY MR. JONES OF OKLAHOMA

Mr. JONES of Oklahoma. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Motion offered by Mr. JONES of Oklahoma: Mr. JONES of Oklahoma moves that the House concur in the Senate amendment.

The SPEAKER pro tempore. The gentleman from Oklahoma [Mr. JONES] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. LATTA] will be recognized for 30 minutes.

The chair recognizes the gentleman from Oklahoma [Mr. JONES].

Mr. JONES of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, just a few brief words about this conference report.

Mr. Speaker, the House now is considering the fiscal 1985 budget resolution conference report and I urge its adoption.

This conference report reflects the defense spending agreement reached by Speaker O'NEILL and Senate Majority Leader HOWARD BAKER and ratified by the White House.

This report encompasses a deficit reduction package of $148.6 billion. This resolution results in deficits $65 billion lower than the budget submitted by President Reagan in January. Of that $65 billion, $50 billion is the result of lower spending.

It contains domestic spending reductions over 3 years of $19 billion while protecting programs vital to the poor and helpless. It contains Grace Commission savings.

The other body approved this resolution by voice vote last Thursday and passage by the House will complete Congress' work on the budget for this session. For the House, passage of the budget also will fulfill our requirement for raising the debt ceiling. Failure to complete the budget, of course, would require the House to act separately on a debt ceiling increase.

Mr. Speaker, it is the responsibility of the House to complete a budget prior to adjournment. It would be the height of irresponsibility not to do so. The major revenue proposal in this budget has been signed into law by the President. The defense level bears the President's approval and the Speaker's approval. This budget resolution reflects the cumulative actions of this Congress in the past year.

The House this year has played the leading role on the budget and on deficit reduction. We should maintain that tradition of responsibility.

The only responsible course is to now approve House Concurrent Resolution 280.

Mr. Speaker, let me also review briefly the history of this year's budget. Last January, President Reagan sent up a budget with deficits

so large that it was immediately rejected by both parties in both Houses. That budget, in fact, when voted on by the House received one vote.

At that time, the common wisdom was that little could be done in an election year. We could not attack deficits.

The House Budget Committee did not believe that conventional wisdom. We believed that the Congress could and would reduce deficits. It was the success of the Budget Committee in moving toward that goal which forced the other body and the White House to create its own deficit reduction plan—the so-called rose garden budget.

The Budget Committee reported its budget resolution on March 31 and that plan cut 3-year deficits by $182 billion. Floor consideration began on April 4, and after defeating seven alternative proposals, the House passed the committee resolution on April 5.

We then began to wait for the other body to act. And wait we did. Finally, on May 18, the other body approved its version. That was 3 days after the legislative deadline for final action by the entire Congress.

But even then, the other body sought every excuse to avoid conference on the budget and to evade the hard choices necessary to reach a compromise.

Because of these delays, it was necessary for the House to move appropriations bills prior to final action on the budget. While regrettable, this was essential due to the other body's refusal to move ahead. Waivers to the Budget Act were granted to allow the appropriations bills to proceed so long as the bills were within the House-passed resolution.

In any case, the other body moved from excuse to excuse to avoid reaching a budget conference agreement. At one time, it was a scheduled recess. At another time, the issue were the so-called Caps, which suddenly vanished as an issue one day, never to reappear. At another time, action on the Defense authorization in the other body was the excuse. Then it was the Defense authorization conference report.

The logic of these delays was beyond this Member's comprehension. But the cause—as best the Budget Committee chairman could determine—was that the White House would not allow the other body to agree to the 5-percent compromise on defense which practically every Member of the Congress knew was inevitable.

So the other body maintained the deadlock despite the House's compromise offer.

Finally, with a light apparently dawning in the administration that it would get less than 5 percent for defense under a continuing resolution without an agreement, and with the Senator from Florida refusing to allow appropriations bills to be considered, the other body decided that leadership talks might be useful.

The Speaker and the Senate majority leader conducted such talks and on September 20 reached a defense agreement of $292.9 billion to which the White House was privy.

As a result of that agreement, the House and Senate budget conferees were able to quickly reach agreement on all other outstanding issues on September 25. The other body quickly ratified that agreement by voice vote on September 26.

The Congress has managed to maintain the budget process this year, but only barely.

The responsibility for the delays and waivers rests squarely with the decision of the leadership in the other body to place White House demands for unrealistic defense spending above the institutional well-being of the Congress and the economic need of the Nation for an overall fiscal plan—a budget.

This was a regrettable election year decision that one would hope will not be repeated.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I supported the President's compromise with Senate GOP leaders on a deficit reduction package earlier this year, and I still support that balanced approach to deficit reduction. This conference report does not ratify a balanced approach to deficit reduction. It exceeds the rose garden targets on defense savings and tax increases, but falls far short on restraining domestic spending, which accounts for 60 percent of the entire budget. I also cannot support this conference agreement because it ratifies year to year increases in the deficit through fiscal year 1987. Let me point out that these high deficits are once again being supported by the Democratic majority of this House.

The President's compromise with the Senate called for 3-year outlay savings of $40.2 billion in defense and $43.2 billion in domestic spending, along with $48 billion in tax reform increases. As it evolved in the Senate, it also called for an important procedural enforcement that would prevent the annual exercise of taking money out of the defense budget for use in domestic appropriations accounts. By stipulating two appropriations caps, one for defense and one for nondefense appropriations, it gave added teeth to a weakened budget process. The House was absolutely intransigent in even considering these caps at reasonable levels for the two sets of figures, and as a direct result the budget process came to a halt.

Deficit reductions were passed in three separate bills, with defense savings and some nondefense discretionary savings now implied by the levels of funding in the continuing resolution on appropriations. In toto, they exceed the rose garden agreement by $18 billion in defense, and by $3 billion in taxes. But they fall short by $19 billion in domestic spending reductions by comparison with our earlier agreement. If we have supplemental appropriations next year they will fall short even further.

Excluding the interest savings from these deficit reductions, which are passive in nature, hard to predict, and in any event are not direct policy actions we have voted to take to reduce the deficit, we have made a downpayment on the deficit this year of about $140 billion, measured against CBO baseline deficits of $589 billion.

The deficits in this conference agreement today rise year by year. They do not fall. Let me read them to you:

[Deficit in billions of dollars]

Fiscal year:	
1984	173
1985	181
1986	193
1987	208

When all is said and done, are those figures going to inspire confidence that we are able to manage our fiscal affairs in this Congress? I think not.

As the Wall Street Journal reported last Thursday, "either this budget process is dead, or my watch has stopped." In the 97th Congress, House Republicans along with Southern Democrats were able to pass back to back budget resolutions that had teeth in them. In toto we used reconciliation to cut spending by $159 billion below baseline from fiscal year 1982 to fiscal year 1985, in accordance with those two resolutions. These Republican efforts brought support from many conservative Democrats.

In this 98th Congress, with back to back partisan budget resolutions in the House written in the Democratic caucus, how much have we cut spending? Last year's and this year's reconciliation efforts as passed by the House saved a whopping $19 billion over the comparable 4 year span encompassed by two budget resolutions.

In sum, the House Democrat leadership in this 98th Congress has presided over the decline of its very own budget process, a process used successfully by House Republicans in 1981 and 1982 when bipartisanship prevailed in this Chamber. I have noticed that the activity in the House Budget Committee has markedly declined in this Congress. Why bother to have this committee, and all its attendant expenses, if it only exists to rubber stamp a budget written in the Democratic caucus? The caucus blueprint was so vague this year that we could not mark up the budget in the traditional fashion. And there were no detailed computer runs of programmatic

activity, as in the past, available for staff to compare the House position with the Senate position and the President's budget. The machinery broke down here in the House. Unlike the Senate we passed a blanket waiver of section 303.a. of the Budget Act, and allowed any and all appropriations bills reported out of committee to come to the floor. The majority was unwilling or unable—it has never been made clear which—to provide us with data to see if those appropriations bills conformed to the House passed budget resolution. So we lost the ability to discipline ourselves in our day-to-day and week-to-week behavior here on the House floor. Bills were not reported to the House floor under any set budgetary aggregates. In effect we reverted back to the days before the 1974 Budget Act was passed.

That is the background leading up to today, October 1, the start of the 1985 fiscal year. We are today voting on the first and second budget resolution for fiscal year 1985, tasks we were supposed to complete by May 15 and September 15, respectively. With the sole exception of the conference report on the continuing resolution on appropriations for fiscal year 1985, virtually all the individual committee actions implied by it have already taken place. All we are doing is passively adding up what all the other committees of the House have done and have not restrained their appetites. This has been a budget process in reverse.

The aggregate level of outlays in this conference agreement exceeds that in both the House passed and Senate passed versions of the first budget resolution, which were passed earlier this year without my support. Let me insert them for the record:

TOTAL OUTLAYS, CONFERENCE AGREEMENT ON FISCAL YEAR 1985, FIRST BUDGET RESOLUTION

[In billions of dollars]

	Fiscal year—		
	1985	1986	1987
House passed	918	985	1,068
Senate passed	926	998	1,086
Conference agreement	932	1,004	1,089

Escalating interest costs on our debt are the main reason for this most peculiar result—a conference agreement outside the scope of the Senate or House aggregates. Between the time these budget resolutions passed their respective bodies, and now, estimated interest costs over the 3 year life of this budget resolution have increased by about $30 billion, even after our downpayment on the deficit.

That is an increase greater than the entire domestic spending restraint passed in three bills by Congress this year. It is greater than the entire entitlement restraint of $29 billion called for in the rose garden compromise—savings from the Senate Finance Committee's entitlement restraints, a small agriculture price support bill which saved money, and the modest Grace Commission savings of $3 billion, only $2 billion of which were enacted.

The way in which official Washington has dismissed the Grace Commission findings is symptomatic of the problem, for which these escalating interest costs are the direct result. CBO and GAO costed out $98 billion of 3 year savings from just the major Grace Commission findings. There were thousands of proposals they did not have time or resources to study, smaller ideas which nonetheless aggregated to over $40 billion according to the Grace Commission. The budget resolution in this election year incorporated only $2 to $3 billion of these ideas. Surely we could have done better.

You know and I know that we cannot continue to ignore these growing deficits forever, as we have in the past 3 years. The interest costs will simply foreclose that possibility and require definitive action sooner or later. We will not successfully confront this problem if we continue to nibble away at the important tax incentives passed in 1981 or blame the deficit on defnese procurement practices as the Democrats have tried to do since last fall. If we are to break this 3 year logjam on the deficit, long-term domestic spending restraint is going to have to be an equal partner in the deficit reduction effort. When the House Democrat leadership is willing to recognize that, we will put these deficits on a downward path instead of the upward path contained in this conference report.

I oppose the passage of this conference report.

CONFERENCE SUBSTITUTE, FIRST BUDGET RESOLUTION, FISCAL YEAR 1985

[In billions of dollars]

	Fiscal year 1984		Fiscal year 1985		Fiscal year 1986		Fiscal year 1987	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
FUNCTION								
050–National defense	264.15	230.40	292.90	262.90	324.70	288.70	359.80	321.30
150–International affairs	22.00	12.30	20.80	16.50	18.75	16.00	19.50	16.00
250–General science, space, and technology	8.55	8.30	8.75	8.60	8.80	8.70	8.95	8.85
270–Energy	1.10	2.45	4.20	4.05	4.00	4.05	4.00	3.85
300–Natural resources and environment	12.25	12.30	11.85	12.00	12.10	12.05	12.35	11.95
350–Agriculture	5.10	11.80	17.10	16.40	14.75	16.50	14.10	15.85
370–Commerce and housing credit	5.50	4.40	6.45	2.00	6.30	2.20	7.70	3.40
400–Transportation	29.55	24.90	30.05	27.10	30.10	28.55	31.15	30.05
450–Community and regional development	7.25	7.25	6.90	8.20	7.50	8.05	7.80	8.15
500–Education, training, employment, and social services	31.60	28.00	30.80	29.90	30.70	30.60	32.10	31.10
550–Health	31.70	30.75	33.15	34.15	36.35	36.15	39.30	38.80
570–Medical insurance	62.80	58.60	70.30	65.35	81.90	72.65	96.60	81.60
600–Income security	121.80	95.90	143.60	111.70	154.30	119.15	161.30	124.45
650–Social security	175.65	178.90	199.45	188.75	213.75	200.85	227.05	215.30
700–Veterans benefits and services	26.35	25.90	26.85	26.35	27.15	26.75	27.60	26.95
750–Administration of justice	6.00	5.90	6.15	6.10	6.25	6.15	6.35	6.35
800–General government	5.10	5.05	5.70	5.60	5.80	5.65	5.90	5.80
850–General purpose fiscal assistance	6.80	6.80	6.45	6.45	6.45	6.45	6.80	6.75
900–Net interest	111.10	111.10	133.80	133.80	149.75	149.75	167.95	167.95
920–Allowances	.50	.55	−.75	−.70	1.85	2.05	3.15	3.35
950–Undistributed offsetting receipts	−15.95	−15.95	−33.15	−33.15	−37.45	−37.45	−39.20	−39.20
Total spending	918.90	845.60	1,021.35	932.05	1,103.80	1,003.55	1,200.25	1,088.60
Revenues		672.90		750.90		810.80		881.00
Deficit		172.70		181.15		192.75		207.60
Debt subject to limit		1,575.70		1,823.80		2,090.00		2,377.60
Changes in revenues		0		−.30		−.10		−.10
Changes in public debt limit		2.70		248.10		266.20		287.60

□ 1610

Mr. Speaker, I yield 6 minutes to the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, at the outset let me say that I intend to vote for this budget resolution. I see no other choice.

I know that a good many Members on my side will not vote for this resolution. I don't blame them, and I won't attempt to dissuade them.

It is my personal belief that we must enact the legislation and complete the budget cycle as far as it goes so that we may get over a few of the high hurdles left in front of us, especially the debt ceiling.

I know that some feel it imperative to cast another vote against increasing the debt ceiling, but unless we are willing to shoulder the blame for shutting the Government down, we will have to eventually pass something.

I've registered your protests on appropriation bills, on amendments to appropriation bills, on authorizations and amendments to them, and I believe we have made our case against the excesses of this House.

We have protested the denial of opportunities to bring cost-cutting measures to this floor and the cavalier manner in which the rules and procedures have been shortcircuited to deny us those opportunities.

We protested when our brethren on the other side of the aisle refused to join us in negotiations on deficit reduction and snubbed their nose at the rose garden agreement which brought us the only organized effort at deficit reduction we've had this year.

The Democratic leadership has dealt with the deficit in only one way, laying the blame for it at someone else's doorstep.

I found it curious that after Mr. Mondale unveiled his deficit package, not one of his supporters in the House or the other body lifted a finger to get it passed.

When it comes to substance, all we get is more rhetoric.

That isn't deficit reduction. It is deficit deceit.

Therein lies the problem with the Democratic leadership. Every fall before every election they talk big about deficit reduction.

Every spring after every election, the job is left to a handful of Democrats and those on our Republican side to do something meaningful to get the job done.

This budget resolution is just another in a long line of the failures of this House to meet its responsibilities to set fiscal policy.

The trail of the 1974 Budget Act is a trail littered with abuse and default.

We have violated the rules, violated the law, misconstrued the intent, mauled and multilated every opportunity we've had to show the Nation we can budget Federal resources responsibly.

You can't in good conscience blame the President for our failure.

The purpose of the Budget Act, as written and passed by a Democratic controlled House 10 years ago was to:

Restore responsibility for the spending policy of the United States to the Legislative Branch because at stake is the Constitutional role of Congress as the guardian of the Treasury.

Those eloquent words have a hollow ring in this House.

I have said before, that I'm becoming more and more convinced that our congressional budget process ought to be abolished.

This resolution, coming to us on the first day of the new fiscal year, with no teeth in it, with no relevance to fiscal policy, with no credibility is all the motivation I need to say: "No more."

It is time to reform the budget process or abolish it.

I know that the Beilenson task force has been working on some proposals, but I fear these proposals won't be bipartisan unless the complexion of this House changes significantly after November 6. They will be spoon fed to us by the Democratic Caucus in the rules package next January.

If that happens, don't count on our votes to get you over the hump.

There are many on my side who are willing to work to improve the process.

We have called for budget reform many times, and it hasn't been just talk. We've offered proposals.

For those who want to give a greater share of the responsibility to the President, we called for the restoration of limited Presidential power to impound funds, and/or new authority to exercise a line-item veto.

For those who, like me, want to clean up the budget process here in Congress, we proposed major revisions in the procedures.

We have proposed putting teeth in the first budget resolution and strengthening the reconciliation process. We have proposed different timetable and streamlined procedures.

Last spring we proposed the creation of a Joint Budget Committee that would speed passage of a budget resolution and eliminate much of the jockeying between the House and the other body.

Thus far these proposals have fallen on deaf ears.

They are not the entire answer, nor are they the only answer.

But they deserve a fair hearing and they haven't gotten one.

Our budget process is a great disappointment to me, and quite frankly hasn't helped us one bit to reduce Federal expenditures or put our own financial House in order. To be quite blunt, its been a failure.

We ought not perpetuate this charade any longer.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, this budget proposal was last considered by our House I think in March and went over to the other body, and I am informed was hung up on a provision relating to the level of defense spending. The compromise figure, I am told, is $292 billion in this budget proposal that is before us.

When this vehicle left our House in March it proposed a level of spending of $918 billion, and now in the conference agreement the $918 billion has grown to $932 billion, an increase of $14 billion.

The Senate version originally called for $926 billion.

So the version that actually resulted out of conference is higher than what passed in the House or the other body. There must have been some pork added in the conference committee.

The deficit that is projected for 1985, the fiscal year that begins today, is $181 billion.

If that is the best we can do, so be it. But in March when we considered this issue, this Member from California offered an alternative budget proposal that over 3 years would have implemented $200 billion of recommended savings from the Grace Commission, and we had 51 votes at that time.

□ 1620

I believe that that number should grow, the closer we get to the November election, because if there is one thing that polls tell us around this country it is that people want less spending, not more. People of this country want a reduction of this deficit, not the expansion of it.

So, I think, Mr. Speaker, the responsible thing for us to do is to strive to do better than what this conference report contains. I think we can do that.

We get paid by the year, we do not get paid by the hour. If that means staying here beyond this Friday, so be it. But I happen to believe we could do a lot better in different ways; a percentage reduction in certain areas of spending could be accommodated so that the perception would be that the pain is being shared equitably.

But to suggest to the people of this country that this is the best we can do I think is a mistake and an erroneous impression.

Mr. Speaker, I therefore would ask we reject this conference report.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. PAUL].

Mr. PAUL. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I was wondering if I could get the attention of the gentleman from Oklahoma, the chairman of the Committee on the Budget, Mr. JONES, in order to ask a question: I notice that next year's projected deficit is $181 billion approximately, or slightly more than that. Yet in fiscal year 1985 the request for the debt limit increase is $248 billion.

Are those the figures that the gentleman from Oklahoma is familiar with?

Mr. JONES of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. PAUL. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. I thank the gentleman for yielding.

Mr. Speaker, I think the gentleman [Mr. PAUL] is correct. But I do not have the precise figures at hand.

Mr. PAUL. I am reading this from the bill and I think these figures are basically correct.

It shows we are asking for a $67 billion more increase in the debt limit than in the projected deficit.

Mr. JONES of Oklahoma. If the gentleman will yield further, this comes from the administration. This is the Treasury's method of refinancing its present debt in addition to its new debt that would be created by the deficit in the next fiscal year.

Mr. PAUL. OK. But we really do not need to increase the national debt more than what the debt limit is unless there is some off-budget items, which I am sure there are, maybe $15 billion or $20 billion, but it still would not account for the $67 billion.

So it seems to me like somebody is anticipating a huge, whopping deficit because they are asking the American people to be tied down with an additional debt increase of $248 billion for the next fiscal year. It seems like an outrageous amount of money.

Mr. JONES of Oklahoma. The gentleman may want to take this up with Secretary Regan and the officials at the Department of the Treasury who have to manage the debt.

I would certainly agree that we need to reduce that. But what we are doing here is not a policy decision. This is merely a money management decision that the Department of the Treasury and the administration asked for.

Mr. PAUL. I thank the gentleman.

Mr. Speaker, I think the point I would like to make is when we make these projected deficits in 1 year of $170 billion or $180 billion and all of a sudden find out that the debt, the national debt is being increased by a huge, whopping amount more, I think the American people ought to be made aware of it. This debt limit increase of $248 billion at one time breaks all records and is a sign of the times. Eventually the euphoria prevailing today will be replaced by the reality and the consequence of the remaining deficit spending in which we are engaging. And time is running short.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GRAY], a member of the committee.

Mr. GRAY. Mr. Speaker, today, the House has before it the conference agreement on the first concurrent resolution on the budget (H. Con. Res. 280). This agreement is the culmination of months of work by my colleagues on the Budget Committee and represents our commitment to preserve the integrity of budget process, which was established by the Congress.

There were many during the past 4 months, on both sides of the aisle, who believed that the budget process, which has been strained over the past 3 years, would break down completely under the weight of philosophical differences over the size of the defense budget. The fact that we have this conference report here before us today is a testament to our willingness to compromise to achieve our legislative goals.

During our committee's deliberations on the spending targets contained in the budget resolution, my colleagues and I determined that it was vitally important that we take action to reverse the severe reductions in domestic program funding the Reagan administration has effected during its term in office.

We decided that this year we would reject the regressive Reagan economic policies and restore some of the cuts in essential domestic programs. We particularly targeted those programs which assist the most socio-economically disadvantaged of our citizens.

In the wake of still burgeoning Federal deficits, there were some sacrifices necessary. Toward the goal of effecting some measure of deficit reduction, the Conference agreement reduces domestic spending. But only by $500 million more over 3 years than the House-passed resolution.

Even more importantly, we did not break faith in our commitment to restore some of the funding to low-income programs. The conference agreement provides nearly the same level of funding authority for domestic discretionary spending as the resolution which we passed in this House in April.

I will say to my colleagues that neither the level of the defense spending nor the amount of deficit reduction which this conference agreement effects satisfies me completely. However, I am going to support this agreement because of my concern for the integrity of the budget process. I am also going to support this agreement because it does offer some measure of relief for those low-income domestic programs which have taken such punishment during the Reagan administration.

Mr. Speaker, for those reasons, I urge my colleagues to join me in supporting this conference agreement.

Mr. WEISS. Mr. Speaker, I rise in strong opposition to the conference report on House Concurrent Resolution 280, the budget resolution for fiscal year 1985.

In repeated actions on the budget this session, the House of Representatives has endorsed the view that moderating the policies of the current administration will return our Nation to the path of security and prosperity. The current resolution is no exception. It envisions a continuation of the Reagan administration's hostile and inhumane policies, but at a moderate pace. The message we seem to be sending is: everything will be all right, so long as we slow down.

But to insinuate that everything will be all right is to ignore the reality of our situation. It is Ronald Reagan who is engaged in a massive, unwarranted military buildup that every day inches us closer and closer to nuclear annihilation. It is Ronald Reagan who has slashed billions from vital domestic spending programs and thrust 8 million additional Americans into poverty. And it is Ronald Reagan whose inequitable tax policies continue to make the rich richer while ordinary Americans struggle to get by.

These are policies which we cannot afford. They are unfair, they spread misery, and they promote war. And to acquiesce to the continuation of these policies is to call into question our Nation's physical and economic well-being, now and in the future.

It is true that the House passed House Concurrent Resolution 280 by a substantial margin in April. But the conference report represents a significant departure from the previously passed resoultion. It incorporates the recent agreement on defense spending levels that provides for $7.2 billion more in defense budget authority for fiscal year 1985 than the House had previously called for. And it incorporates the entitlement cuts enacted in the Deficit Reduction Act of 1984, slashing $4.4 billion more from domestic spending over 3 years than the House resolution. Finally, the conference report adds $33.7 billion to the Federal deficit over 3 years as compared to the house resolution, primarily because of the additional defense spending it envisions.

Now is the time to pause and ask ourselves, do we really need a 5-percent increase in defense spending next year? Or will that increase threaten our survival and damage our economy?

Now is the time to pause and ask ourselves, do we really need further cuts in medicare? Or will those cuts endanger the health of elderly Americans and unfairly force them to shoulder the burden of a deficit that is not of their making?

Now is the time to pause and ask ourselves, do we want to add another $33.7 billion to the Federal debt? Or will this conference report undermine an already inadequate response to the deficit crisis that threatens to sabotage our economy for years to come?

Once and for all, do we want to continue the Reagan administration's cruel and inhumane policies? Or do we want a budget that raises the value of

fairness above that of greed and heartlessness on the national agenda?

Mr. Speaker, this budget resolution does not even stem the tide at a time when our action should be such as to turn the tide back. We must deal head on with the deficit crisis by rejecting the wasteful excess of continually increased military spending and the inequity of massive tax giveaways for the wealthy. And we must reject the shocking failure to target jobs, health care, education, and other human needs as our chief national priorities.

Only by turning back the policies of the Reagan administration will we be able to envision a secure and prosperous future for our children and our children's children. The budget resolution, which sets overall spending limits for the entire Federal Government, is the proper place to express our commitment to a fair tax policy, to a mature response to our national security needs, and to programs that meet human needs. But the conference report before us today does not express that commitment. Rather, it will continue to lend support to Ronald Reagan's reckless budget priorities that endanger the very future of our Nation. I urge my colleagues to join me in opposition to this conference report, which does not merit the approval of the House.

Mr. LATTA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. JONES of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would only remind my colleagues that this budget conference report has the bipartisan support of the other body. It has the support of the White House. It does, indeed, have a deficit reduction of $149 billion over the next 3 years and it does indeed put discipline on the Government over the next fiscal year.

For all these reasons I urge its adoption.

Mr. Speaker, I yield back the balance of my time.

Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma [Mr. JONES].

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 232, nays 162, not voting 38, as follows:

[Roll No. 425]

YEAS—232

Addabbo	Gonzalez	Nelson
Akaka	Gore	Nichols
Andrews (NC)	Gradison	Nowak
Andrews (TX)	Gray	O'Brien
Annunzio	Gregg	Oakar
Anthony	Hall (IN)	Oberstar
Aspin	Hamilton	Obey
Barnes	Hance	Olin
Bateman	Harrison	Ortiz
Bates	Hatcher	Ottinger
Beilenson	Hawkins	Owens
Bennett	Hightower	Panetta
Bereuter	Hillis	Patterson
Berman	Horton	Pepper
Bevill	Howard	Pickle
Biaggi	Hoyer	Porter
Boehlert	Huckaby	Price
Boggs	Hughes	Pritchard
Boland	Hutto	Quillen
Boner	Hyde	Rahall
Bonior	Jenkins	Rangel
Bonker	Johnson	Ratchford
Borski	Jones (NC)	Reid
Bosco	Jones (OK)	Richardson
Boucher	Jones (TN)	Ridge
Boxer	Kastenmeier	Rodino
Britt	Kazen	Roe
Brooks	Kennelly	Rogers
Brown (CA)	Kildee	Rose
Broyhill	Kleczka	Rostenkowski
Bryant	Kogovsek	Roukema
Burton (CA)	Kolter	Rowland
Byron	LaFalce	Roybal
Carper	Lantos	Russo
Chandler	Lehman (CA)	Sabo
Chappell	Lehman (FL)	Sawyer
Clarke	Leland	Schneider
Clay	Lent	Schulze
Clinger	Levin	Shannon
Coelho	Levine	Sisisky
Coleman (TX)	Lipinski	Skelton
Cooper	Livingston	Smith (FL)
Corcoran	Loeffler	Snowe
Coyne	Long (LA)	Solarz
Daschle	Lowery (CA)	Spratt
de la Garza	Lowry (WA)	St Germain
Derrick	Lujan	Staggers
Dickinson	Luken	Stangeland
Dicks	Lundine	Stenholm
Dingell	MacKay	Stokes
Dixon	Madigan	Stratton
Donnelly	Martin (NY)	Sundquist
Dowdy	Martinez	Swift
Downey	Matsui	Synar
Duncan	Mavroules	Thomas (GA)
Dwyer	Mazzoli	Torres
Dymally	McCloskey	Torricelli
Edgar	McCurdy	Towns
Edwards (AL)	McDade	Traxler
Edwards (CA)	McHugh	Udall
Erlenborn	McKernan	Valentine
Evans (IL)	McKinney	Vander Jagt
Fazio	McNulty	Watkins
Fish	Mica	Waxman
Flippo	Michel	Wheat
Florio	Mikulski	Whitehurst
Foglietta	Miller (CA)	Whitley
Foley	Mineta	Whitten
Ford (MI)	Minish	Williams (MT)
Ford (TN)	Mitchell	Williams (OH)
Fowler	Moakley	Wilson
Frenzel	Mollohan	Wise
Frost	Montgomery	Wolpe
Fuqua	Moody	Wright
Garcia	Morrison (WA)	Young (AK)
Gaydos	Mrazek	Young (MO)
Gejdenson	Murtha	
Gephardt	Natcher	

NAYS—162

Ackerman	Campbell	Crane, Philip
Anderson	Carney	Crockett
Archer	Carr	D'Amours
AuCoin	Chappie	Daniel
Badham	Coats	Dannemeyer
Barnard	Coleman (MO)	Darden
Bartlett	Conable	Daub
Bedell	Conte	DeWine
Bilirakis	Conyers	Dorgan
Bliley	Courter	Dreier
Brown (CO)	Craig	Durbin
Burton (IN)	Crane, Daniel	Dyson
Early	Levitas	Sensenbrenner
Eckart	Lewis (CA)	Sharp
Edwards (OK)	Lewis (FL)	Shaw
Emerson	Lloyd	Shelby
English	Long (MD)	Shumway
Erdreich	Lungren	Shuster
Evans (IA)	Markey	Sikorski
Feighan	Marlenee	Skeen
Fields	Marriott	Slattery
Frank	McCandless	Smith (IA)
Gekas	McCollum	Smith (NE)
Gilman	Miller (OH)	Smith, Denny
Gingrich	Molinari	Smith, Robert
Glickman	Moore	Snyder
Goodling	Moorhead	Spence
Green	Murphy	Stark
Gunderson	Myers	Studds
Hall, Ralph	Neal	Stump
Hall, Sam	Nielson	Tallon
Hammerschmidt	Oxley	Tauke
Hansen (ID)	Packard	Tauzin
Hansen (UT)	Parris	Taylor
Harkin	Patman	Thomas (CA)
Hayes	Paul	Vandergriff
Hertel	Pease	Vento
Hiler	Penny	Vucanovich
Holt	Petri	Walgren
Hopkins	Ray	Walker
Hubbard	Regula	Weaver
Hunter	Rinaldo	Weber
Ireland	Ritter	Weiss
Jacobs	Roberts	Whittaker
Kaptur	Robinson	Winn
Kasich	Roemer	Wirth
Kemp	Roth	Wolf
Kindness	Rudd	Wortley
Kostmayer	Savage	Wyden
Kramer	Schaefer	Wylie
Lagomarsino	Scheuer	Yates
Latta	Schroeder	Yatron
Leach	Schumer	Young (FL)
Leath	Selberling	Zschau

NOT VOTING—38

Albosta	Fiedler	Martin (NC)
Alexander	Franklin	McCain
Applegate	Gibbons	McEwen
Bethune	Gramm	McGrath
Breaux	Guarini	Morrison (CT)
Broomfield	Hall (OH)	Pashayan
Cheney	Hartnett	Pursell
Collins	Hefner	Siljander
Coughlin	Heftel	Simon
Davis	Jeffords	Smith (NJ)
Dellums	Lott	Solomon
Fascell	Mack	Volkmer
Ferraro	Martin (IL)	

□ 1640

The Clerk announced the following pairs:

On this vote:

Mr. Alexander for, with Mr. Morrison of Connecticut, against.

Mr. Guarini for, with Mr. Breaux against.

Mr. Coughlin for, with Mr. Mack against.

Messrs. ROEMER, HAYES, SAM B. HALL, JR., and BEDELL changed their votes from "yea" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of Oklahoma. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on House Concurrent Resolution 280 and the substitute amendment.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS AND HUMAN RESOURCES OF COMMITTEE ON GOVERNMENT OPERATIONS TO SIT ON OCTOBER 3 AND OCTOBER 5, 1984, DURING THE 5-MINUTE RULE

Mr. WEISS. Mr. Speaker, I ask unanimous consent that the Subcommittee on Intergovernmental Relations and Human Resources of the Committee on Government Operations be permitted to sit for the purposes of hearings only, on Wednesday, October 3 and Friday, October 5, should the House be meeting under the 5-minute rule.

This request has been cleared with the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. WEBER. Mr. Speaker, reserving the right to object, I did hear the gentleman correctly that this request has been cleared by the minority?

Mr. WEISS. If the gentleman will yield, Mr. Speaker, this request has been cleared by the minority.

Mr. WEBER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON S. 905, NATIONAL ARCHIVES AND RECORDS ADMINISTRATION ACT OF 1983

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the Senate bill (S. 905) to establish the National Archives and Records Administration as an independent agency.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1650

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6023, GENERALIZED SYSTEM OF PREFERENCES RENEWAL ACT OF 1984

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 98-1116) on the resolution (H. Res. 594) providing for the consideration of the bill (H.R. 6023) to amend the Trade Act of 1974 to renew the authority for the operation of the Generalized System of Preferences, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2848, SERVICE INDUSTRIES COMMERCE DEVELOPMENT ACT OF 1983

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 98-1117) on the resolution (H. Res. 595) providing for the consideration of the bill (H.R. 2848) to establish a service industries development program, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6301, STEEL IMPORT STABILIZATION ACT

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 98-1118) on the resolution (H. Res. 596) providing for the consideration of the bill (H.R. 6301) to provide authority for enforcing arrangements restricting the importation of carbon and alloy steel products into the United States that are entered into for purposes of implementing the President's national policy for the steel industry, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3795, WINE EQUITY ACT OF 1983

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 98-1119) on the resolution (H. Res. 597) providing for the consideration of the bill (H.R. 3795) to harmonize, reduce, and eliminate barriers to trade in wine on a basis which assures substantially equivalent competitive opportunities for all wine moving in international trade, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5377, UNITED STATES-ISRAEL FREE TRADE AREA ACT

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 98-1120) on the resolution (H. Res. 598) providing for the consideration of the bill (H.R. 5377) authorizing the President to enter into, and to proclaim modifications necessary to implement, a trade agreement with Israel providing for duty-free treatment for, and the elimination of import restrictions on, the products of Israel, which was referred to the House Calendar and ordered to be printed.

FEDERAL POWER ACT AMENDMENTS TO SPECIFY CERTAIN ANNUAL CHARGES

Mr. SWIFT. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1132) to amend the Federal Power Act to specify the annual charges for projects with licenses issued by the Federal Energy Regulatory Commission for the use of Federal dams and others structures, as amended.

The Clerk read as follows:

S. 1132

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 10(e) of the Federal Power Act is amended—

(1) by inserting "(1)" after "(e)"; and

(2) by adding the following at the end thereof:

"(2) In the case of licenses involving the use of Government dams or other structures owned by the United States, the charges fixed (or readjusted) by the Commission under paragraph (1) for the use of such dams or structures shall not exceed 1 mill per kilowatt-hour for the first 40 gigawatt-hours of energy a project produces, 1½ mills per kilowatt-hour for over 40 up to and including 80 gigawatt-hours, and 2 mills per kilowatt-hour for any energy the project produces over 80 gigawatt-hours. Except as provided in subsection (f), such charge shall be the only charge assessed by any agency of the United States for the use of such dams or structures.

"(3) Notwithstanding paragraph (1) or (2), no charge shall be assessed for the use of any Government dam or structure by any licensee or other entity if, before the date of the enactment of this paragraph, an agency of the United States has entered into a contract with such licensee or other entity which provides that—

"(A) a powerplant may be built by the licensee or other entity utilizing irrigation facilities constructed by the United States,

"(B) such powerplant shall remain in the exclusive control, possession, and ownership of the licensee or other entity concerned, and

"(C) all revenue from such powerplant and from the use, sale, or disposal of electric energy from the powerplant shall be, and remain, the property of such licensee or other entity.

"(4) The provisions of paragraph (2) shall apply with respect to—

"(A) all licenses issued after the date of the enactment of this paragraph; and

"(B) all licenses issued before such date which—

"(i) did not fix a specific charge for the use of the Government dam or structure involved; or

"(ii) did not specify that no charge would be fixed for the use of such dam or structure.

"(5) Every five years, the Commission shall review the appropriateness of the annual charge limitations provided for in this subsection and report to Congress concerning its recommendations thereon.".

SEC. 2. Section 30(c) of the Federal Power Act is amended by inserting ", the National Marine Fisheries Service," after "the Fish and Wildlife Service" in both places such term appears.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Washington [Mr. SWIFT] will be recognized for 20 minutes and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill we are considering, S. 1132, is a nocontroversial bill which was reported unanimously by the Energy and Commerce Committee. It is a straightfoward and simple bill relating to charges placed upon non-Federal hydroelectric power projects at Federal dams.

Our distinguished majority whip, Congressman FOLEY, and Congressman FAZIO, ought to be commended for their leadership on this bill and their testimony before our subcommittee. I also want to give credit to our subcommittee's ranking minority member, Congressman MOORHEAD, for his sponsorship and work on this bill. Without the support and effort of these Members we would not have been able to bring this legislation to the floor this late in the session.

I also want to commend our subcommittee chairman [Mr. OTTINGER], who was unable to be here at this time, for his leadership in fashioning the compromise before us today.

Let me briefly describe this bill. Last year the Federal Energy Regulatory Commission [FERC] proposed a rule for establishing charges under the Federal Power Act for hydro projects using Federal dams. The proposed rule was very complex and criticized for establishing fees too high. As a result, legislation was introduced last year to establish uniform fees based primarily upon energy produced.

The Senate passed S. 1132 earlier this year. Then, shortly before our Subcommittee on Energy Conservation and Power considered the legislation, the FERC reversed field and adopted a final rule which was nearly the same as the legislation. Nonetheless, the bill's sponsors contended that legislation was still needed to avoid a future FERC reversal.

The bill was amended by the committee to adopt the FERC rule as its rule for annual charges. As a result of this change, the Congressional Budget Office estimates that the bill will have no cost to the Treasury.

The bill also amends the Federal Power Act to provide a greater role than FERC currently permits for the National Marine Fisheries Service [NMFS] in hydroelectric license exemption proceedings. The amendment restores congressional intent in this matter. I want to emphasize a point made in the report on the bill on this matter. The committee believes that FERC's current interpretation of section 30 of the Federal Power Act as it relates to NMFS is incorrect and should be changed regardless of the ultimate disposition of this legislation.

In summary, the bill merely adopts the FERC rule on fees. It therefore will not affect government revenues. The bill is not controversial, will bring greater certainty to hydroelectric development, and greater protection to fish and wildlife resources. I urge its passage.

There is one provision in this bill that I wish to mention specifically. S. 1132 clarifies the original intent of Congress that the National Marine Fisheries Service [NMFS] is to be able to set binding terms and conditions for projects exempted from licensing requirements. This clarification is necessary because of a decison by FERC In the Winchester Dam case (Electra Power Company, Project No. 6775-002) that any conditions imposed by NMFS could only be advisory, and not mandatory. This is a serious misinterpretation of the intent of Congress in section 30(c) of the Federal Power Act. The language in S. 1132 will clarify congressional intent that NMFS, as well as the Fish and Wildlife Service, was always intended to have authority to set binding terms and conditions for small hydro exemptions.

This is an extremely important provision. NMFS, since the time of its creation in the Department of Commerce, has overseen the conservation and management of anadromous fish. It is extremely important that we continue to avail ourselves of their expertise in evaluating the impact of small hydro exemptions on anadromous fish and their habitat, as well as the potential effect on existing mitigation plans and their potential cumulative effect.

Mr. Speaker, the bill reported by the Committee on Energy and Commerce is a good bill, and I urge its adoption by the full House.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support enactment of S. 1132. I commend the chairmen of the Energy and Commerce Committee and Subcommittee on Energy Conservation and Power for responding to the concerns which precipitated the introduction of this legislation. S. 1132, as amended by the Subcommittee on Energy Conservation and Power, will resolve many of the licensing problems hindering the development of hydroelectric power at Federal dams.

Mr. Speaker, hydroelectric power is a critically important national resource—and the development of hydroelectric power at existing Federal dams is an untapped resource which our Nation cannot afford to ignore.

A study recently concluded by the U.S. Army Corps of Engineers examined 516 Federal dams. Of this total, almost 350 are not being used for the generation of hydroelectric power. These dams have a potential capacity of 13,500 megawatts, with a production potential for 25 billion kilowatts of electricity annually. This would be the equivalent of 40 million barrels of oil each year.

Yet many would-be developers have expressed concerns over the complexity of the licensing process. These concerns were exacerbated last summer when the Federal Energy Regulatory Commission proposed a rule which would have further aggravated the complexity of the licensing process. The rule would have relied on a generic, complicated formula for calculating the annual charge assessed for the use of Federal dams. There was a consensus that the rule would likely discourage hydroelectric development and cause consumer prices to unreasonably increase.

For these reasons, I joined a bipartisan group of our colleagues last summer and cosponsored the companion measure to S. 1132, H.R. 3660. H.R. 3660 would have set a fixed annual fee for the nonfederal use of Federal dams for the production of hydroelectric power.

Last May, FERC issued a final rule which appears to have responded to many of the criticisms levied against the rule FERC proposed last summer, and which abandoned the complex, generic formula in favor of a fixed annual charge. In our hearings in June, however, several witnesses testified that Federal legislation is still needed to promote the development of hydroelectric power. Many of the witnesses expressed reservations as to the likelihood that the new FERC rule will remain in effect for a substantial period. Legislation is also apparently necessary to resolve jurisdictional uncertainty between FERC and the Department of Interior, and to force FERC to honor certain contractual agreements.

The legislation before us today responds to these concerns. FERC will be the only agency authorized to impose annual fees. FERC will be required to honor the U.S. Government's existing contractual obligations to certain irrigation districts.

S. 1132 also incorporates the graduated fixed fee embodied in the final FERC rule. This will set a limit on the annual fee and peg the fee to the specific characteristics and value of each hydroelectric project. It will result in

an annual charge that is reasonable, recompenses the Government approximately $12 million annually, and will not unreasonably increase the price of hydropower. Most importantly, codifying the fee structure will provide the simplicity and certainty necessary to promote the development of hydroelectric power.

Mr. Speaker, I urge my colleagues to support this legislation. Thank you.

□ 1700

Mr. SWIFT. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. I appreciate the gentleman yielding to me and I also appreciate the strong support that he has given this legislation.

Mr. Speaker, I rise in strong support of the bill. I also would like to thank the gentleman from California [Mr. MOORHEAD] and the gentleman from New York [Mr. OTTINGER] and the chairman of the full committee [Mr. DINGELL] for making certain that we bring this very important bill to the floor.

This is a significant bill for people who care about utilizing our energy resources and a very key bill for people concerned about the loss of water in the Sierra where our watershed had been drying up to the great detriment of our fly fishermen and others who have made such beneficial recreational uses in that area.

Mr. Speaker, I strongly hope that appearance of S. 1132 on the floor of the House today will mark the end of a decade-long effort to encourage development of hydroelectric potential at Government-owned, existing dams by non-Federal developers. Federal studies show there are 403 such existing dams Among them they have a capacity of 13,500 megawatts of electricity. This represents kilowatt hour generation the equivalent of 40 million barrels of oil per year. Of all forms of energy, hydro is the cheapest, most environmentally benign—at least at existing dams, and least dependent on problems in the rest of the economy or world. It is astonishing to think that for so long we have not only failed to encourage development of this natural gift but we have actively discouraged it.

Our problems have been three. This bill corrects them:

It establishes are clear and predictable Federal fee for the use of the Federal dam, so that potential investors know what their costs will be and will therefore be in a position to commit their own capital.

The bill sets the fee at a level that is not so costly that it would prohibit development at all but the most lucrative Federal dams. There is justification for the Federal taxpayer receiving a fair return on his investment in the original dam. However, it serves the taxpayer and the potential developer poorly if this fee reduces overall revenues by discouraging development in many places where it would naturally be economical.

Last, the fee clarifies debilitating confusion and feuding between executive agencies over how many fees there will be and which agency will charge it. There shall be one fee, not several, and it shall be charged by the FERC, not the Department of Interior, nor the Corps of Engineers, nor the Agricultural Soil and Conservation Service, nor which ever other entity might possess a dam.

This single problem of multiple fees together with multiple conditions has been the most confusing of the problems besetting non-Federal hydrodevelopment. It has confounded the developers and the Members of Congress who have sought to understand this problem. If no problems had been caused by excessive or ambiguous fees, bureaucratic confusion would have required legislative clarification and this clarification by itself is sufficient justification to make this bill necessary.

Mr. Speaker, this has been a difficult issue to explain to the Congress, and in its realm has been controversial from time to time. I have in my congressional district a small water agency which has been battling for years through the thicket of procedural and legislative difficulties to construct a hydroplant on a Federal dam and then to secure a basis for a fee that is a fair exchange of benefits between the Government for its dam and the district for its extrodinary fortitude. For this small agency's problems to be resolved many people in this body have had to come to understand them. For their patience and understanding I am very grateful.

Particular thanks should go to Chairman DICK OTTINGER of the Conservation and Power Subcommittee of the Energy and Commerce Committee. His attention to our problems is especially welcome in view of his personal plans to leave the Congress after this session. I would also like to thank Congressman TOM FOLEY, our Democratic whip, for all the time he and his staff have spent introducing this bill and nursing it through the process. Along the way Representatives SWIFT and WYDEN have also given essential assistance, as has my collleague and friend from southern California, the subcommittee's ranking minority member, CARLOS MOORHEAD.

Lastly may I pay my special respects to Representative JOHN DINGELL, chairman of the full Energy and Commerce Committee, for his willingness to listen to our Western problems, and for his and Mr. OTTINGER's suggestion that we clarify the ability of the National Marine Fisheries Service to continue to condition exemptions the FERC may grant to small hydrodevelopers from the regular hydropermit process. This amendment to the bill is appropriate and good policy in its own right. It adds to the bill's overall merits and gives our colleagues one other reason for supporting it wholeheartedly.

Mr. SWIFT. Mr. Speaker, I have no further requests for time at this time, and I reserve the balance of my time.

Mr. MOORHEAD. I yield back the balance of my time.

Mr. SWIFT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Washington [Mr. SWIFT] that the House suspend the rules and pass the Senate bill, S. 1132, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1132, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

NATIONAL LAW ENFORCEMENT HEROES MEMORIAL

Mr. ANNUNZIO. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 482) to authorize the Law Enforcement Officers Memorial Fund, Inc., to establish a National Law Enforcement Heroes Memorial, as amended.

The Clerk read as follows:

H.J. RES. 482

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Law Enforcement Officers Memorial Fund is authorized to establish the National Law Enforcement Heroes Memorial on Federal land in the District of Columbia or its environs to honor law enforcement officers who die in the line of duty.

(b) In carrying out subsection (a), the Fund shall be responsible for preparation of the design and plans for the memorial, which shall be subject to the approval of the Secretary of the Interior, the Commission of Fine Arts, and the National Capital Planning Commission.

SEC. 2. The Secretary of the Interior—

(1) with the approval of the Commission of Fine Arts and the National Capital Planning Commission, shall select a site for the memorial;

(2) shall not permit construction of the memorial to begin unless the Secretary determines that sufficient amounts are available for completion of the memorial in ac-

cordance with the approved design and plans; and

(3) shall be responsible for maintenance of the memorial after completion of construction.

SEC. 3. The United States shall not pay any expense of the establishment of the memorial.

SEC. 4. The authority to establish the memorial under this resolution shall expire at the end of the five-year period beginning on the date of the enactment of this resolution, unless construction of the memorial begins during that period.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Illinois [Mr. ANNUNZIO] will be recognized for 20 minutes and the gentleman from Minnesota [Mr. FRENZEL] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution introduced by our colleague, the gentleman from New York [Mr. BIAGGI], himself a 23-year veteran with the New York City Police Department, would establish a memorial on public grounds in the National Capital region to honor and recognize law enforcement officers in the United States who died in the line of duty.

This memorial would pay a long overdue tribute to all Federal, State, and local law enforcement officers killed in the act of protecting American citizens. A police memorial would also focus national attention in recognition on the men and women who risk their lives every day to better protect us against crime.

This memorial would be established from private contributions made to the National Law Enforcement Memorial Fund, Inc. Thus, no Federal expenditure would be required to erect this memorial.

I would like to congratulate our colleague from New York [Mr. BIAGGI] for introducing this significant piece of legislation which has 229 cosponsors and is so important to this country's law enforcement community.

In recognition of the merits of this resolution, I want to inform the House that the Committee on House Administration, by unanimous vote, ordered House Joint Resolution 482 favorably reported with minor technical amendments, and I reserve the balance of my time.

● Mr. BIAGGI. Mr. Speaker, as the author of House Joint Resolution 482 and on behalf of its cosponsors, I am proud to rise in full support of this important legislation to honor our Nation's forgotten patriots—namely, the courageous law enforcement officers of our land who have sacrificed their lives for the good of their fellow man.

As a 23-year police veteran myself, this legislation has very special significance to me. Even though I was wounded 10 times during my service with the New York City Police Department, I was one of the lucky ones—I survived. Over the last 10 years alone, some 1,600 other police men and women were not so fortunate. During just the last 2 years 309 law enforcement officers (162 in 1982, and 147 in 1983) died while performing their official duties—nearly one police death every 2 days. That is a national tragedy that cannot and must not be ignored.

Consider, for example, that just 10 days ago New York City Transit police officer Irma Lozada was shot and killed while in pursuit of a chain snatcher. Imagine that, a woman in the prime of her life killed by a two-bit thug over a gold chain. Actually, Irma Lozada was the first woman police officer killed in the line of duty in New York City history. Officer Lozada was a courageous and revered policewoman, who exemplified her proud Hispanic Heritage. Yet, the fact that Irma Lozada was a woman, that she was Hispanic, that she was highly respected among her peers, that she was gunned down over a gold chain, soon becomes forgotten and after some kind words and a few tears, all but a few lives are left unchanged by such a tragedy.

Simply put, Irma Lozada, like so many of her comrades before her and the many who will follow, made the supreme sacrifice for the good of her fellow man, and that sacrifice is worth remembering. That is why I authored House Joint Resolution 482. The National Police Memorial proposed in this measure would pay a long overdue tribute to all Federal, State and local law enforcement officers killed in the line of duty. In addition, it would serve as a constant reminder of the critical need to better protect those who continue to protect us.

Specifically, this measure would authorize the establishment of a National Law Enforcement Heroes Memorial in Washington, DC. Significantly, the resolution specifies that neither the Federal Government nor the District of Columbia shall bear any expenses associated with the establishment of the memorial, other than costs related to site selection or approval of the design. Instead, the Law Enforcement Officers Memorial Fund, Inc., A nonprofit, tax-exempt group, would be authorized to establish the memorial through private contributions. This group would also be responsible for recommending a suitable design for the memorial, with final approval coming from the Secretary of the Interior, the Commission of Fine Arts, and the National Capital Planning Commission. The measure instructs the Interior Department to select an appropriate site for the memorial, with approval from the National Capital Planning Commission and the Commission of Fine Arts.

I should point out that I, along with Senator PELL and Suzie Sawyer, national secretary of the Fraternal Order of Police Ladies Auxiliary, are the incorporators of the Law Enforcement Officers Memorial Fund, Inc., and will play an active role in assuring that the intent of this legislation is carried out. Let me assure my colleagues that it is the intent of the incorporators to include representatives from major police organizations across the country in the fundraising and other activities of the Law Enforcement Officers Memorial Fund, Inc.

As noted previously, this legislation has widespread, bipartisan support. Not only are a majority of House Members cosponsors, the Senate companion measure, Senate Joint Resolution 235, introduced by CLAIBORNE PELL, has already been unanimously approved by the other body.

Let me point out, too, that this legislation was introduced at the request of the law enforcement community and has the full support of such leading national police organizations as the Fraternal Order of Police, the National Association of Police Organizations, the International Brotherhood of Police Officers, the International Union of Police Associations, the Federal Law Enforcement Officers Association, the National Sheriffs' Association, the Police Executive Research Forum and the International Association of Chiefs of Police.

Each of these law enforcement organizations played an important role in bringing us to where we are today in the realization of a national police memorial. However, I want to especially commend the Fraternal Order of Police for the substantial time and energies they contributed to this cause. Two names are worthy of a special mention—

FOP president Richard Boyd, who made the enactment of this legislation one of his top priorities when he took office, and John Harrington, a past FOP president who traveled from his home in Philadelphia to Washington each week over the last 2 years to work for the passage of this important measure.

With good reason, Mr. Speaker, we have built memorials to honor those who lost their lives in foreign wars. A similar national monument is needed to honor those brave men and women who lose their lives at home in the war against crime.

Before closing, I want to take this opportunity to pay a special word of thanks on behalf of the law enforcement community to my good friend and most distinguished chairman of the House Administration Committee,

Mr. ANNUNZIO, for bringing this measure to the floor so soon after assuming the committee chairmanship. His actions clearly demonstrate the high regard he has for the lives and work of our Nation's law enforcement personnel.

Finally, Mr. Speaker, I cannot help reflecting on the good that has resulted from a similar memorial—the one to honor the fallen heroes of the Vietnam war. What an impressive sight the Vietnam Veterans Memorial is and what a long overdue and richly deserved tribute to the brave soldiers who gave their lives in that war. As a police veteran, there could be no greater sense of satisfaction than being able to walk down the Mall, or some other appropriate site, and seeing people paying the same type of respect to our Nation's fallen police heroes. The passage of House Joint Resolution 482 would allow this to happen.●

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill is as described by the distinguished new chairman of the Committee on House Administration, the gentleman from Illinois [Mr. ANNUNZIO].

It was a bill unanimously passed; it is noncontroversial; and the entire committee salutes the gentleman from New York [Mr. BIAGGI] for his efforts.

I have no further requests for time and I yield back the balance of my time.

Mr. ANNUNZIO. Mr. Speaker, I want to take this opportunity to thank the distinguished ranking minority member of the committee, the Honorable BILL FRENZEL of Minnesota, for his cooperation. Without the cooperation of all of the Members of the majority and minority, consideration of this legislation today would not have been possible.

Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ANNUNZIO] that the House suspend the rules and pass the joint resolution, House Joint Resolution 482, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution, as amended, was passed.

The title of the joint resolution was amended so as to read: "Joint resolution authorizing the Law Enforcement Officers Memorial Fund to establish a memorial in the District of Columbia or its environs.".

A motion to consider was laid on the table.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 482, the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

RATIFICATION OF REORGANIZATION PLANS

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6225) to prevent disruption of the structure and functioning of the Government by ratifying all reorganization plans as a matter of law, as amended.

The Clerk read as follows:

H.R. 6225

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The Congress hereby ratifies and affirms as law each reorganization plan that has, prior to the date of enactment of this Act, been implemented pursuant to the provisions of chapter 9 of title 5, United States Code, or any predecessor Federal reorganization statute.

SEC. 2. Any actions taken prior to the date of enactment of this Act pursuant to a reorganization plan that is ratified and affirmed by section 1 shall be considered to have been taken pursuant to a reorganization expressly approved by Act of Congress.

□ 1710

The SPEAKER pro tempore. Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6225 ratifies and affirms as law previous reorganization plans implemented under the executive reorganization authority contained in chapter 9, title 5, United States Code, or predecessor reorganization statutes. The bill also validates all prior actions taken pursuant to authority transferred by a reorganization plan.

Enactment of this legislation at this time is essential to ensure that the authority of agencies affected by past reorganization plans is not disrupted.

On 17 occasions since 1932 the Congress has delegated to the President of the United States authority to reorganize legislatively established functions and agencies in the Federal Government. The last grant of reorganization authority to the President expired on April 7, 1981. A "legislative veto" provision in most of these statutes empowered Congress to disapprove a reorganization plan by a vote of either House, without permitting the President to veto the congressional action.

Last year in *Immigrations and Naturalization Service* v. *Chadha* (103 S. Ct. 2764 (1983)), the Supreme Court declared the legislative veto procedure unconstitutional. When applied to executive reorganization statutes, which contain legislative veto provisions, and to reorganization plans implemented pursuant to those statutes, the Chadha decision calls into question the validity of Federal actions taken pursuant to reorganization plans.

Recently a U.S. Court of Appeals held that the Equal Employment Opportunity Commission had no authority to enforce the Age Discrimination in Employment Act, because the 1977 reorganization statute, under which enforcement authority for that act was transferred to EEOC, contained an unconstitutional legislative veto provision. The Court stayed its decision until December 31, 1984, however, to afford Congress an opportunity to act.

Other courts have come to a different conclusion regarding the effect of the Chadha decision on reorganization plans. However, until the matter is resolved, there will be a cloud over the authority of agencies which have been established or which exercise functions transferred to them by reorganization plans. Enactment of H.R. 6225, thereby ratifying past reorganization plans as a matter of law, will dispel this cloud of uncertainty. I urge a favorable vote on H.R. 6225.

Mr. HORTON. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise in support of H.R. 6225, a bill to ratify the reorganization plans which have been implemented under the Reorganization Act. This is an urgent and necessary undertaking. Past reorganization plans must remain in effect in order to ensure orderly and effective government.

The Reorganization Act was instituted as a means of improving the management of the executive branch of Government. Ninety-one reorganization plans have been enacted since 1939. These plans have created such important Government agencies as the Office of Management and Budget and the Environmental Protection Agency.

The Supreme Court and three circuit courts have recently ruled that the exercise of a one-House legislative veto, such as the one embodied in the Reorganization Act, is unconstitutional. Recent court rulings have cast

severe doubts on the legitimacy of the Reorganization Act and the validity and authority of all the plans implemented pursuant to that act. Prompt legislative action is needed to preserve the institutions created by the Reorganization Act and prevent the possible disruption of the structure and functioning of the Government.

During our subcommittee's hearing, I asked the witness from the Department of Justice whether H.R. 6225 would accomplish its goal. In response, the witness stated: "We believe that H.R. 6225 would accomplish its intended purpose of affirming all reorganization plans which have been implemented pursuant to the Reorganization Act. We believe this approach will settle this question definitively for all plans and, thus, will eliminate the need to litigate this question under other reorganization plans."

Mr. Speaker, H.R. 6225 is supported by the administration and would effectively ratify our past reorganization plans. I strongly endorse H.R. 6225 and recommend its approval.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. LEVITAS].

Mr. LEVITAS. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of H.R. 6225, and commend the chairman of our committee and the ranking member for this legislation.

It happens to be very significant legislation in that it is undertaking to ratify all of the reorganization plans which have heretofore been implemented by previous administrations under reorganization authority. After the Supreme Court case involving the legislative veto, known as Immigration and Naturalization Service against Chadha, a great deal of doubt was left as to whether Congress would have continued to delegate authority when a legislative veto was part of the statute, or whether that was so severable that the authority to delegate rulemaking or other action could continue even if the legislative veto in the particular form in question was held to be unconstitutional.

The train wreck of government which the Supreme Court created in that case, in which they demonstrated a rather abysmal ignorance of our system of government, has left a great mess to be cleaned up now. The problem is that only one or two actions such as the one that is now being taken today have been put in place to do something about the problem.

Here we had the reorganization authority held in doubt because of the legislative veto provision, and the courts held that all of the reorganizations that were implemented under that authority were themselves unconstitutional. So I think it is absolutely essential. Without this legislation, in my opinion there will be no way and any of these reorganized agencies can continue to be valid, and it is not just true in the case of reorganization authority; it is also true in the case of every other incidence in which there has been a delegation of authority connected with a legislative veto.

It is for that reason that I have previously introduced H.R. 4535, the super sunset legislation, to require every committee to do precisely what this committee has done, and evaluate the legislation under its jurisdiction to see what should be done about it. Unfortunately, when the Department of Justice testified before our committee, they told us that they were just going to handle this on a piecemeal, case-by-case basis, and let the chaos of litigation sort out this problem. That is irresponsible. It should not be done. We must approach this matter in a comprehensive way, and it is for that reason, Mr. Speaker, that I hope that the other committees of the Congress and the administration will view this matter in a comprehensive way so that something can be done to rectify the train wreck of government which now exists.

Mr. HORTON. Mr. Speaker, I have no additional requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 6225, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 6225, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERSONAL EXPLANATION

Mr. LEVITAS. Mr. Speaker, I was absent for today's rollcall vote 424 on House Joint Resolution 653, Continuing Appropriations. I had been advised earlier in the day that an agreement had been reached between the minority and the majority that rollcall votes would be postponed until late in the afternoon. Accordingly, I missed vote 424 as I remained in Atlanta to meet with constituents. Had I been present, I would have voted "aye."

PREVENTIVE HEALTH AMENDMENTS OF 1984

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5538) to amend the Public Health Service Act to revise and extend the programs of assistance for preventive health programs, as amended.

The Clerk read as follows:

H.R. 5538

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) This Act may be cited as the "Preventive Health Amendments of 1984".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

SEC. 2. (a) Section 317(j)(1) (42 U.S.C. 247b(j)(1)) is amended—

(1) by striking out "immunize children against immunizable diseases" and inserting in lieu thereof "immunize against vaccine-preventable diseases", and

(2) by striking out "and" after "1983," and by inserting before the period a comma and the following: "$52,000,000 for the fiscal year ending September 30, 1985, $59,000,000 for the fiscal year ending September 30, 1986, and $65,000,000 for the fiscal year ending September 30, 1987".

(b) Section 317(j)(2) is amended by striking out "and" after "1983, " and by inserting before the period a comma and the following: "$8,000,000 for the fiscal year ending September 30, 1985, $9,000,000 for the fiscal year ending September 30, 1986, and $10,000,000 for the fiscal year ending September 30, 1987".

SEC. 3. (a) The first sentence of section 318(d)(1) (42 U.S.C. 247c(d)(1)) is amended by striking out "and" after "1983," and by inserting before the period a comma and the following: "$60,000,000 for the fiscal year ending September 30, 1985, $67,500,000 for the fiscal year ending September 30, 1986, and $75,000,000 for the fiscal year ending September 30, 1987".

(b)(1) Subsection (a) of section 318 is amended by striking out "research" and all that follows in such section and inserting in lieu thereof the following: "research in, and training and public health programs for, the prevention and control of sexually transmitted diseases.".

(2) Subsection (b) of section 318 is amended to read as follows:

"(b) The Secretary may make grants to States, political subdivisions of States, and any other public and non-profit private entity for—

"(1) research into the prevention and control of sexually transmitted diseases;

"(2) demonstration projects for the prevention and control of sexually transmitted diseases;

"(3) public information and education programs for the prevention and control of such diseases, and

"(4) professional (including appropriate allied health personnel) education, training, and clinical skills improvement activities in

the prevention and control of such diseases.".

(3) Subsection (c) of section 318 is amended by inserting "and" at the end of paragraph (3), by striking out paragraph (4), and by redesignating paragraph (5) as paragraph (4).

(4) Subsection (d)(1) of section 318 is amended by striking out "5 per centum" and inserting in lieu thereof "10 per centum".

(5)(A) Section 318 is amended by redesignating subsections (d) through (f) as subsections (e) through (g) and by adding after subsection (c) the following new subsection:

"(d) The Secretary, acting through the Director of the Centers for Disease Control, may make grants to public and non-profit private entities for information and education programs on, and for the diagnosis, prevention, and control of, acquired immune deficiency syndrome. The authority to make grants under this section for acquired immune deficiency syndrome is not the exclusive authority to make grants under this Act for acquired immune deficiency syndrome.".

(B) Subsection (e)(1) of section 318 (as so redesignated) is amended—

(i) by striking out "(b) and (c)" and inserting in lieu thereof "(b), (c), and (d)",

(ii) by striking out "(b) or (c)" and inserting in lieu thereof "(b), (c), or (d)", and

(iii) by adding at the end the following: "If the appropriations under the first sentence for fiscal year 1985 exceed $50,000,000, one-half of the amount in excess of $50,000,000 shall be made available for grants under subsection (d); if the appropriations under the first sentence for fiscal year 1986 exceed $52,500,000, one-half of the amount in excess of $52,500,000 shall be made available for such grants; and if the appropriations under the first sentence for fiscal year 1985 exceed $55,000,000, one-half of the amount in excess of $55,000,000 shall be made available for such grants.".

(6)(A) Section 318 is amended by striking out "venereal disease" each place it occurs and inserting in lieu thereof "sexually transmitted diseases".

(B) The heading for such section 318 is amended by striking out "VENEREAL DISEASE" and inserting in lieu thereof "SEXUALLY TRANSMITTED DISEASES AND ACQUIRED IMMUNE DEFICIENCE SYNDROME".

(C) Section 318 is amended by striking out the subsection (g) which was in effect on the day before the date of enactment of this Act.

SEC. 4. (a) Section 1901(a) (42 U.S.C. 300w(a)) is amended by striking out "and" after "1983," and by inserting before the period a comma and the following: "$98,500,000 for the fiscal year ending September 30, 1985, $98,500,000 for the fiscal year ending September 30, 1986, and $98,500,000 for the fiscal year ending September 30, 1987".

(b) Section 1901(b) is amended by striking out "$3,000,000" and inserting in lieu thereof "$3,500,000".

(c) Section 1905(c)(4) (42 U.S.C. 300w-4(c)(4)) is amended to read as follows:

"(4) agrees to make grants for preventive health service programs for hypertension in amounts equal to 65 percent of the total amount provided by the Secretary in fiscal year 1981 to the State and entities in the State under section 317 for such programs;".

SEC. 5. (a) Section 1905(c) is amended by striking out "and" at the end of paragraph (7), by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and", and by inserting paragraph (8) the following:

"(9) will, not later than October 1, 1984, as prescribed by the Secretary by regulation collect data, using a uniform system prescribed in such regulation, on preventive health and preventive health services programs in the State assisted by funds from allotments under this part, including a summary of the services which were provided, the providers of such services, and the individuals who received such services.".

(b) The last sentence of section 1905(c) is amended by inserting before the period the following: "(other than the requirements of paragraph (9))".

(c) Section 1906(a)(2) (42 U.S.C. 300w-5(a)(2)) is amended by striking out "burdensome" and inserting in lieu thereof "unnecessary burdensome".

The SPEAKER pro tempore. Is a second demanded?

Mr. MADIGAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes and the gentleman from Illinois [Mr. MADIGAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

□ 1720

Mr. Speaker, this bill reauthorizes three of the most effective health programs funded by Government—childhood immunizations, venereal disease control, and tuberculosis control. In addition it reauthorizes the preventive health services block grant.

Let me point out to the Members that this bill does not contain the proposed programs on fluoridation, childhood lead poisoning, or newborn genetic screening. Those programs have created some controversey and I do not feel that I can ask the House to consider those provisions as expeditiously as these others.

The Childhood Immunization Program provides grants to States for immunization of children against polio, measles, mumps, and German measles. The inflation in vaccine costs has been as much as 500 percent in some vaccines in recent years and increased authorizations are necessary by all accounts to continue to provide adequate protection against these diseases.

The Venereal Disease Control Program provides grants to States for the control of sexually transmitted diseases. There are nationwide epidemics of syphillis, penicillin-resistent gonorrhea, and herpes, and this year alone more babies will be affected by a sexually transmitted disease than there were children affected by polio during the entire polio epidemic.

The Tuberculosis Control Program provides grants to State and local governments for treatment and testing of TB. TB continues to be a major public health problem in the United States, even though most Americans think of it as a disease of the 19th century.

The sexually transmitted disease authorities of the bill also provide authority for the Centers for Disease Control to make grants for AIDS information, education, treatment, prevention, and control. With 12 to 13 new cases of the disease reported to CDC a day, these project grants are especially urgent.

The reauthorization of the preventive health block grant will provide grants to States to use on a number of health activities, ranging from hypertension control to services for rape victims.

These programs have all enjoyed broad bipartisan support in past years, and I am happy to say that the ranking minority members of the Health Subcommittee and the Energy and Commerce Committee have joined me in support of this compromise legislation. I urge Members to support the bill.

Mr. Speaker, I reserve the balance of our time.

Mr. MADIGAN. Mr. Speaker, I yield 10 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, earlier today we considered the first concurrent budget resolution that set levels of spending that will startle and surprise our constituents, because the conference report on the budget was inexorably higher than what it was when it left our House.

One of the reasons that these budget totals seem to be out of control—and let us not kid ourselves, the budget process of this Government is out of control—one of the reasons it got that way was because of the growth of programs that just crept upward little by little over time. This bill is a classic illustration of that principle in action, because I do not think there is any Member of this body that is against expending Federal tax dollars for improving the health of the American people. This Member from California is certainly not against that proposal.

Mr. Speaker, when we look at the totals in this bill and we see how this budget process and the totals in the budget process just climb and climb and climb to the point where in this instance they are out of control.

Now, listen to these figures. In 1984, the fiscal year that closed yesterday, we appropriated $30.48 million for childhood immunity. The administration request was $34.3 million. What is the total that we find in this compromise before us? It is $52 million. That works out to about a 48-percent increase just in 1 year.

Now, this is not an appropriation matter. I concede that. It is an author-

ization bill and inevitably the proponents of this legislation will come before the Appropriations Committee and request full funding.

Well, why? Because the authorization committee authorized it.

I serve on ths subcommittee that authorized this increase. I have been privileged to sit on this authorization committee for the last 6 years. I have yet to hear any witness come before our subcommittee and explain that if we raise the authorization level by a certain amount, so much more could be done in this program and that program or what have you.

To be very honest with you, I have not found the person with a green eyeshade working on the staff on the Democrat majority side of the subcommittee, the Health and Environment Subcommittee on which I serve, where they develop these numbers. I have no idea, and if you examine the record of our hearings, you will not find any testimony in that record indicating how an increase of 48 percent is justified under any juggling of the figures.

I am being candid with my colleagues in saying that so far as I have been able to figure out, it is just a number that somebody has figured out for what looks good on paper so that politically when we go home we can say to our constituency that we have really done something about improving the health of the American people in this instance. Why? Because we voted additional money, 48 percent more, for preventive health care in this category for child immunity.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to my friend.

Mr. WAXMAN. I do want to inform the gentleman of the testimony we received in our subcommittee hearings and I do want to correct the record the gentleman is making when he claims that we did not hear evidence justifying this increase.

The price of the polio vaccine alone has risen by 82 percent. The price of vaccine against other childhood illnesses has soared over the past 3 years. That may well be due to the legal liability that some of these vaccine manufacturers are finding as a result of doing business, but the reality is that those vaccines cost more. If we do not authorize and appropriate more money, I would suggest that the result will be fewer vaccine purchases, therefore fewer children immunized.

I would also suggest the result is going to cost more money when you have to bring back the iron lung, when you have to treat people for diseases that are completely preventable.

This was the record at the hearings. I cannot understand how the gentleman can make the statements he just made.

Mr. DANNEMEYER. Is it not true that one of the reasons the price of vaccine has risen is because, quite frankly, there is a split in the medical community as to whether or not considering the risk, the harm that is done to some children as a result of vaccination programs, some doctors believe that perhaps we should not continue the vaccination program at all. Is not that one of the reasons?

Mr. WAXMAN. Mr. Speaker, if the gentleman will yield further to me, I do not know any authority in the medical community that would say we should not go ahead with immunizing children against disease. There is the reality that there are negative results from a small number of immunization cases and that has resulted in some legal liability to the vaccine manufacturers.

As we know, the cost of doing business increases when the cost of doing business requires more money and that is the reason why we have the increase in the cost of vaccines and the need for more money to finance the immunization program.

Would the gentleman from California, my colleague, think that we ought not to have an immunization program at all?

Mr. DANNEMEYER. I am not saying that. I have never said that. I am saying that we should be freezing authorization levels rather than increasing them.

I am saying to my distinguished chairman of the subcommittee, and I question whether it really matters around this place, but you know, this country is currently in a deficit position with its budget to the tune of $181 billion in the current year. Maybe the gentleman is not concerned about that, but in the face of that, can any of us say and justify that we can tolerate increases in any program?

Mr. WAXMAN. Will the gentleman yield to me?

Mr. DANNEMEYER. Wait just a moment.

Can we tolerate, in view of the fiscal crisis this country is in today, an increase of 48 percent in any program, not matter how meritorious it is? Can we really in good conscience do that?

□ 1730

Mr. WAXMAN. Will the gentleman yield?

Mr. DANNEMEYER. I will be happy to yield.

Mr. WAXMAN. I find it shocking that the gentleman who is making this claim has never voted against an increase in defense spending. He is willing to vote for every military hardware proposal that comes down the line yet he is willing to cut the immunizations for children to prevent these diseases. I find that a statement that is quite amazing and one that would be fraught with hypocrisy.

Mr. DANNEMEYER. I will reclaim my time and observe to my friend that we have had these debates before. But the last time I noticed, State and local governments in America cannot have a Defense Department; only the U.S. Government can. The last time I noticed, parents cannot have a Defense Department; only the U.S. Government can.

In other words, if we do not have a defense capability at the Federal level we are not going to have one. And the truth is that defense spending in the last 20 years is up 21 percent and social spending of all categories including health is up 350 percent.

We are in this mess not because we are spending too much on defense but because over time we have permitted these programs just to creep up and up and up. The difficult thing politically is how can any of us in good conscience come to the floor of the House and ostensibly speak against an increase in expenditures for the health of the people. That is difficult and I am prepared to take that task, and I welcome the opportunity because I believe that we no longer have the luxury of tolerating deficits of the magnitude we have today.

Mr. WAXMAN. Will the gentleman yield?

Mr. DANNEMEYER. I will be happy to yield.

Mr. WAXMAN. I want to speak at this point because I know there are people who watch this telecast around the country and if your charges were not answered they would believe them to be true.

When we have Members of Congress who vote for ever increasing defense dollars, military expenditures, without questioning whether they are needed, without questioning whether that is the best expenditure and the most efficient expenditure, and then saying, "Well, let us cut back on immunizations, perhaps the local governments will take care of it," I consider that irresponsible and I think that this is a program that is very much needed for the defense of our own people, so our children will have a chance in life.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the substitute to H.R. 5538. This compromise was worked out between Mr. WAXMAN, Mr. BROYHILL, Mr. DINGELL and myself and represents a far superior approach to the funding of preventive health programs than does the original bill considered by our committee.

H.R. 5538 was a reversal of the bipartisan agreements of the 1981 budget reconciliation when we established that most health programs could best be funded through block grants to States. This bill would have established three new categoricals for

programs which are currently funded by block grants. This duplicative Federal funding is unwise and unwarranted. It is vital that States be given the flexibility to set priorities for these programs. The General Accounting Office [GAO] has reported that the block grant approach is working quite well and is favored by the States. The substitute before us now would strike these three new, unnecessary categorical programs.

In addition, this substitute provides funding for three existing categorical programs which are not contained in block grants. The vital childhood immunization program would be authorized at $52 million for fiscal year 1985, $59 million in 1986 and $65 million in 1987. Immunization of children is one of the most successful preventive health measures available. Through the appropriate use of vaccine, several childhood diseases, such as smallpox, diphtheria and tetanus, have been eliminated in this country. The cost of the DPT [diphtheria, pertussis, tetanus] vaccine has risen 400 percent in 1984 alone, and 2,000 percent in the past 2 years. This is primarily due to the withdrawal of several domestic companies from the vaccine market because of increased liability exposure. Therefore, I believe the level of funding in this substitute is necessary.

The bill also provides $8 million in fiscal year 1985 ($9 in 1986, $10 in 1987) to continue the tuberculosis control program. TB is still the leading cause of death among communicable diseases reported nationally. These funds would be used to continue community outreach activities and surveillance needed to insure treatment of noncompliant tuberculosis patients, as well as examination and appropriate treatment for exposed persons.

Finally, this substitute would reauthorize the existing venereal disease program—renamed "sexually transmitted diseases"—and include within it specific funding for prevention of acquired immune deficiency syndrome, termed the Nation's No. 1 public health concern by the Department of Health and Human Services. The overall fatality rate among AIDS victims is 45 percent, with over 85 percent of those diagnosed with the disease for 2 years or longer having died. There is no known cure for this disease.

The substitute before us represents a fair approach to funding for these important preventive health measures, and it in no way retracts from the commitment made by this body in 1981 to fund most of our health programs through the block grant mechanism. I wish to thank Mr. WAXMAN for his willingness to work out many of the problems that we on the minority side had with the original version of this bill, and I urge my colleagues to support this substitute measure.

Mr. NIELSON of Utah. Will the gentleman yield?

Mr. MADIGAN. I am happy to yield to my colleague from Utah.

Mr. NIELSON of Utah. For my information and for the information of this body, would the gentleman indicate why in the report that we have before us under dissenting views 11 individuals signed the dissenting views, including yourself, and now you are supporting the bill? What has transpired between this report and the present situation which would cause you to change your mind from dissent to support?

Mr. MADIGAN. Because, if the gentleman will allow me to respond, the minority views are signed about or against a proposal that is not now before us. What is now before us is a substitute.

Mr. NIELSON of Utah. If I may reclaim the time, that is what I want to bring before the body. What changes were made so that a conservative such as yourself can support the bill when he previously opposed it.

Mr. MADIGAN. First of all, as I pointed out in my statement, there are no new categorical programs in what is before us now.

With regard to lead poisoning, the provisions in H.R. 5538 showed $11 million in 1985, $12 million in 1986, and $13 million in 1987 for lead poisoning. All of that is dropped in the substitute.

With regard to fluoridation, $39 million was contained over a 3-year period of time and it is dropped.

With regard to a new program for newborn genetics there was $36 million contained, and that has been dropped.

With regard to immunization programs, the substitute is the same as the original bill, as I said in my remarks.

With regard to tuberculosis, there is a difference of $6 million between the substitute and the original bill.

With regard to venereal diseases, we have a compromise which does not include a new categorical program for AIDS, and with regard to AIDS, as I said in my remarks, we have that provision placed in the venereal disease block grant program.

So as a bottom line we have a bill that is at $405.5 million with no new categorical programs as opposed to $551 million with new categorical programs.

Mr. NIELSON of Utah. Will the gentleman yield further?

Mr. MADIGAN. I will be happy to yield to the gentleman.

□ 1740

Mr. NIELSON of Utah. Mr. Speaker, I would like to commend Mr. MADIGAN and Mr. WAXMAN for their work on this bill and also the chairman of the full committee, Mr. DINGELL, and the ranking minority member, Mr. BROYHILL, because the gentlemen have eliminated the three new authorizations which were bothersome to some.

The gentlemen have also brought down the amounts in some of the other areas. I believe this is now a good bill and I am happy to support it.

Mr. MADIGAN. Mr. Speaker, I thank the gentleman [Mr. NIELSON of Utah] for his contribution.

Mr. WEISS. Mr. Speaker, I rise in strong support of H.R. 5538. This is truly an excellent piece of legislation that is aimed at meeting some of our most urgent health needs, and I commend the gentleman from California for his leadership in sponsoring this bill.

H.R. 5538 extends the authorization for vital programs to immunize children against disease, to control venereal diseases, and to control tuberculosis. It also grants the Centers for Disease Control [CDC] the authority to assist States in controlling lead poisoning, and screening babies for genetic-based diseases. These are all worthy objectives that will serve to improve the health of Americans everywhere.

Of particular importance are the provisions of the bill dealing with our Nation's No. 1 health priority, acquired immune deficiency syndrome [AIDS]. The bill authorizes the Secretary of Health and Human Services, acting through the CDC, to make grants to public and nonprofit private groups for information and education programs concerning AIDS. In addition, it would permit the CDC to make grants for diagnosis, prevention, treatment, and control of this disease, as soon as these efforts become possible. I am hopeful that these efforts, when initiated, will protect individual privacy and patient rights, while maintaining scientific integrity. The bill authorizes the expenditure of $10 million in fiscal year 1985, $12 million in fiscal year 1986, and $14 million in fiscal year 1987 for these purposes.

The role of education in combating the AIDS crisis must not be underestimated. During the period when the disease was first being identified, accurate public health information was unavailable both to the communities at risk and to the general public. Education plays a vital role in combatting the panic and fear that have been associated with the rising incidence of AIDS cases. Accurate and reliable health information concerning the AIDS crisis will allay fears concerning the epidemic and also serve to improve the efficiency of those committed private groups which have already been serving the communities at risk.

It is particularly important that the significant role played by private health groups in educating the at-risk communities is finally being recognized by this legislation. Physicians

have, of course, played an essential role in education efforts relating to AIDS, but the vital services of locally based health groups have gone completely without Government assistance in almost every instance.

I am hopeful that significant resources will now be allocated to the exceptional organizations that have demonstrated a unique sensitivity to the communities at risk, such as Gay Men's Health Crisis [GMHC] of New York City. Organizations like GMHC, as a result of their professionalism, expertise, sensitivity and outreach, have earned a superb reputation in serving both individuals who have AIDS and those who are at risk. The inclusion of locally-based private health groups in these education efforts will serve to enhance the CDC's own efforts to control this tragic disease. By linking public and private efforts we will increase the chances of ending this public health emergency as soon as is humanly possible.

Moreover, the present legislation authorizes the CDC to immediately initiate grants for programs aimed at diagnosing, preventing, treating and controlling AIDS, as soon as these efforts become possible. It is highly important to authorize these efforts in advance, in order that the tragic delays which we have already experienced in responding to the AIDS crisis are not repeated. And it is equally important to point out the urgent need for confidentiality when diagnosis and treatment become possible.

Mr. Speaker, the tragedy of AIDS continues to deepen with every life that is lost and with the suffering of each individual that it touches. While the collective response to this epidemic has greatly increased, the needs for research, public education, social services, and health care continue to grow faster than available financial and human resources. It is therefore vitally important that we take this opportunity to contribute to public education concerning the AIDS crisis. And it is vitally important that the funds for these purposes be made available to the localities that have been most affected by this disease and to private health organizations that serve both AIDS patients and the general public.

I wholeheartedly and urgently call for the approval of H.R. 5538,

Mr. Speaker, I have no other requests, and I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MADIGAN. Mr. Speaker, I yield back the balance of my time.

● Mr. ROYBAL. Mr. Speaker, I am pleased to rise today in support of H.R. 5538, the Preventive Health Amendments of 1984. The preventive health programs provided for by H.R. 5538 are of utmost importance to the health of the Nation, particularly among those areas of the Nation whose population experience a degree of difficulty in obtaining routine, but essential, preventive health care treatment. Among others, these programs provide for immunization, tuberculosis control, and veneral disease prevention. Major health concerns are being addressed by the preventive health and health services block grant, as well as several categorical programs administered by the Centers for Disease Control.

The Tuberculosis Control Program, authorized by a section of H.R. 5538, has provided funding to high TB incident areas throughout the United States, including Los Angeles and Los Angeles County. In this area the prevalence of tuberculosis is about 3 or 4 times that of the rest of the Nation. Yet since the beginning of the TB Control Grant Program, this is a substantial decrease in incidence. Because of the use of outreach workers to go into the communities to observe and encourage therapy, Los Angeles County officials estimate they save over $500,000 per year in hospital costs alone. Los Angeles County officials also reported to the Centers for Disease Control that 94 percent of the known sputum positive tuberculosis cases converted their sputum to negative within 6 months. This program is working to save treasury funds and, most importantly, to eradicate tuberculosis, which is a highly contagious, deadly disease.

Mr. Speaker, I urge House passage of H.R. 5538, and encourage swift approval in Congress.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 5538, as amended.

The question was taken.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule 1, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to make an announcement.

Pursuant to rule XLIX, as a result of the adoption of the House and Senate of House Concurrent Resolution 280, as amended, the Chair announces that House Joint Resolution 654, increasing the statutory limit on the public debt, has been engrossed and is deemed to have been passed by the House.

TECHNICAL CORRECTIONS TO THE BANKRUPTCY ACT

Mr. EDWARDS of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6216) to amend the Bankruptcy Amendments and Federal Judgeship Act of 1984 to make technical corrections with respect to the retirement of certain bankruptcy judges, and for other purposes.

The Clerk read as follows:

H.R. 6216

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Bankruptcy Amendments and Federal Judgeship Act of 1984 is amended—

(1) by striking out section 552, and

(2) by red esignating section 553 as section 552.

SEC. 2. (a) Subparagraphs (A) and (B) of section 8331(22) of title 5, United States Code, are amended to read as follows:

"(A) who is serving as a United States bankruptcy judge on March 31, 1984;

"(B) whose service as United States bankruptcy judge at any time in the period beginning on October 1, 1979, and ending on July 10, 1984, is terminated by reason of death or disability; or".

(b) Subsection (l) of section 8336 of title 5, United States Code, as so designated by section 1256(b)(1) of the Defense Department Authorization Act, 1984 (Public Law 98-94; 97 Stat. 701), is redesignated as subsection (m).

(c) Section 8339(n) of title 5, United States Code, is amended by striking out "March 31, 1979, and before the date of the enactment of the Bankruptcy Amendments and Federal Judgeship Act of 1984" and inserting in lieu thereof "as a referee in bankruptcy and".

SEC. 3. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on July 10, 1984.

(b) The amendments made by section 2 shall take effect on March 31, 1984.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. EDWARDS] will be recognized for 20 minutes and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6216, a bill I introduced on September 11, 1984, amends the Bankruptcy Amendments and Federal Judgeship Act of 1984 to eliminate inequities contained in the act. The bill enjoys bipartisan support. Its cosponsors include five distinguished members of the Judiciary Committee—Chairman RODINO, Ranking Minority Member FISH, Mr. HYDE, Mr. SAWYER, and Mr. SENSENBRENNER. The Judiciary Committee ordered the bill

reported without objection by voice vote on September 18, 1984.

Nearly 6 years ago, Congress passed the Bankruptcy Reform Act of 1978. This act provided certain retirement benefits for bankruptcy judges and set March 31, 1984, as the vesting date for eligibility for these benefits.

For over 5 years, bankruptcy judges operated with the understanding that they would receive improved retirement benefits if they served until March 31, 1984, and were otherwise qualified. Then, at the end of the game, Congress changed the rules. The Bankruptcy Amendments and Federal Judgeship Act of 1984 set October 1, 1986, as the vesting date for authorized retirement benefits. Under this law, bankruptcy judges could be forced to serve an additional 2½ years to receive augmented retirement benefits promised in 1978.

The 1984 Bankruptcy Act not only moves forward the vesting date for eligibility for retirement benefits, it also fails to treat all bankruptcy judges in an equal manner. One of its provisions provides that the judges in two districts—the Central District of California and the District of Oregon—are eligible for the benefits of 1984 Bankruptcy Act provides as long as they served until March 31, 1984. By carving out a special exemption for only two judges, the provision is unfair to those not covered and is of questionable constitutionality.

H.R. 6216 eliminates these inequities. It restores March 31, 1984, as the vesting date for eligibility for the retirement benefits provided by the 1984 Bankruptcy Act, and it removes the provision which provides special treatment for the judges in two districts. I urge my colleagues to join me in voting for this measure.

Mr. Speaker, I yield such time as he may consume to the chairman of the Committee on the Judiciary, the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. Mr. Speaker, I rise to join my colleague, Mr. EDWARDS, in urging prompt passage of H.R. 6216. This amendment to the Bankruptcy Amendments and Federal Judgeship Act of 1984 merely ensures that bankruptcy judges receive improved retirement benefits under conditions promised to them in the Bankruptcy Reform Act of 1978.

The 1978 act provided certain retirement benefits to bankruptcy judges under the condition that they serve until March 31, 1984. The Bankruptcy Amendments and Federal Judgeship Act of 1984 revised the retirement system. But, more importantly, it pushed forward the vesting date for eligibility for the retirement system to October 1, 1986.

You will remember, I am sure, the many difficulties faced by the bankruptcy court system in the past 2 years. The bankruptcy judges who remained on the bench during these trying times served us well. It would be highly unfair for us to reward them by reneging on a commitment Congress made to them over 5 years ago.

Therefore, I urge you to vote for H.R. 6216, which would allow these dedicated individuals to receive retirement benefits under conditions promised in 1978.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill establishes March 31, 1984, as the date on which eligibility for retirement benefits would vest for bankruptcy judges. A similar provision was adopted last June by the conferees of H.R. 5174, the Bankruptcy Amendments and Federal Judgeship Act of 1984, but it was omitted through error from the final conference report. H.R. 6216 would correct that mistake. It does not make any substantive change in retirement benefits.

March 31, 1984, was the vesting date for retirement benefits originally provided in the Bankruptcy Reform Act of 1978. That date was selected because it marked the end of the transitional period between the old bankruptcy court system and the new U.S. bankruptcy court to be established April 1, 1984. The vesting date was extended on four occasions this spring as Congress extended the transitional period while awaiting enactment of the 1984 bankruptcy amendments.

In the House-Senate conference on H.R. 5174, eligibility for retirement benefits was tied to the date on which a successor was appointed or October 1, 1986, whichever is earlier. Judges in Oregon and the Central District of California, however, were vested as of March 31, 1984 to accommodate their particular circumstances. For virtually all bankruptcy judges, consequently, the conference report would have added 2 years to the eligibility vesting date on which they had relied since the enactment of the 1978 Reform Act.

Senator DECONCINI later wrote to Senator THURMOND, the conference chairman:

> To my way of thinking, this changed the "deal", and has the effect of holding the bankruptcy judges "hostage" for the next two years in order to receive their augmented retirement. My response was to offer an amendment changing the vesting date language from that referred to above, back to the original vesting date, March 31, 1984.
>
> I did this in the usual fashion: I called upon you for recognition; you recognized me; I briefly discussed the issue and offered my amendment. You asked if there was any further discussion and hearing none gaveled the amendment accepted. To my surprise, I have learned that my amendment was not included in the final conference report.

Senator DECONCINI attributes this omission to good faith error which in the hectic atmosphere of a marathon conference, and I concur in that opinion. It remains to be said that Senator THURMOND has given assurances that if the House passes H.R. 6216 he is willing to have it held at the desk in the other body and will consent to its prompt passage.

Accordingly, Mr. Speaker, I urge the House to pass H.R. 6216.

Mr. Speaker, I have no other requests for time, and I reserve the balance of my time.

● Mr. MOORHEAD. Mr. Speaker, at last we have a bankruptcy bill free of controversy. This bill merely corrects an error of omission in the conference report on the Bankruptcy Amendments and Federal Judgeships Act of 1984. During the conference, as recalled by a number of Members who were there, a substantially similar amendment was adopted. H.R. 6216 sets March 31, 1984, as the vesting date for eligibility for retirement benefits for bankruptcy judges. This conforms to the original agreement contained in the Bankruptcy Reform Act of 1978.●

Mr. EDWARDS of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FISH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. EDWARDS] that the House suspend the rules and pass the bill, H.R. 6216.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PATENT LAW AMENDMENTS ACT OF 1984

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6286), as amended.

The Clerk read as follows:

H.R. 6286

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SHORT TITLE

SECTION 1. This Act may be cited as the "Patent Law Amendments Act of 1984".

TITLE I—PATENT IMPROVEMENT PROVISIONS

USE OF PATENTED INVENTIONS OUTSIDE THE UNITED STATES

SEC. 101. (a) Section 271 of title 35, United States Code, is amended by adding at the end thereof the following new subsections:

"(e) Whoever without authority imports into or sells or uses within the United States a product which is made in another country by a process patented in the United States shall be liable as an infringer, if the importation, sale, or use of the product occurs during the term of such process patent.

"(f)(1) Whoever without authority supplies or causes to be supplied in or from the United States all or a substantial portion of the components of a patented invention, where such components are uncombined in whole or in part, in such manner as to actively induce the combination of such components outside of the United States in a manner that would infringe the patent if such combination occurred within the United States, shall be liable as an infringer.

"(2) Whoever without authority supplies or causes to be supplied in or from the United States any component of a patented invention that is especially made or especially adapted for use in the invention and not a staple article or commodity of commerce suitable for substantial noninfringing use, where such component is uncombined in whole or in part, knowing that such component is so made or adapted and intending that such component will be combined outside of the United States in a manner that would infringe the patent if such combination occurred within the United States, shall be liable as an infringer.".

(b) Section 287 of title 35, United States Code, is amended by adding at the end thereof the following: "No damages may be recovered for an infringement under section 271(e) of this title unless the infringer was on notice that the product was made by a process patented in the United States.".

STATUTORY INVENTION REGISTRATION

SEC. 102. (a) Chapter 14 of title 35, United States Code, is amended by adding at the end thereof the following new section:

"§ 156. Statutory invention registration

"(a) Notwithstanding any other provision of this title, the Commissioner is authorized to publish a statutory invention registration containing the specification and drawings of a regularly filed application for a patent without examination if the applicant—

"(1) meets the requirements of section 112 of this title;

"(2) has complied with the requirements for printing, as set forth in regulations of the Commissioner;

"(3) waives the right to receive a patent on the invention within such period as may be prescribed by the Commissioner; and

"(4) pays application, publication, and other processing fees established by the Commissioner.

If an interference is declared with respect to such an application, a statutory invention registration may not be published unless the issue of priority of invention is finally determined in favor of the applicant.

"(b) The waiver under subsection (a)(3) of this section by an applicant shall take effect upon publication of the statutory invention registration.

"(c) A statutory invention registration published pursuant to this section shall have all of the attributes specified for patents in this title except those specified in section 183 and sections 271 through 289 of this title. A statutory invention registration shall not have any of the attributes specified for patents in any other provision of law other than this title. A statutory invention registration published pursuant to this section shall give appropriate notice to the public, pursuant to regulations which the Commissioner shall issue, of the preceding provisions of this subsection. The invention with respect to which a statutory invention certificate is published is not a patented invention for purposes of section 292 of this title.".

(b) The table of sections at the beginning of chapter 14 of title 35, United States Code, is amended by adding at the end thereof the following:

"156. Statutory invention registration.".

(c) The amendments made by this section shall take effect six months after the date of the enactment of this Act.

FILING OF APPLICATIONS IN FOREIGN COUNTRIES

SEC. 103. (a) Section 184 of title 35, United States Code, is amended—

(1) in the third sentence—

(A) by striking out "inadvertently"; and

(B) by inserting "through error and without deceptive intent" after "filed abroad"; and

(2) by adding at the end thereof the following new paragraph:

"Subject to such conditions as the Commissioner may set by regulations, the scope of a license shall permit subsequent modifications, amendments, and supplements containing additional subject matter when the application upon which the request for the license is based is not required to be made available for inspection under section 181 of this title."

(b) Section 185 of title 35, United States Code, is amended by inserting immediately before the period in the last sentence the following: ", unless the failure to procure such license was through error and without deceptive intent, and the patent does not disclose subject matter within the scope of section 181 of this title".

(c) Section 186 of title 35, United States Code, is amended by inserting "willfully" after "whoever", the second place it appears.

PRIOR ART

SEC. 104. Section 103 of title 35, United States Code, is amended by adding at the end thereof the following:

"Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.".

JOINT INVENTORS

SEC. 105. (a) Section 116 of title 35, United States Code, is amended by amending the first paragraph to read as follows:

"When an invention is made by two or more persons jointly, they shall apply for patent jointly and each make the required oath, except as otherwise provided in this title. Inventors may apply for a patent jointly even though (1) they did not physically work together or at the same time, (2) each did not make the same type or amount of contribution, or (3) each did not make a contribution to the subject matter of every claim of the patent."

(b) Section 120 of title 35, United States Code, is amended by striking out "by the same inventor" and inserting in lieu thereof "which is filed by an inventor or inventors named in the previously filed application".

ARBITRATION OF INTERFERENCES

SEC. 106. Section 135 of title 35, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) Parties to a patent interference, within such time as may be specified by the Commissioner by regulation, may determine such contest or any aspect thereof by arbitration. Such arbitration shall be governed by the provisions of title 9 to the extent such title is not inconsistent with this section. The parties shall give notice of any arbitration award to the Commissioner, and such award shall, as between the parties to the arbitration, be dispositive of the issues to which it relates. The arbitration award shall be unenforceable until such notice is given. Nothing in this subsection shall preclude the Commissioner from determining patentability of the invention involved in the interference."

EFFECTIVE DATE

SEC. 107. (a) Subject to subsections (b), (c), (d) and (e) of this section, the amendments made by this Act shall apply to all United States patents granted before, on, or after the date of enactment of this Act, and to all applications for United States patents pending on or filed after the date of enactment, except that part of the Amendment made by section 101 which adds section 271(e) to title 35 shall only apply to patents granted after the date of enactment.

(b) The amendments made by this Act shall not affect any final decision made by the court or the Patent and Trademark Office before the date of enactment of this Act with respect to a patent or application for patent, if no appeal from such decision is pending and the time for filing an appeal has expired.

(c) Section 271(f) of title 35, United States Code, added by section 101 of this Act shall apply only to the supplying, or causing to be supplied, of any component or components of a patented invention after the date of enactment of this Act.

(d) No United States patent granted before the date of enactment of this Act shall abridge or affect the right of any person or his successors in business who made, purchased, or used prior to such effective date anything protected by the patent, to continue the use of, or to sell to others to be used or sold, the specific thing so made, purchased, or used, if the patent claims were invalid or otherwise unenforceable on a ground obviated by Section 103, 104 or 105 of this Act and the person made, purchased, or used the specific thing in reasonable reliance on such invalidity or unenforceability. If a person reasonably relied on such invalidity or unenforceability, the court before which such matter is in question may provide for the continued manufacture, use, or sale of the thing made, purchased, or used as specified, or for the manufacture, use, or sale of which substantial preparation was made before the date of enactment of this Act, and it may also provide for the continued practice of any process practiced, or for the practice of which substantial preparation was made, prior to the date of enactment, to the extent and under such terms as the court deems equitable for the protection of investments made or business commenced before the date of enactment.

(e) The amendments made by this Act shall not affect the right of any party in

any case pending in court on the date of enactment to have their rights determined on the basis of the substantive law in effect prior to the date of enactment.

TITLE II—PATENT AND TRADEMARK OFFICE PROCEDURES

BOARD OF PATENT APPEALS AND INTERFERENCES

SEC. 201. (a) Section 7 of title 35, United States Code, is amended to read as follows:

"§ 7. Board of Patent Appeals and Interferences

"(a) The examiners-in-chief shall be persons of competent legal knowledge and scientific ability, who shall be appointed to the competitive service. The Commissioner, the Deputy Commissioner, the Assistant Commissioners, and the examiners-in-chief shall constitute the Board of Patent Appeals and Interferences.

"(b) The Board of Patent Appeals and Interferences shall, on written appeal of an applicant, review adverse decisions of examiners upon applications for patents and shall determine priority and patentability of invention in interferences declared under section 135(a) of this title. Each appeal and interference shall be heard by at least three members of the Board of Patent Appeals and Interferences, who shall be designated by the Commissioner. Only the Board of Patent Appeals and Interferences has the authority to grant rehearings.

"(c) Whenever the Commissioner considers it necessary, in order to keep current the work of the Board of Patent Appeals and Interferences, the Commissioner may designate any patent examiner of the primary examiner grade or higher, having the requisite ability, to serve as examiner-in-chief for periods not exceeding six months each. An examiner so designated shall be qualified to act as a member of the Board of Patent Appeals and Interferences. Not more than one of the members of the Board of Patent Appeals and Interferences hearing an appeal or determining an interference may be an examiner so designated. The Secretary of Commerce is authorized to fix the pay of each designated examiner-in-chief in the Patent and Trademark Office at not to exceed the maximum rate of basic pay payable for grade GS-16 of the General Schedule under section 5332 of title 5. The rate of basic pay of each individual designated examiner-in-chief shall be adjusted, at the close of the period for which that individual was designated to act an examiner-in-chief, to the rate of basic pay with that individual would have been receiving at the close of such period if such designation had not been made.".

"(b) The item relating to section 7 in the table of sections at the beginning of chapter 1 of title 35, United States Code, is amended by striking out "Appeals" and inserting in lieu thereof "Patent Appeals and Interferences".

INTERFERENCES

SEC. 202. Section 135(a) of title 35, United States Code, is amended to read as follows:

"(a) Whenever an application is made for a patent which, in the opinion of the Commissioner, would interfere with any pending application, or with any unexpired patent, an interference may be declared and the Commissioner shall give notice of such declaration to the applicants, or applicant and patentee, as the case may be. The Board of Patent Appeals and Interferences shall determine questions of priority of the inventions and may determine questions of patentability. Any final decision, if adverse to the claim of an applicant, shall constitute the final refusal by the Patent and Trademark Office of the claims involved, and the Commissioner may issue a patent to the applicant who is adjudged the prior inventor. A final judgment adverse to a patentee from which no appeal or other review has been or can be taken or had shall constitute cancellation of the claims involved in the patent, and notice of such cancellation shall be endorsed on copies of the patent distributed after such cancellation by the Patent and Trademark Office.".

APPEALS AND CIVIL ACTIONS

SEC. 203. (a) Section 141 of title 35, United States Code, is amended—

(1) in the first sentence—

(A) by striking out "of the Board of Patent Appeals may appeal" and inserting in lieu thereof "in an appeal to the Board of Patent Appeals and Interferences under section 134 of this title may appeal the decision"; and

(B) by striking out ", thereby waiving his right" and inserting in lieu thereof ". By filing such an appeal the applicant waives his or her right";

(2) in the second sentence—

(A) by striking out "board of patent interferences on the question of priority may appeal" and inserting in lieu thereof "Board of Patent Appeals and Interferences on the interference may appeal the decision";

(B) by striking out "according to" and inserting in lieu thereof "in accordance with"; and

(C) by striking out "he" and inserting in lieu thereof "the party"; and

(3) by amending the last sentence to read as follows:

"If the appellant does not, within thirty days after filing of such notice by the adverse party, file a civil action under section 146, the decision appealed from shall govern the further proceedings in the case.".

(b) Section 145 of title 35, United States Code is amended—

(1) in the first sentence by striking out "Appeals may" and inserting in lieu thereof "Patent Appeals and Interferences in an appeal under section 134 of this title may,"; and

(2) in the second sentence by striking out "Appeals" and inserting in lieu thereof "Patent Appeals and Interferences".

(c) Section 146 of title 35, United States Code, is amended by striking out "board of patent interferences on the question of priority" and inserting in lieu thereof "Board of Patent Appeals and Interferences on the interference".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 204. (a) Section 41(a)(6) of title 35, United States Code, is amended—

(1) by striking out "Appeals" each place it appears and inserting in lieu thereof "Patent Appeals and Interferences"; and

(2) by inserting "in the appeal" after "oral hearing".

(b)(1) Section 134 of title 35, United States Code, is amended—

(A) in the section caption by striking out "APPEALS" and inserting in lieu thereof "PATENT APPEALS AND INTERFERENCES"; and

(B) by striking out "Appeals" and inserting in thereof "Patent Appeals and Interferences".

(2) The item relating to section 134 in the table of sections at the beginning of chapter 12 of title 35, United States Code, is amended by striking out "Appeals" and inserting in lieu thereof "Patent Appeals and Interferences".

(c) Section 305 of title 35, United States Code, is amended by striking out "Appeals" and inserting in lieu thereof "Patent Appeals and Interferences".

AMENDMENTS TO OTHER PROVISIONS OF LAW

SEC. 205. (a) Section 1295(a)(4)(A) of title 28, United States Code, is amended by striking out "Appeals or the Board of Patent" and inserting in lieu thereof "Patent Appeals and".

(b) Section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182) is amended in the third paragraph—

(1) by striking out "a Board of Patent Interferences" and inserting in lieu thereof "the Board of Patent Appeals and Interferences"; and

(2) by striking out "the Board of Patent Interferences" and inserting in lieu thereof "the Board of Patent Appeals and Interferences."

(c)(1) Section 305(d) of the National Aeronautics Space Act of 1958 (42 U.S.C. 2457(d)) is amended—

(A) by striking out "a Board of Patent Interferences" and inserting in lieu thereof "the Board of Patent Appeals and Interferences"; and

(B) by striking out "the Board of Patent Interferences" and inserting in lieu thereof "the Board of Patent Appeals and Interferences".

(2) Section 305(e) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457(e)) is amended by striking out "a Board of Patent Interferences" and inserting in lieu thereof "the Board of Patent Appeals and Interferences".

SAVINGS PROVISION

SEC. 206. Any individual who, on the effective date of this title, is an examiner-in-chief of the Board of Patent Appeals of the Patent and Trademark Office or an examiner of interferences of the Board of Patent Interferences of such office shall be entitled to continue in office as a member of the Board of Patent Appeals and Interferences of the Patent and Trademark Office as of such effective date.

EFFECTIVE DATE

SEC. 207. Section 206 of this Act and the amendments made by this title shall take effect three months after the date of the enactment of this Act.

TITLE III—NATIONAL COMMISSION ON INNOVATION AND PRODUCTIVITY

ESTABLISHMENT

SEC. 301. There is hereby established a National Commission on Innovation and Productivity (hereinafter in this title referred to as the "Commission").

MEMBERSHIP OF COMMISSION

SEC. 302. (a) The Commission shall be composed of—

(1) three Members of the Senate appointed by the President of the Senate;

(2) three Members of the House of Representatives appointed by the Speaker of the House of Representatives; and

(3) three members appointed by the President of the United States, one of whom the President shall designate as Chairman.

Of the members appointed by the President, one member should be an appropriate officer or employee of the United States, one member should be an employer who employs inventors, and one member should be an employed inventor.

(b) At no time shall more than two of the members appointed under paragraph (1), (2), or (3) of subsection (a) be persons who are members of the same political party.

(c) Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made, and subject to the limitation set forth in subsection (b) with respect to the original appointment.

(d) Six members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

DUTIES OF THE COMMISSION

SEC. 303. The Commission shall make a full and complete review and study of the level of innovation and productivity of employed inventors. Such study shall include an analysis of the various methods available to inspire or stimulate individual and corporate innovation and productivity, including an assessment of the techniques used in other countries to achieve this objective. Such study may include an assessment of those aspects of other areas of intellectual property law that inspire or stimulate such innovation and productivity. The Commission shall make recommendations for such revisions of the laws of the United States, including the repeal of unnecessary or undesirable statutes, and such other changes as the Commission considers will better foster innovation and productivity.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 304. (a) A member of the Commission who is a Member of Congress or a full-time officer or employee of the United States shall receive no additional compensation by reason of his or her service on the Commission.

(b) Subject to amounts provided in advance in appropriations acts, a member of the Commission from private life shall receive the daily equivalent of the annual rate of basic pay payable for level III of the Executive Schedule for each day (including traveltime) during which such member is engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties, in accordance with subchapter I of chapter 57 of title 5, United States Code.

DIRECTOR AND STAFF

SEC. 305. (a) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the rate of basic pay payable for level IV of the Executive Schedule. The Director, subject to the direction of the Commission, shall supervise the activities of persons employed by the Commission and the preparation of the reports of the Commission and shall perform such other duties as may be assigned to the Director by the Commission.

(b) The Commission may appoint and fix the pay of such additional personnel as it considers appropriate.

(c) The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the maximum annual rate of basic pay payable for GS-16 of the General Schedule.

(d) The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

GOVERNMENT AGENCY COOPERATION

SEC. 306. The Commission is authorized to request from any department, agency, or independent instrumentality of the Government any information and assistance it considers necessary to carry out its functions under this title. Each such department, agency, and instrumentality is authorized to cooperate with the Commission and, to the extent permitted by law, to furnish such information and assistance to the Commission.

REPORT OF THE COMMISSION; TERMINATION

SEC. 307. The Commission shall submit interim reports on its activities to the President and the Congress at such times as the Commission considers appropriate, except that at least one such report shall be so submitted within one year after the date of the enactment of this Act. The Commission shall submit its final report on its activities to the President and the Congress within two years after such date of enactment. The Commission shall cease to exist sixty days after the date of the submission of its final report.

ADMINISTRATIVE SERVICES

SEC. 308. The General Services Administration shall provide administrative services for the Commission on a reimbursable basis.

AUTHORIZATION OF APPROPRIATIONS

SEC. 309. There is authorized to be appropriated $1,000,000 to carry out this title.

EFFECTIVE DATE

SEC. 310. This title shall take effect on January 21, 1985.

TITLE IV—MISCELLANEOUS PROVISIONS

INTERNATIONAL STAGE

SEC. 401. (a) Section 361(d) of title 35, United States Code, is amended in the first sentence by inserting "or within one month after the date of such filing" after "application".

(b) Section 366 of title 35, United States Code, is amended—

(1) in the first sentence—

(A) by inserting "after the date of withdrawal," after "effect"; and

(B) by inserting before the period the following: ", unless a claim for the benefit of a prior filing date under section 365(c) of this part was made in a national application, or an international application designating the United States, filed before the date of such withdrawal"; and

(2) in the second sentence by inserting "withdrawn" after "such".

NATIONAL STAGE

SEC. 402. (a) Section 371(a) of title 35, United States Code, is amended—

(1) by striking out "is" and inserting in lieu thereof "may be"; and

(2) by striking out ", except those filed in the Patent Office".

(b) Section 371(b) of title 35, United States Code, is amended to read as follows:

"(b) Subject to subsection (f) of this section, the national stage shall commence with the expiration of the applicable time limit under article 22 (1) or (2) of the treaty.".

(c) Section 371(c)(2) of title 35, United States Code, is amended—

(1) by striking out "received from" and inserting in lieu thereof "communicated by"; and

(2) by striking out "verified" before "translation".

(d) Section 371(d) of title 35, United States Code, is amended to read as follows:

"(d) The requirements with respect to the national fee referred to in subsection (c)(1), the translation referred to in subsection (c)(2), and the oath or declaration referred to in subsection (c)(4) of this section shall be complied with by the date of the commencement of the national stage or by such later time as may be fixed by the Commissioner. The copy of the international application referred to in subsection (c)(2) shall be submitted by the date of the commencement of the national stage. Failure to comply with these requirements shall be regarded as abandonment of the application by the parties thereof, unless it be shown to the satisfaction of the Commissioner that such failure to comply was unavoidable. The payment of a surcharge may be required as a condition of accepting the national fee referred to in subsection (c)(1) the oath or declaration referred to in subsection (c)(4) of this section of these requirements are not met by the date of the commencement of the national stage. The requirements of subsection (c)(3) of this section shall be complied with by the date of the commencement of the national stage, and failure to do so shall be regarded as a cancellation of the amendments to the claims in the international application made under article 19 of the treaty.".

(e) Section 372(b) of title 35, United States Code, is amended—

(1) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(2) by adding at the end thereof the following:

"(3) the Commissioner may require a verification of the translation of the international application or any other document pertaining to the application if the application or other document was filed in a language other than English.".

(f) Section 372 of title 35, United States Code, is amended by striking out subsection (c).

(g) Section 376(a) of title 35, United States Code, is amended by striking out paragraph (5) and redesignating paragraph (6) as paragraph (5).

TECHNICAL AMENDMENTS

SEC. 403. (a) Title 35, United States Code, is amended by striking out "Patent Office" each place it appears and inserting in lieu thereof "Patent and Trademark Office".

(b) The table of parts at the beginning of title 35, United States Code, is amended by adding at the end thereof the following:

"IV. Patent Cooperation Treaty..... 351".

PATENT FEES

SEC. 404. (a) Notwithstanding section 41 of title 35, United States Code, as in effect before the enactment of Public Law 97-247 (96 Stat. 317), no fee shall be collected for maintaining a plant patent in force.

(b) Notwithstanding section 41(c) of title 35, United States Code, as in effect before the enactment of Public Law 97-247 (96 Stat. 317), the Commissioner of Patents and Trademarks may accept, after the six-month grace period referred to in such section 41(c), the payment of any maintenance fee due on any patent based on an application filed in the Patent and Trademark Office on or after December 12, 1980, and before August 27, 1982, to the same extent as in the case of patents based on applications filed in the Patent and Trademark Office on or after August 27, 1982.

TRADEMARK TRIAL AND APPEAL BOARD

SEC. 405. Section 3 of title 35, United States Code, is amended by adding at the end thereof the following:

"(e) The members of the Trademark Trial and Appeal Board of the Patent and Trademark Office shall each be paid at a rate not to exceed the maximum rate of basic pay payable for GS-16 of the General Schedule under section 5332 of title 5.".

EFFECTIVE DATE

SEC. 406. (a) Section 404 of this Act and the amendments made by section 403 of this Act shall take effect on the date of the enactment of this Act.

(b) The amendments made by sections 401, 402, and 405 of this Act shall take effect six months after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to present to the House H.R. 6286, the Patent Law Amendments Act of 1984.

The Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the Committee on the Judiciary, which I chair, has long had direct legislative and oversight responsibilities for the American patent system. Part of the subcommittee's job is to secure for the owners of intellectual property, including patent holders, a workable, efficient, and vigorous set of laws to protect their creations. It is only through implementation of the constitutional mandate of encouraging the sciences and the useful arts that we will be able to spur the inventive spirit that has made our country a world leader. Indeed, our ability to foster innovation is a central element to our national security, for without technological and scientific developments, we could not maintain our current standard of living or hope for the diminution of unemployment caused by foreign competition.

The patent law, like the copyright law, makes reward to the owner a secondary consideration. The stimulation of creativity by providing large corporations with more money or extended monopoly rights is not the paramount goal of our intellectual property laws. Rather, the principal interest of the United States and the primary object of granting the monopoly lie in the general benefits derived by the public from the work of creators.

The bill before us today satisfies the "public interest" test of patent law reform. The bill is likely to be seen by most observers as mundane or technical in nature. Each of the titles addresses a specific, narrow concern in the patent law. However, without enactment of these housekeeping-oriented measures, the patent system would not be responsive to the challenges of a changing world and the public would not benefit from the release of creative genius.

This bill was originally suggested, in part, by the Commissioner of the Patent and Trademark Office, Assistant Secretary of Commerce, Gerald Mossinghoff, and, in part, by an ad hoc committee of patent law experts. These individuals [Rudolph J. Anderson, Robert B. Benson, Donald W. Banner, Homer O. Blair, Harry F. Manbeck, John E. Mauer, Pauline (now Judge) Newman, Donald J. Quigg, Richard C. Witte, Arthur R. Whale] worked long and hard to refine these proposals. The subcommittee is indebted to these individuals for their work in the public interest. Within the patent community, there has been only a minimal amount of controversy about most of the measures found in H.R. 6286.

Rather than present a lengthy statement about the bill's contents, I will insert in the RECORD a "Section-by-Section Analysis of H.R. 6286."

SECTION-BY-SECTION ANALYSIS OF H.R. 6286, PATENT LAW AMENDMENTS ACT OF 1984

Section 1. The short title is "Patent Law Amendments Act of 1984."

TITLE I: PATENT IMPROVEMENT PROVISIONS

Use of patented inventions outside the United States (process patents)

Section 101 makes two major changes in the patent law to avoid encouraging manufacturing outside the United States. Section 101 is similar to H.R. 4526.

The first change concerns process patents. Subsection (a) amends section 271 of the patent law to add to the exclusive rights provided by a patent the right to exclude others from importing into the United States products produced by a process covered by the patent. The principal effect of this change is to prevent competitors of a patent owner from avoiding the patent by practicing the patented process outside the United States and marketing the resulting product in this country. Like the coverage of H.R. 4526 the bill extends only to products made in another country and subsequently imported into the United States. The Committee assumes that in appropriate cases the courts will use evidentiary presumptions to establish inferences concerning whether a product made in another country was produced by the patent process. Subsection (b) of section 101 adds to section 287 of the patent law a sentence requiring that an alleged infringer, other than a manufacturer who practices the patented process in the United States, must be notified of the infringement before damages can be recovered. The term "was on notice" means through either notice received from the patent owner or actual knowledge of infringement obtained from another source. Notice may be proven if the alleged infringer was "willfully blind" about the existing circumstances. *See H. Rep.* 96-1396 at 35-36.

The second major change made by section 101 will prevent copiers from avoiding U.S. patents by supplying components of a patented product in this country so that the assembly of the components may be completed abroad. This proposal responds to the United States Supreme Court decision in *Deepsouth Packing Co.* v. *Laitram Corp.*, 406 U.S. 518 (1972), concerning the need for a legislative solution to close a loophole in patent law.

In this regard, section 101 adds a new subsection 271(f) to the patent law. Subsection 271(f) makes it an infringement to supply components of a patented invention, or to cause components to be supplied, that are to be combined outside the United States. In order to be liable as an infringer under paragraph (f)(1), one must supply or cause to be supplied "all or a substantial portion" of the components in a manner that would infringe the patent if such a combination occurred within the United States." The term "actively induce" is drawn from existing subsection 271(b) of the patent law, which provides that whoever actively induces patent infringement is liable as an infringer.

Under paragraph (f)(1) the components may be staple articles or commodities of commerce which are also suitable for substantial non-infringing use, but under paragraph (f)(2) the components must be especially made or adapted for use in the invention. The passage in paragraph (f)(2) reading "especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use" comes from existing section 271(c) of the patent law, which governs contributory infringement. Paragraph (f)(2), like existing subsection 271(c), requires the infringers to have knowledge that the component is especially made or adopted. Paragraph (f)(2) also contains a further requirement that infringers must have an intent that the components will be combined outside of the United States in a manner that would infringe if the combination occurred within the United States.

Statutory invention registration

Section 102 of the bill adds a new section 156 to title 35, United States Code. The new section establishes an optional procedure by which an inventor may secure patent protection which is strictly defensive in nature.

Under current law, there is no simple, practical method by which an inventor can protect his ability to exploit the invention without obtaining a patent. The new procedure created by section 102 would confer on an inventor the same rights that a patent provides to prevent others from patenting the invention. However, it would not permit the holder to exclude others from making, using or selling the invention.

The new procedure is to be known as a Statutory Invention Registration (SIR). As originally proposed in H.R. 2610, the new procedure was referred to as a "defensive patent." Several witnesses and the United States Senate (see S. 1538 as passed by the Senate on June 29, 1984) felt that such a characterization would confuse public perception of patent protection and detract from the image of a patent. In addition, concern was also expressed that use of the term patent in connection with the rights grant-

ed by section 102 would be inconsistent with the definition of patent being considered by the proposed revision of the Paris Convention for the Protection of Industrial Property.

Due to the fact that a SIR does not grant an exclusive right to an inventor, it would not be necessary to subject a SIR to the lengthy examination process required for the granting of a patent. Such an examination would only be necessary if the SIR was subjected to an interference proceeding to determine priority of invention. In all other instances, the Patent and Trademark Office would only review the application for adherence to formal printing and payment requirements and to ensure that the requirements of 35 U.S.C. § 112 were satisfied.

An applicant desiring to have a SIR published under this section will be required to file a regular application for a patent and to execute a waiver of enforcement of patent rights. This waiver of the claimed invention will be effective at the time of publication. The original application for a SIR can be replaced by a continuation or a continuation-in-part application for a patent until publication of the SIR and under such regulations as the Commissioner may establish, thereby providing the applicant with flexibility during the pendency period of the application. Until the SIR is published the application remains an application for a patent. However, the holder of a SIR will not be able to use the reissue mechanism to reinstate the rights to exclusive use that were waived by the initial publication of the SIR.

The waiver of the right to receive a patent, required of all applicants electing to receive a SIR, applies to those remedies provided for the enforcement of a patent under section 183 and sections 271 through 289 of title 35, United States Code. The waiver also applies to remedies under other titles of the United States Code including sections 1337 and 1337a of title 19, section 2356 of title 22, and section 1498 of title 28. This waiver of enforcement applies only to the claimed subject matter of the SIR and not to say any foreign patent arising from an application which might have served as the basis of a priority claim under the Paris Convention for the Protection of Industrial Property. Likewise, the waiver does not prevent the holder of a SIR from asserting any defenses provided in sections 271 through 289 of title 35 with respect to a charge of infringement of any other patent.

The Commissioner of Patents and Trademarks can refuse to accept the waiver in certain cases. For example, the waiver could not be accepted if the waiver is not a waiver of all the previously mentioned rights. The Commissioner also has discretion to set time limits on the waiver. This would allow the Commissioner to limit the ability of an inventor to keep inventions secret through a series of continuing patent applications followed by a conversion to a SIR.

The waiver of patent rights in the SIR publication to the subject matter claimed therein may affect the patentability of a claim in other related applications, particularly divisional applications, since the waiver of patent rights would be effective for all inventions claimed in the SIR and would be effective as a waiver of the right to obtain a patent on the invention claimed in the same application or any other application. Where an application containing generic claims is published as a SIR, the waiver in that application applies to any other related applications, including divisions, continuations, and continuations-in-part, to the extent that the same invention claimed in the SIR is also claimed in the other related application.

The PTO may apply standards similar to those which it applies in making determinations of "same invention" and "obvious type" double patenting for purposes of determining whether or not a waiver by an applicant to claims in a SIR precludes patenting by the same applicant to subject matter in any other related application. Therefore, the waiver would preclude patenting of an invention claimed in a related application which is the same as, or not patentably distinct from, the invention claimed in the SIR. When making this determination it is the claimed subject matter of the SIR which is compared to the claimed subject matter of the related application. Where the subject matter claimed in the related application is not patentably distinct from the subject matter waived in the SIR, the claims of the related application would be rejected as being precluded by the waiver in the SIR and could not be overcome by a terminal disclaimer. If a divisional application were filed and published as a SIR claiming only a method, publication thereof would not normally effect a waiver on an application for a patent claiming only an apparatus.

The holder of a SIR containing the required waiver would be left without the exclusivity associated with a patent. In other respects a SIR issued under this section would be the same as a patent, including the application which is published as a SIR serving as the basis for a priority claim in a foreign application under the Paris Convention. A SIR would be treated the same as a U.S. patent for all defensive purposes. The application, and the SIR published therefrom, could become involved in an interference; the SIR would be a "constructive reduction to practice" under 35 U.S.C. 102(g); it would be "prior art" under all applicable sections of 35 U.S.C. 102 including section 102(3); and it would be classified and cross-referenced, disseminated to foreign patent offices, stored in the Patent and Trademark Office computer tapes, made available in commercial data bases, and announced in the *Official Gazette* of the PTO. A published SIR is intended to be a fully viable publication for defense purposes, usable as a reference as of its filing date in the same manner as a patent. A SIR would also serve as a basis to initiate or participate in an interference or priority proceeding under 35 U.S.C. 291 and could be used as a reference in defense of an infringement suit.

A SIR is based on a regularly filed application for a patent. Therefore, the filing date of the application would be a sufficient basis for a priority claim in a foreign application. Article 4, section A(3) of the Paris Convention states:

. . . by a regular national filing is meant any filing that is adequate to establish the date on which the application was filed in the country concerned, whatever may be the subsequent fate of the application.

After a SIR is published, markings such as "patent pending" are improper under section 292 of title 35 of the United States Code.

The SIR will serve as a replacement for the current nonstatutory "defensive publication program" which was established under 37 CFR 1.139. Although publication under the "defensive publication program" was intended to provide rights similar to those of the SIR, a publication under that program has been held not to be available as evidence of prior knowledge as of its filing date under section 102(a) of title 35 (*Ex parte Osmond*, 191 USPQ 334 (P.T.O. Bd. App. 1976)). The use of a "defensive publication" as a reference to prevent a patent from issuing on a subsequent application is therefore limited. A SIR, on the other hand, will have a clear statutory basis in title 35. The SIR will be "prior art" and a "constructive reduction to practice" under section 102(a) and section 102(g), respectively, as of the filing date of the application on which it is based.

A SIR would not be subject to reexamination under sections 302 to 307 of title 35, United States Code.

The Commissioner is authorized by section 102 to issue SIRs for defensive purposes, but is not required to do so. The Committee selected the term "authorized" with the specific intent of giving the Commissioner discretion in determining whether or not a SIR should be issued on a particular application. In circumstances where the subject matter was obviously not an invention, was too informal to print, and so forth, the Commissioner has the right to refuse to publish the SIR.

Fees charged by the PTO for SIRs should be less than those charged for examined applications, and SIRs will be published sooner than patents because no substantive examination would normally be required for SIRs. To the extent that examination is required, it will be conducted in the same manner as in any other patent application. Maintenance fees will not be charged for SIRs. Since the Commissioner may permit the waiver of patent rights to be filed after the more extensive examination for a patent application has begun, the Committee expects that, if the Commissioner does so, he will charge the appropriate higher fees in such a case.

Since the fees set by the Commissioner for the new SIR procedure under section 156 of title 35 are not established under section 41 (a) or (b) of that title, they are not subject to reduction if the applicant has small entity status.

If the fee for publication is not paid at the time of filing of the waiver of the right to receive a patent, the Commissioner may set a period within which the fee must be paid to prevent abandonment of the application. Such a period would be subject to petitions and fees for extensions of time under section 41(a)8. If abandonment should occur, the application may be revived under the provisions of section 41(a)7.

In the final analysis, the procedures set forth in section 102 will not only give inventors a limited form of protection more cheaply than they could get by applying for a patent, but it may also save the government substantial time and money as well. The procedure would allow the government and the private sector to make inventions public knowledge. Last, the SIR would be particularly useful to those with limited resources such as universities and small businesses, who have a new, less expensive alternative to the traditional patenting of inventions.

Proposed section 102(c) requires that a SIR shall give appropriate notice to the public indicating the fact that it does not have all the attributes of a patent. This consumer protection measure will be further mandated by regulations to be issued by the Commissioner.

Section 102 is derived from H.R. 2610 (section 2) and S. 1538 (section 2(a)).

For further information about section 102 and various other administrative improvements, see Remarks, of Robert W. Kastenmeier, 129 CONGRESSIONAL RECORD H2187 (daily ed. April 19, 1983.)

Foreign filing licenses

Section 103 of the bill modifies the requirements for obtaining a license from the United States Patent and Trademark Office before filing an application in a foreign patent office. These subsections, 103(a), 103(b), and 103(c), are similar to sections, 1, 2, and 3, respectively, of H.R. 4524.

Subsection (a) of section 103 substitutes the words "through error and without deceptive intent" for "inadvertently" in section 184 of the patent law. This changes the standard for granting a license retroactively where an application has been filed abroad and the subject matter is not important to national security within the meaning of section 181 of the patent law. The intent of the change is to authorize granting of retroactive licenses in cases where harmless judgmental errors have been made in good faith, provided that the applications which were filed abroad do not disclose inventions within the secrecy scope of section 181.

Subsection (a) of section 103 also adds a new paragraph at the end of section 184 of the patent law making clear that the scope of a license for a patent application permits subsequent modifications, amendments and supplements containing additional subject matter, provided that the original application does not contain subject matter which is relevant to national security and which therefore must be made available for inspection under section 181. The scope of permissible modifications, amendments and supplements is subject to conditions the Commissioner may set by regulation.

The purpose of this new paragraph for section 184 is to make clear that a patent applicant should not be burdened with a requirement to obtain additional licenses after a license has been obtained for the initial application, except where there is a continued need to protect national security interests. Thus, the bill would not authorize a test as strict as that resulting from the court's interpretation of regulations, since revised, in *In re Gaertner*, 604 F.2d 1348, 202 USPQ 714 (C.C.P.A. 1979).

Subsection (b) of section 103 complements the first part of section 103 by amending section 185 of the patent law. Section 185 as amended provides that a United States patent is not to be barred for failure to obtain a license for foreign filing if the failure was through error and without deceptive intent and the subject matter has been determined by the Commissioner not to be within the scope of section 181. The term "within the scope of section 181" means the secrecy scope of that section in the same fashion as that term appearing in section 184 was interpreted by the court in *Reese* v. *Dann*, 391 F. Supp. 12, 185 USPQ 492 (D.D.C. 1975).

Subsection (c) of section 103 amends section 186 of the patent law to make clear that the criminal sanctions of section 186 for failure to obtain a license apply only in instances where a person "willfully" files or causes or authorizes to be filed abroad an application in violation of the license requirements of section 184.

Prior art

Section 104 of the bill changes a complex body of case law which discourages communication among members of research teams working in corporations, universities or other organizations. *See* Remarks of Robert W. Kastenmeier, 129 CONG. REC. E5777 (daily ed. Nov. 18, 1983).

Section 104 amends section 103 of the patent law by adding a new sentence providing that subject matter developed by another person which qualifies as "prior art" only under subsection 102 (f) or (g) of the patent law is not to be considered when determining whether an invention sought to be patented is obvious under section 103, provided the subject matter and the claimed invention were commonly owned at the time the invention was made.

"Prior art" is the existing technical information against which the patentability of an invention is judged. Publicly known information is always considered in determining whether an invention is obvious. However, under *In re Bass*, 474 F.2d 1276, 177 USPQ 178, (C.C.P.A. 1973), and *In re Clemens*, 622 F.2d 1029, 206 USPQ 289 (C.C.P.A. 1980), an earlier invention which is not public may be treated under section 102(g), and possibly under 102(f), as prior art with respect to a later invention made by another employee of the same organization.

New technology often is developed by using background scientific or technical information known within an organization but unknown to the public. The bill, by disqualifying such background information from prior art, will encourage communication among members of research teams, and patenting, and consequently public dissemination, of the results of "team research."

The subject matter which is disqualified as prior art under section 103 is strictly limited to subject matter which qualifies as prior art only under section 102 (f) or (g). If the subject matter qualifies as prior art under any other subsection—e.g., subsection 102 (a), (b) or (e)—it would not be disqualified as prior art under the amendment to section 103.

The amendment applies only to consideration of prior art for purposes of section 103. It does not apply to or affect subject matter which qualifies as prior art under section 102. A patent applicant urging that subject matter was disqualified has the burden of establishing that it was commonly owned at the time the claimed invention was made.

Section 104 is not intended to permit anyone other than the inventor to be named in a patent application or patent. Also, the amendment is not intended to enable appropriation of the invention of another.

The Committee expects that the Patent and Trademark Office will reinstitute in appropriate circumstances the practice of rejecting claims in commonly owned applications of different inventive entities on the ground of double patenting. This will be necessary in order to prevent an organization from obtaining two or more patents with different expiration dates covering nearly identical subject matter. In accordance with established patent law doctrines, double patenting rejections can be overcome in certain circumstances by disclaiming the terminal portion of the term of the later patent, thereby eliminating the problem of extending patent life.

The language in section 104 is parallel to but also is more precise than the language of H.R. 4525. For example, section 104 makes clearer that information learned from or transmitted to persons outside the inventor's immediate organization is not disqualified as prior art.

The term "subject matter" as used in section 104 is intended to be construed broadly in the same manner as the term is construed in the remainder of section 103. The term "another" as used in this amendment means any inventive entity other than the inventor. The term "developed" is to be read broadly and is not limited by the manner in which the development occurred.

Joint inventors

Section 105 complements section 104 of the bill. It recognizes the realities of modern team research. A research project may include many inventions. Some inventions may have contributions made by individuals who are not involved in other, related inventions.

Subsection (a) of section 105 amends section 116 of the patent law to allow inventors to apply for a patent jointly even though (i) they did not physically work together or at the same time, (ii) each did not make the same type or amount of contribution, or (iii) each did not make a contribution to the subject matter of every claim of the patent. Items (i) and (ii) adopt the rationale of decisions such as *Monsanto* v. *Kamp*, 269 F. Supp. 818, 154 USPQ 259 (D.D.C. 1967). Item (iii) adopts the rationale of cases such as *SAB Industri AB* v. *Bendix Corp.*, 199 USPQ 95 (E.D. Va. 1978).

Like other patent applications, jointly-filed applications will continue to be subject to the requirement of 35 U.S.C. § 121 that an application be directed to only a single invention. If more than one invention is included in the application, the Patent and Trademark Office may require the application to be restricted to one of the inventions. In such a case, a "divisional" application would be entitled to the benefit of the earlier filing date of the original application.

Subsection (a) of section 105 increases the likelihood that different claims of a patent may have different dates of invention, even though the patent covers only one independent and distinct invention within the meaning of 35 U.S.C. § 121. When necessary, the Patent and Trademark Office or a court may inquire of the patent applicant or owner concerning the inventors and the invention dates for the subject matter of the various claims.

Subsection (b) of section 105 amends section 120 of the patent law to provide that an application can obtain the benefit of the filing date of an earlier application when not all inventors named in the joint application are the same as named in the earlier application. This permits greater latitude in filing "divisional" applications. For example, if the previously filed application named inventors A and B as the inventors, a later application by either A or B could be filed during the pendency of the previously filed application and claim benefit of the previously filed application. In order to be entitled to the benefit of an earlier pending application, of course, the subject matter of the claims of the later application would have to be disclosed in the earlier application.

Section 105 is taken from H.R. 4527 and includes changes recommended during testimony before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice.

Arbitration of interferences

Section 106 of the bill authorizes parties involved in patent interferences to arbitrate such disputes. This change parallels a provision of Public Law 97-247 which authorizes arbitration with respect to validity and infringement. Section 106 requires parties to

provide notice of the arbitration award to the Commissioner of Patents and Trademarks. Awards under this section, as under Public Law 97-247, affect only the parties involved. The final sentence of subsection 135(d) of the patent law, added by section 106, makes clear that nothing in this bill abrogates the final authority of the Commissioner to determine the patentability of an invention covered by a patent application.

Section 106 of the bill is nearly identical to H.R. 4528.

Effective date: Title I

Section 107 of the bill describes how and under what circumstances the changes to the law made in sections 101 through 106 will take effect.

Subsection (a) provides that, subject to the remaining subsections of section 107, the amendments shall apply to all patents granted before, on, or after the date of enactment and to all applications pending on or filed after the date of enactment. The only exception is that the remedy created by section 101 in adding a new section 271(e) to title 35, United States Code, shall only apply to patents issued after the date of enactment.

Subsection (b) provides that the Act will have no effect on final decisions of a court or the Patent and Trademark Office if the time for appeal has expired.

Subsection (c) limits the applicability of section 271(f) to acts which occur after the effective date of this Act.

Subsection (d) authorizes a court to provide equity according to the terms specified to parties to litigation who acted in reasonable and good faith reliance that a patent was invalid for reasons obviated by section 103, 104, or 105 of this Act. The Committee intends that persons who did embark on a commercial course of action because of a legal opinion based on ascertained facts that a certain patent or patents were invalid shall have the burden of establishing reasonable reliance with competent evidence.

Subsection (e) states that certain amendments to the law made by this Act will in the future prevent patents from being found to be invalid for reasons not related to the patented invention itself. The Committee recognizes that on the date of enactment there may be cases pending in the judicial system in which the validity of patents are at issue for the very reasons obviated in this Act. The Committee intends that such cases should be determined on the basis of the substantive law existing prior to the date of enactment. However, the judgment of a court in such a case subsequent to the date of enactment shall affect only the parties to the case and shall not result in the forfeiture of a patent as to non-parties to the litigation.

TITLE II: PATENT AND TRADEMARK OFFICE PROCEDURES

Board of Patent Appeals and Interferences

Sections 201-207 of the bill amend section 7 of title 35, United States Code, to combine the Board of Appeals and the Board of Patent Interferences of the Patent and Trademark Office into a single Board, i.e., the Board of Patent Appeals and Interferences. This is accomplished by eliminating all references to either the existing board of Appeals or the Board of Patent Interferences.

Section 202 of the bill amends section 135 of title 35, United States Code, to permit the Board of Patent Appeals and Interferences to consider all patentability issues on interferences.

At present, if two or more inventors claim the same patentable invention, the Patent and Trademark Office is required to determine "priority": that is, who was the first inventor. The administrative proceedings to determine priority in the Patent and Trademark Office are known as "interference proceedings." Under existing law, the Board of Patent Interferences is not authorized to consider all questions of patentability when determining priority. The Board of Patent Interferences can consider only priority and other issues which have been held to be "ancillary to priority." For example, it has been held that the Board of Patent Interferences does not have jurisdiction to decide whether a claim in an application of a patent is patentable over prior art (*see e.g., Glass* v. *DeRoo,* 239 F.2d 402 (CCPA 1956)). This restriction on the Board's jurisdiction unduly complicates the process for obtaining a patent based on an application which becomes involved in an interference. In addition, determining whether an issue is ancillary to priority is a difficult and length endeavor (*see e.g., Tofe* v. *Winchell,* 645 F.2d 58 (CCPA 1981); *Hester* v. *Allgeier,* 646 F.2d 513 (CCPA 1981); and *Magdo* v. *Kooi,* 699 F.2d 1325 (Fed. Cir. 1983)). The longest interference took over 13 years in the Patent and Trademark Office. While most interferences are not that long, the substantial delays in issuing a patent due to the lengthy interference proceedings and subsequent *ex partes* proceedings are harmful to both applicants and the public. Lack of confidence in the patent law system is the ultimate result.

In response to the problem, the Patent and Trademark Office already has published regulations to streamline this process (49 Fed. Reg. 3788 (Jan. 30, 1984)). The Committee finds, however, that one of the reasons for the lengthy proceedings in the Office is a jurisdictional problem that can only be cured by legislation. The Board of Appeals of the Patent and Trademark Office can consider patentability, but not priority. As noted above, the Board of Patent Interferences can consider priority, but not all questions of patentability. This statutory jurisdictional inconsistency is eliminated through the merger of these two Boards. By combining the two Boards into a single Board having jurisdiction to consider priority and patentability, it is expected that interferences will become simpler, more expeditious, and less costly. Under the bill, all issues of patentability and priority which arise in an interference can be decided in a single proceeding rather than in a series of complicated *inter partes* and *ex partes* proceedings *(see, e.g., Switzer* v. *Sockman,* 333 F.2d 935, 936 (CCPA 1964) and *Sze* v. *Bloch,* 458 F.2d 137, 138-139 (CCPA 1972)). The Patent and Trademark Office and reviewing courts will no longer have to decide whether an issue is "ancillary to priority."

Section 207 provides that the amendments made by this title shall take effect three months after the date of enactment of this act.

Sections 201-207 are substantially derived from H.R. 4462 (section 2) and S. 1538 (sections 11 through 22).

TITLE III: NATIONAL COMMISSION ON INNOVATION AND PRODUCTIVITY

Section 301 creates a National Commission on Innovation and Productivity. During the past three Congresses, much has been heard about the need to improve American creativity. The fostering of technological change and the stimulation of innovation have become our goals. Relatively little has been done to examine how to accomplish these objectives on an employee level. The purpose of the National Commission is to focus attention on this question.

The Commission will be charged with the task of studying the level of innovation of employed inventors and examining the various options for increasing the productivity of individual employed inventors. The section does not represent any view about the merits of the two proposals pending in the 98th Congress: H.R. 3285 and 3286, relating to statutory changes in the rights of employed inventors. The statutory framework used here is derived from the model used by the Committee in creating other study entities such as the National Commission on Reform of Federal Criminal Laws (Brown Commission) and the Commission on Revision of the Federal Court Appellate System (Hruska Commission).

Section 302 sets forth the membership of the Commission. Three members shall be appointed by the President, three by the Speaker of the House, and three by the President of the Senate, making a total of nine members. The President of the United States shall designate the Chairman of the members appointed by the President. One member should be a high-ranking officer or employee of the United States, one should be an employer who employs inventors, and the third should be an employed inventor.

Section 303 sets forth the duties of the Commission.

Section 303 provides that the Commission shall make a full and complete review and study of the level of innovation and productivity of employed inventors. Such study shall include an analysis of the various contractual and legislative methods available to inspire or stimulate individual and corporate innovation and productivity, including an assessment of the techniques used in other countries (such as West Germany) to achieve this objective. Such study may include an assessment of those aspects of other areas of intellectual property law that inspire or stimulate such innovation and productivity. In particular, the Commission may want to examine the issue of work-for-hire in copyright law. The Commission shall make recommendations for such revisions of the laws of the United States, including the repeal of unnecessary or undesirable statutes, and such other changes as the Commission considers will better foster innovation and productivity by employees.

Section 304 sets forth a compensation scheme for Commission members. A member of the Commission who is a member of Congress or a public servant shall receive no additional compensation. Members of the Commission from private life are to be paid at a *per diem* rate of up to Executive Level III.

Section 305 provides for the duties and pay of the Director and staff of the Commission. The Director, who is subject to the control of the Commission, shall supervise the activities of Commission employees, shall prepare reports for the Commission, and shall perform duties that may be assigned.

Section 306 provides for other Federal agencies to cooperate with the Commission. Since there is substantial expertise in government agencies about innovation and patent policy, it is hoped that these agencies will assist the Commission in achieving its assigned functions.

Section 307 requires the Commission to submit interim reports on its activities to

the President and the Congress as the Commission deems appropriate, except that at least one report shall be so submitted within one year. The Commission shall submit its final report to the President and the Congress within two years after the date of enactment and the Commission shall cease to exist sixty days after the date of the submission of its final report.

Section 308 provides the GSA with authority to provide administrative services on a reimbursable basis.

Section 309 provides for an authorized appropriation of up to one million dollars for the operation of the Commission.

Section 310 provides that this Commission shall be established effective January 21, 1985.

TITLE IV: MISCELLANEOUS PROVISIONS

International stage

Section 401 is composed of two amendments to title 35, United States Code.

Subsection 401(a) amends section 361(d) of title 35, United States Code, to provide a one-month grace period from the date of filing of an international application for the payment of the basic international fee and the transmittal and search fees.

Subsection 401(b) amends section 366 of title 35, United States Code, to clarify the effect of withdrawal of an international application on claims for the benefit of its filing date. The withdrawal of an international application designating the United States will not deprive an applicant of the right to claim the benefit of the filing date of such an international application, provided the claim is made before that application is withdrawn. Stated otherwise, this clarifies that withdrawing the designation of the United States in an international application is comparable to abandoning a national application as far as a claim for an earlier filing date is concerned.

This section is derived from sections 5 and 6 of H.R. 2610, and sections 4 and 5 of S. 1538.

National stage

Section 402 comprises several housekeeping amendments to title 35, United States Code.

As a general proposition, the amendments made by subsections 402(a)-(d) to 35 U.S.C. § 371 set forth a legislative scheme to provide greater flexibility in the Patent and Trademark Office for the handling of international applications. In addition, these subsections, by relaxing the requirements which international applicants must satisfy by the commencement of the national stage, give international applicants benefits similar to those given national applicants by P.L. 97-247 with respect to the time for filing the national fee and oath or declaration.

Subsection 402(e) amends section 372(b) of title 35, United States Code, to authorize the Commissioner to require a verification of the translation of an international application or any other document pertaining thereto if the application or other document was filed in a language other than English. An authorization for the Commissioner to require verification in appropriate cases is necessary since subsection (c)(2) of section 371 was amended to remove the requirement that the translation be verified in all cases.

Subsection 402(f) also deletes section 372(c) of title 35, United States Code, thereby discontinuing the requirement for payment of a special fee to maintain claims in an international application which were not searched by an international searching authority. This deletion was made to place international applications processed in the national stage on the same footing as purely national applications.

Subsection 402(g) amends section 376(a) of title 35, United States Code, to delete mention of the special fee in order to conform with the amendment of section 372(c) made above.

Section 402 is derived from section 7, 8 and 9 of H.R. 2610, and section 6, 7 and 8 of S. 1538.

Technical amendments

Section 403 provides two necessary technical amendments to title 35, United States Code.

Subsection (a) replaces the term "Patent Office" with "Patent and Trademark Office" throughout title 35, United States Code, to conform to the provisions of Public Law 93-596.

Subsection (b) amends the table of contents at the beginning of title 35, United States Code, to reflect the Patent Cooperation Treaty. This amendment corrects an oversight in previous legislation.

Section 403 is derived from section 10 of H.R. 2610 and section 9 of S. 1538.

Patent fees

Section 404 is also a technical amendment to insure that no maintenance fees are charged for plant patents, regardless of when filed. Without this provision, plant patent owners whose applications were filed between the dates of enactment of Public Law 96-517 and Public Law 97-247 would be subject to payment of maintenance fees, while plant patent owners whose applications were filed outside those dates would not be subject to such fees. This provision eliminates that inconsistency.

Section 404 is derived from section 11 of H.R. 2610 and section 10 of S. 1538.

Trademark Trial and Appeal Board

Section 405 amends section 3 of title 35, United States Code, to provide for compensation to the members of the Trademark Trial and Appeal Board of the Patent and Trademark Office at a rate equal to that of GS-16s under the General Schedule.

Section 405 is derived from section 23 of S. 1538.

Effective date

Subsection 406(a) provides that section 404 (no patent maintenance fees for plant patents) and the technical amendments made by section 403 shall become effective on the date of enactment of the Act.

There should be no difficult in making these provisions effective immediately. The current inequality of treatment for plant patents should be eliminated with great haste. Similarly, the name change envisioned in section 403 and the reference to the Patent Cooperation Treaty can occur immediately.

Subsection 406(b) provides that the amendments made by sections 401, 402, and 405 of this Act shall become effective six months after the date of enactment of this Act. These sections, which provide various administrative changes to existing patent law, require an orderly transition between the new and old procedures. Six months is the amount of time allowed for the transition period.

Now, let me turn to a very brief summary of the bill.

Title I contains several important patent improvement provisions. Section 101 of the bill contains two parts. First, the bill would bring the U.S. patent law into line with those of most of our major trading partners by providing for international protection of process patents. Second, the bill provides that a product's patent protection cannot be avoided through the manufacture of component parts within the United States for assembly outside the United States.

Section 102 establishes a new procedure for a statutory invention registration, thereby creating an optional procedure by which an inventor may secure patent protection that is strictly defensive in nature. This new option will be very useful to those with limited resources such as universities and small businesses who will be able to select, in appropriate cases, a less expensive alternative to the more costly patent process.

Section 103 of the bill slightly modifies the rules applicable to foreign patent filings.

Section 104 provides that unpublished information known to the inventor does not constitute prior art in the field of the invention, and therefore cannot serve to defeat the patentability of that invention. This latter change will be of material benefit to university and corporate research laboratories where the free exchange of ideas and concepts may have been hampered by the current state of the law with respect to what constitutes "prior art."

Section 105 of the bill provides that two or more inventors may obtain a patent jointly even though each inventor has not contributed to each and every claim found in the patent application. This technical amendment should also be of benefit to universities and corporations which rely on team research.

Section 106 authorizes parties involved in patent interferences to arbitrate such disputes. This change parallels a provision of Public Law 97-297 which authorizes arbitration with respect to questions of patentability.

Title II, of H.R. 6286 is designed to improve administrative proceedings in the Patent and Trademark Office of the Department of Commerce for determining who is the first inventor of a given patentable invention. At present, these proceedings are known as interference proceedings. They are conducted in the Patent and Trademark Office between two or more adverse patent applicants or between one or more patent applicants and a patentee, all of whom are claiming the same patentable invention. Under existing law, the tribunal responsible for determining who is the first inventor—a Board of Patent Interferences—is not authorized to address all questions of patentability of the invention. This restriction on the Board's jurisdiction unduly complicates the procedures for

obtaining patents for applicants involved in interference proceedings. By combining the Board of Patent Interferences with an existing board having patentability jurisdiction—the Board of Appeals of the Patent and Trademark Office—procedures for patent applicants and patentees involved in interferences will be simpler, more expeditious, and less costly.

Title III of the bill creates a National Commission on Innovation and Productivity. During the past decade, the need to promote creativity and stimulate innovation has become a catch phrase. Much debate has revolved around improving the patent and copyright systems, creating new forms of intellectual property, and establishing corporate incentives—such as tax and investment credits. Little discussion has occurred about how to accomplish agreed-upon objectives at an employee level. The purpose of the National Commission, therefore, is to focus and redirect attention on the issue of employed inventors' rights.

Title IV of the bill contains miscellaneous provisions designed to bring U.S. law into conformity with international patent law and treaty obligations, to correct drafting mistakes in recently enacted public laws, and to augment the salary level of members of the Trademark Trial and Appeal Board.

Mr. Speaker, this concludes my summary of H.R. 6286.

The bill is appropriately called a "housekeeping" bill. Such a banal title, however, should not disguise the importance of several sections in the bill. It is critical that we keep our patent house in order. Increased innovation, better government, a satisfied public, improved economic health of the Nation, and more jobs will be the result.

Considered as a whole, H.R. 6286 is a very important bill.

I urge my colleagues to vote "aye" on its passage.

I understand that there are several questions relating to the process patent section of the bill (section 101).

First, let me remind you what the bill does. Subsection 101(a) amends section 271 of the patent law to add to the exclusive rights provided by a patent the right to exclude others from importing, selling, or using in the U.S. products produced by a process covered by the patent. The principal effect of this change is to prevent competitors of a patent owner from avoiding the patent by practicing the patented process outside the United States and marketing the resulting product in this country. The bill extends only to products "made in another country" and subsequently imported, sold, or used in the United States. The committee assumes that in appropriate cases the courts will use evidentiary presumptions to establish inferences concerning whether a product made in another country was produced by the patent process.

There also is a requirement that an alleged infringer be placed on notice of the potential infringement before damages can be recovered.

Passage of this section essentially will place American law on a par with the law of most of our trading partners, including France, Japan, West Germany, and the United Kingdom.

GENERIC DRUG CONCERNS

The first problem is one identified by generic drug manufacturers. The generics argue that there is already an existing law which protects domestic manufacturers from foreign imports made by infringing processes abroad.

I disagree with this proposition. The ITC solution is limited to industries "efficiently and economically operated in the United States," or to instances in which a restraint of trade or commerce occurs; in addition, damages are not available, thereby reducing the efficacy of the ITC alternative. Further, the ITC procedures do not take into consideration the needs of the patent system. For example, a claim of patent invalidity or misuse is not allowed in an ITC proceeding.

It should be noted that the generics previously argued against a "presumptive infringement section." We accommodated that concern by deleting from the bill any "burden of proof" section, leaving current law and procedure intact. A presumption does exist in the Senate bill and also in the gentleman from California's [Mr. MOORHEAD's] original bill (H.R. 3577), as well as the gentleman from Tennessee's [Mr. GORE's] bill (H.R. 6024).

We also accommodated the concerns of generics and others by adding a notice or "innocent infringement" section to the bill. Subsection 101(b) amends 35 U.S.C. 287 by adding a requirement that an alleged infringer, other than a manufacturer who practices the patented process outside the United States, must be notified of the infringement before damages can be recovered.

Finally, we have protected against any disruption in existing industries by providing that these provisions only apply to future patents. Thus, the process patents on existing process patents—such as a Valium—are not affected by this act.

In brief, I would rebut the argument of the generic drug manufacturers by quoting from a letter from the American Flint Glass Workers Union (AFL-CIO):

> Virtually all commercial countries except America have laws which provide patent protection for products produced by patented processes. Without the protection, U.S. companies employing American workers are operating under a severe handicap, particularly in high technical oriented manufacturing.

GATT CONCERNS

The U.S. Trade Representative—through staff—alleges that H.R. 6286 (section 101) would, if passed, violate the terms of GATT. They claim that the bill would discriminate against foreign-made goods because the users and sellers of goods "made in another country" with a process patented in the United States would be liable as process patent infringers, whereas users or sellers of goods made within the United States with the same patented process would not. It is also far from clear that this approach violates GATT.

H.R. 6286 is limited in scope (as opposed to the Senate bill). It does not permit the patent owner of an American process patent to proceed against "users" and "sellers" within the United States because such persons can already be held liable for violation of the patent law. A person who actively induces the production of a product through the use of a patented product owned by another can be guilty as an "inducer." It would be potentially mischievous and overbroad to permit infringement suits against persons who did not actively induce the original violation of the process patent.

It can be argued that GATT does not apply to patent law, due to GATT Article XX. Also, If H.R. 6286 violates GATT, then so does current law.

In conclusion, I would like to state on the record that I will not accommodate GATT concerns by passing an overbroad type of patent infringement liability. There is no record of problems in enforcing the process patent law for products made within the United States, so this expansion is unjustified.

In conference with the Senate, I will seek either to put the process patent issue over until next Congress, or alternatively, I will offer an amendment to make section 271(3) of title 35, United States Code, read as follows:

> Whoever without authority imports into the United States a product which is made by a process patented in the United States shall be liable as an infringer, if the importation of the product occurs during the term of the process patent.

This amendment will meet the concerns of both the Trade Representative and the generic drug industry.

As we approach the 200th anniversary of our Constitution, we should take stock of the principles it sets forth. For example, in the economic sphere, our Constitution authorizes the Congress to: "Promote the progress of science and the useful arts, by securing to authors and inventors the exclusive right to their respective writings and discoveries."

A central question facing us is whether the current patent system is working to achieve that constitutional

goal. In the past two decades, we have seen a dramatic shift in the patent process. In 1970, only 25 percent of the total patents granted were given to the residents of foreign nations; today, that rate has increased to nearly 40 percent. More significantly, the percentage of patents granted to individuals has declined to about one-sixth of the total.

Under current patent practice, five-sixths of all patents vest—from the moment of issuance—in a corporate assignee. Thus, in many ways, the patent system has become more an investor's law than one that serves inventors. There probably are valid economic reasons for the dramatic growth of corporate patents, such as economies of scale and expanding research and development budgets. These facts alone do not, however, reveal the whole picture.

If our country hopes to maintain its preeminent position in the world economic picture, we must do more to foster individual inventiveness. Second, we must foster a marketplace atmosphere that encourages inventions to rapidly be brought to the market. Finally, we must balance the interests of personal autonomy and creativity with the economic realities of the modern corporate state.

Title III of the bill provides for a National Commission to study the issues which arise from the problems of employed inventors. The subcommittee heard testimony from the AFL-CIO which advocated the creation of a statutory compensation scheme modeled after the West German law. The Institute for Electronic and Electrical Engineers (IEEE) urges us to pass a Federal law regulating the contractual relationships between employers and employees with respect to the ownership rights of inventions created by employees. These suggestions, however, proved to be very controversial. Therefore, the subcommittee decided to seek the expert advice of a study commission. This commission which will be appointed by the executive and legislative branches has a modest mandate, a short time for delivery of a report (2 years) and a small authorization level ($1 million). It is our hope that this commission will assist future Congresses in the task of fostering innovation through a workable and sound system of stimulation for the inventive activities of employed inventors.

I wish to stress my hope that this bill will stimulate new ideas in the area of patent policy development. As a recent series of articles in the Washington Post highlighted, the challenge of industrial innovation is crucial for all of us. Perhaps through the passage of this bill, and the surfacing of the concerns of employed inventors, we will stimulate the reindustrialization of America.

□ 1750

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6286, the Patent Law Amendments Act of 1984. This legislation has the strong support of American corporations, both large and small. It has the support of patent lawyers around the country and the Patent and Trademark Office of the Department of Commerce.

This legislation makes a number of changes in existing patent law which are important to U.S. industry. The most important change, in my opinion, occurs in section 101, relating to process patents. Both the chairman of our subcommittee [Mr. KASTENMEIER] and I introduced legislation on this issue at the beginning of the 98th Congress. It is also supported by the administration.

The present state of the law is such that if a person wishes to violate a U.S. process patent, it can be done by merely using the patented process outside of the United States and then shipping the resulting products back into the United States to compete with the U.S.-made products. No other industrialized country permits this, and H.R. 6286 would close this loophole.

Section 101 plugs an existing loophole in our patent law with regard to process patents. With this legislation our law will conform to every other major industrialized country. It does not extend the life of any patent. It would merely prevent somebody from going abroad and violating a U.S.-held process patent by manufacturing through the use of that process, certain products and then shipping those products back into the United States to compete with the U.S.-made product.

As drafted, this section only applies to process patents issued after the effective date of this act, although I would personally like the act to apply to existing patents as well as to future patents. It is basically unfair to permit persons to use somebody else's invention and permit that person to import those products back into this country and compete with the person who actually invented the process. This legislation will in no way affect the consumer or the elderly except maybe to assure that he or she is receiving the real product sought and not a product produced by the use of a U.S. patented process in a foreign country under less stringent standards.

This sort of evasion of our patent law is costly, not only in actual revenue lost but also to the number of U.S. jobs that are actually lost to foreign manufacturers. For example, we have a letter in our file from the Glass Workers Union, which states that they believe this present practice has cost their industry alone upward of 50,000 jobs.

All this legislation does is bring the law in line with existing law and practice in France, England, West Germany, Japan, Switzerland, and numerous other countries.

How would section 103, foreign filing licenses, affect existing cases?

This legislation clearly states that it's not to have any effect whatsoever on existing cases.

Section 107(e) states:

> The amendments made by this Act shall not affect the right of any party in any case pending in court on the date of enactment to have their rights determined on the basis of the substantive law in effect prior to the date of enactment.

It is the intent of this legislation that if anybody who has relied on the old standard of "inadvertence" will not be held liable, or measured by the new standard of "through error and without deceptive intent."

The section-by-section analysis of this particular provision says:

> The Committee recognizes that on the date of enactment there may be cases pending in the judicial system in which the validity of patents are at issue for the very reasons obviated in this Act. The Committee intends that such cases should run their judicial course unaffected in any way by the changes in the law made here.

I don't believe we could have made this any clearer.

The International Trade Commission presently recognizes that existing practice with regard to the importation of products made by use of a process patent in the United States is a form of unfair competition. However, all the witnesses have testified before the subcommittee including the Commissioner of the Patent and Trademark Office who indicated that the remedy provided by the ITC is cumbersome and ineffective as to process patents.

I urge a favorable vote on this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

● Mr. FISH. Mr. Speaker, I rise in support of H.R. 6286, the Patent Law Amendments Act of 1984. This bill makes a number of minor but important changes in our patent law. They are changes that are important to U.S. corporations, they are changes that are important to U.S. patent owners and they are changes that are important to U.S. innovation. A similar bill is presently being worked on in the other body and with a little luck H.R. 6286 may well become law this week.

Presently, the infringement of a product patent occurs if the patented invention is made, used or sold in the United States. Someone cannot avoid infringement of a product patent by manufacturing the product overseas and then importing it into this coun-

try because use or sale of the patent in the United States would infringe the patent.

A process patent, however, only protects a process or method of making an article or product. Today, the holder of a U.S. process patent cannot use the patent law to prevent someone from practicing the patented process in a foreign country and H.R. 6286 would correct this problem. The importance of process patent protection to the national economy especially in such vital technical fields as industrial chemicals and pharmaceutical manufacturing, microbiology and solid state electronics, cannot be overstated.

I urge your support for H.R. 6286.●

● Mr. ALBOSTA. Mr. Speaker, I rise today to urge my colleagues to join me in supporting H.R. 6286, the Patent Law Amendments of 1984.

I am pleased that incorporated in these important patent law amendments is my bill, the Patent Invention Protection Act. This amendment stipulates that process patent foreign infringers be liable to penalties for importing goods produced overseas through U.S. patented methods. Any unauthorized importer of a product made in another country by a process patented in the United States shall be liable as an infringer.

In my view this particular amendment to the current patent laws is long overdue. Its passage is necessary in order to signal a strengthening of the incentive role for American investment and innovative efforts by U.S. companies here in the United States through the use of patent laws. Clearly, this is one way in which we can strive to strengthen our technological base by remedying the infringement of process patents by offshore production as expressed in these amendments before us.

I firmly believe that it is essential to provide U.S. inventors with the protection they need on patents by insuring that an avenue of recourse is available if a patent or technology is stolen and reproduced in another country.

Therefore, I am encouraged by the expeditious passage of this legislation through the Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice. I thank the chairman, Mr. KASTENMEIER and members of the subcommittee for their consideration. I urge my colleagues to vote in favor of this measure.●

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the bill, H.R. 6286, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material on H.R. 6286, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 653. Joint resolution making continuing appropriations for the fiscal year 1985, and for other purposes.

TRADEMARK AMENDMENTS OF 1984

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6285) to clarify the circumstances under which a trademark may be canceled or considered abandoned.

The Clerk read as follows:

H.R. 6285

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "Trademark Amendments Act of 1984".

SEC. 2. Section 14 of the Act of July 5, 1946 (15 U.S.C. 1064) (commonly known as the Trademark Act of 1946), is amended by adding at the end thereof the following: "For purposes of subsection (c) of this section, a registered mark shall not be deemed to be the common descriptive name of a product merely because the mark is used to identify a unique product or service. The exclusive test for determining whether a registered trademark has become a common descriptive name shall be whether the relevant public understands the trademark to function as a mark or as a common descriptive name.".

SEC. 3. (a) Section 45 of the Act of July 5, 1946 (15 U.S.C. 1127), is amended by striking out the paragraph which begins to read "The term 'trademark'" and inserting in lieu thereof the following:

"The term 'trademark' includes any word, name, symbol, or device or any combination thereof adopted and used to identify and distinguish the goods of one manufacturer or merchant, including unique goods, from those manufactured or sold by others and to indicate that the goods come from a single source, even if that source is unknown.".

(b) Section 45 of the Act of July 5, 1946, is further amended by striking out the first sentence of the paragraph which begins to read "The term 'service mark'" and inserting in lieu thereof the following:

"The term 'service mark' means a mark used in the sale or advertising of services to identify and distinguish the services of one person, including unique services, from the services of others and to indicate that the services come from a single source, even if that source is unknown.".

(c) Section 45 of the Act of July 5, 1946, is further amended by adding after the period at the end of subsection (b) in the paragraph which begins to read "A mark shall be deemed 'abandoned'" the following: "Purchaser motivation shall not be a test for determination of abandonment under this subsection.".

SEC. 4. The amendments made by this Act shall not affect any action pending on the date of the enactment of this Act and shall not affect any mark which, before such date of enactment, was finally determined to have been abandoned.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us clearly defines the appropriate test for courts to apply in determining whether a mark has become generic.

Last year an unusual development in trademark law occurred and was duly brought to my attention. A three-judge panel of the Ninth Circuit Court of Appeals decided to apply a new method for determining whether a product had become generic. Under the ninth circuit test, courts are encouraged to look toward the purchaser's motivation, not just as to identity of the product, but also as to source. Thus, for a trademark to avoid becoming generic its user must convince a majority of the relevant public that a particular company produces the product. Thus, because such a test would be so difficult to meet, a number of well-known products such as Tide, Crest, Mr. Clean, or Brillo could become generic.

Because the test used by the ninth circuit may cause extreme uncertainty in trademark law and practice, and because it represents such a substantial departure from prior law, this bill clarifies the test for determining genericism. Under the bill, the exclusive test for determining whether a registered trademark has become a common descriptive name shall be whether the relevant public understands it to function as a mark or as a common descriptive name.

Unless Congress clarifies the trademark law and acts to reestablish its basic principles, the *Anti-Monopoly* decision will sow chaos in the merchandising of brand name products. H.R.

6285 does not propose a new genericness standard, but returns to the basic test of whether the understanding of the public is that the term is recognized as a trademark. The ninth circuit's error is corrected by making clear that trademark validity is not measured by whether a mark is used as the proper name of or to identify a unique article, and also by affirming that purchaser motivation is not relevant in determining genericness.

Hearings were held before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, which I chair, on June 28, 1984. Every witness expressed disagreement with the ninth circuit decision. There is no organized opposition to the legislation. Indeed the legislation has the support of the Consumer's Union.

I recognize that Congress should exercise great care in reaching results contrary to court decision. In this case, however, the bill does not affect the parties to the litigation in question. All the bill does is to clarify congressional intent on what tests should be used to determine genericism in trademark law.

SECTION-BY-SECTION ANALYSIS OF H.R. 6285, "TRADEMARK AMENDMENTS ACT OF 1984"

Section 1 of the bill provides the title, "Trademark Amendments Act of 1984." This Act is intended to clarify the rule of law to be applied in determining whether a mark has become generic. The term "generic" is not used explicitly in the Lanham Act but has been used by a number of courts as a shorthand substitute for the term "common descriptive name." *See* 15 U.S.C. §§ 1064(c) and 1065(4) (which provide for proceedings to cancel marks which have become a "common descriptive name of an article or substance"). The general rule of trademark law since at least 1938 has been that a mark is generic if the public understands the mark as identifying a particular mark, rather than the source of that product. *See, e.g., Kellog Co.* v. *National Biscuit Co.*, 305 U.S. 111 (1938) (relating to shredded wheat); see also *Miller Brewing Company*, v. *G. Heileman Brewing Co.*, 561 F.2d 75, 80-81 (7th Cir. 1977), *cert. denied*, 434 U.S. 1025 (1978) (finding LITE beer a generic term). This rule was severely undermined by the decision of the Ninth Circuit Court of appeals in *Anti-Monopoly Inc.* v. *General Mills Fun Group*, 684 F.2d 1316 (9th Cir. 1982), *cert. denied*, — U.S. — (1983). The Court in that case applied a standard which appears to be aberrent in terms of trademark law. This is not to say, however, that the result of the particular case should have been different. It is possible that the product involved—Monopoly—should be treated as a common descriptive name under the law in other circuits. *See* C. Trillin, *U.S. Journal: Berkeley, Cal., Monopoly and History, New Yorker*, February 13, 1978 at 90. *See also* Letter from Irving Marguiles (General Counsel, Department of Commerce) to Hon. Robert W. Kastenmeier, June 15, 1984, at 2, reprinted in *Trademark Genericism Hearings* (hereinafter *Marguiles Letter*).

The purpose of this Act is to prevent the use of the purchaser motivation test used by the Ninth Circuit from being applied to trademark cases in the future. *See* section 4 of the Act.

Section 2 of the bill provides that 15 U.S.C. § 1064 is amended to provide that "a registered mark shall not be deemed to be a common descriptive name of a product merely because the mark is used to identify a unique product or service. The exclusive test for determining whether a mark has become a common descriptive name shall be whether the relevant public understands the trademark to function as a mark or as a common descriptive name." The original bill introduced on this subject in the House, H.R. 4460, used the term "a majority of the public." This term was criticized as posing a potential risk of unnecessary litigation and in some cases may have produced irrational results. *See* Testimony of Michael Grow (on behalf of the United States Trademark Association) in *Trademark Genericism: Hearings on H.R. 4460 Before the Subcomm. on Courts, Civil Liberties and the Administration of Justice of the Comm. on the Judiciary*, 98th Cong. 2d Sess. (1984) (hereinafter *Trademark Genericism Hearings*). Thus, the relevant question became whether "the public understands that the term at issue is a trademark which identifies goods as coming from a single source." Greenbaum, Ginsberg, and Weinberg, *A Proposal for Evaluating Genericism After Anti-Monopoly*, 73 TRADEMARK REPORTER 101, 102, and 105 (1983); *see also Marguiles Letter.*

Section 3 makes conforming amendments to the definitions of trademark and "service mark" in subsections (a) and (b). Subsection (c) of section three of the Act provides that section 45 of the Lanham Act, 15 U.S.C. § 1127, is further amended to read that: "Purchaser notification shall not be a test for determination of abandonment under this section." This change is derived, in part, from the testimony of Judge Nies of the Court of Appeals of the Federal Circuit. *Trademark Genericism Hearings, supra.* This language also comes, in part, from Judge Nies' concurring opinion in *In re D.C. Comics*, 689 F.2d 1042 (CCPA 1982).

Section 4 of the bill provides that the amendments made by this Act shall not affect any action pending on the date of enactment of this Act. The Committee has generally taken the position that changes in the law should not apply to pending cases. This policy choice is sound for three distinct reasons. First, the Committee should not penalize litigants who may have engaged in conduct—including the investment of substantial sums of money—in reliance on the existing state of the law. Second, the Committee cannot know fully of the existence of all pending cases. It is possible that the application of any change in the law would be inequitable to some of those litigants. Finally, the Committee generally avoids the retroactive application of statutes so as to prevent the unseemly situation of Congress being used to provide more well-heeled parties (who have greater access to the potential process) from reaping economic advantage solely because of their size.

The non-application of this Act to pending cases may not, however, produce different results in most instances. If, as the Committee believes, the Ninth Circuit decision in *Anti-Monopoly* is informed by a purchaser motivation test which was not proper under the Lanham Act before this Act, then most courts will continue to find the rationale of the Ninth Circuit decision incorrect. *See, e.g. Warner Bros., Inc.* v. *Gay Toys, Inc.*, ——— F.2d ——— (2nd Cir. 1983).

Section 4 also provides that nothing in this Act shall serve to revive any mark which, before the date of enactment, was finally determined to have been abandoned. This section is intended to prevent the relitigation of issues already decided. This section also comports with basic principles of collateral estoppel law. *See, e.g., Miller Brewing Co.* v. *Falstaff Brewing Corp.*, 655 F.2d 6 (1st Cir. 1981) (finding that the Seventh Circuit has fully and fairly litigated the question of whether Lite beer was generic; the plaintiff was estopped from relitigating the issue). Thus, nothing in this Act will permit the owners of Monopoly to use this Act as a basis for reopening litigation against the owners of Anti-Monopoly. Nor does this Act alter the ordinary rules of collateral estoppel. For example, if the owners of Monopoly sued a party in a circuit other than the Ninth Circuit concerning the validity of the mark for Monopoly, the defendant in that case could arguable assert a collateral estoppel defense. The court in that case should resort to ordinary principals of law to determine what issues were decided in the Ninth Circuit, and then whether equity and collateral estoppel prevent assertions concerning the validity of Monopoly to be relitigated.

□ 1800

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6285, the "Trademark Amendments Act of 1984," which will clarify the standard courts use to determine when a trademark has in fact, become generic. Existing law, amended in 1946, 15 U.S.C. 1064(c) states that a trademark can be canceled "at any time if the registered trademark becomes a common descriptive name of an article or substance."

In determining when a trademark becomes a generic term, the courts have followed a well established and accepted test for more than 60 years. That test is whether a majority of the purchasing public recognizes and accepts the term as a trademark, as a way of identifying and distinguishing a specific product or service.

Last year, however, the ninth circuit court of appeals, in Antimonopoly against General Mills Fun Group adopted a "motivational test" to determine genericness. The "motivational test" focuses on whether a majority of the relevant public can identify the producer of the product by name. In Antimonopoly, the court held that "monopoly" had become a generic term because a majority of consumers surveyed were motivated primarily by a desire to play the game and not by the fact that Parker Brothers manufactured Monopoly.

If the ninth circuit continues to apply the "motivation test" and if other circuits were to adopt it, there is the very real possibility that many well-established trademarks would be lost. Moreover, the resulting confusion among consumers would be enormous. Additionally, the conflict over the va-

lidity of existing marks would in all likelihood lead to a significant increase in costly litigation.

H.R. 6285, which enjoys broad bipartisan support in both Houses of Congress, would rectify this situation by clarifying the circumstances under which a trademark may be canceled or considered abandoned because the term has become generic. It does not propose a new standard for genericness, but reiterates the basic test for maintaining a trademark, which is whether the public recognizes the name as a trademark. The legislation is supported by the administration, the United States Trademark Association, the business community, several trade associations, and the Consumers Union. Accordingly, I urge my colleagues to support the passage of H.R. 6285.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the bill, H.R. 6285.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on H.R. 6285, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

SENSE OF CONGRESS CONCERNING BULGARIA'S ABUSES OF CUSTOMS CONVENTION

Mr. FEIGHAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 337) concerning Bulgaria's abuses of the Customs Convention on the International Transport of Goods under Cover of TIR Carnets in facilitating the transportation of illicit narcotics, smuggled arms, and terrorists, as amended.

The Clerk read as follows:

H. CON. RES. 337

Whereas the 1975 Customs Convention on the International Transport of Goods under Cover of TIR Carnets is designed to facilitate the international transport of goods by exempting sealed vehicles from customs inspections;

Whereas United States Government officials have testified before the Congress that the Government of Bulgaria has established a policy of encouraging and facilitating trafficking in illicit narcotics through its official import-export agency, KINTEX, and the Government of Bulgaria has used the TIR Convention in carrying out this policy;

Whereas those officials also testified that KINTEX has assisted the illicit flow of arms and ammunition to insurgent groups;

Whereas it is clear that the Government of Bulgaria has repeatedly abused the TIR Convention in order to facilitate the transportation of illicit narcotics, arms, and terrorists;

Whereas the TIR Convention provides that any contracting party may, by notification to the Secretary General of the United Nations, request that a conference be convened for the purpose of reviewing the Convention, and further provides that a review conference shall be convened by the Secretary General if not less than one-fourth of the contracting parties notify him of their concurrence with the request;

Whereas the TIR Convention also allows countries to take certain steps in order to prevent abuses, including examination of vehicles by customs officials when irregularity is suspected and in other exceptional cases; and

Whereas the United States, and other contracting parties to the TIR Convention, should not allow the Convention to be used to facilitate the transportation of illicit narcotics, arms, and terrorists: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the United States should request, in accordance with the Customs Convention on the International Transport of Goods under Cover of TIR Carnets, that the Secretary General of the United Nations convene a review conference to determine what steps should be taken to end Bulgaria's abuses of that Convention in facilitating the transportation of illicit narcotics, arms, and terrorists; and

(2) the President should encourage other contracting parties to the TIR Convention to concur in ths request and to otherwise use the procedures provided in the Convention to end Bulgaria's abuses of the Convention.

The SPEAKER pro tempore. Is a second demanded?

Mr. GILMAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. FEIGHAN] will be recognized for 20 minutes, and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. FEIGHAN].

Mr. FEIGHAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution addresses the Government of Bulgaria's support for terrorism. Earlier this summer the Task Force on International Narcotics Control held two hearings on this subject, and we heard testimony from several witnesses. Nearly all of them came to the same conclusion: That Bulgaria—as a matter of official Government policy—is aiding, abetting, and, in some cases, directing drug traffickers, gun smugglers, and international terrorists.

According to the U.S. Drug Enforcement Administration, Kintex—an official Bulgarian import-export agency—has been trading in guns and drugs for at least 14 years. Typically, Kintex buys arms from sanctioned European dealers. These weapons are then traded to Middle East terrorist and trafficking groups in exchange for heroin. The heroin, in turn, is sold by Kintex to European narcotics smugglers. DEA officials estimate that at least 10 percent of the heroin that enters the United States each year comes from Bulgaria, and they added that narcotics sales are a key source of hard Western currency for the Bulgarians. Bulgaria also uses the drugs-for-guns network to gather intelligence and arm terrorist groups throughout Europe and the Middle East.

The task force also found that most of the contraband brokered by Bulgaria is carried by truck. An international agreement known as the Customs Convention on the International Transport of Goods allows trucks traveling through Europe to be exempt from customs inspections until the end of a journey. At least 25,000 trucks pass through Bulgaria each year under this procedure, and it is increasingly clear that the Government of Bulgaria has abused this convention in order to facilitate transportation of illicit narcotics, arms, and terrorists. That is the traffic this resolution is trying to curtail.

Specifically, House Concurrent Resolution 337 calls on the Secretary of State to request a reconvening of the Customs Convention. The conference would discuss steps that might be taken to prevent further abuses of the treaty, including provisions for stricter inspections and spotchecks when irregularities are suspected. The convention must be called if one-quarter of the signatory nations concur in the U.S. request.

Let me add that both the State Department and the Customs Service have endorsed this legislation. The State Department had been concerned that passage of this bill might create the impression that the U.S. Government was interfering in Italy's judicial proceedings concerning the attempted assassination of the Pope. But I offered an amendment in committee which deleted from the bill any reference to the Italian investigation.

Mr. Speaker, in closing I would like to thank the gentleman from New York [Mr. GILMAN] for introducing this resolution with me and for all of his fine work on the task force. I

would also like to thank the gentleman from Indiana [Mr. HAMILTON] for holding hearings on the resolution before the Subcommittee on Europe and the Middle East. Finally, I would like to thank the distinguished and effective chairman of our committee [Mr. FASCELL] for his help in advancing this resolution to the floor. I urge all of my colleagues to support this resolution.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 337 as amended, legislation concerning Bulgaria's facilitating the transportation of illicit narcotics, smuggled arms, and terrorists. I wish to associate myself with the remarks of the gentleman from Ohio (Mr. FEIGHAN), who has served so ably as the chair of our Foreign Affairs Committee's Task Force on International Narcotics. The task force, of which I am pleased to serve as cochairman, has conducted numerous hearings and held investigations to help get a better handle on the narcotics problems.

During hearings held this past summer, our task force received testimony pointing to Bulgaria's abuses of the Customs Convention on the International Transport of Goods under cover of TIR [Transport International Routier] Carnets in facilitating the transportation of illicit narcotics, smuggled arms, and terrorists. The 1975 convention is designed to facilitate the transport among nations of goods by exempting sealed vehicles from customs inspections.

As the resolution indicates, U.S. Government officials have testified before Congress that the Government of Bulgaria has established a policy of encouraging and facilitating trafficking in illicit narcotics through its official import-export agency, Kintext, and that indeed, the Government of Bulgaria has used the TIR Convention to carry out this policy.

House Concurrent Resolution 337 will help send an important signal that the United States will not idly stand by while a nation abuses legitimate channels of trade in a systematic effort to foster and promote narcotics trafficking.

The measure, to which the administration has no objection, calls for a review conference to determine what steps should be taken to end Bulgaria's abuses of this customs convention and calls upon the President to seek from other nations support for such efforts. Accordingly, I urge my colleagues to suspend the rules and pass House Concurrent Resolution 337.

□ 1810

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. FEIGHAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

● Mr. RANGEL. Mr. Speaker, as chairman of the Select Committee on Narcotics Abuse and Control, I rise in support of House Concurrent Resolution 337, concerning Bulgaria's abuses of the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets in facilitating the transportation of illicit narcotics, smuggled arms, and terrorists.

I commend the cosponsors of this measure, Congressman EDWARD FEIGHAN of Ohio, chairman of the Task Force on International Narcotics Control of the House Committee on Foreign Affairs, and Representative BENJAMIN GILMAN of New York, who has served with distinction as the ranking minority member of the Select Committee on Narcotics Abuse and Control, for their leadership in bringing House Concurrent Resolution 337 to the floor.

The 1975 Customs Convention on the International Transport of Goods Under Cover of TIR Carnets is designed to facilitate the international transport of goods by exempting sealed vehicles from customs inspections. The hearings of the Task Force on International Narcotics Control provide factual support for the declaration of House Concurrent Resolution 337 that the Government of Bulgaria has repeatedly abused the TIR Convention in order to facilitate the transportation of illicit narcotics, arms, and terrorists.

Mr. Speaker, the operative language of House Concurrent Resolution 337 provides it is the sense of the Congress that:

(1) The United States should request in accordance with the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets, that the Secretary General of the United Nations convene a review conference to determine what steps should be taken to end Bulgaria's abuse of that Convention in facilitating the transportation of illicit narcotics, arms, and terrorists; and

(2) The President should encourage other contracting parties to the TIR Convention to concur in this request and to otherwise use the procedures provided in the Convention to end Bulgaria's abuses of the Convention.

The Select Committee on Narcotics Abuse and Control has extensively reviewed the international narcotics trade in study missions to key drug producing and transshipment countries. From our investigations one fact is abundantly clear: Control of the international narcotics trade can only be successful when producer, transit, and consuming nations work cooperatively.

Because international narcotics trafficking adversely affects the community of nations, it is a proper subject for the United Nations to consider. Traffickers often amass huge profits, while displaying total contempt for international law, and simultaneously exploiting human weaknesses. They are motivated by greed and often by a desire to cause political instability wherever it suits their purposes. It is particularly reprehensible when a national government adopts an official policy of furthering the narcotics trade and actively uses governmental agencies and the cover of international law to carry out its policy. All appropriate forums must be utilized to publicly condemn such activities and to bring to bear the full weight of international sanctions in preventing such abuses from continuing. I urge my colleagues to join with me in voting for House Concurrent Resolution 337.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. FEIGHAN] that the House suspend the rules and agree to the concurrent resolution (H. Con. Res 337) as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FEIGHAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

DISTRIBUTION WITHIN THE UNITED STATES OF CERTAIN U.S. INFORMATION AGENCY FILMS

Mr. MICA. Mr. Speaker, I move to suspend the rules and pass the bill, (H.R. 6304), providing for the distribution within the United States of certain U.S. Information Agency films.

The Clerk read as follows:

H.R. 6304

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Administrator of General Services a master copy of each of the following films: "Guatemala Fights for Freedom"; "Caracas: Resolution on Reality"; "Guatemala Rebuilds Again"; "Guatemala Gains a Friend"; the Horizon Series No. 066 (1965), No. 075 (1965), No. 082 (1965), No. 091 (1966), No. 094 (1966), and No. 155 (1969); and "Gesture of Peace"; and

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of the film, the Administrator shall reimburse the Director for any expenses of the Agency in making that master copy available, shall deposit that film in the National Archives of the United States, and shall make copies of that film available for purchase and public viewing within the United States.

(b) Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida [Mr. MICA] will be recognized for 20 minutes and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognized the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the adoption of H.R. 6304, to provide for the domestic dissemination of certain U.S. Information Agency films. If released, these films will be made available for sale to the American public.

Under current law, most USIA program materials are not available fo distribution in the United States. However, the Congress has frequently passed legislation to make certain USIA materials available to the public if they are shown to be of historical or cultural value. these films, and other USIA materials, are evaluated upon request and released on a case-by-case basis.

The films to be released by this legislation have been viewed by the Foreign Affairs Committee staff, and have been judged to be noncontroversial. All of the films are over 15 years old, and therefore do not reflect the views of any current or recent administration. The administration has no objections to the release of these films.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the chairman of the Subcommittee on International Operations, the gentleman from Florida [Mr. MICA] for his explanation of the bill.

Based on the gentleman's explanation of these films and their intended use, and the fact that they are noncontroversial, we find no objection on this side of the aisle.

Mr. Speaker, I have no requests for time, and I yield back the balance to my time.

Mr. MICA. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, because of being informed last week that votes today would be late in the evening, I scheduled engagements with constituents in my district today and had a flight to arrive in DC in the afternoon. However, the flight was late arriving in DC because of inclement weather, and I missed two votes today. Had I been present, I would have voted aye on rollcall 424, the continuing appropriations resolution, and no on rollcall 425, the conference report to accompany House Concurrent Resolution 280, the first concurrent budget resolution for fiscal year 1985.

Mr. MICA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. MICA] that the House suspend the rules and pass the bill, H.R. 6304.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

FEDERAL TIMBER CONTRACT PAYMENT MODIFICATION ACT

Mr. WHITLEY. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 2838) to authorize the Secretaries of the Interior and Agriculture to provide assistance to groups and organizations volunteering to plant tree seedlings on public lands, and for other purposes.

The Clerk read the Senate amendments, as follows:

Strike out all the enacting clause and insert: That this Act may be cited as the "Federal Timber Contract Payment Modification Act".

SEC. 2. (a)(1) Notwithstanding any other provisions of law, in order to retain jobs, to preserve free competition, to utilize the potential productive capacity of plants, to preserve small communities dependent on a single economic sector to assure an open and competitive market for future sales of Government timber, and to lessen the impact of unemployment, the Secretary of Agriculture for national forest lands and the Secretary of the Interior for public lands under their respective jurisdictions are authorized and directed to permit a requesting purchaser to return to the Government a volume of the purchaser's timber contracts as determined under paragraph (2) upon payment of a buy-out charge from such purchaser in an amount as determined under paragraph (3). The purchaser shall be released from further obligation to cut, remove, and pay for timber under such contract upon payment, or arrangement for payment as provided under paragraph (3)(E), of such buy-out charge and completion of any obligation required pursuant to subsection (4)(B). The Government does not hereby surrender any other claim against a purchaser which arose under a contract prior to effectuation of this release and not in connection with this release from obligation to cut, harvest and pay for timber.

(2)(A) To qualify for buy-out under this section, a timber sales contract must have been bid prior to January 1, 1982, for an original contract period of 10 years or less, and be held as of June 1, 1984: Provided, That any such contract that was defaulted after January 1, 1981 may qualify for buy-out under this section so long as (i) settlement for damages has not been reached between the purchaser and the United States; and (ii) the purchaser's loss on all of its qualifying timber sales contracts, as determined in section 2(a)(3)(A) of this Act, is in excess of 50 per centum of the net book worth of the purchaser. A contract is qualified for buy-out notwithstanding the fact that it was reformed after October 1, 1983, pursuant to Bureau of Land Management Instructional Memorandum 83-743 or is included in a Forest Service multisale plan pursuant to the President's program of July 28, 1983.

(B) A purchaser holding more than twenty-seven million three hundred thousand board feet of net merchantable sawtimber as of January 1, 1982, in qualifying contracts as provided in (A) shall be entitled to buy out up to 55 per centum of such timber volume up to a maximum of two hundred million board feet.

(C) A purchaser holding twenty-seven million three hundred thousand or less board feet of net merchantable sawtimber as of January 1, 1982, in qualfying contracts as provided in (A) shall be entitled to buy out up to fifteen million board feet of such timber volume or one contract, whichever is greater in volume.

(D) So long as the volume limitation of two hundred million board feet is not exceeded, the percentage limitation of paragraph (B) or the volume limitation of paragraph (C) may be exceeded by a volume amount not to exceed the volume of the smallest volume contract bought out by the purchaser if the purchaser could not otherwise attain his percentage or volume entitlement.

(E) Timber returned to the Government pursuant to this subsection shall be available for resale by the Government upon payment, or arrangement for payment, of the buy-out charge and completion of obligations, if any, under paragraph 4(B).

(3)(A) Sums collected by the appropriate Secretary in connection with the buy-out of contracts pursuant to this subsection shall be deposited in and paid from the treasury in the same manner as moneys received from timber sales from such lands and shall be determined as follows: The purchaser's loss on any qualifying timber sales contracts shall be determined by the Forest Service or the Bureau of Land Management by subtracting the current delivered log value (as determined by such agency) from the delivered log cost based on the current contract return (as determined by such agency) of any such contracts. If such loss is—

(i) in excess of 100 per centum of the net book worth of the purchaser, the buy-out

cost shall be $10 per one thousand board feet of currently held volume bought out;

(ii) in excess of 50 per centum up to 100 per centum of the net book worth of the purchaser, the buy-out cost shall be 10 per centum of the contract overbid but at least $10 per one thousand board feet of currently held volume bought out; or

(iii) up to 50 per centum or less of the net book worth of the purchaser, the buy-out cost shall be 15 per centum for the purchaser's first one hundred twenty-five million board feet, 20 per centum for additional board feet above 125 million up to one hundred fifty million, 25 per centum for additional board feet above one hundred fifty million up to one hundred seventy-five million, and 30 per centum for additional board feet above one hundred seventy-five million up to two hundred million, of the contract overbid but at least $10 per one thousand board feet of currently held volume brought out.

(B) For purposes of this paragraph, the term "net book worth" does not include the value of any outstanding uncut Federal timber sales contracts.

(C) Net book worth shall be, subject to agency verification, as determined by an independent certified public accountant in accordance with generally accepted accounting standards for the timber industry.

(D) A purchaser may elect to pay the buy-out cost imposed by paragraph (iii) in lieu of utilizing loss and net book worth determinations.

(E) Where a purchaser is not able to obtain sufficient credit elsewhere to finance the buy-out charge at reasonable rates and terms, purchaser may, upon payment of 5 per centum of the buy-out charge, pay the remainder of the buy-out charge in equal quarterly payments over a period not to exceed 5 years at an interest rate adjusted with each payment equal to the average market yield of outstanding Treasury obligations with remaining years to maturity of five years payment must be secured by bond, deposited securities or other forms of security acceptable to the appropriate Secretary in an amount sufficient to cover the entire buy-out payment.

(F) For purposes of this paragraph, the term "contract overbid" is the difference between the advertised contract rate and the rate the purchaser bid.

(4)(A) Contracts returned pursuant to this subsection under which no harvest has begun shall be returned in full.

(B) Contracts returned to the appropriate Secretary pursuant to this subsection under which harvest has begun, shall be returned conditionally and shall not be considered as part of the outstanding volume of timber under contract for the purposes of this Act. The return shall become final after the purchaser has completed stages of contractual obligations for the units on which the harvest has begun, including work on the roads, to logical stopping points as determined by the Secretary after consultation with the purchaser. All remaining unharvested units must be returned.

(C) The appropriate Secretary may reject return of a contract on which harvest has begun if he determines, in his discretion, that the remaining unharvested portion is substantially unrepresentative of the original sale as a whole in terms of species, logging methods, or other appropriate criteria, and that accepting the return of such contract would seriously disadvantage the Government.

(5)(A) Timber from returned or defaulted contracts shall be offered for resale in an orderly fashion as part of, and not in addition to, the normal congressional authorized timber sales program, and in a manner which does not disrupt regional markets or artificially depress domestic timber prices. Timber from returned or defaulted contracts shall be given preference for resale in the Forest Service timber sales programs.

(B) Timber sales in Forest Service region 6 shall not exceed four billion three hundred million board feet of net merchantable sawtimber in fiscal year 1984.

(C) Beginning in fiscal year 1985 and continuing through fiscal year 1991 or the fiscal year in which timber contract extensions in region 6 granted under the President's program of July 28, 1983 (as constituted at the date of enactment of this Act), are completed, whichever is later, the Secretary of Agriculture shall set, and periodically adjust as necessary, the maximum annual timber sale volume in region 6. Such maximum sale volume shall be set so as to achieve a volume of region 6 net merchantable sawtimber under contract at the end of each fiscal year which does not exceed twelve billion three hundred million board feet: *Provided, however,* That such maximum annual sale volume shall not exceed five billion two hundred million board feet of net merchantable sawtimber. The sale of timber within region 6 shall be made in such a manner as not to result in discriminatory treatment as between different forests in the region.

(6)(A) The Secretary of the Interior and the Secretary of Agriculture shall publish final rules for the implementation of this subsection in the Federal Register within ninety days after the date of enactment of this Act.

(B) Such final rules shall require purchasers to submit buy-out requests to the appropriate Secretary within ninety days after the publication of such rules.

(7)(A) For purposes only of determining a purchaser's buy-out limitation under subsection (2) and net worth in connection with buy-out cost under subsection (3), concerns which are affiliates as defined under paragraph (B) of this subsection shall be treated as a single entity.

(B) Definition of affiliates: Concerns are affiliates of each other when either directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both. In determining whether or not affiliation exists, consideration shall be given to all appropriate factors, including, but not limited to, common ownership, common management, and contractual relationships.

(C) Definition of purchaser: For the purposes of this Act, a purchaser is the holder of a contract to purchase timber from the Secretary of Agriculture or the Secretary of the Interior.

(b)(1) Timber contracts bid prior to January 12, 1982, not bought out pursuant to subsection (a) and included in the President's program of July 28, 1983, shall not be subject to any further extensions of time for performance except as permitted under the President's program of July 28, 1983, as implemented by the Secretary of Agriculture and the Secretary of the Interior, providing for the extension of certain timber sale contracts and requiring the phased harvesting of such extended contracts, which program is hereby ratified except as modified by paragraph (2).

(2) Notwithstanding any other provision of law, timber contracts extended pursuant to the President's program of July 28, 1983, as implemented by the Secretary of Agriculture shall not be subject to inclusion of additional provisions for calculating damages for default.

(c) The Secretary of Agriculture and the Secretary of the Interior shall monitor bidding patterns on timber sale contracts and take action to discourage bidding at such a rate as would indicate that the bidder, if awarded the contract, would be unable to perform the obligations as required, or that the bid is otherwise for the purpose of speculation. Each Secretary shall include in the annual report to Congress information concerning actions taken under this paragraph.

(d) Effective January 1, 1985, in any contract for the sale of timber from the National Forests, the Secretary of Agriculture shall require a cash down-payment at the time the contract is executed and periodic payments to be made over the remaining period of the contract.

SEC. 3. (a) Notwithstanding any other provision of law, the Secretary of Agriculture is directed to waive annually without charge all or a portion of payment or rental fees required under terms of a permit for use of certain lands of the National Forest System as organization camps by local units of the Boy Scouts of America or such other nonprofit organization when such local units of the Boy Scouts of America or such nonprofit organization are willing to perform services, as the Secretary prescribes and determines will yield a valuable benefit to the public and to the program of the Secretary of such lands. If the Secretary determines that a local unit of the Boy Scouts of America or such other nonprofit organization has not fully performed such services, such oranization shall not be entitled in the subsequent year to waiver under the provisions of this section.

(b) The term "other nonprofit organization" shall mean (1) a nonprofit organization holding an exemption under section 501(c) of the Internal Revenue Code, as amended; and (2) a nonprofit association or nonprofit corporation, which is not controlled or owned by profitmaking corporations or business enterprises, and which is engaged in public or semipublic activity to further public health, safety, or welfare.

SEC. 4. (a) Emergency stumpage rate redetermination shall be made upon the written application of the purchaser of National Forest timber in Alaska, bid after January 1, 1974, and rates established as a result thereof shall be effective for timber scaled during a period between January 1, 1981, and five years from the effective date of this legislation.

(b) In making the emergency rate redeterminations the Secretary may modify existing contract terms, including the amount of the bid premium, in order to provide rates which will permit the holders of contracts bid after January 1, 1974, to be competitive with other purchasers of National Forest timber.

(c) The provisions of this section shall not apply to contracts held by the holders of 50-year timber sale contracts in Alaska.

Amend the title so as to read: "An Act entitled the 'Federal Timber Contract Payment Modification Act'.".

The SPEAKER pro tempore. Is a second demanded?

Mr. MORRISON of Washington. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. WHITLEY] will be recognized for 20 minutes, and the gentleman from Washington [Mr. MORRISON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. WHITLEY].

Mr. WHITLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have a few remarks that may benefit Members who are not familiar with some of the facts about the issue of providing relief on Federal timber contracts.

The Forests, Family Farms, and Energy Subcommittee of the House Agriculture Committee, which I chair, recently reported to the full Agriculture Committee H.R. 5649 with an amendment in the nature of a substitute which duplicates exactly the contract modification language of H.R. 2838. Also, the subcommittee held two hearings on this issue in the 98th Congress. The first such hearing was held on February 28, 1984, and dealt with questions posed by the President's, decision to authorize 5-year extensions without interest. It was anticipated that the 5-year extensions would allow the great majority of Federal timber-dependent firms to work their way out of trouble. Specifically, under the 5-year plan, firms would mix high priced contracts with new lower priced contracts in order to average down their liabilities.

At the subcommittee hearings, we found that extensions have been offered for varying lengths of time since May 1980. The 5-year extension program was simply the last in a series of extensions authorized administratively. The President's extension plan has yet to be fully implemented because of pending litigation against the enforcement of the contracts in question.

Mr. Speaker, the overwhelming testimony at our hearing was that 5-year extensions will not keep troubled firms operating, or reduce the very high volume of Federal timber under contract. This conclusion was reached because of serious doubt cast on the averaging down concept, upon which the policy was founded. Experts do not believe the averaging down theory will work for many reasons. The three major concerns are as follows:

First, the ration of new offerings required to offset the high bid volumes is far too large to ever actually occur;

Second, there will be insufficient markets in the foreseeable future to handle the volume required for the theory to work; and

Third, forcing this excess volume on existing markets would only depress both stumpage and product prices.

We also heard increasing concern expressed by forest product experts that the growing bulge of unharvested Federal timber will cause severe disruptions in the industry, if through defaults or forced harvesting, this volume were to be forced on the market. Indeed, Southern manufacturers have long feared that their markets would be disrupted by a flood of cheap Western timber. This situation is addressed in the bill by placing a limit or cap on sales in region 6. Thus, defaulted and bought-out sales will be brought on the market in an orderly fashion.

Mr. Speaker, I assure you that this problem is real. There exists a class of firms who need help and will be forced into bankruptcy without real relief. At our hearings we heard from many small operators that will go under if they are forced to fulfill their obligations to the Government. The administration has admitted the need for relief by its long history of authorizing contract extensions.

I will let others here today tell you how the bill has been crafted to avoid offering benefits to those firms not facing financial trouble. However, there is one other important group to remember in considering this bill. They are the innocent bystanders, for example loggers and mill workers, who played no part in these events but who will be hurt if these contracts are enforced. Because innocent people will be hurt if true relief is not provided, the answer to voting on this bill cannot be as simple as saying that "A contract is a contract."

To summarize, Mr. Speaker, contract extensions will not work. The problem is real. And innocent people will suffer under the present course.

Mr. Speaker, the meaning of one amendment added to the bill in the Senate has been questioned by some Forest Service officials. This amendment states that contracts under which harvest has begun and which are turned conditionally shall not, and I quote "be considered as part of the outstanding volume of timber under contract for the purposes of this Act." This language means that timber volume returned conditionally shall not be considered as part of the outstanding volume of timber under contract in region 6 for purpose of the region 6 timbers sales cap included in the bill. This amendment in no way affects the calculation of the individual purchaser's buy-out entitlement.

This was the intent of the House Agriculture Committee staff when it drafted the amendment, and it was the intent as stated by the Senator from Oregon who offered the amendment in the Senate. It is also consistent with the intent stated in the Senate report on the bill.

□ 1820

Mr. MORRISON of Washington. I yield myself such time as I may consume.

Mr. Speaker, I would like to thank first of all the chairman of the Subcommittee on Forests, Family Farms and Energy for his interest in this issue and the number of hearings we have held. Very frankly they have been most informative and I started a couple of years ago being very much interested in this and siding with the administration's point of view which, in fact, said let us extend these contracts.

They recognized that indeed there was trouble with the timber industry as we suffered the throes of disinflation and that their answers, however, in the last year, are proven to be inadequate and that is why we have this measure in front of us today.

I think it is important that the Members understand that we are talking basically about medium to small saw mill operators. In most cases, they own no land at all of their own. They are totally dependent upon Federal timber sales.

The 1970's saw years of rampant housing growth. Inflation, comparatively low interest rates, and the number of speculators took an interest in this process and started bidding up timber sales contracts, particularly the longer term contracts, anticipating continuation of double-digit inflation.

If you were a local mill operator you had no choice if you were going to keep your workers employed than to meet those bids and we saw this driving the price up vital to these mills because towns are totally dependent upon this.

The timeframe then from 1980 to 1983, we saw high interest rates, sluggish housing starts, and another outside factor; and that is Canada now has taken over about 40 percent of the lumber market in the United States because of exchange rates and also their social practices of keeping their mills operating even if the Federal Government up there has to give the timber away.

During this time frame then, these mill operators have lost about half of their net worth. They truly are hurting. The Forest Service, as I mentioned earlier, admits these problems. They have come up with a 5-year extension which, as our distinguished chairman has mentioned, just does not work. The blend-down concept can work but only if we eliminate some of these higher priced contracts.

The measure in front of us, H.R. 2838, allows the blend-down concept to work. By removing the most onerous of these, it allows a buy-out of about half of the contracts, not a bailout but a buy-out.

The formula involved, I think, is very fair. It was worked out in the Senate with Senator METZENBAUM and as most of you can imagine, he required that the stronger companies, those with net worth, those with cash that they could utilize, are required to pay a greater penalty than the smaller companies who in fact are on the ropes.

This has the potential of contributing about $400 million to our Treasury and the Government gets the trees back. So there is no direct loss there.

The administration's view, unfortunately, is that you can get blood from a turnip, and the figures that they show and some of the papers that I have seen calculate either the income from the sale of the trees if they were cut and ladies and gentlemen, they will not be unless we had a number of years of double-digit inflation that would drive lumber prices back up and all of us hope that that is not going to happen, and we are confident that it will not.

Or the other set of figures come from if these timber companies actually defaulted on their contracts and ended up paying the difference between their bid and the resale price.

Well, they cannot afford to do that because those figures run about two times the net worth of the companies involved. So the taxpayer and the American Treasury are better off if we proceed with this particular measure. It is up to $400 million back to the Treasury and Government would get their trees back.

We ask for no protection for this industry even though the tremendous impact of Canadian timber, we have seen protection for steam and copper and textiles, and that is not asked for at all.

What we are asking for is a buy-back opportunity, the advantages to all of us and public policy as we keep these companies in business. We save the communities. We save the social costs involved and Government gets income from the buy-out and the trees are saved to cut in another day.

Mr. Speaker, at this time I yield 4 minutes to the distinguished gentleman from Minnesota [Mr. STANGELAND].

Mr. STANGELAND. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong opposition to H.R. 2838. And I think the Members of the House ought to be aware of some of the provisions of this bill.

First of all, the administration, in July of 1983 granted contract holders a 5-year, interest-free extension on contracts held in the Pacific Northwest. H.R. 2838 could cost the Treasury and the taxpayers close to $1 billion, according to CRS.

H.R. 2838 is inequitable to companies who bid prudently in the late 1970's and early 1980's and benefits those companies who bid speculatively. Forest Service estimates that 33 companies would be eligible to receive $5 million or more from the legislation.

This is not a piece of legislation to benefit small companies. This is a piece of legislation to benefit the large companies.

You know we had farmers in 1979 and 1980 who paid too much for farmland and they are in trouble today, but we are not going in to bail them out and we are here now bailing out those companies who bid excessively for timber contracts in a time when they just made a mistake in management.

The Government would be required to finance the buy-out provisions and companies would be given 5 years to repay obligations.

H.R. 2838 would set a ceiling on timber sales in Washington and Oregon at 12.3 billion board feet through 1991. Currently, there is an 18.2 billion board feet under contract in that region.

□ 1830

By limiting sales volume, prospects for creating new or additional jobs in the northwest timber industry are greatly reduced, and for those of my colleagues who are concerned about jobs and expansion, they might well take a look at this bill and what it does.

Future receipts to the Treasury and share of revenues to countries will be lowered, and quantities of manufactured wood products will be reduced and could result in a rise in prices to consumers of wood products.

H.R. 2838 is premature in that the administration's 5-year extension program has not even been in effect for 1 operating year. The extension program should be given a chance to work, and those contract holders should honor the terms of their contract obligations.

In 1979, the average timber sale in western Oregon and Washington had an appraised price of $120 per 1,000 board feet and a final bid price of $385 per 1,000 board feet. Thus, the average overbid was $265 per 1,000 board feet. Under this legislation, the typical medium-sized company could buy out of this sale by either paying $10 per 1,000 board feet or 10 percent of the overbid, which would amount to $26.50 per 1,000 board feet.

The Government could expect to resell. The Government gets these trees back but the Government could expect to resell this sale in today's market for about $150 per 1,000 board feet, resulting in a net loss to the taxpayer of $208.50 per 1,000 board feet, the original bid price minus the buy-out charge, minus resale price.

Even if this purchaser elected to buy out only half the volume that H.R. 2838 would allow, and that would amount to 100 million board feet, losses to the Government or benefits to this one average company would still amount to over $20 million.

This is a buy-out of people who made a wrong management decision in a free market system. We make that all the time. There are those in this body who wail and gnash their teeth about cost overruns in defense spending and say we ought to say something about it. Let me say that this is a cost overrun of these companies who bid excessively on forest contracts at a time when they thought that the price was going to go up, and instead, the price went down.

I once again point out that our farmers paid too much for land in 1979 and 1980, but we are not there to bail them. I urge a "no" vote on H.R. 2838.

Mr. Speaker, I rise in strong opposition to H.R. 2838, as amended and passed by the Senate. The day that this bill passed the Senate, September 26, it was quickly taken up by the House Forests Subcommittee without any discussion of the substantial amendments adopted on the Senate floor, and reported out without any knowledge whatsoever of what the Senate-passed bill meant, as well as the long-term ramifications on both the economy and the U.S. Treasury. This bill, in spite of what its proponents say, is definitely one of those special interest pieces of legislation in which the big corporations will definitely make out, the smaller businesses may be shut out, but the taxpayers will definitely shell out.

During the latter part of the 1970's, for a variety of reasons, there was rampant speculative bidding on Federal timber sales occurring primarily in western Oregon and Washington, as well as northern California. With the significant rise in interest rates beginning in 1980, the bottom began to fall out of the housing market, and the timber industry began to allege that many of the high-priced timber contracts they held were economically unviable. These allegations came from companies that bid recklessly, not from those who bid responsibly.

Beginning in 1980, the administration granted relief in the form of several contract extensions. The most recent relief was a program which went into effect in February of this year, which would authorize an additional extension of contracts for up to 5 years, without interest. It is estimated that this latter extension of timber contracts will cost the Treasury anywhere from $200 million to a $½ billion.

However, this was not enough for the timber barons. From 1981 to the present, they have been pounding on the doors of Congress to bail them out of their contracts. While the Senate

has been kicking this legislation around since 1981, the House Agriculture Committee has never moved on similar legislation because it would, among other things, reward the imprudent companies at the expense of the prudent ones.

I might add as an ironic sidenote that in 1980, the House Agriculture Committee had actually reported out a bill which no Republican supported in committee, and which never reached the floor of the House in the closing days of that Congress. That bill would have created a new entitlement program to send welfare checks to millions of private landowners for decades into the future in order to grow trees because it was alleged at that time that we were going to run out of timber. Our former colleague, Congressman Jim Johnson of Colorado, fought strongly in committee against the same timber barons who are now before us today complaining about a glut of timber on the market.

Let us examine some of the outrageous provisions in the bill before us today.

Senate amendment No. 4843, offered on behalf of our two Senators from Alaska, would allow small, independent timber companies in Alaska to apply for emergency stumpage rate redeterminations. This provision is retroactive for timber sales all the way back to 1974. For timber scaled from 1981 through the termination of this provision, approximately ½ billion board feet of timber has been cut, or will be cut, in Alaska. It has been estimated that the Treasury may have received approximately $50 million over this period of time, and they may have given the counties approximately $12 million back. Now, all of these short-term contract rates can be redetermined and the U.S. Treasury will have to return millions of dollars to small companies, and we do not know if the counties in Alaska will have to return their receipts back to the U.S. Treasury.

To add insult to injury, many of these small companies are captives of two giant corporations in Alaska, who themselves have silently held interests in small companies. These two corporations are Ketchikan Pulp Co. [KPC], which is a subsidiary of Louisiana-Pacific, a multibillion corporation, and Alaska Lumber & Pulp Co. [ALP], wholly owned by Japanese corporations. These two corporations already hold 50-year timber contracts in Alaska, paying about $2 a thousand board feet, and their output is shipped to Japan. So we are being asked to aid the Japanese with whom we have an unfavorable balance of trade.

In fact, the main sponsor of the bill before us today, Mr. WEAVER, held a hearing last year before his House Interior Subcommittee to express outrage that the timber contracts in Alaska were so low, but apparently he is willing to accept a bill which would lower these contracts further. Another irony is that when H.R. 2838 passed the Senate on September 26, two supporters of the measure, Senators BAUCUS and PACKWOOD, introduced Senate Concurrent Resolution 145 to express outrage that the Japanese have high tariff barriers against our processed wood products, but virtually none against raw logs.

The anticompetitive shenanigans of KPC and ALP have become so blatant that since 1968, and most recently in 1981, the Agriculture Department has been referring cases to the Antitrust, Criminal, and Civil Divisions of the Department of Justice. In 1975, Reid Brothers Logging Co. filed a civil suit against KPC and ALP charging that officials at the two mills conspired to control the timber market in the region and drive independent loggers, as well as Reid Brothers, out of business. On March 5, 1981, Federal Judge Barbara Rothstein of the U.S. district court in Seattle, upheld Reid Brothers. On appeal, the Ninth Circuit Court of Appeals sustained Judge Rothstein's ruling on March 1, 1983, allowing Reid Brothers to collect triple damages. Several other related civil antitrust suits by small southeast Alaska timber operators have been successful against the two companies both in court and out of court.

Moreover, the Forest Service has allowed these two big corporations to make more profits on their timber contracts to pay for pollution control equipment. And yet, according to a New York Times editorial last Friday, September 28, they are using inferior pollution control equipment, in spite of the fact that they are receiving a large subsidy from the Federal Government. To what extent the Alaska amendment benefits these two giant corporations is not yet clear, but we can be assured that some benefits will accrue to them. The Forest Service will be forced to retroactively lower the price of timber contracts over a long period of time, give back receipts already collected, and the small companies will sell even lower priced logs to KPC and ALP, and may even be asked to give rebates back to these two corporations. We have more questions than answers on this provision.

Senate amendment No. 4806, offered by our two Senators from Washington State, really opens up a Pandora's box. This amendment specifies that any contract that was defaulted after January 1, 1981, may qualify for a buy out so long as settlement for damages has not been reached between the purchaser and the Government, and the purchaser's loss on all of its qualifying timber sales contracts are in excess of 50 percent of the net book worth of the purchaser.

What this amendment says is if you defaulted, and you settled with the Government, you don't qualify for a buy-out. However, if you defaulted, and you have not settled with the Government, you qualify for a bailout of your contract. This amendment, offered for the benefit of one company, opens up the whole contract process for other beneficiaries and constitutes another raid on the Treasury.

Senate amendment No. 4842, offered by the junior Senator from Ohio, constitutes another big raid on the Treasury. When the Forest Service gets receipts from its timber sales, the money is deposited in the U.S. Treasury, and the counties on which the forest land is located receive 25 percent of the timber receipts back from the Treasury. On BLM lands in western Oregon, the counties receive 50 percent of the timber sales revenues. This Senate amendment would allow the counties to receive the 25 and 50 percent receipts from the buy-out revenues received by the Treasury, and receive receipts again when the timber is resold and harvested.

This revenue buster, which benefits the counties in Oregon and Washington, would hit the budgets of the Forest Service and the Bureau of Land Management for tens of millions of dollars, forcing the Forest Service and BLM back to Congress next year requesting millions of dollars to make up for the shortfall in their budgets. I just hope my colleagues from the Interior Appropriations Committee are listening because they will be responsible for this mess next year. To add insult to injury, our junior Senator from Ohio said this amendment would assure that some of this revenue will help reduce our budget deficits. This claim is absolutely incorrect.

Another amendment offered by the junior Senator from Ohio, is Senate amendment No. 4839. This would allow Federal purchasers of timber to return up to 55 percent of their Federal timber volume upon payment of a buyout charge, up to a maximum buyout volume of 200 million board feet per purchaser. The buy-out charge would vary according to a formula based on the net book worth of a firm and the potential economic loss that would occur from operating the sales to be bought out. The buy-out charge would range from a low of $10 per 1,000 board feet of timber bought out up to a maximum of 30 percent of the contract overbid—the difference between the original appraised price of the timber and the final bid price. The maximum buy-out rate of 30 percent, according to the Forest Service, would apply to only a very small percentage, less than 1 percent, of the total volume of timber bought out. Thus, multibillion corporations could buy

out of their high-priced contracts for peanuts.

H.R. 2838 would also place a ceiling on national forest timber sales in Oregon and Washington. This provision was designed to get the support of Southern timber companies for the Pacific Northwest. The legislation requires the Forest Service to adjust its annual timber sale program so that there would be no more than 12.3 billion board feet of national forest timber under contract in Oregon and Washington at the end of each fiscal year, beginning in 1985 and running until 1991, or until all sales contracts for which extensions are authorized are completed, whichever is later. Currently, there are about 18.2 billion feet on national forest timber under contract in Oregon and Washington. If market conditions were booming, the Forest Service could not allow more timber to be cut in the Pacific Northwest because of the cap, thus denying the Treasury receipts from its own public lands, and raising the market price for timber at the expense of consumers and taxpayers. This would have the effect of producing monopoly conditions in the United States, all blessed and sanctioned by the U.S. Government. It would also lead to increased Canadian imports. This bill is blatant tinkering with the free market concept.

This legislation would also require the Federal Government to finance the buy-out obligations of purchasers who are unable to find adequate private credit. Timber companies would have up to 5 years to repay these obligations at an interest rate equal to the yield on 5-year Treasury obligations.

There is another very important issue which should be called to the attention of the Members. Over 100 independent timber firms filed a class action suit against the Government in the U.S. District Court in Portland, OR, saying that the needed injunctive relief because their contracts were commercially impracticable and should be nullified. The Office of the General Counsel of the Department of Agriculture has advised us that this case should have been filed in the U.S. Court of Claims. Instead, the timber companies went shopping for a judge in Portland who admitted in his remarks that he didn't really have jurisdiction over the case, but he was going to give them an injunction anyway. The case is now before the Ninth Circuit Court of Appeals in San Francisco where the Department of Justice is seeking discovery of the records of the timber firms who want to get out of their timber contracts.

The Department of Justice will show, once its gets discovery of the records, that we have many timber firms which are rich in assets, and perfectly capable of fulfilling their contract obligations with the Government. That is another reason why there is a strong push to get this bill through Congress before we adjourn, because if we are foolish enough to enact this measure into law, the case becomes moot, the timber firms are off the hook, and the U.S taxpayers are the losers.

Let us look briefly at some of the beneficiaries of this legislation. Champion International a beneficiary of this bill, recently acquired St. Regis Corp. for $1.8 billion. A combination of Champion and St. Regis would create the Nation's largest paper producer and the second biggest producer of lumber and plywood. It would also create a company with total assets of $6.5 billion, with annual sales of $7.1 billion. It was reported in the Chicago Tribune and elsewhere that Australian publisher, Rupert Murdoch, may be interested in purchasing this huge company. Do we want to subsidize this conglomerate further? Louisiana-Pacific, a beneficiary of this legislation, was reported in the Wall Street Journal on February 10 of this year as having so much excess cash that they were putting as much as $10 million a year in the high-risk world of venture capital. This company, which also owns a soccer team, was expecting a cash windfall that could approach $250 million in the next year or two from the reported sale of its stake in National Gypsum Corp., and $190 million from the Federal Government for seizure of 27,000 acres of Louisiana-Pacific land for the Redwood National Forest in California. The chairman of Crown Zellerbach, another big beneficiary of this legislation, was quoted in the Wall Street Journal of July 20 as expressing his concern that "shares of many forest products concerns currently are undervalued," which would leave his company in an exposed position for a takeover investor. I might add that in spite of the overcapacity of the forest products industry in lumber, they are reporting huge profits in the paper and pulp end of the business. And in spite of their complaints that they are suffering from Canadian lumber imports, many of the beneficiaries of this legislation also have subsidiaries in Canada, and are thus making money on both sides of the border. Another big beneficiary of this legislation is Roseburg Lumber Co. in Roseburg, OR. This is a privately owned company whose owner was listed in Forbes magazine in 1982 as being one of the 400 richest men in the United States, with an estimated net worth of $500 million. Do we want to subsidize this company?

If this legislation were to be enacted, it would tie up the Forest Service and the Bureau of Land Management until 1994, cost the Treasury billions of dollars, destroy the Government's contract process, and reward the imprudent companies at the expense of the prudent, well-managed ones. I have no doubts that there are small companies which are hurting in the forest products industry, but this legislation, taken as a whole, constitutes welfare for the greedy, not the needy.

I strongly urge my colleagues to vote down this special interest legislation. The administration is opposed to it since they would like to see the 5-year program given a chance to work, and they believe that the relief already granted is more than fully adequate.

Mr. WHITLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. I thank the gentleman for yielding this time to me.

Mr. Speaker, I would like to join my colleagues in strongly urging the Members of the House to support H.R. 2838, a bill which would allow the ailing timber industry in the Pacific Northwest to buy out of inoperative timber contracts. The Senate passed this bill by a 94-2 vote last week. This tremendous margin of support underscores the urgent need for congressional action this year to avert a major economic crisis in the Pacific Northwest.

During the late 1970's, competition for decreasing timber supplies and predictions of a skyrocketing housing market pushed prices on Federal timber contracts in the Pacific Northwest up to record levels. High interest rates and the lingering recession dropped the bottom out of the housing market, and reduced the going rate of timber to such a level that the old contracts can no longer be harvested without tremendous losses to the companies holding the contracts. In many cases, the amount of these losses is higher than the net value of the companies themselves.

Without the relief provided by H.R. 2838, most timber companies in the region will face bankruptcy proceedings within months. Those most heavily hit will be the small- and mid-sized companies that have the least reserves and ability to absorb such high losses. This will mean a dramatic change in the timber industry as we know it, with widespread impacts throughout the country. The smaller companies now provide competition for the larger public industry giants, helping keep lumber prices down for consumers. They also provide the only employment base in numerous communities in the region, providing both a way of life and jobs for thousands of our constituents. These companies will disappear from the timber markets forever.

Mr. Chairman, the bill we bring before you today is a fair and reasonable compromise that has been developed in order to target assistance to those companies with the greatest need, and provide the greatest net benefit to the Government. In order to

be released from their contracts, companies will be required to pay stiff buy-out penalties to the Government, with the amount of penalty escalating markedly for larger companies. There is a cap on the amount of timber than can be returned, and a ceiling on overall timber sales from the Northwest to protect the timber industry in other parts of the country.

If this bill is passed, the Federal Government will receive an estimated $400,000 in buy-out charges—and its timber back. This timber can then be resold at market prices, with the income going to the Treasury. If the bill is not enacted, very few companies will operate their contracts—the Government will receive no income directly from defaulted sales and can expect to collect, at best, 25 cents on the dollar in bankruptcy court. In addition, the crash of the timber industry will have indirect costs for the Federal Government that can only be estimated. Increased unemployment compensation, food stamps, and welfare payments are only a few examples of this type of expenditure.

H.R. 2838 makes the best of a bad situation. It gives companies an opportunity to survive, preserving thousands of jobs in depressed communities; it allows competition to be retained in the timber industry, with eventual benefits to consumers nationwide; and it maximizes the Federal Government's financial position among realistically available options.

For this reason, I strongly urge my colleagues to vote for H.R. 2838, and hope it will receive as much support in the House as it did in the Senate last week.

Mr. WHITLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. AuCoin].

Mr. AuCOIN. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of this bill. It is a bargain for the American taxpayer. It is a stabilization for the Pacific Northwest.

Mr. Speaker, today we will have the chance to help thousands and thousands of workers in this country who, without this legislation, will be put out of work. Today, we will have the chance to help hundreds and hundreds of small mill operators, 75 percent of whom will, without this legislation, be forced to file bankruptcy. Today, we will have the chance to keep alive the dreams of many of my constituents who seek only to have a job, provide for their families and contribute to the well-being of their communities.

In November 1981, I introduced in the Congress the very first timber contract modification plan. The bill before us today is different in form from the bill I introduced 3 years ago, but is identical in its intent. The bill before us today is the culmination of 3 years of negotiations—it is a compromise. Like any compromise it is not perfect, but the other body found enough in it that was satisfactory that it approved the bill by a vote of 94 to 2.

This bill has the support of Members from the Northwest and the Southeast, Members who represent rural areas and Members who represent urban areas, Republicans and Democrats, liberals and conservatives.

The reason why this bill has such broad-based support is because it averts a disaster of enormous proportions to not only a major segment of the western forest industry, but to other areas of the country and other sectors of our economy—like housing and paper—that depend on a strong and vibrant timber industry.

This bill allows timber operators to buy out inoperable contracts—contracts that will be just as inoperable 5 years from now as they are today. The penalties applied to the buy-out provision could total nearly half a billion dollars and the liability to the taxpayers—originally estimated to be $2 billion—has been reduced by $1.9 billion as a result of the compromise on that issue achieved by myself, Senator Hatfield and Senator Metzenbaum.

There are some who would argue that this legislation is premature, that Congress should wait until next year before it acts. The argument is made that there has already been relief, that the Forest Service's extension plan will solve the problem. That just isn't so. Just in the last 6 weeks seven mills have either filed for bankruptcy or been auctioned off. That figure will rise by a factor of 10 when a court-ordered injunction—ordered by the judge in the hope that Congress or the administration would act—is lifted on a suit brought by over 100 timber companies. Anyone who knows this issue understands that this is our only chance to pass legislation of any kind.

The recession in the housing and forest products industry has caused the permanent loss of 50,000 jobs. I don't want to even speculate on how high that figure will go if this legislation is not passed.

The modest increase in housing starts this year has been built with almost as much Canadian as American lumber. And next year, when interest rates begin to rise—as they surely will without a reduction of our domestic budget deficits—housing starts could fall to 1.2 or 1.3 million.

What this bill does is to allow our financially troubled mills to buy their way out of the hole and continue to provide jobs and payrolls. If we pass it today, maybe—just maybe—we will avert another 50,000 workers from losing their jobs.

Mr. Speaker, this bill is the product of 3 years of work by myself and my Northwest colleagues from both sides of the aisle. I want to compliment Senator Hatfield for his leadership and perseverance on this issue over the last 3 years. I also want to compliment Senator Metzenbaum for his leadership. And let me also thank the gentleman from North Carolina, the chairman of the Forestry Subcommittee.

Mr. Speaker, passage of this legislation is essential if the bulk of our timber industry is to survive, much less remain competitive. I urge my colleagues, I implore my colleagues, to support this bill.

Mr. WHITLEY. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. Bosco].

Mr. BOSCO. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in strong support of this measure. I can't imagine a measure that would be more subject to first minute scrutiny by last minute observers than this one. Indeed, if one were not familiar with the problems faced by the Forest Service and the timber industry, one might say, "a contracts a contract," "they made their bed, now let them sleep in it," and so forth. A more reasoned view shows this to be a balanced piece of legislation, carefully developed to further the public, and not private, interest.

Like it or not, this problem cannot be ignored. Thousands of jobs are in jeopardy in my district alone, most of them in small communities where unemployment is already well above the national average. Unless we act soon, we're going to see a wave of defaults, followed by bankruptcies and massive layoffs.

The Government stands to lose as well, and already is. More than a quarter of the commercial timberland in California's national forests is tied up under contract. Many of these contracts have been extended, but will never be operable. These lands are not producing any revenue, and it may be years before they do. In the meantime, the Forest Service has been forced to shift its sales program into more and more marginal areas, where the environmental costs are higher and the return to the Government is lower.

H.R. 2838 offers the Government an opportunity to free up our most productive timberlands, resell the timber, and put people back to work. The taxpayers don't lose. The Government gets its timber back uncut, and the timber companies pay us several hundred million dollars in penalties. The Forest Service can then turn around and resell this timber at realistic prices where it will be cut—bringing further revenues to the Government.

There is a broader public interest involved here as well. I have always felt that the timber industry is strongest, and our communities in the northwest are stronger, when we have a broad di-

versity of small, medium, and large companies in the timber market.

If we don't act now to deal with the contract problems, I think we may very well see the end of the smaller and medium-size companies, and only those with deeper assets, the larger corporations, will survive. I do not think that will be a good thing for the communities of my district or the Nation as a whole.

We can all argue contract law, and we all know some of these people made a mistake. Nonetheless, I think this is a time when we need to rise above all that and do what is best for all these communities and the broader public interest.

Mr. MORRISON of Washington. Mr. Speaker, I yield such time as he may consume to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. I thank the gentleman for yielding time to me.

Mr. Speaker, I stand in support of H.R. 2838.

Mr. MORRISON of Washington. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon [Mr. ROBERT F. SMITH].

Mr. ROBERT F. SMITH. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise today to urge that you join me in approving H.R. 2838. This bill carries a badly needed plan to relieve the American timber industry of potentially devastating contract commitments, made in the hours of deep economic uncertainty.

By way of background, allow me to be brief and to reiterate some of the points made so well by my Oregon colleague last week.

For generations, our Government has helped build income to the Treasury while managing and prudently controlling our national lands through the sale of selected stands of timber to private concerns.

U.S. Government timber sales are done by competitive bid. The Forest Service offers a stand of trees and opens the auction block at minimum appraised prices and sells to the highest bidder. While this system has brought significant income to the treasury, it allowed the entire process of timber sales to be distorted by national economic forces.

Those forces were the high inflation, then high interest periods of the late seventies. Auction prices of raw timber, spurred by out-of-control inflation, skyrocketed.

In our Pacific Northwest, timber from public lands is the natural resource which maintains countless lumbering businesses, large and small. Wood products concerns ranging from huge, multinational corporations down to 30, 50 or 100 employee mills, depend on public timber sales to stay in business.

Mind you, I didn't say that they depended on the profitable sale of their product. Profit is certainly a motive, but the fact is that—like any other manufacturing concern—mills first need the natural resource to process. Without it, they must simply close their doors.

In order simply to assure themselves of continued natural resources to keep their mills open, small and large mill operators were forced to compete in the buildup of prices at auctions.

Mill operators were often faced with the prospect of forfeiting all expected profits to keep people on the job.

When interest rates followed inflation, the bottom fell out of this Nation's housing and construction industry. So, too, the bottom fell out of lumber prices.

The result was a devastating prospect for the future for many producers, especially the smaller ones. Today, they hold the contracts to harvest Government-owned timber at prices that are frequently four times the anticipated market sales price.

In other words, they cannot live up to original bid prices without forcing themselves into bankruptcy. And without harvesting, they have no raw product for mill workers. Without some relief from the onerous bid contracts, it will be the end of the line for many, many northwest producers.

Before us today, in H.R. 2838, is a way out of the predicament. This legislation—itself the product of 3 years' worth of barter and compromise—provides a path out of this situation.

Using a carefully constructed formula, this legislation strikes a middle ground between the needs and capabilities of producers and maintenance of the promises made to the public treasury.

It suggests that a comparison of the bidding company's net worth and the anticipated damage of present contract enforcement be used to determine the relief a firm may receive from its original contract.

Simply stated, it allows all bidders to return to the Government a share of their original purchase under a buyout provision, calling on larger firms to pay a larger share of their original contract.

While this legislation is far less generous than the original version of contract relief proposals that were submitted to the Congress, it is not less important.

This legislation can save an American timber industry now burdened with as much as an estimated $4 billion in project contract losses.

In doing so, it serves a higher purpose by saving countless thousands of jobs.

You may hear arguments opposing this bill based on the anticipated losses to our Federal Treasury. Indeed, Uncle Sam will receive less cash from timber sales contracts if this bill is approved than as theoretically would have been received if all contracts were harvested.

But in return, he'll receive $400 million in buy-out payments, plus the capital asset or the standing timber to be resold.

In reality, the full contract payments could never be received because the contracts simply can't be operated.

Some stands purchased during the frenetic auctions of that time today represent more than the successful bidder's net worth. To meet the price, that producer would have to sell the mill in a transaction that amounts to your selling your car to buy gasoline, except that buyers will be scarce.

The alternative in many cases is a default on the contracts. In that instance, the Federal Government could end up holding title to mills and its original timber.

The price would be a chase of bankrupt and defaulting purchasers through courts for years: While the cost would at best amount to a few cents on the dollar, less than anticipated buyout prices under the bill.

Consider also that if this bill doesn't pass, Government will be forced to pay billions in transfer costs to maintain families that depend on the mills for their livelihood, even while it loses tax income normally earned while the mills are open and operating.

This is in addition to the impact on cities and counties which depend heavily on timber—sometimes on one or two mills—for the foundation of their economic base. Income losses to schools and other essential public service functions that rely on timber income could be equally substantial.

This plan can keep those mills open. It can keep those millworkers on the job. In exchange for artificially bloated prices on the books, Treasury will receive a realistic percentage of those contact prices; it will assure itself of a continued stream of income from timber concerns that are today threatened with extinction.

If Government loses anything with this agreement, it is only what Government hasn't yet received and—in practical terms—would probably never get.

Maybe best of all—Government will have returned to it those stands of timber which cannot be realistically purchased under the former bid prices. They, of course, may be resold at workable prices.

This bill is not, in any sense of the word, a "bailout" for the American timber industry. It is, rather, a redefinition of the terms under which our Government and an industry which is vital to the national well-being work in productive partnership for the long-term benefit of both.

There would be only one reason and one explanation for Congress refusal to allow this plan to go into action: cold, heartless greed.

Most of the concerns which will stand to benefit by this agreement are smaller, independent harvesters and mills.

I don't believe that any Member of this body would choose their death, and the resultant ripple in Government's welfare responsibilities, over a cooperative, viable solution.

I urge you to join with me—and with every member of the delegation from my home State of Oregon, regardless of political affiliation—in voting in favor of this important bill.

Mr. WHITLEY. Mr. Speaker, I yield 1 minute to the gentleman from Washington [Mr. FOLEY].

Mr. FOLEY. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in strong support of the motion to suspend the rules and pass the bill H.R. 2838, the Federal Timber Contract Modification Act.

I want to express my appreciation to the leadership of the Committee on Agriculture and the Committee on Interior and Insular Affairs for their willingness to allow this bill to come to the floor today.

I am particularly grateful to the distinguished floor manager of the bill, Congressman WHITLEY, for his patience and understanding over the past 2 years during which his subcommittee held extensive hearings on this complex and difficult subject.

Mr. Speaker, this bill has the unanimous, bipartisan support of the northwest delegation. The constituent groups are essentially united in support of its immediate passage.

The legislation in its current form is the product of long and difficult negotiations between the senior Senator from Oregon [Mr. HATFIELD], and the Senator from Ohio [Mr. METZENBAUM].

The Senate, acting with extraordinary bipartisan support, approved this bill on Wednesday, September 26, 1984, by a vote of 94 to 2. As passed by the Senate, this legislation contains a number of provisions that significantly reduce the potential cost to the Federal Government, serve to focus relief to those companies truly in need, provide some order that will enable this administration to administer the buyout program in an equitable manner, and establish a reasonable basis by which the Department can act to prevent this type of situation from reoccurring.

It is, Mr. Speaker, compromise legislation that is essential in my view if the Northwest is to avoid further economic dislocation and significant social costs associated with contracts going into default, mills closing, and people going out of work.

I believe that it is important to point out for the record that the problem that faces the Northwest is very real. As of September 5, 1984, 220 timber contracts were in default, with a combined volume of 338.6 million board feet of timber. Except for pending litigation, this figure would be much higher and projections indicate that this is only the beginning of the very real problems that will occur without passage and enactment of this bill.

Mr. Speaker, while the Northwest stands to suffer the immediate consequences should this bill not be enacted, the problem is actually national in scope, and I am pleased to note the support for this bill from our colleagues from the South and from the forest industry in that region.

There is a tremendous amount of timber under contract at this time. Over 19 billion board feet of timber are under contract in Washington and Oregon alone. This situation exists because of the general economic situation in the country. Simply, the contracts are not being operated because there is no market available for the processed timber.

Thus, there is a huge overhang of Federal timber that has a downward pressure on domestic timber prices. This bill—unlike the President's extension program, which only serves to push this overhang further into the outyears—provides an equitable opportunity to reduce the timber inventory under contract and an orderly marketing mechanism—through the cap provisions—that is designed to allow domestic timber prices to respond directly to demand pressures.

Mr. Speaker, the legislation before the House is not the bill originally introduced in the House and Senate at the request of the forest products industry. It is not the bill as originally reported from the Senate Committee on Energy and Natural Resources.

It is consensus legislation, strongly supported by the diverse elements of the timber industry. It is, I believe, environmentally sound.

Mr. Speaker, it is essential that we act favorably and that we act now.

I urge our colleagues to vote in favor of H.R. 2838.

Mr. WHITLEY. Mr. Speaker, I yield 1 minute to the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. I thank the gentleman for yielding this time to me.

Mr. Speaker, I congratulate the managers of this bill. I think it makes the best of a bad situation and gives us a course that we can follow that will be for the benefit of everyone.

Mr. Speaker, I would like to take this opportunity to urge my colleagues to join me in supporting the timber-contract relief bill, H.R. 2838. I think this is a sensible bill that makes the best of an unfortunate and difficult situation.

As we know, some years ago a large number of timber companies entered into very high-cost contracts for Federal timber at a time when future market conditions looked far different than they are today. It is obvious that these companies cannot meet the terms of these contracts.

Now I know some of my colleagues are saying to themselves that a contract is a contract and the Federal Government should hold the timber companies to their part of a bargain. I think this is a harsh and shortsighted view. If we reject the flexible approach to these contracts that H.R. 2838 provides we will benefit no one, not even, in my view, the taxpayers. I think it is clear that without the relief contemplated here that mills will close, workers laid off, and some companies, especially small- and medium-sized companies dependent on Federal timber will go bankrupt. Many companies will simply default on their contracts and the Federal Government will never realize the revenues the administration anticipates.

I also would like to point out that the bill does not simply forgive these contracts but provides a mechanism whereby timber companies can buy them out on a scale based on their financial health. This seems fair to me.

I am especially pleased that the bill contains no elements that would lead to poor forestry practices or environmentally dangerous precedents. My friends in the environmental community assure me that they have no objection to the legislation as it is before us today.

It simply makes sense to me that we in the Federal Government are not here to punish people for circumstances they could not foresee or control. I think we are here to benefit as many of our citizens as we can while protecting the public interest. In my opinion, H.R. 2838 meets that test very well.

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Mr. WHITLEY. Mr. Speaker, I yield 1 minute to the gentleman from Washington [Mr. BONKER].

Mr. BONKER. Mr. Speaker, these are but a few of the headlines on the front pages of Pacific Northwest newspapers in recent days:

"Mill Towns to Ghost Towns."

"Northwest Lumber Industry Gears for Second Recession."

"Timber Troubles Threaten Family's Half-Century Investment."

Behind the headlines are entire communities and families that can't make ends meet. The type of help the Federal Government is providing, welfare and unemployment benefits, is not the kind of help the people in traditionally hard-working Northwest communities want. They want their jobs back.

While a number of serious problems confront the timber industry, the problem of highly overpriced Federal

timber contracts is one for which the Federal Government can claim a large share of the blame.

Many small- and medium-size mills in the Northwest are entirely dependent on Federal timber supplies. In the late 1970's, the Department of Agriculture repeatedly warned these small businesses that wilderness designations would make timber unavailable. At the same time, the Federal Government predicted that housing starts would continue to grow at unprecedented rates. The result was that bids on Federal timber far outpaced demand. In 1979, bids reached $330 per 1,000 board feet. By 1982, the average bid fell to $63 per 1,000 board feet.

One by one, these companies are beginning to file for bankruptcy. The weight of these contracts in today's market is far too great.

Mr. Speaker, this August I held a meeting with timber companies from Washington State in Aberdeen. Throughout September I have met with many individual companies. These meetings, combined with my knowledge of the industry over many years, leads me to a sorry conclusion. We're going to have a lot of ghost towns in the Northwest if we don't seek to revitalize the timber industry.

The legislation before us today isn't a bailout or a handout. The industry faces a host of problems should our efforts today be successful. However, passage of the legislation provides the only hope that many companies will be here tomorrow to tackle other problems.

In summary, this is what the bill does. It will allow a company with Federal timber purchased prior to 1982 to buy out up to 55 percent of its high-priced contracts, up to 200 million board feet. The program is geared to the financial status of the individual business. If the loss from the contracts is more than the worth of the company, the company will pay $10 for each 1,000 board feet of timber it returns to the Federal Government for resale. If the loss totals 50 to 100 percent of a company's value, the company would pay 10 percent of the contract overbid or a minimum of $10 per 1,000 board feet. Finally, if the loss is less than 50 percent of the company's value, the company would pay 15 percent of the contract overbid up to 125 million board feet; 20 percent up to 150 million board feet; 25 percent up to 175 million board feet; and 30 percent up to 200 million board feet.

The Congressional Budget Office estimates that the cost of the legislation to the Federal Treasury will range from $250 million to $400 million. However, such estimates are deceiving. In the first place, many firms are totally incapable of fulfilling these contracts and will simply have to default. The Treasury will collect few dollars from bankrupt companies. Furthermore, such projections do not take into account businesses and individuals no longer paying taxes to the Federal Government, or extended welfare and unemployment compensation.

After receiving the penalty fees under this legislation, the Federal Government will resell the contracts in an orderly fashion and receive compensation which bears some semblance to market conditions.

My colleagues must understand that there is simply no scenario under which the existing contracts will be paid in full.

Mr. Speaker, I would like to share with my colleagues some of the positive steps the industry and Government are taking toward a long-term recovery.

In September, I sponsored with the University of Washington a workshop aimed at helping small- and mid-sized timber companies to enter the export market. Nearly 100 small business representatives took part in this workshop, many of whom were new to exports. As the domestic housing industry may never rebound to previous levels, exports are the key to survival for many forest product firms. The message from those who participated in the workshop was clear, however. Without passage of this legislation today, many companies will not be here to export tomorrow.

Just this past week in Seattle, along with Secretary of Commerce Malcolm Baldrige, I hosted 70 senior government officials from 20 Latin America and Caribbean countries at the Inter-American Housing Conference. The purpose of this highly successful event was to match needs: that of Latin American countries to provide low-cost housing, and that of our timber industry to find new markets for its products. I was pleased that the Southern Forest Products Association, along with many northwest interests, took part in this important meeting.

With industry, many Members of Congress and Special Trade Representative Bill Brock are working to eliminate unfair tariffs against wood-product imports. This will expand export opportunities in the Pacific Rim and other strategic places.

Finally, we are seeking a solution to the vexing problem of unprecedented Canadian lumber imports, which now make up 35 percent of U.S. consumption.

I urge the support of my colleagues today to pass the timber-contract-relief legislation so that these other important initiatives will have meaning, not only for the northwest timber interests, but for our economy as a whole.

Mr. MORRISON of Washington. Mr. Speaker, I yield 1 minute to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Speaker, I commend my colleagues who have worked on this bill.

Mr. Speaker, I rise in support of H.R. 2838 as amended in the other body. Before this bill was amended, I had serious doubts about it and felt the administration's opposition to it was justified. I am now persuaded that the amendments made in the other body were positive and represent very substantial progress toward a more acceptable resolution of this problem. I wish to commend the industry in agreeing to amendments which ought to make this bill a great deal less objectionable to the administration than the earlier version.

This bill incorporates and, for the most part, leaves intact the administration's current 5-year timber contract extension program. It also increases the buyout charge for the larger companies over the earlier version. In short, the compromises reached in this bill should be less expensive and more acceptable to Mr. Stockman. While this bill does not resolve the issue of ineffective purchaser credits, I understand from the discussion in the other body that that issue will be dealt with in the future. I am concerned about the impact on small communities dependent on national forest sales that the market situation in the Northwest without this bill would allow. I have the same concern about small communities when some Members push the issue of so-called deficit sales, or sales below costs.

The bottom line is, Mr. Speaker, that the present bill is probably the most practical solution to this situation and I commend those involved in its resolution.

Mr. MORRISON of Washington. Mr. Speaker, I yield 30 seconds to the gentleman from Illinois [Mr. O'BRIEN].

Mr. O'BRIEN. Mr. Speaker, this is of no great consequence to the Fourth District of Illinois, but I have sat here and listened to the debate. I think the proponents have made a very strong case.

Mr. Speaker, I rise in strong support of this bill and I just urge my colleagues to join in support of this measure.

Mr. MORRISON of Washington. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Oregon [Mr. DENNY SMITH].

Mr. DENNY SMITH. Mr. Speaker, I rise in support of H.R. 2838, the Federal Timber Contract Payment Modification Act.

It is crucial we pass this legislation prior to our adjournment. There is an impending financial crisis for the Northwest forest products industry, and H.R. 2838 represents a bipartisan compromise to provide a partial solution.

There are a number of reasons why this industry now finds itself in this situation. These companies who hold timber contracts are not without fault, but then neither is the Federal Government. High interest rates and soaring inflation of the late seventies have had a significant impact on this industry; but a contribution to the problem that should not be ignored is our Federal forest management policies. From our land-management policies, we have Government-created shortages through excessive wilderness designations and excessive regulations, while trying to remain price competitive with the Canadians. The result of these policies was the outrageously high competitive bids made on public timber in the late seventies.

H.R. 2838 does not let these companies off the hook. It allows them to buy out a portion of the timber under contract while still operating some of the sales. In this way, the Government will still receive revenues—an estimated $400 million in buyout charges. Without this legislation, many small- and medium-sized companies will have little choice but bankruptcy. The Government cannot collect damages from bankrupt companies, so no one is the winner if that is the case. But more importantly is my concern for the mill workers and loggers, their families and small communities who depend upon the forest products industry for their economic survival. I urge your support for passage of H.R. 2838.

Mr. WHITLEY. Mr. Speaker, I yield 1 minute to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of H.R. 2838 as amended by the Senate. This bill is a carefully crafted compromise which will provide the Federal Government with significant revenue while at the same time preventing the imminent devastation of the timber industry which will almost certainly follow should no legislation be enacted.

Passage of this legislation is absolutely critical to the survival of the many timber companies located in my district as well as in other areas of the Pacific Northwest. These small, independent companies provide employment for thousands, and in addition serve as the lifeblood for the communities where they are located. Unlike many manufacturing industries which are centered in large urban areas, the timber industry is widely dispersed in smaller communities nearer to the forests which they harvest. As a result, these communities are highly dependent on the continued viability of the one or two mills that exist in the town.

During the period from 1979 to 1981, Federal timber sales in the Northwest were bid extremely high for a number of reasons, including rampant inflation, and Government and private predictions of high housing demand and continued inflation. However, in late 1981, sharply higher interest rates and reduced inflation forced lumber and plywood prices rapidly downward. Thus, in today's market, many of these timber sales are not economically feasible—that is, if purchasers are held to these contracts, they will be forced to default. For many smaller companies the potential losses on these contracts, as measured by the present value of the timber, far exceed the net worth of the company. The outcome would be bankruptcy for many of these independent companies.

H.R. 2838, as amended by the Senate, limits the amount of timber which can be bought out by a company to 55 percent of the Federal timber contract volume purchased prior to January 1, 1982. Moreover, no company will be allowed to buy out more than 200 million board feet of timber. Buyout charges are based on a sliding scale based on the company's net worth as compared to the potential loss it faces due to outstanding contracts.

This approach ensures that those companies which are in most need of relief will receive it, while at the same time ensuring that the Federal Government does receive a buyout charge from mills in order to be released from performing some of the contracts. In addition, the Federal Government also gets the standing timber back, and this can then be sold at a later date.

Clearly, the Government will not be as well off as if the contracts were performed and paid in full. Given the economic realities of the present situation, however, there is no way that this is going to happen. If this legislation is not approved, many companies will default, and the Federal Government will be forced to sue to collect damages, often in bankruptcy court. Historically, the Government is lucky if it ends up collecting up to 25 cents on the dollar for defaulted contracts.

Of course, that is far from the whole story. Further offset against any monies ultimately recovered through lawsuits will be the lost taxes paid on revenues generated on companies that will otherwise be pushed into bankruptcy, as well as the unemployment compensation that will need to be paid to laid off workers. Failure of these small companies will also result in the increased concentration of the timber industry, which will lead to decreased competition on future contract bids. There can thus be no question that the defaults and bankruptcies which will occur without legislation will ultimately cost the Government more than a resolution of this problem through H.R. 2838.

This is not, however, an issue that can simply be reduced to balance sheets and accounting ledgers. The timber industry has been devastated by the economic slump that gripped this country and is still in the throes of a deep recession. What is not at stake is the continued existence of the family businesses that have been passed down from generation to generation, and the communities they have nurtured. If we do not act now, an entire way of life will be lost.

Mr. Speaker, I urge my colleagues to support H.R. 2838 as amended by the Senate.

Mr. WHITLEY. Mr. Speaker, I yield 1 minute to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Speaker, I rise in support of H.R. 2838, a bill that will help us maintain the jobs we have in Oregon and lay the groundwork for creating new jobs that will lead to a stable economic future for the Pacific Northwest.

Earlier this year, the Congress passed a bankruptcy reform bill that shored up the bankruptcy court system in this country. I'm glad we did that because if H.R. 2838 is not passed by the House and signed by the President, we in Oregon, Washington, and northern California will need all the bankruptcy courts we can get as timber companies across our States go belly up.

This is no idle threat. The voluntary bankruptcy petition of a large Washington independent and the bank takeover of an Oregon mill in August represent just the tip of the iceberg.

It is believed that if this legislation is not passed other troubled independents may take the bankruptcy route and more banks will face the realization that they have no alternative but to pull the plug on these companies, forcing hundreds, even thousands, out of work.

This scenario will lead to massive reductions in revenue to our local governments and school districts, which in turn will tightly secure the ball and chain of economic squalor in these areas because we all know that without basic local government services and without decent schools, an area cannot attract and maintain business.

With this legislation, all we ask is that these companies be given a chance to avoid bankruptcy. All we ask is that our local governments not be forced to shut down basic, essential community services. All we ask is that our area of the country be given an opportunity to avoid chaos in its mainstay industry.

Yet, Mr. Speaker, I should note that the impact of this legislation will be felt far outside the Pacific Northwest. This legislation will help ensure that we have a diverse and competitive forest products industry to meet domestic demand and the increasing demand of world markets, which is good news for the consumer—particu-

larly home buyers—and for our unprecedented trade deficit.

This legislation also will benefit the machine tool manufacturers of the Midwest, who provide necessary equipment to keep the timber industry productive, and the insurance companies around the country that secure bonding for timber companies.

In short, the benefits of this legislation are not strictly limited to the Pacific Northwest because of the important and pervasive role timber products play in our economy.

This legislation passed overwhelmingly in the Senate last week. It passed unanimously out of the Agriculture Committee's Forestry Subcommittee. It is supported by every member of the Oregon and Washington delegations—Republican and Democrat.

I urge my colleagues to support this critical legislation and give the timber companies of the Pacific Northwest a chance to avoid bankruptcy.

Mr. WHITLEY. Mr. Speaker, I yield 3 minutes to the former chairman of this subcommittee, the gentleman from Oregon [Mr. WEAVER].

Mr. WEAVER. Mr. Speaker, I want to tell my colleagues that this is a consensus bill, a compromise bill. It treats the taxpayers and the people in the industry equally and fairly.

Mr. Speaker, in a special order last Friday I outlined the tortuous history that led our Nation's timber industry to the predicament it is in today. As the economy recovered from the stagnation of the early seventies, housing starts increased and lumber prices began to rise. By the end of the decade, steadily increasing demand and sharp competition combined to drive timber prices to unprecedented levels—as high as $600 per thousand board feet in some cases.

The recovery of the late Seventies was not long-lived. Instead, high inflation and skyrocketing interest rates devastated the housing industry. Worse still, the recent economic upswing completely bypassed the timber industry. A strong dollar has made Canadian lumber imports more attractive to American buyers and, in addition, choked off our industry's exports to foreign markets.

The result: hundreds of purchasers of Federal timber—most of them small or medium sized—were caught with high-priced contracts that never will be marketable. If these purchasers are forced to perform, most will go bankrupt. The backbone of an entire industry would lie shattered and in ruin.

H.R. 2838, the Federal Timber Contract Payment Modification Act, is no panacea. It will not solve all of the industry's problems. It will, however, give these small- and medium-sized operators—and the communities they support—a chance to survive.

H.R. 2838 passed the other body on September 26 by an overwhelming vote of 94-2. The House Agriculture Subcommittee on Forests, Family Farms and Energy unanimously reported the identical bill.

This bill, if enacted, will give our mills a chance to survive by removing an immediate threat of bankruptcy. It allows purchasers of federally owned timber, upon payment of a buyout charge scaled to the purchaser's net worth, to return 55 percent of their unfulfilled contacts to the Federal Government. No purchaser can return more than 200 million board feet, however. In addition, for the next several years it limits the volume of Federal timber sold in U.S. Forest Service Region 6 to historic levels in order to prevent flooding the market with timber and further depressing lumber prices.

I believe enactment of this legislation is essential. Mills throughout the Northwest are curtailing shifts or closing their doors. Still more are teetering on the brink on bankruptcy and will be forced to close without some relief from Federal timber contracts that cost two to three times higher than is affordable under current market conditions. Even the rosiest economic forecasts would not allow the majority of these contracts to be completed.

H.R. 2838 is a fair bill. Not only does the Government retain the timber for resale, but it will receive as much as $400 million in revenues from the buyout charges as well. Most importantly, it helps both workers in the timber industry and communities that are dependent on the mills.

This legislation has the bipartisan support of every Member of Congress from Washington and Oregon and five Members from California. In addition, it has been endorsed by a broad coalition of industry from all regions of the country, and by labor groups and State and local units of government from the Western United States. Finally, the environmental community has acknowledged the bill's environmental benefits and supports its passage.

This bill is not a bailout. It is a lifeline to an industry drowning in a sea of overpriced timber contracts. With many of our mills going down for the third time, it is absolutely essential that we act now if there is to be any hope if resuscitation. I urge my colleagues to join me in supporting the passage of H.R. 2838.

Mr. MORRISON of Washington. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, it's not popular in this House to oppose legislation that is painted as saving jobs, rescuing an industry or as helping the little guy fight unfair competition.

From my own experience, I understand the concerns expressed by my good friends promoting this legislation. I am plagued by the same "pockets of depression" in my district. Just this past week, two large employers in North Adams, MA announced that their doors will close, laying off hundreds of workers in this relatively small community. Many of these companies have contracts with the Federal Government and are unable to meet the deadlines.

I understand—it's a frustrating situation.

However, this legislation has a far reaching and potentially devastating impact on Federal revenues and on national timber policy. It's basically a corporate bailout bill that should be titled: "The Stockholders Relief Act of 1984."

Let's drop the rhetoric for a while and look at the facts surrounding this legislation

Frankly, I'm very skeptical about the doomsday predictions of industry-wide bankruptcy and local community devastation. Why should the House believe the current cries of disaster when the past predictions have been way off, and in some cases inaccurate.

Don't take my word for it; let me read from a report prepared by the Congressional Research Service just a few months ago.

The report noted that "since 1980, there have been several industry forecasts of massive defaults and bankruptcies, but each critical date has passed with neither massive defaults nor numerous bankruptcies". In fact, the default rate on timber contracts in the past 18 months for Washington and Oregon has been about average. From October 1, 1982 to May 15, 1984, 188 contracts were defaulted, involving about 120 purchasers. This amount is only 1 percent of the total volume under contract in those States. The Forest Service reported that this default rate is about normal. It's typical, according to most observers, for about 1 percent of the contracts to default.

The real problem in the Northwest timber industry is not the overbid Federal contracts. The problems of this industry—as in others throughout the country—are much more complex.

On September 18, 1984, the Wall Street Journal explained that "competition from Canadian wood-product manufacturers is the industry's biggest problem * * * the strength of the U.S. dollar has made Canadian lumber cheaper for American builders to buy." This bill does not address this problem, but instead it gives a Federal, special interest subsidy to one industry. I'd like the same Federal assistance for companies in my district. One of these firms scheduled to close in North Adams is adversely affected by shoe imports. The industry has been denied Federal relief, and the result is devastating. There's no compelling

reason to aid the timber industry and not the steel industry or the shoe industry or the copper industry or others in deep economic trouble. Every member with the same problems should oppose this bill or at least ask for similar relief.

It's just not fair to the taxpayers or other troubled industries.

The proponents of this legislation also speak as if the administration has totally ignored the problem. Nothing could be farther from reality. Since 1980, the Forest Service and the Bureau of Land Management have given timber companies eight extensions on contracts due. In July of last year, the administration announced a 5-year extension program, without interest, for purchasers of Federal timber. This program is a bailout in itself. Because of this tree bill, "Uncle Sap" will be losing at least $200 million and maybe as much as $500 million. But this is not enough, these companies want to continue the raid on the Treasury.

Proponents will argue that this bill will not cost the Federal Government any lost revenue or will even reduce the deficit. I don't know where their figures come from, but all reports that I have read reveal a different and more expensive price tag.

Look on page 33 of a CRS report entitled "Analysis of Timber Contract Relief Legislation." The report analyzed three different legislative proposals to bail out the timber industry. For S. 916—essentially the legislation now before the House—the net Federal revenue loss would be $1.3 billion. The administration has a more conservative figure, but the end result is still outrageous.

It's been said that amendments were offered in the Senate to improve the bill. Well, it may be an improvement for the timber companies, but not for the taxpayers. Senate amendment 4842, for example, would actually decrease the fees paid to the Federal Government, thereby increasing the net revenue loss. The amendment would treat the income from buyout charges in the same manner as timber sales receipts.

In other words, the local communities could receive up to 50 percent of Bureau of Land Management income from these charges and 25 percent of the income from Forest Service lands.

During floor consideration, the Senate added another rotten limb to this tree bill. Senate Amendment 4806 would allow contracts now in the default stage to be modified or terminated. It would give special treatment to companies that should not have been speculating in the market in the first place.

I am also concerned that this legislation, if enacted, would destroy the credibility of Federal contracts. In effect, this bill would nullify between $3 and $4 billion in timber contracts. How could any prospective bidder seriously consider the binding nature of Federal contracts if this bailout were to occur.

I would like to apply this new contract policy in my district. One company holding a contract with the Army is unable to meet the deadlines because of raw material problems and other factors. The Army refuses to renegotiate the contract, and this company might soon close its doors. It should not be Federal policy to assist financially troubled companies by canceling Federal contracts.

In the end, what is the real impact of this legislation? Frankly, I do not think very many people know, but Members should know that:

A vote for this bill is a vote to subsidize the stockholders of poorly run timber companies;

A vote for this bill is a vote to destroy the credibility of Federal contracts; and

A vote for this bill is a vote to substantially increase the Federal deficit.

There is no other way to explain it.

Mr. Speaker I am disturbed that this legislation is being rushed through the Congress in the final days, without careful consideration. I urge my colleagues to vote on this suspension so that the extension program can be given a chance to work.

Vote yes if you want to support a corporate welfare scheme that would make the golden parachute of big oil look like a beach umbrella.

Mr. Speaker, I include a letter from David Stockman to the Honorable ROBERT MICHEL, dated October 1, 1984, as follows:

EXECUTIVE OFFICE
OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, October 1, 1984.

Hon. ROBERT MICHEL,
Republican Leader, House of Representatives, Washington, DC.

DEAR BOB: When the House takes up H.R. 2838, the timber bail-out bill, I strongly urge you to help defeat this effort to force taxpayers to provide a small number of corporations with $400 million worth of special relief.

Last year, after careful review within the administration and extensive consultations with the Congress, the President directed the Secretary of Agriculture to grant timber purchasers an extension on their contracts. These extensions should permit most firms sufficient flexibility to meet their contractual obligations without undue harm, while at the same time preserving the interests of the Federal taxpayers.

Because this administrative relief was not as generous as some in the industry had hoped, we now find the Congress considering a proposal that would greatly increase the loss to the Treasury of resolving the timber contract problem. The argument is made that the bill is necessary to help the "little guy" who owns one mill and would otherwise go bankrupt. Yet the fact of the matter is that if H.R. 2838 is enacted, the Forest Service estimates that 33 companies—several of which are in the Fortune "500"—will each get benefits of $5 million or more.

Apart from the fundamental inequity of taking money out of the taxpayers' pocket to relieve some private companies that made bad business judgments by betting on continued high inflation and bidding too high, H.R. 2838 would contribute to inflation by placing an arbitrary limit on Federal timber sales in the Northwest.

In the press of the last days of the session, it it critical that we all keep an eye out for rush efforts to help particular interests at the expense of the taxpayer. This Administration has already made available a carefully designed relief program to the timber industry that protects the public interest. We do not need to widen the deficit by $400 million because some firms want a better deal.

If I can provide further information, please let me know.

Sincerely,

DAVID A. STOCKMAN, *Director.*

Mr. WHITLEY. Mr. Speaker, just a couple comments I want to make in response to the arguments just advanced by the gentleman from Massachusetts.

The $400 million figure mentioned in the letter from Mr. David Stockman, the Director of OMB, referred to the bill prior to the Senate amendments. In the other body, Senator METZENBAUM indicated that the bill as amended would recoup approximately $450 million by requiring larger payments from the larger firms involved. I think the record ought to be clear on that point.

Mr. Speaker, I reserve the balance of my time.

□ 1850

Mr. MORRISON of Washington. I yield 2 minutes to the distinguished gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I rise in strong support of H.R. 2838, a bill which would equitably seek to prevent the destruction of one of our most important industries—the forest products industry. This bill, taken up at this late date, has been in the making for 3 years. It is supported by the industry, the loggers and their families, the environmentalists, and has wide support in Congress on both sides of the aisle.

Most small timber companies in the West are dependent on public timber, because of the large amounts of Federal land there. During the late 1970's, the forest products industry purchased timber under the assumption that inflation would continue and that housing would continue with it. As a result, they are now holding public timber reserves that will cost them more to cut than to leave it in the woods. In fact, if all the Federal timber was cut, the industry would lose about $4 billion by complying with their contracts. Their markets, while picking up through economic recovery, have far to go.

We are not talking about a few huge companies, here Mr. Speaker, but

about a wide variety of companies, all of whom incorrectly judged the future. This bill has been called a bailout by some—it is more clearly a buy out, because it requires that the companies still pay hefty sums for their mistakes at crystall ball gazing. In return, the Federal Government gets money it would not get should these companies go under, and it retains economically healthy buyers for its timber.

In the meantime, the Government succeeds in taking actions which will serve the working men and women of America well. Already, many timber companies have been forced to or over the brink, because of these contracts. You can well imagine attempting to get credit for business expansion with this type of credit being held against your books. The timber will not be given away—it will be sold at current market prices that reflect what the buyer of timber products is willing to pay.

Because of the careful work of our Senate colleagues, there is no danger for our southern timber producers, who are not affected by the buy out provisions in this act. There will be cap on the amount of timber that will be sold in the Pacific Northwest, because of language worked out in the other body.

I would like to address quickly, Mr. Speaker, a misinterpretation of this bill's intent as it applies to the State of Alaska. We have two kinds of contracts in Alaska—long-term contracts which have automatic renegotiation clauses in them, and short-term contracts, of 5 to 7 years' duration.

Because of carefully crafted language in this bill, the two holders of long-term contracts for timber in Alaska will be excluded from any relief—either on the long-term contracts they hold or on any short-term timber they may have contracted for. Any reference to a Japanese firm receiving the benefits of this legislation are misstatements of fact.

The Alaska provision in this act equitably allows the smaller timber opertors who compete with the holders of long-term contracts to renegotiate with the Forest Service the price they have been paying for timber. Because of the legal contracts signed by the holders of long-term contracts, they now have renegotiated the price of their timber according to the market conditions, which are even worse for Alaskan pulp timber than they are for Pacific Northwest timber.

This amendment is a blow for equity for the little guy, and will serve to assist the small operator in Alaska to keep going, despite unfavorable markets. In sum, this bill will save jobs, save buyers of timber for the Forest Service, and assist in the management of our national forests. I urge a "yes" vote.

Mr. MORRISON of Washington. Mr. Speaker, I yield 30 seconds to the gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. Mr. Speaker, I think the important thing for my colleagues to understand here is we are not just talking about figures, we are not just talking about inanimate objects in the form of trees; we are talking about people.

These people that we are trying to help are men and women who have invested their very lives in their businesses. We will put them out of business if we do not pass this legislation, so I urge your support.

Mr. Speaker, the House has the opportunity today to respond in a fair and reasonable manner to a near-crisis situation which threatens the destruction of the independent forest products industry in the Pacific Northwest and the disruption of the workers and communities which depend on this industry.

The Federal Timber Contract Payment Modification Act now before us allows the Federal Government to be flexible in dealing with the hard-pressed timber companies who overbid in the late 1970's on Federal contracts.

The overbidding came about as a result of a number of factors, including higher interest rates, predictions of increased housing demand and fears of a reduced Federal supply of timber.

These contracts were made economically inoperable for these companies because of sharply higher interest rates in the 1980's, reduced levels of inflation and lower prices for lumber and plywood, partially brought about by increased competition from Canada.

This legislation responds to the human needs of the people and communities dependent on this industry, and it maximizes the amount of money the Federal Government will be able to collect on these contracts.

Let me emphasize, especially for my fellow Republicans, that this legislation provides for a buyout of timber sales contracts, not the bailout that was originally proposed 3 years ago. Under the bill we are considering today, the mills will pay a buyout charge in order to be released from a certain percentage of the timber under contract. It is estimated that the buyout will bring $250 million to $400 million into the Treasury, and the Federal Government gets the standing timber back for resale at a later date.

The alternative is to allow these small and medium sized companies to default or go bankrupt, as many of them are now on the verge of doing. The legislation provides hard cash to the Treasury rather than a long, drawn-out series of legal actions following defaults on contracts. As for the companies that go bankrupt, there won't be any way for the Government to collect its money from those contracts.

This legislation, which is the result of 3 years of compromises and negotiations, has broad-based bipartisan support from all sections of the country. The Senate passed the bill on Wednesday by a lopsided 94 to 2 vote, and the House Forestry Subcommittee unanimously reported an identical bill the same day.

One of the original critics of timber contract relief legislation, Senator HOWARD METZENBAUM of Ohio, supports the buyout bill passed by the Senate as one that is carefully targeted to provide relief to truly needy companies rather than large companies that don't need assistance.

The Administration plan to extend the deadline for performance of the contracts provides insufficient relief for many timber companies, and does nothing to solve the worsening problem of too much timber under contract.

I believe that the Government needs to be flexible and recognize the devastating impacts of rigid adherence to these contracts. The legislation before us provides that flexibility to respond in a sensible, fiscally responsible way to the problems now facing the independent timber industry and the economy of the Pacific Northwest. This bill is in the best interest of the entire country, and I urge my colleagues from both political parties to pass this legislation.

Mr. MORRISON of Washington. Mr. Speaker, I yield myself the last minute.

I would like to mention as we listened to the letter from David Stockman being read, that while he is lamenting the potential loss of some dollars from this, that the Forest Service has already extended these contracts for 5 years at a loss to the Treasury of $300 million per year in interest. So they recognize there is something wrong.

We are now proposing a plan which has been worked out and passed the other body by a vote of 94 to 2. In fact, it will solve this problem now and I think the opportunity is to keep an industry alive and actually end up with more money coming back to the Treasury than there would be if we continue on the present path.

So I would urge the membership to support this plan and again I compliment the committee and the subcommittee and its chairman, the gentleman from North Carolina, [Mr. WHITLEY], on this measure.

I yield back the balance of my time.

Mr. WHITLEY. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentleman from Washington for his comments about the work of the subcommittee.

Let me say that on this matter our subcommittee not only held two detailed hearings and a markup session, but we reported identical legislation unanimously, by voice vote, in the presence of a quorum. The gentleman is entirely correct in saying that this bill is identical, this is the bill which passed the other body by a vote of 94 to 2.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. First of all I want to commend the distinguished gentleman from North Carolina and the members of his committee for having worked this solution out in conjunction with the Senators.

Second, I would like to say that in some of my travels in Western States I occasionally hear people saying what business does someone from Ohio have coming out here and trying to decide what to do with our land.

I might say that what they do not know is that in the course of the last 4 years while our committee, working with the gentleman in some cases, has resulted in putting about 8 million acres of national forest land in wilderness, we have released twice that acreage and much more proportionately in terms of board feet potential to timbering and other productive uses.

Even though I am still not known as a great advocate for the timber industry let me say this is a fair bill. There is no point in trying to squeeze blood out of a stone, particularly when that stone happens to be a small operator who has a lot of people working for him.

Also it is a pro environmental bill because it relieves the pressure that would otherwise be on these people to cut the forests even when the demand is not there and, therefore, result in logging areas that really are not ready to be logged economically. So it takes a lot of pressure off some of the other areas and enables the Forest Service to do a better job of managing them from all points of view and not merely the point of view of getting the maximum timber at a particular time.

So I think on all counts, economic, fairness, and environmental, this is a good bill and I commend the gentleman and I commend my colleague from Ohio (Senator METZENBAUM), for the contribution that he has made.

I yield back the balance of my time.

Mr. WHITLEY. Mr. Speaker, I thank the gentleman for his contribution.

I have no further requests for time, and I yield back the balance of my time.

● Mr. DE LA GARZA. Mr. Speaker, I rise to request the Members to join me in support of H.R. 2838, the Federal Timber Contract Payment Modification Act, as amended by the Senate.

The Senate amendment would allow private timber companies to buy out a portion of Federal timber sale contracts which were entered into during the late 1970's. The contracts were negotiated at a time of rampant inflation and unduly optimistic predictions of housing starts, which resulted in prices being bid which are far in excess of today's market prices. In the absence of this legislation, many private timber companies, most of which are small, independent firms, would be unable to fulfill their contracts without incurring ruinous losses.

The Committee on Agriculture has been provided information that the losses could amount to nearly $4 billion and that these potential losses exceed the net worth of many companies. It has been stated that in the absence of this legislation, many companies would default on their contracts and close their mills, resulting in the loss of many jobs.

The Senate amendments would require the Secretary of Agriculture and the Secretary of the Interior to allow purchasers of federally owned timber upon payment of a buyout charge to return a portion of their timber sale contracts to the Federal Government. There would be an escalation of the buyout charge based upon the net worth of the timber company, so that large companies would have to pay significantly more for relief than would the small, independent firms. The Government would receive compensation expected in the aggregate to approximate $450 million. It would then be able to resell the timber at current market prices.

The measure would also place a limitation on the volume of federally owned timber that may be sold in Forest Service region 6 during specified future years and would ratify the President's multisale extension program of July 28, 1983. The limitation on timber sales in region 6 is designed to provide for orderly marketing of timber in that area so that the resale of the timber bought out under these contracts would not flood the market and cause adverse effects to the disadvantage of other regions, particularly the Southern States.

This is unusual legislation, and I am pleased to note that it contains provisions to help assure that we do not have a recurrence of the same problem. To this end the Senate amendment requires that bids be monitored in the future to assure that bidders would be able to perform the contracts as required if awarded a contract and, more importantly, that the Secretary of Agriculture must obtain a cash down payment when new contracts are executed and periodic payments over the period of a contract.

Finally, the bill contains a provision that was contained in H.R. 2838 as it originated in the House, relating to use of the national forests by nonprofit organization camps such as Boy Scout camps on National Forest System lands. It would direct the Secretary of Agriculture to waive in part or in whole Forest Service special-use permit fees for those organizations if they perform services on Forest Service lands that yield a public benefit.

The Senate amendment is not a matter of first impression to the Committee on Agriculture. The Subcommittee on Forests, Family Farms, and Energy, chaired by Mr. WHITLEY, has held a number of hearings on the issues presented by these timber sales contracts. On September 26, the subcommittee at a business meeting approved by unanimous voice vote, in the presence of a quorum, amendments to another bill which are identical to those under consideration today.

The Congressional Budget Office has made no cost assessment of this bill. Any estimate of lost revenues is speculative because there is no accepted method to calculate how many sales would go into default, or what percentage of default damages would actually be paid by the contractors. It has been estimated that buyout charges could generate revenues of $450 million. This would be supplemented by the returns received by the Forest Service on the resale of this timber at current market prices.

H.R. 2838, as amended by the Senate, is a bipartisan measure that enjoys support from both sides of the aisle. In the Senate it orginated with amendments sponsored by Senator HATFIELD, and in the House the original sponsor of a comparable bill is the distinguished gentleman from Oregon [Mr. WEAVER], a member of both the Committee on Agriculture and the Committee on Interior and Insular Affairs.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. WHITLEY] that the House concur in the Senate amendments to the bill, H.R. 2838.

The question was taken.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

ARMED CAREER CRIMINAL ACT OF 1984

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6248) to amend title VII of the Omnibus Crime Control and Safe Streets Act of 1968 to provide enhanced penalties for certain persons possessing firearms after three previous convictions for burglaries or robberies, and for other purposes.

The Clerk read as follows:

H.R. 6248

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Armed Career Criminal Act of 1984".

SEC. 2. Section 1202(a) of title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. App. 1202(a)) is amended by adding at the end "In the case of a person who receives, possesses or transports in commerce or affecting commerce any firearm and who has three previous convictions by any court referred to in paragraph (1) of this subsection for robbery or burglary, or both, such person shall be fined not more than $25,000 and imprisoned not less than fifteen years, and, notwithstanding any other provision of law, the court shall not suspend the sentence of, or grant a probationary sentence to, such person with respect to the conviction under this subsection, and such person shall not be eligible for parole with respect to the sentence imposed under this subsection.".

SEC. 3. Section 1202(c) of title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. App. 1202(c)) is amended—

(1) by striking out the period at the end of paragraph (7) and inserting a semicolon in lieu thereof; and

(2) by adding at the end the following:

"(8) 'robbery' means any felony consisting of the taking of the property of another from the person or presence of another by force or violence, or by threatening or placing another person in fear that any person will imminently be subjected to bodily injury; and

"(9) 'burglary' means any felony consisting of entering or remaining surreptitiously within a building that is property of another with intent to engage in conduct constituting a Federal or State offense.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes and the gentleman from Michigan [Mr. SAWYER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

□ 1900

Mr. Speaker, I need not remind any one that according to recent statistics (1981) nearly 25 million American households—3 out of every 10—were affected by crimes involving theft or violence. It has also become increasingly clear that a large percentage of these crimes are committed by a very small percentage of repeat offenders. In the now classic study by Professor Wolfgang in Philadelphia he cited statistics showing that chronic offenders which comprised 6 percent of the study group committed 61 percent of all homicides, 76 percent of all rapes, 73 percent of all robberies, and 65 percent of all aggravated assaults perpetrated by members of the group. With the uncontroverted evidence of this and other studies that a relatively small group of career criminals is responsible for many of the crimes in America, our limited resources must be targeted to this active group of habitual offenders.

Both Congress and local prosecutors around the Nation have recognized the importance of incapacitating these repeat offenders. For example, the establishment of career criminals prosecutorial units was the most successful program funded by the law enforcement assistance administration. Today, career criminal units, which were started with LEAA grants, are operating in many local district attorneys' offices. These special units emphasize thorough investigation and prompt and vigorous prosecution of repeat offenders who commit violent crimes. Recently, both Houses have approved a revitalization of Federal aid for these programs in the Justice Assistance Act (H.R. 2175).

H.R. 6248 which we have before us is another, and, I believe, useful approach to this problem. This bill would enhance the sanctions of 18 U.S.C. App. section 1202(a) with a 15-year minimum sentence if the defendant has been convicted three times of felonies for robbery or burglary.

Presently, U.S.C. section 1202(a) prohibits convicted felons from "receipt, possession or transportation of firearms" and is part of title VII of the Omnibus Crime Control and Safe Streets Act of 1968. In its pertinent part it states:

Any person who—

(1) Has been convicted by a court of the United States or of a State or any political subdivision thereof of a felony . . . and who receives, possesses or transports in commerce or affecting commerce . . . any firearm shall be fined not more than $10,000 or imprisoned for not more than two years, or both.

In an interpretation of the jurisdictional aspects of this act the Supreme Court in *U.S.* v. *Bass* (404 U.S. 337, 350 (1971)) stated:

Significantly broader in reach, however, is the offense of "receiv[ing] . . . in commerce or affecting commerce," for we conclude that the government meets its burden here if it demonstrates that the firearm received has previously traveled in interstate commerce.

Thus, under H.R. 6248 the U.S. prosecutor must merely show that a firearm has previously traveled in interstate commerce to establish Federal jurisdiction.

Under this approach, if the local authorities arrest a three-time loser in possession of a gun—in the course of a robbery or burglary or otherwise—and can convince the U.S. attorney that circumstances warrant prosecution under the enhanced penalty provisions of this bill, the mandatory 15-year penalty is available.

This will be achieved without permitting a radical expansion of Federal jurisdiction over common law crimes. Finally, it would not put Federal courts in a position of having to interpret and apply State laws on robbery and burglary in Federal criminal trials which has been proposed under other approaches.

The National District Attorneys Association has given us a favorable response to this approach as has the Department of Justice.

I urge your support for H.R. 6248.

Mr. SAWYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is clear that a small number of criminals are committing an inordinate amount of crime in our Nation's communities. These persons have come to be known as career criminals. Common sense dictates that if our law enforcement efforts were dedicated toward career criminals, a major drop in crime would result.

Although this theory is a good one, there are many persons who believe that it should be carred out by State and local officials. Burglary and robbery are traditionally State and local crimes. Local prosecutors do not want Federal intrusion in this area.

The proposal before us today is crafted to avoid Federal prosecution of State burglary or robbery charges. This proposal does not even expand Federal criminal law. H.R. 6248 takes an existing gun possession statute and enhances the penalty for any violation by a person having been previously convicted three times for armed burglary and robbery.

H.R. 6248 would apply the enhanced penalties of a fine of not more than $25,000 or imprisonment of not less than 15 years, or both, in addition to the penalities for the underlying offense. These penalties would be applied to anyone possessing a firearm in violation of section 1202(a) to title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. App. 1202(a)). This person must have three previous convictions for burglary or robbery.

It is my understanding that the administration and local prosecutors find H.R 6248 acceptable.

For these reasons, I urge your support of H.R. 6248.

Mr. HUGHES. Mr. Speaker, I yield 5 minutes to the gentleman from Oregon [Mr. WYDEN], the prime sponsor of this legislation.

Mr. WYDEN. Mr. Speaker, as the principal sponsor of H.R. 6248, the

Armed Career Criminal Act, I rise to speak in support of this legislation.

As we begin this debate, let's keep in mind one fact: two-thirds of all violent crime in American is committed by less than 10 percent of the criminal population.

These violent crimes are disfiguring the lives of millions of our citizens who fear attacks in our streets and invasion in their homes. By passing the legislation before us now, Congress sends a simple message: we want these criminals—these one-person crime waves—behind bars and out of business.

There are three basic reasons why Congress should pass this bill:

First, this legislation is likely to reduce plea bargaining and delaying tactics by career criminals. The option to move a case to the Federal level, where trials move on the average four times faster than in State courts and where the defendant would be facing a mandatory 15-years sentence, should reduce nonmeritorious attempts by defendants to circumvent the judicial process.

Second, at a time when the Federal deficit is more than $200 billion and the resources of Government at every level are sorely pressed, the Federal Government should take special steps to focus law enforcement efforts on career criminals who commit the bulk of the crimes in America.

Finally, street crime is the proper business of Federal law enforcement when a firearm is used to steal since both firearms and stolen goods move in interstate commerce, just as do drugs. In addition, robberies and burglaries burden interstate commerce even if the criminal does not cross State boundaries.

Federal statutes currently cover bank and pharmacy robberies on this basis, as well as mere possession of firearms by persons with prior felony convictions in State court. The career criminal statute we are considering simply combines these established bases of Federal criminal jurisdiction which have been upheld by the courts.

In the past, Congress has never been willing to zero in on the career criminal.

Our colleagues in the Senate recently passed a career criminal bill. But because of turf battles between various law enforcement agencies, the bill was, in the words of its Senate sponsor, "emasculated." It now deals only with crimes which are already in the Federal jurisdiction such as bank robbery. This accounts for only 10 percent of the armed robbers and none of the armed burglars.

The American people want the Federal Government to play an effective role in the fight against violent street crime. When we demonstrate that there are two approaches to the problem in Washington today an emasculated Senate bill dealing with career criminals and a strong House version—I think it is clear that the version of the bill we are considering today will get the support of the public.

We simply must put a stop to the career burglars who commit a burglary a day and the career robbers who commit a robbery every couple of days. I think we all know that a slap on the wrist won't be enough to deter these criminals. That's why we need this tough career criminal legislation. Mr. Speaker, let's pass this important legislation and let the American people know that we are going to put one-person crime waves known as a career criminal out of business.

Mr. SAWYER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 6248.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 5, rule I, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 5361, by the yeas and nays; H.R. 5538, de novo; and H.R. 2838, de novo.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

ONE-YEAR EXTENSION OF EXCLUSION WITH RESPECT TO GROUP LEGAL SERVICES PLANS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 5361, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and pass the bill, H.R. 5361, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device and there were—yeas 300, nays 87, not voting 45, as follows:

[Roll No. 426]

YEAS—300

Ackerman	Downey	Kazen
Addabbo	Duncan	Kennelly
Akaka	Dwyer	Kildee
Albosta	Dymally	Kleczka
Andrews (NC)	Dyson	Kogovsek
Andrews (TX)	Early	Kolter
Annunzio	Eckart	Kostmayer
Applegate	Edgar	Kramer
Aspin	Edwards (AL)	LaFalce
AuCoin	Edwards (CA)	Lagomarsino
Barnard	Emerson	Lantos
Bartlett	Erdreich	Lehman (CA)
Bateman	Evans (IL)	Lehman (FL)
Bates	Fazio	Leland
Bedell	Feighan	Levin
Bennett	Fiedler	Levine
Bereuter	Fields	Levitas
Berman	Fish	Lewis (FL)
Bevill	Flippo	Lipinski
Bilirakis	Florio	Livingston
Boehlert	Foglietta	Lloyd
Boggs	Foley	Long (LA)
Boland	Ford (MI)	Long (MD)
Boner	Ford (TN)	Lowery (CA)
Bonior	Frank	Lowry (WA)
Bonker	Frost	Lujan
Bosco	Fuqua	Luken
Boucher	Garcia	Lundine
Boxer	Gaydos	Madigan
Brooks	Gejdenson	Markey
Broomfield	Gephardt	Marlenee
Brown (CA)	Gilman	Marriott
Brown (CO)	Glickman	Martin (IL)
Broyhill	Gonzalez	Martin (NY)
Bryant	Gore	Martinez
Burton (CA)	Gray	Matsui
Byron	Green	Mavroules
Carper	Hall (IN)	Mazzoli
Carr	Hall (OH)	McCloskey
Chappell	Hamilton	McCollum
Clarke	Hammerschmidt	McDade
Clay	Hance	McHugh
Clinger	Harkin	McKernan
Coelho	Harrison	McKinney
Coleman (MO)	Hatcher	McNulty
Coleman (TX)	Hawkins	Mica
Conte	Hayes	Miller (CA)
Conyers	Heftel	Mineta
Cooper	Hertel	Minish
Coyne	Hightower	Mitchell
Crane, Daniel	Horton	Moakley
Crane, Philip	Howard	Mollohan
Crockett	Hoyer	Montgomery
D'Amours	Hubbard	Moody
Daniel	Huckaby	Moore
Darden	Hunter	Mrazek
Daschle	Hutto	Murphy
Davis	Hyde	Murtha
Dellums	Ireland	Myers
Derrick	Jacobs	Natcher
DeWine	Jenkins	Neal
Dicks	Johnson	Nichols
Dingell	Jones (OK)	Nowak
Dixon	Jones (TN)	Oakar
Donnelly	Kaptur	Oberstar
Dorgan	Kasich	Obey
Dowdy	Kastenmeier	Olin

Ortiz	Sabo	Tallon
Owens	Savage	Tauzin
Oxley	Scheuer	Taylor
Panetta	Schneider	Thomas (GA)
Parris	Schroeder	Torres
Patman	Schumer	Towns
Patterson	Seiberling	Traxler
Paul	Shannon	Udall
Pease	Sharp	Vander Jagt
Pepper	Shelby	Vandergriff
Pickle	Shuster	Vento
Price	Sikorski	Volkmer
Quillen	Sisisky	Walgren
Rahall	Skelton	Watkins
Rangel	Slattery	Waxman
Ratchford	Smith (FL)	Weaver
Ray	Smith (IA)	Weiss
Regula	Smith (NJ)	Wheat
Reid	Snowe	Whitley
Richardson	Snyder	Whitten
Ridge	Solarz	Williams (MT)
Rinaldo	Spence	Williams (OH)
Ritter	Spratt	Wilson
Rodino	St Germain	Wirth
Roe	Staggers	Wise
Rogers	Stangeland	Wolpe
Rose	Stark	Wyden
Rostenkowski	Stokes	Wylie
Roth	Stratton	Yates
Roukema	Studds	Yatron
Rowland	Sundquist	Young (AK)
Roybal	Swift	Young (FL)
Russo	Synar	Young (MO)

NAYS—87

Anderson	Hansen (ID)	Petri
Archer	Hansen (UT)	Porter
Badham	Hartnett	Pritchard
Beilenson	Hiler	Pursell
Bliley	Hillis	Roberts
Burton (IN)	Holt	Robinson
Carney	Hopkins	Roemer
Chandler	Hughes	Rudd
Coats	Jeffords	Sawyer
Conable	Kindness	Schaefer
Corcoran	Latta	Schulze
Craig	Leach	Sensenbrenner
Dannemeyer	Leath	Shaw
Daub	Lent	Shumway
Dickinson	Lewis (CA)	Skeen
Dreier	Loeffler	Smith (NE)
Durbin	Lungren	Smith, Denny
Edwards (OK)	McCandless	Smith, Robert
English	McCurdy	Solomon
Erlenborn	Michel	Stenholm
Evans (IA)	Miller (OH)	Stump
Frenzel	Molinari	Tauke
Gekas	Moorhead	Thomas (CA)
Gingrich	Morrison (WA)	Vucanovich
Gradison	Nelson	Weber
Gregg	Nielson	Whittaker
Gunderson	O'Brien	Winn
Hall, Ralph	Packard	Wortley
Hall, Sam	Penny	Zschau

NOT VOTING—45

Alexander	Fascell	McCain
Anthony	Ferraro	McEwen
Barnes	Fowler	McGrath
Bethune	Franklin	Mikulski
Biaggi	Gibbons	Morrison (CT)
Borski	Goodling	Ottinger
Breaux	Gramm	Pashayan
Britt	Guarini	Siljander
Campbell	Hefner	Simon
Chappie	Jones (NC)	Torricelli
Cheney	Kemp	Valentine
Collins	Lott	Walker
Coughlin	Mack	Whitehurst
Courter	MacKay	Wolf
de la Garza	Martin (NC)	Wright

□ 1920

Messrs. TAUKE, ROEMER, STENHOLM, LEATH of Texas, SAM B. HALL, Jr., RALPH M. HALL and BURTON of Indiana changed their votes from "yea" to "nay."

Messrs. MARRIOTT, BILIRAKIS, and LUJAN changed their votes from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to amend the Internal Revenue Code of 1954 to extend for 1 year the exclusion from gross income with respect to group legal services plans, and for other purposes."

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MURTHA). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all of the additional motions to suspend the rules on which the Chair has postponed further proceedings.

PREVENTIVE HEALTH AMENDMENTS OF 1984

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 5538, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 5538, as amended.

The question was taken.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 368, noes 18, not voting 46, as follows:

[Roll No. 427]

AYES—368

Ackerman	Boggs	Coats
Addabbo	Boland	Coelho
Akaka	Boner	Coleman (MO)
Albosta	Bonior	Coleman (TX)
Anderson	Bonker	Conable
Andrews (NC)	Bosco	Conte
Andrews (TX)	Boucher	Conyers
Annunzio	Boxer	Cooper
Applegate	Brooks	Corcoran
Archer	Broomfield	Coyne
Aspin	Brown (CA)	Crockett
AuCoin	Broyhill	D'Amours
Barnard	Bryant	Daniel
Bateman	Burton (CA)	Darden
Bates	Burton (IN)	Daschle
Bedell	Byron	Daub
Beilenson	Carney	Davis
Bennett	Carper	Dellums
Bereuter	Carr	Derrick
Berman	Chandler	DeWine
Bevill	Chappell	Dickinson
Bilirakis	Clarke	Dicks
Bliley	Clay	Dingell
Boehlert	Clinger	Dixon
Donnelly	LaFalce	Ridge
Dorgan	Lagomarsino	Rinaldo
Dowdy	Lantos	Ritter
Downey	Latta	Roberts
Dreier	Leach	Robinson
Duncan	Leath	Rodino
Durbin	Lehman (CA)	Roe
Dwyer	Lehman (FL)	Roemer
Dymally	Leland	Rogers
Dyson	Lent	Rose
Early	Levin	Rostenkowski
Eckart	Levine	Roth
Edgar	Levitas	Roukema
Edwards (AL)	Lewis (CA)	Rowland
Edwards (CA)	Lewis (FL)	Roybal
Edwards (OK)	Lipinski	Russo
Emerson	Lloyd	Sabo
English	Loeffler	Savage
Erdreich	Long (LA)	Sawyer
Erlenborn	Long (MD)	Scheuer
Evans (IA)	Lowery (CA)	Schneider
Evans (IL)	Lowry (WA)	Schroeder
Fazio	Lujan	Schulze
Feighan	Luken	Schumer
Fiedler	Lundine	Seiberling
Fields	Lungren	Sensenbrenner
Fish	Madigan	Shannon
Flippo	Markey	Sharp
Florio	Marlenee	Shaw
Foglietta	Marriott	Shelby
Foley	Martin (IL)	Shuster
Ford (MI)	Martin (NY)	Sikorski
Ford (TN)	Martinez	Sisisky
Frank	Matsui	Skeen
Frenzel	Mavroules	Skelton
Frost	Mazzoli	Slattery
Fuqua	McCandless	Smith (FL)
Garcia	McCloskey	Smith (IA)
Gaydos	McCollum	Smith (NE)
Gejdenson	McCurdy	Smith (NJ)
Gekas	McDade	Smith, Robert
Gephardt	McHugh	Snowe
Gilman	McKernan	Snyder
Gingrich	McKinney	Solarz
Glickman	McNulty	Solomon
Gonzalez	Mica	Spence
Gore	Michel	Spratt
Gradison	Miller (CA)	St Germain
Gray	Miller (OH)	Staggers
Green	Mineta	Stangeland
Gregg	Minish	Stark
Gunderson	Mitchell	Stenholm
Hall (IN)	Moakley	Stokes
Hall (OH)	Molinari	Stratton
Hall, Ralph	Mollohan	Studds
Hall, Sam	Montgomery	Sundquist
Hamilton	Moore	Swift
Hammerschmidt	Moorhead	Synar
Hance	Morrison (WA)	Tallon
Hansen (UT)	Mrazek	Tauke
Harkin	Murphy	Tauzin
Harrison	Murtha	Taylor
Hatcher	Myers	Thomas (CA)
Hawkins	Natcher	Thomas (GA)
Hayes	Neal	Torres
Heftel	Nelson	Towns
Hertel	Nichols	Traxler
Hightower	Nielson	Udall
Hiler	Nowak	Vander Jagt
Hillis	O'Brien	Vandergriff
Holt	Oakar	Vento
Hopkins	Oberstar	Volkmer
Horton	Obey	Walgren
Howard	Olin	Watkins
Hoyer	Ortiz	Waxman
Huckaby	Owens	Weaver
Hughes	Oxley	Weber
Hunter	Packard	Weiss
Hutto	Panetta	Wheat
Hyde	Parris	Whitley
Ireland	Patman	Whittaker
Jacobs	Patterson	Whitten
Jeffords	Pease	Williams (MT)
Jenkins	Penny	Williams (OH)
Johnson	Pepper	Wilson
Jones (OK)	Petri	Winn
Jones (TN)	Pickle	Wirth
Kaptur	Porter	Wise
Kasich	Price	Wolpe
Kastenmeier	Pritchard	Wortley
Kazen	Pursell	Wyden
Kennelly	Quillen	Wylie
Kildee	Rahall	Yates
Kindness	Rangel	Yatron
Kleczka	Ratchford	Young (AK)
Kogovsek	Ray	Young (FL)
Kolter	Regula	Young (MO)
Kostmayer	Reid	Zschau
Kramer	Richardson	

NOES—18

Badham	Dannemeyer	Rudd
Bartlett	Hansen (ID)	Schaefer
Brown (CO)	Hartnett	Shumway
Craig	Hubbard	Smith, Denny
Crane, Daniel	Livingston	Stump
Crane, Philip	Paul	Vucanovich

NOT VOTING—46

Alexander	Ferraro	McGrath
Anthony	Fowler	Mikulski
Barnes	Franklin	Moody
Bethune	Gibbons	Morrison (CT)
Biaggi	Goodling	Ottinger
Borski	Gramm	Pashayan
Breaux	Guarini	Siljander
Britt	Hefner	Simon
Campbell	Jones (NC)	Torricelli
Chappie	Kemp	Valentine
Cheney	Lott	Walker
Collins	Mack	Whitehurst
Coughlin	MacKay	Wolf
Courter	Martin (NC)	Wright
de la Garza	McCain	
Fascell	McEwen	

□ 1930

Mr. TAUKE changed his vote from "no" to "aye."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2301) to revise and extend programs for the provision of health services and preventive health services, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. DANNEMEYER. Mr. Speaker, reserving the right to object, I would like to ask my colleague from California a question about this.

Does this relate to the bill that was just passed by the House?

I yield to the gentleman for his response.

Mr. WAXMAN. Mr. Speaker, if the gentleman will yield, that is correct. We are taking up the Senate version of this bill, and we will seek to put in the House bill so we can go ahead into conference.

Mr. DANNEMEYER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2301

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Health Services and Preventive Health Services Act of 1984".

REFERENCE

SEC. 2. Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

CHILDHOOD IMMUNIZATION

SEC. 3. Section 317(j)(1) is amended by striking out "and" after "1983," and by inserting before the period a comma and "$51,400,000 for the fiscal year ending September 30, 1985, $56,000,000 for the fiscal year ending September 30, 1986, and $60,000,000 for the fiscal year ending September 30, 1987".

PREVENTIVE HEALTH SERVICE PROGRAMS FOR TUBERCULOSIS

SEC. 4. Section 317(j)(2) is amended by striking out "and" after "1983," and by inserting before the period a comma and "8,000,000 for the fiscal year ending September 30, 1985, $9,000,000 for the fiscal year ending September 30, 1986, and $10,000,000 for the fiscal year ending September 30, 1987".

PROJECTS AND PROGRAMS FOR THE PREVENTION AND CONTROL OF VENEREAL DISEASE

SEC. 5. The first sentence of section 318(d)(1) is amended by striking out "and" after "1983," and by inserting before the period a comma and "$50,000,000 for the fiscal year ending September 30, 1985, $55,000,000 for the fiscal year ending September 30, 1986, and $55,000,000 for the fiscal year ending September 30, 1987".

HOME HEALTH SERVICES

SEC. 6. (a) Section 339(a)(5) is amended by striking out "and" after "1983," and by inserting before the period a comma and "September 30, 1985, September 1986, and September 30, 1987".

(b) Section 339(b)(5) is amended by striking out "and" after "1983," and by inserting before the period a comma and "September 30, 1985, September 30, 1986, and September 30, 1987".

PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT

SEC. 7. (a) Section 1901(a) is amended by striking out "and" after "1983," and by inserting before the period a comma and "$93,000,000 for fiscal year 1985, $98,000,000 for fiscal year 1986, and $102,000,000 for the fiscal year 1987".

(b) Section 1904(a)(1)(F) is amended to read as follows:

"(F) Feasibility studies and planning for emergency medical services systems and the establishment, expansion, and improvement of such systems, including the establishment, expansion, and improvement of emergency medical services for children who need treatment for trauma or critical care. Amounts for such systems may not be used for the cost of operation of the systems.".

(c) Section 1905(c) is amended—

(1) by striking out paragraphs (2) and (4); and

(2) by redesignating paragraphs (3), (5), (6), (7), and (8) as paragraphs (2), (3), (4), (5), and (6), respectively.

(d) Subsection (e) of section 1905 is repealed.

(e) Section 1906 is amended by adding at the end thereof the following new subsection:

"(d) The Secretary, in consultation with appropriate national organizations, shall develop model criteria and forms for the collection of data and information with respect to services provided under this part in order to enable States to share uniform data and information with respect to the provision of such services.".

GRANTS TO STATES FOR DEMONSTRATION PROJECTS CONCERNING EMERGENCY MEDICAL SERVICES FOR CHILDREN

SEC. 8. Part A of title XIX is amended by inserting after section 1909 the following new section:

"EMERGENCY MEDICAL SERVICES FOR CHILDREN

"SEC. 1909A. (a) For activities in addition to the activities which may be carried out by States under section 1904(a)(1)(F), the Secretary may make grants to not more than four States in any fiscal year to support a program of demonstration projects in such States for the expansion and improvement of emergency medical services for children who need treatment for trauma or critical care. Any grant made under this section shall be for a one-year period.

"(b) The Secretary may renew a grant made under this section to a State for one additional one-year period only if the Secretary determines that renewal of such grant will provide significant benefits through the collection, analysis, and dissemination of information or data which will be useful to other States.

"(c) To carry out this section, there are authorized to be appropriated $2,000,000 for fiscal year 1985 each of the two succeeding fiscal years.".

STATE PLANNING GRANTS

SEC. 9. Part A of title XIX (as amended by section 8 of this Act) is further amended by adding at the end thereof the following new section:

"STATE PLANNING CONCERNING HEALTH PROMOTION AND DISEASE PREVENTION

SEC. 1909B. (a) The Secretary may make grants to assist States to—

"(1) develop long range plans to achieve the goals, objectives, and priorities established by the Secretary pursuant to title XVII;

"("(2) identify particular needs within States for services and activities that may be conducted with payments made under allotments under section 1902; and

"(3) determine the progress of States in achieving the goals, objectives, and priorities described in paragraph (1) and, to the extent feasible, use scientifically valid measures to make such determinations.

"(b) To carry out this section, there are authorized to be appropriated $5,000,000 for each of the fiscal years 1985, 1986, and 1987.".

EFFECTIVE DATE

SEC. 10. This Act and the amendments and repeals made by this Act shall take effect on October 1, 1984.

MOTION OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WAXMAN moves to strike out all after the enacting clause of the Senate bill, S. 2301, and insert in lieu thereof the provisions of H.R. 5538, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

A similar House bill (H.R. 5538) was laid on the table.

FEDERAL TIMBER CONTRACT PAYMENT MODIFICATION ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and concurring in the Senate amendments to the bill, H.R. 2838.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. WHITLEY] that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 2838.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

□ 1940

GENERAL LEAVE

Mr. WHITLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 2838.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

HOUR OF MEETING ON TOMORROW

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 a.m. tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

HOUR OF MEETING ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns tomorrow, it adjourn to meet at 11 a.m., Wednesday, October 3, 1984.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

CLARIFYING INTENT OF CONGRESS WITH RESPECT TO COMMEMORATIVE MEDAL FOR FAMILIES OF MIA'S IN SOUTHEAST ASIA

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services be discharged from further consideration of H.R. 6100, to clarify the intent of Congress with respect to the families eligible for a commemorative medal authorized for the families of Americans missing or otherwise unaccounted for in Southeast Asia, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. HILLIS. Reserving the right to object, Mr. Speaker. I do not intend to object.

Mr. Speaker, I should like to yield to my good friend, the gentleman from Mississippi [Mr. MONTGOMERY] for an explanation of his request.

Mr. MONTGOMERY. I thank the gentleman for yielding to me.

Mr. Speaker, H.R. 6100 would correct an inequity created inadvertently by last year's Defense Authorization Act. That act included a provision that authorized a special commemorative medal for families of American personnel listed as missing in Southeast Asia. The provision allows for some small degree of recognition of the long years of suffering and uncertainty experienced by the families of those missing in Southeast Asia. However, because of the technical working of the legislation, approximately 150 deserving families are currently ineligible to receive medals.

Mr. Speaker, I hope that we can pass H.R. 6100 expeditiously. It is a noncontroversial measure fully supported by the Department of Defense. Importantly, it is legislation that would extend some recognition and compassion to a group of people who, over the years, have received too little of both.

Mr. HILLIS. I thank the gentleman for his explanation.

Mr. Speaker, further reserving the right to object, I yield to my good friend, the gentleman from Massachusetts [Mr. MAVROULES], the author of the bill.

Mr. MAVROULES. I thank the gentleman for yielding to me.

Mr. Speaker, section 1264 of Public Law 98-94, authorized the presentation of a commemorative medal to the family of those service personnel listed as missing or unaccounted for as a result of the conflict in Southeast Asia on the date of enactment of the act, namely, September 24, 1983. Between April 2, 1973—the date U.S. participation in hostilities in Southeast Asia ended—and last September, the remains of a number of personnel who had been listed as missing were identified and returned to the United States. The problem is that because the law technically provides that service personnel must have been listed as missing as of September 24, 1983, the families of personnel whose remains have been returned since April 2, 1973, can not receive medals. This situation clearly thwarts the intent of Congress with respect to the families of our missing service personnel—namely, to pay tribute to all families of Americans listed as missing in Southeast Asia as of the end of U.S. participation in the conflict; to say we understand and share their sorrow; and to honor and thank the young men who gave their lives in support of their country.

Mr. Speaker, although a bronze medal is a small token for such a large sacrifice, it has a great deal of meaning to the wife, or child, or parents, of a serviceman whose status has been uncertain for so long. I am pleased to report that some MIA families have already been awarded the commemorative medal. Shouldn't we honor the remaining families in the same way?

Let me emphasize that H.R. 6100 simply clarifies the intent of Congress with respect to the approximately 150 families of service personnel listed as missing on April 2, 1973, whose remains were identified and returned prior to September 24, 1983.

I urge you to express your appreciation for those who suffered for many years before the fate of their loved ones was resolved by supporting H.R. 6100.

Mr. HILLIS. I thank the gentleman.

Further reserving the right to object, Mr. Speaker, I would like to express my strong support.

Mr. Speaker, when a loved one is killed during wartime, it is indeed a personal tragedy, one from which it takes a significant amount of time to recover emotionally. When a loved one is missing in action, however, it is even harder to pick up the pieces of one's life. The wives, parents, and children of MIA's never stop hoping that one day their loved one will be returned to them. As the years pass—and still no information is forthcoming—the distress and feeling of helplessness deepen and it becomes even more difficult to carry on. The greatest trauma of all is, indeed, the trauma of not knowing.

The fiscal year 1985 Defense Authorization Act didn't begin to repay the contribution that MIA families and their loved ones made to their Nation; nor will H.R. 6100. Last year's bill did, however, express our gratitude, extend our sympathy, and honor the supreme sacrifice made by our young men listed as missing in action in Southeast Asia. H.R. 6100 will ensure that all families of service personnel listed as missing as of April 2, 1973—the end of U.S. participation in

the Southeast Asia conflict—will receive the same symbol of gratitude from their country.

I urge you to support H.R. 6100.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi [Mr. MONTGOMERY]?

There was no objection.

The Clerk read the bill, as follows:

H.R. 6100

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1264(b)(1)(A) of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 704), is amended by inserting "(as of the end of United States participation in hostilities in Southeast Asia)" after "listed".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all members may have 5 legislative days in which to revise and extend their remarks on H.R. 6100, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

REMOVAL OF NAME OF MEMBERS AS COSPONSOR OF H.R. 2729

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 2729.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DIRECTING THE SECRETARY OF TRANSPORTATION TO DETERMINE ADEQUACY OF CERTAIN INDUSTRY PRACTICES AND FAA RULES AND REGULATIONS

Mr. MINETA. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the Senate bill (S. 197) to direct the Secretary of the Department of Transportation to conduct an independent study to determine the adequacy of certain industry practices and Federal Aviation Administration rules and regulations, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, I yield to the distinguished chairman of the Subcommittee on Aviation for an explanation of his request.

Mr. MINETA. I thank the gentleman for yielding to me.

Mr. Speaker, many Americans, both passengers and those who work aboard jet airliners, are concerned about the air quality aboard modern jets. Their concern may be over the low levels of humidity, the possible concentration of pollutants in the cabin, periods of uncomfortably rapid depressurization during descent, or other specific problems they may have experienced. But whatever their concern, many seek an independent scientific study of air quality aboard today's jet airliners.

The bill before us, S. 197, has already passed the other body and is similar to legislation introduced in this House by the gentleman from Hawaii [Congressman HEFTEL]. The bill directs the Secretary of Transportation to commission a study by the National Academy of Sciences of the public and occupational health and safety of airline cabin air quality. An authorization of up to $500,000 is provided for the costs of the study. However, neither the study nor the expenditure of funds could proceed until these funds are appropriated by Congress. The study, when completed, would be submitted to the Secretary and then to the Congress. Nothing other than this study is mandated by this bill.

Mr. Speaker, the overriding purpose of this bill is to obtain an independent scientific study of cabin air quality to determine whether the health and safety of passengers and crew members is adequately protected. The provisions of the bill stating specific items to be studied are merely individual steps toward that overriding purpose. What we really want to know is whether the air quality aboard civil airliners adequately protects the health and safety of those who breathe it as they work or travel. To the extent that available information is not adequate to reach a definite conclusion on the adequacy of cabin air quality, the study should include the sampling and analysis of the air aboard commercial airliners in their normal service.

Furthermore, specific provisions of the bill address issues where the Administrator of the Federal Aviation Administration may be considering rulemaking. The Administrator has the statutory responsibility to proceed with such rulemaking whenever the best evidence indicates it is appropriate for the protection of the public or crew. We do not intend for any such rulemaking to be held in abeyance by the Administrator pending the results of this study.

Mr. Speaker, this bill merely authorizes a study, but it would be a study of a subject literally of vital interest to millions of Americans. I urge my colleagues to support this legislation.

□ 1950

Mr. HAMMERSCHMIDT. I thank the gentleman for his explanation.

Further reserving the right to object, Mr. Speaker, I yield to the gentleman from New York [Mr. MOLINARI], a member of the committee.

Mr. MOLINARI. I thank the gentleman for yielding.

Mr. Speaker, I would just like to ask the gentleman from California if there is anything in the bill, as amended, that refers to the Kennedy Center bailout provisions.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield to the gentleman from California for his response.

Mr. MINETA. Mr. Speaker, there is nothing in the bill at all.

Mr. MOLINARI. I thank the gentleman.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of S. 197, and urge my colleagues to support this legislation.

This bill would direct the Secretary of Transportation to commission a study by the National Academy of Sciences in order to study the quality of the air aboard aircraft.

During congressional and administrative hearings over the past several years, many flight attendants and passengers have complained about the quality of the air they must breathe while aboard aircraft. In particular, they have stated that aircraft ventilation systems recirculate air and that this results in levels of fresh air per occupant that are too low. They have also complained about the quantity and quality of humidification aboard aircraft. Some have gone so far as to claim that the onboard environment is unhealthy.

Mr. Speaker, I do not know if these claims have merit. If they do, I think we should know about it, and this bill would help us get the answers. If the claims are not valid, then the study authorized by this bill should tell us that too, and the controversy would be laid to rest.

I would like to emphasize that this bill would merely authorize a study. It does not require the airlines to take any action. At our recent hearings on this subject, neither the airlines nor the Federal Aviation Administration [FAA] opposed the concept of a study of aircraft cabin air quality.

Mr. Speaker, S. 197 should provide the answers to important questions concerning the health and safety of airline passengers and crew, and I therefore urge my colleagues to support it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 197

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) The Secretary of Transportation shall, in the interest of health and safety, and in the interest of promoting and maintaining a superior United States aviation industry, commission an independent study by the National Academy of Sciences. The study shall determine whether civil commercial aviation industry practices and standards and Federal Aviation Administration rules, regulations, and minimum standards are nondiscriminatory and at least in conformance and parity with nonaviation standards, practices, and regulations for the appropriate maintenance of public and occupational health and safety (including de facto circumstances) in relation to airline cabin air quality for all passengers and crew aboard civil commercial aircraft.

(b) In conducting the study, special and objective considerations shall be given to the uniqueness of the environment onboard civil commercial aircraft. The study shall focus on all health and safety aspects of airline cabin air quality, including but not limited to—

(1) the quantity of fresh air per occupant and overall quality of air onboard;

(2) the quantity and quality of humidification;

(3) onboard environmental conditions and contamination limits, including exposure to radiation;

(4) emergency breathing equipment, including toxic fume-protective breathing equipment;

(5) measures, procedures, and capabilities for detecting and extinguishing fires and the removal of smoke and toxic fumes within safe pressurization limits;

(6) safe pressurization of the aircraft, considering the broad range of cardiopulmonary health of the traveling public, and dissemination of information to the medical profession and the general public of current pressurization limits and practices to assure valid medical advice concerning the health effects of air travel;

(7) the feasibility of collection and dissemination by the aviation industry, the Federal Aviation Administration, or any other private or governmental organization of a data base of medical statistics and environmental factors relating to air travel, including but not limited to, maintenance and operation records and procedures of aircraft, in an effort to assess the adequacy of aircraft systems, design, regulations, standards and practices relating to airline cabin air quality from the standpoint of health and safety, and for the purpose of issuing Federal Aviation Administration administrative advisory circulars and airworthiness directive regulations to correct any deficiencies disclosed;

(8) the adequacy of current preflight and inflight health and safety instructions for air travelers that relate to airline cabin air quality, including but not limited to, life safety procedures during inflight fire, smoke, and toxic fume emergencies; and

(9) a comparison of foreign industry practices, regulations, and standards.

(c) In conducting the study, special care shall be taken to assure that all existing studies, recommendations, data, and state of the art technology relevant to the health and safety aspects of airline cabin air quality are considered.

(d) In conducting the study, the National Academy of Sciences shall consult with and solicit the views of academic experts, representatives of airline labor, the aviation industry and independent experts and organizations.

(e) The study shall include such recommendations for legislative, regulatory, and industry changes as the National Academy of Sciences determines to be advisable for promotion of health and safety in relation to airline cabin air quality.

SEC. 2. The Secretary of Transportation shall submit a copy of the study, as it was prepared by the National Academy of Sciences, to the Congress within eighteen months after the date of enactment of this Act. At such time the Secretary shall also set forth such comments on the matters covered by the study and such recommendations for legislative, regulatory, and industry changes as the Secretary determines to be necessary.

SEC. 3. There is authorized to be appropriated not to exceed $500,000 for the fiscal year commencing October 1, 1984, to carry out the study authorized by this Act. Such funds shall remain available for obligation until expended.

● Mr. HOWARD. Mr. Speaker, I rise in support of this bill to authorize the National Academy of Sciences to undertake a study of aircraft cabin air quality. The Subcommittee on Aviation received testimony on this bill in hearings held in late July and early August. In these hearings a number of problems associated with aircraft cabin air quality were detailed and it became evident that an independent evaluation of the problem and possible solutions is required.

Mr. Speaker, again, I urge my colleagues to join me in support of this legislation.●

● Mr. SNYDER. Mr. Speaker, I rise in support of S. 197, which would authorize an independent study of airline cabin air quality to be performed by the National Academy of Sciences [NAS]. The bill would authorize $500,000 for this purpose.

Over the past few years, a significant number of complaints have been received from flight attendants and passengers alike about the quality of air in aircraft cabins. Although there is considerable dispute within the industry as to whether cabin air quality is, in fact, a potential health problem, the comprehensive study called for by S. 197 will go a long way toward providing answers to many of these questions.

Accordingly, the bill would require the study to explore issues such as the quantity and quality of fresh air, humidification and pressurization, and other conditions associated with the cabin environment. The purpose of the study would be to determine whether existing industry practices and FAA standards are in conformance with those in nonaviation areas so as to best protect the health of all passengers and crewmembers.

For the foregoing reasons, I urge my colleagues to support S. 197.●

● Mr. HEFTEL of Hawaii. Mr. Speaker, I rise today in support of S. 197, introduced by my colleague from Hawaii, Senator DAN INOUYE. The legislation calls for an independent study to determine whether current airline industry practices and FAA standards and regulations related to cabin air quality are adequate to protect the health and safety of passengers and cabin crewmembers.

Earlier in this Congress, I introduced a similar measure, H.R. 1333, to address the problem of potentially hazardous conditions within the controlled environment of the aircraft cabin. S. 197 goes somewhat farther in defining the technical problems and builds on the foundation provided by H.R. 1333. It also specifies that the study be conducted by the National Science Foundation. I am gratified that the more comprehensive and specific bill will today come before the House.

Federal standards and regulations related to airline cabin air quality are inadequate or absent. In the series of hearings that followed the introduction of the House and Senate bills, certain industry practices and the lack of applicable standards and regulations that compromise the health and safety of the air traveler and cabin crews were dramatically brought to light.

For example, it became apparent that since deregulation of the airline industry in the seventies, airlines have reduced of flow of fresh air to the cabin, often to levels barely sufficient to prevent suffocation. Another disturbing consequence of this practice is the concentration of hazardous pathogens, such as bacteria, viruses, and spores that lack of fresh air replacement in a crowded airliner cabin causes.

The recent Air Canada tragedy pointed out the inadequacy of standard operating procedure regulations in the event of a cabin fire. In a related area, Federal regulations or standard procedures for inflight cabin fires are completely absent. Such deficiencies are frightening.

The introduction of these bills was prompted by the lack of a suitable information base to address serious health and safety questions like these. Each passing day that finds hundreds of thousands of passengers in airline cabins represents a risk that we cannot afford to take. Each time passengers breathe poorly ventilated air, the public health is threatened. Each flight aloft lacking standard procedures for inflight cabin fires invites disaster. Every passenger, regardless

of age or physical condition, is entitled to an environment reasonably free of chemical or microbiotic contamination, enough air to breathe, and some provision for his or her safety in the event of an emergency.

I would like to take this opportunity to commend Mr. MINETA for his foresight and excellent leadership in bringing this legislation to the floor today. A study of this nature has been postponed for too long. The threats to health and safety remain. We must assure that we have information enabling us to reevaluate our current regulatory policy. Only then can we take steps to correct deficiences. Thank you.●

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 197, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CIGARETTE SAFETY ACT OF 1984

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1880) to establish an interagency committee and a technical study group on cigarette safety, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the House amendment to the Senate amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Cigarette Safety Act of 1984".

SEC. 2. (a) There is established the Interagency Committee on Cigarette and Little Cigar Fire Safety (hereinafter in this Act referred to as the "Interagency Committee") which shall consist of—

(1) the Chairman of the Consumer Product Safety Commission, who shall be the Chairman of the Interagency Committee;

(2) the United States Fire Administrator in the Federal Emergency Management Agency, who shall be the Vice Chairman of the Interagency Committee; and

(3) the Assistant Secretary of Health in the Department of Health and Human Services.

(b) The Interagency Committee shall direct, oversee, and review the work of the Technical Study Group on Cigarette and Little Cigar Fire Safety (established under section 3) conducted under section 4 and shall make such policy recommendations to the Congress as it deems appropriate. The Interagency Committee may retain and contract with such consultants as it deems necessary to assist the Study Group in carrying out its functions under section 4. The Interagency Committee may request the head of any Federal department or agency to detail any of the personnel of the department or agency to assist the Interagency Committee or the Study Group in carrying out its responsibilities. The authority of the Interagency Committee to enter into contracts shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

(c) For the purpose of carrying out section 4, the Interagency Committee or the Study Group, with the advice and consent of the Interagency Committee, may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Interagency Committee or the Study Group considers appropriate.

SEC. 3. (a) There is established the Technical Study Group on Cigarette and Little Cigar Fire Safety (hereinafter in this Act referred to as the "Study Group") which shall consist of—

(1) one scientific or technical representative each from the Consumer Product Safety Commission, the Center for Fire Research of the National Bureau of Standards, the National Cancer Institute, the Federal Trade Commission, and the Federal Emergency Management Agency, the appointment of whom shall be made by the heads of those agencies;

(2) four scientific or technical representatives appointed by the Chairman of the Interagency Committee, by and with the advice and consent of the Interagency Committee, from a list of individuals submitted by the Tobacco Institute;

(3) two scientific or technical representatives appointed by the Chairman of the Interagency Committee, by and with the advice and consent of the Interagency Committee, who are selected from lists of individuals submitted by the following organizations: the American Burn Association, the American Public Health Association, and the American Medical Association;

(4) two scientific or technical representatives appointed by the Chairman of the Interagency Committee, by and with the advice and consent of the Interagency Committee, who are selected from lists of individuals submitted by the following organizations: the National Fire Protection Association, the International Association of Fire Chiefs, the International Association of Fire Fighters, the International Society of Fire Service Instructors, and the National Volunteer Fire Council; and

(5) one scientific or technical representative appointed by the Chairman of the Interagency Committee, by and with the advice and consent of the Interagency Committee, from lists of individuals submitted by the Business and Institutional Furniture Manufacturers Association and one scientific or technical representative appointed by the Chairman, by and with the advice and consent of the Interagency Committee, from lists of individuals submitted by the American Furniture Manufacturers Association.

(b) The persons appointed to serve on the Study Group may designate, with the advice and consent of the Interagency Committee, from among their number such persons to serve as team leaders, coordinators, or chairpersons as they deem necessary or appropriate to carry out the Study Group's functions under section 4.

SEC. 4. The Study Group shall undertake, subject to oversight and review by the Interagency Committee, such studies and other activities as it considers necessary and appropriate to determine the technical and commercial feasibility, economic impact, and other consequences of developing cigarettes and little cigars that will have a minimum propensity to ignite upholstered furniture or mattresses. Such activities include identification of the different physical characteristics of cigarettes and little cigars which have an impact on the ignition of upholstered furniture and mattresses, an analysis of the feasibility of altering any pertinent characteristics to reduce ignition propensity, and an analysis of the possible costs and benefits, both to the industry and the public, associated with any such product modification.

SEC. 5. The Interagency Committee shall submit one year after the date of enactment of this Act a status report to the Senate and the House of Representatives describing the activities undertaken under section 4 during the preceding year. The Interagency Committee shall submit a final technical report, prepared by the Study Group, to the Senate and the House of Representatives not later than thirty months after the date of enactment of this Act. The Interagency Committee shall provide to the Congress, within sixty days after the submission of the final technical report, any policy recommendations the Interagency Committee deems appropriate. The Interagency Committee and the Study Group shall terminate one month after submission of the policy recommendations prescribed by this section.

SEC. 6. (a) Any information provided to the Interagency Committee or to the Study Group under section 4 which is designated as trade secret or confidential information shall be treated as trade secret or confidential information subject to section 552(b)(4) of title 5, United States Code, and section 1905 of title 18, United States Code, and shall not be revealed, except as provided under subsection (b). No member of the Study Group or Interagency Committee, and no person assigned to or consulting with the Study Group, shall disclose any such information to any person who is not a member of, assigned to, or consulting with, the Study Group or Interagency Committee unless the person submitting such information specifically and in writing authorizes such disclosure.

(b) Subsection (a) does not authorize the withholding of any information from any duly authorized subcommittee or committee of the Congress, except that if a subcommittee or committee of the Congress requests the Interagency Committee to provide such information, the Chairman of the Interagency Committee shall notify the person who provided the information of such a request in writing.

(C) The Interagency Committee shall, on the vote of a majority of its members, adopt reasonable procedures to protect the confidentiality of trade secret and confidential information, as defined in this section.

SEC. 7. As used in this Act, the terms "cigarettes" and "little cigars" have the meanings given such terms by section 3 of the Federal Cigarette Labeling Advertising Act.

Mr. WAXMAN (during the reading). Mr. Speaker, I ask unanimous consent that the House amendment to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1880, the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CONFERENCE REPORT ON S. 2303, ALCOHOL ABUSE, DRUG ABUSE AND MENTAL HEALTH AMENDMENTS OF 1984

Mr. WAXMAN submitted the following conference report and statement on the Senate bill (S. 2303) to revise and extend the Alcohol and Drug Abuse and Mental Health Services block grant:

CONFERENCE REPORT (H. REPT. No. 98-1123)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2303) to revise and extend the Alcohol and Drug Abuse and Mental Health Services block grant, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That (a) this Act may be cited as the "Alcohol Abuse, Drug Abuse, and Mental Health Amendments of 1984".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

TITLE I—AMENDMENTS TO TITLE XIX OF THE PUBLIC HEALTH SERVICE ACT

SEC. 101. Section 1911 (42 U.S.C. 300x) is amended by striking out "and" after "1983," and by inserting before the period a comma and the following: "$515,000,000 for fiscal year 1985, $545,000,000 for fiscal year 1986, and $576,000,000 for fiscal year 1987".

SEC. 102. (a) Title XIX is amended by striking out section 1912 and inserting in lieu thereof the following:

"GRANTS

"SEC. 1912. (a) The Secretary may use not more than 1 percent of the amount appropriated under section 1911 for any fiscal year to make grants to public and nonprofit private entities for projects for the training and retraining of employees adversely affected by changes in the delivery of mental health services and for providing such employees assistance in securing employment.

"(b) No grant may be made by the Secretary under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain and be accompanied by such information, as the Secretary may specify. No such application may be approved unless it contains assurances that the applicant will use the funds provided only for the purposes specified in the approved application and will establish such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting of Federal funds paid to the applicant under subsection (a).

"ALLOTMENTS

"SEC. 1913. (a)(1) If the amount available for allotment from appropriations under section 1911 for a fiscal year does not exceed $490,000,000, the Secretary shall allot such amount—

"(A) on the basis of a formula prescribed by the Secretary which is based equally—

"(i) on the population of each State, and

"(ii) the population of each State weighted by its relative per capita income, or

"(B) on the basis of the amount received by a State in fiscal year 1984,

whichever yields a higher amount. For purposes of subparagraph (A), the term 'relative per capita income' means the quotient of the per capita income of the United States and the per capita income of the State, except that if the State is Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, the Commonwealth of Puerto Rico, or the Virgin Islands, the quotient shall be considered to be one.

"(2) If the amount available for allotment from appropriations under section 1911 for a fiscal year is at least $490,000,000, the Secretary shall allot $490,000,000 in accordance with paragraph (1) and shall allot the amount which is in excess of such amount on the basis of the formula described in paragraph (1)(A).

"(3) Notwithstanding paragraph (1), if the aggregate of the amounts to be allotted to each State pursuant to paragraph (1)(B) in any fiscal year exceeds the total amount available for allotment from appropriations under section 1911, the amount to be allotted to a State for such fiscal year shall be an amount which bears the same ratio to the amount which is to be allotted to the State pursuant to such paragraph as the total amount available for allotment from appropriations under section 1911 bears to the total of the amount required to be appropriated and made available under such section for allotments to provide each State with the allotment required by such paragraph.

"(4) To the extent that all the funds appropriated under section 1911 for a fiscal year and available for allotment in such fiscal year are not otherwise allotted to States because—

"(A) one or more States have not submitted an application or description of activities in accordance with section 1916 for the fiscal year;

"(B) one or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(C) some State allotments are offset or repaid under section 1917(b)(3);

such excess shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this paragraph.

"(b)(1) If the Secretary—

"(A) receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under this part be provided directly by the Secretary to such tribe or organization, and

"(B) determines that the members of such tribe or tribal organization would be better served by means of grants made directly by the Secretary on this part,

the Secretary shall reserve from amounts which would otherwise be allotted to such State under subsection (a) for the fiscal year the amount determined under paragraph (2).

"(2) The Secretary shall reserve for the purpose of paragraph (1) from amounts that would otherwise be allotted to such State under subsection (a) an amount equal to the amount which bears the same ratio to the State's allotment for the fiscal year involved as the total amount provided or allotted for fiscal year 1980 by the Secretary to such tribe or tribal organization under—

"(A) the Community Mental Health Centers Act,

"(B) the Mental Health Systems Act,

"(C) section 301 of this Act,

"(D) sections 301 and 312 of the Comprehensive Alcohol Abuse and Alcoholism, Prevention, Treatment, and Rehabilitation Act of 1970, and

"(E) sections 409 and 410 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act,

bore to the total amount provided or allotted for such fiscal year by the Secretary to the State and entities (including Indian tribes and tribal organizations) in the State under such provisions of law.

"(3) The amount reserved by the Secretary on the basis of a determination under this subsection shall be granted to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

"(4) In order for an Indian tribe or tribal organization to be eligible for a grant for a fiscal year under this subsection, it shall submit to the Secretary a plan for such fiscal year which meets such criteria as the Secretary may prescribe.

"(5) The terms 'Indian tribe' and 'tribal organization' have the same meaning given such terms in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act.".

(b)(1) The Secretary of Health and Human Services shall enter into an agreement with a nongovernmental entity to review the allotment of funds to the States under part B of title XIX of the Public Health Service Act for the purpose of determining whether a formula for the allotment of funds under such part can be devised which is more equitable than the formula specified in section 1913 of such Act. In conducting such review, such entity shall consider—

(A) the financial resources of the various States;

(B) the populations of the States;

(C) any relevant conditions or circumstances which have changed since the date of enactment of such part B; and

(D) any other factor which the Secretary may consider appropriate.

(2) In conducting the review required by paragraph (1), such entity shall consult with

appropriate representatives of State and local governments.

(3) By October 1, 1986, the Secretary shall prepare and transmit to the Congress a report concerning the review conducted under paragraph (1) which includes such recommendations as the Secretary considers appropriate.

SEC. 103. (a) Section 1915(c)(6) (42 U.S.C. 300x-4(c)(6)) is amended by striking out subparagraphs (B) and (C) and inserting lieu thereof the following:

"(B) The State agrees to use 75 percent of the funds allotted to it under section 1913 for fiscal years beginning after fiscal year 1984 for the mental health and alcohol and drug abuse activities prescribed by section 1915(a) as prescribed by subparagraph (A).".

(b) Section 1915(c) is amended—

(1) in paragraph (2) by striking out "fiscal years 1982, 1983, and 1984" and inserting in lieu thereof "fiscal years 1985, 1986, and 1987"; and

(2) by adding at the end thereof the following:

"(14) Of the amount allotted to a State under this part in any fiscal year, the State agrees to use not less than 5 percent of such amount to initiate and provide new alcohol and drug abuse services for women.

"(15) Of the amounts to be used in any fiscal year for mental health activities, the State agrees to use not less than 10 percent of such amount to initiate and provide (A) new mental health services for severely disturbed children and adolescents, and (B) new comprehensive community mental health programs for unserved areas or for underserved populations.".

(d)(1) Section 1915 is amended by redesignating subsection (e) as subsection (h) and by inserting after subsection (d) the following new subsections:

"(e) With amounts available under section 1915(a), the chief executive officer of a State may prepare and submit a comprehensive mental health plan which shall include—

"(1) an identification of the mental health service areas within the State and the agency responsible for the delivery and coordination of mental health services within the State;

"(2) an identification of the need in each mental health service area of the State for mental health and related services, particularly the need for services to chronically mentally ill individuals, seriously mentally ill children, adolescents, and elderly individuals, and other identified populations;

"(3) a description of the resources devoted to and activities to be carried out under the plan, including—

"(A) a description of mental health activities (including activities for chronically mentally ill individuals) funded or supported under this Act,

"(B) a description of mental health activities (including activities for chronically mentally ill individuals) funded or supported by State appropriations,

"(C) a description of mental health and related support activities (including activities for chronically mentally ill individuals) funded under or supported through title XIX of the Social Security Act and other programs of Federal assistance, and

"(D) to the extent feasible, a description of mental health activities reimbursed or provided in the State by private third party insurers and local governments;

"(4) the mental health prevention and treatment objectives to be achieved under the plan and a listing of the programs and resources to be used to meet such objectives;

"(5) a strategy for the establishment and implementation for chronically mentally ill individuals of an organized community-based system of care which shall provide for quantitative targets to be achieved in the implementation of the plan, including numbers of chronically mentally ill individuals residing in the areas to be served, a description of services to be provided to such individuals in gaining access to essential mental health services, and a description of medical and dental care and rehabilitation services and employment, housing, and other support services designed to enable such individuals to function outside of inpatient institutions to the maximum extent of their capabilities;

"(6) quantitative targets for provision of community-based mental health services for underserved populations, with particular emphasis on elderly individuals, children and adolescents, and individuals residing in areas without adequate outpatient treatment facilities; and

"(7) a method for the periodic evaluation of the plan's effectiveness in meeting the objectives set forth in the plan.

"(f) With amounts available under section 1915(a), the chief executive officer of the State may establish a State mental health services planning council which will—

"(1) serve as an advocate for chronically mentally ill individuals, seriously mentally ill children, adolescents, elderly individuals, and other individuals with mental illness or emotional problems, and

"(2) monitor, review, and evaluate, not less often than annually, the allocation and adequacy of mental health services within the State.

Such a council shall be made up of residents of the State and include in its membership representatives of the principal State agencies involved in mental health, higher education training facilities, and public and private entities concerned with the need, planning, operation, funding, and use of mental health and related services and activities. At least one half of the membership shall consist of individuals who are not State employees or providers of mental health services.

"(g) The Secretary shall report annually to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on the new programs and services initiated and provided in accordance with paragraphs (14) and (15) of subsection (c). The report shall include a detailed description of such programs and services, an assessment of the adequacy of such programs and services in meeting the alcohol and drug abuse treatment needs of women and the mental health needs of severely disturbed children and adolescents, and such other information, including legislative and administrative recommendations, as the Secretary deems appropriate.".

(2) Section 1915(c)(2) is amended by striking out "(e)" and inserting in lieu thereof "(h)".

(3) Section 1915(c)(4)(C) is amended by inserting before the comma the following: "or psychosocial rehabilitation services".

SEC. 104. (a) Section 1916(a) (42 U.S.C. 300x-5(a)) is amended by striking out "and (3)" and inserting in lieu thereof "(3) to furnish the Secretary a detailed description of the new programs and services initiated and provided in accordance with paragraphs (14) and (15) of section 1916(c), and (4)".

(b) Paragraph (2) of section 1916(b) is amended to read as follows:

"(2) Each State shall provide for one of the following:

"(A) A financial and compliance audit of the funds provided the State under section 1914. Such audits shall be performed biennially, shall cover expenditures in each fiscal year, and shall be conducted in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, activities, and functions.

"(B) A single financial and compliance audit of each entity administering funds provided under section 1914. An audit of such an entity shall be conducted biennially, shall cover expenditures in each fiscal year, and shall be conducted in accordance with standards of the Comptroller General referred to in subparagraph (A).

Within 30 days after completion of an audit under subparagraph (A) or (B), a copy of the audit report shall be transmitted to the State legislature and the Secretary and shall be made available for public inspection. For purposes of subparagraphs (A) and (B), the term 'financial and compliance audit' means an audit to determine whether the financial statements of an audited entity present fairly the financial position and the results of financial operations in accordance with generally accepted accounting principles, and whether the entity has complied with laws and regulations that may have a material effect upon the financial statements.".

(c) Paragraph (6) of section 1916(b) is amended by striking out "1983" and inserting in lieu thereof "1986".

(d) Section 1916 is amended by adding at the end thereof the following new subsection:

"(d) The Secretary, in consultation with appropriate national organizations, shall develop model criteria and forms for the collection of data and information with respect to services provided under this part in order to enable States to share uniform data and information with respect to the provision of such services.".

SEC. 105. (a) Section 1920 is amended to read as follows.

"TECHNICAL ASSISTANCE; DATA COLLECTION

"SEC. 1920. The Secretary, through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, shall—

"(1) provide technical assistance to States (including public and nonprofit private entities within States) with respect to programs conducted under part B of title XIX; and

"(2) conduct data collection activities with respect to such programs, including data collection activities concerning the types of alcoholism, alcohol abuse, drug abuse, and mental health treatment and prevention activities conducted under such part, the number and types of individuals receiving services under such programs and activities, and the sources of funding (other than funding provided under such part) for such programs and activities.".

(b) Section 1914(a) is amended—

(1) by striking out paragraph (2),

(2) by striking out "(1)", and

(3) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively, and by redesignating clauses (i) through (v) as subparagraphs (A) through (E), respectively.

SEC. 106. (a) Sections 1911, 1913, 1914, 1915, 1916, and 1918 are each amended by striking out "1912" each place it occurs and inserting in lieu thereof "1913".

(b) Sections 1914, 1915, and 1916 are each amended by striking out "1913" each place it occurs and inserting in lieu thereof "1914".

(c) Sections 1913 and 1915 are each amended by striking out "1914" each place it appears and inserting in lieu thereof "1915".

(d) Sections 1913, 1914, 1916, and 1917 are each amended by striking out "1915" each place it occurs and inserting in lieu thereof "1916".

(e) Sections 1912 and 1913 are each amended by striking out "1916" each place it occurs and inserting in lieu thereof "1917".

(f) Section 1915 is amended by striking out "1917" and inserting in lieu thereof "1918".

(g) The section entitled "Payments Under Allotments to States" is redesignated as section 1914 and the existing section 1914 and sections 1915 through 1920 are redesignated as sections 1915 through 1920A, respectively.

(h) The sections of the Public Health Service Act amended by this section are sections of the Act as in effect on the day before the date of the enactment of this Act.

SEC. 107. The amendments made by this title shall apply with respect to applications for allotments under part B of title XIX of the Public Health Service Act for fiscal years beginning after fiscal year 1984 and to allotments made under such part for such fiscal years.

TITLE II—AMENDMENTS TO TITLE V OF THE PUBLIC HEALTH SERVICE ACT

SEC. 201. (a) Section 501(c) is amended to read as follows:

"(c)(1) There is established the Alcohol, Drug Abuse, and Mental Health Advisory Board (hereinafter in this subsection referred to as the 'Board'). The Board shall—

"(A) periodically assess the national needs for alcoholism, alcohol abuse, drug abuse, and mental health services and the extent to which those needs are being met by State, local, and private programs and programs receiving funds under this title and part B of title XIX, and

"(B) provide advice to the Secretary and the Administrator respecting activities carried out under this title and part B of title XIX.

"(2)(A) The Board shall consist of fifteen members appointed by the Secretary and such ex officio members from the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health as the Secretary may designate. Of the members appointed to the Board, at least six members shall represent State and private, nonprofit providers of prevention and treatment services for alcoholism, alcohol abuse, drug abuse, and mental illness, at least six members shall be individuals with expertise in public education and prevention services for alcoholism, alcohol abuse, drug abuse, and mental illness, and at least three members shall be appointed from members the general public who are knowledgeable about alcoholism, alcohol abuse, drug abuse, and mental illness.

"(B) The term of office of a member appointed to the Board is four years, except that of the members first appointed to the Board—

"(i) five shall serve for terms of one year,

"(ii) five shall serve for terms of two years,

"(iii) five shall serve for terms of three years,

as designated by the Secretary at the time of appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of such member was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of the member's term until the successor of the member has taken office.

"(3)(A) Except as provided in subparagraph (B), members of the Board shall (i) be paid not more than the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Board, and (ii) while away from their homes or regular places of business and while serving in the business of the Board, be entitled to receive transportation expenses as prescribed by section 5703 of title 5, United States Code.

"(B) Members of the Board who are full-time officers or employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Board.

"(4) The Board may appoint such staff personnel as the Board considers appropriate.

"(5) The Secretary shall designate the chairman of the Board.

"(6) The Board shall meet at least three times each calendar year.

"(7) The Board shall report annually to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on its activities during the prior year and shall include in such report such recommendations for legislation and administrative action as it deems appropriate.".

(b) Section 501 is amended by inserting at the end the following:

"(g) The Secretary, acting through the Administrator, shall make grants to schools of the health professions and schools of social work to support the training of students in such schools in the identification and treatment of alcohol and drug abuse. Grants under this subsection shall be made from funds available under this title and section 303.".

"(h)(1) The Administrator may obtain (in accordance with section 3109 of title 5, United States Code, but without regard to the limitation in such section on the number of days or the period of service) the services of not more than 20 experts or consultants who have scientific or professional qualifications. Such experts and consultants shall be obtained for the Administration and for each of the research institutes under the Administration.

"(2)(A) Experts and consultants whose services are obtained under paragraph (1) shall be paid or reimbursed for their expenses associated with traveling to and from their assignment location in accordance with sections 5724, 5724a(a)(1), 5724a(a)(3), and 5726(c) of title 5, United States Code.

"(B) Expenses specified in subparagraph (A) may not be allowed in connection with the assignment of an expert or consultant whose services are obtained under paragraph (1), unless and until the expert or consultant agrees in writing to complete the entire period of assignment or one year, whichever is shorter, unless separated or reassigned for reasons beyond the control of the expert or consultant that are acceptable to the Secretary. If the expert or consultant violates the agreement, the money spent by the United States for the expenses specified in subparagraph (A) is recoverable from the expert or consultant as a debt of the United States. The Secretary may waive in whole or in part a right of recovery under this subparagraph.".

SEC. 202. Section 503 is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (d).

SEC. 203. Subsection (e) of section 504 is amended (1) by striking out "Minority Concerns" each place it occurs and inserting in lieu thereof "Special Populations", and (2) by inserting "women and" before "minority" each place it occurs.

SEC. 204. Section 504 is amended by adding at the end the following:

"(f)(1) The Secretary, acting through the Director, may make grants to States, political subdivisions of States, and private nonprofit agencies for mental health services demonstration projects for the planning, coordination, and improvement of community services for chronically mentally ill individuals, seriously mentally disturbed children, and elderly individuals, and for the conduct of research concerning such services.

"(2) The Secretary may make a grant under paragraph (1) for not more than three consecutive one-year periods, except that the Secretary may waive the limitation of this paragraph with respect to a particular grant if the Secretary determines that extenuating circumstances exist which merit such waiver.

"(3) For purposes of paragraphs (1) and (2) there are authorized to be appropriated $20,000,000 for each of the fiscal years 1985, 1986, and 1987.

"(g) The Secretary, acting through the Director, may make grants to States for the purpose of developing State comprehensive mental health plans referred to in section 1915(e).

SEC. 205. (a)(1) Section 510(b)(3) is amended (1) by striking out "and" at the end of subparagraph (F), (2) by striking out the period at the end of subparagraph (G) and inserting in lieu thereof ", and", and (3) by adding after subparagraph (G) the following:

"(H) alcoholism and alcohol abuse among women.".

(2) Section 515(a) is amended by adding at the end the following: "In making grants and contracts to carry out paragraphs (4) and (5), the Director shall give special consideration to projects relating to drug abuse among women.".

(b)(1) Section 503(e) is amended (1) by striking out "and" at the end of paragraph (2), (2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and", and (3) by adding at the end the following:

"(4) prepare for distribution announcements for television to educate the public concerning the dangers resulting from the consumption of drugs and, to the extent feasible, use appropriate private organizations and business concerns in the preparation of such announcements.".

(2) Section 502 is amended by adding at the end the following:

"(e) The Secretary shall prepare for distribution announcements for television to educate the public concerning the dangers resulting from the consumption of alcoholic beverages and, to the extent feasible, use appropriate private organizations and business concerns in the preparation of such announcements.".

SEC. 206. (a) Section 512 is redesignated as section 513 and subpart 1 of part B of title V is amended by adding after section 511 the following new section:

"ALCOHOL ABUSE AND ALCOHOLISM DEMONSTRATION PROJECTS

"SEC. 512. (a) The Secretary, through the Director, may make grants to public and nonprofit private entities to support projects—

"(1) for the development and demonstration of methods for—

"(A) the prevention of alcohol abuse, alcoholism, and other problems relating to the consumption of alcoholic beverages; and

"(B) the treatment and rehabilitation of individuals suffering from alcohol abuse, alcoholism, or other problems relating to the consumption of alcoholic beverages; and

"(2)(A) which emphasize the development and demonstration of new and improved methods of treatment, screening, early detection, referral, and diagnosis of individuals with a risk of developing alcohol abuse, alcoholism, or other problems relating to the consumption of alcoholic beverages;

"(B) which emphasize the development and demonstration of new and improved methods of dissemination of knowledge concerning projects supported under this section and methods developed or demonstrated under this section; and

"(C) which emphasize the development and demonstration of new and improved methods for the dissemination to the general public of information on the importance of early detection and prevention of alcohol abuse, alcoholism, and other problems relating to the consumption of alcoholic beverages.

"(b) A grant may be made under subsection (a) for a project which meets the requirements of subsection (a) and also deals with drug abuse.

"(c) No entity may receive grants under subsection (a) for more than three years.".

(b) Subpart 2 of part B is amended by adding after section 515 the following new section:

"DRUG ABUSE DEMONSTRATION PROJECTS

"SEC. 516. (a) The Secretary, through the National Institute on Drug Abuse, may make grants to and enter into contracts with individuals and public and nonprofit private entities to support projects—

"(1) for the development and demonstration of methods for—

"(A) the prevention of drug abuse and other problems relating to drug abuse, and

"(B) the treatment and rehabilitation of individuals suffering from drug abuse and other problems relating to the misuse of drugs; and

"(2)(A) which emphasize the development and demonstration of new and improved methods of screening and early detection, referral, and diagnosis of individuals with a risk of drug abuse,

"(B) which develop and evaluate new and improved techniques of prevention and treatment services for use in States and local communities, and

"(C) which emphasize the development and demonstration of new and improved methods for the dissemination of research findings and knowledge of effective strategies of early detection, prevention, and treatment of drug abuse.

"(b) A grant or contract may be made under subsection (a) for a project which meets the requirements of subsection (a) and also deals with alcohol abuse and alcoholism.

"(c) No entity may receive grants under subsection (a) for more than three years.".

(c)(1) Section 510(a) is amended by striking out "demonstrations,".

(2) Section 515(a) is amended by striking out "demonstrations,".

SEC. 207. (a) The first sentence of section 513 (as so redesignated) is amended by striking out "and" after "1983" and inserting in lieu thereof a comma and by inserting a comma before the period at the end and the following: "$52,000,000 for fiscal year 1985, and $61,000,000 for fiscal year 1986".

(b) Section 515 is amended by striking out subsection (c) and subpart 2 of part B is amended by adding after the section added by section 206(b) of this Act the following:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 517. There are authorized to carry out this subpart $68,000,000 for fiscal year 1985 and $74,000,000 for fiscal year 1986.".

SEC. 208. By October 1, 1985, the Secretary of Health and Human Services shall prepare and transmit to the Congress a report which sets forth a comprehensive national plan to combat alcohol abuse and alcoholism. The report shall include—

(1) a description of a model program for activities to be conducted by the States to combat alcohol abuse and alcoholism;

(2) an analysis of the social and economic costs of alcoholism and alcohol abuse to the Nation, including amounts expended by public agencies and private organizations—

(A) for the treatment of individuals for alcohol abuse and alcoholism, including a division of such amounts among the types of settings in which such treatment is provided;

(B) for treatment of individuals for health problems resulting from alcohol abuse and alcoholism; and

(C) to meet other costs resulting from alcohol abuse and alcoholism, such as costs resulting from lost employee productivity;

(3) an assessment of current treatment and rehabilitation needs and the current integration and financing of alcoholism treatment and rehabilitation into the Nation's health care system;

(4) an assessment of personnel needs in the fields of research, treatment, rehabilitation, and prevention;

(5) a statement of specific goals and objectives to meet the Nation's current treatment, rehabilitation, and personnel needs in the area of alcoholism and alcohol abuse and plans to meet those needs through specific modification of Federal, State, local, and private policies and regulations, including a specification of recommendations for legislation—

(A) to establish Federal programs and to provide Federal funds to encourage States to adopt and implement the model program described under paragraph (1); and

(B) to modify programs and activities conducted, and services provided, under—

(i) part B of title XIX of the Public Health Service Act;

(ii) titles XVIII and XIX of the Social Security Act;

(iii) chapter 89 of title 5, United States Code; and

(iv) sections 1079 and 1080 of title 10, United States Code,

in order to ensure appropriate cost-effective treatment and prevention of alcohol abuse and alcoholism; and

(6) estimates of public and private resources needed to accomplish the goals and objectives referred to in paragraph (5) as well as resource savings that can be anticipated from achieving the national objectives.

TITLE III—OTHER AMENDMENTS

SEC. 301. (a) Section 102(28) of the Controlled Substances Act (21 U.S.C. 802) is amended by striking out "twenty-one" and inserting in lieu thereof "one hundred and eighty".

(b) The Secretary of Health and Human Services shall, within ninety days of the date of the enactment of this Act, promulgate regulations for the administration of section 102(28) of the Controlled Substances Act as amended by subsection (a) and shall include in the first report submitted under section 505(b) of the Public Health Service Act after the expiration of such ninety days the findings of the Secretary with respect to the effect of the amendment made by subsection (a).

(c) Section 2(b) of the Alcohol and Drug Abuse Amendments of 1983 (97 Stat. 181) is amended—

(1) by striking out "210" in paragraph (2) and inserting in lieu thereof "201"; and

(2) by striking out "201, 301" in paragraph (13) and inserting in lieu thereof "301, 201".

(d) Title III of the Drug Abuse Prevention, Treatment, and Rehabilitation Act (21 U.S.C. 1161–1165) is repealed.

SEC. 302. Section 217(a) (42 U.S.C. 218(a)) is amended by adding after the third sentence the following: "In the case of the National Advisory Council on Alcohol Abuse and Alcoholism, the Secretary shall assure that its membership is broadly representative of experts in the fields of prevention, research, and treatment of alcohol abuse, alcoholism, and rehabilitation of alcohol abusers.".

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

JOHN D. DINGELL,
HENRY A. WAXMAN,
JAMES H. SCHEUER,
JAMES T. BROYHILL,
EDWARD MADIGAN,
Managers on the Part of the House.

ORRIN G. HATCH,
PAULA HAWKINS,
DAN QUAYLE,
CHARLES GRASSLEY,
EDWARD M. KENNEDY,
SPARK MATSUNAGA,
DON RIEGLE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2303) to revise and extend the Alcohol and Drug Abuse and Mental Health Services block grant, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I

ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH SERVICES BLOCK GRANT

AUTHORIZATION OF APPROPRIATIONS

Conference agreement

The Conference Agreement extends for three fiscal years (FY) the authorization of appropriations for the Alcohol and Drug Abuse and Mental Health Services Block under title XIX of the Public Health Service Act at $515 million for FY 1985, $545 million for FY 1986 and $576 million for FY 1987.

INTERSTATE ALLOCATON OF BLOCK GRANT FUNDS

Conference agreement

The Conference Agreement incorporates the House provision with an amendment revising the formula for allocating block grant funds between states. The agreement gradually revises the allocation of block grant funds between States to reflect more closely a national allocation based upon the relative population and per capita income of each State. The conferees believe population and per capita income are a more reliable and equitable means of allocating block grant funds between States than the existing allotment formula.

The Conference Agreement provides that a State's allotment for Fiscal Years 1985, 1986 and 1987 will be determined by the relative population and per capita income of the States. While the formula will take effect in Fiscal Year 1985, the Conference Agreement provides that no State will receive an amount less than the allotment it received in Fiscal Year 1984 under the old formula. By the inclusion of a "hold harmless" provision, disruptions that might arise from transition to the new funding formula have been minimized.

In the event appropriations exceed $462 million (the Fiscal Year 1984 appropriation) but are less than $490 million, State allotments will be based upon the new formula or an amount equal to the allotment received by a State in Fiscal Year 1984, whichever is greater. The effect of this provision is to provide an "equity adjustment" of $28 million to States which received a disproportionately low share of Alcohol and Drug Abuse and Mental Health Services Block Grant funds under the current formula. Funds appropriated in excess of $490 will be allotted to all States based solely upon the relative population and per capita income of the State.

The General Accounting Office (GAO) has worked closely with the conferees in developing the new formula. The following letter and attachment from the GAO describe the assumptions that are to be followed by the Secretary in making allotments to the States.

U.S. GENERAL ACCOUNTING OFFICE,
Washington, DC, September 19, 1984.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce,
House of Representatives.
Hon. ORRIN G. HATCH,
Chairman, Committee on Labor and Human Resources,
U.S. Senate.

Earlier this month, your offices requested our assistance in assessing the impact on state fund allotments of a new allocation formula proposed in connection with the reauthorization of the alcohol, drug abuse and mental health block grant program. As requested, we are providing a description of the assumptions and methods we used in making final allotments under the revised formula provisions presently proposed by the House and Senate conferees. Enclosure 1 includes our calculation of state allotments assuming a $515 million appropriation as your offices' requested.

The new formula provisions would allocate funds in three distinct stages. First, if the amount appropriated in any fiscal year after 1984 is less than or equal to the $462 million appropriated in fiscal year 1984, each state and territory's percentage share of the newly appropriated amount would be the same percentage share as it received under the 1984 appropriation. This insures that all funds up to $462 million will continue to be allocated under the formula used in fiscal year 1984.

The second state is executed if the amount appropriated exceeds $462 million but is less than or equal to $490 million. This stage is executed by first allocating to each state and territory an amount equal to their fiscal year 1984 appropriation. This will hold all states harmless at their fiscal year 1984 appropriation. Second, each state and territory's allotment is calculated under the new formula at the new appropriation level (between $462 and $490 million). Each state and territory's allotment under the new formula is compared to their fiscal year 1984 appropriation. Then each gaining state and territory's share of the total funding increase of all gaining states and territories is calculated. Finally, the amount appropriated in excess of $462 million is allotted to the gaining states based on their shares of increased funding defined in the previous sentence. This stage makes allotments under the new formula while holding harmless states that would received lower funding under the new formula.

The third stage is executed when the appropriation exceeds $490 million. This stage is executed by first allotting $490 million to the states and territories under the second stage. Then the amount in excess of $490 million is allotted to all states and territories exclusively on the basis of the new formula.

The new formula as agreed to by the conferees is formula C appearing on page 20 of the Department of Health and Human Services' report to the Congress on its study entitled, "Equitable Formulas for the Allocation of Block Grant funds," dated September 1982. The formula allocates 50 percent of the available funds to states and territories based on their respective shares of the total population of all states and territories eligible for funding under the bill. The remaining 50 percent of the available funds would be allocated to states or territories based on their respective shares of population multiplied by the ratio of U.S. per capita income to the state or territory's per capita income. However, the per capita income ratio for each of the territories is defined to be 1.0. This provision in effect allocates funds to territories solely on the basis of population.

Our formula calculations are based on 1982 state populations and the average of state per capita income for the years 1980 to 1982. We obtained the income data for states from the Survey of Current Business, August 1983, published by Bureau of Economic Analysis, Department of Commerce. The population data for the states and territories were obtained directly from the Bureau of the Census.

Please let us know if we can be of further assistance.

RICHARD L. FOGEL,
Director.

Enclosure.

COMPARISON OF THE CURRENT ADAMH ALLOCATION FORMULA TO THE PROPOSED NEW FORMULA

[Dollars in thousands]

State	Fiscal year 1984 $462 million allotment	Proposed $515 million allotment	Change from fiscal year 1984	Percent change from fiscal year 1984
Alabama	$9,328	$9,802	$474	5.07
Alaska	2,093	2,133	40	1.88
American Samoa	9	20	11	119.96
Arizona	9,004	9,318	314	3.48
Arkansas	6,385	6,664	279	4.36
California	43,802	51,199	7,397	16.88
Colorado	7,004	7,313	309	4.41
Connecticut	6,985	7,288	303	4.33
Delaware	1,428	1,490	62	4.33
District of Columbia	2,467	2,526	59	2.39
Florida	24,033	25,143	1,110	4.61
Georgia	9,757	11,705	1,948	19.96
Guam	536	548	12	2.18
Hawaii	2,827	2,929	102	3.61
Idaho	1,423	1,761	338	23.76
Illinois	17,177	20,665	3,488	20.30
Indiana	19,524	20,127	603	3.08
Iowa	2,292	3,222	930	40.58
Kansas	3,451	4,198	747	21.64
Kentucky	3,654	4,961	1,307	35.78
Louisiana	4,648	6,102	1,454	31.27
Maine	3,733	3,867	134	3.58
Maryland	3,982	5,282	1,300	32.65
Massachusetts	18,240	18,830	590	3.23
Michigan	13,962	16,852	2,890	20.69
Minnesota	4,043	5,352	1,309	32.38
Mississippi	4,481	5,466	985	21.97
Missouri	8,690	10,337	1,647	18.94
Montana	2,153	2,244	91	4.21
Nebraska	2,333	2,847	514	22.02
Nevada	2,897	2,985	88	3.05
New Hampshire	3,844	3,947	103	2.67
New Jersey	20,647	21,377	730	3.53
New Mexico	4,934	5,092	158	3.20
New York	40,097	41,883	1,786	4.45
North Carolina	9,508	11,640	2,132	22.42
North Dakota	1,016	1,232	216	21.22
Northern Marina Isla	28	34	6	20.19
Ohio	23,585	24,739	1,154	4.89
Oklahoma	7,775	8,110	335	4.31
Oregon	5,359	6,224	865	16.13
Pennsylvania	25,114	26,375	1,261	5.02
Puerto Rico	6,875	7,220	345	5.01
Rhode Island	4,417	4,520	103	2.33
South Carolina	5,877	7,051	1,174	19.97
South Dakota	3,100	3,179	79	2.53
Tennessee	6,667	8,328	1,661	24.90
Texas	18,064	22,877	4,813	26.64
Trust Territories	37	75	38	103.94
Utah	3,428	3,984	556	16.21
Vermont	3,313	3,373	60	1.79
Virgin Islands	1,113	1,124	11	0.96
Virginia	7,193	8,950	1,757	24.43
Washington	8,977	9,413	1,757	4.86
West Virginia	3,812	4,512	700	18.37
Wisconsin	4,218	5,757	1,539	36.48
Wyoming	661	811	150	22.69

REVIEW OF FORMULA FOR ALLOCATING FUNDS TO THE STATES

Conference agreement

The Conference Agreement incorporates the Senate provisions requiring the Secretary to enter into an agreement with a nongovernmental entity to review the formula for allocating funds under the block grant to determine whether a more equitable formula can be devised. The Secretary is required to report to Congress by October 1, 1986, on this review and to include any recommendations considered appropriate.

The conferees believe there should be a continuing effort to develop a method for accurately assessing the needs of States for alcohol abuse, drug abuse and mental health services. While the transition to a funding formula based upon population and per capita income is a more accurate index of need than the existing formula, it may be possible to develop more sensitive measures. The Secretary should carefully consider the recommendations of the General Accounting Office (GAO/GGD-84-88) that ". . . the . . . study . . . be designed to produce more accurate measures of the incidence of sub-

stance abuse and mental health needs, possible taking into consideration such factors as age, sex, race, income, and locations."

INTRASTATE ALLOCATION OF FUNDS FOR ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH ACTIVITIES

Conference agreement

The Conference Agreement incorporates the House provision which increases from 15 to 25 percent the percentage of a State's allotment that can be allocated, at State discretion, between alcohol and drug abuse and mental health activities.

DATE COLLECTION AND TECHNICAL ASSISTANCE

Conference agreement

The Conference Agreement incorporates the Senate bill requiring the Secretary, in consultation with appropriate national organizations, to develop model criteria and forms for the collection of data on services provided under this block grant. Development of model criteria will enable States to share uniform data and information.

The Conference Agreement also revises the block grant authority to require the Secretary, acting through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, to provide technical assistance to States and public and nonprofit entities within States which receive Alcohol and Drug Abuse and Mental Health Services Block Grant funds. The Administrator is also charged with conducting data collection activities involving the Alcohol and Drug Abuse and Mental Health Services Block Grant. Such activities shall include information on the types of alcoholism alcohol abuse, drug abuse and mental health treatment and prevention activities conducted under the block grant as well as data on the number and types of clients receiving services.

CONTINUATION GRANTS TO COMMUNITY MENTAL HEALTH CENTERS

Conference agreement

The Conference Agreement incorporates the House provision extending through FY 1987 the requirement that States continue to make grants to community mental health centers that would have been entitled to receive continuation funds under the Community Mental Health Centers Act in these fiscal years.

BLOCK GRANT ACTIVITIES FOR ALCOHOL AND DRUG ABUSE SERVICES FOR WOMEN

Conference agreement

The Conference Agreement incorporates the House provisions, with an amendment requiring that each State, as a condition of receiving Alcohol and Drug Abuse and Mental Health Services Block Grant funds, assure that it will allocate not less than 5 percent of its total block grant allotment to initiate and expand alcohol and drug abuse services for women.

The conferees agree that alcohol and other drug abuse is a rapidly growing problem among women. It is the intention of the conferees that each State use its funds to initiate a broad range of new and expanded services for women.

The conferees are aware that States may already support programs providing alcohol and drug abuse services to women with Alcohol and Drug Abuse and Mental Health Services Block Grant funds or other sources of funding. Funds available through this amendment are intended to be used to expand the availability of substance abuse services for women within the State, and the conferees expect States to place special emphasis in allocating these funds upon the development of new programs.

The conferees do not intend that States use Alcohol and Drug Abuse and Mental Health Services Block Grant funds earmarked for these new activities to supplant State or local funding of related activities as a means of compliance. Each State is required as part of its annual report to the Secretary under Section 1916 (42 U.S.C. 300x-5) of the Public Health Service Act, to submit a detailed description of the alcohol and drug abuse programs and activities which received Alcohol and Drug Abuse and Mental Health Services Block Grant funds under Section 1915(c)(14). The Secretary is required to provide the Committee on Energy and Commerce of the House and the Committee on Labor and Human Resources of the Senate with an annual report containing a detailed description of the programs and services supported by the States in meeting the alcohol and drug abuse treatment needs of women.

The conferees believe that each State should determine the appropriate mix of new alcohol and drug abuse services available for women based upon local needs. The conferees note that the development of separate and discrete treatment services in outpatient settings, costs-effective residential facilities such as halfway houses, and employee assistance programs in female intensive industries should be supported. In developing new treatment services, special consideration also should be given to those programs with the capability to care for the children of women in treatment. States should be responsive to the need for programs which address the subpopulations of women alcoholics and drug addicts, including victims of violence, the elderly, minorities, youth, homemakers, and pregnant women.

NEW COMPREHENSIVE MENTAL HEALTH SERVICES FOR SEVERELY DISTURBED CHILDREN AND FOR UNSERVED AREAS OR UNDERSERVED

Conference agreement

The Conference Agreement incorporates a House provision with an amendment to require each State to assure that 10 percent of its mental health allotment is used for new services for severely disturbed children and adolescents and used to establish new comprehensive community mental health services for unserved or underserved areas or groups.

The conferees agree that there are many geographical areas and population groups that receive inadequate or no mental health services at the present time. It is the intent of the conferees that each State use the funds provided under this provision to initiate new services where previously there were none, so as to expand the State's comprehensive mental health services.

Of the new services that States may provide in fulfillment of this provision, the conferees intend that special emphasis be given to new services for seriously disturbed children and adolescents. Recent studies have indicated that two out of three seriously disturbed children and adolescents receive no care. Among children with multiple problems or without supportive home environments even fewer receive care.

The conferees do not intend that States use Alcohol and Drug Abuse and Mental Health Services Block Grant funds earmarked for these new activities to supplant State or local funding of related activities as a means of compliance. Each State is required as part of its annual report to the Secretary under Section 1916 (42 U.S.C. 300x-5) of the Public Health Service Act, to submit a detailed description of the alcohol and drug abuse programs and activities which received Alcohol and Drug Abuse and Mental Health Services Block Grant funds under Section 1915(c)(15). The Secretary is required to provide the Committee on Energy and Commerce of the House and the Committee on Labor and Human Resources of the Senate with an annual report containing a detailed description of the new mental services for unserved or underserved areas or groups and the programs and services supported by the States in meeting the mental health needs of severely disturbed children.

States have the authority to use block grant funds for expanding and initiating new mental health services. However, according to testimony and reports on the use of Alcohol and Drug Abuse and Mental Health Services Block Grant funds, the use of block grant funds has been overwhelmingly for support of services that existed prior to 1981. The conferees wish to emphasize that since 1981, Alcohol and Drug Abuse and Mental Health Services Block Grant funds have been available for new or expanded services and by inclusion of this new provision wish to emphasize the ability of States to target new services to local needs. Further the conferees note that this new emphasis is compatible with program requirements under 1915(c)(2) (42 U.S.C. 300x-4).

STATE MENTAL HEALTH PLANNING COUNCIL

Conference agreement

The Conference Agreement incorporates the House provision authorizing each State to establish a mental health planning Council to serve as an advocate for chronically mentally ill individuals, seriously mentally ill children, adolescents, and elderly individuals and other individuals with mental illness or emotional problems. Councils would also monitor, review, and evaluate on an annual basis the allocations and adequacy of mental health services within the State and assist in coordinating such mental health services.

The Conference Agreement does not require States to establish such councils but instead allows them to use Alcohol and Drug Abuse and Mental Health Services Block Grant funds for this purpose. While the conferees understand that this activity is optional, the conferees hope that States will exercise their option to develop and use these Councils. Membership on the Council will be restricted to residents of the State. Representation from the State agencies governing mental health, higher education training facilities, and private and public entities concerned with mental health is strongly recommended for the Councils.

If the States choose to institute Councils, the conferees do not expect that the Councils will supersede the planning activities of the State agencies. Instead, the Council's role is in the coordination of mental health services among the State agencies.

STATE MENTAL HEALTH PLAN

Conference agreement

The Conference Agreement incorporates the Senate and House provisions. The Conference Agreement allows States to use block grant funds to develop comprehensive mental health plans and also authorizes the Secretary, acting through the Director of the National Institute of Mental Health, to make grants to States for the purpose of developing these plans. While the conferees

understand that this activity is optional, the conferees hope that States will exercise their option to develop State mental health plans. These plans would describe (in a form and according to standards established by the Secretary): mental health needs in the State; mental health service areas in the State; the resources devoted to mental health services from the full range of funding sources to support such services and measurable goals and objectives for meeting mental health needs within the State, with particular emphasis on establishing an organized system of community-based care for underserved populations such as the chronically mentally ill, the elderly, children, and adolescents.

The conferees expect that the funding provided to any State under the grant authority will be sufficient to enable States to implement adequately the intent of this legislation.

The conferees anticipate that the Secretary will provide technical assistance to States wishing to develop such plans.

The conferees encourage assessment by the States of sources of funding for mental health services which come through such programs as Medicaid, Medicare, vocational rehabilitation, housing, social services, state services, and, to the extent States are provided with information, services funded by private, third-party insurance coverage. As a first step, States may wish to collect adequate data to assess current expenditures under these programs, assess the need for the types of services funded by these programs, and then develop a plan to utilize these resources more effectively. The conferees encourage States to involve those State officials responsible for these various Federal and State programs in this planning process. For this reason funds are available to the governor, who, it is expected, will assign responsibility for this State planning initiative at a high level within the State administration, so that issues which cut across the jurisdiction of different State departments/agencies can be resolved. In developing such plans, the State may also use these resources to obtain input, assistance or advice from individuals outside of State government, including advocacy groups, providers, employers, insurers and others with an interest in an effective mental health treatment system.

Such plans should include State goals and objectives for improving the State's mental health service delivery system, including efforts to increase mental health and related support services for the priority populations identified in the bill. Plans should identify services needs, especially for the priority populations, identify existing resources, and provide plans of action to coordinate mental health and related support services. Such plans may also address additional planning needs, goals and objectives as the State identifies.

AUDIT OF BLOCK GRANTS

Conference agreement

The Conference Agreement incorporates the House provisions revising audit requirements required of States receiving block grant funds. States would be required to provide for one of the following: (1) a financial and compliance audit of funds received by the State, performed biennially but covering expenditures in each fiscal year and conducted pursuant to standards established by the Comptroller General; or (2) a single financial and compliance audit of each entity administering block grant funds, conducted in accordance with the Comptroller General's standards, performed biennially and covering expenditures in each fiscal year. Audit reports must be transmitted to the State legislature and the Secretary and must be made available for public inspection.

ADMINISTRATION OF ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH SERVICES BLOCK GRANT

Conference agreement

The Conference Agreement does not include the House provision that required the Secretary to administer the Alcohol and Drug Abuse and Mental Health Services Block Grant through the Administrator of the Alcohol and Drug Abuse and Mental Health Administration. The conferees note that the Secretary formally delegated responsibility for administration of the block grant to the Administrator of the Alcohol and Drug Abuse and Mental Health Administration on December 2, 1981. The conferees believe the organizational arrangement is currently appropriate and in the best interests of the program. The conferees are concerned that any attempt to transfer management responsibility for the Alcohol and Drug Abuse and Mental Health Services Block Grant be accomplished by concrete evidence that such transfer will improve program accountability or enhance the effectiveness of the health services provided.

PSYCHOSOCIAL SERVICES IN COMMUNITY MENTAL HEALTH CENTERS

Conference agreement

The Conference Agreement incorporates the House provisions permitting community mental health centers receiving block grant funds to provide psychosocial rehabilitation services.

REPORT TO CONGRESS ON BLOCK GRANT ACTIVITIES

Conference agreement

The Conference Agreement requires the Secretary to report to the Congress not later than October 1, 1986, on the activities of the States under the block grant.

The conferees intend that such report shall include an analysis of the implementation by States of State comprehensive mental health plans developed with allotments under this part and recommendations for legislation to encourage the achievement of goals and objectives established under such plans.

TRANSITION AND EFFECTIVE DATE

Conference agreement

The Conference Agreement provides that amendments made to Part B of Title XIX of the Public Health Service Act (Alcohol and Drug Abuse and Mental Health Services Block Grant) shall only apply with respect to fiscal years beginning after fiscal year 1984. If prior to the date of enactment, the legislature of a State has met pursuant to Section 1915(a) (42 U.S.C. 300x-4) on the State's proposed use of its fiscal year 1985 allotments, the conferees do not intend that the processing of a State's application be delayed or that it be necessary for the legislature of such State to conduct a special session to consider the State's proposed use of funds in light of block grant revisions made in the Conference Agreement. Such circumstance does not relieve the State of its obligation to comply with the requirements of Section 1915(c).

TITLE II

ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH ADMINISTRATION

DEMONSTRATION PROJECTS FOR MENTAL HEALTH SERVICES

Conference agreement

The Conference Agreement incorporates the Senate provision authorizing the Secretary to continue to make grants under section 504 of the Public Health Service Act (the authority for the National Institute of Mental Health) to States, political subdivisions, and private nonprofit agencies for mental health services demonstration projects for the planning, coordination, and improvement of community services for chronically mentally ill individuals, seriously mentally ill individuals, seriously mentally disturbed individuals, and elderly individuals, and for research concerning such services. Grants may be made for not more than three years, but this provision may be waived if the Secretary determines there are extenuating circumstances. The agreement authorizes appropriations of $20 million a year for each of the fiscal years 1985, 1986 and 1987.

ASSOCIATE ADMINISTRATOR FOR SPECIAL POPULATIONS

Conference agreement

The Conference Agreement does not incorporate the House provisions requiring the establishment within the Alcohol and Drug Abuse and Mental Health Administration of an Associate Administrator for Special Populations and does not repeal the authority in Section 504(e) of the Public Health Service Act for an Associate Director for Minority Concerns within the National Institute of Mental Health. The Conference Agreement, however, does change the title of the Associate Director of Minority Concerns to the Associate Director for Special Populations and includes women as a priority population.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADVISORY COUNCIL

Conference agreement

The Conference Agreement incorporates the House provision, with a technical amendment, establishing an Alcohol, Drug Abuse, and Mental Health Advisory Council to assess periodically national needs for alcoholism, alcohol abuse, drug abuse, and mental health services and advise the Alcohol and Drug Abuse and Mental Health Administration and Congress on the extent to which those needs are being met by State, local, and private programs and programs receiving funds under Title V and Part B of Title XIX of the Public Health Service Act.

CLINICAL TRAINING FOR THE IDENTIFICATION AND TREATMENT OF ALCOHOL AND DRUG ABUSE

Conference agreement

The Conference Agreement incorporates, with amendment, the House provision requiring the Secretary to make grants to support the training of health professionals in the identification and treatment of alcohol and drug abuse. Under the Conference Agreement schools of health professions, as defined in Titles VII and VIII of the Public Health Service Act, and schools of social work and psychology are eligible to receive clinical training grants. The conferees note that the Career Teacher Program funded through the National Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism would be a helpful model for distribution of grants to schools

of health professions under this authority. The conferees expect the Secretary to administer this program through the Administrator of the Alcohol and Drug Abuse and Mental Health Administration. In fiscal year 1985, a portion of funds not to exceed $1 million, should be made available from funds appropriated for clinical training under Section 303 of the Public Health Service Act. In succeeding fiscal years the conferees expect separate appropriations to be requested and obtained under this new authority. Qualified grant applications from schools of medicine should be given priority in the award of funds during fiscal year 1985.

NATIONAL PLAN ON ALCOHOLISM AND ALCOHOL ABUSE

Conference agreement

The Conference Agreement incorporates the House provisions, with amendments, requiring the Secretary of Health and Human Services to prepare a comprehensive national plan to combat alcoholism and alcohol abuse. The plan is to be presented to the Congress by October 1, 1985.

EXPERTS OR CONSULTANTS

Conference agreement

The Conference Agreement incorporates the House provisions authorizing the Administrator of Alcohol, Drug Abuse and Mental Health Administration to obtain the services of 20 experts or consultants who have scientific or professional qualifications. The experts or consultants may be obtained for the Alcohol, Drug Abuse and Mental Health Administration or for any of its research institutes.

ALCOHOL ABUSE RESEARCH AUTHORIZATION OF APPROPRIATIONS AND DRUG ABUSE RESEARCH AUTHORIZATION OF APPROPRIATIONS

Conference agreement

The Conference Agreement extends for two fiscal years the authorization of appropriations for activities of the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse. The authorization levels contained in the Conference Agreement are displayed in the following table:

AUTHORIZATION OF APPROPRIATIONS

[Dollars in millions]

	Fiscal year—	
	1985	1986
NIAAA	$52	$61
NIDA	68	74

The authorization levels reflect the conferees' assessment of the funding requirements necessary for the institutes to carry out their respective research missions. The authorizations are not intended to include funding for such activities as program management or clinical training which may be funded from funds available under other provisions of Title V or Sections 301 and 303 of the Public Health Service Act.

The Conference Agreement strengthens the responsibilities of the National Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism in two important areas. First, the statutory mandate of each institute has been revised to require that research on the effects of alcohol abuse and drug abuse on women be given priority in both extramural and intramural activities. The conferees note increasing evidence that the effects of alcohol on men and women vary significantly. Research designed to delineate these distinctions is critically important to the efficacy of prevention and treatment programs. The Directors of each Institute should make special efforts to determine the relative incidence of alcohol and other drug abuse among women and to delineate the nature and extent of these effects contrasted with men. Consideration should be given to issuance of a Request For Proposals to stimulate submission of high quality research proposals in this area.

Second, the Conference Agreement requires that the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse initiate activities to develop new and improved methods of delivering treatment, and prevention services and disseminating information to the public about alcohol and drug abuse. The conferees recognize that the missions of the Institutes are not limited to sponsorship of biomedical and behavioral research. Appropriate federal leadership in this area requires that the research components of each institute include programs to improve the efficacy of alcohol and drug abuse prevention and treatment services. The conferees have included funds in the authorization of appropriations which will permit support of a limited number of health service demonstration programs.

The Conference Agreement also requires that the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse prepare public service announcements, for distribution through television, on the adverse health effects of alcohol and drug abuse.

In addition, the Conference Agreement requires that members be appointed to the National Institute on Alcohol Abuse and Alcoholism's Advisory Council who have an expertise in the fields of alcoholism and alcohol abuse prevention, research and treatment. In so doing, the conferees recognize and reaffirm the importance of the National Advisory Council on Alcohol Abuse and Alcoholism in providing scientific and policy guidance to the Institute. The responsibilities of the Director of the National Institute on Alcohol Abuse and Alcoholism are broad and include a variety of responsibilities in addition to the basic biomedical and behavioral research mission of the Institute. The conferees believe that to discharge properly these responsibilities, the Secretary, acting through the Director, should have the advice of a variety of individuals with expertise in the area of research as well as the fields of health care related to the prevention and treatment of alcohol abuse and alcoholism. The conferees intend that the composition of the Council be responsive to the diverse responsibilities of National Institute on Alcohol Abuse and Alcoholism, and should include members representing both the public and private sectors. The conferees do not intend that this provision to require any quota on Council membership or be construed as an endorsement of an individual, entity or corporate affiliation. The conferees believe the Secretary, in approving the nominations to the Advisory Council, should give the Director of the National Institute on Alcohol Abuse and Alcoholism special consideration in the selection of members that will most appropriately assist in the efficient and productive management of the institute.

TITLE III

OTHER AMENDMENTS

DEFINITION OF "DETOXIFICATION"

Conference agreement

The Conference Agreement incorporates the House provisions amending the Controlled Substances Act to revise the definition of "detoxification treatment" as it applies to the treatment of heroin addiction. The amendment would extend from 28 to 180 days the maximum period a patient may participate in a detoxification program.

DEVELOPMENTAL DISABILITIES AND BILL OF RIGHTS ACT

Conference agreement

The Conference Agreement does not extend the authorization of appropriations for the Developmental Disabilities and Bill of Rights Act. Extension of these authorities is to be considered in other legislation.

JOHN D. DINGELL,
HENRY A. WAXMAN,
JAMES H. SCHEUER,
JAMES T. BROYHILL,
EDWARD MADIGAN,
Managers on the Part of the House.

ORRIN G. HATCH,
PAULA HAWKINS,
DAN QUAYLE,
CHARLES GRASSLEY,
EDWARD M. KENNEDY,
SPARK MATSUNAGA,
DON RIEGLE,
Managers on the Part of the Senate.

CONFERENCE REPORT ON S. 1841, NATIONAL COOPERATIVE RESEARCH ACT OF 1984

Mr. EDWARDS of California. Mr. Speaker, I call up the conference report on the Senate bill (S. 1841) to promote research and development, encourage innovation, stimulate trade, and make necessary and appropriate amendments to the antitrust patent and copyright laws.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Friday, September 21, 1984, at page 26513.

The SPEAKER pro tempore. The gentleman from California [Mr. EDWARDS] will be recognized for 30 minutes and the gentleman from New York [Mr. FISH] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. RODINO. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of California. I yield to the distinguished gentleman from New Jersey, the chairman of the Committee on the Judiciary.

Mr. RODINO. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the conference report on S. 1841, the National Cooperative Research Act of 1984.

This legislation will provide a clarification of the workings of our antitrust laws as they apply to jointly conducted research and development undertakings. Through this clarification, and through the adjustment of provisions providing for damage relief and attorney's fees, the Congress is acknowledging that legitimate cooperative R&D is important for technological innovation, important for our economic development, and important for our international competitiveness.

The conference committee was in the enviable position of dealing with a House and a Senate bill that were similar in approach. The compromise that we reached largely follows the House version except in three areas. In the definitions section, the conferees agreed to compromise language adopting some of the Senate phrasing of the definition of "joint R&D venture." Section 3 of the bill is a compromise between the House and Senate approach applying a rule-of-reason standard to antitrust challenges against a joint R&D venture. And the attorney's fee section—section 5—is modeled after the House provision, but accommodates the Senate position in requiring a more substantial showing by prevailing defendants before they will be awarded attorney's fees. The Senate effectively receded to the House's disclosure system as set out in section 6.

What we have, in sum, is a consensus bill that will provide measured but constructive modifications of the operation of our antitrust laws with respect to joint R&D ventures. We are creating no exemptions for anticompetitive behavior. Injured parties will continue to enjoy, at a minimum, a right to sue for full recovery of their economic injury. But we have clarified the substantive law and curtailed the treble-damage recovery in a way that should eliminate any perception that jointly conducted R&D is viewed unfavorably under the antitrust laws.

I want to thank all of the members of the Subcommittee on Monopolies and Commercial Law for their assistance in shaping this legislation. As conferees, they played a constructive and invaluable role in working out a viable compromise. And I want to thank, in particular, the gentleman from California [Mr. EDWARDS] for his leadership on this issue. He has been a champion of the cause of jointly conducted R&D since the 97th Congress, when he introduced the first bill addressing this subject.

There are two substantive points I would like to make about the work of the conference committee. The first deals with a change in the wording of section 4(a)(1) the same change was made in subsections (b)(1) and (c)(1).

While section 4 of the conference bill is modeled after section 4 of the House bill, the conferees rewrote the language in section 4(a)(1), 4(b)(1), and 4(c)(1) that conditions the detrebling benefits of the legislation. The new language is simply a more precise statement of the intent of the House bill that the detrebling protection be linked to notification under section 6(a). The original House language provided single damages where a plaintiff complained of conduct "within the scope of the joint research and development program for which notification has been filed under section 6(a) of this act." The new language requires the conduct to be "within the scope of a notification that has been filed under section 6(a) of this act for a joint research and development venture."

This change was made only to eliminate a concern that, under the House version, the mere act of filing a notification, even if the filing did not comply with the requirements of section 6(a), might be held to confer the detrebling benefits of section 4. Similarily, there was concern that, based solely on an initial notification, a court might continue section 4 detrebling benefits even when the joint R&D venture changed course in a manner outside the scope of that notification.

Both concerns arise out of a possible lack of harmony between the purposes of section 4 and of section 6(a). The new language makes clear that these provisions are to be read together. Nothing more than that is intended. To obtain detrebling benefits, a joint R&D venture should, first, file a proper notification under 6(a), and second, if in the course of subsequent developments, the original notification becomes erroneous or incomplete because of a change in the number of participants or in the nature and objectives of the R&D venture, file additional proper notifications. In other words, in order for R&D conduct or activity to be within the protection of section 4, it is required that a notification filed pursuant to section 6(a) properly identify the parties to the joint venture, and the nature and objectives of the venture. If there is a change in the venture that takes it beyond the scope of the initial notification, updated information concerning the parties to the venture, or the venture's nature and objectives, should be disclosed in an additional notification filed pursuant to section 6(a), should the parties wish to extend the protections of section 4. The statement of managers makes this clear:

The guiding principle is that R&D conduct within the scope of a joint research and development venture is never subject to more than actual damage recovery where there is a compliance with the requirement of section 6.

The conferees also reshaped language in section 2 that excludes certain conduct from the definition of a "joint research and development venture." The House agreed to Senate phrasing intended to ensure that restraints on competition that are ancillary to a legitimate cooperative R&D venture not be accorded any protection under this legislation. These changes are consistent with the House intent that a joint R&D venture not accord any special status to such competition dampening activity beyond that which is necessary to accomplish the R&D purpose. The reported cases suggest that such ancillary restraints are the most frequent problem with otherwise legitimate joint-venture activity.

Mr. EDWARDS of California. Mr. Speaker, early in the 97th Congress, I introduced a bill to promote cooperative research among American companies by clarifying the application of our antitrust laws to joint research and development ventures. More than 3 years have passed since that time, during which support for this type of legislation has grown without regard to party lines or economic philosophy. I am quite pleased that the bill has progressed to the point where this body is now asked to vote on the conference report on the National Cooperative Research Act of 1984.

In drafting the conference report, the conferees were faced with House and Senate versions that were strikingly convergent in both language and approach. Even so, the conferees and staff worked very diligently on the report and accompanying statement so as to impart as much clarity as possible to all concerned parties: business, antitrust counsel, the antitrust agencies, and the courts. This bipartisan effort mirrored the same careful and cooperative treatment given the bill during its entire path through the legislative process. And for this, I thank my many involved colleagues on the Judiciary Committee and in the House at large.

I believe that the legislation before us will clear away any unnecessary antitrust obstacles to legitimate joint research and development activity while in no way weakening our national policy favoring competition. And it comes at a critical time: To be sure, our basic science is still, without question, the finest in the world; yet we seem to be experiencing a critical gap between the discoveries of basic science and the application of that information and new knowledge to our marketable goods and services. Whether America is, in fact, losing its overall technological leadership to others is a complex question. But if one looks at the decline of the U.S. share of world

exports of manufactured goods, including technology-intensive goods, one can be very sure that we are in the midst of changing patterns of production and consumption. We as policymakers must pay particular attention to these changing patterns.

There is another reason why we must maintain and strengthen America's competitive position in a changing world marketplace—it is because not all participants in the new marketplace play by the same rules, and few nations share the American tradition of free trade. This fact, however, should not be the cause for economic envy, of throwing aside our own values in a mad rush to imitate the perceived success of others. But it is cause to reinvigorate the best of our own economic system so as to better compete with others.

S. 1841 has been crafted in this spirit. S. 1841 does not grant anyone a subsidy. Nor does it provide anyone carte blanche to violate the antitrust laws. The legislation does, however, clear a path for jointly conducted R&D programs that can make the difference in cases in which research by individual firms is either too expensive or too inefficient to be carried out alone.

Successful innovation, especially in the high-technology fields, depends upon a very subtle but often elusive blend of cooperation and competition. The National Cooperative Research Act of 1984 strikes precisely this note. There can no longer be any doubt that courts will now be instructed to weigh the procompetitive effects of a joint R&D venture before condemning any anticompetitive harm caused by such venture. The definition of R&D in the bill also assures that we can encourage cooperation and division of labor among competitors at the early stages of innovation while maintaining strict competition in the later product and marketing stages. That we can create this favored status without substantially altering the essential fabric of our antitrust laws is a most eloquent refutation of the theory that antitrust and high technology cannot advance together into the 21st century.

Mr. Speaker, I believe we have a responsible and balanced piece of legislation that we all can support—and support with enthusiasm. I hope you will join with us in this bipartisan effort to reinvigorate American technological leadership.

There is one final point that I wish to make, and I do it for the historical record of this legislation. In reviewing the statements of the other body when the Senate took up the conference report on S. 1841 on Wednesday, September 26, 1984, I found a remark by Senator LEAHY that needs clarification because it is not based on anything in the plain language of the statute or in the very detailed statement of joint managers.

At page 26940 of the CONGRESSIONAL RECORD, Senator LEAHY states the following:

> And while no Congressional report can ever limit the nature of legal arguments in a future case, claims against a joint venture based on the length or degree of detail in a notification should simply not prevail. Plaintiffs will have to demonstrate that the two agencies [the Department of Justice and the FTC] *were misled by information and could not fairly formulate the test of the Federal Register notice.* [Emphasis supplied.]

I wish to point out that the voluntary disclosure system set up by section 6 of S. 1841 does not provide for such a test, as described by Senator LEAHY. The protections of section 4 are directly tied to the disclosure provisions of section 6. Whether section 4 protection will attach—as the language of the conference report and joint statement makes clear—is dependent on whether the parties to the joint R&D venture have disclosed to the DOJ and FTC the identity of the parties and the nature and objectives of the venture. If disclosure is incomplete or otherwise inconsistent with the required notification provisions of section 6, the protection of section 4 will not apply.

There is no specific test carved out in either the language of the bill or in the joint statement whereby a party to a joint R&D venture would lose the protection of section 4 if it misleads the antitrust agencies so that they cannot fairly formulate a notice for the Federal Register. The test is, rather, where previous disclosure does not cover activities engaged in by parties to an R&D venture, there will be no section 4 protection for such activities. Whether the parties mislead the agencies is therefore not determinative of the protection. In other words, the protection of section 4 depends on an objective test of whether notification has been made in accordance with section 6; misleading the antitrust agencies is simply one example where the required disclosure under section 6 may not be met. Moreover, because the antitrust agencies' role in section 6 is essentially ministerial, there is also no requirement that the DOJ or FTC fairly formulate a notice in the Federal Register, as the Senator's statement would seem to imply.

Finally, it should be noted that potential plaintiffs will not be able to predicate their antitrust actions on the grounds of inadequate disclosure under section 6. The disclosure system is simply a condition for the section 4 protection of single-damage liability. Disclosure is only relevant in the assessment of damages once antitrust injury has been proven, and not, as the Senator's statement would imply, as a basis for claiming antitrust injury in the first place.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly urge adoption of the conference report on the National Cooperative Research Act of 1984, S. 1841. This is the last legislative step in our effort to limit the antitrust risk for joint R&D ventures, an effort which has literally spanned the entire 98th Congress. The first joint R&D bill was introduced on opening day, January 3, 1983, and now, in the week we plan to adjourn, we have before us a conference report on a sound and potentially very effective piece of legislation.

Along the way, the Judiciary Committee has given consideration to no less than 10 different joint R&D bills, including one of my own, H.R. 3641. All of these had a common objective: to enable American companies to compete in the world marketplace in the 1980's and beyond. To do this successfully we must encourage the formation of cooperative research ventures by reducing the potential for litigation and treble damage antitrust judgments against such entities. Although we have heard this prescription for what seems a very long time, it is no hoary platitude from the distant past. On the contrary, it is as relevant and immediate as last week's report by the Department of Commerce that our Nation had a trade deficit of $24.4 billion in the second quarter of this year. The cumulative trade deficit for the first half of 1984 now exceeds the total deficit for all of the preceding year. There can be no doubt about it, Mr. Speaker: The stakes are high.

The conference report before us tracks my own bill with regard to single damages and the care with which a bright line of demarcation is drawn between conduct falling within and outside of the ambit of a joint R&D venture. It adds a notification procedure as a condition for the limitation on damages and mandates a rule of reason standard in assessing the conduct of any person making or performing a contract to carry out a cooperative research enterprise.

This is essentially the measure that passed in the House on May 1, by a rollcall vote of 417 to 0. There were minor refinements by the conferees in the definition of a joint R&D venture. The House bill did not seek to define the rule of reason standard. The Senate bill did so, and as a compromise, a partial definition, referring to competitive effects in properly defined and relevant R&D markets, was agreed upon. This allows further development of the rule of reason standard applicable to joint R&D ventures. The legislative history in the conference report carefully spells out the congressional intent with regard to the rule of reason standard and we

expect the courts to be guided by that language.

The respective House and Senate sections providing single damages required some compromise with regard to prejudgment interest. The House yielded to the Senate to allow interest from the date of injury to the date of judgment unless unjust in the circumstances. The House bill employed the "unless unjust" standard as to interest after the date of filing, but it would have been allowed interest back to the date of injury would have been allowed only upon an affirmative finding that it was just under the circumstances.

Both the House and Senate bills made the limitation of damages contingent upon disclosure to the antitrust enforcement agencies, but there were necessarily compromises in conference relating to timing, content, and publication. The House yielded to the Senate's insistence on a 90-day notification requirement, while the Senate receded to House language requiring notification of the nature and objectives of the venture, as well as publication in the Federal Register of the area of planned activity. Both Houses required notification of the identities of the parties. As stated in the conference report, once the parties have given the agencies adequate information to permit the publication of a notice, the conferees do not intend that the benefits of detrebling should turn on the quantity of documents filed with the agencies. More important is whether the information supplied is consistent with the activities actually undertaken by the joint venturers.

The award of attorneys' fees remains to be discussed. My own bill, H.R. 3641, was the first to propose the award of attorneys' fees to prevailing defendants as a counterweight to the existing antitrust rule awarding them to prevailing plaintiffs. I believe that is necessary to protect joint R&D venturers against suits having little or no merit. It is a matter of record that many dubious antitrust actions have been filed primarily to compel a quick settlement from "deep pocket" defendants. Accordingly, at our full committee markup of H.R. 5041 on March 20, 1984, I offered an amendment, which was adopted by voice vote, requiring the court to award attorneys' fees to the substantially prevailing party. It contained the proviso that in the interest of justice the award might be reduced, withheld, or reduced by an award in favor of the other party. This was the attorneys' fees provision which the House brought into conference, while the Senate bill was silent on this point.

I would have preferred that the conferees had adopted the substantially prevailing party standard found in the House bill. Instead, they chose to authorize the award of attorneys' fees to prevailing defendants on the basis of what is know as the Christiansburg standard, a reference to the decision of the Supreme Court in *Christiansburg Garment* v. *EEOC,* 434 U.S. 412 (1978), an employment discrimination case brought under title VII of the Civil Rights Act. The three standards specified in that case for recovery of defendants' attorneys' fees are that the plaintiff's actions was "frivolous, unreasonable, or without foundation." The conferees made specific a fourth alternative, that the plaintiff's action was brought "in bad faith." These four criteria are to be considered and applied separately by the court, so that if a prevailing defendant can show any one of the four, he would receive attorneys' fees.

"Unreasonable" should not be read by the courts to be merely the equivalent of "frivolous" or "without foundation." Again, these are different factors, to be weighed separately by the courts. The "unreasonable" standard should not be read to raise a presumption that a plaintiff's suit was unreasonable simply because he lost the case. Nor, in fact, does it mean that the decision to litigate had to be based on a substantial probability of prevailing. Rather, it should be an evaluation as to whether it was reasonable, given the facts and legal merits of the case, for the plaintiff to have proceeded with the litigation. In the context of the purposes and policies governing this bill, this is the appropriate standard under which the courts should allow or deny prevailing defendants the right to recover their attorneys' fees in situations other than in obviously frivolous or wholly meritless cases.

As virtually every statement made with reference to this legislation has emphasized, S. 1841 reflects a congressional intention to allow joint research ventures which have been properly reported to the antitrust enforcement agencies to proceed without the danger of treble damage liability or unmerited antitrust litigation costs. Although the conferees decided against providing that attorneys' fees should be routinely awarded to prevailing defendants, the "unreasonable" standard does require the plaintiff to demonstrate sufficient legal and factual merit in his case.

Mr. Speaker, I believe that the Members of the 98th Congress can take great pride in the National Cooperative Research Act of 1984. Accordingly, I urge my colleagues to adopt the conference report on this critically important legislation.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. FISH. I yield to my friend, the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

Mr. Speaker, I want to commend the gentleman from California [Mr. EDWARDS] for his initiative in this very balanced and important legislation.

Mr. Speaker, this legislation has significant implications for the future well-being of the economy of the United States.

Currently, the Federal antitrust laws tend to discourage cooperative activities of any sort among companies that are either current competitors or potential competitors. Generally, there are very good reasons for this national procompetition policy. However, a serious problem we currently face as a Nation is technological competition in the international marketplace.

Our major trading partners—Japan, Germany, and France, for example—have all sanctioned collaborative efforts on research and development. In another notable example, the European economic community has exempted several collaborative joint research agreements of individual member companies from the otherwise applicable antitrust restrictions contained in article 85 of the Treaty of Rome.

Given these widespread efforts by other countries to encourage joint research in such areas as computers, microelectronics, electronic instruments, aerospace, and telecommunications, it is time for reassessment and realignment of our national competition policy. Last year, on September 12, 1983, President Reagan transmitted to the Congress proposed legislation to modify the antitrust laws so as to enhance this Nation's productivity and ability to compete in world markets. The legislation we consider today—the "national cooperative Research Act of 1984" (S. 1841)—is the outgrowth of this original administration proposal.

The bill agreed upon by the conferees mandates that the courts will not find a joint research and development venture a per se violation of the antitrust laws. Rather, under section 3 of the bill, the courts are directed to consider its procompetitive benefits, and the factors that go into this "rule-of-reason" analysis are further detailed in the conference report. In addition, S. 1841 provides that, where a joint research and development venture has disclosed its existence to both the Department of Justice and the Federal Trade Commission, the maximum recovery under the antitrust laws against that joint venture will be actual damages rather than the current punitive treble damages. The conferees have also reconciled the notification requirements in this legislation so that they will not be unduly burdensome or advertently disclose damaging information to companies that are not participants in the joint venture itself.

The major issues considered and resolved by the conferees were: First, appropriate "rule-of-reason" language; second, the circumstances under which prevailing defendants would receive attorney's fees; and third, notification requirements under section 6—and related to this, the detrebling benefits of section 4. As a means of providing the Members of this House and the courts with further information on the intent of the conferees, I am including descriptions of each of those provisions as a part of this statement.

RULE OF REASON (SECTION 3)

The important distinction between the House version and the Senate version regarding the applicability of the rule of reason was not the length of the statutory language or the tone or detail of accompanying report language. Rather, it was that the Senate chose to write substantive law to provide clear guidelines to potential joint ventures as well as to litigants and judges. The Senate achieved this objective basically in its report language which explained the phrase "properly defined research and development markets"—a phrase which demands legislative history to reveal the meaning of "properly defined." Had the Senate taken the House approach, the report language would not have been binding since the rule of reason has a fairly accepted meaning in contexts outside of joint research and development. However, by writing new statutory language, the Senate chose to instruct the courts how the rule of reason is to be applied to circumstances covered by the legislation.

The conferees, with some minor changes noted in the joint statement of managers, adopted the Senate approach. Therefore, the explanation of section 3 concerning the rule of reason is of great legal significance. For not only is section 3 binding on the courts, but so is the joint statement explaining section 3. It was written with care and deliberation appropriate to such an undertaking. I am confident that it will provide the necessary clarity to foster increased R&D activity in the United States.

WITHIN SCOPE OF NOTIFICATION (SECTION 4; SECTION 6)

Under the original House bill it was clearly the intention that if a joint research and development venture fulfilled the provisions of section 6 concerning the filing of notifications and updating such notifications, the venture thereby obtained the detrebling benefits of section 4. However, upon reflection after passage of the House bill, it became apparent that the original House language was arguably subject to misinterpretation. The conference bill contains new language, the purpose of which is solely to eliminate such possible misinterpretation. It is not intended to alter in any way the original House intent just described.

Unfortunately, it seems that the new language of the conference may also be subject to misinterpretation. Question is raised about the phrase "conduct that is within the scope of a notification." Does this mean that, apart from the provisions of section 6, a joint research and development venture must make additional disclosures so that the notification encompasses and anticipates the "conduct" that a potential plaintiff may allege? Clearly not. The conferees unequivocally intend that "conduct" falls "within the scope of a notification" when the provisions of section 6(a)—which relate only to the identities of the parties and the generalized nature and objectives of the joint venture and to the updating of such information—are met. Section 4 does not impose additional requirements to those of section 6. Section 4 and section 6 are to be read together.

ATTORNEY'S FEES (SECTION 5)

Some additional points should be made regarding section 5's provision of attorney's fees for prevailing defendants where the plaintiff's claim or conduct during litigation was "frivolous, unreasonable, without foundation, or in bad faith." If there was any aspect of this standard not discussed in conference negotiations, it was the "bad faith" aspect. The reason why is that it was assumed that prevailing defendants could generally in antitrust cases recover reasonable attorney's fees under even the American rule where a plaintiff acted in bad faith. Thus "bad faith" was included as a codification of present law and not, as with "frivolous, unreasonable, or without foundation," as a change in the law. This should be clear lest in other antitrust contexts the plaintiffs, citing this legislation as authority, argue that prevailing defendants are not entitled to attorney's fees in "bad faith" cases unless Congress has specifically so provided in legislation.

Further comment should be made regarding the most important word in the standard for awarding fees to prevailing defendants—the word "or." That standard states that plaintiff's claim or conduct of litigation was "frivolous, unreasonable, without foundation or in bad faith." Just as one may not suggest that "bad faith" is identical with "frivolous"—the former being a subjective test and the latter objective, although there is much in common between them, likewise one should not equate the other elements of the standard adopted by the conferees which were first articulated by the Supreme Court in the Christiansburg Garment case. Those elements were articulated by the Supreme Court in the alternative. They provide a prevailing defendant with different options, depending on the circumstances of the case. Thus a plaintiff's claim may be "unreasonable" in some circumstances even if not "frivolous." Such a standard with alternative elements must be distinguished from other standards, such as "arbitrary and capricious" where the elements are repeated out of an excess of legal caution.

It is particularly important to bear this in mind when reading the elliptical comment in the Statement of Managers that nothing in the attorney's fee standard is intended to change the present Federal civil practice of "notice pleading." Of course, we did not intend or cause any such change. But in saying that we, with equal conviction, did not intend to suggest that we condone the practice of plaintiffs filing suits with no rational basis to believe that a genuine legal dispute exists. "Notice pleading" allows a plaintiff to obtain evidence at the later discovery phase to establish a claim that a reasonable person in plaintiff's circumstances would believe to exist at the time the complaint was filed. It does not mean that plaintiffs are to bring suits based upon the mere hope that discovery will produce a case that no reasonable person would have brought. Notice pleading is a procedural benefit for plaintiffs; they need not disclose the details of their cause of action, but they must have one. Notice pleading does not mean that a lower threshold of rationality is required in bringing a case, only a lower threshold in giving a defendant detailed legal notice of a genuine dispute. If a plaintiff brings suit lacking such a reasonable basis, such a claim would be "unreasonable" and would justify the award of attorney's fees to the prevailing defendant.

Finally, courts must be mindful of the fact that the costs of R&D may often be higher than the costs of litigation. It would be a perversion of justice, let alone section 6, if our system allowed plaintiffs to file notice pleadings and engage in extensive discovery solely to obtain detailed information about the nature and objectives of a R&D program they chose not to finance. Lest this perversion of justice become commonplace, the conferees agreed on a sufficiently strong standard for awarding attorney's fees against such plaintiffs. The standard of "frivolous, unreasonable, without foundation, or in bad faith" should be read by the courts with this important purpose in mind.

Mr. Speaker, as a member of the Subcommittee on Monopolies and Commercial Law of the Judiciary Committee, I have been deeply involved in the formulation of this important measure. In my view, this is balanced legislation which recognizes international economic realities.

I strongly urge this House to act favorably on the conference report on S. 1841.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield?

Mr. FISH. I am happy to yield to my friend, the gentleman from California.

Mr. LUNGREN. I thank the gentleman for yielding.

Mr. Speaker, I think we should be very pleased that we have this bill before us today, although I have some differences with the final version that was worked out. I think perhaps we could have strengthened it a little bit more.

The art of compromise was necessary to get this bill out. On hearings that we have held in the Joint Economic Committee on the question of the competitiveness of American industry vis-a-vis the world marketplace, with specific reference to Japan, time and time again, every single witness virtually said that we had to do something about our joint R&D ventures with respect to antitrust immunity.

This is an act that we must have. It is something that will improve the position of American industry, particularly with respect to the Japanese competition, and I salute my colleagues for bringing it to the floor.

● Mr. MINETA. Mr. Speaker, I rise to express my support for the conference report accompanying the Joint Research and Development Act and to thank my colleagues for their wisdom and their perseverance in bringing about this compromise.

Without abrogating or undermining the kind of protection guaranteed to the American public by antitrust law, we are still able to contribute additional statutes which permit visionary and creative endeavors by American industry.

Without research and development, our economy will stagnate, and our position in the world marketplace will deteriorate. The path from the drawing board to full production is a long and costly one, and we have to facilitate industry's ability to carry this off. The conference report we are considering today will encourage new alliances and partnerships among industries so that they may pool their resources and their aspirations for new and better products.

Ultimately, it is our businesses and our consumers alike who will be well served by these new ventures.

Again, I wish to thank my colleagues whose expertise and whose imagination made it possible to preserve the best in antitrust statutes and yet have them be reflective of changing times and new economic realities.

Thank you very much.●

● Mr. WALGREN. I rise in support of the conference report on S. 1841, and I would like to state at the outset how pleased I am with the way in which this bill has evolved. Over a year ago, in July 1983, when I chaired the initial legislative hearings on research and development joint ventures, we had just completed oversight hearings on the subject of Japanese industrial policy and U.S. responses through research joint ventures. I referred at that time to the widespread view that we in the United States are wasting valuable and scarce resources by limiting ourselves to a system where companies must work totally independently in the same field of scientific interest—even on basic research.

The Subcommittee on Science, Research and Technology helped to develop the legislative concept that has evolved to the bill before us today. It is an attempt to eliminate the uncertainty, in terms of antitrust risk, that inhibits companies from joining together to conduct what can only be viewed from our national perspective as constructive, procompetitive research and development activities.

This is an important, positive step to increase the competitiveness of U.S. industry. With the enactment of this legislation, innovative companies will be also able to group together to meet the massive challenge from foreign governments that regularly pool their own industrial research talents.

I thank my collegues on both sides of the aisle for their recognition of the importance of this problem that has led to this crucial legislation which is a positive step forward to advance economic competitiveness for U.S. industries.●

● Mr. FUQUA. Mr. Speaker, I rise in support of the conference report on S. 1841 and urge my colleagues to vote in favor of it. I also wish to commend Chairman RODINO, Subcommittee Chairman EDWARDS, and Ranking Minority Member FISH of the Judiciary Committee and their staffs for their hard work and leadership in forging this compromise now before us. It, in my opinion, represents an improvement over both the Senate passed bill, S. 1841 and the House passed bill, H.R. 5041.

As you are aware, Mr. Speaker, the Committee on Science and Technology took the early leadership in this Congress, in making sure the antitrust laws do not unduly restrict legitimate joint research and development efforts. Industrial innovation through research and development has long been a topic of crucial interest to the membership of the Science Committee. We were keenly interested in ending the chilling effects of the antitrust laws in this area when we unanimously reported the bill H.R. 4043, the Research and Development Joint Venture Act, in November 1983 and later when we negotiated with the House Judiciary Committee on the differences between H.R. 4043 and H.R. 5041 to arrive at the House-passed version of H.R. 5041. This conference report also reflects multiple committee expertise in this general area, where civil law and science overlap. The report now before you, which was put together in painstaking detail over a period of a month and a half, includes complete consideration of the views and expert opinions of all involved.

I am convinced that we accomplished our objective of making antitrust law more tolerant of research and development, and that in future years the bill now before you will be viewed as an important milestone in our efforts to enhance the worldwide competitiveness of U.S. industry.

In closing I would like, from a Science and Technology Committee perspective, to mention a few key elements of the conference report which are the basis of my support of this specific legislation.

The definitions section of the committee report comes primarily from the House version and provides a fairly precise definition of joint research and development venture activities. The conferees replaced the engineering section of the definition with more exact language emphasizing basic engineering. Our intent was to make clear that industry standard-setting activities are not to be covered by this act. Also, the rule of reason language, section 3, is closer to H.R. 4043 than to the House-passed language.

In defining "market share" the statement of managers language in explaining this section correctly points out that overseas competitors will usually be significant factors in properly defined R&D markets. This point was of major significance both to the membership of the Committee on Science and Technology and to the committee on conference.

The disclosure section in my opinion strikes a reasonable balance between the public right to know, in general terms, where the venture is headed, and the venturers' right to develop a proprietary position and to be free from excessive paperwork.

Mr. Speaker, I would like to reiterate my strong support for this legislation and I urge my colleagues once again to give this bill their wholehearted support.●

Mr. MOORHEAD. Mr. Speaker, I rise in strong support of the National Cooperative Research Act of 1984 (S. 1841).

This legislation is the direct successor to the Joint Research and Development Act of 1984 (H.R. 5041) which this House approved by the overwhelming margin of 417 to 0 on May 1, 1984. It is also analogous to and patterend after title II legislation which I introduced last year on behalf of the Reagan administration. That bill was entitled the National Productivity and Innovation Act (H.R. 3878).

This bill and its predecessors reflect a congressional consensus that American companies should be encouraged

to cooperate through the joint venture mechanism in the area of research and development. It specifically recognizes that American companies must be able to enter into cost-sharing, cooperative efforts to pursue scientific and technological investigation, without facing an undue fear of costly litigation and potential treble-damage judgments under the Federal antitrust laws.

S. 1841 is a refinement in the antitrust laws, which removes the disproportionate incentives now available to private litigants who seek to undermine the viability of a particular joint venture. This is a bipartisan legislative initiative which presumes the necessity of an intensified research and development effort, if the United States is to continue to compete effectively in the international market place.

At times, this legislation has been characterized as a high tech bill. But while this is true in part, it also should be emphasized that the benefits of this new statute will be available to our traditional, basic industries—steel, automobile, and pharmaceutical companies, as well as electronics and computer firms.

Section 3 of the conference version of this bill specifically states that joint research and development ventures are not to be considered by the courts to be illegal per se. Rather, the language of section 3 emphasizes that courts are to evaluate these joint ventures under the rules-of-reason standard in antitrust law. Furthermore, the conferees adopted language added in the other body mandating that the courts take into account all relevant factors affecting competition, including, but not limited to, effects on competition in properly defined, relevant research and development markets. So, for example, where a worldwide market is the relevant market, that should be considered by the court. We recognize that section 3 does not contain an exhaustive list of all of the criteria or factors that go into a rule-on-reason analysis. Rather, the conferees expect the courts to not only look at the statutory language of S. 1941, but also the language contained in the Joint Explanatory Statement of the conference committee which further elaborates upon and details our intent.

Furthermore, under section 4 of this legislation, potential damages recoverable against a research and development joint venture are limited to actual damages, plus interest and reasonable attorney's fees, This limitation on damages, which precludes the possibility of devastating treble-damage judgments, is achieved by a joint venture meeting the disclosure requirements contained in section 6 of the act.

The bill approved by the conferees specifies that a joint venture must notify the Attorney General and the Federal Trade Commission of the identities of the parties to the venture and the nature and objectives of the venture, for the limitation on damages provisions to apply (section 6(a)). The decision to disclose the existence of a joint research and development venture is a voluntary one by the venture itself. Only they can weigh the disadvantage of disclosure against the advantage of limiting their potential exposure under the antitrust laws to actual damages, rather than treble. However, we have simplified and narrowed the disclosure requirements so as to minimize the potential negative implications for joint ventures.

The parties who choose to exercise the disclosure option are required to notify the Attorney General and the Federal Trade Commission not later than 90 days after executing a written agreement to form such a venture, or not later than 90 days after the effective date of this act, whichever is later. Following this initial, general notification an even less detailed Federal Register publication notice is also required under section 6(b), within 30 days after its receipt by the enforcement agencies.

The role of the Department of Justice and the Federal Trade Commission in implementing section 6 is intended to be a purely ministerial one. Also, the conferees do not intend that a joint venture be required to anticipate or specify every form of activity or conduct in which the joint venture may engage, to meet the disclosure requirements of section 6. Rather, a notification will be considered to satisfy the statutory requirement if it is sufficient to enable the enforcement agencies to meet the abbreviated Federal Register notice requirement under section 6(b).

Section 5 of the bill allows a prevailing defendant—that is, the joint venture—to be awarded attorney's fees and related litigation costs, when the claimant's—that is, a nonprevailing plaintiff—suit was either frivolous, unreasonable, without foundation, or brought in bad faith. These are separate criteria, to be analyzed separately and applied separately by the court. For example, a suit may be judged to be unreasonable given the facts and circumstances, even though it would not be categorized as merely frivolous or one totally lacking in foundation.

S. 1841 represents compromise and cooperation on the part of the Members of this House and the other body. The Reagan administration, particularly through the efforts of the Department of Commerce and the Department of Justice, has been of great assistance in formulating and refining the provisions of this important legislation.

The elimination of potential treble-damage liability, along with the reinforcement of congressional intent on the applicability of the rule-of-reason test to these joint ventures is a significant step. It will serve to remove the clouds of deterrence and doubt that currently hover over these types of cooperative activities, discouraging their very formation. Again, the overriding purpose of S. 1841 is to encourage American companies to compete more effectively in the international marketplace. All of the provisions of this legislation should be interpreted in a manner consistent with that overriding purpose and intent.

I urge the adoption of the conference report.

Mr. FISH. Mr. Speaker, I would just like to commend all my colleagues on the committee for really bringing to this House a first-rate piece of work, and particularly the chairman of the subcommittee, the gentleman from California [Mr. EDWARDS].

Mr. Speaker, I yield back the balance of my time.

Mr. EDWARDS of California. Mr. Speaker, I thank all my colleagues, the gentleman from New York [Mr. FISH], the gentleman from California [Mr. LUNGREN], the gentleman from Illinois [Mr. HYDE], and all my colleagues on the Committee on the Judiciary, and the gentleman from Florida [Mr. FUQUA], the distinguished chairman of the Committee on Science and Technology, for their assistance on this bill.

Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

□ 2000

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

SUNDRY DEFERRALS OF BUDGET AUTHORITY FOR 1984 AND 1985—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 98-273)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read, and, together with the accompanying papers, with-

out objection, referred to the Committee on Appropriations and ordered to be printed.

(For message, see proceedings of the Senate of today, October 1, 1984.)

BORROWING ABROAD SPELLS TROUBLE AHEAD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, as we read about the soaring value of the dollar, and the struggle of debtor nations and the International Monetary Fund to devise a plan for their economic recovery, the claims that this Nation's economy is recovering sound plausible and comforting. But the largely untold story reveals a shaky U.S. economy which is dangerously dependent on foreign investments—a dependence which could transform the United States into the world's largest debtor nation.

Currently, foreigners hold over $170 billion of the U.S. debt, a figure which is increasing daily. Foreign investors are attracted by the high interest rates paid. The source of these high interest rates is the Government's insatiable need for funds to make interest payments on this administration's runaway deficit. Like a drug addict, the Treasury hungrily seeks its next fix of borrowed money, regardless of the cost or source.

Foreign investment in the U.S. debt helps meet the Government's demand for funds, and artificially lowers interest rates, but there is a price that will be paid. The inevitable withdrawal of foreign money will cause a sharp rise in interest rates. The President's former Council of Economic Adviser's Chairman, Martin Feldstein, thinks the pull out will come next year and be steep. In order to compensate for this lost source of money, the Government will compete for a larger share of the remaining funds. This increase in demand for cash will send interest rates rocketing.

Another indication of our country's dependence on foreigners is the trade deficit, which recently grew to a record $24.4 billion in the second quarter. The current deficit of $44.1 billion for the first half of the year has already surpassed the total 1983 deficit of $41.6 billion. Because of the high exchange value of the dollar, Americans are buying more foreign goods, which are relatively cheaper. At the same time, American-made products are more expensive overseas and, therefore, in less demand. Put simply, the United States is buying foreign products, but American products are not selling well at home or abroad. Domestic producers are caught in a vise, since they cannot compete with the imports made cheaper by the strong dollar and they cannot export their wares because the strong dollar makes their prices uncompetitive in foreign markets.

The resulting gap in payments means that the United States is forced to borrow from other countries to finance the excess of imports. Economists are now warning that the United States may become a net debtor nation, rather than a net creditor nation. Unless we address the source of these economic problems, namely, the huge deficit, our economy will face the problems of nations which failed to adequately control their economic problems. We can look forward to negotiations with creditor nations to reschedule our debt, like Mexico, or to the 650 percent hypertension rate of Argentina.

Yet the current administration refuses to address a problem it helped create and is worsening. When President Reagan took office, the Federal deficit was under $60 billion. It is estimated that this year's deficit will topple $172 billion. The President has pursued a course which adds to the growing deficit. He proclaims that no new economic policy is needed to address the alarming problems caused by escalating deficits and dollar values. Mr. Reagan's own Office of Management and Budget attributes an estimated decrease in deficits not to his claims of economic growth, but to the actions of Congress.

I urge my colleagues to continue our pursuit of reducing both the deficit and our dependence on foreigners through sound economic policies, and to insist that this administration do the same.●

BOB FISCHER, AN OUTSTANDING PUBLIC SERVANT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, I want to call to the attention of my colleagues the approaching retirement of Assistant Chief of Police Francis P. (Bob) Fischer of the city of Carmel-by-the-Sea Police Department.

After 31 years of dedicated service to the city of Carmel-by-the-Sea, Chief Fischer will retire on January 2, 1985. The police department will honor Chief Fischer with a dinner party on November 24, and it is my hope that this statement will be read on that occasion.

Bob Fischer was born in San Francisco in 1926 and moved to the Monterey Peninsula with his family. He attended schools in San Francisco and Pacific Grove, and he also attended Monterey Peninsula College and San Jose State University.

Bob was first appointed a police officer by the Carmel Police Department near the end of 1953. He became a sergeant on January 1, 1961, and 5½ years later he was appointed lieutenant. In 1976, Bob was appointed captain, and earlier this year, he was named assistant chief of police.

Bob Fischer's long career with the Carmel Police Department is an example of dedicated public service to which many aspire but which few actually achieve. The people of Carmel-by-the-Sea owe him a debt of gratitude for his hard work on their behalf. As a resident of nearby Carmel Valley, I know how hardworking the Carmel Police Department is, and I know that such an effective police force is impossible without the presence of caring personnel like Bob Fischer who are willing to devote their lives to the betterment of the lives of their fellow citizens.

I am sure that Chief Fischer's wife, Marian, and his three daughters and seven grandchildren are extremely proud of him. I am also sure that his family looks forward to his retirement. I want to extend to the entire family my own congratulations and the best wishes of the House of Representatives on this special occasion.●

PROCLAIMING MONTH OF OCTOBER NATIONAL QUALITY MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. LUNDINE] is recognized for 60 minutes.

Mr. LUNDINE. Mr. Speaker, on Friday President Reagan signed my resolution proclaiming the month of October "National Quality Month." Today, the first day of Quality Month, we salute the commitment of American business to high quality in manufacturing and in services.

I firmly believe that quality products means jobs for Americans. Quality means increased productivity and profitability. Labor and management must work together toward the common objective of making the best products in the world. "Made in America" must be a pledge of high quality to customers around the world. I firmly believe that the result can be thriving American industries which can support more and more jobs every year.

The idea of National Quality Month is to focus the Nation's attention on the need for quality in all aspects of business, manufacturing and services. From independent experts, as well as from my work on the House Committee on Science and Technology, I know that American industry has the technology and skills to put quality systems in place. What's needed is a total commitment to quality.

In industries where quality systems have been instituted—in aerospace, in defense supply, in automotives—there have been dramatic increases in productivity and profitability. There is no reason why every industry should not establish a quality system. The results achieved to date make this imperative.

My resolution puts Congress on record in support of quality first as an essential national priority. By taking this action, we are giving the message that Congress will encourage business and industry to recapture our preeminence in products and services by implementing quality systems.

In your district, as well as in mine, our industries face unprecedented competition from international markets. Foreign competition, particularly in labor intensive industries, has had a tremendous impact on our economy and has forced business, industry, labor and management to revaluate our production and marketing strategies.

Part of our problem in international competition is that we became sloppy as a major supplier of manufactured goods. No other country is up to our technological capability. The competition is not smarter than we are. We simply did not advance quality to the extent that we could have. We lost the commitment to high quality that we taught others was essential for productivity and profits.

Attention to quality is what turned Japan around from a country known for low wages and shoddy products to a nation which now manufactures some of the best quality products in the world. Most of Japan's success today can be attributed to that nation's simple dedication to quality.

The principle of high quality was developed in this Nation. From colonial days when our forefathers practiced their trades in small, backyard shops, American goods enjoyed a reputation for high quality and precision crafting. Today there is a revival of concern for high quality all over the country. It is evident in the strategies of our major corporations. It is evident in the small businesses on Main Street. Executives have realized that high quality means customer satisfaction and customer satisfaction means sales. Workers have realized that high quality means jobs. There is a heightened consciousness among workers about quality and the satisfaction associated with taking pride in their work and in a job well done.

National Quality Month is an important opportunity to increase corporate and public awareness about the need for "quality first." It is an important opportunity for everyone to acknowledge the vital role quality plays in producing goods and services for the international marketplace. It is an important opportunity to rededicate ourselves to the idea the "made in America" means "quality first."

A TRIBUTE TO THE HONORABLE JOHN N. ERLENBORN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. MICHEL] is recognized for 60 minutes.

Mr. MICHEL. Mr. Speaker, it is customary on the occasion of the retirement of one of our colleagues to pay tribute to him in a special order. These tributes are most always mixtures of sorrow and joy. We are sad to see our colleagues leave, but we are glad to have the chance to say nice things about either he or she. That rule holds true today as we pay tribute to our good friend and respected colleague, JOHN ERLENBORN.

Before I speak of JOHN's fine record over a period of 20 years, I would like to make some general remarks about the fact we are losing so many of our colleagues through retirement. When we look around this Chamber and see such stalwarts as BARBER CONABLE, KENNY ROBINSON, LARRY WINN of Kansas, JOEL PRITCHARD of Washington, HAL SAWYER of Michigan, on our side of the aisle, and my good friend JACK EDWARDS of Alabama, yes, our ranking member on the Appropriations Subcommittee, I have to get concerned about what is really happening in this House.

We're supposed to be the "people's House," doing the people's business. But in the last 10 or 15 years we have become a transmission belt for bills.

We are trying to do too much, and doing it poorly.

In a very real sense, we have become a House divided.

We have become a body dominated by dozens of subcommittee feifdoms, each jealous of its own prerogatives, each eager to bask in glory of its own devising.

Instead of being able to turn our attention to the concerns of the people, we are forced by our system to concentrate on the increasingly complex and demanding schedule and workloads.

Just at a time in their careers when they have reached positions of authority and seniority—and, yes, wisdom—many of our colleagues are looking at what we have done here and are saying: "I'm fed up. I'm going home. I'm not going to try to bang my head against the wall any longer. I've had it."

The breakdown in civility and comity that has troubled so many of us in recent years has also contributed to the decision of so many fine people to retire.

Civility isn't a sign of weakness; comity isn't some kind of gift to be denied or bestowed by the majority.

Civility is the strength of our process; comity is the honor of the House. They are both essential to the operations of this House, yet they have declined in recent years under partisan pressures, personal feuds, and political ambitions.

So when you get a situation in which the House is divided against itself because of a plague of subcommittee jurisdictions, and when civility is looked upon as selling out to the enemy, and comity is seen as an archaic notion out of place in this brave new world—no wonder you get good and decent men and women packing their bags and leaving town.

It's tougher on those of us who have been in the minority for so many years.

If you don't make the effort you can get used to your chains and be oh, so glad when you get a pat on the head from the masters of the House.

It takes extraordinary dedication to rise above that kind of mentality. You have to have heart—but you also have to have spirit and fortitude.

JOHN ERLENBORN has shown all of these qualities.

Yet even he has decided to retire.

That's bad for the House and bad for the country. We can't afford to lose leaders like this.

This rash of retirements among senior Members who have years of good service left is one of the biggest problems we face here.

I think it's time we recognize the fact.

The House needs nothing less than a full-scale overhauling to make it capable once again of being a deliberative body that does good work, not just a lot of work.

Such a reform will take course and foresight and planning—but it has to be done.

There is no partisanship in this. Much of what has happened in the House reflects American society at large, the demands made upon the House for action by a thousand and one interests.

But if this merry-go-round of legislation is causing some of our best people to simply say: "That's enough, I'm going home," surely the time has come to do something.

This brings me to the fact that JOHN ERLENBORN is retiring.

The "Almanac of American Politics for 1984" says this about JOHN:

> Erlenborn is not afraid to crawl into the lion's mouth; he is ranking Republican on House Education and Labor Committee . . . (his) chances of gaining a working majority are slim . . . yet he has had his success on the floor. . . .

And many other things.

That is a capsule summary of why JOHN will be missed around here.

He is unafraid to take on the really tough jobs, he knows the political facts of life in a House dominated by the other party, but he also is a leader

who can win victories against great odds, and he has proven that on any number of occasions as he took to the well of this House and against all his peers here in this body stood his ground for what he felt so deeply about, even if he were daring at that time to be a Daniel and standing alone, and that is one of the other characteristics I have always admired JOHN for.

That's the kind of leader this House can ill afford to lose, no matter what party you come from.

My predecessor as Republican leader, JOHN RHODES, once said of JOHN:

He might be the best we have. He never got into that minority-loser frame of mind.

Let the record show that the current Republican leader endorses that view.

And that is the reason we honor JOHN today. Not just because of his legislative skills which are formidable. Not just because of his knowledge of education and labor policies which is vast—but because he has the courage and the patience and the willingness to fight and win for what he believes in.

Intelligence and experience and knowledge count. But I've seen plenty of people around here with those qualities who just couldn't get things done.

You need something else.

In the words of the old song: "You gotta have heart"—and JOHN has it.

JOHN will be leaving the House, but he will not be "retiring" in the true sense of the word. There is another life beyond this House, as we have heard tell from several of our recent retirees, and JOHN's many talents will be used out there in the private sector.

We know he will be doing very well and we wish him all the best in whatever he chooses to do.

□ 2010

There are many Members who have asked me to yield. I am happy to yield to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. I thank the gentleman for yielding and I very much thank the gentleman for taking this time on this special order to talk about a very special man, a very special Congressman.

I would stand here today and share with my colleagues my very strong personal and professional respect for one Mr. JOHN ERLENBORN. JOHN ERLENBORN had been here for 18 years when I arrived in the House in January 1983, but JOHN ERLENBORN taught me, taught me more than any other single Member of this House.

When I came here he had already been here for 18 years and he did not have to sit down and talk to this young freshman and do a little teaching, but he did. He took the time. He took the time and provided a little advice and a little counsel. He did not have to do it but I would say to my friend, the minority leader, but through JOHN ERLENBORN's advice and counsel this young freshman got a head start and began to understand the legislative skills and legislation.

You see, JOHN ERLENBORN sat down and said to me, as I know he has demonstrated for 20 years, that you can have an impact no matter how badly it appears that you are outvoted. He said, "STEVE, if you do your homework, if you go in there," and I never have forgotten his rules that he laid out for me that day, he said, "Do your homework, know more about that subject than anybody else in that room, get there early, show respect for people who have been here longer, for people who know something about the subject. Ask them questions. But above all," he said, "be gracious and be polite, but above all," JOHN ERLENBORN said, "don't give up. Be persistent. Don't accept defeat at the subcommittee just because you get outvoted. Take it to the full committee. Don't accept defeat at the full committee. Take it to the Rules Committee, take it to the floor, take it to the other body, take it to the conference, take it to the administration back around on a veto message if you have to, but you can win, if you mind your P's and Q's, if you do your homework, if you know about the subject, and if you are persistent."

I would say to the minority leader that JOHN ERLENBORN has been a stalwart in this House. He has provided leadership at every level and on a number of issues. He never raised his voice. He is a gentleman. But he has been this House's persistent gentleman for the last 20 years.

Members around here learned to respect the Erlenborn substitute, sometimes it would be called the Erlenborn bill, sometimes it would be called the Erlenborn amendment, and I say to the minority leader, sometimes it was called the Erlenborn Act, an act that was signed into law.

No Member in this party I think has been as successful at legislative skills as JOHN ERLENBORN. He has been a member of the minority party for 20 years, the so-called minority. He was on the minority on the Education and Labor Committee, and oftentimes also the minority on the floor.

He negotiated, yes. But he maintained his conservative principles in every case.

He believed in making changes, in having an impact. JOHN ERLENBORN was never here as just a guy who was here to maintain the status quo. He was going to be here to do things that were best for America.

JOHN ERLENBORN, it seems to me, above all never accepted minority status. He never accepted that just because he started out outvoted he would always be outvoted; he never accepted the minority mindset.

I say to the minority leader, JOHN ERLENBORN was outvoted on a few things but he was never outthought and he was never outworked, and he was a persistent gentleman and he was a winner.

He won on ERISA where he set out as a member of the minority party in a difficult year to protect the pensioners of this Nation and he won. He was a winner when he stopped "commonsitus" and he was a winner.

He was a winner when he set out to curb the abuses in the student loan program and then he was a winner when he set out to create Sallie Mae to make sure that the student loan program would exist so that students could go to school and pay back their loans.

Mr. Minority Leader, I rise to commend one of this House of Representative's greatest legislators of all time.

Mr. MICHEL. I thank the gentleman for his very eloquent contribution to this exchange. It is quite obvious that the gentleman from Texas learned his lesson well, because in the very relatively short period of time that he has been here he has taken on pretty much the very recommendations that JOHN had advised him of as a freshman Member and acquitted himself in fine fashion on so many very spirited discussions that we have had here on the floor of the House. I think JOHN is going to be mighty proud to know that one of his students fared so well in such a relatively short period of time.

Mr. BARTLETT. If the gentleman would yield, I thank the gentleman for his kind words and I do consider myself to be in some small way an Erlenborn protege because he did help to teach and he did help to guide the way. He has meant a lot to this House and he has done a lot of good things for this country. We will miss him.

Mr. MICHEL. You will never find a better standard than that of JOHN ERLENBORN.

Let us now turn to one of the senior Members that I made reference to who, like JOHN ERLENBORN, will be leaving this House with our regrets, the gentleman from New York [Mr. CONABLE]

Mr. CONABLE. I thank the gentleman and I think him also for calling to our attention the departure of our friend from these Halls.

JOHN came to Congress the same time I did. I have observed his conduct in office with the greatest admiration. He has always been the calm in the legislative storm, the rock unmoved by the winds of rhetoric which may roar around about, the mighty oak which rises tranquil above the disorderly wilderness of politics.

In short, this cool, calm, cerebral man has a self-possession and a quiet confidence which well demonstrates his consistent competence, his thorough preparation, and his solid abilities.

He is also a thoroughly decent man, a loyal friend, and a modest athlete, and a man who, like the other giants of his class in Congress, knows when to quit. I thank him for his services to our country, and I feel great pride that we have served together. I am glad he will take the same skills to the private sector that he has so preeminently demonstrated here.

Mr. MICHEL. The gentleman, in his own way, has made the kind of contribution here that I am sure when JOHN reads the RECORD, whenever it happens to be, will just get a twinkle in his eye and make some comment to the effect that BARBER, in true fashion, is reaching back and using all of that beautiful, beautiful expression that only he can give us from time to time at the appropriate hour.

Mr. CONABLE. If you will yield further, I think there is an apt question from Shakespeare for this from one of the sonnets.

They that have power to hurt and will do none, that do not do the things that most do show, who moving others are themselves as stone unmoved, cool and to corruption slow, these surely shall inherit heaven's graces and husband nature's riches from expense, they are lord and masters of their places, others but students of their excellence.

We all here are students of the excellence of JOHN ERLENBORN.

Mr. MICHEL. Oh that we all had that gift of recalling as the gentleman from New York.

Mr. NIELSON of Utah. Will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Speaker, I rise today to join my colleagues in paying tribute to Congressman ERLENBORN. It has been a pleasure to work with JOHN on the Education and Labor Committee. He has gone out of his way to encourage and support the participation of the new members on the committee. His congenial manner and extensive knowledge of legislative history has made him a most capable leader on the minority side. In fact former Minority Leader John Rhodes once said of JOHN "he might be the best we have."

JOHN ERLENBORN's name is synonymous with some of Congresses most important legislation of the past 18 years. He deserves much credit for his work on pension reforms, individual retirement accounts ERISA, and vocational education issues just to name a few. His distaste for Federal waste and abuse has led him to be a constant watchdog and advocate for the taxpayer. He has been a respected spokesman for the minority positions on the Education and Labor Committee as well as the Government Operations Committee.

Besides his ability as a leader, JOHN is a gentleman and a friend.

My wife and I had the opportunity to travel with JOHN and his wife Dottie and it was one of the highlights of this session.

JOHN has left his mark on Congress and his presence as a Member of this body will be missed. We all wish him continued success in his endeavors in the private sector and I extend my heartfelt best wishes for the future.

□ 2020

Mr. MICHEL. I thank the gentleman [Mr. NIELSON of Utah] for his valuable contribution.

Mr. Speaker, at this time I yield to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Speaker, I thank the distinguished gentleman from Illinois, [Mr. MICHEL] for yielding, and for organizing this special order.

One of the benefits of serving in Congress is having the opportunity to work with our colleagues. The people of our country, in their wisdom, have filled this Chamber with many exceptional men and women. For the past two decades, one of the best has been the gentleman from Illinois [Mr. ERLENBORN].

Perhaps the most important working relationship in this House is that of a committee member and the party leader of the committee on which he or she serves. As a Republican member of the Committee on Education and Labor, I have had the distinct privilege of working with Mr. ERLENBORN as my ranking Republican member. He has made that relationship a pleasure by giving me every opportunity to develop my own legislative initiatives, by providing a solid committee support staff, and by standing always ready to give leadership and advice when needed. Throughout our time together on the committee, I have learned from his experience, benefited from his wisdom, and enjoyed his wit. For this, I thank him.

Beyond this personal relationship, I thank him for his many enduring legislative contributions. His knowledge of labor law is unsurpassed on our committee. He has tirelessly used that knowledge to improve legislation in that critical area of government involvement with the economy. Both management and labor should appreciate what he has done for them, and for all of us.

Mr. ERLENBORN has served our country well during the past two decades. He has also served his constituents well. Coming from a district near his, I know how popular he is among the people he represents. They would have happily returned him to Congress for another two decades if he had been willing to run. That, in itself, is the highest tribute an elected official can receive. At this time, however, he has chosen another course. While I regret his decision, I nonetheless wish him well in his new endeavors. Good luck, JOHN ERLENBORN, and God speed.

I thank the Speaker.

Mr. MICHEL. I thank the gentleman for his contribution.

Mr. Speaker, at this time I yield to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. I thank the distinguished majority leader for yielding to me and for calling this special order on behalf of our beloved friend and colleague, JOHN ERLENBORN.

It is the sometimes difficult burden of many Members on the minority side of the aisle to be assigned to a congressional committee that all too frequently serves as a forceful springboard for what some of us might sometimes view as misguided, liberal legislation. The experience can be overwhelmingly frustrating and defeating.

It has been JOHN ERLENBORN's lot in Congress to serve on just such a bastion of Great Society legislation, the House Committee on Education and Labor.

But JOHN ERLENBORN was not defeated by the system. As the former minority leader of the House, John Rhodes from Arizona, once said, "ERLENBORN never got into that minority-loser frame of mind."

Indeed, through the pure force of his intellect and legislative skill, Representative ERLENBORN stood up to the odds on issue after issue on the Education and Labor Committee. Time and again, he forced the committee to reach at least what he felt was a reasonable compromise.

And for years, most of us in the minority have been able to take our cues from the gentleman from Illinois on labor legislation in particular. We knew that if he had manuevered the committee to a compromise he found acceptable, we too could live with the legislation.

But if the committee had not compromised, JOHN ERLENBORN would invariably come to the floor with a powerful, lucid, "Erlenborn substitute" that could quite often defeat the committee position in the full House of Representatives.

The American economy owes a great deal to JOHN ERLENBORN's wisdom and skill at helping this body reach commonsense approaches to labor and education legislation. He singlehandedly blocked the passage of dozens of bad bills.

Former minority leader Rhodes made one other insightful statement about the departing gentleman from Illinois. Rhodes said, "ERLENBORN might be one of the best we have."

JOHN ERLENBORN is one of this country's best legislators. He will be sorely missed in this body—by many of us, including myself, as individuals, and by the people for whom he dedicated his efforts—the American people.

Mr. MICHEL. I thank the gentleman for his contribution.

Mr. Speaker, I cannot help but make the comment that what a shame it is, with JOHN some 20 years in the House of Representatives, being as forceful as he has been in putting his imprint on pieces of legislation in this body, but for the lack of playing a role in the majority, being chairman of the subcommittee or chairman of the full committee and having his name actually on the piece of legislation as a coauthor with a Member from the other body, as is customary for now the 28 years that this Member has been a Member of this body, always as a member of the minority, that Members have contributed considerably, even as minority Members, but so little recognition, frankly, on the printed page for historians to recall who really had the bigger part of an imprint on a specific piece of legislation simply because he was not in a majority status to have that name recognition but had to be satisfied with doing his job with very little recognition for it.

So, JOHN, as each and every one of the Members heretofore have been making reference to, was an ideal legislator here who we are certainly going to miss in the days ahead.

Mr. Speaker, I am happy to yield to my colleague, the gentleman from Illinois [Mr. O'BRIEN].

Mr. O'BRIEN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, today I salute a lawmaker with whom I have worked shoulder to shoulder for my entire congressional career; a fellow Illinoisan whose substantial influence has touched many professionally in Congress, JOHN ERLENBORN.

JOHN, is now planning to become a specialist in labor and pension law with the national firm of Seyfarth, Shaw, Fairweather & Geraldson. It is undoubtedly his untiring work in the legislative field, as the ranking minority member of the House Education and Labor Committee, that qualifies him for this new and challenging role.

His accomplishments have been stellar. The Employee Retirement Income Security Act of 1974, which protects workers' rights to pensions and establishes minimum Federal standards for private pension plans comes first to mind; his work to require uniform audits of Federal pension plans in 1978 ranks near the top. He is the author of the Equal Employment Opportunity Act of 1972 and his proposal for a three-step increase in the minimum wage won approval of the House in 1977.

JOHN, has played important roles in the crafting of every piece of labor-related matter to come before this body in the past 19 years.

The concept and legislative architecture of the Individual Retirement Account [IRA] bears stamp of JOHN ERLENBORN as well.

And on the Government Operations Committee, where he is the second highest ranking minority member, JOHN ERLENBORN, has continued to follow the conservative line and battle waste and fraud in the halls of government itself.

A former member of the Illinois House for a period of 8 years there, he was an active member of the economy bloc, a group of conservatives that fought against higher State spending and a perceived wave of racketeering in the State.

I guess what I would like to say, in addition, is something rather personal. When I came here 12 years ago, just before redistricting, JOHN ERLENBORN was my Congressman. I got to know him when he was out here. I got to know him when Congressman MADIGAN and I served in the House together.

I recall very personally and very sensitively how much he did to help me get elected to this House. He not only worked hard for me himself, but he had people who had really committed themselves to his campaign, a young woman named Jo Maxwell, for example, who committed themselves to my campaign because JOHN had urged them to do so.

Mr. Speaker, I have always regarded him as a calm, cool, very conscientious legislator, someone to emulate, someone to treasure while he is here, someone to miss when he is gone.

Mr. MICHEL. I thank the gentleman for his contribution. I am here again reminded by the gentleman, Mr. O'BRIEN, having served in the State legislature along with the other gentleman from Illinois [Mr. MADIGAN]. JOHN ERLENBORN served a stint with the two gentlemen in that same State legislative body as did our former colleagues, Congressman Railsback and Eddie Derwinski. We have had great history in the State of Illinois in drawing upon distinguished members of our legislative branch, both in the House and in the Senate, to come to the Congress with a wealth of experience. And by the time they are here, they are hitting the ground running.

Mr. Speaker, I am happy to yield to one of those particular gentlemen, ED MADIGAN.

Mr. MADIGAN. I thank my leader for yielding.

Mr. Speaker, I am very pleased that so many Members of JOHN ERLENBORN's Committee on Education and Labor have stayed with us here at this late hour to talk about his legislative accomplishments which are very well known to them because of their service on the committee with him.

But GEORGE O'BRIEN provoked a thought process in my mind that I wanted to share with my leader from Illinois.

□ 2030

In 1964 JOHN ERLENBORN was elected in what was certainly not a banner year for our political party. As GEORGE has said, JOHN was elected from a district that then included Du Page County and Will County.

Well, in that particular campaign, there was several candidates from Du Page County and only one from Will County, a gentleman named Barr who would up being my seatmate in the Illinois Legislature a couple of years later.

But during the 1964 campaign it looked like Bill Barr was going to Congress because there were all of these candidates from Du Page County and one from Will County and JOHN was just one of those Du Page County candidates.

When the votes were counted somehow JOHN had managed to get almost all the votes in Du Page County and quite a good number of the votes in Will County.

Two years later I was serving in the legislature and had this seatmate, Bill Barr, who had run against JOHN ERLENBORN. JOHN came down to visit the chamber that he had left a couple of years before to come to the Halls of Congress and I was amazed at the reception that he was given. He was given a standing ovation by the Democrats and the Republicans in the Illinois House of Representatives when he walked into the chamber.

Bill Barr said to me,

There is one thing in politics that you don't ever want to do. Don't ever run against JOHN ERLENBORN for anything. Because the people love the guy. He is so good on the stump. He understands so well the issues. He understands so well the workings of government that he makes anybody else pale by comparison.

I was impressed with this man who had run against him having those kinds of things to say about JOHN and impressed with the reception he was given by both the Democrats and Republicans in the Illinois House of Representatives.

I thought I would just add that footnote that just as he is so well remembered here by all of us, he was so well remembered there by the ladies and gentlemen back in Illinois who had had the pleasure to serve with him in another legislative chamber.

I thank the gentleman.

Mr. MICHEL. I thank the gentleman for that very personal touch.

Mr. Speaker, I am happy to yield to another distinguished Member on the Democratic side, the gentleman from Wisconsin [Mr. OBEY] for whatever re-

marks he might like to make at this occasion.

Mr. OBEY. I thank the minority leader for yielding.

Mr. Speaker, I did not know frankly that this was going on. I turned my TV set on in the office and saw a discussion about JOHN ERLENBORN and I ran over here to try to make a few points.

I recall coming here in 1969. At that time I had never heard of JOHN ERLENBORN, but I saw on a number of occasions that JOHN was standing up and providing alternatives to the conventional wisdom of the time. I never—I should not say that I never—but I very seldom agreed with JOHN, but I must say that I thought he held his position and presented his views with grace and with forcefulness and clarity and in every definition of the word he was a consummate professional. Certainly nothing that he has done since that time has changed my view of him in that respect.

I think that he is an example of the kind of person which this institution is losing when we really cannot afford to lose them. I see BARBER CONABLE sitting here on the floor, another Member who will weaken the place by his leaving.

I just wanted to come over and pay my respects as a Member of this side of the aisle who has respected for a long time JOHN'S ability to make a point, JOHN'S ability to carry a point of view without questioning people's dedication to an issue or without questioning their motives. He is a consummate professional and I think he has done honor to this House by his service here. I just wanted to come over here and say that this evening.

Mr. MICHEL. I am sure that JOHN will appreciate reading the RECORD because the gentleman from Wisconsin is a very skilled debater and one who will stand his ground here in this House and contribute so much to the legislative process, always feeling strongly about his point of view, but willing to yield to the other side for an argument just for the sake of trying to craft a better piece of legislation. Between maybe two extremes if it had been between JOHN ERLENBORN and DAVE OBEY, chances were that the fact that they were the focal points of the argument what ended up in between was a better product. And that is what this House is all about.

Mr. Speaker, at this point I am happy to yield to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. I thank the minority leader for yielding.

Mr. Speaker, it is indeed a pleasure and an honor to be able to participate in this Special Order for JOHN ERLENBORN. Our statements today pay tribute in a small way to the 20 years of outstanding service that JOHN has brought to this body.

I have worked with JOHN on the Education and Labor Committee for the past 10 years, the last 2½ of which he has served as ranking Republican. During this time I have respected his ability as a legislator and his leadership capabilities and commitment to Republican ideals. He has consistently exhibited a solid understanding of the issues at hand and has utilized the rules of the House to bring balance and equity to the legislative process.

JOHN'S experience as a Member of the House spans the years when many of the programs under the jurisdiction of the Education and Labor Committee were initiated, benefited from significant growth and endured considerable scrutiny. In 1965 alone, the year JOHN first came to Congress, over $2 billion was authorized for new education programs to help students and schools at the elementary, secondary, college, and graduate levels. Similar programs exist today that through the years have provided access and opportunity to countless numbers of our youth and adults. JOHN ERLENBORN continues to recognize that the quality of education in this Nation is a critical issue that must be addressed. He has been vigilant in his efforts to see legislation implemented that provides national direction to the States in this area yet not limit the flexibility and discretion needed to meet diverse State and local requirements.

Perhaps JOHN'S best known education endeavors have been in the area of student financial assistance. In this area he has worked diligently to assure the smooth operation of our Federal student loan programs. He has been a consistent proponent of the belief that private capital and corporations can be prompted to promote the public good. In no area has the gentleman from Illinois been more successful than in the area of guaranteed student loans. In 1972, when many financial institutions had limited or ceased making new student loans, JOHN ERLENBORN recognized the need to establish a national secondary market. This secondary market, for which JOHN ERLENBORN coined the name, Student Loan Marketing Association so that it could be known as "Sallie Mae," has been highly successful in securing liquidity for the Guaranteed Student Loan Program. Today availability of loan capital is no longer a major problem. Sallie Mae currently holds over 29 percent of all outstanding GSL's, totaling over $10 billion.

In higher education circles, JOHN ERLENBORN is affectionately known as the father of Sallie Mae. I believe it is not inappropriate to credit him personally with much of the tremendous success of the Guaranteed Student Loan Program. His efforts have kept the program viable for middle-income families.

Labor legislation has been a particular sphere of interest for JOHN during his tenure on the committee. His interests have involved him in a range of labor issues from youth opportunity wage and the minimum wage, labor relations and equal employment opportunity enforcement, employee rights and benefits, to employment and training programs under the Job Training Partnership Act. Just recently he was the main force behind congressional passage of the Longshoremen's and Harbor Workers' Compensation Act.

Clearly though JOHN'S greatest mark will be felt for many years to come in the area of retirement income and pensions. He noted the need for uniform regulation to replace scattered and varied State laws regarding private pension funds, and wanted to make sure that there was a balance between the establishment of standards and the provision of flexibility so that the private pension system could continue to grow. Recognized today as the most knowledgeable person in pension matters, his position has been more that of statesman than an advocate of private interests.

JOHN was instrumental in establishing the Pension Task Force in 1972 to look into the need for increased governmental regulation of the private pension system. The work of the task force led directly to the enactment of the Employee Retirement Income Security Act of 1974, which ERLENBORN coauthored with our former colleague John Dent. Since the original enactment of ERISA, ERLENBORN has worked continuously to assure that ERISA's promises become realities to the millions of individuals participating in ERISA-covered plans. With equal zeal he has worked to assure that ERISA's reporting, disclosure, and fiduciary standards are fairly administered with a minimum of unnecessary redtape.

In 1982, he cosponsored legislation with our late friend Phil Burton, to put an end to abuses under the so-called multiple employer health care trusts or METS. This legislation established landmark protections to the participants in these plans and has succeeded in curbing the abuses which gave rise to the need for legislation.

In the area of public employee retirement systems, ERLENBORN personally worked to develop the information Congress needed to extend basic reporting and disclosure protections to the participants in these plans. His efforts, along with those of Chairman John Dent, culminated in the issuance of the Pension Task Force Report on Public Employee Retirement System in 1978. This report has been instrumental in promoting legislation which has brought ERISA-like protections to participants in State and local govern-

mental plans across the Nation. The gentleman from Illinois also was the principal proponent of legislation requiring the pension plans of the Federal Government to provide basic financial, actuarial and investment information to Federal employees.

Of course, JOHN's legislative involvement crosses many committee boundaries. He has persisted in trying to streamline Government, to strengthen the House code of ethics, to make Government proceedings and records more open to the public, and to reform tax laws. In 1974 he was a cosponsor and coauthor of the individual retirement account legislation. He was instrumental in the creation of the Commission on Federal Paperwork to recommend ways to reduce burdensome paperwork for private citizens dealing with the Government. As coauthor he served as the moving force behind legislation passed this year to protect handicapped infants. His actions reflect a solid understanding of programs and inherent problems that affect human potential and access.

It is easy to focus on the many outstanding qualities of JOHN ERLENBORN through legislation: his even-handedness, his consistency, his mastering of the substance of an issue, his work with his constituents, his drive to make Government accountable to the people, and his dedication and hard work. He often fights unpopular battles so that all sides of an issue can be examined and considered. As a result, many pieces of legislation have been improved by this persistent scrutiny.

Along with these strengths as a legislator, I want to take a moment to pay tribute to JOHN as a person. In the words of the Washington Times staffer, Tom Breen, he is a "quiet man." While some might characterize him as a man who keeps his own counsel, he retains a sensitivity to those around him. He is a man who can disagree with his colleagues in philosophy, but admire and respect them in private. He is a man who gains respect because he gives respect.

But those of us who know him well hear the affection in his voice when he speaks of his wife and family. We listen as he speaks of difficult and complex legal issues and paints a clear picture that we all understand. We know that he is fair and loyal in dealing with his colleagues, his staff and his principles.

JOHN ERLENBORN has not only been an excellent legislator. He has been a gravitating personality who has quietly assured his subcommittee ranking members and his staff of their own capabilities. I wish him well as he faces the challenges of a new career. He will be missed as much for his personal presence as for his legislative effectiveness and achievements. The vacancy he creates by his departure will be difficult to fill. I thank him for a job superbly done.

□ 2040

Mr. MICHEL. I want to thank the gentleman from Vermont very much for laying out here in the RECORD so clearly the lengthy and outstanding record of JOHN's achievements, particularly in the field of education and labor. There is no one better to lay out that record as carefully as the gentleman from Vermont who served these many years with him, and we are most appreciative to have the record complete in that regard.

● Mr. HAMMERSCHMIDT. Mr. Speaker, our friend and colleague, Hon. JOHN ERLENBORN, has served the people of the 13th District of Illinois with integrity, determination, and success for 20 years in the House of Representatives. He will be missed by all of us in the years to come.

JOHN has contributed greatly to improving the quality of education our children receive through his work on the Education and Labor Committee, on which he has been ranking member since 1982. Among his many outstanding accomplishments in education, several achievements in the area of Federal financial assistance for college students are particularly noteworthy. In the 92d Congress, JOHN was the author and sponsor of legislation that established Sallie Mae, the Student Loan Marketing Association, which has helped many college students further their educations.

Another great accomplishment was JOHN's sponsorship in 1976 of amendments to extend and improve the Guaranteed Student Loan Program. In fact, he has been involved with the Student Loan Program since its inception, and has focused his efforts on keeping the program open to middle-income families as well as low-income families.

JOHN's good work is not limited only to the area of education. He is also a leader of legislative action in areas affecting all workers, such as pension plans, employee rights and benefits, and the minimum wage. This is most evident in JOHN's coauthorship of the Employee Retirement Income Security Act of 1974, which regulates private pension plans.

As a member of the Government Operations Committee, JOHN has actively pursued legislation seeking to make the Federal Government more open and responsive. He was a cosponsor of the Freedom of Information Act, under which most Federal records were opened to the public, and was the primary sponsor of the Privacy Act, which allows individuals to inspect, challenge, and amend information about themselves contained in Government files.

Most recently, JOHN has been a moving force behind the child abuse amendments, which were recently sent to the President for his signature, and was the coauthor of the "Baby Doe" language in that bill which protects handicapped infants from medical neglect.

I have served in this House with JOHN for 18 years, and he has been an extremely strong and effective legislator as well as a good friend. His advice and support are valued tremendously. JOHN made the decision to retire in order to pursue other career avenues, and I am sure that he will be as successful in his future endeavors as he has been during his 10 terms in the House of Representatives. I wish him only the best in whatever the future holds.●

● Mr. SHUMWAY. Mr. Speaker. I am delighted to have this opportunity to express my appreciation to JOHN ERLENBORN for his two decades of dedicated service in the House of Representatives, as well as my best wishes for rewarding and comfortable years in the future.

JOHN will be sorely missed by his constituents and by his colleagues in this House. He has demonstrated sound leadership, and has proven to be an extremely capable legislator. Those he has been privileged to represent have, in turn, been privileged to have him as their spokesman in Congress.

Illinois is a State which has produced a significant number of highly respected leaders and legislators, and at the end of this term, it will be losing one of the finest. I am pleased to express every best wish to JOHN for future success, and to assure him, and his family, that he has left an indelible mark here on Capitol Hill.●

● Mr. LOEFFLER. Mr. Speaker, JOHN ERLENBORN devoted 20 years of outstanding public service to the people of Illinois and to his country. We will miss his dedication and his legislative skills in the 99th Congress.

My colleague has devoted considerable attention to the reduction of waste, fraud, and abuse in the Federal Government and for his diligent efforts over the years I am most deeply grateful. As ranking Republican on the Education and Labor Committee, he contributed his considerable expertise to many areas, including education accountability and pension reform. He is to be especially commended as an originator of the concept which is today known as IRA's—individual retirement accounts—and for his efforts to extend this positive inducement to save and invest to all American workers. He has also devoted special attention as a member of the Government Operations Committee, to problems relating to our national security. And, he has stood staunchly by his beliefs that hard-working Americans should not be overburdened by taxes and that free enter-

prise is the great hope for the development of human potential.

Thank you, JOHN, for your distinguished efforts in behalf of our great Nation. I wish you the very best in your future endeavors.●

● Mr. REGULA. Mr. Speaker, JOHN ERLENBORN is a "Congressman's Congressman." No Member better understands his area of responsibility nor presents a bill with greater clarity.

JOHN's service establishes a standard of leadership that will be a continuing challenge to all who serve in this body. We will miss him as a friend and as an esteemed colleague. Our Nation has been enriched by his integrity and dedication.●

● Mr. HAYES. Mr. Speaker, with the end of the 98th Congress, we will bid farewell to our distinguished colleague from the 13th District of my home State of Illinois, Congressman JOHN ERLENBORN, who has chosen to retire from the Congress to join the ranks of a prestigious law firm. As JOHN concludes his dedicated and illustrious 20 year career in the House of Representatives, he leaves behind him an outstanding record of public service for which he should be proud.

I had the privilege to serve with JOHN ERLENBORN on the Education and Labor Committee and I must say that when you have the chance to serve with a colleague like JOHN, you may not learn a lot about his social status, but you learn the measure of the man and the measure of his character.

JOHN ERLENBORN is the ranking Republican on our committee and very often he found himself opposed by a solid Democratic bloc who held strong interests in the common people.

In the short time that I have known and worked with this Illinois Congressman, I have gained respect for his wealth of knowledge concerning pensions and other benefits programs. The amount of fairness he uses when approaching the issues addressed by our Education and Labor Committee, indicates his willingness for reconciliation.

Although JOHN serves on the other side of the aisle, I am sure my colleagues will agree that his knowledge and insight will be missed in this Congress. We do not share the same opinions on many of the issues; however, I believe that JOHN ERLENBORN represents what he thinks is right and what he thinks is fair.

JOHN, I wish you success with the new opportunities and challenges that you will face in the private sector.●

● Mr. PHILIP M. CRANE. Mr. Speaker, as a freshman Member back in 1969, it was my original desire to serve on the Education and Labor Committee. I was thwarted in that effort and upon becoming more conversant with the disproportionate influence wielded by the AFL-CIO over that committee I was not unhappy about being assigned instead to the Banking and Currency Committee.

JOHN ERLENBORN was then a ranking Republican on Education and Labor. I knew JOHN before coming to Congress and admired him for his political talents, his intellect, and his legislative skills.

After watching JOHN firsthand as a colleague, my admiration for his abilities grew considerably. Against great odds. JOHN was able to prevail more times than he should have given the partisan nature of his committee and the fact that JOHN never served as a member of the majority throughout his 20-year career in the House of Representatives.

One party domination of the House, in fact, is one of the great misfortunes of our times. As outstanding a legislator as JOHN has been, his talents would have shown even more brilliantly had he had the opportunity to play offense over the past score of years.

JOHN's contributions, nevertheless, have been enormous and all Americans have been the beneficiaries—from developing viable pension plans to reducing the tax load and making the Federal Government more accountable.

Long after the last gavel has been sounded in the 98th Congress, JOHN ERLENBORN's legislative initiatives will be felt. We will miss you, JOHN, but cherish the years we had the opportunity to work with you. May your future years be blessed with good fortune, health, and happiness.●

● Mr. ANNUNZIO. Mr. Speaker, it is a genuine pleasure to join the distinguished minority leader, Congressman JOHN MICHEL, my colleagues, and the other members of the Illinois delegation, in paying tribute to Hon. JOHN ERLENBORN, who has been a dedicated Member of the House of Representatives for the last 20 years.

JOHN and I were Members of the same class—the 89th Congress, and through the years we have served in Congress together, I have come to know and respect JOHN for his knowledge, for his fairness, and for his leadership abilities. His tireless efforts on behalf of his constituents in the 13th District of Illinois, and on behalf of the citizens of the United States, are admired and most worthy or recognition.

Before coming to Congress JOHN ERLENBORN served our country with distinction in the Navy during World War II, and graduated from Loyola Univesity Law School. He engaged in the practice of law, served as the assistant State's attorney for Du Page County, IL from 1950 to 1952, and was member of the Illinois General Assembly from 1957 to 1964.

Elected to Congress in 1964, JOHN ERLENBORN has served in the House of Representatives during the last 20 years with diligence and distinction as a member of the House Government Operations Committee, and as the ranking minority member of the House Education and Labor Committee, where he also serves on the Subcommittee on Employment Opportunities, the Subcommittee on Labor-Management Relations, and the Subcommittee on Labor Standards.

JOHN is a fine legislator, a dedicated and devoted American, and a Congressman of great ability and skill, who has compiled a commendable record of achievement during his 10 terms as a Member of Congress. He will truly be missed by all of us in Congress who had an opportunity to know him and to work with him.

I extend to JOHN ERLENBORN my best wishes for continued success in all his future endeavors.●

● Mr. RUSSO. Mr. Speaker, I join with my colleagues in paying tribute to a highly respected and distinguished Member of Congress, Representative JOHN ERLENBORN, retiring after 20 years of outstanding service.

In his two decades of work here, JOHN has won the admiration of those who have watched his successful efforts in so many areas, such as pension reform. He has demonstrated thoroughness and tenacity in approaching the complicated pieces of legislation that have come before the House Education and Labor Committee on which he served so well. His dedication has served his district and the country well and his presence, personal and professional, will be greatly missed.

I know I speak for many in wishing JOHN all the best in his retirement and in thanking him for all we have learned from him and for the rich legacy he leaves us.●

● Mr. RUDD. Mr. Speaker, I am pleased to take part in this special order in honor of my good friend, JOHN ERLENBORN, who has been an outstanding Member of the House and an excellent representative of his constituents in Illinois' 13th District.

As ranking member of the Education and Labor Committee, JOHN has provided a strong voice in support of sound educational reform to restore the quality of our Nation's schools. He has fought for fairness in pension reform. He has been a leader in the fight to protect the lives of the unborn.

It has been my pleasure and privilege to work with JOHN ERLENBORN over the years. As he returns to private life, he can look back on his 20 years of service in the House with pride. He has, without a doubt, helped to make this country, his State, and his district a better place. His presence in this House will be missed by us all.

My best wishes are with him in all his pursuits in the months and years ahead.●

● Mrs. ROUKEMA. Mr. Speaker, today we mark the retirement from this body one of the truly distinguished legislators of our time—JOHN ERLENBORN.

Hyperbole is normal in tributes of farewell ceremonies when one of our colleagues retires, but, in this instance, there are few, if any, praises that one could bestow on the gentleman from Illinois that could be described as overstatement.

The gentleman's legislative accomplishments appear throughout the Federal codes but primarily it has been in the area of labor law that he will be most remembered. Indeed, in his 20 years of service, there have been few bills enacted that have not borne his mark. When I entered Congress almost 4 years ago, I very quickly learned that, whenever a labor issue arose, the first thing you had to find out was: "What does JOHN think about this?"

The expertise that has gained him preeminent stature has been apparent to me during the 98th Congress, in which I have served as the ranking minority member of the Subcommittee on Labor-Management Relations. During this time, I have sat through a number of hearings with JOHN and I have learned that, when he is recognized by the Chair for questioning, the witnesses, regardless of their cause, grow visibly edgy because they know he will cut incisively to the core of the matter immediately, and expect nothing less than a straight answer.

A primary area of concern on our subcommittee is the Employee Retirement Income Security Act, commonly referred to as ERISA. It is well known that ERISA was written primarily by four individuals: Senators Javits and Williams and Congressmen Phil Burton and JOHN ERLENBORN. Other than a few short months prior to Phil Burton's tragic death, the gentleman from Illinois has been the only one of those four to serve in the current Congress and he has carried this responsibility most admirably. One of the primary accomplishments of the 98th Congress—the Retirement Equity Act of 1984—simply would not have been possible without JOHN's wisdom and knowledge to ensure that it did not create obstacles to the formation of new pension plans. When JOHN Ok'd this bill, we knew it would become law.

Those of us on the Education and Labor Committee will truly miss JOHN ERLENBORN. His position as the ranking Republican on the committee has been characterized as follows by the 1984 Almanac of American Politics: "Like 13th district residents who go into Chicago to work each day, ERLENBORN is not afraid to crawl into the lion's mouth . . ."

I am confident that JOHN will continue this fearless attitude in his future endeavors and the legal profession will certainly be the better for it. I also have a strong suspicion that, even after he has gone, when labor issues arise in the House, Members will tend to continue to ask: "What does JOHN think about this?"●

● Mr. DANIEL B. CRANE. Mr. Speaker, my colleague from Illinois, the Honorable JOHN ERLENBORN, will retire from the House at the close of the 98th Congress. His departure will leave a void that will affect all of us in this body. He has been our colleague for 20 years; as the ranking minority member of the Education and Labor Committee, he has shown himself to be one of the hardest working, most dedicated Members of the House. JOHN, we wish you well, and hope that you will make your expertise available to us in future years.●

● Mr. WINN. Mr. Speaker, I am pleased to join my colleagues today to honor a man who has served both the 13th District of Illinois and the country as a whole very well—my good friend, JOHN ERLENBORN. First elected in 1964, JOHN has won each consecutive term by a wide margin—undoubtedly a tribute, I am sure, to his numerous legislative accomplishments. As the ranking Republican on the House Education and Labor Committee, he has led the fight toward achieving a number of important goals. JOHN ERLENBORN is considered the father of the Student Loan Marketing Association [Sallie Mae]—having sponsored the creation of this important secondary market and warehouse for student loans back in 1972. He has also authored legislation, which is now public law, to fund a program designed for education of the gifted. Most recently, JOHN has been one of the leading proponents for legislation, which has passed both houses, to protect the rights of handicapped infants.

I have enjoyed working with JOHN over the years, and have found him to be both a wise and meticulous legislator. I am certain that his talents will be sorely missed in Congress. Making the decision to retire is certainly not an easy one, having gone through a similar process myself, but I know JOHN is happy with the decision he has made and is looking forward to returning to the private sector. I wish both him and Dorothy the very best in their new endeavors.●

● Mr. RODINO. Mr. Speaker, at the close of this session of Congress, Representative JOHN ERLENBORN will be leaving us, after two decades of dedicated service.

The people of Illinois have had an effective and able legislator in JOHN ERLENBORN. While we may have had our differences over the years, I have always had the utmost respect for him as a colleague and a friend. JOHN ERLENBORN has earned the esteem of Members of both sides of the aisle in this body, and his intelligence, good humor, and knowledge will be missed.

I wish him all the best in the future.●

● Mr. SAM B. HALL, JR. Mr. Speaker, as the 98th Congress draws to a close, it is with sincere regret that we bid farewell to two of our most able colleagues, JOHN ERLENBORN and TOM CORCORAN. Both of these gentlemen have represented the State of Illinois with great distinction, and they leave a void that will be difficult to fill.

As we all know, JOHN ERLENBORN has gained tremendous respect as a legislator. His sound, moderate approach to issues guarantees that legislation does not take an extreme course. He has a wonderful ability to get his point across while effecting compromise in the best interest of Congress and the American people.

JOHN ERLENBORN is the epitomy of what the ideal legislator should be like. He is forthright, hard working and dedicated. His legislative accomplishments are legend, and he is a gentleman and friend in the truest sense of the word. The constitutents of the 13th District of Illinois apparently share my high regard for JOHN ERLENBORN, because he consistently wins reelection by impressive majorities.

Illinois also has a right to be proud of the many legislative accomplishments of TOM CORCORAN who has represented the 14th District for four terms. TOM CORCORAN is not afraid to do battle with the giants, and it is this attribute that characterized his uphill fight to unseat the senior Senator from Illinois. While this effort fell short, TOM CORCORAN still articulated the issues and gave the voters an opportunity to choose between two different philosophical approaches.

Texans are especially grateful to TOM CORCORAN for the outstanding work he has done on the Energy and Commerce Committee. He is an advocate of the free marketplace and on numerous occasions on issues such as the deregulation of natural gas he has been a guiding force for reason and good sense. He has a firm grasp of the Nation's entire energy picture, and we are going to miss that expertise.

Both JOHN ERLENBORN and TOM CORCORAN can never really retire from public service, because their dedication to people and good Government is too strong. I look forward to our continued association, and I wish them well in their new endeavors.●

● Mr. MONTGOMERY. Mr. Speaker, I want to join the list of colleagues taking part in this tribute to one of our most distinguished Members, the gentleman from Illinois, Representative JOHN ERLENBORN.

I appreciate the work and leadership that JOHN has given in the areas of education as well as his work in labor and management. He has had a great

deal of influence here on Capitol Hill and a number of us have followed his advice in certain areas of Government.

He understands the process, after having served in the Illinois Legislature and then 20 years here in Congress. JOHN has been an effective Representative of the 13th District and I know they will miss him.

We certainly will miss him when the 99th Congress convenes in January.●

● Mr. FUQUA. Mr. Speaker, I appreciate this opportunity arranged through the auspices of the distinguished minority leader [Mr. MICHEL] to pay tribute to the career of JOHN ERLENBORN. JOHN and I serve together on the House Government Operations Committee and, of course, he is ranking minority member of the House Education and Labor Committee. In all his work, he has served ably and well.

JOHN and I have worked together on many issues in the Government Operations Committee. He is a tough opponent and a welcomed ally. On occasion, he has been partisan in his actions, but so have we all. Partisanship is a part of the work we do. He rises above partisanship, however, to fight for those things in which he deeply believes. He is a forceful speaker for the causes of importance to him.

JOHN can even be mischieveous on occasion. I recall during the markup of the Department of Education Organization Act that he first proposed calling it the Department of Public Education [DOPE] and, failing that, recommended that we call it the Department of Public Education and Youth [DOPEY]. He may have opposed the creation of this department but, when it came into existence, he worked as hard as anyone to make its programs effective and to insure that it did not stray beyond its initial charter.

JOHN will be entering the private sector, and I wish him all the best of luck. I know he will, from time to time, return to the Halls of Congress to remind us of our duty to the country. His voice will be missed in this Chamber, but his voice will continue to be heard.●

● Mr. DE LA GARZA. Mr. Speaker, when the 98th Congress comes to an end in a few days the sound of the gavel also will bring an end to the distinguished congressional career of my esteemed colleague JOHN ERLENBORN. It is hard to me to believe that 20 years have passed since we both first arrived in 1965 as freshmen to the 89th Congress.

JOHN ERLENBORN is a man who for two decades has outstandingly represented the 14th District of Illinois in this body providing dedicated and devoted service. As a member of both the Education and Labor Committee and the Committee on Government Operations he has made contributions of great value to the people not only of his district and State, but to the Nation as well. Because of the excellence of his legislative work individuals and communities throughout the United States are indebted to this gentleman from Illinois.

He will be sorely missed by all of us who have had the privilege of serving with him. He is preeminently a man of the House of Representatives and it is with a feeling of sadness that I contemplate JOHN ERLENBORN's retirement.

I join with my colleagues in wishing JOHN the very best in the future, and again want to say a very special thank you for a job well done. History will certainly rank JOHN ERLENBORN as one of Illinois' great public servants.●

GENERAL LEAVE

Mr. MICHEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to extend their remarks on the legislative skills, the personal integrity and character of one of those Members we hate to see depart this Chamber, JOHN ERLENBORN.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.y

TRIBUTE TO HON. TOM CORCORAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. MADIGAN] is recognized for 60 minutes.

Mr. MADIGAN. Mr. Speaker, I welcome the opportunity today to have a special order in honor of my friend and colleague from Illinois, TOM CORCORAN. Congressman CORCORAN's presence will be sorely missed in this body and especially within the Illinois delegation.

I have been fortunate enough to know TOM since 1969. At that time I was in the Illinois Legislature, and TOM served as Director of the State of Illinois Office here in Washington. In his lobbying for Gov. Richard Ogilvie, TOM increased Illinois' share of Federal tax dollars and organized the State's first trade mission to the Soviet Union.

In joining the House of Representatives in 1976, TOM was able to effectively use his skills to serve the needs of his district. I have witnessed TOM's dedication to hard work while serving with him on the Energy and Commerce Committee over the past 8 years. TOM's capacity for leadership has been evident in his role as ranking member on the Subcommittee Fossil and Synthetic Fuels. A memorable example of TOM demonstrating his leadership and commitment to his district and to our State was his successful fight to stop a proposed pre-billing financing package for the Alaska Natural Gas Pipeline, a measure which would have caused considerable consumer hardship to those dependent on natural gas, not just in the State of Illinois, but all across the country. Similarly, TOM battled to try to prevent Morris, IL, from becoming a permanent nuclear waste dump site, and he was successful in that fight. TOM also worked hard on behalf of his constituents, and mine, as he tackled the anti-Illinois provisions of proposed legislation restructuring AT&T in 1982.

During four terms in Congress, TOM has also served on the Post Office Committee. His projects there have included a move to eliminate the Postal Service's governing board and to make the Postmaster General position a Presidential appointee as it was in the past. In addition, TOM is a member of the Commission on Congressional Mailing Standards.

Most recently the State of Illinois has benefited from TOM's devotion to the task of designating the Illinois and Michigan Canal as a National Heritage Corridor. The legislation, originally conceived by TOM and signed into law this summer by President Reagan, will soon provide needed recreational and historical parkland to Illinois, while preserving the cultural heritage and encouraging tourism and economic revitalization to the cities along the corridor. TOM played a key role in directing this measure from an idea in the back of his mind to a draft bill to final enactment with the signing by the President this summer. With the canal running through TOM's hometown of Ottawa, IL, there is no doubt that the people he has served will appreciate his accomplishment for many years.

It has been a pleasure to serve with this capable and committed legislator over the past 8 years. I will miss TOM CORCORAN, and I know I am not alone in wanting to wish TOM and his wife Helenmarie the best of luck in the future. Thank you, TOM for your consistent demonstration of dedication and service to your district, the State of Illinois, and the Nation at large.

Mr. Speaker, at this time I yield to my distinguished colleague, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. I appreciate the gentleman yielding.

Of course, we combine today in taking time so that we might honor two of our great Members of our Illinois delegation. I want to pay my respects to TOM CORCORAN, who represents the neighboring district to mine out in central Illinois. He represents that district very well. Obviously, philosophically, he is of conservative persuasion, and that is the temperament and the philosophic nature of that district.

I am reminded, too, of those days when we became acquainted with TOM, before he was ever elected to this

body, and how we got to know one another through his interest in the legislative process and the kinds of things we had some shared role in trying to solve and resolve, as the gentleman well knows.

The Energy and Commerce Committee is a very sought after committee in this body, as the gentleman knows. The gentleman from Illinois [Mr. MADIGAN] himself serves on that committee. It was a real question as to whether or not we were going to be successful in having two Members on that very, very important committee.

But I am recalling the time in the Committee on Committees, when making the case for our friend TOM to also serve on that committee, the experience which he had the capabilities with which he could serve on that committee and contribute so much in that field, as the gentleman pointed out, the field of energy, transportation, health and all the rest.

We are just mighty proud of the kind of service that he has rendered to us in that Commerce Committee. Never have we had to apologize for having the two of you sit on that committee and making points not only for our State but for the good of the country.

So here again we find one who sees the pasture may be a little greener on the outside. True, TOM sought higher office over in the other body, and that will happen every once in a while when a Member makes a determination as to whether or not he should make a move or to stay. I would be remiss if I did not say I argued against TOM's making a move because we knew what he was contributing to this body and how difficult it would be to replace the talent which he possessed if and when he ever left. So we are very sorry to see TOM take leave of us in this body, but I know full well that with all of his qualities of character and professionalism, there is no question whatever that there is a spot for him out there in the private sector or in government, if he chooses, in a new Reagan administration. The administration, believe me, would be well served by tapping this man who will be leaving this body, who is so well versed in the ways of the Congress, who knows all of the nuances and who could very well serve with distinction in an executive capacity in the administration if that is his will.

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Whatever the case, I just want him to know, as the gentleman from Illinois [Mr. MADIGAN] has pointed out, we love him dearly, and we are going to miss him. When we all got together in those Illinois delegation meetings, looking at my friend, Mr. O'BRIEN, we always needed someone to tell a nice story or give a little bit of levity to the meeting. We could always count on that from TOM CORCORAN. He will be sorely missed.

Mr. MADIGAN. Well, because my distinguished leader is a pretty good athlete and certainly one of our outstanding sports fans here, I think that I do feel obliged to mention while we are saying all these nice things about TOM CORCORAN, that there was one very significant mistake made by him in his career. He was a pretty good high school baseball player, and in fact the University of Illinois offered to take him down there and educate him if he would just come down and play a little baseball. But, having the name CORCORAN, he thought he had an obligation to go to Notre Dame where they really did not know how to deal with somebody with an Irish name. They were used to only having people over there with Polish names, Czechoslovakian names, slovik names like that.

So TOM really did not get off the ground over at Notre Dame because he was the only Irishman there, and nobody even knew how to talk the language. If he had gone to the University of Illinois, like the people in his own State wanted him to, he would probably be up there with the Chicago Cubs tonight instead of appearing in the Halls of Congress.

I yield to the other Irishman from Illinois.

Mr. O'BRIEN. I thank the gentleman for yielding, and in tune with his closing remarks, I would like to suggest that at Northwestern we could use him today.

Mr. Speaker, it is with emotion and regret that I join my colleagues in bidding goodby to TOM CORCORAN, a strong voice on the House Commerce Committee and close friend of mine, after 8 years of legislative comradeship.

From his support of the balanced budget to his backing of natural gas price decontrolling, TOM CORCORAN has been singular in his belief in the American free enterprise system and all its values. And in the process, he has become known for a commonsense approach to matters of energy preparedness; for example, he ushered the review of the Emergency Energy Conservation Act in 1982 to underline our need for secure and dependable energy sources and supplies.

Better still is TOM's role in forming national energy policy in 1980, when legislation he sponsored to create a procedure for setting goals on energy demand, domestic production and imports was included in the synthetic fuels package that passed Congress.

And because of TOM CORCORAN, third ranking minority member of the House Post Office and Civil Service Committee, we still have Saturday mail delivery.

But perhaps his outstanding achievement is the Presidential signing this past August 24 of the bill creating the Illinois and Michigan Canal Heritage Corridor, the only one of its kind in the Nation and the backbone of a plan to revitalize one of the most historic waterways in industrial America. Much of the corridor is in my district, but without TOM CORCORAN's initiative and consistent and tireless sponsorship of the bill over the past several sessions of Congress, the new national preserve might never have been achieved.

Now, a 100-mile stretch of the canal stands to see a rebirth, not only from a recreational and sightseeing point of view, but from a commercial standpoint as well.

I ask my fellow Members of Congress to wish this distinguished conservative lawmaker the best in his future pursuits.

Before I close, Mr. Speaker, on a personal note, when I first came here 12 years ago and was beginning to look around for staff, I knew that TOM was the Governor's man in Washington and a very valuable asset. He and I had never met, but I asked him to come over and give me a little advice, and he did. The first person that I retained on my staff who is still with me today, Marion Burson, my administrative assistant. Absent TOM, I would not have known about Marion Burson, and every time I look at him and I accept his advice, I appreciate the fact that TOM CORCORAN helped me get him and helped me get where I am.

Mr. MICHEL. I wonder if the gentleman might yield one more time. I am reminded by the comments by the other gentleman from Illinois [Mr. O'BRIEN] earlier on, Mr. BARTLETT of Texas was making the point of how much he learned from the senior Member, JOHN ERLENBORN, and what an impression that made on him.

You know, the tables can be very well reversed in TOM CORCORAN's case. GEORGE O'BRIEN just made mention of one incident. I can certainly make mention of a number of them, particularly in that very technical field of commerce, natural gas, and all the rest, where the leader could ask a very junior Member, relatively junior Member, to really take him through the steps on a really complicated subject matter. That is one of the hallmarks of TOM CORCORAN's service here in the House, that he did his homework. He knew the case he wanted to make, and he too, could dare to be a Daniel and stand alone against all comers and take them on one at a time.

For that, we are always going to be most appreciative of what he has contributed to this body in this very limited time, and the help that he has given some of us, who, frankly, have learned from him as a junior Member.

Mr. MADIGAN. Those are very excellent observations, and I have had, being on the committee with my friend, Mr. CORCORAN, I have had a great number of occasions to turn to him to get information that really set the record straight and I think the leader's remarks are very well taken.

I yield to a Member of that committee, the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Speaker, the House of Representatives will sorely miss the contributions of Congressman TOM CORCORAN. I have had the opportunity to serve with the gentleman from Illinois on the Energy and Commerce Committee and have grown to appreciate his legislative abilities. I know that the committee will keenly feel the loss when he leaves.

I have been impressed by TOM's strong leadership qualities and his comprehensive knowledge and understanding of energy issues. In particular, the gentleman has played an important role in the full committee in an effort to deregulate natural gas. He has endeavored to serve and protect consumers, not only those who live within his district but he has acted in the best interest of the consumers throughout this country.

I was invited to a special dinner with him and I appreciated being included especially since I was the lowest ranking member of the committee. In addition, I was grateful that TOM took time out of his hectic schedule to come to my district and participate in the Utah Energy Conference in May of 1983. His expertise in fossil fuels particularly natural gas contributed significantly to the conference and was truly one of the highlights.

I am sure that the gentleman will continue to make significant contributions to this country, whether it be at the local, State or Federal level of government or in the private sector. Whatever he does I wish him all the best and want him to know that this Member will be sorry to see him leave.

Mr. MADIGAN. I thank the gentleman for his contribution and yield to the gentleman from Louisiana, [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Speaker, I would also like to thank my friend, ED MADIGAN, for calling this special order on behalf of our colleague, and great friend, and member of the 98th class of the House of Representatives, TOM CORCORAN. TOM is a Member with whom it has been not only an honor, but a great pleasure to serve in my past 7 years in this body. In his quiet methodical way, TOM has always been a voice of reason and commonsense in a not altogether reasonable body.

Congressional Quarterly, the prominent nonpartisan journal of the work product of the beehive known as Capitol Hill, describes the gentleman from Illinois [Mr. CORCORAN] as being "widely respected as a House Member for his intelligence and approachable manner." Congressional Quarterly is right on target. I would add that he is a gentleman, a friend and a great man to work with.

My own home State of Louisiana is of course one of the major energy producers in the country. It has been in the field of energy, due to TOM's able service on the Committee on Energy and Commerce, that I found myself working closely with him on frequent occasions, although not always on the same side. Regardless of our agreements or our differences, I always was confident that TOM was a man of integrity and that he was always exceptionally well informed and knowledgeable about his position. An incredibly strong ally, and a formidable opponent, TOM CORCORAN is a man of substance. I need not wish him well, for I am confident of his success wherever life takes him. But I do indeed wish for him and his lovely wife, Helen Marie, the very best of success and happiness that life has to offer.

TOM, we shall miss you.

● Mr. HAMMERSCHMIDT. Mr. Speaker, I would like to add my own thanks and best wishes to the others being offered to my friend and colleage, TOM CORCORAN, who has represented the people of the 14th District of Illinois with dedication and concern for the past 8 years.

As a senior member on a major subcommittee of the Energy and Commerce Committee, TOM has been a strong and persuasive advocate on issues under the jurisdiction of the committee. His skillful work on the AT&T restructuring bill is just one of his many accomplishments in this arena. He has also distinguished himself as an advocate of reduced government intervention in energy and returning competition and other market forces to the economy. Yet to achieve legislative progress, he has proven himself to be a man of reason and understanding.

TOM has been key not only to legislative action in the Energy and Commerce Committee, but has also made his mark as a member of the Post Office and Civil Service Committee. He is well known for his efforts to improve mail service and require accountability in the financing of the Postal Service.

I have been privileged to serve with TOM, whose exemplary service will be missed by his colleagues. I congratulate him on his fine work, and wish him and his family much happiness in the days ahead. I have great faith that TOM will continue to serve his State and Nation with distinction.●

● Mr. LOEFFLER. Mr. Speaker, it is an honor for me to pay tribute to a man who has served his Nation and the people of the 14th District of Illinois with distinction and who will be sorely missed in the 99th Congress.

TOM CORCORAN has devoted his years in this House to bettering the lives of all Americans. As the ranking Republican on the Subcommittee on Fossil and Synthetic Fuels Subcommittee of the Energy and Commerce Committee, he has worked with dedication and considerable legislative skill to help reduce irresponsible Government intrusion on our domestic energy industry and thus has fostered and promoted America's energy independence. A staunch supporter of the free market and free enterprise system he has diligently supported our efforts to reduce Federal intervention in all areas of American life, to reduce the tax burden on businesses and individuals, and to bring fiscal responsibility to Government spending. He is to be commended for working actively on the Post Office and Civil Service Committee to improve mail service and to require responsible accountability in the financing of our Postal Service.

Thank you, TOM, for your dedicated efforts in behalf of our country. We shall miss you. Good luck and Godspeed.●

● Mr. SHUMWAY. Mr. Speaker, I appreciate this special order to honor an outstanding legislator and a good friend, TOM CORCORAN, and to wish him all the best as he prepares to retire from his service in the House.

During his 8 years as a Member of Congress, TOM has more than demonstrated his keen abilities to represent those who have sent him here with accuracy and compassion, and to deal effectively with his fellow legislators for the good of his district and the Nation. He will indeed leave a void, as his State colleagues have pointed out. More importantly, however, he has left an important mark, one long to be remembered by those who were privileged to know and to work with TOM.

To TOM CORCORAN and to his family, I extend every best regard, as well as every hope that future endeavors will be fulfilling and rewarding.●

● Mr. REGULA. Mr. Speaker, TOM CORCORAN is an individual that fits Webster's definition of principle and who leads by the force of his convictions and knowledge.

This body and our Nation will miss the integrity and intelligence TOM brings to his responsibilities on behalf of his constituents in the 14th District of Illinois.

All who have known TOM as a colleague will cherish their service with him both as a friend and as a dedicated member of this body.●

● Mr. ERLENBORN. Mr. Speaker, when I first met TOM CORCORAN about 15 years ago, I thought to myself, "Here's a young man—he was no more than 30 at the time—who will be successville in whatever career he chooses

to follow." My intuition was on the mark.

Our colleague from my neighboring district in Illinois served for 3 or 4 years as a loyal and effective spokesman for our Governor, Dick Ogilvie, and our native State. From there he went into private industry for a few years. Although successful there, TOM was beckoned by a call to return to public service and—as we all know—has spent the past 8 years as an able and active member of this House.

TOM will be leaving the House at the end of this term, and his expertise in energy matters and a host of other regulated areas will be sorely missed. Knowing TOM, however, I am certain he will somehow put his vast knowledge of our energy resources and needs to work for the public good.

I am proud to have had the opportunity to work with TOM CORCORAN, and especially to have served with him in the delegation from Illinois. My best to you, TOM, in your new career. I know you will meet with success there, too.

● Mr. PHILIP M. CRANE. Mr. Speaker, some years ago a colleague of mine once made the remark that there are "some people who go to Washington because it is a job; others go because there is a job to be done," and that is exactly the way I feel about my friend and colleague from Illinois, TOM CORCORAN. It saddens me to think that this body will lose one of its most distinguished and responsible Members.

Since 1976, TOM has been an inspiration to me personally and to the people who elected him. He never once wavered from the job he was elected to do, and he worked tirelessly to get those bills passed that his country so desperately needs.

TOM came to make government accountable for its actions, and he fought an uphill battle to realize his goals as a minority member on the Post Office and Civil Service Committee, and the Energy and Commerce Committee. While on these two committees, TOM helped sponsor and cosponsor important legislation. He sponsored measures to spur agricultural exports to help the ailing American farmer, and he cosponsored legislation to help curb the burgeoning cost of the Government's energy program.

The list of TOM's accomplishments goes on and on: as a sponsor of legislation to provide tuition tax credits to sponsoring key reforms in the Civil Service and energy policies of the Nation.

I am privileged to say that I have served with such a distinguished responsible legislator and deeply regret the loss of so cherished a colleague and friend.

However, considering his many talents, youth, and experience, I know that we have not seen or heard the end of TOM CORCORAN. God bless you, TOM, in your future endeavors.●

● Mr. ANNUNZIO. Mr. Speaker, I rise to join with the distinguished minority leader, Congressman BOB MICHEL, the other members of the Illinois delegation, and my colleagues in the House of Representatives, in paying tribute to the Honorable TOM CORCORAN, who has ably represented the 14th District of Illinois for the past 8 years.

I have known TOM since the time he worked with the Chicago-North Western Transportation Co. before he was elected to Congress, and his dedication to high standards is an inspiration to his friends and fellow citizens, and his accomplishments as a Member of the U.S. House of Representatives are most commendable.

TOM CORCORAN served in the U.S. Army from 1963 to 1965, and was the administrative assistant to two State senate leaders. He was employed as the vice president of the Chicago-North Western Transportation Co., and served from 1969 to 1972, as the director of the State of Illinois office in Washington, DC, where he compiled an outstanding record of achievement in service to our State.

Elected to the 95th Congress in 1976, TOM has distinguished himself by serving on the House Post Office and Civil Service Committee and on its Subcommittee on Postal Operations and Services, and also on the House Energy and Commerce Committee and on its Subcommittee on Fossil and Synthetic Fuels, where he is the ranking minority member. TOM CORCORAN will surely be missed in the House of Representatives by all who have had the opportunity of knowing him. He is a Congressman of compassion, courage, and patriotism, who has provided exemplary service to his constitutents and to our Nation.

I extend to my colleagues, TOM CORCORAN my best wishes for continued success in all of his future endeavors.●

● Mr. DANIEL B. CRANE. Mr. Speaker, one of my best friends in Congress retires this year: the Honorable TOM CORCORAN. He is my neighbor in Illinois and my colleague on the Post Office and Civil Service Committee. I know I am not alone when I say that I have looked to him for guidance and leadership on many, many occasions. TOM, you have been a credit to your district and to all Americans, and may God's grace be with you in all of your future endeavors.●

● Mr. RINALDO. I commend TOM CORCORAN of Illinois for his service in the U.S. House of Representatives. TOM was one of only two Republican candidates for the House to defeat a first-term Democratic incumbent running for reelection in 1976. Our colleague from Illinois won reelection in his north-central Illinois district with increasingly convincing margins in 1978, 1980, and 1982.

In addition to his political success in his reelection efforts, his legislative accomplishments are considerable. As a fellow member of the House Energy and Commerce Committee, I have witnessed first hand his legislative abilities. TOM left the Government Operations Committee at the beginning of his second term in the House to join the Interstate and Foreign Commerce Committee. During the 96th Congress, he served on the Energy and Power Subcommittee and the Oversight and Investigations Subcommittee. During the 97th Congress, as a member of the Energy and Commerce Committee, he served on the Fossil and Synthetic Fuels Subcommittee and the Energy Conservation and Power Subcommittee. In the current 98th Congress, he has been the senior Republican member of the Fossil and Synthetic Fuels Subcommittee.

U.S. energy policy has been the major area to which TOM CORCORAN has devoted his attention. He has been a strong supporter of nuclear energy, and he was a key participant in the legislation leading to the enactment of the Nuclear Waste Policy Act of 1982. He has been a strong proponent of the U.S. Strategic Petroleum Reserve Program while opposing major governmental intervention in petroleum markets.

While I and some of his colleagues might have disagreed with some of his views relating to the sale and production of natural gas, there is no doubt that he was a strong and forceful voice for the position he advocated. He introduced the administration's natural gas bill early last year and has been particularly concerned about the importation of foreign gas, including gas from Canada and liquified natural gas from Algeria. Additionally, he has worked closely with the Illinois Commerce Commission and others in promoting a strong contract carriage system for the transportation of natural gas, a position which I support. Finally, in the area of natural gas, he was the leading congressional opponent of the Alaska natural gas transportation system [ANGTS] in late 1981. While his legislative position in opposition to ANGTS did not prevail in the House in December 1981, the ANGTS system was nonetheless stopped dead in its tracks. TOM can also claim credit for being one of the House leaders in the successful effort to kill the proposed Energy Mobilization Board during the 96th Congress.

In the area of synthetic fuels, TOM CORCORAN has been a leader in the effort to encourage a sensible program of rational synthetic fuels development. He has called for an approach considerably scaled down from the original 1980 $88 billion program contemplated in the Energy Security Act. He is especially interested in promot-

ing U.S. synthetic fuels development as a means to encourage the use of our abundant coal reserves.

TOM has also been a leader in the area of utility matters. In 1981, he established himself as a innovator in this area by introducing a comprehensive bill to amend the 1935 Public Utility Holding Company Act.

While TOM's major work in connection with his membership on the Energy and Commerce Committee has been in the area of energy, I have seen first hand his legislative skills in other areas, notably telecommunications. He was particularly effective in the full Energy and Commerce Committee during the 97th Congress in preventing this body from going forward with a seriously flawed legislative proposal, H.R. 5158, the major telecommunications legislation of that Congress.

Mr. Speaker, I regret TOM CORCORAN's impending departure from the House and particularly the House Energy and Commerce Committee. He has shown that he is a quick study on complex issues. Most importantly, he has consistently brought principle to bear in his deliberations and his actions.

The people of Illinois' 14th district and we in the House are losing the services of a fine legislator with the departure of TOM CORCORAN. I join my colleagues in wishing him well in his future endeavors.●

● Mr. RUSSO. Mr. Speaker, in the 8 years Representative TOM CORCORAN has been here, he has made a positive impact on the legislation coming before the House Energy and Commerce Committee and he leaves behind an admirable record of achievement. He has proved himself to be one of the more articulate Members of this body and diligent in his work, as demonstrated by his efforts on energy issues.

TOM has never forgotten the importance of his work to his constituency and to the Nation as a whole. It is such conscientiousness and hard work that serve as an example to be followed by anyone interested in serving the public good. His leaving is a loss to us all and I know I am one of many who wish him all the best and continued success.●

● Mr. WINN. Mr. Speaker, it is with pleasure and a little sadness that I join in honoring a good friend and valued colleague. TOM CORCORAN. It has indeed been a delight to serve with such an able and talented legislator. In the 8 years that TOM has represented the 14th district of Illinois, he has made a number of important achievement which are valuable both to his district and to the country as a whole.

TOM has been a consistent fighter for a number of causes—earning him the nickname "Tiger Tom," in part because of his skillful and effective opposition to the proposed prebilling financing package for the Alaska natural gas pipeline and the anti-Illinois provisions of the AT&T restructuring bill. He has been a vital asset to the House Energy and Commerce Committee on which he serves, and has been able to balance energy, environmental and economic needs through sound legislative initiatives. The persistent themes of Government accountability, reducing the size of the Federal Government and two-way constituent communications have typified the leadership style of TOM CORCORAN.

I know that TOM will be missed as he leaves the House of Representatives, but am certain that he will only move on to better things. I wish he and Helenmarie the very best in all that they seek to do.●

● Mr. RUDD. Mr. Speaker, I am honored to join my colleagues in this special order today to thank my classmate, friend, and colleague [TOM CORCORAN] for his fine service in the House of Representatives. We came to this House together in the same class.

TOM's presence will be missed here. He has been a leader and ally in the fight to restore fiscal integrity to congressional spending practices. His leadership in the Energy and Commerce Committee, and Post Office and Civil Service Committee has been an asset to us all.

There is no doubt that TOM's fine service has made Illinois' 14th District, his State, and the Nation better places for us all to live.

It is therefore with mixed feelings of joy and sorrow that I take part in this special order to pay tribute to TOM CORCORAN. We are losing a true asset with his retirement.

Let me take this opportunity to thank him for his 8 years of dedicated service to this House, and extend to TOM and his family my best wishes for health and success in all the years ahead.●

● Mr. MONTGOMERY. Mr. Speaker, I am happy to join in this special order today to honor our colleague, Representative TOM CORCORAN of Illinois.

TOM has been a strong voice for the people of the 14th District over the past 8 years here in Washington. I know they will miss his leadership when the 99th Congress convenes. He has been an active and effective member of the important Energy and Commerce Committee, serving as ranking member of the Fossil and Synthetic Fuels Subcommittee. His experience on that panel will be missed.

TOM CORCORAN has served this Chamber with distinction and has had the courage to speak out on the issues important to him and his constituency. He has served with integrity and certainly will be missed by Members on both sides of the aisle.●

● Mr. FUQUA. Mr. Speaker, I appreciate this opportunity provided by the gentleman from Illinois [Mr. MADIGAN] to say a few words in appreciation of a colleague, TOM CORCORAN. TOM has served with distinction the people of Illinois' 14th District and been an effective member of both the Energy and Commerce Committee and the Post Office and Civil Service Committee.

His 8 years in this body have been a period of rapid change and transition, and TOM can be proud of the role he has played in helping to shape our Government and our Nation.

TOM has served as an honest and honorable Member of this Chamber and been an effective spokesman for causes of importance to him and to the Nation. I wish him the very best of success in future endeavors and say to him, we will miss you, TOM.●

□ 2100

Mr. MADIGAN. Mr. Speaker, I yield to the gentleman from Illinois.

Mr. CORCORAN. Mr. Speaker, I want to thank the gentleman from Illinois, [Mr. MADIGAN] and our Republican leader, Mr. MICHEL, for their thoughtfulness in arranging the special order. I sincerely appreciate the gracious and generous comments which they and others have made about my service in the U.S. House of Representatives. The spirit of friendship and respect they have evoked here this evening. Mr. Speaker, is certainly mutual. These have been the best 8 years of my professional life. I will always cherish my privilege to serve in Congress.

Mr. Speaker, as you know, when some Members complete their service in Congress, they leave here with just a little bitterness about either the legislative process itself or the campaigning to become elected to Congress. I am not going into a long discussion on either of these types of complaints. I will leave that for others and another day. But we've all heard about the hectic, disjointed pace for legislators here in Washington and about special interest lobbyists financing our campaigns to get us elected in the first place. These general criticisms are well known.

Well, Mr. Speaker, I don't feel that way. The legislative process is fundamentally sound. It works. And is has worked well for two centuries. I predict it will continue to work well. Sure, there are some institutional changes I would like to see made in how we conduct the American people's business. However, the people can deal with the need to bring about a fundamental realignment in Congress, as was done in the 1980 elections, before things reach a breaking point. Mr. Speaker, the system works. Representative democracy is here to stay.

As far as special interest money in elections is concerned, things are far

better today than they were prior to 1974. Before 1974 it was all secret. There were no limits. Virtually anybody or any organization could give any amount to any candidate. Then the charge of a candidate being "bought" by a special interest might have been true. Unfortunately, because there was little or no regulation and no disclosure of campaign contribution, we will never know the truth.

Today we have stringent regulation. Today we have meaningful limits on contributions. Today we have disclosure of campaign contributions and expenditures. Today if a candidate for Congress gets a high proportion of his or her contributions from a special interest, and as Congressman votes that way against the common interest of his or her constituency, there will be informed accountability at the next election.

Therefore, Mr. Speaker, I leave the Congress with no regrets and no complaints. To get here back in 1976, I had to defeat an incumbent Democrat. I was an angry young man then, not so much at my opponent, but at the policies he represented. We have changed those policies, and I believe the country is in better condition because of those changes in Government policy. Serving in Congress has been a wonderful, and enriching experience for me, and I commend it to all my friends.

GENERAL LEAVE

Mr. MADIGAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

UNFINISHED BUSINESS—CIVIL SERVICE RETIREMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. CONABLE] is recognized for 15 minutes.

Mr. CONABLE. I thank the Chair for recognizing me even at this very late hour. Mr. Speaker, before I begin I would like to say to my friends in the staff, both those who are here and those who may be working elsewhere to finish up the work of the day, that I deeply regret contributing to the lateness of the hour.

I must say that your work is long and arduous and the hours are frequently late and I offer you condolences on the prospects for this week since many of those retiring are likely to have repeated episodes similar to those tonight, however appropriate they may be, it does keep you here a long time and it is regretted.

I also regret that many of us who are staggering off into the twilight feel obliged to say one or two last words, and that you have to wait to hear those.

Though this Congress has failed to do much about cutting spending to reduce the threatening Federal budget deficit, there seems to be broad agreement that the next Congress will have to face this serious condition. Dire forecasts are appropriate in the event the budget deficits are not adequately reduced soon. There is no shortage of Government activities and programs which provide obvious examples for restraining habitual Government excess, and prominent among them are the so-called entitlement programs which now absorb 40 percent or more of the Federal budget.

Among the most generous of these are the Government retirement programs for civil and for military service. Costs for each of these retirement programs are escalating rapidly, and in prospect are even sharper increases ahead. They required $20 billion and $16 billion, respectively, in taxpayer support last year. There presently are 1.7 million civil service and 1.4 million military retirees in a total of 3.1 million drawing benefits, but projections are for another three-quarters of a million retirees by the end of the century. A Joint Economic Committee study has projected costs exceeding $80 billion annually by that time. The Congressional Research Service estimates that over the next 10 years expenditures for civil service retirement benefits will exceed employee contributions by $260 billion. Already each program bears an unfunded liability in excess of $500 billion. That's the amount committed in benefits to employees and retirees.

Clearly, conditions are alarming and require response by Congress. Spending as usual will lead to fiscal catastrophe.

I plan to direct most of this discussion to the civil service system, but similar troublesome conditions exist in the military retirement program, as well. All of us are familiar with the press reports of horror stories resulting from our lavish retirement systems. There is the former Speaker of the House, whose retirement pension far exceeds his salary while in office, as well as the present-day salary of Members of Congress. Then, the Treasury employee who contributed a little more than $6,000 to the retirement system and has received $142,000 in retirement benefits to date. Another former colleague of ours retired in 1973 with an annual pension of $18,720, which has now grown to $46,500. He was able to credit his military service time toward retirement even though drawing a military pension; it's another practice which should be halted, and I've introduced a bill (H.R. 6116) for that purpose. The Office of Personnel Management has estimated that more than 100,000 civil service retirees are drawing annual retirement benefits which exceed their salary at retirement. A Joint Economic Committee study revealed that Goverment retirees were receiving more in retirement benefits than all the retired workers in the private sector.

Leaders of public employee unions are quick to defend the current system with arguments that the retirement trust fund currently has a balance exceeding $100 billion, or the generous retirement system is offsetting a less-than-generous salary schedule for employees, or that employees are contributing a fair share to the system. Those arguments comprise a flimsy defense.

As I noted earlier, the program's unfunded liability exceeds a half trillion dollars. Salaries have reached reasonable levels in most positions. Employee contributions now account for only about 20 percent of annual pension costs. In the most recent year, employee contributions totaled $4.3 billion while the taxpayers supported these programs with almost $20 billion. Annual cost of the retirement pay now represents more than 30 percent of payroll, more than double the experience in private employment.

The President's Private Sector Survey on Cost Control—Grace Commission recently declared that civil service retirement benefits are three to six times as generous as the average employee's pension in private employment. Surveys indicate that three-fourths of Government retirees eventually qualify for Social Security benefits, as well. Since many of them qualify with minimum entitlement, they also are aided by the benefit bias included in the Social Security program to help low-income workers. Nearly half of Government workers retire before age 60, compared to 7 percent in private employment, and the Grace Commission found that only 10 percent of workers eligible to retire at age 60 elect to remain in their jobs. The retirement benefits are too attractive to postpone.

The cause for these dire and costly circumstances is not difficult to determine. The extent of benefits provided is no longer justifiable to the taxpaying public as the system has matured. The highly favorable ratio of contributions to benefits, the annual cost-of-living adjustments [COLA's] early retirement provisions, and a narrow salary base for computing benefits, combine to produce rewards which are the envy of nongovernment workers. Moreover, this special largesse contributes to the low standing of Government with the American taxpayers who are paying the bills.

Not surprisingly, there are many thoughtful Government employees

and retirees who agree that the present provisions of Government retirement programs cannot be defended or sustained. They counsel change before there is an overwhelming public reaction. Some among them have organized as the National Committee on Public Employee Pension Systems [PEPS] to advocate rational change now, and they support many reasonable revisions.

The administration has proposed a wide range of revisions to this Congress to place the Government retirement programs on a fair and reasonable basis, but still reduce costs and help trim the budget deficit. A few changes have been made, but the recommendations have largely been ignored. The proposals have been directed at all elements of the system: Increase the salary base period for computing benefits from 3 to 5 years; apply the full COLA only to the first $10,000 of annuity, a figure equal to the highest annual Social Security benefit, and apply 55 percent of the COLA to the remainder above $10,000—COLA's average 33 percent of the actual cost of living in private plans; and increase employee contributions above the present 7 percent of salary.

The Social Security reforms of last year, because they included new Government employees in the Social Security system for the first time, offer an opportunity to design a more sensible integrated system for the future. I am not aware of notable progress in this design, and in the meantime our new congressional Members are left in limbo between two systems. Delay serves nobody.

Mr. Speaker, reasonable changes can be made in Government retirement programs which will leave us a program that will remain fair and attractive for employees and defensible before the taxpayers. Revisions must be made to restore a sensible relationship between employee compensation and retirement benefits. Employee salaries have been subject to reasonable restraint during the recent period of serious budget imbalance, but retirement benefits have been permitted to grow virtually unchecked. The result has been to give stong incentive to retire from Government rather than continue to work because the rewards are so attractive. What kind of personnel policy is it that gives greater rewards to those who retire than to those who remain in the workforce? As I have said before, any organization which does so, cannot be serious about the quality or morale of its employees or the effectiveness of their performance.

Congress has voted the elaborate excessive spending programs which have produced the dangerous budgetary conditions we are facing. It is Congress that must face up to the remedies.

Incidentally, Mr. Speaker, I certainly do not blame Government employees for this condition. It is Congress alone which must be held responsible.

The longer the delay, the more difficult the correction. The Government retirement system is one of the key entitlement programs demanding correction. If we cannot rehabilitate one of our own employee programs, how can we presume to legislate solutions for others. Our goal should be a program that is fair and responsible to employees, the Government and the taxpayers.

Everyone agrees that 1985 is the watershed period for acting on these issues. I hope Congress will join wth the administration in restoring this and similarly troubled programs to a reasonable, equitable and financially sustainable basis. It would be a strong step toward improving the Government's fiscal condition and citizen confidence in our ability to govern. Both are badly needed.

□ 2110

In closing, Mr. Speaker, let me say that we do not serve the cause of Federal employees any more than we serve good Government by failing to correct the imbalances and inequities in the Federal pension system. Excessive abuses unheeded lead to an excess of zeal when reform comes. We serve no one by letting a ticking timebomb blow up in our faces when we have the capacity to disarm it but lack the courage to act.

CONFERENCE REPORT ON S. 905

Mr. BROOKS submitted the following conference report and statement on the bill (S. 905) to establish the National Archives and Records Administration as an independent agency:

CONFERENCE REPORT (H. REPT. No. 98-1124)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 905) to establish the National Archives and Records Administration as an independent agency, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "National Archives and Records Administration Act of 1984".

TITLE I—ESTABLISHMENT OF AN INDEPENDENT NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

ESTABLISHMENT

SEC. 101. Section 2102 of title 44, United States Code, is amended to read as follows:

"§ 2102. Establishment

"There shall be an independent establishment in the executive branch of the Government to be known as the National Archives and Records Administration. The Administration shall be administered under the supervision and direction of the Archivist.".

ORGANIZATION AND GENERAL AUTHORITY

SEC. 102. (a) Chapter 21 of title 44, United States Code, is amended—

(1) by redesignating sections 2103 through 2114 as sections 2107 through 2118, respectively; and

(2) by inserting after section 2102 the following new sections:

"§ 2103. Officers

"(a) The Archivist of the United States shall be appointed by the President by and with the advice and consent of the Senate. The Archivist shall be appointed without regard to political affiliations and solely on the basis of the professional qualifications required to perform the duties and responsibilities of the office of Archivist. The Archivist may be removed from office by the President. The President shall communicate the reasons for any such removal to each House of the Congress.

"(b) The Archivist shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5.

"(c) There shall be in the Administration a Deputy Archivist of the United States, who shall be appointed by and who shall serve at the pleasure of the Archivist. The Deputy Archivist shall be established as a career reserved position in the Senior Executive Service within the meaning of section 3132(a)(8) of title 5. The Deputy Archivist shall perform such functions as the Archivist shall designate. During any absence or disability of the Archivist, the Deputy Archivist shall act as Archivist. In the event of a vacancy in the office of the Archivist, the Deputy Archivist shall act as Archivist until an Archivist is appointed under subsection (a).

"§ 2104. Administrative provisions

"(a) The Archivist shall prescribe such regulations as the Archivist deems necessary to effectuate the functions of the Archivist, and the head of each executive agency shall cause to be issued such orders and directives as such agency head deems necessary to carry out such regulations.

"(b) Except as otherwise expressly provided by law, the Archivist may delegate any of the functions of the Archivist to such officers and employees of the Administration as the Archivist may designate, and may authorize such successive redelegations of such functions as the Archivist may deem to be necessary or appropriate. A delegation of functions by the Archivist shall not relieve the Archivist of responsibility for the administration of such functions.

"(c) The Archivist may organize the Administration as the Archivist finds necessary or appropriate.

"(d) The Archivist is authorized to establish, maintain, alter, or discontinue such regional, local, or other field offices as the Archivist finds necessary or appropriate to perform the functions of the Archivist or the Administration.

"(e) The Archivist shall cause a seal of office to be made for the Administration of such design as the Archivist shall approve. Judicial notice shall be taken of such seal.

"(f) The Archivist may establish advisory committees to provide advice with respect to any function of the Archivist or the Administration. Members of any such committee shall serve without compensation but shall be entitled to transportation expenses and

per diem in lieu of subsistence in accordance with section 5703 of title 5.

"(g) The Archivist shall advise and consult with interested Federal agencies with a view to obtaining their advice and assistance in carrying out the purposes of this chapter.

"(h) If authorized by the Archivist, officers and employees of the Administration having investigatory functions are empowered, while engaged in the performance of their duties in conducting investigations, to administer oaths.

"§ 2105. Personnel and services

"(a) The Archivist is authorized to select, appoint, employ, and fix the compensation of such officers and employees, pursuant to part III of title 5, as are necessary to perform the functions of the Archivist and the Administration.

"(b) The Archivist is authorized to obtain the services of experts and consultants under section 3109 of title 5.

"(c) Notwithstanding the provisions of section 973 of title 10 or any other provision of law, the Archivist, in carrying out the functions of the Archivist or the Administration, is authorized to utilize in the Administration the services of officials, officers, and other personnel in other Federal agencies, including personnel of the armed services, with the consent of the head of the agency concerned.

"(d) Notwithstanding section 1342 of title 31, United States Code, the Archivist is authorized to accept and utilize voluntary and uncompensated services.

"§ 2106. Reports to Congress

"The Archivist shall submit to the Congress, in January of each year and at such other times as the Archivist finds appropriate, a report concerning the administration of functions of the Archivist, the Administration, the National Historical Publications and Records Commission, and the National Archives Trust Fund. Such report shall describe—

"(1) program administration and expenditures of funds, both appropriated and nonappropriated, by the Administration, the Commission, and the Trust Fund Board;

"(2) research projects and publications undertaken by Commission grantees, and by Trust Fund grantees, including detailed information concerning the receipt and use of all appropriated and nonappropriated funds;

"(3) by account, the moneys, securities, and other personal property received and held by the National Archives Trust Fund Board, and of its operations, including a listing of the purposes for which funds are transferred to the National Archives and Records Administration for expenditure to other Federal agencies; and

"(4) the matters specified in section 2904(c)(8) of this title.".

(b) Section 2101 of title 44, United States Code, is amended—

(1) by designating the two indented paragraphs as paragraphs (1) and (2), respectively;

(2) by striking out "sections 2103-2113 of this title" in the matter preceding the first such paragraph and inserting in lieu thereof "this chapter";

(3) by striking out the period at the end and inserting in lieu thereof a semicolon; and

(4) by adding at the end thereof the following new paragraphs:

"(3) 'Archivist' means the Archivist of the United States appointed under section 2103 of this title; and

"(4) 'Administration' means the National Archives and Records Administration established under section 2102 of this title.".

(c)(1) The table of sections for chapter 21 of title 44, United States Code, is amended to read as follows:

"CHAPTER 21—NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

"Sec.
"2101. Definitions.
"2102. Establishment.
"2103. Officers.
"2104. Administrative provisions.
"2105. Personnel and services.
"2106. Reports to Congress.
"2107. Acceptance of records for historical preservation.
"2108. Responsibility for custody, use, and withdrawal of records.
"2109. Preservation, arrangement, duplication, exhibition of records.
"2110. Servicing records.
"2111. Material accepted for deposit.
"2112. Presidential archival depository.
"2113. Depository for agreements between States.
"2114. Preservation of motion-picture films, still pictures, and sound recordings.
"2115. Reports; correction of violations.
"2116. Legal status of reproductions; official seal; fees for copies and reproductions.
"2117. Limitation on liability.
"2118. Records of Congress.".

(2) The item relating to chapter 21 in the table of chapters for title 44, United States Code, is amended to read as follows:

"21. National Archives and Records Administration ..... 2101".

TRANSFERS

SEC. 103. (a) The National Archives and Records Service of the General Services Administration is transferred to the National Archives and Records Administration.

(b)(1) All functions which were assigned to the Administrator of General Services by section 6 of Executive Order No. 10530 of May 11, 1954 (19 Fed. Reg. 2709; relating to documents and the Administrative Committee of the Federal Register), and by Executive Order No. 11440 of December 11, 1968 (33 Fed. Reg. 18475; relating to supplemental use of Federal exhibits and displays), shall be exercised by the Archivist of the United States.

(2) All functions pertaining to the maintenance, operation, and protection of a Presidential archival depository which were assigned to the Administrator of General Services by the Act of September 6, 1965 (Public Law 89-169, 79 Stat. 648), relating to the Lyndon Baines Johnson Presidential Archival Depository, and by the Act of August 27, 1966 (Public Law 89-547, 80 Stat. 370) and the Act of May 26, 1977 (Public Law 95-34, 91 Stat. 174), relating to the John Fitzgerald Kennedy Library, shall be exercised by the Archivist of the United States.

(c) In the exercise of the functions transferred by this Act and the amendments made by this Act, the Archivist shall have the same authority as had the Administrator of General Services prior to the transfer of such functions, and the actions of the Archivist shall have the same force and effect as when exercised by such Administrator.

(d) Prior to the appointment and confirmation of an individual to serve as Archivist of the United States under section 2103 of title 44, United States Code, the individual holding the office of Archivist of the United States on the day before the effective date of this Act may serve as Archivist under such section, and while so serving shall be compensated at the rate provided under subsection (b) of such section.

TRANSFER OF PERSONNEL

SEC. 104. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions and agencies transferred by this Act and the amendments made by this Act, subject to section 1531 of title 31, United States Code, are transferred to the Archivist for appropriate allocation. Pursuant to the preceding sentence, there shall be transferred to the Archivist for appropriate allocation (1) for the remainder of fiscal year 1985, an amount equal to not less than $2,760,000 (adjusted to reflect actual salaries and benefits of transferred employees and other costs) from the unexpended balances of the fiscal year 1985 funds and appropriations available to the General Services Administration, and (2) 115.5 full-time equivalent employee positions, of which not less than 30 percent shall be vacant. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) The transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employees to be separated or reduced in grade or compensation for one year after such transfer or after the effective date of this Act, whichever is later.

SAVINGS PROVISIONS

SEC. 105. (a) All orders, determinations, rules, regulations, grants, contracts, agreements, permits, licenses, privileges, and other actions which have been issued, granted, made, undertaken, or entered into in the performance of any function transferred by this Act or the amendments made by this Act shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by any authorized official, a court of competent jurisdiction, or by operation of law.

(b)(1) The transfer of functions by this Act and by the amendments made by this Act shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this Act before the General Services Administration; but such proceedings and applications, to the extent that they relate to the functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Archivist, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Archivist is authorized to promulgate regulations providing for the orderly

transfer of proceedings continued under paragraph (1) from the General Services Administration to the Administration.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act and of the amendments made by this Act shall not affect actions commenced prior to the effective date of this Act, and

(2) in all such actions, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No action or other proceeding lawfully commenced by or against any officer of the United States acting in the official capacity of such officer shall abate by reason of any transfer of functions by this Act or by an amendment made by this Act. No cause of action by or against the General Services Administration or by or against any officer thereof in the official capacity of such officer shall abate by reason of any such transfer of functions.

(e) If, before the date on which this Act takes effect, the General Services Administration or any officer thereof in the official capacity of such officer, is a party to an action, and under this Act or the amendments made by this Act any function in connection with such action is transferred to the Archivist or any other official of the Administration, then such action shall be continued with the Archivist or other appropriate official of the Administration substituted or added as a party.

(f) Orders and actions of the Archivist in the exercise of functions transferred by this Act or by amendments made by this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the individual holding the office of Archivist of the United States on the day before the effective date of this Act or the Administrator of General Services in the exercise of such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act or by any amendment made by this Act shall apply to the exercise of such function by the Archivist.

REFERENCE

SEC. 106. With respect to any functions transferred by this Act or by an amendment made by this Act and exercised after the effective date of this Act, reference in any other Federal law to the office of the Archivist of the United States as in existence on the date before the effective date of this Act, or the National Archives and Records Service of the General Services Administration, or any office or officer thereof, shall be deemed to refer to the Archivist or the Administration.

CONFORMING AMENDMENTS

SEC. 107. (a)(1) Section 2107 of title 44, United States Code, as redesignated by section 102(a)(1), is amended—

(A) by striking out "Administrator of General Services" and inserting in lieu thereof "Archivist";

(B) by striking out "or of the Congress" in paragraph (1) and inserting in lieu thereof ", the Congress, the Architect of the Capitol, or the Supreme Court";

(C) by striking out "Administrator" each place it appears and inserting in lieu thereof "Archivist"; and

(D) by striking out "section 2107" in paragraph (4) and inserting in lieu thereof "section 2111".

(2) Section 2108 of such title, as redesignated by section 102(a)(1), is amended—

(A) by striking out "the Administrator, the Archivist of the United States, and to the employees of the General Services Administration" in subsection (a) and inserting in lieu thereof "the Archivist and to the employees of the National Archives and Records Administration";

(B) by striking out "and in consultation with the Archivist of the United States" in such subsection;

(C) by striking out "the Archivist and" in the fifth sentence of such subsection;

(D) by striking out "Administrator of General Services" each place it appears and inserting in lieu thereof "Archivist"; and

(E) by striking out "Administrator" each place it appears and inserting in lieu thereof "Archivist".

(3) Section 2109 of such title, as redesignated by section 102(a)(1), is amended—

(A) by striking out "Administrator of General Services" and inserting in lieu thereof "Archivist"; and

(B) by inserting "and Records" immediately following "National Historical Publications".

(4) Section 2110 of such title, as redesignated by section 102(a)(1), is amended by striking out "Administrator of General Services" and inserting in lieu thereof "Archivist".

(5) Section 2111 of such title, as redesignated by section 102(a)(1), is amended—

(A) by striking out "Administrator of General Services" and inserting in lieu thereof "Archivist"; and

(B) by striking out "Administrator" and inserting in lieu thereof "Archivist".

(6) Section 2112 of such title, as redesignated by section 102(a)(1), is amended—

(A) by striking out "Administrator of General Services" and inserting in lieu thereof "Archivist";

(B) by striking out "Administrator" each place it appears and inserting in lieu thereof "Archivist"; and

(C) by striking out "section 2107" each place it appears and inserting in lieu thereof "section 2111".

(7) Sections 2113, 2114, and 2117 of such title, as redesignated by section 102(a)(1), are amended by striking out "Administrator of General Services" and inserting in lieu thereof "Archivist".

(8) Section 2115 of such title, as redesignated by section 102(a)(1), is amended to read as follows:

"§ 2115. Reports; correction of violations

"(a) In carrying out their respective duties and responsibilities under chapters 21, 25, 29, 31, and 33 of this title, the Archivist and the Administrator may each obtain reports from any Federal agency on such agency's activities under such chapters.

"(b) When either the Archivist or the Administrator finds that a provision of any such chapter has been or is being violated, the Archivist or the Administrator shall (1) inform in writing the head of the agency concerned of the violation and make recommendations for its correction; and (2) unless satisfactory corrective measures are inaugurated within a reasonable time, submit a written report of the matter to the President and the Congress.".

(9) Section 2116 of such title, as redesignated by section 102(a)(1), is amended—

(A) by striking out "Administrator of General Services" and inserting in lieu thereof "Archivist,"; and

(B) by striking out "Administrator" and inserting in lieu thereof "Archivist".

(10) Section 2118 of such title, as redesignated by section 102(a)(1), is amended by striking out "General Services Administration" and inserting in lieu thereof "National Archives and Records Administration".

(b)(1) Sections 710, 711, and 729 of title 44, United States Code, are amended by striking out "Administrator of General Services" each place it appears and inserting in lieu thereof "Archivist of the United States".

(2) Section 1501 of such title is amended—

(A) by striking out the period at the end of the last paragraph and inserting in lieu thereof a semicolon and "and"; and

(B) by adding at the end thereof the following new paragraph:

"'National Archives of the United States' has the same meaning as in section 2901(11) of this title.".

(3) Section 1502 of such title is amended by striking out "Administrator of General Services" each place it appears and inserting in lieu thereof "Archivist of the United States".

(4) Section 1503 of such title is amended—

(A) by striking out "Administrator of General Services" and inserting in lieu thereof "Archivist of the United States";

(B) by striking out "General Services Administration" and inserting in lieu thereof "National Archives and Records Administration"; and

(C) by striking out "Administrator" each place it appears and inserting in lieu thereof "Archivist".

(5) Section 1506 of such title is amended by striking out the third sentence.

(6) Section 1714 of such title is amended by striking out "General Services Administration" and inserting in lieu thereof "National Archives and Records Administration".

(7) Sections 2204(c)(1) and 2205 of such title are amended by striking out "National Archives and Records Service of the General Services Administration" and inserting in lieu thereof "National Archives and Records Administration".

(8) Section 2301 of such title is amended by striking out the second sentence thereof.

(9) Section 2501 of such title is amended by striking out the last sentence thereof.

(10) Section 2504 of such title is amended—

(A) by striking out "Administrator of General Services" in the third sentence of subsection (a) and inserting in lieu thereof "Archivist of the United States";

(B) by inserting "and Records" after "Historical Publications" in the fourth sentence of such subsection;

(C) by striking out "Administrator" in the fourth sentence of such subsection and inserting in lieu thereof "Archivist";

(D) by striking out "transmit to the Administrator" in the last sentence of such subsection and inserting in lieu thereof "transmit to the President and the Congress"; and

(E) by striking out "General Services Administration" in subsection (b) and inserting in lieu thereof "National Archives and Records Administration".

(11) Section 2506 of such title is amended—

(A) by striking out "Administrator of General Services" in subsection (a) and inserting in lieu thereof "Archivist of the United States"; and

(B) by striking out "Administrator" in subsection (b) and inserting in lieu thereof "Archivist".

(12)(A) Section 2507 of such title is repealed.

(B) The table of sections for chapter 25 of such title is amended by striking out the item relating to section 2507.

(13) Section 2901 of such title is amended—

(A) by striking out "27," in the matter preceding paragraph (1);

(B) by inserting before the semicolon at the end of paragraph (2) the following: "in order to achieve adequate and proper documentation of the policies and transactions of the Federal Government and effective and economical management of agency operations";

(C) by striking out "Administrator" each place it appears in paragraphs (6), (9), and (11) and inserting in lieu thereof "Archivist"; and

(D) by striking out paragraphs (12) and (13) and inserting in lieu thereof the following:

"(12) the term 'Archivist' means the Archivist of the United States;

"(13) the term 'executive agency' shall have the meaning given such term by section 3(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472(a));

"(14) the term 'Federal agency' means any executive agency or any establishment in the legislative or judicial branch of the Government (except the Supreme Court, the Senate, the House of Representatives, and the Architect of the Capitol and any activities under the direction of the Architect of the Capitol); and

"(15) the term 'Administrator' means the Administrator of General Services.".

(14) Section 2902(7) of such title is amended by inserting "or the Archivist" after "Administrator".

(15)(A) Sections 2903 and 2907 of such title are amended by striking out "Administrator" each place it appears and inserting in lieu thereof "Archivist".

(B) Sections 2905, 2908, and 2909 of such title are amended by striking out "Administrator of General Services" each place it appears and inserting in lieu thereof "Archivist".

(16) Section 2904 of such title is amended to read as follows:

"§ 2904. General responsibilities for records management

"(a) The Archivist shall provide guidance and assistance to Federal agencies with respect to ensuring adequate and proper documentation of the policies and transactions of the Federal Government and ensuring proper records disposition.

"(b) The Administrator shall provide guidance and assistance to Federal agencies to ensure economical and effective records management by such agencies.

"(c) In carrying out their responsibilities under subsection (a) or (b), respectively, the Archivist and the Administrator shall each have the responsibility—

"(1) to promulgate standards, procedures, and guidelines with respect to records management and the conduct of records management studies;

"(2) to conduct research with respect to the improvement of records management practices and programs;

"(3) to collect and disseminate information on training programs, technological developments, and other activities relating to records management;

"(4) to establish such interagency committees and boards as may be necessary to provide an exchange of information among Federal agencies with respect to records management;

"(5) to direct the continuing attention of Federal agencies and the Congress on the need for adequate policies governing records management;

"(6) to conduct records management studies and, in his discretion, designate the heads of executive agencies to conduct records management studies with respect to establishing systems and techniques designed to save time and effort in records management;

"(7) to conduct inspections or surveys of the records and the records management programs and practices within and between Federal agencies;

"(8) to report to the appropriate oversight and appropriations committees of the Congress and to the Director of the Office of Management and Budget in January of each year and at such other times as the Archivist or the Administrator (as the case may be) deems desirable—

"(A) on the results of activities conducted pursuant to paragraphs (1) through (7) of this section,

"(B) on evaluations of responses by Federal agencies to any recommendations resulting from inspections or studies conducted under paragraphs (6) and (7) of this section, and

"(C) to the extent practicable, estimates of costs to the Federal Government resulting from the failure of agencies to implement such recommendations.

"(d) In addition, the Administrator, in carrying out subsection (b), shall have the responsibility to promote economy and efficiency in the selection and utilization of space, staff, equipment, and supplies for records management.".

(17) Section 2906 of such title is amended to read as follows:

"§ 2906. Inspection of agency records

"(a)(1) In carrying out their respective duties and responsibilities under this chapter, the Administrator of General Services and the Archivist (or the designee of either) may inspect the records or the records management practices and programs of any Federal agency solely for the purpose of rendering recommendations for the improvement of records management practices and programs. Officers and employees of such agencies shall cooperate fully in such inspections, subject to the provisions of paragraphs (2) and (3) of this subsection.

"(2) Records, the use of which is restricted by law or for reasons of national security or the public interest, shall be inspected, in accordance with regulations promulgated by the Administrator and the Archivist, subject to the approval of the head of the agency concerned or of the President. The regulations promulgated by the Administrator and the Archivist under this paragraph shall, to the extent practicable, be identical.

"(3) If the Administrator or the Archivist (or the designee of either) inspects a record, as provided in this subsection, which is contained in a system of records which is subject to section 552a of title 5, such record shall be—

"(A) maintained by the Administrator, the Archivist, or such designee as a record contained in a system of records; or

"(B) deemed to be a record contained in a system of records for purposes of subsections (b), (c), and (i) of section 552a of title 5.

"(b) In conducting the inspection of agency records provided for in subsection (a) of this section, the Administrator and the Archivist (or the designee of either) shall, in addition to complying with the provisions of law cited in subsection (a)(3), comply with all other Federal laws and be subject to the sanctions provided therein.".

(18)(A) The heading of chapter 29 of title 44, United States Code, is amended to read as follows:

"CHAPTER 29—RECORDS MANAGEMENT BY THE ARCHIVIST OF THE UNITED STATES AND BY THE ADMINISTRATOR OF GENERAL SERVICES".

(B) The item relating to chapter 29 in the table of chapters for title 44, United States Code, is amended to read as follows:

"29. Records Management by the Archivist of the United States and by the Administrator of General Services ..... 2901".

(19) Section 3102 of such title is amended—

(A) by inserting "and the Archivist" after "Administrator of General Services" in paragraph (2);

(B) by striking out "sections 2101–2113" and inserting in lieu thereof "sections 2101–2117"; and

(C) by striking out "2701,".

(20) Section 3103 of such title is amended by striking out "Administrator" each place it appears and inserting in lieu thereof "Archivist".

(21) Sections 3104 and 3106 of such title are amended—

(A) by striking out "Administrator of General Services" and inserting in lieu thereof "Archivist"; and

(B) by striking out "Administrator" each place it appears and inserting in lieu thereof "Archivist".

(22) Section 3105 of such title is amended by striking out "Administrator of General Services" and inserting in lieu thereof "Archivist".

(23) Sections 3302, 3303, 3308, and 3311 of such title are amended by striking out "Administrator of General Services" and inserting in lieu thereof "Archivist".

(24) Sections 3303a and 3310 of such title are amended—

(A) by striking out "Administrator of General Services" and inserting in lieu thereof "Archivist"; and

(B) by striking out "Administrator" each place it appears and inserting in lieu thereof "Archivist".

(25)(A) The heading of section 3303 of such title is amended to read as follows:

"§ 3303. Lists and schedules of records to be submitted to the Archivist by head of each Government agency".

(B) The heading of section 3303a of such title is amended to read as follows:

"§ 3303a. Examination by Archivist of lists and schedules of records lacking preservation value; disposal of records".

(C) The heading of section 3311 of such title is amended to read as follows:

"§ 3311. Destruction of records outside continental United States in time of war or when hostile action seems imminent; written report to Archivist".

(D) The table of sections for chapter 33 of such title is amended by striking out "Administrator of General Services" in the items pertaining to sections 3303, 3303a, and 3311 and inserting in lieu thereof "Archivist".

(26) Section 3504(e) of such title is amended by inserting "the Archivist of the United States and" before "the Administrator of General Services" each place it appears in paragraphs (1) and (2).

(27) Section 3513 of such title is amended by inserting "and the Archivist of the United States" after "Administrator of General Services".

(c)(1) Section 101 of the Presidential Recordings and Materials Preservation Act is amended—

(A) by striking out "section 2107" each place it appears and inserting in lieu thereof "section 2111";

(B) by striking out "Administrator of General Services (hereinafter in this title referred to as the 'Administrator')" and inserting in lieu thereof "Archivist of the United States (hereinafter referred to as the 'Archivist')"; and

(C) by striking out "Administrator" and inserting in lieu thereof "Archivist".

(2) Section 102 of such Act is amended—

(A) by striking out "section 2107" and inserting in lieu thereof "section 2111", and

(B) by striking out "Administrator" each place it appears and inserting in lieu thereof "Archivist".

(3) Section 103 of such Act is amended by striking out "Administrator" and inserting in lieu thereof "Archivist".

(4) Section 104 of such Act is amended—

(A) by striking out "Administrator" each place it appears and inserting in lieu thereof "Archivist"; and

(B) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) The regulations proposed by the Archivist in the report required by subsection (a) shall not take effect until the expiration of the first period of 60 calendar days of continuous session of the Congress after the date of the submission of such regulations to each House of the Congress. For the purposes of this subsection, continuity of session is broken only by an adjournment of Congress sine die, but the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded.".

(d) Sections 106a, 106b, 112, 113, and 201 of title 1, United States Code, are amended by striking out "Administrator of General Services" and "General Services Administration" each place they appear and inserting in lieu thereof "Archivist of the United States" and "National Archives and Records Administration", respectively.

(e)(1) Sections 6 and 11 through 13 of title 3, United States Code, are amended by striking out "Administrator of General Services" and "General Services Administration" each place they appear and inserting in lieu thereof "Archivist of the United States," and "National Archives and Records Administration", respectively.

(2)(A) The heading of section 6 of such title is amended to read as follows:

"§ 6. Credentials of electors; transmission to Archivist of the United States and to Congress; public inspection".

(B) The heading of section 12 of such title is amended to read as follows:

"§ 12. Failure of certificates of electors to reach President of the Senate or Archivist of the United States; demand on State for certificate".

(3) The table of sections for chapter 1 of such title is amended by striking out "Administrator of General Services" in the items pertaining to sections 6 and 12 and inserting in lieu thereof "Archivist of the United States".

(f) Sections 141 through 145 of title 4, United States Code, are amended by striking out "Administrator of General Services", "Administrator", and "General Services Administration" each place they appear and inserting in lieu thereof "Archivist of the United States", "Archivist", and "National Archives and Records Administration", respectively.

(g) Section 552a of title 5, United States Code, is amended—

(1) by striking out subsection (b)(6) and inserting in lieu thereof the following:

"(6) to the National Archives and Records Administration as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Archivist of the United States or the designee of the Archivist to determine whether the record has such value;"; and

(2) by striking out "Administrator of General Services" each place it appears in subsection (l)(1) and inserting in lieu thereof "Archivist of the United States".

(h) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"Archivist of the United States.".

(i) Section 4(5) of the Act of October 25, 1951 (25 U.S.C. 199a) is amended by striking out "Administrator of General Services" each place it appears and inserting in lieu thereof "Archivist of the United States".

DEFINITIONS

SEC. 108. For purposes of sections 103 through 106—

(1) the term "Archivist" means the Archivist of the United States appointed under section 2103 of title 44, United States Code, as added by section 102(a)(2) of this Act;

(2) the term "Administration" means the National Archives and Records Administration established under section 2102 of such title (as amended by section 101 of this Act); and

(3) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

TITLE II—ADMINISTRATIVE PROVISIONS

COPYING AND AUTHENTICATING CHARGES

SEC. 201. Section 2116(c) of title 44, United States Code (as redesignated by section 102(a)), is amended to read as follows:

"(c) The Archivist may charge a fee set to recover the costs for making or authenticating copies or reproductions of materials transferred to his custody. Such fee shall be fixed by the Archivist at a level which will recover, so far as practicable, all elements of such costs, and may, in the Archivist's discretion, include increments for the estimated replacement cost of equipment. Such fees shall be paid into, administered, and expended as a part of the National Archives Trust Fund. The Archivist may not charge for making or authenticating copies or reproductions of materials for official use by the United States Government unless appropriations available to the Archivist for this purpose are insufficient to cover the cost of performing the work.".

NATIONAL ARCHIVES TRUST FUND BOARD

SEC. 202. (a) Chapter 23 of title 44, United States Code, is amended by striking out sections 2302 through 2305 and inserting in lieu thereof the following:

"§ 2302. Authority of the Board; seal; services; bylaws; rules; regulations; employees

"In carrying out the purposes of this chapter, the Board—

"(1) may adopt an official seal, which shall be judicially noticed;

"(2) may utilize on a reimbursable basis the services and personnel of the National Archives and Records Administration necessary (as determined by the Archivist) to assist the Board in the administration of the trust fund, and in the preparation and publication of special works and collections of sources and preparation, duplication, editing, and release of historical photographic materials and sound recordings, and may utilize on a reimbursable basis the services and personnel of other Federal agencies for such purposes;

"(3) may adopt bylaws, rules, and regulations necessary for the administration of its functions under this chapter; and

"(4) may, subject to the laws and regulations governing appointments in the civil service, appoint and fix the compensation of such personnel as may be necessary to carry out its functions.

"§ 2303. Powers and obligations of the Board; liability of members

"Except as otherwise provided by this chapter, the Board shall have all the usual powers and obligations of a trustee with respect to property and funds administered by it, but the members of the Board are not personally liable, except for malfeasance.

"§ 2304. Compensation of members; availability of trust funds for expenses of the Board

"Compensation may not be paid to the members of the Board for their services as members. Costs incurred by the Board in carrying out its duties under this chapter, including the obligations necessarily incurred by the members of the Board in the performance of their duties and the compensation of persons employed by the Board, shall be paid by the Archivist of the United States from trust funds available to the Board for this purpose. The Board, by resolution, may authorize the transfer of funds (including the principal or interest of a gift or bequest) to the National Archives and Records Administration to be expended on an archival or records activity approved by the Board or to accomplish the purpose of a gift or bequest.

"§ 2305. Acceptance of gifts

"The Board may solicit and accept gifts or bequests of money, securities, or other personal property, for the benefit of or in connection with the national archival and records activities administered by the National Archives and Records Administration. Moneys that are for deposit into the trust fund shall be deposited within 10 working days of the receipt thereof.".

(b) Section 2307 of title 44, United States Code, is amended to read as follows:

"§ 2307. Trust fund account; disbursements; sales of publications and releases

"The income from trust funds held by the Board and the proceeds from the sale of securities and other personal property, as and when collected, shall be covered into the Treasury of the United States in a trust fund account to be known as the National Archives Trust Fund, subject to disbursement on the basis of certified vouchers of the Archivist of the United States (or his designee) for activities approved by the Board and in the interest of the national archival and records activities administered by the National Archives and Records Administration, including but not restricted to the preparation and publication of special works, and collections of sources and the preparation, duplication, editing, and release of historical photographic materials and sound recordings. The Archivist may sell publications and releases authorized by this section and paid for out of the income derived from trust funds at a price which will cover their cost, plus 10 percent, and

moneys received from these sales shall be paid into, administered, and expended as part of the National Archives Trust Fund.".

(c) The table of sections for chapter 23 of title 44, United States Code, is amended by striking out the item pertaining to section 2302 and inserting in lieu thereof the following:

"2302. Authority of the Board; seal; services; bylaws; rules; regulations; employees

SECURITY OF RECORDS

SEC. 203. (a) Section 2905(a) of title 44, United States Code, is amended by adding at the end thereof the following new sentence: "In any case in which the head of the agency does not initiate an action for such recovery or other redress within a reasonable period of time after being notified of any such unlawful action, the Archivist shall request the Attorney General to initiate such an action, and shall notify the Congress when such a request has been made.".

(b) Section 3106 of title 44, United States Code, is amended by adding at the end thereof the following new sentence: "In any case in which the head of the agency does not initiate an action for such recovery or other redress within a reasonable period of time after being notified of any such unlawful action, the Archivist shall request the Attorney General to initiate such an action, and shall notify the Congress when such a request has been made.".

PUBLIC NOTICE

SEC. 204. Section 3303a(a) of title 44, United States Code, is amended by inserting ", after publication of notice in the Federal Register and an opportunity for interested persons to submit comment thereon" immediately after "may" in the second sentence thereof.

TITLE III—GENERAL PROVISIONS

EFFECTIVE DATE

SEC. 301. The provisions of this Act (including the amendments made by this Act) shall be effective on April 1, 1985.

SPENDING AUTHORITY

SEC. 302. Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974) which is provided under this Act shall be effective for any fiscal year only to the extent or in such amounts as provided in appropriations Acts.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

Amend the title so as to read: "An Act to establish the National Archives and Records Administration, and for other purposes.".

And the House agree to the same.

JACK BROOKS,
DON FUQUA,
GLENN ENGLISH,
FRANK HORTON,
Managers on the Part of the House.

W.V. ROTH, Jr.,
CHARLES MCC. MATHIAS, Jr.,
TOM EAGLETON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 905) to establish the National Archives and Records Administration as an independent agency, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute next.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

STATEMENT OF PURPOSE

Current Law

No statement of purpose of the National Archives and Records Service and its related agencies, the National Historical Publications and Records Commission and the National Archives Trust Fund Board, exists in current law.

Senate Bill

The Senate bill contains a statement of purpose.

House Amendment

The House bill contains a statement of purpose.

Conference Agreement

The Senate recedes.

TENURE AND TERM OF ARCHIVIST

Current Law

The Archivist is appointed by the Administrator of General Services. No term of office or professional qualifications are defined (44 USC 2102).

Senate Bill

The Archivist would be appointed by the President by and with the advice and consent of the Senate for a ten year term. Appointment would be without regard to political affiliations and solely on the basis of professional qualifications.

House Amendment

The Archivist would be appointed by the President by and with the advice and consent of the Senate, without regard to political affiliations and solely on the basis of professional qualifications. Should the President remove the Archivist, the reasons for removal shall be communicated to each House of the Congress.

Conference Agreement

The Senate recedes.

The Archivist is to be appointed by the President by and with the advice and consent of the Senate. A term of office is not specified. Although the Archivist may be removed from office by the President, the conferees intend that he be an officer performing archival and records management functions insulated from the political orientation of a particular administration. Because of the non-political nature of the Archivists' duties, the office ought not to change hands automatically with the election of the new President.

The Archivist has responsibilities that range across the Federal Government. Insulation from political pressure is necessary to insure confidence and cooperation from all agencies. Public confidence in the Archivist's role will also be enhanced if the office is permitted to pursue objectively and independently the archival responsibilities necessary to insure preservation of the Nation's historically valuable records. Changes in the office of Archivist coincident with changes in administrations would undermine the independent and non-partisan role envisioned for the Archivist. The President can remove the Archivist, but if he does so, he must share his reasons for such action with the Congress.

RULEMAKING AUTHORITY

Current Law

Section 205(c) of the Federal Property and Administrative Services Act of 1949, as amended (40 USC 486(c)), authorizes the Administrator of General Services to prescribe rules to carry out his functions under the Act. The Property Act includes the Federal Records Act, which was codified in a separate title of the United States Code, title 44, P.L. 90-620.

Senate Bill

The Senate bill does not provide explicit rulemaking authority. Rulemaking authority is implied from section 4(a) and (d), which transfer certain functions of the General Services Administrator to the Archivist and invest the latter official, in his exercise of those functions, with the authority which the former had prior to the transfer.

House Amendment

Explicit rulemaking authority would be provided in new section 2104(a) of Title 44.

Conference Agreement

Current law is repeated in the conference agreement with conforming changes, explicitly vesting the Archivist with exactly the same rulemaking authority with respect to the Archivist's functions described in this legislation as is now exercised by the Administrator of General Services.

The Conferees emphasize that this rulemaking authority for the Archivist is not "new" authority, but simply a restatement of the current authority held by the GSA Administrator under section 205(c) of the Federal Property and Administrative Services Act of 1949.

INFORMATION GATHERING AUTHORITY OF THE ARCHIVIST

Current Law

Several sections of title 44 provide for Federal agencies to report to, or consult with, the Administrator of General Services with respect to records management, disposal, and preservation. For example:

Section 2111 provides that when the Administrator considers it necessary, he may obtain reports from Federal agencies on their activities under chapters 21, 25, 29, 31, and 33;

Section 3106 requires the head of each Federal agency to notify the Administrator of any actual, impending, or threatened unlawful removal, defacing, alteration, or destruction of records in the custody of the agency of which he is the head, whenever such an action comes to his attention; and

Section 3303 requires the head of each agency of the United States Government to submit to the Administrator lists of records and schedules proposed for the disposal of such records.

Senate Bill

The Senate bill maintains current law.

House Amendment

The House amendment would add a separate, generic requirement that each Federal agency be required to furnish to the Archivist, upon request, any information or other

data which the Archivist finds necessary to carry out his duties.

Conference Agreement

The House recedes, thereby maintaining the status quo.

The conferees intend that Federal agencies will cooperate with the Archivist (44 U.S.C. 3102) in establishing records systems, managing them, jointly determining disposition schedules, and in transferring thirty-year-old permanently valuable records to the Archives. Such cooperation and sharing of information is essential to the effective functioning of government.

ANNUAL REPORT

Current Law

An annual report on the activities of the National Historical Publications and Records Commission is now required (44 USC 2507). Current law does not require a separate annual report on the activities of the National Archives Trust Fund Board or on the activities of the National Archives and Records Service generally. Current law does require a separate annual report on the records management activities of the Administrator of General Services (44 USC 2904(10)).

Senate Bill

The Senate bill requires a consolidated annual report to the Congress on the activities of the National Archives and Records Administration, the National Archives Trust Fund Board, and the National Historical Publications and Records Commission.

House Amendment

The House amendment requires separate, annual reports of all three aforementioned agencies, and the records management activities of NARA and GSA.

Conference Agreement

The Conference agreement requires a consolidated report by the National Archives and Records Administration as to the activities of all three agencies (and a separate report by the General Services Administration on its records management activities) with the specific information prescribed in both the Senate bill and the House amendment.

The conferees intend to continue their oversight of the newly independent agency, its use of appropriated and nonappropriated (including donated) funds; Federal Government records management activities; interagency coordination and cooperation; research projects and publications directly and indirectly fostered; preservation activities of archived material; user group needs and services; and the use of new technology to save space, time, and personnel costs. The conferees expect the comprehensive annual report of the National Archives and Records Administration and the General Services Administration annual report to address the subjects mentioned above as well as any other emerging issues or opportunities affecting records management and archival responsibilities.

DEFINITION OF "FEDERAL AGENCY"

Current Law

As used in chapters 21, 25, 29, 31, and 33 of title 44, U.S. Code, section 2901(13) of title 44 provides that the term "Federal agency" shall have the meaning given such term by section 3(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472(b)). That section defines a Federal agency as any executive agency (defined by section 3(a) of that Act as any executive department or independent establishment in the executive branch, including any wholly-owned Government corporation) or any establishment in the legislative or judicial branch of the government (except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under his direction).

The effect of this definition through the use of the term "Federal agency" in the aforementioned chapters of title 44 is to exempt only the Senate, the House of Representatives, and the Architect of the Capitol and any activities under his direction from the archival, records management, and records disposition laws, codified in title 44.

Senate Bill

The Senate bill modifies the definition of "Federal agency" as it is used in title 44 so that the Supreme Court would be specifically exempted from the archival, records management, and records disposition laws, codified in title 44.

The Senate bill would also specifically authorize the Archivist to accept the donation of records from the Supreme Court.

House Amendment

The House amendment applies a different definition of "Federal agency" to chapter 21, on archival administration, while retaining the current law definition of "Federal agency" in section 2901 and the application of the section 2901 definition to chapters 25, 29, 31, and 33 of title 44.

The effect of these provisions of the House bill is to subject the Architect of the Capitol to chapter 21 of title 44, while retaining the Architect's exemption from the requirements of chapters 25, 29, 31, and 33.

Conference Agreement

The conference agreement modifies the definition of "Federal agency" and its application so that the Supreme Court would be exempted from the requirements of chapters 21, 25, 29, 31, and 33 of such title.

The conference agreement also specifically authorizes the Archivist to accept the donation of records from the Supreme Court and the Architect of the Capitol.

TRANSFERS OF ADMINISTRATIVE AND OVERHEAD SUPPORT RESOURCES

Senate Bill

The Senate bill transfers personnel, assets, liabilities, contracts, property, records, and funds associated with the functions transferred by this legislation from the General Services Administration to the National Archives and Records Administration.

House Amendment

The House amendment is identical to the Senate bill, except that it specifically allocates to the National Archives and Records Administration a percentage of the funds and positions in the General Services Administration's General Management Account.

Conference Agreement

Not less than $2.76 million (adjusted to reflect actual salaries and benefits of transferred employees and other costs) and 115.5 full-time equivalent (FTE) positions, 30 percent of which are to be vacant, are transferred from the General Services Administration to the National Archives and Records Administration.

This reflects an agreement reached between the General Services Administration and the National Archives and Records Service and formalized in an August 6, 1984 memo from the Archivist to the Acting Administrator, signed by both, and entitled "NARS Independence—Resource Transfers" (See Appendix). The conferees intend that this memo and its attached breakdown of FTE's and dollars by office serve as the basis for such transfer.

That memo reflects a cooperative relationship between the two agencies which the conferees expect will continue.

FEDERAL REGISTER ADMINISTRATIVE COMMITTEE

Current law

Composition of this committee, which regulates the operation, manner and form in which the Federal Register is printed, reprinted, compiled, indexed, bound, and distributed, is: The Archivist of the United States (Chairman); a designee of the Attorney General; and the Public Printer (44 U.S.C. 1506).

Senate Bill

The Senate bill adds two members to the Committee: The GSA Administrator and the Administrator of the Office of Management and Budget's Office of Information and Regulatory Affairs.

House Amendment

The House amendment makes no change in current law.

Conference Agreement

The Senate recedes.

The conference agreement preserves current law.

RECORDS MANAGEMENT

Current Law

Chapters 29 and 31 of title 44, U.S. Code, impose certain responsibilities for records management upon the Administrator of General Services and the heads of each Federal Agency. Chapter 33 of title 44, U.S. Code, imposes certain responsibilities upon both the Administrator and Federal agency heads regarding the disposal of records. Section 2111 of title 44, U.S. Code, provides the Administrator with the authority to obtain reports from Federal agencies on their activities under chapters 21, 25, 29, 31, and 33, and mandates that he inform agency heads of violations by their agencies of the provisions of those chapters. Much of the authority provided the Administrator in these chapters has been delegated to the Archivist of the United States.

Pursuant to the Paperwork Reduction Act of 1980 (P.L. 96-511), the General Services Administration assumed a lead role in policy formulation and oversight with regard to information resources management. The legislative history of that Act suggested that the General Services Administration consolidate its activities pertaining to automatic data processing, telecommunications, and records management.

As a result, in early 1982, the Administrator of General Services created the Office of Information Resources Management (OIRM) and delegated certain records management functions under chapters 29 and 31 of title 44, U.S. Code, to it, transferring those functions (and personnel and resources) from the National Archives and Records Service. The Archivist retained records, managament functions pertaining to the adequacy of documentation and records disposition.

Senate Bill

The Senate bill would transfer OIRM to the new agency and would vest all records management responsibilities of current law in the Archivist of the United States.

House Amendment

The House amendment rewrites current law to reflect and, in effect, codify, the current delegations of the various records management responsibilities in title 44, between the National Archives and Records Service and OIRM.

Conference Agreement

The Senate recedes.

The conference agreement maintains the status quo as to the division of responsiblity for certain records management functions between OIRM and the National Archives and Records Administration.

The conferees are sensitive to the need for archival involvement in the complete life cycle of records, particularly in the creation of records by means of electronic impulses. The new technology of the paperless society has added new considerations to the creation, storage, and preservation of federal records. Floppy discs and video screen terminals have increased the information capacity of the Federal Government, while threatening to short-circuit its institutional memory. The capability to erase drafts and early alternative position papers from the word processor can circumvent future research and historians' efforts to understand how a decision, policy, or program was developed.

The conferees intend that the Archivist involve himself in those decisions of other agencies affecting the creation, storage, and retrieval of information which document the policies and transactions of the government. The increasing use of computers and word processors in government can be of enormous benefit in terms of cost savings in time, personnel, and storage space. The conferees want to ensure that the new information technology is managed so as to ensure full documentation of our Government's organization, functions, policies, decisions, procedures, and operations, as well as the informational value of data in them.

Those records management functions retained within General Services Administration's Office of Information Resources Management include correspondence control, forms and reports formats, filing systems, micrographics, copying, and office automation (including word processing).

The close relationship of these functions to those of documenting the Federal Government's policies and transactions mandates that this office cooperate with the Archivist in a joint documentation effort. The conferees intend to monitor closely these activities to ensure that the complete life cycle of records is protected for future generations.

PRESIDENTIAL RECORDINGS AND MATERIALS PRESERVATION ACT AMENDMENTS

Current Law

Section 104(b) of the Presidential Recording and Materials Preservation Act contains a one-House veto over regulations to provide public access to certain Presidential recordings and materials. Those regulations were to be proposed to the Congress within 90 days after enactment of the Act (December 19, 1974).

In *Allen* v. *Carmen*, 578 F.Supp 951 (DCDC 1983), the U.S. District Court for the District of Columbia ruled that the regulations issued by the General Services Administrator under section 104 were invalid, because they had been revised three times as a consequence of Congress' exercise of the one-House veto. The court found the veto provision unconstitutional, citing *Immigration and Naturalization Service* v. *Chadha*, 103 S.Ct. 2764 (1983). The court also ruled that the one-House veto provision was severable from the Act and that the rulemaking authority provided to the Administrator under section 104(a) is "an independent, fully operative, valid provision."

Senate Bill

The Senate bill strikes the one-House veto provision from the Presidential Recordings and Materials Preservation Act.

House Amendment

The House amendment substitutes for the one-House veto provision a provision requiring that rules proposed under section 104 be reported to Congress and lay over for 60 legislative days before taking effect.

Conference Agreement

Because of Congress' continuing interest in overseeing the preservation and the provision of public access to the papers of the Presidency of Richard Nixon, the conferees have agreed that rules proposed by the Archivist under section 104 of the Act be reported to the Congress and that they not take effect until the expiration of 60 calendar days of continuous session of the Congress. This provision is identical to a provision in the Presidential Libraries Act (44 U.S.C. 2108) which requires the Administrator to transmit plans for a proposed Presidential archival depository to Congress, and not to take action to implement those plans until the expiration of 60 calendar days of continuous session of the Congress. The conferees believe that this provision strikes a balance between the limits imposed by the courts and Congress' need for mechanisms to facilitate its oversight of the exercise of particular authorities granted to agencies in the Executive Branch.

NATIONAL ARCHIVES TRUST FUND BOARD EMPLOYEES

Current Law

The National Archives Trust Fund Board is currently exempted from the civil service laws (44 U.S.C. 2302).

Senate Bill

The Senate bill makes no change in current law.

House Amendment

The House amendment requires compliance with the competitive service laws in hiring employees.

Conference Agreement.

The conference agreement requires compliance with the civil service laws.

The conferees believe employees of the Trust Fund should be subject to the requirements and benefits of civil service. No convincing case has been made for exempting the Board from this standard government-wide employment law.

SECURITY OF RECORDS

Current Law

Current law (44 U.S.C. 2905, 3106) requires the Administrator of General Services to notify a Federal agency head—and vice versa—of any actual impending or threatened removal, defacing, alteration, or destruction of records in that agency's custody. These provisions further require the agency head, with the assistance of the Administrator, to initiate action, through the Attorney General, for the recovery of records and for other redress provided by law.

Senate Bill

The Senate bill retains current law and substitutes the Archivist for the Administrator.

House Amendment

The House amendment retains current law and substitutes the Archivist for the Administrator. It further requires the Archivist to initiate action, through the Attorney General, if, after a reasonable time, the agency head fails to initiate such action. The House bill would also require the Archivist to report to Congress upon the failure of an agency head or refusal of the Attorney General to commence an action.

Conference Agreement

The conference agreement retains current law and substitutes the Archivist for the Administrator. It also provides that, it the agency head does not seek to initiate action within a reasonable time after notification of any such unlawful action, the Archivist shall request the Attorney General to initiate such an action, and the Archivist shall notify the Congress when such a request has been made.

The conferees are mindful of protracted private litigation over the removal by a former agency head of what he considered personal papers and others considered Federal records. While the Supreme Court ultimately denied standing to the private litigant, it noted that the existing process, whereby the agency head sought to recover the documents to make such a determination, was not employed.

The conferees note the anomalous situation created by current law whereby an agency head has a duty to initiate action to recover records which he himself has removed. The conferees, therefore, have clarified these provisions to authorize the Archivist independently to seek the initiation of action by the Attorney General for the recovery of such records. Because of the frequency of incidents of removal or destruction of records in recent years, the conferees agree that the Congress should be notified of those incidents in which the agency head has not sought to initiate action and the Archivist has requested the Attorney General to do so.

INSPECTION AND DETERMINATION OF RECORDS

Current Law

Section 3301 of title 44, U.S. Code, provides a definition of "records" as that term is used in chapter 33, the disposal of records, and in chapter 29, regarding records management (see section 2901(1)).

Under chapter 29, the Administrator of General Services is required to provide guidance and assistance to Federal agencies with respect to records creation, records maintenance and use, and records disposition. The Administrator is also required to establish standards for the selective retention of records of continuing value, and to assist Federal agencies in applying the standards to records in their custody. In carrying out these duties in chapter 29, the Administrator is authorized to inspect the records or records management practices and programs of any Federal agency solely for the purpose of rendering recommendations for the improvement of records management practices and programs. Records, the use of which is restricted by law or for reasons of national security or the public interest, shall be inspected, in accordance with regulations promulgated by the Administrator, subject to the approval of the head of the agency concerned or of the President. In conducting such inspections, the Administrator shall comply with all other Federal laws and be subject to the sanctions provided therein.

Under chapter 33, the head of each agency is required to submit to the Administrator of General Services lists of records and schedules for disposal of records which do not appear to have sufficient value to warrant their further preservation by the Government. If the Administrator concurs in that determination, he may authorize the disposal of those records.

Senate Bill

The Senate bill substitutes "Archivist" for "Administrator," but makes no other substantive change in current law.

House Amendment

The House amendment, like the Senate bill, substitutes "Archivist" for "Administrator." It also amends section 3301, first, to grant the Archivist the authority to determine whether any particular books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business, fall within that definition of records in section 3301; and section, to grant the Archivist authority to inspect such records for purposes of making such a determination. Such inspection would be subject to restrictions contained in other Federal laws like those applicable to records management inspections under chapter 29 and makes the Archivist subject to the sanctions contained in those laws.

Conference Agreement

The House recedes.

The conference agreement substitutes "Archivist" for "Administrator," but makes no further change in current law. However, the conferees reiterate their concern for the security of records having sufficient administrative, legal, research, or other value to warrant their further preservation. Because of past instances in which the head of an agency has removed agency records which may have permanent value, the conferees reject the contention that an agency head is the most qualified to make such a determination. An independent, more objective, evaluation is desirable to determine whether the record in question falls within the definition in section 3301. The conferees expect the Office of Management and Budget to develop and submit legislative proposals on this matter to be considered in the 99th Congress.

The conferees note that under current law the Archivist has substantial records inspection and determination responsibilities. The conferees fully expect all agencies of the Government to cooperate with the Archivist in his discharge of those responsibilities.

PUBLIC NOTICE OF RECORDS DISPOSAL

Current Law

Sections 3303 and 3303a of title 44, U.S. Code, require agency heads to submit to the Archivist, lists of agency records proposed by the agency for disposal, and require the Archivist to examine those lists to determine whether any of the records listed therein warrant continued preservation by the Government. If the Archivist finds that they do not, he may authorize the agency head to dispose of those records. No public notice is currently required.

Senate Bill

The Senate bill makes no change in current law.

House Amendment

The House amendment provides that, prior to the Archivist authorizing disposal of records, a notice of the proposed disposal shall be printed in the Federal Register for public comment thereon.

Conference Agreement

The Senate recedes.

The conferees believe that such public notification of a proposed records disposal will enable other agencies of government, as well as Archives user groups and the general public, which may be affected by the proposed disposal, to comment to the Archivist on potential impacts of such disposal. Such public notice should enhance the quality of decision-making on records disposals.

The Confereees do not intend, however, for such public notice to be a paperwork burden for any of the affected parties or to unreasonably delay the disposal of such records.

CONFIDENTIALITY OF TAX RETURNS AND RETURN INFORMATION

Current Law

Section 2906 of title 44, U.S. Code, dealing with the records management responsibilities of the Archivist, requires the approval of the agency head concerned or of the President for inspection of records restricted by law, reasons of national security, or the public interest. In inspecting such restricted records, the statute further requires the Archivist to comply with all other Federal laws and makes the subject to the sanctions contained in those laws.

Section 6103 of the Internal Revenue Code (title 26, U.S. Code) specifies which persons and agencies may have access to individually identifiable tax returns or return information. Neither the Archivist nor the Archives is among persons and agencies.

Section 2103(2) of title 44 authorizes the Archivist to direct and effect the transfer to the Archives of records that are at least 30 years old and are determined to have sufficient historical or other value to warrant preservation.

Senate Bill

The Senate bill contains a provision stating that notwithstanding any provision of this Act, no return or return information as defined in section 6103 of title 26 of the U.S. Code may be disclosed, except as authorized by title 26.

House Amendment

The House amendment continues current law.

Conference Agreement

The Senate recedes.

The conference agreement preserves current law.

The concern for the confidentiality of income tax returns and return information is a legitimate issue which deserves consideration as a separate matter.

The conferees are sensitive to the need to protect the confidentiality of tax returns and return information while protecting the permanent historic record of our government's actions and the public's right to know about those actions at an appropriate future time. They note that this matter has been satisfactorily addressed in procedures adopted by numerous State archives and their respective tax departments. A parallel situation with respect to the protection of individual information in census records has likewise been cooperatively addressed by the Census Bureau and the Archivist since 1952. The conferees urge the Archivist, the Internal Revenue Service, and other affected agencies to devise a cooperative means of addressing this issue.

EFFECTIVE DATE

Senate bill

The Senate bill provides that the Act shall take effect 120 days after enactment.

House Amendment

The House amendment sets an effective date of April 1, 1985.

Conference Agreement

The Senate recedes.

APPENDIX

GENERAL SERVICES ADMINISTRATION,
Washington, DC, August 6, 1984.

Reply to Attn of: Archivist of the United States (N).

Subject: NARS Independence—Resource Transfers.

To: Acting Administrator (A).

At your direction the joint NARS/GSA Staff Office Contingency Planning Group has met several times to discuss resource and other issues related to the separation of NARS from GSA. The Office of Budget, working with the various Staff Offices, has reached agreement on a proposal for transfer of funds and FTE which NARS now has under consideration. Attached is a copy of that proposal for $5.5 million which is the full year amount to be transferred, assuming the effective date of transfer is the beginning of a fiscal year.

Before we go any further with this effort, I believe we need to agree on a conceptual framework within which the transfer of resources will occur. We believe that the conceptual framework should consist of agreement on the following major points, in order for the proposed resource transfer to be found acceptable with only minor adjustments remaining to be made as the details are worked out.

1. Financial services.—GSA will, during the first fiscal year of an independent NARS, charge no more for payroll and finance services (to be obtained initially by NARS under a reimbursable agreement) than the amount to be transferred. Under this proposal financial services would include the necessary PIRS interface to payroll and all necessary reports produced from either the finance or PIRS system. If there is an additional cost for PIRS, that sum will be transferred from the GMA base to be paid to GSA under reimbursable agreement.

2. Equipment.—GSA will permit NARS to continue to pay annual depreciation on all equipment transferred which was procured from the General Supply Fund (407X) until such equipment is fully depreciated, or, in light of the GAO decision, until NARS receives an appropriation for this purpose as part of the GSA request. No lump sum payment of the undepreciated balances will be required at time of separation. All personnel transferred as part of the implementation will bring their equipment (where practical) with them (office machines, furniture, etc.). NARS will assume full responsibility for the annual depreciation payments and for property accountability on any such equipment transferred.

3. Adjustment to the funding transfers.—Where the grades of employees to be transferred are out of line with the average salaries used to determine the funds associated with the FTE, the funds transferred for salary and benefits will be the amount needed to support the actual personnel transferred. Also, where GSA elects to transfer a Central Office employee in lieu of an employee where regional resources were identified, necessary relocation expenses

will also be transferred, if the employee is in fact to be relocated to a regional position.

4. Employee transfer vs. vacancies.—Out of the total 115.5 FTE included in the attached proposal, GSA guarantees that a minimum of 30 percent will be vacancies.

5. Space.—GSA will assist NARS by expediting the necessary space requests for the Washington, DC, area to house the employees transferred from GSA Central Office.

6. Transition period operating guidelines.—During the transition period GSA will detail to NARS to work directly under NARS supervision employees in the following categories: legal counsel, personnel, and administrative services, where they can be specifically identified to assist in establishing the new agency. A good deal of work will need to be done during the transition period to ensure a smooth separation. These people will be needed to assist in implementing administrative aspects of the separation.

We believe that agreement on the above framework is necessary to ensure that an independent NARS can function within the proposed resources, adjusted as outlined above.

If you would like to meet and discuss this conceptual framework, we are available at your convenience. If you find it acceptable please indicate your approval below.

ROBERT M. WARNER.
Attachment.

GM&A AND IG SUPPORT TO NARS

	FTE			Dollars				
	Region	C.O.	Total	Personnel	SLUC	Comm. Dist.	200's	Total
Executive direction	0.00	3.21	3.21	105.02	7.37	17.12	34.65	164.16
Office of Administrator	0.00	1.83	1.83	51.57	4.21	9.78	19.80	85.37
Program control	0.00	0.27	0.27	12.87	0.63	1.47	2.97	17.94
Ethics	0.00	0.27	0.27	16.21	0.63	1.47	2.97	21.28
Executive Secretariat	0.00	0.82	0.82	24.37	1.89	4.40	8.91	39.57
Small and disadvantaged business	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Comptroller	14.72	7.90	23.13	714.37	44.25	33.28	236.87	1,028.76
Office of Comptroller	0.00	0.00	0.51	23.97	0.98	0.74	1.25	26.93
Finance	11.72	6.00	17.72	550.00	33.89	25.49	223.72	833.10
Budget	3.00	1.90	4.90	140.40	9.37	7.05	11.90	168.72
Transportation Audits	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Administration	18.50	24.22	42.72	1,395.86	77.87	69.40	221.91	1,765.05
A/A Administration	0.00	0.40	0.40	22.01	0.73	0.65	2.09	25.47
Personnel	18.50	19.50	38.00	1,198.86	69.26	61.73	197.38	1,527.24
Training/civil rights	0.00	3.72	3.72	153.31	6.78	6.04	19.32	185.45
Congressional affairs	0.00	0.50	0.50	16.68	0.91	0.81	2.60	21.00
Public affairs	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Communications	0.00	0.10	0.10	5.00	0.18	0.16	0.52	5.86
Program initiatives	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Policy and management	5.00	13.64	18.64	614.18	54.54	60.04	7.64	736.40
A/A policy and management	0.00	0.31	0.31	14.49	0.89	0.98	0.13	16.49
Administrative services	5.00	10.00	15.00	459.93	43.90	48.33	6.15	558.31
Oversight	0.00	1.33	1.33	50.28	3.89	4.29	0.54	59.01
Policy and regulatory support	0.00	2.00	2.00	89.47	5.85	6.44	0.82	102.59
Management support	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
BOCA	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Legal	0.40	3.00	3.40	130.10	6.80	2.95	10.32	150.18
Acquisition policy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Operations	8.02	0.49	8.51	301.47	19.48	14.03	25.23	360.21
A/A operations	0.00	0.49	0.49	26.38	1.11	0.80	1.44	29.74
Office of RA's	3.51	0.00	3.51	112.77	8.03	5.79	10.41	137.00
Directors' offices	0.72	0.00	0.72	24.13	1.64	1.18	2.12	29.07
Project control	2.79	0.00	2.79	100.24	6.39	4.61	8.28	119.52
Business service ctr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Contract clearance and assurance	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Civil rights	1.00	0.00	1.00	37.95	2.30	1.65	2.97	44.87
Training center transfer	0.00	0.00	0.00	0.00	0.00	0.00	0.00	118.30
Miscellaneous transfers	0.00	0.00	0.00	0.00	0.00	0.00	0.00	500.00
Total GM&A	46.64	52.45	99.60	3,261.00	210.30	196.83	536.62	4,823.05
Inspector General	0.00	7.93	7.93	300.20	15.66	5.62	31.63	353.11
ARA's from OIRM	8.00	0.00	8.00	375.00	0.00	0.00	0.00	375.00
Grand total	54.64	60.38	115.53	3,936.20	225.96	202.45	568.26	5,551.16

Approval: Ray Kline, the Administrator, August 7, 1984.

JACK BROOKS,
DON FUQUA,
GLENN ENGLISH,
FRANK HORTON,
Managers on the Part of the House.

W.V. ROTH, Jr.,
CHARLES MCC. MATHIAS, Jr.,
TOM EAGLETON,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CAMPBELL (at the request of Mr. MICHEL), from 6:30 p.m. for the balance of the day, on account of illness in the family.

Mrs. COLLINS (at the request of Mr. WRIGHT), for today, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WEBER) to revise and extend their remarks and include extraneous material:)

Mr. CONABLE, for 15 minutes, today.

Mr. REGULA, for 60 minutes, October 4.

Mr. WALKER, for 60 minutes, today.

Mr. WEBER, for 60 minutes, today.

Mr. DICKINSON, for 60 minutes, October 3.

(The following Members (at the request of Mr. LUNDINE) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. LEVIN of Michigan, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

Mr. LEVIN of Michigan, for 5 minutes, on October 2.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. WEISS in opposition to House Concurrent Resolution 280, preceding the vote thereon today.

Mr. WEISS, prior to the vote on H.R. 5538 in the House today.

(The following Members (at the request of Mr. WEBER) and to include extraneous matter:)

Mr. HUNTER.
Mr. EMERSON.
Mr. BROOMFIELD in two instances.
Mr. LAGOMARSINO in two instances.
Mr. YOUNG of Florida.
Mr. WEBER in two instances.
Mr. MORRISON of Washington.
Mr. LEWIS of Florida.
Mr. HYDE.
Mr. ROBINSON.
Mr. BURTON of Indiana.
Mr. MCKINNEY.
Mr. RINALDO in two instances.
Mr. PHILIP M. CRANE in two instances.
Mr. GILMAN.

(The following Members (at the request of Mr. LUNDINE) and to include extraneous matter:)

Mr. DOWNEY of New York.
Mr. YATRON.
Ms. OAKAR in three instances.
Mr. HARRISON.
Mr. VANDERGRIFF.
Mr. MCCLOSKEY.
Mr. WIRTH.
Mr. TALLON.
Mr. GARCIA.
Mr. FRANK.
Mr. RODINO in two instances.
Mr. SMITH of Florida.
Mr. LEVINE of California.
Mr. FEIGHAN in two instances.
Mr. BIAGGI.
Mr. DYMALLY.
Mr. MARKEY.
Mr. TAUZIN.
Mr. MORRISON of Connecticut in two instances.
Mr. STUDDS.
Mr. MACKAY.
Mr. ANDERSON in 10 instances.
Mr. GONZALEZ in 10 instances.
Mrs. LLOYD in five instances.
Mr. HAMILTON in 10 instances.
Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Mr. JONES of Tennessee in 10 instances.
Mr. BONER of Tennessee in five instances.
Mr. OTTINGER.
Mr. SABO.
Mr. MINETA in two instances.
Mr. MONTGOMERY.
Mr. KASTENMEIER.
Mr. RAHALL.
Mr. HUGHES.
Mr. LEHMAN of California.
Mr. LANTOS in two instances.
Mr. MATSUI in three instances.
Mr. MAVROULES.
Mr. FOGLIETTA.
Mr. ADDABBO.

SENATE BILLS, JOINT RESOLUTION AND CONCURRENT RESOLUTION REFERRED

Bills, a joint resolution and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1151. An act to compensate heirs of deceased Indians for improper payments from trust estates to States or political subdivisions thereof as reimbursements for old age assistance received by decedents during their lifetime; to the Committee on Interior and Insular Affairs.

S. 1647. An act to authorize the use of funds from rental of floating drydock and other marine equipment to support the National Maritime Museum in San Francisco, CA; to the Committee on Interior and Insular Affairs.

S. 2583. An act to authorize U.S. participation in the Office International de la Vigne et du Vin (the International Office of the Vine and Wine); to the Committee on Foreign Affairs.

S. 2721. An act to confirm a conveyance of certain real property by the Southern Pacific Transportation Co. to Ernest Pritchett and his wife, Dianna Pritchett; to the Committee on Interior and Insular Affairs.

S. 2764. An act to authorize U.S. participation in the International Jute Organization; to the Committee on Foreign Affairs.

S.J. Res. 277. Joint resolution to authorize the Armored Force Monument Committee, the United States Armor Association, the World Wars Tank Corps Association, the Veterans of the Battle of the Bulge, and the 1st, 4th, 8th, 9th, 11th, 14th, and 16th Armored Division Associations jointly to erect a memorial to the "American Armored Force" on U.S. Government property in Arlington, VA, and for other purposes; to the Committee on House Administration.

S. Con. Res. 120. Concurrent resolution expressing the sense of the Congress that the legislatures of the States should develop and enact legislation designed to provide child victims of sexual assault with protection and assistance during administrative and judicial proceedings; to the Committee on the Judiciary.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 960. An act to confer citizenship posthumously on Cpl. Wladyslaw Staniszewski;

H.R. 1904. An act to extend and improve the provisions of the Child Abuse Prevention and Treatment Act and the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978;

H.R. 3979. An act to establish a national program to increase the availability of information on the health consequences of smoking, to amend the Federal Cigarette Labeling and Advertising Act to change the label requirements for cigarettes, and for other purposes;

H.R. 4968. An act to provide for the conveyance by the Secretary of Energy of surface rights to certain parcels of land located on Naval Petroleum Reserve Numbered 2 in the State of California on which private residences are located;

H.R. 5221. An act to extend through September 30, 1988, the period during which amendments to the U.S. Grain Standards Act contained in section 155 of the Omnibus Budget Reconciliation Act of 1981 remain effective, and for other purposes; and

H.J. Res. 606. Joint resolution to designate the week of October 14, 1984, through October 21, 1984, as "National Housing Week."

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 2040. An act to amend the Securities Exchange Act of 1934 with respect to the treatment of mortgage backed securities, to increase the authority of the National Mortgage Association and the Federal Home Loan Mortgage Corporation, and for other purposes;

S. 2603. An act to extend the authorization of appropriations for, and to revise the Older Americans Act of 1965; and

S. 2688. An act to authorize appropriations for fiscal year 1985 to carry out the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following days present to the President, for his approval, bills and joint resolutions of the House of the following titles:

On September 26, 1984:

H.R. 1150. An act for the relief of Teodoro N. Salanga, Jr.;

H.R. 1236. An act for the relief of Andrew and Julia Lui;

H.R. 1362. An act for the relief of Joseph Karel Hasek;

H.R. 5343. An act for the relief of Narciso Archila Navareete;

H.R. 5297. An act to amend the Federal Aviation Act of 1958 to terminate certain functions of the Civil Aeronautics Board, to transfer certain functions of the Board to the Secretary of Transportation, and for other purposes;

H.R. 5147. An act to implement the Eastern Pacific Ocean Tuna Fishing Agreement, signed in San Jose, Costa Rica, March 15, 1983;

H.J. Res. 392. Joint resolution designating December 7, 1984 as "National Pearl Harbor Remembrance Day" on the occasion of the Anniversary of the attack on Pearl Harbor; and

H.J. Res. 605. Joint resolution regarding the implementation of the policy of the U.S. Government in opposition to the practice of torture by any foreign government.

On September 27, 1984:

H.J. Res. 554. Joint resolution designating the week of November 11, 1984, through No-

vember 17, 1984, as "Women in Agriculture Week";

H.R. 3755. An act to amend titles II and XVI of the Social Security Act to provide for reform in the disability determination process;

H.J. Res. 649. Joint resolution changing the date for the counting of the electoral votes in 1985;

H.R. 718. An act for the relief of Samuel C. Willett; and

H.R. 5561. An act to enhance the economic development of Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and for other purposes.

ADJOURNMENT

Mr. CONABLE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 11 minutes p.m.) under its previous order, the House adjourned until tomorrow, Tuesday, October 2, 1984, at 10 a.m.

EXECUTIVE COMMUNICATIONS ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4094. A letter from the Comptroller General of the United States, transmitting a report on his review of a proposed revision to a previously reported deferral contained in the message from the President dated September 6, 1984 (H. Doc. No. 98-254), pursuant to 2 U.S.C. 685 (H. Doc. No. 98-272); to the Committee on Appropriations and ordered to be printed.

4095. A letter from the Administrator, Federal Insurance Administration, Federal Emergency Management Agency, transmitting a plan for bringing all communities containing flood-risk zones into full program status, pursuant to Public Law 90-448, section 1360(d) (97 Stat. 1229); to the Committee on Banking, Finance and Urban Affairs.

4096. A letter from the Secretary of Health and Human Services, transmitting, the 10th annual report on the status of handicapped children in Head Start programs, pursuant to Public Law 97-35, section 640(d); to the Committee on Education and Labor.

4097. A letter from the Secretary of Health and Human Services, transmitting a report on the status and accomplishments of runaway centers receiving grants under the Runaway and Homeless Youth Act during fiscal year 1983, pursuant to Public Law 93-415, section 315 (94 Stat. 2762); to the Committee on Education and Labor.

4098. A letter from the Personnel and Benefits Officer, Farm Credit Banks of Spokane, transmitting annual reports for plan years 1982 and 1983 for the 12th farm credit district retirement and thrift plans and the incentive deferred compensation plan, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

4099. A letter from the President, National Safety Council, transmitting a report of the audit of the financial transactions of the Council for the fiscal year ended June 30, 1984, pursuant to Public Law 88-504, section 3, (36 U.S.C. 1103); to the Committee on the Judiciary.

4100. A letter from the Acting Administrator, General Services Administration, transmitting a report on one prospectus for alterations, pursuant to Public Law 86-249, section 7(a) (86 Stat. 217); to the Committee on Public Works and Transportation.

4101. A letter from the Acting Administrator, General Services Administration, transmitting an informational copy of a report of building project survey for the St. Louis, MO, area; to the Committee on Public Works and Transportation.

JOINT RESOLUTION ON DEBT LIMIT PASSED UNDER RULE XLIX

Under clause 1 of rule XLIX, the following joint resolution was engrossed and deemed passed:

H.J. Res. 654. Joint resolution increasing the statutory limit on the public debt.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. Report on protecting the integrity of the Department of Transportation's truck safety audits (Rept. No. 98-1113). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3971. A bill to provide that any Osage headright or restricted real estate or funds which is part of the estate of a deceased Osage Indian who did not possess a certificate of competency at the time of death shall be exempt from any estate or inheritance tax imposed by the State of Oklahoma (Rept. No. 98-1114). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6303. A bill to make certain technical corrections in various acts relating to the Osage Tribe of Indians of Oklahoma (Rept. No. 98-1115). Referred to the Committee of the Whole House on the State of the Union.

Mr. BONIOR: Committee on Rules. House Resolution 594. Resolution providing for the consideration of H.R. 6023, a bill to amend the Trade Act of 1974 to renew the authority for the operation of the Generalized System of Preferences, and for other purposes (Rept. No. 98-1116). Referred to the House Calendar.

Mr. HALL of Ohio: Committee on Rules. House Resolution 595. Resolution providing for the consideration of H.R. 2848, a bill to establish a service industries development program, and for other purposes (Rept. No. 98-1117). Referred to the House Calendar.

Mr. WHEAT: Committee on Rules. House Resolution 596. Resolution providing for the consideration of H.R. 6301, a bill to provide authority for enforcing arrangements restricting the importation of carbon and alloy steel products into the United States that are entered into for purposes of implementing the President's national policy for the steel industry, and for other purposes (Rept. No. 98-1118). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 597. Resolution providing for the consideration of H.R. 3795, a bill to harmonize, reduce, and eliminate barriers to trade in wine on a basis which assures substantially equivalent competitive opportunities for all wine moving in international trade (Rept. No. 98-1119). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 598. Resolution providing for the consideration of H.R. 5377, a bill authorizing the President to enter into, and to proclaim modifications necessary to implement, a trade agreement with Israel providing for duty-free treatment for, and the elimination of import restrictions on, the products of Israel (Rept. No. 98-1120). Referred to the House Calendar.

Mr. KASTENMEIER: Committee on the Judiciary. H.R. 5865. A bill to amend the Bail Reform Act of 1966 to permit consideration of danger to the community in setting pretrial release conditions, to permit pretrial detention of certain offenders, and for other purposes; with an amendment (Rept. No. 98-1121). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASTENMEIER: Committee on the Judiciary. H.R. 6034. A bill to amend the patent law to restore the term of the patent grant in the case of certain products for the time of the regulatory review period preventing the marketing of the product claimed in a patent; with an amendment (Rept. No. 98-1122). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee of conference. Conference report on S. 2303 (Rept. No. 98-1123). Ordered to be printed.

Mr. BROOKS: Committee of conference. Conference report on S. 905 (Rept. No. 98-1124). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BENNETT:

H.R. 6336. A bill to allow a deduction for a dependent who has attained the age of 65 to the same extent as deduction is allowable for a dependent who is a child; to the Committee on Ways and Means.

By Mrs. HOLT:

H.R. 6337. A bill to authorize awards, decorations, insignia, and other recognition for service in the U.S. Merchant Marine, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. HOWARD (by request):

H.R. 6338. A bill to repeal the provision exempting aircraft owners or operators from reimbursing the Federal Government or any agency thereof for certain Sunday and holiday overtime services; to the Committee on Public Works and Transportation.

By Mr. HOWARD (for himself and Mr. SNYDER) (by request):

H.R. 6339. A bill to amend section 110(f) of the River and Harbor Act of 1958 (72 Stat. 303), as amended, to increase the monetary authorization for the rehabilitation of the Illinois-Mississippi Canal; to the Committee on Public Works and Transportation.

H.R. 6340. A bill to authorize the Secretary of the Army, acting through the Chief of Engineers, to undertake further engineering and design of water resources development projects following the submission of a

report to Congress recommending implementation of the projects; to the Committee on Public Works and Transportation.

H.R. 6341. A bill to amend sections 15, 19, and 20 of the act of March 3, 1899 (33 U.S.C. 409, 414, and 415) to authorize recovery by the United States of costs incurred in removal of wrecks from navigable waters; to the Committee on Public Works and Transportation.

By Mr. JONES of North Carolina (for himself, Mr. BREAUX, Mr. PRITCHARD, and Mr. YOUNG of Alaska):

H.R. 6342. A bill approving the governing international fishery agreements with Iceland and the European Economic Community; to the Committee on Merchant Marine and Fisheries.

By Mr. KASTENMEIER:

H.R. 6343. A bill to amend title 18 of the United States Code with respect to the interception of certain communications, other forms of surveillance and for other purposes; to the Committee on the Judiciary.

H.R. 6344. A bill to amend the provisions of titles 18 and 28 of the United States Code commonly called the "enabling acts" to make modifications in the system for the promulgation of certain rules for certain Federal judicial proceedings, and for other purposes; to the Committee on the Judiciary.

By Mrs. KENNELLY (for herself, Mr. CLINGER, Ms. OAKAR, and Mr. BOEHLERT):

H.R. 6345. A bill to provide for an incentive for job training by reducing interest owed by States as a result of receiving advances under title XII of the Social Security Act with respect to unemployment compensation; to the Committee on Ways and Means.

By Mr. McNULTY (for himself, Mr. HUGHES, and Mr. UDALL):

H.R. 6346. A bill entitled the Child Molester Registration Act of 1984"; to the Committee on the Judiciary.

By Mr. SEIBERLING:

H.R. 6347. A bill to designate the Federal Building in Akron, OH, as the "Paul C. Weick Federal Building and U.S. Court House"; to the Committee on Public Works and Transportation.

H.R. 6348. A bill to amend the Small Business Act to provide that for purposes of section 15 of such act the determination of labor surplus areas shall be based on jurisdictions having populations of 25,000 or more; to the Committee on Small Business.

By Mr. TALLON:

H.R. 6349. A bill to amend title 38, United States Code, to provide to peacetime veterans the same pension benefits currently available to wartime veterans because of a non-service-connected disability or age, and to provide the same burial plot allowances to peacetime veterans that are currently available to wartime veterans; to the Committee on Veterans' Affairs.

By Mr. CONYERS:

H.R. 6350. A bill to amend title 18, United States Code, to impose penalties with respect to certain nondisclosure by business entities as the serious concealed dangers in products and business practices, and for other purposes; to the Committee on the Judiciary.

By Mr. CRAIG (for himself, Mr. MICHEL, Mr. LOEFFLER, and Mr. DANNEMEYER):

H.R. 6351. A bill entitled: "The Real Balanced Budget Act of 1984"; to the Committee on Rules.

By Mr. WHITTEN:

H.J. Res. 653. Joint resolution making continuing appropriations for the fiscal year 1985, and for other purposes; to the Committee on Appropriations; Committee discharged; considered and passed.

By Mr. FRENZEL:

H. Con. Res. 366. Concurrent resolution providing for printing of additional copies of the General Explanation of the Revenue Provisions of the Deficit Reduction Act of 1984; to the Committee on House Administration.

By Mr. KOSTMAYER:

H. Con. Res. 367. Concurrent resolution expressing the sense of the Congress that the legislatures of the States should develop and enact legislation designed to provide child victims of sexual assault with protection and assistance during administrative and judicial proceedings; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

478. By the SPEAKER: Memorial of the Legislature of the State of California, relative to the Federal Superfund; to the Committee on Energy and Commerce.

479. Also, memorial of the Legislature of the State of California, relative to the commercial whaling moratorium; to the Committee on Foreign Affairs.

480. Also, memorial of the Legislature of the State of California, relative to ratification of the Genocide Covention; to the Committee on Foreign Affairs.

481. Also, memorial of the Legislature of the State of California, relative to the release of Dr. Yosef Begun; to the Committee on Foreign Affairs.

482. Also, memorial of the Legislature of the State of California, relative to the Pony Express Trail; to the Committee on Interior and Insular Affairs.

483. Also, memorial of the Legislature of the State of California, relative to medicare; to the Committee on Ways and Means.

484. Also, memorial of the Legislature of the State of California, relative to the establishment of a national "silver-haired" congress; jointly, to the Committees on Education and Labor and Rules.

485. Also, memorial of the Legislature of the State of California, relative to the pollution and contamination of the New River; jointly, to the Committees on Public Works and Transportation and Foreign Affairs.

486. Also, memorial of the Legislature of the State of California, relative to refugees; jointly, to the Committees on the Judiciary, Ways and Means, and Energy and Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. GRAY:

H.R. 6352. A bill for the relief of Frances Silver; to the Committee on the Judiciary.

By Mr. SOLARZ:

H.R. 6353. A bill to extend patent numbered 3,387,268 for a period of 10 years; to the Committee on the Judiciary.

By Mr. YOUNG of Florida.

H.R. 6354. A bill for the relief of Stanislav Levchenko; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 31: Mr. HAWKINS, Mr. REID, Mrs. BOGGS, Mrs. HOLT, Mr. YOUNG of Missouri, Mr. WALGREN, Mrs. KENNELLY, Mr. DURBIN, and Mr. COLEMAN of Texas.

H.R. 178: Mr. BADHAM.

H.R. 1881: Mr. FASCELL.

H.R. 1959: Mr. HARKIN, Mr. JACOBS, and Mr. McNULTY.

H.R. 3037: Mr. KASICH.

H.R. 3091: Mr. BURTON of Indiana, Mr. MURPHY, and Mr. SLATTERY.

H.R. 4016: Mr. STARK.

H.R. 4402: Mr. CAMPBELL.

H.R. 4711: Mr. DOWNEY of New York and Mr. MATSUI.

H.R. 5107: Mr. MARTINEZ, Mr. RATCHFORD, and Mr. AKAKA.

H.R. 5749: Mr. WOLPE.

H.R. 5952: Mr. FRANK, Mr. BRITT, Mr. HEFNER, and Mr. GINGRICH.

H.R. 5995: Mr. LEHMAN of California.

H.R. 6021: Mr. CLARKE, Mr. McDADE, Mr. REID, Mr. CRAIG, Mr. KINDNESS, Mr. HOPKINS, Mr. LEVINE of California, and Mr. HATCHER.

H.R. 6096: Mr. MURPHY and Mr. RUSSO.

H.R. 6100: Mrs. COLLINS and Mr. WAXMAN.

H.R. 6119: Mr. HAMILTON, Mr. FLIPPO, and Mr. GUARINI.

H.R. 6120. Mr. RICHARDSON.

H.R. 6172: Mrs. BOXER, Mr. MacKAY, Mr. WIRTH, Mr. NELSON of Florida, and Mr. BATES.

H.R. 6207: Mr. OWENS, Mr. RATCHFORD, Ms. KAPTUR, and Mr. McGRATH.

H.R. 6210: Mr. WAXMAN, Mr. JEFFORDS, and Mr. VENTO.

H.R. 6231. Mr. McKINNEY, Mr. GUARINI, and Mr. COOPER.

H.R. 6268: Mr. SIMON.

H.R. 6277: Mr. KOGOVSEK.

H.R. 6300: Mr. MATSUI, Mr. LEHMAN of California, Mr. GLICKMAN, Mr. COLEMAN of Texas, Mrs. BOXER, Mr. WILSON, Mr. BROWN of California, Mr. BARNES, Mr. MORRISON of Connecticut, Mr. WILLIAMS of Montana, Mr. WISE, Mr. DURBIN, Mr. FEIGHAN, Mr. McCLOSKEY, Mr. BORSKI, Mr. MOODY, Mr. PENNY, Mr. FUQUA, and Mr. D'AMOURS.

H.R. 6311: Mr. HUGHES, Mr. SCHUMER, Mr. MORRISON of Connecticut, Mr. SAWYER, Mr. SHAW, Mr. SENSENBRENNER, Mr. REID, Mr. YATRON, Mr. BARNES, Mr. DYMALLY, Mr. LANTOS, Mr. LAGOMARSINO, Mr. GOODLING, Mr. MacKAY, Mr. ROTH, Mr. HYDE, Mr. SOLOMON, Mr. SILJANDER, Mr. ZSCHAU, Mr. KOSTMAYER, Mr. STUDDS, Mr. GEJDENSON, Mr. GARCIA, Mr. ACKERMAN, Mr. BEREUTER, and Mr. TORRICELLI.

H.R. 6326: Mr. HERTEL of Michigan.

H.R. 6327: Mr. HERTEL of Michigan.

H.J. Res. 206: Mr. DURBIN, Mr. HAYES, Mr. AKAKA, Mr. BURTON of Indiana, Mr. HOYER, Mr. ANDREWS of Texas, Mr. BORSKI, Mr. COELHO, Mr. CONYERS, Mr. DARDEN, Mr. DAUB, Mr. DeWINE, Mr. FLIPPO, Mr. FOLEY, Mr. JEFFORDS, Mr. JENKINS, Mr. KASICH, Mr. KEMP, Mr. KOLTER, Mr. LOWRY of Washington, Mr. MARRIOTT, Mr. JONES of North Carolina, Mr. McCLOSKEY, Mr. KOGOVSEK, Mr. MARTIN of North Carolina, Mr. LOWERY of California, Mr. LUNGREN, and Mr. LEACH of Iowa.

H.J. Res. 465: Mr. PICKLE.

H.J. Res. 496: Mr. MCEWEN.

H.J. Res. 550: Mr. MCHUGH, Mr. TORRES, Mr. MATSUI, Mr. SHELBY, Mr. KOLTER, Mr. LAFALCE, Mr. FORD of Michigan, Mr. BILIRAKIS, and Mrs. KENNELLY.

H.J. Res. 565: Mr. PRICE, Mr. MCKERNAN, Mr. BREAUX, Mr. BROWN of California, Mr. COYNE, Mr. RINALDO, Mr. PORTER, Mr. EDWARDS of Oklahoma, Mr. LENT, Mr. TAUZIN, Mr. BLILEY, Mr. BRITT, Mrs. COLLINS, Mr. HAWKINS, Mr. HOYER, Mr. LEWIS of Florida, Mr. MCEWEN, Mr. MARTIN of New York, Mr. MOLINARI, Mr. O'BRIEN, and Mr. YATRON.

H.J. Res. 591: Mr. WILSON, Mrs. BURTON of California, Mr. DYSON, Mr. CLAY, Mr. HANSEN of Utah, Mr. ROSE, Mrs. LLOYD, Mr. SHUMWAY, Mr. FAUNTROY, Mr. BOEHLERT, Mr. ENGLISH, Mr. HYDE, Mr. BEVILL, Mr. MOAKLEY, Mr. PARRIS, Mr. JACOBS, Mr. CRAIG, Mr. ANDREWS of Texas, Mr. YOUNG of Florida, Mr. LEWIS of Florida, Mr. HEFTEL of Hawaii, Mr. SKEEN, Mrs. BYRON, Mrs. HOLT, Mr. RODINO, Mr. LAGOMARSINO, Mr. DUNCAN, Mr. FASCELL, Mr. WHEAT, Mr. HOWARD, Mr. BURTON of Indiana, Mr. COURTER, Mr. WYDEN, Mr. SHAW, Mr. DONNELLY, Mr. WAXMAN, Mr. LONG of Louisiana, Mr. ARCHER, Mr. DELLUMS, Mr. ANDREWS of North Carolina, Mr. GUNDERSON, Mrs. KENNELLY, Mr. MCNULTY, Mr. KRAMER, Mr. SCHEUER, Mr. STOKES, Mr. CONTE, Mr. KASICH, Mr. OWENS, Mr. COOPER, Mr. HAMMERSCHMIDT, Mr. WOLPE, Mr. PURSELL, Mr. ACKERMAN, Mr. MCCANDLESS, Mr. BONER of Tennessee, and Mr. EDWARDS of Oklahoma.

H.J. Res. 609: Mr. FRANK and Mr. LUNGREN.

H.J. Res. 626: Mr. SOLOMON, Mr. COATS, Mr. BARNARD, Mr. PASHAYAN, Mr. MOORHEAD, Mr. WEAVER, Mr. SPRATT, Mr. CONTE, and Mr. WALKER.

H.J. Res. 630: Mr. TALLON, Mr. CAMPBELL, Mr. STAGGERS, Mr. DICKS, and Mr. WON PAT.

H.J. Res. 636: Mr. ACKERMAN, Mr. ADDABBO, Mr. AKAKA, Mr. ALBOSTA, Mr. ANDERSON, Mr. ANDREWS of North Carolina, Mr. ANNUNZIO, Mr. ANTHONY, Mr. ARCHER, Mr. AUCOIN, Mr. BARNARD, Mr. BARNES, Mr. BATEMAN, Mr. BENNETT, Mr. BEVILL, Mr. BILIRAKIS, Mr. BLILEY, Mr. BOEHLERT, Mrs. BOGGS, Mr. BONER of Tennessee, Mr. BONKER, Mr. BORSKI, Mr. BOSCO, Mrs. BOXER, Mr. BREAUX, Mr. BRITT, Mr. BROOKS, Mrs. BURTON of California, Mrs. BYRON, Mr. CARNEY, Mr. CARPER, Mr. CHANDLER, Mr. CHAPPELL, Mr. CHAPPIE, Mr. CLAY, Mrs. COLLINS, Mr. CONYERS, Mr. CORRADA, Mr. COUGHLIN, Mr. COYNE, Mr. D'AMOURS, Mr. DANIEL, Mr. DANNEMEYER, Mr. DARDEN, Mr. DAUB, Mr. DAVIS, Mr. DE LA GARZA, Mr. DELLUMS, Mr. DE LUGO, Mr. DERRICK, Mr. DICKINSON, Mr. DICKS, Mr. DINGELL, Mr. DIXON, Mr. DONNELLY, Mr. DOWDY of Mississippi, Mr. DWYER of New Jersey, Mr. DYMALLY, Mr. DYSON, Mr. EDGAR, Mr. EDWARDS of Alabama, Mr. ERDREICH, Mr. FAUNTROY, Mr. FAZIO, Mr. FIELDS, Mr. FISH, Mr. FLORIO, Mr. FOGLIETTA, Mr. FOLEY, Mr. FOWLER, Mr. FRANKLIN, Mr. FRENZEL, Mr. FUQUA, Mr. GEKAS, Mr. GEPHARDT, Mr. GILMAN, Mr. GRAY, Mr. GREEN, Mr. GUARINI, Mr. HANCE, Mr. HATCHER, Mr. HEFNER, Mr. HEFTEL of Hawaii, Mrs. HOLT, Mr. HORTON, Mr. HUBBARD, Mr. HUGHES, Mr. HUTTO, Ms. KAPTUR, Mr. KEMP, Mr. KOSTMAYER, Mr. LAGOMARSINO, Mr. LANTOS, Mr. LELAND, Mr. LENT, Mr. LEVITAS, Mr. LEWIS of Florida, Mr. LIPINSKI, Mr. LIVINGSTON, Mrs. LLOYD, Mr. LONG of Maryland, Mr. LUNGREN, Mr. MCHUGH, Mr. MCKERNAN, Mr. MARTIN of New York, Mr. MARTIN of North Carolina, Mr. MARTINEZ, Mr. MATSUI, Mr. MAVROULES, Ms. MIKULSKI, Mr. MOAKLEY, Mr. MOORE, Mr. MORRISON of Connecticut, Mr. MORRISON of Washington, Mr. MRAZEK, Mr. MURPHY, Mr. MURTHA, Mr. NEAL, Mr. NICHOLS, Mr. NOWAK, Ms. OAKAR, Mr. OBERSTAR, Mr. ORTIZ, Mr. OWENS, Mr. PACKARD, Mr. PASHAYAN, Mr. PATMAN, Mr. PATTERSON, Mr. PEPPER, Mr. PRICE, Mr. PRITCHARD, Mr. PURSELL, Mr. RAHALL, Mr. RINALDO, Mr. RITTER, Mr. ROBINSON, Mr. RODINO, Mr. ROEMER, Mr. ROSE, Mr. ROSTENKOWSKI, Mr. ROTH, Mr. ROWLAND, Mr. SAVAGE, Mr. SAWYER, Mr. SCHEUER, Mrs. SCHNEIDER, Mr. SCHUMER, Mr. SHAW, Mr. SHUMWAY, Mr. SIMON, Mr. SMITH of Florida, Ms. SNOWE, Mr. SNYDER, Mr. SOLARZ, Mr. SOLOMON, Mr. STANGELAND, Mr. STOKES, Mr. STRATTON, Mr. STUDDS, Mr. SWIFT, Mr. TALLON, Mr. TAUZIN, Mr. THOMAS of Georgia, Mr. TORRICELLI, Mr. TOWNS, Mr. VALENTINE, Mr. VANDERGRIFF, Mr. VANDER JAGT, Mr. WALGREN, Mr. WATKINS, Mr. WEISS, Mr. WHITEHURST, Mr. WILLIAMS of Ohio, Mr. WILSON, Mr. WOLF, Mr. WON PAT, Mr. WYDEN, Mr. YOUNG of Florida, Mr. YOUNG of Alaska, Mr. YOUNG of Missouri, Mr. ALEXANDER, Mr. BOLAND, Mr. BONIOR of Michigan, Mr. BROWN of California, Mr. BROYHILL, Mr. CAMPBELL, Mr. CLARKE, Mr. FEIGHAN, Ms. FIEDLER, Mr. FLIPPO, Mr. FORD of Tennessee, Mr. GIBBONS, Mr. GONZALEZ, Mr. HARRISON, Mr. HOYER, Mr. KAZEN, Mr. LAFALCE, Mr. LEWIS of California, Mr. LOWRY of Washington, Mr. LUNDINE, Mr. MCDADE, Mr. MCGRATH, Mr. MILLER of California, Mr. MINETA, Mr. MINISH, Mr. MONTGOMERY, Mr. MOORHEAD, Mr. OLIN, Mr. RANGEL, Mr. SPENCE, Mr. SUNIA, Mr. SYNAR, Mr. TRAXLER, Mr. WAXMAN, Mr. WHITLEY, Mr. WINN, Mr. LEHMAN of California, and Mr. FASCELL.

H.J. Res. 638: Mr. OBERSTAR, Mr. SPRATT, Mr. TAUZIN, Mr. FEIGHAN, Mr. VENTO, Mr. STARK, Mr. EDGAR, Mr. HARRISON, Mr. KOGOVSEK, Mr. ORTIZ, Mr. HORTON, Mr. KASICH, Mr. RATCHFORD, Mr. BOSCO, Mr. LEVINE of California, Mr. SCHUMER, Mr. HALL of Ohio, Mr. LEHMAN of Florida, Mr. MICHEL, Mr. BOUCHER, Mr. MCDADE, Mr. MAZZOLI, Mr. LUKEN, Mr. SPENCE, Mr. TALLON, Mr. ROBINSON, Mr. BONKER, Mr. GEPHARDT, Mrs. LLOYD, and Mr. MADIGAN.

H. Res. 213: Mr. COOPER.

H. Res. 260: Mr. RINALDO.

H. Res. 458: Mr. PATTERSON.

[Listed only in the Record pursuant to a unanimous-consent request]

H.R. 5377: Mr. GUARINI, Mr. MATSUI, Mr. FLIPPO, Mr. PICKLE, Mr. HYDE, Mrs. HOLT, Mr. LOEFFLER, Mr. LEVITAS, Mr. LONG of Maryland, Mr. MARKEY, Mr. EDWARDS of Alabama, Mr. LOTT, Mr. BERMAN, Mr. KASICH, Mr. COYNE, Mr. SWIFT, Mr. BLILEY, Mr. ORTIZ, Mr. LUJAN, Mr. HERTEL of Michigan, Mr. CHANDLER, Mr. DYSON, Mr. LENT, Mr. FOGLIETTA, Mr. NELSON of Florida, Mr. AUCOIN, and Mr. MOODY.

H.R. 6301: Mr. BEVILL and Mr. WILLIAMS of Montana.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2848

By Mr. FLORIO:

—Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Service Industries Commerce Development Act of 1984".

SEC. 2. STATEMENT OF PURPOSES.

The purposes of this Act are—

(1) to encourage further expansion of international trade in services, and to enhance the free flow of foreign direct investment with implications for trade in services, through the negotiation of agreements (both bilateral and multilateral) which reduce or eliminate barriers and other trade-distorting measures; and

(2) to promote the expansion of United States service industries in foreign commerce.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) The term "Secretary" means the Secretary of Commerce.

(2) The term "services" means economic outputs associated with international trade that are not tangible goods (but may or may not be related to trade in such goods) or structures, including, but not limited to, transportation, communications, retail and wholesale trade, advertising, construction, design and engineering, utilities, insurance, real estate, professional services, entertainment, and tourism, and foreign direct investments by United States persons which are necessary for the export and sale of such services.

SEC. 4. SERVICE INDUSTRIES DEVELOPMENT PROGRAM, COORDINATION, AND REPORTS

(a) PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish in the Department of Commerce a service industries development program designed to—

(A) develop, in consultation with other Federal agencies as appropriate, policies regarding services that are designed to increase the competitiveness of United States service industries in foreign commerce;

(B) develop a data base for assessing the adequacy of current, as well as for developing future, Government policies and actions pertaining to services, including, but not limited to, export and import data generally, and pertaining to individual service industries;

(C) collect and analyze, in consultation with appropriate agencies, information pertaining to the international operations and competitiveness of United States service industries, including information with respect to—

(i) activities and policies of foreign governments toward foreign and United State service industries,

(ii) Federal, State, and local regulation of both foreign and United States suppliers of services, and the potential effect of such regulation on trade relationships and negotiations,

(iii) the adequacy of current United States policies and activities to strengthen the competitiveness of United States service industries in foreign commerce,

(iv) tax treatment of services, with particular emphasis on the effect of United States taxation on the international competitiveness of United States firms and exports; and

(v) treatment of services in international agreements of the United States;

(D) conduct studies of United States service industries, including assessments of their present and future ability to compete in foreign commerce; and

(E) conduct a program of research and analysis of service-related issues and problems, including forecasts and industrial strategies.

(2) INFORMATION.—

(A) PRIVATE SECTOR ARRANGEMENTS.—The Secretary shall seek to establish arrange-

ments with the private sector regarding the access by the Secretary to private sector information that is necessary for the Secretary to carry out his functions under paragraph (1).

(B) CRITICAL INFORMATION.—The Secretary may require persons to submit to him any information referred to in subparagraph (A) that the Secretary considers to be critical for the carrying out of such functions.

(C) CONFIDENTIALITY.—Information to which the Secretary is given access under subparagraph (A), which is submitted to the Secretary under subparagraph (B), or which is produced under paragraph (3), shall be confidential and shall not be disclosed, except that—

(i) the Secretary may disclose such information if the person who provided the information waives confidentiality in writing;

(ii) the Secretary may release or make public such information in any aggregate or summary statistical form which does not directly or indirectly disclose the identity or business operations of the person who provided the information;

(iii) the Secretary shall release the information when so required by court order; and

(iv) the Secretary shall release such information upon request to the Congress or any committee thereof.

The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of the information required to be kept confidential by this subparagraph.

(3) PROHIBITED ACTS.—

(A) Any person who—

(i) fails to furnish information required by the Secretary under paragraph (2)(B); or

(ii) fails to comply with any rule or regulation issued by the Secretary to carry out this section;

is subject to a civil penalty not exceeding $10,000 under a proceeding brought under this paragraph.

(B) Whenever it appears that any person has violated subparagraph (A) (i) or (ii), a civil action may be brought by the Secretary in an appropriate district court of the United States, and upon a proper showing by the Secretary of the relevance to the purposes of this section of the demand for information or the rule or regulation, the court may either enter a restraining order or a permanent or temporary injunction commanding such person to furnish the information or to comply with the rule or regulation, as the case may be, or impose the civil penalty under subparagraph (A).

(4) CONSULTATION.—The Secretary shall consult regularly with representatives of United States service industries concerning the development and implementation of the policies on services referred to in paragraph (1)(A) and other activities which are conducted pursuant to this subsection and subsection (c).

(b) COORDINATION REGARDING TRADE IN SERVICES.—

(1) AT FEDERAL LEVEL.—

(A) IN GENERAL.—The United States Trade Representative, through the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962 or any subcommittee thereof, shall, in conformance with this Act and other provisions of law, develop (and coordinate the implementation of) United States policies concerning trade in services.

(B) FEDERAL AGENCIES.—In order to encourage effective development, coordination, and implementation of United States policies on trade in services—

(i) each department or agency of the United States responsible for the regulation of any service sector industry shall, as appropriate, advise and work with the United States Trade Representative concerning matters that have come to the department's or agency's attention with respect to—

(I) the treatment afforded United States service sector interest in foreign markets, or

(II) allegations of unfair practices by foreign governments or companies in a service sector; and

(ii) the Department of Commerce, together with other appropriate agencies as requested by the United States Trade Representative, shall provide staff support and other assistance for negotiations on service-related issues by the United States Trade Representatives and the domestic implementation of service-related agreements.

(C) NO EFFECT ON EXISTING AUTHORITIES.—Nothing in this subsection shall be construed to affect in any manner or to any extent any authority or responsibility with respect to any specific service sector.

(2) AT STATE LEVEL.—

(A) STATEMENT OF POLICY.—It is the policy of Congress that the President shall, as he deems appropriate—

(i) consult with State governments on issues of trade policy, including negotiating objectives and implementation of trade agreements, affecting the regulatory authority of non-Federal governments, or their procurements of goods and services;

(ii) establish one or more intergovernmental policy advisory committees on trade which shall serve as a principal forum in which State and local governments may consult with the Federal Government with respect to the matters described in clause (i); and

(iii) provide to State and local governments and to United States services industries, upon their request, advice, assistance, and (except as may be otherwise prohibited by law) data, analyses, and information concerning United States policies on international trade in services.

(B) ESTABLISHMENT OF NON-FEDERAL GOVERNMENTAL TRADE ADVISORY COMMITTEES.—Section 135 (19 U.S.C. 2155) is amended—

(i) by inserting "and the non-Federal governmental sector" after "private sector" in subsection (a),

(ii) by adding at the end of subsection (c) the following new paragraph:

"(3) The President—

"(A) may establish policy advisory committees representing non-Federal governmental interests to provide, where the President finds it necessary, policy advice—

"(i) on matters referred to in subsection (a), and

"(ii) with respect to implementation of trade agreements, and

"(B) shall include as members of committees established under paragraph (1) representatives of non-Federal governmental interests where he finds such inclusion appropriate after consultation by the Trade Representative with such representatives.";

(iii) by inserting "or non-Federal government" after "private" each place it appears in subsections (g) and (j);

(iv) by inserting "government," before "labor" in subsection (j); and

(v) by adding at the end thereof the following new subsection:

"(m) NON-FEDERAL GOVERNMENT DEFINED.—The term 'non-Federal government' means—

"(1) any State, territory, or possession of the United States, or the District of Columbia, or any political subdivision thereof, or

"(2) any agency or instrumentality of any entity described in paragraph (1).";

(vi) by inserting "or Public" after "Private" in the heading thereof.

(C) CONFORMING AMENDMENTS.—

(i) Section 104(c) (19 U.S.C. 2114(c)) is amended by inserting "or non-Federal governmental" after "private".

(ii) Sections 303 (19 U.S.C. 2413) and 304(b)(2) (19 U.S.C. 2414(b)(2)) are each amended by striking out "private sector".

(iii) The table of sections for chapter 3 of title I is amended by inserting "and public" after "private" in the item relating to section 135.

(c) BIENNIAL REPORT.—On not less than a biennial basis commencing with 1986, the Secretary shall prepare a report (which shall be submitted to the Congress and to the President not later than 30 days after the close of the period covered by the report) containing an analysis of the information collected under subsection (a)(1).

SEC. 5. AMENDMENTS TO THE TRADE ACT OF 1974.

(a) PRESIDENTIAL DETERMINATIONS AND ACTION UNDER TITLE III REGARDING SERVICES.—Section 301 of the Trade Act of 1974 (19 U.S.C. 2411) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by adding immediately after subsection (b) the following new subsection:

"(d) ACTIONS ON SERVICES.

"(1) IN GENERAL.—With respect to actions on the services of a foreign country under subsection (b), the President may restrict, in the manner and to the extent he deems appropriate, the terms and conditions, or deny the issuance, of any service sector access authorization, notwithstanding any other provision of law governing that authorization.

"(2) AFFECTED AUTHORIZATIONS.—Actions under paragraph (1) shall apply only with respect to service sector access authorizations granted, or applications therefor pending, on or after the date a petition is filed under section 302(a) or a determination to initiate is made by the United States Trade Representative (hereinafter in this chapter referred to as the 'Trade Representative') under section 302(c).

"(3) CONSULTATION.—Before the President takes action under subsection (b) involving the imposition of fees or other restictions on the services of a foreign country, the Trade Representative shall, if the services involved are subject to regulation by any agency of the Federal Government or of any State, consult with the head of the agency concerned."; and

(2) by amending paragraph (1) of subsection (e) (as redesignated by paragraph (1)) to read as follows:

"(1) DEFINITIONS.—For purposes of this section—

"(A) The term 'commerce' includes, but is not limited to, services associated with international trade, whether or not such services are related to specific products.

"(B) The term 'service sector access authorization' means any license, permit, order, or other authorization, issued under the authority of Federal law, that allows a foreign supplier of services access to the United States market in a service sector concerned.

"(C) The term 'services' has the same meaning as is given to that term in section 3(3) of the Services Industries Commerce Development Act of 1984.".

(b) NEGOTIATING OBJECTIVES.—

(1) IN GENERAL.—Chapter 1 of title I of the Trade Act of 1973 (19 U.S.C. 2111-2119) is

amended by inserting immediately after section 104 the following new section:

"SEC. 104A. NEGOTIATING OBJECTIVES WITH RESPECT TO TRADE IN SERVICES.

"Principal United States negotiating objectives under section 102 with respect to trade in services shall be—

"(1) to reduce or to eliminate barriers to, or other distortions of, international trade in services including, but not limited to—

"(A) barriers that deny national treatment, and

"(B) restrictions on the establishment and operation of enterprises providing services in foreign markets, including—

"(i) direct or indirect restrictions on the transfer of information into, or out of, the country or instrumentality concerned, and

"(ii) restrictions on the use of data processing facilities within or outside of such country or instrumentality; and

"(2) to develop internationally agreed rules, including dispute settlement procedures, which will reduce or eliminate such barriers or distortions and help insure open international trade in services.".

(2) CONFORMING AMENDMENTS.—

(A) The table of contents for chapter 1 of title I is amended by inserting after the item relating to section 104 the following new item:

"Sec. 104A. Negotiating objectives with respect to trade in services.".

(B) Paragraph (3) of section 102(g) (19 U.S.C. 2112(g)(3)) is amended to read as follows:

"(3) The term 'international trade' includes trade in both goods and services.".

H.R. 6023

By Mr. GEPHARDT:

—Before paragraph (b)(1) of section 3 of the bill, insert the following:

(1) by inserting the following in alphabetical order in the list of countries preceding paragraph (1): "Taiwan", "Hong Kong", and "Republic of Korea";

—Redesignate the succeeding paragraphs of such section (3) accordingly.

EXTENSIONS OF REMARKS

CERTIFIED PROFESSIONAL SECRETARY (CPS)

HON. RICHARD L. OTTINGER
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. OTTINGER. Mr. Speaker, I would like to call to the attention of my colleagues the new 1984 CPS's who received their certificates through the District of Columbia Chapter of Professional Secretaries International. The certificates were presented at a DC chapter dinner meeting this month where the awardees and other members of the chapter were fortunate to have as the guest speaker, Joan Brown, CPS, from the Institute for Certifying Secretaries, PSI. I commend the following names of those secretaries who have been certified by the Institute:

Raymond J. Camara, CPS, Haynes & Miller; J. B. Wallace, CPS, Saidman, Sterne, Kessler & Goldstein; and Jette Ward, CPS, Zimmerman, Semler & Pritzker.

This year certification was awarded to 50 secretaries in Washington, DC, Virginia, and Maryland, bringing the total to 736 in the Washington metro area.

The CPS examination was instituted in 1951. To attain the CPS rating, a secretary must meet certain education and work experience requirements and pass the 2-day, six-part examination on behavioral science in business, business law, economics and management, accounting, office administration and communication and office technology.

In bringing the CPS rating to the attention of my colleagues today, perhaps my remarks will help to open the door through which we here in the House, as well as members of management throughout the business world, will come to recognize the merits of the certified professional secretary.

I hope you will join with me in congratulating the new CPS recipients.

CPS PRESENTATION: DISTRICT OF COLUMBIA CHAPTER, PROFESSIONAL SECRETARIES INTERNATIONAL, SEPTEMBER 18, 1984

OUR CREDENTIALS ARE SHOWING

Madam President, CPS Honorees, Other Special Guests, Members of the District of Columbia Chapter.

It is indeed a pleasure for me to be here tonight to share with the District of Columbia Chapter in this special occasion. It is truly an exciting and memorable night for the three who are being honored as new Certified Professional Secretaries—Raymond Camara, CPS; J.B. Wallace, CPS; Jette Ward, CPS.

My congratulations to each of you on your achievement of the CPS certification. You are to be commended for your efforts and commitment to reaching this goal which has become recognized as the "Emblem of Excellence" for the secretarial profession.

It has been my privilege since joining Professional Secretaries International in 1975 to meet and become good friends with many of the District of Columbia Chapter members. Winnie Woodhull and I go back a number of years when we were division presidents at the same time. As you might expect, we commiserated with each other on several occasions during that year about some of the challenges, both good and some not so good, that we were experiencing in our leadership roles.

And, of course, it has been and is a distinct honor for me to claim as a very special friend our own International President, Sylvia Cash, CPS.

Again, I thank you for allowing me to share in this very special event.

Each of us here tonight has with us certain credentials by which we are and can be identified—our driver's license, our social security card, certainly our credit cards which most of us have far too many—those things which identify us personally.

Mr. Webster defines the word "credential" as "something that gives a title to credit or confidence." That is why we are here tonight, to honor three who have added a new credential, the Certified Professional Secretary rating.

And, also, to reinforce our pride in those who have already reached the CPS goal; also, to give encouragement to those candidates who are aspiring to this goal; and before the night is over, we hope that those who have not made a commitment to sitting for the CPS Examination will make a decision to set this as either a personal goal to achieve or to encourage someone else to become involved in the program.

The 25th Anniversary Issue of The Secretary Magazine featured an article from February 1948 issue. The article was entitled "ONWARD TO CPS" and was written at a time when our association, then known as The National Secretaries Association, was attempting to establish the CPS program.

To quote from this article, "Just as an iceskater skates his way to fame, just as any sportsman fights to win a name, so shall we surmount the obstacles that lie before us in order to make Certified Professional Secretaries a reality.

Let's not sit idly by hoping for someone else to lay the groundwork. It's human nature to be a 'doubting Thomas' and to be unconvinced until something is well established and has proven itself. But, secretaries who are farsighted enough to join and stay with NSA are sufficiently farsighted to realize, without the concrete evidence, just what CPS will do for every one of us."

CPS did become a reality when the Institute for Certifying Secretaries was established in December 1950, the application was filed to register the CPS program, and 281 candidates took the first CPS Examination in August 1951 at 15 testing centers.

Elevation of the standards of the secretarial profession became a fact for 62 CPS candidates who passed all six parts of the examination and became the first to achieve the Certified Professional Secretary rating.

Since that memorable occasion with the first examination some 34 years ago, the CPS program has become recognized and respected internationally. Today the exam is administered in the United States, Canada, Puerto Rico, Jamaica, and through some of the affiliated organizations of Professional Secretaries International.

With the exception of two of the thirty-four years, the number of candidates sitting for the examination has consistently increased with the total number certified now being 18,398, of which 1,141 were certified this year. And, we are very pleased to have the opportunity to honor three of those tonight.

Twenty years ago in 1964, there were 1390 candidates for the examination. This year there were over 5,600 candidates; however, when one looks at the statistics for the number of persons employed as secretaries, we are falling way short. There should be four to five to six times as many candidates sitting yearly for the exam.

Our International President stated in her acceptance speech at the PSI Convention in Toronto that, "Certified Professional Secretary is indeed the CAPSTONE of the secretarial profession."

Our president wants to see strong emphasis on CPS during the 1984–85 PSI year, more publicity on CPS, more candidates sitting for the 1985 examination, more recognition for those who become certified, and a better working relationship between PSI and the CPS societies.

These societies can be a valuable resource to PSI and the Institute for Certifying Secretaries. As our president stated in her speech, "It is time that we stop discouraging but rather encourage these societies to help PSI in promoting CPS." The Institute endorses this goal and is looking at ways to implement a better and stronger relationship between PSI and these societies.

I understand that the Washington area has a long-standing CPS society, and I commend those of you who are members of this society for the work you have done in promoting the CPS program.

President Cash and I have just returned this past weekend from the annual planning session of the Institute. As you know from my introduction, I'm what they refer to as a "new kid on the Institute block," having just embarked on the beginning of a three-year appointment.

It was exciting for me to work with this group of professionals dedicated to achieving the two major goals of the Institute, those being: (1) to prepare and administer the annual CPS Examination program, and (2) to promote the CPS program.

The Institute Annual Meeting can unquestionably be termed a "work session." We left our rooms shortly after 8:00 each morning and did not return until 5:30 and sometimes later each of the three days, but it was a work session of "love" on the part of every Institute member. These members give will-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

ingly of their time, their talents, and their knowledge because they believe in the CPS program and examination and because they are committed to doing all they can to ensure its continued recognition as the certification program for the secretarial profession.

The Institute planning session was filled from minute to minute with brainstorming; reviewing the CPS examination, bibliography, and resources; looking at the total CPS program; and setting goals for the future. Recommendations were made from each of the three groups comprising the Institute—management, education, and CPS—for promoting the CPS program. Members of the CPS group met for a final session on Sunday morning to review these recommendations and to map out a promotional program, including promotional tools, which will be shared with the PSI chapters.

Since its inception, the CPS program has been emphasized. However, from what I saw, heard, and participated in this past week and in keeping with our International President's goal, you can be assured of a much stronger emphasis on the CPS program and examination this year.

I feel very honored to be a member of the Institute for Certifying Secretaries. Since I joined PSI in 1975, the CPS program has always been very near and dear to me. I have spent a great deal of my time these past ten years in promoting the program and deem it a privilege to now be able to do this in an official capacity as a representative of the Institute. Participating in events for recognizing new Certified Professional Secretaries, such as tonight, is not a task for me, but a privilege.

For the benefit of guests here tonight who may not be familiar with what the CPS program and examination entail, I would like to just briefly highlight the program and why it has become so widely recognized as the "Emblem of Excellence" for the secretarial profession.

The examination is administered annually by the Institute for Certifying Secretaries, a department of Professional Secretaries International, at approved testing centers on the first Friday and Saturday in May. CPS candidates must meet certain education and work experience requirements in order to qualify to sit for the examination. They have six years in which to successfully complete all parts.

The examination is comprised of six parts administered on a time basis: Behavioral Science in Business, Economics and Management, Accounting, Office Administration and Communication, Business Law, and Office Technology. Every effort is made in the CPS Examination to adhere to the common office experience familiar to any secretary. However, some of the examination is necessarily based on information which must be obtained by the secretary through formal education and individual study.

The CPS rating takes personal motivation. It takes a personal commitment by the individual. If we are to succeed in our personal lives, our jobs, and our careers, we must set goals and then work out a roadmap as to how we're going to reach those goals. I would like to offer the following three guides to help you acquire and strengthen your power of belief in success.

First, think success; don't think failure. When you face a difficult situation, think, "I'll win; not, I'll probably lose." When you compete with someone else, think "I'm equal to the best; not, I'm outclassed." When opportunity appears, think "I can do it; not, I can't." Thinking success conditions your mind to create plans that produce success.

Secondly, remind yourself regularly that you are better than you think you are. Success does not require a superintellect nor is there anything mystical about success. And, success isn't based on luck. Successful people are just ordinary folks who have developed belief in themselves and what they do.

Thirdly, think big. The size of your success is determined by the size of your belief. Think little goals and expect little achievements. Think big goals and win big success. Big ideas and big plans are often easier, certainly no more difficult, than small ideas and small plans.

The ladder to success is only crowded at the bottom. That's where most people stay because it is rather comfortable there. But, as you get to the second and third rungs of the ladder, it becomes easier to move up because there are not as many people at these levels. As you reach each successive rung, the next one seems more reachable.

Decide now that you won't be satisfied to remain at the bottom rung where everyone else is but that you are going to start that climb, that you are going to reach the top. And, you will!

The standards of the CPS Examination are high because the CPS rating would mean little, if anything, to the secretarial profession and to the individual if those standards were anything less.

Efforts continue toward recognition of the CPS rating by state and federal governmental agencies. Management is more and more recognizing the CPS certification through merit increases and job promotions.

The pursuit of college credit for the CPS rating continues to meet with success. In my own particular area, the faculty at Wingate College in 1981 voted to grant 60 semester hours' credit for the CPS rating towards a Bachelor of Science Degree in Office Administration. CPSs can enroll in this degree program at the junior level. Even CPS candidates can enroll in the program and will be awarded the 60 hours' credit when they earn their CPS certification. This past May, I attended the exercises for the first two graduates of this program. These secretaries were able, as a result of their CPS certification, to achieve an educational goal that would otherwise have been impossible for them. The benefits, the opportunities, the personal satisfaction, from having achieved the CPS goal are immeasurable.

For those who are already a Certified Professional Secretary, in many cases it is just a stepping stone to a college degree. And, if you are not yet a CPS, what better way is there to further your education than by studying for the CPS Examination?

If you say, "CPS is not for me," then perhaps you could make a commitment to encourage someone else to become involved in the program. Each person who participates in the CPS program, either by attempting the examination, by studying, or by encouraging someone else to attain this certification, adds to the progress of the CPS program and to our profession.

1984–Year of the Secretary! And, it is an exciting time in which we are living. The credentials of the professional secretary are showing. Not only are they showing but they are at long last beginning to receive the recognition so rightly deserved.

We're living and working in a fast-paced, constantly changing technological business world. Sleek word processors have replaced old-fashioned electric typewriters. The day of the old manual typewriter with sticking keys is long gone. The time when secretaries only spoke when they were spoken to is a thing of the past. The secretarial job was once looked upon as a means of security for the individual. Today, it is a springboard to success. Today, it is a career ladder for those who want to achieve career goals.

In this high-tech business world, the pencil pushers in accounting are balancing the books by tapping computer keyboards. Through use of computerized screens, complicated charts that one time took many hours can now be completed in a matter of minutes.

The technology that promised the paperless, near effortless office has arrived some say. But, has it? Quite the contrary say many secretaries and executives. Automated offices, they complain, are buried under more paper than ever before. One can observe secretaries duplicating and distributing the voluminous reports made possible by technology.

In addition, this technological business world in which we now find ourselves has required the mastery of a new language, the computer language—"software, hardware, programming, Basic, Fortran." It has also resulted in secretaries having to assume more administrative responsibilities.

Yes, the credentials of professional secretaries are showing through their acceptance of increased responsibilities, through their dedication to taking whatever steps necessary to gain the knowledge for mastering the daily challenges in their jobs, and through their ability to adapt to the ever-increasing changes in the business world.

Secretaries are members of one of the most exciting professions I know. I personally cannot imagine doing anything else. I didn't "just happen" into this profession. I chose it as my career some 25 years ago and have never for one minute regretted my decision. Both our image and our roles as secretaries are changing and will continue to change. The extent of the changes will depend upon how we view our roles and our profession.

I'm reminded of a story told by Sam Levinson, the nationally known television humorist, who had this to say about change.

"I remember when anyone called 'Grandma' was a little old lady with gray hair and gold/rimmed glasses, who wore a shawl and sat in a rocking chair on the front porch and rocked and rocked and rocked. The contemporary 'Grandma' is just a little bit different. She goes shopping in cowboy pants, plays tennis in shorts, captains the bowling team, and goes belly dancing on Tuesday. To put it bluntly, 'Grandma is off her rocker.' Gentlemen who used to help little old ladies across the street, now follow them."

Professional secretaries can't sit back in their rockers and wait for career opportunities to happen. We have to make them happen. And, important to our professional career is our membership in the leading professional association for secretaries, Professional Secretaries International. Whether or not we are what we eat, we surely become like those with whom we associate.

This reminds me of the story of the farmer who had an old mule that was the pride and joy of his life, even though that old mule was swaybacked with bowed knees that looked as though they would buckle under any minute. Well, the farmer decided that he would enter his old mule in the

Kentucky Derby Race where there were nothing but thoroughbreds. He combed the mule's mane, tied a red ribbon to his harness, and led him over to the track to get him registered for the race.

Well, when he got there, the Derby officials took one look at that old mule and it was all they could do to keep from rolling on the ground in laughter. Finally, one of the officials managed to keep a straight face long enough to ask the farmer, "Hey, mister, you don't honestly think that old mule's going to win the race, do you?"

The old farmer took off his straw hat, scratched his head a minute, looked that official right square in the eye, and said, "Naw, but the association will be good for him!"

In any professional group, those who are most active and who take on leadership roles tend to be those who are also successful in their jobs. By choosing to become active in an association of professionals, we choose success.

As leaders and champions of our profession, we must all look to the future and prepare for the future. We must bring the prestige to our profession that we know it deserves.

Secretaries must continue to strive to improve their image. I think we will all agree that this has been and is a problem of our profession. It is a problem that has been and is constantly being addressed by PSI. Too often, even though we are viewed by management and others as vital, contributing members of the organization, our profession is classified as subservient.

Public education in North Carolina is a prime example of this. Secretaries and office personnel are classified as "non-certified" and lumped in the same category with maids, custodians, cafeteria workers. Even though I have a B.S. degree, possess the CPS certification, and have completed the certification program endorsed by the State for Education Office Personnel, I am still classified as "non-certified."

We in North Carolina are working on this. I understand that the State Legislature in its upcoming 1985 session will be studying this with serious consideration being given to legislative action which will at long last give the proper recognition to these professionals in both status and monetary rewards.

Each of us must accept this image problem as a personal responsibility. We can't leave it up to a few to resolve. We must continue to promote the secretarial profession, and we must project the image of a professional before that recognition will be received.

Secretaries must keep current with the changes that are happening in our technological world. We must make and take the time in our busy schedules to read everything we can get our hands on. We must attend timely seminars, and we must set continued self-improvement as a constant career goal. The CPS certification is at the top of the list for reaching this goal.

Secretaries must assume leading roles in decisions that will affect our jobs and our companies. Don't sit back and be afraid to express your ideas. More often than not, management will welcome those ideas and on many occasions will institute them. I have found that management does listen and values the opinions of the truly professional secretary. Doing this does quite often require courage, just plain nerve, on the part of the individual. But, we're going to have to exemplify that courage if the secretarial profession is going to receive the recognition we know it deserves. If we as secretaries do not view our jobs as a profession, then how can we expect others to?

Enjoy your work. Take steps to make measurable contributions to your organization. Accept personal responsibility for promoting the role that we feel secretaries must play in today's business world.

One of the major events being sponsored by the Research and Educational Foundation of PSI in 1985 is Secretary Speakout to be held in Albuquerque next March. The topic of the Speakout, "Survival of the Professional Secretary," is a most timely one. Participants in the Speakout will be given an opportunity to let the world know where professional secretaries stand, how we perceive the profession, and where it is going in future decades. Robert Townsend, author of "Up the Organization," will be one of the keynote speakers. I, for one, have already scheduled this on my calendar and hope that you will do the same.

The theme selected for this year by International President Cash is a most appropriate one—"Tomorrow Is The Future We Plan Today." The secretarial profession must confront issues and deal with them because the information revolution is changing the whole concept of the secretary's job. Through the use of automated equipment, secretaries can grow and advance; therefore, we must take control of technology so that we can plan our future.

Today's secretarial students have had a high degree of exposure to computer equipment and are enthusiastic about office technology. A recent survey of business education students revealed that they are enthusiastic about a secretarial career and see it as exciting and challenging.

You and I can have an exciting future if we plan and accept today's challenges. Our credentials are showing and they are impressive. Let's keep them in the spotlight.

It's our time and it's our purpose. It's time for us to make sure that others recognize our credentials, that we say what we are—Professionals—and mean it!

Our credentials are showing! Our credentials are good! Our record is good! Our future is good!

Again, my congratulations to the new Certified Professional Secretaries and my thanks for the opportunity to be with you tonight.

JOAN B. BROWN, CPS,
Institute for Certifying Secretaries, Professional Secretaries International.●

TRIBUTE TO DR. MILDRED BOWEN

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Ms. OAKAR. Mr. Speaker, Dr. Mildred Bowen, the family doctor of thousands Clevelanders, including myself, died on August 24, 1984. Dr. Bowen was truly a person of compassion, wisdom, and generosity. She was one of the first women medical students at Case Western Reserve University. She will be remembered by all those she served as a doctor who never refused care to the sick. When finances were short for poor patients, Dr. Bowen gave her best to the patient. Toward the end of her life, her husband contracted Alzheimer's disease. The love that was in this woman did not allow her to send him to a nursing home, but instead, as she did for so many, she gave of herself until the end of his life. When families found themselves in tight financial straits, she came to heal the ill and help the suffering. She was much loved and will be sorely missed. The following article appeared in the Plain Dealer.

[From the Plain Dealer, Aug. 24, 1984]

MILDRED BOWEN, FAMILY DOCTOR

Dr. Mildren Bowen established her medical practice in 1928 after graduation from Western Reserve University School of Medicine.

Her office was at W. 25th St. and Lorain Ave. in a former bank building. At first she had a general practice and later, as the trend and name changed, she specialized in family practice.

She retired in 1978 to take care of her husband, Max Garnitz, who had Alzheimer's disease.

Many of Dr. Bowen's patients refused to recognize her retirement and kept going to her home on the West Side for comfort and advice as well as medical treatment.

Dr. Bowen, 85, died Tuesday at Cleveland Metropolitan General Hospital where she had been a patient seven weeks. Cancer was diagnosed four years ago and she had become more seriously ill early last year.

Dr. Bowen kept current with changes in medicine and had continued to attend special post-graduate courses even after her retirement. At her death, she held a current state license to practice.

A colleague recalled Dr. Bowen talking about her early days in medicine when she would make house calls. Even in cases of a lengthy delivery, her husband would wait for her in the car.

Mr. Garnitz, a record distributor, died last year.

Dr. Bowen had no children but took financial responsibility for the college education of several young persons. At least four of them are now physicians.

Hundreds of children she had delivered or treated remembered her as adults with cards and letters at Christmas.

Dr. Bowen was born in North Fairfield, Huron County, and received a bachelor's degree in 1924 from Oberlin College.

She was a member of the American Academy of Family Physicians, Cleveland Academy of Medicine, Ohio State Medical Association and the American Medical Association.

Dr. Bowen had been on the staffs of Lutheran Medical Center, Fairview General Hospital, Lakewood Hospital and Deaconess Hospital.

Graveside services will be at 2 p.m. tomorrow at Norwalk Cemetery, Norwalk.●

FERES DOCTRINE

HON. JAMES F. McNULTY, JR.

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. McNULTY. Mr. Speaker, a serious problem has been created in our laws by the effective denial of due process of law to members of the Armed Forces. This problem is due to the "Feres Doctrine," a creation of the courts which asserts that even under circumstances of medical malpractice in peacetime in a hospital operated by the Department of Defense, no matter how flagrant the malpractice, the victim and the family of the victim cannot sue for damages.

Since introducing H.R. 1942 in March 1983, a measure which would, under limited circumstances, permit a lawsuit to be heard on the facts, I have had numerous victims of past malpractices come to me for understanding and, to the limit of my modest powers, to help them. But the problem is one greater than can be dealt with in a legislative body: The men and women now serving in our Armed Forces need help and they are entitled to it now. Reform of our tort law is needed and it is needed now.

The Atlanta Journal Constitution has recently published an incisive study of the problems created for our service people as the result of the Feres decision. I ask that it be inserted into the RECORD so that the day on which this reform is to be accomplished is brought forward.

Thank you.

[From the Atlanta Journal Constitution, Sept. 16, 1984]

MILITARY WIDOW PURSUING CASE OF MEDICAL NEGLECT

BILL CHALLENGING FERES DOCTRINE GAINING SUPPORT

(By Greg McDonald)

WASHINGTON.—Doreen Forsman knew that it would not be easy, but she believed the law was on her side.

Her husband, Air Force Maj. Gen. Billy Forsman, who was director of the U.S. European Intelligence Command, had died of cancer, a cancer that spread from his kidneys to his lungs, a cancer which she said might have been arrested if Air Force doctors had discovered it in time.

Mrs. Forsman alleges that they were negligent and that it cost her husband his life.

When she tried to file suit, she discovered the Feres Doctrine, which makes it almost impossible for military personnel or their dependents to sue the government.

The ruling, which stems from a 1950 lawsuit by the family of a soldier who died in a barracks fire, holds that the military cannot be made accountable for deaths or injuries sustained by servicemen and women "in the course of activity incident to service."

For the last 34 years the law has been broadly interpreted as meaning the government cannot be held legally responsible for the injury or death of military personnel during war or peace, regardless of cause.

The law does not prevent military dependents from suing the government for injuries they receive resulting from negligence at a military facility. But the dependents are prohibited from suing when their relatives are injured or die as a result of negligence while serving in the military.

Mrs. Forsman believes the law denies military widows, wives, children and other dependents the same rights afforded private citizens. Since her failed effort to sue, she has joined hundreds of other military dependents in taking her case to Congress.

On her behalf, Rep. James McNulty (D-Ariz.) has introduced a bill that would amend the Feres Doctrine to allow legal complaints to be pursued in cases involving negligence in peacetime at stateside military medical facilities.

Hearings were held, but McNulty's proposal, which is limited to medical complaints, has been tied up in the House Judiciary Subcommittee on Law and Governmental Relations ever since. The reason is opposition from the Defense Department and subcommittee chairman Sam Hall's (D-Tex.) view that further hearings are needed.

In the meantime, McNulty last month introduced private bills on behalf of Mrs. Forsman and the relatives of four former military people who either died or remain seriously handicapped as a result, they contend, of the military medical treatment. McNulty concedes that chances for passage are slim.

In each of the cases, he said, military medical personnel the families hold responsible have been allowed to continue their duties—often without a reprimand or blemish on their military records. Many of them are now out of the service and in private practice.

Mrs. Forsman, for example, first sought to have charges of medical negligence in her husband's death handled "quietly and discreetly" by the Air Force before she tried to file suit. The Air Force finally conducted an internal investigation.

Despite conflicting statements from medical personnel and records showing that doctors failed to order routine tests on Forsman until his cancer was well advanced, the Air Force concluded that neither the service nor any of the doctors could be held responsible for his death.

Moreover, the investigative report went on to suggest that the physical strain of the general's illness led to psychological stress, which caused him to imagine that the Air Force was trying to cover up the alleged misdiagnosis in his case.

Mrs. Forsman regards the suggestion that the general was suffering from delusions as a "slur on my husband's reputation." She points out that the general continued his job as director of the intelligence command until he retired from active duty six weeks before his death.

"If the Air Force thought he was suffering from delusions, why did they allow him to keep his top-secret clearance?" she said. "I will not rest until the Air Force erases that slur against my husband."

Forsman was told repeatedly for 10 months by his military physicians that he was suffering from nothing more than lower back problems, Mrs. Forsman said. When they discovered the real source of his discomfort, one of his kidneys was completely encapsulated in a tumor, his medical records show.

Surgery was performed but the cancer had spread to other parts of his body and, Mrs. Forsman said, it was too late to do anything "but watch him die."

"All I'm interested in now is that the Air Force do something to those doctors for their actions and make sure they don't hurt someone else," she said. "The Air Force betrayed my husband, that's how he felt. And that fact hurt him more than the cancer."

McNulty says that the Forsman case is not unique, but is one of the most significant negligence cases to come along because of Forsman's rank.

Most past cases have evolved low-ranking personnel whose complaints were often dismissed by military officials and some members of Congress.

McNulty introduced his bill after he heard about the case of Jerry Meagher, a 32-year-old former Navy seaman from Bisbee, Ariz., who entered the Balboa Navy Hospital in San Diego in 1974 to have a benign cyst removed from his left arm. Meagher left the hospital in a coma after suffering severe brain damage.

His family tried unsuccessfully to file suit because Meagher had been over-sedated during the operation and had suffered a heart attack. Because he was not placed in an intensive care unit where he could be closely monitored, a second heart attack wasn't discovered until hours later.

"Now the government just says that's too bad," McNulty says of Meagher's case.

The Defense Department contends the McNulty bill, if successful, could open the government to a flood of lawsuits. Victims of medical neglect and their relatives, the department says, are adequately compensated with disability and pension payments.

But Secretary of Defense Caspar Weinberger, acknowledging that a problem exists, has opened communications with lobbying groups such as Citizens Against Military Injustice, an organization established by former members of the military and their families. A casualty assistance hotline also has been installed at the Pentagon as one means of dealing with complaints.

In addition, Pentagon spokesmen say that the work of doctors and medical technicians at military hospitals and clinics around the country is now being scrutinized more closely. And they say action is being taken where cases of incompetence or neglect can be identified.

As an alternative to McNulty's bill, some Pentagon officials, including Deputy Defense Secretary William Taft IV, have suggested that injured service people or their relatives should try to have Congress pass private legislation on their behalf.

Although McNulty's bill drew little support when it was introduced, it has since picked up some 60 cosponsors, including a number of conservative and powerful congressmen who, following the Reagan administration's lead, took a dim view of the legislation in the beginning.

Rep. Doug Barnard (D-Ga.), who is normally closely aligned with the views of the Defense Department, said he has come to the conclusion that members of the military deserve the same legal protection as private citizens.

He said numerous complaints from his constituents, particularly a Marine sergeant who checked into a hospital at Fort Gordon to have his tonsils removed and who checked out with a speech impairment and loss of taste and smell, convinced him that something needed to be done.

To his surprise, McNulty has also gained the backing of the American Veterans of Foreign Wars, which had opposed the legislation. In a letter to the congressman. VFW

executive director Cooper Holt expressed a view similar to Barnard's.

"Certainly it would be destructive to allow malpractice suits against military field hospitals during wartime," he wrote. "But military people do have a right to expect quality treatment in stateside hospitals during peacetime."●

HISPANIC CONCILIO HONORS ROBERTO MARTINEZ AND DANIELA GOMEZ

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. LANTOS. Mr. Speaker, I would like to bring to the attention of the House the two recipients of the Fifth Annual Hispanic Awards of the Hispanic Concilio of San Mateo County. These individuals will be honored at a reception on October 26.

The Hispanic Concilio of San Mateo County each year recognizes individuals whose efforts have made a difference in the lives of the Spanish-speaking population of my district. The two who will be honored this year have distinguished themselves in the fields of secondary education and alcoholism counseling.

Roberto Martinez, vice principal of Sequoia High School in Redwood City, has been selected for his exemplary devotion to increasing the numbers of Hispanic students who complete courses for a high school diploma. His personal support for troubled students and their families has given many students a second chance when they might simply have dropped out of school altogether. He serves as a mentor and role model going well beyond the normal requirements of his position.

Daniela Gomez has been selected to receive this award for her outstanding accomplishments as an alcoholism counselor, particularly in the treatment of Spanish-speaking individuals. As the Hispanic community continues to increase, the skills of professionals such as Ms. Gomez become evermore valuable. Her dedication to serving needy Hispanics extends beyond alcoholism counseling programs to the many other areas of human services where her skills have benefited many families.

Mr. Speaker, I commend Roberto Martinez and Daniela Gomez for their selfless dedication and service to the Hispanic community of San Mateo County. It is a pleasure for me to congratulate these two fine individuals on the occasion of their recognition by being named to receive this prestigious award.●

ERISA: A DECADE OF ACHIEVEMENT FOR WORKING MEN AND WOMEN

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. BIAGGI. Mr. Speaker, this past Labor Day marked the 10th anniversary of the signing of one of the most important labor laws in the history of this country—the Employee Retirement Income Security Act—otherwise known as ERISA. Not since the establishment of the Social Security Act in the beginning of this century had there been such a significant step toward improving and protecting the financial security of workers in their retirement years.

The driving force behind passage of this act was in large part a response to the horror stories which came before the House Education and Labor Committee—of which I am a member—that depicted workers spending their entire careers contributing to pension plans for their future. After years of financial sacrifice, these same workers were confronted with losing everything when their companies were sold—or had moved out of the area.

In recognition of the need to secure these pension plans—ERISA was passed in 1974. The major elements of this legislation included:

Minimum standards for participation, vesting and survivors' benefits;

Reporting and disclosure rules, most notably the requirement for distributing plan descriptions and filing annual reports;

Rules governing the activities of those who control pension investments;

Establishment of individual retirement accounts [IRA's]; and

Establishment of the Pension Benefit Guaranty Corp., to oversee a system of insurance which protects participants against insufficiency of pension plan assets upon plan termination.

On the heels of this legislation, Congress took an added step to impose penalties upon those groups of employers that sought to withdraw from pension plan participation. The 1980 Multiemployer Pension Plan Amendments, of which I was an original cosponsor, were the result of 2 years of study by our pension task force which recommended that withdrawal liabilities be imposed upon multiemployer plans that sought to cease contributions. These liabilities were necessary—with limited exception for certain unique industries—in order to assure that employers did not circumvent the intent of Congress in the 1974 act.

In the past decade, we have successfully protected the pensions of workers in private industry and must now aggressively seek to impose the same standards of fairness and income security to those individuals in the public sector. Legislation to accomplish this task—known as PEPRA—is before the House and must receive serious consideration if we are to provide the same protection for public employees.

As New York's senior member of the House Education and Labor Committee, as well as a charter member of the House Select Committee as well as a charter member of the House Select Committee on Aging, I feel that protection of employees benefits through the strengthening of ERISA and the Pension Benefit Guarantee Corp. is essential. We must expand the protections of ERISA to all employees, public and private. In order to do this, we must also work to assure that the PBGC has adequate resources in order to fulfill its mission of fulfilling pension expectations of plan participants.

The 99th Congress must see an advanced role for pension plan protection legislation. This includes legislation to address the latest problems of plan administration—terminations of overfunded plans and failure of employers to continue to accrue benefits to employees who elect to work past the age of 65.

This second issue was the subject of a hearing which was conducted by the Labor Management Subcommittee last month, at my request, in order to highlight the laudatory action of the Equal Employment Opportunity Commission to approve regulations which allow for continuation of benefit accrual after the age of 65. I commend the EEOC and Chairman Clarence Thomas for his leadership in this area and urge that the Commission move forward in this area in an expeditious fashion. Without these regulations—which are based upon my bill, H.R. 5346—the intent of the 1978 Age Discrimination in Employment Act and the 1975 Age Discrimination Act will be seriously compromised.

It is appropriate that as we celebrate's ERISA's 10 year anniversary—that we remember that there remain large numbers of workers—in the public sector—and over the age of 65—that still need our help. It is with that mission in mind that we will approach the 99th Congress in order to secure increased protections for workers—and to assure employment rights for older workers.●

COMPENSATION OWED JAPANESE INTERNED DURING WORLD WAR II

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. MINETA. Mr. Speaker, I would like to call my colleagues attention to a recent article in the newspaper Newsday. This article, by Thomas Omestad, an editorial assistant at the prestigious journal Foreign Policy, discusses the arguments for and against redress for those Americans who were needlessly interned by this Government during World War II.

As an enthusiastic supporter of H.R. 4110, pending legislation to enact just such redress, I am particularly pleased that the author understands that our drive for redress is based equally on a concern that such a tragedy never happen again as well as on our desire to clear the names of those who were so needlessly denied their basic civil rights in 1942.

The article follows:

COMPENSATION OWED JAPANESE INTERNED DURING WORLD WAR II

(By Thomas Omestad)

To right wrongs is one of the strongest moral expectations that Americans have of their government. Indeed, to leave unresolved the injustices of the past is seen not only as a festering sore on the nation's conscience, but as an invitation for the wrong to reappear in another guise.

Unfortunately, justice often comes too late for many of those who were most directly harmed.

Such is the case for 120,000 Japanese-Americans who were forced out of their homes during World War II and held in detention camps.

A federal District Court judge in Washington recently dismissed a suit brought on behalf of those Japanese-Americans, and thereby focused renewed attention on bills before Congress that would provide some compensation for the losses they suffered.

Both the suit and congressional action came after a federal commission established by Congress declared last year that the exclusion of Japanese-Americans from the West Coast and their detention in barrack camps guarded by military police was a "grave injustice" motivated by "race prejudice, war hysteria, and a failure of political leadership." The commission recommended that the 60,000 people still living 40 years after their ordeal should receive $20,000 each in compensation.

The federal judge ruled against the internees on the grounds that the six-year statute of limitations had long since expired. The decision, if upheld on appeal as expected, precludes the possibility of judicial relief for those interned. Congress would then be the only governmental body that can provide a remedy.

The bills before Congress would create a $1.5-billion trust fund to pay $20,000 to each surviving internee. The remaining $300 million would go to establish a special foundation that would encourage research and education on the subject.

The legislation also provides for a formal national apology, relief for several thousand Japanese-Americans who were given dishonorable discharges from the military, pardons for those convicted of resisting the relocation, and payment of $5,000 to each of 900 surviving Aleutian Islanders who were similarly relocated. A Senate panel is planning to hold hearings this month in Los Angeles and Anchorage, Alaska.

It is, of course, easy for younger generations, far removed from the outrage and fear following the Japanese attacks on Pearl Harbor, to pass judgment on the actions of the past. John J. McCloy, Roosevelt's assistant secretary of war, rejected the commission's findings. "The attack in itself, one of the most serious violations of international law in modern history, constituted full justification for Roosevelt's relocation order," he said.

But one fact is neglected by such an assessment: U.S. leaders doubted the loyalty of Japanese-Americans because of their race. The actual record of loyalty disproves their misguided fears. Not a single case of espionage or sabotage during World War II was shown to have been committed by ethnic Japanese in the United States.

Congressional action on an apology, a foundation and compensation would actively remind citizens of the state's capacity to abuse powers.

As the commission's report states: "Recalling the events of exclusion and detention, ensuring that later generations of Americans know this history, is critical immunization against the virus of prejudice and the emotion of wartime struggle. 'It did happen here' is a message that must be transmitted, not as an exercise in self-laceration but as an admonition for the future."●

SOUTHERN WEST VIRGINIA'S INTEREST IN THE STEEL ISSUE

HON. NICK JOE RAHALL, II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. RAHALL. Mr. Speaker, we have been hearing a great deal about the adverse impact on the domestic steel industry of steel imports, which are often dumped or subsidized by foreign governments. Concern over this situation has prompted the introduction of the Fair Trade in Steel Act in this body and the filing by industry and labor of numerous relief petitions before the International Trade Commission.

As we all know, the President has set forth his own program to deal with this situation, primarily consisting of negotiated arrangements with foreign steel supplying countries regarding the level of their exports to the United States.

I have supported the effort to clamp down on unfair trade practices with respect to imported steel. I have done so not because steel is produced in my congressional district, but because a great deal of the metallurgical coal used to make coke used to make pig iron which is an essential element in steelmaking is produced in southern West Virginia.

As steel goes, so goes the metallurgical coal industry.

However, in all the publicity on steel, the situation of our domestic coke and metallurgical coal industries has been ignored. Also ignored is the fact that this year the United States has begun to import higher levels of coke.

I would like to take this opportunity to address this matter, which I believe to be extremely serious and an affront to the metallurgical coal miners in southern West Virginia and other regions of the country. Last week, for example, United States Steel laid off almost 2,000 metallurgical coal miners from its southern West Virginia operations. The steelmaker stated that these are indefinite suspensions due to lack of demand for metallurgical coal.

First, some essential facts must be known about the coke and metallurgical coal industries. In 1983, the United States produced 25.8 million short tons of coke, imported 35,000 tons, consumed 29.8 million tons and exported 665,000 tons. As of December 1983, the annual domestic coking capacity was 38.6 million short tons from 6,856 operational coke ovens which have an average age of 19.7 years.

The largest coke producing State is Indiana, which produced 6 million short tons of coke in 1983, followed by Pennsylvania at 5.8 million tons and Ohio at 3.3 million tons with the remaining tonnage from Illinois, Alabama, Michigan, West Virginia, Maryland, Kentucky, New York, Tennessee, Texas, Utah, and Missouri.

Of the 25.8 million short tons of coke produced in 1983, 22.5 million tons came from furnace coke plants and 3.3 million tons from merchant coke plants. These furnace plants are largely owned by steel companies while the merchant plants are owned and operated by independent producers. For example, of the 42 coke plants in the United States (not all of which are operating at this time), seven are owned by LTV Steel Co., five by United States Steel Corp., four by Bethlehem Steel Corp., and two each by Weirton Steel, Armco Steel, National Steel, and Wheeling-Pittsburgh Steel. Inland Steel Co., Lone Star Steel Co., and Rouge Steel Co. own one plant apiece.

Also in 1983, domestic coke plants used 37.3 million short tons of metallurgical coal produced in nine States. Of that amount, 13 million tons of coal came from West Virginia, 9.1 million tons from Pennsylvania, 5.5 million tons from Kentucky and 5.2 million tons from Virginia with Illinois, Alabama, Colorado, Oklahoma, and New Mexico accounting for the remainder. In general, it takes 1.5 tons

of metallurgical coal to make 1 ton of coke.

I would also add that the counties in my congressional district alone produce 24 percent of the metallurgical coal used by the domestic coke industry.

As previously noted, in 1983 the United States imported only 35,000 short tons of coke. However, during the first 6 months of 1984 alone this country imported a whopping 272,932 short tons. Japan accounted for 173,786 short tons of that amount, with France, Argentina, and Canada making up most of the difference. It should be noted that in 1983, the United States did not import any coke from Japan.

According to a June 1984 article in Iron Age;

> It is something of a paradox that Japan, which is a fuel have-not, should be supplying coke to the United States which has abundant coal reserves.

What then, is the reason for this dramatic increase in coke imports? During 1983, at least, U.S. steelmakers did not appear to fully utilize the reported coke producing capacity of 38.6 million short tons. Further, the U.S. exported more coke than it imported.

Has the price of imported coke, then, become more competitive? The average price of imported coke on an FAS value during the first 6 months of 1984 was $74 while the average price of coke distributed from domestic coke plants was $105. Once shipping and handling charges are added to the imported coke, it would not seem the imported product has a price advantage over domestically produced coke.

The answer appears to be that so far this year U.S steelmakers are choosing not to fully utilize domestic coke producing capacity as the demand for steel rises. Year to date steel production figures for 1984 show that the industry is at 71.5 percent of capacity, up from only 53.8 percent of capacity during the same period in 1983.

It would seem that the metallurgical coal industry would share in this increase in steel production. However, lay-offs such as those at United States Steel's Gary district operations in southern West Virginia indicate otherwise.

It may be that domestic steel companies which produce the majority of coke in this country are not using this capacity because of inefficiencies in equipment, the cost of modernization, and stringent Government environmental regulation. For example, the EPA has recently announced that it is listing coke oven emissions as a hazardous air pollutant under the Clean Air Act and will develop regulations to reduce emissions.

Because of such uncertainties in Government regulation, coke producers are leery of investing in new plants.

Indeed, according to the June 1984, Iron Age article, steel executives say they are importing coke because of a shortage in domestic capacity. Inland Steel, for example, has imported Japanese, British, and Italian coke this year although the steelmaker would prefer to purchase domestic coke because the imported product is subject to deterioration and logistics problems.

As such, we are faced with an impending shortfall in domestic coke capacity. And, unless incentives to build new and more modern coke units are provided, the United States may slowly but surely become more and more dependent on foreign sources of such a basic commodity as coke and further unemployment will plague the metallurgical coal industry.

In 1978, the United States experienced an 8-million-ton shortfall in domestic coke production. That shortfall was equivalent to 11.7 million tons of metallurgical coal, a figure which accounts for 3,256 coal miner jobs.

Some analysts feel that domestic coke production during the mid to late 1980's will again fall short of demand by anywhere from 5 to 9 million short tons. If this should occur, coal production and employment would be lost in West Virginia and the other metallurgical coal producing States.

All of the facts suggest that we must provide an incentive to the steel industry to invest in new coke ovens, an action justified by the constantly changing nature of Government regulation—the recent EPA decree being a case in point.

One approach which I have pursued during the 98th Congress is legislation which would require that coke be purchased for the National Defense Stockpile. Such a requirement, grounded in national security considerations since the Department of Defense is one of the largest users of steel, would encourage steelmakers to invest in new and more modern coke ovens in order to meet the demands of the long-term contracts which would be necessary under a stockpiling effort.

Another option which should be considered is to provide tax credits to the industry if modernization and new construction of coke plants is undertaken in an effort to offset the disincentive to such activity created by the costs of environmental regulation.

Surely, we cannot stand by and allow our domestic coke producing capability to continue to deteriorate. A great many jobs are on the line, as well as the national security implications of importing too much coke for the production of such an essential commodity as steel.●

HELPING NEW MEMBERS BETTER SERVE THEIR CONSTITUENTS AND THE NATION

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Ms. OAKAR. Mr. Speaker, I am introducing today with my colleague SANDER LEVIN of Michigan, a resolution to establish an office in the House of Representatives to ease the adjustment of Members and their families to Washington and thus, help Members better serve their constituents and the Nation.

All too frequently, we forget how jarring and disorienting our move was from our district to Washington when we were first elected. We were moving to a new city, having to uproot our families and find new neighborhoods, new homes and new churches and synagogues. We were having to find new schools for our children, and spouses were having to find new jobs or career opportunities. This was being done at the same time we were establishing our congressional offices and learning the ways of Congress.

Often, this is a period of high stress and anxiety. The executive branch of government and private industry recognize this stress and have long had in place offices responsible for helping their executives and their families to adjust to moves. Members of Congress should have these aids as well so that they can enter the life of Congress more speedily and serve their constituents more effectively.

The resolution would establish a House of Representatives Family Liaison Office. The office, which would have a director and assistant director, would provide a steady, ongoing source of reliable information and assistance geared to the special needs of the congressional community and congressional families. The office would provide information and answer questions on relocation to Washington, career opportunities for spouses, specialized service providers, and perks and privileges and their limitations.

This is a modest effort that will make Members of Congress more effective servants of the public.

Following is the text of the resolution:

H. RES. 614

Resolved, That (a) there is established, under the Committee on House Administration, the House of Representatives Family Liaison Office (hereinafter in this resolution referred to as the "Office").

(b) The purpose of the Office is to provide a source of advocacy, support, and information to meet the needs and concerns of families of Members of the House.

SEC. 2. The staff of the Office shall consist of a director and an assistant director, with

augmentation by spouses of Members of the House.

SEC. 3. (a) There shall be available from the contingent fund of the House such amounts as may be necessary to carry out this resolution.

(b) The committee on House Administration may prescribe such regulations as may be necessary to carry out this resolution.

SEC. 4. As used in this resolution, the term "Member of the House" means a Representative in, or a Delegate or Resident Commissioner to, the Congress.●

COMPREHENSIVE NUCLEAR WEAPONS FREEZE AND ARMS REDUCTION ACT OF 1984

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. MAVROULES. Mr. Speaker, on September 10, I introduced a bill, H.R. 6210, that is the keystone of all our efforts and hardwork on arms control. In May of last year, the House voted in favor of a mutual and verifiable freeze on the testing, production, and deployment of all nuclear weapons. H.R. 6210, the Comprehensive Nuclear Weapons Freeze and Arms Reduction Act of 1984, is the vehicle to take us down that road.

Before introducing this bill, I held a press conference at historic Faneuil Hall in Boston. Many of our fellow Massachusetts colleagues were there to join me at the podium. Now I would like to share with my colleagues here in Washington what I told our supporters that day. Below are excerpts from my remarks as well as the opening remarks of Rev. Nick Carter, minister of the First Baptist Church of Beverly, and Massachusetts representative to the Freeze Campaign's National Committee.

EXCERPTS OF REMARKS MADE BY CONGRESSMAN MAVROULES AT FANEUIL HALL IN BOSTON

I am pleased to be with you this morning at Faneuil Hall, in the City of Boston.

We meet where our founding fathers discussed the tyranny of foreign rule, and planned the revolution which gave birth to the American Republic. We gather in New England, center of the abolitionist movement which ended slavery in the United States and gave new meaning to the term "all men are created equal." And when the Equal Right Amendment is adopted we can properly revise the language of the Declaration of Independence to include that "all men and women are created equal."

From these platforms, men and women, true American patriots, have gathered many times. They have petitioned their government and moved America in positive and progressive directions. Our nation has changed in two hundred years. And yet, while Sam Adams, John Hancock or Thomas Paine might not recognize the skyline of today's Boston, they would easily recognize the American spirit, the commitment, the political energy you bring to Faneuil Hall this morning.

On Monday, I will formally introduce in the U.S. House of Representatives, the Comprehensive Nuclear Weapons Freeze and Arms Reduction Act of 1984. Sixty of my colleagues will join as we introduce this legislation.

A bi-lateral and verifiable *comprehensive* freeze on the testing, production and deployment of nuclear weapons is the essential first step in any meaningful arms control and arms reduction process. Our comprehensive bill, building upon the checks and balances of the United States Constitution, gives the Congress and the President a "window of opportunity" and not a "window of vulnerability."

It is time for the United States to offer a simple but clear opportunity to the Russian people and the leaders of the Soviet Union. Let both sides accept the challenge and implement this comprehensive bilateral proposal.

How does the comprehensive freeze work? What significant questions have been raised? Let me briefly address a few of these questions.

By a comprehensive bilateral and verifiable freeze, we mean a complete cessation by the United States and Soviet Union on the testing, production and deployment of any nuclear warhead or weapon and their delivery systems.

When our bill is enacted, we send a clear message to the Soviet Union. One hundred twenty days after this bill's enactment the United States will implement its part of the comprehensive freeze. The freeze will continue so long as, and to the extent that, the Soviet Union acts in a reciprocal manner. The process could not be more simple nor easy to understand. Some have said it is too difficult to include production of weapons in a freeze proposal. But as John F. Kennedy told us during the negotiations for the Limited Nuclear Test Ban Treaty, "difficulty is an excuse history never accepts."

The key to any arms control agreement, including a comprehensive freeze, is verification. Our legislation establishes clear Congressional oversight processes for freeze verification procedures. The bill authorizes the Intelligence Committees of the House and Senate to investigate all the ramifications associated with adequate verification for the comprehensive freeze. Rather than starting from a premise of what cannot be verified, the Intelligence Committees are asked to report on our existing verification capability and to recommend additional verification procedures which may be necessary to build confidence.

Remember also, a comprehensive freeze is easier to verify, for instance, than a partial freeze or SALT II. It is easier to verify because it is comprehensive and requires a freeze on all nuclear weapons activity.

Next, sixty days after the comprehensive bill becomes law, the U.S. Arms Control and Disarmament Agency is to submit to Congress the operation plan for American implementation of the comprehensive freeze. When the Arms Control Agency submits its operational plan, it will become the responsibility of Congress to review its completeness and compliance with the goals of the comprehensive freeze.

Under the Constitution the powers and duties of the President, the powers and duties of the Congress, are carefully checked, balanced and defined. Our bill does not compromise the authority of the executive. It simply exercises the rights granted to the legislature under the Constitution.

How will the freeze be implemented? Let me read sections six, seven and eight from the bill. They are the heart of the proposal.

As soon as appropriate after enactment of the comprehensive freeze, the President should invite the Soviet Union to participate in the comprehensive freeze.

The Soviet Union is encouraged to respond publically and express its commitment to participate in the comprehensive freeze.

One hundred twenty days after enactment, the President shall direct that the comprehensive freeze be implemented on behalf of the United States in accordance with the operational plan.

The United States shall continue to implement the comprehensive freeze so long as, and to the extent that, the Soviet Union acts in a reciprocal manner.

If the President finds evidence that the Soviet Union is not acting in a reciprocal manner, he is required to certify to Congress the nature of Soviet noncompliance and his recommendation for the United States response.

Congress may then, through resolution or bill, modify the extent to which the United States should continue participating in the comprehensive freeze.

Finally, as soon as the comprehensive freeze is implemented, the United States and Soviet Union should begin negotiations on reducing the numbers and types of nuclear weapons in their inventories.

This process is simple. It is easy to understand. It protects U.S. national security interests, and most important, it can work!

Our common goal is to preserve the security of the United States, and the fragile peace of this planet. I ask for your help in spreading this message and in building support for this comprehensive bill.

REMARKS MADE BY REV. NICK CARTER AT FANEUIL HALL IN BOSTON

This is a happy day. The presentation of this legislation marks an important milestone in the journey of the nuclear freeze movement. It is a bill that seeks to take the full nuclear weapons freeze promise as outlined nearly three years ago, give it the strength it needs to lay it before the Congress of the United States.

Since its inception this movement has sought to use every legislative and electoral means at its disposal to stop this nuclear arms race. Across the United States town after town, district after district, state after state has gone on record in support of the Freeze. Scientists, lawyers, teachers, union workers, men, women, young people, old people, Democrats and Republicans have petitioned, paraded, pestered, pushed, pleaded and prayed that this insanity might stop. With increasing numbers people in positions of power have begun to respond: they could not ignore what was happening and we would not let them if they wanted to.

In the last three years we have seen a succession of bills, amendments and legislative maneuverings in an effort to translate the people's mandate into a reality. At the same time, at every caucus, poll and ballot there has been an enormous effort to effect the election of men and women who are committed to this vision.

It has meant that there has been constant lobbying, many different pieces of legislation, and an on-going debate. It has been a terrific lesson in civics—a classic example of

using the American political system as it was designed to be used!

But that process has not always been a simple one and those of us who are committed to changing the course of this nation have had to be willing to confront those complexities without hesitation. While there have always been questions about the best road to travel and which vehicle will best serve our purposes, we have always remained united and never taken our eye from the goal.

The Mavroules bill is the most recent and exciting step in that journey. To be sure, these were those who advised that the timing of this bill was bad. There were those who advised that this sentence was too strong and this sentence was too weak. There were those who advised that, given the popularity and power of the President, this bill shouldn't have been presented at all.

None-the-less, here it is! Why?

The reason it is here is not merely because Congressman Mavroules was courageous enough to go out on a limb and offer leadership when few others would—although that is part of it.

The reason it is here is not merely because 60 other congressional and state leaders (like the ones here today) were willing to join Nick Mavroules in the sponsorship of this bill—although that is part of it.

The reason it is here is not merely because of the countless hours of lobbying, the hundreds of phone calls, and the miles of ink that were expended in getting it here—although that is part of it too.

But the essential reason why it is here is because of a force that is much greater than all of these things combined: it is the unrelenting call of the people for action!●

COPPER INDUSTRY

HON. JAMES F. McNULTY, JR.

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. McNULTY. Mr. Speaker, our American copper industry continues to flounder facing as it does an artificially depressed price. I have just returned from the American Mining Congress annual meeting and I confess I have never experienced the kind of discouragement I found in talking with the men and women of the copper industry.

They are a determined bunch, however, and if copper is to disappear from our national economy, it will not be because these men and women have given up on our American dreams.

One of the most difficult things for them to understand is why is it that this administration has chosen to ignore the unanimous recommendation of the International Trade Commission which found, under the Trade Act, that there had been harm to the industry and that this harm was from foreign competition. They are not alone in wondering; many of us, from both political parties, who have the high honor to represent districts where copper is mined or processed are equally at a loss to comprehend the decision of the administration to do nothing.

Mr. Speaker, a trade journal of the mining industry has published incisive and useful comments on the administration's decision and I ask that these be inserted into the CONGRESSIONAL RECORD at this point.

[From Arizona Pay Dirt, September 1984]

REAGAN'S DECISION STIRS UP HORNET'S NEST OF HOT CRITICISM

(By Chris Martin)

The announcement that President Reagan would do nothing to help the domestic copper industry was met with quick and angry reactions from Western Senators, Congressmen and industry officials.

"This is a disaster for the copper industry, and I personally feel betrayed," Senator Dennis DeConcini said.

DeConcini said White House chief of staff James Baker, "Promised me I'd have an opportunity to talk with the President before any decision was made. I did not get that chance—they did not keep their word."

DeConcini's press secretary, Bob Maynes, described the announcement as not being "a rational decision."

Representative Morris K. Udall responded that this decision could prove to be a "fatal blow for several Arizona copper companies."

Trade Representative William E. Brock, who made the announcement in Washington September 6th, said four times as many jobs in other industries were at risk as would be saved in the copper-producing states if restrictions were to be put in place.

An aide for Representative Jim McNulty told Pay Dirt the Congressman was very upset over the President's decision and that "Jim wants to put together a coalition of western governors, executives, labor leaders and miners in an effort to get the Administration to reverse its decision."

But the aide added this was a "stubborn Administration" and chances were they would not reverse their decision.

He added the Administration was friends with the Augusto Pinochet regime in Chile and that the South American country owed "a lot of money to U.S. banks."

"We have a vested interest in their economic prospects," Brock had said in reference to foreign producers such as Chile. "They're good customers and good friends."

McNulty said September 7th that the Administration's denial of import relief for the American copper industry was "a sad error."

"The rejection of the fair and impartial recommendations of the International Trade Commission is profoundly disappointing. It is an act harmful to our economic security," McNulty said.

"The plain fact is copper is a strategically vital mineral and it is short-sighted to place us at the mercy of Chile and Zaire for our supplies of the metal," he said.

"An additional fact that appears to have been overlooked is that our American copper industry is strong and modern. In a fair trade environment in the international marketplace it would be tough, competitive and successful.

GOVERNMENT-AIDED CRISIS

"But for a number of years a handful of nations have been aggressively expanding their production and marketing into the open markets of the United States. Frequently this expansion has been financed with the help of multilateral development banks whose capital stock the U.S. is the principal contributor to.

"The result today is the lowest price of copper in more than half a century. Last year, American copper producers lost $414 million and laid-off 15,000 workers, all of whom were working and paying taxes in 1981," McNulty pointed out.

"Closing of copper producing and processing facilities have continued in the summer of 1984 in Arizona, Utah and the state of Washington. Talk of a general economic revival seems especially sad when the men and women in America's copper belt continue to lose their jobs and employers study whether it is possible to keep going in the hope that there will be an upturn in the demand for copper.

"I am extremely disappointed in the decision of the Administration. Clearly, Congress should take up corrective and practical legislation which will establish the fact copper is a nationally strategic mineral allowed to be a victim of unsound international trade policies and practices," McNulty said.

C.J. Hansen, president of the Arizona Mining Association, said he had doubts the President would do anything for the copper industry, but was still "terribly disappointed."

Hansen said he was surprised at the early announcement, since the President had until September 14th to decide what to do about the domestic copper industry depression.

"I felt the industry did a good job in presenting its argument," Hansen said.

"I was outraged by Brock's statement that military dictators (in Africa and South America) could be good friends of the United States," Hansen said.

"I wish to hell he'd go to Zaire or Zambia if he (Reagan) thinks they're (such) good friends," he said.

Hansen added he was sure the President was doing great harm to the copper producers and that he was being "short sighted." He said he felt the decision not to help the domestic copper producers was politically motivated to help Reagan get the vote in the Midwest, "Since he's got the West in his pocket."

Hansen said Brock had been consistenly against quotas and tariffs and that the argument copper fabricators would get hurt by them was false.

"When copper prices go down, so does fabrication prices. When the price of copper goes up, so do the fabricator's prices," Hansen said.

DOMENICI AGGRAVATED

Senator Pete Domenici said the President's decision was a "great disappointment."

Reagan is "ignoring the clear warning of the ITC," Domenici's aide told Pay Dirt. He added that the "issues are clearly defined and clearly compelling."

"There are times when an industry and its workers need the help of their government," Domenici said in a prepared statement. "For copper, this is such a time. With so much of the world's copper industry nationalized, our companies and workers need a government-to-government solution to the problem.

"I feel this country missed a golden opportunity to negotiate with Chile, Zambia, Zaire and Peru to achieve some order in the currently chaotic world copper market place," Domenici said.

"As far as this Senator is concerned, the IMF and multilateral lending institutions have contributed to the problem. For this

reason, I want to make it very clear that these institutions are going to have a rough time getting any legislation or any financial assistance from this Congress," Domenici said.

"I believe my views are shared by other Western Senators," he added.

Senator Jeff Bingaman said, "The President's decision is misguided." He added that Reagan was "abandoning" the copper industry and showing more concern for Chile's debt to American banks than for the American copper worker.

"The President's inaction underscores the need to take immediate steps to provide relief to the industry, while we still have an industry," Bingaman said.

He took steps and wrote the Senate Copper Caucus urging it to convene to seek new approaches to the problem.

Domenici said he felt New Mexico's copper producers were better off than the rest of the producers in other states.

But, "I'm not going to give up," he said. Domenici plans to organize efforts to rein in the International Monetary Fund and lending agencies which have been financing third world copper industries.

Ken Hochstetler, director of communications and public affairs at Kennecott, said, "We had supported the approach of voluntary production restraints and having the government negotiate restraints" with other copper producing countries.

Nonetheless, he said his company was still "very disappointed," but that Kennecott has not yet announced its response. Hochstetler said it was still premature to decide anything at the moment.

ASARCO Inc. said in a prepared statement that it was surprised and disappointed "that President Reagan chose outright rejection of any relief to the copper industry when he had available to him a number of options other than import quotas or tariffs."

The release stated such options as government-to-government agreements with foreign copper producing nations was a viable option the Administration could have pursued and possibly proven beneficial to all involved.

"In our view, the Administration has declined an opportunity to demonstrate leadership in promoting free enterprise principles in a world copper industry plagued by non-market-oriented conduct by state-controlled enterprises.

"We will not be deterred by the development from continuing our effort to restore free market principles to the copper industry," the release stated.

SUPPLIERS ALSO HURT

AMIGOS (Arizona Mining Industry Gets Our Support), a trade association of companies which provide goods and services to the mining industry, released a statement September 7th stating the Reagan decision was a "blow to hundreds of Arizona companies and their employees."

"More is at stake here than just the miners and their jobs. We are bitterly disappointed by the President's action. This is going to reverberate through the rest of the Arizona economy," the release stated.

According to the release, business by suppliers with copper mines in 1983 was down by more than 22 percent from 1982 levels. The Reagan decision to ignore the proven damage done to the U.S. copper industry by foreign imports could accelerate this trend.

"When the mines cut back production, lay off workers and shut down, the supplier sector has to do the same thing. We feel as though we have been denied a chance to participate in the economic recovery which the rest of the country has enjoyed," the release stated.

AMIGOS went on to state that it was bad enough the U.S. was dependent on imports from unstable and volatile areas for strategic and critical metals used in national defense, metals that don't exist here.

"How much greater will be our peril as we increase our dependence on these same areas for basic metals we can produce ourselves?"

The association said it still pledges to continue support for the domestic copper industry and that it will work with the Arizona Congressional delegation and others to stop the flow of American tax dollars as subsidies to foreign copper producers through the medium of multi-national development banks and funds.

"President Reagan may have given the foreign copper producers permission to try to cut our throats with a knife made of imported copper, but we will fight efforts to make us loan them the money to pay for it," the association said.

REPUBLICAN IS CRITICAL

Republican Jim Kolbe's response was slightly low keyed, but nonetheless critical of Reagan's decision.

"I'm disappointed because I think some short-term assistance is called for," he said. "My own recommendation is for a 5-cent (a pound) tariff to offset the environmental costs to our producers. My reasons were that I thought that was more politically salable and least restrictive to the market system."

Kolbe is challenging McNulty for Arizona's 5th Congressional district seat in November.

Hansen said his organization was non-political and so it probably would not work to oust Reagan from office.

"I've said some hard things about the Administration and meant them, but it's up to individual miners and companies" to decide who they will vote for, Hansen said.

"I'm sure Reagan's decision has hurt him in mining communities and also Kolbe in those areas," he added.

The 5th Congressional district has the highest number of laidoff mine workers of any congressional district in the United States.

The news was not only met with angry denunciations in the West, it caused some problems in the Midwest as well.

Louisiana Land and Exploration on September 7th confirmed rumors its Copper Range unit would close its 60,000 tpy copper refinery at White Pine, Michigan. Its mining, milling and smelting operations have been closed since last year.

The company indicated low copper prices and the "continuing flood of imports" was the culprit for the shutdown.

It is very clear that copper fabricators are extremely happy about the decision the President made not to help the domestic copper producers. They feared such help would raise their costs and chase business overseas.

But if the domestic industry is destroyed, the costs for imported copper will probably go up as foreign producers realize the vulnerability of the fabricators.

The domestic producers have realized this, the fabricators have not. As it stands, it may be a case of "I told you so" in a few years.

But that doesn't really matter any more to the copper producers, who probably won't be around when that day comes.●

JACL RESOLUTION

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. MINETA. Mr. Speaker, opposition to H.R. 1510, the Immigration Reform and Control Act is widespread and growing throughout this Nation.

One example of this opposition is a resolution, adopted at the recent 28th Biennial National Convention of the Japanese American Citizens League.

As this resolution makes clear, the potential for racially discriminatory acts will be increased by this legislation. I urge my colleagues to oppose H.R. 1510 as long as it contains those provisions which foster discrimination.

The JACL resolution follows:

Whereas undocumented immigrants from many nations, including Japan, live within the United States,

Whereas undocumented immigrants come to the United States to seek employment opportunities, or to escape civil strife or political persecution.

Whereas all persons living within this Country are entitled to protection under the United States Constitution, regardless of their legal status,

Whereas the Simpson-Mazzoli Bills will not address the basic causes of undocumented immigration, and

Whereas the employer sanctions provisions in the Simpson-Mazzoli Bills are racially discriminatory, and their amnesty or legalization provisions are of dubious value to undocumented immigrants,

Now, therefore, be it resolved, That the Japanese-American Citizens League urge all its members to communicate with their Congresspersons to defeat the Simpson-Mazzoli Bills, and that

It be further resolved, That this Convention reaffirms the earlier position taken by the National Board of Directors of the Japanese-American Citizens League at its July meeting to direct its Washington Office to take an active role in defeating this legislation.●

VETERANS' HEALTH CARE EXAMINED IN NEW JERSEY

HON. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. MONTGOMERY. Mr. Speaker, as the chairman of the House Committee on Veterans' Affairs, I would like to place into the RECORD an article from a New Jersey newspaper which was recently brought to my attention. The article concerns the health care needs of veterans in the State of New Jersey, which is an issue of concern to me and the New Jersey congressional delegation.

During the past summer, I was pleased to attend a New Jersey veterans' meeting with veteran leaders from throughout the State. My friend

and colleague on the Veterans' Affairs Committee, Congressman JIM FLORIO of New Jersey, was the host of the event, and I can truthfully say that I have never enjoyed a better meeting. The main topics of concern raised at the meeting dealt primarily with the necessity of providing adequate health care in New Jersey, especially in the southern part of the State.

I made a commitment at that meeting to work with JIM FLORIO and the veterans of New Jersey to thoroughly examine the issue of health care and to take the proper steps if that care was found to be lacking. I am pleased to see that Mr. FLORIO, and others in the State, are working as hard as they are to ensure that the New Jersey veterans receive the very best we can offer.

The article follows:

[From the Courier-Post, Bound Brook, NJ, Aug. 28, 1984]

VETERANS: CONGRESSMEN TOLD OF VA HEALTH CARE CRISIS

The wars are over, but the crisis for many veterans is just beginning, a New Jersey official says.

Col. Warren Davis, head of the New Jersey Division of Veterans Programs, said yesterday that his office is examining proposals for out-patient and at-home nursing programs to help meet the health care needs of the state's estimated one million veterans.

But he cited federal statistics that show the population of veterans over age 65 will triple within the next 25 years and said much more will be needed.

"This is an emerging crisis that will have to be addressed," he said.

Davis was among those who testified yesterday before a congressional panel here to outline the growing health care needs of veterans and appeal for action on the part of the U.S. Veterans Administration (VA).

Rep. James Florio, D-N.J., one of three congressmen conducting the hearing, said that some who testified were concerned that the VA would cut back on health care services.

By law, veterans are eligible for services from the VA, if facilities are available, once they reach age 65. But Florio and others said that veterans' hospitals and nursing homes are already packed and have long waiting lists.

Meanwhile, the number of veterans who are 65 and older is expected to grow from about three million at present to nine million in the year 2000. An internal study has found that the VA's budget would have to grow by 61 percent from its present level of $28.5 billion to care for them.

Also present at the hearing were Rep. Matthew Rinaldo, the Elizabeth Republican who is the ranking minority member of the House Select Committee on Aging, and Rep. Mario Biaggi, D-N.Y.

Paul Schlegel, the House committee's minority staff director, said representives of veterans groups expressed reservations about proposals that the VA hand over responsibility for some services to other agencies.

The federal government already contracts with private residential care facilities to accept veterans.

"Veterans groups are most comfortable with the VA as a distinct entity and don't want to have it phased out," Schlegel said.

New Jersey maintains two nursing homes for veterans, in Menlo Park and Vineland. Another 300-bed facility is expected to be partially opened on the grounds of the Bergen Pines Hospital in Paramus by next summer.

Davis said the waiting lists for those facilities are nine months to one year.

In addition, the federal government operates medical centers for veterans in Lyons and East Orange.

Appearing at the four-hour hearing were representatives of the American Legion, the Veterans of Foreign Wars, the Jewish War Veterans, and a group representing former prisoners of war.

Dr. John Mather, assistant chief of geriatrics for the VA, and Dr. Terri Wetle, a Harvard University professor who has examined the needs of veterans, also testified.●

REPEAL OBSTACLES TO SELLER FINANCING

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. TALLON. Mr. Speaker, I rise in support of H.R. 6021, legislation to repeal the section of the Deficit Reduction Act which revised the tax treatment for seller financing for many real estate transactions.

In periods of high or rising interest rates, the willingness of the seller to finance all or a portion of a sale at less than market interest rates is often the critical determinant for completing the transaction. But the new rule for seller financing, which H.R. 6021 would repeal, strongly discourages the use of the private marketplace for offering below-market interest rates. The Deficit Reduction Act requires sellers to charge at least 110 percent of the corresponding "applicable Federal rate." If they do not, the Internal Revenue Service imposes the tax as if the seller received an "imputed" interest rate of 120 percent.

While there are limited exemptions for homes and farms below certain sales prices, the impact on sales of these properties above those limits, as well as on other properties such as commercial real estate and small businesses, is devastating. By placing a cap on the property values allowed to use seller financing without a tax penalty, the Deficit Reduction Act eliminates seller financing for the very housing properties which most frequently use this financing method.

During a period of rising interest rates, it is critical to retain seller financing for a broad range of properties. The housing industry is, of course, extremely sensitive to interest rates, and the elimination of seller financing will undoubtedly slow the movement of many properties. During this critical period in the economic recovery, it is certainly unwise to support a change in tax policy which promotes higher interest rates for this pivotal sector of the economy.

I urge my colleagues to support the passage of H.R. 6021 before the end of this session of Congress.●

REAFFIRMING U.S. SUPPORT FOR POPULATION CONTROL

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. SABO. Mr. Speaker, the time is drawing near for this body to vote on the continuing resolution for U.S. foreign assistance. An important item in that resolution is an increase for population assistance abroad—assistance that goes to poor nations that are requesting it. The U.S. delegation to the International Conference on Population in Mexico City last month reaffirmed the present administration's support of our Government's longstanding policy in support of overseas population assistance. The delegation, in fact, said the administration favored increasing our contributions for population and family planning programs to the developing countries.

This was a most encouraging announcement in light of recent reports that the United States was preparing to back away from the position that has been supported by five Presidents and the Congress for the past two decades: That overpopulation erodes development gains in the Third World, and that population assistance is one of the most cost-effective means of development that the U.S. dispenses.

In recent weeks, an enormous amount of editorial attention has been devoted to this extremely significant issue. It should be a matter of deep concern to all of us that the world is now growing at the unprecedented rate of more than 80 million people a year, and that 92 percent of this growth occurs in the poorest nations of the world—those countries least able to accommodate such huge numbers of people. If we can substantially reduce the high population growth rates in these countries, we cannot solve all of their problems. But we can help ensure that their gains in economic development will not be diminished or wiped out by the necessity to feed, educate, and employ so many more people when they can hardly manage to accomplish this with the numbers of people they currently have. We can give the poor, struggling

people of the villages and those scratching out the most miserable of existences in the overcrowded cities of the Thrid World an opportunity for a better quality of life by offering parents the family planning education, information and means that will enable them to have only the number of children they actually want.

Before voting on the continuing resolution, I would invite the attention of my colleagues in the House to the following editorial, which appeared in the September 17, 1984, edition of the Minneapolis Star and Tribune.

[From the Minneapolis Star and Tribune, Sept. 17, 1984]

REAFFIRMING U.S. SUPPORT FOR POPULATION CONTROL

The United States' role as a major contributor to world population-control efforts has been in doubt since the Reagan administration imposed a new policy this summer. Congress now has an opportunity to clarify the U.S. position. In appropriating funds for population-control aid, Congress must ensure that the objective—to give people a choice and a chance to control their family size—survives the political debate. The House Appropriations Committee made a good start last week.

Congress banned the use of U.S. funds for abortion programs abroad in 1974. Countries and population-control agencies with abortion programs were eligible for U.S. aid—if the aid was segregated from money used for abortions. But the Reagan administration extended the prohibition to deny any support for population-control agencies involved in abortion, even if none of their abortion programs use U.S. funds.

Most affected were two major agencies that work in countries where abortion is legal, the U.N. Fund for Population Activities and the International Planned Parenthood Federation. Although President Reagan proposed increasing U.S. population-control aid to $250 million in 1985, the two agencies' eligibility was in doubt.

The House Appropriations Committee removed the doubt. As part of a continuing budget resolution for foreign aid, the committee coupled a $290 million appropriation with a provision that U.S. population-control assistance could not be denied to organizations because of activities that use no U.S. aid. Earmarking money for the U.N. agency and the federation, the committee wisely reaffirmed U.S. support for multilateral and nongovernmental population-control efforts.

The committee's action did not undermine Reagan's antiabortion position. On the contrary, cutting back the family-planning services provided by both agencies might force more women to seek abortions.

Nor did the committee overlook Reagan's concerns about coercive family-planning. One provision denies U.S. funds to agencies or programs that include involuntary abortions. That provision is aimed at China, where evidence suggests that an aggressive national population-control campaign has led to unconscionable side effects, including pressure on pregnant women to have abortions if they already have one or more children. No U.S. population-control money goes to China, but the message may. Clearly, with a huge unmet demand for family-planning assistance in developing countries, the need is not for coercive measures, but for the information and means to give couples a choice.

The budget resolution must be approved by the full House and the Senate before going to the president. Along the way there will be attempts to cut funding and to restore the Reagan prohibition. Such attempts deserve to fail. Longstanding U.S. support for world population control is more than money for contraception; it is a commitment to a better life for those who are born. There should be no doubt that the United States intends to keep its word to the world's children.●

EDUCATORS HONORED

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. LEHMAN of California. Mr. Speaker, on Friday, September 28, 1984, 25 outstanding educators were honored by the Brain Trust Network Association of the Congressional Black Caucus. These individuals are each unique in the contributions they have made to education in this Nation. Moreover, they show us that there has been and continues to be excellence within our public education system.

However, one thing above all others sets 24 of these individuals apart. They are the only black female school superintendents in the United States. The fact that there is such a small number of these dynamic women shows that this Nation still has far to go to achieve equality of educational opportunity for all. Yet, more significantly, it shows that such opportunity can indeed by achieved. These women are superior role models, not just for black children, but for all of our children. They epitomize that through hard work and perseverance, opportunity and equality can be achieved.

Dr. Jacqueline Hodge is one of these women. As superintendent of the West Fresno Elementary School District since 1979, and through her 30 years of contributions to education in the classroom and as an administrator, she has toiled to improve the chances for educational opportunity for disadvantaged Americans. She is the recipient of numerous awards for her work in her community as well as in education. She is an author, a scholar, and an innovator. Moreover, Jackie Hodge has taken an interest in education not just as an educator, but as a parent, and her personal as well as professional interest in Fresno schools has allowed her to accomplish much in these years.

Mr. Speaker, the achievements of Jacqueline Hodge and the other honorees cannot be overstated. I am proud of Jackie Hodge, Fresno is proud of Jackie Hodge, and America should also be proud of Jackie Hodge. Her commitment to, and belief in the equality of educational opportunity for all Americans is something we should all strive to duplicate.●

TRIBUTE TO JOSEPHINE IRWIN

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Ms. OAKAR. Mr. Speaker, on September 17, 1984, Josephine Saxer Irwin died at the age of 94. Josephine Irwin was at the forefront of the women's movement. She fought for suffrage, she fought for peace. She was a true pioneer and a woman of courage. She fought for human rights with her mind and heart, and as she so often said, not with her fists. I would like to state my great admiration for this lovely human being. The world will be a colder place without her. The following article tells of the great life she led.

JOSEPHINE SAXER IRWIN, 94, FOUGHT FOR WOMEN'S RIGHTS

Josephine Saxer Irwin led 7,000 women down Euclid Ave. in 1914 in a dramatic demonstration for the right to vote.

The roan horse the 24-year-old Josephine Saxer was riding reared as the band burst into "Onward Christian Soldiers" and almost backed into the flag coming up behind.

On Aug. 26, 1976, she led another parade of Cleveland women down Euclid Ave., this time in support of the Equal Rights Amendment.

She called herself the godmother of young feminists and lamented a dormancy in the women's movement after suffrage was granted.

Mrs. Irwin, 94, suffered a stroke in May. She died Saturday at Blossom Hill nursing home in Huntsburg Township in Geauga County.

Memorial services will be at 3 p.m. Wednesday at Fairview Baptist Church-ABC, 21220 Lorain Rd., Fairview Park. Mrs Irwin, a former Fairview Park council member, lived in that city.

Two years ago Mrs. Irwin participated in a walkathon through parts of Lakewood to raise money for the political action committee on the National Organization for Women (NOW.)

As a concession to the cold blustery October day, she stayed in a car. She talked to a reporter about the issues she considered of vital importance.

"Marching has never done much good. The answer is political activity", she said.

Mrs. Irwin said that money is unimportant. The vote of the pauper is just as im-

portant as the vote of the millionaire. What is important is that women should run for office, she said.

Women are needed in politics because they negotiate while men tend to use their fists. Women can provide a civilizing influence on society, but the power of political office is needed, she said.

In 1976 Mrs. Irwin said, "It was the colossal stupidity and brutality of World War I caused by male politicians that overwhelmed me and really got me involved with the women's movement.

"And then, when I had a son, my ardor increased," she said.

Mrs. Irwin married in 1919 toward the end of World War I. Her husband, J. Preston Irwin, was in the war.

He was a founding member of the engineering firm of Arthur G. McKee & Co. He died in 1957.

Mrs. Irwin was an anti-war activist in 1939 and was a member of the committee of 100 that went to Washington for a peace conference.

She also was part of a group that went to the capitol seeking peace during the Vietnam War.

After World War II, she was chairman of the Cleveland Citizens Committee on Displaced Persons and Ohio chairman of the Womens' Action Committee for Lasting Peace.

Mrs. Irwin was born in Lakewood. After graduating from Western Reserve University School of Education in 1910, she taught in the Lakewood public schools until her marriage.

She recalled that she had turned down marriage proposals until she was 29.

"I had to have a man who also went to college, so I waited. Intellectual compatability was terribly important," she said.

"But then, my husband and I didn't always agree. When I was state chairman of Independent Citizens for Roosevelt's final election, my husband wore a Wilkie button."

Mrs. Irwin's daughter, Elizabeth Harner, recalled yesterday that the difference "made for some lively dinner table conversations."

Mrs. Harner said, "Every dinner there was a political discussion from the time I was 10. This was a different household."

Two weeks after her husband's death, the Republican Party asked Mrs. Irwin to be their first woman council member. At first, she wasn't receptive to the idea, but her family encouraged her and she switched political parties and was the first woman member of Fairview Park council.

Mrs. Irwin left council after two terms saying, "I'm too old to start a political career."

She really wanted to take a world trip and could not in good conscience leave the council post for so long.

Mrs. Irwin was a charter member of the Cleveland Council on World Affairs and for many years prepared an annual program.

She founded the Lakewood Library Foreign Affairs Discussion group in 1943 and led it much of the time for more than 30 years.

She was a former president of the Fairview Park Historical Society.

Mrs. Irwin received the Governor's Award in 1983 and the same year was inducted into the Ohio Women's Hall of Fame.

In her later years, Mrs. Irwin had dropped her other organizations to concentrate on women's rights groups. The National Women's Political Caucus was at the top of her list.

She was a founding member of WomenSpace, a coalition here of women's organizations and social welfare groups.

NOW has a Jo Irwin Award, conferred annually on the woman who has done the most toward achieving political justice for women during the previous year.

In 1982 Mrs. Irwin told a reporter: "My whole life has been devoted to women's causes and I have so much curiosity about the future. It hurts that I won't be around to see more achieved."

In addition to Mrs. Harner, Mrs. Irwin is survived by sons, William P., of Houston, and John P. Jr.; 11 grandchildren, and a great-granddaughter.●

CONGRESSIONAL CALL TO CONSCIENCE VIGIL

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. EMERSON. Mr. Speaker, I am proud to be a participant in the 1984 Congressional Call to Conscience Vigil for Soviet Jews. Since 1968, more than 600,000 Soviet Jews have requested and received invitations from Israel to emigrate from the Soviet Union. Since that time, only 263,851 have actually been allowed to emigrate. This means that there is an excess of more than 300,000 Soviet Jews who desire to emigrate but have been denied the opportunity to do so by the Soviet Government. Overall, there has been a 98-percent decline in Jewish emigration since 1979 and that trend is continuing this year. Of even greater concern than these alarming figures, though, is the fact that Soviet Jews expressing an interest in emigration have been subject to constant harassment and denial of basic human rights. There are restrictions on Jewish university enrollment; job opportunities are denied to many Soviet Jews; and leading Jewish activists have been arrested merely because they conduct unofficial Hebrew classes.

All of us are aware of the many individual cases of Soviet Jews who are harassed, oppressed, and separated from their families. On a regular basis, our attention is called to new cases of refuseniks who are denied the right to emigrate and then treated as something less than human beings merely because they want to be with their loved ones. The names are different, but the heartless humiliation and abuses are always the same. Soviet Jews do not have the opportunity to speak out against these atrocities themselves. We, in this country, are blessed with the freedom to publicly oppose the treatment of Jews in the Soviet Union and the 1984 Call to Conscience is a forum in which we can and must do just that. I join the millions of concerned people throughout the world who call on the Soviet Union to stop their appalling treatment of Soviet Jews and grant them the basic rights to which all human beings are entitled.●

GERALD JOHNSON, MARBLES CHAMPION

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. HUGHES. Mr. Speaker, for most of the past 61 years, my district in southern New Jersey has played host to one of the Nation's premiere sporting events for youngsters—the national marbles tournament. Over the years, hundreds of thousands of boys and girls across the country have competed in local and regional tournaments, all vying for the opportunity to shoot for the national championship in Wildwood, NJ. It is a fine youth program which continues to grow in popularity year after year.

As is the case with most sporting events, there are always more winners than champions in the national marbles tournament. For many youngsters, the opportunity to represent their home town, and to meet other young people from across the country, is itself an accomplishment which transcends the acutal outcome of the tournament.

That was precisely the case in 1929, when a 14-year-old young man from South Bend, IN, named Gerald Johnson defeated more than 2,000 other boys and girls for the right to compete for the national title in Ocean City, NJ. Although Gerald did not win the national chanpionship, the experience was a dream come true for him. His experience was documented beautifully by his local newspapers at that time.

Gerald Johnson's son-in-law has asked me to share that experience with everyone by reprinting several of those news stories in the CONGRESSIONAL RECORD. I am pleased to honor that request because his son-in-law is my good friend and colleague, the Honorable BILL CLAY of Missouri. BILL is very proud of his father-in-law's accomplishments, ane I hope everyone will enjoy Gerald Johnson's story as much as I did.

[From the South Bend, Ind. Tribune, 1929]

GERALD JOHNSON, MABLES CHAMPION—WINS FINALS IN TRIBUNE TOURNAMENT

VICTOR TAKES CLOSE MATCH FROM ROBERT CHAPPELL OF TWIN BRANCH—TO PLAY AT OCEAN CITY, N.J.—CENTRAL HIGH YOUTH DEFEATS THREE CONTESTANTS AT PLAYLAND PARK

Gerald Johnson is marble champion of South Bend and Mishawaka. He won the

title sought by more than 2,000 boys and girls when he defeated Robert Chappell and Thomas Pallatin in the thrilling finals at Playland park Saturday afternoon before more than 400 excited youngsters, mothers and fathers and teachers.

As champion, Gerald will play for the national title at Ocean City, N.J., the week of June 23, making the trip to the eastern seacoast resort as the guest of The Tribune, which sponsored the local tournament for the second consecutive year.

The new king of local marbledom is a brown-eyed youngster of 14 years who has no local peer when it comes to marbles. He is 14 years old and is in the 9A grade in Central Junior High School. Gerald, whose parents are Mr. and Mrs. Edward Johnson, lives at 322 South Laurel street.

Second place was won by Chappell, a freckle-faced 11-year-old youngster who is in the 5A grade at Twin Branch school, Mishawaka. His mother, Mrs. Harold Chappell, his brother, William, all the neighbors and Fred Deardorf, principal of the Twin Branch school, were there to swell the cheers for Chappell. He played Johnson in the final match, losing 2 to 1.

* * * boys and girls when he defeated Robert Chappell and Thomas Pallatin in the thrilling finals at Playland Park Saturday afternoon before more than 400 excited youngsters, mothers and fathers and teachers.

CHAPPELL WINS TRIP, THEN LOSES

Chappell at one time apparently had the Ocean City trip won but a fluke play on his part made an extra round between the three leaders necessary that resulted in his defeat. He had met and defeated Johnson and had one game on Pallatin when the play that resulted in the downfall occurred. The score stood 7 to 1 for Chappell. In an off play he hit two marbles but not hard enough to knock them from the ring and all three, including his shooter, remained in. In the next shot Pallatin "killed" Chappell by knocking his shooter from the ring, and won the game. Pallatin, then confident, easily won the next game and the match went to him, thus creating a three-way tie for first place.

Pallatin of the Our Lady of Hungary parochial school came in for third honors with Wickham, the fourth contender in the finals, placing fourth. Chappell, Pallatin and Wickham will each receive a loving cup from The Tribune while Gerald will enjoy the luxury of a trip through the east with all expenses paid.

All the thrills of a national tournament with the United States title at stake attended Saturday's tournament played under a boiling hot sun on smooth, hard clay court in the middle of the Playland park midway. Wickham, the Nuner Junior High school champion, favored in the advance dope to be a fairly easy winner, provided the greatest upset of the afternoon by losing every match. Extreme nervousness and lack of confidence proved his undoing and he was constantly unable to stage a comeback.

THREE TIE FOR FIRST PLACE

But with the other three contenders it was a far different story. About evenly matched each played heads up marbles and when the first round had been played, that is when every boy had played every other boy a match of two out of three games, all were tied for first place. It was anybody's fight then.

In the drawing for the second round, Chappell and Pallatin faced each other in the first match. The Mishawaka lad took 12 marbles to * * *.

[From the South Bend, Ind. News-Times, 1929]

MARBLE CHAMP GOES EASTWARD—GERALD JOHNSON AND "CHAPERONE" LEAVE CITY SATURDAY

Gerald Johnson, South Bend's marble champion, will reach the high spot of his boyhood Saturday afternoon when he entrains at Plymouth for the 1,000-mile trip that will end at Ocean City, N.J., where Gerald will shoot for the national marble championship against other boys chosen from various cities throughout the country.

Donald will feel right at home when he sees the sun-baked rings on which the title tournament will be played. He demonstrated his familiarity with the ring when he won the city championship in the finals held at Playland park a month ago.

But win or lose at Ocean City, Gerald will have a fascinating story to bring back to his fellow students at the Central Junior High school.

A program that includes all the highlights of the famous Atlantic shore resort has been prepared for him. He will go swimming in the breakers, rolling chairing along the boardwalk and fishing far out in the deep waters. Of course, he will get to see some shows and will eat his fill of the shore dinners so popular on the seaboard.

Robert Walton, city editor of the Tribune, which sponsored the city tournaments, will accompany Gerald.

[From the South Bend, Ind. Tribune, 1929]

EATS IN DINER, USES PULLMAN FOR FIRST TIME—GERALD JOHNSON ARRIVES IN PITTSBURGH; MENU PUZZLES HIM

GOES INTO ACTION MONDAY—SOUTH BEND BOY EXPECTS TO WIN NATIONAL TITLE OR "GO DOWN FIGHTING"

(By W.R. Walton)

ABOARD MANHATTAN LIMITED, PITTSBURGH, PA., MAY 22.—Ready for his first experience sleeping in a pullman car, Gerald Johnson, South Bend's marble champion, arrived in Pittsburgh at 10 o'clock to-night on his way to Ocean City, N.J., where he will compete against the nation's best marble players next week.

Declaring he was not one bit sleepy Gerald consented to go to bed "right after the train leaves Pittsburgh" even though he'd rather sit up all night.

To-day has been one of excitement and pleasure for the champion. It's been the longest train ride he ever took, the first time he ever ate in a diner and it's about to be the first time he ever went to bed while tearing along at such terrific speed.

Displaying an intense interest in the Ohio countryside as it sped by his window, South Bend's expert mig shooter every once in a while sighed that "it's just too good to be true." A few minutes after leaving Plymouth he faced one of those complicated menu cards that appear like a cross between a time-table and a French dictionary, in the diner, and struggled while he attempted to order a lunch that would be fit for a champion and also fill the requirements of a growing American boy.

[From the News-Times, 1929]

GERALD JOHNSON WINS MARBLE CHAMPIONSHIP IN CITY FINALS

Gerald Johnson, son of Mr. and Mrs. Edward Johnson, 733 W. Wayne Street, a student in the 9-A grade of the Central Junior High school, won the city marble championship at the finals of the city tournament held in Playland Park Saturday afternoon. Gerald will represent South Bend at the national tournament to determine the American marbles champion of 1929 in Ocean City, N.J., on June 23.

Gerald's victory came as the conclusion of one of the hardest fought matches in the history of local marble tournaments. Not until the final game was Gerald assured of his long ride to the popular Atlantic coast resort.

Robert Chappell of the Twin Branch school in Mishawaka was the runner-up and he did run Gerald until the final game.

250 SEE FINALS

About 250 friends of the contestants jammed themselves around the sunbaked ring in the midway of the park for the contests. The greater part of the crowd were children who cheered earnestly for the representatives of their schools.

Four boys entered the final games, the survivors of previous games in which virtually every marble-shooting boy in the city had an opportunity at the championship. Aside from Gerald and Bobbie, Earl Wickham of the Nuner school and Thomas Pallatin of the Our Lady of Hungary were in the finals.

Each of the contestants played the others, two matches out of three. After some nervousness at the opening the lads settled down in earnest and began clicking the glassies from the ring.

The end of the scheduled contest found a three way tie for first place. Earl Wickham had been eliminated and Tommy Pallatin had missed the championship by a hairbredth when he blew up in the final game of his match with Johnson that would have given him the title.

PLAY OFF TIE

Then Chappell, Johnson and Pallatin played off the tie, Pallatin, who had been streaking them with confidence until his last game in the scheduled matches, lost his touch, and bowed in successive matches to Johnson and Chappell.

Gerald and Bobbie settled down for the final game, Gerald started off and won the first game by a close margin. Then Bobbie, the most freckled boy on the midway, settled down and clicked off five in a row in his second game, winning easily.

The final game went to Gerald in easy fashion after both boys had played more or less erratically for four minutes.

Robert Walton, city editor of the Tribune, which sponsored the tournament, raised Gerald's hand and said "South Bend's marble champion."

The winner bowed in embarrassed fashion and smiled his best for the cameras. Ocean City next!●

DESIGNATING THE FEDERAL BUILDING IN AKRON, OH, AS THE PAUL C. WEICK FEDERAL BUILDING AND U.S. COURTHOUSE

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. SEIBERLING. Mr. Speaker, it is indeed a great privilege for me to introduce legislation today which would designate the Federal building in Akron, OH, as the "Paul C. Weick Federal Building and United States Courthouse," in honor of Judge Paul C. Weick of the U.S. Court of Appeals for the Sixth Circuit, one of our most distinguished citizens.

I realize that, as a general rule, we do not name Federal buildings for living individuals. However, in this instance, I believe an exception to that rule is in order.

Mr. Speaker, Judge Weick has proven himself a giant in the legal profession and has excelled in his devotion to public service in the Greater Akron area. After graduation from the University of Cincinnati College of Law in 1920, Judge Weick began his career as a trial attorney in Akron. In 1956 President Eisenhower appointed him to the U.S. District Court for the Northern District of Ohio, and he served on that court until 1959, when President Eisenhower appointed him to the U.S. Court of Appeals for the Sixth Circuit. He became chief judge of that court in 1963 and served until 1969, when he reached age 70. He continues as an active judge of the court.

Judge Weick has received many awards and honors, including: A Presidential Certificate of Appreciation for services rendered to the Selective Service System, 1956; an honorary L.L.D. degree from the University of Cincinnati, 1965; the Ohio State Bar Association Foundation Award for "Devotion to the Legal Profession and Contribution to the Public Good," 1965; the University of Akron Centennial Award "For his distinguished and dedicated service as a lawyer and judge," 1970, and Joint Certificate of Appreciation of the Cleveland Bar Association, Cuyahoga County Bar Association and Cleveland Chapter of Federal Bar Association.

Judge Weick has also been an active leader of the legal profession. He served as president of the Akron Bar Association 1940–41, and president of the Ohio Bar Association 1950–51. He was a member of the Judicial Conference of the United States from 1963 to 1969, and the Trial Practice and Technique Committee of the Judicial Conference of the United States, 1968–69. His present memberships and associations include: Fellow, American Bar Association Foundation; Fellow and Trustee, Ohio State Bar Foundation; Fellow, Garfield Society, Hiram College; Member, Akorn, Ohio State and American Bar Association; Member, American Judicature Society and Institute of Judical Administration; Trustee, Akron Law Library Association; and an honorary of Phi Alpha Delta Law Fraternity International.

Mr. Speaker, I would like to share with you the words of one of Judge Weick's colleagues: "Judge Weick has unselfishly devoted, to this day, his life to improve the law and to do whatever he could to promote the well-being of the citizens of the Greater Akron area. His distinguished and dedicated service as a private person, as a lawyer, and as a judge, mandates that we, as beneficiaries of his good deeds, can do no less than honor this great man during his lifetime.," Mr. Speaker, we can appropriately honor this outstanding American by dedicating the Federal Building in Akron, Ohio, in his honor.●

REPEAL SELLER FINANCING PENALTY

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. PATTERSON. Mr. Speaker, I rise today to bring to the attention of my colleagues a pressing problem which must be remedied before we adjourn.

The problem is that caused by the imputed provisions that were added to the Deficit Reduction Act, Public Law 98–369, which, in effect, eliminate seller financing in many real estate transactions.

Specifically, the new law requires sellers to charge an interest rate which is at least 110 percent of the applicable Federal borrowing rate. If that 110-percent test is not met, the seller is deemed by the Internal Revenue Service to have received an imputed interest rate of 120 percent. In plain English this means that in today's market, sellers will be required to charge at least 15.1 percent interest unless they are willing to be taxed as if they were receiving 16.5 percent interest.

This is intolerable. The new law will penalize completely innocent sellers and buyers at the very time when seller financing is again becoming an important financing tool.

I was pleased that the original changes made by H.R. 4170 were modified prior to being sent to the President for his signature. The modifications exempt principal residences which sell for less than $250,000 and farms selling for less than $1 million. Unfortunately, nothing was done to preserve seller financing of other property or small businesses. Even in the two areas where limited exemptions were provided, the thresholds preclude seller financing in totally legitimate transactions.

I had serious doubts about the merits of imputed interest as it is addressed in current law, but the changes made by the new law make matters worse. One absurdity is the fact that in some States which have usury ceilings, the imputed interest exceeds the State usury ceiling. In such a case, the Federal Government would tax the seller at a rate which he could not legally charge. This makes no sense.

On July 25, our colleagues BILL ARCHER and LES AUCOIN introduced H.R. 6021 to repeal these provisions. Since that time, over 150 Members have become cosponsors. I would urge my colleagues to join in this effort. Time is of the essence; only a very few legislative days remain. We must act quickly if we are to preserve this most valuable of financing tools.●

TRIBUTE TO ST. JOHN NEUMANN HIGH SCHOOL

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. FOGLIETTA. Mr. Speaker, high school is the cornerstone of the American academic experience. A strong high school education opens doors to athletics, to professional skills, to college and higher education, and to an understanding of the American experience.

This year Philadelphia is witnessing the 50th anniversary of one of the city's finest secondary schools: St. John Neumann High School of South Philadelphia. St. John Neumann, or Southeast Catholic High School for Boys, as it was known when I was in school there, is an example of the finest in public, private, or parochial education.

From its beginning in 1934, when Southeast Catholic High School for Boys opened its doors with 15 Norbertine Fathers assigned the task of educating 582 students to today, St. John Neumann has graduated over 20,000 young men from the South Philadelphia community.

St. John Neumann's commitment to excellence can be seen daily in its students and faculty. But nowhere is that dedication better reflected than in the person of the men who have served as its principals. The Very Reverend C. Albert Koob, O.Praem, who served at St. John Nuemann over 30 years ago, went on to become the first religious to be president of the National Catholic Education Association. Other principals have gone on to missions in

Peru, become abbots, or taken on broader educational roles in the Archdiocese of Philadelphia.

Mr. Speaker, as a native of South Philadelphia, who learned many of the principles that have become the foundation of my experiences in my life at this fine high school, I would like to recognize St. John Neumann High School, to commend it on the occasion of its 50th anniversary, and to wish it another 50 years of services as fine as its first.●

CONTINUING RESOLUTIONS

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. SYNAR. Mr. Speaker, on Tuesday, September 25, the House passed the fiscal year 1985 continuing appropriations bill, House Joint Resolution 648. I opposed this legislation.

In the past, I have supported continuing resolutions in order to avoid the chaos which results from shutting down the Government. When the Government shuts down, agencies must close their offices, send employees home and call in investigators working in the field around the country—all at great expense.

Continuing resolutions are needed to keep agencies and departments running when Congress has not yet passed the necessary individual appropriations bills. But they should be used as stopgap measures only until the regular appropriations bills can be passed. This year, we have extended the continuing appropriations bill for an entire year; it will not expire until September 30, 1985. In doing so, we have removed the pressure to pass the remaining individual appropriations bills and have abdicated our responsibility to set priorities for spending in Federal agencies whose appropriations bills have yet to pass Congress.

The continuing resolution should fund agencies in fiscal year 1985 at the fiscal year 1984 levels or at the levels recommended in appropriations bills passed by the House. By using House-passed levels, at least Members not sitting on the Appropriations Committee have the chance to make their mark on separate appropriations measures. The continuing appropriations bill is not the place to pass bills that the House has never considered, is not the place to pass authorization bills, is not the place to pass a 418-page crime package and is not the place to act on home rule for the District of Columbia.

I voted against all of the amendments that were attached to the continuing resolution in the House because the continuing resolution is not a Christmas tree. There's no doubt that it is tempting for all Members of Congress to attach their pet projects to this bill because it must pass in order to keep the Government in business. But we should not let the pressure of the moment lessen our thoughtfulness. We in Congress write the laws that our citizens must follow. We should not use the crisis atmosphere surrounding a continuing resolution to push through our own legislative agenda.

I voted against the rule under which the House was to consider this continuing resolution because it did not allow changes in any of the amendments that were to be voted on, including the foreign aid package. I voted against the motion to recommit the bill to committee so the 418-page crime package could be attached to it. There is no way for Members to know what is in a 418-page bill which they see only a few minutes before having to vote on it.

Last year, the President vetoed a major crime package that the House had spent 1½ years on because he did not want a separate office to coordinate this Nation's battle against narcotics. We now have passed 17 major crime bills through the House and sent them to the Senate; by the time we adjourn, it is expected that the House will have passed 27 major anti-crime bills, including measures such as antitampering legislation which the President has already signed.

The American people are not fooled by this type of last minute shenanigan by the House. We only gain the respect of the public when citizens know we have examined each legislative effort very carefully before deciding it should be the law of the land. That's our job and people should know they can trust us to do the job they sent us here to do.

On Tuesday morning, I decided that I would oppose all of the amendments which were to be offered, but would support final passage of the continuing resolution because of all the money wasted and disruption caused by a Government shutdown. But as the day wore on, more and more was added to the bill and the worse it became. In the end, I could not support the bill in its final form. This is just no way to run the Government.

I am very disappointed with the actions of the House last week on the continuing resolution. I can only pledge to my colleagues, many of whom share my frustration, and to my constituents to work hard next year to avoid a repeat performance.●

AUDREY OHLSON SMITH AND JACK W. SMITH

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. LANTOS. Mr. Speaker, I wish to call to the attention of the House the retirement of two of my constituents who have made a particular contribution to our neighbors on the San Francisco Peninsula—Audrey Ohlson Smith and Jack W. Smith. They have been associated with numerous volunteer efforts in San Mateo County during the past 15 years.

Jack came to the peninsula in 1949 and soon began to represent his fellow retail clerks. From 1960 when he was elected to the Executive Board of the Retail Clerks until his retirement in 1983, he remained an active and respected leader in the labor movement of San Mateo County and the San Francisco Bay area.

During this period, he became active in the Democratic Party. He worked in campaigns, chaired the Democratic Forum on Issues, and conducted an excellent campaign for the 20th California Assembly District in 1982, when he ran strongly in a district with low Democratic registration and a popular incumbent candidate.

It was through his activity in the party that he met Audrey Ohlson, who moved to the bay area in 1966 and immediately became involved in the political life of the county. Audrey was trained as a teacher and in 1971 began working for the California Teachers' Association in legislation and government relations. Her continuing commitment to citizen participation in the governmental process led to her involvement in numerous city council races, as well as Presidential and congressional contests.

Audrey and Jack, between them, have six grown children who have continued their parents' heritage of excellence in education and career. They are all now able to share in their parents' well-deserved retirement.

In Sacramento, I am certain that Jack and Audrey will continue their active participation in politics and government. Our democratic system of government benefits from the active and enthusiastic participation of individuals such as Audrey and Jack. Mr. Speaker, I congratulate Audrey and Jack on their retirement and wish them happiness and success in the future.●

RULES ENABLING ACT OF 1984

HON. ROBERT W. KASTENMEIER
OF WISCONSIN
IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. KASTENMEIER. Mr. Speaker, today I am introducing a bill to modify the rulemaking process for the Federal courts. This bill—with certain technical amendments—was reported by the Subcommittee on Courts, Civil Liberties and the Administration of Justice on September 13, 1984. Printed below is a section-by-section analysis of the bill.

Section-by-Section analysis of the bill follows:

SECTION-BY-SECTION ANALYSIS OF H.R. 4144, "RULES ENABLING ACT OF 1984"

The bill contains seven sections.

Section 1 provides the short title of the bill, "Rules Enabling Act of 1984."

Section 2 strikes out the existing statutes relating to the promulgation of the Federal rules of practice and procedure and substitutes in their place three new sections in title 28, United States Code.

Proposed Section 2072 contains two subsections.

Subsection (a) provides that the Supreme Court shall have the power to prescribe general rules of practice and procedure (including rules of evidence) for cases, including bankruptcy cases in the district courts (including before magistrates thereof) and cases in the courts of appeals of the United States.[1]

The original bill H.R. 4144 provided that the Judicial Conference of the United States, rather than the Supreme Court, had the authority to promulgate the rules. This approach was thought to respond to the workload concerns of the Court. *See* Letter from Hon. Jack Weinstein to Hon. Robert W. Kastenmeier, May 31, 1983. This suggestion was initially approved by the Supreme Court. *See* Letter from Chief Justice Burger to Honorable Robert W. Kastenmeier, May 12, 1983, reprinted in *Rules Enabling Act of 1984: Hearings on H.R. 4144 Before the Subcomm. on Courts, Civil Liberties and the Administration of Justice of the Comm. on the Judiciary,* 98th Cong., 1st and 2d Sess. (1984) [hereinafter referred to as *Rules Hearings.*] *See also Rules of Criminal Procedure, Order,* 323 U.S. 821–823, 836 (1944) (memorandum of Frankfurter, J.); *Rules of Civil Procedure, Order,* 374 U.S. 861, 869–70 (dissenting view of Black, J. and Douglas, J.). After introduction of the bill, concern about this shift in authority was expressed by the Conference of Chief Justices, on behalf of State Supreme Courts. This organization feared that such a move at the Federal level would set an unfortunate precedent at the state level. In addition, the Supreme Court itself eventually expressed a preference for retaining their current authority. *See* Letter from Chief Justice Burger to Hon. Robert W. Kastenmeier, June 25, 1984, reprinted in *Rules Hearings.*

Subsection (a) also authorizes the Judicial Conference to make recommendations to the Supreme Court as to the exercise of this power.

Subsection (b) provides that such rules shall not abridge, enlarge or modify any substantive right. This provision omits as unnecessary the language of 28 U.S.C. § 2072 relating to jury trials. No change in meaning is intended.

This proposed section is derived from current law. *See generally* 28 U.S.C. §§ 2075 and 2072; Burbank, *Rules Enabling Act of 1934,* 138 *U. Pa., L. Rev.* 1015, 1107–8 (1982). The distinction between a substantive and a procedural right is difficult to draw. *See* Testimony of Burt Neuborne, *Rules Hearings.* There have been some recent examples of proposals which, if promulgated, would have crossed the line from procedural to substantive. *See, e.g.,* Proposed Changes in Rule 68 Reprinted in —— F.R.D. —— (1983). Thus, extreme care should be exercised to avoid this problem. This is so because this limitation on judicial rule-making is, in part, rooted in constitutional concerns about the separation of powers.

Proposed section 2074(a) provides that evidentiary privileges are substantive in nature and may not be altered except by an Act of Congress.

Proposed Section 2073 contains five subsections.

Subsection (a)(1) provides that the Judicial Conference shall prescribe and publish the procedures for the consideration of proposed rules under this section. This idea was proposed by Congresswoman Holtzman in the 95th Congress. *See* H.R. 7961 (95th Cong., 1st Sess. § 2074(d) (1977)). The Judicial Conference has already published such a procedure. The procedures are found in 97 F.R.D. 389 (1983). This subsection merely continues that responsibility.

It is expected that this procedure will continue to prohibit voting by proxy or by delegate. Once a committee member is chosen by the Conference, that responsibility should be exercised individually. This subsection merely continues that responsibility. Subsection (a)(2) provides that the Judicial Conference may authorize appointment of committees to assist the Conference in the rules process. At the present time these committees, which are called advisory committees, and include Committees on Criminal Procedure, Civil Procedure, Appellate Procedure, and Bankruptcy. The appointment of such committees is discretionary with the Conference.[2] The original formulation of H.R. 4144 required the appointment of these committees. The discretionary language in the bill was approved in response to the criticism of the Judicial Conference and the Department of Justice which had argued that more flexibility was required. It is expected, however, that the current committee structure will continue. With respect to the Rules of Evidence or Magistrates Rules then, the Judicial Conference has the discretion to respond to that perceived need by deciding whether or not to appoint an advisory committee.

Subsection (a)(2) also requires that any such advisory committees consist of a balanced cross-section of bench and bar, and trial and appellate judges. *See* 5 U.S.C. App. (Federal Advisory Committee Act). It is intended that the Judicial Conference give full consideration to appointing persons of intelligence, expertise, experience and commitment to the rule making process. Care should be taken to assure the full and complete representation of all segments of the bar, such as the minority and women's bar, the specialized bar (such as patent, bankruptcy, and admiralty law specialists), the public interest and civil rights bar, state, local and Federal government attorneys, defense attorneys, and the average practitioner. *Contra,* Hazard, Book Review, 87 YALE L. REV. 1284, 1294 (1978). It is expected that these committees will not be dominated by any single perspective or interest group. Rather, it is hoped that the membership of these committees will result in recommendations consistent with the purpose of the rules to provide for a fair and expeditious system of justice. *See* 28 U.S.C. § 331.

The Conference should develop a method for achieving such a balanced cross-section of representation through the careful weighing of the relative merits of a more rapid turnover in membership against the expertise which is obtained by more lengthy service on such committees. The original bill required a cap on length of service on the committees. The cap was eliminated to assure maximum discretion. That amendment should not discourage the use of such a rule by the Conference. *See* Testimony of James Holderman (on behalf of the American Bar Association), in *Rules Hearings.*

Subsection (b) requires the Judicial Conference to authorize the appointment of a Standing Committee on Rules of Practice and Procedure. The Standing Committee shall review each recommendation of any advisory committee and recommend to the Judicial Conference such changes as may be necessary to maintain consistency and otherwise promote the interest of justice. In addition, the Standing Committee has independent authority to recommend such rules. An example of a useful area for action would be in the promulgation of *Model* local and circuit rules. It is assumed that the Standing Committee will: (1) insure that important issues of practice and procedure are considered by the appropriate advisory committees; (2) assure that the proposed rules are not substantial in nature in violation of either this Act or its spirit; (3) assure that proposed rule changes have received sufficient public comment; and (4) assure that persons submitting comments on proposed rules have the courtesy of a complete reply. *See* Testimony of Prof. Frank Remington in *Rules Hearings, supra.* The function of the Standing Committee is sufficiently important to the rule-making process that it is reasonable to assume that the Standing Committee will retain a reporter to assist them in their work.

Subsection (c) provides that each meeting for the transaction of business under this section shall be open to the public with certain exceptions. The term "open to the public" is intended to provide access to such meetings to the relevant interested parties. Such access, however, should not disrupt the deliberative process. The exception to this requirement of openness is to permit a meeting to be closed (in whole or in part) by a vote of a majority of the members of the committee involved. Any decision to close a meeting must occur in open session and such vote must be a majority of those present. The subsection also requires that the reasons for closing the meeting be speci-

[1] This subsection omits authority to set rules for the Supreme Court of Puerto Rico. Such rule making authority can be more appropriately done by that court.

Also omitted as unnecessary surplusage are references to appeals from decisions of the Tax Court of the United States and for judicial review or enforcement of orders of administrative agencies, boards or commissions, and officers. Such appeals and review are cases, thus, already covered by the language of proposed section 2072.

[2] Once appointed these committees will review proposals, conduct public hearings and make recommendations to the Standing Committee on Rules of Practice and Procedure.

fied. It is intended that this provision parallel the openness requirements of the House and Senate committees and subcommittees. Thus, there is a strong presumption that when conducting the quasi-legislative activities authorized by this act that such meetings occur in the open. As Chief Justice Burger said in *Richmond Newspapers* v. *Virginia*, ——U.S.——,——100 S.Ct. 2814 (1980),

"People in an open society do not demand infallibility from their institutions, but it is difficult for them to accept what they are prohibited from hearing."

Thus, it would be inappropriate for any such committee to have a blanket rule against open meetings. There are, however, clear examples when a closed meeting would be permissible. For example, if the committee were meeting to discuss personnel matters, such as the selection or termination of a reporter for the committee, it would be proper to conduct that business in private.

Nothing in this Act requires the meetings of the Judicial Conference (or Committees or Subcommittees thereof) or the Supreme Court to be conducted in the open with respect to the rules process.

Subsection (c)(1) also provides that minutes for each meeting for the transaction of business shall be maintained by the committee and made available to the public, except the portion of the minutes relating to a closed meeting. The deletions from the minutes relating to the closed meeting shall be the minimum amount necessary to assure that the purpose of closing the meeting is not frustrated.

Subsection (c)(2) provides that meetings on the rules shall be preceded by sufficient notice to enable all interested persons to attend. It is expected that such notice shall include an indication of the specified subject matter or rules which will be discussed. It will also assist the rule-making process if the secretary to the Standing Committee provides additional explanatory materials, upon request, to interested parties in advance of the meetings. Openness coupled with notice will encourage participation by a broad segment of the legal community and avoid potential misunderstandings and will ultimately assist the Congressional review process. *See* Letter of Alan Morrison to Hon. Edward Gignoux, August 20, 1982, reprinted in *Rules Hearing, supra.*

Subsection (d) requires that any rule-making body (including the advisory committees, the Standing Committee, the Judicial Conference and the Supreme Court) set forth a proposed rule, an explanatory note on the rule, a written report explaining the body's action on the rule, including any minority or separate views. This requirement largely tracks the procedure currently in place. Such a procedure was suggested in 1970 by Senator Sam Ervin and Senator Dennis DeConcini. The only minor change is the emphasis on so-called "gap reports", that is, the requirement that each body clearly indicate which changes, if any, it has made to the work of the predecessor group, and the rationale therefor. It will also be helpful to the Congress if such reports comment on the treatment given to any significant comments offered during the public comment period.

Subsection (e) provides that failure to comply with this section does not invalidate a rule. This provision is merely intended to avoid litigation about the propriety of a rule when the only alleged invalidity is non-compliance with one of the minor procedural requirements of this section. This section was added at the suggestion of the Public Citizen Litigation Group, the Judicial Conference, and the Department of Justice. No legislative enactment, however, can deprive a litigant from challenging the constitutionality of a particular rule or the rule-making process in general.

Proposed Section 2074 contains two subsections.

Subsection (a) provides for the submission of rules of practice and procedure to the Congress. This subsection specifies that if the Supreme Court promulgates any rules of practice and procedure, such proposed rules shall be submitted not later than May 1. Any such rules submitted shall become effective on December 1 of that year unless otherwise provided by law. This means that the proposed rules lay over for a period of six months, and unless Congress passes a public law signed by the President which is to the contrary, such proposed rules shall go into effect. This provision regularizes the timing of submission for the various rules. *Compare,* 18 U.S.C. § 3771 (layover of 90 days) *with* 18 U.S.C. § 3772 (layover time set by the Supreme Court). This approach to rule-making is constitutional. *See Immigration and Naturalization Service* v. *Chadha,* 103 S. Ct. 2764, 2776, n. 9 (1983), (hereinafter, *Chadha*).

Subsection (a) also provides that upon taking effect the rule shall supercede any contrary rule or provision of *law relating to practice and procedure.* The limitation to laws of practice and procedure is necessary to comply with proposed section 2072 and to avoid *Chadha* problems. This authority must, of course, be consistent with the Constitution. It is clear that with respect to those rules which relate to matters which are totally procedural (e.g., locations for filing or serving court papers), this "trumping" authority is appropriate. Some have questioned the "trumping" authority with respect to other issues. *See* Testimony of Burt Neuborne, Legal Director of the American Civil Liberties Union in *Rules Hearing, supra.* These problems should not occur if there is strict adherence to the requirements of proposed section 2072, which prohibits the promulgation of any rule that abridges, enlarges or modifies any substantive right.[3] Thus, any existing law (regardless of how enacted) which creates a substantive right can not be adversely affected by this rule making authority. Similar authority is held by at least 15 State Supreme Courts, and conforms to the *Standards Relating to Court Organization of the American Bar Association,* Section 1.31 (1974).

Subsection (b) of proposed section 2074 of title 28, United States Code, provides that any such rule creating, abolishing or modifying an evidentiary privilege shall have no force or effect unless approved by an Act of Congress. This provision is derived from the current Rules of Evidence. This subsection does not contain the unconstitutional one-house veto provision found in 28 U.S.C. § 2076. *See Chadha, supra.*

[3] To the extent that Acts of Congress have passed on the assumption that they conferred a substantive right, such laws will not be affected by this supercession provision. For example, when the Court held that it had no inherent authority to provide for attorney fee liability in *Alyeska Pipeline Service Co.* v. *Wilderness Society,* 421 U.S. 240 (1975), the Congress conferred a substantive right by enacting the Civil Rights Attorney Fee Award Act, 18 U.S.C. § 1988. The trumping authority contained in this section relates only to procedural laws and rules. Thus, this authority does not impinge on the role of Congress to confer substantive rights such as those mentioned above.

Section 3 of the bill amends section 331 of title 28, United States Code, to provide that the Judicial Conference shall periodically compile the rules of practice and procedure for district courts and the courts of appeals of the United States. Currently it is virtually impossible to ascertain the exact nature of local district court rules or circuit rules. This responsibility with respect to civil rules is unnecessarily imposed on the Supreme Court by Rule 83 and that duty has been deleted. The Judicial Conference and the Administrative Office of the United States Courts is the more appropriate repository of such a duty. *See Fed. R. Crim. P.* 57; *Fed. R. App. P.* 47.

This section also provides that the Judicial Conference shall review such rules and orders for consistence with the rules promulgated under section 2072 of this title. This new authority is designed to avoid the current situation of having local rules which squarely conflict with the "national" rules. *See, e.g., Miner* v. *Atlass,* 363 U.S. 641, 650 (1969) (local admiralty rule struck down); *McCargo* v. *Hedrick,* 545 F.2d 393, 401–2 (4th Cir. 1976) (local rule found to conflict with FED. R. CIV. P. 16). This test for inconsistency should *not,* however, be whether the deviation made by the local rule from the general rule is "outcome determinative" (as is suggested in *Colgrove* v. *Battin,* 413 U.S. 149, 163, n. 23 (1973)); rather, the test should be whether the local rule can coexist with the general rule without negating the purpose of the general rule. *See Miner* v. *Atlass, supra,* at 648 ("interstices" may be filled). For example, a local rule which explicitly limited the number of interrogatories which could be used would be inconsistent with the current Federal Rules of Civil Procedure. (FED. R. CIV. P. 26). The final authority for this review rests with the Judical Conference.

Section 4 of the bill amends section 2071 of title 28, United States Code, to provide for a method for the promulgation of local district court rules. This authority must not conflict with *general* rule making authority vested in the Supreme Court. *See* Burbank, *Sanctions in the Proposed Amendments to the Federal Rules of Civil Procedure,* 11 HOFSTRA L. REV. 997, 998, n. 2 (1983); Burbank *Rules Enabling Act of 1934,* 130 U. PA. L. REV. 1015, 1093, n. 763 (1982). This procedure requires that prior to making such an order effective, the district court shall give appropriate notice and an opportunity for comment. It is likely that many District Courts will comply with this requirement through the use of advisory committees as well as notice and comment. The district court rules once promulgated shall provide for an effective date. Such rules shall remain in effect unless modified or abrogated either by the District Court or by the judicial council of the circuit. The circuit review authority parallels that given to the Judicial Conference. Copies of such rules shall be furnished to the relevant circuit judicial council and the Administrative Office of the United States Courts and shall be made available to the public.

The opportunity to comment requirement found in this section is designed to encourage full and fair consultation with the members on the local bar. *Weinstein, Reform of Court Rule-Making Procedures,* 84–87, 127–137, 151 (1977); Wheeler, *Broadening Participation in the Courts Through Rule-Making and Administration,* 62 *Judicature* 280 (1979).

These changes respond to earlier criticisms of the rule-making process. Caballero,

Is there an Over-Exercise of Local Rule-Making Powers by the United States District Courts? 24 *Fed. Bar News* 325 (1977).

Section 4 of the bill also creates a parallel procedure for the promulgation of circuit rules of general applicability.

Section 5 of the bill contains technical and conforming amendments. One result of this bill is to require that rules with respect to the conduct of proceedings before magistrates follow the same rules as those applicable to Rules of Evidence, Appellate Procedure, and Civil and Criminal Procedure. Thus, subsection (b)(1) of this section strikes out the second paragraph of section 3042 of title 18, United States Code. Subsection (b)(2) also makes a conforming amendment in the Magistrates Act.

Section 6 of the bill contains a savings clause which provides that rules prescribed in accordance with law before the effective date of this act and still in effect shall remain in force and effect until changed by law. Similar savings clauses have been found in earlier enactments on the rule-making process. (*See* 18 U.S.C. § 3771; 28 U.S.C. § 2072). No change in meaning is intended.

Section 7 of the bill provides that this Act shall take effect on September 1, 1985.●

RELIGIOUS PERSECUTION IN THE SOVIET UNION

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. YATRON. Mr. Speaker, I rise to discuss the sad and continuing issue of religious persecution in the Soviet Union. The Christian Rescue Effort for the Emancipation of Dissidents [CREED] has contacted me as part of a campaign to publicize the plight of those who have been imprisoned because of their religious beliefs. As chairman of the Foreign Affairs Subcommittee on Human Rights and International Organizations, I think it is important for all of us to reflect for a moment on the value of this freedom and on how much many people in the Soviet Union and other repressive countries suffer for their belief in God.

Freedom of religion is a widely acknowledged fundamental human right and is incorporated into a number of international human right documents. it is a liberty which is at the very foundation of our own society and one in which we attach great importance. Unfortunately, millions of people throughout the world are denied this basic right and endure tremendous hardship for believing in God, for holding religious beliefs other than those prescribed by the state, or for electing not to believe at all.

CREED has invited concerned individuals to write Christmas cards to, and pray for, selected religious dissidents who have been subject to severe treatment. I have been provided with information on four prisoners, and different names have been sent to others in an effort to reach as many victims as possible.

One of the four, Sergei Khodorovich, was arrested and sentenced to hard labor for serving as the chief administrator of the Russian Social Fund. This fund was established in 1974 by Alexander Solzhenitsyn to give aid to destitute families of those who have been imprisoned for their beliefs. Another victim, Baptist Pastor Peter D. Peters, was arrested four times and spent several years at hard labor for conducting peaceful worship services. A third dissident, Natalya Lazareva, was imprisoned twice at labor camps for founding, and continuing her activities in, the Maria Club, an independent Russian Orthodox women's club. While serving her sentence, Natalya Lazareva wrote letters and protests against unjust treatment and sentences for women prisoners unable to do this for themselves, gave them moral support and shared her meager rations with them. The fourth, Lydia Bodnar, was arrested for the second time at a Conference of the Council of Prisoners' Relatives, which serves as an information network about the persecution of fellow Baptists and gives food, clothing, and spiritual comfort to the families of the imprisoned. In addition to the prison sentences, the activists were victimized by harassment, interrogation, and even violence.

While these four examples focus exclusively on religious persecution in the Soviet Union, our Nation must endeavor to eradicate this abuse wherever it exists. However, it is important at times to highlight the human rights situation in Russia. The United States and U.S.S.R. are engaged in an intense competition of ideas. The Kremlin purports to possess a humane political system, but its adherence to the atheistic Marxist-Leninist doctrine cannot be reconciled with the concept of religious freedom. Communism is not compatible with religious expression and the Soviet leaders have fairly consistently suppressed religious activity over the years.

We must remain as determined as ever to promote respect for fundamental human rights and to help those who suffer under ruthless and oppressive regimes.●

TRIBUTE TO COLLEGE MISERICORDIA

HON. FRANK HARRISON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. HARRISON. Mr. Speaker, College Misericordia is a small Catholic college sponsored by the religious Sisters of Mercy. A coeducational institution which welcomes individuals of all faiths, Misericordia offers a variety of liberal arts and professional programs at the undergraduate level in addition to professional graduate programs.

The education of each undergraduate student is based on the college's commitment to the complementary relationship between liberal arts and professional studies. To emphasize academic excellence and to develop critical thinking, College Misericordia provides a liberal arts base for all 4-year academic curricula. Professional education, as well as education in the arts and sciences, prepares students for productive careers and continued professional growth.

College Misericordia is a cooperative environment in which students, faculty, and administration demonstrate personal concern for each individual as a valued member of the campus community. In addition to academic pursuits, students can participate in a wide range of spiritual, recreational, social, and cultural activities.

The college's commitment to provide affordable, quality education continues to express the founding sisters' values and attitudes of justice, mercy, and service.●

NATIONAL SALUTE II—THE VIETNAM VETERANS MEMORIAL

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. ADDABBO. Mr. Speaker, on November 11, Veterans Day, the long awaited completion of the Vietnam Veterans Memorial will be commemorated with a series of special events to honor those who took part in the conflict.

I would like to call the attention of my colleagues to these upcoming activities, and remind them of the debt this country owes to our Vietnam veterans—one which we must repay in the near future with our respect, our kindness, and our gratitude.

The events sponsored by the National Salute II Committee represent a concerted effort to heighten America's awareness of the contributions of veterans who have served in all wars, as well as in the Vietnam conflict. For too long a time, the Vietnam veterans have been the underdogs of this country's veteran population. In my own district, I have seen the frustration and anger of these veterans erupt when they experience the prejudice and lack of concern of bureaucrats who do not recognize the importance of support services to these veterans. This past summer, several veterans from my district occupied the Queens Vietnam Veterans Outreach Center, complaining that it was understaffed and provided inadequate aid. Through my office, an agreement was reached

between these veterans and the regional center of the Veterans' Administration which expanded the staff of the center and provided improved counseling programs.

The festivities sponsored by National Salute II will begin on November 9, and will conclude on November 11 at 2 p.m. with the dedication of a statue portraying three soldiers, which will be installed at the site of the Vietnam Veterans Memorial. At that time, the memorial will be turned over to the Government as a national shrine. Some of the other events the committee has planned include a commemorative candlelight service at the Vietnam Memorial on Saturday, November 10, at 6:30 p.m., and service band concerts and other musical entertainment beginning at 11 a.m. Saturday on the Mall.

Mr. Speaker, I urge all my colleagues to take an active part in these commemorations, and I ask that they do their best to inform constituents, family and friends of the significance of this year's Veterans Day events. The Vietnam veterans are making their voices heard to insure that we do not forget their place in history, and we must not let them down.●

NATIONAL WOMEN'S GROUP CONDEMNS BROADCASTERS FOR EARLY ELECTIONS PROJECTIONS

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. WIRTH. Mr. Speaker, I call to your attention and to the attention of my colleagues the recent resolution, passed by the National Federation of Business and Professional Women's Clubs (BPW/USA), condemning the practice of early projection of voting results in nationwide elections.

The National Federation of Business and Professional Women's Clubs is the world's oldest and largest organization of working women. With 150,000 members in 3,700 local organizations across the country, BPW/USA promotes full participation, equity and economic self-sufficiency for working women. BPW/USA is represented in every congressional district in the country and includes among its members men and women of every age, religion, race, political party and socioeconomic background.

The BPW/USA resolution recognizes that early network projections, based on exit polls and other techniques, tend to reduce voter turnout and discourage voters from participating in the electoral process because they are told that their votes will not affect the outcome of an election. The resolution is but one example of the concern expressed by individuals and groups throughout the country.

I commend the BPW/USA for their efforts. The resolution as passed by the BPW/USA follows. It is a step in the right direction. I encourage my colleagues to read it.

The resolution follows:

RESOLUTION NO. 15—EXIT POLLING

Whereas, During the 1980 U.S. November general election, all three major television networks projected national election results before polls had closed in all parts of the country; and

Whereas, The same three major television networks have indicated they plan to participate in the same practice of early projection in the 1984 general election; and

Whereas, Said practice of early projection represents a disservice to all voters in this country, as well as a hindrance and interference in the practice of democracy; and

Whereas, The 1984 general election is of major importance and will take place within a few months; therefore be it

Resolved, That The National Federation of Business and Professional Women's Clubs, Incorporated of the United States of America at the July 1984 National Convention in Nashville, Tennessee, condemn the practice of early projection of voting results in nationwide elections; and

Resolved, That a copy of this resolution be forwarded by BPW/USA to the three major United States television networks.

Source: Pennsylvania Federation.

The Bylaws Committee recommends that this resolution be presented to the Convention body by the Board of Directors.●

INTERNATIONAL TOURING JUNIORS ENHANCE RELATIONS

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

Mr. HUNTER. Mr. Speaker, This summer I had the pleasure of meeting a remarkable group of young people from the United States, Australia, Canada, the Philippines, and the Orient. Known as the International Touring Juniors these young people have found a very unique way to enhance international relations—with the sport of bowling.

The International Touring Juniors began in 1982 when 23 young American bowlers participated in the Australian National Junior Championship Tournament in Tasmania, Australia. In order to attend the tournament the bowlers raised money through car washes, cookie sales and swap meets.

During their visit to Australia, the Americans stayed with Australian families which allowed them to become more involved in the culture and learn more about the customs of the host nation. In addition to the cultural and educational experience, the American team did well in the tournament and brought home the "Silver Koala" award.

With this invaluable experience in hand, the returning Americans began to plan for the First Annual Tournament of International Touring Juniors to be held in San Diego, CA. Invitations were sent to over 60 countries and the response was encouraging. Like the Australian trip, the visiting bowlers would stay with families in the host country.

The opening ceremonies were held on June 30 and for the next week the young people competed in the sport of bowling, while at the same time sharing with each other their customs and culture. The tournament was considered a resounding success and plans for the Second Annual Tournament of International Touring Juniors are already underway.

The goals of the International Touring Juniors are stated well by its founder, Alice Hegrat, "To bring youth of the world together on a common interest level points out to them how very much alike they are. Our youngsters of today, our leaders of tomorrow in this manner are learning in a calm and peaceful way to understand each other in custom, culture, thought, and pride of heritage."

I think my colleagues will agree that these are very admirable goals and I commend all of those who have participated in the International Touring Juniors and I look forward to the next International Touring Juniors Tournament.●

ELECTRONIC SURVEILLANCE ACT OF 1984

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

Mr. KASTENMEIER. Mr. Speaker, today I rise to introduce the Electronic Surveillance Act of 1984, a bill that I hope will serve as a study document in the remaining days of the 98th Congress and get the serious attention it deserves when the 99th Congress convenes in January.

Mr. Speaker, for the past year the subcommittee I chair, the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, has held a series of hearings entitled "1984: Civil Liberties, and the National Security State." These hearings began on the eve of the Orwellian year, 1984, with the purpose of taking stock of the state of civil liberties in the very year Orwell used to warn us of the dangers of letting our precious freedoms slip away.

Testimony at these hearings has made it clear that technology has outstripped existing law on electronic surveillance, leaving loopholes for wiretappers, public and private. My bill closes those loopholes, restoring the result intended by Congress when it passed the law criminalizing wiretap-

ping, the Omnibus Crime Control and Safe Streets Act of 1968.

The major loophole of that law is that it pertains only to aural communications, those capable of being heard by the human ear. Increasingly, however, telephone lines carry human conversation in digitized form, a series of computer signals that falls outside the law. Moreover, other forms of communications now carried over telephone lines, such as data transmissions and visual display, are also legally unprotected. My bill cures that, bringing all these forms of communication under legal protection.

My bill also sets legal standards for the use of video surveillance, which is currently unregulated, and for pen registers and electronic tracers.

Subcommittee hearings early last session examined the operation of the Foreign Intelligence Surveillance Act. My bill, drawing on those hearings, makes a number of improvements, including the extension of the requirement of reporting to Congress, which otherwise would expire this year.

I urge my colleagues to consider the Electronic Surveillance Act of 1984 as a thoughtful response to changing technology; I welcome your suggestions and your support.●

LEGISLATION TO CHANGE THE SIZE OF CITIES ELIGIBLE FOR LABOR SURPLUS AREA DESIGNATION

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. SEIBERLING. Mr. Speaker, I am today introducing legislation to amend the Small Business Act and provide that cities as small as 25,000 population can qualify on their own for labor surplus area designation. Currently, only cities over 50,000 population and counties can qualify for this designation. In many counties with some cities over 50,000 population, those cities—and they tend to have the higher unemployment rates—are separated from the rest of the small cities, suburbs, and rural areas of a county. This can create a situation, as it has in my district, where a city of 30,000 population which has an estimated 18-percent unemployment rate must be lumped in with more prosperous small cities and suburbs, disqualifying the distressed city. Since the latest annual listing of labor surplus areas was published in yesterday's Federal Register, and it is clear what areas continue to be hurt by the lack of targeting in the eligibility regulations, I urge my colleagues to consider the need for revision in this program.●

AT LAST A BUDGET!

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. DOWNEY of New York. Mr. Speaker, today, we are bringing to a close the budget process for the Federal Government for fiscal year 1985—and not a day too soon. We began our efforts with the President's budget request last February, a request which received only one vote when it came to the floor in April. We had a new and improved version of the President's budget—the famous Rose Garden budget. As with many things that come out of the Rose Garden these days, there was an abundance of thorns and no one in either body seemed too eager to take a solid hold of that budget either.

In the meantime, the House passed the First Concurrent Resolution on the Budget on April 5, and the other body eventually followed with its own version. In late spring we could have produced a budget, but for the unwillingness of the administration to see its exorbitant 13 percent real increase in defense spending reduced. For several months, the congressional budget process was jeopardized because the conferees from the other body were not free to discuss a compromise on defense spending levels. Well, Mr. Speaker, thanks to your efforts of the leadership of the other body, the impasse was broken and we now have a budget with a defense spending level which is reasonable and defensible—a level which was proposed by the House conferees in June.

The conference report on the fiscal year 1985 budget calls for a total budget authority of $1,012.35 billion in 1985. This translates into $932.05 in outlays and $750.90 billion in revenues, leaving us with a deficit of $181.15 billion in 1985.

With this budget, we will be reducing the Federal deficit by $148.6 billion in the 3 years from fiscal year 1985 to 1987. This is not as great a reduction as was achieved in the original House passed resolution because the conference agreement calls for $37 billion more in defense spending over the next 3 years, but is still an impressive start on a difficult problem.

Happily, the conference report contains the important provision enacted by the House which stipulates that any revenues raised by legislation enacted after March 15, 1984, shall be used to reduce the deficit, unless it is earmarked for specific spending programs. It also contains a provision to allow increased funding for education, environmental protection, health research, and specified low-income programs if corresponding outlay reductions or new revenue measures are enacted. This is the heart of the pay-as-you-go amendment that the House adopted.

Mr. Speaker, I would like to commend the chairman of the Committee on the Budget, Mr. JONES; without his tenacity, it is questionable whether we would be passing this conference report today. I would also like to thank the dedicated staff members who, as usual, served us well over the long travail just completed. Finally, I would like to commend you, Mr. Speaker, for your decisive intervention at a critical point. we should all take heart from the fact that we have begun the task of reducing the deficit and we have kept the budget process intact.●

EMERGENCY WETLANDS RESOURCES ACT OF 1983

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. JONES of North Carolina. Mr. Speaker, the Honorable Jim Summers, secretary of the North Carolina Department of Natural Resources and Community Development, has requested that I include the following letter in the official CONGRESSIONAL RECORD of September 20, 1984, page H9886, so that the State of North Carolina's position on the Manteo "Shallowbag" Bay project can be clarified as it relates to the debate on H.R. 3082 on the floor of the House of Representatives on that date.

I am very grateful to the State of North Carolina for setting the record straight on the potential fisheries harvests off the coast of North Carolina near Oregon Inlet.

The letter follows:

NORTH CAROLINA DEPARTMENT OF NATURAL RESOURCES & COMMUNITY DEVELOPMENT,

October 1, 1984.

Hon. JIM MOODY,
Longworth House Office Building,
Washington, DC.

DEAR CONGRESSMAN MOODY: After reviewing in the Congressional Record the recent House of Representatives floor debate on H.R. 3082, the Emergency wetlands Resources Act, I want to respond to statements made with regard to Title IV of the legislation. Title IV allows for use of federal lands needed to construct jetties at Oregon Inlet, North Carolina.

In the recent Army Corps of Engineers study, which was referenced during floor debate, the Oregon Inlet jet stablilization project received a favorable cost-benefit ratio. I want to respond to your criticism of the Corps study and your allegations that the study is an overstatement of the benefits to be received by additional fish catches. Specifically, I want to provide you with detailed information about the North Carolina fish catches and their projected value which you question.

Landings statistics provided to the Army Corps of Engineers are developed annually on a cooperative basis between State Government, the North Carolina Department of Natural Resources and Community Development's Division of Marine Fisheries, and the U.S. Department of Commerce's National Marine Fisheries Service of the National Oceanic and Atmospheric Aministration. Indeed, all the staff maintain high credentials in this very technical area and lend expert advice and valid projections. In the case of the Oregon Inlet study, the Corps of Engineers is required by law to base the analysis on the costs and benefits projected over the life of the project. The proposed jetties to be constructed at Oregon Inlet have a projected life expectancy of 50 years and, of course, construction will take approximately 5 years to complete.

I hope that you will take into consideration the following information which was also provided to the Corps prior to their analysis of the Oregon Inlet project.

STRIPED BASS

Included in the Corps' economic analysis is the projection of an increase in striped bass landings. This projection is based on past landings data for the Atlantic Ocean of North Carolina as shown below:

Year:	*Landings (pounds)*
1968	439,000
1969	455,000
1970	1,235,000
1971	742,000
1972	827,000
1973	1,108,000
1974	493,000
1975	585,000
1976	332,000
1977	91,000
1978	165,000
1979	240,000
1980	22,000
1981	52,000
1982	93,000
1983	53,000
Mean	437,375

The projection of 220,000 pounds is based on the above data and is less than half of the 1968-1983 average. The estimate assumes a healthy stock with normal fluctuations during most of the lifetime of the jetties project and should occur by following the current guidance of the Atlantic States Marine Fisheries Commission. A normal striped bass stock can easily yield 200,000 pounds annually for the North Carolina ocean fishery. As Congressman Jones stated, the total projected cost-benefit ratio for the striped bass is only 6/10 of 1 percent of the total or less than $.01 of the $1.4 to $1.00 ratio.

BLUEFISH

The bluefish projection is based on a combination of past catches and information from the Mid-Atlantic Fishery Management Council's draft bluefish fishery management plan. North Carolina commercial bluefish catches from the Atlantic Ocean are shown below:

Year:	*Landings (pounds)*
1979	2,454,300
1980	4,182,380
1981	5,727,783
1982	3,133,588
1983	5,992,821

It is obvious that the North Carolina catch for bluefish is growing and it is also important to note that the decline in 1982 occurred when the Inlet was unsafe for use by many of the large, ocean going trawlers which normally utilize the Inlet. The Mid-Atlantic Council bluefish plan projects an MSY of 90-119 million pounds. The bluefish stock is in excellent condition with a wide range of year classes in the stock. Reproductive success has been excellent during recent years, according to a recent NMFS assessment (Sargent and Boreman, 1984. "Bluefish: Biology and Management Along the Atlantic Coast." NMFS Northeast Fisheries Center, Targeted Information, p.6). Even with bluefish serving as a major recreational species, it is under utilized commercially. Growth of the North Carolina fishery to 10 million pounds and more is entirely reasonable. North Carolina fishermen generally target on other species such as flounder or weakfish because they command a higher market price than bluefish, but more and more fishermen are directing their efforts on bluefish because of its abundance. The projection may prove to be quite conservative.

The Mid-Atlantic Council plan was aimed at preventing development of a large export fishery for bluefish. To obtain the quantities needed for export, purse seines and pair trawls would be the gears of choice. The North Carolina projection of 10 million pounds of bluefish is based on anticipated catches with gears now in use and did not include purse seines and pair trawls. Pair trawls are presently illegal in North Carolina and purse seines can only be used to catch industrial fish. We do feel the bluefish projection is reasonable and can be achieved with current fishing practices.

CROAKER, FLOUNDER, GREY TROUT

The projections for landings of croaker, flounder, and grey trout are well below the 1979-1980 peaks when the Inlet was in its best condition. The combined peak landings for these 3 species total 59,947,000 pounds and the cost-benefit study projected a combined long-term catch of 26,000,000 pounds, which is only 43.4 percent of the combined peak. Thus, this is a very conservative projection and it is expected that over the lifetime of the jetties, landings equaling or exceeding the historic peaks will be reached.

KING MACKEREL

According to the South Atlantic Fishery Management Concil date, the Atlantic Coast king mackerel stock is in very good condition, with a surplus available for harvest. Thus, a significant increase in landings of this very valuable species is expected.

As you will see, Congressman Moody, the staff of the Division of Marine Fisheries and the able marine biologists of the various councils have spent a great deal of time and effort in carefully preparing the statistics to best evaluate and predict the future of the fishing industry. This is a very important aspect of our economy in North Carolina and we cannot afford error in our work. I appreciate the opportunity to share this information with you and ask that you respect the validity of the research, based on professional analysis and historical date, in evaluating the cost benefit study completed by the United States Army Corps of Engineers.

Sincerely,

JAMES A. SUMMERS.●

LAST MINUTE CHANGES MAKING CONSIDERATION OF H.R. 6224 BY THE HOUSE OF REPRESENTATIVES A POSSIBILITY

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. McKINNEY. Mr. Speaker, it is always frustrating during the final days of a session of Congress to consider legislation which has not been reported, or which has been changed at the last minute. While that is not normally the case with District of Columbia matters, this year the Committee on the District of Columbia finds itself in the unenviable situation of proposing just such an action.

Two weeks ago today, H.R. 6224, a bill providing for the establishment of a comprehensive mental health care system in the District of Columbia, and providing for the assumption of certain programs, functions, and facilities of St. Elizabeths Hospital by the District of Columbia, was scheduled for consideration under District Day procedures. The bill was pulled in an effort to resolve objections expressed by the administration. It was rescheduled for 1 week ago today, again under District Day procedures. No compromise was reached, and the bill was never called up for consideration.

In the past week, I am pleased to announce that the Office of Management and Budget and the Mayor of the District of Columbia have reached agreement on a series of amendments which would put H.R. 6224 into a form that all involved parties could accept.

It is my understanding that H.R. 6224 will be placed on the schedule for tomorrow, October 2, 1984, under suspension of the rules. When called up, the bill will include the amendments which have been agreed to by the Mayor and the Office of Management and Budget. Since it will be difficult for Members to know the nature and extent of these amendments, I am taking the liberty of having them printed at this point. The page and line number references in the following apply to H.R. 6224 as reported by the Committee on the District of Columbia on September 13, 1984, Union Calendar No. 577.

AMENDMENTS PROPOSED

On page 23, strike out lines 8 through 18 and insert in lieu thereof the following:

"(2) Section 502 of the District of Columbia Self-Government and Governmental Reorganization Act is amended—

(A) by inserting "(a)" after "Sec. 502.", and

(B) by adding at the end the following:

"(b)(1) Except as otherwise provided by paragraph (2), there are authorized to be appropriated, in addition to the amounts authorized to be appropriated under subsec-

tion (a), $25,000,000 for fiscal year 1986, $35,000,000 for fiscal year 1987, $30,000,000 for fiscal year 1988, $20,000,000 for fiscal year 1989, $15,000,000 for fiscal year 1990, and $10,000,000 for fiscal year 1991 to the District of Columbia for establishing and maintaining a comprehensive mental health system.

"(2) For each of the fiscal years 1986 through 1990 there is authorized to be appropriated, in addition to the amount authorized under paragraph (1), an amount equal to one-third of the amount authorized under paragraph (1) for the succeeding fiscal year. The amount authorized to be appropriated under paragraph (1) for any such succeeding fiscal year shall be reduced by the amount appropriated for the preceding fiscal year under the first sentence of this paragraph.".

On page 22, strike out lines 1 through 3 and insert in lieu thereof the following: "$30,000,000 for fiscal year 1988, $24,000,000 for fiscal year 1989, $18,000,000 for fiscal year 1990, and $12,000,000 for fiscal year 1991."

On page 21, line 11, insert "Any property so transferred shall not be subject to the National Historic Preservation Act of 1966." after "property.".

On page 10, line 19, strike out ", and" and insert in lieu thereof a period.

On page 10, strike out lines 20 and 21.

On page 22, strike out lines 14 through 17 and insert in lieu thereof the following: "for emergency detention or involuntary commitment after being taken into custody (i) as a direct result of the individual's action or threat of action against a Federal official, (ii) as a direct result of the individual's action or threat of action on the grounds of the White House or of the Capitol, or (iii) under chapter 9 of title 21 of the District of Columbia Code."

On page 22, after line 22 insert the following: "The preceding provisions of this paragraph apply to any individual referred to the system (or to Saint Elizabeths Hospital) before or after the date of enactment of this Act."

On page 9, line 5, insert "and the Committee on Labor and Human Resources" after "Representatives".

On page 9, line 15, insert "and the Committee on Labor and Human Resources" after "Representatives".

On page 12, line 2, insert "and the Committee on Labor and Human Resources" after "Representatives".

On page 13, line 23, insert "and the Committee on Labor and Human Resources" after "Representatives".

On page 14, line 6, insert "and the Committee on Labor and Human Resources" after "Representatives".●

NEWARK EMERGENCY SERVICES FOR FAMILIES HOLDS AUCTION

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. RODINO. Mr. Speaker, this Thursday an auction will be held in Newark to benefit Newark Emergency Services for Families, a nonprofit social services agency that assists Newark residents in emergency situations.

The agency was founded in 1978 to develop comprehensive and coordinated emergency services for the people of Newark. NESF works to assist the existing emergency services by identifying gaps in service delivery and thus improving the effectiveness of emergency relief. NESF also provides direct emergency services when no other agency is available to meet the need. The program has been quite successful in improving the ability of social agencies to respond to emergencies, and over 5,000 residents of Newark have been assisted by NESF.

The auction will pay tribute to two individuals who have contributed to and supported NESF—Newark Assemblyman Willie Brown and New Jersey Energy Commissioner Leonard Coleman.

I am very proud of the efforts that NESF has made, and especially would like to single out executive director Geraldine Harvey for her outstanding work. I know that the auction will be a tremendous success, and offer my best wishes to Assemblyman Brown, Commissioner Coleman, and all of the people involved with Newark Emergency Services for Families.●

THE IMPORTANCE OF THE COLOMBIAN PEACE AGREEMENT

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. GARCIA. Mr. Speaker, the recent treaty between the Colombian Government and the M-19 guerrillas is an example of the benefits of dialog.

This historical achievement is a precedent worth noting. Hopefully dialog, and not armed conflict, will be the way of the future for all of Latin America. Democracy does work throughout this hemisphere, particularly if it is permitted to grow of its own accord.

George Rogers, an associate at the Washington Office on Latin America, has written a timely and insightful article on the situation in Colombia. I believe his article could be of use to my colleagues as they consider the situation in Colombia and throughout the region. I am submitting the article for the RECORD.

[From the Christian Science Monitor, Sept. 21, 1984]

PROTECTING COLOMBIA'S PEACE

(By George C. Rogers)

The signing of the cease-fire between the Colombian Government and the M-19 guerrillas in late August means that 90 percent of Colombia's guerrillas have laid down their arms and are willing to push for their demands in the political arena. Colombian President Belisario Betancur must now build confidence in the truce and move his country toward the economic and social reforms that the guerrillas and their "constituents" are demanding. The United States should support him in his efforts.

This historic peace may bring an end to over 30 years of political violence in Colombia between the military and various guerrilla bands.

Colombia's peace, however, may be shattered if regional military leaders or armed vigilante groups continue their efforts to crush the guerrilla bands and wipe out or terrorize the populations that support them. Such repressive tactics have been heavily employed in Colombia over the last six years either by the security forces or with their complicity.

The latest treaty was literally almost shot to pieces before it could be signed, when in an ambush policemen shot and apparently tried to kill the No. 3 commander of the M-19 guerrillas, Carlos Pizarro León Gomez, as he was on his way to sign the historic record. The police ambush occurred despite the Government's guarantees for safe passage and testifies to the precariousness of the cease-fire. A group of Colombian journalists and I accompanied Pizarro to the small town of Corinto, where the cease-fire was to be signed. The police clearly knew who they were looking for because they allowed our car and a jeep full of M-19 guerrillas to pass through their roadblock before stopping Pizarro's truck and opening fire on it.

President Betancur reacted instantly, removing the police forces, guaranteeing the safety of guerrillas, and dispatching a helicopter to fly the wounded to a hospital.

President Betancur now must convince Colombian security forces, who have opposed the negotiations, that peace and further dialog with the guerrillas is in the national interest. But given the Army's predilection for acting independently of civilian authority, such a task will be difficult.

President Betancur is also committed to convening the "National Dialogue," which the M-19 have called for. It would bring together the disenfranchised sectors of society—small farmers and businessmen, peasants, and the urban poor—to formulate solutions to the social, economic, and political crises confronting them. These sectors seek to redress the problems of the inequitable distribution of land, income, and political power, areas in which the Colombian elite have historically obstructed change.

As a sign of his determination, Betancur recently forwarded land-reform and electoral-reform proposals to the Congress. Colombia needs technical and monetary assistance in order for these and other reforms to achieve any measure of success. Betancur will need strong political support within Colombia to gain approval of the reforms before mid-1985, when maneuvering starts for the elections in the spring of 1986.

Perhaps the Contadora nations and Colombia's democratic neighbors to the south can help fend off further violence in Colombia by supporting inter-American Development Bank loans and by convincing the Colombian military not to meddle in politics. The U.S. and other Western democracies also should make it clear that they will not tolerate any breaking of the truce or the taking of justice into its own hands by the Colombian military. Withholding of military aid could be a lever.

The Reagan administration and Congress should encourage Colombia's Government and politicians to accept needed reforms. The U.S. also should provide bilateral credits and technical assistance and push for

easier payback terms on Colombia's $10.6 billion foreign debt.

President Betancur needs to control the military and enact various reforms in the short "window of opportunity" of peaceful dialog open in Colombia. Only with the hard work and support of Colombians and the world community can Betancur continue his quest for peace and stability in his country.●

A TRIBUTE TO MONICA AND LOU PARSONS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. LAGOMARSINO. Mr. Speaker, I appreciate this opportunity to bring to the attention of my colleagues the efforts of two of my most distinguished constituents, who have dedicated their time and effort on behalf of the youth in our area.

On Sunday, October 14, 1984, Monica and Lou Parsons will be honored by the residents of Carpenteria, CA, for their endless efforts on behalf of the Boy Scouts. On this special day a new Scout home, that was built almost entirely with funds provided by the Parsons, will be dedicated and named the Parsons House. This 30 by 60 log cabin type house will be available for any Scout organization in Carpenteria, such as Boy Scouts, Girl Scouts, and Brownies.

It is noteworthy that the Parsons' work has not been limited solely to the scouting program, for they have long been active in the southern Santa Barbara County area in all facets of community service. Both Monica and Lou have driven for the Meals Service Program for over 10 years on a regular basis and Monica also donates her time as a craft teacher at Main School.

Lou and Monica Parsons are true contributors to their community and it is indeed an honor to bring them to your attention.●

MYTHS ABOUT AGING DISPELLED IN PARADE MAGAZINE ARTICLE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. BIAGGI. Mr. Speaker, as an original member of the House Select Committee on Aging, I was delighted to read an article in yesterday's Parade Magazine called "7 Myths About Aging." In our ongoing efforts to promote the positive elements of aging in America—we are sometimes frustrated by depictions of the elderly by the mass media. The Parade Magazine article stands as a prominent example of a positive article.

The fact is in America today—aging is a success story. The baby boom has been replaced with the senior boom. There are more people over 60 than under 10 in our Nation today for the first time in our history. We find our older citizens making daily contributions to the betterment of our Nation. It is time to dispel many of the myths which serve to cast the elderly in the wrong light.

The Parade Magazine article summarizes the findings of a number of recent studies focusing on common but largely unfounded myths about aging. I urge my colleagues to read and reflect on this article. We are fortunate in this body to have one of the best examples of someone who defies all laws of aging—our beloved colleague CLAUDE PEPPER. Here is a man who on September 8 celebrated his 84th birthday. He continues to be the most authentic advocate the elderly have in this Nation because he typifies them in the most positive way possible.

I now insert the Parade Magazine article:

[From Parade Magazine, Sept. 30, 1984]

SEVEN MYTHS ABOUT AGING

(By Norman Lobsenz)

If you subscribe to the common wisdom about aging you probably decided that many, if not most, of the statements in the accompanying quiz are true. But recent studies show that all of them are false.

That is reassuring news, not only for older men and women, but also for the generation of adult children who today face the responsibility of caring for aging parents.

"Much of the stress, anxiety and guilt grown children contend with is rooted in their acceptance of myths about old age," says Dr. Sylvia Weishaus, a Studio City, Calif., family therapist and authority on aging. In her counseling, Weishaus found that adult children who cling to the stereotype of the feeble, the cantankerous or the unfulfilled older person have a much harder time coping with their elderly parents. She devised the quiz as a way of counteracting these misconceptions. "Having accurate information about the aging process," Weishaus believes, "helps grown children deal more confidently with their parents and more realistically with the pressures they themselves feel."

Paradoxically, the myths of aging have gained credence partly because more people are living longer. There are now 26 million Americans over 65—nearly 12 percent of the population—and five million of them are over 80. "Only a small percentage of these men and women will have physical or psychological problems," says Weishaus. "But because we see more of them in the community, we tend to generalize their disabilities to all older people."

A second reason the myths survive is that a vigorous old age is a relatively new phenomenon. Today's middle-aged men and women project on their parents the image they retain of their grandparents—worn out in their late 50s, on the threshold of death in their 60s and 70s. We are not yet used to the fact that the frailties of aging have been pushed back by nearly two decades.

Slowly but surely, however, the myths are yielding to a growing body of reassuring evidence.

MYTH: People naturally realize when they are old.

FACT: Most elderly people see themselves as many years younger than their chronological age. One survey of 1,700 older people found that a third thought of themselves as "old" between the ages of 70 and 79; over 40 percent reserved the label of "old" for anyone over 80. "I look in the mirror and see wrinkles, gray hair and liver spots," a 77-year-old man says, "but, in my head, I'm the same person I was 30 years ago."

MYTH: Most people over 65 face a steady decline in physical and mental health.

FACT: This dismal picture has little basis in reality. Doctors who specialize in geriatrics point out that while older people are prone to chronic ailments—arthritis, rheumatism, hypertension—they are less likely than younger persons to suffer acute illness, and infirmity is the exception rather than the rule. Obviously, aging causes some biological losses. Muscle strength, lung capacity, hearing, vision, the sense of taste and touch all gradually decline. But a long-term study conducted by the National Center for Health Statistics shows that eight out of 10 people over 65 are healthy enough to carry out all normal activities without help of any kind.

The specter of senility is also an illusion. "If I misplace my keys," says Sylvia Weishaus, "my absent-mindedness is considered amusing. But if a 70-year-old misplaces them, he's called senile." Again research has proved that older people do not generally suffer memory loss, nor experience any decline in intelligence.

There are only two major causes of true senility: hardening of the brain arteries and Alzheimer's disease (which causes damage to nerve cells in the brain). According to the National Institute of Mental Health, only four of every 100 older people are affected by these ailments (about age 85, however, this number increases). Yet hundreds of thousands of aging men and women are labeled "senile" when they are simply hard of hearing, over-tranquilized, or suffering side effects from medication.

MYTH: Most older people are pretty much alike in their habits and ideas.

FACT: According to psychiatrist Robert Butler, former head of the National Institute on Aging, older persons become more diverse with advancing years. Indeed, people are most like one another when they are infants; life's experiences make them less and less alike.

MYTH: As people age they are less able to adjust to stressful change.

FACT: Most old persons remain open to change—and capable of coping with it—throughout the course of a lifetime. Dr. Arthur Schwartz, a counselor who specializes in gerontology, points out that older persons are often more open to new ideas than the young because "they have a greater backlog of experience against which to judge new data." He adds, "They have already adapted to more stress and change than any generation in history," Says Weishaus: "A life time of problem-solving enables the elderly to adapt surprisingly well to the changes that come with aging—retirement, illness, the death of friends, or a major move to a new community."

MYTH: As people age, they tend to get irritable, critical and demanding.

FACT: If you know some old people who are like this, chances are they have always

been that way. Research shows that personality characteristics tend to remain consistent across the adult life span. An easygoing 30-year-old will still be a warm and open person at 80; someone who at 30 is demanding or critical will probably be more so at 80.

Even what may seem a sudden personality change usually has a valid explanation. A therapist recounts a case in point. A couple sought counsel because they thought the husband's mother was becoming "senile." A compulsive housekeeper all her life, the 75-year-old woman now was letting her apartment get messy, and stay messy. "I found that she had always hated housework," the counselor says, "but felt it was her wifely duty to keep a spotless home. Now widowed and living alone, she saw no need to work so hard."

MYTH: Most older men and women have little or no interest in sex.

FACT: Aging does cause changes in sexual response and performance: A man's capacity for erection and climax is slowed, a woman's vaginal tissues become dryer, and both may need more stimulation for arousal. But every study—from Kinsey and Masters and Johnson to the most recent Consumers Union report on Love, Sex, and Aging—shows there is no biological time clock that signals an end to sexual feelings, desires and abilities. One study of 800 people between ages 60 and 91 found that only 21 percent were sexually inactive. The Consumers Union survey of more than 4000 men and women, ages 50-93, found two-thirds of the women and four-fifths of the men over 70 to be sexually active.

MYTH: Most older folks are lonely and would like to live with their children.

FACT: Though adult children are often saddled with guilt at the thought of a parent living alone, older persons rarely seem to feel lonely. In a study by sociologist Ethel Shanas, 73 percent of those over 65 said they "never" or "rarely" felt lonely. When psychologists Tracey Revenson and Carin Rubenstein investigated loneliness, they found people over 65 reported being much less lonely than people under 25—even though they were more likely than the younger group to live alone. Nevertheless, older people want to be in touch with their children—and most are. Another study by Dr. Shanas showed that three out of four people over 65 who have children live within a 30-minute drive of them.

Ultimately, grown children who continue to believe in the myths of aging, and deal with their parents on those bases, are heightening their own anxieties without helping the parents. "Unnecessary worry and uncalled-for guilt tend to make grown children want to reverse the natural roles and 'parentify' their own parents," says Sylvia Weishaus. "This can be saddening and sometimes demeaning to the older person. The grown child needs to look upon the aging of his or her parents not as a melancholy unraveling of life, but as a dignified natural process."●

THE PLIGHT OF YAAOKOV FINK

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. MORRISON of Connecticut. Mr. Speaker, I would like to share with my colleagues the struggle for freedom of Yaakov Fink, an engineer by profession, who has been refused the right to emigrate from the Soviet Union.

Yaakov Fink has applied three times over the past 2½ years for an exit visa to join his family in Israel. His requests were denied every time. Mr. Fink has been separated from his family since 1977. His father is now 78 years old and suffering from extremely poor health. Presently, he is doing menial work in the Soviet Union.

I have written to Chairman Konstantin Chernenko urging him to allow Mr. Fink to emigrate to Israel. I have also written to Mr. Fink expressing my deep concern about his situation. I strongly urge my colleagues to join me in this effort. We must continue to voice our outrage against Soviet human rights violations and do everything possible to pressure the Soviet Government into improving its treatment of Soviet Jews.●

A PRIVATE BILL FOR THE RELIEF OF STANISLAV LEVCHENKO

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. YOUNG of Florida. Mr. Speaker, I have introduced today a private bill for Stanislav Levchenko, a defector who has given U.S. intelligence agencies critical information concerning the activities of the KGB and the identities of KGB agents. Mr. Levchenko's information and his assistance to U.S. intelligence agencies has contributed immeasurably to the security of the United States. Despite this outstanding contribution to our national security, Mr. Levchenko has been hampered in his efforts to become a full-fledged American citizen. The bill I have introduced would rectify this situation. Mr. Levchenko's activities show that he clearly deserves to become a citizen of the United States.

Mr. Levchenko is a 43-year-old former KGB major who was assigned from 1975 to 1979 to the Soviet mission in Tokyo under cover as a journalist for the Soviet magazine New Times. In October 1979, he walked into a U.S. Army installation in Tokyo and requested political asylum in the United States. He defected for ideological reasons: An intense disillusionment with the Soviet system and a strong desire to fight that system. Since his defection, he has been completely cooperative in sharing with the U.S. Government all of his knowledge on the KGB, particularly in the field of Soviet covert action, or what the Soviets call "active measures."

One example of this cooperation is his testimony before the House Permanent Select Committee on Intelligence, in July 1982, in which he presented a detailed explanation of Soviet active measures and answered numerous questions from the members of the committee. The committee subsequently published these hearings, providing the Congress and the American people with a unique document outlining in detail—from a former KGB specialist's personal experience and knowledge—Soviet active measures objectives and techniques.

Of critical importance to U.S. counterintelligence efforts, Mr. Levchenko has also provided the identities of KGB staff officers and KGB foreign agents, including some in high foreign government positions and the foreign media. He has discussed the KGB's use of "agents of influence," and the overall KGB methods of operating, including KGB field procedures and mission training.

In addition, Mr. Levchenko has, as an independent consultant, given advice on how to counter hostile Soviet actions. For example, he has met with members of the National Security Council, the U.S. Information Agency, the State Department, the FBI, and other U.S. agencies. He has also spoken at the Army War College, the President's Foreign Intelligence Advisory Board, and the Government's Special Technology Transfer Group.

A Soviet military tribunal tried Mr. Levchenko in absentia and sentenced him to death. Despite this threat to his life, he has continued to speak out in press and television interviews and in writing, exposing and explaining Soviet espionage and deception practices. For example, in recent months he has cooperated closely in the writing and publication of a major new book on the KGB and another book on Soviet "Disinformation." His press interviews continue to be published in this country, in many West European countries and in the Far East, as he seeks to make a broad audience aware of Soviet realities. He also continues to consult and lecture to governmental and research groups studying Soviet intentions and activities.

Mr. Levchenko's efforts have made a great contribution to U.S. national security. The Director of the Federal Bureau of Investigation, who has primary responsibility for countering Soviet espionage in the United States, issued a formal FBI commendation to Mr. Levchenko in 1982 for his unique contribution to the security of the United States.

Mr. Speaker, Mr. Levchenko deserves the gratitude of the American people for what he has done to ensure their security. Mr. Levchenko helped U.S. intelligence because he believed in America and American principles of freedom and democracy. The least we can do is help him to qualify to

become a citizen of this country. The bill I have introduced will do so. The bill modifies the applicability to Mr. Levchenko of some technical provision of the Immigration and Nationality Act concerning residency and past membership in a proscribed organization. Mr. Levchenko still will be required to meet all the other requirements for naturalizaiton.

I urge my colleagues to support this bill, which will enable the man who has contributed so much to the American people, to become one of the American people.●

TRIBUTE TO DON MATTINGLY

HON. FRANK McCLOSKEY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. McCLOSKEY. Mr. Speaker, it is indeed rare that a player in his second full season in the major leagues wins a batting title. Rare as well are those dramatic batting races which are decided on the final day of the season. And I am sure it stirs the heart of every true baseball fan to see a batting title won on the final day of the season by the player who reaches back for something extra and produces a four-hit performance. The American League batting title was decided yesterday in just such a manner. Don Mattingly, the first baseman for the New York Yankees went 4-for-5 to finish the year with a league leading .343 average, collecting 207 hits with 23 home runs and 110 RBI's. Don's family resides in Evansville, IN, where he grew up and played organized baseball. His performance is a tremendous source of pride for Indiana and Evansville area. The sportsmanship which came to characterize his competition with teammate Dave Winfield is indeed an example of cooperation and excellence which should inspire us all. So, I just want to take this opportunity to extend for the RECORD my congratulations to Don Mattingly. I look forward to following this young Hoosier's exploits in the major leagues along the path of a bright and successful career.●

SKILLED TRAINING PROGRAMS FOR THE UNEMPLOYED

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mrs. KENNELLY. Mr. Speaker, today I am introducing legislation to help the Nation's unemployed by expanding their opportunities to participate in skilled training programs, thus hastening their reabsorption in the labor market. Specifically, my bill would give States an incentive to permit unemployed workers to upgrade their skills by allowing unemployment insurance [UI] payments made to persons in State-certified work preparation and skill training programs to count toward any interest on funds a State might have borrowed from the Federal Government to cover UI costs.

The Subcommittee on Public Assistance and Unemployment Compensation heard testimony endorsing this concept just recently from the Northeast-Midwest Congressional Coalition, and the concept is one of the recommendations of the coalition's new report "Shaping the Workforce of the Future: An Agenda for Change." Representative BILL CLINGER, a chair of the Coalition's Unemployment Insurance Task Force, and Representatives MARY ROSE OAKAR and SHERWOOD BOEHLERT, cochairs of the Coalition's Employment and Training Task Force, join me as original cosponsors of the bill.

Since 1970 unemployment insurance law has prevented the States from disqualifying UI claimants who are in State-approved training programs, essentially exempting these claimants from the standard UI eligibility criterion of being available and looking for work. While all States have adopted conforming legislation to this effect, they have not all put in place affirmative administrative procedures regarding approval of training programs and determinations of whether any particular individual may actually participate in one. As a result, in fiscal year 1982, it has been estimated that only one-fourth of 1 percent of the year's 7 million unemployment insurance recipients actually were enrolled in job training programs.

Clearly, more of the Nation's unemployed would benefit from spending their period of unemployment retraining for occupations and skills for which there is or will be greater demand than for their previous occupations. In the Job Training Partnership Act [JTPA], Congress pursued this policy by adopting two provisions which encourage the States to do more in combining UI and training. The law states that programs for dislocated workers under title III of JTPA are to be considered as "* * * training with the approval of the State within the meaning of any other provisions of Federal law relating to unemployment benefits [section 302(d)]." In addition, States are given financial incentives for combining UI and training: Unemployment insurance benefits paid to an individual in a title III training program may be credited for up to 50 percent of the non-Federal funds required for this section of JTPA [section 304(b)(2)].

Because of these provisions of JTPA, it is certain that more UI recipients are receiving more training than was previously the case. My bill would extend this policy further and would also provide the information we need to evaluate what is being done in the States to implement it. We in the Congress simply do not have this information now. Not surprisingly, since they have not been asked, the States have not kept detailed records. Even in the State of Connecticut, where there has been an active effort to place people who lose their jobs in training programs where appropriate, it is difficult to find exact statistics on the number of people who have benefited. Therefore, this legislation would require the Secretary of Labor to report annually on a State-by-State basis, the administrative practices relating to UI and training. It also requires quarterly updates, again on a State-by-State basis, of the number of UI recipients who are enrolled in training and the duration and costs of UI benefits they receive. These reports should also provide information on the extent to which the States are making use of the provisions of this bill regarding the crediting of these costs against interest owed.

Allowing UI payments to jobless workers in training to be credited toward interest due on funds which a State had borrowed to cover UI should remove one impediment to the UI-training combination. This credit, however, is only one possible mechanism for providing an incentive to the States to implement retraining programs for unemployed workers. As the Congress continues to explore comprehensive reform of the UI system, I hope there will be a full discussion of this and other mechanisms to promote retraining.●

NEW JERSEY STATE A. PHILIP RANDOLPH INSTITUTE AWARDS DINNER

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. RODINO. Mr. Speaker, it is a great honor for me to rise today in recognition of the New Jersey State A. Philip Randolph Institute, which will be holding its 10th annual awards banquet on October 6.

Named for one of the most revered and inspirational leaders of the American civil rights and labor movements, the A. Philip Randolph Institute works on the national and the local levels to promote civil rights and voter education. As a close friend of the late Philip Randolph, and a recipient of this award, I am especially privileged to pay tribute to this outstanding organization.

Members of the New Jersey State A. Philip Randolph Institute have been instrumental in the effort to register new voters and bring all of the people into the electoral process. They are to be commended for their tremendous success in registering thousands of new voters in the State, ensuring the right of all our citizens to have a voice in the system.

This year some outstanding leaders in labor and civil rights are to be honored at the awards dinner. They are: Rebecca Andrade, director of human resources for Essex county; Al Wurf, executive director of Council 1, American Federation of State, County, and Municipal Employees; William Pollard, director of the Civil Rights Department of the national AFL-CIO; Willie A. West, a longtime activist, now retired, with the United Auto Workers; and Coreane Henderson, a member of the Newark Teachers Union.

I take pride in saluting the A. Philip Randolph Institute and the members of the New Jersey chapters, particularly President Clara Dasher, for their contributions to working people everywhere, especially in the minority community. These people have continued the legacy of A. Philip Randolph, and have truly done true justice to his memory.●

THE BEIRUT TERRORIST BOMBING

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. LEVINE of California. Mr. Speaker, the death toll from the terrorist bombing of our Embassy in Beirut continues to mount. Since the bombing more of the injured have died. This latest attack is tragic for two reasons: first because of the suffering and loss of life which resulted, and second, because even though we had ample warning, efforts to protect the Embassy from terrorist attack were woefully inadequate.

The circumstances surrounding the situation are now clear. Despite the fact that work to increase the security of the Embassy was incomplete, the Embassy annex was allowed to open and conduct business.

Have we learned nothing in the last year and a half? Did the death of 241 marines teach us nothing about the importance of adequate security for our facilities in Lebanon?

Anthony Lewis, a columnist for the New York Times recently wrote a compelling analysis of the shortcomings of President Reagan's policies in the Middle East.

I would like to suggest to my colleagues that they read Mr. Lewis' column and ask unanimous consent that it be included in the CONGRESSIONAL RECORD.

[From the New York Times, Sept. 24, 1984]

MR. REAGAN'S BEIRUT

(By Anthony Lewis)

The explosion in East Beirut illuminates with terrifying clarity what so many Americans have not wanted to see: the price of empty geniality in the White House.

President Reagan is responsible in the plainest sense for this latest failure of security against a known, indeed an advertised, threat. Three times now, in less than a year and a half, terrorists have succeeded in making costly attacks on United States installations in Lebanon. What private enterprise would keep on the job a manager who presided over three disasters of the same kind in succession?

But the responsibility goes far deeper. In the whole American position in Lebanon we see the consequences of the way Ronald Reagan conducts the Presidency: the shallowness, the lack of interest in detail, the concern for appearance rather than substance. America's humiliation in Lebanon is a product of Reaganism in its purest form.

When 241 Marines were killed in the suicide bombing of their barracks south of Beirut last October, Mr. Reagan said he took responsibility as Commander in Chief. It was a characteristically clever political gesture, making him look manly and cutting off public demands to know what had gone wrong in the planning of the Marine operation.

But reality was very different from appearance. Of course Mr. Reagan did not really take responsibility for American security in Lebanon. He did not even take sufficient interest to insist that there be a coordinated plan for protection of the new U.S. Embassy building. The Defense and State Departments had different views. And the building was opened before security gates were installed.

Mr. Reagan has made American policy in Lebanon in the same way: by uttering some strong-sounding generalities with no follow-through—no attention to detail, to the hard facts on the ground. The result, predictably, has been disastrous—disastrous for Lebanon, for Israel and for the United States.

In the Middle East there can be no policy without attention to detail. Policy is detail. But this President is unwilling or unable to grasp detail. He does not do the work. He does not learn.

When the President does not have his hand on the controls, policy depends from day to day on who is up or down in the bureaucratic struggle. State, Defense, the national security adviser: Chance and stratagem determine the course. That is why the United States has had no coherent policy in the Middle East for the last 44 months.

Whatever Jimmy Carter's faults, he understood the need for Presidential leadership—detailed, hardworking leadership—in the Middle East. His willingness to grapple with the hard details produced the peace treaty between Israel and Egypt. To try to imagine the Camp David negotiation with Ronald Reagan in charge is to understand the present vacuum in American Middle East policy.

In Lebanon, the United States has lost lives and lost influence because it has acted over the last several years with no overall vision, no conception of what it was doing. The record of blunders is staggering.

The Reagan Administration winked at Israel's destabilizing invasion of Lebanon in 1982. It promised the Arab world to arrange a speedy Israeli departure. It promised Israel to help arrange a secure border and a friendly Lebanese Government. It sent armed forces to keep the peace, then used them on one side of the internal political conflict. It said the forces would not be driven out, then withdrew them.

President Reagan is a committed friend of Israel. But the record shows how little value there is in the friendship of a great power without a sustained policy. America in the Middle East today is promises without performance .

What we see in Lebanon, then, is the consequence of an absentee President. The press grumbles these days because Mr. Reagan campaigns in a cocoon. But he is not just out of touch in a physical sense. He is out of touch mentally: in his ability to engage the realities of a tough world.

The question raised by the latest debacle for the United States in Lebanon is whether Mr. Reagan will be held accountable for his failure. His political genius has been his ability to walk away from disaster with a grin and a wave. But in the end the democratic system depends on accountability.●

TRIBUTE TO DAN MARRIOTT

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday September 19, 1984

● Mr. LAGOMARSINO. Mr. Speaker, I rise to pay tribute to my colleague from Utah, DAN MARRIOTT.

DAN'S work in Congress and on behalf of the State of Utah are well known. Since his election to the 95th Congress in 1976, he has been in the forefront of efforts to fight excessive Government spending, cut taxes, and balance the Federal budget.

DAN is also recognized as a champion of children's causes and a strong supporter of family values, serving as the ranking member of the House Select Committee on Children, Youth, and Families.

For 8 years, I have had the privilege of serving with DAN on the Interior Committee, where he has worked to secure the economic future of his State and the Nation with a conscious regard for balance between environmental needs and natural resource development.

He is ranking on the Mining, Forest Management and Bonneville Power Administration Subcommittee and second ranking on the Energy and Environment Subcommittee.

A strong advocate of the concerns and needs of small business, DAN is a past member of the Small Business Committee, where he held leadership status for many years. DAN was instrumental in securing venture capital for small business firms, and in easing Government redtape and regulation.

DAN MARRIOTT is a guardian of the people's interest in every sense. His in-

tegrity and down-to-earth sense of responsibility to his constituency, to his State and to the Nation have strengthened the principles that make America strong.

I invite my colleagues to join in honoring our distinguished friend in tribute to him for his outstanding service.●

THE CONTRAS: FREEDOM FIGHTERS OR FOREIGN INVADERS?

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. DYMALLY. Mr. Speaker, the Congress is presently considering whether to allow the administration to continue expending funds on the Nicaraguan counterrevolutionaries. The President has repeatedly claimed that these people are freedom fighters, representing the true aspirations of the Nicaraguan people. Mr. Speaker, one does not have to be an apologist for the Sandinistas to see that many of these contras possibly are not fighting for freedom but for a restoration of the old regime, and that their behavior toward the Nicaraguan people at times has been as brutal as that of the Somoza-era National Guard, from which many of the soldiers, second officers, as well as the commanders of the counterrevolutionaries, are drawn. I submit for the CONGRESSIONAL RECORD a research memorandum by Tess Kline, Kristin Overgaard, Scott Seavert, and John Tweedy of the Council on Hemispheric Affairs, which provides a number of interesting insights into the tactics and nature of the contra forces:

A COUNCIL ON HEMISPHERIC AFFAIRS RESEARCH MEMORANDUM: THE CONTRAS

The Reagan administration is given to describing the anti-Sandinista rebels staging raids from Honduran bases as "freedom fighters," struggling to liberate the people of Nicaragua from the yoke of "totalitarianism." This designation may be open to some question in that it gives the impression that these forces represent an indigenous resistance movement that has arisen out of the nation's soil. The anti-Sandinista counterrevolutionaries, or "contras," in fact are highly-trained and well-armed, with a variety of aircraft and high-speed boats among other sophisticated weaponry in their arsenal—hardly a conventional guerrilla operation.

A formidable force by Third World standards, it is incontestable that they rely on outside support rather than widespread popular backing. Their hit-and-run tactics have wrought havoc on the civilian population, with a much lesser effect on Nicaragua's armed forces. Presently at a strength of ten to twelve thousand, the present-day contras represent a considerable expansion from a body of some two thousand former members of Somoza's National Guard who fled Nicaragua in 1979 after the Sandinistas' victory. Their leadership then and now comes largely from the Guard's unsavory officer corps. Their ranking commander, Col. Enrique Bermudez, was one of the most feared and hated of the Guard commanders during the last stages of the Somoza era.

The contra forces rely on their Honduran sanctuary to train and garrison their numbers and launch ground and aerial attacks. They depend on that country for their extensive supply network, and the United States is largely responsible for bringing them from their original condition of isolated brigandage, in the aftermath of Somoza's downfall, to large-scale warfare. Thus, they can most accurately be viewed as a foreign invasion force, somewhat akin to the Empire loyalists who fled the colonies during the American Revolution and later fought alongside the British against their former countrymen.

If the intent of these "freedom fighters" is to liberate the people of Nicaragua from their Sandinista "oppressors," one would expect the rebels to direct their attacks against military targets, soldiers, militias, and police. Yet the favorite tactic of the contras is to kill and/or kidnap civilians who are in any way involved in government social programs—particularly doctors and health care workers, teachers, agricultural technicians, and members of rural cooperatives. Frequently, their methods include torture and mutilation.

In June 1984, for example, troops of the Nicaraguan Democratic Force (FDN) raided the northern town of Ocotal. U.S. religious workers located in the area reported 66 killed and 36 injured, including 21 civilians dead. On 20 October 1983, contra forces attacked cooperatives near the town of Pantasma, killing 32 civilians. Smaller-scale attacks are an almost daily occurrence. All told, since large-scale U.S.-backed contra attacks began in 1981, well over 1,000 Nicaraguan civilians have been killed by contra forces, and hundreds more have been kidnapped and are presumed dead.

Under pressure from their CIA overseers, contra forces have tried several times to take on the Sandinista militias in attempts to seize and hold rural towns. Administration officials admit that they ususally meet with little success against the highly motivated Nicaraguan forces. During the "October offensive" last year, the Honduran-based FDN teamed up with the forces of the Costa Rica-based revolutionary Democratic Alliance (ARDE) to form an army of 1,500 that attempted to seize Puerto Cabezas, on the Atlantic coast. After a fierce battle and many casualties, the attack was repulsed, and the contra armies retreated to their respective sanctuaries.

Increasingly, the focus of anti-Sandinista activities has been economic sabotage. By damaging the nation's infrastructure and putting further pressure on an already overextended economy, the contras apparently hope to finally convince Nicaraguans that the Sandinistas' rule does not benefit them, but only produces personal hardship and insecurity. The damage done to the Nicaraguan economy by the contra campaign, both directly through sabotage and indirectly through compelling the government to divert resources to defense, has severely set back the country's reconstruction, fulfilling the self-fulfilling prophecies of "mismanagement" uttered by the administration. The shift of rebel emphasis to large-scale economic warfare took place about a year ago. On the eighth of September, 1983, the contras used two planes to bomb Managua's Augusto Cesar Sandino airport, damaging the control tower and causing the field to be closed for several days. On October 11, the rebels blew up a huge fuel storage facility at Puerto Corinto, setting ablaze 3.2 million gallons of gasoline and diesel fuel—about 1 percent of the country's annual usage. The rebels attacked another fuel depot near Bluefields on the Atlantic Coast, on February 24 of this year, and they routinely seek out bridges and ferries as favored targets. The mining this March of four of the country's harbors, including Corinto, made headlines in the U.S. press and around the world, and initiated legal proceedings before the World Court, but it cannot be considered exceptional with respect to U.S.-directed rebel tactics. Run from a secret base near San Lorenzo in Honduras, the mining operations involved some thirty CIA operatives who arranged for collapsible speedboats to be helicoptered to a freighter of Panamanian registry, from which CIA-instructed frogmen ventured into Nicaraguan waters to lay the mines.

Virtually at the same time that the harbor mining was taking place, the contras staged several naval attacks using small highspeed "Sea Rider" boats newly provided by the CIA. Between March 27 and April 4, at least five different "Sea Rider" attacks were reported, some directed against civilian ships not of Nicaraguan registry. The contras have continued conducting sea and air strikes against civilian and economic targets over the course of the summer, terrorizing the population, producing high casualties and further exacerbating tensions between Honduras and Nicaragua.

For an insurgency, the contras are exceptionally well-armed—far better than the Salvadoran insurgency to which they are sometimes misleadingly compared. The CIA supplies the rebels with light missile-equipped aircraft, helicopters, transport planes, 40 and 60 mm mortars, grenade launchers, bazookas, machine guns, night scopes, field communication equipment, and other weaponry. The widely published accounts of the use of Cessna 02-A's show that the contras have the capacity to use aircraft for ground attack. In fact, the contra air force is easily comparable to that of the Sandinistas, who have as yet no advanced aircraft, and are largely limited to light planes, a small number of helicopters, and a few transports, mostly of Somoza vintage.

The contras also have been furnished with ten of the high speed Sea Rider or "piranha" boats. These craft can reach speeds of 75 m.p.h., and are armed with 60 caliber machine guns or 20 mm cannons in the bow, and grenade launchers in the stern.

All told, the counterrevolutionaries are not a struggling, rag-tag indigenous fighting force, but rather a well-equipped invasion army of ten to twelve thousand soldiers, sailors and pilots who get their major support from the U.S. and right wing governments, rather than the local population. Although their hit-and-run tactics may superficially resemble those of a genuine insurgency, they are essentially a conventional force without an active popular base of support. Even the CIA has acknowledged in briefings to Congressional subcommittees that the contras stood little chance of defeating the Sandinistas because they are not accepted as a genuine patriotic liberation force by the average Nicaraguan.

The extent to which the CIA is known to direct their operations has not enhanced the contras' reputation for independence.

One FDN rebel who was a crew member on a plane shot down over Nicaragua last October reported that air and land attacks were coordinated by the United States from the Honduran capital of Tegucigalpa. The same airman also said that he was paid $700 a month by the CIA to perform his missions.

Ongoing contra operations from Honduran bases are having a significantly detrimental effect on their host country as well. Embarrassed Honduran officials have repeatedly had to deny what television documentaries have shown the world: the presence of contra camps in the country. On August 1st, 1984 Armed Forces Chief General Walter Lopez said: "The government of Honduras and the entire nation are equally aware that we have at no time permitted the existence of these groups."

The repeated launching of invasions from the Honduran side of the border has greatly strained relations with Nicaragua, increasing regional tension and, on several occasions, bringing the two countries to the brink of war. In fact, information has surfaced that the Reagan Administration had ordered the preparation of at least two military option papers that anticipate a Nicaraguan military reaction to provocations from Honduras, providing the pretext for the direct introduction of U.S. air and naval power against the Sandinistas.

Honduran opposition leaders have become more openly vocal in their opposition to the contra presence. In a September 13th, 1984 declaration printed in the Honduran daily Tiempo, a coalition of labor unions and human rights groups condemned "the training on Hondura territory of Somocista bands, their use in the 'dirty work' of exterminating supposed domestic subversives and the promotion of attack against the political process in Nicaragua."

There have been recurrent reports of robberies, rapes, and other depredations against the population of Honduran border areas by contra forces. Lt. Col. Edward L. King, USA (Ret.), quotes a Honduran politician in a recent report as saying "We don't want all those armed Nicaraguans running loose in Honduras! We had a wave of bank robberies before when they only had pistols, and now they have machine guns and rocket launchers, it's just too dangerous."

King observed among Hondurans an understandably nervousness among those he spoke with about the future of the contras if and when their funding runs out, and Honduras is left with more than 10,000 heavily armed refugees spread across its northern border region. The Honduran government, he observes, "had expected the contras to return to Nicaragua through a military victory after a campaign lasting perhaps a year. This has failed to materialize."●

IN SUPPORT OF PRIVATE BILL FOR THE RELIEF OF STANISLAV LEVCHENKO

HON. J. KENNETH ROBINSON

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. ROBINSON. Mr. Speaker, Congressman BILL YOUNG of Florida has introduced a private bill which will allow Stanislav Levchenko the chance to qualify for naturalization as an American citizen. Mr. Levchenko's defection from the KGB and cooperation with U.S. intelligence in the face of a Soviet death threat showed remarkable bravery. His efforts to inform the Congress and the American people of the disastrous Soviet system and the danger to America's safety posed by Soviet active measures and Soviet espionage showed a commitment to America and the American way.

I urge my colleagues to join me in giving full support to Mr. YOUNG's private bill, which will modify the applicability to Mr. Levchenko of certain immigration restrictions, allowing him to become a naturalized citizen. Mr. Levchenko has contributed greatly to the security of the American people. He deserves our help in return in becoming a citizen.●

POPULATION GROWTH

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Foreign Affairs newsletter for September 1984 into the CONGRESSIONAL RECORD:

CONTROLLING THE WORLD'S POPULATION

As you read this newsletter, 760 babies will be born. They will be joined by 80 million others within a year. People are literally pouring into the world. The question is: What is to be done?

Rapid population growth is an outstanding feature of recent history. Two thousand years ago the world had 300 million people, a population that took more than 1,500 years to double in size. However, between 1750 and World War I the world's population doubled again, and since 1950 it has doubled yet again, rising from 2.5 billion people at mid-century to 4.8 billion today. The world's population could reach 11 billion in 2050.

Fortunately, these startling figures do not tell the whole story. World leaders are beginning to respond to the intolerable pressures that rapid population growth frequently brings. Indeed, 85 countries in the Third World now provide family planning in some form, a development that has started slowing population growth there in recent years just as it did among the developed countries years before. Taiwan, South Korea, and Sri Lanka have scored successes. China, the world's largest nation, has been able to hold down population growth by taking drastic steps. Still, it is a serious mistake to think that the problem has been solved. The corner has yet to be turned.

The overcrowded Third World is where three quarters of the people on earth now live, and so many new inhabitants are being added each year that the quality of life is threatened. In the next century, more than 50% of the world's population will live in Africa and south Asia, places where resources and capital are now the scarcest. Population in certain regions will grow far beyond the limits consistent with political stability, wiping out social and economic advances. Bangladesh, for example, soon may be a country of 350 million people living in a poverty-stricken area the size of Illinois. We can only guess at the misery that awaits them.

The quality of life is threatened by more than sheer numbers. Population in many cities will burgeon because of rising urban birth rates and the migration in from the countryside of millions of job-seeking poor. Mexico City, for example, will grow from 22.9 million in 1990 to 31 million in the year 2000, making it the biggest city in the world: Housing, sanitation, crime, jobs, and nutrition are just a few of the problems already confounding officials in these vast urban centers. Rural areas will also deteriorate as growing populations use up available, land and water. Overgrazing, deforestation, and soil erosion will take their toll as displaced masses move into marginal, ecologically sensitive rural areas. Some nations may be unable to produce enough food because of the high cost of reclaiming rural land and eradicating insects and diseases.

Unemployment may be yet another result of rapid population growth. Between 1980 and 2000, the number of working-age people from 15 to 64 will increase by 1.1 billion. Agriculture cannot absorb them in many developing nations because the necessary subdivision of land would yield plots too small for subsistence. Also, many poorer nations do not do labor-intensive manufacturing, and in any case rapid population growth may retard economic development by depressing productivity in industry, reducing income for workers, and increasing inequality between the skilled and the unskilled. Likewise, rapid population growth diminishes the ability of families to invest time and money in their children, and it strains nations' ability to invest in the infrastructure and education needed for economic progress.

These phenomena in the Third World will not leave the United States untouched. We have major economic and security interests in many nations where populations are increasing fast. Rapid population growth may not be an immediate cause of instability and tension, but it is an underlying, intensifying cause. While population control is no substitute for aggressive policies of economic development based on freer trade and a more equitable division of wealth, all countries have a common interest in controlling population growth. Family planning initiatives should include basic education, particularly for women since educated women are likely to have fewer children. Families also need better access to modern means of birth control. Other possibilities include payments to women who defer pregnancy and taxes or other sanctions on families that become too large. The fundamental need is a change in the way that Third World people see themselves, their families, their lives, and their futures. Whatever the approach, governments must monitor progress.

American population assistance, 5% of our foreign aid program, has two goals: to enhance the freedom of people in developing countries to choose for themselves the number and spacing of their children, and to encourage population growth consistent with economic growth. We support safe, effective, and affordable family planning, and we promote research to make family planning more available. Congress has forbidden the direct expenditure of American population assistance for abortion since 1974. Most of our effort is funneled through bilateral programs, but we make some funding available for multilateral programs, the United Nations Fund for Population Activities espe-

cially. Worldwide population assistance today amounts to $1 billion annually, 2% of the total assistance available for development. The United States contributes 40% of this sum. Japan, Norway, Sweden, Germany, Canada, Holland, and England are also major donors.

American foreign policy usually focuses on the immediate flashpoints. Rapid population growth, however, is a long-term issue that cannot be addressed piecemeal. We must fix our attention firmly on the threats that it poses, as well as on economic growth as the best way to counter it. Population control, too, is an essential element of our approach.

My view is that rapid population growth will come to an end in time. The only question is whether this will happen because of individual choice, or because of government dictate.●

PERSONAL EXPLANATION

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. LEWIS of Florida. Mr. Speaker, I was unable to be in Washington, DC, this morning due to official business. During this time, I was unable to vote on rollcall No. 424. Had I been present, I would have voted "no."●

ROSH HASHANAH MESSAGE

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. SMITH of Florida. Mr. Speaker, this past week marked the beginning of the Jewish New Year with the celebration of Rosh Hashanah. When the National Conference on Soviet Jewry testified at the Democratic and Republican Platform Committees' hearings, the message was loud and clear: America cannot ignore the thousands of Soviet Jews, as well as other minorities, who are persecuted for their beliefs and are virtually held hostage in their own country.

Mr. Speaker, I would like to share the following article by Morris B. Abram, chairman of the National Conference on Soviet Jewry, with my colleagues.

REFLECTIONS ON A SEASON OF HOPE

(By Morris B. Abram, NCSJ Chairman)

During Rosh Hashanah services throughout the world, Jews are summoned by the awesome call of the shofar to awake and prepare for the New Year—5745. It is a time for reconciliation with events of the past, as well as a time for hope and renewal for the year ahead.

At this time of introspection and hope for the future, scores of Soviet Jews mark another year of denial—denial of the basic freedom to live and worship as Jews and denial to seek that freedom through repatriation to Israel.

While we, who are free to rejoice and worship, lift our voices and spirits in prayer, Soviet authorities intensify their efforts to silence the voice and crush the spirit of Soviet Jews. For many, the New Year will dawn through the bars of desolate prison cells, the "home" Soviet authorities reserve for those Jews "too vocal" in their desires to emigrate to a Jewish homeland. Others will observe the holiest season of Judaism in exile—isolated from family, friends and the barest thread of Jewish culture. Even those Jews fortunate enough to live "freely" within a metropolitan area will find holiday worship difficult in a country where there are about 90 synagogues to service a community of more than two million.

Last year, the government-sponsored "Anti-Zionist Committee of the Soviet Public" rationalized the drastically reduced emigration statistics by claiming "there are no more Jews who wish to leave," calling evidence to the contrary "a juggling of figures by Zionist propaganda." The alleged lack of interest was refuted by the National Conference on Soviet Jewry. We have documented the fact that over 350,000 Jews have asked relatives in Israel to send the invitations necessary for beginning the emigration process. The refusenik community, comprised of Jews whose applications for emigration have been rejected at least twice, presently numbers over 15,000. Scores of families have struggled for their right to leave for over 10 years, and more than 130 families have been waiting between five and ten years.

It remains a mystery as to why the U.S.S.R. persists in squelching legitmate claims of repatriation and family reunification. The persistent suppression of Soviet Jewish emigration is a violation of all international law, norms and standard of behavior.

Maimonides, the medieval Jewish scholar and philosopher, summoned us to see our deeds "as just balanced between merits and faults; as if one more will tip the scales, as if the fate of the entire world hangs in the balance." As the shofar ushers in the year 5745, we are reminded of the need to strengthen and renew our efforts on behalf of Soviet Jews in the hopes of tipping the scales to the side of justice.

We call upon the Soviet Union to acknowledge and conform to international law by permitting Jews who wish to leave the right to do so, by granting to those who choose to remain the same rights accorded every other Soviet nationality and religious minority, and to halt the current wave of anti-Semitic propaganda masked as anti-Zionism. We urge the Soviets to grace the New Year with a change in its policies towards Soviet Jews, adopting a tone of greater compassion and eased tensions.●

ACTION AGENCY'S SENIOR COMPANION PROGRAM

HON. SID MORRISON

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. MORRISON of Washington. Mr. Speaker, I rise today to communicate my admiration for a group of people who perform an important service to our Nation's elderly. I am speaking of the Senior Companion Program, which is administered by the ACTION Agency. This program is in its 10th year of dedicated service.

Today, a group of senior companions are getting together in Yakima, WA, to celebrate this 10th anniversary. It is because I cannot be there to personally commend them and because I know my colleagues share my deep appreciation for the senior companions across this country, that I stand before you.

As you know, the Senior Companion Program is one of three older American volunteer programs administered by ACTION. The companions provide friendship, basic care and assistance in daily living to elderly people who are frail and who may risk institutionalization. The companions must be low-income persons and at least 60 years of age.

It is a well-known fact that more and more of our population is living longer and longer. While this is a heartwarming trend, we cannot ignore the fact that because our society is more transient that it once was, older people are more apt to live alone than with their families.

Living alone can be a troubling experience, especially in face of the health problems and loss of mobility associated with growing older. Senior companions may provide the care and companionship that makes the difference needed for an elderly person to enjoy living alone. Their service may also allow someone to live at home instead of being institutionalized.

I strongly believe that the Senior Companion Program is a perfect example of how he should address the "Greying of America." The service provides the volunteers a sense of self-esteem, it provides the recipients companionship and living assistance, it provides families a sense of relief that their loved ones are being cared for if they cannot be with them themselves, and of course, it helps to keep our Nation's older people living at home and out of institutions. Once again, Mr. Speaker, I want to reiterate my admiration of the senior companions as they celebrate 10 years of service.●

THE DEATH OF A REFUSENIK'S MOTHER

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. FEIGHAN. Mr. Speaker, I have just heard the terrible news that the mother of Jewish prisoner of conscience Zachar Zunshin, Dora Zunshin, died yesterday of a heart attack after hearing of the harsh treatment her son endures in a Soviet prison camp. Until yesterday, the whereabouts of Zachar Zunshin were unknown. He was last seen on August 28, 1984, when he was placed on a train, presumably to a forced labor camp in Irkutsk, in the heart of Siberia. A re-

fusenik since 1980, Zachar Zunshin was most recently arrested in March of this year and tried under Article 190-1 of the Soviet Criminal Code. He was charged with disseminating anti-Soviet slander.

Dora Zunshin suffered her fatal heat attack when her husband brought her the news of the prison conditions endured by her son. Zachar's father is reported to have brought the news that the "camps where Zachar has been placed are near lead mines and chemical processing plants from which no one comes back alive." Further reports indicate that Zachar Zunshin suffers from repeated attempts of intimidation from the head of the prison camp.

The inhuman cruelty, the harsh conditions, and the brutal terror which Zachar Zunshin endures must be brought to the attention of the world. Lynn Singer, former president of the Union of Councils for Soviet Jews, has written eloquently on this subject. She has written that: "The crackdown of Jewish emigration is a part of a general drive toward inhuman discipline and regimentation in the Soviet Union. As the number of Jews who are allowed to emigrate continues to decline, as the persecution of Baptists, Seventh-day Adventists, and young Russian Orthodox believers continues apace, so will the number of men like Zachar Zunshin, willing to face the consequences of their pursuit of freedom, continue to rise."

The death of Dora Zunshin is a tragedy, not only for her family and her friends, but for all of us who are inspired by the courage and determination of her son. The struggle of Zachar Zunshin is not an easy one, and it will not be won without the commitment of brave men and women everywhere. I know that other members will join in my expression of sorrow at this tragic news.●

SCIENTIFIC RESEARCH AT U.S. COLLEGES AND UNIVERSITIES

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. WALGREN. Mr. Speaker, American research universities are the core of our basic scientific research and the source of much of our future scientific and engineering talent. As chairman of the Subcommittee on Science, Research and Technology, we are especially concerned with the health and vitality of research at U.S. colleges and universities.

Throughout the country we are witnessing new partnerships between institutions of higher education, businesses, and local or State government. These partnerships are being formed to meet the needs of each of the partners: Universities and colleges are concerned with additional resources for research and education; industry is concerned with a broadened base of fundamental research essential for technological innovation and increased productivity; local and State government are concerned with new opportunities for regional economic development based on emerging technologies.

These new partnerships present both problems and opportunities for our universities and colleges. These issues are thoughtfully discussed in an editorial appearing in the September 28, 1984 issue of the prestigious journal, Science. The author of the editorial is Dr. Wesley W. Posvar, chancellor of the University of Pittsburgh.

I commend this editorial to my colleagues.

The editorial follows:

NEW HORIZONS FOR THE UNIVERSITY

(By Dr. Wesley W. Posvar)

A new phase is imminent for American research universities, in which staggering problems and issues—faltering domestic economic productivity, social inequities, unstable foreign relations, and a sagging U.S. share in the international marketplace—mandate new applications of serious, creative intellectual enterprise. One should not be overly expectant about this, but the university's horizon is indeed widening and the potential benefits are real. Alliances between universities and other sectors of society are multiplying, encouraged by some government funding and tax policies and by private sector coalitions such as the Business-Higher Education Forum.

At my own university the trend is felt at all levels. Locally, we have helped to form business-municipal coalitions to confront urban fiscal problems; expanded education to foster international trade and exchanges; created regional data bases as tools for economic planning and expansion; moved toward comprehensive collaboration with school systems; and formed a subsidiary Foundation for Applied Science and Technology to accelerate movement of knowledge from laboratory to marketplace through partnerships with industry. Moreever, we have joined with AT&T Information Systems in a project to create a fiber-optic campus of the future, giving us the capacity for quantum growth in versatile and integrated transmissions of audio, video, and digital information.

Increasingly, universities enter into arrangements like these with more hopeful expectancy than apprehension. It is true that as the partnerships multiply the university is presented with a set of deeply introspective questions such as how to meet the demands of public service while encouraging pure scholarship and preserving culture. The values of autonomous investigation and unfettered research were traditionally held aloof from relevance, applications, outreach, and demonstrable public benefits. But this stance is now being questioned. Admittedly difficult problems may be encountered in business and government partnerships, such as maintenance of the openness of university research and avoidance of conflict of interest, but these issues should be challenges for constructive resolution. The problems of society are imperatives for action, and the universities of America are an immense public resource. Their leaders have no choice but to preserve freedom of inquiry while playing a stronger role—even becoming a force—in public service and the formation of public policy.

We must work to ensure that the challenges and opportunities presented by universities' burgeoning new relationships will actually broaden and enhance their historic role. Among U.S. institutions, the university has always stood apart for its ability to accommodate greater diversity within a commitment to common principles. In the decades ahead no goal will be more important to this nation. Adversarial relations such as those of labor, business, and government often debilitate our efforts to compete. In the countries of Western Europe and Japan, industrial objectives, national economic planning, tax and export legislation, and labor policy are normally merged into singular national purpose. Cultural homogencity is often cited as the essential ingredient.

Nevertheless, our own cultural and economic melting pot is a source of vigor, ingenuity, and creativity that can help return the United States to economic vitality and international leadership. American business management has a characteristic style, involving negotiation and compromise, sometimes faltering, that often leads to breakthroughs. But the advantages of diversity are nowhere more impressive than in the American university where men and women come together in an atmosphere of collaboration, constructive competition, synergy, enterprise, and openness. There is great need for the influence of this expansive yet integrated kind of leadership in the United States today. Properly managed, universities' growing partnerships with many sectors should add a dynamic new force in the revitalization of America.●

TRIBUTE TO JEANNE FLANAGAN

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. MORRISON of Connecticut. Mr. Speaker, I would like to honor today Jeanne Flanagan who won a gold medal in the women's eight oar rowing event at the 1984 International Olympics in Los Angeles.

Jeanne Flanagan is being honored today at a parade in Killingworth, CT, in Connecticut's third district, where she is a lifelong resident. She attended Killingworth Elementary School, and later Morgan High School where she was on the Morgan High School basketball and swimming teams.

Jeanne discovered the sport of rowing when she began studying for her BA degree at the Florida Institute of Technology (FIT) in 1976. She rowed for FIT's rowing team and in 1980 attended the world championships in Lucerne, Switzerland. It was at the world championships that she received international recognition in rowing by winning a silver medal in the women's pair crew. In 1980 she also began rowing with Princeton University's distinguished rowing team.

I know that all my colleagues share my pride in Jeanne's tremendous achievement. She has brought international recognition to her country and has captured the hearts of the people of Killingworth and the State of Connecticut. I am honored to be a part of this important occasion and would like to congratulate Jeanne and wish her the best of luck for her continued success.●

MR. LUIS LAUREDO ON HUMAN RIGHTS

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. RICHARDSON. Mr. Speaker, I would like to insert in the RECORD a statement prepared for the Democratic platform hearing by Mr. Luis Lauredo of Miami, president of the Cuban American Democrats.

Mr. Lauredo makes some excellent points which deserve consideration by my colleagues regardless of their party affiliation.

If U.S. policy is going to criticize governments of the right such as Chile and Paraguay for their human rights abuses, it should also be prepared to speak out against the many human rights abuses of the left, as we see in Cuba.

I urge my colleagues to read Mr. Lauredo's thoughtful and thought-provoking speech.

The speech follows:

Madame Chairperson and distinguished members of the Platform Committee, I come to you as President of Cuban-American Democrats to speak about issues that concern us deeply.

But, let us begin by correcting some wrong impressions. Cuban-Americans are not all Republicans. In Dade County about 35% of Cuban-Americans are registered Democrats, with about 10% registered as Independents. These percentages are higher for Cubans living in the Northeast and Midwest. In South Florida, most of the Cuban-Americans elected to local office are Democrats. It is in the Cuban-Americans' relation and perception of the National Democratic Party and our recent candidates for President and their positions and/or performance on foreign policy that the friction begins.

Far from being "right wing conservatives", Cuban Americans are heirs to one of the most progressive and liberal traditions in Latin America. The Cuban Constitution of 1940 embodies social, political and economic principles far more liberal than anything in the U.S. domestic agenda today. It was a desire to return to constitutional government overthrown by General Batista in 1952 that fueled the human sacrifice of countless numbers of Cubans in the struggle for democracy. Far from returning the country to open elections and the principles of the Constitution, to which he had pledged the revolution, Fidel Castro betrayed the aspirations for freedom by imposing a totalitarian regime. For those of you who may not be counting, Fidel Castro has now held power without elections for over 25 years!

So, what do we ask of you today? That in your deliberations of foreign policy towards Cuba, the Democratic Party hold up the sacred principles of democratic liberalism which is the backbone of our Party.

Communism is the antithesis of liberalism. The liberal democratic tradition is historically bound up with the long struggle against arbitrary power and with the notions of liberty, individual rights, consent, and representation. It argues that just government depends on the consent of the governed and that just power flows only from the people. Liberalism stands for a free press, freedom of speech and religion, freedom of assembly.

It seeks to restrain arbitrary power by setting restraints such as the concept of separation of powers, limits of terms of office, bill of rights, written constitutions and the rule of law.

Why is it then that we liberal democrats are not consistent with our principles when dealing with Marxist dictatorships? Historically speaking, Marxism arose in opposition to liberalism. it replaces the liberal's concerns for the individual with a concern for a "class" which imposes a dictatorship, in effect a brutal dictatorship by an elite.

Look at Castro's Cuba. 25 years of personal arbitrary rule. No elections. No political parties. No free press or speech. Thousands of political prisoners and on and on. And that's not to speak of the human suffering of the Cuban People by his disastrous economic experiments.

It should be appreciated, too, that various efforts since 1970 to "accommodate" Castro have been answered by increased anti-U.S. and anti-Western activities in Africa and in the Western Hemisphere. As the only communist dictator to enthusiastically support both the invasion of Czechoslovakia and Afghanistan, Castro is the most complete puppet of the Soviet Union.

What should be our proper policy as Democrats? Listen to the words of one of the two leading Democratic presidential candidates in a speech two days ago:

"If Cuba was willing to become, in effect a western nation and join with us, maintaining whatever form of government Castro wishes, then we could hold out the possibility of diplomatic recognition."

". . . maintaining whatever form of government *Castro wishes* . . ." So much for liberal democratic principles. My fellow Democrats, it is almost embarrassing!

I challenge you by the liberal standards of the Democratic Party to include in the 1984 Democratic Platform that as a prerequisite for diplomatic relations with Cuba, the following conditions must be met:

(1) That Cuba must take steps to effect free and internationally supervised elections, allowing sufficient time and freedom for the formation of free political parties.

(2) The release and freedom of all political prisoners in Cuba.

(3) The re-establishment of freedom of the press, of speech and all other individual rights in Cuba.

To ask for less would be at best a betrayal of the principles of the Democratic Party, and to carry the moral burden of helping institutionalize tyranny.●

SHAW COMMUNITY CENTER FOOD COMMITTEE HONORS REPRESENTATIVE WALTER E. FAUNTROY

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. MITCHELL. Mr. Speaker, I would like to call the attention of my colleagues to the Shaw Community Center Food Committee located here in the District of Columbia. The committee was formed in 1966 to let the residents of the Shaw inner city know that they are not forgotten by others more fortunate than themselves.

Each year since 1966, the committee has distributed turkey baskets at Thanksgiving as well as feeding people at the churches in the Shaw area. In 1982, the committee distributed over 200 baskets at $40 each and fed 536 other people at church dinners.

The committee also underwrites other events for the youth in the Shaw area. These events include an annual trip to the circus for several hundred children. The committee also assists those in the Shaw area in many emergency situations.

In 1982-83, a grant from the Bartenders Ball foundation enabled the committee to expand its activities. Fifty young people from the inner city were selected on the basis of scholarship and civic awareness and were sent on a 1-day trip to New York City. There they visited such sites as the Statue of Liberty and the United Nations. Most of these children had never been out of the city, and this trip helped to prepare them for their responsibilities in the future.

The Food Committee, composed of prominent Washingtonians, promotes several events each year to raise funds. The primary event is a testimonial dinner for the "Humanitarian of the Year," in which the committee is joined by Members of Congress, the Mayor of the District of Columbia, and the DC City Council. The committee also solicits contributions from others to further the committee's programs. Contributions to the Food Committee are tax deductible and all contributions go toward the programs of the committee.

Mr. Speaker, on October 4, 1984, the Shaw Community Center Food Committee will honor our distinguished colleague from the District of Columbia, WALTER E. FAUNTROY, with its "Humanitarian of the Year Award." The award will be presented at the committee's annual dinner. Congressman FAUNTROY is one of the original founders of the Shaw Community Food Committee.

Congressman FAUNTROY has represented the citizens of our Nation's

Capital in the U.S. House of Representatives since 1971, effectively combining this leadership role with his others in the church and civil rights communities.

A native of Washington, DC, Congressman FAUNTROY was educated at Dunbar High School, at Virginia Union University, where he graduated Cum Laude in 1955, and at Yale University Divinity School, where he earned his bachelor of divinity degree in 1958. He began his public career in 1959, as pastor of the church of his childhood—New Bethel Baptist Church—where he continues to serve as pastor.

He brought to his seat in the Congress a rich background as a civil rights activist and Christian minister. Dr. Martin Luther King, Jr. appointed him director of the Washington Bureau of the Southern Christian Leadership Conference where he performed many valuable services for the movement of the sixties. He was DC coordinator for the historic March on Washington for Jobs and Freedom in 1963. He was also coordinator of the Selma-to-Montgomery March in 1965, and the leader of a historic urban renewal project aimed at revitalizing housing, businesses, and public facilities for low- and moderate-income families. He served as first appointed vice-chairman of the DC City Council from 1967 to 1969, and as national director of the Poor People's Campaign in 1969.

In 1971, he was the first person elected Delegate to the House from the District of Columbia in 100 years. Within 2 years, the Congress had passed the Home Rule Charter, which he designed, that permitted the District of Columbia to elect its own Mayor and City Council. In 1978, he engineered the passage by both the House and Senate by a two-thirds majority of a proposed constitutional amendment calling for full congressional representation for District of Columbia citizens in the U.S. Congress and has been influential in its ratification by 16 State legislatures.

He continues his legislative intitiatives for Home Rule for the District in his capacity as chairman of the Committee on the District's Fiscal Affairs and Health Subcommittee. His growing seniority has also allowed him to assume the chairmanship of the Committee on Banking, Finance, and Urban Affairs' Subcommittee on Domestic Monetary Policy which has oversight responsibility for the Federal Reserve Bank. As a member of the House Select Committee on Narcotics Abuse and Control, Congressman FAUNTROY has been a strong advocate of eliminating the illegal sale and use of drugs in the District of Columbia.

In his capacity as chairman of the Congressional Black Caucus [CBC] for the 97th Congress, he introduced two comprehensive alternative budgets known as the Fauntroy substitute for fiscal year 1982 and the Fauntroy amendment for fiscal year 1983. As chairman of the CBC's Braintrust on Black Voter Participation and Network Development, he has played a key role in the mobilization of black political power behind black and white candidates alike on the basis of public policy positions that are responsive to the needs of blacks, women, the disadvantaged, and other minorities. In that capacity, he has developed a targeted black voter registration plan to increase black registration by 25 percent in 24 States to impact on the 1984 elections.

Congressman FAUNTROY is coordinator of National Black Leadership Roundtable [NBLR], composed of heads of over 150 national black organizations. Under his leadership, the NBLR developed and issued the "Black Leadership Family Plan for the Unity, Survival and Progress of Black People" and the "People's Platform." He is also chairman of the board of the Southern Christian Leadership Conference and vice president for Government Affairs of the Martin Luther King, Jr. Center for Non-Violent Social Change.

In the 98th Congress, Congressman FAUNTROY has worked to forge a "new coalition of conscience" made up of blacks, women, Hispanics, church, labor, peace activists, and whites of goodwill. He was national director of the "20th Anniversary March on Washington for Jobs, Peace, Freedom" which was mobilized by the coalition and brought 500,000 people to Washington, DC, on August 27, 1983. He now serves as chairman of the planning council of the "New Coalition" as it pursues the legislative package of 14 bills which are the goals of the march in the 98th Congress.

During the Democratic primary campaign, Congressman FAUNTROY served as chair of the Issues and Political Strategy Committee for the Jesse L. Jackson Presidential campaign. In that capacity, he was the principal organizer for platform issues and campaign strategy. Following the Democratic National Convention, Congressman FAUNTROY was named as one of the national vice chairs for the Mondale/Ferraro campaign.

In recognition of his record of humanitarian community service, his alma maters, Virginia Union and Yale University, awarded him honorary doctor of divinity degrees. In addition, the Georgetown University Law School awarded him a doctor of laws degree for his leadership in bringing voting rights to the people of the Nation's Capital.

Congressman FAUNTROY is married to the former Miss Dorothy Simms of Petersburg, VA; and they have one son, Marvin Keith.●

JUSTICE FOR MRS. SHRYOCK

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. WILLIAMS of Montana. Mr. Speaker, on September 20, 1984, I introduced a bill to extend survivor benefits to Deola Shryock of Polson, MT.

Last January, Lt. Col. Harry Lee Shryock volunteered to provide the pilot services demanded by a gun-wielding robber and kidnaper, holding a 13-year-old boy hostage, with the agreement that the kidnaper release the boy. The teenager was released unharmed. However, in a tragic sequence of events the robber turned his gun on Lee Shryock, killing him in the cockpit of the plane.

Mr. Shryock was a hero. He cared for his family, his neighbors, and he cared about his country. Lee Shryock had 31 years of military service, flying missions in World War II, Korea, and Vietnam. He retired from military service 13 years ago. Of course, he remained very active flying charters and involved in the Polson community.

Thinking of his family and his wife of 40 years, Deola Shryock, Lee had financially arranged for an Air Force survivors annuity fund. In April 1982, he had elected for a new plan to increase the annuity benefits and had made increased monthly payments from then until his tragic death in January. Because of the law that places a 2-year in-anticipation-of-death limitation on the increased benefits, they will not accrue to Lee's widow.

I have introduced legislation to ensure fairness for Lee's wife Deola. With the stipulation that she make the remaining 3 months of payments, my legislation would allow Deola Shryock to receive the increased benefits effective from January 12, 1984—the day after Lee's death. Fortunately, such a tragic event happens very rarely. But then, heroes are also rare. Mr. Shryock's benefits should also be extended to Deola. The Nation must be fair to Lee's family.

It is my hope that the House Judiciary Committee will send this bill promptly to the floor and I urge this body to support passage of the measure.●

SECRETARY SHULTZ' WELCOMING REMARKS TO THE HOLOCAUST CONFERENCE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. GILMAN. Mr. Speaker, Secretary of State George Shultz addressed

recently a conference sponsored by the U.S. Holocaust Memorial Council on September 17, 1984, in Washington, DC.

Secretary Shultz well captures the deep and lasting significance the lessons of Holocaust have for us today and for future generations. He poignantly observes that "in every generation the capacity for evil in the human spirit can be confronted and eventually defeated by equally powerful devotion to justice and the capacity for self-sacrifice."

I commend to my colleagues the Secretary's remarks, and request that they be inserted at this point in the RECORD.

Secretary Shultz' remarks follow:

REMARKS BY SECRETARY SHULTZ

I consider it a great honor as well as a privilege to welcome you, on behalf of the Government of the United States, to this international conference sponsored by the U.S. Holocaust Memorial Council.

This gathering is appropriately named. Faith in humankind—in its heroism, its mercy, and its capacity for boundless self-sacrifice—is the great legacy of the rescuers of Jews during the Holocaust. For in the kingdom of evil established by the Nazis, anyone who risked his life to rescue Jews had to be a hero, a tower of moral strength, fortitude, and righteousness.

The purpose of this conference is twofold. First, there is the scholarly duty—the duty of remembrance. Rescuers and survivors, scholars and educators will devote the next 2 days to recording the facts, probing the issues, and bearing witness to the truth. Many of these discussions, meetings, and personal histories will be recorded and kept for future use in the archives of the U.S. Holocaust Memorial Museum.

But there is a second purpose to our gathering here. For this conference was not simply conceived in the interests of scholarship. We are here also to pay tribute to the rescuers. We wish to celebrate the rescuers' courage and to acknowledge their achievement. In doing so, we reaffirm our own commitment to the values for which the rescuers placed their lives at risk.

It was once widely believed that the spread of education and culture would lead inevitably to a more just, more humane society. As more and more people's minds were exposed to the intellectual rigor of the sciences, as their inner landscapes were enriched by the consolation and delight of the humanities, ancient prejudices would wither and die, reason and compassion would finally hold sway.

That was the theory, and on the surface it seemed quite plausible. Yet today we know that it was wrong. Nowhere were the sciences and humanities more highly developed than in Germany. Nowhere was there a higher level of education, nor finer universities. Yet, when economic disaster struck and social order crumbled, high culture and education did not prove sufficient to inoculate German society against the pernicious virus of Hitler's murderous racism.

History offers other reminders that the evolution of mankind is a continual struggle between the tendencies of evil and the impulse of decency, a struggle that exists in all societies and perhaps in all human nature. It may be that our real bulwark against tyranny and evil is not high culture but the good sense and humane instincts of average citizens who know the difference between right and wrong.

What we know today is that a rising standard of living or an increasing level of education do not guarantee the triumph of righteousness and compassion in a society. These virtues must be consciously and deliberately fostered. And one way of doing this is by honoring the righteous men and women in our midst, recording their achievements, celebrating their deeds, and holding them up as an example to our children.

This conference will do just that. It will try to tell the story of the rescuers: of the modest housewives and the simple laborers; of the student groups and the small businessmen; of the parish priests, the ministers, and the mothers superior; of quiet villages and daring spirits; of the gallant Danes and the brave Bulgarians; of the great Swedish nobleman, Raoul Wallenberg, about whose fate we still await a truthful accounting from the Soviet Union; of the men and women who risked imprisonment, torture, death, and the murder of their loved ones in order to rescue members of a despised minority, set aside for extermination. We remember and cherish them all.

These righteous men and women are our heroes. They embody all that is noble and admirable in our civilization. What a tragedy that there were so few of them. And what a terrible indictment that hardly any rescuers are to be found among the statesmen and leaders of the period.

No event in modern history approaches the horror of the Nazis "final solution." And, therefore, there are few other instances of heroism and altruism that can compare with that of the righteous people we are honoring today.

But the principle the rescuers upheld, and for which many gave their lives, continues to animate heroic idealists of our own day, whose consciences will not permit them to acquiesce in injustice. It is the principle summed up by one of the spiritual mentors of the American Revolution, Edmund Burke, when he said: "The only thing necessary for the triumph of evil is for good men to do nothing."

When Andrei Sakharov denounces the systematic denial of human rights by Soviet totalitarianism and exchanges a position of honor and comfort in the Soviet hierarchy for a life of persecution and exile, he honors the example and the memory of the rescuers. So do the brave individuals administering the funds provided by Alexander Solzhenitsyn to aid the families of Soviet dissidents; each is eventually arrested, but others come forward to volunteer and face labor camps themselves.

The spirit of the rescuers lives on in the acts of those courageous South Africans, of all races, who have sacrificed—sometimes their privilege sometimes their lives—to protest and expose the cruelties of apartheid. We have seen it in the mothers of Buenos Aires' Plaza de Mayo, who protested the disappearance of their children week after week, year after year—even after some of their own numbers "disappeared"—until the dictators of Argentina were driven from power and democracy was reborn.

Thank God most Americans have never had to face choices like this, but a few of us have. One who did was an American officer who was captured during the Vietnam war and survived an 8-year ordeal in a North Vietnamese POW camp. There, he learned the lesson that the lives of these rescuers teach us.

Admiral James Stockdale put it this way: "From this eight-year experience I distilled one all-purpose idea plus a few corollaries. It is a simple idea. An idea as old as the Scriptures, an idea that naturally and spontaneously comes to men under pressure. That idea is, you are your brother's keeper."

The magnitude of these injustices, I repeat, is not the same. They cannot be equated with Nazi genocide, which was unique in the annals of human depravity. Nor does acting against these injustices carry the same mortal dangers faced by the rescuers of the Holocaust.

But what these brave men and women do, each in their own way, is to show that in every generation the capacity for evil in the human spirit can be confronted and eventually defeated by equally powerful devotion to justice and the capacity for self-sacrifice.

And make no mistake: that capacity for evil did not die in the bunker with Hitler. The evidence is all around us. There are things going on in the world today which, if not confronted squarely and defeated, can mushroom into wholesale threats to the foundations of our civilization. Whether the issue is state-sponsored terrorism, genocide in Cambodia, or anti-Semitism masquerading as anti-Zionism at the United Nations, the legacy of the rescuers admonishes us all to stand up and fight back. In the end, it is our souls that are at stake.

Ladies and gentlemen, I wish you a productive and memorable conference. In honoring the memory of the rescuers, you offer inspiration and moral instruction to all of us, whose duty it is to ensure that the human race never again forgets its humanity.●

TRAGEDY IN THE RING

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. RICHARDSON. Mr. Speaker, I would like to draw the attention of my colleagues to a recent tragedy in the boxing world, the death of John Kevin Gordon, a Washington area club fighter. His untimely death, along with the recent health problems of Muhammed Ali, highlight the clear need for uniform regulation of the sport of boxing.

John Gordon's death is a virtual instant replay of Victor (Vito) Romero's in 1980 at the Albuquerque Civic Auditorium. Both boxers were young, skilled, accomplished. Both deaths occurred while the boxers were sparring. Both might have been prevented.

John Gordon was disallowed from boxing over a year ago due to a bad heart. He was just recently allowed back in the ring. In the case of Muhammed Ali, recent medical findings are no surprise to people who know the real origin of Ali's famous "rope a dope." Hit so many times over his long career, Ali is now living testimony to the need for boxing reform.

These two tragic cases underscore the need for action. Two things are most needed: uniform health stand-

ards and a Boxing Commission to establish and enforce these standards.

Victor Romero's death in 1980 was not without impact; in 1983, New Mexico became the first State in the country to require all amateur boxers to wear protective headgear. His death inspired much-needed action on the part of government. It is my hope that Congress will take note of these most recent tragedies, and of all the preventable tragedies in the ring, and take similar action in the days ahead.●

IDA VII REPLENISHMENT

HON. MICKEY EDWARDS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. EDWARDS of Oklahoma. Mr. Speaker, there is discussion about an attempt to use the continuing resolution to authorize our share of the funding of the International Development Association. I feel very strongly that we cannot encourage a process that allows IDA replenishment to bypass the normal authorization procedure. The members of the Foreign Operations Subcommittee within the Appropriations Committee have repeatedly expressed their opposition to the bad precedent set in 1981 when we authorized IDA VI funding without full consideration of the pros and cons of zero interest and 50-year loans.

I do not wish to debate here the important policy issues regarding IDA. I only wish to point out that this would be the second time Congress has attached IDA authorization to an omnibus appropriation bill before both sides of the aisle had the chance to look at how we distribute agricultural and development aid to developing countries. I opposed the way IDA VI was slipped through the back door in 1981, and I oppose authorizing the IDA VII replenishment in the same fashion now. I cannot understand how we could authorize an additional $2.25 billion on top of an overloaded continuing appropriation resolution without any separate discussion or separate vote on this floor.●

CONGRESSMAN JAMES FLORIO ADDRESSES VICTIM COMPENSATION

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. MARKEY. Mr. Speaker, I rise to call to the attention of my colleagues the stance of several editorial commentators and the President of the United States, a stance that is at best contradictory and at worst hypocritical. These contradictory stances were recently addressed by our distinguished colleague and father of Superfund, JIM FLORIO, and his remarks, which are included in the RECORD, prompted my own scrutiny of the issue.

The issue at hand is an issue that is before this Congress in many forms—the question of victim compensation. Today, the House of Representatives has no less than three major bills that all address the question of victims compensation. They are: The Superfund bill, which had provisions on creating a Federal cause of action for victims exposed to hazardous waste; the asbestos bailout bill, which provides for an administrative system to relieve the liability companies now face in court; and product liability reform, which provides for a Federal cause of action for victims of products.

The contradiction comes when you examine the position of the Washington Post and President Reagan on these issues. How can President Reagan support a Federal cause of action for victims of products but oppose a similar provision for victims of poisons? How can the Washington Post advance a Federal administrative system for asbestos victims—and thereby benefit industry—and attack a similar system for victims of toxic wastes? The sad fact is that these positions are contradictory in their stance, but somehow consistent in their defense of polluters.

The chairman of the subcommittee which has devoted an enormous amount of time and thought to this issue, JIM FLORIO, recently gave an excellent discourse on this question to the American Bar Association. I commend his remarks to my colleagues:

REMARKS OF HON. JAMES J. FLORIO, CHAIRMAN, SUBCOMMITTEE ON COMMERCE, TRANSPORTATION, AND TOURISM

I appreciate the opportunity to speak to you on the subject of legislative developments in the area of liability associated with generation, transportation and disposal of hazardous wastes.

I will focus on legislation which is pending in the Congress to reform the laws dealing with liability to those who are injured by exposure to toxic chemicals.

As encouraging as are voluntary efforts to prevent such exposure now taking place in industry, the chief responsibility for formulating preventive programs still must reside with the Environmental Protection Agency.

Over the past few years, EPA's efforts to meet this important regulatory challenge have been virtually non-existent. As a direct result of the agency's repeated failures, there has been an increase in public pressure for stronger liability laws against the manufacturers, transporters and disposers of these unregulated products. At the same time, some members of industry, hoping to take advantage of the prevailing deregulatory atmosphere, are pressing in other contexts for a weakening of those laws.

Right now, the two conflicting efforts are being played out in different legislative contexts. But it's only a matter of time before these contradictory efforts clash. I predict that when they do, the demands to strengthen the liability laws will prevail over the long-term. Let me explain why.

Pressure to enact federal legislation to change the direction of state product liability law comes from three major sources.

First, many lawyers and others who have been involved in workers' compensation programs at the state level have become increasingly aware that the system we so ambitiously set up a few decades ago to deal with workplace injuries has worked out very well in cases of sudden, traumatic accidents but has proved inadequate to cope with more subtle cases of long latency occupational diseases. These issues came to a head when Johns Manville and other companies which manufactured asbestos products started to file, or threatened to file, bankruptcy petitions, and the crisis of who would pay for the injury of workers suffering from asbestosis and related diseases was brought to Congress' doorstep. Congressman Miller of California and others began to develop ambitious proposals to establish an alternative administrative compensation system which would be funded partially by industry and partially by the federal government.

But the Miller effort soon foundered on the threshold question of whether such an administrative system would preempt worker access to the courts and it remains stuck on the shoals of that fundamental dilemma to this day.

In the meantime, on the Senate side of the Hill, several major business organizations spearheaded by the National Association of Manufacturers began pushing for a uniform national product liability law which would preempt all state tort laws in that area. Proponents of such legislation argue that by ensuring uniform standards nationwide, Congress would give American manufacturers desperately needed certainty as they ship and sell their products interstate. This certainty, in turn, would lower the transaction costs of the typical tort suit and get more money more quickly into the hands of those injured by defective products who, according to business advocates, currently give most of the damages they recover to the lawyers they have hired to thread the maze of product liability laws at the state level. Business found a willing sponsor of this initiative in Senator Bob Kasten of Wisconsin and a revised version of his original product liability bill was recently approved by the full Senate Commerce Committee.

Most opponents of this legislation, including most large national consumer organizations, do not necessarily oppose the concept of uniform national product liability standards. They are disturbed, however, by the content of the Kasten bill which they argue would turn the clock back to an early era of the law in this area when "caveat emptor—let the buyer beware" was the prevailing principle the courts applied in such cases. The Kasten bill would substitute a weak negligence standard for the stricter liability standards which have evolved in many branches of product liability law at the state level. The consumer groups have vowed to fight the bill at all stages of the legislative process and it is unlikely to move to the Senate floor this session.

Finally, we have the third stream of new developments in tort law reform—the so-called "toxic tort" issue. Many of us in the House have become concerned that in some states tort law has in general not moved fast enough or far enough to give a fair hearing to those suffering from long latency dis-

eases as a result of their exposure to hazardous substances in the workplace, the home or—most frightening of all—from the thousands of abandoned dump sites which leach daily into our drinking water, our soil and our air. Our concerns were ratified in June 1982 when a special study group created under the original Superfund legislation issued a report harshly critical of traditional state tort law in the toxic tort area.

The substantial problems faced by those who must document not only how long but also how much their groundwater was contaminated by some bizarre toxic soup of chemical wastes, and then must prove the chemical soup's known effects on human health, have stymied many state court judges and will continue to frustrate the bar and the judiciary for years to come. The study group concluded that careful attention should be paid to the need to forge new legal principles so that such victims are both fairly and fully compensated for years of careless product and waste management practices which we are only now beginning to realize have taken a pervasive and tragic human toll.

I have introduced two different pieces of legislation to deal with the problems of toxic tort victims which were identified by the study group. The first is an amendment to the Toxic Substances Control Act. It creates strict, joint and several liability for injury caused by exposure to all the chemical substances and mixtures regulated under TSCA.

The second is legislation reauthorizing the Superfund program. Originally, this legislation contained two different types of relief. It established an administrative system for the quick recovery of medical expenses and limited lost income out of the Superfund. It also contained a liability provision similar to the one in the TSCA bill which covered injury caused by exposure to hazardous wastes. But I was compelled to drop the administrative system in a compromise bill I introduced in order to expedite House consideration of this vital legislation as soon as possible. The new bill retains the liability provisions, however, and the House is scheduled to vote on this vital legislation this Wednesday.

As you probably can imagine, both pieces of legislation, especially Superfund because it is moving on a faster track, have generated a firestorm of criticism which resembles at least in its level of intensity the controversy which surrounds the other two branches of tort law reform now pending before the Congress. When I peel away the instinctive reaction of the business community to any dramatic new proposal, I see some interesting paradoxes in people's reactions to these liability proposals.

It appears, for example, that when the causes and effects of a hazardous substance or activity are clear and well-defined—as they are in the asbestos cases—those responsible for creating the situation believe that society as a whole should participate in shouldering the costs of compensating injured parties. Many accusations have flown back and forth about the validity of the asbestos industry's claim that it is on the brink of fiscal ruin. I for one am willing to accept that the economic pressure of the thousands of court cases now pending may cause those companies great harm. But the point is that at least this pocket of industry has recognized, once all the facts are in, that it must appeal for some sort of administrative system rather than waiting to take its chances in state courts because if the courts are given a chance to rule, the scientific evidence is so compelling that the companies will often lose.

Why then the resistance to the administrative system proposed for toxic tort victims? Can it be that the chemical industry, refusing to see any analogy in the asbestos industry's situation, has confidence that the data on the cause and effect of toxic chemicals and hazardous waste is developing so slowly that it can afford to take its chances in state court for many years to come? Obviously fearful that any such administrative system would only showcase the plight of dump site victims, the chemical industry told me that my efforts to address these concerns are a "solution in search of a problem". It will be interesting to see how this message changes as the medical data mounts. The recent Agent Orange settlement indicates that it is only a matter of time until the chemical industry stands in the same position as the asbestos industry. There may be far more to be learned from each other's experience than many have recognized to date.

A related paradox is the issue of uniform national standards. The same industry groups which so fervently advocate such an approach before Senator Kasten in the Senate tell me that my efforts to adopt a uniform federal toxic tort statute are misguided and outrageous. Apparently, uniformity and the equitable reduction of litigation costs are not so much the point as the hope of cutting back on the strong product liability standards which have become the trend on the state court level.

The simple fact is that no matter how badly some may wish it, these issues will not disappear or even dissipate in the years to come. The day I introduced my Superfund bill, the Harvard School of Public Health coincidentally released a major health study on the residents of Woburn, Massachusetts. The study concluded that drinking water contaminated by toxic wastes had caused a dramatic increase in the incidence of childhood leukemia and death in Woburn. When the national networks covered the story that evening, they showed film clippings from their files of the children who had since died from this dreaded disease.

Eventually, stories like the Woburn tragedy will fuel a public outcry for a legal system which is more compassionate, more accessible and more fair. This outcry will also be intensified by the public's perception that the regulatory system has not only broken down, but remains perpetually stalled in the middle of the road.

To combat administrative inaction at the Environmental Protection Agency, the Interior Department, the Office of Management and Budget, and, ultimately, the White House, there will be a movement back to the free marketplace and the ultimate arbiter of individual rights in that marketplace, the nation's court system. The Congress may be forced to acknowledge to the American people that our best efforts to safeguard their environment through regulatory intervention at the national level have failed. And we will instead be asked to pass legislation giving those injured by toxic substances the tools they need to recover their damages directly from industry. Through the creation of new liability provisions and private citizen causes of action, there will be an attempt to establish in the marketplace the incentives to screen and control toxic substances which regulatory intervention has thus far failed to provide.

When I first introduced my TSCA liability bill this past fall, Bill Ruckelshaus had assumed his post as head of EPA only a few months earlier and the outcome of his initial struggle for control of this Administration's environmental policy was not yet clear. I remarked back then in a talk to a similar group on this same topic that I wasn't sure whether anyone in the Administration was prepared to let Ruckelshaus be Ruckelshaus. The press was filled with accounts of his titanic behind-the-scenes battles with the Office of Management and Budget to moderate the basic policies which had led to the scandalous demise of the Administration's first generation of environmental mismanagers—Rita Lavelle, Anne Gorsuch Burford, and, ultimately, the infamous James Watt.

Nine months later, it has become absolutely clear either that no one was prepared to let Ruckelshaus be Ruckelshaus or that the Ruckelshaus we hoped we had actually never existed. The Administration has offered to "research" the acid rain issue. It stands in solid and hostile resistance to the expeditious reauthorization of the Superfund program. It has refused to recommend desperately needed increases in EPA's budget. And even tentative regulatory initiatives are viciously suppressed by OMB almost as soon as they are put on paper.

There may be some in industry who welcome these signs that the basic policies of the Burford/Watt era have been repackaged, but remain essentially the same. If this war on the basic environmental laws we struggled for two decades to enact continues unabated, the very social values and pressures that led to their creation will produce a backlash which may be very frightening from industry's perspective. This backlash will be reflected not only in the public's increasing cynicism about industry, but also in the legislation we in Congress are asked to sponsor and enact. We may, in short be compelled to renounce our fundamental faith in an efficient, effective and balanced regulatory system. If the free marketplace is to reign supreme, we may instead turn to measures equipping all out citizens to participate fully in the economic battles which will invariably ensue. The choice, as unpleasant and difficult as it may be, is all of ours to make. I urge you to consider its implications not only for the immediate future, but also for the long-run quality of all of our lives.

Thank you.●

UNITED STATES NOT A PLACE FOR ANTI-SEMITISM AND BIGOTRY

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. FEIGHAN. Mr. Speaker, last Friday I read Rich Jaroslovsky's article in the Wall Street Journal, which talked about Roger Pearson's use of a Presidential letter to solicit sales and subscriptions for his publications. The article detailed Mr. Pearson's long history of racism. Further, it turns out that the White House, although aware of Pearson's views, has not retracted the President's laudatory remarks.

I rise today to call on the President to both retract his letter to Roger

Pearson and to repudiate Pearson's views. Mr. Pearson has spent much of his career advocating notions of racial purity which he feels would best be accomplished by preserving healthy stock and breeding back the ideal types.

The President's letter to Pearson praised Mr. Pearson's, substantial contributions to promoting and upholding those ideals and principles we value at home and abroad. Now Pearson is using this letter from the President to push the sales of his publications.

Many of you will recall that less than 4 months ago this country faced a similar problem of racial bigotry. At that time, I led the fight to force a repudiation of Louis Farakhan's offensive remarks. I had hoped at that time that such a repudiation would indicate to all politicians that racial bigotry had no role to play in this country. I tell you once more: we denounce the intrusion of anti-Semitism or racism of any sort into the American political process. It has no place in our political system.

The President endorses Pearson's views inadvertently, I am sure. But, many of Pearson's writings on race and eugenics have been published by the Anti-Semetic Liberty Lobby. These pamphlets and books can be purchased today at the National Socialist White Peoples Party headquarters. Further, Pearson receives money from the Pioneer Fund, a group which gives money to those who believe in a master race.

I would not be so concerned if the President had made an innocent mistake and recanted as soon as he discovered the nature of Mr. Pearson's activities. However, the White House was informed by Justin Finger of the B'nai B'rith of Mr. Pearson's views and affiliations this summer. Once he knew of Pearson's views, it is natural to expect that the President would repudiate the views and retract the letter. He has not done so.

During his lifetime, Pearson has done as much to advance anti-Semitism as any American in recent memory. That the President, after being informed of Pearson's anti-Semitic views, could continue to permit Pearson to use the President's letter as an endorsement is an incredible episode in modern American politics. We have no place for hate here, and we have no place for haters.

Mr. Pearson's bigoted views are an anathema to our system of values. I for one do not feel that this man, denounced even by the World Anti-Communist League for his ties with Nazis, represents either the United States or anything that the United States wants to become. Therefore, I call upon the President to both retract the letter he sent to Mr. Pearson and to repudiate the views Mr. Pearson has expressed. We must condemn the vicious anti-Semitism and the ugly bigotry of Roger Pearson.●

IN TRIBUTE TO CONGRESSMAN JOHN ERLENBORN

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. GUNDERSON. Mr. Speaker, for the past two sessions I have had the privilege of serving under the leadership and guidance of our distinguished friend and colleague, JOHN ERLENBORN, as a member of the Education and Labor Committee. It has been a very special relationship. For I was appointed to fill the seat left vacant by the death of our late colleague John Ashbrook. Thus, I was the first member to come aboard and serve totally under JOHN's leadership. He has been my only Republican leader on the full committee.

Martin Luther wrote words which I believe were made for this occasion tonight when he said:

> The prosperity of a country depends, not on the abundance of its revenues, nor on the strength of its fortifications, nor on the beauty of its public buildings; but it consists in the number of its cultivated citizens, in its men of education, enlightenment, and character.

These words better reflect to me, the years of service by JOHN ERLENBORN than any other Member of this body. JOHN has shown his commitment to the education and working environment of our country and its citizens by his long years of service on our committee. He has done so with a philosophy committed to efficient and cost effective Government programs. JOHN has never been a big spender. He has believed our country's future rests with the amount of taxes raised, the amount of money spent on weapons or public works projects. Rather he has charted a path during his congressional career committed to building for America the best fiber possible—America's people. Whether it be safe working conditions, safe and reliable pensions, or quality education and training; JOHN has been there providing leadership for not only this Congress but this entire country. Is there a better authority on the ERISA laws anywhere in this country? I doubt it.

Allow me to say a thing about JOHN's style of leadership. It has been a special experience for me. For JOHN is the only Member under whom I have had the opportunity to serve as a ranking member on a subcommittee. As the ranking member on the Subcommittee on Health and Safety, I have cherished JOHN's counsel when it is needed, and his confidence in the subcommittee's regular activities. A good example would be the budgetary process. JOHN allowed each subcommittee ranking member to develop their own recommendations for our party's proposals. If a member failed to meet our goal of fiscal responsibility, JOHN simply asked them to come back with new recommendations. JOHN is a leader. He accomplished his goals. But he did so with confidence in his colleagues. For this, I believe each of us owe him a great debt of gratitude and personal thanks.

Finally, a personal note. In a Chamber with too many members believing they can only contribute with loud rhetoric on every issue, JOHN has been a refreshing example to me. He represents the kind of legislator whose style I would most like to follow.

JOHN is Congressman in the finest sense of the word. He represents his constituents, and represents their thinking well. He charts his areas of responsibility, and does his homework. He becomes one of the country's leading experts in those areas. He chooses when to speak and the words to say carefully. When JOHN speaks, the Congress and the country did listen. And through all this he also was a colleague of the highest honor. When a word of advice, counsel, or encouragement were needed—JOHN was there.

JOHN, you are my leader. And even as you leave this House, you will always be so. But more important, you are my friend. And it is in this way, that I have been most blessed.

We will miss you. But our very best goes with you.●

DR. JAMES PEACE RETIRES AS DIRECTOR OF ELDER SERVICES

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. STUDDS. Mr. Speaker, I was privileged recently to attend a dinner honoring Dr. James Peace, who retired last month after 10 years of dedicated service as executive director of Elder Services of Cape Cod and the Islands. Throughout his tenure, Jim has served as an effective spokesman for the elderly of southeastern Massachusetts. We will miss his expertise and the pleasure of working closely with him on issues of importance to our region's senior citizens, but look forward to continuing to seek his wisdom and guidance for many more years to come.

I would like to take this opportunity to commemorate his personal and professional contribution to our community by submitting for publication in the CONGRESSIONAL RECORD a profile of Dr. Peace from the Register, an article from the Cape Cod Times detailing the dinner honoring Dr. Peace, and a congratulatory letter from President Reagan.

[From the Register, Aug. 20, 1984]

JIM PEACE TAKES HIS FOURTH RETIREMENT: NO CRUISE SHIPS OR LOUNGE CHAIRS

(By Marnie Samuelson)

Recently, a white 1980 Volkswagen Rabbit turned onto the Mid-Cape Highway, its driver, his thick gray hair more tussled than usual from the half-open window, squinting into the sun. A few days before his 75th birthday, Dr. James Peace reflected momentarily on his upcoming retirement as executive director of Elder Services of Cape Cod and the Islands.

His tassled loafer pressed against the accelerator, as the Cape's best known warrior for older people pulled out to pass. For an instant, the word itself—retirement—seemed to stick in his throat. Then the former dean of City College in New York made a quick calculation. Causing any tension he might have been feeling to disappear.

Fifteen years ago, Peace told the reporter riding with him, he retired after a 40 year career as administrator and professor at City College. He retired twice more while on the Cape, once from Sandwich High School and again from a teaching stint at Cape Cod Community College. By his reckoning, he announced, this time makes number four.

When Peace steps down August 3 as leader of the organization he founded and has nurtured for the last decade, he will be making a few life changes, he said. Maybe he will set the alarm for 4:30 am instead of 4 am, he offered. He will still be actively involved with Elder Services, of course, as an advocate, public relations front runner and member of the board. But maybe when he no longer has to be at the office at 8 am, he and his wife, T. Rose, might go up to Boston and see a play, and maybe "they would stay overnight," he guessed.

And maybe, "I'll look at the rocking chair," he finally allowed. But if by retirement Peace said, turning and suddenly looking impish, "you mean a lounge chair or cruise ship, the hell with that."

THE CAPE'S GENTLEMAN ADVOCATE

In his fourth career, Dr. James Peace ("Dr." comes from a 1943 doctorate in education) has become the quintessential advocate for older people on Cape Cod.

Now he is turning over to his successors an organization, Elder Services of Cape Cod, with a budget of $4.5 million, a staff of 85 employees and hundreds of volunteers, and a range of services for older citizens matched by few other nonprofit institutions.

Elder Services—providing lunch daily to more than 500 older residents at 15 sites, bringing food home to hundreds more, offering companionship, consumer and medical advice, protective services, and more—is testimony to Peace's obvious talent for administration and a decade of Peace's steady leadership. He is a sometimes intimidating, "hard to please," and "inspiring" boss, according to staff members. Elder Services is also a living monument to Peace's apparent inability to sit still.

Jim Peace's 10 year obsession—gaining the best possible services for older people—seems not so much a mission, as a perfect fit. When Peace talks about the needs of older people, he is not talking about the lives of some other group. He is talking about those over 65 just like him.

And when he advises—as he does regularly—that the single most important thing for retired people is to "stay involved," he is as convincing as Jack Lalanne preaching about exercise, convincing elders that the prescription works. Fit, confident and happy, Peace is for many a role model for a new generation of engaged older people.

A PERSONAL STYLE

In pushing for the rights of older people, Peace has developed a personal style which contrasts sharply with the more militant, direct-action approach characterizing some other advocacy groups such as Cape United Elderly.

Peace is a schmoozer, as they might say back in his native New York. Describing himself as a "hands-on kind of guy," he is happiest working "one-to-one," trying to solve individual problems. He's tackled hundreds—from fixing a screen door for one of many homebound friends, to tackling the costly and complex issue of over-insurance. (Many older people, afraid of becoming helpless or dependent on their children, over-insure themselves, taking out as many as 15 policies, Peace exclaims.)

As an advocate for older people, Peace rejects confrontation or demonstrations. "It may be dramatic to yell and scream," he says, but behind the scenes dialogue is better, he believes. Peace has lobbied and testified for passage of several pieces of legislation affecting the quality of life for older people, among them bills related to medical costs.

Whatever the issue—from encouraging older people to keep in the refrigerator a "vial of life," a bottle with medication and instructions, to pushing for a bill of rights of nursing home patients—Jim Peace is "always there" and always informed, remarks state Representative Thomas Lynch.

Thieves and others who would prey on vulnerable older citizens might have also noticed Peace's uncanny ability seemingly to be everywhere, alerting the Cape's burgeoning older population to the latest consumer fraud.

By the time Peace has pedaled six miles on his exercycle—his 5 am routine—he has flipped through about a dozen magazines, clipping reports of new "miracle" cures or other hoaxes, all fodder for a series of colorful radio bulletins (Peace can be heard regularly on stations WOCB and WCIB).

There have been dozens of scams, Peace says, among them mail order eye glasses and hearing aids "guaranteed" to solve any sight or hearing problem, and even an offer for virility pills sent to a 91-year-old Nantucket woman. One of the most disturbing, a few years ago, Peace recalls, was cancer insurance. Premiums were expensive and the policies rarely paid off, Peace says.

On such issues, Peace has done more than "keep a weather eye" on his constituency, according to his successor, Joyce Wolbarst. Never a coddler, Peace has insisted, she says, that older people become more intelligent about their affairs.

Because of Jim Peace, remarks David Sircom of Better Business Bureau of Cape Cod and the Islands, more older people are putting their embarrassment aside after they have been victimized. Now, he says, they are much more likely to step forward and blow the whistle.

[From the Cape Cod Times, Aug. 20, 1984]

GATHERING LAUDS A MAN'S SERVICE

(By Susan Fenelon)

HYANNIS—Dr. James S. Peace was honored by friends at the Sheraton Regal Inn in Hyannis last night.

Peace, 75, is retiring—for the third time—after giving 10 years in work and service to the elderly of Cape Cod and the Islands. Peace was the director of Elder Services of Cape Cod and the Islands.

President Ronald Reagan and wife Nancy sent Peace a letter of congratulations; Gov. Michael S. Dukakis proclaimed yesterday Dr. Peace Day in Massachusetts. The Hyannis Rotary Club donated $1,000 for the newly created Dr. James Peace Testimonial Scholarship Fund.

And a line of politicians and friends read speeches and presented citations and proclamations from local towns, clubs and both houses of the state Legislature, honoring Peace at last night's testimonial dinner. An estimated 250 people attended the dinner and contributed to the scholarship fund through their ticket price.

Almost all of the speakers said they believed Peace would not retire from the work he has done on behalf of the elderly.

U.S. Rep. Gerry Studds, D-Mass., whose 10th District includes the Cape and Islands, said last night's proceedings would be entered into the Congressional Record and a bound copy would be presented to Peace.

"Your greatest tribute to us is that you reminded the people of Cape Cod that the process of aging may occur with respect, immense dignity and vigor. You don't need a testimonial. It is all around you and will outlast no matter how many retirements you choose to have," said Studds.

Peace's two biggest campaigns are to keep the elderly out of nursing homes and to help control and even lower the high cost of health care.

He says he'll continue that work.

After all the speeches in his honor, Peace issued a little advice, and quoted from the writings of Robert J. Hastings.

"It isn't the burdens of today that drive men mad. It is the regrets over yesterday and the fear of tomorrow. Regret and fear are twin thieves that rob us today.

"So stop pacing the aisles and counting the miles. Instead, climb more mountains, eat more ice cream, go barefoot more often, swim more rivers, watch more sunsets, laugh more, cry less. Life must be lived as we go along."

THE WHITE HOUSE,
Washington, August 15, 1984.

Dr. JIM PEACE,
Elder Services, Inc.,
West Yarmouth, MA.

DEAR DR. PEACE: Nancy and I are delighted to join with all those gathered to congratulate you on your retirement from Elder Services, Inc. You should take pride in the contributions you have made to the well-being of so many senior citizens.

Hearing of people like you fills me with a sense of pride, for there is no replacement for the assistance which caring and concerned individuals like you provide for others. Your involvement exemplifies the highest tradition of community service and has greatly enriched the lives you have touched.

Nancy joins me in sending our warm wishes.

Sincerely,

RONALD REAGAN.●

ACID RAIN AWARENESS WEEK

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. RINALDO. Mr. Speaker, I am pleased to announce that last week the State of New Jersey joined with other Northeastern States in celebrating Acid Rain Awareness Week, and I congratulate Governor Kean, the New Jersey legislature and the New Jersey Department of Environmental Protecton for their efforts to increase public awareness of this critical environmental issue.

Acid Rain Awareness Week was celebrated from September 24 to September 30. During that time, New Jersey, New York, and the New England States participated in events ranging from the issuing of proclamations, legislative resolutions, and press releases to workshops, releases of publications, and public hearings.

As you know, acid rain or acid precipitation is an issue that has attracted attention throughout the world. We in the Northeastern United States have been made aware of this phenomenon in unfortunate ways—by damage to our lakes, trees, fish, buildings, and crops. While the damage may be more severe in some locations than others, we all remain vulnerable and must work together to prevent further deterioration of our natural resources, and possibly our own health.

In New Jersey, a public hearing held by the Governor's Science Advisory Committee and the Clean Air Council revealed a number of problem areas, which are documented in their hearing report, "The Effects of Acid Rain in New Jersey." They report that laboratory experiments have shown that reduced crop yield can be expected when plants receive increased acidity. Many lakes in the State are very acidic and others have a low buffering capacity. Since millions of New Jerseyites rely on surface water supplies, there is concern that these reserves not become acidified. Other States have experienced another problem—the mobilization of toxic metals in the water which are brought about by the increased acidity. One of the most important natural areas of New Jersey—the Pine Barrens—has been adversely affected by acid rain. Equally disturbing is the prospect of material damage to buildings, historic monuments, roads, and bridges.

I believe that we can delay no longer and must act immediately. Earlier this year, I introduced a bill, H.R. 4906, which proposes a national acid rain control plan. This plan provides equity among the States and regions, flexibility to permit States to address their individual problems, and recognition of actions already taken to control emissions. As we celebrate Acid Rain Awareness Week, I urge my fellow Members of Congress, the President, and the Environmental Protection Agency to stop talking and take action. The time has come now for a meaningful acid rain control plan.●

TRIBUTE TO HON. JACK EDWARDS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. LAGOMARSINO. Mr. Speaker, The U.S. House of Representatives will be losing one of its finest and most dedicated Members at the end of this session, the Honorable JACK EDWARDS from Alabama's First District.

The fine service Representative EDWARDS has performed to his district and his country since coming to the Congress in 1965 is exemplary. His active participation as the Vice Chairman of the House Republican Conference has served all members dutifully. And who can deny the profound impact "JACK" has had on the Defense Appropriations Subcommittee? It can truly be said that America stands closer to peace today because of the dedicated efforts of Representative EDWARDS in ensuring our Nation's defenses are adequately funded.

"JACK" has also served dutifully and faithfully on the Transportation Appropriations Subcommittee.

Mr. Speaker, I join with my colleagues in expressing my congratulations to Representative JACK EDWARDS on his retirement from public service, and on his outstanding career and service here in the Congress. We wish him all the best in the future. Again, "JACK," all the best!●

VIETNAM VETS HAVE PATRIOTIC ATTITUDE TOWARD AMERICA

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. BURTON of Indiana. Mr. Speaker, last Saturday I attended the second annual Indiana Vietnam veterans gathering at Kokomo, IN, and was very impressed by the caliber of our Vietnam veterans and their patriotic attitude toward America.

Although they love their country and are very patriotic, the indication was that many of them feel the U.S. Congress has not addressed many of the problems that still confront them.

A speech made by Sammy L. Davis, a Congressional Medal of Honor winner, I think sums up the feelings of many of our Vietnam veterans. Because I thought it was such an extraordinary speech—I have decided to read it to my colleagues as well as the people of America.

This is what Medal of Honor winner, Sammy L. Davis said:

Among other things, a gathering like this is a lesson in the tremendous difference a few years can make.

In the years immediately following our service in Vietnam, the very qualities that made us good soldiers, sailors, airmen and marines changed us. As well as we had performed on the battlefield, we gave up the fight on the home front without so much as firing a shot.

For the most part, we made for one sorry pack of Veterans.

It happened to most all of us, myself included. and it happened, I suggest, because we were still dedicated to America and wanted to serve our country.

In the rush to put the pain and bitterness of Vietnam into America's past, a deal was made. It was a deal not put down on paper, not negotiated by lawyers, not signed by the parties who agreed to it. But it was a deal nonetheless, and just as we did in Vietnam, we held up our end.

The deal, very simply, was this—we don't talk about it. We, the Veterans, don't talk about it with the civilians, we don't talk about it with the government, we don't even talk about it with ourselves. The rationale was that if it wasn't talked about, it wouldn't be thought about. After not thinking about it for long enough, we would be justified in believing that it had not happened.

Well, as everyone here today knows, it did happen. As everyone here today eventually found out, the deal stunk. As everyone here today has decided, perhaps for the first time today, the deal is no longer in effect.

Only when decided for ourselves that we did not need to hide from Vietnam, did things begin to happen. We came together to celebrate the dedication of the Vietnam Memorial in Washington and found America waiting. No longer were we shunned but instead we found the appreciation for our actions which we had earned.

Today, more Vietnam Vets than ever before are involved. Those of us with problems left from the war are being counselled by those of us who have recovered. Vets who had found their place in the economic structure are aiding other Vets to find theirs. Just as other groups have learned throughout history, Vietnam Vets are discovering that we have strength without measure when we work together.

And there is still work to do. Although the lawsuit against the manufacturers of Agent Orange has been settled, that settlement addresses only compensation. We must continue to press for more research into the causes of the illnesses related to Agent Orange exposure and continue to press for treatment. Now that the chemical companies have been dealt with, our attention should focus on the government.

Also, it is only our vigilance that will turn the promises of action on the recovery of our POW's and MIA's into action itself. One of the most simple lessons ever taught—that saying is one thing, and doing is another—can not be lost on even the highest government official.

In conclusion Mr. Speaker, I hope my colleagues will take the words of Mr. Davis to heart.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, October 2, 1984, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 3

9:30 a.m.
Foreign Relations
East Asian and Pacific Affairs Subcommittee
To hold hearings on United States-Japan trade relations.
SD-419

Governmental Affairs
Intergovernmental Relations Subcommittee
To hold oversight hearings on State lotteries.
SD-342

10:00 a.m.
Judiciary
Juvenile Justice Subcommittee
To hold oversight hearings to examine causes and effects of teenage suicide.
SD-226

Joint Economic
To hold hearings to examine the economic evolution of American agriculture.
SD-138

2:00 p.m.
Foreign Relations
East Asian and Pacific Affairs Subcommittee
To continue hearings on United States-Japan trade relations.
SD-419

OCTOBER 4

10:00 a.m.
Joint Economic
Economic Goals and Intergovernmental Policy Subcommittee
To hold hearings on the national economic outlook.
2203 Rayburn Building

OCTOBER 5

9:30 a.m.
Joint Economic
To hold hearings on the employment/unemployment situation for September.
SD-106

CANCELLATIONS

OCTOBER 2

10:00 a.m.
Governmental Affairs
To resume hearings on S. 1746, to allow the Federal Government to freely procure certain goods and services from the private sector.
SD-342

SENATE—*Tuesday, October 2, 1984*

(Legislative day of Monday, September 24, 1984)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Father in Heaven, we invoke Thy presence in the Senate. The leadership desires adjournment this Friday, as does everyone else. It looks impossible but with you, O Lord, all things are possible. Here are one hundred strong leaders with deep convictions about crucial issues or they would not be here. They have a profound sense of accountability to the people, States, and regions they represent. We are grateful for a political system which brings such potentially explosive variables together in this powerful deliberative body. As disparate convictions collide, as irresistible force meets immovable object, we ask for Your intervention. Gracious God, we pray at this critical time in the Senate that You will guide, with Your wisdom and love, the Senators and their staffs so that a way will be found to dissolve differences and reach compromise which is just and beneficial to national unity and purpose. In the name of the Prince of Peace. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

Mr. STEVENS. I thank the Chair.

ORDER FOR ROUTINE MORNING BUSINESS AND FOR RECESS TODAY

Mr. STEVENS. Mr. President, I ask unanimous consent that after the two special orders, there be a period for the transaction of routine morning business during which Senators may speak for not to exceed 5 minutes each, and that, following that period, the Senate may stand in recess for the purpose of the two party meetings until the hour of 2 p.m.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that I may proceed with my special order at this time and that the two leaders have their time when they come in if they wish to have it.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR STEVENS

The PRESIDENT pro tempore. The Senator from Alaska is recognized.

Mr. STEVENS. I thank the Chair.

REFORM OF THE STANDING RULES OF THE SENATE

Mr. STEVENS. Mr. President, the standing rules of the Senate reflect the continuing and great traditions of this body. They are fibers in the fabric which bond the Senate together. Many of the Senate's original rules survive to this day. Changes in those rules have been infrequent.

Yet, Mr. President, it has become increasingly clear that some of our venerable rules may be inappropriate for conditions faced by the modern Senate. The balance between institutional and individual rights is out of kilter. Much useful legislation cannot be considered because the rules permit too many barricades. Irrelevant issues are raised through nongermane amendments, forcing a diversion of the Senate's time and energy away from pending legislation. In short, Mr. President, the Senate rules have been bent, stretched and interpreted to a point where they now constrain the Senate from doing the business it must do.

It is time to consider a rules reform—changes which preserve essential minority and individual rights, but which allow the Senate to function. It has been said that efficiency is not the Senate's constitutional purpose. I concur. But neither is legislative paralysis.

This morning, I have chosen to detail some proposed rules changes. I submit them for review by all Senators with the conviction they will help the Senate better fulfill its constitutional mandate. But, these are for review. Whether such proposals are adopted is for the Senate to decide next year.

MOTION TO PROCEED

Mr. President, in most cases, a motion to consider a legislative item is debatable. The right to debate this motion has frequently been subject to actual or threatened abuse. It has led to the problem of a double filibuster—where extended debate can take place not only on the measure itself, but also on the question of timeliness of consideration.

This is bad policy. It is also anomalous. Motions to proceed to privileged matters are nondebatable. So are motions to proceed made in the morning hour. So are motions to proceed to matters on the Executive Calendar. No logical reason exists to bar debate on the motion to proceed in these instances but permit unlimited debate in others.

I suggest a change which allows some debate on the motion to proceed without opening it to the possibility of filibuster. For such motions made in legislative session and outside the morning hour, this suggestion would limit debate to 2 hours, equally divided. Further, it would permit a tabling motion within the 2-hour period. This would avoid turning the 2-hour grant of time into a new filibuster tactic on other bills.

This change preserves to a lesser degree the anomaly I earlier discussed. I had considered proposing the motion be nondebatable in all instances, but decided to take a less radical approach of suggesting limited debate on the question of consideration.

CONFERENCE REPORTS

Requiring the Senate to hear the reading of a conference report is literally the kiss of death for legislation particularly at the end of a Congress. The only way at present to dispense with the reading of a conference report, if demanded by one Senator, is by unanimous consent.

Another proposal submitted today is that the reading of a conference report is deemed waived if the conference report is available to Members in printed form for at least 24 hours.

The purpose of this change is to allow Members time to review work products, but to close the parliamentary loophole whereby a single Senator may kill a bill simply by objecting to a unanimous consent request to waive the reading of a voluminous conference report to the entire Senate in the last hours of the Senate's session.

TREATIES

Rule XXX relates to executive session and the proceedings with respect to treaties. The so-called "Committee of the Whole" procedure is a parliamentary hula hoop that should be purged from the Senate rules on executive session as it was from legislative session over 50 years ago.

Recommendations have been made in the past to rid the Senate of this procedure requiring the Senate to resolve itself into the Committee of the

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Whole for the purpose of considering treaties. This procedure is clearly an anachronism and serves no purpose other than to complicate the treaty procedure.

My proposal is to eliminate the Committee of the Whole requirement and to consider a treaty in executive session in a straightforward fashion with respect to amendments and adoption of amendments by the full Senate. This procedure is consistent with the way amendments are considered and adopted during legislative session.

PASTORE RULE (GERMANENESS OF DEBATE)

Rule XIX, paragraph 1(b), addresses germaneness of debate. The present rule, known as the Pastore rule, requires that the first 3 hours of debate on the pending or unfinished business be germane. The Senate should refine and extend that concept.

My proposal is that the germaneness of debate requirement on the pending or unfinished business apply throughout the day.

The purpose of this change is to encourage Senators to stick with the issue or issues before the body. In recent years, much of the time invested by the Senate has been on debating issues unrelated to the matter at hand. This practice has prevented the Senate from giving its full attention to the pending business. The change proposed would direct the Senate's attention in a more appropriate and fruitful manner.

SENSE OF THE SENATE/CONGRESS AMENDMENTS

The most overused legislative vehicle in the legislative process is the proliferation of the so-called sense of the Senate or the sense of the Congress amendments. While such amendments periodically serve a useful purpose, by and large the rhetoric generated does not justify the time invested by the Senate. Since these amendments are merely hortatory, they are deemed per se germane and have been used in many instances to get around germaneness requirements. In other words, since sense of the Senate/Congress amendments do not have the force of law, the Senate has tolerated their consideration. This practice should be changed.

My proposal would require that such amendments meet the same germaneness standard as would be required for language having the force of law.

The purpose is clear. It would encourage Senators to offer germane amendments to bills before the Senate and save debate on other issues until the proper time. This is a rules change that will reduce the time spent upon issues unrelated to measures before the Senate.

RESOLUTIONS OVER UNDER THE RULE

Rule XIV, paragraph 6, states that if a unanimous consent request is made for immediate consideration of a resolution, and objection is heard, the resolution be placed in a section of the Legislative Calendar reserved for "resolutions over under the rule." There it sits until the Senate reaches it as the last item in the litany of morning business in the morning hour following adjournment.

This convoluted procedure may have made sense when the Senate frequently adjourned from day to day. It is virtually useless in an era when the Senate ususally recesses at the close of business. Indeed, resolutions placed on this posture are condemned to a form of legislative purgatory.

I propose that if objection is heard to the immediate consideration of a resolution, such be held at the desk for placement on the Calendar of General Orders on the next legislative day.

GERMANENESS OF AMENDMENTS

At present, germaneness of amendments is required under four conditions: under cloture, on general appropriations bills, under certain rulemaking statutes, and under most time agreements.

The next proposal would make it possible to set a germaneness requirement without imposing the extraneous parliamentary baggage of cloture of overcoming the often insurmountable problems of securing a time agreement.

Instead, Mr. President, this suggestion would permit a motion to impose a germaneness requirement. The motion could be offered once per day per measure, and would necessitate an affirmative vote of three-fifths of Senators present and voting. Under this procedure, committee amendments from the committee of jurisdiction would be deemed per se germane. Appeals as to germaneness would be decided without debate. Finally, this procedure is not intended to supercede germaneness requirements already in the Senate rules or in rule-making statutes.

Especially in this area, Mr. President, we should recognize the pioneering work of the distinguished minority leader. This particular proposal is one which he has advanced for years. I think it has a lot of merit and so am incorporating it in the suggestions I am setting forth today.

GERMANENESS OF AMENDMENTS ON APPROPRIATIONS BILLS

Under rule XVI, which deals with general appropriations bills, the Chair is required to refer questions of germaneness for determination by the Senate without debate.

This is a procedure which the Senate has just gone through and these past days we now know the direction in which it leads.

The procedure is an anachronism.

In all other cases, the Chair rules on germaneness questions. Indeed, under cloture, the Chair rules without a point of order coming from the floor.

Even on appropriations bills, this rule is hollow. Under a 1979 precedent, if germaneness is raised as a defense to a point of order that an amendment is legislation, the Chair imposes a threshold test. If the underlying House bill contains no legislative language pertinent to the subject of the amendment, the Chair will not refer the question to the Senate. However, sensible this precedent may be, it directly contravenes the edict of rule XVI, and emphasizes the need for reform in this area.

The proposal, I submit, would amend rule XVI to enable the Chair to rule on questions of germaneness and would require that appeals of such rulings be decided without debate.

POST-CLOTURE CHANGES

Now, Mr. President, let me discuss the question of post-cloture consideration. In 1979, a 100-hour, all-inclusive cap was placed on post-cloture activities. Everything counts against the cap, including debate, votes, and quorum calls. With limited exceptions, each Member can use only 1 hour to debate post-cloture.

One hundred hours is a long time, and the threat of substantial post-cloture filibusters can negate the very purpose of cloture, particularly near the end of a session.

My proposal would enable Senators to reduce the time available after cloture by yielding debate time back to the Chair. At present, Senators cannot accomplish this.

This procedure affords the Senate great flexibility. If post-cloture discussion is robust and widespread, debate time will be consumed rather than yielded back. On the other hand, if the discussion amounts to a narrowly based filibuster, Senators may wish to use this mechanism to lessen the time available.

In order to protect all Senators' rights, this proposal allows the reductions of time achieved through this procedure but will not cause time remaining under cloture to be less than 2 hours.

What it would do is prevent other Senators from using my time or your time, Mr. President. If we wish to really limit time, Senators could yield that time back and it could not be used through dilatory procedures adopted in a filibuster that had very, very little support.

Further on the subject of cloture, Mr. President, I suggest committee amendments from the committee of jurisdiction be deemed per se germane. This is not presently the case, and forces the filing of multiple cloture motions so that committee amendments do not fail the germaneness requirements of rule XXII, precisely the parliamentary situation we are in this very day.

Under unanimous-consent agreements, amendments from the committee of jurisdiction are per se germane. Treating such committee amendments differently under cloture wastes a lot of the Senate's time and makes no sense.

FILING AMENDMENTS UNDER CLOTURE

Another revision with respect to rule XXII should be made with respect to the filing of amendments under cloture. Currently, the procedure under cloture requires first degree amendments to be filed not later than 1 p.m. on the day following cloture. Theoretically, there may be three amendments in the nature of a substitute filed to a bill but technically only one may be offered and offered first. Therefore, there needs to be some accommodation made whereby the first degree amendment to the substitute may be filed to the amendment in the nature of a substitute.

My proposal would be to create a filing deadline for first degree amendments in the nature of a substitute. The following hypothetical timetable is offered:

On Monday, a cloture motion would be filed. Tuesday, 1 p.m., would be the deadline for first degree amendments. A complete substitute filed at this time would be considered as original text if it were the first complete substitute called up.

Tuesday, 6 p.m., would be the deadline for first degree amendments to a complete substitute filed earlier.

Finally, on Wednesday, second degree amendments would have to be filed no later than 1 hour before the cloture vote.

This change is designed to allow first degree amendments to be drafted to amendments in the nature of a substitute. The first complete substitute offered is treated as original text. At present, the filing requirements of rule XXII make it difficult to get amendments qualified to a substitute filed after the cloture motion is filed. This proposal suggests an adjustment to make such amendments in order.

TIME LIMITATION CALENDAR

Time and again, the Senate has encountered bills which enjoy widespread support but which cannot be moved because of the opposition of a determined few. The theoretical remedy of cloture is often ineffective to meet this situation. Cloture is cumbersome. A vote on cloture cannot occur until the second day after the cloture motion is filed. Then, if cloture is invoked, the Senate must remain on the measure until its disposition. While I think this burdensome procedure is wholly appropriate for major, controversial legislation, many bills never receive consideration because the Senate lacks time to apply the cloture procedure to them.

A new method is needed to secure action on bills which have overwhelming support but which the Senate cannot reach because a few Senators choose to object.

I propose creation of a new Time Limitation Calendar section [TLC] in the Legislative Calendar. In this section would be placed measures on which a notice had been filed in the RECORD. Placement in the Time Limitation Calendar section would not remove these measures from their position on the Calendar of General Orders, but would make them eligible for special treatment under the new procedure.

I envision that 4 days' notice would be given of an intent to proceed to a measure under the Time Limitation Calendar procedure. During the intervening period, filing deadlines would be established for amendments. During the first hour of session on Wednesdays and Thursdays, after the prayer, leader time, and any special orders following immediately thereon, a nondebatable motion could be made to move to the measure under notice. Agreement to the motion would require an affirmative vote of three-fourths of all Senators present and voting.

If the motion were agreed to, a time limitation with respect to amendments, debatable motions, points of order or appeals would be placed on consideration of the measure. Final passage would require a simple majority vote.

Should the Senate invoke the time limitation on amendments, and should consideration reach or extend beyond 8 hours, it would be in order to move for an overall time cap of 6 additional hours. Agreement to the motion would require three-fourths of all Senators present and voting.

If no Time Limitation Calendar motion is made within 10 days of session following the notice, then the notice shall expire. However, I suggest the notice may thereafter be renewed, as it may if the Time Limitation Calendar notice is made and fails.

As to the time limitations, Mr. President, I suggest they be fairly tight. Our purpose is to establish a mechanism by which legislation can move, not to create an avenue for filibuster. Accordingly, I recommend a time limitation on amendments, motions, submitted points of order, or appeals. Because of the filing requirement, reading of amendments would be deemed waived. Germaneness of amendments would be required. Similar to postcloture, no Senator could offer more than one amendment unless any other Senator had the opportunity to do likewise. The procedure creating an overall time limitation on the bill is designed to provide a significantly high standard so it is not easily achieved. Yet, should the overwhelming majority of the Senate support passage of a bill, this suggestion provides a way to act on the issue. Again I point out that this would be for issues of less than national import.

Mr. President, this proposal suggests a way for the Senate to get about its business without impeding legitimate individual rights. A substantial notice procedure is built in to avoid surprises. A heavy supermajority vote is required before the time limitation or related restrictions are triggered. This idea strikes an appropriate balance between individual prerogatives and institutional needs. As I have suggested, that is a balance currently in major need of redress.

Mr. President, I have proposed a number of changes to the Senate rules. Many of the changes, in fact most, are not glamorous or radical. These proposals are designed to rid the present rules of the Senate of anachronisms and archaic practices. The intent of these suggestions is to propose a way to focus the Senate's debate on issues and to eliminate much of the parliamentary quagmire that has prevented this body from making the progress it is capable of making. Many of us feel strongly about the traditions, practices, and precedents of the Senate. They are a part of the Senate's rich history and the foundation of the future of the legislative process in this country. But, the Senate can be improved. Today in the Senate we have what our predecessors did not have. We have the experience of history and the lessons of the past. Therefore, we should face change with an open mind and we should have the confidence in the institution to make the parameters in which we operate fair, just and workable.

In recent years, some of us have been disturbed by the way that loopholes have been found in the Senate rules. If the Senate is to continue as the greatest deliberative body in the world, we must be serious in restoring our Chamber in a way in which meaningful and substantive debate may take place.

I urge my colleagues to review the suggestions made here. They have not been offered with the immediate expectation that every concept will be approved by the Senate. What has been offered are a series of practical and innovative remedies to the way the Senate operates. I have thought long and hard about the Senate and its purpose as a deliberative body, as I have made this review.

The events of the last week should make every Senator ponder on the question: "How may we restore common sense to our procedures and maintain fairness?" I look forward next year to examining suggested revisions—on a bipartisan basis, I hope.

The resolution follows:

S. RES. 461

Resolved.

MOTION TO PROCEED

SECTION 1. Rule VIII of the Standing Rules of the Senate is amended by inserting at the end thereof of the following new paragraph:

"3. Debate on any motion to proceed to the consideration of any matter made after the first two hours of a new legislative day shall be limited to two hours to be equally divided between the Minority Leader and the Majority Leader or their designees. A motion to proceed to the consideration of any matter made after the first two hours of a new legislative day may be laid on the table without affecting any further motion to proceed to the consideration of such matter.".

CONFERENCE REPORTS

SEC. 2. Paragraph 1 of rule XXVIII of the Standing Rules of the Senate is amended by inserting at the end thereof the following: "If a report made by a committee of conference is printed and available at the desk at least 24 hours before presentation, the reading of such report shall be deemed to have been waived.".

TREATIES

SEC. 3. Paragraph 1 of rule XXX of the Standing Rules of the Senate is amended by striking out subparagraphs (b) and (c) and inserting in lieu thereof the following:

"(b) When a treaty is reported from a committee with or without amendment, it shall, unless the Senate unanimously otherwise direct, lie over one day for consideration; after which it may be read a second time on demand and considered. At any stage of such proceedings the Senate may remove the injunction of secrecy from the treaty.

"(c) Upon conclusion of consideration of the treaty, the decisions made during such consideration shall be reduced to the form of a resolution of ratification, with or without amendments, as the case may be, which shall be proposed on a subsequent day, unless, by unanimous consent, the Senate determine otherwise, at which stage no amendment to the treaty shall be received unless by unanimous consent; but the resolution of ratification when pending shall be open to amendment in the form of reservations, declarations, statements, or understandings.".

PASTORE RULE

(Germaneness of Debate)

SEC. 4. Subparagraph (b) of paragraph 1 of rule XIX of the Standing Rules of the Senate is amended to read as follows:

"(b) At the conclusion of the morning hour at the beginning of a new legislative day or after the unfinished business or any pending business has first been laid before the Senate on any calendar day, and until the disposition of the specific question then pending before the Senate, all debate shall be germane and confined to the specific question then pending before the Senate.".

SENSE OF THE SENATE/CONGRESS AMENDMENTS

SEC. 5. Rule XV of the Standing Rules of the Senate is amended by inserting at the end thereof the following:

"6. On a point of order made by any Senator, no amendment expressing the sense of the Senate or the sense of the Congress shall be received which is not germane or relevant to the pending measure if such pending measure is subject to a germaneness requirement.".

RESOLUTION OVER UNDER THE RULE

SEC. 6. The second sentence of paragraph 6 of rule XIV is amended by striking out "placed on the Calendar" through the end thereof and inserting in lieu thereof the following: "held at the desk for one day and then placed on the Calendar of General Orders.".

RULING ON GERMANENESS

SEC. 7. Paragraph 4 of rule XVI of the Standing Rules of the Senate is amended by striking out "and all questions of relevancy of amendments under this rule, when raised, shall be submitted to the Senate and be decided without debate;" and inserting in lieu thereof "and all questions of relevancy of amendments under this rule, when raised, shall be submitted to the Presiding Officer and any appeal from a ruling of the Presiding Officer on any such question shall be decided without debate;".

IMPOSITION OF GERMANENESS REQUIREMENT

SEC. 8. Rule XV of the Standing Rules of the Senate is amended—

(1) by inserting after "Motions" in the caption a semicolon and the following: "GERMANENESS";

(2) by adding at the end thereof the following new paragraph:

"6. (a) At any time during the consideration of a bill or resolution, it shall once be in order during a calendar day to move that no amendment, other than reported committee amendments or modifications thereof directed by the reporting committee, which is not germane or relevant to the subject matter of the bill or resolution, or to the subject matter of an amendment proposed by the committee which reported the bill or resolution, shall thereafter be in order. The motion shall be privileged and shall be decided after one hour of debate, to be equally divided and controlled by the Majority Leader and the Minority Leader or their designees.

"(b) If a motion made under subparagraph (a) is agreed to by an affirmative vote of three-fifths of the Senators present and voting, then any floor amendment not already agreed to (except amendments proposed by the committee which reported the bill or resolution) which is not germane or relevant to the subject matter of the bill or resolution, or the subject matter of an amendment proposed by the committee which reported the bill or resolution, shall not be in order.

"(c) When a motion made under subparagraph (a) has been agreed to as provided in subparagraph (b) with respect to a bill or resolution, points of order with respect to questions of germaneness or relevancy of amendments shall be decided without debate, except that the Presiding Officer may entertain debate for his own guidance prior to ruling on the point of order. Appeals from the decision of the Presiding Officer on such points of order shall be decided without debate.".

CLOTURE RULE

SEC. 9. (a) Paragraph 2 of rule XXII of the Standing Rules of the Senate is amended by inserting before the last paragraph thereof the following new paragraph:

"Notwithstanding any other provision of this rule, any Senator may yield back all or part of his one hour on the measure, motion, or other matter pending before the Senate under cloture for the purpose of reducing the time available for consideration of such measure, motion, or other matter by the amount of time yielded by such Senator. Notwithstanding the total amount of time yielded back pursuant to the preceding sentence, there shall be at least two hours available for the consideration of a measure, motion, or other matter on which cloture has been invoked.".

(b) The third paragraph of paragraph 2 of rule XXII of the Standing Rules of the Senate, which begins "Thereafter no Senator", is amended by inserting at the end thereof the following: "For purposes of this rule, any amendment proposed by the committee of jurisdiction shall be considered germane and relevant.".

FILING AMENDMENTS UNDER CLOTURE

SEC. 10. The third paragraph, of paragraph 2 of rule XXII of the Standing Rules of the Senate which begins "Thereafter no Senator", is amended by inserting after the second sentence thereof the following: "Notwithstanding the preceding sentence, if a committee amendment is filed any amendment to such committee amendment filed by 6 o'clock p.m. on the day following the filing of the cloture petition shall be considered to be an amendment in the first degree to such committee amendment.".

TIME LIMITATION PROCEDURE

SEC. 11. Rule XIV of the Standing Rules of the Senate is amended—

(1) by inserting at the end of the caption thereof the following: "; TIME LIMITATION"; and

(2) by adding at the end thereof the following:

"11. (a) At any time after a bill, joint resolution, or resolution is offered, any Senator may file with the clerk a notice of intent to offer a motion to proceed to the consideration of such bill, joint resolution, or resolution under time limitation as provided in this paragraph and such notice shall be published in the Congressional Record. Such bill, joint resolution, or resolution shall then be placed on the time limitation calendar.

"(b) At any time during the first hour after the Senate convenes on a Wednesday or Thursday occurring four session days after the filing of a notice of intent to offer a motion pursuant to subparagraph (a) and prior to the expiration of 10 session days after such filing, it shall once be in order during each such day to move to the consideration of the bill, joint resolution, or resolution placed on the time limitation calendar under the procedure provided in subparagraph (c). For purposes of the preceding sentence, the first hour after the Senate convenes does not begin until after the expiration of the leadership time and any special orders which follow. The motion to proceed shall be privileged and shall be submitted to the Senate and decided without debate by a yea-and-nay vote. If the motion is agreed to by three-fourths of the Senators present and voting, the bill, joint resolution, or resolution shall be considered as provided in subparagraph (c).

"(c)(1) Upon the adoption of a motion made pursuant to subparagraph (b), the bill, joint resolution, or resolution then pending before the Senate shall be the unfinished business to the exclusion of all other businesses until disposed of.

"(2) During the consideration of the bill, joint resolution, or resolution, there shall be no more than—

"(A) twenty minutes available on each amendment; and

"(B) twenty minutes available on debatable motions, points of order, and appeals.

"(3) At any time after eight hours of consideration of the bill, joint resolution, or

resolution, any Senator may make a motion to limit debate. The motion shall be decided without debate by a vote of three-fourths of the Senators present and voting. If such motion is adopted, the time for the consideration of the bill, joint resolution, or resolution shall be limited to no more than six hours with—

"(A) one hour available on the bill, joint resolution, or resolution to be equally divided between the Majority Leader and the Minority Leader, or their designees;

"(B) twenty minutes available on each amendment; and

"(C) twenty minutes available on debatable motions, points of order, and appeals.

After no more than six hours of consideration of the bill, joint resolution, or resolution, the Senate shall proceed, without any further debate on any question, to vote on the final disposition thereof to the exclusion of all amendments not then actually pending before the Senate at that time and to the exclusion of all motions, except a motion to table, or to reconsider and one quorum call on demand to establish the presence of a quorum (and motions required to establish a quorum) immediately before the final vote begins.

"(4) Except by unanimous consent, no amendment shall be proposed after the adoption of a motion to proceed under suspension unless it had been submitted in writing to the Journal Clerk by—

"(A) 2 o'clock p.m. on the first day following the filing of the notice if such amendment is a substitute amendment;

"(B) 6 o'clock p.m. on the first day following the filing of notice if such amendment is a first degree amendment to the substitute amendment;

"(C) 2 o'clock p.m. on the second day following the filing of notice of such amendment is a first degree amendment other than a substitute amendment; and

"(D) 2 o'clock p.m. on the third day following the filing of notice if such amendment is a second degree amendment.

No dilatory motion, or dilatory amendment, or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate. The reading of any amendments shall be deemed to have been waived. No Senator shall call up more than one amendment until every other Senator shall have had an opportunity to do likewise.".

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER (Mr. MATTINGLY). Under the previous order, the Senator from Wisconsin is recognized for not to exceed 15 minutes.

THE AMERICAN BAR ASSOCIATION'S STRONG SUPPORT OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, one of the organizations which deserves great credit for its efforts to support Senate ratification of the Genocide Convention is the American Bar Association.

The American Bar Association had testified in opposition to the ratification of the Genocide Convention in 1950. Yet, 26 years later, in 1976, it reassessed its position and overwhelmingly endorsed ratification of the Genocide Convention.

Why did it do so? First, because the ABA determined that the legal arguments raised by its own members in 1950 had not withstood the test of time. It concluded that there were no outstanding issues that had not been resolved. All of these issues—sovereignty, extradition, first amendment rights of Americans, the use of treaty power, Federal criminal jurisdiction—had been completely resolved in the view of the American Bar Association, which concluded that the rights of all Americans were clearly protected.

But that reversal did not take place overnight. Step-by-step, different sections of the American Bar Association concluded that the 1950 position of the House of Delegates was untenable; and by the early 1970's, the leadership of the association was firmly behind ratification. In fact, during the 1974 debate on the Genocide Convention, the Senate received a telegram of endorsement for the convention from six leaders of the ABA the then-president and five former presidents. Thus, the 1976 vote came as no surprise but a welcome change of course, nonetheless.

Since that time, the ABA has worked resolutely for Senate ratification, with president after president of the ABA making the Genocide Convention one of their legislative priorities.

Having given so many years of consideration to the Genocide Convention, it is not surprising that the ABA and its individual sections have produced several helpful analyses of the arguments raised by the opponents of the convention and the bar association's refutation of those arguments. One of the more thoughtful pieces which reviews the overall questions of the treaty power as well as the more detailed line-by-line criticisms was produced by the section on individual rights and responsibilities of the ABA. In order to assist my colleagues and their staffs in reviewing the Genocide Convention, I ask unanimous consent that an excerpt from this document be printed in the RECORD. I am convinced that this excellent analysis will put to rest the concerns that any Senator or staff member may still have regarding the Genocide Convention and that they will join me in seeking ratification of the Genocide Convention in the final days of the 98th Congress.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RECOMMENDATION THAT THE UNITED STATES RATIFY THE CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE—REPORT BY THE SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES

(By Jerome J. Shestack)

SUMMARY

1. The Convention on the Prevention and Punishment of the Crime of Genocide is an international commitment to decency and morality consistent with the American tradition. It does not, of course, stand alone. Like other efforts throughout history, from the Ten Commandments through the Magna Carta, the English Bill of Rights, the French Declaration of the Rights of Man and the Citizen, the United States Bill of Rights, the Thirteenth, Fourteenth and Fifteenth Amendments to the United States Constitution, and the United Nations Charter, the Convention is a statement which advances individual rights and human dignity. The United States, which was founded on the basis of protest against governmental excesses, and which grew great in substantial measure because it was a haven and the hope for oppressed persons everywhere, should be in the lead in joining in the declaration of revulsion at the organized effort to eliminate a whole people during World War II, and of determination that such an effort shall not be undertaken ever again.

2. The great documents of human rights have taken various forms. From the laws of Moses to the pact between King and nobles at Runnymede, to the charters of the English, American and French Revolutions, to the constitutional amendments of nineteenth century America, the essential element was a statement of the rights of free men, coupled with punishment or threat of punishment to those who would abridge these rights. This pattern, too, was followed in the documents growing out of the rebirth after World War II, among them the Convention against Genocide.

Until 1945, the efforts to legislate internationally were very limited. The idea that the practices of states themselves could be illegal or could be made illegal dates from the twentieth century, and with one or two exceptions, from the end of the Second World War. The Genocide Convention is designed to raise to the level of an international crime certain horrible acts, such as the effort of Nazi Germany to exterminate all the Jews within its domain, or attempts by other countries to exterminate other racial, religious, or ethnic groups within a given country or area.

The definition of genocide as of international concern reflects also the recognition that genocide is typically associated with threats or breaches of the peace. The most flagrant cases of genocide have occurred in major and "total" wars. Even lesser instances have tended to provoke retaliation, intervention by third parties, and a spread of war and devastation. Thus, steps to curb genocide are steps in the direction of preservation or restoration of peace.

3. The Genocide Convention recognizes that both states and individuals must be deterred in order to minimize the risk of genocide. Accordingly, states are made to answer in international organs—for example, the United Nations Security Council or the United Nations General Assembly, for actions taken by their governments that might constitute genocide, or actions taken in their territory—even without official government sanction—such as by guerrillas, commandos, or the like. In other words, a

state is given—properly—the affirmative obligation to prevent and punish genocide within the area it controls.

In addition, individuals are told directly and explicitly that they cannot hide behind actions of governments in which they participate. Whether in anticipation of a war crimes trial such as those after World War II, or in anticipation of a change in government internally, all those who support or execute a policy of genocide are warned that the world will not tolerate or excuse their behavior.

Thus, while no one can be certain of the effectiveness of any given documents, the Genocide Convention goes far to make genocide unattractive even for those who would not shrink from it on moral grounds.

4. Earlier opposition to the Genocide Convention seems to have stemmed largely from a fear of expanded use of treaties generally. That fear is no longer relevant, as treaties by the thousands have been entered into by the United States and others in the past twenty years. One particular aspect of this fear, that by the treaty process the United States government would seek to enact civil rights legislation otherwise not constitutional or not possible of passage, has also been overtaken by events, as the major federal civil rights bills and scores of judicial decisions have removed whatever doubt there might have been in 1949 about the powers of the federal government in this area. Neither the Genocide Treaty nor the treaty power generally has played any part in these developments.

In addition to the general objections to the Genocide Convention, a number of specific provisions of the text of the Convention were criticised, some as providing "loopholes", other as extending coverage of the Convention too far or raising conflicts with the United States Constitution. None of these objections stands up to careful analysis.

5. The Genocide Convention is now twenty years old, but it is a living and important document. Our friends are confused, our enemies delighted, at continued United States hesitation about the Convention. Adhering to the Convention now would be a real step in the advancement of America's national interest.

DISCUSSION

I. The Genocide Convention is a document of human liberty consistent with and in the furtherance of the American tradition

The direct moving cause of the Genocide Convention, as already noted, was the systematic attempt by Nazi Germany to exterminate the Jews of Europe. The word genocide was coined in connection with a description of the policies of Hitler and his henchmen.[17] But the essential element of the crime goes back long before the technical perfection of brutality achieved in the twentieth century.

The Romans not only conquered, but destroyed the people of Carthage; the Romans attempted to root out and destroy the early Christians; Mohammed boasted that he eradicated a Jewish tribe; during the Middle Ages, Crusaders attempted in various instances to eliminate men, women and children of the other faiths; Cortes in Mexico, Pizarro in Peru, and various North Americans as well, systematically eliminated nations, races or tribes of Indians. It is not necessary to present a complete list here.[18] The point is that on numerous occasions in the past—recent as well as remote—states, leaders, and peoples with whom we feel a cultural kinship resorted to policies today deemed wholly unacceptable. This change in attitude finds its expression in the Genocide Convention, just as other changes in attitude found their expression in other documents in the development of our liberties. Unchecked personal rule of a king was acceptable in the Middle Ages, but unacceptable (at least in England) after the Magna Carta. The rights of individuals to bail, trial by jury, freedom from cruel and unusual punishment, and the immunity of proceedings in Parliament had developed gradually in the sixteenth and seventeenth centuries, but until the English Bill of Rights of 1689 it was not clear that the King could not suspend any of these guarantees, some by act of Parliament. The United States Constitution and the American Bill of Rights further developed the concept that there were laws higher than the will of the state, and developed the concept that certain acts were prohibited to government even when adopted by the legislature. Yet even the United States Constitution contains clauses that today seem abhorrent, such as the three fifths clause[19] and the slavery clauses,[20] and it took the post Civil War Amendments to bring our Constitution up to what would today be considered acceptable guarantees of individual rights. Even the Fourteenth and Fifteenth Amendments, as we have recently seen, have undergone substantial growth in the past few decades.

In each of the stages in the development of human liberty how much significance did a given document, amendment, or judgment have? In detail, of course, the answer varies from instance to instance. Speaking broadly, however, it is fair to say that the documents which became landmarks were produced when the time was ripe for them (or perhaps a little before), and that their impact went far beyond the immediate and enforceable issue. The lasting documents were persuasive documents, and they changed men's minds and men's lives.

Almost a quarter of a century has passed since World War II. While the past twenty-four years have hardly been a time of peace, we have not seen again the horrors and excesses of the Second World War. Yet the possibilities of repetition cannot be put aside. The time is certainly ripe for the Genocide Convention, just as it was ripe in 1689 for the English Bill of Rights, in 1789 for the Constitution, in 1790 for the American Bill of Rights, and in 1868 for the Fourteenth Amendment. To stand aside from the Genocide Convention is to lose one's contact with the times. To say, as the United States has said until now, "We are against genocide, but we do not want to put it in writing," is to demonstrate insensitivity to the growth of an idea, in a manner not worthy of a great and freedom-loving nation. In practical political terms, not to sign the Genocide Convention is to dissipate one's influence, and to supply fuel for those who characterize the United States as the great hypocrite.

As Chief Justice Warren has said:

"We as a nation should have been the first to ratify the Genocide Convention. . . . Instead, we may well be near the last. . . .

"This sad record and the responsibility for it lie squarely with those who have a parochial outlook on world problems. They have failed to measure the element of change in the world. They have failed to recognize men and their institutions do not stand still in the face of great changes. We are not so uncertain of ourselves and our future that we cannot make our institutions conform to our needs as a progressive people."[21]

II. An international convention or treaty is the most suitable form for addressing the dangers of genocide

A. Treaties Are Today the Normal Means for Entering into Mutual Commitments for Common Purposes

Until the twentieth century, there were comparatively few general multinational treaties. The treaty power, both in the United States and other countries, was used primarily to settle boundaries, and to formalize certain limited kinds of commercial arrangements, especially with respect to shipping and fishing. Thus, not until the Versailles Treaty and the League of Nations Covenant did the United States, along with other countries, have to consider the feasibility and desirability of establishing international rules of conducting through treaties. Such concern as the United States—and others—had with treaties in the 1920's and 1930's was settled in 1945.

The United Nations Charter became not just a document creating an organization and establishing its internal rules; more important, the United Nations Charter became a general code of conduct, first for the victorious states in World War II, and now for nearly all states. In the Charter, drafted with the prominent participation of the United States, the signatory states agreed to join together ". . . to achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and in encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion. . . ." [Art. 1(3)];[22] "to refrain in their international relations from the threat or use of force against the territorial dignity or political independence of any state. . . ." [Art. 2(4)]; "to settle their international disputes by peaceful means . . ." [Article 2(3)]; and to "promote higher standards of living, full employment, and conditions of economic and social progress and development" among all nations [Article 55(1)]. All of these provisions (and as many more could be cited) involved, to some extent, limitations on sovereign states' absolute freedom of action; nearly all of them might involve matters typically thought of as subjects of internal legislation. But the decision was taken in Washington and in the chanceries and parliaments of now more than a hundred nations, that the limitations on one's own freedom of action was well repaid in the commitments of other countries to likewise recognize that each country's action affects all other countries and the peace and welfare of all mankind.

The successes and disappointments of the United Nations are not pertinent to this discussion. Certain it is that no nation—the United States included—has lived up fully to all the engagements in the United Nations Charter; but neither has any member state denounced the Charter or acted in deliberate defiance of the commitments if entered into. The point here, however, is a different one. The idea that treaties are the most solemn of international commitments, that they may and should be used to limit the actions of states and engage them in common pursuits, has been accepted, in the United States and universally. Further, and most relevant here, the idea has been accepted that treaties may and should be used to define what areas of individual and gov-

Footnotes at end of article.

ernmental activity are matters of international concern. In other words, nothing in the United Nations Charter nor in the many subsequent treaties—including the Genocide Convention—alters the basic principle that matters essentially within the domestic jurisdiction of states must be left to the states without outside intervention. What the Charter, and some of the treaties—including the Genocide Convention—do, is to say that certain kinds of activity are now the concern of all.

B. The Genocide Convention Deals With a Subject of Common Concern to All Mankind

The "principle" of international law, and of United States constitutional law that a treaty may only deal with matters of international concern [23] is, for all practical purposes, a tautology.[24] When some states—or, as in this case, 74 states—consider a matter to be of sufficient concern to make a treaty about it, then realistically it is of international concern. The practical significance of the rule might be to inhibit a President who has been unsuccessful in securing passage of a bill of local content, say a rise in the minimum wage laws, from putting the substance into a treaty with a foreign country, and then attempting to assert it as national law. The Genocide Convention presents, from the point of view of the United States, just the opposite picture. Far from attempting to achieve internal reform by international treaty, the Genocide Convention would turn a set of rules already followed in the United States into obligations binding on other states and individuals as well.

But the argument in favor of the Genocide Convention does not rest on these almost grammatical or verbal points. Genocide is of international concern, and for two equally compelling reasons. One, massive horror anywhere on earth affects everyone and every country; and two, the kind of issue comprehended within the definition of genocide [25] is nearly always associated with threats to or breaches of international peace and security. The chief instance, of course, which gave rise to the Convention is associated with—indeed was an integral part of—the great holocaust that man has yet seen. Just a glance at more recent disputes, such as between India and Pakistan, between Nigeria and Biafra, Greeks and Turks on Cyprus, between Black and White in Rhodesia and South Africa, between Arab and Jew in the Middle East, shows how closely ethnic hatreds, national combat, and world peace are tied together. Whatever restraint an international document or treaty can have on the eruption or conduct of such disputes, on the behavior of victors or the revenge of vanquished is repaid a hundredfold in the overall prevention of world war. No one, of course, expects any treaty or indeed any law to be one hundred percent effective as a restraint on conduct of aroused peoples. But the relevance to the international community—in technical terms the subject of international concern—cannot be doubted. Seen in terms of a threat to international peace and security, the occurrence of genocide anywhere in the world is as much a matter of international concern as, for example, the spread of nuclear weapons.[26]

III. The Genocide Convention properly focuses both on States and on individuals

A. States Are Made Answerable Both for Commission and Tolerance of Genocide

The crimes which gave rise to the Genocide Convention—mass murder of Jews (also Poles and Slavs) by the Nazis was, of course, done with the encouragement and indeed at the direction of the government of Germany. Article VIII of the Genocide Convention makes it clear that were such an act to occur today, any other contracting party could bring the matter to the attention of the appropriate organ of the United Nations. Even if the complaint involved alleged prohibited action by one country against an ethnic group within its own country—for example, by Cyprus against its Turkish population or by Turkey against Armenians within its territory—the claim that the United Nations could not consider the matter because it concerned the domestic jurisdiction of one state within the meaning of Article 2(7) of the United Nations Charter[27] would be foreclosed. The Security Council, or the General Assembly, or the Economic and Social Council would all be authorized to hear the complaint. In appropriate cases, where the complaint was borne out by the facts, the United Nations organs could recommend or decide on measures to be taken, including fact finding, investigating, and, if the complaint showed a threat to international peace and security, sanctions under Articles 41 or 42 of the United Nations Charter.

Apart from the defense of domestic jurisdiction, a state accused before the world of genocide might contend that it was not the author of the acts complained of. Recent assertion by the governments of several countries in the Middle East concerning the activities of the "Fedayeen"—whether true or false—suggest that the possibility of a state's seeking to disclaim responsibility for terroristic activities within its territory are not as remote as once thought.[28] Such a defense, however, would also be unavailing. By Article V, the Convention places on all contracting parties the obligation of punishing persons guilty of genocide (or of the accessory crimes listed in Article III) on their territory. Nor could the absence of domestic legislation be a defense against states accused of harboring perpetrators (or accessories) of the crime of genocide. As soon as a state joins the Convention, it undertakes to enact, in accordance with its constitution, the necessary implementing legislation.[29] Thus while a state cannot be forced to enact legislation, and of course a court (or jury) cannot be forced to convict an accused person or persons, the Convention denies to any state the right to "wash its hands" of a charge of genocide alleged to have taken place in its territory, or to have been planned in or carried out from its territory.

B. Individuals Are Made Directly Responsible for Participation in Genocide

Perhaps the greatest lesson of World War II was that a small determined leadership at the sea of power can move an otherwise civilized and decent people to commit the most horrible barbarities. Everyone who has traveled since World War II to Japan returns with amazement that the friendly people he encountered were the same who, for example, raped and murdered their way through the Philippines. Everyone who has traveled in Germany is astonished that the decent and hard-working people he has met tolerated—and staffed—right in their midst the most horrible instruments of torture and destruction.[30] The answer given uniformly at all levels, from private conversation to formal interrogation to the major War Crimes Trials, is that the decision was not the individual's, but that he was obliged to follow orders. At the highest levels, as for Goring and Hess,[31] or for the most egregious offenders, like Adolf Eichmann,[32] the defense of superior orders was simply not accepted. At lower levels, the defense was often accepted, at least de facto.

The Genocide Convention makes clear, in Article IV, that in respect of the crimes specified, no one, not governmental officials, not private individuals, can escape responsibility for his actions through this defense.[33] To the extent an official—in a legislature, in a cabinet, an Army Command, or wherever—looks ahead, whether in a situation of war or of peace or in between, he must now know that if he gives his support to a proposed act of genocide, he will be personally liable.

In addition, where genocide is carried out, the perpetrators must know that (1) the state where they act is obligated to punish them; (2) any state to which they might escape is obligated to return them to the state where the acts were committed;[34] (3) and no state will consider genocide a political crime for the purpose of evading extradition.

Thus, the Convention approaches the issue of genocide from all directions. Officials cannot hide behind the "act of state",[35] states cannot escape responsibility by pointing at private individuals, and individuals cannot hide in their own or other states.

IV. The Genocide Convention is in all respects consistent with the Constitution, the laws, and the ideals of the United States

A. The General Objections to the Genocide Convention Made in 1949-50 Are Wholly Obsolete Today

The opposition to the Genocide treaty at the Senate hearings twenty years ago centered around three main points.[36] First, a general opposition to the "new concept" of government action by treaties. During the next two decades, the United States has entered into some 4,000 international agreements, without any noticeable diminution of its sovereign independence, nor any noticeable debasement of its standards to an international average. That treaties are the modern means of developing international law, just as statutes are the modern means of developing state and federal law, has been noted earlier, and hardly requires demonstration. If some felt nervous or cautious in 1949 about stepping on the new ground of multilateral treaties, including treaties affecting individuals, that fear is no longer justified. On the contrary, the only concern a United States citizen should have is that his country not be left out as the documents and issues of the new international law are drafted, debated, interpreted and applied.[37]

Second, the opposition expressed the fear that by treaties in general, and by the Genocide Convention in particular, Article 2(7) of the United Nations Charter, dealing with matters "essentially within the domestic jurisdiction of states" was being undercut. In the words of the ABA Special Committee,[38] "Shall we be governed in internal affairs by treaty law or by laws passed by Congress with a constitutional basis?" Again the answer has already been given. Article 2(7) is in no way undercut by the Genocide Convention. Domestic matters are as out of bounds for the United Nations as ever. The only effect of the Genocide Convention is to say that the issues specified in Articles II and III cover not merely one country, but all countries. If the United States wants (1) to take a complete handsoff attitude if genocide should occur somewhere in the

world; or (2) to foster, shield, or protect the commission of genocide within the nation's borders, then it should certainly not join the Convention. If neither of these attitudes is real, then the argument has no appeal whatever.

Third, the opposition, focusing on certain enigmatic language of Justice Holmes in *Missouri v. Holland*,[39] considered that the Genocide Convention might be the opening wedge in a drive to exceed the legislative powers of the Congress vis-a-vis the states through use of the treaty power. Whatever theoretical merit there might have been with respect to this point, discussed for nearly ten years in the context of the proposed Bricker Amendment,[40] it has no relevance to the Genocide Convention. No one could have any doubt about the right of the Congress to prohibit genocide. Quite apart from the treaty power, the Constitution expressly grants to the Congress the power "to define and punish Piracies and Felonies committed on the high seas and Offences against the Law of Nations."[41] And if anyone suspected that the Genocide Convention might be used to justify federal legislation in the field of civil rights, the events since 1949 have shown that the United States Constitution as currently understood is quite adequate to sustain any civil rights legislation likely to be proposed and passed, and certainly far more ample to coverage than any authority possibly derived from the Genocide Convention.

It is conceivable that a claim could have been made that depriving a racial group—say Negroes or American Indians—of the right to vote or the right to enjoy public accommodations is comprehended within Article II (b) of the Genocide Convention related to "mental harm". But this thought is hardly more than conceivable: as we have seen, the whole thrust of the convention and its origin suggest quite different goals; moreover, Article II (b) like all of the definitions of the crime of genocide, is governed by the phrase "with intent to destroy", which would not seem to apply to even the most extreme segregationist measures which may be tolerated by statute law in the United States.[42] At all events the barring of school segregation, which was accomplished without any statute,[43] the passage of the Civil Rights Acts of 1957[44] and 1964[45] and the Voting Rights Act of 1965[46] all sustained by the Supreme Court, show that blocking the Genocide Convention has given and will give no comfort to opponents of federal enforcement of rights of minorities, while ratification of the Convention will add no powers to those the Federal Government already possesses.

Unconnected to the state-federal relation in the United States, the objection was also made in 1949-50 that the Convention undertakes to define a crime for which there would be punishment under federal law, without concurrence by the House of Representatives. This is simply a misunderstanding, resulting from a confusion about what is and what is not a "self-executing" treaty. In fact, ratification of the Convention would obligate the United States internationally to pass the necessary implementing legislation, making the crimes specified punishable under United States law. Failure by the Congress to enact the implementing legislation would leave the United States in breach of an international obligation, but in such eventuality no one could be tried in the United States for a crime not specified in the Criminal Code. It is certain that no one can be accused of or tried for the crime of genocide in the United States until legislation making genocide a crime has been adopted in accordance with our domestic procedure for passage of a law.

To give an idea of what implementing legislation for the Genocide Convention might look like, a draft has been prepared and appears at Appendix C.[47] It may be noted that the draft follows the Convention closely, but not verbatim. Thus, for example, the words "aiding and abetting" have been substituted for the Convention's "complicity in", and a number of comparable small changes have been made. Needless to say, no international convention can adopt a form or words in every respect suitable for eighty or a hundred different legal systems. One of the objects of implementing legislation is to tailor a universal agreement to various local conditions. The draft in Appendix C, or some variation on the draft, could fully serve the twin purposes of adapting a general treaty to United States conditions and of preserving the principles that no one shall be punished by the United States for a crime, but upon conviction of an act prohibited by a law duly enacted by the Congress.[48] Any prosecution in the United States would be subject to all the safeguards provided in the Constitution, including the substantive guarantees in the First Amendment and the procedural guarantees in the Fourth, Fifth, Sixth, Seventh, and Eighth Amendments.

B. The Specific Objections Raised to the Genocide Convention Are Not Meritorious

In addition to the general objections to the Genocide Convention discussed above, a number of particular criticisms relating to the text of the Convention were made by opponents in 1949-50.[49] These are not of a dimension sufficient, singly or together, to warrant non-ratification.

"As such"

Why, it was asked, did Article II refer to the destruction of a national, ethnical, racial, or religious group *as such?* Does this not create an ambiguity? The answer is perhaps it does, but so would the phrase without these words. Conceivably, an edict to kill all restaurant owners might be a subterfuge to kill, say, all Chinese within a country. In such an event, the words "as such" would give a possible technical defense to the authors of the deed. But that possibility seems very remote. In the past, genocide has not usually been disguised. It has been part of a deliberate, public, and political or religious campaign. Rome set out to destroy the Carthaginians; Islam set out to destroy Christians; Hitler set out to destroy the Jews, *as such.*

"In whole or in part"

What did the addition of the words "in whole or in part" signify for the crime of genocide? Did it mean, in the words of one opponent, "driving five Chinamen out of town"?[50] The answer, again, is quite simple, and indeed, appears in the drafting history of the Convention itself.[51] The object of adding the words "in part" was to preclude an argument that international destruction, say, of half or two thirds of the Jews of Rumania was not comprehended in the crime of genocide.

In the context of this Convention, there can be no doubt about the distinction between intent to destroy a national, ethnical or racial or religious group and intent to destroy some individuals belonging to that group. Nothing in the history of the United States since the early Indian wars quite adds up to genocide within the meaning of this convention. If any race riot, lynching, or comparable event ever grew to the scale approaching genocide as defined in the Convention, the international obligation would surely add nothing to the determination of our own state and federal authorities to bring the perpetrators to full justice.

"Mental harm"

The thrust of the objection to this phrase, apparently, was that the critics did not understand it. As more facts of tortures both in Asia and in Eastern Europe during World War II have come out, as we have come to know about brain-washing in North Korea of our own soldiers, and in Eastern Europe of various political and religious leaders including for instance Cardinal Mindszenty, the objection to including mental harm along with bodily harm would seem to disappear.

"The place of trial"

One criticism of the Convention arose out of the possibility that, under Article VI, a person accused of genocide could be tried by an international penal tribunal, possibly without trial by jury and other safeguards to which a United States citizen is entitled under the Constitution. Again, the answer is simple. No such tribunal has been established.[52] If one were established, parties to the Genocide Convention would have the option whether to accept its jurisdiction or not. For the United States, that option would have to be independently exercised through the Treaty Power, that is only with the advice and consent of the Senate by a two-thirds vote.

"Direct and public incitement"

The question is raised whether Article III(c) of the Convention, in prohibiting "direct and public incitement" to commit genocide is contrary to the First Amendment's guarantee of free speech. The scope of the free speech protection in the United States Constitution has been subject to various interpretations through the years, particularly as it conflicts with public order.[53] Thus it is not possible to state categorically that any given statement is or is not protected free speech, as against prescribed criminal activity. Our best judgment, for reasons spelled out below, is that any activity sufficient to support conviction for violation of Article III(c) of the Convention would fall outside of the First Amendment's protection. But the case need not rest there.

Assuming the above judgment were wrong and an activity prohibited by the Convention were held to be protected by the First Amendment, the conviction would simply be reversed. Nothing in the development of the treaty power suggests any other result. Indeed, in *Missouri v. Holland*,[54] the case most often cited as pointing the way toward expanded use of the treaty power, Justice Holmes specifically limited his speculation to "some invisible radiation from the general terms of the Tenth Amendment," [relating to reserved powers of the states] and not to "prohibitory words to be found in the Constitution," such as the First Amendment. Thus reversal of a conviction on free speech grounds would be perfectly within the powers of the Supreme Court (or indeed a lower court), notwithstanding anything in the Convention. Indeed, the Convention itself only requires (in Article V) that states undertake to enact, "in accordance with their respective Constitution" the necessary legislation to give effect to the Convention. If a portion of the implementing legislation were declared unconstitutional, generally or

as applied to a given defendant, there would be no breach of the obligation under the treaty.

If the above possibility were very strong (and if incitement to genocide were the major provision of the Convention), there might be some cause for hesitation about the Convention.[55] In fact, it appears that Article III(c) is drawn precisely to satisfy the prevailing interpretations of the First Amendment to the United States Constitution.

Mr. Justice Holmes stated the argument in favor of the constitutionality of a provision such as Article III(c) in speaking for the Supreme Court in *Frohwerk v. United States,*[56] decided just after World War I.

"We think it necessary to add to what has been said in *Schenk v. United States* * * *[57] that the first amendment, while prohibiting legislation against free speech as such, cannot have been, and obviously was not intended to give immunity for every possible use of language. We venture to believe that neither Hamilton nor Madison, nor any other competent person then or later, ever supposed that to make criminal the counseling of murder within the jurisdiction of Congress would be an unconstitutional interference with free speech."

The same thought was expressed thirty years later in a case involving an injunction against peaceful picketing to induce violation of a state law concerning trade.[58]

"It has rarely been suggested that the constitutional freedom for speech and press extends its immunity to speech or writing used as an integral part of conduct in violation of a valid criminal statute. We reject the contention now."

It is worth pointing out that the author of that opinion, for a unanimous court, was Mr. Justice Black, surely a justice sensitive to violations of the First Amendment.

It is, of course, not easy to distinguish in all cases between permissible and impermissible expression, or between condemnation of a racial, religious, or ethnic group and intent to destroy such a group. The distinctions drawn by the Supreme Court in this area—for example, between *Chaplinsky v. New Hampshire,*[59] *Terminiello v. City of Chicago*[60] and *Feiner v. New York*[61] are not easy. If a person were arrested and prosecuted for inciting to genocide, doubtless the factual issues would be scrutinized with great care. The dividing line was expressed best, perhaps, by Mr. Justice Brandeis in his famous concurrence in *Whitney v. California.*[62]

"* * * even advocacy of violation, however reprehensible morally, is not justification for denying free speech *where advocacy falls short of incitement* and there is nothing to indicate the advocacy would be immediately acted on. The wide divergence between advocacy and incitement, between preparational attempt, between assembling and conspiracy, must be borne in mind." (Emphasis supplied.)

In its motion recent decision in the free speech area, the Supreme Court, while discrediting *Whitney v. California,* appears to have reaffirmed the distinction drawn by Justice Brandeis in his concurrence. Reversing the conviction of a Ku Klux Klan member who staged a "rally" for television reporters, the Court said: [63]

"* * * the constitutional guarantees of free speech and free press do not permit a State to forbid or prescribe advocacy of the use of force or of law violation except *where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action."* (Emphasis supplied.)

However hard it is in practice to draw the distinctions between advocacy and incitement, it is clear that in the definition of the crime, the Genocide Convention has drawn them correctly by these standards.

In short, the particular criticisms of the text of the Convention are the sort of objections that can be made to the text of many documents. Singly or together, they do not provide reason to reject the Convention.

V. The Genocide Convention remains an issue of current importance

There may be some temptation to say of the Genocide Convention that it is "fighting the last war". It is, after all twenty years old, and it was stimulated by the atrocities of World War II. But both in political terms and in terms of the substance of the Convention, the issues are very current.

As the table at Appendix B shows, ratifications and accessions keep coming in all the time—Nepal was the latest in January of 1969. America's friends ask, "Where are you?"; America's foes say, "You see what we mean. . . ." [64]

More important, more tragic, is the fact that threats and acts of genocide are in no sense remote. In Africa, in the Middle East, Southeast Asia, in the Mediterranean, and the Caribbean, it is clear that ethnic hatreds, war with hunger and depredation as weapons, brain-washing and torture are not of the past. If the excesses of World War II have not quite been repeated, the Genocide Convention may have had a part to play. No one can say that the concerns of that treaty are not the concerns of today and tomorrow.

It may well be that the Genocide Convention has already been violated even by those who have joined it. Magna Carta was violated many times in English history; the American Bill of Rights was violated many times—indeed continues to be violated all too often. So are the Fourteenth Amendment and the Fifteenth Amendment. But none could gainsay their importance, and their overall effectiveness.

It is too early to tell whether the Genocide Convention will take its place alongside Magna Carta and the Bill of Rights. It is too late to pretend it does not matter.

CONCLUSION

For the reasons stated, it is in the national interest of the United States to ratify the Genocide Convention. The American Bar Association is rightfully looked to by the nation and particularly by the Senate for leadership in this matter. Accordingly, the American Bar Association should adopt the Resolution submitted herewith by the section of Individual Rights and Responsibilities in favor of ratification by the United States of the Genocide Convention.

FOOTNOTES

[17] The author of the word was Professor Raphael Lemkin, see R. Lemkin, *Axis Rule in Occupied Europe,* 79–95 (1944). The word comes from the Greek genos (Latin genus)=race, tribe, or nation, and *caedere*=to kill. For a brief history, see Lemkin, Genocide as a Crime Under International Law, 41 Am. J. Int'l L. 145 (1947).

[18] See, *e.g.,* Lemkin, *Genocide as a Crime Under International Law,* 4 U.N. Bull. 72 (1948); N. Robinson, *The Genocide Convention* (1960).

[19] Article I, Sec 2, cl. 3.

[20] Article I, Sec. 9, cl. 1; Article IV, Sec. 2, cl. 3.

[21] See Address of Chief Justice Earl Warren before the National Conference on Continuing Action for Human Rights (Dec. 4, 1968).

[22] See also, Article 13(1)(b).

[23] See, *e.g.,* American Law Institute, Restatement of the Law, Foreign Relations Law of the United States, § 117 (1965):

"(1) The United States has the power under the Constitution to make an international agreement if—

(a) the matter is of international concern, and

(b) the agreement does not contravene any of the limitations of the Constitution applicable to all powers of the United States."

See also, *Geofroy v. Riggs,* 133 U.S. 258, 266 (1890); *Santo Vincenzo v. Egan,* 284 U.S. 30, 40 (1931).

[24] For a full development of this point, plus tracing of various conceptions of the treaty power in United States constitutional history, see Henkin, *The Constitution, Treaties, and International Human Rights,* 116 U. Pa. L. Rev. 1012, esp. 1016–1026 (1968).

[25] See pp. 4–5 and ante.

[26] Compare the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, July 1, 1968, S. Exec. H. 90th Cong. 2d Sess. (1968).

[27] "Nothing in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter. . . ."

[28] Cf. Note: Genocide, A Commentary on the Convention, 58 Yale L.J. 1142, 1147 at n. 40 (1949).

[29] On June 6, 1969, the Economic and Social Council called for reports by all Contracting Parties to the Genocide Convention of their implementing or otherwise applicable legislation. U.N. Doc. E/Res./1420/XLVI (June 17, 1969). As of September 1969, 16 states have replied. See U.N. Doc. E/CN.4/Sub.2/303 and Add. 1–6. For a possible form such implementing legislation might take in the United States, see Appendix C.

[30] For instance, the concentration and extermination camp at Dachau was only 17 kilometers—about 10 miles—from Munich.

[31] See *Nazi Conspiracy and Aggression,* Opinion and Judgment 55–56 (Office of U.S. Chief of Counsel for Prosecution of Axis Criminality 1947).

[32] For a concise summary in English, see Lord Russell of Liverpool, *The Record, The Trial of Adolf Eichmann for his Crimes Against the Jewish People and Against Humanity,* 304–305. For a discussion of the background of the defense of superior orders, see *id.* 346–351 (1963).

[33] For a view that the Nürnberg defense is not entirely eliminated, see statement of Nehemiah Robinson in *Senate Hearings* (1950) 487, 501.

[34] Subject, of course, to local laws and treaties regarding extradition.

[35] *Cf. Underhill v. Hernandez,* 168 U.S. 250 (1897).

[36] See *Senate Hearings* (1950) 154–230.

[37] This point, in the context of the growth of international law in the post-war period, is developed by Bernard G. Segal, President of the ABA, in a recent address to the World Peace Through Law Conference, Bangkok, Thailand, September 1969.

[38] 74 A.B.A. Rep. 320 (1949), *Senate Hearings* (1950) 160.

[39] 252 U.S. 416, 433–434 (1920).

[40] There were several versions of the Amendment. For the principal one, see S.J. Res. 1 as amended and reported favorably by the Senate Judiciary Comm. S. Rep. No. 421, 83d Cong., 1st Sess. (1953).

[41] U.S. Constitution Art. I. sec. 8, cl. 10.

[42] There have been, of course, deliberate lynchings or murders with racist aims. But such acts have always been unlawful.

[43] *Brown v. Board of Education,* 347 U.S. 483 (1954), See also *Cooper v. Aaron,* 358 U.S. 1 (1958), *Griffin v. Prince Edward School Board,* 377 U.S. 218 (1964).

[44] 71 Stat. 637 (1957), 42 U.S.C. 1971 (1964), sustained in *United States v. Mississippi,* 380 U.S. 128 (1965).

[45] 78 Stat. 243 (1964), 42 U.S.C. § 2000a-h, sustained in *Heart Of Atlanta Motel, Inc. v. United States,* 379 U.S. 241 (1964), and *Katzenbach v. McClung,* 379 U.S. 294 (1964).

[46] 79 Stat. 437 (1965), 42 U.S.C. § 1973 (Supp. 1965), sustained in *South Carolina v. Katzenbach,* 383 U.S. 301 (1966).

[47] While the Departments of State and Justice informally discussed implementing legislation for the Genocide Convention, no government draft has been published. The draft has been prepared for this Report, for illustration only, and has no official standing.

[48] It seems no longer necessary to address the possible overlap between the new federal crime and a state crime, such as homicide. Such overlap is by now accepted without question, in areas as disparate as civil rights legislation, kidnapping, bank robbery, possession of narcotics, and as many more. For an early and authoritative statement on this point, see *United States v. Arjona*, 120 U.S. 479 (1887).

[49] See *Senate Hearings* (1950) 154-221.

[50] See *Senate Hearings* (1950) 154, 199, 201, 203.

[51] The amendment containing these words was proposed by Norway in the debates of the Sixth (Legal) Committee of the General Assembly in its debates on the draft prepared by the Economic and Social Council. U.N. Doc. E/794 (May 24, 1948). The debates appear at 3 U.N. GAOR 6th Comm. 61, 92-97, Oct. 7, Oct. 13, 1948.

[52] The last time the proposal was seriously discussed appears to have been in the Sixth (Legal) Committee of the General Assembly in 1957. 12 U.N. GAOR 6th Comm. 155 (Dec. 5, 1957).

[53] For a thorough presentation of cases and scholarly discussion, see Emerson, Haber and Dorsen, *Political and Civil Rights in the United States* 512-601 (1967).

[54] 252 U.S. 416, 433-34 (1920).

[55] It would, of course, be possible to ratify the convention but omit the language corresponding to Article III(c) from the implementing legislation. That course is expressly permitted by Article V. For the reasons stated in the text, however, this course is not here advocated.

[56] 249 U.S. 204, 206 (1919).

[57] 249 U.S. 47 (1919).

[58] *Giboney v. Empire Storage Co.*, 336 U.S. 490, 498 (1949).

[59] 315 U.S. 568 (1942)—Conviction of a Jehovah's Witness for addressing the police officer as "a damned Fascist" upheld.

[60] 337 U.S. 1 (1948)—Conviction of a speaker addressing a crowd and attacking "Communistic Zionistic Jews" reversed.

[61] 340 U.S. 315 (1951)—Conviction of a speaker for "endeavoring to arouse the Negro people against the Whites" and refusing to stop when requested by a police officer upheld. Justice Douglas, dissenting in *Feiner*, wrote "A speaker may not, of course, incite a riot any more than he may incite a breach of the peace by the use of 'fighting words'." 340 U.S. 329, 341.

[62] 274 U.S. 357, 376, (1927).

[63] *Brandenburg v. Ohio*, 395 U.S. 444, 447 (1969).

[64] In June of 1969 the Economic and Social Council of the United Nations adopted a new resolution which invited all states which are parties to the Genocide Convention to transmit information regarding implementing measures, and calling upon states which have not yet become Parties to the Genocide Convention to do so as soon as possible. U.N. Doc. E/Res./1420/XLVI (June 17, 1969).

NO, DR. KISSINGER, WE SHOULD NOT BEGIN TO BUILD THE STAR WARS DEFENSE

Mr. PROXMIRE. Mr. President, Dr. Henry Kissinger's apologia for beginning the trillion dollar Star Wars program makes a tempting, but seriously mistaken case. If the Congress follows the Kissinger advice, we will shortly find ourselves locked into by far the most costly military program in which this country has ever engaged. Kissinger would slide the Congress into the program with these three propositions:

First. We should not commit ourselves at this point to the demilitarization of space;

Second. We should proceed actively with research and development of the Star Wars terminology and forego moratoria;

Third. We should be prepared to negotiate over arms control of all defensive weapons.

Kissinger concedes that "a perfect defense of our civilian population is almost certainly unattainable." But he contends that a defense that protected even 50 percent of our land-based missiles and air bases would add hugely to deterrence. He claims this would reduce the incentive for a first strike greatly.

Frankly, this article by Dr. Kissinger makes about the best case for beginning to move ahead with Star Wars that I have yet seen. But in the judgment of this Senator, Kissinger is dead wrong. Here is why: Kissinger wholly overlooks the fact that an antimissile defense cannot possibly succeed unless both sides agree on an effective arms control treaty limiting offensive weapons. Why? Because Kissinger concedes that the defense against ICBM cannot be completely effective. He suggests that at least 10 percent could get through any defensive net. Now obviously, if we build such a Star Wars system over the next 15 or 20 years, the Russians could completely overcome it by simply increasing their ICBM's tenfold, which they could do in the same period. Sure that is a big order. But building a defensive Star War system that would stop 90 percent of Russian offensive missiles is an even bigger order. In other words, Mr. President, we would be spending far more providing for an antimissile system, no question about it, perhaps a trillion dollars, than they would have to spend to overcome it by simply increasing their land-based missiles sufficiently so they could penetrate to the same degree as before overall net. Of course, the Russians could also overcome the antimissile system by hardening the skins of their missiles or building decoys. Kissinger ignores this. He makes the fatal mistake of assuming that the antimissile offense will be dynamic. But the missile offense will, in the face of such a challenge, simply sit there without responding.

That is Kissinger's assumption. He also ignores what seems like the preposterous statement of the year: the administration proposal that when we have completed and perfected our antimissile research we hand it over lock stock and barrel to the Soviets. That presumably would be the bait that would persuade the Soviets to agree not to build more ICBM's and not to use any new technology that would make their offensive missiles more effective. Why does not Kissinger discuss this critical element of the success of an antimissile system?

Is it because Dr. Kissinger is a seasoned negotiator who knows how ludicrous, how ridiculous, utterly ridiculous or ludicrous it is to expect the Soviets to accept such a proposition?

There is an even greater mystery in the Kissinger appeal for the beginning funding of Star Wars. Surely Henry Kissinger understands that the Soviets have three quarters of their nuclear deterrent in land based ICBM's, the only offensive nuclear weapons against which Star Wars would or could defend. He also knows that the United States has only one-fourth of its deterrent deployed in land based missiles. Three quarters of our deterrent is deployed in submarines and bombers. What does that mean? It means that if both sides deploy Star Wars and negotiate an agreement that would limit offensive missiles on both sides, thereby making Star Wars substantially effective against attack by land based missiles, the Russians lose three quarters of their deterrent. America gives up only one-quarter of its deterrent. As an American I will smile from ear to ear when I buy that. But do not hold your breath until the Russians buy it. Well so what? So the Russians don't buy it, why can't we—absent an arms control agreement go right ahead, build our antimissile defense and thereby eliminate much of the Soviet's capacity to knock out our land based deterrent and greatly reduce their ability to destroy our civilian population? The answer, of course, is that absent an arms control agreement the Russians can build offensive missiles to match and surpass any Star Wars defense we construct and at far, far less cost.

If Congress cannot be dissuaded from this colossally expensive program by the virtual certainty that the Russians could and would build an offense to overcome it, we should be persuaded by an even more devastating argument.

The Star Wars defense could not work even in part against nuclear warhead delivery systems other than the ICBM's; that is, the intercontinental ballistic missiles, and primarily against land-based missiles. So assume that somehow, through some brilliant technological breakthrough in antimissile defense or through an arms control agreement, we build and successfully deploy an effective anti-ICBM defense system. So what? Does that mean we eliminate or even significantly reduce the threat of a Soviet preemptive strike? No way. The Russians could forget about ICBM's and deliver their payloads by bomber.

They could build up their submarine fleet. Or they could rely on cruise missiles. Could a Star Wars defense stop cruise missiles? Of course not. Cruise missiles are small. They can be launched from either subs or bombers or from almost any other kind of platform. They already have a range of 1,500 miles and increasing.

That means they could be launched from a submarine right off our shore and hit any target in the continental United States. They hug the ground. They have a map in their brain that

enables them to slide over, around and under obstacles. And they deliver an immense punch—200,000 tons of TNT equivalent or 10 times the power of the fat A-bomb that devastated Hiroshima and the one that destroyed Nagasaki. They can strike after that 1,500 mile trip within 300 feet of their target. They are extraordinarily accurate. Even Lt. Gen. Daniel Graham, probably the most vigorous champion of the antimissile program conceded that no antimissile defense could stop cruise missiles or submarine or bomber launched nuclear missiles. Sure, the program might force the Soviets to undergo an immensely expensive change in their nuclear deterrent. But in the end it would cost this country a trillion dollars and we would have gained no significant security advantage.

Dr. Kissinger makes two other serious mistakes in his article. He contends that although a foolproof defense against a superpower is difficult to conceive of, "substantially complete defense against third nuclear countries could be possible well into the next century." Kissinger is wrong. There are now a large variety of nuclear weapons. As the arms race continues the number of variety increases every year. Probably the last nuclear weapon device a third world country would deploy is a nuclear ICBM. They are much more likely to secure, these Third World countries, one way or another miniaturized nuclear weapons for any number of reasons. A principle reason is that the big cost of most nuclear arsenals is in the delivery system. The bigger the nuclear weapons the bigger the launcher. A cruise missile for instance might be launched from nothing more costly than a fishing boat. Nuclear weapons light enough for a single terrorist to carry would especially fit the budget and the style of Third World countries. As far as a Star Wars defense against a Quadhafi level nuclear threat, forget it. Dr. Kissinger also contends that the nuclear freeze is not an alternative because it would "perpetuate what needs correction." Kissinger is playing with words. The favorite put-down against the freeze is a play on its name. The allegation is that it would freeze—or as Dr. Kissinger says—perpetuate the present nuclear arsenals. Incidentally if it did just that it would perpetuate a balance that as a practical matter has kept the peace for a long time. Still Dr. Kissinger is right, the perpetuation of this threat is not satisfactory. So why cannot Kissinger see that the wills that come together from Russia and the United States to negotiate a mutual, verifiable freeze, would take the first big step that would make subsequent reductions of the two arsenals far more likely and for the first time truly meaningful?

Mr. President, I ask unanimous consent to have printed in the RECORD an article in the Washington Post of September 23, 1984, headlined "The United States-Soviet Relationship—Should We Try to Defend Against Russia's Missiles"—to which I have referred in some detail.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 23, 1984]

THE U.S.-SOVIET RELATIONSHIP: SHOULD WE TRY TO DEFEND AGAINST RUSSIA'S MISSILES?

(By Henry A. Kissinger)

We may be witnessing the preliminaries of a Soviet peace offensive. First, we are presented with the clumsily handled resurrection of Andrei Sakharov and his wife to calm Western opinion. Then an American television network is given a relatively free hand to report on the Soviet scene. Next, Konstantin Chernenko releases an interview in Pravda which softens some of the harsher Soviet rhetoric. This is followed by the announcement that Andrei Gromyko would meet with President Reagan.

Whether all of these events are connected does not emerge clearly from the crablike manner by which Soviet diplomacy advances. A steady stream of attacks on the United States continues. But at a minimum, the Soviets seem intent on showing a milder face to the world. A full-scale peace campaign may await the outcome of our elections. But there can be little doubt that its centerpiece, whenever it comes, will be the demilitarization of outer space.

It is also safe to predict that the Soviets will follow their almost unvarying tactic of seeking to achieve their principal objective by insisting on their agenda. Thus Chernenko in characteristically elliptical fashion has put forward these propositions:

That negotiations about defensive space weapons must precede talks dealing with offensive weapons.

That the United States must commit itself at the outset to demilitarization of space.

That the United States must agree to a moratorium on testing weapons in space.

It is not too early to begin thinking about two basic issues. The first is whether the administration should continue to insist that talks on offensive and defensive weapons be conducted simultaneously. Second will be the question of what the U.S. position should be, including whether the United States can afford to commit itself to the demilitarization of space at the outset of negotiations.

As to the issue of linkage, a little history may be instructive. In 1967 President Johnson proposed to Prime Minister Alexei Kosygin that anti-ballistic missile (ABM) defenses be banned; Kosygin flatly rejected it. President Nixon finally submitted a plan for an American ABM to Congress in 1969. After Congress went along with the president, the Soviets opened the very negotiations they had rejected two years earlier. Now they would talk about no other subject, least of all offensive weapons. As late as three weeks before the final breakthrough, the Soviets put forward what is now the Chernenko ploy: they offered the "concession" of talking about offensive weapons but only after negotiations about defensive weapons had been completed. Finally in May 1971, the Soviets grudgingly agreed to link the two. Today the outcome is likely to be the same if the administration holds its ground.

The Soviets have been vociferous about banning defensive weapons in outer space, where U.S. technology is superior. They have been ambivalent or silent about land-based defensive weapons, in which they have conducted vigorous research and appear to be constructing radars that violate the spirit and almost surely the letter of the ABM treaty.

A few facts may help the reader: a treaty now limits both sides to one land-based ABM site. The United States has unilaterally dismantled its. The Soviets have maintained theirs and spurred research on traditional technology. The United States is doing research aimed at a new system which would destroy incoming warheads in space but would also require some defensive stations on the ground that catch the missiles that get through. To deploy such a system would require a renegotiation or abrogation of the ABM treaty.

I have not yet made up my own mind on what position the United States should ultimately take on that issue. I was less than enthusiastic about President Reagan's "Star Wars" speech when I first read it. As one of the architects of the existing ABM treaty, I instinctively resisted the proposition that it be modified. Too, a foolproof defense of civilian population—that seemed implied by that speech—is a mirage; even a 90 percent effective defense would still let enough weapons through to destroy an unacceptable proportion of our population.

As I reflected, that argument more and more struck me as superficial.

The nuclear age forces the statesman to navigate between the callousness which reduces mass slaughter to a mathematical equation of technicians and the nihilism which abdicates to totalitarianism in the name of survival. Since the ABM treaty was signed, it has become clear that to rely on a strategy of mutual annihilation based on unopposed offensive weapons raises profound and political issues. Has a president the right to expose our people forever to the vagaries of an increasing number of vilatile decision-makers? Such a course involves the near certainty of a growth in pacifism or the risk of a holocaust as a result of miscalculation or the gradual escalation of peripheral crises.

Even granting—as I do—that a perfect defense of our population is almost certainly unattainable, the existence of some defense means that the attacker must plan on saturating it. This massively complicates the attacker's calculations. Anything that magnifies doubt inspires hesitation and adds to deterrence.

The case grows stronger if one considers the defense of Intercontinental Ballistic Missile (ICBM) launchers. A defense of the civilian population would have to be nearly 100 percent effective, while a defense that protected even 50 percent of land-based missiles and air bases would add hugely to deterrence. The incentive for a first strike would be sharply, perhaps decisively, reduced if an aggressor knew that half of the opponent's ICBMs would survive any foreseeable attack.

Then there is the problem of third nuclear countries. Calculations and restraints that are highly plausible to advanced industrial societies are not necessarily equally persuasive to leaders of the Qaddafi variety. Although a foolproof civilian defense against a superpower is difficult to conceive of, substantially complete defense against

third nuclear countries could be possible well into the next century.

Perhaps the most compelling argument is the possible beneficial effect of some missile defense on arms control. Arms control theory is now at a dead end; the stalemate in negotiations reflects an impasse in thought. The reductions proposed by the Reagan administration would add little to stability; the freeze which is its alternative would perpetuate what needs correction.

A breakthrough requires reductions of the numbers of warheads on a scale inconceivable so long as the strategic balance depends entirely on offensive weapons.

Under present conditions the reductions that can be verified are relatively small. They are either dangerous because they simplify an attacker's calculations, or they are irrelevant because they leave large residual numbers of warheads.

If, however, the strategic warheads of both sides were reduced to a few hundred—a number astronomically below any so far envisaged—the side capable of hiding even a thousand warheads might be able to disarm its opponent by a surprise attack or blackmail him into submission when the clandestine weapons are revealed. But with a properly designed defense, much larger numbers would be needed for a strategically decisive evasion, and those numbers could be detected.

I consider these arguments compelling with respect to three propositions:

We should not commit ourselves at this point to the demilitarization of space.

We should proceed actively with research and development and forgo moratoria.

We should be prepared to negotiate over arms control of *all* defensive weapons.

Before committing ourselves to actual deployment, an answer to the following questions is needed:

Is it possible to design a ballistic missile defense that is primarily useful for the defense of the retaliatory forces or against maverick third nuclear countries?

If such a limited defense were to become part of an arms control agreement, how would the limitation be expressed and verified?

Could we avoid loopholes for further expansion to a full-scale defense?

Would such a defense be destabilizing by tempting a first strike and relying on the defense to absorb the counterblow? (In theory this should not be, if *both* sides have relatively limited defenses.)

What in such a context would be the appropriate low level of offensive forces to bring about the breakthrough toward real arms control which has eluded us for a decade?

Or would strategic defense at any level destroy all hopes for an equilibrium?

The real debate will be joined after the American election. Theoretically both superpowers should have an interest to prevent war by miscalculation and irresponsible third nuclear powers from blackmailing them with nuclear weapons. Neither side can gain from seeking unilateral advantage.

Thus a renewal of negotiations will be a test less of ingenuity than of political maturity. There seems general concern with the precariousness, both physical and psychological, of a balance based on large unopposed offensive systems. This article argues that some limited defense—yet to be analyzed—coupled with a revolutionary approach to reduction of offensive forces by agreement may advance us toward the elusive goal of stability. It remains to be seen whether domestically we can overcome debate by sloganeering and internationally whether the superpowers can move the quest for peace from polemics to a joint enterprise.

Mr. PROXMIRE. Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for the transaction of routine morning business not to extend past the hour of 12 noon with statements by Senators limited therein to 5 minutes each.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. STEVENS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MATTINGLY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE LINE-ITEM VETO

Mr. MATTINGLY. Mr. President, the line-item veto has been debated in this country for over 120 years. But since Senator EVANS and I announced plans to sponsor a new version of the concept, some of the critics have indulged in outright distortion.

A classic example was in the Washington Post on Saturday, September 29, 1984 in an editorial entitled "Power Play." Now any piece of legislation is fair game for editorial criticism. But the Post was in factual error as to how my amendment would function. They raised the specter of our enrolling clerks having vast new powers of protecting or exposing appropriation items to veto by the President.

I wrote a letter to the editor in an attempt to lay out the truth about how the amendment would operate. That letter was printed in today's October 2, 1984 issue of the Post. Prior to publication, an editor at the Post went through the letter with a member of my staff suggesting cuts that had to be made because of space considerations. However, when the letter appeared another editing change had been made combining two sentences and dropping several words. The result was that my letter was made to conform to the key distortion it was meant to clarify.

The crucial paragraph originally read: "Clerks would remain clerks and nothing more. The amendment clearly and specifically defines "item" as any numbered item or unnumbered paragraph in an appropriations bill. That leaves nothing for the clerks to do but the mechanical task of preparing the paperwork. The appropriations committees and the full Congress will have organized the bill as to items and paragraphs."

In the Post this morning, the last two sentences were combined to read: "That leaves nothing for the clerks to do but the mechanical task of preparing the bill as to items and paragraphs."

All of a sudden, we are back at the Post's original distortion with clerks deciding what is or is not an "item." The primary purpose of my letter was to correct that factual inaccuracy.

I ask unanimous consent that my full answer to the Post editorial be printed in the RECORD. I also invite my fellow Senators to read the actual language of the amendment which will hopefully be offered sometime before adjournment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

LINE-ITEM VETO: ONE STEP TO FISCAL SANITY

(By U.S. Senator Mack Mattingly)

Any piece of legislation is fair game for criticism but in attacking the line-item veto, the Post ("Power Play," Saturday, September 19th) completely distorts the provisions of my amendment. Either the writer did not take the time to read and understand the actual language of the amendment or let an emotional distaste for the concept warp the facts. The merits of any idea can be debated but the facts speak for themselves.

My amendment, now supported by over half the Senate, would provide that each of the 13 massive appropriation bills that funds all government programs be divided into separate, smaller "items" before being transmitted to the President for signature or veto. For five years, the House of Representatives has had a similar procedure in effect during its consideration of budget resolutions and debt ceiling increases.

The Post editorial set up a "straw man" and then knocked it down. It's an old editorial ploy but a shoddy one and unworthy of the Post.

The editorial alleges my amendment would make enrolling clerks new centers of power where "final decisions would be made as to what programs, projects and legislative restrictions would be offered up for individual veto by the president."

How ridiculous. Clerks would remain clerks and nothing more. The amendment clearly and specifically defines "item" as any numbered item or unnumbered paragraph in an appropriations bill. That leaves nothing for the clerks to do but the mechanical task of preparing the paperwork. The Appropriations Committees and the full Congress will have organized the bill as to items and paragraphs.

It seems silly to have to point this out when there are serious arguments on both of the issues that could be pursued.

Another "straw man" created by the editorial writer is the myth that the line-item veto supporters are offering it as a panacea for the budget deficits. This, sayeth the Post, "is simply a cheap election-year gimmick."

In point of fact, no one considers the line-item veto a quick, total solution to the budget deficits. At no time has that been stated. The line-item veto is just one small step to fiscal sanity. It gives the president, Democrat or Republican, another tool with which to hold down spending. Why give it to the president? Because Congress has

failed miserably to hold the line on spending. This failure is bipartisan with little hope for reform under our current budgeting system.

Will action other than the line-item veto be necessary to balance the budget? Absolutely. Will it take the "courage" sneeringly mentioned by the Post. Certainly. It always takes courage to admit that an old way no longer works and must be modified.

There was no line-item veto in the original constitution because appropriations were so small in the early days of Congress they were, in effect, line items. For the last 120 years, great leaders like Franklin Roosevelt and Dwight Eisenhower have called for this reform.

Congress now crams scores of programs and hundreds of billions of dollars into the same piece of legislation. Look at the Continuing Resolution as it came from the House. Funding for a majority of government programs including scores of pork-barrel projects were lumped with non-appropriations items such as President Reagan's crime control package. The Senate (at this writing) is in a legislative gridlock over whether to attach everything from civil rights to gun control to the same resolution. This is just hours before the federal government runs out of money.

The president often gets one of these messy conglomerations on his desk and must swallow it whole or throw it all away. But with the Continuing Resolution coming at the end of a fiscal year, a veto would shut down the government.

It is not just a failure, it's a crazy way to operate the government. A majority of senators now believe strongly that reform must take place.

Would a president misuse the line-item veto? Or, to point out the real fear of the Post would President Reagan go wild vetoing domestic programs? As Senator Joseph Biden pointed out in our press conference last week, the two year sunset provision on the amendment, along with normal checks and balances, would keep that from happening. Any president would be a fool not to tread lightly, whether it was Mondale slicing away at defense programs or Reagan going after domestic spending.

My amendment creates a two-year trial for the line-item veto. It will take another act of Congress to continue it. If the next president, Reagan or Mondale (and I have not written off Mr. Mondale as has apparently the Post), does not weigh carefully every decision to use the new veto, he will lose it. In addition, Congress could still override a line-item veto, the same as any veto.

The truth is responsibility must be returned to the federal budget and appropriations process. Congress and the President must deal responsibly with cutting all government spending, defense as well as domestic. The line-item veto contributes in a small way to such new responsibility.

Mr. MATTINGLY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MATTINGLY). Without objection, it is so ordered.

TUITION TAX CREDITS

Mr. MOYNIHAN. Mr. President, on several occasions this year, I have come to the floor of the Senate to comment on the increasingly troublesome transmutation, if that is not too obscure a term, of the issue of public assistance to nonpublic school students. This issue once engaged the support and sympathies of persons who sought generally to expand the rights of individuals in our country, and to remedy what was seen by many as an inequitable exclusion of a certain class of persons from a general form of public benefit, which is to say, aid to education. Today, we see the spectacle of aid to those attending nonpublic schools, a proposal for equity, tied to an effort to defeat the major civil rights legislation of this Congress.

When the Senator from Oregon, the distinguished and able Senator from Oregon, Mr. PACKWOOD, and I joined together in 1977 to propose the Tuition Tax Credit Act, we had in mind a remedy for what we thought to be, as did many others, a wrong. The wrong was simply that the students in nonpublic schools who had, if you will, been promised their appropriate share of Federal funding under the Elementary and Secondary Education Act of 1965, had not received it. It had not been forthcoming.

Indeed, what had begun gradually over time had diminished. One of the first acts of the administration of President Carter was to abolish the small office in the Department of Health, Education, and Welfare that dispensed such aid as had been instituted. There had been little assistance for nonpublic education, and there was now to be none.

This was alleged to arise from constitutional difficulties which I for one did not perceive, but clearly some others did. That being the case, we turned to an alternative form of aid, tuition tax credits, which arguably was directed to the individual, and to the individual's family. This aid did not go to the institution; first amendment problems thus were avoided. I repeat that I did not think those problems existed, but it was a common thought. In any event, I saw no more Constitutional problems with a very straightforward form of assistance to elementary and secondary schools, than with the already agreed to forms of Federal aid to both public and nonpublic colleges. The notion that the Supreme Court could make a distinction between aid to education in the 13th grade, you might say, as against the 12th grade, seemed to me to be trivializing an important issue and causing a great deal of confusion.

Even so, we had a form of aid we believed acceptable. And since, in the 1983 Supreme Court case Mueller against Allen, the court affirmed in a particular instance what we had always thought. In that Minnesota case, the argument for tax relief for nonpublic schools was made in the context of enlarging opportunities for students and providing remedies for wrongs.

The present arrangement, of religious schools being privately financed and public schools being publicly financed, dates from the 1840's, generally speaking, in our country. Prior to that, both forms of schools received aid and, prior to that the only schools that existed were religious schools and the only aid that was provided went to them. So, after an initial period in which all public assistance went to nonpublic schools, there was a period during which there was public assistance for both. Now, we find ourselves in a period where there is generally a separation, with public assistance for public schools and not for nonpublic schools. The Republic has survived; the heavens have not fallen.

The PRESIDING OFFICER. The Senator's 5 minutes has expired.

Mr. MOYNIHAN. Mr. President, please forgive me. I was not aware that I was only allowed to speak for 5 minutes.

Mr. President, I ask unanimous consent that I may be allowed to speak for another 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I observe the Senator from Washington on the floor. I will conclude my remarks very quickly.

Mr. President, of late we began to find the issue of tuition tax credits associated with interests, attitudes and legislation so very distant from those we originally tendered. I think this has to be pointed out. On Friday, following the successful adoption of the proposal by the Senator from Massachusetts, Mr. KENNEDY, and the Senator from Oregon, Mr. PACKWOOD, of the proposition that a civil rights act was germane, a series of measures were added as perfecting amendments. These amendments appear to have been offered in an effort to somehow punish those who have thought the civil rights bill to be germane. The civil rights amendment was offered here, as I said last Saturday, on the grounds that there was no more appropriate vehicle than this legislation on which to consider the constitutional rights of Americans.

The first amendment to our civil rights provisions was a wholly objectionable measure on busing, one designed to strip the Federal courts of the power to adjudicate issues of that kind.

Two years ago, Mr. President, the Senator from Montana, Mr. BAUCUS, and I spoke on this floor, as did the

Senator from Colorado, Mr. HART, who I see is present today. We joined in extensive debate—noting that nothing could be more subversive to the American Constitution than to strip the Federal courts of their right to make a constitutional judgment, in that instance about school prayer in public schools. How shocking it was that Congress would even consider stripping the Federal courts, the Supreme Court, of jurisdiction in constitutional matters.

Yet, here again we are faced with a similar measure to undermine the Supreme Court's authority over measures to eliminate unconstitutional segregation in public schools. And now it is joined with another amendment to provide tuition tax credits—an amendment lacking an essential provision to make them refundable for low-income parents. In addition, a third measure has been offered to revise sections of the 1968 Gun Control Act, and once again permit the interstate sale of concealable handguns, better known as Saturday night specials.

So, in what way do we find an honorable proposal for aid to nonpublic schools being used here today? It is being used to block civil rights legislation in the context of an ugly measure on unrestricted gun sales, and an abominable proposal on court stripping—not to defend the Constitution, but to subvert it. Mr. President, I hope those institutions, organizations, and schools that have supported tuition tax credits will make their voices heard, to say that they object to the very idea that somehow support for tuition tax credits involves opposition to civil rights. It is nothing of the kind. Civil rights and tuition tax credits are a convergent, and altogether harmonious, in my judgment, set of legislative proposals. Not by any accident is the Senator from Oregon a principal cosponsor of both measures.

My time has now expired. I simply wish to record my protest, and express my hope that others might be heard as well.

Mr. President, I thank the Chair for allowing me the additional 5 minutes. I see the Senator from Washington is on the floor.

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

LINE-ITEM VETO

Mr. EVANS. Mr. President, I rise to associate myself with the Senator from Georgia in speaking on the editorial in the Washington Post of several days ago regarding the line-item veto. It is an issue whose time has come. I hope that we will yet have an opportunity in this session to debate, to vote, and to allow this Senate to indicate its will on the question of a line-item veto. Given that opportunity, I have no question in my mind that a majority of this body would vote in favor of a line-item veto.

I particularly would like to refer to that editorial, and to the misconceptions which it may give to some of our colleagues. The very idea that somehow enrolling clerks would be endowed with unusual new authority simply cannot stand the light of day and the facts as they exist.

Mr. President, the Members of Congress retain the ultimate authority to determine the structure of a bill. An item is determined by the structure of the appropriations bills passed by Congress. The United States Code gives direction as to a numbered section saying that each section of a bill shall be numbered, and shall contain, as nearly as may be, a single proposition. The Clerk of the House and the Secretary of the Senate currently share the responsibility to review bills and ensure accuracy with what was passed by Congress. Direction is then provided to the enrolling clerks.

I think these three points indicate pretty clearly that no greatly increased authority or discretion will be delegated outside the current delegations made by this body.

The editorial also suggested that "the line-item veto wouldn't actually do much to cut the deficit" and that interest groups with weak constituencies would suffer at the hands of powerful lobbies. Interest groups with weak constituencies already suffer at the hands of Congress and there is no indication that such groups would do worse at the hand of the President. As the only nationally elected representative, he might even be more protective. The line-item veto will do nothing to cut the deficit unless it is passed. If it works, even modestly, it probably should be extended to tax expenditures and perhaps even authorization measures. Instead of wringing our hands over huge deficits, and second-guessing how a President might use this authority, let's try it. The result might be surprising.

If the line-item veto is adopted for fiscal year 1985 and we assume a 1-percent cut of all spending per year, the total savings over the next 5 years could be $174 billion, with a reduction in the fiscal year 1989 deficit of $65 billion. If we assume a 2 percent cut in just discretionary spending per year, the total 5-year savings would still be $99 billion. The fiscal year 1989 spending reduction would be $37 billion. These savings are not insignificant.

The line-item veto is a low risk/high reward proposition. as a low risk, the legislation includes a 2-year expiration clause. If it doesn't work, it will die on its own. If we try it and it does work, the potential reward is great by allowing a President the opportunity of using this one tool, together with others, to bring our huge budget deficit under control. Even if it has only a small effect as a spending control tool, then Congress could continue such a proposal, on a 2-year basis, so that Congress would always retain ultimate control over abuse of the authority.

This line-item veto authority is one important tool in the budget process to help curb our growing Federal deficit and control Government spending. There's no question we need as many tools as we can get. The President has a more restricted veto authority than almost any other chief executive in the United States. The absurd extreme of the current practice would be to present the President with a comprehensive trillion-dollar appropriations act loaded with extra substantive legislation and say, "Take it or leave it." Our constitutional drafters had no such thoughts in mind. I do not see this proposal as increasing the authority of the President, as some suggest, but as an evenhanded budget control that gives the President a chance to initiate action, with opportunity for Congress to deny it.

What I find most disturbing is the fact that we, in Congress, dump on the President's desk huge trainloads of pork attached to vital pieces of legislation. We make it almost impossible for the President to veto what is frivolous without crippling the operations of Government. When he signs such legislation, he also must accept a whole series of expenditures which could not stand on their own merits.

This line-item veto proposal is not a "cheap election-year gimmick." It is an effort to provide the President with one of the tools necessary to sculpture a responsible and controlled Federal budget.

THE CALENDAR

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following items: H.R. 5688, S. 1146, S. 1102, and H.R. 6221.

AVIATION DRUG-TRAFFICKING CONTROL ACT—CONFERENCE REPORT

Mr. STEVENS. Mr. President, I submit a report of the committee of conference on S. 1146 and ask for its immediate consideration,

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1146) to amend the Federal Aviation Act of 1958 to provide for the revocation of airman certificates and for additional penalties for the transportation by aircraft of controlled substances, and for other purposes, having met, after full and free conference, have

agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 26, 1984.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MARINE SANCTUARIES PROGRAMS AUTHORIZATIONS

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1102.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1102) entitled "An Act to provide authorization of appropriations for title III of the Marine Protection, Research, and Sanctuaries Act of 1972, and for other purposes", do pass with the following amendment: Strike out all after the enacting clause, and insert:

TITLE I—MARINE SANCTUARIES

SEC. 101. This title may be cited as the "Marine Sanctuaries Amendments of 1984".

SEC. 102. Title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.) is amended to read as follows:

"TITLE III—NATIONAL MARINE SANCTUARIES

"SEC. 301. FINDINGS, PURPOSES, AND POLICIES.

"(a) FINDINGS.—The Congress finds that—

"(1) this Nation historically has recognized the importance of protecting special areas of its public domain, but these efforts have been directed almost exclusively to land areas above the high-water mark;

"(2) certain areas of the marine environment possess conservation, recreational, ecological, historical, research, educational, or esthetic qualities which give them special national significance;

"(3) while the need to control the effects of particular activities has led to enactment of resource-specific legislation, these laws cannot in all cases provide a coordinated and comprehensive approach to the conservation and management of special areas of the marine environment;

"(4) a Federal program which identifies special areas of the marine environment will contribute positively to marine resources conservation and management; and

"(5) such a Federal program will also serve to enhance public awareness, understanding, appreciation, and wise use of the marine environment.

"(b) PURPOSES AND POLICIES.—The purposes and policies of this title are—

"(1) to identify areas of the marine environment of special national significance due to their resource or human-use values;

"(2) to provide authority for comprehensive and coordinated conservation and management of these marine areas that will complement existing regulatory authorities;

"(3) to support, promote, and coordinate scientific research on, and monitoring of, the resources of these marine areas;

"(4) to enhance public awareness, understanding, appreciation, and wise use of the marine environment; and

"(5) to facilitate, to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities.

"SEC. 302. DEFINITIONS.

"As used in this title, the term—

"(1) 'draft management plan' means the plan described in section 304(a)(1)(E);

"(2) 'Magnuson Act' means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

"(3) 'marine environment' means those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands over which the United States exercises jurisdiction, consistent with international law;

"(4) 'Secretary' means the Secretary of Commerce; and

"(5) 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, Guam, and any other commonwealth, territory, or possession of the United States.

"SEC. 303. SANCTUARY DESIGNATION STANDARDS.

"(a) STANDARDS.—The Secretary may designate any discrete area of the marine environment as a national marine sanctuary and promulgate regulations implementing the designation if the Secretary—

"(1) determines that the designation will fulfill the purposes and policies of this title; and

"(2) finds that—

"(A) the area is of special national significance due to its resource or human-use values;

"(B) existing State and Federal authorities are inadequate to ensure coordinated and comprehensive conservation and management of the area, including resource protection, scientific research, and public education;

"(C) designation of the area as a national marine sanctuary will facilitate the objectives in subparagraph (B); and

"(D) the area is of a size and nature that will permit comprehensive and coordinated conservation and management.

"(b) FACTORS AND CONSULTATIONS REQUIRED IN MAKING DETERMINATIONS AND FINDINGS.—

"(1) FACTORS.—For purposes of determining if an area of the marine environment meets the standards set forth in subsection (a), the Secretary shall consider—

"(A) the area's natural resource and ecological qualities, including its contribution to biological productivity, maintenance of ecosystem structure, maintenance of ecologically or commercially important or threatened species or species assemblages, and the biogeographic representation of the site;

"(B) the area's historical, cultural, archaeological, or paleontological significance;

"(C) the present and potential uses of the area that depend on maintenance of the area's resources, including commercial and recreational fishing, subsistence uses, other commercial and recreational activities, and research and education;

"(D) the present and potential activities that may adversely affect the factors identified in subparagraphs (A), (B), and (C);

"(E) the existing State and Federal regulatory and management authorities applicable to the area and the adequacy of those authorities to fulfill the purposes and policies of this title;

"(F) the manageability of the area, including such factors as its size, its ability to be identified as a discrete ecological unit with definable boundaries, its accessibility, and its suitability for monitoring and enforcement activities;

"(G) the public benefits to be derived from sanctuary status, with emphasis on the benefits of long-term protection of nationally significant resources, vital habitats, and resources which generate tourism;

"(H) the negative impacts produced by management restrictions on income-generating activities such as living and nonliving resources development; and

"(I) the socioeconomic effects of sanctuary designation.

"(2) CONSULTATION.—In making determinations and findings, the Secretary shall consult with—

"(A) the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate;

"(B) the Secretaries of State, Defense, Transportation, and the Interior, the Administrator, and the heads of other interested Federal agencies;

"(C) the responsible officials or relevant agency heads of the appropriate State and local government entities, including coastal zone management agencies, that will or are likely to be affected by the establishment of the area as a national marine sanctuary;

"(D) the appropriate officials of any Regional Fishery Management Council established by section 302 of the Magnuson Act (16 U.S.C. 1852) that may be affected by the proposed designation; and

"(E) other interested persons.

"(3) RESOURCE ASSESSMENT REPORT.—In making determinations and findings, the Secretary shall draft, as part of the environmental impact statement referred to in section 304(a)(1), a resource assessment report documenting present and potential uses of the area, including commercial and recreational fishing, research and education, minerals and energy development, subsistence uses, and other commercial or recreational uses. The Secretary, in consultation with the Secretary of the Interior, shall draft a resource assessment section for the report regarding any commercial or recreational resource uses in the area under consideration that are subject to the primary jurisdiction of the Department of the Interior.

"SEC. 304. PROCEDURES FOR DESIGNATION AND IMPLEMENTATION.

"(a) SANCTUARY PROPOSAL.—

"(1) NOTICE.—In proposing to designate a national marine sanctuary, the Secretary shall—

"(A) issue, in the Federal Register, a notice of the proposal, proposed regulations that may be necessary and reasonable to implement the proposal, and a summary of the draft management plan;

"(B) provide notice of the proposal in newspapers of general circulation or electronic media in the communities that may be affected by the proposal; and

"(C) on the same day the notice required by subparagraph (A) is issued, the Secretary shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a prospectus on the proposal which shall contain—

"(i) the terms of the proposed designation;

"(ii) the basis of the findings made under section 303(a) with respect to the area;

"(iii) an assessment of the considerations under section 303(b)(1);

"(iv) proposed mechanisms to coordinate existing regulatory and management authorities within the area;

"(v) the draft management plan detailing the proposed goals and objectives, management responsibilities, resource studies, interpretive and educational programs, and enforcement, including surveillance activities for the area;

"(vi) an estimate of the annual cost of the proposed designation, including costs of personnel, equipment and facilities, enforcement, research, and public education;

"(vii) the draft environmental impact statement;

"(viii) an evaluation of the advantages of cooperative State and Federal management if all or part of a proposed marine sanctuary is within the territorial limits of any State or is superjacent to the subsoil and seabed within the seaward boundary of a State, as that boundary is established under the Submerged Lands Act (43 U.S.C. 1301 et seq.); and

"(ix) the proposed regulations referred to in subparagraph (A).

"(2) ENVIRONMENTAL IMPACT STATEMENT.—The Secretary shall—

"(A) prepare a draft environmental impact statement, as provided by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), on the proposal that includes the resource assessment report required under section 303(b)(3), maps depicting the boundaries of the proposed designated area, and the existing and potential uses and resources of the area; and

"(B) make copies of the draft environmental impact statement available to the public.

"(3) PUBLIC HEARING.—No sooner than thirty days after issuing a notice under this subsection, the Secretary shall hold at least one public hearing in the coastal area or areas that will be most affected by the proposed designation of the area as a national marine sanctuary for the purpose of receiving the views of interested parties.

"(4) TERMS OF DESIGNATION.—The terms of designation of a sanctuary shall include the geographic area proposed to be included within the sanctuary, the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational, or esthetic value, and the types of activities that will be subject to regulation by the Secretary to protect those characteristics. The terms of designation may be modified only by the same procedures by which the original designation is made.

"(5) FISHING REGULATIONS.—The Secretary shall provide the appropriate Regional Fishery Management Council with the opportunity to prepare draft regulations for fishing within the United States Fishery Conservation Zone as the Council may deem necessary to implement the proposed designation. Draft regulations prepared by the Council, or a Council determination that regulations are not necessary pursuant to this paragraph, shall be accepted and issued as proposed regulations by the Secretary unless the Secretary finds that the Council's action fails to fulfill the purposes and policies of this title and the goals and objectives of the proposed designation. In preparing the draft regulations, a Regional Fishery Management Council shall use as guidance the national standards of section 301(a) of the Magnuson Act (16 U.S.C. 1851) to the extent that the standards are consistent and compatible with the goals and objectives of the proposed designation. The Secretary shall prepare the fishing regulations, if the Council declines to make a determination with respect to the need for regulations, makes a determination which is rejected by the Secretary, or fails to prepare the draft regulations in a timely manner. Any amendments to the fishing regulations shall be drafted, approved, and issued in the same manner as the original regulations.

"(6) COMMITTEE ACTION.—After receiving the prospectus under subsection (a)(1)(C), the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate may each hold hearings on the proposed designation and on the matters set forth in the prospectus. If within the forty-five day period of continuous session of Congress beginning on the date of submission of the prospectus, either Committee issues a report concerning matters addressed in the prospectus, the Secretary shall consider this report before publishing a notice to designate the national marine sanctuary.

"(b) TAKING EFFECT OF DESIGNATIONS.—

"(1) NOTICE.—In designating a national marine sanctuary, the Secretary shall publish in the Federal Register notice of the designation together with final regulations to implement the designation and any other matters required by law, and submit such notice to the Congress. The Secretary shall advise the public of the availability of the final management plan and the final environmental impact statement with respect to such sanctuary. No notice of designation may occur until the expiration of the period for Committee action under subsection (a)(6). The designation (and any of its terms not disapproved under this subsection) and regulations shall take effect and become final after the close of a review period of forty-five days of continuous session of Congress beginning on the day on which such notice is published unless—

"(A) the designation or any of its terms is disapproved by enactment of a joint resolution of disapproval described in paragraph (3); or

"(B) in the case of a natural marine sanctuary that is located partially or entirely within the seaward boundary of any State, the Governor affected certifies to the Secretary that the designation or any of its terms is unacceptable, in which case the designation or the unacceptable term shall not take effect in the area of the sanctuary lying within the seaward boundary of the State.

"(2) WITHDRAWAL OF DESIGNATION.—If the Secretary considers that actions taken under paragraph (1) (A) or (B) will affect the designation of a national marine sanctuary in a manner that the goals and objectives of the sanctuary cannot be fulfilled, the Secretary may withdraw the entire designation. If the Secretary does not withdraw the designation, only those terms of the designation not disapproved under paragraph (1)(A) or not certified under paragraph (1)(B) shall take effect.

"(3) RESOLUTION OF DISAPPROVAL.—For the purposes of this subsection, the term 'resolution of disapproval' means a joint resolution which states after the resolving clause the following: 'That the Congress disapproves the national marine sanctuary designation entitled that was submitted to Congress by the Secretary of Commerce on .', the first blank space being filled with the title of the designation and the second blank space being filled with the date on which the notice was submitted to Congress. In the event that the disapproval is addressed to one or more terms of the designation, the joint resolution shall state after the resolving clause the following: 'That the Congress approves the national marine sanctuary designation entitled that was submitted to Congress by the Secretary of Commerce on but disapproves the following terms of such designation: .', the first blank space being filled with the title of the designation, the second blank space being filled with the date on which the notice was submitted to Congress, and the third blank space referencing each term of the designation which is disapproved.

"(4) PROCEDURES.—

"(A) In computing the forty-five-day periods of continuous session of Congress pursuant to subsection (a)(6) and paragraph (1) of this subsection—

"(i) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain are excluded.

"(B) When the committee to which a joint resolution has been referred has reported such a resolution, it shall at any time thereafter be in order to move to proceed to the consideration of the resolution. The motion shall be privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(C) This subsection is enacted by Congress as an exercise of the rulemaking power of each House of Congress, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the case of resolutions described in this subsection. This subsection supersedes other rules only to the extent that they are inconsistent therewith, and is enacted with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

"(c) ACCESS AND VALID RIGHTS.—

"(1) Nothing in this title shall be construed as terminating or granting to the Secretary the right to terminate any valid lease, permit, license, or right of subsistence use or of access if the lease, permit, license, or right—

"(A) was in existence on the date of enactment of the Marine Sanctuaries Amendments of 1984, with respect to any national marine sanctuary designated before that date; or

"(B) is in existence on the date of designation of any national marine sanctuary, with respect to any national marine sanctuary designated after the date of enactment of the Marine Sanctuaries Amendments of 1984.

"(2) The exercise of a lease, permit, license, or right is subject to regulation by the Secretary consistent with the purposes for which the sanctuary is designated.

SEC. 305. APPLICATION OF REGULATIONS AND INTERNATIONAL NEGOTIATIONS.

"(a) REGULATIONS.—The regulations issued under section 304 shall be applied in accordance with generally recognized principles of international law, and in accordance with treaties, conventions, and other agreements to which the United States is a party. No regulation shall apply to a person who is not a citizen, national, or resident alien of the United States, unless in accordance with—

"(1) generally recognized principles of international law;

"(2) an agreement between the United States and the foreign state of which the person is a citizen; or

"(3) an agreement between the United States and the flag state of a foreign vessel, if the person is a crewmember of the vessel.

"(b) NEGOTIATIONS.—The Secretary of State, in consultation with the Secretary, shall take appropriate action to enter into negotiations with other governments to make necessary arrangements for the protection of any national marine sanctuary and to promote the purposes for which the sanctuary is established.

"SEC. 306. RESEARCH AND EDUCATION.

"The Secretary shall conduct research and educational programs as are necessary and reasonable to carry out the purposes and policies of this title.

"SEC. 307. ENFORCEMENT.

"(a) IN GENERAL.—The Secretary shall conduct such enforcement activities as are necessary and reasonable to carry out this title. The Secretary shall, whenever appropriate, utilize by agreement the personnel, services, and facilities of other Federal departments, agencies, and instrumentalities on a reimbursable basis in carrying out the Secretary's responsibilities under this title.

"(b) CIVIL PENALTIES.—

"(1) CIVIL PENALTY.—Any person subject to the jurisdiction of the United States who violates any regulation issued under this title shall be liable to the United States for a civil penalty of not more than $50,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

"(2) NOTICE.—No penalty shall be assessed under this subsection until the person charged has been given notice and an opportunity to be heard. Upon failure of the offending party to pay an assessed penalty, the Attorney General, at the request of the Secretary, shall commence action in the appropriate district court of the United States to collect the penalty and to seek such other relief as may be appropriate.

"(3) IN REM JURISDICTION.—A vessel used in the violation of a regulation issued under this title shall be liable in rem for any civil penalty assessed for such violation and may be proceeded against in any district court of the United States having jurisdiction thereof.

"(c) JURISDICTION.—The district courts of the United States shall have jurisdiction to restrain a violation of the regulations issued under this title, and to grant such other relief as may be appropriate. Actions shall be brought by the Attorney General in the name of the United States. The Attorney General may bring suit either on the Attorney General's own initiative or at the request of the Secretary.

"SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

"To carry out this title, there are authorized to be appropriated:

"(1) $3,000,000 for fiscal year 1985.

"(2) $3,300,000 for fiscal year 1986.

"(3) $3,600,000 for fiscal year 1987.

"(4) $3,900,000 for fiscal year 1988.

"SEC. 309. SEVERABILITY.

"If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of this Act and of the application of such provision to other persons and circumstances shall not be affected thereby.".

TITLE II—MARINE SAFETY

SUBTITLE A—INSPECTION AND REPORTING REQUIREMENTS

SEC. 210. This subtitle may be cited as the "Maritime Safety Act of 1984".

SEC. 211. (a) Section 3309 of title 46, United States Code, is amended by adding at the end:

"(c) At least 30 days (but not more than 60 days) before the current certificate of inspection issued to a vessel under subsection (a) of this section expires, the owner, charterer, managing operator, agent, master, or individual in charge of the vessel shall submit to the Secretary in writing a notice that the vessel—

"(1) will be required to be inspected; or

"(2) will not be operated so as to require an inspection.".

(b) Section 3311 of title 46, United States Code, is amended by—

(1) striking "A vessel" and substituting "(a) Except as provided in subsection (b), a vessel";

(2) striking the word "valid"; and

(3) inserting at the end the following:

"(b) The Secretary may direct the owner, charterer, managing operator, agent, master, or individual in charge of a vessel subject to inspection under this chapter and not having on board a certificate of inspection—

"(1) to have the vessel proceed to mooring and remain there until a certificate of inspection is issued;

"(2) to take immediate steps necessary for the safety of the vessel, individuals on board the vessel, or the environment; or

"(3) to have the vessel proceed to a place to make repairs necessary to obtain a certificate of inspection.".

(c) Section 3318 of title 46, United States Code, is amended as follows:

(1) Subsection (a) is amended by—

(A) striking "The" the first time it appears and substituting "Except as otherwise provided in this part, the"; and

(B) striking "$1,000, except that when the violation involves operation of a barge, the penalty is $500.", and substituting "not more than $5,000.".

(2) Subsection (c) is amended by striking "$2,000," and substituting "$5,000,".

(3) Subsection (d) is amended by striking "$2,000," and substituting "$5,000,".

(4) Subsection (e) is amended by striking "$2,000," and substituting "$10,000,".

(5) Subsection (f) is amended by striking "$5,000," and substituting "$10,000,".

(6) Subsection (g) is amended by striking "shall be fined not more than $10,000, imprisoned for not more than one year, or both," and substituting "is liable to the Government for a civil penalty of not more than $5,000,".

(7) Subsection (h) is amended by striking "United States Government for a civil penalty of not more than $500." and substituting "Government for a civil penalty of not more than $1,000.".

(8) At the end add the following:

"(i) A person violating section 3309(c) of this title is liable to the Government for a civil penalty of not more than $1,000.

"(j)(1) An owner, charterer, managing operator, agent, master, or individual in charge of a vessel required to be inspected under this chapter operating the vessel without the certificate of inspection is liable to the Government for a civil penalty of not more than $10,000 for each day during which the violation occurs, except when the violation involves operation of a vessel of less than 1,600 gross tons, the penalty is not more than $2,000 for each day during which the violation occurs. The vessel also is liable in rem for the penalty.

"(2) A person is not liable for a penalty under this subsection if—

"(A) the owner, charterer, managing operator, agent, master, or individual in charge of the vessel has notified the Secretary under section 3309(c) of this title;

"(B) the owner, charterer, managing operator, agent, master, or individual in charge of the vessel has complied with all other directions and requirements for obtaining an inspection under this part; and

"(C) the Secretary believes that unforeseen circumstances exist so that it is not feasible to conduct a scheduled inspection before the expiration of the certificate of inspection.

"(k) The owner, charterer, managing operator, agent, master, or individual in charge of a vessel failing to comply with a direction issued by the Secretary under section 3311(b) of this title is liable to the Government for a civil penalty of not more than $10,000 for each day during which the violation occurs. The vessel also is liable in rem for the penalty.

"(l) A person committing an act described by subsections (b)–(f) of this section is liable to the Government for a civil penalty of not more than $5,000. If the violation involves the operation of a vessel, the vessel also is liable in rem for the penalty.".

SEC. 212. (a) Chapter 23 of title 46, United States Code is amended as follows:

(1) At the end of the chapter analysis, add the following:

"2306. Vessel reporting requirements.".

(2) In section 2301, strike "This chapter" and substitute "Except as provided in section 2306 of this title, this chapter".

(3) Add at the end the following:

"§ 2306. Vessel reporting requirements

"(a)(1) An owner, charterer, managing operator, or agent of a vessel of the United States, having reason to believe (because of lack of communication with or nonappearance of a vessel or any other incident) that the vessel may have been lost or imperiled, immediately shall—

"(A) notify the Coast Guard; and

"(B) use all available means to determine the status of the vessel.

"(2) When more than 48 hours have passed since the owner, charterer, managing operator, or agent of a vessel required to report to the United States Flag Merchant Vessel Location Filing System under authority of section 212(A) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1122a), has received a communication from the vessel, the owner, charterer, managing operator, or agent immediately shall—

"(A) notify the Coast Guard; and

"(B) use all available means to determine the status of the vessel.

"(3) A person notifying the Coast Guard under paragraph (1) or (2) of this subsection shall provide the name and identification number of the vessel, the names of individuals on board, and other information that may be requested by the Coast Guard. The owner, charterer, managing operator, or agent also shall submit written confirmation to the Coast Guard within 24 hours

after nonwritten notification to the Coast Guard under those paragraphs.

"(4) An owner, charterer, managing operator, or agent violating this subsection is liable to the United States Government for a civil penalty of not more than $5,000 for each day during which the violation occurs.

"(b)(1) The master of a vessel of the United States required to report to the System shall report to the owner, charterer, managing operator, or agent at least once every 48 hours.

"(2) A master violating this subsection is liable to the Government for a civil penalty of not more than $1,000 for each day during which the violation occurs.

"(c) The Secretary may prescribe regulations to carry out this section.".

(b)(1) Section 6101 of title 46, United States Code, is amended—

(A) in subsection (a), by striking "and incidents"; and

(B) by striking subsection (c).

(2) Section 6103 of title 46, United States Code, is amended by striking "or incident".

SEC. 213. (a) Subsection (b) of section 4283 of the Revised Statutes of the United States (46 App. U.S.C. 183(b)) is amended by striking out "$60" each place it appears and inserting in lieu thereof "$420".

(b) The amendment made by subsection (a) shall apply to incidents occurring after the date of enactment of this Act.

SEC. 214. Sections 211(a) and 212 of this subtitle are effective one hundred and eighty days after the date of enactment of this Act.

SUBTITLE B—RECREATIONAL DIVING SAFETY

SEC. 220. (a) Within one hundred and eighty days after the date of enactment of this section, the Rules of the Road Advisory Council and the National Boating Safety Advisory Council shall report to the Secretary of the department in which the Coast Guard is operating recommendations regarding the need for the display of a divers flag (traditionally recognized as a bright or fluorescent red flag having a diagonal white stripe) or any other signal, if appropriate, to promote safety in recreational diving operations and navigation under the jurisdiction of the United States. In developing the recommendations, the Councils shall consider, as a minimum: visibility requirements; restriction of diver and vessel operations in a diving area; adequacy of, and conformity with, the laws of the States and international practice and with the laws of the United States governing navigation safety; appropriate penalties; and the views of the recreational diving community.

(b) Within one year after the date of enactment of this section, the Secretary of the department in which the Coast Guard is operating shall transmit to Congress the recommendations required under subsection (a) of this section and the Secretary's evaluation and recommendations for recreational diving safety and, as appropriate, proposed legislation to implement those recommendations.

TITLE III—NOAA CORPS

SUBTITLE A—HEALTH CARE

SEC. 310. (a) Section 3 of the Act of December 31, 1970 (33 U.S.C. 857-3) is amended by adding "(a)" after "SEC. 3." and by adding at the end the following new subsection:

"(b) The Secretary may provide medical and dental care, including care in private facilities, for personnel of the Administration entitled to that care by law or regulation.".

(b) The matter before subsection (b) in the first section of the Act of July 19, 1963 (42 U.S.C. 253a(a)), is amended by striking "at facilities of the Public Health Service: Provided, That" and inserting in lieu thereof "by the Public Health Service if".

(c) The first sentence of subsection (b) of the first section of that Act (42 U.S.C. 253a(b)) is amended—

(1) by striking "at its hospitals and relief stations"; and

(2) by striking "at hospitals of the Public Health Service: Provided, That" and inserting in lieu thereof "by the Public Health Service if".

SUBTITLE B—PERSONNEL PROVISIONS

SEC. 320. (a)(1) Sections 8 and 9 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853g, 853h) are amended to read as follows:

"SEC. 8. (a) As recommended by the personnel board—

"(1) an officer in the permanent grade of captain or commander may be transferred to the retired list; and

"(2) an officer in the permanent grade of lieutenant commander, lieutenant, or lieutenant (junior grade) who is not qualified for retirement may be separated from the service.

"(b) In any fiscal year, the total number of officers selected for retirement or separation under subsection (a) plus the number of officers retired for age may not exceed the whole number nearest four percent of the total number of officers authorized to be on the active list, except as otherwise provided by law.

"(c) Any retirement or separation under subsection (a) shall take effect on the first day of the sixth month beginning after the date on which the Secretary of Commerce approves the retirement or separation, except that if the officer concerned requests earlier retirement or separation, the date shall be as determined by the Secretary.

"SEC. 9. (a) An officer who is separated under section 8 and who has completed more than three years of continuous active service immediately before that separation is entitled to separation pay computed under subsection (b) unless the Secretary of Commerce determines that the conditions under which the officer is separated do not warrant payment of that pay.

"(b)(1) In the case of an officer who has completed five or more years of continuous active service immediately before that separation, the amount of separation pay which may be paid to the officer under this section is 10 percent of the product of (A) the years of active service creditable to the officer, and (B) twelve times the monthly basic pay to which the officer was entitled at the time of separation, or $30,000, whichever is less.

"(2) In the case of an officer who has completed three but fewer than five years of continuous active service immediately before that separation, the amount of separation pay which may be paid to the officer under this section is one-half of the amount computed under paragraph (1), but in no event more than $15,000.

"(c) In determining an officer's years of active service for the purpose of computing separation pay under this section, each full month of service that is in addition to the number of full years of service creditable to the officer is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.

"(d)(1) A period for which an officer has previously received separation pay, severance pay, or readjustment pay under any other provision of law based on service in a uniformed service may not be included in determining the years of creditable service that may be counted in computing the separation pay of the officer under this section.

"(2) The total amount that an officer may receive in separation pay under this section and separation pay, severance pay, and readjustment pay under any other provision of law based on service in a uniformed service may not exceed $30,000.

"(e)(1) An officer who has received separation pay under this section, or separation pay, severance pay, or readjustment pay under any other provision of law, based on service in a uniformed service and who later qualifies for retired pay under this Act shall have deducted from each payment of retired pay so much of that pay as is based on the service for which the officer received that separation pay, severance pay, or readjustment pay until the total amount deducted is equal to the total amount of separation pay, severance pay, and readjustment pay received.

"(2) An officer who has received separation pay under this section may not be deprived, by reason of receipt of that pay, of any disability compensation to which the officer is entitled under the laws administered by the Veterans' Administration, but there shall be deducted from that disability compensation an amount equal to the total amount of separation pay received. Notwithstanding the preceding sentence, no deduction may be made from disability compensation for the amount of separation pay received because of an earlier discharge, separation, or release from a period of active duty if the disability which is the basis for that disability compensation was incurred or aggravated during a later period of active duty.".

(2) Section 1174(h)(1) of title 10, United States Code, is amended by striking out "severance pay" the first and second place it appears and inserting in lieu thereof "separation pay, severance pay,".

(b) Section 12(c) of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853j-1(c)) is amended—

(1) by striking out "deemed necessary or desirable" and inserting in lieu thereof "determined";

(2) by striking out "alone provided" and inserting in lieu thereof "alone. Any";

(3) by striking out "will terminate" and inserting in lieu thereof "terminates"; and

(4) by striking out "assignment," and all that follows and inserting in lieu thereof "assignment.".

(c)(1) The Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853a et seq.) is amended by adding at the end thereof the following new section:

"SEC. 24. (a) The Secretary may designate positions in the Administration as being positions of importance and responsibility for which it is appropriate that commissioned officers of the Administration, if serving in those positions, serve in the grade of vice admiral, rear admiral, or commodore as designated by the Secretary for each position, and may assign officers to those positions. An officer assigned to any position under this section has the grade designated for that position if appointed to that grade by the President, by and with the advice and consent of the Senate.

"(b) The number of officers serving on active duty under appointments under this section may not exceed—

"(1) one in the grade of vice admiral;

"(2) three in the grade of rear admiral; and

"(3) three in the grade of commodore.

"(c) An officer appointed to a grade under this section, while serving in that grade, shall have the pay and allowances of the grade to which appointed.

"(d) An appointment of an officer under this section—

"(1) does not vacate the permanent grade held by the officer; and

"(2) creates a vacancy on the active list.

"(e) The provisions of section 2(g) of Reorganization Plan Numbered 4 of 1970 (84 Stat. 2090, 5 U.S.C. App.) apply to an officer who serves in a grade above captain under an appointment under this section in the same manner as if the officer served in that grade under section 2(d) or 2(f) of that Reorganization Plan.".

(2) After the date of the enactment of this Act, no appointment of a commissioned officer may be made under section 2(d) or 2(f) of Reorganization Plan Numbered 4 of 1970 (84 Stat. 2090, 5 U.S.C. App.).

(3) Effective as of December 28, 1977, section 3(a)(1) of Public Law 95-219 is amended by striking out "Section 2" and inserting in lieu thereof "Section 2(e)".

(4)(A) An officer of the commissioned corps of the National Oceanic and Atmospheric Administration who on the day before the date of the enactment of this Act was carried on active duty in the grade of rear admiral and was receiving the basic pay of a rear admiral of the upper half shall after that date be serving in the grade of rear admiral.

(B) An officer who on the day before the date of the enactment of this Act was serving on active duty in the grade of rear admiral and was receiving the basic pay of a rear admiral of the lower half shall after that date be serving in the grade of commodore, but shall (while serving in that grade) retain the title of rear admiral and be entitled to wear the uniform and insignia of a rear admiral.

(C) An officer who on the date before the date of the enactment of this Act held the grade of rear admiral on the retired list retains the grade of rear admiral and is entitled to wear the uniform and insignia of a rear admiral.

TITLE IV—FISHERIES

SUBTITLE A—PACIFIC FISHERIES DEVELOPMENT FOUNDATION

SEC. 410. Section 2 of the Central, Western, and South Pacific Fisheries Development Act (Public Law 92-444; 16 U.S.C. 758e) is amended by striking out "Pacific Tuna Development Foundation" and inserting in lieu thereof "Pacific Fisheries Development Foundation".

SUBTITLE B—FISHERMEN'S CONTINGENCY FUND

SEC. 420. Title IV of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1841 et seq.) is amended—

(1) by striking in section 403(a)(1) "limitation on" and substituting "limitation of not less than 90 days on";

(2) by striking out "25 per centum" in section 403(c)(1) and inserting in lieu thereof "50 percent";

(3) by striking out ", except" and all that follows thereafter in section 405(a) and inserting in lieu thereof "under subsection (d)(1).";" and

(4) by inserting "time," before "form" in section 405(d)(1).

SUBTITLE C—FISHERIES LOAN FUND

SEC. 430. The Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) is amended—

(1) by striking out "September 30, 1984" each place it appears in section 4(c) and inserting in lieu thereof "September 30, 1986"; and

(2) by striking out "1982, 1983, and 1984." in section 7(c)(6) and inserting in lieu thereof "1982, 1983, 1984, 1985, and 1986.".

SEC. 431. Section 221(a) of the American Fisheries Promotion Act (16 U.S.C. 742c note) is amended—

(1) by amending subsection (a)—

(A) by amending the side heading to read as follows: "LOAN AUTHORITY.—", and

(B) by striking out "September 30, 1984" and inserting in lieu thereof "September 30, 1986";

(2) by amending subsection (b)—

(A) by striking out "each of fiscal years 1982, 1983, 1984," in paragraph (2)(A) and inserting in lieu thereof "each of fiscal years 1982, 1983, 1984, 1985, and 1986,", and

(B) by striking out "1981, 1982, 1983, and 1984" in paragraph (2)(C) and inserting in lieu thereof "1981, 1982, 1983, 1984, 1985, and 1986"; and

(3) by striking out "any of fiscal years 1981, 1982, 1983, and 1984," in subsection (c)(1) and inserting in lieu thereof "any of fiscal years 1981, 1982, 1983, 1984, 1985, and 1986,".

SEC. 432. All moneys in the Fisheries Loan Fund established under Section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c), as amended, shall be invested by the Secretary of Commerce in obligations of the United States, except so much as shall be currently needed for loans or administrative expenses authorized under the Fisheries Loan Fund. All accrued proceeds from such investment shall be, subject to amounts provided in advance by appropriations, credited by the Secretary of the Treasury to the debt of the Secretary of Commerce incurred under section 1105(d) of the Merchant Marine Act, 1936 (46 U.S.C. 1275), as amended, in connection with fisheries financing under title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271-1280), as amended, for so long as such debt exists. All accrued proceeds from such investment, after such debt has been liquidated, shall be, subject to amounts provided in advance by appropriations, credited to the fisheries portion of the Federal Ship Financing Fund established under section 1102 of the Merchant Marine Act, 1936 (46 U.S.C. 1272), as amended, and used for the fisheries purposes provided in title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271-1280), as amended.

SUBTITLE D—GOVERNING INTERNATIONAL FISHERY AGREEMENT WITH THE HOME GOVERNMENT OF THE FAROE ISLANDS AND THE GOVERNMENT OF DENMARK

SEC. 440. Notwithstanding section 203 of the Magnuson Fishery Conservation and Management Act of 1976, the Governing International Fishery Agreement between the Government of the United States of America of the One Part and the Home Government of the Faroe Islands and the Government of Denmark of the Other Part Concerning Faroese Fishing in Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated July 13, 1984—

(1) is approved by Congress as a governing international fishery agreement for purposes of that Act; and

(2) may enter into force with respect to the United States in accordance with the terms of Article XVI of the Agreement following the enactment of this title.

TITLE V—VESSELS

SEC. 510. Notwithstanding sections 12105(d), 12106(a)(2), 12107(a)(2), and 12108(a)(2) of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 833), as applicable, the Secretary of the department in which the Coast Guard is operating may issue certificates of documentation for the following vessels—

(a) Wingaway, official number 654146;

(b) Endless Summer, official number 296259;

(c) Muskegon Clipper, official number 252908;

(d) Scuba King, official number 532376;

(e) Ululani, official number 239729;

(f) No Slack, official number 587630; and

(g) La Jolie, Michigan registration number MC2780LB.

Mr. PACKWOOD. Mr. President, I ask my colleagues to join me in supporting passage of S. 1102, a bill to reauthorize the Marine Sanctuaries Program. It has been nearly a year since the Senate first passed this measure, and a great deal of discussion has taken place during the intervening months regarding the provisions of not only the Sanctuaries Program itself, but also of numerous other amendments which have been attached to the bill.

I am pleased to say that we have now reached an accord with our colleagues in the House, and I feel that this compromise is one which can be fully supported by proponents of the Marine Sanctuaries Program. However, before commenting on the sanctuaries portion of the bill, I would like to briefly reference some of the other items contained in this package.

S. 1102 also deals with marine safety, personnel of the NOAA Corps, the Fishermen's Contingency Fund, the Fisheries Loan Fund, and the Pacific Fisheries Development Foundation. Also included are congressional approval of the new Governing International Fishery Agreement with the Faroe Islands, and several Jones Act waivers permitting certain vessels to operate in the coastwise trade. All of these matters, while important, are noncontroversial, and I hope my colleagues will be able to accept them.

Now, I'd like to focus on the Marine Sanctuaries Program.

The Congress has long recognized the need for a Federal program to conserve nationally significant marine areas. In 1971, the Senate Committee on Commerce, Science and Transportation concluded:

The [Senate Conference] Committee believes that the establishment of marine sanctuaries is appropriate where it is desirable to set aside areas of the seabed and superjacent waters for scientific study, to preserve unique, rare, or characteristic features of the oceans, coastal and other waters, and their total ecosystems. In this we agree with the members of the House of Representatives. Particularly with respect to scientific investigation, marine sanctuaries would permit baseline ecological studies that would yield greater knowledge of these preserved areas both in their natural state and in their altered state as natural and man-made phenomena effected change. (S. Rpt. 92-451)

Recent reviews of the National Marine Sanctuary Program have confirmed this earlier finding of the Congress. For instance, in a 1981 report to Congress, the General Accounting Office concluded that the National Marine Sanctuary Program:

(1) Provides comprehensive regulation, planning, and management (within the limits of international law) to assure long-term preservation of all the resources that require protection;

(2) Provides environmental protection where gaps exist in the coverage provided by other laws; and

(3) Encourages and support research and assessment of the condition of sanctuary resources and provides an educational and informational service to promote public appreciation of their value and wise use.

In testimony heard by the Commerce Committee, witnesses agreed that there was a need for a more explicit expression of congressional intent regarding title III of the Marine Protection, Research and Sanctuaries Act of 1972. Through extensive discussions in both Houses of Congress, a firmer legislative basis for the program was established.

The plain meaning of the Marine Sanctuaries Amendments of 1984 and the House and Senate committee reports on these amendments amply explain the intent of the amendments. According to these amendments, the primary purpose of title III of the Marine Protection, Research and Sanctuaries Act is to grant to Secretary of Commerce the authority to provide comprehensive conservation and management of areas of the marine environment of special national significance due to their resource or human-use values—section 301(b). To a large extent, the Marine Sanctuaries Amendments of 1984 codify existing administrative practice. At the same time, these amendments reemphasize that the primary mission of this program is the protection of areas of the marine environment of special national significance.

However, I have learned that the floor managers of S. 1102 in the House engaged in a colloquy which I believe misinterprets the intent of the authorizing committees of both the House and Senate in recommending the Marine Sanctuaries Amendments of 1984. I therefore wish to take the time to clarify congressional intent regarding these amendments.

Before designating a National Marine Sanctuary, the Secretary must determine that such designation will fulfill the purposes and policies of the act and find that the proposed sanctuary meets four standards—section 303(a). Clearly, the committee did not intend that these standards be so difficult to meet that no sanctuaries could be designated. This would be quite contrary to the purpose of the bill, which is to conserve and manage marine areas of special national significance as national marine sanctuaries.

In making the determination above, the Secretary is to consider nine factors—section 303(b)(1)(A-I). These factors are not themselves standards which must be met but are guidelines for the Secretary's consideration. Indeed, the Senate report states:

The Committee can offer no absolute standards to be applied when an area is under consideration. (S. Rpt. 98-280, page 6)

In considering the designation of an area as a National Marine Sanctuary, the Secretary is to consult with the House Merchant Marine and Fisheries Committee, the Senate Committee on Commerce, Science and Transportation, several Federal agencies, State and local governments, the appropriate Regional Fishery Management Council, and other interested persons—section 303(b)(2)(A-E). Nowhere do the 1984 amendments require the Secretary to secure the approval of other agencies. Both the amendments and the House and Senate reports clearly state that the Secretary has the final responsibility and authority for determining whether or not to designate a National Marine Sanctuary.

The Marine Sanctuaries Amendments of 1984 codify existing consultative practices of the Sanctuary Programs Division of NOAA. Each proposal, including those developed recently under the site selection process, undergoes no less than four stages of review by industry, Federal, State, and local agencies and the general public. There is obviously no assurance that any interest group will obtain all that it wants from a sanctuary designation. Nor is there any means by which any user group might be given such an assurance. Placing the interests of any group above the primary goal of sanctuary designation—the conservation of areas of the marine environment of special national significance—would run counter to the basic purpose of the act.

Importantly, the Secretary is to provide the authorizing committees with a prospectus fully describing any sanctuary proposal. The Congress will then have the opportunity of reviewing this prospectus, holding hearings on the proposal, and if it so chooses, passing a joint resolution of disapproval of any part or all of a designation. This will insure continued congressional oversight of the program.

In designating a National Marine Sanctuary, the Secretary may issue regulations to provide for the comprehensive management and conservation of the sanctuary's resources. Public and private uses of the resources of a marine sanctuary may be allowed provided that they are compatible with the primary objective of resource protection—section 301(b)(5). This emphasis upon resource protection is also explicitly expressed regarding fisheries—section 304(a)(3)—and preexisting leases and permits—section 304(c)(2).

I wish to emphasize here that these provisions do not preclude, either explicitly or implicitly, disruption of other Federal agency activities. We have required in these amendments that the Secretary of Commerce consult fully with all affected agencies and parties regarding a proposed sanctuary, and therefore expect any disruption of another agency's activities to be limited to the extent necessary to achieve protection of the resource. It is the Secretary, however, who is empowered with all decisionmaking authority regarding designation of a site and regulation of activities affecting the resources of that site. The plain meaning of the amendments themselves and the accompanying Senate and House reports make this clear.

In addition, these amendments do not favor the selection of small or large sites as National Marine Sanctuaries. The intent of the amendments is to insure that a sanctuary is sizable enough to achieve the stated purpose: resource protection of marine areas of special national significance. The Secretary is to consider a number of factors—section 303(b)(1)(F)—in determining the appropriate size of a sanctuary. In these amendments, we recognize that the determination of the appropriate size of a sanctuary is necessarily a complex issue for which no absolute standards can be set.

The National Marine Sanctuary Program is becoming an increasingly valuable part of our Nation's efforts to conserve our marine and coastal resources. Although the regulatory aspect of this program has received the greatest amount of attention, the contributions of the program through its research and educational activities are considerable.

In closing, I wish to emphasize that the Marine Sanctuaries Amendments of 1984 are the result of extensive discussion and compromise by all those interested in this program. These amendments will strengthen legislative basis for the National Marine Sanctuary Program and will insure the designation of sanctuaries will be based upon clear criteria and upon consultation with all affected parties.

Mr. STEVENS. Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

BILL PLACED ON CALENDAR—S. 2624

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of S. 2624, Act for the Prevention and Punish-

ment of the Crime of Hostage Taking, and that it be placed on the Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL PLACED ON CALENDAR—S. 2720

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on The Judiciary be discharged from further consideration of S. 2720, a bill to recognize the organization known as the "Women's Army Corps Veterans' Association," and that it be placed on the Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR H.R. 4966 TO BE HELD AT THE DESK

Mr. STEVENS. Mr. President, I ask unanimous consent that once the Senate receives from the House H.R. 4966, to recognize the organization known as the "Women's Army Corps Veteran's Association," it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

WYANDOTTE TRIBE OF OKLAHOMA

The Senate proceeded to consider the bill (H.R. 6221), to provide for the use and distribution of certain funds awarded to the Wyandotte Tribe of Oklahoma.

AMENDMENT NO. 6911

(Purpose: To declare certain mineral rights to be held in trust for the Three Affiliated Tribes of the Fort Berthold Reservation)

Mr. STEVENS. Mr. President, I send an amendment to the desk on behalf of Mr. ANDREWS.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. ANDREWS, proposes an amendment numbered 6911.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, between lines 2 and 3, insert the following:

TITLE I—WYANDOTTE TRIBE OF OKLAHOMA

Redesignate sections 1, 2, 3, 4, 5, and 6 of the bill as sections 101, 102, 103, 104, 105, and 106, respectively.

On page 2, line 13, strike out "section 3(b)" and insert in lieu thereof "section 103(b)".

On page 2, line 15, strike out "this Act" and insert in lieu thereof "this title".

On page 4, line 10, strike out "section 3(b)" and insert in lieu thereof "section 103(b)".

On page 4, line 11, strike out "section 4 or 5" and insert in lieu thereof "section 104 or 105".

On page 4, line 15, strike out "this Act" and insert in lieu thereof "this title".

On page 5, line 6, strike out "section 2(a)" and insert in lieu thereof "section 102(a)".

On page 5, line 9, strike out "section 2(b)" and insert in lieu thereof "section 102(b)".

On page 5, line 10, strike out "section 1" and insert in lieu thereof "section 101".

On page 5, line 17, strike out "section 1" and insert in lieu thereof "section 101".

On page 5, line 24, strike out "section 3(b)" and insert in lieu thereof "section 103(b)".

On page 6, line 2 strike out "section 2(b)" and insert in lieu thereof "section 102(b)".

On page 6, line 5, strike out "section 3(b)" and insert in lieu thereof "section 103(b)".

On page 6, line 12, strike out "section 3(b)" and insert in lieu thereof "section 103(b)".

On page 7, line 16, strike out "section 3(b)" and insert in lieu thereof "section 103(b)".

On page 7, line 21, strike out "this Act" and insert in lieu thereof "this title".

On page 7, line 25, strike out "this Act" and insert in lieu thereof "this title".

On page 8, line 2, strike out "this Act" and insert in lieu thereof "this title".

On page 8, strike out line 14, and insert in lieu thereof "title or made available under this title for any tribal program".

On page 9, after line 3, add the following:

TITLE II—FORT BERTHOLD RESERVATION MINERAL RESTORATION

SEC. 201. This title may be cited as the "Fort Berthold Reservation Mineral Restoration Act".

SEC. 202. (a) Subject to the provisions of this title, all mineral interests in the lands located within the exterior boundaries of the Fort Berthold Indian Reservation which—

(1) were acquired by the United States for the construction, operation, or maintenance of the Garrison Dam and Reservoir Project, and

(2) are not described in subsection (b), are hereby declared to be held in trust by the United States for the benefit and use of the Three Affiliated Tribes of the Fort Berthold Reservation.

(b) The provisions of subsection (a) shall not apply with respect to—

(1) lands located in Township 152 North or Township 151 North of Range 93 West of the 5th principal meridian which lie east of the former Missouri River and

(2) lands located in any of the following townships: Township 152 North and Township 151 North of Range 92 West of the 5th principal meridian; Township 152 North and Township 151 North of Range 91 West of the 5th principal meridian; Township 152 North and Township 151 North of Range 90 West of the 5th principal meridian; Township 152 North, Township 151 North, Township 150 North, and Township 149 North of Range 89 West of the 5th principal meridian; Township 152 North, Township 151 North, Township 150 North and Township 149 North of Range 88 West of the 5th principal meridian; and Township 152 North, Township 151 North, Township 150 North, and Township 149 North of Range 87 West of the 5th principal meridian.

SEC. 203. Any exploration, development, production, or extraction of minerals conducted with respect to any mineral interest described in section 202 (a) shall be conducted in accordance with such regulations as the Secretary of the Army shall prescribe in order to—

(1) protect the Garrison Dam and Reservoir, or

(2) carry out the purposes of the Garrison Dam and Reservoir Project.

SEC. 204. (a) Nothing in this title shall deprive any person (other than the United States) of any right, interest, or claim which such person may have in any minerals prior to the enactment of this Act.

(b) The United States may renew or extend any lease, license, permit, or contract with respect to any mineral interest described in section 202 (a) after the date of enactment of this Act only if—

(1) the governing body of the Three Affiliated Tribes of the Fort Berthold Reservation approves of such renewal or extension, or

(2) the holder of such lease, license, or permit or a party to such contract (other than the United States) had the right to renew or extend such lease, license, permit, or contract prior to the date of enactment of this Act and such holder or party exercises such right of renewal or extension.

(c) All rentals, royalties, and other payments with respect to any mineral interest described in section 202(a) accruing to the United States after the date of enactment of this Act shall be held in trust by the United States for the benefit and use of the Three Affiliated Tribes of the Fort Berthold Reservation.

SEC. 205. Public Law 87-695 is amended—

(1) by striking out "such former Indian land" and inserting in lieu thereof "such land",

(2) by striking out "Subject" in the first sentence and inserting in lieu thereof "That (a) subject", and

(3) by adding at the end thereof the following new subsection:

"(b) Subsection (a) shall not apply with respect to any lands described in section 202(b) of the Fort Berthold Reservation Mineral Restoration Act.".

SEC. 206. (a) The Secretary of the Army and the Secretary of the Interior may enter into agreements for the transfer to the United States of any land located near the Garrison Dam and Reservoir Project which is held in trust for the benefit of the Three Affiliated Tribes of the Fort Berthold Reservation or any individual Indian if such agreement is approved—

(1) in the case of land held for the benefit of such tribes, by the governing body of such tribes, or

(2) in the case of land held for the benefit of any individual Indian, by the individual or individuals holding a majority of the beneficial interest in such land.

Any land transferred to the United States under the preceding sentence shall be treated as land acquired for the operation and maintenance of the Garrison Dam and Reservoir Project.

(b) The Secretary of the Army and the Secretary of the Interior may enter into agreements under which any land within the exterior boundaries of the reservation acquired by the United States for the construction, maintenance, or operation of the Garrison Dam and Reservoir Project that is no longer needed for such purposes is declared to be held by the United States in trust for the benefit of the Three Affiliated Tribes of the Fort Berthold Reservation.

SEC. 207. The provisions of this title, and of any agreement entered into under section 206, shall not be taken into account under section 2 of title I of the Second Deficiency Appropriation Act, fiscal year 1935 (25

U.S.C. 475a) or section 2 of the Act of August 13, 1946 (60 Stat. 1050) for purposes of determining any offset or counterclaim.

SEC. 208. To the extent that there are net proceeds from the development of any mineral interests described in section 202(a) of this Act, in excess of $300,000 the Three Affiliated Tribes of the Fort Berthold Reservation shall reimburse the United States the fixed sum of $300,000 from such proceeds. This reimbursement shall be deemed full reimbursement for any and all payments from the United States that the Three Affiliated Tribes received for the mineral estate, or any portion thereof, described in section 202(a) of this Act.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6911) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

TITLE AMENDMENT

Mr. STEVENS. Mr. President, I send to the desk an amendment to the title and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Amend the title so as to read: "An act to provide for the use and distribution of certain funds awarded the Wyandotte Tribe of Oklahoma and to restore certain mineral rights to the Three Affiliated Tribes of the Fort Berthold Reservation".

The PRESIDING OFFICER. The question is on agreeing to the amendment to amend the title.

The amendment was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent that S. 2824, the Senate companion bill, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL PLACED ON CALENDAR—H.R. 5631

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be discharged from further consideration of H.R. 5631, Big Thicket National Preserve, and it be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL PLACED ON CALENDAR—H.R. 5121

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition and Forestry be discharged from further consideration of H.R. 5121, Virginia National Forest Wilderness Act of 1984, and it be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL PLACED ON CALENDAR—H.R. 5513

Mr. STEVENS. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of H.R. 5513, Jamie Whitten Agriculture Research Building, and it be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

WITHDRAWAL OF PUBLIC LANDS IN LINCOLN COUNTY, NEVADA

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 4932.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4932) to withdraw certain public lands in Lincoln County, NV, and for other purposes, was considered read a third time, and passed.

TANDEM TRUCK SAFETY ACT OF 1984

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 953, S. 2217.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

The legislative clerk read as follows:

A bill S. 2217 entitled the "Tandem Truck Safety Act of 1984."

The Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation with an amendment to strike all after the enacting clause and insert:

S. 2217

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Tandem Truck Safety Act of 1984".

SEC. 2. Section 411 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2311) is amended by adding at the end thereof the following new subsection:

"(i)(1) If the Governor of a State, after making the consultations specified in paragraph (2) of this subsection, determines that any specific segment of the National System of Interstate and Defense Highways is not capable of safely accommodating motor vehicles having the lengths set forth in subsection (a) of this section or motor vehicle combinations described in subsection (c) of this section, the Governor may notify the Secretary of such determination and request that the Secretary exempt such segment from one or both of such subsections.

"(2) Before making such notification, the Governor shall consult with units of local government within that State in which the specific segment of such System is located, as well as the Governor of any State adjacent to that State that might be directly affected by such exemption. As part of such consultations, consideration shall be given to any potential alternative route that—

"(A) can safely accommodate motor vehicles having the lengths set forth in subsection (a) of this section or motor vehicle combinations described in subsection (c) of this section; and

"(B) serves the area in which such segment is located.

"(3) The Governor shall transmit with such notification specific evidence of safety problems that supports such determination, and the results of consultation regarding any alternative route under paragraph (2) of this subsection.

"(4)(A) If the Secretary determines, upon request by a Governor under paragraph (1) of this subsection or on the Secretary's own initiative, that any segment of the National System of Interstate and Defense Highways is not capable of safely accommodating motor vehicles having the lengths set forth in subsection (a) of this section or motor vehicle combinations described in subsection (c) of this section, the Secretary shall exempt such segment from one or both of such subsections. Before making such determination, the Secretary shall consider any possible alternative route that serves the area in which such segment is located.

"(B) The Secretary shall make such determination within a period of 120 days after the date of receipt of notification from a Governor under paragraph (1) of this subsection or the date on which the Secretary initiates action under this paragraph, as the case may be, with respect to such segment. If the Secretary determines that such determination will not be made within such time period, the Secretary shall immediately notify the Congress and shall furnish the reasons for the delay, information regarding the resources assigned, and the projected completion date, for any such determination.

"(C) The Secretary shall make such determination only after affording interested parties notice and the opportunity for comment. Any exemption granted by the Secretary under this paragraph before the date on which final rules are issued under subsection (a) of this section shall be included as part of such final rules. Any such exemption granted on or after such date shall be published as a version of such rules.".

SEC. 3. Section 416 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2316) is amended)—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e)(1) If the Governor of a State, after making the consultations specified in paragraph (2) of this subsection, determines that any specific segment of the National System of Interstate and Defense Highways is not capable of safely accommodating motor vehicles having the width set forth in subsection (a) of this section, the Governor may notify the Secretary of such determina-

tion and request that the Secretary exempt such segment from such subsection for the purpose of allowing the State to impose a vehicle width limitation of less than 102 inches on such segment.

"(2) Before making such notification, the Governor shall consult with units of local government within that State in which the specific segment of such System is located, as well as the Governor of any State adjacent to that State that might be directly affected by such exemption. As part of such consultation, consideration shall be given to any potential alternative route that—

"(A) can safely accommodate motor vehicles having the width set forth in subsection (a) of this section;

"(B) serves the area in which such segment is located.

"(3) The Governor shall transmit with such notification specific evidence of safety problems that supports such determination, and the results of consultation regarding any alternative route under paragraph (2) of this subsection.

"(4)(A) If the Secretary determines, upon request by a Governor under paragraph (1) of this subsection or on the Secretary's own initiative, that any segment of the National System of Interstate and Defense Highways is not capable of safely accommodating motor vehicles having the width set forth in subsection (a) of this section, the Secretary shall exempt such segment from such subsection for the purpose of allowing the State to impose a vehicle width limitation of less than 102 inches on such segment. Before making such determination, the Secretary shall consider any possible alternative route that serves the area in which such segment is located.

"(B) The Secretary shall make such determination within a period of 120 days after the date of receipt of notification from a Governor under paragraph (1) of this subsection or the date on which the Secretary initiates action under this paragraph, as the case may be, with respect to such segment. If the Secretary determines that such determination will not be made within such time period, the Secretary shall immediately notify the Congress and shall furnish the reasons for the delay, information regarding the resources assigned, and the projected completion date, for any such determination.

"(C) The Secretary shall make such determination only after affording interested parties notice and the opportunity for comment. Any exemption granted by the Secretary under this paragraph before the date on which final rules are issued under subsection (a) of this section shall be included as part of such final rules. Any such exemption granted on or after such date shall be published as a revision of such rules.".

SEC. 4. (a) Section 411(a) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2311(a)) is amended—

(1) by striking "No" and inserting in lieu thereof "Except as provided in subsection (i) of this section, no";

(2) by inserting "(other than a segment exempted under subsection (i) of this section)" immediately after "Highways"; and

(3) by striking "Secretary," and inserting in lieu thereof "Secretary of Transportation (hereinafter in this part referred to as the 'Secretary'),".

(b) Section 411(c) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2311(c)) is amended by inserting "(other than a segment exempted under subsection (i) of this section)" immediately after "Highways".

(c) Section 412 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2312) is amended by inserting "(other than any segment thereof which is exempted under section 411(i) or 416(e) of this title)" immediately after "Highways System".

(d) Section 416(a) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2316(a)) is amended—

(1) by striking "No" and inserting in lieu thereof "Except as provided in subsection (e) of this section, no";

(2) by inserting "(other than a segment exempted under subsection (e) of this section)" immediately after "Highways"; and

(3) by inserting immediately after "more" the second time it appears the following: "or any other qualifying Federal-aid Primary System highway designated by the Secretary if the Secretary determines that such designation is consistent with highway safety and the other purposes of this title".

(e) Section 416(d) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2316(d)) is amended—

(1) by inserting "(other than a segment exempted under subsection (e) of this section)" immediately after "Highways"; and

(2) by striking ", with traffic lanes designed to be a width of twelve feet or more".

SEC. 5. Section 412 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2312) is amended by inserting "or for truck tractor single-trailer units of those combination vehicles described in section 411(c) of this title" immediately before the period at the end thereof.

Amend the title so as to read: "A bill to provide for exemptions, based on safety concerns, from certain length and width limitations for commercial motor vehicles, and for other purposes.".

AMENDMENT NO. 6912

(Purpose: Add provisions relating to commercial motor vehicle safety)

Mr. STEVENS. Mr. President, I send an amendment to the desk on behalf of Senators DANFORTH, MOYNIHAN, and PACKWOOD.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. DANFORTH, Mr. MOYNIHAN, and Mr. PACKWOOD, proposes an amendment to the committee amendment numbered 6912.

TITLE I

SHORT TITLE

SEC. 101. This title may be cited as the "Tandem Truck Safety Act of 1984."

EXEMPTION FROM LENGTH REQUIREMENTS

SEC. 102. Section 411 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2311) is amended by adding at the end thereof the following new subsection:

"(i)(1) If the Governor of a State, after making the consultations specified in paragraph (2) of this subsection, determines that any specific segment of the National System of Interstate and Defense Highways is not capable of safely accommodating motor vehicles having the lengths set forth in subsection (a) of this section or motor vehicle combinations described in subsection (c) of this section, the Governor may notify the Secretary of such determination and request that the Secretary exempt such segment from one or both of such subsections.

"(2) Before making such notification, the Governor shall consult with units of local government within that State in which the specific segment of such System is located, as well as the Governor of any State adjacent to that State that might be directly affected by such exemption. As part of such consultations, consideration shall be given to any potential alternative route that—

"(A) can safely accommodate motor vehicles having the lengths set forth in subsection (a) of this section or motor vehicle combinations described in subsection (c) of this section; and

"(B) serves the area in which such segment is located.

"(3) The Governor shall transmit with such notification specific evidence of safety problems that supports such determination, and the results of consultation regarding any alternative route under paragraph (2) of this subsection.

"(4)(A) If the Secretary determines, upon request by a Governor under paragraph (1) of this subsection or on the Secretary's own initiative, that any segment of the National System of Interstate and Defense Highways is not capable of safely accommodating motor vehicles having the lengths set forth in subsection (a) of this section or motor vehicle combinations described in subsection (c) of this section, the Secretary shall exempt such segment from one or both of such subsections. Before making such determination, the Secretary shall consider any possible alternative route that serves the area in which such segment is located.

"(B) The Secretary shall make such determination within a period of 120 days after the date of receipt of notification from a Governor under paragraph (1) of this subsection or the date on which the Secretary initiates action under this paragraph, as the case may be, with respect to such segment. If the Secretary determines that such determination will not be made within such time period, the Secretary shall immediately notify the Congress and shall furnish the reasons for the delay, information regarding the resources assigned, and the projected completion date, for any such determination.

"(C) The Secretary shall make such determination only after affording interested parties notice and the opportunity for comment. Any exemption granted by the Secretary under this paragraph before the date on which final rules are issued under subsection (a) of this section shall be included as part of such final rules. Any such exemption granted on or after such date shall be published as a revision of such rules.".

EXEMPTION FROM WIDTH REQUIREMENTS

SEC. 103. Section 416 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2316) is amended—

(1) be redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e)(1) If the Governor of a State, after making the consultations specified in paragraph (2) of this subsection, determines that any specific segment of the National System of Interstate and Defense Highways is not capable of safely accommodating motor vehicles having the width set forth in subsection (a) of this section, the Governor may notify the Secretary of such determination and request that the Secretary exempt such segment from such subsection for the purpose of allowing the State to impose a vehicle width limitation of less than 102 inches on such segment.

"(2) Before making such notification, the Governor shall consult with units of local government within that State in which the specific segment of such System is located, as well as the Governor of any State adjacent to that State that might be directly affected by such exemption. As part of such consultations, consideration shall be given to any potential alternative route that—

"(A) can safely accommodate motor vehicles having the width set forth in subsection (a) of this section;

"(B) serves the area in which such segment is located.

"(3) The Governor shall transmit with such notification specific evidence of safety problems that supports such determination, and the results of consultation regarding any alternative route under paragraph (2) of this subsection.

"(4)(A) If the Secretary determines upon request by a Governor under paragraph (1) of this subsection or on the Secretary's own initiative, that any segment of the National System of Interstate and Defense Highways is not capable of safely accommodating motor vehicles having the width set forth in subsection (a) of this section, the Secretary shall exempt such segment from such subsection for the purpose of allowing the State to impose a vehicle width limitation of less than 102 inches on such segment. Before making such determination, the Secretary shall consider any possible alternative route that serves the area in which such segment is located.

"(B) The Secretary shall make such determination within a period of 120 days after the date of receipt of notification from a Governor under paragraph (1) of this subsection or the date on which the Secretary initiates action under this paragraph, as the case may be, with respect to such segment. If the Secretary determines that such determination will not be made within such time period, the Secretary shall immediately notify Congress and shall furnish the reasons for the delay, information regarding the resources assigned, and the projected completion date, for any such determination.

"(C) The Secretary shall make such determination only after affording interested parties notice and the opportunity for comment. Any exemption granted by the Secretary under this paragraph before the date on which final rules are issued under subsection (a) of this section shall be included as part of such final rules. Any such exemption granted on or after such date shall be published as a revision of such rules.".

TITLE II

MISCELLANEOUS AMENDMENTS

SEC. 201. (a) Section 411(a) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2311(a)) is amended—

(1) by striking "No" and inserting in lieu thereof "Except as provided in subsection (i) of this section, no";

(2) by inserting "(other than a segment exempted under subsection (i) of this section)" immediately after "Highways"; and

(3) by striking "Secretary," and inserting in lieu thereof "Secretary of Transportation (hereinafter in this part referred to as the "Secretary),".

(b) Section 411(c) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2311(c)) is amended by inserting "(other than a segment exempted under subsection (i) of this section)" immediately after "Highways".

(c) Section 412 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2312) is amended by inserting "(other than any segment thereof which is exempted under section 411(i) or 416(e) of this title)" immediately after "Highways System".

(d) Section 416(a) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2316(a)) is amended—

(1) by striking "No" and inserting in lieu thereof "Except as provided in subsection (e) of this section, no";

(2) by inserting "(other than a segment exempted under subsection (e) of this section)" immediately after "Highways"; and

(3) by inserting immediately after "more" the second time it appears the following: "or any other qualifying Federal-aid Primary System highway designated by the Secretary if the Secretary determines that such designation is consistent with highway safety and the other purposes of this title".

(e) Section 416(d) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2316(d)) is amended—

(1) by inserting "(other than a segment exempted under subsection (e) of this section)" immediately after "Highways"; and

(2) by striking ", with traffic lanes designed to be a width of twelve feet or more".

REASONABLE ACCESS

SEC. 202. Section 412 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2312) is amended by inserting "or for truck tractor single-trailer units of those combination vehicles described in section 411(c) of this title" immediately before the period at the end thereof.

TITLE III

SHORT TITLE

SEC. 301. This title may be cited as the "Motor Carrier Safety Act of 1984".

PURPOSES

SEC. 302. The purposes of this title are to promote the safe operation of commercial motor vehicles in or affecting interstate commerce, to minimize dangers to the health of operators of commercial motor vehicles and other employees whose employment directly affects motor carrier safety, and to assure increased compliance with traffic laws and with the commercial motor vehicle safety and health rules, regulations standards, and orders issued pursuant to this title.

FINDINGS

SEC. 303. The Congress finds that—

(1) it is in the public interest to enhance commercial motor vehicle safety and thereby to reduce highway fatalities, injuries, and property damage;

(2) improved, more uniform commercial motor vehicle safety measures and strengthened enforcement would reduce the number of fatalities and injuries and the level of property damage related to commercial motor vehicle operations;

(3) enhanced protection of the health of commercial motor vehicle operators is in the public interest; and

(4) interested State governments can provide valuable assistance to the Federal Government in assuring that commercial motor vehicle operations are conducted safely and healthfully.

DEFINITIONS

SEC. 304. For purposes of this title, the term—

(1) "commerce" means (A) trade, traffic, or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, or (B) in the case of a commercial motor vehicle transporting passengers, which affects trade, traffic, or transportation between a place in a State and a place outside of such State:

(2) "commercial motor vehicle" means any self-propelled or towed vehicle used on the highways in commerce principally to transport passengers or cargo—

(A) if such vehicle has a gross vehicle weight rating of 10.001 or more pounds;

(B) if such vehicle is designed to transport more than 15 passengers, including the driver; or

(C) if such vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.) and are transported in quantities requiring placarding under regulations issued by the Secretary;

(3) "employee" means—

(A) driver of a commercial motor vehicle (including, for purposes of this title only, an independent contractor while in the course of personally operating a commercial motor vehicle);

(B) a mechanic;

(C) a freight handler; or

(D) any individual other than an employer; who is employed by a commercial motor carrier and who in the course of this employment directly affects commercial motor vehicle safety, but such term does not include an employee of the United States or any State who is acting within the course of such employment;

(4) "employer" means any person engaged in a business affecting commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it in commerce, but such term does not include the United States or any State;

(5) "passenger automobile" means a motor vehicle with a motive power, except that the term does not include a multipurpose passenger vehicle, a motorcycle, a bus, a truck, or a trailer designed for carrying 10 persons or less;

(6) "person" means one or more individuals, partnerships, associations, corporations, business trusts, or any other organized group of individuals;

(7) "Secretary" means the Secretary of Transportation; and

(8) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or the Commonwealth of the Northern Marianas, or a political subdivision thereof.

DUTIES

SEC. 305. Each employer and employee shall comply with the safety and health rules, regulations, standards, and orders issued pursuant to this title which are applicable to his own actions and conduct.

REGULATORY AUTHORITY AND STANDARDS

SEC. 306. (a) The Secretary shall establish and revise such rules, regulations, standards, and orders as may be neccessary in order to further the purposes of this title. The Secretary shall, where practicable, consider costs and benefits before establishing or revising rules, regulations, standards, or orders under this title. The Secretary shall not eliminate or modify any existing motor carrier safety rule pertaining to the maintenance, equipment, loading or operation (including routing regulations) of vehicles carrying materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.) unless and until an equivalent or more strin-

gent regulation has been promulgated under the Hazardous Materials Transportation Act. Such rules, regulations, standards, and orders shall be directed toward assuring that—

(1) commercial motor vehicles are safely maintained, equipped, loaded, and operated;

(2) the responsibilities imposed upon drivers of commercial motor vehicles do not impair a driver's ability to operate safely;

(3) the physical condition of drivers of commercial motor vehicles is adequate to enable them to drive safely; and

(4) the operation of commercial motor vehicles does not create deleterious effects on the physical condition of such drivers.

(b)(1) The Secretary shall promulgate any rule or regulation within a period of 18 months after the date of commencement on any proceeding respecting such rule or regulation. If the Secretary determines that any such promulgation will not be completed within such time period, the Secretary shall immediately notify the Congress and shall furnish the reasons for the delay, information regarding the resources assigned, and the projected completion date, for any such proceeding. If such rule or regulation has not been promulgated within 18 months after the date of the commencement of any proceeding with respect to such rule or regulation, the Secretary shall supply the Congress with current data regarding the information specified in the preceding sentence, and shall provide the Congress with such information at the end of every 60-day period thereafter during which the proceeding remains incomplete.

(2) All rules, regulations, standards, and orders issued under this section shall be promulgated in accordance with section 553 of title 5, United States Code (without regard to sections 556 and 557 of such title), except that the time periods specified in paragraph (1) of this subsection shall apply to such promulgation.

(c) The Secretary may waive in whole or in part application of any rule, regulation, standard, or order established under this section with respect to any person or class of persons if the Secretary determines that such waiver is not contrary to the public interest and is consistent with the safe operation of commercial motor vehicles. Any waiver permitted under this subsection shall be published in the Federal Register, together with the reasons for such waiver. Any final agency action taken under this section is subject to judicial review, as provided in chapter 7 of title 5, United States Code.

(d) The Secretary, in consultation with the Director of the National Institute for Occupational Safety and Health and the Secretary of labor, shall undertake a study of health hazards to which employees engaged in the operation of commercial motor vehicles are exposed, and shall develop such materials and information as are necessary to enable such employees to carry out their employment in a place and manner free from recognized hazards that are causing or are likely to cause death or serious physical harm. The study shall include findings regarding the most appropriate method for regulating and protecting the health of operators of commercial motor vehicles. The findings of such study shall be submitted to the Congress within 1 year after the date of enactment of this Act.

(e) The Secretary shall coordinate the activities of Federal agencies to ensure adequate protection of the safety and health of operators of commercial motor vehicles. The Secretary shall attempt to minimize paperwork burdens to assure maximum coordination, and to avoid overlap or the imposition of undue burdens on persons subject to such rules, regulations, standards, and orders.

(f) Section 3102 of title 49. United States Code, is amended by adding at the end thereof the following new subsection:

"(d) The Secretary shall, before prescribing or revising any requirement under this section, consider the costs and benefits of such requirement.".

GENERAL POWERS

SEC. 307. (a) The Secretary may conduct, directly or indirectly, such research, development, demonstrations, and training activities as the Secretary considers appropriate to develop rules, regulations, standards, and orders authorized to be promulgated under section 306 of this title, to design and develop improved enforcement procedures and technologies, and to familiarize affected persons with such rules, regulations, standards, and orders.

(b) In carrying out the Secretary's functions under this title, the Secretary is authorized to perform such acts (including conducting investigations and inspections; compiling statistics, making reports; issuing subpenas; requiring production of documents, records, and property; taking depositions; holding hearings; prescribing recordkeeping and reporting requirements; and carrying out and contracting for such research, development, testing, evaluation, and training as the Secretary determines necessary to carry out the provisions of this title, or rules, regulations, standards, or orders issued pursuant to section 402 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2302). The Secretary may delegate to a State such functions respecting the enforcement (including investigations) of the provisions of this title or rules, regulations, standards, or orders issued pursuant to this title as the Secretary determines appropriate to carry out such provisions.

(c) To carry out the Secretary's inspection and investigation functions under subsection (b) of this section, the Secretary or the Secretary's agent shall, as appropriate, consult with employers and employees and their duly authorized representatives, and shall offer them a right of accompaniment.

DUTY TO INVESTIGATE COMPLAINTS; PROTECTION OF COMPLAINANTS

SEC. 308. (a) The Secretary shall timely investigate any nonfrivolous written complaint alleging that a material violation of any rule, regulation, standard, or order issued under this title is occurring or has occurred within the preceding 60 days. The complainant shall be timely notified of findings resulting from such investigation. The Secretary shall not be required to conduct separate investigations of duplicative complaints.

(b) Notwithstanding the provisions of section 552 of title 5, United States Code, the Secretary shall not disclose the identity of complainants unless it is determined that such disclosure is necessary to prosecute a violation. If disclosure becomes necessary, the Secretary shall take every practical measure within the Secretary's authority to assure that the complainant is not subject to harassment, intimidation, disciplinary action, discrimination, or financial loss as a result of such disclosure.

PENALTIES

SEC. 309. (a) Section 507 of title 49, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) The Attorney General, at the request of the Secretary, may bring an action in an appropriate district court of the United States for equitable relief to redress a violation by any person of a provision of section 3102 of this title or the Motor Carrier Safety Act of 1984, or an order or regulation issued under such section or Act. Such district court shall have jurisdiction to determine any such action and may grant such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.".

(b) Section 521(b) of title 49, United States Code, is amended to read as follows:

"(b)(1) If the Secretary finds that a violation of section 3102 of this title or the Motor Carrier Safety Act of 1984, or a violation of a regulation issued under such section or such Act has occurred, the Secretary shall issue a written notice to the violator. Such notice shall describe with reasonable particularity the nature of the violation found and the provision which has been violated. The notice shall fix a reasonable time for abatement of the violation, specify the proposed civil penalty, if any, and suggest actions which might be taken in order to abate the violation. The notice shall indicate that the violator may, within 15 days of service, notify the Secretary of the violator's intention to contest the matter. In the event of a contested notice, the Secretary shall afford such violator an opportunity for a hearing, pursuant to section 554 of title 5, following which the Secretary shall issue an order affirming, modifying, or vacating the notice of violation.

"(2) Except as otherwise provided in this subsection, any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act which is a violation of recordkeeping requirements issued by the Secretary pursuant to section 3102 of this title or the Motor Carrier Safety Act of 1984 shall be liable to the United States for a civil penalty not to exceed $500 for each offense. Each day of a violation of recordkeeping requirements shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for such violations shall not exceed $2,500. If the Secretary determines that a serious pattern of safety violations, other than recordkeeping requirements, exists or has occurred, the Secretary may assess a civil penalty not to exceed $1,000 for each offense: *Provided, however,* That the maximum fine for each such pattern of safety violations shall not exceed $10,000. If the Secretary determines that a substantial health or safety violation exists or has occurred which could reasonably lead to, or has resulted in, serious personal injury or death, the Secretary may assess a civil penalty not to exceed $10,000 for each offense: *Provided, however,* That, except for recordkeeping violations, no civil penalty provided under this section shall be assessed against an employee for a violation of this section unless the Secretary determines that such employee's actions constituted gross negligence or reckless disregard for safety, in which case such employee shall be

liable for a civil penalty not to exceed $1,000. The amount of any civil penalty, and a reasonable time for abatement of the violation, shall by written order be determined by the Secretary, taking into account the nature, circumstances, extent, and gravity of the violations committed and, with respect to the violation, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice and public safety may require. In each case, the assessment shall be calculated to induce further compliance.

"(3) The Secretary may require any violator served with a notice of violation to post a copy of such notice or statement of such notice in such place or places and for such duration as the Secretary may determine appropriate to aid in the enforcement of section 3102 of this title or the Motor Carrier Safety Act of 1984.

"(4) Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, before referral to the Attorney General, such civil penalty may be compromised by the Secretary.

"(5)(A) If, upon inspection or investigation, the Secretary determines that a violation, or combination of violations, poses an imminent hazard to safety, the Secretary shall order a vehicle or employee operating such vehicle out of service, or order an employer to cease all or part of the employer's commercial motor vehicle operations. In making any such order, the Secretary shall impose no restriction on any employee or employer beyond that required to abate the hazard. Subsequent to the issuance of the order, opportunity for review shall be provided in accordance with section 554 of title 5, except that such review shall occur not later than 10 days after issuance of such order.

"(B) In this paragraph, 'imminent hazard' means any condition of vehicle, employee, or commercial motor vehicle operations which is likely to result in serious injury or death if not discontinued immediately.

"(6) Any person who knowingly and willfully violates any provision of section 3102 of this title or the Motor Carrier Safety Act of 1984, or a regulation issued under this title or such Act, shall, upon conviction, be subject for each offense for a fine not to exceed $25,000 or imprisonment for a term not to exceed 1 year, or both, except that, if such violator is an employee, the violator shall only be subject to penalty if, while operating a commercial motor vehicle, the violator's activities have led or could have led to death or serious injury, in which case the violator shall be liable, upon conviction, for a fine not to exceed $2,500.

"(7) The Secretary shall promulgate regulations establishing penalty schedules designed to induce timely compliance for persons failing to comply promptly with the requirements set forth in any notices and orders under this subsection.

"(8) Any aggrieved person who, after a hearing, is adversely affected by a final order issued under this section may, within 30 days, petition for review of the order in the United States court of appeals in the circuit wherein the violation is alleged to have occurred or where the violator has his principal place of business or residence, or in the United States Court of Appeals for the District of Columbia Circuit. Review of the order shall be based on a determination of whether the Secretary's findings and conclusions were supported by substantial evidence, or were otherwise not in accordance with law. No objection that has not been urged before the Secretary shall be considered by the court, unless reasonable grounds existed for failure or neglect to do so. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Secretary.

"(9) All penalties and fines collected under this section shall be deposited into the Highway Trust Fund.

"(10) In any action brought under this section, process may be served without regard to the territorial limits of the district of the State in which the action is brought.

"(11) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, trial shall be by the court, or, upon demand of the accused, by a jury, conducted in accordance with the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

"(12) As used in this subsection, the term—

"(A) 'commerce' means (i) trade, traffic, or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, or (ii) in the case of a commercial motor vehicle transporting passengers, which affects trade, traffic, or transportation between a place in a State and a place outside of such State;

"(B) 'commerical motor vehicle' means any self-propelled or towed vehicle used on the highways in commerce principally to transport passengers or cargo—

"(i) if such vehicle has a gross vehicle weight rating of 10,001 or more pounds;

"(ii) if such vehicle is designed to transport more than 15 passengers, including the driver; or

"(iii) if such vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.) and are transported in quantities requiring placarding under regulations issued by the Secretary;

"(C) 'employee' means—

"(i) a driver of a commercial motor vehicle (including, for purposes of this subsection only, an independent contractor while in the course of personally operating a commercial motor vehicle);

"(ii) a mechanic;

"(iii) a freight handler; or

"(iv) any individual other than an employer; who is employed by a commercial motor carrier and who in the course of this employment directly affects commercial motor vehicle safety, but such term does not include an employee of the United States or any State who is acting within the course of such employment;

"(D) 'employer' means any person engaged in a business affecting commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it in commerce, but such term does not include the United States or any State;

"(E) 'person' means one or more individuals, partnerships, associations, corporations, business trusts, or any other organized group of individuals; and

"(F) 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or the Commonwealth of the Northern Marianas, or a political subdivision thereof;

"(13) The provisions of this subsection shall not affect in any way any provision of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.) or any regulation promulgated by the Secretary under such Act.".

(c) The Secretary shall conduct a study of the effectiveness of the civil and criminal penalties established under this title in deterring violations of the commercial motor vehicle safety regulations issued under this title and in effectively prosecuting such violations when they occur. Such study shall examine the effectiveness of penalties in effect before the date of enactment of this Act in comparison to the penalties established by this title. Such study shall also investigate the need for, and make recommendations concerning, increased fine levels for civil and criminal penalties, and the need for additional categories of civil and criminal penalties to deter further and prosecute effectively violations of such commercial motor vehicle safety regulations. The Secretary shall submit to Congress a report on the findings of this study, together with legislative recommendations, not later than 2 years after the date of enactment of this Act.

LITIGATION AUTHORITY

SEC. 310. Section 413 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2313) is amended by striking "The Secretary, or, on" and inserting in lieu thereof "On".

STATE REGULATIONS

SEC. 311. (a) Except as may otherwise be provided in this title or any other Act, all laws, rules, regulations, standards, and orders relating to commercial motor vehicle safety shall, to the extent necessary to promote public safety and reduce fatalities, be nationally uniform, to the extend practicable. A State may adopt or continue in effect any law, rule, regulation, standard, or order relating to commercial motor vehicle safety, other than hours-of-service regulations applicable to intrastate commerce, until the Secretary, pursuant to the provisions of this section, has adopted a new rule, regulation, standard, or order, or has continued in effect an existing Federal regulation which specifically addresses the same concern for promotion of public safety and the reduction of fatalities as such State requirements.

(b) Within 1 month after the date of enactment of this Act, the Secretary shall issue initial guidelines to assist the States in compiling and submitting materials related to commercial motor vehicle safety laws, rules, regulations, standards, or orders. Within nine months after the date of enactment of this Act, the Secretary shall collect from each State, and the States shall assist the Secretary in collecting each law, rule, regulation, standard and order for commercial motor vehicle safety which the State has adopted and has in effect.

(c)(1) A study of the laws, rules, regulations, standards and orders submitted under subsection (b) of this section shall be undertaken by a panel established by the Secretary for that propose. The Secretary shall be the Chairman of the panel. In addition to the Secretary, the panel shall consist of 14 individuals, 7 of whom shall be representatives of State and regional interests and 7 of whom shall be representatives of diverse business, consumer and safety interests regarding commercial motor vehicles. The Secretary shall select these individuals on the basis of their knowledge, expertise or experience regarding commercial motor ve-

hicle safety from lists of qualified individuals submitted to the Secretary by the Committee on Commerce, Science, and Transportation in the Senate and the Committee on Public Works and Transportation in the House of Representatives. Each such list shall consist of not less than 20 names of individuals qualified to serve on the panel. Members of the panel shall receive no compensation, but shall, in accordance with section 5703 of title 5, United States Code, be entitled to reimbursement for travel or transportation expenses incurred in the performance of responsibilities as a member of the panel.

(2) The study required by paragraph (1) of this subsection shall consider the material collected by the Secretary from the States under subsection (b) of this section, and shall identify those laws, rules, regulations, standards, and orders for commercial motor vehicle safety which are inconsistent with this chapter. In addition, the study shall consider those instances were inconsistency of such laws, rules, regulations, standards and orders is necessary or desirable. The study shall also evaluate the need, if any, for Federal assistance to States to enable States to enforce laws, rules, regulations, standards, and orders for commercial motor vehicle safety that are nationally uniform.

(3) Not later than eighteen months after the date of enactment of this Act, the Secretary shall submit the results of such study to the Congress, and shall make such results available for public inspection.

(d)(1) Within six months after the completion of the study required by subsection (c) of this section, the Secretary shall commerce a rulemaking proceeding to promulgate rules regarding commercial motor vehicle safety. If the Secretary finds on the basis of such study that an existing Federal commercial motor vehicle safety regulation better serves the purposes of this title than would a new regulation, the Secretary shall continue such existing regulation in effect. Any rules promulgated under this paragraph shall be based upon such study, and any such rule shall only be promulgated if the Secretary finds that it does not adversely affect any State law, rule, regulation, standard, or order—

(A) for which there is a compelling local safety need; and

(B) which does not unduly burden interstate commerce.

(2) Any such rule shall be promulgated in accordance with section 553 of title 5, United States Code, except that the Secretary shall afford interested persons an opportunity for a hearing on the record.

(e)(1) After the promulgation of any rule under subsection (d) of this section, any State may petition the Secretary for a waiver from application to the State of such rule. The Secretary shall grant such waiver as expeditiously as possible, unless the Secretary finds that—

(A) there is no justifiable safety need within such State for such safety rule; or

(B) the grant of such waiver will unduly burden interstate commerce.

(2) The decision to grant or deny a petition for a waiver submitted under this section shall only be made after the Secretary has afforded the relevant State an opportunity for a hearing on the record.

(f)(1) Not later than 60 days after a rule is promulgated under subsection (d) or action is taken regarding a waiver under subsection (e) of this section, any person adversely affected by such rule or action may file with the United States court of appeals for the District of Columbia or for the circuit in which such person resides or has his principal place of business a petition for judicial review of such rule or action.

(2) Upon the filing of a petition under paragraph (1) of this subsection, the court shall have jurisdiction to review such rule or action in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief, including interim relief, as provided in such chapter. Such rule or action shall be affirmed unless the Secretary's findings under subsections (d) and (e) of this section are supported by substantial evidence on the record taken as a whole.

(3) The judgment of the court affirming or setting aside, in whole or in part, any such rule or action shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

(4) The remedies provided for in this subsection shall be in addition to and not in lieu of any other remedies provided by law.

(g) Nothing in this title shall affect existing hour-of-service regulations of any State applying to commercial motor vehicle operations occurring wholly within that State, unless the Secretary affirmatively finds upon review of a State's hour-of-service regulations that such regulations—

(1) materially diminish commercial motor vehicle safety or the health and safety of employees;

(2) are not required by compelling local conditions; or

(3) unduly burden interstate commerce.

If the Secretary makes such an affirmative determination, the Secretary may require such State to adopt Federal hour-of-service regulations.

(h) The Secretary shall conduct a study of the safety performance of commercial motor vehicles operating in intrastate commerce. This study shall examine the effectiveness of individual State regulations governing such transportation in promoting safety in commercial motor vehicle safety operations. Such study shall also investigate the need to subject such transportation to the Federal commercial motor vehicle safety regulations, either in whole or in part. The Secretary shall submit to Congress a report on the findings of this investigation and study not later than two years after the date of enactment of this Act.

INSPECTION

SEC. 312. (a) Upon the instruction of a duly authorized State or Federal enforcement official, each commercial motor vehicle shall be required to pass an inspection of all safety equipment required under part 393 of subchapter B of chapter 3 of title 49, Code of Federal Regulations.

(b) The Secretary shall, by rule, establish Federal standards for inspections of commercial motor vehicles no less often than annually, and retention by employers of records of such inspections. Such standards are to be considered minimum Federal standards.

(c) Nothing in this title shall be construed as preventing any State or voluntary group of States from imposing more stringent standards for use in their own periodic roadside inspection programs.

(d) Not later than 60 days after the date of enactment of this Act, the Secretary shall initiate a rulemaking to afford interested parties an opportunity to comment on such part 393 and the inspection or retention procedure established pursuant to subsection (b) of this section. Amendments to the regulations shall be issued and published in the Federal Register not later than 1 year after such rulemaking is initiated. The amended regulations shall become effective on the date on which they are published in the Federal Register.

(e) A periodic inspection of a commercial motor vehicle in accordance with Federal standards established pursuant to subsection (b) of this section shall be recognized as adequate in every State for the period of such inspection. The provisions of this subsection shall not be deemed to prohibit a State from making random inspections of commercial motor vehicles.

CERTIFICATION OF SAFETY FITNESS

SEC. 313. (a) The Secretary, in cooperation with the Interstate Commerce Commission, shall by rule, after notice and opportunity for comment, establish a procedure to determine the safety fitness of commercial motor vehicles, including persons seeking new or additional operating authority as motor carriers of property or passengers under sections 10922 and 10923 of title 49, United States Code. Such procedure shall include—

(1) specific initial and continuing requirements to be met by such persons to prove safety fitness;

(2) a means of determining whether such persons meet the safety fitness requirements specified under paragraph (1); and

(3) specific time deadlines for action by the Department of Transportation and the Interstate Commerce Commission in making fitness determinations.

(b) Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a copy of the procedure established under subsection (a) of this section.

(c) The rules adopted under this section shall supersede all rules in effect on the date of enactment of this Act regarding safety fitness and safety rating of motor carriers.

(d) Notwithstanding any other provision of law, the Interstate Commerce Commission shall find any applicant for authority to operate as a motor common or contract carrier to be unfit if the applicant does not meet the safety fitness requirements established under subsection (a) of this section, and shall deny such application.

HEAVY TRUCK RESEARCH

SEC. 314. (a) The Secretary shall undertake a comprehensive study of safety characteristics of heavy trucks, the unique problems related to heavy trucks, and the manner in which such trucks are driven. Such study shall include an examination of the handling, braking, stability, and crashworthiness of heavy trucks, and an examination of the programs and needs of enforcement agencies to assure compliance with traffic laws by commercial motor vehicle drivers. Not later than September 30, 1985, the Secretary shall submit to the Congress a report on the findings of such study.

(b) There are authorized to be appropriated for fiscal years 1985 and 1986 such sums as may be necessary to conduct the research required under subsection (a) of this section.

TRUCK OCCUPANT PROTECTION

SEC. 315. (a) The Secretary shall make a full investigation and study of crash protection for truck occupants. Such study shall examine potential and known hazards to truck occupants and means of improving truck-occupant safety. This study shall also include potential performance standards to

be met by truck manufacturers. The Secretary shall submit to Congress a report on the findings of this investigaton and study not later than 1 year after the date of enactment of this Act.

(b) There are authorized to be appropriated for fiscal years 1985 and 1986 such sums as may be necessary to undertake the study required by subsection (a) of this section.

STUDY OF SAFETY-RELATED DEVICES

SEC. 316. (a) The Secretary shall conduct a study of the effectiveness of existing regulations regarding emergency warning devices required to be carried on buses, trucks, truck-tractors, and motor-driven vehicles which are involved in emergency situations. Such a study shall also investigate the potential costs and benefits of requiring passenger automobile operators to carry emergency warning devices, and shall examine the relative benefits of various types of warning devices in enhancing highway safety. The Secretary shall submit to the Congress a report containing the findings of this study not later than 6 months after the date of enactment of this Act.

(b) There are authorized to be appropriated for fiscal years 1985 and 1986 such sums as may be necessary to undertake the study required by this section.

OVERSIGHT

SEC. 317. The appropriate authorizing Committees of the Congress shall conduct periodic oversight hearings on the effects of this title no less often than annually for the first 3 years following the date of enactment of this Act, to insure that this title is being implemented according to congressional intent and the purposes of this title.

RELATIONSHIP TO OTHER LAW

SEC. 318. The provisions of this title shall not affect in any way any provision of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.) or any regulation promulgated by the Secretary under such Act.

AMENDMENT TO MOTOR CARRIER ACT OF 1980

SEC. 319. (a) Section 30(b)(3) of the Motor Carrier Act of 1980 (Public Law 96-296; 94 Stat. 821) is amended—

(1) by striking "and" immediately before "(B)"; and

(2) by inserting immediately before the period at the end thereof the following:", and (C) in the case of any agricultural vehicle transporting any such material or substance in interstate commerce other than in bulk, the Secretary, by regulation, may reduce such amount if the Secretary finds that such reduction will not adversely affect public safety".

(b) Section 30(g) of such Act is amended—

(1) by redesignating paragraphs (1), (2) and (3) as paragraphs (2), (3) and (4), respectively; and

(2) by inserting immediately before paragraph (1), as so redesignated, the following new paragraph:

"(1) agricultural vehicle" means any vehicle which (A) is designed or adapted and used exclusively for agricultural purposes, (B) is operated by a motor private carrier (as such term is defined in section 10102(15) of title 49, United States Code), and (C) is only incidentally operated on the highways;".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6912) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. PACKWOOD. Mr. President, today we are considering S. 2174, the "Motor Carrier Safety Act of 1984." This important legislation builds on Congress 1982 efforts in this area, when motor carrier safety provisions were incorporated into title IV of the Surface Transportation Assistance Act of 1982. The 1982 legislation addressed two main safety concerns. First, it established a grant program to enable the U.S. Department of Transportation [DOT] to provide funds to States to enforce Federal and compatible State motor carrier safety laws. Second, the 1982 act established an employee protection program for trucking company employees.

The Motor Carrier Safety Grant Program strengthens enforcement of commercial motor vehicle safety regulations. Given the large number of motor carriers on the road and the small number of Federal inspection personnel, enforcement assistance from the States is necessary to enhance compliance with safety regulations. The State grant program strengthens the State efforts, thereby improving the effectiveness of the Federal motor carrier safety regulations. The 1982 legislation authorized funds for this grant program for fiscal years 1984 through 1988. I am pleased to note that Oregon, with its excellent Motor Carrier Safety Program, received a grant from DOT earlier this year.

I am very proud of Oregon's Motor Carrier Safety Program; for many years, Oregon has been a leader in this area. This is perhaps most notable in the formation by Oregon officials in 1979 of the Commercial Vehicle Safety Alliance [CVSA], a program aimed at promoting standardized inspection procedures among the participating States. As of earlier this year, CVSA included 14 States and 2 Canadian provinces, with more members expected.

It is clear that Oregon's Motor Carrier Safety Program is working. According to testimony presented to the Commerce Committee in February 1984 by the Assistant Public Utility Commissioner [PUC] of Oregon and the State Highway Engineer of Oregon, the number of truck accidents in Oregon has been decreasing since 1980. PUC statistics show that truck accidents, including those involving injuries and fatalities, dropped 20 percent in 1980, 30 percent in 1981, and 34 percent in 1982. The Oregon Department of Transportation reported that the estimated costs to society of the truck accidents in Oregon in 1982 was lower than any of the three previous years even though the costs reflects the effects of inflation.

Mr. President, I also want to stress the importance of the employee protection provisions in the 1982 act. Section 405 of that legislation prohibits trucking company employers from discharging, disciplining, or discriminating against an employee because that employee:

First, filed a complaint, instituted, or caused to be instituted any proceeding relating to a violation of a commercial motor vehicle safety regulation;

Second, has testified or is about to testify in any such proceeding;

Third, refused to operate a vehicle when such operation is a violation of any Federal regulations applicable to commercial motor vehicle safety or health; or

Fourth, has reasonable apprehension of serious injury to himself or the public due to the unsafe condition of such equipment.

The act also specifies procedures for dealing with trucking company employees' complaints.

These employee protection provisions are not intended to be burdensome to trucking companies. It is important, however, that trucking company employees not be subject to discharge, discrimination, or harassment if they report genuine safety violations and the trucking company refuses to take appropriate action to remedy the situation. I am hopeful that the officials charged with implementing these provisions will do so in a manner which is consistent with the spirit of the law and will encourage safe trucking operations.

Mr. President, the legislation we are considering today supplements these two safety provisions. First, title III of S. 2217, which is S. 2174, provides the Department of Transportation with broad civil penalty authority, which will greatly facilitate prosecution of violators of the Federal motor carrier safety regulations.

Second, the bill takes steps to achieve a more uniform system of motor carrier safety regulations nationwide, thereby reducing a substantial burden now imposed on interstate truck and bus operations due to conflicting State regulations.

Third, title III strengthens the procedure for determining the safety fitness of carriers seeking to enter the motor carrier industry and all carriers on a continuing basis. Last, title III requires DOT to study various aspects of the motor carrier safety problem, including truck occupant protection and the overall safety characteristics of heavy trucks.

Mr. President, I also want to comment on title I of S. 2217. This title, together with title II, encompass the text of S. 2217, the "Tandem Truck

Safety Act of 1984", as ordered reported in May of this year by the Commerce Committee.

These provisions build on the truck size provisions enacted in title IV of the Surface Transportation Assistance Act of 1982 [STAA] in three ways. First, title I enables a Governor to petition the Secretary of Transportation to exempt any segment of the interstate highway which is not capable of safely accommodating the larger trucks authorized by the STAA from the requirement that these trucks be allowed too perate thereon. The Secretary may also authorize such exemptions on her own initiative.

Second, title II enables the Secretary of Transportation to designate highways with lane widths of less than 12 feet for operation of 102-inch wide vehicles if those highways can safely accommodate the wider trucks.

Third, title II extends the reasonable access guarantees of the STAA to 102-inch wide single trailer units of combination vehicles; the provision provides that States may not deny reasonable access to points of loading or unloading for these single trailer units.

Mr. President, I believe it is important to note that the STAA was enacted with a dual purpose: To require the trucking industry to pay an increased highway user fee while also providing nationwide uniform truck size standards which would provide major productivity gains to the industry, while maintaining operational safety. The trucking industry is paying a higher highway user fee, in the form of a user tax and additional taxes on fuel.

The industry has not, however, yet enjoyed the full benefits of the productivity gains promised as part of STAA. Ambiguities in the law have created uncertainties for carriers, many of whom have not wanted to risk purchase of the new, larger equipment until these problems have been resolved. This problem has been especially evident with regard to local delivery service, where carriers have not been clearly authorized by the STAA to use the single-unit 102-inch wide trailers from "doubles" combinations.

Mr. President, I would like to point out that these larger trucks have had an excellent safety record over the years. In Oregon, double trailer combinations have operated for more than 30 years while triple trailer combinations have been allowed since 1967. Testimony presented to the Commerce Committee in February by the Assistant Public Utility Commissioner of Oregon showed that during 1980 through 1983, doubles were involved in 6.5 percent of Oregon truck accidents. During this same time period, the 3,900 triples operated in Oregon accounted for 0.6 percent of all truck accidents, even though triples accounted for about 2.2 percent of the commercial vehicles authorized to use Oregon highways. During the first 10 months of 1983, doubles were involved in 37 collisions with other vehicles. Investigations showed the truck was at fault in 32 percent of the cases and the other vehicle in 68 percent. During the same period, triples were involved in six collisions, none of which was the fault of the truck.

At the national level, the American Trucking Associations, Inc. [ATA], in March 1984, testimony before the Surface Transportation Subcommittee, noted the excellent safety record of tandem trailers. According to National Highway Traffic Safety Administration data, of the more than 49,200 highway fatalities in the United States in 1981, only 177 were from accidents involving tandem trailers which were operating in 36 States.

Mr. President, I ask unanimous consent that several of the letters we have received in support of the provisions of S. 2217 as reported, which are titles I and II of the package before us today, be printed in the RECORD in their entirety.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. PACKWOOD. Mr. President, motor carrier safety is an issue with which the Commerce Committee has dealt for many years. S. 2217 and S. 2174 will strengthen motor carrier safety regulations while also ensuring that the trucking industry will at long last realize the productivity gains envisioned in the STAA. I want to commend Senator DANFORTH for his outstanding leadership on motor carrier safety, and I urge by colleagues to join me in supporting this measure.

EXHIBIT 1

U.S. DEPARTMENT OF TRANSPORTATION,
May 8, 1984.

Hon. BOB PACKWOOD,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Department on a staff working draft dated April 30, 1984, of S. 2217, a bill entitled the Tandem Truck Safety Act of 1984.

On March 22, 1984, Mr. Philip Haseltine, Deputy Assistant Secretary for Policy and International Affairs, testified on behalf of the Department in support of an earlier version of S. 2217. He stated support for the concept of the bill and indicated that its enactment would make our job easier. He also raised some technical concerns to help clarify the intent of the bill. We feel that the staff has done an excellent job responding to our concerns. We support the bill as presently drafted.

The Office of Management and Budget advises that, from the standpoint of this Administration's program, there is no objection to the submission of this letter for the consideration of the Committee.

Sincerely,

JIM J. MARQUEZ,
General Counsel.

AMERICAN TRUCKING ASSOCIATIONS, INC.,
Washington, DC, August 1, 1984.

Hon. ROBERT PACKWOOD,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The American Trucking Associations, Inc. supports strongly two provisions contained in the Tandem Truck Safety Act (S. 2217). Specifically, we support Section 4 which allows the Secretary of Transportation to designate highways with lane widths of less than 12 feet if those highways can safely accommodate the 102-inch wide vehicles. Without this section, the productivity benefits contained in the Surface Transportation Assistance Act of 1982 (STAA) will be reduced, if not eliminated, in many states. As the Committee acknowledged in its report, "available data do not show that traffic lanes less than 12 feet wide are inherently incapable of accommodating 102-inch wide vehicles . . . ." Furthermore, many roads with less than 12-foot wide lanes have safely accommodated 102-inch wide buses since 1977. These same roads can accommodate 102-inch wide trailers.

The ATA also supports Section 5 which allows access for pickup and delivery for single 28-foot, 102-inch wide trailers. This section provides certain segments of the trucking industry with the most important access: Access to customers. Without access to customers, the productivity benefits of the STAA vehicle are severely limited.

The Surface Transportation Assistance Act greatly increased truck taxes while promising gains in productivity. These provisions in S. 2217 are a positive step in assuring that those gains are achieved.

Sincerely,

THOMAS J. DONOHUE,
Executive Vice President and Chief Executive Officer.

JULY 31, 1984.

Chairman BOB PACKWOOD,
Senate Committee on Commerce, Science, and Transportation, Washington, DC.

DEAR CHAIRMAN PACKWOOD: United Parcel Service is a major user of tandem trucks throughout the United States. We supported passage of the Surface Transportation Assistance Act because it contained national uniform standards for the operation of tandem trucks. When it recently became clear that there was a problem with the language of that statute we sought your assistance.

S. 2217 as reported from your committee is an excellent solution of the problem left over from STAA. The first three sections allow users of tandems to respond to questions of safety on particular sections of Interstate and Defense System Highways when raised by state officials. These three sections provide a means for presenting the case for the safety of equipment, on the record, to the Secretary. The improvements that your committee made in these sections have enhanced the legislation.

Section 4 of S. 2217 clarifies the Secretary of Transportation's authority to designate highways in the primary system for the equipment made lawful in STAA. Clearing up the ambiguities left from STAA in this

regard is a necessity for our industry. We believe that this amendment will solve these problems. We also believe that section 5, which would allow single 28 foot trailers to operate as pickup and delivery vehicles is an important aid to the increased productivity anticipated at the passage of STAA.

In conclusion, we would like to congratulate you and the members of your committee for putting together and passing this excellent, commonsense legislation that goes so far in clearing up the confusion surrounding STAA.

Sincerely yours,

ROBERT E. SMITH,
Senior Vice President.

ROADWAY EXPRESS, INC.,
Akron, OH, July 30, 1984.

Re S. 2217.

Hon. BOB PACKWOOD,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Washington, DC.

DEAR SENATOR PACKWOOD: Our company and the trucking industry generally are most appreciative of the efforts that you have put into obtaining perfecting amendments to the Surface Transportation Assistance Act of 1982 required for the realization of the improved productivity which was envisioned in that legislation. I refer to Sections 4 and 5 of S. 2217.

I would also like to take this opportunity to once again emphasize the need for this timely and important legislation. The trucking industry will be severely hampered in its efforts to purchase and operate the more productive equipment authorized under the Surface Transportation Assistance Act if these two amendments are not enacted. With respect to the use of single trailer units in local pick up and delivery service, we feel this amendment is crucial if we are to realize the full benefits of twin trailer operations. Not only will the amendment help to improve productivity but it will also help to reduce traffic congestion because smaller vehicles (individual 28' x 102" "pup" trailers) will be involved in local service (in lieu of 45' x 96' semi-trailers).

The granting of additional discretionary authority to the Secretary of Transportation will clarify an important issue in the highway designation process while enhancing state input into that process. The amendment would clarify the Secretary's discretion to make these designations, and it would add an explicit requirement that she not designate any highway with less than 12-foot lanes unless the designation is consistent with highway safety.

In closing, let me add that we are reaching a critical stage in the purchase of new equipment. Should these amendments not be approved by Congress in the near future, carriers will be forced to reevaluate their equipment needs in light of the uncertainties surrounding the nationwide use of twin trailer equipment. Quite frankly, carriers cannot wait until next year to have these issues resolved without running the risk of having to delay their equipment purchased. Our company has already had to postpone the placement of new orders to continue the renewal of our fleet resulting in the postponement of capital expenditures exceeding $70 million within the next year. It is obvious that these postponements or suspension of orders have severe consequences for the carriers. While the consequences for carriers are obvious, I should also point out that the cessation of equipment orders will have adverse effects on employment in the affected manufacturing industries, and widens the federal deficit by many millions of dollars by depriving the highway trust fund of the 12% excise tax applicable to these investments.

Once again, thank you for consideration of our views and for your efforts in reaching an appropriate resolution of these important issues.

Sincerely,

ROADWAY EXPRESS, INC.,
JOSEPH M. CLAPP,
Senior Vice President.

Mr. PACKWOOD. Mr. President, some concerns have been raised by representatives of highway safety organizations about the provision of S. 2217 which allows the Department of Transportation to designate highways with lane widths of less than 12 feet for use by the larger trucks authorized for nationwide use under the Surface Transportation Assistance Act of 1982. DOT may designate such highways as part of the nationwide system only if the lanes can safely accommodate the larger vehicles.

Mr. President, some correspondence I have received from DOT's Federal Highway Administrator may serve to clarify DOT's understanding of this provision. I ask unanimous consent that this correspondence be printed in the RECORD in its entirety.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF TRANSPORTATION,
FEDERAL HIGHWAY ADMINISTRATION,
Washington, DC, September 19, 1984.

Hon. BOB PACKWOOD,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Questions have arisen with respect to the Federal Highway Administration's intention if S. 2217, the Tandem Truck Safety Act of 1984, is enacted. I have enclosed an exchange of correspondence with Commissioner Harold C. King of the Virginia Department of Highways and Transportation. In that letter I explain to Mr. King that the FHWA will not independently propose the addition of any mileage to the network. All future additions proposed by shipping, trucking, or local entities will be submitted to the States for review and no mileage will be added without mutual agreement. I hope this clarifies our intention on the matter.

Please do not hesitate to call me if you or other members of the Committee have any questions.

Sincerely yours,

R.A. BARNHART,
Federal Highway Administrator.

DEPARTMENT OF TRANSPORTATION,
FEDERAL HIGHWAY ADMINISTRATION,
Washington, DC, September 19, 1984.

In reply refer to: HHP-1.

Mr. HAROLD C. KING,
Commissioner, Virginia Department of Highways and Transportation, Richmond, VA.

DEAR MR. KING: Joe Rhodes has called to my attention your telefax letter which states that the Center for Auto Safety is alleging that the legislation currently before Congress, if enacted, would prompt the Federal Highway Administration (FHWA) to designate many additional miles of the Primary System for the use of the class of large vehicles cited in the 1982 Surface Transportation Assistance Act.

I would like to point out that the legislation, S. 2217, the Tandem Truck Safety Act of 1984, would incorporate lane width as one of the items which we would have to consider in making a determination as to whether a route could "safely accommodate" the larger dimension vehicles. S. 2217 would amend the 12-foot lane width requirement to allow the inclusion of highways with lanes of less than 12 feet if they can safely accommodate such vehicles. However, the Committee language makes it clear that such additions are to be conservative and restrictive on the side of safety. I want to state unequivocally that it is not the intention of the FHWA to utilize this provision to independently add a single mile to the designated system. We do hope to preserve the network that we and the States have negotiated over the past year. Any change to that network will have to be the result of mutual agreement rather than any unilateral Federal action.

I hope this clarifies the intention of the FHWA on this matter.

Sincerely yours,

R.A. BARNHART,
Federal Highway Administrator.

SEPTEMBER 19, 1984.

Mr. JOE RHODES,
Special Assistant to Ray Barnhart, Federal Highway Administration, Washington, DC.

Mr. Gary Donaldson of the Center for Auto Safety called me recently to advise that legislation currently before the Congress would eliminate the statutory reference to twelve-foot lanes and would prompt the Federal Highway Administration to designate many additional miles of the Federal Aid Primary System for use by over dimensional vehicles.

I am not familiar with the legislation and would appreciate your giving me a status report on the legislation and the intentions of the Federal Highway Administration in order that I can advise the members of the Virginia Highway and Transportation Commission.

HAROLD C. KING,
Commissioner.

Mr. DANFORTH. Mr. President, we have before us today a bill which deals with an important national concern: The safety of trucks and buses traveling on our Nation's highways.

Motor carrier safety is an issue of great national importance. In 1982, there were 31,759 truck accidents, resulting in nearly 2,500 fatalities and almost 26,000 injuries, and causing $321 million in property damage. Bus accidents are far less numerous, but are also a subject of concern: In 1982, there were 861 bus accidents, resulting in 76 fatalities, slightly more than 2,000 injuries, and more than $5.5 million in property damage.

The Bureau of Motor Carrier Safety [BMCS] of the U.S. Department of Transportation [DOT] is responsible for regulating the safety of trucks and buses operating in interstate commerce. Currently, BMCS has 150 inspectors who are responsible for en-

forcing the Federal motor carrier safety regulations; these regulations apply to more than 200,000 business entities, large and small.

Mr. President, I would like to note that motor carrier safety is an issue which has been the subject of considerable attention in the Senate in recent years. During the 96th Congress, the Senate passed S. 1390, the "Commercial Motor Vehicle Safety Act of 1980." Unfortunately, no action was taken in the House that year on comparable legislation. In the 97th Congress, the Senate Commerce Committee included comprehensive motor carrier safety provisions in title IV of the "Surface Transportation Assistance Act of 1982" [STAA]. Some of these provisions were deleted in the House/Senate conference on the bill but two important provisions were enacted into law. The first was the establishment of a program enabling DOT to provide grants to States for enforcement of Federal and compatible State motor carrier safety regulations (sections 402-404). This program is aimed at supplementing Federal safety enforcement efforts and enhancing overall enforcement programs. The act authorized a total of $150 million over fiscal years 1984 through 1988; the Department of Transportation expects to award a total of $8 million to States in fiscal 1984 under this grant program. The second major STAA motor carrier safety provision was the establishment of protections for trucking company employees who report safety violations or refuse to operate unsafe equipment (section 405).

The provisions of the STAA substantially improved motor carrier safety regulation. Nevertheless, as the continuing high number of accidents demonstrates, more must be done to strengthen motor carrier safety regulation and, consequently, to enhance motor carrier safety. S. 2174 is aimed at achieving these goals; S. 2174 restructures current motor carrier safety regulations to provide DOT broader enforcement authority, to achieve greater uniformity in motor carrier safety regulations, to establish an improved system of penalties for violations of safety regulations, and to provide a meaningful system for determining the safety fitness of motor carriers operating in interstate commerce.

This bill, which I introduced on November 18, 1983, along with Senators PACKWOOD, PELL, HATCH, RANDOLPH, HOLLINGS, and FORD, reflects the Senate's longstanding consideration of motor carrier safety. The Commerce Committee held 3 days of hearings on this issue during 1983 and 1984, receiving comments from numerous witnesses. We also conducted extensive negotiations on this bill with various interest groups and Government entities in an effort to develop provisions which will effectively enhance motor carrier safety. S. 2174, as reported by the Commerce Committee, is the result of these negotiations and discussions.

Mr. President, I would like to briefly highlight some of the major provisions of S. 2174, now included as title III of S. 2217.

PENALTIES

One of the most important features of S. 2174 is its establishment of civil penalties for motor carrier safety violations. At present, DOT only has civil penalty authority for reporting and filing violations, and this penalty authority does not apply to private carriers. DOT can seek to punish motor carrier safety violations through criminal penalties, but these penalties are difficult to impose in practice.

Section 9 of S. 2174 establishes civil and criminal penalties available to the Secretary of Transportation for enforcing violations of Federal motor carrier safety regulations. S. 2174 provides for three types of civil penalties. First, the bill establishes a civil penalty of up to $500 for a recordkeeping violation; the total of all recordkeeping violations is not to exceed $2,500. Second, if the Secretary determines that a serious pattern of safety violations, other than recordkeeping requirements, exists or has occurred, a civil penalty of up to $1,000 for each violation may be assessed, to a maximum fine for each such pattern of violations of $10,000. A "serious pattern of safety violations" is a tolerated pattern of equipment violations or operating conduct that a responsible business entity could detect and correct if it wanted to meet its full safety responsibility to the public. Such violations individually would not have a high probability of causing an accident, but collectively demonstrate an unwillingness to exercise proper safety supervision, which will lead to accidents. Third, if the Secretary determines that a substantial health or safety violation exists or has occurred which could reasonably lead to or has resulted in serious personal injury or death, S. 2174 authorizes assessment of a civil penalty of up to $10,000 for each offense. This penalty addresses the types of equipment violations, which if allowed to continue, would result in accidents, deaths, injuries, and property damage.

S. 2174 provides, however, that not civil penalty, except recordkeeping penalties, may be assessed against an employee unless the employee is the operator of a commercial motor vehicle and the employee's actions constitute gross negligence or reckless disregard for safety; in which case, such employee shall be liable for a civil penalty up to $1,000.

Section 9 also provides criminal penalties for employers and employees operating a commercial motor vehicle who knowingly or willfully violate Federal commercial motor vehicle safety regulations. Penalties for an employer are a fine of up to $25,000 and/or imprisonment not to exceed 1 year; an employee is subject to a $2,500 fine.

RULEMAKING AUTHORITY AND PROCEDURES

Section 6 of S. 2174 requires DOT to consider, where practicable, costs and benefits before establishing or revising motor carrier safety rules and regulations. This section also requires DOT to promulgate motor carrier safety rules or regulations within 1 year after commencing a proceeding. If this is not possible, DOT is to keep Congress informed of the reasons for the delay and efforts being made to complete the proceeding. This is aimed at encouraging DOT to promulgate these rules and regulations in a timely manner.

Section 6 also allows DOT to waive the application of any motor carrier safety rule or regulation if such a waiver is not contrary to the public interest and is consistent with the safe operation of commercial motor vehicles. This exemption authority is intended to be used in such cases as where vehicles are used infrequently or are operated over very short distances. This is often the case, for example, with farm vehicles, which travel periodically from farm to market. DOT should use this authority, however, with great care.

PROTECTION OF COMPLAINANTS

Section 8 of S. 2174 builds on the employee protection provisions in 405 of the Surface Transportation Assistance Act of 1982, by requiring DOT to investigate nonfrivolous written complaints related to motor carrier operations. This provision provides a clear mechanism whereby trucking and bus company employees may submit complaints to the DOT concerning motor carrier safety violations.

UNIFORMITY OF SAFETY REGULATIONS

Section 11 of S. 2174 is aimed at achieving as much uniformity as practicable with regard to Federal and State motor carrier safety regulations. The lack of uniformity among these regulations creates a substantial burden for interstate motor carriers, hampering safety.

Section 11 provides that a State may adopt or continue in effect a motor carrier safety standard until DOT has adopted a standard regarding the subject matter of the State requirement. As now drafted, section 11 establishes a procedure whereby States will submit their motor carrier safety laws, rules, regulations, standards, and orders to the Secretary. These regulations will be reviewed by a panel consisting of representatives of the States, the trucking industry, and the intercity bus industry, among others. Eighteen months after enactment of this provision, the Secretary will be re-

quired to submit to the Congress a study reporting on the panel's findings. Six months after this study is submitted to Congress, the Secretary will be required to commence a rulemaking proceeding to promulgate rules regarding commercial motor vehicle safety. In the interests of promoting safety and national uniformity, the Secretary will be authorized to preempt State laws which do not serve a compelling local safety need or which unduly burden interstate commerce.

Section 11 is not intended to discourage States with innovative safety requirements from seeking better ways to protect their citizens. These provisions, however, are aimed at ensuring that a strong State safety need outweighs the bill's goal of uniformity in cases where State requirements are not identical to the national norm.

Section 11's provisions do not affect existing State hours-of-service regulations pertaining to intrastate operations unless DOT makes certain specific adverse findings about these regulations.

Mr. President, I would like to note that the version of this section, as it is before us today, reflects concerns expressed to me about S. 2174's preemption provisions by Senators PROXMIRE and METZENBAUM. We have worked together to develop a more workable provision aimed at establishing a more uniform system of commercial motor vehicle safety regulation. The provision before us today is the product of that joint effort.

Section 12 of S. 2174 also promotes uniformity. Section 12 requires all commercial motor vehicles to pass an equipment inspection based on Federal standards, no less often than annually. This inspection requirement is aimed at ensuring that inspection programs are uniform throughout the country and meet certain specified minimum safety requirements. The periodic equipment inspection established under section 12 is to be recognized as adequate in every State for the period of such inspection. This requirement is not intended, however, to preclude current roadside inspection procedures if they meet the Federal standards to be established under this section.

CERTIFICATION OF SAFETY FITNESS

Section 13 is aimed at improving motor carrier entry procedures with respect to safety. This section requires DOT, in conjunction with the Interstate Commerce Commission [ICC], to establish safety fitness standards applicable to commercial motor vehicles—both to carriers regulated by the ICC and those which are exempt and including persons seeking new or additional motor carrier operating authority. The safety fitness procedure is to include: Specific initial and continuing requirements to prove safety fitness; a means of determining whether carriers meet these safety fitness requirements; and specific time deadlines for action by DOT and the ICC in making safety fitness determinations. The initial safety fitness requirements will pertain to new carriers seeking common or contract carrier authority, existing carriers seeking an expansion of their common or contract authority, and private carriers seeking for-hire authority. All such carriers will be required to meet the fitness test before being allowed to obtain operating authority, and will be subject to the continuing safety fitness requirement.

This section also prohibits the ICC from granting motor common or contract carriers operating authority to an applicant that does not meet the safety fitness requirements established pursuant to this section. This strengthened safety fitness requirement is not meant to be burdensome or to act as a barrier to entry into the motor carrier industry. It is crucial, however, that we ensure that all motor carriers operating on the highways are truly safe.

STUDIES

S. 2174 requires studies of several aspects of motor carrier safety.

Section 6 directs the Secretary of Transportation, in consultation with the Director of the National Institute for Occupational Safety and Health and the Secretary of Labor, to conduct a study of health hazards to which employees engaged in the operation of commercial motor vehicles are exposed and to develop findings regarding the most appropriate method for regulating and protecting the health of operators of commercial motor vehicles.

Section 14 requires DOT to undertake research into the safety characteristics of heavy trucks, the unique problems associated with heavy trucks, and the manner in which such trucks are driven. The comprehensive study required under this section is to include an examination of the handling, braking, stability, and crashworthiness of heavy trucks, as well as the programs and needs of enforcement agencies to assure compliance with traffic laws by commercial motor vehicle drivers.

Section 15 directs DOT to study crash protection for truck occupants. The study is to investigate potential and known hazards to truck occupants and means of improving truck occupant safety, and evaluate potential performance standards to be met by manufacturers.

Section 16 requires DOT to undertake a study of the safety improvement potential of devices such as flare kits and distress signaling systems. DOT is to determine the safest emergency warning device to be used by regulated vehicles and determine whether passenger automobiles should be required to carry any type of distress signaling system.

Mr. President, it is important that we do all we can to enhance motor carrier safety. I urge my colleagues to join me in supporting S. 2174.

Mrs. KASSEBAUM. Mr. President, I rise today to offer what I understand is a friendly amendment to the Motor Carrier Safety Act. My amendment deals with section 30 of the Motor Carrier Act of 1980. This is a matter of considerable importance to many people involved in agriculture and related industries.

This amendment would relieve the burden that section 30 now places on farmers and small retail fertilizer dealers who serve farmers by providing the Secretary of Transportation with authority, if the Secretary determines that public safety will not be adversely affected, to reduce the high financial responsibility requirements for farmers and those who serve the farmers.

Under section 30, the carriage of hazardous materials, necessary for farming, is sometimes required to have large amounts of financial responsibility coverage. Today, farmers and retail fertilizer dealers transporting small quantities of necessary materials in agricultural vehicles, such as liquid fertilizers, are exempt from Federal insurance requirements so long as they do not cross State lines. The Congress determined that short trips of small quantities of hazardous materials—usually less than 3,500 gallons—do not warrant large amounts of insurance, and permitted the Department of Transportation to exempt this form of transportation so long as it did not cross State lines. However, if it is necessary for a farmer or a retail fertilizer dealer to cross a State line while transporting these small quantities to a farm, as many must in order to make a living, the high Federal insurance requirements—scheduled to increase to $1 million per vehicle in July—automatically apply, no matter how short a distance across State lines the farmers or retail fertilizer dealer must drive. Section 30 creates this inequity.

This amendment to section 30 would give DOT the flexibility to solve this problem by having an opportunity to make a ruling that would remove the high financial responsibility requirements from farmers and their fertilizer suppliers. It is intended that this exemption, should it be granted by DOT, would apply to local farming operations using vehicles which are only incidentally operated on public highways and which are subject to reasonable restrictions, such as the transportation performed must be within a 30-mile radius from point of origin, conducted during daylight hours, at low speeds—that is, not exceeding 30 miles

per hour—and off the Interstate System.

For purposes of this amendment, "agricultural vehicle" is any vehicle which is designed or adapted and used for agricultural purposes, is operated by a private motor carrier, and is only incidentally operated on the highways. This includes, but is not limited to fertilizer nurse tanks, fertilizer application implements or equipment, and agricultural tillage implements.

I appreciate the consideration shown by Senator DANFORTH in accepting this amendment. I hope it will, in a small way, ease the burdens being faced by our farmers today.

Mr. STAFFORD. Mr. President, I would like to ask the chairman of the Commerce Committee, Senator PACKWOOD, to enter into a colloquy with me concerning the meaning of section 202 of the bill. This section would provide that no State could deny "reasonable access" to points of loading and unloading for truck tractor single-trailer units that are 28 feet long and 102 inches wide. This standard of access is more expansive than that provided to tandem trucks, but is identical to the standard for household goods movers. Is my understanding correct?

Mr. PACKWOOD. The Senator's understanding is correct.

Mr. STAFFORD. Am I correct that a State could deny access to a single-trailer unit if the access request is unreasonable?

Mr. PACKWOOD. That is completely correct. The access provision proposed for single-trailer units builds on the existing reasonable access provisions in section 412 of the Surface Transportation Assistance Act [STAA]. Under that authority, the Department of Transportation [DOT] has allowed States, and local governments working through the States, to make the initial determination of what constitutes reasonable access. DOT is not involved in a case-by-case determination, but could take action if the State unduly denied access. DOT's implementation is entirely consistent with the committee's intent.

The reasonable access which would be provided to single-trailer units is intended to be a balance between the needs of commerce in reaching points of loading and unloading and the police powers of the State and local governments. For example, if trucks with 40-foot trailers that are 96 inches wide are permitted on a route, single-trailer units that are 28 feet long and 102 inches wide should be allowed unless the additional width creates special clearance problems. However, for example, access could be denied to such a single-trailer unit if all trucks were excluded from a route.

Mr. STAFFORD. Is my understanding correct that the reasonable access provided in section 202 of the bill is limited only to truck tractor single-trailer units that are 28 feet long, and that this provision does not permit this broader access for anything longer than that, such as the turnpike double?

Mr. PACKWOOD. The Senator is correct in his understanding.

Mr. STAFFORD. I thank the distinguished chairman of the Commerce, Science, and Transportation Committee for this clarification. If the ranking minority member of the committee concurs in this interpretation, the concerns of this Senator have been accommodated.

Mr. HOLLINGS. I concur in the views expressed by the Senator from Oregon.

Mr. MOYNIHAN. Mr. President, I, too, thank the Senator from Oregon for his clarification of the intent of this provision.

Mr. LAUTENBERG. Mr. President, I seek clarification from the Senator from Missouri regarding the coverage of school buses under the bill. Schoolbus operators in New Jersey and elsewhere have brought to my attention their concern that they not be subjected to Federal inspections when they are already inspected at least once a year by the States.

It is my understanding that the bill before us covers schoolbuses as commercial motor vehicles. The bill requires that schoolbuses be inspected at least once annually by either the State or Federal Government according to standards promulgated by the Secretary of Transportation within 1 year of this bill's enactment. States could require more stringent standards if that was their desire. Is that a correct interpretation of the bill's provisions?

Mr. DANFORTH. The Senator's interpretation of section 12 of the bill as regards schoolbuses is correct. Our interest is in insuring that our most precious assets, our children, are adequately protected, and that either State or Federal safety officials, inspect these schoolbuses according to meaningful safety standards. If the States have such standards and inspections at least annually, that will meet the goal of this section.

Mr. LAUTENBERG. It is then the intention of the Senator from Missouri to give States and schoolbus operators the opportunity to comment on the standards to be established by the Secretary?

Mr. DANFORTH. There would be a public comment period for that purpose, Mr. President.

Mr. LAUTENBERG. I thank the Senator from Missouri for his clarification and commend him for his leadership on this and other aspects of safety on our Nation's highways.

Mr. HOLLINGS. Mr. President, the motor carrier safety legislation being considered by the Senate today represents a significant step toward improving transportation safety. It provides for a strengthened Federal motor carrier safety regulatory and enforcement program but carefully preserves legitimate State and local interests in promoting public safety. I urge my colleagues to support this legislation.

I would like to comment briefly on the scope of this bill's jurisdiction. As originally reported by the Commerce Committee earlier this year, S. 2174 provided that the legislation would apply to transportation in or affecting interstate commerce. This provision represented an expansion of the current Federal safety regulatory authority over transportation in interstate commerce. I became concerned about the expanded authority in S. 2174 and its impact on wholly intrastate transportation now regulated by the States.

The revised legislation now being considered by the Senate includes an amendment which I sponsored in response to this concern. The legislation as amended provides that intrastate truck transportation will not be affected by the provisions of this legislation, and thus will continue to be regulated at the State level to the extent that it is now. However, in order to ensure that motor carrier safety is promoted, the revised legislation would require that the Department of Transportation conduct a study of the safety of intrastate truck transportation and the adequacy of the State safety regulation in this area. In addition, the Department is to recommend whether it is necessary in the interest of safety for intrastate truck transportation to be regulated by the Federal Government. I believe that the revised jurisdiction of the bill will ensure that any expansion of the current regulatory authority is in the interest of safety. I want to thank my colleague from Missouri [Mr. DANFORTH], who was the original sponsor of this legislation for working with me on this amendment.

Mr. MOYNIHAN. Mr. President, in January of this year I introduced S. 2217, the Tandem Truck Safety Act of 1984, in an effort to improve safety conditions on the Nation's Interstate Highway System.

My bill was referred to the Senate Commerce Committee; hearings were held in March, and in May the committee marked up the legislation. The committee modified my original bill, chiefly by adding two new provisions. The committee then approved the legislation by voice vote.

Since that time, the legislation has been awaiting Senate action. On August 6, the House of Representatives passed legislation very similar to my original bill, sponsored by Representative GERALDINE FERRARO. With time running out on this Congress, I am happy to say that the Senate is now ready to join in my and Ms. FERRARO's efforts to improve the safety of

American motorists on our Nation's highways.

I also want to note that the bill we are considering today includes modified text of Senator DANFORTH's Motor Carrier Safety Act of 1984, S. 2174. My good friend and colleague from Missouri introduced that bill last November, and it was reported by the Commerce Committee on March 27, 1984. Since that time, there have been extensive discussions among several Senators concerned about the prospect of Federal safety standards preempting existing State standards. I am pleased that the language included in the bill we are considering today reflects a compromise on this matter, one acceptable to all.

Permit me to briefly outline the background of the Tandem Truck Safety Act of 1984.

In the Surface Transportation Assistance Act of 1982 [STAA], the Congress required the States to allow tandem trailers and longer single trailers on all interstate highways and on certain Federal-aid primary roads designated by the Secretary of Transportation. That act, however, also acknowledged that some sections of the Nation's Federal-aid primary roads simply could not safely accommodate these larger single and tandem trailers. The STAA, therefore, permits the operation of these larger trucks only on those Federal-aid primary roads "that are capable of safely accommodating" them. The Congress recognized, and properly so, that while uniform truck lengths on the Federal-aid primary system would enhance commerce, we could not endanger the safety of American travelers by permitting the larger trucks on certain highways.

The STAA, however, did not provide a similar safety exemption for the Nation's Interstate Highway System. Section 411 of the STAA is clear and direct; it mandates that the States must allow single trailers of 48 feet and tandem trailers of 28 feet per trailer on the entire Interstate Highway System. This is, simply stated, imprudent—not every part of the Interstate Highway System has the necessary safety features—adequate acceleration and deceleration lanes, ample radii on curves, sufficiently wide lanes—to ensure safe operation of the longer trucks.

In some major metropolitan areas, including the city of New York, highways built long before the promulgation of interstate design standards had been incorporated into the Interstate Highway System. Some sections of interstate highway in New York, for example, do not have 12-foot-wide lanes, the minimum standard for interstate highways. There are many other design deficiencies as well—and, I would add, Federal interstate funds are not available to correct these deficiencies.

One safety consideration compounded by these design deficiencies is "off-tracking." This occurs when a truck trailer encroaches on an adjacent lane while navigating a turn. The curve radii of the interstate ramps and interchanges in New York City are below acceptable levels to avoid off-tracking, the longer trucks could not safely maneuver on them. The longer the trailer, the more its rear end will encroach on adjacent lanes when turning. And this, of course, increases the chances of a collision with a vehicle in the other lane.

The problem is clear: while many of our urban interstates cannot safely accommodate the larger vehicles, the STAA does not provide the Secretary of Transportation with the discretion to exempt those unsafe segments from the tandem trailer and larger truck requirements.

Mr. President, these problems, which today confront the city of New York and other urban areas, are not going to go away by themselves. Under the Surface Transportation Assistance Act, the States do not have the power to bar the large trucks from unsafe sections of the interstate highways. Only Congress does, and Congress must resolve the issue.

Let me describe what my bill would accomplish. The measure would permit the Governor of a State, after consulting with local governments, to seek an exemption for any segment of the Interstate Highway System that could not safely accommodate the larger and wider single and tandem trailers. The Governor would provide specific evidence of safety problems to the Secretary of Transportation, who then would determine within 120 days whether the larger trucks could safely travel on the interstate. The Secretary, having concurred, then would exempt those unsafe sections from the tandem trailer and larger single trailer requirements of the STAA. The legislation does not specify for the Secretary the safety considerations that must be taken into account, but I would expect the Secretary to examine the existing safety record, congestion, lane widths, shoulders, grades, ramp geometry, and vertical clearances, among other criteria.

Mr. President, this legislation represents a reasonable and appropriate response to this matter. We do not intend to obstruct the flow of interstate commerce in any way, and this legislation would not do so. Indeed, this measure requires that the Governor consult with local governments to determine whether an alternate—and safe—route can be found for the larger trucks. The Governor also would be required to consult with the Governor of any neighboring State that might be affected by a truck restriction.

I would like to point out that, under my bill, the authority for safety determinations rests with the Federal Government, where it ought to rest. The Secretary of Transportation will have final authority to approve or disapprove any request for exemption.

The legislation would accomplish two important goals. First, it would provide the authority, now absent, for the Federal Government to exempt unsafe segments of the Nation's Interstate Highway System. Second, it would remove any remaining doubts about the authority of the States to exercise police powers to enforce hour of operation or similar restrictions.

And Mr. President, I do want to note for the record some reservations about two provisions added to my original bill in the Senate Commerce Committee, during the May 8, 1984, markup of S. 2217.

The first, now section 4, would amend section 416 of the STAA to permit wider single and tandem trailers on Federal-aid primary highways with lane widths of less than 12 feet, provided the highways can safely accommodate the wider trucks. The second, now section 5 of S. 2217, would amend section 412 of the STAA to provide reasonable access to points of loading and unloading for single 28-foot-long, 102-inch-wide trailers. I do urge the House and Senate conferees for the bill to review these two provisions with great care.

I urge my colleagues to consider highway safety as a prime concern. None of us wants the flow of interstate commerce impeded; neither ought we to sacrifice the safety of American travelers for small commercial considerations. I urge the Senate to approve S. 2217.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The bill (S. 2217), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2217

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SHORT TITLE

SEC. 101. This title may be cited as the "Tandem Truck Safety Act of 1984".

EXEMPTION FROM LENGTH REQUIREMENTS

SEC. 102. Section 411 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2311) is amended by adding at the end the following new subsection:

"(i)(1) If the Governor of a State, after making the consultations specified in paragraph (2) of this subsection, determines that any specific segment of the National System of Interstate and Defense Highways is not capable of safely accommodating motor vehicles having the lengths set forth in subsection (a) of this section or motor vehicle

combinations described in subsection (c) of this section, the Governor may notify the Secretary of such determination and request that the Secretary exempt such segment from one or both of such subsections.

"(2) Before making such notification, the Governor shall consult with units of local government within that State in which the specific segment of such System is located, as well as the Governor of any State adjacent to that State that might be directly affected by such exemption. As part of such consultations, consideration shall be given to any potential alternative route that—

"(A) can safely accommodate motor vehicles having the lengths set forth in subsection (a) of this section or motor vehicle combinations described in subsection (c) of this section; and

"(B) serves the area in which such segment is located.

"(3) The Governor shall transmit with such notification specific evidence of safety problems that supports such determination, and the results of consultation regarding any alternative route under paragraph (2) of this subsection.

"(4)(A) If the Secretary determines, upon request by a Governor under paragraph (1) of this subsection or on the Secretary's own initiative, that any segment of the National System of Interstate and Defense Highways is not capable of safely accommodating motor vehicles having the lengths set forth in subsection (a) of this section or motor vehicle combinations described in subsection (c) of this section, the Secretary shall exempt such segment from one or both of such subsections. Before making such determination, the Secretary shall consider any possible alternative route that serves the area in which such segment is located.

"(B) The Secretary shall make such determination within a period of 120 days after the date of receipt of notification from a Governor under paragraph (1) of this subsection or the date on which the Secretary initiates action under this paragraph, as the case may be, with respect to such segment. If the Secretary determines that such determination will not be made within such time period, the Secretary shall immediately notify the Congress and shall furnish the reasons for the delay, information regarding the resources assigned, and the projected completion date, for any such determination.

"(C) The Secretary shall make such determination only after affording interested parties notice and the opportunity for comment. Any exemption granted by the Secretary under this paragraph before the date on which final rules are issued under subsection (a) of this section shall be included as part of such final rules. Any such exemption granted on or after such date shall be published as a revision of such rules.".

EXEMPTION FROM WIDTH REQUIREMENTS

SEC. 103. Section 416 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2316) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e)(1) If the Governor of a State, after making the consultations specified in paragraph (2) of this subsection, determines that any specific segment of the National System of Interstate and Defense Highways is not capable of safely accommodating motor vehicles having the width set forth in subsection (a) of this section, the Governor may notify the Secretary of such determination and request that the Secretary exempt such segment from such subsection for the purpose of allowing the State to impose a vehicle width limitation of less than 102 inches on such segment.

"(2) Before making such notification, the Governor shall consult with units of local government within that State in which the specific segment of such System is located, as well as the Governor of any State adjacent to that State that might be directly affected by such exemption. As part of such consultations, consideration shall be given to any potential alternative route that—

"(A) can safely accommodate motor vehicles having the width set forth in subsection (a) of this section;

"(B) serves the area in which such segment is located.

"(3) The Governor shall transmit with such notification specific evidence of safety problems that supports such determination, and the results of consultation regarding any alternative route under paragraph (2) of this subsection.

"(4)(A) If the Secretary determines, upon request by a Governor under paragraph (1) of this subsection or on the Secretary's own initiative, that any segment of the National System of Interstate and Defense Highways is not capable of safely accommodating motor vehicles having the width set forth in subsection (a) of this section, the Secretary shall exempt such segment from such subsection for the purpose of allowing the State to impose a vehicle width limitation of less than 102 inches on such segment. Before making such determination, the Secretary shall consider any possible alternative route that serves the area in which such segment is located.

"(B) The Secretary shall make such determination within a period of 120 days after the date of receipt of notification from a Governor under paragraph (1) of this subsection or the date on which the Secretary initiates action under this paragraph, as the case may be, with respect to such segment. If the Secretary determines that such determination will not be made within such time period, the Secretary shall immediately notify the Congress and shall furnish the reasons for the delay, information regarding the resources assigned, and the projected completion date, for any such determination.

"(C) The Secretary shall make such determination only after affording interested parties notice and the opportunity for comment. Any exemption granted by the Secretary under this paragraph before the date on which final rules are issued under subsection (a) of this section shall be included as part of such final rules. Any such exemption granted on or after such date shall be published as a revision of such rules.".

TITLE II

MISCELLANEOUS AMENDMENTS

SEC. 201. (a) Section 411(a) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2311(a)) is amended—

(1) by striking "No" and inserting in lieu thereof "Except as provided in subsection (i) of this section, no";

(2) by inserting "(other than a segment exempted under subsection (i) of this section)" immediately after "Highways"; and

(3) by striking "Secretary," and inserting in lieu thereof "Secretary of Transportation hereinafter in this part referred to as the 'Secretary'),".

(b) Section 411(c) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2311(c)) is amended by inserting "(other than a segment exempted under subsection (i) of this section)" immediately after "Highways".

(c) Section 412 of the Surface Transpartation Assistance Act of 1982 (49 U.S.C. 2312) is amended by inserting "(other than any segment thereof which is exempted under section 411(i) or 416(e) of this title)" immediately after "Highways System".

(d) Section 416(a) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2316(a)) is amended—

(1) by striking "No" and inserting in lieu thereof "Except as provided in subsection (e) of this section, no";

(2) by inserting "(other than a segment exempted under subsection (e) of this section)" immediately after "Highways"; and

(3) by inserting immediately after "more" the second time it appears the following: "or any other qualifying Federal-aid Primary System highway designated by the Secretary if the Secretary determines that such designation is consistent with highway safety and the other purposes of this title".

(e) Section 416(d) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2316(d)) is amended—

(1) by inserting "(other than a segment exempted under subsection (e) of this section)" immediately after "Highways"; and

(2) by striking ", with traffic lanes designed to be a width of twelve feet or more".

REASONABLE ACCESS

SEC. 202. Section 412 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2312) is amended by inserting "or for truck tractor single-trailer units of those combination vehicles described in section 411(c) of this title" immediately before the period at the end thereof.

TITLE III

SHORT TITLE

SEC. 301. This title may be cited as the "Motor Carrier Safety Act of 1984".

PURPOSES

SEC. 302. The purposes of this title are to promote the safe operation of commercial motor vehicles in or affecting interstate commerce, to minimize dangers to the health of operators of commercial motor vehicles and other employees whose employment directly affects motor carrier safety, and to assure increased compliance with traffic laws and with the commercial motor vehicle safety and health rules, regulations, standards, and orders issued pursuant to this title.

FINDINGS

SEC. 303. The Congress finds that—

(1) it is in the public interest to enhance commercial motor vehicle safety and thereby to reduce highway fatalities, injuries, and property damage;

(2) improved, more uniform commercial motor vehicle safety measures and strengthened enforcement would reduce the number of fatalities and injuries and the level of property damage related to commercial motor vehicle operations;

(3) enhanced protection of the health of commercial motor vehicle operators is in the public interest; and

(4) interested State governments can provide valuable assistance to the Federal Government in assuring that commercial motor vehicle operations are conducted safely and healthfully.

DEFINITIONS

SEC. 304. For purposes of this title, the term—

(1) "commerce" means (A) trade, traffic, or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, or (B) in the case of a commercial motor vehicle transporting passengers, which affects trade, traffic, or transportation between a place in a State and a place outside of such State;

(2) "commercial motor vehicle" means any self-propelled or towed vehicle used on the highways in commerce principally to transport passengers or cargo—

(A) if such vehicle has a gross vehicle weight rating of 10,001 or more pounds;

(B) if such vehicle is designed to transport more than 15 passengers, including the driver; or

(C) if such vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.) and are transported in quantities requiring placarding under regulations issued by the Secretary;

(3) "employee" means—

(A) driver of a commercial motor vehicle (including, for purposes of this title only, an independent contractor while in the course of personally operating a commercial motor vehicle);

(B) a mechanic;

(C) a freight handler; or

(D) any individual other than an employer; who is employed by a commercial motor carrier and who in the course of this employment directly affects commercial motor vehicle safety, but such term does not include an employee of the United States or any State who is acting within the course of such employment;

(4) "employer" means any person engaged in a business affecting commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it in commerce, but such term does not include the United States or any State;

(5) "passenger automobile" means a motor vehicle with motive power, except that the term does not include a multipurpose passenger vehicle, a motorcycle, a bus, a truck, or a trailer designed for carrying 10 persons or less;

(6) "person" means one or more individuals partnerships, associations, corporations, business trusts, or any other organized group of individuals;

(7) "Secretary" means the Secretary of Transportation; and

(8) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or the Commonwealth of the Northern Marianas, or a political subdivision thereof.

DUTIES

SEC. 305. Each employer and employee shall comply with the safety and health rules, regulations, standards, and orders issued pursuant to this title which are applicable to his own actions and conduct.

REGULATORY AUTHORITY AND STANDARDS

SEC. 306. (a) The Secretary shall establish and revise such rules, regulations, standards, and orders as may be necessary in order to further the purposes of this title. The Secretary shall, where practicable, consider costs and benefits before establishing or revising rules, regulations, standards, or orders under this title. The Secretary shall not eliminate or modify any existing motor carrier safety rule pertaining to the maintenance, equipment, loading or operation (including routing regulations) of vehicles carrying materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.) unless and until an equivalent or more stringent regulation has been promulgated under the Hazardous Materials Transportation Act. Such rules, regulations, standards, and orders shall be directed toward assuring that—

(1) commercial motor vehicles are safely maintained, equipped, loaded, and operated;

(2) the responsibilities imposed upon drivers of commercial motor vehicles do not impair a driver's ability to operate safely;

(3) the physical condition of drivers of commercial motor vehicles is adequate to enable them to drive safely; and

(4) the operation of commercial motor vehicles does not create deleterious effects on the physical condition of such drivers.

(b)(1) The Secretary shall promulgate any such rule or regulation within a period of 18 months after the date of commencement of any proceeding respecting such rule or regulation. If the Secretary determines that any such promulgation will not be completed within such time period, the Secretary shall immediately notify the Congress and shall furnish the reasons for the delay, information regarding the resources assigned, and the projected completion date, for any such proceeding. If such rule or regulation has not been promulgated within 18 months after the date of the commencement of any proceeding with respect to such rule or regulation, the Secretary shall supply the Congress with current data regarding the information specified in the preceding sentence, and shall provide the Congress with such information at the end of every 60-day period thereafter during which the proceeding remains incomplete.

(2) All rules, regulations, standards, and orders issued under this section shall be promulgated in accordance with section 553 of title 5, United States Code (without regard to sections 556 and 557 of such title), except that the time periods specified in paragraph (1) of this subsection shall apply to such promulgation.

(c) The Secretary may waive in whole or in part application of any rule, regulation, standard, or order established under this section with respect to any person or class of persons if the Secretary determines that such waiver is not contrary to the public interest and is consistent with the safe operation of commercial motor vehicles. Any waiver permitted under this subsection shall be published in the Federal Register, together with the reasons for such waiver. Any final agency action taken under this section is subject to judicial review, as provided in chapter 7 of title 5, United States Code.

(d) The Secretary, in consultation with the Director of the National Institute for Occupational Safety and Health and the Secretary of Labor, shall undertake a study of health hazards to which employees engaged in the operation of commercial motor vehicles are exposed, and shall develop such materials and information as are necessary to enable such employees to carry out their employment in a place and manner free from recognized hazards that are causing or are likely to cause death or serious physical harm. The study shall include findings regarding the most appropriate method for regulating and protecting the health of operators of commercial motor vehicles. The findings of such study shall be submitted to the Congress within 1 year after the date of enactment of this Act.

(e) The Secretary shall coordinate the activities of Federal agencies to ensure adequate protection of the safety and health of operators of commercial motor vehicles. The Secretary shall attempt to minimize paperwork burdens to assure maximum coordination, and to avoid overlap or the imposition of undue burdens on persons subject to such rules, regulations, standards, and orders.

(f) Section 3102 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) The Secretary shall, before prescribing or revising any requirement under this section, consider the costs and benefits of such requirement.".

GENERAL POWERS

SEC. 307. (a) The Secretary may conduct, directly or indirectly, such research, development, demonstrations, and training activities as the Secretary considers appropriate to develop rules, regulations, standards, and orders authorized to be promulgated under section 306 of this title, to design and develop improved enforcement procedures and technologies, and to familiarize affected persons with such rules, regulations, standards, and orders.

(b) In carrying out the Secretary's functions under this title, the Secretary is authorized to perform such acts (including conducting investigations and inspections; compiling statistics: making reports; issuing subpenas; requiring production of documents, records, and property; taking depositions; holding hearings: prescribing recordkeeping and reporting requirements; and carrying out and contracting for such research, development, testing, evaluation, and training) as the Secretary determines necessary to carry out the provisions of this title, or rules, regulations, standards, or orders issued pursuant to section 402 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2302). The Secretary may delegate to a State such functions respecting the enforcement (including investigations) of the provisions of this title or rules, regulations, standards, or orders issued pursuant to this title as the Secretary determines appropriate to carry out such provisions.

(c) To carry out the Secretary's inspection and investigation functions under subsection (b) of this section, the Secretary or the Secretary's agent shall, as appropriate, consult with employers and employees and their duly authorized representatives, and shall offer them a right of accompaniment.

DUTY TO INVESTIGATE COMPLAINTS; PROTECTION OF COMPLAINANTS

SEC. 308. (a) The Secretary shall timely investigate any nonfrivolous written complaint alleging that a material violation of any rule, regulation, standard, or order issued under this title is occurring or has occurred within the preceding 60 days. The complainant shall be timely notified of findings resulting from such investigation. The Secretary shall not be required to conduct separate investigations of duplicative complaints.

(b) Notwithstanding the provisions of section 552 of title 5, United States Code, the Secretary shall not disclose the identity of complainants unless it is determined that such disclosure is necessary to prosecute a violation. If disclosure becomes necessary, the Secretary shall take every practical measure within the Secretary's authority to

assure that the complainant is not subject to harassment, intimidation, disciplinary action, discrimination, or financial loss as a result of such disclosure.

PENALTIES

SEC. 309. (a) Section 507 of title 49, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) The Attorney General, at the request of the Secretary, may bring an action in an appropriate district court of the United States for equitable relief to redress a violation by any person of a provision of section 3102 of this title or the Motor Carrier Safety Act of 1984, or an order or regulation issued under such section or Act. Such district court shall have jurisdiction to determine any such action and may grant such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.".

(b) Section 521(b) of title 49, United States Code, is amended to read as follows:

"(b)(1) If the Secretary finds that a violation of section 3102 of this title or the Motor Carrier Safety Act of 1984, or a violation of a regulation issued under such section or such Act, has occurred, the Secretary shall issue a written notice to the violator. Such notice shall describe with reasonable particularity the nature of the violation found and the provision which has been violated. The notice shall fix a reasonable time for abatement of the violation, specify the proposed civil penalty, if any, and suggest actions which might be taken in order to abate the violation. The notice shall indicate that the violator may, within 15 days of service, notify the Secretary of the violator's intention to contest the matter. In the event of a contested notice, the Secretary shall afford such violator an opportunity for a hearing, pursuant to section 554 of title 5, following which the Secretary shall issue an order affirming, modifying, or vacating the notice of violation.

"(2) Except as otherwise provided in this subsection, any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act which is a violation of recordkeeping requirements issued by the Secretary pursuant to section 3102 of this title or the Motor Carrier Safety Act of 1984 shall be liable to the United States for a civil penalty not to exceed $500 for each offense. Each day of a violation of recordkeeping requirements shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for such violations shall not exceed $2,500. If the Secretary determines that a serious pattern of safety violations, other than recordkeeping requirements, exists or has occurred. The Secretary may assess a civil penalty not to exceed $1,000 for each offense: *Provided, however,* That the maximum fine for each such pattern of safety violations shall not exceed $10,000. If the Secretary determines that a substantial health or safety violation exists or has occurred which could reasonably lead to, or has resulted in, serious personal injury or death, the Secretary may assess a civil penalty not to exceed $10,000 for each offense: *Provided, however,* That, except for recordkeeping violations, no civil penalty provided under this section shall be assessed against an employee for violation of this section unless the Secretary determines that such employee's actions constituted gross negligence or reckless disregard for safety, in which case such employee shall be liable for a civil penalty not to exceed $1,000. The amount of any civil penalty, and a reasonable time for abatement of the violation, shall by written order be determined by the Secretary, taking into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violation, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice and public safety may require. In each case, the assessment shall be calculated to induce further compliance.

"(3) The Secretary may require any violator served with a notice of violation to post a copy of such notice or statement of such notice in such place or places and for such duration as the Secretary may determine appropriate to aid in the enforcement of section 3102 of this title or the Motor Carrier Safety Act of 1984.

"(4) Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, before referral to the Attorney General, such civil penalty may be compromised by the Secretary.

"(5)(A) if, upon inspection or investigation, the Secretary determines that a violation, or combination of violations, poses as imminent hazard to safety, the Secretary shall order a vehicle or employee operating such vehicle out of service, or order an employer to cease all or part of the employer's commercial motor vehicle operations. In making any such order, the Secretary shall impose no restriction on any employee or employer beyond that required to abate the hazard. Subsequent to the issuance of the order, opportunity for review shall be provided in accordance with section 554 of title 5, except that such review shall occur not later than 10 days after issuance of such order.

"(B) In this paragraph, 'imminent hazard' means any condition of vehicle, employee, or commercial motor vehicle operations which is likely to result in serious injury or death if not discontinued immediately.

"(6) Any person who knowingly and willfully violates any provision of section 3102 of this title or the Motor Carrier Safety Act of 1984, or a regulation issued under this title or such Act, shall, upon conviction, be subject for each offense for a fine not to exceed $25,000 or imprisonment for a term not to exceed 1 year, or both, except that, if such violator is an employee, the violator shall only be subject to penalty if, while operating a commercial motor vehicle, the violator's activities have led or could have led to death or serious injury, in which case the violator shall be liable, upon conviction, for a fine not to exceed $2,500.

"(7) The Secretary shall promulgate regulations establishing penalty schedules designed to induce timely compliance for persons failing to comply promptly with the requirements set forth in any notices and orders under this subsection.

"(8) Any aggrieved person who, after a hearing, is adversely affected by a final order issued under this section may, within 30 days, petition for review of the order in the United States court of appeals in the circuit wherein the violation is alleged to have occurred or where the violator has his principal place of business or residence, or in the United States Court of Appeals for the District of Columbia Circuit. Review of the order shall be based on a determination of whether the Secretary's findings and conclusions were supported by substantial evidence, or were otherwise not in accordance with law. No objection that has not been urged before the Secretary shall be considered by the court, unless reasonable grounds existed for failure or neglect to do so. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Secretary.

"(9) All penalties and fines collected under this section shall be deposited into the Highway Trust Fund.

"(10) In any action brought under this section, process may be served without regard to the territorial limits of the district of the State in which the action is brought.

"(11) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, trial shall be by the court, or, upon demand of the accused, by a jury, conducted in accordance with the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

"(12) As used in this subsection, the term—

"(A) 'commerce' means (i) trade, traffic, or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, or (ii) in the case of a commercial motor vehicle transporting passengers, which affects trade, traffic, or transportation between a place in a State and a place outside of such State;

"(B) 'commercial motor vehicle' means any selfpropelled or towed vehicle used on the highways in commerce principally to transport passenger or cargo—

"(i) is such vehicle has a gross vehicle weight rating of 10,001 or more pounds;

"(ii) if such vehicle is designed to transport more than 15 passengers, including the driver; or

"(iii) is such vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.) and are transported in quantities requiring placarding under regulations issued by the Secretary;

"(C) 'employee' means—

"(i) a driver of a commercial motor vehicle (including, for purposes of this subsection only, an independent contractor while in the course of personally operating a commercial motor vehicle);

"(ii) a mechanic;

"(iii) a freight handler; or

"(iv) any individual other than an employer;

who is employed by a commercial motor carrier and who in the course of this employment directly affects commercial motor vehicle safety, but such term does not include an employee of the United States or any State who is acting within the course of such employment;

"(D) 'employer' means any person engaged in a business affecting commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it in commerce, but such term does not include the United States or any State:

"(E) 'person' means one or more individuals, partnerships, associations, corporations, business trusts, or any other organized group of individuals; and

"(F) 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or the Commonwealth of the Northern Marianas, or a political subdivision thereof.

"(13) The provisions of this subsection shall not affect in any way any provision of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.) or any regulation promulgated by the Secretary under such Act.".

(c) The Secretary shall conduct a study of the effectiveness of the civil and criminal penalties established under this title in deterring violations of the commercial motor vehicle safety regulations issued under this title and in effectively prosecuting such violations when they occur. Such study shall examine the effectiveness of penalties in effect before the date of enactment of this Act in comparison to the penalties established by this title. Such study shall also investigate the need for, and make recommendations concerning, increased fine levels for civil and criminal penalties, and the need for additional categories of civil and criminal penalties to deter further and prosecute effectively violations of such commercial motor vehicle safety regulations. The Secretary shall submit to Congress a report on the findings of this study, together with legislative recommendations, not later than 2 years after the date of enactment of this Act.

LITIGATION AUTHORITY

SEC. 310. Section 413 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2313) is amended by striking "The Secretary, or, on" and inserting in lieu thereof "On".

STATE REGULATIONS

SEC. 311. (a) Except as may otherwise be provided in this title or any other Act, all laws, rules, regulations, standards, and orders relating to commercial motor vehicle safety shall, to the extent necessary to promote public safety and reduce fatalities, be nationally uniform, to the extent practicable. A State may adopt or continue in effect any law, rule, regulation, standard, or order relating to commercial motor vehicle safety, other than hours-of-service regulations applicable to intrastate commerce, until the Secretary, pursuant to the provisions of this section, has adopted a new rule, regulation, standard, or order, or has continued in effect an existing Federal regulation which specifically addresses the same concern for promotion of public safety and the reduction of fatalities as such State requirements.

(b) Within 1 month after the date of enactment of this Act, the Secretary shall issue initial guidelines to assist the States in compiling and submitting materials related to commercial motor vehicle safety laws, rules, regulations, standards, or orders. Within nine months after the date of enactment of this Act, the Secretary shall collect from each State, and the States shall assist the Secretary in collecting each law, rule, regulation, standard and order for commercial motor vehicle safety which the State has adopted and has in effect.

(c)(1) A study of the laws, rules, regulations, standards and orders submitted under subsection (b) of this section shall be undertaken by a panel established by the Secretary for that purpose. The Secretary shall be the Chairman of the panel. In addition to the Secretary, the panel shall consist of 14 individuals, 7 of whom shall be representatives of State and regional interests and 7 of whom shall be representatives of diverse business, consumer and safety interests regarding commercial motor vehicles. The Secretary shall select these individuals on the basis of their knowledge, expertise or experience regarding commercial motor vehicle safety from lists of qualified individuals submitted to the Secretary by the Committee on Commerce, Science, and Transportation in the Senate and the Committee on Public Works and Transportation in the House of Representatives. Each such list shall consist of not less than 20 names of individuals qualified to serve on the panel. Members of the panel shall receive no compensation, but shall, in accordance with section 5703 of title 5, United States Code, be entitled to reimbursement for travel or transportation expenses incurred in the performance of responsibilities as a member of the panel.

(2) The study required by paragraph (1) of this subsection shall consider the material collected by the Secretary from the States under subsection (b) of this section, and shall identify those laws, rules, regulations, standards, and orders for commercial motor vehicle safety which are inconsistent with this chapter. In addition, the study shall consider those instances where inconsistency of such laws, rules, regulation, standards and orders is necessary or desirable. The study shall also evaluate the need, if any, for Federal assistance to States to enable States to enforce laws, rules, regulations, standards, and orders for commercial motor vehicle safety that are nationally uniform.

(3) Not later than eighteen months after the date of enactment of this Act, the Secretary shall submit the results of such study to the Congress, and shall make such results available for public inspection.

(d)(1) Within six months after the completion of the study required by subsection (c) of this section, the Secretary shall commence a rulemaking proceeding to promulgate rules regarding commercial motor vehicle safety. If the Secretary finds on the basis of such study that an existing Federal commercial motor vehicle safety regulation better serves the purposes of this title than would a new regulation, the Secretary shall continue such existing regulation in effect. Any rules promulgated under this paragraph shall be based upon such study, and any such rule shall only be promulgated if the Secretary finds that it does not adversely affect any State law, rule, regulation, standard, or order—

(A) for which there is a compelling local safety need; and

(B) which does not unduly burden interstate commerce.

(2) Any such rule shall be promulgated in accordance with section 553 of title 5, United States Code, except that the Secretary shall afford interested persons an opportunity for a hearing on the record.

(e)(1) After the promulgation of any rule under subsection (d) of this section, any State may petition the Secretary for a waiver from application to the State of such rule. The Secretary shall grant such waiver as expeditiously as possible, unless the Secretary finds that—

(A) there is no justifiable safety need within such State for such safety rule; or

(B) the grant of such waiver will unduly burden interstate commerce.

(2) The decision to grant or deny a petition for a waiver submitted under this section shall only be made after the Secretary has afforded the relevant State an opportuntiy for a hearing on the record.

(f)(1) Not later than 60 days after a rule is promulgated under subsection (d) or action is taken regarding a waiver under subsection (e) of this section, any person adversely affected by such rule or action may file with the United States Court of Appeals for the District of Columbia or for the circuit in which such person resides or has his principal place of business a petition for judicial review of such rule or action.

(2) Upon the filing of a petition under paragraph (1) of this subsection, the court shall have jurisdiction to review such rule or action in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief, including interim relief, as provided in such chapter. Such rule or action shall be affirmed unless the Secretary's findings under subsections (d) and (e) of this section are supported by substantial evidence on the record taken as a whole.

(3) The judgment of the court affirming or setting aside, in whole or in part, any such rule or action shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

(4) The remedies provided for in this subsection shall be in addition to and not in lieu of any other remedies provided by law.

(g) Nothing in this title shall affect existing hour-of-service regulations of any State applying to commerical motor vehicle operations occurring wholly within that State, unless the Secretary affirmatively finds upon review of a State's hour-or-service regulations that such regulations—

(1) materially diminish commerical motor vehicle safety or the health and safety of employees;

(2) are not required by compelling local conditions; or

(3) unduly burden interstate commerce.

If the Secretary makes such an affirmative determination, the Secretary may require such State to adopt federal hour-of-service regulations.

(h) The Secretary shall conduct a study of the safety performance of commercial motor vehicles operating in intrastate commerce. This study shall examine the effectiveness of individual State regulations governing such transportation in promoting safety in commercial motor vehicle safety operations. Such study shall also investigate the need to subject such transportation to the Federal commercial motor vehicle safety regulations, either in whole or in part. The Secretary shall submit to Congress a report on the findings of this investigation and study not later than two years after the date of enactment of this Act.

INSPECTION

SEC. 312. (a) Upon the instruction of a duly authorized State or Fedral enforcement official, each commerical motor vehicle shall be required to pass an inspection of all safety equipment required under part 393 of subchapter B of Chapter 3 of title 49, Code of Federal Regulations

(b) The Secretary shall, by rule, establish Federal standards for inspections of commercial motor vehicles no less often than annually, and retention by employers of records of such inspections. Such standards are to be considered minimum Federal standards.

(c) Nothing in this title shall be construed as preventing any State or voluntary group of States from imposing more stringent standards for use in their own periodic roadside inspection programs.

(d) Not later than 60 days after the date of enactment of this Act, the Secretary shall initiate a rulemaking to afford interested parties an opportunity to comment on such part 393 and the inspection or retention procedure established pursuant to subsection (b) of this section. Amendments to the regulations shall be issued and published in the Federal Register not later than 1 year after such rulemaking is initiated. The amended regulations shall become effective on the date on which they are published in the Federal Register.

(e) A periodic inspection of a commercial motor vehicle in accordance with Federal standards established pursuant to subsection (b) of this section shall be recognized as adequate in every state for the period of such inspection. The provisions of this subsection shall not be deemed to prohibit a State from making random inspections of commercial motor vehicles.

CERTIFICATION OF SAFETY FITNESS

SEC. 313. (a) The Secretary, in cooperation with the Interstate Commerce Commission, shall by rule, after notice and opportunity for comment, establish a procedure to determine the safety fitness of commercial motor vehicles, including persons seeking new or additional operating authority as motor carriers of property or passengers under sections 10922 and 10923 of title 49, United States Code such procedure shall include—

(1) specific initial and continuing requirements to be met by such persons to prove safety fitness;

(2) a means of determining whether such persons meet the safety fitness requirements specified under paragraph (1); and

(3) specific time deadlines for action by the Department of Transportation and Interstate Commerce Commission in making fitness determinations.

(b) Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a copy of the precedure established under subsection (a) of this section.

(c) The rules adopted under this section shall supersede all rules in effect on the date of enactment of this Act regarding safety fitness and safety rating of motor carriers.

(d) Notwithstanding any other provision of law, the Interstate Commerce Commission shall find any applicant for authority to operate as a motor common or contract carrier to be unfit if the applicant does not meet the safety fitness requirements established under subsection (a) of this section, and shall deny such application.

HEAVY TRUCK RESEARCH

SEC. 314. (a) The Secretary shall undertake a comprehensive study of safety characteristics of heavy trucks, the unique problems related to heavy trucks, and the manner in which such trucks are driven. Such study shall include an examination of the handling, braking, stability, and crashworthiness of heavy trucks, and an examination of the programs and needs of enforcement agencies to assure compliance with traffic laws by commercial motor vehicle drivers. Not later than September 30, 1985, the Secretary shall submit to the Congress a report on the findings of such study.

(b) There are authorized to be appropriated from fiscal years 1985 and 1986 such sums as may be necessary to conduct the research required under subsection (a) of this section.

TRUCK OCCUPANT PROTECTION

SEC. 315. (a) The Secretary shall make a full investigation and study of crash protection for truck occupants. Such study shall examine potential and known hazards to truck occupants and means of improving truck-occupant safety. This study shall also include potential performance standards to be met by truck manufacturers. The Secretary shall submit to Congress a report on the findings of this investigation and study not later than 1 year after the date of enactment of this Act.

(b) There are authorized to be appropriated for fiscal years 1985 and 1986 such sums as may be necessary to undertake the study required by subsection (a) of this section.

STUDY OF SAFETY-RELATED DEVICES

SEC. 316. (a) The Secretary shall conduct a study of the effectiveness of existing regulations regarding emergency warning devices required to be carried on buses, trucks, truck-tractors, and motor-driven vehicles which are involved in emergency situations. Such study shall also investigate the potential costs and benefits of requiring passenger automobile operators to carry emergency warning devices, and shall examine the relative benefits of various types of warning devices in enhancing highway safety. The Secretary shall submit to the Congress a report containing the findings of this study not later than 6 months after the date of enactment of this Act.

(b) There are authorized to be appropriated for fiscal years 1985 and 1986 such sums as may be necessary to undertake the study required by this section.

OVERSIGHT

SEC. 317. The appropriate authorizing Committees of the Congress shall conduct periodic oversight hearings on the effects of this title no less often than annually for the first 3 years following the date of enactment of this Act, to insure that this title is being implemented according to congressional intent and the purposes of this title.

RELATIONSHIP TO OTHER LAW

SEC. 318. The provisions of this title shall not affect in any way any provision of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.) or any regulation promulgated by the Secretary under such Act.

AMENDMENT TO MOTOR CARRIER ACT OF 1980

SEC. 319. Section 30(b)(3) of the Motor Carrier Act of 1980 (Public Law 96-296; 94 Stat. 821) is amended—

(1) by striking "and" immediately before "(B)"; and

(2) by inserting immediately before the period at the end thereof the following: ", and (C) in the case of any agricultural vehicle transporting any such material or substance in interstate commerce other than in bulk, the Secretary, by regulation, may reduce such amount if the Secretary finds that such reduction will not adversely affect public safety".

(b) Section 30(g) of such Act is amended—

(1) by redesignating paragraphs (1), (2) and (3) as paragraphs (2), (3) and (4), respectively; and

(2) by inserting immediately before paragraph (1), as so redesignated, the following new paragraph:

"(1) 'agricultural vehicle' means any vehicle which (A) is designed or adapted and used exclusively for agricultural purposes, (B) is operated by a motor private carrier (as such term is defined in section 10102(15) of title 49, United States Code), and (C) is only incidentally operated on the highways;".

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent to withdraw the title amendment reported by the committee.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I send a title amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The title amendment will be stated.

The legislative clerk read as follows:

Amend the title so as to read: "A bill to provide for exemptions, based on safety concerns, from certain length and width limitations for commercial motor vehicles, and for other purposes.".

The PRESIDING OFFICER. The question is on agreeing to the title amendment.

The title amendment was agreed to.

GEORGIA WILDERNESS ACT OF 1984

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1192, S. 2773.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2773) to designate certain National Forest System lands in the State of Georgia to the National Wilderness Preservation System, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Agriculture, Nutrition, and Forestry, with an amendment to strike out all after the enacting clause, and insert the following:

That this Act may be cited as the "Georgia Wilderness Act of 1984".

DESIGNATION OF WILDNERNESS AREAS

SEC. 2. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands in the State of Georgia are hereby designated as wilderness and, therefore, as components of the National Wildlife Preservation System:

(1) certain lands in the Chattahoochee National Forest, Georgia, which comprise approximately two thousand acres, as generally depicted on a map entitled "Ellicott Rock Wilderness Addition—Proposed," dated June 1984, and which are hereby incorporated in, and shall be deemed to be part of, the Ellicott Rock Wilderness as designated by Public Law 93-622; and

(2) certain lands in the Chattachoochee National Forest, Georgia, which comprise approximately twelve thousand four hundred and thirty-nine acres, as generally depicted on a map entitled "Southern Nanta-

hala Wilderness—Proposed," dated June 1984, and which shall be known as the Southern Nantahala Wilderness.

MAPS AND DESCRIPTIONS

SEC. 3. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map and description may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

ADMINISTRATION OF WILDERNESS

SEC. 4. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordacne with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

EFFECT OF RARE II

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Georgia and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than Georgia, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Georgia;

(2) with respect to the National Forest System lands in the State of Georgia which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Georgia reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Georgia are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Georgia for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, or as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to National Forest System roadless lands in the State of Georgia, which are less than five thousand acres in size.

(e) The provisions of this section shall not apply to—

(1) the Georgia portion of the Big Frog Wilderness Study Area as designated by Public Law 93-622; and

(2) the following areas in the Chattahoochee National Forest, Georgia, as generally depicted on a map entitled "Chattahoochee National Forest RARE II Inventory," dated June 1984, and which are known as—

(A) "Raven Cliff," comprising approximately nine thousand one hundred acres;

(B) "Overflow," comprising approximately five thousand acres;

(C) "Blood Mountain," comprising approximately nine thousand four hundred acres;

(D) "Chattahoochee River," comprising approximately twenty-one thousand six hundred acres;

(E) "Tray Mountain," comprising approximately thirty-six thousand six hundred acres;

(F) "Hemp Top," comprising approximately two thousand seven hundred acres;

(G) "Mountain Town," comprising approximately six thousand seven hundred acres;

(H) "Rich Mountain," comprising approximately fifteen thousand six hundred acres;

(I) "Brasstown," comprising approximately three thousand six hundred acres; and

(J) "Wolf Pen," comprising approximately seven thousand seven hundred acres.

These areas shall be considered for all uses, including wilderness, during preparation of a forest plan for the Chattahoochee National Forest pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended.

AMENDMENT NO. 6913

(Purpose: To clarify that the Proposed Southern Nantahala Wilderness will be an addition to the existing Southern Nantahala Wilderness)

Mr. STEVENS. Mr. President, I send an amendment to the desk in behalf of Senators HELMS, NUNN, and MATTINGLY, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated by title.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. HELMS, for himself, Mr. NUNN, and Mr. MATTINGLY, proposes an amendment numbered 6913.

On page 8, line 3, insert "Addition" immediately after "Wilderness".

On page 8, lines 4 and 5, strike out "shall be known as the Southern Nantahala Wilderness" and insert in lieu thereof "are hereby incorporated in, and shall be deemed to be part of, the Southern Nantahala Wilderness as designated by Public Law 98-324".

Mr. HELMS. Mr. President, this amendment would merely clarify that the Southern Nantahala Wilderness to be designated by the bill would be an addition to the existing Southern Nantahala Wilderness and would be incorporated in, and deemed to be part of, that existing wilderness. Earlier this year, the North Carolina Wilderness Act of 1984 (Public Law 98-324) designated certain lands in the Nantahala National Forest, NC, as the Southern Nantahala Wilderness. The bill designates certain lands in the Chattahoochee National Forest, GA, also as the Southern Nantahala Wilderness. The amendment merely makes it clear that the area designated by the bill would be considered part of the existing wilderness area.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6913) was agreed to.

Mr. HELMS. Mr. President, today we are considering four wilderness bills which were reported by the Senate Committee on Agriculture, Nutrition, and Forestry. Bills to designate wilderness in the States of Georgia, Mississippi, Texas, and Tennessee will be considered by the Senate. Each of these bills will add important new areas to the National Wilderness Preservation System.

Each bills also incorporates the standard "release language" that was agreed to earlier this year and has been included in wilderness bills already enacted for North Carolina, Wisconsin, Vermont, and New Hampshire. Other amendments to the bills are covered in some detail in the committee report. Also, an additional amendment will be offered to the bill for Georgia to clarify a map reference.

Let me briefly describe each of the bills in order.

As reported by committee, the Georgia Wilderness Act of 1984 (S. 2773) would designate two areas, totaling approximately 14,439 acres, as wilderness in the Chattahoochee National Forest. Both the Southern Nantahala and Ellicott Rock designations would be additions to existing wilderness areas on the boundary between North Carolina and Georgia. The additional amendment is technical in nature and would correct the name and map reference for the Southern Nantahala area.

The Mississippi National Forest Wilderness Act of 1984 was reported by the committee with a technical amendment. The bill (S. 2808) designates two new wilderness areas, totaling 5,500 acres, in the southeastern part of the State of Mississippi.

H.R. 3788, the Texas Wilderness Act of 1984 would designate as wilderness 34,346 acres in five areas. As amended by the committee, the bill encourages the Secretary of Agriculture to complete several exchanges of land which lie within the boundaries of the proposed wilderness areas. The bill would also give holders of existing timber contracts the option to cancel those contracts with the Forest Service. In addition, the bill provides for a boundary adjustment that would delete approximately 54 acres from the proposed Indian Mounds Wilderness area on which there is an existing timber sale contract.

As reported by the committee, the Tennessee Wilderness Act of 1984 would designate as wilderness three areas, totaling almost 25,000 acres in the Cherokee National Forest in the State of Tennessee. Release language in the bill covers those counties (Polk and Monroe) for which wilderness designations were considered at this time. The bill would also designate two areas, totaling approximately 7,800 acres, as wilderness study areas and require the Secretary to review the suitability of these areas for wilderness preservation during the preparation of the initial land management plan.

Mr. President, I am pleased today that the committee is able to offer an additional four wilderness bills for passage. Each of these bills is reasonable, and provides for the continuation of responsible management of the National Forest System. I would like to commend the Senators from each of the four States represented for the work and effort that they and their staffs have put into these bills. I would also like to thank the members of the Committee on Agriculture, Nutrition, and Forestry, especially Senator JEPSEN, the chairman of the Subcommittee on Soil and Water Conservation, Forestry, and Environment, for the competent job that he has done. The Senator from Iowa has held five hearings on wilderness legislation in this session of Congress.

The passage of these four bills will bring the total number of eastern wilderness bills passed by the Committee on Agriculture, Nutrition, and Forestry to eight for this session. These wilderness designations will enhance the beauty and recreational benefits of our National Forest System lands for present and future generations. At the same time, these designations complete a process of study, hard work, and compromise that has gone on in some States for almost a decade. Passage of these bills will also provide for a continuation of the orderly and efficient management of our national forests that is provided so ably by the employees of the Forest Service.

THE GEORGIA, MISSISSIPPI, TEXAS, TENNESSEE, AND PENNSYLVANIA WILDERNESS BILLS

Mr. HUDDLESTON. Mr. President, today the Senate is considering legislation, reported by the Committee on Agriculture, Nutrition, and Forestry, to designate new wilderness areas in the States of Georgia, Mississippi, Texas, Tennessee, and Pennsylvania.

The five bills being considered today are among the numerous single-State wilderness bills before Congress this year, and they are the result of extensive study by the Forest Service and substantial involvement by the public. Each of the bills contains the compromise release language recently enacted in other wilderness legislation.

THE GEORGIA WILDERNESS ACT

S. 2773, the Georgia wilderness bill, as amended by the committee, would designate approximately 14,439 acres of land in two areas of the Chattahoochee National Forest as wilderness. In addition, the bill would maintain the current status of first, the Georgia portion of the Big Frog Wilderness Study Area of the Cherokee National Forest, as designated by the Eastern Wilderness Act, and second, 10 specified areas in the Chattahoochee National Forest. The areas in the Chattahoochee National Forest would be considered for all uses, including wilderness, during the preparation of a forest plan for the national forest under the Forest and Rangeland Renewable Resources Planning Act of 1974.

THE MISSISSIPPI NATIONAL FOREST WILDERNESS ACT

S. 2808, the Mississippi wilderness bill, as amended by the committee, would add two areas comprising approximately 5,500 acres of land in the De Soto National Forest in the State of Mississippi to the Wilderness Preservation System.

THE TEXAS WILDERNESS ACT

H.R. 3788, the Texas wilderness bill, as amended by the committee, would designate five areas in Texas—two areas in the Angelina National Forest and one area each in the Davy Crockett, Sabine, and Sam Houston National Forests—comprising approximately 34,346 acres of land in total, as wilderness.

Inasmuch as some of the land within two of the areas to be designated as wilderness is owned by a private corporation, the bill contains language that encourages the Secretary of Agriculture to use existing legal authority to exchange national forest lands outside these areas for such privately held lands.

The bill also contains provisions for the voluntary cancellation of existing contracts for timber on land located wholly or partially within three of the areas without the payment of damages by either the contractors or the Forest Service. I understand that the purchasers of timber on this land are willing to cancel their contracts, and these provisions of the bill should provide a cost-efficient method of resolving the problems associated with the outstanding timber sales. In its report on H.R. 3788, the committee states that, if a purchaser of timber on these lands should decide not to cancel the contract, the harvesting of timber under such circumstances should not be considered a precedent for allowing the extraction of timber in other wilderness areas.

THE TENNESSEE WILDERNESS ACT

H.R. 4263, the Tennessee wilderness bill, as amended by the committee, would designate certain lands in the Cherokee National Forest as wilderness and wilderness study areas. The bill would designate approximately 24,942 acres in three areas as wilderness and 7,800 acres in two areas for wilderness study. The bill does not cover Forest Service lands in Tennessee that lie north and east of the Great Smoky Mountains National Park. Land in those areas of Tennessee that may be suitable for wilderness designation will be subject to consideration at a later date.

THE PENNSYLVANIA WILDERNESS ACT

H.R. 5076, the Pennsylvania wilderness bill, as amended by the committee, would establish two wilderness areas totaling approximately 9,705 acres in the Allegheny National Forest. The Secretary of Agriculture would be authorized to acquire, by purchase, donation, or exchange, privately held lands or interests in land—including oil, gas, and other mineral interests and scenic easements—within these areas. The bill would authorize the appropriation of up to $2 million for this purpose. The bill also contains a provision to preclude the establishment of buffer zones around the wilderness area.

In addition, H.R. 5076 would establish a new national recreational area of approximately 23,100 acres of land in the Allegheny National Forest. This national recreation area would be ad-

ministered in accordance with the purposes of the area as enumerated in the bill, and the Secretary of Agriculture would be required to develop a comprehensive management plan for the area. All federally owned land in the recreation area would be withdrawn from appropriation under the mining laws and disposition under the mineral leasing laws, subject to valid existing rights.

I understand that an amendment to the committee amendment has been developed to further clarify the manner in which the new national recreation area will be managed. The amendment will resolve certain concerns expressed by the Pennsylvania delegation of this issue. I urge adoption of the amendment when H.R. 5076 is considered.

RELEASE LANGUAGE

Mr. President, these five bills reported by the Committee on Agriculture, Nutrition, and Forestry provided the first opportunity for the committee to consider the compromise release and sufficiency language that was enacted in other wilderness legislation earlier this year. Because it is important that there is a clear understanding of the manner in which the release and sufficiency language in statewide wilderness acts will operate, I addressed a number of questions to the Department of Agriculture as to its interpretation of certain provisions of the compromise release and sufficiency language contained in these bills.

The Department's response to these questions, as well as other questions relating to these bills, are contained in a letter to me dated July 18, 1984, from R. Max Peterson, Chief, Forest Service, Department of Agriculture. I ask unanimous consent that Chief Peterson's letter be printed in the RECORD at the conclusion of my remarks.

CONCLUSION

The five wilderness bills before the Senate today will help alleviate much of the uncertainty involved in the management of national forest lands in the States of Georgia, Mississippi, Texas, Tennessee, and Pennsylvania. They will provide for the preservation of thousands of acres of pristine land to these States for the enjoyment and use of our citizens.

There is a committee amendment to each of the five bills in the nature of a substitute. The committee substitutes are intended primarily to ensure that each bill contains the compromise release and sufficiency language, to make necessary clerical changes, and to respond to Forest Service concerns.

I urge my colleagues to join me in approving the committee amendments—including the committee amendment to the Pennsylvania bill, H.R. 5076, as amended to clarify concerns of the Pennsylvania delegation—and voting for passage of the bills, as amended.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, DC,
July 18, 1984.

Hon. WALTER D. HUDDLESTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR HUDDLESTON: Following a hearing on May 24, 1984, Senator Helms requested that we answer your questions that were forwarded to us through the Senate Committee on Agriculture, Nutrition and Forestry. Following are your questions with our answers. Please contact us if you have any further questions.

1. Q. Does section 5(b)(2) of H.R. 3788 clearly reflect the intent of Congress that, for the purposes of the initial land management plans, lands reviewed under RARE II and lands described in section 5(d) have been given an adequate evaluation as to their suitability as wilderness?

A. Yes. The provision explicitly states that the roadless areas evaluated in RARE II, and the roadless areas less than 5,000 acres (section 5(d)) have been given adequate wilderness consideration for purposes of the National Forest Management Act of 1976.

Q. Is it possible that, with respect to lands described in section 5(d), a court would find that a "reference" does not constitute "adequate consideration"?

A. While the use of the word "reference" may not be as clear as we would perfer, we feel that it indicates that Congress has determined that the lands referred to in section 5(d) do not need additional wilderness evaluation until the forest plans are revised. If a court were to find the use of "reference" ambiguous, language in Committee reports clarifies congressional intent.

2. Q. Does section 5(b)(3) of H.R. 3788 only apply to the land management plans prior to their initial revision?

A. The direction that lands not designated as wilderness shall be managed for multiple-use is not limited to the first generation of plans, but extends for all rounds of planning. However, future plans following initial plans will consider wilderness where appropriate as a possible future use. The language after the proviso applies only to the initial plans.

Q. If it should be interpreted as having general application, (1) would the "multiple-use" requirement be consistent with the management requirements of section 5(b)(4) for lands recommended for wilderness, and (2) how would the "multiple-use" requirement in section 5(b)(3) apply to areas subsequently designated as wilderness?

A. (1) Yes. Wilderness is a multiple-use. The "multiple-use" requirement in section 5(b)(3) is to assure that the Forest Service shall manage nonwilderness areas according to the Forest plan.

A. (2) As noted above, wilderness is a multiple-use. Areas subsequently designated as wilderness will be managed as wilderness, and Forest plans will reflect the wilderness designation.

3. Q. Could section 5(b)(4) of H.R. 3788 be interpreted as requiring areas previously designated as wilderness to be reviewed each time a land management plan is revised?

A. No. The provision refers to the management of roadless areas prior to or during revision of the revised plans. The section does not require additional evaluation of designated wilderness areas.

4. Q. If a provision similar to section 5(b)(4) of H.R. 3788 is included in wilderness legislation that establishes wilderness study areas, for example, S. 2590, could such a provision be interpreted as not requiring the study areas to be administered so as to maintain their wilderness character if they are not recommended for wilderness in a "revised" plan?

A. The answer to this question depends on several factors. S. 2590, section 4(b), provides for protection of study areas until Congress determines otherwise. If section 4(b) of S. 2590 were deleted and language similar to that in section 5(b)(4) of H.R. 3788 were included, it would remove the requirement to protect the wilderness character of a study area upon a determination in a land management plan not to recommend the area for wilderness. We would, however, still be obligated to consider the wilderness resource in a future revision of a Forest plan even if language similar to section 5(b)(4) of H.R. 3788 were included.

5. Q. Could the provision of section 5(d) of H.R. 3788 be interpreted as excluding the areas described therein from further consideration for wilderness designation when the plans are revised as contemplated in section 5(b)(4)?

A. No. Section 5(d) provides that roadless areas less than 5,000 acres are treated the same as roadless areas evaluated in RARE II. If they remain roadless when subsequent plans are being prepared, they will be evaluated for their wilderness potential.

6. Q. Are there any provisions in H.R. 4263, the house passed version of the proposed "Tennessee Wilderness Act", that require the Forest Service to administer the "Big Frog Study Area" in a manner to maintain its wilderness character? If so, for what period of time are they to be so administered?

A. No. Since the "Big Frog Study Area" is not included in the protective provision of section 3(b) of H.R. 4263 and since the Committee report (H. Rept. 98–714) on page 4 states "Upon conclusion of the wilderness study, the Forest Service may manage the area in accordance with the uses recommended in its management plan for the Forest," it appears clear that upon completion of the study, if the area is not recommended for wilderness, continued protection of the area's wilderness character would not be required.

Sincerely,

R. MAX PETERSON,
Chief.

Mr. MATTINGLY. Mr. President, I want to take this opportunity to express my sincere gratitude to all of my Senate colleagues for their assistance and understanding in the passage today of S. 2773, the Georgia Wilderness Act of 1984. This legislation will add about 14,439 acres of National Forest Service lands to the existing National Wilderness System as had been requested by Senator NUNN and myself as well as the Forest Service. These two additional areas will be added to the existing five areas of wilderness in Georgia and will bring to approximately 415,000 acres the areas within the State which enjoy protection under the provisions of the National Wilderness Act. By adding the Ellicott Rock and the Southern Nantahala extension areas to the Wilderness

System, we will insure that the many diverse and unique natural features the encompass will be preserved for future generations of Americans to enjoy. Both areas are located in the Chattahoochee National Forest and contain distinctive plant and animal life, stands of virgin timber, streams unexcelled for swimming and fishing and steep high mountains. Of the many areas throughout this vast Nation which have been considered for wilderness designation, surely these two additions will someday be noted for their outstanding features. Ellicott Rock, located in the high ranges of the southern Appalachian chain of the Blue Ridge Mountains contains many notable mountain peaks and ridges as well as the Chattooga River, a national wild and scenic river which flows from north to south through the area. The larger of the two parcels, the addition to the existing southern Nantahala Wilderness, is one of the most remote and unique, rugged land masses south of the Great Smoky Mountains and is bisected by the Blue Ridge divide. With most of the area's elevation above 3,000 feet, it contains Georgia's third and fourth highest peaks. A prominent landmark also is the standing Indian Peak which reaches to 5,499 feet, and nearby are found the headwaters of the Nantahala River. Within the same area, both the Tallulah River and the Coleman Rivers find their origins.

Mr. President, I think my colleagues can be proud of this important addition of our efforts to maintain and preserve such natural beauty and resources for the future. Again, I thank them for demonstrating their continued support for the development of the wilderness concept and for helping to preserve these two areas of such great beauty and importance.

Mr. NUNN. Mr. President, I am delighted that the Senate is considering today S. 2773, the Georgia Wilderness Act of 1984, legislation Senator MATTINGLY and I introduced which would protect two areas of the Chattahoochee National Forest—Southern Nantahala and Ellicott Rock—as a part of the National Wilderness Preservation System. Our legislation is intended to preserve in perpetuity two of the most beautiful natural areas in Georgia's mountains. The Senate Agriculture Committee unanimously approved this measure and I urge the full Senate to approve this legislation today.

The exceptional wilderness quality of a portion of the Ellicott Rock area was recognized by Congress in 1975 when the 3,584 acre Ellicott Rock Wilderness was established. During the Forest Service RARE II study, completed in 1979, an additional 2,000 acres—approximately—in Georgia was recognized by the agency as meeting the qualifications for wilderness designation. This addition to the existing Ellicott Rock Wilderness is characterized by steep, rugged terrain. The Chattooga Wild and Scenic River flows through the center of the area, its gorge forming a dramatic contrast with the surrounding mountains. Numerous threatened or endangered plant and animal species will be protected by adding this area to the Wilderness System.

The second area designated by our bill, the Southern Nantahala, overlaps the North Carolina State boundary, and is considerably larger than the addition to the Ellicott Rock Wilderness. This 12,439 acres would protect the headwaters of the Tallulah River along with many remote and scenic peaks. The slopes of this mountain mass are very steep, producing hundreds of scenic cliffs and waterfalls. Its many coves, unique balds, and bogs are home to a wide variety of plant life, some of which are rare and endangered. Wildlife is abundant, with black bear, deer, wild hog, wild turkey, brook trout, and possibly the endangered eastern cougar native to the area. This lush wildland is traversed by 26 miles of the Appalachian Trail, which then continues on some 2,000 miles to Mount Katahdin in Maine.

Mr. President, a large number of areas were included in the RARE II study. The following RARE II areas will remain in a protected status by the National Forest Service and can be considered for all uses, including wilderness as part of the ongoing forest management plan:

First. "Raven Cliff," comprising approximately 9,100 acres;

Second. "Overflow," comprising approximately 5,000 acres;

Third. "Blood Mountain," comprising approximately 9,400 acres;

Fourth. "Chattahoochee River," comprising approximately 21,600 acres;

Fifth. "Tray Mountain," comprising approximately 36,600 acres;

Sixth. "Hemp Top," comprising approximately 2,700 acres;

Seventh. "Mountain Town," comprising approximately 6,700 acres;

Eighth. "Rich Mountain," comprising approximately 15,600 acres;

Ninth. "Brasstown," comprising approximately 3,600 acres; and

Tenth. "Wolf Pen," comprising approximately 7,700 acres.

Those areas included within RARE II and not mentioned above are released from further evaluation for possible wilderness designation.

Senator MATTINGLY and I recognize the importance of protecting the Ellicott Rock and Southern Nantahala areas for the benefit and enjoyment of future generations. These areas will provide recreational opportunities for the rapidly growing number of people who seek undeveloped, primitive types of outdoor experiences. Moreover, these areas will lend themselves well to scientific research, provide outdoor education laboratories, protect valuable watersheds, water quality, and wildlife habitat. They will be a legacy for future generations of Americans to use and enjoy.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute amendment.

The committee amendment in the nature of a substitute as amended was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as amended, as follows:

S. 2773

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Georgia Wilderness Act of 1984".

DESIGNATION OF WILDERNESS AREAS

SEC. 2. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands in the State of Georgia are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the Chattahoochee National Forest, Georgia, which comprise approximately two thousands acres, as generally depicted on a map entitled "Ellicott Rock Wilderness Addition—Proposed", dated June 1984, and which are hereby incorporated in, and shall be deemed to be part of, the Ellicott Rock Wilderness as designated by Public Law 93-622; and

(2) certain lands in the Chattahoochee National Forest, Georgia, which comprise approximately twelve thousand four hundred and thirty-nine acres, as generally depicted on a map entitled "Southern Nantahala Wilderness Addition—Proposed", dated June 1984, and which are hereby incorporated in and shall be deemed to be part of, the Southern Nantahala Wilderness as designated by Public Law 98-324.

MAPS AND DESCRIPTIONS

SEC. 3. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map and description may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

ADMINISTRATION OF WILDERNESS

SEC. 4. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas

designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

EFFECT OF RARE II

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Georgia and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than Georgia, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Georgia;

(2) with respect to the National Forest System lands in the State of Georgia which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1979, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Georgia reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: Provided, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Georgia are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Georgia for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to National Forest System roadless lands in the State of Georgia which are less than five thousand acres in size.

(e) The provisions of this section shall not apply to—

(1) the Georgia portion of the Big Frog Wilderness Study Area as designated by Public Law 93-622; and

(2) the following areas in the Chattahoochee National Forest, Georgia, as generally depicted on a map entitled "Chattahoochee National Forest RARE II Inventory", dated June 1984, and which are known as—

(A) "Raven Cliff", comprising approximately nine thousand one hundred acres;

(B) "Overflow", comprising approximately five thousand acres;

(C) "Blood Mountain", comprising approximately nine thousand four hundred acres;

(D) "Chattahoochee River", comprising approximately twenty-one thousand six hundred acres;

(E) "Tray Mountain", comprising approximately thirty-six thousand six hundred acres;

(F) "Hemp Top", comprising approximately two thousand seven hundred acres;

(G) "Mountain Town", comprising approximately six thousand seven hundred acres;

(H) "Rich Mountain", comprising approximately fifteen thousand six hundred acres;

(I) "Brasstown ", comprising approximately three thousand six hundred acres; and

(J) "Wolf Pen", comprising approximately seven thousand seven hundred acres.

These areas shall be considered for all uses, including wilderness, during preparation of a forest plan for the Chattahoochee National Forest pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended.

The title was amended so as to read:

A bill to designate certain National Forest System lands in the State of Georgia as wilderness, and for other purposes.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MISSISSIPPI WILDERNESS ACT

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1194, S. 2808.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 2808) to designate certain National Forest System lands in the State of Mississippi as wilderness, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Agriculture, Nutrition, and Forestry, with an amendment to strike out all after the enacting clause, and insert the following:

That this Act may be cited as the "Mississippi National Forest Wilderness Act of 1984".

DESIGNATION OF WILDERNESS AREAS

SEC. 2. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands in the State of Mississippi are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the De Soto National Forest, Mississippi, which comprise approximately four thousand five hundred and sixty acres, as generally depicted on a map entitled "Proposed Black Creek Wilderness", dated January 1979, and which shall be known as the Black Creek Wilderness; and

(2) certain lands in the De Soto National Forest, Mississippi, which comprise approximately nine hundred and forty acres, as generally depicted on a map entitled "Proposed Leaf Wilderness", dated January 1979, and which shall be known as the Leaf Wilderness.

MAPS AND DESCRIPTIONS

SEC. 3. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map and description may be made by the Secretary. Each such map and description shall be on file available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

ADMINISTRATION OF WILDERNESS

SEC. 4. Subject to valid existing rights, each wilderness area designated by this Act shall be administrated by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

EFFECT OF RARE II

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Mississippi, and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than Mississippi, such statement shall not be subject to ju-

dicial review with respect to National Forest System lands in the State of Mississippi;

(2) with respect to the National Forest System lands in the State of Mississippi which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Mississippi reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Mississippi are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Mississippi for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to—

(1) those National Forest System roadless lands which were evaluated in the Delta unit plan dated February 1976; and

(2) National Forest System roadless lands in the State of Mississippi which are less than five thousand acres in size.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

Mr. COCHRAN. Mr. President, Senate bill 2808 utilizes the recent compromise release language to designate two areas in the DeSoto National Forest in southeastern Mississippi as wilderness. The Black Creek area is 4,560 acres in size and is located in Perry County. The Leaf area is 940 acres in size and is located in Greene County. The combined acreage of these two areas is approximately 5,500 acres. Both areas are excellent representatives of the outer coastal plain ecosystem.

The Black Creek area includes 5 miles of Black Creek which is also being studied by the Forest Service for possible designations in the National Wild and Scenic River System and Beaverdam Creek which is a narrow winding tree-covered stream. The Leaf area is a mosaic of creeks, sloughs, bluffs, and lakes. Both areas have a variety of hardwood and pine timber types that provide a valuable and diverse habitat for wildlife and bird species.

Currently, there are no wilderness areas in Mississippi. These two areas were recommended by the Forest Service for wilderness designation in 1979 as a result of the national roadless area review and evaluation [RARE II]. Since that time, many groups and citizens in Mississippi, and across the Nation, have supported wilderness designation for these two areas.

I thank all Mississippians who have been actively involved in the wilderness designation issues over the years. Through citizen involvement, we have developed an important agreement that will assure the preservation of an important part of Mississippi heritage for all generations to study and enjoy.

Mr. President, I urge my colleagues to support this bill, S. 2808, the Mississippi National Forest Wilderness Act of 1984.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TEXAS WILDERNESS ACT

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1195, H.R. 3788.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3788) to designate various areas as components of the National Wilderness Preservation System in the national forest in the State of Texas.

The Senate proceeded to consider the bill which had been reported from the Committee on Agriculture, Nutrition, and Forestry, with an amendment to strike out all after the enacting clause, and insert the following:

That this Act may be cited as the "Texas Wilderness Act of 1984".

DESIGNATION OF WILDERNESS AREAS

SEC. 2. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands in the State of Texas are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the Angelina National Forest, Texas, which comprise approximately five thousand four hundred acres, as generally depicted on a map entitled "Turkey Hill Wilderness—Proposed", dated March 1984, and which shall be known as the Turkey Hill Wilderness;

(2) certain lands in the Angelina National Forest, Texas, which comprise approximately twelve thousand acres, as generally depicted on a map entitled "Upland Island Wilderness—Proposed", dated March 1984, and which shall be known as the Upland Island Wilderness;

(3) certain lands in the Davy Crockett National Forest, Texas, which comprise approximately three thousand acres, as generally depicted on a map entitled "Big Slough Wilderness—Proposed", dated March 1984, and which shall be known as the Big Slough Wilderness;

(4) certain lands in the Sabine National Forest, Texas, which comprise approximately nine thousand nine hundred and forty-six acres, as generally depicted on a map entitled "Indian Mounds Wilderness—Proposed", dated September 1984, and which shall be known as the Indian Mounds Wilderness; and

(5) certain lands in the Sam Houston National Forest, Texas, which comprise approximately four thousand acres, as generally depicted on a map entitled "Little Lake Creek Wilderness—Proposed", dated March 1984, and which shall be known as the Little Lake Creek Wilderness.

MAPS AND DESCRIPTIONS

SEC. 3. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map and description may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief

of the Forest Service, Department of Agriculture.

ADMINISTRATION OF WILDERNESS

SEC. 4. (a) Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

(b) The Congress finds that the Indian Mounds and Upland Island Wilderness areas designated by this Act contain significant amounts of intermingled lands owned by the Temple-Eastex Incorporated and that in order to manage the wilderness in an efficient and effective manner it is in the public interest that these lands be owned by the Federal Government. Accordingly, the Secretary is encouraged to expeditiously acquire by exchange the intermingled lands owned by Temple-Eastex Incorporated. The lands acquired by the United States under the provisions of this section shall become parts of the Sabine and Angelina National Forests, respectively and shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System and the National Wilderness Preservation System, as appropriate.

(c) Any purchaser under an existing timber sale contract wholly or partially within the boundaries of the Indian Mounds, Upland Islands, or Little Lake Creek Wilderness areas designated by this Act shall be entitled, for a period of ninety days following the date of enactment of this Act, to enter into an agreement with the Secretary to mutually cancel the timber sale contract without payment of damages by either party if the contract is not in breach and if the purchaser has completed its contractual obligations to logical stopping points as determined by the Secretary after consultation with the purchaser: *Provided,* That upon satisfaction of all such contract requirements, moneys held by the Forest Service for payment of timber to be cut under the contract shall be returned to the purchaser with interest payable from the date the moneys were deposited with the Forest Service at the rate published for use under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611).

EFFECT OF RARE II

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in Texas and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than Texas, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Texas;

(2) with respect to the National Forest System lands in the State of Texas which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Texas reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided,* That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Texas are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Texas for the purpose of determinig their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to national forest system roadless lands in the State of Texas which are less than five thousand acres in size.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

Mr. TOWER. Mr. President, despite the fact that Texas is the second largest State in the country, it offers only one wilderness area in the far western part of the State. The area is not readily accessible to most Texans. This bill would set aside as wilderness about 34,000 acres of national forest land in east Texas. The new wilderness designation would preserve a portion of the valuable Piney Woods, assuring a wilderness heritage within easy reach of Texas' most populous cities.

The five areas from which the wilderness will be designated—Graham Creek, Turkey Hill, Indian Mounds, Big Slough, and Little Creek—offer a rich and diverse sampling of natural ecosystems. Hardwoods, including the rare mature beech-magnolia forest, and numerous species of wildflowers, particularly rare orchids, are but a sampling of the beauty and history offered by these forest lands. This plant life is complemented by a varied offering of birds, insects, and reptiles.

The wilderness designation will prohibit clearcutting and road building; yet certain soil conservation and watershed protection procedures will be allowed. Mineral interests will continue to be held by private sources. Management costs of these areas will be low since wilderness manages itself.

This bill would set aside as wilderness less that 5 percent of the national forest land in Texas, a modest proposal which I urge my colleagues to support.

As the fortunes of our great State have increased, so has its population. While I remain a strong supporter of growth and development, I recognize the need to preserve for this and future generations the spectacular beauty of some of east Texas' most impressive forest lands.

Mr. BENTSEN. Mr. President, I am pleased to bring this Texas wilderness bill before the Senate, and I urge the passage of this bill. I introduced this bill in the Senate along with the distinguished senior Senator from Texas, Senator TOWER. A similar bill was introduced in the House by the able Congressman from Dallas, Congressman JOHN BRYANT, and has passed the House by voice vote.

This legislation will designate about 34,000 acres of Federal land as components of the National Wilderness Preservation System, thereby ensuring that they will remain unspoiled for the enjoyment of future generations. These five new wilderness areas are in the national forests of east Texas.

This bill is essentially identical to the bill which passed the House. We have made a few minor changes in the Senate bill to satisfy concerns raised by the U.S. Forest Service, but these changes do not detract from the essence of the bill, and all concerned parties have agreed to them.

One change involves a proposed land exchange between the Forest Service and Temple-Eastex, Inc. This exchange was mandated in the House bill, but has been deleted at the insistence of the Forest Service. It is our understanding that discussions of this exchange have taken place between

the Forest Service and Temple-Eastex, and that both parties intend to go forward with the exchange. The committee report on this bill states that "the committee expects that the Secretary will work diligently to make the land exchanges with Temple-Eastex." I see no reason why the exchange should not be able to be carried out administratively, as the Forest Service wishes, but this will continue to be an item of concern with this Senator until the exchange has been completed. It is my hope as well that this exchange will be completed expeditiously.

Another small change involves the method of handling certain timber sales contracts which are in effect in three of these proposed wilderness areas. Rather than terminating these contracts legislatively as proposed by the House, this bill gives the timber companies the the option to cancel these contracts within 90 days without cost to themselves or the Government. All of the companies involved have stated that they would cancel their contracts under these conditions. This will respect these contracts, which are rights held by the companies, and will also see to it that there will be no timber cutting which would affect these wilderness areas. This provision does not in any way establish any precedents with respect to timber harvesting in wilderness areas.

The last change deletes about 54 acres from the Indian Mounds Wilderness Area. The timber on this tract has been sold and the purchaser does not want to cancel the contract, and the Forest Service does not want to exchange this timber for an equivalent tract elsewhere. This boundary change will remove the area to be harvested, but will retain and protect a unique bottomland hardwood site which is adjacent to this tract.

This bill has been a long time in the making. But the preservation of these unique and unspoiled areas is all the sweeter for the work that went into it.

I remember very well the long struggle to enact my legislation to establish the Big Thicket National preserve, to save the last unspoiled remnants of one of this Nation's truly unique ecological areas. There is an immense satisfaction in visiting those areas now, in feeling that special feeling of timelessness that is associated only with great natural beauty, and in knowing that our children's children will be able to stand where we stand today and savor the same beauty that we enjoy.

This legislation will extend permanent protection to five more unique and beautiful ecological areas of east Texas. Almost all of these areas are now owned by the Federal Government as part of the National Forest System. The sole exceptions to this are certain tracts associated with the Indian Mounds and Upland Islands Wilderness Areas. These tracts, which are needed to round out the borders of these wilderness areas, are now in private ownership. However, the current owner, Temple-Eastex Inc., has consented to exchange these lands for a similar amount of other Federal lands which are of comparable value. The Forest Service is directed to move expeditiously to work out this exchange using their current administrative authority.

These five areas—Big Slough, Little Lake Creek, Turkey Hill, Upland Island, and Indian Mounds—represent a broad spectrum of east Texas ecosystems, from hardwood bottomland to upland pine forests, from a permanent spring pool where pioneer wagon trains once watered to the largest longleaf pine tree in the Nation. These areas show off the best and most beautiful of these habitats.

The Big Slough Wilderness in the Davy Crockett National Forest is an outstanding example of an east Texas hardwood bottomland ecosystem, and this area boasts the Texas champion water elm as well as a wide variety of other plants and animals.

Little Lake Creek Wilderness, in the Sam Houston National Forest, encompasses both upland pine forests and hardwood bottomlands.

The Turkey Hill Wilderness, in the Angelina National Forest, contains clear creeks fed by seep springs, with upland pine areas and bottomland hardwood areas of beech and magnolia as well as oak and hickory trees.

The Upland Island Wilderness, in the Angelina National Forest, is one of the most diverse of these areas. It contains the largest tree in the national forests of east Texas, a bald cypress, the largest longleaf pine tree in the Nation, rock columns and a river suitable for canoeing.

The Indian Mounds Wilderness, in the Sabine National Forest, is the largest of these proposed wilderness areas, and it features a number of unique ecological groupings of plants as well as a permanent spring pool where pioneer wagon trains watered, fossil beds, and petrified rock.

All of these areas are relatively close to major population centers such as Dallas and Houston. The preservation of these unspoiled areas will help to meet the growing demand for recreational areas for our urban population and for tourists from other States while protecting these fragile resources for future enjoyment.

This legislation will also settle any possible questions about the roadless area review and evaluation process conducted by the U.S. Forest Service. It will specify that the remaining national forest lands in Texas that were studied under the RARE II process, but that are not designated as wilderness by this bill, will be released for normal multiple-use management by the Forest Service. Possible court challenges of the RARE II final environmental statement on these lands will be prohibited.

Mr. President, I am pleased that this compromise bill has been worked out, and I want to recognize two distinguished members of the Texas congressional delegation, Congressman JOHN BRYANT and Congressman CHARLES WILSON, for their successful efforts to work out this compromise. Congressman BRYANT is only in his first term in the House of Representatives, but he has demonstrated his leadership abilities in introducing this legislation in the House and in passing it there.

This legislation is supported by a wide range of environmental groups, sportsmen's groups, and others who care deeply about preserving the natural resources that make east Texas such a unique and beautiful area. I am pleased to have been able to help in this effort, and I urge the passage of this legislation.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TENNESSEE WILDERNESS ACT OF 1984

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 1196, H.R. 4263.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4263) to designate certain lands in the Cherokee National Forest, Tennessee, as wilderness areas, and to allow management of certain lands for uses other than wilderness.

The Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture, Nutrition, and Forestry, with an amendment to strike out all after the enacting clause, and insert the following:

That this Act may be cited as the "Tennessee Wilderness Act of 1984".

DESIGNATION OF WILDERNESS AREAS

SEC. 2. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the Cherokee National Forest, Tennessee, which comprise approximately five thousand and fifty-five acres, as generally depicted on a map entitled "Big Frog Wilderness—Proposed", dated April 1984, and which shall be known as the Big Frog Wilderness;

(2) certain lands in the Cherokee National Forest, Tennessee, which comprise approximately sixteen thousand acres, as generally depicted on a map entitled "Citico Creek Wilderness—Proposed", dated April 1984, and which shall be known as the Citico Creek Wilderness; and

(3) certain lands in the Cherokee National Forest, Tennessee, which comprise approximately three thousand eight hundred and eighty-seven acres, as generally depicted on a map entitled "Bald River Gorge Wilderness—Proposed", dated April 1984, and which shall be known as the Bald River Gorge Wilderness.

MAPS AND DESCRIPTIONS

SEC. 3. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map and description may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

ADMINISTRATION OF WILDERNESS

SEC. 4. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the dates of enactment of this Act.

EFFECT OF RARE II

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in Monroe and Polk Counties, Tennessee, and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands other than in Monroe and Polk Counties, Tennessee, such statement shall not be subject to judicial review with respect to National Forest System lands in Monroe and Polk Counties, Tennessee;

(2) with respect to the National Forest System lands in Monroe and Polk Counties, Tennessee, which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), except those lands designated for wilderness study upon enactment of this Act, that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in Monroe and Polk Counties, Tennessee, reviewed in such final environmental statement or referenced in subsection (d) and not designated as wilderness or for wilderness study upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans; and

(4) in the event that revised land management plans in Monroe and Polk Counties, Tennessee, are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to National Forest System roadless lands in Monroe and Polk Counties, Tennessee, which are less than five thousands acres in size.

DESIGNATION OF WILDERNESS STUDY AREAS

SEC. 6. (a) In furtherance of the purposes of the Wilderness Act, the following lands shall be reviewed by the Secretary of Agriculture as to their suitability for preservation as wilderness during preparation of the initial land management plan for the Cherokee National Forest pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended:

(1) certain lands in the Cherokee National Forest, which comprise approximately four thousand eight hundred acres, as generally depicted on a map entitled "Little Frog Wilderness Study Area—Proposed," dated April 1984, and which shall be known as the Little Frog Wilderness Study area; and

(2) certain lands in the Cherokee National Forest which comprise approximately three thousand acres, as generally depicted on a map entitled "Big Frog Study Area," dated April 1984.

(b) Subject to valid existing rights, the Little Frog Wilderness Study Area designated by this section shall, until Congress determines otherwise, be administered by the Secretary so as to maintain its presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

Mr. BAKER. Mr. President, with great enthusiasm, I thank my colleagues in the Senate for passing a bill of tremendous importance to my home State of Tennessee and to the entire Southeast region of our country.

The Tennessee Wilderness Act of 1984 designates almost 25,000 acres of national forest as wilderness, thereby ensuring the preservation of some of the most rugged, pristine, and awe-inspiring terrain Tennessee has to offer. In designating these lands as wilderness, the Congress and President Reagan demonstrate a shared commitment, not only to the conservation of public lands, but to a significant element of our national heritage as well. The implications of wilderness status for parts of the Cherokee National Forest extend beyond the sheer terrain and quiet beauty of the Great Smokies. In this bill, we have perpetuated a legacy and maintained America's heritage.

In this regard, I thank the subcommittee chairman Mr. JEPSEN, Senator HELMS, the chairman of the Agriculture Committee, and, of course, my colleague Mr. SASSER. Again, I emphatically thank and congratulate every Senator for joining me in this endeavor and helping to create the areas which I refer to collectively as the Cherokee Wilderness.

Mr. SASSER. Mr. President, I am pleased to join with my distinguished senior colleague, Mr. BAKER, in support of H.R. 4263, the Tennessee Wilderness Act of 1984. Enactment of this legislation represents an important milestone in the continuing efforts to preserve and protect our Nation's vast natural resources.

H.R. 4263 provides for the designation of three new wilderness areas in Tennessee—the Big Frog, Citico Creek and Bald River Gorge Wilderness Areas. These 24,942 acres constitute some of the finest wilderness land in the Eastern United States. The total wilderness designation under this bill represents only 8 percent of the southern half of the Cherokee National Forest.

In addition to the three wilderness areas designated under H.R. 4263, two areas, Little Frog and Big Frog, would be designated as wilderness study

areas. The Little Frog and Big Frog wilderness study areas offer a rugged, yet pristine quality which is compatible with wilderness protection.

Mr. President, I am pleased that we have been able to arrive at a workable compromise on wilderness related language. I commend the Tennessee Wilderness Act of 1984 to the full Senate for approval.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

Mr. STEVENS. Mr. President, I ask the Chair lay before the Senate (S. Res. 441) a budget waiver with respect to the consideration of S. 2736.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

A Senate resolution (S. Res. 441) waiving section 303(a) of the Congressional Budget Act of 1974 with respect to S. 2736.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the budget resolution.

The resolution (S. Res. 441) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 441

Whereas the provisions of S. 2736 as reported, the proposed "Veterans' Administration Benefit Rate Increase and Program Improvement Act of 1984", would make cost-of-living adjustments, effective December 1, 1984, in the rates of Veterans' Administration compensation for service-connected-disabled veterans and dependency and indemnity compensation for survivors of veterans who have died from service-connected causes and, effective October 1, 1984, in the rates of GI bill educational assistance and Veterans' Administration rehabilitation subsistence allowances; and

Whereas, since Senate consideration of S. 2736 at the present time, before a first concurrent resolution for fiscal year 1985 has been adopted, would violate section 303(a) of the Congressional Budget Act of 1974 in that the bill would provide new spending authority described in section 401(c)(2)(C) of that Act to become effective in fiscal year 1985, a waiver of section 303(a) of that Act is necessary to provide for the timely consideration of S. 2736: Now, therefore, be it

Resolved, That, pursuant to section 303(c) of the Congressional Budget Act of 1974, section 303(a) of that Act be waived with respect to S. 2736 as reported.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VETERANS' DISABILITY COMPENSATION ACT

Mr. STEVENS. Mr. President, I ask the Chair lay before the Senate Calendar Order 1185, S. 2736.

The legislative clerk read as follows:

A bill (S. 2736) to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans and to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans; and for other purposes.

The PRESIDING OFFICER. Is there objection to immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Veterans' Affairs with an amendment to strike out all after the enacting clause, and insert the following:

Senate amendment: Strike out all after the enacting clause and insert:Section 1.

SECTION 1. (a) This Act may be cited as the "Veterans' Administration Benefit Rate Increase and Program Improvement Act of 1984".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION

PART A—RATE INCREASES

DISABILITY COMPENSATION

SEC. 101. (a) Section 314 is amended—

(1) by striking out "$64" in subsection (a) and inserting in lieu thereof "$67";

(2) by striking out "$118" in subsection (b) and inserting in lieu thereof "$124";

(3) by striking out "$179" in subsection (c) and inserting in lieu thereof "$187";

(4) by striking out "$258" in subsection (d) and inserting in lieu thereof "$270";

(5) by striking out "$364" in subsection (e) and inserting in lieu thereof "$381";

(6) by striking out "$459" in subsection (f) and inserting in lieu thereof "$481";

(7) by striking out "$579" in subsection (g) and inserting in lieu thereof "$606";

(8) by striking out "$671" in subsection (h) and inserting in lieu thereof "$703";

(9) by striking out "$755" in subsection (i) and inserting in lieu thereof "$790";

(10) by striking out "$1,255" in subsection (j) and inserting in lieu thereof "$1,314";

(11) by striking out "$1,559" and "$2,185" in subsection (k) and inserting in lieu thereof "$1,632" and "$2,288", respectively;

(12) by striking out "$1,559" in subsection (l) and inserting in lieu thereof "$1,632";

(13) by striking out "$1,719" in subsection (m) and inserting in lieu thereof "$1,800";

(14) by striking out "$1,954" in subsection (n) and inserting in lieu thereof "$2,046";

(15) by striking out "$2,185" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,288";

(16) by striking out "$938" and "$1,397" in subsection (r) and inserting in lieu thereof "$982" and "$1,463", respectively;

(17) by striking out "$1,404" in subsection (s) and inserting in lieu thereof "$1,470"; and

(18) by striking out "$271" in subsection (t) and inserting in lieu thereof "$284".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 102. Section 315(1) is amended—

(1) by striking out "$77" in clause (A) and inserting in lieu thereof "$81";

(2) by striking out "$128" and "$41" in clause (B) and inserting in lieu thereof "$134" and "$43", respectively;

(3) by striking out "$52" and "$41" in clause (C) and inserting in lieu thereof "$54" and "$43", respectively;

(4) by striking out "$62" in clause (D) and inserting in lieu thereof "$65";

(5) by striking out "$139" in clause (E) and inserting in lieu thereof "$146"; and

(6) by striking out "$116" in clause (F) and inserting in lieu thereof "$121".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by striking out "$338" and inserting in lieu thereof "$354".

DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

SEC. 104. (a) Subsection (a) of section 411 is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	*Monthly rate*	*"Pay grade*	*Monthly rate*
E-1	*$483*	*W-4*	*$692*
E-2	*497*	*O-1*	*610*
E-3	*509*	*O-2*	*630*
E-4	*542*	*O-3*	*674*
E-5	*557*	*O-4*	*713*
E-6	*570*	*O-5*	*786*
E-7	*598*	*O-6*	*886*
E-8	*630*	*O-7*	*958*
E-9	*[1]659*	*O-8*	*1,050*
W-1	*610*	*O-9*	*1,128*
W-2	*636*	*O-10*	*[2]1,234*
W-3	*653*		

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $710.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,324.".

(b) Subsection (b) of such section is amended by striking out "$53" and inserting in lieu thereof "$55".

(c) Subsection (c) of such section is amended by striking out "$139" and inserting in lieu thereof "$146".

(d) Subsection (d) of such section is amended by striking out "$68" and inserting in lieu thereof "$71".

DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 105. Section 413 is amended—

(1) by striking out "$233" in clause (1) and inserting in lieu thereof "$244";

(2) by striking out "$334" in clause (2) and inserting in lieu thereof "$350";

(3) by striking out "$432" in clause (3) and inserting in lieu thereof "$452"; and

(4) by striking out "$432" and "$87" in clause (4) and inserting in lieu thereof "$452" and "$91", respectively.

SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 106. Section 414 is amended—

(1) by striking out "$139" in subsection (a) and inserting in lieu thereof "$146";

(2) by striking out "$233" in subsection (b) and inserting in lieu thereof "$244"; and

(3) by striking out "$118" in subsection (c) and inserting in lieu thereof "$124".

EFFECTIVE DATE

SEC. 107. Except as provided in section 108, sections 101 through 106 shall take effect on December 1, 1984.

ALTERNATIVE RATE INCREASES

SEC. 108. (a)(1) If the percentage of the increase in benefit amounts under title II of the Social Security Act that will take effect on December 1, 1984, as a result of a determination under section 215(i) of such Act is not 4.7 percent—

(A) sections 101 through 106 shall not take effect; and

(B) the Administrator of Veterans' Affairs shall (i) compute alternative increased rates and limitations that are equal to those that would be arrived at by increasing, by the same percentage as the percentage by which such benefit amounts will thus be increased, each dollar amount that would have been increased by the amendments that would have been made by such titles, and (ii) effective December 1, 1984, pay benefits under chapters 11 and 13 of title 38, United States Code, in accordance with such alternative increased rates and limitations.

(2) In the computation of alternative increased rates and limitations pursuant to subsection (a), amounts of $.50 or more shall be rounded to the next higher dollar amount and amounts of less than $.50 shall be rounded to the next lower dollar amount.

(b) The Administrator may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(c) If, under subsection (a), the Administrator is required to compute alternative increased rates and limitations, the Administrator shall publish in the Federal Register, at the same time as the material required by section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) is published by reason of a determination under section 215(i) of such Act, such alternative increased rates and limitations and the dollar amounts that would have been increased by the amendments that would have been made by sections 101 through 106.

PART B—COMPENSATION PROGRAM AMENDMENTS

TRIAL WORK PERIOD PILOT PROJECT

SEC. 110. (a)(1) Subchapter VI of chapter 11 is amended by adding at the end the following new sections:

"§ 363. Trial period of work for certain veterans with total disability ratings

"(a) Subject to subsections (c) and (f) of this section, for the purposes of determining whether an unemployable veteran has regained the ability to secure or follow a substantially gainful occupation, any activity performed for remuneration or gain by such veteran (or any activity performed by such veteran that is determined by the Administrator to be activity of a type normally performed for remuneration or gain) during a period of trial work shall be deemed not to have been performed by such veteran during such period.

"(b) If the amount of income earned by a veteran who has completed a period of trial work pursuant to subsection (a) of this section and whose compensation has been reduced is less than $300 in any month during the 12-month period beginning with the month such reduction took effect—

"(1) such veteran's total disability rating shall be restored effective as of the first day of such month; and

"(2) the Administrator shall review the case and determine whether the veteran continues to be an unemployable veteran.

In the event that, upon completion of such a review, the Administrator determines that the veteran is no longer an unemployable veteran, the effective date of the resulting reduction in the veteran's compensation shall, notwithstanding section 3012(b)(6) of this title, be fixed in accordance with the facts.

"(c)(1) In order for a period of trial work to apply in the case of an unemployable veteran, the veteran must, not later than the thirtieth day after the date on which the veteran begins to perform activity described in subsection (a) of this section, notify the Administrator in writing that the veteran desires or intends to perform such activity or has begun to perform such activity, as the case may be, and that the veteran desires to participate in a period of trial work.

"(2) A veteran may participate in no more than one period of trial work under this section.

"(d) The Administrator shall make available to each unemployable veteran, whether or not such veteran is participating in a vocational rehabilitation program under chapter 31 of this title, the counseling and services described in section 1504(a) (2) and (5) of this title. Upon receiving notification from an unemployable veteran under subsection (c)(1) of this section, the Administrator shall notify the veteran in writing about the availability of such counseling and services.

"(e) For the purposes of this section:

"(1) The term 'period of trial work' means, in the case of an unemployable veteran, the 12-month period following the date on which the veteran begins to perform activity described in subsection (a) of this section in connection with the notice provided pursuant to subsection (c) of this section.

"(2) The term 'unemployable veteran' means a veteran who has a service-connected disability, or service-connected disabilities, not rated as total, but who meets the requirements for a total disability rating (other than a rating protected by the first sentence of section 110 of this title) by reason of inability to secure or follow a substantially gainful occupation as a result of such disability or disabilities.

"(f)(1) This section shall take effect on the first day of the fifth full month following the date of the enactment of this section.

"(2) No period of trial work shall apply in the case of a veteran unless such veteran has provided the notice required by subsection (c)(1) of this section and has performed activity described in subsection (a) of this section in at least 1 month, prior to the thirty-seventh month (or the forty-ninth month, if the Administrator determines that it is in the best interests of veterans and the United States to extend such time) following the month that this section takes effect. The Administrator shall promptly notify the Committees on Veterans' Affairs of the House of Representatives and the Senate of any extension provided under the preceding sentence.

"§ 364. Vocational rehabilitation for certain veterans with total disability ratings

"(a)(1) In the case of each award of a total disability rating that is made, on or after the first day of the fifth full month following the date of the enactment of this section, on the ground that the veteran is an unemployable veteran, the Administrator shall provide to the veteran, at the time that notice of the award is provided to the veteran, notice of the requirements of paragraph (2) of this subsection.

"(2) Each unemployed veteran who has been provided with notice pursuant to paragraph (1) of this subsection shall—

"(A) within 30 days after such notice is mailed to the veteran, submit an application for an evaluation under chapter 31 of this title, and

"(B) if determined to be eligible for such evaluation, cooperate in the conduct of the evaluation and, if the Administrator formulates a vocational rehabilitation program for the veteran in accordance with the provisions of such chapter, pursue such program.

"(b)(1) If the Administrator determines that a veteran has failed to comply substantially with the requirements of subsection (a) of this section and does not determine that mitigating circumstances exist, the Administrator shall—

"(A) provide the veteran with notice that, unless the veteran resumes substantial compliance with such requirements within 60 days after the Administrator provided such notice (or such longer period as the Administrator determines is the shortest period within which it is reasonably feasible for the veteran to resume compliance), the Administrator will conduct a review of the determination that the veteran is an unemployable veteran and the noncompliance shall be considered in such review; and

"(B) unless the veteran has resumed such substantial compliance, conduct such review after such 60 days (or such longer period, if applicable) has expired.

"(2) In the event that, upon a review conducted pursuant to paragraph (1) of this subsection, the Administrator determines that the veteran is no longer an unemployable veteran, nothing in this subsection shall preclude a subsequent award of a total disability rating to the veteran.

"(c) For the purposes of this section, the term 'unemployable veteran' has the same meaning provided in section 363(e)(2) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 362 the following new items:

"363. Trial period of work for certain veterans with total disability ratings.

"364. Vocational rehabilitation for certain veterans with total disability ratings.".

(b)(1) Beginning not later than 90 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall provide to each veteran who has a service-connected disability, or service-connected disabilities, not rated as total, but who has a total disability rating (other than a rating protected by the first sentence of section 110 of title 38, United States Code) by reason of a determination of inability to secure or follow a substantially gainful occupation as a result of such disability or disabilities (A) information explaining the provisions of section 363 of title 38, United States Code (as added by subsection (a)(1)), (B) a description of the procedure for participating in a period of trial work pursuant to such section 363, (C) information explaining the purposes and availability of and eligibility for, and the procedures for participating in, vocational rehabilitation under chapter 31 of such title, and (D) a summary description of the scope of services and assistance available under that chapter.

(2) In the case of a veteran to whom notice is required to be provided under section 364(a)(1) of such title (as added by subsection (a)(1)), the notice required by paragraph (1) shall be provided together with such notice.

(c) Not later than 39 months after section 363 of title 38, United States Code (as added by subsection (a)(1)), becomes effective, the Administrator shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report on the results of the first 3 years' implementation of that section, section 364 of such title (as also added by subsection (a)(1)), and subsection (b) of this section. The Administrator shall include in the report the Administrator's assessments of the value (including the cost-effectiveness) and effect of such implementation and any recommendations of the Administrator for administrative and legislative action based on such results and assessments.

TITLE II—VETERANS' ADMINISTRATION REHABILITATION AND EDUCATION PROGRAMS

PART A—RATE INCREASES

RATES OF REHABILITATION SUBSISTENCE ALLOWANCES FOR SERVICE-CONNECTED DISABLED VETERANS

SEC. 201. The table contained in section 1508(b) is amended to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional training:				
Full-time.	$310	$384	$452	$33
Three-quarter time.	233	288	339	25
Half-time.	155	193	227	17
Farm cooperative, apprentice, or other on-job training:				
Full-time.	271	327	377	24
Extended evaluation:				
Full-time.	310	384	452	33
Independent living training:				
Full-time.	310	384	452	33
Three-quarter time.	233	288	339	25
Half-time.	155	193	227	17".

RATES OF GI BILL EDUCATIONAL ASSISTANCE FOR VETERANS

SEC. 202. Chapter 34 is amended—

(1) by amending the table contained in paragraph (1) of section 1682(a) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional training:				
Full-time.	$376	$448	$510	$32
Three-quarter time.	283	336	383	24
Half-time.	188	224	255	17
Cooperative.	304	355	404	23";

(2) by striking out "$342" in section 1682(b) and inserting in lieu thereof "$376";

(3) by amending the table contained in section 1682(c) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Basis	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Full-time.	$304	$355	$404	$23
Three-quarter time.	228	266	303	18
Half-time.	152	178	202	12"; and

(4) by striking out "$76" and "$911" in section 1692(b) and inserting in lieu thereof "$84" and "$1,008", respectively.

RATES OF EDUCATIONAL ASSISTANCE FOR SURVIVORS AND DEPENDENTS

SEC. 203. Chapter 35 is amended—

(1) by striking out "$276" in section 1732(b) and inserting in lieu thereof "$304"; and

(2) by striking out "$342", "$108", "$108", and "$11.44" in section 1742(a) and inserting in lieu thereof "$376", "$119", "$119", and "$12.58", respectively.

RATES OF REPORTING FEES AND OF TRAINING ALLOWANCES FOR APPRENTICESHIP OR OTHER ON-JOB TRAINING

SEC. 204. Chapter 36 is amended—

(1) by striking out "$7" and "$11" in the second sentence of section 1784(c) and inserting in lieu thereof "$9" and "$13", respectively;

(2) by striking out "$342" in section 1786(a)(2) and inserting in lieu thereof "$376";

(3) by amending the table in section 1787(b)(1) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Periods of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
First 6 months.	$274	$307	$336	$14
Second 6 months.	205	239	267	14
Third 6 months.	136	171	198	14
Fourth and any succeeding 6-month periods.	68	101	131	14"; and

(4) by striking out "$342" in section 1798(b)(3) and inserting in lieu thereof "$376".

EFFECTIVE DATE

SEC. 205. The amendments made by this part shall become effective on October 1, 1984.

PART B—REHABILITATION AND EDUCATION PROGRAM IMPROVEMENTS

TOLLING DELIMITING DATES BY REASON OF DRUG AND ALCOHOL CONDITIONS

SEC. 210. (a) Section 1503(b)(1) is amended—

(1) by inserting "(A)" before "In"; and

(2) by inserting at the end the following new subparagraph:

"(B)(i) Subject to clauses (iii) and (iv) of this subparagraph, in any case in which the Administrator determines that a veteran with qualifying service (as described in clause (iii) of this subparagraph) has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because a condition described in clause (ii) of this subparagraph made it infeasible for such veteran to participate in such a program, the 12-year period of eligibility shall not run during the period of time that such veteran was so prevented from participating in such a program.

"(ii) The condition referred to in clause (i) of this subparagraph is an alcohol or drug dependence or abuse condition of a veteran in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(I) such veteran has received recognized treatment for such condition or has participated in a program of rehabilitation for such condition, and

"(II) such condition is sufficiently under control to enable such veteran to participate in a vocational rehabilitation program under this chapter.

"(iii) Subject to the succeeding sentence, qualifying service referred to in clause (i) of this subparagraph is active military, naval, or air service from which the veteran was discharged or released under conditions other than dishonorable. In any case in which the veteran received a discharge other than an honorable discharge, a determination as to whether the veteran was discharged under conditions other than dishonorable shall be made by the Administrator on the basis of a review of the veteran's service record.

"(iv) Clause (i) of this subparagraph applies only if the veteran has filed an application under this paragraph within 1 year after (I) the last date of the period of eligibility otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to clause (i) of this subparagraph are published in the Federal Register, whichever is the latest.

"(v) The period of time during which, pursuant to clause (i) of this subparagraph, the 12-year period of eligibility does not run shall be limited to the period during which the veteran was receiving treatment or the period of time the veteran was participating in a program of rehabilitation for such condition plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by such condition from participating in a vocational rehabilitation program under this chapter, but in no event shall such period of time be more than 4 years.

"(vi) When, pursuant to clause (i) of this subparagraph, a period of eligibility does not run for a period of time, such period of eligibility shall again begin to run on the first day, following such condition becoming sufficiently under control to enable such veteran to participate in such a program of vocational rehabilitation, on which it is reasonably feasible, as determined under such regulations, for such veteran to participate in such a program.".

(b) Section 1662(a) is amended—

(1) in paragraph (1)—

(A) by inserting "or because of a condition (and under the circumstances) described in paragraph (4) of this subsection," after "misconduct"; and

(B) by inserting "(except as provided in paragraph (4)(B)(ii) of this subsection)" after "length of time"; and

(C) by inserting "because of such disability," after "sentence"; and

(2) by inserting at the end the following new paragraph:

"(4)(A) A condition referred to in paragraph (1) of this subsection is an alcohol or drug dependence or abuse condition of a veteran with qualifying service (as described in subparagraph (B) of this paragraph) in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(i) such veteran has received recognized treatment for such condition or has participated in a program of rehabilitation for such condition, and

"(ii) such condition is sufficiently under control to enable such veteran to pursue such veteran's chosen program of education under this chapter.

"(B) Subject to the succeeding sentence, qualifying service referred to in subparagraph (A) of this paragraph is active military, naval, or air service from which the veteran was discharged or released under conditions other than dishonorable. In any case in which the veteran received a discharge other than an honorable discharge, a determination as to whether the veteran was discharged under conditions other than dishonorable shall be made by the Administrator on the basis of a review of the veteran's service record.

"(C)(i) Notwithstanding the provisions of paragraph (1) of this subsection, a veteran may be granted an extension of the applicable delimiting period because of such condition upon application for such extension made within 1 year after (I) the last date of the delimiting period otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register, whichever is the latest.

"(ii) An extension of the applicable delimiting period because of such condition shall be limited to the period of time the veteran was receiving treatment or the period of time the veteran was participating in a program of rehabilitation for such condition plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by such condition for initiating or completing such program of education, but in no event shall the extension be for more than 4 years. When such extension is granted, the delimiting period with respect to such veteran will again begin running on the first day, following such condition becoming sufficiently under control to enable such veteran to pursue such veteran's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for such veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter.".

(c) Section 1712(b) is amended—

(1) in paragraph (2)—

(A) by inserting "or because of a condition (and under the circumstances) described in paragraph (3)(A) of this subsection," after "misconduct";

(B) by inserting "(except as provided in paragraph (3)(B)(ii) of this subsection)" after "length of time"; and

(C) by inserting "because of such disability," after "sentence"; and

(2) by inserting at the end the following new paragraph:

"(3)(A) A condition referred to in paragraph (2) of this subsection is an alcohol or drug dependence or abuse condition of an eligible person in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(i) such person (I) has received recognized treatment for such condition, or (II) has participated in a program of rehabilitation for such condition, and

"(ii) such condition is sufficiently under control to enable such person to pursue such person's chosen program of education under this chapter.

"(B)(i) Notwithstanding the provisions of paragraph (2) of this subsection, an eligible person may be granted an extension of the applicable delimiting period because of such condition upon application for such extension made within 1 year after (I) the last date of the delimiting period otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register, whichever is the latest.

"(ii) An extension of the applicable delimiting period because of such condition shall be limited to the period of time the eligible person was receiving treatment or the period of time such person was participating in a program of rehabilitation for such condition plus such additional length of time as such person demonstrates, to the satisfaction of the Administrator, that such person was prevented by such condition from initiating or completing such program of education, but in no event shall the extension be for more than 4 years. When such extension is granted, the delimiting period with respect to such person will again begin running on the first day, following such condition becoming sufficiently under control to enable such person to pursue such person's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for such person to initiate or resume pursuit of a program of education with educational assistance under this chapter.".

REPEAL OF REPORTING REQUIREMENT

SEC. 211. Section 1796 is amended by striking out subsection (d).

TERM-BY-TERM CERTIFICATIONS

SEC. 212. Prior to making any changes in the practices, policies, or regulations pertaining to reports by institutions required to be submitted pursuant to section 1784 of

title 38, United States Code, as such practices, policies, and regulations were in effect on July 1, 1984, the Administrator shall consult with and obtain the recommendations of the advisory committee established pursuant to section 1792 of such title.

TITLE III—VETERANS' EMPLOYMENT PROGRAMS

VETERANS' READJUSTMENT APPOINTMENTS

SEC. 301. (a) Subsection (b) of section 2014 is amended—

(1) in paragraph (1)—

(A) by striking out "and" at the end of clause (B);

(B) by striking out the period at the end of clause (C) and inserting in lieu thereof a semicolon and "and"; and

(C) by adding at the end the following new clause:

"(D) a veteran given a veteran's readjustment appointment under the authority of this subsection whose employment under the appointment is terminated within 1 year after the date of such appointment shall have the same right to appeal that termination to the Merit Systems Protection Board as a career or career-conditional employee has during the first year of employment."; and

(2) by striking out "1984" and inserting in lieu thereof "1985" in paragraph (2).

(b) The second sentence of subsection (d) of such section is amended by striking out "a semiannual" and inserting in lieu thereof "an annual".

EMERGENCY VETERANS' JOB TRAINING ACT PROGRAM

SEC. 302. (a) Section 5(b)(3)(A) of the Emergency Veterans' Job Training Act of 1983 (Public Law 98-77; 97 Stat. 445) is amended by striking out "60" and inserting in lieu thereof "90".

(b) Section 16 of such Act is amended by striking out "1986" and inserting in lieu thereof "1987".

(c) Section 17 of such Act is amended to read as follows:

"SEC. 17. Assistance may not be paid to an employer under this Act—

"(1) on behalf of a veteran who initially applies for a program of job training under this Act after November 29, 1984; or

"(2) for any such program which begins after September 1, 1985.".

TITLE IV—VETERANS' ADMINISTRATION NON-SERVICE-CONNECTED DISABILITY PENSION

TRIAL WORK PERIOD PILOT PROJECT

SEC. 401. (a)(1) Chapter 15 is amended by adding at the end the following new section:

"§ 524. Trial work period for pension recipients

"(a) Subject to subsections (d) and (f) of this section, for purposes of any determination of whether a veteran is permanently and totally disabled for purposes of this chapter, any activity performed for remuneration or gain by a veteran (or any activity performed by a veteran that is determined by the Administrator to be of a type normally performed for remuneration or gain) during a period of trial work shall be deemed not to have been performed by such veteran during such period.

"(b) Notwithstanding any provision of chapter 17 of this title, in the case of a veteran whose pension under section 521 of this title is terminated by reason of income from work or training, the veteran shall retain, during the period of trial work applicable to the veteran, all eligibility for care and services under such chapter (including, as appropriate, drugs and medicines under section 612(h) of this title and special priority with respect to such care and services under section 612(i)(5) of this title) that the veteran would have if the veteran's pension had not been terminated.

"(c)(1) Notwithstanding any provision of chapter 17 of this title, in the case of a veteran whose entitlement to pension under section 521 of this title is terminated by reason of income from work or training either during the veteran's participation in a vocational rehabilitation program under chapter 31 of this title or under a State plan approved under title I of the Rehabilitation Act of 1973 or following the veteran's completion of such a program, the veteran shall retain, until the end of the twelfth month following the termination of either the veteran's entitlement to pension or the veteran's participation in such program, whichever is later, all eligibility for care and services under such chapter 17 (including, as appropriate, drugs and medicines under section 612(h) of this title and special priority with respect to such care and services under section 612(i)(5) of this title) that the veteran would have if the veteran's pension had not been terminated.

"(2) Notwithstanding section 503 of this title, payment of a subsistence or maintenance allowance in connection with a veteran's participation in a vocational rehabilitation program under chapter 31 of this title or under a State plan approved under title I of the Rehabilitation Act of 1973 for any month during which it is necessary for the veteran to reside away from the veteran's permanent residence in order to participate in such program shall not be included in determining, under section 503 of this title, the veteran's annual income for purposes of this chapter.

"(d)(1) In order for a period of trial work to apply in the case of a veteran, the veteran must, not later than the thirtieth day after the date on which the veteran begins to perform activity described in subsection (a) of this section, notify the Administrator in writing that the veteran desires or intends to perform such activity or has begun to perform such activity, as the case may be, and that the veteran desires to participate in a period of trial work.

"(2) A veteran may participate in no more than one period of trial work under this section.

"(3) Except as provided in subsection (c)(2) of this section, no provision of this section shall result in any payment received by a veteran being excluded in determining, under section 503 of this title, the veteran's annual income for purposes of this chapter.

"(e) For purposes of this section:

"(1) The term 'period of trial work' means the 36-month period following the date on which the veteran begins to perform activity described in subsection (a) of this section in connection with the notice provided pursuant to subsection (d)(1) of this section.

"(2) The term 'terminated by reason of income from work or training' means, with respect to disability pension paid to a veteran, terminated as a result of the veteran's receipt of earnings from activity performed for remuneration or gain, but only if the veteran's annual income from sources other than such earnings would, taken alone, not result in the termination of the veteran's disability pension.

"(f)(1) This section shall take effect on the first day of the fifth full month after the date of the enactment of this section.

"(2) No period of trial work shall apply in the case of a veteran unless such veteran has provided the notice required by subsection (d)(1) of this section and has performed activity described in subsection (a) of this section in at least 1 month prior to the thirty-seventh month (or the forty-ninth month, if the Administrator determines that it is in the best interests of veterans and the United States to extend such time) following the month that this section takes effect. The Administrator shall promptly notify the Committees on Veterans' Affairs of the House of Representatives and the Senate of any extension provided under the preceding sentence.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 523 the following new item:

"524. Trial work period for pension recipients.".

(b) Not later than 39 months after section 524 of title 38, United States Code (as added by subsection (a)(1)), becomes effective, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report on the results of the first 3 years' implementation of that section. The Administrator shall include in the report the Administrator's assessments of the value (including the cost-effectiveness) and effect of the implementation of that section and any recommendations of the Administrator for administrative and legislative action based on such results and assessments.

REPORT ON MEDICAL EXAMINATIONS OF CERTAIN PENSION RECIPIENTS

SEC. 402. (a) Not later than 28 months after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report containing a statistical tabulation of the results of the examinations conducted as described in subsection (b).

(b) In order to prepare the report described in subsection (a) with respect to each veteran who, during the 2-year period beginning on the date of the enactment of this Act, is awarded pension under chapter 15 of title 38, United States Code, and who is considered, under section 502(a) of such title, to be permanently and totally disabled by reason of being 65 years of age or older or becoming unemployable after age 65, the Administrator, not later than 90 days after making such award, shall (1) conduct and the veteran shall undergo a medical examination of the veteran (as though the veteran were applying for compensation under chapter 11 of such title), and (2) determine what, if any, percentage rating would be applicable to the veteran under the schedule of ratings adopted pursuant to section 355 of such title.

TITLE V—OTHER BENEFIT RATE INCREASES

SPECIALLY-ADAPTED HOUSING GRANTS

SEC. 501. Section 802 is amended—

(1) in subsection (a), by striking out "$32,500" and inserting in lieu thereof "$35,750"; and

(2) in subsection (b), by striking out "$5,000" and inserting in lieu thereof "$5,500".

AUTOMOBILE ASSISTANCE

SEC. 502. Section 1902(a) is amended by striking out "$4,400" and inserting in lieu thereof "$4,840".

EFFECTIVE DATES

SEC. 503. The amendments made by sections 501 and 502 shall take effect on July 1, 1985.

TITLE VI—MISCELLANEOUS PROVISIONS

DEFINITION OF VIETNAM ERA

SEC. 601. (a) Section 101(29) is amended to read as follows:

"(29) The term 'Vietnam era' means (A) the period beginning on August 5, 1964, and ending on May 7, 1975, and (B) the period beginning on February 21, 1961, and ending on May 7, 1975, in the case of a veteran who served in the Republic of Vietnam during such period.".

(b) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act or October 1, 1984, whichever is later.

PAYMENT FOR THERAPEUTIC AND REHABILITATIVE ACTIVITIES

SEC. 602. (a) Notwithstanding any other provision of law, no amount of remuneration provided to an individual as a participant in a therapeutic or rehabilitative activity carried out pursuant to section 618 of title 38, United States Code, shall be included in determining annual income for purposes of payments of pension (as defined in section 101(15) of such title).

(b)(1) Subsection (a) shall take effect on October 1, 1984, and shall cease to have effect on December 31, 1987.

(2)(A) In the case of each person who on January 1, 1984, was, or on a subsequent date prior to October 1, 1984, became, a participant in an activity under such section 618 and who either (A) continuously participated in such activity from January 1, 1984, or such subsequent date through September 30, 1984, or (B) terminated such participation for the purpose of entering into more remunerative employment, the Administrator of Veterans' Affairs shall pay to such person, from funds in the Veterans' Administration compensation and pension account, an amount equal to the amount of pension (as so defined) that such person would have been eligible to receive by reason of subsection (a) if it had become effective as of January 1, 1984.

(B) This paragraph shall take effect on October 1, 1984.

(c) Not later than February 1, 1987, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report, with respect to fiscal years 1985 and 1986, on the implementation of subsections (a) and (b). Such report shall contain information regarding the numbers of individuals who participated in activities under such section 618, the numbers of such individuals who are in receipt of Veterans' Administration pension, the costs of excluding payments provided for participation in an activity under such section 618 from countable income for Veterans' Administration pension purpose, and the effect of so excluding such payments on the participation of veterans in such activities. Such report shall also include any recommendations of the Administration for legislative or administrative action in light of information contained in the report.

(d) Section 618 is amended by adding at the end the following new subsection:

"(f) Neither a veteran's participation in an activity carried out under this section nor such veteran's receipt of remuneration as a result of such participation shall be considered as a basis for the denial or discontinuance of a total disability rating for purposes of compensation or pension based on the veteran's inability to secure or follow a substantially gainful occupation as a result of disability.".

EFFECTIVE DATE OF REDUCTIONS OF CERTAIN DEPENDENTS' ALLOWANCES

SEC. 603. Section 3012(b) is amended—

(1) by striking out clause (7); and

(2) by redesignating clauses (8), (9), and (10) as clauses (7), (8), and (9), respectively.

SUSPENSIONS OF COMPENSATION AND PENSION PAYMENTS TO CERTAIN INSTITUTIONALIZED VETERANS

SEC. 604. The first sentence of section 3203(b)(1) is amended—

(1) by striking out "by reason of mental illness"; and

(2) by inserting "(excluding the value of the veteran's home unless there is no reasonable likelihood that the veteran will again reside in such home)," after "the veteran's estate".

DELETION OF GENDER REFERENCES

SEC. 605. Section 103 is amended—

(1) in subsection (a)—

(A) by striking out "a woman as the widow" and inserting in lieu thereof "an individual as the surviving spouse";

(B) by striking out "she" and inserting in lieu thereof "such individual";

(C) by striking out "him" and "his" and inserting in lieu thereof "such veteran" and "such veteran's", respectively; and

(D) by striking out "widow" and inserting in lieu thereof "surviving spouse";

(2) in subsection (b), by striking out "widow" and inserting in lieu thereof "surviving spouse";

(3) in subsection (c), by striking out "a woman is or was the wife" and inserting in lieu thereof "an individual is or was the spouse"; and

(4) in subsection (d)—

(A) in paragraphs (1) and (2), by striking out "widow of a veteran shall not bar the furnishing of benefits to her as the widow" each place it appears and inserting in lieu thereof "surviving spouse of a veteran shall not bar the furnishing of benefits to that individual as the surviving spouse"; and

(B) by amending paragraph (3) to read as follows:

"(3) If a surviving spouse of a veteran ceases living with another individual and holding out to the public that such surviving spouse is the spouse of such individual, the bar to granting such surviving spouse benefits as the surviving spouse of the veteran shall not apply.".

AMENDMENT NO. 6909

(Purpose: To provide for a waiver of the discontinuation payments for certain incompetent veterans who require temporary periods of hospital treatment or institutional or domiciliary care)

Mr. STEVENS. Mr. President, I send an amendment to the desk on behalf of Senators SIMPSON, CRANSTON, and COHEN.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. SIMPSON, Mr. CRANSTON, and Mr. COHEN, proposes an amendment numbered 6909:

On page 43, line 16, insert "(a)" after "SEC. 604.".

On page 43, between lines 23 and 24, insert the following new subsection:

(b)(1) Paragraph (1) of section 3203(b) is amended—

(A) by designating the first and second sentences as subparagraphs (A) and (B), respectively;

(B) by striking out the comma after "treatment" in subparagraph (A), as so designated, and inserting in lieu thereof "or"; and

(C) by adding at the end the following new subparagraph:

"(C) The Administrator may, pursuant to regulations which the Administrator shall prescribe, waive the discontinuation under this paragraph of payments to a veteran with respect to not more than 60 days of care of the veteran during any calendar year if the Administrator determines that a waiver of such discontinuation is necessary in order to avoid a hardship for the veteran.".

(2) Not later than 60 days after the date of the enactment of this Act, the Administrator shall prescribe regulations pursuant to subparagraph (C) of section 3203(b)(1) of title 38, United States Code, as added by subsection (b).

Mr. COHEN. Mr. President, the amendment that I am offering today, along with Senator SIMPSON and Senator CRANSTON, is intended to begin to change an inequitable aspect of the Veterans' Administration compensation system which operates against mentally incompetent disabled veterans.

Before I explain why I believe that it is necessary to offer this amendment, I want to extend my sincere gratitude to both Senator SIMPSON and Senator CRANSTON for the interest that they have taken in this matter and for the compassion that they have shown in agreeing to accept this amendment as part of the VA compensation bill that is before us today.

Mr. President, some months ago, I was contacted by a constituent from northern Maine who is the father of a 100-percent service-connected disabled Vietnam veteran and who related to me the inequitable situation that his son is trapped in under the current law.

This man and his wife act as the fiduciary for their son's affairs because the veteran, who is diagnosed as chronic schizophrenic, is classified as incompetent by the VA due to the fact that he is unable to manage his financial affairs.

Although the veteran requires periodic, temporary inpatient care for his psychological condition at the VA medical center at Togus, ME, his father has certified to me that his son has improved to a stage of independent living with his parents since his discharge from the service in 1971, and that he now spends most of his life outside institutions.

This veteran has been declared incompetent because he needs guidance on financial matters, but he does have his own checking account and can supervise $100 per week through it. The larger amount of his monthly compensation check is held by his parents in a joint account which pays his utilities, rent, and various time payments on such things as his automobile.

Under existing law, each time this veteran needs to become an inpatient at Togus, his compensation is cut off because his estate totals more than $1,500 and because he has no dependents. The financial obligations that he has assumed, to encourage an active life outside of an institution, continue.

When this veteran is discharged from the hospital, usually within a few days, his benefits are restored by the VA. No other group of disabled veterans is subject to this kind of estate-limitation requirement. The requirement is unfair, subjects veterans who are trying to live outside of VA institutions to hardships which no other veteran must endure, and produces an extremely complicated relationship between these incompetent veterans and the VA.

Because the compensation system cannot adequately adjust to the requirement that payments be discontinued and reinstated several times each year, these veterans end up owing the Government money as a result of regular overpayments by the VA. This situation has gotten to the point where my constituent cannot afford to go to Togus for treatment of his service-connected disability.

Beyond this hardship, incredibly, the $1,500 estate limitation was established, and has not been adjusted, since 1933. If this limitation was inflated, using the Consumer Price Index as a guide, to 1984 levels—as Congress has done over the years for VA disability compensation and dependency and indemnity compensation—the estate limitation would be slightly higher than $12,000, a figure which I submit would be a much more equitable one for these veterans to be subjected to.

The general counsel's letter explains that the current law was intended to protect the integrity of the VA compensation system in situations where mentally incompetent veterans have all of their needs met by a tax-supported institution. As a result of these veterans spending their lives in institutions these veterans may accrue large estates from the accumulation of their compensation payments because they incur no significant expenses to consume their monthly benefits.

In many cases, these estates have been claimed after the veteran's death by people who had contributed nothing to the care of the veteran over all of the years of institutionalized care.

When this law was written, in 1933, a common diagnosis for mentally ill veterans was a life of institutionalized care. Today, the treatment is different and many mentally incompetent veterans are encouraged to spend as much time as they can outside of institutions in order to expedite their recovery and their ability to live as contributing members of our society.

The Maine veteran whose case I have described is subject, along with an unknown number of other similarly disabled veterans, to an outdated anomaly in existing law that my amendment will begin to change.

When I first asked Senator SIMPSON and Senator CRANSTON if this inequitable law could be addressed in this compensation bill, it was my intention to both increase the 1933, $1,500 estate limitation to a more reasonable amount and waive the requirements of section 3203(b)(1) when mentally incompetent veterans are inpatients for only short periods of time.

The amendment that we are offering today is a compromise of my request and requires the Administrator to develop regulations that would remove the hardship imposed by existing law for those incompetent veterans who are inpatients for not more than 60 days of each calendar year.

I am grateful that this change will be made this year, but I want to state clearly that it is my intention to go even further in this area next year.

Because it is unclear how many other mentally incompetent veterans must also give up the disability compensation that I believe they are entitled to—due to the limitations imposed by section 3203(b)(1)—and because of the unknown budgetary impact of the changes that I had originally proposed, the Committee on Veterans' Affairs wisely decided that this amendment should be an interim step in changing this inequitable portion of VA compensation law.

While I support this cautious approach at this time, I am pleased that Senator SIMPSON and Senator CRANSTON see the need for the VA to report to the committee, once the next Congress convenes, how many mentally incompetent veterans, with no dependents, and with estates valued over $1,500, there are in the country today so that we can pursue this issue.

I thank the distinguished chairman and ranking member of the Committee for their support in this matter.

Mr. SIMPSON. Mr. President, I wish to first note that I appreciate the intentions and concerns of the Senator from Maine. I always enjoy working with him and have been impressed with his involvement and attention to matters affecting the concerns of our Nation's veterans. The committee bill, S. 2736, contains a provision that would address the concerns of certain single veterans who are rated as incompetent. The committee bill would exclude the value of the veteran's home from his estate during the period of hospitalization or institutionalization at Government expense, unless there is no reasonable likelihood that the veteran will again reside in his or her home. Under current law, a single incompetent veteran would have his or her home considered within the $1,500 limit of the veteran's estate. That veteran's pension or compensation benefits would be discontinued and not be reinstated until the estate is reduced to $500 during any period of institutionalization. The exclusion of the home from this computation of the veteran's estate is intended to provide relief for veterans who own their homes and need periods of institutionalization. I do understand the motives of Senator COHEN who is attempting to deal with veterans who may be renting a home, yet still need to make payments while institutionalized and would not benefit from the above-mentioned provision.

The VA has very little information on the numbers of such veterans and the circumstances surrounding their lives in and out of hospitals. Therefore, it is very difficult to determine the need for a change in the current law which, as Senator COHEN has noted, was designed to protect the veteran from possible abuses by the fiduciary or others. Therefore, I have agreed to accept Senator COHEN's modified amendment. I certainly do endorse his desire to accumulate more information from the VA on incompetent veterans and have a better understanding of the frequency of periods of hospitalization, whether it is for their mental disability or other health problems, the average lengths of stay in institutions and the impact of the income ceiling for single incompetent

veterans with respect to their attempts to live independently. Senator COHEN's modified amendment would provide for regulations to allow for a period of up to 60 days of hospitalization during a year during which time the veteran could be hospitalized without having VA payments reduced. This will be a first step in gathering data on the numbers of such veterans and the circumstances surrounding the hospitalizations. I appreciate Senator COHEN's willingness to compromise on his original amendment. I am in agreement with Senator COHEN that the VA let us know in writing, early in the next Congress, how they will begin to gather the information which I have mentioned as well as that which Senator COHEN has noted.

Mr. CRANSTON. Mr. President, I, too, want to thank the distinguished Senator from Maine [Mr. COHEN] for his interest in this matter and his willingness to work with the committee in fashioning an appropriate interim approach to resolve it. I'd also like to note that I share his concerns regarding the provisions of existing law as they affect veterans who have been declared incompetent. It would be my hope that in the next Congress the committee could make a comprehensive review of the provisions relating to incompetents' estates with a view toward updating and revising provisions that are obsolete, outmoded, or unnecessary. In any event, I can assure the Senator that I have requested the minority staff of the committee to initiate such a review.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6909) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 6910

(Purpose: To provide for increased servicemen's group life insurance coverage for certain members of the Armed Forces)

Mr. STEVENS. Mr. President, I send an amendment to the desk on behalf of Senators SIMPSON, CRANSTON, and PROXMIRE and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 6910.

On page 40, between lines 20 and 21, insert the following new section:

SEC. 504. (a) Section 767 is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other provision of this section, any member insured under this section who has served for five continuous years as a member of a uniformed service or the Ready Reserve shall have the option to obtain additional coverage of $5,000, $10,000, or $15,000 if the member—

"(1) submits a written application and proof of good health; and

"(2) complies with such other terms and conditions as may be prescribed by the Administrator.".

(b) Section 777(a) is amended—

(1) in the first sentence, by striking out "$5,000, $10,000, $15,000, $20,000, $25,000, $30,000, or $35,000" and inserting in lieu thereof "$50,000, or any lesser amount divisible by $5,000,";

(2) in the second sentence, by striking out "No" and inserting in lieu thereof "Except as a result of additional coverage obtained under section 767(e) of this title, no"; and

(3) in the last sentence, by inserting "(or $50,000 if the amount above $35,000 was obtained under such section 767(e))" after "$35,000" each place it appears.

(c) The amendments made by this section shall take effect on January 1, 1985.

Mr. PROXMIRE. Mr. President, I rise to support the GI insurance amendment. The reason why this amendment is necessary is quite simple. The amount of insurance available to our military personnel is far, far too limited. At present there is a $35,000 cap in the law on the total amount of insurance for service personnel. This is an inadequate amount for a family that is growing. Federal employees can receive up to five times their annual salary in option life insurance under the governmentwide program. This is on top of a basic insurance floor. But military personnel have been limited by the $35,000 cap—even though the Senate passed an amendment last year on the Defense authorization bill raising the cap to $100,000.

Mr. President, the Department of Defense fifth quadrennial review of military compensation urged that the optional insurance program be increased to $50,000 as part of a comprehensive package of benefits. The general counsel of DOD wrote to the Congress that:

We believe it is important to recognize that the men and women serving (in DOD) have similar needs as Federal civilians.

General Counsel Chapman B. Cox went on to endorse the $50,000 cap provided in this amendment.

On August 3, 1984, I wrote the chairman of the Senate Committee on Veterans' Affairs indicating my interest in this legislation. Consultations between our staffs over the succeeding months led to this amendment which incorporates the basic thrust of my original proposal although it is not as inclusive as I might have desired. But recognizing the concerns of the chairman about contingent liabilities during wartime, and wishing to cooperate with the Senator from Wyoming who is an authority in this field, I support the compromise language offered by the committee on my behalf and urge that it be accepted by the Senate.

Mr. President, I ask that a letter from Secretary of Defense Caspar Weinberger supporting this amendment be printed in the RECORD.

The letter follows.

THE SECRETARY OF DEFENSE,
Washington, DC, September 27, 1984.

Hon. WILLIAM PROXMIRE,
U.S. Senate,
Washington, DC.

DEAR SENATOR: Thank you for your letter of August 29, 1984, advising that you plan to offer an amendment to the Veterans' Compensation Amendments Bill for fiscal year 1985 which would increase maximum coverage under the Servicemen's Group Life Insurance (SGLI) program from $35,000 to $50,000. We have long supported this Veterans' Administration program offering valuable insurance protection to the men and women of the Services.

The recently completed Fifth Quadrennial Review of Military Compensation (QRMC) conducted an analysis of the "military estate program" and the report of that review was forwarded to the Congress in April 1984. One of the items studied was the SGLI. It was reconfirmed that the program fulfills a crucial need in forestalling economic hardship to survivors in the event of a member's untimely death. As a result of that review, we recommended that the amount of maximum coverage be increased from $35,000 to $50,000, similar to your initiative.

The SGLI is an extremely successful program—over 99 percent of members participate. In many instances, however, this is the only insurance protection carried. Unfortunately, the current coverage afforded by SGLI is insufficient for many midcareerists, especially those with family responsibilities. We know that the average amount of life insurance per family in the United States is now about $56,000—much more than the coverage available under SGLI. An increase in coverage would allow members to structure their insurance protection better in relation to their family obligations, from a maximum of $50,000 to a lesser amount in $5,000 increments.

Although more than a simple "employee/employer" relationship exists between members and the Government, we still have an obligation to provide programs responsive to member needs. In the federal civilian employee community, the insurance program provides basic coverage equal to salary level plus $2,000, optional $10,000 coverage, and additional coverage in multiples of salary. Unlike the SGLI, a portion of the civilian program costs are assumed by the Government on a continuing basis. While we recognize the differences between the two pro-

grams, we believe that the Government has no less responsibility to provide a reasonable survivor insurance program for military members. The SGLI program is specifically designed, and has been enhanced from time to time, to meet that responsibility. As an "employer," we do advertise the SGLI program as an available benefit for a service commitment, especially for the Reserve Components. Faced with a declining youth market and increased competition from the private sector, we must be able to assure that a military profession does not become a liability to the surviving family in the event of death.

Unlike most federal programs, the SGLI is a program self-supported by the premiums of members. The only costs assumed by the Government are those attributed to the extra hazard of military service resulting from combat. As the report of the 5th QMRC points out, no such costs have occurred since 1974. In the absence of armed conflict or an abnormal military mortality experience, we would not expect that significant costs would be assumed by the Government.

I appreciate your efforts to enhance the SGLI program for the benefit of the men and women serving in our Nation's defense.

Sincerely,

CASPAR WEINBERGER.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6910) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

Mr. SIMPSON. Mr. President, it gives me great pleasure to speak today, in strong support of S. 2736, the proposed Veterans' Administration Benefit Rate Increase and Program Improvement Act of 1984, which was unanimously ordered reported by the Committee on Veterans' Affairs with a title amendment and an amendment in the nature of a substitute on July 25, 1984, and reported to the full Senate on September 17 of this year. I strongly urge my colleagues to join me in assuring the passage of this very important legislation for our Nation's veterans.

The first provision contained in the committee bill is a 4.7-percent, across-the-board, cost-of-living increase in the rates of disability compensation and dependency and indemnity compensation, effective December 1, 1984. The 4.7-percent rate increase contained in the bill as introduced, was based on the estimate by the Congressional Budget Office, of the projected Consumer Price Index as of December 1, 1984. Since that time, however, because of a favorable change in economic conditions, it is estimated that the rate of inflation will be significantly less than estimated on December 1 of this year. The committee bill contains a provision which would require the Administrator of Veterans' Affairs to compute and to pay alternative rate increases based on the actual increase in the Consumer Price Index as of December 1, 1984, if that rate is not 4.7 percent. I strongly support this alternative rate provision since it truly reflects the meaning of a cost-of-living adjustment [COLA]. The COLA would be based on the actual rate of inflation on December 1, 1984, rather than an estimated inflation rate, made months prior to the December effective date, which may have dramatically changed over the course of time.

Mr. President, the committee bill would provide for a number of other rate increases including a 10-percent rate increase for all VA education programs effective October 1, 1984. The committee bill would provide 10-percent rate increases for the VA's automobile-assistance allowance which provides a one-time grant to certain severely disabled service-connected veterans to assist them in the purchase of an automobile as well as a 10-percent increase in the specially adapted housing assistance, "wheelchair home," program and in adapted housing assistance to certain veterans suffering from service-connected total blindness or the loss or loss of use of both upper extremities. In view of the time since the last increase, the committee believed that they were warranted and reasonable.

There are a number of additional provisions included in the committee bill which would improve existing VA programs and benefits. I would like to address several of these proposed legislative changes which the committee recommends to meet the needs of our Nation's veterans by providing employment incentives to severely disabled and certain disadvantaged veterans. These provisions are designed to encourage veterans who are currently unemployed to seek and maintain employment in order to become productive and responsible members of society. I wish to note at this time that it is my intent that any fiscal year 1985 costs incurred by the implementation of the following two provisions regarding trial-work pilot programs that I will address—section 110 and section 401 of the committee bill—be absorbed within funds already appropriated to the VA for fiscal year 1985.

The first such provision in the committee bill would establish a 3-year trial-work period pilot project which could be extended 1 year. A service-connected veteran who has been rated 100-percent disabled on account of individual unemployability [IU] could work for a period of 12 months without losing his or her IU rating. During the 12-month trial-work period, the VA can take into account the veteran's work performance in assessing whether or not the veteran is employable. However, to remove the veteran's concern that his or her IU rating might be removed under circumstances where employment security is uncertain, the committee bill provides that if the veteran's income falls below $300 in any month during the first year after the trial-work period, the veteran's IU rating would be restored at the beginning of that month. Such IU-rated veterans have been determined to be unable to secure or follow a substantial gainful occupation as a result of service-connected disabilities. These determinations are somewhat subjective and I believe, that of the approximately 85,000 veterans with IU ratings, some may wish to return to a work environment and with some limited rating protection would be encouraged to do so. Therefore, the committee bill is designed to determine whether a limited protection of the IU rating would provide an incentive for IU-rated veterans to return to work. The committee bill is also designed to provide a more substantial link for IU-rated veterans with the VA's vocational rehabilitation program in order to assist the disabled veteran in job training and placement. The committee envisions that this pilot project would provide certain evaluation, counseling, training, and placement services when appropriate. It is hoped that such a link would be beneficial both to such seriously disabled veterans who wish to return to work as well as to the compensation program itself. If these unemployed veterans can be retrained and returned to work, the veteran's actual schedular ratings would be restored. As a result, less compensation would be paid and the veteran's self-esteem and self-worth would be greatly enhanced by the demonstration of his or her ability to maintain employment in spite of being seriously disabled.

Under the committee bill, veterans who are newly rated as individually unemployable would be required to undergo an evaluation of rehabilitation potential. This new requirement is designed to ensure that the veteran would be given every opportunity to remain employed or be retrained for another occupation more appropriate to the limits of such veteran's disabilities. I believe strongly that it is important to ensure that the VA, in the process of these rating evaluations, not overlook possible employment potential that the VA rating examiner,

who is not trained in employment and rehabilitation, may not be aware of. Therefore, the committee bill would provide further that the IU-rated veteran undergo an evaluation to determine feasibility for pursuing a program of vocational rehabilitation under chapter 31 of title 38. If it is determined that the veteran could benefit from such a plan, the veteran would be required to participate in the program. If the veteran does not comply, his IU rating would be reviewed with that noncompliance taken into consideration. This requirement is limited to actively encourage veterans for whom it has been determined by a vocational rehabilitation specialist that a vocational rehabilitation program would be feasible to take full advantage of the assistance available to them.

I support this provision because I believe that service-connected veterans with very serious disabilities may still be able to be employed as productive citizens and should be given every opportunity to be trained, or retrained, in a field that is in line with his or her abilities, and helped in every way possible to reach the goal of substantial, gainful employment. The report that is due the end of this pilot program is intended to advise the committee on the results of the program.

The committee bill contains another trial-work program for veterans rated totally and permanently disabled for purposes of VA pension. The same concept underlies this provision and its report requirement—that is, an attempt to determine whether non-service-connected veterans in receipt of VA pension would return to work if their disability status and health-care benefits are protected for a limited period of time. These veterans are often catastrophically disabled and the possibility of losing their VA health-care eligibility may stand in the way of their attempts to return to work. This pilot project would be open for new participants during a 3-year period and would be subject to a 1-year extension if determined necessary by the Administrator. My support for this test program is based on my desire to learn if certain incentives would result in veteran pensioners returning to gainful employment instead of remaining on the pension rolls.

Another provision contained in this legislation is a 1-year extension of the veterans' readjustment appointment [VRA]. The VRA program was established to permit certain disabled Vietnam-era veterans and educationally disadvantaged Vietnam-era veterans to be given excepted appointments in the Federal civil service. I have agreed reluctantly to provide a 1-year extension of this program, which was established in 1970, when as many as 1 million men and women a year were leaving the service, aggravating an already serious unemployment problem among Vietnam veterans. This program has been highly successful in achieving its goal to assist these veterans by making it possible for them to be hired noncompetitively into the Federal civil service and to develop additional skills through a program combining education and training with the opportunity for a regular career appointment.

During the last few years, there has been a dramatic change in the unemployment rate of Vietnam-era veterans. In fiscal year 1983, the unemployment rate for male wartime veterans averaged 7.3 percent. Nonveteran males had an average unemployment rate of 11.8 percent during the same period. This is a dramatic contrast to early 1971 when unemployment among young veterans was reaching as high as 16 percent among veterans 20 to 24 years old. I wish to note further that in 1982, male Vietnam-era veterans under age 45 had a median educational level of 13 years and a median income of $20,190. Nonveteran males of similar age had a median education level of 12.9 years, but a median income of only $13,410. A comparison of the distribution of educational attainment for Vietnam-era veterans and nonveterans shows that 92 percent of the Vietnam-era veterans had completed high school while 82 percent of similarly aged nonveterans had done so.

Additionally, the Department of Defense currently provides service members with broader educational and training programs than those that were available during the Vietnam era. Therefore, recently discharged veterans who served during that period are better prepared both economically and educationally to readjust to civilian life.

In supporting a 1-year extension for this VRA program, I wish to note that my support for this type of program during its initiation and during the period of high unemployment for wartime-era veterans has been very strong. However, in my view, it is time to phase down this program and reach closure on an era during which Vietnam veterans were disadvantaged. I am pleased that so many Vietnam-era veterans have been successful in their pursuit of higher education and have been able to secure higher median incomes than their nonveteran counterparts. That is exactly the results we wish to see and I applaud the part that the VRA program played in getting veterans back to work. It is comforting to know that the need for such programs does indeed lapse and that they are able to meet the goals for which they were designed.

The final provision of the committee bill that would provide targeted attention on veterans who are unemployed is the provision which would provide an extension of the period of time under the Emergency Veterans' Job Training Act [EVJTA] during which funds already appropriated will remain available. The committee bill would extend funding availability by 1 year to ensure that payments can be paid to employers for the entire length of the training programs. The provision would not authorize any additional appropriations or extend the time for applying for the program, but simply extends the time that already appropriated funds may remain available.

EVJTA, which was enacted in August 1983, was crafted to provide a one-shot boost to veterans who were chronically unemployed by providing payments to employers who would hire and train such long-term unemployed Korean conflict and Vietnam-era veterans. The program got off to a slow start since the initial funding was not made available to the VA until the end of November 1983. Therefore, the committee bill would provide an additional opportunity for the program to meet the needs of such veterans and postpones by 6 months, from March to September 1985, the date by which a veteran must begin training under the program. The committee bill also would extend the lifetime from 60 to 90 days of the certificate of eligibility for a veteran who has been determined eligible for the program. This would enable the veteran to have more time during the life of the certificate to look for a job.

The trial-work periods for IU-rated veterans with service-connected disabilities and VA pensioners, the VRA extension, and the enhancements to the EVJTA program are designed to improve and enhance the capability of our Nation's veterans to return successfully to the world of work.

There are other provisions of the committee bill which are more fully discussed in the committee report. In order that the Senate might have the benefit of a more thorough description of the provisions of S. 2736, I ask unanimous consent that the committee's summary of the provisions contained in the committee report be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SIMPSON. Mr. President, we also intend to offer today, as part of an accepted committee amendment to S. 2736, several provisions which have been worked out and agreed to by the committee's ranking minority member, my colleague from California [Senator ALAN CRANSTON]. This amendment in-

cludes an initiative by my good friend, Senator BILL COHEN concerning incompetent veterans and a proposal by the very able and consistent Senator PROXMIRE with respect to a VA insurance program, serviceman's group life insurance [SGLI].

Mr. President, I wish to express by deep appreciation for the continuing worthwhile efforts of my fine friend from California [Mr. CRANSTON], the ranking minority member of the committee who has been so very instrumental in working with me to work out the development of the committee bill. I also wish to extend my thanks to the committee staff members who have worked so tirelessly on this legislation, especially my extraordinary chief counsel and staff director, Anthony Principi, his deputy and legislative director, Julie Susman, Kathleen McTighe, Jody Sanders, Becky Hucks, Kay Eckhardt, and Jim MacRae. As usual and always, I wish to note the outstanding contributions of the minority chief counsel, Jonathan Steinberg, and his fine staff, Edward Scott, Babette Polzer, and Ingrid Post.

Mr. President, the provisions of S. 2736, containing the proposed COLA for VA compensation and DIC recipients and employment incentives are most important to our Nation's most deserving veterans, those with service-connected disabilities, their dependents, and survivors, and those who are unemployed. I strongly urge that my colleagues join with me in supporting the bill.

EXHIBIT 1

INTRODUCTION

On June 7, 1984, the Chairman of the Committee, Senator Simpson, introduced two measures for himself and Senator Cranston, the Committee's Ranking Minority Member. The first measure, S. 2736, would provide for a 4.7-percent increase in the rates of disability compensation and dependency and indemnity compensation (DIC). The second measure, S. 2737, would provide for a 10-percent increase in the rates of subsistence and educational assistance allowances for veterans and eligible persons pursuing education or training programs and the rates of subsistence allowances for veterans pursuing VA rehabilitation programs and would also provide a $2 increase in reporting fees paid to educational institutions of training establishments.

Earlier, on February 7, 1984, Senator Cranston, together with Senators Randolph, Matsunaga, and DeConcini, introduced S. 2267, which would increase by 10 percent the maximum amount of the automobile assistance grant for certain service-connected disabled veterans. Also, on February 7, Senator Cranston, joined by Senators Randolph, Matsunaga, DeConcini, and Byrd, introduced S. 2268, a measure to extend for 3 years the period during which veterans readjustment appointments may be made.

On March 20, 1984, Senator Cranston, joined by Senators Randolph, Matsunaga, DeConcini, and Sarbanes introduced S. 2451, which would increase by 17 percent the maximum amount of the specially adapted housing assistance grants for veterans with certain severe service-connected disabilities; would increase by 20 percent the maximum amount of special housing assistance for service-connected disabled veterans who are blind or who have lost, or lost the use of, both upper extremities; and would increase by 27 percent the maximum amount of the VA home loan guaranty entitlement.

On June 13, 1984, Senator Cranston introduced two measures. The first measure, S. 2759, would provide for periods of trial work for veterans who are assigned service-connected total disability ratings by reason of unemployability, during which the 100-percent disability payments would continue even though the veteran was working. The second measure, S. 2760, cosponsored by Senator DeConcini, would extend by 6 months the period of time during which an eligible veteran may apply for a job training program and the date by which veterans must begin training under the Emergency Veterans' Job Training Act of 1983.

On June 27, 1984, Senator Simpson conducted a Committee hearing on S. 2736 and related measures pending before the Committee. Testimony was presented by John W. Hagan, Jr., Deputy Benefits Director of the Veterans' Administration, accompanied by other representatives of that Agency and by representatives of The American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, the Paralyzed Veterans of America, and the Vietnam Veterans of America.

After reviewing the testimony received at the June 27 hearing, the Committee met in open session on July 25, 1984, to consider the provisions of S. 2736 and other measures. The Committee voted unanimously to order S. 2736 reported with a title amendment and an amendment in the nature of a substitute, derived in part from the provisions of S. 2736, S. 2737, S. 2267, S. 2268, S. 2451, S. 2759, and S. 2760, plus two legislative proposals submitted by the Veterans' Administration.

Subsequently, the Committee voted unanimously, by a poll completed on September 5, 1984, to incorporate two provisions which were previously part of S. 2514, the proposed "Veterans' Administration Health Care Amendments of 1984", as reported by the Committee but which were deleted from that bill on the motion of the Committee prior to Senate action on S. 2514 on August 9, 1984. These provisions originated in S. 2269 and Amendment No. 2850 to S. 2269. On February 7, 1984, Senator Cranston, together with Senators Randolph, Matsunaga, and DeConcini, introduced S. 2269. As introduced, section 2 of S. 2269 would have expanded the definition of the Vietnam era for the purposes of title 38, United States Code, so as to include the period beginning on July 8, 1959, and ending on August 4, 1964, for those who served in Vietnam at any time during that period. On March 27, 1984, Senator Cranston, with Senator Matsunaga's cosponsorship, submitted Amendment No. 2850, to S. 2269. Amendment No. 2850 included a provision that would have specified that any remuneration received by VA patients in a rehabilitation therapy program under section 618 of title 38, United States Code, shall not be counted as income for the purpose of VA pension.

These two provisions—the only provisions of S. 2514 as reported that involved entitlement spending—were deleted from S. 2514 and incorporated into the Committee bill solely to obviate the need for a waiver for S. 2514 of section 303(a) of the Congressional Budget Act of 1974, under which it is not in order for the Senate to consider legislation providing new entitlement spending in a fiscal year until the Congress has adopted a first concurrent resolution on the budget for that fiscal year. Since the Congress had not yet adopted a first concurrent resolution on the fiscal year 1985 budget when S. 2514 was brought before the Senate, a Budget Act waiver would have been necessary as to both of these provisions in that measure. Since S. 2736 proposed a cost-of-living increase and other adjustments in VA entitlements which will require a Budget Act waiver if the first resolution on the fiscal year 1985 budget is not adopted by the time this bill comes before the Senate, the Committee decided to include these two other provisions in S. 2736 and thereby propose only one Budget Act waiver resolution.

SUMMARY OF S. 2736 AS REPORTED

S. 2736 as reported (hereinafter referred to as the "Committee bill") has six titles: Disability compensation and dependency and indemnity compensation; Veterans' Administration rehabilitation and education programs; Veterans' employment programs; Veterans' Administration non-service-connected disability pension; Other benefit rate increases; and Miscellaneous provisions, as follows:

TITLE I: DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION

Part A—Rate Increases

Part A of this title includes amendments to chapters 11 and 13 of title 38, United States Code, which would provide, effective December 1, 1984, a 4.7-percent increase (the same increase that the Congressional Budget Office originally estimated this year will be provided to Social Security recipients and VA pension beneficiaries effective December 1, 1984) in:

(1) basic compensation rates for service-connected disabled veterans and, generally, in the rates payable for certain severe disabilities;

(2) the allowances for spouses, children, and dependent parents paid to service-connected disabled veterans rated 30-percent or more disabled;

(3) the annual clothing allowance paid to veterans whose compensable disability requires the use of a prosthetic or orthopedic appliance (including a wheelchair) that tends to tear or wear out clothing; and

(4) the dependency and indemnity compensation (DIC) rates paid to:

(a) surviving spouses of veterans whose deaths were service connected;

(b) surviving spouses for dependent children and surviving spouses who are so disabled as to be in need of regular aid and attendance or to be permanently housebound; and

(c) the children of veterans whose deaths were service connected where no surviving spouse is entitled to DIC, the child is age 18 through 22 and attending an approved educational institution, or the child is age 18 or over and became permanently incapable of self-support prior to reaching age 18.

If the percentage increase under the Social Security Act, effective December 1, 1984, is not 4.7 percent, the Committee bill would provide that, in lieu of the 4.7-percent rate increases, the Administrator of Veterans' Affairs shall compute and pay alternative increased rates consistent with the rate increase under the Social Security Act.

Part B—Compensation Program Amendments

Part B of this title includes amendments to chapter 11 of title 38, United States Code, in the form of two new sections which would:

(1) Establish a 3-year trial-work pilot program (which the Administrator could extend to 4 years) for veterans who are assigned service-connected total disability ratings by reason of individual determinations of unemployability ("IU ratings"). Under the pilot program, a veteran with an IU rating would have the opportunity to participate in a 12-month trial work period and would be eligible for various counseling and placement services. Not later than 39 months after the enactment date, the Administrator would be required to report on the results of the first 3 years' experience under the pilot program.

(2) Provide that all veterans receiving an IU rating must undergo a vocational rehabilitation evaluation, if eligible therefor, and pursue a VA vocational rehabilitation program if one is developed.

TITLE II: VETERANS' ADMINISTRATION REHABILITATION AND EDUCATION PROGRAMS

Part A—Rate Increases

Part A of this title includes amendments to chapters 31, 34, 35, and 36 of title 38, United States Code, effective October 1, 1984, which would provide a 10-percent rate increase for all Veterans' Administration education programs, including: rehabilitation subsistence allowances for veterans with service-connected disabilities; educational assistance allowances and special supplementary (tutorial) assistance for eligible veterans; training assistance allowances for apprenticeship and other on-job training; and educational assistance and special training allowances for eligible survivors and dependents. Reporting fees to educational institutions would also be increased by $2.

Part B—Rehabilitation and Education Program Improvements

Part B of this title includes amendments to chapters 31, 34, 35, and 36 of title 38, United States Code, which would:

(1) Toll the eligibility period for GI Bill and certain other educational benefits and vocational rehabilitation programs for certain veterans and eligible persons who have been prevented from participating in such programs because of alcohol or drug dependence or abuse. (In the case of a veteran with a general discharge, an individual determination that the discharge was under conditions other than dishonorable would be required.)

(2) Repeal a Veterans' Administration reporting requirement pertaining to deceptive advertising practices by educational institutions.

(3) Require the Administrator to consult with the VA's educational advisory committee prior to changing any educational institution requirements for reporting enrollments of GI Bill trainees.

TITLE III: VETERANS' EMPLOYMENT PROGRAMS

This title includes amendments to chapter 42 of title 38, United States Code, and Public Law 98-77 which would:

(1) Extend the authority for Vietnam-era veterans readjustment appointments for 1 year, provide limited appeal rights during the first year of an appointment, and provide for annual, instead of semiannual, reports on the program.

(2) Amend the Emergency Veterans' Job Training Act of 1983 to extend by 6 months, until September 1, 1985, the date by which veterans previously certified must commence a training program under that Act; to extend to 90 days the lifetime of certifications of eligibility; and to extend the availability of appropriated funds under the program for 1 year.

TITLE IV: VETERANS' ADMINISTRATION NON-SERVICE-CONNECTED DISABILITY PENSION

This title includes amendments to chapter 15 of title 38, United States Code, which would:

(1) Establish a 3-year pilot program (which the Administrator could extend to 4 years) to allow a permanently and totally disabled veteran pension recipient to participate in a 36-month period of trial work. Veterans participating in the program would be permitted to retain their disability status and eligibility for VA health-care services during their trial work periods. Also, those whose pension is terminated due to income derived from participation in a VA or State vocational rehabilitation program would have an additional 12-month eligibility period for VA health-care services. All income received from employment during the trial work period, with the exception of certain subsistence allowances associated with vocational rehabilitation programs, would be counted in determining the veteran's income for pension purposes. The Administrator would be required to report on the results of the pilot program's first 3 years of implementation not later than 39 months after its effective date.

(2) Require the Administrator to prepare and submit a report on the results of conducting, during the 2-year period following the enactment date, medical examinations of persons awarded VA pension based on their being over age 65 for the purposes of determining their actual percentage disability ratings.

TITLE V: OTHER BENEFIT RATE INCREASES

This title includes amendments to chapters 21 and 39 of title 38, United States Code, which would provide, effective July 1, 1985, 10-percent increases in the maximum amounts of: the specially adapted housing assistance grant for certain severely service-connected disabled veterans; special housing assistance for service-connected veterans who are blind or have lost, or lost the use of, both upper extremities; and the automobile assistance grant for certain severely disabled, service-connected veterans.

TITLE VI: MISCELLANEOUS PROVISIONS

This title includes amendments to chapters 1, 17, 51, and 55 of title 38, United States Code, which would:

(1) Expand the definition of the Vietnam era (August 5, 1964, through May 7, 1975) for the purposes of title 38, United States Code, to include the period beginning on February 21, 1961, and ending on August 4, 1964, in the case of those who served in Vietnam during that time.

(2) Require the VA to conduct a 39-month demonstration project (and submit by February 1, 1987, a report on the first 2 years' experience) under which the income received by veterans for their participation in VA incentive-therapy and compensated-work-therapy programs would not be counted as income for the purpose of VA pension programs.

(3) Specify that a veteran's participation in a VA incentive-therapy or compensated-work-therapy program will not be considered a basis for denying or discontinuing a total disability rating for VA compensation or pension purposes.

(4) Establish the last date of school attendance as the termination date for veterans' dependents' allowances for children between the ages of 18 and 23 who are attending school.

(5) Generally exclude the value of an incompetent, single (without dependents) veteran's home when determining the value of the veteran's estate for purposes of the requirement that the veteran's VA benefits be discontinued during a period of institutional care at public expense.

(6) Delete gender references in certain parts of chapter 1 of title 38, United States Code.

DISCUSSION

TITLE I: DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION

Part A—Rate Increases

Background

Disability compensation

The service-connected disability compensation program provides monthly cash benefits to veterans who have suffered disabilities during, or as a result of, their service in our Nation's Armed Forces. This program is the highest program priority of the Veterans' Affairs Committee.

The amount paid in individual instances is contingent upon the nature of the veterans' disability or combination of disabilities and the extent to which earning capacity is considered to have been impaired. Compensable disabilities are rated according to the VA's Schedule of Rating Disabilities on a graduated scale ranging from 10- to 100-percent rate. Higher monthly rates are payable to totally disabled veterans with certain specific, very severe disabilities and combinations of disabilities.

The Veterans' Administration disability compensation program in July 1984 provided benefits for 2,252,779 veterans who have service-connected disabilities. This number includes disabled veterans with the following periods of service: 15,520 World War I veterans; 1,085,709 World War II veterans; 225,998 Korean-conflict veterans; and 593,606 Vietnam-era veterans.

The following table shows average costs and caseloads for veterans and survivors:

TABLE 1—COMPENSATION—SUMMARY OF REQUIREMENTS

[Total cost in thousands of dollars]

	Fiscal year 1983			Fiscal year 1984			Fiscal year 1985		
	Average cases	Average benefit	Total obligations	Average cases	Average benefit	Total obligations	Average cases	Average benefit	Total obligations
Compensation (total)	2,616,305	$3,768	$9,857,780	2,605,300	$3,791	$9,875,422	2,598,300	$3,789	$9,844,300
Veterans (total)	2,268,146	3,532	8,010,063	2,260,300	3,552	8,029,382	2,255,800	3,546	7,938,233
Spanish-American War	3	7,000	21	3	7,333	22	3	7,333	22
Mexican Border period	4	7,000	28	4	7,500	30	4	7,500	30
World War I	19,645	4,195	82,418	16,800	4,212	70,759	14,200	4,202	59,668
World War II	1,124,488	3,348	3,764,287	1,095,000	3,364	3,683,667	1,067,500	3,355	3,581,109
Korean conflict	229,929	3,973	913,511	227,600	3,992	908,512	225,193	3,982	896,789
Vietnam era	583,132	3,636	2,120,410	591,093	3,658	2,162,328	599,300	3,647	2,185,527
Peacetime service	310,945	3,632	1,129,389	329,800	3,651	1,204,064	349,600	3,647	1,275,088
Survivors (total)	348,159	5,245	1,825,997	345,000	5,288	1,824,262	342,500	5,326	1,824,321
Civil War	3	4,874	15	3	5,000	15	3	5,000	15
Spanish-American War	96	5,677	545	80	5,700	456	70	5,700	399
Mexican-Border period	1	7,000	7	1	7,000	7	1	7,000	7
World War I	26,380	5,714	150,725	25,200	5,707	143,820	24,000	5,701	136,816
World War II	163,932	4,693	769,299	161,200	4,743	764,571	159,000	4,788	761,291
Korean conflict	38,689	5,095	197,114	38,300	5,177	198,279	38,000	5,250	199,500
Vietnam era	68,147	5,805	395,608	69,000	5,828	402,138	69,900	5,851	408,989
Peacetime service	50,911	6,142	312,684	51,216	6,150	314,976	51,526	6,158	317,304
Clothing allowance (total)	(66,729)	325	21,720	(66,600)	327	21,778	(66,500)	327	21,746

Source: Department of Veterans' Benefits, Veterans' Administration, August 1984.

History of cost-of-living increases

The Committee periodically reviews the service-connected disability compensation program with a view toward assuring that the benefits authorized provide reasonable and adequate compensation for disabled veterans and their families. Congress has traditionally acted periodically to provide cost-of-living increases in compensation benefits, in order to assure that those benefits keep pace with inflation.

The following table shows statutory increases in the rates of disability compensation since 1957:

TABLE 2.—HISTORY OF SERVICE-CONNECTED DISABILITY COMPENSATION INCREASES, 1957 TO PRESENT

Sec. 314, title 38, subsection—	Public Law 85–168, Oct. 1, 1957, monthly rate	Public Law 87–645, Oct. 1, 1962		Public Law 89–311, Oct. 31, 1965		Public Law 90–493, Jan. 1, 1969		Public Law 91–376, July 1, 1970		Public Law 92–328, Aug. 1, 1972		Public Law 93–295, May 1, 1974		Public Law 94–71, Aug. 1, 1975	
		Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate
(a)	$19	0.3	$20	5.0	$21	9.5	$23	8.7	$25	12.0	$28	15	$32	9.4	$35
(b)	36	5.6	38	5.3	40	7.5	43	7.0	46	10.8	51	15	59	10.2	65
(c)	55	5.5	58	3.4	60	8.3	65	7.7	70	10.0	77	15	89	10.1	98
(d)	73	5.5	77	6.6	82	8.5	89	7.9	96	10.4	106	15	122	9.8	134
(e)	100	7.0	107	5.6	113	8.0	122	10.7	135	10.3	149	15	171	9.9	188
(f)	120	6.7	128	6.3	136	8.1	147	10.9	163	9.8	179	18	211	11.9	236
(g)	140	6.4	149	7.4	161	8.1	174	10.9	193	9.8	212	18	250	12.0	280
(h)	160	6.3	170	9.4	186	8.1	201	10.9	223	9.9	245	18	289	12.1	324
(i)	179	6.7	191	9.4	209	8.1	226	10.6	250	10.0	275	18	325	12.0	364
(j)	225	11.1	250	20.0	300	33.3	400	12.5	450	10.0	493	18	584	12.2	655
(k)												10	52	0	52
(l)	309	10.0	340	17.6	400	25.2	500	12.0	560	10.0	616	18	727	12.0	814
(m)	359	8.6	390	15.4	450	22.2	550	12.0	616	10.1	678	18	800	12.0	896
(n)	401	9.7	440	19.3	525	18.2	625	12.0	700	10.0	770	18	909	12.0	1,018
(o)	450	16.7	525	14.3	600	16.7	700	12.0	784	9.0	862	18	1,017	12.0	1,139
(p)	450	16.7	525	14.3	600	16.7	700	12.0	784	9.9	862	18	1,017	12.0	1,139
(q)															
Subsec. (r) "aid and attendance" non-hospitalization, Public Law 82–782, effective Oct. 1, 1958:															
(1)	150	33.3	200	25.0	250	20.0	300	12.0	336	10.1	370	18	437	11.9	489
(2)															
Subsec. (s) (housebound cases), Public Law 86–663, effective Sept. 1, 1960	265	9.4	290	20.7	350	28.8	450	12.0	504	9.9	554	18	654	11.9	732
(t)															
Sec. 362, of title 38															

TABLE 2.—HISTORY OF SERVICE-CONNECTED DISABILITY COMPENSATION INCREASES, 1957 TO PRESENT—Continued

Sec. 314, title 38, subsection—	Public Law 94–433, Oct. 1, 1976		Public Law 95–117, Oct. 1, 1977		Public Law 95–479, Oct. 1, 1978		Public Law 95–128, Oct. 1, 1979		Public Law 96–385, Oct. 1, 1980		Public Law 97–66, Oct. 1, 1981		Public Law 97–306, Oct. 1, 1982		Public Law 98–223, Apr. 1, 1984	
	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate
(a)	8.6	$38	6.6	$41	7.3	$44	9.9	$48	13.0	$54	8.0	$58	6.9	$62	3.5	$64
(b)	7.7	70	6.6	76	7.3	80	9.9	88	13.0	99	8.0	107	6.5	114	3.5	118
(c)	8.2	106	6.6	113	7.3	121	9.9	133	13.0	150	8.0	162	6.8	173	3.5	179
(d)	8.2	145	6.6	155	7.3	166	9.9	182	13.0	206	12.6	232	7.3	249	3.5	258
(e)	8.0	203	6.6	216	7.3	232	9.9	255	14.3	291	12.6	328	7.3	352	3.5	364
(f)	8.1	255	6.6	272	7.3	292	9.9	321	14.3	367	12.6	413	7.3	443	3.5	459
(g)	7.9	302	6.6	322	7.3	346	9.9	380	14.3	434	20.0	521	7.3	559	3.5	579
(h)	8.0	350	6.6	373	7.3	400	9.9	440	14.3	503	20.0	604	7.3	648	3.5	671
(i)	8.0	393	6.6	419	7.3	450	9.9	495	14.3	566	20.0	679	7.4	729	3.5	755
(j)	7.9	707	6.6	754	7.3	809	9.9	889	14.3	1,016	11.2	1,130	7.3	1,213	3.5	1,255
(k)	8.0	879	6.6	56	0	56	0	[2] 56	0	62	0	62	0	62	0	62
(l)	8.0	879	6.6	937	7.3	1,005	9.9	1,104	14.3	1,262	11.2	1,403	7.3	1,506	3.5	1,559
(m)	8.0	968	6.6	1,032	7.3	1,107	9.9	1,217	14.3	1,391	11.2	1,547	7.4	1,661	3.5	1,719
(n)	8.0	1,099	6.6	1,172	7.3	1,258	9.9	1,383	14.3	1,581	11.2	1,758	7.4	1,888	3.5	1,954
(o)	8.1	1,231	6.6	1,312	7.3	1,408	9.9	1,547	14.3	1,768	11.2	1,966	7.4	2,111	3.5	2,185
(p)	8.1	1,231	6.6	1,312	7.3	1,408	9.9	1,547	14.3	1,768	11.2	1,966	7.4	2,111	3.5	2,185

TABLE 2.—HISTORY OF SERVICE-CONNECTED DISABILITY COMPENSATION INCREASES, 1957 TO PRESENT—Continued

Sec. 314, title 38, subsection—	Public Law 94–433, Oct. 1, 1976		Public Law 95–117, Oct. 1, 1977		Public Law 95–479, Oct. 1, 1978		Public Law 95–128, Oct. 1, 1979		Public Law 96–385, Oct. 1, 1980		Public Law 97–66, Oct. 1, 1981		Public Law 97–306, Oct. 1, 1982		Public Law 98–223, Apr. 1, 1984	
	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate
(q)											0	67	0	67	0	67
Subsec. (r) "Aid and Attendance" non-hospitalization, Public Law 85–782, effective Oct. 1, 1958:																
(1)	0	528	6.6	563	7.3	604	9.9	664	14.3	759	11.2	844	7.3	906	3.5	938
(2)					(1)	900		989	14.3	1,130	11.2	1,257	7.4	1,350	3.5	1,397
Subsec. (s) (housebound cases), Public Law 86–663, effective Sept. 1, 1960	7.7	791	6.6	843	7.3	905	9.9	995	14.3	1,137	11.2	1,264	7.4	1,357	3.5	1,404
(t)					(1)	175		192	14.3	219	11.2	244	7.4	262	3.5	271
Sec. 362 of title 38	8.6	190	6.6	203	7.3	218	9.9	240	14.3	274	11.2	305	7.2	327	3.5	338

[1] From Oct. 1978. [2] (k) $62 effective Sept. 1, 1980 (9.9 percent increase). Source: Department of Veterans' Benefits, Veterans' Administration, August 1984.

Dependency and indemnity compensation (DIC)

The dependency and indemnity compensation (DIC) programs, which supplanted the earlier death compensation program, were established in 1956 with the enactment of the Servicemen's and Veterans' Survivors Benefit Act (Public Law 84–881).

DIC is paid to the survivors—surviving spouses, unmarried children under the age of 18, as well as certain helpless children age 18 or over, childen between the ages of 18 and 23 who are enrolled in school, and certain needy parents—of servicemen or veterans who died on or after January 1, 1957, from: (1) a disease or injury incurred or aggravated in the line of duty while on active duty or active duty training; or (2) an injury incurred or aggravated in the line of duty on inactive duty training; or (3) a disability compensable under laws administered by the VA.

Surviving spouses, children, and parents who are receiving death compensation by reason of a veteran's death occurring before January 1, 1957, may elect to receive DIC benefits in lieu of death compensation. Once they so elect, however, they cannot, thereafter, receive death compensation.

DIC is paid to surviving spouses at rates determined by the pay grade—service rank—of the deceased veteran. A higher rate is payable if the surviving spouse is so disabled as to be housebound or in need of regular aid-and-attendance, and additional amounts are payable for the veteran's surviving children. Children become entitled to DIC where there is no surviving spouse, or where the child age 18 or over has become permanently incapable of self-support before reaching the age of 18, or the child is age 18 to 23 and pursuing an approved course of education. DIC benefits are currently paid to or for 312,840 surviving spouses and children of those who died as a result of their service-connected disabilities. In addition, DIC is paid to 43,843 needy surviving parents of veterans whose deaths were service connected. Under Public Law 95–588, the provisions of chapter 13 of title 38, United States Code, governing the parents' DIC rates, were amended to provide for automatic annual adjustments at the same time and by the same percentage as Social Security benefits.

Under section 410(b) of title 38, benefits are also paid at DIC rates to the surviving spouse and children of veterans whose deaths are not determined to be service connected, where the veteran received compensation at the 100-percent rate over an extended period of time immediately prior to his or her death.

Committee Bill Provisions

The Committee bill provides for a 4.7-percent cost-of-living (COLA) increase, effective December 1, 1984, in the service-connected disability compensation and dependency and indemnity compensation benefit rates. This percentage increase—the same as that, at the time of the Committee's July 25 meeting, the Congressional Budget Office estimated Social Security benefits would be increased this year—is designed to be the same as the cost-of-living adjustments paid to Social Security beneficiaries and VA pensioners eligible for benefits under the new pension program established by Public Law 95–588. If the December 1, 1984, Social Security COLA is greater or less than the 4.7-percent estimated increase, the compensation rate increases would be adjusted accordingly to ensure a uniform cost-of-living rate increase and effective date, based on the actual rate of inflation. In calculating the rate increases, the Committee has rounded to the next higher dollar all amounts of $.50 or more; amounts of less $.50 have been rounded down.

The Committee's rationale for these rate increases, effective December 1, 1984, is set forth at page 12 of the Committee's "Budget Views and Estimates for Fiscal Year 1985", Senate Print 98–165, which was submitted to the Senate Budget Committee on March 16, 1984 (Committee Print No. 2). This effective date conforms with section 108 of Public Law 98–223, which expressed the sense of Congress that COLA's for fiscal years subsequent to 1984 are to take effect on December 1.

Disability compensation increases

The 4.7-percent increase provided for by the Committee bill would apply to the monthly rates of disability compensation under section 314 of title 38, United States Code, except for the monthly rate specified in subsection (k) of section 314; the rates of additional monthly compensation for dependents payable under section 315 to veterans rated 30-percent of more disabled; and the annual clothing allowance under section 362 for disabled veterans who must use prosthetic or other orthopedic appliances, such as wheelchairs, that tend to tear or wear out their clothing. The maximum monthly amounts specified in subsections (k) and (p) of section 314 would also be increased. Those are specified dollar amounts that may not be exceeded in the event that a veteran would otherwise be entitled to a higher amount by reason of entitlement to two or more monthly rates.

The following table shows the August 1984 rates of disability compensation and those proposed by the Committee bill, together with the number of veterans receiving compensation in each category:

TABLE 3.—COMPARISON OF COMPENSATION RATES UNDER PRESENT LAW AND UNDER S. 2736 AS REPORTED

Applicable subsection of sec. 314, United States Code	Percentage of disability	Increase in monthly rate		Number of Veterans
		From—	To—	
(a)	(10)	$64	$67	885,500
(b)	(20)	118	124	356,420
(c)	(30)	179	187	314,726
(d)	(40)	258	270	185,446
(e)	(50) [1]	364	381	112,381
(f)	(60) [1]	459	481	118,224
(g)	(70) [1]	579	606	66,950
(h)	(80) [1]	671	703	37,464
(i)	(90) [1]	755	790	14,039
(j)	(100)	1,255	1,314	137,265

[1] Includes cases in which payment is made at the total disability rate due to individual unemployability.

HIGHER STATUTORY AWARDS FOR CERTAIN MULTIPLE DISABILITIES

Applicable subsection of sec. 314 United States Code	Percentage of disability	Increase in monthly rate		Number of veterans
		From—	To—	
(k)(1)	Anatomical loss or loss of use of 1 or more creative organ, 1 foot, 1 hand, or both buttocks, or blindness of 1 eye, or complete organic aphonia, or deafness of both ears—for each loss.	62	62	
(2)	Maximum limit for veterans receiving payments under (a) to (j), above.	1,559	1,632	84,497
(3)	Maximum limit for veterans receiving payments under (i) to (n), below.	2,185	2,288	
(l)	Anatomical loss or loss of use of both hands, both feet, 1 foot and 1 hand, blindness in both eyes, permanently bedridden or so helpless as to require regular aid and attendance.	1,559	1,632	7,909
(m)	Anatomical loss or loss of use of 2 extremities so as to prevent natural elbow or knee action with prosthesis in place, or blind in both eyes, either with light perception only or rendering veteran so helpless as to require regular aid and attendance.	1,719	1,800	4,465
(n)	Anatomical loss of 2 extremities so near shoulder or hip as to prevent use of prosthesis or anatomical loss of both eyes.	1,954	2,046	999

HIGHER STATUTORY AWARDS FOR CERTAIN MULTIPLE DISABILITIES—Continued

Applicable subsection of sec. 314 United States Code	Percentage of disability	Increase in monthly rate		Number of veterans
		From—	To—	
(o)	Disability under conditions entitling veteran to 2 or more of the rates provided in (l) through (n), above, no condition being considered twice in the determination, or deafness rated at 60 percent or more in combination with total blindness.	2,185	2,288	385
(p)(1)	For blindness of both eyes together with bilateral deafness rated at 40 percent or more disabling or total deafness of 1 ear, next higher rate of intermediate rate, respectively is payable—but compensation may not exceed.	2,185	2,288	1,820
(2)	Anatomical loss or loss of use of three extremities, next higher rate or intermediate rate is payable—but compensation may not exceed.	2,185	2,288	1,820
(q)	[This subsection repealed by Public Law 90–493].			
(r)(1)	If veteran entitled to compensation at the rate provided for under (o), above, or at the maximum rate under (p), above, is in need of regular aid and attendance, in addition to such rate.	938	982	6,173
(2)	If veteran described in (r)(1), above, is in need of a higher level of care by a licensed health-care professional or a person under the regular supervision of such a professional, in addition to the rate payable under (o) or (p).	1,397	1,463	1,525
(s)	If veteran has a disability rated as total, plus additional disability independently ratable at 60 percent or over, or is permanently housebound.	1,404	1,470	6,819
(t)	If veteran entitled to compensation under (a) through (i) above, has suffered the service-connected loss or loss of use of an extremity ratable at 40 percent or more and the non-service-connected loss or loss of use of paired extremity, and the latter loss would be rated at 40 percent or more if service connected, in addition to the rate payable under (a) through (i), above.	271	284	66

Department of Veterans' Benefits, Veterans' Administration, June 1984.
Source: Section 314 of title 38, United States Code, August 1984.

Dependents' allowances increases

Veterans whose disabilities are rated at 30 percent or more may receive additional compensation for the veteran's spouse, children, and dependent parents. Under the Committee bill, those dependents' allowances would also be increased by 4.7 percent. Such dependents allowances are prorated according to the percentage of disability. As of March 1984, the number of dependents for whom veterans received additional compensation was 1,125,291.

The following table shows the current rates of additional compensation for dependents and those that would be provided for under the Committee bill:

TABLE 4.—ADDITIONAL COMPENSATION FOR DEPENDENTS

	Monthly rate	
	From—	To—
Spouse	$77	$81
Spouse and child	128	134
No spouse, 1 child	52	54
Each additional child	41	43
Each dependent parent	62	65
Each child age 18 to 22 attending school	116	121
Spouse in nursing home or severely disabled	139	146

Source: Section 315 of title 38, United States Code, August 1984.

Dependency and indemnity compensation increases

The Committee bill would also provide for a cost-of-living increase of 4.7 percent in DIC rates for surviving spouses and children, which is the same rate of increase provided for service-connected disabled veterans by the Committee bill. Additional allowances for surviving spouses in need of aid and attendance or who are housebound, helpless children age 18 or over, and children between the ages of 18 and 23 attending school would also be increased by 4.7 percent.

The following table shows a comparison of those rates under current law with the rates provided for under the Committee bill:

TABLE 5.—COMPARISON OF MONTHLY DIC RATES UNDER PRESENT LAW AND S. 2736 AS REPORTED

Base monthly rates to surviving spouses	From—	To—
Veterans' Pay grade:		
E–1	$461	$483
E–2	475	497
E–3	486	509
E–4	518	542
E–5	532	557
E–6	544	570
E–7	571	598
E–8	602	630
E–9	629	659
W–1	583	610
W–2	607	636
W–3	624	653
W–4	661	692
O–1	583	610
O–2	602	630
O–3	644	674
O–4	681	713
O–5	751	786
O–6	846	886
O–7	915	958
O–8	1,003	1,050
O–9	1,077	1,128
O–10	1,179	1,234

Source: Section 411 of title 38, United States Code, August 1984.

TABLE 6.—ADDITIONAL PAYMENTS

	From—	To—
Surviving spouse, addition for each child	$53	$55
Addition if surviving spouse in need of regular aid and attendance	139	146
Surviving child (where no surviving spouse is entitled)	233	244
2 such children[1]	334	350
3 such children	432	452
More than 3 children, addition for each additional child	87	91
Addition if such child is helpless	139	146
Helpless child, where surviving spouse is also entitled	233	244
Child attending school, where surviving spouse is also entitled	118	124

[1] If there is more than 1 surviving child, an equal share of the total amount is paid to each child.

Source: Sections 411, 413, 414 of title 38, United States Code, August 1984.

The 4.7-percent increase would also be applicable to benefits paid at DIC rates under section 410(b) of title 38, United States Code, to the surviving spouses and children of certain totally disabled service-connected disabled veterans whose deaths were not service connected.

Part B—Compensation Program Amendments

Trial-Work Period Pilot Project

Section 110 of the Committee bill contains provisions to establish a 3-year pilot project (which the Administrator could extend to 4 years) under which a veteran with a service-connected total disability rating by reason of a individual determination of unemployability ("IU rating") could participate in a one-time period of trial work without losing that rating. This section also contains provisions to make job counseling and related services available to veterans with IU ratings and to require veterans receiving IU ratings after the date of enactment to request—and, if eligible therefor, to undergo—an evaluation under the chapter 31 vocational rehabilitation program. If a vocational rehabilitation program were developed for such a veteran under chapter 31, he or she would be required to pursue it. If he or she did not comply substantially, his or her IU rating would be reviewed, with such noncompliance considered in the review.

Background and purposes

Under the VA's compensation program, the service-connected disabilities of veterans are rated, in multiples of 10 percentage points, from zero percent through 100 percent disabling. The schedule of these ratings is designed to reflect the average impairments of earning capacity resulting from particular disabilities. In general, these rating are assigned, according to the VA's schedule of ratings, on the basis of the nature and extent of the disability or combination of disabilities, without regard to whether the particular veteran is or is not actually engaged in a gainful occupation or the level of his or her earnings. However, there is an exception. Under long-standing VA regulations (section 4.16 of title 38 of the Code of Federal Regulations (CFR)) provision is made for assigning to a veteran with a disability or disabilities not rated as totally disabling a 100-percent disability rating if an individualized determination is made that he or she is "unable to secure or follow a substantially gainful occupation as a result of service-connected disabilities." A substantial element of judgment is involved in making these determinations, and consideration is given to the nature of the veteran's service-connected disability, employment history, educational and vocational attainment, and other pertinent factors. At present, there are approximately 85,000 veterans with total disability ratings based on individual unemployability (hereinafter referred to as "IU ratings").

The employability situation of a veteran with an IU rating is subject to periodic review. Thus, for example, if either the veteran's medical condition were to improve or the veteran were to return to work, the unemployability determination could be set aside and the total disability rating reduced to the rating that the veteran's disability itself warrants.

The Committee bill is designed to determine whether a limited protection of the IU rating would encourage IU-rated veterans in

attempting to return to work. The Committee notes that an IU rating can result in more than twice the benefits to which the veteran was entitled based on the schedular rating for his or her physical disability. The Committee bill is also designed to ensure that veterans who receive IU ratings realize whatever value the VA's vocational rehabilitation program may have in helping and encouraging them to return to work.

The Committee notes that a program similar to that provided for in the Committee bill already exists under the Social Security disability insurance—SSDI—program. Under section 222(c) of the Social Security Act, work performed by an individual during a so-called "period of trial work" is disregarded for purpose of determination as to whether he or she ceased to be disabled during that period. The period of trial work begins with the month in which the disabled individual becomes entitled to SSDI benefits and terminates at the end of the ninth month thereafter in which the individual has worked. Thus the SSDI period of trial work gives the individual 9 months—not necessarily consecutive months—during which he or she may engage in work on a trial basis without a need to be concerned that the attempt to work might mean the loss of SSDI benefits even though it turns out that his or her disability prevents employment on a long-term basis.

The Committee considers it desirable to provide every reasonable opportunity and encouragement for disabled veterans—including those with very serious handicaps and those determined to be unemployable—to return to work. In this regard, the Committee believes that additional efforts to assist veterans with IU ratings to attempt to return to work may be fruitful. Thus, section 110 of the Committee bill would establish a pilot project under which IU-rated veterans would be provided with the opportunity to participate in trial-work periods—patterned after the trial-work-period concept under the SSDI program—and with certain counseling and placement services. Work performed by the veteran during his or her period of trial work could not be taken into account in any review of the veteran's unemployability status. In addition, the VA would be required to conduct an outreach program to inform veterans with IU ratings about the pilot project and the availability of vocational rehabilitation under chapter 31 of title 38, United States Code, relating to the VA's rehabilitation programs for service-connected disabled veterans. An IU-rated veteran returning to work and desiring to participate in a trial-work period would be required to notify the VA of those facts, in writing, within 30 days after starting to work.

The Committee believes that these pilot project provisions could be beneficial both to service-connected disabled veterans with IU ratings who desire to return to work as well as to the compensation program itself. The period of trial work is designed to provide an additional, useful tool to the VA outreach staff and vocational rehabilitation counselors seeking to assist these disabled veterans in preparing to return to and remain in the workforce. The VA has a comprehensive program of vocational rehabilitation services for service-connected disabled veterans under chapter 31 of title 38, United States Code, which the Congress revised and updated in 1980 in Public Law 96-466. The Committee urges the VA to ensure that the trial-work-period concept is linked to the agency's efforts to rehabilitate IU-rated veterans and to assist those who participate in the chapter 31 program to find and keep suitable employment.

Committee Bill Provisions

Specifically, the Committee bill would establish a trial-work period pilot project that would take effect at the start of the fifth full month after the date of enactment and remain in effect for a period of 36 months, which the Administrator could extend to 48 months. A trial-work period would consist of a period of 12 consecutive months beginning on the date that the veteran begins to perform work. In order to participate in a period of trial work, the veteran would have to give the VA written notice, not later than 30 days after starting to work, of his or her plans to work and to participate in a trial-work period.

The trial-work period is intended to help alleviate the veteran's concern that, if he or she does return to work, he or she will lose the IU rating even if he or she discovers that long-term employment is not possible. This provision would give the IU-rated veteran the opportunity to make an effort to return to work without running any risk, during the first 12 months after starting work, that his or her working during that period would result in determination that he or she is not entitled to the IU rating.

Activity determined by the Administrator to be of a type normally performed for remuneration or gain would be treated the same as activity that actually is performed for remuneration or gain. This provision regarding gainful-employment-like activities derives from the SSDI trial-work-period provision. The term used in this Social Security Act provision for work is "renders services", and the term "services" is defined as "activity which is performed for remuneration or gain or is determined by the Secretary [of Health and Human Services] to be of a type normally performed for remuneration or gain". The implementing regulations (section 404.1536(d) of title 42, Code of Federal Regulations (CFR)) make the following clarification:

> Work performed without remuneration merely as a therapeutic measure or purely as a matter of training, or work usually performed in daily routine around the home or in self-care, is not considered "services".

The Committee intends the VA to apply the same concept in implementing the trial-work period proposed in the Committee bill.

Once the 12-month trial-work periods has run, work performed thereafter by the veteran could be taken into account by the VA in assessing whether the veteran is or is not employable. However, in order to provide further encouragement to the veteran weighing the possibility of returning to work, the Committee bill would provide a potentially helpful procedural advantage to the veteran who, after his or her trial-work period, works and receives a reduction in his or her disability compensation as a result of being determined to be employable. If the veteran's work income falls below $300 in any month during the first year after the trial-work period, the veteran's IU rating would be restored effective as of the first day of that month and the Administrator would be required to review the case and determine whether an IU rating is warranted. (This $300 level derives from the SSDI regulations (sections 404.1571-74 of title 42, CFR), under which earnings of $300 or more per month are ordinarily considered as showing that the individual has performed "substantially gainful activity"—a finding of which renders the individual no longer disabled for SSDI purposes.)

In the event the Administrator determines, upon completing that review, that the veteran is no longer unemployable, the effective date of the resulting reduction would be fixed in accordance with the facts found. Section 3012(b)(6) of title 38, which generally provides for a delay—until more than 60 days after notice of a reduction is mailed to the veteran—of a compensation reduction based on a change in unemployability status, would be made inapplicable. (Thus, in the event that the review results in the withdrawal of the IU rating, the reduction would be retroactive to the date that the rating had been restored if it was found that, despite the drop in earned income, employability had not been lost. If it was determined that employability had been lost at the time the veteran's earned income dropped below $300 and was subsequently regained, the reduction would take effect as of the date employability was regained.)

This provision is designed to give a veteran who is contemplating an attempt to return to work the assurance that if the veteran becomes substantially unable to continue working after completing a period of trial work and receiving a reduction in disability compensation as a result of working after the trial period, his or her IU rating would be automatically restored on the basis of the reduced earnings. Thus, the veteran would not then be faced with the delays and other administrative difficulties involved in reapplying for the IU rating. Rather, the veteran would have the rating restored, immediately, subject to being later withdrawn upon completion of a mandatory review.

As previously noted, the Committee bill would also provide for certain counseling and other services to be provided to IU-rated veterans and require a VA outreach effort with respect to the pilot project. Thus, the VA would be directed to make available to each veteran with an IU rating, whether or not the veteran is participating in a vocational rehabilitation program under chapter 31 of title 38, certain kinds of counseling and other services provided under that chapter, namely, educational, vocational, psychological, employment, and personal adjustment counseling, job-placement services, and post-placement services to help insure a satisfactory adjustment in employment. These services could be extremely helpful to a seriously disabled veteran who desires to go back to work but is not pursuing a formal rehabilitation program.

To help ensure that IU-rated veterans are aware of their opportunities, the Committee bill has two notification provisions. First, the VA would be required to provide each veteran who has an IU rating (other than one made permanent under the provision in section 110 of title 38 that precludes review of service-connected ratings that have been in effect for 20 years) with information describing and explaining the pilot project and the procedures for participating in a trial-work period and with information about the availability of vocational rehabilitation under chapter 31 and the scope of services and assistance available under that chapter.

Second, the VA would be required, upon receiving notice from a veteran with an IU rating that the veteran desires to participate in a trial-work period, to provide the veteran with notice of the availability to him or her of the counseling and employ-

ment services available under the pilot project. This notice would cover some of the same information required in the first notice. However, in most cases a substantial period of time would expire between the time of the first notice and the veteran's beginning to work and providing the veteran, at or near the onset of his or her trial-work period, with information regarding the veteran's eligibility for counseling and employment services in connection with the trial-work period could be very useful to those who might not previously have focused on their eligibility for those services when they were first notified of it or who might have forgotten about it.

The pilot project would be open for new participants for the 36-month period beginning on its effective date (the first day of the fifth full month following enactment). In order to have the benefit of a trial-work period, the veteran would be required, prior to the 37th month after the pilot project's effective date, both to provide notice of his or her work plans and to perform work in at least 1 month. If the Administrator were to exercise the discretion provided by the Committee bill to extend the pilot project for 1 year, the deadline for initiating trial-work periods would be the last day of the 48th month after the effective date.

In order to assist the Committee and the Congress in evaluating the pilot project and the desirability of extending it or making it a permanent program and making any changes in it, the Administrator would be required to submit, within 39 months after the effective date, a report on the results of the first 3 years' experience under the pilot project. The Administrator would be required to include in the report the Administrator's assessments of the value (including the cost-effectiveness) and effect of the program and any recommendations for administrative and legislative action.

The Committee notes that it has structured this project in the Committee bill as a pilot project of limited duration.

Rehabilitation evaluations of veterans with IU rating

In addition to the pilot project, the Committee bill would establish certain new requirements for veterans who, after the end of the fourth full month following the date of enactment, receive IU ratings. The VA would provide each such veteran with notice that he or she must, within 30 days after that notice was mailed to him or her, submit an application for an evaluation under chapter 31 of title 38. If determined to be eligible for that evaluation, the veteran would be required to cooperate in the conduct of it. Also, if the VA were to formulate a vocational rehabilitation program for the veteran under chapter 31, the veteran would be required—within the limits of the veteran's existing chapter 31 entitlement and period of eligibility—to pursue that program.

The VA's vocational rehabilitation counselors have expertise in these evaluations and are trained to be aware of many employment opportunities for a severely disabled veteran who may otherwise believe that he or she is too severely impaired to work. It may be that the veteran needs to be introduced to a new field and trained to perform new tasks. Thus, if the veteran has the potential to participate in a vocational rehabilitation program leading to substantial gainful employment, the need to continue the IU rating could be avoided.

In a case in which the Administrator determines that a veteran has failed to comply substantially with the requirements to cooperate in an evaluation or to pursue a vocational rehabilitation program if one is prescribed, the VA would provide the veteran with notice of a forthcoming review of the veteran's IU rating. Unless the veteran were to resume substantial compliance with these requirements within 60 days after the VA provided the notice (or within such longer period as is the shortest period within which it is reasonably feasible for the veteran to resume compliance), the VA would conduct a review of the determination that the veteran is entitled to an IU rating. The veteran's non-compliance with those requirements would be considered in the review. It is the Committee's intent that this requirement, together with the existing vocational rehabilitation program and the availability of the trial-work period, operate to help encourage veterans with IU ratings to take full advantage of the assistance available to help them return to work.

TITLE II: VETERANS' ADMINISTRATION REHABILITATION AND EDUCATION PROGRAMS

Part A—Rate Increases

Sections 201 through 203 of the Committee bill would provide a 10-percent increase in the rates of rehabilitation subsistence and education assistance allowances payable to certain veterans and eligible survivors and dependents of veterans under chapters 31, 34, and 35 of title 38. Section 204 of the Committee bill would provide an increase in the rates of certain educational and training benefits received under chapter 36 of title 38. The Committee bill provides for an effective date of October 1, 1984, for all rate increases contained in part A of title II.

The provisions are designed to provide a 10-percent rate increase in subsistence and assistance allowances associated with participation in VA rehabilitation and GI Bill education programs to keep pace with increased costs of living and educational expenses since the last rate adjustment in 1981. These benefits were last adjusted by Public Law 96-466, which authorized a two-step, 10-percent increase consisting of a 5-percent increase effective October 1, 1980, and an additional, approximately 5-percent increase effective January 1, 981.

As noted in the testimony submitted by the VA at the June 27 hearing, increases in the cost of education have been substantial since that time. According to data published by the National Center for Education Statistics, U.S. Department of Education, there has been an increase of more than 33 percent from school year 1980-81 through school year 1983-84 in the total costs of tuition, fees, and room and board at all public schools and an increase in such costs of almost 38 percent at all private schools during that period.

The 10-percent rate increases would apply to the subsistence allowances paid to veterans with service-connected disabilities who are participating in a VA rehabilitation program; veterans who are receiving GI Bill educational assistance allowances, including tutorial assistance; eligible survivors and dependents of veterans who are receiving educational assistance or special training allowances; and eligible veterans who are receiving training assistance alowances for certain apprenticeship or on-job training programs.

Although the Committee bill provides for a 10-percent increase instead of a 15-percent increase which the VA had proposed, the effective date of the Committee bill would be October 1, 1984, instead of the Veterans' Administration's proposed effective date of January 1, 1985. This will benefit the recipient by enabling eligible students to receive the rate increase 3 months earlier.

An increase of $2 in the amounts paid to educational institutions and training establishments for reporting fees is justified by increased administrative processing costs since the last rate adjustment in the fee in 1977. Reporting fees would be increased from $7 to $9 annually per eligible person for a required reports or certifications, and from $11 to $13 annually for each eligible person for whom the educational institution processes and then receives advance payment of VA educational assistance checks.

Part B—Rehabilitation and Education Program Improvements

Tolling Delimiting Dates By Reason of Drug or Alcohol Conditions

Background

In the GI Bill Improvement Act of 1977, Public Law 95-202, the Congress provided for the granting of extensions of the 10-year GI Bill delimiting period in the case of an eligible veteran or an eligible spouse who is prevented from pursuing a program of education during that period due to a mental or physical disability not the result of willful misconduct. Under that law, the delimiting period does not run during any period of time that the veteran or eligible spouse is determined to have been unable to pursue training because of the disability.

However, there have been a number of instances in which the VA has denied a delimiting-period extension to an otherwise eligible veteran under this authority on the grounds that the disability on which the veteran based his or her claim was an alcohol or drug abuse or addiction disability, which the VA considers categorically to be a condition due to willful misconduct. The VA has based its denial in these cases on the legislative history of the 1977 provision that addressed the issue of how determinations of disability should be made for the purposes of the extension. In particular, the report of the Veterans' Affairs Committee (S. Rept. No. 95-468) on the provision which was enacted as section 203(a)(1) of Public Law 95-202, in discussing the concept of "willful misconduct", stated at pages 69-70:

In determining whether the disability sustained was a result of the veteran's own "willful misconduct", the Committee intends that the same standards be applied as are utilized in determining eligibility for other VA programs under title 38.

The report further referenced VA regulations and manual provisions relating to the determination of willful misconduct for the purposes of determining service-connected disability. Under the VA's interpretation of those standards (38 CFR section 3.301(C)(2) and (3)) alcoholism and drug addiction and injuries proximately and immediately resulting from the effects of the deliberate ingestion of an alcoholic beverage or voluntary use of a drug—such as an injury incurred in a traffic accident caused by the veteran's driving while under the influence of alcohol or a drug—are considered to be the result of willful misconduct.

In 1979, the Veteran's Affairs Committee reexamined the practical consequences of denying a delimiting period extension in such cases and the differences between awarding such an extension on the grounds of alcohol or drug disabilities and awarding other VA benefits, such as compensation or pension, based on such disabilities. As a result of this reexamination, the Committee saw no substantial purpose to be served by

denying a veteran a GI Bill delimiting-period extension when the veteran was prevented by a drug or alcohol disability, during part or all of the ordinary 10-year delimiting period, from using GI Bill educational assistance would have considerable value to achieving and maintaining the medical, social, and economic rehabilitation of veteran recovering from disabilities related to alcohol or drugs.

In contrast, the Committee noted that some undesirable consequences might flow from a similar rule being applied for purposes of other VA benefit programs, such as service-connected compensation, where the rate and duration of benefits depend directly upon the severity and duration of the disability. If an individual were to be granted disability compensation for alcoholism or drug addiction, there would be a strong financial incentive established—in the form of a higher rate of compensation or the continuation of receipt of compensation—toward the worsening or prolongation of the disability. Either of these factors are to some extent within the control of the veteran because they depend upon the amount, frequency, and duration of his or her consumption of alcoholic beverages or drugs.

Thus, the Committee reported in S. 870—and the Senate passed in section 201(2) of H.R. 5288—a provision to establish that an alcohol or drug dependence or abuse disability from which a veteran or eligible spouse has recovered shall not, solely for purposes of deciding requests for delimiting-period extensions be considered to be the result of willful misconduct.

Similarly, in S. 1188, the bill reported by the Committee in 1980 to revise and update chapter 31, relating to VA rehabilitation programs for service-connected disabled veterans, the Senate passed on September 4, 1980, a comparable provision to provide for the tolling of a service-connected disabled veteran's delimiting period for a chapter 31 rehabilitation program on account of an alcohol or drug disability.

However, despite the Committee's strongest urgings, the House would accept neither the GI Bill nor the rehabilitation program provision for delimiting-period extensions based on drug or alcohol disabilities.

In 1981, in connection with S. 921, the proposed "Veterans' Programs Extension and Improvement Act of 1981", the Senate again approved similar provisions, and again the House refused to accept them. In 1982, in S. 2913, the proposed "Veterans' Compensation, Education, and Employment Amendments of 1982", the Senate passed these provisions with revisions to address certain concerns expressed by the VA; again the House refused to accept the Senate provisions.

The Committee believes both that the opportunity to use GI Bill and VA rehabilitation program benefits can be extremely important to the readjustment and rehabilitation of the Vietnam-era and service-connected disabled veterans involved and that the delimiting-period extensions for those who were, but are no longer, prevented by alcohol or drug disabilities from using those benefits would be fully consistent with the readjustment and rehabilitation goals of both programs.

Committee Bill Provisions

Thus, section 210 of the Committee bill contains provisions—largely identical to those of S. 2913 as passed by the Senate in the 97th Congress—that would amend chapters 31, 34, and 35 to permit the Administrator to extend delimiting periods in the cases of veterans and eligible persons who have been prevented from using their education or rehabilitation entitlements under title 38 as a result of alcohol or drug dependence or abuse conditions.

In 1982, in view of certain concerns and objections raised by the VA about the implication of the provision insofar as disability compensation is concerned and about its ability to administer such provisions effectively, the Committee recast the provisions substantially. These provisions, which are contained in the Committee bill, are designed to reflect, even more clearly than the versions prior to 1982, the Committee's intention not to undercut, in any manner, any administrative directives or legislative provisions expressly or implicitly to the effect that alcohol or drug abuse or dependence are necessarily the result of willful misconduct. Hence, the Committee bill would make clear that, for the purposes of determining eligibility for an extension of the applicable delimiting period, an alcohol or drug dependence or abuse condition would not be considered a "disability"; it would simply be considered as a "condition" that could have prevented a veteran or eligible person from pursuing a program of education or participating in a program of vocational rehabilitation.

Next, in recognition of the administrative difficulties that could arise from the enactment of the provisions, the Committee bill unlike the pre-1982 versions would not require that the veteran or eligible person has "recovered" from an alcohol or drug abuse or dependence condition, but rather that such a condition be under control to such an extent as to enable an individual to participate in an apppropriate program. Further, it would facilitate in two ways the making of determinations as to whether the individual had actually suffered from such a condition: (1) by requiring that he or she must have received recognized treatment or participated in a program of rehabilitation for the condition and (2) by authorizing the Administrator to prescribe regulations specifying what specific types of treatment would be recognized for this purpose and what forms of rehabilitation programs would be qualifying. Thus, the Administrator would have the authority to make reasonable determinations as to participation in which programs—such as those offered by Alcoholics Anonymous or other treatment source—would qualify an individual for eligibility under the tolling provisions.

Additionally, the provisions would limit the length of any extension period to the period of time equal to the length of time that the individual participated in a program of treatment or rehabilitation for the condition plus the period during which the individual was able to demonstrate to the satisfaction of the Administrator that the condition prevented pursuit of a program of education or rehabilitation. However, in no event, could the extension exceed 4 years. Thus, the Committee bill would address concerns that an individual would be able to obtain an extremely long period of tolling the applicable delimiting period.

The Committee also notes that the amendments proposed by the Committee bill would make provision for the measurement of the extension period in a manner identical to that provided for extensions on account of disabilities under current law. That is, the delimiting period would again begin to run—after being tolled—on the first day on which the Administrator determines it is reasonably feasible for the individual to begin training.

In addition, under the amendments made by the Committee bill, the period of time for an individual to file an application under this authority for an extension of the delimiting period would be limited. Applications would be required to be filed within 1 year after whichever is the latest of the date on which the delimiting period would have otherwise expired, the date on which the last period of rehabilitation or treatment for the condition was terminated, or the date on which final regulations to implement the proposed extension authority are published.

Finally, in the one substantive change that has been made from the 1982 version, the Committee bill would require that, in order to be eligible for a tolling of the period of eligibility, a verteran must have been released or discharged from active-duty service under conditions other than dishonorable and that, if the veteran received other than an honorable discharge, the Administrator must make the determination regarding the character of the veteran's discharge on the basis of an individualized review of the veteran's service record.

Under current VA regulations (section 312(a) of title 38, Code of Federal Regulations), general discharges (which the armed services characterize as discharges under honorable conditions) are automatically accepted by the VA as being discharges under conditions other than dishonorable and, thus, as qualifying discharges for purposes of benefits under title 38. Thus, the effect of the Committee bill would be to not allow general discharges to be considered as automatically qualifying for purposes of eligibility for a delimiting date extension under this new paragraph. Rather, it is the Committee's intent that the VA make case-by-case determinations, using the standards set forth in its regulations for determining the character of service of recipients of discharges other than honorable and general discharges, as to whether the service of a recipient of a general discharge is qualifying service for purposes of eligibility for a tolling of the period of eligibility.

In sum, the Committee stresses that it believes that it is simply not necessary to resolve the issue of the relationship of alcohol and drug dependence or abuse conditions to compensation for disabilities in order to make this kind of an education or rehabilitation benefit extension available. Thus, the Committee is again proposing the enactment of this provision in a form that is designed as clearly as possible to avoid this issue and hence enhance the prospects for enactment of this legislation.

Repeal of Reporting Requirement

Section 211 of the Committee bill would repeal a requirement that the Administrator submit to the Congress an annual report on false advertising by institutions approved for VA training.

Section 1796 of title 38, which was enacted in 1974 by section 212 of Public Law 93-508, prohibits the Administrator from approving enrollments in courses offered by institutions that use erroneous, deceptive, or misleading advertising, sales, or enrollment practices. Subsection (d) of section 1796 requires the Administrator to report annually to the Congress on the nature and disposition of all cases arising under that section.

In the report accompanying the bill (S. 2734) from which section 1796 derived (S. Rept. No. 93-907, page 90), the Committee stated that the purpose of this report is to "permit the Congress an opportunity for thorough oversight and review of the oper-

ation and administration of this section." In addition, the Committee noted that a more adequate and informative reporting system from the VA's field and regional offices to its central office would ensure more uniformity of interpretation and enforcement, as well as enable trends in and problems with deceptive advertising, sales, or enrollment practices "to be spotted more readily and dealt with in an evenhanded fashion nationally".

Based on the experience over the past 9 years, the Committee has concluded the annual report is no longer necessary. Because the Committee believes that unnecessary reporting requirements and paperwork should be eliminated whenever feasible, the Committee bill would, therefore, repeal the requirement for this annual report. However, the Committee does not intend by this action to suggest that erroneous, deceptive, or misleading advertising, sales, or enrollment practices should not continue to be monitored at the national level. Indeed the Committee expects that the Administrator will notify the Congress of any serious new trends that arise in this area and of any need for remedial legislation that may arise in that regard.

Term-by-Term Certifications

On June 30, 1983, the VA published in the Federal Register proposed regulations to modify the manner in which students attending school and receiving VA assistance under chapter 34 or 35 of title 38 are certified as enrolled for the purposes of receiving benefits. At present, veterans may be certified as enrolled for periods longer than a term, semester, or quarter. Thus, for example, a veteran enrolled in a program of education at an institution of higher learning at the beginning of the fall trimester may be certified by the school as enrolled for the entire school year—including the fall, winter, and spring trimesters.

Under the proposed regulations, this practice would no longer be permitted. Instead, students would be required to have the institution certify their enrollment at the beginning of each term, semester, or quarter.

The Committee is aware of the concerns expressed by a number of students and institutions about this proposed change and the effect it could have on the paperwork burdens of both the institutions and the VA and on the timelines of benefit payments at the outset of school classes. Indeed, the VA has advised the Committee that if a term-by-term enrollment certification is required, almost 740,000 additional certifications will need to be processed in fiscal year 1985 and more than 2.2 million more in fiscal years 1986 through 1989.

The Committee is also aware of and sympathetic to the VA's purpose in pursuing this change in policy—that is, the achievement of savings by reducing overpayments of educational benefits. The VA's Office of the Inspector General has estimated that, from fiscal year 1985 through fiscal year 1990, the cost of implementing the proposal will be $11.3 million, but that the new policy will avoid the establishment of almost $150 million in overpayments.

The Committee firmly believes that the VA needs to make maximum efforts to control overpayments. However, the Committee also believes that the educational community should have full opportunity to make its views known on whether such administrative requirements impose unnecessarily restrictive or burdensome procedures and to have those views fully evaluated and considered prior to the implementation of any changes in the certification process.

Thus, the Committee was pleased to learn that the Administrator's Advisory Committee on Education, established pursuant to section 1792 of title 38, is reviewing the proposal and is expected to make recommendations on it. The Committee believes that it is both important and necessary for the Administrator to have input from the Advisory Committee, which includes experts in the area of higher education, before putting in place any changes in the enrollment certification process. Thus, section 212 of the Committee bill would prohibit the Administrator from making any changes in the process prior to receiving the recommendations of the Advisory Committee.

TITLE III: VETERANS' EMPLOYMENT PROGRAMS

Veterans Readjustment Appointments

Section 301 of the Committee bill would extend for 1 year the expiring authority in section 2014(b) of title 38 for veterans readjustment appointments (VRA's), providing veterans receiving VRA's with limited appeal rights during the first year of employment, and modify a reporting requirement applicable to the Office of Personnel Management (OPM).

The VRA authority, which expires under current law on September 30, 1984, permits certain disabled Vietnam-era veterans and educationally disadvantaged Vietnam-era veterans to be given excepted appointments in the Federal civil service. The program was established in 1970 when as many as a million men and women a year were leaving the military, aggravating an already serious unemployment problem among Vietnam-era veterans. In early 1971, unemployment among young veterans was reaching as high as 16 percent among veterans 20-24 years old. The program was intended to assist these veterans by making it possible for them to be hired noncompetitively into the Federal civil service and to develop additional skills through a program combining education and training with the opportunity for a regular career appointment.

The Committee recognizes that the VRA program has been successful in that it has provided employment for tens of thousands of those Vietnam-era veterans who would otherwise, because of a variety of factors, not have been able to obtain Federal employment, and also has served as a fine example to the private sector of the Federal Government's interest in hiring recently separated wartime veterans. For these reasons, the Committee bill would extend the VRA program for one additional year.

In addition, the Committee bill—based upon a proposal made by the Administration in a February 24, 1984, letter to the President of the Senate from OPM Director Donald J. Devine—would provide that a veteran who receives a VRA appointment and who is terminated during the first year after the date of the appointment has the same right to appeal the termination to the Merit Systems Protection Board (MSPB) as a career or career-conditional employee has during the first year of employment. At present, veterans with VRA's have no appeal rights until they have completed 1 year of employment. At that point—under subchapter II of chapter 75 of title 5, United States Code, relating to certain adverse actions against Federal employees, and, specifically, section 7511(a)(1), which includes a preference eligible who has completed 1 year of continuous service in the definition of an employee for purposes of the procedural rights afforded under that subchapter—these veterans have the right to appeal terminations and certain other adverse actions to the MSPB.

However, career and career-conditional employees who are in probationary status (first-year employees) do have certain limited appeal rights with respect to terminations. These appeal rights, enunciated in section 315.806 of title 5 of the Code of Federal Regulations, provide these first-year employees with the right to appeal, on procedural grounds only, terminations for conditions that arose before their employment began and the right to appeal terminations alleged to be based on discrimination on account of partisan political reasons or marital status. Thus, the effect of the Committee bill would be to grant first-year VRA appointees these same limited appeal rights.

Finally, the Committee bill would also—based upon a proposal made by the Administration and reflected in Director Devine's February 24 letter—provide that a report, required under current law to be submitted semiannually by OPM, be submitted only on an annual basis. This report includes a review and analysis of the Federal Government's implementation of the VRA authority and other employment programs for veterans.

Emergency Veterans' Job Training Act Program

Section 302 of the Committee bill would amend the Emergency Veterans' Job Training Act of 1983 (Public Law 98-77) (hereinafter referred to as "EVJTA") to extend by 6 months the date by which a veteran must enter a program of job training in order for a payment of assistance to be made to an employer on the veteran's behalf and to extend the life of certificates of eligibility provided to veterans who have been determined to be eligible for the program established by that Act.

EVJTA, enacted on August 15, 1983, was designed to provide employers with incentives, in the form of payments to defray training costs, to hire and train long-term unemployed Korean-conflict and Vietnam-era veterans. Section 17(a) of EVJTA provide that, if funding for the program had been appropriated and made available to the VA by October 1, 1983, a veteran desiring to participate would be required to apply by September 30, 1984, and to enter a program of training by December 31, 1984. However, in recognition of the possibility that appropriations might not become available by that date, the law provided for a tolling period. Under this mechanism, in section 17(b) of the law, the veteran has until 1 year after the date on which appropriations are made available for the program to apply and until 15 months after that to enter training.

The first $75 million in funds for the program were appropriated on November 14, 1983, as part of a continuing appropriations for fiscal year 1984, Public Law 98-151. Since these funds were not made available to the VA until November 29, 1983, eligible veterans have until November 29, 1984, to apply and until March 1, 1985, to enter training. (The remainder of the full amount authorized by section 16 of EVJTA for fiscal year 1984 for payments to employers under this program, $150 million, was provided when a second $75 million appropriation was included in the fiscal year 1984 supplemental appropriations measure, Public Law 98-181, enacted on November 30, 1983.)

Despite the very high degree of interest shown in the program—particularly among

veterans—it got off to a very slow start. As of August 20, according to the VA, 237,887 veterans had applied for the program and 192,274 had been certified as eligible. Also as of that date, 25,707 employers had been approved to offer training for 57,256 job slots.

Nevertheless, despite strong interest in the program, the number of veterans actually placed in training slots has been most discouraging. Only 12,626 veterans—or slightly more than 6.5 percent of those determined eligible—are actually in training under the new program, and only 22.1 percent of the training slots have been filled. As a result only $54.9 million made available for the program has been obligated as of August 20, 1984.

The Committee recognizes that because the program is a new one, the expertise and experience gained over the past 9 months that could have enhanced early implementation was not available previously and that matching eligible veterans with available jobs, especially in areas of high unemployment, is a difficult task with which certain delays are necessarily associated.

Thus, the Committee has concluded that the program should be given additional time in order to achieve its potential. To provide an appropriate opportunity for the program to meet eligible unemployed veterans' needs, the Committee bill would postpone by 6 months, from March 1, 1985, to September 1, 1985, the date by which a veteran must begin training under the program. The Committee notes that the effect of this extension would not be to enlarge the potential pool of veterans who could be eligible for the program—which is limited to those applying for certificates of eligibility prior to November 29, 1984. Rather, the effect would be to provide those who have already been determined to be eligible with additional time to secure training positions and begin training under the program.

In addition, the Committee bill would provide an extension of the period of time during which funds already appropriated for the measure will remain available. Under current law, the funds appropriated for the program will remain available until September 30, 1986. The Committee bill would extend the funding availability, by 1 year, until September 30, 1987, to ensure that payments can be paid to employers for the duration of the training programs that begin during the 6-month extension of the period for entering training. This provision does not authorize any additional appropriations but simply extends the period of time that the already appropriated funds are to remain available.

Finally, the Committee bill would extend the life of a certificate of eligibility provided to a veteran who has been determined to be eligible for the program. Under current law, these certificates are good for 60 days, and during that period the veteran can present them to an approved employer for purposes of entering a job training program. This 60-day period appears to be too short a time and, as a result, may be producing unnecessary and time-delaying paperwork in the form of applications for certificate renewals. Extending this period to 90 days, as the Committee bill would do, should greatly reduce this problem.

The Committee notes that veterans who have been certified as eligible for the program and whose certificates of eligibility have expired may apply for recertification. It should be noted that these recertifications could be made following the last day of the period in which to make application—November 29, 1984. Therefore, veterans who applied prior to that date and who are certified as eligible could be recertified for 90-day periods following that date.

TITLE IV: VETERANS' ADMINISTRATION NON-SERVICE-CONNECTED DISABILITY PENSION

Trial-Work Period Pilot Project

Section 401 of the Committee bill would establish a 3-year pilot project (which the Administrator could extend to 4 years) under which a needy wartime veteran receiving non-service-connected disability pension on the basis of actual disability could participate in a one-time period of trial work without losing permanent and total disability status and pension-based VA health-care eligibility. Also, under the pilot project, the VA health-care eligibility of veterans whose VA pensions are terminated due to income derived from participation in a VA or State vocational rehabilitation program would be protected and, in certain circumstances, a subsistence allowance received by a veteran participating in such a rehabilitation program would be disregarded in determining the veteran's income for VA pension purposes.

Background and Purposes

To be entitled to benefits under the VA's non-service-connected pension program for needy wartime veterans, a veteran must have some wartime service, must be either permanently and totally disabled or over 65 years of age, and must have total annual income less than the income standard applicable to his or her situation. For example, the annual income standard for a veteran with no dependents is $5,515; for a veteran with a spouse and one child, $8,160; and for a veteran who has a spouse and is in need of regular aid and attendance, $10,533.

A veteran-pensioner receives monthly pension payments based on the amount by which the applicable income standard exceeds his or her income. In addition, by virtue of pension status, a veteran is eligible for VA health care—specifically, hospital care, limited post-hospital nursing-home care, pre- and post-hospital outpatient care, and outpatient care necessary to obviate the need for hospital care—without meeting the requirement, generally applicable to non-service-connected disabled veterans under age 65, of being unable to defray the costs of the care. A veteran-pensioner who is in need of regular aid and attendance or is permanently housebound has general eligibility for VA outpatient care, including certain limited contract-care eligibility and has an outpatient care priority ahead of all other veterans without service-connected disabilities except former prisoners of war and certain veterans receiving treatment for disabilities that might be the result of their exposure to dioxin or ionizing radiation.

Under VA regulations (section 4.17 of title 38, CFR), a needy, non-service-connected disabled veteran under age 65 will be considered "permanently and totally disabled" for pension purposes, if he or she is determined to be "unable to secure and follow a substantially gainful occupation by reason of disabilities * * * likely to be permanent". As under the service-connected disability compensation program (as discussed above in connection with section 110 of the Committee bill), the determination of total disability based on unemployability can be subjective and remains open for review.

The Committee believes that a disabled pensioner who desires to return to work may initially be discouraged from doing so because the veteran may be concerned that an attempt to return to work could jeopardize his or her future pension payments. The veteran-pensioner may be concerned that he or she would no longer be considered unemployable, even if his or her work income is less than the applicable income standard and the pensioner has no other income. Veteran-pensioners may also be concerned that they may not be able to be redetermined to be unemployable—even if they find that they are unable to maintain long-term employment—if their work income results in the income standard being exceeded and their pension terminated. In any such situations, the veteran may have the most concern about the possible loss of VA health-care eligibility and, if applicable, priority in outpatient care.

A program similar to that proposed in the Committee bill already exists for disabled recipients of supplementary security income (SSI), the needs-based Federal income-maintenance program for elderly and disabled persons. Under section 1614(a)(3) and (4) of the Social Security Act, trial-work periods, together with an up-to-15-month delay in benefit termination based on work performed after the end of the trial-work period, along the lines of those provided for Social Security disability insurance beneficiaries (as described above in the discussion of section 110 of the Committee bill) are available for SSI recipients.

The Committee considers it desirable to provide every reasonable opportunity and encouragement, consistent with general principles governing title 38 programs, for disabled veteran-pensioners to return to work. Thus, section 401 of the Committee bill would establish a pilot project under which these veterans would be provided with the opportunity to participate in trial-work periods patterned after the trial-work period concept under the SSDI/SSI programs with certain modifications.

The pilot-project provisions in the Committee bill are designed to make it possible to determine whether there is a substantial possibility that disabled veteran-pensioners are more likely to find it advantageous to try to return to work if their disability status and VA health-care benefits are protected for an extended period. Of course, to the extent that this trial-work project helps veteran-pensioners return to and maintain employment, the project would produce savings in VA pension benefits.

Committee Bill Provisions

Specifically, the Committee bill would establish a trial-work period pilot project that would take effect at the start of the fifth full month after the date of enactment and remain in effect for a period of 36 months, which the Administrator could extend to 48 months. A trial-work period would consist of a period of 36 consecutive months beginning on that date that the veteran begins to perform work. In order to participate in a period of trial work, the veteran would have to give the VA written notice, not later than 30 days after starting to work, of his or her plans to work and to participate in a trial-work period. Work performed by the veteran during his or her period of trial work could not be taken into account in any review of the veteran's unemployability status.

The trial-work provision would thus give the veteran-pensioner under age 65 the opportunity to make an effort to return to work without running any risk, during the first 36 months after starting work, that his

or her working during that period would result in a determination, under the VA regulations noted above, that he or she has regained the ability "to secure and follow a substantially gainful occupation by reason of disabilities" and is thus ineligible for pension.

As under the trial-work period provision for service-connected disabled veterans with IU ratings (section 110 of the Committee bill), activity determined by the Administrator to be of a type normally performed for remuneration or gain would be treated the same as activiy that actually is performed for remuneration or gain. The Committee intends the VA, in implementing the pension trial-work period proposed in the Committee bill, to apply the same concept relating to unremunerated work activities as is described in the prior discussion of the compensation trial-work period provision for IU-rated veterans.

The Committee bill would also protect the veteran-pensioner's VA health-care eligibility during a trial-work period. Where a veteran's pension is terminated because the veteran's work income causes his or her pension income standard to be exceeded, the veteran would retain his or her pension-based VA health-care eligibility and any priority in outpatient care that he or she had as a pensioner. The Committee bill would also provide for extended protection of the VA health-care eligibility of a veteran whose pension entitlement is terminated by reason of income from work or training either during the veteran's participation in or following the veteran's completion of a vocational rehabilitation program under chapter 31 of title 38 or under the Federal-State program under title I of the Rehabilitation Act of 1973. The veteran would retain that health-care eligibility for 1 year after the termination of either the veteran's pension or the veteran's participation in the vocational rehabilitation program, whichever is later. These provisions are designed to help determine whether the continuation of VA health-care eligibility would encourage disabled pension recipients attempting to return to work.

Finally, the Committee bill would provide for one type of income to be disregarded in the computation of a veteran's income for pension purposes. If the veteran is participating in a vocational rehabilitation program under chapter 31 of title 38 or under the Federal-State program under title I of the Rehabilitation Act of 1973, payment to the veteran of a subsistence or maintenance allowance under that program for any month during which it is necessary for the veteran to reside away from the veteran's permanent residence in order to participate in the program would not be counted as income to the veteran. Since, under current law, any subsistence or similar allowance payments are not disregarded in the computation of the veteran's income and his or her pension thus is reduced dollar-for-dollar for any such payments, the payment of the allowance to the veteran may not serve its purpose of encouraging and facilitating the veteran's participation in the training. Thus, this provision would help ensure that any discouragement to the disabled veteran-pensioner that may be caused by the unreimbursed costs-of-living away from home in order to pursue vocational rehabilitation does not interfere with the Committee's effort to learn whether and how more of these pensioners can be helped in returning to the workforce.

The trial-work period pilot project for pension recipients would be open for new participants for the same 3-year period and under the same conditions provided for IU-rated veterans, as described earlier in the discussion of section 110 of the Committee bill. Likewise, a provision for a 1-year extension of the pilot project for pensioners, substantively identical to the extension provision in section 110, is included in the Committee bill, and the same type of report would be required on the first 3 years' experience under this pilot project as would be required by section 110 with regard to the pilot project for veterans with IU ratings.

The Committee notes that it has structured this project in the Committee bill as a pilot project of limited duration.

Report on Medical Examinations of Certain Pension Recipients

Section 402 of the Committee bill would require the Administrator of Veterans' Affairs to submit to the Congress not later than 28 months after the enactment of this Act a report (including a statistical tabulation) on the results of medical examinations which would be conducted for certain veteran-pensioners. This provision would apply to veterans who, during the of 2-year period after the date of enactment of the Committee bill, are awarded pension for non-service-connected permanent and total disability by reason of being 65 years of age or older, meeting the income criteria, and having had wartime service. In order to obtain the information necessary for the report, the Administrator would be required to conduct a medical examination (similar to the examination conducted for veterans under age 65 applying for pension under chapter 15 of title 38, United States Code or for veterans applying for compensation benefits under chapter 11 of title 38, United States Code) of each such veteran, to determine what, if any, percentage rating would be applicable to the veteran under the disability compensation rating schedule adopted pursuant to section 355 of title 38, United States Code. The medical examination would be conducted not later than 90 days after the veteran is awarded pension. The provision would not affect any veterans receiving pension on the date of enactment.

The schedule of disability ratings adopted under section 355 of title 38, is designed to reflect reductions in a veteran's earning capacity as a result of a service-connected disability or combination of disabilities. The schedule of ratings provides for 10 grades of disability upon which compensation benefits for service-connected disabilities are based, ranging from 10- to 100-percent disability, with intermediate grades of 10-percent multiples.

Veterans under 65, who qualify for pension must have been determined first to be totally and permanently disabled under the VA's schedule of disability ratings. Pursuant to VA regulation, section 4.17, veterans between ages 55-59 and 60-64, who apply for VA pensions, are required to be only 60-percent and 50-percent disabled, respectively, to be considered permanently and totally disabled.

It is the Committee's intent that all new pension recipients over age 65 cooperate with the VA's efforts to prepare the mandated report based on the VA medical examinations and assignment of a schedular disability rating. It is further the Committee's intent that the report on the results of the medical examinations provide sufficient statistical information to enable the VA and Congress to learn more about the health status of older, needy wartime veterans who currently become automatically eligible for pension solely by reason of their age and income status. The statistical tabulation of the results of the medical examinations conducted for purposes of the report pursuant to this provision should provide detailed information which is not presently available on the actual disabilities of such veteran-pensioners. It is also the Committee's intent that the information required to be reported document whether there are serious health problems for this category of veteran-pensioners and indicate whether these veterans would have been eligible for pension without the automatic age-based eligibility.

TITLE V: OTHER BENEFIT RATE INCREASES

Specially Adapted Housing Assistance Increase

Section 501 of the Committee bill would increase by 10 percent, from $32,500 to $35,750, effective July 1, 1985, the maximum amount payable in specially adapted housing assistance, under the so-called "wheelchair home" program, to certain veterans with total and permanent service-connected disabilities that impair their mobility. Section 501 would also increase by 10 percent, from $5,000 to $5,500, effective July 1, 1985, the maximum amount payable in adapted housing assistance to certain veterans who suffer from service-connected blindness or who have suffered the loss or loss of use of two upper extremities. These programs are codified in chapter 21 of title 38, United States Code.

Under the wheelchair home program, the VA provides veterans who have certain permanent and total service-connected disabilities involving mobility impairments with assistance in acquiring suitable housing with adaptations made necessary by the nature of their disabilities. Under current law, these disabled veterans are eligible for a grant not to exceed 50 percent of the cost of the home and necessary land, up to a maximum grant of $32,500. Veterans eligible for housing assistance grants are principally quadraplegics, paraplegics, amputees, and certain others who, because of their service-connected disabilities, require the use of a wheelchair, braces, cane, or crutches to move about. Their disabling conditions typically require ramps, special bathroom equipment, extra-large rooms and hallways, and various other adaptations that are extremely helpful for their health and safety.

Increases in the maximum amount of the grant have been provided periodically. When originally enacted in Public Law 80-702 in 1948, the specially adapted housing program provided for assistance of up to $10,000. At that time, the average cost of construction for a new single-family residence was $7,800. Housing construction costs have risen enormously since then, and the maximum amount of assistance has been increased on five occasions. The last increase, up to $32,500, effective October 17, 1981, was made by section 502(1) of Public Law 97-66. At that time, according to the VA, the average cost of a home was $59,000. In 1984, that cost has increased to $68,000.

By raising the maximum limit of the assistance by 10 percent, to $35,750, the Committee bill would help ameliorate the erosion in the value of this benefit made by increases in construction costs over the last 3½ years.

In addition, the Committee bill would increase, effective July 1, 1985, the maximum amount of assistance for special housing adaptations that is available to certain veterans suffering from service-connected total

blindness or the loss or loss of use of both upper extremities. This program of assistance, payable pursuant to section 801(b) of title 38, was enacted in 1980 by section 301 of Public Law 96-385. Under this program, an eligible veteran is entitled to assistance, up to a maximum of $5,000, for the purposes of making special adaptations that the Administrator determines are reasonably necessary because of the veteran's disability. This maximum amount has not been increased since the program began in 1980. Thus, the Committee bill, by providing for a 10-percent increase in this grant, would also help ameliorate the erosion in the value of this benefit made by increases in construction costs.

Automobile Assistance Allowance Increase

Section 502 of the Committee bill would increase by 10 percent, from $4,400 to $4,840, effective July 1, 1985, the amount of the automobile assistance allowance provided by the VA to veterans with certain severe, service-connected disabilities.

The program of automobile assistance grants—now codified in chapter 39 of title 38, United States Code—was established by the Congress in Public Law No. 663, 79th Congress, enacted in 1946. Under this program, veterans who have suffered the service-connected loss or loss of use of one or both feet or hands or service-connected blindness are entitled to a one-time VA grant to assist them in purchasing an automobile.

Public Law 91-666, enacted in 1970, increased, effective January 11, 1971, the maximum amount of the allowance payable toward the purchase of an automobile or other conveyance from the original $1,600 maximum to $2,800. Public Law 93-548 increased the maximum to $3,300, effective February 1975, and Public Law 95-479 increased it to $3,800, effective October 1, 1978. The increase to the current level of $4,400 was enacted by Public Law 97-66, effective October 1, 1981.

Since the effective date of the last increase, October 1, 1981, the Bureau of Labor Statistics' (BLS) Consumer Price Index component for new automobiles has risen by 7.4 percent. The Committee recognizes that the Department of Commerce compiles data on the average automobile cost that shows that a higher increase has occurred over the same period of time—18.7 percent. However, that figure represents the average cost of all makes and models of all automobiles, without taking into account the buying patterns of American consumers as do the BLS figures. The Committee believes—particularly when faced with the current, great need to exercise fiscal constraint—that the need for increases in the maximum amount of the allowance is more accurately measured by the BLS data.

Thus, section 502 of the Committee bill would increase the automobile assistance allowance to $4,480, effective July 1, 1985, so as to help ameliorate the erosion in the value of this benefit resulting from increases in the cost of automobiles.

TITLE VI: MISCELLANEOUS PROVISIONS

Definition of Vietnam Era

Section 601 of the Committee bill would, effective October 1, 1984, or on the date of enactment, whichever is the later, expand the definition of the Vietnam era for the purposes of title 38, United States Code, to include the period beginning on February 21, 1961, and ending on August 4, 1964, in the case of those who served in Vietnam during that time. On May 25, 1984, a substantially identical provision was included in section 8 of S. 2514 as reported, the proposed "Veterans' Administration Health Care Amendments of 1984". The provision in the Committee bill would expand the population of wartime veterans and survivors eligible for, among other benefits, the VA's need-based non-service-connected pension program and, thus, would involve new entitlement spending—as would the provisions of section 14 of S. 2514 as reported, which would provide for certain income to be disregarded for purposes of determining and calculating the amount of a veteran's or survivor's VA pension entitlement. These sections of S. 2514 as reported were deleted from that bill on a motion of the Committee during consideration by the Senate of that bill on August 8—solely for the purpose of avoiding a problem under the Congressional Budget Act of 1974, related to the fact that they involve entitlement spending. The deletion on August 8 was made with a view toward their inclusion in this bill, a measure generally involving entitlement spending for which the Committee has reported to the Senate a single waiver resolution under section 303(c) of the Congressional Budget Act. This resolution is discussed at the very end of this discussion.

Rather than reiterate the explanation of and justification for this provision dealing with the expanded definition, which are set forth in the portion of the "DISCUSSION" in the Committee's report on S. 2514 dealing with section 8 of S. 2514 as reported (S. Rept. No. 98-487, pages 53-54), the Committee incorporates that portion of that report by reference.

Payments for Therapeutic and Rehabilitation Activity

Section 602 of the Committee bill would require the VA to conduct a 39-month demonstration project—and submit by February 1, 1987, a report on the first 2 years' experience—under which the income received by veterans for their participation in VA incentive and compensated work therapy programs would not be counted as income for the purpose of VA pension programs. It would further specify that a veteran's participation in a VA incentive or compensated work therapy program will not be considered a basis for denying or discontinuing a total disability rating for VA compensation or pension purposes. On May 25, an identical provision, was included by the Committee in section 14 of S. 2514 as reported, the proposed "Veterans' Administration Health Care Amendments of 1984". For the reasons noted above, in the discussion of section 601 of the Committee bill ("Definition of Vietnam Era"), section 14 of S. 2514 was deleted by a floor amendment in contemplation of it being included in the Committee bill.

Rather than reiterate the explanation of and justification for this provision set forth in the portion of the "Discussion" in the Committee's report on S. 2514 dealing with section 14 of that bill (S. Rept. No. 98-487, pages 95-97), the Committee incorporates that portion of the report by reference.

Effective Date of Reduction of Certain Dependents' Allowances

Under current law, section 3012(b) of title 38, United States Code, provides an exception to the general rule concerning the effective date of discontinuance of compensation, dependency and indemnity compensation, or pension, based on the termination of school attendance of a payee or a dependent of a payee. Section 3012(b)(7) currently provides that the benefits will not be reduced or discontinued until the last day of the month during which the student's school attendance is discontinued. This provides an additional period of benefits not generally allowable under the general rule, which would reduce or discontinue such benefits in accordance with the "facts found", that is, in this case, the date on which school attendance is discontinued.

Section 603 of the Committee bill would abolish this special exception and would thereby establish the effective date for a reduction or discontinuance of these benefits as the day following the date of last attendance at the educational institution. This change was proposed by the VA and would be in conformance with the rule governing discontinuance of benefits paid on behalf of certain dependents under age 18, which terminate as of the date of the dependent's eighteenth birthday. The Committee believes this provision will produce a more equitable result by providing VA benefits paid on behalf of eligible students only for the time such students are actually attending an educational institution.

Suspensions of Compensation and Pension Payments To Certain Institutionalized Veterans

Under current law, section 3203(b)(1) of title 38, United States Code, provides that pension and compensation benefits paid to an incompetent veteran (having no spouse or child) who is hospitalized or institutionalized at Government expense, must be discontinued, if the veteran's estate equals or exceeds $1,500, and that pension or compensation benefits may not be reinstated until the estate is reduced to $500.

Section 604 of the Committee bill would amend section 3203(b)(1) to exclude the value of the veteran's home from the estate, unless there is no reasonable likelihood that the veteran will again reside in such home.

The Veterans' Administration proposed a similar legislative change because of the inequity that the current law imposes on some single incompetent veterans. The prepared testimony of Dorothy Starbuck, Chief Benefits Director of the Veterans' Administration, submitted for the June 27 hearings explains the reasons why the value of the veteran's home should be excluded from his or her estate:

This $1,500 estate limitation applies to an incompetent veteran institutionalized at Government expense who has no immediate family. If the veteran's estate exceeds $1,500, further payments of compensation or pension are withheld until the estate is reduced to $500. The purpose is to prevent the accumulation of monies not needed by the veteran and likely to descend, upon the veteran's death, to remote heirs or to escheat. The value of the veteran's home is, of course, part of his or her estate. If the veteran's compensation or pension payments were earmarked for home mortgage and other property-related payments, the veteran may be forced into default once withholding begins. We know of several cases in which veterans affected by the $1,500 limitation were homeless upon discharge from the hospital. Under our proposal, the value of the veteran's home would be excluded in the estate determination, except in cases where there is no reasonable probability of the veteran's eventual discharge from the institution.

The Committee believes that this provision would provide an equitable remedy to the harsh reality experienced by those

single incompetent veterans, who may lose their homes because their VA compensation or pension benefits are terminated during temporary periods of hospitalization under the existing $1,500 estate limitation.

Deletion of Gender References

Section 605 of the Committee bill would amend section 103 of title 38, United States Code, to remove various gender references that appear there. The Committee has been endeavoring for some time to remove these references and will continue this effort in the future.

Budget Act Waiver

Various provisions of the Committee bill—for example, the cost-of-living increases in compensation, DIC, and GI Bill benefits—provide for new entitlement spending to take effect during fiscal year 1985. However, under section 303(a) of the Congressional Budget Act of 1974, it is not in order for the Senate to consider legislation providing entitlement spending to take effect during a fiscal year until the Congress has adopted a first concurrent resolution on the budget for that fiscal year. The Congress has not yet adopted a first budget resolution for fiscal year 1985.

In an effort to secure timely Senate consideration of the Committee bill, the Committee has by poll unanimously ordered reported and is filing simultaneously with this report a Senate resolution, pursuant to section 303(c) of the Budget Act, providing for a waiver of section 303(a) with respect to the Committee bill.

Under Budget Act section 303(c) that resolution will be referred to the Senate Committee on the Budget for not more than 10 days during which the Senate is in session. The Veterans' Affairs Committee urges prompt consideration and favorable action on that resolution and stands ready to assist in any way that it can with Budget Committee and Senate consideration thereof.

The text of the resolution reads as follows:

S. RES. —

Whereas the provisions of S. 2736 as reported, the proposed "Veterans' Administration Benefit Rate Increase and Program Improvement Act of 1984", would make cost-of-living adjustments, effective December 1, 1984, in the rates of Veterans' Administration compensation for service-connected-disabled veterans and dependency and indemnity compensation for survivors of veterans who have died from service-connected causes and, effective October 1, 1984, in the rates of GI Bill educational assistance and Veterans' Administration rehabilitation subsistence allowances; and

Whereas, since Senate consideration of S. 2736 at the present time, before a first concurrent resolution for fiscal year 1985 has been adopted, would violate section 303(a) of the Congressional Budget Act of 1974 in that the bill would provide new spending authority described in section 401(c)(2)(C) of that Act to become effective in fiscal year 1985, a waiver of section 303(a) of that Act is necessary to provide for the timely consideration of S. 2736: Now, therefore, be it

Resolved by the Senate, That, pursuant to section 303(c) of the Congressional Budget Act of 1974, section 303(a) of that Act be waived with respect to S. 2736 as reported.

VETERANS' ADMINISTRATION BENEFIT RATE INCREASE AND PROGRAM IMPROVEMENT ACT OF 1984

Mr. CRANSTON. Mr. President, as the ranking minority member of the Committee on Veterans' Affairs, I am pleased to urge the Senate to approve S. 2736 as reported by the committee on September 17. As reported, this measure, the proposed Veterans' Administration Benefit Rate Increase and Program Improvement Act of 1984, contains provisions for a VA compensation cost-of-living adjustment and GI bill rate increase, along with a wide range of other provisions to improve benefit programs for our Nation's veterans especially those with service-connected and other serious disabilities.

COMPENSATION RATE INCREASE

At the outset, Mr. President, I want to express my complete support for a cost-of-living adjustment, COLA, effective December 1, 1984, proposed in the pending measure for the rates of service-connected disability compensation for veterans and dependency and indemnity compensation [DIC] for the survivors of those who have died from service-connected causes. I was delighted to join with the distinguished chairman of the committee [Mr. SIMPSON] in introducing S. 2736 on June 7, 1984, and especially delighted that this increase will, if enacted, be effective on December 1 of this year—rather than on April 1, 1985, as the administration had proposed. Thus, the measure conforms to the provisions I authored last year in section 108 of Public Law 98-223 expressing the sense of the Congress that the effective date for compensation COLA's in fiscal year 1985 and beyond should be December 1, the same as the effective date for Social Security and VA pension COLA's.

Since the House of Representatives has also passed legislation, H.R. 5688, providing for a compensation/DIC increase effective December 1, 1984, it can be anticipated that this will be the effective date of whatever increase is enacted this year. Therefore, as I did last year, I urge the administration, in its preparation of the budget for fiscal year 1986, to begin to pay heed, which it failed to do last year, to section 108's expression of the sense of the Congress that budgets for fiscal year 1985 and subsequent years should allow for December 1 effective dates for compensation increases.

Mr. President, I wish to stress the importance of inclusion in the bill as reported of the provisions of S. 2736 as introduced directing that, if the Social Security/VA pension COLA that will take effect on December 1 by operation of law of this year is not 4.7 percent as provided for in the bill on the basis of the Congressional Budget Office's official projection of the increase in the Consumer Price Index [CPI] from the third quarter of fiscal year 1983 to the third quarter of fiscal year 1984, the VA compensation COLA will be adjusted to correspond to the actual Social Security/VA pension COLA. By virtue of this provision, we would be keeping intact the general congressional practice over the last 8 years of alining the VA compensation COLA with the percentage of the Social Security/VA pension COLA's.

I would also note that this provision would mesh with the amendment No. 3423 of the distinguished Senator from New York [Mr. MOYNIHAN], adopted by the Senate in H.R. 1428 and passed on July 26. Under that amendment, the Social Security Act provisions limiting automatic Social Security COLA's to years in which the COLA would be at least 3 percent would be made inapplicable to the December 1984 COLA. If the Moynihan amendment were enacted, the committee bill would ensure both that the December 1984 compensation/DIC COLA would be the same percentage as the Social Security/VA pension COLA and that the compensation/DIC COLA would be provided, even if the Social Security increase were computed as less than 3 percent.

Finally, in this regard, it should be noted that the informal CBO estimate at present for the Social Security CPI increase is 3.2 percent and the budget resolution for fiscal year 1985, House Concurrent Resolution 280, recently agreed to in conference and adopted allows room in Function 700, Veterans' Benefits and Services, for a compensation COLA in that amount.

GI BILL RATE INCREASE

I also fully support the provisions derived from S. 2737—a measure which I also joined the distinguished chairman in introducing on June 7—that would increase the rates of GI bill and vocational rehabilitation training, education, and subsistence allowances. The increases provided by this measure, consistent with the budget recommendations this committee made in March—would be 10 percent, effective October 1, 1984. Although his percentage is less than I proposed when I introduced S. 9 a year and a half ago, and less than the administration finally got around to agreeing to propose a year later, it would take effect 3 months sooner than the administration has proposed. Our October 1 effective date would mean that more assistance will be available to individual veterans throughout the upcoming fiscal year than would be the case under the administration's approach and that the assistance would be available near the beginning of the school year when the costs of education are greatest.

OTHER PROVISIONS

I'm delighted that provisions derived from a number of other measures I have introduced or proposed as amendments in committee are included in S. 2736 as reported.

Sections 110 and 401 are derived from S. 2759, which I introduced on

June 13, 1984, and from draft proposals on which I requested the comments of witnesses following our June 27 hearing. These provisions, in order to help identify existing disincentives to work and how to overcome them, would establish two 3-year pilot programs providing for trial work periods. These programs, which the Administrator would be given discretion to continue for a fourth year, are patterned after the trial work periods for Social Security Act disability recipients. One program would be available for veterans with service-connected disability ratings of 100 percent based on individual unemployability and the other, for totally disabled veteran-pensioners. I am very grateful for the support and constructive responses of the veterans' organizations on these proposals, as well as for the efforts of the committee's staff in the development of these provisions. I believe that the provisions in S. 2736 as reported could be of great value to seriously disabled veterans who would like to have the opportunity to return to the workforce.

Mr. President, I would note that these are pilot programs, with reports to be submitted by the Administrator on the first 3 years' experience under them. As the committee report notes, the structure of the programs are specifically designed in light of their time-limited nature. Thus, the committee has made no decisions on what modifications might be needed if the programs were to be made permanent at some later date, for example, whether and, if so, how to provide a subsequent trial work opportunity to a veteran who has participated earlier in a trial work period under one of the pilot programs without succeeding in achieving permanent employability.

Section 210 contains provisions, similar to ones I proposed and the committee and the Senate have approved three times before, to toll a veteran's or eligible person's delimiting period when the individual has been prevented from using his or her GI bill benefits on account of a drug or alcohol dependence or abuse condition from which he or she has recovered. These provisions, which I have been pursuing since 1979 and are strongly supported by the distinguished Senator from Minnesota [Mr. BOSCHWITZ], were incorporated into the pending measure at our request. I am pleased that the committee is once again pursuing the enactment of these provisions.

Section 212 would require that the Administrator, prior to making any changes in the enrollment certifications required to be submitted by educational institutions on behalf of their GI bill students, consult with and obtain the recommendations of the VA's Advisory Committee on Education. This provision, which I authored, is designed to ensure that, before the VA proceeds with any proposal such as the one pending to require schools to certify attendance on a term-by-term basis, published in the Federal Register on June 30, 1983, the Advisory Committee first make recommendations on the proposal and possible alternatives to accomplish the goal of reducing overpayments. This process would help ensure that any changes that are implemented are carefully reviewed and considered by the education experts on the Advisory Committee who can evaluate fully the effect and workability of any such proposal. A subcommittee of the Advisory Committee is already reviewing the new proposal.

Section 301, derived from Senate 2268 which I introduced on February 7, 1984, would extend the authority for veterans readjustment appointments—[VRA's]—by one year, until September 30, 1985. Although the measure I introduced and which committee members RANDOLPH, MATSUNAGA, and DECONCINI, as well as Senator BYRD, cosponsored, proposed a 3-year extension, a 1-year extension was all we could reach agreement on for this program which has provided employment opportunities in the Federal Government to hundreds of thousands of Vietnam-era veterans. The bill as reported also incorporates, as I proposed, an administration-requested provision to provide first-year VRA appointees with certain limited appeal rights.

Section 302, derived from Senate 2760 which I introduced with Senator DECONCINI on June 13, 1984, would extend by 6 months—from March 1 to September 1, 1985—the date by which a veteran must enter a program of training under the Emergency Veterans' Job Training Act of 1983 and extend the "lifetime" of the certificate of eligibility furnished veterans under that program from 60 to 90 days. Although our measure would also have extended by 6 months the period of time that veterans have to apply for certification under the program, I believe the provisions of S. 2736 as reported will go a long way toward helping veterans who have been determined to need job training assistance.

The Emergency Veterans' Job Training Act of 1983 [EVJTA], enacted on August 15, 1983, was designed to provide employers with incentives, in the form of payments to defray training costs, to hire and train long-term unemployed, Korean-conflict and Vietnam-era veterans. Section 17(a) of EVJTA provided that, if funding for the program had been appropriated and made available to the VA by October 1, 1983, a veteran desiring to participate would be required to apply by September 30, 1984, and to enter a program of training by December 31, 1984. However, because of the possibility that appropriations might not become available by that date, I proposed and the law incorporated a tolling period. Under this mechanism, in section 17(b) of the law, the veteran has until 1 year after the date on which appropriations are made available for the program to apply and until 15 months after that to enter training.

The first $75 million in funds for the program were appropriated on November 14, 1983, as part of a continuing appropriations resolution for fiscal year 1984, Public Law 98-151. Since these funds were not released by the Office of Management and Budget to the VA until November 29, 1983, eligible veterans have until November 29, 1984, to apply and until March 1, 1985, to enter training. The remainder of the full amount, $150 million, authorized by section 16 of EVJTA for fiscal year 1984 for payments to employers under this program was provided when a second $75 million appropriation was included in the fiscal year 1984 supplemental appropriations measure, Public Law 98-161, enacted on November 30, 1983.

Despite the very high degree of interest that veterans have shown in the program, it got off to a very slow start in terms of the placement of eligible veterans in approved jobs. As of August 20, according to the VA, 237,887 veterans had applied for the program and 192,274 had been certified as eligible. Also as of that date, 25,707 employers had been approved to offer training for 57,256 job slots. This means that jobs are available or could be made available for over 29 percent of those eligible for the program. However, as of that date, only 12,626 veterans have been placed in jobs under EVJTA.

Mr. President, I have been dissatisfied with the performance under the program thus far and continue to believe strongly that the program can be of much greater assistance in meeting the needs of long-term unemployed veterans of the Vietnam era and the Korean conflict. A partial cause for the disappointing performance may have been that the program became effective at the beginning of the holiday season, which may have slowed the rate at which employers began to participate in the program at the outset.

However, Mr. President, I'm concerned that at the root of the failure of the program to be as successful as it could be is the failure on the part of the Veterans' Administration and the Department of Labor, the agencies jointly responsible for implementation of the program, to be sufficiently aggressive in carrying out their responsibilities, particularly their placement responsibilities, that is, their responsibilities for matching eligible veterans with available job slots.

Thus, I'm pleased that the committee has concurred in my conclusion that the program should be given additional time in order to achieve its potential.

Section 501 of the pending measure, derived from S. 2264 and S. 2451, measures which I introduced on February 7 and March 20, 1984, respectively, the latter of which is cosponsored by Senators RANDOLPH, MATSUNAGA, DECONCINI, and SARBANES, would grant a 10-percent increase in the rates of maximum assistance available for adapted housing for certain service-connected, severely disabled veterans. In the case of veterans receiving assistance under the major program, the so-called Wheel-Chair Home Program, this means that the maximum level of assistance would be increased from $32,500 to $35,750. In the case of veterans receiving assistance for home adaptations necessitated by the loss or loss of use of both upper extremities or by blindness, the level of assistance would be increased from $5,000 to $5,500. Although these rates are not as much of an increase as we had proposed, I am gratified that the committee agreed to an increase in the rates that will help ameliorate the erosion in the value of these benefits made by increases in housing costs.

Section 502, which is identical to S. 2267 which I introduced on February 7, 1984, would grant an increase in the automobile assistance allowance. This 10-percent increase, from $4,400 to $4,840, which is cosponsored by Senators RANDOLPH, MATSUNAGA, and DECONCINI, would help ameliorate the erosion in the value of this benefit for certain service-connected, severely disabled veterans made by increases in automobile costs.

Other provisions in the committee bill, Mr. President, would repeal a VA reporting requirement relating to deceptive advertising by educational institutions, establish a termination date for certain compensation and pension benefits paid on behalf of dependents enrolled in higher education, modify provisions specifying what is considered to be part of the veteran's estate for purposes of payment of benefits to certain institutionalized, incompetent veterans, and delete various gender references in title 38, United States Code.

Finally, Mr. President, because of Budget Act procedural considerations, two provisions which I authored that were previously contained in S. 2514 as reported by the committee on May 25, 1984, but which were deleted from that measure during the Senate's consideration of it on August 9, have been incorporated into S. 2736 as reported.

DEFINITION OF VETERNAM ERA

The first of these provisions, in section 601, is derived from section 2 of S. 2269 as introduced and was included as section 8 of S. 2514 as reported. This provision would modify the definition of the Vietnam era for title 38 purposes to include, in the case of those who served in the Republic of Vietnam, the period beginning on February 28, 1961, the date established in Public Law 89-257 for acceptance of foreign awards for service in Vietnam, and ending on May 7, 1975, the current law ending date for the Vietnam era.

Mr. President, the veterans benefits that under this provision individuals who served in Vietnam during the period from February 28, 1961, to August 4, 1964 the current starting date from the Vietnam era, but in no other period of war might receive, would include non-service-connected pension benefits if they also satisfy the disability or age criteria and the income and net-worth limitations of that program; readjustment counseling; certain burial benefits; loan guaranty benefits in certain cases; and certain education, on-the-job training, and apprenticeship benefits for educationally disadvantaged, unskilled, or unemployed veterans.

As noted above, the starting date for the Vietnam era in current law is August 5, 1964. This date coincides with the Gulf of Tonkin incident, unquestionably a watershed event in the history of U.S. involvement in Vietnam, and the resolution adopted by the Congress following that incident. However, there were many U.S. troops in the Republic of Vietnam prior to August 1964, and our service personnel faced combat conditions in that country well prior to that time.

S. 2269, as introduced, would have changed the starting date to July 8, 1959, the date of death for the two military personnel whose names were listed first in the chronological order on the Vietnam Veterans Memorial dedicated on The Mall in Washington, DC, on November 11, 1982. Subsequent to the introduction of that bill, however, it was learned that, among the new names added to the memorial last year, was that of an individual who was killed by hostile action on October 21, 1957. Recognizing the possibility that still earlier deaths might come to light, I considered other dates. Among those considered was July 1, 1958, a date suggested by the Veterans of Foreign Wars, in testimony before the committee in 1983 on similar legislation, because that was the beginning date for award of the Armed Forces Expeditionary Medal for service in Vietnam. Another date considered was December 22, 1961, the date for the beginning of the Vietnam era in the Congressional Charter of the American Legion, set forth in section 45 of Title 36, United States Code. That date is the date of the first direct combat-related death of a member of the Military Advisory Command Vietnam.

After considering these alternatives, I proposed February 28, 1961. As I noted earlier, this is the date, set forth in Public Law 89-257, after which U.S. service personnel could accept awards from the Government of the Republic of Vietnam in connection with service in Vietnam. In the reports on the legislation, H.R. 3045 in the 89th Congress that was enacted as this public law, the Committee on Armed Services in both the House of Representatives and the Senate indicated that this date was selected because that was the approximate date on which American military advisers began to accompany "their Vietnamese counterparts on military operations"—House Report No. 89-239, page 2; Senate Report No. 89-800, page 2. That same date is used in other statutory contexts, including section 112 of the Internal Revenue Code, title 26, United States Code, relating to the treatment of income for tax purposes for members of Armed Forces serving in Vietnam in certain circumstances, and in section 329(a) of the Immigration and Nationality Act [INA], section 1440 of title 8, United States Code, relating to expedited naturalization based on wartime service. In addition, as noted in a letter from a Department of Defense representative to the chairman of the House Committee on the Judiciary in connection with that committee's consideration in 1966 of the INA provision as noted above. February 28, 1961, is the date selected by the Department of the Army for the award of the combat infantryman's badge and the combat medal badge.

As was noted in the committee report accompaning S. 2514, Senate Report No. 98-467, page 54—the committee believes that bringing the starting date of the Vietnam era for title 38 purposes into conformity with the above provisions for those who actually served in Vietnam would be an appropriate action that would make access to veterans benefits on the basis of service in Vietnam during wartime more consistent with other laws and regulations relating to such service.

PAYMENTS FOR THERAPEUTIC AND REHABILITATION THERAPY

Mr. President, the other provision in the pending measure, section 602, which was included originally in S. 2514 as reported by our committee but deleted, because of procedural Budget Act considerations would require the VA to conduct a demonstration project under which income received by veterans for their participation in VA incentive and compensated-work-therapy programs would not be counted as income for the purpose of VA pension programs. In addition, the provisions would specify that a veteran's participation in a VA incentive or compensated-work-therapy program would not be considered a basis for denying or

discontinuing a total disability rating for VA compensation or pension purpose.

Mr. President, under section 618 of title 38, United States Code, the VA operates, in the Department of Medicine and Surgery, therapeutic and rehabilitation programs under which participants—VA patients, either inpatients, residents in domiciliary facilities, or outpatients, selected for such programs—perform services for which they receive a small payment. These programs are known commonly as incentive therapy [IT] and compensated-work-therapy [CWT] programs. IT programs involve patients being assigned duties within the treating VA medical center whereas CWT programs involve work under VA contracts with private industry. Both programs are designed to promote self-sufficiency in the participants.

In 1983, the VA's Inspector General conducted an audit that indicated that many veterans participating in these programs who were also in receipt of VA pension were not reporting incomes received from their participation in IT or CST programs. In response to this report, the VA's Department of Medicine and Surgery instituted a program of income verification pursuant to which VA medical facilities, effective approximately January 1, 1984, began to inform appropriate regional offices of the Department of Veterans' Benefits of the amounts paid to veteran patient participants in these programs.

Mr. President, because of numerous contacts from staff of IT and CWT programs, other VA employees, participants in these programs, veterans' service organizations, and others, I proposed legislation in amendment No. 2850 to specify that payments to participants in these programs are not to be counted as income for purposes of VA pension.

As is noted in the committee report accompanying S. 2514, S. Rept. No. 98-487, pp. 67-68—this proposal received wide support during the committee's April 11 hearing.

In light of the record before the committee on this issue, the committee determined that it was important to take steps with respect to the IT and CWT programs and, more specifically, with reference to the relationship between income earned by participants in these programs and their eligibility for VA pension. However, instead of the permanent solution I had proposed, the committee agreed to a provision requiring the VA to conduct a 3-year demonstration project, ending December 31, 1987, during which income earned by participants for the participation in IT and CWT programs would not be counted in determining annual income for VA pension purposes. The Administrator would be required to submit a report by February 1, 1987, on the experience under this demonstration project during fiscal years 1985 and 1986. This short-term action was taken because of a lack of compehensive information on, first, the extent to which participants in the program are in receipt of VA pension, second, the extent to which such participants are adversely affected by counting income earned by their participation in determining annual income for pension purposes, and, third, the extent to which veterans, because of participation in the program, have gained employment and are no longer in receipt of a pension.

Mr. President, I have a very strong, personal interest in the IT and CWT programs and intend to monitor closely the VA's efforts under this demonostration project.

HOME LOAN GUARANTY INCREASE NOT INCLUDED

Mr. President, I must mention resolution of one matter of particular disappointment to me—the noninclusion in this bill of the proposal I made in S. 2451, to which I referred earlier, to increase the maximum amounts of VA home loan guaranty assistance. I had proposed that the maximum amount of the guaranty for conventional housing be increased from $27,500 to $35,000, and for manufactured housing from $20,000 to $22,000. I regret very much that this proposal was not incorporated in the pending measure.

I note, however, that, in connection with H.R. 5617, the House has approved increases in these amounts to $30,000 and $22,000, respectively. Therefore, this matter will be included in our negotiations on the final package, and I intend to do all I can to secure enactment of an increase in these amounts.

CONCLUSION

Mr. President, the items contained in the pending measure are, for the most part, intended to address the needs of this Nation's highest priority category of veterans—those who suffer from service-connected disabilities as the result of service to this Nation in uniform. The needs of these veterans and their survivors and dependents have always been uppermost in our committee's consideration, and I am delighted that the pending measure reflects our committee's continuing commitment to them.

Before closing, Mr. President, I want to take this opportunity to express my deep appreciation to the distinguished chairman of the committee [Mr. SIMPSON] for his fine work in the development of the pending measure. The cooperation and coordination between the majority and minority members and staffs of the committee continues to be a hallmark of our approach to legislation dealing with veterans' benefits. I'd like to extend my thanks to all members of the committee who contributed to this measure and staff assisting them on veterans' issues and express particiular gratitude to Tony Principi, Julie Susman, and Cathy McTighe on the majority staff and Babette Polzer, Ed Scott, and Jon Steinberg on the minority staff for their contributions to this important legislation and their fine work.

Mr. President, I urge that the Senate approve the pending measure unanimously.

VETERANS' ADMINISTRATION BENEFIT RATE INCREASE AND PROGRAM IMPROVEMENT ACT OF 1984, OCTOBER 1984

Mr. THURMOND. Mr. President, I rise in support of S. 2736, the Veterans' Administration Benefit Rate Increase and Program Improvement Act of 1984. S. 2736 is sound legislation containing many significant provisions that will enhance and improve the benefits to our deserving veterans.

A nation which is grateful to its veterans for their service and sacrifice should be willing to compensate adequately those persons who are disabled as a result of their military service. Of particular importance is the provision in this legislation which provides for a 4.7 percent cost-of-living increase in the rates of disability compensation, and dependency and indemnity compensation, effective December 1, 1984. This increase ensures that these benefits, which are received by veterans and their surviving spouses and dependents, keep pace with inflation.

Mr. President, it is also fitting that our Nation acknowledge the great debt owed to its veterans by providing educational benefits which assist servicemen in their readjustment to civilian life. I am pleased that S. 2736 includes a provision which provides for a 10-percent increase for the educational benefit programs of the Veterans' Administration. This rate increase, which affects the subsistence and assistance allowances connected with participation in VA rehabilitation and GI bill education programs, is intended to keep pace with the increased costs of living and educational expenses since the last rate adjustment in 1981.

This legislation contains other provisions designed to assist veterans in their efforts to find suitable employment. Significantly, S. 2736 includes a provision which extends by 1 year the authority for noncompetitive appointments of Vietnam-era veterans to certain jobs in the Federal Government. Also, the bill amends the Emergency Veterans' Job Training Act of 1983 to extend by 6 months the date on which certified veterans must commence participation in job training programs and extends the life of certificates of program eligibility from 60 to 90 days.

Mr. President, S. 2736 is meritorious legislation, and I commend it to my colleagues. Additionally, Mr. President, as the 98th Congress moves toward the completion of its work, I

would like to take this opportunity to commend the chairman of the Senate Committee on Veterans' Affairs, Senator ALAN K. SIMPSON of Wyoming, for his many fine efforts on behalf of veterans since becoming chairman of the committee. Our Nation's veterans benefit greatly from his service and excellent leadership.

Mr. DOMENICI. Mr. President, I rise in strong support of the pending Veterans' Administration Benefit Rate Increase and Program Improvement Act of 1984. I commend the distinguished chairman of the Veterans' Affairs Committee, Senator SIMPSON, and the members of the committee for reporting a bill to modify and improve important veterans benefit programs.

Mr. President, many fine men and women of my home State of New Mexico, who have selflessly served their country to protect our freedom, will applaud the program improvements included in this bill. Of particular interest to New Mexico veterans is the extension of the availability of existing appropriations and the time allowed for participation in the Emergency Veterans' Job Training Program, and the extension of the life of certificates of eligibility from 60 to 90 days.

The bill now before us also provides two benefit increases that are especially important to our service-connected disabled veterans and our Vietnam-era veterans.

First, the bill provides a full cost-of-living increase in January 1985 for disabled veterans who receive compensation benefits. I commend my colleagues on the Veterans' Affairs Committee for including a provision to adjust the amount of the compensation COLA to the actual COLA that is provided for Social Security benefits if the cost-of-living differs from our original estimate of 4.7 percent. It does appear that such an adjustment will be appropriate in light of recent economic data. Enactment of these provisions will ensure that the compensation COLA is paid on the same schedule as that for Social Security and veterans pension benefits, and that the actual cost-of-living increase is equitably provided to recipients of Federal benefits.

Second, I am especially pleased that this bill includes a 10-percent increase for GI bill education and rehabilitation benefits for our Vietnam-era veterans effective on October 1, 1984. I joined several of my colleagues in cosponsoring an amendment to the Senate budget resolution to accommodate this rate increase, which would be the first enacted since 1980. I share in the hope that this rate increase will assist the 535,000 veterans currently in training to finish their education, and that it will also encourage eligible veterans to enroll in an education program.

I am pleased to advise my colleagues that these two provisions are consistent with the conference agreement on the first budget resolution for fiscal year 1985. I urge my colleagues to vote in favor of S. 2736 as reported so that we may ensure the timely implementation of these benefit increases for our wartime veterans.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. STEVENS. Mr. President, I now ask the Chair lay before the Senate Calendar Order No. 1302, H.R. 5688.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5688) to provide a cost-of-living increase for fiscal year 1985 in the rates of compensation paid to veterans with service-connected disabilities and the rates of dependency and indemnity compensation paid to survivors of such veterans, and for other purposes.

Mr. STEVENS. Mr. President, I move to strike all after the enacting clause and insert the text of S. 2736, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

The bill (H.R. 5688), as amended, was passed.

The title was amended so as to read:

The title was amended so as to read: "A bill to amend title 38, United States Code, to increase the rates of disability compensaiton for disabled veterans and of dependency and indemnity compensation for surviving spouses and children of veterans, to increase the rates of subsistence and educational assistance allowances for veterans pursuing vocational rehabilitation programs under chapter 31 and for veterans and eligible persons pursuing programs of education or training under chapter 34, 35, or 36, and to establish trial work period pilot projects for certain veterans receiving disability compensation or pension; and for other purposes.".

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I now ask unanimous consent that S. 2736 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXEMPTION FROM FEDERAL INSPECTION FOR RESTAURANT CENTRAL KITCHENS

Mr. STEVENS. Mr. President, I ask the Chair lay before the Senate Calendar Order No. 1191, S. 2256.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2256) to exempt restaurant central kitchens from Federal inspection requirements.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Agriculture, Nutrition, and Forestry, with an amendment to strike out all after the enacting clause, and insert the following:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 301(c)(2) of the Federal Meat Inspection Act (21 U.S.C. 661(c)(2)) is amended by adding the following sentence at the end thereof: "For the purposes of this subparagraph, operations conducted at a restaurant central kitchen facility shall be considered as being conducted at a restaurant if the restaurant central kitchen prepares meat or meat food products that are ready to eat when they leave such facility and served in meals or as entrees only to customers at restaurants owned or operated by the same person, firm, or corporation owning or operating such facility: *Provided,* That such facility shall be subject to the provisions of section 202 of this Act: *Provided further,* That the facility may be subject to the inspection requirements under title I of this Act for as long as the Secretary deems necessary, if the Secretary determines that the sanitary conditions or practices of the facility or the processing procedures or methods at the facility are such that any of its meat or meat food products are rendered adulterated.".

SEC. 2. Section 5(c)(2) of the Poultry Products Inspection Act (21 U.S.C. 454(c)(2)) is amended by adding the following sentence at the end thereof: "For the purposes of this subparagraph, operations conducted at a restaurant central kitchen facility shall be considered as being conducted at a restaurant if the restaurant central kitchen prepares poultry products that are ready to eat when they leave such facility and are served in meals or as entrees only to customers at restaurants owned or operated by the same person owning or operating such facility: *Provided,* That such facility shall be subject to the provisions of section 11(b) of this Act: *Provided further,* That the facility may be subject to the inspection requirements of this Act for as long as the Secretary deems necessary, if the Secretary determines that the sanitary conditions or practices of the facility or the processing procedures or methods at the facility are such that any of its poultry products are rendered adulterated.".

Amend the title so as to read: "A bill to amend the Federal Meat Inspection

Act and the Poultry Products Inspection Act to exempt restaurant central kitchens under certain conditions from Federal inspection requirements.".

Mr. HELMS. Mr. President, once again, the Federal Government's regulation of business is lagging behind changes in industry, this time, the food service industry. The Senate Committee on Agriculture, Nutrition, and Forestry has acted to bring one aspect of the regulation of the food service industry in line with recent changes in industry practices by reporting S. 2256, a bill to exempt certain restaurant central kitchens from Federal inspection requirements.

Over the past decade, some segments of the food service industry have begun to centralize meal preparation into what is known as a restaurant central kitchen. A restaurant central kitchen prepares meals at one location for distribution to several restaurant outlets. The restaurant central kitchen can reduce operating costs for small restaurant businesses by making bulk purchases of raw ingredients and through savings in labor costs.

Restaurant central kitchens, like restaurants, are regulated by State, city, or county health departments. However, unlike restaurants, restaurant central kitchens are regulated by the Federal Government on the same basis that meat and poultry processing plants are regulated. Mr. President, that means that a restaurant central kitchen must comply with the same building specifications and equipment requirements that are applicable for a processing plant. Compliance with these requirements is very expensive and has had a dampening effect on the establishment of restaurant central kitchens.

Mr. President, the Senate Committee on Agriculture, Nutrition, and Forestry has reported legislation, S. 2256, to remedy this situation. S. 2256 will exempt those restaurant central kitchens that operate very similarly to restaurants from Federal inspection requirements. Restaurant central kitchens that prepare meals that are ready to eat and are served only to customers at restaurant outlets owned by the same person owning the central kitchen will be exempted by this bill.

Restaurant central kitchens that are exempted from Federal inspection by this bill will continue to be licensed and inspected by State and local health departments, just as restaurants are now. These controls will assure proper sanitation and food handling for the public's protection.

In addition to the State and local regulation or restaurant central kitchens, S. 2256 will provide the Secretary of Agriculture with the specific authority to gain access to restaurant central kitchens and to examine their facilities, inventory, and records. The bill will also provide the Secretary with the authority to impose inspection requirements should problems be discovered that led to the production of adulterated meat or poultry products.

I would like to clarify for the record that this bill exempts only those restaurant central kitchens operating wholly within intrastate commerce in those States where the Department of Agriculture has assumed the responsibility for the operation of the State inspection program.

I hope that by lifting the Federal inspection requirement, we will create an opportunity for small restaurants to be more competitive with large restaurant chains and fast food operations. Mr. President, I urge my colleagues to support S. 2256.

Mr. HUDDLESTON. Mr. President, under the Federal Meat Inspection Act and Poultry Products Inspection Act, certain types of businesses, including restaurants, custom slaughter operations, and certain retail stores, are exempt from the Federal inspection requirements of those acts. However, the acts do not specifically exempt restaurant central kitchens, which are a relatively new development.

Since there is no specific exemption for restaurant central kitchens in either act, the Department of Agriculture has determined that they are subject to inspection under the acts. This policy has been proven to be both costly and unreasonable for small restaurants.

Restaurant central kitchens under Federal inspection must meet the same standards as those required for a meat packer or processor. This means that, even if they are providing meals or entrees only to their own restaurants, these facilities must meet Federal equipment, sanitation, and labeling requirements that are designed to apply primarily to large meat processing operations.

In addition to Federal inspection, restaurant central kitchens are inspected by State and local health officials.

S. 2256, as reported, will provide a limited exemption, from Federal inspection requirements under the Federal Meat Inspection Act and the Poultry Products Inspection Act, to any restaurant central kitchen preparing meat and poultry products that are ready to eat and served as meals or entrees only to customers at restaurants owned or operated within the same State by the owner or operator of the restaurant central kitchen. However, the Secretary of Agriculture, or his representative, would have access to the restaurant central kitchen facility to examine the facility. In addition, the bill provides that the Secretary would have the authority to impose inspection requirements should problems be discovered that have led to the production of adulterated meat or poultry products. The bill would in no way affect State and local health inspection programs.

Consumers reap virtually no benefits from the Federal inspection of restaurant central kitchens, and the additional regulatory requirements have prevented many small businessmen from expanding their operations, thus decreasing competition.

I believe Congress should provide the exemption contained in the bill.

The bill does not cover large central kitchens supplying food products for resale to a variety of outlets. Of course, in many cases, these larger operations view Federal inspection as an added assistance in marketing their products.

Finally, I would say that, while I believe it proper for Congress to address specific problems with the Federal inspection programs, the technological advances that have been made in the food service and meat and poultry industries in recent years may warrant a more thorough study of the Federal Meat Inspection Act and Poultry Products Inspection Act. In addition, litigation challenging the Department of Agriculture's inspection authority in certain establishments has increased in recent years. These developments will most likely require a fuller congressional review of the Federal Meat Inspection and Poultry Products Inspection Acts during the next Congress.

Mr. President, I urge the Senate to pass the bill.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. President, I now ask the Chair lay before the Senate Calendar Order No. 1270, H.R. 5223.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5223) to exempt restaurant central kitchens from Federal inspection requirements.

Mr. STEVENS. Mr. President, I move to strike all after the enacting clause and insert the text of S. 2556, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the

amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 5223), as amended, was passed. The title was amended so as to read:

"A bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to exempt restaurant central kitchens under certain conditions from Federal inspection requirements.".

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I now ask that S. 2556 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

Mr. STEVENS. Mr. President, I ask unanimous consent that morning business be extended for the purpose of action on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose of considering the nominations beginning on page 6 with Calendar No. 999 through Calendar No. 1005.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

THE JUDICIARY

The legislative clerk read the nominations of Susan Rebecca Holmes, Rufus Gunn King III, Colleen Kollar-Kotelly, A. Noel Anketell Kramer, Robert Isaac Richter, Emmet G. Sullivan, and Robert Samuel Tignor, of the District of Columbia, to be associate judges of the Superior Court of the District of Columbia.

Mr. STEVENS. Mr. President, I ask unanimous consent that these nominations be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent that the President be notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE CARE CORPORATION—MORE THAN A DECADE OF PROGRESS IN THE ALCOHOL/SUBSTANCE ABUSE FIELD

Mrs. HAWKINS. Mr. President, as chairman of the Subcommittee on Alcoholism and Drug Abuse of the Labor and Human Resources Committee, I am frequently reminded of the shocking effects of alcohol and other substance abuse in this country. At times, it appears there is little hope for progress in the treatment of individuals who do abuse alcohol and drugs. Yet, I have, over the past years, and particularly since I have become Chair of the Alcohol and Drug Abuse Subcommittee, been highly impressed with the track record of Comprehensive Care Corp., the Nation's largest provider of alcoholism and drug dependency treatment. Since opening its first alcoholism treatment facility in 1973, CompCare has been an innovative leader in the treatment field. Mr. President, please allow me to cite the quality treatment that CompCare provides and the contributions that CompCare has and continues to make to the alcoholism and substance abuse field.

QUALITY TREATMENT

CompCare treats some 35,000 adults and 4,000 adolescents annually in its CareUnits—free-standing hospitals or contract units within acute care hospitals Dr. Joseph Pursch, a nationally recognized alcoholism expert who treated former First Lady Betty Ford and others, serves as the corporation's medical director.

Aware of special needs within the chemical dependency field, CompCare has developed: 17 adolescent programs including one at CareUnit of Tampa and the soon-to-be-opened CareUnit of Coral Springs, FL. First Lady Nancy Reagan recently dedicated an Adolescent CareUnit in her name at Deaconess Hospital in Spokane, WA; three programs for Spanish-speaking problem drinkers; one program for women alcoholics; some free beds for those without funds; Impact, a comprehensive, substance-abuse training and intervention program for school teachers, administrators, and others. This program has been adopted by several school districts including the Los Angeles Unified Schools; and a 24-hour hotline for individuals experiencing problems with alcohol and/or drugs and their families.

Interested in establishing treatment programs appropriate for patients in both the early and late stages of alcoholism and substance abuse, CompCare has created inpatient, outpatient, subacute care and employee assistance programs.

CONTRIBUTIONS TO THE ALCOHOLISM AND SUBSTANCE ABUSE FIELD

Committed to exercising a leadership role in improving health care in America, CompCare has originated a variety of significant efforts in research, education, and prevention.

CompCare has cosponsored two Gallup polls: The first, "Alcohol Abuse in America," showed that 81 percent of Americans see alcohol abuse as a major national problem, while the second, "Drugs, Drinking and the American Teenager," disclosed that teenage drinking has risen almost 50 percent in the past 2 years alone.

CareInstitute, CompCare's nonprofit research organization, has active programs of clinical and applied research, health policy analysis, public education and prevention, and professional development activities. Among its recently sponsored projects are the book, "Alcohol in America: The Price We Pay," by Harvard economist Dr. Rashi Fein; a study investigating insurance coverage for alcoholism in America; a study to determine the percentage of alcoholics in inpatient programs who are polydrug abusers or have accompanying medical complications; and the development of a grassroots, constituency organization, Americans for Substance Abuse Prevention.

CompCare Publications publishes a variety of alcohol and substance abuse pamphlets and books, including "Elephant in the Living Room," which helps children express their feelings about living with alcoholic family members, and "Don't panic," which helps parents understand substance abuse among teenagers.

CompCare distributes free education materials about alcoholism and substance abuse to community groups and health care professionals, such as "Facts About Alcohol and Drug Abuse" and newsletters on special topics, such as drunk driving. CompCare's treatment experts frequently address community groups to enhance awareness of chemical dependency and how it can be treated.

CompCare employees have served on the Presidential Commission on Drunk Driving, on the National Association of Insurance Commissioners Task Force on Insurance for Alcoholism, on State and county alcohol advisory boards, and on women's commissions on alcoholism.

CompCare frequently testifies before Congress as well as State legislative bodies on substance abuse issues related to prevention, research, education, and treatment.

CompCare has effectively reduced the stigma surrounding alcohol and drug abuse by bringing alcoholism and drug abuse treatment into the mainstream of medicine; by educating the general public through public service announcements, community seminars, and reports in the mass media; and by emphasizing in communications with the public, health care professionals and other groups that alcoholism and drug abuse are diseases which can be treated with a high rate of success.

AMERICANS FOR SUBSTANCE ABUSE PREVENTION

Mrs. HAWKINS. Mr. President, today I am pleased to bring my colleagues' attention to the recent establishment and objectives of an important new group called the Americans for Substance Abuse Prevention. Americans for Substance Abuse Prevention was formed May 1, 1984, with the goal of "working together to make substance abuse prevention a national priority." ASAP recognizes that the solution to America's substance abuse problems lies in the generation of a national commitment and action plan equal to those created for polio, tuberculosis, cancer, and other dreaded diseases.

This nonpartisan, noncommercial, grassroots organization is dedicated to fighting substance abuse through public policy initiatives in four areas: education, prevention, research, and rehabilitation. These initiatives will help curtail the demand for alcohol and drugs. Specific objectives include:

Make the American public more aware and better educated about the dangers and warning signs of alcoholism and drug addiction.

Initiate and support educational efforts aimed at the prevention of substance abuse, particularly among our Nation's young people.

Encourage research dealing with alcohol- and drug-related issues.

Help remove the barriers to the treatment of the diseases of alcoholism and drug addiction.

Cooperate with other groups in promoting worthwhile causes related to substance abuse.

Work for the enactment of better legislation aimed at creating a national strategy for dealing with substance abuse in America and identify governmental officials and legislators who share our concerns about substance abuse.

WHY IS ASAP NEEDED?

Alcohol and drug abuse are recognized by the American public as major national problems, but national policy does not reflect these concerns. A Gallup poll reveals that four out of five Americans see alcohol abuse as a major national problem. Yet, Federal funding for these diseases, particularly in the areas of research, is substantially less than for cancer and other life-threatening diseases.

Alcohol and drug abuse endanger our youth. The chief cause of death among young people is driving while drunk or drugged. A recently released Gallup poll shows 6 out of 10 teenagers drink alcohol at least occasionally, and 1 out of 8 combine alcohol with marijuana or other drugs. Among those of driving age, one-fourth admitted to driving after using alcohol or drugs.

Alcohol and drug abuse are deadly. Alcohol abuse plays a role in 1 out of every 10 deaths in this Nation, reports the U.S. Assistant Secretary of Health. And more than 1,000 deaths which are specifically identified as drug abuse related occur annually.

Alcohol and drug abuse are significant drains on our economy. The Research Triangle Institute estimates that alcohol and drug abuse cost this Nation $176.4 billion annually in terms of medical care, lost productivity, crime, premature deaths, and social welfare progams.

MEMBERSHIP

Membership is open to everyone and is free. Presently, more than 5,000 people from 48 States, Washington, DC, and Puerto Rico, have joined this broad-based, grassroots constituency organization. Members include representatives of several other substance abuse prevention organizations, congressional and executive branch leaders, educators, law enforcement specialists, health care professionals, insurance company representatives, recovering substance abusers, and their families and friends.

The first pilot chapter has been organized in Cincinnati and future groups are planned in California, Florida, and other States.

Members receive a newsletter which highlights substance abuse legislation and public policy initiatives, a membership card, and an ASAP bumper sticker.

CareInstitute, the nonprofit research and education arm of Comprehensive Care Corp., is providing the financial support, staff and organizational expertise to ASAP, but the group is an entirely separate nonprofit entity.

ADVISORY COMMITTEE

Americans for Substance Abuse Prevention is governed by an advisory committee drawn from a variety of disciplines. Members of the advisory committee are:

Pollster George Gallup, Jr., as honorary chairman.

Joseph A. Califano, Jr., a former U.S. Secretary of HEW.

The Honorable Wilbur Mills, former U.S. Congressman.

The Honorable Herman Talmadge, former U.S. Senator.

Columnist Abigail Van Buren.

Dr. Michael De Bakey, heart specialist.

Dr. Ernest Noble, former director of National Institute on Alcohol Abuse and Alcoholism.

Sue Rusche, director of Families in Action.

Dr. Joe Takamine, alcoholism specialist.

Entertainer Pat Boone.

SUSPENSION OF DEPORTATION OF SALVADORANS

Mr. DECONCINI. Mr. President, something that the majority leader will be pleased to know is that this Senator is not going to offer as an amendment to continuing resolution a resolution I have had kicking around here a long time on voluntary departure for Salvadorans who are in this country. That resolution would be nongermane unless it was offered to the Foreign Relations Subcommittee foreign policy area.

I have discussed this with Senator SIMPSON, the chairman of the Immigration Subcommittee. Quite frankly, I am fearful that we could not succeed without the great persuasion of the majority leader, though he has certainly done a good job in arguing the reasons not to argue other amendments.

It is the fact that I am not certain we could succeed.

In light of that, I feel that it is important that we enter statements into the RECORD on this very important issue.

I became involved with the issue of Salvadorans in the United States because of my concern for the plight of the Salvadorans residing in my home State of Arizona. The tragedy of those displaced from El Salvador has become only too familiar to many of my constituents and the fear of those who face deportation back to El Salvador at the present time has become their own fear. During November of 1983, I introduced S. 2131, which would temporarily suspend the detention and deportation of Salvadoran nationals in the United States.

Also during 1983, the President signed into law a sense of Congress resolution recommending that the ad-

ministration grant extended voluntary departure (EVD) to Salvadorans in the United States. Unfortunately, this language has gone unheeded and deportations persist.

The United States deports an average of 100 Salvadorans a week back to El Salvador. The administration has refused even temporarily to suspend the deportation of Salvadorans. There has been reason enough for Congress to address this issue, but it is now more important because the courts have made it clear that it is not in their jurisdiction to make decisions on extended voluntary departure.

Judge Richey, of the U.S. District Court of the District of Columbia, in a decision just last week, said that "For the Court to order EVD in this case would set a far-reaching precedent, wholly within the prerogative of Congress, . . ." This makes it clear to me that the issue of the suspension of deportation of Salvadorans is one that must be dealt with by the legislative branch.

I would like to address a few issues involved in the suspension of the deportation question, which I feel are important for Members to understand. I have heard it said that most Salvadorans in the United States came here before 1980. Estimates of the number of Salvadorans currently living in the United States range between 300,000 and 500,000. According to the U.S. Census Bureau, most of these people entered the United States after 1980. The end of 1979 and the beginning of 1980 were the time when the conflict in El Salvador began to escalate.

Some say that Salvadorans have no reason to fear returning to El Salvador because they are not targeted for persecution or harm because they are returnees. It is important to point out here that my legislation is not designed, nor should it be interpreted to protect persons who can prove an individual well-founded fear of persecution. If an individual is being targeted as a returnee he or she should be granted asylum, not EVD. Due to the general conditions in El Salvador some Salvadorans fear return to their homeland. EVD should be granted because of the general condition of violence that exists in El Salvador.

Others suggest that all refugees and displaced persons are safe in Central America and that people there should not feel compelled to leave the region. This statement is contrary to the reality that Salvadorans face in Honduras, which is a bordering country harboring a great number of Salvadorans. The camps for Salvadorans are surrounded by barbed wire and military personnel who enter the camps at will. In the past year there have been a number of instances in which Salvadorans have been found dead outside of the camps. The Honduran Government, at the end of August, made it clear that they thought that the Salvadorans should return to El Salvador. The Salvadorans have a reason to fear the situation in Honduras.

One other suggestion that has arisen recently is that of sending people who are fearful of return to displaced persons camps in El Salvador. If a person is fearful of living in their homeland, the suggestion is that the United States, instead of affording them even temporary protection, will fund their return to a prisoner of war of ghetto situation. The United States would be dumping its problem on other countries. In the world today respecting the human rights of displaced persons and refugees in countries of first asylum is fundamentally important. If the United States pursues this kind of policy, how can the United States expect other countries of the region and the world to respect first asylum refugees. The United States is actively involved in the civil strife in El Salvador. I have always supported our position. However, I believe this involvement places a responsibility on us to protect people from violence, both random and specific.

As I have already stated, it is necessary for the Congress to address this issue. I am saddened by the fact the Senate has not had an opportunity to consider this issue in any form other than the sense of Congress language. It is my hope that the serious nature of this problem will be realized and that the appropriate committees will be able to take action on this issue early in the next session.

Mr. President, I ask unanimous consent that the RECORD remain open at the appropriate place so other statements by other Members of this body may appear at the appropriate place in today's RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I would like to commend my colleague from Arizona, Senator DECONCINI, in his continuing efforts to see that Salvadoran refugees in the United States are granted safe haven here until the troubles and turmoil in their homeland ends. I have cosponsored the Senator's bill, and I would like to take this opportunity to enter into the RECORD a resolution that was adopted by the Michigan House of Representatives, June 5, 1984.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

HOUSE RESOLUTION 558

Whereas, For hundreds of years, the United States of America has been regarded and has served as a safe haven for the homeless, victimized, unwanted, and neglected peoples of the world. From Ellis Island in the harbor of New York City to the Mexican and Canadian borders, our country has opened its arms and its hearts to millions of refugees in search of peace, security, and freedom. Our great American heritage reflects the commingling of innumerable cultures, races, and ethnic groups from the great cities of Europe and Asia to the most primitive villages of Africa and South America; and

Whereas, Given America's reputation as the "melting pot" of the world, it is inconceivable that the United States government is sending back thousands of refugees from El Salvador who have fled that country in fear of violence from both government-backed death squads and leftist guerrillas. Indeed, since the outbreak of civil war in El Salvador in 1980, tens of thousands of Salvadorans, caught between a brutal and ugly government link to paramilitary organizations and death squads and equally fearful leftists guerrillas, have fled that country to the United States in fear of their lives. However, at present, only two percent of the Salvadorans who request asylum are granted permission to stay in the United States. By contrast, seventy-one percent of the Czechoslovakians and ninety-two percent of the Afghans are granted asylum; and

Whereas, Despite the serious and violent atmosphere that pervades the country of El Salvador, the United States government appears to be ignoring the pleas of those refugees seeking sanctuary. The 1951 United Nations Convention on the Status of Refugees, adopted by the United States, requires that the United States admit any person who has fled his or her country of origin "owing to a well-founded fear of being prosecuted for reasons of race, religion, nationality, or membership of a particular social or political opinion." In addition, the Commissioner of the Immigration and Naturalization Service can defer action in cases where immediate deportation would be "unconscionable or result in undue hardship." Moreover, the Commissioner can grant "extended voluntary departure" in cases of a "temporary inability to return to one's country on account of civil war or catastrophic circumstances." While this status is presently enjoyed by Ethiopians, Poles, Lebanese, Afghans, and Ugandans, it is not being offered to Salvadorans. Certainly, the life-threatening potential which currently exists in El Salvador should make it incumbent upon the United States government to be as generous as possible when considering the plight of refugees from El Salvador: Now, therefore, be it

Resolved by the House of Representatives, That the members of this legislative body do hereby memorialize the President of the United States, the United States Secretary of State, and the Commissioner of the Immigration and Naturalization Service to grant "Extended Voluntary Departure" status to refugees from El Salvador: And be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the United States Secretary of State, and to the Commissioner of the Immigration and Naturalization Service.

The resolution was referred to the Committee on House Policy.

SUSPENSION OF DEPORTATION FOR SALVADORANS

Mr. SIMPSON. Mr. President, I have consistently opposed the granting of a blanket extended voluntary departure or suspension of deportation status to Salvadorans since I feel it would greatly subvert the intent of our immigration laws and refugee policy. Present evidence clearly discloses that most Salvadorans here illegally are economic migrants, not political refugees, and

as such the granting of a quasi-refugee status to them would be unwise and would set an unfortunate precedent. For those who truly do face persecution, there is the avenue of relief always open known as political asylum. For those who do not qualify for political asylum, there are other options of relief available that do not entail an abrogation of our responsibility as a nation to control our own borders. I have elaborated on July 10, 1984 and I would wish to include it here for the RECORD.

In addition, since the publication of that article, certain new facts have come to our attention concerning the situation of Salvadorans illegally present in the United States or otherwise outside of their own country. On July 13, 1984, Americas Watch released a report that stated.

Important changes in the human rights situation have taken place in El Salvador during the past 6 months.

It describes specific declines in death squad killings, disappearances, the use of torture, and the number of political prisoners. The report goes on to state that:

We attribute the reductions in death squad killings and disappearances principally to pressure exerted by the U.S. Embassy in San Salvador during the 9 months.

Apparently, many of those Salvadorans who are enjoying safe refuge in Honduras have taken note of this, and we now find that since April 1984, more Salvadorans have returned voluntarily from Honduras to El Salvador than have been returned from the United States to El Salvador. A fascinating fact for this debate. The State Department estimates that 1,500 people have departed from the United States for El Salvador between April and August 1984, while approximately 2,000 Salvadorans have returned voluntarily from Honduras over that same period. That is the most salient fact that speaks with greatest clarity against the EVD option. If conditions were as so often stated by proponents of EVD, this phenomenon would obviously not be occurring.

Mr. President, I believe that this is only further clear evidence that the granting of any blanket immigration status to nationals of El Salvador is unwise and unwarranted.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WE CAN'T ALLOW ALL SALVADORANS TO STAY

(By Alan K. Simpson)

According to current estimates, nearly 500,000 Salvadorans are living in the United States as illegal immigrants. As the conflict in El Salvador continues, there have been urgent calls for suspending the deportation of this entire group of people.

While these requests have been based on compassion and charity, they have also been founded on mistaken assumptions and undertaken without consideration for the full consequences. There are reasonable, humanitarian alternatives to sending Salvadorans back to contested areas in their homeland, but allowing all of them—refugees or economic migrants—to stay in the United States until the conflict subsides is not one of them.

It is therefore most important to place the issue of undocumented Salvadoran "refugees" in perspective. El Salvador has traditionally generated the second-largest flow of illegal aliens, exceeded only by Mexico. Since long before the conflict in that country heated up in 1979, hundreds of thousands of Salvadorans have migrated illegally to the United States in search of economic opportunity.

These "pre-conflict" Salvadorans are estimated to consitute 350,000 of the approximately 500,000 undocumented Salvadorans here today. The Spanish International Network (SIN) conducted an exit poll of Salvadoran voters during that country's recent presidential elections. Seventy percent of Salvadorans polled said they would like to emigrate to work in the United States.

Almost all Salvadorans come to the United States by land routes. In doing so, they must cross at least two countries to reach our border. All of them must pass through Mexico and Guatemala, and some also travel through Honduras. Both Mexico and Honduras have allowed "safe haven" for Salvadorans, and the U.N.'s High Commission for Refugees has established a presence in each country. In a legal sense, then it is these nations that are the country of safe "first asylum," not the United States.

While it may be true that many Salvadorans left their homeland because they perceived their lives to be in danger, they did not travel 2,000 miles through the friendly and accepting country of Mexico because of a continuing threat of personal violence.

Their reasons for traveling on through Mexico are reasonable—to find better employment opportunities or to live with friends or family in the United States—but this is the motivation of most legal and illegal immigrants around the world, not of the true refugees. The United States and the United Nations define such a refugee as having a "well-founded fear of persecution based on race, religion, nationality, membership in a particular social group, or political opinion."

The United States already has a mechanism for assisting those persons who would face persecution if they were returned to their homelands: political asylum. Based on the above definition, political asylum affords those present in the United States a specific administrative and judicial process by which to make their claim of persecution if they are deported.

Undeniably, political asylum is a difficult test to pass, but that is because the U.N. and U.S. definition of a refugee is very specific, and the manner in which that definition should be interpreted—according to the U.N. Handbook on Criteria and Procedures for determining Refugee Status—is very strict. The low approval rates for political asylum worldwide are caused not by "political prejudice," or "covering up our involvement in Central America," but by the exacting international standards on who may be considered to be a "refugee." Of the 500,000 or so Salvadorans in this nation today, only 20,000 to 30,000 have applied for political asylum.

The suspension of deportation of all Salvadorans illegally present in the United States would be a most curious policy. It would require simply that the United States not deport those people who clearly are not refugees according to the U.N. definition, who clearly are economic migrants, and who could return home without any significant risk. It would also send a quite explicit message to the people of El Salvador: all you have to do is get here; once you do, we allow you to stay regardless of your circumstances. Give the tattered disarray of current U.S. immigration laws, this would be an absurd precedent.

Some strident and often partisan critics of current policy would have us believe that the violence in El Salvador prevents anyone from living there with any reasonable expectation of personal safety. This is most assuredly untrue. There is relatively little violence in the western provinces of El Salvador. There are displaced-person camps throughout the country that are rarely, if ever, in danger and that are receiving increased amounts of assistance from the U.S. government and the international community. Honduras provides safe refugee camps open to all Salvadorans seeking haven. It is beyond dispute that internally displaced Salvadorans experience poor living conditions, but this should be addressed through increased humanitarian assistance, not by relaxing further our strained immigration laws.

What should the United States do with deportable Salvadorans? First, we should return those who would choose to go voluntarily or who express no significant apprehension over returning. When the State Department began conducting a recent random survey of 500 returned Salvadorans in El Salvador, it learned that not only had not one person been found killed or abused because of political violence, but no relatives or neighbors of those sought had ever heard rumors about any of the returnees disappearing or being abused.

Second, the United States should remove those Salvadorans who express significant fears of returning and place them in refugee camps in Honduras, or in secure displace-person camps in El Salvador, Correspondingly, the United States should provide sufficient aid to these present facilities so that an additional number of people could; be handled and adequate living conditions be assured.

Finally, we should develop guidelines that would identify certain classes of people who might well be subject to particular risk if returned to El Salvador. There is evidence that this may be true of teachers and medical personnel. In such instances, a "case-by-case" review of the need for extended voluntary departure would certainly be in order.

We must not distort our laws concerning political asylum. Serious risks are taken by those who would grant "sanctuary" to those who are not refugees. Such an indiscriminate selection process would only further the compassion fatigue," which will lessen our nation's willingness to respond to the millions of truly persecuted humans all over the planet.

THE RETIREMENT OF CLARENCE TURNIPSEED

Mr. HEFLIN. Mr. President, it is with mixed emotions that I recently learned of the retirement of Clarence L. Turnipseed, chairman of the board at the First National Bank of Brewton, AL.

Although Clarence has more than earned this opportunity to relax and enjoy a leisurely life, I am sad because he will be so sorely missed.

A native of Union Springs, Clarence Turnipseed graduated from Auburn University with two degrees—agricultural engineering, and chemical engineering. After his graduation, Mr. Turnipseed went to work for the Soil Conservation Service, and then started doing some work for the Alabama Chamber of Commerce. There, he met Frank Moody, chairman of the First National Bank of Tuscaloosa, who offered him a job.

For 15 years, Clarence worked in Tuscaloosa, first as an agricultural representative, then branch manager and assistant vice president. Then, 1965, he moved to the First National Bank of Brewton, then known as the Citizens-Farmers & Merchants Bank, as executive vice president.

During his career, Clarence served as president of the Alabama Bankers Association in 1962, and as Alabama vice president of the American Bankers Association from 1975-77. In addition, he was named Alabama's "Small Businessman of the Year" in 1976, served on the regional advisory council of the Small Business Administration, vice president of the Birmingham branch of the Federal Reserve Bank in Atlanta, and chairman of certain groups of the Alabama Bankers Association.

Mr. President, Clarence Turnipseed has also been active in bank, civic, and religious affairs in Tuscaloosa and Brewton. He is currently a member of the First Methodist Church, the Greater Brewton Area Chamber of Commerce, and the Brewton Rotary Club.

Mr. President, I ask unanimous consent that an article from the Brewton Standard be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TURNIPSEED RETIRES FROM FNB

Clarence L. Turnipseed, chairman of the board at the First National Bank of Brewton, has retired after working 20 years with the Brewton bank.

He first started with the First National Bank, known then as the Citizens—Farmers & Merchants Bank, in 1965 as executive vice president.

Turnipseed's banking career began in 1953 at the First National Bank of Tuskaloosa. Duties at the bank included being the agricultural representative, then branch manager and assistant vice president, with responsibilities in the areas of commercial lending, investments, real estate appraisals and assisting branch managers.

During his banking career, Turnipseed has been active in and recognized for outstanding contributions to a number of state and regional banking and bank related organizations. He was named "Small Businessman of the Year" for the state of Alabama in 1976 by the Small Business Administration.

He has served on the Region IV Birmingham advisory council of the Small Business Administration, vice president of the Birmingham branch of the Federal Reserve Bank of Atlanta and chairman of groups four and nine of the Alabama Association. He served as the Alabama vice president for the American Bankers Association from 1975 through 1977 and was elected president of the association in 1982.

At the same time, Turnipseed served on the association's advisory council of state associations. He has also served as Alabama chairman for the Independent Bankers Division of the State Bankers association and has served on a number of its committees. Most recently he has served as the State chairman of the American Bankers Association's membership committee.

He holds bachelor's degrees in chemical engineering and agricultural engineering from Auburn University.

Turnipseed has also earned his pre-standard, standard and graduate certificates from the American Institute of Banking. In 1961 he graduated from the School of the South at Louisiana State University.

He was commissioned a second lieutenant in the ORC in 1935. From 1941 to 1945 he served as battery commander and battalion staff officer of the 42nd E.S. Bn. of the Fourth Infantry. He later served as a colonel in the Plans Division, 87th Maneuver Area Command. In 1960 he graduated from the U.S. Command and General Staff College in Ft. Leavenworth, Kan. He retired from the Army Reserve with the grade of colonel.

Turnipseed has been active in bank, civic and religious affairs in Tuscaloosa and Brewton. He is currently a member of the First Methodist Church, the Greater Brewton Area Chamber of Commerce, Brewton Rotary Club and the Brewton Country Club. He is married to Dorothy Warren Turnipseed of Montgomery. They have three daughters, Rebecca Bergquist of Toledo, Ohio, Dorothy Svendson, Washington, D.C., and Margaret Jo McCormick of Brewton. The Turnipseed's also have one son, Lee Turnipseed of Foley.

The First National Bank is honoring Turnipseed with a reception from 2 to 5 p.m. Friday at the main branch of the bank. The public is invited to attend the reception.

THE NEED FOR A U.S. DRAFT

Mr. HOLLINGS. Mr. President, in 1973, a very serious mistake was made by President Nixon and by the Congress. In that year, we instituted the All-Volunteer Force to replace the drafting of citizens into our Armed Forces.

I warned my colleagues then—and I believe that events have proven me correct—that the All-Volunteer Force would only institutionalize the inequities of the draft that were so prevalent—and so condemned by many—during our involvement in Vietnam. It was clear to me and other opponents of the AVF that the poor, the disadvantaged, and our minorities would constitute the bulk of the volunteer force. This has happened, and it is wrong. It is a glaring civil wrong.

I said then, and I say now, the defense of America is everybody's business—no matter where you live, the color of your skin, or the size of your bank account. It is a responsibility that belongs in every neighborhood—in the richest of suburbs as well as the inner city.

For the past several years, I have offered legislation that would reinstitute the President's authority to require the draft. Congress has repeatedly failed to act on the draft proposal. Well time is running out, and to those who wish to avoid this critical need, let me cite two simple facts for you. In the forthcoming decade, the number of eligible males for the AVF will drop by 25 percent. Further, in looking at the pool of eligible males in 1993—and excluding those considered of the college population—the Army will have to recruit over half of those eligible in order to meet its annual accession requirements. I repeat, 50 percent of those eligible will have to volunteer. This goal cannot be reached regardless of how much recruiting and bonus money we appropriate. It is totally unwise to fool ourselves any longer.

We will reach a point where we have to decide whether we care enough to defend ourselves and our allies—with enough well trained and competent troops. All of our NATO allies but Great Britian and Canada require the draft. Are they more committed to their defense than we are to ours? We may well find ourselves answering that question in a few short years.

This year, the DOD is meeting its overall recruiting objectives. But even with these rosy statistics, it is doubtful that the Army will meet its recruiting objectives for the combat arms specialities. For fiscal year 1985, top Army officials are expressing doubts about whether recruiting objectives can be met as there has been a serious 50 percent drop off in those civilians signed up for the Delayed Entry Program [DEP] which is the early forecast of what to expect regarding recruiting success.

Mr. President, I can go on and on about the amount of money necessary to continue funding the AVF and whether we can afford it. I can cite the difficulties our manpower experts portend for meeting recruiting goals due to changing demographics. These are all crucial parts of the draft versus the all volunteer issue. But in the end, we come down to the bottom line.

Who is going to defend our freedom? Is it solely the responsibility of minorities and the poor and the less educated who have trouble getting jobs anywhere but in the volunteer force? Or should the call go out equally to rich and poor alike? Conscience tells us that we need a cross section of America in defending America. It is everybody's business. It is everybody's responsibility.

The great need in defense is not only tanks, planes, and other equipment, and pilots and soldiers. We need a commitment and the willpower of all

our citizenry. We cannot build this consensus under the ruse of the AVF. There is no painless way that we can provide for the defense of freedom. It requires sacrifice, and it is the duty of everyone. We can only achieve that commitment to our security with the draft.

Mr. President, in a recent interview printed in the October 1, 1984, edition of U.S. News & World Report, Gen. Bernard Rogers, commander of NATO Armed Forces, spoke of the need for a U.S. draft. I ask unanimous consent that General Rogers' remarks be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOW NATO'S TOP OFFICER VIEWS THE ALLIANCE

(Gen. Bernard Rogers, commander of NATO armed forces in Europe, has assessed for correspondents the challenges confronting the alliance. Excerpts:)

THE REAL SOVIET THREAT

The biggest challenge we face in NATO is getting the message across to our people that there is a threat to their freedom down the road.

I am not talking about an attack out of the blue. My major concern is that the Soviets will accomplish the objective they've set in Western Europe, that they'll be able, without ever having to fire a shot, to coerce us and intimidate us. That is the major menance we face.

RELIANCE ON NUCLEAR ARMS

If we were attacked conventionally, under the guidance I have from my political authorities, I have no option but to fairly quickly request the release of nuclear weapons.

Under current conditions—not sufficient ammunition stocks, not sufficient trained manpower to replace battlefield losses and not sufficient pre-positioned material such as tanks and armored personnel carriers—I must make that request fairly quickly. I do not like that.

LAUNCHING NUCLEAR WEAPONS

I would send an early notification of possible use of nuclear weapons to my political authorities and say to them, if I have to use [such weapons], this is what we're thinking about. It's these kinds of militarily significant targets.

HOW LONG WOULD IT TAKE?

Not as long as you think. You see, we have exercises here twice a year [to test decision making]. Hopefully, by the time I would have to send forward a request to use nuclear weapons, the [political authorities] would have considered all of the aspects, and I could get an answer back quickly. . . .

And if I get attacked with nuclear weapons and there's no time for consultations, I can go directly to leaders of the nuclear powers and request the release of nuclear weapons. . . . All this would have to be decided at a political level. Don't ever forget that.

ROLE OF EMERGING TECHNOLOGY

We infantrymen have a rule of thumb: If you can reduce the ratio against which you have to defend to no more than 3 of them to 1 of us, and you have properly organized your defensive position—you can succeed in your defense.

To me, it makes sense to build on what we already have. For example, if we were able to design a precision guided missile that has 30 submunitions within its warhead and each submunition was to search out an individual tank, you could get 20 hits out of 30. Say that weapon would cost $500,000. That would be pretty cost-effective.

EUROPE'S CONTRIBUTION TO NATO

If we go to war tomorrow, 90 percent of the land forces and three quarters of the air and navy would be Western European. In addition, most people do not realize the massive amount of hidden costs that Western European nations pay. Conscription has a hidden cost, a social cost, a personal cost, a human cost. . . .

I also know that Western European nations provide many facilities for which they get no return, not in taxes, not in revenue or anything.

In the end, I don't think it does too much good to point the finger at each other.

NEED FOR A U.S. DRAFT

We need the draft today. . . . I have maintained through the past seven years that for that purpose [providing skilled replacements] the U.S. should draft sufficient men to be trained in those combat skills [using] random selection so an individual would be eligible for only one year.

LT. COL. GUY L. COPELAND, CONGRESSIONAL FELLOW

Mr. WARNER. Mr. President, I want to take a few moments to commend Lt. Col. Guy L. Copeland, a congressional fellow sponsored by the Institute of Electrical and Electronic Engineers, who has served as a member of my staff for the past year.

Because of his extensive knowledge and experience in national defense and foreign affairs, he was of immediate and invaluable assistance in these areas, and especially those areas relating to veterans affairs.

His overall performance during this critical and highly demanding legislative cycle has been truly outstanding.

He continually exceeded my highest expectations while providing exceptionally competent advice and counsel on a significant number of complex, vital issues.

While the fiscal year 1985 defense authorization bill was before the Senate Armed Services Committee for markup and during consideration and passage on the floor of the Senate, my regular legislative assistant for national security affairs was temporarily on medical leave.

Assisted by only one other fellow Colonel Copeland did a superb job of keeping me prepared and informed during that hectic period, while still handling the normal daily load of mail, visitors, and telephone calls.

In addition, he personally prepared several floor amendments which I successfully introduced and which were accepted by the Senate.

He also researched and authored several excellent floor statements which I presented during the course of debate.

His tireless actions during this intense and turbulent period were particularly noteworthy. The willing sacrifices made by him and his family contributed greatly to my efforts. I am especially grateful to his wife and daughter for their understanding during this period.

The workload and hours have been extremely demanding. The results he achieved are evidence of his outstanding talents and devotion to people.

He has played an invaluable role on my staff.

As he resumes his military duties, I want to express my sincere appreciation for his superb performance, dedication, and loyalty and wish him well in his continuing career in the Armed Forces.

CONCLUSION OF MORNING BUSINESS

Mr. STEVENS. Mr. President, I now announce that the leader's time has expired.

I ask for the close of morning business.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. Without objection, the Senate stands in recess until the hour of 2 p.m.

The Senate, at 12:06 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. KASTEN].

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent there now be a period for the transaction of routine morning business until not later than 2:30 p.m. in which Senators may speak for not more than 3 minutes each, with the exception of the two leaders against whom no limitation of time will apply.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

BUDGET ACT WAIVER

Mr. STEVENS. Mr. President, I now ask unanimous consent the Chair lay before the Senate Calendar Order No. 1246, Senate Resolution 445.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution will be stated by title.

The assistant legislative clerk read as follows:

A Senate resolution (S. Res. 445) waiving secton 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5076.

Mr. STEVENS. I ask for immediate consideration of the waiver.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 445) was agreed to as follows:

S. RES. 445

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 5076, a bill to designate certain areas in the Allegheny National Forest as wilderness and recreation areas.

The waiver of section 402(a) is necessary to permit consideration of provisions authorizing the enactment of new budget authority to acquire lands and interests in lands, including oil, gas, and other mineral interests, in the areas designated as wilderness by the bill.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PENNSYLVANIA WILDERNESS ACT OF 1984

Mr. STEVENS. Mr. President, I now ask that the Chair lay before the Senate Calendar Order No. 1197, H.R. 5076.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5076) to designate certain areas in the Allegheny National Forest as wilderness and recreation areas.

The Senate proceeded to consider the bill which had been reported from the Committee on Agriculture, Nutrition, and Forestry with an amendment to strike out all after the enacting clause, and insert the following:

That this Act may be cited as the "Pennsylvania Wilderness Act of 1984".

FINDINGS

SEC. 2. The Congress finds and declares that—

(1) there is an urgent need to identify and protect natural areas to meet the recreational needs of Americans;

(2) certain lands within the Allegheny National Forest in Pennsylvania are worthy of inclusion in the National Wilderness Preservation System; and

(3) certain others lands within the Allegheny National Forest are suitable for designation as a national recreational area.

PURPOSE

SEC. 3. It is the purpose of this Act to—

(1) establish the Allegheny Islands Wilderness and the Hickory Creek Wilderness;

(2) establish the Allegheny National Recreation Area so as to assure the preservation and protection of the area's natural, scenic, scientific, historic, archaeological, ecological, educational, watershed, and wildlife values and to provide for the enhancement of recreational opportunities, particularly undeveloped recreational opportunities; and

(3) ensure that any mineral exploration and development that takes place within the recreational area is done in an environmentally sound manner.

WILDERNESS DESIGNATIONS

SEC. 4. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands in the State of Pennsylvania are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System;

(1) certain lands in the Allegheny National Forest, Pennsylvania, which comprise approximately three hundred and sixty-eight acres, as generally depicted on a map entitled "Allegheny Islands Wilderness—Proposed", dated March 1984, composed of Crulls Island, Thompsons Island, R. Thompsons Island, Courson Island, King Island, Baker Island, and No Name Island, and which shall be known as the Allegheny Islands Wilderness; and

(2) certain lands in the Allegheny National Forest, Pennsylvania, which comprise approximately nine thousand three hundred and thirty-seven acres as generally depicted on a map entitled "Hickory Creek Wilderness—Proposed", dated March 1984, and which shall be known as the Hickory Creek Wilderness.

ADMINISTRATION OF WILDERNESS

SEC. 5. (a) Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(b) As provided in section 4(d)(8) of the Wilderness Act, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Pennsylvania with respect to wildlife and fish in the Allegheny National Forest in the State of Pennsylvania.

(c)(1) The Secretary is authorized to acquire by purchase, donation, or exchange, with donated or appropriated funds, such lands or interests in lands (including oil, gas, and other mineral interests and scenic easements) within the wilderness areas designated by this Act as the Secretary deems necessary to carry out the purposes of this Act. Such lands and interests in lands may be acquired only with the consent of the owner thereof.

(2) Not more than $2,000,000 is authorized to be appropriated for the purpose of acquiring, in accordance with this subsection, lands and interests in lands in the wilderness areas designated by this Act.

ALLEGHENY NATIONAL RECREATION AREA

SEC. 6. (a) In furtherance of the findings and purposes of this Act, certain lands in the Allegheny National Forest, Pennsylvania, which comprise approximately twenty-three thousand one hundred acres, as generally depicted on a map entitled "Allegheny National Recreation Area—Proposed", dated March 1984, are hereby designated as the Allegheny National Recreation Area (hereinafter in this Act referred to as the "national recreation area"). The Secretary of Agriculture may revise the boundaries of the national recreation area to correct errors or to include additional lands acquired adjacent to the area.

(b) The national recreation area shall be managed for the purposes of—

(1) outdoor recreation including, but not limited to, hunting, fishing, hiking, backpacking, camping, nature study, and the use of motorized and nonmotorized boats on the Allegheny Reservoir;

(2) the conservation of fish and wildlife populations and habitat;

(3) the protection of watersheds and the maintenance of free flowing streams;

(4) the conservation of scenic, cultural, and other natural values of the area; and

(5) the development of oil, gas, and mineral resources subject to reasonable conditions prescribed by the Secretary under subsection (c) for the protection of the area.

(c) The Secretary shall administer the national recreation area in accordance with the purposes described in subsection (b) and the laws, rules, and regulations applicable to the National Forest System. Subject to valid existing rights, any activity associated with the exploration, development, or transportation of oil, gas, or other minerals shall be subject to such reasonable conditions as the Secretary may prescribe to achieve the purposes, described in subsection (b), of the national recreation area. For any such activity, the Secretary shall require a plan of operations which shall include provisions for adequate reclamation.

(d) The Secretary shall prepare, and may from time to time amend, a management plan for the national recreation area. The plan may be prepared in conjunction with, or incorporated with, ongoing planning for the Allegheny National Forest in accordance with the National Forest Management Act of 1976. Any plan shall be done in accordance with the National Environmental Policy Act of 1969.

(e) The Secretary shall permit hunting, fishing, and trapping within the boundaries of the national recreation area in accordance with applicable Federal and State laws except that the Secretary may designate zones where, and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment. Except in emergencies, any prohibitions or restrictions made pursuant to this subsection shall be put into effect only after consultation with the appropriate State fish and game department.

(f) Subject to valid existing rights, the minerals in all federally owned lands within the national recreation area designated by this Act are withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing, including all laws pertaining to geothermal leasing, and all amendments thereto.

MAPS AND DESCRIPTIONS

SEC. 7. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of the national recreation areas and of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such maps and descriptions may be made by the Secretary. Each such map and description shall be on file and available for public in-

spection in the Office of the Chief of the Forest Service, Department of Agriculture.

EFFECT OF RARE II

SEC. 8. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE (II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Pennsylvania, and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than Pennsylvania, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Pennsylvania;

(2) with respect to the National Forest System lands in the State of Pennsylvania which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Pennsylvania reviewed in such final environmental statement or referenced in subsection (d) and not designated as wilderness or for special management under section 6 of this Act upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976; *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans; and

(4) in the event that revised land management plans in the State of Pennsylvania are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to National Forest System roadless lands in the State of Pennsylvania which are less than five thousand acres in size.

BUFFER ZONES

SEC. 9. The Congress does not intend that the designation of a wilderness area under this Act lead to the creation of protective perimeters or buffer zones around such wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness shall not preclude such activities or uses up to the boundary of the wilderness area.

AMENDMENT NO. 6914

(Purpose: To amend the provisions providing management direction for the Allegheny National Recreational Area)

Mr. STEVENS. Mr. President, I send to the desk an amendment to the committee substitute, on behalf of Senator HEINZ and Senator SPECTER.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. HEINZ and Mr. SPECTER, proposes an amendment numbered 6914.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 14, strike out line 18 and all that follows through line 4 on page 17 and insert in lieu thereof the following:

ALLEGHENY NATIONAL RECREATION AREA

SEC. 6. (a) In furtherance of the findings and purposes of this Act, certain lands in the Allegheny National Forest, Pennsylvania, which comprise approximately twenty-three thousand one hundred acres, as generally depicted on a map entitled "Allegheny National Recreation Area—Proposed", dated March 1984, are hereby designated as the Allegheny National Recreation Area (hereinafter in this Act referred to as the "national recreation area"). The Secretary of Agriculture may revise the boundaries of the national recreation area to correct errors or to include additional lands acquired adjacent to the area.

(b) The national recreation area shall be managed for the purposes of—

(1) outdoor recreation including, but not limited to, hunting, fishing, hiking, backpacking, camping, nature study, and the use of motorized and nonmotorized boats on the Allegheny Reservior;

(2) the conservation of fish and wildlife populations and habitat;

(3) the protection of watersheds and the maintenance of free flowing streams and the quality of ground and surface waters in accordance with applicable law;

(4) the conservation of scenic, cultural, and other natural values of the area;

(5) allowing the development of privately-owned oil, gas, and mineral resources subject to reasonable conditions prescribed by the Secretary under subsection (c) for the protection of the area; and

(6) minimizing, to the extent practicable, environmental disturbances caused by resource development, consistent with the exercise of private property rights.

(c) The Secretary shall administer the national recreation area in accordance with the purposes described in subsection (b) and the laws, rules, and regulations applicable to the National Forest System. Subject to valid existing rights, any activity associated with the exploration, development, or transportation of oil, gas, or other minerals shall be subject to such reasonable conditions as the Secretary may prescribe, and in accordance with the management plan described in subsection (d), to achieve the purposes, described in subsection (b), of the national recreation area. For any such activity, the Secretary shall require a plan of operations which shall include provisions for adequate reclamation, including, to the extent practicable, revegetation and rehabilitation after each phase of operations is completed.

(d) The Secretary shall prepare, and may from time to time amend, a management plan for the national recreation area. The plan may be prepared in conjunction with, or incorporated with, ongoing planning for the Allegheny National Forest in accordance with the National Forest Management Act of 1976. The initial management plan and significant amendments or revisions shall be accompanied by an environmental impact statement prepared in accordance with the National Environmental Policy Act of 1969.

(e) The Secretary shall permit hunting, fishing, and trapping within the boundaries of the national recreation area in accordance with applicable Federal and State laws except that the Secretary may designate zones where, and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment. Except in emergencies, any prohibitions or restrictions made pursuant to this subsection shall be put into effect only after consultation with the appropriate State fish and game department.

(f) Subject to valid existing rights, the minerals in all federally-owned lands within the national recreation area designated by this Act are withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing, including all laws pertaining to geothermal leasing, and all amendments thereto.

(g) Nothing in this section shall be construed to apply to or have any effect on any other management area of the National Forest System, including any wilderness area or any other national recreation area.

Mr. HEINZ. Mr. President, Senator SPECTER and I would like to take a moment to explain the provisions of this amendment.

Subsection 6(b), which sets out the purpose of the National Recreation Area, has been amended in two ways. First, additional language is provided to state that protection and maintenance of water quality is a major purpose of the NRA. The Federal Clean Water Act and Safe Drinking Water Act, as well as State and local antipollution regulations, will apply to activities in the NRA. It is our intent that

these and other existing water quality laws be applied to protect the surface and subsurface water quality of the area.

In addition, language is added to specify that disturbances to the natural environment be minimized to the extent practicable. It is intended that economic and physical practicality be a factor in balancing the competing interests of resource development and environmental protection. It is important to note that minimizing environmental disturbances is not only an obligation of the Forest Service and other Federal and State agencies, but must also be borne by the private sector. It should be remembered that the mineral rights in the NRA are almost all privately owned. Clearly, while this bill does not intend to take away any private property rights, at the same time it should be incumbent on the owners of such rights to exercise them in a responsible way. Likewise, the general public must bear in mind its obligation to avoid environmental disturbances. If all sides work together, both public and private, the full potential for this area can be achieved.

Subsection 6(c) is amended to clarify the requirement that reclamation follow all mineral development in the area. Reclamation in this case means the rehabilitation of the land back to a natural appearing condition. While it may often be impossible to fully restore the land to its previous contour or appearance, prudent operations should be followed by a thorough cleanup, the disposing of debris and the residue of operations, and reseeding or otherwise revegetating disturbed areas. Revegetation and rehabilitation activities are required after each phase of operation is completed. An operational phase will be described in the operating plans, and such activities between phases will be those reasonable to prevent erosion and scenic eyesores. It is recognized that reclamation requirements must be reasonable to be consistent with one of the purposes of the NRA which is to allow for private mineral development.

Subsection 6(d) has been amended to further clarify the intent of the Congress that the planning for the NRA be done in the context of an environmental impact statement. In all likelihood, the NRA plan will be done in conjunction with the Allegeny National Forest plan now being prepared in accordance with the National Forest Management Act of 1976.

In that event, Forest Service regulations already require the preparation of an environmental impact statement, and the amendment specifically so provides with respect to the initial management plan for the NRA. An environmental impact statement will also be required by the amendment for significant revisions or amendments to the NRA plan.

Mr. HELMS. Mr. President, will the Senator from Pennsylvania yield for a question with respect to the amendment?

Mr. HEINZ. I am pleased to yield to the distinguished chairman.

Mr. HELMS. I want to make sure that I understand the intent of the Senators' amendment. Forest Service regulations already require preparation of an environmental impact statement in connection with land management plans. The bill specifically requires preparation of an environmental impact statement in connection with the initial management plan for the Allegheny National Recreation Area and for any significant revisions or amendments thereto. I want to clarify that this amendment does not apply to any part of the National Forest System, except the Allegheny National Recreation Area. I wonder if the Senators from Pennsylvania could tell me whether that is their understanding.

Mr. SPECTER. Mr. President, if I may respond to the Senator's question, I want to assure the chairman that it is not my intent, nor the intent of my distinguished colleague, Senator HEINZ, that the language of section 6 of the bill be construed to apply to any other NRA except the one established by this bill. The NRA is tailored to local concerns and is specially designed to meet local needs. It is not our intent to extend the provisions of section 6 of this bill to the administration of any other management area of the National Forest System.

Mr. HELMS. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6914) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If there are no further amendments, the question is on agreeing to the committee substitute, as amended.

The committee substitute, as amended, was agreed to.

Mr. STEVENS. I yield to the senior Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I appreciate all the work that many people have put into making it possible to have this legislation before us.

If long hours of negotiations make for good legislation, this must be one of the best bills ever to pass the Senate. The negotiations on Pennsylvania wilderness began over 10 years ago and have continued right up to this moment. I want to thank all the parties to this process for their patience and good faith. I want, in particular, to thank the distinguished chairman of the Senate Agriculture Committee for his role in bringing the Pennsylvania Wilderness Act to the floor of the Senate.

The Pennsylvania Wilderness Act designates 9,763 acres in the Allegheny National Forest as wilderness and another 23,100 acres as a national recreation area. The significance of this legislation extends beyond the borders of Pennsylvania because the areas protected are within a day's drive of 40 percent of the country's population. The bill is also particularly significant for the people of Pennsylvania because it establishes the only wilderness area within the Commonwealth.

Mr. President, I want to briefly outline the history of H.R. 5076 so that what we are doing today may be placed in context. After long years of negotiation between Pennsylvania Democrats and Republicans, environmentalists, owners of oil, gas and mineral rights, the timber industry, hunters and the people who live and work in the area, a compromise was reached. That compromise is embodied in H.R. 5076, passed by the House of Representatives, by an overwhelming margin last spring. That legislation was supported by every single Member of the politically diverse Pennsylvania delegation.

Subsequent to House passage of H.R. 5076, a compromise was reached on so-called release language, and all parties agreed that the compromise should be incorporated in the Pennsylvania Wilderness Act. It became apparent, however, that section 6 of the House-passed bill, which provides for the administration of the 23,100, acre national recreation area, was going to generate significant controversy in the Senate. Consequently, the Senate Agriculture Committee adopted changes to section 6 which endangered the carefully crafted and delicate consensus represented by the House-passed bill.

After long, detailed and sometimes tedious negotiations between the Senate Agriculture Committee, Senator SPECTER and myself, an agreement has been reached which, I am confident, will be readily accepted by our colleagues in the House. In a perfect world, Mr. President, I would have preferred simply to adopt the House-passed version of H.R. 5076. But we don't live in a perfect world and I think that the legislation we are about to pass, as modified by the Heinz-Specter amendment, represents a triumph of the legislative process.

It is my understanding that there is currently litigation over the issue of whether oil and gas development in the Allegheny front requires an envi-

ronmental impact statement. Whatever the courts rule under current law, it is important to recognize that with respect to this national recreation area, we are providing new powers and responsibilities to the Secretary of Agriculture. Under section 6, as modified by the Heinz-Specter amendment, operation plans for oil and gas development must be in accordance with the management plan described in subsection (d); that is, any such development must be consistent with the purposes designated for the national recreation area. In essence, the Secretary has the same responsibilities and powers with respect to the development of oil and gas resources in the national recreation area as he would have under the version of H.R. 5076 passed by the House of Representatives.

The environmental impact statement required by section 6 of the House-passed bill and by section 6 of this bill as modified by the Heinz-Specter amendment will have to evaluate the development of privately owned mineral rights in a manner consistent with the responsibilities of the land manager to protect surface values. By considering these values, the Secretary will have to consider alternative ideas for surface access, water quality, and land reclamation.

Mr. President, a great number of people have been involved in the long and complicated process which has brought us to this point; while it would be impossible to name them all, there are a few who deserve special mention. First, I want to recognize Congressman BILL CLINGER who can rightly be called the father of the Pennsylvania wilderness bill. BILL introduced H.R. 5076 in this Congress and has been the leader in past years of negotiation. BILL's reasonableness and sense of fairness have prevented negotiations on Pennsylvania wilderness from bogging down at crucial points more times then I care to remember. I also want to thank my colleague, Senator SPECTER, who has been with me every step of the way on the Pennsylvania wilderness issue and who is the coauthor of this amendment.

Finally, Mr. President, I want to thank Mr. John Oliver, the president of the Western Pennsylvania Conservancy, whose personal commitment and dedication to establishing the Hickory Creek and Allegheny Islands wilderness areas is probably the single biggest factor in the success of this project. Without John and the Western Pennsylvania Conservancy, options for the mineral rights which underlie the areas designated as wilderness would not have been obtained and we would not be in a position to purchase those rights.

Mr. President, my heartfelt thanks go out to all of those who have put so much time and effort into making this legislation a reality. I urge adoption of the bill.

Mr. SPECTER. Mr. President, I strongly support passage of the Pennsylvania Wilderness Act of 1984.

The Pennsylvania Wilderness Act of 1984 would protect approximately 9,700 remote and pristine acres of the Allegheny National Forest by designating them as components of the national wilderness preservation system. This wilderness is situated in the Hickory Creek Area and on the Allegheny Islands, in Warren County, PA. Passage of this bill would also ensure the preservation of scenic, historical, archeological, paleontological, wildlife and watershed resources, and would maximize opportunities for recreational activities on 23,100 acres located in Elk, Forest, McKean, and Warren Counties by designating them a national recreational area.

The entire Pennsylvania delegation has supported the Wilderness Act, and I would, in particular, like to congratulate my distinguished colleague, Senator HEINZ, and his staff for their diligent work over the years to create a wilderness designation in the Commonwealth. Additionally, I commend Congressman CLINGER and his staff for their creative and untiring work on this legislation. Mr. John Oliver of the Western Pennsylvania Conservancy has also played a major role in making this legislation possible, and I congratulate him and the conservancy for their dedication to the Wilderness Act.

Mr. President, years of negotiation and deliberation has resulted in legislation which will preserve our wilderness and help to better utilize our natural resources. These efforts will come to fruition when the President signs the Pennsylvania Wilderness Act of 1984 into law.

This act will preserve wilderness and establish a national recreation area while at the same time not obstructing the progress of business and industry in our State. I am pleased to have played a role in this bill's development.

Mr. STEVENS. Mr. President, I wish to point out that, as the Senator from Pennsylvania [Mr. HEINZ] has indicated, there were 10 years of negotiations on this wilderness area—one wilderness area, in one State.

My State fought for 7 years against the whole State becoming a wilderness area. No recognition was given to the viewpoint of the Senators from Alaska. On each occasion that the wilderness issues have come before Congress, I have pointed that out.

Next year, we will have new wilderness proposals presented for the State of Alaska, and I hope that each Senator remembers that no wilderness bill has passed Congress without the approval of both Senators from the State involved. So long as I am here, that will remain the case.

Mr. HELMS. Mr. President, the Pennsylvania Wilderness Act of 1984, would designate approximately 9,705 acres of wilderness in two areas in the State of Pennsylvania. In addition, the bill would also create the Allegheny National Recreation Area from approximately 23,100 acres of National Forest System land. The committee amendment makes changes in several specific provisions of the bill dealing with the management of the National Recreation Area. The compromise amendment to be offered by the Senators from Pennsylvania, would clarify the committee amendment, and would require the preparation of an environment impact statement whenever the land management plan for the Allegheny National Recreation Area is initially prepared and for significant revisions or amendments thereto.

Mr. President, this is a departure from existing policy as outlined by the National Forest Management Act of 1976 and from the requirements of the National Environmental Policy Act of 1969. Although this amendment is limited to the preparation of a management plan for only one national recreation area, I am concerned that we do not create a situation in the National Forest System where we allow different forest management policies for various States, national forests, and management units that are governed by different laws.

Mr. President, Congress has spent much time working to carefully set out a uniform management policy that applies to the entire National Forest System. With the Forest Service having responsibility for the management of 191 million acres of land in 155 national forests and numerous other administrative units, we do not want to create the kind of situation where the Forest Service is given different management direction for individual management units.

The National Forest Management Act of 1976 and other laws governing the management of the National Forest System, provide a climate which requires public participation in the management direction of specific units of national forest system lands. This mechanism allows decisions to address local concerns and is already provided for by law. Requirements for environmental impact statements for management plans and other Federal activities are already clearly defined by the National Environmental Policy Act of 1969.

In accepting the amendment offered by the Senator from Pennsylvania, I do not want to establish a precedent for, nor to let others think that it is either necessary or desirable to write specific management prescriptions into individual wilderness bills or bills designating national recreation areas. Congress, has insisted, on repeated oc-

casions that a uniform management policy is desirable. The recent debate over and resolution of the appropriate "release language" for wilderness bills is a case in point.

While making the point that land management policy should be consistent for the entire National Forest System, I do not intend to imply that decisions over the areas to be designated as wilderness or as national recreation areas should be made by others than the elected representatives from each State. The Senate has taken the position, more than has the House of Representatives, that the elected delegations from a particular State are better able to determine the wishes of the people in the State than are outsiders. A number of Senators are concerned about this, and I want to clarify that difference between land management policy as it is applied by the Forest Service, and land utilization in categories of land as it is prescribed in this and other wilderness bills.

Clearly Congress, and the authorizing committees have a responsibility to carefully consider any bills that are introduced. Concerns over integration of such bills with existing law, and over budgetary constraints should be of paramount importance. The Committee on Agriculture, Nutrition, and Forestry has exercised its responsibility in the matter of this bill as well as other legislation considered by the committee. We have done our best to accommodate the wishes of Senators where possible but we have not shirked our responsibility to those who elect us and to the taxpayers of this country who are footing the bill.

The Pennsylvania bill also incorporates the standard "release language" that was agreed to earlier this year and has been included in wilderness bills already enacted for North Carolina, Wisconsin, Vermont, and New Hampshire, and was included earlier today for four other wilderness bills. Other amendments to the bill including the committee amendment to section 6 are discussed in some detail in the committee report.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed, as amended.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that I may proceed for 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

CONTINUING APPROPRIATIONS, 1985

Mr. BAKER. Mr. President, I have lost count now of the number of times that I have dutifully reported to the Senate that the participants in the many negotiations that have gone on between Senators on Grove City have reported that they felt that they were close to a settlement. Frankly, I had decided this morning that we had gone down that path as far as we could. But now I am told that the participants do feel that they are close to an agreed settlement and they have requested more time to complete their deliberations.

I have consulted with the minority leader on this point.

RECESS UNTIL 3 P.M.

Mr. BAKER. Mr. President, I now ask unanimous consent that the Senate stand in recess until 3 p.m., but that the time between now and 3 p.m. be charged against the post-cloture time allocated under rule XXII.

There being no objection, the Senate, at 2:32 p.m., recessed until 3 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. RUDMAN].

CONTINUING APPROPRIATIONS, 1985

The Senate resumed consideration of the bill.

Mr. BAKER. Now, Mr. President, I ask unanimous consent that I may proceed for 2 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UNANIMOUS-CONSENT REQUEST

Mr. BAKER. Mr. President, I am going to propound a unanimous-consent request in several parts that I have just this moment discussed with the minority leader and the principals involved in the controversy over Grove City and other matters, the gun control matter and the like. I want to try to state it without having it written out, so let me be very careful in what I do.

First, Mr. President, I ask unanimous consent that it be in order at this time, notwithstanding the pendency of an appeal from the ruling of the Chair, which I ask to be temporarily laid aside, to recognize the distinguished Senator from Oregon [Mr. PACKWOOD] for the purpose of making a tabling motion against amendment No. 5508. I further ask unanimous consent, notwithstanding that such a motion is not debatable, there be 30 minutes of debate, with the time equally divided and under the control of the distinguished Senator from Oregon and the distinguished Senator from Massachusetts.

Mr. President, I further ask unanimous consent that after the disposition of the tabling motion on amendment No. 5508, if it prevails, the distinguished Senator from Idaho [Mr. MCCLURE] then be recognized for the purpose of making a tabling motion against amendment No. 5727, and notwithstanding that that motion is not debatable, there be 10 minutes of debate to be equally divided and under the control of the Senator from Idaho and the distinguished minority leader or his designee.

Mr. President, I make that request.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, I will object unless this request is put in writing and the time is extended at least a little beyond the time of that just expounded by the distinguished majority leader.

CALL OF THE ROLL

Mr. BAKER. Mr. President, once again, I am perfectly happy to extend the time and I am perfectly happy to try to reduce this to writing. While we do that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 18]

Baker	Garn	Packwood
Byrd	Hatch	Quayle
Cochran	Helms	Rudman
Cranston	Kasten	Stevens
DeConcini	Kennedy	Symms
Dole	McClure	Thurmond
Evans	Moynihan	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

The legislation clerk resumed the call of the roll and the following Senators answered to their names:

Bradley	Hatfield	Mattingly
Chiles	Hawkins	Melcher
Domenici	Hecht	Stennis
Ford	Heflin	Weicker
Gorton	Huddleston	Zorinsky
Grassley	Mathias	

Mr. BAKER. Mr. President, I move that the Sergent at Arms be instructed to request the attendance of absent

Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona [Mr. GOLDWATER] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 96, nays 3, as follows:

[Rollcall Vote No. 261 Leg.]

YEAS—96

Abdnor	Ford	Melcher
Andrews	Garn	Metzenbaum
Armstrong	Glenn	Mitchell
Baker	Gorton	Moynihan
Baucus	Grassley	Murkowski
Bentsen	Hart	Nickles
Biden	Hatch	Nunn
Bingaman	Hatfield	Packwood
Boren	Hawkins	Pell
Boschwitz	Hecht	Percy
Bradley	Heflin	Pressler
Bumpers	Heinz	Pryor
Burdick	Helms	Randolph
Byrd	Hollings	Riegle
Chafee	Huddleston	Roth
Chiles	Humphrey	Rudman
Cochran	Inouye	Sarbanes
Cohen	Jepsen	Sasser
Cranston	Johnston	Simpson
D'Amato	Kassebaum	Specter
Danforth	Kasten	Stafford
DeConcini	Kennedy	Stennis
Denton	Lautenberg	Stevens
Dixon	Laxalt	Symms
Dodd	Leahy	Thurmond
Dole	Levin	Tower
Domenici	Long	Trible
Durenberger	Lugar	Tsongas
Eagleton	Mathias	Wallop
East	Matsunaga	Warner
Evans	Mattingly	Wilson
Exon	McClure	Zorinsky

NAYS—3

Proxmire	Quayle	Weicker

NOT VOTING—1

Goldwater

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. BAKER. Mr. President, could we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will please clear the well and take their seats.

The majority leader is recognized.

Mr. BAKER. Mr. President, I ask unanimous consent that I may proceed for not more than 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

CONTINUING APPROPRIATIONS, 1985

UNANIMOUS CONSENT AGREEMENT

Mr. BAKER. Now, Mr. President, may I outline to the Senate what the leadership on this side would propose and the consequences of it.

To begin with, I will put a unanimous-consent request that when I yield the floor Senator PACKWOOD will be recognized for the purpose of making a motion to table the Grove City amendment. If that succeeds, and I hope it will, that will take with it the second degree Byrd amendment and the tuition tax credit amendment.

I will also ask unanimous consent, Mr. President, that Senator MCCLURE then be recognized for the purpose of making a motion to table the gun control amendment, and if that is adopted it will take with it the busing amendment.

If both of these things happen, Mr. President, then I will ask unanimous consent that the two, I believe two cloture votes, which would occur on the committee amendment itself, be vitiated, and then if that happy moment arrives we would be back where we started 3 days ago and the committee amendment No. 1 unemcumbered would be pending.

Mr. President, it is a strange circumstance when the Senator from Oregon [Mr. PACKWOOD] is coming forward to table an amendment on which he feels so keenly and on which he has fought so hard, and it is a mark of courage that I have seldom seen equaled in this Chamber. It is similarly a mark of courage and character on the part of the Senator from Idaho [Mr. MCCLURE] that he would come forward to move to table a gun control bill, and I do not have to explain to people in this Chamber how sensitive that is, to say nothing of a busing amendment which goes down with it.

But what that says about these two Senators, in my opinion, is that they recognize that we have a fundamental prime responsibility to do the people's business and that at some point you simply have to get on with it, and that is what they are proposing to do.

Now, Mr. President, there has been a request to me that, notwithstanding the tabling motions will be made and they, of course, are not debatable, there be a brief time for Members to express their reasons for this, their views, and I think that is understandable.

After that time, then we will come to a vote. I suppose we will have a record vote. But let me suggest to Members that we voted now on the record twice on each one of these issues. As far as I am concerned at least I am willing to have a voice vote on these two tabling motions, but that is a matter I cannot control, and it is a matter that I leave to the Senate on whether you ask for the yeas and nays on these two motions to table or not.

But now, Mr. President, let me put the request:

Mr. President, I ask unanimous consent that upon my yielding the floor the Senator from Oregon [Mr. PACKWOOD] be recognized for the purpose of making a tabling motion to amendment No. 5508, and that notwithstanding, a debate is not in order on such a motion, that there be 1 hour of debate to be equally divided between the distinguished Senator from Oregon [Mr. PACKWOOD] and the distinguished Senator from Massachusetts [Mr. KENNEDY].

Mr. President, I then ask unanimous consent that following the disposition of the tabling motion on amendment No. 5508, if that amendment is tabled, then the Senator from Idaho [Mr. MCCLURE] be recognized to make a tabling motion on amendment No. 5727, and that there be permitted debate on that motion of 10 minutes, to be equally divided and controlled by the Senator from Idaho [Mr. MCCLURE] on this side and the minority leader or his designee on the other side.

Mr. President, that is the request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I move to table amendment No. 5508.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, this is the Grove City amendment and all that goes with it, all of the time and the heartache that has gone into an attempt to pass it and all of the hours of negotiation and effort which were, I think, entered into fairly by all sides, on Senator HATCH's side, on the administration's side, and I would like to think, on my side.

We have been unable, up to this moment, to reach a conclusion.

For a long period of time, the Leadership Conference on Civil Rights, which has been the spearhead on the lobbying for this legislation, has urged that we hold together and consider not just title IX of the Education Amendments of 1972 and the Supreme Court's Grove City decision, but with it title VI of the 1964 Civil Rights Act, the Age Discrimination Act of 1975, and the Rehabilitation Act of 1973. For literally months of negotiations, we have considered those four.

Today, through the good efforts of the Senator from Kansas [Mr. DOLE] last night and the groundwork he laid, we came very, very close to an agreement. Senator KENNEDY and I agreed that we would back off of attempting to amend the other three acts. We did this knowing full well that that would not meet with the approval of the Leadership Conference on Civil Rights, but we did it in the hopes that we could get a bill that covered title IX and addressed concerns expressed by the aged, the handicapped, and minorities. That decision was made during negotiations between Senator HATCH and Senator KENNEDY, Senator THURMOND, Senator DOLE, myself,

Brad Reynolds from the Attorney General's office and Bill Taylor, representing the leadership conference.

Unfortunately, when we had finished what we thought were the philosophical agreements, we turned to staff to draft them and the agreements fell apart. I do not say this to criticize staff. I thought we were there and we were not.

Now, with a heavy heart, I move to table a bill that has occupied more of my time, interest, and passion than any other bill in this Congress.

I want to make it very clear that the leadership conference is going to regard a vote to table as a vote against civil rights. Those of you who join me in support of this tabling motion, when the list of "right" and "wrong" votes come out are going to be listed as voting against civil rights.

I will be very frank, however, as to the situation we find ourselves in. Very ably, the distinguished Senator from Utah [Mr. HATCH], has used the procedures of the Senate. He has used them wisely, used them well and used them legitimately to delay consideration of this bill. He, in all honesty, is using tactics no different than I used to delay action on abortion bills in the past. I would hope that if I am forced to do so again, that those who support Senator HATCH's use of the rules now will be as tolerant of my use of the rules then.

I have no objection to the use of these rules. I think the observance of procedures is infinitely more important to the protection of our civil liberties than whether or not we are able to vote on any particular bill. I will cosponsor this bill again in the next Congress and the Congress after that, and the Congress after that, if necessary, until it passes—and it will one day pass. There is no question about that in my mind. Because the history of this country from the time of its founding until now has been, with a few turns of the road, a history of the expansion of the liberties of all of our citizens.

When this country was founded, by and large, what we would call normal civil liberties existed only for white, adult males who owned real property. And from that time to this, the history of civil liberties has not been so much the finding of new liberties as the extension of existing liberties to previous classes of people not covered: Blacks, aliens, criminal defendants, children, the insane, and women, although not even fully as to women yet, or we would not still be debating the equal rights amendment.

No, I do not criticize my good friend from Utah for the use of the procedures. They were designed wisely for delay. We make more mistakes by far legislating in haste than we lose opportunities in delay.

My good friend from Utah has won on this occasion because the goals that I sought are simply beyond my grasp at this time, not because the cause is unworthy, nor because the fight was unfair. We have done far greater violence to ourselves and to this institution, and we have placed in far greater jeopardy the liberties of this country, with two or three actions that we have taken recently in terms of majority rule. We have horribly disregarded our procedures. We now realize how easy it is for just 51 of us to overturn them.

I think that the Standing Rules of the Senate are going to have to be changed in the next Congress and made even more difficult for a majority to overturn. We cannot allow ourselves to get into the situation where passion can overrule our judgment. With the kind of rapid communications we have in this country today, we do not have the leisure of reflection that we had 10 years ago, 50 years ago, or 100 years ago. Events happen, judgments form quickly, passions well up and Congress reacts. We are the last body that stands between passionate action and unwise votes.

So, to my good friend from Utah, you have won the day. I take my hat off to you. We will be back at this again next year.

At this stage, I hope we will table the amendment about which I feel so deeply so that we might get on not just with the public's business, but also so that we can get on with the procedures by which we govern ourselves.

I pray that we will not again make the mistakes we have already made in the past few days in violating and raping our procedures. If we do, my fellow Senators, it will not be long before the rights and liberties of blacks, aliens, women, indeed, all of us, are threatened.

The PRESIDING OFFICER (Mr. WILSON). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, as the Senator from Oregon has pointed out, the Civil Rights Act of 1984 was introduced in the Senate by both of us and by many other Senators several months ago, in the wake of the Grove City decision by the Supreme Court. He has explained very well where we are from a strategic and a tactical point of view. I would only clarify that I have never agreed to any proposal, publicly or privately, which would amend only title IX, and leave the other three statutes covered by the Civil Rights Act of 1984 untouched. To do so would establish an unacceptable double standard for nondiscrimination.

However, I have come to a different conclusion than the Senator from Oregon about where we should go from here, and I shall strongly oppose his motion to table this amendment.

It is true that time is short, and that there is a great deal of desire in this body to adjourn and to travel across this country in this political season.

But tomorrow night at 6 o'clock, the time runs out on postcloture debate on what I consider to be the most important piece of legislation that this body will consider in this session. It concerns an issue which has been before the Senate since I have been here; for some 20-odd years. It is not an issue of intrusion, it is a basic and fundamental issue of discrimination.

Mr. President, I was here during the period of the 1960's, for the consideration of the 1964 Civil Rights Act. At that time, we had a President of the United States who recognized the importance of a definitive statement by this body that there was no room for discrimination on the basis of race in this country. We had Republican Presidents of the United States in the early 1970's who stood squarely against discrimination on the basis of sex, and who stood squarely against discrimination on the basis of age, and who stood squarely against discrimination on the basis of disability. Republican and Democratic Presidents alike deplored discrimination in our society and in our country. And now on this most important issue of discrimination, we are being asked not to wait 25 hours to vote on a bill that restores the antidiscrimination law to its strength prior to the unfortunate decision of the Supreme Court of the United States on Grove City. Shame on this body. Shame on this body. We challenge you to debate this issue. We have gone the last mile in terms of accommodation. But make no mistake about it, my friends. The issue is discrimination. If we table this civil rights amendment because we have some other amendments on this continuing resolution, we are saying, "We will tuck discrimination under the mattress until next year."

We have heard in this debate that we should not enter into partisanship. In the past, we have had brave and courageous Republicans, Members of this body, and Republican Presidents of the United States, who have led this country against discrimination. But today we have silence from 1600 Pennsylvania Avenue, when there is no one in this body that doubts that if Ronald Reagan should speak, this bill with the Dole amendment developed last night would fly through the Senate this afternoon. There is no one who doubts that. But we are asked to ignore the most important issue of this session and just do business as usual here on the floor of the U.S. Senate this afternoon.

I thought, Mr. President, that these battles had been fought in the 1960's and 1970's. I was appalled when we had to extend the Voting Rights Act

in the last session of Congress. We only had 28 Members of the U.S. Senate, Republican and Democratic, to initially cosponsor the Mathias-Kennedy extension of the Voting Rights Act. After the House of Representatives passed it overwhelmingly, we finally came along and got 66 Members that cosponsored the bill by the time we called the roll. We fought voting rights again.

Now, in an atmosphere where we have seen the current administration try to give tax exemptions to schools which discriminate on the basis of race, we are being asked to sweep under the rug our responsibilities on the basic and fundamental issue; and, that is, whether Federal taxpayers' funds will be able to be used for discriminatory purposes against handicapped, against minorities, against women, and against the aged.

Well, the Senator from Oregon is right. This is a civil rights issue. It is one that I am very hopeful the American people will look to when calling the roll in their own minds as to whether we have stood up or stood back because that is the kind of dimension of this issue.

Mr. President, I was proud of the Senate on this issue last week on a difficult vote on germaneness of this amendment. I thought that given the fact that so much of the funding of this continuing resolution will be used for programs that are covered by these very civil rights statutes, that the amendment was germane. The majority of the Senate agreed. Then we voted cloture on the amendment on Saturday.

But, since then, we have had busing amendments and gun control amendments, we have had no opportunity to debate the civil rights amendment. That is what we are asking for. The opportunity for fair debate and an up or down vote on the Civil Rights Act of 1984."

I think, Mr. President, if we table this particular amendment, it will be a shameful day for this body. I urge all Senators to vote against the motion to table the amendment.

Mr. President, I yield such time as the Senator from New York may desire.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, the Senator from Oregon has, with anguished eloquence, left us with the proposition that this bill will someday pass. But, I put it to him, and to this body, it will not pass while the present majority of this Chamber is in place. We have learned, to the extraordinary shock of the country, that we do not have a majority in the U.S. Senate to restate one simple provision of the Civil Rights Act of 1964, along with the Education Amendments of 1972, the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975. A simple measure which does not add to the laws of the Nation so much as it provides that the basic Constitutional laws will be enforced.

In the course of this debate, there has emerged a new device of the new majority, which is to strip the Federal courts of the United States of their right to enforce the Constitution. We have heard that on behalf of the majority, a measure was introduced on busing. It happens that this particular version dealt with busing, as a previous version 2 years ago dealt with school prayer. In the future who know what else will be offered. Make no mistake about what this busing provision states. It could not be more explicit. It says, "no court of the United States may order or issue any writ directly or indirectly ordering any student to be assigned or to be transported to a public school * * *." I direct my colleagues' attention to the clause, "No court of the United States may order or issue any writ directly or indirectly ordering * * *." Imagine, if you will, that clause ending with "universal suffrage," "habeas corpus," "freedom of religion," and "freedom of speech." Whatever the constitutional right, if a Federal court may not issue any writ ordering its protection, how shall rights be upheld? They will not be. They will not be. That is the precedent we set; that is the practice. That is what the current majority of this body appears to endorse, not across party lines, not across this aisle, but as an effective majority. Not just the constitutional rights of minorities, handicapped, elderly Americans and women are threatened here today. The Constitution is at risk. We are putting at risk the basic law of this land. If we can strip our courts of the authority to issue writs enforcing constitutional rights, then we have no Constitution.

That this day should have come, as the Senator from Massachusetts has said, is indeed a shame. But let the world, and the Nation, know that while the functioning majority of this Chamber continues in place, those fundamental rights are at risk; are daily in jeopardy; and are in harm's way. This generation will have a lot to account for before this is over.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I want to commend the distinguished Senator from Oregon. But I want to make it clear that when you vote for the motion to table, it is going to be perceived, depending on how you vote, as for or against the Civil Rights Act of 1984.

I regret that we are about half an inch from a settlement. I have a compromise here in my hand which I think would satisfy everyone, if we could get the staff out of the room, let the Senators sit down, and work on it for 5 minutes. It simply says we are going as far as title IX, and we are going to overturn Grove City. We are going to include that same provision in each of the other three titles. It also says in any other application of the provision of this title the phrase "program or activity" shall be construed without reference or consideration of the decisions of the Supreme Court in Grove City or North Haven.

That language is taken from an earlier proposal by the distinguished Senator from Utah, Senator HATCH. Those of us who were involved in negotiations agreed on the first section. We fell apart. First, there were A, B, C, and we dropped B. That is a compromise, and we could not agree on C. That was two lines. And I am hopeful. I do not have the answer to many things. But it seems to me that we still have an opportunity. Maybe that has already been challenged. But I think I can indicate—though the administration has not responded—that they would not oppose this compromise, or this offer. In fact, I have just been handed a note that the administration has no opposition to what I am holding in my hand, and which the Senator from Utah, the Senator from Massachusetts, the Senator from South Carolina, the Senator from Oregon, and others are familiar with.

It would seem to me that before we blow up the works—and the motion to table has been made—it might be worth 5 additional minutes to focus on this second paragraph which I think I can persuade the Senator from Utah, as his is from a previous proposal that he made.

I also indicate that I think everyone has tried to reach an agreement. We have not quite done it. We can point the finger everywhere. But, sooner or later, I think we have to come to grips with the issue.

I do not know of anybody, unless we are going to table everything from here on out on this legislation and on the debt ceiling; then I think we sort of make an exception for the Civil Rights Act of 1984. I am not certain how many want to make that an exception. I know the distinguished Senator from Oregon does this under great pain because he is the principal sponsor of the Civil Rights Act of 1984.

Mr. President, I just hope—it may be too late. I regret that we could not be here a little sooner, but there still might be a flicker of hope. If anyone believes it is worth the effort, then I would be happy to reconvene in the majority leader's office for an additional 5 or 10 minutes and see if we could agree on this plan.

Mr. HART. Will the Senator from Kansas yield for a question?

Mr. DOLE. Yes, Mr. President.

Mr. HART. In the interest of compromise, Mr. President, would the Senator from Kansas recommend to the Senate that if we vote on the tabling motion, the Senators interested in this compromise vote against tabling so the Senator from Kansas could offer that as an alternative?

Mr. DOLE. What I would like to suggest is we forget the whole thing and let us move on with the continuing resolution and offer the compromise tomorrow on a separate vehicle and get out of here. I do not think "The problem are the rules," as someone said earlier. The problem is the continuing resolution. That is not the fault of the distinguished Appropriations Committee chairman. We all want to put everything on the continuing resolution and if we cannot put it there, we put it on the debt ceiling bill, which comes up, I guess, sometime later this week.

I do not want to quarrel with my colleague from Oregon, who is the principal sponsor, but I hope we will still have a chance to work it out.

Mr. HART. If the Senator will yield for a question, is it not possible if we want to take this compromise up and vote against tabling, the Senator from Kansas could offer his compromise as a substitute and we could discuss that and then vote up or down on his compromise?

Mr. DOLE. I would suggest that—there is still some time left in the hour, as I understand it—we take 5 minutes of that or 10 minutes and the principals involved get back in a corner in the majority leader's office and take one more look at this language, and if we cannot get together, go ahead and vote on the tabling motion.

The PRESIDING OFFICER. Who yields time? The Senator from Tennessee.

Mr. BAKER. Mr. President, will the Senator from Oregon yield some time to me?

Mr. PACKWOOD. I will, Mr. President.

Mr. BAKER. I thank the Senator.

Mr. President, I will do anything on Earth to resolve the differences. I reported an hour ago that I have asked the Senate to postpone this thing, and have had a recess and quorum calls so many times I have lost count. But if there is any way possible to work this thing out, I shall be glad to do so within the time remaining. The only way to do that is for a quorum call to be suggested on the time of one or the other Senator, because there is a time limitation.

I do not know whether this can be worked out or not. I am a cosponsor of this amendment on Grove City. I have done my best to work it out, but I have not been able to. If there is time for one more effort, of course, I shall do that. But that is up to the Senator from Oregon and, I guess, the Senator from Massachusetts, who have control of the time remaining.

May I inquire how much time is remaining, Mr. President?

The PRESIDING OFFICER. Twenty-three minutes remain.

Mr. PACKWOOD. Mr. President, I am willing to meet. I am happy to meet.

The PRESIDING OFFICER. The chairman states there are 33 minutes remaining.

Mr. PACKWOOD. I know the Senator from Kansas always hates this solution, but if an agreement can be reached, that we put it on the debt ceiling. [Laughter.]

If we can get an agreement, I am not worrying about this legislation being passed. Whether it is on the continuing resolution, free standing, or anything else; once we have an agreement, there will be no problem.

I do not mind going back and sitting down again but I do not think we can come back with an agreement in 23 minutes based on past experience. I am willing to try and see what we can get with 23 minutes, but I would suggest that the majority leader ask unanimous consent to possibly try to put this on something else, because if you can get 3 hours on something else, that would be better.

Mr. BAKER. Mr. President, if the Senator would yield to me for a moment, that also involves the distinguished Senator from Oregon, the chairman of the Appropriations Committee, to get something else up for an amendment.

I ask unanimous consent that I may suggest the absence of a quorum and the time not be charged to either party.

Mr. BUMPERS. Before we do that, Mr. President, will the majority leader's yield for a moment to me?

Mr. BAKER. Yes.

Mr. BUMPERS. I am not going to object to the majority leader's request. I just want to say as one Senator that I am a cosponsor of this bill and I intend to vote against tabling it. I am not at all sure I want to vote for something that is worked out in the next 5 minutes. This is a very monumental piece of legislation. It is important to all these categories—the minorities, the elderly, the handicapped, women. I am not sure what the compromise is. I admire the Senator from Kansas for trying to salvage something here, but I also agree with the Senator from Oregon when he says this could be put on the debt ceiling measure.

I might feel much more comfortable voting for it if I knew a little more devotion had gone into the compromise and was one most of us could live with. If a compromise comes back here in 5 minutes, I daresay very few Senators in the body will know what is in it.

Mr. BAKER. Mr. President, I do not intend to proceed any further——

Mr. BRADLEY. Will the majority leader yield for a moment?

Mr. BAKER. Yes.

Mr. BRADLEY. Mr. President, I listened with great respect and sympathy to the Senator from Oregon in his defense of the institution. I too deplore the majority votes that have been cast during cloture. I agree that such majority rule in this body could indeed destroy it. But the choice offered is not between the rules of the Senate and civil rights; it is between whether we want to reaffirm the Civil Rights Act of 1984 or go home until February.

I want to go home, Mr. President. I want to campaign. But I also want a strong civil rights law. Our failure in this country to ensure civil rights has been our greatest shame and our attempts to redress have been our greatest crime.

Mr. BAKER. Mr. President, will the Senator yield for just a moment?

Mr. BRADLEY. Yes, Mr. President.

Mr. BAKER. Mr. President, the time being utilized needs to be charged against someone. I had only risen to make a unanimous-consent request. I shall withhold that unanimous-consent request if one or the other of the two managers wishes to yield time to the Senator.

Mr. KENNEDY. I yield such time as he may need.

Mr. BRADLEY. I shall be very brief, Mr. President.

I do not know how many Members of this body were here in 1964. As I look around the floor, I see a few. I happened to be in this Chamber in 1964 the night the Civil Rights Act was passed. I was sitting right back in that corner as a student intern. I must tell my colleagues that that moment was an important moment, because what it said was that the U.S. Senate did something that was very important for all Americans.

I had great pride in the institution. I must say to the distinguished Senator from Oregon, whom I respect and whose conviction on these issues I do not question, that if the Senate agrees today to table this amendment, that pride will be diminished for all of us.

I yield the floor, Mr. President.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BAKER. Will the Senator yield me some time?

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DECONCINI. Will the Senator yield 1 minute on the Senator's time?

Mr. BAKER. Yes. I withhold my request.

Mr. DECONCINI. Mr. President, I am going to vote against this motion to table. I think we have struggled

long and hard, but we have not addressed the issue. I am a strong supporter of this amendment. I feel it would be a mistake for the Senate to table it at this time. We should go through with the process.

I am pleased to support the Civil Rights Act of 1984.

I believe it is absolutely necessary that we restore Federal protection to those in our society vulnerable to discrimination based on sex, age, race, national origin, or disability. The amendment is a reasonable, well-conceived, and narrow attempt to restore these vital protections without unnecessarily expanding Federal authority.

On February 28, 1984, the U.S. Supreme Court held that Grove City College in Pennsylvania was subject to Federal antidiscrimination laws—in this case title IX of the Education Act Amendments of 1972—because some of its students received Federal financial assistance, but that only the college's financial aid program was affected. The Court's decision to narrow the application of discrimination protection to only the specific program receiving Federal funds, although supported by the Reagan administration, reversed the interpretation of all previous administrations since President Nixon. The Nixon, Ford, and Carter administrations had interpreted our civil rights laws to apply to an entire institution if any part of that institution received Federal funds. The amendment we are considering today will restore the status quo prior to the Grove City decision.

Mr. President, there has been a great deal of confusion and misinterpretation concerning the Civil Rights Act of 1984. Its opponents have attempted to discredit the bill by claiming that its enactment will vastly expand the powers of the Federal Government and extend coverage beyond what Congress had intended when it enacted the four antidiscrimination statutes. To avoid possible misinterpretation by the courts in the area referred to by the bill's opponents, the bill's sponsors have amended the original bill. The substitute amendment deletes the definition of "recipient" contained in the original bill and replaces it with language incorporating by reference the regulatory definitions of the term "recipient" under the four statutes as they existed prior to the Grove City decision. The amendment removes all possibility that the bill will result in an expansion of the Federal Government's civil rights jurisdiction. Whoever is a recipient under the standards and criteria developed over the past 20 years will continue to be a recipient and thus obligated to conform their conduct to the civil rights statutes. Whoever is not a recipient under those standards will remain unaffected. Ultimate beneficiaries—such as farmers who receive Federal crop subsidies or landlords, retailers, and banks who receive proceeds from Federal checks—will continue to be excluded as they have always been.

It is beyond argument in my mind, that those who receive moneys collected from all Americans should not be allowed to use those moneys to discriminate against any segment of the population. America is the greatest country in the world precisely because it offers equal opportunity to all. We must see to it that equal opportunity continues to be protected. The Civil Rights Act of 1984 will do that in the most efficient and fair way possible.

The PRESIDING OFFICER. Now the majority leader is recognized to make the unanimous-consent request.

RECESS UNTIL 4:45 P.M.

Mr. BAKER. Mr. President, let me explain, if I may proceed for 30 seconds, that I am not going to suggest the absence of a quorum to gain time because sometimes the leadership has a little trouble getting out of a quorum. What I am going to do and now do is ask unanimous consent that the Senate go into recess until 4:45 p.m.; that the time utilized between now and then be charged against the time allowed for debate after cloture under the provisions of rule XXII, and that when the Senate resumes session, I be next recognized.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

There being no objection, the Senate, at 4:20 p.m., recessed until 4:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. GORTON].

Mr. BAKER. Mr. President, I ask unanimous consent that I may proceed for 15 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

Mr. BAKER. I do not know whether they are going to make progress or not, but they are still talking.

RECESS UNTIL 5:15 P.M.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate stand in recess under the same terms and conditions until 5:15 p.m.

There being no objection, the Senate, at 4:45 p.m., recessed until 5:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. HECHT].

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, I have consulted with the minority leader through staff on the announcement of the request I am about to make.

The announcement I wish to make is that a number of Senators on both sides of the aisle and others are still in negotiation in my office. I would like to give the Senate a report on their progress, but I cannot. All I know is they appear to be still in active negotiations. Therefore, I hope they will have the opportunity to continue.

Mr. President, I am not putting any deadline on these negotiations. As long as there is any prospect that they can arrive at a settlement, I encourage them to do that and I will give them all the time they need. But at some point, if they cannot, if it is going to take longer than a reasonable time today, it would be the intention of the leadership on this side to ask the Senate to go temporarily to some other committee amendment so we do not spend all our time waiting for these negotiations.

Of course, the negotiations can go on, if they are continuing, during the time we are considering another committee amendment. The committee amendment the chairman would like to take up is committee amendment No. 9.

RECESS UNTIL 6 P.M.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 6 p.m. under the same terms and conditions.

Thereupon, at 5:20 p.m., the Senate recessed until 6 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. STAFFORD].

Mr. BAKER. Mr. President, while we find out whether or not there has been any results from the negotiations, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. KASSEBAUM). Without objection, it is so ordered.

COMMITTEE AMENDMENT NO. 9

Mr. BAKER. Madam President, I have consulted with the minority leader on the matter that I announced earlier, that is to say, if more time is required for negotiations. I would propose at this time to go on to another one of the committee amendments. I do not know, frankly, whether they are going to make any more progress down there or not, but they are still meeting, and I suppose that is a good sign.

In any event, Madam President, I am prepared to ask the Senate to go to another committee amendment. I now ask unanimous consent that the Senate temporarily lay aside the pending committee amendment and proceed instead to the consideration of committee amendment No. 9, which is the defense amendment, and that no call for regular order will serve to bring it back except that a call for reg-

ular order by the majority or minority leader will so serve.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Reserving the right to object, I have indicated earlier this afternoon at 3 o'clock that I did not object to moving for a 3- or 4-hour period. I will not object now to moving for a 3-hour period if the leader wants to.

But the defense part of this legislation includes a number of different items that may last as long as 10 or 12 hours, given the Central America issue and other issues. I just do not want this issue deferred until the wee hours of the morning. It may necessitate that and we may be in that position.

I have no objection if we go for 3 hours or so to see where we come out, but I would object if we were going to have to yield until we complete that particular amendment.

Mr. BAKER. Madam President, I think that is a reasonable request. I have no problem with that. The minority leader has no problem.

I would also add to the unanimous-consent request that, at the end of 3 hours, the call for regular order by any Senator would serve to bring back committee amendment No. 1, but in the meantime, for the first 3 hours, only a call for the regular order by the majority leader or minority leader would so serve.

Mr. BYRD. Reserving the right to object, and I do not think I will object, as I understand the request, it would not provide for an up-or-down vote or conclusion of debate or action on the defense amendment. It would simply say that up to 3 hours will be devoted to debate on that amendment and during the 3 hours the distinguished majority leader or minority leader may call for the regular order. But once the 3 hours have passed, any Member may do so. Am I correct?

Mr. BAKER. Yes, Madam President, I agree with that interpretation.

Mr. BYRD. I have no objection.

Mr. KENNEDY. Madam President, as I understand it, the clock is continuing to run, am I correct, on the 100 hours?

The PRESIDING OFFICER. The time under cloture will continue to run.

Mr. KENNEDY. I have no objection.

Mr. MELCHER. Madam President, reserving the right to object, and I shall not object, to relieve everybody of that thought, because I am so glad to see something happening on this bill. But might I inquire of the majority leader, when we broke off from this, we were on the Interior appropriations bill which, after all, was before the body and has never been finalized and now it has been incorporated into the continuing resolution or will be incorporated into the continuing resolution. Can we have some idea when we might be back on that?

Mr. BAKER. Madam President, I can assure the Senator that that committee amendment will be before the Senate again. A short answer, not meant to be a preemptory answer, is that this is the only one I could get unanimous consent to go to.

So the Senator, I am sure, understands that these things are difficult. We will get back to the Interior Committee amendment and we are going to pass this continuing resolution some way and sometime during the balance of our natural lives. [Laughter.]

The PRESIDING OFFICER. Without objection, the unanimous-consent request is agreed to.

Mr. BAKER. I yield the floor.

The text of committee amendment No. 9 reads as follows:

On page 9, strike line 11, through and including line 17 on page 12, and insert the following:

(h) Such amounts as may be necessary for projects or activities, not otherwise specifically provided for in this joint resolution, at a rate for operations and to the extent and in the manner provided for in the Department of Defense Appropriation Act, 1985, as passed by the Senate as of October 1, 1984; *Provided*, That for the purposes of this subsection, if such Act has been reported to the Senate but not passed the Senate as of October 1, 1984, it shall be deemed as having been passed by the Senate.

Mr. STEVENS. Madam President, I see that my good friend from Mississippi is here. The portion of the bill that is before the Senate now is the defense portion.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Madam President, I yield to the Senator from Ohio who wished to ask for a clarification.

Mr. METZENBAUM. Madam President, I inquire of the manager of the bill of this particular phase of it as to whether or not some of us who were concerned about extraneous amendments, nongermane amendments, need concern ourselves about protecting the floor or whether it will be his policy to reject all nongermane amendments?

Mr. STEVENS. Madam President, it will be the stated purpose of the manager of this portion of the bill to resist all nongermane amendments.

Mr. METZENBAUM. And that if there is any challenge he will protect the position so that all of us will be notified in advance. Is that a fair statement?

Mr. STEVENS. I assure the Senator from Ohio that should a nongermane amendment be presented we will ask for a quorum call and notify the Senator.

Mr. METZENBAUM. I thank the Senator.

Mr. STEVENS. Madam President, in order that there may be an understanding of this section, let me state that there is one committee amendment before the Senate. This comprises a manner in which we have folded the whole defense bill into this continuing resolution. I hope we can deal with all defense amendments at this time.

I inquire whether there would be any objection to consider the committee amendments as original text for the purpose of amendments so we could cover all the defense amendments in this area, and not have them come in later in the bill as separate and independent amendments.

Madam President, may I ask the Senator from Mississippi. Would he agree with me on that?

Mr. STENNIS. We are agreeable.

Mr. STEVENS. That would make all the amendments that are going to be raised on defense eligible as I understand it to be added to this committee amendment. Madam President, may I ask the Parliamentarian? Is it possible to so qualify amendments to the defense portion of the bill in such a manner?

Madam President, I suggest the absence of quorum, and withdraw that request.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. Madam President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 6916

Mr. STEVENS. Madam President, I send two technical amendments to the desk, and ask that they be considered en bloc at this time. They are technical amendments. And I ask unanimous consent they be considered and added to the text of the pending amendment, and be considered original text for the purpose of amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BRADLEY. Madam President, reserving the right to object, are these technical amendments to be considered as original text for the purpose of amendment?

Mr. STEVENS. Yes.

Mr. BRADLEY. Only the two amendments offered would be considered original text.

Mr. STEVENS. No. The whole amendment is still original text for the purpose of amendment.

The PRESIDING OFFICER. The Senator has to specify which amend-

ments he would want considered as original text for the purpose of further amendment.

Mr. STEVENS. The ninth committee amendment.

Mr. BYRD. Madam President, I have to object.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS. I offer the amendments individually.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 6916. At the end of the matter proposed to be inserted by the Committee amendment beginning on page 9, line 11, insert before the period (page 13, line 2) the following:

": *Provided*, That, notwithstanding any other provision of this joint resolution, the unnumbered paragraph in S. 3026 under the heading "Missile procurement, Air Force", (relating to limitations on the use and obligation of funds for the MX missile) shall be effective as if enacted into law and shall be applicable to any funds appropriated or otherwise made available under this joint resolution, or any other Act, for fiscal year 1985."

Mr. STEVENS. Madam President, I am informed that we have presented the wrong version of that amendment. I withdraw that amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 6917

Mr. STEVENS. Madam President, I submit another amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 6917. At the end of the matter proposed to be inserted by the Committee amendment beginning on page 9, line 11, insert before the period (page 13, line 2) the following:

": *Provided further*, That amounts provided herein shall be subject to the terms and conditions of S. 3026, including the limitations on the use and availability of funds for MX procurement".

Mr. STEVENS. Madam President, this is a technical amendment. Again, it is not my purpose in offering this amendment to in any way foreclose further amendment. I will make a parliamentary inquiry. If this amendment is adopted, does it in any way foreclose any further amendment to this section?

The PRESIDING OFFICER. It would not foreclose any amendments to this section.

Mr. STEVENS. I offer the amendment as a technical amendment.

Mr. METZENBAUM. Madam President, will the manager be good enough to advise me? Is this the amendment that was worked out by agreement having to do with the MX which others and myself were directly involved with?

Mr. STEVENS. This is the MX language which was in the defense authorization bill which was an agreement to the leadership agreement, and it is offered to this amendment to perfect it so it carries out that purpose which was stated in the subcommittee.

Mr. METZENBAUM. I think Senator CHILES and Senator NUNN were involved in negotiations, and have agreed to that language.

Mr. STEVENS. That is correct. It has been cleared with the minority on the committee, and has been cleared by all persons involved, I am informed.

Mr. METZENBAUM. I thank the Chair. I thank the Senator.

the PRESIDING OFFICER. I say to the Senator from Alaska that the language of this amendment would not by itself by amendable, per se. It would not preclude any further amendments to any parts of the amendment.

Mr. STEVENS. Madam President, I ask unanimous consent that it be amendable, notwithstanding its adoption.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question is on the amendment.

Mr. BYRD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Madam President, we are attempting to get to the defense portion of this continuing resolution. I understand we are now waiting for clearance from two Senators on the pending amendment, which is technical in nature.

I would urge Senators who have amendments concerning the defense bill as incorporated by reference to come and present them so that the Senator from Mississippi and I might review them.

In all probability, we are going through the night tonight. It would be much easier to consider some of these amendments that I know are going to be raised on Central America, on the Strategic Defense Initiative, and other matters.

Madam President, I would hope that Senators would raise their amendments now because I think we have time now, but we might not have time in the wee hours of the morning.

We are prepared to consider and accept the amendments which have been discussed, but I see none of the Senators here who have indicated they have such amendments.

This is a plea for Senators to come forward with their amendments and present them.

Madam President, this technical amendment should be cleared at any moment. In fact, if someone has a substantive amendment, we will withdraw it and present it later. We can go to an amendment that has some substance to it.

Mr. BYRD. Madam President, will the distinguished Senator yield?

Mr. STEVENS. I do yield.

Mr. BYRD. Madam President, I apologize to the distinguished Senator for holding up matters, but I simply want three Senators on my side of the aisle to be here before we act on the request. I understand that they are on their way. I understood that 10 minutes ago. I hope that soon those Senators will put in their appearance here. Again, I apologize to the Senator. That is my only purpose in insisting on a quorum call.

Mr. STEVENS. Madam President, no apology from the distinguished Senator from West Virginia is required. He is doing his utmost to protect the rights of the Senators on his side of the aisle. We understand that and admire him for it. I have no objection to the delay, because I am certain people who are coming have a decided interest in this matter. I am certain we have other amendments that we might consider. These are only the two amendments the committee has.

AMENDMENT NO. 6918

Mr. STEVENS. Madam President, may I lay aside that amendment temporarily? I understand there will be agreement on the second amendment which I understand is totally technical. I ask unanimous consent to set aside this amendment and proceed to the second one.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 6918.

On page 12, line 22, after "1985" insert: "(S. 3026).".

Mr. STEVENS. Madam President, this amendment is necessary because the bill as reported from the committee was reported ahead of the number being assigned to the defense appropriations committee which was reported from the committee as pending on the calendar. It is purely technical in nature and I ask that it be adopted.

Mr. BYRD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Madam President, I move the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6918) was agreed to.

Mr. STEVENS. Madam President, I move to reconsider the vote.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 6917

Mr. STEVENS. Madam President, I ask for the consideration of the previous amendment.

The PRESIDING OFFICER. The question recurs on the amendment numbered 6917. Is there any further debate?

Mr. STEVENS. Madam President, this is the amendment that has been shown to the distinguished Senator from Florida. It is language that we are adding to make certain that the language that is in the bill that he has requested, that I joined him in offering, is adequately protected. It is a technical amendment. It does not do anything but protect the intent of the committee bill.

Mr. CHILES. Madam President, I think that is correct. It simply references that what we are doing in the Defense bill will be incorporated in the CR by reference.

Mr. STEVENS. This is the addition we said we would make when we got the bill on the floor.

Mr. CHILES. That was my request. I thank the distinguished Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6917) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT NO. 9

Mr. STEVENS. Madam President, the question, I take it, is now on the committee amendment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment as amended.

Mr. INOUYE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. HAWKINS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 6919

(Purpose: To add funds for the tri-service Training Data and Analysis Center (TDAC) program)

Mrs. HAWKINS. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Florida [Mrs. HAWKINS] proposes an amendment numbered 6919.

Mrs. HAWKINS. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, line 2, strike out the period and insert in lieu thereof a colon and the following: "*Provided further*, That in addition to funds appropriated or otherwise made available by this joint resolution, there are appropriated additional amounts for research, development, test, and evaluation for the tri-service Training Data and Analysis Center program for fiscal year 1985 as follows: (1) for the Army, $1,000,000; and (2) for the Air Force, $1,100,000.".

Mrs. HAWKINS. Madam President, I offer this amendment to correct a small but, in my view, important provision in this bill. During the subcommittee markup of the DOD appropriations bill, cuts were made that threaten the effectiveness of the new Tri-Service Training Data and Analysis Center [TDAC]. TDAC promotes and coordinates various ways of increasing manpower effectiveness through data analysis and research in training technologies and management. Its major emphasis is on training requirements, policy procedures, and information with multi-service applications.

We have all heard of the remarkable things that are being done with simulators, and the fantastic educational potential of computers, especially the new interactive varieties, as well as other educational technologies and management techniques. In the Department of Defense, TDAC is the agency that will study data relating to the effectiveness of these technologies and management techniques and will work to integrate it with actual operations through research and development.

From both a budgetary and a security point of view, these programs are important. The manpower component of the Defense budget is the single largest aspect of the total budget and the more efficiently we are able to train and retrain our personnel, the more we can save in the training budget. Currently, 1 person out of every 10 in the Service is in training at any given time, so it is clear that the potential for savings is significant. In addition, the effectiveness of our Armed Forces is directly related to the effectiveness of our fighting men. The better they are able to perform their jobs, the more likely the chances of their own survival and the survival of the cause for which they are fighting. In my view, there is no more important part of our national security than the men and women in uniform, and they deserve the best—not only the best in weaponry, but also the best in training. I doubt there is much debate on this point.

I also know that last year the Appropriations Committee recognized the importance of TDAC and gave the Center its strong support saying that the committee "* * * encourages the Department (of Defense) to expedite and fund this project (i.e., TDAC) as quickly as possible." This year, however, in subcommittee markup two critical RDT&E Program elements were cut: one involving an Army Education and Training Program, and the other an Air Force Advanced Simulator Technology Program. In the case of the Army Program, no explanation was given for the $1 million cut, but since this approximates the new addition for TDAC, R&D in this program account, I am concerned that the Army will interpret this as congressional displeasure with the TDAC add-on. The cut involving the Air Force Program causes even greater concern. The Air Force has been the least enthusiastic of the three Services about this new training and analysis center, and yet, in the committee's report explaining the cut it says, "Air Force added $1.1 million above last year's projection for this program to fund its portion of a new Tri-Service Defense and Training Technology Data Center. The committee wants the Air Force to stay involved in the Center, but finance it out of existing funds * * *." This is clearly an endorsement of the TDAC mission, and I applaud intention, but I am concerned that given the Air Force's limited enthusiasm for this program, that they will somehow be unable to find the necessary funds called for in the committee report. As Senators know, a committee report does not have the effect of law, and as this is only a small amount of money, it could easily get lost in the course of the next year in spite of the committee's intentions.

The risk posed to the effectiveness of the Center by these cuts is particularly perplexing in view of the fact that the committee has recommended full funding for the Operations and Maintainance aspect of the budget—and yet cut two-thirds of the R&D budget. It is almost as though we've decided to let the Center set up shop, but not do the job it was intended to do. If the Center is to be involved in the essential task of translating the findings of its data analysis into effective education and training programs,

then it must be given the research funding to do the job.

The committee is to be commended for the positive things it has said about TDAC in the past, but more is needed than words. We need to give TDAC the resources to unlock the incredible potential of these new training technologies and techniques that are on the horizon. The potential is tremendous, not only for our national security, but for our business and industries, as well. The civilian application of the these technologies is another good reason for pressing forward with this project full speed. These technologies could go a long way toward addressing the problems of unemployment, and job retraining.

Madam President, I believe that the reasons for supporting this program are overwhelming. It is for that reason that my amendment restores the funds necessary to get TDAC off on the right foot. This amounts to a total of $2.2 million, $1.1 million for an Army RDT&E program for education and training, and $1.1 million for an Air Force RDT&E program for advanced simulation technologies. Both of these programs would support R&D for TDAC. This is a small amount of money with a huge payoff potential, and I urge my colleagues to give it their full support.

Madam President, this is a small amendment to correct a very tiny but important provision in the bill. It has been agreed to by both sides. I believe the leadership as well as the——

Mr. STEVENS. Madam President, if the Senator will yield, the Senator from Mississippi and I have examined this amendment. This is an item that we reduced. It was $1 million for the Army and $1.1 million for the Air Force in a total program.

I understand that the House wants to put it back in conference. The Senator from Mississippi and I accept the amendment.

Mr. STENNIS. Madam President, if the Senator will yield, I do not know of any opposition on this side of the aisle, and I support the amendment.

Mr. STEVENS. Madam President, the Senator from Florida has a very firm explanation of the reason for this, and I want to state that we have examined the reason and do agree with her. It is not setting a policy of adding money to the bill. She has made a very good argument, and we accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6919) was agreed to.

Mrs. HAWKINS. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TRIBLE). Without objection, it is so ordered.

MK-48 TORPEDO

Mr. GLENN. Mr. President, I was prepared to call up my amendment No. 6908 regarding the MK-48 torpedo. However, I understand that the floor manager of the defense amendment to the continuing resolution, the distinguished Senator from Alaska, is willing to pursue this matter in the conference committee with the House to provide adequate funding of the MK-48.

Mr. STEVENS. Mr. President, that is correct.

Mr. GLENN. Mr. President, I withdraw my proposed amendment on the MK-48 torpedo.

Mr. President, our attack submarine fleet, for which we have spent many billions of taxpayer dollars, is of little value if those submarines are not armed with their primary weapon, the MK-48 torpedo. And the fact is that our torpedo inventory is disastrously short, so much so that it contains significantly less—I repeat, significantly less—than the number of torpedoes needed for a complete reload once the submarines have fired their initial complement.

It is not a comforting thought as we consider the importance of our attack submarines to this Nation's defense. At least it is not comforting to me, though I am sure it has a certain appeal to the Soviets.

So we need to get on with implementing the plan to bring our torpedo inventory up to at least a minimum acceptable level. The Congress is rightly up-in-arms about defense contracting inefficiencies and waste of money, yet in the CR, as written, we are creating one:

The CR funding includes only $60 million for MK-48 MOD-4 torpedoes, the current production model. I ask you, which makes more sense: 51 MOD-4's for $60 million as funded in the CR, or 108 MOD-4's for $89 million, as authorized? To me, the answer is obvious.

The remainder of the funding is to be used for procurement of the new model of the MK-48, the ADCAP, or Advanced Capability torpedo. The ADCAP program is being pushed along as rapidly as feasible and should produce its first torepdo in 1987, with full rate delivery to the fleet in 1990. However, even after delivery of the ADCAP, the MOD-4 will continue to be essential to our torpedo inventory until well into the next century.

That brings us to the second major reason for funding fiscal year 1985 torpedo procurement at the authorized level: The existing MK-48 production line is the free world's only heavyweight torpedo production line. We must ensure that we do not forfeit, in favor of short-term savings, its existing hard-won management expertise, efficient production facilities, and well-trained work force which are badly needed to convert efficiently to production of the new ADCAP.

If MK-48 procurement is funded in the reduced amount now contained in the continuing resolution, the capability of this production line will be significantly degraded. It would be very difficult, expensive, and time-consuming to bring it back to its current effective and efficient production status. We just cannot afford this style of defense procurement.

For all of these reasons, I urge you to support funding of the MK-48 at adequate levels to include full funding of $89 million for the MOD-4.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. QUAYLE. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 6923

(Purpose: To provide funds to the Air Force for the Autonomous Terminal Homing Program)

Mr. QUAYLE. Mr. President, I send an amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. QUAYLE] proposes an amendment numbered 6923.

Mr. QUAYLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, line 2, strike out the period and insert in lieu thereof a colon and the following: "*Provided further,* That in addition to amounts otherwise appropriated by this joint resolution, there is hereby appropriated to the Air Force for research, development, test, and evaluation the sum of $14,000,000 for the Autonomous Terminal Homing Program.".

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. QUAYLE. Mr. President, this is an amendment that I have talked about with both the majority and mi-

nority members on the Defense Appropriations Committee. It deals with the program that was authorized by the Armed Services Committee program on autonomous terminal homing which is a cruise missile guidance program that began back in the middle 1970's to give our cruise missiles better accuracy.

Mr. President, I think the benefits of this system are well known to many. It will obviously increase the accuracy of the cruise missiles, and would make the substitution of conventional munitions for nuclear weapons possible. Also, it would lower the nuclear threshold.

Furthermore, possibly it would end up with other advantages, which would be the acceleration of this program. Also, we can in fact have a more stable defense, particularly regarding reliance on our conventional capacity.

Mr. President, the Autonomous Terminal Homing Program has shown tremendous promise in significantly reducing the inaccuracies of our weapons. Increasing the accuracy of our weapons is essential if we are to reduce our military's reliance on nuclear weapons. Indeed, speedy and full development of autonomous terminal homing technologies should make it possible eventually to substitute conventional munitions for tasks currently assigned to nuclear weapons.

It is for this reason that the Senate and House defense authorization conferees agreed to fund the Autonomous Terminal Homing Program at $14 million for fiscal year 1985. I believe this amendment is needed to support their decision.

Mr. President, I move its adoption.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, we have discussed this with the distinguished Senator from Kentucky, and with the Senator from Indiana. This technology, if it is successfully developed, will be applied to nonnuclear cruise missiles, and I understand conventional weapons. It would make the conventional weapons capable of destroying very hard targets. The item is not in the President's budget. It is an item that we are awaiting a statement from the Department of Defense on, and Dr. DeLauer I believe.

We are pleased to accept the Senator's amendment, with the understanding that it would be the position of the Department of Defense to be clarified prior to this consideration in conference.

Mr. QUAYLE. Mr. President, will the Senator yield?

Mr. STEVENS. Yes.

Mr. QUAYLE. We will be furnishing the chairman, and the conferees, an updated statement from the DOD's position.

I might alert the Senator that we went through the same discussion on the Armed Services Committee. Within the Department, there was some skepticism, and some question of whether they needed this additional money because there was supposedly no plan. I can assure the Senator that there is a plan, that there is a strategy, and that these funds are desperately needed. I will furnish him that information because I know full well that the information that the subcommittee made its recommendation on was information we had had in the past, and I think the updated information will clear up any problems that we have.

I certainly understand that with the information you had before the subcommittee—particularly looking at the appeals process, or whatever document it was in the conference committee—the chairman, and certainly the Defense Appropriations Subcommittee, were right, or at least acted very prudently in their zeroing of this item. But I think the new information will ascertain and clear it up because I have had this battle with them for the last 6 months. It will hopefully clear up any problems or concerns that the Senator may have.

Mr. DODD. Mr. President, will the Senator yield?

Mr. QUAYLE. Senator STEVENS has the floor.

Mr. STEVENS. I am happy to yield to my good friend.

Mr. DODD. Mr. President, I am just curious, even though this report is not yet available. I appreciate the fact it is forthcoming. Is there any estimate at all about the cost? The only reason I rise is because the statement of my good friend from Alaska indicated this was not in the President's budget. I am curious, aside from the fact there was not a report on it. What is the cost estimate involved?

Mr. STEVENS. $14 million. It is a research and development item that the Senator from Indiana has brought to our attention several times. As I have indicated, it is authorized, but not in the President's budget. So it is qualified here.

We did not fund it because it was not in the President's budget, and the authorization bill was not completed, as you know, by the time we brought the bill out.

Mr. DODD. If my friend from Alaska will yield for one more question, do we know why the President did not submit it, and include it in the appropriations budget?

Mr. STEVENS. No. It was funded in the authorization bill. It was not originally initiated by the President as I understand it. Is that correct?

Mr. QUAYLE. I might clear that point up. Since the initiation and the submission of the President's budget, further test results on what can actually be achieved on this program became available. It was not available at the submission of the President's budget. But I assure the Senator from Connecticut that it is in the defense authorization. It is within the 297 mark. it will certainly be within the budget constraints that we have proposed and adopted with the Congress in conjunction with the administration.

Mr. DODD. I thank my colleague.

Mr. STEVENS. Mr. President, again I will defer to my good friend from Kentucky, who is managing the bill also.

Mr. HUDDLESTON. Mr. President, if the Senator will yield, there are a number of Senators on this side who are very actively involved in the defense appropriations, and the defense authorization, who support this program very strongly, and believe that it does offer the opportunity to vastly improve this particular weapons system.

Among them is Senator NUNN of Georgia. I know it is a program he has some interest in. We are willing to accept this amendment.

Mr. STEVENS. Mr. President, I thank the Senator from Kentucky. Again I want to point out, however, that we will be going to conference very quickly. My friend has made a commitment that before we get there we are going to have that document, or we will face problems because it is not in the House bill. We accept it on that basis.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Indiana [Mr. QUAYLE].

The amendment (No. 6923) was agreed to.

Mr. QUAYLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 6924

(Purpose: To provide for the submission of information concerning the condition of the defense industrial base of the United States)

Mr. BYRD. Mr. President, on behalf of Mr. FORD and myself, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself and Mr. FORD, proposes an amendment numbered 6924.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the joint resolution, add the following:

"SEC. —. The Federal Emergency Management Agency, in consultation with other departments and agencies, shall submit to the Congress, no later than June 1, 1985, a compilation of major findings and recommendations by such departments and agencies which might be taken to modernize and strengthen the defense industrial base of the United States. The compilation shall include those steps necessary to cope with surge, mobilization, and conventional warfare scenarios, and shall be based on existing studies, reports, and other evaluations made within the past five years.

(a) For the purposes of this section, the term "defense industrial base" shall mean those industries which are necessary to the manufacture, transport, or supply of materials, as defined by section 702 of the Defense Production Act of 1950.

Mr. BYRD. Mr. President, the purpose of this amendment is to provide the Congress with a compilation of existing studies and assessments of the defense industrial base of the United States.

Although various agencies have examined certain segments of the defense industrial base, there is a lack of focus and coordination among the relevant agencies. The Department of Defense receives an assessment of the defense industrial base at 5-year intervals from the Defense Science Board. The Departments of Commerce, Treasury, and Transportation, among others, also look at portions of the defense industrial base—although such efforts are sporadic.

This amendment proposes that the Federal Emergency Management Agency [FEMA] compile the findings and recommendations of all of the agencies that have performed studies on the defense industrial base, and submit them to the Congress by June 1, 1985. FEMA is the Agency designated by the Congress to carry out the provisions of the Defense Production Act. This amendment advances the purpose of the Defense Production Act by providing Congress with a clear picture of the status of vital defense industries.

Some of the industries that are of concern in this regard are steel, shipbuilding, ferroalloys, chemicals, aircraft manufacture, munitions, electronics, and dozens more. In short, all of the industries that are involved in the manufacture, transport, or supply of materials needed for national defense would be affected by this amendment.

Mr. President, I have discussed this amendment with the managers. I yield the floor at this time. I hope the managers will be able to accept it.

Mr. FORD. Mr. President, the amendment my distinguished colleague from West Virginia and I are offering today is a beginning step toward determining, and hopefully currecting, the state of America's industrial preparedness. Fortune magazine carried an article some years ago that offered a gloomy description of our defense industrial base. It said that no programs to organize manpower exist, there are widespread shortages of critical materials, means for industrial expansion are seriously constrained, there are no plans for setting national priorities, and national will is uncertain.

Unfortunately, things have not changed in the succeeding years. The irony of the situation is that this article appeared in 1941, 4 months before Pearl Harbor. Thankfully, America was able to dig deep into its resources and its resourcefulness and meet the challenge of mobilizing for and fighting a big war. Could we do it again today? Could we wage, say, a 3-year conventional war with conventional weapons? I am afraid not. For a multitude of reasons, our peacetime defense industrial base cannot achieve high production rates or be easily maintained for future emergency surge demands.

In the fall of 1980, the House Armed Services Committee held a series of hearings on the capability of our economy to produce the military equipment needed to ensure the national security of this Nation. A report was issued containing findings and recommendations, but not much came of the committee's laudable effort. Let me quote from the HASC report:

These hearings were prompted by an ever-growing concern that the U.S. industrial base, in general, and the defense-oriented portion of that base, in particular, are not healthy. The committee's concern arose amid revelations that U.S. industrial productivity growth has declined significantly in relation to foreign competitors, that dependence on foreign sources for critical materials is increasing, that serious manpower shortages exist today and are projected to continue in the future, and that the cost of weapon systems is rising at an alarming rate.

As the investigation proceeded, a shocking picture emerged: the picture of an industrial base crippled by declining productivity growth, aging facilities and machinery, shortages in critical materials, increasing lead times, skilled labor shortages, inflexible government contracting procedures, inadequate defense budgets and burdensome government regulations and paperwork.

The inescapable conclusion of the House Armed Services Committee was that our industrial capability is eroding and that, coupled with our dependence on foreign sources for minerals, the very foundation of our defense posture is endangered.

The amendment before us now is a plain one, Mr. President. All it does is ask the Federal Emergency Management Agency to amass the many studies that exist within the Federal Government on the subject of our defense industrial base, compile the major findings and recommendations therein, and send them to the Congress by early next year.

We do not ask for money. We do not create another commission. We simply direct FEMA, the lead agency under the Defense Production Act, to do what it is chartered to do. We are merely trying to bring order to the panoply of studies, reports and evaluations that have been done within the past 5 years and present them to the Congress in a focused manner so that next year committees in both the House and the Senate can study and, perhaps, take action on them. I know that House Banking and Senate Armed Services have expressed an interest in this amendment.

There is not a Member of this body who cannot easily list a handful of sectors of the economy that are suffering: steel, shipbuilding, the tool and die industry, skilled labor, the inland waterways come quickly to my mind. It is way past the time that Congress should have addressed the very serious problem of the deterioration of America's industrial capability and of its profound and negative effect on the defense of this Nation.

I urge the adoption of the amendment.

Mr. President, I yield the floor.

Mr. STEVENS. Mr. President, we accept the amendment. It is an amendment for the compilation of existing studies, as I understand it—not only the studies, but the findings and recommendations of the agencies involved and under these circumstances, we have no objection to it.

I am personally acquainted with the FEMA activities. It is not an agency that is funded by this bill. In the event they need additional funds because of the activities that they would be requested to take by this amendment, we would have to fund them in a supplemental. I have no objection to the amendment.

Mr. HUDDLESTON. Mr. President, I commend the distinguished Senator from West Virginia [Mr. BYRD] and my colleague [Mr. FORD] for offering this amendment.

I think during this decade, when we have seen some of our basic industries virtually under siege from competition abroad and having to scale back their operations, when we see our country now enduring trade deficits exceeding $100 billion a year, there is reason to be concerned as to whether or not we

are maintaining the industrial ability to support our Armed Forces if, in fact, we were called to a short-notice mobilization and had need for intensive effort in that regard. This amendment should help us be able to assimilate all the information that is necessary to evaluate the situation so that perhaps certain remedial procedures could be taken if it is deemed to be necessary. We are glad to accept the amendment on this side.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 6924) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I thank both Senator STEVENS and Senator HUDDLESTON for accepting the amendment, and I thank the Senate for adopting it.

Mr. FORD. Mr. President, I add my thanks to the Senator's.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COCHRAN). Without objection, it is so ordered.

AMENDMENT NO. 6927

(Purpose: To increase the mileage allowance for members of the uniformed services in connection with a permanent change of station and to authorize the payment of temporary lodging expenses for such members who are in an enlisted pay grade below E–8)

Mr. WARNER. Mr. President, I have been consulting with the leadership and at this time I wish to send an amendment to the desk and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 6927.

Mr. WARNER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

At the end of committee amendment numbered 9 insert the following new section:

SEC. . The Secretaries concerned (as defined in section 101(5) of title 37, United States Code), under uniform regulations prescribed by them and to the extent that funds are available, may (1) increase the rate per mile for mileage allowance under section 404(d)(2) of title 37, United States Code, to 15 cents per mile, and (2) pay on reimbursing an enlisted member of the uniformed services who is in a pay grade below E–8 and who is entitled to basic allowance for quarters (at the with dependents rate) for subsistence expenses actually incurred by the member and the member's dependents as provided in section 404a of title 37, United States Code, while occupying temporary quarters incident to a change of permanent station if travel for dependents to the next station is authorized and the dependent or dependents with respect to whom the expenses are incurred accompany the member at the time the member reports to his new duty station.

Mr. WARNER. Mr. President, the leadership and the managers of the bill as yet have not had an opportunity to look this amendment over. It is my understanding that if I present it at this time it will be the pending business when this section of the bill is again considered by the Senate; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. I will then, in the balance of the time remaining, address the substance of the amendment.

Mr. President, this amendment would provide at least partial relief for military personnel for the expenses associated with permanent change of station moves which, according to a recent survey, are now costing military families as much as $3 of their own money for every $4 spent on the move.

The survey results translate to a median unreimbursed cost of $1,519 per move.

With the average careerist moving once every 2 or 3 years during a 23-year career, these unreimbursed expenses would total between $12,000 to $17,000 over a career.

There are two main causes cited for the inadequacy of the system of compensating for these costs.

First, the actual costs of travel far exceed the service members' 13 cents per mile reimbursement.

The IRS even recognizes 20½ cents per mile.

Second, with today's costs of hotel/motel accommodations, the housing allowance falls woefully short of compensating adequately for lodging en route.

While this amendment does not totally alleviate the problem, it does represent a movement in that direction and does address the primary problems as I have indicated.

The amendment raises the reimbursement per mile from 13 to 15 cents for all service members.

The total cost of this provision is estimated to be about $32 million annually.

Second, the amendment provides for temporary lodging expenses [TLE] for members and their dependents for up to $110 per day of actual subsistence and lodging expenses for up to 4 days while in a travel status incident to a permanent change of station.

Because the impact of the exorbitant lodging and subsistence falls most heavily on the enlisted junior noncommissioned officers who must move their families with them, the amendment provides TLE only for those enlisted grade E–7 and below and only when their dependents are authorized to travel with them and the dependents actually accompany the member at the time he reports to his new duty station.

Congress authorized TLE in the Uniformed Services Pay Act of 1981, but has prohibited funding for military personnel.

Since the fiscal year 1984 Defense Authorization Act withdrew authorization to implement TLE for that year, the services did not specifically identify funds for this program in their submission for the fiscal year 1985 budget.

The Secretary of Defense, however, has indicated in his Fiscal Year 1985 Annual Report to the Congress, that unless the Congress withdraws authorization for TLE for fiscal year 1985, the Department of Defense desires to implement this vital reimbursement and, unless directed otherwise by Congress, will do so within the funds appropriated.

The cost of the TLE for service members in grades E–7 and below is estimated to be less than $79 million annually.

The total cost for both provisions then runs to about $111 million.

However, in accord with the Secretary of Defense's stated intent to fund TLE for all officer and enlisted grades within the funds appropriated, this amendment provides for no additional funds to the Defense appropriation, but provides for the Secretary of Defense to implement these measures within the funds appropriated to his department.

I urge my colleagues to support this modest but vital step to provide some economic relief on the frequent and costly moves which we ask of the men and women who serve in our Armed Forces and their families.

Mr. President, I believe there are several Senators who are desirous of addressing the pending amendment. Indeed, I am told there are others that have a similar amendment. In order to allow them the opportunity to study my amendment and my remarks associated with that amendment, at this time I will not press for consideration of the amendment.

Mr. STEVENS. Mr. President, I want to thank the Senator from Virginia for his forbearance. We are trying to check some of the details of this amendment. We will be prepared to discuss it with him when this por-

tion of the bill comes back before the Senate.

Mr. WARNER. It is my understanding that this amendment will be the pending amendment to the amendment when we return to this portion of the bill.

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. Mr. President, I ask unanimous consent that the Senator from New Mexico [Mr. BINGAMAN] and the distinguished Senator from South Carolina [Mr. HOLLINGS] be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, would the Chair kindly advise the Senator from Virginia of the time remaining before the Senate, as I understand it, moves to consideration of another section?

The PRESIDING OFFICER. There is no set time for considering any other section.

Mr. WARNER. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

CALL FOR REGULAR ORDER

Mr. BAKER. Mr. President, the previous unanimous-consent order provided that either the majority or minority leader might call for the regular order, and bring back the continuing resolution at which time the Packwood tabling motion would be the pending question.

Mr. President, the minority leader and I have conferred on that. We are in one line, and in one court, and now call for the regular order.

MOTION TO TABLE AMENDMENT NO. 5508

The PRESIDING OFFICER. The regular order is called. Time is controlled by the Senator from Oregon [Mr. PACKWOOD] and the Senator from Massachusetts [Mr. KENNEDY].

Who yields time?

Mr. PACKWOOD. Mr. President, will the Chair state how much time there is on each side?

The PRESIDING OFFICER. The Senator from Oregon has 9 minutes and 12 seconds. The Senator from Massachusetts has 17 minutes and 23 seconds.

Mr. PACKWOOD. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Will the Senator withhold in order that the parliamentary inquiry may be answered?

Mr. KENNEDY. Whose time will be charged?

The PRESIDING OFFICER. The clerk calls for charge of time to the Senator suggesting the absence of a quorum.

Mr. KENNEDY. Mr. President, I yield myself 30 seconds.

The majority leader believed that there was the possibility for compromise. I have stated my position on the motion to table as clearly as I could earlier this evening. If there are those that have a compromise, I invite them to put that compromise before the Senate. Then I would like to have an opportunity to address it briefly before we vote on it.

Mr. PACKWOOD. Mr. President, I can respond to the Senator from Massachusetts with a pretty close outline of the compromise. The compromise would take all four civil rights statutes, title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, the Rehabilitation Act of 1973, and provide that any Federal aid going to any educational program or activity would trigger institution-wide coverage by those statutes.

For educational institutions, we are reversing Grove City in cases of discrimination on the basis of sex, disability, age, race, religion, and national origin. As to the noneducational institutions, that are federally funded and subject to coverage by title VI, or the Age Discrimination Act——

Mr. KENNEDY. Mr. President, if the Senator will yield, I yielded myself only 30 seconds, did I not?

Mr. PACKWOOD. Mr. President, you can charge this to my time.

The PRESIDING OFFICER. The Senator from Massachusetts is correct.

Mr. KENNEDY. I will be glad to divide the remaining time with the Senator from Oregon. Can we get it straight, Mr. President?

The PRESIDING OFFICER. The time will be charged to the Senator from Oregon.

Mr. PACKWOOD. Mr. President, as to the remaining noneducational institutions that receive Federal aid for programs or activities and are therefore subject to coverage by title VI, or the Rehabilitation Act, or the Age Discrimination Act, nothing in the bill would prejudice a decision by the Supreme Court one way or the other in those situations. We would attempt to leave the law the way it is and the bill would specifically eliminate consideration of the Grove City decision or North Haven decision from the Supreme Court's mind when they reach decisions on those cases.

That was the sum total of agreement among the Republicans. It would require unanimous consent. In order to get the consent of the Senator from Utah, he would also like to have a guaranteed vote on two amendments. One is a religious amendment and the other is a Pell grant amendment. These amendments are not surprises. He has raised these from time to time.

As I said, it would require unanimous consent to go to this compromise bill, whether we do it under this continuing resolution or as a freestanding bill. The unanimous consent request would also include a vote on the two amendments of the Senator from Utah. That is basically the package.

Unless there is unanimous consent, the package will not be before us and the vote will be on the motion to table.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield myself such time as I might use.

I had understood that this proposed compromise was going to be accompanied by a consent request that the only two amendments to be in order would be the amendments of the Senator from Utah, and, therefore, those of us who have serious questions and reservations about the proposal would be excluded from offering any amendments to improve it. Therefore, I would indicate in advance that I would object to any such consent agreement for the following reasons——

Mr. PACKWOOD. Could I interrupt for a moment? If, indeed, we get unanimous consent on the freestanding bill, it would be open to amendment.

Mr. KENNEDY. The Senator is quite correct. He can offer this compromise amendment at some other time, but I would hope he would not offer it as a substitute for the Civil Rights Act of 1984.

If the Senator's motion to table the Civil Rights Act of 1984 is acted upon favorably, the gun legislation probably would also be tabled, and the Senator could offer the compromise civil rights amendment to another section of the bill. I would object to this compromise amendment being a substitute for the Civil Rights Act of 1984 for reasons that I will outline presently.

Mr. BAKER. Would the Senator permit me to ask Senator PACKWOOD to yield for a moment on his time?

Mr. KENNEDY. Yes.

Mr. PACKWOOD. I yield.

Mr. BAKER. Mr. President, I will not take long. I simply want to say that meetings went on in my office

once more for a very long time with a great number of people, Senators and representatives of the administration, representatives of certain civil rights groups. It did appear that within that group there was a general consensus on substance. There was not quite an agreement on how that was to be accomplished. But in any event, we received word that there was not likely to be granted unanimous consent in order to substitute on this bill.

Let me say one final thing, Mr. President, and then I will yield the floor.

If the good progress that was made during that 2 or 3 hours could be continued at a later time, I will cooperate with any Senator in trying to find a way to implement it. But right now, I think we have no alternative except to go forward. That does not mean we have extinguished all possibilities for settlement on a freestanding bill, on the debt limit, or some other measure. But right now, I think we are at the end of our rope. I thank the Senator from Oregon.

Mr. KENNEDY. I appreciate the courtesies of the majority leader. I reject any implication that we have been debating this issue in spite of the fact that the Senate voted for cloture on last Saturday. I think the time that has been taken by the Senator from Oregon today has been at least half of the total time that has been used in debate about the substance of this issue. I think we ought to have discussions out here on the floor of the U.S. Senate about the issues of discrimination addressed in the Civil Rights Act of 1984. The time comes when the roll ought to be called on the question of whether Federal funds may be used to subsidize discrimination. I anticipate that it will be called very soon. Before we vote, let me indicate my very serious concerns for this particular compromise proposal.

Mr. President, the negotiations on the Civil Rights Act of 1984 have failed for the simple reason that those who oppose civil rights are not willing to fully and fairly reverse the Supreme Court's decision in the case of Grove City College versus Bell. They have a compromise, but it is unacceptable. It reverses Grove City, but only a little bit, only for educational institutions and not for any other recipient. I say why not? We have never had a double standard in our civil rights laws, and we do not need one now. Any lawyer worth his salt knows this is a double standard and it is wrong. Even a first-year law student would know the courts will rule against civil rights under this compromise proposal.

Under this compromise, Congress changes the law for some recipients of Federal aid and not for others. One set of rules applies to discrimination in educational institutions which receive Federal aid and a weaker standard applies to all other recipients of Federal aid. This compromise would allow any court to construe the antidiscrimination laws in every area except education as narrowly as the Supreme Court did in the Grove City decision.

The Senate is willing to change the laws for colleges and universities. Why is it not willing to do the same for all other recipients of Federal aid? That is all we ask. And proponents of the compromise refuse to do so.

So Mr. President, we have a cold and calculating compromise. Supporters of the compromise say it reverses the Grove City decision, but read the fine print. It reverses the Grove City decision only for educational institutions. It does not touch the Grove City decision for all other recipients of Federal financial assistance.

This is an invitation to recipients of Federal aid to discriminate. If we accept this compromise, Congress is telling minorities and the elderly and women and handicapped to go to the back of the bus.

Many of the same people who supported the tax credit for segregated schools, who opposed the extension of the Voting Rights Act and who scuttled the Civil Rights Commission now are trying to undermine the Civil Rights Act of 1984.

Mr. President, this compromise is nothing more than a figleaf over the denial of civil rights.

The message of the so-called compromise to all Americans who are elderly, women, minorities, or disabled is very clear. You are protected against discrimination if you are attending a school or college. But beware if you need medicare or medicaid because you have lost protection against discrimination, if you are in a hospital. If you are in a nursing home, if you need day care services, if you use senior citizen centers, if you are participating in the WIC and other nutrition programs, if you benefit from welfare agencies or housing aid, or thousands of other local agencies that receive Federal financial assistance watch out, for those agencies would have a license from the U.S. Congress to discriminate.

I hope that the motion to table the Civil Rights Act of 1984 will be rejected, and that we will have an opportunity to vote on the real protections against discrimination contained in our legislation. The Civil Rights Act of 1984 states decisively that those who receive Federal aid are prohibited from discriminating on the basis of age, on the basis of sex, on the basis of race, or on the basis of disability. Very simply, it prohibits the use of taxpayers' money to subsidize discrimination.

That is the issue. If we vote to table the Civil Rights Act of 1984, we will be turning our backs on fundamental civil rights for all of our citizens.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CRANSTON. Mr. President, I rise in strong support of the remarks of the Senator from Massachusetts about the so-called compromise.

Make no mistake about it: If the Civil Rights Act of 1984 is tabled, that will be the death knell for that bill and nondiscrimination in a wide range of programs conducted by federally assisted institutions.

The so-called compromise proposal is not going to revive it or breathe life back into our fundamental civil rights laws which have been so seriously undermined by the recent Court decisions.

This proposal is but an illusion which may appear to give some consolation to those who will vote to kill the Civil Rights Act of 1984, but it will be no more than an illusion.

The Grove City decision did not just cast a dark shadow across these laws as they affect educational institutions—its impact spreads across the entire spectrum of activities that receive Federal financial assistance—hospitals, public assistance programs, employment and training programs—the list is endless.

Let me also point out that on the very same day that the Grove City decision was handed down, the Court also decided a case, Consolidated Rail Corp. against Darrone, involving section 504 of the Rehabilitation Act in which the Court very clearly indicated that the narrow program—specific limitation on the scope of coverage enunciated in the Grove City case would be applicable to section 504 cases as well. The Consolidated Rail case did not involve an educational institution, but a railroad which received Federal financial assistance and was charged with having engaged in discrimination against a disabled person.

Mr. President, the so-called compromise proposal would not deal with the effects of Grove City in such a case involving alleged discrimination based on handicap.

And this proposal would not provide nondiscrimination coverage throughout a multitude of other institutions in receipt of Federal financial assistance.

Our civil rights laws don't just cover educational institutions. They cover a vast array of federally supported entities. Are we going to have one standard for laws covering educational institutions—because we can agree tonight to that coverage—and a weaker standard everywhere else?

No one is being fooled by this approach. Given the chance, the Supreme Court is almost certain to apply

the same misguided interpretation with respect to Federal financial assistance going to all other recipents as it did with respect to title IX-covered recipients in the Grove City case.

The question is: Do we reaffirm the principle we established 20 years ago when we enacted the Civil Rights Act of 1964—that Federal funds will not be used to further, to support, or to subsidize in any way the continuation of invidious discrimination in our Nation?

Either we support that principle or we don't.

The so-called compromise proposal is not acceptable.

The pending amendment is the only fair and just course to follow.

I urge my colleagues not to vote to table it.

Mr. LAUTENBERG. I rise in opposition to the motion of the Senator from Oregon to table the Civil Rights Act of 1984. Protection of the civil rights of women, minorities, the handicapped, and the aged should not be delayed any longer. The Supreme Court ruled in February of this year to narrow the interpretation of title IX protections against sex discrimination in educational institutions. Congress has had over 6 months to repair the damage done by this decision through legislation to clarify our intent. We should delay no longer.

Mr. President, the House of Representatives acted quickly to pass this bill. In the Senate, a determined minority has succeeded in blocking its consideration. In the process, some important rules and precedents of the Senate have been bruised and abused. Under time-honored Senate rules, invoking cloture limits debate and rules out consideration of amendments which deal with unrelated, nongermane amendments. In the past, this strict interpretation of germaneness has been honored almost without exception. But on this civil rights issue, the Senate broke these traditions; the Senate has added firearms and antibusing amendments to the Grove City bill. Mr. President, these are important issues. But, in this case they came before the Senate as a means of defeating the Civil Rights Act.

Mr. President, this situation is intolerable. The Senate should have the courage to vote on this bill. It should face squarely the question of whether or not we are going to permit tax dollars to be used to subsidize discrimination against women, minorities, the handicapped, and our senior citizens. If we fail to pass this bill before the end of the 98th Congress, we will have written a sad and shameful chapter in our Nation's history. I urge the Senate to reaffirm its commitment to deny Federal funds to institutions that discriminate. This is critical to the protection of civil rights for all our citizens.

● Mr. PELL. Mr. President, tonight, I am disappointed by the actions of this body. When the Supreme Court issued its decision in Grove City against Bell, it severely and wrongly narrowed the intended coverage of title IX of the education amendments of 1972. A majority of the Members in this body are aware of the Supreme Court's incorrect decision and at least a majority of the Members know that we must act and act now to overturn this decision.

Tonight, instead of working to overturn the Supreme Court's decision and to prevent discrimination against women, minorities, older Americans, and the disabled, we are abdicating our responsibility and we are ignoring the fact that without the adoption of the Civil Rights Act of 1984, the Government will be subsidizing discrimination against these individuals.

With an incorrect Supreme Court decision confronting us and an administration reluctant to enforce the civil rights laws of this Nation, we must make clear our position concerning the interpretation of this Nation's civil rights laws. No educational institution, no health care center, no State agency, or other similar recipient receiving Federal funds can discriminate against women, minorities, older Americans, and the disabled. It is the direct responsibility of this body to ensure that the civil rights laws are interpreted properly and consistent with the Congress' intent. We must remind this administration that we are in the business of upholding the Constitution and the laws of this Nation; we are not in the business of subsidizing discrimination.●

Mr. CHAFEE. Mr. President, it is with a great deal of reluctance that I support the motion to table the civil rights amendment. I do so only because I consider it essential that the Senate extract itself from the parliamentary muddle in which we find ourselves.

The danger we face, if the civil rights bill is not set aside at least temporarily, is a series of votes on the McClure gun control amendment and the Hatch busing amendment which would likely set dangerous precedent for the future. As I have said before, during debate on these amendments, a vote of the Senate ruling them germane in the aftermath of cloture would surely mean the destruction of Senate Rule XXII for all intents and purposes. If these amendments should be ruled germane, then no Senator would ever again have cause to vote for cloture for fear that any extraneous amendment could be offered, postcloture, with no opportunity to utilize the protective features of extended debate.

It is not my intention to analyze, in detail, the parliamentary ramifications of voting to rule the Hatch and McClure amendments as germane. I do, however, wish to make it clear that I believe the possibility that this might happen poses a far graver danger to the rights of Americans than a decision to take down the civil rights amendment. We will have other opportunities to pass this civil rights measure, and I look forward to helping in that effort. As one of the cosponsors of the Kennedy-Packwood bill, this is legislation I wholeheartedly support. But if we proceed to vote the Hatch or McClure amendments germane in a postcloture situation, we will have set a precedent we cannot set aside. It will come back to haunt us time and again in the future and be extremely harmful to our Nation.

Thus, Mr. President, this is one of those sad occasions where procedure must take priority.

I would like to make one other observation. It appears that a compromise may well be within reach this year on the Grove City civil rights decision. I earnestly hope this is the case and that, one way or another, we will again have an opportunity to act on this measure before we adjourn sine die.

Mr. BYRD. Mr. President, the Senate has for some days been involved in a matter of the utmost importance to millions of citizens of the United States of America. That matter is the Civil Rights Act of 1984. The Civil Rights Act of 1984 was introduced earlier this year with broad bipartisan support: 63 Senators, Democratic and Republican, cosponsored the original legislation.

The intent of the Civil Rights Act of 1984 is to restore four major civil rights statutes—title VI of the Civil Rights Act of 1964, title IX of the education amendments of 1972, section 504 of the 1973 Rehabilitation Act as amended in 1978, and the Age Discrimination Act of 1975—to the scope of coverage that was originally intended by Congress and that has guided their administration prior to the Supreme Court's decision in Grove City College against Bell.

Those of us who support this important legislation seek to make it clear that we intend to maintain the policy of the U.S. Government that Federal tax dollars will not be used to fund discrimination against American women, the disabled citizens of America, America's minority citizens, and aged Americans.

Without this clarification of congressional intent, schools, colleges, and universities that receive Federal aid will be able, should they desire, to return to practices of the past where women and girls were not afforded equal opportunity to study courses of their choosing, to be admitted to schools of their choosing for which they were academically qualified, and to develop their athletic talents

through programs equal in quality to those provided for male students. The title IX Act of 1972 put an end to those practices. We intend to assure America's women and girls that those practices cannot return.

Section 504 of the 1973 Rehabilitation Act bars discrimination on the basis of disability in all federally assisted and federally conducted programs or activities. Prior to its passage, America's disabled citizens were unable to compete for jobs for which they were actually physically competent, were unable to attend schools and colleges for which they were academically qualified because those institutions were not architecturally accessible to them, and were shut out of many other areas of American life because of their handicapping condition. Section 504 has opened many, many doors for America's disabled citizens and has given them a chance to contribute their talents to making life better for us all. We intend to assure America's disabled that they may continue the progress they have made toward full participation in American life.

The Age Discrimination Act of 1975 bars age discrimination in federally-assisted programs and activities. Since 1975, much progress has been made in ending discrimination arising from unfair stereotypes based on a person's age. We cannot, as a country, afford to turn away the very valuable contributions America's elderly offer us. We recognize and value those contributions, and we intend to assure them that we will continue to do so.

The legislation before the Senate would provide these assurances. As Democratic leader, I have worked to see that the Senate would have an opportunity to vote on this important legislation. I have done this because my colleagues are strongly supportive of its passage, but, more importantly, because millions of Americans depend upon its passage.

Mr. KENNEDY. I suggest the absence of a quorum.

Mr. PACKWOOD. If you are ready to yield back your time, we are ready to yield back ours.

Mr. KENNEDY. I suggest the absence of a quorum, and I will be glad to have it on my time. That is so that Senators will be alerted to the fact that we will have a rollcall vote.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, have the yeas and nays been ordered on the tabling motion?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. BAKER. Mr. President, on behalf of Senator PACKWOOD, if he has any time remaining, I yield it back.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to lay on the table amendment No. 5508. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Ohio [Mr. GLENN] and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

The PRESIDING OFFICER (Mr. DENTON). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 53, nays 45 as follows:

[Rollcall Vote No. 262 Leg.]

YEAS—53

Abdnor	Gorton	Nickles
Andrews	Grassley	Packwood
Armstrong	Hatch	Pressler
Baker	Hatfield	Quayle
Boschwitz	Hawkins	Roth
Chafee	Hecht	Rudman
Cochran	Heinz	Simpson
D'Amato	Helms	Stafford
Danforth	Humphrey	Stevens
Denton	Jepsen	Symms
Dole	Kassebaum	Thurmond
Domenici	Kasten	Tower
Durenberger	Laxalt	Trible
East	Lugar	Wallop
Evans	Mathias	Warner
Exon	Mattingly	Wilson
Garn	McClure	Zorinsky
Goldwater	Murkowski	

NAYS—45

Baucus	Eagleton	Metzenbaum
Bentsen	Ford	Mitchell
Biden	Hart	Moynihan
Bingaman	Heflin	Nunn
Boren	Hollings	Pell
Bradley	Huddleston	Percy
Bumpers	Inouye	Proxmire
Burdick	Johnston	Pryor
Byrd	Kennedy	Randolph
Chiles	Lautenberg	Riegle
Cohen	Leahy	Sarbanes
Cranston	Levin	Sasser
DeConcini	Long	Specter
Dixon	Matsunaga	Tsongas
Dodd	Melcher	Weicker

NOT VOTING—2

Glenn	Stennis

So the motion to lay on the table amendment No. 5508 was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. BAKER. Mr. President, I withhold the request. I did not realize the Senator from Idaho was in the Chamber.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Mr. President, is there not an order for the Senator from Idaho to be next recognized?

The PRESIDING OFFICER. Under the previous order, the Senator from Idaho is recognized to offer a motion to lay on the table amendment No. 5727.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Does not the unanimous-consent agreement also provide for a limited time of debate notwithstanding the limitations otherwise on the motion to table?

The PRESIDING OFFICER. There are 10 minutes of debate evenly divided.

MOTION TO TABLE AMENDMENT NO. 5727

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. McCLURE. Mr. President, I move to table amendment No. 5727.

Mr. President, this is a matter that is very difficult for me to do. Having worked not just for days, weeks, or months but years, literally years to try to bring about some reasonable amendment to the 1968 Gun Control Act, this year for the first time we did achieve a consensus in the Judiciary Committee and that bill was reported with amendments from the Judiciary Committee.

The pending amendment is not that measure which was reported by the Judiciary Committee but an earlier version.

Mr. SYMMS. Mr. President, could we have order, please?

The PRESIDING OFFICER. The Senator is correct. Let there be order in the Chamber. The Senator from Idaho has the floor and is entitled to be heard.

The Senator from Idaho.

Mr. McCLURE. Mr. President, the pending amendment is not the measure that was reported from the Judiciary Committee but an earlier version without some of the provisions that were added by the vote of the Judiciary Committee.

But in spite of my strong feeling about the right of Americans to keep and bear arms, a right guaranteed by the second amendment to the Constitution, this is not the time and place to debate and try to resolve that issue.

The parliamentary situation has been described by a number of people with respect to what would happen to us if we appeal the ruling of the Chair and what happens to cloture under rule XXII and the difficulty of resolving the matter that is before us.

It is with a very heavy heart indeed that I made the motion to table the amendment which carries so much of my own emotion and so much of my

own work, but it is the only responsible action to take this evening.

Mr. STEVENS. Mr. President, will the Senator yield a minute to me?

Mr. McCLURE. I yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, having been one who worked with the Senator from Idaho for years on this subject, I just wish to join him in the action he is taking and to point out that it is a matter of fairness for this action to be taken following the previous action.

He has stated his reasons, and I join him in supporting this motion at this time?

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. Mr. President, I am prepared to yield back the remainder of the time on this side.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Mr. President, we yield back time on this side.

Mr. McCLURE. Mr. President, we yield back all time on this side.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the motion of the Senator from Idaho.

The motion was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HATFIELD. Mr. President, may I make an inquiry of the Chair what the parliamentary situation is at the moment.

The PRESIDING OFFICER. The pending question is the first committee amendment that proposes to strike the words "Trident I." There is cloture motion on that amendment that has now matured.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VITIATION OF CLOTURE MOTIONS RELATING TO FIRST COMMITTEE AMENDMENT

Mr. BAKER. Mr. President, the amendments to the first committee amendments have now been disposed of. However, there are two cloture motions pending which have not yet been disposed of. I have consulted with the minority leader on this subject. I now ask unanimous consent that the two cloture motions pending to the first committee amendment be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, what is the pending question?

FIRST COMMITTEE AMENDMENT

The PRESIDING OFFICER. The pending question is the first committee amendment.

Mr. BAKER. Mr. President, may I say that—and I do not mean this to be facetious—we are now back to square one. It is urgent that we get on with the business of trying to pass these committee amendments and such amendments as may be offered in order to complete action on the CR. May I remind Senators that the temporary CR expires tomorrow midnight. I do not believe the House will send us another. I urge Senators to exercise maximum restraint in trying to proceed now with this measure.

Mr. President, I am prepared to ask the Senate to stay as late tonight—even all night—as necessary and as long as we can do useful and productive work. In the judgment of the leadership on this side, it is essential that we finish this bill tonight so we can go to conference tomorrow, have a conference report back late tomorrow to present to the President on Thursday, in order to try to meet our objective for adjournment.

Mr. BYRD. Mr. President, will the distinguished majority leader yield?

Mr. BAKER. Yes, I yield to the minority leader.

Mr. BYRD. Will the distinguished majority leader state to the Senate what his plans are for Thursday and Friday and would he indicate what he would plan in the event, in the unhappy event, that we reached Friday evening and have not completed both the continuing resolution and the debt limit?

Mr. BAKER. Yes, Mr. President, I thank the minority leader.

As he knows, because he and I have discussed it dozens of times lately, we agree, I believe, that the Senate simply cannot go out nor can the Congress adjourn sine die until we have completed action on both the continuing resolution and the debt limit. And by completed action, that means adopting a conference report and obtaining the President's signature on the bill or the resolution.

So it is going to be very difficult to get that done and meet our original objective of finishing and adjourning sine die on Thursday or Friday. But I believe we can. We can still do that.

But Friday at sundown, Mr. President, is the beginning of a religious holiday that will require us not to have votes until Saturday sundown.

It would be my present intention, if we have not finished, to ask the Senate to come back on Saturday at sundown, if the House agrees to do so, and I have not yet been able to confirm that with the Speaker. But in the absence of that, it would be the intention of the leadership on this side, after consulting with my friend the minority leader, to ascertain whether the Senate will be willing to work on Monday; which is a legal holiday, and that is Columbus Day. And I would urge that we do that.

But if worse comes to worse and we have not finished our work on the continuing resolution and the debt limit, then it would be my intention to ask the Senate to come back next week.

Mr. BYRD. Mr. President, it is the intention of the distinguished majority leader to seek the assurance from the President that he will not veto either of these measures when they reach his desk; that he will have no intention of vetoing them?

Mr. BAKER. Let me state it a little differently, Mr. President. What I will do, and what I have already discussed with the President, is try to keep him advised of the progress of this bill, particularly in this body and in conference. And I will pass onto the Senate, to the minority leader first, any information that I have from the President about the administration's attitude on the bill.

I have been told by the President, and I now repeat, he does not want to veto a bill; he does not intend to veto a bill. He will exercise maximum flexibility consistent with his programs. I am confident that we can pass a bill that the President will sign. But there is always the possibility, or course, that he will exercise his right to disapprove a bill and that we would have to act on it again.

But that is not the President's intention, that is not his wish, and I do not believe that will be the result.

Mr. BYRD. Mr. President, one further question. Is it the intention of the distinguished majority leader to proceed immediately to the debt limit extension provided he can get unanimous consent, which he can cure by adjournment if he cannot, following the completion of action on this measure?

Mr. BAKER. Yes, Mr. President, it is. And I hope then that we will be on that tomorrow and that we can finish action on the debt limit during the day tomorrow.

I might add, then, that if we are waiting for conference reports, say, on either or both of these measures on Thursday, we will get back to the original list of things that I supplied to the minority leader and announced on the floor. We will take up, if we can, such things as the highway bill, product liability, the Genocide Convention, perhaps a crime bill—the House has sent us an abbreviated

crime package—and other matters as they may be cleared. There are also no doubt a great number of items that we may be able to clear for routine action and, of course, the Executive Calendar as we can clear that for routine consideration.

Mr. BYRD. I thank the majority leader.

Mr. METZENBAUM. Will the majority leader yield for a question?

Mr. BAKER. Yes.

Mr. METZENBAUM. As the majority leader knows, a number of us joined in signing a letter to him indicating that the Day of Atonement begins on Friday evening. It is the holiest day of the year for a number of Members of this body. Because it is, we try to go home and be with our families on that occasion and therefore in our communication indicated that we would appreciate it if it would be possible—and we understand the problems of the majority leader in this instance—that we might get away around about 2 p.m.

Mr. BAKER. Mr. President, it is going to be very difficult to get away by 2 o'clock. I will promise the Senator I will do my very best. I can assure the Senator if we are in session on Friday, and I anticipate that we will be, that we will not have votes after sundown and I will try to get us out as soon as we can that afternoon.

But I know the Senator, as he has already acknowledged, understands the dilemma that the joint leadership finds itself in, but I assure him that I understand and that I am entirely sympathetic and that we will cooperate to the fullest in trying to make it possible for the Senator to observe the holiday at his home.

Mr. METZENBAUM. I thank the Senator for his cooperation.

Mr. BAKER. I thank the Senator from Ohio.

I yield the floor.

Mr. HATFIELD. Mr. President, let me sort of review the bidding at this point. We now have committee amendment No. 1. We have adopted committee amendment No. 3. We adopted two amendments to committee amendment No. 6 offered by the Senator from Montana, Mr. MELCHER. We have adopted one amendment to committee amendment No. 9, which is the defense bill. And we have about 34 committee amendments left before we get to the scores of individual amendments which we understand are pending.

In order to try to expedite this activity, I would like at this time to ask unanimous consent to agree to the committee amendments en bloc and for them to be treated as original text for the purpose of further amendments, with no points of order being waived thereby.

Mr. BYRD. Mr. President, reserving the right to object, I would say that if this request is agreed to, it would mean the committee amendments then would be folded into the text and that any amendment to that particular text would be in the first degree and the opportunity would be for a second-degree amendment to piggyback on top of the first amendment.

If it is not agreed to, then any amendment that is offered to a committee amendment is an amendment in the second degree and cannot be amended. I will leave it up to my colleagues as to whether or not there is any objection on this side.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Reserving the right to object, it is my understanding that, if we can agree to the request of the manager of the bill, the amendment of the Senator from South Carolina having to do with the Boulder case would then become a part of the bill. My understanding is that that is a committee amendment that has not as yet been adopted and that certainly a number of us, including the distinguished President pro tempore of the Senate, have concerns about the matter.

I am wondering whether or not the manager of the bill would not see fit to offer or amend his request to include only the committee amendments, except that one.

Mr. HATFIELD. The amendment of the Senator from South Carolina to which you referred can be offered as a modification by the managers to other committee amendments.

Mr. METZENBAUM. I am still not quite clear as to whether or not we reached a unanimous-consent request, whether that includes with it the amendment of the Senator from South Carolina.

Mr. HATFIELD. I would like to make an inquiry of the Chair. My understanding is that the committee amendment can be modified by an action request of the managers of the bill.

Mr. METZENBAUM. What I am attempting to suggest to the manager is that he offer his unanimous-consent request to all of the committee amendments, with the exception of that which I believe is known as committee amendment No. 34. I have a feeling that there will be less controversy, and that committee amendment No. 34 could stand on its own.

Mr. HATFIELD. I would be very happy to do one of two things which would accomplish the purpose. I would be very happy to exempt one of the committee amendments for that purpose, or I would be very happy to ask in my unanimous-consent agreement that the amendment of the Senator from South Carolina be incorporated as a modification of the committee amendment.

Mr. METZENBAUM. It is the amendment of the Senator from South Carolina that is objectionable. That is the problem. I think that the other Senator from South Carolina shares my view on this matter. My suggestion is that amendment should stand on its own, and all other amendments, to the best of my knowledge, are not controversial.

Mr. HOLLINGS. Would the distinguished chairman yield? I think the characterization about the amendment of the Senator from South Carolina is inaccurate. It is the committee amendment. The committee acted on this and unanimously voted it in. It was a misprinting. In the reprinting we asked—and the staff directed that we not do it for some reason that I have yet to have explained to me satisfactorily. But it is the committee's amendment. It is not just my amendment now. So it is part of the bill.

Mr. METZENBAUM. I understand it is the committee amendment. But you are asking us to accept all of the committee amendments unanimously, and the Senator from Ohio is saying I have no objection to accepting all amendments, with the exception of the committee amendment No. 34.

Mr. HATFIELD. Mr. President, I withdraw my unanimous consent request.

The PRESIDING OFFICER. The request is withdrawn.

COMMITTEE AMENDMENT NO. 1

Mr. HATFIELD. Mr. President, I ask that we go to the regular order of committee amendments.

I move adoption of the first committee amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the first committee amendment.

The first committee amendment was agreed to.

COMMITTEE AMENDMENT NO. 2

Mr. HATFIELD. I move adoption of the second committee amendment.

The PRESIDING OFFICER. The clerk will read the next committee amendment.

The legislative clerk read as follows:

On page 2, line 1, strike the language after "SEC. 101." through line 8, and insert in lieu thereof the following:

"(a) Such sums as may be necessary for programs, projects, or activities provided for in the Agriculture, Rural Development and Related Agencies Appropriation Act, 1985 (H.R. 5743), to the extent and in the manner provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report Numbered 98-1071), filed in the House of Representatives on September 25, 1984, as if such Act had been enacted into law."

Mr. HATFIELD. Mr. President, the second committee amendment is the one that deals with the level of funding for the Agriculture Department.

This is page 2 of the bill. If you want to follow, we have a number of committee amendments we are operating from. This is the level of services for the agricultural agencies.

Mr. COCHRAN. Mr. President, this continuing resolution references the conference report on the fiscal year 1985 appropriations bill for agriculture, rural development, and related agencies. It is my hope that we can vote on the conference report itself before we adjourn, and that the President will sign the bill into law, so that the agencies in that bill will no longer be funded under the continuing resolution.

The agriculture portion of this resolution, as reported by the Appropriations Committee, contains three items which were not a part of the regular appropriations bill.

The first item is an appropriation of $1 million to increase citrus canker research in Florida. This will allow the University of Florida to accelerate ongoing research into the characteristics of this disastrous disease, the methods to prevent its spread, and methods for its eradication.

The second item independent of the conference report on the regular bill is a $3.2 million appropriation for the Food and Drug Administration. This will provide 73 additional personnel for the implementation of the Drug Price Competition and Patent Restoration Act of 1984, the so-called generic drug bill, which was signed by the President on Monday, September 24. This is a necessary addition to this resolution because the additional responsibilities which this law requires of FDA cannot be properly met with funds provided in the regular appropriations bill.

The third item is a provision to increase food stamp benefits by requiring that maximum food stamp allotments be equal to the full cost of the thrifty food plan, the Department of Agriculture's lowest cost food plan. Current law allows a maximum of only 99 percent of the cost of the thrifty food plan.

Even with these additions, the appropriations level for nondefense discretionary spending provided by this continuing resolution remains within the subcommittee's 302(b) allocation, which was based on the Senate-passed budget resolution. However, any additional amendments to this continuing resolution would place us very close to that allocation, and could possibly jeopardize the administration's support of the regular fiscal year 1985 agriculture appropriations bill. I would oppose any amendment which would endanger our regular bill, and I urge Senators to refrain from offering such amendments.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MELCHER. Mr. President, in the appropriation bill that passed the Senate, we included with it the so-called sodbuster bill. This is a provision that has passed the Senate. And it is still subject to conference with the House. The reason we added it to the appropriation bill was because there had not been a resumption of the conference committee for several weeks. On that basis, the Senate thought it wise to incorporate it with the appropriation bill. The sodbuster provision was fully explained at that time. It has been an issue that has been around Congress for a number of years, principally espoused by the Senator from Colorado, Senator ARMSTRONG.

Having passed it, we were in hopes that the conference committee would reach agreement on the legislation itself. When that did not happen, we used this vehicle, the appropriation bill, to include the sodbuster language in it. When the appropriation bill came back from the House, it was stripped with the conference report. When the appropriation bill on agriculture came back from conference, it had been stripped out at the request of the House.

So, Mr. President, we are faced again with whether or not we should use an appropriation bill to attempt to pass this legislation.

Might I inquire of the chairman of the Appropriations Committee if the committee is willing to accept this language and attempt again to pass the sodbuster bill?

Mr. COCHRAN. Mr. President, if the Senator will yield, I want to stress that in our conference with the House on the Agriculture appropriations bill, we were not able to get the House to recede to the Senate position on this subject. As a matter of fact, after a very tough conference, this was the very last issue that was left unresolved, and conferees on the part of the Senate worked very hard to try to find some way to get the House to accept this language and include it in the conference report.

I know the Senator from Montana was advised along the way that we were having difficulty with the House conferees. And he, I know, communicated his strong support of this provision to House conferees on the Democratic side of the aisle in the House. In spite of that very important effort and the effort of Senator ARMSTRONG—Senator MATTINGLY in the conference argued for the provision, and I tried to do everything I possibly could to get the House to go along with the provision—we were unsuccessful.

I do not hold any real hope that the House conferees, in conference on the continuing resolution, would be any more inclined to such a provision on the continuing resolution.

But like the Senator from Montana, I am convinced that this is a very important provision to write into our Federal legislation. The Senate Agriculture Committee has approved this legislation. As a matter of fact, the House has actually approved the legislation in another form, with additional provisions. The House and Senate are in conference now, although conferees are not actively working at this time, to try to resolve differences between the legislation passed by the House and the Senate.

We have been working through the appropriations process as well as the legislative committee to get this enacted into law.

I do not know what, at this point, we can do. I know we are trying to keep the continuing resolution as free as we can from amendments, and I think it is important for us to do that. It makes it more likely for us to have a successful conference with the House on this continuing resolution, and bring this back in a timely fashion, so we can complete the work by the deadline that has been imposed.

I would hope the Senator would not insist on adding the provision to this continuing resolution for the reasons that we have stated.

We made a run at it in two or three different ways. I think we will renew that fight as soon as the opportunity presents itself during the next session. I hope that we can get that resolved and get the differences worked out so we can see this important statute put on the books.

Other than that, I do not know what else to say. I would urge the Senator, if he could, to refrain from insisting on the amendment. We can do better by arguing another day and trying to get the House and Senate together on the legislation in the regular process that we have been following.

Mr. MELCHER. Mr. President, I want to thank the Senator from Mississippi, the chairman of the Subcommittee on Agriculture appropriations.

I want to explain to the Senate that action this year at this time is vital. To get this legislation in the statutes and in effect during this year, but before the end of the year is absolutely vital in order to avoid another year of erosion in the Great Plains States and perhaps other States, too.

We could not conceivably count on the bill passing before some time next spring, if it is not passed in this Congress. When it is passed next spring, it is inconceivable to implement it and to have it as a barrier to prevent future sodbusting, breaking up of the soil and putting the fragile soil into crop production that causes the erosion.

But we have attempted in the agricultural appropriations bill before and we failed when the House resisted.

We have been ready, those of us on the Agriculture Committee here in the Senate have been ready, for a conference committee on the legislation to be resumed so we can settle the points in dispute in the bill between the House and the Senate and report back with a conference report so that final action could take place on this bill.

I know not why the conference committee is not meeting. The last word that was heard when the conference reached a deadlock several weeks ago—I think about 2 months ago—was that our chairman, the Senate chairman of the conference, wished to have time to consider what course he would choose to follow.

I am not privy to what had been going on between our chairman of the conference and the House conferees, but I would hope that in the next day or two we will have the conference committee back together and we will finalize action on it. That is by far the preferred way.

I would tell my colleagues, and I wish all my colleagues would note, that if that does not happen, the next vehicle, of course, and the last vehicle to attempt to attach this needed legislation to is the debt ceiling bill. So one way or the other I am in hopes that we will have action on the bill before the week is out, before this Congress adjourns.

Mr. COCHRAN. Mr. President, I certainly want to thank the distinguished Senator from Montana for his forebearance on this vehicle at this time. I do not know whether any other Senators wish to be heard on this issue. We had a thorough debate, a good debate, on this issue when the agriculture appropriations bill was before the Senate. Senators will recall we had a record vote on two different proposals. We have made our position very clear to the House. We strongly support the enactment of legislation which would accomplish the goals and aims articulated by the Senator from Montana. I join with him in the hope that we can see early action and successful action on this legislation as soon as possible. I thank the Senator.

Mr. President, I have been advised that the Senator from Kansas [Mrs. KASSEBAUM] has an amendment to offer on the Public Law 480 provisions of the continuing resolution which would add some funds, at the administration's request, for aid and assistance to African countries. I know that she is in the process of getting that information together and the amendment together. I would hope we would not pass over the rest of this section until she has had an opportunity to return to the floor. That is the only other amendment that I know of, Mr. President, to the agriculture section.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Does the Senator from Arizona wish to offer an amendment?

Mr. DECONCINI. Yes.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 6928

(Purpose: To clarify the circumstances under which territorial provisions in licenses to distribute and sell trademarked malt beverage products are lawful under the antitrust laws)

Mr. DECONCINI. Mr. President, I send an amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. DECONCINI], for himself and Mr. GOLDWATER, proposes an amendment numbered 6928.

Mr. DECONCINI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment (pg. 2 line 16) add the following new section:

SEC. . (a) This section may be cited as the "Malt Beverage Interbrand Competition Act".

(b) Nothing contained in any antitrust law shall render unlawful the inclusion and enforcement in any written contract in effect on or entered into after the effective date of this section by any brewer, importer, trademark owner, or trademark licensee of a trademarked malt beverage with any wholesale distributor, or provisions granting the wholesale distributor the sole and exclusive right to distribute and to sell such product in any defined geographic area within any State and limiting such exclusive distributor to the distribution and sale, directly or indirectly, of such product only for ultimate resale to consumers within that defined geographic area when such product is in substantial and effective competition with other malt beverage products within that defined geographic area.

(c) Nothing in this section shall be construed to legalize the enforcement of provisions described in subsection (b) in any written contract described in such subsection by means of price-fixing agreements, horizontal restraints of trade, or group boycotts, if such agreement, restraints, or boycotts would otherwise be unlawful.

(d) As used in this section the term—

(1) "antitrust law" means the Sherman Act (15 U.S.C. 1), the Federal Trade Commission Act (15 U.S.C. 41), and the Clayton Act (15 U.S.C. 12), and all amendments to such Acts;

(2) "malt beverage" shall mean and include beer of all types and varieties as defined in any Federal or State statute, ale, porter, stout, and all other similarly designated fermented beverages containing one-half of 1 per centum or more alcohol by volume; and

(3) "State" includes the District of Columbia and any territory or possession of the United States.

(e) This section shall not invalidate or affect any provision of the laws of any State.

Mr. DECONCINI. Mr. President, the amendment I offer today will simplify——

Mr. THURMOND. Mr. President, I raise the question of germaneness.

Mr. DECONCINI. Mr. President, was the Senator from Arizona recognized to offer an amendment?

Mr. THURMOND. Mr. President, I addressed the Chair to raise the question of germaneness.

The PRESIDING OFFICER. When the Senator sends up his amendment, the Senator loses the floor. The Chair recognizes the Senator from South Carolina.

Mr. DECONCINI. Mr. President, I submit——

Mr. THURMOND. Mr. President, I am addressing the Chair to raise a point of inquiry. Who has the floor?

The PRESIDING OFFICER. The Senator from South Carolina has the floor.

Mr. DECONCINI. Mr. President, I submit this amendment is germane to the continuing resolution.

Mr. THURMOND. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from South Carolina has been recognized.

Mr. THURMOND. Mr. President, I raise a parliamentary inquiry. If this amendment is offered, I make the point of order that it is not germane.

Mr. DECONCINI. Mr. President, it is germane to the House language. I ask for the question.

The PRESIDING OFFICER. Is the Senator from South Carolina making the point of order that this amendment is not germane?

Mr. THURMOND. Yes, the Senator from South Carolina is making that point, that it is not germane.

The PRESIDING OFFICER. Under the precedents of the Senate——

Mr. DECONCINI. I raise the question of germaneness.

The PRESIDING OFFICER [continuing]. The question of germaneness to appropriations bills is decided by the Senate without debate.

Mr. HATFIELD. Mr. President, a point of inquiry.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Can we be informed what the subject of the amendment is?

Mr. DECONCINI. I will be glad to.

The PRESIDING OFFICER. Is there objection to the Senators engaging in colloquy in order to state the purpose of the amendment?

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Senator from Arizona be given 1 minute to explain what the amendment is so that the rest of us who are asked to vote on

the question of germaneness will understand the substance.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Arizona.

Mr. DECONCINI. Mr. President, I am not certain that I can explain this in a minute, but I shall do my very best.

This is an amendment offered by my senior colleague [Mr. GOLDWATER] and myself. What this amendment does is simplify and clarify the application of antitrust laws to malt beverage distributor arrangements. It is identical to the amendment that we passed two Congresses ago for the soft drink industry.

I shall be more than happy to debate the amendment, Mr. President. I think it is important. I realize other people have other things on the agenda tonight. It is not my wish to keep everyone here. I do want to have a vote on the germaneness. I ask for the yeas and nays on that.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DECONCINI. Mr. President, has my time elapsed?

The PRESIDING OFFICER. The Senator has used 1 minute. He has 1 minute remaining to explain his amendment.

Mr. DECONCINI. Mr. President, the amendment I offer today would simplify and clarify the application of the antitrust laws to distributor arrangements in the malt beverage industry. This amendment, the substance of which has been introduced as S. 1680, the Malt Beverage Interbrand Competition Act, will set a clear and concise standard for determining the legality of vertical nonprice restrictions on the distribution of malt beverages. The amendment will serve several ends. It will enhance State control over the distribution of alcoholic beverages, it will ease the collection of excise taxes on those products, it will preserve the highly competitive system of beer distribution that has served the consumer well for more than 50 years, and it will ensure that the widest possible selection of high quality malt beverage products remains available to legal consumers everywhere. Mr. President, the malt beverage amendment advances all these worthy goals, as I will explain.

S. 1680 currently has 38 cosponsors in the Senate. It is designed to clarify the law regarding exclusive territorial agreements between a brewery and the wholesale distributors of that brewery's particular brand of beer. Territorial agreements for the distribution of beer have been the operative norm ever since the repeal of prohibition some 51 years ago. Although these agreements have helped sustain the intense marketing competition that characterizes the beer industry today, they have often engendered unnecessary antitrust actions. The malt beverage interbrand competiton amendment would alleviate the burdens that these nuisance suits impose on the courts and small business persons across this land by stating clearly that traditional brewery-wholesaler agreements are not per se violations of antitrust laws. In doing so, the Congress would be acting consistently with previous holdings of the Supreme Court, which has noted the healthy competitive effects of such distributive arrangements.

This amendment would modify for the beer industry the prevailing Supreme Court case law relating to vertical nonprice restrictions or territorial franchises. In 1977, the court ruled in Continental TV against GTE Sylvania that territorial agreements between manufacturers and wholesalers are not per se violations of the Sherman or Clayton Acts. The Court opinion said that a determiantion of the legality of each case would be determined by a "rule of reason."

The Court went on to identify the significant competitive efficiencies that could be achieved through territorial agreements. Among those efficiencies cited by the Court were increased retailer and distributor investment, greater promotional activities, and more effective quality controls. The Court held further that the benefits for interbrand competition gained through these efficiencies would justify the restriction of intrabrand competition. Where antitrust questions are raised these considerations are to be analyzed under the rule of reason test.

The Court, however, did not provide useful instruction on how the rule of reason test is to be applied or, indeed, what it means. The hundreds of cases that clog the court dockets are testimony to the confused legal standards resulting from lower court interpretation of the rule of reason. Dr. Ernest Gellhorn, an antitrust expert and dean of law at Case Western Reserve University in the great State of Ohio, has testified at congressional hearings that the plaintiffs who usually bring these frivolous actions against distributors seldom prevail on appeal. Yet the lengthy and expensive suits they bring "dampen competition and curtail dealer investments in promoting products or services." The result is higher prices, and the consumer is ill served.

Mr. President, the malt beverage interbrand competition amendment would cut through all of this confusion. It would establish a threshold test for measuring antitrust claims based on vertical nonprice restrictions, in so doing, it would eliminate those claims that pose no threat to consumers or competition. The operative language of the amendment establishes that where there is "substantial and effective competition" among manufacturers and wholesalers of malt beverages, territorial restrictions are permissible under the antitrust laws. It is that simple. No longer would cases drag on with costly and extensive depositors exploring ridiculous nuances of the market. Instead, the court could evaluate a clear and concise test—that is, is there substantial and effective competition in the market? If there is, then the case could be dismissed quickly. If not, then the court would undertake a full investigation under the rule of reason. In short, Mr. President, this bill would help the courts and the defendants get to the meat of these cases without spending a lot of money.

At the outset I said that this amendment would enhance the States' ability to control malt beverages and collect excise taxes more efficiently. Mr. President, I am joined by the National Conference of State Liquor Administrators in endorsing the passage of this amendment. These administrators, whose knowledge of liquor laws and the difficulties of liquor law enforcement should be well respected in this Chamber, recently adopted a resolution that said the Malt Beverage Interbrand Competition Act would "greatly strengthen the ability of State liquor administrators to effectively discharge their responsibilities for controlling malt beverages as dictated by the laws of the several States, and promote more effective collection of, and interstate comity in, malt beverage taxes." In a time of increasing public concern over the abuse of alcohol, I believe it encumbent on the Congress to support the efforts of those vested with the responsibility of upholding alcoholic beverage laws. Passage of this bill would be an expression of such support.

Not only would this amendment improve regulation of malt beverages, it would further encourage the vigorous interbrand competition that benefits consumers. Competition in the beer industry is among the brands—Budweiser competes against Miller, Coors, Strohs, and so forth. In the beer industry, everyone is fighting everyone else for market share. A company's success is determined by its ability to get the highest quality product to the widest range of outlets at the lowest possible price.

The territorial system of wholesaler beer distribution has proven to be the most efficient means of providing these essential elements of a successful and competitive business.

Under the present system, the local wholesaler is required by his contract with the brewery to service all accounts within his territory whether they buy one case or a tractor-trailer

load. The wholesaler is responsible for the freshness of the product, the cleanliness of the shelves, taps, and coils, and all local promotions—including store setups and charitable functions. Any negligence can easily be traced back to the wholesaler. Therefore, the territorial system of beer distribution ensures meticulous service to the retailer through the wholesaler's contractual accountability to the brewery. It is truly a system of checks and balances. That is the system that the Malt Beverage Interbrand Competition Act seeks to preserve.

The PRESIDING OFFICER (Mr. BOSCHWITZ). The Senator's 2 minutes have expired.

The question is, Is the amendment germane?

Mr. THURMOND. Mr. President, I ask unanimous consent to proceed for 2 minutes on this amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. THURMOND. Mr. President, this amendment is before the Judiciary Committee now. We hope to act on it next spring when we come back here. It has been on the agenda, but we just have not reached it yet. We think it ought to have been acted on by the committee when it comes before the Senate. It is an antitrust matter. I am convinced that if we do pass this, we are going to run up the price of beer.

For instance, I had a small distributor in my State who said to me, "I want the right to deal with a wholesaler in Charleston or a wholesaler in Columbia. I want to pass that saving on to the consumer." He will be denied that right if we pass this amendment.

I do not think this is the place to pass it. The Judiciary Committee has not acted on the bill yet.

We think, furthermore, it is not germane. If we act on this amendment here, we will be acting on a lot of other amendments that are not germane, too. It is a bad precedent, I think, to set on this bill. I hope the Senate will see fit to hold that it is not germane.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, is time restricted on this point?

The PRESIDING OFFICER. The question is not debatable.

Mr. METZENBAUM. I ask unanimous consent that the Senator from Ohio be allocated 2 minutes to speak.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. METZENBAUM Mr. President, this amendment is obviously not germane to this bill. I respect my good friend, Mr. DECONCINI, for bringing it up as he had told me in advance he intended to do. I want to refresh the recollection of many in this body.

When we had the exemption for the beverage distributors, this kind of an exemption was debated for more than 2 days on the floor of the Senate. At 5 minutes after 10, I strongly urge that this body determine that the matter is not germane so that we not be placed in that kind or ordeal again to debate a matter of this kind having to do with antitrust law for hours on end into the night.

I agree totally with the Senator from South Carolina. The matter is before the Committee on the Judiciary. I think that is where it belongs. I hope this body will overwhelmingly vote to support the Senator's position that an amendment amending the antitrust laws is not germane to this appropriations bill.

Mr. BENTSEN. Mr. President, on the merits I agree completely with the pending DeConcini-Goldwater amendment. In fact, I am a cosponsor of the bill, S. 1680. If I have the chance to vote on the merits of the bill, I would vote for it.

However, the question before us is one of germaneness. At the present time on this continuing resolution, the amendment is not germane. I believe that we must pass the continuing resolution to provide for the orderly operations of the Federal Government.

The PRESIDING OFFICER. The question is, Is it the judgment of the Senate that the amendment (No. 6928) of the Senator from Arizona is germane? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. I announce that the Senator from Washington [Mr. EVANS], the Senator from Washington [Mr. GORTON], and the Senator from Nevada [Mr. LAXALT] are necessarily absent.

I further announce that, if present and voting, the Senator from Washington [Mr. EVANS] and the Senator from Washington [Mr. GORTON] would each vote "nay".

Mr. CRANSTON. I announce that the Senator from Ohio [Mr. GLENN] and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 28, nays 67, as follows:

[Rollcall Vote No. 263 Leg.]

YEAS—28

Baucus	DeConcini	Pressler
Biden	Dixon	Proxmire
Boren	Eagleton	Pryor
Bumpers	Ford	Randolph
Burdick	Heflin	Riegle
Byrd	Hollings	Sarbanes
Chiles	Leahy	Sasser
Cohen	Levin	Zorinsky
Cranston	Melcher	
D'Amato	Mitchell	

NAYS—67

Abdnor	Hatfield	Nickles
Andrews	Hawkins	Nunn
Armstrong	Hecht	Packwood
Baker	Heinz	Pell
Bentsen	Helms	Percy
Bingaman	Huddleston	Quayle
Boschwitz	Humphrey	Roth
Bradley	Inouye	Rudman
Chafee	Jepsen	Simpson
Cochran	Johnston	Specter
Danforth	Kassebaum	Stafford
Denton	Kasten	Stevens
Dodd	Kennedy	Symms
Dole	Lautenberg	Thurmond
Domenici	Long	Tower
Durenberger	Lugar	Trible
East	Mathias	Tsongas
Exon	Matsunaga	Wallop
Garn	Mattingly	Warner
Goldwater	McClure	Weicker
Grassley	Metzenbaum	Wilson
Hart	Moynihan	
Hatch	Murkowski	

NOT VOTING—5

Evans	Gorton	Stennis
Glenn	Laxalt	

The PRESIDING OFFICER. On this vote, the yeas are 28, the nays are 67. The judgement of the Senate is that the amendment is not germane.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the Senate judged the amendment not to be germane.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, I believe the Senator from Kansas has an amendment to this agriculture section of the bill. I know of no other amendment.

The PRESIDING OFFICER. The Senate will be in order.

AMENDMENT NO. 6929

(Purpose: To authorize the establishment of a Presidential fund to provide emergency food assistance abroad, and for other purposes)

Mrs. KASSEBAUM. Mr. President, I send to the desk an amendment on behalf of myself, Senator DANFORTH, Senator BOSCHWITZ, Senator HELMS, Senator PERCY, Senator KASTEN, and Senator COCHRAN.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM], for herself, Senator DANFORTH, Senator BOSCHWITZ, Senator HELMS, Senator PERCY, Senator KASTEN, and Senator COCHRAN, proposes an amendment numbered 6929.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment on page 2, line 16, add the following:

TITLE —PRESIDENT'S EMERGENCY FOOD ASSISTANCE ACT OF 1984

SHORT TITLE

SECTION . This title may be cited as the "President's Emergency Food Assistance Act of 1984".

PART A—PRESIDENT'S EMERGENCY FUND

FINDINGS

SEC. . The Congress finds that—

(1) acute food crises continue to cause loss of life, severe malnutrition, and general human suffering in many areas of the Third World, especially in sub-Saharan Africa;

(2) the United States continues to respond to these needs, as a reflection of its humanitarian concern for the people of the Third World, with emergency food and other necessary assistance to alleviate the suffering of those affected by severe food shortages;

(3) the timely provision of food and other necessary assistance to those in need is of paramount importance if the worst effects of such food crises are to be mitigated; and

(4) the ability of the United States to provide food and other necessary assistance on a timely basis, and to ensure that such assistance is distributed to those in need, should be enhanced in order to better enable the United States to help those affected by severe food shortages.

ESTABLISHMENT OF THE FUND

SEC. . (a) There is hereby established the President's Emergency Food Assistance Fund (hereafter in this title referred to as the "Fund"). Whenever the President determines it to be in the national interest of the United States, he is authorized to furnish, in accordance with the provisions of this part, and on such terms and conditions as he may determine, assistance from the Fund for the purpose of alleviating the human suffering of peoples outside the United States caused by acute food shortages. Such assistance may be provided through such governments or other entities, private or public, including intergovernmental and multilateral organizations, as the President deems appropriate. Assistance provided from the Fund may be furnished notwithstanding any other provision of law.

(b) Because the effects of severe food shortages will vary with the country or region, assistance to alleviate human suffering may include the provision of feed assistance or such activities as the provision of seed, animal fodder, animal vaccines, and transportation (including inland transportation) and distribution services.

(c)(1) Amounts made available to the Fund to carry out the purposes of this title shall be derived as follows:

(A) The President may direct that funds made available in any fiscal year to carry out any title of the Agricultural Trade Development and Assistance Act of 1954 or chapter 1 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961 be transferred to and consolidated with the Fund, except that in any fiscal year not more than $50,000,000 may be transferred under this subparagraph.

(B) There are authorized to be appropriated to the President, in addition to funds otherwise available for such purposes, such amounts as may be necessary to carry out the purposes of this part.

(2) Amounts appropriated or transferred under this section are authorized to remain available until expended.

(3) No amount of funds may be appropriated or transferred which, when added to amounts previously appropriated or transferred but not yet obligated, would cause the amount in the Fund to exceed $50,000,000.

(d) The President may make loans, advances, and grants to, make and perform agreements and contracts with, or enter into transactions with, any individual, corporation, or other body of persons, government or government agency, whether within or without the United States, and international and intergovernmental organizations in furtherance of the purposes and within the limitations of this title.

REPORTS

SEC. . Not later than December 31 of each year, the President shall submit a comprehensive report which details all activities funded under the authority of this title during the previous fiscal year. Such report shall include information for each instance in which the Fund's resources were utilized, regarding the numbers of beneficiaries reached, the activities of the recipient country and other donors in addressing the food shortage, the current prospects for improvement of food shortage conditions, and the extent to which the United States, the recipient country, and other donors are working to minimize the severity of future serious food shortage situations.

PART B—FOOD FOR PEACE PROGRAM

TRANSPORTATION AND STORAGE

SEC. . Section 203 of the Agricultural Trade Development and Assistance Act of 1954 is amended by inserting after the semicolon at the end of clause (4) the following: "in the case of commodities for urgent and extraordinary relief requirements, including prepositioned commodities, transportation costs from designated points of entry or ports of entry abroad to storage and distribution sites and associated storage and distribution costs;".

PART C—APPROPRIATIONS FOR FISCAL YEAR 1985

APPROPRIATIONS FOR FISCAL YEAR 1985

SEC. . There are hereby appropriated to the President for the fiscal year 1985, $50,000,000 for payment to the Fund.

Mrs. KASSEBAUM. Mr. President, the intent of this amendment is to create a Presidential Emergency Food Assistance Fund to deal with unforeseen food emergencies that might arise in Africa. We are faced with a looming food crisis there, and this is to add additional moneys that might be necessary in the first quarter of 1985. This amendment has the support of the committee, and I very much appreciate their assistance.

Mr. FORD. Mr. President, a point of order. We cannot hear the distinguished Senator from Kansas. She might be talking about Afghanistan.

The PRESIDING OFFICER. The Senate will be in order.

Mrs. KASSEBAUM. Mr. President, I say to the Senator from Kentucky that I am talking about food assistance for sub-Sahara, Africa and the need to have some additional moneys on hand if the potential food crisis there reaches such proportions in the first quarter of 1985 that we would need those funds on hand.

The language in the amendment was adapted from the Presidential request earlier this year, introduced as H.R. 6265 on September 18, 1984.

In addition, the amendment provides a $50 million appropriation for this fund. The sad fact is that the fund is going to be needed immediately to meet the looming food crisis in Africa after yet another year of drought. Projections of African food production for 1984 suggest that up to $300 million of food assistance from the United States will be needed. The Congress has already provided, through earlier appropriations, some $150 million of assistance for the coming fiscal year. The availability of the $50 million appropriation will allow for food aid to meet those who are desperately in need during the first quarter of 1985 while the effort is made to determine exactly how much of an additional appropriation will be needed for 1985.

I recognize that this is another addition to the levels of spending in the continuing resolution. I would like to suggest, however, that it is a useful one. Given what is known about the drought in Africa, it is already clear that additional appropriations will be necessary next year. I would like to avoid an appropriations bill next year that turns out to be like the one passed this year. It came to the Senate with $90 million from the House, and left after 37 amendments looking like a Christmas tree and costs soaring into the billions.

The President's request originated in a meeting he had with Senator DANFORTH after the Senator's trip to Africa in January. After reviewing the results of the Senator's investigations, the President ordered the executive branch to come up with better ways of addressing food emergency needs. The legislative request incorporated into our amendment grants the President the authority to move funds from various aid programs to the emergency fund as necessary to meet food emergencies.

I believe the amendment is noncontroversial, and I urge its passage by the Senate.

Mr. JOHNSTON. Mr. President, I say this to my colleagues in a general way. This amendment is a very good example of what I am about to say. I think this is a very good amendment, but we will have to clear it.

I ask my colleagues, particularly on this side of the aisle, if they have amendments, to make an attempt to apprise us of them, and we will try to have them cleared through the staff and through the particular subcommittees that deal with the subject area. That will make it a lot easier to get the amendment adopted, and certainly will facilitate the matter in terms of time.

I say to my colleagues on the other side of the aisle that if they would give us some advance notice, so that we could see these amendments and have

them cleared, it would greatly facilitate the matter in terms of time.

Having said that, I will check with the Agriculture Committee.

I am now advised that the Agriculture Subcommittee has agreed and has no objection.

Mr. COCHRAN. Mr. President, we have reviewed the amendment, and we thank the distinguished Senator from Kansas for offering it. It is supported by the administration. There is a provision included in the foreign op section of the continuing resolution that is a companion measure. This will permit implementation of policy there.

I recommend that the Senate agree to the amendment.

Mr. DANFORTH. Mr. President, 6 months ago I rose before this body to support legislation providing for immediate food relief to Africa. After considerable delay, Congress approved two separate pieces of legislation which together provided $150 million in emergency food aid to the stricken continent. As a result of this legislation, thousands of Africans were saved from starvation. Thousands more would have been saved, however, had Congress acted with greater dispatch.

A similar sequence of events took place in the early 1970's. Africa suffered through 5 years of merciless drought before Washington took notice. By the time we responded in 1973, famine had claimed the lives of 200,000 to 300,000 people.

Mr. President, history must not be allowed to keep repeating itself in this cruel manner. We cannot continue to let political roadblocks and bureaucratic red tape get in the way of saving lives. Many of the countries on the ravaged African Continent are entering upon their third or fourth consecutive year of drought. It is crucially important that we respond to the impending crisis in a timely and effective way.

Let me try to convey some sense of the magnitude of the crisis. We have all read the horrible accounts of the widespread starvation in Ethiopia. The lives of tens of thousands of Ethiopians are in immediate danger; millions more face acute hunger and starvation. Ethiopia is but one of many African countries threatened by famine. In Kenya, farmers planted as many as three times this past spring, only to see their seedlings wither and die. In northwest Senegal, the land is so parched that it is impossible to believe that anything could ever grow there. Relief officials in South Africa estimate that as many as 100,000 South African children will die unless aid arrives soon. Mali, Niger, and Chad are all expected to have major food deficits in the coming year. And the litany of disaster continues.

Mr. President, the amendment which the distinguished Senator from Kansas and I are offering today will improve substantially our ability to respond to this crisis. Our amendment contains the two legislative components of the food aid initiative announced by the President on July 10 of this year. First, the amendment would create a Presidential emergency fund for the provision of food and nonfood assistance to areas experiencing acute food shortages. Second, the amendment would add language to title II of Public Law 480 to allow for the payment of transportation, distribution and storage costs associated with food assistance in special emergency cases.

The first component of our amendment differs from the President's food aid initiative in that, instead of providing for the fund by transfer from existing accounts, it appropriates an additional $50 million for the fund. I am absolutely convinced that the severity of Africa's food crisis warrants this appropriation. Responsible estimates of the U.S. share of Africa's 1985 emergency food aid requirements range from $300 to $350 million—roughly double the sum spent on emergency food aid to Africa this past year.

At present, there is approximately $150 million available for emergency food relief for Africa in 1985. Mr. President, we already know that this sum is going to fall far short of Africa's emergency food aid needs. Unless we appropriate additional relief funds now, come January it will once again be necessary to go through the lengthy supplemental process. Too many lives hang in the balance to allow the provision of food relief to remain so dependent on the legislative schedule. If we act now to create the fund and provide it with adequate resources, we will have the means to respond quickly and effectively to the impending crisis. The number of lives thus saved could easily number in the tens of thousands.

The second component of our amendment makes a much-needed improvement in the way Public Law 480 operates. Current law only allows for the payment of Public Law 480 transportation costs to port of entry, or in the case of land-locked countries, to the point of entry. The financing of inland transportation, distribution, and storage costs is left to the already hard-pressed private voluntary organizations and recipient governments. Difficult terrain, seasonal rains and civil strife make food distribution extremely expensive and time-consuming in many African countries. According to Red Cross estimates, the cost of delivery generally amounts to three times the value of the commodities being distributed.

Mr. President, we have heard too many stories about food "rotting on the docks" for lack of transport. Our commitment to fight famine must not end at the dockside. It should not end until a cup of milk or a bowl of meal finally reaches the hands of a hungry child. Amending Public Law 480 to allow for the payment of internal delivery costs will help us achieve this goal.

Mr. President, time is of the essence. The severity of Africa's food crisis worsens with each passing day. It is of vital importance that we prepare now to respond to that crisis in a timely manner. I therefore urge my colleagues to join with me in support of this amendment.

Mr. KASTEN. Mr. President, I support the amendment. I believe it is worthwhile and meritorious, and it should be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6929) was agreed to.

Mrs. KASSEBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 6930

(Purpose: Relating to Superfund amendments)

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY], for himself and Mr. LAUTENBERG, proposes an amendment numbered 6930.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

Mr. HATFIELD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HATFIELD. Mr. President, if the Senator will yield, I shall state why I object. I shall do so on amendments that we have had no notification as to the subject matter. A while ago we had reached the point of determining germaneness of an amendment before we even knew what the subject of the amendment was.

If we are going to expedite this bill, there has to be a little cooperation from the Members with the managers of the bill.

The Senator from Louisiana a little while ago indicated it would be very helpful if Senators would indicate to him, and I agreed with what I heard said to my side, to give us a little warning of what these amendments are.

We will work with Senators to try to get these amendments handled. But when they are sent to the desk without even any notification or warning it makes it very difficult.

The PRESIDING OFFICER. Objection is heard.

The clerk will state the amendment.

The bill clerk resumed reading the amendment.

Mr. HATFIELD. Mr. President, I withdraw my objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed under amendments submitted in routine morning business.)

Mr. BRADLEY. Mr. President, the amendment I have sent to the desk which is the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, commonly referred to as Superfund, provides 6 billion additional dollars over a 5-year period. Of this $6 billion, $1.5 billion comes from taxes on feedstock, chemicals, and oil; $1.5 billion comes from a waste-end tax; and $3 billion comes from the general revenue.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. BRADLEY. I wish to finish the statement.

Mr. JOHNSTON. If the Senator will just clarify that, I missed where the money is coming from.

Mr. BRADLEY. $1.5 billion comes from tax on feedstock, chemicals, and oil; $1.5 billion comes from waste-end tax; and $3 billion comes from general revenue.

Mr. JOHNSTON. I shall ask the Senator one more short question before he gets into that. He was considering trying to negotiate an agreement. Was he successful?

Mr. SYMMS. Mr. President, could we have order in the Chamber so we can hear?

The PRESIDING OFFICER. The Senator will suspend. The Chair cannot hear the discussion.

The Senate will be in order.

Staff will stop conversing.

The Senator may proceed.

Mr. HART. Mr. President, a point of order. Will the Chair instruct staff members to recede to the back of the Chamber? The Chamber is for Senators. Staff members can occupy the back seats.

The PRESIDING OFFICER. The Senator will proceed.

Mr. JOHNSTON. Mr. President, I thank the Senator for yielding. I do not want to interrupt his train of thought. I want to be sure something had not happened I was not aware of.

I know the distinguished Senator from New Jersey and his colleague were trying in all good faith to negotiate an agreement among the various parties on the question of Superfund. Do I take it that those efforts were not successful, that the Senator is now proceeding with something else?

Mr. BRADLEY. I will say to the Senator that those efforts I think were in many ways successful and the amendment that I offer reflects many of those discussions. The question was where is the proper place to offer the amendment. I thought the best way to proceed is to offer the amendment on the continuing resolution and get a vote on this issue.

Mr. JOHNSTON. Mr. President, if the Senator will yield, the question is, though, the Senator did not get the agreement of Senators BENTSEN, LONG, and others, with whom the Senator was negotiating, did he?

Mr. BRADLEY. Not that this would be the vehicle.

Mr. JOHNSTON. I thank the Senator.

Mr. BRADLEY. But as to the substance I think there is a broad agreement.

Mr. President, the overriding purpose of this amendment is to expand and accelerate the Federal Government's program to clean up and otherwise protect the public health and environment from hazardous substances and waste. To this end, this amendment not only provides additional money and time but makes changes in the law which improve the path and direction of those cleanup efforts.

Title I of the bill establishes cleanup standards to be applied so that human health and environment is protected in every circumstance, the health program to assure at each Superfund site a review and assessment is made of the threats posed to human health, a chemical testing program to develop adequate information on frequently encountered hazardous substances, and a grant program to assist States that wish to establish demonstration systems of assistance for victims of hazardous substances and waste.

Mr. President, I offer this amendment on behalf of myself and my distinguished colleague from New Jersey, Senator LAUTENBERG, who has worked long and hard on this bill on the Environment and Public Works Committee.

Mr. President, we have been tied up for days in procedural battles which I believe frankly could have been better spent debating the reauthorization of Superfund.

Now the question is must I and every other Senator go back to his or her constituents and say that they will have to be kept waiting for new legislation to clean up toxic waste sites that threaten their health?

Once again Senators will stand up at town meetings and listen to a mother who lives near a dump site tell the Senator she fears for the health of her children, and once again Senators will have to explain that legislation in the Senate moves slowly and not every Senator has the same priority and hopefully we will get the new law in the next session of Congress.

Mr. President, the people I represent in New Jersey are tired of excuses. I am tired of excuses. In this session of the Senate, if we have failed to act on an issue that affects the health and well-being of millions of Americans, then shame on us. I think that we bear a very grievous responsibility, Mr. President, I hope that in the course of this debate we might each ask ourselves the question about how we will answer those questions at town meetings across our State in the months ahead, how we will respond to the mother that fears for her children when they play in neighboring fields or the father who requires his family to drink bottled water because the ground water is contaminated.

Mr. President, I say this not just as a Senator but as a parent who gets his family's water from a well and who when a toxic dump was discovered nearby had his own water tested. This amendment, Mr. President, is too important to leave for another session and to urgent to reject. I urge its adoption.

Mr. President, I yield to my distinguished colleague from New Jersey, Senator LAUTENBERG.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, I raise a point of order against the amendment as violation of rule XVI. It is legislation on an appropriations bill.

Mr. BRADLEY. Mr. President, I raise the defense of germaneness and ask unanimous consent, if the Senator will yield, to allow my distinguished colleague from New Jersey to at least make his statement before the Senator makes the point of order.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New Jersey?

Mr. HATFIELD. Mr. President, reserving the right to object, I am happy to yield and have my motion set aside temporarily so that the Senator from New Jersey may be heard for—how long a time?

Mr. LAUTENBERG. Five minutes worth.

Mr. HATFIELD. Mr. President, I ask unanimous consent that there be 5 minutes to the Senator from New Jersey and 5 minutes to the Senator from Kansas.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. I thank the manager.

Mr. President, I join in offering this amendment with my colleague from New Jersey in order to reauthorize the Superfund Program this year.

Mr. President, the Environment and Public Works Committee devoted substantial time and effort this year to see that the Superfund Program was reauthorized before we adjourned. The leadership of the committee should be commended for these efforts. The committee held 8 days of

hearings on Superfund. It voted 17 to 1 to report title I of this amendment to the Senate. On August 10, after review by three House committees, the House of Representatives voted 323 to 33 to reauthorize Superfund. Now the future of this program is in the hands of the Senate.

Mr. President, I acknowledge that my colleague from New Jersey and I are using somewhat unconventional means to bring this measure before the Senate. We are doing this because of the importance we attach to extending the Superfund Program and because it has become clear that, but for this action, a Superfund bill would not come before the Chamber this year.

The Environment and Public Works Committee reported title I of this amendment to the full Senate on September 13. The committee report has been available to the Senate since September 21. Unfortunately, the Senate Finance Committee was unable to report out a tax title. I understand that my colleague from New Jersey has consulted with members of the Finance Committee over the tax title. Title II of this amendment is the product of these recent discussions.

Clearly, Mr. President, it would have been preferable to consider a Superfund bill brought before the Senate under normal procedures, after Senate Finance Committee consideration. But, because this will not occur, we believe the Senate should vote on this issue tonight.

Mr. President, the first responsibility of any government is to protect the health and safety of its citizens. The Superfund Program is one of those Federal programs which uniquely addresses this responsibility.

A review of the toxic waste problem facing our citizens—facing my constituents in New Jersey—argues for congressional action this year. Mr. President, let me take a few moments to explain why I consider renewal and strengthening of this program so important; and to explain exactly what our amendment includes.

Mr. President, only recently has the Environmental Protection Agency even developed a Superfund Management Program, despite the 4 years that the law has been on the books.

The dismal history of the administration's implementation of the Superfund Program, under the direction of Anne Burford and Rita Lavelle, seems only too recent.

We must give EPA the resources and direction it needs to implement the Superfund Program. The magnitude of the cleanup task ahead is awesome. Reauthorization is necessary now if the program is to move forward without interruption.

Most of my colleagues are familiar with the numbers and the large list of sites requiring attention in every State in the Nation. As recently as today, the EPA has added another 244 sites to the national priority list which is now close to 800 sites. An additional 600 to 1,400 will be added in the near future. And this trend won't slow down. EPA estimates that out of the 18,000 sites now under review at the agency, 6,000 will demand response from the Superfund. In contrast, only six have been completely cleaned up.

It is clear that we are adding Superfund sites to the list at a far greater pace than we are cleaning them up.

We will hear the argument that we should wait until next year when the Superfund expires and all of the EPA's long expected studies are in. Mr. President, this is a luxury we can not take.

EPA plans call for completely depleting the revenues available in the existing fund during fiscal year 1985. Yet the EPA testified before the Environment and Public Works Committee that it plans to spend close to $1 billion—a 65-percent increase—in fiscal year 1986. Unless the Congress reauthorizes Superfund this year, how can that take place?

No experienced manager could run a company this way, and no experienced executive could present an honest plan without knowing the resources available to implement it. We cannot wait until the eleventh hour and try to run a major Federal program this way. We must give EPA and the States lead time and direction that only reauthorization this year can accomplish.

Mr. President, EPA estimates that the current $1.6 billion fund will be sufficient to complete cleanup at only 170 of the 546 sites on the national priority list. EPA further estimates that the cleanup of the 2,200 sites it expects to list in the near term will cost the Superfund $8 to $16 billion. This estimate does not include cleanup costs for groundwater contamination, which EPA expects to find at over half the sites. Nor does it include the costs of replacement of contaminated household water, health studies, or natural resource damage claims which are provided for in the committee bill. This estimate only includes the Federal share of remedial action costs as currently defined.

This makes clear, Mr. President, that the $6 billion provided by this amendment is not only needed, but is, in my view, the least we can use given our needs. Frankly, if conditions here in the Senate permitted, I would have supported a larger fund with additional programmatic changes to Superfund. Mr. President, I ask unanimous consent that the text of my additional views to the Environment and Public Works Committee report be inserted in the RECORD at the conclusion of my remarks. These views indicate the areas where I would have liked to see the bill before us strengthened if conditions had permitted.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. LAUTENBERG. Mr. President, what we have before us is unfortunately too modest an amendment. But we are offering it tonight because we feel it is what the Senate can approve. It is not nearly as far reaching as the House bill, H.R. 5640, that passed the House by a commanding margin of 323 to 33 on August 10. It provides for $4.2 billion less than the House bill. It has no schedule for cleanup, a provision that I favored. Instead, it allows the Agency flexibility to determine the pace of its own program. It also allows the Agency to exercise flexibility in cleaning up sites, or determining "how clean is clean," rather than setting standards. It does not contain explicit joint and several liability provisions which have proved so controversial, but leaves this decision up to the courts. It does not contain provisions for citizen suits. Nor does it extend Superfund authorities to leaking underground storage tanks.

Let us be clear about what is in this amendment.

It expands the tax from $1.6 to $6 billion and broadens the revenue base.

It directs and authorizes funds for the testing of toxic chemicals most commonly found at Superfund sites.

It requires that health assessments be done at every site listed on the national priority list and that a more effective program be established for providing information to citizens who are worried about the health ramifications of exposure to nearby abandoned waste sites.

It requires that EPA replace household water to affected families, not simply drinking water, when warranted by conditions around a site. This provision, which I offered in committee, requires that our citizens have at least the very basics—not only clean water to drink, but also to bathe in, wash their clothes in, and to use for other essential household purposes.

It sets up a pilot program for compensating victims of toxic exposure. This program, spearheaded by my good friend from Maine, Senator MITCHELL, follows closely the recommendations of a special study group set up to investigate the barriers to recovery presented by the current web of State common law. It represents the minimal step we should take in recognizing and compensating those whose lives have been tragically altered by exposure to nearby hazardous waste sites.

Finally, Mr. President, the bill refines Federal-State relationships under Superfund, which are one of the most critical elements of any effective cleanup program.

This is one of the areas that I devoted substantial attention to in committee because of its importance to a successful program. The New Jersey Department of Environmental Protection working with the Federal program suggested several improvements. I was very appreciative that the committee saw fit to adopt a series of amendments I offered to S. 2892 to improve Federal-State relations. These amendments are incorporated in the amendment before us. They would clarify the right of the States to raise their own funds; extend the statute of limitations for filing natural resource damage claims; allow States to get credit for State money spent to cleanup Superfund sites eligible for Federal assistance; and to ensure that the treatment of ground and surface water be considered part of cleanup.

Mr. President, I reiterate that the amendment before us is a relatively modest amendment.

Frankly, in my opinion, it is too modest. The funding level is even smaller than the $7.5 billion recommended by the Environment and Public Works Committee in its report to the Senate. It is much smaller than the $9 billion recommended by the Governors of the 50 States. It is far less than what the GAO and Office of Technology Assessment have estimated the cleanup of our most dangerous sites will cost. It is not adequate as is, and the issue of funding and of programmatic change will have to be addressed in conference with the House.

Mr. President, I urge adoption of this amendment.

We should do so to give EPA a chance to make this program work.

We should do so because protecting the health of our citizens is among the first responsibilities of our Government.

We should do so to restore the public's faith in this program.

Mr. President, the citizens of my State nor other citizens of our country do not understand parliamentary procedure. They do not understand why the Senate will not consider this bill. They fear for themselves and their families. They want us to move ahead with this program.

The Superfund Program uniquely touches the lives and health of families all over this country. It affects children. It affects local economies—the ability of communities to attract new enterprises and jobs. In New Jersey, where we have the most Superfund sites in the Nation, toxic waste cleanup is among the most important public concerns.

In southern New Jersey, at Gems Landfill, a dangerous mix of toxic chemicals has spread through a 66-acre county garbage dump and poisoned surrounding trees and soils. It even stains the property of nearby homes orange when rains raise the level in a stream running from the site. At Bridgeport Rental and Oil, in a lagoon once filled with over 30 feet of viscose PCB-laden oil and old barrels, an airgun fires every 30 seconds to scare off birds.

These sites are only two of New Jersey's 95 sites currently on the national priority list. It will be many years before they are cleaned up, although they are on the top of the priority list. This is an intolerable situation.

We have the opportunity today to approve a measure that will at least give EPA and the States the leadtime and the resources they need to gear up for the expansion of the program over the next 5 years. We must let those exposed to hazardous waste sites know that the Congress hears their call for action. Time is of the essence. We have a small window of opportunity now to provide the leadership the public is demanding.

EXHIBIT 1

ADDITIONAL VIEWS OF SENATOR LAUTENBERG ON S. 2892

The chairman and ranking minority member of the committee have exercised vital leadership in securing nearly unanimous committee approval of S. 2892. I hope the Senate will make consideration of this bill a high priority before the 98th Congress adjourns.

The importance of an expanded and accelerated Superfund Program cannot be understated. Citizens who live in continual fear of contaminated ground water, air, and soil from abandoned waste sites deserve to have this program implemented as quickly and effectively as possible. The sheer magnitude of the task, and the need for the Environmental Protection Agency and the States to make managerial and financial commitments without a loss of continuity, requires that the Superfund Program be reauthorized well before it expires in October 1985.

In the interest of assuring timely action on S. 2892, the committee considered a 5-year, $7.5 billion reauthorization of current programs. Members of the committee were provided with the opportunity to offer amendments, and several were adopted that will improve the existing Superfund Program. To facilitate committee consideration of S. 2892, however, several important issues were not considered. I hope the Senate will be able to address them when it considers S. 2892.

S. 2892 does not address the pace of the program. Superfund sites are being added to the national priority list at an astounding rate. Currently, there are 546 sites on the NPL. Over the next several years, the Environmental Protection Agency expects the list to grow to 1,400 to 2,200 sites. Every effort should be made to ensure that EPA has adequate resources to initiate cleanups and that it do so as quickly as possible. This may require an increase in funding and direction about the pace at which sites are added to the NPL and the speed with which remedial investigations/feasibility studies and remedial actions are undertaken.

Another issue related to the cleanup of sites is the determination of "how clean is clean." The committee gave this issue considerable attention. It resolved that the Agency or State carrying out a remedial action should be provided with flexibility in determining how much should be cleaned up. S. 2892 requires that the degree of cleanup always meets the test of protection of human health and the environment. It is my view that removal of hazardous substances, pollutants, or contaminants should be the preferred method of cleanup unless compelling evidence indicates another solution better serves the public health and environment.

The Superfund Program must be responsive to the citizens that live in the vicinity of an abandoned waste site or site of a release under the act. Citizens should have the opportunity to petition EPA if a release or the threat of a release poses imminent and substantial endangerment to human health or the environment and also to petition EPA to carry out nondiscretionary duties under the act. Citizen suit provisions under other environmental statutes have made programs more responsive to the public and have generally improved Agency regulation and enforcement of such laws.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, let me say I am disappointed. This amendment has been sort of a surprise party here to me. I think we have been trying in good faith to work out something with the Senators from New Jersey.

I will just say right now that if this amendment is germane, there is not going to be any final vote on it for several days. If we cannot work in good faith with our colleagues in the Senate, then I am not going to have any part of it. If it is a political amendment, that is fine with me. It is not germane to this bill.

We have been looking at a number of different ways that we might come together on a package that has broad support and that we can consider on its own merits. But apparently the senior Senator from New Jersey cannot wait for that. He has made his decision to surprise the chairman of the Environment and Public Works Committee and the rest of us who have been trying to put something together, something we could all vote for.

What are we going to do here? Rather than funding toxic cleanup with user fees, we are just going to take $3 billion out of general revenues. Do not worry about whether those causing the problem are forced to pay for cleanup, just take it out in general funds which we do not have.

I think this is a very irresponsible way to proceed. Obviously, there is no pain to anyone. You just take it out of general funds. You do not increase anybody else's taxes, so that is fine.

But I hope that based on the sincere efforts of members of our committee, our staff, the joint committee, Treasury, the White House, that we might withdraw this amendment and see if we cannot work out some configuration.

I met with the Senator from New Jersey less than 1½ hours ago and discussed another alternative, so I must

say I am at least disappointed. I would hope that the Senate finds this amendment is not germane. But if it is determined to be germane by the Senate, then we are going to have a long, long discussion.

I yield the balance of my time to the Senator from Idaho.

Mr. SYMMS. Mr. President, I will just say very briefly, as a member of the two committees that are involved with this question, Public Works and Finance Committees, that the distinguished chairman of the Finance Committee is quite right. There have been a great deal of negotiations going on. We do have ongoing a $300 million per year program that is now working.

The Environmental Protection Agency, by their own testimony; the OTA, by their testimony, are saying that at a maximum, the most money they could possibly spend efficiently to do the cleanup that we all desire would be $1 billion a year.

It is not as though this has to be done tonight. It will not make that much difference in the course of time whether we do it now or do it early next year, when it would be much better, where we could work out who was going to pay for it.

If we are not careful, we will run the chemical industry off the shores of the United States, because some of the proposals that have been floated—the proposal that comes from the other body, as a matter of fact, has a larger tax on the chemical industry than they made in profits last year. And remember that if an amendment like this passes the Senate, we would have to go to a conference with the other body and there is simply not time to do that.

So I would hope all Members would support the distinguished chairman, the Senator from Oregon.

Mr. DOLE. Mr. President, I suggest if you want to pump up the deficit by $3 billion, if you want to cast that vote before November, here is a chance to raise the deficit by $3 billion.

Mr. SYMMS. That is right, $3 billion; and this is pure politics.

The PRESIDING OFFICER. Does the Senator from Kansas yield back the balance of his time?

Mr. DOLE. Yes.

The PRESIDING OFFICER. All time is yielded back.

Mr. MITCHELL addressed the Chair.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Senator from Maine, Mr. MITCHELL, be given 3 minutes to make some comments.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. Mr. President, I was interested to hear the chairman of the Finance Committee say that there have been negotiations going on. I am a member of the Environment and Public Works Committee. I have been involved in drafting the Superfund legislation over the course of several years. And I am a member of the Finance Committee. I have been urging the chairman of the Finance Committee to have a meeting on this subject for more than 2 weeks, since it was reported out of the Environment Committee, and I have not been invited to a single meeting to negotiate.

If this is a subject matter that is before the Finance Committee, why have the members of the Finance Committee not been called to a meeting to discuss it, instead of private negotiations between individual members?

As the chairman knows, I have spoken to him on several occasions and asked him to call a meeting of the Finance Committee to discuss this so that all of the members of the committee who are interested in it can have some input into it.

Mr. DOLE. If I could respond, we have been getting a number of options together. This is not even one that has been considered, I might add.

I would like to point out that the Senator from Kansas has been involved in the trade bill, Grove City, imputed interest, and the debt ceiling, and I just have not had an opportunity to talk to all Members about Superfund. I finished the other earlier today.

But if this is the way the Senate wants to proceed, they are doing it without my permission—of course they do not need my permission, but they may need my vote later on.

Mr. MITCHELL. I understand the Senate has been busy. But I have been trying to get a meeting of the committee for weeks to consider this. I have been unsuccessful. Now the chairman stands up and says he has been negotiating with the Senator from New Jersey, and with others on this matter. There are 20 of us on the committee. There are seven members of the Finance Committee who are also members of the Environment Committee, who voted on this, and who are very interested in it. They now find that we have not had time to have a committee meeting. But there have been all of these private negotiations going on. It does lead—I am sure the chairman realizes—to a real sense of frustration on the matter which we regard as very important.

Mr. DOLE. Let me say that these negotiations have been primarily at the staff level, and had involved the Joint Committee on Taxation, the Treasury, the OMB, and the industry. I had not thought the time was right to bring in Finance Committee members because we did not have all of the input from all these different sources.

Mr. MITCHELL. I think that makes it worse. We have almost everyone in town on the list of people who are to be consulted first before we talk to the Finance Committee members. The fact of the matter is, if I may say to my colleagues, is that there are 22,000 abandoned toxic waste sites in this country according to the EPA estimate. As of this time, after 4 years of effort, six have been cleaned up.

Finally, we have someone in charge at the EPA who is getting this under way. This is a tremendously important program.

The PRESIDING OFFICER. The 3 minutes of the Senator from Maine have expired.

Mr. MITCHELL. Mr. President, the time was taken up with the exchange. I ask unanimous consent to speak for 2 more minutes on the subject.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. This does not affect natural resources such as trees and rivers. This affects the health and lives of American citizens, people all over this country who are exposed to toxic wastes such dumps and sites. A new and very serious problem—which future Congresses will have to deal with—is the enormous increase in ground water contamination as a result of thousands of abandoned toxic waste sites. The drinking water of millions and millions of Americans is at this very moment being contaminated. We ought to be acting on this. We tried over the past several weeks to get the Finance Committee to meet, to consider it, and in an orderly process to report it out to the Senate. That has not happened. No meeting was ever called. So we are left with no alternative.

I do not agree fully with the bill presented by the Senator from New Jersey, and I have told him so. But what alternative is there now at 11 o'clock on the last night?

Mr. DOLE. Will the Senator yield?

Mr. MITCHELL. I only have another minute. Let me finish.

Mr. DOLE. I think I have been fair in responding to requests of the Senator from Maine over the years, and I cannot be responsive at this time. But we have had informal discussions with a lot of members on Superfund—primarily the chairman of the Environment and Public Works Committee—who have a deeper interest in this legislation than anyone. We have been trying to figure out some consensus before we gather together members of the Finance Committee.

I regret that we have the amendment here. I still hope we might do it as a separate piece of legislation in the next couple of days. That apparently is not the case.

Mr. MITCHELL. I think it is a very serious matter. Let me say those Senator who are members of the Environment and Public Works Committee worked on this legislation for 4 years.

And also members of the Finance Committee do not qualify as persons who ought to be consulted in the process. I think it is a real problem with respect to how we proceed here. That is my complaint. This is an important matter. As I said, I hope we will support the Senator from New Jersey.

Mr. KENNEDY. Mr. President, I am pleased to join my colleagues—Senators STAFFORD, BRADLEY, LAUTENBERG, and others—in urging the Senate to act now on reauthorizing and strengthening Superfund.

Just before the August recess, the House of Representatives passed a tough new Superfund bill by a bipartisan and overwhelming majority. Now, nearly 2 months later, all Americans have a right to expect the U.S. Senate to act on this critical issue. We must not adjourn this year without acting on Superfund.

There are those who say we should wait to consider Superfund legislation—that there is plenty of time to act next year. But perhaps they have not spoken to the victims of toxic waste, or to their loved ones. Perhaps they do not live beside hazardous waste dump. Perhaps their drinking water is not threatened by toxic waste.

Some opponents of the measure say that the issues are too complex and too difficult to resolve this session. The issues are complex, but they will not be any easier to solve next week, next month or next year. And if we wait, we will only further delay action on a task that is long overdue.

That task is enormous, and every year, as we discover more hidden toxic wastesites across the Nation, it becomes increasingly clear that both the magnitude of the problem and the consequences for the public health are far more serious than we thought.

In 1980, when Congress first acted on Superfund, we were appalled by the estimates of some 12,000 potentially health-threatening sites nationwide. Today we are confronted with the far more accurate fact that over 17,000 such sites exist, and the number may be as high as 22,000 across the country.

In just a few months Superfund will expire, and the fact is that since we first acted on this issue, very little progress has been made. Today, after nearly 5 years of inaction, only six hazardous wastesites nationwide have been cleaned up by Superfund.

Other provisions of the act have also been virtually ignored. Despite a congressional authorization for the Centers for Disease Control to perform health studies at Superfund sites, only three such studies have been performed to date. It took 2 whole years to establish an agency to oversee the work of research in chemically induced disease, as mandated by the act.

In my own State of Massachusetts, the record on toxic waste cleanup is equally dismal. After 4 years, not a single long-term cleanup has been completed at any of the 16 sites on the national priority list. At only one site has long-term cleanup acitivity even begun—and that effort started just 2 weeks ago. Incredible though it may seem, with one exception, cleanup plans still remain to be developed at all 16 of the national priority list sites in Massachusetts.

The fact is that across the Nation thousands of families fear—and with good reason—that their health and their children's health is threatened by exposure to toxic waste.

Let us be clear about the importance of acting on Superfund now. For years these families have watched and waited for relief. But instead of positive action, we gave them inaction and excuses and delay.

America is still waiting—not to see when we will complete the toxic waste cleanup effort—but to see when we will truly begin.

Mr. President, I ask unanimous consent that a major study of the health effects of the hazardous wastesite in Woburn, MA, may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SYNOPSIS: THE WOBURN HEALTH STUDY—AN ANALYSIS OF REPRODUCTIVE AND CHILDHOOD DISORDERS AND THE RELATION TO ENVIRONMENTAL CONTAMINATION

(S.W. Lagakos, Ph.D., B. Wessen, M.P.H., M. Zelen, Ph.D.)

1. INTRODUCTION

We summarize the results of a health survey carried out in Woburn in 1982–1983. Health and residence data were obtained from a random sample of 3,257 households, or 54 percent of the target population. The Survey was carried out by more than 300 area volunteers who were trained by Harvard and Woburn citizen's group FACE (For A Cleaner Environment). The major aims were to investigate possible health hazards associated with two contaminated wells (G and H) which supplied water to Eastern Woburn from 1963–1979, and two neighborhoods in East Woburn (Pine Street and Sweetwater Brook) found to have major groundwater contamination, (cf: Figure 1).

The health outcomes studied were spontaneous abortions, perinatal mortality (stillbirths, infant deaths), low birthweight, birth defects, and childhood disorders, including leukemia.

2. SUMMARY OF FINDINGS

The major finding of our study is a consistent pattern of positive associations between availability of water from wells G and H and the incidence of childhood leukemia, perinatal deaths, and some classes of birth defects and childhood disorders. Table 1 summarizes these significant associations. This table also notes elevated rates that were observed in the Pine Street and Sweetwater Brook areas.

2.1 CHILDHOOD LEUKEMIA

There is a positive association between the incidence of childhood leukemia (ages 19 or under at diagnosis) and the availability of water from wells G and H. Children with leukemia had, on the average, 21.1 percent of their yearly water supply coming from wells G and H compared with an expected availability of 9.5 percent. If there were no association between the well water and the risk of leukemia, the chance of observing a difference this large (or larger) would be one in fifty (P=0.02). We conclude that children have greater access to water from wells G and H are at higher risk of childhood leukemia.

An earlier study for the period 1969–1979, by the Massachusetts Department of Public Health, confirmed that the childhood leukemia rate for Woburn was elevated when compared with national rates. The ratio of observed to expected number of cases was 12/5.3=2.3.

During the four year period 1980–1983, we identified four additional diagnoses cases of childhood leukemia in Woburn. Using national incidence rates, only 1.4 cases would have been expected in this period. The 2.6 excess cases are unlikely to have occurred by chance alone (P=0.05) and result in a rate which is 2.8 times the national rate. Hence, the elevated rate observed since 1980 is consistent with the elevated rate observed between 1969–1979.

2.2 REPRODUCTIVE DISORDERS

We examined the incidence of spontaneous abortions, perinatal deaths, low birthweight, and birth defects in relation to both availability of water from wells G and H and residency in the Pine Street and Sweetwater Brook areas during pregnancy. There was no evidence of an association between spontaneous abortions or low birthweight and wells G and H. Nor were there excess spontaneous abortion or low birthweight rates in the Pine Street and Sweetwater Brook areas. However, the rate of perinatal deaths and some classes of birth defects were significantly elevated with increasing G/H water exposure.

Perinatal Deaths: The risk of a perinatal death was positively correlated with the availability of water from wells G and H during pregnancy in the period 1970–1979 (P=0.02). There were three perinatal deaths among the 39 pregnancies in which mothers received at least two-thirds of their water from wells G and H. This corresponds to a rate of 77 perinatal deaths per thousand pregnancies compared with an expected rate (for this sample) of 7.7 per thousand. No similar association was evident in pregnancies occurring before 1970.

Eye/Ear Anomalies: The risk of an eye/ear birth defect was significantly higher in infants of mothers with elevated exposure to wells G and H during pregnancy (P=0.0002). Among the 150 children whose mothers had high exposure (of at least 66 percent) to wells G and H during pregnancies, four were observed to have eye/ear defects when only 0.9 were expected. The elevated risk was also evident in lower exposure groups. Overall, 6 of the total 22 eye/ear birth defects reported in the survey are attributed to water from wells G and H. The Pine Street and Sweetwater Brook areas also had elevated rates of eye/ear birth defects, but further analyses indicated that the excess defects could be explained by elevated exposure of water from wells G and H.

Environmentally Related Defects: Availability of water from wells G and H during pregnancy was postively correlated with the risk of "environmentally" related defects (central nervous system, cleft palate, Down's syndrome, and other chromosomal

aberrations). The excess risk was confined to children in the Pine Street area whose mothers had more than 20 percent exposure to wells G and H while pregnant. Exposure to wells G and H was not related to the risk of an environmental defect outside the Pine Street area, and there was no elevated risk within the Pine Street area if the mothers had none or small exposure.

2.3 CHILDHOOD DISORDERS

The Health Survey obtained information on childhood disorders from 4,978 children age 19 or younger. There were no demonstrable associations between the water from wells G and H or the Pine Street or Sweetwater Brook areas and anemia, diabetes, heart/blood pressure disorders, learning disabilities, or a catch-all group of "other disorders". However, elevated risks were found for lung/respiratory, kidney/urinary, allergy/skin, and neurologic/sensory disorders.

Lung and Respiratory Disorders: Lung/respiratory disorders were positively associated with both availability of water from wells G and H (P=0.04) and residency in the Pine Street area (P=0.001). Children with lung disorders had access to 36 percent more water from wells G and H relative to comparable children who did not develop disorders. Twenty-one of the 192 cases were diagnosed in the Pine Street area compared to an expectation of 10.7.

Kidney/Other Urinary Disorders: The incidence of kidney and other urinary disorders was postively associated with greater access to wells G and H. The 43 cases had residence histories with 71 percent more water from wells G and H than comparable children without the disorders (P=0.02).

Allergies/Skin disorders: There was no demonstrable association between these disorders and either wells G and H or the Sweetwater Brook area. However, in the period 1960–1969, there was a signficantly higher risk for children residing in the Pine Street area (P=0.05). There were 21 cases compared to an expected number of 14.8.

Neurologic/Sensory Disorders: The Sweetwater Brook area showed significantly elevated rates of these disorders among children, with 4 observed cases compared to an expectation of 1.5 (P=0.04). There was no association to the Pine Street area or for exposure to wells G and H.

2.4 CIGARETTE SMOKING

The investigation of the unfavorable health events described earlier required that any analysis identify risk factors and adjust for these in the subsequent analyses. It is particularly noteworthy that cigarette smoking was an important risk factor for spontaneous abortions, perinatal mortality, low birthweight, and eye/ear birth defects. Table 2 summarizes the gross findings associated with the observed harmful effects of cigarette smoking on the pregnancy outcome and the well-being of the newborn. It is of interest to note that the percentage of women who smoked during pregnancy has been dropping from a high of 45 percent in 1964 to 31 percent in 1980–1982.

3. BACKGROUND OF THE HEALTH SURVEY

In the spring and summer of 1979, during site preparation for an industrial park, toxic waste desposits were discovered in an 800-acre area in northeastern Woburn. The deposits represent the accumulation (over a period of 130 years) from companies manufacturing products for the leather and paper industries, arsenical pesticides, TNT, and animal glues. These wastes were discovered in abandoned lagoons heavily contaminated with arsenic and other heavy metals and in large pits of buried animal hides and chemicals. Public concern heightened when it was discovered that two town water wells (wells G and H in eastern Woburn) were contaminated with chlorinated organic compounds including trichloroethylene—a known carcinogen.

In the wake of the Love Canal incident, Woburn citizens became increasingly concerned about hazardous health effects. One woman in particular, whose son had been diagnosed with leukemia, was curious as to whether Woburn's water might be implicated in several of the childhood leukemia cases in her neighborhood. Together with her minister and other concerned citizens, she formed FACE—citizens For A Cleaner Environment. By October 1979, FACE had identified 10 cases of childhood leukemia diagnosed in Woburn over the previous 15 years.

Independently, a hematologist at Massachusetts General Hospital, reported to CDC (Center for Disease Control in Atlanta) that 6 cases of acute lymphocytic leukemia, all residing in a 6-block area of Woburn, had been diagnosed since 1972.

These events prompted the Massachusetts Department of Public Health (MDPH) to carry out a study. They confirmed that the incidence of childhood leukemia was significantly elevated and that the six cases in East Woburn accounted for this excess. The MDPH report concluded "the hypothesis suggesting that the increase in leukemia incidence is associated with environmental hazards in Woburn, and specifically to the contamination of drinking water supplies is neither supported nor refuted by the study" (Parker and Rosen 1981).

Another MDPH report (Rowe, 1982) concluded, "since there is no evvidence of any known leukemogen at large in Woburn, the most probable reason for these migratory patterns of leukemia is statistical variation over space and time . . . . at the present time there is no evidence to support an environmental toxin in the etiology of the cases of leukemia in Woburn".

The Harvard School of Public Health (HSPH) became interested in this problem when the School's Community Health Improvement Program invited two members of FACE to present a seminar in the Spring of 1981. We attended the seminar and advised FACE that a health survey of Woburn could provide the kind of data necessary to clarify potential associations between childhood leukemia and other diseases with the contaminated water supply. Out of this discussion evolved a collaboration between FACE and ourselves to plan and carry out the Woburn Health Survey to collect information on reproductive and childhood disorders.

4. WOBURN HEALTH SURVEY

The telephone survey was carried out in 1982 by 301 volunteer interviewers from Woburn and surrounding communities. Each interviewer attended a training session organized by HSPH/FACE and was assigned 25 telephone numbers. Interviewers did not know either the names or the addresses of the households they were assigned. Furthermore, the 25 households were not geographically contiguous, but rather tended to be spread over all of Woburn. The interviewers succeeded in obtaining data from a random sample of 3,257 households from an estimated 6,000 households in the target population. This effort resulted in information on 4,403 pregnancies and 4,978 children.

5. EXPOSURE, AREAS OF CONTAMINATION AND ITS MEASUREMENT

Figure 1 shows the location of wells G and H and the Pine Street and Sweetwater Brook areas. The Industriplex site in northeastern Woburn has long been used for the disposal of large quantities of heavy metals and halogenated organic wastes generated by lead-arsenic pesticide, animal glue, leather tanning, and other chemical manufacturing activities. In May 1979, trichloroethylene, 1-1-1-trichloroethane, 1-2 transdichloroethylene, chloroform, and trichlorotri-fluoroethane were detected in wells G and H by DEQE and they were shut down. Prior levels of these substances are not known.

The analysis of the Woburn Health Survey used an index of exposure which estimated the annual volume of water from wells G and H delivered for each Woburn household in each year between 1960-1982. The index was based on a study prepared by the Department of Environmental Quality and Engineering, entitled *Water Distribution System of Woburn, MA: 1964–1979.* This report estimated which sections of the town water system were receiving water from wells G and H over the time periods in which the wells were operating.

An EPA funded investigation carried out in 1980–1981 identified two widespread contaminated groundwater areas in East Woburn—one in the vicinity of wells G and H and the Whittemore Pond area, and the other in the Sweetwater Brook area. Accordingly, these two areas were chosen for special attention.

6. CHILDHOOD LEUKEMIA

Our analysis of childhood leukemia is divided into two parts. The first considers whether new ones diagnosed since 1980 are consistent with the elevated rates noted by the MDPH between 1969–1979. The second analysis examines the association between the incidence of leukemia and the availability of water from wells G and H.

The earlier MDPH study identified 12 cases diagnosed in the period 1969–1979. The study concluded that the observed number of cases was significantly higher than the expected incidence of 5.3 cases. During the period 1980–1983, the expected incidence of childhood leukemia in Woburn is 1.4. However, we are able to identify 4 cases which represented a significantly elevated rate (P=0.05), that was consistent with that reported in the 1969–1979 period. Overall, the observed leukemia incidence rate for 1969–1983 was 2.4 times the national average.

The investigation of the relationship between the availability of water from wells G and H and the incidence of leukemia used 15 cases, born since 1960 who were Woburn residents at the time of diagnosis. The main idea for our analysis compares the cumulative exposure to wells G and H for each leukemia case to the expected exposure of a comparable population of children living in Woburn. The comparable population was composed of children born the same year as the case and resident in Woburn during year of diagnosis. The expected population exposure to wells G and H corresponded to the actual years in which the leukemia case lived in Woburn.

The average G/H exposure per person year of the 15 childhood leukemia cases was 21 percent compared to an expectation of 10 percent for the matched population. Thus, the cases lived in residences receiving twice as much G/H water as the comparison

group; the result is statistically significant (p=0.02). We conclude that exposure to wells G and H is associated with an increase in the incidence of childhood leukemia.

7. REPRODUCTIVE DISORDERS

Our analysis of reproductive disorders took account of risk factors as well as exposure to wells G and H and the two localities. The most important of these risk factors were smoking while pregnant, maternal age, time (pre- or post-1970), and pregnancy history; cf. Table 3. The analysis incorporated all relevant risk factors. It allowed the calculation of the expected number of disorders, ignoring the effects of wells G and H and the two areas. Large differences between observed and expected disorders could then be attributed to the ignored factors.

Table 4 summarizes the observed and expected number of events corresponding to exposure to wells G and H or residency in the two targeted areas during pregnancy. For convenience, the exposure data is summarized into low exposure (0–20 percent of water from wells G and H) and high exposure (more than 20 percent of water from wells G and H). In addition, the table gives the relative risks (RR) for each endpoint comparing high to low exposure. A statistically significant relative risk greater than unity indicates an elevated risk with high exposure. The perinatal mortality rate was significantly elevated for the period 1970–1982 (P=0.02), whereas there was no evidence of an elevated risk of spontaneous abortions or low birthweight.

A total of 197 birth defects were diagnosed among 3,814 live births who survived at least one week, giving a rate of 52 defects per 1,000 live births. Defects were classified into six groups: musculoskeletal, heart/circulatory systems, eye/ear, defects with environmental links, and "other". The defects with environmental links were those in which there has been scientific evidence showing possible connections between the defect and some environmental hazard (chemicals, pesticides, irradiation, trace elements in water). This group is composed of: central nervous system defects, cleft palate, and Down's syndrome and other chromosomal abnormalities.

The analysis of these six classes of birth defects required the use of multivariate models to adjust for other important risk factors; cf. Table 3. Table 5 summarizes the observed and expected incidence of birth defects. Table 5A shows the relative risks comparing high vs. low exposure to wells G and H. There was no evidence of elevated risk associated with either wells G and H or the two areas with musculoskeletal, cardiovascular and other birth defects. However, exposure to well G and H was associated with higher rates of eye/ear (P=0.0002) and environmental (P=0.01) birth defects. The excess rates of eye/ear defects in the Pine Street and Sweetwater Brook areas could be explained by the relatively high availability of water from wells G and H during the period of pregnancy. A similar phenomenon holds for environmental defects in the Pine Street area.

8. CHILDHOOD DISORDERS

The survey collected information on medically diagnosed childhood disorders for 4,978 children (age 0–19) who were born since 1960 and resided in Woburn at some time up to 1982. These disorders were divided into nine groups. Table 6 summarizes the relative frequency of the childhood disorders along with the percentage who were medically treated.

The analyses for investigating G/H exposure were similar to that employed in the leukemia section. The cumulative exposure to wells G/H were compared to a population of Woburn children of the same age. Table 7 summarizes the cumulative exposure to wells G and H only for the various disorders which have been found to be significant (kindney/urinary and lung/respiratory). Table 8 summarizes the incidence of significant childhood disorders for the Pine Street and Sweetwater Brook areas; (Pine Street: allergies and lung/respiratory, Sweetwater Brook: neurologic/sensory). All other childhood disorders which do not appear in Tables 7 and 8 were not elevated in either exposure to wells G and H or incidence rate for the two localities. It should be noted that all the significant childhood disorders were reported to have had a high proportion of medical treatment; cf. Table 6.

● Mr. MOYNIHAN. Mr. President, I rise today in support of the amendment, offered by my distinguished colleagues from New Jersey, to reauthorize the Superfund Program for 5 years, at a total funding level of $6 billion. This amendment includes the same provisions to extend the program that were incorporated in S. 2892, reported by the Senate Committee on Environment and Public Works on September 13, 1984. The amendment also includes a funding package to raise $6 billion over 5 years. As an original cosponsor of the 1980 Superfund law—and as the senior Senator from a State that has 894 known or suspected hazardous waste sites—I understand all too well the need to reauthorize and expand the Superfund Program.

The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), which became law on December 11, 1980, created a $1.6 billion Superfund to help pay the costs of cleaning up the Nation's hazardous waste dumpsites, and of responding to spills or releases of hazardous substances. The Superfund Program is financed in large part—86 percent—by a tax on crude oil, imported petroleum products, and 42 chemical feedstocks. This tax began on April 1, 1981, and will terminate on September 30 of next year.

It is time to reauthorize Superfund. It is time to ensure continuing sources of revenue to fund cleanups of hazardous waste sites. All but $20 million of the moneys now available in the Superfund trust fund have been appropriated, or will be so by the end of the next fiscal year, 1985. The program will need new revenues in fiscal year 1986 and the years thereafter. The task of cleaning up hazardous waste sites, far from over, has really just begun.

Since 1981, only six designated Superfund sites have been cleaned up; 546 additional sites are currently on the Superfund National Priority List (NPL). The Environmental Protection Agency (EPA) estimates that between 1,400 and 2,200 hazardous waste sites throughout the country will need Superfund assistance. In New York, the Department of Environmental Conservation estimates that some 300 sites in the State will require substantial cleanup efforts. Many of these will need assistance from the Superfund.

As a practical matter, the Superfund Program really began in the spring of 1983. In fiscal year 1981, when Congress appropriated $40.3 million for Superfund, none of the sites on the NPL list were cleaned up, and feasibility and construction design studies were underway at only 29 sites. In the current fiscal year, 1984, with a Superfund appropriation of $410 million, six NPL sites were cleaned up and 128 new feasibility and design studies were begun.

Congress has appropriated $620 million for Superfund in fiscal year 1985—during which, the EPA estimates, 128 new feasibility studies will be initiated, 74 design studies will be started, cleanups will begin at 29 additional sites, and cleanups will be finished at 13 other sites. Progress, slow in coming, finally is being achieved. If this progress is to continue—and even accelerate—we must move ahead to provide a source of funds for Superfund in fiscal year 1986 and beyond. And this is just what the amendment we offer today would do.

S. 2892, as reported by the Senate Committee on Environment and Public Works by a vote of 17 to 1, does not include specific provisions to raise Superfund revenues. This amendment includes a revenue package designed to collect $6 billion. The package includes a tax on certain chemical feedstocks, crude oil, and imported petroleum products, and a tax on hazardous wastes that are disposed of or stored for a long term. The remaining portion of the revenues would come from general revenues.

In 1980, when we created the Superfund, we decided to pay for it taxing 42 chemical feedstocks, crude oil, and imported petroleum products. This tax was intended to finance 86 percent of the $1.6 billion Superfund trust fund, with the the remaining 14 percent appropriated from general revenues. Our purpose, then, was to impose a tax at the beginning of the chain of commercial production. The chemicals so taxed are either themselves hazardous substances or basic building blocks for other hazardous substances. The number of companies manufacturing these chemicals are relatively few in number, which makes tax collection a most manageable task.

Crude oil and imported petroleum products are taxed at less than 1 cent per barrel—0.79 cents per barrel to be precise. The tax on chemical feedstocks ranges from $4.87 per ton for acetylene to 22 cents a ton for potassium hydroxide. Congress set these tax

rates in 1980 with the expectation that they would raise $1.376 billion over 5 years, or 86 percent of the total trust fund. By the end of fiscal year 1985, it is estimated, the Superfund tax will have generated $1.162 billion in revenues.

In general, the current Superfund tax has provided a steady and reliable source of revenue for the program. There will be a shortfall in projected revenues, but not a substantial one—about $200 million less than anticipated over 5 years. Much of this shortfall reflects the unpredicted and grave recession of 1981–82.

Mr. President, as we consider reauthorization of Superfund, we must address the issue of how to finance substantially a expanded program. This leads us to look at new sources of revenue. One such source, of particular interest to me, is the so-called waste-end tax. On September 21, 1984, I introduced, with my distinguished colleague Senator BENTSEN, a bill to establish a tax on the disposal and long-term storage of hazardous waste (S. 3014). Such a tax would provide an additional source of revenue for an expanded Superfund Program—$1.5 billion over 5 years—while also providing new incentives for better hazardous waste mangement. The provisions of my bill have been incorporated into this amendment.

Mr. President, we are now at the very end of the 98th Congress, and we have before us a compromise Superfund proposal. I urge my colleagues to support this amendment so that we may move ahead on the Superfund legislation prior to adjournment.●

Mr. BRADLEY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Oregon has raised his point of order that the amendment is legislation. The Senator from New Jersey has raised a question of germaneness. The question is whether or not the amendment is germane.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Carolina [Mr. EAST] is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Ohio [Mr. GLENN] and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 38, nays 59, as follows:

[Rollcall Vote No. 264 Leg.]

YEAS—38

Baucus	Dodd	Levin
Biden	Eagleton	Melcher
Bingaman	Ford	Metzenbaum
Boschwitz	Hart	Mitchell
Bradley	Hawkins	Moynihan
Bumpers	Hollings	Pell
Burdick	Huddleston	Percy
Byrd	Humphrey	Riegle
Chafee	Inouye	Rudman
Chiles	Kasten	Sarbanes
Cohen	Kennedy	Sasser
Cranston	Lautenberg	Tsongas
Dixon	Leahy	

NAYS—59

Abdnor	Hatch	Pressler
Andrews	Hatfield	Proxmire
Armstrong	Hecht	Pryor
Baker	Heflin	Quayle
Bentsen	Heinz	Randolph
Boren	Helms	Roth
Cochran	Jepsen	Simpson
D'Amato	Johnston	Specter
Danforth	Kassebaum	Stafford
DeConcini	Laxalt	Stevens
Denton	Long	Symms
Dole	Lugar	Thurmond
Domenici	Mathias	Tower
Durenberger	Matsunaga	Trible
Evans	Mattingly	Wallop
Exon	McClure	Warner
Garn	Murkowski	Weicker
Goldwater	Nickles	Wilson
Gorton	Nunn	Zorinsky
Grassley	Packwood	

NOT VOTING—3

East	Glenn	Stennis

The PRESIDING OFFICER (Mr. DURENBERGER). On this vote, the yeas are 38, the nays are 59. The judgment of the Senate is that the amendment (No. 6930) is not germane; therefore, the amendment fails.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 6931

(Purpose: To provide funds which may be used to settle unresolved administrative funding claims in the Commodity Supplemental Food Program)

Mr. HATFIELD. Mr. President, I see the Senator from Michigan has an amendment.

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 6931.

Mr. LEVIN. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following: Notwithstanding any other provision of the law, such sums as may be necessary may be used from the remaining balances of FY 1984 funds for the Commodity Supplemental Food Program for the purpose of settling unresolved administrative funding claims associated wtih the handling of regular and bonus commodities distributed by the Commodity Supplemental Food Program operators in FY 1982.

Mr. LEVIN. Mr. President, this amendment will provide authority to the U.S. Department of Agriculture [USDA] to settle any outstanding claims by Commodity Supplemental Food Program [CSFP] operators with respect to administrative costs they incurred during fiscal year 1982. During that year, CFS programs received from the USDA and distributed to participants certain bonus commodities. Because these bonus commodities were not purchased with funds for the Commodity Supplemental Food Program, they were not included in the administrative funding formula for the program, which was based on 15 percent of the value of commodities purchased with CSFP funds. As a result, CSF programs experienced a loss of administrative funding which produced operating deficits for that year. One of them is Focus:HOPE in the State of Michigan.

In 1983, the Congress provided for a transfer of $585,000 from the Commodity Credit Corporation to the Commodity Supplemental Food Program in the supplemental appropriations bill to cover the debts incurred by CSF programs in 1982. In 1983, the Congress also approved legislation to change the administrative funding formula for the Commodity Supplemental Food Program. The new formula now makes clear that bonus commodities distributed as a regular part of the food package should be taken into account in determining the level of administrative funding based on 15 percent of the value of commodities. CSF programs distributing bonus commodities separate from those commodities which are a regular part of the food package will receive 5 percent of the value of these bonus commodities to cover administrative costs.

Unfortunately, while Congress clearly intended to cover the entire administrative debt incurred by commodity supplemental feeding programs in fiscal year 1982 by providing for a $585,000 transfer from CCC, the amount transferred failed to fully cover the 1982 operating deficits. As a result, it is once again necessary to address this problem by granting the USDA authority to use reallocated funds from fiscal year 1984 to settle the remaining claims from fiscal year 1982.

The amendment I have introduced with Senator RIEGLE will not require the USDA to cover the administrative funding deficits of Focus: HOPE and other commodity supplemental feeding programs. But this allows the issue to be resolved by providing that nothing in the law prohibits the USDA from using reallocated funds to cover the debt. It is my understanding that, to date, only Focus: HOPE has submit-

ted a claim to the USDA for its remaining fiscal year 1982 debt in the amount of $72,295. However, I am told that there are other CSF programs that never fully recovered their 1982 debts. We estimate that the total amount of unsettled claims is approximately $117,000. Because the USDA has $510,000 in reallocated funds from fiscal year 1983 which it plans to carry-over into the fiscal year 1984, reallocation payment by the USDA of the unsettled claims of approximately $117,000 will not impinge upon program operating levels.

Mr. President, I believe that Senator COCHRAN, the chairman of the Subcommittee on Agriculture Appropriations, is willing to accept this amendment. I am very appreciative of the efforts he has made, along with Senator EAGLETON, ranking minority member of the subcommittee, to correct this problem.

Mr. President, as indicated, I believe, this has been cleared on both sides of the aisle. It authorizes up to $117,000 in reallocated funds of the U.S. Department of Agriculture to settle claims which they believe are valid arising out of a Commodity Supplemental Food Program which they administer.

We previously, in an earlier budget, provided for the transfer of $585,000. That sum proved to be inadequate by the $117,000 which is the subject of this amendment.

Mr. COCHRAN. Mr. President, we have reviewed this amendment. It does not add any new funds to this bill. It is an appropriate amendment just to authorize claims to be paid that fit within the guidelines of the existing law. We recommend that the amendment be agreed to.

Mr. JOHNSTON. Mr. President, there is no objection on this side.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 6931) was agreed to.

Mr. COCHRAN. I move to reconsider the vote by which the amendment was agreed to.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. I thank my colleagues.

Mr. HATFIELD. I know of no further amendments to committee amendment No. 2. Therefore, I move its adoption.

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the committee amendment as amended.

The committee amendment No. 2, as amended, was agreed to.

Mr. JOHNSTON. I move to reconsider the vote by which the committee amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, on behalf of the Committee on Appropriations I modify the committee amendment beginning on page 46, line 22 as follow:

On page 56, after line 5, add the following new section:

SEC. . (a) Sections 4, 4A, and 4C of the Clayton Act (15 U.S.C. 15, 15a, and 15c) shall not apply to any law or other action of or official action directed by, a city, village, town, township, county, or other general function unit of local government in the exercise of its regulatory powers, including but not limited to zoning, franchising, licensing, and the establishment or provision of public services on an exclusive or nonexclusive basis in a manner designed to ensure public access or otherwise to protect the public health, safety, or welfare, but excluding the purchase or sale of goods or services on a commercial basis by the unit of local government in competition with private persons, where such law or action is valid under State law.

(b) No damages, interest on damages, costs, or attorney's fees may be recovered under section 4, 4A, or 4C of the Clayton Act (15 U.S.C. 15, 15a, and 15c) for any unit of local government or official thereof acting in his official capacity.

(c) Provided that subsection (b) shall not apply to cases pending on the date of enactment of this Act unless the defendant establishes and the court determines, in light of all the circumstances, including the stage of litigation and the availability of alternative relief under the Clayton Act, that it would be inequitable not to apply this subsection to a pending case. In consideration of this section, existence of a jury verdict shall be deemed to be prima facie evidence that this section shall not apply.

(d) Subsection (a) of this section shall not apply to cases pending on the date of enactment of this Act.

Mr. HATFIELD. Mr. President, this is an amendment that was to be included in the copy. It was not in the copy, therefore the modification.

The PRESIDING OFFICER. The Senator, on the authority of the committee, does have the right to modify the committee amendment.

UNANIMOUS-CONSENT REQUEST

Mr. HATFIELD. Mr. President, we have now cleared on both sides of the aisle a unanimous-consent request I shall now make relating to the adoption of the committee amendments en bloc, with two exceptions.

I ask unanimous consent that the remaining committee amendments be considered and agreed to en bloc and that the bill as amended be treated as original text——

Mr. BUMPERS. Mr. President, I am sorry. We cannot hear back here.

The PRESIDING OFFICER. The Senate will be in order so that all Members in the Chamber may hear the Senator from Oregon.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the remaining committee amendments be considered and agreed to en bloc and the bill as amended be treated as original text for the purpose of further amendment and that no point of order be waived thereby; provided that the 34th and 35th committee amendments be excluded from this request.

The PRESIDING OFFICER. Is there objection?

Mr. CRANSTON. Reserving the right to object, Mr. President, I would like to ask that No. 32 be added to the exceptions.

Mr. HATFIELD. I modify my unanimous-consent request to include the exception of No. 32 of the committee amendments, as well as No. 34 and No. 35.

The PRESIDING OFFICER. Is there objection?

Mr. BIDEN. Reserving the right to object, Mr. President, would amendments to the underlying text be out of order if this unanimous-consent request is agreed to?

Mr. HATFIELD. Mr. President, I would prefer that that question be addressed to the Chair.

The PRESIDING OFFICER. Will the Senator from Delaware please repeat his question?

Mr. BIDEN. Yes, Mr. President. Would amendments to the underlying text be out of order if the unanimous-consent request is agreed to?

The PRESIDING OFFICER. If by underlying text, the Senator is referring to House text, which may be the subject of a motion to strike, that language would not be amendable if the request by the Senator from Oregon is agreed to.

Mr. BIDEN. Mr President, I shall have to temporarily and only briefly, to give me a moment to confer with my staff, object.

Mr. JOHNSTON. Mr. President, reserving the right to object, and I shall not object, I want to make clear to my colleagues what is being done now.

I invite their attention to the bill here, which is House Joint Resolution 648, on their tables. It is an extensive bill, as they can see. The amendments are shown by that which is struck through. For example, amendment No. 1 is where we stuck through title 1. That is a complete amendment No. 1.

Amendment No. 2 is on the second page, where we struck and inserted—in italics.

What this motion will do is make it easier to amend the bill, because then we will be able to amend the language in italics. We can amend it in any way we want. Indeed, we can add on amendments at the end of the bill or we can change language which is in the bill. All it does is facilitate the handling of the bill.

If we do not do that, we have to be here at the time our amendment comes up. For example, if someone

wants to amend amendment No. 16, he has to be here maybe at 4 or 5 o'clock in the morning when amendment 16 come up. Otherwise, we bring up and consider amendment No. 16. If we adopt the whole text en bloc as original text for the purpose of further amendment without waiving any points of order, then we can stack these amendments and, I think, in a more orderly way deal with them.

I do not know of any rights that would be waived at all by adopting it. It simply facilitates the method of proceeding with the amendments, so I will not object, Mr. President.

The PRESIDING OFFICER. Objection has been heard to the request of the Senator from Oregon.

COMMITTEE AMENDMENT NO. 4

Mr. HATFIELD. Mr. President, I call up the next committee amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 2, strike lines 24 and 25. On page 3, at line 1 insert:

(c) Such amounts as may be necessary for projects or activities, not otherwise specifically provided for in this joint resolution, at a rate for operations and to the extent and in the manner provided for in H.R. 5973, the Department of the Interior and Related Agencies Appropriation Act, 1985, as passed by the Senate as of October 1, 1984: Provided, That for the purposes of this subsection, if such Act has been reported to the Senate but not passed the Senate as of October 1, 1984, it shall be deemed as having been passed by the Senate.

Mr. HATFIELD. Mr. President, the committee amendment No. 4 deals with the funding levels for those agencies under the Interior Department.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

AMENDMENT NO. 6932

Mr. McCLURE. Mr. President, I send an amendment to the desk on behalf of Senator TRIBLE and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE], for Mr. TRIBLE, proposes an amendment numbered 6932.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Before the period at the end of section 101(c) insert the following: "*Provided further*, That an additional $400,000 shall be appropriated to the United States Fish and Wildlife Service to initiate operations at the Cape Charles NWR, VA.".

Mr. TRIBLE. Mr. President, my amendment adds $400,000 to the U.S. Fish and Wildlife Service budget for fiscal year 1985 to provide startup money for the new Cape Charles National Wildlife Refuge at the tip end of the eastern shore of Virginia.

The nucleus of the new refuge is the former Cape Charles Air Force Base, which was a radar tracking base until it deactivation about 5 years ago. The U.S. Fish and Wildlife Service has been working on acquisition of the base for about 3 years through General Services Administration suplus property disposal procedures, but had not anticipated the actual transfer until 1985. Because of the unexpected speed of the transfer, the Cape Charles refuge was not included in the Service's budget request for fiscal year 1985.

I visted Cape Charles last month to attend the transfer ceremony, and can attest that it is a beautiful tract of land, typical of the eastern shore of Virginia. It's primarily tidal marshland, with some upland areas in both timber and field crops.

The Fish and Wildlife Service has been presented with a rare opportunity. This area is among the most important habitat on the east coast for migratory waterfowl, raptors and songbirds, and is home to endangered and threatened species such as the preregrine falcon, bald eagle, brown pelican, and five species of marine turtle. In addition, the Delmarva Peninsula is a primary flight corridor during the annual southern migration. The peninsula narrows in the south, creating a funneling effect on the birds which culminates at Cape Charles. Because of the variety of habitat, the area provides excellent cover and forage for the large variety and high concentration of migratory species.

The eastern shore of Virginia is one of the few areas on the east coast which remains relatively unchanged from the days of our forefathers. This is due largely to its inaccessibility. The Cape Charles area is 4 to 5 hours south of Washington and Baltimore, and across the Chesapeake Bay from the tidewater area of Virginia. The bay bridge tunnel connects the two shores, but has an $18 roundtrip toll.

Yet, development pressure has been building steadily on the eastern shore. Ocean-access property in the tidewater area is at a premium, and major developers are beginning to speculate in property on the eastern shore. To protect refuge habitat integrity, the Cape Charles refuge environmental assessment proposes to eventually purchase two large privately owned acreages which are presently zoned as commercial waterfront. It will acquire various other State and County-owned tracts by land exchange or donation. The refuge will eventually comprise some 1,400 acres onshore, and will combine with the existing Fisherman's Island National Wildlife Refuge immediately to the south to form a 3,500-acre unit.

In addition to the excellent wildfowl habitat, the former Air Force base has a variety of buildings in relatively good condition. These will be converted to refuge use. Also, the Fish and Wildlife Service is examining the possibility of establishing a National Training Center for Service personnel and a refuge law enforcement refresher course training center utilizing some of the existing buildings. Various colleges and universities in Virginia have indicated interest in using the facilities for environmental studies under contract or cooperative use agreements with Fish and Wildlife.

My amendment permits the Fish and Wildlife Service to maintain and repair existing facilities, and to study future uses of the area. The amendment does not provide any money for land acquisition in 1985.

Mr. McCLURE. Mr. President, this amendment was adopted when we were considering the regular appropriation bill. It would simply write into the bill tonight what we have already agreed to on the measure. It deals with the Cape Charles wildlife refuge.

Mr. METZENBAUM. The what?

Mr. McCLURE. Cape Charles wildlife refuge.

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. WARNER and Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized first.

Mr. WARNER. Mr. President, I am pleased to join my colleague, Senator TRIBLE, in supporting the establishment of the Cape Charles wildlife refuge on the eastern shore of Virginia.

Birds migrating South along the Atlantic coast feed and rest at Cape Charles in Northampton County while preparing for the long flight across the Chesapeake Bay. This stop is especially critical for young birds and will help make it possible for more birds to make it safely to their winter home.

We anticipate that the refuge and its study centers will increase the number of tourists who come to marvel at the abundance of nature's wildlife and, indeed, the beautiful habitat surrounding Cape Charles. Increased tourism will hopefully result in more jobs for eastern shore residents.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, will the Senator from Idaho be good enough to advise us as to whether there is anything else in this other

than $400,000 for this wildlife preserve?

Mr. McCLURE. That is all.

Mr. METZENBAUM. I thank the Senator.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 6932) was agreed to.

AMENDMENT NO. 6933

SEVERAL SENATORS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, on behalf of myself and the distinguished Senator from Virginia [Mr. WARNER] and others, I call up our amendment for $100,000 for the Mary McLeod Bethune "Counsil House" National Historic Site and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for himself, Mr. WARNER, Mr. MOYNIHAN, Mr. HUDDLESTON, Mr. MELCHER, Mr. PRYOR, Mr. MATSUNAGA, Mr. THURMOND, Mr. KENNEDY, and Mr. STENNIS proposes an amendment numbered 6933.

SEC. . Notwithstanding any other provision of this joint resolution, $100,000 is appropriated for the Mary McLeod Bethune "Counsil House" National Historic Site.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, on behalf of myself, the distinguished senior Senator from Virginia [Mr. WARNER] and others, I submit this amendment to provide $100,000 for the Mary McLeod Bethune "Counsil House" National Historic Site. As we explained in our "Dear Colleague" letter of September 9, this amendment restores to the bill the $100,000 approved by the other body but deleted by the committee. I ask unanimous consent that the following Senators be added as cosponsors of the Hollings-Warner amendment:

The distinguished senior Senator from New York [Mr. MOYNIHAN], the distinguished senior Senator from Kentucky [Mr. HUDDLESTON], the distinguished senior Senator from Montana [Mr. MELCHER], the distinguished junior Senator from Arkansas [Mr. PRYOR], the distinguished junior Senator from Hawaii [Mr. MATSUNAGA], the distinguished senior Senator from South Carolina [Mr. THURMOND], the distinguished senior Senator from Massachusetts [Mr. KENNEDY], and the distinguished senior Senator from Mississippi [Mr. STENNIS].

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, on October 15, 1982, President Reagan signed into law S. 2436 as Public Law 97-329, a bill introduced by the senior Senator from Virginia that designated the Mary McLeod Bethune "Counsil House" as a national historic site. As the Senators will recall, the Counsil House is located at 1318 Vermont Avenue NW., and was the last official Washington, DC, residence of Mary McLeod Bethune, the renowned educator and national political leader. Bethune was the founder and president of Bethune-Cookman College, Daytona Beach, FL, the National Council of Negro Women, and was appointed by President Franklin D. Roosevelt as Director of the Division of Negro Affairs of the National Youth Administration.

Mrs. Bethune lived at Counsil House from 1943 to 1949. It was here that she directed activities that brought her national and international recognition. The house served as the first national headquarters of the National Council of Negro Women. At "Counsil House" Mrs. Bethune receive and entertained some the most prominent national and international figures of the 1940's and 1950's. National conferences, planning sessions, receptions and meetings of local and national organizations were held at this site.

Today, Counsil House remains in the ownership of the National Council of Negro Women. The property houses the Mary McLeod Bethune Memorial Museum and the National Archives for Black Women's History. The archives contains the largest extant manuscript collection of materials pertaining to black women and their organizations, and contains extensive correspondence, photographs and memorabilia relating to Mrs. Bethune. The museum and archives actively collect artifacts, clothing, artwork, and other materials which document the history of black women and the black community.

Since the designation of "Counsil House" as a national historic site, the Bethune Museum-Archives has made significant progress in the development and interpretation of the site. In order to advance the work of preserving and interpreting the "Counsil House" National Historic Site, the National Council of Negro Women Incorporated the Bethune Museum-Archives as an independent nonprofit organization charged with the programmatic and fiscal operation of the new historic site. During the past year the Bethune Museum-Archives has directed a spirited fund raising campaign. By September 1981, BMA had successfully raised the $100,000 matching funds required in the designation legislation.

As one of the few institutions in the Nation which sponsors traveling exhibitions and special educational materials on black subjects, BMA is able to reach a broad based public which extends well beyond the site itself. Currently the museum circulates four traveling exhibitions, one of which documents the life of Mary McLeod Bethune, and three others which include biographical and contextual data on Mrs. Bethune, and other black women of achievement, thus integrating black women into the fabric of American history.

The museum-archives has produced attractive and well researched educational materials which are useful for educating a general audience and indicate new directions in the scholarship of American history. These materials trace the unique and virtually unknown early social service activities of black women. They have been utilized by schools, organizations, and institutions throughout the Nation.

The museum offers an internship program for colleage graduates and high school students. College graduates gain experience in all aspects of the museum and archives throughout the year. High school students are exposed to the rigors of a work environment and the workings of a cultural institution in the summer.

In order to maintain and upgrade the historical fabric of the site, the main galleries of the second empire structure are being refurbished, the facade is being repaired, and historic furnishing are being restored for display in the museum. Plans have been developed for appropriate marking of the site and the $100,000 provided by our amendment will assist with the marking, interpretation and restoring the site during fiscal year 1985.

Mr. WARNER. Mr. President, I rise to support the earmarking of $100,000 for the Mary McLeod Bethune Counsil House which serves as the first national headquarters for the National Council of Negro Women and the Mary McLeod Bethune Memorial Museum and the National Archives for Black Women's History.

This institution bears the name of a distinguished American.

Mary McLeod Bethune was born in 1875 to former slaves, Samuel and Patsy McLeod. Her brilliant career included founding Bethune-Cookman College in Dayton Beach, FL; serving as director of the division of negro affairs of the New Deal's National Youth Administration; and founding the National Council of Negro Women [NCNW] in 1935.

A trusted counselor to five U.S. Presidents, she was a fighter for racial equality and women's rights.

Mrs. Bethune worked endlessly to achieve goals which many thought impossible at the time. She had the fortitude, persistence, and confidence to believe that if one was willing to work hard, even the greatest barriers could be overcome.

She is an example of the spirit and hope upon which America was founded.

In 1979, on the occasion of the 39th biennial NCNW Convention, the Nation witnessed two historic events: The opening of the National Archives for Black Women's History and the Mary McLeod Bethune Memorial Museum, and the convening of the First National Scholarly Research Conference on Black Women.

Since that time the Bethune museum and archives has achieved great recognition for both the rich collection housed in the archives and the diverse programs and exhibitions sponsored by the museum.

The National Council of Negro Women, through its sponsorship of these institutions, has sensitized the Nation to the important work of black women.

In April 1982, I introduced legislation which designated the Bethune Counsil House as a national historic site. That legislation passed the Congress and was signed into law by President Reagan.

The designation of Counsil House as a national historic site is of great significance.

As the Administrator of our Nation's Bicentennial celebration, I learned to appreciate firsthand the value of understanding and appreciating our history and what that means to us as Americans.

I hope that my colleagues will agree with me that the work of black women, symbolized by Mary McLeod Bethune, deserves greater understanding by the American public.

The archives, museum, and other programs sponsored by the National Council of Negro Women are achieving greater understanding and we should continue to support these efforts.

I urge adoption of the amendment.

Mr. PRYOR. Mr. President, born in 1875, the daughter of former slaves, 15th of 17 children, Mary McLeod Bethune was one of the most remarkable women of our time. Mrs. Bethune achieved initial prominence as an educator, as well as through her efforts to establish Bethune-Cookman College in Daytona Beach, FL. Her knowledge and experience was acknowledged by Presidents Coolidge and Hoover, who called on Mrs. Bethune for assistance with the national Child Welfare Commission. It was President Roosevelt, however, who recognized the depth of her abilities, appointing the educator Special Adviser on Minority Affairs. This position later became a part of the National Youth Administration [NYA], with Mrs. Bethune serving as Director of the Division of Negro Affairs. This period also marked the beginning of her special friendship with Eleanor Roosevelt.

Mary McLeod Bethune worked unceasingly to ensure the equality of black people in America. She was particularly concerned about the need for black women to develop an effective forum for their views, and urged leaders of various black women's organizations to join together with that purpose in mind. To that end, Mrs. Bethune was instrumental in the establishment of the National Council of Negro Women [NCNW], and served as the organization's first president. Today, the NCNW has emerged as an influential political force, as well as devoting much of its time and resources toward public service efforts. My own State of Arkansas proudly claims two strong NCNW chapters under the able leadership of Dr. Katherine Mitchell in Little Rock, and Mrs. Carrie Evans in Pine Bluff. No mention of the NCNW in my State would be complete without recognizing Arkansas' two NCNW life members, Mrs. Sue Cowan Williams and Mrs. Daisy Bates. Both of these courageous women are pioneers in the fields of education and civil rights.

Mr. President, the last official residence of Mrs. Bethune is located at 1318 Vermont Avenue NW, here in Washington. Known as Counsil House, this site served as headquarters for the National Council of Negro Women, and remains in the ownership of that organization. The property has been designated a national historic site, and houses the Mary McLeod Bethune Memorial Museum and the National Archives for Black Women's History. The archives contains an extensive collection of materials relating to black women, as well as photographs, correspondence, and other memorabilia relating to Mrs. Bethune. The museum continues to collect materials documenting the history of black women in America, and circulates four traveling exhibitions featuring the life of Mary McLeod Bethune and other prominent black women.

Mrs. Bethune's last will and testament outlined her hopes and dreams for black America. Known as the Bethune legacy, the document has been distributed throughout the world, and recognized as an inspiring literary work. The Bethune Memorial Museum and National Archives for Black Women's History is one step toward the realization of Mrs. Bethune's desires.

Public Law 97-329, approved on October 15, 1982, originally authorized $100,000 for the Bethune Counsil House. However, the Interior and Related Agencies appropriations bill, H.R. 5973, as reported to the Senate, does not include that provision. I am pleased to join Senators WARNER and HOLLINGS in cosponsoring an amendment to H.R. 5973, which restores the original funding for the Counsil House. The appropriation will assist in the plans to upgrade and refurbish the museum and national archives.

I hope my colleagues will join in the effort to maintain this historic site by supporting the Warner-Hollings amendment.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. McCLURE. Mr. President, will the distinguished sponsors of the amendment agree with me that this expenditure is not authorized?

Mr. HOLLINGS. That is correct.

Mr. McCLURE. Will the two Senators who have spoken in favor of the amendment agree with me that perhaps next year, rather than continuing this process of agreeing in the conference to the expenditure of unauthorized sums, they will seek authorization and that we will not again follow this process next year?

Mr. HOLLINGS. Mr. President, I will be happy to work with Senator WARNER, who drafted the authorization bill, on this matter. I do think, however, the amendment is most appropriate.

Mr. WARNER. Mr. President, I thank the Senator from South Carolina. I concur in the observations of the Senator from Idaho, and next year we will seek authorization.

Mr. McCLURE. Mr. President, as you know, it is a little difficult for those of us on the Appropriations Committee to try to appropriate money for items that have not yet been authorized. I have no objection, however, to accepting this at this time based upon the assurance that the continuation of the appropriation next year will be dependent upon prior authorization.

Mr. HOLLINGS. I thank the chairman. It is in the House bill. I note that for the record, Mr. President.

Mr. McCLURE. I think it is appropriate to note that.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, the minority will accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6933) was agreed to.

AMENDMENT NO. 6934

Mr. DIXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Illinois [Mr. DIXON] proposes an amendment numbered 6934.

Mr. DIXON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

After the period at the end of section 101(c), insert the following: "Of the amount provided for Mines and Minerals, Bureau of Mines, $400,000, which shall be equally matched by non-Federal funds, shall be available to conduct a study on subsidence and its impact on prime farmland.".

Mr. DIXON. Mr. President, in my home State of Illinois, we have been blessed with an abundance of natural resources which provide us with a strong economic base, and which can ensure our prosperity for years to come, if they are managed properly.

Two of our developed resources, the coal industry and the agricultural industry, are essential to the long-term health of our Nation, and the development of one should not be to the detriment of the other.

We must recognize that coal will play a major role in meeting the future energy needs of our citizens. Yet much of my State's most productive farmland in central and southern Illinois is underlain with coal, minable by deep shaft mining. According to estimates by the Illinois State Geological Survey, the total inground coal resource for the entire State is just under 161 billion tons. This is one of the largest reserves of bituminous coal in the United States east of the Mississippi River. Approximately 38 percent of this reserve is minable by deep shaft mining. Fortunately, both industries recognize that, to the greatest extent possible, coal must be removed without injury to the surface, or to efficient crop production.

There are a number of questions that need to be answered concerning subsidence, which is the settling of the surface land after mines have been dug beneath it. The impact of subsidence on the coal and agricultural industries of our State must be carefully considered.

Very little definitive, quantitative, and qualitative information is currently available on the likely incidence of subsidence on the existing mined lands. This is a necessary first step in determining the magnitude of the problem. Likewise, we do not fully know the technical and economic feasibility of mining 6 to 8 feet of coal 200 to 500 feet beneath relatively level productive farmland.

A recent 2-year study of mine subsidence by Prof. Harold Guither, of the University of Illinois, shows more research is needed to determine its effect on farmland.

Acreage overlying underground coal mines is over 710,000 acres in 52 counties. In Guither's survey of county agricultural extension advises in 1982, suspected subsidence was reported in 32 counties.

The survey concluded the economic impact of subsidence can be estimated with some degree of accuracy, but considerably more research is needed to fully assess the extent of the cost. That can include: repair to alleviate subsidence damage, losses from reduced yields, and reduced land values.

The survey found that in Christian County, farmers reported spending from $900 to $6,000 to repair damage to their individual farms.

They also reported that subsidence had affected productivity, while 36 percent reported reduced yields, but not enough damage to warrant replanting. The other 64 percent said replanting two or more times was not uncommon.

In a survey of members of the Illinois Society of Professional Farm Managers and Rural Appraisers, the average discount from land appraised with subsidence ranged from 5 to 20 percent. The dollar value of the subsided land sold for an average of $325 per acre less.

The study by Guither indicated that the limited study raised more questions than it answered. It suggested further research is needed to get a more complete picture of the problem, and to develop policies to protect landowners from losses.

The amendment that I am offering today requests that $400,000 be appropriated for the Bureau of Mines to conduct a study, in cooperation with the State of Illinois, to answer some of the questions relative to coal mine subsidence, to measure its impact on agriculture, and to suggest the most effective means of avoiding or minimizing subsidence.

The study should consider:

First, what is the practicality of high extraction mining under farmland?

Second, what are the mining techniques that will minimize the risk of subsidence from future partial extraction mining if high extraction is not feasible in all parts of the State?

Third, what are various engineering methods that might be used to mitigate subsidence damage to farmlands in the future as well as in abandoned shaft mines?

Fourth, what is the magnitude of the subsidence problem from current and past mining in the State?

Fifth, what are cost effective ways and means of preventing subsidence and mitigating its effects on communities built over abandoned mines?

The Bureau of Mines has conducted studies in the past regarding subsidence, but they have emphasized the effects of subsidence on residential structures. The study being requested today is regarding prime farmland, and looks toward an assessment of the effects of subsidence on productivity, and the means to minimize subsidence on prime farmland.

The Bureau of Mines, in its capability statement, indicated that the research would be "consistent with the Bureau of Mines mission, could be cost effective and could be an appropriate use of Federal dollars."

Mr. President, this amendment is designed to provide the necessary research so we can continue to meet our energy needs in the future, but at the same time, protect the prime farmland of our Nation.

Mr. PERCY. Mr. President, I join with my distinguished colleague from Illinois [Mr. DIXON] in supporting the request for $400,000 in Bureau of Mining funds to finance the preliminary stage of a Federal study of mining subsidence in Illinois and its adverse impact on agriculture.

Mining subsidence occurs when the land over deep shaft mines sag bringing the land closer to the water table. In Illinois, over 750,000 acres have been undermined for coal. Most of this mining occurs in 34 counties.

In a preliminary survey of the 34 counties, the Bureau of Mines pinpointed the negative effects of subsidence on farmland:

Depressions and potholes, standing water, breaking or disruption of tile lines; disruption of surface drainage ditches, grass waterways, and natural drainage channels; loss of crops, reduced crop yield; and damage to fences, farm buildings, bridges, and wells.

There are some reports that assessed land values may be reduced 10 to 25 percent because of this problem.

Although the problem has been identified since the last century there is little known about the most cost-effective solution to preserve the farmland, while allowing for deep shaft mining.

The Bureau of Mines already has a program to study subsidence for longwall mining located in West Virginia, Pennsylvania, Colorado, and Utah. However, there are few longwall mines in Illinois; most are the room-and-pillar type.

The amendment offered by Senator DIXON corrects this inequity by providing the necessary funds for the Bureau of Mines to study subsidence associated with room-and-pillar mines.

I congratulate him for offering this amendment. Both the Illinois Coal Association and the Illinois Farm Bureau support the study of this problem so that both of these vital industries can live side-by-side and not in conflict.

Mr. DIXON. Mr. President, this amendment has been cleared with the distinguished manager of the bill, the chairman of the committeee, and with the distinguished manager on our side. There is no objection to this amendment to the bill. It appropriates $400,000 with matching funds from the State of Illinois. I know it has been cleared by all people.

Mr. McCLURE. Mr. President, the distinguished Senator from Illinois has discussed this amendment with us. We have no objection to its adoption.

Mr. JOHNSTON. Mr. President, the amendment has been cleared by the minority.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 6934) was agreed to.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. CRANSTON. Mr. President, I do not have an amendment to offer, but I wish to make a very brief statement.

INTRUSION OF FEDERAL OIL AND GAS LEASING

Mr. President, year after year California coastal communities have been fighting to preserve from the intrusion of Federal oil and gas leasing the quality of life and the tourist and fishing economies along areas among the most beautiful and unspoiled in the Nation.

This effort—which long predated the arrival of the Reagan administration—has largely succeeded, but at tremendous administrative cost to the localities.

Before the present administration, the issues were joined with the prodevelopment interests in the Interior Department's Bureau of Land Management, with the Secretary of the Interior as the referee.

The battles took place in more-or-less orderly fashion during the several stages of the Federal Outer Continental Shelf leasing process created by Congress, with the process for each lease sale drawn out over several years.

Each stage represented a new opportunity and a new challenge:

The draft and final environmental impact statement;

The Secretary's discretionary deletions based on environmental considerations and other conflicts;

The Secretary's call to the oil and gas industry for expressions of interest, and to preservationists for negative nominations;

The preliminary notice of sale;

The Governor's response, including the responses of affected communities;

The final notice of sale;

The bidding itself, and the Secretary's review of bids for adequacy; and

The awarding of tract leases, subject to conditions imposed by the Secretary.

While these coastal communities needed to watch carefully each stage of the process to protect their interests, they could rest reasonably assured that once a particular area was removed from a sale, it was unlikely to reappear later. It was safe until the next lease sale.

Mr. President, the arrival of the Reagan administration and James Watt changed all that.

In his first big election—3 weeks into office—Watt reversed a decision carefully made by his predecessor after months of study.

Watt reincluded into the advanced stages of a pending lease sale hundreds of tracts in four geologic basins off the coast of northern and central California.

He turned the environmental impact statement phase of the lease sale process into a pro forma exercise.

He vastly expanded the size of call areas, so that they included areas far too vast to evaluate seriously, if at all.

He ignored the negative nominations of environmentalists, and, in fact, ignored environmental considerations entirely.

He compressed the lease sale process, so that the limited staffs of coastal community governments could not complete responses at one stage before the next stage began, and then refused to extend time for consideration.

He all but ignored the responses of State and local government officials who did not agree with him, suggesting these were not officials he respected.

And he increased the frequency of lease sales so that areas were faced with one lease sale after another.

When Watt left office, President Reagan praised him for carrying out the President's policies effectively.

When Watt's successor, Secretary William Clark, was confirmed, he promised a more congenial tenure, but refused to repudiate the administration's extreme prodevelopment policies. And the changes in the lease sale process have not been reversed.

Meanwhile, to protect their valuable coastlines from the inevitable consequences of these policies, the affected communities and the State of California sought and received the assistance of Congress and the courts.

In the fiscal year 1982 Interior appropriations bill, in the fiscal year 1983 bill and again in the fiscal year 1984 bill, Congress adopted language barring the Department of the Interior from using funds for leasing or preleasing activities in these specifically designated, carefully selected, environmentally sensitive areas.

The House-passed version of the fiscal year 1985 Interior appropriations bill and the continuing resolution once again provide an adequate 1-year moratorium on oil and gas leasing and preleasing activities in these same areas.

But the Senate bill contains none of this protective language.

Without any discussion at either the subcommittee or full committee level—despite my testimony before the subcommittee seeking such protective language—despite the support of my colleague from California, PETE WILSON for the same language—the moratorium language protecting the California coastline has disappeared from the bill before the Senate.

These bans prevent the Interior Department from conducting oil and gas lease sales along the California coastline from Morro Bay northward to the Oregon border, an area which incudes Big Sur and Carmel-by-the-Sea, Point Reyes National Seashore, and the exquisite Mendocino headlands.

There is no safe place for oil tanker traffic in these areas, no onshore refineries or pipelines available, and no place to put them.

And the low estimates of potential oil and gas resources in these areas do not warrant the major intrusion that oil and gas development activities would represent.

In the south, the bans protect very specific areas off southern California, including Santa Monica Bay, the Channel Islands National Marine Sanctuary, the Santa Barbara Ecological Preserve, and near-shore areas off the San Diego-Orange County coastline.

The overwhelming majority of those in the affected California counties and municipalities, which rely on recreation-based industries and commercial fishing for their livelihood, consider massive oil and gas development in these areas incompatible with their interests.

The bans do not affect existing production nor preclude leasing where the potential oil and gas recovery is high, as in the Point Arguello field, where 80 percent of the recoverable resources off California are believed to be. Rather the bans protect only those areas where resource potential is low and environmental risks high.

As Congress has previously recognized, leasing in these areas makes no economic sense.

Rather, it would risk destroying far more valuable economic interests to prospect for oil where the chance of recovery is low.

The oil industry itself has demonstrated the validity of these observations. The last OCS lease sale held off central California cost the Government more to administer that the Department of the Interior received in bids from the industry.

The adoption of moratorium language last year has had a beneficial effect on the behavior of the Interior Department.

Secretary Clark has just announced that in the southern California lease sale scheduled for October 17, just 3 weeks before the Presidential election and shortly after fiscal year 1985 begins, all tracts covered by the fiscal year 1984 moratorium will be excluded from the sale.

This is the first time the Reagan administration has reached this point, though other administrations have excluded all these tracts from previous OCS lease sales.

It is a welcome advance. It means that the proposed fiscal year 1985 leasing bans won't conflict with any currently proposed action of the administration.

Some have suggested that this makes the bans unnecessary.

I disagree.

Why should these long-beleaguered coastal communities need to speculate on whether the administration's most recent action in southern California represents a change of heart for the whole California coast or merely a preelection tactic reversible when the election is behind us?

Why should they have to wonder if the administration has changed policy or if this is merely the new viewpoint of Secretary Clark, who may not be Interior Secretary after the first of the year, regardless of the outcome of the election?

It is far wiser and safer to extend the ban 1 more year and give these local governments some respite from the pressure they have faced for so long.

When this bill goes to conference, Senator WILSON and I urge the Senate conferees to recede to the House on this very important matter.

Mr. President, the concerns I have expressed about postelection possibilities are not based on mere speculation.

Discussions with administration officials have raised these possibilities.

I ask unanimous consent that a letter of September 24, 1984, from the Washington office, Director of the Friends of the Earth, to Chairman YATES of House Interior Appropriations Subcommittee, which details the basis for these concerns, be printed in the CONGRESSIONAL RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FRIENDS OF THE EARTH,
Washington, DC, September 24, 1984.

The Honorable SIDNEY YATES,
Chairman, House Subcommittee on Interior Appropriations, U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE YATES: As the Continuing Resolution moves to a close this week, I wanted to share with you a few thoughts about the OCS moratoria. Having watched this process for a few years, I know that if compromise is necessary, there will be a tendency to choose what appears to be the simplest change in the language. We are particularly concerned about the impact of abandoning the procurement language, and I hope that that will not be a seriously considered option for the following reasons.

Although the central/northern California Lease Sale #91 has been designated as being "on hold" in recent versions of the five-year OCS Program, Interior has never indicated a revised timetable for the planning milestone leading up to this sale nor has Interior established in writing a new date for the sale. Sale #91 is, as far as can be ascertained, still a part of the current five-year program.

In recent informal discussions with California officials, William Bettenberg has indicated that the planning process for Sale #91 is "on hold" only until after the November elections. The "Call for Information" is anticipated in January, 1985. This sale is an area-wide 37 million acre offering which encompasses all of the central and northern California coast, including Big Sur, Santa Cruz, Monterey Bay, Mendocino. We are very concerned that DOI will immediately after the election launch the process so that it will be in a position to hold the sale immediately if no moratoria are in effect in 1986. Inclusion of the procurement language is the one handle to prevent them from moving forward.

As I'm sure you know, Interior has had over the years two conflicting opinions from the Solicitor's office about just which steps are precluded by the current moratoria language. The most recent Solicitor's opinion states that Interior can proceed with all initial planning steps including the "Call for Information," the DEIS, contracting for environmental studies and issuance of geological and geophysical exploration permits. All of this is to proceed under the terms of the present fiscal year 1984 language. So far, however, they are not proceeding because of the threat of litigation or Congressional action.

To weaken the moratorium language at this time by lifting the "procurement" wording would be seen by Interior as an unequivocal "green light" to proceed with Sale #91. At the end of fiscal year 1985 the prelease planning process for Sale #91 would be substantially complete and a forward momentum established which would make the sale itself inevitable.

We believe that the pressure against the area-wide concept is increasing. Virtually all the states who have commented on the new five-year OCS plan have asked that DOI abandon this approach. Even Louisiana and Texas are now vociferous in opposition to this system. For Congress to back down now will deal a severe blow to efforts to force Interior to give up the area-wide approach and make a serious effort to accommodate California's concerns about leasing 700 miles of coast at once.

Finally, because the Administration and industry have successfully blocked passage of legislation clarifying that OCS leasing should be consistent with state Coastal Zone Management programs (H.R. 4589), the states have no other leverage left but moratoria to prevent Interior from just steamrolling over their concerns on leasing. The courts have unfortunately pretty much given Interior an open invitation to reject state concerns under the OCS Land Act Amendments of 1978. This issue is not going to go away until both the Administration and the industry stop ignoring the very real concerns out there.

Cordially,

ELIZABETH RAISBECK,
Director, Washington Office.

AMENDMENT NO. 6935

(Purpose: To provide additional funds for education of children in Bureau of Indian Affairs' schools who have less than ¼ Indian blood)

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 6935.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3 at the end of section 101(c) insert the following: line 3, strike out "$875,117,000" and add the following:

"Provided further, That the amount for the Operation of Indian Programs shall be $875,517,000: *Provided further,* That of such $875,517,000 at least $400,000 shall, notwithstanding any other provision of law, be used to provide education for students attenting schools operated by the Bureau of Indian Affairs who are of less than ¼ Indian blood and are enrolled members of any Indian tribe or band which is recognized by the Secretary of the Interior as eligible for special programs and services provided by the United States to Indians because of their status as Indians:".

Mr. HELMS. Mr. President, my amendment offers a short-term solution to a problem created for the Eastern Band of Cherokee Indians by the pending measure. If the Interior appropriations bill is approved in its current form it is my understanding that an estimated 150 Cherokee children will find themselves without funding necessary for their educations next year.

The problem is this, Mr. President: the committee report which accompanies the Interior bill prohibits the Bureau of Indian Affairs from providing funds for the education of children having less than one-quarter Indian blood. Unless this language is changed—or at least clarified—the Cherokee schools will likely lose about $300,000 on October 1.

While there are other Indian tribes which face a possible loss of educational funds, by far the heaviest burden falls on the Cherokees. Historically, the Cherokees have extended tribal membership to persons having at least one-sixteenth Indian blood. Now the Federal Government, through the Interior report, seems to be telling the Eastern Band of Cherokees that, notwithstanding tribal customs and membership, educational funds will not be provided for those children who do not have at least one-fourth Indian blood. The inequity is obvious, in my judgment.

My amendment simply provides $400,000 for education of Indian children, including the Cherokees. The funds are targeted for children having less than one-quarter degree Indian blood, but who are nevertheless members of a federally-recognized Indian tribe.

Mr. President, the Cherokees are the honored first Americans in North Carolina. The Federal Government has long recognized the Eastern Band as a sovereign tribe, even after most of the Cherokees were relocated to the West during the mid-1800's.

During the past century the North Carolina Cherokees have made great strides in their educational system. In fact, one of the finest schools in western North Carolina operates on the reservation. Built in 1976 as a community school, the Cherokee facility utilizes the most modern teaching methods to educate more than 900 students each year. Mr. John Fritz, Deputy Assistant Secretary of Interior for Indian Affairs, recently referred to the Cherokee school as the flagship of the Indian educational system nationwide.

Mr. President, the problem of funding for children with less than one-quarter degree Indian blood is not a new one for the Cherokees. The Bureau of Indian Affairs notifed them in 1980 that funds would no longer be provided for the children with lower blood quantum. The BIA officials cited a 1918 Indian appropriations bill which prohibited Federal funding for children that were not at least one-fourth Indian, provided adequate public schools were available.

The problem for the Cherokees, Mr. President, has been that adequate public schools are not available. When the Cherokees presented evidence that public schools were already overcrowded, and for the most part, remote and inaccessible, the BIA granted an unconditional waiver to the blood quantum requirement. The BIA has repeated that procedure each year since 1980.

As a matter of fact, I have at my desk a letter from John Fritz to Principal Chief Robert Youngdeer, informing that a waiver is being issued for the current school year. He again cited inadequate public school facilities. He said:

SEPTEMBER 11, 1984.

Mr. ROBERT S. YOUNGDEER,
Principal Chief, Eastern Band of Cherokee Indians, Cherokee, NC.

DEAR CHIEF YOUNGDEER: Pursuant to our meeting of June 28, 1984, and my commitment to you on that date, I would like for you to know that it is my intention to issue a waiver for the Eastern Band of Cherokee Indians unless prohibited by Congress from the regulations which prohibits funding for tribally enrolled members who are less than quarter degree Indian blood.

Title 25 U.S.C. 297 prohibits funding of Indians less than quarter degree Indian blood when there are adequate public schools available. In reviewing the population geographic and physical situation at Cherokee and in the neighboring counties, I do not believe that adequate public schools are available to the Eastern Band of Cherokee Indians at this time. I believe it would be counter productive to transport students three to four hours daily to public schools which are overcrowded and which have indicated to us in writing that they will not and cannot accept additional students at this time.

This waiver is for FY 1985 and is based on my understanding that progress is being made pursuant to meetings between the tribe and the State of North Carolina to resolve this issue permanently.

I want to emphasize that it is extremely important that the leadership of the tribe continue to meet with state officials to seek and implement a permanent solution. I would expect that from what we have discussed that an agreement can be reached with the State within the next few years; from that point you will know that any future waivers should not be granted.

Sincerely,

JOHN FRITZ,
Deputy Assistant Secretary, Indian Affairs (Operations).

Mr. HELMS. Mr. President, it is obvious to me that this year's waiver is far from unconditional. Mr. Fritz cites his intention to waive the blood quantum requirement, provided Congress does not prohibit him from doing so. It is clear to me that the committee report does just that. The bill itself takes money away from Indian education programs and the report restricts funding only to children that are at least one-fourth Indian.

If my amendment is not adopted, the clear losers will be the children, which is unfortunate.

Mr. President, before I drafted this amendment, I talked with Chief Youngdeer, Mr. Ed Taylor, chairman of the tribal council, and other Cherokees responsible for Indian education on the reservation. There is wide agreement that the State of North Carolina must do a better job in terms of providing adequate public schools. Tribal officials have pledged to work with the State government during the coming months in an effort to improve the situation. So all I am asking is that the Senate does not preempt that effort.

Mr. President, I ask unanimous consent that the two letters be printed in the RECORD, one from Chief Youngdeer and the other from Mr. Earl Hooper, superintendent of the Jackson County Public Schools.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

JACKSON COUNTY PUBLIC SCHOOLS,
Sylva, NC, July 25, 1984.

Mr. JOHN W. FRITZ,
Deputy Assistant Secretary, Operations/Indian Affairs, U.S. Department of the Interior, Washington, DC.

DEAR MR. FRITZ: This correspondence is in regards to the impact that would occur to our school system if drastic changes were to occur in the funding of the Indian School on the Cherokee Indian Reservation.

At the present time our newest school, built in 1980 and located near the Cherokee Indian Reservation, is overloaded. We find there is a need for four additional classrooms. In all schools, space intended for use other than for classrooms is being used for classroom purposes.

It would be impossible for the Jackson County School System to absorb an impact that may be precipitated by a drastic change in funding, re-classification of students according to Indian blood, or other factors that may impact on our present school population.

I would highly suggest that if it is the intent of the Federal government to remove itself from direct educational activities, that pre-planning be implemented immediately. These plans should include target dates, funding for construction, operation, and other factors involved in the educational process.

If additional information is needed, we shall be happy to provide it.

Very truly yours,

EARL F. HOOPER,
Superintendent.

THE EASTERN BAND OF CHEROKEE INDIANS,
Cherokee, NC, August 2, 1984.

Hon. JESSE HELMS,
U.S. Senator, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR HELMS: I am writing to solicit your support on a matter of vital concern to the Eastern Band of Cherokee Indians. We have just learned that the Interior Appropriations Bill now in preparation contains language and terms with drastic and harmful consequences to the education of our Cherokee children. I hope you will do everything you can to stop this attack on the future welfare of our Cherokee children.

We understand that the draft report of the Interior Appropriations Subcommittee, which has been adopted for the committee report, contains language which supports and mandates elimination of all funding for the education of Indian children with less than one-fourth degree Indian blood and would require payment of tuition to BIA schools by all such Indian children. We believe this language is an attempt by BIA and Committee staff to interpret legislation and establish policy in this appropriations bill, a practice which has been condemned by legislators and legal experts time and time again.

I implore you to make every effort to have this language stricken from the report. The statute to which this report refers was also an Indian appropriations bill. Even though that 1919 bill limited spending money to educate one-fourth degree Indian children, the restriction does not apply to situations where "adequate free school facilities" are not available. Children have been funded at the Cherokee BIA schools, regardless of blood degree, because such facilities were not in fact available elsewhere. The language in the present report is a blatant attempt to eliminate funding these lesser blood Indian children regardless of the lack of alternative facilities.

The unique historical circumstances of the Cherokee in North Carolina should not be so callously disregarded. A significant number of Cherokee children are on the tribal rolls entirely because of the BIA and its enrollment policy when the roll was prepared in 1924. At that time the Tribe challenged almost 1,200 names as having too small Indian blood quantum but the BIA did not honor the protest and refused to strike a single name from the government-prepared roll.

The Eastern Band has historically determined questions of membership and has extended general privileges and benefits to all members, regardless of blood quantum. This report would result in discrimination be-

tween our tribal members by providing an education for some while requiring others to pay tuition to the BIA. This would have a serious detrimental effect upon the entire Cherokee community. It would be seen by parents and children alike as a racial distinction; as if the government were telling them, "You're not an Indian."

Congress should not use an appropriation bill to overturn the membership rights of individual Cherokees, especially when those discriminated against are children. We urge you to have this language cut from the report on this bill. Such drastic action should not be undertaken in such haste—without consulting the Indian tribes affected, and without giving us an opportunity to present our strong, strong opposition to this. It is bad law and bad public policy to take such drastic steps in such haste in an appropriation measure. Please help protect the welfare of all Cherokee children by having this language removed.

Sincerely yours,

ROBERT S. YOUNGDEER,
Principal Chief.

Mr. McCLURE. Mr. President, while I understand the sincere concerns for the education of Indian children around Cherokee, NC, which have led the Senator from North Carolina to propose this amendment, I must oppose its adoption.

The amendment would require the Bureau of Indian Affairs to violate the law twice. Current law requires that all funds provided for the Indian school equalization formula be distributed on an equitable basis to all schools funded by the Bureau. The formula includes such factors as the number of boarding students, the number of students with special education needs, and the age group of the children. There is also an adjustment to the formula by earmarking $400,000 for children of less than one-quarter Indian blood who are attending schools funded by the BIA.

Current law also prohibits the use of any appropriated funds for the education of children of less than one-quarter Indian blood in any BIA school if adequate public school facilities are available. This amendment would remove from the States the responsibility they have for providing a public education for all students residing within the boundaries of such State, by requiring that the BIA fund all students of less than one-quarter blood quantum regardless of the availability of public schools. BIA educational policy limits all educational benefits to those tribal members of at least one-quarter blood quantum. This policy is currently being challenged in court in California by a woman who was denied a BIA higher education grant based on blood quantum. Action by the Congress at this time expanding eligibility for BIA education programs to those of less than one-quarter blood quantum would no doubt jeopardize the Government's position in that case, but would substantially increase the demand for limited education funds by opening eligibility to a large number of students who do not meet the current requirements.

Now, with respect to those students attending the BIA school at Cherokee, NC, let me assure the Senator that there is no problem for the 1984–85 school year. Deputy Assistant Secretary John Fritz signed a letter on September 11 granting a waiver for the school to enroll children of less than one-quarter Indian blood for the 1984–85 school year. The Cherokee school will be provided funds for those students on the same basis as funds are provided to all other eligible students attending BIA schools. I will make a commitment to the Senator that the conference committee will take no action to overturn this departmental decision for the current school year.

Mr. President, I would hope that with that assurance, the Senator from North Carolina would be willing to withdraw his amendment.

Mr. HELMS. Is my friend from Idaho, the distinguished chairman of the Interior Subcommittee, saying that my amendment is not needed to ensure that funds are made available in fiscal year 1985 for enrolled members of the Eastern Band of Cherokees who are less than one-quarter degree Indian blood?

Mr. President, I thank the able Senator from Idaho. I am grateful that he has made clear that there will be nothing in the conference report on this bill or any other bill that will prohibit the Assistant Secretary of Interior for Indian Affairs from granting a waiver to the Cherokees in fiscal year 1985, pursuant to 25 U.S.C. 297. I want to ask my colleague if my understanding is correct.

Mr. McCLURE. That is correct.

Mr. HELMS. Again I thank my friend.

Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 6936

(Purpose: To restrict funding for noncompetitive oil and gas leasing)

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated:

The bill clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 6936.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the fourth committee amendment, insert the following new subsection and re-number the other subsections accordingly:

(d) Notwithstanding any provision of law, none of the funds appropriated by this joint resolution shall be used to lease any onshore lands for oil and gas development unless the Secretary of the Interior leases them competitively, using those bidding systems set forth in Section 8(a)(1) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1337), which the Secretary determines would maximize competition.

Mr. BUMPERS. Mr. President, this is an amendment on which I would like to spend 3 hours, but in the interest of time, I am going to cut it as short as I can. However, I earnestly plead for the attention of my colleagues, because it deals with a scandal which has been going on for years. It continues at this very moment.

It begins with the fact that the U.S. Government has leased roughly 550 million to 600 million acres of land, and that most of it was leased for $1 an acre. It leases it three different ways.

The first way is this. You go to the Bureau of Land Management and request a tract of land, for example, a 1,000-acre tract in Arizona.

BLM would direct you to the U.S. Geological Survey to determine whether that tract is in a known geological structure. If not you can have it for $1 an acre.

However, if, for example the Senator from South Carolina [Mr. HOLLINGS] and I want the same tract, then we must each pay $75. If everybody in this body wants the same tract, all 100 of us would give them $75, and they put each name in a squirrel cage. Then, once every 2 months, they turn the squirrel cage and pull out somebody's name. If you happen to be the lucky winner, you still get it for a dollar an acre.

I will tell you how I became acquainted with this situation. In 1979,I was sitting in the kitchen with my late father-in-law, and I got a phone call from the president of a gas utility in my State saying that 33,000 acres of Fort Chaffee had just been leased for a dollar an acre—$33,000 for 33,000 acres—to the Texas Oil & Gas Co.

I thought he was joking because Fort Chafee is surrounded on four sides by roughly 500 producing gas wells.

So I began to check it out. Not only had they leased it for $33,000; they did it all within 24 hours, with nobody else having an opportunity to bid on it. They walked into the Bureau of Land Management which told them to carry a form to Tulsa. If the U.S. Geological Survey in Tulsa would certify that the land was not over a known geological structure, then it was theirs.

Their representative thanked them, walked out, caught a plane to Tulsa,

and was back that night. The USGS determined that it was not over a known geological structure. They paid $33,000 and it was theirs.

I asked the Senator from Kentucky [Mr. FORD] to hold hearings on it. The people of my State were outraged. We held hearings on it. I asked the officials of the U.S. Geological Survey, how they could say that this 33,000 acres was not over a known geological structure when there is nothing but gas wells as far as you can see.

So they explained.

I want Senators to listen to this. This is the way the Government functions. This is what makes people so confident in Government.

They said that every time somebody hits an oil or gas well, they move a little pin 1 mile from that well, and anything within 1 mile is considered to be a known geological structure.

I asked what would happen if I were to hit an oil well producing 5,000 barrels a day. If I asked you for a section of land a mile and half away, could I have it for $1 an acre?

They said, "Yes."

At first, I thought this was some kind of aberration. I do not mind telling you that this case has just been reversed in the court of appeals, in the eighth circuit; and if that 33,000 acres is up for competitive lease within the next year, it will bring roughly $100 million.

If so, it will be because of the objections I raised. They leased another 24,000 acres 1 year later, but, because of my earlier objections, they put it up for competitive bids and it brought $1,705 an acre. It brought $43 million. Congress passed a bill which I introduced to return half the money to the State, in conformity with the prevailing law for nonmilitary lands. It was so much money that my Governor called a special session to spend it. [Laughter.]

Yet, that was only the beginning. Incidentally, at the time that happened, an entry fee of only $10 was necessary to enter the lottery. As I began to attack the lottery, James Watt began to defend by raising the fee to $35.

At the same time, I began to read stories about the U.S. attorney in Denver: Everybody was coming in to plead guilty to fraud. They found that several oil companies had each been putting 200 or 300 names in the hopper, at $10 each—dead people, live people, animals, everything.

Whoever happened to be the happy winner of a lottery did not drill it. To this very moment, 85 percent of the people who win the lottery do not even know what a drilling rig looks like. They are looking for Exon or Shell or Texaco or somebody to buy it from them.

Last summer, in Wyoming, in a place called Amos Draw, near Casper, the Bureau of Land Management put up 18 tracts of land, 22,000 acres. They received several million dollars in entry fees from people who entered the lottery. The winners, however, got that 22,000 acres for $22,000. Do you know what the State of Wyoming got? $11,000. Half of the $22,000 went to the State of Wyoming.

Do you know what those leases brought? Twelve of those leases, 12 of the 18 for which the U.S. Government got $22,000, were resold by the lottery winners for between $50 and $100 million within 6 weeks. The State of Wyoming lost $50 million, and the Federal Government lost $50 million.

Another example was in Blue Mountain Lake, in Arkansas, a Corps of Engineers lake, where there is much leasing activity. None of it brings less than $150 an acre, unless it happens to belong to the Federal Government, which gets only $1.

Last summer, they leased 2,000 acres in Ouachita National Forest in Arkansas, and the State of Arkansas happened to own 80 mineral acres right in the middle of the 2,000 acre tract. Arkansans are not foolish. We make folks bid on things in Arkansas. We put our 80 acres up for bids and got $107 an acre, while the U.S. Government got $2,000 for its entire 2,000 acres. In other words, the State of Arkansas got four times as much money for 80 acres as the U.S. Government got for 2,000 acres.

I guess Senators are tired. I will tell them one more because this just keeps going on.

They leased 18,000 acres around Blue Mountain Dam for $1 an acre, and it was resold within 6 weeks for $3 million.

If you walked down the streets of Washington, DC, and said that 97 percent of all the land we lease every year for a dollar an acre mostly by a lottery in violation of the Federal gaming laws, people would not believe it. It is a violation. I defy anyone to prove that the lottery that the Bureau of Land Management uses to lease Federal lands is not a violation of the U.S. Criminal Code.

Three percent of the 12 million acres a year that we lease goes competitively. You have to be sitting on a gusher for the USGS to say it is a known geological structure.

I never expected to get anything out of James Watt, but Bill Clark is a nice, genteel man. I like him personally very much. We at least can communicate on the phone and in person. But during Mr. Clark's confirmation hearing, I asked him about his ranch land. He said he has about 850 acres and that he has leased it for oil and gas. He said he didn't know how much he had leased it for, but he knew it was 32 miles from producing oil and gas land. I asked him if he knew how much the Government would lease such land for if it owned it. He did not know, so I told him—$1 an acre.

I asked if he got more than that, and he admitted he did, although he did not know how much.

I can tell Senators how much he is getting. He is getting somewhere between 10 and 500 times that much for his land.

This scandal can only be called that. It is an outrageous scandal that continues.

What are the arguments that are going to be made in a moment?

No. 1, this hurts the independents. They cannot compete against the big oil companies. You know, those little old mom and pop operations we hear about, those little mom and pop operations; of the 3 percent of the land that we do put up for competitive bids they get 82 percent of it. They get 82 percent of all the lands that are put up for competitive bids.

Do you know something else? Wyoming held out longer than any other State. Wyoming had its own lottery system until 3 years ago. Now every State in the Nation has a competitive bidding system.

Why Senator HOLLINGS, Governor Ford over there, and I were Governors together. Every one of us figured we would go to jail if we did not ask for competitive bids.

Furthermore, it not only has lost revenues and induced direct fraud it has spawned yet another fraud on innocent people. When I first got involved in this issue, I called the U.S. attorney out in Denver who told that he had so many people in his office plea bargaining that he had to bring in more chairs.

Those are the people who have been putting hundreds of names of dead people and other people into the lottery. That is when they decided they would fix the system by charging $35 to get their name put in the hopper.

As these facts came out, BLM raised the filing fee to $75.

What difference does that make? It is still an outrageous, and scandalous system which should not be tolerated another day by people who are supposed to be guarding the public domain.

We are here as fiduciaries. We are here looking after the public trust.

There is not a Senator in this room who has not made a speech at some time or other promising to treat the tax money like it was his or her own. We have all pledged not to violate the public trust.

I will tell the Senate, NBC, CBS, and ABC have all done stories on this, and yet somehow or another no one seems to care very much.

I care. I care for two reasons.

One is, CBO says, that the minimum this is costing the Federal Treasury is $1,200,000,000 over the next 5 years.

Also, some States are strapped for money, so bear in mind that half of that money will go back to the States. It is not a big item in a lot of States. A lot of States do not have any oil and gas potential. But there are a lot of States that do.

Governor Herschler of Wyoming wrote and told me that the greatest thing they ever did in Wyoming was to abolish that lottery. Wyoming's Commissioner of Public Lands agrees.

Of course it was. It is indefensible.

Consider the other fraud on innocent people, such as retirees in Fort Lauderdale. There are 500 corporations that have sprung up in the United States to take advantage of something that literally invites fraud. They run ads in the paper claiming you can be as rich as Exxon or Texaco. They say they can arrange it. Send them $300, and they will enter your name in the Federal lottery. They claim to pick out the best leases.

You send them $300. They put $75 in the envelope and send it to the BLM, and they put $225 in their pocket.

Five hundred of those corporations have sprung up in the last 10 years in this country.

The Attorney General of Florida has an injunction against those people operating in Florida because they were taking advantage of the elderly down there.

Craig Gottach, superintendent of securities for the State of Iowa said in response to our letter to him.

> Although I wouldn't go so far as to say that the Bureau of Land Management aided and abetted in the fraudulent activity of the filing services, I must state in all fairness that it apparently has closed its eyes to the blatant abuses surrounding the operation of its own program, despite overwhelming evidence that the lottery program fostered an entire nationwide industry devoted to using the Government-sponsored program to deceive and defraud the public. If the simultaneous filing program—

that is the scandalous one I am talking about—

> . . . is permanently discontinued, the filing service promoters don't have a product to pitch on unwary citizens. We plead with the BLM to permanently and totally halt the lottery and thereby eliminate what has become a national disgrace.

The Attorneys General met down here about 8 months ago and unanimously passed a resolution approving my bill. The Attorneys General of Florida, Iowa, and Maine have all brought injunctions against these service corporations to stop their fraudulent abuses. If you think you should watch these bond salesmen sitting in a telephone booth or something, you should watch these filling services operate.

Here is what Govenor Herschler of Wyoming had to say:

> When Wyoming changed to the competitive bidding system, we had a great deal of opposition from the independents, and the argument was, of course, that major oil companies would be the only beneficiaries. We now find the independents are fairing very well, and it would be my opinion that they are generally satisfied with the system.

Mr. President, I say to our colleagues, it would be a dereliction of our duty if we allow this to continue any longer.

Senators may find a letter here that has recently come from the White House signed by David Stockman and Bill Clark. They wrote it because they knew that I was going door to door knocking on the doors of Senators to explain this to them.

I hate to say it, but we all know that we oftentimes walk in here and are told that a proposal is one of those things that hurts a little independent, so do not vote for it. We don't always look at the merits, and the public trust is sometimes abused.

The same may have happened at OMB. The same OMB that wrote the letter with Bill Clark about a week ago, also wrote to the Department of the Interior on April 16, 1984 and said:

> In our view a straightforward competitive offer leasing system would be by far the best cure for the deficiencies of the existing program.

That is, before the Interior Department put pressure on them to say something else, OMB recommended that it should be discontinued. This program cannot be justified or defended. When you take that in conjunction with CBO's determination that we are losing $1,200 million which, by the way is probably 100 percent too low, this system can no longer be defended.

To my colleagues in the Senate, the hour is late. We have a long time to go.

I have a lot more I could say which I will not. I think I really covered the salient points.

I should mention one more thing. Ever since I got involved in this program in 1979, there has just been one band-aid after another, just one little patchwork after another to try to put off the inevitable one more time, give it one more chance.

Most recently Secretary Clark has required lottery applicants to prepay 1 year's rent in addition to putting up $75. Yet the only sensible thing about the whole program is the money it makes in filing fees. If everyone has to prepay the rent plus paying the $75 filing fee to get into the lottery, you are just going to cut down on the number of people who are willing to enter. That will reduce revenues, because all the losers get the rent payments back.

You are just cutting down on the number of people who will go into the lottery. It is indefensible because it is fraudulent, it invites fraud, it is a violation of the gambling laws, it deprives the people of this country of their rightful due for the public domain, and it allows these service corporations to prey on the unwary.

Finally, a lot of these leases are bringing what they are worth. These leases out in Amos Draw, WY, that brought $100 million, probably brought what they were worth. The only problem is somebody won it in the gambling operation, so the U.S. Treasury got nothing and the State of Wyoming got nothing.

I plead with you now, do not wait until next year, do not wait until another band-aid is put on it. You cannot justify it. I plead with you to vote for this amendment tonight.

Mr. President, I yield the floor.

Mr. WALLOP. Mr. President, it is always amusing to listen to the Senator from Arkansas speak. He has the flamboyance of a Baptist preacher. He has made significant charges, countercharges, and a lot of statements, the vast majority of which simply do not relate to the leasing system as it presently exists.

It will hurt Federal revenues to adopt his amendment. The amendments or the changes which the Interior Department has made Under Secretary Clark have probably done away with 99.9 percent of all of the charges that the Senator brought up. In point of fact, the worst ones he raised took place under not the administration of James Watt and Ronald Reagan but under Jimmy Carter and Cecil Andrus. And they were fixed from then and they have been fixed now.

But the leasing program in its initial part is not what produces the revenues for the United States anyway. It is the production of oil and gas. And the independent producers of oil and gas are the ones who find the vast majority of it on these public lands.

In point of fact, Wyoming now finds that it is losing money. I know the Senator will quote a letter from the Governor saying different, but the point of fact is it cannot be sustained on the evidence of the experience of the State of Wyoming. We are losing money as a State. We have had a vast drop off in recent months in the last two bids from the independents in the State of Wyoming.

What you are doing is setting up a program which benefits the major oil companies and the major oil companies of America alone. They and they alone have the financial resources to do this.

Now, the Senator has said that we could go on all night and all day tomorrow and do everything else. I have a book here that will answer everything he brings up and he probably has one that will answer everything I bring up.

In point of fact, the system is one which made this country hand down the most creative explorers for its

energy resources of any in the world and, despite the abuses which the Senator has brought up which have been cured administratively and for which a report is due in the middle of next year, it has made us a country which produces, which has provided opportunities for the independents, which has taken the risk takers and instead of everybody bidding like the Russians do on known geological entities what we have is independents who can put together a lease play and do the frontier exploration which has provided us with the incredible energy success that this country has.

So I hope the Senate does not buy this flamboyant rhetoric. It is beautiful and wonderful. I am amused by it. We listened to the same speech last year and twice the year before and once the year before that. It did not persuade you then. I urge you not to have it persuade you now because the country needs the energy that is produced by the energy of the independents.

Mr. President, I rise in opposition to the amendment offered by my colleague from Arkansas [Senator BUMPERS]. It is no secret that Senator BUMPERS and I stand on opposing sides of the barbed wire fence surrounding the issue of Federal onshore oil and gas leasing.

My distinguished colleague has made some very convincing arguments for gutting the present two-tier leasing system, and suggests replacing it with a straightforward, all-competitive process. A major legislative change, such as this one, however, simply cannot be made in a vacuum—through an amendment tacked onto a bill. Any changes to the leasing system involves complex processes, which, out of necessity, must encompass immediate and long-term national energy needs, adequate financial returns for both State and Federal governments, workable and realistic land-use requirements and industry-related concerns.

All in all, Federal programs of any sort that have been associated with accusations of fraud, swindle, abuse, and waste are a natural target for in-depth newspaper and television news reports, and a resulting call for legislative reform by Members of Congress. And, as Senator BUMPERS pointed out in his July 10 "Dear Colleague" a tract of land in the Powder River Basin of Wyoming, called Amos Draw, was the catalyst for such a call. It was mistakenly clear listed by the Bureau of Land Management, and was thrown into the noncompetitive bidding tier back in September 1983. The problem came about when this seemingly dry tract turned out to hold a major oil discovery, and by law all Federal lands with known oil and gas potential must be leased competitively. To make a very involved story short, due to time lags with evaluation procedures in the BLM, and some roundabout maneuverings with the companies involved in the bidding process, the Federal Government lost millions of dollars.

Yet, in spite of the flaws in this system—which I should point out the Department of Interior under Secretary Clark is continuing to address—we cannot and must not accept Senator BUMPERS' proposal without thinking this proposal all the way through. We must think rationally, and we must take reasonable action. The amendment before us, however, does not constitute reasonable action. We must consider both the short- and long-term results of an amendment such as this.

Senator BUMPERS claims that an all-competitive program will provide an immediate solution for eliminating major loopholes and fraudulent practices in our leasing system. It might, and it might not—I am not totally convinced that shift to an all-competitive system will automatically wipe out fraudulent practices and boiler room operators.

I am convinced, however, that this proposal leaves many critical questions unanswered—questions such as * * * How will this major energy policy change affect the long-term economic incentives for our Nation's energy industries to continue oil and gas exploration and production? How will States and Federal revenues be affected 5, 10, 20 years hence? Will an all-competitive leasing program work within the complicated patchwork pattern of Federal, State, local, and private land and mineral ownership in the West? I, for one, do not believe these questions have been adequately addressed through this amendment. Therefore, I urge my colleagues to once again reject this attempt to hastily reform the Federal Onshore Oil and Gas Leasing Program.

Before I specifically outline why the Senate should reject this proposal, Mr. President, I would like to review the Senate's and the House of Representatives' recent and past course of action on similar all-competitive leasing proposals. This subject first came up during the Carter administration. It was considered and rejected. During that time, my distinguished colleague from Wyoming, Congressman DICK CHENEY, requested the General Accounting Office to provide an analysis of onshore oil and gas resources. Most of the findings still apply today.

The analysis entitled, "Impact of Making the Onshore Oil and Gas Leasing System More Competitive," No. EMD-80-60, was presented to Congress on March 14, 1980. In a nutshell, GAO concluded that:

> While the Federal Government's present way of leasing public onshore lands for oil and gas development has certain flaws and inequities, it basically has succeeded in making an important contribution to domestic oil and gas production—mainly by making a good deal of land available and continually accessible for exploration and development. Thus, before any sweeping changes are made, there ought to be a clear understanding and agreement, both in the administration and in the Congress, on objectives sought and likely impacts to result.

This report goes on to make another important point that:

> The type of leasing system proposed, in our opinion, could very likely result in considerably less land under lease, delays in making lands available for leasing, and less incentive and opportunity for independent oil companies and others to continue their traditional role of searching out and exploring lands for prospective oil and gas.

Again, one more point:

> In addition, we believe other actions proposed to reduce the role and influence of "fly-by-night" brokers as well as to discourage participation by speculators—including private citizens—who have neither the capability nor intention of developing oil and gas resources are steps in the right direction, although we believe this may reduce Federal receipts. Alternatively, we believe these objectives can be satisfied without a major overhaul of the entire system. Because the onshore oil and gas leasing system has resulted in the production of significant amounts of oil and gas, we suggest that caution be exercised in any major revamping of the system until there is a better understanding of its impact and a clear statement of its objective.

Once again, I urge my distinguished colleagues to exercise that same caution, caution which caused this body to reject a similar attempt by Senator BUMPERS by a vote of 58 to 39 on July 15, 1983. That same concern almost 2 years ago forced the Senate Energy and Natural Resources Committee to reject this same legislation by a vote of 11 to 8 on July 15, 1982.

Even more recently, Congressman MORRIS UDALL sent a letter to Congressman JAMIE WHITTEN, chairman of the House Committee on Appropriations, urging the committee to reject the House Interior Subcommittee's all-competitive leasing language, which the full committee did, in fact, reject on June 28, 1984. As chairman of the House Interior and Insular Affairs Committee, Congressman UDALL urged his colleagues to reject this language because, and I now quote:

> The normal legislative process involving authorization legislation should be followed where a major change in substantive law is involved.

And, Mr. President, the proposal now before us is a major change in substantive law. A change which has not been fully, or thoroughly reviewed by the Senate Energy and Natural Resources Committee, or by the Department of Interior. Permit me, for a moment, to review the ground covered by the Department of Interior since the Amos Draw incident. Reforms have been made, and will continue to be made, to the Federal Onshore Oil

and Gas Leasing Program and they should be well noted.

Secretary Clark and BLM Administrator Bob Burford have taken very positive steps to eliminate administrative problems within this system. Back in June, Secretary Clark promised to continue reviewing the simultaneous oil and gas leasing program to assure that his own concerns with the system, specifically the lottery and over-the-counter leasing system, have been resolved. The Secretary further stated that:

If these changes have not been satisfactorily addressed, I will support changes to the system or construct a new system that meets our national needs and avoids problems that remain. Specifically, I have not ruled out changes that would increase the proportion of competitive sales.

That sounds like a very reasonable approach to this Senator, and would seem to eliminate the need for an amendment such as Senator BUMPERS'. This system is being reviewed, it has been, and is being reformed.

Secretary Clark as recently as September 25, circulated a letter to all Members of this body urging us to give these changes the time and the opportunity to work. Again, the Secretary pointed out that the GAO is currently conducting a detailed analysis of the program which will be completed in early 1985. In this letter, Judge Clark stressed that he will review these GAO findings, consult with the appropriate congressional committees, and will not hesitate to support changes to the system or construct a new system that better meets our national needs. Why act prematurely by adopting this amendment now? It would seem logical to have these GAO findings in hand before we tackle major changes to America's domestic oil and gas exploration and production policies.

At this point, I believe it is appropriate to highlight some of Interior's new rules, which were published in the June 29, 1984 Federal Register. First, they modify the practice of allowing individuals to compete for oil and gas leases by paying only a $75 application fee. Applicants will now be required to submit the first year's rental payment, calculated at $1 per acre, in addition to the nonrefundable $75 application fee for each parcel applied for. The average SIMO lease size is about 2,200 acres, so the average rental would be about $2,200. By law, however, leases can run between a 40-acre minimum and 10,240 maximum. If an entrant does not win the lottery, the advance rental will be refunded within about 90 days. The goal of the advance rental system is to weed out less-than-serious applicants, and as a result, Interior expects this will reduce applications by about one-third.

Other corrective measures since the Department's October 1983 suspension of the Simultaneous Oil and Gas Leasing Program include a thorough BLM review of its geologic evaluation system. As a result, the Bureau ended the practice followed in some areas for many years, of relying solely on well-spacing criteria and returned instead to interpretation of geologic data in delineating known geologic structures, or a "KGS." This change should ensure that tracts containing geological structures known to contain oil and gas are leased under a competitive system, rather than under the SIMO Program. Also, BLM is reviewing its geologic training practice and intensifying efforts on this front, along with initiating a long-term review of KGS issues by the National Academy of Sciences.

Now, since publishing these regulations, and as many of my colleagues are aware, BLM began accepting applications through August 21 for a drawing which will most likely take place within the upcoming months. Consequently, this will be our first chance to monitor these recently enacted changes to the SIMO Program. Now that I have reviewed what actions the Senate, House, and Department of Interior have taken, let me make a few remarks concerning the present system, Senator BUMPER'S amendment, Wyoming's new all-competitive system and the independent oil industry's opposition against such a change on the Federal level.

Our present Federal Onshore Oil and Gas Leasing System is basically a two-tier system with both competitive and noncompetitive bidding. By law, only land located on a "KGS" is leased competitively. All tracts offered for competitive bidding are evaluated beforehand by the U.S. Geological Survey. The value placed on the tract by USGS is not made public, but is compared with the highest bid received. If the highest bid falls too far below the appraisal, the bid may be rejected. Lease terms are for 5 years with an option to renew providing certain production criteria are met. There is a $2 per acre rental fee and a sliding scale royalty. Land tracts are usually a maximum of 640 acres, and sales receipts are split 50-50 between the State and the Federal Government. About 3 percent of the total Federal leases issued were competitive.

The Simultaneous Leasing Program sells lands that have previously been leased when the prior lease has been relinquished. Here, anyone, including the average citizen, can send in an application directly to BLM along with a filing fee of $75 and will be included in the drawing. The leases terms run for 10 years, rental fees run from $1 an acre for years 1 through 5 and $3 an acre from years 6 through 10. The average SIMO lease size is 2,200 acres, but by law, these leases can run between a 40-acre minimum and a 10,240-acre maximum. The filing fee is retained by the Federal Government and is not shared with the States. The royalty rate is split 50-50 again.

The other part of the noncompetitive tier is over-the-counter leasing. For lands not in a "KGS" the first sale to the public would be accomplished this way—after the BLM determines the tracts' eligibility, the applicant initiates the request by filing an application and filing fee. This is done on a first come, first served basis and if the lands are available, they will be leased. Lease terms are for 10 years, rental is $1 an acre and again the royalty is split 50-50 with the State, but the $75 filling fee is retained by the Federal Government.

Senator BUMPERS' approach advocates this competitive bidding tier only, with some modifications which I will discuss momentarily. His amendment would do away with the second tier of our current leasing system, the SIMO, or lottery system, and over-the-counter leasing.

The primary goal of the noncompetitive leasing system, is to promote discovery and production of oil and gas. As a matter of fact, the high energy potential of the Overthrust Belt was discovered this way. And, with that exploration and production, millions of dollars in royalties are flowing into Federal coffers. Now, by making as much land available as possible, we encourage more and more exploration, especially by the independents who drill 90 percent of all wildcat wells and made 80 percent of the significant oil and gas discoveries in our country. Without this type of exploration activity, as Senator BUMPERS' promotes, the ultimates result would have a chilling effect on production which would send potential revenues to rock bottom levels. And, let us not forget that America still relies on foreign oil for 30 percent of our energy consumption, and that we import 5 million barrels a day.

In 1983, the Simultaneous Leasing Program accounted for 47.8 percent of all lands leased onshore by all BLM leasing offices. Fully 8.8 million acres of potentially productive lands were put into the exploration bank from which wildcatters could quickly draw out appealing prospects as our Nation finds a need to replace older, depleting fields. These 8.8 million acres leased under the simultaneous system will earn annual rentals for the Treasury, and when discoveries are made, will bring significant royalties. Neither the rentals nor the royalties would be earned if these lands were exposed to a competitive market that was not yet prepared to bid for the lease rights.

Let me make this point another way. Although these simultaneously leased lands only made up 47.8 percent of the total lands leased, they account for the bulk of the lease acquisition pay-

ments. One-half of the lands we annually lease would be negatively affected by eliminating the simultaneous program. Look at this another way, the one-half of the lands added to the exploration bank by the simultaneous program contributed in 1983 an estimated three-fourths of the total bonuses and fees received by the Federal Government for all onshore leases issued.

So, I would have to question Senator BUMPERS' use of the CBO assertion that an all-competitive system would "yield about $700 million additional revenues over five years, of which $660 million would be transferred to the states under existing law." By eliminating the Simultaneous Leasing System, we would not only adversely affect our ability to maintain the bank of explorable lands, but would also measurably reduce annual revenues from leasing. Those revenues attributable to the SIMO System for 1983 are estimated by the Department of Interior to be about $90 million. Department of Interior numbers go on to show that an all-competitive system could very well produce a yearly net loss of $40 million.

Along with moving to an all-competitive leasing system, I would assume this proposal would follow other provisions in Senator BUMPERS' bill, S. 581, which would:

Subject leasing to the alternative bidding system requirements of the Outer Continental Shelf Lands Act.

Require nominations of favorable areas from the public for the discovery of oil and gas once a quarter and require sales quarterly.

Limit the lease terms to 5 years with a 5-year extension under specific findings.

Set tract acreages at 5,120 acres and set a minimum rental of $2.00 per acre.

I would like to point out that the thought of basing our onshore leasing program on the offshore program sends chills up my spine. By lumping our onshore program into offshore practices, we might very well not have any oil and gas leasing at all, given the recent congressional penchant for moratoria. Right now, Congress has placed more OCS land (52 million acres, to be exact) under moratorium than has been leased (32 million acres) in the Federal Offshore Leasing Program's history. If we follow such a course, we will be asking for—and getting—an administrative nightmare.

Let me also take some time to ask a few more questions as to the specifics of this proposal. For example, assuming this amendment is designed primarily to reduce speculation and fraud in the current system, what happens to the KGS designation under this bill, and how will you classify land which was considered noncompetitive under the present system without having to literally give it away? Under an all-competitive system, how does the Federal Government solicit bids for leasing speculative land which do not attract competitive bids, but have historically attracted most of the exploration and production? Do you just auction off the good land, the known quantities for the sake of an up-front fast buck, or do you set out on an impossible task to determine fair market values for the 700 million acres plus the U.S. Government owns?

Also, how does the Senator define areas favorable for the discovery of oil and gas in this proposal? Isn't that a rather subjective description? What is a reasonable economic unit other than the 5,120 acres mentioned here? Does the amendment apply to the lower 48 States only, or to Alaska as well? What if there are no public nominations during a quarter, how will that affect our long-term domestic exploration and production? How many bidders constitute a competitive situation—2, 3, 10, 50? And, how will the competitive offshore leasing program translate to onshore land patterns, which as I mentioned earlier, are intertwined with State, local, private, and Federal land and mineral ownership mixtures?

This Senator knows of the complications caused by such an integrated land and mineral ownership pattern, a pattern which at times has one person owning surface rights, and at the same time has another owning mineral rights underneath that very same land surface. The Federal Government owns 48.4 percent of the surface of Wyoming, and more than half of the oil and gas activity on Federal lands occurs in Wyoming. So, let me spend a moment on the Senator from Arkansas' example of the State of Wyoming's new oil and gas all-competitive leasing program, which has previously been cited as a good example for the Federal Government to follow.

In July 1983 Wyoming switched to an all-competitive leasing program. This new program stipulates that bidding is to be oral, that bids must be at least $1 per acre and that no pre- or post-sale tract evaluation will be done. The high bidder is awarded the lease, which carries a 5-year lease term, a one-sixth royalty, a $1 per acre annual rental and a maximum size of 1,280 acres.

A few points here. This Senator is not one to fly in the face of my State's best financial interests—obviously if the Federal leasing system went all-competitive, States would receive more up-front money, or 50 percent of the sales receipts, in addition to half of the royalties. But, the numbers I have seen so far, have still not convinced me that an all-competitive route is the best way to proceed without more discussion on all levels including industry.

Between January and June 1983, Wyoming held six noncompetitive lottery drawings for 375 tracts covering 180,430 acres. Wyoming collected $5.2 million for an average revenue of $28.86 per acre. Between August 1983 and May 1984, Wyoming held five competitive sales in which it offered for lease 788 tracts covering 387,421 acres. In the first sale after the coversion to an all-competitive system the average revenue per acre doubled. This is presumably due to the fact that valuable tracts were withheld from the lottery and sold in the first competitive sale instead.

Now, after this sale, the average revenue per acre fell significantly to well below the noncompetitive average. In fact, the average for the five competitive sales since conversion is $24.61, which is 14.7 percent below the noncompetitive average. If Wyoming had not switched, it could have expected, on average to have received $4.25 per acre more than it did via competition, all other things being equal. Since 387,420 acres have been offered by Wyoming competitively, this translates into a potential revenue loss of $1.65 milion.

Other measures also show that Wyoming is currently most likely less well off than before. On a per-tract basis, average payments have fallen from $36 per acre to $28 per acre. After the change to all-competitive, half the tracts received below $6 per acre as compared to $15 per acre before. All lottery tracts received applications. Just under 20 percent of tracts received no bids in the last three competitive sales. About one-quarter received bids of only $1 per acre. These figures indicate that no competition existed for 40 percent of the tracts offered. In comparison, the average revenues of the lowest 40 percent of lottery parcels was $4 per acre. Also of note is that fact that only 6 percent or less of the tracts in each of the last three sales, received bids above $100 per acre.

Examining the decreasing trend in average revenue and in some of the average bids, I do not believe we can conclude that Wyoming is better off in terms of revenue generation from its oil and gas lands than it was prior to July 1983. Hindsight suggests that Wyoming might have increased its revenues by instituting a system which used competitive bidding for those tracts likely to receive more than $100 per acre and retained the lottery for the remaining 90–95 percent of tracts offered. The Federal system, in essence, attempts to do this by offering prospectively valuable KGS's via competition and all other lands noncompetitively. With the removal of the noncompetitive leases, the Federal Government stands to lose the millions it made, and did not share with

the States in filing fees. Not to mention the high income potential of wildcat wells.

Also, right now competitive leases are limited to not more than 640 acres and the average lease issued is around 209 acres. The administrative costs for issuance of competitive leases is $422 per lease. Under Senator BUMPERS' proposal, competitive bid acreage would increase eight times to 5,120 acres. I must assume that the administrative costs would increase as well to over $3,000 per lease. Presuming that tract evaluation would be required, evaluation costs would run approximately $27 per 100 acres, depending on the amount of data available and the complexity of the geology. Does that $700 million increase take into account all of the administrative costs to implement Senator BUMPERS all-competitive bidding system? This Senator is not totally convinced.

Senator BUMPERS also has indicated that independents, who drill 90 percent of all wildcat wells and make 80 percent of the significant oil and gas discoveries, would not be too severely affected by this proposal. Unfortunately, as an industry, the independents do not share the Senator's viewpoint. It is true that independents hold over 80 percent of the competitive Federal leases today. But, this is because the average size of these leases is 249.6 acres. The Bumpers amendment would expand the maximum size of a competitive lease to 5,120 acres or larger, "as the Secretary determines a reasonable economic unit."

Independents, who have historically been the most active explorers and developers on public lands, could not afford to compete for such large tracts. Outer Continental Shelf-type bidding procedures, as this amendment advocates, have not attracted independents offshore and will most likely fail onshore.

In a March 15 letter to Senator MCCLURE, the Independent Petroleum Association of America pointed out that:

> Apparently, Mr. BUMPERS' claim that the concerns of independents are accommodated stems from the use, in his bill, of the bidding system employed by the Outer Continental Shelf Lands Act. This is of little consolation to independents. During Senator BUMPERS' own remarks on the floor of the Senate during the debate on competitive leasing last July, he stated, "There are today 100 independents involved in Outer Continental Shelf drilling, 100 of them." The Senator makes our point very well. Since there are over 14,000 independents currently working in the United States, that figure of 100 that Senator BUMPERS uses represents .7 percent of all independents.

Let me refer to Wyoming again as an example. During the August 1983 competitive bidding, the majors purchased 21 out of the 88 tracts or 24 percent. Taking a closer look we find that out of the 10 tracts receiving the highest bids, the most valuable tracts, the majors purchased 8 or 80 percent. The same held true for the October sale. Thirteen out of eighty-eight tracts sold were purchased by major oil companies, or 15 percent. But, out of the 10 tracts receiving the highest bids, majors purchased 6 or 60 percent. If independents lose their incentive to explore or are just financially unable to compete, the long-term State and Federal revenue potential will certainly suffer.

A few more points on independents and then I will conclude. The increase in so-called front end costs with a competitive bidding situation would obviously create a capital drain on many small independents. On the average, only 1 of 10 wildcat wells is a producer—9 out of 10 are dry holes. Of the producing wells, only one of four is a commercial well, which will produce enough oil and gas to pay for the costs of drilling that one well. And, only about half of the commercial wells will produce enough petroleum to pay for geologic and geophysical work, the drilling of other wells, lease bonuses and rental payments, and other costs of exploration, production and transportation. For example, in the overthrust, depending on the target depth, drilling costs can run anywhere from $200,000 to $8 million per well, or $100 to $400 per foot. If problems are encountered, the costs can run much higher. In fact, several Overthrust wells have now been drilled at a cost of over $10 million apiece. That, my friends, is quite an expensive venture.

Senator BUMPERS also alludes to the fact that Wyoming independents continue to participate in the new all-competitive bidding process. They will of course continue to participate as long as they are financially able to, but let me just pass along the comments of Richard Robitaille, executive director of the Petroleum Association of Wyoming, who offered a different view of what appears to be a declining interest in Wyoming's competitive system. Some of the more recent proposed rule changes are keeping some of the independents from participating. Robitaille said, "Some of these changes place the industry in a position of trying to figure out what the interpretation will be 6 months from now." The regulations Wyoming is considering would increase the State's share of royalties by more than 4 percent, perhaps another indication that all is not well with the new all-competitive bidding process.

One more observation, and then I will wind up. There is no question that a major weakness of the SIMO Program has been the fraud perpetrated on individuals by filing services. Now, unless individuals are specifically excluded under an all-competitive system, filing services could still have an opportunity to exploit unsophisticated investors. In other words, fraud would still be possible.

Here are a couple of possible scenarios * * * Filing services could still create the appearance of heavy competition by placing many clients on one tract, and by varying the bonus bids. It would still be possible for a devious filing service to circumvent the Department's attempts to use the competitive bid acceptance rule, such as the acceptance of the highest bid on tracts receiving three or more bids as in OCS leasing, by filing bids for three or more clients on several tracts with a different high bidder on each one or by bidding in its own name. It also would be possible for a filing service to demonstrate that it could win competitive tracts for its clients if only by bidding on less valuable tracts. Again, it would be possible for a filing service to assure nomination of whatever tracts it wants offered simply by using its numerous clients or nominating in its own name, as well as its clients' names. Unfortunately, Mr. President, where there is a will, there usually follows a way.

Mr. President, as five of my colleagues and I pointed out in a Dear Colleague letter on September 14, the Department of Interior's Office of Inspector General is cooperating with the FBI, the Postal Service, the Department of Justice and the Federal Trade Commission to investigate and combat fraud by certain companies that purport to be legitimate filing services. Intense coordination among this multiagency task group resulted in numerous search warrants against 22 companies in five States. Investigations are continuing, and criminal indictments are anticipated.

Let me conclude by once again encouraging my Senate colleagues to defeat this proposal which makes drastic legislative changes, changes which embrace many unknown and unaddressed consequences for the future energy independence of America. I urge my colleagues to seriously consider the long-term impact of such a change in the Federal Onshore Oil and Gas Leasing System and vote against this short-term solution to correct problems that are already being addressed by Secretary Clark.

We simply cannot analyze a major legislative change such as this one with tunnel vision and in near-sighted solutions. We must consider America's future energy needs, adequate financial returns for both State and Federal governments, land use requirements and the future of our domestic oil and gas exploration and production capabilities. Too many questions have been left unanswered by this proposal. Too many consequences remain unknown and uncounted. Give the Interior Department's changes a fighting chance

to work before gutting the entire system. I urge my colleagues to once again defeat this amendment.

Mr. McCLURE. Mr. President, I rise in opposition to the amendment offered by the Senator from Arkansas which would totally change the manner in which we lease onshore lands for oil and gas exploration and development, and I urge my colleagues to do likewise.

I would state at the outset that this amendment is strongly opposed by the administration. On September 18, 1984, I received a joint letter from Secretary Clark and Budget Director Stockman stating their opposition from which I now quote:

The Administration strongly opposes such an amendment. We believe it would totally short-circuit the administrative process now under way, unnecessarily curtail the discretion of the Secretary of the Interior to revise the existing rules governing the simultaneous oil and gas leasing program, and effectively vitiate the statutes authorizing the program.

Mr. President, I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, September 18, 1984.

Hon. JAMES A. MCCLURE,
Subcommittee on Interior and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We are writing to remove any confusion that may exist concerning the Administrations' position on a possible amendment to the FY 1985 Interior appropriation bill which would eliminate the simultaneous oil and gas leasing program.

The Administration strongly opposes such an amendment. We believe it would totally short-circuit the administrative process now under way, unnecessarily curtail the discretion of the Secretary of the Interior to revise the existing rules governing the simultaneous oil and gas leasing program, and effectively vitiate the statutes authorizing the program.

We should note that the Administration has had a review of this program under way for some time. We have not ruled out changes that would increase the proportion of competitive sales. We must preserve the integrity of that review and respect good-faith participation by the numerous members of the public who submitted comments. We believe that is far preferable to attempting to resolve this complex issue in the appropriations process.

With all best wishes,

WILLIAM P. CLARK,
Secretary of the Interior.
DAVID A. STOCKMAN
Director of the Office of Management and Budget.

Mr. McCLURE. This amendment should be rejected for a variety of other reasons: It would adversely affect domestic energy production thereby increasing our dependence on foreign energy; it would discourage "wildcat" exploration; it would create a new leasing system which may be unmanageable; it would create a system which would favor major oil companies at the expense of independent producers; it would reduce Federal income from leasing and production; and it would create a leasing system far more complex than the percent system. Furthermore, this amendment is outdated as it ignores the major leasing reforms which have been proposed and implemented by this administration. In particular, this amendment would have the following consequences:

First, the proposed amendment would adversely affect onshore oil and gas leasing—and therefore oil and gas production—at a time when efforts to rid this Nation of its unhealthy dependence on foreign energy should instead be intensified. A 1980 report by the General Accounting Office on the "Impact of Making the Onshore Oil and Gas Leasing System More Competitive" noted that going to the leasing system proposed by the amendment "could very likely result in considerably less land under lease, (and could result in) delays in making lands available for leasing. * * *" Moreover, the GAO report concluded that

Because the (existing) onshore oil and gas leasing system has resulted in production of significant amounts of oil and gas, we suggest that caution be exercised in any major revamping of the system until there is a better understanding of its impact. . . .

This is even more true now in light of the changes in the leasing system the current administration has under way. Yesterday, Secretary Clark sent every Member of this body a letter explaining the steps he is taking to correct the onshore system.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE INTERIOR,
Washington, DC.

DEAR SENATOR: The Administration strongly opposes an amendment Senator Bumpers may offer to the Interior appropriation bill to abolish a system the Department has used to lease onshore oil and gas for the last twenty-five years. While not a perfect system, simultaneous oil and gas leasing is important to the search for oil and gas on marginal, unproven public lands. The Department has responded to criticisms of the program with some significant changes which I believe should be given the opportunity to work.

We have significantly expanded the geographical areas designated as "known geological structures" (KGS) which must be leased competitively. Technical assistance is being provided to the Bureau of Land Management by the United States Geological Survey and the Minerals Management Service to assure proper evaluation and analysis are occurring in the field. Hence, prospective "hot" areas that previously were not available for competitive leasing will be leased competitively.

Also, I have imposed a new requirement that all applicants for simultaneous oil and gas leases submit the first year rental, refundable to non-winners, with their application. This change is expected to decrease significantly filings resulting from fraudulent representations to unsophisticated investors by reducing the appeal of tracts of dubious value to unwary investors. The first posting of noncompetitive lease tracts under these new rules was held in August. The impact of the advance payment rental system would appear likely to reduce the number of annual filings from 1.2 million to just over 500,000. Moreover, an all competitive system would not assure that fraudulent practices could be eliminated.

The GAO is currently conducting a detailed analysis of the program which will be completed in early 1985. I will review its findings, consult with the appropriate congressional committees, and will not hesitate to support changes to the system or construct a new system that better meets our national needs. Specifically, I have not ruled out changes that would increase the proportion of competitive sales.

Rather than launching a precipitous shift in our leasing system, we should await the results of the administrative changes already set in motion and the conclusion of the GAO study underway.

Sincerely,

WILLIAM CLARK.

Mr. McCLURE. Mr. President, the system of competitive leasing proposed by this amendment would particularly discourage "wildcat" oil and gas exploration. Under the existing system there are three means by which an onshore tract may be leased. If the tract is located on a known geologic structure [KGS] then by law the tract must be leased competitively. If the tract had been leased at one time, and for some reason the lessee has decided to relinquish or not to renew the lease, then the tract can be released through the simultaneous oil and gas leasing process, the so-called lottery. If, on the other hand, the tract is not on a KGS and has not been leased before then it can be leased through the noncompetitive over-the-counter method whereby any interested person filing automatically receives the lease upon application.

It is this third type of onshore leasing system which wildcat drillers depend on so heavily in order to obtain the unproven tracts that they are particularly interested in exploring. If the proposal by the Senator from Arkansas is adopted, then a wildcat driller who is interested in an unproven tract would have to write a letter to the Department of the Interior asking that the tract be offered for lease competitively. Now I ask you, what wildcatter is going to spend thousands of dollars to identify a potential wildcat prospect and then have the Department of the Interior, in effect, announce to the world that someone thinks that oil or gas is located on that particular tract? Under this proposed system, we would most likely see some drillers waiting for others to do the ex-

ploration work necessary to identify a prospective lease, and then once the tract is put up for competitive leasing they would then just piggyback on the exploration work of others and compete for the lease.

Clearly, the leasing system which would be created by the amendment offered by the Senator from Arkansas would quickly become clogged up with unwanted frivolous lease nominations, while at the same time it would create a great incentive for mischief with some drillers just waiting in the wings to, in effect, "claim jump" the work of others.

Another reason that this proposed amendment should be rejected is that it would create a leasing system which would work to the advantage of the major oil companies at the expense of independent producers. The GAO report concluded that the system of leasing that this proposed amendment would create would "significantly alter the dynamics and structure of participation in the system in favor of major oil companies." In this regard, I think that it is important to keep in mind that independent oil and gas producers account for 90 percent of all exploratory wells and make 80 percent of new oil and gas discoveries. Moreover, by adversely affecting independent producers this amendment would also adversely impact domestic petroleum production and increase our dependence on foreign energy sources.

Mr. President, the proponents of this amendment also claim that an all-competitive leasing system for onshore oil and gas is needed to assure a fair return to the public for the development of public lands. While I am concerned that the public receive fair value for the leasing of public resources, the proposed amendment would not, in fact, accomplish this end. By discouraging wildcat exploration the amendment would reduce the revenues collected from leasing these tracts as well as the revenues collected by the Government in the event that oil or gas is discovered. I think that it is important to keep in mind that if oil or gas is discovered on tracts that are leased through the existing noncompetitive system, Federal Government collects a royalty of 12½ percent of the wellhead value of the petroleum produced. Furthermore, the GAO report noted that their analysis "suggests that a competitive system might not bring in a significant amount of revenue and may actually not even offset losses in filing fees now obtained through noncompetitive leasing." This conclusion by the GAO was based on the economics of a $10 filing fee which has been subsequently raised by the Department of the Interior to $75 under authority provided by the Omnibus Budget Reconciliation Act of 1981.

The proponents of this amendment also contend that one of its fundamental purposes is to simplify leasing procedures. In my opinion, the system which would be created by this amendment would have just the opposite effect. The proposed amendment would require the onshore competitive bidding process to use the eight different leasing systems established by the Outer Continental Shelf Lands Act Amendments of 1978. How anyone could go so far as to characterize this as a "simplification" of the existing leasing system is unclear. Furthermore, the proposed amendment would require the Secretary of the Interior to determine which of those tracts nominated for leasing by industry are "suitable" for leasing. The amendment does not make clear what the Secretary of the Interior would have to do in order to certify that a particular tract is, in fact, "suitable" for leasing, but keep in mind that during 1983 more than 14,000 onshore oil and gas leases were issued. Thus, unless this "suitability" test is only cursory in nature, the Secretary of the Interior will be inundated with paperwork and, as a result, we would likely see the entire onshore leasing system grind to a halt under a massive paperwork burden.

The proponents of the amendment also claim that it is needed in order to reduce speculation. On this point I again want to quote from the GAO report:

> Our analysis . . . indicates that some speculators—particularly small independent operators—who search out and assemble tracts for exploration by others or themselves may be making a worthwhile contribution to the development process. Penalizing their efforts would do little to increase production from public lands.

Moreover, I think that it is important to note that the Department of the Interior has taken positive steps to weed out the participation in the system by unproductive speculators; for example, the filing fee for noncompetitive leases has been raised from $10 to $75 per filing. This alone has eliminated many who may have taken undue advantage of the existing noncompetitive leasing system.

Mr. President, the proponents of this amendment also contend that it is needed to deal with a variety of other matters, such as promoting diligent development and the possible need to restrict lease assignments and excessive overriding royalties. The GAO report, while acknowledging the possible need to address these issues, concludes that "we believe these objectives can be satisfied without a major overhaul of the entire system" as is proposed by the amendment by the Senator from Arkansas. I believe that this is good advice.

It is for these reasons, Mr. President, that I oppose the amendment offered by the Senator from Arkansas and that I urge my colleagues to do likewise.

Mr. President, I also ask unanimous consent that a letter which Senators WALLOP, DOMENICI, MELCHER, BAUCUS, SIMPSON, and I sent to every Member of the Senate, urging the rejection of this amendment, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ENERGY AND
NATURAL RESOURCES,
Washington, DC, September 14, 1984.

DEAR COLLEAGUE: During consideration of the FY 1985 Interior Appropriations bill, we anticipate that Senator Bumpers could once again offer an amendment to replace the present federal onshore oil and gas leasing program with an all-competitive system. We oppose such as amendment, and ask that you consider several potentially dangerous draw-backs of an all-competitive system compared to the present two-tiered system with both its competitive and non-competitive components:

An all-competitive system does not insure greater competition for oil and gas leases, but it does favor major oil companies over independent producers.

Such a system could produce less rather than more money to the federal government. The State of Wyoming switched to an all-competitive system in July, 1983, and all indications show that so far the state could collect $1.65 million less under this system as opposed to the lottery.

Secretary Clark has completed a review of the present system, and has implemented reforms as a result of the Amos Draw incident and in response to criticism leveled by Senator Bumpers and others. A multi-agency task force has been successful in combating fraudulent and unscrupulous filing services.

First, our present two-tiered system is designed to promote the maximum amount of leasing to enable maximum exploration and development by both multi-interest energy companies and smaller independents. An all-competitive system, with its high front-end bidding costs could actually reduce, rather than enhance competition. The State of Wyoming presents a good case example of what could happen with such a system.

During the August, 1983 competitive bidding, out of the 10 tracts receiving the highest bids, the majors purchased 80 percent. The same held true for the October sale where out of the 10 tracts receiving the highest bids, majors purchased six or 60 percent. In the last three competitive sales, just under 20 percent of the tracts received no bids and about one quarter received bids of only $1.00 per acre. These and other figures indicate that no competition existed for 40 percent of the tracts offered.

Although independents are still acquiring tracts, the most promising tracts were out of their financial reach. If independents lose their incentive to explore or are just financially unable to compete, the long-term state and federal revenue potential will certainly suffer. (Historically, independents have drilled 90 percent of all wildcat wells and made 80 percent of the significant oil and gas discoveries.)

Second, the federal government could stand to lose, not gain, sizable amounts of

revenue under an all-competitive, system. According to preliminary Bureau of Land Management studies, Wyoming appears to be losing $1.65 million for the five competitive sales held since July, 1983.

Under Senator Bumpers' proposal, the federal government could follow Wyoming's lead. Although numbers indicate that an all-competitive system would gross three times as much up front as does our present system, this initial windfall would be substantially reduced after taxes and after states receive their half of the federal filing fees. The bottom line would be a yearly net loss of $40 million rather than gain under an all-competitive system.

If the federal government shadows Wyoming's all-competitive footsteps, some tracts would not be bid upon at all. In the long run, this would result in less income to both state and federal coffers, less land leased, and less land in production. The end result would be an overall chilling effect on our nation's oil and gas exporation and production capabilities.

Third, since the Amos Draw incident last year, Secretary Clark has recently completed major modifications to the non-competitive system to help curtail fraudulent operations, and still promote oil and gas exploration by legitimate interest. The Department of Interior placed a self-imposed moratorium on non-competitive leasing in October 1983. During this period several reforms—in response to criticism from Senator Bumpers and others—have been made. These reforms include rulemaking requiring individuals to pay a non-refundable upfront application fee of $75.00 along with the first year's rental payment, calculated at $1.00 per acre, for each parcel.

After the October suspension, the Bureau of Land Management (BLM) began a review of its geologic evaluation system. It has expanded areas designated as known geologic structures (KGS), which may be leased only under competitive bidding. And, it has ended the practice of relying mainly on well spacing criteria and returned instead to interpretation of geologic data in delineating KGSs. Technical assistance is being provided to the BLM by the United States Geological Survey and the Minerals Management Service to assure that proper evaluation and analysis are occurring in the field.

The Department of Interior's Office of Inspector General is cooperating with the FBI, the Postal Service, the Department of Justice and the Federal Trade Commission to investigate and combat fraud by certain companies that purport to be legitimate filing services. Intense coordination among this multi-agency task group resulted in numerous search warrants against 22 companies in five states. Investigations are continuing and criminal indictments are anticipated.

The Department is continuing to review the non-competitive system and Secretary Clark has stated that, if necessary, he will submit changes to the system or construct a new system that meets national needs and remedies any identified problems that may remain. These future changes would not rule out increasing the proportion of competitive sales.

We hope these points will be of assistance to you, should Senator Bumpers offer this amendment, and we urge you to oppose such an amendment at this time. In our opinion, such a substantive legislative change should not be offered on an appropriations bill, or any other funding measure, especially in view of its uncertain impact on federal revenues, its potentially devastating results on our long-term oil and gas exploration and production capabilities, and the recent reforms of the Department of Interior.

Sincerely,

Senators Malcolm Wallop, Pete V. Domenici, John Melcher, James A. McClure, Max Baucus, and Alan K. Simpson.

Mr. SIMPSON. Mr. President I do appreciate the opportunity to speak for a new moments regarding the amendment offered by my friend and colleague from Arkansas. I understand his concern, and what he is attempting to accomplish. However, I believe that his action is not appropriate. The noncompetitive leasing system certainly needs some case oil and a good thorough over-haul, but I do not believe that now is the time to throw out the entire machine,

I will not attempt to defend some of the abuses that have taken place while the noncompetitive leasing system has been in place—the Amos Draw incident was extremely embarrassing, and costly to the Bureau of Land Management and to the energy policy of this Nation. However, upon discovering that unfortunate mistake, the BLM and the Department of the Interior have taken the necessary corrective regulatory actions and have added safeguards to the system.

It is now important to give the revised system time, to see if it will indeed work—and I am confident that it will. The Department of the Interior has spent the greater part of a year meticulously going over the program, examining the options, and have made good sensible recommendations. Recommendations that should be given the chance to prove themselves.

In order to correct past inconsistencies, the BLM will now require the advance payment of the first year rentals to be submitted with the lease application, This will greatly assist in discouraging those who are only interested in the leases for speculative purposes, since a sizable chunk of money will now be needed to be put upfront. I am confident that this will weed out those who are really interested in actively participating in the process from those who dream of making millions of dollars from the mere $75 filing fee.

In addition, the BLM has been reevaluating what is to be included in a known geological structure, referred to as a KGS. This is vitally important because only leases that are outside a KGS are offered on a noncompetitive basis.

The BLM has now had the time and the personnel to study and evaluate past KGS delineations—using the most up-to-date geological information—so as not to mistakenly offer a lease through the noncompetitive system. The chances, although always slim, are now very remote that a mistake as that which occurred in the Amos Draw Area will happen again using the new geological and linear definitions of a KGS.

Now that the Federal Government has spent valuable time and money shoring up the system, it would be a mistake to throw it all out the window to try a fully competitive system which can only offer speculative benefits.

And there is another salient point that needs to be brought out. The Federal Government is not using the noncompetitive system to dole out leases that are considered prime candidates for oil and gas discovery. In fact, all of the tracts that are issued through the SIMO system have been leased before and were given up. These are tracts that have been considered to have very low energy potential and have been overlooked by the major oil companies.

Now, let's take a moment to look at the leasing system and why the Government is in the leasing business in the first place.

The purpose of the leasing system is actually twofold:

First, to provide the opportunity for exploration and development of energy reserves to assist in assuring that our country is energy self-sufficient; and second, to provide revenue to the Government.

As we all well know, the Federal Government owns millions of acres of land in the West. Some of it covers rich energy stores that could assist this country in meeting its energy needs for decades to come. However, the vast majority of that Federal land does not—and represents very little potential for oil and gas development. It is those acres that are offered through the SIMO system. These are areas that could probably not be leased through any other way—other than an absolute giveaway.

And that is why the present system has been established; where there are known energy fields or a KGS, the leases are offered competitively—and very successfully.

However, where there is little interest in exploring, a noncompetitive system is used to encourage and promote energy exploration and development by giving everyone, including the small independent oil company an opportunity to explore with the slight chance of making a big find, and the system has worked extremely well. In fact, the first serious and fruitful exploration of the oil-rich overthrust belt was accomplished through the noncompetitive leasing system.

I also think my colleagues should be reminded that there are very few areas in the West that are included within a KGS. In fact, less than 5 percent of the leases offered by the Federal Government are within a KGS.

That leaves a tremendous amount of acreage that would probably not be explored except through the noncompetitive system.

It is also important to point out, that offering leases on a noncompetitive basis gives incentive and interest to those who would not generally be vitally concerned with the development of Western oil and gas reserves. People from across the Nation have become interested in oil and gas development and the energy policy of our Nation by investing in the SIMO leasing system. I think this interest is healthy and good for our country as long as the system is kept free of fraud and that all realize the chances of "making big money" are very remote. And the system has indeed promoted much interest, for example, in 1982, an estimated 2 million applicants filed for 71,000 leases.

Now, another argument that has been made and will continue to be made—that the competitive system will indeed bring in more money to the Federal Treasury. This is a very popular argument to be used with the Senator from Wyoming since my State has recently switched to a full competitive system for State-owned oil and gas leases. And indeed, the initial revenues seem to indicate that the noncompetitive bidding process brings in more funds through bonus bids. However, I believe the situation deserves a much closer study.

Between January and June 1983, Wyoming held six noncompetitive lottery drawings for 375 tracts covering 180,430 acres. For its efforts, Wyoming collected $5.2 million, for an average revenue of $28.36 per acre. Between August of 1983 and May of 1984, Wyoming held five competitive sales in which 788 tracts were offered covering 387,421 acres.

The first competitive sale indicated that the average revenue per acre had been doubled over the earlier noncompetitive sales: However, I would swiftly add, that the first sale included many "cream of the crop" tracts that truly offered high energy potential. I say this because since the first competitive sale, the average revenue for the next five sales has fallen to $24.61 per acre. This is actually 14.7 percent less than the earlier noncompetitive average.

Thus, it can be argued that Wyoming, by switching to a fully competitive sale, has now had a potential revenue loss of over $1 million.

I do not think that the Senate wishes to rush headlong into an effort to switch to a fully competitive system only to discover that after the first few sales, that the Federal Government is losing revenue. Again, I say, let us allow the revised SIMO system to work before making any drastic and long-term changes without better information than we have at this time on the results of such a change.

The Wyoming switch has also indicated that as more sales are completed the number of tracts that are not being bid upon is becoming greater—which makes perfect sense. The stiff competition will be for the few promising tracts, with little interest and money being generated for the many less promising tracts.

This, Mr. President, brings up another negative aspect to establish a completely competitive leasing system. And that is that those vigorous and vital independent oil companies will be squeezed out of the competition for the choice tracts by the big producers. This would certainly be an unfortunate result since it is the small independents that drill over 80 percent of the wildcat wells and are responsible for discovering a majority of new sources of oil and gas.

It is easily foreseable that in a fully competitive leasing system, the choice tracts would be held by the super oil powers and the small independents would be put out of the business altogether.

In conclusion, Mr. President, I once again urge my colleagues to vote against this amendment. Let us give the process a fair chance to work, it has worked well in the past and certainly the possible benefits of changing at this time are too dubious to justify at this time.

Mr. President, I would like to ask that the copies of letters from two fine friends, Robert O. Byron and James D. Collums, and the Fortune Oil Co., regarding the present oil and gas leasing program be submitted into the RECORD at this time as if read in full.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

FORTUNE OIL CO.,
June 13, 1984.

Hon. ALAN K. SIMPSON,
U.S. Senate,
Washington, DC.

DEAR SENATOR SIMPSON: It has recently come to our attention that Senator Bumpers is again going to offer his competitive leasing bill for onshore public lands. At the writing of this letter, we have not heard in what form this bill will be offered, whether as a separate bill or as an amendment to another bill. In any form, it is the same onerous bill, as far as the independent operator is concerned, that Senator Bumpers has introduced in the past.

If enacted into law, the all competitive leasing system will cost much more money for the BLM to operate than the present simultaneous system as literally hundreds of qualified geologists will have to be hired in order to ascertain the value of parcels being offered. These people will have to be as knowledgeable as the geologists in the private sector and will have to be paid accordingly which means a great deal of taxpayers money will be spent on salaries.

The fact that the smaller independents will not have the funds to outbid the major oil companies under an all-competitive system will mean that many wildcat wells will not be drilled, as over 90% of wildcat wells drilled are by independent operators. This will cut domestic production and domestic reserves making us even more dependent on foreign imports at a time of great instability in that market place. The reduction of the number of wells being drilled will also decrease the number of people being employed in the oil industry which will increase unemployment. We feel this situation would be untenable as it would put a great number of independent operators out of business due to inability to complete with the majors. We respectfully ask you again in the interest of the "little guy" to use all your efforts to block any legislation which may be introduced by Senator Bumpers or any other legislator which would change the current simultaneous oil and gas leasing system to an all competitive system.

Sincerely,

FORTUNE OIL CO.,
G. W. Anderson, Vice President, Scheree Wilcox Operations Manager; Karen Wardle, Division Order Analyst; John R. Anderson, President; Sandra Kinney, Lease Records Manager; Arne Coles, Office Manager; Michael L. Pinnell, Exploration Manager; Floyd Hatch, Geologist.

OIL & GAS PROPERTIES
& LEASING SERVICE,
June 22, 1984.

Re: Immediate Continuance of Non-competitive Leasing of USA Oil and Gas Minerals

Mr. GARY CARRUTHERS,
Assistant Secretary, Bureau of Land Management, Washington, DC.

DEAR MR. CARRUTHERS: I am writing this letter as a follow-up to our discussion with you today of the effect the discontinuance of the Non-competitive Simultaneous Filing System is having today on the exploration effort on Federal lands. The shut-down already is prohibiting exploration efforts, and each month the problem not only becomes worse, but the effect multiplies.

As of this date, I am told there is a backlog of 5000 parcels of Federal minerals in the State of Wyoming alone upon which leases have expired but the tracts have not been offered for renewal of leases. Assuming an average of 600 acres per parcel, this means nearly 3,000,000 acres are presently unleased in Wyoming. This is now becoming a significant percentage of the total leasable lands in the state. Each month about 400-500 additional tracts expire, or 250,000-300,000 acres.

One small independent oil company in Casper has recently advised me that it has 5 prospects in the Powder River Basin which now contain unleased Federal acreage. Three of these are prime prospects upon which it would immediately purchase leases and drill or promote the drilling of a wildcat well. All the prospects are in wildcat areas, and the unleased Federal acreage amounts to as much as ⅓ of one of the prospects. These are areas upon which wells would have been drilled this year had not the Simultaneous Filing System been discontinued.

If only one small company already is affected to this degree, think how many times this is multiplied by the number of companies actively participating in exploration drilling in just the Powder River Basin of Wyoming.

Even if the Simultaneous Filing System were commenced next month, there would

be at least a minimum of six months lag before the leases actually could be processed and issued.

At a time when the Oil and Gas Industry is so bad, it is unthinkable that the Federal Bureaucracy should handicap it so badly. Think of this if you can. If you had a drillable prospect, even if most of it contained fee leases or other Federal leases, you would not drill the prospect if it contained unleased Federal lands. The unleased land might even be a small proportion of the total prospect, but it might be a major portion of the prime part of the prospect.

The economy of Wyoming is miserable and getting worse. It will not get better if the Federal Government continues to withhold leasing of its lands for oil and gas. Each month of delay makes it even worse, and it is conceivable that it will virtually stop all exploration for oil and gas in Wyoming if allowed to continue for several more months. Remember, only a small amount of acreage in a prime location in the prospect can kill the drilling of a well—perhaps permanently, because if the company's other leases expire in the area, it may never return to the prospect.

Similar problems exist in other states as well, and I foresee serious repercussions to oil and gas exploration in the Rocky Mountain areas unless the Simultaneous Filing System is re-instigated in the very near future.

The situation is becoming desperate!!

Yours very truly,

JAMES D. COLLUMS.

TRUE OIL CO.,
Casper, WY, November 21, 1983.

Mr. ROBERT F. BURFORD,
Director, Bureau of Land Management, "C" Street between 18th and 19th Streets, Washington, DC.

DEAR BOB: Thank you very much for giving us the time from your extremely busy schedule to discuss the suspension of the Simultaneous Oil and Gas Lease Drawing and the definition of "Known Geologic Structures".

A re-cap on some of our recommendations for the problems in the simultaneous lease drawing follows:

1. Simultaneous Oil and Gas Lease Drawing—A regular turnover of leases in a state such as Wyoming where the Federal Government controls 72% of all minerals is an absolute must for the independent operators. Independents are constantly working to assimilate an economic exploration or drilling prospect and with 72% of the minerals in the State of Wyoming controlled by the Federal Government, it follows that practically all drilling and exploration prospects include federal land. Therefore, any shut down or delay in the issuance of federal oil and gas leases would be absolutely disastrous to the independent operator.

2. Competitive bidding—There is absolutely no way that an individual or small company can compete with the major oil companies on a competitive basis for oil and gas leases. The large companies would open up their pocketbooks and bid the necessary amount to obtain the higher quality leases, thereby up-grading their lease holdings, and the independents would be left with the crumbs. Concerning this point, it must be remembered that the independents drill 90% of the oil and gas wells in the United States each year and if this percentage is reduced, there will be fewer wells drilled; fewer fields discovered; less drilling rigs operating; fewer jobs in the drilling, development, production, supply and service portions of the oil and gas industry; less ad valorem, severance and other taxes which are imposed on the oil and gas industry, and on and on and on and on.

3. Fraud—The best way to eliminate fraud in the Simultaneous Drawing would be to prosecute the individuals or companies and the individuals found guilty should be sent to jail as punishment and not just be given a slap on the wrists.

An additional way to eliminate fraud would be to require the first year's rental to be submitted along with the filing card and filing fee. The first year's rental fee should be in "real" money such as U.S. Postal money orders, certified checks or even individual personal checks—however, all of these checks should be cashed and deposited in a Simultaneous Drawing bank account which the Federal Government can draw interest on. Any individual who submits a non-sufficient funds check should not be allowed to enter the Simultaneous Drawing again for a period of two or more years. The interest you receive from these deposits would pay for the expenses of the program.

4. Known Geologic Structures—On a rank wildcat discovery well, the KGS could be defined by encircling the discovery well by the spacing unit for that particular well—for example, if it's a 40 acre spacing unit, use 40 acre tracts around the well, or if it's a 160 acre spacing unit, use 160 acres around the discovery well. If you have additional geologic or geophysical information, this information could be used in addition to the spacing unit which was described previously in this paragraph. We, the legitimate operators in the oil and gas industry, certainly do not want to have any doubt or questions cast on our integrity and we hope you use all of the available information in your hands to realistically define a KGS—by the same token, as we mentioned in our meeting, we would certainly not recommend that you declare a whole sedimentary basin around the well as a KGS.

We feel that our meeting with you was very informative and productive and hope that our input to you would be of aid in helping resolve the problems associated with this temporary suspension of the simultaneous oil and gas drawing.

Thanks again for your time and, if I can be of any help to you in the future, please do not hesitate to call. We look forward to seeing you again in the not too distant future.

With best regards,

Most sincerely,

ROBERT O. BYRON.

Mr. CHAFEE. Mr. President: I am pleased to join my colleague, Senator BUMPERS, in support of this amendment to reform the Federal oil and gas leasing program, and to commend him for his efforts.

This amendment would replace the current system for letting Federal oil and gas leases, with the same competitive system used in the offshore leasing process. This competitive system would eliminate the abuses that currently exist under the present lottery system, would assure a fair return to the Federal Government for these resources, and would promote the orderly development of these resources.

Both the Office of Management and Budget and Congressional Budget Office have concluded that a competitive system would increase leasing revenues to the Federal Government and cure the many deficiencies in the existing simultaneous oil and gas (SOG) leasing program. Additionally, as pointed out by OMB, a competitive leasing system would be far less vulnerable to fraud and abuse than the existing SOG leasing system.

Mr. President, the amendment which Senator BUMPERS is introducing today is a needed response to the shortcomings of the existing system, and I wholeheartedly urge the adoption of this amendment.

Mr. McCLURE. Mr. President, I wish to advise Members that we have some 25 amendments that I am aware of that will be offered to this section of the bill. If we go on this way with respect to a number of such suggestions that may at various times be made that are really legislation on an appropriations bill, we will be here not only all night tonight, we will be here all day tomorrow and all night tomorrow night.

Mr. President, I make the point of order that the amendment is legislation on appropriations.

Mr. BUMPERS. Mr. President, I raise the defense of germaneness and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. Mr. President, a point of order. Under the Byrd precedent, is it not the duty of the Chair to declare whether or not the amendment is germane, and if it is not germane, then the only way it can be considered by the Senate is to overrule the ruling of the Chair?

The PRESIDING OFFICER. On an appropriations bill, the Chair is required to make a threshold determination on the germaneness.

Mr. BUMPERS. Mr. President, will the Chair state that again, please?

The PRESIDING OFFICER. On an appropriations bill, the Chair is required to make a threshold decision on germaneness. If the Chair states that there is no house legislative language, then he may not submit the question of germaneness. On a continuing resolution such as this, there is so much legislation incorporated by reference that the Chair cannot make that statement and, therefore, has submitted the question.

Mr. JOHNSTON. A further point of order, should not the Chair invite the Senator offering the amendment to at least point out the part of the bill to which the amendment would be germane?

The PRESIDING OFFICER. There are parts of this bill which are incorporated in some other bills.

Mr. JOHNSTON. The point is, Should that not be the responsibility

of the proposer of the amendment to at least point out what it is that he considers that the amendment is germane to?

The PRESIDING OFFICER. It is the responsibility of the Senate to determine whether the amendment is germane.

Mr. BUMPERS. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is, Is it the judgment of the Senate that the amendment is germane? The yeas and nays have been ordered and the clerk will call the roll.

[The following proceeding occurred after midnight.]

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Carolina [Mr. EAST] is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Ohio [Mr. GLENN], the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

The PRESIDING OFFICER (Mr. WARNER). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 33, nays 63, as follows:

[Rollcall Vote No. 265 Leg.]

YEAS—33

Biden	Eagleton	Metzenbaum
Bradley	Ford	Mitchell
Bumpers	Heflin	Moynihan
Byrd	Hollings	Packwood
Chafee	Huddleston	Pell
Chiles	Humphrey	Proxmire
Cohen	Inouye	Pryor
DeConcini	Kennedy	Riegle
Dixon	Lautenberg	Sarbanes
Dodd	Leahy	Sasser
Durenberger	Levin	Tsongas

NAYS—63

Abdnor	Gorton	Nickles
Andrews	Grassley	Nunn
Armstrong	Hart	Percy
Baker	Hatch	Pressler
Baucus	Hatfield	Quayle
Bentsen	Hawkins	Randolph
Bingaman	Hecht	Roth
Boren	Heinz	Rudman
Boschwitz	Helms	Simpson
Burdick	Jepsen	Specter
Cochran	Johnston	Stafford
Cranston	Kassebaum	Stevens
D'Amato	Kasten	Symms
Danforth	Laxalt	Thurmond
Denton	Long	Tower
Dole	Lugar	Trible
Domenici	Mathias	Wallop
Evans	Mattingly	Warner
Exon	McClure	Weicker
Garn	Melcher	Wilson
Goldwater	Murkowski	Zorinsky

NOT VOTING—4

East	Matsunaga
Glenn	Stennis

The PRESIDING OFFICER (Mr. WARNER). On this vote, the yeas are 33, the nays are 63. The judgment of the Senate is that the amendment is not germane; therefore, the amendment fails.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment is not germane.

Mr. WALLOP. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SEVERAL SENATORS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. McCLURE. Mr. President, I wonder if I might yield to Senator BRADLEY at this point.

The PRESIDING OFFICER. The Senator from New Jersey.

AMENDMENT NO. 6937

(Purpose: An Amendment to provide $3,000,000 for Forest Service Research Program to investigate declines in U.S. forest productivity)

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk reads as follows:

The Senator from New Jersey [Mr. BRADLEY], for himself, Mr. LAUTENBERG, Mr. TSONGAS, Mr. MOYNIHAN, Mr. HART, Mr. HUMPHREY, Mr. MITCHELL, and Mr. COHEN, proposes an amendment numbered 6937.

Mr. BRADLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 54, line 8: Strike out "$124,395,000", and insert in lieu thereof "$127,395,000".

Mr. BRADLEY. Mr. President, the amendment I am offering will provide research funds to investigate a threat to our Nation's forests that could assume catastrophic proportions. Although distressing evidence has been coming in for some time, very little is being done to understand what is happening to our trees or how we can combat it. My amendment provides an additional $3 million for Forest Service research money to address a much more critical need: preventing the loss of much of America's forest resource.

Trees in both the United States and Germany show damage, and we do not know why. We suspect the cause may be pollution from fossil fuel burning, but no one can prove which pollutants are responsible or just how they are affecting the trees. I would like to cite some of the evidence that is turning up:

First, in both the United States and Germany, tree growth rates dropped sharply over a 4-year span around 1960. Tree growth has been below normal even since. The problem affects trees all over the Eastern United States and Germany, and affects both deciduous and evergreen trees. What happened in 1960? What is causing the slow growth? Could it get worse? We do not know.

Second, in Germany, large numbers or trees are sickening and dying back for an unknown reason. Both deciduous and evergreen trees have been losing green leaves and needles. Leaves are turning yellow, the crowns are thinning, and new growth shoots are misshapen. This dieback problem first appeared about 1980. Less than 3 years later, the problem now affects 34 percent of the trees in the famous Black Forest.

Third, a similar dieback problem has appeared in the United States. So far, the U.S. problem only affects one species—red spruce. We know that for the past 20 years, red spruce has also experienced the same growth decline as all other species. Is red spruce only the first species to be affected by dieback? Are other species about to be hit as has happened in West Germany? Again, we do not know the mechanism or even which pollutants are responsible.

What alarms me most is that we do not understand any of the damage mechanisms. This means we do not know which of several air pollutants is the culprit, or if pollution is the sole cause. We cannot even rule out the possibility that something other than pollution might be at work. Also because we do not understand the damage mechanisms, we cannot say if damage is comulative or only depends on pollution received in a given year. If damage depends only on the year-to-year deposition, perhaps we can afford to wait until we know enough to tailor control expenditures to the key problems and to save money. If the damage mechanism is cumulative, we are sitting on a time bomb and every year's delay makes things worse. Year to year or cumulative? We cannot prove either hypothesis. I believe that it is time to establish an expedited research program to uncover the cause of the damage to our Nation's forests so that we can take rational steps before a catastrophe occurs. The $3 million that is added by this amendment will supply needed funds for research into the acid deposition problem. The additional money is to be coordinated by the interagency force created by the Acid Precipitation Act of 1980, which was coauthored by Senator MOYNIHAN. Testifying before the House Interior Appropriations Subcommittee, Forest Service Chief Max Peterson provided a schedule of how this money will be spent. The money will provide:

Forest surveys and assessments to evaluate condition of forests in the Eastern United States, growth decline, mortality, and possible causes.

Research of effects of acid deposition on sensitive, high elevation ecosystems in the Western United States.

Investigation of the relationships between acid deposition and declining growth of forest trees.

Studies on effects of acid deposition on forest soil productivity, including impacts and fate of toxic heavy metals.

Studies on effects of acid deposition on tree growth, reproduction, and physiology.

Industries connected with forestry, wood, lumber, paper, and allied products generate about $21 billion annually in personal income. The $3 million added by this amendment represents a small but vital first step in addressing a threat to a vital resource. I ask my colleagues to join me in its support.

Mr. MOYNIHAN. Mr. President, I rise in support of the amendment offered by the senior Senator from New Jersey, Mr. BRADLEY. The purpose of this amendment is to add $3 million to the forest research account. This amendment, if adopted, would provide additional funding for research into the causes of declining forest productivity, both in the Eastern and Western United States.

Mr. President, as author of the Acid Precipitation Act of 1980—title VII of Public Law 96-294—the only Federal acid-rain statute to date—I long have believed that research on the effects of acid rain is critically important. That act established the Interagency Task Force on Acid Precipitation, charged with responsibility to conduct and coordinate research into the causes, effects, and mitigation of acid rain. I understand that funds made available under this amendment will accrue to the U.S. Forest Service to augment current research efforts conducted as part of the Interagency Task Force's National Acid Precipitation Assessment Program.

Acid rain is no longer a narrowly defined regional problem. Recent studies have revealed dramatic declines in the growth rates of trees of several species from Maine to Alabama, and in the Ohio Valley. Acid rain also adversely affects forests in eastern Canada and central Europe.

This amendment would provide additional money for a most important research effort. I urge my colleagues to support its adoption.

Mr. McCLURE. I would like to commend the Senator for offering this amendment. I believe it is a worthy project. I note that the House bill contains a similar provision, and I can assure the Senator from New Jersey that it is our intention that the $3 million for this project will appear in the final conference report

Mr. BRADLEY. I thank the Senator. I appreciate his assurances that the $3 million for research into the tree growth decline will appear in the final conference report, and I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The Senator from Idaho.

AMENDMENT NO. 6938

(Purpose: To express strong Congressional support for the development and enhancement of the United States Continental Scientfic Drilling Program, and to encourage cooperation between the federal government, private sector, and international community)

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Idaho [Mr. McCLURE] for Mr. PRESSLER, for himself, Mr. DURENBERGER, Mr. HATCH, Mr. BINGAMAN, Mr. CHAFEE, Mr. PERCY, Mr. DOMENICI, Mr. TSONGAS, Mr. ANDREWS, and Mr. HEINZ, proposes an amendment numbered 6938.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows:

Before the period at the end of section 101(c) insert the following:

": *Provided further*, That to express the sense of the Congress that the Continental Scientific Drilling Program is an important national scientific endeavor, benefiting the commerce of the Nation, which should be vigorously pursued by government and the private sector.

"The Continental Scientific Drilling Program is an important national scientific endeavor that is vital to the understanding of the geologic evolution of the Earth and the economic value of its resources;

"The most effective and efficient means of realizing the fullest potential in the Continental Scientific Drilling Program is through a cooperative effort by the Department of Energy, the National Science Foundation, and the United States Geological Survey;

"Many important commercial and scientific advances may result from the Continental Scientific Drilling Program; and

"Many foreign nations are engaged in a comparable deep drilling program, and cooperation and coordination would be beneficial to United States efforts.

"It is the sense of the Congress that—

"(1) the Continental Scientific Drilling Program is an important national scientific endeavor by the United States which should be enthusiastically implemented through a joint cooperative effort among the United States Department of Energy, the National Science Foundation, and the United States Geological Survey;

"(2) The private sector should be encouraged to support the Continental Scientific Drilling Program and the participating agencies should solicit appropriate private sector participation in such Program; and

"(3) The United States Government should cooperate to the extent practicable with the international community in developing this important scientific and technical activity."

Mr. McCLURE. Mr. President, this is a resolution in the form of an amendment to the bill dealing with the Continental Scientific Drilling Program.

Mr. President, I understand that the distinguished Senator from South Dakota [Mr. PRESSLER] is offering an amendment regarding the Continental Scientific Drilling Program. I would just like to take a moment to add my support to this important legislation, and to commend my colleague for his able leadership on this issue.

Senator PRESSLER has told me of the superior capabilities of the South Dakota School of Mines and Technology in this area, and I certainly agree that the repository facilities he mentioned would be well suited for this program. He is a great champion for the interests of South Dakota, and you can always count on his word. South Dakota is fortunate to have a Senator of his caliber serving in the U.S. Senate.

I have watched his work closely over the years. His skillful handling of the amendment before us is illustrative of his well-established abilities as a truly exceptional legislator. He is a tireless worker and a refreshingly innovative thinker.

Mr. President, I just want to conclude by reiterating my strong support for this amendment and its distinguished author.

Mr. PRESSLER. Mr. President, I thank my distinguished colleague from Idaho for his very kind words, and for his support of this legislation. I greatly appreciate his cooperation on this important issue.

Mr. President, I rise today to offer an amendment to the continuing resolution. This amendment expresses support for the Continental Scientific Drilling Program, designed to encourage its development in the United States. This legislation is enthusiastically supported by the geological and related scientific communities, as well as by the administration. I have a letter of support from the White House, signed by Dr. G.A. Keyworth, science adviser to the President. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, August 29, 1984.

Hon. LARRY PRESSLER,
U.S. Senate,
Washington, DC.

DEAR SENATOR PRESSLER: Thank you for sending me an advance copy of your proposed resolution on the Continental Drilling Program.

We fully agree with the National Academy of Sciences' recent assessments of the importance of a program of scientific continental drilling. The President's FY 1985 budget contained a small initiative in the National Science Foundation to begin preparatory studies for such a program. We are pleased with the progress so far, and expect that it will continue as planned. We are

fully supportive of the proposals outlined in your resolutions, and look forward to continuing to work with the Congress to develop a really exciting and productive cooperative scientific drilling program.

Yours truly,

G.A. KEYWORTH,
Science Advisor to the President.

Mr. PRESSLER. Mr. President, I would like to take a moment to explain the amendment, and urge my colleagues to support its passage.

In essence, the Continental Scientific Drilling Program has been developed to enhance our understanding of the processes that have led to the evolution of the chemical and physical structure and properties of the Earth's continental crust. According to an interagency agreement by the Department of Energy, the Department of the Interior, and the National Science Foundation, this program would "contribute directly to the solution of serious national problems such as ensuring adequate supplies of energy, water and mineral resources, safe isolation of wastes, protection against the hazards of earthquakes and volcanic eruptions, and national defense." It goes on to state that the program "is an especially important tool for the scientific exploration of the earth's crust."

Mr. President, the United States has a lot of catch-up work to do in this area. Russia and many of our European counterparts are far ahead of us in this important scientific technology. I think it would behoove this body to act as expeditiously as possible to illustrate our strong desire to forge ahead as a nation in this program.

There is much yet to learn about the Earth. I am convinced that our understanding of this fascinating planet will be the key to a livable, prosperous future for generations to come. My colleagues will recall my support for, and interest in, our National Remote Sensing Satellite Program. My enthusiasm for the CSDP stems from much the same interest. Mr. President, we have to better understand our Earth and all its important resources if we are to properly manage and preserve them for our children.

This scientific and economic importance of this program is well documented. I would like to see us begin as soon as possible to get it fully underway.

This important research will not be limited to any one area or State, and will have a very positive impact in the areas affected. As I have said before, the CSDP is not only an extremely important scientific program, but carries with it important economic benefits, as well.

In my home State of South Dakota, for example, there are a number of specific targets for CSDP research. One is a large, relatively low temperature geothermal anomaly located in the central portion of the State, which could tell us much about the flow and temperatures of aquifers and lead to a better understanding of a large source of geothermal energy.

Another would be the famous Black Hills of South Dakota, which offer us a unique look at the basement of the central United States. This small exposed piece of the continental crust contains the largest producing gold mine in the Western Hemisphere. Further, more sophisticated exploration and study could produce much more information about the mineral potential in these types of areas.

Perhaps more importantly, the South Dakota School of Mines and Technology [SDSM&T]—one of the most respected and innovative technical colleges in the world—is located in Rapid City, SD, in the heart of the Black Hills. SDSM&T and its superb faculty are well suited to play a major role in this important program—both inside and outside of South Dakota. SDSM&T facilities are well equipped for this type of research, and many members of its faculty are experts in specific areas of the CSDP. Eileen Ashworth (rock mechanics), J.J. Papke (crystal chemistry, mineralogy, and petrology), W.M. Roggenthen (geophysics, paleomagnetic studies), and C.K. Shearer (geochemistry and analytical chemistry) are just a few examples. I am very proud of SDSM&T and know that it can play an important role in the CSDP.

Finally, South Dakota would be well suited for curation of cores and other samples collected as part of the CSDP. As author of this legislation, it is my hope and intention that the former coal gasification plant in Rapid City, which was initially financed by the Federal Government and now stands empty, is utilized as the central repository for core and other samples collected as part of the Continental Scientific Drilling Program. Experts in the field have found that it is an ideal location for a repository of this type. I hope my colleagues will agree and vote in support of this amendment. In brief, the plant is a soundly constructed facility with adequate space and excellent access. Rapid City is relatively centrally located and quite accessible by air or highway. The presence of the Department of Geology and Geological Engineering, the Institute for the Study of Mineral Deposit [ISMD], and the Engineering and Mining Experiment Station [EMES] provide the scientific expertise and analytical facilities which are crucial to the operation of a repository of this magnitude.

These are just a few of the potential specific benefits to one area. I want to emphasize that this is not a limited or parochial program. It is a national program with many international implications, and is deserving of our strong support.

With that, Mr. President, I will conclude my statement by once again urging my colleagues to join me in supporting this expression of strong support for the CSOP and to act expeditiously in order to send a strong signal to those involved.

SEVERAL SENATORS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. There is an amendment now pending.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Ohio is recognized.

Mr. METZENBAUM. I yield to the Senator from Idaho.

Mr. McCLURE. Mr. President, I believe there is no objection on this side.

Mr. JOHNSTON. Mr. President, the minority has had a copy of this amendment and we do clear the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6938) was agreed to.

AMENDMENT NO. 6939

(Purpose: To clarify the intent of Congress with respect to time spent by certain employees in a travel status away from the official-duty station of such employees)

Mr. MELCHER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. MELCHER] proposes an amendment numbered 6939.

At the end of the Committee amendment (SEC. 101(c)), add the following:

"Notwithstanding any other provision of this section, H.R. 5973, as reported, is considered to include the following:

"SEC. 321. Section 5542(b)(2)(B)(iv) of Title 5, United States Code, is amended by inserting immediately before the period at the end thereof a comma and the following: "including travel by an employee to such an event and the return of such employee from such event to his or her official-duty station"."

Mr. MELCHER. Mr. President, during the recent rash of devastating fires in Montana, I became aware of a serious inequity in the manner in which Forest Service firefighters are compensated for their traveltime to and from a fire.

The Forest Service, relying on several Comptroller General opinions regarding travel compensation, has often refused to compensate firefighters for their return traveltime from a fire.

Mr. President, my amendment simply clarifies the intent of Congress in enacting 5 U.S.C. 5542(b)(2)(B)(iv), the relevant statute governing travel compensation.

The matter of compensable traveltime for firefighters to and from fire assignments has been the subject of several decisions by the Comptroller General since 1970. These decisions are based on the Comptroller General's interpretation of the relevant statute, which provides in part, that time spent in travel status away from a Federal employee's official duty station is not hours of employment unless the travel results from an event which cannot be scheduled or controlled administratively.

The principles upon which these directives are based include laws, regulations and policies that are the same for fire travel as for any other travel by Federal employees. The Federal travel policy is that, to the extent practical, travel should occur within regular work hours. However, the Congress, recognizing that this is not always possible, has provided that, under certain conditions, traveltime which occurs outside of regular work hours is compensable. One of these specific conditions is if "the travel results from an event which could not be scheduled or controlled administratively."

The statute provides that travel during an employees off duty time is compensable when it:

(i) involves the performance of work while traveling; (ii) is incident to travel that involves the performance of work while traveling; (iii) is carried out under arduous conditions; or (iv) results from an event which could not be scheduled or controlled administratively.

The Comptroller General has held that although initial travel to a fire is compensable because it cannot be controlled, the return travel itself must fall within one of these conditions in order to qualify the time involved as hours of employment. 50 Comp. Gen. 519 (1971), 50 id. 674 (1971) and B-177461.

According to the Comptroller General,

Return travel from the fire outside normal work hours may be compensable depending upon the reason for such travel. Among the factors to be considered are living conditions at or near the fire camp. Where motel, hotel, or comparable facilities are utilized by firefighters at the fire camp area, we would agree that return travel is administratively controllable as in the case of nonfirefighter personnel. However, in cases where no such comparable facilities are available and the alternatives open to firefighting personnel are either bedrolls and perhaps tents for another night or return travel off-duty hours, such return travel is not viewed as administratively controllable—B-169419, August 26, 1970.

Mr. President, that a firefighter's travel to a fire is compensable is uncontroverted by the Comptroller General and the Forest Service since the travel results from an administratively uncontrollable event, that is the fire. However, the law does not restrict such compensation to partial travel resulting from an administratively uncontrollable event. The law simply states that travel resulting from such an event is compensable. Common sense as well as equity would dictate that this means any travel resulting from an administratively uncontrollable event is compensable, including return travel. If the Congress had intended to confine the scope of compensable travel only to travel to an administratively controllable event, it would have so specified. However, the Congress did not limit or circumscribe such travel in any matter in the statute.

As has been pointed out, the Federal travel policy is, that to the extent possible, travel should occur within regular work hours. The exceptions to this policy were spelled out by the Senate Post Office and Civil Service Committee in the report accompanying H.R. 7977, the Postal Revenue and Federal Salary Act of 1967 which was signed into law as Public Law 90-206 and codified as 5 U.S.C. 5542.

According to the Senate Report,

When emergencies occur or when events cannot be controlled realistically by those in authority, traveltime must be paid for—S. Rep. No. 90-801.

The Comptroller General's interpretation of the statute hinges on an entirely different premise than that which is clear on the face of the law as well as from the legislative intent. The Comptroller General's opinions distinguishing between the compensability of firefighters' travel to a fire and return travel from the fire are designed to minimize cost. While this is a commendable motive it is an illegal application of the law. The law was intended to minimize circumstances where Federal employees would be required to travel on off-duty time and to pay them for traveltime in the event of emergencies requiring them to travel during off-duty time. There is absolutely nothing in the law or in the legislative intent to indicate that any distinction should be made in the compensation of a firefighter for his travel to a fire and his travel from the fire.

Neither the Senate report nor the statute differentiate between travel to and from an emergency. The word "traveltime" in the Senate report is comprehensive, just as the word "travel" in the statute embraces all travel without qualification.

Under the governing statute, a firefighter's return travel from a fire is travel resulting from the same event which required the firefighter's travel to the fire; that is, the fire itself. The travel in its entirety, beginning at the home or duty station and ending at the home or duty station, results from a single administratively uncontrollable event. Therefore, the travel in its entirety is compensable.

Mr. President, the law on this subject is very clear to me. Unfortunately the Forest Service and the Comptroller General have failed to properly apply the law. For that reason, I am offering this amendment.

Mr. President, believe it or not, there are occasions when forest fire fighters are not paid for the time it takes for them to return from the site of the fire until they get back to their home base. We have just had a series of fires in Montana. There were 5,000 forest fire fighters gathered from all over the country into the State to help in a series of devastating fires. But due to the fact that there is a Comptroller General's opinion on what the Federal Code says about return pay from an emergency site, some of these forest fire fighters will not be paid for the time it takes for them to get home. That is not the intention of Congress, as I read the statute, nor is it the interpretation of the statute as read by a great number of administrators.

Mr. McCLURE. Mr. President, if the Senator will yield, we have had an opportunity to examine this amendment and discuss the issue with the distinguished Senator from Montana. We have no objection to the amendment and urge its adoption.

Mr. JOHNSTON. Mr. President, the amendment is cleared by the minority, as well.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6939) was agreed to.

AMENDMENT NO. 6940

(Purpose: To increase technical assistance for the territories)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated. The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment numbered 6940.

At the end of section 101(c) insert the following: ": *Provided further*, That notwithstanding any other provision in this joint resolution, on page 34, line 8 of H.R. 5973 as reported by the Senate Committee on Appropriations strike '$76,670,000' and insert '$77,170,000' and on line 9 strike '$73,842,000' and insert '$74,342,000'."

Mr. JOHNSTON. Mr. President, this amendment will increase technical assistance for the territories by $500,000.

The purpose of this increase is to provide sufficient funds within this ac-

count for assistance to the college of the Virgin Islands to undertake important programs associated with establishment of the Caribbean Cultural Center at the college, an initiative first proposed by President Reagan when he announced his Caribbean Basin Initiative in March 1982.

The college is uniquely situated to provide a bridge between our Caribbean neighbors and the mainland United States.

These funds will allow these important programs to begin.

Mr. McCLURE. Mr. President, I have no objection to the amendment. I do wish, however, to caution all Members that under the allocation that was made to our subcommittee in the Appropriations Committee and connected with the action that has been taken in the other body, this bill is not $700 million over our mark. While I am willing to accept that amendment and take it to conference and do what we can for this item in the conference, it is going to be very difficult in conference to get $700 million out of this section of the bill. I ask Members to restrain their appetites to add more money here. It is just going to make our problem worse when we get to conference.

As I have said, I have no objection to this amendment. I shall take it to conference and do the best we can with it there.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6940) was agreed to.

AMENDMENT NO. 6941

(Purpose: To require the Federal Energy Regulatory Commission to allow the State rule with respect to the inclusion of any construction work-in-progress costs in a public utility rate base except upon showing of financial distress)

Mr. CHAFEE and Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE] for himself, Mrs. KASSEBAUM, Mr. LEAHY, Mr. PELL, Mr. STAFFORD, Mr. DANFORTH, Mr. HUMPHREY, and Mr. BAUCUS, proposes an amendment numbered 6941.

At the appropriate place in the bill (resolution) insert the following:

SEC. . The Federal Power Act is amended by adding the following new section at the end of title II:

"COST OF CONSTRUCTION WORK IN PROGRESS

"SEC. 213. (a) Nothing in this section shall be construed to affect the authority of the Commission to approve the inclusion of the following costs of construction work in progress in the rate base of a public utility in accordance with the provisions of sections 205 and 206 of this Act—

"(1) the costs of any pollution control facility; and

"(2) the costs of conversion of oil or natural gas-fired facilities to the use of fuels other than oil or natural gas.

For purposes of the following provisions of this section, the term 'costs of construction work in progress' shall be treated as not including the costs referred to in paragraphs (1) and (2).

"(b) Upon application by a public utility the Commission shall approve inclusion of any cost of construction work in progress in the rate base of such a public utility only to the extent that construction work in progress costs would be allowed in retail rate base of such utility according to the law of the state in which the wholesale customer is located.

"(c)(1) Notwithstanding subsection (b) above, upon application of a public utility, the Commission may approve inclusion of the costs of construction work in progress of a facility in the rate base of such public utility if the Commission finds that (a) the internal generation of funds from rates established by the Commission and from all other sources of funds related to the Commission's jurisdiction in a test period established by the Commission is, after subtraction of interest payments and dividends (except reinvested dividends) subject to the Commission's jurisdiction, 40 per centum or less of planned construction expenditures subject to the Commission's jurisdiction in such test period; (b) the inclusion of the facility in the rate base will have a significant material impact on the financial health of the utility; and (c) the facility will meet demand for electric energy services at least system cost with adequate reliability.

"(2) Any application submitted to the Commission under paragraph (1) shall contain—

"(A) a detailed description of the financial condition of the public utility;

"(B) a detailed description of construction expenditures subject to the Commission's jurisdiction in a test period established by the Commission and detailed description of funds to be internally generated during that period from rates prescribed by the Commission and all other sources of funds related to the Commission's jurisdiction;

"(C) a statement demonstrating that the facility proposed to be included in the rate base is necessary to meet the demand for electric energy services at least system cost with adequate reliability; and

"(D) a statement demonstrating that the inclusion of the facility in the rate base of the public utility will have a significant material impact on the financial health of the utility.

A rebuttable presumption of the lack of a significant material impact shall arise under (c)(1)(b), if less than 20 per centum of the sales of the public utility are under the jurisdiction of the Commission. The Commission may approve inclusion of the costs of construction work in progress of a facility in the rate base of a public utility pursuant to this subsection only to the extent necessary to restore the internal generation of funds from rates established by the Commission and from all other sources of funds related to the Commission's jurisdiction during the test period established by the Commission, to a level of 40 per centum of construction expenditures subject to the Commission's jurisdiction, after subtraction of interest payments and dividends (except reinvested dividends) subject to the Commission's jurisdiction, during such test period shall be permitted to be included in such public utility's rate base.

"(d) As used in this section, the term—

"(1) 'construction work in progress' means construction of a facility used to generate or transmit electric energy which construction is undertaken, or proposed to be undertaken, but which is not yet in service.

"(2) 'system cost' means an estimate of all direct costs of a resource over its effective life, including the cost of generation transmission and distribution, and, among other factors, waste disposal costs, end-of-cycle costs, and fuel costs (including projected increases and decreases), and such quantifiable environmental costs as are directly attributable to such resource.".

Mr. CHAFEE. Mr. President, the amendment I have sent to the desk modifies the current Federal Energy Regulatory Commission [FERC] procedure that allows the inclusion of Construction Work in Progress [CWIP] costs in the rate base of wholesale utilities.

Mr. President, the amendment in essence limits FERC's authority to allow construction work in progress to the extent the State in which the purchasing customer is located permits CWIP to be reflected in retail rates.

Now let's look more closely at State practice, for I believe it is instructive. Forty States—repeat, 40 States—have very restrictive practices for allowing CWIP costs in rate base. Nine other States allow CWIP only at the discretion of the State Public Utilities Commission [PUC]. Only one State, the great State of Virginia, routinely permits the inclusion of CWIP costs in the rate base of wholesale utilities. On reviewing this situation, it indeed is surprising that the Federal Government doesn't do as much to protect consumers under Federal jurisdiction from paying through their retail rates for the investment risk of unnecessary powerplant construction.

The amendment is of particular importance to Rhode Island. Since Rhode Island buys about 80 percent of its electricity at wholesale from out of State, under the current FERC rule our ratepayers will have to pay substantially higher prices for electricity. Rhode Island citizens already pay the highest electric costs in the country and it has been estimated that customers served by one local utility will almost immediately have their rates raised by 4 percent under the CWIP rule.

The amendment I have introduced is in a different form than the bill I and other cosponsors originally introduced as S. 1069. I particularly want to point this out because these changes represent an attempt to fashion legislation that is responsive to the concerns expressed by both sides in the extensive 3 days of hearings on this issue that have been held here in the Senate.

Mr. President, this is not an issue which has not been studied. CWIP has been studied by CRS, OTA, and GAO, as well as heard in hearings in both the House and the Senate. In the Senate Subcommittee on Energy Regulation, chaired by my distinguished friend from Alaska [Mr. MURKOWSKI], we held 3 hearings and had 30 witnesses give us their views on this problem. This amendment is the result of what we have found out in these hearings.

This revised amendment, therefore, accommodates the concerns expressed during these hearings. I would like to stress that a major concern expressed over and over again by utility executives in the hearings was the apprehension that Federal legislation limiting the inclusion of CWIP would send a negative signal to the Public Utilities Commissions, where the great bulk of utility business is regulated.

I have been particularly sensitive to this concern. In our current proposal, FERC now will follow the rule of the State at the point of purchase. The Federal Government will no longer be sending a signal, negative or otherwise, to the States. Inconsistency between State and Federal regulation within States will be avoided.

Mr. President, this amendment protects consumers and wholesale customers from unsound investment decisions and from paying for unnecessary powerplant construction. Sound investment practices and use of conservation measures will be encouraged while the concerns expressed by utilities as well as consumers are both addressed.

It recognizes that the great majority of States have decided to use a very sensible rule with regard to CWIP. And it permits those few States that do not use a strict CWIP practice to continue to apply their own standards.

Finally, it is responsive to many of the concerns raised in our hearings about our initial bill, S. 1069.

Mr. President, I would point out that this is not a narrow issue of limited regional concern, though it is certainly of great importance to my own State of Rhode Island. The House has passed by a vote of 288 to 113 a strong bill limiting FERC's ability to permit CWIP. It has been of great concern to the States. Oregon and Missouri have recently passed referenda prohibiting CWIP. In Idaho, the State legislature passed a virtual prohibition of CWIP with only one dissenting vote. In Connecticut and Illinois, laws have been passed to phase out allowance of CWIP; Alaska prohibits CWIP.

My point is that consumers throughout the country care about this issue. The Consumer Federation of America and the National Association of State Utility Consumer Advocates both strongly endorse this amendment. They are joined by Environmental Action, the Sierra Club, the Environmental Policy Industry, the Environmental Defense Fund, and the Union of Concerned Scientists. Many others have supported legislation to overturn the FERC rule.

Mr. President, I urge the adoption of the amendment.

Mr. BAUCUS. Will the Senator yield for a question?

Mr. CHAFEE. Yes.

Mr. BAUCUS. As the Senator may be aware, the Montana Power Co. has filed a wholesale rate increase applicable to Central Montana Electric Power Cooperative and Bighorn County Electric Cooperative. Montana Power is seeking a rate increase of 173 percent. A portion of that rate increase is based on Montana Power's request for inclusion of CWIP in rate base. Since the Montana Public Service Commission does not allow CWIP in rate base at the retail level. I presume the amendment would apply to CWIP treatment by Montana Power thereby prohibiting CWIP in rate base at the wholesale level; is that correct?

Mr. CHAFEE. That is correct.

Mr. BAUCUS. For further clarification, am I correct that this amendment will apply to this Montana Power FERC rate case despite the fact that the case is currently pending before the FERC?

Mr. CHAFEE. That is correct. This amendment will apply to cases which are currently pending before the FERC, to cases which will be filed in the future and to rates which are in effect, except rates set by final Commission order or settlement agreement of the parties. The effect of the amendment is that no utility will be allowed to receive, as a part of its wholesale rates, any payments related to the inclusion of CWIP in rate base in a State where the State utility commission does not allow the utility to include CWIP in rate base for retail ratemaking purposes.

Mrs. KASSEBAUM. Mr. President, the one indisputable thing that can be said about construction work in progress is that there are arguments on both sides of the issue. Some believe it is unfair to charge customers for the cost of building a new electric facility before it is actually producing electricity. Others believe that the higher rates are necessary in order to ensure adequate energy supplies. It is said, in fact, that the FERC Commissioners themselves couldn't agree on the CWIP issue—and as a result, they issued the 1983 rule allowing up to 50 percent of CWIP to be included in rate base. This rule is reputedly the product of a compromise between those who favored 100 percent CWIP and those who favored none.

The amendment I support today would not make a final determination of the wisdom of CWIP. What it would do is require FERC to follow the CWIP policy used by the State in which the FERC-regulated power is sold. Nationally, FERC regulates 10 percent of all power sales. State corporation commissions regulate the rest. The time and attention these State commissions and legislatures have devoted to CWIP far surpass any investment we could reasonably expect from FERC or this Congress.

The current trend in the States appears to be away from policies that include CWIP in rate before a plant is on line. In the last year, seven States have taken steps to restrict CWIP or eliminate it altogether. Thirty-three others already limit CWIP to some extent. Only one State allows CWIP on a routine basis. Yet the FERC rule automatically allows utilities to include up to 50 percent on construction costs in rate base, whether the utility needs those funds or not. In addition to raising some interesting philosophical questions about the policy the Federal Government appears to be promoting, this rule has created some very specific difficulties for consumers and utilities throughout the Nation.

In my State of Kansas, private utilities cannot pass construction costs on to their retail customers until a new plant is in service. Under FERC policy, they can, however, pass CWIP costs along to their wholesale customers—the municipal electric systems and rural electric cooperatives. Thus, only the customers of these systems—35 percent of the State's electricity users—are paying CWIP costs, This incongruous increase in their retail rates is not due to market forces or to a widely held view that CWIP payments are fair and necessary. It is due to inconsistent regulation.

The discrepancy between CWIP treatment on the retail and wholesale levels can lead to other problems, as well. If the purchasing utility has a construction project of its own in the works—as is the case now with Kansas, Georgia, New Hampshire, New Mexico, and North and South Carolina—its customers may pay twice for the same construction. If wholesale customers find themselves unable to compete at the retail level with their suppliers, cooperatives and municipals may be lost. If utilities find that FERC's liberal CWIP regulation is preferable to more restrictive State policies, the trend toward circumventing State jurisdiction by establishing separate generating and transmission subsidiaries will intensify.

The amendment before us now eliminates these problems by allowing the State policy to prevail. In carefully defined situations when CWIP is important to a company's financial condition, FERC would be free to address that utility's particular needs. Inequitable and anticompetitive rate increases due solely to Federal regulation would be eliminated.

Wholesale transactions are usually only a small portion of a private utility's sales. But they are frequently 100 percent of a cooperative's or municipal's supply. This amendment could be vital to the nearly 1,300 public power systems which buy power at wholesale throughout the Nation. If a State decides that consumers should pay CWIP costs, then all consumers in that State should do so. I urge my colleagues to support the Chafee-Kassebaum amendment. The Senate must act now to prevent millions of ratepayers nationally from being irreparably harmed by unjustified rate increases.

Mr. MURKOWSKI. Mr. President, I rise in opposition to the amendment offered by the junior Senator from Rhode Island to limit the recovery by privately owned electric utilities of the costs of construction work in progress. I do so for several reasons.

First, Mr. President, I oppose this amendment on procedural grounds. During the 98th Congress, the Energy Regulation Subcommittee of the Committee on Energy and Natural Resources held 3 days of hearings on all of the pending legislation dealing with the issue of construction work in progress. The hearings were held on April 12, May 18, and August 2, 1984, and involved 35 witnesses representing consumer groups, electric utility companies, the Administration, State and Federal regulators, State government, public and private power, utility analysts, and others.

Although there has been sufficient time since the last day of hearings for the committee to consider the pending legislation, the junior Senator from Rhode Island has not requested that it be considered by the committee at any of its regular business meetings. In fact, he has not even asked that it be placed on the committee's agenda. As a result, the committee has not had an opportunity to fully explore the pending legislation, nor has it had an opportunity to formulate a reasoned and reasonable approach to this issue. If the junior Senator from Rhode Island were to allow the pending amendment to proceed through the legislative process in the normal manner, I am sure that it would be given due consideration.

Mr. President, before I go into the other more important reasons why I oppose this amendment, let me state for the benefit of the Senate what it proposes to do.

The pending amendment seeks to overturn a rule issued by the Federal Energy Regulatory Commission which allows investor-owned electric utilities to file to include in their wholesale rate base up to 50 percent of completed construction work. Only about 12 percent of the electricity sold in the United States is potentially subject to this rule. The vast majority of electricity is subject only to State law and regulation.

The rule is based on 2 years of careful study by the FERC, and a review of extensive and detailed comments from more than 210 interested parties. The FERC concluded that the new rule was necessary and appropriate, and has stated that it accomplishes several important public interest objectives, namely:

The elimination of obstacles to constructing needed generating facilities at least cost;

The assurance that electric rates more accurately reflect current costs of providing service, and;

The stabilization of rates by avoidance of price increases which will otherwise result when a new generating plant is completed.

In issuing its new rule, the FERC concluded that allowing CWIP in rate base for certain facilities is a sound regulatory policy. The rule represented a compromise between opposing parties; between those who favor 100 percent CWIP inclusion, and those who opposed the inclusion of any CWIP. The rule also contains a price impact cap during the transition, as well as an escape clause for wholesale customers who were planning to construct their own facilities.

Mr. President, the new FERC CWIP regulations are in addition to preexisting FERC rules which allow the inclusion of CWIP for pollution control and fuels conversion equipment, and for the granting of CWIP on the grounds of severe financial distress.

Although the old regulations provided for case-by-case inclusion of CWIP in situations of severe financial distress, due to the endless haggling over the nature and extent of a utility's financial distress, no one ever qualified for this relief. It could be said that this was a classic case study of a Bureaucratic "black hole"—applications went in but decisions never came out.

Under the new CWIP regulations, after the utility requests inclusion of CWIP in the wholesale rate base, the FERC reviews the application. The utility must prove that the expenses for the new facility were prudently incurred, and that in addition to being a prudent investment, the new facility is part of a least-cost power supply strategy. Again, Mr. President, I would like to remind the Members of the Senate that the FERC CWIP rules only apply to those sales of electricity which are subject to FERC regulation, which is only a small portion of the sales of electricity in the United States.

Mr. President, the pending amendment proposes to legislatively create a new and untested regulatory process which would allow CWIP only on a case-by-case basis. I am not convinced that Congress can legislatively create a more workable and more equitable set of regulations than the FERC did through its lengthy rulemaking process.

Mr. President, I also oppose the pending amendment for numerous policy reasons. First and foremost of these reasons, Mr. President, is the fact that enactment of this amendment would increase consumer's electricity bills. I do not know about the other Members of the Senate, but this is one Senator who opposes anything that would unnecessarily raise the price of electricity. Mr. President, let me explain why the pending amendment would increase the cost of electricity to consumers.

A regulated public utility is entitled to an opportunity to recover its costs and to receive a reasonable rate of return on its prudently incurred investment. There are two different regulatory methods by which the cost of construction is recovered in rates. One is through the allowance for funds used during construction method, or [AFUDC]. The other is through the inclusion of construction work in progress in rate base, or "CWIP-in-rate-base" method. If a regulated utility is denied the use of CWIP, then it recovers its costs by use of AFUDC.

Both methods enable the utility to recover from its ratepayers all of the costs associated with construction investment. But by keeping financing charges out of the constructing utility's rate base, CWIP reduces the amount that the utility will have to recover through increased rates.

By placing CWIP in the rate base, financing charges associated with construction are automatically passed on during the construction period. By passing financing charges on to customers before the facility goes into operation, they are not added to the rate base, and the utility does not earn a profit on them. If a utility cannot use CWIP, the financing charges incurred during construction are capitalized and placed in the rate base. When the facility goes into operation, the utility not only earns a rate of return on the cost of construction, they also earn a profit on the capitalized financing charges. This means higher electricity prices for consumers.

In testimony before the Senate Energy Committee, FERC Chairman O'Connor stated that:

> In terms of nominal dollars, the AFUDC approach results in customers being charged considerably more over the life of a new facility than they would have been charged under full or partial CWIP. This is because the increased dollars paid during the construction period, when CWIP is allowed in rate base, are more than offset by the decreased dollars which will be paid over the facility's operating life, since the cost of that facility will not be inflated by accumulated AFUDC.

Since the pending amendment would limit the use of CWIP by FERC regu-

lated utilities, it would increase the price of the electricity they sell.

Mr. President, I should also like to note that the pending amendment's repeal of the FERC rule would also exacerbate the rate shock that is so painful to consumers.

"Rate shock" is the substantial increase in rates which is experienced by a utility's customers when a major new facility goes into operation. The most substantial contributing factor to rate shock is the simultaneous entry into rate base of a large, expensive new generating plant along with the deferred financing charges on the capital which was used to finance the plant's construction.

One of the principal benefits of allowing CWIP to be included in the rate base is that it helps moderate the "rate shock" by keeping out of the utility's rate base the financing charges incurred during construction.

Mr. President, there are a lot of misconceptions about the FERC CWIP rule, and I would now like to discuss these.

First, Mr. President, the FERC rule applies only to those utilities and those projects that are subject to the Commission's jurisdiction. Only wholesale sales of electricity in interstate commerce, about 12 percent of the electricity sales in the United States, are subject to the FERC's jurisdiction; the remainder are subject to State rate regulation. In this connection, Mr. President, I might note that the vast majority of States allow some or all CWIP in the rate base on State-regulated electricity. Only nine States do not allow it under any circusmtances.

Mr. President, there are those who assert that the FERC's rules provide for the automatic inclusion of CWIP without any regulatory review. This is simply not the case.

Under the FERC's CWIP regulations, a utility seeking to include CWIP in its wholesale rate base must first file such a request with the FERC. This filing must include considerable information to support the application, including a description of the utility's program for providing reliable power at the least cost over the next 10 years. The FERC filing regulations include a requirement that the utility file a 10-year analysis that assesses the relative costs of adopting alternative power supply strategies, including such alternatives as cogeneration, small power production, heightened load management, and conservation. Moreover, the analysis must include an explanation as to why the program adopted is prudent and consistent with a least-cost energy supply program. In the event that the utility's filing fails to provide the requisite information, or the information fails to substantiate the application, the FERC can, and will, reject the application.

Mr. President, let me also make it perfectly clear that the FERC rule provides for a review of the prudency of the costs requested to be included in the rate base through CWIP.

In testimony to the Energy Committee, FERC Chairman O'Connor stated that while it is a fundamental principle of public utility regulation that a utility is entitled to a reasonable opportunity to recover its costs, this applies only to prudently incurred costs. He noted that sections 205(E) and 206 of the Federal Power Act require that FERC jurisdictional utility rates must be just and reasonable and that the burden of proof falls on the utility.

Mr. President, it has been asserted by some that the FERC rule forces wholesale electricity customers to pay twice for powerplants. This is simply not true. It is claimed that this occurs in the situation where wholesale electricity customers are building their own power production facilities. While this argument may be very appealing, it does not reflect the actual rule issued by the FERC. The FERC rule contains an exemption which allows wholesale purchasers of electricity to avoid CWIP payments if they can show that their power requirements did not contribute to the need for the construction of the facility.

Mr. President, some have asserted that the FERC CWIP rule shifts the risk of canceled or abandoned facilities to ratepayers. Again, this is simply not true.

FERC Chairman O'Connor testified that the Commission's CWIP regulations do not change in any way how the Commission treats canceled and abandoned facilities. Chairman O'Connor stated that:

> Longstanding Commission policy allows utility investors to recover the costs of all prudently invested capital, including prudent investment in canceled or abandoned plants.

O'Connor noted that in the past the FERC has denied passthrough of costs of canceled or abandoned plants where the expenditures were not prudently incurred. The Commission's rule does not affect in any way this longstanding policy of denying passthrough of imprudent costs.

The Commission's rule does not change the timing of the recovery of prudently incurred construction expenditures. The ratepayer begins paying for the facility only after it goes into operation.

What the CWIP rule does do, is to provide for the early passthrough of half of the financing charges, charges that the consumer will have to pay sooner of later.

Mr. President, enactment of this amendment would also jeopardize the long-term supply of electricity, and it would adversely affect system reliability. Despite the claims of the industry's critics, we still need to construct new base load central power generating stations. These facilities are needed to replace retiring older inefficient facilities, as well as to meet the long-term increase in load growth that will accompany economic recovery. Failure to construct needed new facilities will curtail economic recovery, it will stunt long-term economic growth, and ultimately it could lead to brownouts and blackouts. Recall what happened to natural gas supplies in the 1960's and 1970's when the Federal Power Commission failed to provide needed production incentives. Gas supplies dwindled, spot shortages began to develop, and during the hard winter of 1976-77 demand so far exceeded supply that businesses, schools, and hospitals throughout the Midwest had to shut down so that homeowners could heat their houses.

Mr. President, it would be most unwise and a most unfortunate decision for the Senate to agree with this amendment. There is already evidence that additional supplies of electricity are needed. Just recently the Power Authority of New York signed a contract with Canadian electricity producers to import 111 million kilowatt hours of electricity. New England now expects to use imported electricity to supply 10 percent of its power needs. Last year, the United States spent nearly $1 billion on electricity imported from Canada, and that is expected to double by 1990. In June of this year, both Boston and New York hit an all-time high in electricity demand, as was the case throughout New England. On June 11 Consolidated Edison had to temporarily institute a 5-percent voltage reduction because demand exceeded available supply. In August, Texas utilities hit an all-time high. The New England power pool, the New York power pool, and the Pennsylvania-New Jersey-Maryland power pool have all hit all-time highs this year. This summer Pacific Gas & Electric, San Diego Gas & Electric, Southern California Edison and Los Angeles Water & Power all experienced all-time highs on their systems. Mr. President, this clearly indicates that the United States needs policies which encourage powerplant construction, and not those which discourage plant construction, as would be the case with the pending amendment.

Mr. President, CWIP is important to the financial viability of electric utilities. When a utility is constructing a new powerplant it is spending a large amount of money. Most of this money is raised through the sale of stock and the issuance of bonds. When CWIP is not allowed, the utility is spending these large sums of money for which it must pay interest to its investors, but on which it is realizing no cash return.

Powerplants can take as much as 10 years to construct, often they take

even longer. With cash flowing out and no income coming in from the facility, a utility is financially weakened. This leads investors to demand higher returns on the utility's stocks and bonds, and as a result, the cost of construction likewise increases. However, when a utility is allowed to place CWIP in its rate base, it does receive some cash flow during the construction period. This was confirmed by a recent GAO report dated June 11, 1984, on the financial health of the electric utility industry which stated that:

Overall, our analysis indicates that large debt and construction programs had a significantly negative relationship to one or more of (an electric utility's) financial indicators.

The report went on to conclude that as a utility's debt and construction increase, it must pay higher interest rates to borrow money. Mr. President, any increase in the cost of borrowing money by a utility means higher electricity rates for consumers.

Mr. President, I have outlined only briefly some of my major concerns about the pending amendment. For these and many other reasons, Mr. President, I urge the Senate to reject the pending amendment.

I ask unanimous consent that letters from the Secretary of Energy, Donald Paul Hodel, and the chairman of the Federal Energy Regulatory Commission, Raymond J. O'Connor be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, DC, September 26, 1984.

Hon. FRANK H. MURKOWSKI,
Chairman, Subcommittee on Energy Regulation, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: It is my understanding that an amendment may be introduced to negate or limit a recent rulemaking by the Federal Energy Regulatory Commission concerning whether utility companies can earn a current return on their investment in "Construction-Work-in-Progress" (CWIP). Such an amendment would reverse a unanimous FERC rulemaking, made after extensive consideration and public comment, that allows up to 50% of a utility company's construction expenditures to be included in its rate base as these expenses are incurred, subject to strict conditions.

The Administration opposes any such amendment. The exclusion of Construction-Work-in-Progress from the rate base can lead to distorted investment decisions by raising the cost of capital-intensive resources. By accumulating the interest costs during construction of new generating facilities, consumers end up paying interest on interest and getting hit with "rate shock" when new capital-intensive facilities are put into service. Because of the difficulty in financing the higher capital cost, such an amendment would provide a disincentive to employ technologies with lower operating costs, such as hydro, solar, wind, and nuclear power. Utilities are likely to rely instead on low capital cost but fuel-intensive technologies, such as those that burn oil and gas. By discouraging those technologies which offer a cost-effective alternative to oil and gas as a generating fuel, an amendment negating or restricting the FERC CWIP rule would reduce the balance and diversity in our nation's electric power system. The unfortunate legacy of such legislation would be higher electricity prices and a less reliable electric power system.

We support the recent FERC rulemaking on Construction-Work-in-Progress. It is a responsible and well-reasoned step which recognizes the difficulties utility companies face today financing the electric power investments which will sustain our economy in the future. The rule actually improves FERC's oversight of utility construction programs by allowing it to consider the need for a facility during the actual construction rather than after the facility is completed. Clearly, the FERC rule is designed to protect both the long-term and short-term interests of electricity consumers. The FERC rulemaking is supportive of the national energy policy goal of assuring an adequate and diverse energy supply at a reasonable cost, as expressed in the recent National Energy Policy Plan.

Electricity is a fundamental requirement for long-term economic growth. We cannot afford shortsighted legislation which casts a shadow over the adequacy and efficiency of our nation's electricity supplies. I urge you to oppose any proposed amendments and to allow the recent FERC rulemaking to stand.

Sincerely,

DONALD PAUL HODEL.

FEDERAL ENERGY
REGULATORY COMMISSION,
Washington, DC, September 25, 1984.

Hon. FRANK H. MURKOWSKI,
Chairman, Subcommittee on Energy Regulation, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR CHAIRMAN MURKOWSKI: Please permit me to express my views on the current controversy over the appropriate ratemaking treatment for the financing expenses incurred by electric utilities as part of their total expenses for construction work in progress (CWIP). The Commission's Order No. 298 established an innovative, progressive, and carefully considered methodology to resolve the financial and rate problems created by excluding these costs from rates. Under Commission rules, a utility may file to include in rate base up to 50 percent of all CWIP financing costs, in addition to all financing costs associated with the construction of pollution control and fuel conversion facilities. Some legislators apparently believe that Order No. 298 is inimical to the interests of ratepayers. I disagree with that conclusion and the economic assumptions underlying both the House and proposed Senate legislation on this issue.

The final rule in Order No. 298 represents years of experience in dealing with the cost of financing utility plant as it impacts on wholesale electric rates. I believe that it is a judicious reform of the anomalous practice of excluding from rate base the cost of financing ongoing construction programs. Not only did the 'financial distress' test for CWIP, which was abandoned by the Commission, afford the industry little assistance in a time of economic hardship and stop-gap regulatory policies, but it also did not enable utilities to prepare to meet the demands of the future.

Reinstatement of the prior limitations on CWIP in rates would constitute a major step backward in providing a CWIP policy that is reasonable for ratepayers and utilities alike. As the Commission recognized in its revised CWIP rule, both utility companies and ratepayers can be hurt by the prolonged accrual of non-cash earnings on utility companies' books. For utilities, the practice meant high financing costs, lower interest coverage ratios, severely diminished cash flow, and incentives to pursue short-term strategies that may defeat the goals of long-term planning, notably that of providing power to ratepayers at the lowest reasonable cost. More importantly for ratepayers, the earlier practice resulted both in demands for power that were unaffected by the current actual cost of producing that power and in sudden increases in rates each time the costs of a newly operational facility, including accrued financing costs, were added to rate base. In sum, the enforced delay in recovering financing costs is difficult to justify for any utility and is indefensible for those undergoing financial stress. Yet, the CWIP legislation that is currently before the Senate for consideration would essentially reinstate that practice and place substantial impediments in the way of more reasonable means of cost recovery.

The current utility picture also disfavors the current efforts to reverse Order No. 298. Large construction programs will eventually mean precipitous rate increases as facilities become operable. Many public utilities have construction programs which are significant in terms of the net worth of each of those companies. These large construction programs have enormous implications for rates. Without a viable CWIP policy, the long-term cost of reliable power is bound to escalate.

To date, the Commission has approved settlement of the CWIP issue in six cases. There are seventeen other pending rate cases that involve a request for CWIP in wholesale electric rates under Commission jurisdiction, which are the rates for approximately 10 percent of electric sales nationally. As these and future cases are addressed by the Commission, the Congress and the public will be able to see more clearly that the Commission's approach is equitable and economically viable. The Congress may wish to benefit from the Commission's experience under the new rule before it devises a new CWIP policy to reverse the Commission's studied decisionmaking on this matter.

The question clearly facing the Senate is whether the regulatory policy under which the utility industry will meet the future will assist rational economic planning or lead to piecemeal short-term strategies. I believe the Commission's rule offers long-term benefits to the public that the Congress should not ignore, particularly in favor of economically unpredictable and untested legislative schemes. In short, Mr. Chairman, the Commission's rule will help stabilize wholesale electric rates and ensure that consumers have an adequate and reliable source of power for years to come.

If I can supply further information on this important matter, please do not hesitate to contact me.

Sincerely,

RAYMOND J. O'CONNOR,
Chairman.

Mr. McCLURE. Mr. President, I rise in opposition to the amendment offered by the junior Senator from

Rhode Island to limit the Federal Energy Regulatory Commission's authority to allow the recovery by privately owned electric utilities of the financing charges associated with construction work in progress.

I am not convinced that the amendment is necessary or desirable. I have serious concerns about its long-term effects on consumer rates, and the ability of public utilities to finance the new construction which is needed to provide consumers with a reliable and adequate supply of electricity over the long run.

Mr. President, the Federal Energy Regulatory Commission has the statutory responsibility to set wholesale electric rates in this country. It has had that responsibility since 1935. This amendment would compel the Commission to abdicate an important part of that responsibility. It would compel the Commission to blindly follow the ratemaking policy in each State, as it relates to construction work in progress. This proposal, if enacted, would compel ratepayers in many States to pay higher electric rates. Nationwide, the impact would amount to millions of dollars.

It appears to me the CWIP issue offers ratepayers in a number of States the choice of paying higher rates today, or paying much higher rates tomorrow. The pending amendment might lead to a slight reduction in rates that would otherwise be paid today. However, the rate relief would only be temporary. Over the longer term, the cumulative total of ratepayer payments would be much higher. If CWIP is excluded from the rate base the construction utility would be required to use the allowance for funds used during construction methodology, AFUDC. As a result, the rate base of each utility would be increased by even more at the time any new powerplant became operational. FERC Chairman O'Connor testified to the Committee on Energy and Natural Resources that:

> The AFUDC approach results in customers being charged considerably more over the life of a new facility than they would have been charged under full or partial CWIP.

Mr. President, I will oppose any amendment which would raise the price of electricity to consumers without providing any material benefits.

Another issue of considerable concern is whether the proposed legislation would significantly increase the capital costs of those utilities with large construction programs that happen to be located in States that limit the allowance of CWIP in the rate base. A June 11, 1984, analysis by the General Accounting Office of the financial health of the electric utility industry concluded that large debt and construction programs have a significantly negative impact on a utility's financial indicators. This results in the constructing utility paying higher interest rates to borrow money, which means higher electricity rates for consumers. Under our system of public utility regulation, increases in capital costs ultimately are paid by the utility ratepayers through higher rates. Denying utilities the ability to use CWIP will only worsen their financial situation and further increase their cost of borrowing, and hence the cost of supplying electricity to consumers.

Those who oppose the FERC's CWIP regulations make the argument that it is not fair to compel ratepayers to pay a return on the construction costs of electric generating plants before construction is completed. They contend that consumers receive no benefit from a plant until it is completed, because no electricity is produced. This argument limits the concept of a benefit to the actual receipt of electric energy. I am not persuaded that the concept of consumer benefit should be so restricted. In my view, ratepayers receive a substantial benefit from facilities under construction. The benefit is a reasonable assurance that electric service will continue to be reliable. Likewise, I doubt that anyone would dispute the idea that taxpayers today receive a present benefit from the strategic petroleum reserve, although the oil will be distributed and consumed only in the event of a supply emergency.

This amendment would, in effect, overturn and replace the CWIP rule the FERC instituted in May 1983. The new CWIP policy was the product of a rulemaking proceeding conducted over a period of almost 2 years. The record of the proceeding is massive. After reviewing comments from numerous electric utility companies, wholesale customers of electric utilities, consumer representatives, and Government agencies, the FERC concluded that the public interest is best served by a policy permitting electric utilities subject to the Commission's jurisdiction to include in their rate base up to 50 percent of CWIP, subject to a limitation on rate impact. The rule tempers the need for new powerplants with protections for consumers against unnecessary and imprudent construction. It helps protect consumers from "rate shock." It requires the utility requesting CWIP to show that the powerplant is part of a least-cost supply strategy. The rule protects wholesale customers, such as electric co-ops and municipal utilities, who want to construct their own generating facilities. It still requires the FERC to review the prudency of construction expenditures before they are allowed to be added to the utility's rate base.

In place of the FERC rule, the amendment proposes to legislatively create a new and untested scheme which may or may not work. I do not believe that we should take a chance with the future electric supply of this Nation.

Mr. President, a fundamental change of this magnitude should not be approved without careful consideration. That has not occurred. This proposed amendment has not been studied carefully in the Senate. In fact, it has not been studied at all. It has been revised several times over the past few days, and a final draft was not made available until just recently. No one has had the opportunity to analyze it. The Committee on Energy and Natural Resources has not considered this amendment. The committee has not had the opportunity to consider either this amendment or the other legislation pending before it on the issue of CWIP. On an issue of such importance and such complexity, the committee should have the opportunity to review the issue and to formulate a rational and reasonable approach.

Mr. President, the administration opposes this amendment. I ask unanimous consent that letters to me from Secretary of Energy Hodel and FERC Chairman O'Connor be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, DC, September 26, 1984.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: It is my understanding that an amendment may be introduced to negate or limit a recent rulemaking by the Federal Energy Regulatory Commission concerning whether utility companies can earn a current return on their investment in "Construction-Work-in-Progress" (CWIP). Such an amendment would reverse unanimous FERC rulemaking, make after extensive consideration and public comment, that allows up to 50% of a utility company's construction expenditures to be included in its rate base as these expenses are incurred, subject to strict conditions.

The Administration opposes any such amendment. The exclusion of Construction-Work-in-Progress from the rate base can lead to distorted investment decisions by raising the cost of capital-intensive resources. By accumulating the interest costs during construction of new generating facilities consumers end up paying interest on interest and getting hit with "rate shock" when new capital-intensive facilities are put into service. Because of the difficulty in financing the higher capital cost, such an amendment would provide a disincentive to employ technologies with lower operating costs, such as hydro, solar, wind, and nuclear power. Utilities are likely to rely instead on low capital cost but fuel-intensive technologies, such as those that burn oil and gas. By discouraging those technologies which offer a cost-effective alternative to oil and gas as a generating fuel, an amendment negating or restricting the FERC CWIP rule would reduce the balance and diversity in our nation's electric power system. The unfortunate legacy of such legislation would

be higher electricity prices and a less reliable electric power system.

We support the recent FERC rulemaking on Construction-Work-in-Progress. It is a responsible and well-reasoned step which recognizes the difficulties utility companies face today financing the electric power investments which will sustain our economy in the future. The rule actually improves FERC's oversight of utility construction programs by allowing it to consider the need for a facility during the actual construction rather than after the facility is completed. Clearly, the FERC rule is designed to protect both the long-term and short-term interests of electricity consumers. The FERC rulemaking is supportive of the national energy policy goal of assuring an adequate and diverse energy supply at a reasonable cost, as expressed in the recent National Energy Policy Plan.

Electricity is a fundamental requirement for long-term economic growth. We cannot afford shortsighted legislation which casts a shadow over the adequacy and efficiency of our nation's electricity supplies. I urge you to oppose any proposed amendments and to allow the recent FERC rulemaking to stand.

Sincerely,

DONALD PAUL HODEL.

FEDERAL ENERGY
REGULATORY COMMISSION,
Washington, DC, September 25, 1984.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR CHAIRMAN MCCLURE: Please permit me to express my views on the current controversy over the appropriate ratemaking treatment for the financing expenses incurred by electric utilities as part of their total expenses for construction work in progress (CWIP). The Commission's Order No. 298 established an innovative, progressive, and carefully considered methodology to resolve the financial and rate problems created by excluding these costs from rates. Under Commission rules, a utility may file to include in rate base up to 50 percent of all CWIP financing costs, in addition to all financing costs associated with the construction of pollution control and fuel conversion facilities. Some legislators apparently believe that Order No. 298 is inimical to the interests of ratepayers. I disagree with that conclusion and the economic assumptions underlying both the House and proposed Senate legislation on this issue.

The final rule in Order No. 298 represents years of experience in dealing with the cost of financing utility plant as it impacts on wholesale electric rates. I believe that it is a judicious reform of the anomalous practice of excluding from rate base the cost of financing ongoing construction programs. Not only did the 'financial distress' test for CWIP, which was abandoned by the Commission afford the industry little assistance in a time of economic hardship and stop-gap regulatory policies, but it also did not enable utilities to prepare to meet the demands of the future.

Reinstatement of the prior limitations on CWIP in rates would constitute a major step backward in providing a CWIP policy that is reasonable for ratepayers and utilities alike. As the Commission recognized in its revised CWIP rule, both utility companies and ratepayers can be hurt by the prolonged accrual of non-cash earnings on utility companies' books. For utilities, the practice meant high financing costs, lower interest coverage ratios, severely diminished cash flow, and incentives to pursue short-term strategies that may defeat the goals of long-term planning, notably that of providing power to ratepayers at the lowest reasonable cost. More importantly for ratepayers, the earlier practice resulted both in demands for power that were unaffected by the current actual cost of producing that power and in sudden increases in rates each time the costs of a newly operational facility, including accrued financing costs, were added to a rate base. In sum, the enforced delay in recovering financing costs is difficult to justify for any utility and is indefensible for those undergoing financial stress. Yet, the CWIP legislation that is currently before the Senate for consideration would essentially reinstate that practice and place substantial impediments in the way of more reasonable means of cost recovery.

The current utility picture also disfavors the current efforts to reverse Order No. 298. Large construction programs will eventually mean precipitous rate increases as facilities become operable. Many public utilities have construction programs which are significant in terms of the net worth of each of those companies. These large construction programs have enormous implications for rates. Without a viable CWIP policy, the long-term cost of reliable power is bound to escalate.

To date, the Commission has approved settlement of the CWIP issue in six cases. There are seventeen other pending rate cases that involve a request for CWIP in wholesale electric rates under Commission jurisdiction, which are the rates for approximately 10 percent of electric sales nationally. As these and future cases are addressed by the Commission, the Congress and the public will be able to see more clearly that the Commission's approach is equitable and economically viable. The Congress may wish to benefit from the Commission's experience under the new rule before it devises a new CWIP policy to reverse the Commission's studied decisionmaking on this matter.

The question clearly facing the Senate is whether the regulatory policy under which the utility industry will meet the future will assist rational economic planning or lead to piecemeal short-term strategies. I believe the Commission's rule offers long-term benefits to the public that the Congress should not ignore, particularly in favor of economically unpredictable and untested legislative schemes. In short, Mr. Chairman, the Commission's rule will help stabilize wholesale electric rates and ensure that consumers have an adequate and reliable source of power for years to come.

If I can supply further information on this important matter, please do not hesitate to contact me.

Sincerely,

RAYMOND J. O'CONNOR,
Chairman.

Mr. McCLURE. Mr. President, I urge the Senate to reject this amendment.

Mr. President, will the Senator yield?

Mr. CHAFEE. I will.

Mr. McCLURE. Mr. President, I wish to address a question to the Senator from Rhode Island because I know of his interest and concern about this issue. We have discussed it before he offered it this evening. I think he knows of my intention to raise a point of order that it is indeed legislation on appropriations.

I ask the Senator if it is his intention to pursue and press this amendment in the face of the legislative logjam we have and the procedures that we have established up to this point?

Mr. CHAFEE. Mr. President, I recognize the Senator's point, and I recognize the hour. I will have to concede that his point is valid. It has been a matter of deep concern to me. The Senator from Idaho knows this. We were looking for a vehicle to attach this amendment. We are caught in a very, very difficult situation. I know that the point of the Senator is right. I am not going to press it. I hope that when we return—this thing is not going to go away—we will consider it further. I urge the more thoughtful consideration of the chairman of the committee on this matter.

Recognizing the point he has raised, I reluctantly concede to it and will withdraw my amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

AMENDMENT NO. 6942

Mr. MELCHER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. MELCHER] proposes an amendment numbered 6942.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Before the period at the end of the Committee amendment section 101(c) insert the following:

": *Provided further,* That notwithstanding any other provision of law, funds available to the Forest Service may be obligated for cooperative federal-state noxious weed control; *Provided further,* That worst case analysis requirements developed under the National Environmental Policy Act shall not apply to the application of approved weed pesticides used on federal lands".

Mr. MELCHER. Mr. President, a few days ago when we were on the Interior appropriations bill, we adopted an amendment increasing rather modestly the funds for weed control in national forest lands. This amendment rightly belongs with that, and I offer it tonight because what we need to state very clearly on behalf of Congress is that the law permits the Forest Service to cooperate with Federal and State noxious weed control efforts and also permit them to go forward using those acceptable weed pesticides on Federal lands that can be

used on private or State lands and that the worst case provision of NEPA will not have to be entangled with all of the procedures of using pesticides to control weeds. It is an amendment that is needed for the Forest Service to be able to get into the act with State and private weed control efforts and to control the noxious weeds on forest lands along with the adjoining landowners.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. MELCHER. Mr. President, we have had the opportunity to discuss this amendment with the distinguished Senator from Montana. We have no objection to the amendment and urge its adoption.

Mr. JOHNSTON. Mr. President, we know of no objection to the amendment of the Senator from Montana.

Mr. MELCHER. I thank the managers of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6942) was agreed to.

AMENDMENT NO. 6943

(Purpose: To prohibit geothermal leasing adjacent to Yellowstone National Park)

Mr. MELCHER. Mr. President, I have one last amendment to this section of the bill which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. MELCHER] proposes an amendment numbered 6943.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the Committee amendment [SEC. 101(c)] add the following:

"Notwithstanding any other provision of this section, Section 318 of H.R. 5973, as reported, is considered to read as follows:

"SEC. 318. (a) The primary term of any geothermal lease in effect as of July 27, 1984, issued pursuant to the Geothermal Steam Act of 1970 (Public Law 91-581, 84 Stat. 1566, 30 U.S.C. 1001-1025) is hereby extended to December 31, 1986, if the Secretary of the Interior finds that—

"(1) a bona fide sale of the geothermal resource, from a well capable of production, for delivery to or utilization by a facility or facilities, has not been completed (A) due to administrative delays by government entities, beyond the control of the lessee, or (B) such sale would be uneconomic;

"(2) substantial investment in the development of or for the benefit of the lease has been made; and

"(3) the lease would otherwise expire prior to December 31, 1986.

"(b) Notwithstanding any other provision of law, the Secretary shall not issue any geothermal lease pursuant to the Geothermal Steam Act of 1970 (Public Law 91-581, as amended) in the Island Park Known Geothermal Resource Area adjacent to Yellowstone National Park."

Mr. MELCHER. Mr. President, I offer this amendment so that the Congress declares that no geothermal development will be pursued that jeopardizes the existence of the Yellowstone National Park geysers, including the world famous Old Faithful geyser.

The Island Park Geothermal Area [IPGA] is an area of some 488,000 acres of Federal land covering portions of the States of Idaho, Wyoming, and Montana. The IPGA covers some 427,000 acres in Fremont County, ID; 21,000 acres in Teton County, WY; and 40,000 acres in Gallatin County, MT. The IPGA is immediately adjacent to Yellowstone National Park and its eastern boundary is 13.5 miles west of Old Faithful.

Yellowstone is the world's first national park. The U.S. Congress set aside 2.2 million acres in 1872 and the Secretary of the Interior was instructed to insure "the preservation, from injury or spoilation of all timber, mineral deposits, natural curiosities or wonders of said park, and their retention in their natural conditions." It was clearly the Congress' intent to protect totally the park's geysers and hot springs.

Mr. President, the Yellowstone Geyser Basin is the most significant in North America and one of the three largest in the world. It is only one of three great areas in the world which has been left untouched by development.

There is no geothermal development in the world within a geyser basin area that has not damaged or destroyed the geyser. The BeoWawe geysers area of Nevada, though much smaller, was second only to Yellowstone on this continent in terms of surface thermal phenomena. In the 1940's and 1950's wells were drilled nearby and by 1961 the geysers had ceased flowing. The geyser activity at Steamboat Springs, NV, is now less than it once was because of nearby geothermal exploration performed in the 1950's and the early 1960's.

Commercial geothermal development in other areas of the world has had profound effects on geyser basins. Geyser Valley in New Zealand was destroyed as a natural discharge area by development. Before development. Geyser Valley ranked as the fifth greatest geyser basin in the world.

In 1980, more than 70 interested parties filed approximately 200 lease applications for exploration and development of the geothermal resource in the IPGA. Currently, there are 134 pending applications with only 1 new applicant filing since 1981. The exact boundaries of Yellowstone's geothermal reservoir are currently unknown.

Mr. President, this Congress must reaffirm the intent of Congress in 1872. We must continue to keep Yellowstone as a national treasure. Over 2.5 million people visit the park annually. Explorers were initially drawn to the area by reports of geothermal wonders. The beauty and unique magnificence of these wonders is a magnet that continues to draw people from all corners of the country and world. The better part of wisdom in this matter, Mr. President, is to support this amendment and declare Old Faithful safe from any degradation.

Mr. JOHNSTON. Will the Senator yield?

Mr. MELCHER. Yes; I am delighted to yield.

Mr. JOHNSTON. Mr. President, I think the Senator makes a very good point, and I believe this amendment has been cleared on both sides.

Mr. President, excuse me, the Senator from Ohio has some questions.

Mr. McCLURE. Mr. President, we have no objection to the amendment.

Mr. METZENBAUM. Mr. President, I want to ask my friend from Montana whether there are not two parts to this amendment. I just read it very hurriedly at the desk. But what I read indicated that the part the Senator was addressing himself to was in the second section of the amendment, but the first section of the amendment provides for an automatic extension of some leases through 1986. Will the Senator from Montana explain to us what that is all about?

Mr. McCLURE. Mr. President, if the Senator from Ohio will yield, I will be glad to respond to that. Will the Senator from Ohio yield?

Mr. METZENBAUM. Certainly.

Mr. McCLURE. The form of the amendment of the Senator from Montana is simply taking language which is in the committee amendment and combining it with the provisions to which he has made reference. The portion to which the Senator from Ohio makes reference is already in the bill.

Mr. METZENBAUM. Will the Senator from Idaho then be good enough to explain to all of us why the decision to extend leases and under what conditions? It just is not a normal procedure to do that by legislation.

Mr. MELCHER. Will the Senator from Ohio yield?

Mr. McCLURE. Mr. President, let me respond to the Senator from Ohio in this fashion. We have had a comprehensive geothermal leasing bill pending before the committee for some time. We have been unable to resolve all of the differences that are apparent in that piece of legislation. In the meantime, time is running on some of the current leases. Because of our inability to legislate, we are disadvantaging some of the people who are

involved in attempting to make geothermal exploration and development. We thought, because of our delay in legislating in a more comprehensive manner, we ought to extend the leases to give us time to see whether we could do the rest of the bill.

Mr. METZENBAUM. Is it not a fact that these leases are already extant, operable, and that all this amendment does is to extend them—I do not know for how much additional time but apparently for some additional time?

Mr. McCLURE. Mr. President, these are leases which are ready to go.

Mr. METZENBAUM. Are these leases that are ready to expire?

Mr. McCLURE. They are ready to expire. These are operations that are ready to go to commercial. They would be extended for 2 years in order to give them the opportunity to prove up on those leases and complete their application and go into production.

Mr. METZENBAUM. Are they not presently in production?

Mr. McCLURE. I do not believe so. They are not in commercial production.

Mr. MELCHER. Mr. President, I want to speak to this portion of the bill because it is very much needed.

If the Senator will read through the requirements, it only means that those leases that have been delayed because of getting all the permits in order and in which there is a substantial investment are going to be extended for 1 year. This is very much needed, and I regret that we have not been able to act on it until now. The time would be running out for several of these, if it were not extended for 1 year, through no fault of their own, just because of the long delay in getting into operation and clearing all the hurdles and getting the permits.

Mr. President, I know there is discussion going on with the Senator from Ohio in studying the amendment, and I think it is entirely proper that he do so, but I do not believe he will find any objection to it. The amendment has been carefully crafted and has long been delayed for action by the Senate. I trust that he will be satisfied with it after he has had an opportunity to examine it carefully.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana. Is there further debate?

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, what we have before us is a piece of legislation on an appropriation bill, and the purpose of the legislation is to extend the geothermal leases of four oil companies, two of which are majors and two minors. There may be merit for that, but the merit ought to be discussed and determined in the Energy Committee. It does not belong in an appropriations bill that you extend leases.

Therefore, Mr. President, I raise the point of order that this is legislation on an appropriation bill.

Mr. McCLURE Mr. President, the provisions which the Senator makes reference to—and I assume the portion that he finds objectionable—is that portion which was voted in the committee and is part of the committee amendment before the Senate. Is that not correct?

Mr. METZENBAUM. I am objecting. The point the Senator from Idaho is making is that it is already in the bill.

Mr. McCLURE. That is correct.

Mr. METZENBAUM. I intend to raise the point of order now to this amendment, and thereafter to raise the point of order with respect to the basic amendment—to that portion of the bill which has legislation in it.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, it may be simpler to——

The PRESIDING OFFICER. The Chair advises the Senator that the point of order is not debatable.

Mr. McCLURE. Mr. President, would it be in order for the Senator from Montana to withdraw the amendment to which the point of order has been raised?

The PRESIDING OFFICER. The Senator is free to do that.

Mr. McCLURE. I suggest that the Senator from Montana withdraw the amendment.

Mr. MELCHER. Mr. President, I was about to withdraw the amendment, if I may be recognized for that purpose.

The PRESIDING OFFICER. The Senator from Montana is recognized.

AMENDMENT NO. 6944

(Purpose: To prohibit geothermal leasing adjacent to Yellowstone National Park)

Mr. MELCHER. Mr. President, I send another amendment to the desk.

The PRESIDING OFFICER. The pending amendment is withdrawn.

The amendment now offered by the Senator from Montana will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. MELCHER], for himself, Mr. ANDREWS, and Mr. TSONGAS, proposes an amendment numbered 6944.

Mr. MELCHER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the Committee amendment (SEC. 101(c)) add the following:

"Notwithstanding any other provision of this section, Section 318 of H.R 5973 as reported, is considered to include the following:

"Notwithstanding any other provision of law, the Secretary shall not issue any geothermal lease pursuant to the Geothermal Steam Act of 1970 (Public Law 91-581, as amended) in the Island Park Known Geothermal Resource Area adjacent to Yellow Stone National Park.".

Mr. MELCHER. Mr. President, this is simply a freestanding proviso that there shall not be any geothermal leasing in the Island Park Area. As I described with respect to the previous amendment, that is in order to protect against geothermal development on Federal land through Federal leases in that area, 13.5 miles from Lolo National Park. That is where the eastern boundary of the Island Park area is, right against the Yellowstone National Park, close to Old Faithful.

I think it will be easier to understand my amendment if it is separated from the other language. I now ask the Senate to adopt this amendment, for the reasons previously stated.

Mr. HECHT. Mr. President, I should like to offer a few brief remarks in explanation of section 318 of the Interior appropriations bill, dealing with the Geothermal Leasing Program.

Under current law, a geothermal lease-holder is required to bring his lease into production within 10 years. This requirement is not to be confused with the concept of diligence, which encourages good-faith exploration and development of the lease; rather, this 10 year production requirement means that a developer has to secure a contract for commercial sale or production of geothermal energy within 10 years, or his Federal lease is automatically forfeited to the Government.

The problem we have is that energy demand and energy prices in the West have not risen as fast as many people thought 10 years ago. Geothermal development is a more risky and expensive undertaking than people thought. And despite very diligent development efforts by the industry, many of the pioneering firms in this field are just now finding markets for the hot water and electricity that they produce.

For over 4 years now, Congress has been trying to rewrite the Geothermal Steam Act to allow for lease extensions in situations where external market conditions have delayed commercial production. We have come

close, but so far we have failed to complete action on this issue.

Section 318 of the Interior appropriations bill, as reported in the Senate, would extend until December 31, 1986, the expiration of all geothermal leases in question, provided the Secretary of the Interior finds that a commercial sales contract has not been consumated due to external administrative or economic reasons. The Secretary must also find that substantial investment has been made in the development of the lease. This 2-year extention of expiring geothermal leases will allow time for Congress to complete action on a more comprehensive revision of the Geothermal Steam Act in the 99th Congress.

There are 270 geothermal leases in seven Western States whose primary lease terms have recently expired or will expire within the next 2 years. My State of Nevada has the largest proportion of these: 100 leases representing over $50 million in capital investment to this date.

Without trying to sound melodramatic, enactment of this provision is absolutely crucial to the survival of our fledging geothermal industry in the West. Its passage will actually benefit the taxpayers of this country through the collection of production royalties that would otherwise go for naught. It will help ensure the timely development of environmentally benign, alternative energy in the West, something that I think all or my colleagues ought to support.

I urge my colleagues' support of this provision in the Interior appropriations bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

Mr. McCLURE. Mr. President, the amendment as submitted by the Senator from Montana deals only with the Federal lands in the Island Park area and withdraws them from geothermal leasing. We have examined the amendment. I have no objection to the amendment, and I urge its adoption.

Mr. JOHNSTON. Mr. President, the minority accepts the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6944) was agreed to.

The PRESIDING OFFICER. The minority leader is recognized.

AMENDMENT NO. 6945

Mr. BYRD. Mr. President, I sent to the desk an amendment on behalf of Mr. HUDDLESTON, Mr. FORD, and Mr. RANDOLPH and that it be stated by the clerk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, Mr. HUDDLESTON, Mr. FORD, and Mr. RANDOLPH, proposes an amendment numbered 6945.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of committee amendment, add the following new section:

Section 401(c)(1) of Public Law 95-87 is amended by striking the word "and" after the words "in situ;" and adding the following after the word "subsidence;": "and establishment of self sustaining, individual State administered programs to insure private property against damages caused by land subsidence resulting from underground coal mining in those States which have reclamation plans approved in accordance with section 503 of this Act, provided that funds used for this purpose shall not exceed, $3,000,000 of the funds made available to any State under section 402(g)(2) of this Act;".

Mr. BYRD. Mr. President, the Senators who are joining with me are offering this amendment to H.J. Res. 648, the continuing resolution.

This amendment would permit States to use a portion of their mine reclamation moneys appropriated from the Abandoned Mine Land Fund to undewrite a mine land subsidence insurance program, if they so choose.

Property damage from underground coal mine subsidence is a serious problem in my State of West Virginia and in many other States as well. A total of 2 million acres in 30 States are plagued by this problem. Subsidence may result from mining which occurred as much as 100 years ago. The effect of this subsidence can be serious damage or even total destruction of homes and buildings on the surface. Estimates are that West Virginia alone faces subsidence problems totaling $500 million and that the problem nationwide may exceed $12.5 billion. So, this is clearly a serious concern.

West Virginia, like some other States, has instituted a State-managed subsidence insurance program. The State, however, does not have the necessary funds to underwrite the program at this time. Our amendment would permit West Virginia and other States receiving AML moneys to use a portion of those funds to operate subsidence insurance programs. Insurance premiums would be designed to make the program self-sufficient in the future, but this initial funding is needed now.

Mr. President, I want to point out to my colleagues that the AML moneys which would be used for this purpose do not represent a Federal handout. The AML funds represent taxes which are collected from coal production in each State for the expressed purpose of addressing abandoned mine reclamation problems. Fifty percent of these taxes are returned automatically to West Virginia under the law (Surface Mining Act of 1977). I want to emphasize that these are truly State moneys. I believe that it is only fair to permit the States to use their AML moneys for this very necessary insurance program and I hope that my colleagues will support this amendment.

Mr. HUDDLESTON. Mr. President, I am happy to join with the distinguished minority leader, my colleague from Kentucky, and others to present this amendment clarifying the purposes for which moneys from the Abandoned Mine Reclamation Fund might be used. This clarifying amendment will enable States to use their portion of the Abandoned Mine Fund to establish programs to insure private property against damages caused by land subsidence resulting from underground coal mining. This amendment is necessary if States are to be certain of their ability to use Abandoned Mine Funds for the establishment of the insurance plans—plans to address the inconvenience and financial loss, indeed, the physical danger, connected with the subsidence problems that exist throughout the coalfields in both the eastern and western regions of the country.

The last session of the Kentucky Legislature adopted an insurance plan that, if seed money can be obtained, is set to go into effect next year. Without this seed money, however, the program will lie dormant. The establishment of this program is particularly critical to many areas of western Kentucky where subsidence is a substantial threat to human health and safety.

It is important to point out that, after States set up a mine subsidence insurance fund with the funding mechanism described in this amendment, no further appropriation will be needed because premium payments will keep the fund running on a self-perpetuating basis.

I urge adoption of amendment.

Mr. FORD. Mr. President, I am pleased to join my senior colleagues Senator HUDDLESTON, Senator BYRD, and Senator RANDOLPH in support of this amendment to move forward a program to insure private property against mine subsidence. This would occur under the Abandoned Mine Fund in the Surface Mining Act.

The House report on Interior appropriations recognizes the present shortcomings in implementation of an insurance program with the following statement:

The lack of progress by OSM in working with the States to implement a subsidence insurance program is disturbing. Such a program, if implemented, has the potential to free reclamation funds to cover other high priority needs.

This amendment furthers the program by permitting States to use their share of reclamation funds as startup

money to get the insurance program off the ground. After that, a sound insurance program will become self-sustaining

Mr. President, States are interested in establishing these insurance programs. The last Kentucky General Assembly enacted an insurance program. The amendment before us will permit the Kentucky program to go into effect.

This is a good amendment and I support it wholeheartedly.

I yield to the Senator from West Virginia.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. BYRD. I yield.

Mr. McCLURE. I thank the Senator for yielding.

We have discussed this matter with the distinguished Senator. It is from the abandoned mine fund and does not have the some impact on the bill as other issues might have.

I have no objection to the amendment.

Mr. JOHNSTON. Mr. President, the minority also accepts the amendment.

Mr. BYRD. Mr. President, I thank both the majority and the minority.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment (No. 6945) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. I thank both the managers of the bill.

The PRESIDING OFFICER. The Senator from Montana is recognized.

AMENDMENT NO. 6946

(Purpose: To transfer to the Federal payroll 28 employees of the Flathead irrigation and power project)

Mr. BAUCUS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Montana [Mr. BAUCUS] proposes an amendment numbered 6946.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 10, before the period insert the following: ": *Provided further,* That notwithstanding any other provision of law, within sixty days of enactment of this Act, the Secretary of the Interior shall employ in the Flathead Irrigation and Power Project of the Bureau of Indian Affairs twenty-eight (28) employees of the Joint Board of Control of the Flathead, Mission, and Jocko Valley Irrigation Districts at appropriate rates of pay which shall not be less than their rates of pay as of September 27, 1984".

Mr. BAUCUS. Mr. President, this is a simple housekeeping amendment. This amendment simply requires the Secretary of the Interior to hire 28 employees to work for the Bureau of Indian Affairs at the Flathead irrigation and power project [FIP] in Montana. These employees are currently working for FIP. However, they are not technically Federal employees. Instead, they are local government employees paid by the local irrigation districts located within the Flathead Indian Reservation. These employees have been working for FIP for a considerable period of time.

In addition, Mr. President, I will ask the conferees on this bill to direct the Secretary of the Interior, the Bureau of Indian Affairs, and the Bureau of Reclamation to conduct a study within the next 6 months of the FIP project to determine how it can best be managed in the future.

Let me describe briefly the background that prompts this amendment. Approximately 10 years ago, the Bureau of Indian Affairs, which administers the Flathead irrigation and power project, began transferring full-time equivalent, Federal employee slots away from FIP and into other areas of the BIA. As these positions were moved, it was necessary to find a way to continue to perform the tasks previously handled by the Federal employees. To fill this void, FIP management began to use local irrigation district employees who were paid for with public funds raised in the local district.

Over the course of 10 years, the local irrigation district staff working for FIP has grown to 28 employees. A recent study of this situation by the Inspector General of the U.S. Department of the Interior disclosed that these district government employees were not hired in conformance with all applicable BIA statutes and regulations. Accordingly, the Portland area office of the BIA has informed FIP management that beginning in the next fiscal year, October 1, 1984, these jobs must be filled and or performed in compliance with Federal law governing BIA employees or contractors.

It is my understanding that the Secretary of the Interior has told the Congress of his intention to conduct an intradepartmental study in cooperation with the BIA and the Bureau of Reclamation to determine what steps should be taken with respect to the future management of the irrigation project activities at FIP. It was my hope that the district employees could be kept in their current positions as local government employees for at least the next fiscal year to allow the Secretary and his staff adequate time to determine what should be done with the irrigation project. However, I am informed that the BIA will not agree to grandfather these current non-Federal employees in their present status until such time as the Department completes its study and proposes a permanent solution to the problem.

Instead, the BIA has concluded that to protect their jobs, the district employees must be made into Federal employees. Accordingly, I offer this amendment to accomplish that.

This amendment should be noncontroversial. I believe it is necessary to insure the continued operation of the irrigation portions of the Flathead irrigation and power project.

Before concluding, Mr. President, I would like to say a few words in a broader context about the Flathead irrigation and power project. FIP provides irrigated water and electrical power to the residents of the Flathead Indian Reservation. A brief history of the project was prepared in March, 1983 by Mr. C.D. Stende, a BIA central office personnel management specialist, and I ask unanimous consent that this brief history be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BACKGROUND ON IRRIGATION FACILITIES

The Treaty of Hellgate, executed July 16, 1855, established the boundaries of the Flathead Indian Reservation, Montana. The reservation boundaries essentially extend from the tops of the Mission Range on the east, the tops of the mountains south of the Jocko River on the south, the tops of the mountains west of the Little Bitterroot River on the west, and an east-west line about 12 miles north of the southern tip of Flathead Lake for the northern boundary. Congress, by the Act of April 23, 1904, allotted lands to the Indians in severalty and authorized a survey to determine the feasibility of an irrigation project and the sale and disposal of surplus lands not allotted to the Indians. An arrangement was made between the Office of Indian Affairs and the Reclamation Service in 1907 whereby the Reclamation Service furnished the engineering organization to make surveys and to carry on the construction work with the Chief Engineer of the Indian Irrigation Service approving the plans prior to their being presented to Congress for appropriations. Surveys were begun July 8, 1907. Preliminary lines were run, reservoir sites selected and surveyed, topographic surveys were made of all lands considered irrigable, investigation was made of the power possibilities on the Flathead River, and stream gaging was begun on all the principal streams of the project. Allotment of lands to the Indians was begun in 1907. The irrigation possibilities were reported favorably, and the Act of March 3, 1909, provided the first appropriation for beginning construction. Homesteading of the lands not allotted to the Indians was opened in 1910, and all those farm units were entered immediately. Facilities were constructed to serve the lands allotted to the Indians as well as those surplus lands not allotted to the Indians. As of the present date, almost 88 percent of the lands

on the irrigation project are owned by non-Indians with about 12 percent of the lands being held by Indians under trust or restricted patents.

All responsibilities for construction and operation of the Flathead Project was transferred from the Reclamation Service to the Bureau of Indian Affairs effective July 1, 1924. The Act of May 10, 1926 (44 Stat. 464) authorized construction of a powerplant on the Flathead River to generate power for operation of a large pumping plant to pump water from the Flathead River to the north portion of the irrigation project. Appropriations for construction were to be withheld until such time as the non-Indians owning lands within the irrigation project organized irrigation districts under Montana State law. The act also stated the uses for revenues received from sale of power in excess of that required for pumping purposes. In accordance with Montana State law, the Flathead, Mission, and Jocko irrigation districts were organized. Repayment contracts with the United States were executed on March 2, 1928; April 21, 1931; and November 13, 1934; respectively. Administration of the districts' functions is coordinated through a Board of Control composed of irrigation district board members plus one at-large member. The operation and maintenance of the project facilities is by the Flathead Irrigation and Power Project Office in St. Ignatius with a Bureau of Indian Affairs staff.

The Act of March 7, 1928 (45 Stat. 200-212) authorized the Federal Power Commission to issue a permit or license for the development of power sites on the Flathead Reservation in accordance with the Federal Water Power Act and under terms satisfactory to the Secretary of the Interior. A Federal Power Commission License (No. 5) was issued to the Rocky Mountain Power Company on May 23, 1930. The license provided for purchase of Newell Tunnel, which had been under construction since 1909 by the Reclamation Service, the reservation of a specified amount of power for use by the irrigation project, and payment of rental to the Indians for the use of any Indian lands which would be used in the development. Following issuance of the license, the Flathead Project ceased efforts on construction of the powerplant and in October 1930 began construction of electrical transmission and distribution systems to serve the area mainly within the reservation boundary, which area they service to date under the project Power Division.

Based on the Act of May 25, 1948 (62 Stat. 269), the three irrigation districts signed supplemental contracts agreeing to repay to the United States all reimbursable costs heretofore or hereafter incurred for the construction of irrigation and power systems of the Flathead Indian irrigation project. The act covered previous costs, deferred costs, reimbursement to the Confederated Salish and Kootenai Tribes of the Flathead Reservation, allowance of future construction, both power and irrigation, and set out the priority of items for which payments were to be made from the net revenues accumulated or to be accumulated from the power system.

Prior to initiation of the irrigation project, a number of landowners under previous allotments had constructed ditches to their lands from numerous streams. A committee study and report was made and on November 25, 1921, formal Secretarial approval of the report established "Secretarial Water Rights," independent of the Flathead Irrigation Project, or "Project Water Rights," for such lands. The Geological Survey for the Reclamation Service had made filings with the State of Montana for all streams of the reservation during the period preceding construction of the irrigation project and those filings were kept up until actual use of the water was made through the constructed ditches. These later filings evidently have no legal standing on the reservation, and the questions that have arisen regarding 'Secretarial Water Rights", "Project Water Rights", and water rights ownership remain unresolved and are a pivotal issue in the transfer of project operation and maintenance to the water users.

Mr. BAUCUS. Mr. President, the amendment I am offering is a simple one, to give the current FIP irrigation employees status as Federal employees. As I said earlier, I would have preferred to handle this matter through a colloquy with the chairman of the Interior Subcommittee, but I was unable to obtain adequate assurance that such a colloquy would solve the problem.

In addition, I want to stress that I expect the Department of the Interior to proceed vigorously on a comprehensive study of this whole situation, so a fair, manageable solution can be developed for the problems currently facing the irrigation side of the Flathead irrigation and power project. I will ask the distinguished chairman for his assistance in including conference report language that so instructs the Secretary.

I urge the adoption of my amendment.

Mr. President, I have cleared this amendment with both sides. I ask for its acceptance.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. BAUCUS. I yield to the Senator.

Mr. McCLURE. Mr. President, we have discussed this matter with the Senator. We have no objection to the amendment and urge its adoption.

Mr. JOHNSTON. Mr. President, the minority has also cleared this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment (No. 6946) was agreed to.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

AMENDMENT NO. 6947

(Purpose: To increase the limit on direct loans which can be made by the Bureau of Indian Affairs)

Mr. McCLURE. Mr. President, I send an amendment to the desk on behalf of Mr. ABDNOR and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE] for Mr. ABDNOR proposes an amendment numbered 6947.

Mr. McCLURE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Before the period at the end of section 101(c) insert the following: *"Provided further,* That the amount available for direct loans pursuant to the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451 et seq.), shall not exceed $18,600,000".

Mr. McCLURE. Mr. President, this amendment which I am offering today on behalf of Senator ABDNOR will increase the lending authority of the Bureau of Indian Affairs revolving loan program by $2.5 million for fiscal year 1985.

Mr. ABDNOR. Mr. President, the amendment will increase the lending authority of the Bureau of Indian Affairs revolving loan program by $2.5 million for fiscal year 1985.

The increase requires no additional appropriation. It is necessary because of the recent increase in tribal loan requests received by the BIA. This program is financed by its own collections, but every year a lending limit for the program is authorized in the Interior appropriations bill.

In fiscal year 1984, the authorized limit was $13,075,000. However, a large number of excellent loan applications were received and the limit was inadequate. As a result, the BIA is presently holding $6 million of approved loan applications that must await new authority in fiscal year 1985. The problem is that these loans will consume a substantial portion of the proposed fiscal year 1985 authority of $16.1 million. My amendment will simply increase that limit by $2.5 million, easing the impact of the pending loan applications and enabling more tribes to participate in this program in fiscal year 1985. The program has adequate funds available to cover this increased loan authority.

Mr. McCLURE. Mr. President, the amendment is acceptable. As the Senator from South Dakota noted, there is no additional budget authority provided by this amendment and no additional appropriations are required. The amendment merely lifts the administrative restriction on the amount of the collections which will be available for relending purposes.

Mr. JOHNSON. Mr. President, we have no objection on the minority side.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho.

The amendment (No. 6947) was agreed to.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

AMENDMENT NO. 6948

(Purpose: To prohibit the use of funds for condemning property in the Cache River Project, Arkansas)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 6948.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the fourth committee amendment, add the following: *"Provided,* That no funds may be used for the condemnation of property, without the consent of the owner of the property, for addition to the Cache River Arkansas Project.".

Mr. BUMPERS. Mr. President, I have discussed this with both managers of the bill. This is an amendment that simply provides that—there is already $7.5 million in a bill to the Fish and Wildlife Service for purchase of lands up and down the Cache River in Arkansas for migratory waterfowl. My amendment simply says that the Fish and Wildlife Service may not condemn land; they may only use that money in arm's length transactions. If the farmer wants to give an easement or wants to sell his land and he can enter into an arm's length transaction, fine. But this prohibits Fish and Wildlife Service from condemning farmers' land.

Mr. McCLURE. Mr. President, the Senator has discussed the amendment with us. We have no objection to the amendment and urge its adoption.

Mr. JOHNSTON. Mr. President, it has been cleared on the minority side.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment (No. 6948) was agreed to.

AMENDMENT NO. 6950

(Purpose: To prohibit the disposal of lands in the vicinity of Bull Shoals Lake, Arkansas)

Mr. BUMPERS. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself and Mr. PRYOR, proposes an amendment numbered 6950.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispersed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the seventh committee amendment, add the following new subsection:

"( ) Notwithstanding any other provision of law, lands in the vicinity of Bull Shoals Lake in Arkansas administered by the Army Corps of Engineers which have been declared excess to the Department of the Army needs shall remain under the administration of the Corps of Engineers and shall not be disposed of by the General Services Administration or the Bureau of Land Management.".

Mr. BUMPERS. Mr. President, I have not cleared this with the managers simply because they were preoccupied when I was trying to, but let me say that this is an amendment that was adopted by the Senate 4 months ago. It was dropped in conference. All it does is to prohibit the Corps of Engineers from declaring excess about 600 acres of land around Bull Shoals.

The PRESIDING OFFICER. If the Senator will yield, the Parliamentarian advises the Chair that the amendment is not in order. It is directed to the seventh committee amendment.

Mr. McCLURE. Mr. President, will the Senator yield at this point for a point?

Mr. BUMPERS. I yield.

Mr. McCLURE. Mr. President, might the Senator from Arkansas inform me, does this not deal with the Corps of Engineers project?

Mr. BUMPERS. It does and should go to the seventh amendment. I apologize and withdraw the amendment.

Mr. McCLURE. I thank the Senator.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 6951

(Purpose: To make $200,000 available for the North Key Largo Habitat Conservation Plan)

Mr. McCLURE. Mr. President, I send an amendment to the desk on behalf of myself and Mr. CHILES and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Idaho [Mr. McCLURE], for himself, Mr. CHILES, and Mrs. HAWKINS, proposes an amendment numbered 6951.

Mr. McCLURE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of section 101(e), insert the following before the period:

": notwithstanding any other provision of section 101(c) of this resolution, $200,000 shall be made available to the Department of the Interior for assisting the development of the North Key Largo Habitat Conservation Plan".

Mr. McCLURE. Mr. President, the amendment which I am offering on behalf of Mr. CHILES would provide for $200,000 to the Department of the Interior to assist in the development of a habitat conservation plan to resolve wildlife development conflicts on Key Largo, FL.

I think the amendment has been cleared on both sides.

Mr. CHILES. Mr. President, today I am offering an amendment to provide $200,000 to the Department of the Interior to assist in the development of a habitat conservation plan to resolve wildlife/development conflicts on Key Largo, FL. This important matter affecting my State has come to my attention too late to be considered in the normal course of committee deliberation. I hope, however, that the chairman will agree that providing this funding will help enhance proposed and existing Federal protection of wildlife in the area.

Over the past several years a significant controversy has raged over the further development of the Florida Keys. Of particular concern from a Federal perspective has been the potential impact of development on North Key Largo on wildlife habitat within the area.

As my colleagues may be aware, North Key Largo is bounded on the oceanward side by the John Pennekamp State Park and the Key Largo Coral Reef Marine Sanctuary, protecting the only major living coral reef in the United States, and on the mainland side by the Crocodile Lake National Wildlife Refuge, protecting the only species of crocodile found in the United States.

In addition, the area provides habitat for a federally listed threatened species of butterfly and two species of mammals which have just recently been listed as endangered under the Federal Endangered Species Act.

Recently, representatives of the major landowners in the area, the Florida Audubon Society, and local, State, and Federal agencies have discussed the establishment of a cooperative planning process which would have as its objective the development of a habitat conservation plan which would reconcile plans for further tourist and residential development with the conservation wildlife habitat in the area, including wildlife of special concern to the Federal agencies.

This process is based on a similar effort undertaken with respect to San Bruno Mountain, just south of San Francisco, CA, which was successful in reconciling conflicts between concerns for the conservation of several species of federally listed endangered and potentially endangered plants, butterflies, reptiles and moths and needed urban development. The San Bruno Mountain effort was expressly provided for in the 1982 amendments to the Endangered Species Act and was extensively discussed in the conference committee report with respect thereto.

On September 4, the Governor of the State of Florida issued an execu-

tive order establishing the North Key Largo Habitat Conservation Plan Study Committee. I have been contacted by the involved parties in the process seeking my assistance in securing the necessary funds for the Department of the Interior to assist in this effort to formulate this plan.

A unique attribute of the San Bruno Mountain process was that it resulted in a plan which accommodated both interests: wildlife as well as development. Not only would such an outcome be of significant value to the wildlife and economic well-being of the Keys and the State of Florida, but it would provide a significant opportunity to further provide a successful model which will promote such win/win solutions for environmental/development conflicts throughout the United States.

As I have discussed, the cooperative planning process for North Key Largo in Florida is in the initial stages and has come to my attention at a very late point in the appropriations process. What is needed to help this effort, however, and what is to be a major factor in the success of this effort is the necessary assistance from the Department of the Interior to help formulate the decisions with respect to the habitat conservation plan for this area. It is estimated that this effort could be accomplished by the Department at a cost of $200,000. It is this funding that I am seeking at this time. I hope the chairman can support this amendment to support this kind of constructive activity to resolve environmental/developmental conflicts in a well-reasoned and harmonious manner.

Mr. McCLURE. I am aware of the habitat conservation plan development process to which the Senator is referring and agree that, in concept, it provides a desirable process to resolve development and conservative pressures. Can you tell me specifically what the Fish and Wildlife Service would be expected to produce if these funds are provided?

Mr. CHILES. The $200,000 for the Service's Endangered Species Program would fund the costs of developing the North Key Largo habitat conservation plan. This would include technical planners, biological consultants, plan printing costs, et cetera.

Mr. McCLURE. Normally, we would insist that these funds be budgeted by the Service through the normal budget process. However, I appreciate the situation that the Senator is in. The Governor's executive order was only signed on September 4, 1984 and neither the Senator or the Senate was able to anticipate such action in time to accommodate the normal budget process. How long will it take to complete the habitat conservation plan?

Mr. CHILES. Depending on the progress made in negotiations with involved parties, the Service could expect to produce the habitat conservation plan in 6 months to 1 year.

Mr. McCLURE. Will the development of the plan save the Federal Government money in terms of its future land acquisition plan for the American Crocodile Refuge and will the plan provide additional protection for both the crocodile and other wildlife on the Key?

Mr. CHILES. Some land acquisition fund savings could occur as a result of developing the North Key Largo habitat conservation plan. Private landowners of inholdings within Crocodile Lake National Wildlife Refuge might be encouraged to donate these lands to the refuge, if the completed habitat conservation plan enabled them to develop property they own that is outside the refuge. Regardless of any potential savings from donations, the external boundaries of the refuge would remain intact, as any dimunition of refuge boundaries could result in an even greater amount of development and loss habitat outside the refuge.

Mr. McCLURE. From the land developer's point of view, will the development of the plan facilitate development compatible with resource protection needs?

Mr. CHILES. Yes. Unlike the present situation where uncertainties exist as to what can or can not be developed, the North Key Largo habitat conservation plan will provide to all parties a certainty as to what can be developed and where as well as assurance that this development will be compatible to resource protection.

Mr. McCLURE. I appreciate the Senator's responses and have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho.

The amendment (No. 6951) was agreed to.

AMENDMENT NO. 6952

Mr. McCLURE. Mr. President, I send an amendment to the desk on behalf of Mr. PERCY and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Idaho [Mr. McCLURE], for Mr. PERCY, proposes an amendment numbered 6952.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert the following after the period at the end of section 101(c) and before the section 101(d):

": notwithstanding any other provision of this resolution, $536,000 shall be available to the Fish and Wildlife Service for the Des Plaines River wetlands demonstration project".

Mr. McCLURE. Mr. President, I would like to correct an unfortunate oversight at this time. Senator PERCY had requested an additional appropriation of $1,300,000 for the Fish and Wildlife Service to reengineer about 2½ miles of the Des Plaines River in Lake County, IL, as a wetlands demonstration project. Senator PERCY indicated that this project would be a cooperative one, involving the State, the private sector, the Lake County Forest Preserve District, the Lake County Board, and others, including the Environmental Protection Agency and the Corps of Engineers. The purpose of the project would be to demonstrate that developed rivers can be reengineered to their original state and generate significant benefits in the area of plant and animal conservation, water quality, flood control, and recreation.

Unfortunately, Senator PERCY was misinformed that funding for the project had been included in the bill that passed the full committee on August 6, 1984. To correct this oversight, I send to the desk an unprinted amendment that adds $536,000 to the Fish and Wildlife Service funding level in the committee reported bill. These funds would be used by the Fish and Wildlife Service for survey and design ($78,000), for baseline monitoring ($288,000), and for initiating wildlife and environmental related research activities ($170,000).

I urge the adoption of the amendment.

Mr. DIXON. Mr. President, I want to thank the distinguished chairman of the Subcommittee on Interior and Related Agencies, Senator McCLURE, for his support of a wetlands reconstruction demonstration project along the Des Plaines River in Illinois.

I also want to acknowledge the early support of my good friend from Louisiana, Senator JOHNSTON, for this important project. I wrote Democratic members of the subcommittee last July, requesting funds for wetlands reconstruction.

The demonstration project offers a new and more cost-effective strategy for environmental management. This strategy will significantly expand the wildlife habitat, mitigating past losses and, at the same time, will improve water quality and help solve flooding problems.

The $536,000 being provided through the Fish and Wildlife Service resource management appropriation will provide funds for survey, design and research work, which will have national significance.

The demonstration project involves the rehabilitation of 2½ miles of the Des Plaines River in Illinois and the re-creation of 450 acres of associated wetlands. Besides showing what can be accomplished, valuable experience and

research data will be gained, which will lead to more efficient use of our public lands and the creation of more attractive environments throughout our country. Since before the turn of the century, our Nation's streams and attendant wetlands, both in rural and urban areas, have been extensively modified. For economic reasons, wetlands have been filled and drained, reducing flood storage, wildlife habitats and the natural ability of land and water to recycle both natural and man-made wastes. Fifty percent of the wetlands that once existed in the United States do not exist today. In our industrialized States, the loss is even greater.

For example, in Illinois, less than 1 percent of the presettlement wetlands remain. As the wetlands were eliminated, flooding increased, water quality degenerated, wildlife diversity decreased and our native waterscapes disappeared.

There have been many attempts to solve the resulting problems over the past decades, mostly by structural means. But, despite the billions of dollars that we have spent on flood and pollution control and wildlife management, the associated problems remain with us today.

Flood losses continue to increase in the United States despite the numerous structural remedies. Contaminants, in particular from nonpoint sources, foul our waterways and clog aquatic habitats, even given a decade of massive investment in the construction of water reclamation facilities. Flood waters and contaminants are moved with dispatch through highly engineered river systems, which are devoid of the wetlands capable of controlling their damaging effects. Evidence of how poorly wildlife survives in this structured environment can be seen in virtually every major river system from the Chesapeake to the San Francisco Bay.

If the objectives of our flood control, and environmental and wildlife protection legislation are ever to be achieved, it is clear that less costly, more effective strategies are needed. I believe the proposed project offers just such a new strategy—the reintroduction of wetlands in natural stream systems. The rehabilitation work would be done on publicly owned lands. There are ample lands available. Yet they remain scarred from past economic uses.

At present, however, very little is known about how best to go about this work. This project is a start toward meeting those needs—it will serve as a model for the future.

A great deal can be learned from the Research and Demonstration Program that will benefit stream and wetland management, not only in Illinois, but nationwide. We need more data and experience in how to rehabilitate our streams and wetlands. The Des Plaines River wetlands project will go a long way toward providing this information.

This project enjoys strong support from the State of Illinois, the local communities and industry along the Des Plaines River. It is also supported by the Department of the Interior.

Again, I thank my colleagues for understanding and for supporting this investment in the future.

Mr. JOHNSTON. Mr. President, the amendment has been cleared with us.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho.

The amendment (No. 6952) was agreed to.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

AMENDMENT NO. 6953

(Purpose: To allocate funds of the National Park Service for restoration of the William Howard Taft National Historic Site)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 6953.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add: "Not less than $500,000 shall be allocated by the National Park Service for restoration of the William Howard Taft Birthplace in Cincinnati, Ohio, during fiscal 1985.".

Mr. METZENBAUM. Mr. President, this is an amendment that I am particularly proud to offer. It has to do with the William Howard Taft birthplace which is undergoing major renovation from Park Service funds.

The amendment requires no increase in funds in this bill and it is just a different allocation.

Since I had the privilege of running against the grandson of William Howard Taft on two separate occasions, I am particularly pleased to offer this amendment and I hope the managers will see fit to receive it.

The William Howard Taft birthplace is already undergoing a major restoration with National Park Service funds. However, construction work was stopped earlier this year because of lack of funds.

Unless additional funds are provided, the birthplace will not be fully restored by 1988, which is Cincinnati's bicentennial year. Project managers hope to have the birthplace open to the public by that time.

The Taft family is a prominent name in both Ohio and national politics. Completing this birthplace site is a fitting tribute to William Howard Taft, who was our 27th President and Chief Justice of the Supreme Court from 1921 through 1930.

The National Park Service has previously provided $900,000 to restore this national historic site.

The Park Service allocated $300,000 in fiscal year 1982, $300,000 for 1983, and $400,000 was allocated in fiscal 1984.

This current Interior appropriations bill has no specific appropriation for fiscal 1985, but the project managers expect about $300,000 from the Park Service.

However, project managers say that the extensive repair work at the site—everything from structural repairs of the foundation to replacing the roof—will cost an additional $1.5 million by 1988 to complete the restoration for the city's bicentennial celebration. In order to accomplish that goal, I urge my colleagues to accept a higher appropriation for fiscal 1985, so adequate funds will be available for each of the next 3 years.

Mr. McCLURE. Mr. President, will the Senator from Ohio yield for a question?

Mr. METZENBAUM. Yes.

Mr. McCLURE. The form of the amendment is provided within available funds?

Mr. METZENBAUM. That is correct.

Mr. McCLURE. Mr. President, this amendment has been discussed and we have no objection to the amendment and urge its adoption.

Mr. JOHNSTON. Mr. President, the amendment has been cleared on this side.

The PRESIDING OFFICER (Mr. ARMSTRONG). The question is on agreeing to the amendment of the Senator from Ohio [Mr. METZENBAUM].

The amendment (No. 6953) was agreed to

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 6954

(Purpose: To make funds available for meetings and workshops related to Outer Continental Shelf activities off Alaska)

Mr. McCLURE. Mr. President, I send an amendment to the desk on behalf of Mr. STEVENS and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Idaho [Mr. McCLURE], on behalf of Mr. STEVENS, proposes an amendment numbered 6954.

Mr. McCLURE. Mr. President, I ask unanimous consent that further read-

ing of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 3, line 10, after the word "Senate", insert the following: ": *Provided further*, That of the funds appropriated for the Minerals Management Service, $50,000 shall be available for administrative, travel, communications, per diem, and other necessary expenses incurred by a non-profit inter-industry organization in conducting meetings and workshops related to Outer Continental Shelf activities off Alaska."

Mr. STEVENS. Mr. President, my amendment would make a $50,000 grant available to a nonprofit interindustry organization that conducts meetings and workshops related to OCS activities in Alaska. It would not increase the recommended appropriation for the Minerals Management Service.

The need to mediate potential conflicts between fishermen and oil companies exploring the OCS is, of course, not unique to Alaska. Alaska is a special case, however, in several other respects. Factors such as the extraordinary productivity and sensitivity of Alaska's fisheries and the large number of Federal lease sales scheduled for Alaska have convinced me that the Federal Government should make a special effort to resolve OCS-related disputes between the fishing industy and the oil industry in the State.

The grant provided by this amendment would support the efforts of these two industries to work out their differences. It will help fund interindustry meetings and workshops that will be held in connection with upcoming Federal OCS lease sales in Alaska, particularly the proposed North Aleutian Basin sale.

Mr. President, I believe that this amendment will make a significant contribution toward resolving conflicts over OCS leasing in Alaska. I hope that the distinguished chairman of the Interior Appropriations Subcommittee will accept it.

Mr. McCLURE. Mr. President, the integrity of the Federal OCS leasing program must be preserved in order to maintain the energy security of the United States and to provide the energy resources that the people of this Nation require and demand. I am persuaded that this amendment will serve this end by encouraging the oil industry and the fishing industry in Alaska to resolve their differences outside of the legislative arena. I am therefore willing to accept the amendment.

Mr. JOHNSTON. Mr. President, the minority has no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6954) was agreed to.

AMENDMENT NO. 6955

(Purpose: To provide incremental funding for the Milk River Irrigation Project, Fort Belknap Indian Reservation, MT)

Mr. MELCHER. Mr. President, it is necessary that this bill provide for the first of three equal installments required to rehabilitate and complete the Milk River Irrigation Project at the Fort Belknap Indian Reservation in Montana. This project is critical to the reservation economy and to the Indian livestock owners. I understand the amendment is not objectionable to the committee.

The BIA completed a study on this project in 1975 but for some reason, unexplained so far, the BIA failed to include this project on its priority funding lists over the years. After the omission was pointed out to them in February, they sent a revised list and Fort Belknap is second after Standing Rock Sioux, Phase II, project. The House did include $1 million in funding as the first of three installments on this important project and my amendment would bring the Senate bill into conformity with the House action.

Mr. President, we have had discussions on this issue. I understand that the chairman seeks to hold down the present funding that is in the bill but since this project is in the House bill, it is quite likely it might survive the conference.

Mr. McCLURE. Mr. President, the Senator from Montana has discussed this amendment with us. We have no objection to its adoption.

Mr. JOHNSTON. Mr. President, we have no objection to this amendment.

Mr. MELCHER. Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Montana [Mr. MELCHER] proposes an amendment numbered 6955.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

At the end of the Committee amendment (Sec. 101(c)), add the following:

Notwithstanding any other provisions of this section, the section dealing with BIA construction of H.R. 5973, as reported, is considered to read as follows:

"For construction, major repair and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands and interests in land; preparation of lands for farming; and construction, repair, and improvement of Indian housing, $104,243,000, to remain available until expended: *Provided*, That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation.".

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Montana [Mr. MELCHER].

The amendment (No. 6955) was agreed to.

AMENDMENT NO. 6956

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Idaho [Mr. McCLURE] proposes an amendment numbered 6956.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

Before the period at the end of the committee amendment, section 101(c), insert the following: Notwithstanding any other provision of this section, section 315 of the reported bill is amended to read as follows:

None of the funds provided in this Act may be used for the augmentation of grizzly bear populations in currently occupied areas of Forest Service grizzly bear habitat or the preparation of specific augmentation proposals to establish new grizzly bear populations in areas identified as suitable grizzly bear habitat in any unit of the National Park System or National Forest System unless the appropriate General Management Plan or Forest Plan provides for such augmentation and has been adopted, including having been available for public comment and review: *Provided*, That such activities may be conducted only with funds specifically justified for such purpose in an agency budget justification and subsequently approved in a report accompanying an appropriation bill making appropriations for that agency, or with funds provided for through reprogramming procedures: *Provided further*, That this is not intended to prohibit the emergency relocation of nuisance bears into currently occupied areas of congressionally designated wilderness areas within Forest Service boundaries, or into other currently occupied situation one areas where conflict between bears and humans is not likely to occur: *Provided further*, That the Secretaries of Interior and Agriculture shall provide for a public meeting at each affected National Forest and National Park Headquarters and the subsequent publication of the "Guidelines for Management Involving Grizzly Bears in the Greater Yellowstone Area" in the Federal Register, reflecting the public comments: *Provided further*, That notwithstanding any other provision of law, agencies included in this Act are authorized to reimburse permittees for such reasonable expenses as may be incurred as a result of moving permitted animals from one location to another, as may be required by the permitting agency, in order to prevent harrassment and attacks by grizzly bears. Such expenses are to be determined by the agency responsible for the permitted action.

Mr. McCLURE. Mr. President, the amendment is the result of a joint exercise between myself and primarily

Senator STAFFORD, Senator RANDOLPH, Senator CHAFEE, and Senator MITCHELL. It is proposed as a substitute to language in the committee-reported bill and is an improvement, I believe, in that it more precisely addresses my concerns without doing damage to the intent and specific requirements of the Endangered Species Act.

I wish to express my thanks and appreciation to the staff of the Environment and Public Works Committee for working with us to improve our original language.

Mr. STAFFORD. The purpose of this statement is to describe an agreement that I and other concerned members of the Environment and Public Works Committee, namely, Senators RANDOLPH, CHAFEE, and MITCHELL reached with Senator MCCLURE, of Idaho, chairman of the Appropriations Subcommittee on Interior and Related Agencies regarding a provision in H.R. 5973, the fiscal year 1985 Interior appropriations bill. This agreement also clarifies report language pertaining to the Endangered Species Act as it relates to management of the grizzly bear. I very much appreciate the willingness of Senator MCCLURE to work with us to address concerns that we and other members of the Committee on Environment and Public Works have had regarding this language.

The Senate Committee on Appropriations included in Senate-reported H.R. 5973, Interior appropriations for fiscal year 1985, a provision which amends an authorization for a program within the jurisdiction of the Committee on Environment and Public Works. Section 315 provides that "no funds be expended for the designation, management, or enhancement of grizzly bear habitat" until certain actions are taken. The provision is in direct conflict with both the intent and specific requirements of the Endangered Species Act.

The Endangered Species Act places an affirmative obligation on all Federal agencies to use their authorities on behalf of the conservation of threatened and endangered species. The language in question could preclude the agencies funded in the bill from continuing recovery actions for the grizzly bear, a threatened species, and other ongoing management activities such as timber sales, which would otherwise occur in the national park and forest land currently occupied as "essential grizzly bear habitat".

I am aware of a growing controversy surrounding the protection and recovery of the grizzly bear in the States of Idaho, Montana, Wyoming, and Washington. The grizzy bear is considered "threatened" and pursuant to an interagency recovery program, over 8 million acres of national park and forest land in the Rocky Mountain States has recently been identified as "occupied grizzly bear habitat." Of the acreage, approximately 5.7 million acres have been identified as "essential grizzly bear habitat' or "Situation One" under the interagency committee's Yellowstone Guidelines. Two hundred and twenty-five thousand acres have been so identified in Idaho; 3,903,000 acres in Montana; and 1,594,000 acres in Wyoming.

The controversy, although nationwide, is especially heated in the Rocky Mountain regions. The issues at hand include human safety, the conflict with traditional resource outputs and services, protection of the bear, and the high cost of the current program.

There is no doubt that grizzly bear recovery activities will reduce other multiple use outputs and services from our public lands to a significant extent. Such decisions regarding the management of such vast expanses of public land and resources deserves public scrutiny and participation. Senator MCCLURE therefore, has agreed to adopt a substitute amendment for section 315 to provide that no funds be expended for the augmentation of existing grizzly bear populations on Forest Service lands or for the introduction of new populations to areas currently lacking grizzly bears until the public has had an opportunity to review and comment; and until the necessary funds for these recovery actions have been budgeted and appropriated by Congress.

The amendment also directs the Secretaries of the Interior and Agriculture to provide for public review and comment on the "Guidelines for Management Involving Grizzly Bears in the Greater Yellowstone Area."

I believe that the revised language provides adequate opportunity for public meetings and comments on grizzly bear management without compromising the duties of the Federal agencies charged with carrying out the provisions of the Endangered Species Act, or otherwise amending the requirements of the Endangered Species Act in any way.

Mr. McCLURE. The Senator's characterization of the amendment is correct. I believe that it requires substantial public review and comment on the grizzly bear recovery plan in Yellowstone that will result in an improvement in the guidelines and in the management of these areas.

Mr. STAFFORD. I understand that the committee report directs the Fish and Wildlife Service to conduct the research and biological evaluation required to develop a national plan providing grizzly bear protection. The report provides a $100,000 allowance for research in fiscal year 1985 for Fish and Wildlife Service endangered species recovery funds: Including $50,000 for the development of a state-of-the-art compendium on grizzly bear research and $50,000 for the development of a study to determine what is the best grizzly bear habitat. I support both of these studies, and I hope that an additional $100,000 can be provided in conference for research to quantify the effects of road access on grizzly bear mortality and criteria for roads in that habitat, and for research to quantify the effects of back county recreation on grizzly bears. This additional research will provide a data base which should substantially reduce potential controversies regarding bear management activities. I understand that the Senator concurs with these objectives.

The report language accompanying the Interior Appropriations bill for fiscal year 1985 also directed that the Fish and Wildlife Service evaluate the desirability of establishing a program for the emergency feeding of natural foods to bears. It is my understanding that such a program is unnecessary at this time and that my distinguished friend from Idaho agrees.

Mr. McCLURE. That is correct.

Mr. SIMPSON. Mr. President, I would like to take this opportunity to support what Senator MCCLURE is attempting to do in regard to grizzly bear management in Wyoming, Montana, and Idaho. The grizzly bear is a "threatened" species under the Endangered Species Act and considerable controversy has swirled around the management of the grizzly by the U.S. Forest Service and the Park Service.

Earlier this year three members of the Environment and Public Works Committee from Wyoming, Idaho, and Montana wrote to Senator MCCLURE to request that a small portion of the available money for grizzly management be "earmarked" in order that the Federal agencies involved in this management would be compelled to compile a compendium of grizzly bear data and complete a study on the requirements for appropriate grizzly habitat before other programs, decisions, and activities would go forward.

Western Senators are concerned with the direction that the Forest Service and the Park Service have been going in regard to grizzly management. These Federal agencies have demonstrated a tendency to implement over zealous management practices that sometimes display little regard for local concerns. These agencies have paid lip service to public concerns about management practices by following the NEPA process but sometimes they do not take public concerns into full account. This trend must stop.

There has been some resentment by Federal officials involved in grizzly management since Congress has now taken a keen interest in these Federal management activities. I remind these officials that Congress does have a general "oversight function" and a very legitimate and specific such func-

tion is a responsibility of the Senate Environment and Public Works Committee which oversees endangered species matters. In August, I drafted a letter to Secretary of the Interior Clark, requesting a full review of current grizzly policy and the role and function of the Inter-Agency Grizzly Bear Committee and the Grizzly Bear Coordinator. This letter was signed by eight members of the Senate Environment and Public Works Committee and other western Senators. Our concerns relate to the narrow scope of management practices that are being carried out by the Forest Service, the Park Service and the U.S. Fish and Wildlife Service. Specifically, there has been great emphasis on reducing bear mortality when Federal land managers may well be responsible for a large part of that mortality, and there has been too much emphasis on restricting public use of Forest Service and Park Service lands. This past summer, roughly 16 percent of Yellowstone Park—America's premium playground and recreation site—was subject to restrictions on public access.

Senator MCCLURE has crafted compromise legislative language that will assist in addressing some of my concerns, but Federal land managers must also become aware that more legislative activity may be required unless current management practices are altered.

Grizzly management should carefully weigh all options including provisions for the limited sport hunting of grizzly bears, efforts to produce and enhance habitat through selective timbering and controlled burning of overly mature lodgepole pine stands, more emphasis on increasing fertility and fecundity, and added emphasis on State primacy in managing wildlife. In addition, the public should be thoroughly informed of management decisions, not just through the NEPA process, but through more direct and frequent consultation with all affected user groups.

Mr. JOHNSTON. Mr. President, the minority has cleared this grizzly bear amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Idaho [Mr. MCCLURE].

The amendment (No. 6956) was agreed to.

Mr. MCCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 6957

Mr. MCCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Idaho [Mr. MCCLURE] proposes an amendment numbered 6957.

Mr. MCCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

After the period at the end of section 101(c), insert the following:

The segregative effect of the Department of the Navy withdrawal application N—37171, covering approximately 181,323 acres of public lands in Churchill County, Nevada, shall continue until such withdrawal is acted upon by the Congress. Segregation shall not prevent compatible public land uses which would be allowed under the terms of the proposed withdrawal.

Mr. MCCLURE. Mr. President, this amendment is straight forward and noncontroversial. It merely extends a withdrawal of land near Fallon, NV, which the Department of the Navy has been using as a flight combat training facility, until the Navy's withdrawal application has finally been acted on by the Bureau of Land Management and by the Congress.

Under current law, land can normally be withdrawn for up to 2 years while the BLM makes a determination on land withdrawal applications. For a variety of reason, including the preparation of more extensive environmental documents by the Navy, this particular withdrawal has taken more than the 2-year time period. The withdrawal in fact expires on October 21, 1984.

Mr. President, this amendment merely extends the Navy's current withdrawal so that the BLM can continue to process Navy's application and submit a final proposal for permanent withdrawal to the Congress. Without this extension, the Navy's training facility is in serious jeopardy.

Mr. President, I ask unanimous consent that a document providing information pertaining to the land withdrawal be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LAND WITHDRAWAL FOR NAVAL AIR STATION, FALLON, NV.

BACKGROUND

In October 1982 the Navy applied to the Department of the Interior (DOI) for a withdrawal of 181,000 acres of public lands to expand the training ranges at the Naval Air Station, Fallon. By law, the lands remain segregated from other uses for 2 years while the withdrawal is processed. Segregation will terminate on October 21, 1984 but the withdrawal is not yet fully processed. Environmental and other work must be completed and an Act of Congress is required to withdraw the land. The Navy wants segregation of the lands to continue until the withdrawal is acted upon by the Congress. This will prevent public uses of the lands which may be incompatible with ongoing military operations at the ranges. (The vast majority of public uses will be compatible if the Navy can control the time, place and/or scope of activities. This will be possible when the land is withdrawn.)

EVENTS

Prior to August 1984: Various discussions between Navy and DOI staff on ways to preserve segregation at Fallon beyond October 21, 1984. Results were inconclusive.

August 6: Assistant Secretary of the Navy for Ship-building and Logistics signs a letter to DOI requesting an emergency withdrawal of the 181,000 acres at Fallon solely to preserve segregation until the 1982 withdrawal application is completed.

September 7: Navy representatives meet with DOI Assistant Secretary, Carruthers and BLM Director, Burford to discuss segregation. Navy was advised that an emergency withdrawal was probably not possible in this case to preserve segregation. DOI did agree that 2 year segregation was inadequate for military withdrawals because of environmental compliance and Congressional action involved. DOI offered support for legislative proposal by Navy to Congress to extend segregation for Fallon lands. DOI also supported future action to amend 2 year segregation for other military withdrawals.

September 10: BLM Director accompanies Principal Deputy Assistant Secretary of the Navy for Shipbuilding and Logistics on visits to Nevada Congressional delegation. Senators Laxalt and Hecht as well as Congresswoman Vucanovich indicated support for a legislative proposal to extend segregation of Fallon lands until the withdrawal action is completed. Senator Laxalt indicated that as a precondition to his support, the Navy must make a full effort to hear and address the concerns of the populace at Fallon and nearby communities. The Navy has been doing this and also will make an extra effort.

September 18/19: The Principal Deputy Assistant Secretary and staff will appear at special community meetings at Fallon to hear and address local concerns. The meetings have been arranged in coordination with staff of the Nevada Congressional delegation.

Future Actions: The Navy intends to report results of the September 18/19 meetings to the Nevada Congressional delegation and seek their support for a one line amendment to pending DOI legislation that will preserve segregation of the lands at Fallon.

The navy will complete environmental work on the proposed withdrawal as quickly as possible without compromising on thoroughness and legal compliance requirements. It will then work with DOI to expedite processing of the proposal to the Congress and work with the Nevada Congressional delegation to help move the proposal through the Congress. This will minimize the additional segregation period.

The Navy intends to work with DOI and the Congress towards resolution of the 2 year segregation issue for all military withdrawals.

Mr. MCCLURE. Mr. President, I know of no opposition to this amendment, and I urge its adoption.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, the amendment has been cleared by the minority.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Idaho [Mr. McCLURE].

The amendment (No. 6957) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 6958

Mr. BOSCHWITZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Minnesota [Mr. BOSCHWITZ], for himself and Mr. DURENBERGER, proposes an amendment numbered 6958.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

At the end of section 101(c) strike out the period and insert in lieu thereof a semicolon and the following: "*Provided further,* That $3,500,000 is appropriated for deposit into the Economic Development and Tribal Government Fund, to be held in trust for the benefit of the White Earth Band of Chippewa Indians: *Provided further,* That such funds shall become available for obligation only upon enactment of authorizing legislation and approval by the Secretary of the Interior of the Tribal Financial Ordinance and Investment Plan established pursuant to the White Earth Reservation Land Settlement of 1984."

Mr. BOSCHWITZ. Mr. President, this amendment is offered by Senator DURENBERGER and myself. It simply is part of an Indian land claims settlement package.

The body of that package we hope will be passed and authorized tomorrow by the Senate. We are adding economic development funds at this time at the request of the administration. These funds cannot be appropriated unless the authorization bill, which has been worked out with the consensus of Senator ANDREWS, Congressman UDALL, and members of the entire Minnesota congressional delegation, is enacted. We have talked to the majority and to the minority. I believe that the amendment is cleared on both sides.

Mr. JOHNSTON. Mr. President, would the Senator yield for a question?

Mr. BOSCHWITZ. Yes.

Mr. JOHNSTON. Has the Senator included language in his amendment which would provide that the money would not be appropriated unless authorized?

Mr. BOSCHWITZ. That is correct.

Mr. JOHNSTON. Mr. President, the minority has no objection.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. McCLURE. Mr. President, I understand the Senator from Minnesota will seek an amendment to the authorizing legislation to set an upper limit on the appropriation for economic development at $3.5 million. Am I correct in that?

Mr. BOSCHWITZ. That is correct.

Mr. McCLURE. Mr. President, with that assurance, I will not make any objection to the adoption of the amendment, but I think that is an essential part of the authorizing legislation.

Mr. BOSCHWITZ. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 6958) was agreed to.

Mr. BOSCHWITZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 6959

Mr. McCLURE. Mr. President, I send an amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Idaho [Mr. McCLURE] proposes an amendment numbered 6959.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the pending amendment insert the following as a new section:

"The following may be cited as "The John F. Kennedy Center Act Amendments of 1984.".

Section 9 of the Kennedy Center Act (20 U.S.C. 76o) is amended—

(1) by inserting "(a)" immediately after "SEC. 9.", and by striking out the third, fourth, and seventh sentences thereof; and

(2) by adding at the end thereof the following new subsections:

"(b) Effective as of the date of enactment of this subsection the obligations of the Board incurred under subsection (a) of this section shall bear no interest, and the requirement of the Board to pay the unpaid interest which has accrued on such obligations is terminated.

"(c) There is hereby established in the Treasury of the United States a sinking fund, the Kennedy Center Revenue bond Sinking Fund (hereinafter referred to as the "Fund"), which shall be used to retire the obligations of the Board incurred under subsection (a) of this section upon the respective maturities of such obligations. The Board shall pay into the Fund, beginning on January 1, 1987 and ending on January 1, 2016, the annual sum of $200,000 in amortization of the principal amount of the obligations. Such sums shall be invested by the Secretary of the Treasury in public debt securities with maturities suitable for the needs of the Fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities. The interest on such investments shall be credited to and form a part of the Fund. Moneys in the Fund shall be used exclusively to retire the obligations of the Board incurred under subsection (a) of this section. Adjustments of not greater than plus or minus 5 per centum may be made from time to time in the annual payments to the Fund in order to correct any gains or deficiencies as a result of fluctuations in interest rates over the life of the investments: *Provided, however,* That a final adjustment shall be made between the Board and the Secretary of the Treasury at the end of the amortization period to correct any overall gain or deficiency in the Fund. The terms of this adjustment shall be covered by a memorandum of understanding between the Board and the Secretary of the Treasury to be consummated on or before the time the initial payment into the Fund is made.".

Mr. McCLURE. Mr. President, I want to call the attention of the Members to this amendment in particular because there may be those who wish to object to it. I do not want to try to slip anything by anyone at this hour of the night. This amendment would express the legislation which we have already passed in this body to settle the question of the indebtedness on the Kennedy Center by reforming their debt in the way we have already discussed on the floor of the Senate, and passed. It has the support of the administration. At least, the Treasury Department has approved this.

While it is not exactly the same kind of amendment we have been doing the rest of the evening, it has already been discussed and passed by the Senate. I hope no one will raise objection to this procedure at this hour.

Mr. President, if there is no further debate on the amendment, I urge its adoption.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I do not have any objection to this amendment. But I do want to point out to the manager of this bill that before we started on this there seemed to be some thrust to try to have an appropriations bill. Point after point has been subject to a point of order. This matter is subject to a point of order. The previous one was an appropria-

tion for a matter where the funds had not even been authorized.

I just want to urge upon the managers of the bill that it is one thing to say to the rest of us do not offer legislation on an appropriation bill and then have the managers themselves do that same thing.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. METZENBAUM. I yield.

Mr. McCLURE. Mr. President, I understand what the Senator is saying. That is why I prefaced my remarks with respect to this amendment in the manner that I did because it is an unsual request for this evening. But it is a matter of some urgency for the Kennedy Center. Is is something that we have already acted upon on the floor of the Senate.

Mr. METZENBAUM. The Durenberger amendment came within the same kind of procedure because it was an appropriation where there had not even been an authorization. I did not want to object.

Mr. McCLURE. It is a contingent appropriation. There is no question about it.

Mr. KENNEDY. Mr. President, I would like to express my strong and enthusiastic support for this amendment sponsored by Senator McCLURE to establish a repayment schedule for the Kennedy Center on their construction bonds purchased by the Secretary of the Treasury. I am particularly grateful for the leadership both Senators McCLURE and PERCY have demonstrated on this initiative to ensure the financial stability of the Kennedy Center.

As you remember, the Senate passed this legislation by unanimous consent earlier this year. The House of Representatives, however, has not taken up the measure, leaving the Kennedy Center finances uncertain and in jeopardy.

The national cultural center was constructed from private contributions, appropriated funds and treasury bonds. Since their issue, the Treasury Department has deferred interest payments on the construction bonds. Treasury announced that it would no longer approve a deferral. This amendment represents a consensus agreement worked out by the Kennedy Center, the Department of the Treasury, OMB, and the General Accounting Office. It is a realistic solution, I believe; one that asks the Kennedy Center to repay the amount borrowed on terms which it can afford and waives the compounding interest that now exceeds the amount of the original obligation.

My family has always felt an abiding pride that the Nation's cultural center was designated a living memorial to President Kennedy. There could be no finer tribute to his Presidency than this memorial which has brought America's most accomplished artists to the capital city and hosted international talent in an ongoing exchange of cultural achievement and good will.

The amendment before us now will permit the Kennedy Center to continue its outstanding performances, education and outreach programs and public service activities. The Kennedy Center for the Performing Arts is a national treasure and I urge my colleagues in the Senate to support this amendment to ensure that generations of Americans will be able to point with pride to the Nation's best example of artistic excellence.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Idaho [Mr. McCLURE].

The amendment (No. 6959) was agreed to.

AMENDMENT NO. 6960

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 6960.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of section 101(c) of this joint resolution insert the following before the period: ": *Provided further*, That, notwithstanding any other provision of this joint resolution, H.R. 5973 as reported by the Senate Committee on Appropriations is amended by adding the following new section: '$5,000,000 is provided for land acquisition in the Cuyahoga Valley National Recreation Area.' ".

Mr. METZENBAUM. Mr. President, this is an amendment which I took up with the managers of the bill. It has to do with $5 million that is presently in the House bill. It is for the Cuyahoga Valley National Recreation Area which is one of the few national parks located between New York and San Francisco. It is a very modest figure. The House indicated its position with respect to it. There is no money provided as far as the Senate is concerned. I strongly urge upon the management of the bill that they accept the amendment.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. McCLURE. Mr. President, I urge the Senator to withhold the amendment at this time. We believe that there is enough money available to pay for the parcels which can be acquired. I would like the opportunity between now and the time we get to conference to verify that fact. If there is enough money to acquire all of the parcels which are now available, there would be no need for this money. If there is not enough money available, I would say to the Senator from Ohio that it is in the House bill. We very likely will confer with them and make an accommodation and adjustment on the amount that would be necessary to cover the parcels which are available and could be acquired.

Mr. METZENBAUM. I would like to ask my manager of the bill to recognize that you are saying those funds would be available in order to acquire the properties that are presently being offered or in negotiation. It is very likely that in order to develop the park appropriately some condemnation procedures may be necessary. I do not know the actual facts. But it seems to me it is a very small park located between Cleveland and Akron; $5 million is a very modest figure to be talking about. I do not want to press the amendment if the manager of the bill does not want me to do so. But I would like a little additional assurance from him that he will work this matter out with the manager on the House side.

Mr. McCLURE. Mr. President, if the Senator will yield.

Mr. METZENBAUM. Certainly.

Mr. McCLURE. Mr. President, the Senator has that assurance. Let me state very positively that in our discussions with the Park Service about their acquisition plans they have no plans for any condemnations on that park unit during this fiscal year. It is our intention to make enough money available to acquire all the parcels that can be acquired on a willing buyer/willing seller basis. We want to be able to verify that fact before we get to contract. I am sure the Senator will consider that very carefully in the conference.

Mr. METZENBAUM. I hope the manager will do more than consider it very carefully. I hope he will look favorably upon it.

Mr. McCLURE. We will look favorably upon it to the extent that it is necessary to fully fund the acquisitions that the Park Service says they can make during this fiscal year.

Mr. METZENBAUM. With that assurance, the Senator from Ohio will withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

ACQUISITION OF FOREST SERVICE TRACT IN MISSOURI

Mr. DANFORTH. Mr. President, a significant parcel of privately owned land in Missouri recently has become available for sale to the Forest Service. This parcel, which amounts to 1,840 acres, encompasses almost 10 miles of frontage on the Big Piney River. Much of the tract is surrounded by

Forest Service land and has been designated for purchase in the Gasconade and Big Piney Rivers Land and Water Conservation Fund Recreation Composite. The composite is recreationally significant because it promotes protection of these two sensitive Ozark rivers, while providing increased public access for canoeing and fishing.

Limestone bluffs and pristine springs characterize the largely unspoiled and increasingly popular middle and upper reaches of the Big Piney River. The portion of the Big Piney that passes through this private tract is used by Missourians from the St. Louis area, 2 hours away on Interstate 44, and from the surrounding area, including Fort Leonard Wood, one of the largest Army basic training posts in the Midwest, located only 5 miles to the north. In addition, the recently designated Paddy Creek Wilderness Area lies only 3 miles to the south of this tract; acquisition will provide needed protection to the area as well as enhancing recreational access.

Because of financial exigencies, the landowner urgently needs to dispose of this tract, and the Forest Service estimates its value at $1,250,000. Could the distinguished manager of the bill provide some encouragement in this regard?

Mr. EAGLETON. Mr. President, my distinguished colleague from Missouri [Mr. DANFORTH] has pointed out the unique situation that the Mark Twain National Forest finds itself in—a chance to purchase 1,840 acres along the Big Piney River for inclusion into the national forest. This tract of land would enhance the quality of our forest by creating additional buffers for Missouri's Ozark riverways and the Paddy Creek Wilderness, which was designated by Congress in 1982. I am tole that the Mark Twain National Forest personnel estimate the cost of such an acquisition as $1,250,000.

As a member of the Appropriations Committee, I know that this request is a little late in reaching the committee for consideration this year. I join my colleague, Mr. DANFORTH, in asking the distinguished chairman of the subcommittee if he would be willing to direct the Forest Service to expedite its review of this tract and its consideration of purchasing these valuable Missouri acres?

Mr. McCLURE. Mr. President, the sudden availability of this tract was a new and unanticipated development. The committee has asked the Forest Service to provide some additional information with regard to acquisition of this property. For this reason, I would not be willing to go forward at this time with funds for purchase. For example, we don't have an appraisal of the tract nor do we know exactly what use would be made of it. I am sure the Forest Service will provide good answers to these questions. However, the Senators from Missouri make a persuasive case for the tract, and we will look carefully at the Forest Service information with an eye toward including it in a later appropriation bill—possibly a supplemental—early next year.

Mr. DANFORTH. Mr. President, as always the chairman is attentive and receptive, and I thank him for it.

Mr. BAUCUS. Mr. President, the Senate has already approved an amendment offered by Senator MELCHER and myself to provide an additional $2.5 million to the U.S. Forest Service for the control of noxious weeds. This additional funding is badly needed across the country to help bring the spread of noxious weeds under control.

The additional funds are particularly needed in region I of the Forest Service which includes Montana and Idaho. On August 20, I joined Senator MELCHER, Max Peterson, Chief of the U.S. Forest Service, a representative from Senator McCLURE's office and a number of other individuals concerned about noxious weeds in touring western Montana. We were able to see, first hand, how serious the spread of noxious weeds is becoming. There is a clear need for action to prevent the further spread of these noxious weeds.

The problem is not an easy one. The noxious weeds primarily infest rangeland. This rangeland is private, State and Federal land. So there is a very clear need for a cooperative effort between private landowners, the state government, county weed boards and the Federal Government to bring the spread of noxious weeds under control. There will be little benefit if anyone is forced to go it alone.

Mr. President, I ask unanimous consent that a two-page situation statement on noxious weeds in Montana appear at the end of this colloquy.

Mr. President, from this report, that was shared with us on our tour of western Montana, you can see that Montana has more than 4.6 million acres of noxious weeds. These are primarily spotted knapweed, leafy spurge and dalmation toadflax, but there are additional noxious weeds that appear on western rangelands.

The costs of control of these noxious weeds now runs about $150 per acre. Yet region I budgeted a total of $55,000 for Montana in fiscal year 1984. We simply cannot allow this inadequate funding to continue if we are to have any hope of reversing the spread of these noxious weeds.

Mr. President, I would like to ask the chairman of the Interior Appropriations Subcommittee, Mr. McCLURE, if he feels the Forest Service could provide an amount more in line with what is needed in region I through existing funds if the additional funds approved by the Senate are deleted in conference with the House of Representatives?

Mr. McCLURE. I thank the Senator from Montana for his interest and concern over the critical problem of noxious weeds on public lands. As the Senator knows, I too am deeply concerned over the spread of noxious weeds in region I of the Forest Service. It is my understanding that, if the additional funds provided by the Senate are deleted in conference, the Forest Service does have available funding to address this problem in region I.

The Appropriations Committee did include an increase in the Forest Service's budget for rangeland improvements. Further, it is my hope that the Forest Service will make every effort to cooperate with state and local authorities and private landowners in beginning to address the serious problem of noxious weeds. As the Senator from Montana points out, there must be a coordinated effort if we are to see meaningful results.

Mr. BAUCUS. I thank the Senator from Idaho for his understanding and cooperation on this important matter. Can I ask whether the Senator from Idaho believes the Forest Service will be able to commit more than the $100,000 allocated by region I, in fiscal year 1984?

Mr. McCLURE. Again, I want to assure my colleague from Montana that it is my hope that the Forest Service will indeed commit additional funds to region I. As I pointed out, there are additional funds for rangeland improvement in the Forest Service budget. I am prepared to work with the Senator from Montana to see that the Forest Service makes this additional commitment.

Mr. BAUCUS. Again, I thank the Senator from Idaho for his assurance and his cooperation.

There being no objection, the situation statement was ordered to be printed in the RECORD, as follows:

SITUATION STATEMENT: NOXIOUS WEEDS IN MONTANA

The noxious weed species of greatest concern in the Northern Region are spotted knapweed, leafy spurge and dalmation toadflax. They are resistant to control and they rapidly infest and spread in native plant communities. Most other species of noxious weeds tend to infest disturbed areas.

The Northern Region has almost 600,000 acres of noxious weeds, and has about 250,000 acres of spotted knapweed.

The State of Montana has more than 4.6 million acres of noxious weeds; has more than 2 million acres of spotted knapweed; has more than 600,000 acres of leafy spurge; and has more than 40,000 acres of dalmation toadflax.

National Forest System lands in Montana have 420,000 acres of noxious weeds, and have about 240,000 acres of spotted knapweed (90 percent of this is on the Lolo and Bitterroot National Forests).

They have about 8,000 acres of leafy spurge (90 percent of this is on the Lolo,

Gallatin, Deerlodge, and Lewis and Clark National Forests).

They have 1,800 acres of dalmation toadflax—the major infestation is on the Gallatin National Forest.

Spotted knapweed and leafy spurge are the priority species for control in the Northern Region. Spotted knapweed is a priority on Forests with small infestations that can be contained. Leafy spurge is a priority Region-Wide.

The major control effort on National Forest System is on rangeland. However, the problem is larger than rangeland. Forests roads, timber sale areas, wildlife habitat and recreation areas are also infested.

Several area-wide control efforts involve National Forests. The Marias River Basin and the Smith River project involving the Lewis & Clark National Forest, the East Pioneer Experimental Stewardship area involving the Beaverhead National Forest and a Lincoln County project involving the Kootenai National Forest. Planning is underway to develop other area-wide efforts. All National Forests coordinate their efforts with the respective County Weed Boards.

Acres to be treated in Montana National Forests in fiscal year 1984 are:

	Acres
Beaverhead National Forest	100
Bitterroot National Forest	10
Custer National Forest	60
Deerlodge National Forest	100
Gallatin National Forest	100
Helena National Forest	300
Kootenai National Forest	30
Lewis & Clark National Forest	250
Lolo National Forest	10
Total in Montana	1050

Treatment is by cultural, biological and chemical methods. All Forests have distributed the seedhead gall fly, a biological agent, on Spotted knapweed.

Control funds for fiscal year 1984 are: Noxious weed, $55,000, Range Betterment Funds, $20,000, Other Gov't funds, $5,000 and Cooperator funds, $10,000 for a total of $90,000.

The Region's fiscal year 1984 noxious weed program proposals ranged from $100,000 to $400,000. The program was funded at $100,000 with $55,000 being used in Montana and $45,000 used in North Dakota, Idaho and South Dakota.

Mr. GORTON. As we consider H.R. 5973, the Interior appropriations bill, I would like to raise with the Senator from Idaho the matter concerning the LaPush Ocean Park Resort possessory interest settlement appropriation provided for in the Bureau of Indian Affairs' land acquisition account, which is described at page 53 of the House report accompanying the House version of H.R. 5973.

Mr. McCLURE. I welcome the comments of my good friend, the Senator from Washington.

Mr. GORTON. It is my understanding that the House appropriated $443,000, which represents the fair value of the possessory interest of LaPush Ocean Park Resort, WA, in the property covered by the Department of the Interior's contract No. 9900C20051, and that this amount is not included in the Senate bill. The owners of the LaPush Ocean Park Resort have been waiting to be paid for their loss since December 31, 1982. In actuality, they have been waiting since October 21, 1976, when President Ford signed the legislation establishing the boundaries of the Olympic National Park, barring for all time, the sale of their property to anyone except the Government. Now at last, an arbitration commission has made its finding that the property is worth $443,000. I think it is only fair that the citizens of Washington State who have waited, can now be compensated after having been restricted in their ability to sell their property for over 8 years. I might add that under the House bill, they will not receive any interest on this amount.

Mr. McCLURE. Let me assure the Senator from Washington that I understand that the House bill compensates the stockholders of the LaPush Ocean Park Resort for property taken from them and that the sum of $443,000 represents the amount recommended by the arbitration commission. However, the Senator will note that the Senate bill contains $2 million in the land acquisition account for the Mississippi Choctaw Tribe. Current law establishes the annual ceiling for land acquisition at $2 million. It was for this reason that the committee was unable to provide the full amount requested by the Senators from Mississippi for the Choctaw land acquisition program. It should also be pointed out that the Department of the Interior has raised objections to both the amount contained in the House bill for the acquisition of possessory interest at LaPush Ocean Park Resort and the money in the Senate bill for the Choctaw Tribe land acquisition program.

With these two caveats, I would say to the Senator that it would be my intent to discuss this problem, with respect to the LaPush Ocean Park Resort appropriation, in conference to determine if there is a willingness to appropriate funds above the annual ceiling of the land acquisition account.

Mr. GORTON. I think the Senator from Idaho has done an excellent job in guiding this legislation and I thank him for his response to my comments.

Mr. PERCY. Mr. President, I wonder if I might have the attention of the distinguished chairman of the Interior Appropriations Subcommittee, Senator McCLURE, to discuss funding for both the Illinois and Michigan Canal National Heritage Corridor and the Jefferson National Expansion Memorial Commission.

I note that the committee report deletes the funding provided in an amendment adopted on the House floor for starting these two new projects in Illinois.

I suspect that the committee acted in part because the authorizing legislation had not yet been signed into law. However, as my distinguished colleague now knows, President Reagan traveled to Chicago on August 24 to participate in a bill-signing ceremony. These projects are now fully authorized for implementation.

Many people, from the legislation's sponsors—Senator DIXON and myself—and the rest of the Illinois congressional delegation to local officials and community leaders, have worked long and hard to see this day come. I know they join me in thanking Senator McCLURE for recognizing a good idea and helping us through the authorization process in his other capacity as chairman of the Senate Energy and Natural Resources Committee.

I would like to inquire of the distinguished chairman whether—now that the bill has been signed into law—he would be willing to accept an amendment to restore the funding provided on the House floor, either as a new appropriation account or from funds already appropriated to the National Park Service?

Mr. McCLURE. The Senator is correct when he says that the committee did not include funds because the legislation had not yet been enacted. I have no objection to the National Park Service providing $75,000 for the Jefferson National Expansion Memorial Commission and $250,000 for the Illinois and Michigan Canal National Heritage Corridor Commission from within available funds.

Mr. PERCY. I thank the chairman.

THE CHANNEL ISLANDS NATIONAL PARK AND THE SANTA MONICA MOUNTAINS NATIONAL RECREATION AREA

Mr. CRANSTON. Mr. President, I wish to ask the distinguished chairman of the Interior Appropriations Subcommittee to clarify a provision in this bill which relates to the land acquisition program at the Channel Islands National Park in California.

I am very pleased to note that the fiscal year 1985 Interior and Related Agencies Appropriation bill provides $40 million for the acquisiton of Channel Islands National Park lands. I also note that the bill provides for such land acquisition without regard to the priorities established in the authorizing statute, Public Law 96-199.

As the Senate sponsor of the Channel Islands National Park authorizing legislation, I want to state that it was our intention that Santa Rosa Island would be acquired by the National Park Service before other properties. The owners of Santa Rosa Island agreed to the inclusion of their lands in the new national park on the understanding that Santa Rosa Island would be acquired as quickly as possible. The property is jointly held, and several of the owners are in their sixties. They wish to sell to the Federal Government now and avoid the possibility of an estate situation. Because of their personal situation, we honored their request for priority acquisition. No

similar request was made by other property owners at that time. I wish to inquire of the distinguished Senator from Idaho the committee's rationale for waiving the acquisition priority in the fiscal year 1985 Interior and Related Agencies Appropriation bill.

Mr. McCLURE. I am happy to respond to the Senator from California. First, let me say that it is our hope that an appropriation of $40 million in fiscal year 1985 for the Channel Islands National Park would be adequate to purchase all the remaining private lands contemplated for Federal acquisition—the Vail and Vickers ranch on Santa Rosa Island and the Ghrenini property on Santa Cruz Island. Thus, if the property owners negotiate in good faith with the Federal Government, we would hope that there would be no problem with Park Service acquisition in fiscal year 1985.

In order to give the National Park Service the strongest negotiating position, the committee eliminated the land acquisition priorities established in the authorizing statute. The committee does not want to create a situation in which one property owner can hold up the entire land acquisition program for the Channel Islands National Park.

Mr. CRANSTON. I thank the Senator for his explanation. Waiving the acquisition priorities would not affect the commitment made to the owners of Santa Rosa Island if the full $40 million is retained in conference. However, I am aware that there are no funds for the Channel Islands National Park land acquisition program in the House version of this bill. I am therefore concerned about the impact of eliminating the acquisition priorities if a lesser amount is adopted in conference. If a lesser amendment is adopted in conference, would the Senator from Idaho support instead a provision directing the National Park Service to enter into negotiations first with the owners of Santa Rosa Island—as provided for in the authorizing statute—but permitting the Park Service to proceed with negotiations with other property owners during fiscal year 1985 if substantial progress is not made with the Vail and Vickers Ranch within 6 months?

Mr. McCLURE. I want to assure the Senator from California that it is my intention to fight to retain the entire $40 million for the Channel Islands National Park in conference. However, if we are in that position in conference, I will certainly consider proposing your option. I recognize the position that you are in and will try to accommodate your request if that is at all possible.

Mr. CRANSTON. I thank the Senator for that assurance. The Channel Islands National Park is indeed a magnificent resource and worthy of inclusion in the National Park System.

There is another park in California which I believe should be given top funding priority—the Santa Monica Mountains National Recreation Area. The Santa Monica Mountains comprise a highly scenic coastal mountain area, with outstanding opportunities for public recreation for the millions of people living in southern California and the visitors to the area from across the Nation—and other parts of the world. But a national recreation area can only become a reality if sufficient Federal funds are available to purchase land. The authorizing legislation called for $155 million in Federal funds to be spent quickly and the land acquisition complete by 1983 because of the escalating land values and the pressures for development in the mountains. To date, however, only $56 million has been appropriated for the park.

The House version of the fiscal year 1985 Interior and Related Agencies Appropriation bill includes $27,300,000 for continuation of the National Park Service land acquisition program in the Santa Monica Mountains National Recreation Area. The Senate version, however, contains no funding at all.

I understand that the Senator from Idaho is concerned about the National Park Service's role in land acquisition in the Santa Monica Mountains—and the possibility of the filing of declarations of taking there. I want to point out that, to date, there have been no declarations of taking filed in the Santa Monica Mountains. Would the Senator from Idaho not agree that there might be some properties within the boundaries of authorized units of the National Park System where condemnation might be appropriate?

Mr. McCLURE. As the Senator from California is aware, a declaration of taking must be approved by the Interior Appropriations Subcommittees of both the House and the Senate. Generally, I do not favor the use of condemnation actions and am concerned about such actions in the Santa Monica Mountains. But I would agree that there could be a special case in which condemnation would be in order. I would expect such instances to be very limited.

Mr. CRANSTON. I recognize that the Senator from Idaho may not agree with me that all the lands within the boundaries of the Santa Monica Mountains NRA or all of the properties indentified in the land protection plan for the park should be acquired. But would the Senator not agree that there are some parcels in the Santa Monica Mountains that meet national significance criteria and ought to be acquired?

Mr. McCLURE. I do agree with the Senator from California that some lands in the Santa Monica Mountains do meet national significance criteria.

Mr. CRANSTON. Then would the Senator support fiscal year 1985 funding for purchase of such land?

Mr. McCLURE. Last year, as one of the managers of the conference on the bill making appropriations for the Department of Interior and Related Agencies, I agreed that there were at least several instances that deserved funding for acquisition. I appreciate the position that you are in and assure you that I will review the issue of the fiscal year 1985 funding for Santa Monica Mountains in conference with that in mind.

Mr. EVANS. Mr. President, as we consider H.R. 5973, and in particular, the recommendations for the Fish and Wildlife Service, I would like to raise a matter of importance to the people of the State of Washington: the establishment of the Protection Island National Wildlife Refuge. First, I applaud the efforts of the Appropriations Subcommittee on Interior and Related Agencies and the subcommittee's able chairman, Mr. McCLURE, for his continuing work on this issue.

In 1972, Congress passed legislation establishing the Protection Island National Wildlife Refuge in Washington State. To date, $4 million have been appropriated to purchase private property on Protection Island; however, the Fish and Wildlife Service has not yet obligated any of the funds. This is because of legal complications created by the land ownership arrangements; property owners automatically become members of a "Beach Club" with an obligation to pay dues. Because of this, the Department of Justice has determined that the Fish and Wildlife Service would in effect be paying dues to a beach club which is not authorized. Further, the payment would cause the Fish and Wildlife Service to exceed the appraised or assessed value when purchasing the lots. In keeping with procedures outlined in previous appropriations bills and reports, the Fish and Wildlife Service must obtain explicit authorization from both the Senate and the House of Representatives to offer willing sellers more than the assessed or appraised value to their property and to initiate taking proceedings.

It is my understanding that the House of Representatives, in the committee report on H.R. 5973, has authorized the Fish and Wildlife Service to exceed the appraised value of each tract at Protection Island National Wildlife Refuge by $225, but that the Senate has not done so. Is my understanding correct?

Mr. McCLURE. The Senator from Washington's understanding is correct. The Senate was not willing to agree to a blanket approval for the Fish and Wildlife Service to spend in excess of either the appraised or the assessed value for the property so that

the Fish and Wildlife Service could pay annual membership dues to a beach club.

However, we have been provided assurances that it is the Department's intent to acquire all willing seller tracts as soon as possible and that the Department intends to use its authority to file a declaration of taking, if necessary, to gain control of the beach club. Once control of the beach club is gained, then the Federal Government would be able to eliminate the requirement for annual dues payments and the need for the blanket approval to exceed the appraised or assessed value by $225 would also be eliminated.

Mr. EVANS. So I understand that the chairman is agreeable to a blanket approval to exceed the appraised or assessed value of any lot at Protection Island National Wildlife refuge by $225 as long as the beach club dues payment is required and also is agreeable to approving, in advance, the filing of a declaration of taking, if necessary, to gain control of the beach club rapidly,

Mr. McCLURE. That is correct.

Mr. EVANS. I thank the chairman for his cooperation and support in resolving this matter.

Mr. LUGAR. Senator QUAYLE and I requested that the subcommittee include a provision in H.R. 5973 making $870,000 available to purchase certain lands in the Hoosier National Forest on a willing seller-willing buyer basis. These moneys would be used to purchase three key tracts totaling 346 acres in the Monroe Reservoir Composite and four tracts totaling 393 acres to protect three outstanding natural areas in the Forest. Lake Monroe is the major water supply system for the city of Bloomington and the heaviest use of the Forest occurs within the Monroe Reservoir Composite. There is a definite threat of private development if these three tracts are not purchased in the near future. The State of Indiana has one of the Nation's leading programs for the identification of natural areas. The State of Indiana and the Nature Conservancy agree that the Plaster Creek Seeps Natural Area, the Pioneer Mothers Research Natural Area and the Carnes Mill Natural Area are highly significant and must be protected. The purchase of these four tracts would ensure the preservation of these valuable areas.

Mr. McCLURE. I have examined these areas and I can appreciate your concern. We generally try to make sure that new acquisitions represent more than just opportunity acquisitions. I understand from your statement that these lands are high priority lands and are threatened by development if not acquired. However, I believe that the Forest Service will be able to purchase these tracts from available funds.

Mr. LUGAR. I view these purchases to be of such priority that the Forest Service should, to the extent that funds are available, provide the funds for these purchases. May I inquire of the distinguished floor manager of the bill if he concurs with my view that the Forest Service should approve the use of available funds to purchase these lands?

Mr. McCLURE. I would certainly have no objection to the Forest Service using available funds for the acquisition of these parcels if, in their judgment, they represent high priority parcels.

Mr. RIEGLE. Mr. President, I and my colleague from Michigan, Senator LEVIN, would like to direct a number of questions to the distinguished chairman of the Interior Appropriations Subcommittee regarding land acquisition policies for the National Park Service. I would like to ask the chairman whether, if the conference committee on this bill were to provide funds in a lump sum for the acquisition of inholdings, emergency and hardship areas in authorized national parks, our understanding is correct that these moneys would also be available for the acquisition of lands within the boundaries of recently authorized parks?

Mr. McCLURE. That is our understanding, yes.

Mr. RIEGLE. As the chairman knows, we are particularly concerned about areas in Sleeping Bear Dunes National Lakeshore in Michigan. These areas, known as the resource preservation areas including the Bow Lakes and Bog, were authorized for acquisition by Public Law 97-361 and have been identified by the Park Service as a high priority for acquisition in its management plan for the park. Would the chairman object to the Park Service using these lump sum funds to acquire these lands?

Mr. McCLURE. I would have no objection.

Mr. LEVIN. I would like to express my support for incorporating funds for acquisition of inholdings and emergency and hardship areas in the National Park Service budget to provide for acquisition of resource preservation areas such as the Bow Lakes and Bog in Sleeping Bear Dunes National Lakeshore. It is my opinion that preference should be given to areas such as the Bow Lakes and Bog which are threatened with development. Does the chairman agree?

Mr. McCLURE. I do.

Mr. SASSER. I wonder if the distinguished chairman of the Interior Appropriations Subcommittee would yield for an inquiry?

Mr. McCLURE. Yes, I would be happy to yield to my friend, the junior Senator from Tennessee.

Mr. SASSER. I thank the chairman. First, let me just commend my colleagues on the Appropriations Committee for their support for the MHD program. I have long been a strong supporter of a viable and ongoing Magneto-hydrodynamics program. I believe that MHD research and development is in the long-term best interest of this Nation's coal production and environmental control agenda. I am particularly proud of the integral role which the University of Tennessee Space Institute at Tullahoma has played in the development of the MHD program.

On this point, what is the chairman's assessment of future of the MHD program?

Mr. McCLURE. I think the MHD program is going in a very positive direction. I believe that the committee's action reflects a new and vital cooperative effort between the Department of Energy and the MHD community.

Mr. SASSER. I appreciate the chairman's remarks. The Coal Fired-Flow Facility at the University of Tennessee Space Institute has been an important part of MHD research and development. Would the chairman anticipate that existing facilities, such as CFFF, would be considered by the Department of Energy in this new, forward-looking MHD program directive?

Mr. McCLURE. Yes, I would anticipate that the Department of Energy would look to its existing facilities.

Mr. SASSER. On that point, I believe that my friend, the distinguished senior Senator from Tennessee also wishes to comment.

Mr. BAKER. I thank my friend and colleague the junior Senator from Tennessee, and I thank the chairman of the Interior Subcommittee.

I wholeheartedly concur with my friend from Tennessee in support of the MHD program. As a member of the Environment and Public Works Committee, and coming from a coal-producing State, I am pleased with the direction of the MHD program.

Another point I wish to raise, Mr. Chairman, concerns other research on uses of coal. Coal has a critical role to play in this Nation's energy future, and the environmentally efficient utilization of coal is in the national interest. I believe the capabilities of the CFFF are applicable to research on various techniques for reducing envisions from coal combustion, and I urge the Department of Energy to utilize this facility more and more in the future for such research.

Mr. SASSER. I thank my senior colleague from Tennessee. I will only add my hope that DOE will maximize the use of existing facilities in enhancing the overall direction of the MHD program and other types of coal research.

Mr. McCLURE. I thank both my friends from Tennessee. I believe that the Department of Energy will review the capabilities of existing facilities in

moving forward with the coal research and development program.

Mr. SASSER. I thank the chairman.

Mr. SYMMS. I would like to encourage my colleagues in a colloquy to determine whether funds are available in the Bureau of Land Management to repair the Echo Pipeline in the Boise, ID district. An inspection and engineering analysis of the Echo livestock pipeline system earlier this year indicated that the pipeline system is antiquated and that continued maintenance would not correct this problem. Working cooperatively with the pipeline users, BLM determined that if the users provided labor and equipment at an estimated cost of $150,000 and that if BLM were to provide materials at a cost of $150,000, the pipeline system could be replaced.

Does the chairman of the Interior Appropriations Subcommittee agree that this project is a worthy one and should be funded from within funds available to the agency?

Mr. McCLURE. I appreciate you bringing this to the attention of the Senate. I agree that this project is an especially needy one. In view of the willingness on the part of the users to fund half of the project costs, I would agree that BLM should give funding of this project a high priority from within available funds.

Mrs. HAWKINS. I would like to draw attention to the funding provided for the Bureau of Indian Affairs trust responsibilities. We created a new Federal reservation in Florida by passage of the Florida Indian Land Claims Settlement Act in the last Congress.

As a result the Federal Government, and more specifically the Bureau of Indian Affairs, has acquired significant additional responsibilities with respect to the Miccosukee Tribe. Yet no funds have been forthcoming from the BIA to meet these responsibilities.

The most immediate need is for a resource management and real estate service office at the reservation. This office would be responsible for the various real estate actions needed to finalize the federalization of the refuge, planning of conservation, road, recreational and other tribal projects, negotiations with State and Federal agencies for permits for tribal projects, and generally assisting the tribe in a manner consistent with the Federal Government's responsibilities and with the service provided to other tribes.

It is estimated that $100,000 would be needed for such an office, and House version of the bill provides this amount. The bill now before us does not, and I would strongly urge the chairman to accept the House provision for these funds when the bill goes to conference.

Mr. CHILES. I would like to join in urging the acceptance of the House-provided $100,000 Miccosukee appropriations in conference deliberations on H.R. 5973.

The modest appropriations requested would do no more than fulfill an implicit commitment made when the Miccosukees surrendered their claims to a vast portion of Florida in return for creation of a new Federal reservation in the State of Florida. Passage of the Florida Indian Land Claims Settlement Act clearly involved a commitment by the United States to provide a level of trust services to the Miccosukee Tribe commensurate with what is provided to other tribes with trust land.

I understand that the Bureau of Indian Affairs does not dispute that the funds are needed for the Government's trust responsibilities to be discharged.

Mr. McCLURE. I would like to express my appreciation to both Senators from Florida for bringing this matter to our attention. There will be additional responsibilities involved once the additional lands are transferred to trust status. The BIA has indicated support for the House add-on of $100,000 to fund a resources management and real estate office. Within the fiscal constraints facing the conferees, we will give this matter every consideration.

Mr. WALLOP. Mr. President, on behalf of myself and Senators ARMSTRONG, SIMPSON, HATCH, SYMMS, GARN, LAXALT, and ANDREWS, I would like to thank my distinguished colleague from Idaho, Senator McCLURE, for amending the fiscal year 1985 Interior appropriations bill in committee to include $450,000 for an important water research venture.

The $450,000 to which I am referring would allow the Secretary of the Interior to establish pursuant to a memorandum of understanding with the States of Colorado, Utah, and Wyoming a working group. This working group would be directed to find some way to reconcile the growing conflict between the case-by-case application of the Endangered Species Act in the Upper Colorado River System and State and interstate systems of law which are applicable to those same rivers.

In other words, one of the working group's primary missions would be to find ways to carry out the mandates of the Endangered Species Act while still preserving the integrity of congressionally ratified interstate water compacts, Supreme Court decrees, and private property rights to use quantities of water under State law. Both my cosponsors and I believe that any such conflicts may be resolved, or at least diminished, without changing water or endangered species law. One way to accomplish this objective is to look at a river system in a comprehensive manner.

It is anticipated that the sums appropriated under this provision will be utilized by the Secretary to assemble and analyze available information on affected species, their water needs, and the effects of known and anticipated projects and actions upon them. Additional studies may be undertaken, if necessary. It is also anticipated that funds may be used to assist the States and others in participating in the working groups or their technical committees.

This provision also requires a consideration of the effects of water-dependent projects or actions in the Upper Colorado River Basin. This provision should not affect or delay consultations under section 7 of the act. It should not be used as justification for denying or delaying any other ongoing actions under that act.

Nor is this provision intended to abrogate or supplant the requirements of the Endangered Species Act. Therefore, it should not be used by any party as a basis for interpreting how individual consultations or other actions under the act should be undertaken. There are existing legal interpretations and policies which order the implementation of the act, and this provision does not seek to alter those or serve as a congressional statement that those interpretations and policies should be altered.

The working group shall consist of the Fish and Wildlife Service, the Bureau of Reclamation, and representatives of each State. It is anticipated that the States' representatives will speak for both the water resources and fish and wildlife agencies of the States. Conservation and water use interests should be encouraged to observe and to actively participate in every step of the development and review of plans, but should not be considered members of the working group.

The working group may wish to include representatives of other governmental entities, such as the State of New Mexico, the National Forest Service, the National Park Service, and the Corps of Engineers. These may be included at the group's discretion.

Depending on how the plan is structured by the working group, the Secretary may utilize it in consultations under section 7, requests for permits under section 10, habitat acquisition plans under section 5, or other actions authorized by the act. This provision is not intended to supplant existing authorities of the act, and the Secretary may adopt a plan only if it is consistent with an existing authority.

On or before June 1, 1985, the Secretary is expected to report to Congress on the progress of each working group, including its technical findings and the status of plan development, along with a summary of any public

comment which has been developed. A final report shall be submitted by the Secretary no later than September 30, 1985. Each report shall contain information on whether the Secretary was able or anticipates being able to adopt a plan under the existing authorities of the act. In this way, prior to reauthorization of the Endangered Species Act, Congress will have information on how effectively the act currently deals with these issues.

The provision anticipates that the working group will undertake comprehensive consideration of these issues. However, this must be viewed in light of the timeframe established by this provision, and the limited funds that are made available. It is anticipated that much information already exists and need only be assembled and analyzed. Though the working group's consideration must be comprehensive in its scope, new studies need only be undertaken if necessary.

A waiver from the National Environmental Policy Act is provided for the development and transmittal of plans and reports required by this provision. Individual actions required for implementation of any plan are not intended to be exempted from the application of NEPA.

The working group is intended to be of short duration and should not be subject to the provisions of the Federal Advisory Committee Act. However, it is expected that the working group shall involve the public to the degree practicable and shall receive and consider public comment on proposed plans, whenever possible.

The working group is only authorized by this provision until September 30, 1985. If its existence is required after that date, it must be provided for in additional legislation.

Mr. President, the working group supported by this provision is a practical workshop in conflict resolution. It is an attempt to solve significant environmental conflicts through negotiation and the sharing of information and ideas.

If this group is successful, then it may become a model for similar working groups on the Platte and in other areas of the Nation where potential resource conflicts exist or may exist in the future. If it is not successful, then I fear that those same conflicts will be resolved in this Chamber, in a manner which will be far less responsible to the needs of both the affected species and involved resource users.

Mr. CHAFEE. Mr. President, as chairman of the authorizing subcommittee which has jurisdiction over the Endangered Species Act, I would just like to add that I have worked closely on developing this provision with my good friend from Wyoming [Senator WALLOP]. Senator WALLOP has correctly stated the intent of the provision. I do want to emphasize, however, that it is not within the meaning or intent of this provision to abrogate or supplant the requirements of the Endangered Species Act. The Subcommittee on Environmental Pollution will be reviewing the act when the current authorization for appropriations expires next year and will consider what, if any, changes in the program may be warranted at that time.

I do share my colleague's [Mr. WALLOP] deep concern over potential conflicts between the needs of endangered or threatened species and the use of water rights. It is my hope that the working group outlined in this legislation will be successful in finding ways to avoid or resolve conflicts that may arise.

Mr. WALLOP. Mr. President, my colleague and friend from Rhode Island, Senator CHAFEE, has worked long and hard on this provision with me and knows what it is designed to do and not to do. I thank him for his understanding and willingness to seek solutions to the resource management problems facing our Nation.

Mr. MITCHELL. Mr. President, as the ranking minority member of the Subcommittee on Environmental Pollution, which has jurisdiction over the Endangered Species Act, I have worked closely with the chairman of the subcommittee, Senator CHAFEE, and the Senator from Wyoming [Senator WALLOP] to develop this amendment. I agree with their statements. This amendment provides $450,000 to the Secretary of the Interior to attempt to resolve conflicts between beneficial consumptive use of water in the Upper Colorado River Basin and conservation of endangered species. This amendment does not amend the Endangered Species Act nor abrogate or supplant the requirements of that act in any way.

Mr. HECHT. Mr. President, I would like to make a small contribution to this debate over the $20 million appropriation for wild horse and burro management. It is estimated that over half of these animals—some 30,000 head—live in the State of Nevada. The rangeland in many parts of my State is being literally devastated by uncontrolled herds of wild horses.

Let me assure my colleagues that this is not a simple issue of greedy ranchers with a million head of cattle trying to snuff out a few pesky horses to maximize their profits. We have 30,000 wild horses in Nevada. By conservative estimates, it requires 3 million acres of Nevada's rangeland forage to sustain these animals for 1 year. Three million acres is roughly the same size as the State of Connecticut.

Wild horse populations in Nevada are growing at a rate of 10 percent per year. They have become a major menace to the range, to wildlife, to endangered species such as bighorn sheep, to the limited water supply, and even to themselves because of overpopulation and starvation.

The wild horse and burro management objectives outlined in the 1971 act have not been met. While the act was intended to keep horse populations stable, Nevada's herds have tripled in size.

While the act was intended to encourage animal adoption, this means of disposal has proven inadequate for the great number of animals involved. As I speak, there are 2,500 unadoptable horses living at one Government corral at Palamino Valley, NV. It is costing the taxpayers of this country roughly $5,000 per day to feed and doctor these animals.

To illustrate how bad this situation has become, I would like to briefly cite the minutes from the last meeting of the National Public Land Advisory Council, held in Reno, NV. Joe Fallini, a Nevada rancher, testified that horse populations on his Federal grazing allotment have exploded from approximately 126 in 1971 to over 2,000 head today. He has invested $400,000 in water wells and reservoirs on his ranch, only to see them ruined by the wild horses. Mr. Fallini, along with several other Nevada cattlemen, are now in court with the Federal Government trying to get us to live up to the 1971 Wild and Free Roaming Horses and Burros Act.

The purpose of this $20 million appropriation is to give the Bureau of Land Management adequate means to live up to its range management responsibilities. Some of my colleagues will argue that this is not the time or place for such an appropriation. They argue that this issue should be settled in the context of S. 457, a bill reported out of the Energy and Natural Resources Committee nearly a year ago.

But why has not this bill been brought to the floor? Because those same critics are unwilling to admit that we even have a problem in the West. They would prefer that we continue to muddle through, like we do on so many difficult issues around here.

Mr. McCLURE. My response is this: Until Congress finds the will to pass authorizing legislation to address the wild horse and burro problem, we must live up to the letter of existing law. And that is what this appropriation is intended to do. I urge my colleagues to reject the amendment of the Senator from Missouri.

Mr. SIMPSON. I would take this opportunity to raise an issue with Senator McCLURE. During committee markup of the Interior appropriations bill I forwarded a letter to Chairman McCLURE requesting funding for two important activities in Wyoming. Unfortunately, the request was not timely for the committee to incorporate my request in the committee bill

that was reported out. I do not want to offer a floor amendment, but I would like to see my request considered in this colloquy.

I had requested $150,000 for a new "feed truck" at the Jackson Hole National Elk Refuge. In recent years feeding practices have changed and there are now signs that calf elk and some adult elk are not receiving adequate nutrition during the winter months, and the herd may be declining in numbers as a result. The refuge is currently using an old Army surplus truck that is literally held together with baling wire and it is not adequate to keep up with the daily feeding demand. I trust that the Department of the Interior will take this request into consideration and that Senator McCLURE have no objection to agreeing in conference that funding for this truck should come out of available funding. It is my understanding that funding is available but not earmarked.

In addition, I requested $30,000 be provided for the U.S. Fish and Wildlife Service field station in Lander, WY, for the purpose of studying the possible effects of acid rain on high mountain lakes in the Wind River Mountains and for a study to determine if the endangered black footed ferret is occupying habitat on the Wind River Indian Reservation. Currently the Forest Service is setting up monitoring stations on U.S. Forest Service lands, but no monitoring is going on in areas that are in the same mountain range but which fall within the Indian reservation boundaries.

The black footed ferret has been discovered in areas of Wyoming near the Wind River Indian Reservation but no moneys have been available to determine if these endangered species exist on Indian lands.

I believe that these funding requests are critical to wildlife protection in Wyoming and I trust that these are noncontroversial items.

Mr. McCLURE. The Senator from Wyoming is correct. The Interior Appropriations Subcommittee was not able to include his requests in the committee bill.

Mr. SIMPSON. It is my understanding that funding for these items can be provided for by using available agency moneys and that something could be worked out in conference to meet my concerns.

Mr. McCLURE. The Senator's requests represent needed program activities and I thank him for bringing these to our attention. I know that the Forest Service is doing a tremendous amount of work concerning acid rain in those high mountain lakes and that the Fish and Wildlife Service can play a productive role in wildlife interests in these lakes. Further, the Fish and Wildlife Service can also work with others, as needed, to investigate the current locations of the black footed ferret. I would encourage the Fish and Wildlife Service to accommodate these requests and will give them every consideration when we get to conference with the House.

Mr. SIMPSON. I thank the good Senator from Idaho for his consideration of these requests and look forward to the improvements that will come about as a result of providing funding of these programs. Without your assistance, wildlife related values in Wyoming would not be as enhanced as they are today.

DISABLED VETERANS WILDERNESS RETREAT

Mr. BOSCHWITZ. Mr. President, I would like to clarify with the chairman the funding included in this bill for the Disabled Veterans Wilderness Retreat in Ely, MN. The Interior appropriations bill, as passed by the House contains specific language appropriating $325,000 to the Disabled Veterans Retreat, Inc., in the State and private forestry account. As I understand from the chairman and his staff, the Senate committee included the money in the construction account with report language directing the Forest Service to fund the $325,000 for the retreat. Is that correct?

Mr. McCLURE. Mr. President, the Senator from Minnesota is correct. However, since the committee took that action, my friend from Minnesota has advised me that there may be a problem with appropriating the money for the retreat through the Forest Service.

Mr. BOSCHWITZ. Mr. President, the chairman is correct. We may have a problem with the Senate language and therefore my preference would be to use the House language.

Mr. McCLURE. Mr. President, let me propose this to my friend from Minnesota who has expressed his strong interest in this worthwhile project to me. Rather than amending the bill at this time, would he accept my assurances to recede to the House language when this issue is raised in conference committee?

Mr. BOSCHWITZ. Mr. President, receding to the House language in conference would get the job done, so I would readily accept the chairman's proposal. I thank him for his help.

Mr. McCLURE. I thank the Senator from Minnesota.

KETTLE FALLS HOTEL

Mr. BOSCHWITZ. Mr. President, during consideration of the fiscal year 1984 Interior appropriations bill, Senator DURENBERGER and I raised the issue of the Kettle Falls Hotel with the distinguished chairman of the committee. At that time we discussed the serious problems and the need for repair and improvements at the hotel. Since that time the Park Service has indicated its intention to request funding for that purpose. I would like to find out what the chairman's understanding is on this issue.

Mr. McCLURE. Mr. President, I would like to assure the Senator from Minnesota that we have raised this problem to the Park Service. It has indicated the planning process has not been completed, but will be requesting funds in fiscal year 1986. As I indicated previously, I agree with the Senator from Minnesota about the serious nature of this problem. When the funding is requested by the Park Service it will have my support.

Mr. BOSCHWITZ. I thank the Senator from Idaho.

Mr. McCLURE. Mr. President, to the best of my knowledge, that concludes all the amendments on this side.

Mr. HATFIELD. Mr. President, I move the adoption of committee amendment No. 4.

Mr. JOHNSTON. Mr. President, I do not believe we have any further request for amendment on this side. We have no further amendments.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to committee amendment No. 4.

The amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT NO. 5

Mr. HATFIELD. Mr. President, I call up the next committee amendment.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

On page 3, strike lines 11 through 13 and insert the following:

(d) Such amounts as may be necessary for projects or activities, not otherwise specifically provided for in this joint resolution, at a rate for operations and to the extent and in the manner provided for in H.R. 6028, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1985, as passed by the Senate on September 25, 1984.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I would hope that those who have amendments to offer will do so. Otherwise, I will move to close.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 6961

(Purpose: An additional $7,400,000 for the National Library of Medicine to continue a program developing an integrated academic information management system)

Mr. HOLLINGS. Mr. President, I have an amendment which I send to

the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] proposes an amendment numbered 6961.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, page 3, line 20, in the joint resolution, insert:

"SEC. . Notwithstanding any other provision of this joint resolution, there is appropriated to the National Library of Medicine, an additional $7,400,000 for carrying out section 301 with respect to health information communications and Parts I and J of Title III of the Public Health Service Act.".

Mr. HOLLINGS. Mr. President, this is the amendment to the National Library of Medicine. It is the highest priority program for the Integrated Academic Information Management Systems. What it does is assimilate and capsulate, computerize, all the medical information and disseminates it to the various medical schools.

It has been checked on both sides. I have checked with the managers of the bill. I think they are prepared on the House side also. They wanted to put it in but it came in too late at that time.

The first part of this amendment provides $6 million for the continuation of a program which resulted from a study conducted by the Association of American Medical Colleges under the sponsorship of the National Library of Medicine. That study recommended that NLM commence the rapid development of an IAIMS prototype. Mr. President, the IAIMS prototype addresses the problems created by the recent explosion in growth of biomedical information by integrating computers and communication technologies into the framework of major medical centers.

The remaining $1.4 million is for Medical Informatics, an extramural program of the National Library of Medicine for research training, career development, and research support to explore the applications of artificial intelligence to the biomedical sciences.

Mr. President, IAIMS and Medical Informatics will develop a system for mass electronic storage, retrieval and telecommunication of medical records, research, and other forms of critical biomedical information. The additional funds provided by my amendment will speed the completion of the IAIMS prototype development program by fiscal year 1987. Without these additional moneys, the development of a fully operational IAIMS prototype could not be completed before fiscal year 1992. Rapid development of this program is critical because the biomedical information base doubles every 7 to 10 years, while the useful life of this information and its application is only 3 to 5 years.

Specifically, IAIMS prototype efforts will foster integration of computers and communication technologies into the framework of major medical centers at two levels:

1. Between students, teachers, researchers and clinicians, and between academics, scientists, and practitioners within a medical center; and

2. Outside of a medical center, between its affiliates, other hospitals and universities and remote clinics.

IAIMS, Mr. President, will promote more efficient and effective decisionmaking by making information of interest to physicians, educators, researchers, and administrators accessible through a single integrated work station. This will improve the speed and quality of the delivery of medical services; increase the interplay between clinical work and research; facilitate management planning and the more effective utilization of limited resources; and, foster and develop a new model of medical education.

The additional funding for Medical Informatics is critical for the retention and recruitment of skilled researchers in the development of the applications of artificial intelligence to health care and biomedical research. The Medical Informatics Program will develop "reasoning computers" that will be capable of serving as automated consultants to health professionals in clinical situations and in the research laboratory.

Mr. President, the additional $7.4 million provided the National Library of Medicine in this amendment is urgently needed to sustain their critical efforts in the development of an IAIMS prototype and in advanced efforts in Medical Informatics. I hope my colleagues will join me in supporting this vital work.

Mr. President, I would be glad to answer any questions.

Mr. WEICKER. Mr. President, I discussed this in detail with the distinguished Senator from South Carolina and the amendment is acceptable.

Mr. PROXMIRE. Mr. President, we have no objection to the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 6961) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WEICKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 6962

(Purpose: To provide additional funds for training with respect to prevention of child abuse in child care settings and to establish Federal matching grants to encourage State trust funds or appropriations for child abuse and neglect prevention activities)

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration. The amendment is offered on behalf of myself and Senators LEVIN, MOYNIHAN, HAWKINS, SPECTER, DODD, KENNEDY, and METZENBAUM.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. DECONCINI], for himself, Mr. LEVIN, Mr. MOYNIHAN, Mrs. HAWKINS, Mr. SPECTER, Mr. DODD, Mr. KENNEDY, and Mr. METZENBAUM, proposes an amendment numbered 6962.

Mr. DECONCINI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment add the following new section:

SECTION 1. (a)(1) Notwithstanding any provision of title XX of the Social Security Act, the amount applicable under section 2003(c)(3) of such Act shall be $2,725,000,000 for fiscal year 1985. Of such amount, $25,000,000 shall be allotted and used in accordance with this section.

(2) In addition to any other amounts appropriated under this resolution or any Act, there are hereby appropriated $25,000,000 for fiscal year 1985 for carrying out title XX of the Social Security Act, to be used in accordance with the provisions of this section.

(3) Amounts appropriated under this section shall remain available until September 30, 1985, without regard to section 102 of this resolution.

(4) Except as otherwise provided in this section, each State's allotment of the additional amounts authorized and appropriated under this section shall be the same proportion of $25,000,000 as such State's proportional allotment of other title XX funds for fiscal year 1985, as determined under section 2003 of the Social Security Act.

(b) The additional $25,000,000 made available to the States for fiscal year 1985 pursuant to subsection (a) shall—

(1) be used only for the purpose of providing training and retraining (including training in the prevention of child abuse in child care settings) to providers of licensed or registered child care services, operators and staffs (including those receiving in-service training) of facilities where licensed or registered child care services are provided, State licensing and enforcement officials, and parents;

(2) be expended only to supplement the level of any funds that would, in the absence of the additional funds appropriated under this section, be available from other sources (including any amounts available under title XX of the Social Security Act without regard to this section) for the purpose specified in paragraph (1), and shall in no case supplant such funds from other sources or reduce the level thereof; and

(3) be separately accounted for in the reports and audits provided for in section 2006 of the Social Security Act.

(c)(1) In order to provide guidance and assistance to the States in utilizing funds allocated pursuant to title XX of the Social Security Act, not later than 3 months after the date of enactment of this section, the Secretary shall draft and distribute to the States for their consideration, a Model Child Care Standards Act containing—

(A) minimum licensing or registration standards for day care centers, group homes, and family day care homes regarding matters including—

(i) the training, development, supervision and evaluation of staff;

(ii) staff qualification requirements, by job classification;

(iii) staff-child ratios;

(iv) probation periods for new staff;

(v) employment history checks for staff; and

(vi) parent visitation; and

(2)(A) Any State receiving an allotment under such title from the funds made available as a result of subsection (a) shall have in effect, not later than September 30, 1985—

(i) procedures, established by State law or regulations, to provide for employment history and background checks; and

(ii) provisions of State law, enacted in accordance with the provisions of Public Law 92-544 (86 Stat. 115) requiring nationwide criminal record checks.

for all operators, staff or employees, or prospective operators, staff or employees of child care facilities (including any facility or program having primary custody of children for 20 hours or more per week), juvenile detention, correction or treatment facilities, with the objective of protecting the children involved and promoting such children's safety and welfare while receiving service through such facilities or programs.

(B) In the case of any State not meeting the requirements of subparagraph (A) by September 30, 1985, such State's allotment for fiscal year 1986 or 1987 shall be reduced in the aggregate by an amount equal to one half of the amount by which such State's allotment under such title was increased for fiscal year 1985 as a result of subsection (a).

(d) The determination and promulgation required by section 2003(b) of the Social Security Act with respect to the fiscal year 1985 (to take into account the preceding provisions of this section) shall be made as soon as possible after the date of the enactment of this Act.

SEC. 2. (a) The Congress finds that—

(1) disturbing increases have occurred in recent years in the numbers of younger Americans who are abused;

(2) many children who run away from home, who fall prey to pornography and prostitution, who suffer from a dependency on alcohol and drugs, and who become juvenile offenders, have been victims of child abuse;

(3) research has shown that abuse tends to repeat itself, and many times parents who abuse their children were once victims themselves;

(4) given the increased demand for treatment and crisis intervention in child abuse and neglect cases, Federal funds distributed to States are most often used for treatment and little is left for prevention efforts;

(5) since 1980 some States have begun to recognize the critical need for prevention efforts, and trust funds (generated by surcharges on marriage licenses, birth certificates or divorce actions, or by special checkoffs on income tax returns) are being established to allow such States to pay for child abuse and neglect prevention activities despite depressed State economies and budget cutbacks;

(6) in recognition of the increased cases of child abuse and neglect, other States have established significant funds for child abuse and neglect prevention activities through direct appropriations; and

(7) the Nation cannot afford to ignore the importance of preventing child abuse.

(b) It is the purpose of sections 2-9, by providing for Federal challenge grants, to encourage States to establish and maintain trust funds or other funding mechanisms, including appropriations to support child abuse and neglect prevention activities.

DEFINITIONS

SEC. 3. As used in sections 2-9—

(1) the term "Secretary" means the Secretary of Health and Human Services; and

(2) the term "State" means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

GRANTS AUTHORIZED

SEC. 4. (a) The Secretary is authorized, in accordance with the provisions of sections 2-9, to make grants to eligible States.

(b) Payments under this sections 2-9 may be made in any fiscal year following the fiscal year in which any State has collected funds for child abuse and neglect prevention activities through a trust fund or other funding mechanism.

(c) There is authorized to be appropriated such sums as are necessary to carry out the provisions of sections 2-9 for the fiscal year 1985 and for each of the four succeeding fiscal years.

STATE ELIGIBILITY

SEC. 5. Any State is eligible for a grant under sections 2-9 for any fiscal year if such State has established or maintained in the previous fiscal year a trust fund or other funding mechanism, including appropriations, which is available only for child abuse and neglect prevention activities, including activities which—

(1) provide statewide educational and public informational seminars for the purpose of developing appropriate public awareness regarding the problems of child abuse and neglect;

(2) encourage professional persons and groups to recognize and deal with problems of child abuse and neglect;

(3) make information about the problems of child abuse and neglect available to the public and organizations and agencies which deal with problems of child abuse and neglect; and

(4) encourage the development of community prevention programs, including—

(A) community-based educational programs on parenting, prenatal care, prenatal bonding, child development, basic child care, care of children with special needs, coping with family stress, personal safety and sexual abuse prevention training for children, and self-care training for latchkey children; and

(B) community-based programs relating to crisis care, aid to parents, child-abuse counseling, peer support groups for abusive or potentially abusive parents and their children, lay health visitors, respite of crisis child care, and early identification of families where the potential for child abuse and neglect exists.

LIMITATIONS

SEC. 6. (a)(1) Any grant made to any eligible State under sections 2-9 in any fiscal year shall be equal to the lesser of—

(A) 25 percent of the total amount made available by such State for child abuse and neglect prevention activities and collected in the previous fiscal year in a trust fund (excluding any interest income from the principal of such fund) or through any other funding mechanism, including appropriations; or

(B) an amount equal to 52 cents times the number of children residing in such State according to the most current data available to the Secretary.

(2) For purposes of clause (B) of paragraph (1), the term "children" means individuals who have not attained the age of majority, as defined by such State.

(b)(1) No grant may be made to any eligible State unless an application is made to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary deems essential to carry out the purposes and provisions of sections 2-9. Each application shall—

(A) specify that the trust fund advisory board, or in States without a trust fund mechanism, the State liaison agency to the National Center on Child Abuse and Neglect, established by section 2 of the Child Abuse Prevention and Treatment Act, will be responsible for administering and awarding of the Federal grants to eligible recipients carrying out activities described in section 5;

(B) provide assurances that any assistance received under sections 2-9 shall not be used as a source for non-Federal funds for the matching requirements of any other provisions of Federal law; and

(C) provide for keeping records and making such reasonable reports as the Secretary deems essential to carry out the purposes and provisions of sections 2-9.

(2) The Secretary shall approve any application that meets the requirements of this subsection, and the Secretary shall not disapprove any such application except after reasonable notice of the Secretary's intention to disapprove and opportunity for a hearing with respect to the disapproval.

WITHHOLDING

SEC. 7. Whenever the Secretary, after reasonable notice to any State and opportunity for hearing within the State, finds that there has been a failure to comply with any provision of this sections 2-9, the Secretary shall notify the State that further payments will not be made under sections 2-9 until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made under sections 2-9.

AUDIT

SEC. 8. The Comptroller General of the United States, and any of his duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any applicant and any other entity receiving assistance under sections 2-9 that are pertinent to the sums received and disbursed under sections 2-9.

REPORT

SEC. 9. The Secretary shall prepare and submit to the Congress at the end of each year a compilation and analysis of any reports submitted by eligible States under section 6(b)(1)(C).

Mr. DECONCINI. Mr. President, this amendment deals with child care training and provides for some $25 million to be appropriated in title XX.

This amendment only begins to address a problem that is of great concern to millions of American families. The problem is the critically inadequate level of training of child care providers.

Recent reports of child abuse in various child care centers have shocked the Nation. Although no one would ever suggest that such abuse is commonplace, press accounts and our own congressional hearings have shown that the potential for such abuse is virtually unlimited due to the lack of precautions.

Furthermore, in addition to the problem of child abuse, child care experts agree that quality child care requires two basic factors that are far from uniformly available in the child care industry today: Adequate salaries and adequate training for child care providers.

Although I wish we could deal with both of these inadequacies today, I believe that we can make an important start on improving the training of child care providers. Regrettably, we must try to regain ground that was lost in 1981 when a separate title XX training program existed. As a result of the loss of this set-aside and the curtailment of title XX funds, 24 States target no title XX funds for training.

The House of Representatives has added $50 million to the continuing resolution for training providers of licensed or registered child care services. The first part of our amendment, which adds $25 million to title XX funds, is patterned along the lines of the House amendment. Utilizing the distribution mechanism for title XX funds, our amendment would make available to States $25 million for the training of licensed or registered child care providers and for the training of State licensing and enforcement officials in the prevention of child abuse in child care settings. One-half of a States' allotment will be contingent on the State adopting and implementing procedures for screening child care providers and related staff in licensed or registered child care facilities. Furthermore, the amendment would call upon HHS to establish model child care standards to assist the States in improving child care programs in their States.

Mr. President, we cannot and should not ignore the growing need for quality child care for America's children. The shortchanging of these children during their formative years will only haunt us later. I urge the adoption of this amendment, and I yield to my colleague from Connecticut for a further explanation of the amendment.

Mr. LEVIN. Mr. President, America is suffering an epidemic of child pornography and molestation. The recent allegations of child abuse in day care programs around the country raise the prospect of a serious and growing threat to our Nation's youth. These tragic incidents are most keenly felt by the children and families involved and by the day care professionals whose dedication to child development is tarnished by the actions of those who obviously do not care about what is and what is not in the best interest of children.

Earlier this week, joint hearings were held by the Select Committee on Children, Youth and Families and the Ways and Means Subcommittee on Oversight to find what emergency actions could be taken to improve the safety and quality of child care. Child abuse and child care experts alike agreed that the lack of training in child abuse prevention is a major shortcoming which demands immediate attention. Dr. Susan Aronson, representing the American Academy of Pediatrics, cited in her own research that monitoring and training clearly improve the quality of care. A five-State study involving California, Michigan, Texas, West Virginia, and Pennsylvania confirmed these results.

Mr. President, the amendment which I and my colleagues Senators DECONCINI and MOYNIHAN, offer today is a modest first step that would help States establish and improve child abuse prevention programs.

Our amendment would make $35 million in targeted title XX funds available to States to establish child abuse prevention training. It is also designed to encourage States to prescreen day care employees so that persons with previous convictions for child abuse cannot prey upon our children.

Mr. President, I believe we have a mandate from the American people. Child care is a necessity for millions of parents who have to work to provide for the economic well-being of their families. This Senate has an opportunity to respond to their concerns and to help reduce incidents of child abuse. The House has already acted in this area by adding $50 million to the continuing resolution for such services.

Mr. President, training is one area where we can be most effective. Prior to 1981 a separate title XX training program existed. However, in recent years title XX funds have been reduced and limited resources have been available for training day care workers in child abuse prevention. In light of the recent revelations, I believe a more intense and targeted effort is necessary.

Specifically, our amendment would:

Make $35 million available to States to:

Train providers of licensed or registered child care services, operators, and staff.

Train State licensing and enforcement officials and parents in the prevention of child abuse in child care settings.

No more than one-half of the State's allotment will be paid to the State unless procedures for screening and conducting background checks and criminal investigations of all providers, operators, and staff in licensed or registered child care service are in place.

Mr. President, our amendment represents an essential building block to a comprehensive, effective program that will improve the safety and quality of day care.

I urge my colleagues to join us in support of this most vital piece of legislation.

Mrs. HAWKINS. Mr. President, I rise in support of the amendment of the distinguished Senator from Arizona [Mr. DECONCINI]. This amendment would provide much needed funding for the training of child care employees, parents, and State child care licensing and enforcement officials in the prevention of child abuse. The amendment would also tie the availability of those extra Federal funds to a State's willingness to enact State laws regarding screening of licensed and regulated child care facilities. This amendment is desperately needed in order to protect our children from abuse in child care centers and homes.

Recent publicity has increased the public's awareness of the problem of sexual abuse and the need for better regulation of child care facilities. The need for additional funding for State licensing and enforcement officials has been stressed by Florida's HRS Secretary David Pingree. Secretary Pingree has stated that he needs to double his staff of 39 workers who investigate licensed day care centers statewide. In my hometown, the director of licensing for the three county areas of Orange, Seminole, and Osceola has stated that she can only spare three individuals to inspect and license the more than 280 licensed child care centers, 60 foster homes and 22 residential facilities for the handicapped. She stated that she had no exact statistics on how many family based day care homes operate in the area, but estimated that about 10,000 children under age 6 are cared for in these homes.

A recent poll conducted in Florida, the Sunshine State survey, showed that 78 percent of those surveyed favored stricter State licensing procedures. I have talked with child care operators and employees and many of them are willing, even eager to support criminal background checks on their employees. They are anxious to rid their profession of those that

would prey on the children entrusted into their care. But many of these child care operators have experienced barriers in State laws which prevent them from reviewing the criminal backgrounds of current or potential employees. For example, while the Department of Justice does supply criminal record information for the purposes of licensing or employment purposes, it only does so if the dissemination is authorized by Federal or State statutes and approved by the Attorney General. Since only six States permit national criminal records checks on schoolteachers, four States on school bus drivers and only three on child care employees, child care operators are severely limited in their ability to screen their employees. Another method for accessing information on a potential employee is the National Crime Information Center's Interstate Identification Index. This experimental computerized program should enable law enforcement officers to access criminal record histories for employment purposes. However, this computerized method of accessing criminal records histories is also limited by State statutes. Instead of cooperating with two this program, several States have enacted laws restricting the access to their criminal records material for employment purposes. Both of these methods of reviewing criminal records illustrate the need for reform in State statutes.

Mr. President, these reforms are not a complete solution to the very complex problem of sexual child abuse or regulation of child care centers. Many more Federal, State, and local reforms are needed to protect our children. But this provision is an excellent beginning. I urge my Senate colleagues to support this amendment.

Mr. DODD. Mr. President, the provisions I am introducing today would provide Federal challenge grants for States that set up special funds for child abuse prevention activities. I thank my distinguished colleague from Arizona for agreeing to offer these provisions as a part of his amendment.

Millions of children in this country are growing up at risk of abuse and neglect. Between 1976 and 1982, for example, reports of child abuse across the country soared by 123 percent. My distinguished colleague from Arizona has just proposed a program to deal with abuse in child care settings. But that is only one part of the picture. We know that the bulk of child abuse cases occur at home or close to home. My amendment focuses on this part of the total picture or problem.

Last week, the Senate adopted the conference report on the Child Abuse Amendments of 1984, restoring critical funds for child abuse programs. I have been a principal sponsor of such efforts. Along with my distinguished colleague from Utah, Senator HATCH; California, Senator CRANSTON; Alabama, Senator DENTON; Oklahoma, Senator NICKLES; and Kansas, Senator KASSEBAUM. Federal funds are distributed to States under this act. But given soaring rates of abuse cases, these funds are most often used for treatment services. Precious little funding is left for prevention efforts.

Starting in 1980, some States began to recognize the need to focus directly on widespread, community-based prevention efforts. To date, 20 States have set up special trust funds for child abuse prevention activities including Alabama, Arizona, California, Delaware, Illinois, Iowa, Kansas, Kentucky, Louisiana, Michigan, Missouri, North Carolina, New York, Rhode Island, South Carolina, South Dakota, Virginia, Washington, Wisconsin, and West Virginia.

These funds are generated in a variety of ways, including surcharges on marriage license and birth certificates or by special checkoffs on income tax returns. Other States have used direct appropriations to fund child abuse prevention activities, including Connecticut, Florida, and Maine.

These funds support a broad range of community programs, including plays in schools aimed at preventing sexual abuse, self-care courses for latchkey children, parenting classes, and programs for incarcerated parents. Such grants would also help fund statewide educational and training programs for professionals including teachers, mental health workers, police officers, prosecutors, and judges.

Mr. President, these provisions would challenge all States to establish significant funds supporting child abuse prevention projects. For every $3 that States make available for child abuse and neglect prevention activities, the Federal Government will provide $1 in matching funds. We want to encourage those States who have not yet acted to act now. We also want States that have already acted to augment their funds. Right now, the 20 trust funds nationwide amount to a total of $10 million. Under this program, Federal challenge grants would total only $2.5 million.

This Federal Challenge Grant Program would sunset in 5 years. By 1990, States should be well on the way to generating enough money to support prevention efforts throughout their communities.

At no time will a Federal challenge grant to any State exceed an amount equal to 50 cents times the number of children residing in that State. Mr. President, if this Nation cannot afford to spend 50 cents a child over the next 5 years to prevent possible abuse or neglect, then our priorities are sorely misplaced.

The truth is that prevention is the most effective method we have of combating child abuse. We know just how serious the long-term repercussions of child abuse can be. Close to three-quarters of all runaways have been the victims of abuse, often sexual abuse. Prior sexual victimization is also closely linked to teenage prostitution. And two-thirds or more of all juvenile offenders have had histories of physical or sexual victimization.

Mr. President, the time to encourage the States to wage all out child abuse prevention campaigns is now. I urge my colleagues to support these provisions.

Mr. SPECTER. Mr. President, I am pleased to join with the Senator from Arizona [Mr. DECONCINI] for this much-needed boost to the States in the fight against child abuse and sexual molestation. In its present form, the amendment incorporates language which I have previously proposed—

First, to require that criminal record checks be nationwide in scope, through the FBI's fingerprint files, rather than only statewide, so that convicted sex offenders could not simply move from State to State finding child care work;

Second, to include a requirement that in addition to making some provision for criminal records checks for staff who work with children, the States also provide for checks of prior employment;

Third, to extend the criminal records and employment checks to workers at juvenile detention, correction, or treatment facilities; and

Fourth, to require that the Secretary of Health and Human Services, develop a comprehensive model Child Care Standards Act to serve as a guide for the States. This is intended only to be advisory and the receipt of Federal dollars is not upon enactment of the model legislation.

Back on February 17, 1983, nearly 2 years ago, I introduced legislation to require nationwide criminal record checks on people who work with children. This legislation emerged from hearings which I chaired before the Juvenile Justice Subcommittee regarding incidents of serious physical abuse of juveniles by guards in juvenile detention facilities in the State of Oklahoma.

Since that time, the subcommittee has held a series of hearings on S. 521 and related legislation, S. 1924, introduced by my good friend from Iowa, Senator GRASSLEY. We have received testimony from law enforcement officials investigating the day care child sexual abuse cases at the McMartin Preschool in California and the Praca Day Care Center in the Bronx, in New York. We heard from child care professionals, the FBI, parents of victims,

concerned organizations, a leading physician involved in the treatment of convicted pedophile sex offenders, and from a pedophile himself.

One mother told us of the molestation of her 5-year-old son by a man who had been convicted previously of child sexual abuse in another State, and who subsequently had no difficulty finding a series of jobs bringing him into close contact with children—first as a residential counselor in a home for delinquent adolescents, then as a county recreation department softball coach, and finally as the director of a county summer day camp.

Another mother told of the molestation of her 5-year-old son by a man with a 10-year record of complaints against him for child abuse.

And the convicted pedophile—an internationally recognized director of church boys' choirs with three children of his own—expressed his amazement at the carelessness of one employer who hired him without even calling a previous employer at a choir job from which the pedophile had been fired for sexually molesting his students. This man stated his support for criminal record checks legislation, and said that, in his own case, "if they would have checked properly, they could have seen that I had molested people." He stated that he had molested more children than he could count.

We heard testimony from Dr. Bettye Caldwell, president of the National Association for the Education of Young Children, who stated her view that criminal record checks are just a part of the solution. She pointed out the need for staff training, development, supervision and evaluation, open parent visitation policies, and a probationary period when hiring new staff. She stated that:

> It is time that the federal government join with the on-going efforts of state governments and professional organizations to promote the regulation of child care programs, perhaps in the form of national reference standards for child care.

She emphasized, however, the cost ramifications of the situation, stressing that day care personnel nationwide receive disgracefully low wages, so that increased training and teacher qualification requirements would require additional funds for day care in order to attract and retain qualified personnel. As she noted qualitative improvements are costly.

Dr. Nancy Brown, director of the Senate Employees' Child Care Center, placed particular emphasis on parent visitation, advising that—

> Parents should never place their child in a center where parents are not welcome or where their access is limited in any way.

And as the subcommittee has learned, restrictions on parental access was one of the suspicious hallmarks of the McMartin Preschool in Manhattan Beach, CA.

And one of our FBI witnesses, Special Agent Melvin D. Mercer, Jr., advised us of the FBI's procedures for processing fingerprint checks when authorized by State law, calling our attention again to the cost ramifications of legislation in this area. He informed us that the current FBI charge for a criminal record check is $12.

Thus, two messages came through loud and clear: There is a crying need for improvements, and there is a need for money to pay for those improvements.

This amendment is based upon a recognition that there is an ongoing national debate regarding what types of standards ought to be applied to day care providers, but takes the position that the children of this country should not have to sit idly by in inadequately regulated facilities while Government officials and private professionals argue about it. The amendment would require HHS to develop the model act within 3 months of enactment of this continuing resolution to offer to the States as the best available definitive guidance on appropriate minimum standards.

As for the appropriate form and requirements for State criminal record checks legislation, Congress has already specified these in 1972, in Public Law 92-544. The FBI was authorized in that legislation to exchange identification records, if authorized by a State statute which has been approved by the Attorney General as meeting the requirements of the act, with officials of State and local governments for purposes of licensing and employment. To date, there are some 250 State statutes approving access to FBI fingerprint files. California has 60; some States have none. They cover areas such as casino workers, real estate sales people, racetrack workers, securities brokers, doctors, and lawyers. Four States have such statutes for day care workers: Alaska, California, Illinois, and Minnesota. Six States have statutes for schoolteachers: New York, California, Florida, Nevada, Alaska, and Texas, and four have statutes for school bus drivers.

The proper standards for day care providers should be determined by the experts at HHS after hearing from concerned experts across the country. I do not believe that it is the role of the Federal Government to dictate standards to the States. This amendment simply seeks to provide recommendations, and to provide financial incentives for their adoption.

As more and more women move out of the home and into the workplace, long-range standards and solutions such as this become an inevitability, to provide parents with some level of confidence and security that their children will be well and competently cared for in their absence.

I urge the adoption of the amendment.

Mr. DECONCINI. Mr. President, I ask unanimous consent that Senator METZENBAUM be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I have no objection to the amendment.

Mr. PROXMIRE. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6962) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WEICKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 6963

Mr. HATFIELD. Mr. President, I offer an amendment on behalf of myself, Senator RANDOLPH, and Senator MATSUNAGA to add $4 million to this continuing resolution for the purpose of running the first year of operation of the U.S. Institute of Peace. This was authorized in the defense authorization bill. It was authorized for $6 million. It would not be possible to crank it up that soon so the $4 million has been indicated as sufficient.

This amendment is necessary because the authorization to establish this Institute was pending in the House-Senate conference on the 1985 Department of Defense authorization bill when the Labor-HHS appropriation bill proceeded through this body, and therefore our committee did not include these funds in the Labor-HHS bill at markup. Now that the authorization of the Institute is certain, this appropriation is necessary and urgent. The Institute has only a 2-year authorization and therefore it is necessary to appropriate these start-up funds now and to provide this Institute with all of the necessary resources to carry out its important work. We cannot afford to wait until the spring supplemental comes along to get the important work of the Institute started.

Although the Senate and the House have authorized a funding level of $6 million for the Institute's first year of operating, I am offering this amendment, along with my colleagues from West Virginia and Hawaii, for $4 million, which represents the funds which will be available after the Institute's board is selected and proceeding.

My friends and colleagues, it would not be right or fair to honor our esteemed colleague, Senator JENNINGS RANDOLPH, by authorizing this Institute of Peace in name only and by withholding the very funds necessary to open the Institute of Peace—some-

thing he has worked very hard for throughout his years of public service, and something this Senate overwhelmingly voted to establish just 3 months ago.

Finally, Mr. President, so that the legislative history is complete and the intent of Congress is unmistakenly clear, let the record reflect that it is the intent of Congress that future appropriation requests for the U.S. Institute of Peace be within the purview of the Labor-HHS Subcommittee. Although I have little doubt that an Institute established to educate and to advance the cause of peaceful resolution to international conflict would necessarily fall within the jurisdiction of Senator WEICKER's subcommittee, I want to leave little doubt on this matter.

Mr. President, let me close my remarks with an assessment of what was accomplished this year in establishing an Institute of Peace after many years of work by Senators RANDOLPH and MATSUNAGA and Congressman GLICKMAN and others who have labored in the cause of peace. I was very satisfied with the Senate-passed bill and must be frank now in stating my outright surprise that the House amended the Senate bill. One would have thought that if the Peace Academy was going to encounter "rough sledding" in this Congress that it would have experienced difficulty in the Senate, not the House. Unfortunately, the House forced upon the Senate conferees a number of substantive changes and the Senate conferees, led by the courage of Senator NUNN and others did magnificent work in protecting the bill from defeat in conference in the House, where in a position of taking the House offer or coming home with nothing, such is the art of compromise.

It would be a brave omission at this historic moment for me to neglect to commend the efforts made by staff on both sides of the aisle and to recognize the visionary leadership given to the cause of peace by Mike Mapes, the former executive director of the National Peace Academy Campaign who died 10 days before the Senate passed the Peace Academy bill. I am sure his successor, Bob Conlan, will be driven by that same vision. let me also acknowledge the tireless efforts of Mark Rilling, a congressional liaison with the campaign, who virtually lived in our offices during the Senate's consideration of the Defense bill and who helped shepard the bill through the conference. Mark Rilling never gave the impression of being a lobbyist, but instead appeared as a brother devoted to seeing the fulfillment of the dream of Mapes and that of many of us, and Mark can be justly proud of his work.

Let me emphasize that my dream of what the Peace Academy, now named the Peace Institute, can be for the cause of peace, will carry on. It will be fueled by a vivid memory of the strenuous efforts of Senator RANDOLPH to generate momentum in this country toward understanding that "waging peace" involves, and it will be pursued as long as I remain a Member of this body.

The PRESIDING OFFCER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Oregon [Mr. HATFIELD], for himself, Mr. RANDOLPH, and Mr. MATSUNAGA, proposes an amendment numbered 6963.

Mr. HATFIELD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so orderd.

The amendment is as follows:

Notwithstanding any other provision of this joint resolution, there is appropriated an amount of $4 milion for the United States Institute of Peace as authorized in the United States Institute of Peace Act.

Mr. MATSUNAGA. Mr. President, I rise in support of the amendment offered by the distinguished Senator from Oregon, Mr. HATFIELD, for himself, Senator RANDOLPH and myself. I wish to thank Senator HATFIELD for his leadership once more in helping to bring to fruition the long sought dream of mine of over two decades to establish a U.S. Academy of Peace.

The $4 million appropriation will at least enable the commencement of concrete steps for the establishment of the institute, although not the full authorized amount.

Mr. HATFIELD. Mr. President, I have cleared this amendment with the majority and minority sides of the aisle.

Mr. WEICKER. Mr. President, I have no objection.

Mr. PROXMIRE. Mr. President, this amendment has been enthusiastically endorsed for many years for Senator RANDOLPH and Senator MATSUNAGA. It is a very good amendment. I approve of it wholeheartedly.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6963) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WEICKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 6964

(Purpose: To maintain current payment methodology for certain hospice programs)

Mr. DODD. Mr. President, I send an amendment to the desk on behalf of myself and Senator WEICKER and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself and Mr. WEICKER, proposes an amendment numbered 6964.

Mr. DODD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the resolution add the following new section:

SEC. . Notwithstanding section 1814(i) of the Social Security Act and section 102 of this joint resolution, in the case of a hospice which—

(1) commenced operations prior to January 1, 1975;

(2) participated in a hospice demonstration project during fiscal year 1984; and

(3) is not certified as a hospice provider under title XVIII of the Social Security Act prior to September 24, 1984,

payment under such title for hospice care provided by such hospice on and after October 1, 1984, and prior to October 1, 1986, shall be made on the same basis as payment was made to such hospice under such demonstration project.

Mr. DODD. Mr. President, briefly, I have cleared this amendment with the majority and the minority.

This amendment corrects a technical omission from a waiver I sponsored on the Tax Equity and Fiscal Responsibility Act 2 years ago. This correction will allow the citizens of Connecticut to continue to receive excellent hospice care while other hospices throughout the country continue to learn from our oldest hospice's experience.

Again, I thank the managers for accepting it.

Mr. WEICKER. Mr. President, I have no objection to the amendment.

Mr. PROXMIRE. Mr. President, I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6964) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WEICKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 6965

(Purpose: To require the Secretary of Health and Human Services to develop and implement certain alternative projects for refugees)

Mr. WILSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from California [Mr. WILSON] proposes an amendment numbered 6965.

Mr. WILSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in this joint resolution insert the following:

SEC. 119. (a) Section 412(e) of the Immigration and Nationality Act (8 U.S.C. 1522(e)) is amended by adding at the end thereof the following new paragraph:

"(7)(A) The Secretary shall develop and implement alternative projects for refugees who have been in the United States less than thirty-six months, under which refugees are provided interim support, medical services, support services, and case management, as needed, in a manner that encourages self-sufficiency, reduces welfare dependency, and fosters greater coordination among the resettlement agencies and service providers.

"(B) Refugees covered under such alternative projects shall be precluded from receiving cash or medical assistance under any other paragraph of this subsection or under title XIX or part A of title IV of the Social Security Act.

"(C) The Secretary, in consultation with the United States Coordinator for Refugee Affairs, shall report to Congress not later than October 31, 1985, on the results of these projects and on any recommendations respecting changes in the refugee assistance program under this section to take into account such results.

"(D) To the extent that the use of such funds is consistent with the purposes of such provisions, funds appropriated under paragraph (1) or (2) of section 414(a) of this Act, part A of title IV of the Social Security Act, or title XIX of such Act, may be used for the purpose of implementing and evaluating alternative projects under this paragraph.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1984.

Mr. WILSON. Mr. President, this amendment is budget neutral since it merely permits the Office of Refugee Resettlement to coordinate its efforts with certain departments within Health and Human Services. No new funds are sought.

The amendment will permit State and Federal agencies to coordinate pilot programs tailored to the requirement of local communities impacted with incoming refugees. The specific intention of this amendment is to encourage refugee self-support and employment in California, a State which consistently receives at least 22 percent of all incoming refugees. A disproportionate number of refugees end up on welfare rolls. The language in this amendment will allow alternative approaches to this welfare dependency cycle.

Mr. WEICKER. Mr. President, as I understand the language this amendment is budget neutral and the House bill also contains reference to this matter. The amendment is acceptable.

Mr. PROXMIRE. Mr. President, it is my understanding this amendment adds no additional funds to the bill. I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6965) was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 6966

(Purpose: to provide $500,000 for a National Summit Conference on Education)

Mr. CHILES. Mr. President, I send an amendment to the desk which I understand is acceptable to the committee, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Florida [Mr. CHILES], for himself and Mr. KENNEDY, proposes an amendment numbered 6966.

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

In the appropriate place, insert the following:

Notwithstanding any other provision of law, $500,000 shall be made available for the National Summit Conference on Education Act of 1984, as authorized by the conference report on H.R. 4164.

Mr. CHILES. Mr. President, this amendment simply provides the $500,000 authorized for the National Summit on Education. It will permit us next year to pull together the regional meetings and try to develop from there a national consensus on a long-term strategy for improving education. I believe it has been cleared.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial from the Houston Post of September 26, 1984.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

HUMANITARIAN BARGAIN

An estimated half a million lives could be saved and another half a million people could escape crippling afflictions in the world's developing countries if the United States earmarked a relatively modest amount of foreign aid funds to expand basic health care in those countries. A move is under way in Congress to do that by directing the U.S. Agency for International Development to spend no less than 5 percent of its Economic Support Fund for primary health services. Children would be among the major beneficiaries.

Language to this effect has been incorporated into House foreign aid appropriation legislation, and the Senate is expected to consider a similar amendment to a foreign aid measure, perhaps as early as Wednesday. The money would be spent mainly on immunization programs, distributing basic health information, and providing oral rehydration therapy. The last of these uses an inexpensive salt-and-sugar solution to combat malnutrition-induced diarrhea, a major killer of children in the Third World.

Congressional approval of the 5 percent funding floor would channel an estimated additional $144 million into primary health services over the next two years. No single country could receive more than a third of the total amount.

The Economic Support Fund, the source of the money, already contains a projected $4.1 billion in unspent money though the current fiscal year, which ends Sept. 30. The fund is used to provide economic assistance to countries in which the United States has special security and political interests. Part of the ESF aid already goes for health care. But the proposed basic health fund allocation, which has drawn bipartisan congressional support, would save or enhance thousands of additional lives by attaching strings to a nominal amount of the ESF money. It would be a way to meet urgent humanitarian needs at a bargain price.

Mr. WEICKER. Mr. President, I have no objection.

Mr. PROXMIRE. Mr. President, we have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6966) was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 6967

(Purpose: To provide additional money for mental health services)

Mr. DODD. Mr. President, I send an amendment to the desk on behalf of myself, Mr. KENNEDY, and Mr. RIEGLE, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself, Mr. KENNEDY, and Mr. RIEGLE proposes an amendment numbered 6967.

At the appropriate place in this Joint Resolution, add the following new language: Notwithstanding any other provision of this Joint Resolution, and in addition to amounts appropriated elsewhere, there are appropriated $9,000,000 for FY 1985 for the Alcohol, Drug Abuse, and Mental Health Administration.

Mr. DODD. Mr. President, this amendment which I am offering on behalf of Senator KENNEDY, myself and Senator RIEGLE would add $9 million to mental health funding. Four million dollars of this amount would be used to increase the Community Support Program from $12 to $16 million to provide additional support for demonstration programs benefiting the chronically mentally ill and elderly. Five million dollars would be used

to fund a new program of planning grants to assist States in developing comprehensive mental health plans.

The reauthorization for the alcohol, drug abuse, and mental health block grant authorized these new planning grant programs as well as putting the Community Support Program on a statutory basis. This reauthorization conference has just reached agreement, and it is important that we provide the funding now for these small, but vital, initiatives.

Our treatment of the chronically mentally ill is a national disgrace. Over the last three decades, psychotropic drugs have largely emptied our Nation's State mental hospitals. Tragically, however, the promise deinstitutionalization has offered for a better and more fulfilling life for our Nation's chronically mentally ill has largely gone unfilled. Without adequate community support and services, hundreds of thousands have been effectively abandoned by our society, abandoned to a desolate world of single room occupancy hotels, slumlike board and care homes, a world of sleeping on grates or begging for meals, or reptitious and unnecessary psychotic episodes that lead to costly hospitalizations, stabilization and discharge, only to begin the cycle again. As many as half of our Nation's homeless may be victims of this cycle. An estimated 600,000 inmates of our Nations jails are there because of behaviors related to mental illness.

The Community Support Program has shown that there is a better way. By providing limited but vitally needed funds for case-management, placing, and support services, the CSP has encouraged a number of communities and States to develop model programs for the chronically mentally ill. These programs provide a true continuum of care, and have helped thousands of the mentally ill to more fulfilling, healthier, and more independent lives. Evaluations indicate that, where they exist, CSP programs have decreased episodes of hospitalization as much as 50 percent.

The modest additional funds provided by this amendment will bring the benefits of this proven program to more people.

The new program of placing grants funded by this amendment can make an important contribution to a more effective national mental health system. The fact is that ADAMHA block grant funds are a small portion of total national expenditures on mental health. Expenditures on the chronically mentally ill alone from State funds and medicaid, total $5.8 billion. These considerable expenditures, however, tend to be based toward spending on institutionalization and are poorly managed and coordinated. Most States cannot even track their medicaid expenditures for the cronically mentally ill.

The planning grant program will encourage the States to coordinate and plan a comprehensive set of mental health services to use the funds they already spend more effectively and humanely. I anticipate this very modest investment can bring vast improvement in our use of mental health resources.

Senator WEICKER, with his typical sensitivity to the needs of the deprived and dependent, has indicated to me that he will accept this amendment, and I thank him for his support.

Mr. President, this amendment has been cleared by the majority and minority managers.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. WEICKER. Mr. President, we are prepared to accept the amendment.

Mr. PROXMIRE. Mr. President, we have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6967) was agreed to.

Mr. WEICKER. I move to reconsider the vote by which the amendment was agreed to.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUMPERS. Mr. President, I want to make a record on an important point.

The Finance Committee is the group I would like to address, and maybe after the first of the year I will get the opportunity. I want to tell my colleagues about something that is going on in the country that will cause us concern to a great degree in the near future. It is this: In our efforts to control health care costs and medicare costs, which is a very laudable, noble undertaking, the Health Care Financing Administration is contracting with agencies in the State under what we call the peer review process formerly called—PSRO's, now PRO's or Peer Review Organizations. In my State, the PRO is called the Arkansas Foundation for Medical Care.

Under the terms of its contract with HCFA, they have to agree to cut certain kinds of hospital admissions of medicare patients by certain percentages. One of the things that they are insisting on being cut, for example, is major joint replacement surgery. Another is the implantation of pacemakers.

Mr. President, I am as anxious as anybody in this body to get a handle on health care costs, which continue to escalate. But I am not at all sure we can do it by putting a quota on medicare admissions to the hospital in specific categories of health problems.

Just one other point: If a doctor admits a patient to the hospital for a hip joint replacement, after that surgery is performed, the records on that patient are sent, in my case, to the PRO in Fort Smith. They review the record. If they decide that that hip joint should not have been replaced or the operation was not necessary, they will not pay the doctor for the surgery and they will not pay the hospital for the period that that patient was in the hospital. It is a post-hoc review of the case. There is also a provision for preadmission review, which is supposed to be required in 100 percent of certain types of cases, such as pacemakers.

If the PRO rejects the claim as unjustified, they send the patient a notice saying, "The surgery you just had was not necessary and we are disallowing payment to both the doctor and the hospital" and in the last sentence, it says, "However, you may not be responsible for this bill." The reason for this, Mr. President, is that physicians and hospitals are allowed a certain margin of error each year before they are actually penalized. I am getting a lot of mail in my office from elderly people who are frightened to death when they get that notice because they think somehow or other they are going to be held accountable for it.

So we have two problems. I just want to make a record on this so that we can pursue it further later. I do not know how on Earth we are going to establish a quota system on medicare admissions. No. 1, we should not have quotas, and No. 2, that post-operative review process after the hospital term is over is a very strange way to get at the problem.

Third, I might say, those notices they are sending out to elderly people and dangerous and misleading and frightening. I suppose there is one thing you might say about it. It does put the patient on notice that her doctor or his doctor has done something that was not absolutely necessary. Maybe he or she will not want to go to that doctor again. So I suppose it serves that purpose, but that may damage the doctor-patient relationship. But the primary purpose it is serving in my State right now, my mail indicates, is that frightening a lot of elderly people to death. I am just saying, Mr. President, if other Senators have not heard from their constituents on this, I think they will.

HEAD START INDIAN PROJECTS

Mr. STENNIS. Mr. President, the bill before us contains increased funding for the Head Start Program. May I inquire of the manager of the bill what portion of the increase will be al-

located under the Indian and migrant set-aside?

Mr. WEICKER. Mr. President, under the Senate version of the bill, the Indian and Migrant Program would receive an increase of approximately $3,600,000. This increase was included in the President's budget request to offset inflation. In addition, the Senate bill adds $80,400,000 over the budget request for Head Start, some of which could be used for Indian and Migrant projects, but it is not specifically earmarked.

Mr. STENNIS. Mr. President, in response to a 1974 congressional directive the Bureau of Indian Affairs initiated a demonstration program in early childhood education. Eventually, 16 programs serving about 1,000 Indian children were funded by the BIA. The BIA education amendments, which were adopted in 1978, changed the method of funding all Bureau schools and "grandfathered" funding for these 16 programs for a 2-year period. Through action of the appropriations committee, this special consideration was extended for an additional 3-year period. Last year, both the House and Senate Interior Appropriations Subcommittees made clear that fiscal year 1984 would be the final year that these programs would receive support through the Bureau of Indian Affairs. Neither the budget request, the House nor the Senate has provided funds for the pre-kindergarten programs in the fiscal year 1985 Interior bill.

There is always a problem in moving a program from one agency to another, but Head Start is the primary focus of Federal involvement in preschool education programs. In order that these programs previously funded by the BIA be continued, as they do provide a needed service to more than 1,000 Indian children nationwide, I would ask the distinguished floor manager of the bill if he would consider these programs as eligible for Head Start expansion funding in fiscal year 1985, requiring about $1,600,000.

Mr. WEICKER. Mr. President, if the Senate increase of $80,400,000 for Head Start is ultimately enacted in law, as I hope it will be, there will be plenty of room to accommodate utilizing $1,600,000 for the BIA projects. These projects would naturally have to compete with other applications for Head Start expansion funding, but given the set of circumstances described by the Senator from Mississippi, I would expect the Department of Health and Human Services to give them every possible opportunity for full and fair consideration.

Mr. STENNIS. Mr. President, I thank the manager of the bill for his consideration.

Mr. KENNEDY. Mr. President, let me say to Senator WEICKER, I hope that in the forthcoming session it will be possible for the Appropriations Committee to examine how the Department of Health and Human Services [HHS] is responding to the problem of rising indirect costs of federally sponsored research. The Comptroller General has reported that between fiscal years 1972 and 1982, indirect costs as a percentage of Federal research funds provided by HHS through extramural research program grants of the National Institutes of Health increased from 21 to 30 percent.

As serious as this problem is, this House needs to be assured by HHS that efforts to control and reduce the portion of the Federal research dollar going to indirect costs will not damage the productive partnership that has developed over the last 4 decades between universities and the Federal Government. For example, it has come to my attention that at least one aspect of current HHS accounting practice may discourage educational institutions from voluntarily contributing to or participating in the direct costs of federally sponsored research. Through the mechanism known as "cost-sharing," universities bear a very substantial share of the costs of Federal research conducted on their university campuses. In 1982, for example, cost-sharing by universities amounted to an estimated $1.5 billion, compared to approximately $4.6 billion in Federal funding. A portion of this amount has consisted of expenses of research voluntarily absorbed by the research institutions.

As a result of current HHS accounting practice, colleges and universities have found that the more of their own resources they contribute to Federal research, the less they are permitted to recover of the indirect costs of the research effort.

This practice has caused some educational institutions to rethink the amount of support they can afford to give to Federal research. There are indications that a number of institutions, in direct response to HHS' accounting practice, may have sharply curtailed their voluntary cost-sharing contributions.

HHS' accounting practice with respect to cost-sharing seems contrary to the Federal policy of encouraging voluntary cost-sharing by colleges and universities. Congress may wish to consider the merits of legislation that would change this practice by providing clearly that no cost-sharing contribution by an educational institution will diminish the indirect costs the institution would otherwise have been permitted to recover.

Mr. WEICKER. The issues the Senator has raised are indeed important, and we will consider raising these issues in the fiscal year 1986 budget hearings. Although the mounting indirect costs of Federal research are a legitimate matter of concern, we must certainly be careful that while addressing that concern colleges and universities are not discouraged from contributing their own resources to the direct costs of research.

Mr. President, I think we are ready to vote unless other Senators have other amendments.

I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the fifth committee amendment.

The fifth committee amendment was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT NO. 6

Mr. HATFIELD. Mr. President, I ask the Chair to lay the next committee amendment before the Senate.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The bill clerk read as follows:

On page 3, strike lines 21 and 22, and insert:

(e) Such amounts as may be necessary for projects or activities, not otherwise specifically provided for in this joint resolution, at a rate for operations and to the extent and in the manner provided for in H.R. 5898, the Military Construction Appropriation Act, 1985, as passed by the Senate as of October 1, 1984: *Provided*, That for the purposes of this subsection, if such Act has been reported to the Senate but not passed the Senate as of October 1, 1984, it shall be deemed as having been passed by the Senate.

Mr. MATTINGLY. Mr. President, I am pleased to recommend to the Senate the military construction appropriations bill—as reported in the continuing resolution. This bill as received from the House, H.R. 5898, has been amended by the committee and is in full compliance with the military construction authorization bill (H.R. 5604) as passed.

I believe that the recommendations before the Senate reflect a balanced program, and I am pleased that the distinguished ranking member of the subcommittee, Senator SASSER, and I are in general agreement on the committee bill.

Let me go into a little detail on the recommendation before this body today.

The fiscal year 1985 request for military construction was presented in the President's budget in January at $10.3 billion. It was revised as part of the so-called rose garden agreement to reduce the deficit. The revised request for military construction appropriations was $8.8 billion.

The committee recommendation supports a funding level in fiscal year 1985 of $8.5 billion.

Mr. President, even with the reductions recommended in this bill which total $1.7 billion from the original budget request, the bill provides an increase of 19 percent over last year's appropriation.

I should note, however, that while this is a sizable increase it must be noted that the military construction account is just one part of the overall budget request for national defense spending. The increase reflects the Defense Department's conscious decision to put more money into facilities—and I believe that in most instances that my colleagues will agree that this has been a long time coming.

For the past 2 years we have been able to provide nearly all the requested facilities, but this has been because of the extremely good bidding climate which allowed for us to program projects without increasing the total amount of the bill. I must point out, however, that for fiscal years 1983 and 1984 there was no real growth in the account, and in fact negative growth if you just look at numbers on a table.

Let me now highlight some of the items of interest—

For the Army, the recommendation is $1.6 billion which is about $300 million below their request. The Army has been fortunate with the bids and can accept a general reduction of $210 million within that total.

For the Navy, the recommendation is $1.6 billion, a decrease of nearly $200 million from their original request. The Navy was particularly hard hit by the House in their bill, and this recommendation, in most instances, restores those cuts which I believe were not warranted. Let me also say for the record, that since I happen to have Kings Bay—the new Trident submarine base—in my home State and since the Navy requested nearly $300 million for the facility, that it too has taken some reductions—nearly $100 million—in the revised budget. Some of that amount will be offset by available savings in order to keep the program on schedule.

Also in the Navy account, the recommendation includes $30 million for a fuel pier at Keflavik, Iceland, but since the Senate authorization addressed it as part of the 1985 bill it was included here. This will be worked out once the supplemental moves through the House.

For the Air Force, $1.6 billion is the recommendation which is over $500 million below the original budget. The Air Force account is the largest and has the majority of the issue items—MX, GLCM, and so forth. I shall mention these shortly.

For other accounts, the recommendation provides some $381 million for the Defense agencies including nearly $150 million for Defense schools overseas and in some select locations within the United States.

For the Guard and Reserve components, the recommendation, as usual, is above the budget request. This year the recommendation is $406.6 million, some $16 million over the budget. However, I know that we all strongly endorse the projects for the Guard and Reserve who play such a vitally important role in our total force structure.

In the NATO infrastructure, the recommendation is for $107.2 million—a decrease of $24.5 million from the revised budget. That decrease has been taken as an offset to some projects in Turkey which are eligible for NATO funding but have not yet received priority funding from NATO. I know that we all share concern over the burden sharing issue, and the fact that many of our allies are not providing assistance to the United States in our missions overseas. The NATO infrastructure account has been prefinanced by the United States to the tune of $600 million in the past 20 years and we are still owed some $250 million. As we did last year, I think we send a message that we want both the Defense Department to strongly pursue increased funding within the NATO account, and to our allies that we must have cooperation and support from them. I know that the House feels strongly on this issue and expect that we can reach a reasonable compromise on this item in conference.

Now for a few key items—

MX missile construction. The recommendation provides the revised budget request of $108.4 million plus the $5.9 million authorized in the Senate for community impact assistance funds. Although there is still some concern over the number of missiles for production in fiscal year 1985, I believe that the proposal before us is needed to support the initial 21 missiles approved by the Congress last year. I have been assured by the Air Force that the facilities are sized to meet the demands of the overall program, not any specific number of missiles. If for some reason, there are less missiles that planned, the construction costs would fall off in outyear programs.

Ground-launched cruise missile [GLCM]. The construction program for the GLCM facilities in Europe was requested at about $250 million including schools and family housing. The largest part of that was $79 million for the Netherlands. The recommendation does not include that amount because no agreement has been made between NATO and the Government of the Netherlands over the deployment schedule. Reductions have also been made for housing in Belgium and Italy. The Belgium housing is deferred because it is just not needed as yet. In Italy, the housing is deferred because no agreement has been reached between the United States and Italy over the use of U.S. manufactured/factory-built housing at Comiso. The requirement for U.S. housing was passed by Congress last year as part of the authorization act. Otherwise, the GLCM program is supported to allow for timely arrival of facilities at the various locations.

As we are all aware, the issue of Central America has been raised many times during the past few months. The request for facilities in Honduras was the most controversial. There were three projects originally requested, but two were dropped during the authorization process. The one remaining project is for a contingency complex at Palmerola Air Base in Honduras. This $4.3 million project was to provide relocatable facilities to support an ongoing intelligence mission from the location. However, in this recommendation, that project has been deferred. The reason is because the mission is a temporary one. The units are deployed on temporary duty for not more than 189 days, and in many instances, the personnel are there less. They are currently living in temporary Central-American tropical huts which were built during the large exercises in Honduras. I know that many of us have visited the site and I believe that the living and working conditions are not all that bad for this type of mission. I do not think that deferring the project will have any negative impact on the operation.

Two final items which are of special interest to me are general provisions I have included in the bill last year and this year and which have been approved by the committee.

The first is a provision that prohibits expenditures of funds in any nation which does not cooperate with the U.S. efforts to stem illicit drug trafficking. It is identical to last year's provision and I believe gives a strong signal to our allies that we will not stand for drug trafficking particularly in countries where our troops are present.

The other amendment I have included involves a 10-percent reduction in funds to be used for consultants. This is a small amount but I believe can help to decrease the costs of Government.

I believe that the committee recommendation before the Senate continues the committee's strong support for military construction. I do not believe that any reduction recommended will cause major problems in meeting the missions of our units. And in most cases, the Department has been given the benefit of the doubt if there was a question on a project.

The military construction request for fiscal year 1985 consisted of nearly 2,000 individual line items. The recommendation before us today is the product of many hours of review from

hearings, briefings, point papers, and justification books.

I believe that it is a fair and balanced program which meets the highest priority construction needs of the Defense Department.

I urge my colleagues to support this bill.

Mr. President, I ask unanimous consent that a letter I have received from the Secretary of the Army be printed in the RECORD following this short statement.

This letter concerns several projects which are included in the Senate military construction appropriations bill. These Army projects—all at Giessen, Germany—involve the DIVAD weapons system. This system, as we are all aware, is the subject of growing controversy. I asked Secretary Marsh to provide me with a letter to support the projects because I am informed that the projects are needed with or without the DIVAD.

I believe the Army Secretary's letter is self-explanatory and supports the Senate position of providing funding for the projects. I should also state that all of the projects have been authorized and approved by both the Senate and House in the conference report on the fiscal 1985 military construction authorization bill.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SECRETARY OF THE ARMY,
Washington, DC, September 21, 1984.

Hon. MACK MATTINGLY,
Chairman, Subcommittee on Military Construction, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR SENATOR MATTINGLY: This letter is a follow-up to our recent meeting when we discussed the critical military construction projects at Giessen, Germany, which will be considered during the appropriations conference. Although the projects are designated as being provided for the Sergeant York Gun, these facilities will be required whether or not the Sergeant York Gun is fielded at Giessen.

The facilities at Giessen are required for the 3/61st Air Defense Artillery Battalion which is now operating with the Chaparral and Vulcan air defense weapons. This unit is scheduled to replace its Chaparral/Vulcan assets with the Sergeant York Gun in late fiscal year 1987, but the unit is required to move in fiscal year 1986 due to other force modernization initiatives. Specifically, the aviation unit expansion at Fliegerhorst Kaserne (which is on schedule) drives the move of several units among various locations to maximize the use of existing facilities and minimize overall costs. The key to these moves is the relocation of the 3/61st Air Defense Artillery Battalion to Giessen, on time, even if that unit were never to receive the Sergeant York Gun.

The four projects at Giessen, Germany involved in support of this effort are shown below:

Description	PN	Amount
Tactical equipment shop	1071	$11,600,000
Barracks	1072	12,000,000
Battalion headquarters	1073	1,550,000
Heat plant/utilities	1074	3,900,000

Your support of these projects will be appreciated and is needed to improve our operations and facilities in Germany.

Sincerely,

JOHN O. MARSH, Jr.

Mr. MATTINGLY. Mr. President, I ask unanimous consent that a letter I received from the Director of the Office of Management and Budget with regard to the Senate version of the military construction appropriations bill for fiscal year 1985 be printed in the RECORD after this short statement.

I am including this letter in the RECORD because of my concern that Mr. Stockman and his staff don't really understand the committee recommendation on military construction funding.

It is most interesting, Mr. President, that the letter from Mr. Stockman states that the reduction is too great. However, at no place in the letter or its attachment is there any specific mention of individual projects. This leads me to believe that OMB did not take the time to review the committee report which highlights the recommendation. It appears that all that was done at OMB was to review the total and subtract that amount from the budget request.

Mr. President, I will not go into detail on how the committee recommendation was arrived at because the Members of this body understand that and I would be "preaching to the choir," so to speak. But I will say that the military construction appropriation bill provides the Defense Department with the majority of its request and the reductions made by the committee, in most instances, reflect the authorization.

Mr. President, I hope that next year, during the consideration of the military construction appropriations bill, OMB will either support the committee recommendation or if they cannot, at least take the time to tell us what they disagree with.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, July 31, 1984.

Hon. MACK MATTINGLY,
Subcommittee on Military Construction Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As the Senate prepares to consider the 1985 Military Construction Appropriation bill, I would like to convey the Administration's position on the bill as reported by the Senate Appropriations Committee.

The Administration is concerned about the amount of funding recommended for Military Construction activities. The Senate Committee provides $8,506 million, a further reduction of $362 million from the President's proposal on May 2, 1984, made as part of the deficit reduction down payment plan, to reduce Military Construction activities by $1,450 million. The overall reduction of $1,812 million from the President's initial request is too great.

I hope that you will encourage the Senate to reconsider the reductions made by the Committee's action and to provide funding consistent with the President's proposal of May 2, 1984.

Sincerely,

DAVID A. STOCKMAN,
Director.

STATEMENT OF ADMINISTRATION POLICY

H.R. 5898 MILITARY CONSTRUCTION APPROPRIATIONS BILL, 1985

(Rep. Whitten (D), Miss.)

The Administration is concerned that this bill is $362 million below the amount in the President's proposal of May 2, 1984, made as part of the deficit downpayment plan, to reduce his initial budget request for military construction activities by $1,450 million. We are concerned that the overall reduction of $1,812 million from the President's initial request is too great. We urge the Senate to provide funding consistent with the President's proposal of May 2.

Mr. SASSER. Mr. President, I am pleased to join the distinguished Senator from Georgia, the chairman of the subcommittee, in bringing the fiscal year 1985 military construction appropriation bill before the Senate.

This bill represents a $1.8-billion reduction from the budget request. This is a cut of 17 percent from the amount requested by the administration. In fact, the Director of the Office of Management and Budget has written me expressing his view that a cut of $1.8 billion is "too great" a reduction from the President's initial request.

Mr. President, it is indeed a rare occasion when the Senate is petitioned by the administration for add-ons to appropriation bills. But defense and military construction appear to be in a different category from the domestic priorities of this administration.

Even with reductions we have made, however, this bill represents considerable growth over the current year's appropriation. It is $1.4 billion over the fiscal year 1984 bill as enacted. That is a large increase for the administration's defense priorities by any measure.

Mr. President, the Congress has been very generous with the Pentagon's military construction budgets. From fiscal year 1980 through fiscal year 1984 the military construction budget has more than doubled. Construction inside the United States has increased 120 percent. However, the greatest growth has been overseas. Construction of military facilities overseas has increased 272 percent in the last 5 years with the Air Force getting a whopping 542-percent increase during the fiscal year 1980–84 period.

Mr. President, I believe this great legislative body should be very concerned with the trend we are witnessing with regard to U.S. military construction investments overseas. This Nation cannot be the policeman of the world. We cannot assume the lion's share of the defense program for the industrialized democracies. Yet, as I have noted, we are spending literally billions of dollars overseas to build military facilities, many of which, I might add, should have been built by our allies for their own defense.

So, Mr. President, I share the concern of the distinguished Senator from Georgia and other Members of the Senate with the growth of the military construction budget, and I wish that additional cuts could have been made. But, I do want to commend the chairman of the subcommittee for those cuts and reductions he has recommended, particularly in the area of burden sharing. The distinguished Senator from Georgia and I share the same philosophy concerning the need for our allies to bear a more fair share of the defense burden, and I am pleased to join him in endorsing the reductions which have been made.

Mr. President, military construction activities are often on the leading edge of defense and foreign policy initiatives. We have seen how military constuction activities can be utilized to further policy objectives of the administration in Central America, for instance. So, the military construction bill is an important bill. It is legislation that bears close scrutiny by the House and the Senate.

Mr. President, before yielding the floor I would like to discuss a project of recent controversy. During the recess, NBC reported that serious construction errors had been made at the Air Force space shuttle launch facility at Vandenberg Air Force Base in California.

Mr. President, I have been concerned for a number of years with problems which have occurred during the design and construction of this facility. The original request justified to the Congress in 1979 was $250 million. Cost overruns have now brought the total cost to almost $900 million. The original operating capability date for the project was December 1982. That has been slipped at least until October 1985. And, Mr. President, the cost overruns and delays on this project are far greater than just the cost of construction. The Air Force has already spent another $300 million for Titan missiles which will be used for launches the shuttle will not be ready to support.

Mr. President, I am extremely concerned that the Air Force failed to adequately brief the Congress on problems which have been experienced with the space shuttle launch facility project. In fact, the Air Force displayed no concern or sense of urgency until the NBC report.

Mr. President, I wanted to take this opportunity to bring this matter before the Senate. Our subcommittee has been very generous with the Air Force requests to support the shuttle program because of national security considerations. But, as the ranking minority member I wanted to express my displeasure with the performance of the Air Force on this project.

Mr. President, I yield the floor.

Mr. NICKLES. Mr. President, I note that the report accompanying H.R. 5898 from the Committee on Appropriations—the military construction appropriations bill now in this continuing resolution—acknowledges the fact that the Labor Department's new Davis-Bacon regulations will save the taxpayers approximately $100 million in the military construction program. I would like to point out to my colleagues that this $100 million savings results solely from the change to the 50-percent rule—a majority rule—from the notoriously inflationary 30-percent rule. This single change is designed to bring the Davis-Bacon wage requirement into line with the true prevailing wage structure in a given area.

For the record, when all the Labor Department's proposed Davis-Bacon changes are implemented, I would expect far greater savings to this program. Thus far their attempts to acknowledge the use of helpers—where helpers are a prevailing practice—and to preclude the importation of urban wage data into rural areas have been stymied in the courts. It has been 3 years since the Davis-Bacon regulatory changes were first proposed and this delay in their implementation will cost the taxpayers billions of dollars in wasteful Davis-Bacon practices. Currently, the proposed regulatory changes are sitting before U.S. District Court Judge Harold Greene 6 months after the Supreme Court refused to ban their implementation.

I congratulate the Appropriations Committee and Senator MATTINGLY for recognizing the potential savings from Davis-Bacon changes.

Mr. MOYNIHAN. Mr. President, in 1977, when along with my colleagues, Javits and Representative MCEWEN, I fought vigorously to have the 2d Infantry Division deployed to Fort Drum from Korea, I noted to the Secretary of the Army that it had been a very long time—a generation, I believe—since an Army division had been stationed in the northern latitude. I observed then, and I was joking at the time—that if you looked at the disposition of Army bases around the United States, you would think that we were getting ready to fight the next war in Nicaragua. Well, that is not funny anymore.

On September 11, the Army made the excellent decision to locate a light infantry division at Fort Drum in New York State. I want to compliment Senator MATTINGLY for his support of projects important to New York. Yet I note that one item, not included in the President's budget request, but indeed authorized by the Congress, for a critical heating plant at Fort Drum, is not included in the Senate reported bill. As you are aware, any delay in funding this plant would result in increased costs, safety hazards and maintenance requirements.

Mr. MATTINGLY. The Senator from New York is indeed correct in his statement that the project in question is not in the Senate reported bill. At the time the committee reported the military construction bill, the authorization process had not been completed and the project was not authorized by the Senate. At this time, the project has been authorized by the Congress and the facility is included in the House version of the military construction appropriations bill. Let me say to my colleague that I am fully aware of the importance of this project and I can assure him that this project will be given every consideration during conference with the House and I expect that it will be favorable.

Mr. D'AMATO. I want to thank my colleague on the Appropriations Committee, the distinguished chairman of the Subcommittee on Military Construction (Mr. MATTINGLY), for his help with this vital project. Clearly, a modern heating plant is a key ingredient in the plan to upgrade the physical facilities at Fort Drum. Since the first 1,300 troops for the 10th Infantry Division, the new light infantry division the Army has decided to activate at Fort Drum, will be arriving there this fiscal year, we must move ahead with this project now. The support of the distinguished Senator from Georgia has been critical in securing approval for this unbudgeted project.

I also want to express my thanks to my distinguished colleague, the senior Senator from the State of New York, for his help and support in this important effort. This project, which was authorized and funded in the House at the request of our very able colleague, Representative DAVID O'BRIEN MARTIN, who so effectively represents New York's 26th District, would not have become a reality without a united effort by Members of the New York delegation on both sides of the aisle. I am confident this cooperation will continue as we act to make a modern division base at Fort Drum a reality.

AMENDMENT NO. 6968

(Purpose: To appropriate $1,081,000 for the construction of mobile home trailer pads at Fort Ord, California)

Mr. MATTINGLY. Mr. President, I sent an amendment to the desk on behalf of myself and Senators WILSON and CRANSTON and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Georgia [Mr. MATTINGLY], for Mr. WILSON and Mr. CRANSTON, propose an amendment numbered 6968 at the end of committee amendment No. 6 insert:

"*Provided,* That from within the total amount made available by this joint resolution for family housing construction, Army, an amount not to exceed $1,081,000 is provided for the construction of 70 trailer pads at Fort Ord, California."

Mr. MATTINGLY. Mr. President, this amendment which I have offered on behalf of my colleagues from California reallocates funds within the family housing, Army, section and is addressed to the shortage of family housing at Fort Ord, CA. I believe that this has been cleared on both sides of the aisle. Therefore, I ask that the amendment be adopted.

Mr. WILSON. Mr. President, the amendment before us will reallocate Army housing funds. Specifically, no less than $1,081,000 is to be provided for the construction of 70 trailer pads at Fort Ord, CA.

Mr. President, I will not take the Senate's time to detail the chronic shortage of decent housing for enlisted personnel at Fort Ord, nor will I recount recent tragic events taking place at Fort Ord that underscore the desperate situation there.

This amendment will provide some small relief, Mr. President, and should be considered as humanitarian aid.

Mr. President, it is my understanding that this amendment has been cleared on both sides by the Armed Services Committee and the Appropriations Committee. I want to thank the members for their cooperation and understanding of this pressing matter.

FUNDING FOR FORT ORD HOUSING

Mr. CRANSTON. Mr. President, I am offering an amendment today with Senator WILSON to fund the construction of trailer and mobile home facilities at Fort Ord. This amendment does not authorize any new funds but directs the Army to use funds already authorized for fiscal year 1985 to construct these facilities at Fort Ord. I am offering this amendment because housing conditions at Fort Ord are intolerable and efforts to upgrade housing cannot be delayed any longer.

The housing conditions at Fort Ord are among the very worst in the country for Army enlisted personnel. Currently 2,500 families are on the waiting list for housing on the base. The Army estimates that families usually have to wait at least 7 months to obtain housing and that more than 1,000 families are living in conditions that are substandard. Members of the Armed Forces and their families, who are serving their country, should not be forced to live under these circumstances.

The local housing market offers no alternative for Army personnel. The average monthly rental for a three-bedroom house is $765 a month. Families are often required to make a deposit of more than $1,000. Only officers of the rank of lieutenant colonel and above can afford this kind of housing. The average member of the Armed Forces stationed at Fort Ord, however, is a specialist 4 who earns about $780 a month in pay and entitlements and is eligible for a $390-a-month housing allowance.

The seriousness of this situation was tragically underscored in August when a 13-year-old boy, Danny Holley, committed suicide. Danny's father had recently been transferred from Germany with orders to proceed to South Korea for an unaccompanied tour of 1 year. Because Fort Ord was his next assignment after Korea, he brought his family to the Monterey Peninsula only to discover that there was no housing and none would be available for 7 months. He had to leave his family in rented accommodations that consumed the family's budget. Mrs. Holley, despite efforts of the Army Emergency Relief, simply did not have the means to support her family, and her children often went hungry. The tremendous stress created by this situation helped lead to the very sad death of Danny on August 27 of this year.

We cannot allow such circumstances as those at Fort Ord to continue. The Army has plans in its fiscal year 1986 budget to upgrade housing at Fort Ord with 70 trailer pads and 400 units of new family housing. Given the situation I do not believe we can wait until next year. This amendment will begin the upgrading of facilities this year. Unfortunately, funding for the new housing units would exceed the authorized funding levels for military construction already approved so that funds for these units cannot be considered this year. I do ask the committee, however, to give the request for 400 units for housing at Ford Ord the highest priority next year.

Beginning the modernization program now by funding the trailer and mobile home facilities will bring some relief from the deplorable housing conditions, and it will demonstrate the congressional commitment to respond to this terrible situation.

The PRESIDING OFFICER. Is there further discussion of the amendment?

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Georgia.

Mr. HATFIELD. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6968) was agreed to.

Mr. HATFIELD. I move to reconsider the vote by which the amendment was agreed to.

Mr. MATTINGLY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 6969

(Purpose: To restrict the expenditure of U.S. contributions to the NATO infrastructure fund unless certain repayment levels are achieved)

Mr. MATTINGLY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Georgia [Mr. MATTINGLY] proposes an amendment numbered 6969.

Mr. MATTINGLY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the Committee Amendment, insert the following new section:

"SEC. . Notwithstanding any other provision of this joint resolution, funds appropriated by this joint resolution for the United States share of the North Atlantic Treaty Organization infrastructure program may be obligated or expended only to the extent that one dollar (or its equivalent) has been recouped by the United States for North Atlantic Treaty Organization eligible projects prefinanced with United States funds for every four dollars (or their equivalent) obligated or expended from funds made available under this joint resolution for such purpose.".

Mr. MATTINGLY. Mr. President, my amendment establishes a mechanism by which the United States can increase the amount of money that is being repaid to it for construction projects that were eligible for NATO funding but which were, in fact, paid for by the American taxpayer.

The NATO infrastructure account is a device that was established to finance the construction of military facilities for the joint use of two or more

NATO countries or for those facilities that are crucial to the operation of NATO forces. The United States currently contributes about 27 percent of the funds for this account. Because of chronic shortages in the fund, the United States has paid for, or "prefinanced," about $600 million worth of projects. About $340 million has been repaid, leaving a balance due of $260 million—more than a quarter of a billion dollars, Mr. President.

Last year, my committee made a number of specific suggestions to the Department of Defense in regard to the infrastructure program. I am pleased to be able to report to my colleagues that the Secretary of Defense has taken a series of steps that are intended to improve the process used to monitor funds in this account and, more importantly, increase the amounts recouped.

However, problems remain, Mr. President. The Department of Defense had reported to the committee last year that it hoped to recoup $40 million in prefinanced money during fiscal year 1984. Only $9 million has been collected so far and $20 million appears to be the highest that the total could go.

The bill as reported from the Appropriations Committee recommends approval of $107.2 million as the U.S. contribution to the infrastructure account for fiscal year 1985. This is a reduction of $24.5 million from the administration's revised budget request. The committee took this reduction because it approved funding for critically important, NATO eligible projects in Turkey in the amount of $24.5 million.

My amendment states that the $107.2 million approved can be obligated or expended only if a 4-to-1 ratio between infrastructure funds and recouped moneys is met. Specifically, $1 must be recouped for every $4 proposed to be expended from the U.S. contribution to the infrastructure account.

Under the terms of this proposal, $26.8 million would need to be repaid to the United States before the entire $107 million could be obligated. This is $16.8 million more than the current level of collections estimated for fiscal 1985.

I believe that the amendment would be an important asset in remedying the current repayment deficit.

I believe that my amendment is an important first step in establishing a badly needed, updated and modernized basis for the Atlantic alliance. During the debate on Senator NUNN's NATO amendment to the Defense authorization bill, my colleagues heard me state my view that, if it is to survive, the alliance must change, adapt and grow or it will face certain death. This amendment represents a first step toward accomplishing that goal.

The time has long past, Mr. President, when it is either proper or useful to have our European allies playing a junior role in the NATO alliance. The twin goals of the immediate post war period, economic revitalization and political stabilization, have long since been accomplished and now it is time to enter a new era in this critical Western partnership. An era where the nations of Western Europe have a far greater say in their security affairs and bear a commensurately greater share of the economic burden.

If we refuse to recognize that the time has come to adjust the 30-year-old relationship between the United States and Europe, Mr. President, then we run the very dangerous risk of unraveling what has been and should continue to be, one of the most critical elements in the defense against a common enemy.

Those who refuse to acknowledge that the time has come for a reorganization of responsibilities within the alliance are not recognizing current day realities, Mr. President.

It should be clear to all by this time that the American people are not prepared and are no longer willing to bear the increased defense costs created by the economic entanglements of our Western European allies with the Soviet Union. The time has come to place the responsibility for such costs on the shoulders of those who have necessitated them.

The purpose of this, Mr. President, is not to punish anyone or any nation; it is not to withdraw into the type of isolationism that has brought two world wars in this century. To the contrary, the purpose is to bring about a more equitable distribution of the enormous current day costs of the defense of the West against the expansion of totalitarianism. Such a reordering of responsibilities would enable the United States to better meet its commitments in today's world.

If Congress buries its 535 heads in the sand and refuses to recognize the realities of today's world, as opposed to those that existed at the end of the Second World War, or if it yields to the hand wringers who instinctively oppose any realignment of responsibilities in the NATO alliance, then, Mr. President, we will indeed be guilty of dealing grievous injury to the alliance and, more importantly, to the defense of the West.

So, Mr. President, I urge adoption of this amendment and hope that it presages a reinvigorated NATO structure.

Mr. SASSER. Mr. President, this amendment is satisfactory to the minority.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6969) was agreed to.

Mr. MATTINGLY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DIXON. Mr. President, I join with my colleague and friend, Senator PERCY, in thanking the Congress for approving the inclusion of $19.4 million to construct a proper headquarters facility at Scott Air Force Base for the Air Force Communications Command. The House Armed Services and Appropriations Committees have approved this important project. Last month, in the Senate-House conference on the fiscal year 1985 Defense authorization bill, the Senate conference panel on military construction accepted the House recommendation for this communications facility.

The central building currently occupied by the communications command was built in 1931 as three separate two-story buildings for use as dormitory facilities. Because of the increased mission responsibility of the communications command, personnel have worked in temporary trailers, for more than 4 years.

I toured these facilities a few weeks ago. I saw people working in hallways and attics, where there is inadequate heat in the winter and inadequate air conditioning in the summer. The day I was there, the temperature in the attic was over 100 degrees. Three hundred workers are located in a basement which has no restrooms. The temporary trailers—and I use the word "temporary" very loosely—have no restrooms.

Without this new headquarters building, the gross, substandard working conditions will cause the productivity of this important communications command to drop drastically. We will lose the highly trained professional people that the communications command needs. Not only will the Air Force have problems retaining these professionals, but it will also have difficulty attracting new employees once they discover that they will be located in a hallway, a basement, or an attic, without adequate heat, air conditioning and restroom facilities.

A new headquarters building has been in the planning stages for 4 years. Now that it has been approved by Congress, construction can begin in early 1985.

Senator PERCY and I, therefore, thank our colleagues for supporting us in this effort to provide adequate facilities for our personnel at Scott Air Force Base.

Mr. HATFIELD. Mr. President, we know of no other amendments to this committee amendment.

Mr. SASSER. There are no amendments on behalf of the minority.

Mr. HATFIELD. Mr. President, I move the adoption of the committee amendment No. 6.

The PRESIDING OFFICER. The question is on agreeing to the sixth committee amendment.

The sixth committee amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SASSER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT NO. 7

Mr. HATFIELD. Mr. President, I ask the Chair to lay before the Senate committee amendment No. 7.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

On page 4, strike lines 7 and 8 and insert:

(f)(1) Notwithstanding any other provision of this joint resolution, there is appropriated an additional amount for Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil, "Construction, general" for the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by State, local governments, or private groups) authorized or made available for selection by law (but such studies shall not constitute a commitment of the Government to construction), to remain available until expended, $72,800,000; of which $8,500,000 shall be derived from the Inland Waterways Trust Fund; except that the Chief of Engineers is authorized and directed to proceed with planning, design, engineering, and construction of: Atchafalaya Basin Floodway System, Louisiana; Baltimore Harbor and Channel, Maryland and Virginia; Bassett Creek, Minnesota; Bodega Bay, California; Bonneville Navigation Lock, Oregon and Washington; Dade County, Florida (north of Haulover Beach Park); Eight Mile Creek, Arkansas; Ellicott Creek, New York; Freeport Harbor, Texas (North Jetty); Gallipolis Locks and Dam, Ohio and West Virginia; Gulfport Harbor, Mississippi; Jonesport Harbor, Maine; Kahoma Stream, Hawaii; Liberty State Park Levee and Seawall, New Jersey; Little Dell Lake, Utah; Locks and Dam 26, Illinois and Missouri (Second Lock), including environmental management along the Upper Mississippi River Basin; Merced County Streams, California; Mississippi River Ship Channel, Gulf to Baton Rouge, Louisiana; Mobile Harbor, Alabama; Moriches Inlet, New York; Norfolk Harbor, Virginia; Richmond Filtration Plant, Virginia; Sacramento River Deep Water Ship Channel, California. In the event the Congress subsequently enacts legislation specifying the requirements of local cooperation for water resources development projects under the jurisdiction of the Department of the Army, such requirements shall be applicable to projects for which funds are herein provided, notwithstanding any agreement for local cost sharing in excess of amounts specified in the relevant project authorizations. The initiation of inland waterways projects identified for planning, design, engineering, and construction in this Act may be funded from sums available in the Inland Waterways Trust Fund, established by the Inland Waterways Revenue Act of 1978 (title II of Public Law 95-502) notwithstanding the second sentence of section 204 of such Act.

(2) Nothwithstanding any other provision of this joint resolution, there is appropriated an additional amount for the Department of the Interior, Bureau of Reclamation, "Construction program", for the design and construction of the Animas-La Plata Project, Colorado and New Mexico; Buffalo Bill Dam Project; Wyoming; and the Headgate Rock Project, Arizona, to remain available until expended, $9,300,000; of which $1,000,000 shall be available for transfers to the Upper Colorado River Basin Fund as authorized by section 5 of the Act of April 11, 1956 (43 U.S.C. 620d): *Provided*, That of the total appropriated, the amount for program activities which can be financed by the Reclamation Fund may be derived from that Fund: *Provided further*, That of the total appropriated, $5,000,000 is appropriated pursuant to the Snyder Act (25 U.S.C. 13), to be expended by the Bureau of Reclamation for the purpose of designing and initiating construction of the Headgate Rock Hydroelectric Project, Arizona.

AMENDMENT NO. 6970

(Purpose: To prohibit the disposal of lands in the vicinity of Bull Shoals Lake, Arkansas)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 6970.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the 7th Committee amendment, add the following new subsection:

"( ) Notwithstanding any other provision of law, lands in the vicinity of Bull Shoals Lake in Arkansas administered by the Army Corps of Engineers which have declared excess to the Department of the Army needs shall remain under the administration of the Corps of Engineers and shall not be disposed of by the General Service Administration or the Bureau of Land Management.".

Mr. BUMPERS. Mr. President, if I may have the attention of the floor managers, it will just take me a second to explain this amendment.

This is an amendment that was adopted by the Senate about 3 months ago and, unhappily, was dropped in the conference. It is a very small amount, of no moment to this group, but it is a red hot issue in a very small section of north Arkansas where the Corps of Engineers is trying to excess about 600 acres of land, the only wildlife habitat, the only undeveloped land around Bull Shoals Lake, a large Corps of Engineers facility.

Mr. HATFIELD. Mr. President, we have gone over this amendment with the Senator from Arkansas and are willing to accept the amendment.

Mr. JOHNSTON. Mr. President, the minority will accept the amendment as well.

The PRESIDING OFFICER. Is there further discussion on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 6970) was agreed to.

AMENDMENT NO. 6971

(Purpose: To require a study of potential developments for the conservation and utilization of water and related land resources to the Little Bighorn River Basin in Montana)

Mr. MELCHER. Mr. President, I have an amendment that amounts to $150,000 which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Montana [Mr. MELCHER] proposes an amendment numbered 6971.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the Committee amendment [Sec. 101(f)], add the following:

" . Of the funds appropriated to the Department of the Interior for water resources investigations, the Secretary of the Interior is authorized and directed, using such sums as may be necessary, to conduct a study of potential developments for the conservation and utilization of water and related land resources in the Little Bighorn River Basin in Montana, including such investigations as may be proper and necessary for the purposes of determining the feasibility of storing, regulating, and furnishing water for irrigation, municipal and industrial use, conserving and developing fish and wildlife resources, and providing outdoor recreation opportunity.".

Mr. MELCHER. Mr. President, this is an amendment that will cost about $150,000 out of money available to the Bureau of Reclamation to conduct a study of potential development for the conservation and utilization of water and related land resources in the Little Bighorn River basin in Montana. My amendment does not increase the funds appropriated in this bill. The study would be conducted out of funds appropriated to the Department of the Interior for water resources investigations.

The Little Bighorn River drainage basin originates in the Bighorn Mountains in north-central Wyoming. It proceeds in a northeasterly direction for approximately 25 miles to the Montana-Wyoming State line. At the border, the Little Bighorn River flows north for approximately 120 miles to

its confluence with the Bighorn River near Hardin, MT. Approximately 193 square miles of drainage area are in Wyoming and 1,101 square miles in Montana.

The average annual water supply at the State line is 115,000 acre-feet and increases to about 240,000 acre-feet at its mouth. The primary existing use of the water in the basin is for irrigated agriculture. At the present time there are 2,400 acres of irrigated land in Wyoming and 18,700 acres of land in Montana. The lands in Montana are entirely within the boundaries of the Crow Indian Reservation.

Previous studies have indicated that there is potential to develop an additional 26,000 acres of irrigable lands and an unquantified amount of municipal and industrial water potential for development in Montana.

A study is needed to evaluate the upstream depletions on existing and potential future resource developments and the impact that additional storage would have in the development of these resources. According to Joseph Marcotte, regional director of the upper Missouri region of the Bureau of Reclamation, a 12-month study at a cost of $100,000 is adequate to evaluate the potential. If a feasible project, satisfactory to the local interests were found, it would require an additional 18 months and $150,000 to develop and authorizing report with an environment impact statement.

Mr. President, the Crow Tribe supports this amendment. In 1978, there was a major flood of the Little Bighorn. Damage and flood loss amounted to more than $13 million. The study is needed.

Mr. HATFIELD. Will the Senator yield?

Mr. MELCHER. Yes.

Mr. HATFIELD. Did I understand the Senator to say there are funds available?

Mr. MELCHER. That is correct.

Mr. HATFIELD. Mr. President, we would have no objection to the adoption of the amendment offered by the Senator from Montana.

Mr. JOHNSTON. Mr. President, the minority has no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6971) was agreed to.

Mr. MELCHER. I thank the managers of the bill.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I do not rise to offer an amendment but, rather, to address myself to this section of the bill. I believe the inclusion of $82.1 million for 26 new water project starts in this bill, including 11 unauthorized projects, is unfortunate. It is testimony to the Senate's failure of will and responsibility to develop a sound national water development policy. Over the last several years, efforts to fashion an omnibus water development bill which establishes reasonable non-Federal cost-sharing requirements has floundered.

Apparently many Members got tired of waiting, so instead of redoubling our efforts to reach an agreement, we have decided to pick out a handful of water projects and plunge ahead with funding. It is a classic case of putting the cart before the horse. It is backward, and it will undermine the urgently needed drive to enact an omnibus bill with a fair amount of cost-sharing provisions. The fact is there is not a lot of money sitting around in the Treasury to spend on water projects. The era of unlimited pork is over, or it should be. The only way to ensure that our limited water resource dollars are wisely spent is to put a cost-sharing system in place. Sponsors of the bill will say that the cost-sharing concerns are addressed by inclusion of language that subjects these 26 projects to any cost-sharing formula adopted in subsequent legislation. But that, frankly, misses the point of cost sharing. Cost sharing is important not just because it more equitably spreads the burden of building projects but because it imposes a healthy discipline on project selection.

Up front cost sharing discourages funding of projects that lack strong local support. It encourages local sponsors to scale down overly ambitious projects to more manageable and less costly levels. It minimizes the prospects for massive environmentally damaging projects. When you appropriate money for projects before the cost-sharing provisions are in place, you lose all these advantages.

I have considered offering amendments to strike some or all of these projects, but that is not practical. However, I want the RECORD to clearly reflect my opposition to this portion of the continuing resolution and my disappointment that the Senate has headed down this road. I do not believe that we have bit the bullet. I do not think we have faced the issue squarely.

As I say, I will not this time attempt to offer amendments to delete one or more projects, but I think the Senate is exhibiting some degree of irresponsibility in moving forward without having done something about the cost-sharing responsibilities of those who are to use the facilities.

Mr. HATFIELD. Mr. President, let me respond briefly to the Senator from Ohio because basically I do not disagree with him. I think the Senator from Ohio makes a very excellent point.

Let me put this matter into present context.

No. 1, we have not had an authorization for, I think, some 12 years, and obviously these projects have remained in great need over that period of time. We have in this continuing resolution from the House 43 projects. We reduced it to 26, which we thought was a bare minimum.

I also say to the Senator from Ohio that on page 5, we made very specific provision for any cost sharing that would subsequently be enacted by this Congress would apply to these projects.

Mr. METZENBAUM. I know that.

So we have tried to cover those bases within the circumstances with which we are faced.

I also say to the Senator from Ohio that we went to the conference with zero on the Senate side. The House would hold fast. They would dictate, in effect, probably the 43.

In the committee amendment No. 35 from the House, there are 337 pages of authorization of projects called the Roe Subcommittee Authorization Program which we have asked to be excised from the Senate side because, again, we feel that this is not the best way to go about the business.

I appreciate what the Senator has pointed out. I would much prefer to see an authorization and then an appropriation, but the authorizing process certainly has not acted within the last 12 years, and we still have this problem to deal with.

Mr. President, I know of no other amendments at this point.

AMENDMENT NO. 6972

(Purpose: To amend Section 207 of the Bandon Marsh National Wildlife Refuge, Coos County, State of Oregon, and other purposes)

Mr. FORD. Mr. President, I send an amendment to the desk, on behalf of myself and Senator HUDDLESTON, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Kentucky [Mr. FORD], on behalf of himself and Mr. HUDDLESTON, proposes an amendment numbered 6972.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the appropriate place in the bill, add the following new section.

SEC. 207: To provide for establishment of Falls of the Ohio National Wildlife Conservation Area (Public Law 97-137) is hereby amended by striking $300,000 after the word "exceed" and inserting in lieu thereof $1,040,000.

Mr. FORD. Mr. President, this amendment would serve to enhance the National Wildlife Area known as the falls of the Ohio. The wildlife area

is located on the Ohio River, with the banks of both Kentucky and Indiana on either side. Public Law 97-137 created this Wildlife Conservation Area, with an appropriation of $300,000 for the initial study and development stages. The Army Corps of Engineers, since the enactment of this law, has completed a study which estimates that $1,040,000 will be needed to not only adequately protect this precious natural wetland area, but to provide safe access for the public enjoyment as well. The amendment we offer would appropriate up to $1,040,000 for land acquisition and construction of the necessary facilities.

Mr. President, the falls of the Ohio contains a 375 million-year-old fossil bed which is believed to be the world's largest exposed coral reef. The wildlife area is a home for rare birds and unique fish species which, if properly developed, will be a one of a kind learning center for schoolchildren, naturalists, and tourists for generations to come. The preservation of the falls of the Ohio is further made critical by the fact that the fossil bed area is a nesting ground for the American bald eagle, the symbol of American spirit and drive, which disheartens me to say, has become an endangered species.

Mr. President, the authorization for this project has been accepted by the House in H.R. 3082, and I urge its immediate adoption. We owe the American public the means by which to preserve this unique form of natural history.

Mr. President, I have attempted to discuss this matter with all parties on both sides of the aisle, as it related to the acceptance of this amendment.

Mr. HATFIELD. Mr. President, we have gone over this amendment with the Senators from Kentucky.

I should like to ask the Senators for their permission to be able to place this in an appropriate chapter of this CR. There is some point being made by staff that it perhaps should be better in the Interior. We would be glad to accept it to be in Interior.

Mr. FORD. I appreciate the chairman's consideration. I hope the amendment is put in the appropriate place in the bill.

I ask unanimous consent, then, that the chairman of the Appropriations Committee, the comanager of the bill, be authorized to place this amendment in the appropriate section in the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment (No. 6972) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I know the hour is late and everybody is pushing to get things done. I thank the chairman of the Appropriations Committee and the minority floor manager for their assistance in this matter.

AMENDMENT NO. 6973

(Purpose: To fund the High Plains States Groundwater Demonstration Program)

Mr. NICKLES. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for himself, Mr. ZORINSKY, Mr. EXON, Mr. BOREN, and Mr. DECONCINI, proposes an amendment numbered 6973.

Mr. NICKLES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following: "Within available fiscal year 1985 appropriated funds, up to $250,000, the Secretary of the Interior shall undertake Phase I of the High Plains States Groundwater Demonstration Program.".

Mr. NICKLES. Mr. President, this amendment, which is submitted on behalf of myself, Senator EXON, Senator ZORINSKY, Senator BOREN, and Senator DECONCINI, is a minor amendment, but to many of us it is a very significant one. The amendment would direct the Secretary of the Interior to use $250,000 of available funds to begin phase I planning on the High Plains States Ground Water Demonstration Program.

I am pleased to say that the President signed into law the authorizing legislation for this program, H.R. 71, on September 28. The new law authorizes a 24-month study to determine locations for not less than 21 demonstration ground water recharge projects. Phase II authorizes the design, construction, and operation of the demonstration projects as recommended in the study. Funds for the demonstration projects must be matched on a 4-to-1 basis by non-Federal entities.

It was evidenced in hearings in both the House and Senate that many States are ready to move forward with artificial ground water recharge projects. However, coinciding with the States' ability to move forward is the necessity of providing funding for the Bureau of Reclamation to undertake phase I. It is my understanding that the Bureau will be able to effectively utilize $250,000 for planning activities during fiscal year 1985. This is half of what is authorized to be appropriated for the phase I program, but it would allow activities to proceed on a timely basis.

Mr. President, although this is a small amendment, it is of extreme importance to many areas and may prove invaluable in solving some of the ground water problems facing our Nation.

Mr. HATFIELD. I have no objection to the amendment.

Mr. JOHNSTON. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6973) was agreed to.

Mr. NICKLES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NICKLES. I thank the chairman and the ranking minority member of the Appropriations Committee.

AMENDMENT NO. 6974

Mr. JOHNSTON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. CRANSTON, proposes an amendment numbered 6974.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

The end of the committee amendment, insert the following: "The Secretary of the Army, acting through the Chief of Engineers, is directed to utilize $6,000,000 of funds previously appropriated for the New Melones Reservoir, California, for the development of recreational facilities as authorized by Public Law 87-874."

Mr. CRANSTON. Mr. President, this amendment would direct the Secretary of the Army, acting through the Chief of Engineers, to spend $6 million of funds previously appropriated for fiscal year 1985 for the construction of recreation facilities at the New Melones Reservoir in California.

I regret that I am compelled to offer this amendment, Mr. President. I had thought the House and Senate had already spoken on this issue. Last January when the administration submitted its fiscal year 1985 budget for the Army Corps of Engineers, the administration proposed $4.5 million for the New Melones project, specifically for the development of administration and recreation facilities there. During Senate consideration of the fiscal year 1985 energy and water development appropriation bill, I argued for an appropriation of an additional $3 million for New Melones recreation develop-

ment as the administration's budget request was inadequate. Now that the construction of the dam itself is complete, the local communities—Stanislaus, Calaveras, Tuolumne, and San Joaquin Counties—are particularly eager for the Federal Government to fulfill its commitment to provide recreation facilities at the New Melones Reservoir and on the downstream reaches of the Stanislaus River in accordance with the corps' master plan of 1977. Ultimately, the conference report on the fiscal year 1985 energy and water development appropriation bill, now Public Law 98-360, included $6 million for New Melones with the $1.5 million add on intended for recreation development.

Just this week, however, the Assistant Secretary of the Army notified Congressman RICK LEHMAN whose district includes the New Melones Dam that the Department has no intention of spending the full $6 million appropriated and plans to allocate the $1.5 million added by Congress to the slippage account. I recognize that the conference report includes a $109 million reduction in anticipated savings and slippage. But those funds normally come from savings from low bids and unforeseeable delays in construction. That is not the case with respect to the New Melones funds. Rather, the administration is attempting to thwart the will of Congress.

Mr. President, my amendment would reassert that Congress wants the funds spent for the purpose for which they were appropriated. My amendment does not add any money to the legislation before us. It merely requires the Secretary of the Army to spend the full $6 million for New Melones Reservoir as specified in the conference report on Public Law 98-360.

Mr. HATFIELD. Mr. President, the amendment is acceptable on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6974) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 6975

(Purpose: To deauthorize the Dickey-Lincoln School project, Saint John River, Maine)

Mr. COHEN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. COHEN] proposes an amendment numbered 6975.

At the appropriate place in the bill, insert the following new section:

"SEC. . The Dickey-Lincoln School project, Saint John River, Maine, as authorized by section 204 of the Flood Control Act of 1965, is hereby deauthorized.".

Mr. COHEN. Mr. President, I rise today for the purpose of offering an amendment to the continuing appropriations bill which, if adopted and retained in the final version of this legislation, will bring to a close two decades—I repeat, two decades—of debate over the proposed Dickey-Lincoln hydroelectric project on the St. John River in northern Maine.

The amendment will accomplish this objective by deauthorizing the Lincoln School feature of the project, which has now been extensively studied on its own in the wake of the 1981 deauthorization of the larger Dickey Dam and found to be not financially feasible. Additional concerns over the energy generating deficiencies of the project and its potentially adverse impact on the environment have cast further doubt on the wisdom of proceeding any further with the Lincoln School project.

I have no intention of occupying the Senate's valuable time today with a lengthy presentation chronicling Dickey-Lincoln's long, expensive and frequently divisive history. I shall stand aside and leave that task to others who may choose to compose their own project obituaries or to draw their own conclusions from the 20-year struggle over the project. Let me simply note that from my perspective, we have had a full and fair debate, we have done our best to weigh all the evidence and accommodate all points of view in the process, and that there can be little doubt that the time to move beyond the saga of Dickey-Lincoln is at last at hand.

My involvement in the Dickey-Lincoln debate over the years has left me with a number of general impressions which I would like to briefly share with my colleagues.

Of principal importance is my belief that as cumbersome, as expensive, and as trying as the process of reaching this point has been, we are, in ways that are difficult to define, better off for having endured it. Our appreciation of the value of the St. John River as an irreplaceable public asset has clearly been enhanced by the lengthy debate over the Dickey-Lincoln project. We have also come to more fully appreciate how very difficult it is to balance competing energy, economic, and environmental considerations when faced with such inevitable trade-offs in decisions of this nature. During the course of the debate, we have been painfully reminded that the energy realities of the 1960's—the generation that gave birth to the dream of Dickey-Lincoln—bear little resemblance to those of the 1980's. As such, we are no longer able to sustain or validate many of the bedrock assumptions that carried the day when the Dickey-Lincoln project was initially conceived and authorized.

There have been other valuable lessons as well. We have learned, for example, that a series of landmark environmental protection laws enacted after Dickey-Lincoln was authorized in 1965, have indeed served us well as evaluative tools of public policy. Perhaps more than any other single factor, they have helped shape the Dickey-Lincoln debate, illuminate the available options, measure the costs and benefits of alternative scenarios for both this and future generations and, importantly, provide an accessible public forum for all to be heard on this question. These are most significant accomplishments that need to be acknowledged and applauded, and I am pleased to do so.

On a less positive note, I feel compelled to offer an observation or two on "power politics," a term which quickly assumed a double meaning for me after entering the fray over Dickey-Lincoln.

Like many of my colleagues, I have learned that far too often when the Congress debates a federally sponsored public works project, the lure of generous Federal subsidies, cheap electricity or expanded employment opportunities triumphs over economic reason, valid environmental concerns and, at times, simple common sense. Once commitments are made, in Congress and beyond, and momentum builds for a project, even the most compelling case against moving forward too often falls on deaf ears. Fortunately, Dickey-Lincoln has proven to be an exception to the rule, but in countless other instances the taxpayers of this Nation have not fared as well.

Mr. President, our Nation's water resources policy has produced many successes over the years that we can point to with pride, but is has also been a frequent source of embarrassment.

Let me simply state what I believe to be obvious: We must rethink and reform certain practices in this area, for our Nation desperately needs what it does not, in my opinion, presently have—a responsible, cost-effective and farsighted water resources development policy. We can no longer afford to routinely divert large amounts of national resources and capital to highly questionable projects, many born in a different era under totally different circumstances. Nor can we continue to support a water resources development agenda that, in certain glaring instances, ignores other more pressing national needs.

As we close the book on Dickey-Lincoln, there remains the pivotal question of what the future holds for the St. John River. Should it be left in its present state, protected in whole or in

part by Federal or State law, or is there an energy development option that makes sense and that a clear majority of Maine citizens can comfortably and responsibly support?

In weighing this question, we return, I suspect, to the point I made earlier about the exceedingly difficult tradeoffs involved in such a decision. And so, while there are no guarantees that matters will be easier next time, we are asked to make a choice about the fate of the St. John River, I do believe that the Dickey-Lincoln debate has better prepared us for this eventuality. Therein may lie the most valuable of all of Dickey-Lincoln's legacies.

I urge adoption of the amendment.

Mr. MITCHELL. Mr. President, in 1981 Congress directed the Army Corps of Engineers to study the economic and financial feasibility of constructing a hydroelectric project at the Lincoln School dam site on the St. John River. The corps has completed the study and the Assistant Secretary of the Army has submitted it to the Congress.

Under the standards by which the corps conducts its analyses, economic feasibility is determined by weighing the proposed project's anticipated benefits against its anticipated costs over a 100-year period. These benefits and costs include, but are not limited to, those derived from the power to be generated by the project.

Financial feasibility, by contrast, is determined through a repayment analysis. In order for a project to be financially feasible, the Government's total investment for the generation and distribution of power must be recovered, plus interest at 9½ percent, within 50 years; the repayment must come from the sale of power generated by the project. As can be seen, the scope of evaluation in determining financial feasibility is more limited—both in the subject to be considered and in the period of time involved—than it is with economic feasibility.

In its report the corps concluded that the proposed Lincoln School project is economically feasible as a source of electricity that would intermittently displace the operation of existing high-cost oil-fired generators, though the availability of hydropower from Quebec reduces this feasibility substantially. But the corps also concluded that the project is not financially feasible.

The corps' report raises two questions for me: The first is whether, in view of the corps' conclusion that the project is not financially feasible, I should continue to support its construction.

The answer to that question must be no. Especially at this time of large Federal budget deficits, when restraint in Federal spending is necessary, I cannot in good conscience support further spending on a project which is not financially feasible under existing Federal standards.

There also remains the potential of adverse environmental effects by the project. Although these might be resolved, we should not take any environmental risks where there is no clear corresponding benefit for the people of Maine.

When the Lincoln School study was initiated, I said that further action on my part with respect to hydropower development of the St. John would depend on the conclusions of the Corps of Engineers. When I said that, I was fully aware that construction of a Lincoln School Dam might depend on whether or not the power generated could be marketed at rates sufficient to recover the investment and operating costs in compliance with Federal law and regulations.

The corps has now determined that Lincoln School's power cannot be marketed at a price sufficient to recover the project's costs, plus interest, within the required 50-year period. I will respect that determination.

The corps' report raises a second and related question: If further Federal expenditures to advance the project are unwarranted, how and when should the project be deauthorized?

Federal law contains a procedure for deauthorizing such projects, since a finding that a project is not economically or financially feasible is not uncommon. Under that procedure the Secretary of the Army is required to submit to Congress each year a list of inactive water projects which the Secretary determines should be deauthorized; prior to going on the Secretary's list a project must have gone 8 years without receiving any congressional appropriations. A project on the Secretary's list is automatically deauthorized in 90 calendar days of continuous session of Congress unless the appropriate House or Senate committees adopt a resolution stating that a project shall continue to be an authorized project.

I am familiar with this procedure because I serve on the Senate Environment and Public Works Committee. This procedure has been used by that committee to deauthorize 469 projects since the statute was enacted, including 53 projects since 1980, when I became a Member of the Senate.

The authors of the statute creating this procedure recognized that: first, feasibility studies are only as good as the economic assumptions on which they are based, and second, deauthorization should not occur until the Congress is certain that there is no longer justification to reexamine those assumptions and the conclusions which result from them.

In other words, when Congress passed the statute, it sought to preclude deauthorizations based upon "snapshot" evaluations, which reflect important economic facts—like the price of oil—only at a specific point in time. In lieu of such snapshots Congress established an 8 year holding period during which economic trends could be discerned. If such trends confirm the snapshot, the inactive project is routinely deauthorized. If there are important changes in those trends during the 8-year period, a further review may be in order.

The price of oil is an important factor in this and similar evaluations. Its volatility in recent years is strong evidence in support of the congressional deauthorization process. Over the past 15 years, that price has fluctuated from a low of $3 per barrel to a high of $37. While we hope that the current price of $28 will remain stable, or even decline, we obviously cannot rule out the possibility of an increase. Further turmoil in the Persian Gulf, resulting from an escalation of the war between Iran and Iraq or from internal conflict in Saudi Arabia or any of the gulf oil States, is a daily possibility. Were that to occur, the price of oil could again skyrocket overnight.

Utilization of the existing procedure for deauthorizing Lincoln School is wise for another reason. During the 8 year holding period the St. John River would be protected from private development.

The St. John is a public asset. It belongs to all the people. While a hydroelectric generation facility should not be constructed by the Government as long as such construction is not feasible under Federal standards for publicly funded projects, a simple deauthorization provision, without safeguards, would make it possible for a private developer to seek a license to reserve a portion of the river for an alternative development scheme.

It would be ironic if, after nearly 20 years of public effort, a private organization, using information obtained by the Government and paid for by the taxpayers, is granted the right to develop the St. John. Such private development is possible because under the Public Utilities Regulatory Policy Act of 1978 electricity generated by a private hydropower project must be purchased by utility companies at a price equal to the most expensive equivalent amount of electricity otherwise available to the utility. The purpose of the act is obviously to encourage nonutility alternative energy development and to discourage the use of expensive imported oil by utilities. In addition, the Federal Power Act gives the power of eminent domain to licensed private developers of hydro projects. The effect, in the case of the St. John River, may be a private power project instead of a Federal project.

Those who are pressing for immediate deauthorization of the project say they do so to protect the St. John

River from development. But they may well contribute to precisely the opposite result.

In view of the corps' report, there is little support currently for the Lincoln School project in the New England congressional delegation. Indeed, Senator COHEN and the other two members of the Maine delegation favor the pending deauthorization amendment.

For the reasons I have given, I believe the amendment to be an unnecessary and unwise course of action. If private developers move on the St. John, those who now talk of protecting it will regret immediate deauthorization.

Had the corps' report been favorable and I therefore were able to justify continued support for construction of the project itself, I would be prepared to commit myself to that effort. But the report is not favorable; I cannot in good conscience continue my support for construction of the project; and I do not believe that the question of how and when deauthorization occurs is so important as to justify a prolonged and divisive fight within our delegation. Therefore, I will not oppose the pending amendment.

I have discussed this matter with Maine's Governor, Joseph E. Brennan. In the aftermath of this deauthorization action I intend to join him in pursuing options available under State and Federal law to protect the St. John River.

Mr. HATFIELD. Mr. President, we have no objection on this side to the amendment of the Senator from Maine.

Mr. JOHNSTON. Mr. President, I understand that this amendment has been cleared with Senator MITCHELL, so the minority has no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6975) was agreed to.

Mr. COHEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, may we have a unanimous consent that if a colloquy is subsequently presented to the floor managers relating to this section of the bill, which is acceptable to them, it would be placed at this portion of the RECORD.

Mr. HATFIELD. We will ask unanimous consent to reserve that.

Mr. LEVIN. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

SAN LUIS REY RIVER

Mr. WILSON. Mr. President, I would like to address my comments to the distinguished chairman of the Committee on Appropriations, Mr. HATFIELD.

I would like to call your attention to a flood control project in my State which I believe deserves the attention of the Appropriations Committee and, more specifically, the Senate conferees to the conference committee on the continuing resolution for fiscal year 1985.

As you are aware, the House has included H.R. 3958, the Water Resources Development Appropriations Act of 1984, in House Joint Resolution 648, the Continuing Appropriations Act of 1985. The House version of H.R. 3958 contains appropriations for the San Luis Rey River flood control project in Oceanside, CA. The Senate version of this act omits funding for this project. I am requesting that the Senate conferees include funding for the San Luis Rey River project in the continuing resolution.

This flood control project was federally authorized in 1970, and the city of Oceanside is anxious to finally complete construction of the project at the earliest possible date in order to avert future costly property damage from flooding. Local interests have already spent more than $3.2 million for construction, grading, relocating a road and acquiring project right-of-way. The city of Oceanside has also developed a program for financing the local share of the flood control project costs by assessing drainage fees and is considering establishing a benefit assessment district for existing development in the San Luis Rey River flood plain. In addition, the city requires all new development in or adjacent to the flood control project to dedicate land and build improvements in accordance with the Corps of Engineers single levee plan. The city also encourages a broad range of alternatives to full value cash acquisition of project right of way, including transfer of development rights, land trade, landowner dedication and bargain sale. The State of California has also appropriated $4.375 million to fund the State share of this project.

In short, the city of Oceanside and its residents, as well as the State of California, are committed to this flood control project. All that is needed is the appropriation of Federal funds to begin this project. A recent survey found that completion of the San Luis Rey River flood control project is the number one concern of Oceanside residents, with 75 percent of those polled indicating that they were "very concerned" about this issue.

And they have reason to be concerned. Storms in 1969, 1978, and 1980 caused $5.43 million in damage. The project area is haavily urbanized, with more than 6,000 residents and employees and 59 businesses. If a flood were to peak at the same level as a major San Luis Rey River flood in 1916, the city could once again experience loss of life and more than $60 million in flood damage. The estimated $35.7 million Federal share to complete this project is a relatively small price to pay for protecting life and property along the 7-mile stretch of river affected by this project.

In conclusion, I must reiterate that the urgency and benefit of the San Luis Rey River project requires the Senate to include funding for this project in the continuing resolution. I, therefore, am asking you and your Senate colleagues on the conference committee to concur with the House and fund the San Luis Rey River project in the continuing resolution for 1985.

Mr. HATFIELD. I thank the Senator for his comments. I understand his concerns for this project. As my friend from California is aware, the Committee on Appropriations has addressed this project in the past and declined funding for the San Luis Rey River project when the committee reported its version of the Water Resources Act last October. However, I recognize that this project does have merit, and knowing of the interest of my colleague in this project, I will review this project again and will ask my colleagues on the conference committee to also reconsider the project before taking final action on the continuing resolution.

Mr. WILSON. I thank the chairman for his remarks and feel it is important to note that while the President's fiscal year 1985 budget request for the San Luis Rey River project was $5 million, the appropriation as included in House Joint Resolution 648 is for only $900,000. This appropriation will allow the first phase of construction on the project to be completed.

I thank my friend, the distinguished Senator from Oregon, Mr. HATFIELD, for his remarks and assistance.

Mr. TRIBLE. Mr. President, section 109(k) of House Joint Resolution 648, the continuing resolution as passed by the other body, is a technical, noncontroversial provision authorizing the Corps of Engineers to modify an existing navigation project in Newport News, VA.

This project, an existing small boat harbor, was authorized by Congress in 1946 and constructed shortly thereafter. Now, Virginia is seeking permission from the Corps of Engineers to move the channel leading to the harbor and the harbor entrance a distance of 150 feet in order to construct the Interstate 664 bridge and tunnel between Newport News and Chesapeake, VA.

However, the Corps of Engineers has determined that it cannot grant this permission without congressional approval, since this project was specifically authorized by the Congress in

1946. Rather, the corps has determined that the Congress must approve this modification.

The amendment in the House version of the continuing resolution authorizes the corps to grant the permission to modify this project. There is no opposition to this provision and I note that it authorizes no additional Federal spending; rather, Virginia will use its allocated funds under the highway trust fund to accomplish this project.

I would urge the distinguished Senator from Oregon, the chairman of the appropriations committee, to look favorably on section 109(K) of the House bill during the upcoming conference committee on this legislation.

Mr. WARNER. Mr. President, I wish to associate myself with the remarks and request of my colleague from Virginia. This is indeed a technical and noncontroversial proposal, but one that is important to our State since it allows construction of an important highway project to proceed in a timely manner. I ask unanimous consent that a letter from Lt. Col. Boyd Jones, Corps of Engineers, U.S. Army, to Congressman HERBERT BATEMAN, and accompanying materials be printed in the RECORD at this point.

Mr. HATFIELD. I am familiar with this provision of the House bill, and I wish to assure my colleagues that I recognize their deep interest in this matter. I agree that it is a worthy provision and I will certainly give it my careful attention during the conference. I hope it can be retained in the final version of this bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF THE CHIEF OF ENGINEERS,
Washington, DC, April 10, 1984.

Hon. HERBERT H. BATEMAN,
House of Representatives,
Washington, DC.

DEAR MR. BATEMAN: We have your letter concerning the need to obtain Congressional authorization for proposed changes to the Newport News Creek Navigation Channel to accommodate construction of the I-664 crossing.

The proposed bridge tunnel alignment will affect the Newport News Creek small boat harbor. As now proposed, about 1200 feet of the harbor entrance and approach channel would have to be shifted and a new channel cut through the shoreline. The changes advocated by the Virginia Department of Transportation and Highways will result in a subject that is different in design and configuration than the navigation project authorized by Congress. Our Counsel recently reviewed the proposal. It is his opinion that the Corps of Engineers does not have administrative authority to approve substituting an alternative project as in this case for the one authorized by Congress. Because this is a Congressionally authorized project, approval of the Congress will be required to change the project as now proposed. Your office was informed soon after this opinion was obtained.

We note that you have written the Chairman and Ranking Member of the House Water Resources Subcommittee asking for action to obtain the necessary legislative authorization. Our staff has been in contact with the Committee staff on this matter. We will be pleased to provide promptly whatever additional information the Committee needs.

Sincerely,

BOYD A. JONES,
LTC, Corps of Engineers, Assistant Director of Civil Works, Atlantic.

FACTSHEET—MODIFICATION OF NEWPORT NEWS CREEK FEDERAL NAVIGATION PROJECT

1. The Commonwealth of Virginia, Department of Highways and Transportation, proposes to construct a bridge-tunnel across Hampton Roads from Newport News to Suffolk designated as Interstate Route 664. Construction of the bridge-tunnel on the Newport News side will require modifications of an existing Federal navigation project, Newport News Creek, Virginia.

2. The Newport News Creek navigation project was authorized by the River and Harbor Act of July 24, 1946 (P.L. 79-525). The project consists of a 12-foot deep channel at mean low water with varying widths of from 200 feet to 60 feet from deep water in Hampton Roads to and through the municipal boat harbor entrance; thence 12 feet deep, 150 feet wide to and including a turning basin and anchorage of the same depth 220 feet wide and 400 feet long in the upper end of the harbor (Incl 1).

3. The proposed modifications will involve the shifting of 1200 feet of the 150-foot wide channel in the harbor by 80 feet eastward to allow space on the west side of the harbor for the proposed bridge structure. The harbor entrance will be relocated about 150 feet eastward to allow space for construction of the north tunnel island. The new entrance will provide for an increase in the existing Federal project channel entrance width from 60 feet to a new width of 90 feet with 30-foot side clearances to bulkheads. From the new harbor entrance the relocated channel will extend seaward with a 150-foot wide channel bounded on the west side by the proposed 1400-foot long north tunnel island and on the east side by a proposed concrete pile jetty. The purpose of the jetty is to protect the harbor entrance from shoaling and to reduce wave action in the harbor entrance (Incl 2).

4. The proposed modifications would result in a project that is different in design and configuration than the project authorized by Congress. Counsel is of the opinion that the Corps is without administrative authority to approve of such changes; and, therefore, approval of the Congress is required before the State can proceed with the proposed bridge-tunnel work.

Mr. HATFIELD. Mr. President, if there are no other amendments, I move the adoption of the committee amendment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment No. 7, on page 4, line 9, through line 22 on page 6, was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT NO. 8

Mr. HATFIELD. Mr. President, I ask the Chair to lay before the Senate the next committee amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

On page 6, line 23, strike through line 8 on page 7 and insert new languages as follows:

(g) Such amounts as may be necessary for continuing the activities under the purview of the Foreign Assistance Appropriations Act as provided for in section 101(b)(1) of Public Law 98-151 and Public Law 98-396, under the rate provided for in S. 2793 as reported to the Senate on June 26, 1984, and under the terms and conditions contained in section 101(b)(1) of Public Law 98-151, Public Law 98-396, and S. 2793, notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956: *Provided*, That where the terms and conditions (including earmarkings, ceilings and transfers of funds) on the uses of funds contained in such Acts differ from, or are not included in, the provisions of S. 2793, the latter bill only shall be applicable: *Provided further*, That of the total amounts of credits (or participations in credits) appropriated in this subsection to carry out the purposes of section 23 of the Arms Export Control Act, Israel and Egypt shall be released from their contractual liability to repay the United States Government with respect to such credits (and participations in credits): *Provided further*, That in addition to funds appropriated or otherwise made available by this joint resolution, $25,000,000 if hereby appropriated for necessary expenses to carry out the provisions of section 104(c) of the Foreign Assistance Act of 1961, as amended by S. 2582, section 403(a) (Child Survival Fund), as passed by the Senate Foreign Relations Committee on April 18, 1984, of which sum not less than $15,000,000 shall be available only for the United Nations Development Program and not less than $10,000,000 shall be available only for the United Nations Children's Fund: *Provided further*, That in addition to amounts otherwise appropriated by this joint resolution for "International Organizations and Programs" there is hereby appropriated $40,000,000 for the International Fund for Agriculture Development: *Provided further*, That notwithstanding any other provision of law, up to $10,000,000 of the funds appropriated under this subsection for "Agriculture, rural development and nutrition, Development Assistance" may be available for agricultural activities in Poland which are managed by the Polish Catholic Church or other nongovernmental organizations, which sum shall remain available until September 30, 1986, except that $5,000,000 of the funds made available by this proviso may not be obligated or expended until October 1, 1985: *Provided further*, That $2,000,000 of the funds made available by this joint resolution for "Energy and selected development activities, Development Assistance" shall be transferred and made available for "Science and technology, Development Assistance", which sum shall be made available only for cooperative projects among the United States, Israel and developing countries: *Provided further*, That, of

the funds made available by this joint resolution for the "Economic Support Fund", $20,000,000 shall be made available to Tunisia.

FOREIGN ASSISTANCE

Mr. KASTEN. Mr. President, I would like to make just a few brief remarks about the continuing resolution as it affects programs under the jurisdiction of the Foreign Operations Appropriations Subcommittee, which I chair. The committee is recommending that these programs be funded at the rate established in S. 2793, which is the regular fiscal year 1985 appropriations legislation reported by the committee to the Senate floor on June 26.

In addition, the committee added some specific matters which are explained in the report which accompanies S.J. Res. 356. Two of the provisions which are carried in the continuing resolution because they are part of S. 2793 have created some confusion, and I wish to clarify the committee's intent with reference to these provisions. I refer to language in S. 2793 under the appropriations for the International Development Association and the Inter-American Development Bank, which authorizes the Inter-American Investment Corporation. That language has been read by some as meaning future authorization is required, while, in fact, these provisions were written to enact the authorization for those two organizations, not as conditions subsequent. Therefore, as was the committee's intent, if the Senate provisions pass, the authorization legislation for U.S. participation in the Inter-American Investment Corporation and the International Development Association will be enacted into law.

Mr. President, the committee's position on foreign assistance is a reasonable one, which I believe deserves the support of the Senate.

GOVERNMENT SUPPORTED PRIVATE VOLUNTARY ORGANIZATIONS

Mrs. KASSEBAUM. I would like to direct some questions to the chairman of the Foreign Operations Subcommittee of the Appropriations Committee, the junior Senator from Wisconsin, who I understand is managing the international funding aspects of this continuing resolution and who I understand will be among the leadership of the Senate conferees with the House.

I have noticed that the House version of the continuing resolution contains a provision authored by Congressman JERRY LEWIS. The amendment would prohibit funding in the resolution for any private voluntary organization which receives less than 25 percent of its funding from the private sector. Let me say that I understand the intent of the amendment and fully support it: For a private organization to receive less than that percentage in private support would hardly make the organization a private one.

Mr. KASTEN. That is correct, and I agree with the Senator's sentiments. One may even want to consider raising the requirement to more than 25 percent.

Mrs. KASSEBAUM. I would certainly have no problem with that as long as we first knew exactly what the effect would be: Whether perfectly reputable and supportable organizations would be put out of the business of their international work, whether such a requirement would have the negative effect of bureaucraticizing the PVO's by virtue of the additional accounting reporting that might be required and whether we would first want to establish what forms of support legitimate private support consists of.

This touches on a concern that I want to express about the existing Lewis amendment, which both the Senator from Wisconsin and I support. It is my understanding that for a number of PVO's not all the financial transactions that occur in the overall organization appear in their central budget; that is, the budget that this amendment would key to its prohibition. For example, I am informed by Sister Cities International, an organization that I have the highest admiration and support for, that in many of its projects participants receive local funding from community organizations, local governments or other private sector contributors. I am referring to financial contributions, not contributions in kind. For instance, Roanoke, VA, and Kisumu, Kenya, are sister cities in the Sister Cities Program. In order to make health and environmental technicians available to the city of Kisumu, the city of Roanoke continued to pay the salary of its technicians while they were working solely in the Sister City Program with counterparts in Kisumu.

I would hope that the Senator from Wisconsin would agree with me that this type of financial contribution to a PVO organization should be allowed to be counted in the computation of the 25 percent requirement of the Lewis amendment.

Mr. KASTEN. Again, the Senator from Kansas and I are in agreement. I would only point out, however, that I would not want to have counted contributions of in-kind voluntary services or goods to which it is so hard to ascribe an accurate value.

Mrs. KASSEBAUM. I appreciate the Senator's agreement and his concern. I would hope that the Senator would be willing to accept some explanatory language on this matter for incorporation in the statement of managers of the conference report to the continuing resolution.

Mr. KASTEN. Mr. President, I will indeed endeavor to get language included in the conference report to clarify this matter. I have no reason to believe that there will be any resistance to such a clarification.

Mrs. KASSEBAUM. I thank the Senator for his comments and for his help.

AFRICAN HEALTH AID

Mr. BOSCHWITZ. Mr. President, will the Senator yield for a question?

Mr. KASTEN. I am happy to yield to my friend from Minnesota.

Mr. BOSCHWITZ. Mr. President, I had intended to offer an amendment at this time which would have increased funding for health care to Africa by $15 million. I understand that the other body has included such an amount in its own continuing resolution. Many of my colleagues, including Senators JEPSEN, COHEN, and KENNEDY, have expressed an interest in cosponsoring such an amendment. My question to my distinguished colleague is this: Is it the sense of the Senator from Wisconsin that the other body's position on this issue is likely to prevail in conference, in the absence of a formal expression of the Senate's will on this issue?

Mr. KASTEN. I think I can assure the Senator from Minnesota of such an outcome.

Mr. BOSCHWITZ. In that case, I will spare the Senate's time and withhold the amendment I had intended to offer at this time.

AMENDMENT NO. 6976

Mr. KASTEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. KASTEN], for himself and Mr. HATFIELD, proposes an amendment numbered 6976.

Mr. KASTEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On Page 9, line 10, between the word "Tunisia" and the period, insert the following:

": *Provided further,* That in addition to amounts appropriated by this joint resolution for 'Agriculture, rural development and nutrition, Development Assistance' and 'Health, Development Assistance' there is hereby appropriated $75,000,000 for such headings, except that the funds provided by this proviso shall be available only for the delivery of primary and related health care services, nutrition, and basic health care education (primarily oral rehydration and immunization programs) with such assistance to be provided through private and voluntary organizations and international organizations wherever appropriate, except that no more than one-third of the amount allocated to carry out this proviso may be used in any one country".

Mr. KASTEN. Mr. President, the Senator from Montana [Mr. MELCHER] and a number of other Senators and Congressmen have been concerned about an issue that I wish to address here and that I hope will address their problems and concerns.

Mr. President, amendment No. 4241 as printed in the RECORD on September 13, which the Senator from Montana had planned to offer to the foreign assistance section of the continuing resolution is a well meaning attempt to provide additional health assistance and that is a goal that I think all of us share. Unfortunately, there are several very serious flaws in this amendment. First of all, it attempts to provide direct funding for an activity which is provided in a separate account, health development assistance under the Agency for International Development, which, therefore, does some violence to efforts by the Appropriations Committee over the years to keep some integrity in the various accounts. If more of this type of assistance is to be provided, we should do it under the account which is set up for this purpose.

Second, the amendment is far too narrowly drawn. If we have to apply $191 million against primary health care, I have serious reservations and I might say I have discussed this with the chairman of the committee and others, that such additional funds can be absorbed in this area; but more importantly, if we do so, not only will it mean that we have to reprogram country levels, but also nutrition and other health programs and agricultural production programs which would have to, therefore, be reprogramed, if we started to change these categories.

Third, the amendment is a major proposal, which more than doubles U.S. bilateral assistance funds in this area, without the benefit of any hearings by either Authorization Committee or either Appropriations Committee. This proposal only came into being shortly after the August recess, and I have serious doubts as to whether or not such a sum can be used either efficiently or effectively.

Fourth, the United States is already providing substantial funds for health as is indicated by a table which was prepared by the Agency for International Development at our request, showing that we contribute in excess of $700 million yearly for this general activity. Therefore, if this amendment, which a number of Senators were suggesting were to pass, it would require reprogrammings altering urgent balance of payments programs for such countries as Israel, Costa Rica, Spain, Portugal, the Philippines, and many other small programs in countries whose primary problem today is their debt burden.

Mr. President, in a letter to me by Secretary Shultz, which I ask unanimous consent be inserted in the RECORD at the conclusion of my remarks, states the administration's very firm opposition to this amendment. The Secretary insists the amendment would "require a major restructuring of projected economic assistance programs, and would undercut our attempt to support development of countries critical to U.S. foreign policies." The Secretary goes on to say that:

> Subtracting these funds and funds for ongoing AID projects from the ESF base would mean that approximately 16 percent of the remaining ESF account would have to be used for health programs mandated by the proposed amendment. This would significantly disrupt planned programs for critical foreign policy countries like Costa Rica, Sudan, the Dominican Republic and El Salvador, which are scheduled to receive a major portion of their fiscal year 1985 ESF assistance in the form of balance of payments support.

Mr. President, I appreciate that the Senator from Montana and others have a genuine concern about providing assistance for health programs and I think the Senator is correct in much of what he is doing.

Therefore, I have taken the initiative on behalf of myself and the chairman of the Appropriations Committee, Senator HATFIELD, and others, which I believe takes care of most, if not all, of the objectives of the Senator from Montana while at the same time eliminating some of these negative aspects of the amendment having to do with the classifications, categories, and reprogrammings which would be necessary.

Essentially what we will do in this amendment is to provide $75 million in new funding for primary and related health care services, nutrition, and basic health care education. I should quickly point out that the $75 million figure is nearly equal to what the Senator from Montana and others had suggested because his amendment was for 2 years, while the amendment I am offering is for fiscal year 1985 only. In this regard, the Appropriations Committee has for a number of years insisted on 1-year funding only, a principle we have found necessary because of some unhappy experiences in the past over the use of so-called no year funds. This amendment includes a broader category than the Senator's amendment because we believe the need is broader, but also—as I mentioned earlier—we are concerned that the narrowness of the amendment of the Senator from Montana and others, raises significant doubt about the efficient and effective use of the funds. We have included in addition to primary health care, related health care services, and nutrition.

So, Mr. President, I am hopeful that this amendment can be adopted. I believe it is fair. It addresses the problems that the Senator from Montana and others in this body have addressed. It meets the concerns of our overall program and will avoid most of the problems.

Mr. President, I ask unanimous consent that the table showing current health care projects be inserted in the RECORD following my remarks.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

(See exhibit 1.)

Mr. KASTEN. Mr. President, I ask unanimous consent also that a copy of a letter from the Secretary of State be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. KASTEN. Mr. President, I am hopeful that the Senate will adopt this compromise amendment.

EXHIBIT 1.—U.S. CONTRIBUTIONS TO FOREIGN ASSISTANCE HEALTH PROGRAMS

	Fiscal year 1984 estimate	Fiscal year 1985 SAC
AID:		
Development Assistance Health Account	$146,124	$155,000
Sahel Development Program health projects	8,789	2,911
Economic Support Fund health projects	279,920	235,000
(Includes environmental health in Egypt	(222,000)	(200,000)
Subtotal	434,833	392,911
International organizations:		
UNDP (at 5.9 percent)	9,440	9,440
UNICEF (at 52.1 percent)	27,352	27,352
WHO[1] (at 100 percent)	58,619	61,146
PAHO[1] (at 100 percent)	33,087	33,087
PAHO—revolving fund (at 100 percent)	1,686	
International Agency for Research on Cancer[1]	809	897
UNCDF (at 26.8 percent)	536	536
Subtotal	131,529	132,458
Multilateral Development Banks (MDB's)[2]:		
African Development Bank [AfDB]	1,680	1,760
African Development Fund [AfDF]	2,200	2,310
Asian Development Bank [ADB] (no lending in 1983)		
Asian Development Fund [ADF]	12,280	12,890
Inter-American Development Bank Capital Window [IDB]	60,580	63,600
IDB Fund for Special Operations [FSO]	39,370	41,330
World Bank Capital	15,750	16,530
International Development Association [IDA]	45,780	48,060
Subtotal	177,640	186,480
Grand total	744,002	711,849

[1] Assessed contribution.
[2] The MDB numbers present rough estimates based on actual fiscal year 1983 performance.

EXHIBIT 2

THE SECRETARY OF STATE,
Washington, DC, September 24, 1984.

Hon. BOB KASTEN,
Chairman, Subcommittee on Foreign Operations, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: A recently introduced Senate amendment would require that at least five percent of the funds appropriated in fiscal year 1985 for the Economic Support Fund (ESF) be used for certain types of health care programs in developing countries. It is my understanding that an effort may be made to include this amendment either during the Appropriations Committee markup of the Continuing Resolution for fiscal year 1985 or during floor debate of the same bill.

While recognizing that this amendment is well intentioned, I wanted to let you know that we strongly oppose its enactment. If this amendment is included in the Continu-

ing Resolution, it would require a major restructuring of projected economic assistance programs, and would undercut our attempt to support development of countries critical to U.S. foreign policy.

The ESF account is already subject to legislative and institutional constraints that would limit the availability of funds for the purposes set forth in the proposed amendment. Countries such as Israel, Turkey, Spain, the Philippines and Portugal receive ESF assistance pursuant to base rights or other agreements or pursuant to legislative requirements restricting the way in which ESF funds can be provided.

Subtracting these funds and funds for ongoing A.I.D. projects from the ESF base would mean that approximately 16 percent of the remaining ESF account would have to be used for health programs mandated by the proposed amendment. This would significantly disrupt planned programs for critical foreign policy countries like Costa Rica, Sudan, the Dominican Republic and El Salvador, which are scheduled to receive a major portion of their fiscal year 1985 ESF assistance in the form of balance of payments support.

In addition, A.I.D. already allocates more than 30 percent of its ESF resources for development assistance type programs, many of which are related directly to health (but which do not necessarily meet the narrow definitions of the amendment), including programs relating to primary health care, water and sanitation, education, training, medical supplies, and related programs that directly affect the health status of millions of people in developing countries.

Funding for A.I.D.'s development assistance health account alone is expected to total approximately $158 million for fiscal year 1985. In fiscal year 1984, A.I.D. will spend approximately $144 million for health care activities. In addition, when you include the proportionate share of United States contributions to other multilateral development and financial institutions that are used for health programs the total United States contribution for health programs in fiscal year 1984 totalled $744 million. IN fiscal year 1985, we anticipate that this amount will be at least $711 million.

We believe the projected use of development assistance, ESF and the United States share of contributions to other international organizations used for health programs represents a balanced approach to the health needs of developing countries. To require that ESF recipients such as Egypt and countries in Africa and Central America, which would bear the brunt of the proposed amendment, reprogram their anticipated ESF funding to meet the requirements of this amendment will be disruptive and inconsistent with our development and foreign policy objectives.

In almost all cases, these countries are anticipating a certain form of ESF assistance based on continuing discussions with our overseas Missions. In many instances, these developing countries have an urgent need for short-term balance of payments assistance. We balance this need against our assessment of a country's longer-term development needs. If this amendment is enacted, we would have to restructure our assistance programs in these countries when such action would not be consistent with our own or the recipient country's development plans.

For the above reasons, I hope you will be able to oppose this amendment if it is offered in Committee or on the Senate floor.

If I can provide you with further information, please let me know.

Sincerely yours,

GEORGE P. SHULTZ.

Mr. HATFIELD. I rise to join my colleague from Wisconsin, Senator KASTEN, in offering an amendment to provide an additional $75 million in the health and agriculture development assistance accounts of the Agency for International Development [AID]. These moneys would be available for such purposes as primary and related health care services, health care education, and nutrition. We are offering it in an effort to be responsive to the need for additional moneys to combat hunger and malnutrition and to address a possible amendment in the Senate bill to set aside 5 percent of economic support funds for primary health care.

I want to assure my colleagues who support the 5-percent set-aside ESF, that I do not disagree with the objectives of that amendment. As my colleagues know, I have long been supportive of increasing the levels of development assistance and have consistently supported efforts to combat world hunger. I share their great concern over the need to direct additional foreign assistance to these areas. Anyone viewing the recent ABC television program, "20/20", would certainly be affected by the sorrow of malnutrition and the tremendous benefits of oral rehydration therapy [ORT].

It is my suspicion that the set-aside amendment originated in part due to concerns over current AID polices and projects. Many have long felt that our bilateral programs don't always address the poorest of the poor. Too many projects focus on large scale infrastructure projects rather than smaller scale projects which are directed to those who are of greatest need. A similar concern arises with regard to projects developed by the multilateral banks. It was for this reason that in 1974 the World Food Conference in Rome determined that it was important to create a separate fund, the International Fund for Agricultural Development [IFAD], to direct a global effort to assist small farmers and landless poor. I have strongly and consistently supported IFAD and I am greatly encouraged by the provision of $90 million in this resolution to fulfill the U.S. obligation to IFAD. Additional multilateral, as well as bilateral, efforts of this nature are sorely needed.

My opposition to the set-aside amendment is based on several procedural concerns. First, it would establish a precedent of earmarking economic support funds. To my knowledge, there has never been an effort to earmark economic support funds for any purpose other than to specific countries. If we approve it we would be opening the door for similar efforts to allocate funds for populations planning, agriculture, or any other purpose. While I do not disagree with directing additional moneys toward these areas, my concern is that we will eliminate flexibility in these accounts to address the needs of those countries receiving these funds, as identified by AID missions and the appropriate ministries of those countries. Second, the provision of additional development assistance for health or agriculture is more appropriately provided in the AID bilateral accounts, as this amendment proposes, rather than by earmarking economic support funds. Lastly, I am concerned over the availability of the moneys under the set-aside amendment over 2 fiscal years. Such an approach reduces congressional oversight over a program which is constantly changing due to shifting world conditions.

On the other hand, our amendment would increase the appropriate bilateral accounts in fiscal year 1985 by $75 million. It directs these moneys for basically the same purposes as the set-aside amendment while expanding it to include nutrition. It also retains the set-aside amendment provision pertaining to the availability of these funds for the private voluntary agencies. Thus, the PVO's will be directly involved in carrying out the purposes and projects encompassed by this amendment.

I would like to make clear, though, that the genesis of this effort undertaken on the floor today is based on the concern that there be additional moneys made available principally for oral rehydration therapy and immunizations, as well as the other activities covered within my proposed amendment. Therefore, it is my view that the $75 million should, first of all, be provided solely for projects fitting within a tight definition of the purposes encompassed by this amendment. Second, these moneys are intended to be available for these specified efforts over and above projects already contemplated by the Agency for International Development in fiscal year 1985. AID should not simply choose projects out of those already proposed for fiscal year 1985 to satisfy the $75 million increase and thereby make additional moneys available for projects not contemplated by this amendment. To do this would simply defeat the purpose of the amendment and be contrary to congressional intent. Lastly, the focus of this amendment should be toward small scale type projects that directly help the poorest of the poor, rather then large scale infrastructure projects far removed from benefiting those people.

In closing, I urge my colleagues to support this amendment. It will not only increase funding by $75 million for critical areas in development assistance, but will do so in the most ap-

propriate account. As one who has continually been concerned about world hunger, I believe the approach encompassed by this amendment most appropriately addresses these crucial concerns.

The PRESIDING OFFICER. Does the Senator from Montana seek to speak on this amendment?

Mr. MELCHER. Yes.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MELCHER. Mr. President, the Senator from Wisconsin has given an adequate description of the amendment.

It is unfortunate that we approach this subject at a time when it is late and we have had a series of amendments before us numbering probably in the scores but, nevertheless, this is where we are.

The question really is are we going to join with the House of Representatives in providing primary care in meaningful amounts out of funds that are already appropriated?

Much of the debate and resolution of perceived problems with this amendment has been resolved by the debate that occurred in the House of Representatives and the resulting discussion that the House amendment brought on in regard to this, in regard to this subject and that is primary health care.

Under the House proposal and a proposal that I would seek to offer as a substitute to the amendment of the Senator from Wisconsin, the emphasis is only on primary health care and it is believed that for every $1 million spent in primary health care, 3,000 lives would be saved.

So the House of Representatives, with the impetus gained from the Hunger Committee over there proposed on the floor an amendment to earmark 5 percent of the ESF funds already available for this very important use and very much needed use. The administration does not care for it and I understand their concern. The administration would prefer to leave the ESF funds in the same position as they are and have them available for those countries which number about 37 that are eligibile for ESF funds.

But knowing of the death rate in many of the countries that are involved in those 37, the House of Representatives found it wise to spend money available for the most important thing of all and that is life itself.

This is a packet right here that cost 3 cents, and this is one of the tools that is so successful in preserving life, particularly if children in countries that are where malnourishment is rampant and starvation is there or there is serious infectious diseases where oral rehydration is the first line of defense for health purposes.

I do not wish to in any way impugn the motives of the Senator from Wisconsin for his amendment because it is well-known by all of us that his motivation is good and his sincerity should not be doubted.

But the fact is that $75 million of new money that would be appropriated under that amendment will simply only go half as far as the earmarking of 5 percent of the ESF funds.

The second point that should be noted is that the language of the amendment before us now would permit a broader use and get away from the primary goal of primary health care. I cannot stress enough how important it is to go the direction that the House has gone in the greater amount of money; no new appropriation but a greater amount of money.

Mr. President, I send to the desk as a substitute amendment on behalf of myself, Senators BAUCUS, BURDICK, BENTSEN, INOUYE, MATSUNAGA, and HUMPHREY.

The PRESIDING OFFICER. A substitute amendment would be a third-degree amendment and, therefore, not in order.

Mr. MELCHER. Will the Chair repeat that?

The PRESIDING OFFICER. A substitute amendment would be a third-degree amendment and, therefore, not in order.

Mr. MELCHER. Mr. President, I offer the amendment as an amendment to the amendment offered by the Senator from Wisconsin.

The PRESIDING OFFICER. The amendment is a third-degree amendment and, therefore, not in order.

Mr. MELCHER. Mr. President, that being the case, the very fine purposes of the amendment of the Senator from Wisconsin need not be further debated. We can vote on that, and I will offer an amendment after that.

Mr. KASTEN. Mr. President, I would like to point out to the Senator from Montana and other Senators that this amount is exactly the same amount that would have been available had we adopted the Senator's amendment, except that the Senator's amendment was for 2 years and this is for 1 year. So what we are doing is going forward with the $75 million amount, which would have been the same amount of money.

Mr. MELCHER. Mr. President, I think I should respond to that. The $75 million is for a variety of purposes and it is a lesser amount than would be available under the amendment that I shall offer and the provisions that the House included in their continuing resolution on this very matter.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Wisconsin [Mr. KASTEN].

The amendment (No. 6976) was agreed to.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 6977

(Purpose: To provide increased funding for basic health care services in developing countries)

Mr. MELCHER. Mr. President, I now ask for the consideration of the amendment I have sent to the desk on behalf of those named plus Senator HOLLINGS as a cosponsor.

The PRESIDING OFFICER (Mr. EVANS). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. MELCHER], for himself, Mr. BAUCUS, Mr. BURDICK, Mr. BENTSEN, Mr. INOUYE, Mr. MATSUNAGA, Mr. HUMPHREY, and Mr. HOLLINGS, proposes an amendment numbered 6977.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

At the end of the Committee amendment [SEC. 101(g)], add the following:

Notwithstanding any other provision of this section, S. 2793, as reported, is considered to include the following:

"(1) not less than 5 percent of the amount appropriated for the Economic Support Fund shall be available only for the delivery of primary health care services and basic health education (primarily oral rehydration and immunization programs), training for health care workers, and medical supplies and equipment for primary health care, with such assistance to be provided through private and voluntary organizations and international organizations wherever appropriate, (2) not more than one-third of the amount allocated to carry out this proviso may be used in any one country, and (3) funds allocated to carry out this proviso shall remain available for obligation until September 30, 1986.".

Mr. HOLLINGS. Mr. President, in support of the amendment of the distinguished Senator from Montana, we have Project Hope, CARE, Catholic Relief Services, Save the Children, RESULTS, Bread for the World, the African Medical and Research Foundation, the American Association for World Health, and World Vision.

These are numerous organizations, all of tremendous credibility who have worked in the field of hunger and nutrition. The first step of an emerging country and its economic support, of course, is to build its personnel base. And the allocation of 5 percent of the ESF funds—and this has been sponsored by over 100 of the House Members and has been approved by the House Appropriations Committee. We have conferred with them. If we can enact this, this would be a very, very

minimal source of diminution from the $3.6 to $4.1 billion balance anticipated in the economic support fund.

So I hope my colleagues will support the amendment.

Mr. BENTSEN. Mr. President, I commend the Senator from Montana for his leadership in the vital area of providing primary health care as a part of our foreign assistance efforts. Forty thousand children die each day, most from the effects of malnutrition and it's side effects. The economic support fund includes a health component. With no foreign aid authorization bill likely during this session of Congress and no prospect for expansion of health care programs under the development assistance account, this earmark provides us an opportunity to address a serious situation immediately. Moreover, a number of ESF recipient countries with extremely urgent health and malnutrition problems do no receive development assistance account aid. Egypt, Botswana, and Zambia are examples. ESF is the only avenue to provide primary health care services to these nations.

In order to lay to rest some questions that have arisen about this amendment, I would like to clarify for the record the effect the amendment would have on the State of Israel. As I understand it, under economic support fund in the foreign assistance appropriations bill, of the funds appropriated under this provision, not less than $1.2 billion shall be available only for Israel on a grant basis as a cash transfer. In other words, because the funds are specifically earmarked for Israel by statute, this amendment could not affect, in any way, the Israeli allocation. I would like to ask the Senator if my understanding is correct.

Mr. MELCHER. I appreciate the Senator's concerns. He raises a very important point, and his understanding of my amendment is correct. The 5-percent earmark cannot reduce or change the nature of ESF moneys specifically designated by the Congress for Israel as a cash transfer.

Mr. BENTSEN. Mr. President, I would like to congratulate the Senator from Wisconsin for the work he and his committee have done on the foreign operations section of this legislation. However, I encourage my colleagues to address the importance of primary health care by supporting a modest amendment which I am cosponsoring with the Senator from Montana and others, Senate amendment 4241.

Mr. President, 40,000 children die each day, most from the effects of malnutrition, infections, and repeated bouts of diarrhea. That number, 40,000 equals the entire under 5-year-old population of the United States. I find it unacceptable.

This amendment provides us an excellent opportunity to effectively and substantially reduce that number. Further, it affords us the opportunity to do it with existing funds, without touching Israel's assistance, military assistance or other politically and strategically important programs. It would target 5 percent, or approximately $144 million, of the $3.4 billion economic support fund for primary health care programs. It would require no new money as it earmarks existing funds; and by saving lives, it will add immeasurably to the U.S. image abroad.

The elements of the basic health care package are inexpensive and readily available. For example, low-cost vaccination techniques have been developed to combat polio and five other infectious diseases which annually cripple some 5 million people and kill 5 million more. Oral rehydration packets, which cost as little as 5 cents each, have been demonstrated to save millions of lives. Thus, many of those most vulnerable can be treated at a minimal cost. Based on the most conservative estimates, we could save the lives of at least 500,000 with more appropriate targeting of ESF funds.

The economic support fund includes a health component. With no foreign aid authorization bill likely during this session of Congress and no prospect for expansion of health care programs under the development assistance account, this earmark provides us an opportunity to address a serious situation immediately. Moreover, a number of ESF recipient countries with extremely urgent health and malnutrition problems do not receive development assistance account aid. Egypt, Botswana, and Zambia are examples. ESF is the only avenue to provide primary health care services to these nations.

Mr. President, this provision has widespread bipartisan support. The bill had over 100 cosponsors on the House side. Editorials have appeared in newspapers across the Nation, from Los Angeles to Baltimore. It has been overwhelmingly endorsed by private and voluntary organizations engaged in international development programs. It requires no new money—and it is already included in the House continuing resolution. I urge my colleagues to join with me in support of the pending amendment.

Mr. KASTEN. Mr. President, I move to table the amendment of the Senator from Montana.

The PRESIDING OFFICER. The question is on the motion to table.

Mr. MELCHER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wisconsin [Mr. KASTEN] to table the amendment of the Senator from Montana [Mr. MELCHER]. The yeas and nays have been ordered and the clerk will call the roll.

Mr. STEVENS: I announce that the Senator from North Carolina [Mr. EAST] is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Louisiana [Mr. LONG] and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 51, nays 46, as follows:

[Rollcall Vote No. 266 Leg.]

YEAS—51

Abdnor	Hatch	Packwood
Armstrong	Hatfield	Percy
Baker	Hawkins	Quayle
Boschwitz	Hecht	Roth
Chafee	Heinz	Rudman
Cochran	Helms	Simpson
D'Amato	Humphrey	Specter
Danforth	Jepsen	Stafford
Denton	Kassebaum	Stevens
Dole	Kasten	Symms
Domenici	Laxalt	Thurmond
Durenberger	Lugar	Tower
Evans	Mathias	Trible
Garn	Mattingly	Wallop
Goldwater	McClure	Warner
Gorton	Murkowski	Weicker
Grassley	Nickles	Wilson

NAYS—46

Andrews	Eagleton	Metzenbaum
Baucus	Exon	Mitchell
Bentsen	Ford	Moynihan
Biden	Glenn	Nunn
Bingaman	Hart	Pell
Boren	Heflin	Pressler
Bradley	Hollings	Proxmire
Bumpers	Huddleston	Pryor
Burdick	Inouye	Randolph
Byrd	Johnston	Riegle
Chiles	Kennedy	Sarbanes
Cohen	Lautenberg	Sasser
Cranston	Leahy	Tsongas
DeConcini	Levin	Zorinsky
Dixon	Matsunaga	
Dodd	Melcher	

NOT VOTING—3

East	Long	Stennis

So the motion to lay on the table amendment No. 6977 was agreed to.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, after a careful examination of my conscience, I announce there will not be any further votes tonight.

COMMITTEE AMENDMENT NO. 2

Mr. EAGLETON. Mr. President, contained in the continuing resolution now before the Senate is the conference agreement on H.R. 5743, the agriculture, rural development and related

agencies appropriations bill for fiscal year 1985. Under the provisions of the continuing resolution, funding for the agencies and activities funded by the agriculture bill will be at the levels provided for and under the conditions set forth in the conference report, H. Rept. 98-1071.

Since it is unclear whether we will take final action on that report as a separate piece of legislation, I would like to take this opportunity to describe for my colleagues several of the agreements arrived at by the Committee of Conference. Mr. President, I believe the conferees went the extra mile to address the critical financial problems facing farmers. As my colleagues well know, the agriculture bill as approved by the Senate contained $650 million in guaranteed operating loans to be administered by the Farmers Home Administration, $500 million more than the budget request. During the meeting of the Conference Committee, the administration came forward and expressed its support for $480 million of the additional funds added by the Senate and requested that $200 million be permitted to be transferred to guaranteed ownership loans.

The conferees approved $500 million in additional guarantees with the requested transfer authority, but did so only after receiving the administration's assurance that the traditional guaranteed loan program, in which lenders are not required to write down the principal on loans, would continue to be operated. Any refusal to do so by FmHA would certainly be inconsistent with the intent of the conferees.

We took two other actions related to this subject which are worth noting. The farm credit initiative announced by the administration also included use of the Secretary's deferral authority. Unfortunately for FmHA borrowers, instead of some bold, new, deferrals program, the administration announced that henceforth deferrals would be limited to 5 years and they would defer only a maximum of 25 percent of a farmer's outstanding principal and interest up to a maximum of $100,000.

The Secretary's basic deferral authority contained in 7 U.S.C. 1981a, which I helped write, allows a 100-percent deferral for any period of time the Secretary deems necessary to keep a farming operation viable.

It has always been our intent that regulations guiding the use of this authority be issued and the authority used to assist farmers who, through no fault of their own, could not meet their financial obligations. However, no regulations have ever been issued. Consequently, the conferees included bill language which not only requires the Secretary to implement this authority within 60 days of enactment of this act, it requires him to use it as well.

It should be pointed out that the conferees did discuss the limited nature of the administration's proposal to implement this authority and specifically rejected bill language which could have been construed by the administration as permission to limit the implementation of the deferral authority to 25 percent of a farmer's principal and interest. The language requiring implementation of 7 U.S.C. 1981a, which I proposed in conference, was intended to require the Secretary to implement regulations pursuant to the broad authority to defer loans and forego foreclosure granted by U.S.C. 1981a. Regulations which would prohibit deferrals beyond 25 percent of principal and interest up to a maximum of $100,000 for 5 years would restrict the ability of FmHA county supervisors to work out plans to keep good farmers in business and would be inconsistent with the intent of the conferees that the deferral authority be as flexible as is possible.

As my colleagues may know, there has been considerable litigation regarding this authority already, so it is important that we be clear on what we intend. In fact, the 11th Circuit Court of Appeals in the case of Curry against Block directed the Department to implement 7 U.S.C. 1981a as was originally intended by the Congress and set out specific reasonable criteria to do so. Nothing we have done here should negate the direction of the court.

Under the conference agreement, the Secretary maintains the discretion to grant or not grant a deferral in any particular case depending on the specifics of that case. The action of the conferees should not be interpreted as requiring a blanket moratorium on foreclosures or requiring deferral for all who apply no matter what the chance might be that their indebtedness could be repaid. Certainly, it serves neither the farmer's nor the Government's interest to reward bad management, land speculation, or sheer ineptitude by keeping someone in business who has no chance of success. What we are saying, however, is that it is in the interest of our Nation to keep good family farmers in business. Family farmers who through no fault of their own are temporarily unable to continue making payments on their loans and who have a reasonable chance of success should have the broad authority granted the Secretary by 7 U.S.C. 1981a available to them to assist them in maintaining their farming operation. This should extend not only to borrowers against whom FmHA is now considering taking a servicing action, but to all those who have servicing actions pending against them as well.

The Conference Committee accepted an amendment I offered which provides $1 million to the extension service to increase efforts at the local level to provide financial managment advice to farmers experiencing financial problems. There have been several hightly successful program struggling to survive in the States. These funds should be used to assist those efforts and to support new programs in States such as Missouri where we have had unprecedented problems with weather-related disasters in recent years.

In the area of research, the conference agreement provides $46 million for competitive research grants, and increase of $29 million over the fiscal year 1984 level. I am pleased that we have been able to provide $20 million to initiate a biotechnology competitive grant program. This funding will be used to support significant new work on the leading edge of biological science.

I regret that we were unable to avoid earmarking funds as the House had proposed. However, I believe there is plenty of basic research that can be done in the areas earmarked under plant sciences, pest science, and animal science.

Let me turn briefly to the agreement reached on the nutrition programs. The conferees agreed that continuing our recent practice of providing less than full-year funding for the nutrition programs makes little sense. There were also strong feelings, however, that the President's budget intentionally understates the cost of these programs. As a result, we have appropriated the current funding levels assumed to be necessary to fully fund the programs, but we have limited the availability of any funds in excess of the President's budget request until such time as the President revises his request to reflect the need for these additional funds.

Because of the entitlement nature of the child nutrition programs, this will present no problem for them. For the Food Stamp Program, the direction in the Senate report that the Secretary not utilize his authority under section 18(b) of the Food Stamp Act should the funding level prove inadequate was affirmed by the conference action. Food stamp costs vary greatly with the performance of the economy. It is clearly not our intent that program participants suffer benefit reductions as the result of our inability to estimate program costs.

Finally, regarding funding for the WIC Program, the conferees have provided a total of $1.5 billion for fiscal year 1985, and have required that funds be apportioned to the States based upon a full-year appropriation of $1.5 billion. This funding level should be sufficient to maintain current participation levels throughout fiscal year 1985. I should point out as

well that the conferees endorsed the directives in the Senate report.

I believe the conferees have done a good job in putting together a bill which will serve the needs of agriculture, the needs of consumers, and the needs of the hungry which are met by the agriculture appropriations bill. I urge my colleagues to support this conference agreement.

STATEMENT ON AMENDMENT NO. 6950

Mr. PRYOR. Mr. President, by letter dated January 9 of this year I was notified of the intentions of the U.S. Army Corps of Engineers to declare as excess some 850 acres of publicly owned land on Bull Shoals Lake in northern Arkansas pursuant to Executive Order 12348. Executive Order 12348, dated February 25, 1982, was designed to help reduce the Federal deficit by selling lands in the public domain to private investors, thereby enhancing Federal revenues. This action at Bull Shoals Lake would open the doors for the eventual sale of these lands to private interests.

In February I wrote a letter to the Assistant Secretary of the Army for Civil Works to express my concerns about the effects that this proposed sale would have on the lake and on the people who live around the lake, I also expressed my doubts about the minuscule effect this sale would have on any effort to reduce the Federal deficit. It is my opinion that this sale would lead to commercial development in the area and has the definite potential for resulting in pollution of the lake. I am convinced that the people who have already purchased homes on the lake for retirement and recreational purposes would feel a breach of faith has occurred if lands that they were assured would remain in public ownership and in their natural state were suddenly cleared and readied for condominium development.

I also expressed my concern for another group of persons who will be affected by this action. I'm speaking of the people who had to give up their lands when the Army Corps of Engineers built the Bull Shoals Lake project. Should the Federal Government take these lands and then decide 30 years later that they are no longer necessary to the project and sell them to private development companies?

The answer I received in reply from the Assistant Secretary indicated that he intended to proceed with the sale.

The real issue is the future of this lake, the inevitable pollution, and the effects this will have on Arkansas' tourist industries. The people of Marion and Baxter Counties have already told me they do not want to see this land sold.

I believe the people of Arkansas will be better served by retaining Government ownership of these lands and I urge that the amendment be adopted.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business until not later than 2:45 a.m., in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR PAUL TSONGAS

Mr. BOREN. Mr. President, at the conclusion of the session this year, our colleague PAUL TSONGAS of Massachusetts will end his service in the Senate. He will not, however, end his service to his State or his Nation. He will simply begin a new phase of his public service. No one who knows PAUL TSONGAS doubts for 1 minute that he will continue to make a meaningful, intellectual contribution toward solving the problems that face us.

For PAUL TSONGAS, service to others has always been an important part of his life. Before coming to the Senate, he served with the Peace Corps in the West Indies and Ethiopia. He worked in the office of the Massachusetts Attorney General and later was a city council member and a county commissioner before becoming a Member of the U.S. House of Representatives for two terms.

All of us regret that personal circumstances led PAUL TSONGAS to decide not to seek reelection after one term in the Senate. We respect and admire the commitment to his family which motivated that decision but we will all miss him in the Senate.

History will record that in 6 short years PAUL TSONGAS left a mark on this institution and on the public policy of this Nation. While we all wish that his service in the Senate could continue, it is clear that for any of us, it is not the length of tenure in a public office that is important. It is the quality of the service that matters. By any standard, his service has been exceptional.

His book, "The Road From Here" published in 1981, makes an important intellectual contribution to the debate between the relevance of American Political Liberalism given the realities of limited resources in the 1980's. He makes a convincing case that equality of opportunity and help for the truly needy can be preserved only if we are prepared to follow competent, realistic policies which allow the private economy of this Nation to continue to be productive.

Through the thoughts articulately expressed in his book and elsewhere, PAUL TSONGAS has made a major impact on the future direction of an important wing of the Democratic Party, on his own region and I believe on the future of the country.

PAUL TSONGAS has been farsighted enough to realize that the world has changed since 1932, and that as the ideology of the 1880's did not adequately fit the circumstances of the 1930's, so the ideas that were new in 1932 must be changed to fit the needs of the 1980's.

I have not always agreed with PAUL TSONGAS on matters which have come before the Senate, but I have never failed to respect the sincerity, patriotism, and intellectual honesty and vigor with which he approached each issue.

Beyond my admiration for his ability and integrity as a public person, I admire him as a human being. He and his wife, Niki, are kind and caring people. They have made the sacrifices necessary to serve because they truly love their fellow men and women and want to create a better quality of life for all. They have a host of friends because they are generous and thoughtful friends to others.

In an age, known for cynicism about the motivations and machinations of politicians, the fact that our system still elevates people like PAUL TSONGAS with his straightforward honesty and his passion for justice to membership in the U.S. Senate should provide a ray of optimism for all of us.

While PAUL TSONGAS will leave membership in the Senate this year, his influence with us will continue and we look forward to the new avenues of service which he will follow in the future. We all express to him and his family our affection and warm good wishes and our thanks for upholding a standard of excellence as a U.S. Senator.

CAPT. WILLIAM CRAWFORD EDDY

Mr. WARNER. Mr. President, I would like to incorporate into today's CONGRESSIONAL RECORD an article from the May 28, 1984, issue of "Television/Radio Age."

The article concerns an individual who has led an extremely productive and energetic life as a naval officer, inventor, and businessman.

I first met Capt. William Crawford Eddy while attending "Radio Chicago" in Illinois as a young Navy volunteer during World War II.

Captain Eddy had started the school at the outset of the war to provide advanced radar training for Navy personnel.

Though radar was a new technology at the time, the school managed to train in excess of 68,000 radar technicians while in existence.

One of the school's outstanding features was its novel approach to teaching mathematics.

The methods used by Captain Eddy and "Radio Chicago" to provide instruction in mathematics were eventually used in many high schools and colleges to teach math skills.

After the war, Prentice Hall, the book publisher, was so impressed with Captain Eddy's mathematics book that they asked him to write a book on television—an area he completely understood from his experience prior to the war.

As the article indicates, Captain Eddy completed a 320-page volume that described the various facets of television and was entitled, "Television—The Eyes of Tomorrow."

The article discusses many other activities that Captain Eddy has undertaken during his professional career.

His accomplishment in each of these activities has been considerable and, in my judgment, demonstrates the kind of inventiveness which is often characterized as "Yankee Ingenuity."

I feel fortunate that I was able to learn from Captain Eddy while attending "Radio Chicago" and I know my colleagues in the Senate join me in commending the captain for his many past accomplishments and wish him continued success in all his future activities.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BILL EDDY: INVENTOR, TV PIONEER, NAVY CAPTAIN, CHINESE SCHOLAR

(By Elwin G. Greening)

As firmly entrenched as electronic television is in our lives today, with its high-fidelity pictures in color and sound, it seems next to impossible that "it all began" within current lifespans.

Yet it did—and a handful of people who were present when it began still are here to tell about it.

One of this handful is William Crawford Eddy, Captain, U.S. Navy (Ret.), of Michigan City, Ind. He was *there*—a part of television's laboratory development, its progression to programming, its growth to all parts of the world.

He was with Philo Farnsworth when that pioneer inventor finally produced a TV camera and a picture tube that worked; with NBC's early engineers at their experimental TV station in New York; with Paramount Pictures' Balaban and Katz subsidiary in Chicago, creating and establishing that city's first experimental TV station.

He was sinking ship models in "hurricanes" and torching miniature *Jane Eyre* homesteads to provide video effects for programs when there were less than 150 television sets in all of New York City's borough of Manhattan.

EARLY SPORTS TELECASTS

He was planning and engineering a radical microwave network for the first Notre Dame football game to be televised from South Bend, and the first Chicago Cubs baseball games to be televised from Wrigley Field when TV sets were novelties in the Middle West.

The *Saturday Evening Post*, in 1941, called Eddy a "gadget genius." *Esquire*, two years after, gave him the title of "simplicity's godchild." Co-workers have described him as a "junk-pile genius" and he, himself, has called the type of work he does "gadgetry and gimmickry."

MORE THAN 35 PATENTS

Yet, U.S. Patent Office records show he holds in excess of 35 patents, some of which brought basic changes in navy procedure and strategies.

Today, at 81 years of age, he understandably has slowed somewhat in his movements, but not in his mind. He is just as alert, just as active as ever.

Eddy was born on August 22, 1902, in Saratoga Springs, N.Y., the eldest of three sons. His father, William, was a grain merchant and four-term mayor. His mother, Ethel, by necessity, was a woman of rare patience and understanding.

Bill Eddy first showed interest in radio when we was 14. He experimented with spark transmitters and built a crystal set, winding the coil around an oatmeal carton.

When he found the crystal set worked, he put together 25 or 30 more and sold them—the first in Saratoga Springs—to local people.

Later, when a barnstorming pilot flew into town, Eddy made friends with him as quickly as he could and talked his mother into giving lodging not only to him but to his mechanic as well.

Then, after the pair had left with their airplane, Eddy figured he had learned enough to build an aircraft engine—and tried.

Pirating parts from some farm machinery his father had stored, he used them, along with a propeller he carved from scrap wood, to construct his version of an aviation motor.

Tests went well at first, but then one day the motor blew up, set fire to the woodshed workshop, and the Eddy home almost was burned down before the blaze was brought under control.

ON TO ANNAPOLIS

One of only two accepted of the dozens who passed the exam on the day he did, Bill entered Annapolis in 1922, and there may be those yet today who say the place hasn't been the same since.

Bill was a whiz with his studies, but the accompanying hijinks all but gave gray hair to the Annapolis brass.

There was the time, for instance, when he created a roller rink on the unoccupied fourth floor of Bancroft Hall, a dormitory, and charged skaters 10¢ an hour for advance warning of the "duty officer's" approach. The idea worked well until he fell asleep one day, and the rink was discovered.

There also was the time when he devised and sold form letters to get around the academy's requirement that each student write a lengthy letter to his parents once a week. Just put a check mark in front of the lines that applied. "Doing fine in school" . . . "Need money" . . . "Hope you are well" . . . Miss all of you."

He did well with that idea, too, until the administration moved in and he was forced to sell the remainder of his inventory hastily to escape detection.

And then there was the granddaddy scheme of them all—a bootleg radio spark transmitter which he hooked to a bedspring to provide an antenna. Through his transmitter and receiving sets throughout the dormitory, he sent dot-dash messages which gave up-to-the-minute information as to where the brass was.

Trouble was, the navy had a major transmitting and receiving radio station just across the bay and Eddy's active sending key caused interference there. Direction finders soon led investigators to him, and when he got caught, he came close to being kicked out of Annapolis. But someone along the line evidently saw enough in his natural abilities and grades to let him slide through.

He was graduated as a line officer in 1926, even though he had amassed 148 demerits, just two short of the 150 allowed before expulsion.

Ensign Bill Eddy's first assignment after graduation was on the USS Cincinnati, a light cruiser, as assistant fire control officer. He wasn't expecting a quick move from the East Coast, but 17 days after he reported aboard, the Cincinnati was ordered to Nicaragua to help the marines calm the unrest there.

SENT TO CHINA

Then, in 1927, came orders to proceed to China, to protect and evacuate Americans following "unification" incidents at Nanking and other area settlements. During a stop enroute at Honolulu, Eddy met Christine Woolridge, a University of Michigan graduate nurse from Grand Rapids, Mich., who was working her way around the world.

When they were reunited in Hankow, they were married—on July 11, 1927—and a year later moved to an abandoned missionary's cottage several miles outside of Tsingtao, so they could learn to speak Chinese and avoid the hustle and bustle of Navy base life.

It was while they lived in this cottage that Eddy racked up another "first"—the first flush toilet in North China. His eyes still twinkle when he tells how he lashed the receptacle to the forward gun mount of his submarine at Subic Bay, in The Philippines, and brought it north to Tsingtao.

When it arrived, Eddy with the aid of coolies, installed two 55-gallon drums on the roof, connected the necessary piping, filled the drums with water; and the bathroom below was in working order.

Bill saw duty in most of China's trouble spots, then requested and received a transfer to the navy's Asiatic submarine division, where he became one of only two officers in the navy qualified to command a submarine without having graduated from submarine school.

The transfer to the submarines took the Eddys to Bataan, where the oldest of their three children, Nancy Jane, was born in Manila in April, 1929.

SUBMARINE SCHOOL

Now a threesome, the Eddys stayed in the Far East until the fall of 1929, when Bill, against his wishes, was transferred to the navy's submarine school at New London, Conn., to instruct in escaping from sunken submarines and to do research in electronics. As a result of this assignment, Eddy left the navy a number of legacies in the form of inventions, the most important of which was the "Eddy amplifier."

Another tribute to his gadget wizardry, this device came about through a disturbing discovery he made in the spring of 1931. Just after his second child, William Crawford Jr., arrived, Eddy realized he was losing his hearing at a rapid rate. He knew if he did not find a solution quickly, it almost certainly would lead to a disability retirement before long.

In those days, submarine listening devices depended solely on the human ear and headphones to determine the direction of enemy surface ships. When he was made a sound officer, Eddy couldn't depend any more on his ears to hear accurately, so he gathered some dime store vacuum tubes and parts, and fashioned a gadget which transformed incoming sound into a reading on a dial. Presto! The ears and the headphones

were eliminated, and accuracy was improved. His cost for the device: $12.

Of course, blueprints of the device found their way quickly to the navy brass in Washington. It wasn't long before a report came back—a report to the effect that the device could not work and, furthermore, appeared to be the product of an unbalanced mind.

When Eddy's skipper insisted the device worked for them, the Naval Research Laboratory went back to the blueprints.

The scientists there eventually discovered the problem lay in the high-priced vacuum tubes they had used. When they made adjustments to compensate for Eddy's cheaper tubes, everything worked fine.

PERISCOPIC ANTENNA

Another of his legacies, perfected with a colleague, was a periscopic antenna, which permitted the crew of a submarine to send and receive radio messages without surfacing while in the ocean, since salt water would not transmit radio signals.

A small tomato can containing a miniature transmitter and receiver affixed to the top of the periscope and positioned so that it just broke water was the secret to this project.

Eddy's hearing problem caught up with him just before Christmas in 1934, during a physical examination for a promotion to full lieutenant. He had previously been getting by through lip reading, but an observant medic finally caught him at it and had him turn around. Unable to see the medic's mouth, Bill could not see what he was saying and the medical disability discharge—along with an adequate pension—followed.

With a civil service rating, Eddy then looked for the best governmental job he could find available. It was a $4,800 a year position in Alaska with the Federal Radio Commission, the forerunner of today's FCC. By then, a third child, Dianne, was aboard.

Unhappy being a "bureaucrat," Eddy set out for Washington on a wintry Sunday early in 1936. The weather worsened as he drove into Philadelphia and, almost gladly, he stopped to wait for it to improve.

His acceptance of the delay, however, wasn't entirely without design. He had read a few days before about Philo Farnsworth being in Philadelphia and working there to develop television.

He visited with Farnsworth in his garage laboratory, and that put into focus his desire to join the television pioneer. While they talked, an agreement was reached: Farnsworth would pay him $35 a week; in exchange, Eddy would work on developing commercial applications for Farnsworth's multipactor techniques, help develop possible commercial uses for television, and develop lighting and miniature staging techniques for TV programming.

IMAGE DISSECTOR TABLE

Farnsworth's image dissector tube appeared to be the long-sought answer to a practical TV camera—powered by the multipactor. It had no filament or grid, thus had nothing to burn out. Farnsworth, himself, said that it was like getting something for nothing, because the cathodes seemed to pick up amplified power from nowhere and deliver it for use.

The Eddys settled on a rented farm on the city's outskirts, and Bill went happily to work in a laboratory once again, albeit at considerably less money. To help make up the difference in income, Bill did spare-time cartooning, article writing and a weekly TV column for the *New York Sun* under the pen name of K. V. Strong.

He spent a productive two years with Farnsworth.

In a book published in 1949, *The Story of Television—The Life of Philo T. Farnsworth* (W. W. Norton & Co., Inc., New York), author George Everson gave Eddy credit for some interesting experiments in lighting for television, in the operation of two cameras picking up studio productions and for some test of fake backgrounds with miniature sets.

Everson also tells in his book about how Eddy, charged with setting up a multipactor tube demonstration for a joint meeting of radio and electrical engineers in New York in 1936, did the job flawlessly, much to the surprise of some of the engineers present.

Actually, Eddy's experiments in lighting ended up playing a significant role in television programming. Where it was originally believed that a lot of light was needed, he proved in his experiments that it wasn't.

Eddy still chuckles when the question of his pay while working with Farnsworth comes up.

In those days, when TV budgets were measured in hundreds rather than millions, there wasn't always money available to meet the payroll and, on these occasions, Farnsworth would pass out a share of stock instead.

In the early days, these shares were worth little. But then, a decision in a patent fight involving Farnsworth and RCA went against RCA and the value of Farnsworth stock zoomed.

"We got well in one fell swoop," Eddy recalls.

CARTOONING ABILITY

With the erratic pay history of working with Farnsworth, Eddy had fallen back on his cartooning ability still more to help keep the wolf from his door. He was reviewing a rejected batch of drawings one day in 1937 as he rode home on the train when a fellow passenger laughed at what he saw over Bill's shoulder.

The passenger was Joe Sullivan Sr., advertising manager of the Brown Instrument Division of Minneapolis Honeywell.

One word led to another and Sullivan asked Eddy to do a calendar to replace the annual "girlie" version the firm then was sending to its customers. Eddy followed through, and his calendar drawings were an instant hit.

What had touched Sullivan's funny bone also moved others to laughter. It was Eddy's unique ability to translate into humorous drawings what he calls man's inability to cope with the machines he builds.

During the 35 years he supplied drawings for the calendars, his audience grew to as many as two million fans a year.

Even with the bonanza that the patent fight brought to Farnsworth, money to carry on experiment work ran short, and it wasn't long afterward that Eddy was hired as head of lighting and special effects for NBC's experimental station in New York.

Video effects, especially, were a delight to Eddy, giving him an opportunity to use his gadgetry skill to the utmost. He would prowl by the hour through shops near the station, bring back his findings and create things that looked amazingly real when televised.

H. W. Secor, in a two-page illustrated article in the April, 1939, edition of *Radio & Television* magazine, had this to say about his skills:

"William C. Eddy, a member of the NBC engineering staff, has already developed a number of extremely interesting *sight effects* for television shows. Some of these effects, such as books which turn their own pages, candles which mysteriously extinguish themselves, and 'talking frogs,' have already been worked out and used in a number of television plays . . ." Eddy also was becoming an expert in television lighting by now and in July, 1939, the *Journal of the Society of Motion Picture Engineers* carried a lengthy article under his byline on the subject.

He also obtained 34 TV patents for RCA, NBC's parent company, while he was with NBC. Most of these were on improvements he made in equipment.

CHICAGO'S FIRST TV STATION

All of Eddy's successes in the fledgling industry were not going unnoticed, of course, and in 1939 he was asked by Paramount Pictures to join Balaban & Katz, its subsidiary, in putting Chicago's first television station on the air—within six months. He hired Archibald Brolly, the former chief engineer at Farnsworth's, as his chief engineer.

When they arrived in Chicago, they had two second-hand police radio transmitters, which they rebuilt into television transmitters. While other buildings were taller, they chose the 12-story State-Lake building, across the street from the Chicago Theater, where they erected a 60-foot windmill tower on the roof and converted a fur salon to a television studio.

A mobile unit which he put together for $1,500—against the half million dollar unit which NBC's New York station was using—followed, as well as radical improvements in the camera. Then came a staff numbering five young people, the youngest of whom was 21 years, the oldest 27.

When Eddy finally threw the switch for the first time in March, 1941, W9XBK came on the air after just five months of work. The cost to Balaban & Katz: approximately $60,000. Normal cost at that time for a TV station was about $500,000.

Eddy soon found he was caught in a "Catch-22" situation: Without TV sets out there for people to watch, he had no audience. Without an audience, he had no commercials.

Auditions for programming took place every Tuesday night. At first, the station was on the air for 15 minutes daily. Within several months, programs were lengthened to 30 minutes and then to 45 minutes.

Eddy's success in engineering was matched by his success in finding talent for his programs. *Kukla, Fran and Ollie,* by whom many adults in the Chicago area today measure their first exposure to television, was his creation. *Zoo Parade* and Dave Garroway also got their start with him.

EQUIPMENT SHORTAGE

As time went on, Eddy ordered additional station equipment, but by midsummer in 1941, with war clouds darkening, defense orders were well entrenched. He pleaded for help in Washington, but it did no good; there were no priorities available for television stations.

When the Japanese bombed Pearl Harbor on December 7, Eddy boarded a train for Washington that same afternoon. Next day, at the Bureau of Naval Personnel, he searched until he found an officer who would listen and told him: "I want to get back on active duty. I think I can help."

He explained that the television station he directed in Chicago had some engineers

who were trained in high frequency techniques and could set up a training school in radar in space at the station. Furthermore, highly specialized equipment at the station could be used. Radar was something brand new then, and the officer's eyebrows raised.

The name Bill Eddy and the swath he had cut through Annapolis still was known in Washington. But his accomplishments in the navy and in television afterward, also were known, and the picture he painted in the shambles of December 8 was almost too good to be true.

A favorable recommendation soon was fashioned and started through channels even before Eddy left.

The navy, however, did not know at that time that he hadn't yet talked to Balaban & Katz, the station's owners, about offering their property to the government at no cost, and Eddy did not see fit to mention it. He was certain, when he explained things, that his employers would agree with him.

And they did. In fact, the chairman of the board of Paramount Pictures, Barney Balaban, on the West Coast, gave his approval without even calling a meeting of his board of directors.

The navy quickly gave its okay on the school, but did not restore Eddy to active duty until August, 1942, when Secretary of the Navy Frank Knox, himself, ordered it be done without a physical examination, thus wiping out the multiple physical defects carried on his records.

By then, under Eddy's direction, Radio Chicago—as it came to be known in government circles—was well on its way, turning out needed technicians in the radar field.

Before the war ended, the school had spilled out of the State-Lake building into two other buildings, four junior colleges and two armories.

In all, 68,000 radar technicians graduated from Radio Chicago and went on to the war effort. Eventually, most of them ended up involved one way or another in the post-war burgeoning electronics industry.

As with almost all he touched, Eddy left several legacies when he returned to civilian life after the war. One was the Eddy test; another was a revolutionized mathematics book.

THE EDDY TEST

The Eddy test was an aptitude examination that Bill designed to screen out candidates who were unsuitable for radar training before any time was wasted on their part or on the part of the school staff. To some educators who watched the test work, its results were uncannily accurate.

Eddy and his assistants realized after a short time that their students were having problems with time worn methods of learning mathematics. So they worked out a new and novel approach that eventually made its way into high schools, colleges and private study groups.

The book, divided into 24 one-hour lessons, covered the entire range of mathematics the students would encounter, worked out problems in full so that solutions could be seen.

Eddy was awarded the rank of captain when the war ended. A grateful U.S. Navy also decorated him with a Legion of Merit medal for his contributions at the school, as well as other commendatory awards.

An all-woman staff had kept WBKB-TV, as it was now known, on the air through the war years, enough to maintain its license. Retired once more from the navy, Eddy took some time off for an unsuccessful ear operation, then went back to running the television station.

For a while, life at the station was as interesting as it had been before.

Eddy constructed three microwave towers—in his yard on the east side of Michigan City, at Rolling Prairie, Ind., and at South Bend—to televise Notre Dame football games for the first time, and worked out an agreement with the Chicago Cubs to televise the first baseball games from Wrigley Field.

He also approached William Wirtz of the Chicago Black Hawks, offering a dollar per television set—at that time less than $1,000—as payment for the rights to televise Black Hawk hockey games, but could not reach an agreement.

"Luckily, I didn't," he laughs today. "The way television sets multiplied, we'd have lost our shirts."

Prentice-Hall, the book publisher, meanwhile, showed up on Eddy's doorstep in 1945. He had done well with his mathematics book. With interest in TV proliferating, could he do a book on that subject?

Eddy said he would and set to work. When he finished, he had a 320-page volume that told about all facets of a television station. It was called *Television—The Eyes of Tomorrow* (Prentice-Hall, New York).

Then one day in 1947, the glamour of pioneering began to wear off and he asked to be released from his contract, which still had five years to run. Balaban reluctantly agreed.

NEW BUSINESS

Along the way, Eddy had incorporated a company he named Television Associates to handle his patents. Now he went back home and, under that name, started a new business he had conceived while installing the towers used to televise the Notre Dame football games—radar aerial terrain surveying.

When ground surveying proved to be too slow and too expensive, Bill had installed an adaptable radar altimeter in his war-surplus AT-6, and the results were amazing.

By focusing radar waves at the ground instead of at something in the sky, he had created a topographical profile of the terrain as the airplane flew over it. This technique, naturally, was much faster than ground surveying, as well as being more practical in areas where ground travel was difficult or impossible.

Eddy learned to fly so that he could work out the bugs himself as he progressed in his new endeavor. When he felt, finally, that he was ready to sell his idea, he went looking for business and landed a contract with the U.S. Air Force in the wild, rugged country of the upper peninsula of Michigan. Several weeks before he arrived, a ground crew had taken five days to go 12 miles. Bill's crew surveyed 200 miles in 10 days, flying by day and compiling data by night.

As time passed, the wide potential of radar aerial terrain flying spread and brought on major pipeline applications as well as international interest where it was necessary to install communications over jungles, deserts and hostile forces.

In the two decades following, Bill's business spread to virtually all corners of the globe. With the services of 10 qualified aircraft pilots and a fleet of twin-engine planes to call upon, he ran radar surveys in the U.S., Cuba, Brazil, Turkey, Iran, Iraq, Pakistan, Syria, Venezuela, Thailand, Vietnam and Laos.

In Europe and the Far East, especially, the technique was credited with bringing communications to vast areas of previously isolated territory, and it was not until satellites were boosted into the skies on a practical basis that science could replace the airplane survey system.

While all this was going on, Eddy also was nurturing a second branch of his business at home from an 8×12-foot workshop to a 30,000 square foot factory, from a handful of employees to 200, and from a pittance in sales to $5 million yearly. Products which this branch turned out included such items as television equipment based on his patents, telephone beepers, motion picture projectors for the navy, and sound control switches. There also was work done on electronic fuel controls for the newly conceived jet engines and missiles.

Another of Eddy's inventions—a device which would permit a film or recorder tape to run endlessly—was used to meet navy requirements for a 24-hour tape recorder to monitor a central battle station. This was a forerunner of today's tape cassettes.

Eddy also found time during this period of his life to serve as a consultant in several endeavors to raise minimum aviation altitudes in urban areas.

Then in 1966, a problem which has beset a multitude of businesses also hit Eddy's Television Associates. With operations far flung, and unable to get payment for its services and products from governments within a reasonable period of time, TA ran short of ready cash.

Eddy sought help from the State Department, but the best that agency could offer was a proposed merger with a company in better financial condition.

MELPAR MERGER

A merger was effected with Melpar, Inc., of Falls Church, Va. Operations were continued for a time in Michigan City where Eddy now lived, but Melpar then reached a second agreement with him and the plant was moved to Melpar's home installation.

Adopting the role of consultant for Chicago television stations—indie WFLD-TV and WTTW (TV), the public broadcasting outlet—and a number of other communication outlets, to keep a tie with the past, Eddy plunged into hobbies with the same resolve and enthusiasm that had governed his professional life until now. Reading and writing Chinese, sculpturing, ceramics, oil painting, wood carving, water color painting, the art of stained glass, a Chinese junk—you name it and Eddy tried it, to get rid of the excess energy that used to go into electronics.

The Chinese junk gave him special hours on Lake Michigan. A westernized version of the junks he had admired years before when he was in China, the craft—built in Hong Kong—was a showpiece of Michigan City's harbor for a number of years and caused endless talk.

In recent years, Bill and Chris have operated what might be called a hospital and rest home for injured or homeless animals and fowl.

A disastrous fire on February 22, 1978, virtually ruined the Eddys' home and consumed many of Bill's mementoes which he had gathered through the years. But when he could not agree with his insurance company on restoring the structure, he rebuilt it himself over a period of four years, with the help of four young men whom he hired to help him with "the heavy work," as he calls it. The restored house has been refurbished with such interesting touches as stained glass French doors and windows.

DEFERRAL OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 176

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, was referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Labor and Human Resources, the Committee on Energy and Natural Resources, the Committee on Commerce, Science, and Transportation, the Committee on Finance, the Committee on Environment and Public Works, and the Committee on Foreign Relations:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report two new deferrals of budget authority for 1984 totaling $229,000,000 and fourteen new deferrals of budget authority totaling $1,298,662,275 and one new deferral of outlays totaling $19,900,000 for 1985. The 1984 deferrals affect the Funds Appropriated to the President. The 1985 deferrals affect the Funds Appropriated to the President; the Departments of Agriculture, Defense, Health and Human Services, Interior, Transportation, and Treasury; the Pennsylvania Avenue Development Corporation, and the Railroad Retirement Board.

The details of these deferrals are contained in the attached report.

RONALD REAGAN.

THE WHITE HOUSE, *October 1, 1984.*

MESSAGE FROM THE HOUSE RECEIVED DURING THE RECESS

Under the authority of the order of the Senate of October 1, 1984, the Secretary of the Senate on October 2, 1984, during the recess of the Senate, received a message from the House of Representatives announcing that the House disagrees to the amendments of the Senate to the bill (H.R. 6028) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1985, and for other purposes; it agrees to the conference asked by the Senate on the dissagreeing votes of the two Houses thereon, and appoints Mr. NATCHER, Mr. SMITH of Iowa, Mr. OBEY, Mr. ROYBAL, Mr. STOKES, Mr. EARLY, Mr. DWYER of New Jersey, Mr. HOYER, Mr. WHITTEN, Mr. CONTE, Mr. O'BRIEN, Mr. PURSELL, Mr. PORTER, and Mr. YOUNG of Florida as managers of the conference on the part of the House.

ENROLLED JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 653. Joint resolution making continuing appropriations for the fiscal year 1985, and for other purposes.

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. THURMOND).

MESSAGES FROM THE HOUSE

At 6:23 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 197

An act to direct the Secretary of the Department of Transportation to conduct an independent study to determine the adequacy of certain industrial practices and Federal Aviation rules and regulations, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 2838) to authorize the Secretaries of the Interior and Agriculture to provide assistance to groups and organizations volunteering to plant tree seedlings on public lands, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1841) to promote research and development, encourage innovation, stimulate trade, and make necessary and appropriate amendments to the antitrust, patent, and copyright laws.

The message also announce that the House has passed the bill (S. 66) to amend the Communications Act of 1934, with amendments; it insists upon its amendments, asks a confenece with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. DINGELL, Mr. WIRTH, and Mr. BROYHILL as managers of the conference on the part of the House.

The message further announced that the House has passed the following bills, each with an amendment, in which it requests the concurrence of the Senate:

S. 1132. An act to amend the Federal Power Act to specify the annual charges for projects with licenses issued by the Federal Energy Regulatory Commission for the use of Federal dams and other structures; and

S. 2301. An act to revise and extend programs for the provision of health and services and preventive health services, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 1880) to establish an interagency committee and a technical study group on cigarette safety, with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the amendment of the Senate to the following concurrent resolution:

H. Con. Res. 280. Concurrent resolution revising the congressional budget for the U.S. Government for the fiscal year 1984 and setting forth the congressional budget for the U.S. Government for the fiscal years 1985, 1986, and 1987.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2568. An act to amend the Internal Revenue Code of 1954 to extend for two years the exclusion from gross income with respect to educational assistance programs, and for other purposes;

H.R. 2823. An act to amend title I of the Reclamation Project Act of 1972 in order to provide for the establishment of the Russell Lakes Waterfowl Management Area as a replacement for the authorized Mishak National Wildlife Refuge, and for other purposes;

H.R. 4829. An act to amend title I of the Marine Protection, Research, and Sanctuaries Act of 1972;

H.R. 5361. An act to amend the Internal Revenue Code of 1954 to extend for one year the exclusion from gross income with respect to group legal services plans, and for other purposes;

H.R. 5386. An act to amend part A of title XVIII of the Social Security Act with respect to the payment rates for routine home care and other services included in hospice care;

H.R. 6100. An act to clarify the intent of Congress with respect to the families eligible for a commemorative medal authorized for the families of Americans missing or otherwise unaccounted for in Southeast Asia;

H.R. 6101. An act to amend the Panama Canal Act of 1979 to authorize quarters allowances for certain employees of the Department of Defense serving in the area formerly known as the Canal Zone;

H.R. 6112. An act to amend the Tax Equity and Fiscal Responsibility Act of 1982 with respect to the effect of the 1985 increase in the Federal unemployment tax rate on certain small business provisions contained in State unemployment compensation laws;

H.R. 6216. An act to amend the Bankruptcy Amendments and Federal Judgeship Act of 1984 to make technical corrections with respect to the retirement of certain bankruptcy judges, and for other purposes;

H.R. 6225. An act to prevent disruption of the structure and functioning of the Government by ratifying all reorganization plans as a matter of law;

H.R. 6228. An act providing for an extension until April 21, 1992, of five patents relating to oral hypoglycemic drugs of the sulfonylurea class;

H.R. 6248. An act to amend title VII of the Omnibus Crime Control and Safe Streets Act of 1968 to provide enhanced penalties for certain persons possessing firearms after three previous convictions for burglaries or robberies, and for other purposes;

H.R. 6266. An act to extend for one year certain provisions relating to foster care assistance under part E of title IV of the Social Security Act, to require the establishment or continuation of regional Child Wel-

fare Resource Centers to assist in implementing child welfare, foster care, and adoption assistance programs, and to amend title XVI of the Social Security Act to make necessary improvements in the SSI program with the objective of assuring that such program will more realistically and more equitably reflect the needs and circumstances of applicants and recipients thereunder;

H.R. 6285. An act to clarify the circumstances under which a trademark may be canceled or considered abandoned;

H.R. 6286. An act to amend title 35, United States Code, to increase the effectiveness of the patent laws, and for other purposes;

H.R. 6304. An act providing for the distribution within the United States of certain U.S. Information Agency films;

H.R. 6311. An act to combat international terrorism;

H.J. Res. 482. Joint resolution authorizing the Law Enforcement Officers Memorial Fund to establish a memorial in the District of Columbia or its environs; and

H.J. Res. 654. Joint resolution increasing the statutory limit on the public debt.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 337. Concurrent resolution concerning Bulgaria's abuses of the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets in facilitating the transportation of illicit narcotics, smuggled arms, and terrorists.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 960. An act to confer citizenship posthumously on Corporal Wladyslaw Staniszewski;

H.R. 5164. An act to amend the National Security Act of 1947 to regulate public disclosure of information held by the Central Intelligence Agency, and for other purposes;

H.R. 5221. An act to extend through September 30, 1988, the period during which amendments to the United States Grain Standards Act contained in section 155 of the Omnibus Budget Reconcilitation Act of 1981 remain effective, and for other purposes; and

H.J. Res. 606. Joint resolution to designate the week of October 14, 1984, through October 21, 1984, as "National Housing Week."

The enrolled bills and joint resolution were subsequently signed by the President pro tempore [Mr. THURMOND].

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2823. An act to amend title I of the Reclamation Project Act of 1972 in order to provide for the establishment of the Russell Lakes Waterfowl Management Area as a replacement for the authorized Mishak National Wildlife Refuge, and for other purposes; to the Committee on Environment and Public Work.

H.R. 4829. An act to amend title I of the Marine Protection, Research, and Sanctuaries Act of 1972; to the Committee on Environment and Public Works.

H.R. 6100. An act to clarify the intent of Congress with respect to the families eligible for a commemorative medal authorized for the families of Americans missing or otherwise unaccounted for in Southeast Asia; to the Committee on Armed Services.

H.R. 6266. An act to extend for one year certain provisions relating to foster care assistance under part E of title IV of the Social Security Act, to require the establishment or continuation of regional Child Welfare Resource Centers to assist in implementing child welfare, foster care, and adoption assistance programs, and to amend title XVI of the Social Security Act to make necessary improvements in the SSI program with the objective of assuring that such program will more realistically and more equitably reflect the needs and circumstances of applicants and recipients thereunder; to the Committee on Finance.

H.R. 6285. An act to clarify the circumstances under which a trademark may be canceled or considered abandoned; to the Committee on the Judiciary.

H.R. 6286. An act to amend title 35, United States Code, to increase the effectiveness of the patent laws, and for other purposes; to the Committee on the Judiciary.

H.R. 6304. An act providing for the distribution within the United States of certain United States Information Agency films; to the Committee on Foreign Relations.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 337. Concurrent resolution concerning Bulgaria's abuses of the Customs Convention on the International Transport of Goods under Cover of TIR Carnets in facilitating the transportation of illicit narcotics, smuggled arms, and terrorists; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The Committee on Agriculture, Nutrition, and Forestry was discharged from the further consideration of the following bills, which were placed on the calendar:

H.R. 5121. An act to designate certain national forest system lands in the State of Virginia as wilderness, and for other purposes; and

H.R. 5513. An act to designate the Delta States Research Center in Stoneville, Mississippi, as the "Jamie Whitten Delta States Research Center".

The Committee on Energy and Natural Resources was discharged from the further consideration of the following bill, which was placed on the calendar:

H.R. 5631. An act to provide for the acquisition of a visitor contact and administrative site for the Big Thicket National Preserve in the State of Texas.

The Committee on the Judiciary was discharged from the further consideration of the following bills, which were placed on the calendar:

S. 2624. A bill to implement the International Convention Against the Taking of Hostages; and

S. 2720. A bill to recognize the organization known as the Women's Army Corps Veterans' Association.

The following bills and joint resolution were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 6248. An act to amend title VII of the Omnibus Crime Control and Safe Streets Act of 1968 to provide enhanced penalties for certain persons possessing firearms after three previous convictions for burglaries or robberies, and for other purposes;

H.R. 6311. An act to combat international terrorism;

H.J. Res. 482. Joint resolution authorizing the Law Enforcement Officers Memorial Fund to establish a memorial in the District of Columbia or its environs;

H.J. Res. 654. Joint resolution increasing the statutory limit on the public debt.

MEASURE HELD AT DESK

The following bill was held at the desk pending further disposition by unanimous consent:

H.R. 4966. An act to recognize the organization known as the Women's Army Corps Veterans' Association.

Pursuant to the order of September 28, 1984, the following bill was held at the desk:

H.R. 6225. An act to prevent disruption of the structure and functioning of the Government by ratifying all reorganization plans as a matter of law.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, with amendments:

H.R. 5833: A bill to improve certain maritime programs of the Department of Transportation and the Department of Commerce (Rept. No. 98-652).

By Mr. MATHIAS, from the Committee on Rules and Administration, without amendment:

S. Con. Res. 140: A concurrent resolution authorizing the printing of a revised edition of the "Handbook for Small Businesses" as a Senate document (Rept. No. 98-653).

By Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs: Special Report on the Second Monetary Policy Report for 1984 (with minority views) (Rept. No. 98-654).

By Mr. THURMOND, from the Committee on the Judiciary, without recommendation with an amendment in the nature of a substitute:

S.J. Res. 1: A joint resolution proposing an amendment to the Constitution of the United States with respect to fixing the compensation of Members of Congress (Rept. No. 98-655).

By Mr. PERCY, from the Committee on Foreign Relations, with amendments and an amendment to the title and an amended preamble:

S.J. Res. 236: A joint resolution relating to cooperative East-West ventures in space as an alternative to a space arms race.

EXECUTIVE REPORTS OF COMMITTEES

By Mr. PERCY, from the Committee on Foreign Relations:

Charles H. Dallara, of Virginia, to be United States Executive Director of the International Monetary Fund for a term of two years;

Francis Stephen Ruddy, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Equatorial Guinea;

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Francis S. Ruddy.

Post: Ambassador-Equatorial Guinea.

1. Self:

Amount, date, and donee:

$50, 1980, Republican National Committee.

$100, 1981, Ira Early.

$300, 1981, Texas Republican Party.

$50, 1982, Republican National Committee.

$100, 1982, Senator Tower.

$50, 1983, Republican National Committee.

$100, 1983, Senator Helms.

$50, 1983, Republican Senate Committee.

$75, 1984, Senator Helms.

$100, 1984, Republican Senate Committee.

$100, 1984, National Congressional Club.

$50, 1984, Republican National Committee.

These are the contributions for which I have located receipts or cancelled checks. I believe my contributions for 1980 were actually $200 although I can't locate receipts to corroborate that figure. I believe the total for 1982 was also $200 although I can only locate receipts for $150.

2. Spouse: Kateri O'Neill Ruddy, none.

3. Children and spouses names: Neil, David & Stephen (children), none.

4. Parents names, deceased.

5. Grandparents names, deceased.

6. Brothers and spouses names, none.

7. Sisters and spouses names: Joan Ruddy Carberry (sister) and David M. Carberry, (brother-in-law) none: Patricia M. Ruddy, sister, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Jon R. Thomas, of Tennessee, to be an Assistant Secretary of State for International Narcotics Matters;

Mark L. Edelman, of Missouri, to be an Assistant Administrator of the Agency for International Development;

Cathryn C. Semerad, of Maryland, to be an Assistant Administrator of the Agency for International Development;

Joe O'Neal Rogers, of Virginia, to be United States Director of the Asian Development Bank, with the rank of Ambassador.

(The above nominations from the Committee on Foreign Relations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BENTSEN:

S. 3040. A bill for the relief of O'Ferrall Pauly, publisher of the Mid-Coast Advertiser of Wharton, TX; to the Committee on the Judiciary.

By Mr. MATSUNAGA:

S. 3041. A bill for the relief of Kam Hon Wong and his wife Po Kwan Wong; to the Committee on the Judiciary.

By Mr. ROTH:

S. 3042. A bill to reduce individual income tax rates, to increase savings of individuals, to broaden the income tax base, and for other purposes; to the Committee on Finance.

By Mrs. HAWKINS:

S. 3043. A bill to amend the Racketeer Influenced and Corrupt Organizations Act to include sexual exploitation of children as a crime covered by the act; to the Committee on the Judiciary.

By Mr. PERCY:

S. 3044. A bill to amend title 10, United States Code, to provide an administrative remedy for false claims made and other fraudulent acts committed in connection with the activities of the Department of Defense, to facilitate the recovery of money and other property owed to the United States, and for other purposes; to the Committee on Armed Services.

By Mr. TRIBLE (for himself, Mr. WARNER and Mr. STEVENS):

S. 3045. A bill to amend title 5, United States Code, to revise the authority of the President to promote recruitment and retention of Government employees by providing for special rates of pay and bonuses; to the Committee on Governmental Affairs.

By Mr. JEPSEN:

S. 3046. A bill to modify the project for flood protection on the Chariton River, IA and MO, to direct the Secretary of the Army to sell storage space in Rathbun Lake, IA, to the Rathbun Regional Water Association, and for other purposes; to the Committee on Environment and Public Works.

By Mr. WILSON:

S.J. Res. 357. A joint resolution to designate the week beginning May 19, 1985, as "National Medical Transcriptionist Week"; to the Committee on the Judiciary.

By Mr. HATFIELD:

S.J. Res. 358 A joint resolution to designate October 19, 1984, as "John McLoughlin Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. STEVENS:

S. Res. 461. Resolution to amend the standing Rules of the Senate to provide for the more effective consideration of Senate business; to the Committee on Rules and Administration.

By Mr. DECONCINI:

S. Res. 462. Resolution expressing the sense of the Senate that application of the antitrust laws to certain practices of professional sports leagues should be clarified, and for other purposes; to the Committee on the Judiciary.

By Mr. ROTH (for himself, Mr. SYMMS, and Mr. CHAFEE):

S. Res. 463. Resolution to encourage the President to prepare for a new round of multilateral trade negotiations; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROTH:

S. 3042. A bill to reduce individual income tax rates, to increase savings of individuals, to broaden the income tax base, and for other purposes; to the Committee on Finance.

BROAD-BASED, ENHANCED SAVINGS TAX-ACT

● Mr. ROTH. Mr. President, today I rise to introduce a major piece of legislation which would completely overhaul the individual income tax system. The name of my bill, which is being introduced by Representative HENSON MOORE on the House side, is the Broad-Based, Enhanced Savings Tax Act of 1984 [BEST]. We've seen the "Flat" Tax Act, the "Fair" Tax Act and the "Fast" Act, and now I am introducing the "BEST" Act.

Mr. President, many are wondering why Representative MOORE and I waited until the closing days of this Congress to introduce our bill. We felt that it was appropriate to save the BEST for last.

Mr. MOORE and I set several goals that we felt were essential to tax reform, and our bill has achieved these objectives. The important aspects are:

The bill provides substantial savings incentives which serve to minimize the tax bias against saving and investment that exists in our Tax Code.

The bill substantially lowers marginal tax rates and, therefore, diminishes the disincentives against work effort and saving.

Through substantial base broadening, the bill provides for a system that raises the same revenue as our current system. This has been certified by the Joint Committee on Taxation.

The bill does not change the distribution of the tax burden by income class. Each income class will pay the same percentage of taxes as under current law.

The bill is fair to all taxpayers and greatly simplifies the Tax Code.

Mr. President, I am encouraged by the bipartisan nature of the tax reform movement in this Congress. I applaud the efforts of the distinguished Senator from New Jersey, [Mr. BRADLEY] and his house colleague, [Mr. GEPHARDT].

I also applaud the efforts of the Senator from Wisconsin [Mr. KASTEN], and his House cosponsor [Mr. KEMP]. The two bills introduced by these gentleman are innovative, important plans, and our Nation would be better off under either of these plans.

The one flaw in these plans is that they don't go far enough to remove the bias against savings in our Tax Code. Now there is a reason why these plans didn't address the antisavings bias. Up until relatively recently, the conventional wisdom held that you couldn't put substantial savings incentives in a tax reform. It was argued that if you put in savings incentives, one or more of three things would happen: You'd lose enormous sums of revenue, or you'd need high marginal rates for the tax burden would be shifted from rich to poor.

Mr. President, when the Joint Committee on Taxation began work on the technical aspects of my proposal, they were given the following instructions:

Come up with a rate structure that allows substantial savings incentives, does not alter the income distribution, raises the same amount of revenue as current law and results in lower marginal tax rates.

And, Mr. President, that is exactly what the Joint Committee came back with. And let me take a minute to compliment the tremendous work done by the staff of the Joint Committee on Taxation. My compliments to the staff director, David Brockway, and especially to Ken Wertz, who coordinated all the activities, and Eric Cook, who did the revenue estimating. I also want to thank Jim Fransen from the legislative counsel's office, who drafted the bill.

This bill, which I am introducing today, should be considered a serious proposal, but it should be recognized that even the best plan may have some flaws. We are placing this bill in the public eye so that people can debate it, criticize it, and make suggestions. We welcome criticism and suggestions and will incorporate suggestions as we redraft in preparation for the 99th Congress. This bill does prove that moving in this direction is worthwhile and that a system doesn't have to penalize saving in order to be equitable and raise revenue.

Mr. President, we must remove the bias against saving.

Our present Tax Code has got to be one of the most archaic, complex and cumbersome documents ever produced. It is a maze of special rules, technical amendments, technical changes to technical amendments, special exemptions, and so on, and so forth.

The reason that you see a lot of these things in the code is because the tax system penalizes a lot of economic activities that it shouldn't.

Congress, in turn, has tried to take the pressure off some of these activities by granting special exemptions. Other exemptions were, quite frankly, put into effect by the efforts of special interest groups.

The one activity that has been penalized the most in this economy has been savings and investment. And yet, it is this sector which is so crucial to our present and future international competitive posture.

I believe that many Senators would agree that our Nation's declining ability to keep up with the international competition in recent years is, in large measure, the result of our dismal level of personal savings and investment.

America is a land of tremendous opportunity and growth; our country is welling over the new ideas and inventions; our entrepreneurial spirit is alive and as vigorous as ever; our Nation is still well ahead of the rest of the world in discovering and developing new technologies.

But when it comes to finding the capital to put these new ideas and technologies to use, we come up short. Our rate of personal savings—the chief source of capital for industrial growth and modernization—is pitifully small compared to those of our major trading partners in the Pacific Basin and Western Europe.

But why don't we save more? Why does a nation that has always recognized the importance and value of putting something aside for a rainy day have a personal savings rate of around only 4.7 percent? From 1970 to the present, the U.S. savings rate has averaged less than 7 percent, while the Japanese, for example, had an average savings rate of almost 20 percent. Why this imbalance?

I believe the primary answer can be found in a tax system which encourages consumption now and discourages saving for the future. Our current tax system contains an inherent bias against savings; in fact, it penalizes savings by taxing them twice. Once when the money is earned, and again when it produces income in a savings account or other interest-earning investment.

Eliminating this double taxation of savings is a vital and necessary ingredient in reforming our tax system. We need a tax system that encourages, rather than penalizes, personal saving. Why? Because every dollar saved is a dollar that can go to new investment to build new plants or to modernize old ones and to create jobs. Savings is the engine that drives long-term economic growth. At the same time, we need a simplified Tax Code with lower rates for the average taxpayer.

Our tax plan, like the others that have been proposed, will broaden the tax base, reduce marginal rates, and simplify the tax system. But it will go one vital step further. It will remove the existing bias against saving and investment in order to provide our Nation with the needed savings for economic growth.

Let me briefly describe my tax plan which will replace the existing individual income tax.

Specifically, we would eliminate virtually all the existing exemptions, deductions and credits. The only exceptions would be the home mortgage interest deduction, a deduction for charitable contributions, and a deduction to protect against catastrophic medical expenses. In addition, legitimate business expenses for a personal business will, of course, be deductible.

In order to insure that no one below the poverty line is taxed, the system would expand the substantial "zero bracket amount" (the old standard deduction) and retain personal exemptions. The earned income credit would also be expanded beyond that of current law.

In this system, there would be one other deduction—and it is this deduction that makes this plan uniquely suited to stimulate savings and investment.

Most income invested in a savings account or other savings instrument would not be taxed until it is withdrawn and spent.

The centerpiece of this plan would be the creation by Congress of "supersavings accounts" (SUSA for short). The SUSA would function much like current IRA's, except that saving could be for any purpose, not just retirement. The funds could also be withdrawn at any time without penalty.

Net contributions to the SUSA would be tax deductible and net withdrawals would be added to taxable income. Within the account, investments could be made in any financial asset. The limits on the SUSA would be $10,000 for an individual and $20,000 for a couple filing jointly. Existing IRA's would be rolled into the SUSA's, but my plan would retain existing Keoghs as a separate entity not covered by the SUSA limits.

The second major feature of my plan is to replace the complicated system of capital recovery provisions and credits for equipment with immediate expensing. This is crucial to our goal of creating an environment for investment for economic growth. Lives for structures will also be shortened.

Of course, any proposal as dramatic as this necessarily poses a number of transition problems. To mitigate some of the transitional difficulties, our tax system would be phased in over a period of 5 years. In close consultation with the Joint Committee on Taxation, we have determined that a permanent rate structure of four rates between 12 and of 34 percent would be sufficient to make the system revenue and income distribution neutral.

Who then should support such a tax system?

In my judgment, the broad spectrum of the American populace would benefit substantially from such a proposal

and would be strong supporters of our initiative.

Groups that would benefit would include:

Young married couples—the future hope of our society—who look forward, for the first time, to owning their own homes. The super-savings accounts would provide low-interest mortgage money to help make home ownership a reality.

Middle-aged and middle-income families—the very backbone of our Nation—who want to save whether for their children's education, a summer home in the country, a long awaited and needed vacation, or whatever.

The elderly, who have toiled countless hours to make our country great and now find themselves—under our present tax system—unable to save tax free. With our proposal, the elderly could save funds tax free to help protect themselves against catastrophic illness or to provide a legacy for their children.

The jobless and underemployed—unwilling victims of technological change—would support this initiative because this new system would create new jobs by increasing the competitiveness of U.S. products and services in world markets.

The American business community—our plan would provide a steady and expanding source of capital so necessary for business growth.

In short, anyone who wants to see the United States preserve its economic strength, anyone who wants to maintain and strengthen the benefits of this recovery, anyone who wants to see America reassert its leadership in world trade and industrial productivity will support our initiative.

The time is ripe to jettison our present outmoded, cumbersome, and inherently biased tax system and replace it with one that is simple and fair. The system we proposed today does that and more. Our tax plan encourages savings and investment, lays the groundwork for sustained economic growth and job creation, and ensures a better life for all of our citizens.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD along with title-by-title analysis. I further ask that the letter relating to income distribution and revenue provided by the Joint Committee on Taxation be placed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3042

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Broad-Based Enhanced Savings Tax Act of 1984".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The Secretary of the Treasury or his delegate, not later than 90 days after the date of the enactment of this Act, shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a draft of any technical and conforming amendments to the Internal Revenue Code of 1954 which are necessary to reflect the substantive amendments made by this Act.

TITLE I—REDUCTION OF INDIVIDUAL INCOME TAX RATES

SEC. 101. REDUCTION OF INDIVIDUAL INCOME TAX RATES.

(a) IN GENERAL.—So much of section 1 (relating to tax imposed) as precedes subsection (f) is amended to read as follows:

"SECTION 1. TAX IMPOSED.

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of every married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and every surviving spouse (as defined in section 2(a)), a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $3,550	No tax.
Over $3,550 but not over $20,000.	18% of the excess over $3,550.
Over $20,000 but not over $30,000.	$2,961, plus 26% of the excess over $20,000.
Over $30,000 but not over $60,000.	$5,561, plus 36% of the excess over $30,000.
Over $60,000	$16,361, plus 45% of the excess over $60,000.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every individual who is the head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $2,400	No tax.
Over $2,400 but not over $20,000.	18% of the excess over $2,400.
Over $20,000 but not over $30,000.	$3,168, plus 26% of the excess over $20,000.
Over $30,000 but not over $55,000.	$5,768, plus 36% of the excess over $30,000.
Over $55,000	$14,768, plus 45% of the excess over $55,000.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $2,400	No tax.
Over $2,400 but not over $15,000.	18% of the excess over $2,400.
Over $15,000 but not over $25,000.	$2,268, plus 26% of the excess over $15,000.
Over $25,000 but not over $50,000.	$4,868, plus 36% of the excess over $25,000.
Over $50,000	$13,868, plus 45% of the excess over $50,000.

"(d) MARRIED INDIVIDUALS FILLING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013 a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $1,775	No tax.
Over $1,775 but not over $10,000.	18% of the excess over $1,775.
Over $10,000 but not over $15,000.	$1,481, plus 26% of the excess over $10,000.
Over $15,000 but not over $30,000.	$2,781, plus 36% of the excess over $15,000.
Over $30,000	$8,181, plus 45% of the excess over $30,000.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of every estate and trust taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $8,225	18% of the taxable. income.
Over $8,225 but not over $13,225.	$1,481, plus 26% of the excess over $8,225.
Over $13,225 but not over $28,225.	$2,781, plus 36% of the excess over $13,225.

Over $28,225	$8,181, plus 45% of the excess over $28,225.".

(b) ADDITIONAL DECREASES IN TAX RATES.—

(1) IN GENERAL.—Section 1 is amended by adding at the end thereof the following new subsection:

"(g) ADDITIONAL REDUCTION IN RATES.—In prescribing the tables under subsection (f) for any taxable year beginning after December 31, 1987, the Secretary shall substitute the following percentage rates for the percentage rates in the tables contained in subsection (a), (b), (c), (d), and (e):

"In the case of a taxable year beginning in:	Substitute for each percentage the percentages listed under it:			
	18%	26%	36%	45%
1988	17	24	34	42
1989	14	21	31	37
1990 and thereafter	12	20	30	34.".

(2) CONFORMING AMENDMENTS.—Section 1(f)(2) is amended—

(A) by inserting "except as provided in subsection (g)," before "by" in subparagraph (B), and

(B) by inserting "and the adjustments under subsection (g)" after "brackets" in subparagraph (C).

(c) INDEXATION OF TAX TABLES.—

(1) INDEXING TO BEGIN IN 1986.—Paragraph (1) of section 1(f) (relating to adjustments in tax tables so that inflation will not result in tax increases) is amended by striking out "1984" and inserting in lieu thereof "1985".

(2) COST-OF-LIVING ADJUSTMENT.—Paragraph (3)(B) of section 1(f) is amended by striking out "1983" and inserting in lieu thereof "1984".

(3) CONFORMING AMENDMENTS.—Paragraphs (1) and (2) of section 1(f) are each amended by striking out "paragraph (3) of".

SEC. 102. INCREASE IN EARNED INCOME CREDIT.

(a) INCREASE IN PERCENTAGE FROM 11 TO 13 PERCENT.—Section 32(a) (relating to earned income credit) is amended by striking out "11 percent" and inserting in lieu thereof "13 percent".

(b) INCREASE IN BASE FROM $5,000 TO $5,200.—Section 32(a) is amended by striking out "$5,000" and inserting in lieu thereof "$5,200".

(c) ADJUSTMENTS SO THAT INFLATION WILL NOT REDUCE THE VALUE OF CREDIT.—

(1) IN GENERAL.—Section 32 is amended by adding at the end thereof the following new subsection:

"(i) INFLATION ADJUSTMENTS.—

"(1) IN GENERAL.—Not later than December 15 of 1985 and each subsequent calendar year thereafter, the Secretary shall prescribe the amounts which shall apply in lieu of—

"(A) the $5,200 amount contained in subsection (a),

"(B) the $676 amount contained in subsection (b)(1),

"(C) the $6,900 amount contained in subsections (b)(2) and (f)(2)(B), and

"(D) the $12,308 amount contained in subsections (f)(2) (A) and (B),

with respect to taxable years beginning in the succeeding calendar year.

"(2) METHOD OF ADJUSTING AMOUNTS.—The amounts which shall apply in lieu of the amounts referred to in paragraph (1) with respect to taxable years beginning in any calendar year shall be prescribed by increasing each such amount by the cost-of-living adjustment (as defined in section 63(d)(2)(C)) for such calendar year. If such increase is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or if such increase is a multiple of $5 but not a multiple of $10, such increase shall be increased to the next multiple of $10).".

(2) CONFORMING AMENDMENTS.—Section 3507(c)(2) is amended by adding at the end thereof the following new flush sentence:

"Each time the Secretary makes an adjustment under section 32(i), the Secretary shall make the same adjustment to each amount contained in this paragraph.".

(d) CONFORMING AMENDMENTS—

(1) Paragraph (1) of section 32(b) is amended by striking out "$550" and inserting in lieu thereof "$676".

(2) Paragraph (2) of section 32(b) is amended—

(A) by striking out "12% percent" and inserting in lieu thereof "12.5 percent", and

(B) by striking out "$6,500" and inserting in lieu thereof "$6,900".

(3) Section 32(f)(2) is amended—

(A) by striking out "$11,000" each place it appears and inserting in lieu thereof "$12,308", and

(B) by striking out "$6,500" and inserting in lieu thereof "$6,900".

(4) Section 3507 (c)(2) (defining earned income advance amount) is amended by striking out "11 percent" each place it appears and inserting in lieu thereof "13 percent",

(5) by striking out "$5,000" and inserting in lieu thereof "$5,200",

(6) by striking out "$6,500" and inserting in lieu thereof "$6,900",

(7) by striking out "$11,000" and inserting in lieu thereof "$12,308",

(8) by striking out "$2,500" and inserting in lieu thereof "$2,600",

(9) by striking out "$3,250" and inserting in lieu thereof "$3,450",

(10) by striking out "$5,500" and inserting in lieu thereof "$6,154".

SEC. 103. INCREASE IN PERSONAL EXEMPTION FOR 1985.

Section 151(f) (defining exemption amount) is amended to read as follows:

"(f) EXEMPTION AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'exemption amount' means with respect to any taxable year, $1,050 increased by an amount equal to $1,050 multiplied by the cost-of-living adjustment (as defined in section 1(f)(3)) for the calendar year in which the taxable year begins. If the amount determined under the preceding sentence is not a multiple of $10, such amount shall be rounded to the nearest multiple of $10 (or if such amount is a multiple of $5, such amount shall be increased to the next highest multiple of $10).

"(2) 1985.—For taxable years beginning in 1985, the exemption amount shall be equal to $1,050.".

SEC. 104. REPEALS RELATED TO REDUCTION IN RATES.

The following provisions are hereby repealed:

(1) Section 55 (relating to alternative minimum tax for taxpayers other than corporations).

(2) Paragraphs (1), (2), and (3) of section 402(e) (relating to special averaging rules for lump-sum distributions).

(3) Part I of subchapter Q of Chapter 1 (section 1301 and following, relating to income averaging).

TITLE II—INCENTIVES FOR INVESTMENT AND SAVINGS

Subtitle A—Depreciation Reform

SEC. 201. EXPENSE-METHOD DEPRECIATION FOR PERSONAL PROPERTY PLACED IN SERVICE BY TAXPAYERS OTHER THAN CORPORATIONS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 168 the following new section:

"SEC. 168A. EXPENSE-METHOD DEPRECIATION FOR PERSONAL PROPERTY.

"(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction an amount equal to the basis of each expense-method property placed in service by the taxpayer during the taxable year.

"(b) EXPENSE-METHOD PROPERTY DEFINED.—Except as otherwise provided in this section, for purposes of this title, the term 'expense-method property' means tangible property—

"(1) which is 3-year or 5-year property, and

"(2) which is placed in service—

"(A) after December 31, 1984, and

"(B) by a taxpayer other than a C corporation.

"(c) CERTAIN PROPERTY EXCLUDED FROM DEFINITION OF EXPENSE-METHOD PROPERTY.—For purposes of this section—

"(1) PROPERTY USED PREDOMINANTLY OUTSIDE THE UNITED STATES.—The term 'expense-method property' does not include property which, during the taxable year, is used predominantly outside the United States (within the meaning of paragraph (2) of section 48(a)).

"(2) LESSORS.—The term 'expense-method property' includes property with respect to which the taxpayer is the lessor only if the requirements of subparagraph (A) or (B) of section 46(e)(3) are met with respect to such property.

"(3) PROPERTY FOR WHICH INVESTMENT CREDIT NOT ALLOWABLE UNDER PRIOR LAW.—The term 'expense-method property' does not include any property which, if it had been placed in service before January 1, 1985, would have been excluded from the definition of section 38 property under—

"(A) paragraph (3) of section 48(a) (relating to property used for lodging),

"(B) paragraph (4) of section 48(a) (relating to property used by certain tax-exempt organizations), or

"(C) paragraph (5) of section 48(a) (relating to property used by governmental units).

"(4) TAX-EXEMPT USE PROPERTY.—The term 'expense method property' does not include tax-exempt use property (within the meaning of section 168(j)(3)).

"(5) PROPERTY ACQUIRED AT DEATH.—The term 'expense-method property' does not include any property the basis of which in the hands of the taxpayer is determined under section 1014(a).

"(6) TAX-EXEMPT FINANCED PROPERTY.—The term 'expense method property' does not include any property to which section 168(f)(12) applies (determined without regard to this section).

"(d) COORDINATION WITH SECTION 1245.—In the case of any disposition of expense-method property—

"(1) the excess referred to in paragraph (1) of section 1245(a) shall be determined as

if such paragraph did not contain subparagraph (A) thereof,

"(2) paragraph (1) of section 1245(b) shall not apply, and

"(3) paragraph (3) of section 1245(b) (and paragraph (5) of section 1245(b) to the extent it relates to such paragraph (3)) shall not apply unless the transfer is in a transaction to which section 381(a) applies.

"(e) DEFINITIONS AND SPECIAL RULES.—

"(1) DISPOSITION WITHIN 1 YEAR AFTER PROPERTY PLACED IN SERVICE.—The term 'expense-method property' does not include any property disposed of by the taxpayer before the date 1 year after the date on which such property was placed in service.

"(2) PROPERTY WHICH CEASES TO BE EXPENSE-METHOD PROPERTY.—If any expense-method property for which a deduction was allowable to the taxpayer under this section ceases to be expense-method property with respect to the taxpayer (other than by disposition)—

"(A) the taxpayer shall be treated as having disposed of such property on the date of such cessation, and

"(B) the basis of such property in the hands of the taxpayer after the date of such cessation shall be treated as equal to its fair market value as of such date.

"(3) 3- AND 5-YEAR PROPERTY.—The terms '3-year property' and '5-year property' have the meaning given such terms by section 168.

"(4) BASIS.—For purposes of this section, the basis of any property shall be the adjusted basis provided in section 1011 for purposes of determining the gain on the sale or other disposition of such property.

"(5) LIFE TENANTS AND BENEFICIARIES OF TRUSTS AND ESTATES.—Rules similar to the rules of section 167(h) shall apply for purposes of this section.

"(6) TRANSFEREE BOUND BY TRANSFEROR'S TREATMENT OF PROPERTY IN CERTAIN CASES.—

"(A) IN GENERAL.—In the case of expense-method property transferred in a transaction described in subparagraph (B), the transfers shall be treated as the transferor for purposes of computing the deduction allowable under subsection (a) with respect to so much of the basis in the hands of the transferee as does not exceed the adjusted basis in the hands of the transferor.

"(B) TRANSACTIONS COVERED.—For purposes of subparagraph (A), the transactions described in this subparagraph are—

"(i) any transaction of property if the basis of such property in the hands of the transferee is determined by reference to its basis in the hands of the transferor by reason of section 351, 361, 721, or 731,

"(ii) any acquisition where the transferor and transferee are related persons, and

"(iii) any acquisition of property by any person if such person acquired the property from another person and leases it back to such other person (or a person related to such other person).

"(C) PROPERTY REACQUIRED BY THE TAXPAYER.—Under regulations prescribed by the Secretary, expense-method property which is disposed of and then reacquired by the taxpayer shall be treated, for purpose of computing the deduction allowable under subsection (a), as if such property had not been disposed of.

"(D) RELATED PERSON DEFINED.—For purposes of this paragraph, a person is related to another person if—

"(i) the person bears a relationship to such other person specified in section 267(b) or 707(b)(1), or

"(ii) such persons are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of clause (i), sections 267(b) and 707(b)(1) shall be applied by substituting '10 percent' for '50 percent'.

"(7) PROPERTY TREATED AS RECOVERY PROPERTY.—Except as otherwise provided in this section, expense-method property shall, for purposes of this title, be treated in the same manner as recovery property.

"(g) TRANSITIONAL RULES.—

"(1) IMMEDIATE EXPENSING FOR CERTAIN PROPERTY.—

"(A) IN GENERAL.—The taxpayer may designate items of expense-method property which shall be deductible under subsection (a) without regard to the rules of paragraph (2) of this subsection.

"(B) LIMITATION.—The aggregate bases of expense-method property which are placed in service during any taxable year and which are designated under subparagraph (A) shall not exceed the amount determined in accordance with the following table:

"If the taxable year begins in:	The limit is:
1985, 1986, or 1987	$5,000
1988 or 1989	$7,500

"(2) ONLY CERTAIN PORTION OF PROPERTY TAKEN INTO ACCOUNT.—

"(A) IN GENERAL.—Except in the case of property designated by the taxpayer under paragraph (1), this section shall apply only to the applicable precentage of the basis of expense-method property of the taxpayer placed in service before 1990.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)—

"In the case of property placed in service during:	The applicable percentage is:
1985	50
1986	60
1987	70
1988	80
1989	90.

"(3) SPECIAL RULES FOR DESIGNATIONS UNDER PARAGRAPH (1).—

"(A) DESIGNATION.—

"(i) IN GENERAL.—A designation under subparagraph (A) of paragraph (1) shall be made on or before the due date prescribed by law (including extensions thereof) for filing the return under this chapter for the taxable year in which the property is placed in service. The designation shall be made in such manner as the Secretary may by regulations prescribe. Any such designation may not be revoked except with the consent of the Secretary.

"(ii) DESIGNATION APPLIES TO ENTIRE BASIS.—A designation under subparagraph (A) of paragraph (1) shall apply to the entire basis of the property being designated, except that the designation may apply to a portion of this basis of one item if (but for this exception) the designation of such item would result in the limitation of subparagraph (B) of paragraph (1) being exceeded.

"(B) PARAGRAPH (1) NOT TO APPLY TO ESTATES AND TRUSTS.—Paragraph (1) shall not apply to estates and trusts.

"(C) DOLLAR LIMITATION IN CASE OF PARTNERSHIPS OR S CORPORATIONS.—In the case of a pertnership or S corporation, the dollar limitation of subparagraph (B) of paragraph (1) shall apply with respect to the partnership and with respect to each partner and with respect to the S corporation and with respect to each shareholder.

"(D) MARRIED INDIVIDUALS.—In the case of a separate return by a married individual (within the meaning of section 143), the dollar limitation of subparagraph (B) of paragraph (1) shall be one-half of the amount otherwise determined.

"(E) TRANSITIONAL RULE.—In the case of any taxable year which begins January 1, 1985, and ends after December 31, 1984, the dollar limitation of subparagraph (B) of paragraph (1) shall be an amount which bears the same ratio to the amount which (but for this paragraph) would be such limitation, as—

"(i) the number of months in such taxable year beginning after December 31, 1984, bears to

"(ii) 12.

A similar rule shall also apply in the case of a short taxable year beginning after December 31, 1984.

"(4) SPECIAL RULES FOR TRANSITION PERIOD.—

"(A) INVESTMENT TAX CREDIT ALLOWED FOR REMAINING BASIS.—

"(i) IN GENERAL.—Paragraph (11) of section 48(a) shall not apply to that portion of the basis of any expense-method property to which this section does not apply by reason of paragraph (2) (hereinafter in this paragraph referred to as the 'remaining basis').

"(ii) CLARIFICATION OF LIMIT ON USED PROPERTY.—For purposes of section 48(c)(2), the cost of any used section 38 property shall not include the portion of the cost of such property to which this section applies.

"(B) DEPRECIATION DEDUCTION ALLOWED.—The recovery deduction provided by section 168 shall apply to the remaining basis without regard to the last sentence of section 167(a).".

(b) TERMINATION OF REGULAR INVESTMENT CREDIT FOR PERSONAL PROPERTY.—Subsection (a) of section 48 (defining section 38 property) is amended by adding at the end thereof the following new paragraph:

"(11) EXPENSE-METHOD PROPERTY.—For purposes of applying the regular percentage, the term 'section 38 property' shall not include any expense-method property (as defined in section 168A).".

(c) EXPENSE-METHOD DEDUCTION TREATED AS DEPRECIATION.—Subsection (a) of section 167 (relating to depreciation) is amended by adding at the end thereof the following new sentence: "In the case of expense-method property (as defined in section 168A), the deduction allowable under section 168A shall be deemed to constitute the reasonable allowance provided by this section."

(d) TREATMENT OF EXPENSE-METHOD DEDUCTION WITH RESPECT TO ACTIVITIES NOT ENGAGED IN FOR PROFIT.—Subsection (d) of section 183 (relating to activities not engaged in for profit) is amended by adding at the end thereof the following: "For purposes of this subsection and subsection (e)(2), in the case of expense-method property (as defined in section 168A), there shall be substituted for the deductions under section 168A the deductions which would be allowed for each taxable year if section 168 had applied to such property.".

(e) SECTION 179 NOT TO APPLY TO EXPENSE-METHOD PROPERTY.—Section 179(d)(1) (defining section 179 property) is amended by adding at the end thereof the following: "The term 'section 179 property' does not include expense-method property.".

(f) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 168 the following new item:

"Sec. 168A. Expense-method depreciation for personal property.".

SEC. 202. EXTENSION OF RECOVERY PERIOD FOR REAL PROPERTY TO 18 YEARS NOT TO APPLY AFTER 1989.

Subsection (g)(1) of section 111 of the Tax Reform Act of 1984 is amended by inserting "and before January 1, 1990" after "1984".

Subtitle B—Savings Incentives

SEC 211. SUPER SAVINGS ACCOUNTS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 223 as 224 and by inserting after section 222 the following new section:

"SEC. 223. SUPER SAVINGS ACCOUNTS.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction an amount equal to the amounts paid in cash by such individual during the calendar year which ends with or within the taxable year to a super savings account.

"(b) MAXIMUM AMOUNT OF DEDUCTION.—

"(1) IN GENERAL.—The amount allowable as a deduction under subsection (a) for any taxable year shall not exceed the excess of—

"(A) the applicable limit, over

"(B) the amount allowable as a deduction under section 219 for such taxable year.

"(2) APPLICABLE LIMIT.—For purposes of this section, the term 'applicable limit' means the limit determined in accordance with the following table:

"For taxable years beginning in:	The limit is:	
	Joint return	Other
1985	$15,000	$7,500
1986	16,000	8,000
1987	17,000	8,500
1988	18,000	9,000
1989	19,000	9,500
1990 and thereafter	20,000	10,000

"(c) SUPER SAVINGS ACCOUNT DEFINED.—For purposes of this section, the term 'super savings account' means a trust created or organized in the United States for the exclusive benefit of the individual establishing such account or the beneficiaries of such individual, but only if the written governing instrument creating the trust meets the following requirements:

"(1) No contribution to the trust will be accepted unless it is in cash.

"(2) No contribution to the trust will be accepted for any taxable year which is in excess of the applicable limit for such taxable year.

"(3) All distributions from the trust will be in cash.

"(4) The trustee is a bank (as defined in section 401(d)(1)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

"(5) The interest of an individual in the balance of the account is nonforeitable.

"(6) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(7) The assets of the account may be invested in accordance with the direction of the individual establishing the account, except that the assets may not be used to acquire any collectible (within the meaning of section 408(m)(2)).

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, any amount paid or distributed of a super savings account shall be included in gross income by the individual receiving such amount in the taxable year in which such payment or distribution is made.

"(2) EFFECT OF PLEDGING ACCOUNT AS SECURITY.—For purposes of paragraph (1), if, during any taxable year, the individual for whose benefit a super savings account is established uses the account or any portion thereof as security for a loan, the portion so used shall be treated as distributed to such individual.

"(3) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Paragraph (1) does not apply to the distribution of any contribution paid during a taxable year to a super savings account to the extent that such contribution exceeds the amount allowable as a deduction under subsection (a) if—

"(A) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such individual's return for such taxable year,

"(B) no deduction is allowed under subsection (a) with respect to such excess contribution, and

"(C) such distribution is accompanied by the amount of net income attributable to such excess contribution. Any net income described in subparagraph (C) shall be included in the gross income of the individual for the taxable year in which it is received.

"(4) TRANSFER OF ACCOUNT INCIDENT TO DIVORCE.—Notwithstanding any other provision of this subtitle—

"(A) the transfer of an individual's interest in a super savings account to the former spouse of the individual under a divorce decree or under a written instrument incident to such divorce shall not be considered a taxable transfer, and

"(B) the interest in such account shall, at the time of the transfer, be treated as a super savings account of the former spouse and not of the individual.

"(e) TAX TREATMENT OF ACCOUNT.—

"(1) EXEMPTION FROM TAX.—Except as provided in paragraph (2), a super savings account is exempt from taxation under this subtitle.

"(2) TAX ON UNRELATED BUSINESS INCOME.—Notwithstanding paragraph (1), a super savings account shall be subject to any tax imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(f) SPECIAL RULES.—For purposes of this section—

"(1) NO DEDUCTION FOR CONTRIBUTION OF BORROWED AMOUNTS.—No deduction shall be allowed under subsection (a) for any contribution to a super savings account out of the proceeds of any indebtedness incurred or continued by the individual making the contribution.

"(2) COMMUNITY PROPERTY LAWS.—This section shall be applied without regard to any community property laws.

"(3) CUSTODIAL ACCOUNTS.—

"(A) IN GENERAL.—A custodial account shall be treated as a trust if—

"(i) the assets of such account are held by a person described in subsection (c)(4), and

"(ii) the account would, but for the fact it is not a trust, constitute a super savings account.

"(B) TRUSTEE.—For purposes of this title, the custodian of an account treated as a trust by reason of subparagraph (A) shall be treated as a trustee of such account.

"(4) Contributions other than cash allowed in 1985.—Notwithstanding subsection (a) or (c)(1), stocks, bonds, or other securities readily tradeable on an established securities market may be transferred to a super savings account during calendar year 1985. In computing the amount of the deduction under subsection (a), and in applying the limit under subsection (b), the fair market value (as of the date of transfer) of any property so transferred shall be taken into account. "(g) Reports.—The trustee of a super savings account

shall make such reports regarding such account to the Secretary and to the individual for whose benefit the account is maintained with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.".

(b) DEDUCTION ALLOWED IN ARRIVING AT ADJUSTED GROSS INCOME.—Paragraph (10) of section 62 (defining adjusted gross income) is amended—

(1) by striking out "Retirement savings" and inserting in lieu thereof "Savings", and

(2) by inserting before the period at the end thereof the following: "and the deduction allowed by section 223 (relating to deduction of certain payments to super savings accounts)".

(c) TAX ON EXCESS CONTRIBUTIONS.—Section 4973 (relating to tax on excess contributions to indvidual retirement accounts, certain section 403(b) contracts, certain individual retirement annuities, and certain retirement bonds) is amended—

(1) by inserting "super savings accounts," after "accounts," in the caption of such section,

(2) by redesignating paragraphs (2) and (3) of subsection (a) as (3) and (4), and by inserting after paragraph (1) the following:

"(2) a super savings account (within the meaning of section 223(c)),", and

(3) by adding at the end thereof the following new subsection:

"(d) EXCESS CONTRIBUTIONS TO SUPER SAVINGS ACCOUNTS.—For purposes of this section, in the case of a super savings account, the term 'excess contributions' means the amount by which the amount contributed for the taxable year to the account exceeds the amount allowable as a deduction under section 223(b) for such taxable year. For purposes of this subsection, any contribution which is distributed out of the super savings account and a distribution to which section 223(d)(3) applies shall be treated as an amount not contributed.".

(d) TAX ON PROHIBITED TRANSACTIONS.—Section 4975 (relating to prohibited transactions) is amended—

(1) by inserting "(20 percent in the case of a prohibited transaction involving a super savings account)", and

(2) by inserting "or a super savings account described in section 223(c)" in subsection (e)(1) after "described in section 408(a)".

(e) FAILURE TO PROVIDE REPORTS ON SUPER SAVINGS ACCOUNTS.—Section 6693 (relating to failure to provide reports on individual retirement account or annuities) is amended—

(1) by inserting "or super savings accounts" after "annuities" in the caption of such section, and

(2) by adding at the end of subsection (a) the following: "The person required by section 223(g) to file a report regarding a super savings account at the time and in the manner required by such section shall pay a penalty of $10 for each failure unless it is shown that such failure is due to reasonable cause.".

(f) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study on whether section 223 of the Internal Revenue Code of 1954 should be modified to take into account any differences between common law and community property States and report to the Congress the results of such study, together with any recommendations.

(g) CONFORMING AMENDMENTS.—

(1) The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the item relating to section 223 and inserting in lieu thereof the following:

"Sec. 223. Super savings accounts.
"Sec. 224. Cross references.".

(2) The table of sections for chapter 43 is amended by striking out the item relating to section 4973 and inserting in lieu thereof the following:

"Sec. 4973. Tax on excess contributions to individual retirement accounts, super savings accounts, certain 403(b) contracts, certain individual retirement annuities, and certain retirement bonds.".

(3) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6693 and inserting in lieu thereof the following:

"Sec. 6693. Failure to provide reports on individual retirement accounts or annuities or on super savings accounts.".

TITLE III—BASE BROADENING

SUBTITLE A—CREDITS

SEC. 301. REPEALS.

(a) CREDITS APPLICABLE ONLY TO INDIVIDUALS.—The following provisions are hereby repealed:

(1) Section 21 (relating to credit for household and dependent care services).

(2) Section 22 (relating to credit for the elderly and the permanently and totally disabled).

(3) Section 23 (relating to residential energy credit).

(4) Section 24 (relating to contributions to candidates for public office).

(b) CREDITS APPLICABLE TO INDIVIDUALS AND CORPORATIONS.—

(1) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end thereof the following new section:

"SEC. 30A. CERTAIN CREDITS ALLOWABLE ONLY TO C CORPORATIONS.

"In the case of any taxable year beginning after December 31, 1984, no credit shall be allowed under section 28, 29, or 30 to a person other than a C corporation.".

(2) GENERAL BUSINESS CREDIT.—Section 38 (relating to general business credit) is amended by adding at the end thereof the following new subsection:

"(e) APPLICATION ONLY TO C CORPORATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), in the case of any taxable year beginning after December 31, 1984, no credit shall be allowed under subsection (a) to a person other than a C corporation.

"(2) INVESTMENT CREDIT UNTIL 1990.—In the case of a person other than a C corporation, there shall be allowed as a credit under subsection (a) for property placed in service and qualified progress expenditures made, after December 31, 1984, and before January 1, 1990, an amount equal to the amount of the investment credit determined under section 46(a) for 3-year and 5-year property placed in service during such period, except that in determining such amount the applicable percentage for purposes of section 46(c)(1) shall be—

"(A) 30 percent in the case of 3-year property, and

"(B) 50 percent in the case of 5-year property.".

(3) CONFORMING AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 30A. Certain credits allowable only to C corporations.".

SUBTITLE B—EXCLUSIONS PART I—REPEALS

SEC. 311. REPEALS.

(a) PROVISIONS APPLICABLE TO INDIVIDUALS.—The following sections are hereby repealed:

(1) Section 101 (b) (relating to exclusion for employee death benefits).

(2) Section 107 (relating to rental value of parsonages).

(3) Section 112 (relating to certain combat pay of members of the Armed Forces).

(4) Section 113 (relating to mustering-out payments for members of the Armed Forces).

(5) Section 116 (relating to partial exclusion of dividends received by individuals).

(6) Section 119 (relating to meals or lodging furnished for convenience of employer).

(7) Section 120 (relating to amounts received under qualified group legal service plans).

(8) Section 121 (relating to one-time exclusion of gain from sale or exchange of principal residence).

(9) Section 122 (relating to certain reduced uniform services retirement pay).

(10) Section 124 (relating to qualified transportation furnished by employer).

(11) Section 125 (relating to cafeteria plans).

(12) Section 126 (relating to certain cost sharing payments).

(13) Section 127 (relating to educational assistance programs).

(14) Section 129 (relating to dependent care assistance programs).

(15) Section 131 (relating to certain foster care payments).

(16) Section 911 (relating to earned income of citizens or residents living abroad).

(17) Section 912 (relating to exemption for certain allowances).

(18) Section 305(e) (relating to dividend reinvestment in public utilities).

(19) Section 932 (relating to citizens of possessions of the United States).

(20) Section 935 (relating to coordination of United States and Guam individual income taxes).

(b) PROVISIONS APPLYING TO INDIVIDUALS AND CORPORATIONS.—In the case of taxable years beginning after December 31, 1984, the following provisions shall apply only to C corporations (as defined in section 1361(a)(2) of the Internal Revenue Code of 1954):

(1) Section 621 (relating to payments to encourage exploration, development, and mining for defense purposes).

(2) Section 931 (relating to income from sources within possessions of the United States).

PART II—OTHER CHANGES

SEC. 312. GROUP-TERM LIFE INSURANCE PURCHASED FOR EMPLOYEES.

(a) IN GENERAL.—Subsection (a) of section 79 (relating to group-term life insurance purchased for employees) is amended to read as follows:

"(a) IN GENERAL.—There shall be included in the gross income of an employee for the taxable year an amount equal to the cost of group-term life insurance on his life provided for part or all of such year under a policy (or policies) carried directly or indirectly by his employer (or employers); but only to the extent that such cost exceeds the amount, if any, paid by the employee toward the purchase of such insurance.".

(b) EXCEPTION.—Subsection (b) of section 79 (relating to exceptions) is amended by striking out paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(c) CONFORMING AMENDMENT.—Subsection (d) of section 79 is hereby repealed.

SEC. 313. TAXATION OF UNEMPLOYMENT COMPENSATION.

(a) IN GENERAL.—Subsection (a) of section 85 (relating to unemployment compensation) is amended to read as follows:

"(a) IN GENERAL.—Gross income includes any unemployment compensation received by the taxpayer during the taxable year.".

(b) CONFORMING AMENDMENT.—Section 85 is amended by striking out subsection (b) and redesignating subsection (c) as subsection (b).

SEC. 314. COMPENSATION FOR SICKNESS OR INJURY.

Section 104 (relating to compensation for sickness or injury) is amended—

(1) in subsection (a), by inserting "and" at the end of paragraph (3), by striking out paragraph (4), and by redesignating paragraph (5) as paragraph (4), and

(2) by striking out subsection (b) and redesignating subsection (c) as subsection (b).

SEC. 315. TAXATION OF EMPLOYER CONTRIBUTIONS TO ACCIDENT AND HEALTH PLANS.

(a) GENERAL RULE.—Section 106 (relating to contribution by employer to accident and health plans) is amended by adding at the end thereof the following new sentence: "This section shall apply only to contributions attributable to the providing of wages, or payments in lieu of wages, for periods during which the employee is absent from work on account of sickness or disability.".

(b) SELF-INSURED PLANS.—Subsections (b) and (h) of section 105 are hereby repealed.

(c) CONFORMING AMENDMENTS TO EMPLOYMENT TAXES.—

(1) Paragraph (2) of section 3121(a) (defining wages) is amended by striking out "on account of" and all that follows down through the end of such paragraph and inserting in lieu thereof "on account of sickness or accident disability (but, in the case of payments made to an employee or any of his dependents, this paragraph shall exclude from the term 'wages' only payments which are received under a workmen's compensation law);".

(2) Paragraph (2) of section 3306(b) (defining wages) is amended by striking out "on account of" and all that follows down through the end of such paragraph and inserting in lieu thereof "on account of sickness or accident disability (but, in the case of payments made to an employee or any of his dependents, this paragraph shall exclude from the term 'wages' only payments which are received under a workmen's compensation law);".

SEC. 316. SCHOLARSHIP AND FELLOWSHIP EXCLUSION LIMITED TO TUITION AND RELATED EXPENSES.

(a) GENERAL RULE.—Subsections (a) and (b) of section 117 (relating to scholarships and fellowships) are amended to read as follows:

"(a) IN GENERAL.—In the case of an individuals who is a candidate for a degree at an educational organization described in section 170(b)(1)(A)(ii), gross does not include any amount received as—

"(1) a scholarship, or

"(2) a fellowship grant, to the extent such amount is used for qualified tuition and related expenses (within the meaning of subsection (c)(2)).

"(b) PAYMENT FOR TEACHING, RESEARCH, ETC.—Subsection (a) shall not apply to that portion of any amount received which represents payment for teaching, research, or other services in the nature of part-time employment required as a condition to receiving the scholarship or the fellowship grant. If teaching, research, or other services are required of all candidates (whether or not recipients of scholarships or fellowship grants) for a particular degree as a condition to receiving such degree, such teaching, research, or other services shall not be regarded as part-time employment within the meaning of this subsection.".

(b) Clarification of Definition of Qualified Tuition and Related Expenses.—

(1) Clause (i) of section 117(c)(2)(A) is amended by striking out "at an institution of higher education" and inserting in lieu thereof "at an educational organization described in section 170(b)(1)A)(ii)".

(2) Subparagraph (B) of section 117(c)(1) is amended by inserting "at an institution of higher education" after "qualified tuition and related expenses".

SEC. 317. EXCLUSION FOR INCOME FROM SOURCES WITHIN POSSESSIONS OF THE UNITED STATES.

(a) IN GENERAL.—Section 933 is amended by striking out "Puerto Rico" each place it appears in the text and headings thereof and inserting in lieu thereof "a possession of the United States".

(b) CONFORMING AMENDMENT.—The table of sections for subpart D of part III of subchapter N of chapter 1 is amended by striking out "Puerto Rico" in the item relating to section 933 and inserting in lieu thereof "a possession of the United States".

SUBTITLE C—DEDUCTIONS

PART I—REPEALS

SEC. 331. REPEALS.

The following provisions are hereby repealed:

(1) Section 164 (relating to taxes).

(2) Section 217 (relating to deduction for moving expenses).

(3) Section 221 (relating to deduction for two-earner married couples).

(4) Section 222 (relating to deduction for adoption expenses).

PART II—OTHER CHANGES

SEC. 332. REPEAL OF ADDITIONAL PERSONAL EXEMPTION DEDUCTIONS FOR TAXPAYERS 65 OR OVER.

Section 151 (relating to allowance to deducations for personal exemptions) is amended by striking out subsection (c).

SEC. 333. LIMITATION OF INTEREST DEDUCTION.

Subsection (d) of section 163 (relating to limitation on interest on investment indebtedness) is amended to read as follows:

"(d) LIMITATION ON INTEREST DEDUCTIONS OF INDIVIDUALS.—

"(1) IN GENERAL.—In the case of a taxpayer other than a corporation, the amount allowed as a deduction under this chapter for nonbusiness interest shall not exceed the qualified housing interest for the taxable year.

"(2) NONBUSINESS INTEREST.—The term 'nonbusiness interest' means any interest allowable as a deduction under this chapter (determined without regard to paragraph (1)) other than interest allowable as a deduction in computing adjusted gross income (determined with regard to paragraph (4)).

"(3) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED HOUSING INTEREST.—The term 'qualified housing interest' means interest which is paid or accrued during the taxable year on indebtedness which is incurred in acquiring, constructing, or substantially rehabilitating any property which—

"(i) is the principal residence (within the meaning of section 1034) of the taxpayer at the time such interest accrues or is paid, or

"(ii) is a qualified dwelling used by the taxpayer (or any member of his family within the meaning of section 267(c)(4)) during the taxable year.

"(B) QUALIFIED DWELLING.—The term 'qualified dwelling' means any—

"(i) house,

"(ii) apartment,

"(iii) condominium, or

"(iv) mobile home not used on a transient basis,

including all structures or other property appurtenant thereto.

SEC. 334. LIMITATIONS ON LOSSES OF INDIVIDUALS.

(a) REPEAL OF DEDUCTION FOR CASUALTY AND THEFT LOSSES.—Subsection (c) of section 165 (relating to limitation on losses of individuals) is amended—

(1) by striking out paragraph (3), and

(2) by striking out "; and" at the end of paragraph

(2) and inserting in lieu thereof a period.

(b) CONFORMING AMENDMENT.—Section 165 is amended by striking out subsection (h).

SEC. 335. INCREASE IN FLOOR ON MEDICAL DEDUCTION.

Subsection (a) of section 213 (relating to medical, dental, etc., expenses) is amended by striking out "5 percent" and inserting in lieu thereof "10 percent".

SUBTITLE D—REPEAL OF SPECIAL CAPITAL GAINS TREATMENT

SEC. 336. REPEAL OF SPECIAL CAPITAL GAINS TREATMENT.

(a) GENERAL RULE.—Section 1202 (relating to deduction for individuals for capital gains) is hereby repealed.

(b) LIMITATION ON CAPITAL LOSSES APPLIED WITHOUT REGARD TO DISTINCTIONS BETWEEN SHORT TERM AND LONG TERM.—

(1) Subsection (b) of section 1211 (relating to limitation on capital losses in the case of taxpayers other than corporations) is amended to read as follows:

"(b) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, losses from sales or exchanges of capital assets shall be allowed only to the extent of gains from such sales or exchanges plus (if such losses exceed such gains) the smaller of—

"(1) $3,000 ($1,500 in the case of a separate return by a husband or wife), or

"(2) the excess of losses from sales or exchanges of capital assets over gains from such sales or exchanges.".

(2) Subsection (b) of section 1212 (relating to carryovers for taxpayers other than corporations) is amended to read as follows:

"(b) OTHER TAXPAYERS.—If a taxpayer other than a corporation has a net capital loss for any taxable year, the excess (if any) of—

"(1) the amount of such loss, over

"(2) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b), shall be treated as a capital loss in the succeeding taxable year.".

TITLE IV—EFFECTIVE DATES

SEC. 401. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as otherwise provided in this Act, the amendments made by this Act shall apply to taxable years beginning after December 31, 1984.

(b) DEPRECIATION REFORM.—The amendments made by subtitle A of title II shall apply to property placed in service after December 31, 1984, in taxable years ending after such date.

(c) PRESERVATION OF EXISTING CREDIT CARRYOVERS.—

(1) IN GENERAL.—The repeals made by section 301 shall not apply to any carryover of an excess credit from a taxable year beginning before January 1, 1985, to a taxable year beginning after December 31, 1984; except that any carryover to a taxable year beginning after December 31, 1984, shall be reduced to an amount equal to the applicable fraction (for the taxable year to which such credit is being carried) of the amount which would have been such carryover but for this paragraph.

(2) APPLICABLE FRACTION.—For purposes of paragraph (1), the applicable fraction shall be determined as follows:

In the case of a taxable year beginning in:	The applicable fraction is:
1985	45/50.
1986	None.
1987	None.
1988	42/45.
1989	37/42.

(3) REDUCTION IS PERMANENT.—In computing the amount of the carryover to any taxable year following a taxable year in which a reduction is made under paragraph (1), such carryover shall not be increased by the amount of such reduction.

THE BROAD-BASED ENHANCED SAVINGS TAX ACT OF 1984

GENERAL EXPLANATION

Overview

The bill would amend the individual income tax to reduce marginal tax rates and the number of tax brackets, expand incentives for investment and savings, and broaden the tax base. The reduction in marginal tax rates and the expansion of incentives for investment and savings would begin in 1985 and would be fully phased in by 1990. Provisions that broaden the tax base would generally take effect in 1985.

The bill is designed to be approximately revenue neutral. Also, the bill is designed so that each income class would pay approxi-

mately the same share of the tax burden under the phased-in proposal as under present law.

Title I—Reduction of marginal tax rates

The bill would reduce the number of tax brackets to four. In 1985, the brackets would begin at $2,400, $15,000, $25,000 and $50,000 of taxable income for unmarried individuals; for married persons filing jointly, the brackets would begin at $3,550, $20,000, $30,000 and $60,000 of taxable income. This structure incorporates a $100 increase in the zero bracket amount for unmarried individuals ($150 for married couples), which would be at least as great as the increase that indexing is expected to produce for 1985 under present law. The dollar amounts defining the rate brackets, including the zero bracket amount, would be indexed for inflation, beginning in 1986.

Marginal tax rates in the four brackets in 1985 would be 18, 26, 36, and 45 percent, respectively. These rates would be phased down in three steps in 1988, 1989, and 1990, so that after 1989 the marginal tax rates in the four brackets would be 12, 20, 30 and 34 percent, respectively.

The earned income credit for certain individuals and couples with children would be increased in 1985 to 13 percent of the first $5,200 of earned income, for a maximum credit of $676, and the credit would be phased out at a 12.5-percent rate as income increases from $6,900 to $12,308. The personal exemption would be increased in 1985 to $1,050, which would be at least as great as the increase that indexing is expected to produce under present law for 1985. Both the personal exemption and the earned income credit would be indexed for inflation, beginning in 1986.

Consonant with the flattened rate structure and reduced marginal tax rates provided by the bill, the alternative minimum tax for individuals (sec. 55), income averaging (sec. 1301), and special averaging rules for lump-sum distributions (sec. 402(e)) would be repealed.

Title II—Incentives for investment and savings

Investment incentives

In lieu of current investment tax credits and capital cost recovery allowances stretching over 3 to 5 years, individuals would deduct the entire cost (expense) of machinery and equipment in the year it is placed in service. Expensing would be limited to expense-method property, which generally is property that is assigned to the 3-year or 5-year class and qualifies for the investment credit under present law. Thus, expensing would not be available with respect to properly predominantly used outside the United States (sec. 48(a)(2)), certain property owned by noncorporate lessors (sec. 46(e)(3)), and property used by tax-exempt entities (sec. 168(j)(3)). In addition, expensing would not be available with respect to certain property financed with tax-exempt bonds (sec. 168(f)(12)) or acquired from a decedent (sec. 1014(a)).

Expensing would be phased in over 5 years. Fifty percent of the basis of expense-method property placed in service in 1985 would be expensed. This percentage would increase thereafter by 10 percentage points per year, so that expensing would be fully effective beginning in 1990. Notwithstanding the percentages prescribed by the phase-in schedule, the current option (sec. 179) to expense the first $5,000 of property ($7,500 in 1988 and 1989) would be retained through 1989.

The remaining basis—that is, the portion of cost of expense-method property that is not expensed because of the phase-in schedule—would be recovered as under present law. However, to prevent excessive benefits from the combination of the investment credit, ACRS deductions and declining marginal tax rates, the bill would reduce the regular investment credit for the remaining basis to 3 percent for 3-year property and 5 percent for 5-year property. Similarly, investment credits would not be available for individuals with respect to 10-year property and 15-year public utility property placed in service after 1984, and investment credit carryovers allowable in years after 1984 would be reduced as marginal tax rates are reduced.

Lastly, the recovery period for 18-year real property placed in service after 1989 would be reduced to 15 years.

Savings incentives

The bill provides that individuals may establish a super savings account (SUSA), which would operate to defer tax on income for so long as it is saved. Contributions to a SUSA would be deductible in determining adjusted gross income for the year they are made. There would be no penalty for distributions from a SUSA, but distributions would be included in adjusted gross income for the year they are made. Contributions and distributions would have to be in cash, except 1985 contributions could include stocks, bonds, or other securities readily tradeable on an established securities market. Income earned on assets of a SUSA would not be included in the tax base until distributed.

The bill provides rules designed to protect the proper operation of SUSAs as a stimulus to savings. No deduction would be allowed for contributions that are directly attributable to indebtedness which is incurred or continued to purchase or carry an interest in a SUSA. Assets of a SUSA that are used as security for a loan would be treated as distributed, and assets could not be used to acquire collectibles such as gems or antiques (sec. 408(m)(2)).

The maximum amount of the deduction allowed to an individual for net contributions to a SUSA during 1985 would be $7,500. This amount would then increase by $500 per year until it reaches $10,000 for 1990 and thereafter. For joint returns, the maximum amount would begin at $15,000 in 1985, then increase in annual increments of $1,000 until it reaches $20,000 for 1990 and thereafter. The bill would not affect the operation of IRAs, but the maximum amount allowed as a deduction for net contributions to a SUSA during a taxable year would be reduced by deductions taken for contributions to an IRA or otherwise allowed under section 219 for the year.

Title III—Base broadening

The bill would broaden the individual income tax base by repealing or limiting many tax credits, exclusions, and deductions, beginning in 1985.

Tax credits

The bill would repeal all nonrefundable personal tax credits other than the present credit for interest on certain home mortgages (sec. 25). Thus, the bill would repeal credits relating to expenses for household and dependent care services (sec. 21), the elderly and disabled (sec. 22), residential energy expenditures (sec. 23), and political contributions (sec. 29). In addition, credits relating to certain clinical testing expenses (sec. 28), producing fuel from a nonconventional source (sec. 29), and increasing research activities (sec. 30) would only be available to C corporations. Except for the reduced regular investment tax credit that is provided for the remaining basis of expense-method property during the phase-in of expensing, the general business credit (sec. 38) would only be available to C corporations.

Exclusions

The following exclusions would be repealed for individuals:

(1) employer-provided premiums on group-term life insurance (sec. 79);

(2) unemployment compensation benefits (sec. 85);

(3) employer-paid death benefits (sec. 101(b));

(4) certain military compensation for injuries or sickness (sec. 104(a)(4));

(5) employer-paid health plan premiums (sec. 106);

(6) rental value of parsonages (sec. 107);

(7) certain combat pay and mustering-out payments (secs. 112 and 113);'

(8) partial exclusion of dividends (sec. 116);

(9) scholarship and fellowship income in excess of tuition (sec. 117);

(10) meals or lodging furnished for employer's convenience (sec. 119);

(11) amounts received under group legal service plans (sec. 120);

(12) one-time exclusion of gain on sale of principal residence (sec. 121);

(13) certain reduced military retirement pay (sec. 122);

(14) employer-provided transportation (sec. 124);

(15) cafeteria plans (sec. 125);

(16) cost-sharing conservation payments (sec. 126);

(17) educational assistance program benefits (sec. 127);

(18) employer-provided dependent care assistance (sec. 129);

(19) foster care payments received (sec. 131);

(20) earned income of citizens living abroad (sec. 911);

(21) foreign areas allowances and certain other allowances (sec. 912); and

(22) dividends reinvested in public utility stock (sec. 305(3)).

The current exclusion of payments received to encourage production of strategic minerals (sec. 621) would only be available to C corporations. The treatment of possession-source income for residents of a possession would generally follow the rules that now apply to residents of Puerto Rico (sec. 933).

Deductions

The bill would repeal deductions currently allowed to individuals for nonbusiness interest other than housing interest (sec. 163), taxes (sec. 164), moving expenses (sec. 217), two-earner married couples (sec. 221), and adoption expenses (sec. 222). Deductions for losses due to casualty or theft and not connected with a business or profit-seeking transaction (sec. 165(c)(3)) and for the long term capital gains of individuals (sec. 1202) would be repealed. Finally, medical expenses would be deductible only to the extent they exceed 10 percent of adjusted gross income (sec. 213), and the additional personal exemption for elderly taxpayers would be repealed (sec. 151(c)).

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON TAXATION,
Washington, DC, October 1, 1984.

Hon. WILLIAM V. ROTH, Jr.,
U.S. Senate,
Washington, DC.

DEAR SENATOR ROTH: This is in reponse to your request for revenue estimates for the proposal that you and Congressman Moore intend to introduce later this week.

In general, the bill would amend the individual income tax to broaden the tax base, lower marginal tax rates, allow expensing of certain personal property, and exempt saving that occurs in connection with a super savings account. The provisions would be phased in over the period 1985–1989 and would be fully effective in 1990.

The staff's analysis of the proposal is that it would be essentially revenue neutral over the phase-in period and when fully effective in 1990. The estimated changes in revenue in both cases are very small and are well within the range of error of our present estimating methods for so comprehensive a bill. In addition, the staff estimates that each income class would pay essentially the same share of the tax burden under the phased-in proposal as under present law. These estimates have been done without regard to any interactions between the proposal and the corporate income tax.

As I have discussed with you on other occasions, our current estimates of the revenue and distributional impacts of reform bills such as this proposal and similar bills are highly tentative for several reasons. The bills would no doubt have far-reaching economic impacts that are not accounted for in our revenue and distributional estimates, the inclusion of which could markedly change the results. Moreover, the analysis is static in the sense that no changes in taxpayer behavior, other than in their savings behavior, are assumed to result from changes in the tax law. The response to savings incentives is a necessary and important element in estimating the revenue effects of this proposal, and uncertainty about the degree of response tends to increase the range of possible estimating error. We will be working this fall and winter to improve both the estimating models and data base needed to analyze bills of this scope and will be pleased to work with you and provide further information as it becomes available.

Sincerely,

DAVID H. BROCKWAY.

By Mrs. HAWKINS:

S. 3043. A bill to amend the Racketeer Influenced and Corrupt Organizations Act to include sexual exploitation of children as a crime covered by the act; to the Committee on the Judiciary.

FURTHER PROTECTION OF CHILDREN FROM SEXUAL EXPLOITATION

● Mr. HAWKINS. Mr. President, my distinguished colleagues would agree that the protection of our children is an issue of great national importance.

Child pornography is a practice that capitalizes on the innocence and vulnerability of its young victims. In the past, child pornography was usually the product of one individual's deviant personal needs. But, there exists evidence to support that child pornography has developed into a multimillion dollar racketeering industry which rakes in its large revenues from the exploitation of our children.

The FBI has made child pornography investigations the responsibility of the organized crime section of its criminal investigations division. This would suggest that organized child pornography has achieved by way of its organizational nature, racketeering status.

The exploitation of children by these illegal enterprises is organized in that young boys and girls are traded, along with pictures and films, throughout the country. There exists a highly complex structure for obtaining, reproducing, laundering and circulating child pornography.

Child prostitution, another branch of organized crime, is covered by RICO [Racketeering Influenced and Corrupt Organizations] under the "social exploitation provision." Child pornography is as much a social exploitation and produces as much damage on the lives of its victims, as child prostitution. There is no reason why child pornography should not be included under this same provision.

Currently the provisions protecting our children from this form of organized crime are inadequate in proportion to the growth of its organization.

I propose to include "organized child pornography violations" among the "predicate" offenses covered under RICO. By including organized child pornography under RICO, the "kiddie porn" racketeers involved in this highly productive business would be subject to more severe penalties. Thus, under RICO there would be differential sentencing for large-scale operators, as opposed to the standard sentence provided in the Child Porn Act. RICO would, in effect, touch the "big guy" behind the operations, as well as those indirectly involved such as financiers, promoters, et cetera.

Applying State statute laws would also prove insufficent. Since organized distribution of child porn, for instance, often functions on an interstate level, the problem of limited jurisdiction from State to State renders State law incompetent when dealing with the interstate level crime.

The present laws also fail to provide adequate relief to the victims of child porn. RICO would grant the district courts the jurisdiction to issue injunctions preventing national distribution of the pornographic materials. Both the victims and their families would then be spared any further suffering resulting from national exposure of the material.

RICO would also enable the victims of child porn to sue for treble damages and attorney's fees. This form of compensation would provide needed incentive to very reluctant victims who fear public exposure and prompt them to bring suit against the criminal in a court of law.

These rights are basically the same rights afforded to victims in antitrust suits. I would think that the innocent victims of child pornography deserve as much compensation as do commercial enterprises.

The only arguments which were brought up by the Department of Justice against this proposition were:

First. Child pornography statutes are severe enough; and,

Second. Coverge for damages to the victim should be expanded only where a clear needs exists.

Mr. President, I believe that: (1) The present sentence for offenders of the Child Porn Act, which does not distinguish between an isolated violator and a commercially lucrative and expansive child porn trafficker, is not severe enough, and (2) I question the chances of parents subjecting themselves and their children to painful court proceedings when there is inadequate compensation and no coverage of the attorney's fee. When one considers the damage done to the lives of these children, exploited so that a criminal enterprise can flourish, present compensation is by no means enough. It is these very same enterprisers who should be liable for those damages.

Mr. President, the present laws offer little deterrent to organized child pornographers. Before this growing criminal network finds its way into respected organizations such as church groups or scout troops for purposes of "recruiting" possible victims, we need to offer a way of insuring the safety of our children.

I believe that including organized child pornography under the "predicate" offenses covered by RICO would provide this deterrent to the pornographer and further the well-being of our children.●

By Mr. PERCY:

S. 3044. A bill to amend title 10, United States Code, to provide an administrative remedy for false claims made and other fraudulent acts committed in connection with the activities of the Department of Defense, to facilitate the recovery money and other property owed to the United States, and for other purposes; to the Committee on Armed Services.

DEPARTMENT OF DEFENSE FALSE CLAIMS ACT

Mr. PERCY. Mr. President, as we reestablish the strength of the American Armed Forces, we must make sure the American taxpayers get good value from every dollar spent on defense. Defense Secretary Weinberger has made a strong commitment to doing so, but he has a very difficult task ahead of him. The Pentagon procures weapons today in much the same way it has for many years, and reforms take time.

Today, as the culmination of more than a year-long investigation, Senator

ROTH and I have pursued into military purchasing, I shall offer my own legislative proposal for accelerating these reforms—by stiffening the civil and criminal penalties for defense fraud.

This administration is the first ever to have an Inspector General in the Defense Department, a new position that I sponsored from the outset. Two days ago, he announced that, over 3 years, his recommendations have led to savings of close to $3 billion. But, he added, the problem of overpriced spare parts and support equipment remains elusive. He surveyed 200 separate small part acquisitions, and found that about 100—half—may have involved overcharging. I know this is a problem of direct personal concern to Secretary Weinberger, and it has been a topic of concern to me for some time.

Eleven months ago, Senator ROTH and I participated in a hearing at which we expressed our displeasure at the prices the Air Force planned to pay for 15 small tools intended for the maintenance of certain aircraft. At that time, we disclosed that the Air Force had received a bid for $9,600 for one allen wrench, $7,400 for a little piece of wire called an "antenna motor assembly supply pin," and bids of $10,000 or more for other small, handheld tools.

Fortunately for the taxpayers, the Air Force canceled its plans to purchase three of these tools, and chose to make four others at its own machine shop. These tools cost about $600 to make, plus $144 for the purchase of the designs. That amounted to roughly 2 percent of the price originally bid.

But—unfortunately for the taxpayers—some midlevel Air Force bureaucrats went ahead and bought the other eight tools from the original contractor. The prices paid were renegotiated, usually downward from the original prices, but the sums paid were very, very high. For example, a 2-inch piece of steel, with three screws—called an antenna pulley puller tool—was purchased for $9,007. The other small tools cost anywhere from $10,000 to $13,300 each. The whole set of tools cost over $70,000. That's more than many Americans pay in Federal taxes in their lifetimes.

On occasion, the Pentagon has good reasons for paying high prices. The Air Force has been criticized for a $58 screw in the landing gear of the T-39 Sabreliner aircraft—but that screw has to be chemically hardened, heat-treated, and forged out of a high-tech alloy to withstand high-speed landings. With this in mind, I asked my staff to locate the puller tool and the other tools in question, learn how each is used, and see if the Air Force had any justification for paying such a high price for them.

We found no such justification. These are ordinary stainless steel tools, of the sort that I commonly used while in industry for over a quarter century. They do not fly on any aircraft. They are not made to micro-tolerances.

I then wrote to Marvin Wortell, president of Triton Industries in Chicago, to submit a bid to make this "antenna pulley puller tool" according to the exact Air Force blueprints that I sent him. His bid was $447.94, plus another $300 if he were to be asked to draw the blueprints himself. That amounts to roughly 5 percent—or, at most, 8 percent—of what the Air Force actually paid. And this is not a bargain-basement bid. Mr. Wortell certified his company could pay all production costs, pay for overhead, and make a profit at this price.

Nor is this an isolated example, unfortunately. When my staff counsel visited the Air Force purchasing office at Wright-Patterson Air Force Base, he learned that the employees there originally estimated that this little tool would cost $6,000—13 times the Triton Industries bid. This, he was told, is what parts of this kind typically cost.

The Air Force—like the entire Defense Department—has made improvements over the last few years. They provided me with materials describing a number of their recent accomplishments. But I am sure Secretary Weinberger and Air Force Secretary Verne Orr would agree with me that a $447 tool should not be expected to cost $6,000 and allowed to cost over $9,000.

I know Secretary Weinberger and Secretary Orr want to put a stop to these "horror stories" as much as I do. They recently appointed Dick Carver, the former mayor of Peoria, to become the Air Force's new Assistant Secretary for Financial Management, and I want to make their job easier, by giving them the authority they need to get the job done.

Mr. President, they have the people in place. What we need now is to give them some backup, some authority and send a message loud and clear throughout industry that we are simply not going to tolerate these cost overruns, we are not going to tolerate these excessive charges which are being paid for spare parts that I have been revealing for several years. I am absolutely astounded that we have not done something about it.

Today, I am introducing the Department of Defense False Claims Act of 1984. This bill will raise the criminal fine for fraud against the U.S. Government from $10,000 to $100,000. Likewise, it will raise the civil penalty for fraud from $2,000—gentlemen, let me just say, when I saw that figure, $2,000 for a civil fine against a contractor that has been proven to have defrauded the Government, I wondered why in heaven's name did we have such a charge.

I looked back to see when that charge was initiated. It was initiated during the Civil War—not World War II, not World War I, but the Civil War, in 1863. Imagine, a $2,000 fine in Civil War dollars today. Therefore, I am raising that in my bill to $50,000, a 25-times increase. These stiffer penalties are long overdue, as is the increase from $10,000 to $100,000 for a criminal fine.

Under this bill, the Secretary of Defense will be able to impose civil penalties on fraudulent contractors, without the expense and lengthy delays involved in mounting full Justice Department investigations. A similar procedure is now used to penalize health care facilities that abuse medicare. Defense fraud deserves no less.

Certainly, when we have fraudulent charges of $600,000, it does not pay the Justice Department to act. We have to now find procedures that will simplify that process.

The bill also gives the U.S. Government the same rights most shoppers have when completely dissatisfied with a product—the right to give it back, and get a refund. This was our consumer guarantee at Bell & Howell, and defense contractors should be held to the same standard. To do this, the bill creates a new "restitution" remedy.

The current legislative session has but a few days remaining, and I do not expect this bill to become law until after I reintrodue it in the next session. But I want to call the need for this bill to public attention now. The prospect of tough provisions like these becoming law will strengthen Secretary Weinberger's hand—and make defense contractors think twice before submitting a $9,600 bid for one allen wrench, or before collecting $9,007 for a little widget like this puller tool.

I also look forward to hearing comments about this bill from the Defense Department, other Members of Congress, and those in the defense industry. I expect that many will support its basic provisions, and will agree with me that we must work together to rebuild confidence in the procurement process. The contractor side is still only half of the equation. We also need to make midlevel Air Force and other Defense Department employees think twice before approving bids like these.

At my request, the Comptroller General has launched a General Accounting Office investigation of the "revolving door" between the Pentagon and defense industries. The results will be released next spring. At that time, I may introduce further legislation to ensure that an "arms length" relationship exists between the Defense Department and the industries from which it buys.

Let no one ever forget—it is the taxpayers, and not the contractors, whose interests the Defense Department must serve. No taxpayer wants $9,007 of his or her money wasted on some widget that should cost one-twentieth that sum. Secretary Weinberger is working hard to solve this problem, and I look forward to the day the Department of Defense False Claims Act helps him succeed.

I offer this legislation with no request that it be considered by committee this year. There is no time for that. We are on the eve of our departure from Washington, but certainly this would give the staffs of the Judiciary Committee and the Armed Services Committee time to study this legislation. It gives the Department of Defense time to study this legislation, and it gives time for business and industrial associations to study it and direct their comments back to me. I will then incorporate their comments, if we support them, into the new legislation that will be offered at the opening of the next session.

I thank the Chair.

By Mr. TRIBLE (for himself, Mr. WARNER, and Mr. STEVENS):

S. 3045. A bill to amend title 5, United States Code, to revise the authority of the President to promote recruitment and retention of Government employees by providing for special rates of pay and bonuses; to the Committee on Governmental Affairs.

FEDERAL EMPLOYEE RECRUITMENT AND RETENTION IMPROVEMENT ACT

Mr. TRIBLE. Mr. President, approximately 34,000 out of 1.3 million white-collar positions under the Federal Government's General Schedule pay system are authorized rates of pay higher than the statutory pay rates. This special pay rate program was established in 1962 to permit the Government to attract and retain employees in hard-to-fill occupations, and in geographic areas where private sector salaries for certain occupations are exceptionally high. The law authorizes the President to increase basic rates of pay for certain positions when it is determined that private enterprise pay rates substantially exceed statutory pay rates, significantly handicapping the Government's ability to recruit or retain well qualified personnel. Over half of the positions covered by this program are engineering occupations; others include administrative, technical, and clerical positions.

Unfortunately, even with this special rate program, agencies still experience grave difficulties in recruiting and retaining qualified employees for hard-to-fill occupations. The salary disparity between the Federal Government and the private sector remains high. Entry-level engineers in the Federal work force receive pay 47 percent below their private sector counterparts. Agency staffing data for engineers and architects covered by special rates showed a nationwide vacancy rate of 14 percent in 1983. Among the specialties hardest to fill were electrical and electronic engineering, mechanical, aerospace and industrial engineering.

Department of the Navy data for fiscal year 1983, for example, showed that the Mare Island Naval Shipyard in California had experienced a 23-percent vacancy rate and a 48-percent turnover rate for physical science technicans. In New York, the VA medical center has problems attracting and retaining medical technicans. VA officials attribute this problem to, among other factors, a 7 to 27 percent pay disparity between Federal and non-Federal salaries. Non-Federal hospitals in the area also offer educational benefits, fully paid life and health insurance coverage, and subsidized housing—none of which are provided by the Federal Government.

Existing special pay rate authority is simply inadequate to correct recruitment and retention problems. The current statutory limit on pay for hard-to-fill positions is often substantially lower than starting salaries in the private sector. In addition, special rates may only be used to deal with pay disparities. Other factors, such as working conditions or fringe benfits, are not considered when determining the necessity for special rates.

Mr. President, today I am offering legislation, along with my colleagues, Mr. WARNER and Mr. STEVENS, which would provide agencies and the Office of Personnel Management with greater flexibility to deal with pressing staffing problems. My bill would permit agencies and OPM to consider other factors, in addition to basic pay rates, contributing to recruitment and retention problems. Moreover, this measure provides OPM with authority to set starting salaries for hard-to-fill positions above the current maximum rate.

My legislation also establishes a bonus program. Agencies would be permitted to offer cash payments to employees if they agree to a long-term commitment to Federal employment.

Mr. President, I realize that Congress will not have the opportunity to address this legislation in the remaining days of the 98th Congress. However, I am offering this legislation today as a blueprint for changes which will be necessary for Congress to enact early in the 99th Congress. In the interim, I will be working with my colleagues here in the Congress and with agency specialists to refine this legislation. When the 99th Congress convenes next year, it is my hope that special rate legislation can be passed quickly to alleviate the problems of recruitment and retention in positions vital to the effective functioning of our Government.

Mr. STEVENS. Mr. President, I am pleased to cosponsor the Federal Employee Recruitment and Retention Improvement Act of 1984. I wish to commend Senator TRIBLE for his active involvement in introducing and moving this legislation. The bill reforms the special pay rate system to attract and retain highly qualified professionals into the Federal scientific community.

I believe the legislation will make the special pay rate program more responsive to agency manpower needs not only in attracting the best candidates to hard-to-fill positions, but also to retain those employees after agencies have trained them.

Finally, this legislation will reduce the high administrative costs associated with frequent employee turnover and in the long run provide a cost savings.

By Mr. JEPSEN:

S. 3046. A bill to modify the project for flood protection on the Chariton River, IA and MO, to direct the Secretary of the Army to sell storage space in Rathbun Lake, IA, to the Rathbun Regional Water Association, and for other purposes; to the Committee on Environment and Public Works.

RATHBUN REGIONAL WATER ASSOCIATION

● Mr. JEPSEN. Mr. President, the Rathbun Regional Water Association has been trying to negotiate with the U.S. Army Corps of Engineers the right to use water from Rathbun Lake located in southern Iowa.

The association provides water in that area for human and livestock consumption.

It has grown over the years, gaining subscribers as people find that private wells can no longer adequately meet their needs.

Today, I am introducing legislation that will set the price for the sale of that water to the association at the level in October 1975, when they first asked the Corps of Engineers to approve the contract. It is important to note that at that time the corps was not willing to move ahead with a contract.

It is not fair to penalize the people who belong to the association for the corps failure to move diligently to conclude a contract almost 10 years ago.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3046

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the project for flood protection on the Chariton River, Iowa and Missouri, authorized by section 203 of the Flood Control Act of 1954 (68 Stat. 1262), is modified to authorize and direct the Secretary of the Army, acting

through the Chief of Engineers, to sell to the Rathbun Regional Water Association, Inc., a sufficient number of acre feet of storage space from Rathbun Lake, Iowa, to yield to such Association 1,500,000,000 gallons of water annually based on a 90 percent change of sufficient water being available from such lake. Such sale of storage space shall be subject to such terms and conditions as such Secretary and Association may agree to under existing law, except that the construction costs of such project allocated to water supply required to be repaid under section 301(b) of the Water Supply Act of 1958 and the interest and amortization rate used to calculate the annual financial cost shall be the same as those used in contract number DACW41-76-C-0031 entered into by the United States and such Association and approved by the Assistant Secretary of the Army for Civil Works or October 10, 1975.

By Mr. WILSON:

S.J. Res. 357. Joint resolution to designate the week beginning May 19, 1985, as "National Medical Transcriptionist Week"; to the Committee on Judiciary.

NATIONAL MEDICAL TRANSCRIPTIONIST WEEK

● Mr. WILSON. Mr. President, I rise today to give my support to recognizing the excellent achievements of the medical transcriptionist field.

As the Members of the Senate may well know, the transcriptionist not only provides the medical information during the active phase of a patient's illness, reference for subsequent care, material for research, education, and insurance, but now is the vital link in translating base medical information into the hospital's financial structure. This profession has long been a quiet, yet vital, tool in medicine.

I want to bring recognition to this field to better acquaint qualified young persons wanting rewarding careers with the tremendous opportunities available in this profession. This field needs to grow to match the increased reliance we have placed on the transcriptionist.

I want to urge my fellow Senators to cosponsor this resolution in a show of support for the medical transcriptionist and others in the medical profession.

Mr. President, I ask unanimous consent that the text of my joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

Whereas complete and accurate medical records are of vital importance to quality health care;

Whereas the medical transcriptionist is instrumental in transcribing medical dictation detailing a patients health care during an illness or after an injury;

Whereas the medical transcriptionist is an indispensable assistant to physicians and surgeons;

Whereas there is a lack of awareness of the job performed by a medical transcriptionist; and

Whereas there is a shortage of trained medical transcriptionists: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning May 19, 1985, hereby is designated "National Medical Transcriptionist Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.●

By Mr. HATFIELD:

S.J. Res. 358. Joint resolution to designate October 19, 1984, as "John McLoughlin Day"; to the Committee on the Judiciary.

JOHN MC LOUGHLIN DAY

● Mr. HATFIELD. Mr. President, when American settlers first arrived in the Pacific Northwest 150 years ago, they were burdened with desperate needs. They faced a long struggle to survive the hostile conditions awaiting them in the Oregon Province, still dominated by powerful British trading companies. Unable to carry all the supplies necessary on the way, most of the emigrants reached the lower Columbia in a destitute condition. By withholding aid, the British could have easily delayed, if not terminated the successful occupation of the area.

One man boldly stood up for the rights of early American emigrants in the Oregon Territory. His name was John McLoughlin. This Canadian-born son of European immigrants played a leading role in encouraging and easing the settlement of Americans in the Oregon Province. As chief officer of the Hudson's Bay Co. headquarters on the Columbia River, he extended credit to the newcomers until their crops could be harvested. McLoughlin made it a practice to sell them provisions and allow the payment for these provisions to be deferred until the wheat crops came in the following year, and often he was never paid. He defended this charitable policy against the reprehension of his superiors on the basis of humanity and basic fairness. Company officials complained of his losses from the failures of settlers to repay their loans. But such criticism and scorn could not adulterate McLoughlin's deep well of integrity and generosity. He felt a strong sense of responsibility for the safety of the early settlers, and he refused to let them perish in the oppressive grip of the hated British monopoly.

McLoughlin was equally kind to other regional settlers whom company policy forbade him from encouraging. His desire to ensure the peace and prosperity of all the people was extended to various Indian tribes and religious groups. When McLoughlin arrived at Astoria in the early part of the 19th century, American traders had not yet established themselves west of the Rockies. Immediately upon his arrival, McLoughlin arranged peace among the numerous Indian tribes. By peacefully coexisting with the Indians, McLoughlin gained their highest respect. This respect motivated the Northwest Indians to collect furs under rigid conservation principles. As a result of their respect for McLoughlin, whom they called White Eagle, the Indians had stopped their murders of whites. In addition, McLoughlin extended his peace offerings to several religious groups. He welcomed the infiltration of Catholic, Presbyterian, and Methodist missionaries, and soon became their good angel.

McLoughlin's affiliation with the British domination of the jointly occupied Oregon Province prevented him from fully attaining the recognition he truly deserved. Dr. McLoughlin, as he was often called, was a man of extraordinary personality. With a 6 foot 4 inch magnificently proportioned frame, his presence was imposing and dignified. When McLoughlin retired from the Hudson's Bay Co. in 1846 he purchased land in Oregon. His land was later taken away from him by the Government under the donation land law. Moreover, McLoughlin's request for U.S. citizenship was denied, because of his previous association with the British. He died in 1862 without receiving either honor or justice.

This year represents the 200th anniversary of John McLoughlin's birth. Mr. President, our Nation owes a great deal to John McLoughlin for his efforts in laying the foundation for the growth of the Pacific Northwest. He helped alleviate the pressures many early settlers faced. Many Oregonians believe that if it was not for McLoughlin's dedication and altruism, the Pacific Northwest would have much later become a region open to American settlement. The charitable contribution that McLoughlin made in his strong commitment to the development of the Oregon Province must forever be remembered. Oregonians have expressed their deep appreciation of Mr. McLoughlin by placing his statue in the Halls of our Nation's Capitol.

Let me remind you, Mr. President, that it was quite unusual for a man such as McLoughlin in his day to overlook his duties as chief factor in a British trading company in order to preserve the individual rights of the early American settlers. Mr. McLoughlin could have easily created a hostile atmosphere that may have turned back the emigrants. But history speaks differently of Mr. McLoughlin. It says that John McLoughlin never allowed national duty to override his humanitarian impulses.

Mr. President, it is this Nation's obligation to honor the courageous stand taken by John McLoughlin in defense of individual liberty. We must show our appreciation for this man who so desperately desired to be a U.S. citizen. I would like to propose that we

hereby declare October 19, 1984, the bicentennial anniversary of John McLoughlin's birth as "John McLoughlin Day."●

ADDITIONAL COSPONSORS

S. 2082

At the request of Mr. MOYNIHAN, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 2082, a bill to identify, commemorate, and preserve the legacy of historic landscapes of Frederick Law Olmsted, and for other purposes.

S. 2258

At the request of Mr. MOYNIHAN, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 2258, a bill to grant a Federal charter to the 369th Veterans' Association.

S. 2417

At the request of Mr. DECONCINI, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2417, a bill to amend the Sherman Act to prohibit a rail carrier from denying to shippers of certain commodities, with intent to monopolize, use of its track which affords the sole access by rail to such shippers to reach the track of a competing railroad or the destination of shipment.

S. 2720

At the request of Mrs. HAWKINS, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 2720, a bill to recognize the organization known as the Women's Army Corps Veterans' Association.

S. 2736

At the request of Mr. CRANSTON, the name of the Senator from Kentucky [Mr. HUDDLESTON] was added as a cosponsor of S. 2736, a bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans and to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans; and for other purposes.

S. 2833

At the request of Mr. ABDNOR, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 2833, a bill to limit to the national median family income the amount of farm loss which may be deducted against nonfarm income by high income taxpayers in competition with full-time, family-sized farm operators.

S. 2930

At the request of Mr. SYMMS, the names of the Senator from Tennessee [Mr. SASSER], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Delaware [Mr. ROTH] were added as cosponsors of S. 2930, a bill to repeal the changes made by the Tax Reform Act of 1984 with respect to the tax treatment of debt instruments issued for property.

S.2995

At the request of Mr. MOYNIHAN, the name of the Senator from Illinois [Mr. PERCY] was added as a cosponsor of S. 2995, a bill to amend the Tax Reform Act of 1984 to provide a transitional rule for the tax treatment of certain air travel benefits provided to employees of airlines.

S.3002

At the request of Mr. JEPSEN, the names of the Senator from Indiana [Mr. LUGAR], the Senator from Iowa [Mr. GRASSLEY], and the Senator from North Dakota [Mr. ANDREWS] were added as cosponsors of S. 3302, a bill to require the Secretary of Agriculture under certain conditions to establish a temporary program to reduce the effective interest rates paid by farmers and ranchers on agricultural operating loans made by legally organized lending institutions, and for other purposes.

S.3008

At the request of Mr. ARMSTRONG, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 3008, a bill to recognize the organization known as The Retired Enlisted Association, Inc.

S. 3010

At the request of Mr. BUMPERS, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 3010, a bill to amend the Act of May 29, 1884, to grant States and political subdivisions greater flexibility in conducting indemnity programs for the control and eradication of brucellosis of domestic animals, and for other purposes.

S. 3015

At the request of Mr. SASSER, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 3015, a bill to amend the Federal Reserve Act to increase the number of class C directors of Federal Reserve Banks.

S.3017

At the request of Mr. CHAFEE, his name was added as a cosponsor of S. 3017, a bill to improve and extend certain domestic food assistance programs, and for other purposes.

SENATE JOINT RESOLUTION 262

At the request of Mr. PACKWOOD, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of Senate Joint Resolution 262, a joint resolution to designate March 16, 1985, as "Freedom of Information Day".

SENATE JOINT RESOLUTION 301

At the request of Mr. MITCHELL, the names of the Senator from West Virginia [Mr. RANDOLPH], the Senator from Utah [Mr. HATCH], and the Senator from New Hampshire [Mr. RUDMAN] were added as cosponsors of Senate Joint Resolution 301, a joint resolution to authorize the Kahlil Gibran Centennial Foundation of Washington, DC, to erect a memorial in the District of Columbia.

SENATE JOINT RESOLUTION 354

At the request of Mr. NUNN, the names of the Senator from Alabama [Mr. DENTON], the Senator from Illinois [Mr. DIXON], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 354, a joint resolution designating the week of January 7 through January 13, 1985, as "National Productivity Improvement Week".

AMENDMENT NO. 6128

At the request of Mr. GORTON, the name of the Senator from Washington [Mr. EVANS] was added as a cosponsor of Amendment No. 6128 intended to be proposed to House Joint Resolution 648, a joint resolution making continuing appropriations for the fiscal year 1985, and for other purposes.

SENATE RESOLUTION 461—AMENDING THE STANDING RULES OF THE SENATE TO PROVIDE FOR MORE EFFECTIVE CONSIDERATION OF SENATE BUSINESS

Mr. STEVENS submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 461

MOTION TO PROCEED

SECTION 1. Rule VIII of the Standing Rules of the Senate is amended by inserting at the end thereof the following new paragraph:

"3. Debate on any motion to proceed to the consideration of any matter made after the first two hours of a new legislative day shall be limited to two hours to be equally divided between the Majority Leader and the Minority Leader or their designees. A motion to proceed to the consideration of any matter made after the first two hours of a new legislative day may be laid on the table without affecting any further motion to proceed to the consideration of such matter.".

CONFERENCE REPORTS

SEC. 2. Paragraph 1 of rule XXVIII of the Standing Rules of the Senate is amended by inserting at the end thereof the following: "If a report made by a committee of conference is printed and available at the desk at least 24 hours before presentation, the reading of such report shall be deemed to have been waived.".

TREATIES

SEC. 3. Paragraph 1 of rule XXX of the Standing Rules of the Senate is amended by striking out subparagraphs (b) and (c) and inserting in lieu thereof the following:

"(b) When a treaty is reported from a committee with or without amendment, it shall, unless the Senate unanimously otherwise direct, lie over one day for consideration; after which it may be read a second time on demand and considered. At any stage of such proceedings the Senate may

remove the injunction of secrecy from the treaty.

"(c) Upon conclusion of consideration of the treaty, the decisions made during such consideration shall be reduced to the form of a resolution of ratification, with or without amendments, as the case may be, which shall be proposed on a subsequent day, unless, by unanimous consent, the Senate determines otherwise, at which stage no amendment to the treaty shall be received unless by unanimous consent; but the resolution of ratification when pending shall be open to amendment in the form of reservations, declarations, statements, or understandings.".

PASTORE RULE

(Germaneness of Debate)

SEC. 4. Subparagraph (b) of paragraph 1 of rule XIX of the Standing Rules of the Senate is amended to read as follows:

"(b) At the conclusion of the morning hour at the beginning of a new legislative day or after the unfinished business or any pending business has first been paid before the Senate on any calendar day, and until the disposition of the specific question then pending before the Senate, all debate shall be germane and confined to the specific question then pending before the Senate.".

SENSE OF THE SENATE/CONGRESS AMENDMENTS

SEC. 5. Rule XV of the Standing Rules of the Senate is amended by inserting at the end thereof the following:

"6. On a point of order made by any Senator, no amendment expressing the sense of the Senate or the sense of the Congress shall be received which is not germane or relevant to the pending measure if such pending measure is subject to a germaneness requirement.".

RESOLUTION OVER UNDER THE RULE

SEC. 6. The second sentence of paragraph 6 of rule XIV is amended by striking out "placed on the Calendar" through the end thereof and inserting in lieu thereof the following: "held at the desk for one day and then placed on the Calendar of General Orders.".

RULING ON GERMANENESS

SEC. 7. Paragraph 4 of rule XVI of the Standing Rules of the Senate is amended by striking out "and all questions of relevancy of amendments under this rule, when raised, shall be submitted to the Senate and be decided without debate;" and inserting in lieu thereof "and all questions of relevancy of amendments under this rule, when raised, shall be submitted to the Presiding Officer and any appeal from a ruling of the Presiding Officer on any such question shall be decided without debate;".

IMPOSITION OF GERMANENESS REQUIREMENT

SEC. 8. Rule XV of the Standing Rules of the Senate is amended—

(1) by inserting after "Motions" in the caption a semicolon and the following; "GERMANENESS";

(2) by adding at the end thereof the following new paragraph:

"6. (a) At any times during the consideration of a bill or resolution, it shall once be in order during a calendar day to move that no amendment, other than the reported committee amendments or modifications thereof directed by the reporting committee, which is not germane or relevant to the subject matter of the bill or resolution, or to the subject matter of an amendment proposed by the committee which reported the bill or resolution, shall thereafter be in order. The motion shall be privileged and shall be decided after one hour of debate, to be equally divided and controlled by the Majority Leader and Minority Leader or their designees.

"(b) If a motion made under subparagraph (a) is agreed to be an affirmative vote of three-fifths of the Senators present and voting, then any floor amendment not already agreed to (except amendments proposed by the committee which reported the bill or resolution) which is not germane or relevant to the subject matter of the bill or resolution, or the subject matter of an amendment proposed by the committee which reported the bill or resolution, shall not be in order.

"(c) When a motion made under subparagraph (a) has been agreed to as provided in subparagraph (b) with respect to a bill or resolution, points of order with respect to questions of germaneness or relevancy of amendments shall be decided without debate, except that the Presiding Officer may entertain debate for his own guidance prior to ruling on the point of order. Appeals from the decision of the Presiding Officer on such points of order shall be decided without debate.".

CLOTURE RULE

SEC. 9. (a) Paragraph 2 of rule XXII of the Standing Rules of the Senate is amended by inserting before the last paragraph thereof the following new paragraph:

"Notwithstanding any other provision of this rule, any Senator may yield back all or part of his one hour on the measure, motion, or other matter pending before the Senate under cloture for the purpose of reducing the time available for consideration of such measure, motion, or other matter by the amount of time yielded by such Senator. Notwithstanding the total amount of time yielded back pursuant to the preceding sentence, there shall be at least two hours available for the consideration of a measure, motion, or other matter on which cloture has been invoked.".

(b) The third paragraph of paragraph 2 of rule XXII of the Standing Rules of the Senate, which begins "Thereafter no Senator", is amended by inserting at the end thereof the following: "For purposes of this rule, any amendment proposed by the committee of jurisdiction shall be considered germane and relevant.".

FILING AMENDMENTS UNDER CLOTURE

SEC. 10. The third paragraph, of paragraph 2 of rule XXII of the Standing Rules of the Senate which begins "Thereafter no Senator", is amended by inserting after the second sentence thereof the following: "Notwithstanding the preceding sentence, if a committee amendment is filed any amendment to such committee amendment filed by 6 o'clock p.m. on the day following the filing of the cloture petition shall be considered to be an amendment in the first degree to such committee amendment.".

TIME LIMITATION PROCEDURE

SEC. 11. Rule XIV of the Standing Rules of the Senate is amended—

(1) by inserting at the end of the caption thereof the following: "; Time Limitation"; and

(2) by adding at the end thereof the following:

"11. (a) At any time after a bill, joint resolution, or resolution is offered, any Senator may file with the clerk a notice of intent to offer a motion to proceed to the consideration of such bill, joint resolution, or resolution under time limitation as provided in this paragraph and such notice shall be published in the CONGRESSIONAL RECORD. Such bill, joint resolution, or resolution shall then be placed on the time limitation calendar.

"(b) At any time during the first hour after the Senate convenes on a Wednesday or Thursday occurring four session days after the filing of a notice of intent to offer a motion pursuant to subparagraph (a) and prior to the expiration of 10 session days after such filing, it shall once be in order during each such day to move to the consideration of the bill, joint resolution, or resolution placed on the time limitation calendar under the procedure provided in subparagraph (c). For purposes of the preceding sentence, the first hour after the Senate convenes does not begin until after the expiration of the leadership time and any special orders which follow. The motion to proceed shall be privileged and shall be submitted to the Senate and decided without debate by a yea-and-nay vote. If the motion is agreed to by three-fourths of the Senators present and voting, the bill, joint resolution, or resolution shall be considered as provided in subparagraph (c).

"(c)(1) Upon the adoption of a motion made pursuant to subparagraph (b), the bill, joint resolution, or resolution then pending before the Senate shall be the unfinished business to the exclusion of all other business until disposed of.

"(2) During the consideration of the bill, joint resolution, or resolution, there shall be no more than—

"(A) twenty minutes available on each amendment; and

"(B) twenty minutes available on debatable motions, points of order, and appeals.

"(3) At any time after eight hours of consideration of the bill, joint resolution, or resolution, any Senator may make a motion to limit debate. The motion shall be decided without debate by a vote of three-fourths of the Senators present and voting. If such motion is adopted, the time for the consideration of the bill, joint resolution, or resolution shall be limited to no more than six hours with—

"(A) one hour available on the bill, joint resolution, or resolution to be equally divided between the Majority Leader and the Minority Leader, or their designees;

"(B) twenty minutes available on each amendment; and

"(C) twenty minutes available on debatable motions, points of order, and appeals.

After no more than six hours of consideration of the bill, joint resolution, or resolution, the Senate shall proceed, without any further debate on any question, to vote on the final disposition thereof to the exclusion of all amendments not then actually pending before the Senate at that time and to the exclusion of all motions, except a motion to table, or to reconsider and one quorum call on demand to establish the presence of a quorum (and motions required to establish a quorum) immediately before the final vote begins.

"(4) Except by unanimous consent, no amendment shall be proposed after the adoption of a motion to proceed under suspension unless it had been submitted in writing to the Journal Clerk by—

"(A) 2 o'clock p.m. on the first day following the filing of the notice if such amendment is a substitute amendment;

"(B) 6 o'clock p.m. of the first day following the filing of notice if such amendment is a first degree amendment to the substitute amendment;

"(C) 2 o'clock p.m. of the second day following the filing of notice if such amendment is a first degree amendment other than a substitute amendment; and

"(D) 2 o'clock p.m. of the third day following the filing of notice if such amendment is a second degree amendment.

No dilatory motion, or dilatory amendment, or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate. The reading of any amendments shall be deemed to have been waived. No Senator shall call up more than one amendment until every other Senator shall have had an opportunity to do likewise.".

SENATE RESOLUTION 462—CONCERNING THE APPLICATION OF ANTITRUST LAWS WITH RESPECT TO PROFESSIONAL SPORTS LEAGUES

Mr. DECONCINI submitted the following resolution; which was referred to the Committee on the Judiciary.

S. RES. 462

Whereas professional sports teams achieve a strong local identity and provide a source of pride and entertainment to their supporters;

Whereas a clarification of the antitrust laws in their application to professional sports league would stabilize the operations of such leagues and facilitate league expansion and the nationwide placement of teams within such leagues;

Whereas the public, through a municipal stadium authority (which is typically a city or county agency or a municipal corporation), generally authorizes capital construction bonds to finance the construction of the stadium or arena in which a professional sports team plays;

Whereas, despite the close association with and support from the community where it plays, from time to time, a professional sports team sometimes determines to relocate to a new geographical location;

Whereas, professional sports team relocations should be consistent with the public interest; and

Whereas, when a professional sports league locates a team in a community, such community derives substantial tax revenues, employment opportunities, and other benefits from the operation of such a team: Now, therefore, be it

Resolved, That it is the sense of the Senate that:

(1) Professional sports leagues and their constituent member clubs must adhere to policies that both protect the interests of existing sports communities and promote the continued expansion and nationwide placement of the member teams of professional sports leagues.

(2) Issues involving the relocation of professional sports teams from one home territory to another present basic and important questions of Federal antitrust law that should be considered and resolved by the Supreme Court.

(3) In view of the importance of these matters, Congress shall continue to monitor developments in this area, and consider such legislation as may be required to protect the public interest.

Mr. DECONCINI. Mr. President: I rise today to submit a resolution urging the U.S. Supreme Court to review the Ninth Circuit Court of Appeals decision in Davis against NFL. It is my hope that the Supreme Court will be able to resolve the complex and controversial issues presented by this case as well as bringing some light to the problem of how Federal antitrust laws should apply to all sports leagues and enterprises. It is my belief that Congress should wait to consider these issues until after the Supreme Court has had a chance to offer us its guidance.

The resolution I offer today is similar to one offered in the House by Representatives BARBARA MIKULSKI from Maryland and PETE STARK from California.

The problem that professional sports leagues face is how they can place reasonable regulations and controls over their members for the purpose of making their joint activities successful and profitable. They are not competitors in the usual sense of that word for they must cooperate and agree on rules and regulations or they would all cease to exist. The competition for a professional sports league is other professional sports leagues and other enterprises seeking the public's entertainment dollars. I believe that the Court, and failing that Congress, must create a legal environment in which the leagues can place reasonable restraints on themselves to insure their continued existence as well to benefit their fans and their public supporters. Professional sports leagues and particularly the National Football League, have done a good job of protecting fans when fans have supported their teams. Nevertheless, that proposition was challenged with the Colts move to Indianapolis. Since the Baltimore Colts movement is so closely tied to this legislation, let's look at the NFL's record in this case.

Until 1982, when the Oakland Raiders turned their back on the Oakland community, no NFL team had left its home area since 1960. In 1960 the Cardinals left Chicago, who already had the Bears, and moved to St. Louis, with little if any opposition from the Chicago community.

It was only in 1982 that the system broke down. That's when the league was found by a Los Angeles District Court to have violated our antitrust laws in attempting to enforce a rule that could have prevented Al Davis from taking the Raiders to Los Angeles. Not willing to risk another multimillion-dollar judgment, the NFL understandably took no action when Mr. Irsay took the Colts to Indianapolis.

It is my belief that our antitrust laws were not meant to lead to the result in the ninth circuit's decision in Davis against NFL. That is why I and a number of other Senators introduced S. 1036 last year, which confirmed a narrow exemption under our antitrust laws—what I really consider a clarification of law—to allow professional team sports leagues to enforce their rules to require teams to stay in their home cities.

No one has been able to explain to me what, if any anticompetitive effect would have resulted from the passage of S. 1036. The NFL would still have to compete with the U.S. Football League and other professional sports, as well as all the various competitors for our entertainment dollar. Except, if my bill had passed, the Raiders would be back in Oakland and the Colts would probably still be in Baltimore. Moreover, the league would be in a much sounder position to expand to places like Indianapolis and Phoenix.

Instead, our laws in this area are a tangled mess. We have Federal courts in confusion on what a professional sports league is under our antitrust laws. We have the city of Oakland embroiled in a costly eminent domain suit in order to regain one of the major sources of its civic pride. And now we have the Supreme Court prepared to consider cert petitions on the Oakland Raiders' case.

At the heart of any team owner's consideration of the question of moving is a concern over future revenues. By threatening the NFL's ability to enforce its rules, Al Davis threatened the most important rule any league can have—the rules governing revenue sharing. For example, the NFL divides equally all its revenue from television. It is the lifeblood of the teams in small and midsized communities like Green Bay and Buffalo. I am convinced that the threat to this rule was a significant contributing factor to Mr. Irsay's decision to move to Indianapolis. He knows that if Al Davis succeeds in any attempt to overturn the league's television revenue sharing rules and monopolizes the revenue from local television viewing in the huge Los Angeles market, it will be every owner for himself. That is why any legislation in this area must protect a professional team sports league's ability to enforce revenue sharing rules. My bill, S. 1036, does. Otherwise, the owners of teams in areas like Green Bay, Buffalo, and Kansas City will be forced to follow the dangerous path blazed by Mr. Davis and Mr. Irsay. The leagues already have the right to share revenues generated by sponsored telecasting. S. 1036 would extend that right to allow a league to share any revenue generated from nonsponsored television as well.

Mr. President, we should leave this issue to the Supreme Court for the time being. If we find that a problem still exists after the Court's review, we must deal with the real problem, which is in the area of antitrust and particularly with regard to revenue sharing. We should take the approach

of my bill, S. 1036. To do anything else is shortsighted and unnecessary. This is what my resolution expresses, and I urge my colleagues to cosponsor it.

SENATE RESOLUTION 463—ENCOURAGING NEW MULTILATERAL TRADE NEGOTIATIONS

Mr. ROTH (for himself, Mr. SYMMS, and Mr. CHAFEE) submitted the following resolution; which was referred to the Committee on Finance.

S. RES. 463

Resolved, That, it is the sense of the Senate that the President should take action to initiate a new round of multilateral trade negotiations in order to strengthen the trading system under the General Agreement on Tariffs and Trade. Such negotiations should include discussion of—

(1) trade in services,

(2) high technology trade,

(3) agricultural trade,

(4) protection of intellectual property rights,

(5) trade-related investment problems,

(6) targeting and other issues arising from widespread government ownership of industry in foreign countries, and

(7) institutional reforms—

(A) to strengthen the operation of the General Agreement on Tariffs and Trade, and

(B) to bring the less developed countries more fully into the trading system.

● Mr. ROTH. Mr. President, I rise to submit a sense of the Senate resolution, which is cosponsored by Senators SYMMS and CHAFEE, that would call upon the executive branch to begin preparations for a new round of multilateral trade negotiations. I am proposing this resolution because I believe it is important that we give this signal to the executive branch that the Congress supports actions to strengthen the international trading system.

Ostensibly U.S. trade interests are fostered by the GATT, the General Agreement on Tariffs and Trade, which is the foundation of today's trading system. GATT membership has grown from 23 countries in 1947 to 88 countries, accounting for four-fifths of world trade today. The trouble is that, as we all know only too well, these impressive gains in membership hardly reflect the growing importance of international discipline to the real trade situation.

The erosion of the trading system has a number of facets. Today many trading countries receive special treatment under the GATT. Growing areas of trade such as services are not covered by the agreement, and new barriers to trade are proliferating in traditionally important trade sectors. The relevance of GATT rules, which are based on the presumption that free markets operate in trading countries, is once more open to question.

As Robert Hormats, former Deputy U.S. Trade Representative recently pointed out in a Wall Street Journal article, the trading system today inspires little confidence and less respect. It is overly legalistic. Its rules do not adequately address key trade problems such as argiculture, investment-related distortions and Government support for key sectors and services. It is frequently bypassed or ignored as countries unilaterally, bilaterally or in small groups take actions that violate its spirit and substance.

And dispute-resolution procedures are often slow and cumbersome; grievances take a long time to be resolved if they can be resolved at all. Producers of wheat flour, poultry, citrus, shoes and various other items, here and abroad, have suffered the frustration of long delays in the resolution of differences.

We cannot afford to ignore the erosion of the international trading system. These changes in the conditions of trade create real problems for American trades. They also give rise to protectionist policies. Protectionist responses to the frustration of today's trading conditions are understandable, but they are misdirected.

We ought to focus our energies instead on improving the world trading system itself. This country must assert the political will and leadership that is needed to ensure the survival and strength of our multilateral trading system, and we must insist on no less of a commitment by our trading partners. It seems obvious to me that the world economies are interdependent and that none of us will thrive except within the context of an effective and cooperative trade system.

This amendment specifically expresses support for a new round of multilateral trade negotiations to strengthen the trading system under the GATT and suggests that the following issues be proposed for inclusion in such negotiations, namely, trade in services, high technology trade, agriculture trade, counterfeiting and protection of intellectual property rights, trade-related investment problems. Targeting and other issues arising from widespread Government ownership of industry in other countries, better rules for safeguard action, institutional reforms to strengthen the operation of the GATT, and ways to bring the less developed countries more fully into the trading system.

I have taken a good look at these issues in hearings I have chaired in the Joint Economic Committee on how to save an international trading system. I have heard the advice of a broad spectrum of trade experts from both sides of the political aisle—Ambassador Brock, Bob Strauss, Clayton Yeutter, and Fred Bergsten, to mention a few. There was universal agreement that we should move ahead with trade negotiations to make the GATT an institution that can truly support both equitable and expanding trade.

This effort deserves the support of Members of both sides of the political aisle. Though there was an objection to moving ahead on this resolution as part of this year's omnibus trade package, I am hopeful that next year the Senate will give this issue a full airing.

When we talk about trade policy, the focus is all too often on the domestic side. But trade policy, as well, subsumes the role this country wants to take internationally in sustaining and reforming the trading system—in turn, a better functioning international trading system will limit the need for domestic trade measures.

We will be remiss here in the Congress if we devote ourselves only to the microtrade issues and fail to take on the big issue of what kind of an overall trade policy we want this country to pursue.

We are at a critical juncture. Fifty years ago this year, the Congress first committed this country to developing a trading system, with the passage of the Reciprocal Trade Agreements Act of 1934. That system has now lost its credibility and will continue to steadily disintegrate if this country does not take positive action.

When we come back next year, I believe we should focus on ways to save the trading system and that we should clearly recommit this country to a cooperative approach to trade—the only approach that can ensure both equitable and expanding trade.●

AMENDMENTS SUBMITTED

VETERANS AND SURVIVORS COMPENSATION RATE INCREASE ACT

SIMPSON (AND OTHERS) AMENDMENT NO. 6909

Mr. STEVENS (for Mr. SIMPSON, for himself, Mr. CRANSTON, and Mr. COHEN) proposed an amendment to the bill (S. 2736) to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans and to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans, and for other purposes; as follows:

On page 43, line 16, insert "(a)" after "Sec. 604.".

On page 43, between lines 23 and 24, insert the following new subsection:

(b)(1) Paragraph (1) of section 3203(b) is amended—

(A) by designating the first and second sentences as subparagraphs (A) and (B), respectively;

(B) by striking out the comma after "treatment" in subparagraph (A), as so designated, and inserting in lieu thereof "or"; and

(C) by adding at the end the following new subparagraph:

"(C) The Administrator may, pursuant to regulations which the Administrator shall prescribe, waive the discontinuation under this paragraph of payments to a veteran with respect to not more than 60 days of care of the veteran during any calendar year if the Administrator determines that a waiver of such discontinuation is necessary in order to avoid a hardship for the veteran.".

(2) Not later than 60 days after the date of the enactment of this Act, the Administrator shall prescribe regulations pursuant to subpargraph (C) of section 3203(b)(1) of title 38, United States Code, as added by subsection (b).

SIMPSON (AND OTHERS) AMENDMENT NO. 6910

Mr. STEVENS (for Mr. SIMPSON, for himself, Mr. CRANSTON, and Mr. PROXMIRE) proposed an amendment to the bill S. 2736, supra; as follows:

On page 40, between lines 20 and 21, insert the following new section:

SEC. 504. (a) Section 767 is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other provision of this section, any member insured under this section who has served for five continuous years as a member of a uniformed service or the Ready Reserve shall have the option to obtain additional coverage of $5,000, $10,000, or $15,000 if the member—

"(1) submits a written application and proof of good health; and

"(2) complies with such other terms and conditions as may be prescribed by the Adminstrator.".

(b) Section 777(a) is amended—

(1) in the first sentence, by striking out "$5,000, $10,000, $15,000, $20,000, $25,000, $30,000, or $35,000" and inserting in lieu thereof "$50,000, or any lesser amount divisible by $5,000,";

(2) in the second sentence, by striking out "No" and inserting in lieu thereof "Except as a result of additional coverage obtained under section 767(e) of this title, no"; and

(3) in the last sentence, by inserting "(or $50,000 if the amount above $35,000 was obtained under such section 767(e))" after "$35,000" each place it appears.

(c) The amendments made by this section shall take effect on January 1, 1985.

USE AND DISTRIBUTION OF WYANDOTTE INDIAN TRIBE JUDGMENT FUNDS

ANDREWS AMENDMENT NO. 6911

Mr. STEVENS (for Mr. ANDREWS) proposed an amendment to the bill (H.R. 6221) to provide for the use and distribution of certain funds awarded to the Wyandotte Tribe of Oklahoma; as follows:

On page 1, between line 2 and 3, insert the following:

TITLE I—WYANDOTTE TRIBE OF OKLAHOMA

Redesignate sections 1, 2, 3, 4, 5, and 6 of the bill as sections 101, 102, 103, 104, 105, and 106 respectively.

On page 2, line 13, strike out "section 3(b)" and insert in lieu thereof "section 103(b)".

On page 2, line 15, strike out "this Act" and insert in lieu thereof "this title".

On page 4, line 10, strike out "section 3 (b)" and insert in lieu thereof "section 103 (b)".

On page 4, line 11, strike out "section 4 or 5" and insert in lieu thereof "section 104 or 105".

On page 4, line 15, strike out "this Act" and insert in lieu thereof "this title".

On page 5, line 6, strike out "section 2 (a)" and insert in lieu thereof "section 102 (a)".

On page 5, line 9, strike out "section 2 (b)" and insert in lieu thereof "section 102 (b)".

On page 5, line 10, strike out "section 1" and insert in lieu thereof "section 101".

On page 5, line 17, strike out "section 1" and insert in lieu thereof "section 101".

On page 5, line 24, strike out "section 3 (b)" and insert in lieu thereof "section 103 (b)".

On page 6, line 2, strike out "section 2 (b)" and insert in lieu thereof "section 102 (b)".

On page 6, line 5, strike out "section 3 (b)" and insert in lieu thereof "section 103 (b)".

On page 6, line 12, strike out "section 3 (b)" and insert in lieu thereof "section 103 (b)".

On page 7, line 16, strike out "section 3 (b)" and insert in lieu thereof "section 103 (b)".

On page 7, line 21, strike out "this Act" and insert in lieu thereof "this title".

On page 7, line 25, strike out "this Act" and insert in lieu thereof "this title".

On page 8, line 2, strike out "this Act" and insert in lieu thereof "this title".

On page 8, strike out line 14, and insert in lieu thereof "title or made available under this title for any tribal program".

On page 9, after line 3, add the following:

TITLE II—FORT BERTHOLD RESERVATION MINERAL RESTORATION

SEC. 201. This title may be cited as the "Fort Berthold Reservation Mineral Restoration Act".

SEC. 202. (a) Subject to the provisions of this title, all mineral interests in the lands located within the exterior boundaries of the Fort Berthold Indian Reservation which—

(1) were acquired by the United States for the construction, operation, or maintenance of the Garrison Dam and Reservoir Project, and

(2) are not described in subsection (b),

are hereby declared to be held in trust by the United States for the benefit and use of the Three Affiliated Tribes of the Fort Berthold Reservation.

(b) The provisions of subsection (a) shall not apply with respect to—

(1) lands located in Township 152 North or Township 151 North of Range 93 West of the 5th principal meridian which lie east of the former Missouri River, and

(2) lands located in any of the following townships: Township 152 North and Township 151 North of Range 92 West of the 5th principal meridian; Township 152 North and Township 151 North of Range 91 West of the 5th principal meridian; Township 152 North and Township 151 North of Range 90 West of the 5th principal meridian; Township 152 North, Township 151 North, Township 150 North, and Township 149 North of Range 89 West of the 5th principal meridian; Township 152 North, Township 151 North, Township 150 North, and Township 149 North of Range 88 West of the 5th principal meridian; and Township 152 North, Township 151 North, Township 150 North, and Township 149 North of Range 87 West of the 5th principal meridian.

SEC. 203. Any exploration, development production, or extraction of minerals conducted with respect to any mineral interest described in section 202 (a) shall be conducted in accordance with such regulations as the Secretary of the Army shall prescribe in order to—

(1) protect the Garrison Dam and Reservoir, or

(2) carry out the purposes of the Garrison Dam and Reservoir Project.

SEC. 204. (a) Nothing in this title shall deprive any person (other than the United States) of any right, interest, or claim which such person may have in any minerals prior to the enactment of this Act.

(b) The United States may renew or extend any lease, license, permit, or contract with respect to any mineral interest described in section 202 (a) after the date of enactment of this Act only if—

(1) the governing body of the three Affiliated Tribes of the Fort Berthold Reservation approves of such renewal or extension, or

(2) the holder of such lease, license, or permit or a party to such contract (other than the United States) had the right to renew or extend such lease, license, permit, or contract prior to the date of enactment of this Act and such holder or party exercises such right of renewal or extension.

(c) All rentals, royalties, and other payments with respect to any mineral interest described in section 202(a) accruing to the United States after the date of enactment of this Act shall be held in trust by the United States for the benefit and use of the Three Affiliated Tribes of the Fort Berthold Reservation.

SEC. 205. Public Law 87-695 is amended—

(1) by striking out "such former Indian land" and inserting in lieu thereof "such land",

(2) by striking out "Subject" in the first sentence and inserting in lieu thereof "That (a) subject", and

(3) by adding at the end thereof the following new subsection:

"(b) Subsection (a) shall not apply with respect to any lands described in section 202 (b) of the Fort Berthold Reservation Mineral Restoration Act.".

SEC. 206. (a) The Secretary of the Army and the Secretary of the Interior may enter into agreements for the transfer to the United States of any land located near the Garrison Dam and Reservoir Project which is held in trust for the benefit of the Three Affiliated Tribes of the Fort Berthold Reservation or any individual Indian if such agreement is approved—

(1) in the case of land held for the benefit of such tribes, by the governing body of such tribes, or

(2) in the case of land held for the benefit of any individual Indian, by the individual or individuals holding a majority of the beneficial interest in such land.

Any land transferred to the United States under the preceding sentence shall be treated as land acquired for the operation and maintenance of the Garrison Dam and Reservoir Project.

(b) The Secretary of the Army and the Secretary of the Interior may enter into agreements under which any land within the exterior boundaries of the reservation acquired by the United States for the construction, maintenance, or operation of the Garrison Dam and Reservoir Project that is no longer needed for such purposes is declared to be held by the United States in

trust for the benefit of the Three Affiliated Tribes of the Fort Berthold Reservation.

SEC. 207. The provisions of this title, and of any agreement entered into under section 206, shall not be taken into account under section 2 of title I of the Second Deficiency Appropriation Act, fiscal year 1935 (25 U.S.C. 475a) or section 2 of the Act of August 13, 1946 (60 Stat. 1050) for purposes of determining any offset or counterclaim.

SEC. 208. To the extent that there are net proceeds from the development of any mineral interests described in section 202(a) of this Act, in excess of $300,000 the Three Affiliated Tribes of the Fort Berthold Reservation shall reimburse the United States the fixed sum of $300,000 from such proceeds. This reimbursement shall be deemed full reimbursement for any and all payments from the United States that the Three Affiliated Tribes received for the mineral estate, or any portion thereof, described in section 202(a) of this Act.

TANDEM TRUCK SAFETY ACT

DANFORTH (AND OTHERS) AMENDMENT NO. 6912

Mr. STEVENS (for Mr. DANFORTH, for himself, Mr. MOYNIHAN, and Mr. PACKWOOD) proposed an amendment to the bill (S. 2217) entitled the "Tandem Truck Safety Act of 1984"; a follows:

Strike all after the enacting clause and insert in lieu thereof the following:

TITLE I

SHORT TITLE

SEC. 101. This title may be cited as the "Tandem Truck Safety Act of 1984".

EXEMPTION FROM LENGTH REQUIREMENTS

SEC. 102. Section 411 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2311) is amended by adding at the end thereof the following new subsection:

"(i)(1) If the Governor of a State, after making the consultations specified in paragraph (2) of this subsection, determines that any specific segment of the National System of Interstate and Defense Highways is not capable of safely accommodating motor vehicles having the lengths set forth in subsection (a) of this section or motor vehicle combinations described in subsection (c) of this section, the Governor may notify the Secretary of such determination and request that the Secretary exempt such segment from one or both of such subsections.

"(2) Before making such notification, the Governor shall consult with units of local government within that State in which the specific segment of such System is located, as well as the Governor of any State adjacent to that State that might be directly affected by such exemption. As part of such consultations, consideration shall be given to any potential alternative route that—

"(A) can safely accommodate motor vehicles having the lengths set forth in subsection (a) of this section or motor vehicle combinations described in subsection (c) of this section; and

"(B) serves the area in which such segment is located.

"(3) The Governor shall transmit with such notification specific evidence of safety problems that supports such determination, and the results of consultation regarding any alternative route under paragraph (2) of this subsection.

"(4)(A) If the Secretary determines, upon request by a Governor under paragraph (1) of this subsection or on the Secretary's own initiative, that any segment of the National System of Interstate and Defense Highways is not capable of safely accommodating motor vehicles having the lengths set forth in subsection (a) of this section or motor vehicle combinations described in subsection (c) of this section, the Secretary shall exempt such segment from one or both of such subsections. Before making such determination, the Secretary shall consider any possible alternative route that serves the area in which such segment is located.

"(B) The Secretary shall make such determination within a period of 120 days after the date of receipt of notification from a Governor under paragraph (1) of this subsection or the date on which the Secretary initiates action under this paragraph, as the case may be, with respect to such segment. If the Secretary determines that such determination will not be made within such time period, the Secretary shall immediately notify the Congress and shall furnish the reasons for the delay, information regarding the resources assigned, and the projected completion date, for any such determination.

"(C) The Secretary shall make such determination only after affording interested parties notice and the opportunity for comment. Any exemption granted by the Secretary under this paragraph before the date on which final rules are issued under subsection (a) of this section shall be included as part of such final rules. Any such exemption granted on or after such date shall be published as a revision of such rules.".

EXEMPTION FROM WIDTH REQUIREMENTS

SEC. 103. Section 416 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2316) is amended—

(1) be redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e)(1) If the Governor of a State, after making the consultations specified in paragraph (2) of this subsection, determines that any specific segment of the National System of Interstate and Defense Highways is not capable of safely accommodating motor vehicles having the width set forth in subsection (a) of this section, the Governor may notify the Secretary of such determination and request that the Secretary exempt such segment from such subsection for the purpose of allowing the State to impose a vehicle width limitation of less than 102 inches on such segment.

"(2) Before making such notification, the Governor shall consult with units of local government within that State in which the specific segment of such System is located, as well as the Governor of any State adjacent to that State that might be directly affected by such exemption. As part of such consultations, consideration shall be given to any potential alternative route that—

"(A) can safely accommodate motor vehicles having the width set forth in subsection (a) of this section;

"(B) serves the area in which such segment is located.

"(3) The Governor shall transmit with such notification specific evidence of safety problems that supports such determination, and the results of consultation regarding any alternative route under paragraph (2) of this subsection.

"(4)(A) If the Secretary determines upon request by a Governor under paragraph (1) of this subsection or on the Secretary's own initiative, that any segement of the National System of Interstate and Defense Highways is not capable of safely accommodating motor vehicles having the width set forth in subsection (a) of this section, the Secretary shall exempt such segment from such subsection for the purpose of allowing the State to impose a vehicle width limitation of less than 102 inches on such segment. Before making such determination, the Secretary shall consider any possible alternative route that serves the area in which such segment is located.

"(B) The Secretary shall make such determination within a period of 120 days after the date of receipt of notification from a Governor under paragraph (1) of this subsection or the date on which the Secretary initiates action under this paragraph, as the case may be, with respect to such segment. If the Secretary determines that such determination will not be made within such time period, the Secretary shall immediately notify Congress and shall furnish the reasons for the delay, information regarding the resources assigned, and the projected completion date, for any such determination.

"(C) The Secretary shall make such determination only after affording interested parties notice and the opportunity for comment. Any exemption granted by the Secretary under this paragraph before the date on which final rules are issued under subsection (a) of this section shall be included as part of such final rules. Any such exemption granted on or after such date shall be published as a revision of such rules.".

TITLE II

MISCELLANEOUS AMENDMENTS

SEC. 201. (a) Section 411(a) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2311(a)) is amended—

(1) by striking "No" and inserting in lieu thereof "Except as provided in subsection (i) of this section, no";

(2) by inserting "(other than a segment exempted under subsection (i) of this section)" immediately after "Highways"; and

(3) by striking "Secretary," and inserting in lieu thereof "Secretary of Transportation (hereinafter in this part referred to as the "Secretary),".

(b) Section 411(c) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2311(c)) is amended by inserting "(other than a segment exempted under subsection (i) of this section)" immediately after "Highways".

(c) Section 412 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2312) is amended by inserting "(other than any segment thereof which is exempted under section 411(i) or 416(e) of this title)" immediately after "Highways System".

(d) Section 416(a) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2316(a)) is amended—

(1) by striking "No" and inserting in lieu thereof "Except as provided in subsection (e) of this section, no";

(2) by inserting "(other than a segment exempted under subsection (e) of this section)" immediately after "Highways"; and

(3) by inserting immediately after "more" the second time it appears the following: "or any other qualifying Federal-aid Primary System highway designated by the Secretary if the Secretary determines that such designation is consistent with highway safety and the other purposes of this title".

(e) Section 416(d) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2316(d)) is amended—

(1) by inserting "(other than a segment exempted under subsection (e) of this section)" immediately after "Highways"; and

(2) by striking ", with traffic lanes designed to be a width of twelve feet or more".

REASONABLE ACCESS

SEC. 202. Section 412 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2312) is amended by inserting "or for truck tractor single-trailer units of those combination vehicles described in section 411(c) of this title" immediately before the period at the end thereof.

TITLE III

SHORT TITLE

SEC. 301. This title may be cited as the "Motor Carrier Safety Act of 1984".

PURPOSES

SEC. 302. The purposes of this title are to promote the safe operation of commercial motor vehicles in or affecting interstate commerce, to minimize dangers to the health of operators of commercial motor vehicles and other employees whose employment directly affects motor carrier safety, and to assure increased compliance with traffic laws and with the commercial motor vehicle safety and health rules, regulations standards, and orders issued pursuant to this title.

FINDINGS

SEC. 303. The Congress finds that—

(1) it is in the public interest to enhance commercial motor vehicle safety and thereby to reduce highway fatalities, injuries, and property damage;

(2) improved, more uniform commercial motor vehicle safety measures and strengthened enforcement would reduce the number of fatalities and injuries and the level of property damage related to commercial motor vehicle operations;

(3) enhanced protection of the health of commercial motor vehicle operators is in the public interest; and

(4) interested State governments can provide valuable assistance to the Federal Government in assuring that commercial motor vehicle operations are conducted safely and healthfully.

DEFINITIONS

SEC. 304. For purposes of this title, the term—

(1) "commerce" means (A) trade, traffic, or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, or (B) in the case of a commercial motor vehicle transporting passengers, which affects trade, traffic, or transportation between a place in a State and a place outside of such State:

(2) "commercial motor vehicle" means any self-propelled or towed vehicle used on the highways in commerce principally to transport passengers or cargo—

(A) if such vehicle has a gross vehicle weight rating of 10.001 or more pounds;

(B) if such vehicle is designed to transport more than 15 passengers, including the driver; or

(C) if such vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.) and are transported in quantities requiring placarding under regulations issued by the Secretary;

(3) "employee" means—

(A) driver of a commercial motor vehicle (including, for purposes of this title only, an independent contractor while in the course of personally operating a commercial motor vehicle);

(B) a mechanic;

(C) a freight handler; or

(D) any individual other than an employer; who is employed by a commercial motor carrier and who in the course of this employment directly affects commercial motor vehicle safety, but such term does not include an employee of the United States or any State who is acting within the course of such employment;

(4) "employer" means any person engaged in a business affecting commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it in commerce, but such term does not include the United States or any State;

(5) "passenger automobile" means a motor vehicle with a motive power, except that the term does not include a multipurpose passenger vehicle, a motorcycle, a bus, a truck, or a trailer designed for carrying 10 persons or less;

(6) "person" means one or more individuals, partnerships, associations, corporations, business trusts, or any other organized group of individuals;

(7) "Secretary" means the Secretary of Transportation; and

(8) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or the Commonwealth of the Northern Marianas, or a political subdivision thereof.

DUTIES

SEC. 305. Each employer and employee shall comply with the safety and health rules, regulations, standards, and orders issued pursuant to this title which are applicable to his own actions and conduct.

REGULATORY AUTHORITY AND STANDARDS

SEC. 306. (a) The Secretary shall establish and revise such rules, regulations, standards, and orders as may be necessary in order to further the purposes of this title. The Secretary shall, where practicable, consider costs and benefits before establishing or revising rules, regulations, standards, or orders under this title. The Secretary shall not eliminate or modify any existing motor carrier safety rule pertaining to the maintenance, equipment, loading or operation (including routing regulations) of vehicles carrying materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.) unless and until an equivalent or more stringent regulation has been promulgated under the Hazardous Materials Transportation Act. Such rules, regulations, standards, and orders shall be directed toward assuring that—

(1) commercial motor vehicles are safely maintained, equipped, loaded, and operated;

(2) the responsibilities imposed upon drivers of commercial motor vehicles do not impair a driver's ability to operate safely;

(3) the physical condition of drivers of commercial motor vehicles is adequate to enable them to drive safely; and

(4) the operation of commercial motor vehicles does not create deleterious effects on the physical condition of such drivers.

(b)(1) The Secretary shall promulgate any rule or regulation within a period of 18 months after the date of commencement on any proceeding respecting such rule or regulation. If the Secretary determines that any such promulgation will not be completed within such time period, the Secretary shall immediately notify the Congress and shall furnish the reasons for the delay, information regarding the resources assigned, and the projected completion date, for any such proceeding. If such rule or regulation has not been promulgated within 18 months after the date of the commencement of any proceeding with respect to such rule or regulation, the Secretary shall supply the Congress with current data regarding the information specified in the preceding sentence, and shall provide the Congress with such information at the end of every 60-day period thereafter during which the proceeding remains incomplete.

(2) All rules, regulations, standards, and orders issued under this section shall be promulgated in accordance with section 553 of title 5, United States Code (without regard to sections 556 and 557 of such title), except that the time periods specified in paragraph (1) of this subsection shall apply to such promulgation.

(c) The Secretary may waive in whole or in part application of any rule, regulation, standard, or order established under this section with respect to any person or class of persons if the Secretary determines that such waiver is not contrary to the public interest and is consistent with the safe operation of commercial motor vehicles. Any waiver permitted under this subsection shall be published in the Federal Register, together with the reasons for such waiver. Any final agency action taken under this section is subject to judicial review, as provided in chapter 7 of title 5, United States Code.

(d) The Secretary, in consultation with the Director of the National Institute for Occupational Safety and Health and the Secretary of labor, shall undertake a study of health hazards to which employees engaged in the operation of commercial motor vehicles are exposed, and shall develop such materials and information as are necessary to enable such employees to carry out their employment in a place and manner free from recognized hazards that are causing or are likely to cause death or serious physical harm. The study shall include findings regarding the most appropriate method for regulating and protecting the health of operators of commercial motor vehicles. The findings of such study shall be submitted to the Congress within 1 year after the date of enactment of this Act.

(e) The Secretary shall coordinate the activities of Federal agencies to ensure adequate protection of the safety and health of operators of commercial motor vehicles. The Secretary shall attempt to minimize paperwork burdens to assure maximum coordination, and to avoid overlap or the imposition of undue burdens on persons subject to such rules, regulations, standards, and orders.

(f) Section 3102 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) The Secretary shall, before prescribing or revising any requirement under this section, consider the costs and benefits of such requirement.".

GENERAL POWERS

SEC. 307. (a) The Secretary may conduct, directly or indirectly, such research, development, demonstrations, and training activities as the Secretary considers appropriate to develop rules, regulations, standards, and

orders authorized to be promulgated under section 306 of this title, to design and develop improved enforcement procedures and technologies, and to familiarize affected persons with such rules, regulations, standards, and orders.

(h) In carrying out the Secretary's functions under this title, the Secretary is authorized to perform such acts (including conducting investigations and inspections; compiling statistics, making reports; issuing subpenas; requiring production of documents, records, and property; taking depositions; holding hearings; prescribing recordkeeping and reporting requirements; and carrying out and contracting for such research, development, testing, evaluation, and training as the Secretary determines necessary to carry out the provisions of this title, or rules, regulations, standards, or orders issued pursuant to section 402 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2302). The Secretary may delegate to a State such functions respecting the enforcement (including investigations) of the provisions of this title or rules, regulations, standards, or orders issued pursuant to this title as the Secretary determines appropriate to carry out such provisions.

(c) To carry out the Secretary's inspection and investigation functions under subsection (b) of this section, the Secretary or the Secretary's agent shall, as appropriate, consult with employers and employees and their duly authorized representatives, and shall offer them a right of accompaniment.

DUTY TO INVESTIGATE COMPLAINTS; PROTECTION OF COMPLAINANTS

SEC. 308. (a) The Secretary shall timely investigate any nonfrivolous written complaint alleging that a material violation of any rule, regulation, standard, or order issued under this title is occurring or has occurred within the preceding 60 days. The complainant shall be timely notified of findings resulting from such investigation. The Secretary shall not be required to conduct separate investigations of duplicative complaints.

(b) Notwithstanding the provisions of section 552 of title 5, United States Code, the Secretary shall not disclose the identity of complainants unless it is determined that such disclosure is necessary to prosecute a violation. If disclosure becomes necessary, the Secretary shall take every practical measure within the Secretary's authority to assure that the complainant is not subject to harassment, intimidation, disciplinary action, discrimination, or financial loss as a result of such disclosure.

PENALTIES

SEC. 309. (a) Section 507 of title 49, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) The Attorney General, at the request of the Secretary, may bring an action in an appropriate district court of the United States for equitable relief to redress a violation by any person of a provision of section 3102 of this title or the Motor Carrier Safety Act of 1984, or an order or regulation issued under such section or Act. Such district court shall have jurisdiction to determine any such action and may grant such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.".

(b) Section 521(b) of title 49, United States Code, is amended to read as follows:

"(b)(1) If the Secretary finds that a violation of section 3102 of this title or the Motor Carrier Safety Act of 1984, or a violation of a regulation issued under such section or such Act has occurred, the Secretary shall issue a written notice to the violator. Such notice shall describe with reasonable particularity the nature of the violation found and the provision which has been violated. The notice shall fix a reasonable time for abatement of the violation, specify the proposed civil penalty, if any, and suggest actions which might be taken in order to abate the violation. The notice shall indicate that the violator may, within 15 days of service, notify the Secretary of the violator's intention to contest the matter. In the event of a contested notice, the Secretary shall afford such violator an opportunity for a hearing, pursuant to section 554 of title 5, following which the Secretary shall issue an order affirming, modifying, or vacating the notice of violation.

"(2) Except as otherwise provided in this subsection, any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act which is a violation of recordkeeping requirements issued by the Secretary pursuant to section 3102 of this title or the Motor Carrier Safety Act of 1984 shall be liable to the United States for a civil penalty not to exceed $500 for each offense. Each day of a violation of recordkeeping requirements shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for such violations shall not exceed $2,500. If the Secretary determines that a serious pattern of safety violations, other than recordkeeping requirements, exists or has occurred, the Secretary may assess a civil penalty not to exceed $1,000 for each offense: *Provided, however,* That the maximum fine for each such pattern of safety violations shall not exceed $10,000. If the Secretary determines that a substantial health or safety violation exists or has occurred which could reasonably lead to, or has resulted in, serious personal injury or death, the Secretary may assess a civil penalty not to exceed $10,000 for each offense: *Provided, however,* That, except for recordkeeping violations, no civil penalty provided under this section shall be assessed against an employee for a violation of this section unless the Secretary determines that such employee's actions constituted gross negligence or reckless disregard for safety, in which case such employee shall be liable for a civil penalty not to exceed $1,000. The amount of any civil penalty, and a reasonable time for abatement of the violation, shall by written order be determined by the Secretary, taking into account the nature, circumstances, extent, and gravity of the violations committed and, with respect to the violation, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice and public safety may require. In each case, the assessment shall be calculated to induce further compliance.

"(3) The Secretary may require any violator served with a notice of violation to post a copy of such notice or statement of such notice in such place or places and for such duration as the Secretary may determine appropriate to aid in the enforcement of section 3102 of this title or the Motor Carrier Safety Act of 1984.

"(4) Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, before referral to the Attorney General, such civil penalty may be compromised by the Secretary.

"(5)(A) If, upon inspection or investigation, the Secretary determines that a violation, or combination of violations, poses an imminent hazard to safety, the Secretary shall order a vehicle or employee operating such vehicle out of service, or order an employer to cease all or part of the employer's commercial motor vehicle operations. In making any such order, the Secretary shall impose no restriction on any employee or employer beyond that required to abate the hazard. Subsequent to the issuance of the order, opportunity for review shall be provided in accordance with section 554 of title 5, except that such review shall occur not later than 10 days after issuance of such order.

"(B) In this paragraph, 'imminent hazard' means any condition of vehicle, employee, or commercial motor vehicle operations which is likely to result in serious injury or death if not discontinued immediately.

"(6) Any person who knowingly and willfully violates any provision of section 3102 of this title or the Motor Carrier Safety Act of 1984, or a regulation issued under this title or such Act, shall, upon conviction, be subject for each offense for a fine not to exceed $25,000 or imprisonment for a term not to exceed 1 year, or both, except that, if such violator is an employee, the violator shall only be subject to penalty if, while operating a commercial motor vehicle, the violator's activities have led or could have led to death or serious injury, in which case the violator shall be liable, upon conviction, for a fine not to exceed $2,500.

"(7) The Secretary shall promulgate regulations establishing penalty schedules designed to induce timely compliance for persons failing to comply promptly with the requirements set forth in any notices and orders under this subsection.

"(8) Any aggrieved person who, after a hearing, is adversely affected by a final order issued under this section may, within 30 days, petition for review of the order in the United States court of appeals in the circuit wherein the violation is alleged to have occurred or where the violator has his principal place of business or residence, or in the United States Court of Appeals for the District of Columbia Circuit. Review of the order shall be based on a determination of whether the Secretary's findings and conclusions were supported by substantial evidence, or were otherwise not in accordance with law. No objection that has not been urged before the Secretary shall be considered by the court, unless reasonable grounds existed for failure or neglect to do so. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Secretary.

"(9) All penalties and fines collected under this section shall be deposited into the Highway Trust Fund.

"(10) in any action brought under this section, process may be served without regard to the territorial limits of the district of the State in which the action is brought.

"(11) In any proceeding for criminal contempt for violation of an injuncton or restraining order issued under this section, trial shall be by the court, or, upon demand of the accused, by a jury, conducted in accordance with the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

"(12) As used in this subsection, the term—

"(A) 'commerce' means (i) trade, traffic, or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, or (ii) in the case of a commercial motor vehicle transporting passengers, which affects trade, traffic, or transportation between a place in a State and a place outside of such State;

"(B) 'commercial motor vehicle' means any self-propelled or towed vehicle used on the highways in commerce principally to transport passengers or cargo—

"(i) if such vehicle has a gross vehicle weight rating of 10,001 or more pounds;

"(ii) if such vehicle is designed to transport more than 15 passengers, including the driver; or

"(iii) if such vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.) and are transported in quantities requiring placarding under regulations issued by the Secretary;

"(C) 'employee' means—

"(i) a driver of a commercial motor vehicle (including, for purposes of this subsection only, an independent contractor while in the course of personally operating a commercial motor vehicle);

"(ii) a mechanic;

"(iii) a freight handler; or

"(iv) any individual other than an employer; who is employed by a commercial motor carrier and who in the course of this employment directly affects commercial motor vehicle safety, but such term does not include an employee of the United States or any State who is acting within the course of such employment;

"(D) 'employer' means any person engaged in a business affecting commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it in commerce, but such term does not include the United States or any State;

"(E) 'person' means one or more individuals, partnerships, associations, corporations, business trusts, or any other organized group of individuals; and

"(F) 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or the Commonwealth of the Northern Marianas, or a political subdivision thereof;

"(13) The provisions of this subsection shall not affect in any way any provision of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.) or any regulation promulgated by the Secretary under such Act.".

(c) The Secretary shall conduct a study of the effectiveness of the civil and criminal penalties established under this title in deterring violations of the commercial motor vehicle safety regulations issued under this title and in effectively prosecuting such violations when they occur. Such study shall examine the effectiveness of penalties in effect before the date of enactment of this Act in comparison to the penalties established by this title. Such study shall also investigate the need for, and make recommendations concerning, increased fine levels for civil and criminal penalties, and the need for additional categories of civil and criminal penalties to deter further and prosecute effectively violations of such commercial motor vehicle safety regulations. The Secretary shall submit to Congress a report on the findings of this study, together with legislative recommendations, not later than 2 years after the date of enactment of this Act.

LITIGATION AUTHORITY

SEC. 310. Section 413 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2313) is amended by striking "The Secretary, or, on" and inserting in lieu thereof "On".

STATE REGULATIONS

SEC. 311. (a) Except as may otherwise be provided in this title or any other Act, all laws, rules, regulations, standards, and orders relating to commercial motor vehicle safety shall, to the extent necessary to promote public safety and reduce fatalities, be nationally uniform, to the extend practicable. A State may adopt or continue in effect any law, rule, regulation, standard, or order relating to commercial motor vehicle safety, other than hours-of-service regulations applicable to intrastate commerce, until the Secretary, pursuant to the provisions of this section, has adopted a new rule, regulation, standard, or order, or has continued in effect an existing Federal regulation which specifically addresses the same concern for promotion of public safety and the reduction of fatalities as such State requirements.

(b) Within 1 month after the date of enactment of this Act, the Secretary shall issue initial guidelines to assist the States in compiling and submitting materials related to commercial motor vehicle safety laws, rules, regulations, standards, or orders. Within nine months after the date of enactment of this Act, the Secretary shall collect from each State, and the States shall assist the Secretary in collecting each law, rule, regulation, standard and order for commercial motor vehicle safety which the State has adopted and has in effect.

(c)(1) A study of the laws, rules, regulations, standards and orders submitted under subsection (b) of this section shall be undertaken by a panel established by the Secretary for that propose. The Secretary shall be the Chairman of the panel. In addition to the Secretary, the panel shall consist of 14 individuals, 7 of whom shall be representatives of State and regional interests and 7 of whom shall be representatives of diverse business, consumer and safety interests regarding commercial motor vehicles. The Secretary shall select these individuals on the basis of their knowledge, expertise or experience regarding commercial motor vehicle safety from lists of qualified individuals submitted to the Secretary by the Committee on Commerce, Science, and Transportation in the Senate and the Committee on Public Works and Transportation in the House of Representatives. Each such list shall consist of not less than 20 names of individuals qualified to serve on the panel. Members of the panel shall receive no compensation, but shall, in accordance with section 5703 of title 5, United States Code, be entitled to reimbursement for travel or transportation expenses incurred in the performance of responsibilities as a member of the panel.

(2) The study required by paragraph (1) of this subsection shall consider the material collected by the Secretary from the States under subsection (b) of this section, and shall identify those laws, rules, regulations, standards, and orders for commercial motor vehicle safety which are inconsistent with this chapter. In addition, the study shall consider those instances were inconsistency of such laws, rules, regulations, standards and orders is necessary or desirable. The study shall also evaluate the need, if any, for Federal assistance to States to enable States to enforce laws, rules, regulations, standards, and orders for commercial motor vehicle safety that are nationally uniform.

(3) Not later than eighteen months after the date of enactment of this Act, the Secretary shall submit the results of such study to the Congress, and shall make such results available for public inspection.

(d)(1) Within six months after the completion of the study required by subsection (c) of this section, the Secretary shall commerce a rulemaking proceeding to promulgate rules regarding commercial motor vehicle safety. If the Secretary finds on the basis of such study that an existing Federal commercial motor vehicle safety regulation better serves the purposes of this title than would a new regulation, the Secretary shall continue such existing regulation in effect. Any rules promulgated under this paragraph shall be based upon such study, and any such rule shall only be promulgated if the Secretary finds that it does not adversely affect any State law, rule, regulation, standard, or order—

(A) for which there is a compelling local safety need; and

(B) which does not unduly burden interstate commerce.

(2) Any such rule shall be promulgated in accordance with section 553 of title 5, United States Code, except that the Secretary shall afford interested persons an opportunity for a hearing on the record.

(e)(1) After the promulgation of any rule under subsection (d) of this section, any State may petition the Secretary for a waiver from application to the State of such rule. The Secretary shall grant such waiver as expeditiously as possible, unless the Secretary finds that—

(A) there is no justifiable safety need within such State for such safety rule; or

(B) the grant of such waiver will unduly burden interstate commerce.

(2) The decision to grant or deny a petition for a waiver submitted under this section shall only be made after the Secretary has afforded the relevant State an opportunity for a hearing on the record.

(f)(1) Not later than 60 days after a rule is promulgated under subsection (d) or action is taken regarding a waiver under subsection (e) of this section, any person adversely affected by such rule or action may file with the United States court of appeals for the District of Columbia or for the circuit in which such person resides or has his principal place of business a petition for judicial review of such rule or action.

(2) Upon the filing of a petition under paragraph (1) of this subsection, the court shall have jurisdiction to review such rule or action in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief, including interim relief, as provided in such chapter. Such rule or action shall be affirmed unless the Secretary's findings under subsections (d) and (e) of this section are supported by substantial evidence on the record taken as a whole.

(3) The judgment of the court affirming or setting aside, in whole or in part, any such rule or action shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

(4) The remedies provided for in this subsection shall be in addition to and not in lieu of any other remedies provided by law.

(g) Nothing in this title shall affect existing hour-of-service regulations of any State applying to commercial motor vehicle operations occurring wholly within that State, unless the Secretary affirmatively finds upon review of a State's hour-of-service regulations that such regulations—

(1) materially diminish commercial motor vehicle safety or the health and safety of employees;

(2) are not required by compelling local conditions; or

(3) unduly burden interstate commerce.

If the Secretary makes such an affirmative determination, the Secretary may require such State to adopt Federal hour-of-service regulations.

(h) The Secretary shall conduct a study of the safety performance of commercial motor vehicles operating in intrastate commerce. This study shall examine the effectiveness of individual State regulations governing such transportation in promoting safety in commercial motor vehicle safety operations. Such study shall also investigate the need to subject such transportation to the Federal commercial motor vehicle safety regulations, either in whole or in part. The Secretary shall submit to Congress a report on the findings of this investigation and study not later than two years after the date of enactment of this Act.

INSPECTION

SEC. 312. (a) Upon the instruction of a duly authorized State or Federal enforcement official, each commercial motor vehicle shall be required to pass an inspection of all safety equipment required under part 393 of subchapter B of chapter 3 of title 49, Code of Federal Regulations.

(b) The Secretary shall, by rule, establish Federal standards for inspections of commercial motor vehicles no less often than annually, and retention by employers of records of such inspections. Such standards are to be considered minimum Federal standards.

(c) Nothing in this title shall be construed as preventing any State or voluntary group of States from imposing more stringent standards for use in their own periodic roadside inspection programs.

(d) Not later than 60 days after the date of enactment of this Act, the Secretary shall initiate a rulemaking to afford interested parties an opportunity to comment on such part 393 and the inspection or retention procedure established pursuant to subsection (b) of this section. Amendments to the regulations shall be issued and published in the Federal Register not later than 1 year after such rulemaking is initiated. The amended regulations shall become effective on the date on which they are published in the Federal Register.

(e) A periodic inspection of a commercial motor vehicle in accordance with Federal standards established pursuant to subsection (b) of this section shall be recognized as adequate in every State for the period of such inspection. The provisions of this subsection shall not be deemed to prohibit a State from making random inspections of commercial motor vehicles.

CERTIFICATION OF SAFETY FITNESS

SEC. 313. (a) The Secretary, in cooperation with the Interstate Commerce Commission, shall by rule, after notice and opportunity for comment, establish a procedure to determine the safety fitness of commercial motor vehicles, including persons seeking new or additional operating authority as motor carriers of property or passengers under sections 10922 and 10923 of title 49, United States Code. Such procedure shall include—

(1) specific initial and continuing requirements to be met by such persons to prove safety fitness;

(2) a means of determining whether such persons meet the safety fitness requirements specified under paragraph (1); and

(3) specific time deadlines for action by the Department of Transportation and the Interstate Commerce Commission in making fitness determinations.

(b) Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a copy of the procedure established under subsection (a) of this section.

(c) The rules adopted under this section shall supersede all rules in effect on the date of enactment of this Act regarding safety fitness and safety rating of motor carriers.

(d) Notwithstanding any other provision of law, the Interstate Commerce Commission shall find any applicant for authority to operate as a motor common or contract carrier to be unfit if the applicant does not meet the safety fitness requirements established under subsection (a) of this section, and shall deny such application.

HEAVY TRUCK RESEARCH

SEC. 314. (a) The Secretary shall undertake a comprehensive study of safety characteristics of heavy trucks, the unique problems related to heavy trucks, and the manner in which such trucks are driven. Such study shall include an examination of the handling, braking, stability, and crashworthiness of heavy trucks, and an examination of the programs and needs of enforcement agencies to assure compliance with traffic laws by commercial motor vehicle drivers. Not later than September 30, 1985, the Secretary shall submit to the Congress a report on the findings of such study.

(b) There are authorized to be appropriated for fiscal years 1985 and 1986 such sums as may be necessary to conduct the research required under subsection (a) of this section.

TRUCK OCCUPANT PROTECTION

SEC. 315. (a) The Secretary shall make a full investigation and study of crash protection for truck occupants. Such study shall examine potential and known hazards to truck occupants and means of improving truck-occupant safety. This study shall also include potential performance standards to be met by truck manufacturers. The Secretary shall submit to Congress a report on the findings of this investigation and study not later than 1 year after the date of enactment of this Act.

(b) There are authorized to be appropriated for fiscal years 1985 and 1986 such sums as may be necessary to undertake the study required by subsection (a) of this section.

STUDY OF SAFETY-RELATED DEVICES

SEC. 316. (a) The Secretary shall conduct a study of the effectiveness of existing regulations regarding emergency warning devices required to be carried on buses, trucks, truck-tractors, and motor-driven vehicles which are involved in emergency situations. Such a study shall also investigate the potential costs and benefits of requiring passenger automobile operators to carry emergency warning devices, and shall examine the relative benefits of various types of warning devices in enhancing highway safety. The Secretary shall submit to the Congress a report containing the findings of this study not later than 6 months after the date of enactment of this Act.

(b) There are authorized to be appropriated for fiscal years 1985 and 1986 such sums as may be necessary to undertake the study required by this section.

OVERSIGHT

SEC. 317. The appropriate authorizing Committees of the Congress shall conduct periodic oversight hearings on the effects of this title no less often than annually for the first 3 years following the date of enactment of this Act, to insure that this title is being implemented according to congressional intent and the purposes of this title.

RELATIONSHIP TO OTHER LAW

SEC. 318. The provisions of this title shall not affect in any way any provision of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.) or any regulation promulgated by the Secretary under such Act.

AMENDMENT TO MOTOR CARRIER ACT OF 1980

SEC. 319. (a) Section 30(b)(3) of the Motor Carrier Act of 1980 (Public Law 96-296; 94 Stat. 821) is amended—

(1) by striking "and" immediately before "(B)"; and

(2) by inserting immediately before the period at the end thereof the following. ", and (C) in the case of any agricultural vehicle transporting any such material or substance in interstate commerce other than in bulk, the Secretary, by regulation, may reduce such amount if the Secretary finds that such reduction will not adversely affect public safety".

(b) Section 30(g) of such Act is amended—

(1) by redesignating paragraphs (1), (2) and (3) as paragraphs (2), (3) and (4), respectively; and

(2) by inserting immediately before paragraph (1), as so redesignated, the following new paragraph:

"(1) 'agricultural vehicle' means any vehicle which (A) is designed or adapted and used exclusively for agricultural purposes, (B) is operated by a motor private carrier (as such term is defined in section 10102(15) of title 49, United States Code), and (C) is only incidentally operated on the highways;".

GEORGIA WILDERNESS ACT

HELMS (AND OTHERS) AMENDMENT NO. 6913

Mr. STEVENS (for Mr. HELMS, for himself, Mr. NUNN, and Mr. MATTINGLY) proposed an amendment to the bill (S. 2773) to designate certain National Forest System Lands in the State of Georgia to the National Wilderness Preservation System, and for other purposes; as follows:

On page 8, line 3, insert "Addition" immediately after "Wilderness".

On page 8, lines 4 and 5, strike out "shall be known as the Southern Nantahala Wilderness" and insert in lieu thereof "are hereby incorporated in, and shall be deemed to be part of, the Southern Nantahala Wilderness as designated by Public Law 98-324".

ALLEGHENY NATIONAL FOREST WILDERNESS AREA

HEINZ (AND SPECTER) AMENDMENT NO. 6914

Mr. STEVENS (for Mr. HEINZ, for himself and Mr. SPECTER) proposed an amendment to the bill (H.R. 5076) to designate certain areas in the Allegheny National Forest as wilderness and recreation areas; as follows:

On page 14, strike out line 18 and all that follows through line 4 on page 17 and insert in lieu thereof the following:

ALLEGHENY NATIONAL RECREATION AREA

SEC. 6. (a) In furtherance of the findings and purposes of this Act, certain lands in the Allegheny National Forest, Pennsylvania, which comprise approximately twenty-three thousand one hundred acres, as generally depicted on a map entitled "Allegheny National Recreation Area—Proposed", dated March 1984, are hereby designated as the Allegheny National Recreation Area (hereinafter in this Act referred to as the "national recreation area"). The Secretary of Agriculture may revise the boundaries of the national recreation area to correct errors or to include additional lands acquired adjacent to the area.

(b) The national recreation area shall be managed for the purposes of—

(1) outdoor recreation including, but not limited to, hunting, fishing, hiking, backpacking, camping, nature study, and the use of motorized and nonmotorized boats on the Allegheny Reservoir;

(2) the conservation of fish and wildlife populations and habitat;

(3) the protection of watersheds and the maintenance of free flowing streams and the quality of ground and surface waters in accordance with applicable law;

(4) the conservation of scenic, cultural, and other natural values of the area;

(5) allowing the development of privately-owned oil, gas, and mineral resources subject to reasonable conditions prescribed by the Secretary under subsection (c) for the protection of the area; and

(6) minimizing, to the extent practicable, environmental disturbances caused by resource development, consistent with the exercise of private property rights.

(c) The Secretary shall administer the national recreation area in accordance with the purposes described in subsection (b) and the laws, rules, and regulations applicable to the National Forest System. Subject to valid existing rights, any activity associated with the exploration, development, or transportation of oil, gas, or other minerals shall be subject to such reasonable conditions as the Secretary may prescribe, and in accordance with the management plan described in subsection (d), to achieve the purposes, described in subsection (b), of the national recreation area. For any such activity, the Secretary shall require a plan of operations which shall include provisions for adequate reclamation, including, to the extent practicable, revegetation and rehabilitation after each phase of operators is completed.

(d) The Secretary shall prepare, and may from time to time amend, a management plan for the national recreation area. The plan may be prepared in conjunction with, or incorporated with, ongoing planning for the Allegheny National Forest in accordance with the National Forest Management Act of 1976. The initial management plan and significant amendments or revisions shall be accompanied by an environmental impact statement prepared in accordance with the National Environmental Policy Act of 1969.

(e) The Secretary shall permit hunting, fishing, and trapping within the boundaries of the national recreation area in accordance with applicable Federal and State laws except that the Secretary may designate zones where, and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment. Except in emergencies, any prohibitions or restrictions made pursuant to this subsection shall be put into effect only after consultation with the appropriate State fish and game department.

(f) Subject to valid existing rights, the minerals in all federally owned lands within the national recreation area designated by this Act are withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing, including all laws pertaining to geothermal leasing, and all amendments thereto.

(g) Nothing in this section shall be construed to apply to or have any effect on any other management area of the National Forest System, including any wilderness area or any other national recreation area.

CONTINUING APPROPRIATIONS—FISCAL YEAR 1985

ZORINSKY AMENDMENT NO. 6915

(Ordered to lie on the table.)

Mr. ZORINSKY submitted an amendment intended to be proposed by him to the joint resolution (H.J. Res. 648) making continuing appropriations for the fiscal year 1985, and for other purposes; as follows:

At an appropriate place in House Joint Resolution 648, add the following:

The proposal to abolish the Committee on Veterans' Affairs of the Senate as a standing committee of the Senate by merging it with the Committee on Armed Services of the Senate (included in the draft report submitted by the Study Group on Senate Practices and Procedures to the Committee on Rules and Administration of the Senate on April 5, 1983) is disapproved, and the Committee on Veterans' Affairs of the Senate shall continue to be a separate standing committee of the Senate.

STEVENS AMENDMENT NO. 6916

Mr. STEVENS proposed an amendment to committee amendment No. 9 to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of the matter proposed to be inserted by the Committee amendment beginning on page 9, line 11, insert before the period (page 13, line 2) the following:

": *Provided*, That, notwithstanding any other provision of this joint resolution, the unnumbered paragraph in S. 3026 under the heading "Missile procurement, Air Force", (relating to limitations on the use and obligation of funds for the MX missile) shall be effective as if enacted into law and shall be applicable to any funds appropriated or otherwise made available under this joint resolution, or any other Act, for fiscal year 1985".

STEVENS AMENDMENT NO. 6917

Mr. STEVENS proposed an amendment to committee amendment No. 9 to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of the matter proposed to be inserted by the Committee amendment beginning on page 9, line 11, insert before the period (page 13, line 2) the following:

": *Provided further*, That amounts provided herein shall be subject to the terms and conditions of S. 3026, including the limitations on the use and availability of funds for MX procurement".

STEVENS AMENDMENT NO. 6918

Mr. STEVENS proposed an amendment to committee amendment No. 9 to the joint resolution (H.J. Res. 648), supra; as follows:

On page 12, line 22, after "1985" insert: "(S. 3026)".

HAWKINS AMENDMENT NO. 6919

Mrs. HAWKINS proposed an amendment to committee amendment No. 9 to the joint resolution (H.J. Res. 648), supra; as follows:

On page 13, line 2, strike out the period and insert in lieu thereof a colon and the following: "*Provided further*, That in addition to funds appropriated or otherwise made available by this joint resolution, there are appropriated additional amounts for research, development, test, and evaluation for the tri-service Training, Data, and Analysis Center program for fiscal year 1985 as follows: (1) for the Army, $1,000,000; and (2) for the Air Force, $1,100,000.".

JEPSEN AMENDMENT NO. 6920

(Ordered to lie on the table.)

Mr. JEPSEN submitted an amendment intended to be proposed by him to the joint resolution, House Joint Resolution 648, supra; as follows:

At the end of the joint resolution, add the following new section:

SEC. . (a) As used in this section:

(1) The term "operating loan" means a loan made by a legally organized lending institution to a farmer or rancher for a term of not to exceed one year and for a purpose authorized for a loan under section 312(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1942(a)).

(2) The term "Secretary" means the Secretary of Agriculture.

(b) If the Secretary determines on March 1, 1985, that the rate of interest on operating loan offered by legally organized lending institutions to farmers and ranchers is 10 percent or more, the Secretary shall, in accordance with this section, establish a program to reduce the effective rate of interest paid by such farmers and ranchers on such loans.

(c) To be eligible to receive assistance under this section, a farmer or rancher must—

(1) incur indebtedness on an operating loan during the period beginning March 1, 1985, and ending March 1, 1986, for which

the rate of interest is more than 10 percent per annum; and

(2) agree to repay such assistance to the Secretary, in accordance with such terms and conditions as the Secretary shall prescribe, the amount of any assistance provided under this section.

(d) The amount of assistance provided under this section to a borrower of an operating loan shall be an amount necessary to reduce the effective rate of interest payable by such borrower on such loan to the greater of (1) 10 percent, or (2) the rate of interest payable on such loan less 5 percent.

(e) The Secretary may prescribe eligibility requirements for assistance under this section, establish other terms and conditions for such assistance, determine the form of such assistance, and take such other actions as are necessary to carry out this section.

BOSCHWITZ (AND OTHERS) AMENDMENT NO. 6921

(Ordered to lie on the table.)

Mr. BOSCHWITZ (for himself, Mr. BOREN, Mr. JEPSEN, and Mr. DURENBERGER) submitted an amendment intended to be proposed by them to the joint resolution, House Joint Resolution 648, supra; as follows:

At the end of the joint resolution, add the following new section:

SEC. . (a) This section may be cited as the "National School Lunch and Child Nutrition Programs Reauthorization Act of 1984".

(b)(1) Section 13(p) of the National School Lunch Act (42 U.S.C. 1761(p)) is amended by striking out "1984" and inserting in lieu thereof "1987".

(2) Section 14(a) of the National School Lunch Act (42 U.S.C. 1762a(a)) is amended by striking out "1984" and inserting in lieu thereof "1987".

(3) Section 7(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(i)) is amended by striking out "1984" and inserting in lieu thereof "1987".

(4) Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended—

(A) by striking out "1984" in subsection (c)(2) and inserting in lieu thereof "1987";

(B) in the first sentence of subsection (g)—

(i) by striking out "and" after "1983,"; and

(ii) by inserting "$1,500,000,000 for the fiscal year ending September 30, 1985, $1,600,000,000 for the fiscal year ending September 30, 1986, and $1,700,000,000 for the fiscal year ending September 30, 1987," after "1984,"; and

(C) by striking out "1984" in subsection (h)(2) and inserting in lieu thereof "1987".

(5) Section 19(j)(2) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(j)(2)) is amended by striking out "1984" in the first sentence and inserting in lieu thereof "1987".

(c)(1) Section 9(b)(2)(C) of the National School Lunch Act (42 U.S.C. 1758(b)(2)(C)) is amended by adding at the end thereof the following new sentence: "To the extent that funds are appropriated for such purpose pursuant to section 3, the Secretary shall reimburse local school food authorities for the direct costs, as defined by commonly accepted accounting principles, attributable to such verification.".

(2)(A) Section 9(b)(3) of the National School Lunch Act (42 U.S.C. 1758(b)(3)) is amended by striking out "40 cents" in the last sentence and inserting in lieu thereof "30 cents".

(B) Section 11(a)(2) of such Act (42 U.S.C. 1759(a)(2)) is amended by striking out "40 cents" and inserting in lieu thereof "30 cents".

(3) Section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended by adding at the end thereof the following new subsection:

"(e) A school or school food authority participating in a program under this Act may not contract with a food service company to provide a la carte food service under such program unless such company agrees to offer free, reduced-price, and full-price reimbursable meals to all children eligible for such meals under this Act.".

(4) Section 12 of the National School Lunch Act (42 U.S.C. 1760) is amended by adding at the end thereof the following new subsection:

"(i) Facilities, equipment, and personnel provided to school food authorities for programs conducted under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) may be used, as determined by the local educational agency, to support nonprofit nutrition programs for the elderly (including programs conducted under the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.)).".

(5)(A) Section 14 of the National School Lunch Act (42 U.S.C. 1762a) is amended by adding at the end thereof the following new subsection:

"(g)(1) During the period beginning on the date of the enactment of the National School Lunch Act and Child Nutrition Programs Reauthorization Act of 1984 and ending September 30, 1987, whenever a commodity is made available without charge or credit under any nutrition program administered by the Secretary, the Secretary shall encourage consumption thereof through agreements with private companies under which the commodity is reprocessed into end-food products for use by eligible recipient agencies, with the expense of the reprocessing to be borne by the recipient agencies.

"(2) In order to be eligible to enter into an agreement with the Secretary under paragraph (1), a private company must participate in the child nutrition labeling program established under appendix C of parts 210, 220, 225, and 226 of title 7, Code of Federal Regulations (49 Fed. Reg. 85, 18453 (May 1, 1984).

"(3) In order to be eligible to enter into an agreement with the Secretary under paragraph (1) or a State agency under section 250.15 of title 7, Code of Federal Regulations, a private company must annually settle the account of such company with the Secretary or such State agency, as the case may be, with respect to commodities processed under such agreement.".

(B) Section 203 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by inserting "in accordance with section 14(g) of the National School Lunch Act" after "companies".

(6) Section 17(f)(2)(B) of the National School Lunch Act (42 U.S.C. 1766(f)(2)(B)) is amended by striking out "one supplement" and inserting in lieu thereof "two supplements".

(7) Section 3(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1772 (a)) is amended—

(A) by inserting "(except the preceding limitation shall not apply to children in kindergarten programs in such schools)" immediately before ", and (2)" in the first sentence;

(B) by striking out "For" in the sixth sentence and inserting in lieu thereof "Except as provided in the following sentence, for";

(C) by inserting after the sixth sentence the following new sentence: "For the school year ending June 30, 1985, and for subsequent school years, the minimum rate of reimbursement for a half-pint of milk served to children in kindergarten programs in nonprofit schools that have meal service programs shall not be less than 5 cents per half-pint served to children ineligible for free milk, and such minimum rate of reimbursement shall be adjusted on an annual basis each school year to reflect changes in such Index."; and

(D) by striking out "Such adjustment" in the eighth sentence (as amended by clause (C)) and inserting in lieu thereof "The adjustments required by the preceding two sentences".

(8)(A) Section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)) is amended by adding at the end thereof the following new paragraph:

"(3) In order to assist States in improving the nutritional qualities of breakfasts, the Secretary shall increase by 4 cents the annually adjusted payment for each breakfast served under this Act and section 17 of the National School Lunch Act (42 U.S.C. 1766).".

(B) Not later than one hundred and eighty days after the date of the enactment of this joint resolution, the Secretary of Agriculture shall—

(i) review and revise the nutrition requirements for meals served under the school breakfast program established under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) in order to improve the nutritional quality of such meals, taking into consideration both the findings of the National Evaluation of School Nutrition Programs and the need to provide increased flexibility in meal planning to local school food authorities; and

(ii) promulgate regulations to implement such revisions.

(9) Section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)) is amended—

(A) by striking out "30 cents" in the second sentence of paragraph (1)(B) and inserting in lieu thereof "15 cents";

(B) by striking out "30 cents" in paragraph (1)(C) and inserting in lieu thereof "15 cents"; and

(C) by striking out "30 cents" in paragraph (2)(C) and inserting in lieu thereof "15 cents".

(10) Section 17(f)(1)(K) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(1)(K)) is amended by inserting "the aid to families with dependent children program," after "child abuse counseling,".

(11) Section 19(j)(2) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(j)(2)) (as amended by subsection (b)(5) of this section) is further amended by striking out "$5,000,000" in the second sentence and inserting in lieu thereof "$8,000,000".

(12) (A) The Secretary of Agriculture shall conduct a study to consider—

(i) the feasibility of making the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.) a universal program for all children in the United States; and

(ii) Various methods of operating a self-financing school lunch program under such Act for all children in the United States, including reserving a separate source of revenue for any such program.

(B) The Secretary shall submit a report containing the results of the study required by subparagraph (A) to the Congress, together with any recommendations or proposals for legislation, no later than January 1, 1987.

(13) Section 5(a)(1) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended—

(A) by redesignating clause (2) as clause (3); and

(B) by inserting after clause (1) the following new clause: "(2) shall permit local agencies administering the commodity supplemental food program to provide supplemental commodities to low-income elderly persons under such terms and conditions as the Secretary may by regulation prescribe, except that such agencies may not terminate or reduce the amount of commodity assistance provided to women, infants, and children in order to provide such assistance to low-income elderly persons,".

BOSCHWITZ (AND OTHERS) AMENDMENT NO. 6922

(Ordered to lie on the table.)

Mr. BOSCHWITZ (for himself, Mr. BOREN, Mr. JEPSEN, and Mr. DURENBERGER) submitted an amendment intended to be proposed by them to the joint resolution House Joint Resolution 648, supra; as follows:

At the end of the joint resolution, add the following new section:

SEC. . (a) This section may be cited as the "National School Lunch and Child Nutrition Programs Reauthorization Act of 1984".

(b)(1) Section 13(p) of the National School Lunch Act (42 U.S.C. 1761(p)) is amended by striking out "1984" and inserting in lieu thereof "1987".

(2) Section 14(a) of the National School Lunch Act (42 U.S.C. 1762a(a)) is amended by striking out "1984" and inserting in lieu thereof "1987".

(3) Section 7(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(i)) is amended by striking out "1984" and inserting in lieu thereof "1987".

(4) Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended—

(A) by striking out "1984" in subsection (c)(2) and inserting in lieu thereof "1987";

(B) in the first sentence of subsection (g)—

(1) by striking out "and" after "1983,"; and

(ii) by inserting "$1,500,000,000 for the fiscal year ending September 30, 1985, $1,600,000,000 for the fiscal year ending September 30, 1986, and $1,700,000,000 for the fiscal year ending September 30, 1987," after "1984,"; and

(C) by striking out "1984" in subsection (h)(2) and inserting in lieu thereof "1987".

(5) Section 19(j)(2) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(j)(2)) is amended by striking out "1984" in the first sentence and inserting in lieu thereof "1987".

(c)(1) Section 9(b)(2)(C) of the National School Lunch Act (42 U.S.C. 1758(b)(2)C)) is amended by adding at the end thereof the following new sentence: "To the extent that funds are appropriated for such purpose pursuant to section 3, the Secretary shall reimburse local school food authorities for the direct costs, as defined by commonly accepted accounting principles, attributable to such verification.".

(2) Section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended by adding at the end thereof the following new subsection:

"(e) A school or school food authority participating in a program under this Act may not contract with a food service company to provide a la carte food service under such program unless such company agrees to offer free, reduced-price, and full-price reimbursable meals to all children eligible for such meals under this Act.".

(3) Section 12 of the National School Lunch Act (42 U.S.C. 1760) is amended by adding at the end thereof the following new subsection:

"(i) Facilities, equipment, and personnel provided to school food authorities for programs conducted under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) may be used, as determined by the local educational agency, to support nonprofit nutrition programs for the elderly (including programs conducted under the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.)).".

(4)(A) Section 14 of the National School Lunch Act (42 U.S.C. 1762a) is amended by adding at the end thereof the following new subsection:

"(g)(1) During the period beginning on the date of the enactment of the National School Lunch and Child Nutrition Programs Reauthorization Act of 1984 and ending September 30, 1987, whenever a commodity is made available without charge or credit under any nutrition program administered by the Secretary, the Secretary shall encourage consumption thereof through agreements with private companies under which the commodity is reprocessed into end-food products for use by eligible recipient agencies, with the expense of the reprocessing to be borne by the recipient agencies.

"(2) In order to be eligible to enter into an agreement with the Secretary under paragraph (1), a private company must participate in the child nutrition labeling program established under appendix C of parts 210, 220, 225, and 226 of title 7, Code of Federal Regulations (49 Fed. Reg. 85, 18453 (May 1, 1984).

"(3) In order to be eligible to enter into an agreement with the Secretary under paragraph (1) or a State agency under section 205.15 of title 7, Code of Federal Regulations, a private company must annually settle the account of such company with the Secretary or such State agency, as the case may be, with respect to commodities processed under such agreement.".

(B) Section 203 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by inserting "in accordance with section 14(g) of the National School Lunch Act" after "companies".

(5) Section 3(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1772 (a)) is amended—

(A) by inserting "(except that the preceding limitation shall not apply to children in kindergarten programs in such schools)" immediately before ", and (2)" in the first sentence;

(B) by striking out "For" in the sixth sentence and inserting in lieu thereof "Except as provided in the following sentences, for";

(C) by inserting after the sixth sentence the following new sentence: "For the school year ending June 30, 1985, and for subsequent school years, the minimum rate of reimbursement for a half-pint of milk served to children in kindergarten programs in nonprofit schools that have meal service programs shall not be less than 5 cents per half-pint served to children ineligible for free milk, and such minimum rate of reimbursement shall be adjusted on an annual basis each school year to reflect changes in such Index."; and

(D) by striking out "Such adjustment" in the eighth sentence (as amended by clause (C)) and inserting in lieu thereof "The adjustments required by the preceding two sentences".

(6)(A) Section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)) is amended by adding at the end thereof the following new paragraph:

"(3) In order to assist States in improving the nutritional qualities of breakfasts, the Secretary shall increase by 6 cents the annually adjusted payment for each breakfast served under this Act and section 17 of the National School Lunch Act (42 U.S.C. 1766.".

(B) Not later than one hundred and eighty days after the date of the enactment of this joint resolution, the Secretary of Agriculture shall—

(i) review and revise the nutrition requirements for meals served under the school breakfast program established under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) in order to improve the nutritional quality of such meals, taking into consideration both the findings of the National Evaluation of School Nutrition Programs and the need to provide increased flexibility in meal planning to local school food authorities; and

(ii) promulgate regulations to implement such revisions.

(7) Section 17(f)(1)(K) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(1)(K)) is amended by inserting "the aid to families with dependent children program," after "child abuse counseling.".

(8) Section 19(i)(2) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(j)(2)) (as amended by subsection (b)(5) of this section) is further amended by striking out "$5,000,000" in the second sentence and inserting in lieu thereof "$8,000,000".

(9)(A) The Secretary of Agriculture shall conduct a study to consider—

(i) the feasibility of making the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.) a universal program for all children in the United States; and

(ii) various methods of operating a self-financing school lunch program under such Act for all children in the United States, including reserving a separate source of revenue for any such program.

(B) The Secretary shall submit a report containing the results of the study required by subparagraph (A) to the Congress, together with any recommendations or proposals for legislation, no later than January 1, 1987.

(10) Section 5(a)(1) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended—

(A) by redesignating clause (2) as clause (3); and

(B) by inserting after clause (1) the following new clause: "(2) shall permit local agencies administering the commodity supplemental food program to provide supplemental commodities to low-income elderly persons under such terms and conditions as the Secretary may by regulation prescribe, except that such agencies may not terminate or reduce the amount of commodity assistance provided to women, infants, and

children in order to provide such assistance to low-income elderly persons,".

QUAYLE AMENDMENT NO. 6923

Mr. QUAYLE proposed an amendment to committee amendment No. 9 to the joint resolution (H.J. Res. 648), supra; as follows:

On page 13, line 2, strike out the period and insert in lieu thereof a colon and the following: *"Provided further,* That in addition to amounts otherwise appropriated by this joint resolution, there is hereby appropriated to the Air Force for research, development, test, and evaluation the sum of $14,000,000 for the Autonomous Terminal Homing program.".

BYRD (AND FORD) AMENDMENT NO. 6924

Mr. BYRD (for himself and Mr. FORD) proposed an amendment to committee amendment No. 9 to the joint resolution (H.J. Res. 648), supra; as follows:

At the appropriate place in the joint resolution, add the following:

SEC. . The Federal Emergency Management Agency, in consultation with other departments and agencies, shall submit to the Congress, no later than June 1, 1985, a compilation of major findings and recommendations by such departments and agencies which might be taken to modernize and strengthen the defense industrial base of the United States. The compilation shall include those steps necessary to cope with surge, mobilization, and conventional warfare scenarios, and shall be based on existing studies, reports, and other evaluations made within the past five years.

(a) For the purposes of this section, the term "defense industrial base" shall mean those industries which are necessary to the manufacture, transport, or supply of materials, as defined by Section 702 of the Defense Production Act of 1950.

INCREASE IN PUBLIC DEBT LIMIT

HOLLINGS (AND OTHERS) AMENDMENT NO. 6925

(Ordered to lie on the table.)

Mr. HOLLINGS (for himself, Mr. ANDREWS, Mr. EXON, Mr. BOREN, Mr. JOHNSTON, Mr. STENNIS, and Mr. PRYOR) submitted an amendment intended to be proposed by them to the joint resolution (H.J. Res. 654) increasing the statutory limit on the public debt; as follows:

At the appropriate place, add the following new sections:

SEC. . CONGRESSIONAL COMMISSION ON THE DEFICIT.

The Congress finds that large Federal budget deficits have serious economic consequences, including high interest rates, the possibility of recession, record trade deficits, high unemployment, and declining housing and agriculture sectors;

The Congress finds that there is a consensus in the Nation and in the Congress that such deficits should be reduced and that the budget should be balanced as soon as possible;

The Congress finds that election-year politics forbid any bipartisan solution to the deficit problem prior to November 6;

The Congress finds that bipartisanship will be the only way to wrest the Nation from this dilemma;

The Congress finds that the next President will want and should want any consensus solutions and recommendations prior to submitting his budget for the fiscal year 1986; and

The Congress finds that the window of opportunity for a bipartisan, comprehensive, long-term approach to the deficit predicament will be short-lived requiring that the President and the Congress begin working together immediately after the convening of the 99th Congress and the submission of the President's Budget: Now, there, be it that

(a) There is established a Congressional Commission on the Deficit (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of eighteen members, who shall be appointed as follows:

(1) three members of the Majority Party of the Senate shall be appointed by the Majority Leader of the Senate;

(2) three members of the Minority Party of the Senate shall be appointed by the Minority Leader of the Senate;

(3) three members of the Majority Party of the House of Representatives shall be appointed by the Speaker of the House of Representatives;

(4) three members of the Minority Party of the House of Representatives shall be appointed by the Minority Leader of the House of Representatives; and

(5) six members of the general public who are not employees of the Federal Government and who are experts on fiscal or economic matters (or both), three of whom shall be appointed by the Majority Leader of the Senate and three of whom shall be appointed by the Speaker of the House of Representatives.

A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(c) The Commission shall elect a Chairman from among the members of the Commission.

(d) Members of the Commission shall serve without additional compensation for the performance of their responsibilities on the Commission. Members appointed from among the public shall be reimbursed for travel expenses, including per diem in lieu of subsistence, in the same manner as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(e) The Commission shall consider all relevant fiscal and economic matters regarding the causes of Federal budget deficits, and shall consider alternative solutions to the reduction of such deficits.

(f) Not later than January 10, 1985, the Commission shall submit to the President a budget plan for Fiscal Years 1985 through 1990 which is projected to result in a balanced Federal budget not later than Fiscal Year 1990. The plan shall include such specific recommendations for alterations in spending and revenue programs and practices of the Federal Government and amendments to such statutes and regulations as the Commission considers necessary and desirable.

(g) In carrying out its responsibilities under this section, the Commission, or any member authorized by the Commission, may hold hearings, conduct meetings, take testimony, request the assistance of and consult with individuals, agencies and organizations within and outside the Federal Government. The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(h)(1) The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter which the Commission is authorized to consider. Such attendance of witnesses and the production of such evidence may be required from any place within the United States at any designated place of hearing within the United States.

(2) If a person to whom a subpoena is issued under paragraph (1) of this subsection refuses to obey such subpoena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found, resides or transacts business may (upon application by the Commission) order such person to appear before the Commission to produce evidence or to give testimony relating to the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(3) Any subpoena of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) All process of any court to which application may be made under this section may be served in the judicial district in which the person required to be served resides or may be found.

(i) The Commission may appoint and fix the compensation of such staff as it determines to be necessary to carry out its responsibilities under this resolution.

(j)(1) The Commission may request from individuals, Federal agencies and departments, and other organizations such information as it may require in order to carry out its responsibilities under this resolution.

(2) To the extent permitted by law, such Federal agencies and departments and organizations shall provide the Commission with such information.

(k) The Commission may make expenditures from the contingent funds of the Senate and House of Representatives in such amounts as it may require to carry out its responsibilities under this resolution. Such expenditures shall be made on an equal basis from such contingent funds.

(l) The Commission shall cease to exist on January 10, 1985, or on the date of submission of the report required by subsection (f) of this section, whichever is earlier.

INCREASE IN PUBLIC DEBT LIMIT

HOLLINGS (AND OTHERS) AMENDMENT NO. 6926

(Ordered to lie on the table.)

Mr. HOLLINGS (for himself, Mr. ANDREWS, Mr. EXON, Mr. BOREN, Mr. JOHNSTON, Mr. STENNIS, and Mr. PRYOR) submitted an amendment intended to be proposed by them to the bill (S. 2651) to increase the permanent public debt limit, and for other purposes; as follows:

At the appropriate place, add the following new section:

SEC. . CONGRESSIONAL COMMISSION ON THE DEFICIT.

The Congress finds that large Federal budget deficits have serious economic consequences, including high interest rates, the possibility of recession, record trade deficits, high unemployment, and declining housing and agriculture sectors;

The Congress finds that there is a consensus in the Nation and in the Congress that such deficits should be reduced and that the budget should be balanced as soon as possible;

The Congress finds that election-year politics forbid any bipartisan solution to the deficit problem prior to November 6;

The Congress finds that bipartisanship will be the only way to wrest the Nation from this dilemma;

The Congress finds that the next President will want and should want any consensus solutions and recommendations prior to submitting his budget for the fiscal year 1986; and

The Congress finds that the window of opportunity for a bipartisan, comprehensive, long-term approach to the deficit predicament will be short-lived requiring that the President and the Congress begin working together immediately after the convening of the 99th Congress and the submission of the President's Budget: Now, there, be it

(a) There is established a Congressional Commission on the Deficit (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of eighteen members, who shall be appointed as follows:

(1) three members of the Majority Party of the Senate shall be appointed by the Majority Leader of the Senate;

(2) three members of the Minority Party of the Senate shall be appointed by the Minority Leader of the Senate;

(3) three members of the Majority Party of the House of Representatives shall be appointed by the Speaker of the House of Representatives;

(4) three members of the Minority Party of the House of Representatives shall be appointed by the Minority Leader of the House of Representatives; and

(5) six members of the general public who are not employees of the Federal Government and who are experts on fiscal or economic matters (or both), three of whom shall be appointed by the Majority Leader of the Senate and three of whom shall be appointed by the Speaker of the House of Representatives.

A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(c) The Commission shall elect a Chairman from among the members of the Commission.

(d) Members of the Commission shall serve without additional compensation for the performance of their responsibilities on the Commission. Members appointed from among the public shall be reimbursed for travel expenses, including per diem in lieu of subsistence, in the same manner as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(e) The Commission shall consider all relevant fiscal and economic matters regarding the causes of Federal budget deficits, and shall consider alternative solutions to the reduction of such deficits.

(f) Not later than January 10, 1985, the Commission shall submit to the President a budget plan for Fiscal Years 1985 through 1990 which is projected to result in a balanced Federal budget not later than Fiscal Year 1990. The plan shall include such specific recommendations for alterations in spending and revenue programs and practices of the Federal Government and amendments to such statutes and regulations as the Commission considers necessary and desirable.

(g) In carrying out its responsibilities under this section, the Commission, or any member authorized by the Commission may hold hearings, conduct meetings, take testimony, request the assistance of and consult with individuals, agencies and organizations within and outside the Federal Government. The Commission may administer oaths of affirmations to witnesses appearing before the Commission.

(h)(1) The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter which the Commission is authorized to consider. Such attendance of witnesses and the production of such evidence may be required from any place within the United States at any designated place of hearing within the United States.

(2) If a person to whom a subpoena is issued under paragraph (1) of this subsection refuses to obey such subpoena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found, resides or transacts business may (upon application by the Commission) order such person to appear before the Commission to produce evidence or to give testimony relating to the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(3) Any subpoena of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) All process of any court to which application may be made under this section may be served in the judicial district in which the person required to be served resides or may be found.

(i) The Commission may appoint and fix the compensation of such staff it determines to be necessary to carry out its responsibilities under this resolution.

(j)(i) The Commission may request from individuals, Federal agencies and departments, and other organizations such information as it may require in order to carry out its responsibilities under this resolution.

(2) To the extent permitted by law, such Federal agencies and departments and organizations shall provide the Commission with such information.

(k) The Commission may make expenditures from the contingent funds of the Senate and House of Representatives in such amounts as it may require to carry out its responsibilities under this resolution. Such expenditures shall be made on an equal basis from such contingent funds.

(l) The Commission shall cease to exist on January 10, 1985, or on the date of submission of the report required by subsection (f) of this section, whichever is earlier.

CONTINUING APPROPRIATIONS, 1985

WARNER (AND OTHERS) AMENDMENT NO. 6927

Mr. WARNER (for himself, Mr. HOLLINGS, and Mr. BINGAMAN) proposed an amendment to committee amendment No. 9 to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of the committee amendment No. 9 insert the following new section:

SEC. . The Secretaries concerned (as defined in section 101(5) of title 37, United States Code), under uniform regulations prescribed by them and to the extent that funds are available, may (1) increase the rate per mile for mileage allowance under section 404(d)(2) of title 37, United States Code, to 15 cents per mile, and (2) pay or reimburse an enlisted member of the uniformed services who is in a pay grade below E-8 and who is entitled to basic allowance for quarters (at the with dependents rate) for subsistence expenses actually incurred by the member and the member's dependents as provided in section 404a of title 37, United States Code, while occupying temporary quarters incident to a change of permanent station if travel for dependents to the next station is authorized and the dependent or dependents with respect to whom the expenses are incurred accompany the member at the time the member reports to his new duty station.

DECONCINI (AND GOLDWATER) AMENDMENT NO. 6928

Mr. DECONCINI (for himself and Mr. GOLDWATER) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of the amendment (on page 2, line 16 add the following new section:

SEC. . (a) This section may be cited as the "Malt Beverage Interbrand Competition Act".

(b) Nothing contained in any antitrust law shall render unlawful the inclusion, and inforcement in any written contract in effect on or entered into after the effective date of this section by any brewer, importer, trademark owner, or trademark licensee of a trademarked malt beverage with any wholesale distributor, of provisions granting the wholesale distributor the sole and exclusive right to distribute and to sell such product in any defined geographic area within any State and limiting such exclusive distributor to the distribution and sale, directly or indirectly, of such product only for ultimate resale to consumers within that defined geographic area when such product is in substantial and effective competition with other malt beverage products within that defined geographic area.

(c) Nothing in this section shall be construed to legalize the enforcement of provisions described in subsection (b) in any written contract described in such subsection by means of price-fixing agreements, horizontal restraints of trade, or group boycotts, if such agreement, restraints, or boycotts would otherwise be unlawful.

(d) As used in this section the term—

(1) "antitrust law" means the Sherman Act (15 U.S.C. 1), the Federal Trade Commission Act (15 U.S.C. 41), and the Clayton

Act (15 U.S.C. 12), and all amendments to such Acts;

(2) "malt beverage" shall mean and include beer of all types and varieties as defined in any Federal or State statute, ale, porter, stout, and all other similarly designated fermented beverages containing one-half of 1 per centum or more alcohol by volume; and

(3) "State" includes the District of Columbia and any territory or possession of the United States.

(e) This section shall not invalidate or affect any provision of the laws of any State.

KASSEBAUM (AND OTHERS) AMENDMENT NO. 6929

Mrs. KASSEBAUM (for herself, Mr. DANFORTH, Mr. BOSCHWITZ, Mr. HELMS, Mr. PERCY, Mr. KASTEN, and Mr. COCHRAN) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of the amendment on page 2, line 16 add the following:

TITLE —PRESIDENT'S EMERGENCY FOOD ASSISTANCE ACT OF 1984

SHORT TITLE

SECTION . This title may be cited as the "President's Emergency Food Assistance Act of 1984".

PART A—PRESIDENT'S EMERGENCY FUND

FINDINGS

SEC. . The Congress finds that—

(1) acute food crises continue to cause loss of life, severe malnutrition, and general human suffering in many areas of the Third World, especially in sub-Saharan Africa;

(2) the United States continues to respond to these needs, as a reflection of its humanitarian concern for the people of the Third World, with emergency food and other necessary assistance to alleviate the suffering of those affected by severe food shortages;

(3) the timely provision of food and other necessary assistance to those in need is of paramount importance if the worst effects of such food crises are to be mitigated; and

(4) the ability of the United States to provide food and other necessary assistance on a timely basis, and to ensure that such assistance is distributed to those in need, should be enhanced in order to better enable the United States to help those affected by severe food shortages.

ESTABLISHMENT OF THE FUND

SEC. . (a) There is hereby established the President's Emergency Food Assistance Fund (hereafter in this title referred to as the "Fund"). Whenever the President determines it to be in the national interest of the United States, he is authorized to furnish, in accordance with the provisions of this part, and on such terms and conditions as he may determine, assistance from the Fund for the purpose of alleviating the human suffering of peoples outside the United States caused by acute food shortages. Such assistance may be provided through such governments or other entities, private or public, including intergovernmental and multilateral organizations, as the President deems appropriate. Assistance provided from the Fund may be furnished notwithstanding any other provision of law.

(b) Because the effects of severe food shortages will vary with the country or region, assistance to alleviate human suffering may include the provision of food assistance or such activities as the provision of seed, animal fodder, animal vaccines, and transportation (including inland transportation) and distribution services.

(c)(1) Amounts made available to the Fund to carry out the purposes of this title shall be derived as follows:

(A) The President may direct that funds made available in any fiscal year to carry out any title of the Agricultural Trade Development and Assistance Act of 1954 or chapter 1 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961 be transferred to and consolidated with the Fund, except that in any fiscal year not more than $50,000,000 may be transferred under this subparagraph.

(B) There are authorized to be appropriated to the President, in addition to funds otherwise available for such purposes, such amounts as may be necessary to carry out the purposes of this part.

(2) Amounts appropriated or transferred under this section are authorized to remain available until expended.

(3) No amount of funds may be appropriated or transferred which, when added to amounts previously appropriated or transferred but not yet obligated, would cause the amount in the Fund to exceed $50,000,000.

(d) The President may make loans, advances, and grants to, make and perform agreements and contracts with, or enter into transactions with, any individual, corporation, or other body of persons, government or government agency, whether within or without the United States, and international and intergovernmental organizations in furtherance of the purposes and within the limitations of this title.

REPORTS

SEC. . Not later than December 31 of each year, the President shall submit a comprehensive report which details all activities funded under the authority of this title during the previous fiscal year. Such report shall include information for each instance in which the Fund's resources were utilized, regarding the numbers of beneficiaries reached, the activities of the recipient country and other donors in addressing the food shortage, the current prospects for improvement of food shortage conditions, and the extent to which the United States, the recipient country, and other donors are working to minimize the severity of future serious food shortage situations.

PART B—FOOD FOR PEACE PROGRAM

TRANSPORTATION AND STORAGE

SEC. . Section 203 of the Agricultural Trade Development and Assistance Act of 1954 is amended by inserting after the semicolon at the end of clause (4) the following: "in the case of commodities for urgent and extraordinary relief requirements, including prepositioned commodities, transportation costs from designated points of entry or ports of entry abroad to storage and distribution sites and associated storage and distribution costs;".

PART C—APPROPRIATIONS FOR FISCAL YEAR 1985

APPROPRIATIONS FOR FISCAL YEAR 1985

SEC. . There are hereby appropriated to the President for the fiscal year 1985, $50,000,000 for payment to the Fund.

BRADLEY (AND LAUTENBERG) AMENDMENT NO. 6930

Mr. BRADLEY (for himself and Mr. LAUTENBERG) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the appropriate place, at the end of the language, proposed to be inserted insert the following new title:

TITLE —SUPERFUND AMENDMENTS

This title may be cited as the "Superfund Amendments of 1984.".

SUBTITLE A—PROVISIONS RELATING TO RESPONSE, COMPENSATION, AND LIABILITY

INDIAN TRIBES

SEC. . (a) Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended—

(1) by striking "and" at the end of paragraph (31), striking the period at the end of paragraph (32), and adding a new paragraph as follows:

"(33) 'Indian tribe' means any Indian tribe, bank, nation, or other organized group or community, including any Alaska Native village but not including any Alaska Native regional or village corporation, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and";

(2) in paragraph (16) by striking "or" the last time it appears and by inserting before the semicolon at the end thereof the following: ", and Indian tribe, or, if such resources are subject to a trust restriction on alienation, any member of an Indian tribe".

(b) Section 104(c)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following: "In the case of remedial action to be taken on land or water held by an Indian tribe, held by the United States in trust for Indians, held by a member of an Indian tribe (if such land or water is subject to a trust restriction on alienation), or otherwise within the borders of an Indian reservation, the requirements of this paragraph for assurances regarding future maintenance and cost-sharing shall not apply, and the President shall provide the assurance required by this paragraph regarding the availability of a hazardous waste disposal facility.".

(c) Section 104(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting "or Indian tribe" after the phrase "political subdivision thereof" both times that phrase occurs, and by inserting "or Indian tribe" after the phrase "political subdivision" both times that phrase occurs.

(d) Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended—

(1) in subsection (a) inserting "or an Indian tribe" after "State";

(2) in subsection (f) by inserting after "State" the third time that word appears the following: "and to any Indian tribe for natural resources belonging to, managed by, controlled by, or appertaining to such tribe, or held in trust for the benefit of such tribe, or belonging to a member of such tribe if such resources are subject to a trust restriction on alienation:"; by inserting "or Indian tribe" after "State" the fourth time that word appears; by adding before the period at the end of the first sentence the following: ", so long as, in the case of damages to an Indian tribe occuring pursuant to a Federal permit or license, the issuance of that permit or license was not inconsistent with the fiduciary duty of the United States with respect to such Indian tribe"; and by insert-

ing "or the Indian tribe" after "State government";

(3) in subsection (i) by inserting "or Indian tribe" after "State" the first time it appears; and

(4) in subsection (j) by inserting "or Indian tribe" after "State" the first time it appears.

(e) Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended—

(1) in subsection (b) by inserting before the period at the end thereof the following: ", or by any Indian tribe or by the United States acting on behalf of any Indian tribe for natural resources belonging to, managed by, controlled by, or appertaining to such tribe, or held in trust for the benefit of such tribe, or belonging to a member of such tribe if such resources are subject to a trust restriction on alienation";

(2) in subsection (c)(2) by inserting "or Indian tribe" after "State";

(3) in subsection (f) by inserting "or Indian tribe" after "State"; and

(4) in subsection (l) by inserting after "State," the following: "and by the governing body of any Indian tribe having sustained damage to natural resources belonging to, managed by, controlled by, or appertaining to such tribe, or held in trust for the benefit of such tribe, or belonging to a member of such tribe if such resources are subject to a trust restriction on alienation,".

(f) Section 112(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as rewritten by this Act) is amended by adding before the period at the end of the proviso the following: ", nor against an Indian tribe until the United States, in its capacity as trustee for the tribe, gives written notice to the governing body of the tribe that it will not present a claim or commence an action on behalf of the tribe or fails to present a claim or commence an action within the time limitations specified in this subsection".

(g) Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following new section:

"INDIAN TRIBES

"SEC. 116. The governing body of an Indian tribe shall be afforded substantially the same treatment as a State with respect to the provisions of section 103(a) (regarding notification of releases), section 104(c)(2) (regarding consultation on remedial actions), section 104(e) (regarding access to information), section 104(i) (regarding cooperation in establishing and maintaining national registries), and section 105 (regarding roles and responsibilities under the national contingency plan and submittal of priorities for remedial action, but not including the provision regarding the inclusion of at least one facility per State on the national priority list).".

COMMUNITY RELOCATION

SEC. . (a) The second sentence of paragraph (23) of section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Public Law 96-510) is amended by inserting after "not otherwise provided for," the phrase "costs of permanent relocation of residents where it is determined that such permanent relocation is cost effective or may be necessary to protect health or welfare," and by striking out the semicolon at the end thereof and inserting in lieu thereof a period and the following: "In the case of a business located in an area of evacuation or relocation, the term may also include the payment of those installments of principal and interest on business debt which accrue between the date of evacuation or temporary relocation and thirty days following the date that permanent relocation is actually accomplished or, if permanent relocation is formally rejected as the appropriate response, the date which evacuation or temporary relocation ceases. In the case of an individual unemployed as a result of such evacuation, or relocation, it may also include the provision of assistance identical to that authorized by sections 407, 408, and 409 of the Disaster Relief Act of 1974: *Provided*, That the costs of such assistance shall be paid from the Trust Fund;".

(b) Section 104(c)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Public Law 96-510) is amended by inserting before "authorized by subsection (b) of this section," the phrase "for permanent relocation or".

ALTERNATIVE WATER SUPPLIES

SEC. . Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, is amended by striking the period at the end of paragraph (30) and inserting in lieu thereof a semicolon; and by adding after new paragraph (33) the following new paragraph:

"(34) 'alternative water supplies' includes, but is not limited to, drinking water and household water supplies.".

STATE CREDIT

SEC. . (a) Section 104(c)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking "The President shall grant the State a credit against the share" and all that follows down through the end of such section 104(c)(3) and inserting in lieu thereof the following: "In determining the portion of the costs referred to in this section which is required to be paid by a participating State, the President shall grant the State a credit for amounts expended or obligated by such State or by a political subdivision thereof after January 1, 1978, and before December 11, 1980, for any response action costs which are covered by section 111(a) (1) or (2) and which were incurred at a facility or release listed pursuant to section 105(8). Such credit shall have the effect of reducing the amount which the State would otherwise be required to pay in connection with assistance under this section.".

(b)(1) Section 104(d)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new sentence: "For the purposes of the last sentence of subsection (c)(3) of this section, the President may enter into a contract or cooperative agreement with a State under this paragraph under which such State will take response actions in connection with releases listed pursuant to section 105(8)(B), using non-Federal funds for such response actions, in advance of and without any obligation by the President of amounts from the Fund for such response actions.".

(2) Section 104(c)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is further amended by adding the following sentence: "The President shall grant the State a credit against the share of costs for which it is responsible under this paragraph for any reasonable, documented, direct out-of-pocket non-Federal funds expended or obligated by the State under a contract or cooperative agreement under the last sentence of subsection (d)(1).".

FUNDING OF REMEDIAL ACTION AT FACILITY OWNED BY A STATE OR POLITICAL SUBDIVISION BUT OPERATED PRIVATELY

SEC. . Section 104(c)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended—

(1) by amending section 104(c)(3)(C)(ii) to read as follows:

"(ii) 50 per centum (or such greater amount as the President may determine appropriate, taking into account the degree of responsibility of the State or political subdivision for the release) of the capital, future operation, and future maintenance costs of the response action relating to a release at a facility, primarily used for treatment, storage or disposal, that was owned and operated by the State or a political subdivision thereof at the time of any disposal of hazardous substances in such facility. For the purpose of subparagraph (c)(ii) of this paragraph, the term 'facility' does not include navigable waters or the beds underlying those waters."; and

(2) by adding at the end thereof the following: "In the case of any State which has paid, at any time after the date of the enactment of the Superfund Amendments of 1984, in excess of 10 percent of the costs of remedial action at a facility owned but not operated by such State or by a political subdivision thereof, the President shall use money in the Fund to provide reimbursement to such State for the amount of such excess.".

SELECTION OF REMEDIAL ACTIONS

SEC. . Section 104(c)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

"(4)(A) The President shall select appropriate remedial actions determined to be necessary to carry out this section which, to the extent practicable, are in accordance with the national contingency plan and which provide for cost-effective response. In evaluating the cost-effectiveness of proposed alternative remedial actions, the President shall take into account the total short- and long-term costs of such actions, including the costs of operation and maintenance for the entire period during which such activities will be required.

"(B) Remedial actions in which treatment which significantly reduces the volume, toxicity or mobility of the hazardous substances is a principal element, are to be preferred over remedial actions not involving such treatment. The offsite transport and disposal of hazardous substances or contaminated materials without such treatment should be the least favored alternative remedial action, where practicable treatment technologies are available.

"(C) Remedial actions selected under this paragraph or otherwise required or agreed to by the President under this Act shall attain a degree of cleanup of hazardous substances, pollutants and contaminants from the environment and of control of further release at a minimum which assures protection of human health and the environment. Such remedial actions shall be relevant and appropriate under the circumstances presented by the release or threatened release of such substance, pollutant, or contaminant.

"(D) No permit shall be required under subtitle C of the Solid Waste Disposal Act for the portion of any removal or remedial

action conducted pursuant to this Act entirely onsite: *Provided*, That any onsite treatment, storage, or disposal of hazardous substances, pollutants or contaminants shall comply with the requirements of subparagraph (C).

"(E) Subject to the requirements of this paragraph, the President, shall select the appropriate remedial action which provides a balance between the need for protection of public health and welfare and the environment at the facility under consideration, and the availability of amounts from the Fund to respond to other sites which present or may present a threat to public health or welfare or the environment, taking into consideration the relative immediacy of such threats.".

STATE AND FEDERAL CONTRIBUTIONS TO OPERATION AND MAINTENANCE

SEC. . Section 104(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new paragraphs:

"(5) For the purposes of paragraph (3) of this subsection, in the case of ground or surface water contamination, completed remedial action includes the completion of treatment or other measures, whether taken onsite or offsite, necessary to restore ground and surface water quality to a level that assures protection of human health and the environment. With respect to such measures, the operation of such measures for a period of to five years after the construction or installation and commencement of operation shall be considered remedial action. Activities required to maintain the effectiveness of such measures following such period or the completion of remedial action, whichever is earlier, shall be considered operation or political subdivision has the capability to carry out any or all of the actions authorized in this section, the President may, in his discretion, enter into a contract or cooperative agreement and combine any existing cooperative agreements with such State or political subdivision to take such actions in accordance with criteria and priorities established pursuant to Section 105(8) of this title and to be reimbursed from the Fund for the reasonable response costs and related activities associated with the overall implementation, coordination, enforcement, training, community relations, site inventory and assessment efforts, and administration of remedial activities authorized by this Act. Any contract made hereunder shall be subject to the cost-sharing provisions of subsection (c) of this section.".

HEALTH-RELATED AUTHORITIES

SEC. . (a) Section 104(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting "(1)" after "(i)", by redesignating paragraphs (1), (2), (3), (4), and (5) as subparagraphs (A), (B), (C), (D), and (E), and by adding the following new paragraphs:

"(2) The Agency for Toxic Substances and Disease Registry shall provide consultations upon request on health issues relating to exposure to hazardous or toxic substances, on the basis of available information, to the Environmental Protection Agency, State officials, and local officials. Such consultations to individuals may be provided by States under cooperative agreements established under this Act.

"(3)(A) The Administrator shall perform a health assessment for each release, threatened release or facility on the National Priority List established under section 105. Such health assessment shall be completed not later than two years after the date of enactment of the Superfund Amendments of 1984 for each release, threatened release or facility proposed for inclusion on such list prior to such date of enactment or not later than one year after the date of proposal for inclusion on such list for each release, threatened release or facility proposed for inclusion on such list after such date of enactment. The Administrator shall also perform a health assessment for each facility for which one is required under section 3005(j) of the Solid Waste Disposal Act and, upon request of the Administrator of the Environmental Protection Agency or a State, for each facility subject to this Act or subtitle C of the Solid Waste Disposal Act, where there is sufficient data as to what hazardous substances are present in such facility.

"(B) The Administrator may perform health assessments for releases or facilities where individual persons or licensed physicians provide information that individuals have been exposed to a hazardous substance, for which the probable source of such exposure is a release. In addition to other methods (formal or informal) of providing such information, such individual persons or licensed physicians may submit a petition to the Administrator providing such information and requesting a health assessment. If such a petition is submitted and the Administrator does not initiate a health assessment, the Administrator shall provide a written explanation of why a health assessment is not appropriate.

"(C) in determining sites at which to conduct health assessments under this paragraph, the Administrator of the Agency for Toxic Substances and Disease Registry shall give priority to those facilities or sites at which there is documented evidence of release of hazardous substances, at which the potential risk to human health appears highest, and for which in the judgment of the Administrator of such Agency existing health assessment data is inadequate to assess the potential risk to human health as provided in subparagraph (E).

"(D) Any State or political subdivision carrying out an assessment shall report the results of the assessment to the Administrator of such Agency, and shall include recommendations with respect to further activities which need to be carried out under this section. The Administrator of such Agency shall include the same recommendation in a report on the results of any assessment carried out directly by the Agency, and shall issue periodic reports which include the results of all the assessments carried out under this paragraph.

"(E) For the purposes of this subsection and section 111(c)(4), the term 'health assessments' shall include preliminary assessments of the potential risk to human health posed by individual sites and facilities, based on such factors as the nature and extent of contamination, the existence of potential for pathways of human exposure (including ground or surface water contamination, air emissions, and food chain contamination), the size and potential susceptibility of the community within the likely pathways of exposure, the comparison of expected human exposure levels to the short-term and long-term health effects associated with identified contaminants and any available recommended exposure or tolerance limits from such contaminants, and the comparison of existing morbidity and mortality data on diseases that may be associated with the observed levels of exposure. The assessment shall include an evaluation of the risks to the potentially affected population from all sources of such contaminants, including known point or nonpoint sources other than the side or facility in question. A purpose of such preliminary assessments shall be to help determine whether full-scale health or epidemiological studies and medical evaluations of exposed populations shall be undertaken.

"(F) At the completion of each health assessment the Administrator shall provide the Administrator of the Environmental Protection Agency and each affected State with the results of such assessment, together with any recommendations for further action under this subsection or otherwise under this Act.

"(G) In any case in which a health assessment performed under this paragraph (including one required by section 3005(j) of the Solid Waste Disposal Act) discloses the exposure of a population to the release of a hazardous substance, the costs of such health assessment may be recovered as a cost of response under section 107 of this Act from persons causing or contributing to such release of such hazardous substance or, in the case of multiple releases contributing to such exposure, to all such releases.

"(4) Whenever, in the judgment of the Administrator, it is appropriate on the basis of the results of a health assessment, the Administrator shall conduct a pilot study of health effects for selected groups of exposed individuals, in order to determine the desirability of conducting full scale epidemiological or other health studies of the entire exposed population. Whenever in the judgment of the Administrator it is appropriate on the basis of the results of such pilot study, the Administrator shall conduct such full scale epidemiological or other health studies as may be necessary to determine the health effects for the population exposed to hazardous substances in a release or suspected release.

"(5) In any case in which the results of a health assessment indicate a potential significant risk to human health, the Administrator shall consider whether the establishment of a registry of exposed persons would contribute to accomplishing the purposes of this subsection, taking into account circumstances bearing on the usefulness of such a registry, including the seriousness or unique character of identified diseases or the likelihood of population migration from the affected area.

"(6) The Administrator shall conduct a study, and report to the Congress within two years after the date of enactment of the Superfund Amendments of 1984, on the usefulness, costs, and potential implications of medical surveillance programs as a part of the health studies authorized by this section. Such study shall include, at a minimum, programs which identify diseases for which an exposed population is at excess risk, provide periodic medical testing to screen for such diseases in subgroups of the exposed population at highest risk, and provide for a mechanism to refer for treatment individuals who are diagnosed as having such diseases.

"(7) If a health assessment or other study carried out under this subsection contains a finding that the exposure concerned presents a significant risk to human health, the President shall take such steps as may be necessary to reduce such exposure and eliminate or substantially mitigate the significant risk to human health. Such steps

may include the use of any authority under this Act, including, but not limited to—

"(A) provision of alternative water supplies, and

"(B) permanent or temporary relocation of individuals.

"(8) In any case which is the subject of a petition, a health assessment or study, or a research program under this subsection, nothing in this subsection shall be construed to delay or otherwise affect or impair the authority of the President or the Administrator of the Environmental Protection Agency to exercise any authority vested in the President or such Administrator under any other provision of law (including, but not limited to, the imminent hazard authority of section 7003 of the Solid Waste Disposal Act) or the response and abatement authorities of this Act.

"(9)(A) The Administrator shall, within six months after the date of enactment of the Superfund Amendments of 1984, prepare a list of at least one hundred hazardous substances which the Administrator, in his sole discretion, determines are those posing the most significant potential threat to human health due to their common presence at the location of responses under section 104 or at facilities on the National Priority List or in releases to which a response under section 104 is under consideration. Within twenty-four months after enactment, the Administrator shall prepare a list of an additional one hundred or more such hazardous substances. The Administrator shall not less often than once every year thereafter add to such list other substances which are frequently so found or otherwise pose a potentially significant threat to human health by reason of their physical, chemical, or biological nature.

"(B) For each such hazardous substance listed pursuant to subparagraph (A), the Administrator shall assess whether adequate information on the health effects of such substances is available. For any such substance for which adequate information is not available (or under development), the Administrator shall assure the initiation of a program of research designed to determine the health effects (and techniques for development of methods to determine such health effects) of such substance. Where feasible, such program shall seek to develop methods to determine the health effects of such substance in combination with other substances with which it is commonly found. Such program shall include, but not be limited to—

"(i) laboratory and other studies to determine short, intermediate, and long-term health effects;

"(ii) laboratory and other studies to determine organ-specific, site-specific, and system-specific acute and chronic toxicity;

"(iii) laboratory and other studies to determine the manner in which such substances are metabolized or to otherwise develop and understanding of the biokinetics of such substances; and

"(iv) where there is a possibility of obtaining human data, the collection of such information.

"(C) in assessing the need to perform laboratory and other studies, as required by subparagraph (B), the Administrator shall consider—

"(i) the availability and quality of existing test data concerning the substance on the suspected health effect in question;

"(ii) the extent to which testing already in progress will, in a timely fashion, provide data that will be adequate to support the preparation of toxicological profiles as required by subparagraph (F) of this paragraph; and

"(iii) such other scientific and technical factors as the Administrator may determine are necessary for the effective implementation of this subsection.

"(D) In the development and implementation of any research program under this paragraph, the Administrator of the Agency for Toxic Substances and Disease Registry and the Administrator of the Environmental Protection Agency shall coordinate such research program implemented under this paragraph with programs of toxicological testing established under the Toxic Substances Control Act and the Federal Insecticide, Fungicide and Rodenticide Act. The purpose of such coordination shall be to avoid duplication of effort and to assure that the hazardous substances listed pursuant to this subsection are tested thoroughly at the earliest practicable date. Where appropriate in the discretion of the Administrator and consistent with such purpose, a research program under this paragraph may be carried out using such program of toxicological testing.

"(E) It is the sense of the Congress that the costs of research programs under this paragraph be borne by the manufacturers of the hazardous substance in question, as required in programs of toxicological testing under the Toxic Substances Control Act. Where this is not practical, the costs of such research programs should be borne by parties responsible for the release of the hazardous substance in question. To carry out such intention, the costs of conducting such a research program under this paragraph shall be deemed a cost of response for the purposes of recovery under section 107 of such costs from a party responsible for a release of such hazardous substances.

"(F) Based on all available information, including data developed and collected on the health effects of hazardous substances under this paragraph, the Administrator shall prepare toxicological profiles sufficient to establish the likely effect on human health of each of the substances listed pursuant to subparagraph (A). Such profiles shall be revised and republished as necessary, but no less often than once every five years. Such profiles shall be provided to the States and made available to other interested parties.

"(10) All studies and results of research conducted under this subsection (other than health assessments) shall be reported or adopted only after appropriate peer review. Such peer review shall be conducted by panels consisting of no less than three nor more than seven members, who shall be disinterested scientific experts selected for such purpose by the Administrator on the basis of their reputation for scientific objectivity and the lack of institutional ties with any person involved in the conduct of the study or research under review. Support services for such panels shall be provided by the Agency for Toxic Substances and Disease Registry.

"(11) In the implementation of this subsection and other health-related authorities of this Act, the Administrator is authorized to establish a program for the education of physicians and other health professionals on methods of diagnosis and treatment of injury or disease related to exposure to toxic substances, through such means as the Administrator deems appropriate. Not later than one year after the date of enactment of the Superfund Amendments of 1984, the Administrator shall report to the Congress on the implementation of this paragraph.

"(12) For the purpose of implementing this subsection and other health-related authorities of this Act, the President shall provide adequate personnel to the Agency for Toxic Substances and Disease Registry, which shall be no fewer than one hundred full time equivalent employees.

"(13) The activities described in this subsection and section 111(c)(4) shall be carried out by the Agency for Toxic Substances and Disease Registry established by paragraph (1), either directly, or through cooperative agreements with States (or political subdivisions thereof) in the case of States (or political subdivisions) which the Administrator of such Agency determines are capable of carrying out such activities. Such activities shall include the provision of consultations on health information, and the conduct of health assessments, including those required under section 3005(j) of the Solid Waste Disposal Act, health studies and registries.".

(b) Section 111(c)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended—

(1) by inserting "in accordance with subsection (n) of this section and section 104(i)," after "(4)"; and

(2) by striking "epidemiologic studies" and inserting in lieu thereof "epidemiologic and laboratory studies and health assessments".

(c) Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following new subsection:

"(n) For fiscal year 1985, not less than $18,000,000 and, for each fiscal year thereafter, not less than 5 per centum of all sums appropriated from the Trust Fund or $50,000,000, whichever is less, shall be directly available to the Agency for Toxic Substances and Disease Registry and used for the purpose of carrying out activities described in subsection (c)(4) and section 104(i), including any such activities related to hazardous waste stored, treated, or disposed of at a facility having a permit under section 3005 of the Solid Waste Disposal Act. Any funds so made available which are not obligated by the beginning of the fourth quarter of the fiscal year in which made available shall be made available in the Trust Fund for other purposes.".

(d) Section 3005 of the Solid Waste Disposal act is amended by adding the following new subsection:

"(j) EXPOSURE INFORMATION AND HEALTH ASSESSMENTS.—(1) Beginning on the date nine months after the enactment of the Solid Waste Disposal Act Amendments of 1984, each completed application for a permit under subsection (c) for a landfill or surface impoundment shall be accompanied by information reasonably ascertainable by the owner or operator on the potential for the public to be exposed to hazardous wastes or hazardous constituents through releases related to the unit. At a minimum, such information must address—

"(A) reasonably foreseeable potential releases from both normal operations and accidents at the unit, including releases associated with transportation to or from the unit;

"(B) the potential pathways of human exposure to hazardous wastes or constituents resulting from the releases described under subparagraph (A); and

"(C) the potential magnitude and nature of the human exposure resulting from such releases.

The owner or operator of a landfill or surface impoundment for which a completed application for a permit under subsection (c) has been submitted prior to such date shall submit the information required by this paragraph to the Administrator (or the State, in the case of a State with an authorized program) no later than the date nine months after such date of enactment.

"(2) The Administrator (or the State, in the case of a State with an authorized program) shall make the information required by paragraph (1), together with other relevant information, available to the Agency for Toxic Substances and Disease Registry established by section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. Whenever in the judgment of the Administrator of such Agency, the Administrator, or the State (in the case of a State with an authorized program), a landfill or a surface improvement poses a substantial potential risk to human health, due to the existence of releases of hazardous constituents, the magnitude of contamination with hazardous constituents which may be the result of a release, or the magnitude of the population exposed to such release or contamination, the Administrator of the Agency for Toxic Substances and Disease Registry shall conduct a health assessment in connection with such facility in accordance with section 104(i)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and take other appropriate action with respect to such risks as authorized by section 104 (b) and (i) of such Act.

"(3) Any member of the public may submit evidence of releases of or exposure to hazardous constituents from such a facility, or as to the risks or health effects associated with such releases or exposure, to the Administrator of the Agency for Toxic Substances and Diseases Registry, the Administrator, or the State (in the case of a State with an authorized program).".

(e) Section 104(i)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by—

(1) striking "the Surgeon General of the United States" and inserting in lieu thereof "the Secretary of Health and Human Services";

(2) inserting in the second sentence thereof after "of said Agency" the following: "(hereinafter in this subsection referred to as 'the Administrator')";

(3) striking "chromosomal testing" in subparagraph (D) and inserting in lieu thereof "appropriate testing".

PUBLIC PARTICIPATION

SEC. . Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following new subsection:

"(j) Before selection of appropriate remedial action to be undertaken by the United States or a State or before entering into a covenant not to sue or to forebear from suit or otherwise settle or dispose of a claim arising under this Act, notice of such proposed action and an opportunity for a public meeting in the affected area, as well as a reasonable opportunity to comment, shall be afforded to the public prior to final adoption or entry. Notice shall be accompanied by a discussion and analysis sufficient to provide a reasonable explanation of the proposal and alternative proposals considered.".

LOVE CANAL PROPERTY ACQUISITION

SEC. . Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding a new subsection as follows:

"(k) In determining priorities among releases and threatened releases under the National Contingency Plan and in carrying out remedial action under this section, the Administrator shall establish a high priority for the acquisition of all properties (including nonowner occupied residential, commercial, public, religious, and vacant properties) in the area in which, before May 22, 1980, the President determined an emergency to exist because of the release of hazardous substances and in which owner occupied residences have been acquired pursuant to such determination.".

NATIONAL CONTINGENCY PLAN—HAZARD RANKING SYSTEM

SEC. . Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting "(a)" immediately following "105." and by adding the following at the end thereof:

"(b) Not later than twelve months after the date of enactment of the Superfund Amendments of 1984, the President shall revise the National Contingency Plan to reflect the requirements of such amendments. The portion of such Plan known as 'the National Hazardous Substance Response Plan' shall be revised to provide procedures and standards for remedial actions undertaken pursuant to this Act which are consistent with amendments made by the Superfund Amendments of 1984 relating to the selection of remedial action.

"(c) Not later than twelve months after the date of enactment of the Superfund Amendments of 1984 and after publication of notice and opportunity for submission of comments in accordance with section 553 of title 5, United States Code, the President shall by rule promulgate amendments to the hazard ranking system in effect on September 1, 1984. Such amendments shall assure, to the maximum extent feasible, that the hazard-ranking system accurately assesses the relative degree of risk to human health and the environment posed by sites and facilities subject to review. The President shall establish an effective date for the amended hazard ranking system which is not later than eighteen months after the date of enactment of the Superfund Amendments of 1984 and such amended hazard ranking system shall be applied to any site or facility to be newly listed on the National Priority List after the effective date established by the President. Until such effective date of the regulations, the hazard ranking system in effect on September 1, 1984, shall continue in full force and effect.".

STATE AND LOCAL GOVERNMENT LIABILITY

SEC. . Section 107(d) of the Comprehensive Environmental Response, Compensation, and Liability Act to 1980 is amended by inserting "(1)" after "(d)" and adding the following new language:

"(2) No State or local government shall be liable under this title for costs or damages as a result of nonnegligent actions taken in response to an emergency created by the release of a hazardous substance, pollutant, or contaminant generated by or from a facility owned by another person.".

CONTRACTOR INDEMNIFICATION

SEC. . Section 107(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting after paragraph (1) the following new paragraph and redesignating the succeeding paragraph accordingly:

"(2) The Administrator may, in contracting or arranging for response action to be undertaken under this Act, agree to hold harmless and indemnify a contracting party against claims, including the expenses of litigation or settlement, by third persons for death, bodily injury or loss of or damage to property arising out of performance of a cleanup agreement to the extent that such claim does not arise out of the negligence of the contracting party.".

DIRECT ACTION

SEC. . (a) Section 108 (c) and (d) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 is amended to read as follows:

"(c) In any case where the owner or operator is in bankruptcy, reorganization, or arrangement pursuant to the Federal Bankruptcy Code or where with reasonable diligence jurisdiction in the Federal Courts cannot be obtained over an owner or operator likely to be solvent at the time of judgment, any claim authorized by section 107 or 111 may be asserted directly against the guarantor providing evidence of financial responsibility. In the case of any action pursuant to this subsection, such guarantor shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

"(d) The total liability under this Act of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this Act: *Provided*, That nothing in this subsection shall be construed to limit any other State or Federal statutory, contractual or common law liability of a guarantor to its owner or operator including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim: *Provided further*, That nothing in this subsection shall be construed, interpreted or applied to diminish the liability of any person under section 107 or 111 of this Act or other applicable law.".

(b) Section 108(b)(2) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 is amended by adding the following: "Financial responsibility may be established by any one, or any combination, of the following: insurance, guarantee, surety bond, letter of credit, or qualification as a self-insurer. In promulgating requirements under this section, the President is authorized to specify policy or other contractual terms, conditions, or defenses which are necessary or are unacceptable in establishing such evidence of financial responsibility in order to effectuate the purposes of this Act.".

VICTIM ASSISTANCE DEMONSTRATION PROGRAM

SEC. . (a) Section 111(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking "and" at the end of the paragraph (5); by striking the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and by adding the following new paragraph:

"(7) the costs of grants, to each of five States selected by the Administrator, not to exceed a total of $30,000,000 per year, to establish and operate a program of assistance to individuals suffering injury resulting from exposure to the release of hazardous substances, as authorized under subsection (m).".

(b) Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new subsection:

"(m)(1) The Administrator shall, upon application pursuant to procedures established by the Administrator, select by no later than July 1, 1985, five States to each establish and operate for not less than a five-year period a program of assistance to individuals suffering injury resulting from exposure to hazardous substances. Each grant shall be in an amount of not less than $3,000,000 and not more than $18,000,000 for each of the fiscal years of 1986, 1987, 1988, 1989, and 1990. States shall be selected in the sole discretion of the Administrator on the basis of the following criteria:

"(A) The experience of State and local governments in administering programs which deal with the regulation of toxic chemicals;

"(B) the existence of and experience with a statutory scheme of response and liability of breadth similar to that of this Act; and

"(C) the representative nature of the hazardous substance releases and exposures in terms of the identities and toxic characteristics of the substances found, the manner and degree of exposures, and the seriousness and duration of the diseases or illnesses caused.

"(2) Programs funded pursuant to this subsection shall, at a minimum, provide the following:

"(A) In the case of the population of any area or class of individuals in which no solvent responsible party who may be liable under section 107 is paying compensation for claims or providing assistance, comparable to assistance under this subsection, nor has acceptance liability for such claims or assistance, and where the State determines, based on available information (including that submitted by members of such population or class or developed under section 104(i)), that—

"(i) exposure to a hazardous substance in a release has caused injury, illness, or disease;

"(ii) the population or class has been exposed to a hazardous substance in a release and a peer-reviewed epidemiological or other health study demonstrates a positive correlation between such exposure and an adverse health effect in such population or class;

"(iii) the population or class has been exposed to a hazardous substance in a release and there is evidence that members of the population or class have adverse health effects that enter remission when exposure is temporarily eliminated; or

"(iv) members of the population or class have an injury, illness, or disease which is only associated with exposure to a particular hazardous substance (where such injury, illness, or disease cannot be attributed to exposure in the workplace),

such population, or class shall be eligible for the assistance provided in subparagraph (B).

"(B) Subject to subparagraph (C), the State shall provide each member of an eligible population or class under paragraph (1) with the following assistance:

"(i) a group insurance policy providing burial benefits, where death is reasonably related to injury, illness, or disease associated with exposure to a hazardous substance in a release;

"(ii) a group medical benefits insurance policy providing the reasonable costs of all medical and surgical treatment and hospitalization, excluding treatment or hospitalization solely arising from accidental injury, routine pregnancy, and well baby care, and subject to an annual deductible of $500, with no copayment requirement or annual or lifetime limitation on expenditures; and

"(iii) a group disability insurance policy, for those members of the population or class currently employed or with a history of employment.

"(C) Such policies provided under subparagraph (B) shall be secondary to, and provide for nonduplication of benefits with, any other policy in favor of such individual. The benefits of such other policy shall be those determined to be in force as of the date the State initiated proceedings toward a determination under subparagraph (A).

"(D) Assistance under this subsection shall be provided on the condition that the costs thereof in connection with any individual pursuing a claim against a potentially responsible party shall be repaid to the Fund out of the proceeds of any award or settlement of such claim.".

FUND USE OUTSIDE FEDERAL PROPERTY BOUNDARIES

SEC. . Section 111(e)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting before the period a colon and the following: "*Provided*, That money in the Fund shall be available for the provision of alternative water supplies (including the reimbursement of costs incurred by a municipality) in any case involving groundwater contamination outside the boundaries of a federally owned facility in which the federally owned facility is not the only potentially responsible party.".

STATUTE OF LIMITATIONS

SEC. . Section 112(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

"(d) No claim may be presented, nor may any action be commenced, under this title—

"(1) for the costs of response, unless that claim is presented or action commenced within three years after the date of completion of the response action;

"(2) for damages under subparagraph (C) of section 107(a), unless that claim is presented or action commenced within three years after the date on which final regulations are promulgated under section 301(c) or within three years after the date of the discovery of the loss and its connection with the release in question or the date of enactment of this Act, whichever is later; or

"(3) for any other damages, unless that claim is presented or action commenced within three years after the date fo the discovery of the loss and its connection with the release in question or the date of enactment of this Act, whichever is later: *Provided, however*, That the time limitations contained in this paragraph shall not begin to run against a minor until he reaches eighteen years of age or a legal representative is duly appointed for him, nor against an incompetent person until his incompetency ends or a legal representative is duly appointed for him. No claim may be presented or action be commenced under this paragraph for any damages if, prior to the date of enactment of the Superfund Amendments of 1984, the statute of limitations which would otherwise apply under this paragraph has expired.".

JUDICIAL REVIEW

SEC. . Section 113(a) of the comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

"SEC. 113. (a)(1) Review of any regulation promulgated under this Act may be had upon application by any interested person in the Circuit Court of Appeals of the United States for the District of Columbia or in any United States Court of Appeals for a circuit in which the applicant resides or transacts business which is directly affected by such regulation. Any such application shall be made within one hundred and twenty days from the date of promulgation of such regulation, or after such date only if such application is based solely on grounds which arose after such one hundred and twentieth day. Any matter with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or to obtain damages or recovery of response costs.

"(2)(A) If applications for review of the same agency action have been filed in two or more United States Courts of Appeals and the Administrator has received written notice of the filing of the first such application more than thirty days before receiving written notice of the filing of the second application, then the record shall be filed in that court in which the first application was filed. If applications for review of the same agency action have been filed in two or more United States Courts of Appeals and the Administrator has received written notice of the filing of one or more applications within thirty days or less after receiving written notice of the filing of the first application, then the Administrator shall promptly advise in writing the Administrative Office of the United States Courts that applications have been filed in two or more United States Courts of Appeals, and shall identify each court for which he has written notice that such applications have been filed within thirty days or less of receiving written notice of the filing of the first such application. Pursuant to a system of random selection devised for this purpose, and within three business days after receiving such notice from the Administrator, the Administrative Office thereupon shall select the court in which the record shall be filed from among those identified by the Administrator. Upon notification of such selection, the Administrator shall promptly file the record in such court. For the purpose of review of agency action which has previously been remanded to the Administrator, the record shall be filed in the United States Court of Appeals which remanded such action.

"(B) Where applications have been filed in two or more United States Courts of Appeals with respect to the same agency action and the record has been filed in one of such courts pursuant to subparagraph (A), the other courts in which such applications have been filed shall promptly transfer such applications to the United States Court of Appeals in which the record has been filed. Pending selection of a court pursuant to subparagraph (A) any court in which an application has been filed may postpone the

effective date of the agency action until fifteen days after the Administrative Office has selected the court in which the record shall be filed.

"(C) Any court in which an application with respect to any agency action has been filed, including any court selected pursuant to subparagraph (A), may transfer such application to any other United States Court of Appeals for the convenience of the parties or otherwise in the interest of justice.".

CLARIFICATION OF PREEMPTION LANGUAGE

SEC. . Section 114(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting after the first sentence thereof the following: "Nothing in this section shall preclude any State from requiring any person to contribute to a fund to pay (1) the costs of the non-Federal share or other State responsibilities under section 104(c)(3), or (2) the direct and indirect costs of response actions at facilities or locations where the President has not responded under this Act or in addition to response actions taken under this Act, or, (3) any other management, enforcement, or administration activities related to response actions or other cleanup of hazardous substances or hazardous wastes.".

FEDERAL FACILITIES

SEC. . Section 115 of the Comprehensive Environmental, Compensation, and Liability Act of 1980 is amended by inserting before the period at the end thereof a colon and the following: *"Provided*, That with respect to a Federal facility or activity for which such duties or powers are delegated to an officer, employee or representative of the department, agency or instrumentality which owns or operates such facility or conducts such activity, the concurrence of the Administrator (and the responsible State official where a cooperative agreement has been entered into) shall be required for the selection of appropriate remedial action and the administrative order authorities of section 106(a) are hereby delegated to the Administrator".

ADMINISTRATIVE CONFERENCE RECOMMENDATION

SEC. . The Congress finds that Recommendation 84-4 of the Administrative Conference of the United States (Adopted June 29, 1984) is generally consistent with the goals and purposes of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and that the Administrator should consider such Recommendation and implement it to the extent that the Administrator determines that such implementation will expedite the cleanup of hazardous substances which have been released into the environment.

SUBTITLE B—AMENDMENTS OF THE INTERNAL REVENUE CODE OF 1954

PART I—SHORT TITLE

SEC. . SHORT TITLE.

This subtitle may be cited as the "Superfund Revenue Act of 1984".

PART II—FEEDSTOCKS AND PETROLEUM

SEC. . EXTENSION OF TAX ON PETROLEUM AND FEED STOCKS.

(a) EXTENSION OF TAX.

(1) Subsection (d) of section 4611 of such Code (relating to termination) is amended to read as follows:

"(d) TERMINATION.—The tax imposed by this section shall not apply after September 30, 1990.".

(2) Section 303 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is repealed.

(b) EXEMPTION FOR SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—

(1) IN GENERAL.—Subsection (b) of section 4662 of the Internal Revenue Code of 1954 (relating to definitions and special rules with respect to the tax on certain chemicals is amended by adding at the end thereof the following paragraph:

"(7) Substances used in the production of animal feed.—

"(A) IN GENERAL.—In the case of nitric acid, sulfuric acid, phosphoric acid, ammonia, or methane used to produce ammonia, which ia qualified animal feed substance, no tax shall be imposed under section 4661 (a).

"(B) QUALIFIED ANIMAL FEED SUBSTANCE.—For purposes of this section, the term 'qualified animal feed substance' means any substance—

"(1) used in a qualified animal feed use by the manufacturer, producer, or importer,

"(ii) sold for use by any purchaser in a qualified animal feed use, or

"(iii) sold for resale by any purchaser for use, or resale for ultimate use, in a qualified animal feed use.

"(C) QUALIFIED ANIMAL FEED USE.—The term 'qualified animal feed use' means any use in the manufacture or production of animal feed or animal feed supplements, or of ingredients used in animal feed or animal feed supplements.

"(D) TAXATION OF NONQUALIFIED SALE OR USE.—For purposes of section 4661 (a), if no tax was imposed by such section on the sale or use of any chemical by reason of subparagraph (A), the first person who sells or uses such chemical other than in a sale or use described in subparagraph (A) shall be treated as the manufacurer of such chemical.".

(2) REFUND OR CREDIT FOR SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—Subsection (d) of section 4662 of such Code (relating to refunds and credits with respect to the tax on certain chemicals) is amended by adding at the end thereof the following new paragraph:

"(4) Use in the production of animal feed.—Under regulations prescribed by the Secretary, if—

"(A) a tax under section 4661 was paid with respect to nitric acid, sulfuric acid, phosphoric acid, ammonia, or methane used to produce ammonia, without regard to subsection (b)(7), and

"(B) any person uses such substance as a qualified animal feed substance,

than an amount equal to the excess of the tax so paid over the tax determined with regard to subsection (b)(7) shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.".

(c) Effective Dates.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made in this section shall take effect on January 1, 1985.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall take effect on the date of enactment of this Act.

PART III—WASTE-END TAX

SEC. . TAX ON HAZARDOUS WASTE.

(a) IN GENERAL.—Chapter 38 of the Internal Revenue Code of 1954 is amended by adding the following new subchapter:

"SUBCHAPTER D—TAX ON DISPOSAL OR LONG-TERM STORAGE OF HAZARDOUS WASTE

"Section 4691. Imposition of Tax

"Section 4692. Definitions

"Section 4693. Records, Statements and Returns

"SEC. 4691. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax on the receipt of a hazardous waste for—

"(1) disposal at a qualified hazardous waste disposal facility, or

"(2) long-term storage of a hazardous waste in a qualified hazardous waste storage or treatment facility.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) shall be equal to the following:

"(1) $45 for each ton of hazardous waste which is disposed of by landfill, in waste piles, or by surface impoundment.

"(2) $25 for each ton of hazardous waste which is disposed of by ocean dumping or land treatment.

"(3) $5 for each ton of hazardous waste which is disposed of by underground injection.

"(4) $45 for each ton of hazardous waste which is placed in long-term storage.

"(c) ALTERNATIVE COMPUTATION OF TAX.—Under regulations provided by the Secretary, if the owner or operator of a qualified hazardous waste disposal or qualified hazardous waste storage or treatment facility can establish the amount of water of the hazardous waste deposited for disposal or for long-term storage, then such owner or operator may elect to pay, in lieu of the taxes which would otherwise be paid under this section, a tax equal to $50 per ton on the amount of waste deposited for disposal or storage, reduced by the weight of water.

"(d) EXCLUSION FOR CERTAIN WASTES.—No tax shall be imposed under subsection (a) on any of the following:

"(1) The disposal or long-term storage of wastes which are, as of the date of enactment of this section, exempt from regulation as a hazardous waste under Section 3001 of the Solid Waste Disposal Act. In the event that any such waste is determined by the Administrator of the Environmental Protection Agency, following studies as required under section 8002 of such Act, to pose a potential danger to human health and environment, and the Administrator of the Environmental Protection Agency promulgates regulations for the disposal of such waste, then the Administrator shall transmit to both Houses of Congress, along with such regulations, his recommendation for imposing a tax, if any, on the disposal or long-term storage of such waste. A tax shall be imposed under subsection (a) on such waste only when authorized by Act of Congress.

"(2) The disposal or long-term storage of wastes which are not, as of the date of enactment of this section, identified or listed under section 3001 of the Solid Waste Disposal Act. A tax shall be imposed under subsection (a) on such waste only when authorized by Act of Congress.

"(3) The disposal or long-term storage of wastes in a surface impoundment which—

"(A) contains treated waste water during the secondary or tertiary phase of a biological treatment facility subject to a permit issued under section 402 of the Clean Water Act (or which holds such treated waste after treatment and prior to discharge), and

"(B) is in compliance with generally applicable ground water monitoring requirements for facilities with permits under section 3005(c) of the Solid Waste Disposal Act.

"(4) The disposal or long-term storage of—

"(A) any waste by any person in the course of carrying out any removal or remedial action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 if such disposal is carried out in accordance with a plan approved by the Administrator of the Environmental Protection Agency or the State,

"(B) any waste removed from any facility listed on the National Priorities List (NPL), or

"(C) any waste removed from a facility for which notification has been provided to the Administrator of the Environmental Protection Agency pursuant to the provisions of section 103(c) or 105 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980.

"(e) LIABILITY FOR THE TAX.—The tax imposed by this section shall be imposed on the following:

"(1) IN GENERAL.—The owner or operator of the qualified hazardous waste disposal facility or qualified hazardous waste storage or treatment facility at which the hazardous waste is disposed of or stored.

"(2) PERSON DISPOSING OF WASTE.—In the case of hazardous waste that is required by regulation to be disposed of or stored at a qualified hazardous waste disposal facility or a qualified hazardous waste storage or treatment facility but is disposed of or stored for a long term at other than a qualified hazardous waste disposal facility or a qualified hazardous waste storage or treatment facility, the person disposing of the hazardous waste.

"(f) CREDIT FOR PRIOR TAX.—

"(1) IN GENERAL.—A credit shall be allowed in the computation of any tax due under this section on the disposal of a hazardous waste for any tax previously paid under this section by the disposer on the long-term storage of such hazardous waste.

"(2) LONG-TERM STORAGE.—In the event that a person who has paid a tax under this section on the long-term storage of a hazardous waste causes such hazardous waste to be delivered to and received by another person who is the owner or operator of a qualified hazardous waste disposal facility, then such person who paid the tax on the long-term storage shall be allowed a credit for such tax in the computation of any tax subsequently due on the long-term storage or disposal of a hazardous waste.

"(3) SPECIAL RULE FOR FUNGIBLE WASTE.—For purposes of determining any credit allowances for fungible waste under the provisions of paragraphs (1) and (2), it shall be presumed that the last of such waste placed in a qualified hazardous waste storage facility shall be the first to be removed from such facility.

"(g) FRACTIONAL PART OF TON.—In the case of a fraction of a ton, the tax imposed by this section shall be the same fraction of the amount of such tax imposed on a whole ton.

"(h) PROSPECTIVE APPLICATION OF TAX.—Any taxes imposed by this section shall not apply to the hazardous waste which is received for disposal or placed into long-term storage before the effective date of this section.

"(i) TERMINATION.—The taxes imposed in this section shall not apply after September 30, 1990.

"SEC. 4692. DEFINITIONS.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) DISPOSAL.—The term 'disposal' means the discharge, deposit, injection, dumping or placing of any hazardous waste into or on any land or water so that such hazardous waste may enter the environment. The term 'disposal' shall not include the treatment or reclamation of hazardous wastes or the storage of hazardous wastes in a facility described in the definition of 'Qualified Hazardous Waste Storage Facility' below.

"(2) LONG-TERM STORAGE.—The term 'long-term storage' means remaining within the confines of a qualified hazardous waste storage or treatment facility for 1 year or more. For the purpose of determining the length of time in storage, it shall be presumed in the case of fungible waste that the last waste placed in a qualified hazardous waste storage or treatment facility shall be the first to be removed from such facility.

"(3) QUALIFIED HAZARDOUS WASTE STORAGE OR TREATMENT FACILITY.—The term 'qualified hazardous waste storage or treatment facility' means any storage facility, hazardous waste treatment facility, waste pile or surface impoundment, with respect to which a permit is issued or interim status accorded under section 3005 of the Solid Waste Disposal Act.

"(4) WASTE PILE.—The term 'waste pile' is a quantity of hazardous waste heaped together as a means of storage as defined under regulations promulgated by the Administrator or the Environmental Protection Agency pursuant to section 3005 of the Solid Waste Disposal Act.

"(5) SURFACE IMPOUNDMENT.—The term 'surface impoundment' is an impoundment in which quantities of hazardous wastes are collected as a means of storage as defined under regulations promulgated by the Administrator of the Environmental Protection Agency pursuant to section 3005 of the Solid Waste Disposal Act.

"(6) QUALIFIED HAZARDOUS WASTE DISPOSAL FACILITY.—The term 'qualified hazardous waste disposal facility' means any disposal facility with respect to which a permit is issued or interim status accorded under section 3005 of the Solid Waste Disposal Act or under section 102 of the Marine Protection, Research and Sanctuaries Act, or Part C of the Safe Drinking Water Act. The term 'qualified hazardous waste disposal facility' shall not include any qualified hazardous waste treatment facilities.

"(7) HAZARDOUS WASTE TREATMENT FACILITIES.—The term 'hazardous waste treatment, facilities, means any facility employing any method, technique, or process designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to convert such waste to a nonhazardous waste.

"(8) TREATMENT.—The term 'treatment', when used in connection with hazardous waste, means a method, technique or process designed to change the physical, chemical or biological character or composition of any hazardous waste so as to convert such a waste to a nonhazardous waste; except that there may be a byproduct or residue from such method, technique or process that would be considered a hazardous waste under section 3001 of the Solid Waste Disposal Act.

"(9) HAZARDOUS WASTE.—The term 'hazardous waste' means any waste:

"(A) identified or listed under section 3001 of the Solid Waste Disposal Act, other than waste the regulation of which has been suspended by Act of Congress, and

"(B) subject to the recording or record-keeping requirements of section 3002 and 3004 of such Act.

"(10) TON.—The term 'ton' means 2,000 pounds.

"(11) RECEIPT.—The term 'receipt' means the act of the owner or operator of a qualified hazardous waste disposal facility by which such owner or operator, at an offsite facility, signs, or is required by regulation to sign, the manifest or shipping paper accompanying the hazardous waste, or at an onsite facility, enters, or is required to do so by regulation, the description and quantity of the hazardous waste in the qualified hazardous waste disposal facility operating record.

"(12) NONHAZARDOUS WASTE.—The term 'nonhazardous waste' means any waste that is not identified or listed as hazardous waste under section 3001 of the Solid Waste Disposal Act. The term 'nonhazardous waste' shall include the air and water effluents permitted by the Federal Government or by delegated State agencies under the Clean Air Act or Clean Water Act.

"(13) RECLAMATION OF HAZARDOUS WASTES.—The term 'reclamation of hazardous waste' means any hazardous waste that is processed to recover a usable product or any such waste that is regenerated. The term also includes hazardous wastes that are employed as an ingredient (including use as an intermediate) in an industrial process to make a product. The term also includes hazardous wastes that are employed in a particular function or application as an effective substitute for a commercial product. The term does not include hazardous wastes that are reused in a manner analogous to land disposal or incineration, including but not limited to, hazardous wastes that are used to produce products that are applied to the land or hazardous wastes burned for energy recovery used to produce a fuel or contained in fuels.

"SEC. 4693. RECORDS, STATEMENTS, AND RETURNS.

"Every person who disposes of, or stores hazardous wastes for one year or more subject to taxation under this subchapter shall keep records, render such statements, make such returns, and comply with rules and regulations as the Secretary may prescribe to ensure proper assessment, payment, and collection of the taxes imposed by section 4691. The Secretary shall consult with the Administrator of the Environmental Protection Agency to ensure that records, statements, and returns required to be kept, rendered, and made under this section shall be consistent, to the extent possible, with the reports required to be submitted to the Administrator under the Solid Waste Disposal Act. The Secretary may require any person who generates, transports, disposes of, or stores hazardous wastes for one year or more and who is required to maintain records under the Solid Waste Disposal Act, the Marine Protection, Research and Sanctuaries Act or the Safe Drinking Water Act, to submit copies of such reports or make such reports available to the Secretary as required.".

(b) CONFORMING AMENDMENTS.—

(1) The table of subchapters for chapter 38 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new item:

"Subchapter D—Tax on Disposal or Long-Term Storage of Hazardous Waste.".

(2) Section 221(b)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 is amended by striking out "and" at the end of subparagraph (D), by striking out the period at the end of subparagraph (E) and inserting a comma and "and", and by adding a new subparagraph as follows:

"(F) the amounts received in the Treasury under section 4691 of the Internal Revenue Code of 1954.".

(c) STUDY.—

(1) IN GENERAL.—Not later than January 1, 1987, and annually thereafter through 1989, the Secretary of the Treasury, in consultation with the Administrator of the Environmental Protection Agency, shall submit to Congress a report on the amount of revenues being collected in accordance with subchapter D of chapter 38 of the Internal Revenue Code of 1954 and his recommendations, if any, for changes in the tax imposed under such subchapter in order to—

(A) raise an amount of revenue equivalent to the anticipated amount of revenue from the tax originally imposed under such subchapter,

(B) ensure that the tax is discouraging the disposal of waste in an environmentally unsound manner, and

(C) ensure that the tax is being collected with maximum administrative feasibility.

(2) ADDITION OF CERTAIN WASTES.—The Secretary of the Treasury shall also study, and recommend to the Congress whether wastes from the following sources should be subject to tax under subchapter D of chapter 38 of such Code:

(A) Pesticides identified for a rebuttable presumption against registration under the Federal Insecticide, Fungicide and Rodenticide Act.

(B) Chemicals which, according to the International Agency for Research on Cancer, have substantial evidence of carcinogenicity.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on January 1, 1986.

PART IV—AUTHORIZATION OF APPROPRIATIONS AND APPROPRIATIONS

SEC. . AUTHORIZATION OF APPROPRIATIONS AND APPROPRIATIONS.

Paragraph (2) of section 221(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

"(2) AUTHORIZATION FOR APPROPRIATIONS AND APPROPRIATIONS.—

"(A) AUTHORIZATION FOR APPROPRIATIONS.—There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Emergency Response Trust Fund for fiscal year—

"(i) 1981, $44,000,000,

"(ii) 1982, $44,000,000,

"(iii) 1983, $44,000,000,

"(iv) 1984, $44,000,000, and

"(v) 1985, $44,000,000.

"(B) APPROPRIATIONS.—There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to the Emergency Response Trust Fund for fiscal year—

"(i) 1986, $600,000,000,

"(ii) 1987, $600,000,000,

"(iii) 1988, $600,000,000,

"(iv) 1989, $600,000,000, and

"(v) 1990, $600,000,000.".

LEVIN AMENDMENT NO. 6931

Mr. LEVIN proposed an amendment to committee amendment No. 2 to the joint resolution (H.J. Res. 648), supra; as follows:

At the appropriate place insert the following: "Notwithstanding any other provision of the law, such sums as may be necessary may be used from the remaining balances of fiscal year 1984 funds for the Commodity Supplemental Food Program for the purpose of settling unresolved administrative funding claims associated with the handling of regular and bonus commodities distributed by the Commodity Supplemental Food Program operators in fiscal year 1982.".

TRIBLE AMENDMENT NO. 6932

Mr. McCLURE (for Mr. TRIBLE) proposed an amendment to committee amendment No. 4 to the joint resolution (H.J. Res. 648), supra; as follows:

Before the period at the end of section 101(c) insert the following: ": *Provided further,* That an additional $400,000 shall be appropriated to the United States Fish and Wildlife Service to initiate operations at the Cape Charles NWR, Va.".

HOLLINGS (AND OTHERS) AMENDMENT NO. 6933

Mr. HOLLINGS (for himself, Mr. WARNER, Mr. MOYNIHAN, Mr. HUDDLESTON, Mr. MELCHER, Mr. PRYOR, Mr. MATSUNAGA, Mr. THURMOND, Mr. KENNEDY, Mr. STENNIS and Mr. INOUYE) proposed an amendment to committee amendment No. 4 to the joint resolution (H.J. Res. 648), supra; as follows:

At the appropriate place in the joint resolution insert:

SEC. . Notwithstanding any other provision of this joint resolution, $100,000 is appropriated for the Mary McLeod Bethune "Council House" National Historic Site.

DIXON-PERCY AMENDMENT NO. 6934

Mr. DIXON (for himself and Mr. PERCY) proposed an amendment to committee amendment No. 4 to the joint resolution (H.J. Res. 648), supra; as follows:

After the period at the end of section 101(c), insert the following: "Of the amount provided for Mines and Minerals, Bureau of Mines, $400,000, which shall be equally matched by non-Federal funds, shall be available to conduct a study on subsidence and its impact on prime farmland.".

HELMS AMENDMENT NO. 6935

Mr. HELMS proposed an amendment to committee amendment No. 4 to the joint resolution (H.J. Res. 648), supra; as follows:

On page 3 at the end of section 101(c) insert the following:

Line 3, strike out "$875,117,000" and insert the following: ": *Provided further,* That the amount of the Operation of Indian Programs shall be $875,517,000: *Provided further,* That of such $875,517,000, at least $400,000 shall, notwithstanding any other provision of law, be used to provided education for students attending schools operated by the Bureau of Indian Affairs who are of less then one-fourth Indian blood and are enrolled members of any Indian tribe or band which is recognized by the Secretary of the Interior as eligible for special programs and services provided by the United States to Indians because of their status as Indians:".

BUMPERS AMENDMENT NO. 6936

Mr. BUMPERS proposed an amendment to committee amendment No. 4 to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of the fourth committee amendment, insert the following new subsection and renumber the other subsections accordingly:

(d) Notwithstanding any provision of law, none of the funds appropriated by this joint resolution shall be used to lease any onshore lands for oil and gas development unless the Secretary of the Interior leases them competitively, using those bidding systems set forth in section 8(a)(1) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1337), which the Secretary determines would maximize competition.

BRADLEY (AND OTHERS) AMENDMENT NO. 6937

Mr. BRADLEY (for himself, Mr. LAUTENBERG, Mr. TSONGAS, Mr. MOYNIHAN, Mr. HART, Mr. HUMPHREY, Mr. MITCHELL, and Mr. COHEN) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

Page 54, line 8: Strike out "$124,395,000", and insert in lieu thereof "$127,395,000".

PRESSLER (AND OTHERS) AMENDMENT NO. 6938

Mr. McCLURE (for Mr. PRESSLER, for himself, Mr. DURENBERGER, Mr. HATCH, Mr. BINGAMAN, Mr. CHAFEE, Mr. PERCY, Mr. DOMENICI, Mr. TSONGAS, Mr. ANDREWS, and Mr. HEINZ) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

Before the period at the end of section 101(c) insert the following: ": *Provide further,* That to express the sense of the Congress that the Continental Scientific Drilling Program is an important national scientific endeavor, benefiting the commerce of the Nation, which should be vigorously pursued by government and the private sector.

"The Continental Scientific Drilling Program is an important national scientific endeavor that is vital to the understanding of the geologic evolution of the Earth and the economic value of its resources;

"The most effective and efficient means of realizing the fullest potential in the Continental Scientific Drilling Program is through a cooperative effort by the Department of Energy, the National Science Foundation, and the United States Geological Survey;

"Many important commercial and scientific advances may result from the Continental Scientific Drilling Program; and

"Many foreign nations are engaged in a comparable deep drilling program, and cooperation and coordination would be beneficial to United States efforts.

"It is the sense of the Congress that—

"(1) the Continental Scientific Drilling Program is an important national scientific endeavor by the United States which should be enthusiastically implemented through a joint cooperative effort among the United States Department of Energy, the National Science Foundation, and the United States Geological Survey;

"(2) the private sector should be encouraged to support the Continental Scientific Drilling Program and the participating agencies should solicit appropriate private sector participation in such Program; and

"(3) the United States Government should cooperate to the extent practicable with the international community in developing this important scientific and technical activity.".

MELCHER AMENDMENT NO. 6939

Mr. MELCHER proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of the Committee amendment (Sec. 101(c)), add the following:

Notwithstanding any other provision of this section, H.R. 5973, as reported, is considered to include the following:

SEC. 321. Section 5542 (b) (2) (B) (iv) of Title 5, United States Code, is amended by inserting immediately before the period at the end thereof a comma and the following: "including travel by an employee to such an event and the return of such employee from such event to his or her official-duty station".

JOHNSTON AMENDMENT NO. 6940

Mr. JOHNSTON proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of section 101(c) insert the following: *Provided further,* That notwithstanding any other provision in this joint resolution on page 34, line 8, of H.R. 5973 as reported by the Senate Committee on Appropriation strike "$76,670,000" and insert "77,170,000" and on line 9 strike $73,842,000" and insert "74,342,000".

CHAFEE (AND OTHERS) AMENDMENT NO. 6941

Mr. CHAFEE (for himself, Mrs. KASSEBAUM, Mr. LEAHY, Mr. PELL, Mr. STAFFORD, Mr. DANFORTH, Mr. HUMPHREY, and Mr. BAUCUS) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the appropriate place in the bill (resolution) insert the following:

SEC. . The Federal Power Act is amended by adding the following new section at the end of title II:

"COST OF CONSTRUCTION WORK IN PROGRESS

"SEC. 213. (a) Nothing in this section shall be construed to affect the authority of the Commission to approve the inclusion of the following costs of construction work in progress in the rate base of a public utility in accordance with the provisions of sections 205 and 206 of this Act—

"(1) the costs of any pollution control facility; and

"(2) the costs of conversion of oil or natural gas-fired facilities to the use of fuels other than oil or natural gas.

For purposes of the following provisions of this section, the term 'costs of construction work in progress' shall be treated as not including the costs referred to in paragraphs (1) and (2).

"(b) Upon application by a public utility the Commission shall approve inclusion of any cost of construction work in progress in the rate base of such a public utility only to the extent that construction work in progress costs would be allowed in retail rate base of such utility according to the law of the State in which the wholesale customer is located.

"(c)(1) Notwithstanding subsection (b) above, upon application of a public utility, the Commission may approve inclusion of the costs of construction work in progress of a facility in the rate base of such public utility if the Commission finds that (a) the internal generation of funds from rates established by the Commission and from all other sources of funds related to the Commission's jurisdiction in a test period established by the Commission is, after subtraction of interest payments and dividends (except reinvested dividends) subject to the Commission's jurisdiction, 40 per centum or less of planned construction expenditures subject to the Commission's jurisdiction in such test period; (b) the inclusion of the facility in the rate base will have a significant material impact on the financial health of the utility; and (c) the facility will meet demand for electric energy services at least system cost with adequate reliability.

"(2) Any application submitted to the Commission under paragraph (1) shall contain—

"(A) a detailed description of the financial condition of the public utility;

"(B) a detailed description of construction expenditures subject to the Commission's jurisdiction in a test period established by the Commission and detailed description of funds to be internally generated during that period from rates prescribed by the Commission and all other sources of funds related to the Commission's jurisdiction;

"(C) a statement demonstrating that the facility proposed to be included in the rate base is necessary to meet the demand for electric energy services at least system cost with adequate reliability; and

"(D) a statement demonstrating that the inclusion of the facility in the rate base of the public utility will have a significant material impact on the financial health of the utility.

A rebuttable presumption of the lack of a significant material impact shall arise under (c)(1)(b), if less than 20 per centum of the sales of the public utility are under the jurisdiction of the Commission. The Commission may approve inclusion of the costs of construction work in progress of a facility in the rate base of a public utility pursuant to this subsection only to the extent necessary to restore the internal generation of funds from rates established by the Commission and from all other sources fo funds related to the Commission's jurisdiction during the test period established by the Commission, to a level of 40 per centum of construction expenditures subject to the Commission's jurisdiction, after subtraction of interest payments and dividends (except reinvested dividends) subject to the Commission's jurisdiction, during such test period shall be permitted to be included in such public utility's rate base.

"(d) As used in this section, the term—

"(1) 'construction work in progress' means construction of a facility used to generate or transmit electric energy which construction is undertaken, or proposed to be undertaken, but which is not yet in service.

"(2) 'system cost' means an estimate of all the direct costs of a resource over its effective life, including the cost of generation transmission and distribution, and, among other factors, waste disposal costs, end-of-cycle costs, and fuel costs (including projected increases and decreases), and such quantifiable environmental costs as are directly attributable to such resource."

MELCHER AMENDMENTS NOS. 6942 AND 6943

Mr. MELCHER proposed two amendments to the joint resolution (H.J. Res. 648), supra; as follows:

AMENDMENT No. 6942

Before the period at the end of the committee amendment section 101(c) insert the following: "*Provided further,* That notwithstanding any other provision of law, funds available to the Forest Service may be obligated for cooperative federal-state noxious weed control: *Provided further,* That worst case analysis requirements developed under the National Environmental Policy Act shall not apply to the application of approved weed pesticides used on federal lands".

AMENDMENT No. 6943

At the end of the committee amendment [Sec. 101(c)] add the following:

Notwithstanding any other provision of this section, Section 318 of H.R. 5973, as reported, is considered to read as follows:

"SEC. 318. (a) The primary term of any geothermal lease in effect as of July 27, 1984, issued pursuant to the Geothermal Steam Act of 1970 (Public Law 91-581, 84 Stat. 1566, 30 U.S.C. 1001-1025) is hereby extended to December 31, 1986, if the Secretary of the Interior finds that—

"(1) a bona fide sale of the geothermal resource, from a well capable of production, for delivery to or utilization by a facility or facilities, has not been completed (A) due to administrative delays by government entities, beyond the control of the lessee, or (B) such sale would be uneconomic;

"(2) substantial investment in the development of or for the benefit of the lease has been made; and

"(3) the lease would otherwise expire prior to December 31, 1986.

"(b) Notwithstanding any other provision of law, the Secretary shall not issue any geothermal lease pursuant to the Geothermal Steam Act of 1970 (P.L. 91-581, as amended) in the Island Park Known Geothermal Resource Area adjacent to Yellowstone National Park.".

MELCHER (AND OTHERS) AMENDMENT NO. 6944

Mr. MELCHER (for himself, Mr. ANDREWS, and Mr. TSONGAS) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

AMENDMENT No. 6944

At the end of the Committee Amendment [Sec. 101(c)] add the following:

Notwithstanding any other provision of this section, Section 318 of H.R. 5973 as reported, is considered to include the following:

"Notwithstanding any other provision of law, the Secretary shall not issue any geothermal lease pursuant to the Geothermal Steam Act of 1970 (Public Law 91-581, as amended) in the Island Park Known Geothermal Resource Area adjacent to Yellowstone National Park.".

BYRD (AND OTHERS) AMENDMENT NO. 6945

Mr. BYRD (for himself, Mr. HUDDLESTON, Mr. FORD, and Mr. RANDOLPH) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of Committee Amendment No. 4, insert the following new section:

Section 401(c)(1) of Public Law 96-87 is amended by striking the word "and" after the words "in situ;" and adding the following after the word "subsidence;": "and establishment of self sustaining, individual State administered programs to insure private property against damages caused by land subsidence resulting from underground coal mining in those States which have reclamation plans approved in accordance with section 503 of this Act, provided that funds used for this purpose shall not exceed $3,000,000 of the funds made available to any State under section 402(g)(2) of this Act;".

BAUCUS AMENDMENT NO. 6946

Mr. BAUCUS proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

On page 3, line 10, before the period insert the following: ": *Provided further,* That notwithstanding any other provision of law, within sixty days of enactment of this Act, the Secretary of the Interior shall employ in the Flathead Irrigation and Power Project of the Bureau of Indian Affairs twenty-eight (28) employees of the Joint Board of Control of the Flathead, Mission, and Jocko Valley Irrigation Districts at appropriate rates of pay which shall not be less than their rates of pay as of September 27, 1984".

ABDNOR AMENDMENT NO. 6947

Mr. McCLURE (for Mr. ABDNOR) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

Before the period at the end of section 101(c) insert the following: ": *Provided further,* That the amount available for direct loans pursuant to the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451 et seq.), shall not exceed $18,600,000".

BUMPERS AMENDMENT NO. 6948

Mr. BUMPERS proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of the Fourth Committee Amendment, add the following: *"Provided,* That no funds may be used for the condemnation of property, without the consent of the owner of the property, for addition to the Cache River Arkansas Project.".

TRANSITIONAL ASSISTANCE TO THE APPALACHIAN REGION

RANDOLPH AMENDMENT NO. 6949

(Ordered to lie on the table.)

Mr. RANDOLPH submitted an amendment intended to be proposed by him to the bill (S. 65) to extend the Appalachian Regional Development Act to provide transitional assistance to the Appalachian Region, as follows:

On page 12, line 23, strike "$158,000,000 for the two-fiscal-year period ending September 30, 1986;" and insert in lieu thereof "$49,000,000 for the fiscal year ending September 30, 1985; $75,000,000 for the fiscal year ending September 30, 1986;".

BUMPERS AMENDMENT NO. 6950

Mr. BUMPERS proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of the 7th Committee amendment, add the following new subsection:

"( ) Notwithstanding any other provision of law, lands in the vicinity of Bull Shoals Lake in Arkansas administered by the Army Corps of Engineers which have been declared excess to the Department of the Army needs shall remain under the administration of the Corps of Engineers and shall not be disposed of by the General Services Administration or the Bureau of Land Management.".

CHILES (AND HAWKINS) AMENDMENT NO. 6951

Mr. McCLURE (for Mr. CHILES, for himself and Mrs. HAWKINS) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of section 101(c) insert the following:

Notwithstanding any other provision of section 101(c) of this resolution $200,000 shall be made available to the Department of the Interior for assisting the development of the North Key Largo Habital Conservation Plan.

PERCY AMENDMENT NO. 6952

Mr. McCLURE (for Mr. PERCY) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

Insert the following after the period at the end of section 101(c) and before the section 101(d): "Notwithstanding any other provision of this resolution, $536,000 shall be available to the Fish and Wildlife Service for the Des Plaines River wetlands demonstration project.".

METZENBAUM AMENDMENT NO. 6953

Mr. METZENBAUM proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the appropriate place in the bill, add: "Not less than $500,000 shall be allocated by the National Park Service for restoration of the William Howard Taft Birthplace in Cincinnati, Ohio, during fiscal 1985.".

STEVENS AMENDMENT NO. 6954

Mr. McCLURE (for Mr. STEVENS) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

On page 3, line 10, after the word "Senate" insert the following: ": *Provided further,* That of the funds appropriated for the Minerals Management Service, $50,000 shall be available for administrative, travel, communications, per diem, and other necessary expenses incurred by a non-profit interindustry organization in conducting meetings and workshops related to Outer Continental Shelf activities off Alaska".

MELCHER AMENDMENT NO. 6955

Mr. MELCHER proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of the Committee amendment (Sec. 101(c)), add the following:

Notwithstanding any other provisions of this section, the section dealing with BIA construction of H.R. 5973, as reported, is considered to read as follows:

"For construction, major repair and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands and interests in land; preparation of lands for farming; and construction, repair, and improvement of Indian housing, $104,243,000, to remain available until expended: *Provided.* That such amount as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation.".

McCLURE AMENDMENTS NOS. 6956 AND 6957

Mr. McCLURE proposed two amendments to the joint resolution (H.J. Res. 648), supra; as follows:

AMENDMENT No. 6956

Before the period at the end of the committee amendment, section 101(c), insert the following: Notwithstanding any other provision of this section, section 315 of the reported bill is amended to read as follows:

None of the funds provided in this Act may be used for the augmentation of grizzly bear populations in currently occupied areas of Forest Service grizzly bear habitat or the preparation of specific augmentation proposals to establish new grizzly bear populations in areas identified as suitable grizzly bear habitat in any unit of the National Park System or National Forest System unless the appropriate General Management Plan or Forest Plan provides for such augmentation and has been adopted, including having been available for public comment and review: *Provided,* That such activities may be conducted only with funds specifically justified for such purpose in an agency budget justification and subsequently approved in a report accompanying an appropriation bill making appropriations for that agency, or with funds provided for through reprogramming procedures: *Provided further,* That this is not intended to prohibit the emergency relocation of nuisance bears into currently occupied areas of congressionally designated wilderness areas within Forest Service boundaries, or into other currently occupied situation one areas where conflict between bears and humans is not likely to occur: *Provided further,* That the Secretaries of Interior and Agriculture shall provide for a public meeting at each affected National Forest and National Park Headquarters and the subsequent publication of the "Guidelines for Management Involving Grizzly Bears in the Greater Yellowstone Area" in the Federal Register reflecting the public comments: *Provided further,* That notwithstanding any other provision of law, agencies included in this Act are au-

thorized to reimburse permittees for such reasonable expenses as may be incurred as a result of moving permitted animals from one location to another, as may be required by the permitting agency, in order to prevent harrassment and attacks by grizzly bears. Such expenses are to be determined by the agency responsible for the permitted action.

AMENDMENT No. 6957

After the period at the end of Section 101(c), insert the following:

The segregative effect of the Department of the Navy withdrawal application N-37171, covering approximately 181,323 acres of public lands in Churchill County, Nevada, shall continue until such withdrawal is acted upon by the Congress. Segregation shall not prevent compatible public land uses which would be allowed under the terms of the proposed withdrawal.

BOSCHWITZ (AND DURENBERGER) AMENDMENT NO. 6958

Mr. BOSCHWITZ (for himself and Mr. DURENBERGER) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of Section 101(c) strike out the period and insert in lieu thereof a semicolon and the following: *"Provided further,* That $3,500,000 is appropriated for deposit into the Economic Development and Tribal Government Fund, to be held in trust for the benefit of the White Earth Band of Chippewa Indians: *Provided further,* That such funds shall become available for obligation only upon enactment of authorizing legislation and approval by the Secretary of the Interior of the Tribal Financial Ordinance and Investment Plan established pursuant to the White Earth Reservation Land Settlement of 1984.".

McCLURE AMENDMENT NO. 6959

Mr. McCLURE proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of the pending amendment insert the following as a new section:

The following may be cited as "The John F. Kennedy Center Act Amendments of 1984.".

Section 9 of the Kennedy Center Act (20 U.S.C. 76o) is amended—

(1) by inserting "(a)" immediately after "SEC. 9.", and by striking out the third, fourth, and seventh sentences thereof; and

(2) by adding at the end thereof the following new subsections:

"(b) Effective as of the date of enactment of this subsection the obligations of the Board incurred under subsection (a) of this section shall bear no interest, and the requirement of the Board to pay the unpaid interest which has accrued on such obligations is terminated.

"(c) There is hereby established in the Treasury of the United States a sinking fund, the Kennedy Center Revenue Bond Sinking Fund (hereinafter referred to as the "Fund"), which shall be used to retire the obligations of the Board incurred under subsection (a) of this section upon the respective maturities of such obligations. The Board shall pay into the Fund, beginning on January 1, 1987 and ending on January 1, 2016, the annual sum of $200,000 in amortization of the principal amount of the obligations. Such sums shall be invested by the Secretary of the Treasury in public debt securities with maturities suitable for the needs of the Fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities. The interest on such investments shall be credited to and form a part of the Fund. Moneys in the Fund shall be used exclusively to retire the obligations of the Board incurred under subsection (a) of this section. Adjustments of not greater than plus or minus 5 per centum may be made from time to time in the annual payments to the Fund in order to correct any gains or deficiencies as a result of fluctuations in interest rates over the life of the investments: *Provided, however,* That a final adjustment shall be made between the Board and the Secretary of the Treasury at the end of the amortization period to correct any overall gain or deficiency in the Fund. The terms of this adjustment shall be covered by a memorandum of understanding between the Board and the Secretary of the Treasury to be consummated on or before the time the initial payment into the Fund is made.".

METZENBAUM AMENDMENT NO. 6960

Mr. METZENBAUM proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of section 101(c) of this joint resolution insert the following before the period: *"Provided further,* That notwithstanding any other provision of this joint resolution, H.R. 5973 as reported by the Senate Committee on Appropriations is amended by adding the following new section: "$5,000,000 is provided for land acquisition in the Cuquahoga Valley National Recreation Area.".

HOLLINGS AMENDMENT NO. 6961

Mr. HOLLINGS proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the appropriate place in the joint resolution insert:

"SEC. . Notwithstanding any other provision of this joint resolution, there is appropriated to the National Library of Medicine, an additional $7,400,000 for carrying out section 301 with respect to health information communications and Parts I and J of Title III of the Public Health Service Act.".

DeCONCINI (AND OTHERS) AMENDMENT NO. 6962

Mr. DeCONCINI (for himself, Mr. LEVIN, Mr. MOYNIHAN, Mrs. HAWKINS, Mr. SPECTER, Mr. DODD, Mr. METZENBAUM, and Mr. KENNEDY) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of the amendment add the following new sections:

SEC. . (a)(1) Notwithstanding any provision of title XX of the Social Security Act, the amount applicable under section 2003 (c)(3) of such Act shall be $2,725,000,000 for fiscal year 1985. Of such amount, $25,000,000 shall be allotted and used in accordance with this section.

(2) In addition to any other amounts appropriated under this resolution or any Act, there are hereby appropriated $35,000,000 for fiscal year 1985, for carrying out title XX of the Social Security Act, to be used in accordance with the provisions of this section.

(3) Amounts appropriated under this section shall remain available until September 30, 1985, without regard to section 102 of this resolution.

(4) Except as otherwise provided in this section, each State's allotment of the additional amounts authorized and appropriated under this section shall be the same proportion of $25,000,000 as such State's proportioned allotment of other title XX funds for fiscal year 1985, as determined under section 2003 of the Social Security Act.

(b) The additional $25,000,000 made available to the States for fiscal year 1985 pursuant to subsection (a) shall—

(1) be used only for the purpose of providing training and retraining (including training in the prevention of child abuse in child care settings) to providers of licensed or registered child care services, operators and staffs (including those receiving in-service training) of facilities where licensed or registered child care services are provided, State licensing and enforcement officials, and parents;

(2) be expended only to supplement the level of any funds that would, in the absence of the additional funds appropriated under this section, be available from other sources (including any amounts available under title XX of the Social Security Act without regard to this section) for the purpose specified in paragraph (1), and shall in no case supplant such funds from other sources or reduce the level thereof; and

(3) be separately accounted for in the reports and audits provided for in section 2006 of the Social Security Act.

(c)(1) In order to provide guidance and assistance to the States in utilizing funds allocated pursuant to title XX of the Social Security Act, not later than 3 months after the date of enactment of this section, the Secretary shall draft and distribute to the States for their consideration, a Model Child Care Standards Act containing—

(A) minimum licensing or registration standards for day care centers, group homes, and family day care homes regarding matters including—

(i) the training, development, supervision and evaluation of staff;

(ii) staff qualification requirements, by job classification;

(iii) staff-child ratios;

(iv) probation periods for new staff;

(v) employment history checks for staff; and

(iv) parent visitation; and

(2)(A) Any State receiving an allotment under such title from the funds made available as a result of subsection (a) shall have in effect, not later than September 30, 1985—

(i) procedures, established by State law or regulation, to provide for employment history and background checks; and

(ii) provisions of State law, enacted in accordance with the provisions of Public Law 92-544 (86 Stat. 115) requiring nationwide criminal record checks.

for all operators, staff or employees, or prospective operators, staff or employees of child care facilities (including any facility or program having primary custody of children for 20 hours or more per week), juvenile detention, correction or treatment facilities, with the objective of protecting the children

involved and promoting such children's safety and welfare while receiving service through such facilities or programs.

(B) In the case of any State not meeting the requirements of subparagraph (A) by September 30, 1985, such State's allotment for fiscal year 1986 or 1987 shall be reduced in the aggregate by an amount equal to one half of the amount by which such State's allotment under such title was increased for fiscal year 1985 as a result of subsection (a).

(d) The determination and promulgation required by section 2003(b) of the Social Security Act with respect to the fiscal year 1985 (to take into account the preceding provisions of this section) shall be made as soon as possible after the date of the enactment of this Act.

SEC. . (a) The Congress finds that—

(1) disturbing increases have occurred in recent years in the numbers of younger Americans who are abused;

(2) many children who run away from home, who fall prey to pornography and prostitution, who suffer from a dependency on alcohol and drugs, and who become juvenile offenders, have been victims of child abuse;

(3) research has shown that abuse tends to repeat itself, and many times parents who abuse their children were once victims themselves;

(4) given the increased demand for treatment and crisis intervention in child abuse and neglect cases, Federal funds distributed to States are most often used for treatment and little is left for prevention efforts;

(5) since 1980 some States have begun to recognize the critical need for prevention efforts, and trust funds (generated by surcharges on marriage licenses, birth certificates or divorce actions, or by special checkoffs on income tax returns) are being established to allow such States to pay for child abuse and neglect prevention activities despite depressed State economies and budget cutbacks;

(6) in recognition of the increased cases of child abuse and neglect, other States have established significant funds for child abuse and neglect prevention activities through direct appropriations; and

(7) the Nation cannot afford to ignore the importance of preventing child abuse.

(b) It is the purpose of sections 2-9, by providing for Federal challenge grants, to encourage States to establish and maintain trust funds or other funding mechanisms, including appropriations to support child abuse and neglect prevention activities.

DEFINITIONS

SEC. . As used in sections 2-9:

(1) the term "Secretary" means the Secretary of Health and Human Services; and

(2) the term "State" means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

GRANTS AUTHORIZED

SEC. . (a) The Secretary is authorized, in accordance with the provisions of sections 2-9 to make grants to eligible States.

(b) Payments under sections 2-9 may be made in any fiscal year following the fiscal year in which any State has collected funds for child abuse and neglect prevention activities through a trust fund or other funding mechanism.

(c) There is authorized to be appropriated such sums as are necessary to carry out the provisions of sections 2-9 for the fiscal year 1985 and for each of the four succeeding fiscal years.

STATE ELIGIBILITY

SEC. . Any State is eligible for a grant under sections 2-9 for any fiscal year if such State has established or maintained in the previous fiscal year a trust fund or other funding mechanism, including appropriations, which is available only for child abuse and neglect prevention activities, including activities which—

(1) provide statewide educational and public informational seminars for the purpose of developing appropriate public awareness regarding the problems of child abuse and neglect;

(2) encourage professional persons and groups to recognize and deal with problems of child abuse and neglect;

(3) make information about the problems of child abuse and neglect available to the public and organizations and agencies which deal with problems of child abuse and neglect; and

(4) encourage the development of community prevention programs, including—

(A) community-based educational programs on parenting, prenatal care, perinatal bonding, child development, basic child care, care of children with special needs, coping with family stress, personal safety and sexual abuse prevention training for children, and self-care training for latchkey children; and

(B) community-based programs relating to crisis care, aid to parents, child-abuse counseling, peer support groups for abusive or potentially abusive parents and their children, lay health visitors, respite of crisis child care, and early identification of families where the potential for child abuse and neglect exists.

LIMITATIONS

SEC. . (a)(1) Any grant made to any eligible State under sections 2-9 in any fiscal year shall be equal to the lesser of:

(A) 25 percent of the total amount made available by such State for child abuse and neglect prevention activities and collected in the previous fiscal year in a trust fund (excluding any interest income from the principal of such fund) or through any other funding mechanism, including appropriations; or

(B) an amount equal to 52 cents times the number of children residing in such State according to the most current data available to the Secretary.

(2) For purposes of clause (B) of paragraph (1), the term "children" means individuals who have not attained the age of maturity, as defined by such State.

(b)(1) No grant may be made to any eligible State unless an application is made to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary deems essential to carry out the purposes and provisions of sections 2-9. Each application shall—

(A) specify that the trust fund advisory board, or in States without a trust fund mechanism, the State liaison agency to the National Center on Child Abuse and Neglect, established by section 2 of the Child Abuse Prevention and Treatment Act, will be responsible for administering and awarding of the Federal grants to eligible recipients carrying out activities described in section 5;

(B) provide assurances that any assistance received under sections 2-9 shall not be used as a source for non-Federal funds for the matching requirements of any other provision of Federal law; and

(C) provide for keeping records and making such reasonable reports as the Secretary deems essential to carry out the purposes and provisions of sections 2-9.

(2) The Secretary shall approve any application that meets the requirements of the subsection, and the Secretary shall not disapprove any such application except after reasonable notice of the Secretary's intention to disapprove and opportunity for a hearing with respect to the disapproval.

WITHHOLDING

SEC. . Whenever the Secretary, after reasonable notice to any State and opportunity for hearing within the State, finds that there has been a failure to comply with any provision of sections 2-9, the Secretary shall notify the State that futher payments will not be made under sections 2-9 until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made under sections 2-9.

AUDIT

SEC. . The Comptroller General of the United States, and any of his duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any applicant and any other entity receiving assistance under sections 2-9 that are pertinent to the sums received and disbursed under sections 2-9.

REPORT

SEC. . The Secretary shall prepare and submit to the Congress at the end of each year a compilation and analysis of any reports submitted by eligible States under section 6(b)(1)(C).

HATFIELD (AND OTHERS) AMENDMENT NO. 6963

Mr. HATFIELD (for himself, Mr. RANDOLPH, and Mr. MATSUNAGA) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

Notwithstanding any other provision of this joint resolution, there is appropriated an amount of $4 million for the United States Institute of Peace as authorized in the United States Institute of Peace Act.

DODD (AND WEICKER) AMENDMENT NO. 6964

Mr. DODD (for himself and Mr. WEICKER) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of the resolution add the following new section:

SEC. . Notwithstanding section 1814(i) of the Social Security Act and section 102 of this joint resolution, in the case of a hospice which—

(1) commenced operations prior to January 1, 1975;

(2) participated in a hospice demonstration project during fiscal year 1984; and

(3) is not certified as a hospice provider under title XVIII of the Social Security Act prior to September 24, 1984,

payment under such title for hospice care provided by such hospice on and after October 1, 1984, and prior to October 1, 1986, shall be made on the same basis as payment was made to such hospice under such demonstration project.

WILSON AMENDMENT NO. 6965

Mr. WILSON proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the appropriate place in this joint resolution, insert the following:

SEC. 119. (a) Section 412(e) of the Immigration and Nationality Act (8 U.S.C. 1522(e)) is amended by adding at the end thereof the following new paragraph:

"(7)(A) The Secretary shall develop and implement alternative projects for refugees who have been in the United States less than thirty-six months, under which refugees are provided interim support, medical services, support services, and case management, as needed, in a manner that encourages self-sufficiency, reduces welfare dependency, and fosters greater coordination among the resettlement agencies and service providers.

"(B) Refugees covered under such alternative projects shall be precluded from receiving cash or medical assistance under any other paragraph of this subsection or under title XIX or part A of title IV of the Social Security Act.

"(C) The Secretary, in consultation with the United States Coordinator for Refugee Affairs, shall report to Congress not later than October 31, 1985, on the results of these projects and on any recommendations respecting changes in the refugee assistance program under this section to take into account such results.

"(D) To the extent that the use of such funds is consistent with the purposes of such provisions, funds appropriated under paragraph (1) or (2) of section 414(a) of this Act, part A of title IV of the Social Security Act, or title XIX of such Act, may be used for the purpose of implementing and evaluating alternative projects under this paragraph.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1984.

CHILES (AND OTHERS) AMENDMENT NO. 6966

Mr. CHILES (for himself, Mr. KENNEDY, Mr. STENNIS, and Mr. PELL) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

In the appropriate place, insert the following: Notwithstanding any other provision of law, $500,000 shall be made available for the National Summit Conference on Education Act of 1984, as authorized by the conference report on H.R. 4164.

DODD (AND OTHERS) AMENDMENT NO. 6967

Mr. DODD (for himself, Mr. KENNEDY, and Mr. RIEGLE) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the appropriate place in this Joint Resolution, add the following new language: Notwithstanding any other provision of this Joint Resolution, and in addition to amounts appropriated elsewhere, there are appropriated $9,000,000 for FY 1985 for the Alcohol, Drug Abuse, and Mental Health Administration.

WILSON (AND CRANSTON) AMENDMENT NO. 6968

Mr. MATTINGLY (for Mr. WILSON, for himself and Mr. CRANSTON) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of committee amendment No. 6 insert: *"Provided further,* That from within the total amount made available by this joint resolution for family housing construction, Army, an amount not to exceed $1,081,000 is provided for the construction of 70 trailer pads at Ford Ord, California.".

MATTINGLY AMENDMENT NO. 6969

Mr. MATTINGLY proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of the committee amendment, insert the following new section:

"SEC. . Notwithstanding any other provision of this joint resolution, funds appropriated by this joint resolution for the United States share of the North Atlantic Treaty Organization infrastructure program may be obligated or expended only to the extent that one dollar (or its equivalent) has been recouped by the United States for North Atlantic Treaty Organization eligible projects prefinanced with United States funds for every four dollars (or their equivalent) obligated or expended from funds made available under this joint resolution for such purpose.".

BUMPERS (AND PRYOR) AMENDMENT NO. 6970

Mr. BUMPERS (for himself and Mr. PRYOR) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of the 7th Committee amendment, add the following new subsection:

"( ) Notwithstanding any other provision of law, lands in the vicinity of Bull Shoals Lake in Arkansas administered by the Army Corps of Engineers which have been declared excess to the Department of the Army needs shall remain under the administration of the Corps of Engineers and shall not be disposed of by the General Services Administration or the Bureau of Land Management.".

MELCHER AMENDMENT NO. 6971

Mr. MELCHER proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of the Committee amendment (Sec. 101(f)), add the following:

"Of the funds appropriated to the Department of the Interior for water resources investigations, the Secretary of the Interior is authorized and directed, using such sums as may be necessary, to conduct a study of potential developments for the conservation and utilization of water and related land resources in the Little Bighorn River Basin in Montana, including such investigations as may be proper and necessary for the purposes of determining the feasibility of storing, regulating, and furnishing water for irrigation, municipal and industrial use, conserving and developing fish and wildlife resources, and providing outdoor recreation opportunity."

FORD (AND HUDDLESTON) AMENDMENT NO. 6972

Mr. FORD (for himself and Mr. HUDDLESTON) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

In the appropriate place in the bill, add the following new section:

Section 207 of an Act to provide for establishment of Falls of the Ohio National Wildlife Conservation Area (Public Law 97-137) is hereby amended by striking $300,000 after the word "exceed" and inserting in lieu thereof $1,040,000.

NICKLES (AND OTHERS) AMENDMENT NO. 6973

Mr. NICKLES (for himself, Mr. ZORINSKY, Mr. EXON, Mr. DECONCINI, and Mr. BOREN) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the appropriate place insert the following: "Within available fiscal year 1985 appropriated funds, up to $250,000, the Secretary of the Interior shall undertake Phase I of the High Plains States Groundwater Demonstration Program.".

CRANSTON AMENDMENT NO. 6974

Mr. JOHNSTON (for Mr. CRANSTON) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

The end of the committee amendment, insert as follows:

"The Secretary of the Army, acting through the Chief of Engineers, is directed to utilize $6,000,000 of funds previously appropriated for the New Melones Reservoir, California, for the development of recreation facilities as authorized by Public Law 87-874.".

COHEN AMENDMENT NO. 6975

Mr. COHEN proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . The Dickey-Lincoln School project, Saint John River, ME, as authorized by section 204 of the Flood Control Act of 1965, is hereby deauthorized.

KASTEN (AND HATFIELD) AMENDMENT NO. 6976

Mr. KASTEN (for himself and Mr. HATFIELD) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

On page 9, line 10, between the word "Tunisia" and the period, insert the following:

": *Provided further,* That in addition to amounts appropriated by this joint resolution for 'Agriculture, rural development and nutrition, Development Assistance' and 'Health, Development Assistance' there is hereby appropriated $75,000,000 for such headings, except that the funds provided by this proviso shall be available only for the delivery of primary and related health care services, nutrition, and basic health care education (primarily oral rehydration and

immunization programs) with such assistance to be provided through private and voluntary organizations and international organizations wherever appropriate, except that no more than one-third of the amount allocated to carry out this proviso may be used in any one country".

MELCHER (AND OTHERS) AMENDMENT NO. 6977

Mr. MELCHER (for himself, Mr. BAUCUS, Mr. BURDICK, Mr. BENTSEN, Mr. INOUYE, Mr. MATSUNAGA, Mr. HUMPHREY, and Mr. HOLLINGS) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of the Committee amendment (Sec. 101(g)), add the following:

Notwithstanding any other provision of this section, S. 2793, as reported, is considered to include the following:

"(1) not less than 5 percent of the amount appropriated for the Economic Support Fund shall be available only for the delivery of primary health care services and basic health education (primarily oral rehydration and immunization programs), training for health care workers, and medical supplies and equipment for primary health care, with such assistance to be provided through private and voluntary organizations and international organizations wherever appropriate, (2) not more than one-third of the amount allocated to carry out this proviso may be used in any one country, and (3) funds allocated to carry out this proviso shall remain available for obligation until September 30, 1986.".

ADDITIONAL STATEMENTS

THE YPSILANTI STUDIES AND NEED TO REAUTHORIZE HEAD START

● Mr. MOYNIHAN. Mr. President, some 17 years ago, in an essay entitled "The Education of the Urban Poor," I offered an observation about the forces that educate black, urban, poor Americans. At that time, I wrote:

I believe that these and other questions being raised in other fields are all heading us in the same direction: toward concern with the fundamental issues of social class and family welfare, and in particular to a realization that education is the product of the total environment of the child, of which the school as such is only one, and probably not the most powerful, of multiple factors.

Many of the programs Congress created, seemed, at least to me, to reflect similar concerns. In 1965, Congress enacted title I of the Elementary and Secondary Education Act, to provide remedial and compensatory instruction in reading and mathematics for educationally disadvantaged children in low-income areas. Later, Congress enacted the National School Breakfast and School Lunch Programs, on the premise that only a healthy and well-nourished child can benefit fully from school. Among the most innovative of the education programs of the 1960's was Project Head Start. Project Head Start was designed to help poor preschoolers, based on a view of the constituents of their physical, social and intellectual development and the needs and well-being of their families. This program, one that does recognize that a child's education is a product of his or her total environment, emphasizes direct involvement by parents, strong community support, and a deep commitment to helping families meet their needs by directing them, if need be, to other community services.

The results of this approach have been outstanding. Head Start children score better on standardized tests; they achieve more in school and are less likely to fail a grade, drop out, or require special education classes; and they are more likely to receive adequate medical care and grow to normal heights and weights, with fewer absenses due to illness and better performances on physical tests. Indeed, the program benefits most those children most in need.

Just 3 weeks ago, the lasting value of preschool education was documented again, through a landmark research project entitled "Changed Lives" in Ypsilanti, MI. This study, financed by the Carnegie Corp. of New York, followed the progress of children in a high quality preschool education program at Perry Elementary School. The results affirmed the view, the hope, that children who participate in a high quality preschool education program have less trouble with the law, and are less likely to find themselves teenage parents. The test group was found more likely to graduate from high school, and more likely to gain employment.

I bring this extraordinary study to the Senate's attention to urge passage of S. 2565, legislation to reauthorize Project Head Start, in the few days that remain before the Congress adjourns. Should we fail to so act, the effects could be felt long after the preschool children enter school.

I would ask the Senate's indulgence for a moment more, for another brief passage from that essay of 17 years ago:

At the outset of this decade we began to make promises such as have never been made, and to raise expectations to a level that might never have been envisioned. Part—just part—of the reason we did this was that we genuinely believed it to be in our power to do fairly directly what it is we said needed to be done. Now, however, we begin to see that it will not be that easy. We cannot buy our way out of that commitment. But—and this is the point—neither can we go back on the commitment.

The point is still the same: We must recognize and affirm our full commitment to the education of American children.

It is my sincere hope the Senate will affirm this commitment, and act to reauthorize Project Head Start. Though we have but a few days before we adjourn, we must not let this opportunity to act pass us by.

I ask that the following articles, reporting the results of the High/Scope study, be placed in the RECORD.

The articles follows:

[From the New York Times, Sept. 11, 1984]

BLACKS FOUND TO BENEFIT FROM PRESCHOOLING

(By Fred M. Hechinger)

Black children who 16 years ago at the age of 3 benefited from preschool education have grown up with markedly greater success in school and in their personal lives than a comparable group without early childhood education, according to a landmark research project in Michigan.

Compared with another group of children in the study who did not receive the early education, more of the preschool children, who are now 19 years old, graduated from high school and are employed. Fewer have been in trouble with the law or had teenage pregnancies. Reduction in the cost of delinquency and crime are estimated to have more than offset the high initial expense of good early childhood education.

The research project was begun early in the 1960's by the High/Scope Educational Research Foundation in Ypsilanti, Mich., at Perry Elementary School. It was financed by the Carnegie Corporation of New York and other foundations. The children's progress was followed and recorded, first at the age of 8 and then again at 15. The results of the latest in-depth review, at age 19, will be published next Friday by The High/Scope Press under the title "Changed Lives." The project will then follow the group through the age of 26.

Previous studies of the Headstart program that showed some educational gains for children who had been in early programs. But the research at Perry differs significantly in that it involved children one year younger than those in Headstart and it followed them all the way to young adulthood.

Extraordinary aspects of the study are that by age 19 the shift from school to "real-world" indicators has already taken place and that, for the first time, the cost-benefit analysis could be based on actual data from complete school records, police reports and state records of welfare payments. Employment histories were verified, and the retesting of the participants' functional competence focused on information and skills in the real world rather than on school achievement or intelligence tests.

Many experts consider this long-term, experimentally rigorous study compelling evidence that early, high-quality educational intervention is indispensable in efforts to break the cycle of poverty. The study has been widely admired as each of its earlier findings has emerged.

David P. Weikart, High/Scope's president, calls it "an accident of history" that a small, Middle Western project now offers "the right data at the right time, 20 years after its inception" to point to new social policies.

In a telephone interview, he said the findings amount to fulfillment of a wish, "proof that an early educational experience will alter the life of the child."

It makes the issue of early childhood education "more than an in-again, out-again game but a major concern," he added. "It offers hope for the prevention of social problems which are difficult to deal with through remediation."

The study's most far-reaching lesson, Dr. Weikart said, is that the impact of early childhood education can make itself felt in adult behavior and success. Three years of age is an opportune time to begin, the report indicates, because the young child has already matured enough physically to be able to move about easily and mentally to use basic language effectively. Socially, the child is able to deal with other children and new adults and to enjoy the experience.

In brief, the project focused on 123 black children from poor families. Children with I.Q.'s from 60 to 90 were selected and then randomly divided into an experimental group, which was offered high-quality preschool education at the age of 3, and a control group without that advantage. Fewer than one in five of the parents had completed high school Forty-seven percent of the children lived in single-parent homes.

Now, at age 19, their record shows that the rates of employment and participation in college or vocational training after high school for the preschool group were nearly double those of youths without preschool education; teen-age pregnancies in the group were slightly more than half those among the non-preschool girls; preschool graduates were involved in 20 percent fewer arrests and detentions; nearly 20 percent fewer had dropped out of high school. The benefits to society as a result of the reduced crime rate are estimated at about $3,100 per preschool child.

Economists who studied the Perry graduates' records estimate that, over their lifetimes, the economic benefits to them and to society may be more than seven times the cost of one year's operation of the program.

The crucial aspect of preschool education, the study stresses, is that it makes it easier for children to function in school. "This better performance is visible to everyone, the child, the teacher, the parents, and other children," the report says. As a result, children develop confidence in themselves. Teachers react with higher expectations. Early schoolastic achievement becomes the foundation for success in school and community, whereas scholastic failure paves the way for all-round failure and delinquency, the report says.

Sixty-seven percent of the preschool group had graduated from high school at the age of 19, in contrast to 49 percent of the control group. For those who went on to some form of academic or vocational study after graduation, the difference was 38 and 21 percent.

One study participant, who is now enrolled in college, had said when she was still in high school: "I don't want to be like those kids who dropped out. I want to get out of the slums so I can raise my own kids right."

Preschool education, as provided at Perry, is not cheap. The cost 16 years ago, adjusted for inflation at 1981 levels, was $4,818 per child annually. The high cost is not surprising, the report says, "since it was a program of high quality for children whose educational prognosis was poor." There was one teacher for approximately every six children. The researchers believe costs could be brought down by a moderate increase in the number of children per teacher. But the study found significant subsequent savings: average costs (in 1981 dollars) of educating students through elementary and high school are estimated at $41,895 for the non-preschool group, as against $34,813 for those with preschool experience. Why? Because preschool graduates required less remedial education.

The effect on employment is even more startling. At the age of 19, 50 percent of the preschool group were working, in contrast to 32 percent of the others.

Dr. Weikart stresses that preschool education is no miracle cure for all ills that plague children of poverty. Even among those who benefited from high-quality preschool education, the negative outcomes, though greatly reduced, remain unacceptably high: too many dropouts, too much lawlessness, too much unemployment, too many teen-age pregnancies. It would be irresponsible to hail preschool education as a substitute for other social and economic reforms, he said.

Still, "Changed Lives" shows that early childhood education is an effective weapon in the battle against social ills caused by poverty. "The risk of educational failure," the report says, "falls heavily on children who live in poverty." Of 20.3 million children 5 years old and under, 22 percent, or 4.5 million, live in poverty. The poor are not fairly served: 81 percent of 3-year-olds and 61 percent of 4-year-olds from families with incomes below $10,000 were not enrolled in early childhood education in 1980. Since then, the number of families in poverty has grown.

Now that early childhood education has been shown to be part of the solution of acute social problems, Dr. Weikart calls for "prompt action" to use the findings to give young children "a firmer foundation on which to mature and prosper, an edge in opportunity and performance."

"Changed Lives" may be obtained for $15 through High/Scope Press, 600 North River Street, Ypsilanti, Mich., 48197, or through local book sellers.

[From Education Week, Sept. 19, 1984]

MAJOR STUDY FINDS PRESCHOOL "PAYS OFF" FOR THE DISADVANTAGED

(By Anne Bridgman)

Disadvantaged children who participate in high-quality preschool programs significantly outperform those who have not participated in such programs, according to the final results of the first major longitudinal study to measure the effects of preschool education on the lives of students.

"On a wide range of measures of school and life success, the study shows that by age 19, the latest age for which complete evidence is available, young people who had attended a quality preschool program on average significantly outperformed youngsters who had not," according to a report on the study released last week.

"Preschool pays off for its participants and society because it reduces costs for special education, welfare, and the criminal-justice system," added the report, which is titled "Changed Lives: The Effects of the Perry Preschool Program on Youths Through Age 19."

David P. Weikart, president of the High/Scope Educational Research Foundation of Ypsilanti, Mich., which conducted the 22-year-long Perry Preschool Project, said the results strongly support the expansion of preschool programs.

"The evidence is so clear and conclusive and the economic [benefits] are so clear-cut," he continued. "The real audience [for the study] is not the federal government, but the state. The economic savings are at the state level and the real expansion is going to be at the state level."

ANALYZED 123 STUDENTS

The $3.5-million study, which began in 1962, followed the lives of 123 black youths from families of low socioeconomic status. Half of the families in the study received welfare assistance, 47 percent were single-parent families, and fewer than one-quarter of the mothers and 11 percent of the fathers had graduated from high school.

Children in the study were randomly assigned either to a control group that did not attend preschool or to an experimental group that attended a high-quality preschool program for two-and-a-half hours five mornings a week, either for one year at age 4 or for two years beginning at age 3.

The preschool program emphasized active learning, problem-solving, and a high level of interaction between adults and children and among children. In addition, according to the report, teachers visited each mother and child at home for 90 minutes a week.

The study was supported, in part, by grants from the U.S. Department of Health and Human Services and the U.S. Department of Education. Additional funds were provided by the Carnegie Corporation of New York, the Spencer Foundation, the Levi-Strauss Foundation, and the Rosenberg Foundation of San Francisco. Additional support came from the state of Michigan and the Ypsilanti Public Schools.

CHILDREN MORE SUCCESSFUL

The study, the first of its kind to suggest the economic impact of preschool programs on the larger community, found that those children who participated in the preschool program were more successful in high school, more likely to attend college and job-training classes, and more likely to be employed and self-supporting than the children who did not attend the preschool program.

The study also found that the preschool children subsequently had lower rates of juvenile crime, welfare dependence, and teenage pregnancy, according to the report. A second phase of the study is scheduled to measure the effects of preschool on the younger adults as they enter their mid-20's.

"A cost-benefit analysis of the program and its results indicated that investment in the preschool program was a good investment for society," the report maintains. "The return on the initial investment was equal to three-and-a-half times the cost of two years of preschool and seven times the cost of one year of preschool." These findings were calculated based on the an analysis of the costs of the program and its effect on students' earning abilities and the degree to which they used social services.

The report concluded: "the economic benefits obtained by the end of high school were sufficient to justify public investment in one year of preschool education for disadvantaged children."

Preschool programs make a "significant" difference in the lives of disadvantaged students, according to the report, because of a "chain of cause and effect." Because the preschool program improved students' intellectual and social competence as they started school, the report maintains, the students began 1st grade at an advantage and required less special education and remedial education later in their school careers.

In addition, because the students demonstrated higher scholastic achievement, they were more likely to graduate from high school, less likely to engage in crime, and more likely to be employed in early adulthood, the report found.

According to Mr. Weikart, the research findings should "add to the growing public interest in early-childhood education as a good way to invest in the futures of children."

"Taxpayers already spend a great deal of money trying to remedy these problems after they occur," Mr. Weikart said. "Preschool can partially prevent these problems from occurring, at a fraction of the cost of remediation."

POSITIVE RESULTS

Dodie Truman Livingston, commissioner of the Administration for Children, Youth, and Families of the U.S. Department of Health and Human Services, said the Perry Preschool study reinforces the agency's support for preschool programs.

"I think the report demonstrates the value of preschool education to all children, especially those who are economically disadvantaged," Ms. Livingston said. "It also demonstrates that if administered properly, a well-structured and well-designed curriculum is economically advantageous and can yield such positive results for the future development of children as a low dropout rate in school and less likelihood of erroenous placement."

"We are already committed to the Head Start program," she continued, "and we already recognize the dollar values of the program to children and their families. This just strengthens our [support]."

REPLICATION OF STUDY

But Edward F. Zigler, director of the Bush Center in Early Childhood Development and Social Policy at Yale University, cautioned against using the study's findings to formulate policy changes.

"I think that you're talking about potentially changing social policy and [making] massive changes in how we educate children," he said. "You do not do that until you have a very solid base . . . One would like to see a replication before one starts cheering."

Mr. Zigler praised the Perry Preschool study as a first step toward changing policy, but said he was concerned that it may be accepted unconditionally. "People are going to be looking at this book very, very closely. It will be 'must' reading for those who have championed [and those who have] questioned the long-term effects of preschool education."

Mr. Weikart acknowledged that the project is "a highly specialized type of study" but he added that "in terms of logical relations with other work in the field, it stands pretty much shoulder to shoulder with it." He cited confirming data developed within the Ypsilanti study, a group of seven similar studies conducted by other researchers, and Head Start, which "in the broad sense has replicated this finding by finding a gradual improvement across the board in many general programs."

STUDY'S FINDINGS

Specific findings of the Ypsilanti research group, which released preliminary data from the study last year included these:

Sixty-seven percent of the young people in the preschool group graduated from high school, while only 49 of the non-preschool group did; 38 percent of the preschool group enrolled in postsecondary education, compared with only 21 percent of the non-preschool group.

At age 19, 50 percent of the students in the preschool group were employed, compared with 32 percent of the students in the non-preschool group.

Sixty-one percent of the preschool group received average or above average scores on tests of functional competence, compared with 38 percent of the non-preschool group.

The rate of detentions and arrests for students in the preschool group was 31 percent, compared with 51 percent for the non-preschool group.

The rate of teen-age pregnancies for women in the preschool group was 64 per 100 women, while the rate for women in the non-preschool group was 117 per 100 women.

Nineteen percent of the preschool group reported they were currently receiving welfare assistance, compared with 32 percent of the non-preschool group.

Copies of the report are available for $15 from High/Scope Press, 600 North River St., Ypsilanti, MI 48197.

[From the New York Times, Sept. 13, 1984]

CAN IT BE? A PATH OUT OF POVERTY?

There's startling news from a long, rigorous research project in Michigan. Yes, after all the years of experiment and disappointment American society does know one sure way to lead poor children out of a life of poverty.

It has different names—Project Headstart, developmental day care, nursery school—but the idea is the same: high-quality preschool education. And it works.

Why do poverty's children do so badly in school and life? People have long treated that as a mystery. There have been positive results, like those of Project Headstart, the mass preschool program of Lyndon Johnson's Great Society. But even then, people seemed determined to flyspeck the findings and hide behind the mystery of failed research.

Now, it will be harder to hide. For 20 years, a landmark study had followed the lives of 123 black children from the depth of deprivation, many from single-parent homes. Half of them were given high-quality preschool education beginning at age 3. The others followed the traditional path of schooling. Now, the participants are almost 20 years old and the contrasts are remarkable.

The report on the privately funded study is entitled "Changed Lives" and rightly so. Nearly twice as many in the preschool group have gone to work or gone on to college or post-high school vocational training. Some 20 percent fewer had dropped out of school or had brushes with the law. The High/Scope Educational Research Foundation in Ypsilanti, Mich., which conducted the study, estimates that because of the reductions in crime, society has saved about $3,100 on each person in the preschool group.

And that's just the most easily quantifiable saving, trivial compared with the long-term gains. For example, the preschool group required far less remediation in elementary and high school, and as a result gained the self-confidence essential to success in school and life.

Too much can be read into the "Changed Lives" results. The graveyard of American education experiments is filled with cut-rate imitations of successful pilot projects. The Michigan experiment worked because the preschool education it provided was of high quality.

Nor can the results be taken as a cure-all for poverty and deprivation. Early childhood education has improved the youngsters' prospects considerably—but not enough. It has only reduced the negative effects of a miserable environment. Not even the highest quality preschool education can substitute for reforms that reach beyond education.

But so what if this is not The Perfect Answer? For many youngsters, an early, caring start means an opportunity to escape from the cycle of poverty. It means defeatists are wrong when they lament that nothing works and that "research shows" compensatory education has failed. A 20-year study in the laboratory of life now shows there is good to be done. If society is willing to do it.

SALUTE TO JOE SURECK

● Mr. HUDDLESTON. Mr. President, Joe Sureck would stand out in any Federal agency. However, in the troubled and disordered Immigration and Naturalization Service, which he served for 44 years before retiring this past summer, his intellect, dedication, and courage has set him a world apart. His retirement is a great regret and a profound loss to the Federal Government and to the American people who he serve so well.

A native of Oklahoma, Joe Sureck attended the University of Oklahoma, where he earned first a B.A. degree and then a law degree. He was admitted to the Oklahoma bar in 1937.

His INS career, which began in 1940 when he became a border patrol agent in Texas, was interrupted by 4 years of distinguished service in the U.S. Army Air Corps during World War II. He was honorably discharged with the rank of lieutenant colonel.

Among the many significant positions that he held after he rejoined the INS in November 1946 were: Staff attorney, Office of Genral Counsel in Washington, DC; District Director at Honolulu, HI; Regional Counsel at the Western Regional Office, San Pedro, CA; and District Director for the Far East, headquartered at Hong Kong.

As District Director at Los Angeles from 1974 to 1978, he headed the largest and busiest immigration district in the Nation. In this capacity, he devised and carried out a program to foreclose employment opportunities to aliens in southern California who were illegally in the United States. He accomplished his objectives with measurable success by seeking out and obtaining the voluntary cooperation of numerous public-spirited employers (both large and small) in a coordinated effort with city, county, and State agencies. This was a model program—answering one of the Nation's most urgent problems which should have excited the interest and enthusiasm of the INS headquarters. Unfortuately, it was passed over.

It was during his 6 years in Hong Kong, his last career post, that Joe Sureck was given the opportunity to forcefully display his true mettle and his deep devotion to the interests of the United States. The INS District

Director for the Far East has jurisdiction over a vast geographical area, involving a large number of immigration functions. However, overshadowing everything else, is the U.S. refugee program which is now mainly centered in Thailand. Since this program skyrocketed in 1975, following the fall of Saigon, over 700,000 refugees from Southeast Asia have been allowed to enter the United States for permanent settlement. Once here, the U.S. Government has provided them with financial and other forms of assistance, running into the billions of dollars.

Notwithstanding our Nation's humanitarian response and unparalleled generosity toward the plight of the refugees in Southeast Asia, there are those who are never satisfied. They are the ones who have mounted a campaign to maintain the refugee flow to the United States at high numerical levels regardless of whether the eligibility standards written into the Refugee Act of 1980 are met. Those standards do not include so-called economic refugees—individuals who may have suffered from poverty or harsh living conditions but who have not suffered persecution as defined in the statute. However, the refugee industry has been determined to classify as many people as possible as persecuted refugees even though many only qualify as economic refugees with status no greater than other prospective immigrants under the law.

Joe Sureck has stood fast against the powerful refugee industry lobby operating from the private sector, against the do-gooders in the State Department, and even against some in the Department of Justice and INS who have sought to interpret the law to fit their own conceits and predilections. For seeking to carry out the intent of Congress—to execute the Refugee Act fairly and honestly—he has been repeatedly attacked and frequently shunted aside. Yet, by sheer force of his determination and ability, he has won some battles. In so doing, he has saved the American taxpayer many millions of dollars which otherwise would have been expended on persons who were ineligible to come here as refugees. Futhermore, he has helped preserve the refugee program for those who are truly persecuted rather than turning it into a backdoor immigration program that will eventually lose its credibility and support.

The Federal Government needs more civil servants of the caliber of Joe Sureck. He deserves our heartfelt thanks. Whether he chooses retirement or another career, we wish him a long and happy time.●

TRIBUTE TO SENATOR RUSSELL B. LONG

● Mr. JOHNSTON. Mr. President, today, October 2, 1984, the Louisiana Association of Independent Colleges & Universities will host a testimonial banquet to honor my distinguished colleague, Senator RUSSELL B. LONG of Louisiana.

Senator LONG has given 36 years of outstanding service to his State of Louisiana and his country.

I extend my warmest congratulations to Senator LONG and ask that the following proclamation and citation be printed at this point in the RECORD.

The proclamation and citation follow:

PROCLAMATION

Russell B. Long, Senator, State of Louisiana, ranks second in seniority in the United States Senate and is widely acknowledged as one of the most influential members of Congress, having been elected in 1948, one day before his thirtieth birthday.

Senator Long already had a great deal of experience in practical politics when he occupied his Senate seat. His father, the late Huey P. Long, was Louisiana's governor and then a U.S. Senator when Russell was a youngster. His mother served briefly in the U.S. Senate following Huey's death, and his uncle, Earl K. Long, served two terms as governor of Louisiana and had been elected to Congress at the time of his death.

Senator Long was an outstanding student at Louisiana State University, where he served as student body president. He was a Naval officer in World War II and took part in the invasions of Africa, Italy and France. Long practiced law and served as Executive Counsel to his Uncle Earl before being elected to the Senate.

Until the Republican party won a majority of the Senate seats in 1981, Long served as Chairman of the Senate Finance Committee and of the Surface Transportation Subcommittee of the Commerce Committee. His tenure as Chairman of the Finance Committee lasted 14 years. He was assistant Majority Leader of the Senate for four years (1965-68). He presently serves as Ranking Minority Member of both panels, is a member of the Merchant Marine Subcommittee of the Commerce Committee, and of three subcommittes of the Finance Committee.

On Capitol Hill, Senator Long is known for his keen knowledge of the Senate rules, his sense of humor and his ability to achieve victory in debate.

Upon succeeding Long as Chairman of the Finance Committee, Republican Senator Robert Dole noted: "Senator Long's power is derived, not from his position with the majority, nor even from his mastery of the legislative process alone. His power derives from his absolute command of the field of finance, and his absolute professionalism in leading others less versed than he."

Politics in America, an authoritative biography of members of Congress, describes Senator Long in this way: "Even those who bitterly oppose him find it impossible to dislike the man. He has an irrespressible sense of humor and an inexhaustible supply of down-home stories that he uses to take the steam out of an over-heated argument. He is refreshingly candid in a body where circumlocution is the norm."

For his achievements in championing the cause of education, for his outstanding contributions to the welfare of his state and his country, the Louisiana Association of Independent Colleges and Universities is pleased to present Senator Russell Billiu Long the Oak Award for national service to independent higher education.●

TORTURE BY FOREIGN GOVERNMENTS

● Mr. D'AMATO. Mr. President, I rise today to cosponsor Senate Joint Resolution 320, expressing the sense of the Congress regarding the policy of the U.S. Government in opposition to the practice of torture.

In 1984 we still bear witness, unfortunately, to the systematic torture of millions of people by their own governments in more than 60 nations around the world. On the basis of conclusive evidence gathered by internationally recognized human rights organizations, it is imperative that the U.S. Government work to abolish the practice and effects of torture by foreign governments.

In 1948 the United Nations General Assembly adopted the Universal Declaration of Human Rights. That document was believed to embody the consensus of the international community on behalf of human rights and individual liberty. It was further thought that the United Nations would serve as the instrument through which human rights would be monitored and defended.

Thirty-six years after the adoption of the Universal Declaration, it is all too clear that its aims have not been fulfilled. The means by which human rights are observed and protected are insufficient. International legal standards have been ignored. Basic human liberties are violated daily.

We must pledge, therefore, our renewed commitment to raise the issue of torture practiced by governments at the United Nations and we must involve the U.S. Government in the formulation and effective implementation of international standards.

Unlike previous attempts to preserve human liberty, Senate Joint Resolution 320 will activate and coordinate the resources of the United States toward the abolition of torture by foreign governments. It utilizes our diplomatic presence abroad as the eyes and ears of a justice unrepresented in numerous countries. It promotes the United States to a leading role in the crusade against torture worldwide. It commits U.S. personnel to the discussion, investigation, and resolution of alleged acts of torture, irrespective of the support of other national governments.

I believe, Mr. President, that Senate Joint Resolution 320 can only serve to augment the efficacy of the United States to human rights policy. I urge my colleagues to pledge their support to eradicate the abominable and inhumane practice of torture by foreign governments by joining me as a cosponsor of Senate Joint Resolution 320.●

SILENCE OF THE HEART

● Mrs. HAWKINS. Mr. President, I would like to bring my colleagues' attention to a television drama which will be broadcast on October 30, 1984, which deals sensitively with an emotionally painful subject, teenage suicide. This drama, entitled "Silence of the Heart" focuses on one apparently typical American family that is shattered when a teenage son commits suicide. The movie focuses on just one family, but it represents the emotional turmoil shared by the 5,000 to 10,000 families who each year must try to understand "Why? Why did my child take his own life?" This film, developed in consultation with a noted expert on suicide prevention, Charlotte Ross, director of the Suicide Prevention and Crisis Center in San Mateo County, CA, was selected as a CBS/Library of Congress "Read More About It" book project and part of the CBS Television Reading Program in which scripts and teacher's guides are distributed by CBS affiliated stations as an educational resource for classrooms.

My own State of Florida has been a pioneer in developing legislation designed to prevent this terrible epidemic. The Florida Legislature enacted a Youth Emotional Development and Suicide Prevention Act earlier this year. The act trains high school guidance counselors, social workers and teachers to identify and deal with potential suicide victims. During the legislature's consideration of this bill, the mother of a young victim, Mrs. Gail Dickert of Perry, FL, testified as to the influence a teacher or counselor can have on a troubled teenager. Mrs. Dickert, like John Walsh on missing children, Candy Lightner on drunk driving and Jeff Schwartz on adverse reactions to childhood vaccines, has managed to channel her grief and anger into productive efforts to prevent other children from falling victim to this same terrible tragedy.

This drama was produced with the intent of educating the public that no one is immune from suicide, it can affect any family. The producer of "Silence of the Heart" eloquently stated the purpose of the televised drama when he said:

> Hopefully, "Silence of the Heart" will let kids know that someone cares, and if they can just get out of the low pits of not being able to see tomorrow, maybe, just maybe, they will stay alive.

Mr. President, I recommend this television drama to my colleagues and to the public.●

H.R. 5361—TO EXTEND THE TAX PROVISIONS TO ENCOURAGE EMPLOYERS TO PROVIDE LEGAL SERVICES FOR THEIR EMPLOYEES

● Mr. MOYNIHAN. Mr. President, I rise today to speak about an important and worthy proposal, H.R. 5361, a bill to extend the provision of the Tax Code that encourages employers to provide legal services for their employees.

For many years, section 120 of the Internal Revenue Code of 1954 enabled businesses to provide legal assistance benefits to their employees, who incurred no tax liability for the value of those benefits. In short, section 120 encourages employers to provide tax-free legal service benefits through qualified legal plans. Section 120 is scheduled to expire on December 31, 1984. I am a cosponsor of Senate bill, S. 2080, to make the employer-provided tax-free legal services provision a permanent part of the Tax Code. The Senate has not acted on S. 2080. Yesterday, however, the House of Representatives passed a similar bill to extend the employer-provided legal assistance provisions for 1 more year, and I urge my colleagues to support prompt passage of that House-passed measure.

Since 1976, employer-provided tax-free legal services have enabled thousands of American workers—630,000 in the United Auto Workers union alone—to receive the basic legal services that every American needs. Section 120 of the Tax Code has permitted countless workers, who otherwise could not afford basic legal services, to have the benefits of private counsel.

Labor and management together have negotiated equitable agreements to include tax-free legal services as a crucial part of many labor contracts. The expiration of section 120 of the Internal Revenue Code of 1954 on December 31, 1984 would interfere with the qualified legal services plans which have resulted from those constructive negotiations.

Mr. President, employer-provided legal services plans have proven to be a proper and reasonable way to provide more Americans with basic legal services. The program has been a success, and I urge my colleagues to pass H.R. 5361, and thereby extend this worthwhile program.●

S. 2217—THE TANDEM TRUCK SAFETY ACT

● Mr. LAUTENBERG. Mr. President, I rise in support of the legislation sponsored by the Senator from New York. The Tandem Truck Safety Act provides necessary flexibility to State and local governments in achieving a safe network of highways for tandem trailers. I was pleased to support this bill when it was considered by the Senate Commerce Committee.

The Senator from New York has developed a fair and equitable solution to solve a difficult problem facing a number of communities in his State. Because a number of the interstate routes in and around New York City were constructed prior to the conception of the Interstate Highway System, several routes within the city now designated as part of the Interstate System may not be able to safely accommodate tandem trucks.

Mr. President, the Senator's legislation is important for the safety of his constituents, and I support it. However, during committee consideration, I was concerned that if truck traffic was closed to potentially eligible routes in New York City, this exemption might result in traffic being diverted to roads which are equally unsafe in New Jersey and other neighboring States. To address this issue, Mr. President, I was pleased to work with the Senator from New York to include language in the bill to avoid potential spillover problems in New Jersey and other States. Under this language, States seeking exemptions would have to consult with adjacent States to avoid any adverse spillover effect.

I hope, Mr. President, that the differences between the House and Senate version of this legislation can be resolved quickly so S. 2217 can be signed into law this year.●

H.R. 2568—TO EXTEND THE EMPLOYEE EDUCATIONAL ASSISTANCE PROVISIONS OF THE INTERNAL REVENUE CODE OF 1954

● Mr. MOYNIHAN. Mr. President, I rise today to speak about an important and worthy proposal, H.R. 2568, a bill to extend the employee educational assistance provisions of the Internal Revenue Code of 1954.

For many years now, section 127 of the Internal Revenue Code of 1954 enabled businesses to provide educational assistance to their employees, who incurred no tax liability for the value of that assistance. Unfortunately, the employee educational assistance provisions of section 127 expired on December 31, 1983. I am a cosponsor of Senate bill, S. 249, the Employee Educational Assistance Extension Act, which would make these employee educational assistance provisions permanent. The Senate has not yet acted on S. 249. Yesterday, however, the House of Representatives passed a similar bill to extend the educational assistance provisions for 2 years, and I urge my colleagues to support prompt passage of that House-passed measure.

While the House-passed bill would provide only a 2-year extension of the educational assistance provisions, it is

similar in spirit to the Senate bill, S. 249. Importantly, the House bill makes clear that universities may provide tax-free educational assistance benefits for their graduate teaching and research assistants. Also, the House bill would waive the penalties and interest charges that otherwise might be due as a result of some employers' failures to withhold taxes on educational assistance benefits they are providing to their employees this year, after section 127's expiration on December 31, 1983. The House bill also mandates a study of these employee educational assistance provisions.

In 1978, Congress opened the classroom door to thousands of American workers by adding section 127 of the Tax Code, and thereby providing tax incentives for employers to pay for the further education of their employees—regardless of whether or not that education was, as under prior law, narrowly defined as job-related. Section 127 has provided new opportunities for the advancement of women and minority workers, improved America's competitiveness, and contributed to the general enlightenment of the American public by encouraging employers to provide tax-free educational fringe benefits to their employees.

Over 7 million employees have been able to further their educations and improve their job skills as a result of the employee educational assistance provisions of the Tax Code. Because these provisions expired in December 1983, employer-provided educational assistance, such as the payment of tuition, is no longer considered excludable from an employee's income, unless the employee takes courses that are directly related to his job. H.R. 2568 would extend these employee educational assistance provisions for a period of 2 years and mandate a Treasury Department study of this program, so we in Congress may evaluate the effectiveness of this important program.

Congress broadened the employee educational assistance incentives in 1978 because the prior requirement, that only assistance for job-related courses could be excluded from employee income, precluded many nonmanagement workers from taking courses necessary for advancing their own careers. Before 1978, a firm could provide tax-free tuition for executives to improve their management skills or to clerks and secretaries to improve their shorthand skills, but, essentially, little more. Many low level employees, who could not otherwise afford to take courses that might enable them to move into the professional managerial ranks, could not receive tax-free employer-provided assistance to do so.

That all changed in 1978 under the expanded section 127 of the Tax Code, and American workers—many of them women and minority workers—have benefited measurably. The American Telephone Co., for example, reports that 85 percent of its nonmanagement employees who earned degrees through AT&T's tuition assistance program have moved into management positions.

The employee educational assistance provisions of the Tax Code also have been responsible for retraining many thousands of America's industrial workers. If we are to compete with our trading partners, American industry must retool and update its manufacturing technology. This process leaves many unskilled workers ill-prepared for increasingly complex jobs. Section 127 of the Tax Code has helped many of these workers to adapt to new technology by learning new skills. In the end, this saves American jobs. Section 127, then, has been an invaluable hedge against unemployment and, at the same time, has helped American business train American workers to compete with foreign labor.

Employee educational assistance is also vital to our efforts to improve America's educational system. Just 1 year ago, the President's Commission on Excellence in Education declared that the Nation is "at risk" due to a nationwide decline in educational standards. One answer, the Commission suggested, was to expand resources to improve the quality of teaching at all levels. The employee educational assistance incentive is important in this effort, as it enables school systems and universities to offer teachers new opportunities for intellectual growth. Section 127 has enabled many underpaid teachers to take courses they otherwise would be unable to afford and then bring what they learn to their students and colleagues.

Educational assistance benefits also are an important tool to help educational institutions attract quality teachers. A school district or college which cannot provide their teachers higher salaries may, still, be able to offer tax-free tuition assistance. The National Education Association estimates that almost 60 percent of all school districts in my home State of New York offer educational assistance benefits to their teachers. In addition, the distinguished former Congressman John Brademas, now president of New York University, has informed me that some 70 percent of NYU graduate and teaching assistants have received some sort of tuition assistance under section 127—assistance which will no longer be available to attract talented scholars unless Congress extends section 127.

Mr. President, the educational assistance benefits provided under section 127 of the Tax Code not only contribute to American commerce, they also are vital for an informed and enlightened American public. Thomas Jefferson, as ever, was right to observe that American liberty depends on an educated electorate. In 1816, Jefferson warned, "If a nation expects to be ignorant and free, in a state of civilization, it expects what never was and never will be."

Educational opportunity has been a national priority since Jefferson's days. Section 127 of the Tax Code has provided women and minorities in particular a chance to learn and advance which earlier they often could not afford. Section 127 has helped improve the quality of American managers and teachers and assisted countless American workers to secure the skills they need in this new age of high technology. And this, Mr. President, provides our Nation with a better informed citizenry.

I urge my colleagues to support H.R. 2568, to extend tax-free educational assistance to working Americans.●

TEN OHIOANS SELECTED FOR SENIOR CITIZENS HALL OF FAME

● Mr. GLENN. Mr. President, I wish to recognize the newly selected members to the Ohio Senior Citizens Hall of Fame. The Ohio Department on Aging will hold the induction ceremony for these 10 outstanding Ohioans on Friday, October 26, in the Martin Janis Senior Center at the Ohio State Fairgrounds. Ohio's Hall of Fame was established to pay tribute to persons past the age of 60 who continue to serve others. This is the eighth annual ceremony honoring outstanding older Ohioans.

The 10 new "hall of fame" members are Ora McCain Barrett of Youngstown, Charles E. Blakeslee of Pomeroy, Frank P. Celeste of Lakewood, Orland C. Duke of Medina, Catherine Gillie of Columbus, David N. Myers of Shaker Heights, the late Wesley (Branch) Rickey of Stockdale, Vernal G. Riffe, Sr. of New Boston, Dorothy V. Ryan of Youngstown, and Carl E. Smith of Xenia. These older Ohioans are involved in a wide variety of activities on the Federal, State, and local levels. Their activities include social work, agricultural education, elderly housing, senior citizens advocacy, sports, business, community service, and poetry.

I know my colleagues join me in commending these 10 distinguished older Americans for their valuable services to other people of all ages. Their work serves as a shining example for others to follow.●

BENNIE VINTON

● Mr. LEVIN. Mr. President, today I would like to recognize and commend the patriotism, dedication, and efforts of a veteran in Grand Rapids, MI—Mr.

Bennie Vinton. Mr. Vinton's service to America began when he was in the Army, and includes a tour of duty in Vietnam from October 1967 to April 1968.

A major driving force in the creation and growth of the Michigan chapter of the Vietnam Veterans of America, Mr. Vinton is known for his dedication and long hours spent with fellow veterans through various veterans organizations and his Labor Department position as a disabled veterans outreach program [DVOP] specialist. In a proclamation, Grand Rapids Mayor Gerald Helmholdt recognized Mr. Vinton's contributions to Vietnam veterans in western Michigan. Mr. Vinton has also been named DVOP of the Year for the State of Michigan. These are just two of the awards and official acts of praise and gratitude that have been bestowed upon Bennie Vinton.

Currently, Mr. Vinton's work at the Grand Rapids, MI, Employment Security Commission office entails helping veterans find and acquire jobs through the Emergency Veterans Jobs Training Act [EVJTA]. His performance has been exemplary. He has placed more disabled veterans through this program than any other DVOP in Michigan. During the month of June 1984, Mr. Vinton made six EVJTA program matches. He was also responsible for 270 veterans' applications, 36 employer applications, 111 employer contracts, 98 EVJTP referrals, and hiring commitments for 42 veterans. On September 10, his outstanding performance was recognized and honored, along with other job service employees, by the Labor Department and the Disabled American Veterans here in Washington.

Mr. President, Mr. Vinton exemplifies those characteristics which are among the best this country can offer. I commend him for his efforts and extend my sincere gratitude for everything he's done for Michigan veterans.●

DAVE BING—MINORITY SMALL BUSINESS PERSON OF THE YEAR

● Mr. LEVIN. Mr. President, the name Dave Bing has long been associated with excellence and achievement. The former Syracuse University and Detroit Piston all-pro guard thrilled basketball fans for years with his pinpoint passing, driving lay-ups, and fancy footwork. Dave Bing was a team leader.

His leadership ability and winning ways have not been confined to the basketball court. Today, Dave Bing is president of Bing Steel, Inc., of Detroit and has been selected Minority Small Business Person of the Year according to the U.S. Small Business Administration. Bing will receive his award from Raymond L. Harshman, Michigan District Director of SBA, at a Minority Enterprise Development Week awards banquet on October 5 at Cobo Hall in Detroit.

Bing Steel is an example of the minority-owned firms that have emerged as a dynamic force in the marketplace. Dave Bing's success shows how individual resourcefulness and perseverance can result in an outstanding business.

Minority Enterprise Development Week provides a unique opportunity to salute the contribution minority entrepreneurs like Dave Bing have made to the economy of both Michigan and the Nation.

Bing Steel was founded only 4 years ago with four full-time employees. Today, this successful steel service center employs 60 people. The spectacular growth it has enjoyed is especially noteworthy because of the depressed conditions in the steel industry and Detroit and Michigan's economy during the company's early years.

I am pleased to have this opportunity to salute Dave Bing for this most recent achievement and commend him for his continued leadership.●

PROMOTION POLICIES OF THE ARMED FORCES

Mr. BOREN. Mr. President, an article appeared in the July issue of the Washingtonian magazine which should be read by every Member of Congress and by those charged with developing personnel policies for the Armed Forces. The article, entitled "Where Have All the Warriors Gone?" was written by Pulitzer Prize winning author Nick Kotz. Mr. Kotz, who is an adjunct professor at the American University School of Communication, researched and wrote the article with the assistance of 14 of his graduate students including team leaders Nancy B. Nathan and Cathryn Donohoe.

Kotz has produced a thorough and well balanced view of promotion and personnel policies within the Armed Forces and the effects of these policies on the quality of military leadership. The article is written with the author's characteristic fairness and objectivity.

Current promotion policies clearly reward corporate management skills and lead to career paths which produce generalists through a series of short tours of duty in many different assignments. Kotz legitimately raises a series of questions about this approach. Does it sufficiently reward risk takers? Does it recognize intellectual creativity and excellence? Does it develop the kind of courage, daring and toughness which causes solidiers to follow their leaders into battle? Could American Military leaders of today win a war?

The article makes a valuable contribution to the ongoing debate about the need for reform in the Armed Forces. The author deserves our appreciation for helping to focus more attention on the need to consciously struggle to preserve the fundamental qualities of leadership in the context of a modern, complex Defense Establishment. Thoughtful discussion of this issue is undoubtedly in the national interest.

I urge my colleagues to take time to read this article and ask that the text of the article appear in the RECORD at this point.

The article follows:

WHERE HAVE ALL THE WARRIORS GONE?

(By Nick Kotz, Nancy B. Nathan, and Cathryn Donohoe)

Leadership: A process in which a soldier applies his or her beliefs, values, ethics, character, knowledge, and skills to influence others to accomplish the mission. . . . The soldier watches what you do so that his mind and instincts can tell him what you really are—an honorable leader of character with courage, competence, candor, and commitment, or a self-serving phony who uses troops and expedient behavior to look good and get ahead.—From Military Leadership, a U.S. Department of the Army field manual.

On a 160-acre farm, retired Colonel Robert G. Dilger sits at the controls of a tractor, cutting hay. Air Force Colleagues call the feisty 50-year-old a "pilot's pilot." They also say that Dilger, the flight leader who flew F-4 Phantom jet fighters on 180 missions and never lost a pilot, should be commanding an air wing instead of raising a herd of Appaloosa horses.

As a fighter pilot in Vietnam, Dilger was much decorated, honored with three Silver Stars and four Distinguished Flying Crosses. In one act of bravery, after his own jet's missiles failed to fire, he literally ran a North Vietnamese MiG into the ground. Later, among other accomplishments, Dilger used his combat experience to design more realistic training programs for fighter pilots and his technical expertise to develop a startlingly effective cannon shell for attack planes that saved the Pentagon a billion dollars.

Yet he never had a shot at making general. At the height of a 24-year Air Force career resplendent with successes as a fighter, combat leader, air-to-air combat trainer, and weapons developer, Dilger was eased out of the Air Force and onto the farm.

Why Bob Dilger didn't make general is a classic study of the written and unwritten rules of military promotion today. His case, say observers both inside and outside the military, shows how the system has come to stifle rather than encourage the leadership qualities that have marked America's armed forces in generations past. Bob Dilger's case, many experts agree, is not an isolated one.

What troubles critics most is that the Bob Dilgers, officers of courage, audacity, and promise who lead by example and accomplishment, often are passed over in favor of smoother operators who have their tickets punched in all the right places but seldom stay long enough to make a difference, who learn a little about a great deal, who play it safe.

Explaining the qualities required of a peacetime general, Dilger says, "You have to be charming, well-met, easy to get along with, politically astute. . . . I've been out of step with the Air Force often in my career."

The North Dakota-born colonel, who entered the Air Force as an enlisted man and pursued his education at more than a dozen universities before earning a BA in mathematics at Miami University of Ohio and a master's in business administration from Auburn, took his last military misstep as the Air Force procurement officer in charge of developing a new cannon shell for the GAU-8, a rapid-firing, seven-barrel antitank cannon on the A-10 attack plane.

Dilger's shell was a brilliant success. Why? "I'd never been in procurement or development or systems command. I didn't know how you were supposed to do it; I only knew what seemed to make sense." Beyond that, the Air Force did not put much stock in the GAU-8 cannon, and therefore left him virtually alone to develop the shell. "It will fall down on its own, so why give ourselves ulcers over it?" is how Dilger describes the prevailing attitude among his superiors.

In fact, while working on the shell, Dilger found and corrected a major flaw in the gun itself, vastly improving its effectiveness. He did so by ordering his crew to fire more than a million rounds of ammunition against real tanks at close range, although normal Air Force testing procedures required no more than twenty shots at a target.

Colonel Dilger sidestepped the usual procurement process, bypassing the Army, which normally develops such ammunition. He pitted two civilian manufacturers against each other, giving the contractors incentive to design and produce the best shell at the lowest cost.

Despite the technical and economic success of the weapon and ammunition now used in 661 A-10s, few of his superiors regarded Dilger's billion-dollar contribution as a mark of high achievement. In fact, shortly after the GAU-8 was perfected, Colonel Dilger was exiled to an obscure staff job in the office of plans at Tactical Air Command headquarters. For an ambitious career flier, this was like a transfer to Siberia. Dilger politely refused the offer, retired to Xenia, Ohio, and took up farming.

He had ruffled too many feathers. The colonel had applied his battlefield audacity and common sense in a red-tape arena. He had ignored the standard operating procedures for procurement—practices that too often have resulted in overpriced and ineffective weapons. He defied the delicate, unstated balance in which military bureaucracies, Congress, and weapons manufacturers maintain close relationships. He broke tradition, insisting on genuine competition for the GAU-8 shell contract. By developing a simple, cheap, and effective weapon, he challenged powerful political and military constituencies who supported more expensive guided missiles.

The real-war hero, behind a desk, had bucked a system in which boldness and innovation, tradition, traditional hallmarks of military leadership, now are punished rather than rewarded. And because of his brief, successful detour into procurement, he found himself denied a high-level flying command—an assignment required for the well-balanced résumé expected of general-officer candidates.

The GAU-8 episode was not the first time Dilger had raised hackles by using unorthodox precedures to get the job done. Paul Hoven, a Vietnam helicopter pilot and now a military researcher, remembers that there were complaints in Vietnam about Dilger's bold flying maneuvers—"until they realized that everyone was coming home at night!"

"The standard tactic was to go into North Vietnam at 20,000 feet, which practically ensures everyone will know you are there when you go in for a bombing run," Hoven explains. "Dilger would come in at 50 feet off the ground. When he got ready to drop his bombs, no one even knew he was there."

After Vietnam, Dilger took his sole criterion for success—combat effectiveness—into peacetime. In Air Force training exercises, where safety regulations in most cases prohibit fighter planes from flying within 5,000 to 10,000 feet of the ground, Dilger advocated training as low as 50 feet to simulate actual combat. Similarly, Air Force exercises usually pit like aircraft against each other and train pilots one-on-one or two-on-two—"almost the only thing you will never find in combat," Dilger says. He trained his pilots in different kinds of planes and with more planes in the sky, as in a real air battle. And what about safety? "There's nothing safe about going to war untrained," he responds.

Today, farmer Bob Dilger still strides into a room with the bearing of a soldier, like a Colonel John Wayne at his authoritative best. To Dilger, the military has only one mission: to be ready to fight a war. Not ten years from now. Not next month. Today.

Dilger's philosophy of military leadership is opposed to the corporate-style management that typically is now the standard in our armed forces: While the manager looks at cost, schedule, and performance criteria—many of which "in no way relate to combat," says Dilger—the leader "worries about how well it's going to do in combat."

U.S. Representative Denny Smith of Oregon, himself a decorated F-4 combat pilot with 180 missions over Vietnam, has followed Bob Dilger's career for years. "Dilger is not afraid to attack the conventional wisdom," says Smith. "He is courageous both in combat and in his personal candor. He is innovative and goal-oriented, concerned principally about accomplishing the military mission. And he is an inspiring leader and teacher of other leaders—his pilots followed him into combat because they trusted his competence; they felt that he cared for them and that he would get them home."

The country, says Congressman Smith, badly needs men like Bob Dilger as Air Force generals.

THE LEADERSHIP DEBATE: FROM VIETNAM TO GRENADA

"The innovation and imagination that emerged from World War II's younger leaders won't be there for World War III." That's the chilling assessment of retired Admiral Elmo Zumwalt, chief of Naval Operations from 1970 to 1973.

According to retired Army Colonel Dandridge Malone, military leadership reached a low point during the Vietnam era, when "Duty—Honor—Country" was replaced by "Me—My Ass—My Career."

Following the October 1983 terrorist bombing that killed 241 Marines at the Beirut airport, a five-man, blue-ribbon investigating commission headed by retired Admiral Robert L.J. Long faulted the entire military chain of command for not properly ensuring the safety of the US forces there.

The tragedy of Beirut is but one of many examples of post-World War II failures of American military leadership cited in more than 200 interviews we conducted, many with academic and civilian leaders but most with active and retired military officers.

What we found was a lively and growing debate, both inside and outside the military, fueled by frustrations about failures in a series of wars and "incidents" ranging from Korea to Vietnam, from the Bay of Pigs to the botched Iranian rescue effort. The debate extends even to the largely successful 1983 Grenada mission.

Criticism of our current military leadership comes from all over. For example, the Congressional Military Reform Caucus, a loosely knit group that shares broad concerns, but seldom speaks with a unified voice, includes liberals such as Senator Gary Hart, moderates such as Senators Nancy Kassebaum and Sam Nunn, and conservatives such as Representatives Newt Gingrich and Jim Courter.

Many of their concerns are shared—and voiced—by some of the great leaders of World War II, including Generals Bruce Clarke and Lyman Lemnitzer, and by such recently retired leaders as Elmo Zumwalt, former Army chief of staff General Edward C. Meyer, and Air Force General David S. Jones, the past Joint Chiefs chairman.

Most important, perhaps, those concerns are shared by reform-minded officers within the military and in the Pentagon itself—including the likes of Army Lieutenant General Jack Merritt, joint staff director for the Joint Chiefs; Lieutenant General Robert Elton, deputy Army chief of staff for personnel; and General Walter F. Ulmer Jr., commanding general of the Army's Third Corps—and retired officers such as Bob Dilger, Army General Donn Starry, Army Lieutenant General Julius Becton, Army Colonel Dandridge Malone, and others. These are not rebels or renegades or ideologues, but rather they are serious military men, respected in their fields, who are committed to the defense of the country.

Even those who do not think the military's leadership problems are of great magnitude recognize that there is cause for concern. Admiral James D. Watkins, chief of Naval Operations, was one of many officers who told us that the mission assigned the Marines in Beirut—"to maintain a presence"—was militarily unsound. Yet he agrees with the Long Commission's findings of fault in military leadership. "We should have been much more alert than we were." the Navy's top officer says. "It was a failure of this follow-through, this sense of personal urgency for each life that's way down there. . . . Every person in that chain of command has to accept some of the responsibility, including me as a member of the Joint Chiefs of Staff."

There is little doubt that there are outstanding leaders in the officer corps today. And retired Air Force General Russell Dougherty, who headed the Strategic Air Command from 1974 to 1977, puts matters in perspective when he says that all the talk of military failure ignores the fact that mere survival in the nuclear age is a victory. "We've won a hell of a battle of deterrence," he observes.

Still, many of the officers we talked to returned time after time to a series of problems:

A promotion system that frequently does not reward the most promising officers, those with the seasoning and potential to be the best combat leaders.

The loss of too many good officers, particularly those with skills as fighter pilots and combat leaders, who leave out of weariness with the system's failures or who are forced out prematurely because they are not promoted.

A system that places too much emphasis on details of management and bureaucracy,

and too little on developing combat effectiveness in officers and their troops.

Officers driven more by personal ambition than by service to nation, mission, and their own troops.

A highly political system of military procurement that poisons the well of leadership, discouraging officers from giving candid assessments of which weapons they need, and how well they work.

In short, have the classical values of military leadership—honor, technical competence, concern for one's troops, the ability to motivate soldiers—been eroded by a system that emphasizes less worthy aims?

The officers we interviewed are concerned about other critical issues that bear on leadership but were beyond the scope of our inquiry. They worry about the debilitating effects of interservice rivalries and wonder whether reorganization of the Defense Department and Joint Chiefs of Staff could provide a more coherent defense effort. They report confusion and debate within the military about the "proper nature of its mission"—about what the military can and should reasonably be expected to do. And they face the question of questions: Will classical ideals of military leadership even be relevant in a nuclear war?

Most of the officers we interviewed believe strongly that military preparedness, even in the nuclear age, still depends on the ability of officers to inspire soldiers to fight effectively on the ground, in planes, and on ships.

WAR, PEACE, AND THE MAKING OF LEADERS

Lyman Lemnitzer, chairman of the Joint Chiefs of Staff 22 years ago, gestures toward the photos of the Army heroes on the wall of his Pentagon office, where he still serves as consultant, and says bluntly that military leaders can be tested only in war.

"People in this building ask, 'What chance have I got to become an outstanding character in history?' The answer is, they probably haven't got a chance," the 84-year-old Lemnitzer says in a voice still resonant with command. "You don't have the pressure in peacetime. People have to be content with just their peacetime accomplishments, which doesn't give them any chance of excelling, and also doesn't give them any possibility of failure." Lemnitzer's own photo hangs beside Eisenhower's, Ridgway's, Gruenther's—other Supreme Allied Commanders of Europe who had World War II in which to prove themselves.

To a man, the military heroes of the past most often cited as role models by officers today—George Washington, Robert E. Lee, Chester Nimitz, Omar Bradley, Lewis B. "Chesty" Puller, George S. Patton Jr., Arleigh Burke, Douglas MacArthur, Matthew B. Ridgway—all won their reputations in war.

These heroes of combat were unique in personality and dissimilar in style. Some led by fear, others by love. Some were flamboyant, some modest. They were not without defects: Washington's tactics remained inappropriately European well into the Revolution. Patton's daring bordered on recklessness. Puller's sense of mission overrode his care for life. Nimitz once ran a ship aground.

But patterns exist. Great military leaders spare their soldiers when they can. They show innovation and flexibility of mind—an ability to learn from mistakes and adjust to battlefield reality, then use the lessons learned to achieve surprise. Predictability, caution, and indecision are not their characteristics.

And they know their business—the terrain, the weapons at hand, the stength of their own forces, and the opposition's probable reactions. The MacArthur of World War II knew the history of every Japanese unit he faced in the field. Later, seeking an assault site in Korea, MacArthur chose Inchon harbor, whose natural and geographic features spelled amphibious disaster to everyone else. MacArthur knew Inchon had been used as a staging area for Japanese assaults on Korea 50 years before.

Another common characteristic of those heroes was that they were all intensely ambitious men, but in each case their ambition was tempered by dedication to their men and to the military task at hand.

With few exceptions, today's military men don't see many of their contemporaries as cast in the heroic mold of past greats. The last great warrior, many say, was the late Creighton Abrams. In World War II, Abrams was a blood-and-guts tank man whom Patton called "his only peer." Twenty years later, in post-Tet Vietnam, his mission was to ease his troops, and his country, out of a politically untenable position. "He was the outstanding example of leadership in our time," says retired Army General Donn Starry. He was so good, he deserved a better war.

While leadership genius emerges in combat, many officers contend that the principal attributes of leadership can be discerned in peacetime, but too often are neglected now.

"Some of those old guys like General Chesty Puller could sure lead men, but they wouldn't make lance corporal today." says Colonel James L. McManaway, the Marine Corps' director of public affairs. In his view, Puller's outspokenness and rugged individualism wouldn't be tolerated in today's PR-conscious services.

On Lemnitzer's wall hangs the picture of today's Supreme Allied Commander in Europe, who represents, perhaps, a new breed of leader—the intellectually grifted and coldly efficient Rhodes scholar, Bernard Rogers, a man of dazzling résumé. Rogers was decorated for bravery with the Silver Star and Distinguished Service Cross. His career has ranged from commanding an infantry division to serving as the Army's chief lobbyist with Congress before becoming chief of staff. Yet some Army men describe him as a manicured manager with no feel for a soldier's life.

"He doesn't know people, and he just gutted morale" as Army chief of staff, says William Taylor, a retired Army colonel now at Georgetown University's Center for Strategic and International Studies. Taylor cites Rogers's order outlawing distinctive unit patches and berets, which, commanders insist, built team esprit.

CIVILIAN LIFE AND A CORPORATE MILITARY STYLE

Many of the officers we interviewed repeated the distinction made by Bob Dilger between the imperatives of "management" and "leadership." No one questions the need for skilled military managers, bureaucrats and technocrats who can run complex, multibillion-dollar weapons systems and the support functions necessary to keep millions of troops ready. As General Robert Marsh, head of the Air Force Systems Command, its weapons-procurement agency, notes, "You can't lead a computer; you have to manage it." And in the nuclear age, no one wants a reckless, triggerhappy commando to have his finger on the button.

But military critics contend that management is not being left to managers, but rather that the petty details of management are burdening troop commanders and strategists, sapping our military strength. Making the situation worse, they say, is that military management has taken on many of the less desirable characteristics of corporate management today. There is a tendency to focus on the short term, on measures of efficiency that can be observed instantly: budget analysis, bureaucratic tidiness, things that can be counted, ranging from body counts and the number of villages "pacified" in Vietnam to participation rates in the latest United Fund drive. The same problems that afflict many of our industries—executives profiting from success measured in quarterly returns produced by accounting wizardry, while failing to plan ahead to compete in complex world markets—are suffered by our military as well.

True leadership, in corporate or military life, is not so impersonal. In his book *An Army of Excellence,* Colonel Dandridge Malone draws the distinction succinctly: "Soldiers cannot be managed to their deaths. They must be led there."

It has been said that ours is an age without heroes, and it is clearly the case that some of today's military-leadership problems reflect other, deeper changes in American society itself. The conflicting demands of two-career families living in a more affluent and leisure-oriented society are at odds with the conservative, hierarchical values of a disciplined military system. Fighting units would be better prepared for war, more cohesive and effective, if the soldiers lived together in barracks, partied together at military clubs, and formed stronger common bonds. But in today's world, many soldiers leave work at 5 p.m. and drive away to a vastly different life, more civilian than military—whether in a trailer court or a suburb.

Some officers say that it is simply peacetime that has dulled the military's edge, that there have been problems of military readiness and leadership throughout American history—George Washington had trouble getting his military requests through a complacent, divided Continental Congress.

Former Joint Chiefs chairman General David C. Jones notes in a National Defense University publication: "Although most history books glorify our military accomplishments, a closer examination reveals a disconcerting pattern: unpreparedness at the start of a war, initial failures; reorganizing while fighting; cranking up our industrial base; and ultimately prevailing by wearing down the enemy—by being bigger, not smarter."

Yet Jones and others are concerned that we no longer have the time to prepare after war is declared. Will we have the warrior leaders when we need them?

TAKING STOCK: THE IMPETUS FOR CHANGE

In March 1969, an ex-GI wrote a letter to then-Army Chief of Staff William Westmoreland. In his letter, Ron Ridenhour recounted his secondhand knowledge of an incident in which, Ridenhour claimed, American forces had raped women, shot and killed only men, women, and children and burned Vietnamese houses and crops.

That incident, which sent shock waves through the service, later became known as the My Lai massacre, in which 410 Vietnamese, all civilians, had died. My Lai and its aftermath compromised the integrity of the

Army and raised questions about Army leadership. General Westmoreland appointed lieutenant General William Peers to head an inquiry, which resulted in charges filed against fourteen soldiers up to the rank of brigadier general.

"At all levels," General Peers found, "from division down to platoon, it appeared that leadership or the lack of it was perhaps the principal factor in the tragic events before, during, and after My Lai." Most disturbing to Peers was the massive cover-up, the failure to assume responsibility, to assess blame.

Upon the inquiry's conclusion, it was widely believed that Peers would be assigned to command US forces in Korea. He didn't get the job, nor another challenging one, and retired shortly thereafter.

As a result of the Peers inquiry, Westmoreland ordered a broader study, directing the US Army War College in Carlisle, Pennsylvania, to test the moral and ethical climate of the Army Surveyed in the 1970 Study on Military Professionalism were the Army's "elite"— the officers, from lieutenant through colonel, being groomed as the top leaders of the future. What they collectively told the institution about itself as devastating:

Middle- and senior-grade officers were repeatedly described as "ambitious, transitory commanders—marginally skilled in the complexities of their duties—engulfed in producing statistical results, fearful of personal failure, too busy to talk with or listen to subordinates, and determined to submit acceptably optimistic reports which reflect faultless completion of a variety of tasks at the expense of the sweat and frustration of subordinates."

In essence, the 1970 report confirmed that something had gone wrong. It concluded that the climate of the Army "is conducive to self-deception because it fosters the production of inaccurate information; it impacts on the long-term ability of the Army to fight and win because it frustrates young, idealistic, energetic officers who leave the service and are replaced by those who will tolerate, if not condone, ethical imperfection. . . . It stifles initiative, innovation, and humility because it demands perfection or the pose of perfection at every turn."

The study's recommendations for improving leadership were buried by officers who feared that making the results public would further demoralize the institution. And so for nine years it sat on the shelf, gathering dust.

But in 1979, when General Edward C. "Shy" Meyer became chief of staff, the War College study was resurrected. Meyer, a big man built like a football tight end, is far from shy—hence his ironic West Point nickname—and he was single-mindedly bold about leadership reform. "I saw a focus on the part of the officer corps toward personal gain, as opposed to a selflessness that I thought was essential," Meyer recalls. "That focus was brought about through policies and procedures that encourage ticket punching and quick success, to the exclusion of values and principles."

By late 1981, Meyer had instituted new goals designed to restore emphasis on classical leadership values—ethics, professionalism, mission accomplishment, and concern for people. At Army posts around the country, programs were set up to develop leadership. One was a new personnel system designed to restore the cohesion essential to the fighting spirit of small units—a unity that was missing because troops were being shuffled through in quick rotation. In Meyer's "cohort" units, troops stayed together from the time they entered basic training through their tours of service.

Meyer lengthened commanders' tours of duty from two years to three. The need for longer tours had become evident in Vietnam, where the services sent officers through duty tours too fast to permit them to become effective leaders. But institutional pressures within the Army killed this initiative under Meyer's successor, General John Wickham, Jr. The traditional view—that tours must be kept short to give all officers a chance at varied assignments needed for promotion—prevailed. Some of Meyer's reform ideas remain, but they are still in their infancy.

THE GENERAL WHO WASN'T

Dandridge "Mike" Malone lives on seashell-sprinkled Sanibel Island, Florida, and spends part of his time as a commercial fisherman. A wiry, leathery-faced man who prefers faded jeans and flannel shirts to the stiff collars and ties he wore as an Army colonel, Malone still talks about his first love, the Army, with deep concern and fondness. A tape recording in which Malone extols the hardship, sacrifice, and romance of soldiering has been passed from hand to hand by dozens of men who share his views about the demands and rewards of the military life, and of the challenge to lead.

Malone is virtually a cult figure among the informal cadre who seek a tougher, more effective military. The Army now pays him as a consultant on how to improve military leadership and effectiveness.

"Mike Malone should have worn many stars," says Brigadier General Charles Bussey, a respected infantryman, now the Army's deputy chief of public affairs. Bussey and a lot of Army men, including former chief of staff Meyer, regret that Malone, 54, is no longer in the ranks. But Malone was denied promotion from colonel to general and retired to fishing and preaching military leadership.

Malone's distinguished career included commanding troops, from a platoon to a battalion in Vietnam. His book, *An Army of Excellence*, originally was authorized as a training manual. In it, Malone characterizes the military leaders needed today: "They . . . are not the prisoners of their procedures, but leaders whose hallmarks are initiative, innovativeness, independence of action, flexibility, and the willingness to take risks. Our Army is not a 'corporation.' Defending this nation is not an 'occupation.' And being a soldier is not a 'job'.' There is no business firm anywhere that has, as its foremost objective, the requirement to *fight and win the land battle.*"

"I could never have made general because I never could have gotten to be the best there is in leadership training and still have made all the necessary rounds to be general." reflects Malone. He chose to leave the Army so that he could pursue his specialty—training and teaching the art of leadership. Malone's advancement was not helped by the fact that, from the early 1970s, he had been a critic of what was wrong with Army leadership.

Mike Malone's aborted career is cited by reformers within the Army as an example of the rigidities of the promotion system. The officer corps of every service is a human pyramid topped by its chief, with 10,000 ensigns or second lieutenants at its base. Culling, or "selection," begins near the base and continues throughout an officer's career, growing ever keener as he or she nears the pinnacle. Way stations on the path to the stars are fairly standard—field commands, Pentagon duty, academic credentials, service schools. Those who cannot or, like Malone, will not move up by the route prescribed by the system must give up the race.

TICKET-PUNCHING TO THE TOP

This "up or out" system guarantees a young force and eliminates the dead wood that characterizes, for instance, the Soviet services, but it tends to give its men a cookie-cutter sameness, at least in their service experiences. And not until the moment of war may the nation ever miss the unorthodox talent that fell, jumped, or was pushed from the trail along with the true culls.

Officers learn that the more impressive their credentials and the faster they accumulate them—the more "punches" in their "tickets"—the greater their chances of promotion. They move, then, an average of once every two years from station to station (at an annual taxpayer cost of $2.6 billion), seldom staying long enough to learn a job well.

Department of Defense figures for 1983 show that less than half of all officers and enlisted men in the four services will stay with their units for over a year. That means lack of unit cohesion and constant retraining.

Until he resigned last year to join a Wall Street investment-banking firm, Brigadier General Peter Dawkins was considered the ultimate career role model, a sure bet to become Army chief of staff. All-American football player at West Point, Rhodes scholar at Oxford, MA and PhD from Princeton, White House aide, holder of a variety of field commands, usually brief ones: At 43, he was the youngest general in the Army. Some call his resignation a loss to the Army. Other military men say he represented the classic case of a fast-traveling ticket-puncher who hit the glamour spots but never stayed long enough to make strong contributions.

A more controversial career path was followed by retired General Alexander Haig. Haig's meteoric rise from colonel to four-star general in four years was spurred not so much by his military prowess as by his success as an aide, first to Joseph Califano at the Pentagon during the Johnson administration, and then to Henry Kissinger, Richard Nixon, and Gerald Ford in the White House. Haig is a decorated combat veteran and has his admirers, but one tough military analyst dismisses his service as that of "a horse holder to the great."

Through such "careerism"—which James Fallows, in his book National Defense, defines as "the desire to be, rather than the desire to do"—the officer learns to see himself as an isolated, self-interested individual whose link to his unit—the most life-sustaining bond of combat—is tenuous at best.

But nothing better illustrates this system's misplaced values than its treatment of legitimate heroes. Although the Navy has raised half a dozen of its Vietnam prisoners of war to the rank of admiral, the vast majority have left the service or languish at lower ranks because their time in Hanoi kept them from command and staff work the Navy thinks more vital. Captain Ray Alcorn, shot down over North Vietnam in 1965 and now a training administrator for the deputy chief of Naval Operations for air warfare, says his record can't match that of his competitors. "My experience has been limited by sitting in jail for seven years. If

you needed someone to train on how to be a POW, I might be chosen. But we don't have that kind of specialty," he laughs.

TOO MANY BUREAUCRATS

The "ticket punch" is common to the services. In the Navy, a thick manual called the Unrestricted Line Officer Career Planning Guidebook, in effect a road map to the top, goes to every newly commissioned Navy officer. In so many words, the handbook describes "how to make the system work for you." It stresses the value of graduate education, service college, and command. Every move, every promotion, requires a selection or screening board. Every rank requires a sea tour.

Detailed charts explain the "career paths" of combat and noncombat officers; these tell the new men and women when they'll go to sea, when they'll go ashore, and when they'll get to Washington. In practice, Pentagon duty is considered as crucial to success as sea command is; as an officer gains seniority, repeated tours there are the norm.

Four-star admirals, the most successful Navy men, show a career pattern that begins at Annapolis (until last year, when one non-Academy man became a full admiral, all eight were Academy graduates) and moves immediately to sea duty or flight instruction, followed by two or three years of staff work or schooling ashore, with another sea tour to round out ten years.

By then, most successful officers—the so-called hot runners—will have become lieutenant commanders with post-graduate or Naval War College credentials. They'll be second in command of a ship or sub. (Aviators take fifteen years to reach this point in a squadron.) And they will have left behind more than 60 percent of their fellows. According to Vice Admiral Robert L. Walters, deputy chief of Naval Operations for surface warfare, an officer who fails to make second-in-command (executive officer) has little chance of further promotion and should switch to a noncombat specialty like public affairs or engineering duty.

At ten years, a hot runner is on the verge of his first, critical Washington tour—in the office of the chief of Naval Operations, at the Navy's personnel bureau, or as an aide at the White House or the Navy Secretary's office.

The value of early Washington duty can't be overestimated. Rear Admiral Sayre A. Swarztrauber, recently retired after 31 years and now superintendent of the Maine Maritime Academy, reached the Pentagon as a lieutenant and spent the rest of his career shuttling between sea duty and Washington. "If you do a good job as a lieutenant in Washington," he says, "you go back as a lieutenant commander, you go back as a commander, you go back as a captain, and they'll make an admiral out of you!"

Annapolis men, he says, learn as much as they can about the sea, about weapons systems and shipboard operations; they leave the Academy determined to become the best drivers the Navy has ever seen. But after five years at sea and a close look at their superiors' career patterns, they learn that they must move up by accepting the Navy's plans for them. And they end up as bureaucrats.

The most coveted assignments at the higher ranks, Swarztrauber says, are as executive assistant to the Navy Secretary, to the vice chief or chief of Naval Operations, or to the deputy chief for plans and policy. A "purple suit" post (so called for the combined uniform colors of the four services) with the policy directorate of the Joint Chiefs of Staff, or as an aide to the chairman himself, is also a plum. An Air Force careerist can make a name for himself by working for the Secretary of Defense, but for Navy men the Navy and the Joint Chiefs come first. Swarztrauber complains that this system produces too many bureaucrats ("like me," he says) and not enough shipboard-operations experts.

Washington jobs abound. Today, 119 of 216 naval officers of commodore and admiral rank are stationed in the immediate Washington area. Of 344 Air Force generals, 107 serve in Washington.

The Air Force—with one officer for each 4.5 enlisted men—has the largest officer corps, a total of 106,500 officers in a force of 590,000. The Army has 72,500 officers and 669,300 enlisted personnel; the Navy has 65,400 officers in a total force of 568,000. The Marine Corps is the smallest service, with 18,700 officers among its total force of 195,000.

Retired General Bruce Clarke says today's military creates unnecessary jobs so that more officers can become generals. "There are 63 Army generals serving as assistants," he says. "There weren't even 63 generals in the Civil War.

SHORT TOURS, SELF-SERVICE

Army Colonel Harry G. Summers Jr. is an active-duty officer deeply concerned about problems of military leadership and not afraid to speak boldly about them. He has earned decorations for bravery, including the Silver Star, in eight battle campaigns, starting as an enlisted squad leader in Korea and continuing as an officer through the final evacuation from South Vietnam. Now quartered in a small office crowded with military books at the Army War College, the 51-year-old author of the much-praised book *On Strategy* teaches and writes about military strategy and leadership. Summers tells a story to illustrate how the ticket-punching syndrome can reach extremes:

In 1973, toward the end of the Vietnam war, the Army sent a new chief of intelligence to Saigon. "He needed a short tour for promotion, and he needed it in Vietnam," recounts Summers. "The only problem was that he was an Indonesia specialist. There were plenty of Vietnam specialists in the Army then, but they already had Vietnam tours." In this case, the needs of the nation and the Army came second to an officer's next ticket punch.

The Army wasn't the only villain of ticket-punching in Vietnam. "A lot of lives were lost because a lot of managers went over to have their tickets punched," charges retired Marine Colonel Gerald Turley, who says that the Marine Corps now has recovered from that dark era.

"What you need to do is create an environment where careerism serves the needs of the nation," says Summers. "You want people to be ambitious. You want people to seek out difficult jobs. What you need to bring out is that the jobs that enhance their careers are the most difficult to do. If being a general's aide enhances your promotability, that's dumb! To want to be a company commander is a legitimate ambition because that enhances the future of the Army." Quoting Confucius, Summers says: "The superior man does what's right; the lesser man does what pays. Since almost all of us are lesser men, what we need is a structure, a system where what's important pays."

Yet many within the Army argue that rotating officers through short duty tours is necessary to keep up morale—to give everyone a chance for a shot at the top spots—and that short tours are necessary to provide future leaders with a variety of experiences, a range of knowledge, in preparation for the responsibilities of higher rank. And in the real world of American politics, they insist, men must serve in the internecine atmosphere of Washington government, learning how to fight for appropriations, to deal with Congress, to maneuver within the Pentagon and the White House.

The reformers' concern is that officers need depth as well as breadth, substantive experience more than the finesse of a much-traveled, skillful bureaucrat. Describing the erosive effects of the promotion process, Ward Just, in his book "Military Men," writes that "the system seems to wear most men as smooth as beach pebbles."

GENERALISTS VS. SPECIALISTS

Retired Army Colonel William J. Taylor Jr., director of political-military studies at Georgetown University's Center for Strategic and international Studies, argues that the military needs more specialization.

"Tell me," Taylor asks, "how having a general serve as director of military personnel when he's a three-star, as commander of the Third Infantry Division when he's a two-star, as assistant director on the Joint Chiefs' staff as a one-star, as chief of staff of the 9th Infantry Division when he's colonel, working on a weapons program when he's a lieutenant colonel, and going to command and staff college at Leavenworth when he's a major—tell me how that gives a four-star a world view."

In Taylor's view, specialists such as Army colonels Harry Summers and Mike Malone—men with fighting experience, but also with strong intellectual backgrounds devoted to probing important military issues—such reach high rank. However, a reputation as an intellectual usually is not helpful for promotion; and an intellectual critical of his institution must plan early on for a second career writing books.

Taylor says the US military's promotion system is hard to change because the kind of specialization needed for modern times—the kind of the British, Germans, and Israelis all use—would "rip apart the entire promotion and manpower system as it exists today." In the German and Israeli armies, an officer may spend an entire career as an infantry captain or fighter pilot.

One argument for encouraging and retaining specialists at lower levels is made forcefully by pilots in the 141st Tactical Fighter Squadron of the New Jersey National Guard, stationed at McGuire Air Force Base, near Wrighttown. Captain Daryl Emerson is one of the many young pilots who turned down the prospect of one too many desk jobs in Washington, resigned his regular commission, and signed up with the Air National Guard.

"I wanted to fly," explains Emerson, a 34-year-old pilot with ten years of active duty under his belt. He is set for a spin in an F-4, the faithful fighter model designed in the 1950s and parceled out to the Guard when the active Air Force went on to newer, more sophisticated models like the F-16.

Though F-16 pilots have an advantage over the Guard's older airplanes in maneuverability, the Guard—with pilots like Emerson who just "want to fly"—gives them a run for their money in competitive drills.

Guardsman Emerson's story is not unusual. Some military men worry that too many of the most experienced and promising

young officers are leaving the armed services, particularly those who are good at flying fighter planes, commanding infantry troops, and training them for battle. Many Air Force pilots, frustrated with non-flying assignments and frequent duty rotation, leave the service for commercial-airline jobs. And though money for training flights flows more freely than it did in the 1970s, a lot of pilots have left the Air Force simply because they didn't get enough flying time.

According to Marine Corps Lieutenant Colonel David Evans, even in the service generally conceded to have the best esprit de corps, "the best, most insightful, and most curious soldiers are not staying in the Marine Corps."

Evans, who loves his desk detail in the Office of Manpower, Planning, and Analysis at the Department of Defense, says the services are wrong to stop the soldiers who prefer the fighting side of military life from pursuing combat careers. "There are guys who love charging troops up and down hills at Camp Pendleton, but when they get too good at it, they get pulled to staff assignments."

"Up or out," the saying goes. Officers in all services are dismissed or retired if passed over for promotion three times. But the odds are tough—from colonel to general, only a small percentage make it, only one in twelve in the Army. Colonel Harry Summers of the War College says, "We have institutionalized a system where the only reward, the only measure of success, is promoton, and that's dumb, because we can't promote everybody. We need to stress other rewards."

Most military authorities acknowledge that different qualities and abilities are needed at different levels of leadership. Some lieutenant colonels make great battalion commanders but lack the skills and breadth of vision to be good division or regimental commanders, for example. Such people—too many of them, reformers say—are dismissed in a rigid "up or out" system that overlooks the contributions career officers can make, even if they do not achieve higher rank.

INSIDE THE PROMOTION SYSTEM

In the heart of the Arlington Annex, a beige, four-story building that houses the Naval Personnel Command, is a small, dimly lit room known as the "the tank." Three rows of airline bucket seats face a small movie screen. Behind the seats are three slide projectors and a stack of Bibles. The thirteen men seated in the bucket seats already have been sworn to secrecy. Events in this tank may decide the fate of a naval officer's entire career.

Last February, eleven Navy rear admirals and two commodores met in this room for thirteen days to review the records of 925 commanders eligible for promotion to captain. Only 251 would succeed. Initially, each of the members of the promotion board had reviewed and summarized the fitness reports of 30 to 40 candidates. The reports told them everything from the candidates' dates of birth, education, and commands to summations of performance and personality traits.

The board member responsible for a candidate's initial review uses a flashlight to point out on the screen the salient points of the candidate's career. When he finishes the review, the voting begins. Hooked to the side of each seat is a small metal box with five buttons for voting. The buttons are under a metal hood, so that no member can see which button any other pushes. The buttons denote the ratings of "confidence" the member has for a particular candidate: 100, 75, 50, 25, or 0 percent. Sliding their right hands between the cushioned seats, the Navy officers push one of the buttons—a decision that will help determine each candidate's future in the Navy.

Similar promotion boards meet continually within all the services. Most officers, even those who don't get promoted, say the system is the fairest they know to pick tomorrow's leaders. The fitness reports on which promotion boards must rely, however, have come under attack as being so inflated as to be meaningless. Some participants estimate that about 85 percent of all officers are rated as "outstanding" in all categories.

How can promotion boards possibly choose the best people when grade inflation makes it nearly impossible to distinguish among candidates? Admiral Watkins, the chief of Naval Operations, says that promotion-board members know how to read between the lines of similar-looking efficiency ratings, and that inflated ratings help keep up the morale of officers who do a good job but don't get promoted.

Yet, as if to confirm the relative uselessness of inflated efficiency reports, the Air Force allows secret handwritten, hand-delivered reports to be submitted to promotion boards, selecting lieutenant colonels and colonels.

Retired Air Force Lieutenant General John S. Pustay, former head of the National Defense University, acknowledges the pervasiveness of grade inflation. "I've asked myself many times how we got ourselves in this position, but now that we're here, it's very difficult to get ourselves out," he says.

Grade inflation is regarded by some reformers as symptomatic of current failings in military leadership. Senior officers inflate grades because of worry that if they give low marks to their subordinates, their own work and units will be judged inferior at promotion time.

Retired Navy Captain Stuart Landersman explains: "By marking them all 'A' you make life easier for the board. They don't have to wrestle with a mixed evaluation. If you don't say your guys are perfect and the other commanders do yours lose out."

In his book On Watch, Admiral Zumwalt recounts the message that was misunderstood when one of his young protégés was passed over for promotion to commander. The young man's boss, Secretary of the Navy Fred Korth, evidently did not know the code in which fitness reports were written. "He had described Dick as an 'excellent officer,' meaning that he was an excellent officer,' say Zumwalt. "However, to convey the idea an officer is excellent in fitness-report dialect you must say he is 'outstanding.' To say he is 'excellent' merely means he is adequate. In short, 'excellent' is the kind of word that makes a selection board think, 'Uh-oh, that guy must have fouled up somewhere.' "

Zumwalt's story touches on another leadership problem, the so-called "zero defect" syndrome, a standard of promotion that says that you can't have a single flaw on your record. Leadership-reform advocates say this "zero defect" system inhibits the innovation and risk-taking that mark great leaders.

Generals disagree about how much "risk-taking" is encouraged in today's Army. "We need a climate that allows new ideas to flourish and we must understand that people are not perfect," says retired Army Lieutenant General Julius Becton Jr. "Unfortunately, across the board, the system does not support risk-takers." Major General Vincent E. Falter, commanding general of the Army's Military Personnel Center, disagrees: "The Army is now trying to develop officers who are innovative and resourceful and have the freedom to fail. We're willing to underwrite that failure. We should give them the opportunity to make a mistake without having their careers destroyed in the process."

Army Lieutenant General Jack Meritt, joint staff director of the Joint Chiefs of Staff, calls the zero-defect syndrome "ridiculous and abhorrent." He says, "People should not confuse failure resulting from innovation with failure resulting from stupidity. The Army needs to look at the whole system of promotions. We've got to figure out some way to get out of [over-inflated efficiency reports]. And I don't know how."

THE PROCUREMENT GAME

At 2 a.m. the admiral strolls into the bake shop of the 4,950-man aircraft carrier *USS John F. Kennedy,* on maneuvers in the Ionian Sea. Just for a doughnut, he says, looking worn; the message traffic has been heavy and he needs a break. "The kids" are awed upon his entrance, but his easy manner draws them out, and soon he's hearing what he really came for—their opinions and their latest news from home. A kid from Nebraska himself once, Robert F. Schoultz was a long time in the Navy before he ever saw an admiral, and when he's aboard ship he wants his men to know him.

"Schoultz makes an investment in you; he entices you to follow him," says Navy Captain Judson H. Springer. "I can't explain it, but the way he leads people makes them want to stay in the Navy." Schoultz is now a vice admiral, the deputy chief of Naval Operations for air warfare, and Springer serves under him in the Pentagon. And Admiral Schoultz is a concerned man—a leader pressed from several directions to sacrifice his honest military judgment to the needs of politics and pork barrel.

Schoultz is the kind of man who receives visitors in his shirtsleeves, in a building full of men who button their jackets to answer the phone. Aides offer coffee Navy-style, in china cups and saucers from a silver coffee service while Schoultz, weathered and kinetic at 59, sprawls easily in a conference chair, wraps a lean hand around a stoneware mug marked "Dutch," and starts to talk about money.

"I'm on the Hill defending the '85 budget. You go over and give them a little pitch, and then you sit back and grit your teeth and wait for the questions to come," He says.

"Some [congressman is] building cameras in his district. He wants to know why you [the Navy] bought that German camera, that Zeiss-Ikon, instead of the one from his constituent. And then he says, 'I think you ought to buy a lot more of these airplanes, because didn't you say they're doing a good job?' Yes. 'Well, don't you think you ought to buy more? Why are only buying six?' Well, you know right away that those airplanes are built in his district. And that's what they're there for, to represent their district, so they have their own little pet projects."

A House committee "beat his socks off" last year for giving the Naval Reserves priority over regular forces on new airplanes, he says. This year, with a new member, the same committee roasted him for not putting enough planes into the reserves.

Schoultz is a direct man, and the politics of procurement—on either side—doesn't sit easily with him.

"We defend the budget, even though I don't believe in some of it," he says. "I put in for one type of plane. I thought we needed five. And it went down to the Secretary of Defense's office and they thought I needed nine, so they put nine in it. So now it goes over to the Hill, and I have to go over and tell why I need nine airplanes. And sometimes I have trouble with that, because I don't really know why I need nine airplanes. I only needed five of that kind. But now it's the President's budget and I have to defend it."

The difference between Schoultz's original request for five P-3C Orions and the Defense Department's add-on was $214.8 million.

What Admiral Schoultz so candidly describes is the inner workings of the military-industrial-political complex—the process by which the nation spent $94 billion on military procurement in fiscal 1984. This process is fueled by enormous political pressures: At stake are the profits of large companies, thousands of jobs, and sometimes the careers of politicians—not to mention the nation's security and, yes, perhaps the fate of the world.

At best, the decisions are difficult. Should the nation spend $30 billion to patch 30-year-old B-52s that are being used now? Or should it invest the same amount of money in new B-1s equipped with today's technology, but which won't be operational until 1987-1989, or in Stealth bombers, which can't be deployed until the mid-1990s?

Given these important choices, it is disheartening to many officers that the process is charged with so much politics and inter-service rivalry. Members of Congress, weapons manufacturers, and rival services too often form their own combat lines—with less lofty motives than the most effective military mission—in bloody battles to win contracts and power.

Military officers, operating in this Machiavellian quicksand, are hard pressed not to sacrifice idealism, candor, and good judgment for more pragmatic behavior, and often are rewarded for doing so. Those who refuse to go along are often elbowed out. In this atmosphere, Congress and the administration often are ready to spend money for procurement of new weapons but unwilling to fund training, weapons testing, more Guard and Reserve units, better maintenance, and other vital components of today's military readiness. The implicit assumption is that we don't have to fight tomorrow but at some unknown time in the future—unlike Bob Dilger's maxim that the military must be ready to fight at a moment's notice.

Leaders like Admiral Schoultz are under pressure not only to support inflated procurement budgets, but to keep large projects rolling, irrespective of cost overruns or considerations such as whether the weapon really will work effectively.

One victim of the rush to buy was Thomas Amlie, who used to be the technical-systems director of the Naval Weapons Center at China Lake, California—until he warned his superiors that the Harpoon anti-ship missile they were studying would be costly and unreliable. Years later, Amlie ran into the admiral who had been his boss, and learned that the system was plagued with the very problems he had predicted. The admiral, in retrospect, wished Amlie had been more insistent about dropping the system at the time. "I was," Amlie replied. "You kicked my —— out."

Retired Navy Captain James Quinn, a former fighter pilot and test pilot who became project manager for the Sparrow missile system, says military officers often face a political "Catch 22" in procurement that compromises honest judgments about weapons development. When officers protest that a proposed weapon will not work or will cost too much, Quinn says they are told, "Don't criticize it yet—they'll cut off our money." When complaints are made later that a project still isn't working, they are again quashed with the rejoinder, "It's too late. We're already committed to it."

Similarly, the procurement system almost guarantees both dishonest cost estimates by military officers and eventual cost overruns. Quinn says: "If anyone tried to put the weapons in at real cost, very little would ever get done."

Another problem in the procurement process is the "revolving door" syndrome, whereby retired military officers go to work for defense-contracting firms. The fear is that officers forced "up or out" by the promotion system may try to curry favor with the contractors—prospective employers—by approving weapons systems even when they are too costly or still have kinks. Another concern is that, once inside defense-contracting firms, the retired officers can use their contacts inside the military to swing weapons contracts to their new employers.

Military officers concede that the "up and out" policy puts them in a tight spot. "We relieve people when they still have lots of capability," says General Robert T. Marsh, who heads the Air Force Systems Command. "My specialty is acquisitions. When I get out, my pension will not be such that I can continue to maintain the standard of living to which I am accustomed."

For officers in the procurement field, jobs with defense contractors are the logical place for them to apply their experience. But Thomas Amlie, now a civilian analyst with the Air Force, says the availability of a civilian job with a defense contractor depends on an officer's not rocking the boat while in the service—about test results, contract compliance, or costs.

Air Force Major General Robert D. Beckel fiercely defends the integrity of officers working in procurement. "Many officers won't even answer the phone if a defense contractor approaches them," he says. "They want to ensure that while they are wearing the blue shirt, they are dedicated to this country and to doing the job right." In contrast, retired Army General Bruce Clarke notes that officers nearing retirement flock to the Pentagon. "That is why nobody wants to go to command in their final years," he says. "In the Pentagon, they get to know people. They get to know the contractors; they get to know the think-tank people."

Take the case of retired Air Force General Alton Slay, former head of Systems Command, the procurement arm of the Air Force. Slay approved $4 billion in spare-parts purchases before he retired—$1.5 billion of which was awarded to Pratt & Whitney, where he now works as a consultant.

Another criticism of procurement practices is that the "ticket-punching" syndrome of short tours seldom leaves an officer on any one weapons assignment long enough to develop real technical competence. If people knew they were in charge for the duration, until the weapon was finally produced, they would not only care more about quality but would hurry things along a bit, contends retired Army Colonel Lewis "Bob" Sorley, a prominent critic of short duty tours.

Others say the service should do what they are expert in: setting the specifications, telling the civilian developers what they need to win with, and, finally, testing the products. Let the developers and producers take it from there, they say. That way, our military leaders would be less poisoned by the politics of procurement; they could focus more on the military issues: Does it work? Will it help us in battle—or in deterrence?

MICRO-MANAGEMENT

In 1975, Marine Corps Lieutenant General Albert Gray conducted the evacuation of Saigon as North Vietnamese forces were moving in. "The operational plan put out by the Air Force was on stacks of computer paper about two and a half feet high," he recalls. "When you made a change in the plan, you got a whole new printout. Every night at about 7:30 or 8, one of my men would bring in this plan on a little wheelbarrow . . . and every night he and I would go out and dump it. And we conducted the evacuation of Saigon—we pulled out over 8,000 people—on a fragmentary order that was half a page long, doubled-spaced."

Increasing involvement of the President, Secretary of Defense, and high-ranking military officers in the detailed actions of subordinate military commanders in the field—so-called "micromanagement"—troubles some military men and women because it violates important precepts of leadership. Senior officers should establish goals and entrust officers down the chain of command to use initiative and innovation to carry them out, giving them the kind of freedom and support Lee gave to his generals.

In contrast to the order General George C. Marshall gave to General Eisenhower in World War II ("Cross the Channel, enter the heartland of Germany, and free the continent of Europe"), for example, are the myriad details sent in 1966 by General Earl Wheeler to General Westmoreland in Vietnam ("Increase the population in secure areas to 60 percent; increase the destruction of VC/PAVN base areas to 40 to 50 percent," and so on).

There are explanations for the change from macro- to micro-leadership. Communications technology has exploded in the last two decades, making it possible for a President or chief of staff to talk instantly to US forces anywhere in the world.

Another—and more serious—reason for higher-level control of military actions is the threat of nuclear war. Fearing that any conflict could escalate to a nuclear confrontation, top leaders, civilian and military, want to fine-tune even limited engagements. But increasingly since World War II, the tendency for the civilian branch of government to dominate military operations has led to the overruling of military judgments in the field.

President Reagan gave unusual freedom to military commanders in the Grenada mission, but by most accounts the situation was far different in Beirut. Lieutenant Colonel Wayman R. Bishop III, an authority on the Middle East at the Marine Command and Staff College, says the highest levels of government officials were making the decisions to fire on Syrian positions.

Without questioning the President's authority as commander-in-chief, it has been suggested that military leaders sometimes should offer to resign rather than carry out

orders that they believe violate fundamental precepts of warfare or personal conduct. But such resignations rarely occur. Admiral Swarztrauber notes that in Vietnam, "Not once did the military really stand up to be counted. Nobody had the guts to tell the President he was wrong. They gave him advice, but nobody put his foot down."

OLD VALUES FOR NEW REALITIES

Under the cover of darkness, at Fort Bragg, North Carolina, 30 Army paratroopers climb into helicopters and steal away into the damp southern night. Their mission: to locate a wooden bridge several hundred miles away in Virginia's Appalachian Mountains, destroy it, and return to their base before daylight.

That mission is one of many war games devised by commanders of the Army's 82nd Airborne Division, headquartered at Bragg, in an effort to build leadership and battle-readiness. Lieutenant Colonel Larry Izzo, who devised the bridge-burning exercise, says, "The first time we go on an exercise, we make lots of mistakes; the second time, fewer. That's what training is all about." Izzo says his men aren't penalized for mistakes made in training, unless they don't learn from them.

In the course of investigating the state of military leadership today, we visited soldiers in the field at Fort Bragg, Marines training at Quantico, Virginia, and Camp Lejeune, North Carolina, reserve fighter pilots in New Jersey, and Navy fighter pilots, destroyermen, and submariners in Norfolk, Virginia. We talked with leadership instructors at the Naval Academy, the Army War College, and the Naval War College in Newport, Rhode Island. At each of these installations, the military insists that it is paying increased attention to developing leadership abilities in its commissioned and noncommissioned officers.

In past years, leadership training received short shrift at the service academies and war colleges. The subject has undergone constant evolution—at one time featuring "blood and guts" role models from history, at others learning heavily on sociological and psychological theory. The service academies and advanced schools now provide more courses on leadership, military history, and strategy. Army reformers are encouraged because Colonel Howard Prince, an officer they consider a "true believer," now heads the expanded leadership-training program at West Point. But everyone acknowledges that leadership is a difficult subject to teach—involving as it does fundamental values that are as much a part of religion and family as of military or other institutions.

The best training, everyone agrees, is by personal example, and by plans and exercises that encourage attributes of leadership—initiative, creativity, risk-taking, care for one's soldiers, competence at one's job. The Army believes that it is fostering a return to old leadership values with Air-Land Battle 2000, a plan developed in 1982 under Chief of Staff Meyer for fighting major land wars. The plan places decision-making responsibility at lower levels on the theory that combat would be very fluid and less suited to execution through a rigid command structure.

With 40,000 troops at Fort Hood, Texas, under commanding General Walter F. Ulmer Jr., the Army is conducting a program to encourage officers to be innovative, to take risks, and to challenge bureaucratic and managerial rules that don't make sense. "Power down" is the slogan for soldiers to make decisions at the lowest practical levels of command. "Leadership on the battlefield will grow naturally if we clear away the [bureaucratic] clutter," says Ulmer, who constantly challenges his staff to make sense out of all orders and personally responds to calls on his complaint hot line.

In the Pentagon itself, officials like Lieutenant General Robert Elton, deputy Army chief of staff for personnel, are pushing for leadership initiative. Pointing to a photograph of a strange, dunebuggy-like machine, Elton explains that this experimental fast-attack vehicle is being developed because the Army listened to and encouraged the lieutenant colonel who came up with the idea.

Still, such leadership experiments, like those at Fort Hood, are embryonic, and no one believes they can be spread throughout the service by edict alone.

Military reformers constantly refer back to the recommendations made almost fifteen years ago in the Military Professionalism Study: the need for longer tours of duty for officers; the need for more candid fitness reports assessing the potential of officers and the readiness of their troops; the need for less emphasis on promotion as the only criterion of success. Others stress the need for greater specialization to increase competence on the battlefield and in tactical and strategic planning. Political pressures in the procurement process could be eased either by giving officers greater responsibility and accountability through longer tours of duty on procurement programs, or by getting the military out of the development process—permitting them to specify what they need and then to test rigorously to make sure that it works.

There are other military problems that are beyond the reach of the military alone. Civilian leadership must settle the confused disputes over which military missions are in our national interest. Strong civilian leadership must force rival military services into coming up with coherent, sensible plans for the national defense, rather than unworkable compromise in which each service must be given a piece of the action.

Admiral James D. Watkins, the chief of Naval Operations, says, "We may be part of the problem, but we're not all of the problem. You've got to ask, 'What does the nation need to do to raise its leadership standards as a whole?' We have to get this whole sense of personal responsibility extended beyond the military, into all aspects of government and society, in the Congress, in the White House, in Defense, in industry, in American business. The Congress has to feel it. When we say, 'Let's shut down an air station,' can they stand up and say, 'That's in my district, but I agree, we've got to do what's right for the country'? It's got to be part of a national resolve to do all these things."

Solving the military's leadership problems will not solve all the problems of the military, but it will make the military better able to defend the security of the United States, and to do it without bankrupting the nation's economy.

There is reason to be optimistic, despite the difficulties entailed: Good military officers, and there are many, have a great deal at stake in this objective. "Probably the largest peace lobby you have in this country wears military uniforms," says Rear Admiral William A. Walsh, director of the Navy's Surface Warfare Division. "They've seen war; they've had a whole lot of friends killed; they never want to see it again. And so we do all we can to try to see that there never is a war. That's our main goal in life."●

ORDER FOR RECESS UNTIL 11 A.M. TODAY

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business this morning, it stand in recess until the hour of 11 a.m. this morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. PRESSLER. Mr. President, is it possible to lay down an amendment this morning?

Mr. BAKER. Mr. President, I have announced we will not do anything further tonight.

Mr. President, has the Chair granted the request for routine morning business.

The PRESIDING OFFICER. Yes.

Mr. BAKER. I assure the Senator I will cooperate with him when we reconvene, but all Senators have been advised there will be no more business at this time.

Mr. President, may I say that any special orders for tomorrow will come later in the day. It is the hope of the leadership that we can get on this bill not later than 11:30 this morning and perhaps earlier than that. In any event, we have a great deal to do. Tomorrow night will be a late night as well.

Mr. President, after we finish the CR, we will go on to the debt limit.

RECESS UNTIL 11 A.M. TODAY

Mr. BAKER. Mr. President, I believe no other Senator is seeking recognition. I move, in accordance with the previous order, that the Senate stand in recess until the hour of 11 a.m. today.

The motion was agreed to; and the Senate, at 2:38 a.m., recessed until 11 a.m., Wednesday, October 3, 1984.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 2, 1984:

THE JUDICIARY

Susan Rebecca Holmes, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for a term of 15 years.

Rufus Gunn King III, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for a term of 15 years.

Colleen Kollar-Kotelly, of the District of Columbia, to be an associate judge of the

Superior Court of the District of Columbia for a term of 15 years.

A. Noel Anketell Kramer, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for a term of 15 years.

Robert Isaac Richter, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for a term of 15 years.

Emmet G. Sullivan, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for a term of 15 years.

Robert Samuel Tignor, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for a term of 15 years.

31-059 O-87-34 (Pt. 20)

HOUSE OF REPRESENTATIVES—*Tuesday, October 2, 1984*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are conscious of all the glories that humankind can achieve—of great monuments and new achievements, of technology and progress. Help us, in this moment of prayer, to nurture the inner light of Your presence in our lives. Teach us, O God, even as we celebrate the glories of our inventions, to hear Your still small voice—calling us to communion with You, hearing Your word, Your direction, Your healing. Grant to us, O God, the gift of Your light and Your love. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled joint resolution earlier today:

H.J. Res. 653. Joint resolution making continuing appropriations for the fiscal year 1985, and for other purposes.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

JEROME J. HARTMANN AND RITA J. HARTMANN

The Clerk called the bill (H.R. 452) for the relief of Jerome J. Hartmann and Rita J. Hartmann.

There being no objection, the Clerk read the bill, as follows:

H.R. 452

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, Jerome J. Hartmann and Rita J. Hartmann of Avon Lake, Iowa, may file, within three hundred and sixty-five days after the date of enactment of this Act, an action against the United States in the United States District Court for the Southern District of Iowa with respect to damage suffered by them because of a rise in the water level of Avon Lake in Iowa allegedly caused by the negligent design, construction, and operation by the United States of the Red Rock Reservoir in Iowa and the levees related to such reservoir. Section 3 of the Act entitled "An Act for the control of floods on the Mississippi River and its tributaries, and for other purposes", approved May 15, 1928 (33 U.S.C. 702c), shall not apply to any action instituted under this Act. No order of any court or administrative body issued prior to the date of enactment of this Act shall bar the filing of an action under this Act, and the United States shall not assert any such order as a defense in any such action.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MEALS ON WHEELS OF THE MONTEREY PENINSULA, INC.

The Clerk called the bill (H.R. 1561) for the relief of Meals on Wheels of the Monterey Peninsula, Inc.

There being no objection, the Clerk read the bill, as follows:

H.R. 1561

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) with respect to service performed in its employ after 1975, Meals on Wheels of the Monterey Peninsula, Incorporated, shall not be considered to have filed (under section 3121(k)(1) of the Internal Revenue Code of 1954) or to have filed constructively (under section 3121(k) (4) or (5) of such Code) a certificate waiving its exemption from payment of taxes imposed by chapter 21 of such Code.

(b) Meals on Wheels of the Monterey Peninsula, Incorporated, and any individual in its employ before the date of the enactment of this Act are relieved of all liability to the United States for the payment of unpaid taxes imposed by chapter 21 of the Internal Revenue Code of 1954 (and any interest or penalty assessed or accrued in the employ of Meals on Wheels of the Monterey Peninsula, Inc., before such date.

With the following committee amendment:

Strike all after the enacting clause and insert:

That Meals on Wheels of the Monterey Peninsula, Inc., and any individual who performed service in its employ after 1975 and before 1983 are relieved of all liability to the United States for the payment of unpaid taxes imposed by chapter 21 of the Internal Revenue Code of 1954 (and any interest or penalty assessed or accrued on such taxes) with respect to service performed in the employ of Meals on Wheels of the Monterey Peninsula, Inc., during such period.

SEC. 2. For purposes of title II of the Social Security Act, services performed in the employ of Meals on Wheels of the Monterey Peninsula, Inc., after 1975 and before 1983 shall be treated (for purposes of benefits for months beginning after the month in which this Act is enacted) as employment, if and to the extent that a detailed record of such service is transmitted to the Secretary of Health and Human Services within 12 months after the date of enactment of this Act.

The committee amendment was agreed to.

● Mr. PANETTA. Mr. Speaker, I rise today to urge adoption of H.R. 1561, a private bill I introduced to relieve Meals on Wheels of the Monterey Peninsula of the FICA tax, plus interest and penalties, it owes for the years 1976 to 1982. H.R. 1561 is vital to the continued effectiveness of this much-needed program.

Before I proceed, however, I wish to express my deep thanks to SAM HALL, the chairman of the Subcommittee on Administrative Law and Governmental Relations, without whose help and support this bill would never have reached this point.

This legislation is very important to the senior citizens of the Monterey, CA, area. Its enactment could ensure the ability of Meals on Wheels of the Monterey Peninsula to continue to provide home-delivered meals to shut-ins and elderly residents of the Monterey Peninsula. Failure to adopt it could effectively mean the end, or severe restriction, of that service.

Meals on Wheels of the Monterey Peninsula provides more than 100,000 meals annually to its recipients. It has been delivering three meals a day to shut-ins and elderly residents at home for nearly 12 years. It has also developed a group meal program to permit the elderly to leave their homes and enjoy social contact. Meals on Wheels of the Monterey Peninsula, unlike many Meals on Wheels organizations, has a comprehensive health, nutritional, and social service approach which provides broad assistance to hundreds of elderly citizens. In my view, the loss of Meals on Wheels would be a real tragedy, particularly since the problem this bill addresses was caused by incorrect advice provided by an accountant.

To describe the problem briefly, an accountant working on a voluntary basis with the organization in 1975 incorrectly advised its leadership that, as a nonprofit organization, it was not required to pay the FICA tax on behalf of its employees and that the employees also were not required to pay the tax. In 1972, Meals on Wheels had begun to pay the FICA tax on behalf of some employees, although only one employee had actually wanted coverage. Under the law at

that time, this obligated the organization to continue paying the tax. But the accountant, misinterpreting a confusing statute, mistakenly advised that there was no obligation and suggested that Meals on Wheels simply stop paying the tax. Regrettably, the organization took that advice, beginning in 1976.

The Internal Revenue Service has assessed Meals on Wheels on unpaid FICA tax from 1976 through 1980. In addition, there could be a liability for 1981 and 1982. The total owed right now, including interest and penalties, amounts to around $40,000.

Since 1983, Meals on Wheels has been paying the FICA tax on behalf of its employees, as the law requires. This was, of course, a pragmatic decision to make under the circumstances. However, I believe it also shows good faith by Meals on Wheels. In addition, it brings the organization into line with the requirement established by the Social Security Amendments of 1983 that all nonprofit organizations participate in the Social Security system.

H.R. 1561, as approved by the Committee on the Judiciary, provides that, with respect to services performed by its employees during the years 1976–82, Meals on Wheels and those employees are relieved of liability for the payment of unpaid FICA taxes and interest or penalties assessed or accrued on those taxes. Also, in order to ensure that individual employees are not harmed by this legislation, the bill provides that any work performed for Meals on Wheels during this period is credited to the Social Security accounts of the individual workers. The bill prevents the creation of a bureaucratic problem in the future by requiring that records of that employment be provided to the Secretary of Health and Human Services within 1 year of enactment of the bill. I have been assured by a representative of the Meals on Wheels organization that it will provide those records.

I do not subscribe to the argument that any taxpayer who receives incorrect tax advice should not be obligated to pay for mistakes based on that advice. However, this is a unique case. Meals on Wheels is known and respected nationwide. It is an important part of our Nation's efforts to provide the elderly with a means of remaining in their homes instead of being institutionalized. It not only adds incalculably to the quality of their daily lives but also reduces costs for the recipients and government at all levels. For many recipients, the daily visit of a Meals on Wheels volunteer is the only contact they will have with the outside world. Without Meals on Wheels, it is certain that many of these elderly citizens would end up in costly nursing homes or other institutions.

Enactment of this legislation could mean the difference between a strong, thriving Meals on Wheels in the Monterey area and a weak organization that does not truly meet the needs of our citizens. I believe this outweighs any reservations that might be held about a measure of this kind. I want to thank the House for taking up this measure and urge strong support for its enactment.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

O. EDMUND CLUBB

The Clerk called the bill (H.R. 4387) for the relief of O. Edmund Clubb.

There being no objection, the Clerk read the bill, as follows:

H.R. 4387

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that—

(1) O. Edmund Clubb served from 1928 until his retirement in 1952 as a United States Foreign Service Officer, with eighteen years of service in China, including assignment from 1947 to 1950 as United States Counsel General in Peiping (Peking), China;

(2) certain personal possessions belonging to Mr. Clubb, consisting generally of his personal collection of valuable objects of d'art and rare manuscripts, were removed and detained by local Chinese authorities from a shipment of his personal effects following his departure from China in 1950, or otherwise became unaccounted for in the course of such departure;

(3) in the expectation that these possessions could be regained through diplomatic representations by the British and United States Governments to the Government of the People's Republic of China, Mr. Clubb refrained from pursuing claims for compensation against the Chinese or United States Government;

(4) all diplomatic efforts to locate and regain these possessions have been exhausted without result, leaving no recourse but to consider them as an uncompensated loss, having occurred during the service of Mr. Clubb as a civilian employee of the United States Government; and

(5) there remains no other remedy for this loss than to obtain compensatory payment from the United States Government, of which Mr. Clubb was an employee at the time of the loss, and in the service of which the loss occurred.

SEC. 2. (a) The Secretary of State shall settle and pay, in accordance with section 3 of the Military Personnel and Civilian Employees Claims Act of 1964 (31 U.S.C. 241), the amount of claims by O. Edmund Clubb, of Palenvile, New York, against the United States

(1) for the loss of his personal property which occurred as a result of or incident of his service in the Foreign Service of the United States in Peiping (Peking), China from 1947 to 1950, plus interest at a rate of 6 per centum from the date of the loss, and

(2) for those costs of shipping his personal effects from China, following that period of service, which were authorized by the Federal Government but for which Mr. Clubb was not reimbursed, plus interest at a rate of 6 per centum per annum from the date of the shipment or shipments involved.

Such claims shall be determined notwithstanding those provisions of subsection (b)(1) of section 3 of the Military Personnel and Civilian Employees Claims Act of 1964, relating to the time at which claims arose and limiting the amount of a claim, and notwithstanding subsection (c)(1) of that section.

(b) In determining the amount of claims described in subsection (a) of this section, the Secretary of State shall deduct any amounts which O. Edmund Clubb has received from any source on account of the same claims.

(c) The payment of any claims described in subsection (a) of this section shall be made from funds made available to carry out section 3 or section 9 of the Military Personnel and Civilian Employee Claims Act of 1964 (31 U.S.C. 241 or 243a).

(d) The account in the Treasury from which payments are made pursuant to subsection (c) of this section shall be reimbursed, to the extent of those payments, from any sums described in subsection (f)(1) of section 8 of the International Claims Settlement Act of 1949 (22 U.S.C. 1627(f)(1)) that remain after all payments are made pursuant to subsection (f) of such section 8.

SEC. 3. Any amounts paid to O. Edmund Clubb under this Act shall be in full settlement of any claim he has against the United States or the Government of the People's Republic of China arising from the loss of property or the shipping costs described in section 2(a) of this Act.

SEC. 4. No amount in excess of 10 per centum of the amount paid pursuant to section 2 of this Act shall be paid to or received by any agent or attorney in connection with the claims described in section 2(a) of this Act. Any person violating this section shall be guilty of a misdeameanor and upon conviction shall be fined not more than $1,000.

With the following committee amendment:

Strike all after the enacting clause and insert:

That the Secretary of the Treasury shall pay, out of any funds in the Treasury not otherwise appropriated, $15,086.70, plus interest in the amount of six per centum from July 31, 1970, to Mr. O. Edmund Clubb of Palenville, New York, in full settlement of all his claims against the United States for the loss of personal property incident to his service as Counsel General in Peking, China in 1950.

SECTION 2. It shall be unlawful for any amount in excess of 10 per centum of the payment referred to in the first section of this Act to be paid to, delivered to, or received by any agency or attorney in consideration for services rendered in connection with such payment. Any person who violates this Section shall, upon conviction, be fined not more than $1,000.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GERALD M. HENDLEY

The Clerk called the bill (H.R. 2050) for the relief of Gerald M. Hendley.

There being no objection, the Clerk read the bill, as follows:

H.R. 2050

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Gerald M. Hendley of Harmons, Maryland—

(1) during the one-year period beginning on the date of enactment of this Act, may present to the appropriate Federal agency, for administrative adjustment in accordance with section 2672 of title 28, United States Code, a claim against the United States for money damages for injuries sustained when the military bus in which he was a passenger overturned on October 19, 1969; and

(2) if such claim is finally denied by such agency (or is deemed to be finally denied), may institute a civil action upon such claim in accordance with section 2675 of such title;

notwithstanding the six- and two-year limitations of sections 2401 (a) and (b) of such title, including any administrative or judicial disposition of such claim prior to the enactment of this Act to the extent that such disposition is determined to have been based on those time limitations.

With the following committee amendment:

Page 2, strike out lines 9 through 13 and insert in lieu thereof the following: "notwithstanding the 2-year limitation set forth in section 2401(b) of title 28, United States Code, and notwithstanding any disposition of such claim by an agency or a court before the enactment of this Act to the extent such disposition was determined to have been based on that 2-year limitation. The appropriate district court shall, in accordance with section 1346(b) of title 28, United States Code, have jurisdiction of any action brought under paragraph (2) of this section.".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EXTENSION OF FIVE PATENTS RELATING TO HYPOGLYCEMIC DRUGS

The Clerk called the bill (H.R. 6228) to amend title 35 of the United States Code to provide a patent extension for certain drug products.

There being no objection, the Clerk read the bill, as follows:

H.R. 6228

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) title 35 of the United States Code is amended by adding immediately following section 155 the following new section:

"§ 155A. Patent extension

"(a) Notwithstanding section 154 of this title, the term of any patent which encompasses within its scope a composition of matter which is a new drug product, if such new drug product is subject to the labeling requirements for oral hypoglycemic drugs of the sulfonylurea class as promulgated by the Food and Drug Administration in its final rule of March 22, 1984 (FR Doc. 84-9640), and was approved by the Food and Drug Administration for marketing after promulgation of such final rule and prior to the date of enactment of this law, shall be extended until April 21, 1982.

"(b) The patentee or licensee or authorized representative of any patent described in such subsection (a) shall, within ninety days after the date of enactment of such subsection, notify the Commissioner of Patents and Trademarks of the number of any patent so extended. On receipt of such notice, the Commissioner shall confirm such extension by placing a notice thereof in the official file of such patent and publishing an appropriate notice of such extension in the Official Gazette of the Patent and Trademark Office.".

(b) The table of sections for chapter 14 of title 35, United States Code is amended by adding after the item relating to section 155 the following new item:

"155A. Patent extension.".

With the following committee amendment:

Strike all after the enacting clause and insert:

That the Secretary of Commerce, acting through the Commissioner of Patent and Trademarks, shall, when the following patents (relating to oral hypoglycemic drugs of the sulfonylurea class) expire, extend such patents until April 21, 1992, with all the rights pertaining thereto:

(1) Patent numbered 3,426,067.
(2) Patent numbered 3,454,635.
(3) Patent numbered 3,507,954.
(4) Patent numbered 3,507,961.
(5) Patent numbered 3,669,966.

The committee amendment was agreed to.

● Mr. WOLPE. Mr. Speaker, I am pleased to support H.R. 6228, to provide a patent extension for certain oral antidiabetic drug products. This bill is designed to remedy a fundamental inequity in the regulatory process for glyburide—a drug that has been documented as safe and effective, and of immense value, under appropriate conditions, to people who have diabetes.

In 1974, FDA approved glyburide as safe and effective, but withheld the drug from the market until completion of a rulemaking regarding the labeling of all oral antidiabetic drugs. The companies that manufacture glyburide—the American Hoechst Corp., which holds the patents, and the Upjohn Co. of Kalamazoo, MI, which is licensed to produce glyburide—were assured by FDA that the class labeling proceeding for these drug products would be concluded promptly. These assurances, however, were made in vain. The rulemaking was not concluded until March 1984—10 years after glyburide was deemed safe and effective. Both companies, throughout this period, sought to obtain approval to market glyburide with stringent interim labeling requirements—to no avail. FDA continually rejected such requests, stating that the class labeling proceeding would be conluded expeditiously.

By the time FDA finally acted earlier this year, glyburide had lost 10 years of patent protection—for reasons wholly beyond the control of the patent holder and its licensee, Upjohn, H.R. 6228 partially redresses this inequity by extending the patent term for glyburide by approximately 5 years.

I believe this is the least that should be done. Everyone who has reviewed this situation—including the Commissioner of Patents—has concluded that these are extraordinary circumstances that warrant the extraordinary remedy of a patent extension. Indeed, the Senate has twice passed a similar bill during consideration of S. 1538 and S. 2926 in June and August, respectively—with unanimous approval. H.R. 6228 enjoyed strong bipartisan support in the Judiciary Committee in the House.

I want to extend my sincere appreciation to the distinguished chairman of the subcommittee, Mr. KASTENMEIER, for his leadership in bringing this measure to the floor, so that Congress can enact this bill before adjournment. I am also extremely grateful to the gentleman from Massachusetts [Mr. FRANK] for introducing this bill and devoting so much effort toward its approval.

Mr. Speaker, I urge adoption of H.R. 6228.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill providing for an extension until April 21, 1992, of five patents relating to oral hypoglycemic drugs of the sulfonylurea class."

A motion to reconsider was laid on the table.

EXTENSION OF PATENT NUMBERED 3,376,198

The Clerk called the bill (H.R. 2882) providing for a 17-year extension of patent numbered 3,376,198.

There being no objection, the Clerk read the bill, as follows:

H.R. 2882

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Commerce, acting through the Commissioner of Patents and Trademarks, shall, when patent numbered 3,376,198 (relating to the production of antibodies in milk) expires, extend such patent for seventeen years, with all the rights pertaining thereto.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That the Secretary of Commerce, acting through the Commissioner of Patents and Trademarks, shall, when patent numbered 3,376,198 (relating to the production of antibodies in milk) expires, extend such patent for 15 years, with all the rights pertaining thereto.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time and passed.

The title of the bill was amended so as to read: "A bill providing for a fifteen-year extension of patent numbered 3,376,198."

A motion to reconsider was laid on the table.

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 1711) to extend Patent Numbered 3,376,198, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1711

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Patent Numbered 3,376,198 (relating to the production of immunocompetent factors in milk) issued on April 2, 1968, to Impro Products, Incorporated, of Waukon, Iowa (hereinafter referred to in this Act as the "patentee") be, and the same hereby is, renewed and extended for a term of seventeen years from the date on which such patent would otherwise expire, with the same force and effect as if said patent had been originally issued for a term inclusive of the terms provided for herein. The benefits conferred by this Act shall accrue to the patentee's heirs, assigns and successors in interest.

SEC. 2. The Commissioner of Patents shall—

(1) cause notice of the renewal and extension granted under this Act to be published in the Official Gazette and marked upon copies of such patent for sale by the Patent Office in such manner as the Commissioner may determine; and

(2) whenever requested by the said patentee or the successors or assigns of such patentee, make a certificate of renewal and extension and append an authenticated copy thereof to such patent, whenever the same shall be requested by the said patentee or the successors or assigns of such patentee.

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves to strike out all after the enacting clause of the Senate bill, S. 1711, and to insert in lieu thereof the provisions of H.R. 2882, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "An Act providing for a fifteen-year extension of patent numbered 3,376,198."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 2882) was laid on the table.

GENERAL LEAVE

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER. This concludes the call of the Private Calendar.

SECURITY MEASURES MUST BE TAKEN AT U.S. EMBASSIES

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, the House has voted $355 million to make our American Embassies secure from terrorist attacks. The Senate will act on that bill today.

This is the full amount the administration says is necessary to complete the task—and three times more than the administration asked for the coming year.

Our job today is not to set the blame for the tragedies that have taken 242 American lives over the past 18 months through terrorist attacks. Our job is to make sure that it does not continue to happen.

In Lebanon the problem was not a failure of intelligence. We had a timely warning of the latest attack. The failure was in execution. Security measures for which Congress long ago had voted funds were not in place. A huge iron gate capable of halting vehicular traffic lay on the ground for 2 weeks before the bombing, uninstalled.

This lack of urgency was, under the circumstances, unforgivable. It must be corrected before another tragedy occurs and more American lives are lost. Congress again has provided the money. The administration must provide the will.

WHAT IS WRONG WITH OUR POLITICAL SYSTEM

(Mr. BETHUNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BETHUNE. Mr. Speaker, the $7.9 billion bailout of REA is a classic example of what is wrong with our political system. Everyone in this House knows that we are facing a great deficit in this country and yet, we see one of the most powerful lobby organizations in the country stampeding this Congress, the Members of this Congress, Walter Mondale, and all those who advocate this $7.9 billion bailout into a position where we absolutely ignore the deficit and go right on with spending and bailouts as usual.

We are not going to get this budget deficit under control until we learn to stand up to those people who come here and clamor for more and more assistance, who feed at the Government trough, and who suggest to us that we ought to go along with them because if we do not, they are going to take reprisal against us and hurt us in the next election.

That is exactly what is wrong with this political system.

I urge Members here to resist this REA bailout $7.9 billion. Reject the plea of Walter Mondale. Reject the plea of those powerful lobby forces. As the Reader's Digest said, this is nothing more than a power play on the Potomac and we have the responsibility to stop it if we are going to get this deficit under control.

MISSING CHILDREN'S ASSISTANCE ACT

(Mr. BATES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BATES. Mr. Speaker, I rise today to call the attention of my colleagues to the Missing Children's Assistance Act (H.R. 4971). It was passed the House and awaits Senate action.

At any given time in this country, Mr. Speaker, there are some 60,000 missing children. We must work together to alleviate this intolerable situation. H.R. 4971 would establish a National Resource Center To Aid in Finding Missing Children. It would provide for a toll-free phone number, a clearinghouse for information, and funding for grants for local- and State-level public and private organizations working in this area.

To illustrate the need for the bill, I present this photograph of Nancy Elizabeth Alvarez, age 14, who has been missing since last December. Nancy is 5'2" tall and weighs 130 pounds. She left for school on December 16 and has not been seen since then. For the sake of Nancy Alvarez and the thousands of other children like her, I call on my colleagues to do all that we can to ensure that H.R. 4971 is enacted.

□ 1010

THE FEDERAL DEFICIT

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker and my colleagues, yesterday this House approved a budget with a $181.2 billion deficit. Very little was said about the impact of this deficit on the flow of

foreign investment to the United States. It is estimated that in 1984 the United States will import $75 billion to $100 billion in foreign capital. This would be generated, in part, by the high interest rates, a direct result of this deficit.

Importation of capital has historically been the characteristic of a developing nation, not a mature one. There are pernicious side effects of becoming dependent on foreign capital. For example, the Continental Illinois bailout by the FDIC and the Federal Reserve Board, in part, was to protect the billions of dollars in short-term foreign deposits. We are faced with a potential trade deficit of $120 billion because of the high value of the dollar, again a result of the large Federal deficit.

It seems to me, Mr. Speaker and my colleagues, that we ought to start now developing a deficit reduction bill and that the first order of business in 1985 should be a bipartisan, realistic deficit reduction act.

GERTRUDE McFUZZ AND THE BALANCED BUDGET ACT

(Mr. SIKORSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SIKORSKI. Mr. Speaker, recently I was reading a Dr. Seuss story to my daughter, Anne. The story was about a bird named Gertrude McFuzz who wanted more than one beautiful feather. Gertrude found some magical berries that when eaten caused feathers to grow.

Gertrude snatched down the berries that grew on the vine. Ignoring wise advice, she gobbled down four, five, six, seven, eight, and nine. Gertrude's feathers grew and grew and grew. In fact, Gertrude grew so many new feathers that she could not fly, could not run and could not walk.

Gertrude McFuzz is like our Federal deficit. We gobble down more and more Federal spending until we can not fly, run, or walk.

Unfortunately, our Federal deficit is not a cute children's story. Instead it has all the markings of a horror story for our children who will pay for it the rest of their lives.

Today we have an opportunity to pluck some of those deficit feathers if we pass the Balanced Budget Act.

THE FEDERAL PENSION SYSTEM

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, just before adjournment last night, I did a 15-minute special order in which I talked some about the Federal pension system.

I would like to call my colleagues' attention to some of the devastating statistics in the pension area for public employees, both military and civil, which in my view constitute a ticking time bomb that is going to blow up in our face sooner or later.

I would like to think that this body is capable of anticipating this problem by dealing with it in a rational way for the benefit of both Federal employees and the public. If we do not deal with it, the excessive abuses in the current growth of the system will result in excessive zeal in the inevitable reform, to everybody's sorrow and particularly to the sorrow of Federal employees.

Thus, I urge a rational and timely approach to some reasonable resolution of the Federal pension problem. I hope Members will check the adjustments and statistics I have set forth in yesterday's special order.

SOCIAL SECURITY COST-OF-LIVING ADJUSTMENT

(Mr. MOLLOHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOLLOHAN. Mr. Speaker, later today the House will consider legislation to ensure that our senior citizens receive their Social Security cost-of-living adjustment this January. I strongly urge my colleagues to vote in favor of this bill, because it reaffirms the Government's commitment to Social Security.

Last year this Congress asked our senior citizens to "tighten their belts" by accepting a series of benefit limitations included in the 1983 Social Security bill. Senior citizens across the country recognized the threat that defeat of the package would have posed to the solvency of Social Security and agreed to the changes. The result was one of Congress' success stories last year: A functioning, sound Social Security System for the foreseeable future.

It has been shown, Mr. Speaker, that an adjustment this year would not jeopardize the compromise rescue plan enacted last year. I strongly believe Congress owes senior citizens this increase, and, again, I urge my colleagues to vote for the benefits increase this afternoon.

THE OMNIBUS CRIME BILL OF 1984

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, later today, I guess it is the second to last vote on the Suspension Calendar, we will have the so-called omnibus crime bill of 1984. I would like to be able to discuss it in detail, but at this moment no Member of the minority has been given the courtesy of seeing what the bill is. All we have been given is an outline of the bill. Based on the outline, I can say that I believe Members on my side ought to vote for it because it is a meaningless gesture toward crime. If we are really concerned about doing something with respect to the anticrime package, we ought to bring up that same bill that we voted last week and put on the CR. Bring that one on suspension. We will vote on it, and if we can get a two-thirds vote, it will be signed into law by the President before the week is out because it is word for word what the Senate provisions are.

Let us not fool ourselves. The chances of this bill they are talking about today going into conference before this week is over are very very slim. It has in it the insanity defense, we have been informed, that we defeated on suspension last week because of the confusion it puts in. It does not have the sentencing bill worked out by the administration, by the senior Senator from Massachusetts, by Republicans and Democrats in the Senate. It has a weakened provision. It does not have labor racketeering. Perhaps that is because the unions did not want it.

Mr. Speaker, we ought to vote "yes" to make ourselves feel good but know that it really does not mean anything.

THE VALUE OF THE VOTE

(Mr. REID asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REID. Mr. Speaker, during this—my first term in Congress—one of the most important lessons that I've learned, is the "value of the vote." I've realized, through participation, that each and every one of the 435 Members in the House, uses that voting privilege to represent, a congressional district that averages, at least 500,000 people. Every day, I appreciate even more, the power and scope of the vote as it affects decision-making and policy creation, in this country.

But, what is equally—if not more—important is the awareness that voting at all levels, of the political process plays, just as significant a role in determining, the welfare of our people.

That's why it is imperative that, we find every feasible way to create incentives, for our Nation's people to participate in the voting process. It is the responsibility of each of us, to find ways to keep alive this system, that our forefathers intrusted to us. The firsts step is voter registration reform. Thereafter, it is education and encouragement, to enlighten each person that—through the vote—each person's

vote—the direction of this country is defined.

DEMOCRATIC PARTY HAS COME FORTH WITH ITS IDEAS ON CRIME AND THE BALANCED BUDGET

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, well, well, well, look at today's schedule. After months of inaction, months of short days where little or nothing was done and when we were told that we could not deal with crime and the balanced budget, here we are, in the closing days of the session, and all of a sudden the Democratic Party has come forth with their ideas on crime and the balanced budget. In one case we have got a bill that nobody on the minority has even seen yet that we are supposed to approve on crime later on today, and in the other case we have got a balanced budget bill that is a total joke. It says nothing more than what is already in law, a law that we regularly refuse to uphold here on the House floor, and it is paraded out here as a "protect-your-political-tail" kind of vote for the day.

Now, I think it is appalling that we are going to deal in a 20-minute period on each side with a couple of bills that we could have been dealing with for months and had a chance to offer some amendments to and do some real work out here. If ever there was a case that this body has become wholly political and not interested at all in what the public really wants, it is the two votes we will cast later on today.

THE CONTINUING RESOLUTION

(Mr. NELSON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NELSON of Florida. Mr. Speaker, if I am correct, today is October 2 and not December 25, and yet it is like Christmas with many presents in the legislative process, as we approach adjournment this week. The fact is that we have a catch-all funding bill called a continuing resolution that is becoming decorated like a Christmas tree.

□ 1020

The Congress has attached such things as water resources, foreign aid, even an anticrime package. The Senate is even considering adding antidiscrimination legislation. This continuing resolution provides catch-all funding for those agencies of Government in which appropriations bills have not passed. Only 4 of the 13 appropriations bills have been signed into law. The House has passed 10 appropriations bills; the Senate only 7 of the 13 required. Now, in the rush to adjourn, everything is being lumped together in a big Christmas tree that is being decorated.

This is not a fiscally reasonable way to appropriate the money for the U.S. Government.

THE CHAIRMAN WORE NO CLOTHES

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, this ode is entitled "The Chairman Wore No Clothes."

THE CHAIRMAN WORE NO CLOTHES

There came an amendment from Budget,
Whose chairman attempted to fudge it;
Attempting to fool, he crafted a rule,
And with red ink proceeded to smudge it.

He said "what my colleagues are finding,
Is that we don't want something binding.
Forget Constitutions. Protect institutions!
Our political base is unwinding."

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5, rule I, the Chair announces he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has been concluded on all motions to suspend the rules.

GUARANTEED SOCIAL SECURITY COST-OF-LIVING INCREASE FOR 1984

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6299) to ensure the payment in 1985 of cost-of-living increases under the OASDI Program in title II of the Social Security Act, and to provide for a study of certain changes which might be made in the provisions authorizing cost-of-living adjustments under that program.

The Clerk read as follows:

H.R. 6299

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in determining whether the base quarter ending on September 30, 1984, is a cost-of-living computation quarter for the purposes of the cost-of-living increases under sections 215(i) and 1617 of the Social Security Act, the phrase "is 3 percent or more" appearing in section 215(i)(1)(B) of such Act shall be deemed to read "is greater than zero" (and the phrase "exceeds, by not less than 3 per centum, such Index" appearing in section 215(i)(1)(B) of such Act as in effect in December 1978 shall be deemed to read "exceeds such Index").

(b) For purposes of section 215(i) of such Act, the provisions of subsection (a) shall not constitute a "general benefit increase".

SEC. 2. The Office of the Actuary of the Social Security Administration shall conduct a study of improvements which might be made in the application and operation of the cost of living adjustment provisions in section 215(i) of the Social Security Act, giving particular attention to—

(1) the long-term effects of altogether eliminating the COLA trigger (the provision which requires that the CPI increase percentage (or the wage increase percentage) reach a specified level in order to trigger a cost of living adjustment in benefits);

(2) the long-term effects of reducing the level of the COLA trigger from 3 per centum to 1 per centum;

(3) long-term assumptions (explained in detail) concerning the frequency of instances in which the applicable increase percentage would be less than 3 per centum, the frequency of instances in which such percentage would be less than 1 per centum, and the frequency of deflationary periods in which there would be no increase in such percentage; and

(4) an analysis of the period currently being used to measure CPI and wage increases, and the long-term effects of changing such period so as to make it noncumulative or to use different calendar quarters.

The Office of the Actuary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, on or before September 1, 1985, a full and complete report of the study conducted under this section.

The SPEAKER. Pursuant to the rule, a second is not required on this motion.

The gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 20 minutes and the gentleman from New York [Mr. CONABLE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill waives the 3-percent threshold for the Social Security cost-of-living adjustment scheduled for January 1985. Thus, under the bill, a COLA would be paid equal to the percentage increase in the CPI from the third quarter of 1983 to the third quarter of 1984, even if this increase falls below the 3-percent level normally required to trigger a Social Security COLA. This waiver would apply only to the COLA payable in January 1985, and would not be permanent. The bill also requires the Social Security Actuary to conduct a study of the COLA provision, to evaluate the long-term effects of eliminat-

ing the trigger permanently, or reducing it to 1 percent.

As the Members know, there has been some concern that a Social Security COLA might not be automatically payable in January 1985. Data through June indicated that the CPI for the measuring period might be less than 3 percent. In July the President announced he would ask Congress to guarantee payment of this year's COLA even if current law did not require it, and a bill to do this passed the Senate on July 26.

The most recent CPI figures indicate that a COLA of at least 3.3 percent is now the most likely occurrence, and that there is very little chance that the 3-percent trigger will not be met. However, it will not be known definitely whether the CPI has exceeded the 3-percent level until the end of October, well after Congress is scheduled to adjourn. Thus, passage of this bill will provide assurance to Social Security beneficiaries that a COLA will be paid in January regardless of what happens to the CPI.

Mr. CONABLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6299, which ensures payment of a cost-of-living increase in January to Social Security beneficiaries and recipients of supplemental security income.

I would call to my colleagues' attention that nonpayment of this cost-of-living increase in January would not result in a permanent loss of the adjustment, nor would it prevent the wage base being increased to offset it at such time as it is paid.

An increase in the cost of living which does not trigger the 3-percent requirement is simply accumulated, in all probability, until the following year at which time the accumulated adjustment is paid and the appropriate wage base adjustment is also made.

The effect then of our failing to act, if it is needed, would be simply to postpone the inevitable adjustment, and its fiscal impact would be modest indeed. Unfortunately, if it is not paid this year there are some bad side effects which are complicated and part of the technical adjustment of the Social Security Act.

I am pleased that the Ways and Means Committee has acted on President Reagan's proposal to waive the 3-percent trigger required by current law. This waiver recognizes that many current beneficiaries had their most recent COLA delayed 6 months as part of the Social Security Amendments of 1983. That legislation, and our resurgent economy, have restored stability to the Social Security trust funds, and there is no reason to require a further sacrifice, however temporary, from senior citizens.

It should be acknowledged that our effort here may be rendered unnecessary for this year. Based on the latest Consumer Price Index data for August, we now know that unless prices declined substantially over the past month, the 3-percent trigger in current law will be surpassed, albeit slightly. We did not know this would be the case when we started the legislative process. But I do not consider this an unnecessary exercise, in any event. It seems entirely appropriate to me to reassure senior citizens that their COLA is guaranteed.

Further, I am somewhat mollified by the fact that this bill requires Social Security Administration actuaries to conduct a study on the long-term impact of simply eliminating the 3-percent trigger, or alternatively, lowering it to 1 percent. I would have preferred to take this opportunity to amend the current statute by permanently removing the COLA issue from election year temptations. However, as long as we are asking for the study, the Social Security Administration will have the opportunity to identify related technical pitfalls in the pertinent section, section 215(i) of the Social Security Act. As we learned during the debate on this issue, the original statute has technical flaws, which unintentionally over a period of time could benefit certain groups of retirees when compared to others. It is my hope that future legislation will permanently eliminate the 3-percent trigger in an equitable manner. In the interim I support H.R. 6299, and urge solid support from both sides of the aisle when the vote comes on this matter.

□ 1030

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 4 minutes to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise somewhat regretfully, in support of H.R. 6299. I believe that this legislation is almost certainly of no substantive benefit to the American public. This legislation neither helps nor hurts beneficiaries because the economic conditions are such, that under present law beneficiaries will get the cost-of-living adjustment [COLA] this year anyway. From beginning to end, this bill has been little more than a political football. It stands as a monument to the needless meddling that makes the formulation of consistent, long-term Social Security policy so difficult.

I have cosponsored this measure and I urge its passage today so that we can end this political posturing, at least for the time being.

I have no doubt but that the bill will provide a measure of reassurance to Social Security beneficiaries throughout the country. At this point they probably need some reassuring.

But we should be honest and say to the public that the only real reason we are considering this legislation today is because President Reagan, as part of his campaign strategy, chose to first frighten the elderly by saying their benefits were threatened and then to reassure them by urging the Congress to guarantee that a COLA would be paid. The President spoke months before any action was remotely required, long before reliable economic data was available. The premature timing of his announcement should leave no doubt in any Member's mind about the political motivation behind the President's remarks. I don't know what he has really gained by doing this, because I doubt that many of our elderly were taken in by the President's new found concern for protecting their benefits.

In the immediate aftermath of his press statement, a great hue and cry went up all across this country. Called upon for details, no one in the administration could explain what the President would support. Nevertheless, we in Congress were deluged with pleas to restore the Social Security COLA. Suddenly, the elderly everywhere became afraid that benefits which had been promised them were being threatened. Nothing could be further from the truth. But when the Senate rushed forward and passed its own COLA legislation it became impossible to convince the public that there was no substantive need for any action.

I am proud to say that the House has at least acted responsibly in its deliberations. The bill before us does not have the technical error found in the Senate-passed version, which would have failed to provide a COLA guarantee for beneficiaries qualifying under the "old formula" in place prior to 1979. This bill calls for a one-time waiver, the position the administration favored in their testimony before the Committee on Ways and Means. However, since this administration has chosen to interject politics into the Social Security COLA process, this bill calls upon the Social Security actuaries to report to the Congress on the economic impact of alternative COLA mechanisms.

This study will evaluate the long-term effects of eliminating this trigger permanently or reducing it to a 1- or 2-percent level. It will also examine possible changes in the period for measuring COLA's including the economic effect of shifting the period, or eliminating the cumulative aspect of a COLA when it is not paid for 1 or more years.

The report by the actuaries should provide us with the information needed to make responsible reforms in the Social Security COLA. It is my hope that next year, with the election behind us, the Congress will act to pre-

vent Social Security COLA's from again being used as an election year giveaway.

Mr. CONABLE. Will the gentleman yield to me?

Mr. PICKLE. I will be pleased to yield to the gentleman.

Mr. CONABLE. I will yield the gentleman 2 additional minutes if he likes.

Mr. PICKLE. The gentleman yielded me 2 additional minutes.

Mr. Speaker, I yield now to the distinguished gentleman from New York.

Mr. CONABLE. Mr. Speaker, I am always disappointed when anyone as upright and straight as the gentleman from Texas refuses to acknowledge the environment in which politics is alleged to have been raised.

The fearful wind emanating from the other side agitates the surface of our political sea and when the President tries a little defensive politics in the way of manning the life boats, the gentleman who himself as I say has always been upright in abjuring the politics of fear, nonetheless claims that the manning of the life boats is the source of the political outrage.

Now, I ask the gentleman if he does not feel that he is being slightly myopic in ignoring the inevitable attack that would be made on the President, were the rate of inflation to be so low that this trigger was not activated.

Inevitably, the claim would be made that somehow the President manipulated the inflation rate to prevent the elderly from getting their COLA. And, in fact, there is no technical reason why we need a trigger any longer.

The gentleman knows that and his claim that doing away with it is political meddling ignores a reality of which I am sure he is very much aware.

Now, I do not believe it is necessary to carry this political exchange any further because in fact, by raising the claim that the President is acting politically the gentleman has started a deteriorating debate about what is a modest technical issue.

The SPEAKER pro tempore. The time of the gentleman from New York [Mr. CONABLE] has expired.

(On request of Mr. ROSTENKOWSKI and by unanimous consent, Mr. PICKLE was allowed to proceed for 2 additional minutes.)

Mr. PICKLE. I thank the gentleman for yielding further time to me.

Mr. Speaker, I think the facts will have to speak for themselves. In July, the President recommended that he was going to recommend or assure the COLA be given. This is 90 days before any reliable information would ever be known. There is no way to avoid the fact that that was made for political reasons.

Now, I understand that the gentleman from New York [Mr. CONABLE] was one of those who might have had some influence on this course of action by the White House and I am somewhat disappointed, too, that this great legislator would participate in a political action pertaining to Social Security.

I guess it just shows that no matter how magnificent this legislator has been, that he has got an Achilles' heel, too; that he is human and would involve politics in this Social Security issue.

The fact of the matter is we are all too apt to get politics into the Social Security issue and I hope this study at the end of next year, by September of next year, will give us something to work on.

I want to say that my concern is this, and I am sure the gentleman would agree with me, that somehow we must come to grips with the entitlement programs. I do not know that this study will give us any basis for approaching that subject. I hope that it will.

If we eliminate the trigger, as the gentleman has suggested, then we are just surrendering our jurisdiction. We just say that from now on you will get the COLA, and the only otherway to approach the growth of entitlements is with something like CPI minus 2.

So, it would seem to me that we ought not to just permanently eliminate the trigger.

Mr. CONABLE. Reclaiming my time, Mr. Speaker, it is always within the province of the other side to cut Social Security benefits if they want to. The claim that the COLA would be paid forever is not real. We cannot bind future Congresses.

If you folks want to cut benefits in some way you can always do it as long as you control this House. In eliminating the trigger we change no basic law, but eliminate a technical impediment to predictable administration of the Social Security system.

Mr. PICKLE. Mr. Speaker, I do not know that we can come up with an agreement, but we all should look for it.

In the mean time, this bill should be passed, so that as much as is possible we can keep individuals from meddling with Social Security.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. CONABLE. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL], who I am assured does not wish to prolong this unnecessarily acrimonious exchange between my friend and me.

Mr. FRENZEL. I assure the gentleman from New York [Mr. CONABLE] that I do not wish to participate in this exercise in contentiousness, and I thank him for yielding me this time.

Mr. Speaker, I suspect that Congress is always piqued when somebody else starts giving away money before it can. I also suspect that may be at the root of the problem here.

I simply want to point out that the 3 percent COLA is undoubtedly, or would undoubtedly, be granted anyway under the current conditions. Since there was uncertainty, it seems prudent to pass this bill. It will remove uncertainty which is causing unrest among our constituents.

I think all Members should be advised that when you increase Social Security benefits in this way you are also increasing Social Security taxes by the increase in the base.

My understanding is that this bill, for those heroes who have promised never to raise taxes, will cost the taxpayers in terms of raised base about $1.7 billion.

That is in the year of base adjustment I am informed by the learned gentleman from New York [Mr. CONABLE].

So everyone should be aware that this tax is involved as well. I think the bill should be passed and I yield back the balance of my time.

Mr. PICKLE. Mr. Speaker, would the gentleman yield to me?

Mr. FRENZEL. I yield whatever I have.

Mr. PICKLE. Mr. Speaker, I think we ought to remember, just for a clear understanding, that whenever we grant a COLA, this means that taxes are going to be increased.

Mr. Speaker, in our program it means the wage base is going to be increased by about $1,500 now. So we ought not to think that COLA's are just as free as the southern breeze.

Somebody pays for that COLA, either by increasing the wage base or by increasing the tax rate. This is a fundamental fact that we ought to keep in mind. It is not just outgo that we have got to be accountable. For, it is revenues as well.

Mr. FRENZEL. The gentleman is correct.

□ 1040

Mr. CONABLE. Mr. Speaker, I yield myself 1 additional minute.

However, Mr. Speaker, I think it is important to point out that we are talking about a 1-year change only, in any event, even if we left the law as it is and the COLA did not trigger by reaching 3 percent of cost of living. In fact, over a long period of time, we have at least a wash in terms of cost to the taxpayer, and probably we would have a slightly reduced cost to the taxpayer over a long period of time if we have the COLA paid this year as opposed to next year, because otherwise people retiring next year get a double COLA adjustment under the existing law, get a base that then is theirs to keep over the rest of their lives beyond what they would normally be entitled to.

Thus, that is the reason why paying it this year is desirable under any circumstance from a technical viewpoint. There is no point in giving one group of beneficiaries a windfall amounting to roughly $2,500 over their lifetime because they get a double COLA at the outset of their beneficiary status.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. I thank the gentleman for yielding this time to me.

Mr. Speaker, I think we all would admit that had the COLA not been given this year there would have been a saving in expenditure of about $5 billion this year. Under the law, the benefits would have been cumulative, and the gentleman from New York is correct, but over about a 5-year period of time it still would have cost our trust fund about $1.6 billion or $1.7 billion. Over a 10-year period, the saving might be even less.

So it is not altogether a big saving. It is complicated. That is more of a reason, I think, if we can find some kind of COLA formula later which might make a saving we ought to try to achieve it, and I hope that we can do that next year.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. I thank the gentleman for yielding this time to me.

Mr. Speaker, I enthusiastically support this legislation today for several reasons. Last year, Congress passed the Social Security Act Amendments of 1983 (Public Law 98-21). This landmark legislation raised $168 billion in new and additional revenues for the Social Security trust funds through a combination of accelerated payroll tax increases, extending participation in Social Security to formerly noncovered workers, and postponing the payment of cost-of-living adjustments. The payment of the June 1983 COLA was delayed for 6 months, until January 1984. Also, all future COLA payments will be made in January rather than June. As a result of this delay which was mandated in the 1983 amendments, Social Security beneficiaries went for some 18 months without a benefit increase—from July 1982 until January 1984. This delay actually resulted in a minor reduction in benefits for senior citizens living on fixed incomes who still had to keep up with rising costs for food, rent, and health care services.

Another good reason why senior citizens deserve a COLA in 1985 results from actions taken by the Reagan administration in insisting for the past 3 years that medicare beneficiaries must meet 25 percent of the program costs for the medicare part B insurance program. In June, Congress passed legislation incorporating this feature in the Deficit Reduction Act. While part B insurance coverage is voluntary, nevertheless, many senior citizens who receive Social Security benefits rely upon this important program to meet their health care needs.

Finally, Mr. Speaker, it is important for us to note that Social Security recipients will not be the only beneficiaries from the payment of a cost-of-living adjustment in January 1985. Whenever the COLA is paid, there are adjustments made in supplemental security income [SSI] and veterans' pensions as well. Fairness dictates that passing this legislation is the right thing to do.

Mr. Speaker, I want to say that I am pleased that the President, at least in this past few months, has spoken out in favor of providing this Social Security equity. Unfortunately, the comments that have come from the administration and the President are not all in favor of the Social Security system. The President in a recent Florida speech questioned the ability of the Social Security system, to deliver the benefits that are promised in the lifetime of workers. President Reagan statement and this attitude tend to undermine Social Security and the intergenerational support and compact which support it. Administration officials, specifically Secretary Regan, have said that the adminstration will have to revisit Social Security as it deals with the budget.

So, Mr. Speaker, I just want to remind my colleagues that Social Security is a pay-as-you-go system. The Social Security System, the retirement program, specifically, is not responsible for any of the $1.5 trillion deficit that has been created. I hope the Members will realize that, and support this pay-as-you-go system, the Social Security program.

I commend my colleague, the chairman of the Ways and Means Committee, Mr. ROSTENKOWSKI, and all the members of the committee who have acted so expeditiously to report this legislation to the House floor today so that we could act to pass this measure for the benefit of the Nation's Social Security recipients.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. ADDABBO].

Mr. ADDABBO. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the legislation.

Mr. Speaker, there is no question that a cost-of-living increase is long overdue and necessary for those Americans receiving Social Security, supplemental security income, and veterans' pensions. I rise in full support of H.R. 6299 and urge my colleagues to join me in standing up for our Social Security system.

As a result of legislation passed by this House in 1983, the annual COLA was changed for July of each year to January of the following year. It resulted in Social Security recipients being shortchanged. In fact, they have not received a COLA in 3½ years because the Consumer Price Index figures did not exceed the 3 percent which triggers a COLA.

The legislation before us waives the 3-percent threshold for the Social Security COLA scheduled for this January. This waiver provides an increase which is at least equal to the percentage increase in the consumer Price Index from the third quarter of 1983 to the third quarter of 1984.

There is no question in my mind that this COLA is long overdue. I represent many Social Security recipients who rely on their checks to pay their bills. I know of their hardships and pains and believe that we have a responsibility in this House to insure that they are adequately assisted.

Today, as I call on my colleagues to support this bill, I ask that they reevaluate the process that underallocates for Social Security recipients. There is no doubt we will be faced with this problem again. The future of Social Security recipients should not be tied to election year pressures.

● Mr. SHAW. Mr. Speaker, I rise in support of H.R. 6299, which would eliminate for 1 year the 3 percent Consumer Price Index trigger for Social Security cost-of-living adjustments [COLA's]. In fact, I am a cosponsor of legislation which would permanently eliminate the 3-percent threshold.

In our attempts to deal with the Federal deficit and rising health care costs, we have asked for, and received, compromises from all groups of people. However, we must be careful that we are not unduly burdening one segment of the population with these efforts. Already, the Social Security Amendments Act of 1983 delayed the COLA for 6 months and made a portion of Social Security benefits taxable when gross income exceeds a certain level. For Social Security recipients to now be faced with the possibility of no COLA for 1984 is just not fair.

Under current law the cost of living could have risen 2.9 percent, but, because the 3 percent threshold was not triggered, Social Security recipients would not receive a COLA. H.R. 6299 would remedy this by eliminating the 3 percent CPI threshold for this year. H.R. 6299 also requires the Social Security Administration to conduct a study of COLA's and to determine the long-term consequences of eliminating the trigger permanently. The results of this study will go a long way toward reassuring senior citizens that Congress is responsibly examining the issue of COLA's. Again, I support this legislation.●

WE NEED A SOCIAL SECURITY COLA

● Mr. FEIGHAN. Mr. Speaker, I rise today in support of H.R. 6299, legislation that will grant Social Security recipients the cost-of-living increase they earned and deserve. I wholeheartedly support this bill and I urge its immediate adoption.

Social Security helps American workers build protection for themselves and their families against the loss of earned income. For two-thirds of those 65 and over, Social Security is the major source of income. One-fourth of the retired elderly depend on Social Security for more than 90 percent of their total income. And the program helps keep 15 million citizens off the poverty rolls.

These statistics prove why this cost-of-living increase is necessary. If January's cost-of-living increase is not approved by Congress, then Social Security beneficiaries will have received only one increase over a 3½-year period. This would be grossly unfair.

I have heard from hundreds of constituents on this issue, and they have explained to me first hand how much this cost-of-living increase means to them. I know that my constituents will be watching this debate very carefully, and I urge my colleagues to consider the needs and concerns of their constituents as well.

Finally, I would like to point out an ironic dimension of today's debate. For the last 2 years, I have stood in this Chamber with many of you and vigorously opposed the President's relentless attacks on Social Security. As we all know, the President has tried his best to cut Social Security by $63 billion.

But today, those of us who have fought to protect Social Security find ourselves in rare agreement with the President, who also supports this legislation. I hope this signals a change in the President's Social Security policy. But I doubt it. After all, as my friend CLAUDE PEPPER has said, "Clearly, senior citizens are not honored guests at this administration's table."●

● Mr. BIAGGI. Mr. Speaker, I rise in full support of H.R. 6299 to guarantee that a cost-of-living increase will be paid to Social Security recipients on January 1, 1985. I feel there is nothing more important that we can do for our senior citizens in the remaining days of this 98th Congress than pass this legislation.

Specifically, what we are doing is waiving the so-called 3-percent trigger threshold in current law which is necessary to allow a COLA to be paid in the following year to those on Social Security. Under current law, if the Consumer Price Index for the period beginning in the third quarter of one year and ending in the third quarter of the following year does not equal at least a 3-percent increase then no COLA can be paid. At the time when the President first proposed the guaranteed COLA, it was feared that the trigger would not be reached this time thus barring a COLA for 1985. There remains doubt even today on what the final CPI levels will be but while there remains doubt it is essential that we join the Senate in passing a bill to guarantee that some COLA will be paid in January.

There are any number of reasons for us to support this bill today. First and foremost, the CPI does not accurately reflect the true living expenses of our elderly citizens, those same people for whom Social Security supplied their economic lifeblood. Those items on which seniors expend the largest amounts of their income are in fact experiencing higher increases than the CPI would otherwise indicate. Health care costs alone bear closer discussion. Consider the 26 million people on medicare today. If they participate in the part A program, their deductible—the amount they must pay out of pocket before medicare is of any help—will increase by more than 10 percent by January 1. For those in the part B program—under the terms of the deficit reduction bill we passed several months ago they will see their part B deductible increase by almost 20 percent next year. Meanwhile, overall out-of-pocket health expenses for senior citizens have jumped by some 122 percent in the past 6 years.

Thus the importance of Social Security COLA's. For at least one-third of those senior citizens on Social Security this represents their entire income. For another one-half, it represents the majority of their income. In other words—unless benefits are adjusted up each year these seniors have absolutely no protection against inflation. When Congress first enacted the COLA provisions in 1972 it was an enlightened decision which we will most certainly be negated if we do not pass this legislation today.

Let me observe that while I am pleased that we are about to reach this point and provide some sense of security to our senior citizens—I do have some problems with the way we arrived here. As I mentioned—it was the President who first made the commitment of support for a guaranteed COLA. The Senate followed suite and passed the appropriate legislation. We follow today with our action.

However what I find troubling is the fact that other members of the President's own administration have been making provocative statements about the fiscal situation facing Social Security. One official says there may be a need for some revamping of the system; another suggests further reductions in benefits. Yet as the President must know—if there were any question about the fiscal stability of the Social Security system—the last thing he could propose would be a COLA when one would not have to be otherwise provided by law.

The fact is, the painful vote we cast in support of the 1983 Social Security reform bill produced the ingredients to ensure the stability of Social Security well into the next century. It is nothing but bunk to suggest anything to the contrary.

The vote we cast today for this bill is an honest, sensible and compassionate vote. It should be taken and taken now.●

● Mr. FIELDS. Mr. Speaker, I rise to express my strong and enthusiastic support for H.R. 6299, a bill guaranteeing a January cost-of-living adjustment for our Nation's Social Security and supplemental security income recipients.

This legislation is absolutely necessary because, since 1972, our Social Security law has provided that if inflation is very low—3 percent or less—COLA's will be delayed until the following year. Since the current rate of inflation is below 3 percent, the 36 million Social Security and SSI recipients will have to do without a cost-of-living adjustment unless H.R. 6299 is approved.

Although the funds provided in this bill are not large, this COLA is, nevertheless, critical to millions of our senior citizens these are people living on fixed incomes who depend upon their yearly cost-of-living adjustment in order to make ends meet. It would be wrong for this Congress to deny these people the COLA which they clearly deserve.

While the extraordinary low rate of inflation has made this legislation necessary, it is important to note that this has also meant a better life for all Americans—particularly those living on fixed incomes. As inflation remains low, all of us can afford to buy more at our grocery and department stores. Today, more Americans than ever before can even afford a few luxuries that were out of reach not too long ago.

Mr. Speaker, I am proud to support this legislation and proud to have cosponsored the original Social Security COLA bill, H.R. 6019, introduced by our distinguished colleague Congressman BARBER CONABLE of New York.

I hope the House will quickly approve H.R. 6299 and that the President will sign this important legislation into law in the very near future.

At the same time, I intend to continue to work vigorously on behalf of America's senior citizens in the future, just as I have in the past.

Thank you, Mr. Speaker.●

● Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of H.R. 6299, which will guarantee Social Security beneficiaries a 3-percent cost-of-living adjustment [COLA] in January even if

the inflation rate is slightly less than that during the relevant time period.

As a member of the Select Committee on Aging, I would just like the record to show the economic status of today's older Americans. In 1981, 75 percent of the elderly had incomes of $10,000 or less, 7 percent had incomes over $20,000, and only 1 percent had incomes of $50,000 or more.

The economic situation for older persons is far more precarious than it is for younger persons. An older family's income can be radically altered by conditions over which they have no control—mandatory retirement, declining health, death of a spouse, or the ability to continue to work at acceptable wages. For older persons who don't work or work only part-time, Social Security benefits are very important. To have to wait an additional year for a cost-of-living increase is an additional burden for the average retired couple who, as of December 1983, received a benefit payment of $748 per month; it is a hardship for the average retired worker whose Social Security payment is $430, and it can be a disaster for the average widow or widower who receives only $396 a month.

This bill does only one simple thing, it guarantees that older persons will receive their cost-to-living increase when they need it. It has my strong support.●

● Mr. ROYBAL. Mr. Speaker, I rise in reluctant support of H.R. 6299. There is no doubt in my mind that we will pass this legislation which guarantees a cost of living adjustment to Social Security beneficiaries in January. However, I concur with Chairman PICKLE of the Subcommittee on Social Security that we should pass this legislation because it is sound public policy, "not merely because it is good electioneering." There are more important policy issues that need to be debated during this last week of the 98th Congress. The legislation we will vote on is unnecessary, and does not go far enough in protecting retirees from increases in inflation.

As you know, the President has proposed to allow beneficiaries an increase if the adjustment would be less than 3 percent. However, due to a resurgence of inflation in August, a cost-of-living adjustment of about 3.3 percent will be automatic even without legislation. Simply stated, the President's plan guarantees beneficiaries less than will be paid under current law.

Beneficiaries are assured an automatic 3.3 percent adjustment this year. The least we should do is permanently eliminate the 3-percent trigger for future COLA's. Therefore, I support H.R. 6019, the bill to amend title II of the Social Security Act to eliminate the 3-percent trigger. I commend the gentleman form New York [Mr. CONABLE] for introducing legislation to ensure that older Americans receive every future adjustment to which they are entitled. It is characteristic of his farsightedness which we shall all miss.

Our Nation's retirees bore the brunt of the cost of the Social Security Amendments of 1983 which were designed to solve the Social Security system's financing problems. The most obvious reduction was the permanent provision to delay adjustments for 6 months and make COLA's payable in January rather than July. Last year the Office of Management and Budget estimated that this 6-month delay will cost the average retired couple $1,698 in benefits by the end of the decade.

The 1983 amendments also changed the COLA measuring period from the first quarter to the third quarter of each year. This means there will be no adjustment for the 2.4-percent increase in prices which occurred between the first and third quarters of 1983. When this factor is taken into account, the actual inflation adjustment older Americans are due is really 5.7 percent rather than the 3.3-percent increase they will receive.

I do not believe the elimination of the 3-percent trigger is enough. In all, current and future retirees paid for more than two-thirds of the costs of saving the Social Security system under the 1983 amendments. The reduction and annual delay in the COLA, the taxation of benefits, and the increase in the retirement age have put Social Security on a financially sound footing by taking money out of the pocket of beneficiaries. The Social Security and medicare programs will actually save 3 cents out of every dollar taken in next year while the rest of government spends $1.40 for every dollar received. There can be no doubt that the Social Security trust funds are healthy and that retirees have paid more than their fair share to bail out the Social Security system.

In recognition both of the relative financial strength of the system and the tremendous price beneficiaries are paying for its solvency, what we really should do is pass legislation to give older Americans the full 5.7-percent adjustment which they are due.●

● Mr. DOWNEY of New York. Mr. Speaker, I strongly support H.R. 6299, the bill to guarantee that the Social Security cost-of-living benefit increase will be paid to Social Security beneficiaries in January 1985.

Under current law, beneficiaries receive a cost-of-living adjustment when there is an increase of 3 percent in the Consumer Price Index. There is a distinct possibility that the 3-percent threshold will not be breached this year, which is good news for most of us, but bad news for Social Security recipients. Ordinarily, we would not need to consider a special waiver of the 3-percent threshold, but the 1985 payment is a special case. Before Congress amended the Social Security laws in 1983, the COLA payments came in July. As a result of the changes in 1983, the payment was delayed from July to January and this change took effect this year. Thus, Social Security recipients have gone 18 months without any change in their benefit status. For this reason, I believe that it is important that we act today to ensure that those who depend on Social Security receive their COLA payment in January.

I would like to commend my friends on the Ways and Means Committee, Mr. PICKLE and Chairman ROSTENKOWSKI, for bringing this bill to the floor promptly. I urge my colleagues to support H.R. 6299.●

● Mr. SMITH of Florida. Mr. Speaker, today we consider H.R. 6299, which would guarantee that a Social Security cost-of-living benefit increase would be paid for December 1984.

The Social Security Amendments of 1983 required that a cost-of-living increase be paid only when the Consumer Price Index [CPI] for the COLA measuring period is 3 percent or more. H.R. 6299 is in response to earlier concerns that the 3-percent trigger might not be reached this year due to the low rate of increase in the CPI. Current data indicate that the benefit increase will most likely be at least 3.3 percent. However, the House Ways and Means Committee says the bill is still necessary since the final data for calculating the amount of increase will not be available until after Congress has adjourned for the year.

The Congressional Budget Office [CBO] also states that its current forecast assumes a 1984 COLA of 3.2 percent. There would be no additional cost to Federal, State, or local government projects as a result of passage of the bill.

We must uphold the contract made with the elderly when Congress enacted Social Security. We must keep in mind the elderly have already sacrificed through the Social Security reforms this body passed in 1983.●

● Mr. WIRTH. Mr. Speaker, 36 million Americans, including over 300,000 in Colorado, rely on Social Security as their primary or only source of income during their retirement years. These people receive an average benefit of $442 a month, or $5,300 a year, which must pay for groceries, housing expenses, and the ever-increasing costs of hospitalization, medicine, and phone service. To many older Americans, this is an extremely difficult if not impossible task. The legislation we are considering today, to guarantee a minimum 3 percent cost-of-living adjustment for Social Security recipients, is essential for our Nation's retirees to be able to afford these basic necessities of life.

There was a time in our not too distant past when older Americans relied solely on family and savings for their food, shelter and health care. For some, this was an adequate arrangement. For many others, this was not possible. For them, their retirement years were a time of poverty and fear, when each new day brought new uncertainty over how to pay for the basic and necessary ingredients of survival. The Federal Government attacked this problem and created programs like Social Security which have helped dramatically reduce the poverty rate for seniors and have helped provide seniors a decent retirement. We should be proud of the progress we have made in this effort.

It is becoming increasingly clear, however, that in many cases, the support from Social Security is simply not enough. In conversations with seniors in Colorado or in letters I receive from retirees, I continue to hear words of concern and fear. Many simply can't afford to pay for their medicine. Many are forced to sell their homes because they can't afford the payments or upkeep. I received a letter just recently from an elderly woman in my district whose husband's Social Security and Railroad Retirement checks won't cover the increase in rent for their mobile home parking space. As this woman said in her letter, "I don't mean to be a complainer. I am just scared."

This legislation will not endanger the financial security of the Social Security trust funds, which were just rescued from serious finanicial difficulties. The most recent Social Security Trustees report concluded that the system is financially sound well into the next century. Moreover, if no COLA is provided for 1984, the COLA for next year would reflect the increases in the CPI of the last 2 years. In other words, the money will be paid out anyway. It is simply a matter of when, and senior citizens should not be asked to wait 2 years for an adjustment.

Mr. Speaker, we can help these 36 million elderly by passing this legislation today. A guaranteed 3 percent COLA will mean an increase of only $13 for the average retiree, but his $13 can mean the difference whether or not some senior citizens can afford the basic necessities of life.●

● Mr. HAWKINS. Mr. Speaker, favorable consideration of H.R. 6299, which guarantees a cost-of-living increase to Social Security recipients should the CPI not reach the 3-percent threshold is crucial. The passage of this measure is crucial because many of this Nation's seniors who depend solely on Social Security benefits, have been pleading with Congress to put a measure of fairness into the administration's policies toward them. Many of them face a harsh reality trying to exist from month to month on a fixed income which has not kept pace with the rising costs in medical care, housing, and food.

At present, far too many of our Nation's seniors are living from month to month at the brink of poverty or in poverty. During the last 25 months—from July 1982 until September 1984—recipients of Social Security have gone without an increase in benefits. We in Congress must remember that living on a fixed income leaves little room for unexpected increases in the cost of medication and the other vital necessities which many of our seniors depend on for continued life and well-being—outside of the institutional health care settings such as hospitals and nursing homes.

Just recently I surveyed the concerns of constituents in my district. Of the responses I received, over three-fourths of those responding strongly pleaded for some increase in Social Security and medicare benefits. The strong message that came through from those responding was, that it is very difficult to make ends meet on a fixed income. Moreover, seniors wrote back to me detailing the hardship and darkness they continually face on a monthly basis.

Senior citizens resent the indifference which this administration has served them. Seniors want and deserve decent assistance from this Nation. With the enactment of the Social Security Act in 1965, this country made a commitment to the seniors, who have worked honest and hard jobs in their early years. Congress must not forget this commitment. Thus, it is important that we take this step, small though it is, to show honor this commitment by passing this measure.●

● Mr. CONTE. Mr. Speaker, I rise in support of H.R. 6299, legislation which would guarantee a Social Security cost-of-living adjustment next January 1. I would also like to commend the distinguished chairman of the Social Security Subcommittee, JAKE PICKLE, for all of his hard work on behalf of the elderly this year.

Mr. Speaker, although it is possible that the inflation rate for 1984 may be above 3 percent—thus insuring that a COLA will be paid next January—it is important that we pass this legislation just in case inflation falls below that level. The senior citizens in this country deserve assurances that they will receive their full COLA—inflation affects them just like it affects all of us.

Under current law, Mr. Speaker, if no COLA is paid in 1 year, a COLA reflecting the inflation rate for 2 years would be paid in the following year. For example, if the inflation rate in 1984 ends up being 2.8 percent, and is 3.5 percent in 1985, a COLA of 6.3 percent would be paid on January 1, 1986. And although it might be tempting for us to save a few dollars in the short term today by not passing this bill, inflation has increased the cost of living for senior citizens this year. It affects many of them more than the rest of us.

Primarily due to the fine work done by the Social Security Subcommittee last March, we know that the trust funds can easily afford to pay this cost-of-living adjustment next January. Those extra few dollars per month mean far more to them than it does to us, and than it does to the Social Security trust funds. With higher medical costs than the rest of the population generally, with high food costs on a fixed budget, senior citizens need their COLA now. We have the chance to provide it, and I urge support for this legislation.●

● Mr. YOUNG of Florida. Mr. Speaker, I rise in support of H.R. 6299, legislation that will guarantee the payment of Social Security cost-of-living increases January 1.

As the representative of 250,000 Social Security recipients in Pinellas County, FL, who receive more than $1.1 billion annually in benefits, I am well aware of the special needs of retired workers living on fixed incomes and their reliance on annual cost-of-living increases. These benefit increases are the only means many older Americans have to keep pace with rising food, housing, and medical costs.

One of the first bills I introduced as a Member of Congress in 1972 was legislation to provide for automatic, annual Social Security cost-of-living increases. Five months later, Congress approved this measure to begin in 1975 the automatic adjustment of benefits. The legislation provided for increases equal to the rise in the Consumer Price Index in every year when the index rose more than 3 percent.

The 3-percent level was set because the Social Security Administration determined that the administrative costs of calculating and paying out a benefit increase of less than 3 percent would have been prohibitively expensive. Since that time, the Consumer Price Index has never fallen below 3 percent. There is, however, a possibility that may occur this year. Social Security recipients should not be penalized for our economic success in reducing inflation. Even though inflation is under control, older Americans still are faced with rising costs, especially in medical care.

Last month I testified before the Ways and Means Committee in support of legislation I cosponsored to permanently eliminate the portion of the law that prohibits the payment of cost-of-living increases in years of low inflation. The 3-percent figure is now obsolete because the Social Security Administration has upgraded its antiquated computer systems to the point where it would no longer be too ad-

ministratively expensive to calculate small increases in Social Security benefits. The House Appropriations Subcommittee on which I serve has spent a great deal of time questioning Social Security officials about the capability of their new computer system, and Social Security officials agree that these types of calculations are no longer a problem.

Mr. Speaker, while I would prefer that this legislation permanently remove the provision that prohibits Social Security cost-of-living increases in years of low inflation, I support H.R. 6299 because I believe it is important to assure current Social Security recipients that their benefit increases will be reflected in their January 1 checks regardless of the Consumer Price Index. It is my hope, though, that next year we again will look at this matter and make this a permanent legislative change.●

● Mr. BONKER. Mr. Speaker, I rise in support of H.R. 6299, a bill to provide cost-of-living increases to Social Security beneficiaries.

Although the economic status of many elderly persons in this country has improved over the past two decades, about 1 out of 7 Americans over the age of 65 currently lives in poverty. And, close to one-fourth of all elderly citizens are "near poor," below 125 percent of the official U.S. poverty level. In light of this fact, it is essential that Congress favorably consider this measure, to ensure a cost-of-living increase in January of 1985 for this Nation's Social Security recipients and the elderly participating in the supplemental security income and veterans' benefits programs.

The Social Security Act provides for an automatic benefit increase in any year when the cost of living rises by 3 percent or more. The rate of inflation over the past year has been averaging just under 3 percent and if this trend continues, Social Security beneficiaries will not receive a cost-of-living adjustment [COLA] until January 1986. This, combined with the provision of the Social Security Reform Act of 1983—Public Law 98-21—which shifted the annual COLA from July to January of the following year places a 2½ year period between COLA's.

H.R. 6299, if enacted would eliminate the 3-percent trigger for the Social Security COLA scheduled for January 1985. The measure would ensure that a COLA would be paid in January equal to the percentage increase in the Consumer Price Index from the third quarter of 1983 to the third quarter of 1984 even if the increase falls below the 3-percent COLA trigger level. The bill's provisions do not apply to any period other than January 1985.

Social Security is one of our Nation's most important commitments to its citizens. Congress must act to ensure that commitment is met. I urge my colleagues to adopt this legislation.●

● Ms. SNOWE. Mr. Speaker, during these final days of the 98th Congress, we have a responsibility to our retired constituents—that of providing an adequate cost-of-living adjustment [COLA] to 37 million Social Security beneficiaries. If we fail to act today, the average couple may be denied an additional $252 in benefits next year.

Under current law, no COLA will be paid unless inflation is at least 3 percent. We know that the Consumer Price Index [CPI] will be close to 3 percent, but it may be only 2.9 percent, just slightly less than that required to automatically trigger a corresponding COLA.

Over half of our Social Security annuitants rely solely on their Social Security benefits. They do not care if the inflation rate is 2.9 percent of 3 percent. They do not understand the technicality prohibiting a 2.9-percent COLA rather than a 3 or above percent COLA. They do know that they need these cost-of-living adjustments, that they must keep up with increased prices for food, heat, and transportation.

The measure before us today would waive a provision in current law which now prohibits a COLA increase if the CPI is less than 3 percent. Although it now appears the CPI growth rate for the year may be above 3 percent, we would be remiss if we adjourned without making sure our Social Security beneficiaries are provided for. If this COLA is forgone, recipients will not be eligible for an increase until January 1986, 2½ years after their last COLA. I believe my colleagues will agree with me that this would be unacceptable.

Our passage of H.R. 6299 is simply a precautionary measure should, in our absence, the yearend CPI not quite reach 3 percent. H.R. 6299 also calls for a study of permanent changes in future COLA determinations. Both the waiver and the study are necessary, and I wholeheartedly support the bill's immediate passage.●

● Mr. MATSUI. Mr. Speaker, the legislation we consider today affords us the opportunity to assist millions of older Americans keep pace with the rising expenses of food, shelter, and clothing. H.R. 6299 will ensure that all Social Security beneficiaries receive a cost-of-living adjustment [COLA] for 1984 even if the rise in inflation is less than 3 percent.

The Social Security COLA is based upon annual changes in the Consumer Price Index [CPI], which measures increases and decreases in the price of all consumer items. Under current law, a COLA is not paid when the annual increase in the CPI is less than 3 percent.

H.R. 6299 waives the 3 percent CPI requirement for this year thereby making certain that Social Security recipients receive a COLA in January.

I strongly support this legislation notwithstanding the fact that increases registered in the CPI last August may have pushed the inflation rate for 1984 to 3.3 percent. Our action today forcefully demonstrates our commitment to providing adequate Social Security benefits for retired Americans. I urge my colleagues to support this important legislation.●

● Mr. VANDERGRIFF. Mr. Speaker, I rise in support of H.R. 6299. I should like to point out that I opposed the initial move to delay the cost-of-living adjustment from June 1984 until January 1985. With the skyrocketing costs of health care, to cite but one example, many senior citizens in this country are finding it difficult to make ends meet. January COLA's, however, are now a fact of life.

As my good friend and colleague from Texas, the chairman of the Social Security Subcommittee, JAKE PICKLE has stated, the need to enact provisions calling for a COLA in January regardless of whether the Consumer Price Index trigger is reached is really a moot issue. In fact, when I cosponsored this measure we knew that the 3-percent threshold would be met. The bill, however, does contain another important feature—that is the requirement for a study to be conducted on the manner in which future COLA's will be calculated.

Some experts believe that a 3-percent trigger is too high a threshold. They say that it is likely that senior citizens are adversely impacted when the annual increase in the CPI reaches 1 or 2 percent. Others maintain that 3 percent is too low. Mr. Speaker we all know that some threshold must be used, and if there is any chance that the formulas used for cost-of-living adjustments are unfair or inequitable to seniors, or the Treasury, we need to alter them. This study will provide valuable information to the Congress. We enacted Social Security legislation earlier this session in order to ensure its solvency. This study may help us make more prudent decisions in the future. We need to assure both current and future Social Security recipients that Congress is acting wisely and using the most current and reliable data available.

Mr. Speaker, the mandated study is needed and, therefore, this measure should be supported.●

● Mr. GILMAN. Mr. Speaker, I rise in strong support of the legislation now before us. H.R. 6299, the Social Security COLA legislation, would waive for 1 year the requirement that the Consumer Price Index reach 3 percent in order to trigger Social Security cost-of-living adjustments. In many ways, I am pleased to see this legislation before the House, as it is a clear indi-

cation of the strong economic stability we are now enjoying, and the virtual absence of inflation. The dangerous spiral of the last decade has been brought to a halt, and while we now enjoy an economy whose growth is steady, we must continue to ensure that Social Security beneficiaries are not forgotten. Although they, too, reap benefits from the stable economy, it cannot be forgotten that living on a fixed income without any type of cost-of-living adjustment at least once a year is difficult indeed.

Under current law, only a Consumer Price Index of 3 percent or more triggers the Social Security COLA. Earlier this year, it was expected that the CPI would be below 3 percent, thus eliminating any increase. Hence, the President's announcement that beneficiaries should receive an increase in any case, was pleasant and appreciated news. The Senate acted soon after, and the legislation this body is considering today is a culmination of that effort.

I have always been of the opinion, Mr. Speaker, that our senior citizens deserve even more that what they ask of their Government. Having labored for many years, paying taxes as they are due, and raising their families to be productive and contributing members of society fashioned after their own example, it is extremely important that we maintain our emphasis on the contributions all senior citizens continue to make to our society. By adopting H.R. 6299, this House shows its recognition of that which these fine men and women have earned—the right to live in dignity and with adequate sustenance. Accordingly, I urge my colleagues to adopt this measure.●

● Mrs. COLLINS. Mr. Speaker, I rise in support of H.R. 6299, a bill which waives the 3-percent threshold for the Social Security cost-of-living adjustment [COLA] scheduled for January 1985.

Though it now appears likely that this year's inflation rate will not fall below 3 percent, I favor this bill as a safety measure. If an automatic COLA was not approved and inflation then fell below 3 percent, Social Security beneficiaries would have gotten only one increase in the 42-month period between July 1982 and January 1986. This situation would be very unfair for the many deserving retirees and their families who have come to rely on the Social Security system.

A Social Security COLA would also trigger increases in supplemental security income, Veterans' pensions, and the amounts retirees may earn without having their benefits reduced. According to estimates from the American Association of Retired Persons, these measures could keep roughly a half million elderly and disabled Americans above the poverty line next year.

Though the financial impact of this legislation is not great, I know that it will be important to those struggling to make ends meet. Furthermore, I hope that this action will reassure our disabled and senior citizens that the Social Security system is stable and will remain so. Thus, I urge my colleagues to vote for the bill.●

● Mr. WEISS. Mr. Speaker, H.R. 6299, the Guaranteed Social Security Cost of Living Benefit Increase, is an unnecessary bill that was sent to Congress by a President who wants to prop up his political status with older Americans, not because he is concerned about their welfare.

H.R. 6299 will guarantee a cost-of-living adjustment [COLA] to Social Security beneficiaries in 1985. Under current law, such a COLA is provided only when the Consumer Price Index [CPI] exceeds a 3-percent trigger level. However, present economic data indicate that the 3-percent trigger level will certainly be exceeded. This means that Social Security beneficiaries will be assured of a COLA without enactment of this legislation.

I support H.R. 6299 and will vote for its adoption, not because it will be of substantive benefit to Social Security recipients, but because it will allay the fears of our Nation's elderly population, who have been repeatedly frightened by the President's often successful attempts to cut their much needed benefits.

Moreover, I support H.R. 6299 because it will require the Social Security Administration to conduct a study of possible changes in the 3-percent trigger for COLA's, including reducing or eliminating the trigger requirement. Such a study will be highly important if we are to initiate reforms that will prevent the issue of Social Security COLA's from being manipulated for purely political reasons in the future.

President Reagan's premature suggestion that legislation might be required to insure a 1985 COLA came in July, a full 3 months before any reliable data on the CPI would become available. It is not difficult to discern that the announcement was motivated by the upcoming Presidential election and not by a newfound interest in preserving the Social Security system.

With friends like Ronald Reagan, Social Security needs no enemies. The President has attacked Social Security throughout his career in public life, and his tenure as President has been marked by massive cuts in this historic and highly successful program.

Shortly after taking office in 1981, President Reagan proposed devastating cuts of more than $88 billion in the Social Security program. While his efforts to gut the program were rebuffed by Congress and the American people, the President did manage to push through $22 billion in cuts, many of which have forced hardship on Social Security recipients.

In 1983, a series of Social Security cuts were enacted with the President's blessing, including a raise in the retirement age, taxation of benefits, and a 6-month delay in the cost-of-living adjustment. This COLA delay, which had been vigorously recommended by the President, cut benefits by more than $6 billion in 1983 alone.

Last year the President acted to delay a much-needed COLA for Social Security beneficiaries, causing financial hardship for our Nation's elderly population. It is simply hypocrisy and base political posturing when he turns around just before the election and supports legislation for a COLA increase that recipients will be getting anyway. I am sure that our Nation's senior citizens are aware of this cynical charade and will not be misled by the President's actions.

Social Security benefits are of the utmost importance to millions of Americans. In fact, Social Security benefits lifted 9.3 million elderly Americans above the poverty level in 1982. Without these benefits, more than half our elderly population would have been living in poverty that year. There can be no doubt that Social Security is the single most important factor in insuring an adequate standard of living for the elderly, the disabled, and the widowed and orphaned.

The Social Security Program is of such vital importance to our Nation that it is not sufficient to enact a yearly COLA for Social Security recipients. We are not truly doing justice to our Nation's elderly population until we reverse the irresponsible budget decisions of the Reagan administration that have slashed billions from this vital program.

Despite a series of unwarranted cuts that have severely impacted older Americans, the Reagan administration has repeatedly made it clear that further cuts are planned for the future. Those of us in the Congress must continue to be vigilant in our defense of the Social Security system and to press for the restoration of benefits that have been unfairly cut in recent years.

In short, we must not be satisfied with preserving a Social Security system that has already been tampered with. Rather, we must work toward making the necessary improvements that will make the system equitable for all Americans.●

Mr. CONABLE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and pass the bill, H.R. 6299.

The question was taken.

Mr. ROSTENKOWSKI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS AMENDMENTS OF 1984

Mr. WEISS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6259) to make certain changes in the membership and operations of the Advisory Commission on Intergovernmental Relations with an amendment.

The Clerk read as follows:

H.R. 6259

Be it enacted by the Senate and House of representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Advisory Commission on Intergovernmental Relations Amendments of 1984".

SEC. 2. Section 3 of the Act entitled "An Act to establish an Advisory Commission on Intergovernmental Relations" (42 U.S.C. 4271 et seq.), hereafter in this Act referred to as the "Act", is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) The Commission shall be composed of thirty-seven members as follows:

"(1) eight appointed by the President of the United States, three of whom shall be officers of the executive branch of the Government, and five private citizens, all of whom shall have had experienced or familiarity with relations between the levels of Government;

"(2) four appointed by the President of the Senate, who shall be Members of the Senate;

"(3) four appointed by the Speaker of the House of Representatives, who shall be Members of the House;

"(4) four appointed by the President from a panel of at least eight Governors submitted by the National Governors' Association;

"(5) one appointed by the President either from a panel of at least two elected Indian tribal government officials submitted jointly by the National Congress of American Indians and the National Tribal Chairmen's Association, or from such other Indian tribal government officials as may be nominated by governing bodies of Indian tribes as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B);

"(6) four appointed by the President from a panel of at least eight members of State legislative bodies submitted by the National Conference of State Legislatures;

"(7) one appointed by the President from a panel of at least two school officials submitted jointly by the National School Boards Association and the Council of the Great City Schools;

"(8) four appointed by the President from a panel of at least eight mayors submitted jointly by the National League of Cities and the United States Conference of Mayors;

"(9) one appointed by the President from a panel of at least two elected officials of units of local government with a population of less than 75,000 submitted jointly by the National League of Cities and the National Association of Towns and Townships;

"(10) four appointed by the President, three of whom shall be elected officials from a panel of at least six submitted by the National Association of Counties; and one of whom shall be an elected official from a panel of at least two submitted by the National Association of Regional Councils;

"(11) one appointed by the Chief Justice of the United States, who shall be a judge of the United States Court of Appeals or district court;

"(12) one appointed by the Chief Justice of the United States from a panel of two or more justices or judges of a State court of last resort submitted by the Conference of Chief Justices.

"(b) The members appointed from private life under paragraph (1) of subsection (a) and the members appointed under paragraphs (5), (11), and (12) of such subsection shall be appointed without regard to political affiliation. Of each class of members appointed under paragraphs (2) and (3) of such subsection, two shall be members of the majority party and two shall be members of the minority party of their respective Houses. Of each class of members appointed under paragraphs (4), (6), (8), and (10) of such subsection, not more than two shall be members of the same political party. Of each class of members appointed under paragraphs (6), (8), and (10) of such subsection, not more than one member shall be from any one State. At least one of the members appointed under paragraph (8) of such subsection shall be from cities with a population of less than 500,000 individuals.".

SEC. 3. Section 4 of the Act is amended—

(1) by inserting "or otherwise voluntarily resigns," after "section 3(a)" in subsection (d); and

(2) by striking out subsection (e) and inserting in lieu thereof the following:

"(e) Eighteen members of the Commission shall constitute a quorum, but two or more members shall constitute a quorum for the purpose of conducting hearings. Votes may be cast only by duly appointed members of the Commission. The use of proxies or voting by alternaties shall not be permitted by the Commission. No report or recommendation shall be issued by the Commission unless a quorum shall be present and voting at the time of approval by the Commission of such report or recommendation.".

SEC. 4. Section 6 of the Act is amended—

(1) by striking out paragraph (2) of subsection (d) and inserting in lieu thereof the following:

"(2) to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code."; and

(2) by adding at the end thereof the following new subsection:

"(g) Not later than 120 days after the date of enactment of the Advisory Commission on Intergovernmental Relations Amendments of 1984, the Commission shall issue bylaws governing the operations and procedures of the Commission.".

SEC. 5. Section 8 of the Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 8. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act for each of the fiscal years 1985 through 1989.".

SEC. 6. The amendments made by this Act shall be effective of January 1, 1985, and shall apply to all appointments (and reappointments) made to the Advisory Commission on Intergovernmental Relations after that date.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New York [Mr. WEISS] will be recognized for 20 minutes and the gentleman from Pennsylvania [Mr. WALKER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. WEISS].

GENERAL LEAVE

Mr. WEISS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, concerning the bill, H.R. 6259.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. WEISS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6259, the Advisory Commission on Intergovernmental Relations Amendments of 1984, which Congressman WALKER and I, together with Congressmen MCGRATH and MCCAIN, introduced to make certain changes in the membership and operations of the Advisory Commission on Intergovernmental Relations. H.R. 6259 was approved by voice vote of the Committee on Government Operations after being approved unanimously by the Subcommittee on Intergovernmental Relations and Human Resources. It incorporates legislation, originally introduced by Congressmen MCGRATH and MCCAIN, which has been cosponsored by 226 of our colleagues. This legislation marks the first time that changes in either the membership or operations of the Commission have been made in its 25-year history and I am grateful to Chairman BROOKS for his leadership on behalf of this issue.

The Advisory Commission on Intergovernmental Relations was established in 1959 to monitor the operation of the American federal system, and to recommend ways to improve its functioning and effectiveness. The underlying purpose of the Commission is to strengthen the ability of our federal system to meet the problems of an increasingly complex society by promoting greater cooperation, understanding, and coordination of activities among the separate levels of government—National, State, and local.

This legislation is the outgrowth of two hearings held this past July: one

oversight hearing held jointly with the Senate; and an additional hearing on the issue of ACIR membership. It is compromise legislation which balances competing membership and operations' concerns. I want to take this opportunity again to express my appreciation to my colleague and ranking minority member, Mr. WALKER, for the efforts he has made on behalf of this issue, as well as his tireless work on all of our subcommittee's oversight activities.

The provisions of the bill concerning membership would accomplish the following:

1. Eleven new members would be added to the Commission, which currently has 26 members. Six members are added in order to ensure that the Commission remains a body representative of all major governmental units that are either affected by or have a major impact on the federal system. These six members are:

One representative of Indian Tribal Governments, one representative of school boards, one representative of towns and townships, one representative of regional governments, one judge of a United States Court of Appeals or District Court, and one State chief justice or judge of a State court of last resort.

2. Five additional members are added in order to maintain the Commission's balance between Federal, State, and local levels of government. These five members are:

Two additional private citizens, one additional member of the U.S. Senate, one additional member of the U.S. House of Representatives, and one additional member of a State legislature.

Historically, five criteria have been used to judge the merit of proposals to expand ACIR membership, although none of these criteria are specified by legislation. These criteria are that the Federal/State/local balance be maintained; that the bipartisan balance be maintained; that members represent general purpose governments that are almost universal in our Nation; and that a majority of Commission members be elected officials. These criteria do not constitute hard and fast rules, but they do provide a useful framework in which to consider additions to ACIR's membership.

Indian Tribal Governments are recognized as sovereign by the United States, making their relationship to the Federal Government unique. Because Indian Tribal Governments provide many services to their members, they are considered general purpose governments. Indians reside in all 50 States and tribes are found in 41 States; thus, they may also be considered universal.

School districts perform the largest State-local government function in terms of personnel and expenditures, and are a major entity within the Federal system. At the local level, school systems are, for the most part, wholly self-governing entities. Because of their independence from other local units of governments, as well as the sheer size of the education function in State-local finances, it is important that school boards have representation on the Commission. The joint nomination of a school board member by the National School Boards Association and the Council of the Great City Schools recognizes the involvement of these organizations in dealing with school boards.

The number of small communities in the United States has increased appreciably since the 1970 census, and these communities are now a separately identifiable part of municipal governance in America. The joint nomination of a small community member by the National Association of Towns and Townships and the National League of Cities recognizes the involvement of these organizations in dealing with small local governments.

Regional governments have filled a gap in our Nation's intergovernmental structure by dealing with problems that transcend jurisdictional boundaries and must be addressed on a region-wide basis. When the Commission was established, regional governments were fairly new and untried and were not universal. Over the past 2 decades as communities expanded beyond central cities, the need for regional governments grew. During those 20 years, regional governments were established in over 500 communities. Over the years, regional governments have become involved in issues ranging from transportation to economic development to housing.

Over the past 2 decades, the rulings of Federal and State courts have realigned relationships within the Federal system. This is quite a different situation than that existing when the Commission was created in 1959. At that time, the courts were relatively inactive in intergovernmental matters, and it was not necessary to provide for their representation on the Commission. This is clearly not the case today, and representation of the judiciary would greatly enhance the work of the Commission. Membership on the Commission for Federal and State judges is supported by the Chief Justice of the U.S. Supreme Court and the Conference of Chief Justices. In keeping with the appointment process provided in Public Law 86-380, whereby the head of each separate branch of Government appoints the Commissioners from that branch, the bill provides that the Chief Justice of the U.S. Supreme Court will make the judicial appointments to the Commission.

The Commission was structured to possess a balance between Federal, State, and local levels of government. The committee believed that it was important to maintain this balance, and additional members have been added to ensure that the Commission does not become too heavily weighted to the concerns of any one level of government. The inclusion of two additional private citizen members appointed by the President will ensure that Federal representation is adequate, as well as ensuring that the Commission maintains its institutional perspective.

The provisions of the bill concerning the operations of the Commission would accomplish the following:

Under current law, Commission members may only end their tenure on the Commission if their 2-year term expires or if they are no longer in the office for which they were appointed. The bill allows for the voluntary resignation of Commission members so that their seat may be vacated and filled promptly, thus potentially reducing absenteeism which has been problematic.

Quorum requirements for the Commission are currently that 13 of the Commission's 26 members be present. With the addition of new members and a new total of 37 members, the quorum requirement will be that at least 18 members be present. Because Commission reports and recommendations carry the endorsement of the full Commission when they are published, a quorum will be required whenever action is taken on any report or recommendation.

Currently, members of the Federal executive branch are permitted to vote by designating an alternate. This has resulted in limited participation by the executive branch in Commission activities; thus, the option of using alternates, or proxies, will be eliminated.

The enabling legislation for the Commission allowed up to $50 per day for temporary and intermittent services required by the Commission. The bill provides that the rate for consultants be set at the current Governmentwide rate and will change in accordance with this rate.

Finally, the Commission operates without formal bylaws to govern the procedures of the Commission. In order to clarify the operations and procedures of the Commission, it is required to issue bylaws within 120 days after the date of the enactment of this act. A standard sunset provision has been included which authorizes appropriations for the Commission through fiscal year 1989. All amendments made by the act shall be effective on January 1, 1985.

We urge your support of this measure which we feel will strengthen the ability of the Advisory Commission on Intergovernmental Relations to endure as a bipartisan and independent institution of considerable reputation.

Mr. Speaker, I reserve the balance of my time.

Mr. WALKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as an original cosponsor of H.R. 6259, I am very pleased to lend my support to the measure. Our subcommittee chairman, Mr. WEISS, has outlined the provisions and history of the bill—so I will be brief. It is important that we move ahead with consideration of the membership issue and I commend Mr. WEISS and the committee staff for their efforts in this regard. I would also like to express special appreciation to our colleagues, Mr. MCGRATH and Mr. MCCAIN, for their leadership as we proceeded with this bill and this issue.

H.R. 6259 would increase the membership of ACIR from 26 to 37 members. Five of the new members are included primarily for the purpose of maintaining Federal, State, and local balance as well as the bipartisan nature of the Commission. The bill would also add representatives from six groups that have not previously been included, school boards, towns and townships, regional governments, and Federal and State judges. Testimony from these groups has led me to conclude that they would lend perspective to Commission deliberations.

In addition, we have included several oprational changes such as allowing Commission members to resign voluntarily, prohibiting the use of alternates of proxies by Commission members, fixing per diem for consultants at the current Government rate, and requiring the Commission to issue bylaws—all of which are intended to contribute to the Commission's ability to fulfill its mandate.

This is a compromise bill. I am not totally happy with all of its provisions. However, it is a significant step in the right direction. The measure was approved by voice vote in the Intergovernmental Relations Subcommittee and the full Committee on Government Operations. H.R. 6259 is a reasonable compromise and I urge its adoption.

□ 1050

Mr. Speaker, I yield 1 minute to the gentleman from Arizona [Mr. MCCAIN], who contributed so significantly to the development of the bill.

Mr. MCCAIN. Mr. Speaker, I thank the gentleman from Pennsylvania.

Mr. Speaker, I would like to extend my appreciation to the gentleman from New York [Mr. WEISS] and the gentleman from Pennsylvania [Mr. WALKER] for their hard work on this bill.

Mr. Speaker, the native Americans are entering the mainstream of American political and economic life. I think it is important that an Indian member of one of the tribal governments be a member of the Advisory Commission on Intergovernmental Relations. I am glad this is taking place in this legislation, and I appreciate the efforts of the gentleman from New York and the gentleman from Pennsylvania in making this possible.

● Mr. HAWKINS. Mr. Speaker, I rise in support of H.R. 6259, the Advisory Commission on Intergovernmental Relations Amendments of 1984.

The passage of this bill will expand the membership of the Advisory Commission on Intergovernmental Relations to include a representative for each of the following groups: Indian tribal governments, regional governments, school boards, Federal judges, State judges, and towns, and townships. In addition to these six new members, five members are added in order to maintain the Federal, State, and local balance of the Commission.

Mr. Speaker, I believe that these additions to the Commission are necessary to enhance and ensure that the Commission remains a body representative of all major governmental units that are either affected by or have a major impact on the federal system.

For an example, a representative is necessary for the school boards across this Nation because school districts perform the largest State-local government function in terms of personnel and expenditures. At the local level, school systems are, for the most part, wholly self-government entities. Because of the school board's independence from the local units of government as well as the size of the education function in State, and local finances, it is important that school boards have representation on the Commission.

The major purpose of the Commission is to strengthen the ability of our Federal system to meet the problems of an increasingly complex society by promoting greater cooperation, understanding, and coordination of activities among the separate levels of government—National, State, and local.

Mr. Speaker, I believe that this legislation which will amend Public Law 86-380 is necessary in that it insures bipartisan membership and will provide for a balanced panel representative of those involved in and affected by the workings of the intergovernmental system.

Mr. Speaker, I urge my colleagues to support H.R. 6259.●

● Mr. GILMAN. Mr. Speaker, I rise in support of the measure now before us. I am especially pleased to see action on this legislation, after its forerunner, H.R. 1617, introduced by our colleague, the gentleman from New York [Mr. MCGRATH], received the strong backing of such worthy organizations as the National School Boards Association. As an early cosponsor of Congressman MCGRATH's legislation, both in this Congress and last, I have been working for adoption of this legislation, which would increase the membership of the Advisory Commission on Intergovernmental Relations.

Currently, the Commission has 26 members. This number has not changed since its creation in 1959, when it was charged with studying the Federal system and ways it might be improved. Much has changed in the last few decades. There are no representatives of the judiciary, school districts, or small townships on the Commission. However, H.R. 6259 would increase the membership on the Commission to 37, thus recognizing the need to broaden the base of this group. Although the ratio of groups represented would remain, in order to maintain a balance, this bill adds: a school official from candidates submitted jointly by the National School Boards Association and the Council of the Great City Schools; an elected officer of a town with a population of less than 75,000 from those submitted by the National League of Cities and the National Association of Towns and Townships; an elected regional government official from names submitted by the National Association of Regional Councils; and an elected tribal official from candidates offered by the National Congress of American Indians and the National Tribal Chairmen's Association. Furthermore, the Chief Justice of the United States will now have the authority to appoint a Federal district or appellate court judge and a judge of State court of last resort.

Mr. Speaker, for several years, I have been working with the local officials of the New York State School Boards Association to see this measure passed. Under the guidance of Georgina Hyde, I believe an effective coalition of school board members in my district were able to make a significant contribution to the movement of this bill. Meetings were held with Diane Markowitz of Goshen, Martha Bial of Dobbs Ferry, William Griffin of Clarkstown, and John Masi of Middletown, all of whom have given of their time and energy to effect passage of H.R. 6259. I enjoyed working with each of them every step of the way, from requesting hearings on H.R. 1617 to prodding for floor action. I believe that school districts have much to contribute to the Advisory Commission, and I expect that the ACIR will benefit greatly from this increased membership. Accordingly, I urge my colleagues to cast their vote for this important addition to educational efforts, and reiterate my strong support for this measure.●

Mr. WEISS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WALKER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by

the gentleman from New York [Mr. WEISS] that the House suspend the rules and pass the bill, H.R. 6259, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. WEISS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations be discharged from further consideration of a similar Senate bill (S. 1052) to make certain changes in the membership and operations of the Advisory Commission on Intergovernmental Relations, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1052

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3(a) of the Act entitled "An Act to establish an Advisory Commission on Intergovernmental Relations", approved September 24, 1959 (42 U.S.C. 4273(a)) is amended—

(1) by striking out "twenty-six members" in the matter preceding paragraph (1) and inserting in lieu thereof "twenty-eight members";

(2) by striking out "Governors' Conference" in paragraph (4) and inserting in lieu thereof "National Governor's Association";

(3) by striking out "board of managers of the Council of State Governments" in paragraph (5) and inserting in lieu thereof "National Conference of State Legislatures";

(4) by striking out "and" at the end of paragraph (6);

(5) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon; and

(6) by inserting after paragraph (7) the following new paragraphs:

"(8) One appointed by the President from a panel of at least two elected officers of a township submitted by the National Association of Towns and Townships;

"(9) One appointed by the President from a panel of at least two elected school board members submitted by the National School Boards Association.".

(b) Section 3 of such Act (42 U.S.C. 4273) is further amended by adding at the end thereof the following new subsection:

"(d) For purposes of subsection (a)(8), the term 'township' means a township as described in the Governmental Organization volume of the 'Census of Governments' publication most recently issued by the Bureau of the Census prior to the date on which an appointment is made under such subsection.".

(c) Section 4(e) of such Act (42 U.S.C. 4274(e)) is amended by striking out "Thirteen" and inserting in lieu thereof "A majority of the".

MOTION OFFERED BY MR. WEISS

Mr. WEISS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WEISS moves to strike all after the enacting clause of the Senate bill, S. 1052, and to insert in lieu thereof the provisions of H.R. 6259, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 6259) was laid on the table.

AMUSEMENT PARK SAFETY ACT OF 1984

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5790) to amend the Consumer Product Safety Act to strengthen the authority of the Consumer Product Safety Commission over amusement devices, as amended.

The Clerk read as follows:

H.R. 5790

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Amusement Park Safety Act of 1984".

SEC. 2. (a)(1) Section 3(a)(1)(I) of the Consumer Product Safety Act (15 U.S.C. 2052(a)(1)(I)) is amended by striking out ". The term 'food', as used in this subparagraph means all 'food' ".

(2) Section 3(a)(1) of such Act is amended by striking out the first two sentences following subsection (I).

(b) Section 3(a) of such Act is amended by adding at the end the following:

"(15) The term 'amusement ride' means any device which carries or conveys passengers along, around, or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement and which is customarily controlled or directed by an individual who is employed for that purpose and who is not a consumer with respect to such device. An amusement ride which is not permanently fixed to a site is a consumer product for purposes of this Act and an amusement ride which is permanently fixed to a site—

"(A) is not a consumer product for purposes of sections 7 and 8, and

"(B) is a consumer product for the remainder of the Act.

"(16) The term 'amusement ride operator' means the owner of an amusement ride.".

SEC. 3. Section 6(b) of such Act (15 U.S.C. 2055(b)(1) is amended—

(1) in the first sentence of paragraph (1) by striking out "the Commission shall" through the end of the sentence and inserting in lieu thereof the following: "the Commission shall, to the extent practicable, notify and provide a summary of the information to—

"(A) each manufacturer or private labeler of the consumer product, and

"(B) to each amusement ride operator who owns the amusement ride

to which the information pertains, if the manner in which such consumer product or amusement ride is to be designated or described in such information will permit the public to ascertain readily the identity of such manufacturer, private labeler, or amusement ride operator and shall provide such manufacturer, private labeler, or amusement ride operation with a reasonable opportunity to submit comments to the Commission regarding such information .";

and

(2) in the second and third sentences of paragraph (1) and in paragraphs (2) and (3), by striking out "or private labeler" each place it occurs and inserting in lieu thereof ", private labeler, or amusement ride operator".

SEC. 4. (a) Section 15(b) of such Act (15 U.S.C. 2064(b) is amended by adding at the end the following: "Each amusement ride operator who obtains information which reasonably supports the conclusion that the amusement ride the operator owns contains a defect which could create a substantial product hazard described in subsection (a)(2) shall provide the information required by the preceding sentence.".

(b) Section 15(d) of such Act is amended—

(1) by inserting after "of such product" the following: "or the amusement ride operator if the product is an amusement ride"; and

(2) by inserting before ", or from doing" in the last sentence the following: ", from operating an amusement ride if the product involved is an amusement ride".

SEC. 5. (a) Section 16(a) of such Act (15 U.S.C. 2065(a)) is amended by striking out "and" at the end of paragraph (1), by striking out the period before the last sentence in paragraph (2) and inserting in lieu thereof "; and", by striking out the last sentence, and by adding after paragraph (2) the following:

"(3) to inspect, at reasonable times and in a reasonable manner—

"(A) amusement rides which are not permanently fixed to a site, and

"(B) amusement rides which are permanently fixed to a site if the State or political subdivision in which the ride is located does not have authority to inspect the ride or if the ride was involved in a fatality or a personal injury requiring hospitalization.

Each such inspection shall be commenced and completed with reasonable promptness.".

SEC. 6. (a) The Consumer Product Safety Commission shall issue regulations for the administration of section 15 of the Consumer Product Safety Act, as amended by section 3, not later than six months after the date of the enactment of this Act.

(b) The amendments made by this Act shall take effect nine months after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes and the gentleman from California [Mr. DANNEMEYER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Amusement Park Safety Act is an important consumer safety bill. Each year millions of Americans enjoy the thrills and entertainment of amusement park rides. These rides have become increasingly complex. Many can generate speeds and velocity that might challenge an astronaut.

The public enjoys these rides. They assume the rides are safe, that they are well maintained and that their operators are experienced.

What the public doesn't know is that at some of the Nation's finest amusement parks accidents have occurred resulting in fatalities or serious injury. At hearings before the Subcommittee on Health and the Environment we heard testimony from a husband whose wife was killed when she fell out of a roller coaster. We also heard from a 15-year-old boy who with his two friends spent several days in the hospital after crashing 60 feet to the ground because a ride's braking mechanism had failed.

The Amusement Park Safety Act closes a serious loophole in Federal law. Currently the Consumer Product Safety Commission has authority to order defective amusement rides repaired if they are located in a traveling carnival or circus. Yet if the identical defective ride is located in an amusement park, the agency is prohibited from assuring that the defect is repaired.

This distinction is illogical. It does not enhance consumer confidence or trust in the safety of amusement park rides.

H.R. 5790 would assure the public that in the event of a serious accident involving an amusement park ride, the Consumer Product Safety Commission would be empowered to inspect the ride, determine the cause of the accident, order its repair, and assure that similar rides in other States are inspected for defects and if necessary be repaired.

No agency of the Federal Government presently has this responsibility. In fact, less than half of all States have passed laws requiring periodic inspection of amusement park rides. In those States that have enacted laws, the level of enforcement is uneven and inconsistent.

Mr. Speaker, this legislation narrowly defines the role of the CPSC. The Commission and its enforcement staff will not be pemitted to conduct routine inspections of amusement park rides in States which have passed inspection laws. The only time CPSC could inspect an amusement ride in such States would be in the event of a fatality or personal injury requiring hospitalization involving an amusement park ride.

In addition, the CPSC would be prohibited from issuing industry wide product safety standards or banning any amusement ride.

Mr. Speaker, I want to recognize and commend the author of this legislation, Congressman PAUL SIMON, for his leadership in bringing this matter to our attention. I also want to recognize the other Members of the House, Mr. GUARINI, Mr. PORTER, Mr. HYDE, and Mr. WYDEN who have sponsored similar legislation to assure that the public's confidence in the safety of amusement park rides is justified.

I urge support for the legislation, and I reserve the balance of my time.

Mr. DANNEMEYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this bill, and I regret very much that this bill is on the Suspension Calendar. I believe the proper vehicle for the House to consider this bill would have been on the regular calendar where an amendment would have been in order too put the bill into a form that I think most Members could adopt, and that is that the jurisidiction of the CPSC would extend to amusement rides at fixed sites only in those States that do not presently regulate those rides.

This bill before us extends to all rides for all practical purposes, because in the form in which it is now before the House it requires a reporting requirement for all rides, and also authorizes the CPSC to investigate any ride where there is an accident causing death or serious injury. For all practical purposes, that extends the jurisdiction of the CPSC far beyond what many of us believe it should be extended.

I will remind my colleagues that 23 States of the Union currently have laws on the books defining or pertaining to the regulating of fixed-site amusement parks: Oregon, Colorado, Oklahoma, Texas, Arkansas, Iowa, Wisconsin, Illinois, Michigan, Ohio, Kentucky, North Carolina, Maryland, New Jersey, Connecticut, Pennsylvania, New York, New Hampshire, Maine, Alaska, Hawaii, Tennessee, and Delaware.

In the States of California and Massachusetts they have a law regulating carnival rides only, and States currently considering this legislation are Virginia, Florida, Rhode Island, and Missouri.

In 1981 Congress took away jurisdiction of CPSC over fixed-site amusement parks with the policy reason that it believed that the States themselves were equipped properly to handle this responsibility, and some of us believe that is where the matter should rest today.

Even the CPSC admits that amusement park ride accidents rank 134th on the list of hazards in the country.

According to the University of California study, 92 percent of all amusement park accidents were the result of human error. CPSC inspections would not do anything to alter that figure.

CPSC does not have the staff to assert jurisdiction over fixed-site rides. With only 600 people total, its resources would be stretched too thin, and our our currrent deficits argue against any significant enhancement of its resources, especially in light of the fact that fixed-site rides are such a low-rated hazard, 134th among all hazards.

CPSC is not doing very much to inspect those mobile rides over which it has jurisdiction. As Commissioner Scanlon has pointed out, only $35,000 is being spent on mobile ride inspections in 1984, and the CPSC has not been enforcing the reporting requirements with respect to mobile ride operators.

□ 1100

Also, the CPSC has only 25 engineers. Seventy-seven percent of all fixed-site rides are presently covered by either State or local ride safety laws.

With respect to ride accident figures, considerable controversy exists with respect to CPSC's claims that accidents have increased since the CPSC lost jurisdiction. First of all, the CPSC's figures are projections based on hospital accident reports, and there is evidence that those projections are high.

Second, the accident estimates include accidents involving mechanical bulls and carnival rides over which the CPSC already has jurisdiction.

Finally, while the CPSC claims a 60-percent increase in injuries took place in 1981 to 1982, later figures indicate a 30-percent decrease took place from 1982 to 1983.

Even proponents of this legislation will admit that the CPSC inspections of fixed-site rides will occur after the fact, after an accident, and that the prime purpose will be to ensure that similar rides in other parts of the country will be quickly closed down.

However the industry already shares accident information and the hearings reveal that after an accident in Illinois other operators were notified within 10 minutes of the accident and similar rides were voluntarily shut down for months.

The chances of an amusement park accident is 3 per 100,000 rides. The odds of a fatality are far higher than that.

In California there is such a high level of voluntary safety standards and inspections, Disneyland inspects its rides nightly, that the State felt that a statewide program was unnecessary.

On a political note, which is interesting, I think, and I will share this with the Members, it is an irony with respect to this bill. One of the chief proponents of CPSC jurisdiction is a Republican who was appointed by President Carter, while the leading opponent is a Democrat opponent to the CPS Commission by President Reagan. So it is not partisan in any sense of the word, although it is appropriate to observe that the administration is opposed to this legislation in the form that it is now before us, the

principal reason being that States are adequate to cover this responsibility, and there has been no case made for the extension of Federal responsibility in yet another area of human endeavor.

The administration notation on this point indicates that 90 percent of the risk of injury or death on amusement rides is due to human error, and some Federal regulatory program to inspect equipment will not provide many benefits.

Mr. Speaker, I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I am pleased at this time to yield 5 minutes to the lead author of this legislation, the man who has shown a great deal of leadership in promoting legislation in this area, Congressman PAUL SIMON from the State of Illinois.

Mr. SIMON. Mr. Speaker, I am pleased to commend the gentleman from California [Mr. WAXMAN] and all who had anything to do with this.

The reality is that in all of the States on this chart, all of the States that are not shaded in green, there is no inspection. And the State of California, which has a brownish tinge, has State inspection of mobile rides only. The State of California does not have inspections of the fixed amusement parks.

I got involved because three teenagers in the State of Illinois fell 60 feet and were injured, and I just assumed that there was some kind of inspection, and lo and behold I found there was no inspection.

Then, not too long after that, near St. Louis, which is just across the river from Illinois, an Indianapolis wife and mother were killed in an accident on a Railblazer ride.

What my friend from California, who opposes this bill, is suggesting is that the industry involved does not want it. No industry wants it. The airline industry would sooner have no inspections. The coal mining industry would sooner have no inspections.

But we are not talking about a Federal grab for power; we are saying if the States have inspections, you go ahead and take it over with one exception, and that is that reports have to be made to the Federal agency.

Why should reports be made? Let me give you one very practical example, and I would like the attention of the gentleman from California [Mr. DANNEMEYER] who spoke in opposition. Let me give you one practical example why we should have reports.

A ride in the State of Maryland which had inspections was ruled unsafe and not permitted in the State of Maryland. There is no central place to report that. And in Pennsylvania, which at that point did not have inspections, a park bought a ride and there was a very serious accident in the State of Pennsylvania.

The reality is, the safety assurance fabric for amusement parks today is riddled with holes.

I have joined with my colleagues from Illinois, HENRY HYDE, originally, and I am pleased to be joined by JOHN PORTER from my State, and FRANK GUARINI from the State of New Jersey in cosponsoring this legislation. It is a step to provide basic protection.

Most parents who send their children to an amusement ride park think there are inspections. The reality is in the majority of the States we do not have it. And I commend the subcommittee for moving in the direction of providing some protection for the people of this country. I hope the bill will be passed resoundingly and I yield back the balance of my time.

Mr. DANNEMEYER. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. I thank the gentleman for yielding.

Mr. Speaker, on May 22 of this year three boys were seriously injured on the "Edge," an amusement ride located at the Great American Park in Gurnee, IL, within my congressional district. The boys fell 60 feet onto a loading platform and are lucky, in my judgment, to be alive.

In addition to this accident, a number of recent theme-park tragedies have helped to focus attention on the need for comprehensive and consistent regulation and inspection of stationary amusement-park attractions. Currently only 23 States have some type of regulation covering the operation of amusement rides. The number and type of inspections vary among States. Some States require only insurance inspections while other require inspection of mobile rides only.

The Energy and Commerce Subcommittee on Health and Environment considered three bills in designing the measure now before us. The bills were introduced on June 6 by my colleagues from Illinois [PAUL SIMON and HENRY HYDE], which is H.R. 5790, and by myself H.R. 5788, and by Congressman GUARINI, H.R. 5982 on June 29.

Although these three measures differed somewhat, they shared the same objective: to improve the safety of amusement-park rides and entertainment devices.

After being marked up, the bill we are considering today embodies the best aspects of all three measures, in my judgment. H.R. 5790 now includes a provision allowing the Consumer Products Safety Commission to act as a clearinghouse for information on ride defects or hazards. The bill allows the CPSC to conduct inspections of all rides except in States which currently maintain regulatory laws.

This provision will act as an incentive to States without laws to establish control and inspection procedures, and will prompt States with inadequate laws to enact stricter standards.

I strongly encourage the House to support this bill as a first step toward improving the safety of all of our thrill-seeking constituents, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I am pleased at this time to yield 4 minutes to the very distinguished member of our subcommittee, the gentleman from Oregon [Mr. WYDEN] who took the leadership in the subcommittee on this issue, not just on this bill, but when we were considering originally the Consumer Product Safety Commission.

Mr. WYDEN. Mr. Speaker, in starting I want to commend the distinguished chairman of the subcommittee for moving this legislation so expeditiously. I think it is evidence of his ongoing commitment to consumer protection, and in addition, I particularly want to praise the principal sponsor of the legislation, the gentleman from Illinois, for standing up for his constituents and all those who take part in amusement rides in this country. I think he is doing a great service to the Nation in doing so.

□ 1110

Mr. Speaker and colleagues, we spend a substantial amount of time in this Chamber debating issues that one side or another claims are "profamily."

I would like to submit that the issue before us today is about as clear a family issue as any that has come in front of us in quite some time. It is my view that American families have a right, when they put a youngster on a ride, to know that that ride does not contain substantial risks. Unfortunately, the facts show that not to be the case. I think in particular as we consider this legislation, a little bit of history is relevant.

Last year I introduced an amendment much like the legislation pursued by the gentleman from Illinois which would restore authorization to the Consumer Products Safety Commission to inspect fixed-site amusement rides.

Mr. Speaker, my amendment made it through the Committee on Energy and Commerce but it died on this floor in the last Congress.

Mr. Speaker, I think had my amendment become law in the last Congress, a significant number of American families who suffered injury and in some instances death in our amusement parks, might have avoided those tragedies.

Mr. Speaker, we know that an average of 10,000 people a year are injured on the midway. These injuries include disfigurement, paralysis, and amputation.

In the last 11 years 103 individuals have died on rides that were supposed to be safe and fun. That does not sound like a lot of fun to me.

There has been a lot of discussion by the amusement park industry that they can regulate themselves. But I would like to just briefly touch on a case history of a ride known as the Enterprise.

Mr. Speaker, the Enterprise had been a fixed-site ride in New York and then was shipped across the country to the Texas State Fair where a fatal accident occurred on the ride.

CPSC inspected the ride to determine the probable cause of the accident. The inspection revealed structural and design flaws common to the Enterprise but because the Commission lacked the jurisdiction over fixed-site rides, the Commission could not require the upgrading of the safety features on 12 Enterprise rides around the country which are set in concrete and not just resting on the back of a flatbed truck.

So here we had a situation where the Commission inspectors had found a problem that they knew could be remedied but were simply powerless to do anything about it.

The last point I would make, Mr. Speaker, is that I think consumer protection in this country has to consist of more than just sending injured people and widows and orphans off to take up their concerns with their insurance companies.

This is a very modest bill. It is very respectful of State efforts in the consumer protection area, and it allows States to go forward with inspections and other procedures to ensure against substantial risks. I think we ought to pass this legislation now so we can take another step forward in ensuring that other unnecessary accidents and other tragedies do not happen in this country.

Mr. DANNEMEYER. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. I thank my friend for yielding.

Mr. Speaker and my colleagues, normally I would associate myself with the perspective of the gentleman from California [Mr. DANNEMEYER]. I do not want to expand the area of Federal intervention in things that really are not Federal, that do not have a national nexus.

But this bill it seems to me is very useful in that it employs what we do in the Tax Code so much; it uses the stick and the carrot to try to get State jurisdictions to do what they should have done anyway, that is inspect these potentially very dangerous rides.

Now, as amusement parks proliferate they have to be inspected. These rides are an invitation to danger. That is the very purpose of them.

If the State has no regulations or laws or statutes requiring that they be inspected, then they present a very serious hazard.

All this bill says is somebody has got to do it. "You ought to do it, State, but if you do not do it then the last resort will be the Consumer Products Safety Commission."

It is too late when the accidents occur, when the bodies are broken or the lives have been taken. This is not excessive Federal intervention. It merely says somebody has got to inspect these rides "and, if you do not, then we will do it as a last resort."

It seems to me this will provide the incentive which is a favorite Republican word, whether it is arms control or the economy, we like incentives.

Well, that is what this bill is, an incentive to have, say, the great State of California take a look at Disneyland. Now they may well have statutes to do that and I hope they do. But the risk is there. For every wrong there should be a remedy.

This bill is a modest attempt to say, "Please inspect these rides."

Mr. Speaker, I support it.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The time of the gentleman from Illinois [Mr. HYDE] has expired.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I reserve the balance of our time.

Mr. DANNEMEYER. Mr. Speaker, I yield 2 minutes to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN of Utah. Mr. Speaker, I appreciate the gentleman yielding the time.

Mr. Speaker, let me say this has come up as a States rights issue more than a family safety issue. I think as you look at this particular issue, you must ask, who is going to be the one to inspect the thrill rides? We saw the map of the gentleman from Illinois showing the States without inspection. I think you will find that many local governments do inspect fixed thrill rides.

If I were an amusement park owner and I was determining what I fear the most: Do I fear a mere, little fine from the local entity? That is nothing. What I would fear is the $3 million lawsuit.

Now, in reality, tell me this: What amusement park in America is not insured? Can you name one? What fool would there be in America who would have courage enough not to insure his amusement park? What do they do? Having some knowledge of how they work and the lawsuits involved in those particular actions, I could name places in the West where periodically an inspector, far superior to what we have in Government, goes on to the roller coaster, or other rides and inspects them in detail. What does the inspector have at stake? He has at stake, millions of dollars of his policyholder's money. Does he like to give that away? Absolutely not. He wants to save money, and if he does not absolutely think it is safe there is no insurance coverage, hence no business. So again, I challenge the other side, where is the fixed ride amusement park that is not insured?

Now, let's talk about these inspectors. These inspectors are sometimes hired away from various Government entities where they have been extensively trained. Many of them go to schools for training and then on the job. So you ask what is at stake? You have an encroachment again, another big Federal Government pushing itself on to the little local governments when you have the industry and local governments, now doing a better job.

If I was an amusement park owner, I would have to ask, do I fear a little fine or a huge lawsuit. Do they fear us? A $50 fine, a $200 fine? Or told to "Clear it up or we are going to close you down for 5 days." They do not fear that. What they fear is that lawsuit that is going to hit them right between the eyeballs, and bring unwanted and bad publicity to their establishment. That is why they are all insured. Let us let them do it on their own. We do not need Federal Government becoming another layer of bureaucracy and additional cost and harassment.

Mr. DANNEMEYER. Mr. Speaker, I yield 3 minutes to the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. I thank the gentleman for yielding.

Mr. Speaker, I would like to go over the history of this particular bill for just a moment.

First of all, this was part of the bill on Consumer Products Safety as it passed the Energy and Commerce Committee. However, the Shelby amendment on the floor took the amusements parks out of the bill so it was not passed at that time.

The bill was brought up again by members of the Illinois delegation, as was indicated, and they asked for a bill which gave the Federal Government primary responsibility for regulating fixed-site amusement parks as well as its existing responsibility for mobile amusement parks. Incidentally, the Consumer Product Safety Commission has not been at all effective in handling the mobile amusement park rides for which they do have full authority. Specifically they wanted the Federal Government to have inspection authority throughout all the States. Mr. DANNEMEYER, in subcommittee, had an amendment which said that only if the State does not have an inspection area should the Federal Government become involved. That

amendment was accepted in subcommittee.

Sometime between subcommittee and full committee, the amendment was changed to allow inspection authority even in those States which already have inspection authority.

So actually even if the State has an inspection program the owners of amusement park rides would have to report to the Federal Government as well as the individual State. They have to report everything, even minor maintenance items.

The bill also provides that if there is an accident, the amusement park operators have to have the Federal Government come in and take over even if there is a State program. This is clearly an intrusion in States' rights. States can handle the program. I think the Federal Government should stay out of those States which have inspections, as they do in the case of OSHA. I think the Federal Government should encourage and give some kind of incentive for the States to have their own inspection programs. I support that aspect of it. I supported the Dannemeyer amendment in subcommittee and I would support the bill with that amendment even though I do not believe routine reporting on maintenance should be required. I do not believe the States should yield to the Federal when there is an accident. I believe we should let the industry have some right to report their own accidents, to report to the other members of the industry. They have shown themselves to be very cooperative. This is something to be handled at the local and State levels and the Federal Government should stay out of those areas where the States are doing it.

I hope you will join me in defeating this bill.

Mr. DANNEMEYER. Mr. Speaker, I yield 5 minutes to the ranking minority member of the Committee on Energy and Commerce, the gentleman from North Carolina [Mr. JIM BROYHILL].

Mr. BROYHILL. I thank the gentleman for yielding.

Mr. Speaker, I would like the attention of the gentleman from California [Mr. WAXMAN] for the purpose of posing a question.

One of the concerns I have had about this bill is some of the definitions that we might put on some of the terms that are used in the bill.

□ 1120

Now, it is my understanding with respect to the requirement for reporting of defects that the committee does not expect that conditions that can be eliminated by the performance of routine maintenance or reasonable maintenance procedures be considered as defects for the purpose of reporting under section 15(b); is that correct?

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. I thank the gentleman for yielding.

That is correct. The committee report states explicitly:

. . . the Committee does not expect that conditions eliminated by the performance of reasonable maintenance procedures be considered a defect for purposes of reporting under section 15(b).

Mr. BROYHILL. Obviously, if there is a seam or some substantial defect in the structure of the particular ride that might be construed as a design defect, that would be reportable. But that which could be taken care of by reasonable maintenance would not be considered a defect for purposes of reporting.

Mr. WAXMAN. That is correct.

Mr. BROYHILL. One of the other concerns I have, of course, is perhaps we have not really addressed properly the risk versus benefit issue in this legislation. Would the gentleman answer the question: Does the gentleman agree that there are benefits to a thrill ride? In other words, recreational benefits?

Mr. WAXMAN. Well, if the gentleman is asking my personal opinion, I do not enjoy that, but many people do. We let the marketplace dictate whether people want to pay money and go on a thrill ride. Obviously there is a demand for it and, therefore, I would say the people who perceive it as a benefit do demand that ride.

Mr. BROYHILL. The question then is: Would the gentleman agree that a risk is not an unreasonable risk unless the benefits to be gained from the use of that product which includes recreational benefits do not justify the risk of injury percentage?

Mr. WAXMAN. I would agree with that statement.

Mr. BROYHILL. I thank the gentleman.

Mr. WAXMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Alabama [Mr. SHELBY], a very distinguished member of the subcommittee.

Mr. SHELBY. Mr. Speaker, I rise in support of H.R. 5790, the Amusement Park Safety Act of 1984. This bill will restore limited authority to the Consumer Product Safety Commission to inspect the safety of amusement park rides at fixed-site amusement parks.

Under current law, the CPSC has the authority to inspect and investigate defective rides of the mobile, traveling circus variety, When Congress limited the scope of CPSC to the mobile rides only, this action was seen as sufficient to protect the public safety; fixed-site rides were believed to be effective self-regulators. They still are.

Amusement park rides in the popular fixed locations are in general a very safe venture. Many of us in this Chamber and thousands of thrill-seekers, young and old, have reveled in the excitement of park rides in all varieties. I would emphasize that this bill is not a reflection of the overall safety of amusement park attractions.

The integrity of these rides and the protection of passengers is the very stuff these parks are made of. Any compromising of details in the design of the ride, and a park risks its reputation and future viability. This built-in incentive provides probably the best guarantee of safety we can offer the public.

However, in those rare and unpredictable incidents of mechanical or technical malfunction, many States lack a coordinated regulatory system to assure the future safety of the defective ride.

H.R. 5790 addresses this inconsistent regulation throughout the country by authorizing the CPSC to recall defective or dangerous rides in mobile or fixed sites. Where local or State law does not require that professional engineers inspect of investigate rides or ensuing accidents, the CPSC would be given this authority at their discretion. And importantly, in the case of a fatality or serious accident involving a ride in a fixed-site amusement park, the CPSC would be authorized to investigate and report the defects.

The bill takes modest, reasonable steps to help in efforts to protect the public safety on amusement park rides. It is not our intention to usurp local or State responsibility in this area, where it is mandated. It is not our intention to create another layer of Federal bureaucracy on top of any existing regulations. It is our intention to set a cohesive, Federal inspection and investigation system in motion if the State lacks such a system or if a serious amusement park ride accident has occurred.

I urge my colleagues' support of H.R. 5790.

Mr. DANNEMEYER. Mr. Speaker, I want to emphasize, in closing, to my colleagues that the bill before us compels the operator of any fixed ride in America to file reports with the CSPC without exception. Even in those States that have an inspection requirement on the books, specifically, 23 States that cover 77 percent of the rides in the country. This proposal is an unnecessary duplication of government effort, an unnecessary instrusion into the activities of a legitimate enterprise.

We believe that an agency of government should inspect these rides at some level, preferably the local level. If a State or a local jurisdiction does not have such a law, then we believe the Federal law should apply for in-

spection in that State. That is the amendment that we put in, in subcommittee; that is the amendment that we would like to offer here, but we do not have that opportunity since this bill is on suspension.

This bill is a classic illustration of one of the maxims that drives the liberal welfare state of America. There are three principles that drive it.

The first one: If it moves, regulate it. If it grows, tax it. Third, if it makes a profit, investigate it; it must be doing something illegal.

The first principle is evidenced here. If it moves, regulate it. Ninety-two percent of all amusement park accident rides result from human error. We cannot pass a law strong enough or hire enough policemen to keep young men and women from attempting to perform acrobatics relating to a ride that the ride was never designed to permit.

In my home area of Disneyland, we have a people-mover ride. It wanders around the periphery of the park. One of the challenges of the young people on grad night is to see if one of them can jump out of a gondola into another one while they pass.

Now, everybody says, "Don't do that." When they are brought to the park, they are instructed specifically, "Don't do that."

Now, we could tie them down, chain them down in the gondolas so they could not do it, but we all know people will not pay to come to a facility to do that. There is a point beyond which the law cannot protect people against their own improvidence.

□ 1130

Mr. WAXMAN. Mr. Speaker, in closing, let me point out for the record that this bill only requires that the amusement park operator not report anything but known defects in an amusement park ride which pose a substantial risk of injury. And there is good reason why that ought to be reported, because the CPSC would then be able to give some suggestions on how to correct that defect and notify the amusement park operator in another part of the country that may have that exact ride that there is a known defect discovered in that ride at another amusement park. This is a moderate bill, it is a necessary bill, and all of these aphorisms of ideology will not be any solace to an individual who has been hurt by an amusement park defect in a ride, and particularly after that defect was already known and nothing was done to correct it.

I urge the adoption of this legislation.

● Mr. COURTER. Mr. Speaker, I rise in support of H.R. 5790, the Amusement Park Safety Act. This bill was introduced in reaction to some very tragic amusement park accidents which claimed a number of young lives. An amusement park in my own State was the site of a devastating fire in a funhouse that took the lives of eight children on a class trip. It was these accidents which brought to the fore the need to look at the safety of our amusement parks.

Prior to 1981, authority to regulate fixed site amusement park rides rested with the Consumer Product Safety Commission. Since that authority was withdrawn, these rides have been regulated by State or local governments. Today, however, 28 States lack any type of significant inspection program.

It has been argued that this bill duplicates already existing State regulatory programs. This bill does not grant sweeping authority to the Consumer Safety Commission to promulgate industrywide standards. In reality, it is an initiative designed to work with State programs, not over them. But, more importantly, it provides authority in those States which do not have such programs in place already.

Amusement parks are intended as places of enjoyment. One should not come to a park wondering if the ride they get will unhinge, collapse, or burn down. This bill provides a measure of safety in that regard, by ensuring some level of regulation, whether it be on the State or Federal level.●

● Mr. WALGREN. Mr. Speaker, I urge support for H.R. 5790 which would broaden the authority of the Consumer Product Safety Commission to assure the public that amusement park rides are safe.

Under current law, the CPSC can only inspect the safety of rides that happen to travel across States lines. Only 20 States have regulations on the safety of rides at fixed sites.

Under this bill, the CPSC could conduct safety inspections of amusement park rides in States that have no inspections requirements or in States with safety laws if an accident involving the ride result in a fatality or injury requiring hospitalization.

Each year, millions of Americans get on amusement park rides all over the country without a second thought about their safety. They have a right to assume all rides are safe. Last year 12 people died at amusement parks. Since 1973, there have been 87 deaths reported. In 1982, 12,384 injuries occurred at amusement parks. In view of these accidents and the failure of States to act on a comprehensive basis, the Federal law regarding the safety of amusement park rides should be broadened.

Presently, State laws are a patchwork system at best. Pennsylvania recently enacted State legislation requiring inspection of rides at both permanent and mobile amusement rides; 27 States require inspection only of mobile amusement rides. Only 19 States require inspectors to check rides in both fixed as well as mobile amusement rides. No one can be sure of the level of safety of rides in different locations.

This bill will not cost the Government any additional money. It respects the rights of States to continue enforcing safety regulations when they choose to.

It should be supported as a good step toward assuring safe operation of amusement park rides.●

Mr. WAXMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 5790, as amended.

The question was taken; and on a division [demanded by Mr. DANNEMEYER] there were—ayes 9, noes 9.

Mr. WAXMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 4164, VOCATIONAL-TECHNICAL EDUCATION AMENDMENTS OF 1984

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that the managers have until midnight tonight to file a conference report on the bill (H.R. 4164) to amend the Vocational Education Act of 1963 to strengthen and expand the economic base of the Nation, develop human resources, reduce structural unemployment, increase productivity, and strengthen the Nation's defense capabilities by assisting the States to expand, improve, and update high-quality programs of vocational-technical education, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON S. 2496, ADULT EDUCATION ACT AMENDMENTS OF 1984

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that the managers

have until midnight tonight to file a conference report on the Senate bill (S. 2496) to amend the Adult Education Act in order to simplify requirements for States and other recipients participating in Federal adult education programs, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

COLORADO RIVER BASIN SALINITY CONTROL ACT AMENDMENTS

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2790) to amend the Colorado River Basin Salinity Control Act to authorize certain additional measures to assure accomplishment of the objectives of title II of such act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2790

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 201(b) of the Act (15 U.S.C. 1591(b)) is amended by adding at the end thereof the following new sentence: "In determining the relative priority of implementing additional units or new self-contained portions of units authorized by section 202, the Secretary or the Secretary of Agriculture, as the case may be, shall give preference to those additional units or new self-contained portions of units which reduce salinity of the Colorado River at the least cost per unit of salinity reduction.".

SEC. 2. (a) Section 202 of the Act (43 U.S.C. 1592) is amended by inserting "(a)" after "SEC. 202.".

(b) Section 202(a) of such Act, as amended by subsection (a), is amended—

(1) in paragraph (1) by inserting before the period at the end thereof the following: ", and consisting of measures to replace incidental fish and wildlife values foregone";

(2) in the second sentence of paragraph (2) by inserting "replacing canals and laterals with pipe," after "canals and laterals," and by inserting "implementing other measures to reduce salt contributions from the Grand Valley to the Colorado River, and implementing measures to replace incidental fish and wildlife values foregone." after "efficient facilities";

(3) in the third sentence of paragraph (2) by inserting ", or portion thereof," after "Grand Valley unit", by striking out "agencies" and inserting in lieu thereof "non-Federal entities", by inserting ", or portions thereof," after "water distribution systems", and by striking out "all obligations" and inserting in lieu thereof "the obligations specified in subsection (b)(2)";

(4) in paragraph (2) by striking out the fourth, fifth, and sixth sentences;

(5) by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3);

(6) in paragraph (3) (as redesignated) by deleting the period at the end thereof and inserting ", and consisting of measures to replace incidental fish and wildlife values foregone."; and

(7) by adding at the end thereof the following new paragraphs:

"(4) stage I of the Lower Gunnison Basin unit, Colorado, consisting of measures and all necessary appurtenant and associated works to reduce seepage from canals and laterals in the Uncompahgre Valley, and consisting of measures to replace incidental fish and wildlife values foregone, essentially as described in the feasibility report and final environmental statement dated February 10, 1984. Prior to initiation of construction of stage I of the Lower Gunnison Basin unit, or of a portion of stage I, the Secretary shall enter into contracts through which the non-Federal entities owning, operating, and maintaining the water distribution systems, or portions thereof, in the Uncompahgre Valley, singly or in concert, will assume the obligations specified in subsection (b)(2) relating to the continued operation and maintenance of the unit's facilities.

"(5) Portions of the McElmo Creek unit, Colorado, as components of the Dolores participating project, Colorado River Storage project, authorized by Public Law 90-537 and Public Law 84-485, consisting of all measures and all necessary appurtenant and associated works to reduce seepage only from the Towaoc-Highline combined canal, Rocky Ford laterals, Lone Pine lateral, and Upper Hermana lateral, and consisting of measures to replace incidential fish and wildlife values foregone. The Dolores participating project shall have salinity control as a project purpose insofar as these specific facilities are concerned: *Provided*, That the costs of construction and replacement of these specific facilities shall be allocated by the Secretary to salinity control and irrigation only after consultation with the State of Colorado, the Montezuma Valley Irrigation District, Colorado, and the Dolores Water Conservancy District, Colorado: and *Provided further*, That such allocation of costs to salinity control will include only the separable and specific costs of these specific facilities and will not include any joint costs of any other facilities of the Dolores participating project. Repayment of costs allocated to salinity control shall be subject to this Act. Repayment of costs allocated to irrigation shall be subject to the Acts which authorized the Dolores participating project, the Reclamation Act of 1902, and Acts amendatory and supplementary thereto. Prior to initiating of construction of these specific facilities, or a portion thereof, the Secretary shall enter into contracts through which the non-Federal entities owning, operating, and maintaining the water distribution systems, or portions thereof, in the Montezuma Valley, singly or in concert, will assume the obligations specified in subsection (b)(2) relating to the continued operation and maintenance of the unit's facilities.".

(c) Section 202 of such Act is further amended by inserting at the end thereof the following new subsections:

"(b) In implementing the units authorized to be constructed pursuant to subsection (a), the Secretary shall carry out the following directions:

"(1) As reports are completed describing final implementation plans for the unit, or any portion thereof, authorized by paragraph (5) of subsection (a), and prior to expenditure of funds for related construction activities, the Secretary shall submit such reports to the appropriate committees of the Congress and to the governors of the Colorado River Basin States.

"(2) Non-Federal entities shall be required by the Secretary to contract for the long-term operation and maintenance of canal and lateral systems constructed pursuant to activities provided for in subsection (a): *Provided*, That the Secretary shall reimburse such non-Federal entities for the costs of such operation and maintenance to the extent the costs exceed the expenses that would have been incurred by them in the through and timely operation and maintenance of their canal and lateral systems absent the construction of a unit, said expenses to be determined by the Secretary after consultation with the involved non-Federal entities. The operation and maintenance for which non-Federal entities shall be responsible shall include such repairing and replacing of a unit's facilities as are associated with normal annual maintenance activities in order to keep such facilities in a condition which will assure maximum reduction of salinity inflow to the Colorado River. These non-Federal entities shall not be responsible, nor incur any costs, for the replacement of a unit's facilities, including measures to replace incidental fish and wildlife values foregone. The term replacement shall be defined for the purposes of this title as a major modification or reconstruction of a completed unit, or portion thereof, which is necessitated, through no fault of the non-Federal entity or entities operating and maintaining a unit, by design or construction inadequancies or by normal limits on the useful life of a facility. The Secretary is authorized to provide continuing technical assistance to non-Federal entities to assure the effective and efficient operation and maintenance of a unit's facilities.

"(3) The Secretary may, under authority of this title, and limited to the purposes of this Act, fund through a grant or contract, for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts, a non-Federal entity to organize private canal and lateral owners into formal organizations with which the Secretary may enter into a grant or contract to construct, operate, and maintain a unit's facilities.

"(4) In implementing the units authorized to be constructed pursuant to paragraphs (1), (2), (3), (4), and (5) of subsection (a), the Secretary shall comply with procedural and substantive State water laws.

"(5) The Secretary may, under authority of this title and limited to the purposes of this Act, fund through a grant or contract, for any fiscal year only to such extent or in such amounts as are provided in appropriations Act, a non-Federal entity to operate and maintain measures to replace incidental fish and wildlife value foregone.

"(6) In implementing the units authorized to be constructed pursuant to subsection (a), the Secretary shall implement measures to replace incidental fish and wildlife values foregone concurrently with the implementation of a unit's, or a portion of a unit's, related features.

"(c)(1) The Secretary of Agriculture may establish voluntary cooperation salinity control program with landowners to improve on-farm water management and reduce watershed erosion on non-Federal lands and on lands under the control of the Department of Agriculture for the purposes of assisting in meeting the objectives of this title.

"(2) In carrying out such program, the Secretary of Agriculture shall—

"(A) identify salt-source areas and determine the salt load resulting from irrigation and watershed management practices;

"(B) develop, in consultation with the public and affected governmental interests, plans for implementing measures that will

reduce the salt load of the Colorado River by improving on-farm irrigation water management including improvement of related laterals and by improving watershed erosion management practices, such measures to include voluntary replacement of incidental fish and wildlife values foregone;

"(C) provide technical and cost-sharing assistance for the voluntary implementation of plans through contracts and agreements with individuals or groups of owners and operators of farms, ranches, and other lands as well as with local governmental and nongovernmental entities such as irrigation district and canal companies, except that a portion of the costs of implementing such plans shall be shared by the participants on the basis of benefits received and other appropriate factors, as determined by the Secretary of Agriculture, and except that such contracts and agreements shall provide for continuing operations and maintenance of measures installed under this subsection, including measures to replace incidental fish and wildlife values foregone, without additional cost-sharing assistance;

"(D) provide continuing technical assistance for irrigation water management as well as monitoring and evaluation of changes in salt contributions to the Colorado River to determine program effectiveness; and

"(E) carry out related research, demonstration, and education activities.

"(3) The measures to be implemented in any particular salt source area shall be described in reports issued by the Secretary of Agriculture. Copies of the reports are to be submitted to—

"(A) The committees on Agriculture and Appropriations of the House of Representatives and the Committees on Agriculture, Nutrition and Forestry and Appropriations of the Senate;

"(B) members of the advisory council established by section 204(a) of this title; and

"(C) the Governor of any State where measures are to be implemented.

No funds for implementation of proposed measures undertaken pursuant to this subsection may be expended until the expiration of sixty days after submission of the report of the Secretary of Agriculture.

"(4) The Secretary of Agriculture may use existing agencies as well as the services and facilities of the Commodity Credit Corporation to carry out the provisions of this subsection. The Secretary of Agriculture, in addition, may authorize participating agencies to utilize grants or cooperative agreements with conservation districts, local governmental agencies, colleges and universities, or others as appropriate to carry out the activities identified in this subsection. There is hereby authorized to be appropriated annually, to be available until expended, such funds as may be necessary to carry out the provisions of this subsection: *Provided*, That no disbursement shall be made by the Commodity Credit Corporation unless it has received funds to cover the amount thereof from appropriations available for the purpose of carrying out this Act.

"(5) The Secretary of Agriculture shall submit a report to Congress by January 1, 1988, and at each five-year interval thereafter, concerning the operation of the program authorized by this subsection. Such report shall contain an evaluation of the operation of such program and may include recommendations for such additional legislation as may be necessary to solve identified salinity problems in areas designated by the Secretary of Agriculture and may include recommendations to utilize new technology and research related to such problems.".

SEC. 3. Section 203(b) of the Act (43 U.S.C. 1593(b)) is amended by—

(1) striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and

(2) inserting at the end thereof the following new paragraphs:

"(3) to develop a comprehensive program for minimizing salt contributions to the Colorado River from lands administered by the Bureau of Land Management and submit a report which describes the program and recommended implementation actions to the Congress and to the members of the advisory council established by section 204(a) of this title by July 1, 1987;

"(4) to undertake feasibility investigations of saline water use and disposal opportunities, including measures and all necessary appurtenant and associated works, to demonstrate saline water use technology and to beneficially use and dispose of saline and brackish waters of the Colorado River Basin in joint ventures with current and future industrial water users, using, but not limited to, the concepts generally described in the Bureau of Reclamation Special Report of September 1981, entitled "Saline water use and disposal opportunities"; and

"(5) to undertake advance planning activities on the Sinbad Valley Unit, Colorado, as described in the Bureau of Land Management Salinity Status Report, covering the period 1978–1979 and dated February 1980.".

SEC. 4. (a) Section 205(a) of the Act (43 U.S.C. 1595(a)) is amended by inserting "(a)" after "section 202" and by inserting after "total costs" the following: "(excluding costs borne by non-Federal participants pursuant to section 202(c)(2)(C)) of the on-farm measures authorized by section 202(c), of all measures to replace incidental fish and wildlife values foregone, and".

(b) Section 205(a)(1) of such Act is amended by inserting "authorized by section 202(a), including 75 per centum of the total costs of construction, operation, and maintenance of measures to replace incidental fish and wildlife values foregone, and 75 per centum of the total cost of implementation of the on-farm measures authorized by section 202(c)," before "shall be nonreimbursable.".

(c) Section 205(a)(3) of such Act is amended to read as follows:

"(3) Costs of construction and replacement of each unit or separable feature thereof authorized by sections 202(a)(1), (2), and (3) and costs of construction of measures to replace incidental fish and wildlife values foregone, when such measures are a part of the units authorized by sections 202(a)(1), (2), and (3), allocated to the upper basin and to the lower basin under section 205(a)(2) of this title shall be repaid within a fifty-year period or within a period equal to the estimated life of the unit, separable feature thereof, or replacement, whichever is less, without interest from the date such unit, separable feature, or replacement is determined by the Secretary to be in operation.".

(d) Section 205(a) of such Act is amended by inserting at the end thereof the following new paragraphs:

"(4)(i) Costs of construction and replacement of each unit or separable feature thereof authorized by sections 202(a)(4) and (5), costs of construction of measures to replace incidental fish and wildlife values foregone, when such measures are a part of the on-farm measures authorized by section 202(c) or of the units authorized by sections 202(a)(4) and (5), and costs of implementation of the on-farm measures authorized by section 202(c) allocated to the upper basin and to the lower basin under section 205(a)(2) of this title shall be repaid as provided in subparagraphs (ii) and (iii), respectively, of this paragraph.

"(ii) Costs allocated to the upper basin shall be repaid with interest within a fifty-year period, or within a period equal to the estimated life of the unit, separable feature thereof, replacement, or on-farm measure, whichever is less, from the date such unit, separable feature thereof, replacement, or on-farm measure is determined by the Secretary or the Secretary of Agriculture to be in operation.

"(iii) Costs allocated to the lower basin shall be repaid without interest as such costs are incurred to the extent that money is available from the Lower Colorado River Basin development fund to repay costs allocated to the lower basin. If in any fiscal year the money available from the Lower Colorado River Basin development fund for such repayment is insufficient to repay the costs allocated to the lower basin, as provided in the preceding sentence, the deficiency shall be repaid with interest as soon as money becomes available in the fund for repayment of those costs.

"(iv) The interest rates used pursuant to this Act shall be determined by the Secretary of the Treasury, taking into consideration average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period during the month preceding the date of enactment of the Act entitled "An Act to amend the Colorado River Basin Salinity Control Act to authorize certain additional measures to assure accomplishment of the objectives of title II of such Act, and for other purposes" for costs outstanding at that date, or, in the case of costs incurred subsequent to enactment of such Act, during the month preceding the fiscal year in which the costs are incurred.

"(5) Costs of operation and maintenance of each unit or separable feature thereof authorized by section 202(a) and of measures to replace incidental fish and wildlife values foregone allocated to the upper basin and to the lower basin under section 205(a)(2) of this title shall be repaid without interest in the fiscal year next succeeding the fiscal year in which such costs are incurred. In the event that revenues are not available to repay the portion of operation and maintenance costs allocated to the Upper Colorado River Basin fund and to the Lower Colorado River Basin development fund in the year next succeeding the fiscal year in which such costs are incurred, the deficiency shall be repayed with interest calculated in the same manner as provided in section 205(a)(4)(iv). Any reimbursement due non-Federal entities pursuant to section 202(b)(2) shall be repaid without interest in the fiscal year next succeeding the fiscal year in which such operation and maintenance costs are incurred.".

(e)(1) Section 205(b)(1) of such Act is amended by inserting "authorized by section 202(a), costs of construction, operation, and maintenance of measures to replace incidental fish and wildlife values foregone, and costs of implementation of the on-farm measures authorized by section 202(c)," before "allocated for repayment".

(2) Section 403(g)(2) of the Lower Colorado River Basin Project Act (43 U.S.C. 1543(g)) is amended by inserting "the costs of measures to replace incidental fish and wildlife values foregone, and the costs of on-farm measures" before "payable from".

(f) Section 205(c) of the Act is amended by inserting "authorized by section 202(a), costs of construction, operation, and maintenance of measures to replace incidental fish and wildlife values foregone, and costs of implementation of the on-farm measures authorized by section 202(c)" before "allocated for".

(g) Section 5(d)(5) of the Colorado River Storage Project Act (43 U.S.C. 620(d)(5)) is amended by inserting ", the costs of measures to replace incidental fish and wildlife values foregone, and the costs of the on-farm measures" before "payable".

(h) Section 205(e) of the Act is amended by—

(1) striking out "of construction, operation, maintenance, and replacement of units";

(2) inserting "to the Upper Colorado River Basin Fund" after "allocated";

(3) inserting ", section 205(a)(4) and section 205(a)(5)" after "section 205(a)(3)"; and

(4) inserting ", for the construction, operation, and maintenance of measures to replace incidental fish and wildlife values foregone, and for the implementation of on-farm measures" after "salinity control units".

SEC. 5. (a) Section 208(a) of the Act (43 U.S.C. 1598) is amended by striking out "and not then if disapproved by said committees,".

(b)(1) The second sentence of section 208(b) of the Act is amended by inserting "(a) or (b)" after "section 202".

(2) Section 208(b) of the Act is amended by inserting after the second sentence thereof the following new sentence: "The funds authorized to be appropriated by this section may be used for construction of any or all of the works or portions thereof and for other purposes authorized in subsection (a), including measures as provided for in subsection (b) of section 202 of this title.".

SEC. 6. The amendments made by this Act shall take effect upon enactment of this Act.

SEC. 7. For purposes of complying with section 401 of the Congressional Budget Act of 1974, the authorization provided under this Act is subject to the availability of appropriations.

The SPEAKER pro tempore. Is a second demanded?

Mr. LUJAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes and the gentleman from New Mexico [Mr. LUJAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, in 1974, after a decade of discussion between the Federal Government, the Republic of Mexico, and the seven Colorado River Basin States, Congress enacted the Colorado River Basin Salinity Control Act (Public Law 93-320). Title I of the act established a program to reduce the concentration of salts in the Colorado River below Imperial Dam so the United States could honor the commitments it made to Mexico. In title II, the act also established a program which allowed the States and the Federal Government to work together to prevent salinity increases in the Colorado River above Imperial Dam. It gave the Secretary of the Interior a lead Federal role. The Bureau of Reclamation was authorized to construct four salinity-control units and to study the cost-effectiveness of several others. It gave the Secretary of Agriculture responsibility to assist in this effort.

The States, in keeping with Federal water-quality legislation, organized themselves into the Colorado River Basin salinity control forum so they could effectively work together. They established numeric criteria for water quality on the river that they would collectively work to achieve, the objective being to maintain salinity concentrations in the lower mainstem portion of the Colorado River at the levels occurring in 1972 while the States continue to develop their compact apportionments. Progress reports are published annually to report their accomplishments and future programs. The 1974 act provided an advisory council so the States could annually advise Federal administrators as to adjustments that they perceive need to be made to the salinity-control officer.

Now, with 10 years of experience, the States and the Federal agencies have agreed that amendments are needed to the act. The seven basin States took the lead in drafting legislation. The State-supported legislation was introduced into the Senate (S. 752) in this Congress and was cosponsored by all 14 basin Senators. It was also introduced into the House (H.R. 2790) and cosponsored by many basin Congressmen. When hearings were held by the Senate in the last session of this Congress, Department of the Interior and of Agriculture witnesses appeared and gave general support for the State-drafted legislation, but did ask for some specific modifications. The States met on several occasions to consider the administration's requests. On December 23, 1983, the States forwarded revised legislative language to Congress which had the support of all seven basin States and was responsive to all of the administration's requests.

The State's revised legislative language, with only a few modifications, was reported to the House for its consideration on September 13, 1984, by the Interior and Insular Affairs Committee. The bill as reported out incorporated all of the provisions requested by the administration. Most recently, however, environmental groups stated some concerns that they had with the legislation as advanced by the committee. The sponsors and the States have been striving to address the issues raised and today I offer a substitute amendment for the bill reported out by the committee.

Changes and compromises were made to not only accommodate all interested parties, but also to gain their support. The substitute amendment I offer today not only has the support of the legislation's many House sponsors, the seven basin States, and the administration, but it also has the support of the National Wildlife Federation and the Environmental Policy Institute. The substitute amendment now proposed is without opposition to my knowledge, environmentally and fiscally sound, and provides for very significant increased non-Federal contributions to the program. Accommodations made include:

Deleting language that would have made the planning procedures promulgated under the Water Resources Planning Act inapplicable to salinity-control units,

Agreeing to deauthorize one previously authorized unit,

Deleting construction authorization for three new units and limiting the authorization of a fourth unit to only specific features and adding language to clarify how this fourth unit's costs would be allocated,

Deleting language which was viewed as restricting the bill's provisions for wildlife mitigation,

Deleting language which was viewed as overly broad in its authorization of Federal participation in the costs of certain facilities associated with, but not actually part of, a salinity-control unit,

Making nearly all changes in wording which were requested, and

Agreeing to a language for a statement on the House floor which would create an expression of legislative intent with respect to the above changes to the bill.

In short, the seven States have gone a very long way in trying to meet everyone's concerns and they have negotiated in good faith to do so.

The substitute amendment offered today will legislate several major changes to Public Law 93-320. First, this legislation will increase the amount of locally derived funds available for newly authorized Department

of the Interior salinity-control units and for the Department of Agriculture efforts. These new cost-sharing provisions call for payback to the Federal Treasury from the two basin power accounts of 25 percent of the Federal expenditures by both Interior and Agriculture concurrently with the expenditure of the funds, or for payback of 25 percent over time with interest.

The legislation will authorize the construction of one new Department of the Interior salinity-control unit and a portion of a second unit, but it does not raise Interior's spending ceiling which was established by the Congress in 1974. The authorization of new units will allow the Secretary of the Interior the latitude to proceed with the units, or portions thereof, which are the most cost effective. The legislation provides that cost effectiveness will be the principal criterion for the selection of salinity-control units.

Experience has demonstrated that some of the most cost-effective measures are on the irrigated farms of the basin. The legislation authorizes a new Colorado River Basin salinity-control program for the Department of Agriculture. The Department of Agriculture program will require additional cost sharing directly from the basin's farmers when they elect to participate in a voluntary program of on-farm irrigation improvement practices. It also allows the Department of Agriculture to work directly with canal companies, irrigation districts, or other subdivisions of State government.

Finally, the legislation clarifies the authority for the replacement of incidental fish and wildlife values foregone when wildlife habitat is disrupted by the salinity-control effort. This subject was not addressed in 1974. The legislation also clarifies the responsibility of the Federal Government and local entities for operation, maintenance, and replacement of salinity-control features.

The major changes being made by the substitute amendment to the bill as reported out by the committee are summarized below. Headings refer to sections of the bill as reported out by the committee or to the substitute amendment being offered today.

Section 1 (a) and (b) of the bill: Section 1(a) of the bill, as reported by the Committee on Interior and Insular Affairs, will be deleted by the substitute amendment offered today. The bill as reported by the committee provided that the planning of salinity-control units would not be governed by the principles, standards, and procedures for planning water and related land resources. This amendment to the original 1974 act was not intended to prevent the Department of the Interior and Agriculture from displaying information on the economic evaluation of salinity-control units. Rather, it was only intended to make it clear that the traditional Federal procedures for measuring a project's contribution to national economic development—that is, benefit-cost analyses—are to be supplemented by cost-effectiveness analysis, as is the case with the Nation's other water-quality projects and programs. The cost-effectiveness determinations by the Secretaries will provide the primary basis for determining the relative priority to be given to implementing additional salinity-control units and separable features thereof. It is intended that the Secretaries will follow consistent procedures for project evaluation to insure the reliability of cost-effectiveness computations as a basis for comparison of diverse projects, features, and plans for salinity control.

Since section 1(b) of the bill as reported by the committee—section 1 of the substitute amendment of today—would amend the 1974 act to make it clear that cost effectiveness, not benefit-cost analysis, would be the principal criterion used in prioritizing salinity-control units for construction, section 1(a) of the bill as reported by the committee is not necessary. By deleting section 1(a) from the bill, it is intended that all relevant information, including expected changes in environmental quality, as called for in the principles, guidelines, and standards, about a salinity-control unit will be displayed in the appropriate planning documents. This will include information on all means for reducing salt loading to the Colorado River, including structural measures such as canal and lateral lining and nonstructural measures such as retirement of land from irrigation by purchase from willing sellers.

At times some nonstructural solutions may be cost effective for controlling salinity in the Colorado River. In these cases complete or partial alternatives to structural measures shall be considered for addressing problems and opportunities pursuant to this title. It is expected that complete or partial alternative nonstructural plans will be fully arrayed and considered as one of the candidate plans whenever structural projects are considered and whenever the nonstructural solutions appear to have merit.

Even though cost-effectiveness evaluations are to be used in analyzing salinity-control units, this is not the sole criterion by which units are to be evaluated. Technical feasibility, local acceptability, and environmental considerations are also to be taken into account. Section 1(b) of the bill as reported out by the committee only requires that preference be given to implementing the most cost-effective units. This preference can be overridden if circumstances so dictate when these other factors are taken into account.

Section 2(b)(4) of the bill: This section of the bill would have added, among others, a new section 202(a)(7) to the 1974 act authorizing the Big Sandy River unit, WY. This unit is currently authorized for planning and is under study. Construction authorization is being deleted by the substitute amendment from the bill as reported out of committee with the understanding that the Bureau of Reclamation will continue its study and verification effort and will evaluate additional industrial-use options before completing its planning effort. It is understood that the planning process will not be delayed at this time even though Congress is not now authorizing the unit.

Section 2(b)(5) of the substitute amendment: This amendment to Public Law 93-320, offered on the floor today and not a part of the bill reported out by the committee, would deauthorize the Crystal Geyser unit, UT., which unit was authorized by the Congress in the 1974 act. The Bureau of Reclamation has determined that this unit is not a cost-effective unit at this time and therefore all parties have agreed to its deauthorization.

Section 2(c) of the bill: This section of the bill would have amended the 1974 act by adding, among other provisions, a new section 202(b)(2). The substitute amendment now being offered deletes this provision, which would have authorized the replacement of incident fish and wildlife values foregone, in favor of specific language for the same purpose which is being added to the authorizations for the Grand Valley, Paradox, Las Vegas Wash, stage I of the Lower Gunnison, and McElmo Creek units. It is intended that measures to replace incidental fish and wildlife values foregone shall not significantly diminish the salt-loading reductions to be achieved by a unit, shall obtain and use water, if needed, in accordance with procedural and substantive State law, shall be implemented concurrently with the construction of related project features, shall minimize, to the extent practical, the use of water, and shall constitute only a minor part of the total cost of a salinity-control unit or of a separate portion thereof. The amendment offered today also states that there is authority to contract with non-Federal entities to maintain fish and wildlife facilities.

This section of the bill, as modified by the substitute amendment being offered today, adds a new section 202(b)(4) to the 1974 act. Based upon currently available information, all units previously or now being authorized, including measures to replace incidental fish and wildlife values foregone, can and should be implemented in accordance with State water laws. If the Secretary should subsequently

conclude that any of the currently authorized units, including measures to replace incidental fish and wildlife values foregone, cannot go forward in compliance with State water laws, then he shall not proceed with the unit and shall report such problems to the Congress.

It is noted that this paragraph (4) of subsection 202(b) applies only to currently authorized units. The Secretary shall not be constrained in the planning of additional units by this provision. Subsequent congressional authorization of new units will need to address any State water law questions which may arise with respect to such units.

Section 3 of the substitute amendment: These amendments to section 3 of the bill as reported by the committee add provisions for studies to proceed with respect to saline-water use and disposal opportunities and for more advanced studies to proceed on the Sinbad Valley unit, CO. Although authorization for construction of these two measures is deleted from the bill by the substitute amendment because the planning process has not progressed to a point where construction authorization can be concurred in, it is intended that the planning process continue without interruption or delay.

Section 4(a) of the bill: The substitute amendment offered today does not amend section 4(a) of the bill. This statement is presented only to restate what is intended with respect to cost sharing. The term "total costs" is used to describe the Federal costs of the program. These total costs will be in part repaid to the general fund of the U.S. Treasury by funds from the upper and lower basin accounts as provided for in the 1974 act and modified by this legislation. This legislation provides for significant increases, with payment up front or payment with interest, in these locally derived contributions. It is anticipated that with respect to the newly authorized Department of Agriculture on-farm program, up-front contributions will be made by landowners that will be in addition to the total costs to the Federal Government that will be shared by the basin funds.

Section 4(d) of the substitute amendment: Section 4(d) of the substitute amendment adds a new paragraph (4) to section 205(a) of the 1974 act. This new paragraph (4) provides for the long-term reimbursement of costs allocated to the upper basin, with interest on the unpaid balance. Under the formula specified in subparagraph (iv) of paragraph (4), this interest rate will be based upon the current cost of long-term Treasury borrowing at the time costs are incurred by the Secretary. Under current and foreseeable conditions, this rate will be higher than the rate applicable to other repayment obligations of the Upper Colorado River Basin fund.

There is controversy surrounding the Department of Energy's policy of setting hydroelectric power rates at levels which repay selected higher interest investments ahead of their required repayment date while postponing repayment of lower interest investments. This legislation does not resolve this controversy and is not intended to prejudice further legislative or administrative action on this subject in the future. Because the upper basin repayment obligations under this legislation are relatively small, and because of the desire not to encumber this legislation with controversy over the Department's amortization policy, this legislation does not address this issue. It is anticipated that Congress will address repayment from basin accounts in the next session.

It is noted that the on-farm program authorized by this legislation will be in part repaid as provided for in section 4(d) of the substitute amendment. As noted before in this statement, these Federal costs will only represent a portion of the costs of the on-farm program. Landowners will be making important contributions with respect to time and money. Under already existing authorities the Department of Agriculture has started pilot programs in Utah and Colorado. At times a 90-percent Federal cost sharing has been offered to encourage landowners to participate in on-farm fish and wildlife replacement measures. However, this high Federal cost sharing has represented only a small part of the program to date. Most often the Federal share has been only 50 to 75 percent with the landowner providing the remainder.

Considering the landowner's contribution and also the basin funds' repayment of the Federal costs—total costs—in the amount of 25 percent, the effective cost share of the local and State entities with the Federal Government approaches an equal division of the costs. The bill does not establish a minimum cost share to be paid by the landowner because situations vary over the agricultural areas of the basin. It is intended that the costs will be divided, in part, based on benefits derived and will be similar to the cost sharing for the on-farm measures entered into thus far.

Mr. Speaker, I include for the RECORD letters received from the Environmental Policy Institute and the National Wildlife Federation:

ENVIRONMENTAL POLICY INSTITUTE,
October 2, 1984.

Representative MORRIS UDALL,
Chairman, House Interior and Insular Affairs Committee, Washington, DC.

DEAR CHAIRMAN UDALL: I am writing to you to express our support for H.R. 2790, the Amendments to the Colorado River Salinity Control Act. H.R. 2790 embodies the spirit and the intent of the reforms that the Environmental Policy Institute has been working for in the past decade in the water resource area.

From our standpoint, the proposed legislation is environmentally as well as fiscally sound. Salinity control is a national as well as international issue. The types of programs, goals and protections found in this legislation that are authorized to address the salinity problem in the Colorado River can only be described as the most effective approach in addressing this complex issue.

This legislation could not have emerged in the form that it has without the positive climate that you and members of the Interior Committee set for allowing the various issues to be resolved. It is not often that members of the environmental community can sit down with the Bureau of Reclamation and the Department of Agriculture and feel comfortable with the end result. I will say that this would not have been possible without the leadership of the Colorado River Salinity Control Forum. Knowing that consensus was the cornerstone, they kept the whole process together so that key issues and questions were resolved.

I realize that time is of critical concern in these closing days of Congress. The issue of what level of cost-sharing has been the most delicate one to resolve in this legislation. Rather than lose the opportunity for passage of this important legislation this year, we find ourselves supporting this legislation with a 25% cost-sharing formula. It is our understanding that it is the intent of the various parties involved in this legislation to seek a higher level once the legislation is acted upon in the Senate. With that understanding, we endorse H.R. 2790 as amended by the Committee and urge its speedy passage.

Sincerely,

PETER CARLSON,
Director, Western Water Resources Project.

NATIONAL WILDLIFE FEDERATION,
WASHINGTON, DC,
October 2, 1984.

Hon. MORRIS K. UDALL,
Cannon House Office Building, Washington, DC.

DEAR MR. MO UDALL: I am pleased to extend the support of the National Wildlife Federation for the adoption of a comprehensive substitute version of H.R. 2790, the Colorado River Basin Salinity Control Act Amendments. When I wrote to you on August 22, conservationists had deep reservations about this bill and urged greater attention to such issues as cost-sharing, cost-recovery, improved project planning, and fish and wildlife mitigation. Through your leadership and encouragement, and a good faith effort by the basin states working through the Colorado River Basin Salinity Control Forum, all of these issues have been addressed, and all but one resolved in the legislation now before the House.

With regard to cost sharing, let me restate our belief that a greater share of locally derived funds is needed than is currently called for in the pending substitute. We support adoption of the bill by the House with the understanding that the basin states are willing to support some additional cost sharing, and that chances appear to be good that the Senate will propose an increase.

In summary, we support the comprehensive substitute for H.R. 2790 at this time because the bill and its associated explanatory statement:

Maintains and strengthens planning and evaluation criteria for salinity control projects;

Improves the procedures for the repayment of reimbursable costs; and

Ensures that fish and wildlife habitat will be replaced whenever salinity control projects are implemented.

We commend your leadership for the timely resolution of these important issues.

Sincerely,

JAY D. HAIR.

Mr. UDALL. Mr. Speaker, I also wish to commend the gentleman from Colorado [Mr. KOGOVSEK], who is retiring, without whose tenacity and help we would not have this legislation before us today. We will miss him on the committee and we will miss him here in the House.

Mr. Speaker, I reserve the balance of my time.

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2790. H.R. 2790 provides for control of the salinity of the Colorado River.

The increased levels of salinity, or total dissolved solids, in the Colorado River are an important concern to the seven Colorado River Basin States. Heightened salinity, or worsened water quality, levels can damage crop growth and make water unpotable, thus increasing water treatment costs. Colorado River salinity is also an important concern of the Federal Government, since the Federal Government owns 70 percent of the lands in the Colorado River Basin. In fact, half of the salinity from natural sources in the Colorado River comes from Federal lands. And the Federal Government has agreed by treaty with the Government of Mexico to certain controls on the salinity of water coming to Mexico from the Colorado River.

The Committee amendment which is being offered today represents a series of compromises between supporters of the legislation and the environmental community. In particular:

The bill was revised to make it acceptable on wildlife mitigation and environmental review issues

The bill was revised to drop certain projects, and impose limits on certain others, where objections were raised on environmental grounds

The bill was changed to limit the involvement of the Federal Government in certain aspects of project implementation, for both fiscal and environmental reasons

The bill was changed to sharply increase the effective levels of local cost-sharing required.

Let me stress that at this point, there is agreement on almost every aspect of this bill. This means that there is agreement on the following issues:

First, salinity is an important water quality problem in a major area of the West;

Second, the projects proposed in this bill are a sensible means of dealing with this problem;

Third, the projects proposed will be subject to proper environmental review and control.

The administration was willing, as I understand it, to accept 25 percent cost sharing. The environmental community has been insisting that the number should be higher. To my knowledge, this would be just about the highest cost sharing percentage in a generic program such as this that we have authorized. Some people have suggested that this is not high enough. In response, I would point out that:

First, the Federal Government is a major pollution contributor in the Colorado;

Second, Colorado River salinity control helps to maintain the structure of our Federal treaty commitment; and

Third, the Colorado is a multistate resource, and this level of cost sharing is one which guarantees contributions from all of the States involved.

For these reasons, I believe the House should follow the committee's judgment and support the bill as amended by the committee.

● Mr. McCAIN. Mr. Speaker, I rise in strong support of H.R. 2790, legislation to authorize the Department of the Interior to undertake six new salinity control projects including a cost-sharing compromise. Additionally, this legislation establishes a separate program in the Department of Agriculture to control salinity arising from poor farming practices rather than continue existing USDA programs which were not designed to attack the salt problem.

Implementation of this program will not only enhance the irrigation efficiencies of upstream water users, but downstream irrigators will be significantly benefited by improved water qualities. Improved water quality will reduce salinity problems in downstream soils.

Mr. Speaker, this legislation has the unanimous support of the seven Colorado River Basin States of Wyoming, Colorado, New Mexico, Utah, Nevada, Arizona, and California. H.R. 2790 sets forth a critically important and cost-effective vehicle to clean up and rehabilitate one of our Nation's most treasured resources. I urge your support of H.R. 2790.

Thank you.●

Mr. LUJAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and pass the bill, H.R. 2790, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

DECLARING THAT THE UNITED STATES HOLDS IN TRUST FOR THE COCOPAH INDIAN TRIBE OF ARIZONA CERTAIN LAND IN YUMA COUNTY

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5760) to declare that the United States holds in trust for the Cocopah Indian Tribe of Arizona certain land in Yuma County, AZ, as amended.

The Clerk read as follows:

H.R. 5760

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to all valid existing rights, all right, title, and interest of the United States in the following described tracts of land shall be held by the United States in trust for the Cocopah Indian Tribe of Arizona and shall be part of the reservation of such tribe:

(1) As part of the West Cocopah Reservation, containing 2,096 acres, more or less:

Gila and Salt River Base and Meridian, Arizona

Township 9 south, range 24 west

Section 18, lot 17;

Section 19, lots 24 and 25; and

Section 30, lots 19 and 27.

Township 9 south, range 25 west

Section 24, lots 1, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12;

Section 34, lots 1 and 2; and

Section 35, all within the United States.

Township 10 south, range 25 west

Section 2, lots 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, and 27;

Section 10, lots 1 and 2;

Section 11, lots 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16;

Section 14, lots 8 and 9; and

Section 15, lots 5, 6, and 7, and northeast quarter northeast quarter.

(2) As part of the East Cocopah Reservation, containing 1,548.87 acres, more or less:

Gila and Salt River Base and Meridian, Arizona

Township 9 south, range 23 west

Section 30, southeast quarter southwest quarter and

Section 31, north half, north half south half, southwest quarter southwest quarter, and southwest quarter southeast quarter.

Township 10 south, range 24 west

Section 1, lots 1, 2, 5, and 8, and south half northeast quarter and east half southeast quarter

Section 12, northeast quarter and east half southeast quarter; and

Section 13, lots 7 and 9, and east half northeast quarter, northeast quarter southeast quarter, south half southeast quarter, and south half southwest quarter.

(3) As the North Cocopah Reservation, containing 614.18 acres, more or less:

San Bernardino Base and Meridian, Arizona

Township 16 south, range 21 east

Section 25, lots 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17; and

Section 24, lot 1.

Township 16 south, range 22 east

Section 19, lot 10, and

Section 30, lots 11, 12, 13, 19, 20, and 22, and south half southwest quarter.

SEC. 2. (a) Nothing in this Act shall deprive any person or entity of any legal existing right-of-way, legal mining claim, legal grazing permit, legal water right, or other legal right or interest which such person or entity may have in lands described in section 1 of this Act.

(b) That portion of the lands described in subsection (a)(2) of section 1 which are the subject of a dedication for a garbage disposal recorded at book 167, page 464 of the Yuma County Recorder's office shall remain subject to such dedication for as long as such lands are used for land fill or related purposes.

SEC. 3. Notwithstanding any other provision of this Act, Executive Order Numbered 11988 of May 24, 1977, 42 Federal Register 26951, as amended, shall apply to lands described in section 1 of this Act.

SEC. 4. There are reserved to the United States the following rights-of-way upon, over, and across the lands described in section 1 of this Act:

(1) A right-of-way of sixty feet from the margin of the Colorado River on the international boundary with the Republic of Mexico, as described in Public Land Reservation of May 27, 1907;

(2) Rights-of-way for existing facilities of the Yuma Reclamation Project, the Colorado River Front Work and Levee System, and the Yuma Mesa Conduit;

(3) A right-of-way of fifty feet on each side of the center line of the Pesch Header, as shown on the United States Bureau of Reclamation, Yuma Project drawing numbered 35-303-634;

(4) A right-of-way for power and transmission facilities within the north seventeen feet of the south fifty feet of the southeast quarter southwest quarter, section 30, township 9 south, range 23 west, Gila and Salt River Base and Meridian; and

(5) A right-of-way of two hundred feet measured horizontally landward from the high water mark of the Colorado River bankline for channel rectification, bankline maintenance, and preservation of the floodway, as well as a right, at all proper times and places, to free ingress to, passage over, and egress from the lands described in section 1 of this Act, for the purpose of exercising, enforcing, and protecting the rights reserved in this right-of-way:

Provided, That, should any of the rights-of-way reserved by this section be abandoned, as determined by the Secretary of the Interior, such rights shall revert to the Cocopah Tribe.

SEC. 5. In the event that title to any private lands located within section 1 or 2, township 10 south, range 25 West, Gila and Salt River Base and Meridian, which are contiguous to the West Cocopah Reservation, is subsequently acquired by the Cocopah Tribe, such lands shall thereupon become part of, and shall be within, the exterior boundary of the West Reservation of the Cocopah Tribe.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes and the gentleman from Arizona [Mr. MCCAIN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

□ 1140

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5760, as amended, provides that approximately 4,200 acres of public lands administered by the Bureau of Land Management shall be held by the United States in trust for the Cocopah Indian Tribe of Arizona.

The Cocopah Tribe is located in Yuma County in southwestern Arizona on two small tracts of land which comprise their reservation.

This is a very poor tribe in my district and their existing lands are simply inadequate to meet their critical housing needs and to provide an economic base for the tribe to achieve some degree of self-sufficiency. The transfer of these lands for the benefit of the Cocopah Tribe will strengthen the ability of the tribe in the area of housing and economic development. In fact, the tribe has prepared a comprehensive land use plan setting out the uses which the tribe would make of these lands after the transfer.

Mr. Speaker, when my committee held hearings on this bill, the administration raised objections to the bill on the grounds that transfer of these lands to the tribe might impair certain Federal uses of these lands. These included rights-of-way or easements for power lines and irrigation facilities and uses related to river management and the international boundary. In addition, certain local groups expressed concern about the impact of the legislation.

I committed at that time the committee would not move the bill until these concerns had been addressed and resolved. Over the past 3 months, my staff has worked with the tribe, local Federal officials, and other concerned parties in this regard. The bill before the House contains numerous new provisions which we added to protect and preserve all of these Federal uses and addresses the other local concerns.

I urge the House to pass the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MCCAIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to congratulate the chairman of the committee [Mr. UDALL] who consulted with the various interests involved in this very difficult issue, Federal and local and tribal officials, to obtain an important consensus. I believe this is a good and important bill for the Cocopah Tribe and the people of the State of Arizona, and I am pleased to support it.

This legislation provides for 3,700 acres of Federal lands in southwestern Arizona to be added to the Cocopah Indian Reservation.

I would like to commend the bill's sponsor, [Mr. UDALL] and the leadership of the Cocopah Tribe, for their diligent efforts to address the numerous concerns raised by local entities, individuals, and Federal agencies about this legislation. I think they have succeeded admirably. H.R. 5760 is a tribute to the spirit of compromise and cooperation.

The 869-member Cocopah Tribe suffers from an unemployment rate over 50 percent and a general lack of economic activity. For the past several years, the tribe has been embarked on a careful planning process aimed at stimulating commercial, industrial, and recreational development, increasing tribal self-sufficiency, and enhancing the quality of life of its members. The biggest obstacle confronting the tribe is a land base inadequate to permit achievement of these goals, as well as to provide good location for increased residential development. H.R. 5760 would remove that obstacle.

I visited with the Cocopah this past January, toured their reservation and viewed some of the land that is subject to this bill. I can testify to the seriousness and dedication which its leaders bring to their efforts to improve the tribe's economic conditions and to the logic of this bill. If enacted, it will provide a hard-earned opportunity for the Cocopah Tribe to make substantial progress in their quest for self-sufficiency. It is clearly in the interest of the United States, as well as the tribe, to provide that opportunity.

H.R. 5760 is a carefully crafted piece of legislation that deserves our support. I urge its passage by the House.

Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico [Mr. LUJAN].

Mr. LUJAN. I thank the gentleman for yielding me this time.

Mr. Speaker, I might ask the chairman, I understand that everything is proper, but under these lands that are now administered by the Bureau of Reclamation, is there any private interest, Mr. Chairman, such as someone other than the tribe having a grazing lease or any other kind of interest in it?

I yield to the gentleman for his response.

Mr. UDALL. I would say to the gentleman that all the previous uses and easements and interests in land, whatever they are, are preserved, protected, and grandfathered. I know of no opposition from private sources to this bill.

Mr. LUJAN. I thank the gentleman for his response, and I was sure that that was the case. I want to make the point because at one time I remember one of these transfer things in my own home State, that all of a sudden it turned out that someone did have a lease and pretty soon they got kicked off the land.

As long as we have been careful to preserve all rights, then I think that is fine.

Mr. UDALL. I am glad the gentleman raised that point and we get it nailed down so that there is no misunderstanding.

Mr. LUJAN. I thank the gentleman.

Mr. McCAIN. Mr. Speaker, I have no requests for time and I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and pass the bill, H.R. 5760, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

EXEMPTION FROM ESTATE OR INHERITANCE TAXES FOR OSAGE INDIANS, OKLAHOMA

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3971) to provide that any Osage headright or restricted real estate or funds which is part of the estate of a deceased Osage Indian who did not possess a certificate of competency at the time of death shall be exempt from any estate or inheritance tax imposed by the State of Oklahoma.

The Clerk read as follows:

H.R. 3971

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) any Osage headright or restricted real estate or funds which is part of the estate of a deceased Osage Indian with respect to whom—

(1) a certificate of competency had never been issued before the time of death, or

(2) a certificate of competency had been revoked by the Secretary of the Interior before the death of such Osage Indian,

shall be exempt from any estate or inheritance tax imposed by the State of Oklahoma.

(b) Subsection (a) shall apply to the estate of any Osage Indian who dies on or after the date of the enactment of this Act.

SEC. 2. For purposes of this Act—

(1) the term "headright" means any right of any person to share in any royalties, rents, sales, or bonuses arising from the Osage mineral estate;

(2) the term "Osage mineral estate" means any right, title, or interest in any oil, gas, coal, or other mineral held by the United States in trust for the benefit of the Osage Tribe of Indians under section 3 of the Osage Tribe Allotment Act;

(3) the term "restricted real estate or funds" means any real estate or fund held by an Osage Indian or by the Secretary of the Interior in trust for the benefit of such Indian which is subject to any restriction against alienation, or transfer by any other means, under any Act of Congress applicable to the Osage Tribe of Indians or applicable generally to Indians or any bands, tribes, or nations of Indians; and

(4) the term "Osage Tribe Allotment Act" means the Act approved June 28, 1906, and entitled "An Act for the division of the lands and funds of the Osage Indians in Oklahoma Territory, and for other purposes" (34 Stat. 539).

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes and the gentleman from Arizona [Mr. McCAIN] is recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3971 is a bill to provide that any Osage headright or restricted real estate or funds which is part of the estate of a deceased Osage Indian shall be exempt from any estate or inheritance tax imposed by the State of Oklahoma.

It is my understanding that because of the Osage Tribe's reservation was allotted under a 1906 act which did not include a specific exemption from such taxation, the tribe, unlike all of the other tribes in Oklahoma and probably the rest of the country is subjected to such taxation.

Therefore this bill would only bring parity to the Osages with the rest of the Indian tribes in Oklahoma and I urge its passage by the House.

Mr. Speaker, I thank the gentleman from Oklahoma [Mr. JONES] for his sponsorship of this legislation and for his help in getting it as far along the legislative track as it is today.

Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma [Mr. JONES].

Mr. JONES of Oklahoma. I thank the gentleman for yielding time to me.

Mr. Speaker, as I rise in support of this legislation, let me first commend the chairman of the Committee on Interior and Insular Affairs for his efforts in bringing this bill before the Congress prior to adjournment. I am most grateful for his support and for the able assistance I have received from his staff in bringing this legislation before the House today. I would also like to thank Messrs. McCAIN, PASHAYAN, and VENTO for their cooperative spirit in the committee which permitted consideration of this bill and express gratitude to the gentleman from Texas [Mr. KAZEN] for chairing the committee markup.

H.R. 3971 exempts Osage Indians from certain Oklahoma estate and inheritance taxes. The Osage are the only tribe of Oklahoma's 67 Indian tribes who are subject to payment of Oklahoma estate tax of headright interests held in trust by the U.S. Government. The General Allotment Act of 1887, which divided lands for a majority of tribes, specifically exempts tribes from estate tax, but the Osage Tribe is not covered by this act. The Osage lands were divided and laws of the tribe were established under separate legislation by way of the Osage Allotment Act of 1906. In the Osage Allotment Act, no specific exemption was stated concerning payment of estate tax on headrights and this omission was apparently an unintentional oversight.

The Osage Tribe of Oklahoma is, at present, exempt from payment of Federal estate tax, as are all Indian tribes. When the IRS determined that the Osage Tribe of Oklahoma should be exempt from Federal estate tax, the August 15, 1969, memorandum stated:

In our analysis of the two allotment acts and their legislative history, we found no indications that Congress intended to treat the Osage Indians any different than any of the tribes covered by the General Allotment Act of 1887. On the contrary, the general tone of both acts, the nature of responsibilities assumed by the United States, and the similarities in basic concepts (especially the concept of conserving the property for the incompetent) indicate a common congressional intent underlying both acts.

In 1975, the Oklahoma Supreme Court upheld a 1948 U.S. Supreme Court decision in West against the Oklahoma Tax Commission that Oklahoma Osage Indian headrights would continue to be included in a decedent's gross estate for estate tax purposes, until Congress exempts these headrights from State taxation or this case is overruled. Hence, Federal legislation is required.

It is estimated that exempting the tribe from payment of State estate tax would mean a loss of revenue to the State of approximately $200,000 a year. Because this bill directly impacts the State of Oklahoma, the bill was submitted for review to the key State legislators and the Governor. All have voiced their support for this legislation on the basis of fair treatment for the Osages. The Governor's office reconfirmed that support only yesterday.

Mr. Speaker, H.R. 3971 enjoys bipartisan support and was introduced by all House Members of the Oklahoma delegation; JONES, EDWARDS, ENGLISH, McCURDY, SYNAR, and WATKINS. Only those Osage Indians whose headrights are held in trust by the Secretary would benefit from this change. I urge my colleague to support this legisla-

tion in the interest of fairness to the Osage Indians.

Mr. McCAIN. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would just like to congratulate Mr. JONES for his effort and the Oklahoma delegation in clearing up these technical difficulties which are very important to the Osage Tribe. I would also like to thank Chairman UDALL.

I have no further requests for time, and I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and pass the bill, H.R. 3971.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

OSAGE TRIBE OF INDIANS TECHNICAL CORRECTIONS ACT OF 1984

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6303) to make certain technical corrections in various acts relating to the Osage Tribe of Indians in Oklahoma.

The Clerk read as follows:

H.R. 6303

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Osage Tribe of Indians Technical Corrections Act of 1984".

AMENDMENTS TO THE OSAGE INDIAN ACT OF 1978

SEC. 2. (a) Section 2(a) of the Act approved October 21 1978, and entitled "An Act to amend certain laws relating to the Osage Tribe of Oklahoma, and for other purposes." (92 Stat. 1660) is amended by striking out "June 26, 1906" and inserting in lieu thereof "June 28, 1906".

(b) Section 5(7) of such Act is amended by striking out "(7)" and inserting in lieu thereof "(c)".

(c) Section 5(d) of such Act is amended to read as follows:

"(d)(1) Notwithstanding any provision of—

"(A) section 3 or 8 of the Osage Indians Act of 1912 (as amended by subsections (b) and (a), respectively) or,

"(B) section 7 of the Osage Indians Act of 1925 (as amended by subsection (c)),

any sale or transfer or any disposition by any other means of any headright shall be subject to section 7 of this Act.

"(2) Notwithstanding section 6(a) of this Act or section 8 of the Osage Indians Act of 1912, no Osage Indian may—

"(A) provide for the transfer of any interest of such person in any headright—

"(i) by will to any person which is not an individual, or

"(ii) by the establishment of an inter vivos trust for the benefit of any person which is not an individual; or

"(B) provide, whether by the terms of a will, the terms of a testamentary trust established by a will, or by the terms of an instrument establishing an inter vivos trust, that any interest in any headright—

"(i) which such Osage Indian had (at the time of death of such person or at the time any such inter vivos trust was established), and

"(ii) in which any individual was granted a life estate by such Osage Indian,

may be transferred to or held for the benefit of any individual who is not an Osage Indian upon the death of the individual who held such life estate.".

(d) Section 6(b) of such Act is amended by striking out "members of the Osage Tribe," and inserting in lieu thereof "Osage Indians,".

(e) Section 7 of such Act is amended to read as follows:

"RULES GOVERNING DEVOLUTION OF INTERESTS IN OSAGE HEADRIGHTS

"SEC. 7. (a) GENERAL RULE.—No person who is not an Osage Indian may, on or after October 21, 1978, receive any interest in any headright, other than a life estate in accordance with subsection (b), whether such interest would be received by such person (but for this subsection) under a will, a testamentary or inter vivos trust, or the Oklahoma laws of intestate succession.

"(b) EXCEPTION FOR LIFE ESTATES.—Notwithstanding subsection (a) and subject to section 5(d)(2), an individual who is not an Osage Indian may receive a life estate in any headright held by a testator, settlor, or decedent who is or was an Osage Indian under a will, or under a testamentary trust established by a will, of such testator, an inter vivos trust established by such settlor, or the Oklahoma laws of intestate succession relating to the administration of the estate of such decedent.

"(c) SPECIAL RULES GOVERNING INTERESTS IN OSAGE HEADRIGHT UPON DEATH OF INDIVIDUAL WHO HELD LIFE ESTATE IN SUCH HEADRIGHT.—

"(1) DESIGNATED OSAGE REMAINDERMEN.—Upon the death of any individual who is not an Osage Indian and who held a life estate in any headright of a testator or settlor described in subsection (b), all remaining interests in such headright shall vest in any remaindermen who—

"(A) are designated in the will of the testator or the instrument establishing the trust of the settlor to receive such remainder interest, and

"(B) are Osage Indians.

"(2) NO DESIGNATED OSAGE REMAINDERMEN.—Upon the death of any individual who is not an Osage Indian and who held a life estate in any headright of a testator, settlor, or decedent described in subsection (b) who—

"(A) did not designate any remainderman who is an Osage Indian to receive any remaining interest in such headright in the will of such testator or instrument of such settlor, or

"(B) died intestate,

all remaining interests in such headright shall vest in any heirs, as determined under the Oklahoma laws of intestate succession, of such testator, settlor, or decedent who are Osage Indians.

"(3) NO HEIR WHO IS AN OSAGE INDIAN.—Upon the death of any individual who is not an Osage Indian and who held a life estate in any headright of an Osage testator, settlor, or decedent described in subsection (b) who—

"(A) designated no remainderman who is an Osage Indian for any remaining interest in such headright, and

"(B) had no heir under the Oklahoma laws of intestate succession who is an Osage Indian and is living at the time of death of the individual who held such life estate,

all remaining interests in such headright shall vest in the Osage Tribe of Indians.

"(d) LIABILITY OF TRIBE IN CASE OF REMAINDERMAN OR HEIR WHO IS NOT AN OSAGE INDIAN.—In any case in which—

"(1) any remainder interest of a testator, settlor, or decedent described in subsection (b) vests in the Osage Tribe of Indians under subsection (c)(3), and

"(2) an individual who is not an Osage Indian and who, but for this section, would have received any portion of such remaining interest in the headright by virtue of—

"(A) having been designated under the will of such testator, or the instrument of such settlor which established any such trust, to receive such remainder interest, or

"(B) being the heir of such decedent under the Oklahoma laws of intestate succession,

the tribe shall pay any such individual the fair market value of the portion of the interest in such headright such individual would have received but for this section.".

(f) Section 8(a) of such Act is amended to read as follows:

"SEC. 8. (a)(1) No headright owned by any person who is not of Indian Blood may be sold, assigned, or transferred without the approval of the Secretary. Any sale of any interest in such headright (and any other transfer which divests such person of any right, title, or interest in such headright) shall be subject to the following rights of purchase:

"(1) First right of purchase by the heirs in the first degree of the first Osage Indian to have acquired such headright under an allotment who are living and are Osage Indians, or, if they all be deceased, all heirs in the second through the fourth degree of such first Osage Indian who are living and are Osage Indians.

"(2) Second right of purchase by any other Osage Indian for the benefit of any Osage Indian in his or her individual capacity.

"(3) Third right of purchase by the Osage Tribal Council on behalf of the Osage Tribe of Indians.

No owner of any headright shall be required, by reason of this subsection, to sell such headright for less than its fair market value or to delay any such sale more than 90 days from the date by which notice of intention to sell (or otherwise transfer) such headright has been received by such person with respect to whom a right of purchase has been established under this subsection.".

(g) Section 8(b) of such Act is amended to read as follows:

"(b) Notwithstanding the paragraph designated 'First' of section 4 of the Osage Tribe Allotment Act or any other provision of law, any income from the Osage mineral estate may be used for the purchase of any headright offered for sale to the Osage Tribal Council pursuant to subsection (a) or vested in the Osage Tribe pursuant to section 7 if, prior to the time that any income from the Osage mineral estate is segregated for distribution to holders of headrights, the Osage Tribal Council requests the Secretary to au-

thorize such use of such funds and the Secretary approves such request.".

(h) Such Act is amended by adding at the end thereof the following new sections:

"SEC. 10. Except where any provision of this Act explicitly provides otherwise, wherever the term 'Osage Indian' is used in this Act, such term shall be construed so as to include any child who has been adopted by an Osage Indian (pursuant to the decision of any court of competent jurisdiction) and any lineal descendant of such child.

"SEC. 11. For purposes of this Act—

"(1) the term 'Osage mineral estate' means any right, title, of interest in any oil, gas, coal, or other mineral held by the United States in trust for the benefit of the Osage Indian Tribe under section 3 of the Osage Tribe Allotment Act;

"(2) the term 'headright' means any right of any person to share in any royalties, rents, sales, or bonuses arising from the Osage mineral estate;

"(3) the term 'Secretary' means the Secretary of the Interior;

"(4) the term 'person' has the meaning given to such term in section 1 of title 1, United States Code;

"(5) the term 'Osage Tribe Allotment Act' means the Act approved June 28, 1906, and entitled 'An Act For the division of the lands and funds of the Osage Indians in Oklahoma Territory, and for other purposes.' (34 Stat. 539);

"(6) the term 'Osage Indians Act of 1912' means the Act approved April 18, 1912, and entitled 'An Act Supplementary to and amendatory of the Act entitled "An Act for the division of the lands and funds of the Osage Nation of Indians in Oklahoma," approved June twenty-eighth, nineteen hundred and six, and for other purposes.' (37 Stat. 86); and

"(7) the term 'Osage Indians Act of 1925' means the Act approved February 27, 1925, and entitled, 'An Act to amend the Act of Congress of March 3, 1921, entitled "An Act to amend section 3 of the Act of Congress of June 28, 1906, entitled, 'An Act of Congress for the division of the lands and funds of the Osage Indians in Oklahoma, and for other purposes.' " ' (43 Stat. 1008).".

AMENDMENTS TO THE OSAGE INDIANS ACT OF 1912

SEC. 3. (a) Section 3 of the Act approved April 18, 1912, and entitled "An Act Supplementary to and amendatory of the Act entitled 'An Act for the division of the lands and funds of the Osage Nation of Indians in Oklahoma,' approved June twenty-eighth, nineteen hundred and six, and for other purposes." (37 Stat. 86) is amended by striking out "That the" and inserting in lieu thereof the following:

"SEC. 3 Except as provided in sections 5(d) and 7 of the Act approved October 21, 1978, and entitled 'An Act to amend certain laws relating to the Osage Tribe of Oklahoma, and for other purposes.' (92 Stat. 1660), the".

(b) Section 8 of such Act is amended—

(1) in the first sentence—

(A) by striking out "Any" and inserting in lieu thereof the following:

"SEC. 8. Except as provided in sections 5(d) and 7 of the Act approved October 21, 1978, and entitled 'An Act to amend certain laws relating to the Osage Tribe of Oklahoma, and for other purposes.', any",

(B) by striking out "(real, person, and mixed," and inserting in lieu thereof "(real, personal, and mixed,",

(C) by inserting a comma after "removed",

(D) striking out "will executed" and inserting in lieu thereof "the terms of a will, or the terms of a testamentary trust created by a will, executed", and

(E) by striking out "State of Oklahoma:" and inserting in lieu thereof "State of Oklahoma, except that an Osage Indian under guardianship or conservatorship shall be exempt from the requirement that the will of such Indian shall be subscribed and acknowledged in the presence of a district judge:";

(2) by striking out the third sentence and inserting in lieu thereof the following new sentence: "Notice of such hearing shall be given at least 10 days before the hearing by publication in a newspaper of general circulation in Osage County, Oklahoma, and by mailing to all known heirs, legatees, and devisees at their last known addresses.";

(3) in the sixth sentence by striking out "of" where it appears after "date";

(4) by inserting after the eighth sentence the following new sentence: "In the case of any action in probate contesting the will of any Osage Indian, the Secretary of the Interior may approve any settlement relating to such action with respect to any property under the jurisdiction of the Secretary.";

(5) in the last sentence by striking out "Such appeals" and inserting in lieu thereof "Any such appeal shall be filed in a court of the United States with jurisdiction over such appeal before the end of the 30-day period beginning on the date of the decision of the Secretary and"; and

(6) by adding at the end thereof the following new sentences: "In the case of any property or interest in property (including any headright) which was held by any Osage Indian decedent at the time of death of such Indian and is subject to any restriction against alienation, or which was held by the United States in trust for the benefit of any Osage Indian decedent, and which is the property, or an interest in property, included in a testamentary trust created by a will of such decedent—

"(1) only the Secretary of the Interior may be appointed as, or may serve as, trustee with respect to any share of such trust property relating to a beneficiary of such trust who is an Indian with respect to whom—

"(A) a certificate of competency has never been issued, or

"(B) a certificate of competency has been revoked by the Secretary of the Interior;

"(2) only a bank or trust institution may be appointed as, or may serve as, the trustee with respect to any share of such trust property relating to any beneficiary other than an Indian described in subparagraph (A) or (B) of paragraph (1); and

"(3) the inclusion of such property, or interest in property, in such testamentary trust shall not effect—

"(A) the application, to such property, of any law and rule of law which applies to property of Osage Indians or the Osage Tribe of Indians, including any restrictions against alienation of lands or other property, or

"(B) the tax-exempt status of such property.".

AMENDMENTS TO THE OSAGE INDIANS ACT OF 1925

SEC. 4. Section 7 of the Act approved February 27, 1925, and entitled "An Act to amend the Act of Congress of March 3, 1921, entitled 'An Act to amend section 3 of the Act of Congress of June 28, 1906, entitled "An Act of Congress for the division of the lands and funds of the Osage Indians in Oklahoma, and for other purposes." ' " (43 Stat. 1008) is amended—

(1) by striking out "Hereafter" and inserting in lieu thereof the following:

SEC. 7. Except as provided in sections 5(d) and 7 of the Act approved October 21, 1978, and entitled 'An Act to amend certain laws relating to the Osage Tribe of Oklahoma and for other purposes.', on or after October 21, 1978,";

(2) by inserting after "inherit" the following: ", in accordance with the laws of the State of Oklahoma relating to intestate succession"; and

(3) by adding at the end the following new sentence: "No adopted child of any Osage Indian who is not an Osage Indian shall be eligible to inherit, as the collateral heir (within the meaning of the laws of the State of Oklahoma relating to intestate succession) of any Osage Indian decedent, any property or interest in property held in trust by the Secretary of the Interior for the benefit of such decedent.".

AMENDMENTS TO THE ACT PROVIDING FOR THE DISTRIBUTION OF JUDGMENT FUNDS OF THE OSAGE TRIBE OF INDIANS

SEC. 5. Section 1(b) of the Act approved October 27, 1972, and entitled "An Act to provide for the disposition of judgment funds of the Osage Tribe of Indians of Oklahoma." (86 Stat. 1295) is amended—

(1) by striking out "or other socioeconomic programs", and

(2) by striking out "programs to be administered" and inserting in lieu thereof "program to be administered".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes and the gentleman from Arizona [Mr. MCCAIN] is recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6303, sponsored by Congressman JONES of Oklahoma is a bill which makes technical and conforming amendments to several acts relating to the Osage Tribe of Oklahoma. Most of these acts relate to the disposition by sale or inheritance of Osage headrights, that is, Osage shares in the tribal mineral estate which was reserved in trust to the tribe and its members in a 1906 act. This bill only makes technical amendments to these earlier acts and adds language to tighten some of these provisions while continuing the intent of the earlier acts. I, therefore, urge the passage of H.R. 6303 by the House.

Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma [Mr. JONES], the author of the bill.

Mr. JONES of Oklahoma. I thank the gentleman for yielding time to me.

Mr. Speaker, again as I rise in support of another Osage bill, I will praise the members of the Interior Committee, and particularly their distinguished chairman, for their substantial assistance in getting this bill to the floor today. Their expeditious consideration of these technical, but important amendments, to the 1978 Osage Act is most appreciated by this member and the Osage Tribe.

Since 1906, there has been separate legislation to protect the Osage Indians vast mineral resources via the Osage Allotment Act. In 1978, the Congress enacted amendments to several provisions contained in preceding acts pertaining to the Osage Tribe. The major thrust of the 1978 amendments was to keep the Osage headrights, that is, the interest from their mineral rights, from passing out of Osage control due to an Osage's death.

To clarify and refine those 1978 amendments, the Osage Tribal Council, the governing body of the Osage Tribe, requested that this legislation be introduced on behalf of their people. The Osage Tribal Council believes that further modification is needed to continue to present protection in law of Osage mineral rights.

Mr. Speaker, for over a year and a half, I have been negotiating with the Osage Tribal Council on this bill. Specifically, the bill deals with:

The disposition of the mineral estate by will.

Restrictions on the passage of mineral rights to anyone but an Osage or a legal Osage heir.

The devolution of the interests in a headright after the death of a non-Osage who held a life estate, that is, the interest on a headright, and a prohibition against successive life estates for non-Osages.

The establishment of a trust while an Osage is alive.

The establishment of a trustee for the estate.

The ability of the tribal council to purchase headrights if no legal Osage heir does.

A limitation on the number of days allowed for appeal of an estate decision to the Oklahoma State courts.

I ask my colleague to favorably consider this bill.

Mr. McCAIN. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico [Mr. LUJAN].

Mr. LUJAN. I thank the gentleman for yielding me this time.

Mr. Speaker, let me say that on these two bills that we just passed, both on the head rights or mineral rights or inheritance tax, those are things that should have been done a long time ago. It is just kind of in keeping this portion of Indian lands pretty much the same as other Indian lands, because when they are within a reservation and someone passes away, it really does not affect the mineral rights, nor does it affect the inheritance rights of anyone.

In my view, it is kind of bringing it up to speed on what we do with other Indian tribes. Mr. Speaker, I support this legislation, and I am happy that the previous bill also passed.

□ 1150

Mr. McCAIN. Mr. Speaker, I yield myself 1 minute and that is to again congratulate Mr. JONES and express my appreciation to the gentleman from Arizona [Mr. UDALL] and the entire committee for expeditiously passing this legislation which is long overdue and correct inequities which exist in allowing the Osage Tribe to have the same basic rights and privileges of other tribes in America.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and pass the bill, H.R. 6303.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

COMPENSATING THE GROS VENTRE AND ASSINIBOINE TRIBES OF THE FORT BELKNAP INDIAN COMMUNITY FOR IRRIGATION CONSTRUCTION EXPENDITURES

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1967) to compensate the Gros Ventre and Assiniboine Tribes of the Fort Belknap Indian Community for irrigation construction expenditures.

The Clerk read as follows:

S. 1967

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Treasury is authorized and directed to pay to the Gros Ventre and Assiniboine Tribes of the Fort Belknap Indian Community, out of money in the Treasury of the United States not otherwise appropriated, the sum of $107,759.58, which represents tribal funds expended for the construction of the irrigation system on the Fort Belknap Indian Reservation from 1895 to 1913. The Secretary shall also pay 4 per centum simple interest on such funds. Interest shall be calculated from the date on which such funds were expended to the date of payment under this Act. Payment of such sum shall constitute full settlement of all claims of such tribes against the United States relating to the expenditure of tribal funds for such construction.

(b) No part of any amount appropriated in this Act in excess of 10 per centum of such appropriation shall be paid or delivered to, or received by, any agent or attorney on account of services rendered in connection with any claim described in subsection (a) and the same shall be unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000.

(c) The provisions of this Act shall become effective on October 1, 1984.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes and the gentleman from Arizona [Mr. McCAIN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1967, the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1967 provides that the United States will reimburse the Assiniboine and Gros Ventre Indian Tribes of the Fort Belknap Reservation in Montana for certain tribal trust funds expended by the United States for the construction of an irrigation project on the reservation.

In the early 1900's, the United States used about $107,000 of the trust funds of this tribe to aid in the construction of an irrigation project on the Fort Belknap reservation. These funds of the tribe were derived from treaty commitments of the United States to pay these tribes for lands which were ceded to the United States.

While there is no question that the tribe benefited from the expenditure of the funds, this use was inconsistent with the policy adopted by the United States in 1914 that costs of irrigation projects should be borne, not by the tribe, but by the owners of the lands benefiting directly from the project.

Other tribes whose funds have been diverted by the United States for such purposes were subsequently reimbursed by the United states. This bill simply makes a similar provision for these tribes by requiring reimbursement of the $107,000 plus 4 percent simple interest.

I urge the House to pass the bill.

Mr. McCAIN. Mr. Speaker, I yield 5 minutes to the gentleman from New Mexico [Mr. LUJAN].

Mr. LUJAN. I thank the gentleman for yielding this time to me.

Mr. Speaker, I have some misgivings about this legislation and to be very honest about it, I still have not in my own mind resolved whether this is proper legislation or not.

Three things bother me, perhaps. One is that the Indian Claims Commission considered this request and turned it down. My basic feeling is that they considered it on the wrong basis. What they considered, and I will quote from that report:

> The Petitioner would have this Commission find that the Defendant improvidently and wrongfully expended Petitioner's funds for construction, operation and maintenance of the alleged irrigation system and that the United States is liable to the Petitioner for the sum of $107,000 plus interest.

Now, they turned that down but I do not think this legislation really deals with whether it was improvident or the moneys were wrongly used.

It deals primarily with fairness. In support of the legislation, one should rightfully say that others have been reimbursed for the same type of expenses. In this particular case, it amounts to $107,000 plus interest.

The administration has opposed it because they felt that the claim had gone before the Indian Claims Commission and that it has been turned down.

In fairness again I must say that it was being turned down on a different basis than we are considering here.

So, all in all, Mr. Speaker, the bill has got to be controversial but I suppose if we are going to be fair about the situation then we should treat this Indian tribe the same as we have treated others and reimburse them for what I consider legitimate expenses.

They have listed all of the expenses. It shows in the report every year what they spent and they have justified the $107,000 expenditure.

For that reason, Mr. Speaker, although I am not enamored of the legislation, I guess that the best thing to do is to not raise any serious objection to it.

Mr. McCAIN. Mr. Speaker, I yield myself 1 minute.

I would like to also echo the words of the gentleman from New Mexico [Mr. LUJAN] that the administration is on record as opposing on legal grounds this bill. However, the argument for the bill is on grounds of equity.

Other tribes have been compensated by Congress for similar expenses and it would appear that fairness dictates that Fort Belknap should also. I am told that a veto of this bill is possible, but I believe that this bill should be supported by my colleagues.

I would like to take this opportunity, since we only have one more piece of Indian legislation which will be coming up this afternoon. I would like to take this opportunity as the chairman of the Republican Task Force on Indian Affairs, to express my gratitude to Mr. LUJAN, our ranking minority member on the Committee on Interior and Insular Affairs, and the distinguished gentleman from Arizona [Mr. UDALL] chairman of the Interior Committee for the cooperation, assistance, and bipartisanship which has characterized the fashion in which the Indian legislation has been addressed in our committee.

I do not believe that we would have been able to pass the critical legislation that provides necessary relief and assistance to our Indian tribes without the active cooperation of Mr. UDALL and Mr. LUJAN.

I have no more requests for time, and I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

I just wish to thank the gentleman from Arizona [Mr. McCAIN] for his remarks and the really special work he has done on Indian legislation in the past year and a half.

The Indian people and I think all the American people should be proud and pleased with the diligence and tenacity and fairness with which he has gone about creating a bipartisan atmosphere leading to the enactment of a lot of good legislation.

There is much to be said for the remarks of the gentleman from New Mexico [Mr. LUJAN] and the gentleman from Arizona [Mr. McCAIN] as well on the subject of this bill. I suspect that $107,000 is about what it will cost to process this legislation and I agree that technically there are some problems with it. But the issue here is equity and fairness and what has been done in similar situations.

The bill was introduced originally by the gentleman from Montana [Mr. MARLENEE] and it has passed the other body, and I think the fair thing to do is to go ahead and dispose of it once and for all on the terms of the bill.

I thank the gentleman for their constructive support.

I yield to the gentleman from New Mexico [Mr. LUJAN].

Mr. LUJAN. I thank the gentleman for yielding to me.

Mr. Speaker, I want to take just a minute to also congratulate the gentleman from Arizona [Mr. McCAIN]. When he came onto the committee in the early days of this Congress we were looking around for someone that would devote a lot of time with a special emphasis on the various Indian bills that would come before the committee. Those are handled by the full committee here on the House side. We do not have a select committee to handle Indian legislation.

When we were looking for someone to specialize in that particular area, he immediately volunteered to do that, not that he just deals with that. He deals in other areas but has done an effective job, and I congratulate the gentleman and thank him for all of his efforts during the 2 years on the committee.

Mr. UDALL. Mr. Speaker, I join the gentleman with his remarks and I want to say that it is particularly commendable because the gentleman from Arizona [Mr. McCAIN] has very few Indians in his district. There are very few Indians in the downtown or metropolitan Phoenix area, and he has had no special political interest in doing it. It is out of his respect and concern for the Indians and I think he deserves the comments the gentleman from New Mexico [Mr. LUJAN] made.

Mr. Speaker, I yield back the balance of my time.

Mr. MARLENEE. Mr. Speaker, S. 1967 is a bill to reimburse the Gros Ventre and Assiniboine Tribes of the Fort Belknap Indian Community in Montana $457,000 for expenditures of tribal funds for irrigation purposes.

The policy of Congress until 1914 was to require that tribal funds be used to construct irrigation projects on a reservation. In 1916, Congress began a policy of charging the beneficial users of irrigation projects for costs. In that year, Congress reimbursed the Blackfeet, Flathead and Fort Peck Tribes of Montana for irrigation expenses made from tribal funds. In 1926, the tribes of the Wind River Reservation in Wyoming were reimbursed for similar expenditures of tribal funds by administrative action.

During the 74th, 75th, and 76th Congresses in the 1930's, legislation was introduced and reported favorably that would have reimbursed six tribes for similar expenditures. None of these bills were passed by both Houses of Congress. Among the six tribes included were the Fort Belknap and the Ute.

The Ute Tribe was reimbursed by Congress in 1970 for their irrigation expenses. No other reimbursement have been made by Congress since 1970. The Fort Belknap Tribes have actively pursued a legislative reimbursement for these expenses.

S. 1967 was introduced by Senator MELCHER and passed the Senate unamiously earlier this year. The House Interior Committee passed this bill unanimously as well. I would urge my colleagues to support S. 1967 which merely continues the longstanding congressional policy toward irrigation projects built on reservations.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and pass the Senate bill, S. 1967.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

FEDERAL WATER RESOURCE PROJECTS COOPERATIVE AGREEMENTS

Mr. KAZEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4712) to provide for cooperative agreements between the Secretary of the Interior and State and local governments for law enforcement within Federal water resource projects, as amended.

The Clerk read as follows:

H.R. 4712

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SEC. 101. The Secretary of the Interior, in connection with Federal resource protection and the Federal administration of the use and occupancy of lands and waters within a water resource development project under his jurisdiction, is authorized to cooperate with the regulatory and law enforcement officials of any State or political subdivision thereof in the enforcement of the laws or ordinances of such State or political subdivision. Such cooperation may include the reimbursement of a State or its political subdivision for expenditures incurred in connection with such resource protection and administration. For purposes of complying with section 401 of the Congressional Budget Act of 1974, the authorization provided under this Act is subject to the availability of appropriations.

TITLE II

SEC. 201. Section 1(a) of the Act of June 3, 1960 (Public Law 86-488; 74 Stat. 156), is amended by inserting in the first sentence thereof after the word "California," the phrase "and the area within the boundaries of the Pleasant Valley Water District in Fresno County, California, as such boundaries now exist,".

SEC. 202. Section 8 of the Act of June 3, 1960 (Public Law 86-488; 74 Stat. 160), is amended by inserting at the end of the last sentence thereof the phrase ": *Provided further,* That the work to be undertaken pursuant to the first section of this Act may be financed in accordance with the Act of July 4, 1955 (Public Law 84-130; 69 Stat. 245), as amended".

SEC. 203. The Secretary of the Interior is hereby authorized to engage in a feasibility study of the proposal known as the San Joaquin Valley ground/surface water integration study, Central Valley Project, located in San Joaquin, Stanislaus, Merced, Madera, Fresno, Tulare, Kings, and Kern Counties, California.

TITLE III

SEC. 301. The Secretary of Energy, acting through the Alaska Power Administration, is authorized and directed to enter into an agreement with respect to the Eklutna Lake hydropower project in accordance with provisions of the Act of July 31, 1950, as amended (64 Stat. 382), the last sentence of the first paragraph of section 1 of which is amended to read as follows: "The water of Eklutna Lake and its tributaries which are required for the operation of the Eklutna project are reserved for that purpose: *Provided,* That a portion of the waters so reserved may be diverted from Eklutna Lake for public water supply purposes, if compensation for reduced electric energy production due to such diversions is made as required by the February 1984 agreement between the Municipality of Anchorage and the Alaska Power Administration.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas [Mr. KAZEN] will be recognized for 20 minutes and the gentleman from new Mexico [Mr. LUJAN] will be recognized for 20 minutes.

Mr. EDGAR. Mr. Speaker, may I ask, is the gentleman opposed to the bill?

Mr. LUJAN. I am, Mr. Speaker.

The SPEAKER pro tempore. The gentleman qualifies.

The Chair recognizes the gentleman from Texas [Mr. KAZEN].

Mr. KAZEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4712, as amended by the Committee on Interior and Insular Affairs, contains three parts.

The bill provides for cooperative agreements between the Secretary of the Interior and State and local governments for law enforcement within Federal water resource projects.

As many Members know, these projects are generally located in sparsely populated rural areas. Because of the recreational facilities they provide, some of them have created law enforcement nightmares for local law enforcement agencies. Last year, there were 430,000 visitors at one dam in California. In the near future, it is expected that this same site will be visited by 600,000 people annually—a figure 19 times the population of the county in which the dam is situated.

The influx of personnel required during the construction phase of a project and to operate the project, once constructed, can create difficulties, also.

The bill, Mr. Speaker, does not give any Federal official or employees law enforcement authority. It does, however, permit the Secretary to enter into agreements with local authorities for the enforcement of State laws and local ordinances in the Federal project area. This may include an agreement whereby the local authority is reimbursed for necessary law enforcement expenditures. The Congressional Budget Office estimates that the cost of the program to the Federal Government will be no more than $200,000 per year, yet, because Federal properties in the resource area will be protected, by the increased ability of local enforcement officials to protect them, the Federal Government should gain as much, or more, than the cost to it.

The bill also provides for the inclusion of the Pleasant Valley Water District in California within the boundaries of the San Luis unit of the Central Valley project.

The Pleasant Valley Water District is now served by ground water. The supply has been rapidly diminishing and the quality of the water has suffered. Eventually, it is hoped that there will be a supply of water from the San Luis unit which will be made available to the district. This would reduce, or eliminate, the dependency upon ground water, and the district would be able to grow more food crops.

By being included in the San Luis unit, the district would become eligible to apply for a loan under the Loan Distribution Act of 1955 for the planning and construction of a distribution system, should water become available from the Central Valley project. Until the district is included within the service area of a Federal project, it cannot even begin planning the distribution system in cooperation with the Bureau of Reclamation.

Enactment of H.R. 4712 will not, Mr. Speaker, make the Pleasant Valley Water District eligible for a loan. It is only the first of a three-step legislative process which would have to be completed before the district would become eligible.

Existing law makes all loans subject to appropriations in advance. In this particular case, an additional authorization is required before any new distribution system can be constructed in the San Luis unit. This simply means, Mr. Speaker, that the Pleasant Valley District would not become eligible for a loan unless new authorizing legislation by this Congress is enacted and the funds for the distribution system loan are appropriated.

Also, if the distribution system is eventually constructed and the district receives water from the Federal project, lands in the district will become subject to the excess lands provisions of the Reclamation Reform Act of 1982. Any landowner holding lands in excess of the limitations of that act will be required to dispose of them at a price approved by the Secretary of the Interior which does not reflect the benefits to be received from the Federal project.

The amended bill also authorizes a feasibility level study which would allow the Department of the Interior to begin identifying additional water supplies in the San Joaquin Valley, CA. The area is currently facing a severe ground water overdraft.

Finally, the amended bill would confirm an agreement between the city of Anchorage, AK, and the Alaska Power Administration which would permit the power administration to supply water from a hydroelectric project to the city of Anchorage. The city, which has a severe shortage, will reimburse the power administration for any decrease in revenues which be experienced because of the water deliveries to the city.

Mr. Speaker, I reserve the balance of my time.

□ 1200

Mr. LUJAN. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in opposition to H.R. 4712. The major provisions of this legislation would: First, provide for Federal cooperative law enforcement agreements with water resources projects; and second, authorize the Pleasant Valley District in California to become part of a Federal reclamation project and to receive interest-free loans for construction of a distribution system.

I am opposed to the law enforcement provisions of the bill because they are too broad. While there may be extraordinary circumstances which would justify Federal funding for local law enforcement efforts at water resources projects, I don't think that legislation which provides blanket authority for such agreements is in the public interest. In general, local areas benefit from such water resources projects and should bear the burdens associated with them. The fact that a county government or State legislature does not see fit to arrange finances to put the local benefits and burdens together is not an argument for Federal funding. In addition, the nature of the law enforcement authority granted by this bill is very vague; we have no interest in creating a de facto Federal police force, as the bill may do.

I am also opposed to the provisions of the bill which would extend the service area of the San Luis unit of the Central Valley Project to include the Pleasant Valley Water District.

I am opposed to this title of the bill for both procedural and substantive reasons. The procedural reason is that there are a number of other issues which may affect the decision to extend the service area of the San Luis unit. In particular, several years ago the Department of the Interior commissioned a task force to review the San Luis unit, since the unit, and the proper definition of its service area, had been a subject of considerable controversy. One major recommendation of that task force was, apparently, that water quality in the San Francisco Bay/Delta complex should be assured as a precondition to further expansions of the San Luis unit. This issue has not been resolved, if I correctly understood the testimony of the Bureau of Reclamation before the Water and Power Subcommittee, and in fact, no legislative resolution has even been proposed to the subcommittee during this Congress. For this reason, among others, the Bureau of Reclamation has testified that it believed this legislation was premature, a view supported by the environmental defense fund.

Both the administration and I also oppose this title of the bill in concept. We object to the idea of extending a Federal reclamation project's service area when the extension will contribute to increased production of a crop, in this case cotton, which is already in surplus. The water which would be received by the district will be at a price far below the cost of a preplacement water, and it does not seem desirable to use it on a crop suffering from overproduction.

Equally important, the district will be made eligible for some $37 million in interest-free loans by the bill. There was testimony before the subcommittee to the effect that only five farm operations will receive these loans. Each of these farm operations averages 6,000 acres of highly productive land. Since these farms are roughly three times the size of farm operations on the nearby Westlands District, a district known to many of the Members here, it can hardly be said that by its largesse here the Federal Government is helping the little guy. There are lots of farmers who are being foreclosed on today; they deserve a much better explanation before farms are given an average of $7.5 million each in interest-free loans. The proposed investment of Federal loan funds called for by this bill is approximately $37 million according to current estimates. This is a minimum of $900 per acre, and could be as much as $1,800 per acre, for the cost of the distribution system.

This would potentially require the Federal Government ultimately to bear a large part of the total cost, or result in an uneconomic price of water to users of the distribution system, according to testimony at the hearing on this proposal.

In addition, the bill grants these massive loans without any assurance that the matter will be reviewed again by the jurisdictional committee, the Interior Committee. In committee, an amendment was offered to require a specific decision to increase the authorization ceiling of the San Luis unit before the loans could be granted. Supporters of the bill opposed this amendment, claiming it was unnecessary. If it was unnecessary, it would also have been harmless, and would have carried out their stated intent.

All in all, this is the kind of bill which gives Western water development an undeservedly bad reputation. I think it is incumbent on those of us from the West to oppose this type of wasteful bill when it is presented to us. I urge the House to defeat this legislation.

□ 1210

The SPEAKER pro tempore. The time of the gentleman from New Mexico [Mr. LUJAN] has expired.

Mr. LUJAN. Mr. Speaker, I yield myself 1 additional minute.

Mr. McCAIN. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I yield to my friend, the gentleman from Arizona.

Mr. McCAIN. Mr. Speaker, I would ask the gentleman from New Mexico if he knows of any cost-sharing proposal in this bill.

Mr. LUJAN. No, there is not. These are interest-free loans.

Mr. McCAIN. Mr. Speaker, I think that should be of great interest to all the Members since, after hours and hours of debate in this body, we have basically agreed that there are cost-sharing requirements upon all western water users. This bill would put the lie to all the agreements that we have made. Recently in the case of our own Safety of Dams Act that was passed, the State of Arizona will pay 15 percent.

I see my colleague, the gentleman from Pennsylvania, here who spoke so eloquently on a requirement for cost sharing, and this is a bill, in the 11th hour of this legislative body, which is, I think, an insult to those of us who for so long resisted cost sharing and now agree, and wholeheartedly, that that must be carried out.

Mr. LUJAN. Mr. Speaker, I thank the gentleman for his comments.

Mr. KAZEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will call the attention of my colleague, the gentleman from Arizona, and also the gentleman from New Mexico, that before any cost sharing, before any money is spent, before anything else is done, they have to come to this Congress for authorization. I say to the gentleman, you are putting the cart before the horse at this stage of the game.

All this bill does is include the San Luis unit in the service area, and nothing more, and what the two gentlemen have said has been nothing but a smokescreen.

Mr. Speaker, at this time I yield 3 minutes to the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Speaker, I rise in support of H.R. 4712 legislation approved last week by the House Interior Committee.

Title I of the bill is a very simple provision allowing for the Department of the Interior to enter into cooperative law enforcement agreements with local law enforcement agencies within Federal water resource projects. It does not deputize nor arm Department of the Interior employees.

Specifically, H.R. 4712 would grant to the Bureau of Reclamation similar authority as is already provided to the Bureau of Land Management and Army Corps of Engineers at public resources under those Federal jurisdictions. H.R. 4712 merely allows the

Bureau of Reclamation to enter into a cooperative agreement with local law enforcement agencies to address the law enforcement needs resulting from the operation and development of that particular water development facility.

H.R. 4712 addresses a very serious problem which exists at several Federal water resource development projects. These Federal projects, usually located in remote rural areas, provide benefits such as irrigation, water quality, flood control, hydroelectric power, and recreation opportunities.

However, local governments are unable to meet the increased demand brought about by the influx of additional project employees and visitors to the area. The large increases, in many instances, have created an unfair burden on local law enforcement agencies in meeting the basic health and safety requirements of the area. These facilities have become attractive public nuisances and resource liabilities for the Federal Government. H.R. 4712 addresses this present inequity by allowing the Federal Government to take an active role in protecting its water resource development projects.

Hearings held in August clearly pointed out the need for this authority for the Bureau of Reclamation.

Mr. Speaker, I urge the Members of the House to join our colleagues TONY COELHO and DON YOUNG, who have other titles in this bill affecting their districts, in suspending the rules and passing H.R. 4712.

Mr. Speaker, at this point I might say in response to my distinguished friend and colleague, the gentleman from New Mexico, that there is nothing granted to the Department in this bill that has not already been granted to the Forest Service, to the Army Corps of Engineers, and to the Bureau of Land Management. We are merely giving this same authority under this bill to the Bureau of Reclamation. In fact, they helped write this language and requested this from my office in the first place.

I would also like to clear up one other myth that came from the other side, and that is that the portion of this bill regarding the Pleasant Valley Water District in the district of the gentleman from California [Mr. COELHO] would create increased production of cotton. That is not true. That district is already growing cotton. Their problem is that their water table is diminished to the point where they will not be able to grow it in the near future, and they are now requesting permission to have a supplemental source of water at some time in the future from the Federal Government. There is no authorization in that section of this bill; they are merely permitted to walk in the door at the Department of the Interior, talk to the Bureau, and attempt to get some relief in the future.

Mr. LUJAN. Mr. Speaker, I yield 3 minutes to the gentleman from Alaska [Mr. YOUNG], a supporter of the legislation.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of H.R. 4712.

It is my understanding that title I of this legislation is not controversial and title II, which has been discussed today, is somewhat controversial, but I strongly support both titles. I also support title III.

I am a little concerned at what I am hearing here today because again I want to stress that we believe in the committee system. Now, the good chairman of that subcommittee had long hearings, had a lot of input, and to my knowledge no one voted against this legislation. I sat in on the full committee. We had discussion, we had the adoption of amendments, and we had a presentation, after hours of hearings, by the subcommittee chairman, and no one voted against his legislation. We had a quorum present. I cannot understand now all of a sudden, because there is an article in a newspaper saying, "Chevron Benefits From Water Bill"—by the way, instigated by the Friends of the Earth or some defense league of the environmental movement—members would oppose this now without coming to the chairman or listening to the debate or finding out what is on the record. So we again are going to write legislation on the floor of the House without giving consideration to the committee.

This bill is not a new bill. All we are asking in this bill is to give the San Luis area the same standing as other water districts. As the chairman said, they have to come back if there is any money in a guaranteed loan, any money used by any of the taxpayers.

What really bothers me is this: This country at one time had the potential of producing food for the world, but because we have not built the dams, we have not reinjected the water, and we have not come up with a system that will guarantee us a water supply for our food production, we are faced with a crisis in the year 2000.

Now, some people say this is for the big farmer. I do not care who raises the food, I want to have the food on the table. If we are talking about big farmers, maybe we ought to go to Russia; that is the biggest farmer in the world. But I know one thing, we are outproducing them 10 to 1, and we do it because we cannot live in the past. But we are not thinking today.

It is important that this legislation pass. Of course, the administration is against it. They were against it when it went through the committee process, and we heard testimony against it. But I can just about tell the Members why, when it comes to the floor, they are against it. There is a little bit of a political input right now, and we all know that. We know what is happening on this floor today.

What I am suggesting is that this is a good bill and it should be passed. I am getting a little irritated again that, by not listening to subcommittee chairmen and the witnesses, the whole process is being destroyed. We have seen that before on the floor of the House.

We have got to maintain the system to make sure it works. Otherwise why have public hearings? Why call in witnesses? Why sit on our cans all this time? It is important that we have to understand that the system is only going to work if we follow the committee system.

Mr. Speaker, I rise in support of H.R. 4712.

It is my understanding that title I of this legislation is not controversial and title II, which has been the subject of some discussion here today, would place the Pleasant Valley Water District on equal footing with other users within the service area of the San Luis unit of the Central Valley project. I support both of these titles.

I also strongly support title III, which would ratify an agreement between the Alaska Power Administration and the muncipality of Anchorage. Title III removes a limit in current law which reserves water from Eklutna Lake, AK, solely for existing Federal hydro project.

The bill merely ratifies an agreement between the municipality of Anchorage and the Federal Power Marketing Authority to allow the use of a portion of Eklutna water for city water supply. It raises no environmental concerns since the water project, if built, will have to meet State and Federal environmental requirements, none of which are waived by this bill.

Mr. Speaker, Anchorage faces critical water shortages, and already experiences shortages during summer months. Federal law has reserved water from Eklutna Lake from the hydro project. This amendment will ease that restriction on the condition that Anchorage supply the Federal Government with replacement power.

Mr. Speaker, I urge the passage of this legislation.

Mr. KAZEN. Mr. Speaker, I yield 3 minutes to the author of one of the sections of the bill, the gentleman from California [Mr. COELHO].

Mr. COELHO. Mr. Speaker, I thank the gentleman from Texas [Mr. KAZEN], and I appreciate the opportunity to rise in support of the bill and all sections of it.

I found it intriguing that the gentleman from New Mexico pointed out that this bill would interfere with the water quality rights in the State of California. That is not true, and he knows that.

All this particular bill does is authorize this particular group of farmers to become part of the San Luis water unit so that they can officially negotiate with the Bureau of Reclamation on a proposed project. Before that project can be pursued, developed, or constructed, that group of people needs to come back to this committee, the Committee on Interior and Insular Affairs, and come back to this Congress and get that project authorized.

Second, there is no project that can be built in the San Luis water unit unless the San Luis water unit authorization itself is increased and the gentleman from New Mexico knows that. And unless that authorization is increased, we will not be able to do anything with this project.

So there are two authorizations that must be pursued before this project can be built. This particular legislation only authorizes these farmers to officially begin discussions with the Department of the Interior.

□ 1220

In regards to the question on cotton production, the gentleman from New Mexico knows that that is not true either. These farmers currently grow cotton.

As a result of this legislation you probably will have less cotton grown in this particular district because they would pursue other crops.

It is interesting to me that none of these arguments were made in the subcommittee or in the full committee and that they are now used on the House floor, obviously by people who do not know the facts or do not know anything about this particular area.

Mr. HIGHTOWER. Will the gentleman yield?

Mr. COELHO. I am happy to yield to the gentleman from Texas.

Mr. HIGHTOWER. I thank the gentleman. I am concerned because of the little story that was in the paper. I represent a district that has a lot of irrigated farming, as you know, and we raise a lot of cotton. And I want to be sure now that we are not talking about even in the future increasing the subsidy for irrigation of cotton growing in that area.

Mr. COELHO. I can assure the gentleman not only would there be no increased cotton production, there would be no increased production of any sort because all of the land is currently under production right now, and if there is going to be a project it has to come back to this Congress to be authorized. This only permits the people to begin discussions and it does not authorize a project, does not in any way extend any money or do anything that the gentleman from New Mexico has pointed out or that was in the article in the Washington Post.

Mr. HIGHTOWER. And does not change any cost sharing arrangements?

Mr. COELHO. No, sir.

Mr. LUJAN. Mr. Speaker, does the gentleman from Texas want to yield some time?

Mr. KAZEN. Will the gentleman from New Mexico use his time?

Mr. LUJAN. I will be happy to use some of my time. The other request was from the gentleman from Pennsylvania [Mr. EDGAR] and I can yield some of our time from this side, or the gentleman can, whichever he prefers.

Mr. KAZEN. Would the gentleman use his time as he sees fit and let me use mine?

Mr. LUJAN. Mr. Speaker, I will be happy to yield 5 minutes to the gentleman from Pennsylvania [Mr. EDGAR].

Mr. EDGAR. Mr. Speaker, I rise in strong opposition to this legislation; I draw my colleagues' attention to the three provisions of this bill.

Title I of the bill covers law enforcement at Bureau of Reclamation water projects, and while on the surface it sounds noncontroversial, it is important to establish how much law enforcement will be provided, how much responsibility do local units of government have, how much do the State units of government have, and how much does the Federal Government have. However, many of these problems will be addressed in the cooperative agreements between the Secretary of the Interior and the various State and local governments.

On title II of the bill, which deals with the expansion of the service area of the San Luis unit of the Central Valley project to include the Pleasant Valley Water District, we have heard a great deal of debate on each side. I do not want to get into the argument of whether more cotton will be produced or less cotton will be produced. But I do think it ought to be clear this land is going to be far more valuable, far more valuable if in fact we guarantee a water supply to the community. And it has been indicated that the ground water supplies have been depleted.

Several of the environmental groups I think have raised important questions. Questions were raised in terms of what do we do when we grant this opportunity for Chevron and other landowners in the Pleasant Valley Water District to go and seek a $37 million interest-free loan for water distribution. For example, the expansion of the San Luis unit service area is in contradiction to the recommendation of the San Luis unit task force report, published pursuant to Public Law 95-46. The report recommended that water quality in the bay-delta complex be assured as a precondition for curing the illegal expansion of the San Luis unit service area by the Bureau of Reclamation, and before any new commitments of water for export was made. This has not been done in this legislation. Before we expand the Central Valley project, let's guarantee our water quality.

The second point is that the value of the land increases dramatically as we give cheap, federally-subsidized water to this project.

I think there are some real questions about what kinds of use will be made of these lands; will they be used to grow surplus crops? And who in fact is going to benefit; I understand that half of the land concerned is owned by Chevron. And how much money, Federal dollars at a time of high deficits we are going to give such landowners?

Let me say finally that my colleague from Alaska discussed at title III, a section that he wrote, and said it is not controversial. But let me draw my colleagues' attention to this specific language in title III. It says that Anchorage, AK will be allowed to divert water from a lake, water that is now being used to produce electricity. It says nothing in the language here that Anchorage, AK, with large surpluses in their budget, will have to pay anything for the water value. The only cost sharing that they will have to provide is to offset the cost for reduced electricity production. Let me read the language, "if compensation for reduced electric energy production due to such diversions is made as required by the February 1984 agreement between the Municipality of Anchorage and the Alaska Power Administration."

I believe the State of Alaska and Anchorage can pay for that water at full price.

Mr. YOUNG of Alaska. Will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. This is what bothers me. This is not true, what you are saying. This is a power exchange is all it is. This is a water project. It is a water project for the Anchorage community, period.

It was designated, included, and was designated as a water and power project originally, but it is not being used for power.

Now, we will replace that power loss by using the water to drink and to bathe and to use it as we have to in the largest community. To say that we are making a ripoff, this is absolutely untrue and you know it. You know it full well. This is not a power project.

Mr. EDGAR. Let me take back my time from the gentleman. Let me take back my time. I must disagree with the gentleman. The gentleman in the well knows exactly.

Mr. YOUNG of Alaska. I would suggest respectfully 9 we are using this for drinking water and not power.

Mr. EDGAR. The gentleman in the well controls the time. I would just

like to say to the gentleman that I am reading directly from the report on the bill. The language of the bill indicates to me that the value of that water is not going to be fully compensated by the municipality of Anchorage, AK, and I think it is not fair at this point, when other communities are suffering deterioration of their water supply systems, not to clearly spell that out in this legislation 100 percent. We should not deal with these problems piecemeal.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania [Mr. EDGAR] has expired.

Mr. EDGAR. I would ask for 1 more minute.

Mr. KAZEN. I yield the gentleman 2 more minutes.

Mr. YOUNG of Alaska. I object.

The SPEAKER pro tempore. The gentleman will suspend. The Chair will announce that the gentleman from New Mexico [Mr. LUJAN] has 6 additional minutes remaining; and the gentleman from Texas [Mr. KAZEN] now has 6 additional minutes remaining.

The gentleman from Pennsylvania [Mr. EDGAR] is recognized for 2 additional minutes.

Mr. EDGAR. I would just conclude by drawing my colleagues' attention to the language both in the bill and in the report. I commend my colleagues from the South and the West who are speaking up in opposition to this legislation; we have worked very hard to make sure that our country has a strong national water policy, that we base the selection of these projects on merit, that we have a commitment to a minimal amount of cost sharing, and that we begin to understand and pay for the real value of water.

I think nickel and diming water projects in legislation like this diverts our attention from some of the real policy issues that we should pursue. It complicates efforts to develop a comprehensive national water policy.

I remind my colleagues that even though I have been a strong environmentalist in this House, I supported including into the continuing resolution the omnibus water bill because for the first time we made significant policy changes. I think that this legislation at this time diverts from those policy changes and I urge my colleagues to vote down this particular bill.

I yield back the balance of my time.

Mr. LUJAN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

This is a dandy little piece of special interest legislation we have got out here, Mr. Speaker. I mean, as I understand it, and I must admit that I may not know the detail of it quite as well as the gentleman from Pennsylvania who spoke just before me, but as I understand it, in reading through the bill, we have got five families here who are going to qualify for $37 million in interest-free loans. That is a pretty nice little gift from the Federal Government at a time that we have got these massive deficits.

Then, in addition, we have got this nice little company, it is just a little firm that no one has ever heard of called Chevron, who all of a sudden is going to have their land increased in value as a result of what the Federal Government is doing here interest-free.

I mean there are an awful lot of people around this country that would like to qualify for that kind of special interest legislation. It is typical of the kind of bills that we see on this floor at the end of every session.

□ 1230

It is garbage dumping time out on this floor when we bring this kind of legislation out here and tell the American people we are doing something in their interest.

I would hope, I would hope that we are not going to let this bill pass on suspension. At the very least we ought to have this bill out here under the regular processes so that amendments could be offered, so that the bill could be cleaned up. We ought not to bring it out here in a no-amendment process, rushing it through here and telling the American people we are doing something to improve the environment. This is special interest legislation; that is pure and simple. Anybody who votes for it is voting for special interest legislation.

Mr. Speaker, I thank the gentleman [Mr. LUJAN] for yielding.

Mr. KAZEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is amazing how people who do not understand what is in the bill purport to tell us what they say is fact. This bill does not authorize any construction of any project anywhere. It does not deal with payments, it does not deal with cost sharing. Those things are coming down along the line if and when this Congress authorizes that type of a project, if and when the Secretaries get with the people that are going to construct the project, and at that time fix the amount of money that they would get and fix the interest rates.

When the gentleman talks about no-interest loans, there is nothing in this bill pertaining to no-interest loans at this stage of the game.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield to me?

Mr. KAZEN. Yes, I will be delighted to yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. I thank the gentleman for yielding.

Mr. Speaker, I can only agree with my good chairman [Mr. KAZEN].

We again are writing legislation through press releases without any consideration of the input from the committee. The gentleman from Pennsylvania, I want to read the agreement concerning Alaska to make this perfectly clear. And by the way, that passed this House unanimously last year. We had the hearing and because it was tacked on to another bill, and I will admit this, it was taken out of the total in another bill, there was objection to another part of it. But this provision, let me read about compensation there is no money involvement: "The Anchorage area will compensate APA," the Alaska Power Authority, "for all reductions in electric energy generation at the power plant which would result from power diversion for the water project, the energy recovered by the water project and replacements." There is no loss of money, no cost to the taxpayers. All it is a water project for the consumer.

That is what I have been stressing all long. And to allude that for some reason this is going to cost the taxpayrs, or Alaska should be paying moneys to some fund is absolutely ludicrous. That just really, really bothers me when we do not listen to the witnesses. Again it passed the body before and it should pass today.

Mr. Speaker, I thank the gentleman for yielding.

Mr. KAZEN. Mr. Speaker, the other point that I want to make concerns the environmental issue which has come up today. We held hearings in my subcommittee, we marked this bill up in the light of day. We held markup in the full committee with a quorum being present. Not one vote was cast against it. The environmentalists and everyone else was invited to come and testify but did not show up. Yet, when we are at this final stage of passage, for the first time we hear environmental concerns.

Where were they, my colleague from New Mexico, when we held the hearings? Why did they not come forward and put up their arguments the way the gentleman is doing on their behalf on this floor today.

I say to you that this 11th hour attempt to get at a good bill, should fail miserably.

Mr. Speaker, I reserve the balance of my time.

Mr. LUJAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. EDGAR].

Mr. EDGAR. Mr. Speaker, I wish to share with the House some important documents which lead me to strongly oppose this bill (H.R. 4712). First, letters from the National Wildlife Federation and the Environmental Defense Fund clearly state the environmental communities opposition. Second, the press report in the October 1, 1984

Washington Post and the editorial in the Oakland Tribune give clear substance to the large concern with this special interest legislation. The documents follow:

NATIONAL WILDLIFE FEDERATION,
Washington, DC, October 1, 1984.

Hon. ROBERT W. EDGAR,
Rayburn House Office Building,
Washington, DC.

DEAR MR. EDGAR: This week the House of Representatives is expected to consider H.R. 4712 under suspension of the rules. On behalf of conservationists from Pennsylvania and around the country, I urge you to oppose the enactment of H.R. 4712 in its present form.

As reported by the Committee on Interior and Insular Affairs, Title I and Title III of the bill are noncontroversial, dealing with law enforcement at Federal reservoirs and a water supply allocation for the city of Anchorage, Alaska, respectively. However, Title II of H.R. 4712 would incorporate the lands of the Pleasant Valley Water District within the service area of a major Federal irrigation project, the San Luis Unit of the Central Valley Project in California. The Pleasant Valley Water District consists of 36,000 acres, half of which is owned by Standard Oil of California (Chevron) and the balance controlled by five families. The average farm size in this district is approximately 6,000 acres, and most of the acreage is devoted to production of surplus crops.

If Title II of H.R. 4712 is enacted:

Chevron and its neighbors who comprise the district will qualify for an interest-free $37 million loan from the Department of the Interior to construct new water supply facilities.

Chevron and its neighbors will attempt to secure Federally subsidized water from Northern California through the Central Valley Project; and

Chevron and its neighbors will qualify for an allotment of Federally generated hydroelectric power for pumping any Federally supplied water, at a rate currently less than one-half cent per kilowatt/hour.

Testimony from the Pleasant Valley Water District confirms that current water conservation measures will be curtailed, once Federally subsidized supplies are secured.

Title II of H.R. 4712 illustrates a larger problem with the Federal irrigation program. Scarce natural and fiscal resources are being offered with a significant subsidy, with the result that there are great demands to provide water for irrigation that might otherwise be available for fish, wildlife, and recreational uses. Government subsidies of this kind discourage conservation practices and create greater competition for limited supplies of water, placing further stress on fish and wildlife. We believe that the enactment of this bill is a step in the wrong direction, and will further undermine public confidence in the ability of the Bureau of Reclamation to manage Western water resources in the public interest.

The Reagan Administration views enactment of the provisions of Title II of H.R. 4712 as "premature," and we agree. We urge you to vote against this bill, and allow this issue to be more thoughtfully considered in the context of several other related California water issues that await action by the 99th Congress.

Sincerely,

JAY D. HAIR.

ENVIRONMENTAL DEFENSE FUND,
Berkeley, CA, October 1, 1984.

DEAR REPRESENTATIVE: We write in opposition to H.R. 4712, a bill which presently is scheduled for floor action tomorrow. H.R. 4712 recently has been amended to expand the service area of the San Luis Unit of the Central Valley Project to include the lands of the Pleasant Valley Water District (PVWD). The bill would also remove any legal obstacles that may exist to the PVWD's obtaining a subsidized loan from the Bureau of Reclamation under P.L. 84-130 to construct a local system for distribution of the supplemental surface water it is projected the Bureau would be supplying.

Our reasons for opposition are many; specifics follow. Our principal basis for opposition, however, is easy to state. It is to the piecemeal approach of the bill and to the expedited special treatment which the bill now provides to one district (half of the land of which is owned by one corporation, Standard Oil of California), while numerous other water issues of much greater importance, that should be solved before new commitments of California's scarce surface waters are made, languish for lack of interest in their resolution by either Congress or the Federal Administration.

Among H.R. 4712's specific problems are:

(1) Its expansion of the San Luis Unit service area flies directly in the face of the recommendations of the San Luis Unit Task Force Report (published pursuant to P.L. 95-46) that water quality in the Bay/Delta complex be assured as a precondition for curing the illegal expansion of the San Luis unit service area by the Bureau of Reclamation and before any new commitment of water for export was made.

(2) It will probably give one corporation, Standard of California, that hardly needs the help, a substantial subsidy. Whatever assurances are given that Standard will sell its land subject to recordable contract under the Reclamation laws, the massive abuses that have long characterized the history of the Bureau's enforcement of acreage limitations give scant confidence that in selling its land Standard will not profit from the prospect of the District's receiving a new firm surface water supply. On the other hand, the District's own consultant projects only a very thin margin between the cost of new delivered water and its value to Pleasant Valley farmers, so the chances are high that the purchasers of Standard's interest will soon be looking to the United States for still more subsidies to maintain their operation.

(3) One of the key economic justifications for the bill is that it will allow significantly more cotton to be grown in the Pleasant Valley. As you know, cotton is already in surplus, suffering from overproduction. The Department of Agriculture recently released a report criticizing the inconsistencies among the Congress' various subsidy policies. It makes no sense to subsidize the growing of cotton with one government program while another government program attempts to discourage its overproduction.

(4) Additional assumptions underlying the District's economic projections are that its average water duty will increase from 1.7 to 2.9 acre feet per acre and that farmers will abandon their current conservation practices (including sprinkler irrigation) for more intensive water application practices (presumably furrow and flood). This is not the water use policy Congress should be encouraging in the modern era.

(5) The District projects that it will pay the Bureau (and California's Department of Water Resources—for wheeling privileges) a combined $31 per acre foot. At a time when new water development in California costs several hundred dollars per acre foot, this subsidy has no justification.

(6) H.R. 4712 also includes a provision directing the Bureau to develop a plan to supply the Mid-Valley Canal service area with supplemental northern California water. This too contravenes the recommendations of the San Luis Unit Task Force and threatens Bay/Delta water quality.

The foregoing is an abbreviated list, but one key fact is worth reemphasizing. It has now been six and a half years since the San Luis Unit Task Force, acting pursuant to Congressional directive, delivered its recommendations. In all this time, Congress has not acted on the Task Force's recommendations. H.R. 4712, which ignores the Task Force's recommendations and instead proposes to enrich one corporation at the expense of both federal taxpayers and the Bay/Delta estuary, is certainly not an acceptable substitute.

Sincerely yours,

THOMAS J. GRAFF,
Senior Attorney.

[From the Washington Post, Oct. 1, 1984]

WATER BILL COULD HELP CHEVRON, HANDFUL OF CALIFORNIA FARMERS

(By Ward Sinclair)

Chevron USA and several big California farmers could benefit from a $37 million no-interest federal loan and possibly federal irrigation subsidies if Congress passes legislation being pushed by some California Democrats.

The bill, engineered by Rep. Tony Coelho (D-Calif.), passed the House Interior and Insular Affairs Committee last week and is scheduled for a floor vote Tuesday on the "suspension" calendar, a process usually reserved for noncontroversial legislation.

Coelho's proposal, designed to benefit farmers in Fresno County who want access to lower-cost federal irrigation water, was tacked onto a noncontroversial bill sponsored by Rep. Richard H. Lehman (D-Calif.), also of Fresno. Sen. Alan Cranston (D-Calif.) is pushing a similar water-subsidy bill in the Senate.

The Coelho plan has been challenged by the Department of the Interior and by Rep. Charles Pashayan Jr. (R-Calif.) of Fresno, although they have not objected outright to its passage. Pashayan and the department content that other California water issues should be considered at the same time.

The Environmental Defense Fund (EDF) and the National Wildlife Federation, although caught off guard by the bill's swift trip through the House in September, are opposing the legislation.

EDF attorney Thomas J. Graff, based in Berkeley, Calif., charged that the measure is "special treatment" and "a substantial subsidy" for a few agricultural interests.

The proposal involves the 35,000-acre Pleasant Valley Water District, centered around Coalinga in southwest Fresno County, where farmers now irrigate their arid land by pumping water from deep wells. The year-to-year drawdown of well water has increased pumping costs and limited the crops that can be grown.

The farmers contend that with federally provided water they could increase employment in the area by diversifying from cotton and grain. Although they say they plan to turn more to vegetables and melons, they

also intend to expand the planting of cotton—a crop frequently in surplus.

Chevron owns about 17,000 acres in the Pleasant Valley district, but leases its land to farmers while pumping oil from beneath it. The remainder of the district's acreage, owned by about 150 persons, is leased by five farmers, according to testimony at a House hearing in September.

The Coelho-Cranston bill would expand the boundaries of the San Luis Unit of the Central Valley Project, a federal water-collection and distribution system, to include the Pleasant Valley group.

This would clear the way for the district to get a no-interest loan of $37 million, most of the cost of a water-distribution system. Such loans are authorized by a 1955 federal law.

The committee's action last week posed new questions about application of the 1982 reclamation revision act, which raised from 160 acres to 960 the land one farmer may irrigate with low-cost federal water. Beyond 960 acres, the water user is supposed to pay the full cost.

The new law limited corporations, such as Chevron, to no more than 640 acres' worth of subsidized water. If Pleasant Valley were to become part of the San Luis Unit, the firm would be required by the 1982 law to dispose of irrigated acreage beyond the 640 limit.

According to sources, Chevron, after private talks with Coelho agreed to support its neighbors' move to seek federal water and to sell its excess land on several conditions. One condition would require a change in the 1982 law to allow Chevron to reserve mineral rights and "broad" easements on any land it might sell.

Chevron also has insisted on issuance of an Interior solicitor's opinion that would allow the company to suspend the required sale of any excess land under which oil is found.

Meanwhile, if those conditions were met and if Pleasant Valley entered the San Luis Unit, all 17,000 acres of Chevron's land apparently would be eligible for subsidized water for at least five years. The 1982 law gives an owner five years to dispose of excess holdings. After that, at least 640 acres of the Chevron property would be eligible for subsidized water, enhancing its value for leasing purposes.

EDF attorney Graff, in an August letter to Cranston and Coelho, protested that the legislation would give Chevron (formerly Standard Oil of California) unreasonable assistance.

"Whatever assurances are given that Standard will sell its land . . . under the reclamation laws, the massive abuses that have long characterized the history of the Bureau of Reclamation's enforcement of acreage limitations give scant confidence that in selling its land Standard will not profit from the prospect of the district's receiving a new firm surface water supply." he wrote.

Graff added: "The district's own consultant projects only a very thin margin between the cost of new delivered water and its value to Pleasant Valley farmers. So the chances are high that the purchasers of Standard's interest will soon be looking to the United States for still more subsidies to maintain their operation."

Pashayan, worried that the bill would clear the way for Pleasant Valley to be assured of federally subsidized water in the future, said last week that he is bothered by the haste with which the measure is moving. He said Congress should deal at the same time with a number of other water issues involving California—a position rejected by Coelho.

"I am not against Pleasant Valley, and I am not against big farmers," Pashayan said. "But my constituents who are small water users are concerned that their problems find some support in Congress."

[From the (Oakland, CA) Tribune, Oct. 1, 1984]

WATER INTO PORK

The end of session in Congress is always a time of relief, frustration and greed.

Relief that the long grind of drafting, debating and voting on bills is finally over.

Frustration that too little could be accomplished this year, too many problems left for next year.

And greed when last-minute confusion and rush leaves the door open for special interest legislation.

Greed appears to be one of the motivating factors behind a little-noticed water bill being wheeled through Congress by two California Democratic heavyweights, Rep. Tony Coelho of Merced and Sen. Alan Cranston.

When these two men speak, fellow Democrats listen. Cranston is the minority whip in the Senate. Coelho chairs the Democratic Congressional Campaign Committee; he controls the party's purse strings when fellow politicians come looking for campaign money.

Both men, in turn, know where to find big money in their own state: from agriculture. Bank of America was built on it; major corporations from Southern Pacific to Shell Oil have a direct stake in it through agribusiness subsidiaries.

Standard Oil of California, too, has a direct stake: It controls about half of the 32,000 irrigated acres of Pleasant Valley, according to Tom Graff, a water specialist with the Environmental Defense Fund. And it stands to profit handsomely if Coelho and Cranston succeed in expanding the benefits of federal Central Valley Project water to the handful of giant Pleasant Valley farmers.

Their bills—HR 4712 and S 2643, respectively—would permit the Interior Department's Bureau of Reclamation to ship subsidized water south from the San Luis Reservoir (east of Santa Cruz) to benefit these agribusinesses.

Not only will that drain the federal Treasury a little drier, but the diversion of as much as 100,000 acre-feet of water will put further pressure on Northern California's rivers and on water quality in the Bay Delta. (One acre-foot covers an acre of land to a depth of one foot.)

If the plan is approved, the Bureau of Reclamation will deliver water to Pleasant Valley at a charge of about $31 an acre-foot—well below the $40-$50 cost of State Water Project water and only about one-tenth the true economic cost of developing new water from the state's rivers.

It will also violate the recommendations of a joint federal-state task force on the San Luis Unit, which reported in 1978 that the Bureau of Reclamation's water exports were seriously degrading the Bay's aquatic environment. It proposed a moratorium on further exports until ways could be found to restore water quality, fish and wildlife, and suggested that water demand be curbed through conservation and reduction of irrigated land area.

If Coelho and Cranston succeed, they won't be the first to perform the political alchemy that magically turns water into pork. But neither will they be able to claim to have given up the dark arts for enlightened government.

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not wish to get into a big argument over this thing but this is not an 11th-hour attempt to derail this legislation.

Let tell this body that at the hearings the Interior Department testified that they were opposed to the bill. Now, that happened a longtime ago. That was not just today.

At the full committee level I personally asked the question if these $37 million were for the benefit of five farm families. And the answer was "yes."

At that time we offered on our side of the aisle a specific amendment which would require that there be an authorization for any expenditures.

At that time we were told that that was not necessary.

Well, if it was not necessary, if we had to do it anyway, what was the objection? That amendment was defeated.

So this is not an 11th-hour attempt to try to derail the legislation.

Of course we did not call for a vote in committee to pass this bill out. We always get defeated in committee. It is only when we come to the floor of the House that we can properly present the facts as they should be presented, that we have an opportunity to be heard.

So, Mr. Speaker, I submit to this body that it is not an 11th-hour attempt to derail it; but as a matter of fact these objections have been raised all along.

One other point about the environmental objections to it: I am not carrying anybody's water. I am doing it for myself because that is the way I feel about it.

Several years ago the Department of the Interior commissioned a task force to review the San Luis Valley Unit. Now, there are a lot of problems other than just expanding this unit to include Pleasant Valley.

That study, years ago, said the water quality in the San Francisco Bay Delta complex should be assured as a precondition to further expansion of the San Luis Unit.

Now I think we ought to deal with that. I think we ought to have legislation to clear those things up. But we are not addressing it in this legislation.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I would be happy to yield to the gentleman from Pennsylvania.

Mr. EDGAR. I thank the gentleman for yielding.

Mr. Speaker, I want to commend the gentleman [Mr. LUJAN] for his words. I think he made an articulate statement. I want to point out it is a bipartisan effort to defeat this bill at this time.

Mr. Speaker, I thank the gentleman for his leadership.

Mr. LUJAN. I thank the gentleman for those remarks.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The gentleman from Texas [Mr. KAZEN] has 2 minutes remaining.

Mr. KAZEN. Mr. Speaker, I yield myself such time as I may consume.

Let me, Mr. Speaker, compliment the gentleman [Mr. LUJAN] for his argument this morning.

Where was he with that argument when we took up the bill and held the evidentiary meeting? Where was he? Why was this point not brought up?

Mr. LUJAN. Mr. Speaker, will the gentleman yield?

Mr. KAZEN. Yes, I yield to the gentleman from New Mexico.

Mr. LUJAN. I thank the gentleman for yielding.

Mr. Speaker, he was there when I asked the committee if this bill was specific, $37 million for five families, and the gentleman was there.

Mr. KAZEN. Let me reclaim my time. That is not the argument of the gentleman. He is talking about his opposition, the study group's opposition and that the amendment was defeated, when actually that amendment was withdrawn voluntarily by the member who offered it as being unnecessary.

Mr. COELHO. Mr. Speaker, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from California [Mr. COELHO].

Mr. COELHO. I thank the gentleman for yielding.

Mr. Speaker, I just want to make the point that the gentleman from California who is on the committee offered the amendment and after a discussion—as a matter of fact he had agreed to withdraw the amendment before the discussion—he withdrew the amendment after the discussion. So to say that the amendment was offered and was defeated is not correct. The gentleman from New Mexico knows that, knows it was not offered, knows it was not voted on.

Second, let us talk about the water quality standards. First of all the gentleman from New Mexico knows that this bill does not authorize a $37 million loan. Whoever has given that information, your staff or somebody else, you know it is not true. All it does is it says that these people have a right to go and negotiate with the Bureau of Reclamation to qualify for the loan and before anything can be done they have to come back to Congress and ask to be authorized.

□ 1240

That is part of the committee report. Everybody on the committee agreed to it. The gentleman from California on the committee, on the gentleman's side of the aisle, agreed to that. The amendment was withdrawn because that language was accepted in the committee report.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. KAZEN] that the House suspend the rules and pass the bill H.R. 4712, as amended.

The question was taken.

Mr. LUJAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4712, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

NATIONAL NUTRITION MONITORING AND RELATED RESEARCH ACT OF 1984

Mr. FUQUA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4684) to establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment and maintenance of the nutritional and dietary status of the U.S. population and the nutritional quality of the U.S. food supply, with provision for the conduct of scientific research and development in support of such program and plan, as amended.

The Clerk read as follows:

H.R. 4684

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Nutrition Monitoring and Related Research Act of 1984".

FINDINGS

SEC. 2. The Congress finds and declares that—

(1) a national nutrition monitoring system is a basic tool necessary to examine the linkages between food consumption patterns, nutritional status, and health status;

(2) a national nutrition monitoring system is essential to insure the nutritional quality of the national food supply, to insure that the nutritional needs of the public are achieved, and to insure that appropriate data bases are maintained to guide the expenditure of public funds for nutrition research and for development, education, and intervention programs designed to maintain and enhance the nutritional status of the population;

(3) scientific methods and technologies to assess nutritional and dietary status are costly, imprecise, and lack standardization;

(4) Federal efforts to collect, analyze, interpret, and disseminate dietary and nutritional status data are untimely, give inadequate attention to assessing high-risk groups and geographic areas, and lack resources for the continuous collection, processing, and analysis of dietary, nutritional, and related health status information and for the monitoring of general health trends and their relationship to food practices and supplies;

(5) nutrition monitoring and related research lacks a central Federal focus for the development, coordination, and implementation of a strategic and timely national nutrition monitoring program; and

(6) no effective means currently exist to assist State and local governments in obtaining dietary and nutritional status data and in developing related data bases and networks, or to bring together public and private interests to identify national nutrition monitoring priorities and issues, and to promote progress in a cooperative forum.

PURPOSE

SEC. 3. It is the purpose of this Act—

(1) to establish and facilitate the timely implementation of a coordinated National Nutrition Monitoring and Related Research Program and thereby establish a scientific basis for the maintenance and improvement of the nutritional status of the United States population and the nutritional quality of the United States food supply;

(2) to establish and implement a comprehensive National Nutrition Monitoring and Related Research Plan to assess on a continuing basis the dietary and nutritional status and trends of the United States population, the state-of-the-art, future monitoring and related research priorities, and the relevant policy implications of the findings;

(3) to establish and improve national nutritional and health status data and related data bases and networks, and to support research necessary to develop uniform indicators, standards, methodologies, technologies, and procedures for nutrition monitoring;

(4) to establish a central Federal focus for the coordination, management, and direction of Federal nutrition monitoring activities;

(5) to establish mechanisms for addressing the nutrition monitoring needs of Federal, State, and local governments, the private sector, scientific and engineering communities, health professionals, and the public in support of the objectives described in paragraphs (1), (2), (3), and (4); and

(6) to provide for the conduct of such scientific research and development as may be necessary or appropriate in support of such objectives.

DEFINITIONS

SEC. 4. As used in this Act—

(1) the terms "National Nutrition Monitoring and Related Research Program" and "coordinated program" mean the coordinated program established by section 101(a);

(2) the terms "Directorate for Nutrition Monitoring and Related Research" and "Directorate" mean the task force established by section 101(b);

(3) the terms "National Nutrition Monitoring and Related Research Plan" and "comprehensive plan" mean the comprehensive plan established by section 103;

(4) the term "Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System" means the plan of that title submitted to the Congress in September 1981 by the Department of Agriculture and the Department of Health and Human Services, pursuant to section 1428 of Public Law 95-113; and

(5) the terms "National Nutrition Monitoring Advisory Council" and "Council" mean the advisory body established by section 201.

TITLE I—NUTRITION MONITORING AND RELATED RESEARCH

ESTABLISHMENT OF THE COORDINATED PROGRAM AND THE DIRECTORATE

SEC. 101. (a) There is hereby established a ten-year coordinated program to carry out the purpose of this Act.

(b) To implement the coordinated program there shall be formed a Directorate for Nutrition Monitoring and Related Research, of which the Secretary of Agriculture, the Secretary of Health and Human Services, and the Secretary of Defense shall be joint chairpersons. The remaining membership of the Directorate shall consist of—

(1) one representative each from the Environmental Protection Agency, the National Bureau of Standards, the Bureau of Labor Statistics, the Agency for International Development, the Veteran's Administration, and the National Science Foundation; and

(2) such additional representatives of Federal agencies, as the joint chairpersons of the Directorate may deem appropriate.

(c) The Assistant Secretary for Health, Department of Health and Human Services, shall serve as the administrator of the coordinated program.

(d) The Directorate shall not be under the supervision or control of any other Federal agency or entity; but for purposes of funding and administrative services it shall be considered a part of the Department of Health and Human Services. The Directorate shall define and direct the organization and management of the Directorate and the Council.

FUNCTIONS OF THE DIRECTORATE

SEC. 102. (a) The Directorate is authorized and directed—

(1) to establish the goals of the coordinated program, identify the activities required to meet the goals, and identify the responsible agency;

(2) to update and integrate the Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System into the coordinated program;

(3) to direct and assure the timely implementation of the coordinated program and the comprehensive plan established by section 103;

(4) to establish a competitive grants program, to be carried out and administered by the National Science Foundation in accordance with the provisions of this Act, to encourage and assist the conduct, by Federal and non-Federal entities on an appropriate matching funds basis, of research (including research described in section 103(a)(3)) which will accelerate the development of uniform and cost-effective standards and indicators for the assessment and monitoring of nutritional and dietary status and for relating food consumption patterns to nutritional and health status;

(5) to establish a grants program, to be carried out and administered by the Centers for Disease Control in accordance with the provisions of this Act, to encourage and assist State and local governments in developing the capacity to conduct monitoring and surveillance of nutritional status, food consumption, and nutrition knowledge and in using such capacity to enhance nutrition services (including activities described in sections 103(a)(5) and 103(b)(8));

(6) to develop an annual interagency budget for each fiscal year of the coordinated program; and

(7) to foster productive interaction between Federal efforts, State and local governments, the private sector, scientific communities, health professionals, and the public.

(b) The Directorate shall convene as necessary, but no less often than quarterly during each fiscal year of the ten-year period covered by the coordinated program.

(c) The Directorate shall submit to the President and the Congress by January 15 of each year an annual report which shall—

(1) evaluate the progress of the program under this Act;

(2) summarize the results of such program components as are developed under section 103;

(3) analyze the nutritional and related health status of the United States population, the nutritional quality of the national food supply, the relevant policy implications of the findings, and future nutrition monitoring and related research priorities; and

(4) include in full the annual report of the Council as specified in section 202.

DEVELOPMENT OF THE COMPREHENSIVE NATIONAL NUTRITION MONITORING AND RELATED RESEARCH PLAN

SEC. 103. (a) The Directorate shall prepare a comprehensive plan for the coordinated program which shall be designed—

(1) to assess, collate, analyze, and report on a continuous basis the dietary and nutritional status and trends of the United States population, the state-of-the-art, future monitoring and related research priorities, and relevant policy implications of the findings;

(2) to assess, analyze, and report on a continuous basis, for a representative sample of the low income population, food and household expenditures, participation in food assistance programs, and periods experienced when resources were not sufficient to provide an adequate diet;

(3) to sponsor or conduct research necessary to develop uniform indicators, standards, methodologies, technologies, and procedures for nutrition monitoring and surveillance;

(4) to develop and update a national dietary and nutritional status data bank, a nutrient data bank, and other data resource requirements;

(5) to assist State and local agencies in developing procedures and networks for nutrition monitoring and surveillance; and

(6) to focus the activities of the Federal agencies.

(b) The comprehensive plan shall, as a minimum, include programs to—

(1) maintain and coordinate the National Health and Nutrition Examination Survey (NHANES) and the Nationwide Food Consumption Survey (NFCS), and in future surveys provide for the continuous collection, processing, and analysis of nutritional and dietary status data through a stratified probability sample of the United States population designed to permit statistically reliable estimates of high-risk groups and geopolitical and geographic areas and to permit accelerated data analysis (including annual analysis, as appropriate);

(2) maintain and enhance other Federal nutrition monitoring efforts such as the Centers for Disease Control Nutrition Surveillance Program and the Food and Drug Administration Total Diet Study, and, to the extent possible, coordinate such efforts with the surveys described in paragraph (1);

(3) incorporate, in the survey design, military and (where appropriate) institutionalized populations;

(4) complete the analysis and interpretation of NHANES and NFCS data sets collected prior to 1984 within one year after the date of the enactment of this Act;

(5) improve the methodologies and technologies, including those suitable for use by States and localities, available for the assessment of nutritional and dietary status and trends;

(6) develop uniform standards and indicators for the assessment and monitoring of nutritional and dietary status, for relating food consumption patterns to nutritional and health status, and for use in the evaluation of Federal food and nutrition intervention programs;

(7) establish national baseline data and procedures for nutrition monitoring;

(8) provide scientific and technical assistance, training, and consultation to State and local governments for the purpose of obtaining dietary and nutritional status data and developing related data bases and networks to promote the development of a national nutritional status network;

(9) establish mechanisms to identify the needs of users of nutrition monitoring data and to encourage the private sector and the academic community to participate in the development and implementation of the comprehensive plan and contribute relevant data from non-Federal sources to promote the development of a national nutritional status network;

(10) produce an inventory of Federal, State, and nongovernment activities related to nutrition monitoring and related research;

(11) focus on national nutrition monitoring needs while building on the responsibilities and expertise of the individual membership of the Directorate;

(12) administer the coordinated program, define program objectives, priorities, oversight responsibilities, outcomes, and resources, and define the organization and management of the Directorate and the Council; and

(13) provide a mechanism for periodically evaluating and refining the coordinated program and the comprehensive plan which facilitates cooperation and interaction by State and local governments, the private sector, scientific communities, and health professionals, and which facilitates coordination with non-Federal activities.

(c) The comprehensive plan shall allocate all of the projected functions and activities under the coordinated program among the various Federal agencies and offices that will be involved, and shall contain an affirmative statement and description of the functions to be performed and activities to be undertaken by each of such agencies and offices in carrying out the coordinated program.

(d) The comprehensive plan—

(1) shall be submitted in draft form to the Congress, and for public review, within

twelve months after the date of the enactment of this Act;

(2) shall be available for public comment for a period of sixty days after its submission in draft form under paragraph (1) by means of publication in the Federal Register;

(3) shall be submitted in final form, incorporating such needed revisions as may arise from comments received during the review period, to the President and the Congress within sixty days after the close of the period allowed for comments on the draft comprehensive plan under paragraph (2); and

(4) shall constitute the basis on which each agency participating in the coordinated program requests authorizations and appropriations for nutrition monitoring and related research during the ten-year period of the program.

(e) Nothing in this section shall be construed as modifying, or as authorizing the Directorate or the comprehensive plan to modify any provision of an appropriation Act (or any other provision of law relating to the use of appropriated funds) which specifies (1) the department or agency to which funds are appropriated, or (2) the obligations of such department or agency with respect to the use of such funds.

IMPLEMENTATION OF THE COMPREHENSIVE PLAN

SEC. 104. (a) The comprehensive plan shall be carried out during the period ending with the close of the ninth fiscal year following the fiscal year in which the comprehensive plan is submitted in its final form under section 103(d)(3), and—

(1) shall be carried out in accord with, and meet the program objectives specified in, section 103(a) and paragraphs (1) through (10) of section 103(b);

(2) shall be managed in accord with paragraphs (11) through (13) of section 103(b);

(3) shall be carried out, by the Federal agencies involved, in accord with the allocation of functions and activities under section 103(c); and

(4) shall be funded by appropriations which shall be made to such agencies (and to the Secretary of Health and Human Services) pursuant to section 107 for each fiscal year of the program, subject to annual authorizations hereafter enacted, and which shall to the maximum extent feasible be made pursuant to each such authorization for the fiscal year involved and the ensuing two fiscal years.

The Congress through its appropriate authorizing committees shall exercise continuing oversight over the coordinated program, taking into account the Directorate's annual reports and such other information and data as may be developed.

(b) Nothing in this title shall be deemed to grant any new regulatory authority or to limit, expand, or otherwise modify any regulatory authority under existing law, or to establish new criteria, standards, or requirements for regulation under existing law.

SCIENTIFIC RESEARCH AND DEVELOPMENT IN SUPPORT OF COORDINATED PROGRAM AND COMPREHENSIVE PLAN

SEC. 105. The Directorate shall provide for and coordinate the conduct, by the National Science Foundation, the National Aeronautics and Space Administration, the National Bureau of Standards, and other suitable Federal agencies, of such scientific research and development as may be necessary or appropriate in support of the coordinated program and the comprehensive plan and in furtherance of the purpose and objectives of this Act.

EXECUTIVE DIRECTOR AND STAFF OF THE DIRECTORATE AND COUNCIL

SEC. 106. (a) The Directorate shall have an Executive Director who shall, subject to the requirements of subsection (e), be appointed by the President, by and with the advice and consent of the Senate from a list of nominees submitted by the Directorate. The Executive Director shall receive basic pay not to exceed the rate provided for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(b) The Directorate may appoint and fix the pay of such additional staff as the Directorate deems desirable.

(c) The staff of the Directorate shall be appointed subject to the provisions of title 5, United States Code, and shall be paid in accordance with the provisions of chapter 51 and subchapter II of chapter 53 of such title, relating to classification and General Schedule pay rates.

(d) The Executive Director and staff shall plan and implement the functions of the Directorate with the advice and counsel of the joint Chairpersons of the Directorate, shall serve as the focal point for the coordinated program, and shall serve as the Executive Secretary and staff for the Council.

(e) The Executive Director and technical staff shall be individuals who are eminent in the field of nutrition monitoring and related areas and shall be selected on the basis of established records of expertise and distinguished service.

AUTHORIZATION OF APPROPRIATIONS

SEC. 107. (a) For the purpose of establishing the Directorate and the Council, and for the purpose of developing the comprehensive plan under section 103, there is authorized to be appropriated to the Secretary of Health and Human Services for fiscal year 1985 the sum of $2,000,000 to remain available until expended.

(b) For the purpose of establishing and carrying out the competitive grants program under section 102(a)(4) there is authorized to be appropriated to the National Science Foundation, for the fiscal year in which the comprehensive plan is submitted in final form under section 103(d)(3) and for each of the nine succeeding fiscal years, the sum of $2,000,000 to remain available until expended.

(c) For the purpose of establishing and carrying out the grants program under section 102(a)(5) there is authorized to be appropriated to the Centers for Disease Control, for the fiscal year in which the comprehensive plan is submitted in final form under section 103(d)(3) and for each of the nine succeeding fiscal years, the sum of $1,000,000 to remain available until expended.

(d) Other authorizations and appropriations for the fiscal year in which the comprehensive plan is submitted in final form under section 103(d)(3) and for the nine succeeding fiscal years, for purposes of carrying out the coordinated program and implementing the comprehensive plan, shall be requested by the Secretary of Health and Human Services and by each of the agencies which are allocated responsibilities under the program pursuant to section 103(c), in a separate line item of the budget of the agency involved and consistent with the interagency budget for the coordinated program; and to the maximum extent feasible such appropriations shall be provided on a three-year basis, subject to annual authorization Acts hereafter enacted.

TITLE II—NATIONAL NUTRITION MONITORING ADVISORY COUNCIL

ESTABLISHMENT OF THE COUNCIL

SEC. 201. (a)(1) There is hereby established a Council to carry out the purpose of this Act, to provide scientific and technical advice on the development and implementation of the coordinated program and comprehensive plan, and to serve in an advisory capacity to the Directorate.

(2) The Council shall consist of fifteen voting members, of whom—

(A) seven members shall be appointed by the President; and

(B) eight members shall be appointed by the Congress—two by the Speaker of the House of Representatives, two by the minority leader of the House of Representatives, two by the President pro tempore of the Senate, and two by the minority leader of the Senate.

(3) The Council shall also include three ex officio, nonvoting members designated from and by the Directorate for terms not to exceed five years.

(b) The persons appointed to the Council—

(1) shall be eminent in the fields of administrative dietetics, clinical dietetics, community nutrition research, public health nutrition, nutrition monitoring and surveillance, nutritional biochemistry, food composition and nutrient analysis, health statistics management, epidemiology, food technology, clinical medicine, public administration, health education, nutritional anthropology, food consumption patterns, food assistance programs, agriculture, and economics; and

(2) shall be selected solely on the basis of established records of distinguished service.

(c) The persons appointed to the Council by the President shall include—

(1) two members who are directors of nutrition research units which are primarily supported by Federal funds, and who have specialized interest in nutrition monitoring;

(2) one member who is an employee of a State government and who has a specialized interest in nutrition monitoring;

(3) one member who is an employee of a local government and who has a specialized interest in nutrition monitoring; and

(4) one member who is an appointed representative of the Food and Nutrition Board, National Academy of Sciences.

(d) The Council membership shall at all times have representatives from various geographic areas, the private sector, academia, scientific and professional societies, minority organizations, and public interest organizations.

(e) The Chairperson and Vice Chairperson of the Council shall be elected from and by the Council membership. The terms of office of the Chairperson and the Vice Chairperson shall not exceed five years. The Vice Chairperson shall perform the duties of the Chairperson in the latter's absence. In case a vacancy occurs in the Chairpersonship or Vice Chairpersonship, the Council shall elect a member to fill such vacancy.

(f) The terms of office of the voting members of the Council shall be as follows:

(1) Of the seven members appointed by the President and serving at any time, one shall be appointed for a term of five years, five for terms of three years each, and one for a term of two years, as designated by the President at the time of appointment.

(2)(A) Of the two members appointed by the Speaker of the House of Representatives and serving at any time, one shall be

appointed for a term of five years and one for a term of two years, as designated by the Speaker at the time of appointment.

(B) Of the two members appointed by the minority leader of the House of Representatives and serving at any time, one shall be appointed for a term of five years and one for a term of two years, as designated by the minority leader at the time of appointment.

(C) Of the two members appointed by the President pro tempore of the Senate and serving at any time, one shall be appointed for a term of five years and one for a term of two years, as designated by the President pro tempore at the time of appointment.

(D) Of the two members appointed by the minority leader of the Senate and serving at any time, one shall be appointed for a term of five years and one for a term of two years, as designated by the minority leader at the time of appointment.

Any member elected to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be elected for the remainder of such term. No member shall be eligible to serve continuously for more than two consecutive terms.

(g) The Council members shall be appointed or designated (without regard to the requirements of the Federal Advisory Committee Act) not later than ninety days after the date of the enactment of this Act.

(h) The Council shall meet no less often than once every three months at the call of the Chairperson, or upon the written request of one-third of the members. A majority of the appointed members of the Council shall constitute a quorum.

(i) Members of the Council who are not in the regular full-time employ of the United States may receive compensation when engaged in the duties of the Council at a rate fixed by the Directorate but not exceeding the daily equivalent of the rate provided for level GS-18 of the General Schedule under section 5332 of title 5, United States Code, and shall be allowed travel expenses as authorized by section 5703 of title 5, United States Code. Members of the Council who are officers or employees of the Federal Government or any State or local government shall serve without compensation but shall be allowed travel expenses as so authorized.

(j) The Executive Director and staff of the Directorate (appointed under section 106) shall serve as the Executive Secretary and staff of the Council.

FUNCTIONS OF THE COUNCIL

SEC. 202. The Council shall, in addition to any powers and functions granted to it by this Act—

(1) provide scientific and technical advice on the development and implementation of all components of the coordinated program and the comprehensive plan;

(2) evaluate the quality and effectiveness of the Directorate's fulfillment of its functions and responsibilities;

(3) evaluate the coordinated program and comprehensive plan, and the associated budget, on an annual basis and submit recommendations to the Directorate;

(4) interpret available data analyses and report on an annual basis the nutritional and related health status of the United States population and the nutritional quality of the national food supply; and

(5) submit to the Directorate an annual report which shall contain the components specified in paragraphs (2) through (4), and which shall be included in full in the Directorate's annual report to the President and the Congress as specified in section 102(c).

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida [Mr. FUQUA] will be recognized for 20 minutes and the gentleman from New Hampshire [Mr. GREGG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FUQUA].

GENERAL LEAVE

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill presently being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FUQUA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4684, the National Nutrition Monitoring and Related Research Act, is the result of 6 years of oversight and four joint hearings before the Subcommittee on Science, Research and Technology of the Committee on Science and Technology and the Subcommittee on Department Operations, Research, and Foreign Agriculture of the Committee on Agriculture.

The bill was introduced by Mr. MACKAY, Mr. BROWN of California, and Mr. WALGREN, all members of the Science and Technology Committee. Each of these gentlemen exerted strong support and leadership to get the bill to the point of the agreement we have today. The bill was jointly referred to the Agriculture Committee where Mr. BROWN is chairman of the Subcommittee on Department Operations, Research, and Foreign Agriculture. In addition, the Energy and Commerce Committee has an appropriate jurisdictional claim on the legislation, which has been acknowledged, and the chairman, Mr. DINGELL, has been gracious in working with us to bring this bill to the floor.

Mr. Speaker, I insert the correspondence regarding this agreement among the three committees.

I would, at this point, like to insert the letter to me from Mr. DINGELL, and my reply in the RECORD, as follows:

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, September 27, 1984.

Hon. DON FUQUA,
Chairman, Committee on Science and Technology, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your inquiry concerning H.R. 4684, a bill to establish a National Nutrition Monitoring and Research Program. I understand from Mr. Walgren that you would like to place this legislation on the Suspension Calendar next Monday, October 1.

You are aware that the Energy and Commerce Committee has requested a referral of this bill because there are provisions which substantially affect the Department of Health and Human Services, specifically the Bureau of Foods of the Food and Drug Administration, the National Center for Health Statistics, and the Centers for Desease Control. These are agencies over which this Committee exercises jurisdiction.

I believe that H.R. 4684 is good legislation. It makes a useful contribution to understanding the problems of nutrition, hunger, and malnutrition in the U.S. While our Committee should have an opportunity to fully review the legislation wherein it is referred here, I recognize the importance of acting swiftly on the legislation given the lateness of the session and an exception is probably appropriate for this Congress only. I would be willing to join with you and Chairman de la Garza in requesting the Speaker to place H.R. 4684 on the Suspension Calendar.

Given that the subject matter of the legislation should be referred to our respective Committees, I will insist that the Committee on Energy and Commerce be represented on any Conference Committee. Our Committee will, of course, continue to share in the oversight and authorizing responsibilities of the legislation. To clarify the history on this legislation, I would appreciate a letter confirming my understanding, and that our letters be placed in the RECORD during House consideration.

Sincerely,

JOHN D. DINGELL,
Chairman.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE AND TECHNOLOGY,
Washington, DC, September 28, 1984.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, Washington, DC.

DEAR MR. CHAIRMAN: The Science and Technology Committee appreciates the assistance of the Energy and Commerce Committee in expediting H.R. 4684, The National Nutrition Monitoring and Related Research Act of 1984, for consideration by the House.

In no respect should this action be considered a waiver of the Energy and Commerce Committee's jurisdiction over provisions in H.R. 4684. I fully support any requests made by your Committee to be represented on any conference Committee concerning this legislation, as well as your continued interest in the appropriate authorizing responsibilities and oversight contained in this legislation.

I view this agreement between the Agriculture Committee, the Energy and Commerce Committee, and the Science and Technology Committee as a statement of continuing cooperation. I will ask to have included in the RECORD the correspondence relating to this legislation when it is considered on the floor of the House.

Sincerely,

DON FUQUA,
Chairman.

Mr. Speaker, I also want to thank Mr. WAXMAN, the subcommittee chairman, for his help.

I wish to especially recognize the assistance of the Agriculture Committee chairman, Mr. DE LA GARZA, Mr. GEORGE BROWN, and Mr. PANETTA, in

expediting consideration of H.R. 4684 and insert the letter to the Speaker from Mr. DE LA GARZA in the RECORD at this point, as follows:

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, DC, September 26, 1984.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I am writing concerning H.R. 4684, a bill relating to a coordinated National Nutrition Monitoring program, which was referred jointly to the Committee on Agriculture and the Committee on Science and Technology.

I wish to inform you that I would have no objection to consideration of H.R. 4684 by the House without action being taken thereon by the Committee on Agriculture. This is being done to expedite consideration of the matter by the House and in no respect waives jurisdiction of the Committee on Agriculture over provisions in H.R. 4684 or any other legislation addressing matters within the jurisdiction of the Committee on Agriculture. If a conference should be held with the Senate on the bill, I would respectfully request that you name representatives of our Committee as conferees.

I would add that the Committee on Science and Technology has been most cooperative in including in the bill, as reported, provisions which were developed in consultation with the Committee on Agriculture.

Thank you for your consideration of this matter.

With best wishes.

Sincerely,

E (KIKA) DE LA GARZA,
Chairman.

Mr. Speaker, I also wish to again make it clear that the release of this bill by these two committees in no respect waives the jurisdiction of these committees, but rather represents a statement of continued cooperation on science issues, such as nutrition, which transcend our jurisdictional boundaries.

The ultimate goal of H.R. 4684 is to establish a coordinated National Nutrition Monitoring and Related Research Program to ensure the timely assessment of the nutritional and dietary status of the U.S. population and the nutritional quality of the food supply.

To accomplish this goal, $2.0 million are authorized, as one-time-only start-up funds, to establish the Directorate and the Advisory Council, and to develop the comprehensive plan. In addition, on an annual basis $2.0 million are authorized to stimulate nutrition monitoring research, and $1.0 million is authorized for grants to States for technical assistance.

The bill is designed to make more effective use of Federal resources currently expended for nutrition monitoring and advance our knowledge of nutrition and its relationship to health. In providing assistance to State and local governments, the bill also enhances their capacity to conduct nutrition monitoring, a need expressed by coalitions of government and public health officials.

Nutrition monitoring is an essential tool for developing a science base to provide the nutrition knowledge necessary for effective science, agriculture, and health programs. It can also provide policymakers with data to guide the expenditure of public funds for nutrition and related research, as well as Federal intervention and education programs.

Nutrition is a relatively young science which is dependent upon, and contributes to, the advancement of many other sciences ranging from anthropology to human factors engineering. The research necessary to improve the methods and technologies for enhancing the cost effectiveness and usefulness of nutrition monitoring is the responsibility of numerous Federal agencies. Thus, the coordination and planning mechanisms proposed in H.R. 4684, patterned after the Acid Precipitation Task Force, will benefit all sectors of science and society.

Mr. Speaker, I highly recommend H.R. 4684 to our colleagues.

Mr. Speaker, I reserve the balance of my time.

Mr. GREGG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a very poor bill. This is a bill which really should not be here at this time in the process. It has not been well thought out. It has not been reviewed really by the number of committees which should have addressed it. In fact, it is opposed by the ranking minority members of the Committee on Energy and Commerce and the Committee on Agriculture because it was not referred to those committees.

It is one of those bills which comes out of the darkness and arrives fait accompli here on the floor of the House in the last days of the session and is created without adequate review of its purpose. It will not, in my belief, be a proper effort.

It creates an advisory committee, the purpose of which is to monitor nutritional activities in this country. However, that is extremely duplicative because we already have the Department of Agriculture and HHS doing the exact same thing. In fact, they are beginning to do them rather well. We have had some complaints about the activities of the Department of Agriculture and HHS in coordinating their monitoring of nutritional activities, but as a result of those complaints, they have corrected their activities and have improved the situation to the point where this becomes a duplicative and really superfluous advisory committee.

It is an advisory committee which is set up for not 5 years to study the issue, but 10 years. It is not a $17 million bill, it is a $30 million bill. It is a bill which is not needed to begin with.

Further, it is structured in a way which is sort of unique in that the Executive Director of the Council, which is set up, is allowed to hire their staff, as much staff as is necessary, and that staff does not have to meet any sort of significant requirements of expertise. Thus, what you are going to create here is basically a private domain, a private domain for whoever happens to be the Executive Director of the Council, and a private domain which will become another one of that myriad of agencies which we have in the Federal Government which really serve very little purpose, but which continue of their own energies to expand and to expend taxpayers' dollars.

It would seem totally inappropriate that we should add this level of bureaucracy at this time when we are so concerned as a government about the fact that we have become too bureaucratized. In fact, if you look at the recent Grace Commission report which pointed out innumerable duplicative activities within the Government, had the Grace Commission bothered or had the time to review this proposed bill, I am sure they would have thrown it into the discussion of waste and mismanagement at the Federal level.

The Council further consists of members who are appointed by the legislative branch as versus the executive branch. As such, it is being opposed by the Justice Department, and I think rightly so, because it clearly represents an infringement on the separation of powers issue and raises some significant constitutional questions, were it to pass.

□ 1250

This bill, as proposed, as I have pointed out, represents a spending of approximately $30 million over 10 years to create an agency which would monitor nutritional activity, which monitoring would be completely duplicative of the efforts of the Department of Agriculture and the Department of HHS which already exist and which already have large bureaucracies addressing the issue. It seems to me that it is inappropriate for us to add to the expense of our budget and to the cost of the taxpayers another agency to do something which is already being done by the presently existing agencies authorized in this area.

Mr. Speaker, I reserve the balance of my time

Mr. FUQUA. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Florida [Mr. MACKAY], a sponsor of the bill.

Mr. MACKAY. Mr. Speaker, H.R. 4684, the National Nutrition Monitoring and related Research Act of 1984, is essential to maintain the health and well-being of our constituents and our economy. I wish to thank my colleagues on the Science and Technolo-

gy Committee, especially Mr. FUQUA, Mr. BROWN, and Mr. WALGREN, for allowing me to share in developing this legislation. The record of hearings by these gentlemen, and particularly Mr. BROWN, provide the basis for this legislation.

Opposition to H.R. 4684 has made three points: First, the bill is premature; second, existing coordination of Federal nutrition-monitoring activities is adequate; and third, the cost is excessive. I will address each point briefly.

First, the bill is not premature. History demonstrates it is long overdue. The 1977 farm bill called for a comprehensive nutritional status monitoring system. Today, 7 years later, a timely and continuous system still does not exist. The most recent data available were collected in 1980 and much of that data, as well as 1970 data, are not yet analyzed. The next data set, to be collected in 1987, has been delayed for at least 1 year by the fiscal year 1985 budget request. Today, the Congress has no greater assurance than we had in 1977 that we will know by 1990 either the nutritional status of America, or the nutritional quality of its food supply.

If I have not made the case that H.R. 4684 is long overdue rather than premature, let me quote from a syndicated column which appeared in newspapers across the country and in the Washington Post in late August. Dr. Jean Mayer, world-renowned nutritionist and president of Tufts University wrote:

> The recent recession has taught us an old lesson: We desperately need a way to keep tabs on the nutritional health of America.—It's an old lesson because a national nutrition monitoring system was strongly recommended by the White House Conference on Food, Nutrition and Health way back in 1969.
>
> Now, finally, if a new bill before the House of Representatives is passed by Congress, we will have the beginnings of a comprehensive, coordinated national nutrition monitoring system. The words may have a cold, technical ring. But this is what they mean: a window to give our federal, state and local governments and private organizations a reliable, up-to-date look at a very complex realm. The magic number is H.R. 4684.—For various reasons, this program has been a long time coming. At last we have the chance to make the idea a reality. We should seize the moment.

Second, coordination of Federal nutrition-monitoring activities is far from adequate. Let me give just one example. The administration's fiscal year 1985 budget request included a $1.3 million increase for USDA to prepare for the 1987 nutrition monitoring survey, to be coordinated with DHHS for the first time. That very same budget proposal requested a $4 million decrease, which would prohibit DHHS from undertaking their part of the survey, and from fulfilling their commitment to Congress in an 1981 implementation plan. Does the fact that neither Department was aware of the other's action at the time the budget was submitted assure you coordination is adequate?

Third, the cost of H.R. 4684 is not excessive. On the contrary, the bill proposes to make more effective use of current expenditures through a coordinated interagency budget based on identified and planned priorities. The outcome will not result in prescriptions for treatment after-the-fact. Instead, the outcome will provide the nutrition and health data necessary to reduce the need for costly health care and increase the opportunties for less-costly health promotion and disease prevention.

H.R. 4684 is not a blank check. It is an annual $3 million line of credit to invest in data and research. That investment will be returned to the Treasury a thousand times over. For example, approximately $6.1 billion a year are spent in the United States for health-care costs related to osteoporosis alone. Osteoporosis is a major underlying cause of bone fractures in women and older persons in general. Calcium deficiency has been implicated in the cause of this disease which affects as many as 15-20 million Americans. Yet the relationship of osteoporosis to hereditary and dietary factors, such as alcohol, vitamins A and C, magnesium, and protein is far from being established.

We do not have the necessary methods and technology to understand the linkages between food consumption, nutritional status, and health status. Many of the methods which are available today are costly and imprecise. The continuous collection and analysis of epidemiological data and the development of new and improved assessment methods are necessary to understand those relationships. H.R. 4684 calls for both.

During the 98th Congress, we have spent considerable time and money to enhance the Nation's economic security and maintain our competitive edge in science and technology. Our competitive position in areas such as electronics has been a major concern. However, the loss of our position in nutrition monitoring to Japan has gone unnoticed. Clearly, Japan is reaping the benefits of the nutrition improvement law which they enacted in 1952 requiring an annual national nutrition survey to clarify the relation between the states of health, nutritional comsumption, and economic burden, as the basic data affecting the means of improving the nutrition of people.

This is not a case of legislation mandating a costly new program—rather it is a mandate for the more efficient coordination of existing programs which are costly, and wasteful. It is an investment in a sensible system to obtain data which are critical to the entire health-care system of America, and I urge its adoption.

Mr. GREGG. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico [Mr. SKEEN].

Mr. SKEEN. Mr. Speaker, as a member of both the House Agriculture Committee and the Committee on Science and Technology, I rise in opposition to H.R. 4684, the National Nutrition Monitoring and Related Research Act of 1984.

While I support the laudable goal of providing a plan for the assessment and maintenance of the nutritional and dietary status of the U.S. population, I don't believe these goals would be achieved in this legislation. Rather, I agree with the assessment of the Department of Agriculture that H.R. 4684 would hinder rather than promote the substantive progress that is already underway at the U.S. Department of Agriculture and the Department of Health and Human Services.

Frankly, Mr. Speaker, at a time all Members are attempting to find new and innovative ways to reduce the growth of Federal spending, reduce the deficit, while minimizing the impact on American taxpayers, I don't believe it appropriate to authorize new expenditures of more than $20 million for meaningless gestures which are redundant and unnecessary.

Mr. FUQUA. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from California [Mr. BROWN].

Mr. BROWN of California. Mr. Speaker, I strongly support the National Nutrition Monitoring and Related Research Act of 1984, H.R. 4684. This bill is the result of 6 years of study and hearings on the role of the Federal Government in nutrition by the Subcommittees on Science, Research and Technology, and Department Operations, Research and Foreign Agriculture. I was an original cosponsor of this legislation because I feel it is essential that we coordinate our Federal nutrition research programs.

Over the past few years, many of us have been concerned about the increase in occurrences of hunger. We have created a Select Committee on Hunger here in Congress and worked to improve our food assistance programs. But the quality of our diet is just as important as the quantity. Just as there is a concern that everyone has adequate access to food, there should be a concern that there is adequate and sound knowledge regarding nutrition to ensure our potential, both mental and physical, is not limited due to nutrition-related health problems.

Nutrition research and monitoring are vital to improving your Nation's health. We still have much to learn about the effects our diet has on our vulnerability to infections, diseases,

and disorders such as heart failure and hypertension. While most people place a high personal value on health and the resulting longevity, there is a very real economic value to improved health in our society.

Medical costs have skyrocketed to prohibitive proportions. The Federal Government foots a large portion of health care costs through the Medicaid, Medicare, veteran, and other Government-financed health programs. In the calendar year 1981, the most recent year for which data are available, national expenditures for health care were approximately $287 billion, of which $84 billion were Federal funds. During the same year that the Federal Government spent $84 billion on health care, only $218 million was spent on human nutrition research. Better knowledge regarding the effects of proper eating and nutrition excesses or deficiencies has the potential to reduce health care needs and expenditures by billions of dollars. Nutrition research is important to both the physical and economic health of our society, and warrants a higher priority.

However, to be most effective, nutrition research must be constructively focused. Without timely data on the nutritional and health status of Americans, nutrition research priorities cannot be accurately set. We are all aware of the difficulties the President's Task Force on Food Assistance had trying to accumulate enough data to assess the frequency of hunger in America. The fact is that there was not enough data available to make an accurate assessment of the situation. This is not uncommon. While nutrition surveys have been conducted in the past, they have received low priority, have often taken years to complete, and the results have become obsolete before the data were made available.

At the hearing held this year, there was a consensus by all nongovernmental witnesses that nutrition and health data are not made available in a timely and usable manner. Surveys undertaken by various agencies have not been coordinated or standardized. Without coordinated or standardized procedures, one study cannot be compared without another, and thus, are of limited value when trying to build a broad picture of our country's nutritional status.

Mr. Speaker, as responsible legislators, we must act cautiously when considering programs which add to our growing budget deficit. The cost of H.R. 4684 is relatively small: $3 million annually. For this price, we will be better informed to focus our nutrition programs, and be alerted to potential early warning trends in a timely fashion, not years after the study has been completed. The savings to the taxpayer by increasing our ability to assess and prevent illness through proper nutrition could be enormous. I can think of no other bill we are considering which promises such large economic returns.

By increasing coordination between research efforts and increasing our awareness of potential nutrition problems, the National Nutrition Monitoring and Related Research Act of 1984 could help stimulate nutrition-related breakthroughs. One recent breakthrough, the findings regarding a correlation between osteoporosis and calcium intake, will be referred to by Congressman MACKAY. Another example which comes to mind is the recent development of oral rehydration program. Water is one of the most basic nutrients for the human body. In lesser developed countries, a major cause of infant and child death is dehydration resulting from diarrhea. Through extensive education programs in these countries, the procedure of administering a simple solution of salt, sugar, and water has saved millions of children this year alone, and in some communities reduced infant death by over 50 percent.

While some may have problems pinpointing the priorities of nutrition research in our society, the military has viewed nutrition from a very basic perspective. Napoleon once said, "An army marches on its stomach." Maj. Gen. Garrison Rapmund, the Assistant Surgeon General for Research and Development, in his testimony at the June hearing on H.R. 4684, underlined the importance of nutrition monitoring of U.S. military personnel.

The Department of Defense has long recognized that nutritional factors can play an important role in enhancing and sustaining military performance, and has been involved in its own nutrition related research programs over the years. Rapmund pointed out that many of the currently used clinical, biochemical, and dietary techniques for nutritional assessment of populations in a field setting are the product of previous military nutrition research investment. I believe that the priority set on the nutritional status of military personnel should likewise be set for civilians. This would improve assurances that all Americans are performing at levels uninhibited by nutrition-related problems.

I understand that there has been some concern regarding the structure of the Directorate established in H.R. 4684. The Directorate was designed to increase communication between departments which are undertaking nutrition research and was fashioned after effective existing interagency task forces which perform similar coordination functions. The Science and Technology Committee reduced the complexity of the Directorate. It now includes three department chairpersons and the six agencies which use or support nutrition monitoring data. This is much simpler than the acid rain task force, which acts as a similar interagency coordinating mechanism and includes 20 departments or agencies.

Mr. Speaker, I encourage my colleagues on both sides of the aisle to carefully consider H.R. 4684. Nutrition is an area which we all should be concerned about and one which I have been supportive of for several years. After extensive study, my colleagues, BUDDY MACKAY and DOUG WALGREN, and I have concluded that the National Nutrition Monitoring and Related Research Act is essential to insuring optimum development of this expanding field. I urge all to vote for final passage of H.R. 4684.

Mr. Speaker, the organizational endorsers of H.R. 4684 follows:

American Association of University Women.
American Baptist Churches.
American College of Preventive Medicine.
American Dietetics Association.
American Heart Association.
American Home Economics Association.
American Nurses Association.
American Public Health Association.
Association of Faculties of Graduate Program in Public Health Nutrition.
Association of Schools of Public Health.
Association of State and Territorial Health Officials.
Association of State and Territorial Public Health Nutrition Directors.
Black Child Development Institute.
Bread for the World.
Center on Budget and Policy Priorities.
Center for Science in the Public Interest.
Children's Defense Fund.
Coalition on Block Grants and Human Needs.
Coalition for Public Health Nutrition.
Community Nutrition Institute.
Episcopal Church.
Federation of Jewish Philanthropies, New York.
Food Research and Actien Center.
Friends Committee on National Legislation.
Health USA.
IMPACT.
Interfaith Action for Economic Justice.
Joint Public Affairs Committee of the American Institute of Nutrition and the American Society for Clinical Nutrition.
League of United Latin American Citizens.
Mennonite Central Committee, USP Section, Washington Office.
National Association of Counties.
National Consumers League.
National Council of Senior Citizens.
National Dairy Council.
National Farmers Union.
National Grange.
National League for Nursing.
National Milk Producers Federation.
National Nutrition Consortium representing: American Institute of Nutrition, Institute of Food Technologists, Society for Nutrition Education.
National Pork Producers Council.
National Perinatal Association.
National PTA.
Public Voice for Food and Health Policy.
Rural America.
Service Employees International Union.
Southern Health Association.

Subcommittee on Human Nutrition of the Experiment Station Committee on Policy of the Land Grant Colleges.
Teachers of Preventive Medicine.
United Church of Christ, Office of Church and Society.
United Egg Producers.
University of North Carolina Child Health Outcomes Project.
U.S. Conference of Local Health Officers.
World Hunger Education Service.
World Hunger Year.

□ 1300

Mr. GREGG. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. McCANDLESS].

Mr. McCANDLESS. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise to oppose this legislation.

This bill, though sounding like motherhood and apple pie, is an example of how to misuse taxpayers' money.

H.R. 4684 presumes that present mechanisms in place within the executive branch, to coordinate nutritional monitoring, are not operative. This is an erroneous assumption and a costly one.

This bill calls for the establishment of tripartite directorate, Department of Defense, Health and Human Services, and Department of Agriculture, to coordinate Federal programs. The directorate will come up with an implementation plan and will have an external advisory council available.

The directorate is unnecessary. Its functions are being carried out by the Interagency Committee on Human Nutrition Research which took over the activities of the Joint Subcommittee on Human Nutrition Research, part of a committee under the office of science and technology policy. Last year we heard in the Science and Technology Committee criticism about the disbanding of the joint committee. Invalid assumptions were made that OSTP would not fulfill its role to coordinate Federal activities. The interagency committee exists and is a viable mechanism.

Regarding implementation plans, let me submit the following list of available reports:

Five-year plan for federally sponsored human nutrition research [for 1985—by the Interagency Committee on Human Nutrition Research],

Report of the human nutrition research and information management system [1984—HHS/USDA],

Nutrition activities of the Department of Health and Human Services [1984—HHS],

Nutritional status of the American people [1984—HHS/USDA],

Surgeon General's report on nutrition and health [HHS],

Implementation plan for a national nutrition monitoring system [1981—HHS/USDA], and

Assessment of nutritional status [1982—NIH/AJCN].

Mr. Speaker, we don't need another bureaucratic mechanism, and we don't need more plans and more spending. We have the organization to work with, we have the National Academy of Sciences to call upon for advice, and we can establish task forces to address specific topics.

We don't need H.R. 4684. What we should look toward is proper oversight by the proper congressional committees and find tuning programs that exist.

I urge my colleagues to oppose this bill.

Mr. FUQUA. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALGREN], who is chairman of the subcommittee that held the hearings on this bill.

Mr. WALGREN. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of this bill, and want to underscore in any way I can the importance that I attach to nutrition research and monitoring and the development of information in this area.

I know that there are those who would view this bill as duplicative and as spending money. The fact of the matter is that this bill involves little money. It provides $3 million for research in developing the best form of information, so that it is as useful as it can be, and for assistance to State and local government agencies that are presently spending substantial local moneys in collecting the data that we rely on in this area. This is money that is responding to a request from the State and local governments to improve an effort they themselves recognize as important enough to justify their own effort.

So this is not a bill that should be criticized as "more government spending." I think it is time that this country got beyond a Presidential commission that can only say that we do not know whether there is hunger in our society; that the only reports are "anecdotal." It is time that this kind of information was put on a much sounder basis.

"Coordination" is not often appreciated in government. But it is the most important factor in any program. The coordination provided by the directorate and the advisory committee, the designation of those officials and public citizens who should be talking to each other, does not cost money. And it is just what needs to happen in this area that has not happened in the past. It is a very good bill that developed widespread consensus among those in our society. Other than perhaps the green eyeshades at OMB, literally without exception, those groups in our society that have been involved in trying to work with nutrition data believe that this is an extremely important and constructive step that we can take. It is one that goes directly to the heart of disease and health in a preventive sense, where we all know our effort should be put.

I urge support for this bill.

H.R. 4684 serves all sectors of society. It is our responsibility to ensure their needs are met. As policymakers, it is our responsibility to have timely data on the health and nutritional status of the constituents we serve. It is also our responsibility to ensure that the nutritional quality of the food supply is the very best our society can make available to our constituents. This measure to assist in the health promotion and disease prevention of Americans must be delayed.

The administration is not meeting the deadlines it set for itself in the 1981 nutrition monitoring plan submitted to Congress as required by law. For example, the major objective of the plan was to coordinate for the first time in history a USDA and DHHS survey to be conducted in 1987. That survey is now in jeopardy. A report is due to the Congress next month on the nutritional status of Americans. That report will not be delivered on time. Even more disturbing, the data on which this report will be based are 4 to 10 years old. This is, sadly, the most recent information available.

This pattern of delays and inadequate attention to nutrition monitoring is not unique to this administration. Previous administrations have done little more. Similarly, this pattern of unsustained support is not unique to the executive branch. The Congress has sought nutrition monitoring data, parsimoniously or in short bursts of interest and funds, for more than 20 years. It is time both branches of Government are brought together in a commitment to develop and support a truly national nutrition monitoring system.

H.R. 4684 is necessary to accomplish that goal. As my colleagues well know, many questions are yet to be answered by the science of nutrition. Therefore, the development of consensus on nutrition policies have been extremely difficult in the past. This is not the case with regard to the course of action laid out in H.R. 4684. The bill has been endorsed by over 50 coalitions ranging from the American College of Preventive Medicine, the National Milk Producers Federation, the National PTA, to the Service Employees International Union, in addition to health, nutrition, anti-hunger, State and local government, consumer, senior and religious groups.

Presently, funds expended for nutrition monitoring cannot be identified in the budget submission of any of the numerous government agencies which now conduct nutrition monitoring work. H.R. 4684 provides a clear road-

map for work in this area. The bill is essential to fullfill our oversight responsibility and to determine if nutrition is receiving proper support in view of its importance to the health and well-being of society.

Mr. GREGG. Mr. Speaker, I yield 4 minutes to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in opposition to H.R. 4684. I do so reluctantly because I truly believe it is important that we improve information on the nutritional status of Americans. In fact, the President's Task Force on Food Assistance recommended several steps to improve nutritional monitoring. The task force found that the two existing national surveys serve as the foundation for making statements concerning the nutritional status of Americans: The Health and Nutrition Examination Survey [HANES], and the National Food Consumption Survey [NFCS]. These are national surveys of a sample that is representative of the entire population. However, lack of up-to-date data has made it impossible to assess whether the current nutritional status of the population has worsened over the last few years. The only source for continuous information regarding nutritional status is the Centers for Disease Control which operate a Pediatric Surveillance System and a Pregnant Women Surveillance System. These systems have several deficiencies: They do not cover all States; the only information collected covers people served by clinics; and methods of data collection vary across States.

To improve the availability of current data the task force recommended the following steps:

First, current information from the Health and Nutrition Examination Survey and the National Food Consumption Survey is very valuable, and ways of improving these surveys should be examined.

Second, States currently not participating in the Centers for Disease Control surveillance system for children and pregnant women should be encouraged to provide uniform data.

Third, the possibility of developing new measurement tools based on the Health and Nutrition Examination Survey, the National Food Consumption Survey and the Center for Disease Control surveillance system should be explored.

Fourth, if alternative methods of making smaller, intermittent, and up-to-date surveys can successfully be developed, then the feasibility of instituting, for example, smaller biennial surveys of nutritional status might prove desirable and feasible. Such surveys could complement the more complete larger national surveys.

H.R. 4684 goes far beyond those recommendations.

The Departments of Agriculture, Health and Human Services and the Justice Department strongly oppose this bill. They believe that the organizational structure in the bill is overly cumbersome and inefficient; there are mechanisms in place in Federal agencies for conducting and coordinating nutrition research and monitoring; and, the result of H.R. 4684, if enacted, may be to cause only further delay in the Federal nutrition monitoring effort.

I do not believe it is appropriate or necessary to further complicate the present bureaucratic structure with regard to nutrition monitoring or authorize an additional $30 million.

I regret that I cannot support H.R. 4684. I also regret that someone determined that this was a bill that had to be rushed to the floor and brought before us in this manner—under suspension of the rules. The Nutrition Subcommittee on which I serve as ranking minority member has not considered H.R. 4684 and I am unable to understand why the subcommittee or the Agriculture Committee did not care to consider this matter. I was notified only after the fact. This is not how we have considered legislation in the Nutrition Subcommittee in the past and I am at a loss to explain the present procedure.

Nevertheless, H.R. 4684 is not a good bill. It adds layers to an already overburdened bureaucracy. I urge Members to vote against H.R. 4684.

□ 1310

Mr. GREGG. Mr. Speaker, may I inquire as to how much time is remaining on each side?

The SPEAKER pro tempore. The gentleman from New Hampshire [Mr. GREGG] has 7 minutes remaining and the gentleman from Florida [Mr. FUQUA] has 4 minutes remaining.

Mr. GREGG. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding this time to me. Mr. Speaker, I rise in opposition to the bill. It is another case of a bill that is going to end up expanding the size of Government and end up costing us a lot more money. This is one of these cases of "Listen my children and you shall know how big government grows and grows" because here is a brand new program being brought to the floor that expands bureaucracy and expands spending.

The gentleman from California told us earlier it is only a $30 million bill. Yes, that is $3 million per year for 10 years. That is $3 million of taxpayers' money we are committing in this particular bill.

It is unnecessary. It duplicates monitoring programs in the Departments of Agriculture and HHS. I ask my colleagues to look at the chart.

This is the nutrition programs as they presently exist. It is a fairly simple scheme of things. It is something which you can understand in terms of the bureaucracy that is handling the nutrition programs.

This is what happens to that after we pass this bill. All of a sudden you have complicated the bureaucracy. You have drawn all kinds of lines of authority and what we are going to have is not more nutrition; we are simply going to have more bureaucracy.

To make the point clear, the new bureaucracy that is formed as a directorate and advisory council and executive director plus some additional staff, if you really believe that bureaucracy is going to produce better nutrition, then you had probably vote for this bill. Your vote to spend the $30 million.

If you think that nutrition probably would be better served by less bureaucracy and more Government, perhaps aimed at really feeding hungry people, then it seems to me that what you have to do is vote against this bill and vote for more sanity in Government.

Mr. GREGG. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. WINN], the ranking member of the Committee on Science and Technology.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. WINN. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I rise in support of H.R. 4684, legislation to establish a coordinated National Nutrition Monitoring and Related Research Program. The Presidential Commission on World Hunger, on which I served, recommended that the U.S. Government undertake a systematic effort to assess the nutritional status of American citizens. H.R. 4684 satisfies that finding.

Presently, there is a great lack of information among scientists seeking to learn enough about nutrition to identify an ideal diet for each individual. Research is needed to find more precise nutritional requirements and to show better the connections between diet and certain chronic diseases.

Our current efforts as a Nation to collect and interpret data about the nutritional health of our population are in great need of improvement. Our present governmental nutrition surveys are in need of greater coordination. More importantly, these surveys haven't given us sufficient information on small geographic areas and subgroups of people who are at risk of malnutrition.

Adequate nutrition surveillance would give policymakers an opportunity to judge the adequacy of income-based programs to combat hunger, and

would point out nutritional inadequacies that are not income-based. Using the latter information, policymakers could develop nutritional programs to improve the health of all Americans, regardless of income. Good nutrition is preventive health care. Investment of public funds in nutritional surveillance and education may be far less expensive in the long run than future medical care for nutrition-related diseases. Preventive health care through nutrition is particularly called for among the poor because that is where the public burden of health care could be the heaviest.

This growing recognition between nutrition and health is added justification for maintaining domestic hunger programs with proper nutritional emphasis. The difficulty of maintaining a proper and adequate diet falls heaviest on the poorest segment of the economy, the very segment least able to cope with adequate health care. Investment of public funds for adequately feeding the Nation's poor may in fact be far less expensive in the long run than future high-cost medical care.

In urging favorable consideration of this bill, I ask my colleagues to bear in mind that H.R. 4684 will help to create a cost-effective national system for surveying and monitoring our Nation's nutritional status. It brings together all the agencies that should be involved in developing a national nutrition surveillance plan.

Mr. WINN. Mr. Speaker, I rise in strong opposition to this bill. On the surface this would appear to be a piece of legislation that no one could reasonably oppose. Nothing could be further from the truth. This bill is unnecessary, it creates a new bureaucracy, and it authorizes new spending when we are still faced with serious deficit problems.

Mr. Speaker, this legislation is unnecessary because the Department of Agriculture and the Department of Health and Human Services already have in place mechanisms that are adequate for conducting and coordinating nutrition monitoring. The organizational structure proposed by this legislation will be burdensome and hamper, rather than facilitate, the monitoring effort. If the administration were not doing anything in this area that would be one thing. However, the major impetus behind H.R. 4684 seems to be that the administration is not doing their monitoring in exactly the manner that the sponsors of H.R. 4684 would recommend. Dissatisfaction over a slightly different approach to the same problem hardly seems to justify imposing a new bureaucracy on our Federal Government.

Make no mistake about it, H.R. 4684, does set up another bureaucracy within the Federal Government. In order to carry out the objectives of the legislation, the bill establishes a directorate, an advisory council, and an executive director. It seems to me that the last thing the Federal Government needs these days is any more advisory councils with more advisory council members, more executive directors, and thus more staff. While in this instance it all sounds very laudible, I sincerely doubt that this added bureaucracy will accomplish anything that cannot presently be achieved by the existing organization within the Department of Agriculture and the Department of Health and Human Services.

Mr. Speaker, H.R. 4684, also authorizes $30 million in new spending. With our current fiscal constraints, coupled with the recommendations of the President's Task Force on Food Assistance earlier this year, I believe that targeting money in this direction at this time is inappropriate. This Congress must continue to encourage and support food assistance programs. The Nutrition Monitoring Act does not direct Federal funds in that way, and thus I cannot support this additional authorization.

Finally, Mr. Speaker, let me say that I am troubled by the manner in which this bill has moved forward in the last few days.

During my 18 years in the House, I have seen it become a more common practice near the end of a session that pieces of legislation which are the product of vigorous and intensive staff work over the previous 2 years appear to acquire a life of their own in moving onto the legislative calendar. This is not unique to the Science and Technology Committee, or even to the committees of this body alone. The sudden enthusiasm for the bill is generated by one or two particular staff who have devoted so much time and effort on their pet project over the course of the Congress. In the case of H.R. 4684, this has meant numerous phone calls and letters from the nutrition community lobbying vigorously for the bill at the behest of staff. I don't intend to let this kind of inappropriate activity at the staff level influence my decision and I hope my colleagues will not be swayed either.

Mr. Speaker, H.R. 4684, is simply an unnecessary piece of legislation. In the closing days of this Congress we certainly have more pressing and urgent matters that need to be passed by this House. I urge the defeat of H.R. 4684.

Mr. FUQUA. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. I thank the gentleman for yielding this time to me.

□ 1320

Mr. Speaker, I rise in strong support of H.R. 4684 to lend bipartisan support to this much-needed measure. Contrary to what some have suggested in the well today, this is not a rush to judgment. The original plan for a comprehensive nutrition monitoring system was first proposed in 1978, and since then it has been developed in greater detail over the years by the U.S. Department of Agriculture, and the U.S. Department of Health and Human Services.

But here we are in 1984 and we still do not have a coordinated nutrition monitoring program, which is clearly, I think, a Federal responsibility. It gives me no comfort in terms of my responsibilities to think in terms of this, the most richly endowed Nation in the world, where we are 16th on the list in terms of infant mortality. In 15 other nations around the world, a newborn youngster has a better chance for survival than here in these United States. We shouldn't be 16th, we should be 1st. I would like us to be able to offer to those who come after, a full life, a full life in terms of longevity and a full life in terms of opportunity. Nutrition is very much a part of that equation.

Let me read, if I may, Mr. Speaker, to my colleagues a statement from a very distinguished New Yorker, Dr. Malden Nesheim, who is director of the Division of Nutritional Sciences at Cornell University, and he is president-elect of the American Institute of Nutrition. He says, and I quote:

Without timely data as a food consumption patterns and trends, health and nutrition status of our people and specific information on high risk groups in the population, we cannot expect to develop rational, responsive and effective programs to ensure that the basic needs are met in a country with the most impressive ability to produce food of any nation in the world.

Mr. Speaker, I include Dr. Nesheim's full remarks for the information of my colleagues.

The remarks follows:

TESTIMONY OF MALDEN C. NESHEIM

I am grateful for the opportunity to testify at these hearings on Human Nutrition Research and Monitoring. I am Professor of Nutrition and Director of the Division of Nutritional Sciences at Cornell University and President-elect of the American Institute of Nutrition. My testimony today represents my own views but my appearance here has been endorsed by the Joint Public Affairs Committee of the American Institute of Nutrition and the American Society for Clinical Nutrition, by the National Nutrition Consortium representing the American Institute for Nutrition, the Institute for Food Technologists and the Society for Nutrition Education, by the Subcommittee on Human Nutrition of the Experiment Station Committee on Policy of the Land Grant Colleges and by the American Dietetics Association. All of these professional groups representing the bulk of the nutrition professionals in the United States have asked me to express support for the timely establishment of a coordinated national nutrition monitoring program as is provided for in H.R. 4684. We need such a system as a basic component of any coordinated food

and nutrition policy developed for the United States.

Without timely data as to food consumption patterns and trends, health and nutrition status of our people and specific information on high risk groups in the population, we cannot expect to develop rational, responsive, and effective programs to ensure that basic needs are met in a country with the most impressive ability to produce food of any nation in the world.

I wish to support the findings contained in the bill that the information derived from a national nutrition monitoring system has a wide variety of uses in government, private industry, and in academic research. An adequate and timely system that systematically monitors food consumption patterns and health indicators in defined population groups can provide data for food and nutrition policy development, for agricultural policy, and for health planning. Data collected should provide important information about the adequacy of the overall impact produced by our social, health and nutritional policies and programs, though a monitoring system will not replace the need for specific evaluations of the programs.

Data from a comprehensive nutrition monitoring system that provides information as to food consumption trends and nutrient intake and health indicators are extremely valuable for nutrition education programs, appropriately targeted to current food practices and public health needs. Such data also are used by the entire food system, from agriculture, the food industry and federal regulatory agencies.

The current data generated by the NFCS and HANES represent key information needed for epidemiologic research. The potential relationships between dietary practices and chronic disease must be investigated in the context of long term data on dietary practices, associated with health data. The current elements of the nutrition monitoring system already provide much of the data base available in the United States for epidemiological studies. Although the nutrition monitoring system is aimed primarily at food consumption and nutritional status assessment, such nutritional data are also useful indicators of the social well-being of populations in a broader context.

A key feature of such a monitoring system must be its regular and systematic data collection and its timely analysis and interpretation so that appropriate actions can be taken by the system's users, whether it be government departments, the congress, private industry or academic institutions. Such a system need not require development of new and expensive data collection systems or major new federal bureaucracy. What is needed is the coordination, timely implementation and adequate interpretation of elements of a system largely in place but at the moment languishing because of inadequate funding and attention.

Such a coordinated nutrition monitoring program must be a federal responsibility. Our food production and marketing system is national, not based on local or regional food supplies. Federal intervention programs related to nutrition are and must continue to be national because our population is highly mobile. All these factors indicate that we have a need for national data. At the same time we must recognize that many states are developing a concern for monitoring the nutritional well being of their citizens. My own state of New York is taking strong leadership in developing a system to monitor nutritional problems within the state. These state efforts are complementary to the national nutrition monitoring program described in H.R. 4684 because they provide data suited to local and regional initiatives which cannot be provided by national surveys. Certainly, state efforts in this area should be encouraged and integrated into the national system.

Presently the need for a comprehensive nutrition monitoring system is not being met even though many of the elements of the system exist. Even for those two surveys which are key to the National Nutrition Monitoring System, the USDA Food Consumption Survey, and the Health and Nutrition Examination Surveys of the DHHS the data are not made available on a timely fashion and the results cannot be integrated due to present survey design. Much data collected in 1977-79 in HANES II have only become available in the past year and in some instances some components of the data gathered in this survey have still not been released.

The original plans for a comprehensive nutrition monitoring system were first proposed in 1978 and developed in more detail in 1981 by the USDA and DHHS. In spite of the more than six years since the inception of the idea, there is little progress in evidence and, in fact, plans for the first steps in integration of HANES and NFCS have been delayed. For instance, the Joint Nutrition Monitoring and Evaluation Committee met for the first time last November, two years after it was authorized and the agencies which are supposed to support it have no new resources to do so.

Although the centerpieces of the National Nutrition Monitoring System are the USDA Food Consumption Survey, and the Health and Nutrition Examination Surveys of HHS, several other activities carried out by these and other departments are also essential components of the national system. The food disappearance data compiled by the USDA, along with the department's continued efforts at improving available food composition data are essential features along with other important surveys not presently even considered within the National Nutrition Monitoring System such as efforts of the Center for Disease Control, important ongoing programs of the FDA, including the Total Diet Study, the Consumer Expenditure Survey (CES), and the Survey on Income and Program Participation (SIPP). All these surveys are important to the successful development of a nutrition monitoring system and should be incorporated into that system.

Presently the data obtained from these various sources are not integrated to provide the timely and comprehensive view of food practices, trends and health implications that could be constructed from the comprehensive data collected by the surveys cited. This should be a major function of a national nutrition monitoring system. In most instances, agencies have not had sufficient resources to insure timely analysis and release of national survey data. These resources should also be provided so that the research and academic community in the United States could play its complementary role in analysis and interpretation of national survey results. The provisions of H.R. 4684 call for specific funding of the program by the agencies involved on a long term basis. Only in this manner can planning and preparation for surveys and data analysis be carried forward in a coordinated and timely fashion.

I also wish to support provisions of H.R. 4684 which call for the appropriation of research funds to the National Science Foundation to support research into appropriate indicators, standards, methodologies, technologies and procedures for nutrition monitoring and surveillance.

There are several types of research needed for a functioning nutrition monitoring system in the United States. We hope that NSF in administering these research funds will develop a clear understanding as to the nature of the research needed to provide the underpinnings to the nutrition monitoring system. The data presently available for monitoring are not currently being used well. There will be specific recommendations made to federal agencies by the National Academy of Sciences and by the present Joint Nutrition Monitoring and Evaluation Committee for improving the utilization of existing data. There is, however, a need for operational research to improve the use of nutritional monitoring data in setting policy and program planning. This research can best be carried out in the context of specific nutrition monitoring programs in which it is clear for what purpose data are to be used. This research is needed along with that aimed at improvement of survey design, sampling, appropriate indicators, and measurements useful for targeting.

The bill H.R. 4684 outlines what seems to be a complex federal organizational structure for nutrition monitoring. Though I am not prepared to comment on an ideal organizational structure to support the monitoring program, it is clear from present experience with the Joint Nutrition Monitoring and Evaluation Committee that staff support is needed for the overall coordination and management of the nutrition monitoring effort. Such support is also contained in the proposed legislation and this should be helpful to the operation of a nutrition monitoring system in this country.

Mr. Chairman, I wish to emphasize the broad support for implementing a national nutrition monitoring system that exists within the professional and academic nutrition community in this country. We feel the system is needed, that the data must be available on a timely basis, and that such a system is rightfully a responsibility of the federal government. You may be assured that the nutrition professionals in this country are prepared to play their part in assisting federal agencies with this program once a real commitment is made to move ahead. I wish to thank you for the opportunity to present our views on this important subject.

BRIEF BIOGRAPHICAL SKETCH—M.C. NESHEIM

Dr. M.C. Nesheim is Professor of Nutrition and Director of the Division of Nutritional Sciences at Cornell University, Ithaca, N.Y. He holds B.S. and M.S. degrees from the University of Illinois, and a Ph.D. degree in nutrition and biochemistry from Cornell University. He has been engaged in research and teaching in nutrition as a faculty member at Cornell since 1959. He has published more than 100 papers in scientific journals. Dr. Nesheim is president-elect of the American Institute of Nutrition. Chairman of the Nutrition Study Section of the National Institutes of Health, and serves on the Food and Nutrition Board, National Research Council, National Academy of Sciences. He is also a member of the Board of Human Nutrition Councilors of the U.S. Department of Agriculture.

Mr. BOEHLERT. Mr. Speaker, this measure merits our support.

Mr. GREGG. Mr. Speaker, I yield such time as he may consume to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the legislation and commend the gentleman for his work.

Mr. GREGG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to point out that this bill is clearly duplicative, it is expensive, and it is going to create an outrageous bureaucracy. We can leave here if we pass it saying we have helped nutrition by adding another bureaucracy to the matter, rather than actually substantively addressing the nutrition issue, by making those bureaucracies which exist work.

Mr. Speaker, I submit for the RECORD, the following letters of opposition to H.R. 4684, the National Nutrition Monitoring and Related Research Act of 1984:

Letter from the Secretary of Agriculture—July 24, 1984;

Letter from the Secretary of Agriculture—July 19, 1984;

Letter from the Assistant Secretary of Health, Department of Health and Human Services—August 7, 1984;

Letter from the National Science Foundation—June 20, 1984; and

Letter from the Department of Justice—September 19, 1984.

In addition, I would like to submit the correspondence between the chairman of Energy and Commerce and the Speaker of the House, dated July 10, 1984, at which time sequential reference of H.R. 4684 was requested.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, July 24, 1984.

Hon. JUDD GREGG,
Ranking Minority Member, Subcommittee on Science, Research and Technology, Committee on Science and Technology, House of Representatives, Washington, DC.

DEAR CONGRESSMAN GREGG: This letter is to urge your opposition to H.R. 4684, the National Nutrition Monitoring and Related Research Act of 1984.

The Department of Agriculture is committed to the need for better and increased nutrition monitoring. With the Department of Health and Human Services, we submitted to the Congress in 1981 an implementation plan for the Joint Nutrition Monitoring System. That work is progressing well. In addition to our previous testimony in this regard, we are pleased to inform you that plans have now been finalized for an expansion of the Continuing Survey of the Food Intakes of Individuals. In Fiscal Year 1985, the continuing survey will include data collection on the nutritional status of low-income individuals. Extremely valuable and important data will be collected in these newly-designed nutrition surveys.

Despite good intentions, H.R. 4684 would hinder rather than promote the progress that is currently being made toward better nutrition monitoring. The extremely cumbersome, multitiered management structure mandated by H.R. 4684 would mire this important work in unneeded bureaucracy.

In addition, the bill has the potential for instituting new annual expenditures in excess of $20 million for activities which have not been determined worthwhile.

Enclosed is a copy of the legislative report on this bill.

Thank you for your attention to this matter.

Sincerely,

JOHN R. BLOCK,
Secretary.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, June 19, 1984.

Hon. E (KIKA) DE LA GARZA,
Chairman, Committee on Agriculture, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for a report on H.R. 4684, "To establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment and maintenance of the nutritional and dietary status of the United States population and the nutritional quality of the United States food supply, with provision for the conduct of scientific research and development in support of such program and plan."

The U.S. Department of Agriculture (USDA) opposes enactment of H.R. 4684.

We agree that a national monitoring system is necessary to insure that the nutritional needs of the public are satisfied and to provide information to guide the expenditure of public funds for nutrition research and intervention programs. However, the USDA is committed to implementation of the National Nutrition Monitoring System submitted to Congress in 1981. We believe that our planned sequential and systematic monitoring efforts, which are being coordinated with the Department of Health and Human Services (DHHS) efforts, will be sufficient to provide necessary monitoring information, especially in light of our attempt to control costs through emphasis on priority research needs.

The USDA's Human Nutrition Information Service is implementing the USDA's portion of the National Nutrition Monitoring System, described by USDA and DHHS in a report to Congress in 1981. Examples of this implementation are two major methodological studies to improve data collection and handling efficiency and to improve the quality of the data collected. Another example is the Conference on Uses of National Survey Data on Food Consumption sponsored jointly with DHHS, to determine the priority needs for dietary data of Government, academia, and industry. We have been working with DHHS for several years to make the Nationwide Food Consumption Survey (NFCS) and the National Health and Nutrition Examination Survey (NHANES) more comparable. Actions taken include use of the same coding system; coordination of questions and interviewer instructions and training; use of the same nutrient data base, sex/age categories and standards in analyzing data; and use of sampling plans that will ensure the comparability of the data.

The major thrust of USDA's monitoring effort is the initiation, with fiscal year 1984 funds, of a Continuing Survey of Food Intakes of Individuals. This survey will provide part of the information that would be required by H.R. 4684. Data collection will be started in early 1985. The initial effort will consist of a core monitoring group—a nationally representative sample of women 19 to 50 years of age at all incomes and all children 1 to 5 years of age of these women. Women were selected for the core monitoring group for several reasons. Generally they are the household food managers who know most about the food eaten—how it was prepared, the kinds and amounts of ingredients, and so on. Also, women of childbearing age are among the sex-age categories that were found in the 1977–78 survey to have intakes that most often failed to provide recommended amounts of nutrients. Young children also had intakes that were short in nutrients, and their diets in these formative years are of special importance.

For fiscal year 1985 we have requested an expansion of the survey to include a nationally representative sample of low-income women 19 to 50 years of age and all children 1 to 5 years of age of these women. This expansion, to be initiated in early 1986, will help show the extent to which diets of one group at high nutritional risk is an essential component of our new monitoring system.

We believe that this sequential and systematic monitoring system is the proper and prudent way for USDA to proceed, especially in light of the fact that the continuous monitoring of dietary data on a national sample is being conducted for the first time. It also confirms USDA's commitment to the National Nutrition Monitoring System and to coordinating their activities with the Department of Health and Human Services.

Even though there is merit to H.R. 4684, USDA feels that its benefits are outweighed by the bill's disadvantages and consequently opposes H.R. 4684. Among the disadvantages of the proposed legislation are the following:

1. The organizational structure would be extremely cumbersome and inefficient in the monitoring effort. We believe it would hamper the progress of monitoring agencies by adding to their workload and to the clearance process in planning and conducting surveys and other monitoring activities. Also, it would require considerable effort on the part of our relatively small survey staff to bring the members of the Executive Director's staff, the Directorate, and the Council relative to the USDA's surveys. In all probability, the layers of managers and advisers would delay the process of certain monitoring activities, for which timing is particularly important. Moreover, confirmation of the Directorate's Executive Director by the joint chairpersons, rather than by the Senate, as required by Section 106(a) raises Constitutional concerns. The Department of Justice will provide you with additional comments on this issue.

2. The requirement that the Directorate have a comprehensive plan within 6 months after enactment of the Act is, in our opinion, unrealistic and unattainable. It is unlikely that the Directorate could even be in place in 6 months.

3. A national nutritional status network may not be helpful to States and local areas who often have different data needs. Even with extensive national guidelines, State and local studies would probably differ in many ways such as sample selection and quality controls. This would make aggregation or comparison of results technically unsound.

4. The proposed system of grant awards through the National Science Foundation would involve that agency in activities outside its current mission. There appears to be

no direct link between the Directorate and their perception of research needs and the National Science Foundation. Furthermore, this activity appears to overlap the mission of the Western Nutrition Center of the Agricultural Research Service, which is to focus on measurements of nutritional status, and that of the Human Nutrition Information Service, which has and is devoting considerable resources to methodological research on methods and criteria for measurement of dietary status.

For fiscal year 1985, H.R. 4684 would authorize appropriations of $2 million for establishment of the Directorate and Council and development of the comprehensive plan. These funds would be appropriated to the Secretary of DHHS. In addition, $2 million would be appropriated to the National Science Foundation for the competitive grants program in fiscal year 1985 and each of the succeeding 9 years. Other costs depend on the monitoring plan developed by the Directorate. However, based on one possible plan to implement H.R. 4684, we estimate that USDA's cost in fiscal year 1986 would be $20.6 million.

In summary, we believe that we are progressing in a systematic way in implementing, with DHHS, a coordinated nutritional monitoring system. We feel that the organizational structure proposed in H.R. 4684 would tend to be burdensome and hamper, rather than facilitate, the monitoring effort. Therefore, we must oppose enactment of H.R. 4684.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JOHN R. BLOCK,
Secretary.

DEPARTMENT OF HEALTH AND HUMAN SERVICES,
August 7, 1984.

Hon. LARRY WINN, Jr.,
Ranking Minority Member, Committee on Science and Technology, House of Representatives, Washington, DC.

DEAR MR. WINN: This letter is to restate the Administration's opposition to H.R. 4684, The National Nutrition Monitoring and Related Research Act of 1984.

We had hoped that the Subcommittee on Science, Research and Technology mark-up of H.R. 4684 would have addressed concerns of the Department of Health and Human Services (HHS) about this bill. Unfortunately, the changes do not do so and the bill continues to be unacceptable.

Let me emphasize some of the points made in my testimony at the June 20, 1984 hearing of the Subcommittee on Science, Research and Technology:

The organizational structure proposed to monitor the National Nutrition Monitoring and Related Research Program is overly cumbersome and inefficient;

Mechanisms in place in HHS, the Department of Agriculture (USDA) and other Federal Agencies are adequate for conducting and coordinating nutrition research and monitoring;

HHS, USDA and other Federal Agencies will soon publish a five year nutrition research plan;

The Department's commitment to nutrition monitoring is evidenced by the successful conduct of the Hispanic Health and Nutrition Examination survey, which is being completed as scheduled. Plans for the National Health and Nutrition Examination Survey (NHANES III) have been initiated and we are attempting to find resources to begin this survey in 1987 as previously scheduled.

H.R. 4684 in its current form will not promote the progress that is currently being made by the Administration toward better nutrition monitoring and research. We remain opposed to this bill.

The Office of Management and Budget has advised me that there is no objection to the presentation of this letter to the Congress from the standpoint of the Administration's objectives.

Sincerely yours,

EDWARD N. BRANDT, Jr., M.D.,
Assistant Secretary for Health.

NATIONAL SCIENCE FOUNDATION,
Washington DC, June 20, 1984.

Hon. GEORGE E. BROWN, Jr.,
Chairman, Subcommittee on Department Operations, Research and Foreign Agriculture, Committee on Agriculture, House of Representatives, Washington, DC.

DEAR MR. BROWN: Thank you for your letter of May 22. The National Science Foundation appreciates the opportunity to describe its participation in Federal interagency activities in the area of human nutrition research and to comment on H.R. 4684, the National Nutrition Monitoring and Related Research Act of 1984.

We must oppose enactment of H.R. 4684 for the reasons stated on pages 2 and 3.

The National Science Foundation (NSF) became a member of the Joint Subcommittee on Human Nutrition Research of the Committee on Health and Medicine and the Committee on Food, Agriculture and Forestry Research of the Federal Coordinating Council on Science, Engineering and Technology, Office of Science and Technology Policy, upon its establishment in September 1978. Dr. William van B. Robertson, Program Manager for Human Nutrition, represented the Foundation on the Joint Subcommittee. Dr. H. T. Huang, Program Manager for Alternate Biological Resources, served as alternate. These representatives served until the Joint Subcommittee was dissolved in June 1983, participating in all activities of the Joint Subcommittee, including development of the Human Nutrition Research and Information Management System.

In September 1983, Dr. Orville Bentley, Assistant Secretary for Science and Education, Department of Agriculture, and Dr. Edward N. Brandt, Jr., Assistant Secretary for Health, Department of Health and Human Services, invited the National Science Foundation to join the newly established Interagency Committee on Human Nutrition Research. Dr. Edward Knapp, Director of the National Science Foundation, accepted the invitation and appointed Dr. Robert Rabin, Acting Assistant Director for Biological, Behavioral, and Social Science, to represent the Foundation, with Dr. William van B. Robertson, Program Manager for Metabolic Biology, as alternate. Although the Foundation has no program in human nutrition research, funds very few grants having a readily identifiable nutrition component, and has no future plan for significantly increasing such support, a representative of the Foundation has attended each meeting of the Interagency Committee and participated in its deliberations.

The Foundation has reviewed H.R. 4684. The aims of the bill are laudable, but in several provisions it is flawed to a degree that renders it unsupportable by the NSF. The structure of the coordinated program is cumbersome and unwieldly; authority is diffuse. Expeditious accomplishment of its objectives seems unlikely.

The Foundation would be entrusted to establish a competitive grants program in areas of research in which it has had no experience (national nutrition surveillance and monitoring) or very limited experience (nutrition research). It would have but one voice in a 22-member directorate in which 12 members represent the two lead Federal agencies. Given NSF's relative innocence in matters germane to H.R. 4684, we believe that the Foundation would function mainly as a "pass-through" agency for funds the allocation of which would be extraordinarily influenced by those in the management consortium, directorate and advisory council with considerable experience in human nutrition.

Of at least equal concern is that in theory and, likely, in practice, the structure and functions of the directorate supersede the authority of NSF's Director and the authority of the National Science Board.

Throughout its history the Foundation has voluntarily joined its sister agencies in coordinated planning of scientific research without threat to its autonomy, authority, independent decisionmaking and originality. Also, it has joined other departments and agencies for these purposes as mandated by law. A preferable model of the latter is Public Law 95-367, the National Climate Program Act. This act provides for joint planning and program coordination among several agencies, but does not constrain each agency's autonomy in funding policies and practices. Section 105 of H.R. 4684 states that "The Directorate shall provide for and coordinate the conduct of . . . research and development" by the several agencies. The language, if interpreted narrowly, binds and restricts agency, autonomy, even in the unlikely event that a directorate of such heterogeneity and diffuseness could effectively "coordinate the conduct of" research.

We are pleased that H.R. 4684 reflects trust in the Foundation's long experience in competitive grants programs and their performance. But it is useful to recall that NSF's identification with the sponsorship of nutrition research largely stems from a short-lived human nutrition program mandated in the Senate appropriations bill for FY 1979. The program ended operations at the close of FY 1981. In its lifetime, the program committed about $3.2 million while housed in the Directorate for Applied Science and Research Applications. No funds were spent in support of large-scale data bases or methodology relevant to the surveillance of nutritional status of population cohorts. In NSF's reorganization of 1981, the dicrectorate was abolished and many programs were transferred to other research directorates. The human nutrition program was not included in the President's budget for FY 1982 submitted to the Congress.

The establishment of this program was an extraordinary event not voluntarily embraced by NSF. Traditionally, the Foundation has not supported and continues to state that it ". . . will not support clinical research, including research on the etiology, diagnosis or treatment of physical or mental disease, abnormality, or malfunction in human beings or animals. Animal models of such conditions, or the development or testing of drugs or other procedures for their

treatment also generally are not eligible for support."

This statement appears in the NSF "Grants Policy Manual," "Grants for Scientific and Engineering Research," and "Guide to Programs." It appears likely that accomplishment of the goals of H.R. 4684 would require the conduct of clinical research.

Section 102(a)(4) of the bill calls for the competitive grants program administerd by NSF "to encourage and assist the conduct, by Federal and non-Federal entities, on an appropriate matching funds basis, of research. . . ." NSF has express statutory authority to support research performed by other Federal agencies. But such would have the effect of augmenting the budgets of other agencies beyond what the President and the Congress have considered justified, and could alter the allocation of resources among national goals that the President and Congress have established. The Foundation tries to avoid actions that could lead other agencies to diminish support of research relevant to their missions. It is the policy of the Foundation not to encourage research proposals from other Federal agencies or federally-funded research and development centers. Therefore, we believe that the competitive grants program proposed in H.R. 4684 if needed would be more properly included among the programs in the lead agencies.

The Office of Management and Budget advises that it has no objection to the submission of this report.

Sincerely yours,

ROBERT RABIN,
Acting Assistant Director, Biological, Behavioral, and Social Sciences.

U.S. DEPARTMENT OF JUSTICE,
Washington, DC, September 19, 1984.

Hon. DON FUQUA,
Chairman, Committee on Science and Technology, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter is in response to your request for the views of the Department of Justice on H.R. 4684, 98th Cong., 2d Sess., The National Nutrition Monitoring and Related Research Act of 1984. The Department of Justice objects to the enactment of this legislation in its present form.

With respect to the goals to be achieved by the bill, the Department of Justice generally defers to the views of the departments and agencies having substantive jurisdiction over the subject matter of this legislation. The objections of the Department of Justice are primarily directed at the composition of the National Nutrition Monitoring Council (Council) established by § 201 of the bill.

The bill would establish a Directorate for Nutrition Monitoring and Related Research (Directorate) of which the Secretary of Agriculture, the Secretary of Health and Human Services, and the Secretary of Defense would be joint chairpersons. The members of the Directorate would be either representatives of federal agencies or appointed by the joint chairpersons. The principal functions of the Directorate would be to coordinate the activities of the various federal departments and agencies concerned with the dietary and nutritional status and trends of the United States population, to develop standards, and to administer programs. The functions of the Directorate thus are not merely advisory, but definitely of an executive nature. We offer no views on the question whether a body such as the Directorate can efficiently carry out those functions.

Section 201 of the bill would establish a Council to provide scientific and technical advice, and to serve in an advisory capacity, to the Directorate. The Council would consist of seven members appointed by the President, and eight members appointed by congressional officers.

Since the Council would perform only advisory functions, its members would not have to be officers of the United States, appointed according to the Appointments Clause of the Constitution. 24 Op. A.G. 12 (1902); 26 Op. A.G. 427 (1907); H.R. Rep. No. 2205, 55th Cong., 3d Sess., 48–54 (1899). Our objections to the bill are primarily based on two considerations.

First. Assuming, arguendo, that it is appropriate to have on the Council members appointed by both the Executive and Legislative Branches, the representation of the two Branches lacks the proper balance. The bill would provide for the appointment of the majority of the Council by Congressional officers. In our view the proper relationship between the Executive and Legislative Branches requires that they be equally represented on a Council of this type. This would hold particularly true of a Council which is to advise the Executive Branch.

Second, the creation of Councils such as this, which as far as their membership is concerned, are not clearly legislative, judicial, or executive, but which are charged with giving advice to the Executive Branch, tends to erode the important structural separation of powers ordained by our Constitution. The Framers of the Constitution purposely divided federal authority among three separate Branches. Although the Branches are not hermetically sealed from one another, the separation of powers inherent in our Constitution, creating a system of checks and balances designed to prevent the abuse of federal power, and establishing a structure whereby those exercising power are accountable for their actions, requires that each Branch maintain its separate identity, and that functions should be clearly assigned among the separate Branches. The Council does not mesh with this constitutional structure. As established by this bill, the Council could not be considered to be a part of any branch established by the Constitution, but, nevertheless, having a majority of members appointed by the Legislative Branch, it would be in a position to interfere with the activities of the Directorate, which is part of the Executive Branch.

The giving of advice to the Executive Branch, however, is a "purely executive" function over which the President must be able to exercise full control. *Martin* v. *Reagan*, 525 F.Supp. 110, 113 (D. Mass. 1981). A council which is designed to give advice to the Executive Branch therefore may not contain any members appointed by congressional officers, let alone be dominated by them.

It is therefore our conclusion that all members of the Council would have to be appointed either by the President, or by an officer of the Executive Branch who is subject to the supervisory control of the President.

Therefore, the Department of Justice is opposed to the enactment of this bill in its present form.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

ROBERT A. MCCONNELL,
Assistant Attorney General.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, July 10, 1984.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I am writing in regard to the impact on matters within the jurisdiction of the Committee on Energy and Commerce of provisions of H.R. 4684, a bill to establish a National Nutrition Monitoring and Related Research Program. These provisions substantially affect the Department of Health and Human Services, specifically the Bureau of Foods of the Food and Drug Administration, the National Center for Health Statistics, and the Center for Disease Control. These are agencies over which this Committee exercises jurisdiction.

In order that this Committee may give due consideration to the important issues raised by this bill, I respectfully request that this legislation be sequentially referred to the Committee on Energy and Commerce for a period of no less than thirty days.

Thank your for your consideration of this request.

With kind regards.

Sincerely,

JOHN D. DINGELL,
Chairman.

Mr. FUQUA. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN] a member of the committee, to close the debate.

Mr. GLICKMAN. I thank the gentleman for yielding this time to me.

Mr. Speaker, as we all know, 6 of the 10 leading causes of death in this Nation, coronary heart disease, cancer, liver disease, hardening of the arteries, stroke, and diabetes, have nutritional factors as primary components.

Last year before the Agriculture Subcommittee on Nutrition, an Assistant Secretary of Health recently stated that for our leading killer, heart attacks, serum cholesterol levels related to dietary fat provide a major and possibly the major risk factor.

With respect to cancer, our second leading cause of death, a review by two of the world's leading epidemiologists recently indicated that something on the order of 35 percent of all cancer in this country and in the world may well be attributed to nutrition-related issues.

Do we know what nutritional factors may be associated with other disease? We do know that without proper nutrition, infants may be born underweight, children may not reach their growth potential, hospital patients may not experience timely recovery, and senior citizens may experience a reduced quality of life.

But the real question is whether we can detect unfavorable changes in the dietary habits and health indicators in certain groups of the population early enough to offer corrective measures

and prevent further complications. Much more knowledge of nutrition is needed. Since nutrition has become a priority in our national prevention strategy, as stated in the Department of Health and Human Services "National Health Objectives for 1980," we need data that is timely and comprehensive to define relationships of food practices, nutritional status, and health implications for our Nation's citizenry. Data supplied by our existing food and nutrition surveys may, in some cases, be 7 to 10 years out of date. This bill (H.R. 4684) provides the impetus for establishing a well coordinated, effective national nutrition monitoring system capable of providing current and vital nutrition statistics.

This bill deals with the reorganization of existing nutrition monitoring functions. This coordination is very similar to what we have already done in the acid rain area, with USDA, NOAA, and EPA coordinated together and there is a body effectively coordinating separate research activities in one central planning body.

The gentleman from New Hampshire said that this bill creates a major bureaucracy. That is a red herring. There is no new bureaucracy created in this bill. We spend billions and billions of dollars in health care in this country. Many of those dollars could be saved if people knew what kind of nutritional requirements were more suitable for their lives. This bill will help that process along.

● Mr. HALL of Ohio. Mr. Speaker, I rise in support of H.R. 4684, legislation which authorizes the gathering of data on the dietary and nutritional status of the U.S. population. I commend my distinguished colleagues on the House Science and Technology and Agriculture Committees for allowing us to have the opportunity to consider this bill.

Mr. Speaker, during consideration of H.R. 4684 in committee, the support of over 50 organizations became evident. These groups range from the association of State and Territorial Health Officials, the National Council of Senior Citizens, and the National Association of Counties, to the National Pork Producers Council, the National PTA, and the Service Employees International Union.

Despite the broad support for this much-needed and cost-effective legislation, we have heard some criticisms, and I would like to take this opportunity to respond to them.

Mr. Speaker, some say that the bill sets up a cumbersome structure for nutrition monitoring. In fact, the truth is just the opposite. The structure of the directorate, by bringing together all the agencies who develop and use nutrition monitoring data—including the Department of Defense, which does extensive nutrition research—and instructing these agencies to develop an overall plan to meet their various needs, should decrease duplication, cut down on bureaucratic obstacles to progress, and increase the cost-effectiveness of the nutrition surveys that are carried out. Moreover, major simplications in the structure of the directorate and in the timetable under which it would work have been made since H.R. 4684 was originally introduced.

In addition, the Advisory Council, by bringing in outside experts on the issue of nutrition monitoring and its application, should improve the system immeasurably and make the data collection and analysis much more useful to policymakers.

We have heard some speak against the bill's emphasis on providing assistance to State and local governments for their nutrition monitoring needs, and the development of a national nutrition status network. Yet, State and local health departments could benefit greatly from: research on better nutrition indicators; nationally developed guidelines for data collection; technical assistance provided by national experts; seed money to improve local monitoring; and the development of a national nutritional status network. This kind of assistance and networking could help State and local governments make better decisions and run more effective programs.

Finally, Mr. Speaker, we have heard that the bill is not necessary, and that nutrition monitoring efforts are progressing well. Nothing could be further from the truth. Countless reports and much expert testimony have been written concerning the weakness in our national monitoring efforts with respect to nutrition. In fact, the President's Task Force on Food Assistance itself concluded in their final report:

Lack of up-to-date data has made it impossible to assess whether the current nutritional status of the population has worsened over the last few years * * *

They also pointed out the need for new measurement tools, and data on smaller groups and geographical areas.

In spite of the obvious need for better nutrition data, even our current inadequate efforts at monitoring have been threatened by proposed cuts or internal agency decisions. It is quite clear that Congress needs to approach nutrition surveillance as a bipartisan issue, and do everything it can to make our nutrition monitoring efforts as a nation more consistent with our need for timely and complete data. H.R. 4683 will help us get that job done.●

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentleman from Florida [Mr. FUQUA] that the House suspend the rules and pass the bill, H.R. 4684, as amended.

The question was taken.

Mr. GREGG. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

REQUIRING THE PRESIDENT TO TRANSMIT A BALANCED BUDGET FOR EACH FISCAL YEAR

Mr. JONES of Oklahoma. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6300) to require that the President transmit to the Congress, and that the congressional Budget Committees report, a balanced budget for each fiscal year.

The Clerk read as follows:

H.R. 6300

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that—

(1) publicly held debt will grow from $1.3 trillion in fiscal year 1984 to $2.5 trillion in fiscal year 1989 unless immediate action is taken to reduce the deficit;

(2) failure to immediately reduce the deficit holds interest rates high and prolongs the United States' dependence on foreign capital to finance the national debt;

(3) the inflow of foreign capital leads to an overvalued dollar which subsidizes our imports and taxes our exports and is harmful to American business and destroys American jobs;

(4) deficit growth under current policy presents a clear and present danger to the Nation's economy and the prosperity of future generations of Americans;

(5) according to the Congressional Budget Office's mid-year review (August 1984), the fiscal year 1985 deficit of $178 billion will grow to $263 billion by fiscal year 1989 unless current policies are changed;

(6) under current policies over $100 billion will be added to federal interest costs over the next 5 years;

(7) structural deficits are growing $20 to $30 billion a year for as long as action to reduce the deficit is delayed;

(8) executive branch agencies are now completing their fiscal year 1986 budget recommendations for fiscal years 1986 through 1990; and

(9) in order to reduce the deficit over the next few fiscal years, a serious effort must begin immediately because the fiscal year 1986 budget which is now in preparation will influence spending and revenue patterns for several years.

SEC. 2. (a) The President shall transmit to the Congress pursuant to section 1105 of title 31, United States Code, for fiscal year 1986 and for each fiscal year thereafter, a budget which would, if implemented, be in balance.

(b)(1) If the President determines that a balanced budget is inappropriate for any fiscal year, he may also transmit alternate budget proposals which, if implemented, would result in a deficit or surplus.

(2) Alternate budget proposals for a fiscal year transmitted under paragraph (1) shall include a clear and understandable explanation of the specific differences between such

proposals and the balanced budget. The explanation shall include a statement as to why the President determined that a balanced budget would be inappropriate for the fiscal year or years involved and shall show the consequences of each such proposal as they would affect the several budget functions and the economy, setting forth the effects of the proposal on revenues, spending, employment, inflation, interest rates, and national security.

(3) Alternate budget proposals for a fiscal year transmitted under paragraph (1) shall include a comprehensive plan to balance the Federal budget. Such plan shall include—

(A) a clear explanation of its impact on the following major categories of the budget: defense spending, non-defense discretionary spending, means-tested and nonmeans tested entitlement spending, interest costs, and revenues;

(B) an analysis of its impact on the major programs within each category;

(C) an analysis of its impact on each major source of revenues;

(D) a proposed timetable for its implementation.

SEC. 3. (a) The Committee on the Budget of each House of Congress shall report, by April 15, 1985, and by April 15 of each year thereafter, a budget that is in balance for the upcoming fiscal year, showing the consequences of such budget as they would affect the several budget functions and the economy and setting forth the effects of such budget on revenues, spending, employment, inflation, interest rates, and national security.

(b) If the Committee on the Budget of either House determines that a balanced budget is inappropriate for any fiscal year, it shall also report a comprehensive plan to balance the Federal budget. Such plan shall include—

(1) a clear explanation of its impact on the following major categories of the budget: defense spending, non-defense discretionary spending, means-tested and nonmeans tested entitlement spending, interest costs, and revenues;

(2) an analysis of its impact on the major programs within each category;

(3) an analysis of its impact on each major source of revenues;

(4) a proposed timetable for its implementation.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Oklahoma [Mr. JONES] will be recognized for 20 minutes and the gentleman from New Hampshire [Mr. GREGG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oklahoma [Mr. JONES].

Mr. JONES of Oklahoma. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, the issue is straightforward: Do we want a balanced budget, or do we only want to talk about a balanced budget? Do we want the President and the Congress elected this November to present concrete plans for a balanced budget, or are we willing to wait for those elected in 1988 or some time thereafter? Straightforward.

This is what H.R. 6300 requires. The President and the Congressional Budget Committees next year must submit balanced budgets. If they determine that a balanced budget is not appropriate, they must also include in the other budget a specific plan and a specific timetable for achieving a balanced budget, a straightforward requirement for both the President and the Congress.

I see no way that any Member who favors a balanced budget could oppose this bill. Perhaps some will claim that it does not do enough, and to them I say that this action is far superior to no action. Perhaps some will claim that only a constitutional amendment will do, and to them I say that any constitutional amendment would require implementing legislation, and this does exactly that.

This bill is not a partisan bill. A similar bipartisan proposal is now pending in the other body. Its requirements fall on all Presidents and all Congresses. As for me, I want the next President to submit a concrete plan to propose a balanced budget with realistic legislative detail. I want the next Congress to press the measures necessary to balance the budget. I want substantive action, rather than evasive rhetoric.

Mr. Speaker, I urge adoption of H.R. 6300.

Mr. GREGG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish this were straight-forward, as the gentleman from Oklahoma alleges. Unfortunately, it obviously is not.

In the circus of American politics, this resolution clearly should be placed in the center ring. It is not an issue which is brought forward for anything other than political gain. Its intentions are clear, and they are directed at disinformation and leading astray the American people as they address the issue of the deficit and the manner in which this House has addressed the deficit.

The question of whether we have a balanced budget has been requested by many Members on our side to be brought before this House pursuant to the legitimate means which this House offers, such as our discharge petition which is now pending, and which has not been signed; such as through the introduction through the rules process of the constitutional amendment to balance the budget.

Again and again we have been stonewalled by the leadership of this House. This is another one of those classic examples of throwing up a foil for the purposes of allowing the majority party in this House to cast meaningless votes in order to go home and claim that they are committed to something which their entire voting record and their entire practice in this House has shown that they are not only not committed to but which they aggressively seek to undermine and defeat.

□ 1330

Mr. JONES of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. GREGG. I will be happy to yield in a few seconds.

Mr. Speaker, if we would really attempt to reach a balanced budget in this House, the leadership of this House would not have brought forward to this House bill after bill after bill which has been grossly in excess of budget authority and which has consistently expanded and aggravated the national debt. If we were really committed to a balanced budget in this House, we would have voted on the constitutional amendment to balance the budget, as we have been requested to do by 32 States and by a vast majority of the American people.

This bill is a foil. It is not straightforward, it is as curved as any snake which proceeds out of a hole, and in my personal opinion it is nothing more than an affront to the American people to bring it to the floor in this manner where we as the minority not only are not allowed a chance to address it in committee but are not even told that it is coming to the floor more than 5 minutes before it reaches the floor so that members of the Republican side would have a chance to organize a reasonable addressing of the opposition.

Mr. JONES of Oklahoma. Mr. Speaker, will the gentleman yield? Will the gentleman yield for just two observations?

Mr. GREGG. I said I would yield to the chairman of the committee, and I yield to him at this time.

Mr. JONES of Oklahoma. Mr. Speaker, I know that balanced budgets bring out partisan politics, but I would not think the gentleman would believe that Mr. DURENBERGER, a member of his own party, or Mr. DOMENICI, who introduced very similar legislation in the other body, are doing that as a foil. Would the gentleman believe that?

POINT OF ORDER

Mr. WALKER. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. WALKER. Mr. Speaker, is it not correct that under the House rules the mention of names of Members of the other body is not permissible?

Mr. JONES of Oklahoma. I will withdraw that, Mr. Speaker.

The SPEAKER pro tempore. The Chair will state that the answer is in the affirmative.

Mr. JONES of Oklahoma. Mr. Speaker, I will withdraw that and state that the gentlemen from Minnesota and New Mexico, members of the gentleman's same party in the other body, have similar legislation. That is not a foil, and I do not believe the gentleman would accuse them of that.

Mr. GREGG. Mr. Speaker, I would hope that if that were the gentleman's philosophy and if that were the manner in which the gentleman wished to proceed, then he would bring the constitutional amendment to balance the budget to the floor of the House today, since the Senate has agreed to bring that matter up also.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GREGG. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I just want to take a moment to clarify a point the gentleman has made. As I understand it, our leadership has still not been informed that the bill was coming to the floor at this point.

Mr. GREGG. I suspect that is true or I would not have the time in this case.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore [Mr. MATSUI]. The gentleman from New Hampshire [Mr. GREGG] reserves the balance of his time, and the Chair recognizes the gentleman from Oklahoma [Mr. JONES].

Mr. JONES of Oklahoma. Mr. Speaker, I yield 1 minute, for the purpose of debate, to the distinguished gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker, I thank the chairman of the committee for yielding this time to me.

During the 2 years I have served in the House, I've grown accustomed and, indeed, I have grown tired of hearing the executive branch and legislative branch blame one another for budget deficits. Setting aside for the moment any arguments of who struck John, let me just say that I believe that long-term action is required, including the adoption of a constitutional amendment to require the President to propose, and the Congress to adopt, a balanced budget.

Amending the Constitution, however, is not something that can be done swiftly. All of us who support adoption of an equal rights amendment know that all too well. A balanced budget amendment isn't going to be ratified overnight either. In the meantime, without strong interim action, deficits will continue to mount.

That's why it is important to adopt a downpayment deficit reduction plan this year as we are doing. And, that's precisely why adoption of H.R. 6300 is important if we are to have any real hope in balancing our budget in this decade. I urge its adoption.

Mr. JONES of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. CARPER. I yield to the chairman of the committee.

Mr. JONES of Oklahoma. Mr. Speaker, in the time that the gentleman from Delaware has left, let me clarify one thing. I do not know what the communications have been between the leaderships of the respective parties of the House, but I do know that our staff has informed the minority leadership staff that this was coming up, and told them the time it was coming up. We have tried to dispense our obligation in that way.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New Hampshire [Mr. GREGG].

Mr. GREGG. Mr. Chairman, would the Chair advise the gentleman how much time is remaining on both sides?

The SPEAKER pro tempore. Both sides have 17 minutes at this time.

The gentleman from New Hampshire [Mr. GREGG] and the gentleman from Oklahoma [Mr. JONES] have 17 minutes each.

Mr. GREGG. Mr. Speaker, I yield 5 minutes to the gentleman from Idaho [Mr. CRAIG].

Mr. EMERSON. Mr. Speaker, will the gentleman yield?

Mr. CRAIG. I yield to my colleague, the gentleman from Missouri.

Mr. EMERSON. Mr. Speaker, I thank the gentleman for yielding.

I would just like to make the observation that the people of the Eighth District of Missouri know that the President of the United States cannot spend a solitary nickel that has not been authorized and appropriated by the Congress of the United States.

I would also observe that the people of the Eighth District of Missouri understand full well where the responsibility for not having a balanced budget lies. It lies in this House and results from the inability of this House to come to grips with this question.

Mr. CRAIG. Mr. Speaker, I thank my colleague, the gentleman from Missouri.

Mr. Speaker, I would also like to suggest to the chairman of the Budget Committee, who is the sponsor of H.R. 6300, that we were not informed. I was to manage this bill. I was informed that it was to come up at 3. That was the best indication from all of our staff. I now find that that is not the case. I do not know who you communicated with, but you obviously did not communicate with the respective minority on this side.

Mr. JONES of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. CRAIG. I am happy to yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. Mr. Speaker, the whip, the gentleman from Washington [Mr. FOLEY], informed me that he told the gentleman from Illinois [Mr. MICHEL] last night. Our staff told the minority staff. We tried to inform in plenty of time in advance.

Mr. CRAIG. Well, your trying effort is much like the situation that occurs with the legislation that you place before this body today, in that it is a very fragile shell for those who wish to crawl within for the purpose of finding themselves a solution to addressing the question of a balanced budget.

I say that to the Members of this body simply because this is not a balanced-budget issue. It is an issue that the chairman of the Budget Committee has put forth so his colleagues, as they have tried to do year after year, can find something that they can hide behind so that they can go home to their constitutents and suggest to them that they do support the concept of a balanced budget, and in so suggesting that, they can point to a given piece of legislation and say that "herein lies my support."

Let me reiterate a variety of things this bill does do, but, more importantly, what this piece of legislation does not do, because I think it is so important for the Members of this body to understand that as clearly as possible they can in voting this bill up or down. Now, this bill that we are debating today does indicate a need to reduce Federal deficits, and for that I praise the chairman of the Budget Committee for iterating in the first portion of the bill that there is a need. And I do not know of a Member of this body who would argue against that.

But what the bill does not do, it does not say that we need to balance the Federal budget now or in the future. Nowhere in this legislation is there an affirmative statement that suggests that a balanced budget is a reasonably good item for this body to consider.

Now, it does say to the President that he should submit a balanced-budget proposal for fiscal year 1986 and thereafter. Oh, but then again, if he does not like to, he can submit an alternative.

Now, is that a very affirmative statement to send to the American public, saying that we are in support of a balanced budget?

Mr. McCURDY. Mr. Speaker, will the gentleman yield?

Mr. CRAIG. I will yield at the end of my presentation.

What it does not do, it does not require the Congress, the very body that is responsible under the Constitution of this country to frame and present the budgets of our Government, to act or it does not say that they must act in any responsible fashion as it relates to the proposals, that they can merely advise the President as the President is advising them.

Mr. JONES of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. CRAIG. I will be happy to yield following my presentation.

Now, it does allow the President to submit an alternate budget, as I mentioned earlier. But it does not require that the Congress act on that budget or on that plan for a balanced budget.

As I move on down the list of do's and don'ts, what obviously becomes apparent, I think, to anyone who has examined this legislation is that in fact it is just that: a fragile shell in which to crawl to protect one's self and hide from the true issue of a balanced budget. I believe that anybody who has not signed discharge petition No. 10 or who has not cosponsored or shown their support for a resolution similar to or for the resolution which is before the Judiciary Committee now—and that is House Resolution 243—that that in itself shows the true support for a balanced budget and the kind of balanced budget that will in fact force this body into fiscal responsibility.

Mr. McCURDY. Mr. Speaker, will the gentleman yield?

Mr. CRAIG. No, not until I have finished with my presentation.

The SPEAKER pro tempore. The time of the gentleman from Idaho [Mr. CRAIG] has expired.

Mr. CRAIG. Mr. Speaker, I would ask for 2 additional minutes.

Mr. GREGG. I am sorry, but I do not have the time to yield. I am sorry.

□ 1340

Mr. JONES of Oklahoma. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Speaker, I yield briefly to the gentleman from Oklahoma [Mr. McCURDY].

Mr. McCURDY. Mr. Speaker, I thank the gentleman.

I would just like to comment to the gentleman who just left the well, the gentleman from Idaho [Mr. CRAIG], that I am one of those who signed that discharge petition. I am one of those who voted in the past for the constitutional amendment for a balanced budget. I stand here and strongly support this piece of legislation today because I do not think we can do enough in this body and I do not think the White House can do enough to move to bring about such legislation to this floor.

Mr. GREGG. Mr. Speaker, will the gentleman yield? Would the gentleman say this balances the budget?

Mr. SHARP. I have only a brief moment.

I rise in strong support of the Jones Balanced Budget Act.

Mr. Speaker, this will require, for the first time in years, that a President submit to Congress concrete plans to balance the budget. It will require for the first time ever that the Budget Committees of Congress submit to the rest of us for consideration and for voting concrete plans to balance the Federal budget.

I think that while this is only part of the answer, it is a definite part of the answer and we must pass it if we are serious about financial discipline. There are plenty tough decisions yet to be made and we have to make them to get control over the mounting debt.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 1 minute, for purposes of debate only, to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Speaker, we are really talking about means versus ends. If you believe in a balanced budget, you should not reject a different way of getting there. A statutorily balanced budget may not be your first preference, but it is a way of getting to the result.

All those who do believe in the balanced budget constitutional amendment should vote for H.R. 6300, because the same process of setting strict spending and revenue limits that would be required by a constitutional amendment will be required by this bill. In fact, it will require that the same rigorous prioritizing of spending in order to live entirely within our revenues, will be adhered to.

Anyone who is for the balanced budget amendment but against this bill is basically saying they are only for a balanced budget if it is constitutionally mandated.

In any event, the balanced budget amendment by itself is insufficient guidance. We need this sort of first step to spell out spending and revenue limits.

All of those who have reservations about, or are against, a constitutional requirement for a balanced budget should nonetheless vote for this bill, because—regardless of the merits or demerits of a constitutional mandated zero budget deficit—we can all agree that our growing fiscal imbalance requires that both the executive and the legislative branch put themselves through the tough but healthy exercise required by this bill.

Mr. GREGG. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER.]

Mr. WALKER. Mr. Speaker, this bill certainly defines the difference between a grassroots political party responding to what the people want and a backroom political party that cooks up phoney approaches to divert political attention.

What we have got is the American people demanding a balanced budget. What we have brought to the floor under a procedure where no notice was given to the minority, where a lot of us who had worked on this thing for a number of days now were scattered across the Hill, is brought to the floor in a rush procedure before some of our people could even get over here. It is rather disturbing. It is the typical backroom tactics.

But I would point out to the people in the Chamber here that one of the things that we have got on the books right now is Public Law 95-435 that already requires a balanced budget. It is a much tougher approach than this.

For those of you who do not like the constitutional amendment, I would suggest to you that Public Law 95-435 still exists.

I wonder how the chairman of the Budget Committee that brings this bill before us has voted on amendment trying to implement Public Law 95-435?

Well, I find that on five occasions I have raised such an amendment on the floor and on all five of those occasions the chairman of the Budget Committee has always voted no. "Don't implement Public Law 95-435. Don't implement the law that already exists."

The law that already exists is obviously too tough for these folks, so they want to come out here with something that weakens it. This is a much weaker approach.

Mr. MACK. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I would be glad to yield to the gentleman from Florida.

Mr. MACK. Mr. Speaker, I wonder if the chairman of the Budget Committee would respond to a question.

Mr. JONES of Oklahoma. Yes.

Mr. MACK. I am just curious, in bringing this bill up here today, it is rather strange, or at least I would like to ask the gentleman, has the gentleman ever submitted a balanced budget that was voted on in this House?

Mr. JONES of Oklahoma. As a matter of fact, I have several times.

Mr. MACK. I am talking about in the year following, the current fiscal year, not 1, 2, 3, 4 years down the line, but for the next fiscal year.

Mr. WALKER. In compliance with Public Law 96-5, has the gentleman ever submitted a balanced budget?

Mr. JONES of Oklahoma. Mr. Speaker, if the gentleman will yield, the Jones budget alternative in 1981, assuming the gentleman is yielding, would have given us a balanced budget today had we passed it.

Mr. WALKER. That was in the year 1984.

Mr. JONES of Oklahoma. Because it contained spending cuts and tax cuts offsetting each other and we would have a balanced budget today, instead of $200 billion deficits.

Mr. WALKER. I would say to the gentleman from Florida that I have reviewed the situation. I cannot find any time during the time the gentleman from Oklahoma has been chairman of the Budget Committee that he has brought a balanced budget to the floor, so that it seems to me he has failed to comply with Public Law 95-435 and failed to comply with 96-5.

Mr. JONES of Oklahoma. Mr. Speaker, will the gentleman yield for an answer?

Mr. WALKER. I would be glad to yield to the gentleman.

Mr. JONES of Oklahoma. Again in 1979, I was the principal author of a balanced budget amendment that was coauthored by the gentleman from Mississippi [Mr. LOTT] and the gentleman from Texas [Mr. GRAMM], which we lost by a 2-vote margin. Had that passed, that would have been a balanced budget with spending and revenues of 20 percent of the gross national product.

Mr. WALKER. Well, I am going to reclaim my time. The gentleman was asking the chairman of the Budget Committee when he really has a responsibility here whether or not he has complied with Public Law 95-435 and 96-5. The record will show that he has not and he comes before us today and submits the Jones approach.

Mr. JONES of Oklahoma. Mr. Speaker, I yield one-half minute to the gentleman from Ohio [Mr. FEIGHAN].

Mr. FEIGHAN. Mr. Speaker, I am amazed to hear my colleagues on the other side of the aisle say that they are surprised to see this legislation on the floor this afternoon. In fact, I think this entire House has known for the past couple weeks that this legislation would be on the floor in the final days of this session.

I think it is responsible that we bring it to the floor. I think it would be very irresponsible in fact for us to adjourn this session, to leave here at the end of this week, without bringing the bill, H.R. 6300, to the floor.

As a proud cosponsor of this legislation, I urge my colleagues to take advantage of this opportunity to defuse the deficit crisis that confronts this country.

We need immediate, decisive action to reduce the deficit, and this balanced budget legislation is the perfect vehicle for these efforts. It would be irresponsible for Congress to recess and go home without sending a strong signal to the American people that the deficit madness must end.

Every year, we get budgets from the White House that plunge us deeper and deeper into debt. When the President took office 4 years ago, he promised to balance the budget by 1983. But the promised 1983 balanced budget gave way to $200 billion in red ink today, and a deficit that will rise to $300 billion by the end of the decade. Consequently, our Nation is now over $1 trillion in debt.

It is easy for the President to blame Congress for the huge Federal deficit. But consider the following statistic from the President's Office of Management and Budget: In the last 4 years, the President has requested $132 billion worth of spending cuts. And Congress has approved $134 billion worth of spending cuts. In short, Congress has cut Federal spending even more than the President has requested, yet the deficit is still skyrocketing out of control. Why? Because the President has never even come close to submitting a balanced budget to Congress.

This is why we need to crack down on fiscal irresponsibility and enact the legislation before us today. We need a law that will require the President to submit a balanced budget to Congress by the next fiscal year. If H.R. 6300 is approved by Congress, we will be in a better position to permanently inject fiscal responsibility into the Federal budget process.

I led a large group of freshmen Members who pressured the House leadership for final action on this bill. I sincerely appreciate all the support my colleagues have given me in my effort to reduce the deficit, and I would like to thank the House leadership and Congressman JONES for giving us a chance today to stanch the flow of red ink that threatens this country's future.

Mr. JONES of Oklahoma. Mr. Speaker, for purposes of debate, I yield one-half minute to the distinguished gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, I rise in support of H.R. 6300, Representative JIM JONES' plan to bring the budget into balance.

This legislation would require the President, beginning with the fiscal year 1986, to submit a balanced budget. If he considers a balanced budget inappropriate, he may submit an alternative budget on the condition that it include a comprehensive plan describing how and when a balanced budget would be achieved. The bill imposes the same requirement on Congress by forcing the Budget Committees to report balanced budgets or plan to achieve a balanced budget.

You know, there has been a lot of talk in Congress lately that the congressional budget process has failed, that despite the reforms of the 1974 Budget Act, we cannot force ourselves to keep within reasonable spending limitations. Many of our constituents believe this, and have urged us to impose a constitutional limitation on ourselves to balance the budget. But just stating that the budget has to be balanced doesn't achieve it. That's like outlawing a disease without finding the cure.

The problem is not the budget process itself, but the lack of enforcement. The Balanced Budget Act as introduced by Representative JONES has all the elements for success. It involves not only the President of the United States in the process by requiring him to submit a balanced budget, but it also forces the budget committees to comply as well. The burden—and the responsibility—is shared by both the President and Congress. The budget process has failed to limit spending in part because the President and the political parties have been working against each other instead of together toward a mutually desirable goal—a balanced budget.

There will not be a balanced-budget amendment this year. This bill guarantees that immediately—not in the distant future. Congress and the President will be balancing the budget.

Another ingredient for success included in this legislation is the flexibility it allows in times of crisis. If faced with a severe economic recession similar to the one suffered 2 years ago, the flexibility would be essential to insuring our economy does not undergo a complete failure. Allowing the President to submit an alternative budget is not an escape but a security. It permits the economy to adjust to changing times, while at the same time forces the President and Congress to accept the responsibility for achieving a balanced budget.

This year the net interest payments on the public debt alone equal $300 million per day, and by 1989, 43 cents of every dollar paid in individual income taxes will be needed just to make the interest payments. The deficit is projected to be two and one-half times larger in 1989 than in 1981. What does this mean? It means that in a few years people won't be able to afford the interest cost on a loan to buy a car or a house. It means we depend on foreign investment to pay for business expansion in this country, and should this money be withdrawn, our banks and businesses could fail. It means the American dollar has become so overvalued that it's cheaper to buy an imported product than to sell our products to other countries. The result: Import sensitive industries must lay off workers and close down plants, and exporters face a closed market abroad. It means the interest on loan to Third World countries will increase until defaults set off an international banking crisis.

This country cannot afford high interest rates. This country cannot afford high unemployment. This country cannot afford to become dependent on other countries to support our economy. Above all, this country cannot afford to continue borrowing from our economic future with no concern for paying the cost now. This is not the time to point an accusatory finger, but to accept the responsibility for high deficit spending and reverse the trend.

We are facing a crisis, and now is the time to act. Together—Republicans, Democrats, Congress, and the President—we can enforce the self-discipline needed to change this pattern of deficit spending and call a halt to credit to the Government. What is needed is a fair and enforceable balanced budget plan, and the will to work together to achieve it. This is a first step.

Mr. GREGG. Mr. Speaker, because of the importance of this bill and because as it has been acknowledged by the chairman of the Budget Committee that this bill is important, I ask unanimous consent that we extend the debate for 30 minutes.

The SPEAKER pro tempore. The gentleman asks that the time be extended an additional 30 minutes?

Mr. GREGG. That is correct, Mr. Speaker, with the time to be equally divided.

The SPEAKER pro tempore. With the time to be equally divided, 15 minutes on each side?

Mr. GREGG. That is correct.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Hampshire?

There was no objection.

CALL OF THE HOUSE

Mr. GREGG. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 428]

Addabbo	Coleman (TX)	Foglietta
Akaka	Collins	Foley
Albosta	Conable	Ford (MI)
Anderson	Conte	Ford (TN)
Andrews (NC)	Conyers	Frank
Andrews (TX)	Corcoran	Franklin
Annunzio	Coughlin	Frenzel
Anthony	Courter	Frost
Aspin	Coyne	Fuqua
AuCoin	Craig	Garcia
Barnard	Crane, Daniel	Gejdenson
Bartlett	Crane, Philip	Gekas
Bateman	Daniel	Gephardt
Bates	Dannemeyer	Gibbons
Bedell	Darden	Gilman
Beilenson	Daschle	Gingrich
Bennett	Daub	Glickman
Bereuter	Davis	Gonzalez
Bethune	de la Garza	Goodling
Bevill	Dellums	Gore
Biaggi	Derrick	Gradison
Bilirakis	DeWine	Gray
Bliley	Dickinson	Green
Boehlert	Dicks	Gregg
Boggs	Dingell	Guarini
Boland	Dixon	Gunderson
Boner	Donnelly	Hall (IN)
Bonker	Dorgan	Hall (OH)
Borski	Dowdy	Hall, Ralph
Bosco	Downey	Hall, Sam
Boucher	Dreier	Hamilton
Boxer	Duncan	Hammerschmidt
Britt	Durbin	Hance
Brooks	Dwyer	Hansen (ID)
Broomfield	Dymally	Hansen (UT)
Brown (CA)	Dyson	Hartnett
Brown (CO)	Early	Hatcher
Broyhill	Eckart	Hawkins
Bryant	Edgar	Hefner
Burton (CA)	Edwards (CA)	Heftel
Burton (IN)	Edwards (OK)	Hertel
Byron	Emerson	Hightower
Campbell	English	Hiler
Carney	Erdreich	Hillis
Carper	Erlenborn	Holt
Carr	Evans (IA)	Hopkins
Chandler	Evans (IL)	Howard
Chappell	Fascell	Hoyer
Chappie	Fazio	Hubbard
Clarke	Feighan	Huckaby
Clay	Fiedler	Hughes
Clinger	Fields	Hunter
Coats	Fish	Hutto
Coelho	Flippo	Hyde
Coleman (MO)	Florio	Ireland
Jacobs	Moore	Siljander
Jeffords	Moorhead	Simon
Jenkins	Morrison (CT)	Sisisky
Johnson	Morrison (WA)	Skeen
Jones (NC)	Mrazek	Skelton
Jones (OK)	Murtha	Slattery
Jones (TN)	Myers	Smith (FL)
Kaptur	Natcher	Smith (IA)
Kasich	Neal	Smith (NE)
Kastenmeier	Nelson	Smith (NJ)
Kazen	Nichols	Smith, Denny
Kemp	Nielson	Smith, Robert
Kennelly	Nowak	Snowe
Kildee	O'Brien	Snyder
Kindness	Oakar	Solomon
Kogovsek	Oberstar	Spence
Kolter	Obey	Spratt
Kostmayer	Olin	St Germain
Kramer	Ortiz	Staggers
LaFalce	Ottinger	Stangeland
Lagomarsino	Owens	Stark
Lantos	Oxley	Stokes
Latta	Packard	Stratton
Leach	Panetta	Studds
Leath	Parris	Stump
Lehman (CA)	Pashayan	Sundquist
Leland	Patman	Swift
Lent	Patterson	Synar
Levin	Paul	Tallon
Levine	Pease	Tauke
Levitas	Penny	Tauzin
Lewis (CA)	Pepper	Taylor
Lewis (FL)	Petri	Thomas (CA)
Lipinski	Pickle	Thomas (GA)
Livingston	Porter	Torres
Lloyd	Price	Torricelli
Loeffler	Pritchard	Towns
Long (LA)	Pursell	Traxler
Lott	Quillen	Valentine
Lowery (CA)	Rahall	Vander Jagt
Lowry (WA)	Ratchford	Vandergriff
Lundine	Ray	Vento
Mack	Regula	Volkmer
MacKay	Reid	Vucanovich
Markey	Richardson	Walgren
Marlenee	Ridge	Walker
Marriott	Rinaldo	Watkins
Martin (IL)	Ritter	Weaver
Martin (NY)	Roberts	Weber
Martinez	Robinson	Weiss
Matsui	Rodino	Wheat
Mavroules	Roe	Whitehurst
Mazzoli	Roemer	Whitley
McCain	Rogers	Whittaker
McCandless	Rose	Whitten
McCloskey	Rostenkowski	Williams (MT)
McCollum	Roth	Williams (OH)
McCurdy	Roukema	Wilson
McDade	Rowland	Winn
McEwen	Roybal	Wirth
McHugh	Rudd	Wise
McKernan	Russo	Wolf
McNulty	Sabo	Wolpe
Mica	Sawyer	Wortley
Michel	Schaefer	Wright
Mikulski	Schneider	Wyden
Miller (CA)	Schroeder	Wylie
Miller (OH)	Schulze	Yates
Mineta	Schumer	Yatron
Minish	Seiberling	Young (AK)
Mitchell	Sensenbrenner	Young (FL)
Moakley	Sharp	Young (MO)
Molinari	Shaw	Zschau
Mollohan	Shelby	
Moody	Sikorski	

□ 1400

The SPEAKER pro tempore (Mr. DONNELLY). On this roll call, 388 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

REQUIRING THE PRESIDENT TO TRANSMIT A BALANCED BUDGET FOR EACH FISCAL YEAR

The SPEAKER pro tempore. The Chair will state that the gentleman from Oklahoma [Mr. JONES] has 29 minutes remaining and the gentleman from New Hampshire [Mr. GREGG] has 24 minutes remaining.

The Chair recognizes the gentleman from New Hampshire [Mr. GREGG].

Mr. GREGG. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. LOEFFLER].

Mr. LOEFFLER. I thank the gentleman for yielding.

Mr. Speaker, Members of this body, I think it is important to know that first of all while this bill has an interesting title, the balanced budget bill, it is really simply an escapist bill, a sham, a subterfuge allowing the congressional big spenders to hide behind the skirt of legislative charade.

Mr. Speaker, this bill purports to be a balanced-budget measure. Nothing is further from the truth.

Mr. Speaker, H.R. 6300 contains no requirement that the Congress adopt a balanced budget, that the Congress implement a balanced budget or even consider one.

□ 1410

Mr. Speaker, a stronger version of the Jones proposal was public law in 1980, 1981, and 1982. And the Budget Committee, under the sponsor's leadership, ignored it. The Congress ignored it. That law, Public Law 96-5, required Congress to balance the budget and Congress failed to do so, notwithstanding the fact the author was chairman of the committee that had the responsibility to bring such legislation to the floor of the House.

Now, there is no question that the intent of this legislation is very clear and that is to absolve the Congress of any responsibility for failure to enact balanced budgets in the past, in the future, and to undermine any effort that we have going on to achieve a constitutional amendment for a balanced budget.

But the procedure for consideration in the context of the Jones bill represents an effort by the House majority leadership to get a vote on the so-called balanced-budget legislation before the election through a vehicle so meaningless that even staunch opponents of a constitutional amendment for a balanced budget can vote for it.

This is not a vote for a balanced budget. This is a vote for congressional irresponsibility and unaccountability.

Mr. Speaker, in my judgment, this is an election year curve ball that will generate nothing more than a foul tip.

I urge Members to recognize that it is nothing more than a sham game that is being played.

Ms. FIEDLER. Mr. Speaker, will the gentleman yield?

Mr. LOEFFLER. I yield to the gentlewoman from California.

Ms. FIEDLER. I thank the gentleman for yielding.

What the gentleman is trying to say is that is this particular bill there is no requirement for a balanced budget. There is a lot of debate that indicates there is a requirement for a balanced budget, but instead what it says is that the President may submit a balanced budget, that the Congress may pass a balanced budget, but if they, in fact, do not pass it, they have the authority to submit an alternative. So, what is the difference now?

Right now the President has the right to submit a balanced budget. The Congress has the right to pass a balanced budget, but they do not do it. The result is far more spending than should take place.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. LEVITAS], for purposes of debate only.

Mr. LEVITAS. Mr. Speaker, I really do not understand why Members are so upset about this bill. Who is afraid of requiring Congress to vote on a balanced budget next year and requiring the President and the Budget Committees to propose balanced budgets?

You see, there are many roads that lead to paradise. There are many paths to the promised land of the balanced budget.

I walk the path of the balanced-budget constitutional amendment. I have voted for it and I have sponsored it. I signed the discharge petition to get the constitutional amendment to the floor for a vote. My credentials are there. And I will also walk the path of the Jones approach to require submission of balanced budgets by the President and the Budget Committees of Congress.

It is like chicken soup. It sure cannot hurt and it might do some good.

I urge my colleagues to make a bipartisan expression of support for a balanced budget. We must follow each of the paths to paradise, but let us just get on with it and stop quibbling about it. We need to keep partisan politics out of this vital issue. We need an American consensus and not Republican and Democratic haggling.

While I strongly want a constitutional amendment to require a balanced budget, it could take up to 9 years to get one even if Congress adopted the amendment because of the ratification process. This Jones bill will let us vote on a balanced budget next year. Is someone afraid that we would not receive one? I hope not. We must see a balanced budget as soon as possible.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, I find it rather interesting—being one who has proposed and worked for a number of years for a balanced budget—that those who have also on the other side of the aisle been proposing it would not be for this particular proposal, this amendment to bring about a balanced budget. It is because they did not think of it.

I hope that they would look at the issue itself. What this calls for is a balanced budget to begin at the very beginning of the process. The process begins at the White House every year, as all of us know, in a recommendation of the budget coming to us, the Members of Congress.

What is wrong with beginning at the very start of the process and then our working the will of the people from there?

Mr. GREGG. Mr. Speaker, I yield 3 minutes to the gentleman from Arkansas [Mr. BETHUNE].

Mr. BETHUNE. Mr. Speaker, I am glad that we had the quorum call to get all Members over for this very high political drama. That is what this is, nothing more than high political drama that will not amount to a hill of beans in terms of substance.

Now my friends on the Democratic side said that we need another law or some other process to get a balanced budget for this country. Never mind that we have already got a complicated budget process that is never honored, never mind that we have already got a law that requires a balanced budget.

Then on the Republican side of the aisle my friends say that none of that is good enough and what we really need to get to the promised land is a constitutional amendment to balance the budget. That is the way we are going to solve the problem.

I regret to inform my friends on the Democratic side of the aisle that this little law that you are putting up is not going to do any good. It just caps all of the other laws that we have on the books and it is not going to work. You know that.

I regret to inform my friends on the Republican side of the aisle that the constitutional amendment to balance the budget is not going to work either.

Even as we speak and even as we debate this subject here today, Walter Mondale is in my hometown of Little Rock, AR, supporting the REA bailout, $7.9 billion, which was pushed through this Congress licketysplit because the pressure groups wanted it. This Congress fell over in a minute and caved right in and passed the REA bailout, $7.9 billion, which is going to add to the deficit.

The interesting thing is that the bailout is not on the budget and it would not be under the control of the balanced budget amendment. The REA bailout is money laundered through the Federal Financing Bank which is off of the budget and everybody here in this Congress knows that this Congress can get around any law. This Congress can get around any balanced budget law or balanced budget amendment. The problem here today is and always has been that this Congress responds to pressure, not logic. If this Congress would wake up and do the right kind of things, we would have a balanced budget and the Members can stand here the rest of the afternoon and pass trash like this or like the balance budget amendment and you will not do any good. The people of this country are on to this Congress and I think they are going to wise up this year and they are going to send people here who will not cave in any more.

That is the reason why I think we ought to defeat the gentleman's proposal and that we ought to defeat the balanced budget amendment proposal.

Mr. JONES of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. I thank the gentleman for yielding.

The gentleman made similar arguments againt the constitutional amendment for a balanced budget 2 years ago and he has been consistent. I agree. There is nothing that can substitute for courage when the spending bills come up or when revenue bills come up.

The point is we do not have a process on how to reach the goal of a balanced budget and that is what this bill is designed to do.

Mr. BETHUNE. We have got all the process we need. What we need is some substance.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY of New York. Mr. Speaker, my colleagues, can our memories be so short. Just 2 short years ago President Reagan was up here cheering on the sidelines for a balanced budget right here on the Capitol steps.

That is what he has been doing for the last couple of years. Cheering.

What does our bill attempt to do? It wants to hand the ball to the "Gipper," to let him come forward with his own plan to balance the budget. Now we will get a chance to see how well he can run when he has the authority to do so.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. PATTERSON], for the purposes of debate only.

Mr. PATTERSON. Mr. Speaker, I rise today to express my deep concern over the Federal deficit and to urge my colleagues to join me in supporting both a constitutional amendment and a statutory requirement that the Federal budget be balanced.

Mr. Speaker, I support the Jones bill and urge my colleagues to support it. I also want my colleagues on the other

side of the aisle to know that I signed the discharge petition, that I support the balanced budget amendment. But let us face it, there are two grave problems with the balanced budget amendment.

One is it could not possibly take place for 7 years or more because every amendment to the Constitution that has ever been enacted has taken at least 7 years. So it is a foolish thing to say we are going to have a balanced budget, but we are not going to have it for 7 years.

The second thing I say to my colleagues on the other side of the aisle, if the President wanted to submit a balanced budget he could, but he has not. For 4 years in a row they have approached nearly $200 billion in an unbalanced budget.

□ 1420

So why not join us on both sides of the aisle, all seeking a balanced budget for the American people, not for the Republicans, not for the Democrats, but for the American people? And that bill, a statute, is effective immediately, and it requires the President to submit one and the Congress to enact one. That is the best of all worlds.

Every year that we continue to incur massive budget deficits, the size of our national debt increases. In 1982, our national debt passed the trillion dollar mark. If current spending patterns continue as proposed by the administration, this debt will approach $3 trillion in 1988 and by that time, every dollar we pay in individual income tax will be spent for interest on the national debt. This is unconscionable.

We cannot go on borrowing and financing annual deficits of $150 to $200 billion indefinitely. The stability of our economy is jeopardized. To finance the current deficit, the Federal Government must borrow almost 60 percent of all private savings, money which would normally be available for lending and investment in the United States. As we continue to borrow, interest rates will continue to rise, leading to sluggish business investment, minimal improvements in productivity, slower ecomomic growth, as well as reduced tax revenues. We are already feeling the effect of rising interest rates, as they threaten to choke off our very fragile recovery.

Yesterday, the Congress took a step in the right direction by adopting a fiscal year 1985 budget resolution with much lower deficits than were proposed by the President. However, that is just a step.

Nearly $63 billion in cuts were made by the enactment of the Deficit Reduction Act, Public Law 98-369, but more cuts will be needed. It will not be easy. Since 1981, domestic discretionary spending has been cut to the bone. Efforts to eliminate waste, fraud, and abuse have been undertaken. My hope is that such reforms, even in defense programs, will go into effect. Legislation to reform procurement practices so as to eliminate the $2,500 coffee pot and $400 screw will be sent to the President by the end of the week—as a cosponsor of this legislation, I say it's about time these changes were made.

Each of these steps is important and will help reduce the deficit, but we will have to keep looking for ways to cut the budget. And indeed it will not be easy. Say, for example, we try to eliminate the deficit without making any cuts in defense or entitlements, as so many have suggested. Then, let us assume we do this by making up one-half the savings by spending cuts and one-half by increased revenues. Under such a scenario, we would have to nearly eliminate all discretionary domestic spending. To be precise, all nondefense discretionary spending would have to be cut by two-thirds. This means, a two-thirds reduction in the Justice Department, in the CIA and FBI, a two-thirds cut in Head Start, education programs, highway improvements.

As difficult as this task will be, the force of law must be behind it, forcing us to make the cuts and providing us the procedures that will make balance a reality.

I believe both in a constitutional amendment requiring a balanced budget and a statutory requirement. The fundamental principal of balance belongs in our Constitution. However, since a constitutional amendment will not go into effect for 5 to 7 years—after the State-by-State ratification process—it is important that we impose a statutory requirement now to take effect immediately.

BALANCE BUDGET CONSTITUTIONAL AMENDMENT

I continue to solicit the support of the leadership and my colleagues for a constitutional amendment to balance the Federal budget which I introduced last year, House Joint Resolution 428. I will admit that in the past I have had reservations about altering our Nation's Constitution to deal with budgetary crisis. I had hoped that we here in Washington, representing the American people, could put our bipartisan differences aside and work toward resolving this deficit crisis without drastic measures. However, the continuing record-breaking deficits have necessitated this course of action.

Many measures have been introduced over the years proposing a balanced Federal budget. However, all of them have lacked one or more provisions which I believe are essential if we are going to address this problem in a direct but reasonable manner.

Let me highlight those provisions included in my proposed constitutional amendment which, when taken together, uniquely address the deficit problem.

First, House Joint Resolution 428 would require not only that Congress adopt a balanced budget, but that the President prepare and submit a balanced budget to Congress as part of his annual budget submission. Omitting the President from the balanced budget process would significantly hinder any effort to achieve balance since it is the President who develops the budget and then presents it to the Congress for approval. The Congress merely refines the President's budget request—which usually means that the Congress cuts the President's request. In fact, in all but four of the fiscal years 1947 through 1983, the Congress has appropriated less than the President requested.

Indeed, the Congress controls the purse strings on the Federal budget, but according to the Budget and Accounting Act of 1921, the President has the responsibility to prepare and submit the budget to the Congress. It is the President who has the information on all the line item accounts. Most Congressmen don't even see the budget because the budget is really a pile of computer tapes sent to Congress from the executive branch. It is the President who administers the Federal programs, whose agencies prepare the request to either eliminate or augment particular Federal programs. It is, therefore, important that both branches of Government—executive and legislative—share the responsibility for achieving budget balance.

Additionally, my proposal assures that our Federal Government's commitment to national defense will not be breached. To provide flexibility to respond to threats and emergencies affecting our national security interests, my amendment allows suspension of the balanced budget requirement in the event of a national emergency or declaration of war. Furthermore, unlike many other proposals, House Joint Resolution 428 would go into effect immediately upon ratification by the States.

STATUTORY REQUIREMENT FOR BUDGET BALANCE

A call for a constitutional amendment requiring a balanced budget is merely useless rhetoric if it is not matched by a call for immediate steps to impose fiscal discipline. Indeed, we need fiscal discipline 7 years from now, when the constitutional amendment would take effect, but we also need discipline now.

That is why I support the Balanced Budget Act, H.R. 6300. This bill is designed to bring the debate over budget deficits down to specifics and to require both the President and the Congressional Budget Committees to immediately begin laying out concrete plans for balancing the budget.

Specifically, the bill would require both the President and the House and Senate Budget Committees to prepare

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balanced budgets each year, beginning with the budget for fiscal year 1986—the budget the Congress will begin considering next January.

The legislation takes account of the fact that achieving a balanced budget immediately is probably impossible and that there will also be times in the future—during recessions, for example—when a balanced budget may be neither feasible nor desirable. Accordingly, the bill provides that if the President or either the House or Senate Budget Committees determines that a balanced budget is not appropriate for any particular fiscal year, they may also propose alternate budgets which are not balanced. Such alternate budgets, however, would be required to include a plan and a specific timetable for balancing the budget in the future.

There is just no way that a $150 billion deficit can be eliminated overnight without causing social and economic chaos. Balancing the budget will take several years, but this bill begins the process toward achieving that goal.

Passage of the Balanced Budget Act would represent a sharp break with "business as usual." Starting next year, both the President and the Congress would be required to formulate balanced budgets. The Balanced Budget Act will focus attention of budget balance now, not 7 years from now when a constitutional amendment will finally take effect—even if approved by the Congress this year. The Balanced Budget Act will place considerable pressure on both the President and Congress to move take significant deficit reduction steps now, to make progress toward a balanced budget as quickly as possible. Only if such steps can be taken now, only if progress is made toward balance, will we have any chance at complying with a constitutional requirement.

Mr. GREGG. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. CONABLE].

Mr. CONABLE. Mr. Speaker, I disagree with the gentleman from Georgia [Mr. LEVITAS] that this is chicken soup. It is just plain chicken. And it is not the path to paradise. It is the primrose path. I also disagree with my friend, the gentleman from Arkansas. This is not high political drama but the lowest possible political drama. It is so transparent that it is hilarious—a farce.

We are all going to vote for this measure, and we all know we are because it expresses our commitment to the general principle of a balanced budget; and then nothing is going to change. Until we elevate this issue to a constitutional level and create a procedure whereby this Congress will have to face up to its fiscal responsibilities, things are not going to change. You could call this a "plowing-in-the-sea" amendment because once we all vote for it, go off in the warm glow of self-described virtue, you can be sure the waters will close behind us again and we will again embark, without track, on the deep and rather low political course we have been following as long as we ignore our fiscal responsibilities. A constitutional amendment will not take 7 or 8 years, but 2, for implementation, and then future Congresses will be bound as firmly as this vaporish legislation will evaporate with this Congress, certainly, and with this moment, probably.

Mr. BLILEY. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Virginia.

Mr. BLILEY. I thank the gentleman for yielding.

Mr. Speaker, H.R. 6300 is a sham. This legislation, that has so fortuitously been taken off the regular calendar and been placed on the suspension calendar, would serve no purpose whatsoever if this were not an election year. The propaganda value of this bill to those people who have refused to let this House vote on the balanced budget constitutional amendment is the sole purpose behind bringing it to the floor.

I feel safe in these statements because there are two Federal statutes, Public Law 95-435, passed in 1978, and Public Law 96-5, passed in 1979, which require Congress to adopt a balanced Federal budget. Members of this body know that Congress has the sole power to appropriate money and to designate the purposes for which it will be spent. And Members of this body also know that Congress has not passed a balanced budget in 20 years. We have not passed a balanced budget as we required ourselves to do in 1978 and again in 1979. Perhaps some of our citizens don't know this fact, but they should. They should know that the sponsors' great efforts for balanced budgets have not produced one in this body, though the Constitution gives us the power to and at least two public laws compel us to.

H.R. 6300 only requires that the President submit a balanced budget and that the Budget Committee report at least one balanced budget proposal to the floor. Big deal. If Congress has the will to ignore the law, then as surely as the Sun rises in the East and sets in the West Congress will exert the same will to ignore one reported balanced budget proposal accompanied by several other unbalanced budgets.

I am not opposed to balanced budgets, or to getting one proposed so that we can discuss how much better off Americans would be with a balanced Federal budget. But, I am opposed to a farce. This is an attempt to pull the wool over the eyes of the American people and posture about making the President submit a balanced budget when he has no power to enforce that proposal. The supporters of this bill are trying to transfer the blame for their own lack of ability to say "No." If spendthrift Members would stop trying to deny their own responsibility for congressionally passed budget deficits and exercise a little restraint, then we could make some real progress in this body instead of playing political games with worthless pieces of paper like this bill.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BROOKS], the distinguished chairman of the Committee on Government Operations.

Mr. BROOKS. Mr. Speaker, I want to commend my colleague from Oklahoma for introducing H.R. 6300, to require the President to submit a balanced budget for each fiscal year. I support this bill and feel that it will introduce a needed measure of fiscal restraint into the budget deliberations of the President and his advisors in the executive branch of the Government.

With the growing Federal deficits that we have experienced during the 4 years of the Reagan administration, no task is more important today than the job of balancing our budget.

We have to bring a halt to the growing flood of red ink and a spiraling Federal debt. On this matter, I share the views of our country's third President, Thomas Jefferson, who wrote:

> I place economy among the first and most important virtues, and public debt as the greatest of dangers to be feared * * * to preserve our independence, we must not let our rulers load us with public debt * * * we must make our choice between economy and liberty or confusion and servitude.

This is as true today as it was during the formative years of our Nation, and I believe most Americans share this view.

Campaign promises notwithstanding, President Reagan has a proven record for all to see: He is the biggest spender ever to sit in the Oval Office of the White House. According to a Congressional Budget Office study, if reelected to office, President Reagan would run up about twice as much debt as all other U.S. Presidents combined. If it continues along the path charted by the current occupant of the White House, Government borrowing of a magnitude now projected would use 56 percent of the net savings of this country over the next 6 years. This is five times the share of savings consumed by deficits in the 1960's, when we had strong economic growth and productivity increases.

President Reagan has placed a heavy mortgage on the future of our children, and, if not restrained, will inevitably produce a lower standard of living in the future.

If President Reagan wants a balanced budget, let him, for the first

time, submit a balanced budget in January 1985.

This bill is a responsible approach to the balanced budget problem. It will give the Congress and the American people an opportunity to see exactly what a balanced budget would do and to make choices. It would provide flexibility without the dangers of rigidity that a constitutional amendment would entail.

Mr. Speaker, the message of the bill before us today, H.R. 6300, is for this President and future chief executives to act responsibly and with a measure of fiscal restraint when formulating and submitting a budget to the Congress of the United States. If our current President and my colleagues on the other side of the aisle are truly committed to their own campaign rhetoric about a balanced budget, then they will support this bill.

Thank you.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. BROOKS. I yield to my distinguished and polished friend, the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Was not this bill submitted to our committee, the Government Operations Committee?

Mr. BROOKS. Was it referred to it?

Mr. WALKER. Yes. Was it not referred to our committee?

Mr. BROOKS. It was referred to us last week. We did not have an occasion to have a meeting because I left for Texas, and I came back on Monday; and this being Tuesday, we have not met. And I would assure you that the full committee is not going to meet until next year.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana [Mr. ROEMER].

Mr. ROEMER. I would like to rise in support of the Jones act, saying that it has been cleverly and accurately pointed out by speakers better than I that this is not the cure-all for our problem. It has been pointed out over and over again that many people and elements in our society share the blame for $175 billion deficits extending as far as we can look.

But this bill is designed, I think, to highlight the need for cooperation between the White House and the House of Representatives and the U.S. Senate on the real problem—forget your politics for a second—on the real problem of, together, fairly reducing the budget deficit.

Give the prettiest speeches you want to give, make the strongest political stance you want to take, someplace, sometime, we have got to reduce the deficit. We will do it better together.

Let's pass the Jones bill.

Mr. GREGG. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. MACK].

Mr. MACK. Again, I wonder if the chairman of the Budget Committee would respond to a couple of questions.

As I understand it, this bill would require Congress, the Budget Committee, to prepare a balanced budget also; is that correct?

Mr. JONES of Oklahoma. The gentleman is correct. This legislation puts the same burden on both the President and both Houses of Congress.

Mr. MACK. That is all I needed to know.

I would like to ask the gentleman a different question: Is the gentleman going to be the chairman of the Budget Committee next year?

Mr. JONES of Oklahoma. Well, under the present rules, the chairmanship would rotate out. We do not know what rules are going to be in effect next year, and I cannot answer that question.

Mr. MACK. The point that I would like to make to the chairman is that I think for the last 4 years that you have been in the position of chairing the Budget Committee I find it rather strange, even though I can understand the politics of what goes on around here, rather strange that you would give someone else the responsibility—or maybe I should rephrase that and say the obligation——

Mr. JONES of Oklahoma. Will the gentleman yield?

Mr. MACK. No; I am not going to yield at this point. The obligation——

Mr. JONES of Oklahoma. Oh, you are going to mention my name but not yield?

Mr. MACK. I will let you respond as soon as I am through with the statement.

Mr. JONES of Oklahoma. All right.

Mr. MACK. It is rather strange that at this point you would give someone else the obligation, the obligation, in essence, that many of us believe you have had over these past 4 years.

Mr. JONES of Oklahoma. Will the gentleman yield on that point?

Mr. MACK. I will be glad to yield.

Mr. JONES of Oklahoma. The first year I was chairman of the Budget Committee we submitted a balanced budget, and we lost that battle. It would be balanced today had we won.

Mr. MACK. Let me reclaim my time. My suggestion would be that you ought to come back then not just in 1981, and 1982, and 1983, and 1984, you do not need a law to do that, you just said that you have already done it.

Mr. JONES of Oklahoma. If the gentleman will yield further——

Mr. MACK. Let me make just one further point: Since you apparently have been thinking about this balanced budget, would you give us some indication of how you would do it? Do you support the Mondale tax plan, for example?

Mr. JONES of Oklahoma. We are going to start out by passing this legislation and getting a sense of bipartisan cooperation to attack this deficit problem.

Mr. MACK. You did not answer my question. You have been thinking about this for 4 years. You said you did one in 1981. Do you support the Mondale tax plan to take care of this?

Mr. JONES of Oklahoma. If the gentleman will yield, I know he is new to the Congress, and perhaps a lot of things seem strange to him, but the fact is we have a very precise method of how we would balance the budget, and if the gentleman had voted for it——

The SPEAKER pro tempore. The time of the gentleman from Florida [Mr. MACK] has expired.

Mr. JONES of Oklahoma. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, I rise in strong support of the Balanced Budget Act. This legislation is a significant step toward reducing the staggering Federal deficits that threaten the economic strength of America.

The magnitude of recent Federal deficits almost defy comprehension. To illustrate: it took almost 200 years for the national debt to reach the $1 trillion mark. But in the last 4 years alone, the national debt has soared over $1.6 trillion. To put this in perspective, it should be noted that 43 percent of all of the Federal debt that accumulated during the history of this Republic has piled up in just the past 4 years.

If we continue on this irresponsible path, the national debt will climb to $2.5 trillion by 1989. If we are foolish enough to allow that to happen, 42 cents of every tax dollar paid by individual Americans will pay for nothing more than the interest on the exploding national debt.

Mr. Speaker, unfortunately, there are no magic words or easy answers that will bring the Federal budget into balance. There are no painless substitutes for the hard decisions that must be made if we are to put our fiscal policy in order.

While the Balanced Budget Act contains no magic words, it will serve a very useful purpose by putting increased pressure on the Federal Government—the President and the Congress alike—to move toward a balanced Federal budget as soon as possible.

Starting next year, the legislation before us would require both the President and the congressional Budget Committees to formulate and present balanced budgets. If they determine that a balanced budget is not feasible, they must fully explain the reasons for their determination and present a specific plan with a specific

timetable for balancing the Federal budget in the future.

Mr. Speaker, it is quite obvious that business as usual is out of the question. Dramatic action must be taken or we will cloud America's economic future by forcing our children and grandchildren to pick up the tab for today's irresponsible policies.

I am convinced that such dramatic action will only be possible if we have strong presidential leadership and bipartisan cooperation in Congress. I therefore urge my colleagues—Democrats and Republicans alike—to support the Balanced Budget Act as an important first step in enforcing the kind of fiscal discipline that is imperative if we are to restore sanity to our fiscal policies and effectively move toward a balanced Federal budget.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. McCLOSKEY].

Mr. McCLOSKEY. Mr. Speaker, I rise in strong support for H.R. 6300, legislation introduced by the distinguished chairman of the House Budget Committee.

H.R. 6300 will start this Nation on a path to a balanced budget, not in the next decade but in the next year. It recognizes the necessity of an equal partnership between the Executive and the Congress in making the tough decisions required to achieve a balanced budget. Rather than consider blame for whatever policies or economic conditions spawned the record deficits and mounting national debt we now face, H.R. 6300 offers the right start for solving the deficit problem rather than prolonging political rhetoric about it.

It recognizes that to balance the Federal budget we must first have a plan to do so. No economic recovery can withstand the kinds of historically high interest rates we have seen because of the Government's need to borrow hundreds of billions of dollars. No nation can regain a competitive place in the world marketplace for farmers and other exporters when our deficits and high interest rates provide a haven for foreign dollars, keeping the dollar strong and trade deficits at an all time record.

Mr. Speaker, the Jones balanced budget legislation is fair, it is workable, and its time has come. It is important for the supporters of this legislation to stress the point that a result of H.R. 6300 will be an actual, proposed balanced budget from the President and from the House and Senate Budget Committees of the Congress.

If it does not appear that a balanced budget is practical in fiscal year 1986, both the President and the Congress may approve budgets not in balance.

But we will know where the spending cuts must come, how revenues may have to be increased and what programs will have to be restrained to continue our balanced budget efforts in the following years.

In closing, I salute the able Chairman of the Budget Committee and my friend for bringing common sense to the balanced budget debate.

I would also stress that passage of this bill does not exclude eventual adoption of a balanced budget amendment to the Constitution.

This proposal is intelligent, fair, and not a product of election year rhetoric.

Mr. GREGG. Mr. Speaker, I would inquire of the Speaker how much time there is remaining on both sides.

The SPEAKER pro tempore. The gentleman from Oklahoma [Mr. JONES] has 21 minutes remaining, and the gentleman from New Hampshire [Mr. GREGG] has 14 minutes remaining.

Mr. GREGG. In that circumstance, Mr. Speaker, I would ask that the gentleman from Oklahoma proceed.

Mr. JONES of Oklahoma. I would be delighted to proceed.

Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I rise in support of H.R. 6300. The budget will not be balanced by H.R. 6300, nor will it be balanced by any constitutional amendment that is full of loopholes. But H.R. 6300 will require the President and the Congress to come clean with the American public on the deficit issue. Maybe it should be called the Truth in Budgeting Act. It will require the President to submit a balanced budget, just like most Governors do, or explain why he cannot.

□ 1430

It will also require congressional committees to adopt a balanced budget, or justify why they cannot. After 2 years around here, I am convinced that it is critical for the President to submit a balanced budget to Congress and use his office to promote a balanced budget, instead of submitting to this Congress a budget with a deficit of $175 to $200 billion as far as the eye can see, and that is just exactly what the man has done.

I am prepared to freeze Government spending, adopt the pay-as-you-go budget, enact entitlement reform legislation, like CPI minus 2, and that is the way we can get the budget under control. These are not perfect ideas but they may be politically possible.

Mr. JONES of Oklahoma. Mr. Speaker, for purposes of debate, I yield 1 minute to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of H.R. 6300, the Balanced Budget Act.

The American people understand that our economy is threatened unless we bring these deficits under control.

This bill calls for action now to eliminate our Federal budget deficit.

H.R. 6300 requires the President to submit a balanced budget in January. It requires the House and Senate Budget Committees to report balanced budgets.

This legislation will put teeth in our budget process.

The measure will force the President and Congress to get specific about the hard choices that we all know will be necessary to reduce the Federal deficit.

I urge my colleagues to vote for H.R. 6300.

Mr. GREGG. Mr. Speaker, may I inquire again what the time situation is.

The SPEAKER pro tempore. The Chair would state that the gentleman from Oklahoma [Mr. JONES] has 19 minutes remaining, and the gentleman from New Hampshire [Mr. GREGG] has 14 minutes remaining.

Mr. GREGG. Mr. Speaker, it does appear to me that in view of the time situation it would be appropriate for the gentleman from Oklahoma to go forward since he has more time.

The SPEAKER pro tempore. The gentleman will understand that the Chair is trying to alternate as much as possible. We are fairly close in time; the Chair will ask the gentleman from Oklahoma to go forward, but is trying to alternate to each side.

Mr. JONES of Oklahoma. Mr. Speaker, I would like to alternate. We will proceed with one more speaker, but I then want to alternate.

Mr. Speaker, I yield 1 minute, for purposes of debate, to the gentleman from Virginia [Mr. OLIN].

Mr. OLIN. I thank the gentleman for yielding me this time.

Mr. Speaker, I would just like to make a few observations. One is that it is certainly very evident to everybody that the time is long since past when we should have been working on the problem of balancing the budget.

It is evident also to everybody that the mere act of passing a constitutional amendment will not in itelf balance the budget; you still have the problem of getting the work done and making the choices. It is very evident to everybody that we are not going to get the budget balanced by assigning blame; by pointing fingers.

We are going to get the budget balanced by a bipartisan approach where we are working together on the problem. I submit that H.R. 6300 is an honest, forthright attempt to bring the President into the act, to bring both Houses of Congress into the act, to ask all three to present a balanced budget. To have all three to present the budget that they are willing to adopt in a particular year, and get

before the public the choices that are going to be required.

Mr. GREGG. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. FIEDLER].

Ms. FIEDLER. I thank the gentleman for yielding me this time.

Mr. Speaker, I was frankly very surprised about the fact that the chairman had decided to bring this particular amendment up, because it seems to me that if we are going to have rules, regulations or bills, and we pass them and we do not follow them, it seems to be irrelevant whatever it is that we pass.

I recall back on May 22d of this year the chairman of the Budget Committee standing up and asking the entire Congress to waive, in the most sweeping request ever made before, regarding the budget, all the budget rules as they relate to the appropriations bill.

Now if, in fact, he is unable to support and stay within the guidelines of the existing budget rules, it seems to me nothing more than a fiasco for him to put another rule up on the table and then he will ask us again to waive those rules and regulations.

Mr. JONES of Oklahoma. Mr. Speaker, will the gentlewoman yield, since she used my name?

Ms. FIEDLER. I will be happy to yield to the gentleman when I have concluded my statement.

What we are really dealing with here is just simply another method to talk about the issue rather than to actually carry it out, and that to me is simply irresponsible. It's time that we pass a real balanced budget amendment and then implement it.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 1 minute, for purposes of debate, to the gentleman from Oklahoma [Mr. WATKINS].

Mr. WATKINS. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the gentleman from Oklahoma and salute him for his legislation. I am for the constitutional amendment to balance the budget. I am also for the Jim Jones legislation requiring the President to submit to Congress a balanced budget. I would like to point out that just 2 years ago the President submitted to Congress a budget that had a record-breaking $192 billion deficit. Not one single Member from his party would introduce his budget because it was too far out of balance. The President's budget only got 1 vote after a Member from our side of the aisle had introduced the President's budget.

Now, the gentleman from Oklahoma [Mr. JONES] has submitted a bill to require that the President submit a balanced budget to Congress. Now that is not acceptable—they cannot have it both ways. We do not want to vote on one because it is too far out of balance; we have one now that will require the President to submit to Congress each year a version of a balanced budget.

I would like to say the only balanced budget that has been submitted to this Congress, to my knowledge, has been submitted by the gentleman from Oklahoma, JIM JONES, when he submitted one a couple of years ago asking this Congress to vote for a balanced budget, and the last time a President submitted to Congress was when JIM JONES was Chief of Staff for Lyndon B. Johnson. I think the record speaks for itself the gentleman from Oklahoma, JIM JONES has consistently championed the cause for a balanced budget.

Mr. GREGG. Mr. Speaker, I yield 2 minutes to the ranking member on the Budget Committee, the gentleman from Ohio [Mr. LATTA].

Mr. LATTA. I thank the gentleman for yielding me this time.

Mr. Speaker, as a member of the Rules Committee, I was quite surprised to find this matter under suspension today as the gentleman from Oklahoma was before the Rules Committee yesterday seeking a rule. The Democrat members on the Rules Committee apparently decided in caucus that this matter should not come up under a rule but today we find it under suspension.

What do we have here? We do not have a positive, clear mandate to the President to come forth with a balanced budget. No, we have an alternative proposal to come forth with a balanced budget proposal and as we find on page 3, section 2B–1, "if the President determines that a balanced budget is inappropriate for any fiscal year, he may also submit alternate budget proposals, which, if implemented, would result in a deficit or a surplus."

So he submits two budget proposals to the Congress of the United States. Second, this is a statute, not the constitutional amendment that we have been seeking to be brought to the floor. What is the difference? Well, the Congress can ignore the statute as it has been doing. We have had the Byrd amendment on the statute books for many years requiring a balanced budget by this Congress. The Congress has ignored it, just as it will ignore this one. It is a little bit late for the big spenders in this Congress, who have voted for every increase in expenditures during this session, to come along in its dying days and try to make amends by funding the American people a flimflam proposal like this for a balanced budget.

They should have been putting their votes where their mouths were on this issue a long time ago. Instead of blaming the President of the United States for all increases in spending we should look at the requests of the administration and compare them with the increases put forth by the other side. Particularly by some of the proponents of this legislation.

We ought to do something about reducing expenditures as these appropriation bills come along. The big spenders proposing this legislation have not been doing it, and now they come along with this proposal, which is not worth the paper it is written on, and ask the American people to accept it in lieu of a constitutional amendment to balance the budget. It is ridiculous on its face but it is going to pass on the basis of its title alone.

Mr. JONES of Oklahoma. Mr. Speaker, I love my distinguished friend from Ohio.

Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. NELSON].

□ 1440

Mr. NELSON of Florida. Mr. Speaker, let me respectfully remind this House what the vote was on the President's 1985 budget. When it was submitted here, it had one vote in favor of it. It had 405 votes against it. The need is apparent that a balanced budget should be submitted by the President, or that an alternative submitted out of balance should be explained as to when it will be balanced.

What this measure before us today requires is that the President submit to the Congress a balanced budget. The House and Senate Budget Committees must do likewise. Needless to say, this legislation is needed.

Two years ago I voted for the constitutional amendment to balance the budget. I also signed the discharge petition this year to bring the constitutional amendment to another vote. We did not get a chance to vote on it this year. But now we do have an opportunity to vote for legislation on balancing the budget. It is the only legislative vehicle before us and I urge my colleagues to vote in favor of it.

The SPEAKER pro tempore. The Chair will inform the gentleman from Oklahoma [Mr. JONES] that he has 16 minutes remaining and the gentleman from New Hampshire [Mr. GREGG] has 11 minutes remaining.

The Chair recognizes the gentleman from Oklahoma [Mr. JONES].

Mr. JONES of Oklahoma. Mr. Speaker, I yield 1 minute, for purposes of debate only to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of H.R. 6300. It is high time that we stopped passing along to our children and grandchildren a stack of unpaid bills. This bill will require that both the President and the Congress get specific about what we are going to do about that problem. It is only by getting specific year by year that we are going to solve it.

Yes; it will take will, but will can only be exercised when there is something specific to talk about.

We have to do it together. We have to do it with common sense, but if we continue along the road on which we are going to leave the next generation of Americans with far less than our ancestors, our fathers and mothers left us to work with today.

The SPEAKER pro tempore. The time of the gentleman from Connecticut has expired.

Mr. GREGG. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina [Mr. HARTNETT].

Mr. HARTNETT. I thank the gentleman for yielding to me.

Mr. Speaker, my colleagues on the other side absolutely amaze me. This has probably been the biggest free spending Congress in the history of the United States and now in the 59th minute of the 11th hour the chairman of the Budget Committee thinks that we ought to pass on to the President of the United States the responsibility of balancing the budget.

If you are sincere, Mr. Chairman, if your colleagues over there who now say let us have a balanced budget really mean what they say, when you know the American people are not going to be fooled by this move. Let us have companion legislation, the balanced budget amendment.

The Speaker is here. Let us bring by unanimous consent the balanced budget amendment to the Constitution to the floor of the House right now and let us vote on both of these bills if you mean what you say. Mr. Speaker, I ask unanimous consent, to recall or discharge from the committee the balanced budget amendment to the Constitution so that we can bring it to the floor of the House with House Joint Resolution 243.

I ask unanimous consent that it be brought before the House right now.

The SPEAKER pro tempore. The time of the gentleman from South Carolina [Mr. HARTNETT] has expired.

Under the rules and precedence, the motion is not to be entertained.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Mr. Speaker, the gentleman did not make a motion, it is my understanding. The gentleman asked unanimous consent request. Is the Speaker ruling that unanimous consent requests are not in order? We have already had one previous unanimous consent request that was granted during the course of debate. How would this one not be in order?

The SPEAKER pro tempore. Under the Speaker's announcement of guidelines for unanimous consent requests to consider legislative business, this request is not recognized.

Mr. GREGG. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. HOYER].

PARLIAMENTARY INQUIRY

Mr. GREGG. I have a parliamentary inquiry, Mr. Speaker.

Would you please state in the CONGRESSIONAL RECORD or in the Speaker's rule book, whatever it was you just said, would you cite the Speaker's guidelines where they are printed in the CONGRESSIONAL RECORD or in the Jefferson's Manual where the Speaker can arbitrarily issue a mandate or a guideline when I was recognized by the Chair that I could not make a unanimous-consent request.

I would like to cite that page and number for him.

The SPEAKER pro tempore. The Chair will propound the exact citation of the previously announced guidelines momentarily. We will continue with the debate.

The gentleman is recognized for 1 minute.

Mr. HOYER. Mr. Speaker, I think we could oversell this particular proposition and I think we could certainly undersell this particular proposition.

First, I would like to associate myself with the remarks of the gentleman from Louisiana.

This is not a panacea. This will not bring us a balanced budget. Let the American people understand that. But also let the American public understand what this will do and the reason that it is important to pass it now and not in January or February or March of next year. It will direct the President of the United States and the Congress of the United States to be honest with the American public.

Now, there seems to be some trepidation about that possibility. That is unfortunate because the American public deserves to know and should know the effect of any balanced budget constitutional amendment if, in fact, if were brought before us and if, in fact, it were passed.

So that although this is not a panacea, it is a useful, effective step, and I urge its adoption.

Mr. GREGG. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. PHILIP M. CRANE].

Mr. PHILIP M. CRANE. I thank the gentleman for yielding to me.

Mr. Speaker, I rise in support of God, motherhood, apple pie and balanced budgets. I think that the really definitive language in H.R. 6300 is on page 3, section 2, subsection a and in that subsection, it makes reference to the fact that the President's budget if implemented, would be in balance.

If implemented, it seems to me, is the magical language.

Back in 1978 we passed a law stating "Beginning with fiscal year 1981 the total budget outlays of the Federal Government shall not exceed receipts."

In 1979 we passed another law stating, "Congress shall balance the Federal budget."

The fact of the matter is it is a congressional responsibility, not an executive responsibility to guarantee balanced budgets. All spending originates in the Congress of the United States.

General appropriations have always originated in this body. You have got to pin the deficit spending tail on the donkey right here, in the House of Representatives.

The SPEAKER pro tempore. The time of the gentleman from Illinois has expired.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 1 minute, for purposes of debate only, to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I rise in strong support of H.R. 6300, the Balanced Budget Act.

The American people really don't care whether we balance the Federal budget by a constitutional amendment, by a strong legislative approach, or by any other means, just so long as we balance it—and stop spending tens and hundreds of billions of dollars more each year than we take in.

The Constitution is not the problem. There's nothing wrong with the Constitution.

The problem is with a Congress and a President without the will to identify where spending cuts should be made, or to agree on how revenues can be increased.

The legislation before us today would, for the first time, require the President to develop and to submit specific balanced budget proposals or goals. It puts the responsibility where it belongs—on the President and the elected Representatives

It's not a panacea, but it is a positive step in the right direction.

The SPEAKER pro tempore. The time of the gentleman from New Jersey [Mr. HUGHES] has expired.

Mr. GREGG. Mr. Speaker, may I inquire of the Chair how much time is remaining?

The SPEAKER pro tempore. The gentleman from Oklahoma [Mr. JONES] has 13 minutes remaining and the gentleman from New Hampshire [Mr. GREGG] has 9 minutes remaining.

PARLIAMENTARY INQUIRY

Mr. HARTNETT. Mr. Speaker, I want to address the Chair for an additional parliamentary inquiry, if I might.

The SPEAKER pro tempore. The gentleman will state it.

Mr. HARNETT. Mr. Speaker, I appreciate the reference in which I addressed my previous parliamentary inquiry but I would like to further inquire, Mr. Speaker, it was my understanding in your ruling that I was recognized for debate only and it was not my understanding. It was my under-

standing that the gentleman from New Hampshire and the gentleman from Oklahoma had divided the time equally and he yielded to me to debate and you cited on the record that I was being recognized for debate.

Further inquiry, Mr. Speaker. It was my understanding in the Speaker's directorate that the leadership on both sides had to sign off on any unanimous consent request and it was my understanding that Mr. MICHEL had already signed off that the unanimous consent request was acceptable to him and I am curious to know whether the leadership on that side would permit a unanimous consent request.

That would be my additional parliamentary inquiry whether we would need that sign off.

The SPEAKER pro tempore. The Chair has not been advised that there is any change in the guidelines for unanimous consent requests. It is the Chair's understanding that these guidelines were announced to the entire body in order to protect the rights of the minority so they would know when unanimous consent requests would be entertained.

Momentarily the Chair will produce the exact citation as to when those guidelines were issued.

At this point the Chair is trying to carry on the debate and we have divided the time for the purposes of the debate and it is the Chair's wish that the House continue with that debate and when the Chair has that citation he will announce it before the debate is ended.

Mr. HARTNETT. I thank the Speaker for his indulgence.

PARLIAMENTARY INQUIRY

Mr. GREGG. Mr. Speaker, I have a parliamentary inquiry.

I have 9 minutes remaining. The chairman of the Committee on the Budget has 13 more minutes remaining. After I yield this next point, I will have 7 minutes remaining.

I would request the Chair, in fairness, to proceed with the other side until the time is in more balance as we get closer to the closing of debate.

□ 1450

The SPEAKER pro tempore. The Chair would announce that the Chair is not trying to have this debate conducted in an unfair manner. The Chair will allow the gentleman from Oklahoma to have the chance to yield to a speaker to close debate and, therefore, the Chair will try to keep the division of time as near even as possible, given the consideration that the gentleman from Oklahoma have the opportunity to end the debate.

Mr. GREGG. Mr. Speaker, I have no problem with the gentleman from Oklahoma ending the debate. I would just like the times as we get toward the end of the debate to be a little more balanced.

The SPEAKER pro tempore. The Chair understands.

Mr. GREGG. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. I thank the gentleman for yielding this time to me.

Mr. Speaker and Members, I think there is a point that needs to be addressed in this debate on this issue, and that is how this bill came to the floor at this time. It is on the suspension calandar and not on the regular calendar.

Yesterday, another Member and myself went before the Committee on Rules and asked for a rule permitting a substitute on the regular calendar so that we, on our side, would have the opportunity of letting the House vote on an alternative that would say the operation, the effectiveness of this bill, would not come into play until such time as Congress had taken up the proposed constitutional amendment requiring a balanced budget. That was our request.

Unfortunately, the rule did not permit it. We also, by this procedure, have been precluded from utilizing the motion to recommit whereby we could have used the motion to recommit for the same purpose in order to give the Members of this body a chance to vote on the proposed constitutional amendment. I happen to be one of those in this body who believes that we made a mistake in not heeding the advice of Thomas Jefferson 200 years ago, who suggested that our Constitution should not permit the Federal Government to go into debt. We are still debating this issue at this time.

Here in the House at the desk we have discharge petition 10. We have 193 Members who have signed on, wanting to get to the floor the proposed constitutional amendment, House Joint Resolution 243. That puts the buck where it belongs.

We in Congress estabish the spending levels for the country. We establish the taxing levels. Presidents can only spend what we appropriate. Therefore, I think we should recognize that in Congress we have the responsibility to approve the spending level. We have the responsibility to enact a proposed constitutional amendment requiring a balanced budget.

I will remind my colleagues that 32 States of this Union have petitioned this Congress. When the number gets to 34, the Constitution says we are required to call a constitutional convention. I would hope that we would propose the proposed constitutional amendment before we come to the crisis of 34 States having petitioned Congress to act.

PARLIAMENTARY INQUIRIES

Ms. FIEDLER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentlewoman will state it.

Ms. FIEDLER. Mr. Speaker, before you had dialog with the gentleman from South Carolina [Mr. HARTNETT] regarding his parliamentary inquiry as it related to the balanced budget amendment and his right to ask for a unanimous-consent request in relationship to it.

He indicated to the Chair that he did have the approval of his leadership in order to make the unanimous-consent request.

I would like to ask of the Chair if the Chair will make the inquiry as to whether the Democratic side leadership will also ask to support his right under unanimous consent to bring the balanced budget amendment, attach it to the existing bill.

The SPEAKER pro tempore. The Chair has not been advised that there is an intention to change the guidelines that were announced earlier in the year for the purpose that they were issued.

Ms. FIEDLER. Mr. Speaker, I have a further parliamentary inquiry.

The SPEAKER pro tempore. The gentlewoman will state it.

Ms. FIEDLER. Will the Chair inquire as to whether or not the leadership on the Democratic side is willing to change the existing rules? I realize that the Chair has indicated twice now that he has not been informed that they have changed, but I am making a request that he ask the leadership if they will make that change.

The SPEAKER pro tempore. The Chair states that this is not a proper parliamentary inquiry. The Chair has not been advised that there is a change in the policy that was issued the first week of the session.

Ms. FIEDLER. I further request that the Chair reconsider his decision.

The SPEAKER pro tempore. The gentlewoman may state another inquiry.

Ms. FIEDLER. I simply again restate my inquiry to ask the Chair if he will in fact make the request on the Democratic side of the aisle to give the gentleman from South Carolina the right to bring up the issue on the unanimous-consent request. The Chair has simply said he has no position. I ask him again to reconsider that.

The SPEAKER pro tempore. The Chair would state for the third time that the guidelines which were issued on January 25 govern this situation, and the Chair has not been advised of a change in those guidelines.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 1 minute, for the purpose of debate, to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS of Montana. I thank the gentleman for yielding this time to me.

Mr. Speaker and my colleagues, does it strike anyone as ironic that the President of the United States and his Republican colleagues here in the Congress oppose a law which would require him to submit a balanced budget to this Congress, and then require us to bring one up on the floor and vote on it?

In my judgment, the reason they do not want that to happen is because they do not want to vote on balancing the budget; they would rather, as they are doing today, debate a constitutional convention for the purpose of balancing the budget. They do not want to vote on balancing the budget. The President does not want to have to submit a balanced budget. They would rather, for political purposes, debate about a constitutional amendment to balance the budget. Under that process, the budget would not be balanced for the rest of this decade.

Why do they not want to vote on it? Because they know they would have to cut defense spending 20 or 30 percent, because they know they would have to tax their rich friends. They would be required to make all of the hard choices.

They do not want to vote on balancing the budget; they only want to debate it.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Mr. Speaker, we are still trying to sift our way through the Chair's previous ruling with regard to the request of the gentleman from South Carolina.

Can the requirement that the Chair cites, can that requirement be waived by unanimous consent?

The SPEAKER pro tempore (Mr. GEPHARDT). The question has to do with whether or not recognition will be granted for that purpose, and the Chair's ruling is based on guidelines that were issued on January 25, 1984, and the Chair would read from the statement that was made at that time by the Speaker.

The Speaker said:

As indicated on page 476 of the House Rules and Manual, the Chair has established a policy of conferring recognition upon Members to permit consideration of bills and resolutions by unanimous consent only when assured that the majority and minority leadership and committee and subcommittee chairmen and ranking minority members have no objection.

Consistent with that policy, and with the Chair's inherent power of recognition under clause 2, rule XIV, the Chair and any occupant of the chair appointed as Speaker pro tempore, pursuant to clause 7, rule I, will decline recognition for unanimous-consent requests for consideration of bills and resolutions without assurances that the request has been cleared by that leadership.

This denial of recognition by the Chair will not reflect necessarily any personal opposition on the part of the Chair to orderly consideration of the matter in question, but will reflect the determination upon the part of the Chair that orderly procedures will be followed, that is, procedures involving consultation and agreement between floor and committee leadership on both sides of the aisle.

It is that guideline that the Chair is following in this instance.

Mr. WALKER. Mr. Speaker, I have a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. So my understanding is that the reason why the Chair denied the gentleman from South Carolina his request is because the Chair was not informed that the leaderships of the two sides had in fact signed off on this matter and so, therefore, could not grant the request?

The SPEAKER pro tempore. The Chair is trying to conduct this proceeding in conformance with guidelines that were set down at the first of the session, and the Chair feels no requirement to inquire from the Chair of either leadership on either side as to whether or not this should be granted. The guidelines will be followed.

Mr. WALKER. Mr. Speaker, I have a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. If the Chair was aware that the two leaderships, was made aware that the two leaderships did in fact support the unanimous-consent request, then under the guidelines the Chair could in fact grant the unanimous-consent request? Is that not correct?

The SPEAKER pro tempore. The Chair could, but the Chair is trying to conduct this proceeding in conformance with guidelines.

Mr. WALKER. Mr. Speaker, I have a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. The guidelines that the Chair has cited, what I am inquiring is, can those guidelines be set aside by unanimous consent?

The SPEAKER pro tempore. It is the Chair's power of recognition that is involved, and that is the question that is being decided in conformance with the guidelines, not other questions.

Mr. WALKER. Mr. Speaker, I have a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. If the House so deems that we could set aside those guidelines by unanimous consent, is that a proper request? That is the question of this gentleman.

The SPEAKER pro tempore. The Chair will again state that what is involved directly or indirectly, is a question of recognition, and not other or further questions, and it is that question that is being decided in conformance with the guidelines.

Mr. JONES of Oklahoma. Mr. Speaker, could the Chair have regular order?

The SPEAKER pro tempore. Will the gentleman state an inquiry? I believe the inquiry the gentleman has stated has been——

Mr. WALKER. Mr. Speaker, I am trying to understand the position of the Chair.

□ 1500

The SPEAKER pro tempore. The Chair recognizes the gentleman from Oklahoma [Mr. JONES].

Mr. JONES of Oklahoma. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS of Texas. Mr. Speaker, I rise in support of this legislation.

Mr. Speaker, without question the deficit is the No. 1 issue facing our country today. We must balance the Federal budget or interest rates will soar and plunge us into another recession. Our accumulated budget deficit over the past 4 years exceeds that of all previous Presidents' combined.

The Balanced Budget Act, introduced by Budget Committee Chairman JONES, is designed to bring the debate over budget deficits down to specifics. No one in this body is more dedicated to achieving the goal of a balanced budget than Chairman JONES. No one has worked harder, with more commitment and diligence. He has served this House, and the American people, well. Nothing demonstrates this fact better than the legislation we are now addressing. Today we have an opportunity to require all future Presidents to submit a balanced budget to Congress and to require the House and Senate Budget Committees to report balanced budgets to their respective Houses, beginning with the budget for fiscal year 1986.

Chairman JONES' proposal requires us to take the difficult first step toward balancing the budget: devising a plan whereby our goal of a balanced budget can be realized. If the President or either of the Budget Committees, determines that a balanced budget is not appropriate for a particular year, they may also present alternate budgets which are not balanced. However, these alternate budget proposals would be required to include a specific plan and timetable for achieving a balanced budget in the future.

Despite endless talk of reducing the deficit and balancing the budget over the past few years, that critical first step has never been taken. The administration which promised a balanced budget by 1983 has so far refused to even propose a balanced budget. The

saddest statistic is that the savings we have realized through the painful budget cuts of 1981 do not even equal the interest we now pay on the deficit.

It seems clear that after 4 years of meaningless talk this administration has no intention of giving us a balanced budget absent some affirmative plan. Meanwhile, the painful deficit continues to soar, interest rates remain high, and real fiscal recovery is out of our reach.

Even if a balanced budget amendment were added to the Constitution tomorrow, as the administration requests, it might not become effective until the 1990's. This is clearly not soon enough. Chairman JONES realizes this basic fact. He knows that the budget process must be restructured if we are ever to get a handle on this problem. The Jones proposal turns a much-needed idea into a responsible budgetary plan.

We all want and certainly need a balanced budget, this proposal puts us squarely on the glidepath to reaching that goal. The time is now for all Americans to realize that the crisis of the Federal deficit demands that we stop borrowing on the future and start balancing the budget.

Mr. JONES of Oklahoma. Mr. Speaker, would the Chair advise the time remaining on our side?

The SPEAKER pro tempore. The gentleman from Oklahoma [Mr. JONES] has 12 minutes remaining and the gentleman from New Hampshire [Mr. GREGG] has 7 minutes remaining.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. GRAY].

Mr. GRAY. Mr. Speaker, for several months now, the Members of this House have been subjected to daily admonitions by the Members on the other side of the aisle to debate a proposed constitutional amendment to balance the Federal budget.

Today, we have before us the Balanced Budget Act (H.R. 6300) which, in my view, represents the only serious legislative vehicle designed to accomplish what the Members on the other side have been advocating that we do—balance the Federal budget.

I find it ironic that, the President repeatedly asserted that his intention was, upon his election, to balance the Federal budget by the end of his first term. The irony is that, in point of fact, it is the President's own revenue and defense policies which have directly contributed to a tripling of the deficit since 1980.

By the President's own budget projections, the deficit will exceed $200 billion by fiscal year 1986, and will total in excess of $900 billion over the next 4 years.

The administration's deficits have become the most clear and present danger facing this Nation today, and the American people are demanding that we take definitive action to reduce the debt which is choking the very lifeblood from economic recovery.

The legislation before us is designed to take the discussion of balancing the budget out of the realm of political rhetoric into the light of political reality.

H.R. 6300, unlike the proposed constitutional amendment, requires that both the President and the Congressional Budget Committees prepare balanced budgets each year—beginning in fiscal year 1986. A constitutional amendment, even if passed by this House and the other body, would take years to become operative.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania [Mr. GRAY] has expired.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 30 additional seconds to the gentleman from Pennsylvania [Mr. GRAY].

Mr. GRAY. Mr. Speaker, as a member of the House Budget Committee, I believe that we must work through the congressional budget process to find effective and meaningful solutions to our escalating economic crisis. Because of my concern, I cosponsored the original Balanced Budget Act introduced by the distinguished chairman of the House Budget Committee—H.R. 6066.

Because of the great concern I have about the burgeoning Federal deficits, that I urge my colleagues on the other side of the aisle to put aside partisan political rhetoric and join with me in supporting H.R. 6300. The American people will tolerate no less.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania [Mr. GRAY] has expired.

The Chair recognizes the gentleman from New Hampshire [Mr. GREGG].

Mr. GREGG. Mr. Speaker, if I might inquire of the gentleman from Oklahoma, how many more speakers does he have?

Mr. JONES of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. GREGG. Yes, I would yield to the gentleman.

Mr. JONES of Oklahoma. Mr. Speaker, it appears that I have five speakers, but I am not sure they are all going to speak or that they are all here.

How many speakers does the gentleman have?

Mr. GREGG. Well, I was going to ask unanimous consent that we have an additional 20 minutes of debate in order to accommodate the speakers.

Mr. JONES of Oklahoma. How many speakers does the gentleman have?

Mr. GREGG. I have about six or seven more speakers who would like to have time.

Mr. JONES of Oklahoma. Then perhaps the gentleman should go through his speakers, and we will try to even up some of the speakers. Then we might entertain that.

Mr. GREGG. Well, I would rather we would even up the time, because that is the issue, of course, not the number of speakers.

Mr. JONES of Oklahoma. I cannot manage the gentleman's time for him. We have tried to alternate back and forth. I think it has been fair at this point.

Mr. GREGG. Mr. Speaker, I ask unanimous consent that we extend the debate for another 20 minutes, the time to be divided equally between the two sides.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Hampshire?

Mr. JONES of Oklahoma. I am going to object at this time, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

The Chair recognizes the gentleman from New Hampshire [Mr. GREGG].

Mr. GREGG. Mr. Speaker, is the Chair requesting that we proceed with a speaker at this time?

The SPEAKER pro tempore. It is the Chair's intention to alternate and to reserve for one last speaker the additional time that the gentleman from Oklahoma maintains.

Mr. GREGG. Mr. Speaker, it does seem to me, even in that scenario, that we are ending up getting short-changed. But that is consistent with the bill, I believe.

Mr. JONES of Oklahoma. Mr. Speaker, if the gentleman will yield, our speakers have tried to conform to the time limits, and, therefore, they have already used up their minutes. I do not want to be unfair to them.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New Hampshire [Mr. GREGG].

Mr. GREGG. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Well, Mr. Speaker, thank God this is not a medical research center, because if you believe laetrile cures cancer, you think that Dr. "Feelgood's" bill here on the floor is going to do something, but the fact of the matter is that it has nothing to do with the legislation on the floor; it has to do with the will of the Members of Congress.

We have heard a lot of rhetoric here about how we have to put the onus on the President. Let us look at the record. Let us look at what the National Taxpayers Union has to say. It rates us on every single vote we have that impacts on spending, whether it is social spending or defense spending or whatever. Interestingly enough, their average of the Democratic Members who serve on the Budget Committee

puts them all in this category of big spenders.

Maybe that is the problem. Maybe the problem is that it is the Members here who cannot find it within themselves to have the guts to bring in our spending at the same level as our revenues. If that is the case, let us make sure that the people know it, and let us not pass off this legislative placebo here.

If you promise something in medicine, you might kill the patient. Here you can promise something, promise them anything, and you get applause and you get reelected. But let us talk about what the record says.

Of those who had the best record for spending restraint under the National Taxpayers Union congressional spending study, during the 1st session of the 97th Congress only 3 of the 35 were Democrats, and 2 of those switched to the Republican side. And the study of the second session showed the same pattern. Only 5 Democrats out of 38 happened to be in the good spending section. All of those who were in the big-spending section happened to be on the Democratic side of the aisle.

If you want to stand up here and throw brickbats at the President of the United States, let us look at this institution itself. We have promised, we have promised, we have promised, and we have never delivered a balanced budget.

This does nothing more than what is already on the books. It does not even require that the House of Representatives pass out a balanced budget. It says that the Budget Committee will send it out, and then we can get rid of it.

Mr. Speaker, I say, vote down the "Feelgood" proposition, and let us do something right for the American people and not fool them.

The SPEAKER pro tempore. The time of the gentleman from California [Mr. LUNGREN] has expired.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 1 minute, for the purpose of debate, to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Speaker, clearly the American people want Congress to reduce the large budget deficits. If we are to lower interest rates and continue the recovery, we must reduce these large deficits.

The first step, in my judgment, is to convince President Reagan to submit the first balanced budget of his administration and then to let the Budget Committees consider that plan and present it to the House of Representatives. This bill is the first step in that direction, and I think it is a positive step. It will create a public debate on the medicine that must be taken in order to balance the Federal budget.

Finally, Mr. Speaker, again if Mr. Reagan wants a budget so badly and if his colleagues in the House want it so badly, why do they not ask Congress and submit it so the American people can consider it?

The SPEAKER pro tempore. The time of the gentleman from Washington [Mr. DICKS] has expired.

The Chair recognizes the gentleman from New Hampshire [Mr. GREGG].

Mr. GREGG. Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The Chair will state that it is the Chair's intention to alternate until we get to the last segment. The Chair has been informed that the gentleman from Oklahoma wishes to yield 5 minutes for the conclusion of the debate.

Mr. GREGG. Mr. Speaker, can the Chair tell us how much time is remaining?

The SPEAKER pro tempore. The gentleman from Oklahoma [Mr. JONES] retains 9½ minutes and the gentleman from New Hampshire [Mr. GREGG] retains 5 minutes.

Mr. GREGG. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. GINGRICH].

PARLIAMENTARY INQUIRY

Mr. DELLUMS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. DELLUMS. Mr. Speaker, is it a violation of the comity and custom of the House to refer to a Member of this body in terms other than as the gentleman from a particular State?

The Chairman of this committee was referred to as "Dr. Feelgood Jones," and I would think that is in violation of the comity and custom of the House. I would appreciate it if the Chair would advise this gentleman.

□ 1510

The SPEAKER pro tempore. The gentleman is correct in stating that it is the custom and practice and tradition of the body that Members of the body should be referred to as the gentleman or gentlewoman from a certain State.

Mr. DELLUMS. I thank the Speaker and I would hope that my colleagues would continue this debate with the sense of dignity and respect that is in order as we proceed on this matter.

The SPEAKER pro tempore. The gentleman from Georgia [Mr. GINGRICH] is recognized for 2 minutes.

Mr. GINGRICH. Mr. Speaker, the gentleman from California, as usual, has made an excellent point about comity and I think it is useful for those in the majority to understand why on the Republican side when a bill is brought out without coming through committee, when it is brought out without coming through the rules, when it is brought out without any opportunity for our side to bring up the bill that we would like to see brought up, when it is brought up at the pleasure of a handful of people, when the signatures of 194 Members who signed a discharge petition are neglected, that it is a little harder to have comity when you are on the side that is being run over, than it is when you are on the side running the bulldozer; but this House is a place with a great sense of humor. Many years ago the House added a new word to the English language. The Webster's New World Dictionary explains the House's word, and I quote:

> Bunkum. Bunkum County, North Carolina, from the fact that the Representative to Congress 1819 to 1821 from the district including this county continually felt bound to quote, "Make a speech for Bunkum."
>
> Colloquial: (1). Talk that is empty, insincere or merely for effect.
>
> (2). Anything said or done merely for effect. Humbug became colloquialized into the word bunk, which meant, slang, bunkum, nonsense, twaddle."

I might point out to the House that those of us who have fought against big spending and against tax increases will vote against the Jones opportunity—the gentleman from Oklahoma's opportunity, excuse me; but those of us who have been here fighting to change the rules to represent the American people will vote against the effort of the majority leadership to hide behind a fig leaf and avoid Mondale's tax increase.

What I should suggest to the American people watching this debate in a very straight forward way is simply this, I was 11 years old when the Democratic party took over the House of Representatives and now 5 weeks before an election they are offering you a bill, not a constitutional amendment, nothing binding, a bill to do that which for 30 years they have failed to do.

I would suggest that it is a little bit much after 30 years to come up with this particular fig leaf.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I rise in support of this proposal, not because it is going to produce a balanced budget. There is no proposal that is before the Congress, even a constitutional amendment, that will produce a balanced budget next year or the year after. Anybody who has an ounce of knowledge about the realities of a $920 billion Federal budget knows that until people are willing to make tough decisions on defense, entitlements, and revenues, that they will never balance the budget or reduce the deficit.

The hope here is that we can possibly focus the deficit debate on those very tough decisions that need to be made. That unfortunately, is not the case today.

The debate on deficit reduction is diverted by the politics of blamesmanship. It is diverted by the politics of

trying to find a magic answer where there is no magic answer and it is diverted by the excuses about what the impact of the budget deficit is, that somehow we can recover our way out of $200 billion deficits.

There is no magic that can produce the courage needed to make the tough decisions. There is no magic that can produce the leadership that both the President and the Congress have to show on this issue and there is no magic that will produce the consensus that both parties have to put together if we are serious about reducing the deficit.

What this proposal tries to do is to say that that responsibility is both the President's and the Congress'. Indeed, morally, legally and constitutionally, the responsibility belongs to both.

There is not one ounce of spending that has been enacted that does not go into effect without the signature of the President of the United States. Let us understand that. The President signs off on those bills and has a responsibility to recommend a budget and work within the budget process for the good of the country overall.

So let us understand that what we are seeking is to try to assign that responsibility to both sides, because ultimately it is up to both the Congress and the President if we are serious about reducing the deficit.

Mr. GREGG. Mr. Speaker, I yield 30 seconds to the minority whip, the gentleman from Mississippi [Mr. LOTT].

Mr. LOTT. Mr. Speaker, I had planned to take longer to speak on this issue, but have really concluded that it is not worth it.

This is a toothless wonder. We are being asked to gum, not bite, the balanced budget bullet. It is a frivolous exercise rooted in the election period politics and I think we ought to treat it that way and vote accordingly.

Mr. Speaker, I think the Rules Committee did the correct thing in not considering or reporting the closed rule that was requested on this so-called balanced budget bill, H.R. 6300. And I use the term, so-called balanced budget bill because I think this is one of those instances where the contents don't measure up to the truth in labeling regulations we have imposed on everyone but ourselves.

I think the majority members of the Rules Committee realized that if we brought this bill to the floor under a closed rule, we would still find a way on this side to get at least an indirect vote on considering the balanced budget constitutional amendment approach. That was requested by two witnesses before the Rules Committee and our side was prepared to offer such an amendment to the rule to give the House that choice. Frankly, I wish the Rules Committee would have adopted such a rule and given the House a chance to vote on both the Jones bill and the Conable balanced budget constitutional amendment.

The bill now before us, H.R. 6300, had no cosponsors as of yesterday. Its predecessor bill, which differs in several substantive respects, had only 95 cosponsors. The Conable constitutional amendment, on the other hand, House Joint Resolution 243, has 168 cosponsors. Moreover, 193 House Members have signed a discharge petition to bring that measure to the floor. So, I have no doubt as to which approach the House would have favored. That's because the vast majority of the American people favor a balanced budget constitutional amendment, and we are the people's branch.

What's the basic difference between the Jones bill and the Conable amendment? It's the difference between night and day. The Jones bill says the President shall submit a balanced budget, but may submit an alternative if he thinks it's inappropriate to have a balanced budget. And the Budget Committees of Congress may report balanced budgets unless they think it's inappropriate, in which case they need only report an alternative comprehensive plan. There is no requirement for the Congress to even have to vote on a balanced budget, let alone adopt one and live by it. The Jones statutory approach is somewhat analogous to amending the Sixth Commandment to read, "Thou shalt not kill * * * unless thou wants to, in which case thou need only explain why thou did it."

In the Jones bill we are told: "Thou shalt balance the budget unless thou thinks it inappropriate, in which case thou need only explain why thou thinks it inappropriate."

The Conable amendment, on the other hand, would enshrine in the Constitution an amendment that would require the Congress to adopt a balanced budget, unless three-fifths of both Houses deem it necessary to have a deficit.

Now I can sympathize with my friend from Oklahoma who says a constitutional amendment would take several years to ratify, and that a statutory approach is preferable because it would be immediate. I even joined with him on March 15, 1979, in an attempt to amend the debt limit bill to provide for a statutory, balanced budget requirement. But that provision at least had some teeth; this one has no teeth. It's a toothless wonder. We are being asked to gum—not bite—the balanced budget bullet.

In the Jones-Gramm-Lott amendment in 1979, we would have required both Houses of Congress to adopt balanced budgets before passing any debt limit increase bills, in fiscal 1981 and thereafter, and that requirement could only be overridden by a vote of two-thirds of both Houses.

I regret that my colleague from Oklahoma has watered-down that strong, statutory language so much that he has diluted it of all meaning and force.

On that occasion in March 1979, my colleague from Oklahoma explained our frustration at being denied an opportunity to offer such a statutory provision. To quote from his remarks:

> The frustration to those of us who have not only made speeches but who firmly believe that we must get our fiscal house in order and discipline ourselves in spending is that when it comes to having an amendment or proposal with teeth in it, we are procedurally denied from offering that amendment on the floor of this House.

My colleague from Oklahoma concluded his remarks on that day with the following observation, and again I quote:

> The only way an alcoholic can become sober and stay sober * * * is to put a cork in the bottle and quit drinking. We must impose a legal discipline to quit deficit spending.

Well, we lost our procedural effort to offer a balanced budget requirement with teeth on that day by a vote of 201 to 199. But the remarks of the gentleman from Oklahoma on that day are just as appropriate today when we are being denied, on his bill, under this procedure, from offering a real cork, a real legal discipline, for the bottle of deficit spending. The gentleman's present bill is no cork, no legal limit. It only talks about plans, that may or may not be voted on, to balance the budget. This bill is worse than meaningless in its present form. It is a cosmetic that can not begin to cover up its underlying blemishes. It has no business being considered under suspension of the rules with no opportunity to amend it and give it teeth. Let's cut the rhetoric and start some real fiscal discipline in this House.

Mr. JONES of Oklahoma. Mr. Speaker, may I inquire of the other side how many more speakers they have, because to my knowledge we only have two speakers left on our side.

Mr. GREGG. We also have two speakers.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 1 minute to myself.

Mr. Speaker, I just cannot understand what the other side is afraid of. We have been hearing for all these years the speeches about a balanced budget and I am amused that those who speak loudest about a balanced budget today are the ones who are opposing a serious attempt to get a balanced budget. If this thing did not have any teeth in it, then why would you oppose it? What would it hurt?

The fact of the matter is that it does have teeth in it. It does not take effect 5, 7, 9 years down the road. It takes effect next year and applies to the President. It applies to the House. It

applies to the other body and the time to put up is now.

Talk about gumming the bullet, the only gumming that I see are these speeches. It seems to me that we ought to start being honest. You do not get a balanced budget by making speeches about it. You get a balanced budget by specifically proposing a specific plan to cut spending and provide the revenues. That is what this requires us to do.

Mr. GREGG. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. WEBER].

Mr. WEBER. Mr. Speaker, I cannot believe the gentleman from Oklahoma could say that with a straight face. We all know why this legislation has come to the floor at this late hour. It is not any secret. We all know it is because the gentleman from Tulsa faces a tough reelection fight.

Mr. JONES of Oklahoma. Mr. Speaker, will the gentleman yield on that point?

Mr. WEBER. I will not yield.

He faces a tough reelection fight. He opposes the balanced budget constitutional amendment. He has one of the most liberal spending records in the House of Representatives.

Mr. JONES of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. WEBER. And so he comes to the floor with a gimmick. I think that is truly unfortunate. This bill was not passed out of the Budget Committee.

POINT OF ORDER

Ms. OAKAR. Mr. Speaker, a point of order.

The SPEAKER pro tempore. The gentlewoman will state her point of order.

Ms. OAKAR. Mr. Speaker, I question the speaker regarding impugning the motives of the chairman who has introduced this legislation.

The SPEAKER pro tempore. Does the gentlewoman insist that the gentleman's words be taken down?

Ms. OAKAR. Yes, Mr. Speaker, I do.

The SPEAKER pro tempore. The Clerk will report the words.

□ 1520

PARLIAMENTARY INQUIRIES

Mr. MOLINARI. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. MOLINARI. Mr. Speaker, as an observer of what transpired here, it was my impression that the point of order raised by the gentlewoman was raised too late, and I would ask the Chair to make a ruling that in fact a point of order was made too late.

The SPEAKER pro tempore. The Chair would state that at the time the point of order was made further debate had not taken place and therefore the point is entertained.

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WALKER. It was my impression that the gentlewoman never asked that the words be taken down, that the Chair guided her into that.

Ms. OAKAR. I asked.

Mr. WALKER. The gentlewoman never made that point in her language. Is that usual procedure?

The SPEAKER pro tempore. The Chair was simply attempting to understand the intent and the motive of the gentlewoman's point of order.

Mr. MOLINARI. Mr. Speaker——

The SPEAKER pro tempore. For what purpose does the gentleman from New York rise?

Mr. MOLINARI. I would like to ask unanimous consent that the gentleman from Minnesota [Mr. WEBER] be permitted to proceed in order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, who is the objector? Can we identify the objector, please?

The SPEAKER pro tempore. The Chair states that objection was heard.

Mr. WALKER. The record would have to reflect the objection. Who objected, Mr. Speaker?

The SPEAKER pro tempore. The Chair placed the request and objection was heard.

Mr. MOLINARI. A parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. MOLINARI. Mr. Speaker, we have others in this room besides Members of the House. It is conceivable that somebody who is not a Member of this House could have uttered those statements and I think we are entitled to know who it is, if anybody is a sitting Member of this body that has raised an objection.

The SPEAKER pro tempore. The gentleman is correct. Is there objection?

Mr. PANETTA. Mr. Chairman, I object.

Mr. COELHO. I object.

The SPEAKER pro tempore. Objection is heard.

Mr. MOLINARI. Did I notice the Chairman of the Democratic Campaign Committee on his feet?

Mr. FOLEY. Mr. Speaker, I object.

The SPEAKER pro tempore. The Clerk will read the words objected to.

Mr. JONES of Oklahoma, Mr. Speaker.

The SPEAKER pro tempore. For what purpose does the gentleman from Oklahoma rise?

Mr. JONES of Oklahoma. Mr. Speaker, I want to respond to the gentleman's previous unanimous-consent request.

I think if there is one thing that we need to have in this body, it is to be able to disagree agreeably. I would hope that on my side that if the unanimous-consent request were raised again, that there would be no objection.

The SPEAKER pro tempore. Does the gentleman have a unanimous-consent request?

Mr. MOLINARI. Mr. Speaker, I repeat my request that the gentleman from Minnesota [Mr. WEBER] be permitted to speak in order, based on what the gentleman from Oklahoma has just said.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Does the gentleman from Minnesota first ask unanimous consent to modify his words?

Mr. WEBER. Mr. Speaker, I ask unanimous consent to modify my words.

The SPEAKER pro tempore. Is there objection?

Ms. OAKAR. Mr. Speaker, reserving the right to object, I would like to know what his words are going to be that he is going to modify.

Mr. WEBER. Precisely the words to which the gentlewoman objected.

The SPEAKER pro tempore. The words that were uttered just prior to the gentlewoman's demand.

Ms. OAKAR. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. WEBER] may proceed in order.

Mr. WEBER. I thank the Speaker, and I would also like to thank my colleagues on the other side of the aisle for their courtesy.

Let me say it was never my intention to refer to the distinguished chairman of the Budget Committee in an unparliamentary fashion, nor to impugn his motives. It was my intention to bring to the attention of this body and all those that are watching the proceedings today the fact that the debate over this issue is far removed from the reality of this issue.

Most people understand that. The people in the press that are looking at our proceedings understand that. My constituents understand that and the constituents of the gentleman from Oklahoma understand that.

Mr. JONES of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. WEBER. I yield to the gentleman from Oklahoma.

The SPEAKER pro tempore. The time of the gentleman from Minnesota [Mr. WEBER] has expired.

The Chair recognizes the gentleman from Oklahoma [Mr. JONES].

Mr. JONES of Oklahoma. Mr. Speaker, I have but one other speaker, so I would yield to the other side.

Mr. GREGG. Mr. Speaker, I yield the balance of my time to the gentleman from Illinois [Mr. HYDE].

The SPEAKER pro tempore. The gentleman from Illinois [Mr. HYDE] will be recognized for 1 minute and 30 seconds.

Mr. HYDE. Mr. Speaker, one would think that the Reverend Moon is orchestrating a mass deathbed conversion. I have never seen so many big spenders at the 11th hour, as we have only two more days left in the session, suddenly discover salvation with a new phrase, "balanced budget." It is remarkable.

I am also incredulous at so many lawyers who think we can pass a law and require the President to submit our kind of budget. There is a doctrine called the Separation of Powers. Are we trying to make the President an employee of the Congressional Budget Office?

To do a foolish thing that is unconstitutional, especially by so many of us who worship at the altar of the Constitution, boggles the mind. I have seen lawyer after lawyer, most anticipating a tough reelection fight, wanting to link themselves, however only verbally, with a balanced budget, and so they come forward and support this interesting document.

Now that all of this spending is done, now that the credit cards have virtually melted in the boxes, you say "the time is now to put up."

This trivializes the issue of a balanced budget. This bill is a fiscal afterthought and must have been gestating, I say to my friend from Oklahoma, for at least 4 years in the bowels of the committee.

I was going to say bosom of the committee, but I think, on reflection, bowels of the committee is the appropriate phrase for this.

It is all windup and no pitch. It is all flash and no cash. It is all show and no go.

Mr. JONES of Oklahoma. Mr. Speaker, before yielding the remaining time to the distinguished majority leader, I yield myself such time as I may consume to say that I am not surprised that the previous speaker reflected upon this as coming from the bowels of the committee as opposed to coming from the bosom of the committee. I have come to expect some of that in this 4 years that I have served as budget chairman.

But let me tell you—I know something about balanced budgets from both ends of Pennsylvania Avenue because the last time this country had a balanced or a surplus budget was the last year of the Johnson administration, and I happened to be the chief of staff at the White House at that time, and I know something about it.

Mr. Speaker, I yield the balance of my time to the distinguished majority leader, the gentleman from Texas [Mr. WRIGHT].

The SPEAKER pro tempore. The gentleman from Texas [Mr. WRIGHT] is recognized for the remaining 5 minutes.

Mr. WRIGHT. Mr. Speaker, it is unfortunate in the extreme that any discussion of a balanced budget must perforce devolve into a bitter partisan harangue. It should not have to. We both claim to be in favor of a balanced budget.

It is an amazing phenomenon that so many of those who have stood here and pleaded so passionately for a constitutional remedy which might or might not go into effect in another 7 or 8 years, have stood here today and so vociferously objected to this practical methodology by which we could make one step toward the goal of a balanced budget next year.

This bill does not guarantee a balanced budget by any magical fiat, and neither would a constitutional amendment. Either would have to be implemented by hard, tough decisions.

But this does at least set the stage and provide a method by which we could make those hard decisions. It would require the President of the United States to present his version of what a balanced budget ought to look like, and then it would require the Congress of the United States to examine it and either adopt it or come up with something better.

I do not know how you can improve upon that, and it would go into effect next year. Even if we had a constitutional amendment, we'd need something of that type.

President Reagan says he wants a balanced budget. Of course, he has never submitted one. He promised in 1980 that he would submit a balanced budget by 1983, if not sooner. I suppose he intended to do that.

□ 1530

But the fact is that his recommendations have resulted in adding more to the national debt in 4 short years, by 50 percent again, than all seven postwar predecessors of his, Democrats and Republicans, added cumulatively through their administrations in 35 years since World War II.

And those recommendations, if allowed to go into effect 1 additional year, in 5 years, unless dramatically changed, will add more to the national debt under Ronald Reagan than all 39 American Presidents added to the national debt in the first 192 years of America's constitutional history.

Now surely the President does not suggest that he wants a constitutional requirement which would prohibit his successors from doing that which he is intent upon doing himself.

Surely the President does not suggest that we should require by Constitution that successors in his office should do something which he would be unwilling to do.

Surely the President is not suggesting that he favors a balanced budget but is unwilling to show us what, in his best judgment, a balanced budget ought to look like.

That is where the process begins. The President proposes; Congress disposes. It always has been that way. And if ever we are to have a balanced budget, then the Presidential recommendations should, at the beginning of the year, reflect a balanced budget. It has happened three or four times in postwar America. Harry Truman and the Congress, working together, made actual reductions in the national debt. The last time, as Congressman JIM JONES suggested, occurred during the administration of President Lyndon B. Johnson.

So now why should we not require that each President from now on offer us his version of a balanced budget or his reasons why he feels it would be inappropriate under the circumstances to have one? Upon the basis of those recommendations, Congress then could make its judgment.

Perhaps some President, perhaps this President, might come to a sensible conclusion, for example, that the Federal Government should present its budget in the same sensible way that most States do, that all businesses do, so far as I am aware, and that most American families do. That is to have an operating budget which it keeps in balance and a capital outlay budget which it balances by amortization within the period of the life expectancy of those capital assets. That is one way we could to it. The President would have it within his power to recommend that kind of a solution.

What is wrong with that? If we believe in a balanced budget, then let us take this first step in that direction. Whatever we do, let us not impugn the motives of one another. Let us try together to find solutions.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I will yield when I have completed, if I have time.

If we believe in a balanced budget, if we believe that it is dishonest and unfair to pile up for the indefinite future debts to the tune of $200 billion a year for things that we are wearing out and using up in our lifetimes then we will make this modest start. If we think it is wrong to indulge ourselves

in luxurious tax cuts to be paid for by our children and our grandchildren when they come to the age of taxpaying, then let us vote for this proposition. Let us begin the process. Let us try, if we can, to make one practical step in the direction of balancing the budget.

The SPEAKER pro tempore. The time of the gentleman [Mr. WRIGHT] has expired.

● Mr. RAHALL. Mr. Speaker, I rise to add my voice to those who truly desire to see a balanced budget. I believe that through the legislative process is the most appropriate way to achieve a balanced budget. H.R. 6300 would uphold the constitutional requirement for the President to submit his budget as a guideline for Congress to follow in enacting a budget resolution. The onus of leadership is on the President. It is his responsibility to take the lead. I would love to see a balanced budget sent to Congress. The Speaker has even indicated that if the President submitted a balanced budget he would have it considered on the floor within 48 hours.

I do not believe that it was the intention of the Framers of our Constitution to shift the responsibility of making controversial budget cuts to Congress. This is the responsibility of the President. It is easy for him to submit his budget with its record deficits and then blast Congress for not passing a constitutional amendment requiring a balanced budget, while at the same time forcing Congress to make the controversial budget decisions. Under the provisions of H.R. 6300, of which I am a cosponsor, it will be the responsibility of the President to submit a balanced budget and for the congressional budget committees to report balanced budgets.

It will take this sort of compromising and cooperation to achieve a balanced budget and I feel that this legislation before us is the most effective vehicle we can use to do so. I urge my colleagues to stand in favor of a balanced budget through the legislative, rather than the constitutional, process.●

● Mr. PORTER. Mr. Speaker, H.R. 6300, a bill to require a balanced budget for each fiscal year, although well intentioned, is a sham. Although I support efforts to require the President and the Congressional Budget Committees to submit a balanced budget each fiscal year, I do not support this method because it is a partisan effort aimed at President Reagan in an election year.

I remind my colleagues that President Reagan has worked hard to slow the overall growth in Federal spending—spending which has been continually escalated by this Democratic-controlled House. The President and his administration have taken the lead in attempts to reduce waste and eliminate inefficiencies in the Federal Government. The bill before us today is simply a ploy to blame the current budget deficit on a Republican President who inherited a stagnant economy with high inflation and has built a vibrant, growing economy with low inflation. The recession we had to experience to correct years of Democratic economic mismanagement is largely responsible for the deficit. Responsibility for the deficit cannot be fairly placed on this President as this bill attempts.

My colleagues on the other side of the aisle need only look at current economic figures to understand the success that President Reagan has had in stabilizing our economy and reducing dangerous inflation. This President should be applauded for his accomplishments, and should not be the target of a political proposal to alter the budget process 5 weeks before the election.●

● Mr. ALBOSTA. Mr. Speaker, the largest budget deficit in this Nation's history is upon us. The only way to reverse this damaging deficit spending trend it to require an immediate balanced budget.

Ideally, I support a constitutional amendment to balance the Federal budget that requires two-thirds of the States to ratify. Practically, we cannot wait 3 or 4 more years for that to happen. Action must be taken and taken now. That is why I am a cosponsor of this resolution and am supporting its passage today.

In a bipartisan, cooperative spirit, the bill requires the President to submit a balanced budget to the Congress for each fiscal year beginning in 1986, and also requires the House and Senate Budget Committees to report a balanced budget to their respective Chambers for 1986 and all succeeding fiscal years.

As my distinguished colleagues have stated, the Balanced Budget Act is an effective an immediate step toward reducing the massive deficits and balancing the budget. While it does not and should not replace a constitutional amendment to balance the Federal budget which I am continuing to work for, it is a clear and concise plan for obtaining a balanced budget now.

I urge my colleagues to join me in taking this important step and support H.R. 6300, the Balanced Budget Act.

● Mr. MINETA. Mr. Speaker, I rise in strong support of H.R. 6300, the Balanced Budget Act, As a cosponsor of both this bill and its predecessor, H.R. 6066, I urge my colleagues to support this timely and well crafted legislation.

I congratulate the Chairman of our Budget Committee Mr. JONES for his leadership in bringing this legislation to us. As a former member of the Budget Committee, and Chairperson of its task force on enforcement, credit, and multiyear budgeting, I know how much effort goes into developing any bill of this sort.

Mr. Speaker, it is not feat of intellect to cry out "Balance the Budget". Even those who have tripled our annual deficits seem able to do it. But it is a genuine feat of skill to bring forward a proposal that satisfies the legitimate desire for discipline in the budget process while at the same time preserving our ability to respond with judgment and wisdom to the constantly changing challenges presented to us.

To those who say this legislation does not go far enough, let me remind them that under this bill, President Reagan would have to do two things he has never done before: Submit a balanced budget to the Congress or present us with a plan to bring the budget into balance.

This legislation imposes a similar burden on the Congress, which is appropriate.

I believe this is a good bill, and a timely bill, and I urge my colleagues to adopt this legislation.

Thank you very much.●

● Mr. APPLEGATE. Mr. Speaker, in 1980, candidate Ronald Reagan spoke many times, berating President Carter as the sole perpetrator and instigator of big deficits; but now as President, Reagan does not blame himself or his administration. In fact, he does not even blame the Republican controlled Senate—only the Democratic controlled House. That is the worst case of buck passing in history. Hypocrisy abounds!

President Reagan has pushed for a balanced budget amendment since assuming office in 1981. Yet, in each of his 4 yours in office, he has submitted unbalanced budgets which include $600 billion in deficits, more than all the Presidents combined since World War II. One must remember the President proposes, and the Congress disposes. It is he who is at fault as the budget and fiscal leader of this country, and this bill will only say, "Mr. President, it is time to put up or shut up—give us a balanced budget to work on, not another big deficit budget."●

● Mr. SYNAR. Mr. Speaker, I support H.R. 6300, the Balanced Budget Act of 1984, because, unlike a Constitutional amendment, it will start to balance the budget immediately. Our current budget deficits will sabotage any hope for long-term economic recovery. In my State of Oklahoma, the recession hit hard and we have only partially recovered from it. Even the most optimistic see no relief from $170 billion deficits. And I fear that Oklahoma will be bypassed by a full economic recovery.

There is a fundamental irony in President Reagan's support for a balanced Federal budget when he has

brought us the highest deficits in our history. The budget deficit more than tripled in the first 2 years of the current administration. Although it has decreased recently, it is still about 2½ times higher than it was at the end of the previous administration. The last Carter budget deficit of fiscal year 1981 was only $58 billion. However, the latest administration estimates show that, even if all the President's rosy economic projections are correct, the deficit in fiscal year 1989 would still be $139 billion.

I support H.R. 6300 introduced by my Oklahoma colleague, Budget Committee Chairman JIM JONES, because it requires the President to submit a balanced budget each year, starting in January 1985, with his fiscal year 1986 budget. The House and Senate Budget Committees are also required to submit a balanced budget each year, starting in 1985. If the President or either of the committees believes that a balanced budget is not feasible, they also could submit an alternative budget. Such an alternative budget, however, must contain a detailed plan and timetable for achieving a balanced budget.

This bill is a substantive, straightforward plan that will begin to balance the budget early next year. The budget process begins with the President's submitting a budget every February. This bill would require the President to submit his plan for balancing the budget then. If we intend to reduce the deficit, the President and Congress must work together toward that goal. By submitting a balanced budget as this bill requires, for the first time since coming to office, the President can set the agenda for a balanced budget as early as next year. The Congress and the President can then jointly assume the responsibility for balancing the budget.

Rather than producing a plan now to balance the budget, the administration and other opponents of this legislation have called for an amendment to the Constitution mandating a balanced budget. But unlike this legislation which immediately begins to balance the budget, a Constitutional amendment would not take effect for years. The $150 billion deficits would continue unabated. Even the respected conservative business newspaper, the Wall Street Journal, has dismissed the administration's call for a balanced budget amendment as a mere political ploy.

Now is the time to focus on the deficit problem and to specify exactly how we are to balance the budget. This bill requires the President and Congress to put their cards on the table. If the President genuinely wants a balanced budget, he should submit one and Congress should then get to work on passing one.●

● Mr. AKAKA. Mr. Speaker, I rise in support of H.R. 6300, the Balanced Budget Act.

With this country facing record deficits, the time for this legislation is long overdue. In recent years, spending has far outpaced Federal revenues. Our accumulated budget deficit over the past 4 years exceeds the cumulative Federal deficit over the past 200 years. As our deficit continues to rise, it fuels high interest rates and keeps a sustained economic recovery out of reach.

I have consistently advocated a balanced budget. Unfortunately, Congress has never had an opportunity to vote on a balanced budget because, despite his strong public stand in favor of a balanced budget, the President has never submitted a balanced budget request to Congress. Experience has taught us that if the President, who exercises centralized control over the budget process, fails to submit a balanced budget request, Congress is unable to make modifications to bring the budget in to balance. H.R. 6300 would require the President to submit a balanced budget to Congress, or explain why he cannot.

Much concern has been raised over the form of the balanced budget proposal that we are considering today. H.R. 6300 would be an act of Congress. Other proposals before Congress seek to establish a constitutional amendment requiring a balanced budget. Whether through an act of Congress or a constitutional amendment, a balanced budget can only be achieved by decision-making in Congress designed to reduce Federal spending. Congress has responded to the problems of the past, and I am confident that it will respond to our current and future problems such as budget deficits without having to resort to a constitutional amendment. That is one of the strengths of the institution.

Voting on amendments to our Constitution is not a matter that I take lightly. The U.S. Constitution is the fundamental document of our Republic. It establishes the rights and freedoms of its people and defines the authority of the three branches of government. History has shown that it has served this country well for over 200 years without changes designed to impose a particular political or economic theory.

Furthermore, few people realize that, on average, constitutional amendments have taken at least 7 years to pass the legislatures of two-thirds of the States before they are incorporated into the Constitution itself. I don't think that the American public is prepared to watch deficits mount for 7 years until relief finally arrives. The legislative approach, on the other hand, requires the President and the congressional budget committees to begin immediately to formulate and present balanced budgets. Under H.R. 6300, the President and Congress would have to develop a clear and specific plan for solving the deficit problem.

H.R. 6300, the Balanced Budget Act, would require the President to submit a balanced budget in every fiscal year, beginning with the budget for fiscal year 1986. If the President did not believe that a balanced budget was possible or desirable in any given fiscal year, an alternative budget could be submitted. The President would have to explain why an alternative budget was selected over the balanced one. Alternative budgets would also have to include a comprehensive plan to balance the budget, including analyses of the impact of the plan on the major categories in the budget, each major source of revenue and a timetable for implementation of the plan.

The bill would also require the House and Senate Budget Committees to report a balanced budget in each fiscal year. The committees would have to submit an analysis of the impact of the balanced budget on the various budget functions, the economy as a whole, revenue, spending, inflation, employment, interest rates, and national security. If either committee determines that a balanced budget is inappropriate in any given year, it would be required to submit a plan to balance the budget for future years, containing a clear explanation of the impact of the plan.

For these reasons, I rise in support of H.R. 6300, and urge its swift adoption. Once this legislative mandate for a balanced budget is in place, we can begin to reduce the Federal deficit through these balanced budget proposals.●

● Mr. DASCHLE. Mr. Speaker, there is an old saying that applies to the legislation we are dealing with here. That is that, often, the best is the enemy of the good. To my mind, the best way to reduce the totally unacceptable budget deficits we are faced with is the passage of a constitutional amendment to mandate a balanced Federal budget. I have sponsored and cosponsored such amendments in the past. I have voted for such an amendment in the past. And I have signed a discharge petition to bring up such an amendment for our action again in this Congress.

I must admit that I am extremely disappointed that those of us who believe in a balanced budget consitutional amendment have not been able to prevail here, or even to bring up such an amendment for a vote in this Congress. I will continue to work, as I have in the past, for passage of such an amendment, because I believe it is the best way we can control deficits.

The bill before us today, H.R. 6300, is not my preferred choice, but it is a

good one. While the bill does not mandate the full implementation of a balanced Federal budget, it does at least force all the major players in the budget process—the administration, the House Budget Committee, and the Senate Budget Committee, to produce a balanced Federal budget. It establishes an atmosphere in which all three of these entities will have to seriously consider the very hard choices, and the budget priority decisions, that will have to be made if we are going to restore some semblance of fiscal responsibility. And, perhaps most importantly, it establishes a timetable which would guarantee that these balanced budget proposals would have to be made not 5 years in the future, but for the next fiscal year.

Many of my colleagues who share my view that a constitutional amendment would be the best route to take to reduce deficits have indicated that they will oppose H.R. 6300 because it does not go far enough, and that it does not mandate actual passage and implementation of a balanced budget. In all candor, those arguments have some merit. But the bottom line is not whether this is the best approach to take. I agree that it is not. The bottom line, instead, is whether or not this legislation will help to reduce deficits. It is my considered opinion that it will, and I will therefore support it.

Those of my colleagues who share my preference for a balanced budget amendment should think long and hard before they vote against the bill before us today. If they reject this bill because they feel it is not the best possible approach to take, they appear to be saying that they do not want to improve the deficit situation if it is not done exactly in the way which they, and I, prefer. They are falling into the trap of letting the best become the enemy of the good. This bill is not the best way to assure fiscal responsibility, but it is a good way to start. I would urge all of my colleagues who have joined me in signing the discharge petition to bring the balanced budget amendment to also join me in voting for this bill. Do not let the best become an unalterable enemy to the good.●

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentleman from Oklahoma [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 6300.

The question was taken.

Mr. WILLIAMS of Montana. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. JONES of Oklahoma. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill that has just been considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

AUTHORIZING THE SALE OF CERTAIN PROPERTY LOCATED IN LAKE SUMNER STATE PARK, NM

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6234) to authorize the Secretary of the Interior to sell certain property located in Lake Sumner State Park, in the State of New Mexico, as amended.

The Clerk read as follows:

H.R. 6234

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") may convey to Sumner Lake Corporation of the State of New Mexico all right, title, and interest of the United States in and to the real property described in subsection (b), but such conveyance to such corporation may be made only in the event that (1) the Secretary has first offered to convey such right, title, and interest to the State of New Mexico, without consideration but on the condition that the State of New Mexico shall use such property only for park and recreational purposes; and (2) the State of New Mexico has rejected such offer.

(b) The real property referred to in subsection (a) is located in Lake Sumner State Park, in the State of New Mexico, and is more particularly described as follows: all portions of sections 28 and 34 in township 5 north, range 24 east, that are more than 4,280 feet above sea level. The acreage and legal description of such real property shall be determined by the Secretary after consulting with Sumner Lake Corporation.

SEC. 2. (a) In consideration for the conveyance authorized in the first section of this Act, Sumner Lake Corporation shall pay to the Secretary for deposit in the United States Treasury the fair market value of the real property conveyed as determined on the date of such conveyance. Such fair market value shall be determined by the Secretary by means of an appraisal conducted in accordance with established appraisal procedures.

(b) Any administrative cost incurred by the Secretary incident to any conveyance under the first section of this Act, including any surveying cost, recording cost, or legal cost, shall be reimbursed by Sumner Lake Corporation.

SEC. 3. (a) Any conveyance under the first section of this Act shall reserve to the United States all oil, coal, and other minerals in the real property conveyed, and the right to prospect for, mine, and remove such oil, coal, and other minerals. Any damage sustained by any surface owner as a result of the exercise of any right reserved in this subsection shall be reimbursed by the United States or the lessee of such right.

(b) Any conveyance under the first section of this Act shall not affect any easement, servitude, or right-of-way existing with respect to the real property conveyed on the date of such conveyance.

(c) The Secretary may attach to any conveyance under the first section of this Act any additional conditions and reservations that the Secretary determines to be appropriate.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio [Mr. SEIBERLING] will be recognized for 20 minutes and the gentleman from New Mexico [Mr. LUJAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6234 was introduced by our colleague from New Mexico [Mr. LUJAN]. Its purpose is to authorize the Secretary of the Interior to sell the surface interests in certain lands which are now leased to the State of New Mexico and managed by the State as the Lake Sumner State Park. The mineral interests would be retained in Federal ownership.

The lands covered by the bill were assembled in connection with the construction of the Sumner Dam. That dam, part of the Bureau of Reclamation's Carlsbad project, was authorized in 1935 and completed in 1937. Some of the lands covered by the bill were withdrawn from the public domain and some were acquired from other owners.

Currently, the United States, through the Department of the Interior, leases the lands to the State of New Mexico. The State in turn sublets part of the lands to people who over the years have developed cabin sites near Sumner Lake.

As introduced, the bill would have authorized the sale of certain parts of the lands in the State park to a corporation, the Sumner Lake Corp., which we were told was organized by and is composed of the holders of the cabin-site leases.

To avoid any potential conflicts with the interests of the State of New Mexico, which of course manages the State park, the committee has included an amendment which has the effect of giving the State a right of first refusal on the lands.

Unless and until the State has rejected an offer to receive the lands without charge, on condition that they be operated for park and recreation purposes, the Secretary's authority under this bill to convey the lands to the corporation cannot be exercised.

Mr. Speaker, as reported by our committee, I believe that this bill is not controversial; and our committee has

recommended that the bill as reported be passed.

Mr. Speaker, I reserve the balance of my time.

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill comes about because of a situation which exists in my home State. Recently I met with some people at the Sumner Lake area who lease, each of them leases an acre from the State of New Mexico. The State of New Mexico leases it from the Bureau of Reclamation who really do not want anything to do with the land.

So the people want to go ahead and buy it. This bill authorizes the Secretary to sell about 100 acres of land located adjacent to Sumner Lake to the New Mexico corporation which is composed of the current lessees of this land.

Mr. Speaker, it gives the Secretary the authority to determine the exact amount of land to be transferred and provides for a fair market value to be paid for by the lessees. It authorizes the Secretary to determine what values, to establish appraisal procedures; it directs the purchaser to reimburse the Secretary for administrative costs incurred incident to this conveyance; it reserves to the Federal Government the mineral interests in the land, protects existing rights of the land and allows the Secretary to attach any conditions or reservations to the conveyance he may deem appropriate.

Mr. Speaker, I want the RECORD to show that I do not think the language of an amendment that was added to this bill on page 2 belongs in the bill. This is a provision which gives the State the option of receiving the land without consideration. I do not think that it is fair to the current lessees and I think it goes against the very reason that I introduced H.R. 6234.

□ 1540

The reason I introduced this bill was to give the lessees an opportunity to avoid unreasonable lease fees which doubled last year and went up almost 10 times in July.

I voiced my opposition in the subcommittee and I repeat my position again today. Of course, I realize that the votes are here to pass this bill. So, I concede that something is better than having nothing at all.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

Did the gentleman say that the purchasers if that were to come about under the gentleman's bill would pay fair market value?

Mr. LUJAN. Absolutely.

Mr. KAZEN. When? At the present time or the amount that the Government would be raising in increments every year were it rented?

Mr. LUJAN. No; they would pay the present value at whatever the appraisers appraised the land at. Just like any other real estate transaction. You hire an appraiser to establish a value on the land and then the purchasers would pay that in addition to the expenses of doing the survey and all of those things.

Mr. KAZEN. How many people are involved in this?

Mr. LUJAN. There are about 100.

Mr. KAZEN. How many?

Mr. LUJAN. About 100.

Mr. KAZEN. One hundred.

Mr. LUJAN. One hundred acres, I am sorry. There are 200 and some lots.

Mr. KAZEN. So there are 200 and some odd individuals?

Mr. LUJAN. Well, no, some of them are parking lots, roads through them. That sort of thing. But it is in excess of 100 people.

Mr. KAZEN. All right. I thank the gentleman.

Mr. SEIBERLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LUJAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. SEIBERLING] that the House suspend the rules and pass the bill, H.R. 6234, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the matter just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 4932. An act to withdraw certain public lands in Lincoln County, NV, and for other purposes.

The message also announced that the Senate agrees the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1146) "An act to amend the Federal Aviation Act of 1958 to provide for the renovation of the airman certificates and for additional penalties for the transportation by aircraft of controlled substances, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 1102) "An act to provide authorization of appropriations for title III of the Marine Protection, Research, and Sanctuaries Act of 1972, and for other purposes."

One message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3788. An act to designate various areas as components of the National Wilderness Preservation System in the national forests in the State of Texas;

H.R. 4263. An act to designate certain lands in the Cherokee National Forest, TN, as wilderness areas, and to allow management of certain lands for uses other than wilderness;

H.R. 5076. An act to designate certain areas in the Allegheny National Forest as wilderness and recreation areas;

H.R. 5223. An act to exempt restaurant central kitchens from Federal inspection requirements;

H.R. 5688. An act to amend title 38, United States Code, to provide a cost-of-living increase for fiscal year 1985 in the rates of compensation paid to veterans with service-connected disabilities and the rates of dependency and indemnity compensation paid to survivors of such veterans, and for other purposes; and

H.R. 6221. An act to provide for the use and distribution of certain funds awarded to the Wyandotte Tribe of Oklahoma.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2217. An act to provide for exemptions, based on safety concerns, from certain length and width limitations for commercial motor vehicles, and for other purposes;

S. 2773. An act to designate certain National Forest System lands in the State of Georgia as wilderness, and for other purposes; and

S. 2808. An act to designate certain National Forest System lands in the State of Mississippi as wilderness, and for other purposes.

DESIGNATING CERTAIN NATIONAL FOREST SYSTEM LANDS IN THE STATE OF ARKANSAS FOR INCLUSION IN THE NATIONAL WILDERNESS PRESERVATION SYSTEM

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2125) to designate certain National Forest System lands in the State of Arkansas for inclusion in the National Wilderness Preservation System, and for other purposes, as amended.

The Clerk read as follows:

S. 2125

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Arkansas Wilderness Act of 1984".

SEC. 2. (a) The Congress finds that—

(1) many areas of undeveloped national forest system lands in the State of Arkansas possess outstanding natural characteristics which give them high values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) the Department of Agriculture's second roadless area review and evaluation (RARE II) of national forest system lands in the State of Arkansas and the related congressional review of such lands have identified areas which, on the basis of their land-form, ecosystem, associated wildlife, and location, will help to fulfill the national forest system's share of a quality National Wilderness Preservation System; and

(3) the Department of Agriculture's second roadless area review and evaluation of national forest system lands in the State of Arkansas and the related congressional review of such lands have also identified areas which do not possess outstanding wilderness attributes or which possess outstanding energy, mineral, timber, grazing, dispersed recreation, and other values and which should not now be designated as components of the National Wilderness Preservation System but should be available for nonwilderness multiple uses under the land management planning process and other applicable laws.

(b) The purposes of this Act are to—

(1) designate certain national forest system lands in the State of Arkansas as components of the National Wilderness Preservation System, in order to promote, perpetuate, and preserve the wilderness character of the land, protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all the American people, to a greater extent than is possible in the absence of wilderness designation; and

(2) ensure that certain other national forest system lands in the State of Arkansas be available for nonwilderness multiple uses.

SEC. 3. In furtherance of the purposes of the Wilderness Act, the following lands in the State of Arkansas are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(a) certain lands in the Ouachita National Forest, Arkansas, which comprise approximately seven thousand five hundred and sixty-eight acres, as generally depicted on a map entitled "Black Fork Mountain Wilderness—Proposed", dated September 1984, and which shall be known as the Black Fork Mountain Wilderness;

(b) certain lands in the Ouachita National Forests, Arkansas, which comprise approximately six thousand three hundred and ten acres, as generally depicted on a map entitled "Dry Creek Wilderness—Proposed", dated September 1984, and which shall be known as the Dry Creek Wilderness;

(c) certain lands in the Ouachita National Forest, Arkansas, which comprise approximately ten thousand eight hundred and eighty-four acres, as generally depicted on a map entitled "Poteau Mountain Wilderness—Proposed", dated September 1984, and which shall be known as the Poteau Mountain Wilderness;

(d) certain lands in the Ouachita National Forest, Arkansas, which comprise approximately ten thousand one hundred and five acres, as generally depicted on a map entitled "Flatside Wilderness—Proposed", dated September 1984, and which shall be known as the Flatside Wilderness;

(e) certain lands in the Ozark-Saint Francis National Forest which comprise approximately one thousand five hundred and four acres, as generally depicted on a map entitled "Upper Buffalo Addition—Proposed", dated November 1983, and which are hereby incorporated in and shall be deemed to be a part of the Upper Buffalo Wilderness as designated by Public Law 93-622;

(f) certain lands in the Ozark-Saint Francis National Forest which comprise approximately fifteen thousand one hundred and seventy-seven acres, as generally depicted on a map entitled "Hurricane Creek Wilderness—Proposed", dated November 1983, and which shall be known as the Hurricane Creek Wilderness;

(g) certain lands in the Ozark-Saint Francis National Forest, Arkansas, which comprise approximately eleven thousand eight hundred and twenty-two acres, as generally depicted on a map entitled "Richland Creek Wilderness—Proposed", dated November 1983, and which shall be known as the Richland Creek Wilderness;

(h) certain lands in the Ozark-Saint Francis National Forest, Arkansas, which comprise approximately ten thousand seven hundred and seventy-seven acres, as generally depicted on a map entitled "East Fork Wilderness—Proposed", dated September 1984, and which shall be known as the East Fork Wilderness; and

(i) certain lands in the Ozark-Saint Francis National Forest, Arkansas, which comprise approximately sixteen thousand nine hundred and fifty-six acres, as generally depicted on a map entitled "Leatherwood Wilderness—Proposed", dated November 1983, and which shall be known as the Leatherwood Wilderness.

SEC. 4. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless areas review and evaluation program (RARE II);

(2) the Congress has made its own review and examination of national forest system roadless areas in Arkansas and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II Final Environmental Impact Statement (dated January 1979) with respect to national forest system lands in States other than Arkansas, such statement shall not be subject to judicial review with respect to national forest systems lands in the State of Arkansas;

(2) with respect to the national forest system lands in the State of Arkansas which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Arkansas reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: Provided, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Arkansas are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Arkansas for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to national forest system roadless lands in the State of Arkansas which are less than five thousand acres in size.

SEC. 5. As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture shall file maps and legal descriptions of each wilderness area designated by this Act with the Committee on Energy and Natural Resources of the United States Senate, and the Committee on Interior and Insular Affairs and the Committee on Agriculture of the House of Representatives, and each map and legal description shall have the same force and effect as if included in this Act: Provided, however, That correction of clerical and typographical errors in such legal descriptions shall be on file and available for public inspection in the office of the Chief, United States Forest Service, Department of Agriculture.

SEC. 6. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provi-

sions of the Wilderness Act of 1964 (78 Stat. 892) governing areas designated by that Act as wilderness areas, except that, with respect to any area designated in this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

SEC. 7. Congress does not intend that designation of wilderness areas in the State of Arkansas lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

The SPEAKER pro tempore (Mr. PANETTA). Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio [Mr. SEIBERLING] will be recognized for 20 minutes and the gentleman from New Mexico [Mr. LUJAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2125, the Arkansas Wilderness Act of 1984. As amended by the committee, the bill designates approximately 91,103 acres of additions to the National Wilderness Preservation System in Arkansas, in nine separate areas. Eight of the areas will comprise new wildernesses whereas the ninth will add acreage to the existing Upper Buffalo Wilderness. The bill will increase the amount of national forest wilderness in Arkansas to 116,489 acres, or approximately 4.7 percent of the national forest land in the State. The remaining 95 percent of the national forest land in Arkansas will remain open for timber harvest, mineral leasing, and other nonwilderness uses—so I hardly think S. 2125 can be termed an unreasonable proposal.

Quite frankly, Mr. Speaker, I believe the Senate passed version of S. 2125, which would have designated 117,000 acres of wilderness, was a superior measure. In particular, I think the Senate's proposals for the East Fork, Black Fork Mountain, and Penhook should have been accepted, because the acreage dropped in those areas contains some magnificent land that would have contributed to the bill's overall wilderness values. However, this is a consensus bill, worked out in the Arkansas delegation on both sides of the aisle and on both sides of the Capitol. Moreover it is a balanced bill and represents an acceptable compromise. It includes several areas with exceptional natural or recreational values. These include:

The 10,105 acre Flatside area, which lies only 60 miles from Little Rock and will afford a large part of the State's residents—a much needed and desired wilderness experience within a relatively short drive of the city;

The 16,956 acre Leatherwood Wilderness, which will become one of the larger wilderness areas in the South. Leatherwood is an area of great diversity, with numerous caves, springs, waterfalls, ledges, and other scenic natural features. It also lies adjacent to the existing Buffalo National River and will complement the watershed and scenic values of that 22,000 acres preserve;

The 10,777 acre East Fork area, which surrounds the East Fork of Illinois bayou and provides outstanding opportunities for kayaking, canoeing, fishing, and swimming; and

Richland Creek, which has for years been identified as one of the finest de facto wilderness areas in the Ozarks. The area exhibits a superb mix of pristine hollows, rock overhangs, and waterfalls, including two 20-foot waterfalls named Twin Falls. The area also has a high density black bear population and other rare plant and animal species.

So, Mr. Speaker, I support the amended S. 2125 as meritorious legislation. And although it is not all that I and others might have hoped for, I believe it does protect the very finest wilderness candidate areas in the State. Additionally, I note that in two areas which have not been designated as wilderness we have, in our committee report, requested the Forest Service to protect the area's existing natural values. One of these areas comprising approximately 3,400 acres, lies between the two units of the proposed Poteau Mountain Wilderness and will be managed to preserve its existing wild and natural values, but with off-road vehicle use permitted to continue. Had off-road vehicle use not been well established, we would have included the area in wilderness, as nearly everyone, including the off-road vehicle users, agrees that the area's wild values should be preserved intact.

The other area where we have requested special management attention by the Forest Service is at the so-called Blue Hole. The Blue Hole lies south of the proposed East Fork Wilderness at the confluence of Hurricane Creek and Wolf Den Hollow and comprises a sizable open-rock depression surrounded by rock ledges that lie just downstream from cascades and waterfalls. The committee report directs that the Blue Hole and a small surrounding area be managed to preserve their undisturbed and natural character.

In conclusion, I wish to thank my distinguished colleagues, the gentleman from North Carolina [Mr. WHITLEY], and the gentleman from Texas [Mr. DE LA GARZA], for their help and cooperation in expediting consideration of this bill in the House. I reiterate my support of S. 2125 as amended by our committee, and urge that it be approved.

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2125, the Arkansas wilderness bill.

The Senate-passed bill was amended in our full Interior Committee to reflect the recent compromise worked out by the Arkansas delegation. I support the compromise and would like to commend the delegation for arriving at a final proposal which all Members can support.

I particularly want to thank the chairman of the committee and the two gentlemen from Arkansas [Mr. HAMMERSCHMIDT] and [Mr. BETHUNE], whose strong commitment to the bill helped keep it from getting stalled in the final rush of the closing business.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. BETHUNE].

Mr. BETHUNE. Mr. Speaker, this wilderness bill is a good bill. It sets aside 9 out of the 10 areas that those of us who were advocating large wilderness setasides for our State of Arkansas wanted, that we think were important. It preserves some 80 percent of the acreage that we were seeking.

It contains some 91,000 acres which works out to be less than 5 percent of the national forest lands in Arkansas. We have two great national forests in Arkansas which stretch from the center of Arkansas all the way to the western border, the Ouachita National Forest and the Ozark National Forest.

The importance of this bill to Arkansas cannot be understated. Agriculture is important in Arkansas and forestry is important in our State of Arkansas.

But, inasmuch as this bill only sets aside some 5 percent or less of those two great national forests, the timber industry is still free to go into the other 95 percent of the forest area and cut timber and take it out and that way can develop the economic base in Arkansas. I do not believe this will affect the economics of the timber industry one iota.

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But the other 5 percent that we set aside here in this bill will be protected, and that means that the Forest Service and the timber industry and others who would be of a mind to do so will not go in there and cut trees, clear great areas of trees, they will not go in there and dig mines, and they will not go in there and cut roads.

The tourism industry in Arkansas is the second largest industry in our State and it flourishes because of the natural beauty of the State of Arkansas. The wilderness bill is important for that reason. But there is another reason that I think the wilderness bill is essential for our State of Arkansas and I am so pleased that it is here on

the floor today, and that is that there is a new wave of social and economic development in this country as we shift out of the old industrial economy into the new informational society, and growth in the country is plainly moving to the south and west and our State of Arkansas is in the path of that growth.

People are looking for two things these days as they site their plants and as the economy develops; they are looking for an entrepreneurial opportunity and they are looking for quality of life. We have got both of those in our State. We have been waiting a long time to turn the corner and have a prosperous State and growth and all of the things that everybody wants, and it is our turn now. We want to preserve that quality of life in our State, and that is why it is so essential that we set this aside.

That is why I believe that in this particular instance we have the very unusual circumstance of having both the conservation groups and the industrial development groups signed on to the wilderness proposition. I do not know of many bills that come through this Congress where we have had the support of the conservation coalition, the Sierra Club on the one hand, and the Arkansas Industrial Development Commission on the other, along with the support of the Greater Little Rock Chamber of Commerce, working hand in hand with the Wilderness Society and the Sierra Club. I think that is a very unusual circumstance which can be traced to this coincidence of factors which I have just mentioned.

So I want to take just one more moment to compliment those here in the Congress who have helped us in Arkansas achieve this important step in our State's history, and I do believe this is an historic development for our State. The first person that I would like to commend and thank is the chairman of the subcommittee, the gentleman from Ohio [Mr. SEIBERLING], who has worked tirelessly on this bill, and, of course, the gentleman from Arizona [Mr. UDALL], of the full committe, has given of his time, and his support has been steadfast all the way through.

On our side of the aisle, the gentleman from New Mexico [Mr. LUJAN], and at the subcommittee level, the understanding of the gentleman from Alaska [Mr. YOUNG], who is not a strong supporter of the wilderness concept in many instances, but who permitted the environment to be created so that we could move this legislation in a spirit of accommodation and compromise. And to my good friend, the gentleman from Arkansas [Mr. ANTHONY], who has stood fast all the way through for the things that are important to him and the belief that he holds dear, I say to him that we have finally resolved this matter.

Since law school days we have been the closest of friends, and I could not let this moment pass without saying that the process has worked its will, the bill is here, I am proud of it, I think the gentleman is also proud of the bill, and I think it will, we both agree, be in the interest of Arkansas. To all of those in Arkansas on the Industrial Development Commission side and those who are in the various organizations who gave their endorsement to the legislation, not enough can be said.

We have a saying in Arkansas of which we are very proud. It is our slogan these days. It is: "Arkansas is a natural." Now, one day when our children grow up and ask us, "Granddaddy, why did you say Arkansas is a natural?" we will not have to go through a laborious explanation; we can take them out to any one of these 9 wilderness areas and show them why we say Arkansas is a natural. So I thank all of those who have worked so hard on this proposition.

Mr. Speaker, this is a historical moment for Arkansas, because today we are creating a legacy for our children and our children's children.

S. 2125, the Arkansas Wilderness Act, represents over 8 years of hard work and commitment to wilderness preservation by numerous Arkansans and, in particular, the Arkansas Conservation Coalition, whose efforts have helped make this day a reality.

The task of reaching an agreement concerning the number of areas and acres to be designated as wilderness has been a long and arduous process, and the final bill is the product of sensitive negotiation. All members of the Arkansas delegation are now in agreement, and I am pleased we are taking action in the full House today.

S. 2125, as amended, reflects some of the compromises we've made since I first introduced my Arkansas Wilderness bill in the spring of 1983. Boundaries were redrawn and some 26,000 acres were deleted during the course of negotiations. As you can see, we've worked hard to accommodate the needs of landowners, timber interests, and other national forest users. I feel this legislation reflects our concern for their interests as well as the need for additional wilderness.

As I've traveled across Arkansas, I've encountered tremendous support for wilderness. Business, civic and environmental groups, and hundreds of individuals from across the state have endorsed this proposal because they know it's a wise investment for Arkansas. Arkansas is in the path of growth that is spreading across the South and Southwest, and wilderness enhances this growth because it protects our quality of life which is one of the great attractions we have to offer.

As reported by the House Interior Committee, S. 2125 would set aside as wilderness nine areas containing 91,100 acres, and representing less than 5 percent of the national forest land in Arkansas. The areas included in S. 2125 are the Upper Buffalo addition, East Fork, Leatherwood, Hurricane Creek, and Richland Creek in the Ozark National Forest, and Dry Creek, Flatside, Black Fork Mountain, and Poteau Mountain in the Ouachita National Forest.

This bill also includes release-sufficiency language to ensure that national forest lands in Arkansas not designated as wilderness are released for non-wilderness purposes as determined by the Forest Service's planning process. This language is endorsed by industrial concerns and environmental groups, and acts to end the uncertainties regarding the future of Arkansas' national forest lands.

I'm pleased the committee report contains language requesting that the Forest Service manage the center portion of the Poteau Mountain area to preserve its character, with no timber harvests, or road construction permitted.

Unfortunately, a number of the proposed wilderness areas were pared down during negotiations. I regret that this action was taken. Nonetheless, I am pleased that Arkansas will have a good wilderness bill. I'm particularly heartened to have a bill that includes the Flatside area. This site is in my district and is the only wilderness area in the eastern portion of the Ouachitas. Flatside is also easily accessible and well-suited to accommodate the recreational needs of a great number of Arkansans who reside in the central part of the State.

Mr. Speaker, we've always been proud of our natural heritage in Arkansas. In fact, our most popular slogan is "Arkansas is a Natural". Arkansas' beautiful mountains, streams and forests attest to the truth of this statement. And the tremendous support of the people of Arkansas to preserve these areas is a strong indication of our will to maintain our natural heritage. The House's approval of the Arkansas Wilderness bill today will ensure that Arkansas lives up to its reputation as the Natural State, and that our scenic wonders will be preserved for all to enjoy. I urge my colleagues to support this important piece of legislation.

Mr. SEIBERLING. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. WHITLEY].

Mr. Speaker, if the gentleman will yield, I would like to again thank him for all the help he has given us on this and other bills on wilderness matters on which our committees have had joint jurisdiction.

Mr. WHITLEY. Mr. Speaker, I thank the gentleman for yielding time

to me, and I thank him for his comment.

Mr. Speaker, I rise in strong support of S. 2125, the Arkansas Wilderness Act of 1984.

Those familiar with the history of this bill know the difficult time we had finding a consensus on how much wilderness should be designated in the State of Arkansas.

On May 26, 1983, the Subcommittee on Forests, Family Farms, and Energy, which I chair, held a public hearing on H.R. 2452 and H.R. 2917, two bills which offered very different allocations of Federal wilderness for Arkansas. We heard from strong supporters of both bills. Indeed, it seemed as though there was no possible way to reconcile the differences. However, the inability of one group to force its wilderness prescription on those with a valid opposing point of view gave us the necessary time to work out the compromise before us today. Certainly, there are those on both sides who will insist that their original positions should have prevailed. However, what is critical, from my perspective, is that the RARE II issue was resolved equitably and now all of the affected parties can focus on other activities.

I am proud of the contributions made by the Forests, Family Farms, and Energy Subcommittee, as well as the full Agriculture Committee, in helping to find acceptable solutions to wilderness questions. We appreciate the spirit of cooperation and the hard work of the members of the subcommittee chaired by the gentleman from Ohio [Mr. SEIBERLING] and the full Interior and Insular Affairs Committee. I look forward to our relationship of mutual respect and cooperation continuing in the future. I think we have had an excellent record on wilderness legislation in this Congress.

Mr. Speaker, I urge my colleagues to support the passage of S. 2125, the Arkansas Wilderness Act of 1984.

Mr. SEIBERLING. Mr. Speaker, I yield 3 minutes to the gentleman from Arkansas [Mr. ANTHONY].

If the gentleman will yield, I would like to join in thanking him for his efforts to reach this consensus bill. I think it is a commendable result, and I also appreciate it because I think it is in everyone's interest to settle these issues if at all possible in a reasonable and balanced way. I think that has been done in this case.

Mr. ANTHONY. I thank the gentleman.

Mr. Speaker, I would like to give my thanks to all of the Members of the Arkansas delegation for working very hard towards this consensus. I thank the gentleman from Ohio [Mr. SEIBERLING] for his efforts and his encouragement. I would like to give a special thanks to Mr. WHITLEY.

This is an unusual wilderness piece of legislation. As we move from the West to the East and as the wilderness begins to come completely out of the forest that is owned already by the National Forest Service, we do have an overlapping of jurisdiction. It is a joint jurisdiction. So the piece of legislation not only had to go through Mr. SEIBERLING's subcommittee but also had to go through Mr. WHITLEY's subcommittee and the full Agriculture Committee and the full Committee on Interior and Insular Affairs.

I had a competing piece of legislation that was introduced and actually was reported out of the subcommittee, of Mr. WHITLEY's subcommittee. From then on it seemed to be stymied for almost a year. I publicly had said that I would like to compromise that measure. As the time came nearer, all of the parties realized that it would be in the best interest to have finality brought to the wilderness issue in the State of Arkansas. I met on several occasions with the Members of the other body. We were able to come to what I thought was a very reasonable settlement of the Arkansas wilderness issue. Of those people who support the multiple-use concept of the forest, they will still have many thousands of acres that they will be able to put back into the multiple-use project. For those who believe that we should, as I do, save those very unique and pristine areas of any State, especially of the State in which you reside, I think that is exactly what we have done. I think the compromise is a very good compromise. I support the compromise and I ask my colleagues to pass the Arkansas wilderness bill.

Mr. LUJAN. Mr. Speaker, I yield such time as he may consume to my friend, the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. I thank the gentleman for yielding time to me.

Mr. Speaker, for 18 years, I have represented the Third Congressional District in Arkansas, which contains approximately 90 percent of the wilderness areas designated by S. 2125, the Arkansas Wilderness Act of 1984.

During this period, I have talked to many, many constituents about the pros and cons of setting aside additional wilderness lands. My colleagues should note that a great number of my constituents in northwest Arkansas—those most familiar with the proposed wilderness areas—have repeatedly opposed more wilderness. They told me that the 24,586 acres of national forest land in Arkansas which already exist as wilderness is sufficient, pointing out that the present wilderness acreage ranks Arkansas 19th among all States in national forests in this category. Of prime concern to them is the possible adverse economic impact this may have on local economies. Without adequate assessments of the mineral and petroleum reserves in these areas, wilderness designations appear to be premature. In addition, most of my constituents believe that the Forest Service has done an excellent job of preserving our forests.

As you know, in response to the RARE II study under the Carter administration, the Forest Service recommended only a total of 24,000 acres in Arkansas be designated as wilderness. It is hard to justify approval of certan lands as wilderness when forest management experts have recommended otherwise.

However, it appears that a resolution to the ongoing controversy would be beneficial to all groups involved. Recently, a Forest Service official assured me that although this bill greatly exceeds their carefully formulated recommendations, they would pledge to manage the specified wilderness areas in the most professional manner. It is hoped that with the passage of this legislation, environmentalists and developers, recreational and timber interests, alike, will cooperate to fully utilize and enhance our national forests.

Mr. SEIBERLING. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma [Mr. WATKINS].

Mr. WATKINS. I thank the gentleman for yielding.

First, let me say that I want to salute the delegation from Arkansas for getting their chambers of commerce and industrial and environmental people together in Arkansas to come together with some agreement and compromise on their wilderness area. I think that is tremendous, and that is what I would like to have done in Oklahoma.

I would like to ask the chairman to engage in a colloquy with me, if he would.

Mr. Chairman, the Senate version of this bill originally included designated wilderness areas of Black Fork Mountain Wilderness and Poteau Mountain in Oklahoma. As you know, I have appeared before your subcommittee regarding my concern with these areas being designated wilderness areas until public meetings can be held and the interested parties can reach some agreement in that area of the State, such as they have in the State of Arkansas.

I need your assurance, Mr. Chairman, that this bill does not include these areas that I mentioned in Oklahoma. It is a possibility that we can come together sometime in the near future with some positive legislation concerning wilderness designation for that area of Oklahoma.

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Mr. SEIBERLING. I assure my colleague that the bill does not include language that will include any areas by the same name located in Oklahoma. I hope that he succeeds in his

effort to get everybody together on that matter because I think it is in everyone's interest to resolve the issues.

Mr. WATKINS. Mr. Chairman, I am going to do my best to get all the people together, and hopefully we can do that between now and the next session of the Congress.

Mr. SEIBERLING. We will be happy to work with you to that end.

● Mr. DE LA GARZA. Mr. Speaker, I rise in support of S. 2125, a bill that designates wilderness areas in the national forests in the State of Arkansas.

H.R. 4893, a bill that also designated as wilderness certain areas in national forests in Arkansas, was referred jointly to the Committees on Agriculture and Interior and Insular Affairs. The Subcommittee on Forests, Family Farms, and Energy of the Committee on Agriculture held hearings on the bill and marked it up. But H.R. 4893 was not considered by the full committee.

On August 9, 1984, the Senate passed S. 2125. That bill also was referred jointly to our committee and the Committee on Interior and Insular Affairs. While the Committee on Agriculture has not acted on S. 2125, the Committee on Interior and Insular Affairs has reported an amended version of that legislation.

The bill we are considering today represents a compromise among the differing interests on the wilderness designation of national forests lands in Arkansas. It modifies the Senate bill, reducing the acreage designated as wilderness from 117,000 acres to 91,103 acres. And the bill includes what has become the standard "release-sufficiency" language for wilderness legislation.

I would add that I do not object to the consideration by the House of S. 2125 without action having been taken by our committee. I take this position to expedite action in the waning days of the session; however, in no respect does this waive the jurisdiction of the Committee on Agriculture over the subject matter of this bill. Should S. 2125 go to conference with the Senate, I would request the Speaker to name representatives of our committee as conferees.

Mr. Speaker, the matter of the designation of wilderness areas in Arkansas has been the subject of some controversy. The bill before us today accommodates, to a considerable degree, the somewhat diverse positions of the interested parties. I understand that the administration does not object to it. S. 2125 merits the support of the Members of this body.●

Mr. LUJAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SEIBERLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. SEIBERLING] that the House suspend the rules and pass the Senate bill, S. 2125, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bills as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the Senate bill just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ART BARN ASSOCIATION AND PIERCE MILL, WASHINGTON, DC

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1790) to authorize the Secretary of the Interior to enter into a contract or cooperative agreement with the Art Barn Association to assist in the preservation and interpretation of the Art Barn and Pierce Mill located in Rock Creek Park within the District of Columbia, as amended.

The Clerk read as follows:

S. 1790

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to preserve the Art Barn, located in Rock Creek Park in the District of Columbia, for the benefit and inspiration of the people of the United States, the Secretary of the Interior is authorized to enter into contracts or cooperative agreements with the Art Barn Association (a nonprofit corporation organized under the laws of the District of Columbia), or a successor organization, to assist in the preservation and interpretation of the Art Barn.

(b) Pursuant to contracts or cooperative agreements under subsection (a) and subject to such terms and conditions as the Secretary of the Interior may establish, funds available to the Secretary for operation and maintenance of the Art Barn may be made available to the Art Barn Association.

(c) The authority of the Secretary of the Interior to enter into contracts and cooperative agreements under subsection (a) shall expire on the date 5 years after the enactment of this Act.

(d) For purposes of complying with section 401 of the Congressional Budget Act of 1974, the authorization provided under this Act is subject to the availability of appropriations.

The SPEAKER pro tempore. Is a second demanded?

Mr. LUJAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. SEIBERLING] will be recognized for 20 minutes and the gentleman from New Mexico [Mr. LUJAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, as reported by the Interior Committee, S. 1790 would authorize the Secretary of the Interior to enter into cooperative agreements with the Art Barn Association to assist in the preservation and interpretation of the Art Barn in Rock Creek Park. The committee deleted provisions in the Senate-passed bill relating to the historic Pierce Mill and made a few other technical and clarifying changes which do not alter the substance of the bill.

For over a decade, the National Park Service has entered into annual agreements with the Art Barn Association, a group of artists in Washington, DC, to use the carriage house near Pierce Mill as an admission-free gallery for local artists to display their work. The association also provides a variety of other public services, including art programs for children and the elderly and has contributed to the repair and upkeep of the building itself.

The association receives a $20,000 stipend from the National Park Service to provide these services. The effect of S. 1790 would be to permit the National Park Service to continue the existing arrangement, but without the need to reopen the contract bidding every year.

Pierce Mill was deleted from the bill because the National Park Service is expected to maintain and operate it as a working mill. It is the last surviving grist mill in the District of Columbia and the National Park Service is directed to preserve its historic integrity. This would not, however, preclude the National Park Service from using existing authorities to allow the Art Barn Association to utilize Pierce Mill or any other facility for compatible activities.

I urge Members to support the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1790, the Art Barn bill. S. 1790, introduced by Senator THURMOND on August 3, 1984, would grant a 5-year contract to the Art Barn Association to further the public's enjoyment of local artists' works.

Included within the Rock Creek Park are certain structures; namely, a carriage house and grist mill, that were part of the original Pierce Plan-

tation. For over a decade the National Park Service has entered into annual agreements with the Art Barn Association, a small group of artists from in and around the District of Columbia, to use the carriage house as an admission-free gallery for local artists to display their works. The carriage house, now known as the Art Barn, is adjacent to a mill, and this bill would authorize the Secretary to extend their cooperative agreement to include this mill.

Under the contemplated agreement, the Park Service would continue to maintain the properties, with the Art Bar Association providing the management and supervision for the art exhibitions and other cultural programs. The proposed 5-year contract would replace the existing 1-year system, thereby allowing for further planning and better exhibits.

Mr. Speaker, this is good management legislation and doesn't cost any money. I urge we support it.

Mr. SEIBERLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LUJAN. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. SEIBERLING] that the House suspend the rules and pass the Senate bill, S. 1790, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: "An Act to authorize the Secretary of the Interior to enter into contracts or cooperative agreements with the Art Barn Association to assist in the preservation and interpretation of the Art Barn in Rock Creek Park in the District of Columbia, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the Senate bill just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

SLEEPING BEAR DUNES NATIONAL LAKESHORE, MI

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rule and pass the Senate bill (S. 1868) to add $2 million to the budget ceiling for new acquisitions at Sleeping Bear Dunes National Lakeshore.

The Clerk read as follows:

S. 1868

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 15 of the Act entitled "An Act to establish in the State of Michigan the Sleeping Bear Dunes National Lakeshore, and for other purposes", approved October 21, 1970 (Public Law 91-479; 16 U.S.C. 460x-14), as amended, is further amended by striking out "$82,149,558" and inserting in lieu thereof "$84,149,558".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio [Mr. SEIBERLING] will be recognized for 20 minutes and the gentleman from New Mexico [Mr. LUJAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, S. 1868 would increase the ceiling on appropriations for land acquisition at the Sleeping Bear Dunes National Lakeshore from $82,149,558 to $84,149,588, an increase of $2 million.

The 97th Congress expanded the national lakeshore by adding several resource preservation areas. This legislation would simply increase the land acquisition ceiling by $2 million to encourage the National Park Service to acquire several key tracts in these areas, tracts which the Park Service has identified as priorities for acquisition.

It is expected that the National Park Service will acquire the additional tracts in 1985, subject to appropriations.

Mr. Speaker, I strongly support this legislation. Sleeping Bear Dunes National Lakeshore is a magnificent part of the heritage of the American people. It is particularly important to people in the Midwest, including many people from my own area in Ohio.

I urge Members to support the legislation, and reserve the balance of my time.

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the suspension of the rules for consideration of S. 1868, a bill which would allow the Park Service to acquire the remaining property to round out the Sleeping Bear National Lakeshore in the State of Michigan. This bill, supported by our good friend and colleague, GUY VANDERJAGT, would give the Park Service the tools to purchase the last properties within the Sleeping Bear Dunes area in northwestern Michigan. It is the duty of the Congress, once it has authorized the acquisition of property, to fund such acquisition. In my mind, the U.S. Government already has too much land, and I will not change my position on that issue. In fact, I would prefer that Congress seek to appropriate the moneys necessary to buy inholdings at the same time it establishes park units. In this way, we would be forced to admit that acquisitions are expensive. Nevertheless, it seems to me that Congress should own up to its responsibilities in this case and authorize the funding levels.

I urge we support this legislation.

Mr. SEIBERLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LUJAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. SEIBERLING] that the House suspend the rules and pass the Senate bill, S. 1868.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the Senate bill just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

AIRCRAFT SABOTAGE ACT

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5690) entitled the "Aircraft Sabotage Act", as amended.

The Clerk read as follows:

H.R. 5690

That this Act may be cited as the "Anti-Crime Act of 1984.

TITLE I—BAIL

SEC. 101. This title may be cited as the "Bail Reform Act of 1984".

SEC. 102. (a) Title 18 of the United States Code is amended by striking out section 3141 and all that follows through section 3151, and inserting in lieu thereof the following:

"§ 3141. Release and detention authority generally

"(a) A judicial officer who is authorized to order the arrest of a person pursuant to section 3041 of this title shall order that an arrested person who is brought before him be released or detained, pending judicial proceedings, pursuant to the provisions of this chapter.

"(b) A judicial officer of a court of original jurisdiction over an offense, or a judicial officer of a Federal appellate court, shall order that, pending imposition or execution of sentence, or pending appeal of conviction or sentence, a person be released or detained pursuant to the provisions of this chapter.

"§ 3142. Release or detention of a defendant pending trial

"(a) Upon the appearance before a judicial officer of a person charged with an offense, the judicial officer shall issue an order that, pending trial, the person be—

"(1) released on his personal recognizance or upon execution of an unsecured appearance bond, pursuant to subsection (b) of this section;

"(2) released on a condition or combination of conditions pursuant to subsection (c) of this section;

"(3) temporarily detained to permit revocation of conditional release, deportation, or exclusion pursuant to subsection (d) of this section; or

"(4) detained pursuant to subsection (e) of this section.

"(b) The judicial officer shall order the pretrial release of the person on his personal recognizance, or upon execution of an unsecured appearance bond in an amount specified by the court, subject to the condition that the person not commit a Federal, State, or local crime during the period of his release, unless the judicial officer determines that such release will not reasonably assure the appearance of the person as required or will endanger the safety of any other person or the community.

"(c) If the judicial officer determines that the release described in subsection (b) of this section will not reasonably assure the appearance of the person as required or will endanger the safety of any other person or the community, he shall order the pretrial release of the person—

"(1) subject to the condition that the person not commit a Federal, State, or local crime during the period of release; and

"(2) subject to the least restrictive further condition, or combination of conditions, that he determines will reasonably assure the appearance of the person as required and the safety of any other person and the community, which may include the condition that the person—

"(A) remain in the custody of a designated person, who agrees to supervise him and to report any violation of a release condition to the court, if the designated person is able reasonably to assure the judicial officer that the person will appear as required and will not pose a danger to the safety of any other person or the community;

"(B) maintain employment, or, if unemployed, actively seek employment;

"(C) maintain or commence an educational program;

"(D) abide by specified restrictions on his personal associations, place of abode, or travel;

"(E) avoid all contact with an alleged victim of the crime and with a potential witness who may testify concerning the offense;

"(F) report on a regular basis to a designated law enforcement agency, pretrial services agency, or other agency;

"(G) comply with a specified curfew;

"(H) refrain from possessing a firearm, destructive device, or other dangerous weapon;

"(I) refrain from excessive use of alcohol, or any use of a narcotic drug or other controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), without a prescription by a licensed medical practitioner;

"(J) undergo available medical or psychiatric treatment, including treatment for drug or alcohol dependency, and remain in a specified institution if required for that purpose;

"(K) execute an agreement to forfeit upon failing to appear as required, such designated property, including money, as is reasonably necessary to assure the appearance of the person as required, and post with the court such indicia of ownership of the property or such percentage of the money as the judicial officer may specify;

"(L) execute a bail bond with solvent sureties in such amount as is reasonably necessary to assure the appearance of the person as required;

"(M) return to custody for specified hours following release for employment, schooling, or other limited purposes; and

"(N) satisfy any other condition that is reasonably necessary to assure the appearance of the person as required and to assure the safety of any other person and the community.

The judicial officer may not impose a financial condition that results in the pretrial detention of the person. The judicial officer may at any time amend his order to impose additional or different conditions of release.

"(d) If the judicial officer determines that—

"(1) the person—

"(A) is, and was at the time the offense was committed, on—

"(i) release pending trial for a felony under Federal, State, or local law;

"(ii) release pending imposition or execution of sentence, appeal of sentence or conviction, or completion of sentence, for any offense under Federal, State, or local law; or

"(iii) probation or parole for any offense under Federal, State, or local law; or

"(B) is an alien whose presence in the United States is not under color of law; and

"(2) the person may flee or pose a danger to any other person or the community;

he shall order the detention of the person, for a period of not more than ten days, excluding Saturdays, Sundays, and holidays, and direct the attorney for the Government to notify the appropriate court, probation or parole official, or State or local law enforcement official, or the appropriate official of the Immigration and Naturalization Service. If the official fails or declines to take the person into custody during that period, the person shall be treated in accordance with the other provisions of this section, notwithstanding the applicability of other provisions of law governing release pending trial or deportation or exclusion proceedings.

"(e) If, after a hearing pursuant to the provisions of subsection (f), the judicial officer finds that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community, he shall order the detention of the person prior to trial.

"(f) The judicial officer shall hold a hearing to determine whether any condition or combination of conditions set forth in subsection (c) of this section will reasonably assure the appearance of the person as required and the safety of any other person and the community in a case—

"(1) upon motion of the attorney for the Government, that involves—

"(A) a crime of violence;

"(B) an offense for which the maximum sentence is life imprisonment or death;

"(C) an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or section 1 of the Act of September 15, 1980 (21 U.S.C. 955a); or

"(D) any felony committed after the person had been convicted of two or more prior offenses described in subparagraphs (A) through (C), or two or more State or local offenses that would have been offenses described in subparagraphs (A) through (C) if a circumstance giving rise to Federal jurisdiction had existed; or

"(2) upon motion of the attorney for the Government or upon the judicial officer's own motion, that involves—

"(A) a serious risk that the person will flee; or

"(B) a serious risk that the person will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate, a prospective witness or juror.

The hearing shall be held immediately upon the person's first appearance before the judicial officer unless that person, or the attorney for the Government, seeks a continuance. Except for good cause, a continuance on motion of the person may not exceed five days, and a continuance on motion of the attorney for the Government may not exceed three days. During a continuance, the person shall be detained, and the judicial officer, on motion of the attorney for the Government or on his own motion, may order that, while in custody, a person who appears to be a narcotics addict receive a medical examination to determine whether he is an addict. At the hearing, the person has the right to be represented by counsel, and, if he is financially unable to obtain adequate representation, to have counsel appointed for him. The person shall be afforded an opportunity to testify, to present witnesses on his own behalf, to cross-examine witnesses who appear at the hearing, and to present information by proffer or otherwise. The rules concerning admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the hearing. No testimony by the person at the hearing shall be admissible to prove guilt at any other judicial proceeding, but may be admitted in an action for perjury or for impeachment. The facts the judicial officer uses to support a finding pursuant to subsection (e) of this section that no condition or combination of conditions will reasonably assure the safety of any other person and the community shall be supported by clear and convincing evidence. The person may be detained pending completion of the hearing.

"(g) The judicial officer shall, in determining whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community, take into account the available information concerning—

"(1) the nature and circumstances of the offense charged, including whether the offense is a crime of violence or involves a narcotic drug;

"(2) the weight of the evidence against the person;

"(3) the history and characteristics of the person, including—

"(A) his character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings; and

"(B) whether, at the time of the current offense or arrest, he was on probation, on parole, or on the other release pending trial, sentencing, appeal, or completion of sentence for an offense under Federal, State, or local law; and

"(4) the nature and seriousness of the danger to any person or the community that would be posed by the person's release. In considering the conditions of release described in subsection (c)(2)(K) or (c)(2)(L) of this section, the judicial officer may upon his own motion, or shall upon the motion of the Government, conduct an inquiry into the source of the property to be designated for potential forfeiture or offered as collateral to secure a bond, and shall decline to accept the designation, or the use as collateral, of property that, because of its source, will not reasonably assure the appearance of the person as required.

"(h) In a release order issued pursuant to subsection (b) or (c) of this section, the judicial officer shall—

"(1) include a written statement that sets forth all the conditions to which the release is subject, in a manner sufficiently clear and specific to serve as a guide for the person's conduct; and

"(2) advise the person of—

"(A) the penalties for violating a condition of release, including the penalties for committing an offense while on pretrial release;

"(B) the consequences of violating a condition of release, including the immediate issuance of a warrant for the person's arrest; and

"(C) the provisions of sections 1503 of this title (relating to intimidation of witnesses, jurors, and officers of the court), 1510 (relating to obstruction of criminal investigations), 1512 (tampering with a witness, victim, or an informant), and 1513 (retaliating against a witness, victim, or an informant).

"(i) In a detention order issued pursuant to subsection (e) of this section, the judicial officer—

"(1) shall include written findings of fact, and a written statement, or a written reference to the hearing record, concerning the reasons for the detention;

"(2) shall direct that the person be committed to the custody of the Attorney General for confinement in a corrections facility in accordance with regulations promulgated pursuant to subsection (j) of this section; and

"(3) may recommend that the person receive special medical or similar treatment or attention, but the Attorney General shall not be bound by such a recommendation.

"(j) The Attorney General shall promulgate regulations governing custody of persons detained pending trial. The regulations shall provide that—

"(1) to the extent practicable, the person be confined—

"(A) in a facility located near the court in which the person will have to appear;

"(B) separate from persons awaiting or serving sentences or being held in custody pending appeal; and

"(C) separate from persons who are defendants in the same case;

"(2) the person be afforded reasonable opportunity for private consultation with his counsel and, to the extent practicable, for private visits with his family or other persons;

"(3) on order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility in which the person is confined shall deliver the person to the custody of a United States Marshal or other appropriate Federal law enforcement officer for the purpose of an appearance in connection with a court proceeding or for another official purpose; and

"(4) the person may be released temporarily, in the custody of a United States Marshal or other appropriate person, if necessary for preparation of the person's defense or for another compelling reason.

"(k) Nothing in this section shall be construed as modifying or limiting the presumption of innocence.

"§ 3143. Release or detention of a defendant pending sentence or appeal

"(a) The judicial officer shall order that a person who has been found guilty of an offense and who is waiting imposition or execution of sentence, be detained, unless the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released pursuant to section 3142 (b) or (c) of this title. If the judicial officer makes such a finding, he shall order the release of the person in accordance with section 3142 (b) or (c) of this title.

"(b) The judicial officer shall order that a person who has been found guilty of an offense and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ of certiorari, be detained, unless the judicial officer finds—

"(1) by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released pursuant to section 3142 (b) or (c); and

"(2) that the appeal is not for purpose of delay and raises a substantial question of law or fact likely to result in reversal or an order for a new trial.

If the judicial officer makes such findings, he shall order the release of the person in accordance with section 3142 (b) or (c) of this title.

"(c) The judicial officer shall treat a defendant in a case in which an appeal has been taken by the United States pursuant to section 3731 of this title, in accordance with the provisions of section 3142 of this title, unless the defendant is otherwise subject to a release or detention order.

"§ 3144. Release or detention of a material witness

"If it appears from an affidavit filed by a party that the testimony of a person is material in a criminal proceeding, and if it is shown that it may become impracticable to secure the presence of the person by subpena, a judicial officer may order the arrest of the person and treat the person in accordance with section 3142 of this title. No material witness may be detained because of inability to comply with any condition of release if the testimony of such witness can adequately be secured by deposition, and if further detention is not necessary to prevent a failure of justice. Release of a material witness may be delayed for a reasonable period of time until the deposition of the witness can be taken pursuant to the Federal Rules of Criminal Procedure.

"§ 3145. Review and appeal of a release or detention order

"(a) If a person is ordered released by a magistrate, or by a person other than a judge of a court having original jurisdiction over the offense and other than a Federal appellate court—

"(1) the attorney for the Government may file, with the court having original jurisdiction over the offense, a motion for revocation of the order or amendment of the conditions of release; and

"(2) the person may file, with the court having original jurisdiction over the offense, a motion for amendment of the conditions of release.

The motion shall be determined promptly.

"(b) If a person is ordered detained by a magistrate, or by a person other than a judge of a court having original jurisdiction over the offense and other than a Federal appellate court, the person may file, with the court having original jurisdiction over the offense, a motion for revocation or amendment of the order. The motion shall be determined promptly.

"(c) An appeal from a release or detention order, or from a decision denying revocation or amendment of such an order, is governed by section 1291 of title 28 and section 3731 of this title. The appeal shall be determined promptly.

"§ 3146. Penalty for failure to appear

"(a) A person commits an offense punishable under subsection (b) of this section if, after having been released pursuant to this chapter—

"(1) he knowingly fails to appear before a court as required by the conditions of his release; or

"(2) he knowingly fails to surrender for service of sentence pursuant to a court order.

"(b) If the person was released—

"(1) in connection with a charge of, or while awaiting sentence, surrender for service of sentence, or appeal or certiorari after conviction, for—

"(A) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, he shall be fined not more than $25,000 or imprisoned for not more than ten years, or both;

"(B) an offense punishable by imprisonment for a term of five or more years, but less than fifteen years, he shall be fined not more than $10,000 or imprisoned for not more than five years, or both;

"(C) any other felony, he shall be fined not more than $5,000 or imprisoned not more than two years, or both; or

"(D) a misdemeanor, he shall be fined not more than $2,000 or imprisoned more than one year, or both; or

"(2) for appearance as a material witness, he shall be fined no more than $1,000 or imprisoned for not more than one year, or both.

A term of imprisonment imposed pursuant to this section shall be consecutive to the sentence of imprisonment for any other offense.

"(c) It is an affirmative defense to a prosecution under this section that uncontrollable circumstances prevented the person from appearing or surrendering, and that the person did not contribute to the creation of such circumstances in reckless disregard of the requirement that he appear or surrender, and that the defendant appeared or surrendered as soon as such circumstances ceased to exist.

"(d) If a person fails to appear before a court as required, and the person executed an appearance bond pursuant to section 3142(b) of this title or is subject to the release condition set forth in section 3142(c)(2)(K), or (c)(2)(L) of this title, the judicial officer may, regardless of whether the person has been charged with an of-

fense under this section, declare any property designated pursuant to that section to be forfeited to the United States.

"§ 3147. Penalty for an offense committed while on release

"A person convicted of an offense for which he was prosecuted in a court of the United States committed while released pursuant to this chapter shall be sentenced, in addition to the sentence prescribed for the offense to—

"(1) a term of imprisonment of not less than two years and not more than ten years if the offense is a felony; or

"(2) a term of imprisonment of not less than ninety days and not more than one year if the offense is a misdemeanor.

A term of imprisonment imposed pursuant to this section shall be consecutive to any other sentence of imprisonment.

"§ 3148. Sanctions for violation of a release condition

"(a) A person who has been released pursuant to section 3142 of this title, and who has violated a condition of his release, is subject to a revocation of release, an order of detention, and a prosecution for contempt of court.

"(b) The attorney for the Government may initiate a proceeding for revocation of an order of release by filing a motion with the district court. A judicial officer may issue a warrant for the arrest of a person charged with violating a condition of release, and the person shall be brought before a judicial officer in the district in which his arrest was ordered for a proceeding in accordance with this section. The judicial officer shall enter an order of revocation and detention if, after a hearing, the judicial officer—

"(1) finds that there is—

"(A) probable cause to believe that the person has committed a Federal, State, or local crime while on release; or

"(B) clear and convincing evidence that the person has violated any other condition of his release; and

"(2) finds that—

"(A) based on the factors set forth in section 3142(g), there is not condition or combination of conditions of release that will assure that the person will not flee or pose a danger to the safety of any other person or the community; or

"(B) the person is unlikely to abide by any condition or combination of conditions of release.

If the judicial officer finds that there are conditions of release that will assure that the person will not flee or pose a danger to the safety of any other person or the community, and that the person will abide by such conditions, he shall treat the person in accordance with the provisions of section 3142 and may amend the conditions of release accordingly.

"(c) The judge may commence a prosecution for contempt, pursuant to the provisions of section 401, if the person has violated a condition of his release.

"§ 3149. Surrender of an offender by a surety

"A person charged with an offense, who is released upon the execution of an appearance bond with a surety, may be arrested by the surety, and if so arrested, shall be delivered promptly to a United States marshal and brought before a judicial officer. The judicial officer shall determine in accordance with section 3148(b) of this title whether to revoke the release of the person, and may absolve the surety of responsibility to pay all or part of the bond in accordance with the provisions of rule 46 of the Federal Rules of Criminal Procedure. The person so committed shall be held in official detention until release pursuant to this chapter or another provision of law.

"§ 3150. Applicability to a case removed from a State court

"The provisions of this chapter apply to a criminal case removed to a Federal court from a State court.".

(b) Section 3154 of title 18, United States Code, is amended—

(1) in subsection (1), by striking out "and recommend appropriate release conditions for such individual" and inserting in lieu thereof "and, where appropriate, include a recommendation as to whether each such person should be released or detained and, if release is recommended, recommend appropriate conditions of release"; and

(2) in subsection (2), by striking out "section 3146(e) or section 3147" and inserting in lieu thereof "section 3145";

(c) Section 3156(a) of title 18, United States Code, is amended—

(1) by striking out "3146" and inserting in lieu thereof "3141";

(2) in paragraph (1)—

(A) by striking out "bail or otherwise" and inserting in lieu thereof "detain or"; and

(B) by striking out "and" at the end thereof;

(3) in paragraph (2), by striking out the period at the end and inserting in lieu thereof "; and";

(4) by adding after paragraph (2) the following new paragraphs:

"(3) The term 'felony' means an offense punishable by a maximum term of imprisonment of more than one year; and

"(4) The term 'crime of violence' means—

"(A) an offense that has as an element of the offense the use, attempted use, or threatened use of physical force against the person or property of another; or

"(B) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense."; and

(5) in subsection (b)(1), by striking out "bail or otherwise" and inserting in lieu thereof "detain or".

(d) The item relating to chapter 207 in the table of chapters at the beginning of part II of title 18, United States Code, is amended to read as follows:

"207. Release and detention pending judicial proceedings.... 3141.".

(e)(1) The caption of chapter 207 is amended to read as follows:

"CHAPTER 207—RELEASE AND DETENTION PENDING JUDICIAL PROCEEDINGS".

(2) The table of sections at the beginning of chapter 207 is amended by striking out the item relating to sections 3141 and all that follows through the item relating to section 3151 and inserting in lieu thereof the following:

"3141. Release and detention authority generally.
"3142. Release or detention of a defendant pending trial.
"3143. Release or detention of a defendant pending sentence or appeal.
"3144. Release or detention of a material witness.
"3145. Review and appeal of a release or detention order.
"3146. Penalty for failure to appear.
"3147. Penalty for an offense committed while on release.
"3148. Sanctions for violation of a release condition.
"3149. Surrender of an offender by a surety.
"3150. Applicability to a case removed from a State court.".

SEC. 103. Chapter 203 of title 18, United States Code, is amended as follows:

(1) The last sentence of section 3041 is amended by striking out "determining to hold the prisoner for trial" and inserting in lieu thereof "determining, pursuant to section 3142 of this title, whether to detain or conditionally release the prisoner prior to trial".

(2) The second paragraph of section 3042 is amended by striking out "imprisoned or admitted to bail" and inserting in lieu thereof "detained or conditionally released pursuant to section 3142 of this title".

(3) Section 3043 is repealed.

(4) The following new section is added after section 3061:

"§ 3062. General arrest authority for violation of release conditions

"A law enforcement officer, who is authorized to arrest for an offense committed in his presence, may arrest a person who is released pursuant to chapter 207 of this title if the officer has reasonable grounds to believe that the person is violating, in his presence, a condition imposed on the person pursuant to section 3142 (c)(2)(D), (c)(2)(E), (e)(2)(H), (c)(2)(I), or (c)(2)(M) of this title, or, if the violation involves a failure to remain in a specified institution as required, a condition imposed pursuant to section 3142(c)(2)(J) of this title.".

(5) The table of sections at the beginning of such chapter is amended—

(A) by amending the item relating to section 3043 to read as follows:

"3043. Repealed."; and

(B) by adding the following new item after the item relating to section 3061:

"3062. General arrest authority for violation of release conditions.".

SEC. 104. Section 3731 of title 18, United States Code, is amended by adding after the second paragraph the following new paragraph:

"An appeal by the United States shall lie to a court of appeals from a decision or order, entered by a district court of the United States, granting the release of a person charged with or convicted of an offense, or denying a motion for revocation of, or modification of the conditions of, a decision or order granting release.".

SEC. 105. The second paragraph of section 3772 of title 18, United States Code, is amended by striking out "bail" and inserting in lieu thereof "release pending appeal".

SEC. 106. Section 4282 of title 18, United States Code, is amended—

(1) by striking out "and not admitted to bail" and inserting in lieu thereof "and detained pursuant to chapter 207"; and

(2) by striking out "and unable to make bail".

SEC. 107. Section 636 of title 28, United States Code, is amended by striking out "impose conditions of release under section 3146 of title 18" and inserting in lieu thereof "issue orders pursuant to section 3142 of title 18 concerning release or detention of persons pending trial".

SEC. 108. The Federal Rules of Criminal Procedure are amended as follows:

(1) Rule 5(c) is amended by striking out "shall admit the defendant to bail" and in-

serting in lieu thereof "shall detain or conditionally release the defendant".

(2) The second sentence of rule 15(a) is amended by striking out "committed for failure to give bail to appear to testify at a trial or hearing" and inserting in lieu thereof "detained pursuant to 18 U.S.C. §3144".

(3) Rule 40(f) is amended to read as follows:

"(f) RELEASE OR DETENTION.—If a person was previously detained or conditionally released, pursuant to chapter 207 of title 18, United States Code, in another district where a warrant, information or indictment issued, the Federal magistrate shall take into account the decision previously made and the reasons set forth therefor, if any, but will not be bound by that decision. If the Federal magistrate amends the release or detention decision or alters the conditions of release, he shall set forth the reasons for his action in writing.".

(4) Rule 46 is amended—

(A) in subdivision (a), by striking out "3146, §3148, or §3149" and inserting in lieu thereof "3142 and §3144";

(B) in subdivision (c), by striking out "3148" and inserting in lieu thereof "3143";

(C) by amending subdivision (e)(2) to read as follows:

"(2) SETTING ASIDE.—The court may direct that a forfeiture be set aside in whole or in part, upon such conditions as the court may impose, if a person released upon execution of an appearance bond with a surety is subsequently surrendered by the surety into custody or if it otherwise appears that justice does not require the forfeiture."; and

(D) by adding the following new subdivision at the end thereof:

"(h) FORFEITURE OF PROPERTY.—Nothing in this rule or in chapter 207 of title 18, United States Code, shall prevent the court from disposing of any charge by entering an order directing forfeiture of property pursuant to 18 U.S.C. §3142(c)(2)(K) if the value of the property is an amount that would be an appropriate sentence after conviction of the offense charged and if such forfeiture is authorized by statute or regulation.".

(5) Rule 54(b)(3) is amended by striking out "18, U.S.C. §3043, and".

SEC. 109. Rule 9(c) of the Federal Rules of Appellate Procedure is amended by striking out "3148" and inserting in lieu thereof "3143", and following the word "community", inserting "and that the appeal is not for purpose of delay and raises a substantial question of law or fact likely to result in reversal or in an order for a new trial".

TITLE II—INSANITY DEFENSE

SEC. 201. This title may be referred to as the "Insanity Defense Revision Act of 1984".

SEC. 202. (a) Chapter 1 of title 18 of the United States Code is amended by adding at the end thereof the following new section:

"§ 16. Insanity defense

"(a) It is a defense to a prosecution for an offense against the United States that, at the time of the conduct alleged to constitute the offense, the defendant suffered from a mental disease or defect that grossly and demonstrably impaired the defendant's perception and understanding of reality and, as a result of that impairment, the defendant did not appreciate the wrongfulness of that conduct.

"(b) A defendant has the burden of proving the existence of a defense under this section by the preponderance of the evidence.

"(c) As used in this section, the term 'mental disease or defect' does not include intoxication due to the knowing and voluntary ingestion of alcohol or any other psychoactive substance.

"(d) Except as provided in subsection (a) of this section, a mental disease or defect does not constitute an affirmative defense to an offense against the United States.

"(e) If the defense provided by this section is raised as provided by law, the trier of fact shall find (or be instructed to find) the defendant not responsible only by reason of insanity, if the defendant would be guilty but for the defense provided by this section.".

(b) The table of sections at the beginning of chapter 1 of title 18 of the United States Code is amended by adding at the end the following:

"16. Insanity defense.".

SEC. 203. Rule 704 of the Federal Rules of Evidence is amended to read as follows:

"Rule 704. Opinion on Ultimate Issue

"(a) GENERAL RULE.—Except as provided in subdivisions (b) and (c) of this rule, testimony in the form of an opinion or inference otherwise admissible is not objectionable because such testimony embraces an ultimate issue to be decided by the trier of fact.

"(b) MENTAL CONDITION EXCEPTION.—In a criminal case, opinion testimony as to whether the defendant, or a hypothetical person in the defendant's situation—

"(1) appreciated the wrongfulness of the defendant's conduct; or

"(2) had a mental state constituting an element of the offense charged;

shall not be admissible.

"(c) COMMITMENT EXCEPTION.—In a proceeding under chapter 310 of title 18, United States Code, opinion testimony as to whether the likelihood that the acquitted or committed person, or a hypothetical person in the acquitted or committed person's situation, will commit acts of serious bodily injury to any person or substantial damage to the property of others is sufficiently substantial to justify commitment, shall not be admissible.".

SEC. 204. Chapter 313 of title 18 of the United States Code is amended to read as follows:

"CHAPTER 313—MENTAL INCOMPETENCE

"Sec.
"4241. Screening examination.
"4242. Mental competence examination.
"4243. Report on examination and hearing on competence.
"4244. Treatment to restore incompetent defendant.
"4245. Delivery to State officials of certain persons suffering from mental disease or defect.
"4246. Board of examiners.
"4247. Incompetence undisclosed at trial.
"4248. Transfer for treatment.
"4249. Definitions for certain sections and general provisions for chapter.

"§ 4241. Screening examination

"(a) Whenever the court, on the court's own motion or on motion of any party, determines that there is reasonable cause to believe that the defendant is not competent, the court shall order—

"(1) a screening examination under this section; or

"(2) a mental competence examination under section 4242 of this title.

"(b)(1) Any order under subsection (a) of this section shall include findings of fact supporting that order.

"(2) The attorney for the defendant or the attorney for the Government shall seek an order under subsection (a) of this section if such attorney has reasonable cause to believe that the defendant is not competent.

"(3) Any motion under subsection (a) of this section shall allege specific facts in support of such order, including—

"(A) the behavior observed by such person that suggests that the defendant is not competent; and

"(B) the manner in which such behavior indicates the defendant is not competent.

"(c) A finding by the court that the defendant is competent does not prevent a subsequent order under this section at any time before sentencing or during a hearing under this section for a screening examination, or a subsequent finding at any time that the defendant is not competent.

"(d) A screening examination under this section shall be performed by a qualified mental health examiner on an outpatient basis unless the defendant is otherwise confined, in which case the examination shall be performed where the defendant is confined. The qualified mental health examiner shall file with the court a report of the results of the screening examination not later than three days after the order for such examination is issued.

"(e) Upon the receipt of the results of a screening examination under this section the court shall determine if those results indicate that—

"(1) the defendant is competent; or

"(2) more thorough examination of the defendant is necessary to determine competence.

"(f) If the court determines that the results indicate the defendant is competent, the trial of the case shall proceed, unless the defendant requests a hearing on the issue of a more thorough examination. If the defendant requests that hearing, the court shall hold a hearing to determine if a more thorough examination of the defendant is necessary to determine competence. Such hearing shall be held not later than two days after the request.

"(g) If the court after such preliminary screening or hearing determines that a more thorough examination of the defendant is necessary to determine competence, the court shall order such a mental competence examination under section 4242 of this title.

"§ 4242. Mental competence examination

"(a)(1) An examination under this section shall be conducted by a qualified mental health examiner.

"(2)(A) The defendant shall not be required to reside in or be confined at a mental health facility for a mental competence examination unless the court designates the facility and makes findings of fact supporting the conclusion that such residence or confinement would substantially facilitate the examination.

"(B) The defendant shall not be confined other than at a mental health facility for the purposes of a mental competence examination unless the court makes findings of fact supporting the conclusion that—

"(i) such confinement is necessary because the defendant has failed to appear for such examination or for similar examinations in the past;

"(ii) the defendant presents a substantial probability of serious bodily injury to any person or substantial damage to the property of others; or

"(iii) the defendant is not otherwise released from pretrial confinement.

"(b) The qualified mental health examiner shall prepare and file with the court a

report on the mental condition of the defendant and provide copies to the attorney for the defendant and the attorney for the Government not later than fifteen days after the order for the examination is issued, except that the court may extend this fifteen-day period—

"(1) to the extent reasonable to permit transportation to and from a nonlocal facility; and

"(2) on motion of any party, for a period not exceeding an additional thirty days, if the court finds that specific additional examinations or procedures are necessary for a determination of the defendant's competence and that such extension is required for such examinations or procedures.

"(c) Such report shall include a description of—

"(1) the defendant's social history;

"(2) the techniques and tests employed in diagnosing the defendant's mental and emotional condition, along with the results of those techniques and tests, including any psychological and neurological test data;

"(3) the defendant's behavior relevant to the issue of competence to stand trial;

"(4) the mental health examiner's conclusions concerning the mental and emotional functioning of the defendant, specifying the basis for such conclusions and including the nature and severity of any impairment as of the time of the report, and the relationship of any such impairment to the defendant's competence, including the defendant's ability—

"(A) to appreciate the nature of the alleged crime;

"(B) to disclose pertinent facts, events, and motives;

"(C) to understand the nature of proceedings against the defendant, including the realistic consequences of various pleas or sentences and the functions of the various participants in the adversarial process;

"(D) to form an adequate relationship, and to communicate effectively, with the defendant's attorney;

"(E) to maintain awareness and orientation during trial proceedings;

"(F) to maintain appropriate social behavior and decorum during courtroom proceedings;

"(G) to process effectively the information arising during court proceedings so as effectively to aid defendant's counsel in confronting adverse witnesses; and

"(H) to appreciate realistically the legal options available at various stages of the trial proceedings.

"(5) a prognosis for the immediate future, both with and without treatment;

"(6) all medical records made in the course of the examination, together with any minutes or videotape of any staff conference held in the course of the examination; and

"(7) the mental health examiner's opinion, if such examiner believes such an opinion is within that examiner's expertise, of whether the defendant is competent.

"(d) Any statement or conduct of the defendant occurring during the course of a mental examination or during treatment ordered under this chapter or any evidence derived from such statement or conduct—

"(1) is not admissible as evidence at any criminal trial of the defendant except on the issues of insanity and state of mind; and

"(2) is admissible at trial on the issues of insanity or state of mind only if the defendant initiates the introduction of such evidence.

"§ 4243. Report on examination and hearing on competence

"(a)(1) Upon the receipt of a report under section 4242 or 4244 of this title, the court shall hold a hearing to determine competence.

"(2) Such hearing shall commence no later than fourteen days after the receipt of the report, unless the defendant requests an additional examination by a mental health examiner of the defendant's choice.

"(3) If the defendant makes a request under paragraph (2) of this subsection, the court shall continue the hearing for twenty-one days and appoint a mental health examiner of the defendant's choice to examine the defendant.

"(4) At a hearing under this subsection, the defendant shall have the right to present evidence, subpena witnesses, and cross-examine adverse witnesses.

"(b)(1) If the court, after a hearing under subsection (a) of this section, determines by the preponderance of the evidence that the defendant is not competent, the court shall without unnecessary delay hold a hearing to determine—

"(A) whether there exists a substantial probability that the defendant can be restored to competence within the maximum period for which treatment may be ordered for the defendant under this chapter; and

"(B) if so, what treatment is most appropriate to effect that restoration.

"(2) In any other case after such hearing the case shall proceed.

"(c)(1) If after a hearing under subsection (b) of this section—

"(A)(i) the defendant does not request an opportunity to be restored to competence; and

"(ii) the court determines there is no substantial probability that the defendant can be restored to competence; or

"(B) the defendant has received treatment lasting three hundred and sixty days in the aggregate;

the court shall either order the defendant released or make an order under section 4245 of this title, and shall dismiss every charge against that defendant that is not a charge of a violent felony or a felony punishable by five years imprisonment or more.

"(2) In any other case after such a hearing, the court shall make an appropriate order for treatment under section 4244 of this title, except that the court may dismiss any charge against the defendant that is not a violent felony or a felony punishable by five years imprisonment or more (and may make an order under section 4245 of this title) if the court determines that—

"(A) treatment without the consent of the defendant would be necessary; and

"(B) to require such treatment would be unduly onerous in the light of the degree of—

"(i) the probability that treatment will restore the defendant to competence;

"(ii) the nature of the proposed treatment;

"(iii) the nature of the charges;

"(iv) any weakness in the Government's case; and

"(v) the probable sentence to be imposed if the defendant is convicted.

"(3)(A) A dismissal of charges under this subsection shall be without prejudice to subsequent prosecution on such charges.

"(B) The time limitation on the commencement of prosecution for any charge dismissed under this subsection is extended by such dismissal for a period of five years beyond the otherwise applicable limitation.

"§ 4244. Treatment to restore incompetent defendant

"(a) An order under section 4243 of this title for treatment of a defendant—

"(1) shall specify the facility at which the defendant is to be treated;

"(2) shall include a finding whether the person is capable of giving informed consent for treatment procedures under subsection (d) of this section and, if the court finds the person is not so capable, the appointment of a guardian to make such decisions; and

"(3) may authorize any treatment procedures requiring informed consent or court permission under subsection (d) of this section which the court believes may be required for treatment of the defendant.

"(b) A defendant for whom treatment is ordered under section 4243 of this title may not be required to reside in or be confined at the specified facility unless the court makes specific findings of fact supporting the conclusion that—

"(1) such residence or confinement is necessary for such treatment;

"(2) such residence or confinement is necessary because the defendant has failed to appear for such treatment or similar treatment in the past;

"(3) the defendant presents a substantial probability of serious bodily injury to any person or substantial damage to property of others; or

"(4) the defendant is not otherwise released from pretrial confinement.

"(c) The court shall issue such orders to the person in charge of the facility specified under subsection (a) of this section as the court deems necessary to assure that the defendant receives prompt and effective treatment.

"(d)(1) No treatment under this chapter which, as reasonably determined by the Secretary of Health and Human Services, presents a significant risk of physical or mental disability of extended duration shall be carried out except—

"(A) with the informed consent of the treated person, or, if such person is incapable of giving informed consent, of the person's guardian; or

"(B) with the permission of the court after a hearing at which such person has the right to be represented by counsel.

"(2) The Secretary of Health and Human Services shall prescribe rules, to take effect not later than January 1, 1985, to carry out this subsection. Such rules may designate which treatments or criteria for determining which treatments, under which circumstances, present the risk described in paragraph (1) of this subsection.

"(3) Informed consent shall be deemed to exist for the purposes of this subsection only if the person to be treated signs a written consent form prescribed by the Secretary of Health and Human Services stating—

"(A) the reason for treatment, including the nature and seriousness of the person's illness, disorder, or defect;

"(B) the nature of the procedures to be used in the proposed treatment, including their possible frequency and duration;

"(C) the possible degree and duration of improvement or remissions expected with or without such treatment;

"(D) the nature, degree, duration, and possible side effects and significant risks of such treatment, including the likelihood of memory loss and its irreversibility;

"(E) the reasonable alternative treatments, including why the physician is recommending this particular treatment; and

"(F) what right the person has to refuse treatment.

"(4) The execution of the consent form under paragraph (2) of this subsection shall be in the presence of at least one witness not directly or indirectly engaged in the proposed treatment.

"(5) The requirement of informed consent or permission under this subsection does not apply to the emergency administration of medication.

"(e)(1) The person in charge of the facility specified under subsection (a) of this section shall file a report with the court—

"(A) one hundred and seventy days after the first order for treatment is made if only one such order has been made and three hundred and fifty days after the first order for treatment is made if more than one such order has been made; and

"(B) any time it appears to the person in charge of the facility that—

"(i) maximum benefit has been realized from the treatment; or

"(ii) the defendant has become competent, through medication as described in subsection (g) of this section or otherwise.

"(2) The report filed with the court under paragraph (1) of this subsection shall be approved by the professional person in charge of the defendant's treatment and shall describe—

"(A) the treatment which has been provided;

"(B) any improvement in the deficiencies or disorders that caused the defendant to be not competent;

"(C) any recommendations for future treatment and the need for that treatment; and

"(D) any change in prognosis from any previous such reports.

"(3) If such report indicates that any deficiency or disorder interferes substantially with the defendant's competence, such report shall also state whether and how probable it is that treatment for an additional period would substantially improve that deficiency or disorder.

"(f) Even though a defendant is found not competent, any defense motions which are susceptible to fair determination before trial and without the personal participation of the defendant may be made. An adverse ruling on a motion so made shall be without prejudice to the defendant's right to raise new factual evidence or considerations regarding the same matters in later proceedings in the case if competence is regained.

"(g)(1) A defendant shall not be prohibited from standing trial or entering a plea solely because the defendant is being administered psychotropic medication under medical supervision for a mental or emotional condition.

"(2) The court may order treatment under this section for a defendant currently receiving psychotropic medication to maintain competency who requests such treatment, if the court finds that it is substantially probable that the defendant so treated will not require such medication to maintain competency.

"(3) If a defendant appears in court with the aid of psychotropic medication for a mental or emotional condition, the court, defense counsel, and the prosecution shall be informed by the prescribing physician of the fact that the defendant is appearing under the influence of medication, of the type and dosage of the medication, and of the effect the drug has on the defendant's appearance, actions, and general demeanor.

"(4) If the defendant proceeds to trial with the aid of psychotropic medication for a mental or emotional condition, the court, upon the motion of the defendant, shall provide to the jury, at the beginning of the trial and in the charge to the jury, an explanation of such medication and the medication's probable effects on the defendant's demeanor and participation in the trial.

"(h) Psychosurgery shall not be used in treatment under this chapter.

"(i) At any time during the period of commitment, the person in charge of the facility specified under subsection (a) of this section may petition the court for a modification of the order issued under such subsection. The committed person has the right to a hearing and assistance of counsel on the question of whether such petition should be granted.

"§ 4245. Delivery to State officials of certain persons suffering from mental disease or defect

"(a) If a person—

"(1) is found not competent with no substantial probability of improvement; or

"(2) is found not competent and has not recovered after the end of the maximum period for which treatment may be ordered under this chapter;

and if the court determines there is probable cause to believe that such person is presently suffering from mental disease or defect as a result of which such person's release would create a substantial likelihood of serious injury to any person or substantial damage to property of others, the court may cause such person to be delivered to the appropriate State official in the State of the person's domicile or, if the person has no domicile, in which the court sits for possible commencement of State civil commitment proceedings. If the court does not order delivery of the person to such official, the court shall order the commencement of Federal commitment proceedings under chapter 310 of this title.

"(b) A person delivered under this subsection to a State official shall not be held in Federal custody on the basis of any charge with respect to which that person was found not competent, unless such person is later found competent and Federal criminal proceedings relating to that charge are resumed. A dismissal of charges under section 4243 of this title may be delayed pending such delivery.

"(c) If the person in charge of the facility in which a prisoner whose sentence is about to expire is imprisoned has probable cause to believe that the prisoner is presently suffering from a mental disease or defect as a result of which that prisoner's release would create a substantial likelihood of serious injury to any person or substantial damage to property of others, the person in charge of the facility shall cause the prisoner to be delivered to the appropriate State official in the State of the prisoner's domicile or, if no domicile can be ascertained, in the State in which the facility is located for possible commencement of State civil commitment proceedings by the State. A prisoner delivered under this subsection to a State official shall be deemed to have completed the sentence which is about to expire.

"§ 4246. Board of examiners

"(a) A board of examiners for each Federal penal and correctional institution shall consist of (1) a medical officer appointed by the warden or superintendent of the institution; (2) a medical officer appointed by the Attorney General; and (3) an expert in mental diseases appointed by the Surgeon General of the United States.

"(b) Such board shall examine any inmate of the institution alleged to be suffering from a mental disease or defect and report such board's findings and the facts on which such findings are based to the Attorney General.

"§ 4247. Incompetence undisclosed at trial

"(a) Whenever the Director of the Bureau of Prisons shall certify that a person convicted of an offense against the United States has been examined by the Board of Examiners referred to in section 4246 of this title, and that there is probable cause to believe that such person was not competent at the time of such person's trial, unless the issue of competence was raised and determined before or during such trial, the Attorney General shall transmit the report of the Board of Examiners and the certificate of the Director of the Bureau of Prisons to the clerk of the district court wherein the conviction was had.

"(b) The district court in which a person convicted of an offense was tried shall—

"(1) upon receipt of the report and certificate transmitted in accordance with subsection (a) of this section; or

"(2) if the court otherwise has reason to believe that the person was not competent at the time of trial, and the issue of competence was not raised and determined before or during such trial;

proceed under section 4242 and section 4243(a) of this title to determine if such person was not competent at the time of trial.

"(c) At a hearing under subsection (b) of this section, the report of the Board of Examiners shall be admissible as evidence, and, unless controverted, shall be sufficient to establish by a preponderance of the evidence that the person was not competent at the time of trial.

"(d) If, after a hearing under subsection (b) of this section, the court determines by a preponderance of the evidence that the person was not competent at the time of trial, the court shall vacate the conviction and grant a new trial.

"§ 4248. Transfer for treatment

"(a) If a person serving a sentence of imprisonment makes to the Attorney General, in writing or through such person's attorney, an objection to being transferred to a suitable facility for care or treatment, such objection shall stay the transfer of such person to that suitable facility until after a hearing under subsection (b) of this section. An attorney for the Government, at the request of the director of the facility in which the person is imprisoned, may file a motion with the court for the district in which the facility is located for a hearing on the present mental condition of the person. The court shall grant such motion if there is reasonable cause to believe that the person may presently be suffering from a mental disease or defect that necessitates custody in a suitable facility for care and treatment.

"(b) Upon granting of the motion for hearing, the court shall proceed under section 4242 and section 4243(a) of this title, except that the purpose of the examination and hearing shall be to determine if the person is in need of custody for care and treatment in a suitable facility. The court shall give written notice of the hearing to the person, including a statement of the person's rights with respect to the hearing.

The person shall be entitled to the assistance of counsel at a hearing under this section.

"(c) If, after the hearing, the court determines by clear and convincing evidence that the person is presently suffering from a mental disease or defect that necessitates custody in a designated suitable facility for care or treatment, the Attorney General shall hospitalize the person for treatment at the suitable facility so designated until the person is no longer in need of such care or treatment or until the expiration of the sentence of imprisonment, whichever occurs earlier. The court shall make written findings of fact and of the reason for transfer, and shall provide the person with a copy of such findings.

"(d) Whenever the director of the facility in which the person has been hospitalized under subsection (c) of this section determines that the person is no longer in need of custody for care or treatment in such facility, the director shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the person, to the person's attorney, and to the attorney for the Government. If, at the time of the filing of the certificate, the term of imprisonment imposed upon the person has not expired, the court shall order that the person be reimprisoned until the date of such person's release.

"§ 4249. Definitions for certain sections and general provisions for chapter

"(a) As used in sections 4241, 4242, 4243, 4244, and 4245 of this title—

"(1) the term 'competent' with respect to a defendant in a criminal case means having sufficient present ability to consult with counsel in the case with a reasonable degree of rational understanding, and otherwise to assist in the defendant's own defense, and to possess a rational and factual understanding of the proceedings against that defendant;

"(2) the term 'qualified mental health examiner' means—

"(A) a physician who has completed three years of residency training in psychiatry in a program approved by the American Medical Association; or

"(B) a person who has received a doctoral degree in psychology from a regionally approved clinical program and who has at least three years of experience in the treatment and diagnosis of mental diseases or defects;

"(3) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States; and

"(4) the term 'violent felony' means any felony in which the defendant is alleged—

"(A) to have used a dangerous weapon;

"(B) to have caused or attempted to cause, bodily injury; or

"(C) to have threatened to cause serious bodily injury.

"(b) Nothing contained in this chapter precludes a defendant who is confined under this chapter from establishing by habeas corpus proceedings the defendant's eligibility for release under this chapter.".

SEC. 205. Title 18 of the United States Code is amended by adding after chapter 309 the following new chapter:

"CHAPTER 310—INSANE OFFENDERS

"Sec.
"4171. Disposition of insane offenders and certain other individuals.
"4172. Mental examination.
"4173. Report on examination and hearing.
"4174. Commitment for treatment.
"4175. Conditional release.
"4176. General provisions for chapter.

"§ 4171. Disposition of insane offenders and certain other individuals

"(a) If a person is found not responsible only by reason of insanity with respect to a charge of a felony, the court shall immediately order an examination of the person under section 4172 of this title.

"(b) In any other case if a person is found not responsible only by reason of insanity, the court may order an examination of the person under section 4172 of this title.

"(c) If the court under section 4245 of this title orders the commencement of Federal commitment proceedings, the court shall order an examination of the person under section 4172 of this title.

"§ 4172. Mental examination

"(a)(1) An examination under this section shall be conducted by a qualified mental health examiner.

"(2) The person to be examined shall not be required to reside in or be confined at a mental health facility unless the court designates the particular facility and makes findings of fact supporting the conclusion that—

"(A) the person has been found not responsible by reason of insanity with respect to a charge of a violent felony;

"(B) such residence or confinement is necessary for the examination;

"(C) such residence or confinement is necessary because the person has failed to appear for such examination or similar examinations in the past;

"(D) the person presents a substantial probability of serious bodily injury to any person or substantial damage to the property of others; or

"(E) the person had not otherwise been released from confinement pending trial.

"(b) The qualified mental health examiner shall prepare and file with the court a report on the mental condition of the person and provide copies to the counsel for the person and the attorney for the Government not later than thirty days after the order for the examination is issued, except that the court may extend this thirty-day period—

"(A) to the extent reasonable to permit transportation to and from a nonlocal facility, if such facility is designated in the order as the place for the examination; and

"(B) on motion of any party, for a period not exceeding an additional thirty days, if the court finds that specific additional examinations or procedures are necessary and that such extension is required for such examinations or procedures.

"(c) Such report shall contain the matter required in a report under subsection (c) of section 4242 of this title, except that in lieu of the matter required by paragraphs (3), (4), and (7) of such subsection, such report shall include a description of the mental health examiner's conclusion concerning the mental and emotional functioning of the person, specifying the basis for such conclusions and including the nature and severity of any impairments as of the time of the report; a description of behavior relevant to the likelihood that the person will commit acts of serious bodily injury to any person or substantial damage to the property of others; and the mental health examiner's opinion, if such examiner believes such opinion is within that examiner's expertise, of such likelihood, and the specific information upon which such opinion is based.

"§ 4173. Report on examination and hearing

"(a)(1) Upon the receipt of a report of the results of an examination under section 4172 of this title, or of the results of treatment ordered under section 4174 of this title, the court shall hold a hearing to determine whether the person, because of mental disease or defect, presents a substantial likelihood of serious bodily injury to any person or substantial damage to the property of others.

"(2) Such hearing shall commence no later than fourteen days after the receipt of the report, unless the person requests an additional examination by a mental health examiner of the person's choice.

"(3) If the person makes a request under paragraph (2) of this subsection, the court shall continue the hearing for twenty-one days and appoint a mental health examiner of the person's choice to examine the person.

"(4) At a hearing under this subsection, the person shall have the right to present evidence, subpena witnesses, and cross-examine adverse witnesses.

"(b)(1) If the hearing under subsection (a) is on the report of results of treatment and the committed person was initially ordered examined under subsection (a) or (b) of section 4171 and has not been treated for a period exceeding the maximum term of imprisonment for the charge with respect to which the person was found not responsible by reason of insanity, and the report states that the committed person, because of mental disease or defect, still presents a substantial likelihood of serious bodily injury to any person or substantial damage to the property of others—

"(A) the court shall conditionally release the committed person if the court finds by the preponderance of the evidence that the likelihood that the committed person, because of mental disease or defect, will commit acts of serious bodily injury to any person or substantial damage to the property of others is no longer sufficiently substantial to justify commitment; and

"(B) the court shall return the committed person for treatment under section 4174 of this title in any other case.

"(2) If the hearing under subsection (a) is a hearing on the report of results of treatment other than in the circumstances described in paragraph (1) of this subsection, the court—

"(A) shall order the committed person treated under section 4174 of this title if the court finds that the likelihood that the committed person, because of mental disease or defect, will commit acts of serious bodily injury to any person or substantial damage to the property of others is sufficiently substantial to justify commitment; and

"(B) shall conditionally release the committed person in any other case.

"(3) If the hearing under subsection (a) is on the report of the results of an examination, the court—

"(A) shall order commitment of the person for treatment under this chapter if the court finds that the likelihood that the person, because of mental disease or defect, will commit acts of serious bodily injury to any person or substantial damage to the property of others is sufficiently substantial to justify commitment;

"(B) shall conditionally release the person if the court finds that such a likelihood exists to an extent justifying supervision or treatment, but not commitment; and

"(C) shall unconditionally release the person in any other case.

"(c) Findings required by paragraph (2) or (3) of subsection (b) of this section shall be—

"(1) by a preponderance of the evidence in the case of a person initially ordered examined under subsection (a) or (b) of section 4171 who has not been treated for a period exceeding the maximum term of imprisonment for the charge regarding which the person was found not responsible only by reason of insanity; and

"(2) by clear and convincing evidence in any other case.

"(d) In a hearing under subsection (a) of this section on the report of the results of an examination ordered under section 4171(a) of this title—

"(1) the person found not responsible only by reason of insanity with respect to a charge of a violent felony shall be presumed to present a sufficiently substantial likelihood of committing acts of serious bodily injury to any person or substantial damage to the property of others so as to justify commitment;

"(2) such presumption may only be rebutted by a preponderance of the evidence to the contrary; and

"(3) such presumption shall cease at the expiration of a period equal to the maximum term of imprisonment for the charge with respect to which the person was found not responsible by reason of insanity.

"§ 4174. Commitment for treatment

"(a) An order under section 4173 of this title for treatment of a person shall—

"(1) specify the facility at which the person is to be treated;

"(2) specify the conditions under which the person may be allowed to leave temporarily the premises of such facility; and

"(3) include a finding whether the person is capable of giving informed consent for treatment procedures under subsection (c) of this section and, if the court finds the person is not so capable, the appointment of a guardian to make such decisions.

"(b) The court shall issue such orders to the person in charge of the facility specified under subsection (a) of this section as the court deems necessary to assure that the person to be treated receives prompt and effective treatment.

"(c)(1) No treatment of a type to which the limitations of section 4244(d) of this title would apply if such treatment were ordered under chapter 313 of this title shall be carried out under this chapter except with the informed consent of the treated person, or, if such person is incapable of giving informed consent, of the person's guardian.

"(2) Informed consent shall be deemed to exist for the purposes of this subsection only in those cases in which informed consent would exist under the standards set forth in section 4244(d)(3) of this title.

"(3) The requirement of informed consent or permission under this subsection does not apply to the emergency administration of medication.

"(d)(1) The person in charge of the facility specified under subsection (a) of this section shall make a report to the court—

"(A) one year after the first order of treatment is made, and every year thereafter; and

"(B) any time it appears to such person that the committed person no longer presents a substantial probability of serious bodily injury to any person or substantial damage to the property of others.

"(2) The report made to the court under paragraph (1) of this subsection shall meet the requirements set forth for reports in section 4244(e) of this title.

"(e) At any time during the period of commitment, the person in charge of the facility specified in subsection (a) of this section may petition the court for a modification of the order issued under such subsection. The committed person has the right to a hearing and assistance of counsel on the question of whether such petition should be granted.

"(f) Psychosurgery shall not be used in treatment under this chapter.

"§ 4175. Conditional release

"(a) An order under section 4173 of this title for conditional release of a person shall direct that the person released be supervised by a probation officer under section 3655 of this title.

"(b) The court shall require, as conditions of conditional release under section 4173 of this title, that the released person—

"(1) report to the probation officer, as directed, including promptly reporting any change of address or employment, any arrest by a law enforcement officer, and any hospitalization for a mental disorder;

"(2) cooperate with the probation officer, including permitting visits at reasonable times at home or at a place of employment, answering truthfully all inquiries relevant to the conditions of release, and obtaining approval to leave the jurisdiction of the court;

"(3) follow the probation officer's instructions relevant to the conditions of conditional release; and

"(4) participate in a program of psychotherapy specified by the court.

"(c) The court may require, as conditions of conditional release under section 4173 of this title, that the released person—

"(1) follow a regimen of medication, of the type, and at the time and dosage, prescribed by a physician designated by the court; and

"(2) comply with any other condition reasonably related to the charge with respect to which the person was found not responsible only by reason of insanity or the circumstances involved in the person's commitment under section 4173.

"(d) Upon a showing of probable cause that the conditionally released person has violated a condition of release, or presents a likelihood of committing acts of serious bodily injury to any person or substantial damage to the property of others which is sufficient to justify commitment, the court may issue a warrant to take the defendant.

"(e)(1) If, at any time during the period of conditional release, the probation officer has probable cause to believe that the conditionally released person—

"(A) has violated a condition of release; or

"(B) presents a sufficient likelihood of committing acts of serious bodily injury to any person or substantial damage to the property of others to justify commitment;

and exigent circumstances make obtaining of a warrant impractical, such probation officer may take into custody the conditionally released person.

"(2) A person taken into custody under paragraph (1) of this subsection shall be promptly brought before a magistrate, who shall determine whether the probable cause required by such paragraph exists and order the release or continued custody of the person accordingly.

"(f) A person upon whom a warrant issued under subsection (d) of this section is served, or who is brought before a magistrate under subsection (e)(2) of this section, shall be brought before the court having jurisdiction over the person or, upon order of such court, a court reasonably near the place where the person was found. The court shall thereafter order an examination and conduct a hearing in accordance with the requirements for examinations and hearings set forth in sections 4172 and 4173(a) of this title. Following such hearing, the court—

"(1) shall recommit the person under section 4174 of this title if the court finds by a preponderance of the evidence that the likelihood that the person will commit acts of serious bodily injury to any person or substantial damage to the property of another is sufficient to justify commitment; and

"(2) in any other case—

"(A) shall reinstate the conditional release of the person in any other case; and

"(B) may modify the conditions of release, if the court finds by a preponderance of the evidence that—

"(i) the person has violated a condition of release; or

"(ii) commitment of such person is justified under paragraph (1) of this subsection unless a condition of release is added or modified.

"(g) An order of conditional release under this section shall terminate after—

"(1) ten years; or

"(2) a period equal to the maximum term of imprisonment for the most serious charge with respect to which the person was found not responsible only by reason of insanity reduced by time spent under commitment under section 4174 of this title;

whichever is less. Such person shall thereafter be unconditionally released.

"§ 4176. General provisions for chapter

"(a) At any time during proceedings or treatment under this chapter, if the State of domicile of the acquitted or committed person or the State in which the court is located will accept custody of the acquitted or committed person, the court may order such person delivered to the appropriate State official and terminate all Federal proceedings under this chapter regarding such person.

"(b) As used in this chapter—

"(1) the term 'qualified mental health examiner' means—

"(A) a physician who has completed three years of residency training in psychiatry in a program approved by the American Medical Association; or

"(B) a person who has received a doctoral degree in psychology from a regionally approved clinical program and who has at least three years experience in the treatment and diagnosis of mental diseases or defects;

"(2) the term 'violent felony' means any felony in which the defendant was alleged—

"(A) to have used a dangerous weapon;

"(B) to have caused or attempted to cause, bodily injury; or

"(C) to have threatened to cause serious bodily injury; and

"(3) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.".

SEC. 206. The table of chapters at the beginning of part III of title 18 of the United States Code is amended—

(1) by inserting after the item relating to chapter 309 the following new item:

"310. Insane Offenders.....4171";

and

(2) so that the item relating to chapter 313 reads as follows:

"313. Mental Incompetence.....4241".

SEC. 207. Section 3655 of title 18 of the United States Code is amended by adding at the end the following:

"Each probation officer shall also perform such duties with respect to a person conditionally released under chapter 310 of this title as the court may direct.".

SEC. 208. This title and the amendments made by this title shall take effect on July 1, 1984.

SEC. 209. The Attorney General may enter into such contracts and other agreements as may be necessary to carry out the provisions of law relating to mental incompetence and insane offenders amended by sections 203 and 204 of this Act (including such provisions as they may hereafter be amended), but any such contract or agreement which would result in the United States' being obligated to make outlays may be entered into only to the extent and in such amount as may be provided in advance in an appropriation Act.

TITLE III—SENTENCING REVISION

SEC. 301. This title may be cited as the "Sentencing Revision Act of 1984".

BASIC SENTENCING AMENDMENT

SEC. 302. Title 18, United States Code, is amended by striking out chapter 225 and all that follows through chapter 231 and inserting in lieu thereof the following:

"CHAPTER 225—GENERAL PROVISIONS RELATING TO SENTENCING

"Sec.
"3521. Purposes of sentencing.
"3522. Factors to be considered in sentencing.
"3523. Imposition of sentence.
"3524. Presentence report.
"3525. Presentence hearing.
"3526. Special study to aid sentencing court.
"3527. Applicability of certain sections.

"§ 3521. Purposes of sentencing

"In sentencing an offender, the court shall—

"(1) assure that the severity of the sentence is not less than that which is necessary to constitute just punishment for the offense and promote respect for the law;

"(2) assure that the severity of the sentence is not greater than that which is proportionate to the culpability of the offender and to the harm done (or, in the case of an uncompleted offense, to the harm that would have been done);

"(3) adhere as closely as possible to the principle that similar offenders convicted of similar offenses committed under similar circumstances should receive similar sentences; and

"(4) to the extent not inconsistent with paragraphs (1), (2), and (3) of this section, endeavor to—

"(A) provide adequate deterrence to offenses by others;

"(B) protect the public from further offenses by the offender;

"(C) provide the offender with needed education, vocational training, medical care, and other correctional treatment in the most effective manner;

"(D) provide restitution to victims of offenses; and

"(E) reconcile the victim, community, and offender.

"§ 3522. Factors to be considered in sentencing

"(a) In determining the particular sentence to be imposed, the court shall consider—

"(1) the nature and circumstances of the offense and the history and characteristics of the offender;

"(2) the purposes of sentencing;

"(3) all sentencing options (including effective alternatives to imprisonment); and

"(4) applicable sentencing guidelines.

"(b) The court shall impose a sentence that accords with the applicable sentencing guideline, unless the court finds that aggravating or mitigating circumstances warrant departure from the guidelines under section 3523 of this title, based on the nature of the offense or information about the defendant.

"(c) In the absence of an applicable sentencing guideline, the court shall impose a reasonable sentence, having due regard for its relationship to sentences prescribed in guidelines applicable to similar offenses and offenders.

"(d) As used in this section, the term 'applicable sentencing guideline' means the less severe of—

"(1) the sentencing guideline in effect under chapter 239 of this title on the day on which the offense is committed; and

"(2) the sentencing guideline in effect under such chapter on the day on which the sentence is imposed.

"§ 3523. Imposition of sentence

"(a) The court shall impose sentence without unreasonable delay.

"(b) When imposing sentence, the court shall—

"(1) make findings necessary to resolve any material fact in controversy that may affect sentencing, supervised release, or prison treatment of the defendant (including whether the defendant is a violent career criminal);

"(2) impose a sentence sufficient, but not greater than necessary, to comply with section 3521 of this title; and

"(3) state on the record the reasons for the imposition of the particular sentence, including any reason for departure from the guidelines, and the reasons that such sentence complies with paragraph (2) of this subsection.

"(c) As used in this section, the term, 'violent career criminal' means a defendant—

"(1) who is convicted of a felony in which the defendant used a dangerous weapon, or caused, attempted to cause, or threatened to cause death or serious bodily injury to another individual, or a felony under section 401 of the Controlled Substances Act (21 U.S.C. 841) or section 1002 or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952 or 959); and

"(2) who has two previous convictions for any such felony (or an offense described in subparagraph (A) of this paragraph that is punishable by imprisonment for more than one year under State law) if the defendant served any part of a term of imprisonment or probation for each such previous conviction.

"§ 3524. Presentence report

"(a)(1) The probation service of the court shall make a presentence investigation and submit a presentence report to the court before the imposition of sentence, unless—

"(A) with permission of the court, the defendant waives such investigation and report; and

"(B) the court finds that there is in the record information sufficient to enable the meaningful exercise of sentencing discretion and the court explains such finding on the record.

"(2) The presentence report shall contain—

"(A) any record of prior convictions of the defendant;

"(B) applicable sentencing guidelines under chapter 239 of this title;

"(C) a statement of the circumstances of the commission of the offense and the circumstances affecting the defendant's behavior, including a statement of the identity of the source of such information; and

"(D) any other information that may aid the court in sentencing, including—

"(i) the nature and extent of nonprison programs and resources appropriate to the offense which are available and relevant to the sentencing of the defendant, and the applicability of such programs and resources to the defendant;

"(ii) a statement of the harm done to or loss suffered by the victim; and

"(iii) in the case of an offense for which a monetary sanction may be imposed (other than a case in which, due to the minor nature of the offense, such information would not aid the court), a statement of the financial resources of the defendant, the financial needs of the defendant and the defendant's dependents, the restitution needs of the victim (taking into account the compensation received or to be received by the victim), and any gain derived from or loss caused by the criminal conduct of the defendant.

"(3) The presentence report shall not be submitted to the court or disclosed to any person, unless the defendant has pleaded guilty or nolo contendere or has been found guilty, except that the court may, with the written consent of the defendant, inspect a presentence report at any time.

"(b)(1)(A) Except as provided in subparagraph (B) or (C) of this paragraph, at least fourteen days before a hearing under section 3525 of this title, the court shall furnish to the defendant and defendant's counsel and the attorney for the Government a copy of the presentence report and shall give the defendant and defendant's counsel and the attorney for the Government an opportunity to comment on such report.

"(B) If, in the opinion of the court, the presentence report contains information the disclosure of which might result in physical or other harm to any person, in lieu of furnishing such information under subparagraph (A) of this paragraph, the court shall summarize any such matter to be relied on in determining sentence, and shall give the defendant or defendant's counsel and the attorney for the Government an opportunity to comment on such matter. The summary may be made to the parties in camera.

"(C) The fourteen-day period under subparagraph (A) of this paragraph may be waived by the defendant.

"(D) The presentence report shall be made available to any court reviewing the proceeding with respect to which such report was made.

"(2) Any copy of a presentence report or written statement made available under this subsection shall be returned to the probation service of the court immediately after the imposition of sentence, unless the court otherwise directs.

"(3) The reports of studies and recommendations made by the Director of the Bureau of Prisons under section 3526 or 5037 of this title shall be treated as a presentence report for the purposes of this section.

"(4) The court may enter appropriate orders to prevent dissemination of reports to persons not authorized to receive such reports under this section.

"§ 3525. Presentence hearing

"(a) The court shall hold a hearing on the record for the purposes of—

"(1) affording the defendant and counsel for the defendant the opportunity to make a statement or to present information in mitigation of punishment;

"(2) affording the attorney for the Government an equivalent opportunity to speak to the court;

"(3) receiving information necessary to resolve any fact about which findings must be made; and

"(4) otherwise assisting the court in the sentencing decision.

"(b) With respect to a hearing under this section—

"(1) the court—

"(A) shall subpena such witnesses as are necessary to resolve factual disputes relevant to sentencing that cannot be resolved by less formal means;

"(B) shall permit the parties to present witnesses and to cross-examine adverse witnesses;

"(C) may subpena, call, and cross-examine such witnesses as the court determines may provide information relevant to sentencing;

"(2) a party intending to raise an issue of fact that is not based on information in the presentence report shall provide notice of that intention to such persons and in such form and manner as shall be directed by the court;

"(3) the court may establish appropriate procedures, consistent with the Federal Rules of Criminal Procedure, for identifying disputed issues of fact, for resolving such issues informally to the extent possible, and for narrowing the issues with regard to which findings will be necessary;

"(4) with the consent of the defendant and subject to the discretion of the court, the hearing may be held in camera, except that—

"(A) testimony may only be received in camera upon a finding of good cause therefor; and

"(B) findings and imposition of sentence under section 3523 of this title shall be made in open court;

"(5) the court may consider any information concerning the history, characteristics, and conduct of the defendant that is relevant to the sentencing decision, unless such consideration is otherwise prohibited by law; and

"(6) the court shall assure that any finding of fact by the court that negates a factual statement in the presentence report is made a part of such report and may order such statement corrected or stricken.

"(c) In a hearing under this section—

"(1) no fact necessary to the verdict at trial or established as a result of a plea of guilty or nolo contendere may be disputed by any party;

"(2) except as provided in paragraph (3) or (4) of this subsection, any factual statement in the presentence report shall be accepted as true;

"(3) the Government shall prove beyond a reasonable doubt any previous conviction of the defendant the existence of which—

"(A) is not asserted in the presentence report; or

"(B) is asserted in the presentence report but is specifically denied by the defendant;

"(4) the Government shall prove by a preponderance of the evidence any other fact alleged by the Government that—

"(A) supplements or contradicts a fact asserted in the presentence report; or

"(B) is asserted in the presentence report but is placed in controversy by credible evidence offered by the defendant; and

"(5) the defendant shall prove by a preponderance of the evidence any fact alleged by the defendant that is not asserted in the presentence report, except to the extent that the Government has the burden of proof under paragraph (3) or (4) of this subsection.

"§ 3526. Special study to aid sentencing court

"If the court desires more detailed information as a basis for determining the sentence to be imposed, the court may commit the defendant to the custody of the Attorney General for a study to be conducted by the Director of the Bureau of Prisons under such rules as the Attorney General may prescribe. The results of such study, together with any recommendations which the Director of the Bureau of Prisons believes would be helpful in determining the disposition of the case, shall be furnished to the court within ninety days unless the court grants time, not to exceed an additional ninety days, for further study. After receiving such reports and recommendations, the court may impose any sentence provided by law.

"§ 3527. Applicability of certain sections

"(a) Sections 3523 and 3525 of this title do not apply if the only sentence imposed is a fine of less than $250.

"(b) Section 3524 of this title does not apply if the maximum term of imprisonment for the offense is less than six months and no imprisonment is imposed.

"CHAPTER 227—IMPRISONMENT

"Sec.
"3541. Considerations in ordering imprisonment.
"3542. Commencement of term of imprisonment and credit for time served.
"3543. Modification of term of imprisonment.
"3544. Multiple sentences of imprisonment.
"3545. Youthful offenders.

"§ 3541. Considerations in ordering imprisonment

"The court shall not consider the defendant's need for education, vocational training, or correctional treatment as a justification for imposing a term of imprisonment or for imposing a longer term of imprisonment than would otherwise be necessary to comply with section 3521 of this title.

"§ 3542. Commencement of term of imprisonment and credit for time served

"(a) A term of imprisonment commences on the date on which the defendant is received in custody for such imprisonment.

"(b) A defendant shall be given credit toward the service of a term of imprisonment for any time spent in custody before the date on which the term commences—

"(1) as a result of the offense for which the term is imposed; or

"(2) as a result of any other offense for which the defendant is arrested after the commission of the offense for which the term is imposed;

if such time has not been credited against another sentence.

"(c) Subject to any permissible sentence computation explicitly authorized by this section, the Bureau of Prisons shall credit against the term of imprisonment of any Federal sentence all time spent in State or local penal custody after the commission of the Federal offense, if such time was served solely as the result of a Federal detainer.

"§ 3543. Modification of term of imprisonment

"(a) The court may modify a term of imprisonment after such term is imposed—

"(1) to the extent otherwise expressly permitted by law;

"(2) upon motion of the Sentencing Commission, after notice to the defendant and the attorney for the Government, if the modification is a reduction in sentence and the court finds that compelling reasons warrant such a reduction; and

"(3) upon the court's own motion, if the guideline applicable to the person on whom the imprisonment was imposed is amended and the modification is a reduction of sentence.

"(b) The court shall state on the record its reasons for the denial of a motion under subsection (a)(2) of this section.

"§ 3544. Multiple sentences of imprisonment

"(a) Except as provided in subsection (b) of this section or as otherwise provided by law—

"(1) multiple terms of imprisonment imposed on a defendant at the same time shall run concurrently; and

"(2) any term of imprisonment imposed on a defendant who (at the time such sentence is imposed) is subject to a previously imposed Federal or State term of imprisonment shall run concurrently with such previously imposed term;

unless the court determines that imposition of consecutive terms is appropriate and states the reasons for such determination on the record.

"(b) The court may not order that multiple terms of imprisonment run consecutively if—

"(1) such terms are for an attempt or a conspiracy and an offense that was the objective of the attempt or conspiracy; or

"(2) such terms are for offenses arising from the same criminal episode which differ only in that the provision defining one offense prohibits a kind of conduct generally and the provision of law defining the other offense prohibits a specific type of such general conduct.

"§ 3545. Youthful offenders

"In sentencing a defendant under this chapter, the court may designate such defendant as a youthful offender if—

"(1) such defendant is under twenty-one years of age on the date of sentencing; and

"(2) the court finds that the defendant will benefit from placement in a separate facility or institution under section 4082(g) of this title.

"CHAPTER 229—FINES

"Sec.
"3561. Alternative fines.
"3562. Factors relating to imposition of fine.
"3563. Security for stayed fine.
"3564. Payment of fine by organization.
"3565. Enforcement of fine.

"§ 3561. Alternative fines

"(a) An individual convicted of an offense may be fined not more than the greatest of—

"(1) the amount specified in the law setting forth the offense;

"(2) the applicable amount under subsection (c) of this section;

"(3) in the case of a felony, $250,000;

"(4) in the case of a misdemeanor resulting in death, $250,000; or

"(5) in the case of a misdemeanor punishable by imprisonment for more than six months, $100,000.

"(b) A person (other than an individual) convicted of an offense may be fined not more than the greatest of—

"(1) the amount specified in the law setting forth the offense;

"(2) the applicable amount under subsection (c) of this section;

"(3) in the case of a felony, $1,000,000;

"(4) in the case of a misdemeanor resulting in death, $1,000,000; or

"(5) in the case of a misdemeanor punishable by imprisonment for more than six months, $250,000.

"(c) If the defendant derives pecuniary gain from the offense, or if the offense results in pecuniary loss to another person, the defendant may be fined not more than the greater of twice the gross gain or twice the gross loss, unless imposition of a fine under this subsection would unduly complicate or prolong the sentencing process.

"§ 3562. Factors relating to imposition of fine

"(a) In determining whether to impose a fine and the amount of a fine, the court shall consider, in addition to other relevant factors—

"(1) the nature and circumstances of the offense;

"(2) the history and characteristics of the defendant;

"(3) the defendant's income, earning capacity, and financial resources;

"(4) the burden that the fine will impose upon the defendant, any person who is financially dependent on the defendant, or any other person (including a government) that would be responsible for the welfare of any person financially dependent on the defendant, relative to the burden that alternative punishments would impose;

"(5) any pecuniary loss inflicted upon others as a result of the offense;

"(6) whether restitution is ordered and the amount of such restitution;

"(7) the need to deprive the defendant of illegally obtained gains from the offense;

"(8) whether the defendant can pass on to consumers or other persons the expense of the fine; and

"(9) if the defendant is an organization, the size of the organization and any measure taken by the organization to discipline any officer, director, employee, or agent of the organization responsible for the offense and to prevent a recurrence of such an offense.

"(b) If, as a result of a conviction, the defendant has the obligation to make restitution to a victim of the offense, the court shall impose a fine only to the extent that such fine will not impair the ability of the defendant to make restitution.

"§ 3563. Security for stayed fine

"If a sentence imposing a fine is stayed, the court shall, absent exceptional circumstances (as determined by the court)—

"(1) require the defendant to deposit, in the registry of the district court, any amount of the fine that is due;

"(2) require the defendant to provide a bond or other security to ensure payment of the fine; or

"(3) restrain the defendant from transferring or dissipating assets.

"§ 3564. Payment of fine by organization

"If a fine is imposed on an organization, it is the duty of each individual authorized to make disbursements for the organization to make payment from assets of the organization. If a fine is imposed on a director, officer, employee, or agent of an organization, payment shall not be made, directly or indirectly, from assets of the organization, unless the court finds that such payment is expressly permissible under applicable State law.

"§ 3565. Enforcement of fine

"(a) A judgment imposing the payment of a fine is a lien in favor of the United States and may be enforced upon filing in the manner provided under applicable State law. Except as provided in subsection (b) of this section, such lien is valid against any property of the defendant, other than—

"(1) property with respect to which a lien for taxes is not valid under section 6323(b) of the Internal Revenue Code of 1954; and

"(2) property that is exempt from levy for taxes under subsection (a) or (d) of section 6334 of such Code.

"(b) Such lien is valid against property referred to in paragraph (1) or (2) of subsection (a) of this section if, but for such paragraph, applicable law would permit enforcement of the lien.

"(c)(1) A judgment imposing the payment of a fine shall—

"(A) provide for immediate payment unless, in the interest of justice, the court specifies payment on a date certain or in installments;

"(B) include the name and address of the defendant, the docket number of the case, the amount of the fine, and the schedule of payments (if other than immediate payment is specified); and

"(C) if other than immediate payment is specified, require the defendant to notify the appropriate United States Attorney of any change in the name or address of the defendant.

"(2) If the judgment specifies other than immediate payment of a fine, the period provided for payment shall not exceed five years, excluding any period served by the defendant as imprisonment for the offense.

"(3) If the judgment specifies other than immediate payment of a fine, and the defendant does not pay an amount due, at the discretion of the Attorney General, the entire unpaid balance shall be payable immediately.

"(d)(1) The defendant shall pay interest on any amount of a fine that is past due. The interest shall be computed on the unpaid balance at the rate of 1.5 percent per month.

"(2) If an amount owed by a defendant as a fine is past due for more than ninety days, the defendant shall pay, in addition to any amount otherwise payable, a penalty equal to 25 percent of the amount past due.

"(e)(1) Except as provided in paragraph (2) of this subsection, the defendant shall pay to the Attorney General any amount due as a fine.

"(2) The Attorney General and the Director of the Administrative Office of the United States Courts may jointly provide by regulation that fines and penalties for specified categories of offenses shall be paid to the clerk of the court.

"(f) If a fine exceeds $500, the clerk of the court shall furnish to the Attorney General a certified copy of the judgment.

"(g) When a fine is satisfied as provided by law, the Attorney General shall file with the court a notice of satisfaction of judgment if the defendant makes a written request to the Attorney General for such filing, or if the amount of the fine exceeds $500. Upon request of the defendant, the clerk shall furnish to the defendant a certified copy of the notice.

"(h) The obligation to pay a fine ceases upon the death of the defendant or the expiration of twenty years after the date of the entry of the judgment, whichever occurs earlier. The defendant and the Attorney General may agree in writing to extend such twenty-year period.

"(i)(1) The payment of a fine in any criminal case may be enforced by the United States in the same manner as a judgment in a civil action.

"(2) If the court finds by a preponderance of the information relied upon in imposing sentence that the defendant has the present ability to pay a fine, the judgment may direct imprisonment until the fine is paid, and the issue of execution on the judgment shall not discharge the defendant from imprisonment until the fine is paid.

"(j) The clerk of court or the Attorney General, as the case may be, shall deposit amounts received from fines in the general fund of the Treasury as miscellaneous receipts.

"CHAPTER 231—PROBATION AND RESTITUTION

"SUBCHAPTER I—PROBATION

"Sec.
"3581. Applicability of probation.
"3582. Term of probation.
"3583. Conditions of probation.

"§ 3581. Applicability of probation

"A defendant who is found guilty of an offense (other than an offense punishable by death or life imprisonment) may be ordered placed on probation in lieu of one or more other punishments imposable for such offense unless the defendant is at the same time ordered imprisoned for the same or a different offense.

"§ 3582. Term of probation

"(a) The authorized terms of probation are—

"(1) for a felony, not more than sixty months;

"(2) for a misdemeanor (other than a misdemeanor described in paragraph (3) of this subsection), not more than twenty-four months; and

"(3) for a misdemeanor punishable by imprisonment of five days or less, not more than twelve months.

"(b) The term of probation commences on the date of sentencing unless otherwise provided by law or order of the court.

"(c)(1) Multiple terms of probation, whether imposed at the same time or at different times, run concurrently.

"(2) The term of probation runs concurrently with the term of any other sentence for a Federal or State offense to which the defendant is subject or becomes subject during the term of probation, except that such term does not run concurrently with a period of custody of more than thirty consecutive days served pursuant to a sentence of imprisonment.

"(d) At any time before the end of a term of probation, the court, on the court's own motion or on motion by the defendant or the Government may modify or terminate probation if the court is satisfied that the purposes of sentencing or the interest of justice warrants such action. The defendant has the right to a hearing and assistance of counsel on any motion to extend the term of probation or to impose an additional condition of probation.

"§ 3583. Conditions of probation

"(a)(1) The court shall require, as conditions of probation, that the defendant—

"(A) not commit a Federal or State offense during the term of probation; and

"(B) make restitution under subchapter II of this chapter unless the court, taking into consideration the defendant's need to meet family responsibilities, determines that restitution is impractical.

"(2) The court may direct that an individual placed on probation be assisted by a probation officer under section 4364 of this title. If the court orders such assistance, the court shall further require, except to the extent the court finds such conditions are impractical or inappropriate, that the defendant—

"(A) report to the probation officer, as directed by the probation officer, including promptly reporting any change in address or employment, and any arrest by a law enforcement officer;

"(B) cooperate with the probation officer, including permitting visits at reasonable times at home or at a place of employment, answering truthfully all inquiries relevant to the conditions of probation, and obtaining approval of the probation officer to leave the jurisdiction of the court; and

"(C) follow the probation officer's instructions relevant to the conditions of probation.

"(3) In imposing probation upon a defendant other than an individual, the court may appoint a special master to monitor relevant operations of the defendant to assure compliance with any condition of probation. A special master shall not be appointed under this subsection unless the defendant has reasonable opportunity at the hearing under section 3525 of this title to show why a special master should not be appointed.

"(4) The court may impose additional conditions of probation that—

"(A) are reasonably related to the factors set forth in section 3522 of this title; and

"(B) involve no greater deprivation of liberty than is reasonably necessary.

"(b) Under subsection (a)(4) of this section, the court may require that the defendant—

"(1) meet legal family responsibilities, including support of dependents and any such condition shall have priority over an obligation to pay a fine;

"(2) pay a fine imposed under chapter 229 of this title;

"(3) pay on a regular basis, as a fine, a designated portion of the defendant's wages, taking into account the factors set forth in section 3562 of this title;

"(4) work conscientiously at suitable employment or pursue conscientiously a course of study or vocational training that will equip the defendant for suitable employment;

"(5) refrain from frequenting or residing in specified place or types of places or from associating unnecessarily with specified persons or types of persons;

"(6) refrain from excessive use of alcohol or any narcotic drug or other controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

"(7) refrain from possessing a firearm, destructive device, or other dangerous weapon;

"(8) with the consent of the defendant, undergo available medical or psychiatric treatment for all or part of the term of probation and remain in a specified institution if necessary for such treatment;

"(9) with the consent of the defendant, reside at, or participate in the program of, a community treatment facility for all or part of the term of probation, upon—

"(A) certification by the Attorney General that a suitable program is available; or

"(B) a determination by the court that a suitable program meeting all State and local requirements for such programs is available;

"(10) surrender to and remain in the custody of the Bureau of Prisons during the first year of the term of probation for any time or intervals of time including weekends and parts of days totaling not more than the lesser of one hundred and eighty days or the term of imprisonment authorized for the offense;

"(11) work in community service;

"(12) authorize disclosure to a probation officer of financial records under section 1104 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3404); or

"(13) if the defendant is an addict or a drug dependent person (as defined in section 2 of the Public Health Service Act (42 U.S.C. 201)), participate in a community supervision program authorized under section 4251 of this title; or

"(14) comply with any other condition.

"(c) The court may require that a nonindigent defendant pay costs incident to a program under subsection (b) (8) or (9) of this section.

"(d)(1) Under subsection (a)(4) of this section, the court may require, as a condition of probation, that a defendant who is a director, officer, or managing agent of an organization and who is convicted of a felony arising out of such defendant's organizational relationship be disqualified from continuing as such director, officer, or managing agent and be disqualified from exercising similar functions in the same or other organizations, for a period not to exceed the maximum authorized term of probation.

"(2) No condition disqualifying a defendant from certain types of employment shall be imposed under this section unless the defendant was given reasonable opportunity at a hearing under section 3525 of this title to show why such condition should not be imposed.

"(e) The court shall direct a probation officer to furnish to a defendant a written statement setting forth all the conditions of probation with sufficient specificity to serve as a guide for the defendant's conduct.

"SUBCHAPTER II—RESTITUTION

"Sec.
"3601. Applicability of restitution.
"3602. Nature of restitution.
"3603. Timing of payment; termination.
"3604. Special rules relating to restitution.
"3605. Enforcement of restitution.

"§ 3601. Applicability of restitution

"(a) A defendant who is found guilty of an offense may be ordered to make restitution to any victim of the offense for which the defendant is convicted.

"(b) In determining whether to order restitution, the court shall consider the needs of all of the victims of the offense for which the defendant is convicted and whether an order of restitution will unduly complicate or prolong the sentencing process.

"(c) If the court orders no restitution or partial restitution, the court shall state on the record the reasons for such order.

"§ 3602. Nature of restitution

"(a) If an offense results in damage to or loss or destruction of property of a victim of the offense, a defendant may be ordered—

"(1) to return the property to the owner of the property or a person designated by the owner; or

"(2) if return of the property is impossible, impractical, or inadequate, to pay an amount equal to the greater of the value of the property on the date of the damage, loss, or destruction, or the value of the property on the date of sentencing, less the value (as of the date the property is returned) of any part of the property that is returned;

"(b) If an offense results in bodily injury to a victim, a defendant may be ordered—

"(1) to pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment, unless such place is outside the United States and the treatment is nowhere recognized by law in the United States;

"(2) to pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and

"(3) to reimburse the victim for income lost by the victim as a result of the offense.

"(c) If an offense results in bodily injury which also results in the death of a victim, a defendant may be ordered to pay an amount equal to the cost of necessary funeral and related services.

"(d) In any case, if the victim consents, a defendant may be ordered under this subchapter to make restitution in services in lieu of money, or make restitution to a person designated by the victim.

"(e) If the victim is deceased, the victim's estate shall be substituted for the victim for the purposes of this subchapter.

"(f)(1) The court shall not impose restitution with respect to a loss for which the victim has received or is to receive compensation, except that, in the interest of justice, the court may order restitution to any person who has compensated the victim for such loss. An order of restitution shall require that all restitution to victims be made before restitution to any other person is made.

"(2) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by such victim in—

"(A) any Federal civil proceeding; and

"(B) any State proceeding, to the extent provided by the law of that State.

"(g) In determining whether to order restitution and the amount of such restitution, the court shall consider the amount of the loss sustained as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and other appropriate factors.

"§ 3603. Timing of payment; termination

"(a) If not otherwise ordered by the court under this section, restitution shall be made immediately.

"(b) The court may order that a defendant make restitution within a specified period or in specified installments. The end of such period or the last such installment shall not be later than—

"(1) the end of the term of probation, if restitution is imposed as a condition of probation;

"(2) five years after the end of the term of imprisonment imposed, if imprisonment is ordered; and

"(3) five years after the date of sentencing in any other case.

"§ 3604. Special rules relating to restitution

"(a) The court may order the probation service of the court to obtain information pertaining to the factors set forth in section 3602(g) of this title. The probation service shall include the information in the presen-

tence report under section 3524 of this title or in a separate report, as the court directs.

"(b) The court shall disclose to both the defendant and the attorney for the Government all portions of the presentence or such separate report pertaining to the factors set forth in section 3602(g) of this title.

"(c) Any dispute as to the proper amount or type of restitution shall be resolved by the court under section 3525 of this title. The burden of demonstrating the amount of the loss sustained as a result of the offense shall be on the Government. The burden of demonstrating the financial resources of the defendant and the financial needs and earning ability of the defendant and such defendant's dependents shall be on the defendant. The burden of demonstrating other matters shall be upon the party designated by the court as justice requires.

"(d) If restitution is ordered, the court shall furnish to the defendant a copy of the order of restitution. The order of restitution shall require the defendant to make restitution directly to the victim or other person eligible under section 3602 of this title, or to deliver the amount or property due as restitution to the Attorney General for transfer to such victim or person.

"§ 3605. Enforcement of restitution

"An order of restitution may be enforced by the United States or by a victim or other person entitled to receive such restitution in the same manner as a judgment in a civil action.

"SUBCHAPTER III—FACILITATION OF VICTIM RECOVERY

"Sec.
"3621. Special notice rule.
"3622. Estoppel in certain civil proceedings.

"§ 3621. Special notice rule

"In addition to any sentence imposed, the court may order a defendant found guilty of an offense involving fraud or other intentionally deceptive practices to give reasonable notice and explanation of the conviction, in such form as the court may approve, to the readily identifiable victims of the offense. The court may order notice to be given by mail, by advertising in designated areas or through designated media, or by other appropriate means. In determining whether to require the defendant to give such notice, the court shall consider the cost of the notice compared to the loss caused by the offense, and shall not require the defendant to bear the costs of notice in excess of $20,000.

"§ 3622. Estoppel in certain civil proceedings

"A conviction for a Federal offense shall estop the defendant from denying the essential allegations of the offense in any subsequent Federal civil proceeding brought by or on behalf of a victim, to the extent Federal law is determinative of that estoppel, and in any subsequent State civil proceeding brought by or on behalf of a victim, to the extent consistent with State law.".

APPEAL AMENDMENT

SEC. 303. Chapter 235 of title 18 of the United States Code is amended to read as follows:

"CHAPTER 235—APPEAL

"Sec.
"3731. Appeal by the United States.
"3732. Appeal of sentence.
"3733. Procedure for appeal of sentence.

"§ 3731. Appeal by the United States

"(a) In a criminal case, an appeal by the United States shall lie to a court of appeals from a decision, judgment, or order of a district court dismissing an indictment or information as to any one or more counts, except that no appeal shall lie where the double jeopardy clause of the United States Constitution prohibits further prosecution.

"(b) An appeal by the United States shall lie to a court of appeals from a decision or order of a district court suppressing or excluding evidence or requiring the return of seized property in a criminal proceeding, not made after the defendant has been put in jeopardy and before the verdict or finding on an indictment or information, if the United States attorney certifies to the district court that the appeal is not taken for purpose of delay and that the evidence is a substantial proof of a fact material in the proceeding.

"(c) The appeal in all such cases shall be taken within thirty days after the decision, judgment or order has been rendered and shall be diligently prosecuted.

"§ 3732. Appeal of sentence

"(a) It is a ground for appeal by the United States or the defendant in a criminal case that the sentence—

"(1) resulted from incorrect application of a sentencing guideline under section 3791 of this title;

"(2) was not imposed in accordance with the Federal Rules of Criminal Procedure; or

"(3) otherwise violates the Constitution or laws of the United States.

"(b)(1) Except as provided in paragraph (2) of this subsection, it is a ground for appeal by the defendant in a criminal case that—

"(A) the sentence is inappropriately more severe than the most severe sentence in the applicable sentencing guideline; or

"(B) there is no applicable sentencing guideline and the sentence is plainly inappropriate.

"(2) The defendant may not appeal a sentence pursuant to a plea agreement accepted by the court if the sentence—

"(A) is not more severe than the sentence that the attorney for the Government recommended or agreed not to oppose; or

"(B) is agreed to by the attorney for the Government and the defendant.

"(c)(1) Except as provided in paragraph (2) of this subsection, it is a ground for appeal by the United States in a criminal case that—

"(A) the sentence is inappropriately less severe than the least severe sentence in the applicable sentencing guideline; or

"(B) there is no applicable sentencing guideline and the sentence is plainly inappropriate.

"(2) The United States may not appeal a sentence pursuant to a plea agreement accepted by the court if the sentence—

"(A) is not less severe than the sentence that the attorney for the Government recommended or agreed not to oppose; or

"(B) is agreed to by the attorney for the Government and the defendant.

"(d) The Attorney General or the Solicitor General shall personally approve the filing of any notice of appeal by the United States under this section.

"§ 3733. Procedure for appeal of sentence

"(a) The record on appeal under section 3732 of this title shall include any report submitted to the court under section 3524, 3526, 3604, or 4201 of this title.

"(b) In an appeal under section 3732 of this title, the court of appeals shall consider—

"(1) the record on appeal;

"(2) the applicable sentencing guideline;

"(3) the opportunity of the district court to observe the defendant;

"(4) the purposes of sentencing under section 3521 of this title; and

"(5) the factors set forth in section 3522 of this title.

"(c)(1) If the court of appeals reverses a judgment under section 3732 of this title, the court may vacate the sentence and resentence the defendant or remand the case to the district court for resentencing.

"(2) In an appeal under section 3732 of this title, the court of appeals—

"(A) shall not set aside findings of fact of the district court unless such findings are clearly erroneous;

"(B) shall give due regard to the opportunity of the district court to judge the credibility of the witnesses; and

"(C) shall state in writing the reasons for any vacation of sentence, imposition of a new sentence, or remand.

"(d) A party may not appeal a sentence on any ground that was not raised in a motion for modification of sentence under the Federal Rules of Criminal Procedure or in opposition to such a motion.".

SENTENCING GUIDELINES AMENDMENT

SEC. 304. Part II of title 18, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 239—SENTENCING GUIDELINES

"Sec.
"3791. Sentencing guidelines.
"3792. Content of sentencing guidelines.
"3793. Establishment of Sentencing Commission.
"3794. Membership and organization of Commission.
"3795. Powers of Commission.
"3796. Director and staff.
"3797. Annual report.

"§ 3791. Sentencing guidelines

"(a) For the purposes of—

"(1) promoting fairness and certainty in sentencing;

"(2) eliminating unwarranted disparity in sentencing; and

"(3) improving the administration of justice;

the Judicial Conference of the United States shall prescribe and submit to the Congress sentencing guidelines for Federal judges to use in determining the appropriate sentence to impose following conviction of a criminal offense.

"(b) The sentencing guidelines under subsection (a) of this section—

"(1) shall take effect one hundred and eighty days after the date of submission to the Congress, unless otherwise provided by law; and

"(2) in the case of the initial guidelines, shall be complete and simultaneously submitted not later than the May 1 before the effective date provided for in section 310(a) of the Sentencing Revision Act of 1984, and shall take effect on such date.

"(c) Together with any sentencing guideline submitted under subsection (a) of this section, the Judicial Conference of the United States shall submit a statement of the expected impact of such guideline on Federal prisons, criminal dockets of Federal courts, and Federal expenditures. In preparing a statement under this subsection, the Judicial Conference of the United States shall seek information and advice from the Bureau of Prisons, the Administrative Office of the United States Courts, the Office of Management and Budget, and other appropriate Federal agencies.

"(d) Any amendment to an existing sentencing guideline shall be prescribed and submitted and shall become effective in the manner set forth in this section for the prescription of such guidelines.

"(e) The sentencing guidelines prescribed under this section shall be formulated to minimize the likelihood that the Federal prison population will exceed the capacity of the Federal prisons, as determined by the Judicial Conference of the United States based on information provided under section 3793 of this title.

"§ 3792. Content of sentencing guidelines

"(a) The sentencing guidelines prescribed under this chapter shall be based on—

"(1) categories of offenders derived from relevant history and characteristics of defendants sentenced in Federal court; and

"(2) categories of offenses derived from the nature and circumstances of the offenses for which such defendants are convicted.

"(b) Each sentencing guideline shall indicate the appropriate disposition of a case within each category of offender and each category of offense.

"(c)(1) If a sentencing guideline provides for a fine, the guideline shall—

"(A) specify a range in dollars for the fine; and

"(B) avoid unreasonable aggregation of fines with respect to convictions based on the same conduct or arising from the same criminal episode.

"(2) If a sentencing guideline provides for a term of imprisonment, the guideline shall—

"(A) indicate a range in time for such term, the upper limit of which shall not exceed the lower limit by more than the greater of twenty five percent or one year and (other than for a violent career criminal) shall not exceed eighty percent of the maximum term authorized for the offense; and

"(B) indicate the circumstances for which consecutive sentences are appropriate.

"(3) If a sentencing guideline provides for probation or restitution, the guideline shall provide guidance to the court for determining the appropriate extent and conditions of such sentence.

"(d) The sentencing guidelines shall provide that a violent career criminal shall be sentenced to not less than two-thirds the maximum term of imprisonment authorized for the offense, unless compelling and extraordinary circumstances justify a lesser sentence.

"(e) As used in this section, the term 'violent career criminal' has the meaning given that term in section 3523 of this title.

"§ 3793. Establishment of Sentencing Commission

"(a) There is established as an independent commission within the judicial branch a Sentencing Commission (hereinafter in this chapter referred to as the 'Commission') which shall—

"(1) obtain and analyze on a continuing basis—

"(A) data on the sentences imposed by Federal courts in criminal cases and the nature and circumstances of the offenses and the relevant history and characteristics of defendants in those cases; and

"(B) judicial opinions of Federal courts that are relevant to sentencing;

"(2) recommend sentencing guidelines to the Judicial Conference of the United States;

"(3) recommend to the Judicial Conference standards for assuring that sentencing guidelines are applied in a manner which does not discriminate on the basis of gender, race, religion, or (except with regard to the amount of a fine or restitution) socioeconomic status;

"(4) recommend to the Judicial Conference of the United States guidelines for Federal judges to use in determining whether to accept a plea agreement;

"(5) recommend to the Judicial Conference of the United States standards for Federal judges to use in designating youthful offenders under section 3545 of this title;

"(6) recommend to the Judicial Conference a standard to be used for evaluating Federal prison capacity for the purposes of section 3791 of this title;

"(7) in carrying out its functions, seek the opinions of a broadly representative cross-section of persons interested in and concerned with the operation of the Federal criminal justice system, including representatives of the defense bar, the prosecution, and the academic community; and

"(8) at least annually, make available to Federal courts and other interested persons any sentencing guidelines prescribed under this chapter and relevant information concerning patterns and practices in the sentencing of persons convicted of Federal offenses, including the differential impact of the guidelines and the patterns and practices, according to gender, racial, religious, and socioeconomic classifications.

"(b) The Commission shall—

"(1) conduct all meetings in sessions open to the public and make available to the public any data, opinions, guidelines, and other information referred to in paragraphs (1), (6), (7), and (8) of subsection (a) of this section, except that information identifying specific individuals shall be withheld to the extent provided in the procedures prescribed under paragraph (2) of this subsection and meetings may be held in closed session for that purpose;

"(2) prescribe internal operating procedures to protect individuals identified in any information system maintained by, or under the authority of, the Commission, including safeguards to ensure that information is accurate, current, and necessary for the purposes of this chapter; and

"(3) print and disseminate, in a manner and at a time permitting adequate opportunity for public comment, guidelines and standards proposed to be recommended to the Judicial Conference of the United States under paragraphs (2), (3), and (4) of subsection (a) of this section.

"§ 3794. Membership and organization of Commission

"(a) The Commission shall consist of seven voting members and one nonvoting member. The President, after consultation with representatives of judges, prosecuting attorneys, defense attorneys, law enforcement officials, senior citizens, victims of crime, and others interested in the criminal justice process, shall appoint the voting members of the Commission, by and with the advice and consent of the Senate, one of whom shall be appointed, by and with the advice and consent of the Senate, as Chairman, and one of whom shall be so appointed as Vice-chairman. At least four of the members, including the Chairman, shall be Federal judges in regular active service selected after considering a list of twelve judges recommended to the President by the Judicial Conference of the United States. Not more than four of the members of the Commission shall be members of the same political party. The Attorney General, or his designee, shall be an ex officio, nonvoting member of the Commission. The Chairman and members of the Commission shall be subject to removal from the Commission by the President only for neglect of duty or malfeasance in office or for other good cause shown.

"(b) The voting members of the United States Sentencing Commission shall be appointed for six-year terms, except that the initial terms of the first members of the Commission shall be staggered so that—

"(1) two members, including the Chairman, serve terms of six years;

"(2) three members serve terms of four years; and

"(3) two members serve terms of two years.

"(c) No voting member may serve more than two full terms. A voting member appointed to fill a vacancy that occurs before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

"(d) The Chairman and the Vice-chairman of the Commission shall hold full-time positions and shall be compensated during the term of office at the annual rate at which judges of the United States courts of appeals are compensated. The voting members of the Commission, other than the Chairman and the Vice-chairman, shall hold full-time positions until the end of the first six years after the sentencing guidelines go into effect pursuant to section 3791 of this title, and shall be compensated at the annual rate at which judges of the United States courts of appeals are compensated. Thereafter, the voting members of the Commission, other than the Chairman and the Vice-chairman, shall hold part-time positions and shall be paid at the daily rate at which judges of the United States courts of appeals are compensated. A Federal judge may serve as a member of the Commission without resigning his appointment as a Federal judge.

"(e) The Chairman shall—

"(1) call and preside at meetings of the Commission, which shall be held for at least two weeks in each quarter after the members of the Commission hold part-time positions; and

"(2) direct—

"(A) the preparation of requests for appropriations for the Commission; and

"(B) the use of funds made available to the Commission.

"§ 3795. Powers of Commission

"(a) The Commission, by vote of a majority of the members present and voting, shall have the power to—

"(1) establish general policies and promulgate such rules and regulations for the Commission as are necessary to carry out the purposes of this chapter;

"(2) appoint and fix the salary and duties of the Staff Director of the Sentencing Commission, who shall serve at the discretion of the Commission and who shall be compensated at a rate not to exceed the highest rate now or hereafter prescribed for grade 18 of the General Schedule pay rates (5 U.S.C. 5332);

"(3) deny, revise, or ratify any request for regular, supplemental, or deficiency appropriations prior to any submission of such request to the Office of Management and Budget by the Chairman;

"(4) procure for the Commission temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code;

"(5) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

"(6) without regard to 31 U.S.C. 3324, enter into and perform such contracts, leases, cooperative agreements, and other transactions as may be necessary in the conduct of the functions of the Commission, with any public agency, or with any person, firm, association, corporation, educational institution, or nonprofit organization;

"(7) accept and employ, in carrying out the provisions of this title, voluntary and uncompensated services, notwithstanding the provisions of 31 U.S.C. 1342, however, individuals providing such services shall not be considered Federal employees except for purposes of chapter 81 of title 5, United States Code, with respect to job-incurred disability and title 28, United States Code, with respect to tort claims;

"(8) request such information, data, and reports from any Federal agency or judicial officer as the Commission may from time to time require and as may be produced consistent with other law;

"(9) monitor the performance of probation officers with regard to sentencing recommendations, including application of the Sentencing Commission guidelines and policy statements;

"(10) issue instructions to probation officers concerning the application of Commission guidelines and policy statements;

"(11) arrange with the head of any other Federal agency for the performance by such agency of any function of the Commission, with or without reimbursement;

"(12) establish a research and development program within the Commission for the purpose of—

"(A) serving as a clearinghouse and information center for the collection, preparation, and dissemination of information on Federal sentencing practices; and

"(B) assisting and serving in a consulting capacity to Federal courts, departments, and agencies in the development, maintenance, and coordination of sound sentencing practices;

"(13) collect systematically the data obtained from studies, research, and the empirical experience of public and private agencies concerning the sentencing process;

"(14) publish data concerning the sentencing process;

"(15) collect systematically and disseminate information concerning sentences actually imposed, and the relationship of such sentences to the factors set forth in section 3522(a) of this title;

"(16) collect systematically and disseminate information regarding effectiveness of sentences imposed;

"(17) devise and conduct, in various geographical locations, seminars and workshops providing continuing studies for persons engaged in the sentencing field;

"(18) devise and conduct periodic training programs of instruction in sentencing techniques for judicial and probation personnel and other persons connected with the sentencing process;

"(19) study the feasibility of developing guidelines for the disposition of juvenile delinquents;

"(20) make recommendations to Congress concerning modification or enactment of statutes relating to sentencing, penal, and correctional matters that the Commission finds to be necessary and advisable to carry out an effective, humane, and rational sentencing policy;

"(21) hold hearings and call witnesses that might assist the Commission in the exercise of its powers or duties; and

"(22) perform such other functions as are required to permit Federal courts to meet their responsibilities under section 3522(a) of this title, and to permit others involved in the Federal criminal justice system to meet their related responsibilities.

"(b) The Commission shall have such other powers and duties and shall perform such other functions as may be necessary to carry out the purposes of this chapter, and may delegate to any member or designated person such powers as may be appropriate other than the power to recommend guidelines and standards under section 3793 of this title, and to issue general policies and promulgate rules and regulations under subsection (a)(1) of this section. The Commission shall, to the extent practicable, utilize existing resources of the Administrative Office of the United States Courts and the Federal Judicial Center for the purpose of avoiding unnecessary duplication.

"(c) Upon the request of the Commission, each Federal agency is authorized and directed to make its services, equipment, personnel, facilities, and information available to the greatest practicable extent to the Commission in the execution of its functions.

"(d) A majority of the membership then serving shall constitute a quorum for the conduct of business. The Commission may exercise its powers and fulfill its duties by vote of a majority of the members present, except that any recommendation of guidelines and standards under section 3793 of this title shall be by vote of a majority of the members then serving.

"(e) Except as otherwise provided by law, the Commission shall maintain and make available for public inspection a record of the final vote of each member on any action taken by it.

"§ 3796. Director and staff

"(a) The Staff Director shall supervise the activities of persons employed by the Commission and perform other duties assigned to him by the Commission.

"(b) The Staff Director shall, subject to the approval of the Commission, appoint such officers and employees as are necessary in the execution of the functions of the Commission. The officers and employees of the Commission shall be exempt from the provisions of part III of title 5, United States Code, except the following chapters: 81, 83, 85, 87, 89, and 91.

"§3797. Annual report

"The Commission shall report annually to the Judicial Conference of the United States, the Congress, and the President of the United States on the activities of the Commission, and shall include in such report any recommendations for appropriate legislation.

SUPERVISED RELEASE AMENDMENT

SEC. 305. Chapter 311 of title 18, United States Code, is amended to read as follows:

"CHAPTER 311—SUPERVISED RELEASE

"Sec.
"4201. Release date.
"4202. Hearing concerning release.
"4203. Results of determination.
"4204. Motion to modify sentence.
"4205. Nature of supervised release.
"4206. Term of supervised release.
"4207. Violation of conditions of release; preliminary procedure.
"4208. Revocation proceedings.
"4209. Sentencing Commission.

"§ 4201. Release date

"(a) Unless otherwise provided by law, a prisoner serving a term of imprisonment of more than one year shall be granted supervised release at the completion of eighty percent of the sentence imposed.

"(b)(1) If the Commission finds that the prison population exceeds or is about to exceed prison capacity, the Commission may, for any prisoner (other than a violent career criminal, as defined in section 3523 of this title), establish a release date that is up to one hundred and twenty days earlier than otherwise permitted by this section.

"(2) If a guideline for a particular offense or offender category is amended, the Commission may, to the extent the Commission deems necessary, establish a release date that is up to one hundred and twenty days earlier than is otherwise permitted by this section for any prisoner sentenced under the former guideline, but such date shall not be earlier than the completion of eighty percent of the lower limit of the new guideline range.

"(c) If a release date is a Saturday, Sunday, or a legal holiday, the prisoner may be released, at the discretion of the head of the facility in which the prisoner is confined, as early as the first day before the release date that is not a Saturday, Sunday, or legal holiday.

"§ 4202. Hearing concerning release

"(a) If, after a hearing, the right to which the prisoner may waive, the Commission determines by a preponderance of the evidence that a prisoner for whom a date of release has been set—

"(1) violated a significant rule of the place of confinement after the setting of such release date; or

"(2) violated a Federal or State criminal law after the setting of such release date, or before such setting if the violation is discovered after such setting and could not with due diligence have been discovered before such setting;

the Commission may postpone the release date for such prisoner.

"(b) If, after a hearing, the right to which the prisoner may waive, the Bureau of Prisons finds that a prisoner for whom a release date has been set has violated a rule of the place of confinement after the setting of such date, the Commission may postpone the release date for not more than sixty days.

"(c) With respect to a hearing under this section, a prisoner shall be—

"(1) given notice of the time, place, and purpose of the hearing;

"(2) apprised of the evidence against the prisoner;

"(3) entitled to be represented, in accordance with rules prescribed by the body holding the hearing by an attorney, or by a representative other than an attorney;

"(4) entitled to appear and testify, and to present witnesses and relevant evidence; and

"(5) if the prisoner is alleged to have violated a significant rule or criminal law—

"(A) given notice of such rule or law; and

"(B) entitled to compel the presence of witnesses and to confront and cross-examine adverse witnesses (except, in the case of a hearing by the Bureau of Prisons, if the Bureau specifically finds that such compulsion, confrontation or cross examination would jeopardize correctional goals or the security of the place of confinement of the prisoner).

"(d) Nothing in subsection (c)(2) of this section requires the furnishing of any information that—

"(1) if disclosed, might result in physical or other harm to any person; or

"(2) as specifically found by the Bureau of Prisons, would jeopardize correctional goals or the security of the place of confinement of the prisoner.

If it is determined that information should be withheld under this subsection, the Commission or the Bureau of Prisons, as the case may be, shall, taking into consideration the need for confidentiality, furnish to the prisoner a summary of the basic contents of the material withheld.

"(e) The Commission shall give a prisoner notice at least thirty days before any hearing held in connection with postponing a release date, unless the prisoner waives the right to such notice.

"(f)(1) The Commission shall, beginning on the day notice is given under subsection (e) of this section, give each prisoner reasonable access to any report or other document to be used in making the determination.

"(2) Nothing in this subsection requires the furnishing of any information that, if disclosed, might result in physical or other harm to any person. If the Commission determines that information should be withheld under this paragraph, the Commission shall, taking into consideration the need for confidentiality, furnish to the prisoner a summary of the basic contents of the material withheld.

"(g)(1) A prisoner may consult with a representative and be represented by such representative from the day notice is given under subsection (e) of this section through the end of a supervised release determination proceeding.

"(2) The Commission may determine by rule the qualifications required of such representatives and may not exclude attorneys as a class.

"§ 4203. Results of determination

"(a) The Commission shall give the prisoner written notice of the Commission's determination not later than twenty-one days (excluding holidays) after the date of the hearing under section 4202 of this title or if a hearing is not held, not later than twenty-one days after the date of the release date determination.

"(b) Such notice shall state with particularity the reasons for such determination.

"(c) A complete record of the proceeding shall be retained and made available to prisoner.

"§ 4204. Motion to modify

"(a) The sentencing court shall furnish to the Commission a copy of the complete presentence report for each prisoner sentenced to a term of more than one year, a copy of any findings upon which the sentence was based and any reasons for the sentence imposed, and any transcript of the proceedings of the court relevant to sentencing. Upon request of the Commission, each of the various United States attorneys, probation officers, and agencies shall furnish to the Commission information available to such attorney, officer, or agency, concerning any eligible prisoner or person granted supervised release, their views and recommendations, and the views of any victim of the offense with respect to any matter within the jurisdiction of the Commission.

"(b) The Commission shall review the information provided under subsection (a) of this section not later than thirty days after receipt. If the Commission, after consideration of the purposes of sentencing under chapter 225 of this title and the sentencing guidelines prescribed under chapter 229 of this title, determines that the sentence is inappropriate, the Commission may file a motion for reduction of sentence under section 3543 of this title, or, if the sentence is under appeal, may submit a recommendation to the court of appeals. The Commission may submit to the appropriate court such other report of its review of the case as it determines would serve the interests of justice.

"(c) The Commission shall review the record of each prisoner thereafter, not less frequently than once every two years. The Commission may file a motion for modification of sentence under section 3543 of this title, if—

"(1) the sentencing guideline applicable to the prisoner has been reduced; or

"(2) there are other compelling reasons warranting a reduction of sentence.

"§ 4205. Nature of supervised release

"(a) In ordering supervised release, the Commission shall provide for such supervision as is reasonable to protect the public welfare and may require that the released person—

"(1) report to the probation officer, as directed by the probation officer, including promptly reporting any change in address or employment, and any arrest by a law enforcement officer;

"(2) cooperate with the probation officer, including permitting visits at reasonable times at home or at a place of employment, answering truthfully all inquiries relevant to the conditions of supervised release and obtaining approval of the probation officer to leave the judicial district;

"(3) refrain from possessing a firearm, destructive device, or other dangerous weapon; and

"(4) follow the probation officer's instructions relevant to the conditions of supervised release.

"(b)(1) In every case, the Commission shall impose as a condition of supervised release that the person released not commit any criminal offense.

"(2) The Commission may impose or modify other conditions of supervised release to the extent that such conditions are reasonably related to the nature and circumstances of the offense, or the history and characteristics of the prisoner.

"(c) The Commission shall provide to the prisoner a certificate setting forth the conditions of supervised release in a manner sufficiently specific to provide the person with notice of such conditions. The probation officer supervising the released person shall orally explain such certificate at the first meeting with such person.

"(d)(1) There may be imposed as a condition of supervised release a requirement that a person released reside in or participate in the program of a residential community treatment center for all or part of the period of supervised release.

"(2) A nonindigent person residing in a center under paragraph (1) of this subsection, may be required to pay such costs incident to residence as the Commission deems appropriate.

"(e)(1) The Commission may modify conditions of supervised release under this section on the Commission's own motion or on motion of a probation officer supervising a person so released, if that person receives notice of such action and has ten days after receipt of such notice to express views on the proposed modification. Following such ten-day period, the Commission shall have twenty-one days, exclusive of holidays, to act upon such motion. Failure to act on the motion constitutes denial of the motion.

"(2) A prisoner so released may petition the Commission for a modification of conditions under this section.

"(3) This subsection does not apply to modifications of conditions pursuant to a revocation proceeding under section 4208 of this title.

"§ 4206. Term of supervised release

"(a) Except as provided in subsection (b) of this section, the term of supervised release shall be—

"(1) one year, if the offense is punishable by a maximum of five years or less imprisonment;

"(2) three years, if the offense is punishable by a maximum of more than five years, but not more than fifteen years imprisonment; and

"(3) five years in any other case.

"(b) The power of the Commission under section 4208 of this title to revoke supervised release and order imprisonment for violation of a condition of such release extends beyond the expiration of the term of such release for any period reasonably necessary for the adjudication of matters arising before the expiration of such term if, before such expiration, a summons or warrant is issued under section 4207 of this title.

"(c) Supervised release runs concurrently with any other period of supervised release, parole, or probation under any Federal or State judgment.

"(d) The Commission may, if the circumstances warrant, terminate supervision over a released person before the expiration of the term specified in subsection (a) of this section.

"(e) When the term of supervised release ends, the Commission shall issue a certificate of discharge to the person so released and to such other agencies as the Commission may determine.

"§ 4207. Violation of conditions of release; preliminary procedure

"(a)(1) If the Commission has reason to believe a person on supervised release has violated a condition of release, the Commission may summon such person to appear at a revocation hearing under section 4208 of this title.

"(2) If the Commission has probable cause to believe that a person on supervised release—

"(A) has violated a condition of release; or

"(B) has failed to appear pursuant to a summons under paragraph (1) of this subsection;

the Commission may issue a warrant to retake such person.

"(b) A summons or warrant under this section shall be issued as soon as practicable after discovery of the alleged violation. Imprisonment is not a ground for delay of issuance, except that, in the case of a person charged with a criminal offense, issuance of a summons or warrant may be suspended pending disposition of the charge.

"(c) Any summons or warrant issued under this section shall include written notice of—

"(1) the conditions alleged to have been violated;

"(2) the alleged violator's rights under this chapter; and

"(3) the possible action which may be taken by the Commission.

"(d)(1) Except as provided in paragraph (2) of this subsection, any officer of a Federal penal or correctional institution, or any Federal officer authorized to serve criminal process within the United States, to whom a warrant issued under this section is delivered, shall execute such warrant by taking such alleged violator and returning that alleged violator to the custody of the Attorney General.

"(2) If an alleged violator is confined in an institution because of a charge or conviction of a criminal offense, a warrant under this section may be placed against such alleged violator as a detainer.

"§ 4208. Revocation proceedings

"(a)(1) Following the service of a warrant under section 4207 of this title, the Commission shall conduct a preliminary hearing without unnecessary delay, at or reasonably near the place of the arrest or alleged violation, to find if there is probable cause to believe that a violation has occurred. Upon a finding of probable cause, the Commission may—

"(A) order a revocation hearing under subsection (b) of this section and order that the alleged violator be incarcerated pending such hearing;

"(B) order a revocation hearing under subsection (b) of this section and temporarily restore the alleged violator to supervision pending such hearing if—

"(i) incarceration is not warranted by the frequency or seriousness of alleged violations;

"(ii) the alleged violator is likely to appear for future proceedings; and

"(iii) the alleged violator is not a danger to any person; or

"(C) order that the proceedings relating to the alleged violation be terminated without a revocation hearing if such action is in the interest of justice.

"(2) Conviction of a Federal or State offense committed during the term of supervision is probable cause for the purposes of this section.

"(b)(1) Except as provided in paragraph (2) of this subsection, not later than sixty days after the date on which a summons is issued under section 4207 of this title or an order is entered under subsection (a)(1)(A) or (B) of this section, the Commission shall hold a revocation hearing at or reasonably near the place of the alleged violation.

"(2) If the alleged violator admits the violation at the preliminary hearing, or if the violation is a conviction of an offense, the Commission may order that the alleged violator be imprisoned at a Federal institution pending the revocation hearing, which shall be held not later than ninety days after such order, and which may be held at such institution.

"(c)(1) At a preliminary hearing and a revocation hearing, the alleged violator shall have the opportunity—

"(A) to be represented by counsel or, if the alleged violator so chooses, a representative under rules prescribed by the Commission;

"(B) to be apprised of the adverse evidence;

"(C) to appear and testify and to present witnesses and relevant evidence; and

"(D) except with respect to a violation the alleged violator has admitted or that is a conviction of an offense, to confront and cross examine witnesses.

"(2) The alleged violator may waive the right to a preliminary hearing and to a revocation hearing.

"(d) If the Commission finds by a preponderance of the evidence that the alleged violator has violated a condition of supervised release, the Commission, taking into consideration whether the violator has been convicted of any offense after such violator's release on supervised release, the seriousness of such crime, and the frequency or seriousness of such violator's violation of any other condition of supervised release, may—

"(1) restore such violator to supervision;

"(2) reprimand the violator;

"(3) modify the violator's conditions of release;

"(4) refer the violator to a residential community treatment center for all or part of the remainder of the term of supervision; or

"(5) revoke release, order imprisonment, and establish a new release date, except that the imprisonment imposed may not exceed the unserved portion of the term imposed by the sentencing court.

"(e) The Commission shall furnish the alleged violator with a written notice of the Commission's determination not later than twenty-one days excluding holidays after the date of the revocation hearing. If release is revoked, the Commission shall furnish to the violator a written statement of the factors considered and reasons for such action.

"§ 4209. Sentencing Commission

"(a) The Commission shall prescribe rules—

"(1) establishing guidelines for the exercise of powers under subsection (c) of this section;

"(2) to carry out a national policy on supervised release; and

"(3) otherwise required to carry out this chapter.

"(b) The Commission shall have the power to—

"(1) postpone the date for the supervised release of a prisoner under section 4202 of this title;

"(2) impose reasonable conditions on an order granting supervised release;

"(3) issue warrants for violations of conditions of supervised release and modify or revoke an order for the supervised release of a prisoner;

"(4) make a motion to modify a term of imprisonment under section 3543 of this title; and

"(5) take such other action as may be necessary to carry out this chapter.

"(c) The Commission may—

"(1) delegate to any member powers under subsection (b) of this section;

"(2) delegate to hearing examiners any powers necessary to conduct hearings and proceedings, take sworn testimony, obtain and make a record of pertinent information, make findings of probable cause, issue subpenas for witnesses or evidence, and recommend exercise of any power under subsection (b) of this section, except that any such recommendation shall be based upon the concurrence of not less than two hearing examiners; and

"(3) delegate authority to conduct hearings under section 4208 of this title to any officer or employee of the executive or judicial branch of the Federal Government or a State government.

"(d) Upon the request of the head of a local law enforcement agency, the Sentencing Commission and the Bureau of Prisons shall furnish periodically to such agency the following information with respect to each person on supervised release or in a community treatment center in the geographical area for which such agency has law enforcement responsibility: name, date of birth, offense, expiration date of sentence, identification number used by the Federal Bureau of Investigation. In the discretion of the Sentencing Commission and the Bureau of Prisons, any other information necessary to protect the public safety or enforce a condition of supervised release may be provided to a law enforcement agency. No information furnished under this subsection shall be made available to any person other than the law enforcement agency requesting the information. Any law enforcement agency which receives information under this subsection shall not disseminate such information outside of such agency.".

AMENDMENT RELATING TO POSTSENTENCE ADMINISTRATION AND PROCEDURE

SEC. 306. Part III of title 18, United States Code, is amended by adding at the end the following new chapters:

"CHAPTER 321—ADMINISTRATION AND PROCEDURE RELATING TO PROBATION AND CERTAIN OTHER ASPECTS OF SENTENCE

"Sec.
"4361. Summons and warrant for violation of probation or restitution.
"4362. Preliminary hearing and revocation hearing with respect to alleged violation of probation or restitution.
"4363. Action concerning violation of probation or restitution.
"4364. Assistance of probation officers.
"4365. Appointment of probation officers.
"4366. Duties of probation officers.
"4367. Transportation of persons assisted by probation officers.
"4368. Transfer of jurisdiction over persons assisted by probation officers.
"4369. Arrest of persons assisted by probation officers.
"4370. Searches by probation officers.

"§ 4361. Summons and warrant for violation of probation or restitution

"(a)(1) If the probation officer or a court has reason to believe that a person has violated a condition of a probation or a requirement of an order of restitution in a material respect a probation officer may issue a summons for the alleged violator to appear at a revocation hearing under section 4362 of this title.

"(2) If the court has probable cause to believe that a person—

"(A) has so violated such a condition or requirement; or

"(B) has failed to appear pursuant to a summons under paragraph (1) of this subsection;

the court may issue a summons for the person to appear before the court, or a warrant to retake such person.

"(b)(1) A summons or warrant under this section shall be issued as soon as practicable after discovery of the alleged violation. Imprisonment is not a ground for delay of issuance, except that, in the case of a defendant charged with but not convicted of a Federal or State offense, issuance of a summons or warrant may be suspended pending disposition of the charge.

"(2) If an alleged violator is serving a sentence of imprisonment for a Federal or State offense, a warrant under this section may be placed against such alleged violator as a detainer.

"(c) A summons or warrant under this section shall be accompanied by a written statement setting forth—

"(1) the conditions alleged to have been violated;

"(2) the time, place, and purpose of the preliminary or revocation hearing;

"(3) the alleged violator's rights under section 4362 of this title; and

"(4) the action which the court is authorized to take under section 4363 of this title.

"(d) A summons or warrant under this section may be executed by a probation officer or an appropriate United States marshal.

"§ 4362. Preliminary hearing and revocation hearing with respect to alleged violation of probation or restitution

"(a)(1) If an alleged violator is in custody because of the alleged violation, the court with jurisdiction over the alleged violator or, upon order of such court, a court reasonably near the place of the alleged violation, shall conduct a preliminary hearing without unnecessary delay to find if there is probable cause to believe that a violation has occurred. Upon a finding of probable cause, the court—

"(A) shall order a revocation hearing under subsection (b) of this section and order that the alleged violator be incarcerated pending such hearing; or

"(B) order a revocation hearing under subsection (b) of this section and temporarily restore the sentence of restitution or probation pending such hearing if—

"(i) incarceration is not warranted by the frequency or seriousness of alleged violations;

"(ii) the alleged violator is likely to appear for future proceedings; and

"(iii) the alleged violator is not a danger to any person.

"(2) Conviction of a Federal or State offense committed during the term of probation is probable cause for the purposes of this section.

"(b) The court shall hold a revocation hearing not later than sixty days after the date on which a summons under section 4361 of this title is served or an order is entered under subsection (a)(1)(A) of this section.

"(c) At a preliminary hearing and a revocation hearing, the alleged violator shall have the opportunity—

"(1) to be represented by counsel;

"(2) to be apprised of the adverse evidence and to confront and cross-examine adverse witnesses; and

"(3) to appear and testify and to present witnesses and relevant evidence.

"(d) The alleged violator may waive the right to a preliminary hearing and to a revocation hearing.

"§ 4363. Action concerning violation of probation or restitution

"(a) If, after a revocation hearing, the court determines by a preponderance of the evidence that an alleged violator has violated a condition of probation or the terms of an order of restitution, the court may—

"(1) continue the sentence unchanged;

"(2) reprimand the violator;

"(3) modify the conditions of probation or terms of the order of restitution; or

"(4) revoke such sentence and impose any sentence that the court was authorized to impose at the time of initial sentencing, except that, with respect to a sentence of restitution, the court may not impose a sentence involving imprisonment.

"(b) In carrying out subsection (a) of this section, the court shall consider—

"(1) the seriousness of any Federal or State offense of which the violator has been convicted; and

"(2) the frequency and seriousness of other violations of such conditions.

"(c) If the court—

"(1) revokes the sentence and imposes a new sentence involving payment of a fine; or

"(2) modifies the sentence by increasing any monetary obligation of the defendant;

any money paid by the defendant pursuant to the terms or conditions of the sentence shall be credited toward any monetary obligation imposed upon the defendant as a part of the new sentence or as a result of the modification of the sentence.

"(d) If the court revokes probation and orders imprisonment—

"(1) any time served in confinement as a condition of probation shall be counted toward the term of imprisonment; and

"(2) any time served on probation without a violation of the conditions of probation may, in the discretion of the court, be counted toward that term of imprisonment.

"(e) If the court modifies probation by extending the term of the sentence or by increasing a period of confinement imposed as a condition of the sentence—

"(1) any time served in confinement as a condition of probation shall be counted toward the modified period of confinement; and

"(2) any time served on probation without a violation of the conditions of probation may, in the discretion of the court, be counted toward the modified term of the sentence of probation.

"(f) A determination under this section shall be made on the record not later than twenty-one days after the date on which the revocation hearing is concluded and shall include a statement of the reasons for such determination.

"(g) The power of the court to revoke a sentence of probation for violation of a condition, and to impose another sentence, extends beyond the expiration of the term of probation for any period reasonably necessary for the adjudication of matters arising before the expiration of such term if, before such expiration, a summons or warrant is issued under section 4361 of this title on the basis of an allegation of the violation.

"§ 4364. Assistance of probation officers

"A person who—

"(1) is a witness who is on probation, parole, or other court-supervised release and who is granted protection under title V of the Organized Crime Control Act of 1970 (84 Stat. 933);

"(2) is sentenced to probation under chapter 231 of this title;

"(3) is on supervised release under chapter 311 of this title; or

"(4) is on parole under section 5041 of this title;

shall, during the term of such sentence or release, be assisted by a probation officer to the degree warranted by the need for protection or the conditions of such sentence or release.

"§ 4365. Appointment of probation officers

"(a) A district court of the United States shall appoint qualified persons to serve as probation officers within the jurisdiction and under the direction of the court. The court may, for cause, remove a probation officer appointed to serve with compensation, and may, in its discretion, remove a probation officer appointed to serve without compensation.

"(b) An order of appointment under this section shall be entered on the records of the court. One copy of the order shall be furnished to the officer appointed and one copy shall be furnished to the Director of the Administrative Office of the United States Courts.

"(c) If the court appoints more than one probation officer, the court may designate one of such officers as chief probation officer to direct the work of all probation officers serving in the judicial district.

"§ 4366. Duties of probation officers

"A probation officer shall—

"(1) instruct each person on probation or supervised release assisted by such officer as to the conditions involved, and provide such person with a written statement clearly setting forth all such conditions;

"(2) keep informed, to the degree required by the conditions involved, as to the conduct and condition of each person assisted by such officer, and report the conduct and condition of such person to the appropriate court or agency;

"(3) use all suitable methods, not inconsistent with the conditions imposed, to aid each person assisted by such officer and to bring about improvements in such person's conduct and condition;

"(4) be responsible for the supervision of any supervised person known to be within the judicial district;

"(5) keep a record of such officer's work, and make such reports to the Director of the Administrative Office of the United States Courts as the Director may require;

"(6) upon request of the Attorney General, supervise and furnish information about a person in the custody of the Attorney General while such person is on work release, furlough, or other authorized release from a regular place of confinement;

"(7) conduct a prerelease investigation with respect to a person about to become eligible for supervised release;

"(8) perform any duty designated by the Sentencing Commission with respect to a person on supervised release;

"(9) perform any duty designated by the Attorney General with respect to a witness who is on probation, parole, or other court-supervised release and who is granted protection under title V of the Organized Crime Control Act of 1970 (84 Stat. 933);

"(10) include in any presentence report to the court information necessary for a realistic evaluation of sentencing alternatives to imprisonment;

"(11) report to the court any failure of a person under supervision to pay an amount due as a fine or as restitution; and

"(12) perform any other duty that the court may designate.

"§ 4367. Transportation of persons assisted by probation officers

"After ordering probation, a court may direct a United States marshal to furnish the defendant with—

"(1) transportation to the place to which the defendant is required to proceed as a condition of such probation; and

"(2) money, not to exceed such amount as the Attorney General may prescribe, for subsistence expenses while traveling to such place.

"§ 4368. Transfer of jurisdiction over persons assisted by probation officers

"After ordering probation, a court may transfer jurisdiction over the defendant to the district court for any other district to which the defendant is required to proceed as a condition of probation or to which the defendant is permitted to proceed, with the concurrence of such court. A later transfer of jurisdiction may be made in the same manner.

"§ 4369. Arrest of persons assisted by probation officers

"The probation officer may arrest a person on probation, if, at any time during a term of a sentence of probation, the probation officer has probable cause to believe that the person has engaged in conduct constituting—

"(1) a Federal or State offense and such conduct occurs in the presence of the probation officer; or

"(2) a violation of a condition of probation and exigent circumstances make the obtaining of a warrant impractical.

"§ 4370. Searches by probation officers

"If a probation officer establishes reasonable and articulable grounds to believe a person being assisted by such an officer under section 4364 of this title has violated a condition of probation or supervised release, a court may issue a warrant for that officer to search for or seize property that is evidence of such violation.

"CHAPTER 323—RESTRICTION ON IMPOSITION OF CIVIL DISABILITIES

"Sec.

"4391. Relief from certain collateral results of convictions for certain first offenses.

"§ 4391. Relief from certain collateral results of convictions for certain first offenses

"(a) The court in which an individual designated as a youthful offender is convicted of an offense (other than an offense punishable by death or life imprisonment) or in which an individual is convicted of a misdemeanor may, upon application of such individual, order the relief set forth in subsection (c) of this section with respect to the conviction if—

"(1) such individual has not been convicted previously of a Federal offense (other than a petty offense) or a State offense punishable by death or imprisonment for more than six months;

"(2) no order has been issued under this section with respect to another conviction of such individual;

"(3) no criminal prosecution is pending against such individual; and

"(4) after review by the court of a report submitted by the appropriate probation officer and a hearing in which an attorney for the Government may participate, the court determines that—

"(A) the requirements of paragraphs (1) through (3) of this subsection have been fulfilled; and

"(B) an order under this section is in the public interest.

"(b) A convicted individual may apply for an order under subsection (a) of this section, in the case of—

"(1) a felony conviction resulting in probation or imprisonment, not earlier than three years after the last day of the term involved;

"(2) a felony conviction resulting in a fine, not earlier than three years after the date on which payment of the fine is completed;

"(3) a felony conviction resulting in an order of restitution, not earlier than three years after the date on which restitution is completed;

"(4) a misdemeanor conviction resulting in a sentence of probation or imprisonment, not earlier than one year after the last day of the term involved;

"(5) a misdemeanor conviction resulting in a fine, not earlier than one year after the date on which payment of the fine is completed;

"(6) a misdemeanor conviction resulting in an order of restitution, not earlier than one year after the date on which restitution is completed; and

"(7) a conviction resulting in more than one sentence, not earlier than the latest applicable date under paragraphs (1) through (6) of this subsection.

"(c) The effect of an order under subsection (a) of this section with respect to a conviction continues only so long as the individual to whom relief is granted is not convicted of a Federal offense (other than a petty offense) or State offense punishable by death or imprisonment for more than six months and is as follows:

"(1) No person who, in such person's capacity as a public servant, obtains access to information relating to any Federal or State government record of the conviction shall disclose such information to the public or any government agency, except that—

"(A) such information, if otherwise admissible under applicable law, shall be admissible in any criminal proceeding and to prove a defense in any civil action for libel or slander;

"(B) a court with jurisdiction over the subject matter may request and receive such information;

"(C) a Federal agency may request and receive such information for national security reasons, as determined by such agency; and

"(D) any law enforcement agency may request and shall, except as otherwise provided by law, receive such information for employment screening for such agency and for criminal investigation purposes.

"(2) An individual who is granted relief under this section with respect to a conviction is not guilty of an offense for failure to admit or acknowledge such conviction, except when testifying in a criminal proceeding or in a civil action in which such person is alleging libel or slander.

"(3) Notwithstanding any other provision of law, all rights and privileges denied the convicted individual because of the conviction shall be restored, effective on such date as shall be specified by the court.

"(d) For purposes of this section, two or more convictions that—

"(1) are based on the same conduct; or

"(2) arise from the same criminal episode;

shall be deemed a single conviction.".

MISCELLANEOUS AMENDMENTS

SEC. 307. (a) Rules 32(a)(1), 32(c), 32(e), and 32.1 of the Federal Rules of Criminal Procedure are superseded by title 18, United States Code, as amended by this title.

(b)(1) Section 3402 of title 18, United States Code, is amended by striking out the second paragraph.

(2) Chapter 237 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3773. Magistrate proceedings

"The Supreme Court shall prescribe rules of procedure and practice for the trial of cases before magistrates and for taking and hearing of appeals to the judges of the district courts. Such rules shall not take effect until they have been reported to Congress by the Chief Justice at or after the beginning of a regular session of the Congress but not later than the first day of May, and until the end of ninety days after they have been thus reported. All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect.".

(3) The table of sections for chapter 237 of title 18, United States Code, is amended by adding at the end the following new item:

"3773. Magistrate proceedings.".

(d) Section 4082 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(g) The Attorney General shall place persons designated as youthful offenders under section 3545 of this title in facilities or institutions that are separate from facilities or institutions for other offenders until such youthful offenders reach twenty-one years of age.".

(e) Chapter 314 of title 18, United States Code, is amended to read as follows:

"CHAPTER 314—NARCOTICS ADDICTS

"Sec.

"4251. Drug program authority.

"§ 4251. Drug program authority

"(a) The Director of the Administrative Office of the United States Courts may contract with any appropriate public or private agency or person for care in the community of an offender who is an addict or a drug dependent person. Such care may include medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict or drug dependent person by eliminating the dependence of addicting drugs, or by controlling the dependence and susceptibility to addiction. The Director may negotiate and award such contracts without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5).

"(b) As used in this section, the terms 'addict' and 'drug dependent person' have the meanings given those terms in section 2 of the Public Health Service Act (42 U.S.C. 201).".

(f)(1) Chapter 41 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 612. Duties of Director with respect to probation

"In addition to any duties otherwise prescribed by law, the Director shall—

"(1) investigate the work of probation officers and make recommendations concerning the same to the appropriate judges;

"(2) have access to the records of probation officers;

"(3) collect for publication statistical and other information concerning the work of probation officers;

"(4) prescribe record forms and statistics to be kept by probation officers;

"(5) formulate general rules for the proper conduct of probation work;

"(6) promote the efficient administration of the probation system and the enforcement of the probation laws in all United States courts;

"(7) under the supervision and direction of the Judicial Conference of the United States, fix the salaries of probation officers and provide for their necessary expenses including clerical service and travel expenses; and

"(8) incorporate in the annual report of the Director a statement concerning the operation of the probation system in such courts.".

(2) The table of sections for chapter 41 of title 28, United States Code, is amended by adding at the end the following new item:

"612. Duties of Director with respect to probation.".

(g) Rule 4(b) of the Federal Rules of Appellate Procedure is amended—

(1) in the sentence beginning "In a criminal", by striking out "10 days after the entry of the judgment or order appealed from" and inserting in lieu thereof "20 days after entry of an order appealed from and, in the case of a judgment appealed from, 20 days after the last day on which the sentence may be modified under Rule 35 of the Federal Rules of Criminal Procedure"; and

(2) in the sentence beginning "When an appeal", by striking out "after the entry of the judgment or order appealed from" and inserting in lieu thereof "after entry of an order appealed from and, in the case of a judgment, 10 days after the last day on which the sentence may be modified under Rule 35 of the Federal Rules of Criminal Procedure".

(h) Section 331 of title 28, United States Code, is amended by adding at the end the following new paragraph:

"The Judicial Conference shall prescribe guidelines for Federal judges to use in determining whether to accept a plea agreement.".

(i) Rule 11(e)(2) of the Federal Rules of Criminal Procedure is amended by adding at the end the following new sentence: "The court may reject a plea that is not in accordance with plea agreement negotiation guidelines prescribed by the Attorney General under section 530 of title 28, United States Code.".

(j)(1) Chapter 31 of title 28, United States Code, is amended by adding at the end the following new section:

"§530A. Guidelines for United States attorneys

"The Attorney General shall prescribe guidelines for United States attorneys to use in selecting criminal charges to be brought and in negotiating plea agreements.".

(2) The table of sections for chapter 31 of title 28, United States Code, is amended by adding at the end the following new item:

"530A. Guidelines for United States attorneys.".

(k) Section 3148 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "A person";

(2) by striking out "or sentence review under section 3576 of this title"; and

(3) by adding at the end the following new subsection:

"(b) Notwithstanding subsection (a) of this section, a person who has been convicted of an offense and has filed an appeal or a petition for a writ of certiorari may be ordered to begin to serve the sentence if the district court finds that (1) the validity of the conviction is not in question, and (2) even if the appeal or petition is successful, there is no appreciable possibility that the sentence ultimately imposed will be for less than six months' imprisonment.".

(l)(1) Rule 32(a)(2) of the Federal Rules of Criminal Procedure, is amended—

(A) in the sentence beginning "After imposing", by striking out "his right to appeal" and inserting in lieu thereof "the right to appeal, if any,"; and

(B) by striking out the sentence beginning "There shall".

(2) Rule 35 of the Federal Rules of Criminal Procedure is amended to read as follows:

"Rule 35. Modification of Sentence.

"The court may modify a sentence within 10 days after the sentence is imposed. The court may also modify a sentence upon motion of the government or the defendant made within 10 days after the sentence is imposed. The court shall rule within 10 days after a motion is made under the preceding sentence. A failure of the court to rule shall be treated as a denial of the motion.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 308. (a) The table of chapters for part II of title 18, United States Code, is amended—

(1) by striking out the items relating to chapters 225 through 231 and inserting in lieu thereof the following:

"225. General provisions relating to sentencing 3521
"227. Imprisonment 3541
"229. Fines 3561
"231. Probation and restitution ..... 3581";

and

(2) by adding at the end the following new item:

"239. Sentencing guidelines ..... 3791".

(b)(1) Part III of title 18, United States Code, is amended by striking out chapter 309.

(2) The table of chapters for part III of title 18, United States Code, is amended by striking out the item relating to chapter 309.

(c)(1) The heading for part III of title 18, United States Code, is amended to read as follows:

"PART III—POSTSENTENCE ADMINISTRATION AND PROCEDURE".

(2) The item relating to part III in the table of parts for title 18, United States Code, is amended to read as follows:

"III Postsentence Administration and Procedure ..... 4001".

(d) The table of chapters for part III of title 18, United States Code, is amended—

(1) by adding at the end the following new items:

"321. Administration and procedure relating to probation and certain other aspects of sentence 4361
"323. Restriction on imposition of civil disabilities ..... 4391";

and

(2) by striking out the item relating to chapter 311 and inserting in lieu thereof the following:

"311. Supervised release ..... 4201".

(e)(1) Part IV of title 18, United States Code, is amended by striking out chapter 402.

(2) The table of chapters for part IV of title 18, United States Code, is amended by striking out the item relating to chapter 402.

(f) Section 924(a) of title 18, United States Code, is amended by striking out ", and shall become eligible for parole as the Board of Parole shall determine".

(g)(1) The sentence beginning "Subsequent to" in section 4105(c)(1) of title 18, United States Code, is amended by striking out "provided in" and all that follows through "authorities." and inserting in lieu thereof "of one day for each three days served without violation of institutional rules.".

(2) The sentence beginning "These credits" in section 4105(c)(1) of title 18, United States Code, is amended by striking out "pursuant to section 4164 of this title".

(3) Section 4105(c)(2) of title 18, United States Code, is amended by striking out "provided in section 4161 of this title" and inserting in lieu thereof "of one day for each three days served without violation of institutional rules".

(4) Section 4105(c) of title 18, United States Code, is amended—

(A) by striking out paragraphs (3) and (4); and

(B) by redesignating paragraph (5) as paragraph (3).

(h)(1) Section 4106 of title 18, United States Code, is amended—

(A) in the section heading by striking out "parole" the second place it appears and inserting in lieu thereof "supervised release";

(B) in subsection (a), by striking out "United States Parole Commission" and inserting in lieu thereof "Sentencing Commission";

(C) in subsection (b)—

(i) by striking out "United States Parole Commission and the Chairman of the Commission" and inserting in lieu thereof "Sentencing Commission and the person chairing such Commission"; and

(ii) by striking out the sentence beginning "Sections 4201"; and

(D) in subsection (c), by striking out "Parole Commission" and inserting in lieu thereof "Sentencing Commission".

(2) The item relating to section 4106 in the table of sections for chapter 306 of title 18, United States Code, is amended by striking out "parole" the second place it appears and inserting in lieu thereof "supervised release".

(i)(1) Section 3006A(a)(1) is amended by inserting "or supervised release" after "parole".

(2) Section 3006A(g) of title 18, United States Code, is amended by inserting ", supervised release, or probation" after "parole".

(j) Section 3401 of title 18, United States Code, is amended by striking out subsection (g) and by redesignating subsection (h) as subsection (g).

(k) Section 5041 of title 18, United States Code, is amended—

(1) by striking out "United States Parole Commission" and inserting in lieu thereof "Sentencing Commission"; and

(2) by striking out "the provisions in section 4206" and inserting in lieu thereof "section 4201".

(l) Section 5871 of the Internal Revenue Code of 1954 is amended by striking out ", and shall become eligible for parole as the Board of Parole shall determine".

(m) The sentence beginning "The Surgeon General" in section 341(a) of the Public Health Service Act (42 U.S.C. 257(a)) is amended—

(1) by striking out "or convicted of offenses against the United States and sentenced to treatment";

(2) by striking out "addicts who are committed to the custody of the Attorney General pursuant to the provisions of the Federal Youth Corrections Act (chapter 402 of title 18 of the United States Code),"; and

(3) by striking out "and who are not sentenced to treatment under the Narcotic Addict Rehabilitation Act of 1966".

(n)(1) Chapter 301 of title 18, United States Code, is amended by adding at the end the following new section:

"§4012. Conviction records

"(a) The Attorney General is authorized to establish in the Department of Justice a repository for records of convictions and determinations of the validity of such convictions.

"(b) Upon the conviction thereafter of a defendant in a court of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or posses-

sion of the United States, any political subdivision, or any department, agency, or instrumentality thereof for an offense punishable by death or imprisonment in excess of one year, or a judicial determination of the validity of such conviction on collateral review, the court shall furnish a certified record of the conviction or determination to the repository in such form and containing such information as the Attorney General shall by regulation prescribe.

"(c) Records in the repository shall not be public records. Certified copies of such records—

"(1) may be furnished for law enforcement purposes on request of a court or law enforcement or corrections officer of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, any political subdivision, or any department, agency, or instrumentality thereof;

"(2) may be furnished for law enforcement purposes on request of a court or law enforcement or corrections officer of a State, any political subdivision, or any department, agency, or instrumentality thereof, if a statute of such State requires that, upon the conviction of a defendant in a court of the State or any political subdivision thereof for an offense punishable by death or imprisonment in excess of one year, or a judicial determination of the validity of such conviction on collateral review, the court cause a certified record of the conviction or determination to be made to the repository in such form and containing such information as the Attorney General shall by regulation prescribe; and

"(3) shall be prima facie evidence in any court of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, any political subdivision, or any department, agency, or instrumentality thereof, that the convictions occurred and whether they have been judicially determined to be invalid on collateral review.

"(d) The Attorney General shall give reasonable public notice, and afford to interested parties opportunity for hearing, prior to prescribing regulations under this section.".

(2) The table of sections for chapter 301 of title 18, United States Code, is amended by adding at the end the following new item:

"4012. Conviction records.".

(o)(1) Section 4283 of title 18, United States Code, is repealed.

(2) The table of sections for chapter 315 of title 18, United States Code, is amended by striking out the item relating to section 4283.

TRANSITION PROVISIONS

SEC. 309. (a) Any function of the United States Parole Board or the United States Parole Commission not otherwise provided for by this title shall be carried out by the Sentencing Commission on and after the effective date of this section.

(b) There are transferred to the Sentencing Commission the personnel (other than the Commissioners and Chairman) of the United States Parole Commission, and any liabilities, contracts, property, and records of the Commission relating to functions of the Commission referred to in subsection (a) or otherwise transferred to the Sentencing Commission by this title and the amendments made by this title.

EFFECTIVE DATES

SEC. 310. (a) Except as provided in subsection (b) of this section, this title and the amendments made by this title shall take effect on the third January 1 that occurs after the date of the enactment of this title.

(b)(1) Section 304 of this title shall take effect on the first January 1 that occurs after the date of the enactment of this title, and the Sentencing Guidelines Commission established pursuant to the amendments made by such section shall take into account in the course of such Commission's work the amendments made by the other sections of this title.

(2) Section 4391 of title 18, United States Code, as added by section 306 of this title, shall apply to convictions occurring before, on, or after the date of the enactment of this title.

(3) A person convicted of an offense occurring before the effective date under subsection (a) shall be treated with respect to postsentence matters in accordance with title 18, United States Code, as in effect before such effective date, and the Sentencing Commission shall carry out the functions of the United States Parole Commission with respect to such person.

TITLE IV—FORFEITURE

SUBTITLE A—CONTROLLED SUBSTANCES PROVISIONS

SEC. 401. This subtitle may be cited as the "Comprehensive Drug Penalty Act of 1984".

SEC. 402. (a) Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended by adding at the end the following new matter:

"(7) If the offense involved is a felony, all land and buildings used, or intended for use, for holding or storage of property described in paragraph (1) or (2) or for cultivation of any plant that is such property, except that no land or building shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

The court may order forfeiture of less than the whole of any land or building under paragraph (7) if the owner establishes that forfeiture of the whole would be grossly disproportionate to the severity of the offense or to the extent of the use or intended use. If land under paragraph (7) is used or intended to be used for cultivation, the court shall order forfeiture of only the portion of the tract so used or intended to be used, and if the cultivation is dispersed over less than all of the tract, the court may order forfeiture of a portion of the tract equal to the areas used or intended to be used for cultivation.".

(b) Section 511(d) of the Controlled Substances Act (21 U.S.C. 881(d)) is amended—

(1) by inserting "(1)" before "The provisions of law"; and

(2) by adding at the end the following new paragraph:

"(2) In addition to the venue under section 1395 of title 28, United States Code, or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture under this section, a proceeding for forfeiture may be brought in the judicial district in which the defendant is found or in which the prosecution is brought.".

(c) Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended in the sentence beginning "The Attorney General" by striking out "The" and inserting in lieu thereof "Except as provided in subsection (h) of this section, the".

SEC. 403. Section 511 of the Controlled Substances Act (21 U.S.C. 881) is amended by adding at the end the following new subsections:

"(h) During the period beginning on the date of the enactment of this subsection, and ending on September 30, 1987, the Attorney General shall forward to the Treasurer of the United States for deposit in the Department of Justice Forfeiture Fund any amounts of moneys and proceeds remaining after payment of expenses of proceedings for forfeiture under subsection (e) of this section.

"(i) The filing of an indictment or information alleging a violation of this title or title III that is related to a civil forfeiture proceeding under this section shall, upon motion of the United States or a claimant in that proceeding, and for good cause shown, stay the civil forfeiture proceeding.".

SEC. 404. (a) A reference in this section to a section or other provision is a reference to a section or other provision of the Controlled Substances Act (21 U.S.C. 801 et seq.).

(b) Section 401(b)(1)(A) (21 U.S.C. 841(b)(1)(A)) is amended—

(1) in the sentence beginning "In the case of", by striking out "$25,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "$50,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $2,000,000 if such person is other than an individual".

(c) Section 401(b)(1)(B) (21 U.S.C. 841(b)(1)(B)) is amended—

(1) in the sentence beginning "In the case of", by striking out "$15,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an indivdual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "$30,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(d) Section 401(b)(2) (21 U.S.C. 841(b)(2)) is amended—

(1) in the sentence beginning "In the case of", by striking out "$10,000, or both" and inserting in lieu thereof "$100,000, or both if such person is an individual, or to a fine of not more than $250,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "$20,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $500,000 if such person is other than an individual".

(e) Section 401(b)(3) (21 U.S.C. 841(b)(3)) is amended—

(1) in the sentence beginning "In the case of", by striking out "$5,000, or both" and inserting in lieu thereof "$10,000, or both if such person is an individual, or to a fine of not more than $25,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "$10,000, or both" and inserting in lieu thereof "$25,000, or both if such person is an individual, or to a fine of not more than $50,000 if such person is other than an individual".

(f) Section 401(b)(6) (21 U.S.C. 841(b)(6)) is amended—

(1) in the sentence beginning "In the case of", by striking out "and in addition, may be

fined not more than $125,000" and inserting in lieu thereof "a fine of not more than $250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "and in addition, may be fined not more than $250,000" and inserting in lieu thereof "a fine of not more than $500,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(g) Section 401(d) (21 U.S.C. 841(d)) is amended by striking out "$15,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(h) Section 402(c)(2)(A) (21 U.S.C. 842(c)(2)(A)) is amended by striking out "$25,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(i) Section 402(c)(2)(B) (21 U.S.C. 842(c)(2)(B)) is amended by striking out "$50,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(j) Section 403(c) (21 U.S.C. 843(c)) is amended—

(1) by striking out "$30,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) by striking out "$60,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(k) Section 408(a)(1) (21 U.S.C. 848(a)(1)) is amended—

(1) by striking out "$100,000" and inserting in lieu thereof "$500,000 if such person is an individual, or a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) by striking out "$200,000" and inserting in lieu thereof "$1,000,000 if such person is an individual, or a fine of not more than $2,000,000 if such person is other than an individual".

(l) Part D is amended by adding at the end the following new sections:

"ALTERNATIVE FINE

"SEC. 413. In lieu of a fine otherwise authorized by this part, a defendant who derives profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.

"GENERAL PROVISIONS RELATING TO FINES

"SEC. 414. (a) In determining whether to impose a fine under this part, and the amount, time, and method of payment of a fine, the court shall—

"(1) give primary consideration to the need to deprive the defendant of profits or other proceeds from the offense;

"(2) consider the defendant's income, earning capacity, and financial resources;

"(3) consider the burden that the fine will impose on the defendant and on any person who is legally or financially dependent on the defendant; and

"(4) consider any other pertinent equitable factor.

"(b) As a condition of a fine, the court may require that payment be made in installments or within any period that is not longer than the maximum applicable term of probation or imprisonment, whichever is longer. If not otherwise required by such a condition, payment of a fine shall be due immediately.

"(c) If a fine is imposed on an organization, it is the duty of each individual authorized to make disbursements for the organization to pay the fine from assets of the organization.

"(d)(1) A defendant who has paid part of a fine, may petition the court for extension of the time for payment, modification of the method of payment, or remission of all or part of the unpaid portion.

"(2) The court may enter an appropriate order under this subsection, if it finds that—

"(A) the circumstances that warranted the fine in the amount imposed, or payment by the time or method specified, no longer exist; or

"(B) it is otherwise unjust to require payment of the fine in the amount imposed or by the time or method specified.

"CRIMINAL FORFEITURE

"SEC. 415. (a) If an indictment or information alleges that property is subject to forfeiture under this section, the United States may request an order for seizure of such property in the same manner as provided for a search warrant. The court shall order seizure if there is probable cause to believe that—

"(1) the property is subject to forfeiture; and

"(2) an order restraining transfer of the property is not sufficient to ensure availability of the property for forfeiture.

"(b) Any person who is convicted of a felony under this title or title III shall forfeit to the United States such person's interest in—

"(1) any property constituting or derived from gross profits or other proceeds obtained from the offense;

"(2) any property used, or intended to be used, to commit the offense; and

"(3) in the case of a conviction under section 408 of this title, in addition to the property described in paragraphs (1) and (2), such person's interest in, claim against, or property or contractual right of any kind affording a source of control over, the continuing criminal enterprise.

"(c) The court shall order forfeiture of property referred to in subsection (b) if the trier of fact determines beyond a reasonable doubt that such property is subject to forfeiture.

"(d) The United States shall, to the maximum extent practicable, provide notice of the provisions of subsections (e), (f), and (g) to any person with an alleged interest in property forfeited under subsection (c) and shall, in the manner prescribed by the Attorney General, provide public notice of the forfeiture.

"(e)(1) Not later than 60 days after the date of an order under subsection (c), any person with an alleged interest in the property may petition the Attorney General for remission or mitigation of the forfeiture.

"(2) Not later than 90 days after the filing of a petition under paragraph (1), the Attorney General shall make a written determination with respect to the petition. Except as provided in subsection (f), the property shall be disposed of pursuant to such determination, which shall not be subject to review.

"(3) A period specified in this subsection may be extended by the court for good cause shown.

"(f)(1) Any person (other than a defendant convicted of the offense on which the forfeiture is based) may petition the court for remission or mitigation of the forfeiture. A petition under this subsection shall be filed not later than 60 days after the date of the order under subsection (c), or, if a petition is filed under subsection (e), not later than 60 days after the date of the determination of the Attorney General.

"(2) The court shall grant appropriate relief if, after a hearing, the petitioner establishes by a preponderance of the evidence that—

"(A) at the time of the offense the petitioner had an interest in the property that was separate from or superior to the interest of the defendant; or

"(B) in the case of an interest acquired for value after the offense, when acquiring the interest the petitioner did not know or have reason to know of the offense or of any order restraining transfer of the property.

"(g) A petition to the Attorney General or the court under this section shall be verified and shall set forth the relief sought, the nature and extent of the petitioner's interest in the property, the time and circumstances of the petitioner's acquisition of interest, and any additional facts and circumstances supporting remission or mitigation.

"(h)(1) Except as provided in paragraph (2), the customs laws relating to disposition of seized or forfeited property shall apply to property under this section, to the extent that such laws are not inconsistent with this section.

"(2) The duties of the Secretary of the Treasury with respect to dispositions of property under the customs laws shall be performed under paragraph (1) by the Attorney General, except to the extent that such duties arise from forfeitures effected under the customs laws.

"(i) In any disposition of property under this section, a convicted person shall not be permitted to acquire property forfeited by such person.

"(j) In any action brought by the United States under this section, the district courts of the United States shall have jurisdiction to enter such restraining orders or prohibitions, or to take such other actions, including, but not limited to, the acceptance of satisfactory performance bonds, in connection with any property or other interest subject to forfeiture under this section, as it shall deem proper.

"(k)(1) In addition to any order authorized by subsection (j), the court may, before the filing of an indictment or information, enter an order restraining the transfer of property that is or may be subject to forfeiture.

"(2) An order shall be entered under this subsection if the court determines that—

"(A) there is a substantial probability that the United States will prevail on the issue of forfeiture;

"(B) there is a substantial probability that failure to enter the order will result in unavailability of the property for forfeiture; and

"(C) the need to assure availability of the property outweighs the hardship on any person against whom the order is to be entered.

"(3)(A) Except as provided in subparagraph (B), an order under this subsection shall be entered only after notice to persons appearing to have an interest in the property and opportunity for a hearing.

"(B) A temporary order under this subsection may be entered upon application of the

United States, without notice or opportunity for a hearing, if an information or indictment has not been filed and the United States demonstrates that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than 10 days after the date on which it is entered, except that the court may extend the effective period of the order for not more than 10 days for good cause shown and for a longer period with the consent of each person affected by the order.

"(l) There may be a rebuttable presumption at trial that any property of a person convicted of a felony under this title or title III is subject to forfeiture under this section if the United States establishes by a preponderance of the evidence that—

"(1) such property was acquired by such person during the offense or within a reasonable time after the offense; and

"(2) there was no likely source for such property other than the offense.".

SEC. 405. (a) Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended in the sentence beginning "In the case of" by striking out "$25,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or shall be fined not more than $1,000,000 if such person is other than an individual".

(b) Section 1010(b)(2) of such Act (21 U.S.C. 960(b)(2)) is amended in the sentence beginning "In the case of" by striking out "$15,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or shall be fined not more than $1,000,000 if such person is other than an individual".

(c) Section 1010(b) of such Act (21 U.S.C. 960(b)) is amended by adding at the end the following new paragraph:

"(3) In the case of a violation under subsection (a) involving more than 1,000 pounds of marihuana, the person committing such violation shall be imprisoned not more than fifteen years, or fined not more than $250,000, or both if such person is an individual, or shall be fined not more than $1,000,000 if such person is other than an individual.".

(d) Section 1011(2) of such Act (21 U.S.C. 961(2)) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000".

(e) Part A of such Act is amended by adding at the end the following new section:

"APPLICABILITY OF SECTION 413 AND SECTION 414

"SEC. 1017. Sections 413 and 414 shall apply with respect to fines under this part to the same extent that such sections apply with respect to fines under part D of title II. For purposes of such application, any reference in such section 413 or 414 to 'this part' shall be deemed to be a reference to part A of title III.".

SEC. 406. Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by section 404(l) of this Act, is further amended—

(1) in subsection (a)—

(A) by striking out "SEC. 408. (a)(1)" and inserting in lieu thereof "SEC. 408. (a)";

(B) by striking out "paragraph (2)" each place it appears and inserting in lieu thereof "section 415"; and

(C) by striking out paragraph (2); and

(2) by striking out subsection (d).

SEC. 407. (a) The table of contents for part D of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 412 the following new items:

"Sec. 413. Alternative fine.

"Sec. 414. General provisions relating to fines.

"Sec. 415. Criminal forfeiture.".

(b) The table of contents for part A of title III of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 1016 the following new item:

"Sec. 1017. Applicability of section 413 and section 414.".

SEC. 408. (a) Chapter 31 of title 28, United States Code, as amended by section 307(j) of this Act, is further amended by adding at the end the following new section:

"§530B. Department of Justice Forfeiture Fund

"(a) There is established in the Treasury a fund to be known as the Department of Justice Forfeiture Fund (hereinafter in this section referred to as the 'fund'), which shall be available to the Attorney General, subject to appropriation, during the period beginning on the date of the enactment of this section and ending on September 30, 1987. The fund shall be available with respect to the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), section 1963(c) of title 18, United States Code, and section 274 of the Immigration and Nationality Act (8 U.S.C. 1324) for payment (to the extent that such payment is not otherwise provided for by law)—

"(1) of expenses of forfeiture and sale, including expenses of seizure and detention;

"(2) of rewards for information resulting in a conviction or forfeiture;

"(3) of liens against forfeited property;

"(4) of amounts with respect to remission and mitigation;

"(5) for equipping for law enforcement functions of forfeited vessels, vehicles, and aircraft retained as provided by law for official use by the Drug Enforcement Administration, the Federal Bureau of Investigation, or the Immigration and Naturalization Service; and

"(6) for purchase of evidence of any violation.

"(b)(1) Any reward under subsection (a)(2) of this section shall be paid at the discretion of the Attorney General or his delegate, except that the authority to pay a reward of $10,000 or more may be delegated only to the Administrator of the Drug Enforcement Administration, the Director of the Federal Bureau of Investigation, or the Commissioner of Immigration and Naturalization. Any such reward shall not exceed $250,000, except that a reward for information resulting in a forfeiture, shall not exceed the lesser of $250,000 or one-quarter of the amount realized by the United States from the property forfeited.

"(2) Any amount under subsection (a)(6) of this section shall be paid at the discretion of the Attorney General or his delegate, except that the authority to pay $100,000 or more may be delegated only to the Administrator of the Drug Enforcement Administration, the Director of the Federal Bureau of Investigation, or the Commissioner of Immigration and Naturalization. No such payment shall exceed $250,000.

"(3) Amounts under subsection (a) of this section shall be available, at the discretion of the Attorney General, to reimburse the applicable appropriation for expenses incurred by the Coast Guard for a purpose specified in such subsection.

"(c) There shall be deposited in the fund during the period beginning on the date of the enactment of this section and ending on September 30, 1987—

"(1) the proceeds (after payment of expenses of forfeiture and sale) from forfeiture under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), and section 274 of the Immigration and Nationality Act (8 U.S.C. 1324);

"(2) the proceeds (after payment of expenses of forfeiture and sale) from forfeiture under section 1963(c) of title 18, United States Code, in any case in which the racketeering activity consists of a narcotic or other dangerous drug offense referred to in section 1961(1)(A) of such title; and

"(3) earnings on amounts invested under subsection (d) of this section.

"(d) Amounts in the fund which are not currently needed for the purposes of this section shall be invested in obligations of, or guaranteed by, the United States.

"(e) Not later than four months after the end of each fiscal year, the Attorney General shall transmit to the Congress a report on receipts and disbursements with respect to the fund for such year.

"(f)(1) There are authorized to be appropriated from the fund for each of the four fiscal years beginning with fiscal year 1984, such sums as may be necessary under subsection (a) of this section, except that not more than $10,000,000 are authorized to be appropriated from the fund under paragraphs (2), (5), and (6) of such subsection for each such fiscal year.

"(2) At the end of each of the first three of such four fiscal years, any amount in the fund in excess of $10,000,000 shall be deposited in the general fund of the Treasury. At the end of the last of such four fiscal years, any amount in the fund shall be deposited in the general fund of the Treasury, and the fund shall cease to exist.".

(b) The table of sections for chapter 31 of title 28, United States Code, is amended by adding at the end the following new item:

"530B. Department of Justice Forfeiture Fund.".

SUBTITLE B—TARIFF ACT PROVISIONS

SEC. 451. (a) Section 602 of the Tariff Act of 1930 (19 U.S.C. 1602) is amended by inserting "aircraft," after "vehicle,".

(b) The sentence beginning "All vessels," in section 605 of the Tariff Act of 1930 (19 U.S.C. 1605) is amended by inserting "aircraft," after "vehicles,".

(c) Section 606 of the Tariff Act of 1930 (19 U.S.C. 1606) is amended by inserting "aircraft," after "vehicle,".

SEC. 452. Section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended to read as follows:

"SEC. 607. SEIZURE; VALUE $100,000 OR LESS, PROHIBITED MERCHANDISE, TRANSPORTING CONVEYANCES.

"(a) If—

"(1) the value of such seized vessel, vehicle, aircraft, merchandise, or baggage does not exceed $100,000;

"(2) such seized merchandise is merchandise the importation of which is prohibited; or

"(3) such seized vessel, vehicle, or aircraft was used to import, export, transport, or store any controlled substance;

the appropriate customs officer shall cause a notice of the seizure of such articles and the intention to forfeit and sell or otherwise dispose of the same according to law to be

published for at least three successive weeks in such manner as the Secretary of the Treasury may direct. Written notice of seizure together with information on the applicable procedures shall be sent to each party who appears to have an interest in the seized article.

"(b) As used in this section, the term 'controlled substance' has the meaning given that term in section 102 of the Controlled Substances Act (21 U.S.C. 802).".

SEC. 453. Section 608 of the Tariff Act of 1930 (19 U.S.C. 1608) is amended—

(1) in the sentence beginning "Any person", by inserting "aircraft," after "vehicle,"; and

(2) in the sentence beginning "Upon the filing", by inserting after "penal sum of" the following: "$2,500 or 10 percent of the value of the claimed property, whichever is lower, but not less than".

SEC. 454. Section 609 of the Tariff Act of 1930 (19 U.S.C. 1609) is amended—

(1) by striking out "If no" and inserting in lieu thereof "(a) If no";

(2) by inserting "aircraft," after "vehicle,";

(3) by inserting after "according to law, and" the following: "(except as provided in subsection (b) of this section)"; and

(4) by adding at the end the following new subsection:

"(b) During the period beginning on the date of the enactment of this subsection and ending on September 30, 1987, the appropriate customs officer shall deposit the proceeds of sale (after deducting such expenses) in the Customs Forfeiture Fund.".

SEC. 455. Section 610 of the Tariff Act of 1930 (19 U.S.C. 1610) is amended—

(1) by striking out "VALUE MORE THAN $10,000" in the section heading and inserting in lieu thereof "JUDICIAL FORFEITURE PROCEEDINGS"; and

(2) by striking out "If the value of any vessel, vehicle, merchandise, or baggage so seized is greater than $10,000," and inserting in lieu thereof "If any vessel, vehicle, aircraft, merchandise, or baggage is not subject to section 607 of this Act,".

SEC. 456. Section 611 of the Tariff Act of 1930 (19 U.S.C. 1611) is amended by inserting "aircraft," after "vehicle," each place it appears.

SEC. 457. Section 612 of the Tariff Act of 1930 (19 U.S.C. 1612) is amended—

(1) by inserting "aircraft," after "vehicle," each place it appears;

(2) in the sentence beginning "Whenever it appears"—

(A) by striking out "Whenever" and inserting in lieu thereof "(a) Whenever";

(B) by striking out "the value of"; and

(C) by striking out "as determined under section 606 of this Act, does not exceed $10,000" and inserting in lieu thereof "is subject to section 607 of this Act";

(3) in the sentence beginning "If such value"—

(A) by striking out "such value of"; and

(B) by striking out "exceeds $10,000" and inserting in lieu thereof "is not subject to section 607 of this Act,"; and

(4) by adding at the end the following new subsection:

"(b) If the expense of keeping the vessel, vehicle, aircraft, merchandise, or baggage is disproportionate to the value thereof, and such value is less than $1,000, such officer may proceed forthwith to order destruction or other appropriate disposition of such property, under regulations prescribed by the Secretary of the Treasury.".

SEC. 458. (a) The sentence beginning "Except as" in section 613(a) of the Tariff Act of 1930 (19 U.S.C. 1613(a)) is amended by inserting "aircraft," after "vehicle,".

(b) The sentence beginning "If no" in section 613(a) of the Tariff Act of 1930 (19 U.S.C. 1613(a)) is amended—

(1) by striking out "If no application" and inserting in lieu thereof "Except as provided in subsection (c), if no application"; and

(2) in paragraph (3), by striking out "with the Treasurer of the United States as a customs or navigation fine" and inserting in lieu thereof "in the general fund of the Treasury of the United States".

(c) Section 613(b) of the Tariff Act of 1930 (19 U.S.C. 1613(b)) is amended by inserting after "and (2) of this section" the following: "or subsection (a)(1), (a)(3), or (a)(4) of section 613A of this Act".

SEC. 459. Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581 et seq.) is amended by adding after section 613 the following new section:

"SEC. 613A. CUSTOMS FORFEITURE FUND.

"(a) There is established in the Treasury of the United States a fund to be known as the Customs Forfeiture Fund (hereinafter in this section referred to as the 'fund'), which shall be available to the United States Customs Service, subject to appropriation, during the period beginning on the date of the enactment of this section and ending on September 30, 1987. The fund shall be available with respect to seizures and forfeitures by the United States Customs Service under any law enforced or administered by it for payment (to the extent that such payment is not reimbursed under section 524 of this Act)—

"(1) of all proper expenses of the seizure or the proceedings of forfeiture and sale (not otherwise recovered under section 613(a)), including, but not limited to, expenses of inventory, security, maintaining the custody of the property, advertising and sale, and if condemned by the court and a bond for such costs was not given, the costs as taxed by the court;

"(2) of awards of compensation to informers under section 619 of this Act;

"(3) for satisfaction of—

"(A) liens for freight, charges, and contributions in general average, notice of which has been filed with the appropriate customs officer according to law; and

"(B) other liens against forfeited property;

"(4) of amounts authorized by law with respect to remission and mitigation;

"(5) for equipping for law enforcement functions of forfeited vessels, vehicles, and aircraft retained as provided by law for official use by the United States Customs Service; and

"(6) of claims of parties in interest to property disposed of under section 612(b) of this Act, in the amounts applicable to such claims at the time of seizure.

In addition to the purposes described in paragraphs (1) through (6), the fund shall be available for purchases by the United States Customs Service of evidence of (A) smuggling of controlled substances, and (B) violations of the currency and foreign transaction reporting requirements of chapter 53 of title 31, United States Code, if there is a substantial probability that the violations of these requirements are related to the smuggling of controlled substances.

"(b)(1) Payment under paragraphs (3) and (4) of subsection (a) of this section shall not exceed the value of the property at the time of the seizure.

"(2) Amounts under subsection (a) of this section shall be available, at the discretion of the Commissioner of Customs, to reimburse the applicable appropriation for expenses incurred by the Coast Guard for a purpose specified in such subsection.

"(c) There shall be deposited in the fund during the period beginning on the date of the enactment of this section, and ending on September 30, 1987, all proceeds from forfeiture under any law enforced or administered by the United States Customs Service (after reimbursement of expenses under section 524 of this Act) and all earnings on amounts invested under subsection (d) of this section.

"(d) Amounts in the fund which are not currently needed for the purposes of this section shall be invested in obligations of, or guaranteed by, the United States.

"(e) Not later than four months after the end of each fiscal year, the Commissioner of Customs shall transmit to the Congress a report on receipts and disbursements with respect to the fund for such year.

"(f)(1) There are authorized to be appropriated from the fund for each of the four fiscal years beginning with fiscal year 1984, not more than $10,000,000.

"(2) At the end of each of the first three of such four fiscal years, any amount in the fund in excess of $10,000,000 shall be deposited in the general fund of the Treasury. At the end of the last of such four fiscal years, any amount in the fund shall be deposited in the general fund of the Treasury, and the fund shall cease to exist.".

SEC. 460. (a) Section 614 of the Tariff Act of 1930 (19 U.S.C. 1614) is amended by inserting "aircraft," after "vehicle," each place it appears.

(b) Section 615 of the Tariff Act of 1930 (19 U.S.C. 1615) is amended—

(1) in the matter before the proviso, by inserting "aircraft," after "vehicle," each place it appears; and

(2) in paragraph (1) of the proviso, by striking out "vessel or vehicle" and inserting in lieu thereof "vessel, vehicle, or aircraft".

SEC. 461. Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581 et seq.), as amended by section 209 of this Act, is further amended by adding after section 615 the following new section:

"SEC. 616. TRANSFER OF FORFEITED PROPERTY.

"(a) The Secretary of the Treasury may discontinue forfeiture proceedings under this Act in favor of forfeiture under State law. If a complaint for forfeiture is filed under this Act, the Attorney General may seek dismissal of the complaint in favor of forfeiture under State law.

"(b) If forfeiture proceedings are discontinued or dismissed under this section—

"(1) the United States may transfer the seized property to the appropriate State or local official; and

"(2) notice of the discontinuance or dismissal shall be provided to all known interested parties.

"(c) The Secretary of the Treasury may transfer any property forfeited under this Act to any State or local law enforcement agency which participated directly in the seizure or forfeiture of the property.

"(d) The United States shall not be liable in any action relating to property transferred under this section if such action is based on an act or omission occurring after the transfer.".

SEC. 462. Section 619 of the Tariff Act of 1930 (19 U.S.C. 1619) is amended—

(1) by inserting "aircraft," after "vehicle," each place it appears, and

(2) by striking out "$50,000" each place it appears and inserting in lieu thereof "$250,000".

SEC. 463. The sentence beginning "Whenever any" in section 618 of the Tariff Act of 1930 (19 U.S.C. 1618) is amended by inserting "aircraft," after "vehicle," each place it appears.

SEC. 464. (a) Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581 et seq.), as amended by sections 209 and 211 of this Act, is further amended by adding after section 588 the following new section:

"SEC. 589. ENFORCEMENT AUTHORITY OF CUSTOMS OFFICERS.

"Subject to the direction of the Secretary of the Treasury, an officer of the customs may—

"(1) carry a firearm;

"(2) execute and serve any order, warrant, subpena, summons, or other process issued under the authority of the United States;

"(3) make an arrest without a warrant for any offense against the United States committed in the officer's presence or for a felony, cognizable under the laws of the United States committed outside the officer's presence if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing a felony; and

"(4) perform any other law enforcement duty that the Secretary of the Treasury may designate.".

(b)(1) Section 7607 of the Internal Revenue Code of 1954 is repealed.

(2) The table of sections for subchapter A of chapter 78 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 7607.

TITLE V—JUSTICE ASSISTANCE

Subtitle A—Amendments to Omnibus Crime Control and Safe Streets Act of 1968

SHORT TITLE

SEC. 501. This title may be cited as the "Justice Assistance Act of 1984".

DECLARATION AND PURPOSE

SEC. 502. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701-3799) is amended in the matter preceding part A by striking out the declaration and purpose.

OFFICE OF JUSTICE PROGRAMS

SEC. 503. (a) Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711-3713) is amended to read as follows—

"PART A—OFFICE OF JUSTICE PROGRAMS

"ESTABLISHMENT OF OFFICE OF JUSTICE PROGRAMS

"SEC. 101. There is hereby established an Office of Justice Programs within the Department of Justice under the general authority of the Attorney General. The Office of Justice Programs (hereinafter referred to in this title as the 'Office') shall be headed by an Assistant Attorney General (hereinafter in this title referred to as the 'Assistant Attorney General') appointed by the President, by and with the advice and consent of the Senate.

"DUTIES AND FUNCTIONS OF ASSISTANT ATTORNEY GENERAL

"SEC. 102. (a) The Assistant Attorney General shall—

"(1) publish and disseminate information on the conditions and progress of the criminal justice systems;

"(2) maintain liaison with the executive and judicial branches of the Federal and State Governments in matters relating to criminal justice;

"(3) provide information to the President, the Congress, the judiciary, State and local governments, and the general public relating to criminal justice;

"(4) maintain liaison with public and private educational and research institutions, State and local governments, and governments of other nations relating to criminal justice;

"(5) provide staff support to coordinate the activities of the Office and the Bureau of Justice Assistance, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Juvenile Justice and Delinquency Prevention; and

"(6) exercise such other powers and functions as may be vested in the Assistant Attorney General pursuant to this title or by delegation of the Attorney General.

"(b) The Assistant Attorney General shall submit an annual report to the President and to the Congress not later than March 31 of each year.".

NATIONAL INSTITUTE OF JUSTICE

SEC. 504. (a) Section 201 of part B of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3721) is amended—

(1) in paragraph (3) by inserting "and" at the end thereof,

(2) by striking out paragraph (4),

(3) by redesignating paragraph (5) as paragraph (4),

(4) by striking out "to develop alternatives to judicial resolution of disputes,", and

(5) by inserting "and demonstrate" after "to develop".

(b) Section 202 of part B of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3722) is amended—

(1) in subsection (b) by inserting after the second sentence the following: "The Director shall report to the Attorney General through the Assistant Attorney General.", and

(2) in subsection (c)—

(A) in paragraph (2)—

(i) in subparagraph (A) by striking out ", including programs authorized by section 103 of this title", and

(ii) in subparagraph (E) by striking out "the prevention and reduction of parental kidnaping", and

(B) in paragraph (3) by striking out "part" and inserting in lieu thereof "title",

(C) by striking out paragraph (4),

(D) in paragraph (10)—

(i) by striking out "national priority grants under part E and", and

(ii) by striking out "part F" and inserting in lieu thereof "part E",

(E) by striking out paragraph (9), and

(F) by redesignating paragraphs (5), (6), (7), (8), (10), and (11) as paragraphs (4), (5), (6), (7), (8), and (9), respectively.

(c) Part B of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3721-3724) is amended by striking out section 204.

BUREAU OF JUSTICE STATISTICS

SEC. 505. (a) The first sentence of section 301 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3731) is amended—

(1) by striking out "(including white-collar crime and public corruption)", and

(2) by striking out "(including crimes against the elderly, white-collar crime, and public corruption)".

(b) Section 302 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3732) is amended—

(1) in subsection (b) by inserting after the third sentence the following: "The Director shall report to the Attorney General through the Assistant Attorney General.",

(2) in subsection (c)—

(A) by striking out paragraphs (13) and (16),

(B) by redesignating paragraphs (14), (15), and (17) as paragraphs (16), (17), and (19), respectively,

(C) by inserting after paragraph (12) the following new paragraphs:

"(13) provide for the development of justice information systems programs and assistance to the States and units of local government relating to collection, analysis, or dissemination of justice statistics;

"(14) develop and maintain a data processing capability to support the collection, aggregation, analysis and dissemination of information on the incidence of crime and the operation of the criminal justice system;

"(15) collect, analyze and disseminate comprehensive Federal justice transaction statistics (including statistics on issues of Federal justice interest such as public fraud and high technology crime) and to provide technical assistance to and work jointly with other Federal agencies to improve the availability and quality of Federal justice data;", and

(D) by inserting after paragraph (17), as so redesignated, the following new paragraph:

"(18) insure conformance with security and privacy requirement of section 812 and identify, analyze and participate in the development and implementation of privacy, security and information policies which impact on Federal and State criminal justice operations and related statistical activities; and", and

(3) in subsection (d)—

(A) in paragraph (1) by inserting ", and to enter into agreements with such agencies and instrumentalities for purposes of data collection and analysis" before the semicolon,

(B) in paragraph (3) by striking out "and" at the end thereof,

(C) in paragraph (4) by striking out the period at the end thereof and inserting in lieu thereof a "; and", and

(D) by inserting after paragraph (4) the following new paragraph:

"(5) encourage replication, coordination and sharing among justice agencies regarding information systems, information policy, and data."

(c) Part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3731-3735) is amended by striking out section 304.

(d) Part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3731-3735) is amended by redesignating section 305 as section 304.

BLOCK GRANTS

SEC. 506. Part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3741-3745) is amended to read as follows:

"PART D — BLOCK GRANTS

"ESTABLISHMENT OF BUREAU OF JUSTICE ASSISTANCE

"SEC. 401. (a) There is established within the Department of Justice, under the general authority of the Attorney General, a Bureau of Justice Assistance (hereinafter in this part and part E referred to as the 'Bureau').

"(b) The Bureau shall be headed by a Director (hereinafter in this part and part E referred to as the 'Director') who shall be appointed by the Attorney General. The Director shall report to the Attorney General through the Assistant Attorney General. The Director shall have final authority for all grants, cooperative agreements, and contracts awarded by the Bureau. The Director shall not engage in any employment other than that of serving as the Director, nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Bureau makes any contract or other arrangement under this title.

"DUTIES AND FUNCTIONS OF DIRECTOR

"SEC. 402. The Director shall—

"(1) provide funds to eligible States, units of local government and private nonprofit organizations pursuant to this part and part E;

"(2) establish priorities for programs in accordance with part E and, following public announcement of such priorities, award and allocate funds and technical assistance in accordance with the criteria of part E and on terms and conditions determined by the Director to be consistent with part E;

"(3) cooperate with and provide technical assistance to states, units of local government, and other public and private organizations or international agencies involved in criminal justice activities;

"(4) provide for the development of technical assistance and training programs for state and local criminal justice agencies and foster local participation in such activities;

"(5) encourage the targeting of State and local resources on efforts to reduce the incidence of violent crime and on programs relating to the apprehension and prosecution of repeat offenders;

"(6) establish and carry on a specific and continuing program of cooperation with the States and units of local government designed to encourage and promote consultation and coordination concerning decisions made by the Bureau affecting State and local criminal justice priorities; and

"(7) exercise such other powers and functions as may be vested in the Director pursuant to this title.

"DESCRIPTION OF PROGRAM

"SEC. 403. (a) It is the purpose of this part to assist States and units of local government in carrying out specific programs which offer a high probability of improving the functioning of the criminal justice system, with special emphasis on violent crime and serious offenders. The Bureau is authorized to make grants under this part to States for the purpose of—

"(1) providing community and neighborhood programs that enable citizens and police to undertake initiatives to prevent and control neighborhood crime;

"(2) disrupting illicit commerce in stolen goods and property;

"(3) combating arson;

"(4) effectively investigating and bringing to trial white-collar crime, organized crime, public corruption crimes, and fraud against the Government;

"(5) identifying criminal cases involving persons (including juvenile offenders) with a history of serious criminal conduct in order to expedite the processing of such cases and to improve court system management and sentencing practices and procedures in such cases;

"(6) developing and implementing programs which provide assistance to jurors and witnesses, and assistance (other than compensation) to victims of crimes;

"(7) providing alternatives to pretrial detention, jail, and prison for persons who pose no danger to the community;

"(8) providing programs which identify and meet the needs of drug-dependent offenders;

"(9) providing programs which alleviate prison and jail overcrowding and programs which identify existing State and Federal buildings suitable for prison use;

"(10) providing training, management, and technical assistance to criminal justice personnel and determining appropriate prosecutorial and judicial personnel needs;

"(11) providing prison industry projects designed to place inmates in a realistic working and training environment in which they will be enabled to acquire marketable skills and to make financial payments for restitution to their victims, for support of their own families, and for support of themselves in the institution;

"(12) providing for operational information systems and workload management systems which improve the effectiveness of criminal justice agencies;

"(13) providing programs of the same types as programs described in section 501(a)(4)—

"(A) which the Director establishes, under section 503(a), as discretionary programs for financial assistance under part E; and

"(B) which are innovative and have been deemed by the Director as likely to prove successful;

"(14) implement programs which address critical problems of crime, such as drug trafficking, which have been certified by the Director, after consultation with the Director of the National Institute of Justice, Director of the Bureau of Justice Statistics, and Administrator of the Office of Juvenile Justice and Delinquency Prevention, as having proved successful;

"(15) providing programs which address the problem of serious offenses committed by juveniles;

"(16) addressing the problem of crime committed against the elderly;

"(17) providing training, technical assistance, and programs to assist State and local law enforcement authorities in rural areas in combating crime, with particular emphasis on violent crime, juvenile delinquency, and crime prevention; and

"(18) improving the operational effectiveness of law enforcement by integrating and maximizing the effectiveness of police field operations and the use of crime analysis techniques.

"(b)(1) For any fiscal year ending after September 30, 1984, the Federal portion of any grant made under this part shall be 50 per centum of the cost of programs and projects specified in the application for such grant, except that in the case of funds distributed to an Indian tribe which performs law enforcement functions (as determined by the Secretary of the Interior) for any program or project described in subsection (a), the Federal portion shall be 100 per centum of such cost.

"(2) The non-Federal portion of the cost of such program or project shall be in cash.

"(c) No funds may be given under this title to a grant recipient for a program or project for which funds have been given under this title for 4 years (in the aggregate), including any period occuring before the effective date of this subsection.

"ELIGIBILITY

"SEC. 404. The Bureau is authorized to make financial assistance under this part available to a State to enable it to carry out all or a substantial part of a program or project submitted and approved in accordance with the provisions of this part.

"APPLICATIONS

"SEC. 405. No grant may be made by the Bureau to a State, or by a State to an eligible recipient pursuant to this part, unless the application for such grant sets forth criminal justice programs and projects covering a 2-year period which meet the purposes of section 403(a) of this title, designates which purpose specified in section 403(a) each such program or project is intended to achieve, and identifies the State agency or unit of local government which will implement each such program or project. This application must be amended annually if new programs are to be added to the application or if the programs contained in the original application are not implemented. The application must include—

"(1) an assurance that following the first fiscal year covered by an application and each fiscal year thereafter, the applicant shall submit to the Bureau or to the State, as the case may be—

"(A) a performance report concerning the activities carried out pursuant to this part and part E; and

"(B) an assessment by the applicant of the impact of those activities on the purposes of this part and the needs and objectives identified in the applicant's statement;

"(2) a certification that Federal funds made available under this title will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for criminal justice activities;

"(3) an assurance that fund accounting, auditing, monitoring, and such evaluation procedures as may be necessary to keep such records as the Bureau shall prescribe shall be provided to assure fiscal control, proper management, and efficient disbursement of funds received under this title;

"(4) an assurance that the applicant shall maintain such data and information and submit such reports in such form, at such times, and containing such data and information as the Bureau may reasonably require to administer other provisions of this title;

"(5) a certification that its programs meet all the requirements of this section, that all the information contained in the application is correct, that there has been appropriate coordination with affected agencies, and that the applicant will comply with all provisions of this title and all other applicable Federal laws (such certification shall be made in a form acceptable to the Bureau and shall be executed by the chief executive or such other officer of the applicant qualified under regulations promulgated by the Office);

"(6) if the applicant is a State, an assurance that not more than 10 per centum of the aggregate amount of funds received by a State under this part for a fiscal year will be distributed for programs and projects designated as intended to achieve the purpose specified in section 403(a)(13);

"(7) an assurance that the State will take into account the needs and requests of units of general local government in the State and encourage local initiative in the devel-

opment of programs which meet the purposes of section 403(a);

"(8) an assurance that the State application described in this section, and any amendment to such application, has been submitted for review to the State legislature or its designated body (for purposes of this section, such application or amendment shall be deemed to be reviewed if the State legislature or such body does not review such application or amendment within the 60-day period beginning on the date such application or amendment is so submitted); and

"(9) an assurance that the State application and any amendment thereto was made public before submission to the Bureau and, to the extent provided under State law or established procedure, an opportunity to comment thereon was provided to citizens and to neighborhood and community groups.

"REVIEW OF APPLICATIONS

"SEC. 406. (a) The Bureau shall provide financial assistance to each State applicant under this part to carry out the programs or projects submitted by such applicant upon determining that—

"(1) the application or amendment thereto is consistent with the requirements of this title; and

"(2) before the approval of the application and any amendment thereto the Bureau has made an affirmative finding in writing that the program or project has been reviewed in accordance with section 405.

Each application or amendment made and submitted for approval to the Bureau pursuant to section 405 of this title shall be deemed approved, in whole or in part, by the Bureau not later than 60 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(b) The Bureau shall suspend funding for an approved application in whole or in part if such application contains a program or project which has failed to conform to the requirements of this part or purposes of section 403(a) of this title. The Bureau may make appropriate adjustments in the amounts of grants in accordance with its findings pursuant to this subsection.

"(c) Grant funds awarded under this part shall not be used for—

"(1) the purchase of equipment or hardware, or the payment of personnel costs, unless the cost of such purchases and payments is incurred as an incidental and necessary part of a program under section 403(a) of this title;

"(2) programs which have as their primary purpose general salary payments for employees or classes of employees within an eligible jurisdiction, except for the compensation of personnel for time engaged in conducting or undergoing training programs or the compensation of personnel engaged in research, development, demonstration, or short-term programs;

"(3) land acquisition or construction projects; or

"(4) programs or projects which, based upon evaluations by the National Institute of Justice, Bureau of Justice Assistance, Bureau of Justice Statistics, State or local agencies, and other public or private organizations, have been demonstrated to offer a low probability of improving the functioning of the criminal justice system. Such programs must be formally identified by a notice in the Federal Register after opportunity for comment.

"(d) The Bureau shall not finally disapprove any application, or any amendment thereto, submitted to the Director under this part without first affording the applicant reasonable notice and opportunity for reconsideration.

"ALLOCATION AND DISTRIBUTION OF FUNDS

"SEC. 407. (a) Of the total amount appropriated for this part and part E in any fiscal year, 80 per centum shall be set aside for this part and allocated to States as follows:

"(1) $250,000 shall be allocated to each of the participating States.

"(2) Of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State bears to the population of all the States.

"(b)(1) Each State which receives funds under subsection (a) in a fiscal year shall distribute among units of local government, or combinations of units of local government, in such State for the purposes specified in section 403(a) of this title that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for criminal justice in such preceding fiscal year.

"(2) In distributing funds received under this part among urban, rural and suburban units of local government and combinations thereof, the State shall give priority to those jurisdictions with the greatest need.

"(3) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State involved.

"(4) For purposes of determining the distribution of funds under paragraph (1), the most accurate and complete data available for the fiscal year involved shall be used. If data for such fiscal year are not available, then the most accurate and complete data available for the most recent fiscal year preceding such fiscal year shall be used.

"(c) No funds allocated to a State under subsection (a) or received by a State for distribution under subsection (b) may be distributed by the Director or by the State involved for any program other than a program contained in an approved application.

"(d) If the Director determines, on the basis of information available to it during any fiscal year, that a portion of the funds allocated to a State for that fiscal year will not be required or that a State will be unable to qualify or receive funds under this part, or that a State chooses not to participate in the program established by this part, then such portion shall be awarded by the Director to urban, rural, and suburban units of local government or combinations thereof within such State giving priority to those jurisdictions with greatest need.

"(e) Any funds not distributed under subsections (b) and (d) shall be available for obligation under part E.

"STATE OFFICE

"SEC. 408. (a) The chief executive of each participating State shall designate a State office for purposes of—

"(1) preparing an application to obtain funds under this part; and

"(2) administering funds received from the Bureau of Justice Assistance, including receipt, review, processing, monitoring, progress and financial report review, technical assistance, grant adjustments, accounting, auditing, and fund disbursements.

"(b) An office or agency performing other functions within the executive branch of a State may be designated to carry out the functions specified in subsection (a).".

NATIONAL PRIORITY GRANTS

SEC. 507. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701 et seq.) is amended by striking out part E.

DISCRETIONARY GRANTS

SEC. 508. (a) Sections 601, 602, and 603 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3761–3762) are amended to read as follows:

"PURPOSE

"SEC. 501. (a) The purpose of this part is to provide additional Federal financial assistance to public agencies and private nonprofit organizations for purposes of—

"(1) undertaking educational and training programs for criminal justice personnel;

"(2) providing technical assistance to States and local units of governments;

"(3) undertaking projects which are national or multi-State in scope and which address the purposes specified in section 403(a) of this title; and

"(4) providing financial assistance to public agencies and private nonprofit organizations for demonstration programs which, in view of previous research or experience, are likely to be a success in more than one jurisdiction and are not likely to be funded with moneys from other sources.

"(b) In carrying out this part, the Bureau is authorized to make grants, and enter into cooperative agreements and contracts with, public agencies and private nonprofit organizations.

"PERCENTAGE OF APPROPRIATION FOR DISCRETIONARY GRANT PROGRAM

"SEC. 502. Of the total amount appropriated for part D and this part in any fiscal year, 20 per centum shall be reserved and set aside for this part in a special discretionary fund for use by the Bureau in carrying out the purposes specified in section 501 of this title. Grants under this part may be made for amounts up to 100 per centum of the costs of the programs or projects contained in the approved application.

"PROCEDURE FOR ESTABLISHING DISCRETIONARY PROGRAMS

"SEC. 503. (a) The Director of the Bureau shall periodically establish discretionary programs and projects for financial assistance under this part. Such programs and projects shall be considered priorities for a period of time not to exceed 3 years from the time of such determination.

"(b) The Director shall annually request the National Institute of Justice, the Bureau of Justice Statistics, the Office of Justice Programs, State and local governments, and other appropriate public and private agencies to suggest discretionary programs and projects. The Director shall then, pursuant to regulations, annually publish the proposed priorities pursuant to this part and invite and encourage public comment concerning such priorities. Priorities shall not be established or modified until the Director has provided at least 60-days advance notice for such public comment and the Director shall encourage and invite recommendations and opinion concerning such priorities from appropriate agencies and officials of State and units of local government. After considering any comments submitted during such period of time and after consultation with appropriate agencies and offi-

cials of State and units of local government, the Director shall determine whether existing established priorities should be modified. The Director shall publish in the Federal Register the priorities established pursuant to this part before the beginning of fiscal year 1985 and each fiscal year thereafter for which appropriations will be available to carry out the program.".

(b) Section 604 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3764) is amended by striking out "Administration" each place it appears and inserting in lieu thereof "Bureau".

(c) Section 605 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C 3765) is amended to read as follows:

"CRITERIA FOR AWARD

"SEC. 505. The Bureau shall, in its discretion and according to the criteria, and on the terms and conditions it determines consistent with this part, provide financial assistance to those programs or projects which most clearly satisfy the priorities established under section 503 of this title. In providing such assistance pursuant to this part, the Bureau shall consider whether certain segments and components of the criminal justice system have received a disproportionate allocation of financial aid and assistance pursuant to other parts of this title, and, if such a finding is made, shall assure the funding of such other segments and components of the criminal justice system as to correct inequities resulting from such disproportionate allocations.".

(d) Section 606 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C 3766) is amended to read as follows:

"PERIOD FOR AWARD

"SEC. 506. The Bureau may provide financial aid and assistance to programs or projects under this part for a period not to exceed three years. Grants made pursuant to this part may be extended or renewed by the Bureau for an additional period of up to two years if—

"(1) an evaluation of the program or project indicates that it has been effective in achieving the stated goals or offers the potential for improving the functioning of the criminal justice system; and

"(2) the public agency or private nonprofit organization within which the program or project has been conducted agrees to provide at least one-half of the total cost of such program or project from any source of funds, including Federal grants, available to the eligible jurisdiction.".

(e) The heading for part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3761-3766) is amended by striking out "Part F" and inserting in lieu thereof "Part E".

(f) Part E, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701-3766) is amended by redesignating section 604 as section 504.

PILOT PROGRAMS FOR CONSTRUCTION OF CRIMINAL JUSTICE FACILITIES

SEC. 509. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701-3799) is amended by inserting after part E, as so redesignated, the following new part:

"PART F—CRIMINAL JUSTICE FACILITY CONSTRUCTION: PILOT PROGRAM

"AUTHORITY FOR PAYMENTS

"SEC. 601. In order to relieve overcrowding and substandard conditions at State and local correctional facilities, the Director of the Bureau of Justice Assistance (hereinafter in this part referred to as the 'Director') is authorized to make grants to States, units of local government, and combinations of such units to assist in construction of correctional facility projects approved under this part, and in planning to relieve overcrowding and substandard conditions in correctional facilities.

"ELIGIBILITY

"SEC. 602. (a) A State, unit of local government, or combination of such units shall be eligible for assistance under this part for a correctional facility project only—

"(1) if the Director, with the concurrence of the Director of the National Institute of Corrections established in chapter 315 of title 18, United States Code, has made a determination that such project represents a prototype of new and innovative methods and advanced design that will stand as examples of technology for avoiding delay and reducing costs in correctional facility design, construction, and improvement; and

"(2) for not more than one such project in any State per fiscal year.

"(b) A State, a unit of local government, or a combination of such units shall be eligible for assistance under this part for the development of a plan for relieving overcrowding or substandard conditions in correctional facilities operated by the State, a unit of local government, or a combination of such units. Such assistance shall not exceed 50 percent of the cost of developing the plan.

"APPLICATION; APPROVAL; PAYMENT

"SEC. 603. (a) A State, unit of local government, or combination of such units desiring to receive assistance under this part for a correctional facility project shall submit to the Director an application which shall include—

"(1) reasonable assurance that the applicant has developed an acceptable plan for reducing overcrowding and improving conditions of confinement in its correctional facilities and has implemented, or is in the process of implementing, such plan through legislative, executive, or judicial initiatives;

"(2) a detailed description of the correctional facility to be constructed, altered, or expanded, including a description of the site of such facility;

"(3) an estimate of the total cost of the construction of such project, including the amount of assistance requested for such project;

"(4) reasonable assurance that title to such site is or will be vested solely in the applicant, or another agency or instrumentality of the applicant;

"(5) reasonable assurance that adequate financial support will be available for the construction of the project and for its maintenance and operation when complete; and

"(6) reasonable assurance that the applicant will comply with the standards and recommendations of the clearinghouse on the construction and modernization of correctional facilities established under section 605.

"(b)(1) The Director may approve any such application only if the Director finds that—

"(A) there are sufficient funds available to provide the assistance requested;

"(B) such assistance does not exceed 20 percent of the estimated total cost of construction;

"(C) the application contains such reasonable assurances as may be required under subsection (a); and

"(D) the eligibility criteria of section 602 are met.

"(2) In approving applications under this subsection, the Director shall consider the numbers and general characteristics of the inmate population (to include factors such as offenders' ages, offenses, average term of incarceration, and custody status), and the degree to which the applicant has implemented an inmate classification system which addresses the need for appropriate security assignment.

"(c) Upon approving an application under this section, the Director shall award the amount of assistance so approved, but in no event an amount greater than 20 percent of the cost of construction of the approved correctional facility project, and shall provide for payment to the applicant or, if designated by the applicant, any agency or instrumentality of the applicant. Such amount shall be paid, in advance or by way of reimbursement, and in such installments consistent with the progress of construction as the Director may determine. Funds paid under this subsection for the construction of an approved project shall be used solely for carrying out such project as so approved.

"(d) An amendment of any application shall be subject to approval in the same manner as an original application.

"RECAPTURE PROVISIONS

"SEC. 605. If, within 20 years after completion of any correctional facility project with respect to which assistance has been provided under this section, such facility ceases to be operated as a correctional facility, the United States may recover from the recipient of the such assistance any amount not to exceed 20 percent of the then current value of such project (but in no event an amount greater than the amount of assistance provided under this part for such project), as determined by agreement with the parties or by action brought in the district court of the United States for the district in which such facility is situated.

"CLEARINGHOUSE ON THE CONSTRUCTION AND MODERNIZATION OF CRIMINAL JUSTICE FACILITIES

"SEC. 606. (a) The Director shall provide for the operation of a clearinghouse on the construction and modernization of correctional facilities, which shall collect, prepare, and disseminate to the public and to interested State and local public agencies information, including recommendations, pertaining to the construction and modernization of correctional facilities. Such information shall include information regarding—

"(1) new and innovative methods and advanced design that will stand as examples of technology for avoiding delay and reducing costs in correctional facility design, construction, and improvement;

"(2) ways in which a construction planning program may be used to improve the administration of the criminal justice system within each State;

"(3) recommended minimum standards concerning construction materials and methods, to be updated from time to time to reflect technological advances;

"(4) the cost-effectiveness of available construction materials, methods, and design technologies;

"(5) the training of correctional facility personnel; and

"(6) health and safety considerations in construction planning.

"(b) The Director is authorized to enter into contracts with private organizations and interagency agreements with the National Institute of Corrections, the National Institute of Justice, the Bureau of Justice and Statistics, and other appropriate public agencies, to operate the clearinghouse required under this section.".

TRAINING AND MANPOWER DEVELOPMENT

SEC. 510. (a) Part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3771-3775) is amended to read as follows:

"PART G—FBI TRAINING OF STATE AND LOCAL CRIMINAL JUSTICE PERSONNEL

"TRAINING AND MANPOWER DEVELOPMENT

"SEC. 701. (a) The Director of the Federal Bureau of Investigation is authorized to—

"(1) establish and conduct training programs at the Federal Bureau of Investigation National Academy at Quantico, Virginia, to provide, at the request of a State or unit of local government, training for State and local criminal justice personnel;

"(2) develop new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen criminal justice; and

"(3) assist in conducting, at the request of a State or unit of local government, local and regional training programs for the training of State and local criminal justice personnel engaged in the investigation of crime and the apprehension of criminals. Training for rural criminal justice personnel shall include, when appropriate, effective use of regional resources and methods to improve coordination among criminal justice personnel in different areas and in different levels of government. Such training shall be provided only for persons actually employed as State police or highway patrol, police of a unit of local government, sheriffs, and their deputies, and other persons as the State or such unit may nominate for police training while such persons are actually employed as officers of such State or unit.

"(b) In the exercise of the functions, powers, and duties established under this section the Director of the Federal Bureau of Investigation shall be under the general authority of the Attorney General.

"(c) Notwithstanding the provisions of subsection (a), the Secretary of the Treasury is authorized to establish, develop, and conduct training programs at the Federal Law Enforcement Training Center at Glynco, Georgia, to provide, at the request of a State or unit of local government, training for State and local criminal justice personnel provided that such training does not interfere with the Center's mission to train Federal law enforcement personnel.".

ADMINISTRATIVE PROVISIONS

SEC. 511. (a) Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781 et seq.) is amended by striking out section 801.

(b) Sections 802 and 803 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782) are amended to read as follows:

"CONSULTATION; ESTABLISHMENT OF RULES AND REGULATIONS

"SEC. 801. (a) The Office of Justice Programs, the Bureau of Justice Assistance, the Office of Juvenile Justice and Delinquency Prevention, the Bureau of Justice Statistics, and the National Institute of Justice are authorized, after appropriate consultation with representatives of States and units of local government, to establish such rules, regulations, and procedures as are necessary to the exercise of their functions, and as are consistent with the stated purposes of this title.

"(b) The Bureau of Justice Assistance shall, after consultation with the National Institute of Justice, the Bureau of Justice Statistics, the Office of Juvenile Justice and Delinquency Prevention, State and local governments, and the appropriate public and private agencies, establish such rules and regulations as are necessary to assure the continuing evaluation of selected programs or projects conducted pursuant to parts D and E, in order to determine—

"(1) whether such programs or projects have achieved the performance goals stated in the original application, are of proven effectiveness, have a record of proven success, or offer a high probability of improving the criminal justice system;

"(2) whether such programs or projects have contributed or are likely to contribute to the improvement of the criminal justice system and the reduction and prevention of crime;

"(3) their cost in relation to their effectiveness in achieving stated goals;

"(4) their impact on communities and participants; and

"(5) their implication for related programs.

In conducting evaluations described in this subsection, the Bureau of Justice Assistance shall, when practical, compare the effectiveness of programs conducted by similar applicants and different applicants. The Bureau of Justice Assistance shall also require applicants under part D to submit an annual performance report concerning activities carried out pursuant to part D together with an assessment by the applicant of the effectiveness of those activities in achieving the purposes of section 403(a) of this title and the relationships of those activities to the needs and objectives specified by the applicant in the application submitted pursuant to section 403 of this title. The Bureau shall suspend funding for an approved application under part D if an applicant fails to submit such an annual performance report.

"(c) The procedures established to implement the provisions of this title shall minimize paperwork and prevent needless duplication and unnecessary delays in award and expenditure of funds at all levels of government.

"NOTICE AND HEARING ON DENIAL OR TERMINATION OF GRANT

"SEC. 802. (a) Whenever, after reasonable notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code, the Bureau of Justice Assistance, the National Institute of Justice, and the Bureau of Justice Statistics finds that a recipient of assistance under this title has failed to comply substantially with—

"(1) any provisions of this title;

"(2) any regulations or guidelines promulgated under this title; or

"(3) any application submitted in accordance with the provisions of this title, or the provisions of any other applicable Federal Act;

the Director involved shall, until satisfied that there is no longer any such failure to comply, terminate payments to the recipient under this title, reduce payments to the recipient under this title by an amount equal to the amount of such payments which were not expended in accordance with this title, or limit the availability of payments under this title to programs, projects, or activities not affected by such failure to comply.

"(b) If any grant application submitted under part D of this title has been denied, or any grant under this title has been terminated, then the Bureau of Justice Assistance, the National Institute of Justice, or the Bureau of Justice Statistics, as appropriate, shall notify the applicant of its action and set forth the reason for the action taken. Whenever such an applicant requests a hearing, the Bureau of Justice Assistance, the National Institute of Justice, or the Bureau of Justice Statistics, or any authorized officer thereof, is authorized and directed to hold such hearings or investigations, including hearings on the record in accordance with section 554 of title 5, United States Code, at such times and places as necessary, following appropriate and adequate notice to such applicant; and the findings of fact and determinations made with respect thereto shall be final and conclusive, except as otherwise provided herein. The Bureau of Justice Assistance, the National Institute of Justice, or the Bureau of Justice Statistics is authorized to take final action without a hearing if, after an administrative review of the denial of such application or termination of such grant, it is determined that the basis for the appeal, if substantiated, would not establish a basis for awarding or continuing of the grant involved. Under such circumstances, a more detailed statement of reasons for the agency action should be made available, upon request, to the applicant.

"(c) If the applicant involved is dissatisfied with the findings and determinations of the Bureau of Justice Assistance, the National Institute of Justice, or the Bureau of Justice Statistics following notice and hearing provided for in subsection (a) of this section, a request may be made for rehearing, under such regulations and procedure as the Bureau of Justice Assistance, the National Institute of Justice, or the Bureau of Justice Statistics may establish, and such applicant shall be afforded an opportunity to present such additional information as may be deemed appropriate and pertinent to the matter involved.".

(c) Section 804 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3784) is amended by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Bureau of Justice Assistance".

(d) Section 805 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3785) is amended—

(1) by striking out "Office of Justice Assistance, Research, and Statistics, the Law Enforcement Assistance Administration," each place it appears and inserting in lieu thereof "Office of Justice Programs, Bureau of Justice Assistance,",

(2) by inserting "the Office of Juvenile Justice and Delinquency Prevention," before "or the National Institute of Justice" each place it appears,

(3) in subsection (a) by striking out "section 803, 804, or 815(c)(2)(G)" and inserting in lieu thereof "section 802, 803, or 809(c)(2)(G)", and

(4) in subsection (b) by inserting "the Office of Juvenile Justice and Delinquency

Prevention" before "or the Bureau of Justice Statistics".

(e) Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781 et seq.) is amended by striking out sections 806, 807, 808, 809, 810, 811, 812, 813, 814, 819, and 826.

(f) Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781-3789o) is amended by redesignating sections 804, 805, 815, 816, 817, 818, 820, 821, 822, 823, 824, 825, and 827 as sections 803, 804, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, and 819, respectively.

(g) Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781-3789o) is amended by inserting after section 804, as so redesignated, the following new sections:

"DELEGATION OF FUNCTIONS

"SEC. 805. The Attorney General, the Assistant Attorney General, the Director of the National Institute of Justice, the Director of the Bureau of Justice Statistics, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, and the Director of the Bureau of Justice Assistance may delegate to any of their respective officers or employees such functions under this title as they deem appropriate.".

"SUBPOENA POWER; EMPLOYMENT OF HEARING OFFICERS; AUTHORITY TO HOLD HEARINGS

"SEC. 806. The Bureau of Justice Assistance, the National Institute of Justice, and the Bureau of Justice Statistics may appoint such hearing examiners or administrative law judges or request the use of such administrative law judges selected by the Office of Personnel Management pursuant to section 3344 of title 5, United States Code, as shall be necessary to carry out their respective powers and duties under this title. The Bureau of Justice Assistance, the National Institute of Justice, and the Bureau of Justice Statistics or upon authorization, any member thereof or any hearing examiner or administrative law judge assigned to or employed thereby shall have the power to hold hearings and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in the United States they respectively may designate.

"PERSONNEL AND ADMINISTRATIVE AUTHORITY

"SEC. 807. (a) The Assistant Attorney General, the Director of the Bureau of Justice Assistance, the Director of the Institute, and the Director of the Bureau of Justice Statistics are authorized to select, appoint, employ, and fix compensation of such officers and employees as shall be necessary to carry out the powers and duties of the Office, the Bureau of Justice Assistance, the National Institute of Justice, and the Bureau of Justice Statistics, respectively, under this title.

"(b) The Office, the Bureau of Justice Assistance, the National Institute of Justice, and the Bureau of Justice Statistics are authorized, on a reimbursable basis when appropriate, to use the available services, equipment, personnel, and facilities of Federal, State, and local agencies to the extent deemed appropriate after giving due consideration to the effectiveness of such existing services, equipment, personnel, and facilities.

"(c) The Office, the Bureau of Justice Assistance, the National Institute of Justice, and the Bureau of Justice Statistics may arrange with and reimburse the heads of other Federal departments and agencies for the performance of any of the functions under this title.

"(d) The Office, the Bureau of Justice Assistance, the National Institute of Justice, and the Bureau of Justice Statistics may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, relating to appointments in the Federal service, at rates of compensation for individuals not to exceed the daily equivalent of the rate of pay payable from time to time for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

"(e) The Office, the Bureau of Justice Assistance, the National Institute of Justice, and the Bureau of Justice Statistics are authorized to appoint, without regard to the provisions of title 5, United States Code, advisory committees to advise them with respect to the administration of this title as they deem necessary. Such committees shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.). Members of such committees not otherwise in the employ of the United States, while engaged in advising or attending meetings of such committees, shall be compensated at rates to be fixed by the Office but not to exceed the daily equivalent of the rate of pay payable from time to time for GS-18 of the General Schedule under section 5332 of title 5 of the United States Code, and while away from home or regular place of business they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as authorized by section 5703 of such title 5 for persons in the Government service employed intermittently.

"(f) Payments under this title may be made in installments, and in advance or by way of reimbursement, as may be determined by the Office, the Bureau of Justice Assistance, the National Institute of Justice, or the Bureau of Justice Statistics, and may be used to pay the transportation and subsistence expenses of persons attending conferences or other assemblages notwithstanding 1345 of title 31, United States Code.

"(g) The Office, the Bureau of Justice Assistance, the National Institute of Justice, and the Bureau of Justice Statistics are authorized to accept and employ, in carrying out the provisions of this title, voluntary and uncompensated services notwithstanding section 1342 of title 31, United States Code. Such individuals shall not be considered Federal employees except for purposes of chapter 81 of title 5, United States Code, with respect to job-incurred disability and title 28, United States Code, with respect to tort claims.

"TITLE TO PERSONAL PROPERTY

"SEC. 808. Notwithstanding any other provision of law, title to all expendable and nonexpendable personal property purchased with funds made available under this title, including such property purchased with funds made available under this title as in effect before the effective date of the Justice Assistance Act of 1984, shall vest in the criminal justice agency or nonprofit organization that purchased the property if it certifies to the State office described in section 408 of this title that it will use the property for criminal justice purposes. If such certification is not made, title to the property shall vest in the State office, which shall seek to have the property used for criminal justice purposes elsewhere in the State prior to using it or disposing of it in any other manner.".

(h) Section 809, as so redesignated, of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789d) is amended—

(1) by amending the heading to read as follows:

"PROHIBITION OF FEDERAL CONTROL OVER STATE AND LOCAL CRIMINAL JUSTICE AGENCIES; PROHIBITION OF DISCRIMINATION",

(2) by amending subsection (a) to read as follows:

"(a) Nothing in this title or any other Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over any police force or any other criminal justice agency of any state or any political subdivision thereof.", and

(3) in subsection (c) by striking out "Office of Justice Assistance, Research, and Statistics" each place it appears and inserting in lieu thereof "Office of Justice Programs".

(i) Section 810, as so redesignated, of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789e) is amended to read as follows:

"REPORT TO PRESIDENT AND CONGRESS

"SEC. 810. Not later than April 1 of each year, the Assistant Attorney General, the Director of the Bureau of Justice Assistance, the Director of the Bureau of Justice Statistics, and the Director of the National Institute of Justice shall each submit a report to the President and to the Speaker of the House of Representatives and the President of the Senate, on their activities under this title during the fiscal year next preceding such date.".

(j) Section 811, as so redesignated, of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789f) is amended—

(1) by striking out "Office of Justice Assistance, Research, and Statistics" each place it appears and inserting in lieu thereof "Office of Justice Programs",

(2) by striking out subsection (d), and

(3) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(k) Section 812, as so redesignated, of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789g) is amended by striking out "Office of Justice Assistance, Research, and Statistics" each place it appears and inserting in lieu thereof "Office of Justice Programs".

(l) Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781-3789o) is amended by striking out section 819.

(m) Section 813, as so redesignated, of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789i) is amended—

(1) by striking out subsection (a), and

(2) in subsection (b) by striking out "(b)".

(n) Section 816, as so redesignated, of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789l) is amended by striking out "Administration" and inserting in lieu thereof "Assistant Attorney General".

(o) Section 819(c), as so redesignated, of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. 1761 note) is amended—

(1) by striking out "this section" and inserting in lieu thereof "section 1761 of title 18, United States Code, and of the first section of the Act of June 30, 1936 (49 Stat. 2036; 41 U.S.C. 35), commonly known as the Walsh-Healey Act,", and

(2) by inserting ", as amended from time to time," after "goods".

DEFINITIONS

SEC. 512. (a) Section 901 of part I of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791) is amended by striking out "Administration" each place it appears and inserting in lieu thereof "Office".

(b) Section 901(a) of part I of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)) is amended—

(1) in paragraph (2)—

(A) by inserting "and" after "Puerto Rico," and

(B) by striking out ", Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands",

(2) in paragraph (3) by inserting ", Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Commonwealth of the Northern Mariana Islands" after "District of Columbia" before the semicolon,

(3) in paragraph (4)—

(A) by inserting "renovation, repairs, remodeling," after "acquisition,", and

(B) by striking out ", but does not include renovation, repairs, or remodeling",

(4) in paragraph (7) by striking out "institution or",

(5) by amending paragraph (8) to read as follows:

"(8) 'correctional facility project' means a project for the construction, replacement, alteration or expansion of a prison or jail for the purpose of relieving overcrowding or substandard conditions;", and

(6) by amending paragraph (13) to read as follows:

"(13) 'cost of construction' means all expenses found by the Director to be necessary for the construction of the project, including architect and engineering fees, but excluding land acquisition costs;".

FUNDING

SEC. 513. (a) Section 1001 of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1001. (a)(1) There are authorized to be appropriated for fiscal years 1984, 1985, 1986, and 1987 such sums as may be necessary to carry out the functions of the Bureau of Justice Statistics.

"(2) There are authorized to be appropriated for fiscal years 1984, 1985, 1986, and 1987 such sums as may be necessary to carry out the functions of the National Institute of Justice.

"(3) There is authorized to be appropriated $170,000,000 for each of the fiscal years 1984, 1985, 1986, and 1987 to carry out the remaining functions of the Office of Justice Programs and the Bureau of Justice Assistance, other than functions under parts F, G, and L of this title.

"(4) There is authorized to be appropriated $25,000,000 for each of the fiscal years 1984, 1985, 1986, and 1987 to carry out part F.

"(5) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out part L.

"(6) Funds appropriated for any fiscal year may remain available for obligation until expended.".

"(b) Notwithstanding any other provision of law, no funds appropriated under this section for parts D and E of this title may be transferred or reprogramed for carrying out any activity which is not authorized under such parts.".

(b) Part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793–3793b) is amended by striking out sections 1002 and 1003.

CRIMINAL PENALTIES

SEC. 514. (a) Section 1101 of part K of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3795) is amended by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Programs, Bureau of Justice Assistance".

(b) Section 1103 of part K of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3795–3795b) is amended by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Programs, Bureau of Justice Assistance".

PUBLIC SAFETY OFFICERS' DEATH BENEFITS

SEC. 515. Part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796–3796c) is amended to read as follows:

"PART L—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

"PAYMENTS

"SEC. 1201. (a) In any case in which the Bureau of Justice Assistance (hereinafter in this part referred to as the 'Bureau') determines, under regulations issued pursuant to this part, that a public safety officer has died as the direct and proximate result of a personal injury sustained in the line of duty, the Bureau shall pay a benefit of $50,000 as follows:

"(1) if there is no surviving child of such officer, to the surviving spouse of such officer;

"(2) if there is a surviving child or children and a surviving spouse, one-half to the surviving child or children of such officer in equal shares and one-half to the surviving spouse;

"(3) if there is no surviving spouse, to the child or children of such officer in equal shares; or

"(4) if none of the above, to the dependent parent or parents of such officer in equal shares.

"(b) Whenever the Bureau determines upon showing of need and prior to final action that the death of a public safety officer is one with respect to which a benefit will probably be paid, the Bureau may make an interim benefit payment not exceeding $3,000 to the individual entitled to receive a benefit under subsection (a) of this section.

"(c) The amount of an interim payment under subsection (b) shall be deducted from the amount of any final benefit paid to such individual.

"(d) Where there is no final benefit paid, the recipient of any interim payment under subsection (b) shall be liable for repayment of such amount. The Bureau may waive all or part of such repayment, considering for this purpose the hardship which would result from such repayment.

"(e) The benefit payable under this part shall be in addition to any other benefit that may be due from any other source, except—

"(1) payments authorized by section 12(k) of the Act of September 1, 1916, as amended (D.C. Code, sec. 4–622); or

"(2) benefits authorized by section 8191 of title 5, United States Code. Such beneficiaries shall only receive benefits under such section 8191 that are in excess of the benefits received under this part.

"(f) No benefit paid under this part shall be subject to execution or attachment.

"LIMITATIONS

"SEC. 1202. No benefit shall be paid under this part—

"(1) if the death was caused by the intentional misconduct of the public safety officer or by such officer's intention to bring about his death;

"(2) if the public safety officer was voluntarily intoxicated at the time of his death;

"(3) if the public safety officer was performing his duties in a grossly negligent manner at the time of his death;

"(4) to any individual who would otherwise be entitled to a benefit under this part if such individual's actions were a substantial contributing factor to the death of the public safety officer; or

"(5) to any individual employed in a capacity other than a civilian capacity.

"DEFINITIONS

"SEC. 1203. As used in this part—

"(1) 'child' means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer who, at the time of the public safety officer's death, is—

"(i) 18 years of age or under;

"(ii) over 18 years of age and a student as defined in section 8101 of title 5, United States Code; or

"(iii) over 18 years of age and incapable of self-support because of physical or mental disability;

"(2) 'dependent' means any individual who was substantially reliant for support upon the income of the deceased public safety officer;

"(3) 'firefighter' includes an individual serving as an officially recognized or designated member of a legally organized volunteer fire department;

"(4) 'intoxication' means a disturbance of mental or physical faculties resulting from the introduction of alcohol into the body as evidenced by—

"(i) a post-mortem blood alcohol level of .20 per centum or greater; or

"(ii) a post-mortem blood alcohol level of at least .10 per centum but less than .20 per centum unless the Bureau receives convincing evidence that the public safety officer was not acting in an intoxicated manner immediately prior to his death;

or resulting from drugs or other substances in the body;

"(5) 'law enforcement officer' means an individual involved in crime and juvenile delinquency control or reduction, or enforcement of the laws, including, but not limited to, police, corrections, probation, parole, and judicial officers;

"(6) 'public agency' means the United States, any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States, or any unit of local government, department, agency, or instrumentality of any of the foregoing; and

"(7) 'public safety officer' means an individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer or a firefighter.

"ADMINISTRATIVE PROVISIONS

"SEC. 1204. (a) The Bureau is authorized to establish such rules, regulations, and procedures as may be necessary to carry out

the purposes of this part. Such rules, regulations, and procedures will be determinative of conflict of laws issues arising under this part. Rules, regulations, and procedures issued under this part may include regulations governing the recognition of agents or other persons representing claimants under this part before the Bureau. The Bureau may prescribe the maximum fees which may be charged for services performed in connection with any claim under this part before the Bureau, and any agreement in violation of such rules and regulations shall be void.

"(b) In making determinations under section 1201, the Bureau may utilize such administrative and investigative assistance as may be available from State and local agencies. Responsibility for making final determinations shall rest with the Bureau.".

TRANSITION

SEC. 516. Section 1301 of part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3799) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "(a)", and

(B) by adding at the end thereof the following new paragraph:

"(2) All orders, determinations, rules, regulations, and instructions issued under this title which are in effect on the date of the enactment of the Justice Assistance Act of 1984 shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Attorney General, the Assistant Attorney General, the Director of the Bureau of Justice Statistics, the Director of the National Institute of Justice, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, or the Director of the Bureau of Justice Assistance with respect to their functions under this title or by operation of law.",

(2) by striking out subsection (j), and

(3) by redesignating subsection (k) as subsection (j).

TABLE OF CONTENTS

SEC. 517. The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701-3799) is amended to read as follows:

"TABLE OF CONTENTS

"PART A—OFFICE OF JUSTICE PROGRAMS

"Sec. 101. Establishment of Office of Justice Programs.
"Sec. 102. Duties and functions of Assistant Attorney General.

"PART B—NATIONAL INSTITUTE OF JUSTICE

"Sec. 201. National Institute of Justice.
"Sec. 202. Establishment, duties, and functions.
"Sec. 203. Authority for 100 per centum grants.

"PART C—BUREAU OF JUSTICE STATISTICS

"Sec. 301. Bureau of Justice Statistics.
"Sec. 302. Establishment, duties, and functions.
"Sec. 303. Authority for 100 per centum grants.
"Sec. 304. Use of data.

"PART D—BLOCK GRANTS

"Sec. 401. Establishment of Bureau of Justice Assistance.
"Sec. 402. Duties and functions of Director.
"Sec. 403. Description of program.
"Sec. 404. Eligibility.
"Sec. 405. Applications.
"Sec. 406. Review of applications.
"Sec. 407. Allocation and distribution of funds.
"Sec. 408. State office.

"PART E—DISCRETIONARY GRANTS

"Sec. 501. Purpose.
"Sec. 502. Percentage of appropriation for discretionary grant program.
"Sec. 503. Procedure for establishing discretionary programs.
"Sec. 504. Application requirements.
"Sec. 505. Criteria for award.
"Sec. 506. Period for award.

"PART F—CRIMINAL JUSTICE FACILITY CONSTRUCTION: PILOT PROGRAM

"Sec. 601. Authority for payments.
"Sec. 602. Eligibility.
"Sec. 603. Application; approval; payment.
"Sec. 604. Recapture provisions.
"Sec. 605. Clearinghouse on the construction and modernization of criminal justice facilities.

"PART G—FBI TRAINING OF STATE AND LOCAL CRIMINAL JUSTICE PERSONNEL

"Sec. 701. Training and manpower development.

"PART H—ADMINISTRATIVE PROVISIONS

"Sec. 801. Consultation; establishment of rules and regulations.
"Sec. 802. Notice and hearing on denial or termination of grant.
"Sec. 803. Finality of determinations.
"Sec. 804. Appellate court review.
"Sec. 805. Delegation of functions.
"Sec. 806. Subpoena power; employment of hearing officers; authority to hold hearings.
"Sec. 807. Personnel and administrative authority.
"Sec. 808. Title to personal property.
"Sec. 809. Prohibition of Federal control over State and local criminal justice agencies; prohibition of discrimination.
"Sec. 810. Report to President and Congress.
"Sec. 811. Recordkeeping requirement.
"Sec. 812. Confidentiality of information.
"Sec. 813. Administration of juvenile delinquency programs.
"Sec. 814. Prohibition of land acquisition.
"Sec. 815. Prohibition on use of CIA services.
"Sec. 816. Indian liability waiver.
"Sec. 817. District of Columbia matching fund source.
"Sec. 818. Limitation on civil justice matters.
"Sec. 819. Prison industry enhancement.

"PART I—DEFINITIONS

"Sec. 901. Definitions.

"PART J—FUNDING

"Sec. 1001. Authorization of appropriations.

"PART K—CRIMINAL PENALTIES

"Sec. 1101. Misuse of Federal assistance.
"Sec. 1102. Falsification or concealment of facts.
"Sec. 1103. Conspiracy to commit offense against United States.

"PART L—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

"Sec. 1201. Payments.
"Sec. 1202. Limitations.
"Sec. 1203. Definitions.
"Sec. 1204. Administrative provisions.

"PART M—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1301. Continuation of rules, authorities, and proceedings.".

REFERENCES IN OTHER LAWS

SEC. 518. (a) Any reference to the Law Enforcement Assistance Administration, or to the Administrator of the Law Enforcement Assistance Administration, in any law other than this Act and the Omnibus Crime Control and Safe Streets Act of 1968, applicable to activities, functions, powers, and duties that after the date of the enactment of this Act are carried out by the Bureau of Justice Assistance shall be deemed to be a reference to the Bureau of Justice Assistance, or to the Director of the Bureau of Justice Assistance, as the case may be.

(b) Any reference to the Office of Justice Assistance, Research, and Statistics, or to the Director of the Office of Justice Assistance, Research, and Statistics, in any law other than this Act and the Omnibus Crime Control and Safe Streets Act of 1968, applicable to activities, functions, powers, and duties that after the date of the enactment of this Act are carried out by the Office of Justice Programs, the Bureau of Justice Assistance, the Bureau of Justice Statistics, the National Institute of Justice, or the Office of Juvenile Justice Delinquency Prevention shall be deemed to be a reference to the Office of Justice Programs, the Bureau of Justice Assistance, the Bureau of Justice Statistics, National Institute of Justice, or Office of Juvenile Justice Delinquency Prevention, or to the Director of the Office of Justice Programs, the Director of the Bureau of Justice Assistance, the Director of the Bureau of Justice Statistics, the Director of the National Institute of Justice, or the Administrator of the Office of Juvenile Justice and Delinquency Prevention, as the case may be.

TECHNICAL AMENDMENTS TO OTHER LAWS

SEC. 519. (a) Section 5314 of title 5, United States Code is amended by striking out "Director, Office of Justice Assistance, Research, and Statistics.".

(b) Section 5315 of title 5, United States Code, is amended by striking out "Administrator of Law Enforcement Assistance.".

OFFENSES INVOLVING PRISON-MADE GOODS

SEC. 520. (a) Section 1761(c) of title 18, United States Code, is amended—

(1) by striking out "seven" and inserting in lieu thereof "twenty", and

(2) by striking out "Administrator of the Law Enforcement Assistance Administration" and inserting in lieu thereof "Director of the Bureau of Justice Assistance".

(b) Section 1761 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any law to the contrary, materials produced by convict labor may be used in the construction of any highways or portion of highways located on Federal-aid systems, as described in section 103 of title 23, United States Code.".

FRAUD AND RELATED ACTIVITY IN CONNECTION WITH IDENTIFICATION DOCUMENTS

SEC. 521. (a) For purposes of section 1028 of title 18, United States Code, to the maximum extent feasible, personal descriptors or identifiers utilized in identification documents, as defined in such section, shall utilize common descriptive terms and formats designed to—

(1) reduce the redundancy and duplication of identification systems by providing information which can be utilized by the maximum number of authorities, and

(2) facilitate positive identification of bona fide holders of identification documents.

(b) The President shall, no later than 3 years after the date of enactment of this Act, and after consultation with Federal,

State, local, and international issuing authorities, and concerned groups make recommendations to the Congress for the enactment of comprehensive legislation on Federal indentification systems. Such legislation shall—

(1) give due consideration to protecting the privacy of persons who are the subject of any identification system,

(2) recommend appropriate civil and criminal sanctions for the misuse or unauthorized disclosure of personal identification information, and

(3) make recommendations providing for the exchange of personal identification information as authorized by Federal or State law or Executive order of the President or the chief executive officer of any of the several States.

Subtitle B—Emergency Federal Law Enforcement Assistance

APPLICATION

SEC. 550. (a) In the event that a law enforcement emergency exists throughout a State or a part of a State, a State (on behalf of itself or another appropriate unit of government) may submit an application under this section for Federal law enforcement assistance.

(b) An application for assistance under this section shall be submitted in writing by the chief executive officer of a State to the Attorney General, in a form prescribed by rules issued by the Attorney General. The Attorney General shall, after consultation with the Director of the Office of Justice Assistance and appropriate members of the Federal law enforcement community, approve or disapprove such application not later than 10 days after receiving such application.

(c) Federal law enforcement assistance may be provided if such assistance is necessary to provide an adequate response to a law enforcement emergency. In determining whether to approve or disapprove an application for assistance under this section, the Attorney General shall consider—

(1) the nature and extent of such emergency throughout a State or in any part of a State,

(2) the situation or extraordinary circumstances which produced such emergency,

(3) the availability of State and local criminal justice resources to resolve the problem,

(4) the cost associated with the increased Federal presence,

(5) the need to avoid unnecessary Federal involvement and intervention in matters primarily of State and local concern, and

(6) any assistance which the State or other appropriate unit of government has received, or could receive, under any provision of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

DEFINITIONS

SEC. 551. For purposes of this subtitle—

(1) the term "Federal law enforcement assistance" means funds, equipment, training, intelligence information, and personnel,

(2) the term "Federal law enforcement community" means the heads of the following departments or agencies:

(A) the Federal Bureau of Investigation,

(B) the Drug Enforcement Administration,

(C) the Criminal Division of the Department of Justice,

(D) the Internal Revenue Service,

(E) the Customs Service,

(F) the Immigration and Naturalization Service,

(G) the United States Marshals Service,

(H) the National Park Service,

(I) the United States Postal Service,

(J) the Secret Service,

(K) the Coast Guard,

(L) the Bureau of Alcohol, Tobacco, and Firearms, and

(M) other Federal agencies with specific statutory authority to investigate violations of Federal criminal laws,

(3) the term "law enforcement emergency" means an uncommon situation which requires law enforcment, which is or threatens to become of serious or epidemic proportions, and with respect to which State and local resources are inadequate to protect the lives and property of citizens or to enforce the criminal law, except that such term does not include—

(A) the perceived need for planning or other activities related to crowd control for general public safety projects, or

(B) a situation requiring the enforcement of laws associated with scheduled public events, including political conventions and sports events, and

(4) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Commonwealth of the Northern Mariana Islands.

LIMITATION ON AUTHORITY

SEC. 552. (a) Nothing in this subtitle authorizes the use of Federal law enforcement personnel to investigate violations of criminal law other than violations with respect to which investigation is authorized by other provisions of law.

(b) Nothing in this subtitle shall be construed to authorize the Attorney General or the Federal law enforcement community to exercise any direction, supervision, or control over any police force or other criminal justice agency of an applicant for Federal law enforcement assistance.

(c) Nothing in this subtitle shall be construed to authorize the Attorney General or the Federal law enforcement community—

(1) to condition the availability or amount of Federal law enforcement assistance upon the adoption by an applicant for such assistance of, or

(2) to deny or discontinue such assistance upon the failure of such applicant to adopt, a percentage ratio, quota system, or other program to achieve racial balance in any criminal justice agency of such applicant.

(d) No funds provided under this subtitle may be used to supplant State or local funds that would otherwise be made available for such purposes.

(e) Nothing in this subtitle shall be construed to limit any authority to provide emergency assistance otherwise provided by law.

PROHIBITION OF DISCRIMINATION

SEC. 553. (a) No person in any State shall, on the ground of race, color, religion, national origin, or sex, be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any activity for which Federal law enforcement assistance is provided under this subtitle.

(b) Paragraph (3) and paragraph (4) of section 809(c) of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (as so redesignated by section 511(f) of this Act) shall apply with respect to a violation of subsection (a), except that the terms "this section" and "paragraph (1)", as such terms appear in such paragraphs, shall be deemed to be references to subsection (a) of this section, and a reference to the Office of Justice Programs in such paragraphs shall be deemed to be a reference to the Attorney General.

CONFIDENTIALITY OF INFORMATION

SEC. 554. Section 812 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (as so redesignated by section 511(f) of this Act) shall apply with respect to—

(1) information furnished under this subtitle,

(2) criminal history information collected, stored, or disseminated with the support of Federal law enforcement assistance provided under this subtitle, and

(3) criminal intelligence systems operating with the support of Federal law enforcement assistance provided under this subtitle,

except that the terms "this title" and "this section", as such terms appear in such section 812, shall be deemed to be references to this subtitle and this section, respectively, of this Act, and a reference to the Office of Justice Programs in such section 812 shall be deemed to be a reference to the Attorney General.

PROHIBITION OF LAND ACQUISITION

SEC. 555. No funds provided under this subtitle shall be used for land acquisition.

REPAYMENT

SEC. 556. (a) If Federal law enforcement assistance provided under this subtitle is used by the recipient of such assistance in violation of section 554 or for any purpose other than the purpose for which it is provided, then such recipient shall promptly repay to the Attorney General an amount equal to the value of such assistance.

(b) The Attorney General may bring a civil action in an appropriate United States district court to recover any amount required to be repaid under subsection (a).

RECORDKEEPING REQUIREMENT

SEC. 557. (a) Each recipient of Federal law enforcement assistance provided under this subtitle shall keep such records as the Attorney General may prescribe to facilitate an effective audit.

(b) The Attorney General and the Comptroller General of the United States shall have access, for the purpose of audit and examination, to any books, documents, and records of recipients of Federal law enforcement assistance provided under this subtitle which, in the opinion of the Attorney General or the Comptroller General, are related to the receipt or use of such assistance.

REPORT TO CONGRESS

SEC. 558. Not later than April 1 of each year, the Attorney General shall submit to the President, to the Speaker of the House of Representatives, and to the President of the Senate a report describing Federal law enforcement assistance provided under this subtitle during the calendar year preceding the date such report is made.

BUREAU OF JUSTICE ASSISTANCE

SEC. 559. The Director of the Bureau of Justice Assistance may assist the Attorney General in providing Federal law enforcement assistance under this subtitle and in coordinating the activities authorized under this subtitle.

LIMITATION ON CIVIL JUSTICE MATTERS

SEC. 560. Federal law enforcement assistance provided under this subtitle may not

be used with respect to civil justice matters except to the extent that such civil justice matters bear directly and substantially upon criminal justice matters or are inextricably intertwined with criminal justice matters.

ISSUANCE OF RULES

SEC. 561. The Attorney General, after consultation with appropriate members of the law enforcement community and with State and local officials, shall issue rules to carry out this subtitle.

AUTHORIZATION OF APPROPRIATIONS

SEC. 562. (a) There is authorized to be appropriated $20,000,000 for each fiscal year ending after September 30, 1984, to provide under this subtitle Federal law enforcement assistance in the form of funds.

(b) There are authorized to be appropriated for each fiscal year ending after September 30, 1984, such sums as may be necessary to provide under this subtitle Federal law enforcement assistance other than funds.

Subtitle C — Conforming Amendment; Effective Dates

REPEALER

SEC. 570. Section 204 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act (Public Law 98-411) is repealed.

EFFECTIVE DATES

SEC. 571. (a) Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of the enactment of this Act or October 1, 1984, whichever is later.

(b)(1) The amendment made by section 515 shall take effect on October 1, 1984, and shall not apply with respect to injuries sustained before October 1, 1984.

(2) Section 570 shall take effect on October 1, 1984.

TITLE VI—MONEY LAUNDERING

SEC. 601. This title may be cited as the "Money Laundering Penalties Act of 1984".

SEC. 602. (a) Section 5321(a)(1) of title 31, United States Code, is amended by striking out "a civil penalty of not more than $1,000" and inserting in lieu thereof "a civil penalty of not more than $10,000".

(b) Subsection (a) of section 5322 of title 31, United States Code, is amended by striking out "$1,000, imprisoned for not more than one year, or both" and inserting in lieu thereof "$250,000, or imprisoned for not more than five years, or both".

(c) Subsection (a)(1) of section 5316 of title 31, United States Code, is amended—

(1) by striking out "more than $5,000" and inserting in lieu thereof "more than $10,000"; and

(2) by inserting ", is about to transport," after "transports".

(d) Subsection (a) of section 5317 of title 31, United States Code, is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2) A customs officer may stop and search, without a search warrant, a vehicle, vessel, aircraft, or other conveyance, envelope or other container, or person entering or departing from the United States with respect to which or whom the officer has reasonable cause to believe there is a monetary instrument being transported in violation of section 5316 of this title.".

(e) Chapter 53 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"§ 5323. Rewards for informants

"(a) The Secretary of the Treasury may pay a reward to a person who provides information which leads to the collection of a criminal fine, civil penalty, or forfeiture, which exceeds $10,000, for a violation of this subchapter.

"(b) The Secretary shall determine the amount of a reward under this section. The Secretary may not award more than 25 percent of the net amount of the fine, penalty, or forfeiture collected or $150,000, whichever is less.

"(c) An officer or employee of the United States, a State, or a local government who provides information described in subsection (a) in the performance of official duties is not eligible for a reward under this section.".

(f) The table of sections at the beginning of chapter 53 of title 31, United States Code, is amended by adding at the end the following new item:

"5323. Rewards for informants.".

(g) Subsection (1) of section 2516 of title 18 of the United States Code is amended—

(1) by striking out "or" at the end of paragraph (f);

(2) by redesignating paragraph (g) as paragraph (h); and

(3) by inserting after paragraph (f) the following new paragraph:

"(g) a violation of section 5322 of title 31 (relating to criminal penalties); or".

TITLE VII—NATIONAL NARCOTICS ACT

SEC. 701. This title may be cited as the "National Narcotics Act of 1984".

SEC. 702. (a) The Congress hereby makes the following findings:

(1) The flow of illegal narcotics into the United States is a major and growing problem.

(2) The problem of illegal drug activity falls across the entire spectrum of Federal activities both nationally and internationally.

(3) Illegal drug trafficking is estimated by the General Accounting Office to be an $80,000,000,000 per annum industry in the United States.

(4) The annual consumption of drugs has reached epidemic proportions.

(5) Despite the efforts of the United States Government and other nations, the mechanisms for smuggling opium and other hard drugs into the United States remain virtually intact and United States agencies estimate that they are able to interdict no more than 5 to 15 percent of all hard drugs flowing into the country.

(6) Such significant indicators of the drug problem as drug-related deaths, emergency room visits, hospital admissions due to drug-related incidents, and addiction rates are soaring.

(7) Increased drug trafficking is strongly linked to violent, addiction-related crime and recent studies have shown that over 90 percent of heroin users rely upon criminal activity as a means of income.

(8) Much of the drug trafficking is handled by syndicates, a situation which results in increased violence and criminal activity because of the competitive struggle for control of the domestic drug market.

(9) Controlling the supply of illicit drugs is a key to reducing the crime epidemic confronting every region of the country.

(10) The magnitude and scope of the problem requires the establishment of a National Drug Enforcement Policy Board, chaired by the Attorney General, to facilitate coordination of all Federal efforts by relevant agencies.

(11) Such a Board must have responsibility for coordinating the operations of Federal agencies involved in attacking this problem through the development of policy and resources, so that a unified and efficient effort can be undertaken.

(b) It is the purpose of this Act to insure—

(1) the maintenance of a national and international effort against illegal drugs;

(2) that the activities of the Federal agencies involved are fully coordinated; and

(3) that a single, competent, and responsible high-level Board of the United States Government, chaired by the Attorney General, will be charged with this responsibility of coordinating United States policy with respect to national and international drug law enforcement.

SEC. 703. There is established in the executive branch of the Government a Board to be known as the "National Drug Enforcement Policy Board" (hereinafter in this Act referred to as the "Board"). There shall be at the head of the Board a Chairman who shall be the Attorney General (hereinafter in this Act referred to as the "Chairman"). In addition to the Chairman, the Board shall be comprised of the Secretaries of State, Treasury, Defense, Transportation, Health and Human Services, the Director of the Office of Management and Budget, and the Director of Central Intelligence and such other officials as may be appointed by the President. Decisions made by the Board pursuant to section 4(a) of this Act shall be acknowledged by each member thereof in writing.

SEC. 704. (a) The Board shall facilitate coordination of United States operations and policy on illegal drug law enforcement. In the furtherance of that responsibility, the Board shall have the responsibility, and is authorized to—

(1) review, evaluate and develop United States Government policy, strategy and resources with respect to illegal drug law enforcement efforts, including budgetary priorities and a National and International Drug Law Enforcement Strategy;

(2) facilitate coordination of all United States Government efforts to halt national and international trafficking in illegal drugs; and

(3) coordinate the collection and evaluation of information necessary to implement United States policy with respect to illegal drug law enforcement.

(b) For the purpose of coordinating the activities of the several departments and agencies with responsibility for drug law enforcement and implementing the determinations of the Board, it shall be the duty of the Chairman—

(1) to advise the Board in matters concerning drug law enforcement;

(2) to make recommendations to the Board for the coordination of drug enforcement activities;

(3) to correlate and evaluate intelligence and other information on drug law enforcement to support the activities of the Board;

(4) to act as primary adviser to the President and Congress on national and international illegal drug law enforcement programs and policies developed by the Board under subsection (a) of this section and the implementation thereof; and

(5) to perform such other duties as the President may direct.

(c) In carrying out responsibilities under this section, the Chairman, on behalf of the Board, is authorized to—

(1) direct, with the concurrence of the head of the agency employing such personnel, the assignment of Government personnel within the United States Government in order to implement United States policy with respect to illegal drug law enforcement;

(2) provide guidance in the implementation and maintenance of policy, strategy, and resources developed under subsection (a) of this section;

(3) review and approve the reprograming of funds relating to budgetary priorities developed under subsection (a) of this section;

(4) procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for the grade of GS-18 of the General Schedule;

(5) accept and use donations of property from all Government agencies; and

(6) use the mails in the same manner as any other department or agency of the executive branch.

(d) Notwithstanding the authority granted in subsection (a) of this section, the Board shall not interfere with routine law enforcement or intelligence decisions of any agency.

(e) The Administrator of the General Services Administration shall provide to the Board on a reimbursable basis such administrative support services as the Chairman may request.

SEC. 705. The Chairman shall submit to the Congress, within nine months after enactment of this Act, and biannually thereafter, a full and complete report reflecting United States policy with respect to illegal drug law enforcement, plans proposed for the implementation of such policy, and, commencing with the submission of the second report, a full and complete report reflecting accomplishments with respect to the United States policy and plans theretofore submitted to the Congress.

SEC. 706. Title II of the Drug Abuse Prevention, Treatment and Rehabilitation Act (21 U.S.C. 1112) is amended by adding at the end of section 201 (21 U.S.C. 1111) a new subsection (d) as follows:

"(d) Support to National Drug Enforcement Policy Board. One of the duties of the White House Office of Drug Abuse Policy shall be to insure coordination between the National Drug Enforcement Policy Board and the health issues associated with drug abuse.".

SEC. 707. This title and the amendments made by this title shall take effect January 20, 1985.

TITLE VIII—WITNESS PROTECTION

Subtitle A

SEC. 801. This subtitle may be cited as the "Witness Security Reform Act of 1984".

AUTHORITIES OF ATTORNEY GENERAL

SEC. 802. Part II of title 18, United States Code, is amended by inserting after chapter 223 the following new chapter:

"CHAPTER 224—PROTECTION OF WITNESSES

"Sec.
"3521. Witness relocation and protection.
"3522. Probationers and parolees.
"3523. Civil judgments.
"3524. Child custody arrangements.
"3525. Victims Compensation Fund.
"3526. Cooperation of other Federal agencies and State governments.
"3527. Additional authority of Attorney General.
"3528. Definition.

"§ 3521. Witness relocation and protection

"(a)(1) The Attorney General may provide for the relocation and other protection of a witness or a potential witness for the Federal Government or for a State government in an official proceeding concerning an organized criminal activity or other serious offense, if the Attorney General determines that an offense involving a crime of violence directed at the witness with respect to that proceeding, an offense set forth in chapter 73 of this title directed at the witness, or a State offense that is similar in nature to either such offense, is likely to be committed. The Attorney General may also provide for the relocation and other protection of the immediate family of, or a person otherwise closely associated with, such witness or potential witness if the family or person may also be endangered on account of the participation of the witness in the judicial proceeding.

"(2) The Attorney General shall issue guidelines defining the types of cases for which the exercise of the authority of the Attorney General contained in paragraph (1) would be appropriate.

"(3) The United States and its officers and employees shall not be subject to any civil liability on account of any decision to provide or not to provide protection under this chapter.

"(b)(1) In connection with the protection under this chapter of a witness, a potential witness, or an immediate family member or close associate of a witness or potential witness, the Attorney General shall take such action as the Attorney General determines to be necessary to protect the person involved from bodily injury and otherwise to assure the health, safety, and welfare of that person, including the psychological well-being and social adjustment of that person, for as long as, in the judgment of the Attorney General, the danger to that person exists. The Attorney General may, by regulation—

"(A) provide suitable documents to enable the person to establish a new identity or otherwise protect the person;

"(B) provide housing for the person;

"(C) provide for the transportation of household furniture and other personal property to a new residence of the person;

"(D) provide to the person a payment to meet basic living expenses, in a sum established in accordance with regulations issued by the Attorney General, for such times as the Attorney General determines to be warranted;

"(E) assist the person in obtaining employment;

"(F) provide other services necessary to assist the person in becoming self-sustaining;

"(G) disclose or refuse to disclose the identity or location of the person relocated or protected, or any other matter concerning the person or the program after weighing the danger such a disclosure would pose to the person, the detriment it would cause to the general effectiveness of the program, and the benefit it would afford to the public or to the person seeking the disclosure, except that the Attorney General shall, upon the request of State or local law enforcement officials or pursuant to a court order, without undue delay, disclose to such officials the identity, location, criminal records, and fingerprints relating to the person relocated or protected when the Attorney General knows or the request indicates that the person is under investigation for or has been arrested for or charged with an offense that is punishable by more than one year in prison or that is a crime of violence;

"(H) exempt procurement for services, materials, and supplies, and the renovation and construction of safe sites within existing buildings from other provisions of law as may be required to maintain the security of protective witnesses and the integrity of the Witness Security Program; and

"(I) delegate the authority under this paragraph to the Deputy Attorney General, the Associate Attorney General, the Assistant Attorney General in charge of the Criminal Division of the Department of Justice, or the Assistant Attorney General in charge of the Civil Rights Division of the Department of Justice.

The Attorney General shall establish an accurate, efficient, and effective system of records concerning the criminal history of persons provided protection under this chapter in order to provide the information described in subparagraph (G) of this paragraph. Any action under subparagraphs (A) through (H) of this paragraph shall be personally approved in writing by the Attorney General or the delegate of the Attorney General under subparagraph (I) of this paragraph.

"(2) Deductions shall be made from any payment made to a person pursuant to paragraph (1)(D) to satisfy obligations of that person for family support payments pursuant to a State court order.

"(3) Any person who, without the authorization of the Attorney General, knowingly discloses any information received from the Attorney General under paragraph (1)(G) shall be fined $5,000 or imprisoned five years, or both.

"(c) Before providing protection to any person under this chapter, the Attorney General shall, to the extent practicable, obtain information relating to the suitability of the person for inclusion in the program, including the criminal history, if any, and a psychological evaluation of, the person. The Attorney General shall also make a written assessment in each case of the seriousness of the investigation or case in which the person's information or testimony has been or will be provided and the possible risk of danger to other persons and property in the community where the person is to be relocated and shall determine whether the need for that person's testimony outweighs the risk of danger to the public. In assessing whether a person should be provided protection under this chapter, the Attorney General shall consider the person's criminal record, alternatives to providing protection under this chapter, the possibility of securing similar testimony from other sources, the need for protecting the person, the relative importance of the person's testimony, results of psychological examinations, whether providing such protection will substantially infringe upon the relationship between a child who would be relocated in connection with such protection and that child's parent who would not be so relocated, and such other factors as the Attorney General considers appropriate. The Attorney General shall not provide protection to any person under this chapter if the risk of danger to the public, including the potential harm to innocent victims, outweighs the need for that person's testimony. This subsection shall not be construed to authorize the disclosure of the written assessment made pursuant to this subsection.

"(d)(1) Before providing protection to any person under this chapter, the Attorney General shall enter into a memorandum of understanding with that person. Each such memorandum of understanding shall set forth the responsibilities of that person, including—

"(A) the agreement of the person, if a witness or potential witness, to testify in and provide information to all appropriate law enforcement officials concerning all appropriate proceedings;

"(B) the agreement of the person not to commit any crime;

"(C) the agreement of the person to take all necessary steps to avoid detection by others of the facts concerning the protection provided to that person under this chapter;

"(D) the agreement of the person to comply with legal obligations and civil judgments against that person;

"(E) the agreement of the person to cooperate with all reasonable requests of officers and employees of the Government who are providing protection under this chapter;

"(F) the agreement of the person to designate another person to act as agent for the service of process;

"(G) the agreement of the person to make a sworn statement of all outstanding legal obligations, including obligations concerning child custody and visitation;

"(H) the agreement of the person to disclose any probation or parole responsibilities, and if the person is on probation or parole under State law, to consent to Federal supervision in accordance with section 3522 of this title; and

"(I) the agreement of the person to regularly inform the appropriate program official of the activities and current address of such person.

Each such memorandum of understanding shall also set forth the protection which the Attorney General has determined will be provided to the person under this chapter, and the procedures to be followed in the case of a breach of the memorandum of understanding, as such procedures are established by the Attorney General. Such procedures shall include a procedure for filing and resolution of grievances of persons provided protection under this chapter regarding the administration of the program. This procedure shall include the opportunity for resolution of a grievance by a person who was not involved in the case.

"(2) The Attorney General shall enter into a separate memorandum of understanding pursuant to this subsection with each person protected under this chapter who is eighteen years of age or older. The memorandum of understanding shall be signed by the Attorney General and the person protected.

"(3) The Attorney General may delegate the responsibility initially to authorize protection under this chapter only to the Deputy Attorney General, to the Associate Attorney General, to the Assistant Attorney General in charge of the Criminal Division of the Department of Justice, to the Assistant Attorney General in charge of Civil Rights Division of the Department of Justice (insofar as the delegation relates to a criminal civil rights case), and to one other officer or employee of the Department of Justice.

"(e) If the Attorney General determines that harm to a person for whom protection may be provided under section 3521 of this title is imminent or that failure to provide immediate protection would otherwise seriously jeopardize an ongoing investigation, the Attorney General may provide temporary protection to such person under this chapter before making the written assessment and determination required by subsection (c) of this section or entering into the memorandum of understanding required by subsection (d) of this section. In such a case the Attorney General shall make such assessment and determination and enter into such memorandum of understanding without undue delay after the protection is initiated.

"(f) The Attorney General may terminate the protection provided under this chapter to any person who substantially breaches the memorandum of understanding entered into between the Attorney General and that person pursuant to subsection (d), or who provides false information concerning the memorandum of understanding or the circumstances pursuant to which the person was provided protection under this chapter, including information with respect to the nature and circumstances concerning child custody and visitation. Before terminating such protection, the Attorney General shall send notice to the person involved of the termination of the protection provided under this chapter and the reasons for the termination. The decision of the Attorney General to terminate such protection shall not be subject to judicial review.

"§ 3522. Probationers and parolees

"(a) A probation officer may, upon the request of the Attorney General, supervise any person provided protection under this chapter who is on probation or parole under State law, if the State involved consents to such supervision. Any person so supervised shall be under Federal jurisdiction during the period of supervision and shall, during that period be subject to all laws of the United States which pertain to parolees.

"(b) The failure by any person provided protection under this chapter who is supervised under subsection (a) to comply with the memorandum of understanding entered into by that person pursuant to section 3521(d) of this title shall be grounds for the revocation of probation or parole, as the case may be.

"(c) The United States Parole Commission and the Chairman of the Commission shall have the same powers and duties with respect to a probationer or parolee transferred from State supervision pursuant to this section as they have with respect to an offender convicted in a court of the United States and paroled under chapter 311 of this title. The provisions of sections 4201 through 4204, 4205 (d), (e), and (h), 4206 through 4216, and 4218 of this title shall apply following a revocation of probation or parole under this section.

"(d) If a person provided protection under this chapter who is on probation or parole and is supervised under subsection (a) of this section has been ordered by the State court which imposed sentence on the person to pay a sum of money to the victim of the offense involved for damage caused by the offense, that penalty or award of damages may be enforced as though it were a civil judgment rendered by a United States district court. Proceedings to collect the moneys ordered to be paid may be instituted by the Attorney General in any United States district court. Moneys recovered pursuant to such proceedings shall be distributed to the victim.

"§ 3523. Civil judgments

"(a) If a person provided protection under this chapter is named as a defendant in a civil cause of action arising prior to or during the period in which the protection is provided, process in the civil proceeding may be served upon that person or an agent designated by that person for that purpose. The Attorney General shall make reasonable efforts to serve a copy of the process upon the person protected at the person's last known address. The Attorney General shall notify the plaintiff in the action whether such process has been served. If a judgment in such action is entered against that person the Attorney General shall determine whether the person has made reasonable efforts to comply with the judgment. The Attorney General shall take appropriate steps to urge the person to comply with the judgment. If the Attorney General determines that the person has not made reasonable efforts to comply with the judgment, the Attorney General may, after considering the danger to the person and upon the request of the person holding the judgment disclose the identity and location of the person to the plaintiff entitled to recovery pursuant to the judgment. Any such disclosure of the identity and location of the person shall be made upon the express condition that further disclosure by the plaintiff of such identity or location may be made only if essential to the plaintiff's efforts to recover under the judgment, and only to such additional persons as is necessary to effect the recovery. Any such disclosure or nondisclosure by the Attorney General shall not subject the United States and its officers or employees to any civil liability.

"(b)(1) Any person who holds a judgment entered by a Federal or State court in his or her favor against a person provided protection under this chapter may, upon a decision by the Attorney General to deny disclosure of the current identity and location of such protected person, bring an action against the protected person in the United States district court in the district where the person holding the judgment (hereinafter in this subsection referred to as the 'petitioner') resides. Such action shall be brought within one hundred and twenty days after the petitioner requested the Attorney General to disclose the identity and location of the protected person. The complaint in such action shall contain statements that the petitioner holds a valid judgment of a Federal or State court against a person provided protection under this chapter and that the petitioner sought to enforce the judgment by requesting the Attorney General to disclose the identity and location of the protected person.

"(2) The petitioner in an action described in paragraph (1) shall notify the Attorney General of the action at the same time the action is brought. The Attorney General shall appear in the action and shall affirm or deny the statements in the complaint that the person against whom the judgment is allegedly held is provided protection under this chapter and that the petitioner requested the Attorney General to disclose the identity and location of the protected person for the purpose of enforcing the judgment.

"(3) Upon a determination (A) that the petitioner holds a judgment entered by a Federal or State court and (B) that the Attorney General has declined to disclose to the petitioner the current identity and location of the protected person against whom the judgment was entered, the court shall appoint a guardian to act on behalf of the petitioner to enforce the judgment. The

clerk of the court shall forthwith furnish the guardian with a copy of the order of appointment. The Attorney General shall disclose to the guardian the current identity and location of the protected person and any other information necessary to enable the guardian to carry out his or her duties under this subsection.

"(4) It is the duty of the guardian to proceed with all reasonable diligence and dispatch to enforce the rights of the petitioner under the judgment. The guardian shall, however, endeavor to carry out such enforcement duties in a manner that maximizes, to the extent practicable, the safety and security of the protected person. In no event shall the guardian disclose the new identity or location of the protected person without the permission of the Attorney General, except that such disclosure may be made to a Federal or State court in order to enforce the judgment. Any good faith disclosure made by the guardian in the performance of his or her duties under this subsection shall not create any civil liability against the United States or any of its officers or employees.

"(5) Upon appointment, the guardian shall have the power to perform any act with respect to the judgment which the petitioner could perform, including the initiation of judicial enforcement actions in any Federal or State court or the assignment of such enforcement actions to a third party under applicable Federal or State law. The Federal Rules of Civil Procedure shall apply in any action brought under this subsection to enforce a Federal or State court judgment.

"(6) The costs of any action brought under this subsection with respect to a judgment, including any enforcement action described in paragraph (5), and the compensation to be allowed to a guardian appointed in any such action shall be fixed by the court and shall be apportioned among the parties as follows: the petitioner shall be assessed in the amount the petitioner would have paid to collect on the judgment in an action not arising under the provisions of this subsection; the protected person shall be assessed the costs which are normally charged to debtors in similar actions and any other costs which are incurred as a result of an action brought under this subsection. In the event that the costs and compensation to the guardian are not met by the petitioner or by the protected person, the court may, in its discretion, enter judgment against the United States for costs and fees reasonably incurred as a result of the action brought under this subsection.

"(7) No officer or employee of the Department of Justice shall in any way impede the efforts of a guardian appointed under this subsection to enforce the judgment with respect to which the guardian was appointed.

"(c) The provisions of this section shall not apply to a court order to which section 3524 of this title applies.

"§ 3524. Child custody arrangements

"(a) The Attorney General may not relocate any child in connection with protection provided to a person under this chapter if it appears that a person other than that protected person has legal custody of that child.

"(b) Before protection is provided under this chapter to any person (1) who is a parent of a child of whom that person has custody, and (2) who has obligations to another parent of that child with respect to custody or visitation of that child under a court order, the Attorney General shall obtain and examine a copy of such order for the purpose of assuring that compliance with the order can be achieved. If compliance with a visitation order cannot be achieved, the Attorney General may provide protection under this chapter to the person only if the parent being relocated initiates legal action to modify the existing court order under subsection (e)(1) of this section. The parent being relocated must agree in writing before being provided protection to abide by any ensuing court orders issued as a result of an action to modify.

"(c) With respect to any person provided protection under this chapter (1) who is the parent of a child who is relocated in connection with such protection and (2) who has obligations to another parent of that child with respect to custody or visitation of that child under a State court order, the Attorney General shall, as soon as practicable after the person and child are so relocated, notify in writing the child's parent who is not so relocated that the child has been provided protection under this chapter. The notification shall also include statements that the rights of the parent not so relocated to visitation or custody, or both, under the court order shall not be infringed by the relocation of the child and the Department of Justice responsibility with respect thereto. The Department of Justice will pay all reasonable costs of transportation and security incurred in insuring that visitation can occur at a secure location as designated by the United States Marshals Service, but in no event shall it be obligated to pay such costs for visitation in excess of thirty days a year, or twelve in number a year. Additional visitation may be paid for, in the discretion of the Attorney General, by the Department of Justice in extraordinary circumstances. In the event that the unrelocated parent pays visitation costs, the Department of Justice may, in the discretion of the Attorney General, extend security arrangements associated with such visitation.

"(d)(1) With respect to any person provided protection under this chapter (A) who is the parent of a child who is relocated in connection with such protection and (B) who has obligations to another parent of that child with respect to custody or visitation of that child under a court order, an action to modify that court order may be brought by any party to the court order in the District Court for the District of Columbia or in the district court for the district in which the child's parent resides who has not been relocated in connection with such protection.

"(2) With respect to actions brought under paragraph (1), the district courts shall establish a procedure to provide a reasonable opportunity for the parties to the court order to mediate their dispute with respect to the order. The court shall provide a mediator for this purpose. If the dispute is mediated, the court shall issue an order in accordance with the resolution of the dispute.

"(3) If, within sixty days after an action is brought under paragraph (1) to modify a court order, the dispute has not been mediated, any party to the court order may request arbitration of the dispute. In the case of such a request, the court shall appoint a master to act as arbitrator, who shall be experienced in domestic relations matters. Rule 53 of the Federal Rules of Civil Procedure shall apply to masters appointed under this paragraph. The court and the master shall, in determining the dispute, give substantial deference to the need for maintaining parent-child relationships, and any order issued by the court shall be in the best interests of the child. In actions to modify a court order brought under this subsection, the court and the master shall apply the law of the State in which the court order was issued or, in the case of the modification of a court order issued by a district court under this section, the law of the State in which the parent resides who was not relocated in connection with the protection provided under this chapter. The costs to the Government of carrying out a court order may be considered in an action brought under this subsection to modify that court order but shall not outweigh the relative interests of the parties themselves and the child.

"(4) Until a court order is modified under this subsection, all parties to that court order shall comply with their obligations under that court order subject to the limitations set forth in subsection (c) of this section.

"(5) With respect to any person provided protection under this chapter who is the parent of a child who is relocated in connection with such protection, the parent not relocated in connection with such protection may bring an action, in the District Court for the District of Columbia or in the district court for the district in which that parent resides, for violation by that protected person of a court order with respect to custody or visitation of that child. If the court finds that such a violation has occurred, the court may hold in contempt the protected person. Once held in contempt, the protected person shall have a maximum of sixty days, in the discretion of the Attorney General, to comply with the court order. If the protected person fails to comply with the order within the time specified by the Attorney General, the Attorney General shall disclose the new identity and address of the protected person to the other parent and terminate any financial assistance to the protected person unless otherwise directed by the court.

"(6) The United States shall be required by the court to pay litigation costs, including reasonable attorneys' fees, incurred by a parent who prevails in enforcing a custody or visitation order; but shall retain the right to recover such costs from the protected person.

"(e)(1) In any case in which the Attorney General determines that, as a result of the relocation of a person and a child of whom that person is a parent in connection with protection provided under this chapter, the implementation of a court order with respect to custody or visitation of that child would be substantially impossible, the Attorney General may bring, on behalf of the person provided protection under this chapter, an action to modify the court order. Such action may be brought in the district court for the district in which the parent resides who would not be or was not relocated in connection with the protection provided under this chapter. In an action brought under this paragraph, if the Attorney General establishes, by clear and convincing evidence, that implementation of the court order involved would be substantially impossible, the court may modify the court order but shall, subject to appropriate security considerations, provide an alternative as substantially equivalent to the original rights of the nonrelocating parent as feasible under the circumstances.

"(2) With respect to any State court order in effect to which this section applies, and

with respect to any district court order in effect which is issued under this section, if the parent who is not relocated in connection with protection provided under this chapter intentionally violates a reasonable security requirement imposed by the Attorney General with respect to the implementation of that court order, the Attorney General may bring an action in the district court for the district in which that parent resides to modify the court order. The court may modify the court order if the court finds such an intentional violation.

"(3) The procedures for mediation and arbitration provided under subsection (d) of this section shall not apply to actions for modification brought under this subsection.

"(f) In any case in which a person provided protection under this chapter is the parent of a child of whom that person has custody and has obligations to another parent of that child concerning custody and visitation of that child which are not imposed by court order, that person, or the parent not relocated in connection with such protection, may bring an action in the district court of the district in which that parent not relocated resides to obtain an order providing for custody or visitation, or both, of that child. In any such action, all the provisions of subsection (d) of this section shall apply.

"(g) In any case in which an action under this section involves court orders from different States with respect to custody or visitation of the same child, the court shall resolve any conflicts by applying the rules of conflict of laws of the State in which the court is sitting.

"(h)(1) Subject to paragraph (2), the costs of any action described in subsection (d), (e), or (f) of this section shall be paid by the United States.

"(2) The Attorney General shall insure that any State court order in effect to which this section applies and any district court order in effect which is issued under this section are carried out. The Department of Justice shall pay all costs and fees described in subsections (c) and (d) of this section.

"(i) As used in this section, the term 'parent' includes any person who stands in the place of a parent by law.

"§ 3525. Victims Compensation Fund

"(a) The Attorney General may pay restitution to, or in the case of death, compensation for the death of any victim of a crime that causes or threatens death or serious bodily injury and that is committed by any person during a period in which that person is provided protection under this chapter.

"(b) Not later than four months after the end of each fiscal year, the Attorney General shall transmit to the Congress a detailed report on payments made under this section for such year.

"(c) There are authorized to be appropriated for the fiscal year 1985 and for each fiscal year thereafter, $2,000,000 for payments under this section.

"(d) The Attorney General shall establish guidelines and procedures for making payments under this section. The payments to victims under this section shall be made for the types of expenses provided for in section 3579(b) of this title, except that in the case of the death of the victim, an amount not to exceed $50,000 may be paid to the victim's estate. No payment may be made under this section to a victim unless the victim has sought restitution and compensation provided under Federal or State law or by civil action. Such payments may be made only to the extent the victim, or the victim's estate, has not otherwise received restitution and compensation, including insurance payments, for the crime involved. Payments may be made under this section to victims of crimes occurring on or after the date of the enactment of this chapter. In the case of a crime occurring before the date of the enactment of this chapter, a payment may be made under this section only in the case of the death of the victim, and then only in an amount not exceeding $25,000, and such a payment may be made notwithstanding the requirements of the third sentence of this subsection.

"(e) Nothing in this section shall be construed to create a cause of action against the United States.

"§ 3526. Cooperation of other Federal agencies and State governments; reimbursement of expenses

"(a) Each Federal agency shall cooperate with the Attorney General in carrying out the provisions of this chapter and may provide, on a reimbursable basis, such personnel and services as the Attorney General may request in carrying out those provisions.

"(b) In any case in which a State government requests the Attorney General to provide protection to any person under this chapter—

"(1) the Attorney General may enter into an agreement with that State government in which that government agrees to reimburse the United States for expenses incurred in providing protection to that person under this chapter; and

"(2) the Attorney General shall enter into an agreement with that State government in which that government agrees to cooperate with the Attorney General in carrying out the provisions of this chapter with respect to all persons.

"§ 3527. Additional authority of Attorney General

"The Attorney General may enter into such contracts or other agreements as may be necessary to carry out this chapter. Any such contract or agreement which would result in the United States being obligated to make outlays may be entered into only to the extent and in such amount as may be provided in advance in an appropriation Act.

"§ 3528. Definition

"For purposes of this chapter, the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.".

SEC. 803. (a) The table of chapters for part II of title 18, United States Code, is amended by inserting after the item relating to chapter 223 the following new item:

"224. Protection of witnesses..... 3521".

(b) Title V of the Organized Crime Control Act of 1970 (84 Stat. 933) is repealed.

SEC. 804. This subtitle and the amendments made by this subtitle shall take effect on October 1, 1984.

Subtitle B

SEC. 851. (a) Chapter 37 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 576. Reemployment rights

"(a) A United States marshal for a judicial district who was appointed from a position in the competitive service (as defined in section 2102 of title 5) in the United States Marshals Service and who, for reasons other than misconduct, neglect of duty, or malfeasance, is removed from such office, is entitled to be reemployed in any vacant position in the competitive service in the United States Marshals Service at the same grade or pay level, or lower, as the individual's former position if—

"(1) the individual is qualified for the vacant position; and

"(2) the individual has made application for the position not later than ninety days after being removed from office as a United States marshal.

Such individual shall be so reemployed within thirty days after making such application or after being removed from office, whichever is later. An individual denied reemployment under this section in a position because the individual is not qualified for that position may appeal that denial to the Merit Systems Protection Board under section 7701 of title 5.

"(b) Any United States marshal serving on the effective date of this section shall continue to serve for the remainder of the term for which such marshal was appointed, unless sooner removed by the President.".

(b) The table of sections for chapter 37 of title 28, United States Code, is amended by adding at the end the following new item:

"576. Reemployment rights.".

SEC. 852. The amendments made by this subtitle shall take effect on October 1, 1984.

TITLE IX—FEDERAL RAPE REFORM

SEC. 901. This title may be cited as the "Federal Rape Law Reform Act of 1984".

SEC. 902. (a) Title 18 of the United States Code is amended by inserting after chapter 109 the following new chapter:

"CHAPTER 109A—SEXUAL ABUSE

"Sec.
"2241. Aggravated sexual abuse.
"2242. Sexual abuse.
"2243. Sexual abuse of a minor or ward.
"2244. Abusive sexual contact.
"2245. Definitions for chapter.

"§ 2241. Aggravated sexual abuse

"(a) Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly causes another person to engage in a sexual act—

"(1) by using force against such person; or

"(2) by threatening or placing such person in fear that any person will be subjected to death, serious bodily injury, or kidnapping;

or attempts to do so, shall be fined not more than $250,000, imprisoned for any term of years or life, or both.

"(b) Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly—

"(1) renders another person unconscious and thereby engages in a sexual act with that person; or

"(2) administers to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby—

"(A) substantially impairs the ability of that other person to appraise or control conduct; and

"(B) engages in a sexual act with that other person;

or attempts to do so, shall be fined not more than $250,000, imprisoned for any term of years or life, or both.

"(c) Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who has not attained the age of 12 years or attempts

to do so, shall be fined not more than $250,000, imprisoned for any term of years or life, or both.

"§ 2242. Sexual abuse

"Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly—

"(1) causes another person to engage in a sexual act by threatening or placing such person in fear (other than by threatening or placing another person in fear that any person will be subjected to death, serious bodily injury, or kidnapping); or

"(2) engages in a sexual act with another person if that other person is—

"(A) incapable of appraising the nature of the conduct; or

"(B) physically incapable of declining participation in, or communicating unwillingness to engage in, that sexual act;

or attempts to do so, shall be fined not more than $250,000, imprisoned not more than 20 years, or both.

"§ 2243. Sexual abuse of a minor or ward

"(a) Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who—

"(1) is not the spouse of that person;

"(2) has attained the age of 12 years but has not attained the age of 16 years; and

"(3) is at least four years younger that that person;

shall be fined not more than $250,000, imprisoned not more than five years, or both.

"(b) Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who is—

"(1) not the spouse of that person;

"(2) in official detention; and

"(3) under the custodial, supervisory, or disciplinary authority of the person so engaging;

shall be fined not more than $100,000, imprisoned not more than one year, or both.

"(c) In a prosecution under subsection (a) of this section, it is a defense, which the defendant must establish by a preponderance of the evidence, that the defendant reasonably believed that the other person had attained the age of 16 years.

"§ 2244. Abusive sexual contact

"(a) Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in or causes sexual contact with or by another person, if so to do would violate—

"(1) section 2241 of this title had the sexual contact been a sexual act, shall be fined not more than $250,000, imprisoned not more than five years, or both;

"(2) section 2242 of this title had the sexual contact been a sexual act, shall be fined not more than $250,000, imprisoned not more than three years, or both;

"(3) subsection (a) of section 2243 of this title had the sexual contact been a sexual act, shall be fined not more than $100,000, imprisoned not more than one year, or both; or

"(4) subsection (b) of section 2243 of this title had the sexual contact been a sexual act, shall be fined not more than $5,000, imprisoned not more than six months, or both.

"(b) Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in sexual contact with another person without that other person's permission shall be fined not more than $5,000, imprisoned not more than six months, or both.

"§ 2245. Definitions for chapter

"As used in this chapter—

"(1) the term 'prison' means a correctional, detention, or penal facility;

"(2) the term 'sexual act' means—

"(A) contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight;

"(B) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; or

"(C) the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; and

"(3) the term 'sexual contact' means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;

"(4) the term 'serious bodily injury' means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

"(5) the term 'official detention' means—

"(A) detention by a Federal officer or employee, or under the direction of a Federal officer or employee, following arrest for an offense; following surrender in lieu of arrest for an offense; following a charge or conviction of an offense, or an allegation or finding of juvenile delinquency; following commitment as a material witness; following civil commitment in lieu of criminal proceedings or pending resumption of criminal proceedings that are being held in abeyance, or pending extradition, deportation, or exclusion; or

"(B) custody by a Federal officer or employee, or under the direction of a Federal officer or employee, for purposes incident to any detention described in subparagraph (A) of this paragraph, including transportation, medical diagnosis or treatment, court appearance, work, and recreation;

but does not include supervision or other control (other than custody during specified hours or days) after release on bail, probation, or parole, or after release following a finding of juvenile delinquency.".

(b) The table of chapters at the beginning of part I of title 18 of the United States Code is amended by inserting after the item relating to chapter 109 the following new item:

"109A. Sexual abuse ..... 2241"

SEC. 903. (a) Title 18 of the United States Code is amended—

(1) by striking out chapter 99;

(2) in subsection (a) of section 113 by striking out "or rape";

(3) in subsection (b) of section 113 by striking out "or rape";

(4) in subsection (a) of section 1111 by striking out "rape" and inserting in lieu thereof "aggravated sexual abuse or sexual abuse";

(5) in the first paragraph of section 1153 by striking out "rape, carnal knowledge of any female, not his wife, who has not attained the age of sixteen years, assault with intent to commit rape," and inserting in lieu thereof "aggravated sexual abuse, sexual abuse, sexual abuse of a minor (as described in subsection (a) of section 2243 of this title),";

(6) in paragraph (12) of section 3185 by striking out "Rape;" and inserting in lieu thereof "A felony described in chapter 109A of this title;"; and

(7) in subsection (b) of section 4251 by striking out "rape" and inserting in lieu thereof "an offense described in section 2241 or 2242 or in paragraph (1) or (2) of subsection (a) of section 2244 of this title".

(b) Title 28 of the United States Code is amended in subsection (c) of section 2901 by striking out "rape" and inserting in lieu thereof "an offense described in section 2241 or 2242 or in paragraph (1) or (2) of subsection (a) of section 2244 of title 18".

(c)(1) The Public Health Service Act is amended—

(A) in section 1904(a)(1)(G) (42 U.S.C. 300w-3(a)(1)(G)) by striking out "rape victims and for rape prevention" and inserting in lieu thereof "victims of sex offenses and for prevention of sex offenses"; and

(B) in section 1905(c)(8) (42 U.S.C. 300w-4(c)(8) by striking out "rape" and inserting "sex offense" in lieu thereof.

(2) Section 103(14) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(14)) is amended by striking out "forcible rape" and inserting "a forcible sex offense".

(3) The heading of title VI of the Mental Health Systems Act is amended by striking out "RAPE" and inserting "SEX OFFENSE" in lieu thereof.

(4)(A) The heading for section 601 of the Mental Health Systems Act (42 U.S.C. 9511) is amended by striking out "RAPE" and inserting "SEX OFFENSE" in lieu thereof.

(B) The item in the table of contents of the Mental Health Systems Act relating to section 601 is amended by striking out "Rape" and inserting "Sex offense" in lieu thereof.

(5) Section 601(a) of the Mental Health Systems Act (42 U.S.C. 9511(a)) is amended by striking out "Rape" and inserting "Sex Offenses" in lieu thereof.

(6) Section 601(a)(1) of the Mental Health Systems Act (42 U.S.C. 9511(a)(1)) is amended—

(A) in subparagraph (B), by striking out "the act of rape" and inserting "sex offenses" in lieu thereof;

(B) in subparagraph (E), by striking out "rape" and inserting "a sex offense" in lieu thereof; and

(C) by striking out "rape" each place it appears other than in subparagraphs (B) and (E) and inserting "sex offenses" in lieu thereof.

(7) Section 601(a)(3) of the Mental Health Systems Act (42 U.S.C. 9511(a)(3)) is amended by striking out "rape" each place it appears and inserting "sex offenses" in lieu thereof.

(8) Section 601(e) of the Mental Health Systems Act (42 U.S.C. 9511(e)) is amended by striking out "rape" the first place it appears and inserting "sex offense" in lieu thereof.

(d) Section 902(k)(1) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1472(k)(1)), is amended—

(1) by striking out "2031, 2032,"; and

(2) by inserting ", or chapter 109A" after "2111".

(e) The Federal Rules of Evidence are amended—

(1) in the table of contents at the beginning by striking out "Rape" in the item relating to Rule 412 and inserting in lieu thereof "Sex offense";

(2) in the heading of Rule 412 by striking out "Rape" and inserting in lieu thereof "Sex Offense";

(3) in Rule 412 by striking out "rape" each place it appears other than the third such place and inserting in lieu thereof "a sex offense"; and

(4) in Rule 412 by striking out "rape" the third place it appears and inserting in lieu thereof "sex offense".

SEC. 904. This title and the amendments made by this title shall take effect 30 days after the date of the enactment of this Act.

TITLE X—VICTIM COMPENSATION AND ASSISTANCE

SEC. 1001. This title may be cited as the "Victims of Crime Act of 1984".

CRIME VICTIMS FUND

SEC. 1002. (a) There is created in the Treasury a separate account to be known as the Crime Victims Fund (hereinafter in this Act referred to as the "Fund").

(b) Except as limited by subsection (c), there shall be deposited in the Fund—

(1) all fines that are collected from persons convicted of offenses against the United States except—

(A) fines available for use by the Secretary of the Treasury pursuant to—

(i) section 11(d) of the Endangered Species Act (16 U.S.C. 1540(d)); and

(ii) section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)); and

(B) fines to be paid into—

(i) the railroad unemployment insurance account pursuant to the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.);

(ii) the Postal Service Fund pursuant to sections 2601(a)(2) and 2003 of title 39 of the United States Code and for the purposes set forth in section 404(a)(8) of such title 39;

(iii) the navigable waters revolving fund pursuant to section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321); and

(iv) county public school funds pursuant to section 3613 of title 18 of the United States Code;

(2) penalty assessments collected under section 3013 of title 18 of the United States Code;

(3) the proceeds of forfeited appearance bonds, bail bonds, and collateral collected under section 3146 of title 18 of the United States Code; and

(4) any money ordered to be paid into the Fund under section 3671(c)(2) of title 18 of the United States Code.

(c)(1) If the total deposited in the Fund during a particular fiscal year reaches the sum of $100 million, the excess over that sum shall be deposited in the general fund of the Treasury and shall not be a part of the Fund.

(2) No deposits shall be made in the Fund after September 30, 1988.

(d)(1) Sums deposited in the Fund shall remain in the Fund and be available for expenditure under this subsection for grants under this title without fiscal year limitation.

(2) Fifty percent of the total deposited in the Fund during a particular fiscal year shall be available for grants under section 1003 and fifty percent shall be available for grants under section 1004.

(e) Any sums awarded as part of a grant under this title that remain unspent at the end of a fiscal year in which such grant is made may be expended for the purpose for which such grant is made at any time during the next succeeding fiscal year, at the end of which year any remaining unobligated sums shall be returned to the general fund of the Treasury.

(f) As used in this section, the term "offenses against the United States" does not include—

(1) a criminal violation of the Uniform Code of Military Justice (10 U.S.C. 801 et seq.);

(2) an offense against the laws of the District of Columbia; and

(3) an offense triable by an Indian tribal court or Court of Indian Offenses.

CRIME VICTIM COMPENSATION

SEC. 1003. (a)(1) Except as provided in paragraph (2), the Attorney General shall make an annual grant from the Fund to an eligible crime victim compensation program of 35 percent of the amounts awarded during the preceding fiscal year, other than amounts awarded for property damage. A grant under this section shall be used by such program only for awards of compensation.

(2) If the sums available in the Fund for grants under this section are insufficient to provide grants of 35 percent as provided in paragraph (1), the Attorney General shall make, from the sums available, a grant to each eligible crime victim compensation program so that all such programs receive the same percentage of the amounts awarded by such program during the preceding fiscal year, other than amounts awarded for property damage.

(b) A crime victim compensation program is an eligible crime victim compensation program for the purposes of this section if—

(1) such program is operated by a State and offers compensation to victims of crime and survivors of victims of crime for—

(A) medical expenses attributable to a physical injury resulting from compensable crime, including expenses for mental health counseling and care;

(B) loss of wages attributable to a physical injury resulting from a compensable crime; and

(C) funeral expenses attributable to a death resulting from a compensable crime;

(2) such program promotes victim cooperation with the reasonable requests of law enforcement authorities;

(3) such State certifies that grants received under this section will not be used to supplant State funds otherwise available to provide crime victim compensation;

(4) such program, as to compensable crimes occurring within the State, makes compensation awards to victims who are nonresidents of the State on the basis of the same criteria used to make awards to victims who are residents of such State;

(5) such program provides compensation to victims of crimes occurring within such State that would be compensable crimes, but for the fact that such crimes are subject to Federal jurisdiction, on the same basis that such program provides compensation to victims of compensable crimes; and

(6) such program provides such other information and assurances related to the purposes of this section as the Attorney General may reasonably require.

(c) A State crime victim compensation program in effect on the date grants may first be made under this section shall be deemed an eligible crime victim compensation program for the purposes of this section until the day after the close of the first regular session of the legislature of that State that begins after such date.

(d) As used in this section—

(1) the term "property damage" does not include damage to prosthetic devices or dental devices;

(2) the term "medical expenses" includes, to the extent provided under the eligible crime victim compensation program, expenses for dental services and devices and prosthetic devices and for services rendered in accordance with a method of healing recognized by the law of the State;

(3) the term "compensable crime" means a crime the victims of which are eligible for compensation under the eligible crime victim compensation program; and

(4) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and any other possession or territory of the United States.

CRIME VICTIM ASSISTANCE

SEC. 1004. (a)(1) Subject to the availability of money in the Fund, the Attorney General shall make an annual grant from any portion of the Fund not used for grants under section 1003 with respect to a particular fiscal year, and after any deduction under subsection (c), to the chief executive of each State for the financial support of eligible crime victim assistance programs.

(2) Such chief executive shall—

(A) certify that priority shall be given to eligible crime victim assistance programs providing assistance to victims of sexual assault, spousal abuse, or child abuse;

(B) certify that funds awarded to eligible crime victim assistance programs will not be used to supplant State and local funds otherwise available for crime victim assistance; and

(C) provide such other information and assurances related to the purposes of this section as the Attorney General may reasonably require.

(3) The amounts of grants under paragraph (1) shall be—

(A) $100,000 to each State; and

(B) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

(4) If the amount available for grants under paragraph (1) is insufficient to provide $100,000 to each State, the funds available shall be distributed equally among the States.

(b)(1) A victim assistance program is an eligible crime victim assistance program for the purposes of this section if such program—

(A) is operated by a public agency or a nonprofit organization, or a combination of such agencies or organizations or of both such agencies and organizations, and provides services to victims of crime;

(B) demonstrates—

(i) a record of providing effective services to victims of crime and financial support from sources other than the Fund; or

(ii) substantial financial support from sources other than the Fund;

(C) utilizes volunteers in providing such services, unless and to the extent the chief executive determines that compelling reasons exist to waive this requirement;

(D) promotes within the community served coordinated public and private efforts to aid crime victims; and

(E) assists potential recipients in seeking crime victim compensation benefits.

(2) An eligible crime victim assistance program shall expend sums received under subsection (a) only for providing services to victims of crime.

(c)(1) The Attorney General may in any fiscal year deduct from amounts available under section 1004 an amount not to exceed 5 percent of the amount in the Fund, and may expend the amount so deducted to provide services to victims of Federal crimes by the Department of Justice, or reimburse other instrumentalities of the Federal Government otherwise authorized to provide such services.

(2) The Attorney General shall appoint or designate an official of the Department of Justice to be the Federal Crime Victim Assistance Administrator (hereinafter in this title referred to as the "Federal Administrator") to exercise the responsibilities of the Attorney General under this subsection.

(3) The Federal Administrator shall—

(A) be responsible for monitoring compliance with guidelines for fair treatment of crime victims and witnesses issued under section 6 of the Victim and Witness Protection Act of 1982 (Public Law 97-291);

(B) consult with the heads of Federal law enforcement agencies that have responsibilities affecting victims of Federal crimes;

(C) coordinate victim services provided by the Federal Government with victim services offered by other public agencies and nonprofit organizations; and

(D) perform such other functions related to the purposes of this title as the Attorney General may assign.

(4) The Attorney General may reimburse other instrumentalities of the Federal Government and contract with private organizations for the performance of functions authorized under this subsection.

(d) As used in this section—

(1) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and, except for the purposes of paragraphs (3)(A) and (4) of subsection (a) of this section, any other territory or possession of the United States; and

(2) the term "services to victims of crime" includes—

(A) crisis intervention services;

(B) providing, in an emergency, transportation to court, short-term child care services, and temporary housing and security measures;

(C) assistance in participating in criminal justice proceedings; and

(D) payment of all reasonable costs for a forensic medical examination of a crime victim, to the extent that such costs are otherwise not reimbursed or paid;

(3) the term "services to victims of Federal crime" means services to victims of crime with respect to Federal crime, and includes—

(A) training of law enforcement personnel in the delivery of services to victims of Federal crime;

(B) preparation, publication, and distribution of informational materials—

(i) setting forth services offered to victims of crime; and

(ii) concerning services to victims of Federal crime for use by Federal law enforcement personnel; and

(C) salaries of personnel who provide services to victims of crime, to the extent that such personnel provide such services;

(4) the term "crisis intervention services" means counseling to provide emotional support in crises arising from the occurrence of crime; and

(5) the term "chief executive" includes a person designated by a chief executive to perform the functions of the chief executive under this section.

PENALTY ASSESSMENT

SEC. 1005. (a) Chapter 201 of title 18 of the United States Code is amended by adding at the end the following:

"§ 3013. Special assessment on convicted persons

"(a) The court shall assess on any person convicted of an offense against the United States—

"(1) in the case of a misdemeanor—

"(A) the amount of $25 if the defendant is an individual; and

"(B) the amount of $100 if the defendant is a person other than an individual; and

"(2) in the case of a felony—

"(A) the amount of $50 if the defendant is an individual; and

"(B) the amount of $200 if the defendant is a person other than an individual.

"(b) Such amount so assessed shall be collected in the manner that fines are collected in criminal cases.".

(b) The table of sections for chapter 201 of title 18 of the United States Code is amended by adding at the end the following:

"3013. Special assessment on convicted persons.".

SPECIAL FORFEITURE OF COLLATERAL PROFITS OF CRIME

SEC. 1006. (a) Title 18 of the United States Code is amended by adding after chapter 231 the following:

"CHAPTER 232—SPECIAL FORFEITURE OF COLLATERAL PROFITS OF CRIME

"Sec.
"3671. Order of special forfeiture.
"3672. Notice to victims of order of special forfeiture.

"§ 3671. Order of special forfeiture

"(a) Upon the motion of the United States attorney made at any time after conviction of a defendant for an offense against the United States resulting in physical harm to an individual, and after notice to any interested party, the court shall, if the court determines that the interest of justice or an order of restitution under chapter 227 or 231 of this title so requires, order such defendant to forfeit all or any part of proceeds received or to be received by that defendant, or a transferee of that defendant, from a contract relating to a depiction of such crime in a movie, book, newspaper, magazine, radio or television production, or live entertainment of any kind, or an expression of that defendant's thoughts, opinions, or emotions regarding such crime.

"(b) An order issued under subsection (a) of this section shall require that the person with whom the defendant contracts pay to the Attorney General any proceeds due the defendant under such contract.

"(c)(1) Proceeds paid to the Attorney General under this section shall be retained in escrow in the Crime Victims Fund in the Treasury by the Attorney General for five years after the date of an order under this section, but during that five year period may—

"(A) be levied upon to satisfy—

"(i) a money judgment rendered by a United States district court in favor of a victim of an offense for which such defendant has been convicted, or a legal representative of such victim; and

"(ii) a fine imposed by a court of the United States; and

"(B) if ordered by the court in the interest of justice, be used to—

"(i) satisfy a money judgment rendered in any court in favor of a victim of any offense for which such defendant has been convicted, or a legal representative of such victim; and

"(ii) pay for legal representation of the defendant in matters arising from the offense for which such defendant has been convicted, but no more than 20 percent of the total proceeds may be so used.

"(2) The court shall direct the disposition of all such proceeds in the possession of the Attorney General at the end of such five years and may require that all or any part of such proceeds be released from escrow and paid into the Crime Victims Fund in the Treasury.

"(d) As used in this section, the term 'interested party' includes the defendant and any transferee of proceeds due the defendant under the contract, the person with whom the defendant has contracted, and any person physically harmed as a result of the offense for which the defendant has been convicted.

"§ 3672. Notice to victims of order of special forfeiture

"The United States attorney shall, within 30 days after the imposition of an order under this chapter and at such other times as the Attorney General may require, publish in a newspaper of general circulation in the district in which the offense for which a defendant was convicted occurred, a notice that states—

"(1) the name of, and other identifying information about, the defendant;

"(2) the offense for which the defendant was convicted; and

"(3) that the court has ordered a special forfeiture of certain proceeds that may be used to satisfy a judgment obtained against the defendant by a victim of an offense for which the defendant has been convicted.".

(b) The table of chapters for part II of title 18 of the United States Code is amended by adding after the item for chapter 229 the following:

"232. Special forfeiture of collateral profits of crime.".

ADMINISTRATIVE PROVISIONS

SEC. 1007. (a) The Attorney General may establish such rules, regulations, guidelines, and procedures as are necessary to carry out any function of the Attorney General under this title and may delegate to any officer or employee of the Department of Justice any such function as the Attorney General deems appropriate.

(b) Each recipient of sums under this title shall keep such records as the Attorney General shall prescribe, including records that fully disclose the amount and disposition by such recipient of such sums, the total cost of the undertaking for which such sums are used, and that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(c) The Attorney General or any duly authorized representative of the Attorney General shall have access, for purpose of audit and examination, to any books, documents, papers, and records of the recipient of sums under this title that, in the opinion of the Attorney General or any duly authorized representative of the Attorney General, may be related to the expenditure of funds received under this title.

(d) Except as otherwise provided by Federal law, no officer or employee of the Federal Government, and no recipient of sums under this title, shall use or reveal any research or statistical information furnished under this title by any person and identifia-

ble to any specific private person for any purpose other than the purpose for which such information was obtained in accordance with this title. Such information, and any copy of such information, shall be immune from legal process and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceeding.

(e) No person shall on the ground of race, color, religion, national origin, handicap, or sex be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any undertaking funded in whole or in part with sums made available under this title.

(f) If, after reasonable notice and opportunity for a hearing on the record, the Attorney General finds that a State has failed to comply substantially with any provision of this title or a rule, regulation, guideline, or procedure issued under this title, or an application submitted in accordance with this title or the provisions of any other applicable law, the Attorney General shall—

(1) terminate payments to such State;

(2) suspend payments to such State until the Attorney General is satisfied that such noncompliance has ended; or

(3) take such other action as the Attorney General deems appropriate.

(g) The Attorney General shall, no later than December 31, 1987, report to the President and to the Congress on the revenue derived from each source described in section 1002 and on the effectiveness of the activities supported under this title. The Attorney General may include in such report recommendations for legislation to improve this title.

PAROLE PROCEEDING AMENDMENTS

SEC. 1008. (a) Section 4207 of title 18 of the United States Code is amended—

(1) by striking out "and" at the end of paragraph (4); and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) a statement, which may be presented orally or otherwise, by any victim of the offense for which the prisoner is imprisoned about the financial, social, psychological, and emotional harm done to, or loss suffered by such victim; and".

(b) Section 6(a) of the Victim and Witness Protection Act of 1982 is amended—

(1) in the catchline of paragraph (4), by striking out "MAJOR";

(2) in paragraph (4), by striking out "if possible, of judicial proceedings relating to their case, including—" and inserting in lieu thereof "if possible, of—"; and

(3) in subparagraph (D) of paragraph (4)—

(A) by inserting "and punishment" after "prosecution"; and

(B) by inserting "a hearing to determine a parole release date and" after "imposed,".

(c) Section 4215 of title 18 of the United States Code is amended—

(1) so that the heading of such section reads as follows:

"§ 4215. Appeal";

(2) in subsection (a)—

(A) in the first sentence—

(i) by striking out "have the decision reconsidered" and inserting in lieu thereof "appeal such decision"; and

(ii) by striking out "regional commissioner" and inserting in lieu thereof "National Appeal Board"; and

(B) by striking out the second sentence; and

(3) in subsection (b), by striking out the first sentence.

(d) The table of sections at the beginning of chapter 311 of title 18 of the United States Code is amended so that the item relating to section 4215 reads as follows:

"4215. Appeal.".

EFFECTIVE DATES

SEC. 1009. (a) Except as provided in subsection (b), this title and the amendments made by this title shall take effect 30 days after the date of enactment of this Act.

(b) Sections 1002, 1003, 1004, and 1007 of this title shall take effect on October 1, 1984.

TITLE XI—TRADEMARK COUNTERFEITING

SEC. 1101. This title may be cited as the "Trademark Counterfeiting Act of 1984".

TITLE 18 AMENDMENT

SEC. 1102. (a) Chapter 113 of title 18 of the United States Code is amended by adding at the end the following:

"§ 2320. Trafficking in counterfeit goods or services

"(a) Whoever intentionally traffics or attempts to traffic in goods or services and knowingly uses a counterfeit mark on or in connection with such goods or services shall, if an individual, be fined not more than $250,000 or imprisoned not more than five years, or both, and, if a person other than an individual, be fined not more than $1,000,000. In the case of an offense by a person under this section that occurs after that person is convicted of another offense under this section, the person convicted, if an individual, shall be fined not more than $1,000,000 or imprisoned not more than fifteen years, or both, and if other than an individual, shall be fined not more than $5,000,000.

"(b) Upon a determination by a preponderance of the evidence that any articles in the possession of a defendant in a prosecution under this section bear counterfeit marks, the United States may obtain an order for the destruction of such articles.

"(c) All defenses, affirmative defenses, and limitations on remedies that would be applicable in an action under the Lanham Act shall be applicable in a prosecution under this section. In a prosecution under this section, the defendant shall have the burden of proof, by a preponderance of the evidence, of any such affirmative defense.

"(d) For the purposes of this section—

"(1) the term 'counterfeit mark' means—

"(A) a spurious mark—

"(i) that is used in connection with trafficking in goods or services;

"(ii) that is identical with, or substantially indistinguishable from, a mark registered for those goods or services on the principal register in the United States Patent and Trademark Office and in use, whether or not the defendant knew such mark was so registered; and

"(iii) the use of which is likely to cause confusion, to cause mistake, or to deceive; or

"(B) a spurious designation that is identical with, or substantially indistinguishable from, a designation as to which the remedies of the Lanham Act are made available by reason of section 110 of the Olympic Charter Act;

but such term does not include any mark or designation used in connection with goods or services of which the manufacturer or producer was, at the time of the manufacture or production in question authorized to use the mark or designation for the type of goods or services so manufactured or produced, by the holder of the right to use such mark or designation;

"(2) the term 'traffic' means transport, transfer, or otherwise dispose of, to another, as consideration for anything of value, or make or obtain control of with intent so to transport, transfer, or dispose of;

"(3) the term 'Lanham Act' means the Act entitled 'An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes', approved July 5, 1946 (15 U.S.C. 1051 et seq.); and

"(4) the term 'Olympic Charter Act' means the Act entitled 'An Act to incorporate the United States Olympic Association', approved September 21, 1950 (36 U.S.C. 371 et seq.).".

(b) The table of sections at the beginning of chapter 113 of title 18 of the United States Code is amended by adding at the end the following new item:

"2320. Trafficking in counterfeit goods or services.".

LANHAM ACT AMENDMENT

SEC. 1103. The Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1051 et seq.) is amended—

(1) in section 34 (15 U.S.C. 1116)—

(A) by designating the first paragraph as subsection (a);

(B) by designating the second paragraph as subsection (b);

(C) by designating the third paragraph as subsection (c); and

(D) by adding at the end the following:

"(d)(1)(A) In the case of a civil action arising under section 32(1)(a) of this Act (15 U.S.C. 1114) or section 110 of the Act entitled 'An Act to incorporate the United States Olympic Association', approved September 21, 1950 (36 U.S.C. 380) with respect to a violation that consists of using a counterfeit mark in connection with the sale, offering for sale, or distribution of goods or services, the court may, upon ex parte application, grant an order under subsection (a) of this section pursuant to this subsection providing for the seizure of goods and counterfeit marks involved in such violation and the means of making such marks, and records documenting the manufacture, sale, or receipt of things involved in such violation.

"(B) As used in this subsection the term 'counterfeit mark' means—

"(i) a counterfeit of a mark that is registered on the principal register in the United States Patent and Trademark Office for such goods or services sold, offered for sale, or distributed and that is in use, whether or not the person against whom relief is sought knew such mark was so registered; or

"(ii) a spurious designation that is identical with, or substantially indistinguishable from, a designation as to which the remedies of this Act are made available by reason of section 110 of the Act entitled 'An Act to incorporate the United States Olympic Association', approved September 21, 1950 (36 U.S.C. 380);

but such term does not include any mark or designation used in connection with goods or services of which the manufacturer or producer was, at the time of the manufacture or production in question authorized to use the mark or designation for the type of

goods or services so manufactured or produced, by the holder of the right to use such mark or designation.

"(2) The court shall not receive an application under this subsection unless the applicant has given such notice of the application as is reasonable under the circumstances to the United States attorney for the judicial district in which such order is sought. Such attorney may participate in the proceedings arising under such application if such proceedings may affect evidence of an offense against the United States. The court may deny such application if the court determines that the public interest in a potential prosecution so requires.

"(3) The application for an order under this subsection shall—

"(A) be based on an affidavit or the verified complaint establishing facts sufficient to support the findings of fact and conclusions of law required for such order; and

"(B) contain the additional information required by paragraph (5) of this subsection to be set forth in such order.

"(4) The court shall not grant such an application unless—

"(A) the person obtaining an order under this subsection provides the security determined adequate by the court for the payment of such damages as any person may be entitled to recover as a result of a wrongful seizure or wrongful attempted seizure under this subsection; and

"(B) the court finds that it clearly appears from specific facts that—

"(i) an order other than an ex parte seizure order is not adequate to achieve the purposes of section 32 of this Act (15 U.S.C. 1114);

"(ii) the applicant has not publicized the requested seizure;

"(iii) the applicant is likely to succeed in showing that the person against whom seizure would be ordered used a counterfeit mark in connection with the sale, offering for sale, or distribution of goods or services;

"(iv) an immediate and irreparable injury will occur if such seizure is not ordered;

"(v) the matter to be seized will be located at the place identified in the application;

"(vi) the harm to the applicant of denying the application outweighs the harm to the legitimate interests of the person against whom seizure would be ordered of granting the application; and

"(vii) the person against whom seizure would be ordered, or persons acting in concert with such person, would destroy, move, hide, or otherwise make such matter inaccessible to the court, if the applicant were to proceed on notice to such person.

"(5) An order under this subsection shall set forth—

"(A) the findings of fact and conclusions of law required for the order;

"(B) a particular description of the matter to be seized, and a description of each place at which such matter is to be seized;

"(C) the time period, which shall end not later than seven days after the date on which such order is issued, during which the seizure is to be made;

"(D) the amount of security required to be provided under this subsection; and

"(E) a date for the hearing required under paragraph (10) of this subsection.

"(6) The court shall take appropriate action to protect the person against whom an order under this subsection is directed from publicity, by or at the behest of the plaintiff, about such order and any seizure under such order.

"(7) Any materials seized under this subsection shall be taken into the custody of the court. The court shall enter an appropriate protective order with respect to discovery by the applicant of any records that have been seized. The protective order shall provide for appropriate procedures to assure that confidential information contained in such records is not improperly disclosed to the applicant.

"(8) An order under this subsection, together with the supporting documents, shall be sealed until the person against whom the order is directed has an opportunity to contest such order, except that any person against whom such order is issued shall have access to such order and supporting documents after the seizure has been carried out.

"(9) The court shall order that a United States marshal or other law enforcement officer is to serve a copy of the order under this subsection and then is to carry out the seizure under such order. The court shall issue orders, when appropriate, to protect the defendant from undue damage from the disclosure of trade secrets or other confidential information during the course of the seizure, including, when appropriate, orders restricting the access of the applicant (or any agent or employee of the applicant) to such secrets or information.

"(10)(A) The court shall hold a hearing, unless waived by all the parties, on the date set by the court in the order of seizure. That date shall be not sooner than ten days after the order is issued and not later than fifteen days after the order is issued, unless the applicant for the order shows good cause for another date or unless the party against whom such order is directed consents to another date for such hearing. At such hearing the party obtaining the order shall have the burden to prove that the facts supporting findings of fact and conclusions of law necessary to support such order are still in effect. If that party fails to meet that burden, the seizure order shall be dissolved or modified appropriately.

"(B) In connection with a hearing under this paragraph, the court may make such orders modifying the time limits for discovery under the Rules of Civil Procedure as may be necessary to prevent the frustration of the purposes of such hearing.

"(11) A person who suffers damage by reason of a wrongful seizure under this subsection has a cause of action against the applicant for the order under which such seizure was made, and shall be entitled to recover such relief as may be appropriate, including damages for lost profits, cost of materials, loss of good will, and punitive damages in instances where the seizure was sought in bad faith, and, unless the court finds extenuating circumstances, to recover a reasonable attorney's fee. The court in its discretion may award prejudgment interest on relief recovered under this paragraph, at an annual interest rate established under section 6621 of the Internal Revenue Code of 1954, commencing on the date of service of the claimant's pleading setting forth the claim under this paragraph and ending on the date such recovery is granted, or for such shorter time as the court deems appropriate.";

(2) in section 35 (15 U.S.C. 1117)—

(A) by inserting "(a)"before "When"; and

(B) by adding at the end the following new subsection:

"(b) In assessing damages under subsection (a), the court shall, unless the court finds extenuating circumstances, enter judgment for three times such profits or damages, whichever is greater, together with a reasonable attorney's fee, in the case of any violation of section 32(1)(a) of this Act (15 U.S.C. 1114(1)(a)) or section 110 of the Act entitled 'An Act to incorporate the United States Olympic Association', approved September 21, 1950 (36 U.S.C. 380) that consists of intentionally using a mark or designation, knowing such mark or designation is a counterfeit mark (as defined in section 34(d) of this Act (15 U.S.C. 1116(d)), in connection with the sale, offering for sale, or distribution of goods or services. In such cases, the court may in its discretion award prejudgment interest on such amount at an annual interest rate established under section 6621 of the Internal Revenue Code of 1954, commencing on the date of the service of the claimant's pleadings setting forth the claim for such entry and ending on the date such entry is made, or for such shorter time as the court deems appropriate."; and

(3) in section 36 (15 U.S.C. 1118), by adding at the end of such section "The party seeking an order under this section for destruction of articles seized under section 34(d) (15 U.S.C. 1116(d)) shall give ten days' notice to the United States attorney for the judicial district in which such order is sought (unless good cause is shown for lesser notice) and such United States attorney may, if such destruction may affect evidence of an offense against the United States, seek a hearing on such destruction or participate in any hearing otherwise to be held with respect to such destruction.".

TITLE XII—DANGEROUS DRUG DIVERSION CONTROL

SEC. 1201. (a) This title may be cited as the "Dangerous Drug Diversion Control Act of 1984".

(b) Whenever in sections 1202 through 1214 an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Controlled Substances Act, and whenever in sections 1215 through 1221 an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Controlled Substances Import and Export Act.

SEC. 1202. (a) Section 102 (21 U.S.C. 802) is amended by redesignating paragraphs (14) through (29) as paragraphs (15) through (30), respectively, and by adding after paragraph (13) the following:

"(14) The term 'isomer' means the optical isomer, except as used in schedule I(c) and schedule II(a)(4). As used in schedule I(c), the term 'isomer' means the optical, positional, or geometric isomer. As used in schedule II(a)(4), the term 'isomer' means the optical or geometric isomer.".

(b) Paragraph (17) (as so redesignated) of section 102 is amended to read as follows:

"(17) The term 'narcotic drug' means any of the following whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

"(A) Opium, opiates, derivatives of opium and opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation. Such term does not include the isoquinoline alkaloids of opium.

"(B) Poppy straw and concentrate of poppy straw.

"(C) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed.

"(D) Cocaine, its salts, optical and geometric isomers, and salts of isomers.

"(E) Ecgonine, its derivatives, their salts, isomers, and salts of isomers.

"(F) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subparagraphs (A) through (E).".

(c) Paragraph (a)(4) of schedule II is amended by inserting after "coca leaves" the first time it appears the following: "(including cocaine and ecgonine and their salts, isomers, derivatives, and salts of isomers and derivatives)".

SEC. 1203. Section 201 (21 U.S.C. 811) is amended by adding a new subsection (h) as follows:

"(h)(1) If the Attorney General finds that the scheduling of a substance in schedule I on a temporary basis is necessary to avoid an imminent hazard to the public safety, he may, by order and without regard to the requirements of subsection (b) relating to the Secretary of Health and Human Services, schedule such substance in schedule I if the substance is not listed in any other schedule in section 202 or if no exemption or approval is in effect for the substance under section 505 of the Federal Food, Drug, and Cosmetic Act. Such an order may not be issued before the expiration of 30 days from—

"(A) the date of the publication by the Attorney General of a notice in the Federal Register of the intention to issue such order and the grounds upon which such order is to be issued, and

"(B) the date the Attorney General has transmitted the notice required by paragraph (4).

"(2) The scheduling of a substance under this subsection shall expire at the end of one year from the date of the issuance of the order scheduling such substance, except that the Attorney General may, during the pendency of proceedings under subsection (a)(1) with respect to the substance, extend the temporary scheduling for up to six months.

"(3) When issuing an order under paragraph (1), the Attorney General shall be required to consider, with respect to the finding of an imminent hazard to the public safety, only those factors set forth in paragraphs (4), (5), and (6) of subsection (c), including actual abuse, diversion from legitimate channels, and clandestine importation, manufacture, or distribution.

"(4) The Attorney General shall transmit notice of an order proposed to be issued under paragraph (1) to the Secretary of Health and Human Services. In issuing an order under paragraph (1), the Attorney General shall take into consideration any comments submitted by the Secretary in response to a notice transmitted pursuant to this paragraph.

"(5) An order issued under paragraph (1) with respect to a substance shall be vacated upon the conclusion of a subsequent rulemaking proceeding initiated under subsection (a) with respect to such substance.

"(6) An order issued under paragraph (1) is not subject to judicial review.".

SEC. 1204. (a) Section 201(g) (21 U.S.C. 811(g)) is amended by adding at the end the following:

"(3) The Attorney General may, by regulation, exempt any compound, mixture, or preparation containing a controlled substance from the application of all or any part of this title if he finds such compound, mixture, or preparation meets the requirements of one of the following categories:

"(A) A mixture, or preparation containing a nonnarcotic controlled substance, which mixture or preparation is approved for prescription use, and which contains one or more other active ingredients which are not listed in any schedule and which are included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse.

"(B) A compound, mixture, or preparation which contains any controlled substance, which is not for administration to a human being or animal, and which is packaged in such form or concentration, or with adulterants or denaturants, so that as packaged it does not present any significant potential for abuse.".

(b) Section 202(d) (21 U.S.C. 812(d)) is repealed.

SEC. 1205. Section 302(a) (21 U.S.C. 822(a)) is amended to read as follows:

"(a)(1) Every person who manufactures or distributes any controlled substance, or who proposes to engage in the manufacture or distribution of any controlled substance, shall obtain annually a registration issued by the Attorney General in accordance with the rules and regulations promulgated by him.

"(2) Every person who dispenses, or who proposes to dispense, any controlled substance, shall obtain from the Attorney General a registration issued in accordance with the rules and regulations promulgated by him. The Attorney General shall, by regulation, determine the period of such registrations. In no event, however, shall such registrations be issued for less than one year nor for more than three years.".

SEC. 1206. Section 303(f) (21 U.S.C. 823(f)) is amended to read as follows:

"(f) The Attorney General shall register practitioners (including pharmacies, as distinguished from pharmacists) to dispense, or conduct research with, controlled substances in schedules II, III, IV, or V, if the applicant is authorized to dispense, or conduct research with respect to, controlled substances under the laws of the State in which he practices. The Attorney General may deny an application for such registration if he determines that the issuance of such registration would be inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

"(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

"(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

"(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

"(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

"(5) Such other conduct which may threaten the public health and safety.

Separate registration under this part for practitioners engaging in research with controlled substances in schedules II, III, IV, or V, who are already registered under this part in another capacity, shall not be required. Registration applications by practitioners wishing to conduct research with controlled substances in schedule I shall be referred to the Secretary, who shall determine the qualifications and competency of each practitioner requesting registration, as well as the merits of the research protocol. The Secretary, in determining the merits of each research protocol, shall consult with the Attorney General as to effective procedures to adequately safeguard against diversion of such controlled substances from legitimate medical or scientific use. Registration for the purpose of bona fide research with controlled substances in schedule I by a practitioner deemed qualified by the Secretary may be denied by the Attorney General only on a ground specified in section 304(a). Article 7 of the Convention on Psychotropic Substances shall not be construed to prohibit, or impose additional restrictions upon, research involving drugs or other substances scheduled under the convention which is conducted in conformity with this subsection and other applicable provisions of this title.".

SEC. 1207. Section 304(a) (21 U.S.C. 824(a)) is amended—

(1) by inserting before the period in paragraph (3) the following: "or has had the suspension, revocation, or denial of his registration recommended by competent State authority"; and

(2) by striking out "or" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; or", and by adding after paragraph (3) the following:

"(4) has committed such acts as would render his registration under section 303 inconsistent with the public interest as determined under such section.".

SEC. 1208. Section 304 (21 U.S.C. 824) is amended by adding at the end the following:

"(g) The Attorney General may, in his discretion, seize or place under seal any controlled substances owned or possessed by a registrant whose registration has expired or who has ceased to practice or do business in the manner contemplated by his registration. Such controlled substances shall be held for the benefit of the registrant, or his successor in interest. The Attorney General shall notify a registrant, or his successor in interest, who has any controlled substance seized or placed under seal of the procedures to be followed to secure the return of the controlled substance and the conditions under which it will be returned. The Attorney General may not dispose of any controlled substance seized or placed under seal under this subsection until the expiration of one hundred and eighty days from the date such substance was seized or placed under seal.".

SEC. 1209. (a) Section 307(c)(1)(A) (21 U.S.C. 827(c)(1)(A)) is amended to read as follows:

"(A) to the prescribing of controlled substances in schedule II, III, IV, or V by practitioners acting in the lawful course of their professional practice unless such substance is prescribed in the course of maintenance or detoxification treatment of an individual; or".

(b) Section 307(c)(1)(B) (21 U.S.C. 827(c)(1)(B)) is amended to read as follows:

"(B) to the administering of a controlled substance in schedule II, III, IV, or V, unless the practitioner regularly engages in the dispensing or administering of controlled substances and charges his patients, either separately or together with charges for other professional services, for substances so dispensed or administered or unless such substance is administered in the course of maintenance treatment or detoxification treatment of an individual;".

SEC. 1210. Section 307 (21 U.S.C. 827) is further amended by adding at the end a new subsection (g) as follows:

"(g) Every registrant under this title shall be required to report any change of professional or business address in such manner as the Attorney General shall by regulation require.".

SEC. 1211. (a) The first sentence of section 401(b)(1)(A) (21 U.S.C. 841(b)(1)(A)) is amended by striking out "controlled substance in schedule I or II which is a narcotic drug" and inserting in lieu thereof "controlled substance in schedule I which is a narcotic drug or a controlled substance in schedule II".

(b) The first sentence of section 401(b)(1)(B) is amended by striking out "or II".

(c) Paragraph (5) of section 401(b) is repealed and paragraph (6) of such section, as amended by section 404(f) of this Act, is redesignated as paragraph (5).

SEC. 1212. Section 403(a)(2) (21 U.S.C. 843(a)(2)) is amended to read as follows:

"(2) to use in the course of the manufacture, distribution, or dispensing of a controlled substance, or to use for the purpose of acquiring or obtaining a controlled substance, a registration number which is fictitious, revoked, suspended, expired, or issued to another person.".

SEC. 1213. (a) Section 503(a) (21 U.S.C. 873(a)) is amended by striking out "and" at the end of paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and" and by adding at the end the following:

"(6) assist State and local governments in suppressing the diversion of controlled substances from legitimate medical, scientific, and commercial channels by—

"(A) making periodic assessments of the capabilities of State and local governments to adequately control the diversion of controlled substances;

"(B) providing advice and counsel to State and local governments on the methods by which such governments may strengthen their controls against diversion; and

"(C) establishing cooperative investigative efforts to control diversion."

(b) Section 503 is amended by adding at the end the following:

"(d)(1) The Attorney General may make grants, in accordance with paragraph (2), to State and local governments to assist in meeting the costs of—

"(A) collecting and analyzing data on the diversion of controlled substances,

"(B) conducting investigations and prosecutions of such diversions,

"(C) improving regulatory controls and other authorities to control such diversions,

"(D) programs to prevent such diversions,

"(E) preventing and detecting forged prescriptions, and

"(F) training law enforcement and regulatory personnel to improve the control of such diversions.

"(2) No grant may be made under paragraph (1) unless an application therefor is submitted to the Attorney General in such form and manner as the Attorney General may prescribe. No grant may exceed 80 per centum of the costs for which the grant is made, and no grant may be made unless the recipient of the grant provides assurances satisfactory to the Attorney General that it will obligate funds to meet the remaining 20 per centum of such costs. The Attorney General shall review the activities carried out with grants under paragraph (1) and shall report annually to Congress on such activities.

"(3) To carry out this subsection there is authorized to be appropriated $6,000,000 for fiscal year 1985 and $6,000,000 for fiscal year 1986.".

SEC. 1214. Section 511(a) (21 U.S.C. 881(a)), as amended by section 404(a) of this Act, is further amended by inserting after paragraph (7) the following new paragraph:

"(8) All controlled substances which have been possessed in violation of this title.".

SEC. 1215. Section 1002(a)(1) (21 U.S.C. 952(a)(1)) is amended to read as follows:

"(1) such amounts of crude opium, poppy straw, concentrate of poppy straw, and coca leaves as the Attorney General finds to be necessary to provide for medical, scientific, or other legitimate purposes, and".

SEC. 1216. Section 1002(a)(2) (21 U.S.C. 952(a)(2)) is amended by striking out "or" at the end of subparagraph (A), by adding "or" at the end of subparagraph (B), and by adding the following after subparagraph (B):

"(C) in any case in which the Attorney General finds that such controlled substance is in limited quantities exclusively for scientific, analytical, or research uses,".

SEC. 1217. Section 1002(b)(2) (21 U.S.C. 952(b)(2)) is amended to read as follows:

"(2) is imported pursuant to such notification, or declaration, or in the case of any nonnarcotic controlled substance in schedule III, such import permit, notification, or declaration, as the Attorney General may by regulation prescribe, except that if a nonnarcotic controlled substance in schedule IV or V is also listed in schedule I or II of the Convention on Psychotropic Substances it shall be imported pursuant to such import permit requirements, prescribed by regulation of the Attorney General, as are required by the Convention.".

SEC. 1218. Section 1003(e) (21 U.S.C. 953(e)) is amended to read as follows:

"(e) It shall be unlawful to export from the United States to any other country any nonnarcotic controlled substance in schedule III or IV or any controlled substances in schedule V unless—

"(1) there is furnished (before export) to the Attorney General documentary proof that importation is not contrary to the laws or regulations of the country of destination for consumption for medical, scientific, or other legitimate purposes;

"(2) it is exported pursuant to such notification or declaration, or in the case of any nonnarcotic controlled substance in schedule III, such export permit, notification, or declaration as the Attorney General may by regulation prescribe; and

"(3) in the case of a nonnarcotic controlled substance in schedule IV or V which is also listed in schedule I or II of the Convention on Psychotropic Substances, it is exported pursuant to such export permit requirements, prescribed by regulation of the Attorney General, as are required by the Convention.".

SEC. 1219. Section 1007(a)(2) (21 U.S.C. 957(a)(2)) is amended to read as follows:

"(2) export from the United States any controlled substance in schedule I, II, III, IV, or V,".

SEC. 1220. Section 1008(b) (21 U.S.C. 958(b)) is amended to read as follows:

"(b) Registration granted under this section shall not entitle a registrant to import or export controlled substances other than specified in the registration.".

SEC. 1221. Section 1008 (21 U.S.C. 958) is further amended by redesignating subsections (d), (e), (f), (g), and (h) as subsections (e), (f), (g), (h), and (i), respectively, and—

(1) by inserting after subsection (c) the following new subsection (d):

"(d)(1) The Attorney General may deny an application for registration under subsection (a) if he is unable to determine that such registration is consistent with the public interest (as defined in subsection (a)) and with the United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part.

"(2) The Attorney General may deny an application for registration under subsection (c), or revoke or suspend a registration under subsection (a) or
(c), if he determines that such registration is inconsistent with the public interest (as defined in subsection (a) or (c)) or with the United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part.

"(3) The Attorney General may limit the revocation or suspension of a registration to the particular controlled substance, or substances, with respect to which grounds for revocation or suspension exist.

"(4) Before taking action pursuant to this subsection, the Attorney General shall serve upon the applicant or registrant an order to show cause as to why the registration should not be denied, revoked, or suspended. The order to show cause shall contain a statement of the basis thereof and shall call upon the applicant or registrant to appear before the Attorney General, or his designee, at a time and place stated in the order, but in no event less than thirty days after the date of receipt of the order. Proceedings to deny, revoke, or suspend shall be conducted pursuant to this subsection in accordance with subchapter II of chapter 5 of title 5 of the United States Code. Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under this title or any other law of the United States.

"(5) The Attorney General may, in his discretion, suspend any registration simultaneously with the institution of proceedings under this subsection, in cases where he finds that there is an imminent danger to the public health and safety. Such suspension shall continue in effect until the conclusion of such proceedings, including judicial review thereof, unless sooner withdrawn by the Attorney General or dissolved by a court of competent jurisdiction.

"(6) In the event that the Attorney General suspends or revokes a registration granted under this section, all controlled substances owned or possessed by the registrant pursuant to such registration at the time of suspension or the effective date of the revocation order, as the case may be, may, in the discretion of the Attorney General, be seized or placed under seal. No disposition may be made of any controlled substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded, except that a court, upon application therefor, may at any time order the sale of perishable controlled substances. Any such order shall require the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled substances (or proceeds of the sale thereof which have been deposited with the court) shall be forfeited to the United States; and the Attorney General shall dispose of such controlled substances in accordance with section 511(e) of the Controlled Substances Act."; and

(2) by striking out "304," in the second sentence of redesignated subsection (e).

TITLE XIII—ACCESS DEVICES AND COMPUTERS

SEC. 1301. This title may be cited as the "Counterfeit Access Device and Computer Fraud and Abuse Act of 1984".

SEC. 1302. (a) Chapter 47 of title 18 of the United States Code is amended by adding at the end thereof the following:

"§ 1029. Fraud and related activity in connection with access devices

"(a) Whoever—

"(1) knowingly and with intent to defraud produces, uses, or traffics in one or more counterfeit access devices;

"(2) knowingly and with intent to defraud traffics in or uses one or more unauthorized access devices during any one-year period, and by such conduct obtains anything of value aggregating $1,000 or more during that period;

"(3) knowingly and with intent to defraud possesses fifteen or more devices which are counterfeit or unauthorized access devices; or

"(4) knowingly, and with intent to defraud, produces, traffics in, has control or custody of, or possesses device-making equipment;

shall, if the offense affects interstate or foreign commerce, be punished as provided in subsection (c) of this section.

"(b)(1) Whoever attempts to commit an offense under subsection (a) of this section shall be punished as provided in subsection (c) of this section.

"(2) Whoever is a party to a conspiracy of two or more persons to commit an offense under subsection (a) of this section, if any of the parties engages in any conduct in furtherance of such offense, shall be fined an amount not greater than the amount provided as the maximum fine for such offense under subsection (c) of this section or imprisoned not longer than one-half the period provided as the maximum imprisonment for such offense under subsection (c) of this section, or both.

"(c) The punishment for an offense under subsection (a) or (b)(1) of this section is—

"(1) a fine of not more than the greater of $10,000 or twice the value obtained by the offense or imprisonment for not more than ten years, or both, in the case of an offense under subsection (a)(2) or (a)(3) of this section which does not occur after a conviction for another offense under either such subsection, or an attempt to commit an offense punishable under this paragraph;

"(2) a fine of not more than the greater of $50,000 or twice the value obtained by the offense or imprisonment for not more than fifteen years, or both, in the case of an offense under subsection (a)(1) or (a)(4) of this section which does not occur after a conviction for another offense under either such subsection, or an attempt to commit an offense punishable under this paragraph; and

"(3) a fine of not more than the greater of $100,000 or twice the value obtained by the offense or imprisonment for not more than twenty years, or both, in the case of an offense under subsection (a) of this section which occurs after a conviction for another offense under such subsection, or an attempt to commit an offense punishable under this paragraph.

"(d) The United States Secret Service shall, in addition to any other agency having such authority, have the authority to investigate offenses under this section. Such authority of the United States Secret Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.

"(e) As used in this section—

"(1) the term 'access device' means any card, plate, code, account number, or other means of account access that can be used, alone or in conjunction with another access device, to obtain money, goods, services, or any other thing of value, or that can be used to initiate a transfer of funds (other than a transfer originated solely by paper instrument);

"(2) the term 'counterfeit access device' means any access device that is counterfeit, fictitious, altered, or forged, or an identifiable component of an access device or a counterfeit access device;

"(3) the term 'unauthorized access device' means any access device that is lost, stolen, expired, revoked, canceled, or obtained with intent to defraud;

"(4) the term 'produce' includes design, alter, authenticate, duplicate, or assemble;

"(5) the term 'traffic' means transfer, or otherwise dispose of, to another, or obtain control of with intent to transfer or dispose of; and

"(6) the term 'device-making equipment' means any equipment, mechanism, or impression designed or primarily used for making an access device or a counterfeit access device.

"§ 1030. Fraud and related activity in connection with computers

"(a) Whoever—

"(1) having devised a scheme or artifice to defraud, knowingly and with intent to execute such scheme or artifice, accesses a computer without authorization, or having accessed a computer with authorization, uses the opportunity such access provides for purposes to which such authorization does not extend, and by means of one or more instances of such conduct obtains anything of value (other than the use of the computer) aggregating $5,000 or more during any one year period and affects interstate or foreign commerce;

"(2) knowingly accesses a computer without authorization, or having accessed a computer with authorization, uses the opportunity such access provides for purposes to which such authorization does not extend, and by means of such conduct obtains information that has been determined by the United States Government pursuant to an Executive order or statute to require protection against unauthorized disclosure for reasons of national defense or foreign relations, or any restricted data, as defined in paragraph r. of section 11 of the Atomic Energy Act of 1954, with the intent or reason to believe that such information so obtained is to be used to the injury of the United States, or to the advantage of any foreign nation;

"(3) knowingly accesses a computer without authorization, or having accessed a computer with authorization, uses the opportunity such access provides for purposes to which such authorization does not extend, and thereby obtains information contained in a financial record of a financial institution, as such terms are defined in the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.), or contained in a file of a consumer reporting agency on a consumer, as such terms are defined in the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.);

"(4) knowingly accesses a computer without authorization, or having accessed a computer with authorization, uses the opportunity such access provides for purposes to which such authorization does not extend, and by means of one or more instances of such conduct obtains anything, or causes a loss, of a value aggregating $5,000 or more during any one year period and affects interstate or foreign commerce; or

"(5) knowingly accesses a computer without authorization, or having accessed a computer with authorization, uses the opportunity such access provides for purposes to which such authorization does not extend, and by means of such conduct knowingly uses, modifies, destroys, or discloses information in, or prevents authorized use of, such computer, if such computer is operated for or on behalf of the Government of the United States and such conduct affects such operation;

shall be punished as provided in subsection (c) of this section. It is not an offense under paragraph (4) or (5) of this subsection in the case of a person having accessed a computer with authorization and using the opportunity such access provides for purposes to which such access does not extend, if the using of such opportunity consists only of the use of the computer.

"(b)(1) Whoever attempts to commit an offense under subsection (a) of this section shall be punished as provided in subsection (c) of this section.

"(2) Whoever is a party to a conspiracy of two or more persons to commit an offense under subsection (a) of this section, if any of the parties engages in any conduct in furtherance of such offense, shall be fined an amount not greater than the amount provided as the maximum fine for such offense under subsection (c) of this section or imprisoned not longer than one-half the period provided as the maximum imprisonment for such offense under subsection (c) of this section, or both.

"(c) The punishment for an offense under subsection (a) or (b)(1) of this section is—

"(1)(A) a fine of not more than the greater of $10,000 or twice the value obtained by the offense or imprisonment for not more than ten years, or both, in the case of an offense under subsection (a)(1) or (a)(2) of this section which does not occur after a conviction for another offense under such subsection, or an attempt to commit an offense punishable under this subparagraph; and

"(B) a fine of not more than the greater of $100,000 or twice the value obtained by the offense or imprisonment for not more than twenty years, or both, in the case of an offense under subsection (a)(1) or (a)(2) of this section which occurs after a conviction for another offense under such subsection, or an attempt to commit an offense punishable under this subparagraph; and

"(2)(A) a fine of not more than the greater of $5,000 or twice the value obtained or loss created by the offense or imprisonment for not more than one year, or both, in the case of an offense under subsection (a)(3), (a)(4), or (a)(5) of this section which does not occur after a conviction for another offense under such subsection, or an attempt to commit an offense punishable under this subparagraph; and

"(B) a fine of not more than the greater of $10,000 or twice the value obtained or loss created by the offense or imprisonment for not more than ten years, or both, in the case of an offense under subsection (a)(3), (a)(4), or (a)(5) of this section which occurs after a conviction for another offense under such subsection, or an attempt to commit an offense punishable under this subparagraph.

"(d) The United States Secret Service shall, in addition to any other agency having such authority, have the authority to investigate offenses under this section. Such authority of the United States Secret Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.

"(e) As used in this section, the term 'computer' means an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device, but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device.".

(b) The table of sections at the beginning of chapter 47 of title 18 of the United States Code is amended by adding at the end the following new items:

"1029. Fraud and related activity in connection with access devices.
"1030. Fraud and related activity in connection with computers.".

SEC. 1303. The Attorney General shall report to the Congress annually, during the first three years following the date of the enactment of this Act, concerning prosecutions under the sections of title 18 of the United States Code added by this title.

TITLE XIV—TERRORISM

SUBTITLE A—HOSTAGE TAKING

SEC. 1401. This subtitle may be cited as the "Act for the Prevention and Punishment of the Crime of Hostage-Taking".

SEC. 1402. (a) Chapter 55 of title 18 of the United States Code is amended by adding at the end the following new section:

"§ 1203. Hostage taking

"(a) Except as provided in subsection (b) of this section, whoever, whether inside or outside the United States, seizes or detains and threatens to kill, to injure, or to continue to detain another person in order to compel a third person or a governmental organization to do or abstain from doing any act as an explicit or implicit condition for the release the person detained, or attempts to do so, shall be punished by imprisonment for any term of years or for life.

"(b)(1) It is not an offense under this section if the conduct required for the offense occurred outside the United States unless—

"(A) the offender or the person seized or detained is a national of the United States;

"(B) the offender is found in the United States; or

"(C) the governmental organization sought to be compelled is the Government of the United States.

"(2) It is not an offense under this section if the conduct required for the offense occurred inside the United States, each alleged offender and each person seized or detained are nationals of the United States, and each alleged offender is found in the United States, unless the governmental organization sought to be compelled is the Government of the United States.

"(c) As used in this section, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) The table of sections at the beginning of chapter 55 of title 18 of the United States Code is amended by adding at the end the following new item:

"1203. Hostage taking.".

SEC. 1403. This subtitle and the amendments made by this subtitle shall take effect on the later of—

(1) the date of the enactment of this Act; or

(2) the date the International Convention Against the Taking of Hostages has come into force and the United States has become a party to that convention.

SUBTITLE B—AIRCRAFT SABOTAGE

SHORT TITLE

SEC. 1411. This subtitle may be cited as the "Aircraft Sabotage Act".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 1412. The Congress hereby finds that—

(1) the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (ratified by the United States on November 1, 1972) requires each contracting State to establish its jurisdiction over certain offenses affecting the safety of civil aviation;

(2) such offenses place innocent lives in jeopardy, endanger national security, affect domestic tranquility, gravely affect interstate and foreign commerce, and are offenses against the law of nations; and

(3) the purpose of this subtitle is to implement fully the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation and to expand the protection accorded to aircraft and related facilities.

SEC. 1413. (a) Section 31 of title 18, United States Code, is amended—

(1) in the first paragraph by—

(A) striking out "and" before the term "spare part" and inserting "and 'special aircraft jurisdiction of the United States' " after the term "spare part"; and

(B) striking out "Civil Aeronautics Act of 1938" and inserting in lieu thereof "Federal Aviation Act of 1958";

(2) by striking out "and" at the end of the third undesignated paragraph thereof;

(3) by striking the period at the end thereof and inserting in lieu thereof a semicolon; and

(4) by adding at the end thereof the following new paragraphs:

" 'In flight' means any time from the moment all the external doors of an aircraft are closed following embarkation until the moment when any such door is opened for disembarkation. In the case of a forced landing the flight shall be deemed to continue until competent authorities take over the responsibility for the aircraft and the persons and property on board; and

" 'In service' means any time from the beginning of preflight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight.".

(b) Section 32 of title 18, United States Code, is amended to read as follows:

"§ 32. Destruction of aircraft or aircraft facilities

"(a) Whoever willfully—

"(1) sets fire to, damages, destroys, disables, or wrecks any aircraft in the special aircraft jurisdiction of the United States or any civil aircraft used, operated, or employed in interstate, overseas, or foreign air commerce;

"(2) places or causes to be placed a destructive device or substance in, upon, or in proximity to, or otherwise makes or causes to be made unworkable or unusable or hazardous to work or use, any such aircraft, or any part or other materials used or intended to be used in connection with the operation of such aircraft, if such placing or causing to be placed or such making or causing to be made is likely to endanger the safety of any such aircraft;

"(3) sets fire to, damages, destroys, or disables any air navigation facility, or interferes by force or violence with the operation of such facility, if such fire, damaging, destroying, disabling, or interfering is likely to endanger the safety of any such aircraft in flight;

"(4) with the intent to damage, destroy, or disable any such aircraft, sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or in proximity to, any appliance or structure, ramp, landing area, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading or storage of any such aircraft or any cargo carried or intended to be carried on any such aircraft;

"(5) performs an act of violence against or incapacitates any individual on any such aircraft, if such act of violence or incapacitation is likely to endanger the safety of such aircraft;

"(6) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safety of any such aircraft in flight; or

"(7) attempts to do anything prohibited under paragraphs (1) through (6) of this subsection;

shall be fined not more than $100,000 or imprisoned not more than twenty years or both.

"(b) Whoever willfully—

"(1) performs an act of violence against any individual on board any civil aircraft registered in a country other than the United States while such aircraft is in flight, if such act is likely to endanger the safety of that aircraft;

"(2) destroys a civil aircraft registered in a country other than the United States while such aircraft is in service or causes damage to such an aircraft which renders that aircraft incapable of flight or which is likely to endanger that aircraft's safety in flight;

"(3) places or causes to be placed on a civil aircraft registered in a country other than the United States while such aircraft is in service, a device or substance which is likely to destroy that aircraft, or to cause damage to that aircraft which renders that aircraft incapable of flight or which is likely to endanger that aircraft's safety in flight; or

"(4) attempts to commit an offense described in paragraphs (1) through (3) of this subsection;

shall, if the offender is later found in the United States, be fined not more than $100,000 or imprisoned not more than twenty years, or both.

"(c) Whoever willfully imparts or conveys any threat to do an act which would violate any of paragraphs (1) through (5) of subsection (a) or any of paragraphs (1) through (3) of subsection (b) of this section, with an apparent determination and will to carry the threat into execution shall be fined not more than $25,000 or imprisoned not more than five years, or both.".

(c) Section 101(38)(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(38)(d)), relating to the definition of the term "special aircraft jurisdiction of the United States", is amended—

(1) in clause (i), by striking out "; or" and inserting in lieu thereof a semicolon;

(2) at the end of clause (ii), by striking out "and" and inserting in lieu thereof "or" and

(3) by adding at the end thereof the following new clause:

"(iii) regarding which an offense as defined in subsection (d) or (e) of article I, section I of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, September 23, 1971) is committed if the aircraft lands in the United States with an alleged offender still on board; and".

SEC. 1414. (a)(1) Section 901 of the Federal Aviation Act of 1958 (49 U.S.C. 1471) is amended by adding at the end thereof the following new subsections:

"(c) Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false and under circumstances in which such information may reasonably be believed, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by subsection (i), (j), (k), or (l) of section 902 of this Act, shall be subject to a civil penalty of not more than $10,000 which shall be recoverable in a civil action brought in the name of the United States.

"(d) Except for law enforcement officers of any municipal or State government or officers or employees of the Federal Government, who are authorized or required within their official capacities to carry arms, or other persons who may be so authorized under regulations issued by the Administrator, whoever while aboard, or while attempting to board, any aircraft in, or intended for operation in, air transportation or intrastate air transportation, has on or about his person or his property a concealed deadly or dangerous weapon, which is, or would be, accessible to such person in flight shall be subject to a civil penalty of not more than $10,000 which shall be recoverable in a civil action brought in the name of the United States.".

(2) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec 901. Civil penalties."

is amended by inserting at the end thereof:

"(c) Conveying false information.

"(d) Concealed weapons.".

(b) Section 901(a)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1471(a)(2)) is amended by inserting "penalties provided for in subsections (c) and (d) of this section or" after "Secretary of Transportation in the case of".

(c)(1) Section 902(l)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(l)(1) is amended by striking out "$1,000" and inserting in lieu thereof "$10,000".

(2) Section 902(l)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(l)(2)) is amended by striking out "$5,000" and inserting in lieu thereof "$25,000".

(d)(1) Section 902(m) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(m)) is amended to read as follows:

"FALSE INFORMATION AND THREATS

"(m)(1) Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false and under circumstances in which such information may reasonably be believed, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a felony prohibited by subsection (i), (j), (k), or (l) of this section, shall be fined not more than $25,000 or imprisoned not more than five years, or both.

"(2) Whoever imparts or conveys or causes to be imparted or conveyed any threat to do an act which would be a felony prohibited by subsection (i), (j), (k), or (l) of this section with an apparent determination and will to carry the threat into execution shall be fined not more than $25,000 or imprisoned not more than five years, or both.".

(2) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 902. Criminal penalties."

is amended by striking out

"(m) False information."

and inserting in lieu thereof

"(m) False information and threats.".

SEC. 1415. This subtitle shall become effective on the date of the enactment of this Act.

TITLE XV—ARMED CAREER CRIMINAL

SEC. 1501. This title may be cited as the "Armed Career Criminal Act of 1984".

SEC. 1502. Section 1202(a) of title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. App. 1202(a)) is amended by adding at the end "In the case of a person who receives, possesses, or transports in commerce or affecting commerce any firearm and who has three previous convictions by any court referred to in paragraph (1) of this subsection for robbery or burglary, or both, such person shall be fined not more than $25,000 and imprisoned not less than fifteen years, and, notwithstanding any other provision of law, the court shall not suspend the sentence of, or grant a probationary sentence to, such person with respect to the conviction under this subsection, and such person shall not be eligible for parole with respect to the sentence imposed under this subsection.".

SEC. 1503. Section 1202(c) of title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. App. 1202(c)) is amended—

(1) by striking out the period at the end of paragraph (7) and inserting a semicolon in lieu thereof; and

(2) by adding at the end the following:

"(8) 'robbery' means any felony consisting of the taking of the property of another from the person or presence of another by force or violence, or by threatening or placing another person in fear that any person will imminently be subjected to bodily injury; and

"(9) 'burglary' means any felony consisting of entering or remaining surreptitiously within a building that is property of another with intent to engage in conduct constituting a Federal or State offense.".

TITLE XVI—PROTECTION OF CERTAIN FEDERAL OFFICERS AND EMPLOYEES

SEC. 1601. This title may be cited as the "Intelligence Community and Federal Probation Officers Protection Act of 1984".

SEC. 1602. Section 1114 of title 18 of the United States Code is amended—

(1) by inserting "any person who is a pretrial services or probation officer or employee appointed under chapter 207 or 231 of this title, any member of the intelligence community," after "penal or correctional institution,"; and

(2) by adding at the end the following new paragraph:

"As used in this section, the term 'member of the intelligence community' means an officer or employee of—

"(1) the National Security Agency;

"(2) the Central Intelligence Agency;

"(3) the Bureau of Intelligence and Research of the Department of State;

"(4) the office of the Director of Central Intelligence;

"(5) the Defense Intelligence Agency;

"(6) the intelligence elements of the Army, Navy, Air Force, and Marine Corps, the Department of the Treasury, and the Department of Energy; or

"(7) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs.".

TITLE XVII—ESCAPE

SEC. 1701. Section 751 of title 18 of the United States Code is amended by adding at the end the following new subsection:

"(c) Whoever escapes or attempts to escape from the custody of the Attorney General or his authorized representative, or from any institution or facility in which he is confined by direction of the Attorney General, or from any custody under or by virtue of any process issued under the laws of the United States by any court, judge, or commissioner, or from any person—

"(1) pursuant to chapter 313 of this title;

"(2) pursuant to section 1826 of title 28, United States Code; or

"(3) as the result of an acquittal of criminal charges by reason of insanity;

be fined not more than $1,000 or imprisoned not more than one year, or both.".

SEC. 1702. Section 752 of title 18 of the United States Code is amended by adding at the end the following new subsection:

"(c) Whoever rescues or attempts to rescue or instigates, aids, or assists the escape or attempted escape of any person in the custody of the Attorney General or his authorized representative, or other process issued under any law of the United States or from any institution or facility in which he is confined by direction of the Attorney General, shall, if the custody or confinement is by virtue of an order of a court of the United States to commit such person—

"(1) pursuant to chapter 313 of this title;

"(2) pursuant to section 1826 of title 28, United States Code; or

"(3) as the result of an acquittal of criminal charges by reason of insanity;

be fined not more than $1,000 or imprisoned not more than one year, or both.".

SEC. 1703. This title and the amendments made by this title shall take effect on January 1, 1985.

TITLE XVIII—FINANCIAL BRIBERY

SEC. 1801. This title may be cited as the "Financial Bribery and Fraud Amendments Act of 1984".

SEC. 1802. (a) Chapter 11 of title 18 of the United States Code is amended by striking out section 215 and all that follows through section 216 and inserting in lieu thereof the following:

"§ 215. Bribery regarding financial operations

"(a) Whoever knowingly—

"(1) offers, gives, or agrees to give anything of value to any person with intent—

"(A) to influence any official action to be taken by; or

"(B) to induce the violation of a legal or fiduciary duty by;

such person as a director, officer, employee, agent, or attorney of a national credit institution; or

"(2) solicits, accepts, or agrees to accept anything of value from another—

"(A) because of any official action to be taken by, or any violation of a legal or fiduciary duty to be committed by, such person as a director, officer, employee, agent, or attorney of a national credit institution; or

"(B) that is given with the specific intent described in paragraph (1) of this subsection;

shall be punished as provided in subsection (b) of this section.

"(b) The punishment for an offense under this section is—

"(1) if the value of the thing offered, given, solicited, accepted, or agreed to be given or accepted, in violation of subsection (a) of this section, is greater than $250—

"(A) a fine of not more than $250,000 or imprisonment for not more than five years, or both, if the offender is an individual; and

"(B) a fine of not more than $1,000,000 if the offender is other than an individual; and

"(2) in any other case—

"(A) a fine of not more than $100,000 or imprisonment for not more than one year, or both, if the offender is an individual; and

"(B) a fine of not more than $250,000 if the offender is other than an individual.

"(c) As used in this section—

"(1) the term 'national credit institution' means—

"(A) a bank with deposits insured by the Federal Deposit Insurance Corporation;

"(B) an institution with accounts insured by the Federal Savings and Loan Insurance Corporation;

"(C) a credit union with accounts insured by the National Credit Union Administration Board;

"(D) a Federal home loan bank or a member, as defined in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422), of the Federal home loan bank system;

"(E) a Federal land bank, Federal intermediate credit bank, bank for cooperatives, production credit association, and Federal land bank association;

"(F) a small business investment company, as defined in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662); and

"(G) a bank holding company as defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) or a savings and loan holding company as defined in section 408 of the National Housing Act (12 U.S.C. 1730a);

"(2) the term 'official action' means a decision, opinion, recommendation, judgment, vote, or other conduct involving an exercise of discretion in the course of administration, employment, agency or representation; and

"(3) the term 'anything of value' means any direct or indirect gain or advantage, or anything that might reasonably be regarded by the beneficiary as a direct or indirect gain or advantage, including a direct or indirect gain or advantage to another person, but such term does not include bona fide salary, wages, fees, or other compensation paid in the usual course of business.

"(d) There is extraterritorial jurisdiction over an offense under this section.

"§ 216. Graft in financial operations

"(a) Whoever knowingly—

"(1) offers, gives, or agrees to give anything of pecuniary value to any person with intent to reward such person for an official action taken by, or any legal or fiduciary duty violated by, such person as a director, officer, employee, agent or attorney of a national credit institution; or

"(2) solicits, accepts, or agrees to accept anything of pecuniary value from another—

"(A) because of any official action taken by, or any legal or fiduciary duty violated by, such person as a director, officer, employee, agent or attorney of a national credit institution; or

"(B) that is given with the specific intent described in paragraph (1) of this subsection;

shall be punished as provided in subsection (b) of this section.

"(b) The punishment for an offense under this section is—

"(1) if the value of the thing offered, given, solicited, accepted, or agreed to be given or accepted, in violation of subsection (a) of this section, is greater than $250—

"(A) a fine of not more than $250,000 or imprisonment for not more than three years, or both, if the offender is an individual; and

"(B) a fine of not more than $1,000,000 if the offender is other than an individual; and

"(2) in any other case—

"(A) a fine of not more than $100,000 or imprisonment for not more than six months, or both, if the offender is an individual; and

"(B) a fine of not more than $250,000 if the offender is other than an individual.

"(c) As used in this section—

"(1) the terms 'national credit institution' and 'official action' have, respectively, the meanings given those terms in section 215 of this title; and

"(2) the term 'anything of pecuniary value' means anything of value, as defined in section 215 of this title—

"(A) in the form of money, a negotiable instrument, a commercial interest, or anything else the primary significance of which is economic advantage; or

"(B) that has a value in excess of $100.

"(d) There is extraterritorial jurisdiction over an offense under this section.".

(b) The table of sections at the beginning of chapter 11 of title 18 of the United States Code is amended by striking out the item relating to section 215 and all that follows through the item relating to section 216 and inserting in lieu thereof the following:

"215. Bribery regarding financial operations.

"216. Graft in financial operations.".

SEC. 1803. (a) Chapter 63 of title 18 of the United States Code is amended by adding at the end the following new section:

"§ 1344. Financial fraud

"(a) Whoever, having devised or intending to devise any scheme or artifice—

"(1) to defraud a national credit institution; or

"(2) for obtaining property of a national credit institution by means of false or fraudulent pretenses, representations, or promises;

knowingly engages in any conduct in furtherance of such scheme or artifice shall be fined not more than $250,000 or imprisoned for not more than five years, or both, if such person is an individual, and shall be fined not more than $1,000,000 if such person is other than an individual.

"(b) As used in this section, the term 'national credit institution' has the meaning given that term in section 215 of this title.

"(c) There is extraterritorial jurisdiction over an offense under this section.".

(b) The table of sections at the beginning of chapter 63 of title 18 of the United States Code is amended by adding at the end the following new item:

"1344. Financial fraud.".

(c)(1) The heading of chapter 63 of title 18 of the United States Code is amended to read as follows:

"CHAPTER 63—MAIL FRAUD AND OTHER FRAUD".

(2) The table of chapters for part I of title 18 of the United States Code is amended so that the item relating to chapter 63 reads as follows:

"63. Mail fraud and other fraud.....1341".

SEC. 1804. Subsection (c) of section 2113 of title 18 of the United States Code is amended by striking out "knowing" and all that follows through "this section" and inserting in lieu thereof "that has been taken in violation of subsection (b) of this section, knowing that such thing was taken with intent to steal or purloin,".

SEC. 1805. This title and the amendments made by this title shall take effect ninety days after the date of the enactment of this Act.

TITLE XIX—CONTRABAND IN PRISONS

SEC. 1901. Section 1791 of title 18, United States Code, is amended to read as follows:

"§ 1791. Contraband in prison

"(a)(1) Whoever, except as otherwise permitted by law, introduces into a prison an object specified in subsection (b) of this section, or attempts to do so, shall be punished as provided in subsection (c) of this section.

"(2) Whoever, except as otherwise permitted by law, possesses in a prison an object specified in subsection (b) of this section shall be punished as provided in subsection (c) of this section.

"(b) The objects referred to in subsection (a) of this section are—

"(1) a firearm or a destructive device;

"(2) a weapon (other than a firearm or destructive device) or an object that is designed or intended to be used as a weapon or to facilitate escape from such facility;

"(3) a narcotic drug, lysergic acid diethylamide, or phencyclidine;

"(4) a controlled substance (other than a controlled substance referred to in paragraph (3) of this subsection) or an alcoholic beverage;

"(5) any United States or foreign currency; and

"(6) any other object that threatens the security of such facility or the life, health, or safety of an individual.

"(c) The punishment for a violation of this section shall be—

"(1) if the object is specified in subsection (b)(1) of this section, a fine of not more than $250,000 or imprisonment for not more than ten years, or both;

"(2) if the object is specified in subsection (b)(2) or (b)(3) of this section, a fine of not more than $250,000 or imprisonment for not more than five years, or both;

"(3) if the object is specified in subsection (b)(4) or (b)(5) of this section, a fine of not more than $25,000 or imprisonment for not more than one year, or both; and

"(4) if the object is specified in subsection (b)(6) of this section, a fine of not more than $15,000 or imprisonment for not more than six months.

"(d) As used in this section—

"(1) the terms 'firearm' and 'destructive device' have the meanings given those terms in section 921 of this title;

"(2) the terms 'controlled substance' and 'narcotic drug' have the meanings given those terms in section 102 of the Controlled Substances Act (21 U.S.C. 802); and

"(3) the term 'prison' means a Federal correctional, detention, or penal facility.".

SEC. 1902. Section 1792 of title 18, United States Code, is amended to read as follows:

"§ 1792. Prison riot or mutiny

"(a) Whoever, in a prison—

"(1) intentionally causes a riot by inciting another person to engage in violent and tumultuous conduct;

"(2) leads a riot;

"(3) gives commands, instructions, or directions to participants in a riot; or

"(4) intentionally participates in a riot;

shall be fined not more than $250,000 or imprisoned not more than ten years, or both.

"(b) Whoever intentionally participates in a mutiny at a prison shall be fined not more than $250,000 or imprisoned not more than two years, or both.

"(c) As used in this section, the term—

"(1) 'prison' means a Federal correctional, detention, or penal facility; and

"(2) 'riot' means violent and tumultuous conduct by five or more persons that creates a grave danger of imminently causing bodily injury or substantial damage to property.".

SEC. 1903. The table of sections for chapter 87 of title 18, United States Code, is amended by striking out the items relating to sections 1791 and 1792 and inserting in lieu thereof the following new items:

"1791. Contraband in prison.

"1792. Prison riot or mutiny.".

TITLE XX—FOREIGN EVIDENCE

SEC. 2001. (a) Chapter 223 of title 18, United States Code, is amended by adding at the end the following new sections:

"§ 3505. Foreign records of regularly conducted activity

"(a)(1) In a criminal proceeding in a court of the United States, a foreign record of regularly conducted activity, or a copy of such record, shall not be excluded as evidence by the hearsay rule if a foreign certification attests that—

"(A) such record was made, at or near the time of the occurrence of the matters set forth, by (or from information transmitted by) a person with knowledge of those matters;

"(B) such record was kept in the course of a regularly conducted business activity;

"(C) the business activity made such a record as a regular practice; and

"(D) if such record is not the original, such record is a duplicate of the original;

unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness.

"(2) A foreign certification under this section shall authenticate such record or duplicate.

"(b) At the arraignment or as soon after the arraignment as practicable, a party intending to offer in evidence under this section a foreign record of regularly conducted activity shall provide written notice of that intention to each other party. A motion opposing admission in evidence of such record shall be made by the opposing party and determined by the court before trial. Failure by a party to file such motion before trial shall constitute a waiver of objection to such record or duplicate, but the court for cause shown may grant relief from the waiver.

"(c) As used in this section, the term—

"(1) 'foreign record of regularly conducted activity' means a memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, maintained in a foreign country;

"(2) 'foreign certification' means a written declaration made and signed in a foreign country by the custodian of a foreign record of regularly conducted activity or another qualified person that, if falsely made, would subject the maker to criminal penalty under the laws of that country; and

"(3) 'business' includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.

"§ 3506. Service of papers filed in opposition to official request by United States to foreign government for criminal evidence

"(a) Except as provided in subsection (b) of this section, any national or resident of the United States who submits, or causes to be submitted, a pleading or other document to a court or other authority in a foreign country in opposition to an official request for evidence of an offense shall serve such pleading or other document on the Attorney General at the time such pleading or other document is submitted.

"(b) Any person who is a party to a criminal proceeding in a court of the United States who submits, or causes to be submitted, a pleading or other document to a court or other authority in a foreign country in opposition to an official request for evidence of an offense that is a subject of such proceeding shall serve such pleading or other document on the appropriate attorney for the Government, pursuant to the Federal Rules of Criminal Procedure, at the time such pleading or other document is submitted.

"(c) As used in this section, the term 'official request' means a letter rogatory, a request under a treaty or convention, or any other request for evidence made by a court of the United States or an authority of the United States having criminal law enforcement responsibility, to a court or other authority of a foreign country.

"§ 3507. Special master at foreign deposition

"Upon application of a party to a criminal case, a United States district court before which the case is pending may, to the extent permitted by a foreign country, appoint a special master to carry out at a deposition taken in that country such duties as the court may direct, including presiding at the deposition or serving as an advisor on questions of United States law. Notwithstanding any other provision of law, a special master appointed under this section shall not decide questions of privilege under foreign law. The refusal of a court to appoint a special master under this section, or of the foreign country to permit a special master appointed under this section to carry out a duty at a deposition in that country, shall not affect the admissibility in evidence of a deposition taken under the provisions of the Federal Rules of Criminal Procedure.".

(b) The table of sections for chapter 223 of title 18, United States Code, is amended by adding at the end the following new items:

"3505. Foreign records of regularly conducted activity.

"3506. Service of papers filed in opposition to official request by United States to foreign government for criminal evidence.

"3507. Special master at foreign deposition.".

SEC. 2002. (a) Chapter 213 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3292. Suspension of limitations to permit United States to obtain foreign evidence

"(a)(1) Upon application of the United States, filed before return of an indictment, indicating that evidence of an offense is in a foreign country, the district court before which a grand jury is impaneled to investigate the offense shall suspend the running of the statute of limitations for the offense if the court finds by a preponderance of the evidence that an official request has been made for such evidence and that it reasonably appears, or reasonably appeared at the time the request was made, that such evidence is, or was, in such foreign country.

"(2) The court shall rule upon such application not later than thirty days after the filing of the application.

"(b) Except as provided in subsection (c) of this section, a period of suspension under this section shall begin on the date on which the official request is made and end on the date on which the foreign court or authority takes final action on the request.

"(c) The total of all periods of suspension under this section with respect to an offense—

"(1) shall not exceed three years; and

"(2) shall not extend a period within which a criminal case must be initiated for more than six months if all foreign authorities take final action before such period would expire without regard to this section.

"(d) As used in this section, the term 'official request' means a letter rogatory, a request under a treaty or convention, or any other request for evidence made by a court of the United States or an authority of the United States having criminal law enforcement responsibility, to a court or other authority of a foreign country.".

(b) The table of sections for chapter 213 of title 18, United States Code, is amended by adding after the item relating to section 3291 the following new item:

"3292. Suspension of limitations to permit United States to obtain foreign evidence.".

SEC. 2003. Subsection (h) of section 3161 of title 18, United States Code, is amended

(1) in paragraph (8)(C), by striking out "paragraph (8)(A) of this subsection" and inserting in lieu thereof "subparagraph (A) of this paragraph"; and

(2) by adding at the end the following new paragraph:

"(9) Any period of delay, not to exceed one year, ordered by a district court upon an application of a party and a finding by a preponderance of the evidence that an official request, as defined in section 3292 of this title, has been made for evidence of any such offense and that it reasonably appears, or reasonably appeared at the time the request was made, that such evidence is, or was, in such foreign country.".

SEC. 2004. This title and the amendments made by this title shall take effect thirty days after the date of the enactment of this title.

TITLE XXI—CRIMINAL FINE ENFORCEMENT

SEC. 2101. This title may be cited as the "Criminal Fine Enforcement Act of 1984".

SEC. 2102. Section 3565 of title 18, United States Code, is amended—

(1) in the sentence beginning "In all criminal", by striking out "In" and inserting in lieu thereof "(a)(1) Except as provided in paragraph (2) of this subsection, in";

(2) in the sentence beginning "Where the judgment", by striking out "Where the" and all that follows through "is paid," and inserting in lieu thereof: "If the court finds by a preponderance of the information relied upon in imposing sentence that the defendant has the present ability to pay a fine or penalty, the judgment may direct imprisonment until the fine or penalty is paid, and"; and

(3) by adding at the end the following new matter:

"(2) A judgment imposing the payment of a fine or penalty shall, upon the filing of notice of lien in the manner in which a notice of tax lien is filed under section 6323(f) of the Internal Revenue Code of 1954, be a lien in favor of the United States upon all property and rights of property belonging to the defendant, except with respect to properties or transactions specified in subsections (b), (c), or (d) of section 6323 of the Internal Revenue Code of 1954 for which a notice of tax lien properly filed on the same date would not be valid and except with respect to property that would be exempt from levy for taxes under section 6334(a) of the Internal Revenue Code of 1954. Such lien shall be valid against any subsequent purchaser, holder of a security interest, mechanic's lienor or judgment creditor. A writ of execution may be issued with respect to any property or rights of property subject to such lien.

"(3) Such lien is valid against property referred to in paragraph (2) of this subsection if, but for such paragraph, applicable law would permit enforcement of the lien.

"(4) The effect of any execution, whether by attachment, garnishment, levy or other means, on salary, wages, or other income payable to or receivable by a defendant shall be continuous from the date such execution is first made until the liability for the fine or penalty to which the execution relates is satisfied, the liability ceases to exist or becomes unenforceable, or the execution is released. Salaries, wages, and other income shall be exempt from execution only to the extent of the exemptions from levy for taxes provided in section 6334(d) of the Internal Revenue Code of 1954.

"(5) For the purposes of any State or local law providing for the filing of a notice of a tax lien, a notice of lien for a judgment imposing the payment of a fine or penalty shall be considered a notice of lien for taxes payable to the United States. If such notice is not accepted for filing, the registration, recording, docketing, or indexing, of the judgment imposing payment of a fine or penalty in accordance with section 1962 of title 28, United States Code, shall be considered for all purposes as the filing prescribed by this paragraph.

"(b)(1) A judgment imposing the payment of a fine or penalty shall—

"(A) provide for immediate payment unless, in the interest of justice, the court specifies payment on a date certain or in installments;

"(B) include the name and address of the defendant, the docket number of the case, the amount of the fine, and the schedule of payments (if other than immediate payment is specified); and

"(C) if other than immediate payment is specified, require the defendant to notify the appropriate United States Attorney of any change in the name or address of the defendant.

"(2) If the judgment specifies other than immediate payment of a fine or penalty, the period provided for payment shall not exceed five years, excluding any period served by the defendant as imprisonment for the offense. The defendant shall pay interest on any amount payment of which is deferred under this paragraph. The interest shall be computed on the unpaid balance at the rate of 1.5 percent per month for each full calendar month for which such amount is unpaid.

"(3) If the judgment specifies other than immediate payment of a fine or penalty, and the defendant does not pay an amount due, at the discretion of the Attorney General, the entire unpaid balance shall be payable immediately.

"(c)(1) The defendant shall pay interest on any amount of a fine or penalty (other than a penalty under paragraph (2) of this subsection) that is past due. The interest shall be computed on the unpaid balance at the rate of 1.5 percent per month.

"(2) If an amount owed by a defendant as a fine or penalty is past due for more than 90 days, the defendant shall pay, in addition to any amount otherwise payable, a penalty equal to 25 percent of the amount past due.

"(d)(1) Except as provided in paragraph (2) of this subsection, the defendant shall pay to the Attorney General any amount due as a fine or penalty.

"(2) The Attorney General and the Director of the Administrative Office of the United States Courts may jointly provide by regulation that fines and penalties for specified categories of offenses shall be paid to the clerk of the court.

"(e) If a fine or penalty exceeds $500, the clerk of the court shall furnish to the Attorney General a certified copy of the judgment.

"(f) If a fine or penalty is imposed on an organization, it is the duty of each individual authorized to make disbursements for the organization to make payment from assets of the organization. If a fine or penalty is imposed on a director, officer, employee, or agent of an organization, payment shall not be made, directly or indirectly, from assets of the organization, unless the court finds that such payment is expressly permissible under applicable State law.

"(g) When a fine or penalty is satisfied as provided by law, the Attorney General shall file with the court a notice of satisfaction of judgment if the defendant makes a written request to the Attorney General for such filing, or if the amount of the fine or penalty exceeds $500. Upon request of the defendant, the clerk shall furnish to the defendant a certified copy of the notice.

"(h) The obligation to pay a fine or penalty ceases upon the death of the defendant or the expiration of twenty years after the date of the entry of the judgment, whichever occurs earlier. The defendant and the Attorney General may agree in writing to extend such twenty-year period.".

SEC. 2103. Section 3569 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "(a)" at the beginning of the subsection; and

(B) by striking out "thirty days" in the sentence beginning "When a poor"; and

(2) by striking out subsection (b).

SEC. 2104. Section 3651 of title 18, United States Code, is amended in the paragraph beginning "The defendant's"—

(1) by striking out "fine or other punishment" and inserting in lieu thereof "punishment (other than a fine)"; and

(2) by adding at the end the following new sentence: "If at the end of the period of probation, the defendant has not complied with a condition of probation, the court may nevertheless terminate proceedings against the defendant, but no such termination shall affect the defendant's obligation to pay a fine imposed or made a condition of probation, and such fine shall be collected in the manner provided in section 3565 of this title.".

SEC. 2105. Section 3655 of title 18, United States Code, is amended by inserting after the paragraph beginning "He shall keep records" the following new paragraph:

"He shall report to the court any failure of a probationer under his supervision to pay an amount due as a fine or as restitution.".

SEC. 2106. (a) Chapter 229 of title 18, United States Code, is amended by adding at the end the following new sections:

"§ 3621. Criminal default on fine

"(a) Whoever, having been sentenced to pay a fine or penalty, willfully does not pay an amount due—

"(1) in the case of an individual, shall be fined not more than the greater of $100,000 or twice the unpaid balance of the fine or penalty, or imprisoned not more than one year, or both; and

"(2) in the case of a person other than an individual, shall be fined not more than the greater of $250,000 or twice the unpaid balance of the fine or penalty.

"(b) It is a defense to a prosecution under subsection (a)(1) of this section that the individual was unable to make the payment because of such individual's responsibility to provide necessities for such individual or other individuals financially dependent upon such individual. The defendant has the burden of establishing the defense under this subsection by a preponderance of the evidence.

"§ 3622. Factors relating to imposition of fines

"(a) In determining whether to impose a fine and the amount of a fine, the court shall consider, in addition to other relevant factors—

"(1) the nature and circumstances of the offense;

"(2) the history and characteristics of the defendant;

"(3) the defendant's income, earning capacity, and financial resources;

"(4) the burden that the fine will impose upon the defendant, any person who is financially dependent on the defendant, or any other person (including a government) that would be responsible for the welfare of any person financially dependent on the defendant, relative to the burden that alternative punishments would impose;

"(5) any pecuniary loss inflicted upon others as a result of the offense;

"(6) whether restitution is ordered and the amount of such restitution;

"(7) the need to deprive the defendant of illegally obtained gains from the offense;

"(8) whether the defendant can pass on to consumers or other persons the expense of the fine; and

"(9) if the defendant is an organization, the size of the organization and any measure taken by the organization to discipline any officer, director, employee, or agent of the organization responsible for the offense and to prevent a recurrence of such an offense.

"(b) If, as a result of a conviction, the defendant has the obligation to make restitution to a victim of the offense, the court shall impose a fine or penalty only to the extent that such fine or penalty will not impair the ability of the defendant to make restitution.

"§ 3623. Alternative fines

"(a) An individual convicted of an offense may be fined not more than the greatest of—

"(1) the amount specified in the law setting forth the offense;

"(2) the applicable amount under subsection (c) of this section;

"(3) in the case of a felony, $250,000;

"(4) in the case of a misdemeanor resulting in death, $250,000; or

"(5) in the case of a misdemeanor punishable by imprisonment for more than six months, $100,000.

"(b) A person (other than an individual) convicted of an offense may be fined not more than the greatest of—

"(1) the amount specified in the law setting forth the offense;

"(2) the applicable amount under subsection (c) of this section;

"(3) in the case of a felony, $1,000,000;

"(4) in the case of a misdemeanor resulting in death, $1,000,000; or

"(5) in the case of a misdemeanor punishable by imprisonment for more than six months, $250,000.

"(c) If the defendant derives pecuniary gain from the offense, or if the offense results in pecuniary loss to another person, the defendant may be fined not more than the greater of twice the gross gain or twice the gross loss, unless imposition of a fine under this subsection would unduly complicate or prolong the sentencing process.

"§3624. Security for stayed fine

"If a sentence imposing a fine is stayed, the court shall, absent exceptional circumstances (as determined by the court)—

"(1) require the defendant to deposit, in the registry of the district court, any amount of the fine that is due;

"(2) require the defendant to provide a bond or other security to ensure payment of the fine; or

"(3) restrain the defendant from transferring or dissipating assets.".

(b) The table of sections for chapter 229 of title 18, United States Code, is amended by inserting after the item relating to section 3620 the following new items:

"3621. Criminal default on fine.
"3622. Factors relating to imposition of fines.
"3623. Alternative fines.
"3624. Security for stayed fine.".

SEC. 2107. The sentence beginning "In every" in section 4209(a) of title 18, United States Code, is amended—

(1) by striking out "a condition" and inserting in lieu thereof "conditions"; and

(2) by inserting after "local crime" the following: "and, if a fine was imposed, that the parolee make a diligent effort to pay the fine in accordance with the judgment".

SEC. 2108. Section 1 of title 18, United States Code, is amended in paragraph (3)—

(1) by inserting after "which" the following: ", as set forth in the provision defining the offense,"; and

(2) by striking out "$500" and inserting in lieu thereof "$5,000 for an individual and $10,000 for a person other than an individual".

SEC. 2109. Section 3579 of title 18, United States Code, is amended—

(1) in subsection (c), by striking out "Court" and inserting in lieu thereof "court"; and

(2) in subsection (f), by adding at the end the following new paragraph:

"(4) The order of restitution shall require the defendant to make restitution directly to the victim or other person eligible under this section, or to deliver the amount or property due as restitution to the Attorney General for transfer to such victim or person.".

SEC. 2110. The amendments made by this title shall apply with respect to offenses committed after December 31, 1984.

TITLE XXII—AMENDMENTS TO THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

Subtitle A—General Provisions

SHORT TITLE

SEC. 2201. This title may be cited as the "Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984".

FINDINGS

SEC. 2202. Section 101(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601(a)) is amended—

(1) in paragraph (1)—

(A) by striking out "account" and inserting in lieu thereof "accounted", and

(B) by striking out "today" and inserting in lieu thereof "in 1974 and for less than one-third of such arrests in 1983",

(2) in paragraph (2) by inserting "and inadequately trained staff in such courts, services, and facilities" after "facilities",

(3) in paragraph (3) by striking out "the countless, abandoned, and dependent", and

(4) in paragraph (5) by striking out "prevented" and inserting in lieu thereof "reduced".

SEC. 2203. Section 102(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5602(a)) is amended—

(1) in paragraph (1) by striking out "prompt" and inserting in lieu thereof "ongoing",

(2) in paragraph (4) by striking out "an information clearinghouse to disseminate" and inserting in lieu thereof "the dissemination of", and

(3) in paragraph (7) by inserting "and homeless" after "runaway".

DEFINITIONS

SEC. 2204. Section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603) is amended—

(1) in paragraph (3)—

(A) by striking out "for neglected, abandoned, or dependent youth and other youth", and

(B) by inserting "juvenile" after "prevent",

(2) in paragraph (4) by amending subparagraphs (A) and (B) to read as follows:

"(A) the term 'Bureau of Justice Assistance' means the bureau established by section 401 of the Omnibus Crime Control and Safe Streets Act of 1968;

"(B) the term 'Office of Justice Programs' means the office established by section 101 of the Omnibus Crime Control and Safe Streets Act of 1968;",

(3) in paragraph (6) by striking out "services," and inserting in lieu thereof "services),",

(4) in paragraph (14)—

(A) by inserting "or other sex offenses punishable as a felony" after "rape", and

(B) by striking out "and" at the end thereof,

(5) in paragraph (15) by striking out the period at the end thereof and inserting in lieu thereof "; and", and

(6) by adding at the end thereof the following new paragraph:

"(16) the term 'valid court order' means a court order given by a juvenile court judge to a juvenile who has been brought before the court and made subject to a court order. The use of the word 'valid' permits the incarceration of juveniles for violation of a valid court order only if they received their full due process rights as guaranteed by the Constitution of the United States.".

Subtitle B — Juvenile Justice and Delinquency Prevention

OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

SEC. 2210. Section 201 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611) is amended to read:

"ESTABLISHMENT OF OFFICE

"SEC. 201. (a) There is hereby established an Office of Juvenile Justice and Delinquency Prevention (hereinafter in this title referred to as the 'Office') within the Department of Justice under the general authority of the Attorney General.

"(b) The Office shall be headed by an Administrator (hereinafter in this title referred to as the 'Administrator') appointed by the President, by and with the advice and consent of the Senate, from among individuals who have had experience in juvenile justice programs. The Administrator is authorized to prescribe regulations consistent with this Act to award, administer, modify, extend, terminate, monitor, evaluate, reject, or deny all grants and contracts from, and applications for, funds made available under this title. The Administrator shall report to the Attorney General through the Assistant Attorney General who heads the Office of Justice Programs under part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

"(c) There shall be in the Office a Deputy Administrator who shall be appointed by the Attorney General and whose function shall be to supervise and direct the National Institute for Juvenile Justice and Delinquency Prevention established by section 241 of this Act. The Deputy Administrator shall also perform such functions as the Administrator may from time to time assign or delegate and shall act as the Administrator during the absence or disability of the Administrator.".

TECHNICAL AMENDMENTS

SEC. 2211. (a) Section 202(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5612(a)) is amended by striking out "him" and inserting in lieu thereof "the Administrator".

(b) Section 202(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5612(c)) is amended—

(1) by striking out "him" and inserting in lieu thereof "the Administrator", and

(2) by striking out "his functions" and inserting in lieu thereof "the functions of the Administrator".

CONCENTRATION OF FEDERAL EFFORTS

SEC. 2212. (a) Section 204(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(a)) is amended by striking out "his functions" and inserting in lieu thereof "the functions of the Administrator".

(b) Section 204(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(b)) is amended—

(1) in paragraph (2) by striking out "he" and insertin, in lieu thereof "the Administrator",

(2) in paragraph (4) by striking out "he" and inserting in lieu thereof "the Administrator",

(3) in paragraph (5) by striking out "and",

(4) in paragraph (6) by striking out the period and inserting in lieu thereof "; and", and

(5) by inserting after paragraph (6) the following new paragraph:

"(7) provide for the auditing of monitoring systems required under section 223(a)(15) to review the adequacy of such systems.".

(c) Section 204(e) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(e)) is amended by striking out "subsection ('l')" and inserting in lieu thereof "subsection (l)".

(d) Section 204(f) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(f)) is amended—

(1) by striking out "him" and inserting in lieu thereof "the Administrator", and

(2) by striking out "he" and inserting in lieu thereof "the Administrator".

(e) Section 204(g) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(g)) is amended by striking out "his functions" and inserting in lieu thereof "the functions of the Administrator".

(f) Section 204(i) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(i)) is amended—

(1) by striking out "title" and inserting in lieu thereof "section", and

(2) by striking out "he" and inserting in lieu thereof "the Administrator".

(g) Section 204(l) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(l)) is amended—

(1) in paragraph (1)—

(A) by striking out "section 204(d)(1)" and inserting in lieu thereof "subsection (d)(1)", and

(B) by striking out "section 204(f)" and inserting in lieu thereof "subsection (f)",

(2) in paragraph (2)—

(A) by striking out "subsection ('l')" and inserting in lieu thereof "paragraph (1)", and

(B) by striking out "section 204(e)" each place it appears and inserting in lieu thereof "subsection (e)", and

(3) in paragraph (3)—

(A) by striking out "him" and inserting in lieu thereof "the Administrator", and

(B) by striking out "subsection ('l')" and inserting in lieu thereof "paragraph (1)".

COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

SEC. 2213. (a) Section 206(a)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(a)(1)) is amended—

(1) by striking out "Community Services Administration" and inserting in lieu thereof "Office of Community Services",

(2) by striking out "Director of the Office of Justice Assistance, Research, and Statistics," and inserting in lieu thereof "Assistant Attorney General who heads the Office of Justice Programs,", and

(3) by striking out "Administrator of the Law Enforcement Assistance Administration" and inserting in lieu thereof "Director of the Bureau of Justice Assistance".

(b) Section 206(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(c)) is amended by striking out "deliquency programs" and inserting in lieu thereof "delinquency programs and, in consultation with the Advisory Board on Missing Children, all Federal programs relating to missing and exploited children".

(c) Section 206(e) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(e)) is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(d) Section 206(g) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(g)) is amended by striking out "$500,000" and insert in lieu thereof "$200,000".

NATIONAL ADVISORY COMMITTEE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION

SEC. 2214. Section 207 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5617(a)) is repealed.

TECHNICAL AMENDMENTS

SEC. 2215. (a) The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended by inserting after the heading for subpart I of part B of title II the following new heading for section 221:

"AUTHORITY TO MAKE GRANTS".

(b) Section 222(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632(b)) is amended—

(1) by striking out "and the Trust Territory" and inserting in lieu thereof "the Trust Territory", and

(2) by inserting ", and the Commonwealth of the Northern Mariana Islands" after "Pacific Islands".

STATE PLANS

SEC. 2216. (a) Section 223(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) designate the State agency described in section 261(c)(1) as the sole agency for supervising the preparation and administration of the plan;",

(2) in paragraph (2) by striking out "(hereafter referred to in this part as the 'State criminal justice council')",

(3) in paragraph (3)—

(A) by amending subparagraph (C) to read as follows: "(C) which shall include (i) representatives of private organizations, including those with a special focus on maintaining and strengthening the family unit, those representing parents or parent groups, those concerned with delinquency prevention and treatment and with neglected or dependent children, and those concerned with the quality of juvenile justice, education, or social services for children; (ii) representatives of organizations which utilize volunteers to work with delinquents or potential delinquents; (iii) representatives of community based delinquency prevention or treatment programs; (iv) representatives of business groups or businesses employing youth; (v) youth workers involved with alternative youth programs; and (vi) persons with special experience and competence in addressing the problems of the family, school violence and vandalism, and learning disabilities,", and

(B) in subparagraph (F)—

(i) by striking out "State criminal justice council" each place it appears and inserting in lieu thereof "State agency designated under paragraph (1)",

(ii) in clause (ii) by striking out "paragraph (12)(A) and paragraph (13)" and inserting in lieu thereof "paragraphs (12), (13), and (14)", and

(iii) in clause (iv)—

(I) by striking out "paragraph (12)(A) and paragraph (13)" and inserting in lieu thereof "paragraphs (12), (13), and (14)", and

(II) by striking out "in advising on the State's maintenance of effort under section 1002 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended,",

(4) in paragraph (9) by inserting "special education," after "education,",

(5) in paragraph (10)—

(A) in the matter preceding subparagraph (A)—

(i) by striking out "programs for juveniles" and inserting in lieu thereof "programs for juveniles, including those processed in the criminal justice system,", and

(ii) by striking out "and provide for effective rehabilitation" and inserting in lieu thereof "provide for effective rehabilitation, and facilitate the coordination of services between the juvenile justice and criminal justice systems",

(B) in subparagraph (E) by inserting ", including programs to counsel delinquent youth and other youth regarding the opportunities which education provides" before the semicolon at the end thereof,

(C) in subparagraph (F) by inserting "and their families" before the semicolon at the end thereof,

(D) in subparagraph (H)—

(i) by amending clause (iii) to read as follows:

"(iii) establish and adopt, based on the recommendations of the National Advisory Committee for Juvenile Justice and Delinquency Prevention made before the date of the enactment of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984, standards for the improvement of juvenile justice within the State;",

(ii) in clause (iv) by inserting "or" at the end thereof, and

(iii) by adding at the end thereof the following new clause:

"(v) involve parents and other family members in addressing the delinquency-related problems of juveniles;",

(E) in subparagraph (I) by striking out "and" at the end thereof,

(F) in subparagraph (J) by striking out "juvenile gangs and their members" and inserting in lieu thereof "gangs whose membership is substantially composed of juveniles", and

(G) by adding at the end thereof the following new subparagraphs:

"(K) programs and projects designed to provide for the treatment of juveniles' dependence on or abuse of alcohol or other addictive or nonaddictive drugs; and

"(L) law-related education programs and projects designed to prevent juvenile delinquency;",

(6) by amending paragraph (14) to read as follows:

"(14) provide that, beginning after the five-year period following December 8, 1980, no juvenile shall be detained or confined in any jail or lockup for adults, except that the Administrator shall, through 1989, promulgate regulations which make exceptions with regard to the detention of juveniles accused of nonstatus offenses who are awaiting an initial court appearance pursuant to an enforceable State law requiring such appearances within 24 hours after being taken into custody (excluding weekends and holidays) provided that such exceptions are limited to areas which—

"(i) are outside a Standard Metropolitan Statistical Area,

"(ii) have no existing acceptable alternative placement available, and

"(iii) are in compliance with the provisions of paragraph (13).",

(7) in paragraph (18)—

(A) by striking out "arrangements are made" and inserting in lieu thereof "arrangements shall be made",

(B) by striking out "Act. Such" and inserting in lieu thereof "Act and shall provide for the terms and conditions of such protective arrangements established pursuant to this section, and such",

(C) in subparagraph (D) by inserting "and" at the end thereof,

(D) in subparagraph (E) by striking out the period at the end thereof and inserting in lieu thereof a semicolon, and

(E) by striking out the last sentence of such paragraph,

(8) in paragraph (21) by striking out "State criminal justice council" and inserting in lieu thereof "State agency designated under paragraph (1)",

(9) in the matter following paragraph (22) by striking out the first sentence,

(10) by striking out the last sentence thereof,

(11) by redesignating paragraphs (17), (18), (19), (20), (21), and (22) as paragraphs (18), (19), (20), (21), (22), and (23), respectively, and

(12) by inserting after paragraph (16) the following new paragraph:

"(17) provide assurance that consideration will be given to and that assistance will be available for approaches designed to strengthen and maintain the family units of delinquent and other youth to prevent juvenile delinquency. Such approaches should include the involvement of grandparents or other extended family members when possible and appropriate;".

(b) Section 223(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(b)) is amended—

(1) by striking out "State criminal justice council designated pursuant to section 223(a)" and inserting in lieu thereof "State agency designated under subsection (a)(1)", and

(2) by striking out "section 223(a)" and inserting in lieu thereof "subsection (a)".

(c) The last sentence of section 223(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(c)) is amended by striking out "not to exceed 2 additional years" and inserting in lieu thereof "not to exceed 3 additional years".

(d) Section 223(d) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(d)) is amended by striking out "sections 803, 804, and 805" and inserting in lieu thereof "sections 802, 803, and 804".

GRANTS AND CONTRACTS

SEC. 2217. Section 224 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5634) is amended to read as follows:

"AUTHORITY TO MAKE GRANTS AND CONTRACTS

"SEC. 224. (a) From not less than 15 percent, but not more than 25 percent, of the funds appropriated for a fiscal year to carry out this part, the Administrator shall, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, or individuals provide for each of the following during each fiscal year:

"(1) developing and maintaining community-based alternatives to traditional forms of institutionalization of juvenile offenders;

"(2) developing and implementing effective means of diverting juveniles from the traditional juvenile justice and correctional system, including restitution and reconciliation projects which test and validate selected arbitration models, such as neighborhood courts or panels, and increase victim satisfaction while providing alternatives to incarceration for detained or adjudicated delinquents;

"(3) developing and supporting programs stressing advocacy activities aimed at improving services to youth impacted by the juvenile justice system, including services which encourage the improvement of due process available to juveniles in the juvenile justice system;

"(4) developing model programs to strengthen and maintain the family unit in order to prevent or treat juvenile delinquency;

"(5) developing and implementing special emphasis prevention and treatment programs relating to juveniles who commit serious crimes (including such crimes committed in schools), including programs designed to deter involvement in illegal activities or to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of juveniles; and

"(6) developing and implementing further a coordinated, national law-related education program of delinquency prevention, including training programs for persons responsible for the implementation of law-related education programs in elementary and secondary schools.

"(b) From any special emphasis funds remaining available after grants and contracts are made under subsection (a), but not to exceed 10 percent of the funds appropriated for a fiscal year to carry out this part, the Administrator is authorized, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, or individuals, to develop and implement new approaches, techniques, and methods designed to—

"(1) improve the capability of public and private agencies and organizations to provide services for delinquents and other youth to help prevent juvenile delinquency;

"(2) develop and implement, in coordination with the Secretary of Education, model programs and methods to keep students in elementary and secondary schools, to prevent unwarranted and arbitrary suspensions and expulsions, and to encourage new approaches and techniques with respect to the prevention of school violence and vandalism;

"(3) develop, implement, and support, in conjunction with the Secretary of Labor, other public and private agencies and organizations and business and industry programs for youth employment;

"(4) develop and support programs designed to encourage and enable State legislatures to consider and further the purposes of this title, both by amending State laws if necessary, and devoting greater resources to those purposes;

"(5) develop and implement programs relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist law enforcement personnel and juvenile justice personnel to more effectively recognize and provide for learning disabled and other handicapped juveniles;

"(6) develop statewide programs through the use of subsidies or other financial incentives designed to—

"(A) remove juveniles from jails and lockups for adults;

"(B) replicate juvenile programs designated as exemplary by the National Institute of Justice; or

"(C) establish and adopt, based upon the recommendations of the National Advisory Committee for Juvenile Justice and Delinquency Prevention made before the date of the enactment of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984, standards for the improvement of juvenile justice within each State involved;

"(7) develop and implement model programs, relating to the special education needs of delinquent and other youth, which develop locally coordinated policies and programs among education, juvenile justice, and social service agencies.

"(c) Not less than 30 percent of the funds available for grants and contracts under this section shall be available for grants to and contracts with private nonprofit agencies, organizations, or institutions which have had experience in dealing with youth.

"(d) Assistance provided under this section shall be available on an equitable basis to deal with female, minority, and disadvantaged youth, including mentally, emotionally, or physically handicapped youth.

"(e) Not less than 5 percent of the funds available for grants and contracts under this section shall be available for grants and contracts designed to address the special needs and problems of juvenile delinquency in the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.".

APPROVAL OF APPLICATIONS

SEC. 2218. (a) Section 225(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5635(b)) is amended—

(1) in paragraph (2) by inserting "(such purpose or purposes shall be specifically identified in such application)" before the semicolon,

(2) in paragraph (5) by striking out ", when appropriate," and inserting in lieu thereof "(if such State or local agency exists)",

(3) in paragraph (6) by striking out ", when appropriate", and

(4) in paragraph (8) by striking out "indicate" and inserting in lieu thereof "attach a copy of".

(b) Section 225(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5635(c)) is amended—

(1) by inserting "and for contracts" after "for grants",

(2) in paragraph (4) by striking out "delinquents and other youth to help prevent delinquency" and inserting in lieu thereof "address juvenile delinquency and juvenile delinquency prevention",

(3) in paragraph (5) by inserting "and" at the end thereof,

(4) by striking out paragraph (6), and

(5) by redesignating paragraph (7) as paragraph (6).

(c) Section 225 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5635) is amended—

(1) by redesignating subsection (d) as subsection (e), and

(2) inserting after subsection (c) the following new subsection:

"(d)(1)(A) Except as provided in subparagraph (B) new programs selected after the effective date of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984 for assistance through grants or contracts under section 224 or part

C of this title shall be selected through a competitive process to be established by rule by the Administrator. As part of such process, the Administrator shall announce in the Federal Register the availability of funds for such assistance, the general criteria applicable to the selection of applicants to receive such assistance, and a description of the procedures applicable to submitting and reviewing applications for such assistance.

"(B) The competitive process described in subparagraph (A) shall not be required if—

"(i) the Administrator has made a written determination that the proposed program is not within the scope of any program announcement or any announcement expected to be issued, but can otherwise be supported by a grant or contract in accordance with section 224 or part C of this title, and if the proposed program is of such outstanding merit, as determined through peer review conducted under paragraph (2), that the award of a grant or contract without competition is justified; or

"(ii) the Administrator makes a written determination, which shall include the factual and other bases thereof, that the applicant is uniquely qualified to provide proposed training services as provided in section 244, and other qualified sources are not capable of carrying out the proposed program.

"(C) In each case where a program is selected for assistance without competition pursuant to the exception provided in subparagraph (B), the Administrator shall promptly so notify the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate. Such notification shall include copies of the Administrator's determination under clause (i) or clause (ii) of such subparagraph and the peer review determination required under paragraph (2).

"(2) New programs selected after the effective date of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984 for assistance through grants or contracts under section 224 shall be reviewed before selection and thereafter as appropriate through a formal peer review process utilizing experts (other than officers and employees of the Department of Justice) in fields related to the subject matter of the proposed program. Such process shall be established by the Administrator in consultation with the Directors and other appropriate officials of the National Science Foundation and the National Institute of Mental Health. Before implementation, the Administrator shall submit such process to such Directors, each of whom shall prepare and furnish to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate a final report containing their comments on such process as proposed to be established.

"(3) The Administrator, in establishing the processes required under paragraphs (1) and (2), shall provide for emergency expedited consideration of program proposals when necessary to avoid any delay which would preclude carrying out the program.".

(d) Section 225 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5035) is amended by adding at the end thereof the following new subsection:

"(f) Notification of grants and contracts made under section 224 (and the applications submitted for such grants and contracts) shall, upon being made, be transmitted by the Administrator, to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate.".

USE OF FUNDS

SEC. 2219. Section 227(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5637(c)) is amended by striking out "section 224(a)(7)" each place it appears and inserting in lieu thereof "section 224(a)(3)".

PAYMENTS

SEC. 2220. (a) Section 228(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5638(a)) is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(b) Section 228(d) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5638(d)) is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(c) Section 228(e) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5638(e)) is amended—

(1) by striking out "him" and inserting in lieu thereof "the Administrator",

(2) by striking out "section 803" and inserting in lieu thereof "section 802", and

(3) by striking out "section 224(a)(5)" and inserting in lieu thereof "section 224(b)(6)".

NATIONAL INSTITUTE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION

SEC. 2221. (a) The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended by inserting after the heading for part C of title II the following new heading for section 241:

"ESTABLISHMENT OF NATIONAL INSTITUTE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION".

(b) Section 241(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5651(b)) is amended by striking out "section 201(f)" and inserting in lieu thereof "section 201(c)".

(c) Section 241(d) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5651(d)) is amended to read as follows:

"(d) It shall be the purpose of the Institute to provide—

"(1) a coordinating center for the collection, preparation, and dissemination of useful data regarding the prevention, treatment, and control of juvenile delinquency; and

"(2) appropriate training (including training designed to strengthen and maintain the family unit) for representatives of Federal, State, local law enforcement officers, teachers and special education personnel, family counselors, child welfare workers, juvenile judges and judicial personnel, probation personnel, correctional personnel (including volunteer lay personnel), persons associated with law-related education, youth workers, and representatives of private agencies and organizations with specific experience in the prevention, treatment, and control of juvenile delinquency.".

(d) Section 241 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5651) is amended—

(1) by redesignating subsection (f) as subsection (g),

(2) by inserting after subsection (e) the following new subsection:

"(f) The Administrator, acting through the Institute, shall provide, not less frequently than once every 2 years, for a national conference of member representatives from State advisory groups for the purpose of—

"(1) disseminating information, data, standards, advanced techniques, and program models developed through the Institute and through programs funded under section 224;

"(2) reviewing Federal policies regarding juvenile justice and delinquency prevention;

"(3) advising the Administrator with respect to particular functions or aspects of the work of the Office; and

"(4) advising the President and Congress with regard to State perspectives on the operation of the Office and Federal legislation pertaining to juvenile justice and delinquency prevention.", and

(3) by adding at the end thereof the following new subsection:

"(h) The authorities of the Institute under this part shall be subject to the terms and conditions of section 225(d).".

RESEARCH, DEMONSTRATION, AND EVALUATION FUNCTIONS

SEC. 2222. Section 243 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5653) is amended—

(1) in paragraph (1) by inserting "which seek to strengthen and maintain the family unit or" after "methods",

(2) in paragraph (4) by striking "Associate" and inserting in lieu thereof "Deputy",

(3) by amending paragraph (5) to read as follows:

"(5) prepare, in cooperation with educational institutions, with Federal, State, and local agencies, and with appropriate individuals and private agencies, such studies as it considers to be necessary with respect to the prevention and treatment of juvenile delinquency and related matters, including—

"(A) recommendations designed to promote effective prevention and treatment, particularly by strengthening and maintaining the family unit; and

"(B) assessments regarding the role of family violence, sexual abuse or exploitation, media violence, the improper handling of youth placed in one State by another State, the possible ameliorating roles of familial relationships, special education, remedial education, and recreation, and the extent to which youth in the juvenile system are treated differently on the basis of sex, race, or family income and the ramifications of such treatment;

"(C) examinations of the treatment of juveniles processed in the criminal justice system; and

"(D) recommendations as to effective means for detering involvement in illegal activities or promoting involvement in lawful activities on the part of gangs whose membership is substantially composed of juveniles.", and

(4) in paragraph (7) by striking out "(including a periodic journal)".

TRAINING FUNCTIONS

SEC. 2223. Section 244 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5654) is amended—

(1) in paragraph (1)—

(A) by striking out "or who are" and inserting in lieu thereof "working with or", and

(B) by striking out "and juvenile offenders" and inserting in lieu thereof ", juvenile offenders, and their families",

(2) in paragraph (2) by striking out "workshop" and inserting in lieu thereof "workshops", and

(3) in paragraph (3) by striking out "teachers" and all that follows through the

end thereof and inserting in lieu thereof the following: "teachers and special education personnel, family counselors, child welfare workers, juvenile judges and judicial personnel, probation personnel (including volunteer lay personnel), persons associated with law-related education, youth workers, and organizations with specific experience in the prevention and treatment of juvenile delinquency; and".

REPEALER

SEC. 2224. Section 245 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5655) is repealed.

ANNUAL REPORT

SEC. 2225. Section 246 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5656) is amended by striking out "SEC. 246." and inserting in lieu thereof "SEC. 245.".

DEVELOPMENT OF STANDARDS FOR JUVENILE JUSTICE

SEC. 2226. Section 247 of the Juvenile Justice and Delinquency Act of 1974 (42 U.S.C. 5657) is amended to read as follows:

"ADDITIONAL FUNCTIONS OF THE INSTITUTE

"SEC. 246. (a) The National Institute for Juvenile Justice and Delinquency Prevention shall review existing reports, data, and standards, relating to the juvenile justice system in the United States.

"(b) The National Institute for Juvenile Justice and Delinquency Prevention is authorized to develop and support model State legislation consistent with the mandates of this title and the standards developed by National Advisory Committee for Juvenile Justice and Delinquency Prevention before the date of the enactment of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984.".

ESTABLISHMENT OF TRAINING PROGRAM

SEC. 2227. (a) Section 248(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5659(b)) is amended to read as follows:

"(b) Enrollees in the training program established under this section shall be drawn from law enforcement and correctional personnel (including volunteer lay personnel), teachers and special education personnel, family counselors, child welfare workers, juvenile judges and judicial personnel, persons associated with law-related education, youth workers, and representatives of private agencies and organizations with specific experience in the prevention and treatment of juvenile delinquency.".

(b) Section 248 of the Juvenile Justice and Delinquency Act of 1974 (42 U.S.C. 5659) is amended by striking out "SEC. 248." and inserting in lieu thereof "SEC. 247.".

TECHNICAL AMENDMENT

SEC. 2228. Section 249 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5660) is amended by striking out "SEC. 249." and inserting in lieu thereof "SEC. 248.".

TRAINING PROGRAM

SEC. 2229. (a) The heading for section 250 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5661) is amended to read as follows:

"PARTICIPATION IN TRAINING PROGRAM AND STATE ADVISORY GROUP CONFERENCES".

(b) Section 250(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5661(c)) is amended to read as follows:

"(c) While participating as a trainee in the program established under section 246 or while participating in any conference held under section 241(f), and while traveling in connection with such participation, each person so participating shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed travel expenses under section 5703 of title 5, United States Code. No consultation fee may be paid to such person for such participation.".

(c) Section 250 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5661) is amended by striking out "SEC. 250." and inserting in lieu thereof "SEC. 249.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2230. (a) Section 261 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 261. (a) To carry out the purposes of this title there is authorized to be appropriated such sums as may be necessary for fiscal years 1985, 1986, 1987, and 1988. Funds appropriated for any fiscal year may remain available for obligation until expended.

"(b) Of such sums as are appropriated to carry out the purposes of this title—

"(1) not to exceed 7.5 percent shall be available to carry out part A;

"(2) not less than 81.5 percent shall be available to carry out part B; and

"(3) 11 percent shall be available to carry out part C.

"(c) Notwithstanding any other provision of law, the Administrator shall—

"(1) establish appropriate administrative and supervisory board membership requirements for a State agency responsible for supervising the preparation and administration of the State plan submitted under section 223 and permit the State advisory group appointed under section 223(a)(3) to operate as the supervisory board for such agency, at the discretion of the Governor; and

"(2) approve any appropriate State agency designated by the Governor of the State involved in accordance with paragraph (1).".

"(d) No funds appropriated to carry out the purposes of this title may be used for any bio-medical or behavior control experimentation on individuals or any research involving such experimentation. For the purpose of this subsection, the term 'behavior control' refers to experimentation or research employing methods which involve a substantial risk of physical or psychological harm to the individual subject and which are intended to modify or alter criminal and other anti-social behavior, aversive conditioning therapy, drug therapy or chemotherapy (except as part of routine clinical care), physical therapy of mental disorders, electroconvulsive therapy, or physical punishment. The term does not apply to a limited class of programs generally recognized as involving no such risk, including methadone maintenance and certain alcohol treatment programs, psychological counseling, parent training, behavior contracting, survival skills training, restitution, or community service, if safeguards are established for the informed consent of subjects (including parents or guardians of minors).".

APPLICATION OF OTHER ADMINISTRATIVE AUTHORITY

SEC. 2231. Section 262 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5672) is amended to read as follows:

"ADMINISTRATIVE AUTHORITY

"SEC. 262. (a) The Office shall be administered by the Administrator under the general authority of the Attorney General.

"(b) Sections 809(c), 811(a), 811(b), 811(c), 812(a), 812(b), and 812(d) of the Omnibus Crime Control and Safe Streets Act of 1968, as so designated by the operation of the amendments made by the Justice Assistance Act of 1984, shall apply with respect to the administration of and compliance with this Act, except that for purposes of this Act—

"(1) any reference to the Office of Justice Programs in such sections shall be deemed to be a reference to the Assistant Attorney General who heads the Office of Justice Programs; and

"(2) the term 'this title' as it appears in such sections shall be deemed to be a reference to this Act.

"(c) Sections 801(a), 801(c), and 806 of the Omnibus Crime Control and Safe Streets Act of 1968, as so designated by the operation of the amendments made by the Justice Assistance Act of 1984, shall apply with respect to the administration of and compliance with this Act, except that for purposes of this Act—

"(1) any reference to the Attorney General, the Assistant Attorney General who heads the Office of Justice Programs, the Director of the National Institute of Justice, the Director of the Bureau of Justice Statistics, or the Director of the Bureau of Justice Assistance shall be deemed to be a reference to the Administrator;

"(2) any reference to the Office of Justice Programs, the Bureau of Justice Assistance, the National Institute of Justice, or the Bureau of Justice Statistics shall be deemed to be a reference to the Office of Juvenile Justice and Delinquency Prevention; and

"(3) the term 'this title' as it appears in such sections shall be deemed to be a reference to this Act.

"(d) The Administrator is authorized, after appropriate consultation with representatives of States and units of local government, to establish such rules, regulations, and procedures as are necessary for the exercise of the functions of the Office and as are consistent with the purpose of this Act.".

Subtitle C—Runaway and Homeless Youth

RULES

SEC. 2250. Section 303 of the Runaway and Homeless Youth Act (42 U.S.C. 5702) is amended to read as follows:

"RULES

"SEC. 303. The Secretary of Health and Human Services (hereinafter in this title referred to as the 'Secretary') may issue such rules as the Secretary considers necessary or appropriate to carry out the purposes of this title.".

PURPOSES OF GRANT PROGRAM

SEC. 2251. (a) The first sentence of section 311(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5711(a)) is amended—

(1) by inserting "and assistance to their families" before the period at the end thereof, and

(2) by striking, in the first sentence, "nonprofit private agencies and coordinated networks of such agencies" and inserting in lieu thereof "private entities and coordinated networks of such entities".

(b) Section 311(b) of the Runaway and Homeless Youth Act (42 U.S.C. 5711(b)) is

amended by inserting "and to the families of such juveniles" before the period at the end thereof.

ELIGIBILITY

SEC. 2252. Section 312(b) of the Runaway and Homeless Youth Act (42 U.S.C. 5712) is amended—

(1) in paragraph (2) by striking out "portion" and inserting in lieu thereof "proportion",

(2) in paragraph (3) by striking out "(if such action is required by State law)",

(3) in paragraph (4) by inserting "school system personnel," after "social service personnel,",

(4) in paragraph (5) by striking out "parents" and inserting in lieu thereof "families", and

(5) in paragraph (6) by striking out "parents" and inserting in lieu thereof "family members".

APPROVAL BY SECRETARY

SEC. 2253. The first sentence section 313 of the Runaway and Homeless Youth Act (42 U.S.C. 5713) is amended by striking out "nonprofit private agency" and inserting in lieu therof "private entity".

GRANTS TO PRIVATE AGENCIES, STAFFING

SEC. 2254. Section 314 of the Runaway and Homeless Youth Act (42 U.S.C. 5714) is amended—

(1) by amending the heading to read as follows:

"grants to private entities; staffing", and

(2) in the first sentence—

(A) by striking out "nonprofit private agencies" and inserting in lieu thereof "private entities", and

(B) by striking out "house" and inserting in lieu thereof "center".

ADDITIONAL ASSISTANCE

SEC. 2255. The Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.) is amended—

(1) by redesignating sections 315 and 316 as sections 317 and 318, respectively, and

(2) by inserting after section 314 the following new sections:

"ASSISTANCE TO POTENTIAL GRANTEES

"SEC. 315. The Secretary shall provide informational assistance to potential guarantees interested in establishing runaway and homeless youth centers. Such assistance shall consist of information on—

"(1) steps necessary to establish a runaway and homeless youth center, including information on securing space for such center, obtaining insurance, staffing, and establishing operating procedures;

"(2) securing local private or public financial support for the operation of such center, including information on procedures utilized by grantees under this title; and

"(3) the need for the establishment of additional runaway youth centers in the geographical area identified by the potential grantee involved.

"LEASE OF SURPLUS FEDERAL FACILITIES FOR USE AS RUNAWAY AND HOMELESS YOUTH CENTERS

"SEC. 316. (a) The Secretary may enter into cooperative lease arrangements with States, localities, and nonprofit private agencies to provide for the use of appropriate surplus Federal facilities transferred by the General Services Administration to the Department of Health and Human Services for use as runaway and homeless youth centers if the Secretary determines that—

"(1) the applicant involved has suitable financial support necessary to operate a runaway and homeless youth center;

"(2) the applicant is able to demonstrate the program expertise required to operate such center in compliance with this title, whether or not the applicant is receiving a grant under this part; and

"(3) the applicant has consulted with and obtained the approval of the chief executive officer of the unit of general local government in which the facility is located.

"(b)(1) Each facility made available under this section shall be made available for a period of not less than 2 years, and no rent or fee shall be charged to the applicant in connection with use of such facility.

"(2) Any structural modifications or additions to facilities made available under this section shall become the property of the United States. All such modifications or additions may be made only after receiving the prior written consent of the Secretary or other appropriate officer of the Department of Health and Human Services.".

REORGANIZATION

SEC. 2256. Part C of the Runaway and Homeless Youth Act (42 U.S.C. 5741) is repealed.

AUTHORIZATION OF APPROPRIATIONS

SEC. 2257. (a) The Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.) is amended by inserting after the heading for part D the following new heading for section 341:

"AUTHORIZATION OF APPROPRIATIONS".

(b) Section 341(a) is amended by striking out "for each of the fiscal years" and all that follows through the period at the end thereof and inserting in lieu thereof "such sums as may be necessary for fiscal years 1985, 1986, 1987, and 1988.".

(c) Section 341(b) of the Runaway and Homeless Youth Act (42 U.S.C. 5751(b)) is amended by striking out "Associate".

(d) Section 341 of the Runaway and Homeless Youth Act (42 U.S.C. 5751) is amended by adding at the end thereof the followng new subsection:

"(c) No funds appropriated to carry out the purposes of this title—

"(1) may be used for any program or activity which is not specifically authorized by this title; or

"(2) may be combined with funds appropriated under any other Act if the purpose of combining such funds is to make a single discretionary grant or a single discretionary payment unless such funds are separately identified in all grants and contracts and are used for the purposes specified in this title.".

(e) Part D of the Runaway and Homeless Youth Act (42 U.S.C. 5751) is redesignated as part C.

(f) Section 341 of the Runaway and Homeless Youth Act (42 U.S.C. 5757) is redesignated as section 331.

Subtitle D — Missing Children's Assistance

ASSISTANCE RELATING TO MISSING CHILDREN

SEC. 2270. The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended by adding at the end thereof the following new title:

"TITLE IV—MISSING CHILDREN

"SHORT TITLE

"SEC. 401. This title may be cited as the Missing Children's Assistance Act.

"FINDINGS

"SEC. 402. The Congress hereby finds that—

"(1) each year thousands of children are abducted or removed from the control of a parent having legal custody without such parent's consent, under circumstances which immediately place them in grave danger;

"(2) many of these children are never reunited with their families;

"(3) often there are no clues to the whereabouts of these children;

"(4) many missing children are at great risk of both physical harm and sexual exploitation;

"(5) in many cases, parents and local law enforcement officials have neither the resources nor the expertise to mount expanded search efforts;

"(6) abducted children are frequently moved from one locality to another, requiring the cooperation and coordination of local, State, and Federal law enforcement efforts;

"(7) on frequent occasions, law enforcement authorities quickly exhaust all leads in missing children cases, and require assistance from distant communities where the child may be located; and

"(8) Federal assistance is urgently needed to coordinate and assist in this interstate problem.

"DEFINITIONS

"SEC. 403. For the purpose of this title—

"(1) the term 'missing child' means any individual less than 18 years of age whose whereabouts are unknown to such individual's legal custodian if—

"(A) the circumstances surrounding such individual's disappearance indicate that such individual may possibly have been removed by another from the control of such individual's legal custodian without such custodian's consent; or

"(B) the circumstances of the case strongly indicate that such individual is likely to be abused or sexually exploited; and

"(2) the term 'Administrator' means the Administrator of the Office of Juvenile Justice and Delinquency Prevention.

"DUTIES AND FUNCTIONS OF THE ADMINISTRATOR

"SEC. 404. (a) The Administrator shall—

"(1) issue such rules as the Administrator considers necessary or appropriate to carry out this title;

"(2) make such arrangements as may be necessary and appropriate to facilitate effective coordination among all federally funded programs relating to missing children (including the preparation of an annual comprehensive plan for facilitating such coordination);

"(3) provide for the furnishing of information derived from the national toll-free telephone line, established under subsection (b)(1), to appropriate law enforcement entities;

"(4) provide adequate staff and agency resources which are necessary to properly carry out the responsibilities pursuant to this title;

"(5) analyze, compile, publish, and disseminate an annual summary of recently completed research, research being conducted, and Federal, State, and local demonstration projects relating to missing children with particular emphasis on—

"(A) effective models of local, State, and Federal coordination and cooperation in locating missing children;

"(B) effective programs designed to promote community awareness of the problem of missing children;

"(C) effective programs to prevent the abduction and sexual exploitation of children (including parent, child, and community education); and

"(D) effective program models which provide treatment, counseling, or other aid to parents of missing children or to children who have been the victims of abduction or sexual exploitation; and

"(6) prepare, in conjunction with and with the final approval of the Advisory Board on Missing Children, an annual comprehensive plan for facilitating cooperation and coordination among all agencies and organizations with responsibilities related to missing children.

"(b) The Administrator, either by making grants to or entering into contracts with public agencies or nonprofit private agencies, shall—

"(1) establish and operate a national toll-free telephone line by which individuals may report information regarding the location of any missing child, or other child 13 years of age or younger whose whereabouts are unknown to such child's legal custodian, and request information pertaining to procedures necessary to reunite such child with such child's legal custodian;

"(2) establish and operate a national resource center and clearinghouse designed—

"(A) to provide technical assistance to local and State governments, public and private nonprofit agencies, and individuals in locating and recovering missing children;

"(B) to coordinate public and private programs which locate, recover, or reunite missing children with their legal custodians;

"(C) to disseminate nationally information about innovative and model missing childrens' programs, services, and legislation; and

"(D) to provide technical assistance to law enforcement agencies, State and local governments, elements of the criminal justice system, public and private nonprofit agencies, and individuals in the prevention, investigation, prosecution, and treatment of the missing and exploited child case; and

"(3) periodically conduct national incidence studies to determine for a given year the actual number of children reported missing each year, the number of children who are victims of abduction by strangers, the number of children who are the victims of parental kidnappings, and the number of children who are recovered each year.

"(c) Nothing contained in this title shall be construed to grant to the Administrator any law enforcement responsibility or supervisory authority over any other Federal agency.

"ADVISORY BOARD

"SEC. 405. (a) There is hereby established the Advisory Board on Missing Children (hereinafter in this title referred to as the 'Advisory Board') which shall be composed of 9 members as follows:

"(1) a law enforcement officer;

"(2) an individual whose official duty is to prosecute violations of the criminal law of a State;

"(3) the chief executive officer of a unit of local government within a State;

"(4) a statewide elected officer of a State;

"(5) the Director of the Federal Bureau of Investigation or the Director's designee from within the Federal Bureau of Investigation; and

"(6) 4 members of the public who have experience or expertise relating to missing children (including members representing parent groups).

"(b) The Attorney General shall make the initial appointments to the Advisory Board not later than 90 days after the effective date of this title. The Advisory Board shall meet periodically and at the call of the Attorney General, but not less frequently than annually. The Chairman of the Advisory Board shall be designated by the Attorney General.

"(c) The Advisory Board shall—

"(1) advise the Administrator and the Attorney General in coordinating programs and activities relating to missing children which are planned, administered, or assisted by any Federal program;

"(2) advise the Administrator with regard to the establishment of priorities for making grants or contracts under section 406; and

"(3) approve the annual comprehensive plan for facilitating cooperation and coordination among all agencies and organizations with responsibilities relating to missing children and submit the first such annual plan to the President and the Congress not later than 18 months after the effective date of this title.

"(d) Members of the Advisory Board, while serving away from their places of residence or regular places of business, shall be entitled to reimbursement for travel expenses, including per diem in lieu of subsistence, in the same manner as is authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

"GRANTS

"SEC. 406. (a) The Administrator is authorized to make grants to and enter into contracts with public agencies or nonprofit private organizations, or combinations thereof, for research, demonstration projects, or service programs designed—

"(1) to educate parents, children, and community agencies and organizations in ways to prevent the abduction and sexual exploitation of children;

"(2) to provide information to assist in the locating and return of missing children;

"(3) to aid communities in the collection of materials which would be useful to parents in assisting others in the identification of missing children;

"(4) to increase knowledge of and develop effective treatment pertaining to the psychological consequences, on both parents and children, of—

"(A) the abduction of a child, both during the period of disappearance and after the child is recovered; and

"(B) the sexual exploitation of a missing child;

"(5) to collect detailed data from selected States or localities on the actual investigative practices utilized by law enforcement agencies in missing children's cases; and

"(6) to address the particular needs of missing children by minimizing the negative impact of judicial and law enforcement procedures on children who are victims of abuse or sexual exploitation and by promoting the active participation of children and their families in cases involving abuse or sexual exploitation of children.

"(b) In considering grant applications under this title, the Administrator shall give priority to applicants who—

"(1) have demonstrated or demonstrate ability in—

"(A) locating missing children or locating and reuniting missing children with their legal custodians;

"(B) providing other services to missing children or their families; or

"(C) conducting research relating to missing children; and

"(2) with respect to subparagraphs (A) and (B) of paragraph (1), substantially utilize volunteer assistance.

The Administrator shall give first priority to applicants qualifying under subparagraphs (A) and (B) of paragraph (1).

"(c) In order to receive assistance under this title for a fiscal year, applicants shall give assurance that they will expend, to the greatest extent practicable, for such fiscal year an amount of funds (without regard to any funds received under any Federal law) that is not less than the amount of funds they received in the preceding fiscal year from State, local, and private sources.

"CRITERIA FOR GRANTS

"SEC. 407. The Administrator, in consultation with the Advisory Board, shall establish annual research, demonstration, and service program priorities for making grants and contracts pursuant to section 406 and, not less than 60 days before establishing such priorities, shall publish in the Federal Register for public comment a statement of such proposed priorities.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 408. To carry out the provisions of this title, there are authorized to be appropriated $10,000,000 for fiscal year 1985, and such sums as may be necessary for fiscal years 1986, 1987, and 1988.".

Subtitle E—Effective Dates

EFFECTIVE DATES

SEC. 2280. (a) Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of the enactment of this Act or October 1, 1984, whichever occurs later.

(b) Paragraph (2) of section 341(c) of the Runaway and Homeless Youth Act, as added by section 2257(e) of this Act, shall not apply with respect to any grant or payment made before the effective date of this Act.

TITLE XXIII—CRIMINAL JUSTICE ACT REVISION

SEC. 2301. This title may be cited as the "Criminal Justice Act Revision of 1984".

SEC. 2302. (a) Section 3006A of title 18, United States Code, is amended as follows:

(1) Subsection (a) is amended by striking out "(1) who is" and all that follows through "subsection (h)." and inserting in lieu thereof the following: "in accordance with this section. Representation under each plan shall include counsel and investigative, expert, and other services necessary for adequate representation. Each plan shall provide the following:

"(1) Representation shall be provided for any financially eligible person who—

"(A) is charged with a felony or misdemeanor (other than a petty offense as defined in section 1 of this title);

"(B) is a juvenile alleged to have committed an act of juvenile delinquency as defined in section 5031 of this title;

"(C) is charged with a violation of probation;

"(D) is under arrest, when such representation is required by law;

"(E) is entitled to appointment of counsel in parole proceedings under chapter 311 of this title;

"(F) is in custody as a material witness;

"(G) is entitled to appointment of counsel under the sixth amendment to the Constitution; or

"(H) faces loss of liberty in a case, and Federal law requires the appointment of counsel.

"(2) Whenever the United States magistrate or the court determines that the interests of justice so require, representation may be provided for any financially eligible person who—

"(A) is charged with a petty offense for which a sentence to confinement is authorized; or

"(B) is seeking relief under section 2241, 2254, or 2255 of title 28 or section 4245 of this title.

"(3) Private attorneys shall be appointed in a substantial proportion of the cases. Each plan may include, in addition to the provisions for private attorneys, either of the following or both:

"(A) Attorneys furnished by a bar association or a legal aid agency.

"(B) Attorneys furnished by a defender organization established in accordance with the provisions of subsection (g).".

(2) Subsection (b) is amended—

(A) in the second sentence—

(i) by striking out "In every criminal case" and all that follows through "violation of probation and" and inserting in lieu thereof "In every case in which a person entitled to representation under a plan approved under subsection (a)"; and

(ii) by striking out "defendant"; and inserting in lieu thereof "person";

(B) in the third sentence by striking out "defendant" each place it appears and inserting in lieu thereof "person"; and

(C) in the fifth sentence by striking out "defendants" and inserting in lieu thereof "persons".

(3)(A) Subsection (d)(1) is amended by striking out "not exceeding $30" and all that follows through "Such attorney" and inserting in lieu thereof the following: "not in excess of $50 per hour, unless the Judicial Conference determines that a higher rate of not in excess of $75 per hour is justified for a circuit or for particular districts within a circuit, for time expended in court or before a United States magistrate and for time expended out of court. The Judicial Conference may develop guidelines for determining the maximum hourly rates for each circuit in accordance with the preceding sentence, with variations by district, where appropriate, taking into account such factors as the minimum range of the prevailing hourly rates for qualified attorneys in the district in which the representation is provided and the recommendations of the judicial councils of the circuits. Not less than three years after the effective date of the Criminal Justice Act Revision of 1984, the Judicial Conference is authorized to raise the maximum hourly rates specified in this paragraph up to the aggregate of the overall average percentages of the adjustments in the rates of pay under the General Schedule made pursuant to section 5305 of title 5, United States Code, on or after such effective date. After the rates are raised under the preceding sentence, such maximum hourly rates may be raised at intervals of not less than one year each, up to the aggregate of the overall average percentages of such adjustments made since the last raise was made under this paragraph. Attorneys".

(B) Subsection (d)(2) is amended—

(i) in the first sentence—

(I) by striking out "$1,000" and inserting in lieu thereof "$5,000"; and

(II) by striking out "$400" and inserting in lieu thereof "$1,500";

(ii) in the second sentence by striking out "$1,000" and inserting in lieu thereof "$3,000"; and

(iii) by striking out the third sentence and inserting in lieu thereof the following: "For any other representation required or authorized by this section, the compensation shall not exceed $1,000 for each attorney in each proceeding.".

(C) Subsection (d)(3) is amended by striking out "for extended or complex representation".

(D) Subsection (d)(4) is amended in the first sentence by striking out "represented the defendant" and inserting in lieu thereof "provided representation to the person involved".

(4)(A) Subsection (e)(1) is amended in the first sentence by striking out "an adequate defense" and inserting in lieu thereof "adequate representation".

(B) Subsection (e)(2) is amended to read as follows:

"(2) WITHOUT PRIOR REQUEST.—(A) Counsel appointed under this section may obtain, subject to later review, investigative, expert, and other services without prior authorization if necessary for adequate representation. Except as provided in subparagraph (B) of this paragraph, the total cost of services obtained without prior authorization may not exceed $300 and expenses reasonably incurred.

"(B) The court, or the United States magistrate, if the services were rendered in a case disposed of entirely before the United States magistrate, may, in the interest of justice, and upon the finding that timely procurement of necessary services could not await prior authorization, approve payment for such services after they have been obtained, even where the cost of such services exceeds $300.".

(C) Subsection (e)(3) is amended by striking out "$300" and inserting in lieu thereof "$1,000".

(5)(A) Subsection (h)(2)(A) is amended by striking out ", similarly as under title 28, United States Code, section 605, and subject to the conditions of that section" and inserting in lieu thereof "in accordance with section 605 of title 28".

(B) Subsection (h)(2)(B) is amended in the third sentence by striking out "coming" and inserting in lieu thereof "next fiscal".

(C) Subsection (h) is further amended by adding at the end thereof the following:

"(3) MALPRACTICE AND NEGLIGENCE SUITS.—The Director of the Administrative Office of the United States Courts shall, to the extent the Director considers appropriate, provide representation for and hold harmless, or provide liability insurance for, any person who is an officer or employee of a Federal Public Defender Organization, or a Community Defender Organization receiving periodic sustaining grants, established under this subsection, for money damages for injury, loss of property, or personal injury or death arising from malpractice or negligence of any such officer or employee in furnishing representational services under this section while acting within the scope of that person's office or employment.".

(6) Subsection (j) is amended by inserting immediately before the period at the end of the first sentence the following: ", including funds for the continuing education and training of persons providing representational services under this section".

(7) Subsection (l) is amended—

(A) by striking out ", other than subsection (h) of section 1,"; and

(B) by striking out "Act" each place it appears and inserting in lieu thereof "section".

(b)(1) Section 3006A of title 18, United States Code, is further amended by striking out subsection (g) and redesignating subsections (h) through (l) as subsections (g) through (k), respectively.

(2) Subsection (j), as redesignated by paragraph (1), is amended to read as follows:

"(j) DISTRICTS INCLUDED.—As used in this section, the term 'district court' means each district court of the United States created by chapter 5 of title 28, the District Court of the Virgin Islands, the District Court for the Northern Mariana Islands, and the District Court of Guam.".

SEC. 2303. This title and the amendments made by section 2302 of this title shall take effect on October 1, 1984.

TITLE XXIV—SALARIES OF UNITED STATES ATTORNEYS

SEC. 2401. (a) Section 548 of title 28, United States Code, is amended to read as follows:

"§ 548. Salaries

"Subject to sections 5315 through 5317 of title 5, the Attorney General shall fix the annual salaries of United States attorneys, assistant United States attorneys, and attorneys appointed under section 543 of this title at rates of compensation not in excess of the rate of basic compensation provided for Executive Level IV of the Executive Schedule set forth in section 5315 of title 5, United States Code.".

(b) Section 5315 of title 5, United States Code, is amended by striking out the items relating to the United States Attorney for the Southern District of New York, the United States Attorney for the District of Columbia, the United States Attorney for the Northern District of Illinois, and the United States Attorney for the Central District of California.

The SPEAKER pro tempore. Is a second demanded?

Mr. SAWYER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that each side be allowed an additional 20 minutes, 40 minutes total.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. HUGHES] will be recognized for 40 minutes and the gentleman from Michigan [Mr. SAWYER] will be recognized for 40 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

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Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I yield to my distinguished colleague, the gentleman from New Jersey [Mr. HOWARD].

Mr. HOWARD. I thank the gentleman for yielding to me.

Mr. Speaker, as chairman of the Public Works and Transportation

Committee, I rise in support of this legislation. H.R. 5690 will implement the 1971 Montreal Convention with regard to aircraft sabotage. Mr. Speaker, the Committee on Public Works and Transportation has supported the aircraft sabotage legislation for a number of years, and I am pleased that the House is finally taking action on this long-overdue legislation. The Montreal Convention was a landmark effort in international cooperation to fight terrorist activity. Enactment of this legislation will provide important legal and law enforcement tools to our Government and other governments dedicated to fighting terrorist acts of this sort.

I also support the Judiciary Committee amendments to H.R. 5690 and believe they will bring significant and necessary improvements to our Nation's criminal justice system. Again, I urge my colleagues to join me in support of the package.

Mr. HUGHES. Mr. Speaker, today we have before us one of the most important pieces of legislation in the 98th Congress, the anticrime package. We have debated long and hard in this Chamber over crime packages versus individual crime bills; today we have before us a compromise to that great debate: A package of crime bills that have been separately and carefully developed, most of which have already passed the House of Representatives. So far as these matters which have already passed are concerned, we take the unusual step of reenactment because the other body seems to be having difficulty in acting upon them individually. Seventeen of these items recently have been sent to the other body as separate bills; none have been acted upon there, and in only one case—trademark counterfeiting—have we reached final agreement on resolving all the differences between the other body and the House of Representatives. We are hoping that with adjournment drawing near, and with the other body ensnarled in hundreds of amendments pending to the continuing resolution, it will welcome the opportunity to act upon this 24-item major crime bill.

As all Members know, the crime package we attached to the continuing resolution last week, S. 1762, is not only seriously out of date and flawed, but is extremely unlikely to survive. However, if we want crime legislation in this Congress, we cannot wait for its demise later this week or next week. With the President himself saying that he does not want his crime package on the continuing resolution, what many of us argued last week has been proven true: last week's vote was a vote on politics. Today you have a chance—probably the last and only chance this year—to vote on crime.

Be clear on one thing: this is a serious—dead serious—bipartisan, even bicameral, crime package. The first item in it is Mr. SAWYER's bail reform bill, which is quite similar to the administration's bill, which has passed the other body. In the case of the drug czar, we are now offering, without change, the version passed by the other body. I really thought long and hard before approving this step. My subcommittee on crime, with the particularly strong contribution of Clay Shaw of Florida, who authored one of the bills that were merged in the final House version, developed a bill which I believe is superior to what what we are offering today. However, it became clear to us that given the administration's long-standing opposition to our approach, the other body is not willing to move toward provisions of our drug czar bill. To show how committed we are to getting crime legislation and to true compromise, we are taking their bill, lock, stock and barrel on that issue.

Likewise on the sentencing provisions. This bill, which was developed in our Criminal Justice Subcommittee, not the Subcommittee on Crime which I chair, is not everything I want in the way of sentencing reform, but it contains most of the matters that reform advocates have been pushing for, without success, for years. It provides mandatory sentencing guidelines, eliminates parole, and provides tough penalties for violent career criminals.

Other important measures in this package, the work product of not only the Crime Subcommittee, but of the arts subcommittee under the leadership of the gentleman from Wisconsin [Mr. KASTENMEIER] and the Criminal Justice Subcommittee under the leadership of the gentleman from Michigan [Mr. CONYERS] include:

An Insanity Defense Revision Act;

The Comprehensive Drug Penalty Act, which includes forfeiture and new much tougher penalties for drug traffickers;

The Justice Assistance Act of 1983;

The Money Laundering Penalties Act;

The U.S. Marshals Service and Witness Security Reform Act which improves the Witness Protection Program;

Federal Rape Law Reform Act; and

The Victims of Crime Act, which provides Federal aid for helping victims of crime.

It includes the Dangerous Drug Diversion Control Act, one of the No. 1 priorities of this administration, and I might say, of this Congress as well.

The package includes the credit card fraud and computer crime legislation that was developed in this Congress after much thought, and much deliberation in a number of hearings; and the Intelligence Community and Federal Probation Officers Protection Act, which makes it a Federal offense to assault or murder a member of the intelligence community or a Federal probation or pretrial service officer.

This last bill by the way, was another part of the omnibus anticrime bill vetoed by President Reagan in January 1983—delayed as a consequence for almost 2 more years. A title of the bill closes the loopholes in Federal law prohibiting escape from Federal custody.

The Financial Bribery and Fraud Amendments Act, closes loopholes regarding the bribery of bank officials and the crime of receiving stolen property from financial institutions.

There are many items in the Anti-Crime Act of 1984 which are not in S. 1762 which was tacked onto the continuing appropriation by the motion to recommit last Tuesday. These items urgently need to be enacted, even if the unlikely happens, and S. 1762 remains in the continuing resolution.

Included in this second category are critically important matters like the antiterrorism bills, which are the administration's No. 1 priority and which we passed out of the Crime Subcommittee just last week.

The Trademark Counterfeiting Act, which many Members in this Congress devoted the better part of 1½ years to an extremely important initiative at a time when international product counterfeiting is on the rise throughout the world jeopardizing many businesses, and the health and safety of our people from counterfeit products such as counterfeit airplane parts and medical supplies.

The National Narcotics Act, which I referred to previously as the so-called drug czar provision, is vitally important for effective coordination of our drug enforcement efforts, which the General Accounting Office has found to be terribly fragmented.

The juvenile justice and missing children amendments, which unfortunately were not included in the amendment of the motion to recommit with instructions last week.

The Victims of Crime Compensation Act to provide help—long overdue—to the victims of violent crime.

The Counterfeit Credit Card and Computer Fraud and Abuse Act which addresses the most rapidly growing category of crime our society has to struggle against; and the Armed Career Criminal Act, which we passed yesterday.

Finally, this bill is superior to S. 1762 on a number of respects that even the administration and the other body concedes. Already the Senate Judiciary Committee is trying to patch together a bill to repair the damage if S. 1762 is enacted.

These problems include, and I am going to recite the problems with what we did by our vote on the amendment to the continuing resolution last week. In the area of justice assistance, the

bill we offer today contains provisions on justice assistance that improve upon and avoid the potential for politicization of the research and assistance programs under the other body's approach.

The juvenile justice and missing children amendments, which have been worked out with the other body by the Judiciary Committee and by the Committee on Education and Labor. Without this legislation any authorization for the important Juvenile Justice and Missing Children's Programs is in serious jeopardy because time is running out, since S. 1762 has no such provisions.

The justice assistance provisions are far superior to those in S. 1762, a view in which the other body concurs since it overwhelmingly voted to amend the provisions of S. 1762 when it voted on August 10, 1984 to adopt the revisions in the House bill.

In the area of child pornography, S. 1762, the measure that was passed last week by this House in the motion to recommit weakens the penalties of the Child Protection Act signed by the President just on May 21 of this year—first, by lowering the fines.

Second, S. 1762 reopens the loopholes closed by the House provisions that prevented the reproducers of child pornography from avoiding prosecution. Third, S. 1762 eliminates the criminal forfeiture provisions that we added in conference that we need in the child pornography legislation.

In the area of arson, S. 1762 weakens the existing arson laws of this country. The other body acted inadvertently, but they did so, because this amendment to S. 1762 was pushed through so hastily in 5 or 10 minutes of discussion on their floor. In a vote over here, where most Members did not know what was in the bill, we weakened the arson laws of this country by making it harder to impose life imprisonment if a police officer, a firefighter or any other person is killed as a result of the arson.

In the area of dangerous drug diversion control, the House-passed bill has over a dozen provisions that the administration acknowleges as far superior to what is contained in the Senate bill.

I could go on and on about this measure. It is a major initiative, but more importantly, in this bill are 24 measures that we have worked on, many for about 3½ years.

More than half of the measures in this bill is the work product of HAL SAWYER, the ranking Republican on the Subcommittee on Crime, and myself, for 3½ years. We saw our work product from one Congress go down the drain with a veto that was caused by something that was forced on us, in a crime package, by the other body.

And I say to my colleagues, if you really want a crime package, one that will do something, one that will reform the criminal justice system, one that will target the drug traffickers, one that will strengthen arson and child pornography—because it will remove the provisions that have done grave damage to those provisions which already have been signed into law, then this is it. This is the package that will do it.

Concededly, many of the provisions in here we have already passed, but the Senate is having a hard time getting to them individually. They also seem to like packages. In my judgment the use of packages is generally not the way to proceed. We ought to be dealing with these bills on an individual basis as we have been throughout the 98th Congress, but time is running out. Unfortunately, we are forced to deal with these many critical issues in this fashion.

Mr. Speaker, it is a good bill. I urge my colleagues to support it.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman.

Mr. HOYER. I thank the gentleman from New Jersey [Mr. HUGHES] for yielding and I rise to congratulate him, and Chairman RODINO, and the other members of the Committee on the Judiciary to Chairman CONYERS, who has worked closely with me on the Sexual Abuse Act which he has introduced and which I am pleased to be a cosponsor of which is a part of this title and congratulate the minority ranking member and rise in strong support of the passage and urge the passage of this Federal Anti-Crime Act.

Mr. Speaker, I rise in strong support of the Federal Anti-Crime Act and I want to commend the chairman of the Judiciary for his dedicated and thoughtful leadership on this issue which is of significant importance to so many Americans. Chairman RODINO and Chairmen HUGHES and CONYERS have made a statement on crime which I hope is being heard by all. According to a September 1983 report, compiled by the U.S. Department of Justice, 1982, there was one murder every 25 minutes, one rape every 7 minutes, one robbery every 59 seconds, and one burglary every 9 seconds.

As the sponsor of the original Sexual Assault Act of 1984 which is part of the Anti-Crime Act, I am very pleased to see this measure brought to the House floor in such an expeditious manner. It is imperative, in my opinion and in the opinion of my colleagues who are cosponsors, that Federal sexual laws be modernized. Presently, Federal law does not define what constitutes rape. It is because the precise boundaries of the current Federal rape offense, are ambiguous that reform and modernization are needed. The Sexual Assault Act of 1984, as reported out of the Subcommittee on Criminal Justice, modernizes and reforms Federal rape provisions by: First, defining the offenses in gender neutral terms; second, expanding the offenses to encompass homosexual rape and sexual abuse of another that does not involve sexual intercourse; third, affirmatively abrogating the doctrine of spousal immunity; and fourth, adopting a series of graded sexual offenses.

I want to extend my personal thanks to Representative BOBBI FIELDER, Representative BOB CARR and Representative BARBARA MIKULSKI for their leadership and commitment to the Sexual Assault Act of 1984. Once again, Mr. Speaker, I congratulate the chairmen of the Subcommittees on Crime and Criminal Justice and Chairman RODINO for their outstanding leadership on issues of crime, for their dedication to resolving the problems that confront and at time seem to overwhelm the judicial process and law enforcement officials and for their foresight. I urge my colleagues to pass this important Federal Anti-Crime Act.

□ 1620

Mr. NELSON of Florida. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I would be happy to yield to the gentleman from Florida who, I might say, has demonstrated a great deal of leadership in the area of computer crime in particular, and we are indebted to him for his work.

Mr. NELSON of Florida. I thank the gentleman from yielding.

Mr. Speaker, I just wanted to say to the gentleman there in the well what prince of a fellow he has been, and an admirable chairman, to recognize the need nationally for a need for a computer crime bill.

When both the chairman and this Member from Florida spoke last on the floor, at the time of the passage of the computer crime bill, 395 to 0, we reported that some 20 States indeed had passed computer crime legislation. I have an updated report that I want to share with the chairman; 33 States have now enacted computer crime legislation and the 34th is now sitting on the Governor's desk in the State of New York for signature into law. I thought the gentleman would be happy to have that.

Mr. HUGHES. I thank the gentleman. I just want to say that the gentleman is too modest to say this, but I am going to say it: Florida has one of the best computer crime bills in the entire country, and it was developed under the gentleman's leadership. I commend him for that tremendous leadership.

Mr. CLAY. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I will be happy to yield to the gentleman from Missouri.

Mr. CLAY. I thank the gentleman for yielding.

Mr. Speaker, it is my understanding that title I of the Anti-Crime Act of 1984 provides for the detention of allegedly dangerous individuals. Am I corrected in my understanding that the type of danger contemplated under this provision is limited to crimes of violence, serious drug crimes, or an offense which is punishable by either the death penalty or life imprisonment?

Mr. HUGHES. And to other heinous offenses, or offenses that trigger life imprisonment.

Mr. CLAY. I thank the gentleman.

The SPEAKER pro tempore (Mr. PANETTA). The gentleman from New Jersey [Mr. HUGHES] has consumed 11 minutes.

Mr. SAWYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am sad to say that this bill has turned out only a little less political than the one we just debated for such a long time. I may say the gentleman, my friend from New Jersey, brought four staffers with him on the floor. He should have brought his press secretary, too.

This is no great work of art. It adds up to 24 bills here. All but about four of them have already passed the House virtually in their same form, so they present a very big-looking list, almost all of which is repetitive.

Let me say first this is the product of the hassle that has been going on between the Senate and the House. The Senate parked over here about 1 year ago some 42 crime bills which the Committee on the Judiciary refused to act on and just let sit here until the dying days of the Congress. They were finally tacked on a continuing resolution here about 1 week ago by a minority motion to recommit with instructions.

In the meantime, we in the House have been turning out bills and sending them over to the Senate. They have said, in effect, they are not going to act on our bills until we act on theirs. So we both have been sitting until we get right to the dying days of the Congress.

All I have to say is, this is one heck of a way to legislate. I was delivered this package of bills about 10 o'clock this morning. Nobody has seen the package before. There were only three copies. Now, as I say, some of it is immaterial because most of these bills have already passed the House and are put in here only to force the Senate to take them and do something with them.

How are we going to get the Senate to take them? They have added two pretty substantive bills that the Senate wants. They have added bail reform, which for the first time allows Federal district judges legitimately to take into account danger to the community when they contemplate releasing a person for bail. When we figure that about 12 percent of those out on bail commit crimes for which they are arrested while they are out on bail and that only about one in five or one in six offenses are solved by arrest, that means probably over half of those out on bail are committing crimes while they are out on bail, if we put those two statistics together.

Yet, Federal judges were forbidden to take that into account by the existing law. This corrects that. And yet that bill has been held off the floor. A rule had been promised to be obtained and it has not been. Instead, the bail reform bill has been used as bait to get the Senate to go along with finally acting on these other bills that we passed.

I do not criticize those other bills. I was part of getting them passed. They are good legislation. Unfortunately, like the House held hostage the Senate crime bill, the Senate has been accumulating a set of hostages on the House. The House has said we are against packaging as the reason for inaction on the Senate package. Now what are we adopting? A package of 24 or so, which shows the validity of the positions we are taking. Frankly, it makes me ashamed of the legislative process in which we have been engaged.

Let me talk about the bill specifically. The first bill, the one that is the bait, the leading bait to the Senate, bail reform, allows the courts for the first time to take into account danger to the community, which is long needed and long awaited. It has passed the whole Committee on the Judiciary in the House and is being held off the floor to be used as bait in the dying days of this Congress.

Mr. KASTENMEIER. Mr. Speaker, will the gentleman from Michigan yield?

Mr. SAWYER. I will yield when I am finished.

The insanity defense. We have gone some 3 years since the President has been shot, and there was an abortive decision by a jury here in the District. Under the prior rules, probably the jury followed the instructions. The instructions were that it is the burden of the Government to prove sanity beyond a reasonable doubt. If the Government does not, the jury, if they follow the instructions must acquit and that is what they did. Usually juries do not follow that instruction.

But this corrects that and puts the burden on the defendant to prove insanity. If the defendant is going to claim insanity, he must meet the McNaughton standard, namely, he did not know the rightness or wrongness of what he did. And he must prove this by a preponderance of the evidence. The burden is thus placed on the defendant, where it should be, on that kind of an affirmative defense.

Those are two very needed bits of legislation. They have been held off for the purpose of inserting them in this bill to carry with them the tail, which is about 22 different bills.

There is a bill that the administration wants, an antiterrorism bill, one of three that have been introduced, some by other committees. It is badly needed and badly wanted. There are a couple such as increasing the fees for defense attorneys appointed to defend indigents, and authorizing the modest salary increases for U.S. attorneys.

The rest of these are all bills that the House has already passed and they are sitting over in the Senate. Now we have attached this bait to them and done the packaging that we blame the Senate for, and are sending them over in a form where the Senate must take all or none. We, however, are also slipping in something else.

We have put in a Sentencing Revision Act. It is a multi, multipage act, and what it does is virtually let the ACLU write the sentencing function. It requires another trial, for all practical purposes, to sentence a defendant after he has been convicted. It gives the defendant the right to call witnesses. It gives him the right to cross-examine the plaintiff. There is a Federal rape statute. The defendant, after being convicted, is going to be able to cross-examine her on the stand.

And then it provides that only the least restrictive punishment must be chosen by the judge. Reading the bill, one would think it was written, and probably it was, by the ACLU.

Mr. CONYERS. Mr. Speaker, would my colleague from Michigan yield?

Mr. SAWYER. I will yield when I am finished.

Mr. Speaker, notwithstanding all of that I have said, I am going to ask "yes" vote on the bill, because of all these other bills that we passed that are being held hostage over in the Senate. I am not here to play politics. I am here to try and see that something is done for the American people in a way that is needed to be done. For anyone who does not know it, I am not running again, so I am certainly not taking this position out of any political motivation.

I want to see the product of a lot of work that is in these many bills that are being held by the Senate saved. I am not above seeing them attached to bail reform as bait to get the Senate to release them from hostage. I helped to get the Senate bills attached to the continuing resolution because the American people need and deserve this kind of act, and I am even willing to swallow the Sentencing Revision Act which, while it has a lot of bad parts, has a couple of good parts. It establishes ranges of sentencing, and when

you recognize that about 90-plus percent of the people who are caught up in the criminal justice system are interested in only one thing; namely, the sentence, because they are pleading guilty. And they cannot even appeal the sentence and it is a one-man determination.

This cures that, and provides some sentencing guidelines so that when people committed the same crime, one does not get probation and the other 15 years. We are getting that kind of result now countrywide, and this is going to correct it.

On the other hand, we pay the price of a second trial held by the court before one can even sentence the guy after he has already been convicted.

□ 1630

I am not very proud of this piece of legislation. I am proud of some parts of it that we are attaching to these other things as bait; namely, the bail reform and the insanity defense to get the Senate to act on our other bills that are part of the package. Hopefully it will work.

I think it is a heck of a way to legislate to come down to the last days of the Congress and deliver a stack 4 inches thick of some 23 bills to my side of the aisle. Fortunately many of which we are already familiar because they have passed the House. I received them at 10 o'clock this morning. There are only four copies of the packaged bills available. Most Members have not even had the chance to look at them.

I will tell you that notwithstanding all the critical comments I have made, I urge a "yes" vote because it is the best we will get the opportunity to vote on and it is surely better than nothing.

Mr. HUGHES. Mr. Speaker, will the gentleman yield to me?

Mr. SAWYER. The gentleman has time of his own. I reserve the balance of my time.

Mr. HUGHES. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I understand the gentleman's frustration, but I just want to remind the gentleman, I think he will agree, that when we saw our work product vetoed in the closing days of the 97th Congress, we decided when we started in the 98th Congress that we were going to see if we could not have some understanding with the other body. We went to the White House and we sat down with the President, with Mr. Meese, Mr. THURMOND, Mr. BIDEN in the other body and other Senators, the ranking minority member on our side, and we agreed that we would process these bills individually.

Now, I want to ask the gentleman, have we kept faith with that commitment?

Mr. SAWYER. Up to now, we have just vitiated it.

Mr. HUGHES. Well, but that is because frankly we have been trying for a year now to get the Justice Assistance Act out.

Mr. SAWYER. I am not saying why we did it, I am saying right now we are making progress but I agree with the gentleman. We did meet with the President and with the key players in the administration and expressly got a commitment; but you see, the problem is, it has now become a pull and a tug between the House and the Senate with both political parties and personalities involved, perhaps personalities more than political parties. The only one that is going to suffer if they both fall through the tube is the American people, and I think that is a shame.

Mr. HUGHES. Let me just say to the gentleman that I am sure the gentleman shares the pride I have in the number of bills that we passed. We passed about 16 bills that are riding on the Senate's decision whether to act or not to act.

I am talking about forfeiture.

I am talking about justice assistance that we worked on for 3½ years. Money laundering, which we worked on for about 3½ months.

I am talking about the drug czar.

I am talking about the bill that would provide penalties for trademark counterfeiting that we worked on for the better part of a year.

There is the dangerous drug diversion bill, counterfeit access device and computer crime bill, and the antiterrorism bill we just reported out.

I am talking about a bill that would provide for programs concerning juvenile justice and runaway youth, which we accepted.

Mr. SAWYER. If the gentleman will yield, I totally agree. I have not said that I disagree. I think it is fine that we are doing those things.

The SPEAKER pro tempore. The time of the gentleman from New Jersey [Mr. HUGHES] has expired.

Mr. SAWYER. Mr. Speaker, I yield myself an additional 2 minutes.

Mr. Speaker, I recognize that and I thought I said it, that I am perfectly happy, although I am not proud of it, that we are using bail reform and the insanity defense as bait to carry these other bills and give the Senate some reason to pass them. We cannot blame the Senate for not acting on our bills any more than we are to blame by letting the Senate's bills, some 42 of them, sit here for over a year without acting on them.

We can both blame each other. We can play games that people play against each other, but the House does not lose, the Senate does not lose, the American people lose. For that reason I am willing to stop playing this game and try to get something over to the Senate and get some of this stuff salvaged. A lot of work has been put in these bills and they are badly needed.

Mr. Speaker, I reserve the balance of my time.

Mr. HUGHES. Mr. Speaker, I yield 5 minutes to the distinguished chairman of the full committee, the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I do not ordinarily support processing bills of different subjects in packages, and I have some reservations about this particular package, but I do recall and want to point out to those on the other side of the aisle who question presenting this legislation as a package that last week we were confronted by those same Members with a package of anticrime measures which the Judiciary Committee had not processed and with only 5 minutes of debate. The measure that is before us now, however, is one that has had the Judiciary Committee oversee it. For 3½ years now the gentleman from New Jersey with his crime subcommittee and chairmen of the other subcommittees, the gentleman from Michigan [Mr. CONYERS] and the gentleman from Wisconsin [Mr. KASTENMEIER] have dealt with the measures that are now included in this anticrime package.

We are not to be governed or controlled by whether or not the administration wants a particular crime package or whether or not the Senate has acted on a particular crime package. We have our own responsibility, and I think that is what we have done.

The gentleman from New Jersey deserves commendation for bringing us this crime package which has been put together with the other chairmen of the various subcommittees of the Judiciary Committee.

Mr. Speaker, the Judiciary Committee and this body have quietly and persistently considered and passed numerous important measures to fight crime and improve the criminal justice process throughout this Congress.

Despite these efforts, the other body has not acted upon our individual proposals, insisting instead on a package. Last week, this body attached S. 1762, the crime package passed by the other body, to the continuing resolution. These crime provisions are not likely to be signed into law; the President probably will veto a loaded-up continuing resolution.

S. 1762 also has serious flaws. Some proposals in S. 1762 have already been enacted into law in improved, stronger forms. Therefore, passage of S. 1762 would replace these laws, such as the Child Protection Act of 1984 and the Victim Witness Protection Act of 1982, with weaker versions.

Other proposals have been the subject of negotiations between the administration and the House and Senate Judiciary Committees, result-

ing in improved versions, embodied in this bill before us, acceptable to all parties. Enactment of the administration package would abandon these negotiated versions in favor of the earlier, less acceptable, provisions. The Drug Enforcement Administration, for example, has expressed a clear preference for the provisions of the Dangerous Drug Diversion Control Act passed by this body.

The committee is, therefore, today presenting this body with a crime package, the Anticrime Act of 1984, which is superior to that promoted by the administration. It includes 24 titles; many of which are improved versions of administration proposals. Some of the titles have passed the House as separate bills; others have been reported by the Judiciary Committee and are pending floor action. This package also includes provisions, such as the Victims of Crime Act of 1984 and the Federal Rape Law Report Act of 1984, not included in the administration package, but which the administration strongly supports.

Other items contained in the Anticrime Act of 1984 which are not in S. 1762 and which need to be enacted regardless of the fate of the continuing resolution crime items, are the antiterrorism legislation; the Trademark Counterfeiting Act; the National Narcotics Act—drug czar; the juvenile justice and missing children amendments; the Counterfeit Credit Card and Computer Fraud and Abuse Act; and the Armed Career Criminal Act.

I do not support every aspect of this crime package. Included is at least one proposal that I would personally oppose were it considered separately. Title I of the bill reforms bail procedures, permitting a court to detain persons before trial based on predictions of dangerousness. While I support some adjustment in Federal bail procedures to allow consideration of dangerousness to the community, I believe this provision goes too far.

I also want to point out that the provisions of title III, relating to sentencing reform, differ from those of H.R. 6012 as reported by the Judiciary Committee. Title III of this legislation, unlike H.R. 6012, abolishes parole, creates an independent full-time sentencing commission, and charges that commission with drafting narrow guidelines. The legislation also more narrowly restricts the ability of a court to depart from the guidelines, and eliminates the requirement of H.R. 6012 that the court impose the least severe of a hierarchy of sentences.

Mr. Speaker, the Anticrime Act of 1984 is the product of careful deliberations on each component and offers the Congress an opportunity to enact anticrime legislation before adjournment.

I think the House will speak in support of this measure. It has been processed in a very deliberate and responsible manner by the House Judiciary Committee.

Mr. SAWYER. Mr. Speaker, I yield myself 2 additional minutes.

I might just say in reply to the chairman of the full committee, that was a very misleading presentation. The gentleman from New York [Mr. FISH], the ranking Republican on the House Judiciary Committee, introduced the whole 42 bills of the package of the Senate crime bill in March 1983 and the chairman never put any of them on the table for processing. None of them were processed up until a week ago when they were placed on the continuing resolution here on the floor. The fact that these bills are processed by the committee is true, and they are good bills, I do not argue that. I made that clear; but the Senate package, the reason it was not considered by the House is because the Judiciary Committee and its members were not given an opportunity to process it, and that is true up to this hour. Here the Senate passed them all and sent them over here in February 1984 and they have languished here still with no action on them until they were forced onto the continuing resolution here on the floor of the House by the Republicans.

□ 1640

So if there is any nonprocessing by the House, it is because the House Judiciary Committee, under the chairmanship of the gentleman from New Jersey, elected not to process them.

Mr. RODINO. Will the gentleman yield?

Mr. SAWYER. Yes; I yield to the gentleman.

Mr. RODINO. The gentleman heard me say a while ago that the House, at least the House Judiciary Committee, does not feel it has to be dictated to by the other body which put together a package that the gentleman from Michigan now feels that because the other body had prepared a package that the House Judiciary Committee was obliged to consider a package. That is not the manner in which the House Judiciary Committee does business.

Mr. SAWYER. If I may recapture my time, that was just the point I was making in the well of the House. This has become a battle of personalities between the House and the other body and both of them are right and both of them are wrong and the net effect is neither the House is going to get hurt nor the other body is going to get hurt. The American people are going to be hurt if both of these bills, the Senate crime package and this crime package, fall through the cracks. Here in the last hours I am fearful we have exposed it to that opportunity and only the American people are going to be hurt.

Mr. Speaker, I yield 5 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. We are dealing today with a bill which has been put together in the 11th hour, composed of several things that I agree with but quite a few things I do not agree with.

A few days ago this body voted in a very short debate on the President's crime package that had been sitting in this body for a year and a half. The bill we have today has 475 pages or so and was put together overnight, and I know at least one feature in it that I very, very strongly disagree with. That one feature in this bill is the insanity defense aspect of it. It is precisely the same provision that this body rejected under suspension just a couple of weeks ago.

I want to briefly recapsulize that issue for you in the time allotted. The insanity defense issue is in the bill, is in the portion of the package that we voted on the other day to attach to the continuing resolution, but it is quite different from what is today presented in this package.

What we voted on the other day was a change in the definition of insanity along the lines of the President's proposal in the Senate version going back to the McNaghten rule of the difference between right and wrong.

What is in this bill today is the bill that came out of the Subcommittee on Criminal Justice on which I serve, and through the full Judiciary Committee, and here to the floor of the House a couple of weeks ago under suspension where it did not pass. And in this bill there is a change in the definition not just of going back to the difference between right and wrong, and taking out the so-called irresistible impulse test that so long has plagued us with vagueness in this matter, but there is in addition a change in the statutory wording, new language which has never been before our court system for testing, never before been in any statutes under the definition of what insanity is, a definition that in the judgment of this Member and many others who voted on it a couple of weeks ago, could cause the courts to tie up the issue of insanity for a long time and could lead to very undesirable results.

I want to say off the top that I did not particularly favor the version that we passed the other day—in the Senate version that we tacked on for insanity, but it is far superior to this one.

I for one think we ought to do everything we can to simplify what a jury has to consider when a jury gets a question as complicated as insanity. I for one believe that we should have gone and still do believe we should eliminate the insanity defense alto-

gether and go to the simple question of the intent of the accused at the time and whether or not that person had the necessary mental element to commit the crime in the first place.

If we went to that simplistic test we would be a lot better off, but that is not before us today.

The question before us today in this package is whether or not we are going to adopt, among other things, a version which has entirely new matter in it, which does eliminate the irresistible impulse test, but instead of going to the more simplistic approach that we adopted when we adopted the President's package the other day on insanity, it goes to a more complicated approach, to new language and new grounds that have never been plowed before.

While there have been changes in this bill in the area of sentencing, we still have vestiges that are too complicated. We have in this bill a sentencing provision which is, yes, a little modified from what we saw the other day on the floor, yes, a little more acceptable but by no means is the sentencing provision in the proposal today the kind of concise, precise provision with the abolishment of parole and the structure of setting up sentencing guidelines that was in the legislation that this body approved favorably to tack on to the continuing resolution just a couple of days ago.

We could go on and on down the list and, of course, as I said in the beginning of this comment period for me, there are things I like about this package. There are things that I have approved in full committee. But when we put things together at the 11th hour and we package them like this it is not the way to do business, as has been said by a couple of people.

But I will tell you one thing, the fact is we have never had a chance until the way we did it the other day on the motion to recommit, to consider the President's package. We finally got that chance to vote it up or down, and the only reason we got that was because of the manner in which it was presented. We never got that chance in the committee and that was something that for the whole year and a half, and actually for many times before, has been over here for consideration in this body, but we never got it out of committee and never had a chance to vote on it.

This package today is not that kind of thing. It is something that has not been considered as a package previously. We have not deliberated on it. We have not had a chance to study it. I know darn well there are things in it that I do not agree with and I urge my colleagues to vote no when the chance comes to vote on this particular version of a crime package.

I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. I thank the gentlemen from New Jersey [Mr. RODINO and Mr. HUGHES] for yielding to me and I compliment them on their work.

I do not like the fact that we are presented with a package today, but I do think this dramatizes what the gentleman from New Jersey [Mr. HUGHES] has been saying for some weeks; namely, that the House has already passed most of the features in this huge package individually, incrementally, as we should. Indeed, at least two or three of the major items have been reported out, by the Judiciary Committee for floor action. So they have been acted on by the committee.

I am a little puzzled by my friend from Michigan, Mr. SAWYER's remarks about this package, this bill. I was in receipt earlier today of a letter from him and from the gentleman from New Jersey urging a vote for this bill and telling us what it was all about. To hear him express confusion and bewilderment that he was confronted with this measure today seems to belie that point.

There are a number of things in this bill that I do not agree with. I am going to vote for the bill notwithstanding those concerns.

I do think that many of the things that the House has already voted for should become law.

Let me make one observation I suspect will not be made by any others here, and that is that we should not presume even if this bill or the so-called President's crime package becomes law that we will—several years down the road—have met the challenge of crime in this country. Nor should we presume that somehow this will cure the crime problem in America. It will not.

Even though there are some things, as the gentleman from New Jersey says, such as the Justice Assistance Act which may be very useful in that connection, there will not be less crime because of this bill.

Ours is a very violent society and an aggressive society. One has to look only at the movies and at the television to understand what kind of culture that we live in here in America in 1984. Or look in our prisons. For example, Marion, IL. I will have a report for the House within 30 days on the problems confronting that prison and why the prisons are so violent during this era.

At this very moment on the other side of the Capitol some Members of the other body are trying to weaken or eliminate a gun control law. Moreover, we could not even bring up to the House floor a bill to ban cop-killing bullets, so-called teflon-coated bullets, because we are a society in love with guns.

□ 1650

We are a violent society. So, my friends, 3 and 4 years from now your crime statistics will still be up, because this legislation cannot confront that fact. Perhaps in some sense this bill will bring some aid to law enforcement authorities in this country dealing incrementally with some things, but will not go to the basic problem of violent human behavior that still confronts us.

Mr. Speaker, I rise somewhat reluctantly in support of this bill. I have consistently taken the position that this House acts responsibly when it considers legislation in an incremental fashion. Any package—whether in the crime area or elsewhere—prevents the kind of careful scrutiny upon which this House has built its reputation.

This bill contains provisions which are important improvements over current law, especially in the areas of sentencing and insanity. I am also pleased that this bill includes provisions relating to protected witnesses and the Criminal Justice Act. There remains, however, one single issue of controversy which should give us pause—bail reform.

Title I of this bill radically changes bail practices in this country by authorizing preventive detention. While I recognize that fear of crime and the public concern about crimes committed by persons on pretrial release motivate these provisions, these changes are ill-founded and possibly unconstitutional.[1] The Federal criminal justice

[1] This bill is arguably deficient in several respects. First, the bill may violate the eighth amendment right to bail. Second, the bill may violate the due process requirements of the fifth amendment. The potential due process problems include: First, the failure to provide for specific statutory standards as to what conduct is sought to be avoided—that is, the failure to define "safety or danger to the community"; second, the reliance on probable cause as a basis for detention rather than the more appropriate higher standard of proof of a substantial probability that the person committed the underlying offense; third, finally, the failure to provide for adequate procedures at the detention hearing—such as the right to confront and cross examine witnesses, and the right to have evidence be admissible under the Federal Rules of Evidence. No doubt many of these issues will be litigated in the Federal courts. It is likely that until these issues are resolved there will be little use of this statute. Thus, in some ways enactment of this act will be misleading. We will be promising to reduce crime and then failing to do so.

In this regard I agree with remarks uttered by Senator KENNEDY more than 6 years ago when he asked, in response to a preventive detention amendment offered by Senator DOLE:

"Is there a raging problem in terms of the Federal courts? If so, where is the evidence? We are about to tamper with the basic and fundamental concept of the presumption of innocense * * * are we just making rhetorical and polemical comments about what may be the situation?" 124 Congressional Record 777 (Jan. 25, 1978). The best available evidence is that the pretrial crime rate—in terms of rearrests—is less than 5 percent, a rate which is only one-third of that which prevails in the average State court system. See House Report 98-1121.

system does not have the same problem with pretrial crime as the State court systems. We have already acted to reduce the rate of crime by Federal pretrial releasees by providing for pretrial services. This step should serve to reduce such crime by up to half. Despite the paucity of evidence, the Committee on the Judiciary has acted to report this provision. Unfortunately, the provision before us does not contain the procedural safeguards which have been adopted by a number of States, including my own State of Wisconsin. Moreover, by reporting this provision, the committee rejected a more modest approach suggested by the Judicial Conference of the United States and the American Bar Association.

On balance, however, this bill is a modest improvement over the nongermane crime amendment adopted by the House last week. This bill is an accommodation. I would have preferred a wall of separation between crime bills relating to different subjects. Forced as we are to make difficult choices I do not urge my colleagues to support this measure, nor do I urge them to oppose it. I merely hope that in future Congresses this procedure will not be used by either party to force the consideration of bills which so dramatically affect the essence of our system of ordered liberty.

WITNESS SECURITY PROVISION

The bill before the House reforms the statutory charter of the Witness Security Program. This measure is largely identical to that which passed this House on May 22, 1984. See House Report 98-767, part 1. This measure responds to the severe criticism leveled at the Witness Security Program while at the same time preserving the integrity of this vital program.

As the General Accounting Office found in their recent report, "Witness Security Program: Prosecutive Results and Participant Arrest Data," GGD-84-87, August 23, 1984, the Witness Security Program has been very successful in the prosecution of large scale organized crime cases. The persons with the greatest knowledge about the inner working of organized crime are frequently former participants themselves. This status presents two different types of problems. First, such persons generally will require a new location and identity to protect them from retaliation. Second, over 90 percent of these individuals have a previous criminal record. Thus, these individuals present a serious risk of recidivism—up to 21 percent of those admitted to the program are rearrested within 2 years. On balance the Congress and the Department of Justice has consistently concluded that these costs are outweighed by the benefits. This bill makes sure that innocent parties are not left without remedies.[2]

The bill which passed the House in May provided that the Department of Justice was responsible for the costs associated with visitation between minor children who have been relocated with a protected witness and their unrelocated parent. This bill limits that liability to a maximum of 12 visits a year up to a total of 30 days. The bill also provides that the Attorney may also authorize additional visits to be paid for. This change in the bill meets the objections of the Department of Justice with respect to child custody and visitation.[3]

The second change made in the bill before us is the deletion of title II of H.R. 4249. In the bill which passed the House earlier this year the appointment of U.S. marshals was put in the hands of the Attorney General. Under current law marshals are appointed by the President. In practice many U.S. marshals are appointed through the good offices of the relevant U.S. Senator. Current practice has been criticized because it does not assist in the professionalization of the Service. Only one-third of the current marshals come from promotions within, and two-thirds are high school graduates—even though the Department of Justice guidelines call for a college degree. The Committee on the Judiciary had reasoned that the essential law enforcement functions performed by the marshals was sufficient reason to create an appointment system free of partonage. The Senate was, however, not ready for this change. Therefore, this bill has the effect of continuing the current system of Presidential appointments.

This measure also makes certain other minor and technical changes in H.R. 4249 to accommodate the concerns of the Department of Justice.[4]

In sum, this bill responds to the concerns of law enforcement while preserving and protecting the rights of innocent parties.

CRIMINAL JUSTICE ACT AMENDMENTS

This bill, which incorporates the provisions of H.R. 4307 as it passed this body unanimously on May 21 updates the Criminal Justice Act (18 U.S.C. § 3006A). This revision, which was initiated by the Judicial Conference of the United States, has wide support—including the support of the National Association of Former U.S. Attorneys, the American Bar Association, and the National Legal Aid and Defender Association. The provisions raise the maximum hourly rates to compensate appointed counsel under the act to be a general maximum of $50 with an absolute maximum of $75—a much-needed increase as the rates of $20—out-of-court—and $30—in court—which were set in 1970 cannot attract the competent counsel who are required by the sixth amendment. I note parenthetically that in the same period of time the cost of living has increased by 168.4 percent.

The provisions in this title of the bill also make other changes in the act including raising the general case maximums from $1,000 to $5,000 for felonies, from $400 to $3,000 for misdemeanors, and from $1,000 to $5,000 for appeals. Authorization is granted to allow the Administrative Office of the U.S. Courts to provide malpractice insurance for Federal defenders and to provide continuing education and training of persons providing representational services. The incremental cost of these provisions is approximately $25 million for fiscal year 1985—a small cost to ensure that defendants are provided their constitutional rights to effective assistance of counsel and to avoid a costly dismissal or retrial based on a sixth amendment claim.

U.S. ATTORNEY SALARIES AUTHORIZATION

This title of the bill is derived from H.R. 3682—by Chairman RODINO, an executive communication urged upon this House by the administration. This provision of the bill authorizes an increase in the maximum salaries of the U.S. Attorneys from $66,500 to $69,900 in some 89 districts. Under current law 89 U.S. Attorneys are paid this lower salary. This bill would equalize their salaries with those currently authorized for U.S. Attorneys in places like the southern district of New York.

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[2] For example, the bill continues the victim compensation provisions. The bill also clearly states that persons who wish to pursue civil claims against persons who have been or who are continuing to receive protection from the Justice Department are to be assisted by the Attorney General through the service of process. Thus, a person who continues to receive any form of assistance from the Department of Justice—such as mail forwarding or protection in the form of changes documentation—will be amenable to service of process under proposed section 3523.

[3] The bill requires that the Attorney General consider compliance with the visitation requirements prior to placement of person into the program. Of course, under proposed section 3524(a) no person may be placed in the program if as the result of that placement an unrelocated parent would lost his or her custody rights—including a right to joint custody.

[4] The Department of Justice suggested changes of a technical nature with respect to the grievance procedure, the criminal history information section, the nature of proceedings for which placement in the program is possible, authorizing emergency placement in the program and other minor matters. All of these changes were incorporated. In addition, the Department of Justice requested authority to exempt from the competitive bidding process certain purchases. They claimed that such processes can jeopardize security. This authority is limited to those situations where there is personal approval of a high level Justice Department official. In addition, the Attorney General is required to promulgate regulations to implement this section. These guidelines should indicate the dollar amounts or situations in which such an exemption should be authorized. It is expected that these exemptions will be exercised in only unusual circumstances.

This title of the bill also serves to further restrict the postgovernment employment activities of these U.S. Attorneys to prevent the appearance of a conflict of interest. Thus, these individuals will be subject to a 1-year, nationwide prohibition from communicating with any U.S. Attorneys Office, as well as certain nonstatutory components of the Department of Justice. This change will further the goal of preventing a former public servant from being placed in a potentially compromising situation by virtue of his/her postgovernment employment activities.

Mr. SAWYER. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, the very fact that this omnibus crime package is being considered today on the floor of the House of Representatives is an indication of just how far the Democrats have come. The Democratic leadership in the House and the Democratic leadership of the House Judiciary Committee have resisted—until now—approaching the national crime problem in a comprehensive, integrated fashion.

The record to date is not good. The Judiciary Committee has labored long and hard but has produced only five noncontroversal public laws since the President's comprehensive crime control bill was introduced March 1983.

The bill before us contains 24 titles. Many of these items, 19 in all, have already passed this House in either similar or identical form. This would include, for example: drug forfeiture, the Justice Assistance Act, money laundering penalties, witness security reform provisions, trademark counterfeiting, credit card counterfeiting, and the Armed Career Criminals Act which passed this House only late yesterday. Title XIV contains two important elements of the President's antiterrorism package dealing with hostage taking and aviation safety.

Aside from the packaging approach, which has become acceptable rather late in the day, the most promising and important provision of this legislation is the Bail Reform Act in title I. This title is identical to bail reform legislation (H.R. 5865) reported by the House Judiciary Committee on September 18. It contains the substance of the substitute offered by the gentleman from Michigan [Mr. SAWYER] which is strongly supported by the administration.

The remaining and serious problem areas in this legislation are contained in title II, dealing with insanity defense and title III, the sentencing revision provisions. The insanity defense provisions contained in this legislation are identical to those rejected in the House of Representatives 2 short weeks ago. The sentencing reform provisions are far less favorable than those contained in the President's comprehensive crime control package, and S. 1762 adopted by the House last week, despite some improvements over the Judiciary Committee version.

The real question for this House, Mr. Speaker, is whether or not this is meaningful legislative exercise. Are the chairman of the Judiciary Committee and the Chairman of the Subcommittees on Crime and Criminal Justice prepared to go to conference with the Senate on this package? Despite the fact that this is an enormous package, a conference committee would be able to focus on and resolve the remaining differences between the two bodies—principally the insanity defense an sentencing reform. Despite the lateness of the session, if this is a sincere exercise in attempting to enact real anticrime legislation, we must be prepared to go to conference now.

I am concerned that this recent conversion of the majority in the House of Representatives to a comprehensive approach on crime is based more on politics than on substance. If this House is being asked to vote on a massive crime control package—the text of which was not available to us until this morning—with no hope of a real resolution, than we are truly talking about political posturing and not substance.

Mr. Speaker, If we can be given the necessary assurances that we will proceed immediately to conference with the other body to resolve the lingering problem areas, this bill represents real progress. If this effort is solely aimed at taking our Democratic colleagues off the political hook and does not reflect a genuine commitment to enact legislation this year, then H.R. 5690 is a cynical joke being played on the American public.

Mr. Speaker, this House will be judged not by time spent in committee but by results—crime bills enacted into law. The next few days will demonstrate the sincerity of the leadership.

I ask my colleagues to test their sincerity by voting for this measure. This is the view of the administration.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. FISH. I am happy to yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

Mr. Speaker, I can only speak for myself but I just want to assure the gentleman that I am dead earnest, and have been, in trying to enact crime legislation as has been my colleague from Michigan [Mr. SAWYER]. We have moved most of the measures out of our committee individually. The President had signed five of our anticrime measures into law as of 3 months ago.

I want to say to my colleagues that when the gentleman suggests that there are just a couple of provisions in here which are really significant, I want to say one of the most significant provisions in this package is the bill that we sent to the other body back in July which the other body has not acted on. I am talking about computer crime; the fastest growing area of crime in this country today is computer crime.

Our present statutes are all couched in terms of the old theft, the taking, the physical taking of property by force or otherwise. Yet we have been stalemated on that bill.

The other body for some reason has not taken it up. Can the gentleman share with us why the other body has not done anything on computer crime?

Mr. FISH. I certainly will. But first let me thank the gentleman for his assurances, his sincerity. I presume that to mean that he will do his very best to get this measure to conference after it passes today.

Mr. HUGHES. Can the gentleman tell me why the other body has not—has refused to take up computer crime?

Mr. FISH. I will exactly.

Mr. HUGHES. We have a major blind spot in the law.

The SPEAKER pro tempore. The time of the gentleman [Mr. FISH] has expired.

Mr. SAWYER. Mr. Speaker, I yield 1 additional minute to the gentleman from New York [Mr. FISH].

Mr. FISH. I thank the gentleman for yielding.

The gentleman knows very well that I introduced the credit-card-fraud bill. The gentleman tacked on an additional title called "Computer Crime" and sent it over to the Senate.

Mr. HUGHES. If the gentleman will yield, this addition is one which the gentleman supports, I presume.

Mr. FISH. I do. But the Senate has not supported it. I was afraid that the gentleman was endangering my credit-card-counterfeiting bill when he did that maneuver in the subcommittee and I regretted it very much.

But I am glad to hear that the gentleman is committed to really seeing this crime package become law.

The SPEAKER pro tempore. The time of the gentleman [Mr. FISH] has again expired.

The Chair will inform the parties that the gentleman from Michigan [Mr. SAWYER] has 17 minutes remaining, and the gentleman from New Jersey [Mr. HUGHES] has 19 minutes remaining.

Mr. HUGHES. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. CONYERS], the chairman of the Subcommittee on Criminal Justice of the Committee on the Judiciary.

Mr. CONYERS. Mr. Speaker and my colleagues, this is a very difficult matter for me.

When we authorized preventive detention in an unconstitutional way to

permit the Federal courts to lock up a person without a finding of guilt based on the judge's guess about the person's future behavior, I think we have a constitutional problem. So I am swallowing hard about this measure.

But I think we ought to get a few items straight in the record.

First of all it was in the 97th Congress that the President of the United States vetoed the crime package. The President of the United States, the present incumbent, vetoed the crime package, which brings us to the dilemma that we are presently at.

Now I would like to say a kind word in defense of the insanity-defense modification which came from my committee, because the simple fact is that it was reported out by the subcommittee, by the full committee, and passed this House by a majority vote. It failed two-thirds suspension and is now included in this measure.

It is a responsible piece of legislation that changes the burden of proof, has met with approval by the Psychiatric Association, by the American Bar Association, by an overwhelming majority of witnesses.

So I would urge that you consider it favorably.

Now it has been repeatedly said here, mistakenly, that in the sentencing bill, another product of the Subcommittee on Criminal Justice, that in the presentence hearing the defendants can subpoena whomever they want.

Mr. Speaker, I would like to read section 3525, line (b), which says:

> The court shall subpoena such witnesses as are necessary to resolve factual disputes relative to sentencing.
>
> The judge may subpoena, call and cross examine such witnesses as the court determines may provide information relative to the sentencing.

□ 1700

That is a change that we made to accommodate the minority side in the judiciary.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield on that point?

Mr. CONYERS. I yield to the gentleman from California.

Mr. LUNGREN. I thank the gentleman for yielding. I understand that and I appreciate the gentleman made an accommodation.

The problem that many of us have is, however, under present circumstance in the federal system as a result of a change in law we made just about 1 year ago, witnesses now have an opportunity to have their input at the time of sentence which was not guaranteed to them before.

The problem here is that if the witnesses give that information, under the scenario the gentleman has suggested, obviously factual distinctions will have to be made and if the defendant wants to assert his position vis-a-vis the victim, the judge is, under the language of the gentleman's amendment, required to allow that victim to be subpoenaed. Then in the next section of the gentleman's bill it is required that person be subjected to cross examination.

Mr. CONYERS. May I point out to my colleague that this modification was made precisely to take that power from the defendant. What we are doing here is allowing the court to make that determination.

It is optional. It is not mandatory.

Now, I would like to further point out that we have a very important consideration here in connection with the fact that 19 out of 24 of these proposals are our own. This is the House version. This is not the Senate version never before seen in a motion to recommit. This is our work product and although I have a very mixed view of it, I would urge that we consider our own material, our own work product as that that is controlling.

The SPEAKER pro tempore. The time of the gentleman from Michigan [Mr. CONYERS] has expired.

Mr. SAWYER. Mr. Speaker, I yield 1 minute to the gentleman from Michigan.

Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Michigan.

Mr. SAWYER. Mr. Speaker, I want to say that the gentleman is only reading part of the section he is talking about and it is on page 8.

It says: "With respect to a hearing under this section"—that is a sentencing hearing—"the court (b) shall permit the parties to present witnesses and to cross examine adverse witnesses," which is exactly what the gentleman said was not there.

Mr. CONYERS. What I was reading from at line 14 is that: "The court shall subpoena such witnesses as are necessary to resolve the factual disputes relevant to the sentencing."

Mr. SAWYER. Yes, but then go down to line 20. You see. It says just what the gentleman contradicted.

Mr. CONYERS. Well, they are contradictory. But the point is it shall permit. The court does not have to permit.

Mr. SAWYER. Well, the gentleman is a lawyer. If you say "shall" it is mandatory. "May" is permissive.

Mr. CONYERS. I would think that the court would have a discretion that would save them from the terrible tragedies that have been articulated by the other side.

Mr. SAWYER. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. GEKAS], the ranking minority member on the Subcommittee on Criminal Justice.

Mr. GEKAS. Mr. Speaker, 3½ years ago John Hinckley effected a shot that was literally heard around the world. As a result, one of the most infamous cases known to American jurisprudence occurred in the famous Hinckley trial.

Ever since that moment of the final verdict the American public has wondered out loud how could such a result come about. It came about primarily, it was developed over the months since that dastardly deed, because indeed a jury could not cope with the then present set of circumstances, and still now obtaining, of how to sift through all the maze of psychiatric evidence and all the other things that obtain with an insanity defense to come to a reasonable verdict.

It was determined then through hearing after hearing and through discussions among barristers and members of the legal profession and judges and prosecutors and psychiatrists themselves that the very least that we ought to be doing is to change the burden of proof. The burden of proof, the one that was on the prosecutor during the Hinckley trial, was too much to overcome. The prosecutor not only had to prove that the deed occurred, but also had to prove—get this—the sanity of the defendant. The burden was on him to show that the defendant was sane at the time of the trial and at the time of the deed.

So it was determined in a very reasonable fashion that the very least we ought to do and some of us say the most we should do is to simply shift the burden of proof in such cases—not abolish the insanity defense, but make it a burden of the defendant to prove with a preponderance of evidence that he indeed was insane at the time of the shooting and therefore should not be culpable.

If we had done that and that alone we would not be in the morass of argument that we are on the insanity defense. But the subcommittee chose, over the objection of the minority in many respects, to go farther than just shifting the burden. We also were willing to agree, as we did, that we ought to get rid of the irresistable impulse part of the definition of insanity because that was a gigantic loophole. Again, in the best interests of justice in the courtroom.

But, now we have in front of us an insanity defense that is so garbled, so confused, that it would make the situation worse if it were to be adopted than the situation as it presently exists.

We were satisfied, and nothing came up in the Hinckley case to oppose our thinking, we were satisfied that the insanity definition, the time-honored precedent of the McNaughten rule, or the American Law Institute version of the McNaughten rule which has stood the test of time for all these years, was working. That was not objectionable at the time of the Hinckley trial. There was no issue raised as to the

definition of insanity. That was not quarrelsome.

But here we have before us not only a garbled version of the definition, but then some new language on competency and others—again that did not emerge from the Hinckley trial.

The gentleman from New Jersey quite properly talks about why can we not do something about the computer bill that is over on the other side. The American public is craving for action on crimes of violence. We want to cure computer crime, too, but, more so, crimes of violence, murder, assault on public officials, all the things that have made our neighborhoods unsafe and our streets unsafe. They are the kinds of crimes that the public wants something done about. Although we want to do something about the computer bill on the other side, as the gentleman from New Jersey wants, we need his help to get a decent insanity defense and sentencing procedure into the law of the U.S. Federal establishment.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

Do I understand the gentleman is saying that the insanity defense provision in here does not switch the burden to the defendant to come forward?

Mr. GEKAS. No; I said it does.

Mr. HUGHES. Well, let us make that clear because if the gentleman is suggesting that this is not an improvement over existing law, then I disagree with the gentleman.

If the gentleman is saying that he would like to have other provisions in here, I would agree with him. So would I.

Mr. GEKAS. Mr. Speaker, I reclaim my time to point out what good would it be to agree with the gentleman that we have improved the bill on the burden of proof and then destroy the insanity defense by putting in a garbled definition? There is no defense then.

Mr. HUGHES. If the gentleman will yield further, I just happen to disagree with the gentleman on the garbled version.

Mr. GEKAS. That is the gentleman's privilege.

But let me read this to the gentleman and the gentleman can tell me how a judge is going to instruct a jury.

Mr. HUGHES. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Speaker, I want to commend the gentleman for having had the good sense to bring to the floor of this House a crime package that many of us have been working on both sides of the aisle, a crime package that the House has, in fact, worked on, and that many Members are familiar with.

□ 1710

Two years ago the President used the pocket veto to kill the last major crime package approved by the Congress. That pocket veto set us back 2 years in our efforts to deal with drug dealers, career criminals, and the needs of State and local law enforcement agencies, which is a major need in this country. Today we have before the House an anticrime package with which the House is mostly familiar. Most of the 24 titles have been debated here and passed by the House. All parts of the bill have been approved by the Judiciary Committee. But many are sitting and languishing in the Republican Senate. This is not an amendment to a spending bill, as was the crime package last week. It is not to be used as a whipping body to obtain a clean continuing resolution, which the President has threatened to do by threatening to veto anything that comes over on the continuing resolution if it is not clean. This is not being considered in 5 minutes on a motion to recommit. This is not a proposal that was first proposed and then dropped by the White House, an action that sent a terrible message to the criminal elements in our society.

No, Mr. Speaker, this is an opportunity for the other body and the White House to consider a crime bill that the people's House, this House, has reviewed, refined, and reported.

I urge my colleagues to support this bill and I urge them for reasons even beyond what I have just said. Much of what is in the Senate bill would weaken House bills that have already been sent over, would weaken the ability that we have with drug diversion because the amendments in the crime package are worse than what the House has done, would weaken far-reaching antipornography legislation which we have passed. I urge my colleagues to take that which the House has done and pass it as the crime package. That is the right thing to do.

Mr. SAWYER. Mr. Speaker, I yield 4 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. I thank the gentleman for yielding to me.

Mr. Speaker, about 1½ or 2 hours ago this House, perhaps in historic fashion, set a record for political hypocrisy. That was when we saw all the liberal big spenders tripping down the aisle to get to the microphone so that they could speak in favor of a balanced budget. I do not think the American people were fooled by that. I think that that action in itself, in absence of a constitutional amendment, was nothing more than cutting the American people short on what they truly want. I think perhaps this bill does the same thing. However, I will be very quick to compliment the gentleman from New Jersey [Mr. HUGHES] for putting it together. However, that is as far as my compliments as to the leadership of this House is going to go.

We have today a bill that was delivered to the minority side only this morning that measures 3 to 4 inches thick. This bill, or certainly the majority of it, is familiar to those of us on the Judiciary Committee because we have had hearings on some of these, we have indeed passed on some of these. But there are provisions in this bill that have not had a committee hearing in the Judiciary Committee and that have been sitting around accumulating dust for months and months.

After I have criticized this bill, I will be very quick to say to the House, pass it, vote for it, we have to send out a message that we must have this type of legislation.

But my friend from Florida made a point—and I think it was a good point—a few minutes ago about how the question of the President's veto did set us back and was, in my opinion, an error of this administration. However, I must stop at that point and say that for the last 2 years, where has this bill been? And why does it come to us in the last closing days of this session? And are we going to have enough time to go to conference and perhaps get something over to the Senate so that we can get it passed?

This is the question that I ask, and this is the question that I believe is paramount in every Member's mind at this point.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. SHAW. I will yield to the gentleman from New Jersey for a short moment.

Mr. HUGHES. I just want to say to the gentleman that more than half of the bills that are in there are bills that came out of our subcommittee that the gentleman is a Member of and has worked on very hard. S. 1762, which I have here and which I hold up, which has a total of 419 pages, was presented to the membership, to the House, last week. I would venture to say that there were not five Members voting in this House on that bill who understood what was in it. And many of the provisions were not scrutinized by hearings.

Mr. SHAW. If I might reclaim my time, the gentleman has made a good point, and he is right. But there are provisions in this bill that have not come through the hearing process. There are many that these Members are hearing for the first time today. This is a big bill. This bill carries a table of contents which in and of itself has 24 sections.

Mr. HUGHES. If the gentleman will yield, I will get the gentleman additional time.

Mr. SHAW. I yield to the gentleman from New Jersey.

Mr. HUGHES. Let me just say to the gentleman that all but I believe two of the bills have been scrutinized in hearings, and the two are housekeeping provisions dealing with attorneys' fees, U.S. attorneys' salaries. I talked with HAL SAWYER and others. The administration had no objection to it, and we agreed to take it because they are housekeeping provisions.

But all of the other provisions have been scrutinized by committees. Unlike the bill that was submitted to us last week, many of those provisions were duplicative of what we had already passed. In fact, the bill we passed last week on the continuing resolution really messes up child pornography. If I were a defense attorney I would have a field day with child pornography alone. It messed up our pharmacy robbery bill we just passed and the President signed into law. Somebody forgot to pull those provisions out of the bill.

The SPEAKER pro tempore. The time of the gentleman from Florida [Mr. SHAW] has expired.

Mr. HUGHES. Mr. Speaker, I yield 1 additional minute to the gentleman from Florida.

Mr. SHAW. I thank the gentleman for the additional minute.

Mr. Speaker, I want to be very quick to recognize that the subcommittee of the gentleman from New Jersey [Mr. HUGHES] has been responsible and our committee has done good work. I am very proud for the work that our subcommittee has done, and I am in no way trying to use a broad brush to lay criticism on the gentleman from New Jersey [Mr. HUGHES]. However, I do think, regarding the process itself, this is certainly not its proudest moment, when we are looking at this important legislation that the American people are crying out for, and that we are looking at it here in the closing days of this session. It has been sitting around gathering dust and it has not been solely because of the responsibility of this House. However, I must lay a great deal of blame on the leadership of this House for sitting on this legislation and not allowing it to be offered until after the day when it was put on the continuing resolution.

The SPEAKER pro tempore. The time of the gentleman from Florida [Mr. SHAW] has again expired.

Mr. HUGHES. Mr. Speaker, I yield 1 additional minute to the gentleman from Florida.

If the gentleman will yield—because it is important to me, it is important to our committee, it is important to the Congress to know—the gentleman and I have worked for a long time on crime legislation. We go back to the times when we tried to pass posse comitatus, and finally we were successful. Can the gentleman think of any instance where our committee, working in a bipartisan fashion, did not endeavor to move the best substantive crime bill out of our committee?

Mr. SHAW. I would agree with the gentleman, but only as to our subcommittee, not our committee. I think our committee has been guilty of sitting on much of the good legislation that has come out. I think many of the bills could have seen the light of day before now if the democratic processes were allowed to be followed.

Mr. HUGHES. Can the gentleman tell me, why is the other body sitting on the work product of our committee, some 3½ years' work product?

Mr. SHAW. I am not standing here to defend the other body. I am sure they can answer that question for themselves. But I can only judge what has been going on in this body, and it is certainly not our proudest moment when we find that to get legislation through that we come through in the last minute with a bill of this thickness and a bill of this importance that I think should be coming up under a different type of rule, certainly not under suspension of the rules, and should be open to amendment.

The gentleman from Michigan, who is the chairman of the Criminal Justice Subcommittee, recognized for the first time, standing in the well of this House, that there was a problem with drafting in the sentencing part of this bill.

And, incidentally, I hope that is one part of this bill that is dropped in conference.

Mr. HUGHES. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER], a distinguished member of the Committee on the Judiciary.

Mr. MINETA. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from California.

Mr. MINETA. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I rise in support of this legislation. The gentleman from New Jersey [Mr. HUGHES], and the gentleman from Michigan [Mr. SAWYER], are to be commended for their leadership in assembling this package of anticrime provisions, which might not otherwise be enacted.

I want to take this opportunity to comment on the original provisions of H.R. 5690, the Aircraft Sabotage Act, now incorporated into title 14 of this package. These particular provisions are a matter of joint jurisdiction between the Public Works and Transportation Committee and the Judiciary Committee. The Aircraft Sabotage Act implements the Montreal Convention on Sabotage, an important international agreement to combat terrorism. The Montreal Convention has been ratified by the United States. This legislation revises the U.S. criminal laws to conform to the Convention.

The most important provision in the legislation establishes the jurisdiction of the United States over acts of aircraft sabotage, wherever the acts take place, if the saboteur is subsequently found in the United States. This will help the United States meet its obligation under the Montreal Convention to either punish or extradite an aircraft saboteur who is subsequently captured in the United States.

In the 95th and 96th Congresses, the Committee on Public Works and Transportation reported legislation similar to that now before us. That legislation failed to pass only because it was part of a larger package, other elements of which proved controversial.

Mr. Speaker, these provisions will further efforts to develop international cooperation in the war against terrorism. I strongly urge their enactment.

Mrs. SCHROEDER. Mr. Speaker, I think every Member in this body deplores crime, and I really cannot imagine anyone here who has been sworn to uphold the Constitution that does not.

We also know that, concerning criminal laws, one of the things that makes Americans really angry is when they think they have a criminal law against something only to find out that there are incredible loopholes that you can drive trucks through. That builds dangerous disrespect for the law. To prevent these loopholes is the reason that this body put, only lawyers on the Judiciary Committee, so they can all sit around and think, as both prosecuting attorneys and defense attorneys, about where they can find loopholes in the proposed law, so that when we brought these laws to the floor we would be sure they would not be loophole ridden. This is a Government of laws and not men and you can never, never allow people to lose that respect for the law or this society is in real trouble.

□ 1720

Clearly we do not put just lawyers on the Judiciary Committee because the body loves lawyers; they do not. We do it because we want the best possible legislative crafting when it comes to those bills.

The gentleman from New Jersey and the Judiciary Committee has been doing that; they have been doing one law at a time, as the agreement was with the President 2 years ago. Before that, the committee had done packaging. The President vetoed the package and asked for one bill at a time. This game has been going on for 4 years, we have been trying to put together dif-

ferent crime pieces that we thought were desperately needed. Now we have people going back and forth saying you are procrime because you are not for packaging, or you are procrime because you are packaging; back and forth.

I think we really need to go forward and say what the American people want are laws that will score points against criminals. They must get very angry when they hear us trying to score points politically, back and forth with this packaging argument.

The Judiciary Committee has a very strong record on the number of different pieces of crime legislation that we have passed. This package, basically, has all been acted upon before in this body. It is not a great surprise, and I hope everybody will support the package.

Mr. SAWYER. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. I thank the gentleman for yielding me this time.

Mr. Speaker, the last person in the well indicated that we got off on the argument of whether you can package or you cannot package a crime bill. We did not start that argument on our side of the aisle. We were told the reason we could not deal with the President's package in a comprehensive fashion was because that is not the way the House works. That is not the way the House Judiciary Committee works.

So now, with about 3 days left, we have this nonpackage before us. We are criticized for bringing up the President's package, as expressed through the Senate provision last week by hanging it on the CR. The gentleman from New Jersey held it up and said, "Who looked at that, only five people in the House know what it is."

Well, if that is the case, it is a shame on the Judiciary Committee. That bill has been sitting in the committee since March in that word-for-word context. It has been sitting there since a year ago March in the fuller context of the President's complete package, and it is not the fault of the full House membership that they do not know; it is the fault of the Judiciary Committee that they do not know.

We have met stone wall after stone wall after stone wall. We have not had bail reform on this floor. Who schedules things on the floor? The Speaker told us when he scheduled the ERA; he is the one who schedules it. He said the ERA came to the floor because he decided to do it. Who abetted the Speaker in bringing it here? The Judiciary Committee.

Those of us on the committee were told that the ERA would not be brought under Suspension Calendar, it would be brought here under a full rule. We went home on a Friday, being told on the Republican side it would not be brought up the next week. We came back on Monday, and found out that it was there.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. No; I do not have time to yield.

The point is that that side of the aisle has the rules. That side of the aisle can schedule when they wish, and not schedule when they wish. They have decided not to schedule sentencing before today. They have decided not to schedule bail reform before today. They have decided to schedule insanity defense under a rule that would allow amendments that were controversial in this body.

They decided that they would not allow extradition with a rule, with amendments that were controversial so that they could be considered by the whole body. The reason we have this here today, let us be honest about it, is because we were successful in attaching the crime package to the CR last week; otherwise you would not have this here. People know that; let us not try and fool people.

Now, I am going to suggest that people support this, not because they can support everything in here. There are some very egregious problems in this. The insanity defense has already been spoken about. The sentencing provision has some real problems. Sentencing requires the judge, where there is a factual question at the time of sentencing, to permit subpoena of witnesses. That includes the victim. I will give you a scenario. In a rape case under the Federal jurisdiction, at the time the rapist is about to be sentenced under this procedure, there will be a full-blown second hearing. If the woman who has been the subject of the crime has given information to the judge about how that act has impacted on her life, and that brings up a factual question, under the language of this bill, the judge shall allow subpoena by the other side. This means the person who is no longer the defendant but now the convicted individual. The second section says it shall permit cross examination.

Now, it is difficult enough to get witnesses to testify and victims to testify at the time of trial. Yet we are now saying they will subject themselves to cross-examination a second time.

Now, some say that is the only fair thing to do to the defendant who has been convicted. In point of fact, that is not allowed under the law now; it is not required under law now. We just have placed something in the law in the last year in which we require that the court must get information from the victim and the victim's family, but there is no suggestion, whatsoever, that the judge has the authority to require that person to testify.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. I do not have time because I have only been given 5 minutes.

The point is that there are some very severe difficulties with the bill that has been brought forward today. I am urging people to vote for it in hopes that it can go over to the Senate and those problems can be ironed out.

If it comes back in this shape, I would urge people to vote against it, because what we are doing by that provision, I would suggest, is putting an anti-victim protection section in it. It is not intended to do so, but that is the way it works out. I know many people on that side of the aisle share my problems with it and readily agree to try and change that; unfortunately, we do not have the opportunity here today.

So this is the package given to us by those who said we cannot have a package. It has some true problems in it; it is a package mostly because the bulk of this has already passed the House before, but we are going to put it in in hopes that the Senate will pay attention to it. I hope the Senate takes it, and I hope the Senate makes significant changes on the sentencing provision. I hope they make significant changes on insanity defense, and then send it back here.

Short of that, this bill package has some real problems in it, and we ought to recognize that even as we support it at this point.

Mr. HUGHES. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. FEIGHAN].

Mr. FEIGHAN. I thank the gentleman for yielding me this time.

Mr. Speaker, I do not know whether we should be entertained or outraged by those Members who only a week ago urged us to adopt a package of some 41 bills, twice as large as the package that has been so dramatically displayed in the presentation of today's debate, asking us to accept that package without 1 minute of discussion or debate as to its contents.

In fact, the confusion last week regarding the crime package was not what was in the specifics of those bills, but what was in the package. Few Members even knew what bills were in the package that was finally adopted under a procedural motion. I find it very strange, very ironic that those same Members are criticizing the procedure that brings this package to the floor today. In fact, the bills in the package today, the 24 of them, almost every one of them represents the collective work of more than 2 years of legislative effort by both sides of the aisle in this body.

Unlike the poorly drafted, weaker counterpart, this package will make a difference in the fight against crime. As a member of the Judiciary Committee and its Subcommittee on Crime, I

have been part of the deliberations on every one of the provisions in this package. We have before us today a well-structured and well-drafted legislative package.

As many of my colleagues have discovered, much to their chagrin, there is a tremendous difference between the Senate and House crime legislation. The Senate language, which was approved in great haste and without any debate or opportunity for reflection, was poorly drafted. Let me mention just a few of the defects in the bill railroaded through last week:

The Senate bill would have made it harder to put arsonists in jail for life if they kill a policeman or fireman.

The drug diversion bill which the House had passed permitted the Attorney General to quickly pull drugs like synthetic heroin from the market. The Senate version did not have an equivalent provision.

The House has time and again passed legislation seeking to coordinate and strengthen the Federal enforcement of present drug laws. The Senate bill did not have any provisions which would have coordinated and strengthened enforcement. This bill does.

The list is endless. The most ironic thing is that last week's stampede to accept any crime package was a stampede toward a series of bills which would do less to stop crime than the bills already in the legislative pipeline. Those bills are gathered together in this package for the first time.

In the area of drug control this bill contains provisions I have sought for the last 2 years. The legislation before you today will improve our chances of ending the scourge of drugs which has swept our Nation. This bill will both provide for coordination of Federal efforts in the area of drug enforcement and increase penalties for drug dealers.

The most important provision, the National Narcotics Act, calls for coordination of all drug enforcement activity under the Attorney General. This is different from the original House bill which called for centralization of authority in an office outside the existing agency and departmental structure. However, unlike the original House bill, the provision before you today has been approved by the Justice Department and is, in theory, vetoproof. This compromise is a start in the right direction.

Another provision, the Dangerous Drug Diversion Control Act, will make it more difficult to divert drugs from the legal to the illegal market. This bill will strengthen the fines and penalties imposed on those illegally trafficking in drugs.

The Comprehensive Drug Penalty Act is another weapon in our fight against drugs. It strengthens laws designed to deprive illegal drug traffickers of their ill-gotten gains. The act increases fines and expands forfeiture provisions in drug cases. It permits the Federal Government to seek confiscation of property during the criminal trial, rather than in a separate civil proceeding. Among other things, it will permit the confiscation of the land, buildings, boats, and airplanes used by drug dealers.

The present legislation will also reform our bail and sentencing reform systems. I fought hard for the reform of both so that citizens would no longer have to fear from recidivist criminals. In this area, our package is stronger, and will be more effective, than the Senate version. This legislation contains provisions which will remove three-time losers from the streets by establishing a 15-year mandatory sentence for felons who, after having been convicted three times for robbery or burglary, violate Federal law prohibiting receipt, possession, or transportation of a firearm in interstate commerce.

I urge my colleagues to vote for this compromise package because it is an essential step in our fight against crime.

Mr. HUGHES. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. SAM B. HALL, JR.].

Mr. SAM B. HALL, JR. I thank the gentleman for yielding me this time.

Mr. Speaker, I have been listening to this debate for 4 years, going back into the time when Father Drinan headed this subcommittee, and what I have heard here today reminds me of two Brahman bulls looking at each other through a plank fence, jealously guarding their domain.

I think what we have heard here today has nothing whatsoever to do with substance, and I think it is time for this body, to act. If we stay here another 3 years, we will never come up with a bill that satisfies everyone.

□ 1730

We have 24 items today that should be voted upon. We should not allow the American people to believe that we cannot, as reasonable men and women, come together and work out our differences.

Now, everybody on both sides of the aisle knows that this bill is going to pass. It is going to pass by a big vote. So why sit here and quibble? Why sit here and look at each other through that planked fence and try to decide who is right and who is wrong?

Let us get to the end of it. Let us vote this bill. Let it go to conference and work out the differences.

Mr. HUGHES. Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. GLICKMAN], a member of the Committee on the Judiciary.

Mr. GLICKMAN. Mr. Speaker, fighting crime is not a partisan effort, and yet there seems to be a fixation of fault here as to why this bill is up and whose bill is better. Each side of the aisle is wringing its hands and blaming the other side, and this process is not putting any criminals behind bars. I doubt that there is an individual in this House who does not agree with the need to toughen laws in this area but in doing so we have encountered legitimate differences of opinion about the best way to go about it and how to stay within the Constitution.

The package before us represents the careful thinking and hard work that is necessary to get at these problems without running afoul of the basic law of the land.

Like the gentleman from Texas [Mr. SAM B. HALL, JR.] I am tired of the blaming. I am tired of the projection of fault. Let us pass the bill. Let us fight crime by getting these provisions into law.

Mr. Speaker, the bill before us today is very important to the well-being of this Nation. It embodies a consensus on a wide range of steps aimed at dealing effectively and meaningfully with the crime problem in all of its aspects and does so in a way which reflects reasoned consideration and, therefore, should be able to sustain constitutional scrutiny. Unfortunately, the crime package attached to the continuing resolution last week by this House was defective in a number of ways; it didn't go as far as we would want in some areas and in others it went overboard to the point of raising valid constitutional and practical concerns.

This bill provides for revisions in the bail laws to assure that individuals charged with certain crimes can be detained if they present a danger to the community; it toughens laws against escape while in custody; it modifies the insanity defense to prevent abuses; and it reforms the sentencing laws to make sentences mean something more than the charade they are today. The bill focuses on drug crimes which are of such concern, especially to the parents of this country; it toughens penalties and strengthens enforcement of laws; it targets the problem of prescription drugs being diverted for illegal uses; and it coordinates the Federal effort against drug crime. The bill increases a whole range of criminal penalties and fines and makes it a crime not to pay a fine; it also toughens penalties against career criminals; and it provides the funds needed to assist law enforcement agencies in implementing these laws.

In a new endeavor, this bill focuses attention on the victims of crimes in setting up a victims' compensation program and assisting the States in providing help to victims of crime. The bill also provides assistance to protect witnesses who are needed in the judicial process to get criminals put behind bars. Finally, the bill estab-

lishes penalties and improved procedures for prosecuting white collar crimes, and the increasingly common crimes of credit card and computer fraud and trademark counterfeiting.

Mr. HUGHES. Mr. Speaker, I yield 1 minute to a distinguished member of the committee, the gentleman from Virginia [Mr. BOUCHER].

Mr. BOUCHER. I thank the gentleman from New Jersey for yielding time, and it is my pleasure to rise in support of H.R. 5690, the Anti-Crime Act of 1984.

Mr. Speaker, I would like to take just a few moments to discuss three provisions of the bill in which I take some small pride of authorship: The sentencing, assault, and fine collection titles.

The Anti-Crime Act of 1984 specifies for the first time the purposes of criminal sentencing. It instructs judges to seek general and specific deterrence, incapacitation, rehabilitation, restitution, and reconciliation of the defendant, victim, and community through the sentencing process.

The bill will also achieve more uniformity in sentencing. It establishes sentencing guidelines which place limits on judicial discretion while at the same time ensure just punishment for offenders.

Mr. Speaker, we are all too aware of stories of those career criminals who receive lenient sentences and return to society to once again violate our laws. For those who seek a lifetime of crime the bill before us specifies imprisonment for at least two-thirds of the statutory maximum, but the bill recognizes that imprisonment may not be the preferred punishment for first-time offenders.

H.R. 5690 also incorporates the provisions of H.R. 5846, the Criminal Fine Enforcement Act, which I was pleased to sponsor. It reflects the recommendations of the Reagan administration, increasing the level of criminal fines and giving the Justice Department new means of collecting moneys owed to the Federal Government by criminals.

More than 21,000 separate fines amounting to more than $132 million are now overdue. The fine collection enforcement provisions of H.R. 5690 will give the Justice Department the authority that is needed to collect these outstanding debts and ensure that the terms of future criminal sentences are fully enforced.

Finally, the Anti-Crime Act of 1984 extends the umbrella of Federal criminal law protection to Federal probation officers and members of the U.S. intelligence community. The bill incorporates H.R. 6772, which I was also pleased to sponsor, which makes it a Federal offense to assault or murder a Federal probation officer or member of the intelligence community engaged in or on account of the performance of his or her duties. This provision is strongly supported by the Federal Probation Officers Association and the Director of the Central Intelligence Agency, whose letter in support of H.R. 6772, I inserted in the RECORD of Friday, September 28, 1984.

Mr. Speaker, I believe that the best way to reduce crime is to get tough with criminals. I urge my colleagues to do just that by passing the Anti-Crime Act of 1984.

Mr. Speaker, I commend the gentleman from New Jersey [Mr. HUGHES] for bringing this measure before us, and I urge my colleagues to support it.

Mr. HUGHES. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee [Mr. GORE].

Mr. GORE. Mr. Speaker, I want to compliment my colleagues, the gentleman from New Jersey and the gentleman from Michigan, for their leadership on this difficult and complex issue.

Mr. Speaker, I rise in support of the Anti-Crime Act of 1984, and I want to take special note of title 15, the Armed Career Criminal Act. I am very pleased to be an original cospsonsor of this legislation along with Mr. WYDEN and Mr. FRANK, legislation which represents an important step forward in the fight against crime.

The Armed Career Criminal Act represents a change in direction. It is a thoughtful, innovative proposal that strikes hard at the heart of crime in America—the repeat offender. In this legislation, we shift from talk to action. We take the first steps toward providing greater protection for our families and friends, our homes and communities.

Crime in this country is increasingly an interstate problem. For instance, drug trafficking, and the rash of other crime that it spawns, is not only interstate but international. It has presented special problems for law enforcement officials in isolated, mountainous areas of east Tennessee. Airports in these areas have become ports of entry for illicit drugs. Depite the best efforts of local, State, and Federal law enforcement officials, there is a steady flow of drugs across State borders.

It is well known that armed robbery and burglary with a weapon are two crimes closely tied to drug-related activities. The interstate character of this activity demands a strong and effective Federal response. We have experienced the interstate character of this crime in Tennessee, and I am sure that it is a problem in other States as well.

The Armed Career Criminal Act, which provides for a mandatory minimum sentence of 15 years in a Federal penitentiary for anyone convicted three or more times of armed robbery or burglary with a weapon that has traveled in interstate commerce, is such a response. It will effectively complement existing local and State law enforcement efforts by providing a Federal sanction, in appropriate cases, to help get the repeat violent offender off the streets.

Tennessee has acted as well to deal with the problem of the repeat offender. Tennessee has a very rough habitual offender law. Prosecutors have been hampered in attempting to utilize that law to keep habitual offenders in prison, however, by prison overcrowding. Other States have similar problems.

This legislation, if enacted, will help States such as Tennessee by providing greater flexibility to prosecutors in getting career criminals off the street. The bill maintains local control over prosecution for State offenses. The U.S. attorney would become involved only if requested to do so by the local district attorney.

The Federal alternative may be useful as a way of dealing with the State prison overcrowding problem. In addition, it can be a helpful alternative for local prosecutors in bringing to bear the greatest possible range of resources for fighting crime.

Tennessee State prisons were operating at 122 percent of capacity in 1983. State corrections officials are now under court order to reduce the prison population, and they are taking steps to reduce the number of inmates being held. I should note also that of inmates in Tennessee prisons, 35 percent are parole violators.

There are no comprehensive statistics on recidivism in Tennessee, the measure of crimes committed by repeat offenders. But the fact that 35 percent of inmates currently are parole violators, a statistic that does not include persons who commit a second or third offense after their parole period has ended, is clear indication that repeat offenders are a very serious threat to the public. Statistics from corrections officials in other States reflect a similar trend.

It should be emphasized that the Armed Career Criminal Act does not preempt State law. Rather, it is a signal to criminals that the Federal Government will act to get them off the streets when asked to do so by local prosecutors. We cannot let prison overcrowding reduce the deterrent effect of the criminal law. A repeat offender should realize that he runs the risk of Federal prosecution and a minimum of 15 years in a Federal penitentiary for his crime. State prosecutors will still decide whether to seek conviction under a State habitual offender statute or whether to refer the case to the U.S. attorney's office. But the threat of a tough Federal sanction will exist if this legislation is enacted.

Some States have repeat offender statutes with comparable, or in the case of Tennessee more severe, penal-

ties. But congestion in the State courts strains the system to the limit. Prosecutors are forced to make compromises in order to prevent the system from breaking down. These compromises dilute the impact of State repeat offender statutes.

The criticism may be heard that Federal courts and prisons are overcrowded as well. But the fundamental point is that as bad as it is in the Federal criminal justice system, the situation in the States is much worse. Title 15, which is identical to legislation passed overwhelmingly by the House 2 days ago, offers an alternative that gives prosecutors maximum flexibility to achieve quick and certain justice, an essential element of the deterrent value of the criminal law.

In short, the Armed Career Criminal Act increases the tools available to prosecutors in fighting crime. It reduces the possibility that overload in the corrections system will diminish the severity of punishment. It is a strong, realistic, and commonsense anticrime measure. I urge my colleagues to support title 15, as well as the Anti-Crime Act of 1984 in its entirety.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. HUGHES] has 5 minutes remaining and the gentleman from Michigan [Mr. SAWYER] has 2 minutes remaining.

Mr. HUGHES. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. CARR].

Mr. CARR. Mr. Speaker, I would like to thank my colleagues on the Judiciary Committee for moving swiftly on the Sexual Assault Act of 1984, a bill I joined in introducing last February with my colleague, Mr. HOYER. This bill would bring Federal rape laws into the 20th century, and into conformity with the laws of 38 States, including Michigan. It is title IX of the Anti-Crime Act, now titled the "Federal Rape Law Reform Act of 1984."

Rape is perhaps the most demeaning violation of privacy one can experience. It may be the most feared crime of any we know, and the crime of highest emotional impact upon its victims. The effects of the crime itself are compounded by a legal tradition that has too often framed the victim as the criminal. Over the years, rape victims have been afraid to report the crime and afraid to pursue their assailants to court—afraid that they might be assaulted yet again by the judicial system.

Too often, victims have watched as the courts allowed a sexual criminal to go free or be convicted on a lesser count, because the laws did not account for the nature of the crime, and the sentencing structure did not offer judges and prosecutors the flexibility needed to administer the proper punishment.

We need laws that acknowledge the complexity of rape. Just as not every murder is a first-degree murder, not every sexual assault is a first-degree offense. We try the crime of murder by degree, and we should do the same with the crime of sexual assault.

I'm happy to say that in recent hearings in Waterford, MI, a number of our State's experts on the sexual-assault issue testified on the effectiveness of Michigan's criminal sexual conduct law over the past 10 years. While we can't claim to have completely conquered the rape-conviction problem in Michigan, we have made measurable success both in increasing the number of sexual assaults reported and in increasing convictions. Before Michigan's law went into effect in 1975, we had about eight convictions per month for sexual assaults. Between 1976 and 1978, that number rose to 21 per month.

The most violent sexual assaults in Michigan continue to draw a very severe penalty—life imprisonment. However, cases involving little or no violence—cases which once might have been thrown out of court—are now prosecuted as well, and a conviction often results. Our laws match offenses, which means more criminals are going to jail.

While 37 States followed Michigan's example, however, the Federal Code maintains the archaic view of rape as a one-dimensional crime. It is crucial that we bring our Federal standard into line with the progressive laws of States such as Michigan.

This is not only important in the few sexual-assault cases tried under Federal jurisdiction, it is important in setting the pace for thinking across our Nation, in creating a model for States which have not updated their laws.

Why is this so important? Because there is one forcible rape in our Nation every 7 minutes. The number of rapes reported has climbed steadily over the past decade. However, the number of convictions nationwide remains at about 50 percent. Too many sexual criminals continue to walk the streets in our country.

By putting modern sexual-assault laws into the Federal books, we are saying that a 50-percent conviction rate is not high enough. We are putting the Federal Government solidly behind the States' efforts to fight this unspeakable crime and we are helping set a standard that puts criminals behind bars, not back on the streets.

Once again, I commend my colleagues on the Judiciary Committee for bringing anticrime legislation to the floor, and especially for their inclusion of this important bill. And I'd like to thank the Justice Department for its endorsement of this bill, and for the helpful recommendations to improve the bill, including the provision for fines in addition to prison sentences, revenues of which would be used for a victims' compensation fund. It is time for the Federal Government to set a standard that protects victims, puts violent criminals behind bars, and helps assure that all Americans can walk the streets and live their lives safely and without fear.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. SAWYER] has 2 minutes remaining.

Mr. SAWYER. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Speaker, As a coauthor of the Juvenile Justice, Runaway Youth, and Missing Children's Amendments of 1984, I have mixed feelings about the consideration of H.R. 5690 today. I am happy that a bipartisan compromise version of the juvenile justice, runaway youth, and missing children's legislation is included as title 22 of H.R. 5690, but I am disappointed about the abrupt, partisan process by which H.R. 5690 has come before us today. In an effort to help enlighten my colleagues about what is in H.R. 5690, let me explain some of the key features of title 22, which came out of my Human Resources Subcommittee.

One theme runs through the three programs in title 22, and through many other programs in the House Education and Labor Committee. That theme is the family. Whether we are talking about missing children, runaway youth, or juvenile delinquency—the family is often the source of the problems we are trying to deal with. Most importantly, the family is almost always a source for the solution. Yet the institution of the family is sort of like the weather—everyone is always talking about it, but no one ever does much about it.

Indeed, ever since our country was settled, Americans have been complaining about the breakdown of the family unit. William Bradford, the founder of the Plymouth Colony, noticed it happening in his new-found world as the promise of better farmland drew younger settlers farther from town and their parents. A report by our first Secretary of the Treasury, Alexander Hamilton, commented that the advent of the first factories pulled children away from family farms. By the turn of the century, President Theodore Roosevelt was complaining that industrialization and urbanization was destroying the family forever. And here we are today, still maintaining a deathwatch over the family.

Very real problems continually attack the institution of the family in our country. Seeing those problems, each generation prohesies the death of the family unit—but the family survives nonetheless. Perhaps the phenomenon is a byproduct of the unprecedented economic opportunity avail-

able in America—luring each new generation on to whatever new frontier is then opening. At least that is what William Bradford thought as he compared his restless Plymouth Colony to the stability of old England.

With the huge, post-Second World War baby-boom generation now yielding to its natural child-bearing instincts, the family is again coming to the fore. This was proven when no less an authority than the Doonsbury comic strip had Ms. Joan Caucus get married and have a child. We are all concerned about helping this new generation of families survive and prosper in the stressful and demanding socioeconomic environment of the eighties. Title 22 of H.R. 5690 directly addresses this concern.

As suggested by its name, this title has three main components, all addressing the needs of youth and families in trouble. One component of this title, the Missing Children's Act, merits special attention here because it is entirely new. Let me discuss that portion first.

This act is not intended as some starry-eyed Federal panacea to round up runaways and cure all other problems related to childhood. There will always be kids like "Huck Finn" in our midst, and no army of Federal bureaucrats is going to stop it; yet there is a real need for the Justice Department to combat kidnaping, especially since abducted children are often subject to sexual abuse, and exploitation, torture, and even murder. This may seem like a remote problem to some people, but it's not. Testimony before my subcommittee showed that it is instead a random problem that can strike anywhere. One day it's newspaper carriers in Des Moines. Another day it's black children in Atlanta; yet another day it's young Adam Walsh in Florida. When this happens, it can destroy a family and tear apart a community. We must stand ready to stop it. At this very moment, children are being abducted, abused, and tortured. They are crying out for help. We must act to save them.

The disappearance of a child is the most traumatic and disruptive thing that can happen to a family. I have gained a new appreciation for this by working with John Walsh in the drafting of this measure. The kidnaping and murder of Mr. Walsh's son, Adam, which has become known to millions due to media coverage of that tragedy, shows us that this horror could strike any of our families. Indeed, each year over 50,000 children disappear from their homes. Between 4,000 and 8,000 of these children are later found dead. Very often they have been tortured and murdered like Adam.

The Federal Government can play an invaluable role in safely recovering missing children and reuniting families by assisting local law enforcement agencies. Too many of those agencies are simply ill-equipped and undertrained in dealing with this very special type of problem. This legislation establishes a national resource center and clearinghouse to provide just such technical assistance and otherwise coordinate public and private efforts to locate missing children. We must do at least this for our missing children and our families.

Title 22 also reauthorizes the Juvenile Justice and Delinquency Prevention Act. As you well know, that act has played a vital role in separating youthful offenders from adults in jails. It has also funded research and demonstration projects for treating juvenile delinquency and controlling juvenile delinquents. This legislation continues these efforts while making a variety of administrative and substantive changes. One of these is especially important for the family.

Throughout title 22, new emphasis is focused on addressing the problem of juvenile delinquency in the context of the family by directing program grants and training in this direction. When dealing with delinquent youth, the family can often be the source of either the problem or the solution. In many cases, grandparents can be especially valuable resources in correcting a troubled young person. By supporting local projects designed to tap these resources, this legislation should help rebuild broken families. Experimental projects in Colorado, Alabama, Pennsylvania, and North Dakota show the potential of this approach to combating juvenile delinquency. Since you are the vanguard in this effort, let me describe these projects for you.

New Pride is an 11-year-old Denver, CO, program that treats juvenile multiple offenders who are on probation—and one step from being institutionalized—within the context of their family, with the primary goal of preserving the family. Participating juveniles and their families undergo careful analysis before entering into a treatment program. The director of New Pride estimates that only 20 percent of the juvenile delinquents completing the program are subsequently rearrested, usually for minor offenses. The project has been so successful that the Office of Juvenile Justice and Delinquency Prevention has negotiated with New Pride's private contractor to duplicate this model program in other cities.

In Alabama, the Parent Training Program has been in operation for a decade in the city of Mobile. All families who file petitions in the local juvenile court must participate in the program with their child or else lose the services of the court entirely. Clients also come to the program on their own or from private referrals. The families participate in a 6-week counseling period. Program staff believe that the significant decrease of status offenders being placed in the Mobile, AL, detention center is a direct result of this counseling service.

Alabama has another noteworthy program, the community intensive treatment for youth, known as CITY, based in Birmingham. This program is the brainchild of a former troubled youth who has put his past experience to use in helping today's adolescents avoid the years in reform schools and prisons that he endured. Counseling and training are provided for the families of clients because the philosophy of CITY is based on the belief that the behavior of the youth usually reflect problems in the family structure. The success of CITY can be measured in many ways. This program saved the State of Alabama more than $1.26 million over a 3-year period in decreased institutionalization costs for Birmingham. CITY evaluation studies show that the program has reduced the need for institutionalizing juveniles in Birmingham by 92 percent in 3 years. In 1983, the National Council of Juvenile and Family Court Judges presented CITY its award for the most innovative and unique juvenile justice program. While these facts are all very impressive, the true success factor of CITY is that it is giving the troubled youth of Birmingham a second chance at making themselves productive participants in this society.

Another program, the family counseling unit of the juvenile court in Montgomery County, PA, provides family counseling service to over 50 families every year. The juveniles referred to this service are classified as "hard-core delinquents" who would be institutionalized if this program did not exist. The juvenile and their family receive weekly counseling for 6 to 9 months. One study compared the results of the first year of operation with the previous year when no counseling services were available. According to that study, the Pennsylvania program reduced the number of institutionalized juvenile delinquents by 23 percent, at a savings of over $1 million.

Finally, the Family Therapy Institute brought status offenders and their families to Rugby, ND, from all over the State for short-term, intensive family therapy. The facilities were designed in a typical retreat setting. Families stayed no less than 3 days and received approximately 14 hours of actual therapy, equivalent to about 3 months of traditional weekly counseling sessions. Families were given between-therapy assignments and isolated from normal daily pressures that allowed them to focus on working together as a family to understand their problem. The philosophy of the program was to maintain the family unit and provide counseling to the youth

and family to enable them to cope and work through their shared problems.

The fate of this last program shows the need for the revised juvenile justice measure. That remote North Dakota program recently closed its family treatment facility due to a lack of funds. The new family emphasis of the Juvenile Justice Act should target funds toward such exemplary programs designed to strengthen and maintain the family unit.

The final component of the juvenile justice legislation continues, with a modest increase, Federal funding for the nationwide network of shelters for runaway youth. My own State of Wisconsin has an excellent program in this area. By providing safe refuges for vulnerable and troubled runaway young people, these shelters provide a bridge toward restoring runaways to their families before these children are lured or taken away forever. It is crucial, however, for every one associated with such shelters to remember that they can never replace the family. Our goal must be to reunite and rebuild a healthy family unit.

Severe socioeconomic problems afflict our country. The number of broken families is staggering. Drugs and gangs continue to attract our youth. And despite tremendous improvement in the economy, unemployment is still a chronic problem for youth and minority in our cities and some rural areas. These and other factors lead to the related problems of juvenile delinquency, runaway youth, and even missing children. In this sense, juvenile delinquency, runaway youth, and missing children are symptoms of a deeper disease, rather than the core illness itself. Yet, we must treat the symptoms even while we seek to cure the disease because the symptoms, as well as the illness, tear at our families—often pushing the fragile family support network to, and beyond, the breaking point. Through the juvenile justice program, runaway youth shelters, and the missing children's center, we have tried to supply some remedies to alleviate these symptoms. These programs should be reauthorized.

Mr. HUGHES. I yield 1½ minutes to the gentleman from Michigan [Mr. SAWYER].

The SPEAKER pro tempore. The gentleman is yielded 1½ minutes. That gives him 2½ minutes remaining.

Mr. SAWYER. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. FIEDLER].

Ms. FIEDLER. Mr. Speaker, I rise in support of this bill and I, too, would like to comment on the Sexual Assault Act of 1984. I think that this is a very important revision in the law.

In the State of California, over half of our land mass is Federal land. Consequently, what happens in terms of Federal law as it relates to sexual assault is terribly important.

Last year we had at a Federal level only 84 reported sexual offenses based on current law because our sexual assault laws have not been sufficiently revised. It seems to me that this particular law provides a gradation of law which is necessary in order to penalize people for more than just the single act of rape.

One of the important provisions I would like to also mention is the fact that this deals with the issue of spousal rape. I have been deeply concerned about the fact that women in their own homes are treated as second-class citizens when it comes to some of the issues of domestic violence, and I think that this particular law does help to provide the necessary protections for spouses when it deals with the issue of what happens on Federal land, and I think this does provide important protections that have not existed in the past.

Mr. SAWYER. Mr. Speaker, I want to thank the gentleman from New Jersey [Mr. HUGHES] for yielding me 1½ minutes. We used up our time over here completely.

I just want to say in conclusion that as has been stated, and I thought I stated, that most of the provisions in this bill not only came out of my own subcommittee chaired by Mr. HUGHES, but have actually passed on the floor of the House.

One was pointed out that was rejected by the House. True it was rejected, but it was brought up on suspension and carried by a majority but not the 2 to 1 required on suspension. I want to urge passing this bill.

It may not be everything we want. Hopefully through some kind of conference or discussion we can work out some of the minor problems, but believe me, 90 percent of this bill is very excellent legislation and very badly needed.

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Because we have some problems with one or two parts of it is no reason to throw the whole thing down the drain, which is where it will go if we do not pass it.

I would urge all my colleagues to combine and pass this bill, because whatever faults it has, it has 10 times as much merit. We have worked very hard on it, the gentleman from New Jersey and I, the gentleman from Florida [Mr. SHAW], and numbers of others on our committee, the gentleman from Florida [Mr. SMITH] and others. I think we can be very proud of the results.

What I criticized was the fact that we had to do it this way because of a kind of feud between the House and the Senate, and the only hostage or victim will be the American people if we do not step forward and pass this legislation and try to work out what differences we have.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. HUGHES] is recognized for the remaining 2½ minutes.

Mr. HUGHES. Mr. Speaker, I think my distinguished colleague from Texas said it all. I have heard the same things he has heard these last 4 years, and we have tried to pass crime legislation several different ways. We have tried to pass them individually, and now we are going to try them again in a package. I am willing to try it any way, because all I want to do is pass crime legislation.

Last week we had our chance to send a signal. That vote on the continuing resolution was just symbolic. Now if you want to pass crime legislation, you now have a chance to do so. An "aye" vote will pass crime legislation. Mr. Speaker, it is a good bill, and I urge my colleagues to give it their overwhelming support.

● Mr. RATCHFORD. Mr. Speaker, I rise in support of H.R. 5690, and wish to applaud Chairmen RODINO and HUGHES for their thorough, diligent work in developing this strong anti-crime package.

To those in this body who have been criticized for voting not to attach the crime package passed by the other body onto the continuing spending bill, I would recall the old adage that you cannot judge a book by its cover. For, despite comments to the contrary, the Judiciary Committee has presented us with a crime bill today that is tougher in many respects than the package that was before the House last week, and that corrects several serious flaws in that package.

So while some may have judged last week's crime bill by its title, I think we should judge the bill before us today by its substance.

In this regard, it is worthy to note that the administration has expressed a preference for this bill, H.R. 5690, as it relates to dangerous drug diversion control.

Further, H.R. 5690 contains several provisions not included in last week's crime package, and I would much rather see these measures included. Among them are: reform of rape laws; creation of a "drug czar"; a victims-of-crime-compensation program; a trademark counterfeiting provision; missing childrens' and juvenile justice amendments; and mandatory 15-year sentences for armed career criminals.

Finally, I would note that the crime package before the House last week would actually have weakened current laws on child pornography and arson. That is certainly not the direction the American people want to go in combating these two types of crime.

In short, then, we have an opportunity to pass strong, well-drafted anti-

crime legislation today. H.R. 5690 is a very good bill which contains many provisions that the public supports.

I appreciate this opportunity to consider fully this crime legislation, and urge adoption of the bill before us as the best anticrime initiative Congress will vote on this year.●

● Mr. GILMAN. Mr. Speaker, I would like to take this opportunity to express my support for the measure now before us, H.R. 5690. Although this legislation is a compendium of anticrime measures, some of which have already passed either the House or the other body, it is important that several titles of this legislation receive specific attention.

H.R. 5690 consists of 24 titles, each pertaining to one aspect and approach to crime. Among these titles are those that address bail reform, the insanity defense, sentencing reform, antiterrorist measures, and justice assistance to State and local governments. However, there are several titles pertaining to narcotics trafficking that I especially wish to address.

Title IV encompasses legislation passed by this body only a few weeks ago. That bill, H.R. 4901, the Comprehensive Drug Penalty Act, contains provisions designed to confiscate the proceeds and wealth that drug traffickers make from their crime. Title VII consists of the provisions of S. 1787, passed by the other body earlier this year. That measure, the National Narcotics Act, creates a Cabinet-level National Drug Enforcement Policy Board to study Federal efforts to eradicate illegal drug trafficking, coordinate the efforts of several Federal agencies, and advise the President and Congress on additional avenues available in combating narcotics trafficking and its consequential effects on our youth. However, this body just recently adopted H.R. 4028, the Drug Abuse Prevention and Treatment Act Amendments, which although having the same purpose, manifests its power to a "drug czar."

As ranking minority member of the Select Committee on Narcotics Abuse and Control, I continue to be highly concerned that this Congress take a comprehensive approach to the problem of drug abuse and narcotics trafficking. It is for this reason that the select committee exists, and I appreciate the efforts being made by both the chairman of the Subcommittee on Crime as well as the ranking minority member of the subcommittee.

By encompassing the provisions of H.R. 5656, the dangerous drug diversion control measure as title XII of H.R. 5690, the House will be able to vote on one bill which encompasses the aforementioned pieces of legislation that this body adopted only a few weeks ago. Although some may feel that we are repeating ourselves unnecessarily, it is important that a comprehensive approach be taken; and in going to conference with the other body, H.R. 5690 will ease that process considerably. Accordingly, I urge my colleagues' support for the pending bill.●

● Mr. BIAGGI. Mr. Speaker, I rise in support of this bill, H.R. 5960, the Anti-Crime Act of 1984. Many of the individual parts of this anticrime package have already passed the House as separate measures, but because of the limited time remaining this Congress, the only way to get the majority of these provisions enacted is to approve them in package form, as contained in H.R. 5960, and then work toward reaching an agreement with the Senate on these important crime-related issues.

Although this may not be the preferred way to deal with such vital and complex issues, it is the only realistic choice at our disposal. I want to commend the distinguished chairman of the Judiciary Committee, Mr. RODINO, and the Crime Subcommittee chairman, my good friend from New Jersey, Mr. HUGHES, for dealing with these stark realities and bringing this package to the floor today. Simply put, the American people have sent us all a strong signal that they want us to get tough on criminals and to improve our revolving door system of criminal justice. This bill contains some 24 components that will do much to achieve those objectives.

As a 23-year New York City police veteran, I am particularly pleased with the funds this legislation would authorize for assisting State and local law enforcement agencies with proven crime fighting activities. Specifically, this bill would authorize $170 million per year in fiscal years 1984 through 1987 for law enforcement assistance to the States and localities.

Another significant and very positive component of the bill would establish a fund to provide Federal aid to State crime victim compensation programs and to provide similar services for victims of Federal crimes. I cosponsored a separate crime victims compensation bill earlier this Congress, and am especially pleased that H.R. 5960 would stipulate that the crime victims compensation fund would be supported with revenues obtained directly from the criminal element. For example, revenues would be accrued from Federal criminal fines, forfeited bail bonds and collateral, and profits from the sale of movie or book rights which convicted defendants would have to forfeit.

Other provisions of the bill would:

Allow Federal judges to deny bail for a defendant if that individual represents a potential danger to the community;

Amend the insanity defense law so that, among other things, a defendant would have to prove insanity, instead of the existing requirement that the prosecution must prove a person's sanity;

Restrict judicial discretion in the sentencing of criminals;

Greatly increase the penalties for drug offenders;

Increase money laundering penalties;

Establish a Cabinet-level National Drug Enforcement Policy Board to develop and coordinate Federal antidrug efforts;

Amend our rape laws to outlaw homosexual as well as heterosexual rape, and to cover other forms of sexual abuse that are not specifically prohibited under current law;

Create Federal criminal sanctions for trafficking in counterfeit goods or services and increases civil penalties for such violations;

Prevent the diversion of prescription drugs to illicit markets;

Prohibit the use, production, or trafficking in counterfeit credit cards;

Make the unauthorized access to computers where illegal gains are made or there is access to national security information a Federal felony;

Expand Federal jurisdiction over hostage-taking situations, and over acts that threaten aviation safety and aircraft sabotage;

Establish a mandatory 15-year prison term for career criminals who are convicted of receiving, possessing, or transporting a firearm in interstate commerce;

Make it a Federal crime to assault or kill a member of the intelligence community or a Federal probation or pretrial services officer or employee;

Prohibit escape from confinement for contempt of court, from confinement for mental examination, or from custody following acquittal by reason of insanity;

Expand current Federal laws against financial bribery and fraud;

Make possession of contraband in a Federal correctional institution a criminal offense;

Provide new, simplified procedures for the admission of foreign business records as evidence in U.S. trials in order to facilitate the prosecution of criminals who use foreign banks to launder crime profits;

Increase maximum fines that can be imposed upon persons convicted of Federal crimes, and strengthen the ability of the Justice Department to collect fines;

Reauthorize the programs under the Office of Juvenile Justice and Delinquency Prevention, and establish a program to help locate missing children; and

Increase pay for court-appointed lawyers in criminal cases, and for U.S. attorneys.

Mr. Speaker, generally, these provisions were developed after long and

careful deliberations by the House Judiciary Committee, which established these items as top priorities in the fight against crime. Considering that the Justice Department reports that approximately 70 million Americans were affected by crime during the past year, we must address the crime issue in a strong and comprehensive fashion. H.R. 5690 provides us with that opportunity today. I urge its passage.●

● Mr. FEIGHAN. Mr. Speaker, we finally have a crime fighting package which addresses the most important part of our fight against illegal drug trafficking. I have worked consistently to pass legislation which would coordinate and strengthen Federal drug enforcement legislation. The National Narcotics Act, before us today, will both provide for coordination and strengthening of Federal efforts in the area of drug law enforcement.

Drugs and crime are linked, whether it is actually the crime of drug dealing, as in this legislation, or the commission of a crime under the influence of drugs, there is a link.

Over the course of the last 2 years, as chairman of the House Drug Task Force, I have seen for myself that the many drug enforcement programs are so hopelessly tangled that heads of the various agencies involved cannot even agree among themselves as to what the priorities are—much less how to proceed. This lack of effective overall coordination has hindered our drug enforcement programs. No single individual in the administration supervises the various drug programs. Even the Vice President, who nominally has responsibility for drug programs, has no input into the budgetary process. If we are going to deal with the total problem, we need one office with sufficient power and expertise to draw together the resources of the Federal Government at home and abroad.

This package before us today contains the National Narcotics Act, which calls for coordination of all drug enforcement activity under the Attorney General. This is different from the original House bill which called for centralization of authority in an office outside the existing agency and departmental structure. However, unlike the original House bill, the provision before you today has been approved by the Justice Department and is, in theory, veto proof. This compromise is a start in the right direction.

This crime package also contains several other provisions which will help fight crime both of which have passed the House once before, only to languish in the Senate.

The Drug Penalty Act of 1984 will strengthen penalties for controlled substances offenses and improve forfeiture provisions. This bill makes the sale of controlled substances more difficult by raising the price which dealers have to pay when caught. It will subject to forfeiture all land and buildings used with the knowledge of the owner for holding or storing or cultivating controlled substances or materials used to manufacture such substances.

Finally this package also contains a provision to fight the increasing problem of prescription drugs which find their way onto the streets. This bill will help halt the flow of prescription drugs into the illegal market. Evidence clearly shows that prescription drugs which are diverted from legitimate channels of medical distribution to the illegal drug market are responsible for three-fourths of the deaths and injuries due to drug abuse.

I urge my colleagues to vote for this compromise package of legislation because it is an essential step in the fight against crime.●

● Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of H.R. 5690, the Anti-Crime Act of 1984. I would, however, like to direct my colleagues' attention to title 14 of this bill which deals with a matter of concern to the Aviation Subcommittee, that of aircraft hijacking and sabotage.

Although it seems that aircraft hijacking and sabotage have become somewhat less frequent in recent years, they remain serious issues. It is important that we take a strong stand against all acts of international terrorism. Unfortunately, but not surprisingly, airlines and aircraft have been a prime target of international terrorists.

To combat this, the United States ratified the Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation almost 12 years ago. In the 96th Congress, our Aviation Subcommittee considered and reported legislation to implement this treaty, but unfortunately, it was never enacted. I was, therefore, pleased that the President saw fit to send an antiterrorism package to the Congress last spring, part of which is now included as title 14 of H.R. 5690. Although the version submitted by the President has been changed somewhat, it is my understanding that the administration still supports the provisions contained in this title.

Mr. Speaker, the aviation portion of this bill—title 14—does not make drastic changes to existing law. But it does implement the Montreal Convention I mentioned previously. More significantly, it closes gaps in the law relating to aircraft sabotage and hijacking to ensure that any such acts do not go unpunished under U.S. law. In so doing, it would send the proper signal to would-be terrorists and to other governments about our strong attitude against international terrorism.

I urge my colleagues to support H.R. 5690.●

Mr. HUGHES. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 5690, as amended.

The question was taken.

Mr. HUGHES. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5690.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

ST. ELIZABETHS HOSPITAL AND DISTRICT OF COLUMBIA MENTAL HEALTH SERVICES ACT

Mr. DELLUMS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6224) to provide for the assumption of selected functions, programs, and resources of St. Elizabeths Hospital by the District of Columbia, to provide for the establishment of a comprehensive mental health care system in the District of Columbia, and for other purposes, as amended.

The Clerk read as follows:

H.R. 6224

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Saint Elizabeths Hospital and District of Columbia Mental Health Services Act".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress makes the following findings:

(1) Governmentally administered mental health services in the District of Columbia are currently provided through two separate public entities, the federally administered Saint Elizabeths Hospital and the Mental Health Services Administration of the District of Columbia Department of Human Resources.

(2) The District of Columbia has a continuing responsibility to provide mental health services to its residents.

(3) The Federal Government, through its operation of a national mental health program at Saint Elizabeths Hospital, has for over 100 years assisted the District of Columbia in carrying out that responsibility.

(4) Since its establishment by Congress in 1855, Saint Elizabeths Hospital has developed into a respected national mental health hospital and study, training, and treatment center, providing a range of qual-

ity mental health and related services, including—

(i) acute and chronic inpatient psychiatric care;

(ii) outpatient psychiatric and substance abuse clinical and related services;

(iii) Federal court system forensic psychiatry referral, evaluation, and patient treatment services for prisoners, and for individuals awaiting trial or requiring post-trial or post-sentence psychiatric evaluation;

(iv) patient care and related services for designated classes of individuals entitled to mental health benefits under Federal law, such as certain members and employees of the United States Armed Forces and the Foreign Service, and residents of American overseas dependencies;

(v) District of Columbia court system forensic psychiatry referral, evaluation, and patient treatment services for prisoners, and for individuals awaiting trial or requiring post-trial or post-sentence psychiatric evaluation;

(vi) programs for special populations such as the mentally ill deaf;

(vii) support for basic and applied clinical psychiatric research and related patient services conducted by the National Institute of Mental Health and other institutions; and

(viii) professional and paraprofessional training in the major mental health disciplines.

(5) The continuation of the range of services currently provided by federally administered Saint Elizabeths Hospital must be assured, as these services are integrally related to—

(i) the availability of adequate mental health services to District of Columbia residents, nonresidents who require mental health services while in the District of Columbia, individuals entitled to mental health services under Federal law, and individuals referred by both Federal and local court systems; and

(ii) the Nation's capacity to increase our knowledge and understanding about mental illness and to facilitate and continue the development and broad availability of sound and modern methods and approaches for the treatment of mental illness.

(6) The assumption of all or selected functions, programs, and resources of Saint Elizabeths Hospital from the Federal Government by the District of Columbia, and the integration of those functions, resources, and programs into a comprehensive mental health care system administered solely by the District of Columbia, will improve the efficiency and effectiveness of the services currently provided through those two separate entities by shifting the primary focus of care to an integrated community-based system.

(7) Such assumption of all or selected functions, programs, and resources of Saint Elizabeths Hospital by the District of Columbia would further the principle of home rule for the District of Columbia.

(b) It is the intent of Congress that—

(1) the District of Columbia have in operation no later than October 1, 1991, an integrated coordinated mental health system in the District which provides—

(A) high quality, cost-effective, and community-based programs and facilities;

(B) a continuum of inpatient and outpatient mental health care, residential treatment, and support services through an appropriate balance of public and private resources; and

(C) assurances that patient rights and medical needs are protected;

(2) the comprehensive District mental health care system be in full compliance with the Federal court consent decree in Dixon v. Heckler;

(3) the District and Federal Governments bear equitable shares of the costs of a transition from the present system to a comprehensive District mental health system;

(4) the transition to a comprehensive District mental health system provided for by this Act be carried out with maximum consideration for the interests of employees of the Hospital and provide a right-of-first-refusal to such employees for employment at comparable levels in positions created under the system implementation plan;

(5) the Federal Government have the responsibility for the retraining of Hospital employees to prepare such employees for the requirements of employment in a comprehensive District mental health system;

(6) the Federal Government continue high quality mental health research, training, and demonstration programs at Saint Elizabeths Hospital;

(7) the District government establish and maintain accreditation and licensing standards for all services provided in District mental health facilities which assure quality care consistent with appropriate Federal regulations and comparable with standards of the Joint Commission on Accreditation of Hospitals; and

(8) the comprehensive mental health system plan include a component for direct services for the homeless mentally ill.

DEFINITIONS

SEC. 3. For the purpose of this Act:

(1) The term "Hospital" means the institution in the District of Columbia known a Saint Elizabeths Hospital operated on the date of the enactment of this Act by the Secretary of Health and Human Services.

(2) The term "Secretary" means the Secretary of Health and Human Services.

(3) The term "Mayor" means the Mayor of the District of Columbia.

(4) The term "District" means the District of Columbia.

(5) The term "Federal court consent decree" means the consent decree in Dixon v. Heckler, Civil Action No. 74-285.

(6) The term "service coordination period" means a period beginning on the effective date of this Act and terminating on October 1, 1987.

(7) The term "financial transition period" means a period beginning on the effective date of this Act and terminating on October 1, 1991.

(8) The term "system implementation plan" means the plan for a comprehensive mental health system for the District of Columbia to be developed pursuant to this Act.

(9) The term "Council" means the Council of the District of Columbia.

DEVELOPMENT OF PLAN FOR MENTAL HEALTH SYSTEM FOR THE DISTRICT

SEC. 4. (a)(1) Subject to subsection (g) of this section and section 9(b)(1), effective October 1, 1987, the District shall be responsible for the provision of mental health services to residents of the District.

(2) Not later than October 1, 1991, the Mayor shall complete the implementation of the final system implementation plan reviewed by the Congress and the Council in accordance with the provisions of this Act for the establishment of a comprehensive District mental health system to provide mental health services and programs through community mental health facilities to individuals in the District of Columbia.

(b)(1) The Mayor shall prepare a preliminary system implementation plan for a comprehensive mental health system no later than 3 months from the effective date of this Act, and a final implementation plan no later than 12 months from the effective date of this Act.

(2) The Mayor shall submit the preliminary system implementation plan to the Council no later than 3 months from the effective date of this Act. The Council shall review such plan and transmit written recommendations to the Mayor regarding any revisions to such plan no later than 60 days after such submission. The Mayor shall submit the revised preliminary plan to the Committee on the District of Columbia of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Governmental Affairs of the Senate for review and comment in accordance with the provisions of this Act.

(3) The final system implementation plan shall be considered by the Council consistent with the provisions of section 422(12) of the District of Columbia Self-Government and Governmental Reorganization Act.

(4) After the review of the Council pursuant to paragraph (3), the Mayor shall submit the final implementation plan to the Committee on the District of Columbia of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Governmental Affairs of the Senate for review and comment in accordance with the provisions of this Act.

(c) The system implementation plan shall—

(1) propose and describe an integrated, comprehensive, and coordinated mental health system for the District of Columbia;

(2) identify the types of treatment to be offered, staffing patterns, and the proposed sites for service delivery within the District of Columbia comprehensive mental health system;

(3) identify mechanisms to attract and retain personnel of appropriate number and quality to meet the objectives of the comprehensive mental health system;

(4) be in full compliance with the Federal court consent decree in Dixon v. Heckler and all applicable District of Columbia statutes and court decrees;

(5) identify those positions, programs, and functions at Saint Elizabeths Hospital which are proposed for assumption by the District, those facilities at Saint Elizabeths Hospital which are proposed for utilization by the District under a comprehensive District mental health system, and the staffing patterns and programs at community facilities to which the assumed functions are to be integrated; and

(6) identify any capital improvements to facilities at Saint Elizabeths Hospital and elsewhere in the District of Columbia proposed for delivery of mental health services, which are necessary for the safe and cost effective delivery of mental health services.

(d)(1) The Mayor shall develop the system implementation plan in close consultation with officials of Saint Elizabeths Hospital, through working groups to be established by the Secretary and the Mayor for that purpose.

(2) The Mayor and the Secretary shall establish a labor-management advisory committee, requesting the participation of Federal and District employee organizations affected by this Act, to make recommendations on the system implementation plan. The committee shall consider staffing patterns under a comprehensive District

mental health care system, retention of Hospital employees under such system, Federal retaining for such employees, and any other areas of concern related to the establishment of a comprehensive District system. In developing the system implementation plan the Mayor shall carefully consider the recommendations of the committee. Such advisory committee shall not be subject to the Federal Advisory Committee Act.

(3) The Mayor and such working groups shall, in developing the plan, solicit comments from the public, which shall include professional organizations, provider agencies and individuals, and mental health advocacy groups in the District of Columbia.

(e)(1) The Mayor and the Secretary may, during the service coordination period, by mutual agreement and consistent with the requirements of the system implementation plan direct the shift of selected program responsibilities and staff resources from Saint Elizabeths Hospital to the District. The Secretary may assign staff occupying positions in affected programs to work under the supervision of the District. The Mayor shall notify the Committee on the District of Columbia of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Governmental Affairs of the Senate in writing of any planned shift in program responsibilities or staff resources not less than 30 days prior to the implementation of such shift.

(2)(A) Except as provided in subparagraph (B), after October 1, 1984, and during the service coordination period, no request for proposals may be issued by the Secretary for any areas of commercial activity at the Hospital pursuant to Office Management and Budget circular A-76.

(B) The limitation under subparagraph (A) shall not apply to studies initiated pursuant to such circular prior to October 1, 1984.

(f)(1) To assist the Mayor in the development of the system implementation plan, the Secretary shall contract for a financial audit and a physical plant audit of all existing facilities at the Hospital to be completed by January 1, 1986. The financial audit shall be conducted according to generally accepted accounting principles. The physical plant audit shall recognize any relevant national and District codes and estimate the useful life of existing facility support systems.

(2)(A) Pursuant to such physical plant audit, the Secretary shall initiate not later than October 1, 1987, and complete not later than October 1, 1991, such repairs and renovations to such physical plant and facility support systems of the Hospital as are to be utilized by the District under the system implementation plan as part of a comprehensive District mental health system, as are necessary to meet any applicable code requirements or standards.

(B) At a minimum until October 1, 1987, the Secretary shall maintain all other facilities and infrastructure of the Hospital not assumed by the District in the condition described in such audit.

(g) During the service coordination period, the District of Columbia and the Secretary, to the extent provided in the Federal court consent decree, shall be jointly responsible for providing citizens with the full range and scope of mental health services set forth in such decree and the system implementation plan. No provision of this Act or any action or agreement during the service coordination period may be so construed as to absolve or relieve the District or the Federal Government of their joint or respective responsibilities to implement fully the mandates of the Federal court consent decree.

CONGRESSIONAL REVIEW OF SYSTEM IMPLEMENTATION PLAN

SEC. 5. (a) The Committee on the District of Columbia of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Governmental Affairs of the Senate shall review the preliminary system implementation plan transmitted by the Mayor pursuant to section 4 of this Act to determine the extent of its compliance with the provisions of section 2(b) and section 4 of this Act, and transmit written recommendations regarding any revisions to the preliminary plan to the Mayor not later than 60 days after receipt of such plan.

(b) The Committee on the District of Columbia of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Governmental Affairs of the Senate shall, within 90 days of submission of the final system implementation plan by the Mayor pursuant to section 4 of this Act, review such plan to determine the extent to which it is in compliance with the provisions of section 2(b) and section 4 of this Act.

TRANSITION PROVISIONS FOR EMPLOYEES OF THE HOSPITAL

SEC. 6. (a) Employees of the Hospital directly affected by the assumption of programs and functions by the District Government who meet the requirements for immediate retirement under the provisions of section 8336(d) of title 5, United States Code, shall be accorded the opportunity to retire during the 30-day period prior to the assumption of such programs and functions.

(b)(1) The system implementation plan shall prescribe the specific number and types of positions needed by the District government at the end of the service coordination period.

(2) Notwithstanding section 3503 of title 5, United States Code, employees of the Hospital shall only be transferred to District employment under the provisions of this section.

(c)(1) While on the retention list or the District or Federal agency reemployment priority list, the system implementation plan shall provide to Hospital employees a right-of-first-refusal to District employment in positions for which such employees may qualify, (A) created under the system implementation plan in the comprehensive District mental health system, (B) available under the Department of Human Services of the District, and (C) available at the District of Columbia General Hospital.

(2) In accordance with Federal regulations, the Secretary shall establish retention registers of Hospital employees and provide such retention registers to the District government. Employment in positions identified in the system implementation plan under subsection (b) shall be offered to Hospital employees by the District government according to each such employee's relative standing on the retention registers.

(3) Employee appeals concerning the retention registers established by the Secretary shall be in accordance with Federal regulations.

(4) Employee appeals concerning employment offers by the District shall be in accordance with the District of Columbia Government Comprehensive Merit Personnel Act of 1978.

(d)(1) Notwithstanding any other provision of law, employees of the Hospital, while on the Federal agency reemployment priority list, shall have a right-of-first-refusal to employment in comparable available positions for which they qualify within the Department of Health and Human Services in the Washington metropolitan area.

(2) If necessary to separate employees of the Hospital from Federal employment, such employees may be separated only under Federal reduction-in-force procedures.

(3) A Federal agency reemployment priority list and a displaced employees program shall be maintained for employees of the Hospital by the Secretary and the Office of Personnel Management in accordance with Federal regulations for Federal employees separated by reduction-in-force procedures.

(4) The Mayor shall create and maintain, in consultation with the Secretary, a District agency reemployment priority list of those employees of the Hospital on the retention registers who are not offered employment under subsection (c). Individuals who refuse an offer of employment under subsection (c) shall be ineligible for inclusion on the District agency reemployment priority list. Such reemployment priority list shall be administered in accordance with procedures established pursuant to the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Law 2-139

(5) Acceptance of nontemporary employment as a result of referral from any retention list or agency reemployment priority list shall automatically terminate an individual's severance pay as of the effective date of such employment.

(e) Any contract entered into by the District of Columbia for the provision of mental health services formerly provided by or at the Hospital shall require the contractor or provider, in filling new positions created to perform under the contract, to give preference to qualified candidates on the District agency reemployment priority list created pursuant to subsection (d) of this section. An individual who is offered nontemporary employment with a contractor shall have his or her name remain on the District agency reemployment priority list under subsection (d) for not more than 24 months from the date of acceptance of such employment.

CONDITIONS OF EMPLOYMENT FOR FORMER EMPLOYEES OF THE HOSPITAL

SEC. 7. (a) Each individual accepting employment without a break in service with the District Government pursuant to section 6 shall—

(1) except as specifically provided in this Act, be required to meet all District qualifications other than licensure requirements for appointment required of other candidates, and shall become District employees in the comparable District service subject to the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, and all other statutes and regulations governing District personnel;

(2) meet all licensure requirements within 18 months of appointment by the District government;

(3) notwithstanding chapter 63 of title 5, United States Code, transfer accrued annual and sick leave balances pursuant to title XII of the District of Columbia Comprehensive Merit Personnel Act of 1978;

(4) have the grade and rate of pay determined in accordance with regulations established pursuant to title XI of the District of Columbia Comprehensive Merit Personnel

Act of 1978, except that no employee shall suffer a loss in the basic rate of pay or in seniority;

(5) if applicable, retain a rate of pay including the physician's comparability allowance under the provisions of section 5948 of title 5, United States Code, and continue to receive such allowance under the terms of the then prevailing agreement until its expiration or for a period of 2 years from the date of appointment by the District government, whichever occurs later;

(6) be entitled to the same health and life insurance benefits as are available to District employees in the applicable service;

(7) if employed by the Federal Government before Janaury 1, 1984, continue to be covered by the United States Civil Service Retirement System, under chapter 83 of title 5, United States Code, to the same extent that such retirement system covers District Government employees; and

(8) if employed by the Federal Government on or after January 1, 1984, be subject to the retirement system applicable to District Government employees pursuant to title XXVI, Retirement, of the District of Columbia Government Comprehensive Merit Personnel Act of 1978.

(b) An individual appointed to a position in the District government without a break in service, from the retention list, or from the District or Federal agency reemployment priority lists shall be exempt from the residency requirements of title VIII of the District of Columbia Government Comprehensive Merit Personnel Act of 1978.

(c) An individual receiving compensation for work injuries pursuant to chapter 81 of title, United States Code, shall—

(1) continue to have the claims adjudicated and the related costs paid by the Federal Government until such individual recovers and returns to duty;

(2) if medically recovered and returned to duty, have any subsequent claim for the recurrence of the disability determined and paid under the provisions of title XXIII of the District of Columbia Comprehensive Merit Personnel Act of 1978.

(d) The District government may initiate or continue an action against an individual who accepts employment under section 6(c) for cause related to events that occur prior to the end of the service coordination period. Any such action shall be conducted in accordance with such Federal laws and regulations under which action would have been conducted had the assumption of function by the District not occurred.

(e) Commissioned public health service officers detailed to the District of Columbia mental health system shall not be considered employees for purposes of any full-time employee equivalency total of the Department of Health and Human Services.

(f) For purposes of this section, Hospital employees shall include former patient employees occupying career positions at the Hospital.

PROPERTY TRANSFER

SEC. 8. (a)(1) Except as provided in paragraph (2), on October 1, 1987, the Secretary shall transfer to the District, without compensation, all right, title, and interest of the United States in all real property at Saint Elizabeths Hospital in the District of Columbia together with any buildings, improvements, and personal property used in connection with such property.

(2) Such real property as is identified by the Secretary by September 30, 1987, as necessary to Federal mental health programs at Saint Elizabeths Hospital under section 2(b)(5) shall not be transferred under this subsection.

(b) on October 1, 1985, the Secretary shall transfer to the District, without compensation, all right, title, and interest of the United States to lot 87, square 622, in the subdivision made by the District of Columbia Redevelopment Land Agency, as per plat recorded in the Office of the Surveyor for the District of Columbia, in liber 154 at folio 149 (901 First Street N.W., the J.B. Johnson Building and grounds).

FINANCING PROVISIONS

SEC. 9. (a) There are authorized to be appropriated for grants by the Secretary of Health and Human Services to the District of Columbia comprehensive mental health system, $30,000,000 for fiscal year 1988, $24,000,000 for fiscal year 1989, $18,000,000 for fiscal year 1990, and $12,000,000 for fiscal year 1991.

(b)(1) Beginning on October 1, 1987, and in each subsequent fiscal year, the appropiate Federal agency is directed to pay the District of Columbia the full costs for the provision of mental health diagnostic and treatment services for the following types of patients:

(A) Any individual referred to the system pursuant to a Federal statute or by a responsible Federal agency.

(B) Any individual referred to the system for emergency detention or involuntary commitment after being taken into custody (i) as a direct result of the individual's action or threat of action against a Federal offical, (ii) as a direct result of the individual's action or threat of action on the grounds of the White House or of the Capitol, or (iii) under chapter 9 of title 21 of the District of Columbia Code.

(C) Any individual referred to the system as a result of a criminal proceeding in a Federal court (including any individual admitted for treatment, observation, and diagnosis and an individual found incompetent to stand trial or found not guilty by reason of insanity). The preceding provisions of this paragraph apply to any individual referred to the system (or to St. Elizabeths Hospital) before or after the date of enactment of this Act.

(2) The responsibility of the United States for the cost of services for individuals described in paragraph (1) shall not affect the treatment responsibilities to the District of Columbia under the Interstate Compact on Mental Health.

(c)(1) During the service coordination and the financial transition periods, the District of Columbia shall gradually assume a greater share of the financial responsibility for the provision of mental health services provided by the system to individuals not described in subsection (b).

(2) Section 502 of the District of Columbia Self-Government and Governmental Reorganization Act is amended—

(A) by inserting "(a)" after "SEC. 502.", and

(B) by adding at the end the following:

"(b)(1) Except as otherwise provided by paragraph (2), there are authorized to be appropriated, in addition to the amounts authorized to be appropriated under subsection (a), $25,000,000 for fiscal year 1986, $35,000,000 for fiscal year 1987, $30,000,000 for fiscal year 1988, $20,000,000 for fiscal year 1989, $15,000,000 for fiscal year 1990, and $10,000,000 for fiscal year 1991 to the District of Columbia for establishing and maintaining a comprehensive mental health system.

"(2) For each of the fiscal years 1986 through 1990 there is authorized to be appropriated, in addition to the amount authorized under paragraph (1), an amount equal to one-third of the amount authorized under paragraph (1) for the succeeding fiscal year. The amount authorized to be appropriated under paragraph (1) for any such succeeding fiscal year shall be reduced by the amount appropriated for the preceding fiscal year under the first sentence of this paragraph.".

(d) Subject to section 4(f)(2), capital improvements to facilities at Saint Elizabeths Hospital authorized during the service coordination period shall be the shared responsibility of the District and the Federal Government in accordance with Public Law 83-472.

(e) Pursuant to the financial audit under section 4(f), any unassigned liabilities of the Hospital shall be assumed by and shall be the sole responsibility of the Federal Government.

(f)(1) After the service coordination period, the Secretary shall conduct an audit, under general accepted accounting procedures, to identify the liability of the Federal Government for accrued annual leave balances for those employees assumed by the District under the system implementation plan.

(2) There is authorized to be appropriated for payment by the Federal Government to the District an amount equal to the liability identified by such audit.

(g) Nothing in this Act shall affect the authority of the District of Columbia under any other statute to collect costs billed by the District of Columbia for mental health services, except that payment for the same costs may be collected from more than one party.

(h) The Government of the United States shall be solely responsible for—

(1) all claims and causes of action against Saint Elizabeths Hospital that accrue before October 1, 1987, regardless of the date on which legal proceedings asserting such claims were or may be filed, except that the United States shall, in the case of any tort claim, only be responsible for any such claim against the United States that accrues before October 1, 1987, and the United States shall not compromise or settle any claim resulting in District liability without the consent of the District; which consent shall not be unreasonably withheld; and

(2) all claims that result in a judgment or award against Saint Elizabeths Hospital before October 1, 1987.

REPEALS AND CONFORMING AMENDMENTS

SEC. 10. (a) Chapter 4 of title LIX of the Revised Statutes of the United States (24 U.S.C. 161, 165, 170, 191, 211, 211a, 211b, and 221, and D.C. Code 32-405 and 32-406) is repealed.

(b) The matter under the subheading "SAINT ELIZABETHS HOSPITAL." under the heading "DEPARTMENT OF THE INTERIOR." in the first section of an Act of June 5, 1920, chapter 235 of the laws of the second session of the 66th Congress, is amended by striking out the second sentence (24 U.S.C. 166).

(c) The matter under the subheading "SAINT ELIZABETHS HOSPITAL." under the heading "DEPARTMENT OF THE INTERIOR." in the first section of the Second Deficiency Appropriation Act, fiscal year 1920, is amended by striking out the second and third sentences (24 U.S.C. 168 and 176).

(d)(1) An Act of August 4, 1947, Chapter 478 of the laws of the first session of the 80th Congress (24 U.S.C. 168a, 169, 169a, 185, and 195a), is repealed.

(2) The matter under the heading "Saint Elizabeths Hospital" in title II of the Departments of Labor, and Health, Education, and Welfare Appropriation Act, 1955 is amended by striking out all that follows "$110,000" before the period.

(e) The matter under the subheading "GOVERNMENT HOSPITAL FOR THE INSANE." under the heading "UNDER THE DEPARTMENT OF THE INTERIOR." in the first section an Act of August 24, 1912, chapter 355 of the laws of the second session of the 62nd Congress, is amended by striking out the second sentence (24 U.S.C. 171).

(f) The first sentence under the subheading "GOVERNMENT HOSPITAL FOR THE INSANE." under the heading "MISCELLANEOUS OBJECTS." in the first section of an Act of August 7, 1882, chapter 433 of the laws of the first session of the 47th Congress, is amended by striking out—

(1) "; and that hereafter the surplus products and waste material of the hospital may be sold or exchanged for the benefit of the hospital, and proceeds to be used and accounted for the same as its other funds:" (24 U.S.C. 172), and

(2) the two provisos (24 U.S.C. 165 and 195), and by inserting in lieu thereof a period.

(g) The matter under the subheading "SAINT ELIZABETH'S HOSPITAL." and that subheading under the heading "UNDER THE DEPARTMENT OF THE INTERIOR." of the Act of April 17, 1917 (24 U.S.C. 175) are repealed.

(h) The matter under the subheading "GOVERNMENT HOSPITAL FOR THE INSANE." under the heading "UNDER THE DEAPRTMENT OF THE INTERIOR." in the first section of an Act of June 30, 1906, chapter 3914 of the laws of the first session of the 59th Congress, is amended by striking out the last three sentences (24 U.S.C. 177).

(i) An Act of May 9, 1941, chapter 101 of the laws of the first session of the 77th Congress (24 U.S.C. 180), is repealed.

(j) The Act of November 15, 1941 (24 U.S.C. 181, 182, 183, and 184) is repealed.

(k)(1) The matter under the heading "PAY MISCELLANEOUS." of an Act of August 29, 1916, chapter 417 of the laws of the first session of the 64th Congress, is amended by striking out "Hereafter interned persons and prisoners of war, under the jurisdiction of the Navy Department, who are or may become insane, shall be entitled to admission for treatment to the Government Hospital for the Insane." (24 U.S.C. 192).

(2) The matter under the subheading "SAINT ELIZABETHS HOSPITAL." under the heading "DEPARTMENT OF THE INTERIOR." in the first section of an Act of October 6, 1917, chapter 79 of the laws of the first session of the 65th Congress, is amended by striking out the third through sixth sentences (24 U.S.C. 192, 199, and 200).

(l) The matter under the subheading "GOVERNMENT HOSPITAL FOR THE INSANE." under the heading "MISCELLANEOUS OBJECTS." of an Act of July 7, 1844, chapter 332 of the laws of the first session of the 48th Congress, is amended by striking out the second sentence (24 U.S.C. 194).

(m) The matter under the heading "PANAMA CANAL." in the first section of an Act of June 12, 1917, chapter 27 of the laws of the first session of the 65th Congress, is amended by striking out the following (24 U.S.C. 196):

"Upon the application of the Governor of the Canal Zone, the Secretary of Health, Education, and Welfare may transfer to Saint Elizabeths Hospital, in the District of Columbia, for treatment, any American citizen subject to a hospitalization order issued under section 1637 of title 5 of the Canal Zone Code, whose legal residence in one of the States, territories, the Commonwealth of Puerto Rico or the District of Columbia for the purpose of eligibility for public medical care it has been impossible to establish. Upon the ascertainment of the legal residence of persons so transferred to Saint Elizabeths Hospital, the superintendent of that hospital shall thereupon transfer them to their respective places of residence, and the expenses attendant thereon shall be paid from the appropriation for the support of Saint Elizabeths Hospital.".

(n) An Act of July 18, 1940, chapter 638 of the laws of the third session of the 76th Congress (24 U.S.C. 196b), is repealed.

(o) The matter under the subheading "GOVERNMENT HOSPITAL FOR THE INSANE:" under the heading "MISCELLANEOUS OBJECTS." in the first section of an Act of March 3, 1901, chapter 853 of the second session of the 56th Congress, is amended by striking out the second sentence (24 U.S.C. 197).

(p) The first sentence in the matter under the subheading "MEDICAL AND HOSPITAL DEPARTMENT:" under the heading "MEDICAL DEPARTMENT." of an act of May 11, 1908, chapter 163 of the laws of the first session of the 60th Congress, is amended by striking out the second proviso and the colon preceding and inserting in lieu thereof a period (24 U.S.C. 198).

(q) An Act of June 23, 1874, chapter 465 of the laws of the first session of the 43rd Congress (24 U.S.C. 212, 213, and 214), is repealed.

(r) The first sentence of section 4(a) of Public Law 86-571 (24 U.S.C. 324) is amended by striking out "Saint Elizabeths Hospital, at any other" and inserting in lieu thereof "any".

(s) Section 2104 of the Public Health Service Act (42 U.S.C. 300aa-3) is repealed.

(t)(1) The last sentence of section 206 of an Act of June 9, 1948, chapter 428 of the laws of the second session of the 80th Congress (D.C. Code 22-3508), is amended by striking out "Saint Elizabeths Hospital" and inserting in lieu thereof "an appropriate institution".

(2) Section 207 of that Act (D.C. Code 22-3509) is amended by striking out "the Superintendent of Saint Elizabeths Hospital" and inserting in lieu thereof "an appropriate supervisory official", and by striking out "the Superintendent of the hospital" and inserting in lieu thereof "that official".

(3) Section 208 of that Act (D.C. Code 22-3510) is amended by striking out "Saint Elizabeths Hospital" and inserting in lieu thereof "an institution".

(u) The first sentence under the subheading "GOVERNMENT HOSPITAL FOR THE INSANE." under the heading "INTERIOR DEPARTMENT." of an Act of March 3, 1877, chapter 105 of the laws of the second session of the 44th Congress, is amended by striking out the semicolon and all that follows before the period (D.C. Code 32-401).

(v) The first sentence under the subheading "GOVERNMENT HOSPITAL FOR THE INSANE." under the heading "MISCELLANEOUS OBJECTS." of an Act of March 3, 1879, chapter 182 of the laws of the third session of the 45th Congress, is amended by striking out the proviso and the colon preceding and inserting in lieu thereof a period (D.C. Code 32-402).

(w) The matter under the subheading "HOSPITAL FOR THE INSANE:" under the heading "DISTRICT OF COLUMBIA." of an Act of March 4, 1913, chapter 149 of the laws of the third session of the 62nd Congress, is amended by striking out the second sentence (D.C. Code 32-404).

(x) Sections 4 and 5 of an Act of June 22, 1948, chapter 597 of the laws of the second session of the 80th Congress (D.C. Code 32-415 and 32-416) are repealed.

(y) The matter under the subheading "GOVERNMENT HOSPITAL FOR THE INSANE." under the heading "UNDER THE DEPARTMENT OF THE INTERIOR." in the first section of an Act of March 4, 1911, chapter 285 of the laws of the third session of the 61st Congress, is amended by striking out the second sentence.

EFFECTIVE DATES

SEC. 11. (a) Except as provided in subsection (b), this Act shall take effect on October 1, 1985.

(b) Section 10 shall take effect on October 1, 1987.

The SPEAKER pro tempore. Is a second demanded?

Mr. McKINNEY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. DELLUMS] will be recognized for 20 minutes and the gentleman from Connecticut [Mr. McKINNEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6224 is a compromise bill agreed to by the administration and the city and other parties interested to gradually remove the Federal Government from the operation of St. Elizabeths Hospital and enable the city of Washington, DC, to create a unified mental health treatment system.

Mr. McKINNEY. Mr. Speaker, will the gentleman yield?

Mr. DELLUMS. I yield to my distinguished colleague, the gentleman from Connecticut.

Mr. McKINNEY. I thank the chairman for yielding.

Mr. Speaker, is this version of the bill currently under consideration different from the bill as reported by the Committee on the District of Columbia on September 13, 1984?

Mr. DELLUMS. Yes, it is different in that there are five amendments that are included in the bill. I might say to my distinguished colleague that I would note that the gentleman placed a number of amendments in the RECORD for the perusal of our colleagues. The amendments that the gentleman entered into the RECORD are amendments that are included in the new version of the bill verbatim,

with one exception, and that is the amendment that dealt with the issue of the exemption for the various parcels of land under the National Historic Preservation Act of 1966.

Mr. McKINNEY. So, therefore, the bill is very clear on page 28169 of the RECORD, and the only difference from that which I entered yesterday is that we have kept the historical designation of the property?

Mr. DELLUMS. The gentleman is exactly correct.

Mr. McKINNEY. I thank the gentleman.

Mr. DELLUMS. Mr. Speaker, under this bill, St. Elizabeths Hospital would be transferred to the city on October 1, 1987, and the city would bear the full cost of treating residents needing mental health care in 1991. The regular mental health grant would gradually be phased out. A special subsidy to the city of $135 million over 6 years is authorized to facilitate the integration of the system.

Present Federal employees operating St. Elizabeths Hospital would be protected by special provisions in the bill on reduction-in-force procedures, pension benefits, reemployment preferences, and the like.

Mr. Speaker, this bill is a well-worked-out balance of Federal and local interests and safeguards for employees affected. A continuation of high quality patient care throughout the transition is a consistent goal of this legislation.

The House Committee on the District of Columbia has been working on this legislation for many years. Both the administrations of President Jimmy Carter and President Ronald Reagan have proposed phasing out the Federal role at St. Elizabeths. Our hearings last spring started with four bills proposing solutions from four different perspectives. H.R. 6224 as amended, is a compromise that meets most of the needs of the various interested parties.

The Federal administration initially proposed a new corporation to operate the hospital and mental health programs. Their testimony at later hearings made specific suggestions to amend the compromise legislation that was being developed. The concluding statement of the Deputy Assistant Secretary who testified for the administration was as follows:

> It is quite clear that considerable progress has been made. With the momentum launched by the June 6th hearing, resolution of the problem of a dual mental health system is within our grasp. We believe it is now time to accomplish our common goals.

Mr. Speaker, I believe H.R. 6224, as amended, accomplishes those goals. It was unanimously reported by the full Committee on the District of Columbia with the exception of the items alluded to in the colloquy between myself and my distinguished colleague, the ranking minority member, the gentleman from Connecticut.

Mr. Speaker, I believe the bill deserves the support of the House.

With that modest explanation, Mr. Speaker, I would yield to the distinguished gentleman from the District of Columbia such time as he may consume.

Mr. FAUNTROY. I thank my distinguished chairman for yielding time to me.

Mr. Speaker, nearly a decade ago in January 1975 legislative and oversight responsibility for St. Elizabeths Hospital was transferred from the Committee on Education and Labor to the Committee on the District of Columbia.

In April 1975, following the transfer, the District Committee held a series of investigative and oversight hearings on patient care at St. Elizabeths as a result of those hearings, much needed structural improvement to the physical plant of St. Elizabeths was provided, and the hospital regained its accreditation after having lost it in 1975. We all recognized then, as we do now however, that the long-range solution to the problems at St. Elizabeths was to create a unified health care delivery system.

In 1977, we held legislative hearings on a proposal to establish a government corporation to operate St. Elizabeths, deep disagreements between the Federal and Distirct Governments stalled that proposal as well as others that were considered in 1977.

In recent history, the hospital has been beset with many problems, including forced staff terminations due to budget shortfalls, the Federal Government has begun a unilateral financial withdrawal, resulting in yearly crises, all of which have been treated in a patchwork manner.

To deal with the most recent crisis, Congress made possible an additional appropriation of $20 million, on the condition that an acceptable plan be put in place for the integration of St. Elizabeths and the existing mental health services administration of the District of Columbia.

In June of this year, the District Committee held hearings on the future of St. Elizabeths and its place as an interal part of a comprehensive mental health care system for the citizens of the District of Columbia. Four bills were considered during those hearings. Following the hearings, a series of meetings and discussions were held involving the Federal and District Governments, affected private sector organizations, and others, and a compromise bill was shaped.

Mr. Speaker, after 10 long, difficult years, I believe we have developed a bill that should bring to a close the debate over the future of St. Elizabeths. H.R. 6224 is a compromise bill, carefully crafted from negotiations among the proponents of the four other bills. Like all compromises, it does not satisfy all of the issues raised by each of the participants to the negotiations, but it does provide a time certain for planning and developing a unified mental health care delivery system in the District, including the transfer of St. Elizabeths from the Federal Government to the District government. It provides a time certain for implementing the plan in an orderly manner, it provides an amount certain to be contributed by the Federal Government during a period certain. And special care has been taken to ensure that current employees are protected, without mandating a certain staffing level, thereby bootstrapping the District before it has an opportunity to unveil its plan. H.R. 6224 also expressly requires compliance with the Federal court decision in Dixon versus Heckler, both during the planning and implementation stages of the new system.

Mr. Speaker, this compromise bill has the support of the administration, received bipartisan support from members of the District Committee and is worthy of the support of this House. I shudder to consider the prospect of having to retrace once again a decade of inaction if Congress fails to pass this critical measure.

□ 1750

Mr. McKINNEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to take this time to highlight for my colleagues exactly what H.R. 6224 seeks to accomplish, how that goal will be achieved, and the implications of that process on the Federal and District governments.

Let me begin by attempting to dispell what has apparently become the accepted notion of what this bill is designed to accomplish. The unofficial familiar title of this bill has become "A bill to transfer St. Elizabeths Hospital to the District of Columbia." That serious misconception must be corrected. The main purpose of H.R. 6224 is not to transfer St. Elizabeths Hospital, whether one takes that title to mean the buildings and grounds or the programs offered there, to the city. Rather, it is to mandate the establishment of a locally designed and operated mental health care delivery system in the District of Columbia. I would note, Mr. Speaker, that this is a responsibility which the city has successfully avoided accepting for far too long, and this bill seeks to correct that situation.

I would hasten to add that since St. Elizabeths Hospital exists as it does today, and since it is virtually inconceivable that the District could develop any plan for a comprehensive mental health care system that does

not include at least a portion of the programs and facilities of St. Elizabeths, a transfer of all or part of the hospital is embodied in the provisions of this bill. But I wish to make it very clear that this is only an ancillary feature of the legislation.

Having understood that our main purpose was to develop a framework within which the District of Columbia could be placed into a position of accepting fully its responsibility to provide mental health care to its residents, the members of the committee on the District of Columbia began to consider the list of related problems which had to be resolved. These problems fell into three categories: protection of employee's rights; financial considerations; and the timing and extent of transferring responsibilities and facilities to the city.

EMPLOYEE PROTECTIONS

The current employees at St. Elizabeths Hospital have a legitimate right to be concerned. Less than 1 year ago, a reduction in force was ordered, the real impact of which was minimized through normal attrition and voluntary transfers and retirements. A message was delivered, however, that the hospital, as the employees and citizens of this area have come to know it, was beginning a process of change.

I think all of those involved in hammering out H.R. 6224 realize that the new system mandated by the legislation would not provide employment to all existing employees. In recognition of the rather unique situation at the hospital, sections 6 and 7 of the bill provide a series of employment protections which will do no more than minimize the impact of the inevitable. I would invite all of my colleagues to review those sections of the bill. Both the city and the Federal Government will establish reemployment priority lists for those not offered employment in the new system. Any Federal employees on this list will be given the right of first refusal to any comparable position for which they may qualify anywhere within the Department of Health and Human Services in the Washington metropolitan area. Both Federal and District employees on these lists will be given first right of refusal to jobs in the new system, in the District's Department of Human Services, or at D.C. General Hospital. If an employee of the hospital accepts employment with a contractor, that employee remains on the District reemployment priority list for 24 months after accepting such employment.

There may be some ambiguity concerning this last protection, and I would like to clear it up at this point. A hospital employee who is on the District reemployment priority list might accept employment with a contractor, say 6 months after first appearing on the list. That individual, under the provisions of section 6(e) of the bill, would have his or her name remain on the District reemployment priority list for 24 months after accepting the job with the contractor. The individual in this example would stay on the list for a total of 30 months—6 months until accepting contractor employment, and the guaranteed 24 months after accepting such employment.

Let us say that this individual leaves the employ of that contractor after being there 1 year. The individual still appears on the list, and would remain there for 12 more months, which is the remainder of the guaranteed 24 months. Let us say that 3 months later, that individual accepts employment with another contractor. Does the individual get another guaranteed 24 months of time to remain on the list? The answer is, "No." This provision of the bill is intended to be exercised once, and only once. The guarantee of 24 months applies only to the first acceptance of employment with a contractor, regardless of how long or short that employment may turn out to be, and regardless if other contractor employment is accepted while an individual is still on the list.

Mr. Speaker, all of these provisions concerning employee protections have been hammered out and agreed to by the District government, the Federal Government, and the unions representing the professional and nonprofessional employees at the hospital.

In addition to the specific provisions on the bill with respect to employee protections, we have made it possible for the groups representing the employees to have a productive input into the development of the plan for a comprehensive mental health care system. Section 4 of the bill provides that the Mayor shall establish a labor-management advisory committee, in consultation with the Secretary of Health and Human Services.

All of this, Mr. Speaker, is a demonstration of the seriousness which the committee attaches to a statement of intent included in the bill indicating that in creating this new system maximum consideration be given to the interests of employees of the hospital.

FINANCIAL PROVISIONS

Mr. Speaker, there should be some detailed discussion about the financial parameters of this legislation, first because the element of the bill is significant, and next, because without the proper financing arrangements the goal of the bill will never be attained.

I know many of my colleagues grow tired of certain phrases which are echoed on the floor whenever a District of Columbia matter is being considered. We very often hear the term "unique," or "in the spirit of self-government," or "shared responsibility." Although I too grow tired of using those phrases and others to describe the relationship between the District and the Federal Government, they are factual and accurate. And in the case of St. Elizabeths Hospital, they are timely.

The committee has taken a long, hard look at the situation and has made two basic findings which are bolstered throughout the legislation. The first, as I have already mentioned, is that the city definitely has a responsibility to provide mental health care to its residents, and it has avoided accepting the burden of that responsibility far too long. The second is that the Federal Government has a continuing and valid responsibility to assist the city in developing its new system and to continue the current exemplary research, training and demonstration programs either at St. Elizabeths Hospital or elsewhere in the District's system. I would inform my colleagues that the financial provisions of this bill reflect these findings and the stated intent of Congress.

What exactly does the bill commit the Federal Government to provide in terms of funding? Let me outline that for my colleagues, item by item.

The most obvious Federal commitment is the authorization contained in section 9(c)(2) of the bill. That section amends the District of Columbia Self-Government and Governmental Reorganization Act to authorize a special Federal payment for each fiscal year from 1986 through 1991. These amounts are $25 million for fiscal year 1986; $35 million for fiscal year 1987; $30 million for fiscal year 1988; $20 million for fiscal year 1989; $15 million for fiscal year 1990; and $10 million for fiscal year 1991. This adds up to a total of $135 million over the 6-year period.

In addition to authorizing those specific amounts for each fiscal year noted, this section permits the advance of up to one-third of the amount authorized for the succeeding fiscal year. If this provision is exercised, the authorization for any succeeding year is reduced by the amount advanced. This mechanism will allow the city greater flexibility in establishing the new comprehensive system. Although it is not inherent in the wording of the bill, it is the intent that this type of mechanism and the special Federal payments for establishing the system will terminate in 1991. Any additional costs which the city requires after that point in time will be considered as part and parcel of the regular Federal payment.

Another financial provision which stands out in the text of the bill is section 9(a), which provides for the Secretary of Health and Human Services making grants to the District of Columbia on a declining basis beginning in fiscal year 1988 and ending in fiscal year 1991. The amounts are $30 million for fiscal year 1988; $24 million

for fiscal year 1989; $18 million for fiscal year 1990; and $12 million for fiscal year 1991. This adds up to a grand total of $76 million over a period of 4 years.

Before moving on I want to highlight a point or two on these grants. While it would appear that this is all additional Federal funding, that is not the case. As an offset to these amounts, one must be aware of the fact that right now the Federal Government contributes roughly $49 million to the operation of St. Elizabeths Hospital, with the remainder coming from District of Columbia reimbursements and reimbursements from other Federal agencies. In fiscal year 1983, that subsidy was $76.5 million, and in fiscal year 1984, it was $67.7 million. The Federal subsidy comes via an open-ended authorization. Rather than adding new funding through this section of the bill, we are for the first time limiting the existing unlimited authorization.

Mr. Speaker, there are two other financial provisions involving the Federal Government which are indeed of undetermined amounts. The bill in section 4(f) provides that the Secretary of Health and Human Services shall conduct two audits—one financial and one relating to the physical plant.

The purpose of the financial audit is to avoid from the start the potential problems that developed when the city was first audited in 1979 under generally accepted accounting procedures. That audit revealed an accumulated deficit which was for the most part a result of the differences in accounting between the Federal Government and the real world. The bill provides that any unassigned liability identified pursuant to this audit will become the sole responsibility of the Federal Government to liquidate. No one can know at this point the extent of any unassigned liabilities, and therefore, no one can determine how much the Federal Government may have to pay. But I would point out that whatever the audit determines, the overall Federal responsibility will be no greater than what it would be absent this legislation. There is, in fact, no provision stating how or how quickly the Federal Government must liquidate any unassigned liability, only that the Federal Government will be solely responsible to do so. I maintain that this will amount to no additional liability, and I would challenge anyone to explain how it could.

With respect to the physical plant audit, the Federal Government's responsibility would be limited to whatever costs are necessary to bring the facility up to standards and health and safety codes. I would note that this liability is limited only to those structures and support systems which the Secretary of Health and Human Services transfers to the District, and which the District's plan identifies as intended for use in their system. Also, the required improvements must be begun by October 1, 1987, but need not be completed or fully funded until October 1, 1991. This extended period of time will permit the costs to be spread out over a period of years, thereby minimizing the impact. Finally, I would note that there is an ongoing capital improvements program at St. Elizabeths Hospital. If any of the deficiencies identified in this audit are already being corrected with available funds, or if they are already planned for correction using those available funds, there is no need for the Federal Government to seek additional funding to make the corrections.

The final financial provision is found in section 9(f) of the bill. This section provides for an audit of accrued annual leave for Federal employees who are given employment in the District system. The Federal Government is authorized to provide to the District an amount equal to the liability identified by the audit. The Congressional Budget Office has estimated that this liability will be less than $1 million.

To reiterate, Mr. Speaker, all of these financial provisions reflect the findings and intent of Congress that the city has a responsibility to provide a system of mental care for its residents, and that the Federal Government has a responsibility to continue research, training, and demonstration programs at St. Elizabeths Hospital which will contribute to the quality of the system developed by the city.

TIMING OF TRANSFER OF FACILITIES AND RESPONSIBILITIES

Mr. Speaker, the final set of problems the committee has addressed in H.R. 6224 deal with the timing and extent of the transfer of responsibility and facilities. Let me outline what will transfer, how that transfer will take place, and when it will take place. The key to the transfer or assumption of responsibility and facilities is a plan which the Mayor, in consultation with the Secretary of Health and Human Services, will develop. The plan will include as an important part the identification of the programs and facilities at St. Elizabeths Hospital which will be assumed by the District in developing their system. The plan is subject to review by the Council of the District of Columbia and by the District of Columbia Committee in the House and the Committee on Labor and Human Resources and the Committee on Governmental Affairs of the Senate, in both its preliminary form and its final form. Section 4 of the bill explains exactly what the plan is to address and the time it must be submitted for review.

The plan will be developed by the Mayor, but it must be cognizant of several dates embodied in H.R. 6224. First, the property at St. Elizabeths Hospital will be transferred to the District on October 1, 1987, except for any property that the Secretary identifies as necessary for continuing Federal mental health efforts at St. Elizabeths. Next, the plan for a comprehensive local mental care system must be fully implemented by October 1, 1991. Within those two dates, all provisions take effect.

For example, direct Federal support and Federal grants will cease on October 1, 1991. Thus the financial responsibility will fall solely to the District on that date. The plan must include some long-range plan for the city being in a position to accept that responsibility at that time.

In addition to operating costs, the plan must also consider long- and short-range capital improvement costs. The Federal Government will be responsible only for the costs of health and safety code corrections and for bringing facilities up to standards for mental health care. These costs will be identified in the audit which I have already discussed. I would highlight the committee report on this subject, and again note that the Federal capital improvement liability is limited to health and safety code corrections and mental health standard improvements for the facilities identified in the plan as those which the city plans to enfold into their new system. This liability does not extend to all of the facilities at St. Elizabeths Hospital which transfer to the city; rather, it applies only to those the city has identified in the plan, which is reviewed by Congress, as being utilized as a part of the new delivery system.

When we finally reach the end of the time sequence contained in this bill, which is October 1, 1991, we will have removed the Federal Government completely from the process of direct subsidization of the operation of St. Elizabeths Hospital, and we will have a fully implemented locally designed and operated mental health care system. That is a goal for which I have strived for the past 10 years. H.R. 6224 is worthy of the support of all the Members of this body, and I urge its passage.

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Speaker, I thank the gentleman for yielding. I will not trespass at length on the time of the House. The previous speakers covered this matter extremely well.

I would just make the final observation that there are many complex and conflicting divergent forces that come about as the result of this being the Nation's Capital and the presence, of course, of the Federal Government in

this city; not the least of those is the delivery of a mental health system.

I think this bill goes a long way to getting the Federal Government out at a reasonable cost of the delivery of a comprehensive mental system which is and should be the primary responsibility of the District of Columbia.

For those reasons, Mr. Speaker, I support the adoption of this legislation.

Mr. McKINNEY. Mr. Speaker, I have no further requests for time, and I reserve the remainder of my time.

Mr. DELLUMS. Mr. Speaker, in concluding the debate on this bill, as was indicated earlier, this is a finely crafted compromise bill, H.R. 6224, worked out by a number of our colleagues on both sides of the aisle. The staff worked very diligently in relationship to ourselves, members of the city government, the trade union movement in the city, and various other organizations.

I would like to single out my distinguished associate, Ron Willis, our staff person on the committee, for a diligent job, spending a number of months and years trying to help craft the resolution of a serious problem that we now have before us.

I think it is now worthy not only of consideration of the House, but worthy of passage.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. McKINNEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DELLUMS] that the House suspend the rules and pass the bill, H.R. 6224, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AUTHORIZING TWO ADDITIONAL ASSISTANT SECRETARIES FOR THE DEPARTMENT OF THE TREASURY

Mr. ALBOSTA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5832) to authorize two additional Assistant Secretaries for the Department of the Treasury.

The Clerk read as follows:

H.R. 5832

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 301(e) of title 31, United States Code, is amended by striking out "5" and inserting in lieu thereof "7".

(b) Section 5315 of title 5, United States Code, is amended by striking out "(5)." after "Assistant Secretaries of the Treasury" and inserting in lieu thereof "(7).".

SEC. 2. During fiscal year ending September 30, 1984, any payment or obligation pursuant to this Act may be made only to such extent or in such amounts as are provided in advance in appropriation Acts.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Michigan [Mr. ALBOSTA] will be recognized for 20 minutes and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. ALBOSTA].

Mr. ALBOSTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill amends title 5, to create two additional Assistant Secretary positions, in the Treasury Department. The administration has requested this action, and our colleague, Mr. HOYER of Maryland, introduced this bill.

The bill would create a Presidentially appointed Assistant Secretary for Administration, to coordinate procurement, property, personnel matters, and overall budget concerns.

The bill also creates an Assistant Secretary for Electronic Systems and Information Technology. This Presidential appointment will help to coordinate and consolidate the computer hardware, software, and telecommunications equipment of the entire Treasury Department. This will ensure that the IRS, the Bureau of Alcohol, Tobacco and Firearms, and other branches of Treasury, will have compatible systems.

The White House, the Treasury Department, and many Members of Congress, from both parties, have sought action on this bill. The primary employee organization at Treasury—the National Treasury Employees Union—supports this bill. Also, the House Ways and Means Committee, has agreed to waive any jurisdiction they may have on this particular issue at this time.

I urge the Members of the House to support this measure.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge the House to pass H.R. 5832, a bill authorizing two additional Assistant Secretaries for the Department of the Treasury, to be subject to Presidential appointment with the advice and consent of the Senate. It was forwarded to the Committee on Post Office and Civil Service by the Subcommittee on Human Resources by a unanimous vote on September 13. On September 19, the committee unanimously ordered H.R. 5832 to be reported to the whole House. H.R. 5832 does not require any additional expenditures.

Both of the positions in this bill currently exist as Secretarial appointments. The conversion of the Assistant Secretary for Administration and the Assistant Secretary for Electronic Systems and Information Technology to Presidential appointment is consistent with the treatment of these positions in other executive departments.

The Assistant Secretary for Administration oversees one of the largest and most senior Cabinet-level civilian agencies, with an operating budget of $5.2 billion and a work force of over 120,000 employees. The responsibilities of this position include budget, procurement, property, personnel, and other managerial functions of the Department and its subdepartment agencies including the Internal Revenue Service and the Bureau of Alcohol, Tobacco and Firearms.

The other position addressed in H.R. 5832, Assistant Secretary for Electronic System and Information Technology, has jurisdiction over the Department's electronic and information systems, including automatic data processing and telecommunications, insuring that these systems are fully supportive of the Department's missions.

Mr. Speaker, it is both necessary and appropriate that nominees to these important policy positions be subject to congressional scrutiny prior to appointment. I urge passage of H.R. 5832.

□ 1800

Mr. Speaker, I yield back the balance of my time.

Mr. ALBOSTA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. ALBOSTA] that the House suspend the rules and pass the bill, H.R. 5832.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ALBOSTA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

AMENDING SENATE AMENDMENT TO TEXT OF H.R. 4209, SMALL BUSINESS AND FEDERAL PROCUREMENT REFORM COMPETITION ENHANCEMENT ACT OF 1984

Mr. MITCHELL. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 599) to amend

the Senate amendment to the text of the bill, H.R. 4209, as amended.

The Clerk read as follows:

H. RES. 599

Resolved, That upon the adoption of this resolution the bill, H.R. 4209, together with the Senate amendments thereto, be and is hereby taken from the Speaker's table to the end that the Senate amendments be and are hereby agreed to with amendments as follows:

"In lieu of the matter proposed to be inserted by the Senate Amendment to the text of the bill, H.R. 4209, insert the following:

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act, together with the following table of contents, may be cited as the "Small Business and Federal Procurement Competition Enhancement act of 1984".

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TITLE I—PURPOSES AND DEFINITIONS
Sec. 101. Purposes.
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Sec. 301. Technical data management.
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TITLE IV—AMENDMENTS TO THE SMALL BUSINESS ACT
Sec. 401. Certificate of competency.
Sec. 402. Small business subcontracting policy statements.
Sec. 403. Breakout procurement center representatives.
Sec. 404. Procurement notices.
TITLE V—OTHER PROCUREMENT PROVISIONS
Sec. 501. Regulations on overhead.
Sec. 502. Personal evaluations.
Sec. 503. Report on prime contractors qualifying additional sources.
Sec. 504. Technical amendments to Competition in Contracting Act of 1984.
Sec. 505. Repeal.

PURPOSES

SEC. 101. The purposes of this Act are to—

(1) eliminate procurement procedures and practices that unnecessarily inhibit full and open competition for contracts;

(2) promote the use of contracting opportunities as a means to expand the industrial base of the United States in order to ensure adequate responsive capability of the economy to the increased demands of the Government in times of national emergency; and

(3) foster opportunities for the increased participation in the competitive procurement process of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.

DEFINITIONS

SEC. 102. Section 4 of the Office of Federal Policy Procurement Act is amended—

(1) by striking out "and" at the end of paragraph (7);

(2) by striking out the period at the end of paragraph (8) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(9) the term 'technical data' means recorded information (regardless of the form or method of the recording) of a scientific or technical nature (including computer software documentation) relating to supplies procured by an agency. Such term does not include computer software or financial, administrative, cost or pricing, or management data or other information incidental to contract administration;

"(10)(A) the term 'major system' means a combination of elements that will function together to produce the capabilities required to fulfill a mission need, which elements may include hardware, equipment, software or any combination thereof, but excludes construction or other improvements to real property; and

"(B) a system shall be considered a major system if (i) the Department of Defense is responsible for the system and the total expenditures for research, development, test and evaluation for the system are estimated to be more than $75,000,000 (based on fiscal year 1980 constant dollars) or the eventual total expenditure for procurement of more than $300,000,000 (based on fiscal year 1980 constant dollars); (ii) a civilian agency is responsible for the system and total expenditures for the system are estimated to exceed $750,000 (based on fiscal year 1980 constant dollars) or the dollar threshold for a 'major system' established by the agency pursuant to Office of Management and Budget (OMB) Circular A-109, entitled 'Major Systems Acquisitions', whichever is greater; or (iii) the system is designated a 'major system' by the head of the agency responsible for the system; and

"(11) the term 'item', 'item of supply', or 'supplies' means any individual part, component, subassembly, assembly, or subsystem integral to a major system, and other property which may be replaced during the service life of the system, and includes spare parts and replenishment spare parts, but does not include packaging or labeling associated with shipment or identification of an 'item'.".

TITLE II—AMENDMENTS TO THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949 PLANNING FOR FUTURE COMPETITION

SEC. 201. (a) Section 303B of the Federal Property and Administrative Services Act of 1949 (hereafter in this title referred to as "the Act") is amended by adding at the end thereof the following new subsection:

"(f)(1)(A) In preparing a solicitation for the award of a development contract for a major system, the head of an agency shall consider requiring in the solicitation that an offeror include in its offer proposals described in subparagraph (B). In determining whether to require such proposals, the head of the agency shall give due consideration to the purposes for which the system is being procured and the technology necessary to meet the system's required capabilities. If such proposals are required, the head of the agency shall consider them in evaluating the offeror's price.

"(B) The proposals that the head of an agency is to consider requiring in a solicitation for the award of a development contract are the following:

"(i) Proposals to incorporate in the design of the major system items which are currently available within the supply system of the Federal agency responsible for the major system, available elsewhere in the national supply system, or commercially available from more than one source.

"(ii) With respect to items that are likely to be required in substantial quantities during the system's service life, proposals to incorporate in the design of the major system items which the United States will be able to acquire competitively in the future.

"(2)(A) In preparing a solicitation for the award of a production contract for a major system, the head of an agency shall consider requiring in the solicitation that an offeror include in its offer proposals described in subparagraph (B). In determining whether to require such proposals, the head of the agency shall give due consideration to the purposes for which the system is being procured and the technology necessary to meet the system's required capabilities. If such proposals are required, the head of the agency shall consider them in evaluating the offeror's price.

"(B) The proposals that the head of an agency is to consider requiring in a solicitation for the award of a production contract are proposals identifying opportunities to ensure that the United States will be able to obtain on a competitive basis items procured in connection with the system that are likely to be reprocured in substantial quantities during the service life of the system. Proposals submitted in response to such requirement may include the following:

"(i) Proposals to provide to the United States the right to use technical data to be provided under the contract for competitive reprocurement of the item, together with the cost to the United States, if any, of acquiring such technical data and the right to use such data.

"(ii) Proposals for the qualification or development of multiple sources of supply for the item.

"(3) If the head of an agency is making a noncompetitive award of a development contract or a production contract for a major system, the factors specified in paragraphs (1) and (2) to be considered in evaluating an offer for a contract may be considered as objectives in negotiating the contract to be awarded.".

(b) The amendment made by subsection (a) shall apply with respect to any solicitation issued more than 180 days after the date of the enactment of this Act.

ENCOURAGING NEW COMPETITORS

SEC. 202. (a) Title III of the Act is amended by inserting after section 303C the following new section:

ENCOURAGEMENT OF NEW COMPETITION

"SEC. 303D. (a) In this section, 'qualification requirement' means a requirement for testing or other quality assurance demonstration that must be completed by an offeror before award of a contract.

"(b) Except as provided in subsection (c), the head of the agency shall, before enforcing any qualification requirement—

"(1) prepare a written justification stating the necessity for establishing the qualification requirement and specify why the qualification requirement must be demonstrated before contract award;

"(2) specify in writing and make available to a potential offeror upon request all re-

quirements which a prospective offeror, or its product, must satisfy in order to become qualified, such requirements to be limited to those least restrictive to meet the purposes necessitating the establishment of the qualification requirement;

"(3) specify an estimate of the cost of testing and evaluation likely to be incurred by a potential offeror in order to become qualified;

"(4) ensure that a potential offeror is provided, upon request, a prompt opportunity to demonstrate at its own expense (except as provided in subsection (d)) its ability to meet the standards specified for qualification using qualified personnel and facilities of the agency concerned or of another agency obtained through interagency agreement, or under contract, or other methods approved by the agency (including use of approved testing and evaluation services not provided under contract to the agency);

"(5) if testing and evaluation services are provided under contract to the agency for the purposes of clause (4), provide to the extent possible that such services be provided by a contractor who is not expected to benefit from an absence of additional qualified sources and who shall be required in such contract to adhere to any restriction on technical data asserted by the potential offeror seeking qualification; and

"(6) ensure that a potential offeror seeking qualification is promptly informed as to whether qualification is attained and, in the event qualification is attained, is promptly furnished specific information why qualification was not attained.

"(c)(1) Subsection (b) of this section does not apply with respect to a qualification requirement established by statute prior to the date of enactment of this section.

"(2) Except as provided in paragraph (3), if it is unreasonable to specify the standards for qualification which a prospective offeror or its product must satisfy, a determination to that effect shall be submitted to the advocate for competition of the procuring activity responsible for the purchase of the item subject to the qualification requirement. After considering any comments of the advocate for competition reviewing such determination, the head of the procuring activity may waive the requirements of paragraphs (2) through (5) of subsection (b) for up to two years with respect to the item subject to the qualification requirement.

"(3) The waiver authority contained in paragraph (2) shall not apply with respect to any qualified products list.

"(4) A potential offeror may not be denied the opportunity to submit and have considered an offer for a contract solely because the potential offeror has not been identified as meeting a qualification requirement, if the potential offeror can demonstrate to the satisfaction of the contracting officer that the potential offeror or its product meets the standards established for qualification or can meet such standards before the date specified for award of the contract.

"(5) Nothing contained in this subsection requires the referral of an offer to the Small Business Administration pursuant to section 8(b)(7) of the Small Business Act if the basis for the referral is a challenge by the offeror to either the validity of the qualification requirement or the offeror's compliance with such requirement.

"(6) The head of an agency need not delay a proposed procurement in order to comply with subsection (b) or in order to provide a potential offeror with an opportunity to demonstrate its ability to meet the standards specified for qualification.

"(d)(1) If the number of qualified sources or qualified products available to compete actively for an anticipated future requirement is fewer than two actual manufacturers or the products of two actual manufacturers, respectively, the head of the agency concerned shall—

"(A) periodically publish notice in the Commerce Business Daily soliciting additional sources or products to seek qualification, unless the contracting officer determines that such publication would compromise national security; and

"(B) bear the cost of conducting the specified testing and evaluation (excluding the costs associated with producing the item or establishing the production, quality control, or other system to be tested and evaluated) for a small business concern or a product manufactured by a small business concern which has met the standards specified for qualification and which could reasonably be expected to compete for a contract for that requirement, but such costs may be borne only if the head of the agency determines that such additional qualified sources or products are likely to result in cost savings from increased competition for future requirements sufficient to offset (within a reasonable period of time considering the duration and dollar value of anticipated future requirements) the costs incurred by the agency.

"(2) The head of an agency shall require a prospective contractor requesting the United States to bear testing and evaluation costs under paragraph (1)(B) to certify as to its status as a small business concern under section 3 of the Small Business Act.

"(e) Within seven years after the establishment of a qualification requirement, the need for such qualification requirement shall be examined and the standards of such requirement revalidated in accordance with the requirements of subsection (b). The preceding sentence does not apply in the case of a qualification requirement for which a waiver is in effect under subsection (c)(2).

"(f) Except in an emergency as determined by the head of the agency, whenever the head of the agency determines not to enforce a qualification requirement for a solicitation, the agency may not thereafter enforce that qualification requirement unless the agency complies with the requirements of subsection (b).".

(b) The amendment made by subsection (a) shall apply with respect to solicitations issued more than 180 days after the date of enactment of this Act.

VALIDATION OF PROPRIETARY DATA RESTRICTIONS

SEC. 203. (a) Title III of the Act is amended by inserting after section 303D (as added by section 202 of this Act) the following new section:

"VALIDATION OF PROPRIETARY DATA RESTRICTIONS

SEC. 303E. (a) A contract for property or services entered into by an executive agency which provides for the delivery of technical data, shall provide that—

"(1) a contractor or subcontractor at any tier shall be prepared to furnish to the contracting officer a written justification for any restriction asserted by the contractor or subcontractor on the right of the United States to use such technical data; and

"(2) the contracting officer may review the validity of any restriction asserted by the contractor or by a subcontractor under the contract on the right of the United States to use technical data furnished to the United States under the contract if the contracting officer determines that reasonable grounds exist to question the current validity of the asserted restriction and that the continued adherence to the asserted restriction by the United States would make it impracticable to procure the item competitively at a later time.

"(b) If after such review the contracting officer determines that a challenge to the asserted restriction is warranted, the contracting officer shall provide written notice to the contractor or subcontractor asserting the restriction. Such notice shall state—

"(1) the grounds for challenging the asserted restriction; and

"(2) the requirement for a response within 60 days justifying the current validity of the asserted restriction.

"(c) If a contractor or subcontractor asserting a restriction subject to this section submits to the contracting officer a written request, showing the need for additional time to comply with the requirement to justify the current validity of the asserted restriction, additional time to adequately permit the submission of such justification shall be provided by the contracting officer as appropriate. If a party asserting a restriction receives notices of challenges to restrictions on technical data from more than one contracting officer, and notifies each contracting officer of the existence of more than one challenge, the contracting officer initiating the first in time challenge, after consultation with the party asserting the restriction and the other contracting officers, shall formulate a schedule or responses to each of the challenges that will afford the party asserting the restriction with an equitable opportunity to respond to each such challenge.

"(d)(1) Upon a failure by the contractor or subcontractor to submit any response under subsection (b), the contracting officer shall issue a decision pertaining to the validity of the asserted restriction.

"(2) If a justification is submitted in response to the notice provided pursuant to subsection (b), a contracting officer shall within 60 days of receipt of any justification submitted, issue a decision or notify the party asserting the restriction of the time within which a decision will be issued.

"(e) If a claim pertaining to the validity of the asserted restriction is submitted in writing to a contracting officer by a contractor or subcontractor at any tier, such claim shall be considered a claim within the meaning of the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

"(f)(1) If upon final disposition, the contracting officer's challenge to the restriction on the right of the United States to use such technical data is sustained—

"(A) the restriction on the right of the United States to use the technical data shall be cancelled; and

"(B) if the asserted restriction is found not to be substantially justified, the contractor or subcontractor, as appropriate, shall be liable to the United States for payment of the cost to the United States of reviewing the asserted restriction and the fees and other expenses (as defined in section 2412(d)(2)(A) of title 28) incurred by the United States in challenging the asserted restriction, unless special circumstances would make such payment unjust.

"(2) If, upon final disposition, the contracting officer's challenge to the restriction on the right of the United States to use such technical data is not sustained—

"(A) the United States shall be liable for payment to the party asserting the restriction for fees and other expenses (as defined in section 2412(d)(2)(A) of title 28) incurred by the party asserting the restriction in defending the asserted restriction if the challenge by the United States is found not to be made in good faith.".

(b) The amendment made by subsection (a) shall apply with respect to solicitations issued more than 180 days after the date of the enactment of this Act.

COMMERCIAL PRICING FOR SUPPLIES

SEC. 204. (a) Title III of the Act is further amended by inserting after section 303E (as added by section 203 of this Act) the following new section:

"COMMERCIAL PRICING FOR SUPPLIES

"SEC. 303F. (a) Except in the case of an offer submitted with a written statement under subsection (b)(2) and except as provided in subsection (c), a contract entered into using other than competitive procedures by an executive agency for the purchase of items that are offered for sale to the public may not result in a price to the United States that exceeds the lowest price at which such items are sold by the contractor to the public.

"(b) A person who submits an offer to an executive agency for the supply of items that it offers for sale to the public (1) shall certify in the offer that the price offered is not more than its lowest commercial price for the items, or (2) shall submit with the offer a written statement specifying the amount of the difference between its lowest commercial price for the items and the price offered, and providing justification for that difference.

"(c) Subsections (a) and (b) do not apply to a contract if the contracting officer determines that the use of the price otherwise required by subsection (a) for such contract is not appropriate because of—

"(1) national security considerations; or

"(2) differences in quantities, quality, delivery, or other terms and conditions of the contract from commercial contract terms.".

(b) The amendment made by subsection (a) shall take effect at the end of the 180-day period beginning on the date of the enactment of this Act.

ECONOMIC ORDER QUANTITIES

SEC. 205. (a) Title III of the Act is further amended by inserting after section 303F (as added by section 204 of this Act) the following new section:

"ECONOMIC ORDER QUANTITIES

"SEC. 303G. (a) Each executive agency shall procure supplies in such quantity as (A) will result in the total cost and unit cost most advantageous to the United States, where practicable, and (B) does not exceed the quantity reasonably expected to be required by the agency.

"(b) Each solicitation for a contract for supplies shall, if practicable, include a provision inviting each offeror responding to the solicitation to state an opinion on whether the quantity of the supplies proposed to be procured is economically advantageous to the United States and, if applicable, to recommend a quantity or quantities which would be more economically advantageous to the United States. Each such recommendation shall include a quotation of the total price and the unit price for supplies procured in each recommended quantity.".

(b) The amendment made by subsection (a) shall take effect at the end of the 180-day period beginning on the date of the enactment of this Act.

PROHIBITION OF CONTRACTORS LIMITING SUBCONTRACTOR SALES DIRECTLY TO THE UNITED STATES

SEC. 206. (a) Title III of the Act is further amended by inserting after section 303G (as added by section 205 of this Act) the following new section:

"PROHIBITION OF CONTRACTORS LIMITING SUBCONTRACTOR SALES DIRECTLY TO THE UNITED STATES

"SEC. 303H. (a) Each contract for the purchase of property or services made by an executive agency shall provide that the contractor will not—

"(1) enter into any agreement with a subcontractor under the contract that has the effect of unreasonably restricting sales by the subcontractor directly to the United States of any item or process (including computer software) made or furnished by the subcontractor under the contract (or any follow-on production contract); or

"(2) otherwise act to restrict unreasonably the ability of a subcontractor to make sales to the United States described in clause (1).

"(b) This section does not prohibit a contractor from asserting rights it otherwise has under law.".

(b) The amendment made by subsection (a) shall apply with respect to solicitations made more than 180 days after the date of the enactment of this Act.

CLERICAL AMENDMENT

SEC. 207. The table of contents of the Act is amended by inserting after the item relating to section 303C the following new items:

"Sec. 303D. Encouragement of new competition.
"Sec. 303E. Validation of proprietary data restrictions.
"Sec. 303F. Commercial pricing for supplies.
"Sec. 303G. Economic order quantities.
"Sec. 303H. Prohibition of contractors limiting subcontractor sales directly to the United States.".

TITLE III—AMENDMENTS TO THE OFFICE OF FEDERAL PROCUREMENT POLICY ACT

TECHNICAL DATA MANAGEMENT

SEC. 301. (a) The Office of Federal Procurement Policy Act (hereafter in this title referred to as "the Act") is amended by redesignating section 21 as section 23 and by inserting after section 20 the following new section:

"RIGHTS IN TECHNICAL DATA

"SEC. 21. (a) The legitimate proprietary interest of the United States and of a contractor in technical or other data shall be defined in regulations prescribed as part of the single system of Government-wide procurement regulations as defined in section 4(4) of this Act. Such regulations may not impair any right of the United States or of any contractor with respect to patents or copyrights or any other right in technical data otherwise established by law. Such regulations shall provide, with respect to executive agencies that are subject to the provisions of title III of the Federal Property and Administrative Services Act of 1949, that the United States may not require persons who have developed products or processes offered or to be offered for sale to the public as a condition for the procurement of such products or processes by the United States, to provide to the United States technical data relating to the design, development, or manufacture of such products or processes (except for such data as may be necessary for the United States to operate and maintain the product or use the process if obtained by the United States as an element of performance under the contract).

"(b)(1) Except as otherwise expressly provided by Federal statute, the regulations prescribed pursuant to subsection (a) shall provide, with respect to executive agencies that are subject to the provisions of title III of the Federal Property and Administrative Services Act of 1949, that the Untied States shall have unlimited rights in technical data developed exclusively with Federal funds if delivery of such data—

"(A) was required as an element of performance under a contract; and

"(B) is needed to ensure the competitive acquisition of supplies or services that will be required in substantial quantities in the future.

"(2) Except as otherwise expressly provided by Federal statute, the regulations prescribed pursuant to subsection (a) shall provide, with respect to executive agencies that are subject to the provisions of title III of the Federal Property and Adminstrative Services Act of 1949, that the United States (and each agency thereof) shall have an unrestricted, royalty-free right to use, or to have its contractors use, for governmental purposes (excluding publication outside the Government) technical data developed exclusively with Federal funds.

"(3) The requirements of paragraph (1) and (2) shall be in addition to and not in lieu of any other rights that the United States may have pursuant to law.

"(c) The following factors shall be considered in prescribing regulations pursuant to subsection (a):

"(1) Whether the technical data was developed—

"(A) exclusively with Federal funds;

"(B) exclusively at private expense; or

"(C) in part with Federal funds and in part at private expense.

"(2) The statement of congressional policy and objectives in section 200 of title 35, the statement of purposes in section 2(b) of the Small Business Innovation Development Act of 1982 (Public Law 97-219; 15 U.S.C. 638 note), and the declaration of policy in section 2 of the Small Business Act (15 U.S.C. 631).

"(3) The interest of the United States in increasing competition and lowering costs by developing and locating alternative sources of supply and manufacture.

"(d) Regulations prescribed under subsection (a) shall require that a contract for property or services entered into by an executive agency contain appropriate provisions relating to technical data, including provisions—

"(1) defining the respective rights of the United States and the contractor or subcontractor (at any tier) regarding any technical data to be delivered under the contract;

"(2) specifying the technical data, if any, to be delivered under the contract and delivery schedules for such delivery;

"(3) establishing or referencing procedures for determining the acceptability of technical data to be delivered under the contract;

"(4) establishing separate contract line items for the technical data, if any, to be delivered under the contract;

"(5) to the maximum practicable extent, identifying, in advance of delivery, technical data which is to be delivered with restrictions on the right of the United States to use such data;

"(6) requiring the contractor to revise any technical data delivered under the contract to reflect engineering design changes made

during the performance of the contract and affecting the form, fit, and function of the items specified in the contract and to deliver such revised technical data to an agency within a time specified in the contract;

"(7) requiring the contractor to furnish written assurance at the time the technical data is delivered or is made available that the technical data is complete and accurate and satisfies the requirements of the contract concerning technical data;

"(8) establishing remedies to be available to the United States when technical data required to be delivered or made available under the contract is found to be incomplete or inadequate or to not satisfy the requirements of the contract concerning technical data; and

"(9) authorizing the head of the agency to withhold payments under the contract (or exercise such other remedies as the head of the agency considers appropriate) during any period if the contractor does not meet the requirements of the contract pertaining to the delivery of technical data.".

(b) Section 2320(a) of title 10, United States Code, is amended by striking out "in regulations prescribed as part" and inserting in lieu thereof "in regulations of the Department of Defense prescribed as part".

(c) The amendment made by subsection (a) shall take effect on the date of enactment of this Act. The regulations required by such amendment shall be issued not later than July 1, 1985.

(d) Within 60 days after the date the regulations required by the amendment made by subsection (a) are prescribed, the Secretary of Defense, the Administrator of General Services, and the Administrator of the National Aeronautics and Space Administration shall submit to Congress a joint report describing in detail how those regulations give consideration to the factors specified for consideration in that section.

PUBLICATION OF PROPOSED REGULATIONS

SEC. 302. (a) The Act is further amended by inserting after section 21 (as added by section 301 of this Act) the following new section:

"PUBLICATION OF PROPOSED REGULATIONS

"SEC. 22. (a) Except as provided in subsection (d), no procurement policy, regulation, procedure, or form (including amendments or modifications thereto) relating to the expenditure of appropriated funds that has (1) a significant effect beyond the internal operating procedures of the agency issuing the procurement policy, regulation, procedure or form, or (2) a significant cost of administrative impact on contractors or offerors, may take effect until 30 days after the procurement policy, regulation, procedure, or form is published for public comment in the Federal Register pursuant to subsection (b).

"(b) Subject to subsection (c), the head of the agency shall cause to be published in the Federal Register a notice of the proposed procurement policy, regulation, procedure, or form and provide for a public comment period for receiving and considering the views of all interested parties on such proposal. The length of such comment period may not be less than 30 days.

"(c) Any notice of a proposed procurement policy, regulation, procedure, or form prepared for publication in the Federal Register shall include—

"(1) the text of the proposal or, if it is impracticable to publish the full text of the proposal, a summary of the proposal and a statement specifying the name, address, and telephone number of the officer or employee of the executive agency from whom the full text may be obtained; and

"(2) a request for interested parties to submit comments on the proposal and shall include the name and address of the officer or employee of the Government designated to receive such comments.

"(d)(1) The requirements of subsections (a) and (b) may be waived by the officer authorized to issue a procurement policy, regulation, procedure, or form if urgent and compelling circumstances make compliance with such requirements impracticable.

"(2) A procurement policy, regulation, procedure, or form with respect to which the requirements of subsections (a) and (b) are waived under paragraph (1) shall be effective on a temporary basis if—

"(A) a notice of such procurement policy, regulation, procedure, or form is published in the Federal Register and includes a statement that the procurement policy, regulation, procedure, or form is temporary; and

"(B) provision is made for a public comment period of 30 days beginning on the date on which the notice is published.

After considering the comments received, the head of the agency waiving the requirements of subsections (a) and (b) under paragraph (1) may issue the final procurement policy, regulation, procedure, or form.".

(b) The procedures required by the amendment made by subsection (a) shall apply with respect to procurement policies, regulations, procedures, or forms that an agency issues in final form on or after the date which is 30 days after the date of enactment of this Act.

(c)(1) Section 2303a of title 10, United States Code, is repealed.

(2) The table of sections of chapter 137 of such title is amended by striking out the item pertaining to section 2303a.

PROCUREMENT NOTICES

SEC. 303. (a) Section 18 of the Office of Federal Procurement Policy Act is amended to read as follows:

"PROCUREMENT NOTICE

"SEC. 18. (a)(1) Except as provided in subsection (c)—

"(A) an executive agency intending to—

"(i) solicit bids or proposals for a contract for property or services for a price expected to exceed $10,000; or

"(ii) place an order, expected to exceed $10,000, under a basic agreement, basic ordering agreement, or similar arrangement,

shall furnish for publication by the Secretary of Commerce a notice described in subsection (b); and

"(B) an executive agency awarding a contract for property or services for a price exceeding $25,000, or placing an order referred to in clause (A)(ii) exceeding $25,000, shall furnish for publication by the Secretary of Commerce a notice announcing the award or order if there is likely to be any subcontract under such contract or order.

"(2) The Secretary of Commerce shall publish promptly in the Commerce Business Daily each notice required by paragraph (1).

"(3) Whenever an executive agency is required by paragraph (1)(A) to furnish a notice to the Secretary of Commerce, such executive agency may not—

"(A) issue the solicitation earlier than 15 days after the date on which the notice is published by the Secretary of Commerce; or

"(B) establish a deadline for the submission of all bids or proposals in response to the notice required by paragraph (1)(A) that—

"(i) in the case of an order under a basic agreement, basic ordering agreement, or similar arrangement, is earlier than the date 30 days after the date the notice required by paragraph (1)(A)(ii) is published;

"(ii) in the case of a solicitation for research and development, is earlier than the date 45 days after the date the notice required by paragraph (1)(A)(i) is published; or

"(iii) in any other case, is earlier than the date 30 days after the date the solicitation is issued.

"(b) Each notice of solicitation required by subsection (a)(1)(A) shall include—

"(1) an accurate description of the property or services to be contracted for, which description (A) shall not be unnecessarily restrictive of competition, and (B) shall include, as appropriate, the agency nomenclature, National Stock Number or other part number, and a brief description of the item's form, fit, or function, physical demensions, predominant material of manufacture, or similar information that will assist a prospective contractor to make an informed business judgment as to whether a copy of the solicitation should be requested;

"(2) provisions that—

"(A) state whether the technical data required to respond to the solicitation will not be furnished as part of such solicitation, and identify the source in the Government, if any, from which the technical data may be obtained; and

"(B) state whether an offeror, its product, or service must meet a qualification requirement in order to be eligible for award, and, if so, identify the office from which the qualification requirement may be obtained;

"(3) the name, business address, and telephone number of the contracting officer;

"(4) a statement that all responsible sources may submit a bid, proposal, or quotation (as appropriate) which shall be considered by the agency; and

"(5) in the case of a procurement using procedures other than competitive procedures, a statement of the reason justifying the use of such procedures and the identity of the intended source.

"(c)(1) A notice is not required under subsection (a)(1) if—

"(A) the notice would disclose the executive agency's needs and the disclosure of such needs would compromise the national security;

"(B) the proposed procurement would result from acceptance of—

"(i) any unsolicited proposal that demonstrates a unique and innovative research concept and the publication of any notice of such unsolicited research proposal would disclose the originality of thought or innovativeness of the proposal or would disclose proprietary information associated with the proposal; or

"(ii) a proposal submitted under section 9 of the Small Business Act;

"(C) the procurement is made against an order placed under a requirements contract;

"(D) the procurement is made for perishable subsistence supplies; or

"(E) the procurement is for utility services, other than telecommunications services, and only one source is available.

"(2) The requirements of subsection (a)(1)(A) do not apply to any procurement under conditions described in paragraph (2), (3), (4), (5), or (7) of section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)) or paragraph (2), (3), (4), (5), or (7) of section 2304(c) of title 10, United States Code.

"(3) The requirements of subsection (a)(1)(A) shall not apply in the case of any procurement for which the head of the executive agency makes a determination in writing, after consultation with the Administrator for Federal Procurement Policy and the Administrator of the Small Business Administration, that it is not appropriate or reasonable to publish a notice before issuing a solicitation.

"(d) An executive agency shall make available to any business concern, or the authorized representative of such concern, the complete solicitation package for any ongoing procurement announced pursuant to a notice under subsection (a). An executive agency may require the payment of a fee, not exceeding the actual cost of duplication, for a copy of such package.".

(b) The amendment made by subsection (a) shall take effect with respect to any solicitation issued after March 31, 1985.

(c) The provisions of the amendment made by subsection (a) of this section shall apply to the Tennessee Valley Authority only with respect to procurements to be paid from appropriated funds.

TITLE IV—AMENDMENTS TO THE SMALL BUSINESS ACT

CERTIFICATE OF COMPETENCY

SEC. 401. Section 8(b)(7)(C) of the Small Business Act (15 U.S.C. 637(b)(7)(C)) is amended by adding at the end thereof the following: "Notwithstanding the first sentence of this subparagraph, the Administration may not establish an exemption from referral or notification or refuse to accept a referral or notification from a Government procurement officer made pursuant to subparagraph (A) or (B) of this paragraph, but nothing in this paragraph shall require the processing of an application for certification if the small business concern to which the referral pertains declines to have the application processed.".

SMALL BUSINESS SUBCONTRACTING POLICY STATEMENTS

SEC. 402. (a) Section 8(d)(1) of the Small Business Act (15 U.S.C. 637(d)(1)) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.".

(b) Section 8(d)(3)(A) of the Small Business Act (15 U.S.C. 637(d)(3)(A)) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.".

BREAKOUT PROCUREMENT CENTER REPRESENTATIVES

SEC. 403. (a) Section 15 of the Small Business Act (15 U.S.C. 644) is amended—

(1) by redesignating subsection (l) as subsection (m); and

(2) by inserting after subsection (k) the following new subsection:

"(l)(1) The Administration shall assign to each major procurement center a breakout procurement center representative with such assistance as may be appropriate. The breakout procurement center representative shall carry out the activities described in paragraph (2), and shall be an advocate for the breakout of items for procurement through full and open competition, whenever appropriate, while maintaining the integrity of the system in which such items are used, and an advocate for the use of full and open competition, whenever appropriate, for the procurement of supplies and services by such center. Any breakout procurement center representative assigned under this subsection shall be in addition to the representative referred to in subsection (k)(6).

"(2) In addition to carrying out the responsibilities assigned by the Administration, a breakout procurement center representative is authorized to—

"(A) attend any provisioning conference or similar evaluation session during which determinations are made as to whether requirements are to be procured through other than full and open competition and make recommendations with respect to such requirements to the members of such conference or session;

"(B) review, at any time, restrictions on competition previously imposed on items through acquisition method coding or similar procedures, and recommend to personnel of the appropriate activity the prompt reevaluation of such limitations;

"(C) review restrictions on competition arising out of restrictions on the rights of the United States in technical data, and, when appropriate, recommend that personnel of the appropriate activity initiate a review of the validity of such an asserted restriction;

"(D) obtain from any governmental source, and make available to personnel of the appropriate activity, unrestricted technical data necessary for the preparation of a competitive solicitation package for any item of supply or service previously procured noncompetitively due to the unavailability of such unrestricted technical data;

"(E) have access to the unclassified procurement records and other data of the procurement center;

"(F) receive unsolicited engineering proposals and, when appropriate (i) conduct a value analysis of such proposal to determine whether such proposal, if adopted, will result in lower costs to the United States without substantially impeding legitimate acquisition objectives and forward to personnel of the appropriate activity recommendations with respect to such proposal, or (ii) forward such proposals without analysis to personnel of the activity responsible for reviewing such proposals and who shall furnish the breakout procurement center representative with information regarding the disposition of any such proposal; and

"(G) review the systems that account for the acquisition and management of technical data within the procurement center to assure that such systems provide the maximum availability and access to data needed for the preparation of offers to sell to the United States those supplies to which such data pertain which potential offerors are entitled to receive.

"(3) A breakout procurement center representative is authorized to appeal a failure to act favorably on any recommendation made pursuant to paragraph (2). Such appeal shall be in writing, specifically reciting both the circumstances of the appeal and the basis of the recommendation. The appeal shall be decided by a person within the employ of the appropriate activity who is at least one supervisory level above the person who initially failed to act favorably on the recommendation. Such appeal shall be decided within 30 calendar days of its receipt.

"(4) The Administration shall assign and co-locate at least two small business technical advisers to each major procurement center in addition to such other advisers as may be authorized from time to time. The sole duties of such advisers shall be to assist the breakout procurement center representative for the center to which such advisers are assigned in carrying out the functions described in paragraph (2) and the representatives referred to in subsection (k)(6).

"(5)(A) The breakout procurement center representatives and technical advisers assigned pursuant to this subsection shall be—

"(i) full time employees of the Administration; and

"(ii) fully qualified, technically trained, and familiar with the supplies and services procured by the major procurement center to which they are assigned.

"(B) In addition to the requirements of subparagraph (A), each breakout procurement center representative, and at least one technical adviser assigned to such representative, shall be an accredited engineer.

"(C) The Administration shall establish personnel positions for breakout procurement representatives and advisers assigned pursuant to this subsection, which are classified at a grade level of the General Schedule sufficient to attract and retain highly qualified personnel.

"(6) For purposes of this subsection, the term 'major procurement center' means a procurement center of the Department of Defense that awarded contracts for items other than commercial items totaling at least $150,000,000 in the preceding fiscal year, and such other procurement centers as designated by the Administrator.".

(b)(1) The Administrator of the Small Business Administration and the Comptroller General of the United States shall jointly establish standards for measuring cost savings achieved through the efforts of breakout procurement center representatives and for measuring the extent to which competition has been increased as a result of such efforts. Thereafter, the Administrator shall annually prepare and submit to the Congress a report setting forth—

(A) the cost savings achieved during the year covered by such report through the efforts of breakout procurement center representatives;

(B) an evaluation of the extent to which competition has been increased as a result of such efforts; and

(C) such other information as the Administrator may deem appropriate.

(2) Within 180 days following the submission of the second annual report to Congress by the Administrator, the Comptroller General shall report to the Congress an evaluation of the Administration's adherence to the standards jointly established and the accuracy of the information the Administration has submitted to the Congress.

PROCUREMENT NOTICES

SEC. 404. (a) Section 8 of the Small Business Act (15 U.S.C. 637) is amended by striking out subsection (e) and inserting in lieu thereof the following new subsections:

"(e)(1) Except as provided in subsection (g)—

"(A) an executive agency intending to—

"(i) solicit bids or proposals for a contract for property or services for a price expected to exceed $10,000; or

"(ii) place an order, expected to exceed $10,000, under a basic agreement, basic ordering agreement, or similar arrangement,

shall furnish for publication by the Secretary of Commerce a notice described in subsection (b); and

"(B) an executive agency awarding a contract for property or services for a price exceeding $25,000, or placing an order referred to in clause (A)(ii) exceeding $25,000, shall furnish for publication the Secretary of Commerce a notice announcing the award or order if there is likely to be any subcontract under such contract or order.

"(2) The Secretary of Commerce shall publish promptly in the Commerce Business Daily each notice required by paragraph (1).

"(3) Whenever an executive agency is required by paragraph (1)(A) to furnish a notice to the Secretary of Commerce, such executive agency may not—

"(A) issue the solicitation earlier than 15 days after the date on which the notice is published by the Secretary of Commerce; or

"(B) establish a deadline for the submission of all bids or proposals in response to the notice required by paragraph (1)(A) that—

"(i) in the case of an order under a basic agreement, basic ordering agreement, or similar arrangement, is earlier than the date 30 days after the date the notice required by paragraph (1)(A)(ii) is published;

"(ii) in the case of a solicitation for research and development, is earlier than the date 45 days after the date the notice required by paragraph (1)(A)(i) is published; or

"(iii) in any other case, is earlier than the date 30 days after the date the solicitation is issued.

"(f) Each notice of solicitation required by subsection (e)(1)(A) shall include—

"(1) an accurate description of the property or services to be contracted for, which description (A) shall not be unnecessarily restrictive of competition, and (B) shall include, as appropriate, the agency nomenclature, National Stock Number or other part number, and a brief description of the item's form, fit, or function, physical dimensions, predominant material of manufacture, or similar information that will assist a prospective contractor to make an informed business judgment as to whether a copy of the solicitation should be requested;

"(2) provisions that—

"(A) state whether the technical data required to respond to the solicitation will not be furnished as part of such solicitation, and identify the source in the Government, if any, from which the technical data may be obtained; and

"(B) state whether an offeror, its product, or service must meet a qualification requirement in order to be eligible for award, and, if so, identify the office from which a qualification requirement may be obtained;

"(3) the name, business address, and telephone number of the contracting officer;

"(4) a statement that all responsible sources may submit a bid, proposal, or quotation (as appropriate) which shall be considered by the agency; and

"(5) in the case of a procurement using procedures other than competitive procedures, a statement of the reason justifying the use of such procedures and the identity of the intended source.

"(g)(1) A notice is not required under subsection (a)(1) if—

"(A) the notice would disclose the executive agency's needs and the disclosure of such needs would compromise the national security;

"(B) the proposed procurement would result from acceptance of—

"(i) any unsolicited proposal that demonstrates a unique and innovative research concept and the publication of any notice of such unsolicited research proposal would disclose the originality of thought or innovativeness of the proposal or would disclose proprietary information associated with the proposal; or

"(ii) a proposal submitted under section 9 of this Act;

"(C) the procurement is made against an order placed under a requirements contract;

"(D) the procurement is made for perishable subsistence supplies; or

"(E) the procurement is for utility services, other than telecommunication services, and only one source is available.

"(2) The requirements of subsection (a)(1)(A) do not apply to any procurement under conditions described in paragraph (2), (3), (4), (5), or (7) of section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)) or paragraph (2), (3), (4), (5), or (7) of section 2304(c) of title 10, United States Code.

"(3) The requirements of subsection (a)(1)(A) shall not apply in the case of any procurement for which the head of the executive agency makes a determination in writing, after consultation with the Administrator for Federal Procurement Policy and the Administrator of the Small Business Administration, that it is not appropriate or reasonable to publish a notice before issuing a solicitation.

"(h)(1) An executive agency may not award a contract using procedures other than competitive procedures unless—

"(A) except as provided in paragraph (2), a written justification for the use of such procedures has been approved—

"(i) in the case of a contract for an amount exceeding $100,000 (but equal to or less than $1,000,000), by the advocate for competition for the procuring activity (without further delegation);

"(ii) in the case of a contract for an amount exceeding $1,000,000 (but equal to or less than $10,000,000), by the head of the procuring activity or a delegate who, if a member of the Armed Forces, is a general or flag officer, or, if a civilian, is serving in a position in grade GS-16 or above under the General Schedule (or in a comparable or higher position under another schedule); or

"(iii) in the case of a contract for an amount exceeding $10,000,000, by the senior procurement executive of the agency designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) (without further delegation); and

"(B) all other requirements applicable to the use of such procedures under title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) or chapter 137 of title 10, United States Code, as appropriate, have been satisfied.

"(2) The same exceptions as are provided in section 303(f)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(2)) or section 2304(f)(2) of title 10, United States Code, shall apply with respect to the requirements of paragraph (1)(A) of this subsection in the same manner as such exemptions apply to the requirements of section 303(f)(1) of such Act or section 2304(f)(1) of such title, as appropriate.

"(i) An executive agency shall make available to any business concern, or the authorized representative of such concern, the complete solicitation package for any ongoing procurement announced pursuant to a notice under subsection (e). An executive agency may require the payment of a fee, not exceeding the actual cost of duplication, for a copy of such package.

"(j) For purposes of this section, the term 'executive agency' has the meaning provided such term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).".

(b) The amendment made by subsection (a) shall take effect with respect to any solicitation for bids or proposals issued after March 31, 1985.

(c) The provisions of the amendment made by subsection (a) of this section shall apply to the Tennessee Valley Authority only with respect to procurements to be paid from appropriated funds.

TITLE V—OTHER PROCUREMENT PROVISIONS

REGULATIONS ON OVERHEAD

SEC. 501. Not later than 180 days after the date of enactment of this Act the single system of Government-wide procurement regulations (as defined in section 4(4)) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(4)) shall be revised to include or amend, as appropriate, provisions relating to the manner in which each executive agency (as defined in section 4(1) of such Act (41 U.S.C. 403(1)) may negotiate prices for supplies to be obtained through the use of other than competitive procedures, as defined in section 4(b) of such Act (41 U.S.C. 403(b)). Such revision shall specify the incurred overhead a contractor may appropriately allocate to such supplies, and shall require the contractor to identify those supplies which it did not manufacture or to which it did not contribute significant value. Nothing in this subsection shall require the submission of cost or pricing data not otherwise required by law.

PERSONNEL EVALUATIONS

SEC. 502. The head of each executive agency that is subject to the provisions of title III of the Federal Property and Administrative Services of 1949 shall ensure, with respect to the employees of that agency whose primary duties and responsibilities pertain to the award of contracts subject to the provisions of this Act, that the performance appraisal system applicable to such employees affords appropriate recognition to, among other factors, efforts—

(1) to increase competition and achieve cost savings through the elimination of procedures that unnecessarily inhibit full and open competition;

(2) to further the purposes of the Small Business and Federal Procurement Competition Enhancement Act of 1984 and the Defense Procurement Reform Act of 1984; and

(3) to further such other objectives and purposes of the Federal acquisition system as may be authorized by law.

REPORT ON PRIME CONTRACTORS QUALIFYING ADDITIONAL SOURCES

SEC. 503. Not later than July 1, 1985, the Administrator of the Office of Federal Procurement Policy shall submit to the Congress a report on the desirability and feasi-

bility of various methods that may be used to qualify competitive sources for subsystems, assemblies, and components acquired as part of a major system established by an agency pursuant to Office of Management and Budget (OMB) Circular A-109 entitled "Major Systems Acquisitions" and likely to be reprocured in substantial quantities during the system's service life. Such report shall discuss the desirability and feasibility of a contractural requirement that, in those situations where a prime contractor qualifies its subcontractors and suppliers, the prime contractor be required to—

(1) qualify at least two sources for each major sybsystem, assembly, or component during the term of the contract; or

(2) furnish to the United States as a deliverable item under the contract, the qualification standards and processes employed by the prime contractor, so as to permit the United States to qualify additional sources for future competitive procurements.

TECHNICAL AMENDMENTS TO COMPETITION IN CONTRACTING ACT OF 1984

SEC. 504. (a)(1) Section 303(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) An executive agency may provide for the procurement of property or services covered by this section using competitive procedures, but excluding other than small business concerns in furtherance of sections 9 and 15 of the Small Business Act (15 U.S.C. 639; 644).

"(3) A contract awarded pursuant to the competitive procedures referred to in paragraphs (1) and (2) shall not be subject to the justification and approval required by subsection (f)(1).".

(2) Section 303(f) of such Act is amended by striking out the last sentence of paragraph (2) and by inserting in lieu thereof the following: "The justification and approval required by paragraph (1) is not required in the case of a procurement permitted by subsection (c)(7) or in the case of a procurement conducted under—

"(A) the Act of June 25, 1938 (41 U.S.C. 46 et seq.), popularly referred to as the Wagner-O'Day Act; or

"(B) the authority of section 8(a) of the Small Business Act (15 U.S.C. 637).".

(3) Section 309(b) of such Act is amended—

(A) by striking out the period at the end of paragraph (3) and by inserting in lieu thereof a semicolon; and

(B) by adding at the end thereof the following new paragraphs:

"(4) procurements conducted in furtherance of section 15 of the Small Business Act (15 U.S.C. 644) as long as all responsible business concerns that are entitled to submit offers for such procurements are permitted to compete; and

"(5) a competitive selection of research proposals resulting from a general solicitation and peer review or scientific review (as appropriate) solicited pursuant to section 9 of the Small Business Act (15 U.S.C. 638).".

(4) Section 309(c) of such Act is amended by striking out "and 'responsible source' have" and inserting in lieu thereof ", 'responsible source', 'technical data', 'major system', 'item', 'item of supply', and 'supplies' have".

(b)(1) Section 2304(b) of title 10, United States Code, is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) An executive agency may provide for the procurement of property or services covered by this section using competitive procedures, but excluding other than small business concerns in furtherance of sections 9 and 15 of the Small Business Act (15 U.S.C. 639; 644).

"(3) A contract awarded pursuant to the competitive procedures referred to in paragraphs (1) and (2) shall not be subject to the justification and approval required by subsection (f)(1).".

(2) Section 2304(f) of such title is amended by striking out the last sentence of paragraph (2) and by inserting in lieu thereof the following: "The justification and approval required by paragraph (1) is not required in the case of a procurement permitted by subsection (c)(7) or in the case of a procurement conducted under—

"(A) the Act of June 25, 1938 (41 U.S.C. 46 et seq.), popularly referred to as the Wagner-O'Day Act; or

"(B) the authority of section 8(a) of the Small Business Act (15 U.S.C. 637).".

(3) Section 2302(2) of such title is amended—

(A) by striking out "and" at the end of subparagraph (B);

(B) by striking out the period at the end of paragraph (C) and by inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new subparagraphs:

"(D) procurements conducted in furtherance of section 15 of the Small Business Act (15 U.S.C. 644) as long as all responsible business concerns that are entitled to submit offers for such procurements are permitted to compete; and

"(E) a competitive selection of research proposals resulting from a general solicitation and peer review or scientific review (as appropriate) solicited pursuant to section 9 of the Small Business Act (15 U.S.C. 638).".

REPEAL

SEC. 505. Section 2311 of title 10, United States Code (as amended by section 1214 of the Defense Procurement Reform Act of 1984), is amended—

(1) by striking out "(a)" at the beginning of subsection (a); and

(2) by striking out subsection (b).

Amend the Senate amendment to the title to read as follows: "An Act to amend the Small Business Act, the Federal Property and Administrative Services Act of 1949, and the Office of Federal Procurement Policy Act to enhance competition in Government procurement, and for other purposes.".

The SPEAKER pro tempore. Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The gentleman from Maryland [Mr. MITCHELL] will be recognized for 20 minutes and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. MITCHELL].

GENERAL LEAVE

Mr. MITCHELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. MITCHELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am extremely pleased to bring to this body H.R. 4209, the Small Business and Federal Procurement Competition Enhancement Act of 1984. The substitute amendment I offer represents the combined efforts of the Committees on Government Operations, Small Business, and Armed Services, all three of which have labored hard and long to bring to your attention this much needed procurement reform.

We have become increasingly alarmed by procurement policies and practices of the Federal Government that are unnecessarily restrictive of competition and that discourage the participation of a greater number of business concerns in Government acquisitions.

The figures for small business awards in Federal procurement, for example, have been steadily declining since 1979. In fiscal year 1983 the percentage of Government prime contract awards to small business was the lowest it's been since 1972. Even though 99 percent of all firms are classified as small, last year they received only 18.6 percent of the prime contract dollar. It is a matter of grave concern that these declining figures coincide with increased defense spending, scandalous spare parts overcharges, and larger percentages being funneled to favored big business contractors. H.R. 4209 has been carefully drafted to address the problems encountered by business concerns that attempt to break into the defense and civilian acquisition system, will achieve cost savings, and will permit a more equitable distribution of Federal procurement opportunities.

PURPOSES

The purposes of H.R. 4209 are threefold: First, to eliminate methods and procedures that have the effect of limiting unnecessarily competition for Government contracts; second, to use Government procurement opportunities as a means of expanding the resource base of available businesses capable of supplying our Nation's industrial needs; and third, to provide greater opportunities for the participation of small business and small business concerns owned and controlled by socially and economically disadvantaged individuals in Government procurement. The bill accomplishes these purposes by amendments to the Small Business Act, the Federal Property and Administrative Services Act, and

the Office of Federal Procurement Policy Act.

PLANNING FOR FUTURE COMPETITION

Section 201 of H.R. 4209 would require civilian agencies to consider and plan for future acquisitions of spare parts and components in awarding contracts for all major systems. With due consideration to the purpose of the system to be acquired and to the technology that will be needed, agencies may consider, in evaluating the price, proposals that provide for items that are available on the open market. They may also consider, as part of the price evaluation, the availability of technical data for competitive reprocurement and the development of multiple sources for production of items needed in substantial quantities. These considerations will be made up front so that total cost over the lifespan of the system can be better evaluated. In sole source contracts, these considerations may be also objectives for price negotiations.

There will undoubtedly be instances where the Government, in order to acquire state of the art technology, will want to deal with business concerns unwilling to reveal valuable trade secrets. This section is not intended to require such businesses to give up their data rights a a cost of doing business with the Government. This provision permits the consideration of such matters in price evaluation only and only when the agency believes the consideration of such matter is appropriate. It is not our intent that these matters always be considered when negotiating price nor that such matters should affect the evaluation of a proposal's technical merit.

QUALIFICATION REQUIREMENTS

One of small business' most pressing problems has been their virtual exclusion from the bidding process by "prequalification" procedures. Section 202 of this bill contains provisions applicable to civilian agencies that would open up the bidding process and encourage small business concerns to demonstrate their capabilities, to become qualified as acquisition sources, and to have their products qualified to meet the standards established by the agencies. This provision would allow all businesses to compete for Government contracts; that is, to have the opportunity to submit a bid or an offer and have it considered. While we do not change any quality assurance standard, we would make these standards, in effect, elements of responsibility to be treated as all other responsibility issues are now treated.

TECHNICAL DATA

For the past several months our committee has given serious thought to the problem of technical data. Ownership and availability of technical data is an extremely complex matter with far-reaching implications for both the Government and private business. For this reason we considered and rejected a number of suggested proposals for the apportioning of rights in data generated in the performance of a Government contract. There are seemingly competing interests which must be balanced. On one hand the Government needs access to data sufficient to manage and operate major systems and to purchase spare and replacement parts in a cost-efficient manner; on the other hand, contractors need to retain rights in data sufficient to protect a valuable commercial position. Unfortunately, there is an absence of statutory guidance on this most critical issue.

Agencies now have the administrative discretion to require or not to require delivery of technical data relating to the work product of a Government contract. This legislation would, for the first time, impose congressional guidelines on this system in an attempt to balance these competing equities and provide much needed uniformity.

VALIDATION OF PROPRIETARY DATA RESTRICTIONS

Many contractors and subcontractors have expended substantial time, energy, and money to develop innovative technologies or processes that are vitally needed by our Government in defense and civilian pursuits. The drafters of this bill recognize the need to encourage private industry to make available to our Government state-of-the-art technology, the best products and services available from the creative genius of U.S. business. The law now provides protection for trade secrets and commercial information, the disclosure of which could jeopardize the legitimate commercial position of business concerns engaged in performance of Government contracts. The bill does nothing to erode the legitimate rights of business concerns to place restrictions upon disclosure of technical data and the ability to assert their proprietary rights in intellectual property.

The bill does recognize, however, that at times technical data has been improperly designated as "restricted", and that the Government, on occasion, has failed to assert properly its legitimate rights. The effect of both these situations is to force the Government into a non-competitive reprocurement situation. The bill would, accordingly, provide a mechanism for the challenge and validation of contractor rights that balances both the Government's need to increase competition and its need to promote innovation through the commercial exploitation of proprietary data.

The validation procedures contained in section 203 establish basic due process protections as to notice, adequate response time, and opportunity for hearing, for those whose asserted claims are challenged. A contracting officer may only initiate a challenge if he/she has reasonable grounds to question a restriction on the right of the Government to use data and, then, only if such data is needed for competitive reprocurement.

If the contractor (or subcontractor, at any tier) is found not to be substantially justified in the assertion, the Government can recover costs of the challenge unless payment would be unjust. On the other hand, the Government is restrained from instituting wide-scale and indiscriminate challenges in that the Government must assume the cost accruing to a business in defending governmental challenges found to be not in good faith.

TECHNICAL DATA REGULATIONS

The bill requires the issuance of Government-wide procurement regulations dealing with technical data within 6 months after the effective date of the bill.

Considerations as to what constitutes a legitimate proprietary right are extremely complex. The bill provides that those responsible for drafting the Federal Acquisition Regulations (FAR) shall include a definition of legitimate proprietary rights. The bill, however, requires that the regulations must contain certain congressionally mandated provisions and must give consideration to a specific grouping of factors contained in the substitute. The regulations will also provide for nine contract clauses dealing with proprietary rights that agencies must use in appropriate situations.

For both civilian and military agencies the substitute would require that the technical data regulations not impair any right of the United States or any contractor with respect to patents or copyrights or any other right in technical data otherwise established by law. With respect to civilian agencies only, the regulations must contain a prohibition on the Government's requiring technical data as a precondition for its purchase of any commercial item to which that data pertains unless such data is either offered for sale to the Government or is necessary for the Government to maintain or operate the commercial item. For military agencies, this commercial product "exemption" is to be a consideration of the Secretary of defense in promulgating DOD's technical data regulations as its supplement to the FAR.

The FAR must also contain two other mandatory provisions of applicability to civilian agencies. Except as otherwise provided for in Federal law, the Government must take unlimited rights in technical data if such data were developed exclusively with Federal funds, required as an element of contract performance, and needed to insure the competitive acquisition of supplies or services that will be re-

quired in substantial quantities in the future. Second, civilian agencies are given a right (which may or may not be exercised, as appropriate) to take an unrestricted royalty free right to use, or have its contractors use, for governmental purposes (but not involving publication outside the Government) Technical data developed exclusively with Federal funds.

In addition to these mandatory factors, the substitute would require that the regulations give consideration to:

First, the source of funds used to develop the technical data; second, the statement of congressional policy and objectives recited in the university, Small Business and Patent Procedures Act; Small Business Innovation Development Act of 1982, and the Small Business Act; and third, the interest of the United States in developing and locating alternative sources of supply and manufacture.

The nine contract clauses required to be prescribed by the regulations deal with: First, defining the respective rights of the United States and the contractor or subcontractor regarding the technical data to be delivered under the contract; second, specifying the delivery schedule for such data; third, referencing the procedures for dealing with the acceptability of such data; fourth, establishing separate line items for such data; fifth, identifying technical data to be delivered with restrictions on the right of the United States to use such data; sixth, requiring the contractor to keep current the technical data delivered under the contract; seventh, requiring the contractor to give its written assurance that the technical data delivered is complete and accurate; eighth, establishing remedies to the United States in the event such technical data is found incomplete or inadequate; and ninth, authorizing the head of the agency to withhold progress payments or take any other appropriate remedy if the contractor does not meet the requirements of the contract pertaining to the delivery of the contract.

The substitute would require, in order to ensure compliance with all these provisions, that the Secretary of Defense, the Administrator of the General Services Administration, and the Administrator of the National Aeronautics and Space Administration submit to the Congress a joint report detailing how these regulations give consideration to the factors specified for consideration in this section of the bill.

OTHER PROVISIONS

The substitute contains many other provisions that foster competition and encourage the participation of small business. For example, it prohibits SBA from making discretionary a small business certificate of competency referral for any reason not specifically authorized by law. In addition, the substitute establishes a contractual requirement for all contracts above $10,000 that small businesses and small business concerns owned and controlled by socially and economically disadvantaged individuals participate to the maximum practicable extent in subcontracts for subsystems, components, and services for major systems and that prime contractors establish procedures to ensure timely payments to their small business subcontractors.

The bill establishes a position of breakout procurement center representative whose duties relate to the breakout of items for competitive procurement and to the recommendation of procedures to increase competition. Such a PCR is to be stationed at each DOD major procurement center where yearly purchases of components total at least $150 million and at such other centers as the SBA Administrator deems appropriate. In the few instances where such personnel have been so assigned in the past, cost savings have amounted to millions of dollars.

Other sections of the substitute reconcile the commerce business daily notice provisions required by the competition in contracting act (Public Law 98-369) and section 8(e) of the Small Business Act as amended by Public Law 98-72. These amendments require additional information to be made available to prospective offerors to assist them in making a sound business decision about requesting bid sets or solicitation materials.

Other provisions of the Small Business Act and Competition in Contracting Act are addressed to ensure that all small business procurement programs are in no way impacted by the recent passage of Public Law 98-369.

The additional effort required by breakouts and competitive procurement methods has often gone unrewarded in personnel evaluations. A contracting officer is often evaluated by measuring output rather than cost savings or the furtherance of statutory objectives and purposes such as the development of additional business sources among small business concerns or small business concerns owned and controlled by socially and disadvantaged individuals. Section 501 of the bill would require agencies to ensure that appraisal systems for personnel charged with procurement duties consider and recognize efforts to achieve such statutory mandated goals and purposes.

I am pleased to offer and support this major reform legislation and commend my colleagues for their diligent efforts and exercise of statesman-like judgment in drafting this substitute. In particular I wish to thank our colleagues JACK BROOKS, chairman of the Committee on Government Operations; BILL NICHOLS, chairman of the Subcommittee on Investigations of the Armed Services Committee; BERKLEY BEDELL, chairman of the Subcommittee on Oversight of our Small Business Committee; JOE ADDABBO, chairman of the Subcommittee on Defense Appropriations and BARBARA BOXER whose initial breakout PCR bill is contained in this substitute.

The American people demanded that Congress take action to address waste and abuse in Government purchases. H.R. 4209 is a bill in which we can take pride and is a wholly appropriate response we may offer to our constituents when they ask what we have done in response to the spare parts scandals.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York [Mr. ADDABBO] who has worked so hard on this particular issue.

Mr. ADDABBO. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of H.R. 4209. This legislation proposed is the result of the untiring efforts of three House committees and three Senate committees to respond to the public outcry against mismanagement, fraud, and abuse in our Federal acquisition system. If enacted into law, this substitute will effectively increase competitive procurements as well as increase procurement opportunities for small and minority business.

This bill came about as a result of the horror stories we have all read about in the press concerning the excessive prices paid by the Department of Defense for spare and replacement parts. While these press accounts are relatively recent, it is well documented over the years that the procurement practices of the Department of Defense have wasted millions of the taxpayers' dollars. In fact, beginning in 1968 and each year thereafter, the Subcommittee on Defense Appropriations has instructed the Department of Defense to "clean up their act" and promulgate clear-cut regulations for increasing competitive procurements, particularly in the area of spare and replacement parts. But, in response to our directives, we see the $400 claw hammer, the $1,118 plastic stool cap, and the $200 diode that should cost less than a quarter. It is evident that the Department of Defense cannot or will not solve the problem administratively. Therefore, it is imperative that the Congress legislate in order to fulfill our commitment to the public that their tax dollars will be spent wisely.

H.R. 4209 contains many provisions that are identical to those found in H.R. 5167, the DOD Authorization Act of 1985. These common provisions recognize that planning for future competition must begin early in the acquisition process so that additional sources

are identified and adequate technical data is obtained in a timely manner. In order to achieve this objective the bills require each Federal agency to ensure that acquisition strategies and source selection procedures for major systems consider spare and replacement parts and the ability to secure such parts competitively in the future.

Small businesses have historically been denied the opportunity to compete equitably for certain Government contracts primarily because of the lack of access to accurate and complete technical data. The bills also address the issue and provide long-awaited congressional guidance to the problems of data management and ownership. Government-wide procurement regulations, that include consideration of specifically referenced factors and the absolute inclusion of others, are required within 6 months after this bill is enacted into law.

QUALIFICATION REQUIREMENTS

It is essential for the Government to ascertain the quality of items being offered to it for sale. However, small businesses have often been barred from competition because of the imposition of arbitrary and unnecessarily stringent requirements which are used as prequalifications that must be met in order to be eligible to submit a bid or an offer for certain types of products or services.

The bill would require each civilian Federal agency to justify the need for enforcing any type of "qualification requirement" and would absolutely prohibit the use of such requirements as a prequalification to become eligible to bid for any type of contract. Instead, all offerors are allowed to compete and their qualifications are determined as elements of responsibility.

Before an agency may enforce a qualification requirement for any particular procurement, and head of the agency, or designee, must: First, prepare a written justification which states why that standard is necessary for the particular procurement and why compliance with the standard must be demonstrated prior to award; second, detail, in writing, the exact standard the offeror or its product is expected to meet. This involves a definition of the technical parameters constituting the minimum level of acceptance to the Government. The requirement must be the least restrictive of competition commensurate with the legitimate needs of the Government; third, specify an estimate of costs likely to be incurred by an offeror who seeks to become qualified; fourth; ensure each offeror an equitable opportunity to meet the qualification requirement prior to award; fifth, ensure, if a Government contractor is doing the testing, that the contractor is not one that will benefit from a lack of additional sources and that the Government will contractually bind that contractor to keep confidential the proprietary data of the offeror; and sixth, promptly inform the offeror as to whether it has met the standard and, if not, why qualification was not attained.

The bill, however, does provide for exceptional cases and would allow the head of a purchasing office, after considering the views of the competition advocate, to waive all of these conditions precedent to the enforcement of a qualification requirement except for the written justification. Such waivers are only effective for 2 years at a time. In no event, however, may a waiver be granted for a product on a qualified products list.

A small business concern which has met the qualification requirements, may be reimbursed its costs for doing so if a determination has been made that there are fewer than two qualified sources available to compete for a particular requirement and its qualification is likely to result in increased competition and cost savings for future requirements.

Currently, if a prospective contractor submits an offer to the Government for a product on a qualified products list and is not a prequalified source for that product, its offer will be rejected automatically as nonresponsive. H.R. 4209 prohibits an agency from denying a potential offeror the opportunity to submit an offer and have it considered solely because its product is not on a qualified product list, or because it is not on a qualified manufacturers list, qualified bidders list or on any other list of prequalified offerors. The substitute amendment specifically allows an offeror to submit an offer for evaluation as long as it can be demonstrated to the contracting officer that it or its product meets the standards or can meet the standards prior to contract award. All of these quality standards are, in effect, made elements of contractor responsibility.

SBA maintains all of its traditional certificate of competency authority to consider cases where a determination has been made that the qualification standards have been met by a small business offeror but where it is proposed to deny it the contract based upon a lack of responsibility to perform or alleged ineligibility under the Walsh-Healey Act. However, SBA would not be authorized to review an offeror's challenge to either the contracting officer's decision on whether the offeror met the standard or on the validity of the qualification requirement unless requested to do so by the contracting officer. In effect, the bill is carving out this one exception to mandatory COC referrals because it is believed that these "newly created" elements of responsibility should initially rest within the discretion of the buying activity.

The bill defines a qualification requirement as a requirement "for testing or other quality assurance demonstration that must be completed by an offeror prior to award." It is intended to capture those situations when minimum quality assurance standards are required to be proven by test or other definitive demonstration prior to contract award. It is not our intent that the term include traditional source evaluation criteria that are designed to rank competing offerors in an attempt to ascertain the highest "quality" offer, as long as all offerors are allowed to compete.

This section is intended to eliminate arbitrary prequalification practices that have operated as barriers to competition, without reducing in any way, the quality of products furnished to the Government. All standards would be subject to review every 7 years.

CERTIFICATES OF COMPETENCY

The bill substitute also clarifies and expands existing small business programs. For example, SBA would no longer be able to exempt A COC application from manadatory referral solely because of the dollar amount of the contract or any other condition not provided for by law. This provision is intended to reverse an SBA rule which makes the referral of a case discretionary with the contracting officer for those contracts having a dollar value of less than $10,000. Furthermore, nothing contained in this bill in present law precludes SBA from initiating a reconsideration of a COC package if new and germane information is presented that was not otherwise available at the time of initial review.

SUBCONTRACTING

Section 8(b) of the Small Business Act is expanded by the substitute to require prime contractors to establish procedures to ensure the timely payment of their small and small minority business subcontractors. The Government would then have the authority to make an inquiry and take appropriate remedial measures if, in fact, payment procedures and subcontract terms relating to payment were not complied with due to reasons other than failure of the small business to perform under the terms of the subcontract.

OTHER PROVISIONS

The Commerce Business Daily section of the bill is intended to establish a uniform set of procedures for the publication of procurement notices which contain sufficient information to assist a potential contractor in making an informed decision as to whether to obtain a solicitation package.

In many instances, the Government can purchase an item cheaper from the vendor than from the prime contractor responsible for producing the major system. However, many prime

contractors restrict their subcontractor vendors from selling directly to the Government. In an effort to achieve the most cost effective sale to the Government, the amendment expressly prohibits a prime contractor from unreasonably limiting their subcontractors from making direct sales to the Government.

Finally, certain technical amendments are made to the Competition in Contracting Act—Public Law 98-396—to ensure that the programs established by sections 9 and 15 of the Small Business Act are protected and are considered competitive procedures for purposes of the former statute. The section 8(a) program is similarly protected by insuring that it too will not be impacted by the provisions of Public Law 98-396.

It is unquestionable that this legislation is the most comprehensive procurement reform measure to date. It is sorely needed to correct blatant deficiencies in the way that multibillion dollars are being spent by the Government for the purchase of goods and services.

I urge all my colleagues to adopt this vital measure.

Mr. MITCHELL. Mr. Speaker, I reserve the balance of my time.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4209, which has been explained by the chairman of the committee, the gentleman from Maryland [Mr. MITCHELL].

Mr. Speaker, this resolution does reflect careful deliberations by the staffs and members of all three committees, the Small Business Committee, the Committee on Government Operations, and the House Committee on Armed Services.

I serve as the ranking minority member on the Committee on Government Operations.

I have talked with the gentleman from Pennsylvania, the ranking minority member of the Committee on Small Business, Mr. MCDADE, who also supports this bill.

Mr. Speaker, this bill will go a long way to increase the number of competitive contracting opportunities which are available in the Federal procurement process.

We are all aware of how necessary it is that we increase these opportunities, and this bill will do that. These increased competitive contracting opportunities will benefit all business, both large and small. We are too familiar with the horror stories of how the Government has been paying extravagant prices for spare parts.

Mr. Speaker, this legislation will help to solve that problem.

Mr. Speaker, I urge my colleagues to join me in supporting this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MITCHELL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas [Mr. BROOKS], the chairman of the Committee on Government Operations.

Mr. BROOKS. Mr. Speaker, I rise in strong support of the resolution to adopt a substitute amendment to H.R. 4209, the Small Business and Federal Procurement Competition Enhancement Act of 1984. This legislation, as amended, will strengthen the use of full and open competition in Government procurement. It will remove many of the barriers to competition which have frustrated the efforts of many businesses, particularly small businesses, to enter the Federal marketplace. In this regard, it is an excellent companion bill to the Competition in Contracting Act (Public Law 98-369) which was recently signed into law.

I am pleased that the House Committees on Small Business, Armed Services, and Government Operations have been able to work together to perfect this legislation. Many agency officials who oppose procurement reform were hoping that our negotiations on this legislation would end in a deadlock. What they fail to understand is that all three committees have a keen interest in eliminating the waste and abuse which is plaguing the Government's procurement system. We all share a common belief that increasing the use of competition is the single most effective way to accomplish this objective.

I am particularly pleased with the provisions dealing with technical data rights which establish, for civilian agencies, two important principles in this area. First, when the Government finances the development of a product, it will have unlimited rights to the technical data associated with that product, unless otherwise provided in statute. Second, data rights that are derived from the development of commercial products will remain solely with the contractor and cannot be infringed upon in any way by the Government.

The legislation also establishes procedures which will provide opportunities for businesses to submit offers on a procurement even if such businesses are not on a qualified bidders or similar list. At the same time, it supports the use of qualification requirements as a legitimate procedure to ensure that certain quality assurance standards are met. In this regard, the amendment does not change statutorily mandated qualification procedures, such as those established by Public Law 92-582 (the Brooks A&E Act).

These provisions and others represent another significant step in reforming our procurement system. I enjoyed working with Chairman MITCHELL and Congressman NICHOLS on this important piece of legislation and commend them for their efforts.

Mr. Speaker, I yield back the balance of my time.

□ 1810

Mr. MITCHELL. Mr. Speaker, it is really a most unusual situation in which we find three committees in tandem and in agreement on this one resolution. It is because of the cooperation of many people involved and the hard work that the staff did.

Mr. Speaker, I yield 1 minute to the distinguished gentleman from Alabama [Mr. NICHOLS].

Mr. NICHOLS. Mr. Speaker, I believe today may be an historic occasion. For the first time in many years the Armed Services Committee, the Small Business Committee, and the Government Operations Committee have united in an effort to ensure that all are provided a fair and equal opportunity to bid on Government contracts. This bill, H.R. 4209, carries forward many of the reforms we just recently enacted on the Department of Defense authorization bill, and applies them to the civilian agencies. Those reforms include: First, requiring personnel to give appropriate recognition for their efforts to increase competition; second, establishing standards for use of qualified bidders and products lists; third, requiring better acquisition planning so that the Government will not be limited to one source in the future; fourth, directing changes designed to eliminate the middleman where possible; and fifth, precluding contractors from charging the Government a price for an item which exceeds the lowest price the contractor charges its commerical customers.

In addition, of course, the bill includes numerous provisions designed to specifically aid small business, including the provision appointing a small business breakout procurement center representative and the necessary technical advisors to assist them in breaking out parts for purchase from small businesses and other manufacturers. This provision was modeled after a highly successful program in existence at four Air Force logistics centers, and I believe the small business representatives will be able to work hand in hand with the competition advocates to ensure that items are purchased in the most cost-effective and efficient manner.

While the provisions in the Department of Defense authorization bill were not directed specifically at small business, the interests of small business were of paramount concern during the consideration of H.R. 5167 as well. I believe that between H.R. 5167 and this bill significant strides have been made to foster the ability of small businesses to bid on and win Government contracts.

I would like to thank my colleagues on the Small Business Committee, Mr. BEDELL, and committee member, JACK BROOKS, of the Government Operations Committee for their efforts to ensure passage of this bill.

The process of developing legislation to effect meaningful procurement is a long and arduous process, taking a tremendous commitment of time and energy; and I am happy that we have been able to reach a satisfactory agreement on the changes and improvements to be made in H.R. 4209.

Mr. HORTON. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado [Mr. SCHAEFER], a member of the Committee on Small Business and also a member of the Committee on Government Operations.

Mr. SCHAEFER. Mr. Speaker, I rise in support of the substitute amendment for H.R. 4209. Since we first considered this bill, even more horror stories have emerged about the Government paying extravagant prices for spare parts. Our constituents are now even more outraged, and have every right to expect us to do something about this scandalous situation.

I recently held a procurement conference in my district in Colorado, and I can assure you, Mr. Speaker, that this issue is a major concern to my constituents. I certainly believe that this bill will be a great help to all of the small businesses within my district, and I urge its passage today.

This bill would place a break-out procurement center representative [PCR] at each military purchasing center that buys more than $150 million in spare parts each year. These individuals would review procurement methods and recommend changes to increase competition in the procurement of spare parts. They would also review consolidated purchases to insure the maximum opportunity for small business participation, and would have authority to review storage of and access to technical data.

The hearings of the Small Business Committee last October showed that only one such employee at Tinker Air Force Base in Oklahoma saved the Government over $4 million in just one quarter of 1983, He did this by breaking out spare parts for competitive purchases from items that were previously sole-source, that is, bought from only one supplier. This one example alone is sufficient to show that this bill has great potential to alleviate the grave overspending in Government procurement procedures.

I am not usually one to support additional Government employees, but I think the results of this program would more than justify the hiring of these procurement center representatives. I also believe that small businesses deserve this opportunity to better participate in Government procurement. I urge the Members to vote for the passage of this measure today.

Mr. HORTON. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. CONTE], the ranking minority member of the Committee on Appropriations, and one of the ranking members on the Committee on Small Business; and one of the principal sponsors of this bill.

Mr. CONTE. Mr. Speaker, I rise in strong support of H.R. 4209, the Small Business and Federal Procurement Competition Enhancement Act of 1984.

This bill represents a year of hard work by the Oversight Subcommittee of the Small Business Committee. It addresses two concerns of the Small Business Committee which I am sure are shared by every Member of this body—the spare parts scandals which have rocked the Department of Defense and the declining participation of the small business community in the Federal procurement process.

We are all too familiar with the press stories of the $400 hammer, the $1,000 plastic stool cap, and the $7,000 coffee maker. Our constituents have understandably and justifiably been outraged by this waste of their hard earned tax dollars. Hearings held by my Small Business Oversight Subcommittee indicated that a major factor in these high priced spare parts was a lack of competition in the procurement system. These same hearings also indicated that small business—98 percent of the business community—was receiving less and less of the Federal procurement dollar.

Therefore, the solution to the spare parts scandal seemed simple. We had to increase competition in the system by increasing small business involvement.

Our committee felt that the Air Force pilot program of break-out procurement center representatives should be expanded to operate at each procurement center which purchased over $150 million in spare parts each year. These break-out PCR's, as they are called, had done a remarkable job in saving tax dollars by increasing competition in the system. They did this by breaking out spare parts for competitive purchases from items that were previously purchased from only one supplier. In the second quarter of 1983, one break-out PCR in Oklahoma saved the taxpayers $4 million. This savings certainly justified his $40,000 salary.

This bill makes several other changes in the procurement process that will enhance competition and reduce the cost of procurement to the Government.

I am pleased that the Armed Services Committee, the Government Operations Committee, and the Small Business Committee were able to reach agreement on this bill. I would like to commend the gentleman from Iowa, Mr. BEDELL, for his perseverance on this matter. He strictly was tenacious.

I urge my colleagues to support H.R. 4209.

Mr. MITCHELL. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Mrs. BOXER] who was a prime force in moving this legislation.

There was just a reference made to the tenacity of my friend, the gentleman from Iowa [Mr. BEDELL]. I will say that his tenacity was matched by the tenacity of the very distinguished gentlewoman from California.

Mrs. BOXER. Mr. Speaker, I want to thank my good friend from Maryland [Mr. MITCHELL], my good friend from Iowa, my tenacious friend [Mr. BEDELL], and my good friend and chairman from Texas [Mr. BROOKS], my good friend from New York [Mr. ADDABBO], my friend from Alabama [Mr. NICHOLS]. There are a lot of friends and a lot of players because this bill has been a long time in coming, just about 1 year.

Many of us have been holding up coffee pots and flashlights and armrests and hammers and the reason that we were doing it was not just for the fun of it; we were doing it because we wanted to call attention to the outrageous problem that we have been having in the Federal Government because we have not brought in good old American competition. That is what this bill does. It speaks to the issue of competitive bids. It speaks to the issue of proprietary rights so we get the data that we deserve to have. It speaks to the issue of fair pricing of spare parts so that we will no longer pay any old price that is dreamed up, but will pay what the part is really worth.

So, we held up all these spare parts. Today, Congress has shown that it is ready and willing and able to act on this.

Again, I thank my good friends. I thank the staffs and my own staff for all the hard work on this bill.

Mr. Speaker, my bill as originally passed by this body was designed to put an end to the litany of spare parts horror stories that we have witnessed over the last 2 years. We cannot accept the scandals of a 12-cent allen wrench being sold for $9,600 nor can we accept coffee makers that cost the Air Force $7,622. And here's another example: A $10 armrest that we taxpayers have been paying $600 for.

Since contractors have been able to charge off general costs against all contracted items and since they faced little competition it makes great sense to contract out these items to contractors who have smaller costs by opening up space ports procurement to competitive bidding.

This is the essence of H.R. 4209.

The Inspector General of the Department of Defense in a report stated that:

> Budget centers * * * were not identifying potential sources of aircraft engine spare parts and, as a result, DOD breakout program was not effectively implemented * * * by not challenging sole source procurements * * * the buying centers paid premium prices to prime contractors * * * in most cases the prices include overhead and other markup factors.

We have also seen internal Pentagon and other agency reports showing that the United States has not been able to maintain an adequate supply of spare parts and other equipment needed to maintain defense systems. Readiness, a primary element of our defense posture, has been seriously harmed by the inability to replace and maintain critical equipment.

Spare parts prices have increased dramatically in the last 10 years while appropriations for operation and maintenance have been cut or maintained at present levels. We are able to purchase only a fraction of the needed parts in order to adequately support our men and women in the Armed Forces.

H.R. 4209 will open the entire spare parts procurement system to good old American competition, and by using the method of the free market to drive the price of spare parts down. Secretary of the Air Force Orr recently stated that because the Air Force had introduced competition and awarded their new engine contracts to two companies, rather than just one, the Government should save $3 billion over the life of these engines.

The Small Business Administration, General Accounting Office, and the Committee on Government Operations have done studies to show an average savings of 40 percent when a part is broken out into open competition. In individual instances that savings could be as high as 75 percent.

H.R. 4209 is a program with a proven track record. This bill is simply expanding a program that has already returned great dividends. The elements of our bill are currently operating at a number of Air Force procurement centers. At Tinker Air Force Base alone, one person and one technical adviser saved $5 million in 3 months. This program saved approximately $35 million for the Air Force in fiscal year 1983 and it was only operating on a limited scale.

The current budget for all our military spare parts is approximately $22 billion. At an average savings of over 40 percent, that means that if this bill is passed, we could see savings in excess of $4 billion.

We also gain other immediate and long-term benefits. Since much of this new manufacturing would be accomplished by small businesses, we will see a rise in new enterprises. All small business organizations support this bill because of its obvious benefits for new and existing businesses.

With the rise of new small and medium businesses we enlarge the industrial base of this country and provide more jobs with small businesses.

This bill can also generate new tax revenue since small business generally pays a larger share of taxes than huge companies due to tax writeoffs.

Small businesses have proven time and again that they can produce and deliver products in far less time than big companies. Thus, we can reduce leadtime on purchases and have a more efficient system.

Small businesses must produce better quality for less or face being shut out of competition. Our current sole source system has produced numerous instances of poor quality and poor workmanship. Sole source contractors do not have to worry about cost and quality because they are the only game in town and they know it.

As originally drafted, H.R. 4209 would expand the Small Business breakout Program to every major procurement center in the country. We would place a small business "Breakout" specialist in each of these centers and give them an increase in technical assistants so that they will be able to review, challenge, and breakout into competition as many spare parts as possible.

I am very grateful that this idea was reaffirmed in the conference report and that my bill was further expanded to include other much needed reforms that address a broader range of Governmentwide contracting and procurement problems.

The bill now includes additions from the conference process that will begin to open the procurement system so that prices are reduced and quality is improved. This bill is a much-needed first step in ending the "closed shop" mentality that has prevailed for over 25 years in both contracting and procurement.

I am proud to be able to rise in support of this conference report and I thank all of my colleagues for showing their concern about this problem and for developing the reforms to begin to bring it under control. At a time when so many claim that nothing is being done about the waste and fraud and taxpayers feel such a sense of frustration, we have taken a bold stance and stated that we will no longer tolerate the status quo.

Mr. HORTON. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. Mr. Speaker, I rise in strong support of H.R. 4209, the Small Business and Federal Procurement Competition Enhancement Act.

As a member of the Small Business Subcommittee on Oversight I participated in the hearings which focused on the costly procurement practices of the Federal Government and the competition barriers faced by small business.

We have all been shocked by the significant overcharges for spare parts, and this is a matter of extreme concern to my constituents. These overcharges were made crystal clear when I joined Chairman BEDELL for a visit to a Pensacola base where we saw $430 pliers which we could purchase for $3, not to mention a 1-by-1-inch decal for which the Government paid $40.80.

I want to commend the chairman for his diligence in pursuing legislative remedies to these abuses. It is obvious to all of us that the Federal Treasury simply cannot afford waste and overpriced goods—not when we are trying to stretch our scarce resources to provide for the needs of the elderly, unemployed, and poor, not to mention finding solutions to our deficit.

It is incumbent upon this Congress to encourage competition in all Federal procurement programs, and this means ensuring that the small business community, which has much to offer, has a free and fair opportunity to participate in Federal contracting.

It has been shown time and time again that competition for Federal contracts produces a reduction in costs to the Federal Government. When companies of all sizes are given an equal opportunity to compete for contracts, the overall cost to the Government is diminished. Our hearings showed that small business only receives about 17 percent of all Federal contracts. I fully believe that this minimal participation by small business is indicative of a lack of competition in Government contracting and lends itself to outrageous prices for goods—paid for by the taxpayers.

Mr. Speaker, I am especially pleased that the legislation before us today mandates that Federal procurement personnel will be encouraged, through their yearly performance evaluations, to increase competition and achieve cost savings. There is no doubt in my mind that if we are to succeed in revamping noncompetitive costly procurement practices, the responsibility must be shared by the Federal employees who are involved in the awarding of contracts, and who have a responsibility to the taxpayers.

I am optimistic that with passage of this bill we will be opening the door to small business and at the same time, restoring fiscal integrity to our Federal procurement programs. I urge my colleagues to support passage of H.R. 4209.

□ 1820

Mr. HORTON. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. ROTH], also a Member who has worked very hard on this bill.

Mr. ROTH. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in strong support of H.R. 4209, which would provide a Small Business Administration breakout procurement center representative at each major procurement center.

It hardly seems worth repeating examples of the astounding waste which has been involved in the military spare parts procurement system. And, if we in this Congress can take credit for one thing over the past 2 years, it is our serious and in large part successful effort to eliminate—or, at least greatly reduce—this unconscionable waste by DOD. It is time to extend our efforts to other departments and agencies.

H.R. 4209, which we first approved in May, is worth culmination of our efforts.

The final version of H.R. 4209, which represents a compromise with the other body, would require the SBA to assign a breakout procurement center representative to each major Federal procurement center. The BOPCR would monitor and recommend procurement practice that area needed to effect cost savings through increased competitions and greater small business participation.

The compromise version would also allow any business to bid for a Government contract, whether or not it is on a qualified bidders or similar list, if it can demonstrate to the contracting officer that it can meet Government quality standards.

It would require, except in special circumstances, that contractors charge the Government no more for its commercial products than the price at which such products are sold to the public.

And, it would prohibit prime contractors from unreasonably restricting their subcontractors from selling directly to the Government.

The BOPCR program was originally designed as a pilot program in four air logistic centers, and it has proven to be a highly cost-effective program. Operating on a very limited scale, it saved the Air Force an estimated $35 million in fiscal 1983. When applied to the broadest range of procurement activities, its potential saving could be billions of dollars from the military's $15 billion spare parts procurement budget.

Mr. Speaker, it is important to note that unlike our original version of H.R. 4209, this final version applies to civilian agency procurement many of the same requirements we recently imposed on the Defense Department in the DOD authorization bill. We often make it a point to single out DOD, which fills less than 10 percent of its contracts through competitive bids. However, some agencies, like DOE, are even worse, with 3 percent competitive bid rates. It is these other agencies which now must get equal attention.

The taxpayer cannot afford Government to be spending $9,000 for an Allen wrench, $435 for a light bulb, or $500 for a claw hammer, or excessive markups for any item procured by the Goverment. Passage of this legislation is a large step in the direction of commonsense and fiscal responsibility through good, old-fashioned competition.

Mr. MITCHELL. Mr. Speaker, this has been a magnificent cooperative effort with a whole lot of people who are determined that this problem would be addressed in this session of Congress. Among those, certainly, is my friend and my colleague, the gentleman from Iowa [Mr. BEDELL], who just held out, fighting off all attempts to scuttle by those who would oppose the passage of this bill. I yield the gentleman 4 minutes with my thanks.

Mr. BEDELL. I thank the chairman.

Mr. Speaker, every once in a while in this body something comes along that makes you truly excited. I think that the House of Representatives today can really be excited about what we have done. I am partly excited because of the fact that this bill, a major bill, comes to this floor with the author of the bill one of our freshman Members. I do not remember when a freshman Member has brought forth an important bill such as this, fought all the way and seen it move all the way to final passage. If I only had a few seconds here before this body, I would want to offer my most sincere congratulations to BARBARA BOXER for this great accomplishment in what she had done in this regard.

I want to thank the chairman of the committee. What a delight it is to work with him on these matters. I want to thank JOE ADDABBO for his work. I want to thank Mr. NICHOLS for the work that we have done as we have worked together. We have not always agreed on everything, but we have always worked together, and I think it has been a great relationship. I want to thank Mr. BROOKS for the work that he has done and the help that he has given on this piece of legislation. I appreciate Mr. HORTON for his efforts. And while I am here, I want to thank my subcommittee. I want to thank them for the work they have done on this, as well as other issues. Mr. SCHAEFER of Colorado, Mr. BILIRAKIS, Mr. CONTE, I see Mr. MOLINARI here, as well. I see Mr. BOEHLERT. It is a great subcommittee and it is a great privilege to work with them. I thank Mr. ROTH for his work on this matter. And, finally, it would be wrong if we did not thank the staff for the hours and hours and hours that they have put in in order to make this indeed a reality.

If we are really concerned about the deficits we face in our Government, if we really want to do something about it, there are some of those people here in this body who have worked hard to see that we would do this in regard to the waste that takes place in regard to some of our defense procurement; but, thank God, we did not stop there. Thanks to Mrs. BOXER and others, we have now moved forward to where we will institute similar improvements in which we will do in regard to the total of Government purchasing.

I think the taxpayers can be proud of the action that we are taking here this afternoon. I am proud to have been a part of it, an I am particularly pleased to have been able to work with so many colleagues in this great accomplishment.

This bill represents the hard work of the Small Business, Armed Services, and Government Operations Committees of both legislative bodies.

Last October, Mrs. BOXER introduced H.R. 4209. I was proud to be an original cosponsor. This bill provided for a Small Business Administration Breakout Procurement Center Representative [BOPCR] at each major Federal procurement center. In 1979, the SBA instituted a pilot program that put a BOPCR at four Air Logistics Centers. The duties of these BOPCR's are to review sole-source purchases by the Centers and recommend competition procurements whenever appropriate.

The achievements of the pilot program have been remarkable. Last October, at hearings held by the Small Business Oversight Subcommittee, which I chair, one of the BOPCR's estimated that he saves the Government 400 times his salary through his activities. Indeed, the General Accounting Office said:

> Several recent reviews and audits performed by GAO, the Naval Audit Service, and the Defense Inspector General, have shown that if the services are successful in breaking out high dollar value spare parts, savings can be substantial.

BOPCR's earn these savings by evaluating purchases made on a sole-source basis and suggesting that, in appropriate cases, they be purchased competitively. For example, a rubber gasket that had been purchased on a sole basis cost the Government $94.02 apiece. Competitively bid, the same gasket cost $5.69. Total savings on this procurement was $21,000. An I-bolt suggested for breakout by a BOPCR was competitively purchased for $13.49 after it had been sole-source purchased for $328. On an order for 44 I-bolts, the Government saved $13,000.

Another part, bent sheet metal with three holes drilled into it, was sole-source purchased from the original equipment manufacturer at $153 apiece. After a BOPCR suggested competition on the part, 15 bids were received and a low bid of $5.87 was selected. The total savings on the buy was $27,000.

While the enactment of the BOPCR provisions of H.R. 4209 is a great step forward in getting the Government's procurement policies in order, H.R. 4209 takes other very important steps to reform procurement policies at civilian agencies.

H.R. 4209 will extend to civilian agencies many of the same procurement reforms that Congress enacted for the Department of Defense last week as part of the military's authorization bill. These reforms will:

First, allow any business concern to submit an offer for a contract regardless of whether such business is on a qualified bidder's list, or other similar list if such concern can meet the quality assurance standards of the Government prior to the award of the contract. All such standards must be reduced to writing and reviewed periodically by the appropriate agency;

Second, require that a contractor may not charge the Government a price for its own commercial products that is more than the lowest price at which any such products are sold to the public, unless it can justify a higher price;

Third, require regulations that require a contractor to identify those items it sells to the Government that it did not produce or add significant value. These regulations must also provide for the proper allocations of incurred overhead on items sold to the Government;

Fourth, require the Office of Federal Procurement Policy to define by regulation the legitimate proprietary interest of the United States for products that were developed exclusively with Federal funds, exclusively at private expense, and in part with public and private funds;

Fifth, provide a formal system for the Government's challenge to contractor assertions of proprietary rights;

Sixth, require the publication of significant procurement regulations for notice and comment;

Seventh, require agencies to consider, when evaluating the costs of certain contract proposals for major systems, the increased savings that may result from the use of spare parts already in the Government's supply system and/or the Government's right to competitively reprocure spare parts for that system;

Eighth, prohibit prime contractors from unreasonably restricting their subcontractors from selling directly to the Government;

Ninth, require the head of each agency to establish personnel appraisal systems that encourage Federal employees to achieve cost savings in contracting procedures;

Tenth, require agencies to buy supplies in quantities most advantageous to the Government; and

Eleventh, establish a Federal policy that prime contractors of the United States ensure timely payments of amounts due to their small business subcontractors.

Mr. Speaker, this is an extensive bill. I predict that the savings to the taxpayers will be huge. There is no substitute for sound contracting procedures on the part of the U.S. Government. Passage of this bill by the Congress represents an important step toward fiscal responsibility. We owe this one to the taxpayer.

I urge passage of this legislation.

Mr. BOEHLERT. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from New York.

Mr. BOEHLERT. The gentleman should not be surprised that a freshman was dynamic in providing leadership. Freshmen are pretty decent people, after all. But I do want to commend the gentleman in the well for the outstanding manner in which he provided leadership in our subcommittee and direction for all of us. I think the principal author of the bill will acknowledge that there were times there were indications that we should be discouraged, that maybe we should think in terms of another day. But you were unyielding, and I commend you for that. We have proven today by what we are doing that the system is really able to function as it was designed, with three separate committees involved, with Republicans and Democrats working hand in hand, we have aggressively tackled a severe national problem and we have come to grips with it. We are providing a solution to that problem, and no person in this body deserves more credit than the gentleman in the well.

● Mr. HERTEL of Michigan. Mr. Speaker, I support the intent of H.R. 4209. The Small Business and Federal Procurement Competition Act of 1984. This bill requires the assignment of small business breakout procurement center representatives to all major procurement centers of the Federal Government to assist in breaking out contracts from prime contractors to small business. Many of the small business are often the original manufacturer of thse items. Additionally the bill has numerous provisions relating to the ongoing problem of the procurement process particularly spare part purchasing.

I applaud the diligence and industry of Chairmen MITCHELL and BROOKS and I especially note the monumental work of my colleague on the Armed Services Committee Chairman NICHOLS. We have faced scandalous management of our procurement dollars and I solute Chairman NICHOLS' enormous contributions to addressing these chronic problems.●

● Mr. McDADE. Mr. Speaker, I rise in support of H.R. 4209 which has been fully explained by our distinguished chairman, the gentleman from Maryland. The resolution reflects careful deliberations members of the Small Business, Government Operations and Armed Services Committees here in the House and their counterparts in the Senate. The Small Business and Federal Procurement Competition Enhancement Act of 1984 will go a long way to increase the number of competitive contracting opportunities available in the Federal procurement process. These increased competitive contracting opportunities will benefit all business large and small. We are all too familiar with the horror stories of the Government paying extravagant prices for spare parts—hopefully, this legislation will arrest that problem.

It is my hope that this bill will be an important first step in increasing the involvement of small business in the Federal procurement process. In fiscal year 1983 the top five DOD contractors received 20.6 percent of the Federal procurement dollars while the small business community—98 percent of the business in this country—received 18.8 percent. This bill will go a long way toward correcting this inequity.

This legislation is supported by the U.S. Chamber of Commerce, Small Business United and the National Small Business Association. I urge my colleagues to join me in supporting this bill.●

● Mr. WIRTH. Mr. Speaker, I would like to take this opportunity to express my strong support for H.R. 4209. The need for reform of procurement practices is all too clear. Procurement practices at the Department of Defense and the corollary price abuses of defense contractors are a national scandal. Enormous cost overruns in spare parts purchases have occurred with frightening regularity. Thirteencent allen wrenches for which the Department of Defense was billed $9,606 and 14-cent bolts which cost $1,075 are telling indicators of the need for reform.

One could make the analogy that the huge cost overruns are like a man who, upon entering a restaurant, orders an enormous dinner never considering the price, safe in the knowledge that the tab will be picked up by someone else. In this case, the bill is being paid by the American people and the Pentagon has once again shown no desire to curb its appetite. The public cynicism that results from such disclosures will eventually cast a pall over legitimate defense needs, and in that situation we will all be losers.●

Mr. MITCHELL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HORTON. Mr. Speaker, I urge that the Members vote in support of

this bill, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland [Mr. MITCHELL] that the House suspend the rules and agree to the resolution. House Resolution 599, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

SOUTH CAROLINA LAND EXCHANGE

Mr. OTTINGER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 648) to facilitate the exchange of certain lands in South Carolina, as amended.

The Clerk read as follows:

S. 648

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The Federal Energy Regulatory Commission shall waive the charges required to be paid under section 10(e) of the Federal Power Act (16 U.S.C. 803(e)) for the use of any interest of the United States in lands lying within the boundary of the South Carolina Public Service Authority's Santee-Cooper hydroelectric project (Federal Energy Regulatory Commission licensed project numbered 199) if, after the date of the enactment of this Act, the Commission determines (pursuant to section 24 of the Federal Power Act (16 U.S.C. 818)) that—

(1) such interest in lands has been conveyed by the United States directly to the licensee for that project (subject to any restrictions and reservations established by the Commission pursuant to such section 24), and

(2) the Federal agency conveying such interest in lands has notified the Commission that the United States has received fair market value under applicable provisions of law for such conveyance, taking into account the full value of the waiver authorized under this section during the remaining term of the license.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York [Mr. OTTINGER] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. OTTINGER].

□ 1830

Mr. OTTINGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill S. 648 facilitates a land exchange in the State of South Carolina. We have slightly amended the bill that passed the Senate to ensure that the exchange will cost the Government nothing. The bill, as amended, is noncontroversial, and has the support of the entire South Carolina delegation.

I would like to give particular credit to the gentleman from South Carolina [Mr. TALLON] for the considerable work he has put in on this legislation, as well as the gentleman from South Carolina [Mr. DERRICK] with whom the committee has worked closely on this as we do with many other matters.

Because the bill was passed by the Senate so late in the sesson, we were unable to take the bill through the normal committee process. We have, however, received comments from the administration and adopted most of the administration's suggestions for improvement.

The South Carolina Public Service Authority has developed and operates the Santee-Cooper Hydroelectric Project. The project inundates 1,276 acres of National Forest Lands, and is licensed by the Federal Energy Regulatory Commission. Section 10(e) of the Federal Power Act requires that licensees, such as the public service authority, pay annual charges for the use of the Federal lands. The authority currently pays $13,454 per year in charges. The authority has proposed to convey certain productive forest acreage to the Forest Service in exchange for a conveyance to the authority of the inundated forest lands and a waiver of the annual charges. FERC, however, has interpreted the Federal Power Act to require the assessment of charges even after the conveyance.

The bill, as amended, facilitates the exchange of land by providing for a waiver of the charges, provided FERC determines, that it has been notified by the Secretary of Agriculture that the Federal Government has received fair market value for the lands that are conveyed, taking into account the waived annual charges.

In summary, the bill merely permits an even exchange between the Federal Government and the South Carolina Public Service Authority.

The committee wishes to emphasize that this limited case of a waiver of fees is not intended to be a precedent for other waivers. The Chairman, Mr. DINGEL, has announced his intention to examine more closely the FERC fee structure, its waiver and exemption policy, and other pertinent matters next year.

Mr. Speaker, I urge passage of the legislation and reserve the balance of my time.

Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina [Mr. TALLON].

Mr. TALLON. Mr. Speaker, as has been noted, this legislation will facilitate an exchange between the U.S. Forest Service and the South Carolina Public Service Authority of certain lands in South Carolina.

Mr. Speaker, the South Carolina Public Service Authority operates the Santee-Cooper hydroelectric and navigation project, which is located in my district, under a license issued by the Federal Energy Regulatory Commission. The project has a long and interesting history, and has contributed substantially to the economic growth and well-being of our State.

The land being transferred to the U.S. Forest Service is 210 acres of productive forest land located directly across from the Forest Service headquarters in the Francis Marion National Forest.

Mr. Speaker, I would like to thank the chairman for his diligence in bringing this matter before the House. It is certainly of mutual benefit to the South Carolina Public Service Authority, to their consumers, and to the U.S. Forest Service.

I also would like to thank the entire South Carolina delegation for their bipartisan support. It is good for my constituents; it is good for the American taxpayers.

Mr. OTTINGER. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. I thank the gentleman for yielding time to me.

Mr. Speaker, S. 648 involves the exchange of Forest Service land located in the Francis Marion National Forest for other land and a waiver of certain charges required to be paid under section 10(e) of the Federal Power Act. The matter before the House today is an amendment to the Senate bill to take account of the concerns of the distinguished chairman of the House Committee on Energy and Commerce.

As I have written the Speaker, I believe this bill involves a matter within the jurisdiction of the House Committee on Agriculture, since it is all premised on the exchange of land owned by the Forest Service. Under rule 10 clause 1(a) of the rules of the House, the Committee on Agriculture has jurisdiction over forestry in general and forests other than those created from the public domain (of which the Francis Marion National Forest is one). I have no objection, however, to the matter being considered by the House today, in view of the fact that the compromise that is before the House is one that is supported by the affect-

ed Members from South Carolina, Mr. BUTLER DERRICK and Mr. ROBIN TALLON, a distinguished member of our committee, and by other interested parties.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support enactment of S. 648. This is a bill which would facilitate the exchange of lands between the U.S. Forest Service and the South Carolina Public Service Authority [SCPSA]. This bill, as introduced by Senator THURMOND, passed the other body by voice vote.

In brief, the bill would waive the fee provisions of section 10(e) of the Federal Power Act for the annual fee charged to SCPSA for the use of certain Forest Service lands used in connection with the Santee-Cooper Hydroelectric project in South Carolina. The owner of the project, the SCPSA, has agreed with the U.S. Forest Service to exchange 210 acres of productive forest land (owned by SCPSA) for approximately 1,276 acres of inundated Forest Service land that has no value to the Forest Service. Although FERC has approved this exchange, it does not believe it has authority to release SCPSA from the requirement of paying the annual charge for the use of the inundated land—even though under the exchange the SCPSA would be the sole fee owner of such land. This bill would provide FERC with the authority to release SCPSA from the annual fee requirement.

The Energy and Commerce Committee was concerned that approval of this bill would set a poor precedent for future land exchanges unless there was some assurance that the United States had received full fair market value for the conveyance. Therefore, we proposed an amendment which would require the Forest Service to certify to FERC that, taking into account the full value of the waiver of the fee, the United States was, in fact, receiving fair market value in the exchange.

I commend chairmen DINGELL and OTTINGER for their cooperation and leadership in facilitating this important and constructive change.

I am advised that this amendment is acceptable to the entire South Carolina delegation and that the other body will accept such amendment. I urge adoption of this bill.

Mr. OTTINGER. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Speaker, this is an excellent piece of legislation with the amendment we have worked out. It has been handled with its usual grace and distinction by the chairman of the subcommittee, for whom I have the most profound respect and affection, Mr. OTTINGER.

I would observe that this also is a bill with the strong support of the South Carolina delegation, and I have here in my hand a letter endorsing the legislation by the entire delegation on both sides of the aisle.

The gentleman from South Carolina [Mr. TALLON] and, of course, our good friend, Mr. BUTLER DERRICK, have worked unremittingly for this legislation, and their labors and their efforts have been crowned, I think, with deserved legislative success. I endorse the bill.

Mr. Speaker, I rise in support of passage of S. 648, as amended.

Mr. Speaker, this bill passed the other body on August 9, 1984, and was referred pursuant to the House rules to the Committee on Energy and Commerce. Unfortunately, time has not afforded our committee and the appropriate Subcommittee on Energy Conservation and Power to hold hearings on this bill. But due to the local nature of this bill and the urging of all Members of the South Carolina delegation, subcommittee chairman, the ranking minority members of the subcommittee, Mr. MOORHEAD, the ranking minority member of the full committee, Mr. BROYHILL, and myself, agreed to work out an acceptable version of S. 648, consistent with the committee's jurisdiction. The amendment achieves that objective. I understand we have received a letter indicating that it is fully supported by all Members of the South Carolina delegation.

First, let me state that the committee does not consider S. 648 to be a precedent for any bill in the future. We intend to examine the fee structure of the Federal Energy Regulatory Commission [FERC] and its application to FERC licensees under section 10(e) of the Federal Power Act [FPA], including the waiver of those fees by FERC in the case of any particular license.

The bill confirms that FERC has no authority to waive fees applicable to Federal lands included in a license. It only applies to land use fees under section 10(e). It does not affect, nor is it intended to affect, administrative fees under section 10(e) of the FPA. It ensures that the value of the waived fee for the remaining term of the license shall be included in the determination of fair market value of the exchange.

We do not believe that waivers should be granted easily, if at all. But if they are, the licensee receiving the waiver gains something of real monetary value. The United States should not give up that value for no consideration. It must be a part of the fair market value of the Federal lands subject to exchange. We realize that this probably will change the exchange values as determined in 1981. But that cannot be helped. We do not believe that a fee waiver is in the public interest.

The bill also retains FERC's basic statutory authority over the licensed projects and we expect FERC to exercise that authority fully. The federally exchanged lands are intended to be subject to a continuing power reservation.

The following several questions raised by the committee with the Forest Service and their answers follow:

1. Q. Is all the Forest Service land to be conveyed to the Authority under water?

A. No. Approximately 1000 acres are inundated and about 275 acres are out. The nonsubmerged lands lie between the lake dike (there is no shoreline) and Highway 52 to the east. The lands are low and are dotted with borrow pits created when the lake dike was built. There is a railroad right-of-way through the tract, existing as an outstanding easement on the Federal property. The submerged lands were a swamp before they were inundated.

The Forest Service land to be conveyed in the exchange (1000 + 275 acres) is presently under permit to the Authority.

2. Q. Of the land out of the water that would be conveyed, is there potential for recreation development, or would it provide access to other Authority lands or private lands fronting on the Lake?

A. No. The borrow pits would preclude any development.

The Authority is actively engaged in recreational development elsewhere around the lake. They have constructed boat landings and beaches and sell lots for summer homes. We understand that the FERC license requires the Authority to develop the lakeshore for the public's benefit.

3. Q. What is the value of the 210 acre tract of Authority land to be conveyed?

A. The preliminary estimate of value which Forest Service has made is $700 per acre. $700/acre x 210 acres = $147,000. The land is located on higher ground than the National Forest land, is located along a major access road. It is directly across the road from the headquarters of the Wambaw Ranger District, the local administrative unit of the National Forest. It is totally surrounded by the National Forest.

The tract was purchased by the Authority in 1980 for the specific purpose of exchanging it with the Forest Service. It was acquired from a timber company after it had been clearcut. It is good timber-growing land. Forest Service desires to acquire it for 2 reasons: (1) to buffer the Ranger Station site from undesirable development that could occur if the land remained in private ownership, and to block-in Federal ownership thereby eliminating several miles of boundary lines. If acquired, we would reforest the area and make it a part of the "General Forest" area, meaning capable of producing the full-range of multiple-uses for which the National Forests are managed.

4. Q. What is the value of the Forest Service land to be conveyed?

A. For purposes of negotiating the exchange, we are using a value of $150/acre. Keep in mind that all of the figures being used here are tentative. Neither the Authority or the Forest Service has agreed to them. Rather, we have agreed to the need and desirability of a land exchange.

If, after agreeing on the per acre values of the lands involved, there is a difference in

the total value, then either party would provide additional land or cash to equalize the value. This is required under the statutory authority by which the land exchange would be made.

In addition, there follow responses of the Forest Service and FERC to our letters of August 31, 1984:

FEDERAL ENERGY
REGULATORY COMMISSION,
Washington, DC, September 11, 1984.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of August 31, 1984, concerning S. 648, which recently passed the Senate. Under S. 648, the Commission would no longer collect annual charges for United States lands used by South Carolina Public Service Authority's (SCPSA) Project No. 199 when those lands are later conveyed directly to the licensee subject to the power reservation under Section 24 of the Federal Power Act (Act), 16 U.S.C. 818 (1976). The annual charges that otherwise would be collected would be considered in the exchange and conveyance of lands to the licensee.

To respond as fully as possible, this letter restates your questions, and my response immediately follows each question.

Question: I request that you examine the matter and give the Committee some indication of the potential impact in dollars, as well as from a policy standpoint of enacting S. 648, which could be cited as precedent for similar bills in the future.

Enactment of S. 648 could be cited as precedent for similar bills in the future. I am aware of no basis for distinguishing the land exchange involved in S. 648 from future land exchanges directly with licensees of other projects. I cannot predict what the potential impact would be in terms of assessment of annual charges under the Act for licensees' use of United States lands. Presumably, the relief from payment of land use annual charges would make land exchanges more economically attractive to licensees. If, however, the relief from land use annual charges is taken into consideration in exchanges, then that economic incentive would be lessened. Currently, the Commission is assessing licensees a total of approximately $2,000,000 annually for use of lands of the United States (other than Indian Tribal lands and lands used in connection with surplus water or water power from a government dam).

From a policy standpoint, the question that Congress must decide is whether annual land use charges that the bill would eliminate should be considered in determining "equal value" under the exchange authority of the Weeks Act, 16 U.S.C. 485 (1976), or "values of the lands" under the exchange authority of the Federal Land Policy Management Act, 43 U.S.C. 1716 (1982).

Question: What annual fees has the utility paid under the Act for such [administrative] costs since fiscal year 1980? What will the utility pay if this bill is enacted?

SCPSA has paid administrative annual charges of $43,829.01, $57,760.99, $69,356.00, and $73,518.88 for the calendar years of 1980, 1981, 1982, and 1983, respectively. Enactment of S. 648 would have no effect on SCPSA's liability for administrative annual charges or the manner in which they are calculated.

Question: Another bill, H.R. 3150, would require the Secretary of Agriculture to convey to the Sabine River Authority of Texas 34,000 acres of Forest Service land which reportedly is subject to a withdrawal for power purposes. These lands are apparently subject to flooding. Please explain why such a conveyance is desirable in light of the applicable requirements of the Federal Power Act. How do the issues raised by this bill differ from those raised by S. 648? What effect would the bill have on fees charged by FERC for the use of these lands? If FERC has previously waived such fees, please explain the basis for the waiver.

Under this bill, introduced in the House of Representatives on May 25, 1983, the Secretary of Agriculture would be required to convey, without consideration, to the Sabine River Authority of Texas national forest lands that are within the project boundary of the Toledo Bend Project No. 2305 and that are subject to inundation by the project. The Sabine River Authority of Texas and the Sabine River Authority, State of Louisiana are the licensees. This bill differs from S. 648 in three principal respects. First, the bill does not subject the conveyance to a continuing power reservation under Section 24 of the Act, as does S. 648. Second, H.R. 3150 has no specific provision relating to collection or non-collection of land use charges under Section 10(e) of the Act, as does S. 648. Third, H.R. 3150 directs a conveyance without consideration and with a reservation of mineral rights and a possibility of reverter, whereas S. 648 concerns an exchange of lands with the licensee.

The apparent effect of H.R. 3150 on land use annual charges for Project No. 2305 is to remove the basis for such charges. I am aware of no occasion when the Commission has based a land use annual charge on a possibility of reverter or on a reservation to the United States of mineral rights. If H.R. 3150 were enacted, it could serve as a precedent for similar enactments concerning other licensed hydropower projects or proposed projects. I therefore question whether enactment of H.R. 3150 in its present form is desirable.

The Commission has already considered whether the licensees of Project No. 2305, who sell project power to investor-owned utilities for resale, could be entitled to an exemption from annual charges because the power is being "sold to the public without profit." See, Sabine River Authority, State of Louisiana, Opinion No. 78, 10 FERC ¶ 61,241 (1980). Pursuant to that opinion, the licensees have been granted total exemptions from administrative and land use annual charges through calendar year 1983.

Question: I call your attention to questions 2 and 3 of the enclosed letter [to the Chief of the Forest Service] and request your reply to each.

In response to the second question, the Commission has made no particular estimate of the value of the parcels of land involved in the land exchange at Project No. 199. Most of the United States lands included in that project are inundated and are needed for project purposes. Section 11.21 of the Commission's regulations, 18 CFR 11.21 (1983), establishes annual charges for the use of United States lands by licensees. Basically, these regulations provide for a national average value of $150 per acre multiplied by an interest rate (7⅞% for 1983) derived from the average yield on long-term interest-bearing securities of the United States. I do not know whether the term "fair market value," as used by the Department of Agriculture, would include consideration of land use annual charges.

You also ask about the Commission's 1981 order dealing with the proposed land exchange at Project No. 199 (this order also involved Project No. 2114 in Washington). The Commission denied the requests for vacation of the power withdrawals (both as a matter of policy and because of the legislative history of the Act), and decided to continue to assess the same annual charges (because the United States still retained the exclusive right to use the land for water power purposes). Additionally, the Commission recognized that its action could alter the terms of the proposed transactions in those particular cases and that the terms could be adjusted. See P.U.D. No. 2 of Grant County, Washington, 15 FERC ¶61,239 (1981). The effect of S. 648 on Project No. 199 is that if the conveyance is made after enactment, the Commission could not assess land use annual charges, although the United States would still retain the power reservation. As recognized in Grant County, the terms of the conveyance for Project No. 199 may need to be adjusted if S. 648 is enacted.

With respect to the third question of your letter to the Chief of the Forest Service, I am enclosing two tabulations of information. The first gives a listing of annual charges for use of United States lands (other than Indian Tribal lands and lands in connection with use of surplus water or water power from government dams) by the various licensed hydropower projects. Transmission line use is separated because of the per acre charge for transmission line use is reduced by one half. The tabulation also gives the state in which the projects are located and, where readily available, the amount of acreage of United States lands. The computer records do not distinguish Forest Service lands from other United States lands, because the charge is the same. Further, the records do not show the status of proposed exchanges because, under the Commission's established practice, whether the exchange is actually consummated does not affect the charge. The second tabulation gives examples of Commission actions on proposed exchanges involving Forest Service or other United States lands.

I appreciate the opportunity to comment on the legislation being considered by your committee. If I can be of further assistance, please let me know.

Sincerely,

RAYMOND J. O'CONNOR,
Chairman.

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, DC, September 14, 1984.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: We provide the following in reply to your August 31 request concerning your Committee's consideration of S. 648.

1. There is no written exchange proposal with the South Carolina Public Service Authority because the Authority is unwilling to exchange lands and continue to pay the annual Federal Energy Regulatory Commission (FERC) fee. We did have a tentative verbal agreement with the Authority pending FERC approval.

2. (a) Neither the 1,276 acres of National Forest land nor the 210 acres of Authority

land proposed for exchange have been appraised to determine fair market value. Nonflooded lands, similar in character to the National Forest lands, have sold for about $150 per acre. These private lands are not encumbered by the Federal Power Act, as are the National Forest lands, and thus would likely have a higher current fair market value.

The 210 acres offered for exchange by the Authority have an estimated value of $700 per acre.

The term "farm market value" should have read "fair market value," which is defined as:

The amount of cash, or on terms reasonably equivalent to cash, for which in all probability the property would be sold by a knowledgeable owner willing but not obligated to sell to a knowledgeable purchaser who desired but is not obligated to buy.

(b) The Forest Service and the Authority agreed in 1981 that a land exchange would be of mutual benefits. At that time and prior to any contact with FERC, each party assumed FERC would discontinue the annual land use fee once the withdrawn National Forest lands were transferred out of Federal ownership. Without the fee waiver the exchange is of no benefit to the Authority.

(c) Our estimate of the fair market value for the flooded National Forest land is $172,000. This considers the present value of the future income (FERC fee) plus the future residual value of the land when no longer encumbered by the project. This is $25,000 more than the estimated value of the 210 acres offered by the Authority. The Authority could make up the difference in value in either of two ways—increase the acreage offered or by cash payment of the difference. This second method is authorized for an amount not to exceed 25 percent of the value of the National Forest land.

3. (a) Name of the licenses for the projects mentioned in our report on the bill—

Cleveland Cliffs project in Michigan: Operated by the Cleveland Cliffs Iron Company, Lake Forest, Michigan. The inundated National Forest System land was a land exchange proposed by the Company. The exchange is not active now because of the Power Act's requirement that FERC land use fees must still be paid.

Project near international border in Minnesota: Operated by the International Falls Hydroelectric Company. The land exchange proposed here was to resolve a trespass by a third party on the National Forest involving lakefront property. The company would acquire the Federal land and straighten out the trespass with the third party using company lands. The exchange has not been completed.

Sultan Basin in Washington: Operated jointly by the City of Everett and Snohomish County. Exchange proposed by Forest Service but not supported by the local governments, one reason (but not the main one) was the FERC fee restriction.

The Forest Service does not have information on the amount of FERC fees on these projects.

There are about 210 licensed projects on the order of the Santee-Cooper project that affect National Forest System lands. We estimate there are less than 10,000 acres of similar National Forest System lands which could be exchanged, involving less than 1 percent of the licenses. While we wish to be reponsive to your request, the information pertaining to individual projects describing the amount of inundated National Forest System lands and other pertinent information is located with our field units. We could obtain this information, but it would take about 4 weeks. Please let us know if you would like us to proceed with acquiring this information. The Forest Service typically does not have information on the amount of the land use fee charged by FERC.

(b) This information is available only from our field units; thus, we could not provide it within the time frame you requested. Cases of this type are not numerous. A waiver of the land use fee seems appropriate in all cases for lands transferred out of Federal ownership. This presumes the Federal Government receives full value for the land disposed of and the income foregone.

Sincerely,

J. LAMAR BEASLY,
(For R. Max Peterson, *Chief*).

At this point, I insert two letters received from the South Carolina delegation concerning this bill and I want to commend particularly Congressman TALLON who has taken the lead to work closely and cooperatively with our committee to develop an acceptable bill that we could achieve agreement. The letters follow:

THE PRESIDENT PRO TEMPORE,
U.S. SENATE,
August 20, 1984.

Congressman JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR JOHN: As you know, S. 648, a bill to facilitate the exchange of certain lands in South Carolina, recently passed the Senate by a unanimous voice vote, and is currently pending before the House Committee on Energy and Commerce. Favorable House action on this noncontroversial measure would make possible a proposed exchange of lands between the United States Forest Service and the South Carolina Public Service Authority (SCPSA)—an exchange which all concerned recognize as beneficial.

The SCPSA developed and operates the Santee-Cooper hydroelectric project under a license issued by the Federal Energy Regulatory Commission (FERC). As required by section 10(e) of the Federal Power Act of 1920, SCPSA pays an annual fee or rent for the use of 1,276 acres of National Forest System lands which have been inundated as part of the hydroelectric project.

The Forest Service and SCPSA have agreed upon an exchange whereby SCPSA would convey to the Forest Service 210 acres of productive land located directly across from the Forest Service headquarters in the Francis Marion National Forest in return for the 1,276 acres of inundated lands—lands which are of no value to the Forest Service. Although FERC has approved the exchange, it maintains that it lacks authority to waive the power withdrawal, and therefore, SCPSA would have to continue paying the annual fee or rent even if SCPSA obtains fee title to the inundated land.

Not surprisingly, SCPSA is unwilling to exchange any lands with the Forest Service if it would still be obligated to pay rent on the lands received by it in the exchange. Enactment of S. 648 would relieve SCPSA of the obligation to continue paying rent on the inundated lands, and thereby allow the mutually beneficial exchange to take place.

Time has become a critical factor for SCPSA. If S. 648 does not become law this year, SCPSA will be forced to consider alternative means of recouping its investment in the 210 acre tract which was purchased by SCPSA four years ago solely for the purpose of making the proposed exchange. Therefore, we suggest that S. 648 be scheduled on the agenda of the next executive session of the House Energy and Commerce Committee, and that the measure be reported to the Suspension Calendar for consideration by the full House.

Thank you for your kind attention to this important matter. Any assistance you may be able to provide in achieving expedient, favorable House action on S. 648 would be greatly appreciated.

With kindest personal regards and best wishes,

Sincerely,

Ernest F. Hollings, Carroll Campbell, Floyd Spence, Butler Derrick, Strom Thurmond, Tommy Hartnett, Robin Tallon, John Spratt.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 27, 1984.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.

DEAR JOHN: We, the undersigned members of the South Carolina delegation, are in agreement with the amendment to S. 648, to facilitate the exchange of certain lands in South Carolina, and urge its immediate consideration and adoption.

We appreciate your cooperation in this matter.

Sincerely,

Senator Strom Thurmond, Representative Butler Derrick, Representative John Spratt, Representative Robin Tallon, Senator Ernest F. Hollings, Representative Floyd Spence, Representative Carroll Campbell, Representative Tommy Hartnett.

I stress that this committee does not view this bill as a precedent. I urge its enactment.

Mr. OTTINGER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. OTTINGER] that the House suspend the rules and pass the Senate bill, S. 648, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

REVERSIONARY INTERESTS IN SOUTH CAROLINA

Mr. WHITLEY. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 566) to direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain tracts of land conveyed to the South Carolina

State Commission of Forestry, and to direct the Secretary of the Interior to convey certain mineral interests of the United States in such land to such Commission, and for other purposes.

The Clerk read as follows:

S. 566

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, (a) subject to section 2, the Secretary of Agriculture shall release, on behalf of the United States, with respect to the tracts of land described in subsection (b), the condition contained in the deed dated June 28, 1955, between the United States of America and the South Carolina State Commission of Forestry, conveying certain tracts of land, of which such described tracts of land are a part, to such Commission, which condition requires that the land conveyed be used for public purposes and revert back to the United States should the land cease to be used for such purposes.

(b) The tracts of land referred to in subsection (a) are—

(1) A tract of land consisting of approximately 1.99 acres in Sumter County, South Carolina, more particularly described as follows: Beginning at an iron pipe located on the west side of the Old Kings Highway and being south 18 degrees and 35 minutes east and 2519.2 feet from Manchester State Forest monument number 2314; thence south 3 degrees 19 minutes east 417.22 feet to an iron pipe; thence south 86 degrees 41 minutes west 208.64 feet to an iron pipe; thence north 3 degrees 19 minutes west 199.97 feet to an iron pipe; thence north 3 degrees 32 minutes west 214.05 feet to an iron pipe; thence north 85 degrees 47 minutes east 209.27 feet to an iron pipe, the same being the point of beginning.

(2) A tract of land consisting of approximately 22.715 acres in Sumter County, South Carolina, more particularly described as follows: Beginning at the point of intersection of the center line of the Burnt Gin Road with the center line of Wedgelake Drive proceed south 64 degrees, 41 minutes east a distance of 63.16 feet to the point of beginning. Proceed thence south 88 degrees 0 minutes east a distance of 1454.56 feet to an iron pin; thence south 18 degrees, 57 minutes west a distance of 1059.17 feet to an iron pin; thence north 62 degrees, 15 minutes west a distance of 367.24 feet to a corner; thence along the arc of a curve to the right having a radius of 1031.31 feet a distance of 197.10 feet to a corner; thence north 51 degrees, 18 minutes west a distance of 107.80 feet to a corner; thence along the arc of a curve to the left having a radius of 637.49 feet a distance of 202.13 feet to a corner; thence north 69 degrees 28 minutes west a distance of 167.47 feet to a corner; thence along the arc of a curve to the right having a radius of 581.69 feet a distance of 146.19 feet to a corner; thence north 55 degrees, 04 minutes west a distance of 163.98 feet to a corner; thence north 18 degrees, 10 minutes west a distance of 39.99 feet to a corner; thence along the arc of a curve to the left having a radius of 781.17 feet a distance of 215.48 feet to a corner; thence north 02 degrees, 00 minutes east a distance of 107.84 feet to a corner; thence north 47 degrees 00 minutes east a distance of 42.50 feet to the point of beginning.

SEC. 2. The Secretary of Agriculture shall release the condition referred to in section 1(a) of this Act only with respect to land covered by and described in an agreement or agreements entered into between the Secretary and the South Carolina State Commission of Forestry in which the Commission, in consideration of the release of such condition, agrees that the tract of land described in section 1(b)(1) of this Act will not be sold, leased, exchanged, or otherwise disposed of—

(1) except to the Tiverton Baptist Church of Sumter, South Carolina; and

(2) unless the proceeds of such disposal are—

(A) deposited and held in an account open to inspection by the Secretary of Agriculture, and

(B) used, if withdrawn from such account, exclusively for public purposes.

SEC. 3. The Secretary of Agriculture shall release the condition referred to in section 1(a) af this Act only with respect to land covered by and described in an agreement or agreements entered into between the Secretary of the South Carolina State Commission of Forestry in which the Commission, in consideration of the release of such condition, agrees that the tract of land described in section 1(b)(2) of this Act will be exchanged for a tract of land of at least equal value and consisting of approximately 45.43 acres in Sumter County, South Carolina, to be conveyed to the Commission to be used exclusively for public purposes, more particularly described as follows: Beginning at the intersection of the south right of way of Brohun Camp Road and the west right of way of Tiverton Church Road proceed south 50 degrees, 32 minutes west a distance of 2,214.39 feet to a corner; thence north 40 degrees, 02 minutes west a distance of 414.24 feet to a corner; thence north 5 degrees, 19 minutes, 30 seconds east a distance of 1,627.88 feet to a corner; thence south 73 degrees, 45 minutes east a distance of 1,901.55 feet to the point of beginning.

SEC. 4. (a) Subsequent to any release executed by the Secretary of Agriculture with respect to the tracts of land described in section 1(b) of this Act, the South Carolina State Commission of Forestry may apply to the Secretary of the Interior seeking to acquire all the undivided mineral interests of the United States in the tracts of land to which such release applies, and the Secretary of the Interior shall, subject to valid existing rights and subject to subsection (b) of this section, convey such mineral interests as requested.

(b) The Secretary of the Interior shall not convey the undivided mineral interests of the United States in any land as requested in an application filed by the South Carolina State Commission of Forestry under subsection (a) of this section unless—

(1) such application is accompanied by a sum of money which the Secretary of the Interior determines is necessary to pay the administrative costs involved in conveying such mineral interests to the Commission, including the costs of determining the mineral character of such land and the costs of establishing the fair market value of such mineral interests, and

(2) the Commission, in consideration of such conveyance, pays to the Secretary of the Interior—

(A) $1, in the case of any such land determined by the Secretary of the Interior to have no mineral value and to be under no active mineral development or leasing, or

(B) the fair market value of such mineral interests, as determined by the Secretary of the Interior, in the case of any such land not subject to clause (A) of this subsection.

SEC. 5. The Secretary of Agriculture and the South Carolina Commission of Forestry may revise the size of the tracts of land to be exchanged under this Act and the legal descriptions pertaining thereto in order to ensure that the tracts of land are of at least equal value.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina [Mr. WHITLEY] will be recognized for 20 minutes and the gentleman from Montana [Mr. MARLENEE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. WHITLEY].

Mr. WHITLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 566, if enacted, would direct the Secretary of Agriculture to release the public purpose reverter clauses on certain small tracts of land in two separate deeds between the United States and the South Carolina State Commission of Forestry.

In one case, the bill would remove the reverter clause on 1.99 acres of land which will then be conveyed by the State of South Carolina to the Tiverton Baptist Church. The church has innocently encroached on this tract since long before the land was granted to the State by the Federal Government in 1955.

In the second case, the bill releases the reverter clause on a 22-acre tract in the Manchester State Forest, SC to enable the State to complete a land exchange with a private party. The bill requires that the land acquired in the exchange be used for public purposes and be of equal value.

This bill passed the Senate on November 18, 1983. The Department of Agriculture has no objection to the enactment of this legislation.

Mr. Speaker, I reserve the balance of my time.

□ 1840

Mr. MARLENEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 566, a bill which would direct the Secretary of Agriculture to release the public purpose reverter clauses in two separate deeds on land between the United States and the South Carolina State Commission of Forestry. The reverter clause requires that land conveyed by the United States must be used for public purposes or it will revert back to the United States.

First, the bill would remove the public purpose reverter clause on 1.99 acres of land after the State of South Carolina conveys this tract to the Tiverton Baptist Church of Sumter, SC, and also provides that the commission may make application to the Secretary of the Interior to purchase the mineral interests of the United States in this property. This would clear up a longstanding "innocent" encroachment problem.

Under the Bankhead-Jones Farm Tenant Act of 1937, the Federal Government acquired this land as part of a much larger tract. The South Carolina commission was granted the land in a 28,718 acre conveyance for the sum of $1 by a deed signed June 28, 1955. The Tiverton Baptist Church existed on the tract before the United States acquired the property, having been given permission to use the land by a previous owner. The occupancy continued after the 1955 grant to the State, and the encroachment was not known to the parties. It is my understanding the Tiverton Baptist Church intends to use the property for cemetery purposes for members of the congregation, and the State of South Carolina will donate the 1.99 acre tract to the church if the reverter clause is removed.

Second, the bill before us would also release the public purpose reverter clause from a deed on a 22-acre tract in the Manchester State Forest in South Carolina. This tract of land is part of a proposed land exchange between the South Carolina Commission of Forestry and a private party. Removal of the reverter clause from the tract is necessary in order to allow the State to complete the exchange. The legislation before us requires that the land that the State of South Carolina acquires in exchange be used for public purposes, and also that the lands must be of equal value.

The administration does not oppose enactment of the legislation before us, and I urge my colleague to support it.

Mr. WHITLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. DE LA GARZA], the chairman of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Speaker, I rise in support of S. 566, a bill to direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain tracts of land that have been conveyed to the South Carolina State Commission of Forestry, and to direct the Secretary of the Interior to convey certain mineral interests of the United States in such land to such commission.

This bill is similar in many respects to other legislation adopted by Congress in recent years that relates to releasing certain interests of the United States in lands it acquired under Depression era programs of the 1930's.

The lands involved in S. 566 were acquired by the Federal Government in 1937 under authority of the Bankhead-Jones Farm Tenant Act. In 1939, through an agreement between the United States and the State of South Carolina, the South Carolina State Commission of Forestry gained the use of the land and established the Manchester State Forest. This 28,718.59-acre parcel of land was conveyed to the State of South Carolina on June 28, 1955, under the authority of section 32(c) of that act. The United States retained an undivided three-fourths interest in all coal, oil, gas, and other minerals not outstanding of record.

The Bankhead-Jones Farm Tenant Act requires that any deed of conveyance under title III be conditioned on the land being used only for public purposes. Thus, the deed affecting the 1955 transfer contained a condition establishing the right of reversion of ownership to the United States if the land ceased to be used for public purposes.

The Tiverton Baptist Church stood on 1.99 acres of this property before the United States acquired it. The church had been given permission to use the land by a previous private owner. The occupancy continued after the 1955 grant to the State. Although the State was aware of the encroachment, it did not seek to resolve it.

Several years ago, the Tiverton Baptist Church approached the South Carolina State Commission of Forestry, which has jurisdiction over the land in the Manchester State Forest, about the possibility of obtaining title to the property upon which the church's actual structure is located. It is the understanding of our committee that the State commission on forestry has approved the church's request and is willing to transfer title to the 1.99 acres if the public purpose reverter clause is removed. S. 566 would accomplish removal of the reverter clause.

The bill directs the Secretary of Agriculture to release the reversionary interest in the 1.99 acres of land on condition that the land not be sold, leased, exchanged, or otherwise disposed of, except to the Tiverton Baptist Church of Sumter, SC. The bill also establishes specific procedures by which the South Carolina State Commission of Forestry may acquire the mineral rights associated with the 1.99 acres of land.

Further, the bill provides for the release, on behalf of the United States, of the public use condition and the reversionary clause with respect to approximately 22.715 acres of land in the Manchester State Forest in Sumpter County, SC, that is covered by the same deed of conveyance to the South Carolina State Commission of Forestry as was the 1.99-acre parcel. Release of the public use condition and reversionary clause with respect to the 22-acre tract would permit the State to convey the tract to a private party who would, in turn, convey to the State a tract of 45.43 acres. The 45.43-acre tract would then be required to be devoted exclusively to public purposes. The bill would authorize the Secretary of Agriculture and the State agency to adjust the descriptions of the properties to accommodate any changes necessary to ensure that the lands to be exchanged are of equal value.

S. 566, as passed by the Senate, was referred to the Committee on Agriculture, which has not acted upon the bill. However, the chairman of the Subcommittee on Forests, Family Farms, and Energy is satisfied that the bill serves the purposes of the programs of the South Carolina Commission on Forestry. And it contains provisions that were recommended by the Department of Agriculture, which has stated that it has no objection to the enactment of S. 566 if such provisions were included.

Mr. Speaker, I believe that this bill serves both the needs of the South Carolina State agency and the Tiverton Baptist Church, and protects the interests of the United States. I urge my colleagues to join in passing S. 566.

Mr. WHITLEY. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. I thank the gentleman for yielding to me.

Mr. Speaker, both of the parcels to be released in this case are in my district. I filed the original bill in the House that would have provided for the release of the public reverter clause as for the 1.99-acre parcel of land.

As has been said already, this encroachment upon Manchester Forest is longstanding. It probably predates the Federal Government's claim to title. It may in fact be a superior claim to title.

This avoids the necessity of an action to quiet title. This is a meritorious bill and will be used for good purposes.

As for the additional 22-acre parcel which is to be released, the State of South Carolina intends to acquire a tract approximately that size contiguous to Manchester Forest, which is already forest land, to add to the forest. This land will be released to be sold for residential purposes and restricted for that purpose.

I urge adoption of the bill.

Mr. WHITLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MARLENEE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. WHITLEY] that the House suspend the rules and pass the Senate bill, S. 566.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

CONVEYING LAND WITHIN SABINE NATIONAL FOREST, TX, TO THE SABINE RIVER AUTHORITY

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3150) to direct the Secretary of Agriculture to convey, without consideration, to the Sabine River Authority of Texas approximately 34,000 acres of land within the Sabine National Forest, TX, to be used for the purposes of the Toledo Bend project, Louisiana and Texas, as amended.

The Clerk read as follows:

H.R. 3150

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Not later than one hundred and eighty days after the date of enactment of this Act, the Secretary of Agriculture shall convey, in exchange for the land and other consideration specified in section 2, to the Sabine River Authority of Texas, lands owned by the United States in the Sabine National Forest in and adjacent to the Toledo Bend Reservoir, located in Louisiana and Texas, as generally depicted on a map dated August 1984 on file in the office of the Chief, Forest Service, United States Department of Agriculture, as follows:

(a) approximately thirty-one thousand acres of such lands which are inundated and below an elevation of one hundred and seventy-two feet mean sea level;

(b) that portion of Recreational Site No. 5 consisting of approximately eleven acres of such lands, not subject to inundation, which are heavily developed for recreational use and lie above one hundred and seventy-five feet mean sea level; and

(c) approximately one hundred and seven acres of such lands in the flood plain which are at an elevation of one hundred and seventy-two feet mean sea level or higher but not higher than one hundred and seventy-five feet mean sea level and which after the conveyance of lands described in clauses (a) and (b) of this section would no longer be immediately adjacent to land owned by the United States in the Sabine National Forest.

SEC. 2. In exchange for the conveyance of those lands described in section 1, the Sabine River Authority of Texas shall (a) convey, by quit claim deed, to the United States those lands in the flood plain comprising approximately five hundred and eighty-six acres, as generally depicted on a map dated August 1984 on file in the office of the Chief, Forest Service, United States Department of Agriculture, which are at an elevation of one hundred and seventy-two feet mean sea level or higher but not higher than one hundred and seventy-five mean sea level and which lie on the shoreline of the Toledo Bend Reservoir and are immediately adjacent to land owned by the United States in the Sabine National Forest and (b) deposit with the Secretary the sum of $650,000.

SEC. 3. In the deed of exchange for the lands described in section 1, the Secretary of Agriculture shall convey all right, title, and interest to such lands except that the Secretary shall reserve for the United States any subsurface rights that it owns, including, but not limited to, oil and gas, and shall provide that title in the lands described in section 1(a) shall revest in the United States upon failure by the Sabine River Authority of Texas to use the lands for project purposes. Any lands so revested in the United States shall be included in and shall resume their previous status as National Forest System lands.

SEC. 4. (a) The Federal Energy Regulatory Commission shall waive the charges required to be paid under section 10(e) of the Federal Power Act (16 U.S.C. 803(e)) for the use of any interest of the United States in lands described in section 1 which are part of the Toledo Bend Project (Federal Energy Commission licensed Project No. 2305) if, after the date of the enactment of this Act, the Commission determines (pursuant to section 24 of the Federal Power Act (16 U.S.C. 818)) that—

(1) such interest in lands will be conveyed pursuant to this Act by the United States directly to the licensee for that project (subject to any restrictions and reservations established by the Commission pursuant to such section 24),

(2) the Federal agency conveying such interest in lands has notified the Commission that, upon such conveyance, the United States will have received the fair market value established by section 2 for such conveyance, and

(3) such fair market value includes the full value of the waiver authorized under this section during the remaining term of the license, as determined by the Commission after taking into account prior determinations by the Commission pursuant to Opinion No. 78 of the Commission dated March 18, 1980 that the payment of such license fees are subject to annual waiver pursuant to the second proviso of such section 10(e) to the extent that power generated, transmitted, or distributed by the project is sold to the public without profit and any such similar waivers reasonably anticipated by the Commission during such remaining term.

(b) If the Federal Energy Regulatory Commission does not determine, under subsection (a)(3), that the fair market value established in section 2 includes the full value of the waiver authorized under subsection (a)(3), conveyances otherwise required in sections 1 and 2 of this Act shall not be made.

SEC. 5. The exchange provided for under this Act shall be considered an exchange under the Act of December 4, 1967, as amended (16 U.S.C. 484a), notwithstanding the acreages involved, and the sums deposited with the Secretary of Agriculture under section 2 shall be handled in the same manner as sums deposited with the Secretary under that Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. MARLENEE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes and the gentleman from Montana [Mr. MARLENEE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3150, as amended, a bill to direct the Secretary of Agriculture to convey, for certain specified consideration, to the Sabine River Authority approximately 31,000 acres of land within the Sabine National Forest to be used for the purposes of the Toledo Bend project in Louisiana and Texas.

This bill would put to rest a problem that has concerned the Congress and the parties involved for many, many years. And it would resolve the problem in a fair, evenhanded, and equitable manner. I commend CHARLIE WHITLEY, chairman of the Subcommittee on Forests, Family Farms, and Energy, and the members of the subcommittee for fashioning this compromise.

Let me give you a brief history as background for H.R. 3150.

The Sabine River Authority of Texas and the Sabine River Authority of Louisiana, as licensees, operate the Toledo Bend Reservoir on the Sabine National Forest. A 50-year license was issued for the project by the Federal Power Commission on October 14, 1963. The project was, by the way, constructed without Federal funds. Under the license, approximately 31,000 acres of the national forest was flooded to create the reservoir. The license established a fee for the use of this Federal land. However, this fee and other administrative fees have been waived each year by the Federal Energy Regulatory Commission [FERC]. Under FERC regulations, waiver of fees may be granted to State and municipal licensees to the extent that power generated, transmitted, or distributed by a project is sold directly or indirectly to the public without profit. The primary purposes of the project are water distribution and the generation of hydroelectric power.

The immediate need for this bill resulted from a hearing in 1975, after which FERC decided fees had been improperly waived because the authority failed to prove it was not making a profit on project power sales. However, on March 18, 1980, FERC reversed this decision, indicating that the burden of proof, while on the authority, is not as onerous as was suggested in the earlier decision.

The authority contends that a profit cannot occur from project power sales. At the initiation of the project, rates to be charged for power were established in a 50-year power sales agreement, the terms of which can only be changed by mutual agreement. Moreover, the selling price in this agreement is far too low to cover costs and return a profit.

Although there is no expectation that the fee-waiver situation will change, the authority is concerned that there could be a change in the FERC regulations. Also, it would like to be relieved of the administrative burden of having to request the waiver of land-use charges annually. To ac-

complish this, the authority wishes to acquire the Federal lands occupied by the reservoir, and the authority is willing to pay a premium, in the form of land and money, in return for being released from the possibility of future fees.

H.R. 3150, as amended by the Committee on Agriculture, would address these problems. It would:

First, direct the Secretary of Agriculture to convey to the Sabine River Authority approximately 31,000 acres of land inundated by the Toledo Bend Reservoir, and a total of approximately 118 acres of other land owned by the United States adjacent to the reservoir;

Second, retain in the United States any subsurface rights it now owns in the lands to be conveyed to the authority;

Third, provide that the lands conveyed to the authority would revert to the United States if the authority puts them to use other than for purposes of the Toledo Bend project; and

Fourth, direct the Authority, in exchange for the conveyance of lands described above, to convey to the United States approximately 586 acres of land at the shoreline of the reservoir and adjacent to national forest lands and to pay the United States the sum of $650,000.

As ordered reported by the committee, the bill also would, upon completion of the conveyance described above, exempt the authority from Federal land-use fees and administrative charges referred to in the authority's license for the project. Such fees have been waived since the inception of the project and it is expected that the fees would continue to be waived since power is sold by the project without profit.

In order to accommodate concerns of the Committee on Energy and Commerce concerning this provision, we have, in consultation with that committee, fashioned a new section 4 which is included in the bill now under consideration. The new section 4 contains no reference to a waiver or exemption from FERC administrative fees. It would provide for waiver of FERC land-use charges if that agency makes certain determinations. And it provides that if FERC does not determine that the consideration to be made available by the authority includes the full value of the land-use charge that would be waived, the land exchanges may not be made.

I would emphasize that the bill provides, for the first time in the long history of this matter, for the authority to furnish consideration for the relief that it seeks, Under the bill, the authority would, as I have indicated, convey to the United States about 586 acres of valuable timberland that would become a part of the adjacent Sabine National Forest. In addition, it would pay the United States the sum of $650,000. This payment would be deposited in a special fund in the Treasury and, when appropriated, would be available to the Secretary of Agriculture for use in acquiring land for the national forests in the area.

A question has been raised as to the adequacy of the consideration specified in the bill. In this regard, the Committee on Agriculture has determined that the consideration is more than adequate.

It is, of course, difficult, if not impossible, accurately to ascertain a value for the 31,000 acres of Forest Service land inundated by the waters of the reservoir. But it is not difficult to conclude that there is not a lively market for land lying beneath the reservoir pool.

On the other hand, the U.S. Forest Service owns some 260 miles of shoreline or 13,150 acres of property which have been converted to valuable shoreline lands by the Toledo Bend Reservoir. The average value of these lands in the period 1963-64—when land was being acquired by the project—was $60 per acre. Due almost exclusively to the existence of the reservoir, it is estimated that the value of the Federal land today has risen to at least $1,088 per acre. At this average value, the Government has received a direct benefit of $14,307,200.

The Toledo Bend project has also created a tremendous recreational benefit. The reservoir is readily accessible and the population within a 70-mile radius of the project is approximately 1,200,000. It is estimated that the annual attendance for recreation is 3 million visitor days. And it is estimated that the recreation expenditures induced by the project are about $12,500,000 each year.

In summary, H.R. 3150 achieves several objectives. Primarily, upon completion of the land exchange, the Sabine River Authorities of Texas and Louisiana would no longer be subjected to the risk of paying land-use fees to the Federal Government, unless the Federal Energy Regulatory Commission cannot determine that the consideration to be made available by the authority includes full value of the waiver of the fee. In that event, the land exchange otherwise required by the bill could not occur.

This bill also, in effect, establishes a fair value for the lands being conveyed by the United States. Because the value of this land cannot be established in the market, it is appropriate that the Congress determine a reasonable value after review of all the facts and circumstances. H.R. 3150, as amended, also provides the U.S. Forest Service with an opportunity to consolidate its lands in the Sabine National Forest that lie along the Toledo Bend Reservoir.

Mr. Speaker, the new section 4, as offered in the amendment, would appear to leave the land-use-fee question open until FERC determines that the consideration provided is adequate to compensate the Government for the value of the waived fee. However, it is clear to me that there will be no value left to consider once the Federal lands are transferred to the authority.

Once the basis for the land-use fee is removed—that is, the use of Federal land—there would be no use fee charged. Thus, no value attaches to this waiver. Moreover, the authority has always been granted a waiver from these fees, and there is no reason to expect they will ever be liable for the fees under existing regulations. Therefore, the permanent waiver of this fee should require no additional consideration. However, Mr. Speaker, this bill is crystal clear: If FERC does not determine that this consideration is adequate to compensate for the permanent waiver of the use fee, then the land conveyances otherwise required by the bill would not be made.

Finally, Mr. Speaker, I note that FERC is expected to make the determinations required by section 4 of the bill promptly, so that the Secretary of Agriculture may meet the time constraints prescribed in section 1 for conveying Federal lands to the authority.

Mr. Speaker, I believe that H.R. 3150, as amended, constitutes a highly meritorious resolution of what has been a very difficult matter. It disposes of longstanding problems in a fashion that works to the benefit of all concerned.

I urge my colleagues to join in supporting this reasonable and carefully crafted measure to resolve an old and vexing problem.

Mr. MARLENEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3150, as amended, the Sabine River Authority Land Exchange. This legislation, which was approved unanimously by both the Subcommittee on Forests, Family Farms and Energy, as well as the full House Committee on Agriculture, would give title to some 31,000 acres of flooded national forest land underlying the Toledo Bend Reservoir to the Sabine River Authority of Texas, which it operates jointly with the Sabine River Authority of Louisiana, plus two smaller tracts of associated land. In return, the Forest Service would be given 586 acres of land which lie next to the Sabine National Forest, plus a cash payment of $650,000.

In the way of background, the States of Texas and Louisiana in 1953 entered into a compact to develop the water resources on the Sabine River which forms part of the border between their two States. Thereafter,

the two authorities built a dam without Federal funds which they have operated since under a license from the Federal Power Commission, now the Federal Energy Regulatory Commission. Under terms of the license, the authorities are required to pay user fees for the flooded timberland to which they did not acquire title. The authorities have successfully applied each year during the operation of the dam for a waiver of the user fees required under the license. This bill will relieve them of that requirement.

The net effect of the proposed land exchange and payment of cash will be that the Federal Government will receive approximately $30 per acre. While this is less than the fair market value calculated by the Forest Service for the national forest land before it was flooded, I am of the view that this price, which was negotiated recently between the principals, is a fair one and should be ratified by the House. I urge my colleagues to support this measure.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Energy and Commerce the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. I thank my dear friend, the chairman of the Committee on Agriculture [Mr. DE LA GARZA] for his courtesy to me.

Mr. Speaker, we have resolved the differences which have existed of a relatively minor character between the two committees relative to jurisdiction and substance, particularly in relation to payment of fees in a fashion which I find eminently acceptable.

The way in which this was handled is a distinguished monument to the very courteous and gracious fashion in which the distinguished gentleman from Texas always functions within this establishment and also to the extraordinary ability which he has demonstrated because I must confess as usual I have just barely survived our negotiations.

In any event, Mr. Speaker, with the amendment adopted to section 4 I support the bill. I commend my dear friend from Texas [Mr. DE LA GARZA] and also my good friend the senior minority member of our committee [Mr. BROYHILL] another Texan by the name of HALL, my distinguished friend and colleague [Mr. RALPH M. HALL] is one of the most effective Members of this body and of course the subcommittee chairman, Mr. OTTINGER, and the distinguished gentleman from California [Mr. MOORHEAD] who has always been very active. And of course our dear friend from Illinois [Mr. MADIGAN] who has a long record of significant accomplishment in this place.

Mr Speaker, I want to commend the distinguished chairman of the Committee on Agriculture, Mr. DE LA GARZA, for working with the Committee on Energy and Commerce concerning the provisions of H.R. 3150 and the version of that bill adopted by that committee which are solely within the jurisdiction of the Committee on Energy and Commerce. Those relate to the impact of the bill on the authority of the Federal Energy Regulatory Administration [FERC] under the Federal Power Act [FPA]. As the gentleman from Texas knows, this committee advised the Speaker last month that we believed that H.R. 3150 was properly within the jurisdiction of this committee after receiving a letter, dated September 11, 1984, from FERC. That letter made it clear that, as introduced, H.R. 3150 differed from another bill, S. 648, before our committee. That letter states:

First, the bill (H.R. 3150) does not subject the conveyance to a continuing power reservation under section 24 of the act, as does S. 648. Second, H.R. 3150 has no specific provision relating to collection or noncollection of land use charges under section 10(e) of the act, as does S. 648. Third, H.R. 3150 directs a conveyance without consideration and with a reservation of mineral rights and a possibility of reverter, whereas S. 648 concerns an exchange of lands with the licensee.

The third problem is primarily a concern of the Agriculture Committee which has worked out the exchange provisions in sections 1 and 2 of H.R. 3150 as ordered reported by that committee. This committee has not considered that exchange and we defer to that committee on it. I note that in a Forest Service statement, dated September 11, 1984, the agency appears to be complimentary on the bill as ordered reported, although there appears to be some question raised by that agency over how the value of the lands are to be calculated.

In regard to the second and third items quoted above, both affect matters within this committee's jurisdiction. As a result, the committee entered into discussions with the Agriculture Committee. Those discussions resulted in the provisions of section 4 of the bill that are pending at the desk.

The new section 4 requires FERC to grant a waiver of the charges required to be paid under section 10(e) of the FPA in regard to Federal lands now included in the Toledo Bend project which is licensed by FERC (No. 2305) if certain events specified in the new section occur. I stress that the waiver applies only to land use fees under section 10(e). It does not grant a waiver under that section for administration of part I of the act.

In order to grant the waiver, FERC must make several determinations pursuant to section 24 of the FPA.

First, FERC must determine, in accordance with its procedures, that the interest in the Federal lands authorized to be conveyed under section 1 of the bill will be conveyed directly to the FERC, licensee and that conveyance must include such restrictions and reservations as FERC may require under section 24, including a continuing power reservation, to meet the requirements of the FPA under a FERC license, including section 10(a) of the act. Let me stress that the intent of this committee is to ensure that the basis for any charges consistent with the FPA will continue.

Second, the section requires under section 4 that the appropriate Federal agency conveying the lands to the licensee under section 1 has notified FERC that once the exchange is made, the United States will have received the fair market value expected (in the form of land and money) under section 2 of the bill.

Lastly, the bill recognizes that the waiver of land use fees has a value and requires that FERC determine that the fair market value of the exchange include the full value of the waiver for the remaining term of the license which reportedly was issued in 1963. In making this determination, the section requires FERC to take into account its prior determinations made annually since FERC issued its opinion No. 78 on March 18, 1980. That decision related to FERC's consideration of how a State or municipal licensee might claim an exemption from the payment of annual land use fees under section 10(e) pursuant to the second proviso under that section. It is our understanding, that as a result of that opinion, FERC has annually concluded that power sold by this licensee (i.e., the joint licensees of project No. 2305), was "sold to the public without profit." The bill provides the FERC should also consider similar waivers pursuant to the proviso that FERC could reasonably expect to make in future years of the license on the same grounds, that is, that the power will continue to be "sold to the public without profit." Undoubtedly, that will require FERC to gather data about the licensee's future plans and assurances that it will continue to sell power for nonprofit purposes.

The new section 4(b) would halt any conveyance under sections 1 or 2 of the bill, if the determination by FERC under subsection (a)(3) results in section 2 not including the full value of the waiver authorized by subsection (a).

Mr. Speaker, this is a fine resolution of the matter. It is not a precedent and we will be watching FERC's actions under the section.

Mr. DE LA GARZA. I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman and I echo his appreciation to all those he mentioned, and I would add only my distinguished colleague from Montana and the distinguished chair-

man of the subcommittee [Mr. WHITLEY] to whom I would not be happy to yield.

Mr. WHITLEY. I thank the chairman for yielding to me.

Mr. Speaker, I rise in strong support of H.R. 3150, as amended.

This bill resolves a longstanding issue that has been pending before the House Agriculture Committee in every Congress since 1970 when Congressman Wright Patman first introduced a bill to waive fees charged the Sabine River Authorities of Texas and Louisiana.

However, in the long history of this issue, this may be the first time the Sabine River Authorities have offered a cash equalization payment. On Tuesday, September 11, 1984, the House Agriculture Subcommittee on Forests, Family Farms, and Energy, which I chair, held a public hearing to explore the reasonableness of this offer in light of all the facts and circumstances. As a result of the hearing, we concluded that the consideration provided was more than adequate, and we reported the bill to the full Agriculture Committee, by voice vote in the presence of a quorum. The following week, the full committee reported this bill to the House by voice vote, agreeing with the subcommittee that a fair compromise had been struck.

Mr. Speaker, this is a bill that is long overdue. I strongly urge its passage.

Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

□ 1850

Mr. MARLENEE. Mr. Speaker, having no further requests for time, I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 3150, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to direct the Secretary of Agriculture to convey, for certain specified consideration, to the Sabine River Authority approximately 31,000 acres of land within the Sabine River National Forest to be used for the purposes of the Toledo Bend project, Louisiana and Texas; and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3150, the bill just passed, as well as on the previous Senate bill S. 566, on which the motion to suspend the rules was made by the gentleman from North Carolina [Mr. WHITLEY].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 5, rule I, the Chair will now put the question on each motion on which further proceedings were postponed, in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 6299, by the yeas and nays;
H.R. 5790, by the yeas and nays;
H.R. 4712, by the yeas and nays;
H.R. 4684, by the yeas and nays;
H.R. 6300, by the yeas and nays;
H.R. 5690, by the yeas and nays; and
H. Res. 599, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

GUARANTEED SOCIAL SECURITY COST-OF-LIVING INCREASE FOR 1984

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 6299.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and pass the bill, H.R. 6299, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 417, nays 4, not voting 11, as follows:

[Roll No. 429]

YEAS—417

Ackerman	Bethune	Bryant
Addabbo	Bevill	Burton (CA)
Akaka	Biaggi	Burton (IN)
Albosta	Bilirakis	Byron
Anderson	Bliley	Campbell
Andrews (NC)	Boehlert	Carney
Andrews (TX)	Boggs	Carper
Annunzio	Boland	Carr
Anthony	Boner	Chandler
Applegate	Bonior	Chappell
Archer	Bonker	Chappie
Aspin	Borski	Cheney
AuCoin	Bosco	Clarke
Badham	Boucher	Clay
Barnard	Boxer	Clinger
Barnes	Breaux	Coats
Bartlett	Britt	Coelho
Bateman	Brooks	Coleman (MO)
Bates	Broomfield	Coleman (TX)
Bedell	Brown (CA)	Collins
Bennett	Brown (CO)	Conable
Bereuter	Broyhill	Conte
Conyers	Hightower	Mollohan
Corcoran	Hiler	Montgomery
Coughlin	Hillis	Moore
Courter	Holt	Moorhead
Coyne	Hopkins	Morrison (WA)
Craig	Horton	Mrazek
Crane, Daniel	Howard	Murphy
Crockett	Hoyer	Murtha
D'Amours	Hubbard	Myers
Daniel	Huckaby	Natcher
Dannemeyer	Hughes	Neal
Darden	Hunter	Nelson
Daschle	Hutto	Nichols
Daub	Hyde	Nielson
Davis	Ireland	Nowak
de la Garza	Jacobs	O'Brien
Dellums	Jeffords	Oakar
Derrick	Jenkins	Oberstar
DeWine	Johnson	Obey
Dickinson	Jones (NC)	Olin
Dingell	Jones (OK)	Ortiz
Dixon	Jones (TN)	Ottinger
Donnelly	Kaptur	Owens
Dorgan	Kasich	Oxley
Dowdy	Kastenmeier	Packard
Downey	Kazen	Panetta
Dreier	Kemp	Parris
Duncan	Kennelly	Pashayan
Durbin	Kildee	Patman
Dwyer	Kindness	Patterson
Dyson	Kleczka	Pease
Early	Kogovsek	Penny
Eckart	Kolter	Pepper
Edgar	Kostmayer	Petri
Edwards (AL)	Kramer	Pickle
Edwards (CA)	LaFalce	Porter
Edwards (OK)	Lagomarsino	Price
Emerson	Lantos	Pritchard
English	Latta	Pursell
Erdreich	Leach	Quillen
Erlenborn	Leath	Rahall
Evans (IA)	Lehman (CA)	Rangel
Evans (IL)	Lehman (FL)	Ratchford
Fascell	Leland	Ray
Fazio	Lent	Regula
Feighan	Levin	Reid
Fiedler	Levine	Richardson
Fields	Levitas	Ridge
Fish	Lewis (CA)	Rinaldo
Flippo	Lewis (FL)	Ritter
Florio	Lipinski	Roberts
Foglietta	Livingston	Robinson
Foley	Lloyd	Rodino
Ford (MI)	Loeffler	Roe
Ford (TN)	Long (LA)	Roemer
Frank	Long (MD)	Rogers
Franklin	Lott	Rose
Frenzel	Lowery (CA)	Rostenkowski
Frost	Lowry (WA)	Roth
Fuqua	Lujan	Roukema
Garcia	Luken	Rowland
Gaydos	Lundine	Roybal
Gejdenson	Lungren	Rudd
Gekas	Mack	Russo
Gephardt	MacKay	Sabo
Gibbons	Madigan	Savage
Gilman	Markey	Sawyer
Gingrich	Marlenee	Schaefer
Glickman	Marriott	Scheuer
Gonzalez	Martin (IL)	Schneider
Goodling	Martin (NY)	Schroeder
Gore	Martinez	Schulze
Gradison	Matsui	Schumer
Gray	Mavroules	Seiberling
Green	Mazzoli	Sensenbrenner
Gregg	McCain	Shannon
Guarini	McCandless	Sharp
Gunderson	McCloskey	Shaw
Hall (IN)	McCollum	Shelby
Hall (OH)	McCurdy	Shumway
Hall, Ralph	McDade	Shuster
Hall, Sam	McEwen	Sikorski
Hamilton	McHugh	Siljander
Hammerschmidt	McKernan	Simon
Hance	McKinney	Sisisky
Hansen (ID)	McNulty	Skeen
Hansen (UT)	Mica	Skelton
Harkin	Michel	Slattery
Harrison	Mikulski	Smith (FL)
Hartnett	Miller (CA)	Smith (IA)
Hatcher	Miller (OH)	Smith (NE)
Hawkins	Mineta	Smith (NJ)
Hayes	Minish	Smith, Denny
Hefner	Mitchell	Smith, Robert
Heftel	Moakley	Snowe
Hertel	Molinari	Snyder

Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Valentine
Vander Jagt
Vandergriff
Vento
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zschau

NAYS—4

Beilenson
Crane, Philip
Moody
Paul

NOT VOTING—11

Alexander
Berman
Cooper
Dicks
Dymally
Ferraro
Fowler
Gramm
Martin (NC)
McGrath
Morrison (CT)

□ 1910

So (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

AMUSEMENT PARK SAFETY ACT OF 1984

The SPEAKER pro tempore. The pending business is the question of suspend the rules and passing the bill, H.R. 5790, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 5790, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 300, nays 119, not voting 13, as follows:

[Roll No. 430]

YEAS—300

Ackerman
Addabbo
Akaka
Albosta
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Barnard
Barnes
Bates
Bedell
Beilenson
Bennett
Bereuter
Bevill
Biaggi
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Broyhill
Bryant
Burton (CA)
Byron
Carney
Carper
Carr
Chappell
Clarke
Clay
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Corcoran
Coughlin
Courter
Coyne
Crockett
D'Amours
Daschle
Davis
de la Garza
Dellums
DeWine
Dixon
Donnelly
Dorgan
Dowdy
Downey
Durbin
Dwyer
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
English
Erdreich
Evans (IL)
Fascell
Fazio
Feighan
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Goodling
Gore
Gradison
Gray
Green
Guarini
Hall (IN)
Hall (OH)
Hamilton
Harkin
Harrison
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Howard
Hoyer
Huckaby
Hughes
Hyde
Jacobs
Jeffords
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kazen
Kennelly
Kildee
Kleczka
Kogovsek
Kolter
Kostmayer
LaFalce
Lagomarsino
Lantos
Leach
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lipinski
Lloyd
Loeffler
Long (LA)
Long (MD)
Lowry (WA)
Luken
Lundine
MacKay
Madigan
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McHugh
McKernan
McKinney
McNulty
Mica
Michel
Mikulski
Miller (CA)
Mineta
Minish
Mitchell
Molinari
Mollohan
Moody
Moore
Mrazek
Murphy
Murtha
Natcher
Neal
Nichols
Nowak
Oakar
Oberstar
Obey
Ortiz
Ottinger
Owens
Panetta
Patterson
Pease
Pepper
Pickle
Porter
Price
Pursell
Rahall
Rangel
Ratchford
Ray
Regula
Richardson
Ridge
Rinaldo
Rodino
Roe
Roemer
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Savage
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shannon
Sharp
Shaw
Shelby
Shuster
Sikorski
Simon
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Snowe
Snyder
Solarz
Solomon
Spratt
St Germain
Staggers
Stangeland
Stark
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Valentine
Vento
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Zschau

NAYS—119

Archer
Badham
Bartlett
Bateman
Bethune
Bilirakis
Bliley
Brown (CO)
Burton (IN)
Campbell
Chandler
Chappie
Cheney
Clinger
Conable
Craig
Crane, Daniel
Crane, Philip
Daniel
Dannemeyer
Darden
Daub
Derrick
Dickinson
Dreier
Duncan
Emerson
Erlenborn
Evans (IA)
Franklin
Frenzel
Gekas
Gingrich
Gonzalez
Gregg
Gunderson
Hall, Ralph
Hall, Sam
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Holt
Hopkins
Horton
Hubbard
Hunter
Hutto
Ireland
Johnson
Kemp
Kindness
Kramer
Latta
Leath
Lewis (CA)
Lewis (FL)
Livingston
Lott
Lowery (CA)
Lujan
Lungren
Mack
Marlenee
Marriott
McCain
McCandless
McCollum
McEwen
Miller (OH)
Montgomery
Moorhead
Morrison (WA)
Myers
Nelson
Nielson
O'Brien
Olin
Oxley
Packard
Parris
Pashayan
Patman
Paul
Penny
Petri
Pritchard
Quillen
Reid
Ritter
Roberts
Robinson
Rogers
Rudd
Sawyer
Schaefer
Shumway
Siljander
Sisisky
Skeen
Smith, Denny
Smith, Robert
Spence
Stenholm
Stump
Sundquist
Tallon
Taylor
Thomas (CA)
Vander Jagt
Vandergriff
Vucanovich
Walker
Weaver
Weber
Young (AK)
Young (FL)
Young (MO)

NOT VOTING—13

Alexander
Berman
Cooper
Dicks
Dingell
Dymally
Ferraro
Fowler
Gramm
Martin (NC)
McGrath
Moakley
Morrison (CT)

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FEDERAL WATER RESOURCE PROJECT COOPERATIVE AGREEMENTS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4712, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. KAZEN] that the House suspend the rules and pass the bill, H.R. 4712, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 19, nays 402, not voting 11, as follows:

[Roll No. 431]

YEAS—19

Andrews (NC)
Bonior
Coelho
Fazio
Gephardt
Hughes
Kazen
Lehman (CA)
Long (MD)
Murphy
Ortiz
Pashayan
Patman
Pepper
Roybal
Seiberling
Walgren
Weaver
Young (AK)

NAYS—402

Ackerman
Addabbo
Akaka
Albosta
Anderson
Andrews (TX)
Annunzio
Anthony
Applegate

Archer
Aspin
AuCoin
Badham
Barnard
Barnes
Bartlett
Bateman
Bates
Bedell
Beilenson
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bryant
Burton (CA)
Burton (IN)
Byron
Campbell
Carney
Carper
Carr
Chandler
Chappell
Chappie
Cheney
Clarke
Clay
Clinger
Coats
Coleman (MO)
Coleman (TX)
Collins
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Coyne
Craig
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Evans (IL)
Fascell
Feighan
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Franklin
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Gregg
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Harrison
Hartnett
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kogovsek
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Long (LA)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McHugh
McKernan
McKinney
McNulty
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell
Moakley
Molinari
Mollohan
Montgomery
Moody
Moore
Moorhead
Morrison (WA)
Mrazek
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ottinger
Owens
Oxley
Packard
Panetta
Parris
Patterson
Paul
Pease
Penny
Petri
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Rudd
Russo
Sabo
Savage
Sawyer
Schaefer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Simon
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Valentine
Vander Jagt
Vandergriff
Vento
Volkmer
Vucanovich
Walker
Watkins
Waxman
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (FL)
Young (MO)
Zschau

NOT VOTING—11

Alexander
Berman
Cooper
Dicks
Dymally
Ferraro
Fowler
Gramm
Martin (NC)
McGrath
Morrison (CT)

□ 1920

Messrs. DONNELLY, GARCIA, CLARKE, GONZALEZ, WILLIAMS of Ohio, and LELAND changed their votes from "yea" to "nay."

Mr. LONG of Maryland changed his vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

NATIONAL NUTRITION MONITORING AND RELATED RESEARCH ACT OF 1984

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4684, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FUQUA] that the House suspend the rules and pass the bill, H.R. 4684, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 265, nays 157, not voting 10, as follows:

[Roll No. 432]

YEAS—265

Ackerman
Addabbo
Akaka
Albosta
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Aspin
AuCoin
Barnard
Barnes
Bates
Bedell
Bennett
Bereuter
Berman
Biaggi
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Bryant
Burton (CA)
Carper
Chappell
Clarke
Clay
Clinger
Coelho
Coleman (TX)
Collins
Conable
Conte
Conyers
Coyne
Crockett
Darden
Daschle
Davis
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Duncan
Durbin
Dwyer
Dyson
Early
Edgar
Edwards (CA)
Evans (IL)
Fascell
Fazio
Feighan
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gore
Gray
Green
Guarini
Hall (IN)
Hall (OH)
Hamilton
Harkin
Harrison
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hertel
Holt
Horton
Howard
Hoyer
Huckaby
Hutto
Jacobs
Jeffords
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kennelly
Kildee
Kleczka
Kogovsek
Kolter
Kostmayer
LaFalce
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin
Levine
Levitas
Lipinski
Lloyd
Long (LA)
Long (MD)
Lowery (CA)
Lowry (WA)
Luken
Lundine
MacKay
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McHugh
McKernan
McKinney
McNulty
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell
Moakley
Mollohan
Moody
Mrazek
Murphy
Murtha
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Ortiz
Ottinger
Owens
Panetta
Patterson
Penny
Pepper
Pickle
Price
Pursell
Rahall
Rangel
Ratchford
Ray
Reid
Richardson
Ridge
Rodino
Roe
Roemer
Rose
Rostenkowski
Roth
Rowland
Roybal
Russo
Sabo
Savage
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shannon
Sharp
Shelby
Sikorski
Siljander
Simon
Sisisky
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Snyder
Solarz
Solomon
Spratt
St Germain
Staggers
Stark
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Torres
Torricelli
Towns
Traxler
Udall
Valentine
Vento
Volkmer
Walgren
Watkins
Waxman
Weaver
Weiss
Wheat
Whitley
Whitten
Williams (MT)
Williams (OH)
Wilson
Wirth
Wise
Wolpe
Wortley
Wright
Wyden
Yates
Yatron
Young (MO)
Zschau

NAYS—157

Applegate
Archer
Badham
Bartlett
Bateman
Beilenson
Bethune
Bevill
Bilirakis
Bliley
Brown (CO)
Broyhill
Burton (IN)
Byron
Campbell
Carney
Carr
Chandler
Chappie
Cheney
Coats
Coleman (MO)
Corcoran
Coughlin
Courter
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel
Dannemeyer
Daub
DeWine
Dickinson
Dreier
Eckart
Edwards (AL)
Edwards (OK)
Emerson

English
Erdreich
Erlenborn
Evans (IA)
Fiedler
Fields
Franklin
Frenzel
Gingrich
Gradison
Gregg
Gunderson
Hall, Ralph
Hall, Sam
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hightower
Hiler
Hillis
Hopkins
Hubbard
Hughes
Hunter
Hyde
Ireland
Jenkins
Kaptur
Kasich
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach
Leath
Lent
Lewis (CA)
Lewis (FL)
Livingston
Loeffler
Lott
Lujan
Lungren
Mack
Madigan
Marlenee
Marriott
Martin (IL)
McCain
McCandless
McCollum
McEwen
Michel
Miller (OH)
Molinari
Montgomery
Moore
Moorhead
Morrison (WA)
Myers
Nichols
Nielson
O'Brien
Olin
Oxley
Packard
Parris
Pashayan
Patman
Paul
Pease
Petri
Porter
Pritchard
Quillen
Regula
Rinaldo
Ritter
Roberts
Robinson
Rogers
Roukema
Rudd
Sawyer
Schaefer
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Smith (NE)
Smith, Denny
Smith, Robert
Spence
Stangeland
Stenholm
Stump
Sundquist
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Vander Jagt
Vandergriff
Vucanovich
Walker
Weber
Whitehurst
Whittaker
Winn
Wolf
Wylie
Young (AK)
Young (FL)

NOT VOTING—10

Alexander
Anderson
Cooper
Dymally
Ferraro
Fowler
Gramm
Martin (NC)
McGrath
Morrison (CT)

□ 1930

Mr. D'AMOURS changed his vote from "yea" to "nay."

Mr. STRATTON changed his vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

REQUIRING THE PRESIDENT TO TRANSMIT A BALANCED BUDGET FOR EACH FISCAL YEAR

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 6300.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 6300, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 411, nays 11, not voting 10, as follows:

[Roll No. 433]

YEAS—411

Ackerman
Addabbo
Akaka
Albosta
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Badham
Barnard
Barnes
Bartlett
Bateman
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bryant
Burton (CA)
Burton (IN)
Byron
Campbell
Carney
Carper
Carr
Chandler
Chappell
Chappie
Cheney
Clarke
Clay
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Coyne
Craig
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Franklin
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Gregg
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Harrison
Hartnett
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kazen
Kennelly
Kildee
Kindness
Kleczka
Kogovsek
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
MacKay
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McHugh
McKernan
McKinney
McNulty
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Moakley
Molinari
Mollohan
Montgomery
Moody
Moore
Moorhead
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Owens
Packard
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Pease
Penny
Pepper
Petri
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Rudd
Russo
Sabo
Savage
Sawyer
Schaefer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shannon
Sharp
Shaw
Shelby
Shuster
Sikorski
Siljander
Simon
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Valentine
Vander Jagt
Vandergriff
Vento
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zschau

NAYS—11

Bethune
DeWine
Gingrich
Hyde
Kemp
Lungren
Mack
Mitchell
Ottinger
Oxley
Shumway

NOT VOTING—10

Alexander
Cooper
Dymally
Ferraro
Fowler
Gramm
Hall, Ralph
Martin (NC)
McGrath
Morrison (CT)

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AIRCRAFT SABOTAGE ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 5690, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 5690, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 406, nays 16, not voting 10, as follows:

[Roll No. 434]

YEAS—406

Ackerman
Addabbo
Akaka
Albosta
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Badham
Barnard
Barnes
Bartlett
Bateman
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Bethune
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks

Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bryant
Burton (CA)
Burton (IN)
Byron
Campbell
Carney
Carper
Carr
Chandler
Chappell
Chappie
Cheney
Clarke
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conable
Conte
Corcoran
Coughlin
Courter
Coyne
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Franklin
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gore
Gradison
Gray
Green
Gregg
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Harrison
Hartnett
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kogovsek
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lehman (CA)
Lehman (FL)
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCurdy
McDade
McEwen
McHugh
McKernan
McKinney
McNulty
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Moakley
Molinari
Mollohan
Montgomery
Moody
Moore
Moorhead
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Penny
Pepper
Petri
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Rudd
Russo
Sabo
Sawyer
Schaefer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Simon
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Traxler
Udall
Valentine
Vander Jagt
Vandergriff
Vento
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weaver
Weber
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zschau

NAYS—16

Clay
Conyers
Crockett
Dellums
Edwards (CA)
Gekas
Gonzalez
Jacobs
Leland
McCollum
Mitchell
Ottinger
Paul
Savage
Towns
Weiss

NOT VOTING—10

Alexander
Cooper
Dymally
Ferraro
Fowler
Gramm
Martin (NC)
McGrath
Morrison (CT)
Thomas (CA)

□ 1940

So (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to amend title 18 of the United States Code, and for other purposes."

A motion to reconsider was laid on the table.

AMENDING SENATE AMENDMENT TO TEXT OF H.R. 4209, SMALL BUSINESS AND FEDERAL PROCUREMENT REFORM COMPETITION ENHANCEMENT ACT OF 1984

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, House Resolution 599, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland [Mr. MITCHELL] that the House suspend the rules and agree to the resolution, House Resolution 599, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 416, nays 0, not voting 16, as follows:

[Roll No. 435]

YEAS—416

Ackerman
Addabbo
Akaka
Albosta
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Badham
Barnard
Barnes
Bartlett
Bateman
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Bethune
Bevill
Biaggi
Bliley
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bryant
Burton (CA)
Burton (IN)
Byron
Campbell
Carney
Carper
Carr
Chandler
Chappell
Chappie
Cheney
Clarke
Clay
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Coyne
Craig
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Franklin
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gore
Gradison
Gray
Green
Gregg
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Harrison
Hartnett
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kogovsek
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Long (LA)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Marlenee
Marriott
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McHugh
McKernan
McKinney
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell
Moakley
Molinari
Mollohan
Montgomery
Moody
Moore
Moorhead
Morrison (WA)
Mrazek
Murphy
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Pease
Penny
Pepper
Petri
Pickle
Porter
Price
Pritchard
Pursell

Quillen	Shumway	Torricelli
Rahall	Shuster	Towns
Rangel	Sikorski	Traxler
Ratchford	Siljander	Udall
Ray	Simon	Valentine
Regula	Sisisky	Vander Jagt
Reid	Skeen	Vandergriff
Richardson	Skelton	Vento
Ridge	Slattery	Volkmer
Rinaldo	Smith (FL)	Vucanovich
Ritter	Smith (IA)	Walgren
Roberts	Smith (NE)	Walker
Robinson	Smith (NJ)	Watkins
Rodino	Smith, Denny	Waxman
Roe	Smith, Robert	Weaver
Roemer	Snowe	Weber
Rogers	Snyder	Weiss
Rose	Solarz	Wheat
Rostenkowski	Solomon	Whitehurst
Roth	Spence	Whitley
Roukema	Spratt	Whittaker
Rowland	St Germain	Whitten
Roybal	Staggers	Williams (MT)
Rudd	Stangeland	Williams (OH)
Russo	Stark	Wilson
Sabo	Stenholm	Winn
Savage	Stokes	Wirth
Sawyer	Stratton	Wise
Schaefer	Studds	Wolf
Scheuer	Stump	Wolpe
Schneider	Sundquist	Wortley
Schroeder	Swift	Wyden
Schulze	Synar	Wylie
Schumer	Tallon	Yates
Seiberling	Tauke	Yatron
Sensenbrenner	Tauzin	Young (AK)
Shannon	Taylor	Young (FL)
Sharp	Thomas (CA)	Young (MO)
Shaw	Thomas (GA)	Zschau
Shelby	Torres	

NOT VOTING—16

Alexander	Fowler	McNulty
Bilirakis	Gramm	Morrison (CT)
Broyhill	Long (MD)	Murtha
Cooper	Markey	Wright
Dymally	Martin (NC)	
Ferraro	McGrath	

□ 1950

Mr. DANIEL B. CRANE and Mr. DANNEMEYER charged their votes from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. LOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOTT. Mr. Speaker, I ask unanimous consent to address the House for 1 minute for the purpose of receiving the schedule for the balance of today and tomorrow. Members I know would like to know if we are going to have any more votes tonight and what will be our schedule tomorrow.

Mr. FOLEY. Will the gentleman yield?

Mr. LOTT. For the purpose of receiving that information, I will be glad to yield to the distinguished majority whip.

Mr. FOLEY. I thank the distinguished Republican whip.

The schedule for the remainder of the evening will be three conference reports. Those conference reports we hope will not draw any rollcall votes, but in the event that that happens the vote will be postponed until tomorrow.

Mr. LOTT. Does the gentleman know what those three conference reports would be?

Mr. FOLEY. Yes. We have one on the Library Services and Construction Act amendments, one from the Committee on Banking, Finance and Urban Affairs, and the Disability conference report.

Tomorrow the House will meet at 11 o'clock. Permission has been already granted for that. We will consider H.R. 3601, the Steel Import Stabilization Act, the rule and the bill; H.R. 3795, the Wine Equity Act, the rule and the bill; H.R. 5377, the Israel Free Trade Zone Act, the rule and the bill; and H.R. 6023, Extension of Generalized System of Preferences, the rule and the bill.

Each one of these has a modified rule and 1 hour of debate.

Also tonight I think there will be some unanimous-consent requests which will be offered to the House, but no other business other than the business I previously stated.

Mr. LOTT. No other business, no other votes other than some unanimous-consent requests that I think have already been cleared.

Mr. FOLEY. The three conference reports, and if any votes occur on the conference reports they will be postponed until tomorrow. Tomorrow we will take up the rules and the bills that I mentioned, and Members should be reminded that tomorrow at midnight the existing continuing resolution will expire.

Mr. LOTT. If I could inquire, what about the Labor-HHS appropriation bill conference report; do we have any information on that?

Mr. FOLEY. I do not have any information about any plans to bring that up at this time. I do not know of any.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. The gentleman from Mississippi [Mr. MONTGOMERY] and I were hoping that we could bring up a health care bill tonight. Is that one of the conference reports?

Mr. LOTT. Did the gentleman have a unanimous-consent request he was going to ask for later?

Mr. EDGAR. If the gentleman would yield to my colleague from Mississippi, we do have a bill we had intended to bring up tonight that is noncontroversial.

Mr. MONTGOMERY. Will the gentleman yield?

Mr. LOTT. I will be glad to yield to my distinguished colleague from Mississippi if he has some questions he would like to address.

Mr. FOLEY. Is this a conference report or a bill?

Mr. MONTGOMERY. It is not a conference report. It is a unanimous-consent request.

Mr. FOLEY. I said, if the distinguished gentleman would yield, unanimous-consent requests would be offered but no legislative matters other than unanimous-consent requests, and the three conference reports.

Mr. SHAW. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Florida.

Mr. SHAW. I have a question for the distinguished majority whip. Is there any intention with regard to this evening's schedule to ask for a unanimous-consent request or otherwise a bill that would concern itself with the forgiveness of indebtedness by the Kennedy Center to the U.S. Government?

Mr. FOLEY. Not this evening. We have no plans for that bill to be presented.

Mr. SHAW. I thank the gentleman and I thank the gentleman for yielding.

FURTHER LEGISLATIVE PROGRAM

(Mr. FOLEY asked and was given permission to address the House for 1 minute.)

Mr. BOLAND. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Speaker, in view of the fact that three conference reports are going to be considered now, the special order that I had for tonight I am transferring to tomorrow night.

Mr. FOLEY. Mr. Speaker, I yield back the balance of my time.

VETERANS' HEALTH CARE AND FACILITIES IMPROVEMENT ACT OF 1984

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5618), to amend title 38, United States Code, to revise and improve Veterans' Administration health programs, and for other purposes, with Senate amendments thereto, and concur in the Senate amendment with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments and the House amendments to the Senate amendments, as follows:

Senate amendments: Strike out all after the enacting clause and insert:

That (a) this Act may be cited as the "Veterans' Administration Health Care Amendments of 1984".

(b) Except as otherwise specifically provided whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

COORDINATION OF VETERANS' ADMINISTRATION-COMMUNITY REFERRAL ASSISTANCE AND SERVICES

SEC. 2. (a) Chapter 73 is amended by adding at the end of subchapter 1 the following new section:

"§ 4120. Coordination of referral assistance and services

"In order to improve the provision, and enhance the management, of health-care and health-related services by the Veterans' Administration and other sources to veterans who are eligible for care under chapter 17 of this title, with a special emphasis on veterans who are 65 years of age or older, and who are determined by the Administrator to be in need of assistance under this section, the Administrator shall designate one organizational unit in each Veterans' Administration health-care facility for the purpose of coordinating the provision of referral assistance, and facilitating and helping to coordinate the provision of such services not at Veterans' Administration expense, to such eligible veterans when such referral is reasonably necessary for the health of such veterans. The Administrator shall carry out this section (1) in a manner consistent (A) with the policy of the United States, set forth in section 409(a) of Public Law 97-306, that the Veterans' Administration shall maintain a comprehensive, nationwide health-care system for the direct provision of quality health-care services to eligible veterans, (B) with the mandate of section 4101(a) of this title that the Department of Medicine and Surgery shall provide a complete medical and hospital service for the medical care and treatment of veterans, and (C) with the United States Government's historic, firm commitment, and moral obligation, as embodied in this title, to provide care for veterans with service-connected disabilities, and (2) in conjunction with local, State, Federal, and private agencies providing and coordinating the provision of services to elderly persons and with other pertinent public and private agencies.".

(b) The table of sections at the beginning of chapter 73 is amended by adding after the item relating to section 4119 the following:

"4120. Coordination of referral assistance and services.".

ALCOHOL AND DRUG TREATMENT AND REHABILITATION

SEC. 3. (a) Section 620A is amended—

(1) by striking out "pilot" in subsection (a)(1) both places it appears;

(2) by striking out "fifth" and inserting in lieu thereof "seventh" and by striking out "pilot" in subsection (e);

(3) in subsection (f)—

(A) by inserting "(1)" before "Not"; and

(B) by inserting before the period "prior to the amendment of this section by the Veterans' Administration Health Care Amendments of 1984"; and

(C) by adding at the end the following new paragraph:

"(2) Not later than March 1, 1986, and March 1, 1987, the Administrator shall report to such committees on the findings and recommendations of the Administrator pertaining to the operation of the program authorized by subsection (a) during the preceding fiscal year and shall include in such report information for such year regarding average duration of participation of veterans, rates of successful rehabilitation, and any changes in average and maximum allowable charges per veteran under contracts entered into by the Veterans' Administration as part of such program."; and

(4) by adding at the end the following new subsection:

"(h) Not later than 12 months after the date of the enactment of this subsection, the Administrator shall prescribe regulations to provide guidelines for the treatment and rehabilitation of veterans for alcohol or drug dependence or abuse disabilities under this chapter in facilities over which the Administrator has direct jurisdiction. Such guidelines shall include guidance—

"(1) on the duration of such treatment and rehabilitation under this chapter, taking into account the duration of such treatment and rehabilitation in non-Veterans' Administration programs and identifying specifically duration in detoxification, inpatient-acute care, inpatient-rehabilitation and inpatient-extended care, outpatient care, and followup services; and

"(2) on the provision of referral assistance and the development, implementation, and monitoring of individual treatment plans and followup for veterans receiving such care and treatment.".

(b) Not later than March 1, 1985, and March 1 of each subsequent year, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report containing a comprehensive survey of the activities during the preceding fiscal year of all Veterans' Administration-operated programs providing treatment and rehabilitation for alcohol or drug dependence or abuse disabilities, identifying, by facility, the number of beds involved, the number of patients and episodes of care (whether inpatient-acute, inpatient-rehabilitation, inpatient-extended, or outpatient), the specific treatment methodologies employed, average lengths of participation, rates of successful rehabilitation, and staffing levels and standards, together with a national summary of such information. The third such report shall also contain information on the effectiveness of such treatment and rehabilitation in light of the regulations prescribed under subsection (h) of section 620A (as added by the amendment made by subsection (a)(4) of this section), including information on diagnostic methodologies employed, use of case-management approaches and discharge planning, lengths of participation, treatment results, methods used of approving, evaulating, and monitoring the use of non-Veterans' Administration facilities under section 620A, and referral and followup activities for veterans discharged from such programs and such facilities.

(c) The section heading of section 620A and the item relating to such section in the table of sections at the beginning of chapter 17 are each amended by striking out the semicolon and "pilot program".

MEDICAL AND REHABILITATIVE DEVICES

SEC. 4. Section 617 is amended—

(1) by redesignating such section as subsection (a); and

(2) by adding at the end of the following new subsection:

"(b) In order to assist in overcoming the handicap of deafness, the Administrator may provide assistive devices, including telecaptioning television decoders, to veterans who are profoundly deaf and entitled to compensation on account of hearing impairment.".

POST-TRAUMATIC-STRESS DISORDER

SEC. 5. (a)(1) In order to enhance the Veterans' Administration's capability to diagnose and treat post-traumatic-stress disorder (hereinafter in this section referred to as "PTSD"), the Chief Medical Director of the Veterans' Administration shall establish in the Department of Medicine and Surgery a Special Committee on Post-Traumatic-Stress Disorder (hereinafter in this section referred to as the "Special Committee") and shall appoint qualified employees of the Department to serve on the Special Committee.

(2) The Special Committee shall assess, and carry out a continuing assessment of, the capacity of the Veterans' Administration to provide diagnosis and treatment to eligible veterans with PTSD and shall advise the Chief Medical Director regarding the development of policies, the provision of guidance, and the coordination of services for the diagnosis and treatment of veterans with PTSD in inpatient PTSD units, other inpatient psychiatric programs, outpatient mental health clinics, and readjustment counseling programs of the Veterans' Administration. The Special Committee shall also make recommendations to the Chief Medical Director for guidance regarding appropriate diagnostic and treatment methods and referral for and coordination of followup care and with respect to the evaluation of PTSD treatment programs, the conduct of research concerning such diagnosis and treatment (taking into account the provisions of subsection (b) of this section), special programs of education and training on PTSD for employees of the Department of Medicine and Surgery and the Department of Veterans' Benefits (also taking into account such provisions), the appropriate allocation of resources for all such activities, and any specific steps that should be taken to improve such diagnosis and treatment and to correct any deficiencies in the operations of inpatient PTSD units.

(b) The Chief Medical Director of the Veterans' Administration shall establish and operate a National Center on PTSD (A) to carry out and promote research into, and the training of health-care and related personnel in, the diagnosis and treatment of veterans with PTSD, and (B) to serve as a resource center for and to promote and to seek to coordinate the exchange of information regarding all research and training activities carried out by the Veterans' Administration, and by other Federal and non-Federal entities, with respect to PTSD.

(c)(1)(A) Not later than 180 days after the date of the enactment of this Act, the Administrator shall submit to the Committees on Veterans' Affairs of the House Representatives and the Senate a report on the implementation of subsections (a) and (b).

(B) The report required by subparagraph (A) shall contain—

(i) a list of the members of the Special Committee,

(ii) the assessment of the Chief Medical Director of the Veterans' Administration, after consultation with the Special Committee, regarding the capability of the Veterans' Administration to meet the needs of Vietnam veterans, former prisoners of war, and other eligible veterans for inpatient and outpatient PTSD diagnosis and treatment (both through PTSD inpatient treatment

units and otherwise) as well as a description of the results of any evaluations that have been made of PTSD inpatient treatment units in existence on the date of the enactment of this Act,

(iii) the plans of the Special Committee for further assessments of the capability of the Veterans' Administration to diagnose and treat veterans with PTSD,

(iv) the recommendations made by the Special Committee of the Chief Medical Director,

(v) a description of the steps taken, plans made (and a timetable for their execution), and resources to be applied to implement subsections (a) and (b), and

(vi) the assessment of the Administrator of the capacity of the Veteran's Administration to meet in all geographic areas of the United States the needs described in clause (ii) and any plans and timetable for increasing that capacity (including the costs of such action).

(2) Not later than February 1, 1986, and February 1 of each subsequent year, the Administrator shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report containing information updating the report or reports submitted under this subsection prior to the submission of such report.

REPORT ON VETERANS' ADMINISTRATION PROGRAMS FOR TERMINALLY ILL VETERANS

SEC. 6. (a) Not later than September 30, 1985, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report on programs of the Veterans' Administration to furnish palliative care, supportive counseling, and other medical services to terminally ill veterans and, pursuant to section 601(6)(B) of the title 38, United States Code, supportive counseling to members of such veterans' families.

(b) The report required by subsection (a) shall include—

(1) a review of Veterans' Administration policies and guidelines on the provision of care, counseling, and services described in subsection (a);

(2) a review of the care, counseling, and services furnished, including the treatment modalities used and services furnished by the Veterans' Administration;

(3) an analysis and a comparison of the care, counseling, and services furnished with respect to terminally ill veterans in hospice and other Veterans' Administration programs, including a comparison of the routine and ancillary services, of the duration of inpatient and outpatient treatment and hospital-based home care, and of the cost of care furnished in such programs;

(4) an explanation of how the care, counseling, and services described in subsection (a) is or will be included in the overall plans of the Veterans' Administration for providing health care to older veterans in the future and the extent to which plans to furnish hospice care are included in such plans;

(5) a review of any steps taken to arrange for the exchange of information between Veterans' Administration facilities providing the care, counseling, and services described in subsection (a) and non-Veterans' Administration facilities providing similar care, counseling, and services; and

(6) proposals for such administrative or legislative action as the Administrator may consider appropriate in light of the information provided in the report.

AUTOMOBILE ADAPTIVE EQUIPMENT

SEC. 7. (a) Subsection (c) of section 1903 is amended to read as follows:

"(c)(1) An eligible person shall not be entitled to adaptive equipment under this chapter for more than two automobiles or other conveyances (A) at any one time, or (B) except as provided in paragraph (2) of this subsection, in any four-year period.

"(2) If, in a case in which the limitation set forth in paragraph (1)(B) of this subsection precludes an eligible person from being entitled to adaptive equipment, the Administrator determines that, due to circumstances beyond the control of the eligible person, one of the automobiles or other conveyances for which adaptive equipment was provided in the applicable four-year period is no longer available for the use of such person, the Administrator may, as a matter of discretion and pursuant to regulations which the Administrator shall prescribe, provide adaptive equipment for such person for an additional automobile or other conveyance during such period.".

(b)(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall take effect on October 1, 1984.

(2) In the case of a person who was provided adaptive equipment under chapter 39 of title 38, United States Code, for an automobile or other conveyance after September 30, 1980, but prior to October 1, 1984, and who has available for use such automobile or other conveyance on the date of the enactment of this Act, the first four-year period applicable to such person under subsection (c) of section 1903 of such title (as amended by subsection (a)) shall begin on the most recent date prior to October 1, 1984, on which such individual was provided such equipment.

READJUSTMENT COUNSELING

SEC. 8. (a) Section 612A(g)(2)(B) is amended—

(1) by striking out "and" at the end of clause (i);

(2) by striking out the period at the end of clause (ii) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding after clause (ii) the following:

"(iii) assessments of whether or not individuals who—

"(I) are veterans who served on active duty (aa) during World War II or the Korean conflict (with particular emphasis on those who engaged in combat with the enemy), (bb) during any period and who were prisoners of war, or (cc) after May 7, 1975 (with particular emphasis on those who served in areas during periods in which members of the Armed Forces in such areas were subjected to danger from armed conflict comparable to the danger to which members of the Armed Forces have been subjected in combat with the enemy during a period of war), and

"(II) members of the Armed Forces serving on active duty who (aa) served on active duty during World War II or the Korean conflict (with particular emphasis on those who engaged in combat with the enemy) or after May 7, 1975 (with particular emphasis on those who served in areas during periods described in division (I)(cc) of this clause), or (bb) were prisoners of war,

need readjustment counseling and, if so, the Administrator's recommendations on the most desirable means by which such needs should be met, taking into account the resources that would be required to meet such needs and specifically whether such persons should be made eligible for readjustment counseling under this section and, if so, what effect that eligibility would have on the availability of such services for Vietnam-era veterans.

The Administrator may submit the assessments and recommendations described in subclause (iii) at any time prior to April 1, 1987.".

(b)(1) Not later than 180 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs and the Secretary of Defense shall submit to the appropriate committees of the Congress a joint report setting forth—

(A) their recommendations, taking into account the extent of the availability of Veterans' Administration resources to provide readjustment counseling to Vietnam-era veterans, on the appropriateness and desirability of extending eligibility for readjustment counseling under section 612A of title 38, United States Code, to individuals who are serving on active duty in the Armed Forces of the United States and (i) who also served on such active duty during the Vietnam era (as defined in section 101(29) of such title (as amended by section 8 of this Act)), or (ii) who also served on active duty after May 7, 1975, in an area during a period in which hostilities (as defined in paragraph (2) of this subsection) occurred in such area;

(B) their determinations as to (I) whether, if eligibility for such readjustment counseling were so extended, the Veterans' Administration and the Department of Defense would enter into an agreement or agreements pursuant to which the Department of Defense would reimburse the Veterans' Administration for such counseling provided to such individuals while serving on active duty, (II) if so, whether or not such reimbursement would be made without the necessity of the Veterans' Administration providing the Department of Defense with the names of the individuals so counseled and, if not, whether or not a requirement that such names be provided would discourage active-duty personnel from requesting such services, and (III) the manner and extent to which the Veterans' Administration and the Department of Defense would undertake to carry out outreach activities to inform such individuals about the availability of such counseling; and

(C) any other information, determinations, or recommendations pertinent to the subject matter of the report that the Administrator and Secretary consider appropriate.

(2) For the purpose of paragraph (1), the term "hostilities" means a situation as to which the Administrator, in consultation with the Secretary, finds that members of the Armed Forces in such situation were subjected to danger from armed conflict comparable to the danger to which members of the Armed Forces have been subjected in combat with the enemy during a period of war.

SECURITY SERVICE PERSONNEL

SEC. 9. (a) Section 218 is amended to read as follows:

"§ 218. Security and law enforcement on property under the jurisdiction of the Veterans' Administration

"(a)(1) The Administrator, with the concurrence of the Attorney General, shall prescribe regulations to provide for the maintenance of law and order and the protection of persons and property on land and in buildings under the jurisdiction of the Vet-

erans' Administration and not under the control of the Administrator of General Services (hereinafter in this section referred to as 'Veterans' Administration property'). Such regulations shall prescribe, but need not be limited to—

"(A) rules for conduct on Veterans' Administration property.

"(B) the penalties, within the limits specified in paragraph (2) of this subsection, for violations of such rules,

"(C) policies with respect to the exercise by Veterans' Administration security service officers of the enforcement and arrest authorities granted in subsection (b) of this section,

"(D) the scope and duration of training that is required for Veterans' Administration security service officers, with particular emphasis on dealing with situations involving patients, and

"(E) rules limiting the carrying and use of weapons by Veterans' Administration security service officers.

The rules prescribed under clause (A) of this paragraph, together with the penalties for violations thereof, shall be posted conspicuously on such property.

"(2) Whoever violates any rule prescribed under paragraph (1)(A) of this subsection shall be fined not more than $500 or imprisoned not more than six months (or such lesser amount or period of time as the Administrator prescribes in the regulations prescribed under paragraph (1) of this subsection), or both.

"(b) The Administrator may designate employees of the Veterans' Administration as Veterans' Administration security service officers. Such officers shall enforce Federal laws, and the rules, prescribed under subsection (a)(1)(A) of this section, on Veterans' Administration property. Any Veterans' Administration security service officer, subject to any restrictions under the regulations prescribed under subsection (a) of this section, may make an arrest, with or without a warrant, for any offense on Veterans' Administration property if (1) such offense occurs in such officer's presence, or (2) such officer has reasonable grounds to believe (A) that the offense constitutes a violation of any law of the United States or of any rule prescribed under subsection (a)(1)(A) of this section, and (B) that the person to be arrested has committed that offense.

"(c) With the agreement of the head of the agency concerned, the Administrator may use the facilities and services of Federal, State, and local law enforcement agencies when it is economical and in the public interest to do so.

"(d)(1) Notwithstanding subchapter I of chapter 59 of title 5, the Administrator, pursuant to regulations which the Administrator shall prescribe consistent with paragraph (2) of this subsection, may pay allowances for the purchase of uniforms to any Veterans' Administration security service officer who is required to wear a prescribed uniform in the performance of official duties.

"(2) Allowances that the Administrator may pay under paragraph (1) of this subsection shall not exceed—

"(A) at the time the individual is first employed as a Veterans' Administration security service officer, $400; and

"(B) at the beginning of the first fiscal year that begins after the individual has completed 12 months of service as a Veterans' Administration security service officer and at the beginning of each subsequent fiscal year, $200.".

(b)(1) The provisions of section 218 of title 38, United States Code, other than clause (2) of subsection (a) of such section, as in effect on the day before the date of the enactment of this Act shall remain in effect until the date on which the Administrator of Veterans' Affairs prescribes the regulations required to be prescribed by subsection (a) of such section as amended by subsection (a) of this section.

(2) The authority of the Administrator to designate officers and employees of the Veterans' Administration to act as special policemen under section 218(a)(2) of such title as in effect on the day before the date of the enactment of this Act shall remain in effect until the date on which the Administrator first exercises the authority under subsection (b) of section 218 of such title as amended by subsection (a) of this section.

(c) The item relating to such section in the table of sections at the beginning of chapter 3 of such title is amended to read as follows:

"218. Security and law enforcement on property under the jurisdiction of the Veterans' Administration.".

(d) Section 4107(g) is amended—

(1) in paragraph (1)—

(A) by striking out "or" in clause (A);

(B) by striking out the comma and inserting in lieu thereof a semicolon and "or" in subclause (iv) of clause (B); and

(C) by inserting after clause (B) the following new clause:

"(C) of employees providing security services, pursuant to section 218 of this title, in buildings under the jurisdiction of the Administrator (and not under the control of the Administrator of General Services) that are used for the purpose of providing health care,";

(2) by striking out "health-care" each place it appears in paragraphs (2)(A) and (4); and

(3) by inserting "or (C)" after "(B)" in paragraph (4).

COMPTROLLER GENERAL REPORT ON MEDICAL PERSONNEL STAFFING LEVELS

SEC. 10. Section 5010(a)(4)(C) is amended to read as follows:

"(C) Not later than fifteen days after the expiration of the period for the submission of a certification by the Director of the Office of Management and Budget under subparagraph (B) of this paragraph, the Comptroller General shall submit to the appropriate committees of the Congress a report stating the Comptroller General's opinion as to whether the Director has complied with the requirements of such subparagraph in providing such certification and in providing to the Veterans' Administration such funded personnel ceiling.".

REPORT ON FEDERAL GOVERNMENT RESPONSIBILITY TO INDIVIDUALS WHO SERVED WITH VOLUNTARY CIVILIAN ORGANIZATIONS IN VIETNAM

SEC. 11. (a)(1) The purpose of this section is to provide a basis for the executive branch and the Congress to evaluate the question of United States Government responsibility, and alternative approaches, for providing individuals who served for a period of at least thirty days in the Republic of Vietnam during the Vietnam era as employees of voluntary organizations, determined by the Administrator of Veterans' Affairs, in consultation with the Secretary of Defense, to be organizations which provided significant assistance to the United States Armed Forces in the Republic of Vietnam during the Vietnam era, with Federal and other benefits and services (including, but not limited to, health care and monetary compensation for disabilities which may be related to exposure to dioxin or be the result of traumatic events), either through the Veterans' Administration or otherwise, and for assisting such individuals in connection with disabilities they may have incurred as a result of such service.

(2) In order to carry out the purpose stated in paragraph (1), the Administrator, the Secretary of Defense, and the Secretary of Health and Human Services, not later than 180 days after the date of the enactment of this Act, shall submit to the appropriate committees of the Congress a joint report on the question of United States Government responsibility and setting forth various alternative approaches (together with comments on the appropriateness and the advantages and disadvantages of each) and any recommendations by such officials for legislative and administrative action with respect thereto, for establishing a program for providing such benefits, services, and assistance to such individuals.

(b) For the purpose of this section, the terms "Armed Forces" and "Vietnam era" have the meanings given such terms in section 101 (10) and (29), respectively, of title 38, United States Code.

CONTRACT CARE IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 12. Section 601(4)(C)(v) is amended by striking out "September 30, 1984," and inserting in lieu thereof "September 30, 1985,".

HEALTH CARE IN REMOTE AREAS

SEC. 13. (a) The Congress finds that—

(1) many veterans with service-connected disabilities and other veterans eligible for certain health-care services from the Veterans' Administration, within the limits of Veterans' Administration facilities, reside in areas of the United States that are geographically remote from health-care facilities over which the Administrator of Veterans' Affairs has direct jurisdiction;

(2) for many such veterans such health-care facilities are geographically inaccessible and for many other such veterans the inconvenience of travel to such facilities discourages them from seeking health-care services from the Veterans' Administration; and

(3) a study conducted by the Administrator of eligible veterans residing in remote areas and these veterans' ultilization of Veterans' Administration health-care services would provide useful information on the feasibility and appropriateness of alternative approaches to furnishing health-care services to such veterans.

(b)(1) The Administrator shall carry out a study to develop information about veterans who reside in remote areas and are eligible for health-care services from the Veterans' Administration and to develop alternative approaches that could be adopted to furnish such veterans with such services. In carrying out the study, the Administrator shall—

(A) develop, to the maximum feasible extent, statistics on the number of eligible veterans who, during fiscal year 1985—

(i) reside less than 50 miles from the nearest Veterans' Administration medical facility,

(ii) reside between 50 miles and 100 miles from the nearest Veterans' Administration medical facility,

(iii) reside between 100 miles and 200 miles from the nearest Veterans' Administration medical facility, or

(iv) reside more than 200 miles from the nearest Veterans' Administration medical facility;

(B) develop, by each group of residences described in clause (A), statistics on the numbers of eligible veterans who, during such year—

(i) utilize Veterans' Administration medical facilities,

(ii) receive inpatient care in such facilities (including the typical lengths of stay of such veterans in such facilities),

(iii) receive outpatient care from such facilities, or

(iv) receive followup health-care services from such facilities;

(C) develop such further statistics and gather such additional information as the Administrator considers appropriate to carry out the study; and

(D) develop breakdowns of the statistics described in clauses (A) and (B) with respect to age, service connection, and financial need regarding the applicable veteran populations.

(2) Not later than January 1, 1986, the Administrator shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a full report on such study. Such report shall include—

(A) the statistics and breakdown developed and information gathered pursuant to paragraph (1);

(B) the Administrator's findings on the extent of the need for the Veterans' Administration to increase health-care services in remote areas; and

(C) the Administrator's findings and recommendations regarding the advantages and disadvantages of the Veterans' Administration contracting for and making other arrangements for the furnishing of health-care services to eligible veterans in remote areas.

(3) Not later than July 1, 1986, the Administrator shall submit to such committees a report describing an experimental program that could feasibly be carried out through projects in five remote areas, selected on the basis of the statistics, breakdowns, information, and findings included in the report submitted under paragraph (2), to demonstrate alternative approaches for the Veterans' Administration to furnish health-care services to eligible veterans in remote areas. The report shall also include a description of the health-care services, and a detailed breakdown of the costs for them, that could be furnished under such an experimental program to such veterans in each such area, along with the recommendations (and the reasons therefor) of the Administrator regarding whether any such projects should be carried out and such recommendations for legislative or administrative action as the Administrator considers appropriate in light of the information contained in the report.

USE OF CERTAIN LANDS BY THE UNIVERSITY OF CALIFORNIA

SEC. 14. (a) Notwithstanding the Act described in subsection (b), the Administrator of Veterans' Affairs shall execute such legal documents as are necessary to permit the use of the real property described in subsection (b) (or any portion of such property) for educational or cultural purposes in addition to the use of such property as a research and medical center and for allied purposes. The Administrator may carry out the preceding sentence subject to such terms and conditions as the Administrator determines are necessary in order to protect the interests of the United States.

(b) The real property referred to in subsection (a) is the property transferred to the State of California for the use of the University of California by a quitclaim deed dated December 10, 1948, executed by the Administrator of Veterans' Affairs under the Act entitled "An Act to authorize the Administrator of Veterans' Affairs to transfer a portion of the Veterans' Administration center at Los Angeles, California, to the State of California for the use of the University of California", approved June 19, 1948 (62 Stat. 559), and recorded in the land records of the County of Los Angeles, California, at page 307 of book 29032.

(c) Any document executed to carry out subsection (a) shall provide that the property involved shall revert to the United States if it ceases to be used as a research and medical center or for educational or cultural purposes.

ACQUISITION OF BUILDINGS FOR STATE HOME FACILITIES

SEC. 15. Subchapter III of chapter 81 is amended as follows:

(1) Section 5031(c) is amended—

(A) by striking out "term 'construction' means" and inserting "terms 'constructed' and 'construction' refer to"; and

(B) by inserting "the acquisition of existing buildings for use as domiciliary or nursing home care facilities," after "home buildings,";

(2) Section 5032 is amended by inserting "to acquire existing buildings for use as State home facilities for furnishing such care to veterans," after "nursing home care to veterans,"; and

(3) Section 5035(a) is amended—

(A) by striking out "and" at the end of clause (7); and

(B) in clause (8),

(I) by striking out "sections 276a through 276a-5 of title 40" and inserting in lieu thereof "the Act of March 3, 1931 (40 U.S.C. 276a-276a-5)"; and

(II) by striking out the period at the end and inserting in lieu thereof a comma and "and"; and

(C) by inserting at the end the following new clause:

"(9) in the case of a project for acquisition of a facility, reasonable assurance that the estimated total costs of acquisition of the facility and of any expansion, remodeling, and alteration of the acquired facility necessary to meet Veterans' Administration standards shall not be greater than the estimated cost of constructing an equivalent new facility.".

SENSE OF THE CONGRESS REGARDING CERTAIN GRACE COMMISSION RECOMMENDATIONS

SEC. 10. (a) The Congress makes the following findings:

(1) The Department of Medicine and Surgery of the Veterans' Administration, established by an Act of the Congress, represents a national commitment by the Government to meet the medical needs of eligible veterans, especially those who have been disabled as a result of their military service.

(2)(A) Section 409(a) of Public Law 97-306 states that it is the policy of the United States that the Veterans' Administration "shall maintain a comprehensive, nationwide health-care system for the direct provision of quality health-care services to eligible veterans".

(B) Section 5010(a)(1) of title 38, United States Code, requires the Veterans' Administration to operate and maintain a total of not less than 90,000 hospital and nursing home beds and such additional beds as may be necessary for the Veterans' Administration to meet its contingency obligations to assist the Department of Defense in times of war or national emergency in caring for the casualties of such war or national emergency.

(3) The President's Private Sector Survey on Cost Control (commonly known as and hereinafter referred to as the "Grace Commission") has recommended that Veterans' Administration hospitals reduce the average length of stay of their inpatients to a level comparable to that found in the private sector; however, many Veterans' Administration hospital patients have severe and multiple disabilities requiring extensive treatment.

(4) The Grace Commission has recommended that funds for construction of Veterans' Administration hospitals not already under contract be deleted from the Veterans' Administration budget, that bids be invited from private hospital management companies to lease hospital facilities to the Veterans' Administration under long-term contracts, and that such facilities be managed by private companies under short-term performance contracts.

(5) The Grace Commission has recommended that nursing home construction by the Veterans' Administration be entirely discontinued and that the Veterans' Administration contract for the operation of nursing home care facilities by the private sector.

(6) The Grace Commission has recommended that the Veterans' Administration eliminate such number of Veterans' Administration acute care hospital beds as is necessary to achieve an 80 percent occupancy rate for such beds.

(7) The Grace Commission has recommended that the Veterans' Administration consider converting some underutilized acute health-care facilities to extended health-care facilities and phasing out old hospital facilities which may be in need of replacement or significant reconstruction; however, demographic information compiled by the Veterans' Administration shows a forthcoming major increased demand on the Veterans' Administration from the aging veterans of World War II for acute as well as long-term health care.

(8) A joint study of the Grace Commission's recommendations conducted by the Congressional Budget Office and the General Accounting Office and submitted to Congress in February, 1984, concluded that the potential deficit reductions that might result in 1985 through 1987 from implementation of the Grace Commission's recommendations would be much smaller than the three-year savings projected by the Commission.

(9) The Congress desires to reassure veterans that the Congress remains firmly committed to an independent and comprehensive, nationwide health-care system within the Veterans' Administration, capable of providing quality care to eligible veterans.

(b) In light of the findings made in subsection (a), it is the sense of the Congress (1) that the aforementioned recommendations of the President's Private Sector Survey on Cost Control relating to the Veterans' Administration health-care system must be evaluated in light of the national policies described in subsection (a)(2) and in light of the aforementioned factors, and (2) that no action to implement such recommendations

should be taken without their policy implications having first been given full and careful consideration, after appropriate hearings, by the Committees on Veterans' Affairs of the House of Representatives and the Senate.

AUTHORITY TO ADJUST RATES OF PAY FOR CERTAIN PSYCHOLOGISTS

SEC. 17. Section 4104 is amended—

(1) by inserting "(other than those described in paragraph (3))" after "psychologists" in paragraph (2); and

(2) by striking out "Certified" in paragraph (3) and inserting in lieu thereof "Clinical or counseling psychologists who hold diplomas as diplomates in psychology from an accrediting authority approved by the Administrator, certified".

PROGRAM GUIDE ON ALZHEIMER'S DISEASE

SEC. 18. Not later than 180 days after the date of the enactment of this Act, the Administrator shall disseminate to appropriate Veterans' Administration medical facilities and submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a program guide to clarify Veterans' Administration policy regarding the authorization and provision of treatment, including diagnosis, information, outpatient services, hospital care, and nursing home care, of veterans who are eligible for services under title 38, United States Code, and who are suffering from Alzheimer's disease and related neurological diseases.

NAMING OF VETERANS' ADMINISTRATION MEDICAL CENTERS

SEC. 19. (a) The Veterans' Administration Medical Center in Murfreesboro, Tennessee, shall after the date of the enactment of this Act be known and designated as the "Sergeant Alvin C. York Veterans' Administration Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed to be a reference to the Sergeant Alvin C. York Veterans' Administration Medical Center.

(b) The Veterans' Administration Medical Center in Milwaukee, Wisconsin, shall after the date of the enactment of this Act be known and designated as the "Clement J. Zablocki Veterans' Administration Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed to be a reference to the Clement J. Zablocki Veterans' Administration Medical Center.

Amend the title so as to read: "An Act to amend title 38, United States Code, to require the Veterans' Administration to develop guidance for the provision of care to veterans suffering from alcohol or drug dependence, to require the Administrator to establish a Special Committee and a National Center for Post-Traumatic-Stress Disorder, and to improve the Veterans' Administration's ability to protect persons and property on its premises; and for other purposes.".

House amendments to the Senate amendments to H.R. 5618: In lieu of the matter proposed to be inserted by the Senate amendment to the text of the bill, insert the following:

SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE

SECTION 1. (a) This Act may be cited as the "Veterans' Health Care Act of 1984".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be made to a section or other provision of title 38, United States Code.

TITLE I—HEALTH PROGRAMS

SECURITY AND LAW ENFORCEMENT AT VETERANS' ADMINISTRATION FACILITIES

SEC. 101. (a)(1) Section 218 is amended to read as follows:

"§ 218. Security and law enforcement on property under the jurisdiction of the Veterans' Administration

"(a)(1) The Administrator shall prescribe regulations to provide for the maintenance of law and order and the protection of persons and property on land and in buildings under the jurisdiction of the Veterans' Administration and not under the control of the Administrator of General Services (hereinafter in this section referred to as 'Veterans' Administration property').

"(2) Such regulations shall include—

"(A) rules for conduct on Veterans' Administration property; and

"(B) the penalties, within the limits specified in paragraph (3) of this subsection, for violations of such rules.

"(3) Whoever violates any rules prescribed under paragraph (2)(A) of this subsection be fined not more than $500 or imprisoned not more than six months (or such lesser amount or period of time as the Administrator prescribes in the regulations prescribed under this subsection), or both.

"(4) The rules prescribed under clause (A) of paragraph ()2 of this subsection, together with the penalties for violations of such rules, shall be posted conspicuously on property to which they apply.

"(5) The Administrator shall consult with the Attorney General before prescribing regulations under this subsection.

"(b)(1) Veterans' Administration employees who are Veterans' Administration police officers shall enforce Federal laws and the rules prescribed under subsection (a)(2)(A) of this section on Veterans' Administration property. Subjuect to regulations prescribed under paragraph (2) of this subsection, a Veterans' Administration police officer may make arrests on Veterans' Administration property for a violation of any Federal law or of any such rule.

"(2) The Administrator shall prescribe regulations with respect to Veterans' Administration police officers.
Such regulations shall include—

"(A) policies with respect to the exercise by Veterans' Administration police officers of the enforcement and arrest authorities provided by paragraph (1) of this subsection;

"(B) the scope and duration of training that is required for Veterans' Administration police officers, with particular emphasis on dealing with situations involving patients; and

"(C) rules limited the carrying and use of weapons by Veterans' Administration police officers.

"(3) The Administrator shall consult with the Attorney General before prescribing regulations under clause (A) of paragraph (2) of this subsection.

"(4) Rates of basis pay for Veterans' Administration police officers may be increased by the Administrator under section 4107(g) of this title.

"(c)(1) The Administrator may pay an allowance under this subsection for the purchase of uniforms to any Veterans' Administration police officer who is required to wear a prescribed uniform in the performance of official duties.

"(2) The amount of the allowance that the Administrator may pay under this subsection—

"(A) may be based on estimated average costs or actual costs;

"(B) may vary by geographic regions; and

"(C) except as provided in paragraph (3) of this paragraph, may not exceed $200 in a fiscal year for any police officer.

"(3)(A) The amount of an allowance under this subsection may be increased to an amount up to $400 for not more than one fiscal year in the case of any Veterans' Administration police officer. In the case of a person who is appointed as a Veterans' Administration police officer on or after the date on which the Administrator initially exercises the authority granted by this paragraph, an allowance in an amount established under this paragraph shall be paid at the beginning of such person's employment as such an officer. In the case of any other Veterans' Administration police officer, an allowance in an amount established under this paragraph shall be paid upon the request of the officer.

"(B) A police officer who resigns as a police officer less than one year after receiving an allowance in an amount established under this paragraph shall repay to the Veterans' Administration a pro rata share of the amount paid, based on the number of months the officer was actually employed as such an officer during the 12-month period following the date on which such officer began such employment or the date on which the officer submitted a request for such allowance, as the case may be.

"(4) An allowance may not be paid to a Veterans' Administration police officer under this subsection and under section 5901 of title 5 for the same fiscal year.

"(d) The Administrator shall furnish Veterans' Administration police officers with such weapons and related equipment as the Administrator determines to be necessary and appropriate.

"(e) With the permission of the head of the agency concerned, the Administrator may use the facilities and services of Federal, State, and local law enforcement agencies when it is economical and in the public interest to do so.".

(2) The provisions of section 218 of title 38, United States Code, other than clause (2) of subsection (a) of such section, as in effect on the day before the date of the enactment of this Act shall remain in effect until the date on which the Administrator of Veterans' Affairs prescribes the regulations required to be prescribed by subsections (a) and (b) of such section as amended by subsection (a) of this section.

(3) The item relating to such section in the table of sections at the beginning of chapter 3 of such title is amended to read as follows:

"218. Security and law enforcement on property under the jurisdiction of the Veterans' Administration.".

(b) Section 4107(g) is amended—

(1) in paragraph (1)—

(A) by striking out "or" at the end of clause (A);

(B) by striking out the comma and inserting in lieu thereof a semicolon and "or" at the end of subclause (iv) of clause (B); and

(C) by inserting after clause (B) the following new clause:

"(C) of employees who are Veterans' Administration police officers providing services under section 218 of this title,";

(2) by striking out "health-care" each place it appears in paragraphs (2)(A) and (4); and

(3) by inserting "or (C)" after "(B)" in paragraph (4).

(c) Not later than 180 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of the amendments made by this section. The report shall include (1) the regulations prescribed under section 218 of title 38, United States Code, as amended by subsection (a), and (2) a description of the methodology to be used to determine how the authority provided in the amendments made by subsection (b) is to be exercised.

COMPTROLLER GENERAL REPORT ON MEDICAL PERSONNEL STAFFING LEVELS

SEC. 102. Section 5010(a)(4)(C) is amended to read as follows:

"(C) Whenever the Director of the Office of Management and Budget is required to submit a certification under subparagraph (B) of this paragraph, the Comptroller General shall submit to the appropriate committees of the Congress a report stating the Comptroller General's opinion as to whether the Director has complied with the requirements of that subparagraph. The Comptroller General shall submit the report not later than 15 days after the end of the period specified in such subparagraph for the Director to submit the certification.".

CONTRACT HEALTH CARE IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 103. (a) Section 601(4)(C)(v) is amended by striking out "September 30, 1984" and inserting in lieu thereof "September 30, 1985".

(b) Any action by the Administrator of Veterans' Affairs in entering into a contract applicable to the period beginning on October 1, 1984, and ending on the date of the enactment of this Act for the provision of care described in subclause (v) of section 601(4)(C) of title 38, United States Code, and any waiver described in that subclause made by the Administrator that is applicable to that period, is hereby ratified with respect to that period.

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR GERIATRIC RESEARCH, EDUCATION, AND CLINICAL ACTIVITIES

SEC. 104. Section 4101(f)(3) is amended by striking out the first sentence and inserting in lieu thereof the following: "There are authorized to be appropriated such sums as may be necessary for the support of the research and education activities of the centers established pursuant to paragraph (1) of this subsection.".

ACQUISITION OF PROPERTIES FOR USE AS STATE VETERANS' HOMES

SEC. 105. Subchapter III of chapter 81 is amended as follows:

(1) Section 5032 is amended by inserting "(or to acquire facilities to be used as State home facilities)" after "State home facilities".

(2) Section 5034 is amended by inserting "or acquired" after "constructed" each place it appears.

(3) Section 5035 is amended—

(A) by inserting "(or acquisition of a facility to be used as a State home facility)" in the first sentence of subsection (a) after "State home facilities";

(B) by inserting "(or of the estimated cost of facility acquisition and construction)" in clause (1) of subsection (a) after "cost of construction";

(C) by inserting "(or for facility acquisition and construction of the project)" in clause (6) of subsection (a) after "construction of the project";

(D) by striking out "sections 276a through 276a-5 of title 40" in clause (8) of subsection (a) and inserting in lieu thereof "the Act of March 3, 1931 (40 U.S.C. 276a-276a-5)";

(E) by striking out "and" at the end of clause (7), by striking out the period at the end of clause (8) and inserting in lieu thereof a comma and "and", and by inserting after clause (8) the following new clause:

"(9) in the case of a project for acquisition of a facility, reasonable assurance that the estimated total cost of acquisition of the facility and of any expansion, remodeling, and alteration of the acquired facility will not be greater than the estimated cost of construction of an equivalent new facility.";

(F) by inserting "(or of the estimated cost of facility acquisition and construction)" in clause (2) of subsection (b) after "cost of construction";

(G) by striking out "the construction of" in clause (4) of subsection (b) and inserting in lieu thereof "the carrying out of"; and

(H) in subsection (d)(1)—

(i) by inserting "(or of the estimated cost of facility acquisition and construction)" in the first sentence after "cost of construction";

(ii) by striking out "constructed" in the second sentence and inserting in lieu thereof "carried out";

(iii) by striking out "construction" in the third sentence and inserting in lieu thereof "the project"; and

(iv) by striking out "the construction of" in the fourth sentence.

(4) Section 5036 is amended—

(A) by striking out "for construction" after "completion of any project";

(B) by inserting "acquisition," after "in the case of the";

(C) by striking out "value of such construction" and inserting in lieu thereof "value of such project";

(D) by striking out "for such construction" after "assistance provided for"; and

(E) by striking out "twenty" both places it appears and inserting in lieu thereof "20".

(5) Section 5037 is amended by inserting "or acquired" after "constructed".

COORDINATION OF VETERANS' ADMINISTRATION HEALTH-CARE SERVICES WITH STATE AND LOCAL PROGRAMS

SEC. 106. (a) Section 220 is amended—

(1) by inserting "(a)" before "The Administrator"; and

(2) by adding at the end the following new subsection:

"(b) The Administrator shall seek to achieve the effective coordination of the provision, under laws administered by the Veterans' Administration, of benefits and services (and information about such benefits and services) with appropriate programs (and information about such programs) conducted by State and local governmental agencies and by private entities at the State and local level. In carrying out this subsection, the Administrator shall place special emphasis on veterans who are 65 years of age or older.".

(b)(1) The heading of such section is amended to read as follows:

"§ 220. Coordination and promotion of other programs affecting veterans and their dependents".

(2) The item relating to such section in the table of sections at the beginning of chapter 3 is amended to read as follows:

"220. Coordination and promotion of other programs affecting veterans and their dependents.".

MEDICAL AND REHABILITATIVE DEVICES

SEC. 107. Section 617 is amended—

(1) by inserting "(a)" before "The Administrator"; and

(2) by adding at the end the following new subsection:

"(b) The Administrator may furnish devices for assisting in overcoming the handicap of deafness (including telecaptioning television decoders) to any veteran who is profoundly deaf and is entitled to compensation on account of hearing impairment.".

AUTHORITY TO ADJUST RATES OF PAY FOR CERTAIN PSYCHOLOGISTS

SEC. 108. Section 4104 is amended—

(1) by inserting "(other than those described in paragraph (3))" after "psychologists" in paragraph (2); and

(2) by striking out "Certified" in paragraph (3) and inserting in lieu thereof "Clinical or counseling psychologists who hold diplomas as diplomates in psychology from an accrediting authority approved by the Administrator, certified".

WAIVER OF MANDATORY REDUCTIONS IN MILITARY RETIRED PAY FOR CERTAIN PHYSICIANS

SEC. 109. Section 4107 is amended by adding at the end the following new subsection:

"(i) The Administrator may authorize an exception to the restrictions in subsections (a), (b), and (c) of section 5532 of title 5 if necessary to meet special or emergency employment needs which result from a severe shortage of well qualified candidates in physician positions which otherwise cannot be readily met.".

POST-TRAUMATIC-STRESS DISORDER

SEC. 110. (a)(1) The Chief Medical Director of the Veterans' Administration may designate special programs within the Department of Medicine and Surgery for the diagnosis and treatment of post-traumatic-stress disorder (hereinafter in this section referred to as "PTSD").

(2) The Chief Medical Director shall direct (A) that (in addition to providing diagnositc and treatment services for PTSD) Veterans' Administration programs designated under paragraph (1) (hereinafter in this section referred to as "designated PTSD programs") carry out activities to promote the education and training of health-care personnel (including health-care personnel not working for the Veterans' Administration or the Federal Government) in the causes, diagnosis, and treatment of PTSD, and (B) that (when appropriate) the provision of treatment services under such program be coordinated with the provision of readjustment counseling services under section 612A of title 38, United States Code.

(b)(1) The Chief Medical Director shall establish in the Department of Medicine and Surgery a Special Committee on Post-Traumatic-Stress Disorder (hereinafter in this section referred to as the "Special Committee"). The Chief Medical Director shall appoint qualified employees of the Department to serve on the Special Committee.

(2) The Special Committee shall assess, and carry out a continuing assessment of, the capacity of the Veterans' Administration to provide diagnostic and treatment services for PTSD to veterans eligible for health care furnished by the Veterans' Administration.

(3) The Special Committee shall also advise the Chief Medical Director regarding the development of policies, the provision of guidance, and the coordination of services for the diagnosis and treatment of PTSD (A) in designated PTSD programs, (B) in inpatient psychiatric programs and outpatient mental health programs other than designated PTSD programs, and (C) in readjustment counseling programs of the Veterans' Administration.

(4) The Special Committee shall also make recommendations to the Chief Medical Director for guidance with respect to PTSD regarding—

(A) appropriate diagnostic and treatment methods;

(B) referral for and coordination of followup care;

(C) the evaluation of PTSD treatment programs;

(D) the conduct of research concerning such diagnosis and treatment (taking into account the provisions of subsection (c));

(E) special programs of education and training for employees of the Department of Medicine and Surgery and the Department of Veterans' Benefits (also taking into account such provisions);

(F) the appropriate allocation of resources for all such activities; and

(G) any specific steps that should be taken to improve such diagnosis and treatment and to correct any deficiencies in the operations of designated PTSD programs.

(c) The Chief Medical Director shall establish and operate in the Department of Medicine and Surgery a National Center on Post-Traumatic-Stress Disorder. The National Center (1) shall carry out and promote the training of health-care and related personnel in, and research into, the causes and diagnosis of PTSD and the treatment of veterans for PTSD, and (2) shall serve as a resource center for, and promote and seek to coordinate the exchange of information regarding, all research and training activities carried out by the Veterans' Administration, and by other Federal and non-Federal entities, with respect to PTSD.

(d) The Chief Medical Director shall regularly compile and publish the results of research that has been conducted relating to PTSD.

(e)(1) Not later than March 1, 1985, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of this section. The report shall include the following:

(A) A list of the members of the Special Committee.

(B) A list of all designated PTSD programs and other programs providing treatment for PTSD, together with a description of the resources that have been allocated for the development and operation of each such program, a description of the education and training that has been provided for Veterans' Administration health-care personnel in such programs and elsewhere within the Veterans' Administration in the diagnosis and treatment of PTSD, and specification of the funding that has been allocated to each such program and elsewhere within the Veterans' Administration to support research relating to PTSD.

(C) The assessment of the Chief Medical Director of the Veterans' Administration, after consultation with the Special Committee, regarding the capability of the Veterans' Administration to meet the needs for inpatient and outpatient PTSD diagnosis and treatment (both through designated PTSD programs and otherwise) of veterans who served in the Republic of Vietnam during the Vietnam era, former prisoners of war, and other veterans eligible for health care from the Veterans' Administration and the efficacy of the treatment so provided, as well as a description of the results of any evaluations that have been made of PTSD treatment programs.

(D) The plans of the Special Committee for further assessments of the capability of the Veterans' Administration to diagnose and treat veterans with PTSD.

(E) The recommendations made by the Special Committee to the Chief Medical Director and the views of the Chief Medical Director on such recommendations.

(F) A summary of the results of research conducted by the Veterans' Administration relating to PTSD.

(G) A description of the steps taken, plans made (and a timetable for their execution), and resources to be applied to implement subsections (b) and (c).

(H) The assessment of the Administrator of the capacity of the Veterans' Administration to meet in all geographic areas of the United States the needs described in subparagraph (C) and any plans and timetable for increasing that capacity (including the costs of such action).

(2) Not later than February 1, 1986, and February 1 of each of the three following years, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing information updating the reports submitted under this subsection before the submission of such report.

ALCOHOL AND DRUG TREATMENT AND REHABILITATION GUIDELINES

SEC. 111. Not later than 6 months after the date of the enactment of this act, the Administrator of Veterans' Affairs (1) shall issue guidelines for the treatment and rehabilitation of veterans for alcohol or drug dependence or abuse disabilities under chapter 17 of title 38, United States Code, in facilities over which the Administrator has direct jurisdiction, and (2) shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report (including a copy of such guidelines) on the implementation of this section.

TITLE II—REPORTS

REPORT ON VETERANS' ADMINISTRATION PROGRAMS FOR TERMINALLY ILL VETERANS

SEC. 201. (a) Not later than September 30, 1985, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on programs of the Veterans' Administration to furnish palliative care, supportive counseling, and other medical services to terminally ill veterans and, pursuant to section 601(6)(B) of title 38, United States Code, supportive counseling to members of such veterans' families.

(b) The report required by subsection (a) shall include the following:

(1) A review of Veterans' Administration policies and guidelines on the provision of care, counseling, and services described in subsection (a).

(2) A review of the care, counseling, and services furnished, including the treatment modalities used and services furnished by the Veterans' Administration.

(3) An analysis and a comparison of the care, counseling, and services furnished with respect to terminally ill veterans in hospice and other Veterans' Administration programs, including a comparison of the routine and ancillary services, of the duration of inpatient and outpatient treatment and hospotal-based home care, and of the cost of care furnished in such programs.

(4) An explanation of how the care, counseling, and services described in subsection (a) are or will be included in the overall plans of the Veterans' Administration for providing health care to older veterans in the future and the extent to which plans to furnish hospice care are included in such plans.

(5) A review of any steps taken to arrange for the exchange of information between Veterans' Administration facilities providing the care, counseling, and services described in subsection (a) and non-Veterans' Administration facilities providing similar care, counseling, and services.

VETERANS RESIDING IN REMOTE GEOGRAPHIC AREAS

SEC. 202. (a) The Congress makes the following findings:

(1) Many veterans with service-connected disabilities and other veterans eligible for certain health-care services from the Veterans' Administration, within the limits of Veterans' Administration facilities, reside in areas of the United States that are geographically remote from health-care facilities over which the Administrator of Veterans' Affairs has direct jurisdiction.

(2) For many such veterans such health-care facilities are geographically inaccessible and for many other such veterans the inconvenience of travel to such facilities discourages them from seeking health-care services from the Veterans' Administration.

(3) A study conducted by the Administrator of eligible veterans residing in remote areas and the use by those veterans of Veterans' Administration health-care services would provide useful information on the feasibility and appropriateness of alternative approaches to furnishing health-care services to such veterans.

(b)(1) The Administrator shall carry out a study to develop information about veterans who reside in remote areas and are eligible for health-care services from the Veterans' Administration and to develop alternative approaches that could be adopted to furnish such veterans with such services. In carrying out the study, the Administrator shall develop the following information:

(A) To the maximum extent feasible, statistics on the number of eligible veterans who, during fiscal year 1985—

(i) reside less than 50 miles from the nearest Veterans' Administration medical facility,

(ii) reside between 50 miles and 100 miles from the nearest Veterans' Administration medical facility,

(iii) reside between 100 miles and 200 miles from the nearest Veterans' Administration medical facility, and

(iv) reside more than 200 miles from the nearest Veterans' Administration medical facility.

(B) Statistics, shown by each group of veterans described in clause (A), on the numbers of eligible veterans who, during fiscal year 1985—

(i) use Veterans' Administration medical facilities,

(ii) receive inpatient care in such facilities (including the typical lengths of stay of such veterans in such facilities),

(iii) receive outpatient care from such facilities, and

(iv) receive followup health-care services from such facilities.

(C) Such additional statistics and such additional information as the Administrator considers appropriate.

(D) Breakdowns of the statistics described in clauses (A) and (B) with respect to age, service connection, and financial need regarding the applicable veteran populations.

(2) Not later than January 1, 1986, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representative a full report on the study under paragraph (1). The report shall include—

(A) the statistics and breakdown developed and information gathered under that paragraph;

(B) the Administrator's findings on the extent of the need for the Veterans' Administration to increase health-care services in remote areas; and

(C) the Administrator's findings and recommendations regarding the advantages and disadvantages of the Veterans' Administration contracting for and making other arrangements for the furnishing of health-care services to eligible veterans in remote areas.

(3) Not later than July 1, 1986, the Administrator shall submit to such committees a report describing an experimental program that could feasibly be carried out through projects in five remote areas, selected on the basis of the information and findings included in the report under paragraph (2), to demonstrate alternative approaches for the Veterans' Administration to furnish health-care services to eligible veterans in remote areas. The report shall include a description of the health-care services, and a detailed breakdown of the costs for them, that could be furnished under such an experimental program to such veterans in each such area, along with the recommendations (and the reasons therefor) of the Administrator regarding whether any such project should be carried out and such recommendations for legislative or adminstrative action as the Administrator considers appropriate in light of the information contained in the report.

TITLE III—MISCELLANEOUS

MODIFICATION OF REVERSIONARY INTEREST IN CERTAIN LAND, LOS ANGELES, CALIFORNIA

SEC. 301. (a) The Administrator of Veterans' Affairs shall execute such legal documents as are necessary to permit the use of the real property described in subsection (b) (or any portion of such property) for educational or cultural purposes in addition to the use of such property as a research and medical center and for allied purposes. The Administrator may carry out the preceding sentence subject to such terms and conditions as the Administrator requires in order to protect the interests of the United States.

(b) The real property referred to in subsection (a) is the property transferred to the State of California for the use of the University of California by a quitclaim deed dated December 10, 1984, executed by the Administrator of Veterans' Affairs under the Act entitled "An Act to authorize the Administrator of Veterans' Affairs to transfer a portion of the Veterans' Administration center at Los Angeles, California, to be the State of California for the use of the University of California", approved June 19, 1984 (62 Stat. 559), and recorded in the land records of the County of Los Angeles, California, at page 307 of book 29032.

(c) Any document executed to carry out subsection (a) of the this section shall provide that the property involved shall revert to the United States if it ceases to be used as a research and medical center or for educational or cultural purposes.

NAMING OF VETERANS' ADMINISTRATION MEDICAL CENTES

SEC. 302. (a) The Veterans' Administration Medical Center in Murfreesboro, Tennessee, shall after the date of the enactment of this Act be known and designatged as the "Alvin C. York Veterans' Administration Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed to be reference to the Alvin C. York Veterans' Administration Medical Center.

(b) The Veterans' Administration Medical Center in Milwaukee, Wisconsin, shall after the date of the enactment of this Act be known and designatged as the "Clement J. Zablocki Veterans' Administration Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed to be a reference to the Clement J. Zablocki Veterans' Administration Medical Center.

In lieu of the Senate amendment to the title of the bill, amend the title so as to read: "An Act to amend title 38, United States Code, to revise and improve Veterans' Administration health programs and to improve security and law enforcement at Veterans' Administration facilities; and for other purposes.".

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the House amendments to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Mississippi?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, I do so for the purpose of yielding to the gentleman from Mississippi, the distinguished chairman of the Committee on Veterans' Affairs, to explain his request.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. I thank the gentleman for yielding and I will be very brief.

After I make my brief explanation I hope the gentleman will yield to the chairman of the Subcommittee on Hospitals and Medical Care, the gentleman from Pennsylvania [Mr. EDGAR].

This does pertain to health care for veterans. It is within the budget, and I certainly hope that there will be no objections to this legislation.

Mr. Speaker, if the gentleman from Arkansas will yield further, I want to congratulate the gentleman from Arkansas, the ranking minority member of the committee, for working with me to reach agreement with the other body on this bill; and certainly, Mr. Speaker, I want to thank my good friend, the distinguished gentleman from Pennsylvania [Mr. EDGAR] for all of his hard work in bringing about the passage of this bill. He has spent many hours traveling throughout the country holding hearings. He has taken a personal interest in this legislation and I simply want to thank my colleague for the leadership role he has played in this Congress on all veterans' health care issues before this body. No one could have worked more diligently than the gentleman from Pennsylvania.

Certainly, Mr. Speaker, I want to thank my distinguished colleagues in the Senate, the chairman of the Committee on Veterans' Affairs, ALAN SIMPSON of Wyoming, and ALAN CRANSTON of California. As usual they have cooperated fully in reaching agreement with the House committee where there were differences between the two bodies. It is always a pleasure to work with my distinguished colleagues from Wyoming and California as well as all other members and staff of the Senate Veterans' Affairs Committee. I am grateful for the strong support we receive from all of them

This is a good measure, Mr. Speaker, for the veterans of our Nation. It will strengthen the VA health care system and I urge my colleagues to vote for the House amendments.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of the motion of the distinguished chairman of the House Veterans' Affairs Committee with respect to H.R. 5618. I am most pleased that we have reached an accommodation with the other body which results in a good bill that we can all support.

Mr. Speaker, when the House passed H.R. 5618, and related bills, we:

Extended contract authority for veterans to be treated in Puerto Rico and the Virgin Islands.

Provided a mechanism to strengthen the security forces at VA medical centers in order to recruit and retain good employees.

Extended and made permanent the authorization for geriatric research, education, and clinical activities.

Provided legal authority for States to use Federal grant funds, to acquire an existing facility for use as a State veterans' nursing home or domiciliary.

Again provided military retirement waiver authority to the Veterans' Administration with respect to certain physician positions which are difficult to fill.

Provided certain legislative authority and guidance to VA with respect to diagnosis and treatment of the condition called, post traumatic stress disorder.

Provided that use of certain lands now used by the University of Califor-

nia at Los Angeles could also be used for educational or cultural purposes.

Provided that the VA Medical Center in Milwaukee, WI be named for our late beloved colleague, Clement J. Zablocki.

Provided for annual reports with respect to proper amounts for per diem to be paid to State veterans' homes.

Provided for eligibility for certain veterans being treated for service-connected disabilities at the veterans' own expense to be furnished drugs and medicines by the Veterans' Administration.

When the other body considered H.R. 5618, it adopted certain technical and perfecting amendments and the language has been worked out to the point of joint acceptability. The other body also amended the bill by adding a number of new provisions. They include:

Designation of a unit in each VA medical center to coordinate referrals of certain veterans to non-VA entities with special emphasis on veterans over 65 years of age.

Providing special devices to profoundly deaf veterans who are service connected for this disability to include telecaptioning television devices.

Authorization for the appointment of certain psychologists to VA's Department of Medicine and Surgery under title 38 of the United States Code to assist in recruitment and retention.

A provision that the VA would be required to issue guidelines on the treatment of alcohol and drug abuse and make certain reports related thereto.

A provision that the VA would submit to the Congress a report on its progress in furnishing palliative treatment, supportive counseling, and other medical services to terminally ill veterans and supportive counseling to their families.

A provision that it is the sense of the Congress that needs of veterans for medical care when they live in remote rural areas are special and different and that the VA should make a study in this regard and report to the Congress thereon.

A provision that the VA Medical Center in Murfreesboro, TN, be named the Sgt. Alvin C. York VA Medical Center.

A provision that the VA previously mandated report on the effectiveness of its counseling program for Vietnam veterans. Also include assessments of whether or not certain other veterans and active duty personnel need such counseling and, if so, to record how their needs could be met; and

A provision that VA, DOD, and HHS submit to the Congress a joint report on the question of the Government's responsibility to provide benefits to nonmilitary persons who served in Vietnam with voluntary organizations.

A provision that this is the sense of the Congress with respect to certain Grace Commission recommendations about the VA's Department of Medicine and Surgery that they ought not to be approved.

A provision that VA submit to the Congress a program guide to clarify its policy regarding authorization for and treatment of Alzheimer's disease.

A provision concerning certain guidelines to VA with respect to adaptive equipment furnished to veterans eligible for such equipment.

Mr. Speaker, the compromise bill before us deletes the provisions concerning:

Annual reports on per diem rates for State homes, thereby retaining the current 3-year provision.

Providing for the VA's filling of prescriptions of private doctors for certain Service-connected veterans.

Studying readjustment and counseling needs of veterans not now entitled to such counseling.

Studying needs of nonmilitary persons who served in Vietnam.

References to the Grace Commission recommendations.

References to Alzheimer's disease.

Mr. Speaker, this was a situation of give and take with the end result being a good bill which I feel we should all support. I personally felt very strongly that we should furnish drugs and medicines to those service-connected veterans who relied on private doctors for their actual treatment. However, others felt that this would harm the total VA program. Others also felt strongly about several provisions of the Senate version of the bill that we in the House felt ought to be deleted. Ultimately, both sides compromised in a spirit of getting a good bill.

One final thought, Mr. Speaker—I am distressed at the current situation in Puerto Rico where VA provides contract hospitalization to a number of both service- and non-service-connected veterans. Much of this medical care, in my view, is substandard. This bill extends authority for contract care for 1 more year. It is my hope and expectation that VA will come to grips with this situation and advise us during the next few months of a good and proper course of action. The veterans of Puerto Rico deserve no less and the Congress has been most patient about the matter.

Mr. Speaker, I congratulate the chairman of the House Veterans' Affairs Committee, Mr. MONTGOMERY of Mississippi, for his leadership in arriving at a compromise on this matter. I also congratulate the chairman of our Subcommittee on Hospitals and Health Care, the gentleman from Pennsylvania, Mr. EDGAR, for his diligence and leadership. He has been a very hard-working chairman on this and all other issues facing his subcommittee. Finally, I would be remiss if I did not also commend the distinguished chairman of the Senate Committee on Veterans' Affairs, Senator SIMPSON of Wyoming, and the ranking member of that committee, the Senator from California, Senator CRANSTON.

Mr. Speaker, I urge House approval of H.R. 5618 as presented by the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the distinguished Chairman of the Subcommittee on Health and Hospitals of the Veterans Affairs' Committee, the gentleman from Pennsylvania [Mr. EDGAR].

Mr. EDGAR. Mr. Speaker, I thank Chairman MONTGOMERY. As he stated, H.R. 5618 unanimously passed the the House on May 21, and was amended in the Senate on August 8.

Before I explain H.R. 6518, as amended, I would like to express my appreciation for the cooperation afforded by the ranking minority member, both in the consideration of H.R. 5618 at the subcommittee level, where Mr. HAMMERSCHMIDT is also the ranking minority member, and during the committee's consideration of the amendments which are before the House today. In addition, I would like to commend the members of the Subcommittee on Hospitals and Health Care who worked so hard over the past 2 years. Their active participation has made this measure far better than it would have been had they not taken such an interest. I want to particularly praise Mr. PENNY and Mr. MICA for their important contributions to H.R. 5618. All of the subcommittee members who participated in our hearings and who accompanied the subcommittee when it visited so many VA facilities over the past 2 years are to be commended for their diligence and hard work.

I would also like to say that I share the chairman's sentiments about the spirit of compromise evidenced by Senators SIMPSON and CRANSTON in the consideration of these compromise amendments.

H.R. 5618, as amended, includes authority to permit the Chief Medical Director of the Veterans' Administration to designate special programs for the treatment of post-traumatic-stress disorder [PTSD]. In addition to providing treatment, these programs will promote the training of health-care personnel in the causes, diagnosis, and treatment of PTSD. The bill will also direct the Chief Medical Director of the VA to establish in the Department of Medicine and Surgery a special Committee on Post-Traumatic-Stress Disorder. This committee will provide regular assessments of the capacity of

the VA to diagnose and treat PTSD, and make recommendations to the Chief Medical Director regarding appropriate diagnostic and treatment methods. It will also make recommendations concerning the evaluation of PTSD treatment programs, the conduct of research, and the appropriate allocation of resources for such activities. Additionally, the bill will require the Chief Medical Director to establish and operate a national center on post-traumatic-stress disorder in the Department of Medicine and Surgery to carry out and promote research into, and the training of health-care and related personnel in the causes, diagnosis and treatment of veterans with PTSD. This center will serve as a resource center regarding all PTSD research and training activities.

The House-enacted version of H.R. 5618 contained a provision which would have permitted the Veterans' Administration to fill prescriptions for veterans with compensable service-connected disabilities written by a non-VA physician for the service-connected disability. A Veterans' Administration general counsel's legal opinion issued last year stated that the VA could no longer fill such prescriptions. Our committee believes the House provision would have been cost-effective, and we worked very diligently to have this provision included in the compromise version of H.R. 5618. However, both the majority and the minority of the Senate Committee on Veterans' Affairs adamantly rejected this provison, and we were forced to recede. I will consider reintroducing this legislation at the beginning of the 99th Congress.

Another important provision of this bill is intended to improve the maintenance of law and order and the protection of persons and property in buildings under the jurisdiction of the Veterans' Administration. It would also direct the Administrator of Veterans' Affairs to prescribe regulations with respect to the exercise by VA policy officers of enforcement and arrest authority, conduct on VA property, the scope and duration of training required for VA police officers, and rules limiting the carrying and use of weapons by VA police officers. The Administrator would also be permitted to adjust the salaries of VA police officers in order to recruit and retain their services. H.R. 5618, as amended, would also permit the Administrator to reimburse police officers for uniform expenses in an amount not to exceed $200 in any fiscal year, or in an amount up to $400 on a one-time only basis.

Another important provision of H.R. 5618, as amended, would authorize the use of grants to States for acquiring existing facilities to be used to provide domiciliary, nursing home, or hospital care to eligible veterans, provided the cost of acquisition of existing facilities would not be greater than the estimated cost of construction of a new facility. Current law prohibits the use of grants to States for acquisition of existing facilities, and we believe such authority to be justified and warranted. It could also result in cost savings in the future by providing more beds at a lower cost.

Mr. Speaker, we worked long and hard to reach a compromise on H.R. 5618. It contains most of the House provisions of H.R. 5618. I consider it good legislation, and I urge my colleagues to support it. I am inserting for inclusion in my remarks the joint explanatory statement of the compromise agreement on H.R. 5618, as amended.

EXPLANATORY STATEMENT OF HOUSE BILL, SENATE AMENDMENT (S. 2514), AND COMPROMISE AGREEMENT ON H.R. 5618, THE "VETERANS' HEALTH CARE ACT OF 1984"

This document explains the provisions of H.R. 5618 as passed by the House of Representatives, the provisions of the bill as passed by the Senate with an amendment incorporating the provisions of S. 2514 as reported, and the provisions of a compromise agreed to by the Veterans' Affairs Committees of the House and Senate. The differences between the House bill, the Senate amendment, and the compromise agreement are noted below, except for clerical corrections, conforming changes made necessary by agreements reached between the Committees, and minor drafting, technical, and clarifying changes.

VETERANS' ADMINISTRATION POLICE OFFICERS

Both the House bill (section 2) and the Senate amendment (section 9) would amend present section 218 of title 38, United States Code, relating to security and law enforcement on VA property. Both the House bill and the Senate amendment contain provisions relating to the issuance by the Administrator of Veterans' Affairs of regulations concerning security and law enforcement on VA property, including rules of conduct on such property; increases in the maximum penalties for violations of such regulations (from a fine of up to $50 to a fine of up to $500 and from imprisonment for up to 30 days to imprisonment for up to 6 months); the appointment of individuals to carry out security and law enforcement activities; the authorization of such individuals to make arrests on VA property; the authorization of the Administrator to pay an allowance to such employees for the purchase of uniforms; and the authorization of the Administrator to increase the rates of basic pay for VA employees performing security and law enforcement activities (hereinafter, referred to as "VA police officers").

The House bill would restate the Administrator's authority to prescribe regulations for the maintenance of law and order and the protection of persons and property on land and in buildings under the VA's jurisdiction, including penalties for the violation of such regulations. The Senate amendment, but not the House bill, would require the Administrator to prescribe regulations with the concurrence of the Attorney General. Under the Senate amendment, the regulations would include (in addition to rules for conduct) policies concerning the exercise of enforcement and arrest authorities, scope and duration of VA police officers' training, and limits on the carrying and use of weapons by such officers.

The compromise agreement contains a provision (section 101) derived from these provisions. Under the compromise agreement, the Administrator would be required, after consulting with the Attorney General, to prescribe regulations to provide for security and law enforcement on VA property, including rules for conduct on VA property and the penalties for violations of the rules of conduct. The penalties would be limited to a fine of not more than $500 or to imprisonment for not more than six months, or both. The Administrator would also be required to prescribe regulations with respect to VA police officers, including policies on enforcement and arrest authorities; the scope and duration of training, with particular emphasis on dealing with situations involving patients; and rules limiting the carrying and use of weapons. The Administrator would be required to consult with the Attorney General before prescribing the regulation on enforcement and arrest authorities.

Both the House bill and the Senate amendment contain provisions relating to VA police officers. Under the House bill, the Administrator would be authorized to appoint qualified persons to serve as VA police officers; under the Senate amendment, the Administrator would be authorized to designate VA employees as VA security service officers. Under both the House bill and the Senate amendment, such personnel would enforce Federal laws and (under the House bill) the regulations or (under the Senate amendment) rules of conduct prescribed by the Administrator, and would be authorized to make arrests on VA property for violations thereof. The Senate amendment, but not the House bill, would generally restate existing standards for arrests set forth in section 218. It would specify that VA police officers would be authorized to make an arrest, with or without a warrant, for any offense on VA property if (1) the offense occurred in the officer's presence, or if (2) the officer has reasonable grounds to believe both that the offense violated a Federal law or a rule prescribed by the Administrator and that the person arrested committed the offense.

The compromise agreement contains a provision, derived from these provisions. Under the compromise agreement, personnel who are VA police officers would be required to enforce Federal laws and the rules of conduct prescribed by the Administrator and would be authorized to make arrests, subject to regulations prescribed by the Admimistrator, on VA property for violations of any Federal laws or such rules.

The Committees note that the compromise agreement deletes, as unnecessary in this provision of law, the explicit authority to designate or appoint police officers. The compromise agreement also deletes the Senate language specifying certain standards pertaining to arrests.

* * * * *

The House bill would limit the maximum allowance to $175 per year or a one-time payment of $400 in lieu of the annual amount and would require a police officer who resigns during the course of the calendar year for which the up-to-$400 allowance was paid to repay the VA a prorated portion (based on the duration of the officer's service during that year) of the amount received. The House bill would apply to VA police officers employed on the date of en-

actment and to new VA police officers on their appointment as police officers. The Senate amendment would limit the total allowance to $400 at the time an individual is first employed and to $200 at the beginning of each fiscal year beginning after he or she had served one year.

The compromise agreement contains a provision derived from these provisions. Under the compromise agreement, the Administrator would be authorized to pay an allowance to VA police officers for the purchase of uniforms. The Administrator could either base the allowance on estimated average costs or provide reimbursement for actual costs and could vary the amount of the allowance by geographic region. The maximum allowance would generally be limited to $200 in any fiscal year, except that the Administrator would be authorized to pay a one-time allowance of not more than $400 to a VA police officer. For those VA police officers who begin employment on or after the date this new authority takes effect, the Administrator would pay the up-to-$400 allowance at the beginning of the officer's employment. For those VA police officers who are employed as such on the date of enactment, the compromise follows the House provision with a modification to change, from a calendar year to a twelve-month period, the period during which such an officer who ceases to be employed by the VA as a police officer following receipt of this increased allowance would be required to repay the VA a prorated share of such allowance.

The compromise agreement provides that an allowance under new section 218 and under section 5901 of title 5 could not be paid to a VA police officer in the same fiscal year.

Both the House bill and the Senate amendment, with technical differences, would authorize the Administrator to use existing authorities under section 4107(g) of title 38, which at present authorize basic pay increases for certain VA health-care personnel, to increase the rates of basic pay for VA police officers, on a nationwide, local, or other geographic basis when necessary to overcome difficulties in the recruitment and retention of such officers.

The compromise agreement follows the Senate provision.

The House bill, but not the Senate amendment, requires the Administrator to provide VA police officers with necessary weapons and belts.

The compromise agreement contains a provision, derived from this provision, requiring the Administrator to provide such weapons and equipment as the Administrator determines to be necessary and appropriate. This provision is not intended to change the Administrator's existing practice of issuing such weapons and equipment.

Both the House bill and the Senate amendment authorize the Administrator to use Federal, State, and local law enforcement facilities and services when it is economical and in the public interest to do so provided that the head of the agency involved gives permission to do so.

The compromise agreement contains this provision.

The Senate amendment, but not the House bill, contained savings clauses under which certain provisions of present section 218 relating to VA security would remain in effect until the date the Administrator prescribes regulations to carry out the new authorities and under which the provision in present section 218 relating to the Administrator's authority to designate VA police officers would remain in effect until the Administrator exercised that authority under new section 218.

The compromise agreement deletes as unnecessary the savings clause relating to the designation of police officers and contains a savings clause to retain in effect, until the regulations required by this section of the compromise agreement are prescribed, the provisions of present section 218 that would be replaced by provisions that are to be implemented through regulations.

The House bill, but not the Senate amendment, would require the Administrator to report to Congress on the implementation of new section 218 within 90 days of the enactment of this Act. The report would include (1) the rules and regulations prescribed, (2) the standards for uniform allowances and increases in basic pay, and (3) a list of the facilities where VA police officers would be appointed and the proposed number and salaries of these officers. Also, under the House bill, a person could not be appointed as a VA police officer or paid a special salary rate until 90 days after the Administrator submitted the required report.

The compromise agreement contains a provision derived from these provisions. Under the compromise agreement, the Administrator would be required to submit to the Committees a report on the implementation of new section 218. The report would include (1) the regulations prescribed under new section 218, and (2) a description of the methodology to be used to determine how the new authority to increase rates of basic pay for police officers is to be exercised.

The House bill, but not the Senate amendment, would provide an express authority in title 38 for the Administrator to authorize VA police officers to carry firearms if a substantial safety risk arose during the performance of investigative duties or if, because of national emergency or regional disaster, local law enforcement agencies' assistance or support was unavailable; would require the Administrator to appoint a chief inspector to supervise VA police officers and establish the chief inspector's pay rate; and would require the Administrator to determine and regulate the pattern of VA police officers' uniforms.

The compromise agreement does not contain these provisions.

COMPTROLLER GENERAL REPORT ON MEDICAL PERSONNEL STAFFING LEVELS

Both the House bill (section 4) and the Senate amendment (section 10) would amend present section 5010(a)(4)(C) of title 38, to make a technical correction in the due date of a report required to be submitted by the Comptroller General to the Committees on whether the Director of the Office of Management and Budget (OMB) has complied with the requirements of section 5010(a)(4)(B) concerning certification of the authority and funding for personnel ceilings for the VA's Department of Medicine and Surgery. Both the House bill and the Senate amendments also would require the Comptroller General to submit a report in all cases not later than 15 days after the end of the period specified in section 5010(a)(4)(B) for the Director to submit a certification of compliance.

The compromise agreement (section 102) contains this provision.

CONTRACT HEALTH CARE IN PUERTO RICO AND THE VIRGIN ISLANDS

Both the House bill (section 6) and the Senate amendment (section 13) would amend present section 601(4)(C)(v) of Title 38, relating to the Administrator's authority to provide hospital care and medical services in certain noncontiguous "States" (defined in present section 101(20) to include United States Territories and possessions and the Commonwealth of Puerto Rico), to extend for one year—from September 30, 1984, until September 30, 1985—the VA's authority in Puerto Rico and the Virgin Islands and other Territories and possessions of the United States to provide, on a contract basis, hospital care for non-service-connected disabilities and outpatient treatment to obviate the need for hospital admission.

The compromise agreement (section 103) contains this provision with an amendment ratifying any contract entered into by the Administrator of Veterans' Affairs to provide, during the period beginning on October 1, 1984, and ending on the date of enactment, care described in subclause (v) of section 601(4)(C) of Title 38, United States Code, as well as any waiver made by the Administrator of the applicability to the Commonwealth of Puerto Rico or the Virgin Islands of the restrictions described in that subclause for that period.

The Committees specifically note that the VA has not complied with the Committee's previous numerous requests and statutory requirements for a comprehensive long-term plan on the health-care needs of eligible veterans in Puerto Rico and the Virgin Islands. The Committees have deferred an in-depth examination of health-care needs of veterans in Puerto Rico based on the expectation that such a review would be more appropriate when comprehensive recommendations are available from the VA. Ths will be the fourth consecutive time that a "temporary" extension has been granted without a thorough examination of the issues involved and of the justification for continuing access to fee-basis treatment to veterans in Puerto Rico on a basis different from that afforded to veterans in the continental United States.

The Committees direct that a thorough plan for Puerto Rico and the Virgin Islands be designed by the VA and presented (not later than February 1, 1985) in conjunction with the President's Budget for Fiscal Year 1986—a plan that will specifically respond to the mandate in section 107 of Public Law 98-160 that the VA present its plans (and supporting rationale) for meeting the needs of veterans in Puerto Rico and the Virgin Islands, particularly the needs of those with service-connected disabilities. The Committees expect the plan, including those for improvements in inpatient, outpatient, and nursing home care, and for extended psychiatric care services, and specific mechanisms to improve the monitoring of the quality of care provided (as discussed in the concluding paragraph in the discussion of this item).

Finally, the report should include a history of the VA's use of the extraordinary waiver authority provided with respect to the numbers of veterans who may be provided care by the VA in Puerto Rico, together with a plan for phasing out that waiver authority during fiscal year 1985 and an assessment of the impact of that phase-out. Currently, veterans in Puerto Rico are not subject to the restriction law that "the annually determine hospital patient loan and incidence of the provision of medical services" by the VA in Puerto Rico be "consistent with" the levels of such care provided at VA expense to veterans in the continental United States. The Committees note that subsequent legislative action with respect to

health care in Puerto Rico will very likely be taken next year and that the VA's report would provide important information for consideration in that legislative process.

On the basis of reports from staff of both Committees following recent visits to Puerto Rico, the Committees are also concerned that the quality of care in certain contract facilities in Puerto Rico may be substantially below the level that is provided in the 50 States. If that is the case, the Committees believe continuation of VA subsidization of such care would not be in the best interests of the health of veterans in Puerto Rico. The Committees, therefore, also direct the VA, in the strongest possible terms, to reassess the quality assurance standards used for monitoring fee-basis care provided to veterans in Puerto Rico and to improve the monitoring of such care and, as necessary, to attempt to upgrade it to an appropriate level. If such upgrading is not accomplished, the Committees believe that fee-basis contracts with facilities providing substandard care should be discontinued. In order to follow up on these concerns, the Committee plan to send a letter of inquiry to the Joint Commission on Accreditation on Hospitals in order to determine what, if any, differences exist in the accreditation standards and practices applied to Puerto Rico facilities and those in the 50 States.

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR GERIATRIC RESEARCH, EDUCATION, AND CLINICAL ACTIVITIES

The House bill (section 7), but not the Senate amendment, would amend section 4101(f)(3) of title 38, relating to the VA's Geriatric Research, Education, and Clinical Centers (GRECCs), to make permanent the authorization of appropriations to support the research and education activities of the GRECC program in fiscal years 1985 and beyond. Current law authorizes the appropriation of funds for fiscal years 1981 through 1984.

The compromise agreement (section 104) contains this provision.

ACQUISITION OF PROPERTIES FOR USE AS STATE VETERANS' HOMES

Both the House bill (section 8) and the Senate amendment (section 15), with technical differences, would amend Subchapter III of Chapter 81 of title 38, relating to the State veterans homes matching-fund construction grant program, to authorize the VA to provide grant funds to a State to enable the State to acquire an existing facility for use as a State's veterans' home nursing home or domiciliary facility. The use of the authority to utilize a grant for acquisition of an existing facility would be limited to situations in which reasonable assurances are provided that the cost of the purchase, together with the costs of any necessary expansion, remodeling, and alteration, would not be more costly than constructing a new facility.

The compromise agreement (section 105) follows the House provision.

COORDINATION OF VETERANS' ADMINISTRATION HEALTH-CARE SERVICE WITH STATE AND LOCAL PROGRAMS

The Senate amendment (section 2), but not the House bill, would amend subchapter I of chapter 73 of title 38, relating to the general organization of the VA's Department of Medicine and Surgery, to add a new section 4120 which would require the Administrator to designate one unit in each VA health-care facility to coordinate referrals of veterans eligible for care under chapter 17 of title 38, with a special emphasis on veterans who are 65 years old or older, to non-VA entities for care not at VA expense and to help coordinate veterans' care by such entities when such referrals are reasonably necessary for the health of the veterans. The Administrator would be required to implement this new section 4120 in a manner consistent with the United States' commitment to provide a comprehensive, nationwide health-care system for direct care to eligible veterans and its obligation to provide care for service-connected disabilities.

The compromise agreement contains a provision (section 106) derived from this provision. The compromise agreement would add a new subsection (b) to present section 220 of title 38, relating to the coordination and promotion of other Federal programs affecting veterans and their dependents. This new subsection would require the Administrator to seek to achieve the effective coordination of the provision, under laws administered by the VA, of benefits and services (and information about such benefits and services) with programs conducted by State and local public and private agencies (and information about such programs). In carrying out this function, the Administrator would be required to place special emphasis on veterans who are 65 years old or older.

MEDICAL AND REHABILITATIVE DEVICES

The Senate amendment (section 4), but not the House bill, would amend section 617 of title 38, relating to invalid lifts and other devices, to provide the Administrator with the authority to provide devices to assist in overcoming the handicap of deafness, including telecaptioning television decoders, to veterans who are profoundly deaf and entitled to disability compensation on account of hearing impairment.

The compromise agreement (section 107) contains this provision.

AUTHORITY TO ADJUST RATES OF PAY FOR CERTAIN PSYCHOLOGISTS

The Senate amendment (section 17), but not the House bill, would amend present section 4104 of title 38, relating to the appointment of personnel in the VA's Department of Medicine and Surgery (DM&S), to authorize the Administrator, in order to improve the VA's ability to recruit and retain certain psychologists, to increase the minimum, intermediate, or maximum rates of basic pay for certain clinical or counseling psychologists working in DM&S. Such increases could be provided for clinical or counseling psychologists who are board certified—accredited as diplomates in psychology by an accrediting authority approved by the Administrator—if the Administrator determines, pursuant to current section 4107(g)(2), that increased rates of pay are needed to (1) provide rates of pay competitive with the rates paid to such individuals by non-Federal health-care employers in the same labor market, (2) to achieve adequate staffing at particular facilities, or (3) to recruit personnel with specialized skills.

The compromise agreement (section 108) contains this provision.

WAIVER OF MANDATORY REDUCTIONS IN MILITARY RETIRED PAY FOR CERTAIN PHYSICIANS

A related House bill (H.R. 4694 as passed by the House on June 25, 1984), but not the Senate amendment, would amend section 4107 of title 38, relating to grades and pay scales of DM&S employees, to authorize the Administrator to waive the mandatory reductions in military retirement pay of Federal employees, set forth in section 5532 of title 5, United States Code, if necessary to recruit a well-qualified doctor of medicine or osteopathy for employment in DM&S. The House bill provision would restore for DM&S the recently expired authority (delegated to the Administrator by the Director of the Office of Personnel Management) in section 5532(e) of title 5, United States Code, permitting the granting of exceptions to subsections (a), (b), and (c) of section 5532 of title 5 requiring the reduction of retired or retainer pay of retired military officers who hold a paid Government position.

The compromise agreement (section 109) contains this provision modified so as to provide the Administrator with the authority to waive such reductions in military retirement or retainer pay only when it is determined to be necessary to meet special or emergency employment needs in DM&S which result from a severe shortage of well-qualified candidates in physician positions which otherwise cannot be readily met—the standard applicable under the expired section 5532(e) of title 5.

POST-TRAUMATIC-STRESS DISORDER

Both the House bill (section 3) and the Senate amendment (section 5) contain provision relating to the VA's provision of diagnosis and treatment for veterans with post-traumatic-stress disorder (PTSD).

The House bill, but not the Senate amendment, would amend present subchapter II of chapter 17 of title 38, relating to hospital, nursing home or domiciliary care and medical treatment, to add a new section 620B concerning the treatment for post-traumatic-stress disorder. Under the House bill, the Administrator would be authorized, through September 30, 1988, provide hospital care and other health-care services under this section to any veteran who is eligible for hospital, nursing home, or domiciliary care under section 610 of title 38 or for outpatient services under section 612 and who is determined to be suffering from PTSD attributable to the veteran's service. The Administrator would be authorized to provide hospital care, medical services, outpatient services, counseling to family members and others in primary social relationships with the veteran, rehabilitation services, vocational counseling, home health services, and other services necessary for the treatment of the veteran and to coordinate the provision of those services with readjustment counseling services under section 612A of title 38. The House bill would authorize services under new section 620B to be provided only through VA treatment units established for the treatment of PTSD although it would not have affected existing authority to provide such health care under other provisions in title 38. These PTSD treatment units would be required to sponsor educational efforts for public and private sector health-care professional concerning the causes, diagnosis, and treatment of PTSD and would also be given priority in obtaining VA research funds allocated for the study of PTSD. Any VA medical facility with PTSD treatment services already established by October 1, 1984, would be required to be considered to have a PTSD treatment unit for the purposes of new section 620B unless the Administrator were to determine that such services were unnecessary at that facility or that the VA could more efficiently meet the demand for PTSD treatment at another facility.

The compromise agreement contains a provision (section 110(a)) derived from these

provisions. Under the compromise agreement, the Chief Medical Director would be authorized to designate special programs for the treatment of PTSD and would be required to direct any such designated PTSD programs to include in their efforts the promotion of the education and the training of VA and non-VA health-care personnel in the causes, diagnosis, and treatment of PTSD and (where appropriate) to coordinate PTSD treatment services with readjustment counseling services provided under present section 612A of title 38.

The Senate amendment (section 5(a)), but not the House bill, would require the VA's Chief Medical Director (CMD) to establish a Special Committee on PTSD in the Department of Medicine and Surgery (DM&S) and to appoint qualified DM&S employees to serve on the Special Committee. The Special Committee would be required to assess the VA's capacity to provide diagnosis and treatment to eligible veterans with PTSD and to advise the CMD on policies, guidance, and coordination of services for the diagnosis and treatment of veterans with PTSD by VA programs, including inpatient PTSD units, other psychiatric programs, outpatient mental health clinics, and readjustment counseling programs. The Special Committee would also be required to make recommendations to the CMD on guidance for appropriate diagnosis and treatment of veterans with PTSD by VA programs, including inpatient PTSD units, other psychiatric programs, outpatient mental health clinics, and readjustment counseling programs. The Special Committee would also be required to make recommendations to the CMD on guidance for appropriate diagnostic and treatment methods, referral for and coordination of follow-up programs, the conduct of research on PTSD, education and training on PTSD for VA employees, the allocation of resources for all VA PTSD activities, and steps to improve the diagnosis and treatment of PTSD and the operation of inpatient PTSD units.

The compromise agreement contains these provisions (section 110(b)).

The Senate amendment (section 5(b)), but not the House bill, would require the CMD to establish and operate a National Center on PTSD (1) to conduct and promote research on, and the training of health-care and related personnel in, the diagnosis and treatment of veterans with PTSD, and (2) to serve as a resource center for the coordination and exchange of information on VA and other research and training activities with respect to PTSD. The House bill would require the Administrator to promote the exchange of information among health-care professionals concerning PTSD.

The compromise agreement contains the Senate provisions (section 110(c)).

The House bill, but not the Senate amendment, would require the Administrator to compile and publish, on regular basis, research results on the causes, diagnosis, and treatment of PTSD.

The compromise agreement contains this provision (section 110(d)), with a modification so that the CMD, not the Administrator, would be required to compile and publish the research results.

The House bill, but not the Senate amendment, would require the Administrator to identify in the President's budget for each fiscal year during the operation of the PTSD treatment units proposed in the House bill, the resources allocated to the units and to give priority, when feasible and otherwise appropriate, to medical facilities with PTSD units when allocating research funds related to PTSD.

The Senate amendment (section 5(c)), but not the House bill, would require the Administrator to report to the Committees within 180 days after the date of enactment, on the implementation of the Senate amendment provisions relating to the Special Committee and the National Center. The report would include a list of the members of the Special Committee; the CMD's assessment of the VA's capability to meet the needs of certain veterans with PTSD; a description of the results of any evaluations of inpatient PTSD units; the Special Committee's plans for further assessments; the Special Committee's recommendations to the CMD; a description of the implementation of these provisions; and the Administrator's assessment of the VA's capacity to meet the needs of certain veterans (Vietnam veterans, former prisoners of war, and other veterans with PTSD eligible for VA health care), as well as the Administrator's plans, a timetable, and costs for increasing that capacity. Not later than February 1, 1986, and annually thereafter, the VA would be required to submit a report to the Committees updating this information.

The compromise agreement contains a provision (section 110(d)) derived from these provisions. Under the compromise agreement, the Administrator would be required to submit, not later than March 1, 1985, to the Committees a report on the implementation of the new PTSD provisions. This report would include a list of the members of the Special Committee; a list of all designated and other PTSD programs; a description of the resources allocated for each program; a description of the training provided to personnel on PTSD; and the specification of the funding allocated to support research on PTSD. In addition, the report would include the CMD's assessment of the VA's capability to meet the need for PTSD diagnosis and treatment of certain veterans and the efficacy of the treatment provided and a description of the results of PTSD program evaluations; the Special Committee's plans for further assessments of the VA's capability to diagnose and treat veterans with PTSD; the Special Committee's recommendations to the CMD and the CMD's views on these recommendations; a summary of the results of VA-conducted research on PTSD; a description of steps taken, plans made, and resources to be applied to implement the provisions relating to the Special Committee and the National Center; and the Administrator's assessment of the VA's capacity to meet the needs of certain veterans for PTSD diagnosis and treatment and any plans, including costs, of increasing that capacity. Not later than February 1, 1986, and February 1 of each year for the following three years thereafter, the Administrator shall submit to the House and Senate Veterans' Affairs Committees a report updating the reports previously submitted.

With respect to the portions of these reports relating to the allocation of resources for PTSD programs, treatment, and research, the Committees intend the first report to include information with respect to allocations made for fiscal year 1986 and expenditures for each prior year. The Committees intend that each subsequent report provide updating information through allocations made for the fiscal year in which the report is submitted.

ALCOHOL AND DRUG TREATMENT AND REHABILITATION GUIDELINES

The Senate amendment (section 3), but not the House bill, would amend present section 620A of title 38, relating to treatment and rehabilitation for alcohol or drug dependence or abuse disabilities, to require the Administrator, not later than 12 months after the date of enactment, to prescribe regulations providing guidelines for treatment and rehabilitation of veterans for alcohol or drug dependence or abuse disabilities in VA facilities. The guidelines would be required to include guidance on the duration of treatment and rehabilitation (taking into account the duration of such treatment and rehabilitation in non-VA programs and identifying duration in detoxification, inpatient-acute care, inpatient-rehabilitation care, inpatient-extended care, outpatient care, and follow-up services), referral assistance, and monitoring of individual treatment plans and follow-up.

The compromise agreement contains a provision (section 202) derived from this provision. Under the compromise agreement, the Administrator would be required to issue, not later than six months after the date of enactment, guidelines for the treatment and rehabilitation of veterans for alcohol or drug dependence or abuse disabilities, under chapter 17 of title 38, in VA facilities and submit to the Committees a copy of the guidelines and a report on the implementation of this section.

The Committees intend that, in the development of the guidelines, the Administrator consider the subject matter covered in the Senate amendment.

The Senate amendment, but not the House bill, would also require the Administrator to submit, not later than March 1, 1985, and March 1 of each subsequent year, to the Committees, a report containing a comprehensive survey of activities during the preceding fiscal year of all VA alcohol or drug dependence of abuse treatment and rehabilitation programs.

The compromise agreement does not contain this provision.

The Senate amendment, but not the House bill, would also amend present section 620A of title 38, to delete the references to "pilot" in the description of the VA's program for the provision of alcohol and drug treatment and rehabilitation through contracts with non-VA halfway house and other community-based programs, to extend for two years, through September 30, 1987, the VA's authority to contract with such halfway houses and other programs, and to require the Administrator to submit to the Committees, not later than March 1, 1986, a report on the operation of the contract program (including information on the average duration of veterans' participation, the rates of successful rehabilitation, and any changes in average and maximum costs per veteran under the contracts entered into by the VA).

The compromise agreement does not contain these provisions.

The Committees note that this contract authority is not due to expire until September 30, 1985, and that the House Committee tentatively plans to hold hearings next year on the VA's programs for treatment and rehabilitation for veterans with alcohol and drug abuse disabilities, including the halfway house program.

REPORT ON VETERANS' ADMINISTRATION PROGRAMS FOR TERMINALLY ILL VETERANS

The Senate amendment (section 6), but not the House bill, would require the Administrator, not later than September 30, 1985, to submit to the Committees a report on VA programs to furnish palliative care, supportive counseling, and other medical services to terminally ill veterans and supportive counseling to their families.

The compromise agreement (section 301) contains this provision but deletes a reference to the Administrator including in the report any proposals of the Administrator for administrative or legislative action in this area.

VETERANS RESIDING IN REMOTE GEOGRAPHIC AREAS

The Senate amendment (section 13), but not the House bill, would express the sense of the Congress that, in light of the geographic inaccessibility to VA health-care facilities of certain veterans with service-connected disabilities and other veterans eligible or VA health care, a study of veterans residing in remote areas and their use of VA health-care facilities would provide useful information on the feasibility and appropriateness of alternative approaches to health-care services for such veterans. The Administrator would be required to carry out such a study and, not later than January 1, 1986, submit to the Committees a report on the study resutls. Not later than July 1, 1986, the Administrator would be required to submit a report to the Committees on an experimental program to demonstrate in 5 remote areas alternative approaches for the VA to provide health-care services to eligible veterans in remote areas.

The compromise agreement (section 302) contains these provisions.

USE OF CERTAIN LANDS BY THE UNIVERSITY OF CALIFORNIA

Both a related House bill (H.R. 2629 as passed by the House on November 8, 1983), and the Senate amendment (section 14) would require the Administrator to execute any necessary legal documents to permit the use, for educational or cultural purposes, of a portion of certain property in Los Angeles, California. When this land was originally transferred to the State of California on December 10, 1948, for use by the University of California, the deed limited its uses to use as a research and medical center and for allied purposes. Under the revised deed, the property involved would revert to the United States if it ceases to be used as a research and medical center or for educational or cultural purposes.

The compromise agreement (section 401) contains this provision.

NAMING OF VETERANS' ADMINISTRATION MEDICAL CENTERS

The Senate amendment (section 19(a)), but not the House bill, would designate the VA Medical Center in Murfreesboro, Tennessee, as the "Sergeant Alvin C. York VA Medical Center".

A related House bill (H.R. 4734 as passed by the House on May 21, 1984) and the Senate amendment (section 19(b)) would designate the VA Medical Center in Milwaukee, Wisconsin, as the "Clement J. Zablocki VA Medical Center".

The compromise agreement (section 401) contains these provisions with a modification to delete the word "Sergeant" from the proposed new name of the VA Medical Center in Murfreesboro, Tennessee.

AUTOMOBILE ADAPTIVE EQUIPMENT

The Senate amendment (section 7), but not the House bill, would amend section 1903(c) of title 38, to specify that veterans eligible for adaptive equipment for their automobiles are entitled to a maximum of two such adaptations at any one time or within a 4-year period unless, as a result of circumstances beyond the veteran's control, the veteran no longer has use of one of these two vehicles, in which case the Administrator would be authorized to provide the veteran with an adaptation for a third vehicle.

The compromise agreement does not contain this provision.

The Committees intend to consider the Senate provision in relation to a House provision (section 204) in H.R. 5688, the proposed "Veterans' Compensation Amendments for Fiscal Year 1985", when the provisions of that measure are resolved in relation to the provisions of S. 2736, the proposed "Veterans' Administration Benefit Rate Increase and Program Improvement Act of 1984".

PER DIEM RATES FOR STATE HOMES

The House bill (section 5) but not the Senate amendment, would amend section 641(c) of title 38, relating to payments to State Homes, to require the Administrator to submit annually to the Committees a report on the adequacy of the per diem rates (prescribed by current section 641(a)) paid by the VA to the State for veterans who are receiving domiciliary, nursing home, or hospital care in State Veterans' Homes. Under present section 641(c), the Administrator is required to submit such a report every three years beginning on June 30, 1986.

The compromise agreement does not contain this provision.

VETERANS AUTHORIZED TO BE FURNISHED WITH DRUGS AND MEDICINES

The House bill (section 9), but not the Senate amendment, would amend section 612(h) of title 38, relating to the eligibility for certain medical treatment, to authorize the Administrator to provide a veteran with drugs and medicines prescribed by a private physician for the treatment of a service-connected disability for which the veteran is receiving compensation.

The compromise agreement does not contain this provision.

READJUSTMENT COUNSELING

The Senate amendment (section 8), but not the House bill, would amend section 612A(g)(2)(B) of title 38, to require the Administrator to include in a previously mandated VA report on the effectiveness and the future of the VA's readjustment counseling program for Vietnam era veterans—due to be submitted to the Committees not later than April 1, 1987—assessments of whether or not certain veterans and certain active-duty personnel who are not currently eligible for readjustment counseling under section 612A need such counseling, and, if so, the Administrator's recommendations on how such needs should be met.

The Senate amendment, but not the House bill, would also require the Administrator and the Secretary of Defense to submit, not later than 180 days after the date of enactment, to the appropriate committees of the Congress a joint report on their recommendations on the appropriateness and desirability of extending eligibility for VA readjustment counseling services to persons who served on active duty either during the Vietnam era or after the Vietnam era in an area of hostilities.

The compromise agreement does not contain these provisions.

REPORT ON FEDERAL GOVERNMENT RESPONSIBILITY TO INDIVIDUALS WHO SERVED WITH VOLUNTARY CIVILIAN ORGANIZATIONS IN VIETNAM

The Senate amendment (section 11), but not the House bill, would require the Administrator and the Secretaries of Defense and of Health and Human Services to submit to the appropriate Congressional committees, not later than 180 days after the date of enactment, a joint report on the question of U.S. Government responsibility for providing benefits and services (including, but not limited to, health care and monetary compensation for disabilities which may be related to exposure to dioxin or be the result of traumatic events), either through the VA or otherwise, to individuals who served in Vietnam with voluntary organizations that provided significant assistance to the U.S. Armed Forces and who incurred disabilities that may be related to such service.

The compromise agreement does not contain this provision.

SENSE OF THE CONGRESS REGARDING CERTAIN GRACE COMMISSION RECOMMENDATIONS

The Senate amendment (section 16), but not the House bill, would express the sense of the Congress (1) that the recommendations of the President's Private Sector Survey on Cost Control (the "Grace Commission") relating to the VA health-care system must be evaluated in light of (A) the commitment of the United States, as embodied in the VA's Department of Medicine and Surgery, to meet the medical needs of veterans eligible for health care from the VA, especially veterans with service-connected disabilities, (B) the policy of the United States to maintain a comprehensive, nationwide health-care system for the direct provision of quality health-care services to eligible veterans, and (C) the requirement, pursuant to section 5010(a)(1) of title 38, United States Code, for the VA to operate and maintain not less than 90,000 hospital and nursing home beds, and (2) that the recommendations should not be implemented without full and careful consideration of their policy implications by the Committees.

The compromise agreement does not contain this provision.

PROGRAM GUIDE ON ALZHEIMER'S DISEASE

The Senate amendment (section 18), but not the House bill, would require the Administrator to provide, not later than 180 days after the date of enactment, to appropriate VA medical facilities and to submit to the Committees a program guide to clarify VA policy regarding the authorization and provision of treatment for Alzheimer's disease, (including diagnosis, information, outpatient services, hospital care, and nursing home care, of veterans who are eligible for services under title 38, United States Code, and who are suffering from Alzheimer's disease and related neurological diseases).

The compromise agreement does not contain this provision.

House amendments to the Senate amendments to H.R. 5618: In lieu of the matter proposed to be inserted by the Senate amendment to the text of the bill, insert the following:

SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE

SECTION 1. (a) This Act may be cited as the "Veterans' Health Care Act of 1984".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—HEALTH PROGRAMS

SECURITY AND LAW ENFORCEMENT AT VETERANS' ADMINISTRATION FACILITIES

SEC. 101. (a)(1) Section 218 is amended to read as follows:

"§ 218. Security and law enforcement on property under the jurisdiction of the Veterans' Administration

"(a)(1) The Administrator shall prescribe regulations to provide for the maintenance of law and order and the protection of persons and property on land and in buildings under the jurisdiction of the Veterans' Administration and not under the control of the Administrator of General Services (hereinafter in this section referred to as 'Veterans' Administration property').

"(2) Such regulations shall include—

"(A) rules for conduct on Veterans' Administration property; and

"(B) the penalties, within the limits specified in paragraph (3) of this subsection, for violations of such rules.

"(3) Whoever violates any rule prescribed under paragraph (2)(A) of this subsection shall be fined not more than $500 or imprisoned not more than six months (or such lesser amount or period of time as the Administrator prescribes in the regulations prescribed under this subsection), or both.

"(4) The rules prescribed under clause (A) of paragraph (2) of this subsection, together with the penalties for violations of such rules, shall be posted conspicuously on property to which they apply.

"(5) The Administrator shall consult with the Attorney General before prescribing regulations under this subsection.

"(b)(1) Veterans' Administration employees who are Veterans' Administration police officers shall enforce Federal laws and the rules prescribed under subsection (a)(2)(A) of this section on Veterans' Administration property. Subject to regulations prescribed under paragraph (2) of this subsection, a Veterans' Administration police officer may make arrests on Veterans' Administration property for a violation of any Federal law or of any such rule.

"(2) The Administrator shall prescribe regulations with respect to Veterans' Administration police officers. Such regulations shall include—

"(A) policies with respect to the exercise by Veterans' Administration police officers of the enforcement and arrest authorities provided by paragraph (1) of this subsection;

"(B) the scope and duration of training that is required for Veterans' Administration police officers, with particular emphasis on dealing with situations involving patients; and

"(C) rules limiting the carrying and use of weapons by Veterans' Administration police officers.

"(3) The Administrator shall consult with the Attorney General before prescribing regulations under clause (A) of paragraph (2) of this subsection.

"(4) Rates of basic pay for Veterans' Administration police officers may be increased by the Administrator under section 4107(g) of this title.

"(c)(1) The Administrator may pay an allowance under this subsection for the purchase of uniforms to any Veterans' Administration police officer who is required to wear a prescribed uniform in the performance of official duties.

"(2) The amount of the allowance that the Administrator may pay under this subsection—

"(A) may be based on estimated average costs or actual costs;

"(B) may vary by geographic regions; and

"(C) except as provided in paragraph (3) of this paragraph, may not exceed $200 in a fiscal year for any police officer.

"(3)(A) The amount of an allowance under this subsection may be increased to an amount up to $400 for not more than one fiscal year in the cost of any Veterans' Administration police officer. In the case of a person who is appointed as a Veterans' Administration police officer on or after the date on which the Administrator initially exercises the authority granted by this paragraph, an allowance in an amount established under this paragraph shall be paid at the beginning of such person's employment as such an officer. In the case of any other Veterans' Administration police officer, an allowance in an amount established under this paragraph shall be paid upon the request of the officer.

"(B) A police officer who resigns as a police officer less than one year after receiving an allowance in an amount established under this paragraph shall repay to the Veterans' Administration a pro rata share of the amount paid, based on the number of months the officer was actually employed as such an officer during the 12-month period following the date on which such officer began such employment or the date on which the officer submitted a request for such allowance, as the case may be.

"(4) An allowance may not be paid to Veterans' Administration police officer under this subsection and under section 5901 of title 5 of the same fiscal year.

"(d) The Administrator shall furnish Veterans' Administration police officers with such weapons and related equipment as the Administrator determines to be necessary and appropriate.

"(e) With the permission of the head of the agency concerned, the Administrator may use the facilities and services of Federal, State, and local law enforcement agencies when it is economical and in the public interest to do so.".

(2) The provisions of section 218 of title 38, United States Code, other than clause (2) of subsection (a) of such section, as in effect on the day before the date of the enactment of this Act shall remain in effect until the date on which the Administrator of Veterans' Affairs prescribes the regulations required to be prescribed by subsections (a) and (b) of such section as amended by subsection (a) of this section.

(3) The item relating to such section in the table of sections at the beginning of chapter 3 of such title is amended to read as follows:

"218. Security and law enforcement on property under the jurisdiction of the Veterans' Administration.".

(b) Section 4107(g) is amended—

(1) in paragraph (1)—

(A) by striking out "or" at the end of clause (A);

(B) by striking out the comma and inserting in lieu thereof a semicolon and "or" at the end of subclause (iv) of clause (B); and

(C) by inserting after clause (B) the following new clause:

"(C) of employees who are Veterans' Administration police officers providing services under section 218 of this title,";

(2) by striking out "health-care" each place it appears in paragraphs (2)(A) and (4); and

(3) by inserting "or (C)" after "(B)" in paragraph (4).

(c) Not later than 180 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of the amendments made by this section. The report shall include (1) the regulations prescribed under section 218 of title 38, United States Code, as amended by subsection (a), and (2) a description of the methodology to be used to determine how the authority provided in the amendments made by subsection (b) is to be exercised.

COMPTROLLER GENERAL REPORT ON MEDICAL PERSONNEL STAFFING LEVELS

SEC. 102. Section 5010(a)(4)(C) is amended to read as follows:

"(C) whenever the Director of the Office of Management and Budget is required to submit a certification under subparagraph (B) of this paragraph, the Comptroller General shall submit to the appropriate committees of the Congress a report stating the Comptroller General's opinion as to whether the Director has complied with the requirements of that subparagraph. The Comptroller General shall submit the report not later than 15 days after the end of the period specified in such subparagraph for the Director to submit the certification.".

CONTRACT HEALTH CARE IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 103. (a) Section 601(4)(C)(v) is amended by striking out "September 30, 1984" and inserting in lieu thereof "September 30, 1985".

(b) Any action by the Administrator of Veterans' Affairs in entering into a contract applicable to the period beginning on October 1, 1984, and ending on the date of the enactment of this Act for the provision of care described in subclause (v) of section 601(4)(C) of title 38, United States Code, and any waiver described in that subclause made by the Administrator that is applicable to that period, is hereby ratified with respect to that period.

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR GERIATRIC RESEARCH, EDUCATION, AND CLINICAL ACTIVITIES

SEC. 104. Section 4101(f)(3) is amended by striking out the first sentence and inserting in lieu thereof the following: "There are authorized to be appropriated such sums as may be necessary for the suport of the research and education activities of the centers established pursuant to paragraph (1) of this subsection.".

ACQUISITION OF PROPERTIES FOR USE AS STATE VETERANS' HOMES

SEC. 105. Subchapter III of chapter 81 is amended as follows:

(1) Section 5032 is amended by inserting "(or to acquire facilities to be used as State home facilities)" after "State home facilities".

(2) Section 5034 is amended by inserting "or acquired" after "constructed" each place it appears.

(3) Section 5035 is amended—

(A) by inserting "(or acquisition of a facility to be used as a State home facility)" in the first sentence of subsection (a) after "State home facilities";

(B) by inserting "(or of the estimated cost of facility acquisition and construction)" in clause (1) of subsection (a) after "cost of construction";

(C) by inserting "(or for facility acquisition and construction of the project)" in clause (6) of subsection (a) after "construction of the project";

(D) by striking out "sections 276a through 276a-5 of title 40" in clause (8) of subsection (a) and inserting in lieu thereof "the Act of March 3, 1931 (40 U.S.C. 276a—276a-5)";

(E) by striking out "and" at the end of clause (7), by striking out the period at the end of clause (8) and inserting in lieu thereof a comma and "and", and by inserting after clause (8) the following new clause:

"(9) in the case of a project for acquisition of a facility, reasonable assurance that the estimated total cost of acquisition of the facility and of any expansion, remodeling, and alteration of the acquired facility will not be greater than the estimated cost of construction of an equivalent new facility.";

(F) by inserting "(or of the estimated cost of facility acquisition and construction)" in clause (2) of subsection (b) after "cost of construction";

(G) by striking out "the construction of" in clause (4) of subsection (b) and inserting in lieu thereof "the carrying out of"; and

(H) in subsection (d)(1)—

(i) by inserting "(or of the estimated cost of facility acquisition and construction)" in the first sentence after "cost of construction";

(ii) by striking out "constructed" in the second sentence and inserting in lieu thereof "carried out";

(iii) by striking out "construction" in the third sentence and inserting in lieu thereof "the project"; and

(iv) by striking out "the construction of" in the fourth sentence.

(4) Section 5036 is amended—

(A) by striking out "for construction" after "completion of any project";

(B) by inserting "acquisition," after "in the case of the";

(C) by striking out "value of such construction" and inserting in lieu thereof "value of such project";

(D) by striking out "for such construction" after "assistance provided for"; and

(E) by striking out "twenty" both places it appears and inserting in lieu thereof "20".

(5) Section 5037 is amended by inserting "or acquired" after "constructed".

COORDINATION OF VETERANS' ADMINISTRATION HEALTH-CARE SERVICES WITH STATE AND LOCAL PROGRAMS

SEC. 106. (a) Section 220 is amended—

(1) by inserting "(a)" before "The Administrator"; and

(2) by adding at the end the following new subsection:

"(b) The Administrator shall seek to achieve the effective coordination of the provision, under laws administered by the Veterans' Administration, of benefits and services (and information about such benefits and services) with appropriate programs (and information about such programs) conducted by State and local governmental agencies and by private entities at the State and local level. In carrying out this subsection, the Administrator shall place special emphasis on veterans who are 65 years of age or older.".

(b)(1) The heading of such section is amended to read as follows:

"§ 220. Coordination and promotion of other programs affecting veterans and their dependents".

(2) The item relating to such section in the table of sections at the beginning of chapter 3 is amended to read as follows:

"220. Coordination and promotion of other programs affecting veterans and their dependents.".

MEDICAL AND REHABILITATIVE DEVICES

SEC. 107. Section 617 is amended—

(1) by inserting "(a)" before "The Administrator"; and

(2) by adding at the end of the following new subsection:

"(b) The Administrator may furnish devices for assisting in overcoming the handicap of deafness (including telecaptioning television decoders) to any veteran who is profoundly deaf and is entitled to compensation on account of hearing impairment.".

AUTHORITY TO ADJUST RATES OF PAY FOR CERTAIN PSYCHOLOGISTS

SEC. 108. Section 4104 is amended—

(1) by inserting "(other than those described in paragraph (3))" after "psychologists" in paragraph (2); and

(2) by striking out "Certified" in paragraph (3) and inserting in lieu thereof "Clinical or counseling psychologists who hold diplomas as diplomates in psychology from an accrediting authority approved by the Administrator, certified".

WAIVER OF MANDATORY REDUCTIONS IN MILITARY RETIRED PAY FOR CERTAIN PHYSICIANS

SEC. 109. Section 4107 is amended by adding at the end the following new subsection:

"(i) The Administrator may authorize an exception to the restrictions in subsections (a), (b), and (c) of section 5532 of title 5 if necessary to meet special or emergency employment needs which result from a severe shortage of well-qualified candidates in physician positions which otherwise cannot be readily met.".

POST-TRAUMATIC-STRESS DISORDER

SEC. 110. (a)(1) The Chief Medical Director of the Veterans' Administration may designate special programs within the Department of Medicine and Surgery for the diagnosis and treatment of post-traumatic-stress disorder (hereinafter in this section referred to as "PTSD").

(2) The Chief Medical Director shall direct (A) that (in addition to providing diagnostic and treatment services for PTSD) Veterans' Administration programs designated under paragraph (1) (hereinafter in this section referred to as "designated PTSD programs") carry out activities to promote the education and training of health-care personnel (including health-care personnel not working for the Veterans' Administration or the Federal Government) in the causes, diagnosis, and treatment of PTSD, and (B) that (when appropriate) the provision of treatment services under such program be coordinated with the provision of readjustment counseling services under section 612A of title 38, United States Code.

(b)(1) The Chief Medical Director shall establish in the Department of Medicine and Surgery a Special Committee on Post-Traumatic-Stress Disorder (hereinafter in this section referred to as the "Special Committee"). The Chief Medical Director shall appoint qualified employees of the Department to serve on the Special Committee.

(2) The Special Committee shall assess, and carry out a continuing assessment of, the capacity of the Veterans' Administration to provide diagnostic and treatment services for PTSD to veterans eligible for health care furnished by the Veterans' Administration.

(3) The Special Committee shall also advise the Chief Medical Director regarding the development of policies, the provision of guidance, and the coordination of services for the diagnosis and treatment of PTSD (A) in designated PTSD programs, (B) in inpatient psychiatric programs and outpatient mental health programs other than designated PTSD programs, and (C) in readjustment counseling programs of the Veterans' Administration.

(4) The Special Committee shall also make recommendations to the Chief Medical Director for guidance with respect to PTSD regarding—

(A) appropriate diagnostic and treatment methods;

(B) referral for and coordination of followup care;

(C) the evaluation of PTSD treatment programs;

(D) the conduct of research concerning such diagnosis and treatment (taking into account the provisions of subsection (c));

(E) special programs of education and training for employees of the Department of Medicine and Surgery and the Department of Veterans' Benefits (also taking into account such provisions);

(F) the appropriate allocation of resources for all such activities; and

(G) any specific steps that should be taken to improve such diagnoses and treatment and to correct any deficiencies in the operations of designated PTSD programs.

(c) The Chief Medical Director shall establish and operate in the Department of Medicine and Surgery a National Center on Post-Traumatic-Stress Disorder. The National Center (1) shall carry out and promote the training of health-care and related personnel in, and research into, the causes and diagnosis of PTSD and the treatment of veterans for PTSD, and (2) shall serve as a resource center for, and promote and seek to coordinate the exchange of information regarding, all research and training activities carried out by the Veterans' Administration, and by other Federal and non-Federal entities, with respect to PTSD.

(d) The Chief Medical Director shall regularly compile and publish the results of research that has been conducted relating to PTSD.

(e)(1) Not later than March 1, 1985, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of this section. The report shall include the following:

(A) A list of the members of the Special Committee.

(B) A list of all designated PTSD programs and other programs providing treatment for PTSD, together with a description of the resources that have been allocated for the development and operation of each such program, a description of the education and training that has been provided for Veterans' Administration health-care personnel in such programs and elsewhere within the Veterans' Administration in diagnosis and treatment of PTSD, and specification of the funding that has been allocated to each such program and elsewhere within

the Veterans' Administration to support research relating to PTSD.

(C) The assessment of the Chief Medical Director of the Veterans' Administration, after consultation with the Special Committee, regarding the capability of the Veterans' Administration to meet the needs for inpatient and outpatient PTSD diagnosis and treatment (both through designated PTSD programs and otherwise) of veterans who served in the Republic of Vietnam during the Vietnam era, former prisoners of war, and other veterans eligible for health care from the Veterans' Administration and the efficacy of the treatment so provided, as well as a description of the results of any evaluations that have been made of PTSD treatment programs.

(D) The plans of the Special Committee for further assessments of the capability of the Veterans' Administration to diagnose and treat veterans with PTSD.

(E) The recommendations made by the Special Committee to the Chief Medical Director and the views of the Chief Medical Director on such recommendations.

(F) A summary of the results of research conducted by the Veterans' Administration relating to PTSD.

(G) A description of the steps taken, plans made (and a timetable for their execution), and resources to be applied to implement subsections (b) and (c).

(H) The assessment of the Administrator of the capacity of the Veterans' Administration to meet in all geographic areas of the United States the needs described in subparagraph (C) and any plans and timetable for increasing that capacity (including the costs of such action).

(2) Not later than February 1, 1986, and February 1 of each of the three following years, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing information updating the reports submitted under this subsection before the submission of such report.

ALCOHOL AND DRUG TREATMENT AND REHABILITATION GUIDELINES

SEC. 111. Not later than 6 months after the date of the enactment of this Act, the Administrator of Veterans' Affairs (1) shall issue guidelines for the treatment and rehabilitation of veterans for alcohol or drug dependence or abuse disabilities under chapter 17 of title 38, United States Code, in facilities over which the Administrator has direct jurisdiction, and (2) shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report (including a copy of such guidelines) on the implementation of this section.

TITLE II—REPORTS

REPORT ON VETERANS' ADMINISTRATION PROGRAMS FOR TERMINALLY ILL VETERANS

SEC. 201. (a) Not later than September 30, 1985, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on programs of the Veterans' Administration to furnish palliative care, supportive counseling, and other medical services to terminally ill veterans and, pursuant to section 601(6)(B) of title 38, United States Code, supportive counseling to members of such veterans' families.

(b) The report required by subsection (a) shall include the following:

(1) A review of Veterans' Administration policies and guidelines on the provision of care, counseling, and services described in subsection (a).

(2) A review of the care, counseling, and services furnished, including the treatment modalities used and services furnished by the Veterans' Administration.

(3) An analysis and a comparison of the care, counseling, and services furnished with respect to terminally ill veterans in hospice and other Veterans' Administration programs, including a comparison of the routine and ancillary services, of the duration of inpatient and outpatient treatment and hospital-based home care, and of the cost of care furnished in such programs.

(4) An explanation of how the care, counseling, and services described in subsection (a) are or will be included in the overall plans of the Veterans' Administration for providing health care to older veterans in the future and the extent to which plans to furnish hospice care are included in such plans.

(5) A review of any steps taken to arrange for the exchange of information between Veterans' Administration facilities providing the care, counseling, and services described in subsection (a) and non-Veterans' Administration facilities providing similar care, counseling, and services.

VETERANS RESIDING IN REMOTE GEOGRAPHIC AREAS

SEC. 202. (a) The Congress makes the following findings:

(1) Many veterans with service-connected disabilities and other veterans eligible for certain health-care services from the Veterans' Administration, within the limits of Veterans' Administration facilities, reside in areas of the United States that are geographically remote from health-care facilities over which the Administrator of Veterans' Affairs has direct jurisdiction.

(2) For many such veterans such health-care facilities are geographically inaccessible and for many other such veterans the inconvenience of travel to such facilities discourages them from seeking health-care services from the Veterans' Administration.

(3) A study conducted by the Administrator of eligible veterans residing in remote areas and the use by those veterans of Veterans' Administration health-care services would provide useful information on the feasibility and appropriateness of alternative approaches to furnishing health-care services to such veterans.

(b)(1) The Administrator shall carry out a study to develop information about veterans who reside in remote areas and are eligible for health-care services from the Veterans' Administration and to develop alternative approaches that could be adopted to furnish such veterans with such services. In carrying out the study, the Administrator shall develop the following information:

(A) To the maximum extent feasible, statistics on the number of eligible veterans who, during fiscal year 1985—

(i) reside less than 50 miles from the nearest Veterans' Administration medical facility,

(ii) reside between 50 miles and 100 miles from the nearest Veterans' Administration medical facility,

(iii) reside between 100 miles and 200 miles from the nearest Veterans' Administration medical facility, and

(iv) reside more than 200 miles from the nearest Veterans' Administration medical facility.

(B) Statistics, shown by each group of veterans described in clause (A), on the numbers of eligible veterans who, during fiscal year 1985—

(i) use Veterans' Administration medical facilities,

(ii) receive inpatient care in such facilities (including the typical lengths of stay of such veterans in such facilities),

(iii) receive outpatient care from such facilities, and

(iv) receive followup health-care services from such facilities.

(C) Such additional statistics and such additional information as the Administrator considers appropriate.

(D) Breakdowns of the statistics described in clauses (A) and (B) with respect to age, service connection, and financial need regarding the applicable veteran populations.

(2) Not later than January 1, 1986, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a full report on the study under paragraph (1). The report shall include—

(A) the statistics and breakdown developed and information gathered under that paragraph;

(B) the Administrator's findings on the extent of the need for the Veterans' Administration to increase health-care services in remote areas; and

(C) the Administrator's findings and recommendations regarding the advantages and disadvantages of the Veterans' Administration contracting for and making other arrangements for the furnishing of health-care services to eligible veterans in remote areas.

(3) Not later than July 1, 1986, the Administrator shall submit to such committees a report describing an experimental program that could feasibly be carried out through projects in five remote areas, selected on the basis of the information and findings included in the report under paragraph (2), to demonstrate alternative approaches for the Veterans' Administration to furnish health-care services to eligible veterans in remote areas. The report shall include a description of the health-care services, and a detailed breakdown of the costs for them, that could be furnished under such an experimental program to such veterans in each such area, along with the recommendations (and the reasons therefor) of the Administrator regarding whether any such project should be carried out and such recommendations for legislative or administrative action as the Administrator considers appropriate in light of the information contained in the report.

TITLE III—MISCELLANEOUS

MODIFICATION OF REVERSIONARY INTEREST IN CERTAIN LAND, LOS ANGELES, CALIFORNIA

SEC. 301. (a) The Administrator of Veterans' Affairs shall execute such legal documents as are necessary to permit the use of the real property described in subsection (b) (or any portion of such property) for educational or cultural purposes in addition to the use of such property as a research and medical center and for allied purposes. The Administrator may carry out the preceding sentence subject to such terms and conditions as the Administrator requires in order to protect the interests of the United States.

(b) The real property referred to in subsection (a) is the property transferred to the State of California for the use of the University of California by a quitclaim deed dated December 10, 1948, executed by the Administrator of Veterans' Affairs under the Act entitled "An Act to authorize the Administrator of Veterans' Affairs to transfer a portion of the Veterans' Administration center at Los Angeles, California, to the

State of California for the use of the University of California", approved June 19, 1948 (62 Stat. 559), and recorded in the land records of the County of Los Angeles, California, at page 307 of book 29032.

(c) Any document executed to carry out subsection (a) of this section shall provide that the property involved shall revert to the United States if it ceases to be used as a research and medical center or for educational or cultural purposes.

NAMING OF VETERANS' ADMINISTRATION MEDICAL CENTERS

SEC. 302 (a) The Veterans' Administration Medical Center in Murfreesboro, Tennessee, shall after the date of the enactment of this Act be known and designated as the "Alvin C. York Veterans' Administration Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed to be a reference to the Alvin C. York Veterans' Administration Medical Center.

(b) The Veterans' Administration Medical Center in Milwaukee, Wisconsin, shall after the date of the enactment of this Act be known and designated as the "Clement J. Zablocki Veterans' Administration Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed to be a reference to the Clement J. Zablocki Veterans' Administration Medical Center.

In lieu of the Senate amendment to the title of the bill, amend the title so as to read: "An Act to amend title 38, United States Code, to revise and improve Veterans' Administration health programs and to improve security and law enforcement at Veterans' Administration facilities; and for other purposes.".

Mr. PENNY. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to our colleague, the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, I rise to support H.R. 5618, as amended. The provisions of this bill are important to the maintenance of high quality health care for all our veterans. It addresses the needs of our ever-increasing aging veteran population and responds to the intense, lingering trauma of those who served our Nation in Vietnam.

I commend this entire bill to my colleagues, but especially that portion with which I was most deeply involved—allowing State veterans' nursing home construction funds to be used for acquisition and renovation of existing facilities. This would permit the reuse of abandoned or closed facilities for conversion to State veterans' homes, provided that the cost of acquisition would not be greater than the estimated cost of new construction. When, after careful study, a need for additional nursing home beds can be demonstrated by the State, it seems to make good sense to look at available, vacant space first as the most cost-effective method of providing these beds.

I urge adoption of this legislation.

● Mr. BEILENSON. Mr. Speaker, I rise in support of H.R. 5618, which extends and improves veterans' health programs. This measure contains a provision identical to H.R. 2629, a bill already approved by the House of Representatives, which would allow the University of California at Los Angeles [UCLA] to use a 35-acre parcel of land deeded to it by the Veterans' Administration [VA] for educational or cultural purposes.

Congress had originally granted this land, which was owned but unneeded by the Veterans' Administration, to UCLA for "medical" and "research" purposes only; at present, however, the bulk of the land remains unused, the university's needs having changed in the past 35 years. School officials believe that UCLA could make better use of the property if the deed restrictions were broadened to include "educational and cultural" purposes; they have mentioned, for example, constructing a plasma physics laboratory on the site. If enacted, H.R. 5618 would permit this and other appropriate uses of the specified parcel. Of course, as in the case of the original deed, the land would revert to the United States if UCLA does not use it for the purposes specified.

Mr. Speaker, I would like to thank Congressmen SONNY MONTGOMERY and BOB EDGAR, and also Senators ALAN CRANSTON, PETE WILSON, and ALAN SIMPSON, for their work on this provision of H.R. 5618, and I hope that my colleagues will join me in supporting the measure.●

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Mr. HAMMERSCHMIDT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

CONFERENCE REPORT ON S. 2819, HOUSING AND COMMUNITY DEVELOPMENT TECHNICAL AMENDMENTS ACT OF 1984

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the Senate bill (S. 2819) to make essential technical corrections to the Housing and Urban-Rural Recovery Act of 1983.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

Mr. WYLIE. Mr. Speaker, reserving the right to object, and I do not intend to object, I will yield to the gentleman [Mr. ST GERMAIN] for a brief explanation.

Mr. ST GERMAIN. Mr. Speaker, on September 11, the House of Representatives approved an amendment to S. 2819, a bill whose primary purpose is to make technical amendments to the Housing and Urban Rural Recovery Act of 1983. I am very pleased to return to the House today with a conference report which in all major respects reflects the policies approved by the House 3 weeks ago. I urge passage of this conference report so that urgently needed clarifications of our housing and community development laws may be implemented quickly.

Before I highlight the major provisions of this conference agreement, I would like to thank my colleagues on the Banking Committee on both sides of the aisle for their helpful cooperation in developing legislation that solved a number of awkward problems. The bipartisan support provided by the chairman of the Housing Subcommittee, Mr. GONZALEZ, by the ranking minority member, Mr. WYLIE, and by the ranking minority member of the Housing Subcommittee, Mr. MCKINNEY, helped me to persuade the Senate to resolve our differences very quickly.

The most significant changes to the Community Development Block Grant Program include a provision permitting metropolitan cities and urban counties to have areawide community development activities counted as benefiting low- and moderate-income residents if those activities are either located in an area where over half of the residents are low- and moderate-income or in an area which is among the top 25 percent of all areas within a community's jurisdiction having the greatest concentration of low- and moderate-income residents. In addition, in order to assure that communities may continue to commit the same percentage of CDBG funds to eligible public service activities as they have in the past, a community may either maintain the same percentage they used in fiscal year 1982 or 1983. The conference report also clarifies certain requirements for urban county status and permits Denver and Baltimore to use certain urban renewal proceeds according to the requirements of the CDBG program.

Several of the more significant clarifications in the assisted housing programs include: requiring the Secretar-

ies of HUD and Agriculture to consult and agree upon appropriate and similar income levels for low-income families served by both agencies in rural areas; permitting cities containing at least 450,000 residents and having a rental vacancy rate of less than 10 percent to apply for the rental development grants; permitting the cost of attendant care and auxiliary service for a handicapped person which are necessary to permit either that person or a member of his or her family to work to be deducted from income in the assisted housing programs. Unfortunately, Congress has been forced to legislate one more time to assure that HUD does not establish different requirements in the section 202 program that have the effect of favoring one method of contractor selection over another method.

With respect to the public housing program, I must stress once again my dismay that HUD is proceeding, through a notice issued in August 1984, to apply retroactively to public housing budget estimates made as long ago as 1979, new, very specific directions for recalculating projections of investment income. While modified guidelines, if specified in regulations, may be reasonable if applied to budgets prepared in the future, a retroactive application is inequitable. If a public housing authority made a good faith effort to follow the regulations in effect at the time the original budget was calculated, no recalculations and no reductions in future operating subsidies should be required.

The conference report requires 40 percent of the funds available for the Farmers Home Administration 502 homeownership program to be set aside for families whose income is 50 percent of area median or below; in each State at least 30 percent of the section 502 funds must be made available for those families. In addition, the Secretary of Agriculture may not transfer any of the loan authority provided for the housing programs of the FmHA into any other program.

Title II of the conference report contains a series of purely technical corrections to outdated references, misspellings, and grammatical errors. In addition, it exempts advances on open-end lines of credit secured by real estate from certain rescission rights, restores the authority for Federal credit unions to make unsecured home improvement loans and clarifies the types of investments a thrift institution may make for liquidity purposes.

In summary, the conference report on S. 2819 is in essence a housekeeping bill: eliminating technical glitches, clarifying policies agreed to in our 1983 housing law, and correcting inaccurate or outdated references. I urge you to support me in approving this conference report.

Mr. Speaker, at this time I would like to thank the chairman of the subcommittee, the gentleman from Texas [Mr. GONZALEZ] the ranking minority member, the gentleman from Ohio [Mr. WYLIE] and the ranking minority member on the Subcommittee on Housing, the gentleman from Connecticut [Mr. MCKINNEY] for their efforts in ensuring that the House positions be dramatically maintained.

Mr. WYLIE. Further reserving the right to object, I thank the gentleman for his very explicit explanation and for his compliment.

Mr. Speaker, it is true that the conference agreement makes clear that no new program would be created. We have resolved the conference report in a manner acceptable to the administration.

Mr. Speaker, I urge adoption of the conference report on S. 2819, the Housing and Community Development Technical Amendments Act of 1984.

If we listen to the cynics, we would be expected to come before you as some sort of Santa Claus extolling the virtues of a housing bill that has become a Christmas tree laden with gifts. Well, I hate to disappoint them, but the only one who received a gift this time is the taxpayer.

In fact, Mr. Speaker, on September 11, 1984, the House passed a technical corrections bill that contained very few baubles. We are coming back with a conference report that contains even less. Not only that, but those provisions that do remain are for the most part corrections to make our programs run more efficiently. An example is the correction in the Community Development Block Grant [CDBG] Program that will allow urban counties to spend their funds on more low-income families when those families are dispersed throughout the county as long as the area served by the activity ranks among the top 25 percent of the poorest areas in the county. We have resolved the conference report in a manner acceptable to the administration.

Of the points that were in disagreement between the two bodies, almost all of them have been resolved in favor of the House and, with the exception of two of them, in a manner that is acceptable to the administration. The net result, I can assure my colleagues, is a conference report that the administration can accept, even though it may not support enthusiastically.

Let me touch briefly on those items to which the administration objected at one time and explain what action we took in conference.

First, the administration objected to the provision concerning renewal of section 8 contracts as potentially creating a new program which would have the Department of Housing and Urban Development [HUD] and public housing authorities [PHA's] attaching section 8 existing certificates and vouchers to structures. The conference agreement makes clear that no new program would be created. This provision merely clarifies the misleading language contained in section 208 of last year's housing bill. Therefore, the conference language makes clear that the conditions for attaching assistance to a structure do not apply to section 8 existing assistance in connection with loan management, property disposition, or conversion from other assistance programs to a project-based subsidy administered by HUD, and also do not apply to moderate rehabilitation under section 8(e).

Second, the administration has opposed the provision dealing with increased fair market rents for multifamily property disposition. The administration was concerned, and I may add, rightfully so, that this provision would result in excessively high moderate rehabilitation rent subsidy levels for property disposition which could approach levels as high as those in the recently repealed section 8 substantial rehabilitation program. The conference agreement deletes language which the administration had strongly opposed and emphasizes the fact that the authority to increase rents under the moderate rehabilitation program will only be exercised by the Secretary, where the Secretary determines it is necessary to assist in the sale of HUD-owned multifamily housing projects. It is expected that the Secretary will use this authority in only those unusual circumstances when no other alternative is available to assist in the sale of multifamily properties. This authority should be used as the exception rather than the rule.

Third, the administration objected to a provision regarding contractor selection methods in the section 202 program as limiting HUD's ability to use certain cost containment procedures. Both the Senate and the House disagree with the administration on this issue. There is congressional agreement that HUD's procedures of prohibiting loan proceeds for payment of change orders on negotiated bid contracts is contrary to last year's negotiated compromise. The 1983 provision represented a compromise that was intended to give sponsors an unfettered right of contractor selection methods if costs were relatively low, but to allow HUD to choose the selection procedure if costs were high. While this Member, and I am sure other Members, applaud HUD's cost containment achievements in the section 202 program, the conference agreement hopefully will put an end to this controversy and let the 1983 act provisions operate without being thwarted by HUD regulations and contract language.

Fourth, the administration objected to the provision which would allow certain cities to retain proceeds from urban renewal land proceeds. The other body added an amendment to existing law that could be broad ranging. In excess of 150 projects would have been affected. The conference agreement severely limits the application of that amendment. The cost could be as low as $10 million as opposed to $236 million if all projects were included.

Fifth, the provision concerning annual distribution of solar bank funds was opposed by the administration as limiting HUD's administrative discretion concerning program implementation. HUD has been allocating funds on a biannual basis. The conference agreement directs HUD to allocate funds appropriated or otherwise available in any fiscal year at one time in order to facilitate the ability of States operating solar bank programs to make reasonable projections and annual plans.

Finally, the administration objected to the provision which removes the Farmers Home Administration's ability to transfer funds between program accounts to meet unanticipated demands in other programs. The conference agreement maintains the House provision prohibiting loan authority authorized under title V of the Housing Act of 1949 to be transferred to other nonhousing purposes. This provision maintains the original intent of the authorizing committees and the will of Congress. Simply put, Congress intended funds authorized and appropriated for rural housing purposes should be maintained for such purposes. Administrative discretion should not circumvent the original intent of previously authorized funds.

Mr. Speaker, I view this as more than a reasonable compromise. When you add this to the many needed changes that were not in dispute—the urban county problem, the Farmers Home 502 problem—to name just two, I think you can agree this conference report is worthy of our support.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Connecticut [Mr. McKINNEY].

Mr. McKINNEY. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of the conference report on S. 2819, which makes essential technical corrections to the Housing and Urban-Rural Recovery Act of 1983 which Congress passed on the last day of the session. As is often the case when negotiations involving HUD, OMB, the House and the Senate are conducted under time constraints, technical glitches come to the surface only after Congress has acted. In the spirit of correcting those oversights and not with the intent of reversing any policy agreements made last November or creating any new programs, this bill was developed.

In my remarks when the House passed S. 2819 on September 11, I explained in detail the provisions of this legislation. Almost all of the few elements that were in dispute with the Senate were resolved in favor of the House position.

It may be some comfort to my colleagues to know that everyone is unhappy with some element of this bill. The administration does not formally support it, but they can accept the agreement worked out in conference. Our colleagues in the Senate had points they would have preferred included or omitted—depending on who was speaking. And hard as it is for me to believe, even within the House there were some differences of opinion on what should, or should not, have been part of the conference report.

But the fact is that we wanted to keep this as technical and noncontroversial as possible. I want to give public credit to all the participants in these negotiations for a "good faith" effort. Next year Congress will have to tackle once again legislation authorizing existing programs and possibly terminating some or creating new ones. That is the process and we all will have an equal chance to promote our causes. This conference agreement reflects that understanding.

Like so much of our work in this body it is a compromise. We can all live with it, certainly better than we could without it. I urge my colleagues to approve the conference report on S. 2819.

Mr. WYLIE. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Washington [Mr. LOWRY].

Mr. LOWRY of Washington. Mr. Speaker, I thank the distinguished ranking minority member of our committee for yielding.

Mr. Speaker, I rise in support of the conference report. I congratulate the conferees, the chairman of the full committee [Mr. ST GERMAIN], the ranking minority member for an excellent job. I specifically appreciate the work done on HoDAG for cities which had been left out, and protecting public hospitals for FHA insurance and for public health hospitals. They did an excellent job.

Mr. Speaker, I urge adoption of the report.

Mr. WYLIE. Mr. Speaker, I withdraw my reservation of objection.

● Mr. KOSTMAYER. Mr. Speaker, I rise in strong support of the conference report accompanying S. 2819, making amendments to the Housing and Urban Recovery Act of 1983.

S. 2819 includes legislation I introduced on February 23, 1984 as H.R. 4843, and which was subsequently introduced by Senator JOHN HEINZ in the other body on February 28, 1984. The Banking, Finance and Urban Affairs Committee has incorporated H.R. 4843 into this bill.

The section of S. 2819 I refer to amends section 1059(c)(2)(B) of the Housing and Community Development Act.

Last December county and local officials in Bucks County in my congressional district alerted me to an unintended change in the 1983 law which drastically altered project eligibility rules in urban counties, such as Bucks, and neighboring Montgomery County, and several other counties in Pennsylvania. This change was forcing certain jurisdictions with low population density to concentrate community development block grant activity in few or small pockets of poverty, while ignoring the needs of most of their lower income population.

The Kostmayer/Heinz proposal—which was drafted with the assistance of the National Association of Counties and which also has the support of the National Association of Towns and Townships—will enable cities and counties with few or small concentrations of poor to meet the requirement that at least 51 percent of their CDBG spending benefit lower income persons through projects to improve areas among the top 25 percent in concentration of lower income families.

The 1983 act requires that areawide projects be in census tracts or blocks that have a majority of lower income residents, unless the jurisdiction has no such areas. The jurisdiction would then have to target spending on the 25 percent of areas with the highest proportion of lower income households. We have sought to have the exception broadened for urban counties where it would be unrealistic, and contrary to the intention of the 1983 act, to focus CDBG spending on a few, small and scattered areas where a majority of residents are lower income. Eight counties in Pennsylvania will be precluded from carrying out areawide projects in those parts of the county where most of their lower income households reside, uless the law is changed.

In Bucks County alone, the following projects were affected by the 1983 Housing Act according to information supplied by the Bucks County Office of Community Development:

BUCKS COUNTY, PA—COMMUNITY DEVELOPMENT PROJECT AFFECTED BY 1983 HOUSING ACT

Sponsor	Type of activity	Funding request
Bedminster	Library renovation	$8,500
Bridgeton	Fire facilities	2,100
Buckingham	Recreation	16,500
Chalfont	Street improvements	11,700
Durham	Recreation	10,000
Durham	Ambulance	10,000
Falls	Recreation	96,000
Falls	Fire facility	20,000
Falls	Rescue squad	25,000

BUCKS COUNTY, PA—COMMUNITY DEVELOPMENT PROJECT AFFECTED BY 1983 HOUSING ACT—Continued

Sponsor	Type of activity	Funding request
Falls	Drainage	34,300
Hilltown	Bridge reconstruction	69,900
Hilltown	Drainage	8,400
Langhorne	Recreation	12,300
Langhorne Manor	Street improvements	21,800
Lower Makefield	Drainage	30,000
Lower Makefield	Traffic signal	20,000
Middletown	Drainage	201,600
Middletown	Ambulance	30,000
Milford	Drainage	20,300
Milford	Fire facilities	17,500
Morrisville	Street improvements	61,800
New Hope	Traffic signal	37,200
Newtown Boro	Street improvements	26,700
Perkasie	Water lines	20,700
Richlandtown	Water facility	5,200
Richland	Recreation	3,000
Springfield	Ambulance	4,000
Springfield	Water facility	12,200
Springfiled	Community center	10,000
Tinicum	Street improvements	19,000
Upper Southampton	Recreation	14,200
Warminster	Drainage	132,000
Warwick	Streets	6,300
23 municipalities	33 projects	996,400

Mr. Speaker, I want to thank the distinguished chairman of the Banking Committee, Mr. ST GERMAIN, And the chairman of the Housing Subcommittee, Mr. GONZALE, for recognizing the urgency of this problem, and moving my legislation so that these and other deserving projects in urban counties can go forward.

This legislation now goes to the President where his approval is expected.●

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that the statement of managers be read in lieu of the report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 28, 1984.)

Mr. ST GERMAIN [during the reading]. Mr. Speaker, I ask unanimous consent that further reading of the statement of the managers be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

GENERAL LEAVE

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report, now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

The SPEAKER pro tempore. Does the gentleman [Mr. ST GERMAIN] wish time?

Mr. ST GERMAIN. Mr. Speaker, I apologize for taking so much of the time of the House.

The SPEAKER pro tempore. The gentleman from Rhode Island [Mr. ST GERMAIN] is recognized for 30 minutes.

Mr. ST GERMAIN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

MAKING IN ORDER ON OR AFTER OCTOBER 3, 1984, CONSIDERATION OF CONFERENCE REPORT ON S. 2166, INDIAN HEALTH CARE AMENDMENTS ACT OF 1984

Mr. UDALL. Mr. Speaker, I ask unanimous consent that it be in order to consider the conference report on the Senate bill, S. 2166, tomorrow or any day thereafter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

AK-CHIN WATER RIGHTS

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6206) entitled "An Act relating to the water rights of the Ak-Chin Indian community," with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 6, strike out all after line 17 over to and including line 6 on page 7 and insert:

(2) Such two hundred and fifty thousand acre-feet of water shall not be used to irrigate more than thirty-seven thousand one hundred and eighty-seven acres of land in the Yuma Mesa Division, specifically: six thousand five hundred and eighty-seven acres in the North Gila Valley Irrigation District; ten thousand six hundred acres in the Yuma Irrigation District; and twenty thousand acres in the Yuma Mesa Irrigation and Drainage District. Additional land in the Yuma Mesa Irrigation and Drainage District may be irrigated if there is a corresponding reduction in the irrigated acreage in the other districts so that at no time are more than thirty-seven thousand one hundred and eighty-seven acres being irrigated in the Yuma Mesa Division.

Page 10, strike out lines 5 to 13, inclusive, and insert:

(k) The water referred to in subsection (f)(2) shall be for the exclusive use and benefit of the Ak-Chin Indian Community, except that whenever the aggregate water supply referred to in subsection (f) exceeds the quantity necessary to meet the obligations of the Secretary under this Act, the Secretary shall allocate on an interim basis to the Central Arizona Project any of the water referred to in subsection (f) which is not required for delivery to the Ak-Chin Indian Reservation under this Act.

Page 12, after line 24, insert:

SEC. 7. (a) There is hereby authorized to be appropriated the sum of $1,000,000 for payment to the fund referred to in subsection (b). Subject to appropriations, the Secretary shall pay a sum of $1,000,000 to such fund.

(b) No portion of the sum referred to in subsection (a) shall be paid unless—

(1) the Central Arizona Water Conservation District establishes a fund to be administered by the District for voluntary acquisition or conservation of water from sources within the State of Arizona for use in central Arizona in years when water supplies are reduced; and

(2) the Central Arizona Water Conservation District has contributed the sum of not less than $1,000,000 to such fund: Provided, That if the contribution of not less than $1,000,000 by the District to such fund has not been fully paid as provided in this section within two years of the date of enactment of this Act, the authorization for appropriation and payment of the sum referred to in subsection (a) shall terminate.

(c) If the provisions of this section are for any reason not implemented as herein provided, the other sections of this Act shall remain unaffected thereby.

Page 13, line 1, strike out "SEC. 7." and insert "SEC. 8.".

Page 13, line 4, strike out "SEC. 8." and insert "SEC. 9.".

Page 13, after line 10, insert:

SEC. 10. (a) Section 311 of the Southern Arizona Water Rights Settlement Act of 1982 (96 Stat. 1283) is amended to read as follows:

"SEC. 311. The provisions of sections 2415 of title 28, United States Code, shall apply to any action relating to water rights of the Papago Indian Tribe or of any member of such Tribe which is brought—

"(1) by the United States for, or on behalf of, such Tribe or member of such Tribe, or

"(2) by such Tribe.".

(b) The amendment made by this section shall not apply with respect to any action filed prior to the date of enactment of this Act.

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona?

Mr. MCCAIN. Mr. Speaker, reserving the right to object, I yield to the chairman of the committee for an explanation of the Senate amendment.

Mr. UDALL. Mr. Speaker, on Monday, September 17, the House passed H.R. 6206, a bill to resolve the water rights claims of the Ak-Chin Indian Tribe in central Arizona. H.R. 6202 modified the 1978 act that provided an interim and permanent water supply for the Ak-Chin Community.

As I stated when the bill was pending before the House, the revised settlement represents an agreement

reached among the Secretary of the Interior, the Ak-Chin community, and the irrigators in the Yuma Mesa irrigation district. Under the terms of this new accord, the Ak-Chin community has agreed to accept less water than under the original settlement, and to forego action for damages against the Secretary for failure to deliver water in 1984.

On the Senate side, four amendments were adopted. These amendments address some legitimate concerns that were raised by the Governor of Arizona, about the impact of the settlement on Arizona's overall water future.

The amendments are supported by the entire Arizona congressional delegation, and by Secretary Clark, and their inclusion in the legislation satisfies the concerns of the Governor and the State water department.

The first Senate amendment decreases the amount of acreage which the Yuma Mesa irrigation district will be allowed to irrigate in the future. This reduction in use along the Colorado River will enable additional water to be available for municipal and industrial users in central Arizona.

The second amendment clarifies that the balance of the water not needed to fulfill the Secretary's specific delivery obligations to the Ak-Chin shall be allocated to the central Arizona project.

The bill directs the Secretary to deliver 50,000 acre-feet of Colorado River water as the first component of the Ak-Chin's water supply. Additional water, up to 75,000 acre-feet in normal years and 72,000 acre-feet in dry years will come from the community's central Arizona project allocation. Water from those sources in excess of the community's settlement shall be allocated by the Secretary to the CAP.

The third amendment creates a fund, jointly funded by the United States and the State, to acquire water in shortage years to offset the impact, if any, of the Ak-Chin settlement on municipal and industrial CAP water supplies and the supplies available for other Arizona Indian tribes.

The fund is created by means of a one-time contribution of $1 million by each party.

The final amendments clarifies the status of the water rights claims of the Papago Indian Tribe. It places the Papago claims on an equal footing with the claims of other Indian tribes, regarding the application of the statute of limitations for filing legal actions. This amendment is a technical, clarifying amendment.

Mr. McCAIN. Further reserving the right to object, Mr. Speaker, I thank the gentleman from Arizona.

Mr. Speaker, H.R. 6206 is extremely important, not only to the Ak-Chin Indian community and to water users in Arizona, but to all Indian tribes and States where Indian water claims remain unresolved.

The 1978 Ak-Chin settlement was considered a model. The product of extensive negotiations, it promised benefits to all parties concerned and eliminated prospects of long and costly litigation. However, to date the United States has been unable to fulfill its part of the bargain. This failure has raised serious questions about the commitment of the United States to make good on its solemn promises written in law. These questions in turn have cast a cloud over the credibility of negotiated settlements as desirable alternatives to litigation. If the Ak-Chin do not get the water they bargained for in good faith and for which they waived their valuable claims, then no other tribe in the country can be reasonably expected to negotiate their claims rather than litigate. That is why this legislation is so important.

As passed by the House last week, H.R. 6206 would amend the 1978 settlement by incorporating the terms of a recent agreement between the Secretary of the Interior and the Yuma-Mesa irrigation district. It would also reduce Ak-Chin's water entitlement by 10,000 acre-feet, from 85,000 to 75,000 acre-feet in normal years, and to 72,000 acre-feet in water-short years. Under the agreement, the Secretary would acquire 50,000 acre-feet of Yuma-Mesa's Colorado River water under the Gila reclamation project in return for an $11.7 benefit package.

The Secretary would use this water, together with Ak-Chin's central Arizona project [CAP] entitlement of 58,300 acre-feet, to meet his legal obligation to provide water to Ak-Chin.

As passed by the Senate, H.R. 6206 contains amendments by Senators GOLDWATER and DECONCINI that address concerns expressed by the State and other water users. I believe these amendments improve the bill and should be agreed to by the House. In short, the Senate amendments limit the amount of irrigated acreage in the Yuma-Mesa irrigation district, ensure that any water surplus to Ak-Chin's entitlement would be available only to the central Arizona water conservation district for CAP purposes, and establish a trust fund to buy water from agricultural users along the Colorado River to guarantee the Ak-Chin supply in dry years. The effect of these amendments, together with water conservation measures in the Yuma-Mesa benefit package and Ak-Chin's, is to minimize the impact of the overall settlement on CAP supplies at worst; at best, they will increase the firm supply of water available for CAP over current estimates.

H.R. 6206 represents a commitment by the United States and by the Reagan administration to resolve outstanding Indian water claims via negotiated settlements that are equitable to Indians and non-Indians alike. This legislation will fulfill the congressional intent of the 1978 act at nearly two-thirds less cost to the United States than the original settlement. It protects local water interests and, above all, it enables the United States to keep its promises to the Ak-Chin. This is meritorious legislation, and I urge my colleagues to concur in the Senate amendments and pass it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to insert their remarks in the RECORD on the Senate amendments just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

COOS INDIAN RESTORATION

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5540) entitled "An act to provide for restoration of Federal recognition to the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians, to institute for such tribe those Federal services provided to Indians who are recognized by the Federal Government and who receive such services because of Federal trust responsibility, and for other purposes," with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 9, line 12, strike out "ninety days after" and insert "the date that is 1 year after".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. McCAIN. Mr. Speaker, reserving the right to object, will the gentleman explain what is involved?

I yield to the chairman of the committee.

Mr. UDALL. I thank the gentleman for yielding.

Mr. Speaker, H.R. 5540 provides for Federal recognition of the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians. The legislation which was approved earlier by the House came back with a minor amendment from the Senate. The amendment would just extend from 90

days to 1 year the period during which the Secretary cannot take certain lands in trust for the tribes. The amendment would allow more time for a neighboring tribe to prove that it has a legal interest in these lands. I understand that the amendment has been cleared with all concerned parties including Mr. WEAVER, the sponsor of the legislation.

Mr. McCAIN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

REQUEST FOR CONSIDERATION OF SENATE AMENDMENTS TO H.R. 5172, NATIONAL BUREAU OF STANDARDS AUTHORIZATION ACT FOR FISCAL YEARS 1984 AND 1985

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5172) to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal years 1984 and 1985 and for related purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Strike out all after the enacting clause and insert:

TITLE I

SHORT TITLE

SEC. 101. This title may be cited as the "National Bureau of Standards Authorization Act for Fiscal Year 1985".

AUTHORIZATION FOR PROGRAM ACTIVITIES

SEC. 102. There are authorized to be appropriated for fiscal year 1985 to the Secretary of Commerce to carry out activities performed by the National Bureau of Standards the sums set forth in the following line items:

(1) Measurement Research and Standards, $52,030,000.

(2) Engineering Measurements and Standards, $23,194,000.

(3) Computer Science and Technology, $10,000,000.

(4) Center for Fire Research, $5,827,000.

(5) Core Measurement Research for New Technologies, $12,168,000.

(6) Technical Competence Fund, $8,598,000.

(7) Central Technical Support, $13,728,000.

EXCESS FOREIGN CURRENCY

SEC. 103. In addition to the sums authorized to be appropriated by section 102 of this title, there are authorized to be appropriated to the Secretary of Commerce $600,000 for fiscal year 1985 for expenses of the National Bureau of Standards incurred outside the United States, to be paid for in foreign currencies that the Secretary of the Treasury determines to be excess to the normal requirements of the United States.

OFFICE OF PRODUCTIVITY, TECHNOLOGY, AND INNOVATION

SEC. 104. (a) In addition to the sums authorized to be appropriated by sections 102 and 103 of this title, there are authorized to be appropriated to the Secretary of Commerce $3,371,000 for fiscal year 1985 for the activities of the Office of Productivity, Technology, and Innovation.

(b) Of the sums authorized to be appropriated in subsection (a) of this section, the Assistant Secretary of Commerce for Productivity, Technology and Innovation is authorized and directed to expend $500,000 for the purpose of substantially increasing the availability of Japanese science and engineering literature to United States scientists and engineers through increased accessibility, monitoring, screening, translation, abstracting, indexing, dissemination, awareness, and marketing. In the conduct of this activity, the Assistant Secretary is authorized to make grants and, to the extent provided in advance by appropriations Acts, contracts with private for profit, nonprofit, and educational organizations and to provide funds to other Government organizations, to coordinate with other Government organizations, and to utilize (for all or part of this effort) the Director, staff, and facilities of the National Technical Information Service.

SALARY ADJUSTMENTS

SEC. 105. In addition to the sums authorized to be appropriated by sections 102, 103, and 104 of this title, there are authorized to be appropriated to the Secretary of Commerce for fiscal year 1985 such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law.

AVAILABILITY OF APPROPRIATIONS

SEC. 106. Appropriations made under the authority provided in this title shall remain available for obligation, for expenditure, or for obligation and expenditure for such period or periods as may be specified in the Acts making such appropriations.

COST RECOVERY AUTHORITY

SEC. 107. (a) Section 12(f) of the Act of March 3, 1901 (15 U.S.C. 278(f)) is amended—

(1) by striking "first"; and

(2) by inserting immediately before the period at the end thereof the following: ", and to ensure the availability of working capital necessary to replace equipment and inventories".

(b) Fees for calibration services, standard reference materials, and other comparable services provided by the National Bureau of Standards shall be at least sufficient to meet the requirements set forth in the amendments made by subsection (a) of this section, and any funds recovered in the excess of such requirements shall be returned to the Treasury of the United States.

COMPENSATION OF DIRECTOR

SEC. 108. (a) Section 5 of the Act of March 3, 1901 (15 U.S.C. 274), is amended by adding at the end thereof the following: "The director shall be compensated at the rate now or hereafter in effect for level IV of the Executive Schedule, pursuant to section 5315 of title 5, United States Code.".

(b)(1) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"Director, National Bureau of Standards, Department of Commerce.".

(2) Section 5316 of title 5, United States Code, is amended by striking the following item:

"Director, National Bureau of Standards, Department of Commerce.".

STRUCTURAL FAILURES

SEC. 109. The National Bureau of Standards, on its own initiative but only after consultation with local authorities, may initiate and conduct investigations to determine the causes of structrual failures in structures which are used or occupied by the general public. No part of any report resulting from such investigation shall be admitted as evidence or used in any suit or action for damages arising out of any matter mentioned in such report.

TITLE II

AMENDMENTS TO THE ACT OF MAY 10, 1950

SEC. 201. (a)(1) Section 3(a)(1) of the Act of May 10, 1950 (42 U.S.C. 1862(a)(1)) is amended—

(A) by striking "engineering,"; and

(B) by inserting after "other sciences," the following: "and to initiate and support research fundamental to the engineering process and programs to strengthen engineering research potential and engineering education programs at all levels in the various fields of engineering,".

(2) Section 3(a)(3) of such Act is amended—

(A) by inserting "and engineering" immediately after "scientific"; and

(B) by inserting "and engineers" immediately after "scientists".

(3) Section 3(a)(4) of such Act is amended by inserting "and engineering" immediately after "sciences".

(4) Section 3(a)(5) of such Act is amended by inserting "and fields of engineering" immediately after "sciences".

(5) Section 3(a)(6) of such Act is amended by striking "technical" each place it appears and inserting in lieu thereof "engineering".

(6) Section 3(a)(7) of such Act is amended by inserting "and engineering" immediately after "scientific".

(b) Section 3(b) of such Act is amended by inserting "and engineering" immediately after "scientific" each place it appears.

(c) Section 3(c) of such Act is amended—

(1) by inserting "and engineering" immediately after "scientific" in the first sentence; and

(2) by inserting "and engineering research" immediately after "applied scientific research" in the second sentence.

(d) Section 3(d) of such Act is amended by striking "basic research and education in the sciences" and inserting in lieu thereof "reserch and education in science and engineering".

(e) Section 3(e) of such Act is amended by inserting "and engineering" immediately after "sciences".

(f) Section 4(c) of such Act (42 U.S.C. 1863(c)) is amended—

(1) by inserting "and engineering" immediately after "scientific" in clause (3) of the first sentence;

(2) by inserting "and engineers" immediately after "scientists" in the second sentence; and

(3) by inserting "the National Academy of Engineering," immediately after "National Academy of Sciences," and by inserting ", engineering," immediately after "scientific" in the third sentence.

(g) The first sentence of section 10 of such Act (42 U.S.C. 1869) is amended by striking "scientific study or scientific work in the mathematical, physical, medical, biological engineering, social, and other sciences" and inserting in lieu thereof "study and research in the sciences or in engineering".

(h) Section 11 of such Act (42 U.S.C. 1870) is amended—

(1) by inserting "or engineering" immediately after "scientific" each place it appears in subsections (c) and (i); and

(2) by inserting ", engineering," immediately after "scientific where it first appears in subsection (g).

(i) Section 12 of such Act (42 U.S.C. 1871) is amended by inserting "or engineering" immediately after "scientific".

(j) Section 13 of such Act (42 U.S.C. 1872) is amended—

(1) by inserting "or engineering" immediately after "scientific" each place it appears; and

(2) by inserting "or engineers" immediately after "scientists" in subsection (a).

(k) Section 14 of such Act (42 U.S.C. 1873) is amended—

(1) by inserting "or engineering" immediately after "scientific" each place it appears in subsection (f); and

(2) by striking "technical" in subsection (g) and inserting in lieu thereof "engineering".

(l) Section 15(b) of such Act (42 U.S.C. 1874(b)) is amended—

(1) by striking "technical" in paragraph (1) and inserting in lieu thereof "engineering"; and

(2) by inserting "or engineering" immediately after "scientific" in paragraph (2).

(m) Section 2(b) of the Act of August 9, 1975 (42 U.S.C. 1869a(b)) is amended by inserting "or engineering" immediately after "science" each place it appears.

TITLE III

SHORT TITLE

SEC. 301. This title may be cited as the "Manufacturing Sciences and Robotics Research and Development Act of 1984".

FINDINGS

SEC. 302. (a) The Congress finds that—

(1) manufacturing contributes significantly to the Nation's gross domestic product and employs more than one-fifth of the Nation's work force;

(2) transportation and delivery of manufactured goods are vital components of the Nation's interstate commerce;

(3) while manufacturing industries are essential to the economic well-being of the Nation, many manufacturing processes and methods are no longer capable of producing goods as reliable and cost competitive as those produced by foreign industries which utilize modern manufacturing methods and processes;

(4) domestic manufacturing is increasingly threatened by external competition and the development by foreign countries of more efficient manufacturing processes and technologies;

(5) outdated manufacturing methods and processes result in higher costs and in goods and services of inferior quality, to the detriment of consumers of such goods and services;

(6) outdated and inefficient manufacturing processes hinder domestic commerce;

(7) a decline in consumption of domestic manufactured goods due to outdated manufacturing processes produces a resultant decline in transportation;

(8) various sectors of private industry, the Federal Government, and the United States research establishment have not devoted sufficient attention to research on developing new processes and methods to improve the Nation's capability to manufacture goods;

(9) domestic manufacturers have not sufficiently utilized such recent technological changes in manufacturing as programmable automation, robotics, advanced sensors, and computer-assisted design and manufacturing; and

(10) a program to conduct research in more advanced manufacturing processes and methods and to encourage research utilization would strengthen commerce and be beneficial to the Nation's consumers.

(b) The Congress further finds that—

(1) the widespread implementation of robotics and automated manufacturing technology and other practices and activities to implement improved manufacturing methods and processes, including new metallurgical technology, and processes for new nonmetallic materials, including composite materials and ceramics, can improve productivity, enhance quality, and increase competitiveness in a wide variety of domestic manufacturing industries;

(2) because robotics and automated manufacturing systems and other practices and activities to implement improved manufacturing methods and process, including new metallurgical technology, and processes for new nonmetallic materials, including composite materials and ceramics, affect widely divergent segments of industry, a program fostering these technologies should be of broad benefit to domestic manufacturing firms;

(3) a national program of research and information dissemination in robotics and automated manufacturing systems and other practices and activities to implement improved manufacturing methods and processes, including new metallurgical technology, and processes for new nonmetallic materials, including composite materials and ceramics, is essential to ensure the timely and widespread implementation of these technologies; and

(4) to ensure the success of this program, the active participation and support of industry, universities, labor, and government are required.

PURPOSE

SEC. 303. It is the purpose of this title to establish a program for conducting research and other activities which will produce more advanced manufacturing technologies and for conducting research on utilization activities to encourage widespread adoption of these technologies.

DEFINITIONS

SEC. 304. As used in this title—

(1) the term "Advisory Committee" means the Manufacturing Sciences and Technologies Enhancement Advisory Committee established under section 309;

(2) the term "consortium" means a group of institutions consisting of a nonprofit research institution and such other entities as a State, or a subdivision thereof, an individual firm or industry association, any other nonprofit research institution, and a university and any other higher education institution (including a two- and four-year college);

(3) the term "Center" means a Center for Manufacturing Research and Technology Utilization established under section 305(c);

(4) the term "Office" means the Office of the Assistant Secretary for Productivity, Technology, and Innovation within the Department of Commerce;

(5) the term "robot" means a programable, multifunction manipulator designed to move material, parts, tools, or specialized devices through variable programed motions for the performance of a variety of tasks;

(6) the term "robotics" means the study of robots or the practice of using robots;

(7) the term "automated manufacturing system" means two or more operating stations of robots or fixed sequence automatic machines interconnected by a transport system, where both the operating stations and the transport system are controlled by a computer which performs such functions as production planning, task scheduling, and control of part and tool movement;

(8) the term "technology-sensitive industrial sector" means an industry whose productivity, efficiency and competitiveness, particularly in the world marketplace, is or is likely to be dependent upon the utilization of more advanced manufacturing processes and methods, as that term is used in section 305(a); and

(9) the term "Secretary" means the Secretary of Commerce.

GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS

SEC. 305. (a) PURPOSES.—The Secretary, through the Office, may award grants and enter into contracts and cooperative agreements in accordance with the provisions of this section to provide for research on advanced manufacturing processes and methods, including—

(1) computer-assisted design;

(2) automated materials handling, processing, and assembly;

(3) automated testing;

(4) machine adaptive learning;

(5) integrated manufacturing systems, including interface of automated machines with automated and nonautomated machines, with production and design personnel, and with other systems (including testing devices, design systems, and inventory control systems);

(6) machine and process control strategies;

(7) automated sensing for machine and process control and product testing;

(8) new metallurgical technology;

(9) processes for new nonmetallic materials, including composite materials and ceramics;

(10) practices and activities to implement improved manufacturing methods; and

(11) such other research as the Secretary determines to be consistent with the purpose of this title.

(b) GRANTS.—(1) The Secretary, through the Office, may make grants to provide for research to increase the amount of fundamental scientific and technological knowledge in fields relevant to manufacturing methods and processes. Such grants shall be made on a competitive basis to applicants who comply with such criteria as are specified in this title and as the Secretary shall establish, consistent with the purpose of this title.

(2) A recipient of such a grant may be affiliated with a nonprofit research institution, a private firm or industry association, a university or college, a Center established pursuant to subsection (c), or any other institution which the Secretary considers appropriate. Any such recipient shall not be required to provide any part of the costs of such research, unless the recipient desires to expand the scope of the research to be conducted. In such a case, the Secretary may enter into an agreement which provides for cost sharing by the recipient.

(3) Grants made under this subsection shall be based on the findings of the competitiveness study under section 308 to the extent practicable and on the recommendations of the Advisory Committee established under section 309.

(4) There are authorized to be appropriated for the purposes of this subsection not to exceed $20,000,000 for the fiscal year ending September 30, 1985, and not to exceed $30,000,000 for each of the fiscal years ending September 30, 1986, September 30, 1987, and September 30, 1988. Such funds shall remain available until expended.

(c) COOPERATIVE AGREEMENTS.—(1) The Secretary, through the Office, may enter into cooperative agreements with consortia for the purpose of establishing and supporting Centers for Manufacturing Research and Technology Utilization. Such agreements shall be made with applicants who comply with such criteria as are specified in this title and as the Secretary shall establish, consistent with the purpose of this title.

(2) Such Centers shall conduct research of a more applied nature than the research conducted under subsection (b). Centers shall conduct research on methods of increasing the utilization by the Nation's industries of those modern manufacturing methods which may result in lower production costs or improved product quality or reliability. Such research may be directed toward problems or processes and methods appropriate to a specific industrial sector, including aerospace, microelectronics, apparel mechanical assembly, basic materials, new materials, and transportation.

(3)(A) In addition to funds received by means of a contract or cooperative agreement entered into under this subsection, a consortium may also receive funds from other Federal agencies and from public and private institutions.

(B) A consortium which enters into such a cooperative agreement shall provide support and participation in a dollar amount at least equal to the amount of the Federal contribution to be made under this subsection. For purposes of this subparagraph, the term "support and participation" includes cash or equipment contributions, industry personnel to conduct research, and access by persons in the research institutions to modern manufacturing equipment in the participating industry for research and other appropriate purposes. Any such consortium shall provide a cash or equipment contribution in an amount equal to at least 50 percent of the Federal Government's share. Contributions from the nonprofit participants of the consortium may consist of inkind contributions.

(4) In entering into agreements under this subsection, the Secretary shall consider (with respect to each such agreement)—

(A) the quality of the research which is to be undertaken as a result of the agreement;

(B) the extent of participation by industry in the research to be undertaken as a result of the agreement;

(C) the size of the industrial sector involved and the potential impacts on the productivity of that industrial sector as a result of successful research undertaken through the agreement, as well as the subsequent development and utilization of the manufacturing methods and processes to be studied as part of such research; and

(D) the extent to which entering into the agreement would be likely to increase the number of scientific and technical personnel capable of utilizing modern manufacturing methods and processes.

In addition, the Secretary shall consider the extent to which the industrial sector involved is presently competitively disadvantaged as a result of foreign technological advances and shall ensure diversity among the industrial sectors which are the subject of the research conducted under any such agreement, as well as geographic dispersion of the Centers established and supported under this subsection.

(5) Cooperative agreements entered into under this subsection shall be based on the findings of the competitiveness study under section 308 to the extent practicable and on the recommendations of the Advisory Committee established under section 309.

(6) There are authorized to be appropriated for the purposes of this subsection not to exceed $15,000,000 for the fiscal year ending September 30, 1985, and not to exceed $25,000,000 for each of the fiscal years ending September 30, 1986, September 30, 1987, and September 30, 1988. Such funds shall remain available until expended.

(d) CONTRACT AUTHORITY.—To the extent provided in advance by appropriations Acts, the Secretary, under such regulations as the Secretary may prescribe, may enter into contracts with applicants to effectuate the purpose of this title.

(e) FEDERAL RESEARCH CENTER ON ROBOTICS AND AUTOMATED MANUFACTURING.—(1) There shall be a Federal Research Center on Robotics and Automated Manufacturing at the National Bureau of Standards. The Research Center shall focus its research and development on (A) measurements and standards required in robotics and automated manufacturing systems, including interface standards for integrated robot systems, and (B) systems integration, reliability, and performance.

(2) The Research Center shall coordinate its research activities with the Centers established under subsection (c) and shall share information through meetings, exchange of scientists, and network computer systems.

(3) The Director of the Research Center shall meet at least annually with the directors of the Centers established under subsection (c) to exchange specific plans and programs for the upcoming year to coordinate activities.

ROBOTICS AND AUTOMATED MANUFACTURING

SEC. 306. (a) SUPPORT.—The Secretary is authorized to support the education and training of scientists, engineers, and technicians needed for the theoretical understanding, design, construction, installation, use, and maintenance of robots and automated manufacturing systems. Such support may include, but need not be limited to, providing funds for the following: Graduate fellowships and traineeships, undergraduate scholarships, instructional equipment, the development of curricula for intramural or extramural use at undergraduate and graduate levels, and postdoctoral fellowships. Such support shall be provided on a matching basis with other sources of support, whenever possible.

(b) AUTHORIZATION.—There are authorized to be appropriated for purposes of this section not to exceed $5,000,000 for the fiscal year ending September 30, 1985, not to exceed $7,000,000 for the fiscal year ending September 30, 1986, and not to exceed $10,00,000 for each of the fiscal years ending September 30, 1987, and September 30, 1988. Such funds shall remain available until expended.

ADVANCE MANUFACTURING METHODS RESEARCH UTILIZATION PROGRAM

SEC. 307. (a) ACTIVITIES.—The Secretary shall establish a program to identify the impact on workers of enhanced utilization of technologically advanced manufacturing methods, including the potential for retraining workers who might otherwise be displaced. The Secretary may, to the extent provided in advance in appropriation Acts, contract with any person or institution (including States and consortia established under section 305(c) to carry out such program.

(b) REPORT.—Not later than two years after the enactment of this Act, the Secretary shall submit to the Congress a report on such program.

(c) AUTHORIZATION.—There are authorized to be appropriated for the purposes of this section not to exceed $10,030,000 for the fiscal year ending September 30, 1985. Such funds shall remain available until expended.

COMPETITIVENESS STUDY

SEC. 308. (a) STUDY.—The Secretary shall select specific domestic technology-sensitive industrial sectors, and shall analyze such sectors' one-term capability for remaining competitive and identify technological advances which might be needed to keep such sectors competitive, especially with industries in foreign countries. In making such selection, the Secretary shall consider industrial sectors which are or are likely to be vulnerable to foreign competition, as well as sectors which are likely to experience rapid and significant growth.

(b) SUBJECT OF STUDY.—As part of such study, the Secretary shall consider—

(1) the adequacy of technologies utilized to produce the goods and services of the sectors involved;

(2) the existence of superior foreign technologies or unique resources which yield a competitive advantage to industries in foreign countries over comparable domestic industries;

(3) the anticipated scientific and technical personnel requirements for such sectors;

(4) the adequacy of Federal laws and regulations, and the enforcement of such laws and regulations, in promoting technological innovativeness and commerical competiveness by such sectors; and

(5) the need for changes in such laws and regulations, or enforcement of such laws and regulations, in order to promote technological innovation and competition in such sectors and to safeguard the well-being of the Nation and the public.

(c) CONSULTATION.—As part of such study, the Secretary shall consult with and solicit comments from both management and labor representatives of the industrial sectors which are the subject of such study.

(d) AUTHORIZATION.—There are authorized to be appropriated for purposes of this section not to exceed $2,000,000 for each of the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, and

September 30, 1988. Such funds shall remain available until expended.

ADVISORY COMMITTEE

SEC. 309. (a) ESTABLISHMENT.—The Secretary shall establish a Manufacturing Science and Technology Enhancement Advisory Committee to advise the Secretary concerning the activities to be conducted under this title. The Advisory Committee shall have twelve members and shall include at least three representatives each from the manufacturing research community, from labor, and from management of technology-sensitive industrial sectors identified under the terms of this title. Such members shall receive no compensation and shall be appointed for terms of six years, except that of the members first appointed four, shall be appointed for terms of two years, two shall be appointed for terms of four years, three shall be appointed for terms of five years, and three shall be appointed for terms of six years. Any such member shall, in accordance with section 5703 of title 5, United States Code, be entitled to reimbursement for travel or transportation expenses incurred in the performance of responsibilities as a member of the Advisory Committee.

(b) FUNCTIONS.—The Advisory Committee shall—

(1) recommend to the Secretary policies and selection criteria for individual industrial sectors in need of assistance under section 305 of this title;

(2) review the progress of the Secretary in meeting all the requirements of this title;

(3) assess the effectiveness of the activities funded pursuant to this title; and

(4) submit to the Secretary, at least annually, evaluations and recommendations regarding activities carried out under this title.

(c) REPORT.—The Advisory Committee shall submit to the Congress an annual report on its activities under this title.

(d) APPLICABILITY.—The Advisory Committee shall be subject to the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.).

Amend the title so as to read: "An Act to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1985, and for other purposes.".

Mr. FUQUA (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendments be dispensed with, and that they be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Florida?

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

WYOMING WILDERNESS ACT OF 1983

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs and the Committee on Agriculture be discharged from further consideration of the Senate bill (S. 543), to designate certain national forest system lands in the State of Wyoming for inclusion in the National Wilderness Preservation System, to release other forest lands for multiple use management, to withdraw designated wilderness areas in Wyoming from mineral activity, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is their objection to the request of the gentleman from Ohio?

Mr. CHENEY. Mr. Speaker, reserving the right to object, would the gentleman [Mr. SEIBERLING] advise the House if it is his intention to offer the amendment in the nature of a substitute to the bill which the Wyoming delegation has agreed to, if his request is granted?

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Mr. SEIBERLING. Mr. Speaker. if the gentleman will yield, that is absolutely correct. All parties are in agreement on the compromise which I have provided to the gentleman and which is at the desk. I will offer the substitute at the appropriate time if the unanimous consent request is granted.

Mr. CHENEY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read as follows:

S. 543

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE I—SHORT TITLE, FINDINGS AND PURPOSES

SHORT TITLE

SEC. 101. This Act may be cited as the "Wyoming Wilderness Act of 1983".

DECLARATION OF FINDINGS AND PURPOSES

SEC. 102. (a) The Congress finds that—

(1) certain areas of undeveloped national forest lands in the State of Wyoming possess outstanding natural characteristics giving them high values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) review and evaluation of roadless and undeveloped lands in the national forest system of Wyoming have identified those areas which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fulfill the national forest system's share of a quality National Wilderness Preservation System; and

(3) review and evaluation of roadless and undeveloped lands in the national forest system in Wyoming have also identified those areas which should be available for multiple uses other than wilderness, subject to the Forest Service's land management planning process and the provisions of the Act.

(b) The purposes of this Act are to—

(1) designate certain national forest system lands in Wyoming for inclusion in the National Wilderness Preservation System in order to preserve the wilderness character of the land and to protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all of the American people;

(2) withdraw, subject to valid existing rights, National Wilderness Preservation System lands in the State of Wyoming, including those so designated by this Act, from operation of the general mining and mineral leasing laws in order to protect the physical characteristics and wilderness values which motivated the Congress to include these lands within the System;

(3) require appropriate inventory to assess and document the minerals potential of National Wilderness Preservation System lands in the State of Wyoming in order to enhance the data base: and

(4) insure that certain national forest system lands in the State of Wyoming be made available for uses other than wilderness in accordance with applicable national forest laws and planning procedures and section 302 of this Act.

The lands referred to in paragraph (4) may be managed for a wide variety of uses, depending on their unique characteristics, including but not limited to fish and wildlife protection management, developed and undeveloped recreation, scenic enjoyment, preservation of natural characteristics, range management, timber harvesting, watershed and vegetation management, energy and minerals exploration and develoment, and other uses.

TITLE II—ADDITIONS TO NATIONAL WILDERNESS PRESERVATION SYSTEM

DESIGNATION OF THE CLOUD PEAK, POPO AGIE, GROS VENTRE, AND JEDEDIAH SMITH WILDERNESS AREAS, AND THE DU NOIR ADDITION TO THE WASHAKIE WILDERNESS, THE CORRIDOR ADDITION TO THE TETON WILDERNESS, AND THE GLACIER PRIMITIVE AREA ADDITION TO THE FITZPATRICK WILDERNESS

SEC. 201. (a) In furtherance of the purposes of the Wilderness Act (78 Stat. 890), the following national forest system lands in the State of Wyoming, comprising approximately six hundred and thirty-five thousand seven hundred and twenty-nine acres and generally depicted on maps appropriately referenced, are hereby designated as wilderness, and, therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the Bighorn National Forest, which comprise approximately one hundred and fifty-seven thousand nine hundred acres, as generally depicted on a map entitled, "Cloud Peak Wilderness Area Proposal", numbered W-one and dated February 22, 1982, and which shall be known as the Cloud Peak Wilderness.

(2) Certain lands in the Shoshone National Forest, which comprise approximately one hundred and one thousand nine hundred and ninety-one acres, as generally depicted on a map entitled, "Popo Agie Wilderness Area Proposal", numbered W-two and dated February 22, 1982, and which shall be known as the Popo Agie Wilderness.

(3) Certain lands in the Bridger-Teton National Forest, which comprise approximately two hundred and twenty-eight thousand five hundred and fifty acres, as generally depicted on a map entitled, "Gros Ventre Wilderness Area Proposal", numbered W-three and dated February 17, 1983, and which shall be known as the Gros Ventre Wilderness.

(4) Certain lands in the Targhee National Forest which comprise approximately one hundred and one thousand five hundred and thirty-five acres as generally depicted on a map entitled, "Jedediah Smith Wilderness Area Proposal", numbered W-five and dated March 1983 and which shall be known as the Jedediah Smith Wilderness.

(5) Certain lands in the Shoshone National Forest, which compromise approximately eleven thousand and one hundred acres, as generally depicted on a map entitled, "DuNoir Addition to the Washakie Wilderness Area Proposal", numbered W-six and dated September 1982 and which shall become a part of the Washakie Wilderness as designated by Public Law 92-476 (86 Stat. 792).

(6) Certain lands in the Bridger-Teton National Forest, which comprise approximately twenty-eight thousand one hundred and fifty-six acres as generally depicted on a map entitled, "Corridor Addition to the Teton Wilderness Area Proposal", numbered W-seven and dated September 1982 which shall become a part of the Teton Wilderness as designated by Public Law 88-577.

(7) Certain lands in the Shoshone National Forest, which comprise approximately six thousand four hundred and ninety-seven acres, as generally depicted on a map entitled, "Glacier Addition to the Fitzpatrick Wilderness Area Proposal", numbered W-eight and dated September 1982 and which shall become a part of the Fitzpatrick Wilderness as designated by Public Law 94-557 and Public Law 94-567.

(b) Within the area depicted as the special management unit on the map entitled, "Washakie Wilderness—Proposed", dated June 15, 1967, revised September 12, 1970, which is on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture, any roads that may be constructed for the purpose of timber harvesting or other authorized uses shall be used only for those uses and related administration and shall not be available for general public travel. The determination of authorized use shall consider the needs of the resident and migrating elk herds and other wildlife.

(c) Section 5 of Public Law 92-476 (86 Stat. 792) is hereby repealed.

(d) Within the area described in subsection (a)(7), motorized access for administrative purposes and related activities as determined necessary by the Secretary for habitat management, trapping, transporting, and proper management of the area's big horn sheep population shall be allowed.

(e) The previous classification of each of the following is hereby abolished: the Cloud Peak Primitive Area, the Popo Agie Primitive Area, and the Whiskey Mountain Primitive Area.

LEGAL DESCRIPTION AND WILDERNESS BOUNDARIES

SEC. 202. As soon as practicable after the enactment of this Act, a map and a legal description of each wilderness area designated under section 201 shall be filed with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

APPLICATION OF THE WILDERNESS ACT OF 1964

SEC. 203. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary in accordance with the provisions of this Act and the Wilderness Act, except that any reference in the provisions of the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

TITLE III—RELEASE OF LANDS FOR MULTIPLE USE MANAGEMENT

ADMINISTRATIVE AND CONGRESSIONAL REVIEW OF ROADLESS AREAS

SEC. 301. The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of national forest roadless areas by Wyoming and the environmental impacts associated with alternative allocations of such areas.

RELEASE OF LANDS NOT DESIGNATED AS WILDERNESS

SEC. 302. (a) The Congress hereby determines and directs that, without passing on the question of the legal and factual sufficiency of the RARE II final environmental impact statement (dated January 1979) with respect to national forest lands in States other than Wyoming, such statement shall not be subject to judicial review with respect to national forest system lands in the State of Wyoming.

(b) National forest system lands in the State of Wyoming—

(1) not identified by section 201 as additions to the National Wilderness Preservation System; or

(2) not heretofore designated by Act of Congress as components of the National Wilderness Preservation System,

shall be managed for multiple uses other than wilderness, until and unless otherwise directed by an Act of Congress. Such lands shall be deemed, for purposes of all current and future land management plans which are approved before December 31, 2000, and which are required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to have been given adequate consideration as to their suitability for inclusion in the National Wilderness Preservation System.

(c) Unless expressly authorized by Congress, the Secretary of Agriculture shall not conduct, pursuant to the Wilderness Act, any roadless area review and evaluation of national forest system lands in the State of Wyoming for the purpose of determining their suitabilty for inclusion in the National Wilderness Preservation System.

TITLE IV—WITHDRAWAL OF DESIGNATED WILDERNESS AREAS FROM OPERATION OF THE MINING AND MINERAL LEASING LAWS

WITHDRAWAL OF DESIGNATED WILDERNESS AREAS FROM MINING AND MINERALS ACTIVITY

SEC. 401. Notwithstanding any other provision of law, and subject to valid existing rights, lands within the national forest system in Wyoming which have previously been designated by Act of Congress for inclusion in the National Wilderness Preservation System, and lands which are so designated by this Act, are hereby withdrawn from all forms of appropriation under the mining laws and from disposition under all laws petaining to mineral and geothermal leasing and all amendments thereto. In the case of the lands referred to in the preceding sentence, for purposes of applying the provisions of section 4(d)(3) of the Wilderness Act, the date of enactment of this Act shall be substitued for the December 31, 1983, and the January 1, 1984, dates referred to in such provisions.

TITLE V—ASSESSMENT OF MINERALS, PROHIBITION ON DRILLING

MINERALS ASSESSMENT ACTIVITY

SEC. 501. (a) Subject to subsection 501(b) of this Act, and in furtherance of section 4(d)(2) of the Wilderness Act and the policies of the National Materials and Minerals Policy, Research, and Development Act (94 Stat. 2305), the Secretary of the Interior shall continue to assess the minerals potential of National Wilderness Preservation System lands within the State of Wyoming in order to expand the data base with respect to the minerals potential of such lands.

(b) Notwithstanding any other provision of law and subject to valid existing rights, exploratory drilling within the boundaries of any congressionally designated unit of the National Wilderness Preservation System in the State of Wyoming for the purpose of assessing oil and gas potential is hereby prohibited.

(c) The provisions of section 308 of Public Law 97-394 shall not apply to lands within the national forest system in Wyoming which have been previously designated by Act of Congress for inclusion in the Nation-

al Wilderness Preservation System, or the lands which are so designated by this Act.

TITLE VI—MISCELLANEOUS PROVISIONS

GRAZING IN WILDERNESS AREAS

SEC. 601. The Secretary of Agriculture is directed to review all policies, practices, and regulations of the Department of Agriculture regarding livestock grazing in national forest wilderness areas in the State of Wyoming in order to ensure that such policies, practices, and regulations fully conform with and implement the intent of Congress regarding grazing in such areas, as such intent is expressed in the Wilderness Act.

STATE WATER ALLOCATION AUTHORITY

SEC. 602. (a) As provided in section 4(d)(7) of the Wilderness Act, nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from Wyoming water laws.

(b) As provided in section 4(d)(8) of the Wilderness Act, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Wyoming with respect to wildlife and fish in the national forests in Wyoming.

PROHIBITION ON BUFFER ZONES

SEC. 603. Congress does not intend that designation of wilderness areas in the State of Wyoming lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. SEIBERLING: On page 1, strike all after the enacting clause and insert in lieu thereof the following:

"TITLE I—SHORT TITLE, FINDINGS AND PURPOSES

SHORT TITLE

SEC. 101. This Act may be cited as "The Wyoming Wilderness Act of 1984."

DECLARATION OF FINDINGS AND PURPOSES

SEC. 102. (a) The Congress finds that—

(1) certain areas of undeveloped national forest lands in the State of Wyoming possess outstanding natural characteristics giving them high values as wilderness and will, if properly preserved, be an enduring resource of wilderness for the benefit of the American people;

(2) review and evaluation of roadless and undeveloped lands in the national forest system of Wyoming have identified those areas which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fulfill the national forest system's share of a quality National Wilderness Preservation System; and

(3) review and evaluation of roadless and undeveloped lands in the national forest system in Wyoming have also identified those areas which should be specially managed, deserve further study, or which should be available for multiple uses other than wilderness, subject to the Forest Service's land management planning process and the provisions of this Act.

(b) The purposes of this Act are to—

(1) designate certain national forest system lands in Wyoming for inclusion in the National Wilderness Preservation System in order to preserve the wilderness character of the land and to protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all of the American people;

(2) insure that certain national forest system lands in the State of Wyoming be made available for uses other than wilderness in accordance with applicable national forest laws and planning procedures and the provisions of this Act.

TITLE II—ADDITIONS TO THE NATIONAL WILDERNESS PRESERVATION SYSTEM

SEC. 201. (a) In furtherance of the purposes of the Wilderness Act (78 Stat. 890), the following national forest system lands in the State of Wyoming, as generally depicted on maps appropriately referenced herein, are hereby designated as wilderness, and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the Bighorn National Forest, which comprise approximately one hundred ninety-five thousand five hundred acres as generally depicted on a map entitled, "Cloud Peak Wilderness Area—Proposed," dated September 1984, and which shall be known as the Cloud Peak Wilderness;

(2) certain lands in the Shoshone National Forest, which comprise approximately one hundred and one thousands nine hundred and ninety-one acres, as generally depicted on a map entitled, "Popo Agie Wilderness Area—Proposed," dated September 1982, and which shall be known as the Popo Agie Wilderness;

(3) subject to valid existing rights and reasonable access to exercise such rights, certain lands in the Bridger-Teton National Forest, which comprise approximately two hundred eighty-seven thousand acres, as generally depicted on a map entitled, "Gros Ventre Wilderness Area—Proposed," dated September 1984, and which shall be known as the Gros Ventre wilderness;

(4) certain lands in the Bridger-Teton National Forest, which comprise approximately fourteen thousand acres, as generally depicted on a map entitled, "Winegar Hole Wilderness Area—Proposed," dated September 1984, and which shall be known as the Winegar Hole Wilderness;

(5) certain lands in the Targhee National Forest which comprise approximately one hundred sixteen thousand five hundred thirty-five acres as generally depicted on a map entitled, "Jedediah Smith Wilderness Area—Proposed," dated September 1984, and which shall be known as the Jedediah Smith Wilderness;

(6) subject to Section 201(c) of this Act, certain lands in the Medicine Bow National Forest which comprise approximately thirty one thousand three hundred acres as generally depicted on a map entitled, "Huston Park Wilderness Area—Proposed," dated September 1984, and which shall be known as the Huston Park Wilderness;

(7) subject to Section 201(c) of this Act, certain lands in the Medicine Bow National Forest which comprise approximately ten thousand four hundred acres as generally depicted on a map entitled, "Encampment River Wildness Area—Proposed," dated September 1984, and which shall be known as the Encampment River Wilderness;

(8) subject to Section 201(c) of this Act, certain lands in the Medicine Bow and Routt National Forests of Wyoming and Colorado, which comprise approximately twenty three thousand acres as generally depicted on a map entitled, "Platte River Wilderness Area—Proposed," dated September 1984, and which shall be known as the Platte River Wilderness;

(9) certain lands in the Bridger-Teton National Forest, which comprise approximately twenty-eight thousand one hundred and fifty-six acres as generally depicted on a map entitled, "Corridor Addition to the Teton Wilderness Area—Proposed," dated September 1982, and which are hereby incorporated in and which shall be deemed a part of the Teton Wilderness as designated by Public Law 88-577;

(10) certain lands in the Bridger-Teton National Forest which comprise approximately thirty six thousand acres as generally depicted on maps entitled, "Silver Creek Addition to the Bridger Wilderness—Proposed," and "Newfork Lake Addition to the Bridger Wilderness—Proposed," dated September 1984, and which are hereby incorporated in and which shall be deemed a part of the Bridger Wilderness as designated by Public Law 88-577;

(11) certain lands in the Shoshone National Forest, which comprise approximately six thousand four hundred and ninety-seven acres, as generally depicted on a map entitled, "Glacier Addition to the Fitzpatrick Wilderness—Area Proposed," dated September 1982, which are hereby incorporated in and which shall be deemed a part of the Fitzpatrick Wilderness as designated by Public Law 94-557 and Public Law 94-567; *Provided*, That within the area referred to in this subparagraph, occasional motorized access for administrative purposes and related activities as determined necessary by the Secretary for habitat management, trapping, transporting and proper management of the area's bighorn sheep population may be allowed;

(12) certain lands in the Shoshone National Forest, which comprise approximately ten thousand acres, as generally depicted on a map entitled, "South Fork Addition to the Washakie Wilderness—Proposed," dated September 1984, and which are hereby incorporated in and which shall be deemed a part of the Washakie Wilderness as designated by Public Law 92-476;

(13) certain lands in the Shoshone National Forest, which comprise approximately twenty three thousand seven hundred and fifty acres, as generally depicted on a map entitled, "High Lakes Addition to the Absaroka-Beartooth Wilderness—Proposed," dated September 1984, and which are hereby incorporated in and which shall be deemed a part of the Absaroka-Beartooth Wilderness as designated by Public Law 95-249.

(b) The previous classification of each of the following is hereby abolished: the Cloud Peak Primitive Area, the Popo Agie Primitive Area, and the Glacier Primitive Area.

(c) The designation and continued existence of the Huston Park, Encampment River, Platte River and Savage Run Wildernesses shall not, under any federal law, in any way impair or affect any present or future water rights for, and shall not prevent, impair, or in any way affect construction, operation or maintenance of, the State II or State III water development projects as presently defined in Wyoming Statutes, Section 41-2-204(a) (iii) and (iv) (1984 Cum. Supp.), (Wyoming Laws 1979, Ch. 126, Sec.

1) or any subsequent modification thereof, including the water rights required therefor, to the extent that such modification provides for the diversion and transportation of water in the Little Snake River Basin for storage or use in said basin or in Wyoming east of the Continental Divide. No term or condition shall be imposed on any permit, license, right-of-way or other authorization for said projects on the basis of any present or future wilderness characteristics, wilderness designations, or wilderness studies or evaluations of lands in the Medicine Bow National Forest or in Natrona, Sweetwater, or Carbon Counties in Wyoming.

LEGAL DESCRIPTION AND WILDERNESS BOUNDARIES

SEC. 202. As soon as practicable after the enactment of this Act, a map and a legal description of each area described in Titles II and III shall be filed with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

APPLICATION OF THE WILDERNESS ACT OF 1964

SEC. 203. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary in accordance with the provisions of this Act and the Wilderness Act, except that any reference in the provisions of the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

TITLE III—WILDERNESS STUDY AREAS

SEC. 301.(a) In furtherance of the purposes of the Wilderness Act, the Secretary of Agriculture shall, upon revision of the initial land management plans for the Bridger-Teton, Targhee and Shoshone National Forests required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, review the following lands as to their suitability for preservation as wilderness:

(1) certain lands in the Bridger-Teton and Targhee National Forests of Wyoming, which comprise approximately one hundred and thirty-five thousand eight hundred and forty acres, as generally depicted on a map entitled, "Palisades Wilderness Study Area—Proposed," dated September 1984, and which shall be known as the Palisades Wilderness Study Area;

(2) certain lands in the Bridger-Teton National Forest, which comprise approximately thirty thousand acres, as generally depicted on a map entitled, "Shoal Creek Wilderness Study Area—Proposed," dated September 1984, and which shall be known as the Shoal Creek Wilderness Study Area;

(3) certain lands in the Shoshone National Forest of Wyoming, which comprise approximately fourteen thousand seven hundred acres, as generally depicted on a map entitled, "High Lakes Wilderness Study Area—Proposed," dated September 1984, and which shall be known as the High Lakes Wilderness Study Area.

(b) Subsequent to such review the Secretary shall submit his reports and findings to the President and the President shall submit his recommendations to the Congress within three years of the date of receipt of the Secretary's report.

(c) Subject to valid existing rights and reasonable access to exercise such rights, until Congress determines otherwise, the Palisades, High Lakes and Shoal Creek Wilderness Study Areas shall be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System: *Provided*, That:

(1) with respect to oil and gas exploration and development activities, the Palisades Wilderness Study Area shall be administered under reasonable conditions to protect the environment according to the laws and regulations generally applicable to non-wilderness lands within the National Forest System;

(2) subject to valid existing rights, the Palisades Wilderness Study Area as designated by this Act is hereby withdrawn from all forms of appropriation under the mining laws;

(3) the provisions of Section 308 of the Interior Department Appropriations Act for fiscal year 1984 (Public Law 98-146) or similar provisions which may hereafter be enacted concerning oil and gas leasing, exploration and development in further planning or wilderness study areas shall not apply to the Palisades Wilderness Study Area; and

(4) within the Palisades, High Lakes and Shoal Creek Wilderness Study Areas, snowmobiling shall continue to be allowed in the same manner and degree as was occurring prior to the date of enactment of this Act.

TITLE IV—RELEASE OF LANDS FOR MULTIPLE USE MANAGEMENT

ADMINISTRATIVE AND CONGRESSIONAL REVIEW OF ROADLESS AREAS

SEC. 401. (a) The Congress finds that—

(1) the department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of national forest roadless areas in Wyoming and the environmental impacts associated with alternative allocations of such area.

(b) On the basis of such review, the Congress hereby determines and directors that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest lands in states other than Wyoming, such statement shall not be subject to judicial review with respect to national forest system lands in the state of Wyoming;

(2) with respect to the national forest lands in the State of Wyoming which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (D) except those lands remaining in wilderness study upon enactment of this Act and subject to Section 301, that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1976 (Public Law 94-588) to be an adequate consideration of the suitability of such lands for inclusions in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary finds that conditions in a unit have significantly changed;

(3) areas in the State of Wyoming reviewed in sure final environmental statement or referred to in subsection (d) and not designated wilderness or wilderness study upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976; *Provided:* That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Wyoming are implemented pursuant to Section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Wyoming for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to:

(1) national forest system roadless areas or portions thereof in the State of Wyoming identified by unit plans listed at the end of this subparagraph, which are not designated as wilderness by this Act:

National Forest	*Unit Plan*
Bridger-Teton	Union Pass
Bridger-Teton	Big Piney
Bridger-Teton	Spread Creek
Bridger-Teton	North Gros Ventre
Targhee	West Slope-Tetons
Targhee	Island Park
Medicine Bow	Huston Park
Medicine Bow	Savage Run
Shoshone	Beartooth Plateau

(2) that portion of the Beartooth-High Lakes area not included in wilderness or wilderness study by this Act; and

(3) national forest roadless lands in the state of Wyoming which are less than 5,000 acres in size.

(e) The provisions of this section shall not apply to the area referred to in Section 5 of Public Law 92-476 (86 Stat. 792) and gener-

ally known as the Dunoir Special Management Unit, which shall continue to be managed pursuant to Public Law 92-476.

TITLE V—MISCELLANEOUS PROVISIONS

GRAZING IN WILDERNESS AREAS

SEC. 501. The Secretary of Agriculture is directed to review all policies, practices and regulations of the Department of Agriculture regarding livestock grazing in national forest wilderness areas in the State of Wyoming in order to insure that such policies, practices and regulations fully conform with and implement the intent of Congress regarding grazing in such areas, as such intent is expressed in the Wilderness Act, as interpreted by Public Law 98-406.

STATE WATER ALLOCATION AUTHORITY

SEC. 502. As provided in section 4(d)(6) of the Wilderness Act, except as provided in Section 201(c) of this Act, nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from Wyoming water laws.

STATE FISH AND WILDLIFE AUTHORITY

SEC. 503. As provided in section 4(d)(7) of the wilderness Act, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Wyoming with respect to wildlife and fish in the national forests in Wyoming.

PROHIBITION ON BUFFER ZONES

SEC. 504. Congress does not intend that the designation of wilderness areas in the State of Wyoming lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from within my wilderness area shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

PROTECTION OF ARCHAEOLOGICAL RESOURCES

SEC. 505. (a) Within the areas described in sections 201 and 301, and within any previously-designated components of the National Wilderness Preservation System in the State of Wyoming, and in furtherance of the purposes of the Wilderness Act, section 6 of the National Forest Management Act, the Archaeological Resources and Protection Act, and the Historic Preservation Act, the Secretary shall cooperate with the Secretary of the Interior and with agencies and institutions of the State of Wyoming, in conducting a cultural resources management program.

(b) Such program shall have as its purpose the protection of archaeological sites and interpretation of such sites for the public benefit and knowledge, and compliance with all federal and state historic and cultural resource preservation statutes, regulations, guidelines and standards, insofar as these activities are compatible with the purposes for which the affected lands were designated as wilderness or special management areas.

SEC. 506. If any provision of this Act or the application thereof is held invalid, the remainder of the Act and the application thereof shall not be affected thereby."

Mr. SEIBERLING (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. CHENEY. Reserving the right to object, Mr. Speaker, it is not my intention to object; I make my reservation of objection only for the purposes of allowing the gentleman from Ohio to explain the legislation.

I yield to the distinguished chairman of the Public Lands Subcommittee for his response.

Mr. SEIBERLING. I thank the gentleman from Wyoming for yielding.

Mr. Speaker, let me say first of all that it is more than usually gratifying to me to announce an acceptable compromise has been reached on the Wyoming wilderness issue. I want to extend my sincere thanks to the distinguished gentleman from Wyoming, Mr. CHENEY, and to his colleagues in the Senate, Senators WALLOP and SIMPSON, for their diligence and patience and perserverance in working with me and all of the other interested parties to try to reach this result.

The substitute amendment that incorporates the compromise would designate approximately 884,000 acres of new wilderness and national forests in Wyoming, an increase of some 250,000 acres above the originally passed measure in the Senate. In addition, roughly 180,000 acres are slated for further wilderness study, and the 28,000-acre DuNoir Special Management Unit will remain in its current protected status.

However, I think I should also point out that the bill would release some 2.7 million acres for nonwilderness types of uses, and will thereby end the uncertainty which currently surrounds the management of those lands.

Included in the 2.7 million acre release figure are more than 1 million acres of land which were ardently sought by conservationists for wilderness designation. So I think everyone can see that this really is a genuine compromise, and everybody has had to give some.

Let me just mention one thing more about another concern which is the water projects problem. One of the delegations primary concerns in negotiating a compromise was to insure that wilderness designations or studies would not adversely affect the proposed stage II or stage III water development projects in southeast Wyoming.

After very lengthy negotiations, indeed, I believe we have achieved compromise language in section 201(c) of the bill that fully protects the projects from any adverse affects of delays associated with wilderness designations or studies. Certainly that is our intention.

Mr. Speaker, that concludes my summary of the major provisions of the substitute bill. This bill has been a longtime coming, starting with the subcommittee's field inspection trip in 1979, and while it is not all the wilderness I have hoped for, I believe it represents a reasonable compromise and one that I am proud to support.

Mr. Speaker, because of the timeframe involved in moving this legislation we will not be able to have committee action or a committee report on the substitute bill. I will therefore, offer for the RECORD a detailed description of the substitute bill, including some of my own observations on the compromise reached:

CLOUD PEAK WILDERNESS

The substitute adds approximately 37,000 acres to the Senate proposal. The bulk of the additions are located in the Shell Creek area on the northwest side of the Primitive Area and the Upper Penrose/Little Goose Creek area on the northeast. These additions generally comprise scenic lower elevation forested terrain which will help act as a buffer to the fragile high country above timberline. The Shell Creek area is also an important water producer with several lovely wet meadows which provide excellent wildlife habitat.

Quite frankly, although the additions are meritorious, I would have preferred to see them in the Rock Creek area. The approximate 35,000 acre Rock Creek area runs all the way from alpine tundra down through scenic canyons to the edge of the prairie, and represents the only real opportunity to have the proposed wilderness incorporate a vast spectrum of ecological systems. The Subcommittee toured the Rock Creek area in 1981, and I was very impressed with its rugged, scenic terrain, dramatic rock spires, and beautiful canyons. Unfortunately, much of the area has been leased for oil and gas and the delegation was unwilling to designate it as wilderness or wilderness study at this time. It would be my hope, however, that if the area's oil and gas potential proves to be low that a future Congress would reconsider the wilderness option for this beautiful and fragile area. In the meanwhile I would ask that the Forest Service exercise special sensitivity in planning for management of the area and, that if at all possible, any oil and gas exploration activities on the existing leases be conducted by helicopter or other nonsurface disturbing methods. The Subcommittee has received a great deal of input from Wyoming residents asking that the roadless nature of the Rock Creek area be protected, and we trust that the Forest Service will be sensitive to those concerns.

POPO AGIE

The Senate's 101,991 acre wilderness proposal has been accepted without change.

GROSS VENTURE

Approximately 58,500 acres have been added to the Senate wilderness proposal. The largest addition is located in the Little Granite Creek/Horse Creek area and was recommended for wilderness by the Forest Service in RARE II. The area comprises extremely important wildlife habitat, especially for elk and bighorn sheep, which numerous studies have been shown need large acreages of undeveloped land for their propagation and survival. According to the Wyoming Department of Game and Fish, wilderness designation in the area will greatly assist in efforts to sustain the thriving elk and bighorn populations by prohibiting future development on the area's rugged terrain and unstable soils. In addition to its wildlife values, the area has a lovely mix of forested stands and broad, open alpine

meadows which afford sweeping and spectacular views of the surrounding countryside. Development in a portion of the area could, therefore, adversely impact surrounding wilderness values to a greater extent than in areas where the terrain is not so open and visible. Wilderness designation for the area is thus very important, and I am gratified that we have been able to agree on its inclusion in wilderness.

In designating the Little Granite Creek addition as wilderness, the Committee realizes that a portion of the area is under lease for oil and gas. Oil and gas development in the area is strongly opposed by the State of Wyoming, the Teton County Commissioners, the local state senator and state representative, the Jackson Town Council, the Wyoming Game and Fish Department and numerous organizations and individuals in Wyoming, and in the Jackson Hole area in particular. Legal action challenging the validity of the existing leases has been initiated by the State of Wyoming and other parties.

In designating the area as wilderness, Congress takes no position with respect to the validity of the leases. We have agreed to leave that issue to the courts. However, I personally do not see how the Little Granite Creek leases could be developed or accessed without adverse impacts on the wilderness character of the area. I would hope, therefore, that if the leases are determined to grant the lessee development rights, that the lessee and the Forest Service would be able to agree to an exchange or some other procedure whereby development would be avoided. In any event the Forest Service should rigorously impose and enforce environmental restrictions to ensure that the area can be returned to a natural condition without undue damage once oil exploration and development are ended.

The substitute bill also includes additions in the vicinity of Twin Creek/Cache Creek and Sheep Mountain comprising approximately 17,500 acres. These additions abut the existing National Elk Refuge and comprise important migration corridors to and from the Refuge. They were recommended for wilderness in RARE II.

The proposed 287,000 acre wilderness will lie adjacent to the 30,000 acre Shoal Creek Wilderness Study Area. The Shoal Creek area is rich in wildlife values and comprises highly scenic terrain on the south flank of the Gros Ventre Mountains. The area was not recommended for wilderness in RARE II but there appears to be considerable support for wilderness designation. Accordingly, the substitute proposes further wilderness review when the Bridger-Teton National Forest "second generation" plans are prepared some 10-15 years from now. In the interim, the Wilderness Study area is to managed to protect is presently existing wilderness character.

Although it is not designated wilderness or wilderness study by the substitute, I would like to draw the Forest Service's special attention to an approximate 30,000 acres of land lying in the vicinity of Klondike Hill/Rock Creek east of the proposed Gros Ventre Wilderness and Shoal Creek Wilderness Study Area. I personally believe this area contains exceptional wilderness values which should be preserved in their natural state. I also note that the Wyoming Congressional delegation, at the urging of the Sublette County Commissioners, local ranchers and others, strenuously promoted placing this area in a special legislative management category which would essentially have required that the present roadless and undeveloped character of the area be maintained. I have consistently resisted such special designations because I do not believe Congress should start creating what some call "Third System" areas, I am afraid that if we begin to set such precedents we will increasingly be asked to settle each and every dispute between the Forest Service and those who disagree with them, and will ultimately end up "managing" much of the National Forest System by special legislation. Not only would that defeat the purposes of the National Forest Management Act, but it would also tend to embroil Congress in minute land management details and controversies which the on the ground experts in the Forest Service are far better equiped to handle. In sum, I believe lands should either be designated Wilderness or Wilderness Study or left to administration by the Forest Service through the forest land management planning process.

But something has obviously gone very wrong in the Klondike Hill/Rock Creek area, and in other areas across the country, because we are increasingly hearing that local ranchers, hunters, fishermen and others don't "trust" the Forest Service because "it is interested only in harvesting timber at the expense of all other values". So I would strongly recommend that the Forest Service reconsider its timber harvest plans in the Klondike Hill/Rock Creek area and listen closely to the local elected officials or residents. If they do not, I foresee future moves to shut off funding for timber harvest in the area or new requests to our Subcommittee to reconsider the option of special management.

JEDEDIAH SMITH WILDERNESS

Approximately 15,000 acres have been added to the Senate-passed proposal in the Moose Creek area. The addition was recommended by the Forest Service in RARE II and comprises lands that are popular for crosscountry skiing, ski touring, hiking, hunting and fishing with residents of Jackson and other nearby communities. The boundaries of the addition are as recommended by the Forest Service except that they do not include minor acreage recommended in Idaho and a small area covered by an existing oil and gas lease.

HUSTON PARK WILDERNESS

The substitute adds the 31,300 acre Huston Park area as proposed by the Forest Service in RARE II. This area is the largest roadless area in the Medicine Bow National Forest and comprises relatively gentle terrain dominated by open meadows ("parks") which provide excellent wildlife habitat.

ENCAMPMENT RIVER WILDERNESS

The Forest Service's 10,400 acre wilderness proposal is incorporated in the substitute. The proposed wilderness protects the scenic gorge of the Encampment River Canyon and has important habitat for bighorn sheep and other wildlife species.

PLATTE RIVER WILDERNESS

The 23,000 acre wilderness proposal of the substitute includes the Forest Service's 19,000 acre RARE II wilderness recommendation plus some 4,000 acres of additional lands on Platte Ridge. The major features of the area are the deep canyons of the North Platte River and Douglas Creek. The North Platte River is very popular for whitewater recreation (float trips, etc.) and fishing. The additions on Platte Ridge will protect important bighorn sheep habitat as well as elk thermal cover.

A small portion of the proposal covers lands in Colorado. Action on these lands was postponed by the Colorado delegation during consideration of the 1980 Colorado wilderness bill because the vast majority of the proposed Platte River Wilderness lies in Wyoming. The Colorado lands are now included to fully protect the area.

TETON CORRIDOR

The substitute incorporates the 28,156 acre wilderness proposal exactly as passed by the Senate.

BRIDGER WILDERNESS ADDITIONS

The substitute adds approximately 36,000 acres to the existing Bridger Wilderness which were not included in the Senate passed bill. The additions comprise the northern and central portions of the area, were proposed for wilderness by the Forest Service in RARE II, and generally follow the Forest Service recommended boundaries. Minor boundary adjustments have been made, including a deletion east of New Fork Lake in order to allow for possible future expansion of the existing water reservoir.

In general, the proposed additions will add scenic lands to the heavily used Bridger Wilderness and provide a buffer to the fragile high country. A portion of the additions lies adjacent to BLM's Scab Creek Primitive Area, which has tentatively been recommended for wilderness by the Reagan Administration and will presumably be considered by Congress for wilderness in future legislation.

FITZPATRICK WILDERNESS ADDITION

The substitute includes the 6,497 acre Whiskey Mountain area (Glacier Primitive Area) as an addition to the Fitzpatrick Wilderness, exactly as passed by the Senate.

Whiskey Mountain is critical winter habitat for a large herd of bighorn sheep, a wilderness-dependent wildlife species. wilderness designation will assure that the wild nature of the area, a condition essential to bighorn survival, will endure.

The Wyoming Game and Fish Department presently conducts a trapping program in the Whiskey Mountain area and transplants some of the bighorns to other areas. Even though the Wilderness Act and section 503 of this Act provide that the jurisdiction and the responsibilities of the Wyoming Game and Fish Department will not be affected, concern has been expressed that the Forest Service, in an overly restrictive interpretation of the flexible management provisions of the Wilderness Act, would no longer permit the Wyoming Game and Fish Department to conduct this necessary bighorn sheep population management program once Whiskey Mountain has been designated as a part of the Fitzpatrick Wilderness. While section 4 of the Wilderness Act permits continuation of previously existing programs, such as the existing limited bighorn sheep trapping operation, it was decided that, in this rare case, the Forest Service should be directed to permit the continuance of this wildlife population management program which is conducted in cooperation with the Wyoming Game and Fish Department.

The intent of the language is to limit motorized activities to only those which are directly related to the bighorn sheep trapping and transplanting program. Access is to be restricted to only those types of vehicles which are necessary to conduct the trapping and transplanting program and, further, such uses will be occasional and temporary

in accordance with section 4(c) of the Wilderness Act. Vehicles will not be permitted for patrol, law enforcement, censusing or hunting purposes and roads will not be permitted. In keeping with the Wilderness Act's overriding management requirement that wilderness areas are to be left untrammeled (that is, "left to operate freely"), habitat manipulation, of course, will not be allowed.

This rare, non-mandatory exception to the management mandate of the Wilderness Act that require the Forest Service to maintain the wilderness character of the area is based on the principle that the bighorn sheep population is an integral part of the wilderness character of Whiskey Mountain and continuation of the occasional trapping and transplanting program is deemed to be essential to assure the maintenance of the wilderness character of the area, including its resident wildlife, as required by the Wilderness Act.

SOUTH FORK ADDITION TO WASHAKIE WILDERNESS

The substitute adds approximately 10,000 acres to the existing wilderness. The additions generally comprise scenic lower elevation lands in the South Fork valley.

ABSAROKA-BEARTOOTH ADDITIONS

The substitute would add 23,750 acres to the existing Absaroka-Beartooth Wilderness. (These additions were not included in the Senate passed bill.) Generally known as the "Wyoming High Lakes". The additions comprise beautiful forested and mountainous terrain which is dotted with numerous scenic lakes and ponds. Portions of the area contain excellent wildlife habitat. The additions are also desirable because they will provide a topographically logical boundary for the Absaroka-Beartooth Wilderness, which currently runs along the Montana-Wyoming border.

The eastern portion of the "High Lakes" area is not designated wilderness by the substitute, but instead will become a 14,700 acre Wilderness Study Area. There is no dispute that the eastern portion possesses superlative wilderness values, which may even exceed those of the portion designated as wilderness. However, the proposed Wilderness Study Area is also popular for snowmobiling and there is substantial opposition to wilderness designation at this time. We, therefore, agreed that Wilderness Study status, which permits snowmobiling to continue (snowmobiling does not generally disturb the land surface or impair the physical potential of an area for inclusion in the Wilderness System) would be the appropriate designation of the area. Pursuant to the substitute, the area will be reviewed for wilderness designation during the preparation of a "second generation" management plan for the Shoshone National Forest some 10–15 years from now. At that time the wilderness/snowmobiling issue can be reexamined and recommendations made to Congress. In the interim, the roadless and wilderness character of the area, including such popular destinations as Night and Beauty Lakes, will be protected from development or disruption.

WINEGAR HOLE

The substitute adds a 14,000 acre Winegar Hole Wilderness to the bill. Winegar Hole lies directly south of Yellowstone National Park and northwest of the proposed Jedediah Smith Wilderness and comprises critical habitat for grizzly bear, trumpeter swans and other wildlife species. The area is named after the boggy Winegar Hole and also contains numerous shallow lakes and marshy areas.

PALISADES WILDERNESS STUDY AREA

The substitute proposes a 135,840 acres Wilderness Study area in this fragile country along the Idaho-Wyoming border. The area was recommended for further study in RARE II. Unlike the other Wilderness Study Areas in the bill, the Palisades is almost entirely covered by existing oil and gas leases. As the area is believed by industry to have a very high potential for oil and gas, it was agreed that with respect to oil and gas activities the area would be administered under the laws and regulations generally applicable to national forest lands not designated as wilderness or wilderness study. In short, oil and gas exploration and development should be allowed to proceed under reasonable conditions to protect the environment according to the laws and regulations generally applicable to nonwilderness lands. It should be recognized, however, that the Palisades is a very sensitive area and that oil and gas exploration activities should, to the extent appropriate, feasible, and practicable, be accomplished by helicopter or other nonsurface disturbing methods in accordance with the applicable lease provisions. Further, as the area is a Wilderness Study Area, any surface disturbances from exploration or development should be reclaimed to a condition of being substantially unnoticeable once exploration or development activities are completed.

With the exception of oil and gas activities, it was further agreed that the area will be managed to maintain its presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System, that is, will be administered like other Congressionally Designated Wilderness Study Areas.

DUNOIR

Section 401(e) of the substitute provides that the 28,000 acre DuNoir area will continue to be managed to protect its roadless and undeveloped state pursuant to Public Law 92–476.

WATER PROJECTS

One of the delegation's primary concerns in negotiating the compromise on S. 543 was to ensure that wilderness designations or studies would not adversely affect the proposed Stage II or Stage III water development projects in southeast Wyoming. After lengthy negotiations I believe we have achieved compromise language in section 201(c) of the bill that fully protects the projects from any adverse affects of delays associated with wilderness designations or studies. Certainly that is precisely our intention.

Mr. Speaker, in closing, I would once again like to thank the delegation for their hard work and diligence in negotiating this compromise. Special thanks should also be paid to Patty Howe of Congressman CHENEY's office for the hundreds of hours of time she put into this legislation over the past several years and to Messrs. Tony Bevinetto and Ray Hall of the Senate Energy Committee staff for their invaluable assistance, as well as Andy Wiessner of the staff of the Subcommittee on Public Lands and National Parks.

This bill has been a long time coming, starting with the subcommittee's field inspection trip to Wyoming in 1979. While it is not all the wilderness I have hoped for, I believe it represents a reasonable compromise and one that I am proud to support. I urge its approval.

Mr. CHENEY. Further reserving the right to object, Mr. Speaker, and I will be brief, I do not intend to object, I would simply like to echo the sentiments of the gentleman from Ohio. This legislation is the culmination of 5 years of effort that probably is the most important single piece of legislation affecting my State since I became a Member of the House of Representatives.

I would like to thank the gentleman from Ohio, the distinguished chairman of the Public Lands Subcommittee. He has been a tenacious foe, a man of great conviction, and we have often found the arguments long and difficult, but in the end we have arrived at a compromise that I believe serves the best interests of not only the Nation, but the people of the State of Wyoming. I wish to thank him for the many courtesies he has extended to me during the period of time we have worked on this legislation.

Mr. Speaker, the Wyoming Wilderness Act before us today represents 5 years of effort, dating from the issuance of the Forest Service's 1979 RARE II recommendations. Ever since those recommendations were transmitted to Congress, there has been a continuous effort by the Wyoming congressional delegation, in concert with many Wyoming citizens, to come up with legislation that would settle the question of which RARE II lands in my State should be added to the National Wilderness Preservation System, and which should be freed for multiple-use management.

Anyone who has followed the effort to achieve congressional consensus on the various State wilderness bills that have evolved from RARE II knows that there have been many difficult problems to overcome. There was the California lawsuit which precipitated a long and bitter controversy over so-called release language. There are concerns about the possible effect of wilderness designation on State water rights. There were problems in several States where proposed wilderness areas are thought to have potentially valuable energy or minerals potential. And there have been differences and arguments as to which areas should be designated and which should not.

All of these issues, and more, complicated the development of a Wyoming bill. But just as several other States have eventually been able to work through these difficulties and arrive at a consensus, we have managed to

achieve an agreement on a Wyoming bill which I believe will be acceptable to a majority of Wyoming citizens.

There are 9,252,329 acres of National Forest System lands in Wyoming. Of these, 2,193,202 acres already are included in the National Wilderness Preservation System. During RARE II, the Forest Service studied 3,928,000 acres which met the preliminary criteria for roadless area review. On the basis of this study, the Carter administration recommended 996,000 acres for wilderness designation.

The Wyoming Wilderness Act designates 884,049 acres of wilderness—more than any previous single wilderness bill in the States history. It adds 14 areas of National Forest System lands in the State of Wyoming to the National Wilderness Preservation System. Another 180,540 acres in the Palisades, High Lakes, and Shoal Creek Areas are to be further evaluated as to their potential for possible future inclusion in the system.

With the enactment of this bill, some 33.3 percent of Wyoming's 9.2 million acres of national forest lands will be preserved as wilderness.

The bill contains language to ensure that lands not designated as wilderness or wilderness study will be released for such nonwilderness uses as are deemed appropriate through the forest land management planning process, and prohibits lawsuits challenging the release of nonwilderness lands.

Of major importance to southeastern Wyoming is a provision ensuring that the wilderness designation of the Huston Park, Encampment River, and Platte River areas will not interfere with Wyoming's water development plans in that region, which contains almost half of the States population.

And, finally, the bill contains provisions to preserve existing grazing privileges in wilderness areas, prohibit buffer zones, and protect archaeological resources.

It is a bill I am proud to sponsor, and it represents a lot of very hard work over a long period of time by a lot of people, including my Wyoming colleagues in the Senate, Mr. WALLOP and Mr. SIMPSON, and the distinguished chairman of the House Interior Subcommittee on Public Lands and National Parks, Mr. SEIBERLING.

And, Mr. Speaker, I want to express my special appreciation to the many Wyoming citizens who labored so long and so diligently on this legislation. Many of them took time from their jobs to travel in Wyoming and to Washington for hearings or to meet with me to express their views. Others have written, called, and provided valuable material and information. To all of them, I am deeply grateful. Although not every person who worked on this bill will agree with each and every provision, one thing we all have in common is a love for Wyoming and a desire to preserve and protect Wyoming's unique natural features and way of life. I believe this bill represents a reasonable balancing of the diverse viewpoints concerning management of the national forests in Wyoming.

At this point, Mr. Speaker, I would like to include in the RECORD a summary of the areas designated by the bill, followed by comments concerning particular portions of the bill in order to make clear our legislative intent, inasmuch as there is no committee report on the bill owing to the impending adjournment of Congress and the lack of sufficient time for the Interior Committee to prepare a report.

Wilderness areas designated by the Wyoming Wilderness Act

Area:	Acres
Cloud Peak Wilderness	195,500
Popo Agie Wilderness	101,991
Gros Ventre Wilderness	287,080
Winegar Hole Wilderness	14,000
Jedediah Smith Wilderness (West Slope of Tetons)	116,535
Huston Park Wilderness	31,300
Encampment River Wilderness	10,400
Platte River Wilderness	23,000
Corridor Addition to Teton Wilderness	28,156
Silver Creek Addition to Bridger Wilderness	14,800
Newfork Lake Addition to Bridger Wilderness	20,960
Glacier Addition to Fitzpatrick Wilderness	6,497
South Fork Addition to Washakie Wilderness	10,000
High Lakes Addition to Beartooth-Absaroka Wilderness	23,750
Total wilderness	884,049

Wilderness study areas designated by the Wyoming Wilderness Act

	Acres
Palisades Wilderness study area	135,840
High Lakes Wilderness study area	14,700
Shoal Creek Wilderness study area	30,000
Total wilderness study	180,540

CORRIDOR ADDITION TO THE TETON WILDERNESS

The boundary of this 28,156-acre area has been drawn in such a way as to provide for several small enclaves which have been left outside of the wilderness boundary at key access points so that hunters and others can continue to drive into them and park or camp as they have in the past. It should be noted that there is an abandoned, rustic, log fire lookout on Huckleberry Ridge which was built in the 1930's. The structure has historic value and will be used by the Forest Service for monitoring the Wilderness Natural Fire Program.

GLACIER ADDITION TO THE FITZPATRICK WILDERNESS (WHISKEY MOUNTAIN)

This area provides habitat for the largest herd of Rocky Mountain bighorn sheep in the continential United States. The Forest Service and Wyoming Game and Fish Department conduct extensive surveys, trapping operations, tagging and transporting of the sheep to other areas. It is expected that these administrative operations will be allowed to continue, unimpaired by wilderness designation, and language has been included in the bill to allow occasional, limited motorized access for sheep management purposes. Let me emphasize that this language is not intended to allow motorized access for hunting.

BEARTOOTH-HIGH LAKES AREA

Portions of this area are adjacent to the Absaroka-Beartooth Wilderness in Montana, and the bill designates 23,750 acres of the area as an addition to that wilderness. The remaining 14,700 acres of the area have been placed in wilderness study status because of conflicts with snowmobile use. The bill specifically provides that snowmobiling may continue in the study area.

PALISADES WILDERNESS STUDY AREA

The Palisades Area encompasses about 247,000 acres straddling the border between Wyoming and Idaho. This bill affects only that portion of the Palisades Area which lies in Wyoming—about 135,840 acres.

The area is blanketed with oil and gas leases, and was placed in "further planning" status by the Forest Service at the conclusion of its 1979 RARE II study because the area was thought to have high potential for oil and gas. The area is situated in the Overthrust Belt—a geologic region stretching from the Southwestern United States into Canada, where significant amounts of oil and gas have been found in recent years.

In 1984, the U.S. Geological Survey issued a report on its assessment of mineral potential of Forest Service roadless areas, as required by the Wilderness Act of 1964. The Palisades was one of two wilderness study areas in Wyoming deemed to have high potential for oil and gas. Specifically, the Survey's report said:

> Studies from 1979 to 1982 of the West and East Palisades roadless Areas, which lie within the Idaho-Wyoming thrust belt, document structure, reservoir formations, source beds, and thermal maturities comparable to those in producing oil and gas fields farther south in the belt. Therefore, the areas are highly favorable for the occurrence of oil and gas.

In the Wyoming Wilderness Act, the Palisades Area has been placed in wilderness study status with the expectation that by the time the area is again reviewed for possible wilderness classification when the first-generation section 6 plan is revised 10 years from now, there will have been sufficient time and opportunity for lessees to either prove or disprove the survey's assessment. The bill provides that oil and gas exploration and development

may proceed according to the laws and regulations generally applicable to nonwilderness areas, but that in every other respect, the area is to be managed so as to protect its suitability for future wilderness designation.

UPPER GREEN RIVER AREA

For the past several years, there has been a growing concern among citizens in the area of the Bridger-Teton National Forest about timbering plans and practices in that forest. The Bridger-Teton is located within the Greater Yellowstone Ecosystem—a region which includes Yellowstone and Grand Teton National Parks, a significant amount of roadless and highly scenic land, and a diverse and very important range of wildlife species. In recent months, this concern had focused on a particular area at the southeastern corner of the Gros Ventre Wilderness—country known as the Upper Green River Area.

At the urging of a local citizens' group which labored long and hard on some special language that could be used to bring about better management of this area, the Wyoming congressional delegation sought to include in the bill a provision that would have prohibted clear-cutting in this very sensitive area and would have required the Forest Service to carefully examine its timber management practices to make certain they are compatible with the important recreation, wildlife and watershed values of the area. However, we were unable to reach agreement on such a provision, and in the interest of securing enactment of the rest of the bill, we agreed to drop the provision and pursue solutions to the problem by other means.

I wish to make it clear to the Forest Service that the Wyoming congressional delegation is very concerned about the timber management program in the Bridger-Teton National Forest, and intends to work to insure that the program does not do damage to the recreational, wildlife, scenic, and other values which we regard as the most important attributes of the forest and the region of which it is a part. We believe the Forest Service must pay more attention to the views of citizens outside the agency who share an interest in the proper management and protection of the forest, and it is our intention to monitor the timber management program with particular care in the months ahead.

RELEASE/SUFFICIENCY LANGUAGE

Section 401 of the bill contains the "release/sufficiency" language which has been incorporated by the Congress in several other State wilderness bills recently enacted. This language statutorily confirms the April 1979 administrative release of certain RARE II nonwilderness lands and releases other lands not designated as wilderness or wilderness study by this bill.

The release language in the Wyoming bill is identical in all material respects to that contained in the Arizona Wilderness Act, Public Law 98-406. Consequently, it is intended that the committee report language in House Report No. 98-643, part I, covering section 103 of Public Law 98-406, the Arizona Wilderness Act of 1984, as appropriately revised to apply to Wyoming, govern the implementation of section 401 of the Wyoming Wilderness Act.

PROTECTION OF STATE WATER RIGHTS

Among the areas designated as wilderness by the bill are the Huston Park, Encampment River and Platte River Areas in the Medicine Bow National Forest. Included in the bill is a provision designed to ensure that the designation of these areas as wilderness will not interfere in any way with the construction and utilization of stages II and III of the Little Snake River water management project. These are State projects involving no Federal funds which would divert water from the Little Snake River drainage to the Platte River Basin, which serves an eight-county area of southeastern Wyoming in which 49 percent of the States population resides. It is the purpose of the water protection provision to protect the present or future water rights of the State of Wyoming and to ensure that the designation of wilderness areas, now or in the future, whether on national forest or Bureau of Land Management lands, will not in any way interfere with those rights or the storage, transportation or use of the water.

Mr. Speaker, I withdraw my reservation of objection.

● Mr. DE LA GARZA. Mr. Speaker, while S. 543, which designates wilderness areas in the national forests of the State of Wyoming, has not been considered by the Committee on Agriculture, I understand that it enjoys the agreement of the Wyoming delegation.

The bill contains the new standard release-sufficiency language which has become a hallmark of wilderness bills enacted by this session of the Congress. In view of the general agreement on this bill, I support it and have no objection to its being considered by the House without being acted upon by the Committee on Agriculture.●

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio [Mr. SEIBERLING]?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Ohio [Mr. SEIBERLING].

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection

CONFERENCE REPORT ON H.R. 2878, LIBRARY SERVICES AND CONSTRUCTION ACT AMENDMENTS

Mr. SIMON. Mr. Speaker, I call up the conference report on the bill (H.R. 2878) to amend and extend the Library Services and Construction Act, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 25, 1984.)

The SPEAKER pro tempore. The gentleman from Illinois [Mr. SIMON] will be recognized for 30 minutes and the gentleman from Missouri [Mr. COLEMAN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. SIMON].

Mr. SIMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have, I am pleased to say, had good bipartisan support on this legislation. I want to thank the new chairman of our full committee, the gentleman from California [Mr. HAWKINS], the two Members of the other body, ROBERT STAFFORD of Vermont, and CLAIBORNE PELL of Rhode Island, and I want to thank my colleague from Missouri [Mr. COLEMAN], who represents the Kansas City Royals, among other things. I thank him as far as cooperation here though.

I regret to inform him that if the Royals do get into the final World Series, they are going to get defeated by the Chicago Cubs. That really is not germane to the issue at hand here, Mr. Speaker.

What we have here is the reauthorization for 5 years of the Library Services and Construction Act. It does have some additional features. It does, for example, move to help the native Americans more than we have in the past. It includes some grants to libraries to support literacy programs. One problem we have to bring out of the closet, and we have not done that.

It contains some assistance for foreign language publications, an area

where it is becoming extremely expensive for libraries. Since this act was first inaugurated in 1956, we have extended library services tremendously to this Nation. When that was passed, a third of the counties in this Nation were without library services; now 95 percent of the population has access to libraries including nursing homes, prisons, State hospitals, and others.

I will insert the full statement in the RECORD. I believe what we have here is not controversial and I would urge the support of the body.

Mr. Speaker, today the House is considering the conference report on the Library Services and Construction Act [LSCA]. This legislation has three main purposes: First to extend the Federal programs that support public libraries in this Nation; second, to expand the Federal commitment to meet the needs of populations that have previously been underserved; and third, to enable libraries to take a prominent role in an increasingly information-based society.

The conference committee found that the provisions in the House and Senate bills were in substantial agreement on the basic administration of programs and the goals for this reauthorization. The difference that emerged in the bills were resolved by the conference in a way that I believe serves the best interests of libraries and their users.

Several points particularly should be noted. The Senate accepted a House provision that will institute a program of grants to libraries to establish and support literacy programs. This congressional action is a beginning step in eradicating illiteracy in this country. It is appropriate, I believe, that literacy programs be conducted by libraries. Most community libraries are the beacon of learning, the place where people can come to obtain information and stretch their imaginations. Moreover, libraries already have led successful literacy efforts in many communities.

Some title I LSCA funds have been used by libraries to provide material and information, and to plan statewide literacy efforts. This program in the 1984 act will encourage more libraries to become involved in literacy efforts such as outreach, training and tutoring, counseling and advising, recruiting, coordinating, and supporting tutors with other organizations in their communities. In addition, this new program can stimulate experimentation in literacy training.

The problem of illiteracy is so great that our effort must be massive in order to diminish the numbers—now estimated to be 23 million of adults who cannot read and write and another 47 million whose reading and writing skills are marginal at best. Title V is a modest start in that effort.

The conference report contains another provision that I have a special interest in—grants for libraries to help them obtain foreign language materials. Foreign language publications are expensive. Access to original sources greatly aid students in studying and understanding international relations and foreign affairs. In addition, these publications can be of great assistance to people who are studying a foreign language and those new American residents who are limited in their knowledge of English. This modest but important grant program will aid libraries to obtain these publications.

Mr. Speaker, the 28-year history of Federal programs for libraries has witnessed fantastic progress in the number, range, and quality of library services in this country. Most important has been the tremendous growth in the number of people who now have access to library resources. In 1956, when Congress passed the first Library Services and Construction Act, nearly a third of the counties in this Nation were without public libraries. Only six States offered grants to aid local libraries, and only one in six Americans had access to a public library.

Today, with the help of LSCA funding and the stimulus brought about by these programs on the States and localities, 95 percent of the population has access to local library services. Bookmobiles and mail services have extended the reach of local libraries, and transportation services have opened library doors to those who were isolated from libraries either by geographic location or physical handicap. Library services are no longer confined to the traditional structure; programs have been developed in such diverse locations as nursing homes, prisons, and State hospitals.

Over the past 29 years of LSCA, Congress has sought to reach underserved populations with library programs—the elderly, handicapped, and those isolated in remote rural areas or separated by poverty, illiteracy, or langauge. This reauthorization continues to emphasize lease served populations by extending programs to native Americans, the elderly, and the handicapped, while continuing to concentrate funding on rural and urban areas.

The reauthorization also renews Federal support for library construction, renovation, and repair. Construction of library facilities has nearly ceased in the past decade, as funds for this purpose diminished.

The emergency jobs bill passed by Congress last year permitted some communities to begin projects that could not commence because adequate financial support was not available. Some library projects in Illinois that have been funded by the jobs bill illustrate the need for construction funding, and the expansion of services that can be obtained with Federal matching funds:

The A.C. Daugherty Memorial Township Library of Dupo, IL, will be constructing a new library to replace the present facility, a 648-square-foot, two-car garage with no staff work space, no restrooms, no meeting space, and only 33 chairs; 11 of those for adults.

The Galesburg Public Library, Galesburg, IL, will use locally matched Federal funds to put in an elevator and fire escape. The additions will make 6,000 more square feet of the library accessible and usable.

The Marion Carnegie Library, Marion, IL, will use local and Federal funds to add a children's library and to make the entire library more accessible to the handicapped and elderly.

As you can see, Mr. Speaker, these projects are not adding frills to existing libraries, but are providing very basic construction and renovation.

Many similar projects are waiting to be funded. Title II of LCSA will allow continuation of local-Federal sharing in library construction.

Title III of the conference report will continue funding for projects which promote resource sharing and development of technology for libraries. This program pays for itself because it encourages cost savings by libraries in sharing, rather than purchasing individually materials, data, and information.

It also encourages innovation and updating in libraries by allowing them to participate in reference and other online services.

The Reagan administration has said that it opposes the reauthorization of LSCA because the goals of this program have been met. In a letter that I received recently, Secretary Terrel Bell stated:

> We believe that the time has come to shift the federal role from large-scale direct support of public library services towards a leadership role exercised through analysis of library needs and the provision of technical assistance in the application of developing technologies. Scare Federal resources should not be used to perpetuate programs that have already achieved their purpose.

Anyone who works in or cares about public libraries knows that this work is far from completed. While some libraries would benefit from analysis of library needs and the provision assistance in the applications of developing technologies, most libraries' needs are far more basic. Members of Congress understand the importance of libraries in their communities, and they know their needs.

I want to assure my colleagues in the House that this legislation is the thoughtful product of a thorough review of LSCA activities since our last reauthorization in 1977; a careful assessment of the needs of public librar-

ies and several segments of our citizenry which continue to be underserved or unserved at the local level; and a serious attempt to match limited Federal dollars with this unmet need. The Subcommittee on Postsecondary Education held five oversight hearings in 1981 from New Haven, CT to San Francisco, CA. We heard from 69 witnesses, including the Librarian of Congress, numerous State librarians and the President of the Friends of the Talking Book Library in San Francisco. Many others submitted written testimony. The subcommittee also held annual oversight hearings on the President's budget request for library programs in 1981, 1982, and 1983. Finally we have reviewed the important work of the National Commission on Libraries and Information Sciences. All of our hearings, the testimony of witnesses, and the hard work by the Members of this House have made a critical contribution in the bill H.R. 2878 and to the conference report before the House today.

Therefore, I urge my colleagues in the House to affirm again its strong bipartisan support they have given to public library programs by voting for the conference report on H.R. 2878.

At this point I include the following:

SEPTEMBER 26, 1984.

Hon. TERREL H. BELL,
Secretary, Department of Education, Washington, DC.

DEAR TED: I have received your letter outlinging the Department's position on reauthorization of the Library Services and Construction Act.

I am surprised and disturbed by your opposition to this bill. Throughout your term as Secretary, you have emphasized the importance of libraries in American life. The President himself has proclaimed the central place that libraries hold in an information-based and learning society.

For example, in a recent statement in which you announced the publication of "Alliance for Excellence: Libraries Respond to 'A Nation at Risk,'" you said:

"In today's 'information age' of seemingly never-ending facts, figures and data, we have become increasingly dependent on libraries as a means of managing this information in a useful and productive manner.

* * * * *

If the libraries are to truly become one of the central elements in the new learning society, then these institutions must accept their role as total learning centers, not just depositories of books and periodicals."

Your statement was followed by a commitment to provide "the leadership and the guidance necessary to achieve this objective."

My concern is this: how can we expect libraries to function as "total learning centers" without adequate federal support of their programs? To my mind, leadership includes more than pronouncements on the important role of libraries; it means that the federal government supports these institutions and stimulates new activities with grants to begin those projects. This is especially true given the fact that public libraries have suffered from state and local government decisions to reduce library funding.

This leads me to two other specific objections you had to programs in H.R. 2878, grants for literacy projects and foreign language acquisitions.

Objecting to the grants for literacy projects in libraries seems to fly in the face of this Administration's Literacy Initiative. You and other Administration officials have acknowledged the alarming statistics about the numbers of adult Americans who are functionally illiterate: conservative estimates are that 23 million Americans fall into this category.

President Reagan himself urged action against illiteracy when he said:

"Let us today resolve to roll up our sleeves and get to work, because there's very much to be done. Across this great land, let those of us who can read teach those who cannot. Let the lights burn late in our classrooms, our church basements, our libraries, and around our kitchen tables—wherever we can gather to help others help themselves to the American dream."

The literacy program proposed by the House in the reauthorization of LSCA is the first Congressional response to the problem of literacy. Indeed, it is a very modest program in that the maximum grant is $25,000. I believe that libraries can take the lead in communities to combat literacy, in addition serving as learning and resource centers. In a number of cities—notably Baltimore—the Enoch Pratt Libraries have conducted well organized and successful literacy programs.

I am certain that you are aware of the high cost of foreign language periodicals and materials. Yet the basis of study and understanding international relations and foreign affairs cannot be obtained without access to original sources. Libraries with limited resources often are forced to choose between obtaining expensive foreign language materials that have a relatively limited readership and other needed publications. The grants program in H.R. 2878 would aid libraries in obtaining those publications.

Opposing this program seems to contradict Administration pronouncements on foreign language training and global understanding. "A Nation at Risk" emphasizes foreign languages, as one of the basic elements in a curriculum designed for excellence. In addition, President Reagan has urged foreign language study:

"I urge parents and community and business leaders alike to join educators in encouraging our youth to begin the study of a foreign language at an early age and to continue the study of this language until a significant level of proficiency has been achieved."

You also acknowledged the importance of foreign language study, when you said ". . . throughout the recent history of international education the study of foreign language has been a pivotal rationale for growth and support. That should be more true now than ever."

I believe that the federal government must follow up its pronouncements with action. If we really believe in improving the level of literacy in our country, promoting understanding of other languages and cultures and the central position of libraries in obtaining excellence in education, the Administration should join Congress in supporting these library programs.

Cordially,

PAUL SIMON,
Chairman.

U.S. DEPARTMENT OF EDUCATION,
THE SECRETARY,
Washington, DC, September 19, 1984.

Hon. PAUL SIMON,
House of Representatives,
Washington, DC.

DEAR MR. SIMON: I understand that you will be participating in the conference to reconcile the differences between H.R. 2878, a bill "To amend and extend the Library Services and Construction Act," (Act) as passed by the House of Representatives on January 31, 1984 and by the Senate on June 21, 1984. The Department of Education has opposed the reauthorization of the Library Services and Construction Act, believing that more than twenty-five years of Federal support to State and public libraries have largely accomplished the purposes of that Act. We believe that the time has come to shift the Federal role from large-scale direct support of public library services towards a leadership role exercised through analysis of library needs and the provision of technical assistance in the application of developing technologies. Scarce Federal resources should not be used to perpetuate programs that have already achieved their purpose. However, I am writing to express the Department's views on certain provisions of the House and Senate versions of the bill.

Section 15 of the House-passed bill would add a new Title V to the Act which would authorize a program of small grants (no larger than $15,000) for the acquisition of foreign language materials and a new Title VI to the Act which would authorize a program of small grants (no larger than $25,000) to support literacy programs. We are strongly opposed to the creation of new, separate, categorical programs of this type. Moreover, these separate program authorities are unnecessary; State and local public libraries may already acquire foreign language materials and conduct literacy programs with Federal funds under Title I of the Act.

Title III of the Senate-passed bill would reauthorize the National Assessment of Educational Progress (NAEP) and the National Center for Education Statistics (NCES) through fiscal year 1989. We are opposed to Title III. We support continuing the activities of NAEP and NCES, but not as part of H.R. 2878. Although the authorization for NCES expires at the end of fiscal year 1984, an automatic extension for fiscal year 1985 is provided under the General Education Provisions Act. Moreover, the Department, consistent with past and current practice, has proposed to continue support for NAEP in fiscal year 1985 under the general authority of the National Institute of Education (NIE). The Department will present proposals for reauthorization of both NIE and NCES for fiscal year 1986.

Title IV of the Senate-passed bill would authorize appropriations to construct or renovate three specific higher education facilities, and the House-passed bill would authorize appropriations to develop a specific institute for the study of public policy. Notwithstanding the merit of the specific projects at issue, we are opposed in principle to supporting programs such as these on other than a need-oriented, competitive basis. Similarily, we believe that including the Office of Hawaiian Affairs within the meaning of the term "Indian tribe" for purposes of the Library Services and Construction Act, as the Senate-passed bill does, establishes an unwise precedent, and therefore we oppose it as well.

Finally, Title II of the Senate-passed bill would authorize the Secretary to establish, through matching grants, an endowment program at Howard University similar to those available to other developing colleges under Title III of the Higher Education Act (HEA). The establishment of an endowment program at Howard University is an important administration proposal which, of course, we strongly support. This authority is necessary because Howard University receives a separate appropriation from the Federal Government and is therefore ineligible to receive endowment funds under Title III of the HEA. Enactment of Title II would stimulate non-Federal contributions to the University and enable it to reduce its heavy reliance on Federal support. With regard to authorization levels, the Department urges that $2 million be authorized for fiscal year 1985 and "such sums" be authorized for subsequent fiscal years, thus providing the flexibility to pursue this promising approach further in future years, if warranted.

We urge you to bear the Department's concerns in mind during the House and Senate conference on H.R. 2878, and to be equally mindful of the severe fiscal constraints with which we must all contend.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's programs.

Sincerely,

T.H. BELL.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference committee report. The chairman [Mr. SIMON] certainly has detailed the information contained in it. I would simply like to add my support for the propositions that he outlined including helping libraries to expand their role as community information centers, and again, to accentuate the promotion of literacy which is very important in this country, considering that we have some 23 million people who cannot adequately read or write in this country.

We must recognize that we are involved with an information explosion in the United States during the 1980's, and this bill will help assist our libraries to adapt to the information explosion that we are experiencing.

Mr. Speaker, I rise in support of the conference report to accompany H.R. 2878, legislation reauthorizing the Library Services and Construction Act [LSCA].

H.R. 2878 continues three important library programs authorized under the Library Services and Construction Act: Library services; public library construction; and interlibrary cooperation. Additionally, H.R. 2878 creates three new library programs: Library services for Indian tribes; grants for foreign-language materials acquisition; and library literacy programs. In the case of each of these programs, the conference report retains the vital ingredients of the House bill and includes some important provisions adopted from the Senate bill.

In a time of fiscal constraint at the State and local level, Federal funds are critical to the continued development of quality library services. If LSCA assistance were terminated, a number of important library projects, especially those serving special-needs groups, would cease to exist. Terminating services would be a disaster—especially when over 23 million Americans are illiterate or functionally illiterate. Adequate library services are essential if we are to assist these individuals in learning to read.

Federal aid was essential to the development of interlibrary-loan activities and many innovative practices of the past. Continuing this funding is essential to the future development of the library as the information center of the community.

Two provisions not originally included in the House-passed version of H.R. 2878 were adopted during conference. first, House conferees agreed to the Senate provision that would authorize $2 million in funds to provide matching grants to Howard University's endowment fund. The purpose of this provision is to encourage Howard University's self-sufficiency through increased fundraising activities. Although the administration has voiced objections to the reauthorization of LSCA, they strongly favor enactment of the provisions relating to Howard University.

Second, House conferees agreed to the Senate provision for miscellaneous higher education projects. This title authorizes funds for the construction of facilities at four institutions of higher education in Connecticut, Kansas, Massachusetts, and Georgia.

Since its original enactment in the mid-1950's, the act has had dramatic effects in improving access to library services across the country. The Department of Education estimates that about 96 percent of the U.S. population now has access to public library services, compared to about 56 percent of the population when Federal assistance first began. Many people argue that the Federal role with regard to public libraries is no longer necessary, that the act has accomplished its original goals. I disagree.

Although the LSCA program has effectively met its original goal of providing increased geographical access to library services, the program now needs funding to address new goals. What are these new goals? They include: First, providing certain populations—such as Indians and native Hawaiians—access to libraries; second, helping libraries to expand their role as community information centers; third, promoting literacy; and fourth, assisting libraries to adapt to the information explosion of the 1980's.

Our public libraries represent an important component of our society. I urge my colleagues to accept this conference report so that the new legislation can be in place when the current authorization expires. We have worked to develop strong libraries. Let us not endanger our progress.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. FRENZEL].

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Mr. FRENZEL. Mr. Speaker, I think this is a great conference report. I hope that it will be promptly adopted by the House and I thank those who are responsible for bringing it to us.

Mr. COLEMAN of Missouri. Mr. Speaker, if I might, since this might be the last occasion that I will have to be able to publicly work here on the floor of the House with my friend from Illinois [Mr. SIMON], I would like to publicly thank him for his courtesies that he has extended to me during our period of 4 years working as chairman and the ranking Republican on the Postsecondary Subcommittee.

While I wish him well, not too well in some of his endeavors but know that he will be successful in whatever field he goes into and want him to know that I hope our friendship will continue and I appreciated working with him the last 4 years.

Mr. SIMON. Mr. Speaker, I thank my colleague from Missouri and I thank him not only for his cooperation with me but for the very real contributions he has made to this country and it has been an honor to work with him.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. HARRISON].

Mr. HARRISON. I thank the gentleman for yielding to me.

Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, during the term it has been my privilege to be a Member of this Congress. I have had no greater pleasure than serving as a member of the Subcommittee on Postsecondary Education and I would like to take this opportunity to congratulate the distinguished chairman of that subcommittee and I think for those of us who came here as freshmen, he is the very ideal of what a Member of this body ought to be.

He has been diligent and conscientious. He has been patient with those of us who are learning and wise in many things.

This conference report also has for me a special interest, Mr. Speaker, because as a long-time trustee as the Osterhout Free Library in my hometown of Wilkes-Barre, I have had an opportunity to observe firsthand many of the problems that are addressed in this effort.

So it is a pleasure to associate myself with the comments of the distin-

guished chairman and the distinguished ranking majority member.

Mr. SIMON. Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of this, but I just wanted to take this time to say that the gentleman from Illinois [Mr. SIMON] has probably done more for the field and endeavors of education, higher, lower, middle, whatever levels that you are talking about than any Member of this House, and I think that we are going to see him next year in the legislative endeavor, but regardless of what happens to his political career, his latest legacy is in his work and I think that all Members of this body and people in this country who are interested in literacy and education owe him a great deal of gratitude.

Mr. SIMON. Mr. Speaker, I thank my colleague from Kansas and all of my colleagues.

I have no further requests for time here.

● Mr. FORD of Michigan. Mr. Speaker, I rise today in support of the conference report on H.R. 2878, The Library Services and Construction Act Amendments of 1984. These amendments make several improvements in library programs which will allow services to be delivered to more diverse populations and will place libraries on the cutting edge of the new information technologies that are becoming a major component of all facets of business, education, and commerce.

Specifically, the LSCA amendments will focus the program on providing access to library services to a wide range of populations including the handicapped, elderly, and bilingual populations; redirect the concept of libraries from being repositories for books to being community information centers providing a wide range of services to the public; provide direct library services to Indian tribes that have formerly received no library services; increase the emphasis on interlibrary cooperation; expand and provide increased funding for library construction and renovation purposes and provide grants for libraries that wish to provide literacy training programs or foreign language materials.

Many of the changes that are brought about in the amendments to LSCA are directly tied to the well-being of the Nation's economy, educational systems, and employment opportunities. It is in the best interest of the country to adopt this legislation so that libraries can continue to function to help communities throughout the Nation.

Additionally, two new titles were adopted to the act which provide for specific assistance to institutions. Howard University is allowed to establish a matching endowment for the institution with Federal assistance. Assistance is also provided for the Carl Vinson Institute of Government at the University of Georgia, a human development center at the University of Kansas and the William Mortenson Library at the University of Hartford. Finally, funds are provided to assist in the establishment of the John W. McCormack Institute of Public Affairs at the University of Massachusetts in Boston.

The chairman of the Subcommittee on Postsecondary Education, my distinguished colleague, PAUL SIMON, has done an outstanding job in crafting this legislation. It both recognizes the areas of needed improvement and stresses the continuation of Federal support for library services to the citizens of this country. The House and Senate versions of this bill were remarkably similar in their understanding of an emphasis on the problems facing American libraries. The compromises which were made to reach this conference agreement show the dedication of the members and Senators and their staffs to preserving free access to information as a foundation of American democracy. I urge the adoption of this conference report.●

Mr. COLEMAN of Missouri. Mr. Speaker, I yield back the balance of my time.

Mr. SIMON. Mr. Speaker, I yield back the balance of my time.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SIMON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 2878 just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PROVIDING FOR PRINTING OF ADDITIONAL COPIES OF GENERAL EXPLANATION OF THE REVENUE PROVISIONS, DEFICIT REDUCTION ACT OF 1984

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the concurrent resolution (H. Con. Res. 366) providing for printing of additional copies of the General Explanation of the Revenue Provisions of the Deficit Reduction Act of 1984, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. FRENZEL. Reserving the right to object, Mr. Speaker, I yield to the distinguished chairman of the subcommittee so that he might explain the purpose of the resolution.

Mr. GAYDOS. I thank my colleague for yielding to me.

Mr. Speaker, this resolution provides for the printing of 3,000 additional copies of the general explanation of the revenue provisions of the Deficit Reduction Act of 1984. There is a great demand and the staff of the Joint Committee on Taxation expects even a greater demand.

I point out that this resolution is necessary at this time since the staff publication will be printed after final adjournment.

This publication will have a high demand in the Members' offices as well as by the general public.

Mr. FRENZEL. Further reserving the right to object, Mr. Speaker, I agree with the chairman, this is a unanimous recommendation; something we always do when we pass a major tax bill.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 366

Resolved by the House of Representatives (the Senate concurring), That 3,000 additional copies of the General Explanation of the Revenue Provisions of the Deficit Reduction Act of 1984, prepared by the staff of the Joint Committee on Taxation, be printed for the use of the Joint Committee on Taxation.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

MAKING IN ORDER CONSIDERATION OF CONFERENCE REPORT ON S. 2048, ORGAN PROCUREMENT AND TRANSPLANTATION ACT

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that it be in order on October 3, 1984, or any day thereafter, to take up the conference report on the Senate bill (S. 2048) to provide for the establishment of a Task Force on Organ Procurement and Transplantation and an Organ Procurement and Transplantation Registry, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

SMOKEY BEAR WEEK

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 273) to designate the week of August 5, 1984, through August 11, 1984, as "Smokey Bear Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

Mr. COURTER. Reserving the right to object, Mr. Speaker, I will not object.

I reserve the right to object to let the Speaker know and everybody know that obviously, the Republican Party and minority has no objections here. I do not think there are any speakers at the present time and I will be happy to yield to the gentleman from Kansas.

Mr. GLICKMAN. I thank the gentleman for yielding to me.

Mr. Speaker, it is great that we are having a "Smokey Bear Week" but the week is long past. Why are we giving this week to something that happened 6 weeks ago? May I ask?

Mr. COURTER. Well, I do not think it is something that happened 6 weeks ago.

I yield to the gentlewoman from Indiana who brought the measure to the floor.

Mrs. HALL of Indiana. Mr. Speaker, I understand that the reason why it is just coming is that the bill was amended to this coming week, and that is the reason why we have October 7 instead of 6 weeks ago.

Mr. GLICKMAN. Thank you.

Mr. COURTER. Mr. Speaker, the week is starting October 7, so we will be there very shortly.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 273

Whereas August 9, 1984, marks the fortieth anniversary of the introduction of Smokey Bear into the Cooperative Forest Fire Protection campaign through the efforts of the United States Department of Agriculture Forest Service, The Advertising Council, and the National Association of State Foresters;

Whereas May 23, 1984, marks the thirty-second anniversary of President Harry S. Truman signing the Act to enact section 711 of title 18, United States Code, protecting the use of the character Smokey Bear;

Whereas the Smokey Bear program has demonstrated the success of the United States Department of Agriculture Forest Service, The Advertising Council, and the National Association of State Foresters in producing a unique public service campaign to create and maintain public awareness for the prevention of forest fires;

Whereas the Smokey Bear program has encouraged children across the Nation to prevent wildfires by becoming junior forest rangers;

Whereas several generations of children have been taught about Smokey Bear and have become responsible adults who are careful with fire;

Whereas since the establishment of the Smokey Bear program in 1944, the damage caused by forest fires has been reduced from ten million acres to three million acres in 1981, saving over $20,000,000,000 for United States taxpayers; and

Whereas the Smokey Bear program on August 9, 1984 enters the forty-first year of successful stewardship of forests in the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of August 5, 1984, through August 11, 1984, is designated "Smokey Bear Week" and the President is authorized and requested to issue a proclamation recognizing the successful efforts of the organizations and people involved in the Smokey Bear program and calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

AMENDMENT OFFERED BY MRS. HALL OF INDIANA

Mrs. HALL of Indiana. Mr. Speaker, I have an amendment at the desk which I offer.

The Clerk read as follows:

Amendment offered by Mrs. HALL of Indiana: In the resolve on page 2, line 3, strike: "August 5, 1984, through August 11, 1984," insert in lieu thereof: "October 7, 1984, through October 13, 1984".

The SPEAKER pro tempore. The question is on the amendment offered by the gentlewoman from Indiana [Mrs. HALL].

The amendment was agreed to.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed.

The title of the Senate joint resolution was amended so as to read: "Joint resolution to designate the week of October 7, 1984 through October 13, 1984, as 'Smokey Bear Week' ".

A motion to reconsider was laid on the table.

NATIONAL MEDICAL TRANSCRIPTIONIST WEEK

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 332) to designate the week beginning May 21, 1984, as "National Medical Transcriptionist Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

Mr. COURTER. Reserving the right to object, Mr. Speaker, I reserve the right to object to let the body know that the minority has reviewed this proposed legislation and we have no objection.

I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 332

Whereas complete and accurate medical records are of vital importance to quality health care;

Whereas the medical transcriptionist is instrumental in transcribing medical dictation detailing a patient's health care during an illness or after an injury;

Whereas the medical transcriptionist is an indispensable assistant to physicians and surgeons;

Whereas there is a lack of awareness of the job performed by a medical transcriptionist; and

Whereas there is a shortage of trained medical transcriptionists: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning May 21, 1984, hereby is designated "National Medical Transcriptionist Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

AMENDMENT OFFERED BY MRS. HALL OF INDIANA

Mrs. HALL of Indiana. Mr. Speaker, I have an amendment at the desk which I offer.

The Clerk read as follows:

Amendment offered by Mrs. HALL of Indiana: in the resolve on page 2, line 3, strike: "May 21, 1984," insert in lieu thereof: "May 20, 1985,".

The SPEAKER pro tempore. The question is on the amendment offered by the gentlewoman from Indiana [Mrs. HALL].

The amendment was agreed to.

The joint resolution was ordered to be read a third time, was read the third time, and passed.

The title of the joint resolution was amended so as to read: "Joint resolution to designate the week beginning May 20, 1985, as 'National Medical Transcriptionist Week' ".

A motion to reconsider was laid on the table.

NATIONAL PORT WEEK

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 636) to authorize and request the President of the United States to issue a proclamation designating the week commencing October 7, 1984, as "National Port Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

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The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

Mr. COURTER. Mr. Speaker, reserving the right to object, we have no objection to this. The minority has looked it over and we are perfectly happy with this particular week as well.

Mr. Speaker, I withdraw my reservation of objection.

● Mr. ROTH. Mr. Speaker, I rise today in support of House Joint Resolution 636, which I have cosponsored. This resolution authorizes the President to proclaim October 7–13, 1984, as National Port Week. Each year since 1978, the Congress has passed legislation authorizing the President to designate the first week in October as National Port Week.

The 189 ports of our coastal, Great Lakes and inland river system generate over 1 million jobs, produce over $66 billion in direct and indirect benefits to the national economy, and pay $12 billion in taxes to our Federal, State, and local governments. At this time, it is especially important to recognize the vital role of our Nation's port system, as we compete with the rest of the world in the field of international trade.

Northeast Wisconsin is blessed with many fine and safe harbors. The names Marinette, Kewaunee, and Sturgeon Bay all come to mind. The role of Green Bay Harbor remains key to the development of this region and further improvements that are being planned will secure continued prosperity for the entire Fox River Valley.

Last year, in Green Bay, a new international tonnage record was set. A total of 331,373 tons of overseas and Canadian cargo was handled. This surpassed the previous alltime high by 33,517 tons. This is particularly impressive since our shipping season only runs from late March through early December. Imports arrived from, among other places, Sweden, Brazil, and Canada. We exported midwestern products all over the world, including such distant lands as Morocco, Peru, and India.

Domestic tonnage was up 114,768 tons to 1,949,666 tons. Waterborne commerce through the Port of Green Bay in 1983 resulted in an economic impact on the Brown County area totaling over $32 million. More than 2,281,039 tons of cargo moved through the port. A total of 217 vessels entered Green Bay Harbor in 1983. We are expecting this year to be another record breaker. The Port of Green Bay is making good progress toward becoming the bulk distribution center for northeast and central Wisconsin.

Activity along the docks continues to grow. Improvements, which will be partially funded by Federal sources, will assure the expansion of the port. I am pleased to report that the last decade has witnessed the reduction of industrial discharges which once heavily polluted the Fox River. The result has been a significant improvement in water quality.

Maintenance dredging and the disposal on contaminated wastes remain an ongoing project. The deepening of the South Turning Basin is a key undertaking if we are to assure continued industrial growth. I am most pleased with the actions of the Water Resources Subcommittee this year in authorizing a study which would investigate the viability of deepening the Fox River Channel in Green Bay Harbor.

At the present time, that channel is only 24-feet deep and we find it to be an impediment in attracting cargo from the 27-feet-deep Saint Lawrence Seaway. The long-term health of the port and its users depends on full accessibility to the harbor by any size ship to be found on the Great Lakes. This study is the first step in securing passage of my bill which calls on the Army Corps of Engineers to dredge the channel.

The expansion of America's ports will create hundreds of thousands of new jobs as a result of increased overseas sales. There are opportunities for expanding our exports and we must assure that we will have the essential port facilities to handle this increased volume of cargo.●

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 636

Whereas the ocean, Great Lakes, and inland river ports and terminals of our Nation constitute a valuable national asset which have fostered commerce and industry and have contributed to the growth of America's cities;

Whereas the past development of public ports in the United States was a result of fruitful cooperation with the Federal Government constructing and maintaining the navigable waterways and harbors and local municipalities assuming primary responsibility for land-based port facilities;

Whereas our ports are vital links in the United States transportation system and are indispensable to the foreign and domestic commerce and to the national security of our Nation;

Whereas the preservation and improvement of our national network of commercial ports is vital to expanded international trade and the attainment of a favorable trade balance;

Whereas the commercial ports of the United States are responsible for the continued employment of more than one million workers and, in 1983, generated a total of $70,000,000,000 in direct and indirect benefits to the United States economy and over $1,500,000,000 to the balance of payments accounts; and

Whereas there is a vital need to focus public attention upon the value of a viable and competitive system of commercial ports: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating the week commencing October 7, 1984, as "National Port Week" and to invite the Governors of the several States, the chief officials of local governments, and the people of the United States to observe that week with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL HEAD INJURY AWARENESS MONTH

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 638) designating October 1984 as "National Head Injury Awarness Month," and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

Mr. COURTER. Mr. Speaker, reserving the right to object, the minority has absolutely no objection at all to the passage of the resolution.

● Mr. DICKS. Mr. Speaker, I would like to thank the 231 Members of the House who have cosponsored House Joint Resolution 638, designating the month of October as "National Head Injury Awareness Month." I urge my other colleagues to lend their support to this resolution by voting for its passage.

Each year, an estimated 450,000 to 700,000 people require hospitalization for severe head injuries. Most of the injuries are the result of automobile accidents. Approximately 50,000 of these head injury victims, more then two-thirds of whom are under the age of 30, suffer permanent brain damage that prevents them from returning to schools, jobs, or a normal life.

Medical research in the area of brain damage is not extensive and there is a serious shortage of rehabilitation facilities designed to care for the special needs of the head injured. In most instances, it is left up to the families of head injury victims to find adequate treatment programs.

In response to the growing needs of the head injured, health care professionals and families of head injury victims organized the National Head Injury Foundation. This organization has worked to secure adequate facilities for the head injured and has provided families with necessary support services and resources. Through its efforts, the National Head Injury Foundation has succeeded in focusing nationwide attention on the problems faced by the head injured, and has proven to be a strong voice for the victims of this silent epidemic.

I urge my colleagues to support the work of this fine organization by passing House Joint Resolution 638 and designating the month of October 1984, as "National Head Injury Awareness Month."●

● Mr. CONTE. Mr. Speaker, today, marks the crossing of a giant barrier for tens of thousands of Americans and their families suffering from the effects of serious head injury. As one of the original sponsors of this legislation to designate October as "National Head Injury Awareness Month," I join with my colleague from Washington, Mr. DICKS, and the 277 cosponsors of House Joint Resolution 638 to salute this effort to educate our citizens on the widespread and too often debilitating effects of head injury. This silent epidemic permanently disables more then 50,000 people each year, most of them under the age of 30, and most as a result of tragic motor vehicle or sports accidents.

The resolution before us today is designed to aid those dedicated individuals whose work to combat and heal the distressing effects of head trauma has already produced remarkable results. This bill also highlights and advances the one clear, overall solution to the head injury problem—prevention.

Enactment of "National Head Injury Awareness Month" will direct public attention to the fact that the vast majority of head trauma cases are the result of avoidable accidents. It will also demonstrate the need for comprehensive and coordinated services to help care for and prevent these humanly costly and destructive injuries. I urge my colleagues' unanimous support.●

Mr. COURTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 638

Whereas an estimated four hundred and fifty thousand to seven hundred thousand people require hospitalization each year for head injuries;

Whereas an estimated one hundred thousand of these victims die as a result of head injuries;

Whereas approximately fifty thousand head injury victims, more than two-thirds of whom are under the age of thirty, suffer permanent brain damage that prevents them from returning to schools, jobs, or normal lifestyles;

Whereas the effects of head injuries are emotionally and financially devastating to families;

Whereas there is a serious lack of facilities designed to care for the special needs of the head injured; and

Whereas long-term medical research on brain injured patients is incomplete: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1984 is designated "National Head Injury Awareness Month". The President is requested to issue a proclamation calling on the people of the United States to observe that month with appropriate programs and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL CHRISTMAS SEAL MONTH

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res 324) designating the month of November 1984 as "National Christmas Seal Month," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

Mr. COURTER. Mr. Speaker, reserving the right to object, I do not think we could have Christmas without having Christmas seals.

The minority has looked this over, as well, and we have no objection.

● Mr. ROYBAL. Mr. Speaker, I am extremely pleased that House Joint Resolution 626—designating November 1984 as Christmas Seal Month—has been cosponsored by over one-half of the House of Representatives. As a long-time advocate of more research and education on lung disease, I believe that it is important that the American people be aware of the progress we have made and the challenges still facing us in finding better ways to prevent and treat these destructive diseases. In spite of our progress, lung diseases remain among the fastest rising causes of death in our country.

These diseases, including asthma, chronic bronchitis, emphysema, and lung cancer, can hit any one regardless of their age, race, or sex. Today more than 17 million Americans including 2 million childhood sufferers of asthma, are afflicted with chronic diseases of lung. One out of every 12 Americans suffers from these diseases at a cost to the Nation of more than $29.4 billion annually in medical expenses, lost wages, and lost productivity. It is imperative that we find ways to bring these diseases under control.

We must combat these diseases through research, public education, prevention and treatment. Many of these activities, especially research and public education, are funded by Christmas seals, a fundraising effort started by the American Lung Association in 1907. The association, its medical section, the American Thoracic Society, and its 144 federated associations throughout the country, are dedicated to the control and prevention of all lung diseases and related causes such as smoking, air pollution, and occupational hazards.

Because of the importance of this voluntary effort, I introduced House Joint Resolution 626 which designates the month of November 1984 as "National Christmas Seal Month." I want to thank my colleagues for joining me in cosponsoring this resolution and helping to assure its adoption.●

Mr. COURTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 324

Whereas among the fastest rising causes of death in our country are chronic obstructive pulmonary diseases. More than seven million Americans, among them over two million children, suffer from asthma. More than two million of our people have emphysema. Almost eight million Americans suffer from chronic bronchitis. Before the end of this decade it is projected that deaths from lung cancer will surpass breast cancer as the leading cause of cancer deaths among American women;

Whereas one out of twelve, or more than seventeen million Americans are afflicted with chronic diseases of the lung. The consequence is more than two hundred and twenty-five thousand deaths annually, with a cost to the Nation of more than

$29,400,000 in medical expenses, lost wages, and untold dollars in lost productivity;

Whereas the American Lung Association—the Christmas Seal people—is a nonprofit public health organization supported by individual contributions to Christmas Seals and other donations. It is this Nation's first national voluntary health organization. Founded in 1904 to combat tuberculosis, today the association, its medical section, the American Thoracic Society, and its one hundred and forty-four federated associations throughout the country, are dedicated to the control and prevention of all lung diseases and some of their related causes. These include smoking, air pollution, and occupational lung hazards;

Whereas, since 1907, Christmas Seals have been used by the association to raise funds through private contributions, to pioneer and develop health education programs in our schools. The tradition remains strong. This year, sixty million homes will receive Christmas Seals;

Whereas this year the association is conducting a new public education program, "Marijuana: A Second Look"—which is targeted to nine, ten, and eleven-year-old children. It is not waiting until marijuana smokers begin suffering from profound lung diseases before it acts. The program is teaching America's youth about the hazards of marijuana smoke to lungs. Once again, the association is taking a leadership role in protecting this country's lung health; and

Whereas, through its community lung associations, the American Lung Association helps educate the public, patients, and their families about all forms of lung diseases and their causes, and sponsors community action programs. In the past decade, it has provided more than $10,800,000 for research programs specifically designed to investigate prevention and control of lung diseases. It has pioneered in the development of self-management programs as an adjunct to medical care of asthma both for children and adults. And it conducts vigorous campaigns against cigarette smoking and air pollution: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November 1984 is designated "National Christmas Seal Month". The President is requested to issue a proclamation calling upon all Government agencies, educational, philanthropic, scientific, medical, health care organizations and professionals, and the people of the United States to observe that month with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MENTAL ILLNESS AWARENESS WEEK

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 322) designating the week beginning on October 7, 1984, as "Mental Illness Awareness Week," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

Mr. COURTER. Mr. Speaker, reserving the right to object, indeed I will not object, but will simply say that the minority is very much in favor of the passage of the resolution.

● Mr. CONTE. Mr. Speaker, I rise in support of Senate Joint Resolution 322, Mental Illness Awareness Month. I want to thank the distinguished chairwoman of the subcommittee, KATIE HALL, and the ranking member, Mr. COURTER, for scheduling action on this legislation today. And, I would also like to thank the other sponsor of this legislation, Mr. WYDEN, for all of his help on the resolution.

Mr. Speaker, Senate Joint Resolution 322 designates the month of October as "Mental Illness Awareness Month." It is unfortunate that in today's society mental illness continues to be misunderstood and feared in our Nation. In fact, mental illness is a disorder that is treatable with proper counseling and medical assistance. In fact, treatment for mental illness is often provided by psychologists, psychiatrists, nurses, health counselors, social workers, and physical therapists. These dedicated professionals have allowed millions of Americans, through their efforts, to return to meaningful and productive life.

In introducing the House companion legislation to this resolution with the distinguished gentleman from Oregon, I felt that it was our duty and obligation to bring to the attention of the American people the misconceptions surrounding mental illness and to also recognize the outstanding accomplishments of the dedicated professionals who strive through research and treatment to combat mental disorders in our society.

I urge support for this resolution.●

Mr. COURTER. Mr. Speaker, I withdraw my reservation of objection.

Mr. SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 322

Whereas mental illness is a problem of grave concern and consequence in American society, though one widely but unnecessarily feared and misunderstood;

Whereas thirty-one to forty-one million Americans annually suffer from clearly diagnosable mental disorders involving significant disability with respect to employment, attendance at school, or independent living;

Whereas mental illness in at least twelve million children interferes with vital developmental and maturational processes;

Whereas our growing population of the elderly is particularly vulnerable to mental illness;

Whereas mental illness costs our Nation $65,000,000,000 annually, including lost productivity;

Whereas mental illness is increasingly a treatable disability with excellent prospects for amelioration and recovery when properly recognized;

Whereas in recent years there have been unprecedented major research developments bringing new methods and technology to the sophisticated and objective study of the functioning of the brain and its linkages to both normal and abnormal behavior;

Whereas research in recent decades has led to a wide array of new and more effective modalities of treatment (pharmacological, behavioral, psychosocial) for some of the most incapacitating forms of mental illness (including schizophrenia, major affective disorders, phobias, and panic disorders);

Whereas appropriate treatment of mental illness has been demonstrated to be cost-effective in terms of restored productivity, reduced utilization of other health services, and lessened social dependence; and

Whereas recent and unparalleled growth in scientific knowledge about mental illness has generated the current emergence of a new threshold of opportunity for future research advances and fruitful application to specific clinical problems: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on October 7, 1984, is hereby designated as "Mental Illness Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WORLD FOOD DAY

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 332) to proclaim October 16, 1984, as "World Food Day," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

Mr. COURTER. Mr. Speaker, reserving the right to object, under my reservation, I yield to my good friend, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, on April 25, 1984, my distinguished colleague, the gentleman from Illinois [Mr. SIMON] and I introduced House Joint Resolution 556, legislation authorizing and requesting the President to issue a proclamation designating October 16, 1984, as World Food Day.

As my colleagues will recall, during the past three sessions of Congress, the gentleman from Illinois and I introduced similar legislation. We were pleased that the Congress approved these measures and welcomed the President's proclamation officially designating October 16, 1983, as World Food Day.

While the critical problem of hunger and chronic malnutrition has not abated since the initial World Food Day, thousands of observances and activities throughout the United States on that day helped to increase markedly public recognition of the hunger issue. Indeed, I am certain that without World Food Day and the attention and education that it generates, the House of Representatives would not have adopted earlier in this Congress, legislation I introduced to establish a House Select Committee on Hunger.

Accordingly, to build upon the successes of World Food Day 1981, 1982, and 1983, so that we can further increase public awareness about hunger and develop the necessary commitment to resolve that problem, I urge my colleagues to support House Joint Resolution 556.

Mr. Speaker, I include World Food Day's format for its national town meeting to be held via satellite teleconference, and the full text of House Joint Resolution 556 in the RECORD:

NATIONAL COMMITTEE FOR WORLD FOOD DAY

PUTTING IDEAS INTO ACTION

This year, the National Committee encourages participation in World Food Day in a special way: through a satellite teleconference. This "National Town Meeting" teleconference will focus on the global food situation ten years after the 1974 World Food Conference, and will feature a panel of noted experts. The "Town Meeting" will originate from the George Washington University and will be transmitted by satellite to college/university receiving sites.

Most often the teleconference will be related to major campus or campus/community observances of World Food Day. Diverse groups among university, civic and religious communities can share the teleconference as an information resource and as a catalyst for joint action against hunger. Special WFD study/action packets that can be used for this purpose have been prepared by the University of Illinois with a grant from the Agency for International Development and are available from the national WFD office.

MAKING IT HAPPEN

The university receiving sites will host the "Town Meeting." However, participation will be open to all members of the WFD family, particularly to those planning observances in the same area. In short, the teleconference can augment local WFD events and build upon the WFD network.

Program plans include actor Eddie Albert as moderator, taped remarks from FAO Director-General Edouard Saouma; presentations on specific food/hunger issues; films of Third World development projects; and interaction by local participants. A break at mid-point will enable groups at university receiving sites to discuss their own views on the issues and to formulate questions and comments to be phoned in. In the final segment Mr. Albert will convey selected questions and recommendations to the panelists for their response. Each receiving site will also be asked to submit a summary of their discussions to the National Committee.

The teleconference is being arranged in cooperation with the National University Teleconference Network (NUTN), with more than 100 college and university members. NUTN will assist the project committee and all viewing sites, ensuring the technical and logistical success of the event. NUTN members will be urged to serve as the key receiving sites, and the project manager will recruit additional university sites where possible.

Community participation and support for the "Town Meeting" is important. The local college extension or continuing education office is the place for anyone interested to start—either to offer your help if the college is already planning to be part of the WFD "Town Meeting," or to encourage them to investigate the opportunity. The teleconference can provide both the community and the university with an additional, informative, action-oriented means of observing World Food Day. We hope you will-join in this exciting project!

YOU SHOULD KNOW WHY A SATELLITE TELECONFERENCE IS PLANNED THIS YEAR

The National Committee serves as an action/information resource center to assist organizations working together on World Food Day. In this tenth anniversary year of the World Food Conference, the WFD teleconference can enable thousands of Americans to participate simultaneously in a "Town Meeting" and to interact with acknowledged experts on food/hunger issues.

WHO CAN PARTICIPATE

The World Food Day "Town Meeting" is a university-based program; only university and college sites will have audio interaction with the panel of experts. Thus, we urge groups to work with the local university teleconference sponsor to plan their teleconference participation. However, any group with access to a satellite "dish" can follow the program.

WHAT A UNIVERSITY NEEDS IN ORDER TO BE A SPONSORING/RECEIVING SITE

Very little! A site (conference room, classroom, etc.); a receiving "dish;" a television or viewing screen; and a moderator for discussion at the receiving site.

HOW TO GET MORE INFORMATION ABOUT PARTICIPATION

If you represent a college or university, contact J.O. Grantham or Marie Oberle at NUTN (405-624-5191) for technical and institutional details. Other WFD organizers should contact Patricia Young, National Coordinator (202-653-2404) or Elsie Storck, Teleconference Manager (202-293-7120) for information on how to work with a university site sponsor in your area. (We also suggest that community WFD groups contact the local college or university continuing education or extension office to encourage their participation and to offer help.)

HOW MUCH IT WILL COST TO PARTICIPATE

If the university has satellite receiving capacity, there are no link-up costs. If there is no "dish" on site, it can be rented for approximately $300-$500. (This cost could be shared among participating groups; donations could be solicited; tickets to the event could be sold, etc.)

WHAT IS SUGGESTED FOR A PROGRAM FORMAT

The format at the local site depends on your community's concerns on World Food Day. However, we suggest use of the WFD Study/Action Packet in planning the discussion period. The panelists will also use the subject matter of the packet—the global food situation ten years after the World Food Conference—as background for their presentations.

WHAT FOLLOW-UP ACTIVITY WILL OCCUR AFTER THE "NATIONAL TOWN MEETING"

The program will be taped for possible later use by food policy makers and/or as an educational film for World Food Day coalitions. The teleconference project office will also compile a report on the "Town Meeting." All receiving site sponsors will be asked to submit a brief report for this purpose.

Mr. COURTER. I thank the gentleman for his comments.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Illinois [Mr. SIMON].

Mr. SIMON. I thank the gentleman for yielding.

Mr. Speaker, I would like to commend my colleague from New York on the other side of the aisle for his leadership in this matter.

When we talk about food, we are talking about the most basic thing of all. The problem in the world today is not a lack of resources; it is a lack of will, an unwillingness to face up to the problems. If 20 years ago we had paid more attention to the problems of misery and poverty and hunger in El Salvador, we would not be debating El Salvador on the floor here today.

Wherever there is hunger and malnutrition, we ought to, through government, through private agencies, in whatever way we can, meet this most basic need of all. When we do that, then we will find that the Marxists and others are not going to have much appeal.

We ought to do what is right, what is decent, what is just. We can have a world that is better. It is interesting that John F. Kennedy in his Inauguration Address had two specific goals. One was to get a man to the Moon by the end of the decade. The second was to eliminate hunger from the face of the Earth by the end of the decade. The more dramatic of those two things we did; the more important of those two things, unfortunately, we did not do.

I commend my colleague, the gentleman from New York, and I thank the gentlewoman from Indiana and the gentleman from New Jersey for their cooperation and assistance on this.

Mr. COURTER. I thank the gentleman from Illinois. I would like to thank the gentleman for his comments and also say that it has been a distinct honor and pleasure for me to work with the gentleman during my 6 years in the House of Representatives. He has been an outstanding inspiration to all of us and an eloquent spokesman for many good causes. We

will miss you here in the House of Representatives.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 332

Whereas hunger and chronic malnutrition remain daily facts of life for hundreds of millions of people throughout the world;

Whereas the children of the world suffer the most serious effects of hunger and malnutrition, with millions of children dying each year from hunger-related illness and disease, and many others suffering permanent physical or mental impairment, including blindness, because of vitamin and protein deficiencies;

Whereas Congress is particularly concerned by the rise of hunger, recurring natural catastrophes, and inadequate food production now affecting a large number of African countries and the need for an appropriate United States response to emergency and long-term food needs of that continent;

Whereas, although progress has been made in reducing the incidence of hunger and malnutrition in the United States, certain groups, notably Native Americans, migrant workers, the elderly, and children, remain vulnerable to malnutrition and related diseases;

Whereas the danger posed malnutrition and related diseases to these groups and to other people is intensified by unemployment and slow rates of economic growth;

Whereas national policies concerning food, farmland, and nutrition require continuing evaluation and should consider and strive for the well-being and protection of all residents of the United States and particularly those most at health risk;

Whereas there is widespread concern that the use and conservation of land and water resources required for food production throughout the United States ensure care for the national patrimony we bequeath to future generations;

Whereas the United States has always supported the principle that the health of a nation depends on a strong agriculture based on private enterprise and the primacy of the independent family farm;

Whereas the United States, as the world's largest producer and trader of food, has a key role to play in efforts to assist nations and peoples to improve their ability to feed themselves;

Whereas the United States has a long tradition of demonstrating its humanitarian concern for helping the hungry and malnourished;

Whereas efforts to resolve the world hunger problem are critical to the security of the United States and the international community;

Whereas Congress is acutely aware of the paradox of immense farm surpluses and rising farm foreclosures in the United States despite the desperate need for food by hundreds of millions of people around the world;

Whereas a key recommendation of the 1980 report of the Presidential Commission on World Hunger was that efforts be undertaken to increase public awareness of the world hunger problem;

Whereas the member nations of the Food and Agriculture Organization of the United Nations designated October 16 of each year as World Food Day because of the need to alert the public to the increasingly dangerous world food situation;

Whereas past observances of World Food Day have been supported by proclamations of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States, by resolutions of Congress, by Presidential proclamations, by programs of the United States Department of Agriculture and other Government departments and agencies, and by the governments and peoples of many other nations; and

Whereas more than three hundred private and voluntary organizations and many thousands of community leaders are participating in the planning of World Food Day observances this year: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 16, 1984, is hereby proclaimed "World Food Day". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe that day with appropriate activities to explore ways in which our Nation can further contribute to the elimination of hunger in the world.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL CEREBRAL PALSY MONTH

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 309) authorizing and requesting the President to designate January 1985 as "National Cerebral Palsy Month," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

Mr. COURTER. Mr. Speaker, reserving the right to object, and I will not object, obviously, again, but I would just like to mention the fact that the minority feels very strongly that this is a very worthwhile resolution. We are happy that it got to the floor.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 309

Whereas cerebral palsy affects more than seven hundred thousand individuals in the United States;

Whereas between five thousand and seven thousand children will be born this year with cerebral palsy;

Whereas the Department of Health and Human Services estimates the annual cost of care for individuals with cerebral palsy exceeds $3,750,000,000; and

Whereas increased national awareness of the effects of cerebral palsy may add new impetus to efforts to expand research activities and educational and employment opportunities for individuals affected by cerebral palsy: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the month of January 1985 as "National Cerebral Palsy Month", and calling upon all government agencies and people of the United States to observe such month with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MYASTHENIA GRAVIS AWARENESS WEEK

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 295) to provide for the designation of the week of October 14, through October 20, 1984, as "Myasthenia Gravis Awareness Week," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

Mr. COURTER. Mr. Speaker, reserving the right to object, and I will not object, the minority feels strongly that this should be passed, as well.

● Mr. CONTE. Mr. Speaker, today we are considering Senate Joint Resolution 295, legislation which designates the week of October 14 through 20, 1984, as "Myasthenia Gravis Awareness Week."

Myasthenia gravis, known as "MG," can strike any part of the body at any time. It is a degenerative neuro-muscular disease that affects over 300,000 Americans of all sexes, ages, and races. It is a disease that disrupts the synapse, the gap between the nerve and muscle through which the electrical impulses of the brain pass.

MG is frequently misdiagnosed as chronic fatigue, which often allows the disease to progress until the victim is in critical condition. Until recently, MG has been fatal to 85 percent of its victims. Much progress has occurred however, and is continuing, mainly due to the increased attention that MG is receiving.

I would like to take this opportunity to commend Mr. Tony Randall, the campaign chairman of the Myasthenia Gravis Foundation, and the foundation's members, who have done so

much to broaden the public's awareness of MG. Their work has lead to increased funding, continued research, and better diagnosis, all of which have contributed to the advances in the battle against MG. They deserve our highest praise and thanks for their efforts.

This is the third year I have introduced this resolution. I am honored to be able to contribute to this worthwhile cause. At this time I wish to thank my colleagues for their support as cosponsors of Senate Joint Resolution 295, and I urge all my colleagues to join with me in the continuing effort to fight this terrible disease.●

Mr. COURTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 295

Whereas the incidence and prevalence of myasthenia gravis presents a significant health problem in the United States;

Whereas myasthenia gravis is a severe neuromuscular disorder, characterized by weakness of the voluntary muscles of the body;

Whereas an estimated one hundred thousand to two hundred thousand diagnosed, and over one hundred thousand undiagnosed, Americans of both sexes, and all races and ages, are afflicted with the disease;

Whereas the Nation faces a continuing need to support innovative research into the causes, treatment, and cure of myasthenia gravis; and

Whereas it is appropriate to focus the Nation's attention upon the problem of myasthenia gravis: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 14, through October 20, 1984, is designated as "Myasthenia Gravis Awareness Week" and the President of the United States is authorized and requested to issue a proclamation calling upon all Government agencies and the people of the United States to observe the week with appropriate programs, ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 2040

NATIONAL HOME CARE WEEK

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 237) to designate the week of November 25, 1984, through December 1, 1984, as "National Home Care Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

Mr. COURTER. Reserving the right to object, Mr. Speaker, and I will not object, I reserve the right to object to announce that the minority has looked at this resolution and is very much in favor of its passage.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 237

Whereas organized home health care services to the elderly and disabled have existed in this country since the last quarter of the eighteenth century;

Whereas home health care is recognized as an effective and economical alternative to unnecessary institutionalization;

Whereas caring for the ill and disabled in their homes places emphasis on the dignity and independence of the individual receiving these services;

Whereas since the enactment of the medicare program, including skilled nursing services, physical therapy, speech therapy, social services, occupational therapy, and home health aide services, the number of home health agencies providing these services has increased from less than five hundred to more than four thousand; and

Whereas many private and charitable organizations provide these and similar services to millions of patients each year preventing, postponing, and limiting the need for institutionalization: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 25, 1984, through December 1, 1984, is designated as "National Home Care Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL BLOOD PRESSURE AWARENESS WEEK

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 260) designating the week beginning on November 11, 1984, as "National Blood Pressure Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

Mr. COURTER. Reserving the right to object, Mr. Speaker, I will not object. I reserve the right to object to indicate that the minority is in favor of passage of the resolution.

● Mr. SIKORSKI. Mr. Speaker, high blood pressure is one of the most common, yet one of the least understood diseases effecting Americans today.

It is critically important that Americans become more aware of the seriousness of high blood pressure. Today we are considering my resolution establishing National Blood Pressure Awareness Week which I believe will go a long way in accomplishing this goal.

The statistics related to this disease are staggering.

Over 10 percent of all Americans, some 25 million, are stricken by high blood pressure. Unbelievably, 15 million of these people are unaware of the disease, or its potential consequences.

Over 31,000 people die annually from stroke and heart attacks that could be prevented if hypertension were discovered prior to the onslaught of illness.

Almost 40 percent of our senior citizens spend their final years fighting hypertension, and its adverse effects. High blood pressure is now second only to arthritis as the chronic condition most commonly debilitating Americans 65 and older.

The greatest tragedy concerning high blood pressure is that while it is one of the most easily treated of all diseases, it can all too often go undetected, until treatment is too late.

My father is one of the millions of Americans with high blood pressure. This condition led to his suffering a heart attack and a stroke.

By increasing public awareness of both the symptoms and effects of this illness, and also the general ease in which it can often be treated, we will be doing millions of Americans—and their loved ones—a great service. I urge passage of House Joint Resolution 550, National Blood Pressure Awareness Week.●

● Mr. WHITTAKER. Mr. Speaker, legislation designating the week of November 11 through 17, 1984 as "National Blood Pressure Awareness Week" has received broad support in both Houses of Congress. Senate Joint Resolution 260 passed the Senate in May. I am pleased that 246 of my colleagues have joined in cosponsoring the House version of this resolution which I introduced last April along with my colleague, Representative SIKORSKI.

Increased attention to the diagnosis of hypertension and greater awareness of the consequences of elevated blood pressure should be extremely important to all Americans. The number of deaths attributable to cardiovascular diseases dropped by 30 percent be-

tween 1970 and 1980, due in part to increased awareness and better treatment of blood pressure. Despite this progress, 750,000 Americans died from strokes and heart attacks in 1981. Awareness could save lives.

We hope this resolution will focus additional attention on this subject. The resolution urges all Americans to take advantage of the many opportunities for blood pressure testing and education. It also urges our colleagues to take this opportunity to promote enhanced awareness of the problems associated with hypertension, and at the same time, to work toward reducing the terrible human losses with which it is associated.●

Mr. COURTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 260

Whereas diseases resulting from hypertension cause needless mortality and morbidity which can be reduced if hypertension is discovered through blood pressure screening;

Whereas sixty million Americans are hypertensive;

Whereas hypertension is a major factor in five hundred thousand strokes and one hundred and seventy-five thousand stroke-related deaths annually as well as more than one million five hundred thousand heart attacks and five hundred and sixty-seven thousand heart attack-related deaths annually;

Whereas twenty-nine million workdays, representing $2,000,000,000 in earnings, are lost each year because of cardiovascular diseases;

Whereas the risk of the major cardiovascular diseases is directly related to hypertension and even mild elevation in blood pressure may result in substantial risk of illness;

Whereas much of the 30 per centum reduction in mortality between 1970 and 1980 for stroke, hypertension heart disease and other cardiovascular system disease can be partially attributed to increased awareness and better control of blood pressure; and

Whereas increased blood pressure screening will identify greater numbers of Americans at risk for hypertension-related cardiovascular disease and encourage these Americans to seek treatment to control their blood pressure: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on November 11, 1984, is hereby designated as "National Blood Pressure Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL EPIDERMOLYSIS BULLOSA AWARENESS WEEK

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 201) to provide for the designation of the week of November 25 through December 1, 1984, as "National Epidermolysis Bullosa Awareness Week," and ask for its immediate consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

Mr. COURTER. Reserving the right to object, Mr. Speaker, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in strong support of the legislation pending before us. As the House sponsor of the bill, I have worked with the patients and the families who must contend with this serious genetic skin disease. I would like to thank the gentlelady from Indiana for her assistance in bringing this legislation to the floor, and the gentleman from California [Mr. WAXMAN] for his strong support of all measures pertaining to Epidermolysis Bullosa, most particularly, House Joint Resolution 565, the companion measure we introduced together.

Epidermolysis Bullosa, usually referred to as EB, is a term applied to a group of inherited disorders whose common feature is the formation of severe blisters after a minor trauma to the skin. This orphan disease afflicts approximately 10,000 to 15,000 Americans, most of whom are children, yet it is thought that another 20,000 to 30,000 are carriers. Sufferers of EB in its severest form look as though they have been severely burned in a house fire. The disease causes extensive pain and discomfort, and also involves a number of serious complications, such as deformity, when the digits of the hands and feet fuse together, malnutrition due to tissue buildup in the throat, and carcinomas.

EB takes a terrible toll on its victims and their families and friends. Unfortunately, however, scientists have been unable to fashion a way to detect EB either before or after birth. Diagnosis is difficult because not much is known about the disease. However, awareness has increased because of the tireless efforts of Arlene Pessar, executive director of the Dystrophic Epidermolysis Bullosa Research Association [DEBRA]. Having worked with Arlene over the past several years, I have seen her wage a courageous battle to find effective treatment for her son, Eric, as well as all the others who suffer from EB. DEBRA of America began as a one-woman organization, yet today it has a membership of several thousand.

Its membership grows as awareness of the illness and discovery of additional patients is made. Arlene's members have worked with the National Institutes of Health to produce a brochure about EB, and as the organization plans for its first conference here in Washington at the end of November, it is important that Congress encourage their efforts by declaring the week of November 25 to December 1 as "National Epidermolysis Bullosa Awareness Week." The assistance of many businesses, most notably, American Cyanamid and Squibb Corp., has made this conference and this resolution possible. Working cooperatively, the private and public sectors can increase awareness of this serious illness, and with the support of the scientific community, we will hopefully find an effective course of treatment and cure for Epidermolysis Bullosa. I urge my colleague's support of this resolution.

Mr. COURTER. Mr. Speaker, I thank the gentleman for his eloquent comments.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 201

Whereas the incidence and prevalence of epidermolysis bullosa present a significant health problem in the United States;

Whereas epidermolysis bullosa is an inherited disorder showing widespread blistering and skin erosions which result in pain, scarring, deformity, contractures, malnutrition, anemia, gastrointestinal problems, dental problems, corneal erosions, and carcinoma;

Whereas an estimated ten to fifteen thousand Americans of both sexes are afflicted with the disease, and another twenty to thirty thousand Americans may be carriers of this disease;

Whereas the Nation faces a continuing need to support innovative research into the causes, treatment, and cure of epidermolysis bullosa;

Whereas it is appropriate to focus the Nation's attention upon the plight of epidermolysis bullosa sufferers and upon the continuing peril epidermolysis bullosa poses to humanity: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 25 through December 1, 1984, is designated "National Epidermolysis Bullosa Awareness Week" and the President of the United States is authorized and requested to issue a proclamation calling upon all Government agencies and the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL DIABETES MONTH

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 299) to designate November 1984, as "National Diabetes Month," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

Mr. COURTER. Reserving the right to object, Mr. Speaker, under my reservation I would just like to mention, as one time I did before, that during the past 2 years it has been a sincere pleasure and honor to be working with the gentlewoman from Indiana [Mrs. HALL]. We are going to miss her eloquence, her compassion, and her concern in this body, in the House of Representatives.

Also, it is going to be my pleasure, I fear, it is going to come to pass that I will be working with her on the Martin Luther King Commission as one of the four Members of the House of Representatives that were chosen to assist to make sure that the first birthday recognizing the birthday of Martin Luther King in 1986 is properly done and I am sure the gentlewoman from Indiana [Mrs. HALL] is one of those who will be working on that Commission, so I will not be saying goodbye to her, but I will say that it has been indeed a pleasure to work with a woman of her stature, her eloquence, and her compassion. I hope the rest of her very productive work here on Earth is going to be as fruitful as the work she has put forth in the last couple years in the House of Representatives.

Mrs. HALL of Indiana. Mr. Speaker, if the gentleman will yield, I would just like to add a note of thanks to my colleague, the gentleman from New Jersey [Mr. COURTER]. He has been a very effective person to work with. Together we have accomplished so much on behalf of the people of these United States. It has really been a pleasure working with the gentleman.

Mr. COURTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 299

Whereas diabetes kills more than all other diseases except cancer and cardiovascular diseases;

Whereas eleven million Americans suffer from diabetes and five million seven hundred thousand of such Americans are not aware of their illness;

Whereas $10,100,000,000 annually are used for health care costs, disability payments, and premature mortality costs due to diabetes;

Whereas up to 85 per centum of all cases of noninsulin-dependent diabetes may be controllable through greater public understanding, awareness, and education; and

Whereas diabetes is a leading cause of blindness, kidney disease, heart disease, stroke, birth defects, and lower life expectancy, which complications may be reduced through greater patient and public understanding, awareness, and education: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November 1984, is designated as "National Diabetes Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the various joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON AGRICULTURE

The SPEAKER pro tempore laid before the House the following communication from the Committee on Agriculture; which was read and, without objection, referred to the Committee on Appropriations:

COMMITTEE ON AGRICULTURE,
Washington, DC., September 25, 1984.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the provisions of section 2 of the Watershed Protection and Flood Prevention Act, as amended, the Committee on Agriculture on September 19, 1984, considered and approved the work plans transmitted to you by Executive Communication and referred to this Committee. The work plans approved are:

WATERSHED, STATE, AND EXECUTIVE COMMUNICATION

Lower Silver Creek; California; 3404, 98th Congress.

Little Whitestick-Cranberry Creeks Subwatershed Project of the Piney Creek Watershed; West Virginia; 3404, 98th Congress.

Enclosed are Committee Resolutions with respect thereto.

With best regards,
Sincerely,

E (KIKA) DE LA GARZA,
Chairman.

DEPUTY SHERIFF CARNIE F. HOPKINS

(Mr. HUBBARD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HUBBARD. Mr. Speaker, I rise today to pay tribute to a good friend and constituent of mine, Carnie F. Hopkins of Ledbetter, KY, who lost his life tragically and senselessly while serving the people of western Kentucky.

The 56-year-old deputy sheriff of Livingston County, KY, was on duty late Sunday evening, September 9, when he stopped his squad car to help a person who he thought was in need. For his efforts, this dedicated public servant received a fatal gunshot wound to the chest. Carnie Hopkins died early September 10 before reaching a nearby hospital.

A native of Barlow, KY, and a veteran of World War II, Carnie Hopkins will long be remembered for his tireless service to the people of western Kentucky. He was a member of the Ledbetter Optimists Club and Smithland Masonic Lodge, and he served as a trustee and was chairman of the board of trustees of the Ledbetter Fire District. For the past 6 years, he had also acted as one of two deputy sheriffs in Livingston County providing assistance to any and all without regard for his own safety.

In 1982, Carnie Hopkins was the target of another violent attack, this time as he and another officer transported a prisoner from the Indiana State Penitentiary to serve trial in Smithland, KY.

While en route, the prisoner pulled a knife and stabbed both officers repeatedly. Friends and relatives say the incident did not dampen Carnie Hopkins' enthusiasm and dedication to his work. In fact, before fully recovering from his wounds, he was back on the job.

A member of the Ledbetter Church of Christ, Carnie has been described as "a man who loved his community from the bottom of his heart. He was always there; he always cared. All it took was a phone call and he was on his way."

I am proud to have known Carnie F. Hopkins and to have been his friend. He was a loved and respected member of the community, and he will be sorely missed.

Survivors include his wife, Mrs. Rose Mary Darnell Hopkins; his mother, Mrs. Fannie Hopkins of Ledbetter; two sons, Rickie Hopkins and Kevin Hopkins, both of Ledbetter; a daughter, Mrs. Karen McDougal of Ledbetter; five brothers, Courtney F. Hopkins, Charles Hopkins, Dennis Hopkins, Harold Wayne Hopkins, and David Allen Hopkins, all of Ledbetter; three sisters, Mrs. Oma Roetteis, Mrs. Elsie

Cooper, and Mrs. Betty Jean Fondow, all of Ledbetter; and two grandchildren, Heather Hopkins and Melany Guess, both of Ledbetter.

In closing, I wish to note that in honor of his service to the community, Carnie F. Hopkins was posthumously awarded the Police Medal of Honor by the American Police Hall of Fame. The certificate which accompanied the medal read as follows:

Carnie F. Hopkins, who in performance of his duties as a public safety officer gave his life to protect life and property; that we the living dedicate ourselves to his memory and the supreme sacrifice he made.

On September 12, about 150 law-enforcement officers from across Kentucky were among the 350 people who jammed Paducah's Roth Funeral Home for the funeral.

Officiating at the emotional funeral were Wayne Hall of the Clements Street Church of Christ in Paducah and Donald Frey of Ledbetter Church of Christ. Frey delivered Hopkins' eulogy, a portion of which is quoted above.

I extend my sympathy to the family and friends of Carnie Hopkins, a friend of mine whom I admired and who worked diligently to help others and improve western Kentucky throughout his life.

□ 2050

BROAD-BASED, ENHANCED SAVINGS TAX ACT OF 1984 [BEST]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana [Mr. MOORE] is recognized for 5 minutes.

Mr. MOORE. Mr. Speaker, I am pleased to introduce today the Broad-Based, Enhanced Savings Tax Act of 1984 [BEST]. I am proud to be joining with Senator WILLIAM V. ROTH, JR., in introducing this important piece of legislation. Senator ROTH has invested a considerable amount of time in developing this innovative answer to the most severe problems facing our existing tax system.

Senator ROTH and I designed this bill to achieve the following results:

The bill provides substantial savings incentives which serve to minimize the tax bias against saving and investment that exists in our Tax Code.

The bill substantially lowers marginal tax rates and, therefore, diminishes the disincentives against work, effort, and saving.

Through substantial base broadening, the bill provides for a system that raises the same revenue as our current system. This has been certified by the Joint Committee on Taxation.

The bill does not change the distribution of the tax burden by income class. Each income class will pay the same percentage of total tax burden as under current law.

The bill is fair to all taxpayers and greatly simplifies the Tax Code.

Our bill is similar to a number of the broad-based tax reform bills which have been introduced in both the House and the other body previously including the FAST tax introduced by Congressman JACK KEMP and Senator BOB KASTEN and the FAIR tax by Congressman DICK GEPHARDT and Senator BILL BRADLEY. Our bill, however, goes one very significant step beyond the important proposals of these gentlemen in addressing one of the significant failings of our existing tax system, the absence of a sufficient incentive in favor of savings. This is an aspect which I have emphasized throughout my career in Congress by encouraging a broadening of the individual retirement account opportunities and through other initiatives. The Roth-Moore BEST bill significantly improves upon these earlier proposals by providing significant savings incentives in the form of a super-savings account [SUSA] and removing the incentives for consumer borrowing that are present in the existing law. In addition, by reducing top marginal rates, there is an added incentive for savings because additional savings dollars are taxed at lower marginal rates.

The BEST tax, by removing a number of archaic, complex deductions, credits, and exclusions, also achieves a significant simplification of our tax laws. While the bill is designed to be revenue neutral, I believe that it will actually increase revenue by improving compliance with our tax laws as a result of simplification and lower marginal rates. Increased compliance will be achieved for several reasons. First, the incentive for sheltering income is significantly reduced by lowering the marginal rates, thus eliminating the attractiveness of abusive transactions that currently reduce compliance. In addition, the resources of the Internal Revenue Service, a substantial amount of which are currently devoted to monitoring the numerous and complex provisions of our Internal Revenue Code, can be redirected at improving compliance in other areas.

Let me briefly describe my tax plan which will replace the existing individual income tax. We expect to develop in the near future a companion proposal modifying the corporate income tax in a consistent manner.

Specifically, we would eliminate virtually all the existing exemptions, deductions, and credits. The only exceptions would be the home-mortgage-interest deduction, a deduction for charitable contributions, and a deduction to protect against catastrophic medical expenses. In addition, legitimate business expenses for a personal business will, of course, be deductible.

In order to ensure that no one below the poverty line is taxed, the system would expand the substantial zero-bracket amount—the older standard deduction—and retain personal exemptions. The earned income credit would also be expanded beyond that of current law.

In this system, there would be one other deduction—and it is this deduction that makes this plan uniquely suited to stimulate savings and investment.

Most income invested in a savings account or other savings instrument would not be taxed until it is withdrawn and spent.

The centerpiece of this plan would be the creation by Congress of super-savings accounts [SUSA for short]. The SUSA would function much like current IRA's, except that saving could be for any purpose, not just retirement. The funds also could be withdrawn at any time without penalty.

Net contributions to the SUSA would be tax deductible and net withdrawals would be added to taxable income. Within the account, investments could be made in any financial asset. The limits on the SUSA would be $10,000 for an individual and $20,000 for a couple filing jointly. Existing IRA's would be rolled into SUSA's, but my plan would retain existing Keogh's as a separate entity not covered by the SUSA limit.

The second major feature of my plan is to replace the complicated system of capital-recovery provisions and credits for equipment with immediate expensing. This is crucial to our goal of creating an environment for investment for economic growth. Lives for structures also will be shortened.

Of course, any proposal as dramatic as this necessarily poses a number of transition problems. To mitigate some of the transitional difficulties, our tax system would be phased in over a period of 5 years. In close consultation with the Joint Committee on Taxation, we have determined that a permanent rate structure of four rates between 12 and of 34 percent would be sufficient to make the system revenue and income distribution neutral.

Who then should support such a tax system?

In my judgement, the broad spectrum of the American populace would benefit substantially from such a proposal and would be strong supporters of our initiative.

Groups that would benefit would include:

Young married couples—the future hope of our society—who look forward, for the first time, to owning their own homes. The supersavings accounts would provide low-interest mortgage money to help make home ownership a reality.

Middle-aged and middle-income families—the very backbone of our

Nation—who want to save whether for their children's education, a summer home in the country, a long-awaited and needed vacation, or whatever.

The elderly, who have toiled countless hours to make our country great and now find themselves—under our present tax system—unable to save tax free. With our proposal, the elderly could save funds tax free to help protect themselves against catastrophic illness or to provide a legacy for their children.

The jobless and underemployed—unwilling victims of technological change—would support this initiative because this new system would create new jobs by increasing the competitiveness of U.S. products and services in world markets.

The American business community—our plan would provide a steady and expanding source of capital so necessary for business growth.

In short, anyone who wants to see the United States preserve its economic strength, anyone who wants to maintain and strengthen the benefits of this recovery, anyone who wants to see America reassert its leadership in world trade and industrial productivity will support our initiative.

While this bill is being introduced late in the session, I think it is critical that we place this important proposal before the numerous groups on which it would impact so that they can comment both critically and favorably over the coming months prior to the beginning of the new Congress. I believe it is absolutely essential that we commence work on the reform of our existing tax system early in the new Congress because the job is certainly a complex and difficult one. The introduction of this bill will assist in furthering that important process. I am sure that I speak for both Senator ROTH and myself when I say that we welcome comments over the coming months to improve and perfect the proposal that is being introduced today. A title-by-title analysis of the bill and a letter explaining the income distribution and revenue provided by the Joint Committee on Taxation follow:

THE BROAD-BASED ENHANCED SAVINGS TAX ACT OF 1984—GENERAL EXPLANATION

OVERVIEW

The bill would amend the individual income tax to reduce marginal tax rates and the number of tax brackets, expand incentives for investment and savings, and broaden the tax base. The reduction in marginal tax rates and the expansion of incentives for investment and savings would begin in 1985 and would be fully phased in by 1990. Provisions that broaden the tax base would generally take effect in 1985.

The bill is designed to be approximately revenue neutral. Also, the bill is designed so that each income class would pay approximately the same share of the tax burden under the phased-in proposal as under present law.

TITLE I—REDUCTION OF MARGINAL TAX RATES

The bill would reduce the number of tax brackets to four. In 1985, the brackets would begin at $2,400, $15,000, $25,000 and $50,000 of taxable income for unmarried individuals; for married persons filing jointly, the brackets would begin at $3,550, $20,000, $30,000 and $60,000 of taxable income. This structure incorporates a $100 increase in the zero bracket amount for unmarried individuals ($150 for married couples), which would be at least as great as the increase that indexing is expected to produce for 1985 under present law. The dollar amounts defining the rate brackets, including the zero bracket amount, would be indexed for inflation, beginning in 1986.

Marginal tax rates in the four brackets in 1985 would be 18, 26, 36 and 45 percent, respectively. These rates would be phased down in three steps in 1988, 1989, and 1990, so that after 1989 the marginal tax rates in the four brackets would be 12, 20, 30 and 34 percent, respectively.

The earned income credit for certain individuals and couples with children would be increased in 1985 to 13 percent of the first $5,200 of earned income, for a maximum credit of $676, and the credit would be phased out at a 12.5-percent rate as income increases from $6,900 to $12,308. The personal exemption would be increased in 1985 to $1,050, which would be at least as great as the increase that indexing is expected to produce under present law for 1985. Both the personal exemption and the earned income credit would be indexed for inflation, beginning in 1986.

Consonant with the flattened rate structure and reduced marginal tax rates provided by the bill, the alternative minimum tax for individuals (sec. 55), income averaging (sec. 1301), and special averaging rules for lump-sum distributions (sec. 402(e)) would be repealed.

TITLE II—INCENTIVES FOR INVESTMENT AND SAVINGS

INVESTMENT INCENTIVES

In lieu of current investment tax credits and capital cost recovery allowances stretching over 3 to 5 years, individuals would deduct the entire cost (expense) of machinery and equipment in the year it is placed in service. Expensing would be limited to expense-method property, which generally is property that is assigned to the 3-year or 5-year class and qualifies for the investment credit under present law. Thus, expensing would not be available with respect to property predominantly used outside the United States (sec. 48(a)(2)), certain property owned by noncorporate lessors (sec. 46(e)(3)), and property used by tax-exempt entities (sec. 168(j)(3)). In addition, expensing would not be available with respect to certain property financed with tax-exempt bonds (sec. 168(f)(12)) or acquired from a decedent (sec. 1014(a)).

Expensing would be phased in over 5 years. Fifty percent of the basis of expense-method property placed in service in 1985 would be expensed. This percentage would increase thereafter by 10 percentage points per year, so that expensing would be fully effective beginning in 1990. Notwithstanding the percentages prescribed by the phase-in schedule, the current option (sec. 179) to expense the first $5,000 of property ($7,500 in 1988 and 1989) would be retained through 1989.

The remaining basis—that is, the portion of cost of expense-method property that is not expensed because of the phase-in schedule—would be recovered as under present law. However, to prevent excessive benefits from the combination of the investment credit, ACRS deductions and declining marginal tax rates, the bill would reduce the regular investment credit for the remaining basis to 3 percent for 3-year property and 5 percent for 5-year property. Similarly, investment credits would not be available for individuals with respect to 10-year property and 15-year public utility property placed in service after 1984, and investment credit carryovers allowable in years after 1984 would be reduced as marginal tax rates are reduced.

Lastly, the recovery period for 18-year real property placed in service after 1989 would be reduced to 15 years.

SAVINGS INCENTIVES

The bill provides that individuals may establish a super savings account (SUSA), which would operate to defer tax on income for so long as it is saved. Contributions to a SUSA would be deductible in determining adjusted gross income for the year they are made. There would be no penalty for distributions from a SUSA, but distributions would be included in adjusted gross income for the year they are made. Contributions and distributions would have to be in cash, except 1985 contributions could include stocks, bonds, or other securities readily tradeable on the established securities market. Income earned on assets of a SUSA would not be included in the tax base until distributed.

The bill provides rules designed to protect the proper operation of SUSAs as a stimulus to savings. No deduction would be allowed for contributions that are directly attributable to indebtedness which is incurred or continued to purchase or carry an interest in a SUSA. Assets of a SUSA that are used as security for a loan would be treated as distributed, and assets could not be used to acquire collectibles such as gems or antiques (sec. 408(m)(2)).

The maximum amount of the deduction allowed to an individual for net contributions to a SUSA during 1985 would be $7,500. This amount would then increase by $500 per year until it reaches $10,000 for 1990 and thereafter. For joint returns, the maximum amount would begin at $15,000 in 1985, then increase in annual increments of $1,000 until it reaches $20,000 for 1990 and thereafter. The bill would not affect the operation of IRAs, but the maximum amount allowed as a deduction for net contributions to a SUSA during a taxable year would be reduced by deductions taken for contributions to an IRA or otherwise allowed under section 219 for the year.

TITLE III—BASE BROADENING

The bill would broaden the individual income tax base by repealing or limiting many tax credits, exclusions, and deductions, beginning in 1985.

TAX CREDITS

The bill would repeal all nonrefundable personal tax credits other than the present credit for interest on certain home mortgages (sec. 25). Thus, the bill would repeal credits relating to expenses for household and dependent care services (sec. 21), the elderly and disabled (sec. 22), residential energy expenditures (sec. 23), and political contributions (sec. 29). In addition, credits relating to certain clinical testing expenses (sec. 28), producing fuel from a nonconventional source (sec. 29), and increasing research activities (sec. 30) would only be

available to C corporations. Except for the reduced regular investment tax credit that is provided for the remaining basis of expense-method property during the phase-in of expensing, the general business credit (sec. 38) would only be available to C corporations.

EXCLUSIONS

The following exclusions would be repealed for individuals:

(1) employer-provided premiums on group-term life insurance (sec. 79);

(2) unemployment compensation benefits (sec. 85);

(3) employer-paid death benefits (sec. 101(b));

(4) certain military compensation for injuries or sickness (sec. 104(a)(4));

(5) employer-paid health plan premiums (sec. 106);

(6) rental value of parsonages (sec. 107);

(7) certain combat pay and mustering-out payments (secs. 112 and 113);

(8) partial exclusion of dividends (sec. 116);

(9) scholarship and fellowship income in excess of tuition (sec. 117);

(10) meals or lodging furnished for employer's convenience (sec. 119);

(11) amounts received under group legal service plans (sec. 120);

(12) one-time exclusion of gain on sale of principal residence (sec. 121);

(13) certain reduced military retirement pay (sec. 122);

(14) employer-provided transportation (sec. 124);

(15) cafeteria plans (sec. 125);

(16) cost-sharing conservation payments (sec. 126);

(17) educational assistance program benefits (sec. 127);

(18) employer-provided dependent care assistance (sec. 129);

(19) foster care payments received (sec. 131);

(20) earned income of citizens living abroad (sec. 911);

(21) foreign areas allowances and certain other allowances (sec. 912); and

(22) dividends reinvested in public utility stock (sec. 305(3)).

The current exclusion of payments received to encourage production of strategic minerals (sec. 621) would only be available to C corporations. The treatment of possession-source income for residents of a possession would generally follow the rules that now apply to residents of Puerto Rico (sec. 933).

DEDUCTIONS

The bill would repeal deductions currently allowed to individuals for nonbusiness interest other than housing interest (sec. 163), taxes (sec. 164), moving expenses (sec. 217), two-earner married couples (sec. 221), and adoption expenses (sec. 222). Deductions for losses due to casualty or theft and not connected with a business or profit-seeking transaction (sec. 165(c)(3)) and for the long term capital gains of individuals (sec. 1202) would be repealed. Finally, medical expenses would be deductible only to the extent they exceed 10 percent of adjusted gross income (sec. 213), and the additional personal exemption for elderly taxpayers would be repealed (sec. 151(c)).

JOINT COMMITTEE ON TAXATION,
Washington, DC, October 1, 1984.

Hon. WILLIAM V. ROTH, Jr.,
U.S. Senate, Washington, DC.

DEAR SENATOR ROTH: This is in response to your request for revenue estimates for the proposal that you and Congressman Moore intend to introduce later this week.

In general, the bill would amend the individual income tax to broaden the tax base, lower marginal tax rates, allow expensing of certain personal property, and exempt saving that occurs in connection with a super savings account. The provisions would be phased in over the period 1985–1989 and would be fully effective in 1990.

The staff's analysis of the proposal is that it would be essentially revenue neutral over the phase-in period and when fully effective in 1990. The estimated changes in revenue in both cases are very small and are well within the range of error of our present estimating methods for so comprehensive a bill. In addition, the staff estimates that each income class would pay essentially the same share of the tax burden under the phased-in proposal as under present law. These estimates have been done without regard to any interactions between the proposal and the corporate income tax.

As I have discussed with you on other occasions, our current estimates of the revenue and distributional impacts of reform bills such as this proposal and similar bills are highly tentative for several reasons. The bills would no doubt have far-reaching economic impacts that are not accounted for in our revenue and distributional estimates, the inclusion of which could markedly change the results. Moreover, the analysis is static in the sense that no changes in taxpayer behavior, other than in their savings behavior, are assumed to result from changes in the tax law. The response to savings incentives is a necessary and important element in estimating the revenue effects of this proposal, and uncertainty about the degree of response tends to increase the range of possible estimating error. We will be working this fall and winter to improve both the estimating models and data base needed to analyze bills of this scope and will be pleased to work with you and provide further information as it becomes available.

Sincerely,

DAVID H. BROCKWAY.

THE FAILURES OF "AUCTION BLOCK" OCS LEASING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, I would like to commend to the attention of my colleagues an article printed in Sunday's edition of the Washington Post entitled "Oil-Lease 'Non-Sale' Rearms Policy's Foes." This article details the failure of the Department of Interior's areawide approach to oil and gas leasing on the Outer Continental Shelf, a policy which has cost this Nation billions of dollars over the last few years.

Prior to 1983, Federal oil and gas lease sales were conducted under a tract nomination system, whereby Government and industry experts identified promising individual tracts which were then offered to the industry on the basis of competitive bidding. Former Interior Secretary James Watt converted the system to an areawide process in 1983, as part of his effort to offer almost the entire OCS for lease in a matter of 5 years. Using this areawide approach, the Department has since placed huge areas of the OCS on the auction block in single lease sales, often with little effort to determine which if any of the individual tracts offered have high hydrocarbon resource potential. In an extreme case—the recent North Atlantic lease sale—there was so much uncertainty about the area's resource potential that not a single industry bid was filed for any of the 1,138 tracts offered for lease.

As the Washington Post article documents, areawide lease sales have invariably yielded smaller average bids per tract, because oil and gas companies do not have to compete for a select number of tracts with predictable resource potentials. Instead, individual tracts are often leased to lone bidders at rock-bottom prices simply because there are too many tracts being offered for competitive bidding to take place on each one. As Texas Governor Mark White states in the Washington Post article, "areawide leasing has already cost America billions of dollars * * * it represents an unconscionable windfall to the oil and gas industry at the expense of the average taxpayers."

Not only has the areawide approach reduced Federal and State revenues from OCS lease sales; it has served to greatly exacerbate State concerns about the scope and pace of offshore oil development. Recent areawide lease sales have overwhelmed the State's efforts to mitigate the impact of OCS leasing on their coastal zones, because there is no opportunity for a proper assessment of the environmental and economic costs of leasing specific OCS tracts. The result has been a series of costly lawsuits brought by States like California and Massachusetts against the Department of Interior, which only serve to delay the leasing process at the taxpayer's expense.

This is perhaps the most important point; the areawide approach to OCS leasing does not provide adequate protection to certain offshore areas which are especially sensitive to the environmental, economic, and military impacts of OCS leasing. It was largely in response to the program's failure to address these factors that Congress last year enacted a 1-year moratorium on oil and gas leasing off certain areas of the California and Massachusetts coastlines. Among the areas included in the moratorium were vital commercial fish spawning grounds, habitats for endangered or threatened species, and important commercial and military shipping lanes—areas which would already have been excluded from sale through a fair and balanced OCS leasing process. Unfortunately, because the areawide leasing program does not provide for such a fair and

balanced approach, Congress is faced with the necessity of enacting a similar moratorium for fiscal year 1985.

While the moratorium has not and will not prevent the Department of the Interior from conducting areawide lease sales, the current ban has already induced the Department to consult more extensively with the States regarding the environmental and economic impacts of OCS leasing. These additional consultation procedures are essential to the States, because the areawide program does not provide them with an adequate opportunity to evaluate the tremendous coastal impact of areawide lease offerings. Because of the recent Supreme Court ruling that offshore lease sales need not be consistent with federally approved State coastal management plans, congressional enactment of the moratorium for fiscal year 1985 is the only way to ensure the continuation of these special consultations.

In addition, because the moratorium effectively limits the number of tracts offered in certain areawide lease sales, the ban promotes competitive bidding on the tracts which are offered for lease within the same planning area. Thus, the Federal Government is likely to receive higher prices for the tracts which are offered in the areawide sales, while at the same time ensuring that the sensitive tracts included in the moratorium are the last to be developed and not the first.

Mr. Speaker, when we consider the tremendous loss of Federal revenues, the costly State-Federal litigation, and the inadequate environmental and economic protections provided by the areawide leasing approach, it becomes increasingly clear that we have an OCS leasing program that is out of control. Thankfully, within the next few days, Congress will again have the opportunity to promote a more rational OCS leasing process by enacting the limited moratorium contained in the House version of the Interior Appropriations bill for fiscal year 1985. While I would prefer not to use such an extraordinary legislative remedy, circumstances clearly warrant an extension of the moratorium into fiscal year 1985. The prohibition will illustrate congressional support for a long-term resolution of the status of these sensitive marine areas and will help induce the Department of the Interior to reevaluate its overall approach to OCS leasing.

At this point, I would like to insert in the RECORD a copy of the Washington Post article for my colleagues' information and future reference.

OIL-LEASE "NON-SALE" REARMS POLICY'S FOES

(By Cass Peterson)

The Interior Department held an oil-lease sale last week and nobody came.

Embarrassed officials hastily canceled the auction, involving more than 6 million acres of ocean floor off the North Atlantic coast, when the only bids came from an environmental group more interested in protecting spawning lobsters than in drilling for oil.

It was a costly disappointment for Interior, which has battled environmentalists, state officials and other federal agencies for more than two years to open the area to oil and gas developers.

But for critics of the Reagan administration's aggressive offshore leasing program, it was the ultimate "I told you so."

"The cancellation of this sale raises serious questions of why the Interior Department persists in the senseless practice of offering millions of acres to an industry that simply isn't interested," said Lisa Speer of the Natural Resources Defense Council.

For Speer and other opponents, the North Atlantic non-sale is fresh ammunition against a philosophy and a policy that they believe has needlessly cost the nation billions of dollars.

At the heart of their argument is a fundamental leasing-policy change put into effect in 1983. Until then, federal lease sales were conducted under a "nomination" system, with government and industry experts suggesting likely tracts for leasing on the basis of geological studies.

During his tenure as interior secretary, James G. Watt was eager to get more offshore tracts under lease as quickly as possible and converted the system to an "areawide" one that called for putting huge areas of the outer continental shelf on the auction block.

Watt envisioned placing as many as 1 billion acres of offshore lands under lease in five years—about 45 times what the Carter administration had planned to lease in the same period. The massive sales, he argued, would enhance competition among oil companies, boost federal revenues and assure energy independence for the United States.

It hasn't quite worked that way. For one thing, Interior has placed 10 million acres under lease so far, as sale after sale produced fewer bidders than the department had expected.

The tough competition hasn't materialized, and the amount of up-front money the government is receiving for its leases has dropped dramatically.

According to an economic study done for the state of Texas, such "bonus bids" averaged nearly $2,600 an acre from February 1979 through mid-1983, before Watt's areawide leasing policy went into effect. In the first eight areawide sales, the bonus bids dropped more than 70 percent, averaging less than $720 a acre.

"The explanation for the decline most consistent with the evidence . . . is that areawide leasing has amounted to an offshore acreage fire sale," the report said.

Industry economists concede that bonus bids have droped, but they contend that the real reason for the lower bonus bids is a slack oil and gas market, coupled with sales in areas that—like the North Atlantic—haven't turned up resources suitable for development.

But some coastal states, which share the revenue from offshore development and have their own pocketbooks to protect, sharply disagree.

Off the coast of Texas, for example, the average bonus bid under nomination sales from 1979 through mid-1983 was nearly $2,900 an acre. The region's only areawide sale, in August 1983, drew bonus bids of less than $670 an acre, although exploration in the area has been successful.

"I am persuaded that areawide leasing has already cost America billions of dollars," White wrote to Interior Secretary William P. Clark last May. "I am persuaded that it represents an unconscionable windfall to the oil and gas industry at the expense of the average taxpayers."

Clark has refused to back away from areawide leasing, although he has moved to counter some criticism of his predecessor's leasing policies by agreeing to delete some environmentally sensitive tracts.

Interior did make some minor changes in its post-sale evaluation procedures after the director of the Minerals Management Service noted in an internal memo that the areawide system had caused "a significant dispersion of bidding interest . . . with an observable dilution of interfirm activity on a tract-by-track basis."

Translation: There isn't much competition out there.

According to Interior officials, Clark still believes that areawide leasing is the fastest road to increased domestic petroleum production. The lower bonus bids, the department now argues, will be made up through royalty payments and taxes that will be collected from oil companies when the new wells start producing.

The argument hasn't exactly made a hit with the coastal states.

"If the government is counting on recouping those bonus bids in taxes, we're all in trouble," said Andy Kever, an Austin lawyer who has handled Texas' lawsuits over the revenue issue. "That's money the companies are keeping. The government doesn't get that."

The oil industry, meanwhile, has its own view of the situation. It contends that the whole argument over areawide leasing would go away if the government really tried areawide leasing.

Paul Kelly of the Rowan Co., a Houston drilling firm, said the North Atlantic sale became less and less attractive as Interior steadily snipped out tracts of interest to the Navy, environmentalists and fishing interests.

"In the end, compared to the initial area, you found a relatively small number of tracts still available," he said. "Many, if not most, of the interesting tracts were deleted."●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois [Mrs. COLLINS] is recognized for 5 minutes.

● Mrs. COLLINS. Mr. Speaker, due to a medical problem I was unable to be present yesterday. Had I been here I would have voted the following way on measures which were considered:

H.J. Res. 653, "yes";
H. Con. Res. 280, "yes";
H.R. 4103, "yes";
H.R. 6266, "yes";
H.R. 2568, "yes";
H.R. 5538, "yes"; and
H.R. 5361, "yes."●

THE FUTURE OF THE ABM TREATY

The SPEAKER pro tempore. Under a previous order of the House, the gen-

tleman from California [Mr. STARK] is recognized for 60 minutes.

● Mr. STARK. Mr. Speaker, I take this time to raise an issue that is extremely important to the security of the United States: the future of the ABM Treaty. In many ways, the future of the ABM Treaty will determine the future of arms control.

I believe that a total failure of our efforts to control and reverse the nuclear arms race with the Soviet Union will virtually ensure the eventual use of nuclear weapons. That is not heated rhetoric. Nor is it unthinking kneejerk doomsaying. It is simply the logical result of an unrestrained competition in the deployment of increasingly advanced nuclear weapons, and the accompanying international political tensions which arise from an entirely uncooperative and hostile United States-Soviet relationship.

I am not a member of either the Armed Services or Foreign Affairs Committees. I sit on the Ways and Means Committee, and my expertise is in taxes. Nevertheless, I want to raise this issue tonight because several weeks ago the two top foreign and defense policy officials in our Government stated that we may need to renegotiate or abrogate the ABM Treaty.

I think that the ABM Treaty is in serious danger when the Secretary of Defense states that we must decide if "we want to let a treaty which the Soviets are not observing and have violated stand in the way of our ability to develop a thoroughly reliable system of defense which can render their nuclear missiles impotent?" My concern is heightened when the Secretary of State, our top diplomat, says that it "remains to be seen" whether we will have to renegotiate or renounce the ABM Treaty.

My purpose tonight is to bring the importance of the ABM Treaty to the attention of this body. We need to discuss and threats the ABM Treaty faces, and the implications of abrogation of the Treaty. The deployment of space-based missile defenses is not simply a necessary modernization of our military forces. The abrogation of the ABM Treaty would be a fundamental shift in the security policy of the United States, and thus deserves the scrutiny of the congressional and public debate.

The ABM Treaty severely limits the deployment of antiballistic missile defenses. This was done for several reasons, all good and sound ones in my opinion.

First, by limiting the deployment of of ABM systems, both superpowers have been able to avoid an extremely costly competition in defensive weapons for over 10 years. The expenditures of both the United States and the Soviet Union on offensive weapons since the ratification of the ABM Treaty have been excessive and unjustified, but imagine how much more we both would have thrown away had we not agreed to preclude ABM deployments. As a Member of this body with direct responsibility for raising the revenues necessary to pay for Government spending, the prospect of an ABM race scares the daylights out of me. It should scare the American taxpayer as well.

By limiting the deployment of ABM systems, we have enhanced the effectiveness of the American deterrent by ensuring that U.S. ballistic missile warheads will be able to reach their targets. The Soviets have enjoyed a similar benefit from the Treaty. In short, the ABM Treaty fundamentally strengthens deterrence by preventing either side from believing that it could blunt a retaliatory strike after a preemptive attack through the deployment of an effective ABM system.

Finally, the ABM Treaty opened the door for efforts to limit offensive weapons. The incentives for offensive weapon limitations would be greatly reduced by the deployment of effective ABM defenses because the best way to counter an ABM system is to deploy thousands of additional offensive weapons so as to overload the ABM system. While our past efforts at offensive arms limitation have not been gloriously successful, both SALT I and SALT II did inject an important element of predictability and restraint into the United States-Soviet strategic weapons competition.

Today this important agreement is threatened. Both the United States and the Soviet Union stand to lose the benefits of the treaty which I have outlined, and both have taken steps which threaten the future of the agreement.

The treaty is threatened from two sides. On one side, there is the potential violation of the treaty by the Soviet Union, currently embodied in the partially constructed radar in central Siberia. On the other side, there is the possibility of a deliberate policy decision to abrogate the treaty which Secretary Weinberger alluded to in his own inimitable subtle manner. This American threat to the treaty is linked directly to the administration's Star Wars research program, and the fundamental shift in U.S. security policy inherent in that effort.

Both of these threats to the treaty need to be examined in the light of day, in an informed fashion, and in some detail if we are to responsibly assess their implications for the security of our country.

The ABM Treaty states that neither side may deploy phased array radars anywhere other than on the periphery of their country, oriented outward. The purpose of this provision of the treaty is to allow the deployment of necessary early warning radars, while prohibiting the deployment of such radars in a position or manner which would allow them to track incoming warheads so as to target them for an ABM system. Over the years since the ratification of the treaty there have been questions raised by both sides about the status of various radars under this provision. These questions were always raised quietly within the Standing Consultative Commission [SCC] and handled within that body as they should be.

Recently, however, it has come to public attention that the Soviet Union is constructing a very large phased array radar in central Siberia far from any reasonable definition of the periphery of the Soviet Union. Thus, it appears that upon completion in roughly 1989 this radar installation will be a violation of the ABM Treaty. One would expect the United States to take the possibility of such an obvious violation of a legally binding treaty very seriously, and not only seek a Soviet explanation of their behavior, but demand a satisfactory resolution of the problem.

I want this problem resolved. I want the Soviets to live up to their part of the ABM Treaty bargain. Unfortunately, we are not likely to see a successful effort to gain Soviet compliance. Why? Not because the Soviets have never taken corrective action in response to United States concerns raised quietly, yet forcefully, within the SCC. They have done so. The reason is that this administration did not handle this problem in our traditionally effective manner within the SCC. Instead, the administration raised this issue within the SCC, asked for a Soviet explanation—which they received—and then announced they were not satisfied with that explanation and publicly charged the Soviets with violating the ABM Treaty.

For the record, the Soviet explanation was that this radar did not constitute a treaty violation because it will be a space tracking radar, and they claimed that the United States will be able to tell that that is the function of it when it is completed. Now, I am not a technical expert in this area, but from what I have read this is not an acceptable explanation, and some sort of corrective action is needed. I think this sort of Soviet activity endangers not only the ABM Treaty, but arms control in general.

Nevertheless, I have some serious problems with the way the administration handled this issue of treaty compliance. Rather than seeking redress in a firm and determined manner through the accepted body dedicated solely to this kind of problem, the administration chose to request an explanation, and then reject it while going public. Given that the radar in question is not expected to become

operational until 1989, couldn't the administration have demanded satisfaction from the Soviets within the SCC without endangering our security? It seems to me that some toughness behind closed doors would be much more likely to result in actions in line with American interests than simply going public. In fact, by going public with their charges the Administration may have precluded any positive Soviet response which would ensure the sanctity of the ABM Treaty and enhance our security.

This brings us to the question of a possible American decision to abrogate the ABM Treaty in pursuit of a space-based missile defense system.

The President's proposed Strategic Defense Initiative is a 5 year $26 billion program purportedly designed to explore the possibility of deploying a multilayer ballistic missile defense system. Some of the development work involved in this program is potentially outside the provisions of the ABM Treaty. The operational testing of actual space-based weapons, and the deployment of any ABM systems outside of the strict limits laid out in the treaty are clearly prohibited by that accord. The ABM Treaty stands directly in the path of the President's Star Wars Program, and the Pentagon knows it.

By publicly stating that the United States is, or should be, considering the abrogation of the ABM Treaty the Secretary of Defense has furthered the erosion of the treaty. What would the Pentagon press releases say if the Soviet Minister of Defense made similar public statements? It is responsible to prudently consider the effects of any given treaty commitment on our security in the context of a changing world. It is irresponsible and reckless to speed the disintegration of a fundamental strategic weapons accord by throwing around offhand remarks about abrogation of such an agreement before any decision has been made to do so.

I would hate to suggest that there is a connection between the way this administration has handled our country's case before the SCC and the desire of the Secretary of Defense to clear the path of his Star Wars program of an inconvenient obstacle: the ABM Treaty. And I in no way intend to understate Soviet culpability in endangering the ABM Treaty through their own actions. I do think that it is playing fast and loose with our security to undermine the ABM Treaty now in the hopes that some technological wonder will make us safer sometime in the murky future.

There are several serious implications of abandoning the ABM Treaty. In the balance, I think abrogation of the treaty would not be in the security interest of this Nation. In fact, it could be the first slip down the all too possible slide toward nuclear war.

There is no doubt that the destruction of the ABM Treaty will result in a defensive weapons race between the superpowers. Both our countries will spend many billions, perhaps $1 trillion, trying to deploy a system that is of dubious technical feasibility. Why spend this money, all those tax dollars, on this project unless it will make us safer? And it won't.

The deployment of an effective ABM system by one side or the other will vastly increase the incentive for that country to strike first in a crisis, particularly when combined with the rapid flight times and high accuracy of the offensive weapons requested by this administration. An ABM system can readily be perceived as an offensive weapon by the side that doesn't possess it because even a marginally effective ABM system can greatly reduce the deterrent value of a nation's arsenal if it is first depleted by a preemptive counterforce attack.

Another negative effect of abandoning the ABM Treaty would be the loss of any limitation on Soviet ABM activity. Why would we wish to see the Soviets free to deploy any kind of ABM system they can conceive? Why should we want the Soviets to be free to neutralize our deterrent? Abrogation of the ABM Treaty would unshackle the Soviets to the detriment of our own security.

Finally, there is the worst and perhaps most dangerous result of the destruction of the ABM Treaty. The deployment, or even the threatened deployment, of effective ABM systems will eliminate any incentive for offensive arms limitation or reduction. This is because the most effective means of rendering an ABM system ineffective is to deploy thousands more nuclear weapons so as to overwhelm the ABM system. Why should either side agree to limit or reduce their offensive forces now or in the future if there is a very real possibility that the other side will deploy an ABM system that will neutralize their limited or reduced force?

The ABM Treaty is the prerequisite for offensive arms control. And maybe that is the real reason why this administration and the Pentagon are doing their damndest to scrap the ABM Treaty.●

● Mr. DICKS. Mr. Speaker, I am happy to join the gentleman from California Mr. STARK in this special order to focus on the importance of maintaining the integrity of the ABM Treaty. I commend him for calling this special order which I believe will help focus this House on the implications of the administration's proposals for a Star Wars defense plan for the maintenance of the ABM Treaty.

I am proud to be among the original cosponsors of House Joint Resolution 531, a resolution to maintain the commitment of the United States to the 1972 ABM Treaty between our Nation and the Soviet Union. It is in the judgment of most observers, including the President's own Commission on Strategic Forces, "one of the most successful arms control agreements" to date.

The ABM Treaty has avoided an extremely expensive and destabilizing parallel arms race under which the superpowers would each seek to gain superiority by negating the ability of the opponent to retaliate to a first strike while retaining the ability to successfully launch one of their own. To abandon this lid on the Pandora's box of a parallel arms race would be, in my judgment, the height of folly.

Yet that is precisely what some members of this administration openly advocate. It is what is clearly implied by the strategic defense initiative which will very soon confront the treaty and at the very least erode its credibility. Again, the Scowcroft Commission has warned us about blindly crossing this Rubicon by stating:

> The strategic implications of ballastic missile defense and the criticality of the ABM Treaty to further arms control agreements dictate extreme caution in proceeding to engineering development in this sensitive area.

Those who extol the dream of strategic defense believe they will make offensive nuclear weapons obsolete. Unfortunately, the lessons of history do not provide much basis for optimism. The story of warfare through the ages has been a continuing leapfrogging of offensive and defensive technologies. Neither castles, nor knight's armor, nor machineguns caused the abandonment of offensive weapons. They simply spawned an offense with greater capabilities, the catapault, stronger swords, and arrows, and the tank. On a more contemporary basis, we did not respond to the Soviet's deployment of an extremely expensive air defense system by abandoning the manned bomber. Instead we are working on two new bombers, and two generations of cruise missiles to overcome these defenses. Air Force generals have on more than one occasion in fact argued in favor of bombers on the grounds that they were less costly than the defense against them. The same promises to hold true for the phantom solution of strategic defense.

Article V of the ABM Treaty clearly states that:

> Each party undertakes not to develop, test, or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land based.

If any changes are required in this article they are to make more explicit the restrictions particularly in regard to the definition of development, and that of components. Extremely loose interpretations of the present restric-

tions, especially as they apply to possible dual purpose efforts, such as the new Soviet radar or ASAT systems will only undermine the treaty for both sides. In addition, any efforts to strengthen compliance through diplomatic channels, especially the SCC, should be encouraged as well.

The next few years will present a major challenge to the ABM treaty. I am confident the Congress will play a major role in this policy question and I look forward to working with Congressman STARK and others in this effort.●

● Mr. BEDELL. Mr. Speaker, I am exceptionally pleased to join with my colleagues in today's special order regarding the ultimate importance of continued United States and Soviet commitment and adherence to the Anti-Ballistic Missile [ABM] Treaty of 1972. As you know, most arms control experts, as well as many of us here in Congress, consider the ABM Treaty to be a capstone arms control agreement between the superpowers. After all, this agreement did serve and, could continue to serve, to prevent a dangerous escalation of the arms race in the arena of defensive nuclear weapons systems. Today, however, that agreement would seem threatened by the Reagan administration's keen interest in forging ahead with the destabilizing weapons systems that are envisioned in the President's strategic defense initiative—the so-called Star Wars plan.

Mr. Speaker, for the life of me, I do not understand this administration's willingness to scorn this milestone agreement. Nevertheless, this scorn remains clearly evident through the words and deeds of officials within this administration and, has been forcasted by the Secretary of Defense as recently as last week when he suggested that the question is if:

> We want to decide to let a treaty that the Soviets are not observing and have violated stand in the way of our ability to develop a thoroughly reliable system of defense which can render their nuclear missiles impotent.

A thoroughly reliable system of defense? When you are talking about defense against nuclear missiles, Mr. Secretary, you had better be absolutely sure that you have such a system of defense and I for one do not believe such a defense to be economically affordable or technologically feasible. Let us suppose that the Soviets were to attack us with a force of 10,000 nuclear warheads and, that our thoroughly reliable system of defense were to be 95 percent effective against such an attack—which by Pentagon standards, would be a most reliable system—that would still permit 500 Soviet nuclear warheads to hit targets within the United States. Can any of us here imagine the total destruction that such an attack would have upon this Nation's ability to survive as a functioning society? Do any of us believe that this Nation could survive such an attack? When will this utter madness end and when will this administration sit down and face the reality that a nuclear war cannot and must not ever occur? That past arms control agreements have served the national security interests of the United States and its allies? That future, mutual and verifiable arms control agreements with the Soviet Union can serve the long-term national security interests of this Republic?

Mr. Speaker, I share Secretary Weinberger's concern over the Soviet phase array radar at Abalakova. I believe the United States must gain better assurances from the Soviet Union with respect to that system, perhaps even request that that system be dismantled. But in my mind, we should not be so willing to be so cavalier in our attitude toward what has been to this date the single most effective restraint upon the nuclear arms race—the ABM Treaty of 1972.●

● Mr. BROWN of California. Mr. Speaker, I am pleased to participate in this special order with my colleague, Representative STARK, on the eve of the anniversary of the ratification of the 1972 Anti-Ballistic Missile [ABM] Treaty.

Mr. Speaker, the ABM Treaty is perhaps the most important existing arms control agreement between the United States and the Soviet Union. Negotiated and ratified under the Nixon administration, this treaty has provided the framework for the control of nuclear weapons since 1972. It is worth repeating the premise upon which this treaty was based as expressed in the preamble to the treaty which states that:

> Effective measures to limit anti-ballistic missile systems would be a substantial factor in curbing the race in strategic offensive arms and would lead to a decrease in the risk of outbreak of war involving nuclear weapons * * * and * * * would contribute to the creation of more favorable conditions for further negotiations on limiting strategic arms.

The Scowcroft Commission, in a March 1984 report warned that:

> The strategic implications of ballistic missile defense and the criticality of the ABM Treaty to further arms control agreements dictate extreme caution in proceeding to engineering development in this sensitive area.

Nevertheless, in his March 23, 1984, speech, which became known as the Star Wars speech, the President called on scientists to develop strategic defense weapons to render nuclear weapons "impotent and obsolete." Although this program is promoted as strictly a research program, administration spokesmen have indicated that testing and deployment of defensive systems could be expected before the end of the decade. In light of these events, on March 23, 1984, I introduced House Joint Resolution 531 calling on the United States to maintain its commitment to the ABM Treaty. This legislation has over 100 cosponsors.

Although the concept of intercepting nuclear weapons before they reach U.S. soil has intuitive appeal—who wouldn't like to be protected from nuclear weapons—it is dangerously simplistic, and explicitly prohibited by the ABM Treaty. Perhaps the most disturbing aspect of deployment of strategic defenses is the view that, intended or not, a ballistic missile defense will serve as an integral part of a first-strike capability. The United States would certainly view a Soviet system as such. The U.S. Secretary of Defense recently expressed this view when he commented that a Soviet BMD system would be "one of the most frightening prospects imaginable." A U.S. ballistic missile defense could also be expected to prompt a concurrent buildup in offensive weapons by the Soviet Union, thus fueling the offensive arms race.

Mr. Speaker, the integrity of the ABM Treaty is of critical importance. I urge my colleagues to study this important treaty because it will be the focus of much discussion and debate in the coming months.●

● Mr. COUGHLIN. Mr. Speaker, tomorrow, October 3, represents a significant anniversary in the history of arms control. On October 3, 1972, the treaty between the United States and the Soviet Union on the Limitation of Anti-Ballistic Missile Systems (the ABM Treaty) entered into force. The treaty permits the deployment of one limited, land-based ABM system and prohibits the development, testing, or deployment of other ABM systems or components, including a space-based system.

The importance of the ABM Treaty cannot be overstated. By outlawing nationwide defensive ballistic missile systems, the treaty serves as a cornerstone of arms control and stable relations between the superpowers. The arms limitation agreements negotiated under SALT I and SALT II could not have been achieved without limits on ABM systems. In the absence of the ABM Treaty, each side would need to increase its arsenal of offensive nuclear missiles in order to neutralize the other's ABM defenses. The prospect for future arms limitation and reduction depends on preserving the ABM Treaty.

Any activity which threatens to undermine the ABM Treaty must therefore be viewed with alarm. Research on antiballistic missile defenses is permitted under the treaty and I support an ongoing R&D program in this area to guard against a potential Soviet breakout from the treaty based on new technology. The President's strategic defense initiative pulls together many areas of basic ABM research which should be pursued.

However, I am concerned that the demonstration of many of the missile defense technologies that have been ordered as part of the SDI Program between now and 1990 may violate the testing prohibitions which are central to the ABM Treaty. A careful legal analysis of the impact of the SDI Program on the ABM Treaty is needed so that Congress and the public can understand exactly how the strategic defense initiative affects our obligations under the ABM Treaty.

Recent statements by high officials of the administration have created some uncertainty as to the future of the ABM Treaty as the SDI Program proceeds. Now is the time that we should reaffirm our commitment to the treaty, not undermine it.

If advancing technologies are creating gray areas which the language of the treaty does not adequately address, then we should work toward common understandings with the Soviet Union to clarify certain terms and definitions in order to ensure the ABM Treaty's continued viability. We should not pursue options which will undermine this agreement on which the future of arms control so clearly depends.●

TRIBUTE TO THE HONORABLE LARRY WINN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. GLICKMAN] is recognized for 60 minutes.

GENERAL LEAVE

Mr. GLICKMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. GLICKMAN. Mr. Speaker, When LARRY WINN leaves this House, Kansas and the Nation will lose a dedicated public servant who not only has represented his constituents but has also represented our Nation. In his 18 years, LARRY has kept one hand on the pulse of Kansas' Third Congressional District and one on the pulse of the world. He knows well the importance of both to the strength and vitality of this Nation of ours. The people of Kansas have reciprocated by sending him here nine successive times and by honoring him through our Kansas State Society, as "Kansan of the Year."

All of us in the Kansas congressional delegation have been privileged to serve with LARRY WINN and to have learned from him. Fortunately, I have been able to work with him as well on the Committee on Science and Technology over the last 8 years. Party lines have not stood in the way of working together for the well-being of our Kansas constituents.

Over the years, LARRY's love for Kansas has shown through in the work he has done here. He has been a tireless advocate for his alma mater, the University of Kansas, and he has spoken forcefully about the daily life concerns of Kansans ranging from the severe storms that hit the State to the energy needs of his constituents.

LARRY's years of experience, his commitment to this Nation, and his love for Kansas have led to a career of accomplishment. We will miss him when he returns to Kansas, but that is where his heart is. I know all of the people of the Third District will welcome LARRY and Joan home with open arms. From here, we wish them all the best.

Mr. WHITTAKER. Will the gentleman yield?

Mr. GLICKMAN. I now yield to my colleague from the Fifth District of Kansas, my friend, BOB WHITTAKER.

Mr. WHITTAKER. Mr. Speaker, as our good friend and colleague, LARRY WINN, retires from public service, I think it is wholly appropriate for this body to recognize his hard work and many accomplishments. All of us who aspire to serve our country and its people can profit from his example.

LARRY was elected to this body in 1966, representing the metropolitan area of Kansas City, KS, and suburban areas. It is a culturally and politically diverse district. However, it is a tribute to LARRY that he has comfortably won reelection to eight consecutive terms. From the common man to the corporate executive, from the urban dweller to the Miami County farmer, LARRY WINN has the respect, trust, and loyalty of his constituents. That comes as no surprise to those of us who know this man and his dedication to his job.

Like many of us, LARRY built his record of service in areas other than elected office. Instead, he worked tirelessly for the American Red Cross. He has lent his talents to the Boy Scout organizations. LARRY has worked to promote health, education, and recreation in his community. The United Fund could always count on LARRY's help. He put himself to work for Junior Achievement and the Rotary Clubs. LARRY helped build a strong Republican Party in Kansas and in his own community.

The list of his community service achievements goes on and on. But, LARRY would advise me to keep it short and to the point. Did I mention he was also editor of the University Daily Kansas while attending college?

In the House of Representatives, LARRY WINN has distinguished himself through his service on the Committee on Science and Technology. He has fought to keep America at the cutting edge in scientific research and in fighting shape as we face the high-tech future. LARRY is the congressional cornerstone of our space program and rightfully shares in the credit for America's mammoth achievements in space exploration. Because of that contribution, his work will surely benefit humanity for many generations to come.

As a member of the House Foreign Affairs Committee, LARRY has taken on the down-to-Earth task of grappling with the complexities of international relations. It is almost a thankless job to sort out America's role and define her interests in a turbulent world. It's fair to say that there are some trouble spots throughout the globe that many Americans would prefer to forget. But, LARRY knows instinctively that in an interdependent world community we Americans must accept our responsibilities to our neighbors, just as we do in our own hometown.

For LARRY WINN, delicate international problems are just another day in the office. His professionalism has earned him the distinction of serving as a member of the U.S. delegations to the United States-Canada Interparliamentary Meetings, European Parliamentarians Meeting, and the United Nations. Make no mistake about it, LARRY WINN is part of the reason why America is standing tall in the world today.

If you are from my part of the Nation, you've heard the song, "I Was Country, When Country Wasn't Cool." Well, LARRY WINN was a "fiscal conservative" before most of his colleagues saw the wisdom of that philosophy. We could have used a lot more people like LARRY WINN in Congress when the seeds of $175 billion deficits were being sown in the 1960's.

LARRY has always been there when the American taxpayer needed him. He has been affectionately named "Watchdog of the Treasury" by the National Association of Businessmen and a "Guardian of Small Business" by the National Federation of Independent Business. LARRY has received many other awards during his long crusade toward Federal thrift.

I know many of us in this body will make it a point to keep in touch with our good friend, LARRY WINN. Nevertheless, we will miss his great talent and hard work here in Washington. To be sure, Kansas' loss in Washington will be Kansas' gain back home, as LARRY returns to the Third District as a private citizen. I know that LARRY has a lot more to offer his community for many years to come.

LARRY WINN, Jr. has earned wide acclaim through his long service in Washington. But, most of all, he has earned a pleasant retirement. It is my pleasure to join my colleagues in the House of Representatives in wishing

LARRY and his lovely wife, Joan, the very best as they go where their hearts beckon them: home, to Kansas.

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Mr. GLICKMAN. Mr. Speaker, I am happy to yield at this time to the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. I thank my colleagues for yielding.

As my friend and colleague BOB WHITTAKER from the fabulous Fifth District of Kansas has already indicated and gone over a list of LARRY's many accomplishments and his biography, I would like to visit a little bit about LARRY as a friend to all of us.

Webster actually defines "friend" as a "person who one knows well and is fond of, an intimate friend and associate, a person on the same side in a struggle." That definition certainly fits our colleague LARRY WINN, who is retiring after a distinguished career of 18 years as the Representative of the Third District of Kansas.

LARRY is a true friend to the people of Kansas. Whether it was major legislation or an individual problem with government, no job was too small, no task was too difficult for LARRY to handle with all of his energy. The kind of personal service he gave to the Third District is a goal for every Member.

LARRY has also been a true friend to the advancement of American science and technology. As ranking minority member of that House committee, he has left a major and lasting and pioneer mark on our Nation's Space Program. Just a few days ago LARRY's many friends held a retirement celebration that was highlighted by the genuine high regard and affection all of those in the space effort have for LARRY and his work.

A hallmark of LARRY's career has been his ability to do the kind of hard slogging and behind-the-scenes work that achieves many more results than the flamboyant headlines in the press. Nowhere is this more true than his work on the House Foreign Affairs Committee. He has been willing to go that extra mile, do the extra homework required to make educated and informed decisions so vital to our country's national and international interests.

Too often, we, as Members, I think, are labeled as a conservative or a liberal or we are fit into other narrow modes or even a book shelf or two. With LARRY, however, the term that comes to my mind is solid, whether applied to his voting record, his service to his constituents, or his very tenacious opposition to more spending and more legislation.

I would say to my good friend from Wichita and I know to my colleague and the dean of the delegation, LARRY, I do not think you expected this tribute to include a country western number by BOB WHITTAKER and PAT ROBERTS. But, indeed, he was country before country was cool when we are talking about fiscal responsibility.

The point is this: Had all Members of this Congress followed LARRY's lead over the last 18 years, I am confident that we would not have the deficits problems we now face. We would not in this body as of today have the partisan acrimony over a balanced budget piece of legislation.

The buck stopped with LARRY. He had the courage to vote "no" before it became very popular to vote "no" in the House of Representatives.

But most of all, LARRY WINN, Jr. has been a friend to each of us. A friend who will be missed from this House of Representatives, but also a friend who will remain in our thoughts and actions and hearts.

So, thank you, LARRY. Thank you from PAT ROBERTS as a Member, as a staff member for all of your fine staff, for Nan, for Kathy, for Dick, and all of your excellent people that are part of the LARRY WINN family.

Thanks especially for being such a staunch and loyal friend to my predecessor Keith Sebelius. Thanks for being a party partisan in the best sense of the word and for maintaining a strong two-party system in our State of Kansas, and a party that does adhere to responsibility and also the factor of accountability.

Thank you on behalf of my wife, Frankie, as a personal friend and adviser.

I wish LARRY and his wife Joan, his children and grandchildren the very best as they go to new challenges serving Kansas.

I thank my colleague.

Mr. GLICKMAN. I thank my colleague for his excellent statement.

Mr. Speaker, I yield to my friend from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Speaker, I consider it a distinct privilege to join so many of my colleagues today in rendering tribute to one of the distinguished Members of this House: Representative LARRY WINN, the dean of the Kansas delegation, who will be retiring at the end of the 98th Congress.

In LARRY WINN's long and distinguished career, he created an outstanding reputation for himself in his capacity as ranking minority member of the Committee on Science and Technology and as one of the senior Republican members of the Committee on Foreign Affairs.

The list of LARRY WINN's achievements and accomplishments is too lengthy to cite in its entirety, but let me recall his outstanding support of our Nation's space program and NASA, his cosponsorship of the wind-energy bill, which offers the Nation a new source of energy for the future, his strong interest in evaluating the effectiveness of our foreign assistance programs, and his leadership on behalf of the Peace Corps and our Nation's intelligence and security agencies.

An editorial that appeared in a newspaper in LARRY WINN's home State commended him as a Congressman who "did his homework * * * and worked for his district." Another Kansas newspaper praised LARRY as "one of the most conservative men in Congress when it came to spending his own money and most importantly ours."

Indeed, in the days to come, LARRY WINN's leadership will be sorely missed in this Chamber. This man, who was cited as "Kansan of the Year" by the Kansas State Society of Washington, DC, earlier this year, will retire after serving 18 years in Congress. LARRY WINN was elected to the House in 1966. I am certain that LARRY WINN will continue to demonstrate his leadership, intelligence, and zeal when he returns to the private sector.

LARRY, my wife Carol and I will miss you and your lovely wife Joan as you two return home soon to Prairie Village, KS.

Mr. GLICKMAN. I thank the gentleman.

Mr. Speaker, I yield to the distinguished ranking member of the Foreign Affairs Committee, the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Speaker, I rise to pay tribute to a great Kansan, a dedicated public servant, and patriotic American.

As a colleague on the House Foreign Affairs Committee and a good friend, LARRY WINN and I and our wives have shared a great many experiences over the years. Jane and I will miss LARRY and Joan's companionship.

As the ranking Republican on Foreign Affairs, I have looked to LARRY as the second ranking Republican for his sound judgment and commonsense approach.

As the ranking member of the Europe and Middle East Subcommittees, LARRY's wisdom and experience on Middle East problems have been especially valuable.

LARRY has a varied and impressive background, and he brought many valuable skills to the Congress. He was born on August 22, 1919, in Kansas City, MO, and attended public schools in Kansas City. He graduated in 1941 from the University of Kansas.

LARRY's extensive background in business and public service is truly impressive and contributed much to his many accomplishments in Congress. He spent 2 years with WHB Radio in Kansas City as well as a number of years with North American Aviation. He later worked with the American Red Cross.

After establishing his own private building company, he later served for 14 years as vice president of the Winn-Rau Corp. in Overland Park, KS, and was active in community affairs during that period.

LARRY never forgot about the needs of the people who sent him to Washington. He has always had a great sense of public duty.

For his fine efforts in the service of the public and his real contributions, LARRY received numerous awards including the Outstanding Public Service Award from the National Association of Home Builders; the Watchdog of the Treasury Award from the National Association of Businessmen; the Guardian of Small Business Award from the National Federal of Independent Business; and the Silver Beaver and Bow Awards from the Boy Scouts of America. In addition, he was chosen a class sponsor for an Eagle Scout Court of Honor and presently serves as the chairman of Scouting for the Handicapped for the Heart of America Council of Boy Scouts.

LARRY was elected to the 90th Congress in 1966 and has served his Third Congressional District with distinction and diligence. He has been reelected to every Congress since that time.

He has served on the Committee on Science and Technology since 1967 and is now the ranking Republican member. He is also a member of the Bipartisan Congressional Board of the Office of Technology Assessment.

Early on in his career, LARRY's colleagues recognized his considerable talents, and in the 93d through 98th Congresses, LARRY was chosen by the Speaker of the House to serve as a member of the U.S. Delegation to the United States—Canadian Interparliamentary Meetings. LARRY has maintained numerous close friendships with a number of Canadian Parliamentarians.

In addition to being the ranking Republican member of the U.S. Delegation to the European Parliamentarians Meeting, he was selected by the President to serve as a member of the U.S. Delegation to the United Nations for 3 months in 1979.

LARRY has been known as a staunch supporter of a strong and efficient defense posture and a sound and responsible fiscal policy in our Government. He has accomplished much in this regard.

Throughout his 18 years of service on the Science and Technology Committee, LARRY was an ardent supporter of the U.S. space program starting with the first Apollo Moon landing and continuing through the very successful and efficient space shuttle program. He has overseen NASA authorizations and has encouraged future space initiatives. His deep commitment to defense led him to serve on the Board of the Office of Technology Assessment [OTA], a bipartisan arm of the Congress charged with conducting studies and providing advice on key technology issues.

Over the years, LARRY has maintained an active and abiding interest in international affairs. During our many years on the Foreign Affairs Committee LARRY and I have worked together on many key foreign policy issues and problems. I have wonderful memories of the many hours that LARRY and I spent together working on a particular policy. LARRY has a masterful command of the issues and brings great energy and dedication to his work. I admire his wisdom, his honesty, and his humility. He has been a great friend, and he will be missed.

With a history of dedication and service as rich as the one created by Congressman LARRY WINN, the words and tributes paid to him today by his friends and associates are pale in comparison. The best tribute that anyone could pay to LARRY will be his legacy of public service as an elected official, as a private citizen, and as a patriotic American

LARRY has certainly set a standard to which each of us can strive and by which each of us can be measured.

I know that all of us can call upon his advice and wisdom as he pursues his second career.

I join my colleagues in wishing LARRY and Joan and their children all the best in the years ahead.

□ 2110

Mr. GLICKMAN. I thank my colleague.

Mr. Speaker, I yield to my colleague, the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. I thank my colleague for yielding and I express my appreciation for his taking this special order for a truly distinguished Member of this House. I wanted to participate in this special order this evening because of my great affection for LARRY WINN.

I first met LARRY WINN and his lovely wife, Joan, in 1966 when my wife, Marjorie, and I came to Washington for our first orientation session as a new congressional couple. LARRY and I were freshmen Members in the 90th Congress. No one has fought a better fight or has done a better job as a Representative to Congress than LARRY WINN.

He joined the Committee on Science and Technology as his major committee choice in 1967 and has stayed there ever since. He is now the ranking Republican member of that crucial committee and serves on all of its subcommittees. In related service, he is also a member of the bipartisan Congressional Board of the Office of Technology Assessment.

For a time he served on the Veterans Affairs Committee on which I serve. I was genuinely sorry when he moved on to the Foreign Affairs Committee in January of 1973. LARRY was a very valuable member. Our loss was their gain, and LARRY is now the ranking Republican on the crucial Subcommittee on Europe and the Middle East. In that connection, he has served as the ranking Republican member of the U.S. Delegation to the European Parliamentarians meetings. I went with him on one trip to attend a meeting of the European Parliament. I found the experience to be personally very useful and beneficial. But I was really impressed by the affection and high esteem LARRY WINN is held by legislators from the European countries. He has done his part in developing good relations with our European allies.

Even with his congressional activities, LARRY has been able to stay active with one of his first loves, the Boy Scouts of America. Over the years he has received numerous awards for his many contributions to that great American institution.

My wife, Marjorie, and I are genuinely sorry that our good friends LARRY and Joan have decided to leave Congress. But, we wish you and your children the best that life has to offer in your next career.

Mr. GLICKMAN. I thank my colleague for his comments.

Mr. Speaker, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, on the occasion of this special order for our respected and esteemed colleague, the Congressman from Kansas, LARRY WINN, I would like to thank the gentleman from Kansas, Congressman GLICKMAN, for arranging this time for us today.

As the dean of the Kansas delegation, LARRY WINN has spent the last two decades building a legacy of achievement that will be difficult for his successor to follow. LARRY's strong efforts on behalf of the farmers of his State is well known, as is his work as ranking minority member on the Science and Technology Committee. But I personally know LARRY best because of our shared assignment on the Foreign Affairs Committee. And over the years he has left his imprimatur there. LARRY WINN was first elected to represent the Third Congressional District of Kansas in 1966. He worked his way up in the Foreign Affairs Committee, being appointed by the Speaker as a member of the U.S. delegation to the United States-Canada Interparliamentary meetings from the 93d through this present 98th Congress. LARRY served further as a member of the U.S. delegation to the European Parliament meetings, and was selected by the President to serve as a member of the U.S. delegation to the United Nations in 1979.

By the time I joined the Foreign Affairs Committee in 1973, LARRY WINN was well established with a reputation of hard work and keen understanding of our foreign programs. Over the years we have worked together on such issues as integrating technical and other training programs for women involved with Agency for International Development programs, oversight evaluations of the effectiveness of those programs, and in implementation of the objectives of the Peace Corps Program. Presently, LARRY WINN serves as ranking minority member of the Subcommittee on Europe and the Middle East, where he has provided invaluable input and advice on the major issues of the day.

Although LARRY will be leaving us at the end of this Congress, I hope he will return to visit us from time to time. Certainly, since word has it that he plans to write a book about his travels as a member of our Foreign Affairs Committee, I look forward to reminiscing with him as well. His constituents and colleagues know LARRY as what one local paper in Kansas calls, "a plug-away, work for the constituents type of representative", who was hailed as this year's "Kansan of the Year" by the Kansas State Society. Though the people of the Third District of Kansas will no longer have LARRY representing them in Washington, they will indeed have him in their midst in Kansas once again, and I join my colleagues in wishing LARRY and his lovely wife, Joan, all the best in the years to come.

Mr. GLICKMAN. I thank my colleague, the gentleman from New York.

Mr. Speaker, at this time I yield to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. I thank the gentleman for yielding and I applaud him for taking the time here to say some special things about our dear friend, LARRY WINN.

Mr. Speaker, once again we are gathering here to say farewell to an admired and respected senior Member of the House who has decided to retire. Today it happens to be our good friend, LARRY WINN.

For 18 years he has served the people of his district and the country in this body and, of course, as has been mentioned, as the ranking minority member of our Science and Astronautics Technology Committee, second ranking on our Foreign Affairs Committee. LARRY obviously achieved a considerable seniority during his 18 years here in this House and in his senior position on those two very important committees. He is going to be missed around here.

I guess each of us has his own style. There are some who are very flamboyant and others whom we could characterize in a number of ways. LARRY's style was one of being a low-key Member of this House but, nevertheless, very, very effective. He avoided the kind of confrontation, that tends to obscure rather than clarify the issues. The almanac "Politics in America" quotes LARRY as saying something I have always firmly believed: "There is too much legislation going on."

Well, it is ironic that we are losing Members like LARRY WINN, JOHN ERLENBORN, on whom I took a special order last night, BARBER CONABLE, JACK EDWARDS, KENNY ROBINSON, and a number of others—so many who at this time have decided that there is too much legislation confronting us and that all the rigors of campaigning and all the rest bring you to the conclusion that maybe it is time to throw in the sponge and call it quits.

I guess the irony lies in the fact that if we could just settle down and get some kind of steady flow around here of legislation, some sense of reasoned order to our task, we would not be losing these good legislators like LARRY WINN. Many of them have just looked at what the House has become and have decided that it is time to return home and move on to other endeavors. LARRY, of course, is among them. I just want to say that we cannot afford to lose legislators of his caliber.

In a more personal way, here again is one of the great friends that I have acquired through the fate of being elected to this House together. Had it not been for that quirk of fate we might never have known one another. But to know LARRY WINN over these many years and his wife Joan, having played golf with him, having been involved in many social affairs that are also consistent with the official duties in which we have to engage is to really see a good friend departing this place. I guess in a professional way, here again was a Member who helped me on so many occasions, particularly as I gravitated up toward the ranks of leadership on our side of the aisle. Many times I have had to turn to LARRY, considering him in our leadership group, for a little bit of advice: How would we treat this subject, how would we touch this or that Member, what is the best way for us to get this or that accomplished, in his specific area of expertise. And he always had that quiet, reasoned sort of way of responding that gave you a sense of confidence that he knew where he was going and whatever advice he was giving the leader was good solid advice to which I could certainly subscribe.

I am, in one sense, very regretful for the fact that one whom I have come to know as a friend and in a professional way have relied so heavily on in this body had decided that he has had enough, wants to go on that outer side where there is, yes, another life, and I am sure LARRY is going to find it. Naturally, my best wishes go out to both him and Joan for a very enjoyable retirement, with the hope that, if there are those of us who linger behind for a term or 2, 3, 4, or more, LARRY will find reason to come back and visit us from time to time, particularly when we have those very enjoyable occasions when the retired Members of Congress in their regular organization come back at least once a year in this body to renew old acquaintances. This will be one of those great occasions, and certainly I want to underscore the great loss I feel in losing LARRY WINN and what he has meant to this House.

Mr. GLICKMAN. I thank my colleague.

I am reminded that when I first came here a senior Member actually on the gentleman's side of the aisle gave me some advice. He said, "It is good, young men, to decide when and under what circumstances you come to this place and when and under what circumstances you want to leave." I said, "Well, what does that mean?" He said, "Well, you decided the first part; you got here. The second part is, one, don't get beat on the way out, and, two, feel good about the job that you did."

□ 2120

I think LARRY WINN can feel good that he has complied with both of those conditions.

Mr. MICHEL. The gentleman's comments are very well taken because LARRY WINN always came to work feeling good about the job and what he was doing for the folks back in Kansas, and that is one of the things that kind of radiates from his whole personality. It gives each and every one of us renewed cause for doing the best we can for our individual States as we perform our duties here.

I thank the gentleman.

Mr. GLICKMAN. I thank my colleague.

Mr. Speaker, I yield to the gentleman from New Mexico [Mr. SKEEN].

Mr. SKEEN. I thank the gentleman from Kansas for yielding and want to commend him and the other Members of his delegation for the honor and the tribute that you have paid to this man that we are talking about tonight.

I do not want this to become some kind of a eulogy because there is a life after Congress, whether we like to believe it or not. I think that the very thing that you have discussed with the minority leader is a truism. That a true mark of judgment in public life is the person who knows when it is time to leave, even though you love serving your country, you may have felt you discharged your obligation to this system of government that we all love so much.

I think it is a true mark of judgement that LARRY WINN has always displayed in the Halls of this Congress,

that he knew when he wanted to leave, because he wanted to enjoy his life in his home, and I think that this is a great manifestation of the kind of man that we are discussing here tonight.

What I wanted to bring up is the contributions that a person has the opportunity to make by serving in the Congress of the United States. LARRY has been characterized as a very quiet individual. He was laid back, so to speak, and made his contributions in a not too flamboyant manner.

He also made great contributions to those of us that are newer Members of Congress. You have heard a lot of the veteran war horses from around these congressional Halls speak tonight about their love and admiration and respect for LARRY WINN. It goes for the new Members too, and here is one that would like to stand here and thank LARRY WINN for the contributions that he made to my kind of service in this Congress.

I met LARRY and have worked with him on the Science and Technology Committee. I became ranking Member of the Investigation and Oversight Subcommittee of the Science and Technology Committee, and never once did LARRY ever stint on giving of himself in advice, his help, the position that he held, he would use it to facilitate the kind of work that is required and the time requirements and so forth, and he did it generously and unselfishly. I wanted to take this opportunity to say, LARRY, go have a good time doing what you want to do, but thank you so much for the contributions that you have made to some of us who are going to remain here because we take that as the kind of mark of service that we should render, because you have done an outstanding job in doing exactly that. You certainly have given your country and your government a great deal of yourself. Now it is time to go and spend a little of that time doing what you would like to do. Not answering these bells, or answering the calls that you have to answer every day.

I wanted to thank you on behalf of some of the newer Members because you have left a legacy to us that we hope will continue and we want to characterize the kind of gift that you have made by passing this along to someone else.

Thanks once again for the opportunity to add my voice in tribute and respect to this fine gentleman who has been a friend to all of us and we wish him very well and his whole family the same. Enjoy the years to come, and thank you so much for the service that you have given.

Mr. GLICKMAN. I thank my colleague.

Mr. Speaker, I yield to my colleague from New Hampshire.

Mr. GREGG. I wish to join and thank the Kansas delegation and the gentleman from Kansas for bringing this testimony forward relative to LARRY WINN.

I want to pick up where Mr. SKEEN has made so eloquent a point, and that is that as a newer Member of Congress who came on the Science Committee, I was looking for someone to give me leadership and direction, and LARRY WINN, as the ranking member of that committee, did it exceptionally well.

The gift which LARRY WINN brought to this Congress, in my humble opinion, was a firm direction of knowing where he was going, of a sense of purpose and yet, not a flamboyant style, but a definite style of presenting his views precisely and well and not being one who would drift with the wind or would simply make up his mind relative to the political expedience of the issue. Rather, he made up his mind because he was firmly set in a philosophical position or in a position on the issue.

In my humble opinion, as the ranking member of the Science Committee, he gave those of us who were newer members of the Science Committee tremendous leadership and a tremendous legacy which I believe will continue within the Science Committee especially, and I am sure it is true also in the Foreign Affairs Committee, but it is a legacy which I think is going to set the tone within the Science Committee on the minority side, at least as long as there are members there who remember LARRY WINN as being the ranking member.

That tone is going to be one of cooperation with the majority, but also one where there is a position which clearly is reflected as being consistent with the minority position, it will be presented effectively and aggressively. That really is the legacy which LARRY WINN leaves to this Congress at the science level.

As an individual, from my perspective, we all look for role models, for people that we pick up bits and pieces of how we are going to develop our own style here in the Congress, and certainly LARRY WINN has contributed to my beliefs and approaches to this job.

What he has shown us is that you do not have to say a great deal to be effective; you can be concise and still be very effective and persuasive, and in an attempt to follow up on that, I will terminate my comments at this point by thanking LARRY WINN for all he has contributed to me as a Member of this House and for all that he has contributed to the House.

Mr. GLICKMAN. I thank my colleague from New Hampshire, and I thank the colleagues who came down here tonight as well as the many colleagues who submitted statements for the RECORD.

While LARRY WINN and I were of different political parties and different political persuasions, I always believed that he was and is a man of personal integrity who cared about his district. If I am reelected to my post from the Fourth District of Kansas, I will replace him as the Dean of the Kansas House Delegation, and I hope to serve in that position with the same degree of integrity and dignity that he has.

● Mr. PORTER. Mr. Speaker, we honor today our distinguished colleague from the State of Kansas, LARRY WINN. In his 18 years of service to the Nation LARRY has been a good friend and an able legislator. He will be greatly missed.

Over the years LARRY has distinguished himself among us not as an activist or agitator, but as a moderator. In an era that has seen conflict between the branches of our Government, he has stressed communication and cooperation. Such a role is a difficult one and does not often attract media attention, but without the work of able legislators like LARRY WINN little of value could be accomplished in the Congress.

LARRY's efforts on behalf of his community and the State of Kansas have also benefited the Nation. As the ranking minority member of the Science and Technology Committee he has been concerned about America's energy future, and has been a prominent leader in the drive to develop alternative energy sources. LARRY has also been a consistently strong supporter of the space program since joining Congress in 1966, and can justifiably take pride in the progress which our Nation has made in space since then. His efforts in these and many other areas have helped to assure that our Nation will continue to prosper and grow, to the benefit of generations to come. He has proven to be a committed and intelligent member whose leadership will remain a positive example to those who follow.

It has been a pleasure to work with and become a friend of LARRY WINN, and I hope his well-earned retirement years prove to be good ones.●

● Mr. McGRATH. Mr. Speaker, I rise to join in this special order honoring the distinguished ranking minority member of the Science and Technology Committee, the Honorable LARRY WINN.

I have had the privilege of working with LARRY WINN for the last 4 years in the Science Committee. LARRY has brought great leadership to the committee, and has been extremely diligent in his responsibilities with the committee. He can always be counted on to be present at committee meetings, and to speak his mind on the issues, even if the stance he advocates is not the most popular one.

Perhaps LARRY's proudest achievement during his tenure on the Science Committee is his involvement with the space program. His career has spanned the landing of man on the Moon, the successful operation of the space shuttle, and most recently, the initiation of work on the space station. Congressman WINN has been a strong and consistent supporter of these efforts under both Republican and Democrat administrations.

I want to join my colleagues in wishing LARRY and Joan a happy and productive retirement. LARRY's contributions to the Science Committee and the House of Representatives will be sorely missed.●

● Mr. YATRON. Mr. Speaker, it is my privilege to join with my colleagues in paying tribute to the Honorable LARRY WINN, who will be leaving the U.S. Congress at the end of this term.

It has been my honor to serve with LARRY on the House Foreign Affairs Committee for almost 16 years. During that time I have come to know him and to value his counsel and his friendship. He is indeed a fine legislator and has always been a great inspiration to me throughout my tenure in the House of Representatives.

LARRY is an outstanding leader on the House Foreign Affairs Committee. He has always worked toward achieving an effective bipartisan foreign policy. His commitment to evenhandedness in foreign affairs was recently demonstrated by a hallmark legislative initiative he authored and brought to the House floor concerning U.S. policy toward the countries of Greece, Cyprus, and Turkey.

I know LARRY WINN as a hard-working man, a great humanitarian and a man who has always followed the highest precepts. I sincerely enjoyed my years working with him and learning from him and I consider it a deep personal privilege to know him. He will be sorely missed by this body and I join with my colleagues in wishing him the very best in all his future endeavors.●

● Mr. LEWIS of Florida. Mr. Speaker, I want to congratulate my distinguished and most respected colleague, Mr. WINN, for his 18-year service in Congress. His many contributions to his constitutents in the Third District of Kansas and to all Americans has been exemplary.

I personally want to thank Congressman WINN for the guidance he provided me during my first term in Congress, especially on the Committee on Science and Technology.

As a 14-year Member and, in recent years, as ranking minority member of Science and Technology Committee, Congressman WINN has played an enormous role in America's space program and has been instrumental in our revised efforts to improve this Nation's science policy.

I commend Congressman WINN for his up-front approach to problems faced by that committee and the Committee on Foreign Affairs and the Subcommittees on Europe and the Middle East.

The House of Representatives will miss a fine leader. I wish him much happiness and future success.●

● Mr. EVANS of Iowa. Mr. Speaker, I want to join my colleagues in paying tribute to our good friend LARRY WINN, who is retiring this year after 18 years of service to the people of Kansas and the Nation. For the past 4 years I have had the privilege of serving with LARRY on the Technology Assessment Board of the Office of Technology Assessment. As one of the original House members of the Board, he has greatly contributed to the success of OTA through the time and energy he has put forth. LARRY has earned the highest respect of his colleagues on the OTA Board and at his final meeting on September 20, 1984, we presented him with a resolution commending him for his outstanding service. I want to share the text of this resolution with my colleagues and wish LARRY all the best in his future endeavors.

RESOLUTION

Whereas Larry Winn, Jr., has served the U.S. House of Representatives since the 90th Congress, as well as the Committee on Science and Technology, Ranking Minority Member since the 97th Congress, and the Committee on Foreign Affairs,

Whereas, he has served as a Member of the Board of the Office of Technology Assessment of the United States Congress since February of 1977, and was the Vice Chairman during the 95th Congress,

Whereas, by his outstanding performance he has contributed significantly to the work of the Technology Assessment Board in its consideration and direction of the policies and programs of the Office of Technology Assessment, to the benefit of Congress, and

Whereas, he is leaving the Congress of the United States to retire to the State of Kansas,

Therefore, be it hereby resolved that the Board of Technology Assessment of the United States Congress commends Larry Winn, Jr., for his outstanding service, expresses its thanks and gratitude to him, and extends to him its best wishes in his new endeavors.

Duly adopted by the Technology Assessment Board on this day, Thursday, September 20, 1984.

Morris K. Udall, Chairman; George E. Brown, Jr.; John D. Dingell; Clarence E. Miller; Cooper Evans; Ted Stevens, Vice Chairman; Orrin G. Hatch; Charles McC. Mathias, Jr.; Edward M. Kennedy; Ernest F. Hollings; Claiborne Pell.●

● Mr. LOWERY of California. Mr. Speaker, I've had the pleasure of serving on the Science and Technology Committee with my colleague from Kansas, LARRY WINN, for the last 4 years. His leadership and hard work have earned him my respect, the respect of all his colleagues and the title "Kansan of the Year" this year from fellow Kansans.

LARRY's popularity in his Kansas district is legendary. In an editorial column in the Olathe Daily News, the editor tried to pinpoint LARRY WINN's appeal. He managed to nail down most of LARRY's attributes and it took up the whole editorial page.

The editor and the Kansas voters who have returned LARRY to office every year since 1966 have known what Congress has come to learn: his fairness, his integrity, his willingness to listen to both sides, his common sense, and his convictions.

His presence on the Science and Technology Committee will be missed. The years of dedicated service he has contributed to this House have made their mark. I wish my colleague the best in his future endeavors.●

● Mr. BROYHILL. Mr. Speaker, Louise and I have been close friends with LARRY and Joan since they came to Washington back in 1967. They are just wonderful people and we will miss them.

LARRY has rendered distinguished and significant service here in the House of Representatives. Of course, that would be natural for a man who has done so much and accomplished so much before coming to Congress. When I think of LARRY, I form the mental image of LARRY WINN—helping people, and that is just what LARRY has done throughout his public career, helping others. Countless numbers of people have been assisted as a direct result of his public service in such organizations as United Way, Boy Scouts and People to People.

His service here has always been distinguished by attention to detail, hard work and ability to work with and communicate with others.

There is one failing that LARRY has—only one fault among the long list of favorable characteristics that he possesses—he just can't hit or putt a golf ball with the skill and precision of a Lee Trevino or Arnold Palmer. But notwithstanding this failing, he continues to try * * * and I suppose that characteristic sums it up about LARRY. He has continually tried his best to work for the betterment of his community and his Nation.

LARRY, you and Joan are just great people. Just promise that you will stay in touch. And now that you will have more time to practice that golf swing, perhaps you will be able to join the seniors golf tour.●

● Mrs. HOLT. Mr. Speaker, all of us who have had the pleasure of working with LARRY WINN will miss him when he leaves our ranks at the conclusion of this Congress. He has served our country and his constituency well and has won the respect of all Members who have come to know him. He brought a wealth of practical experi-

ence to his congressional responsibilities.

Many of us have learned that we could turn to this strong, distinguished member of the Foreign Affairs Committee and the Science and Technology Committee for sound judgment on legislation emerging from those committees.

Frequently, in the busy life we lead here in Washington, it is too easy to know people superficially, but LARRY WINN is one who takes his friendships seriously. To know him is to know that he sincerely cares about his friends. We will miss him very much.

Duncan and I wish LARRY and Joan the best as he leaves our ranks. He has served with honor and intelligence.●

● Mr. COUGHLIN. Mr. Speaker, I am honored to join my colleagues today in acknowledging the retirement of an outstanding legislator and public servant, the Honorable LARRY WINN. LARRY'S decision to retire from the House of Representatives at the conclusion of the 98th Congress is, indeed, a great loss both to the Third District of Kansas and to the Nation.

In his 18 years in Congress, LARRY has risen from the ranks to become a prominent member of the House Science and Technology and Foreign Affairs Committees. As ranking member of the House Science and Technology Committee, he has played a leading role in helping to rebuild national pride in our technical know-how. I served with LARRY for a few years on this committee and know how hard he worked to secure funding for Skylab, our landing on the Moon, and the space shuttle.

While serving on the House Foreign Affairs Committee, LARRY has been instrumental in calling for oversight of our foreign assistance programs and has been a promoter of the Peace Corps as an effective way to provide small-scale technology on a grass roots level to developing countries. He has been an active participant in the United States-Canadian Interparliamentary Delegation which seeks to provide better economic, defense, and energy coordination between our two countries. In addition, he was selected by the President and confirmed by the Senate to serve as a delegate to the United Nations, representating both the Congress and the United States.

In the spring, the Kansas State Society honored LARRY as the "Kansan of the Year," an award annually given to Kansans who have distinguished themselves on a national level in their fields. I concur with the Kansas State Society that LARRY has been a superb representative of the people of his State.

His service to the Third District of Kansas has been exemplified by his efforts to be a consistent voice for the Kansas farmer, to improve research in the area of severe storm warnings, and to establish Government demonstration programs in Kansas to search for alternative energy sources. His able leadership abilities have been displayed time and again as the dean of the Kansas Congressional Delegation.

LARRY'S firm devotion to the responsibilities of his office, along with his dedication to the principles in which he believes, will continue to provide a source of inspiration to those of us who have had the pleasure of working with so distinguished a Representative. I would like to extend both my gratitude and best wishes to LARRY.●

● Mr. SLATTERY. Mr. Speaker, I am honored to participate in this tribute to LARRY WINN, the dean of the Kansas delegation who is retiring after 18 years of distinguished service to our State and Nation.

I have great respect and admiration for LARRY and the job he has done in Congress.

His reputation as a capable and popular Member of Congress is the result of dedication to his constituents, and the ability to get results without loud speeches or a deluge of press releases to make his point. LARRY WINN has not been a phony grandstander. He has spoken through his actions.

He is the first to tell you that his approach to the job of Congressman is low key. His manner may be reserved, but LARRY is effective in making his views known. One doesn't have to be a longtime friend of LARRY'S to recognize he possesses a refreshing candor. He talks straight and pulls no punches. He leaves little doubt about his stand on the issues.

One of LARRY'S greatest strengths—a quality that every other Member of Congress should remember and seek to emulate—is a record of constituent service that is second to none. His assistance to the residents of the Third District of Kansas is prompt, effective, compassionate, and attentive. In 18 years, LARRY never lost sight of the fact that Members of Congress are sent to Washington to help their constituents in any way possible.

LARRY deserves special recognition for putting together a dedicated and hardworking staff led by Dick Bond. Together, their work has been an example of how a congressional office should serve constituents.

His direct knowledge of foreign policy, and his deep understanding of complex matters of state, will be difficult to replace on the Foreign Affairs Committee.

The great strides in America's space program, including the spectacular deep space missions and the space shuttle, are a legacy to LARRY WINN'S foresight on the Science and Technology Committee.

In closing Mr. Speaker, I want to say that Congress shall miss LARRY WINN. He has been a steady and straightforward participant. His candor, his attention to those he represents, and his reasoned approach to his work will serve as an inspiration to all of us.

I wish LARRY, Joan, and their family the very best in the future.

Thank you.●

● Mr. ROE. Mr. Speaker, I deem it a great honor to rise today to join my colleagues in this well deserved salute to our good friend LARRY WINN, who is retiring from the House.

As ranking member of the House Science and Technology Committee, I have had the privilege of working alongside LARRY WINN for many years.

His leadership abilities have provided the Science and Technology Committee with the direction needed to meet the great challenges that body deals with on a daily basis.

LARRY WINN was an active supporter of our space program during times when that program faced serious challenges in Congress. The outstanding success of our space shuttle missions can, in a great part, be attributed to LARRY WINN'S determination and perseverance in seeing that our Nation's space goals were met.

LARRY must also be credited for the passage of landmark legislation in providing tax credits for energy efficiency and conservation. But LARRY WINN would never take the credit himself for those successes. He is the kind of man who is more interested in seeing that the job gets done than in garnering pats on the back for himself.

The people of the Third District of Missouri and our Nation are losing a great public servant.

LARRY, I wish you the best of luck in whatever you decide to do with your future. A man of your stature will be greatly missed.●

● Mr. LOEFFLER. Mr. Speaker, it is a high honor for me to join in the salute to a man who has served his Nation and the people of Kansas with distinction and who will be sorely missed in the 99th Congress.

LARRY WINN devoted 18 years of outstanding public service to bettering the lives of all Americans. He worked diligently on the Science and Technology Committee, where, as the ranking minority member, he provided active, positive support for America's space program. As a member of the Foreign Affairs Committee he provided leadership and guidance on a host of vital issues relating to our foreign policy—and for this I am most grateful. Finally, he has stood firmly by his principles that hard-working Americans should not be overburdened by Government regulation and taxes and that free enterprise is the great hope for the development of human potential.

The WINN record of both public and civic service have set high standards for the rest of us to follow.

Thank you, LARRY, for your dedicated efforts in behalf of our country.

You have made our Nation, and, indeed the world, a better place in which to live.●

● Mr. REGULA. Mr. Speaker, I am pleased to join in this tribute to a respected colleague, LARRY WINN.

I especially appreciate his commonsense approach to legislation. This quality is much to be desired in those who serve in this body.

America has made great strides in Science and Technology. LARRY WINN's leadership on this committee of the House has provided a vital contribution to the Nation's progress.

His dedicated service to the Third District of Kansas and the Nation will stand as a benchmark for quality representation.●

● Mr. PICKLE. Mr. Speaker, it's often said, the longer you know a person, the closer friends you become. That is certainly true when it comes to LARRY WINN. I've known LARRY WINN for 20 years, and in each of those 20 years, he has become a more dear friend to me and, indeed, to the Members of this House.

LARRY WINN has been as diligent, dynamic, and dedicated a Member of this House as we have had. He is intensely committed to good government. He is serious-minded, yet he is always able to step back and appreciate the lighter side of a crisis or problem because he knows that there will always be another problem on another day.

If I were to describe LARRY WINN, I think I would just say he has good solid Kansas common sense.

In the field of foreign affairs, LARRY WINN has performed with great skill. He is a profound thinker who takes a bipartisan approach, which has been appreciated by Democrats and Republicans. We know he doesn't play politics with foreign policy.

The same could be said of his service of the Science and Technology Committee, on which I served with him for several years.

As members of the Inter-Parliamentary Union, I've had the opportunity to travel to many places around the globe with LARRY and his wife Joanna. He has represented our country and the House of Representatives at those meetings with distinction. He has acted as a friendly, fair-minded, international voice, whose influence was felt in all of our meetings.

This is a side you don't always see in a Member of Congress. I think of the good friends around the globe LARRY WINN has made for this country. This is a test of how other nations view us, a test LARRY WINN has passed. In short, he has been a first class ambassador to Congress.

It is reassuring and comforting when a Member of Congress retires, you can't think of anything bad to say about him, you can only think of good things to say. Such is the case with LARRY WINN.●

● Mr. ANNUNZIO. Mr. Speaker, I rise to join with my colleagues in paying tribute to LARRY WINN, who has ably represented the people of the Third District of Kansas for the last 18 years. His tireless efforts on behalf of his constituency, and on behalf of all of the citizens of this Nation, are both respected and admired, and are most worthy of recognition.

I have had the pleasure of serving with LARRY for many years as members of the NATO delegation, where I have come to know and respect LARRY for his legislative and leadership abilities.

Before coming to Congress, LARRY WINN served as national director of the National Association of Home Builders for 14 years, and was past president of the House Builders Association. He has also compiled a splendid record of achievement in his efforts on behalf of numerous community and religious organizations.

Elected to the 90th Congress in 1966, LARRY WINN has served with diligence and distinction as a member of the House Foreign Affairs Committee, and its Subcommittee on Europe and the Middle East, where he serves as the ranking minority member. He has also provided exemplary service as the ranking minority member of the House Science and Technology Committee.

LARRY WINN is a fine legislator, who will surely be missed by those of us in the House of Representatives who have had the pleasure of working with him and knowing him.

I extend to LARRY WINN my best wishes for continued success in all of his future endeavors in devotion to the highest principles.●

● Mr. LENT. Mr. Speaker, it's with great sadness that I join my colleagues today in paying tribute to a good friend, Representative LARRY WINN, who will be retiring at the end of this session of Congress. As I reflect on the many years we have shared together in Congress, it's hard to think of what these hallowed halls will be like without LARRY WINN—who has been a good friend for all my 14 years in Congress.

Our offices were down the hall from each other over in the Cannon House Office Building for several years. Later, we both moved over to the Rayburn Building, where our offices were farther apart but where our friendship and professional relationships continued to grow, not only in tis Chamber but in such events as the U.S.-European Parliamentary conferences where LARRY and I exchanged views with members of the European Parliament.

LARRY is one of the most highly dedicated and able legislators to serve our great Nation. He was first elected in 1966 to the 90th Congress. throughout his 18 years of service, LARRY WINN has had a significant impact on legislation in many fields of importance to our country through his leadership on the Foreign Affairs Committee, and the Science and Technology Committee, on which he is ranking minority member. LARRY has earned deserved recognition as an excellent legislator and statesman, whose thoughtful insights have been of great benefit to America.

But more than that, he is a public servant in the fullest sense: his career has been dedicated to attending to the concerns and problems of his constituents. They have demonstrated their appreciation by reelecting LARRY year after year since 1966. As all of us here today can appreciate—that is an accomplishment which says volumes about LARRY WINN's abilities as U.S. Representative of the Third Congressional District of Kansas.

LARRY WINN's experience, knowledge, and commitment have been an inspiration to his colleagues. He has earned his colleagues' respect and admiration as one of the most distinguished Members of this body.

I speak for all of us when I say the U.S. Congress has been the better for LARRY WINN's contributions, and we will deeply miss him when he is gone. I know you join me in wishing LARRY the best of everything in the years to come.●

● Mr. MONTGOMERY. Mr. Speaker, I wish to join in the tribute today to our retiring friend and colleague, LARRY WINN. He has been one of the most popular and best liked members ever since coming to Washington in 1967, the same year I was first elected to Congress.

LARRY has been an outstanding member of the Foreign Affairs Committee, where he served as ranking member of the Europe and Middle East subcommittee. We all know he has been a leader as a member of the Science and Technology Committee in his position as ranking member.

Besides his service to the Third District of Kansas in Congress, LARRY will also be remembered as a man committed to helping others, as evidenced by his participation in Boy Scouts, United Way, and so many other very worthwhile projects. I have no doubt he will more actively pursue these activities after retirement from the Congress.

It has been a pleasure to work with this fine American. He will be missed here in Congress.●

● Mr. FASCELL. Mr. Speaker, while I welcome this opportunity to pay tribute to a highly esteemed colleague, the gentleman from Kansas [Mr. WINN], I certainly do not welcome the prospect of his impending retirement from public life.

LARRY WINN, in over a decade of service to the Committee on Foreign Affairs, has made a major contribution to our legislative efforts—in a variety of areas. His versatility is, in fact,

a matter of record: he has served for the past 2 years as the ranking minority member of the Subcommittee on Europe and the Middle East, where his leadership has been highly respected and warmly appreciated; he has served as a delegate to the United Nations General Assembly (in 1979); he has been co-chairman and an influential leader of a congressional delegation which meets biannually with a delegation of the European Parliament; and he has been a regular delegate to the annual meetings of the Canada-United States Interparliamentary Group.

In other groups, LARRY WINN has participated fully and conscientiously in all aspects of the committee's work—and with great distinction. It is an understatement to say that he will be sorely missed in the years ahead.

We will miss, above all, his inherent wisdom, his dry sense of humor, and his plain, old-fashioned common sense—all qualities which any standing committee of this House needs in abundance. These are qualities, I might add, which he also has been able to bring to the Committee on Science and Technology as the ranking minority member of that full committee. I know that my good friend and fellow Floridian, Chairman FUQUA, is strongly supportive of that view.

Finally, let me say that it has always been my belief that a Member of this body need not sacrifice either strongly held convictions or devotion to principle by engaging in meaningful negotiations leading to judicious compromise, which is at the heart of our legislative system. LARRY WINN, as his many admirers recognize, is the complete embodiment of that concept. In all of his official actions, he has sought consistently to identify and support a viable consensus position which will be equitable to all sides and further the basic interests of his party, his State, and the Nation.

Although I deeply regret the loss of this outstanding legislator, I want to join our colleagues in wishing for LARRY WINN, his lovely wife Joan, members of his family the kind of satisfying and rewarding retirement which we all know he so richly deserves.●

● Mr. ERLENBORN. Mr. Speaker, I rise to congratulate my good friend, the gentleman from the Third District of Kansas, on his 18 years of service in this House and to extend my best wishes to him for a happy and healthy retirement.

Through mutual friends, I had the pleasure of meeting LARRY WINN when he first ran for Congress back in 1966. I knew then that he would be an asset to the people he was seeking to represent and to the House of Representatives, and LARRY has more than proved himself.

As as a fellow ranking Republican who also has decided to take his leave from these very hallowed halls at the end of this term, I feel a special kinship to the ranking Republican on the Science and Technology Committee. It was a tough decision to make, LARRY, but you can leave with a feeling of satisfaction for the valuable service you have given to your fellow Kansans and to our country.

I wish you Godspeed.●

● Mr. SHUMWAY. Mr. Speaker, my colleagues from Kansas are to be commended for arranging this special tribute to a good friend and a fine legislator, not to mention the dean of their delegation. Like them, I will miss LARRY WINN when he retires from Congress at the end of this term, as will all our Members.

Since his initial election to Congress in 1966, LARRY WINN has served his constituency, his State and the Nation with distinction. He is an outstanding leader and a careful, reasoned legislator whose presence will be very much missed in the coming months and years. I consider LARRY a good friend as well as a professional colleague, and it has been a privilege to serve with him in the House.

To LARRY WINN, and to his family, I extend every best wish for prosperous and rewarding experiences in the private sector, as well as my appreciation and congratulations for a job well done.●

● Mr. MAZZOLI. Mr. Speaker, for many years I have had the privilege of working with LARRY WINN of the Third District of Kansas.

LARRY has been unfailingly courteous and thoughtful in all my contacts over the years. Given the demand and distractions around the House, this trait is particularly admirable—and all too scarce I'm afraid.

LARRY has served his district well and he has been an asset to the House. I have enjoyed my association with LARRY over the years, and I wish him the very best in health and happiness in the years ahead.●

● Mr. DE LA GARZA. Mr. Speaker, I rise in tribute to LARRY WINN who is at the end of this Congress retiring. For the past 18 years LARRY has given dedicated and devoted service to his constituents of the Third District of Kansas and has compiled an outstanding record during his distinguished career.

Few men have given more of themselves to good government than has LARRY. There have been many legislative accomplishments—far too many to enumerate in the short time allowed to me today. Nevertheless, the record of achievement and service to the people of Kansas and the Nation is one that LARRY WINN can be proud of. He has served with candor, integrity, selflessness, and devotion to the principles of good, honest, clean, and effective government for all the people.

As a member of the Foreign Affairs Committee LARRY's diligent efforts have proven beneficial both internationally and to the citizens of this Nation by making America a safer place for us all. LARRY has always approached our relations with other nations on the basis of what is best for the American people now and in the future. Through his consistent high standards of performance he has helped to build an American foreign policy based on mutual respect and cooperation.

We are all richer from having had the opportunity to work with LARRY over these years. His unique contributions and legislative achievements will long be remembered.

I am saddened by the knowledge that LARRY WINN will retire yet I know Mr. Speaker as my colleagues know that if ever a man has earned retirement it is he. I hope and pray that he will find rich pleasure in the years ahead.●

● Mr. O'BRIEN. Mr. Speaker, on this day, September 24, I salute the dean of the Kansas congressional delegation, LARRY WINN, who has served consistently and continually since his election to the House of Representatives in 1966.

Although he has confided in several people a belief that he isn't saying anything these days he hasn't said before, there remains a refreshing candor to his style. Recently, he addressed a group of some of his strongest supporters from the farming community and reminded them to "quit going around Capitol Hill griping about deficits while holding out your hand for Federal farm programs." The farmers, normally a restrained group, took a moment before slowly, almost imperceptibly, nodding their heads in assent.

As LARRY WINN represents the agricultural and suburban communities of northeastern Kansas, he has been equally supportive of advancements in the space program. As ranking minority member of the House Science and Technology Subcommittee on Space Science, LARRY WINN has been directly involved in the formation of space policy for the National Aeronautics and Space Administration.

And sometimes, he combines the two otherwise divergent interests. He was a cosponsor of the wind energy research bill which establishes a program, in conjunction with NASA, to search for alternate energy sources. One such suggestion is the harnessing of the wind that forever blows across the wheat fields of Kansas.

LARRY WINN is also an ardent supporter of national security interests. He is particularly concerned with the role that intelligence plays in our foreign policy decisions and has expressed that interest on several occa-

sions in his capacity as a member of the House Foreign Affairs Committee.

I ask that my fellow Congressmen join with me in congratulations for a veteran lawmaker whose presence in this august body will be sorely missed.●

● Mr. RUDD. Mr. Speaker, I am pleased to join my colleagues today in this special order to pay tribute to our good friend and colleague, the Honorable LARRY WINN, as he looks to retirement at the end of the 98th Congress.

LARRY has a long and proud history of service to the people of Kansas and the Nation. He has served in leadership positions in such distinguished American institutions as the Red Cross, the Boys Scouts and Junior Achievement. He knows the private sector well having been a member of the homebuilding industry, and he has brought that knowledge to the House for the benefit of all Americans. He has been an outstanding member of the Foreign Affairs and Science and Technology Committees of the House.

It has been a privilege to serve beside LARRY over the years. He has been a true asset to the people of the Third District of Kansas, the State and the Nation, and he will be greatly missed by all of us in the House in the days and months ahead.

Let me take this opportunity to thank LARRY for his good service on behalf of the Nation, and offer him best wishes in all his future pursuits in the years to come.●

● Mr. BENNETT. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

DEAR MR. SPEAKER: We in Congress will all greatly miss our colleague, LARRY WINN. His leadership here has been outstanding. He has served his district, his state and our nation with excellence. When he came here to be a member of the Hours of Representatives, he came with the background of great success in private business and in philanthropic activities with the Community Chest, the Boy Scouts and his business organization, The Homebuilders. His expertise gained in private enterpirse paid off well when he came to Washington because it made him a very efficient and able Congressman. He has the gift of being a friend and he surely leaves this House with each of his colleagues wishing him well and grateful for the friendship we have shared with him.●

The SPEAKER pro tempore. The Chair expresses appreciation to the gentleman from Kansas for the special order taken honoring Congressman LARRY WINN.

STANISLAV LEVCHENKO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. BOLAND] is recognized for 60 minutes.

● Mr. BOLAND. Mr. Speaker, H.R. 6354, the private bill introduced yesterday by Mr. YOUNG of Florida, my colleague on the Permanent Select Committee on Intelligence, for the relief of Stanislav Levchenko, deserves bipartisan support. Mr. Levchenko is a defector from the Soviet intelligence service—the KGB. His cooperation with U.S. intelligence has been of great value.

The private bill modifies the applicability of a few provisions of the Immigration and Nationality Act concerning residency and past organizational affiliation which currently prevent Mr. Levchenko from qualifying for naturalization. The bill does not waive any other restrictions; Mr. Levchenko still will have to meet all the other requirements for naturalization.

Mr. Levchenko's cooperation with the U.S. Government has given our intelligence agencies important insights into the activities of the Soviet intelligence service, insights that improve the capability of the United States to counter those Soviet activities. Mr. Levchenko has also assisted in increasing public awareness of Soviet intelligence activities, including by testifying at a hearing of the Permanent Select Committee on Intelligence on Soviet "active measures." I believe it is appropriate for the Congress to assist Mr. Levchenko in his quest for citizenship by giving him a chance now to qualify for naturalization.●

CONGRESSIONAL ADVISORY COMMISSION ON AMATEUR BOXING AND FEDERAL PROFESSIONAL BOXING PROHIBITION ACT OF 1984

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 30 minutes.

● Mr. GONZALEZ. Mr. Speaker, I am introducing a bill today to ban professional boxing and to establish a Congressional Advisory Commission on Amateur Boxing. It is late in the session, late in the year, and we expect to adjourn this week, but I can wait no longer to speak out on the dangers of professional boxing. Incident after tragic incident occurs bringing pain and sorrow to families of men who are injured or killed in this violent sport.

For many years I have watched as young men, mostly black or Hispanic, mostly poor, uneducated, and without trade or employment, have been recruited, trained, and encouraged to fight their way out of poverty into the world of boxing. Boxing is their salvation, they are told—it is their road out of the ghetto. Boxing supposedly gives them opportunities they otherwise never would have. Boxing supposedly gives them a reason to stay out of trouble, to have a purpose in life, a future, respect. I have watched all this—and listened—and I am impelled now to act.

My bill bans only professional boxing in order to remove the incentive of illusory reward of a boxing career. For amateur boxing, my bill would establish a Congressional Advisory Commission. This Commission would study amateur boxing and its present regulations, determine the sufficiency of the current safeguards, and make recommendations for future action to be taken to protect the health and potential of America's young boxers. I recognize that amateur boxing provides some limited opportunities for young men, but prolonged participation in boxing clearly has proven harmful effects on the health of fighters. With some safeguards, amateur boxing can be a positive experience, but only if the boxing is carried on with strict safety regulations and for a short period of time.

But professional boxing is another matter. What kind of opportunities are provided these young men through professional boxing? The opportunities I see all involve violence, personal injury, and massive exploitation. The very goal of a boxer in the ring is to render his opponent unconscious—to fight until only one fighter remains standing. Boxing is a simplistic display of one man's physical prowess prevailing over his opponent's.

But even the victor must share an element of physical defeat, for by the very act of knocking his opponent senseless, he too endures physical abuse. One fighter may prevail over the other, but neither prevails over the limitations of the human body.

Repeated blows to the fighter's head are the most direct means to victory for a boxer—professional boxers are paid to hit and be hit. But just as a boxer is paid, he also pays dearly in return for the sometimes silent but ever present injuries his brain suffers. The American Medical Association has studied the prolonged effects of boxing on a fighter's brain, and the results are clear. Every professional boxer suffers some degree of brain damage—every one. Some of the damage is minimal; some is readily evident; some does not manifest itself for years, all the while keeping its dreadful consequences hidden from the knowledge of the boxer. We all know the familiar stereotype of the hasbeen Palooka, the shambling wrecks of fighters who took 1, or 1,000 too many punches.

If boxing provides such wonderful opportunities, as I am told, then why aren't young men from all walks of life recruited for the sport? Why are educational opportunities, mainstream employment, and long-term beneficial opportunities saved for some of America's youth while boxing and other violent sports seek participants from America's poorer corners? I find it appalling to think that at the expense of a real future—a future of health, of learning, of meaningful work—young

men devote their days to training to become fighters at the expense of their education and time to learn a trade or profession.

Young men are exploited by the boxing profession—the promise of fame and riches is flashed in their eyes so they are blinded to the realities of a fighter's life—a life where few are famous, few are wealthy, but all risk their health. We all know that for every Leonard or Ali there are 1,000 Kims, 10,000 punched-out wrecks. For a youngster from a poor neighborhood who has few material possessions, his health may be all he has. Boxing will likely take his health and almost certainly give him nothing in return. How much better it would be to allow him to keep his health and develop his mind and his abilities. How much better it would be to develop his mind than to render it useless through fighting.

Once professional boxing is made illegal, amateur fighters will have no incentive to pursue boxing in lieu of their education and training. There will be no illusions of making a living from boxing. Since there will be no monetary rewards from boxing, a boxer's career will be relatively short and so will the damage to his health, particularly with the use of safety equipment and stringent safety regulatiosn, will be minimal.

I think we owe all of America's youth equal opportunities for a solid education and useful, financially satisfying employment. We must discontinue guiding some youth toward Madison Avenue while guiding others toward Madison Square Garden. Each young man has the right to his health, and we owe each young man an education and future; a road out of poverty that does not dead end in boxing, but a mainstream of education and training that leads to a healthy and secure future.●

CONFERENCE REPORT ON S. 2166, INDIAN HEALTH CARE AMENDMENTS OF 1984

Mr. UDALL submitted the following conference report and statement on the Senate bill (S. 2166) to authorize appropriations to carry out the Indian Health Care Improvement Act, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 98-1126)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2166) to authorize appropriations to carry out the Indian Health Care Improvement Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment to the text of the bill insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Indian Health Care Amendments of 1984".

REFERENCES

SEC. 2. Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Indian Health Care Improvement Act (25 U.S.C. 1601, et seq.).

TITLE I—INDIAN HEALTH MANPOWER

HEALTH PROFESSIONS RECRUITMENT PROGRAM FOR INDIANS

SEC. 101. Subsection (c) of section 102 (25 U.S.C. 1612(c)) is amended to read as follows:

"(c) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $550,000 for fiscal year 1985,
"(2) $600,000 for fiscal year 1986,
"(3) $650,000 for fiscal year 1987, and
"(4) $700,000 for fiscal year 1988.".

HEALTH PROFESSIONS PREPARATORY SCHOLARSHIP PROGRAM

SEC. 102. (a) Section 103 (25 U.S.C. 1613) is amended by striking out subsection (d) and inserting in lieu thereof the following:

"(d) The Secretary shall not deny scholarship assistance to an eligible applicant under this section solely on the basis of the applicant's scholastic achievement if such applicant has been admitted to, or maintained good standing at, an accredited institution.

"(e) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $4,000,000 for fiscal year 1985,
"(2) $4,700,000 for fiscal year 1986,
"(3) $5,400,000 for fiscal year 1987, and
"(4) $6,100,000 for fiscal year 1988.".

(b) Subsection (c) of section 103 is amended by striking out "expenses" and inserting in lieu thereof "expenses of a grantee while attending school full time".

INDIAN HEALTH SERVICE EXTERN PROGRAMS

SEC. 103. Section 105 (25 U.S.C. 1614) is amended by striking out subsection (d) and inserting in lieu thereof the following:

"(d) No stipend may be paid to any person under section 103 or 104 while such person is employed under this section.

"(e) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $300,000 for fiscal year 1985,
"(2) $350,000 for fiscal year 1986,
"(3) $400,000 for fiscal year 1987, and
"(4) $450,000 for fiscal year 1988.".

CONTINUING EDUCATION ALLOWANCES

SEC. 104. Subsection (b) of section 106 (25 U.S.C. 1615(b)) is amended to read as follows:

"(b) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $500,000 for fiscal year 1985,
"(2) $526,300 for fiscal year 1986,
"(3) $553,800 for fiscal year 1987, and
"(4) $582,500 for fiscal year 1988.".

HEALTH PROFESSIONS SCHOLARSHIP PROGRAM

SEC. 105. Title I is amended by adding at the end thereof the following new section:

"INDIAN HEALTH PROFESSIONS SCHOLARSHIPS

"SEC. 107. (a) In order to provide health professionals to Indian communities, the Secretary, acting through the Service and in accordance with this section, shall make scholarship grants to Indians who are enrolled full time in schools of medicine, osteopathy, dentistry, veterinary medicine, nursing, optometry, public health, and allied health professions. Such scholarships shall be designated Indian Health Scholarships and shall be made in accordance with section 338A of the Public Health Service Act (42 U.S.C. 254l) except as provided in subsection (b) of this section.

"(b)(1) The Secretary, acting through the Service, shall determine who shall receive such scholarships and shall determine the distribution of such scholarships among such health professions on the basis of the relative needs of Indians for additional service in such health professions.

"(2) An individual shall be eligible for a scholarship under subsection (a) in any year in which such individual is enrolled full time in a health-profession school referred to in subsection (a).

"(3) The active duty service obligation prescribed under section 338B of the Public Health Service Act (42 U.S.C. 254m) shall be met by a recipient of an Indian Health Scholarship by service in the Indian Health Service, including service under a contract under the Indian Self-Determination and Education Assistance Act (Public Law 93-638); in a program assisted under title V of this Act; or in the private practice of his profession if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

"(c) For the purpose of this section, the term 'Indian' has the same meaning given that term by subsection (c) of section 4 of this Act, including all individuals described in clauses (1) through (4) of that subsection.

"(d) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $6,100,000 for fiscal year 1985,
"(2) $7,000,000 for fiscal year 1986,
"(3) $8,100,000 for fiscal year 1987, and
"(4) $9,234,000 for fiscal year 1988.".

TITLE II—HEALTH SERVICES

IMPROVEMENT OF INDIAN HEALTH STATUS

SEC. 201. (a) Section 201 is amended to read as follows:

"INDIAN HEALTH CARE IMPROVEMENT FUND

"SEC. 201. (a)(1) To further implement the national policy of raising the health status of Indians to a zero level of deficiency as defined in subsection (c) by eliminating backlogs in health care services and meeting unmet Indian health needs as soon as possible and in an equitable manner, the Secretary is authorized to expend, through the Service, over the 4-year period beginning with fiscal year 1985 the amounts authorized to be appropriated by subsection (h) of this section. Funds requested under this section shall be separately stated in the Service budget request as submitted to Congress under section 1105 of title 31, United States Code, and funds appropriated under this section shall not be used to offset or limit appropriations made to the Service under authority of the Act of November 2, 1921 (25 U.S.C. 13) or any other law. Funds appropriated under this section in any fiscal year shall be included in the base budget of the Service for the purpose of determining appropriations under this section in subsequent fiscal years.

"(2) Nothing in this section is intended to diminish the primary responsibility of the Service to eliminate existing backlogs in unmet health care needs of the Service, nor is it intended to discourage the Service from undertaking additional efforts to achieve parity among tribes.

"(b)(1) Funds appropriated under this section shall be expended to augment the ability of the Service to meet the following health service responsibilities—

"(A) clinical care (direct or indirect);

"(B) preventive health;

"(C) dental care (direct or indirect);

"(D) mental health, including community mental health services, inpatient mental health services, dormitory mental health services, therapeutic and residential treatment centers, and training of traditional Indian practitioners;

"(E) emergency medical services;

"(F) treatment and control of, and rehabilitative care related to, alcoholism among Indians;

"(G) accident prevention programs;

"(H) community health representative programs; and

"(I) maintenance and repair.

"(2) Where any funds allocated to a service unit are used for a contract under the Indian Self-Determination and Education Assistance Act, not more than 15 percent of such funds shall be used for health planning, training, technical assistance, and other administrative support functions.

"(3) To the extent that all or a portion of the funds appropriated under subsection (h) are required to raise service units which are below a Level II deficiency, as defined in subsection (c)(2), to such level, such funds shall not be available for allocation to service units at or above such level. Funds appropriated under this section shall be allocated on a service unit basis and apportionment of a service unit's allocation of funds among the health service responsibilities listed in paragraph (1) shall be as determined by the Service and the affected Indian tribe or tribes.

"(c)(1) Within sixty days of the date of enactment of the Indian Health Care Amendments of 1984, the Secretary shall submit to the Congress the current health services priority system report of the Service for each service unit including units serving newly recognized or acknowledged tribes. Such report shall contain—

"(A) the methodology for determining tribal health resources deficiencies; the level of health resources deficiency for each service unit; the amount of funds necessary to raise all service units below a Level II deficiency to a Level II deficiency; the amount of funds necessary to raise all service units below a Level I deficiency to a Level I deficiency; and the amount of funds necessary to raise all service units to a zero level of deficiency; and

"(B) an estimate of—

"(i) the amount of health service funds appropriated under the authority of this or any other Act for the preceding fiscal year which is allocated to each service unit or comparable entity; and

"(ii) the number of Indians eligible for health services in each service unit.

"(2) For purposes of this section, health resources deficiency levels shall be defined as follows:

"Level I—0 to 20 percent deficiency,

"Level II—21 to 40 percent deficiency,

"Level III—41 to 60 percent deficiency,

"Level IV—61 to 80 percent deficiency, and

"Level V—81 to 100 percent deficiency.

"(3) The Secretary shall establish by regulation procedures which allow any Indian tribe to petition the Secretary for a review of any determination of the health resources deficiency level of the service unit through which such tribe receives health services.

"(d) Upon enactment of the Indian Health Care Amendments of 1984, the Secretary, acting through the Service, shall take all necessary action, in cooperation with each Indian tribe, to bring current the tribal specific health plans which were developed as a part of the plan required by section 703 of this Act and which formed the basis for such plan in response to the requirements of section 701 of this Act. These plans shall be based upon the methodology submitted under subsection (c), as may be further modified through tribal consultation, and shall form the basis for the health services priority system report to be submitted by the Secretary for fiscal years 1986, 1987, and 1988. Such reports shall be submitted to the Congress not more than thirty days after the submission of the annual budget for such fiscal years to the Congress by the President.

"(e) The Secretary, acting through the Service, shall expend directly or by contract, including contracts under the Indian Self-Determination and Education Assistance Act (Public Law 93-638), not less than 1 percent of the funds appropriated under subsection (h) for research in the areas of Indian health care set out in subparagraphs (A) through (G) of subsection (b)(1).

"(f) Programs administered by any Indian tribe or tribal organization under the authority of the Indian Self-Determination and Education Assistance Act shall be eligible for funds appropriated pursuant to subsection (h) on an equal basis with programs that are administered directly by the Indian Health Service.

"(g) The President shall include with the budget submitted under section 1105 of title 31, United States Code, for each fiscal year a separate statement which specifies the total amount obligated or expended in the most recently completed fiscal year to carry out subsection (d) and to carry out each of the subparagraphs of subsection (b)(1).

"(h) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $28,000,000 for fiscal year 1985,

"(2) $29,000,000 for fiscal year 1986,

"(3) $28,000,000 for fiscal year 1987, and

"(4) such sums as may be necessary for fiscal year 1988.

Any funds appropriated under this subsection shall be designated as the 'Indian Health Care Improvement Fund'.".

CATASTROPHIC HEALTH PROGRAM

SEC. 202. Title II is amended by adding at the end thereof the following new section:

"CATASTROPHIC HEALTH EMERGENCY FUND

"SEC. 202. (a) There is established an Indian Catastrophic Health Emergency Fund (hereinafter in this section referred to as the 'Fund') to be administered by the Secretary, acting through the Service, solely for the purpose of meeting the extraordinary medical costs associated with the treatment of victims of disasters or catastrophic illnesses falling within the responsibility of the Service. The Fund shall be administered by the central office of the Service and shall not be allocated, apportioned, or delegated on a service unit or area office basis. Funds appropriated under subsection (c) shall not be used to offset or limit appropriations made to the Service under authority of the Act of November 2, 1921 (25 U.S.C. 13) or any other law. No part of the Fund or its administration shall be subject to contract or grant under any law, including the Indian Self-Determination and Education Assistance Act (Public Law 93-638).

"(b) The Secretary shall, through the promulgation of regulations consistent with the provisions of this section—

"(1) establish a definition of disasters and catastrophic illnesses for which the cost of treatment, whether provided under contract or directly by the Service, would qualify for payment from the Fund; and which shall provide that a service unit shall not be eligible for reimbursement for the cost of treatment from the Fund until its cost of treating any victim of such catastrophic illness or disaster shall have reached a certain threshold cost which the Secretary shall establish at not less than $10,000 or not more than $20,000;

"(2) establish a procedure for the reimbursement of service units or facilities rendering treatment or, whenever otherwise authorized by the Service, the reimbursement of non-Service facilities or providers rendering treatment;

"(3) establish a procedure for payment from the Fund where the exigencies of the medical circumstances warrant treatment prior to the authorization of such treatment by the Service; and

"(4) establish a procedure that will assure that no payment shall be made from the Fund to any provider to the extent that the provider is eligible to receive payment for the treatment from any other Federal, State, local, or private source of reimbursement for which the patient is eligible or by which the patient is covered.

"(c) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

(1) $12,000,000 for fiscal year 1985, and

(2) for each of the fiscal years 1986, 1987, and 1988, such sums may be necessary to maintain the Fund at $12,000,000.

Funds appropriated under this subsection shall remain available until expended.

"(d) By no later than January 1, 1988, the Secretary shall report to Congress on the operation of the Fund. Such report shall include—

"(1) the number and nature of disasters and catastrophic illnesses for which reimbursement was sought;

"(2) the costs associated with these disasters or illnesses;

"(3) the amounts reimbursed by the Fund in connection with such illnesses and disasters;

"(4) the effect of the Fund on the ability of the service unit to meet the health needs of their Service populations; and

"(5) the Secretary's recommendations regarding the future operation of the Fund.".

COMPETITIVE PROCUREMENT

SEC. 203. Title II is amended by adding at the end thereof the following new sections:

"COMPETITIVE PROCUREMENT

"SEC. 203. (a) Notwithstanding any other provision of law, the Secretary, acting through the Service, may waive any statutory or administrative requirement for competitive procurement of health services if, in the judgment of the Chief Medical Officer who will have jurisdiction over such health services, such competitive procurement would compromise the accessibility, quality, and continuity of health services or would not result in any appreciable competition or savings.

"(b) Notwithstanding any other provision of law, the Secretary, acting through the

Service, shall reject any bid submitted under any statutory or administrative requirement for competitive procurement of health services upon the certification of the Chief Medical Officer who will have jurisdiction over such health services that acceptance of such bid would compromise the accessibility, quality, and continuity of health services.

"DEMONSTRATION PROGRAM REGARDING ELIGIBILITY OF CERTAIN INDIANS FOR MEDICAL AND HEALTH SERVICES

"SEC. 204. (a) There is hereby established a demonstration program under which the determination of the eligibility of any Indian for medical or health services provided by, or on behalf of, the Indian Health Service within the State of Montana shall be made without regard to the eligibility of such Indian for any medical or health assistance that is provided to indigents by the State of Montana or any political subdivision thereof (or any agency or instrumentality thereof) if—

"(1) such medical or health assistance provided by the State of Montana or any political subdivision thereof (or any agency or instrumentality thereof) is funded by the revenues from any tax imposed on real property, and

"(2) such Indian resides on a reservation or restricted Indian land which is not subject to taxation.

"(b) The demonstration program established under subsection (a) shall not apply with respect to any benefits provided under title XIX of the Social Security Act (medicaid).

"(c) The demonstration program described in subsection (a) shall terminate on September 30, 1988.

"(d) The Secretary shall evaluate the demonstration program established pursuant to subsection (a) and shall submit to the Congress a report on such evaluation by no later than the date that is 3 years after the date of enactment of the Indian Health Care Amendments of 1984.".

TITLE III—HEALTH FACILITIES

SEC. 301. Section 301 (25 U.S.C. 1631) is amended to read as follows:

"HEALTH FACILITIES

"SEC. 301. (a)(1) Within sixty days after the date of enactment of the Indian Health Care Amendments of 1984, the Secretary shall submit to the Congress a report which shall set forth the current health facilities priority system of the Service and which shall include the planning, design, construction, or renovation needs for the ten top priority inpatient care facilities and the ten top priority ambulatory care facilities together with required staff quarters, the justification for such priority listings, and the projected cost of such projects. The report shall also include the methodology adopted by the Service in establishing priorities under its health facilities priority system.

"(2)(A) Within thirty days of the submission of the annual budget to the Congress by the President for each of the fiscal years 1986, 1987, and 1988, the Secretary shall submit to the Congress a report which complies with the requirements of paragraph (1).

"(B) In preparing such report in such fiscal years, the Service shall consult with tribes and tribal organizations including those tribes or tribal organizations operating health programs or facilities with funds from the Service under the Indian Self-Determination Act, and shall review the needs of these tribes and tribal organizations for inpatient and outpatient facilities, including their needs for renovation and expansion of existing facilities.

"(3) The Service shall use the same criteria for each of the fiscal years 1985, 1986, 1987, and 1988 to evaluate the needs of facilities operated under contract under the Indian Self-Determination Act as it uses to evaluate the needs of facilities operated directly by the Service in such fiscal years.

"(4) The Secretary shall ensure that the planning, design, construction, and renovation needs of Service and non-Service facilities which are the subject of a contract for health services entered into under the Indian Self-Determination and Education Assistance Act are fully and equitably integrated into the development of the health facility priority system.

"(b)(1) All funds appropriated under the Act of November 2, 1921 (25 U.S.C. 13) for the planning, design, construction, or renovation of health facilities for the benefit of a tribe or tribes may be used for the expenses of such activities incurred by such tribe or tribes under contracts or grants under the Indian Self-Determination Act. The United States shall hold the title to any facility constructed under a grant provided under this section.

"(2) Any tribal contractor or grantee shall expend the funds described in paragraph (1) for the purpose for which appropriated pursuant to rules and regulations established by the Secretary for contracting and procurement.

"(c) Prior to the expenditure of, or the making of any firm commitment to expend, any funds appropriated for facilities planning and design, construction, or renovation under the Act of November 2, 1921 (25 U.S.C. 13), the Secretary, acting through the Service, shall—

"(1) consult with any Indian tribe that would be significantly affected by such expenditure for the purpose of determining and, wherever practicable, honoring tribal preferences concerning size, location, type, and other characteristics of any facility on which such expenditure is to be made, and

"(2) ensure, wherever practicable, that such facility, not later than one year after its construction or renovation, shall meet the standards of the Joint Commission on Accreditation of Hospitals.

"(d) The Secretary shall not close, under any existing authority, any Service hospital or other outpatient health care facility or any portion thereof unless he has submitted to the Congress at least one year prior to the planned closure date an evaluation of the impact of the proposed action which shall include the following factors—

"(1) accessibility of alternative health care resources for the service population;

"(2) cost-effectiveness of the closure;

"(3) quality of health care to be provided to the service population after closure;

"(4) availability of contract health care funds to maintain current levels of service; and

"(5) the views of the Indian tribe or tribes served by such facility on the planned closure.

"(e) The President shall include with the budget submitted under section 1105 of title 31, United States Code, for each of the fiscal years 1986, 1987, and 1988, planning information documents for the construction of 10 Indian health facilities which—

"(1) comply with applicable construction standards, and

"(2) have been approved by the Secretary.".

SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES

SEC. 302. Section 302 (25 U.S.C. 1632) is amended to read as follows:

"SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES

"SEC. 302. (a)(1) Congress finds that—

"(A) the provision of safe water supply and sanitary sewage and solid waste disposal systems is primarily a health consideration and function;

"(B) Indian people suffer an inordinately high incidence of disease, injury, and illness directly attributable to the absence or inadequacy of such facilities;

"(C) the long-term cost to the United States of treating and curing such disease, injury, and illness is substantially greater than the short-term cost of providing such facilities and other preventive health measures;

"(D) many Indian homes and communities still lack safe water supply and sanitary sewage and solid waste disposal facilities; and

"(E) it is in the interest of the United States and it is the policy of the United States that all Indian communities and Indian homes, new and existing, be provided with safe and adequate water supply and sanitary sewage and solid waste disposal facilities as soon as possible.

"(2) Congress reaffirms the primary responsibility and authority of the Service to provide the necessary sanitation facilities and services as provided in section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a).

"(b) Beginning in fiscal year 1985, the Secretary, acting through the Service, shall develop and begin implementation of a 10-year plan to provide safe water supply and sanitary sewage and solid waste disposal facilities to existing Indian homes and communities and to new and renovated Indian homes.

"(c)(1) Within 60 days of the date of the enactment of the Indian Health Care Amendments of 1984, the Secretary shall report to Congress on the Service's sanitation facilities priority system. The Secretary, in preparing such report, shall uniformly apply the methodology for determining sanitation deficiencies to all Indian tribes. Such report shall identify the methodology for determining sanitation deficiencies; the level of deficiency for each Indian community or tribe; the amount of funds necessary to raise all communities to a level I deficiency; and the amount of funds necessary to raise all communities or tribes to a zero level of deficiency. For the purpose of such report—

"(A) a level I deficiency means a sanitation system which complies with all applicable water supply and pollution control laws and regulations in which the defined deficiencies consist of routine replacement, repair, or maintenance needs;

"(B) a level II deficiency means a sanitation system which complies with all applicable water supply and pollution control laws and regulations in which the defined deficiencies consist of capital improvements necessary to improve the facilities to meet the needs of the communities for domestic sanitation facilities;

"(C) a level III deficiency means a sanitation system which has an inadequate or partial water supply and sewage disposal facility which does not comply with applicable water supply and pollution control laws and regulations or which has no solid waste disposal facility;

"(D) a level IV deficiency means a sanitation system which lacks either a safe water supply system or a sewage disposal system; and

"(E) a level V deficiency means the absence of a safe water supply and sewage disposal system.

Any tribe or community which lacks the operation and maintenance capability to meet pollution control laws and regulations shall be deemed to have a level III deficiency.

"(2)(A) Within 30 days of the submission of the annual budget to the Congress by the President for fiscal years 1986, 1987, and 1988, the Secretary shall submit a report to the Congress which meets the requirements of paragraph (1).

"(B) In preparing such report for each of the fiscal years 1986, 1987, and 1988, the Secretary, acting through the Service, shall consult with tribes and tribal organizations including those operating health care programs or facilities under contracts under the Indian Self-Determination and Education Assistance Act to determine the sanitation needs of each tribe.

"(d)(1) To clarify the powers conferred by subsection (a) of section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a) the Secretary, acting through the Service, is authorized to provide—

"(A) financial and technical assistance to Indian tribes and communities in the establishment, training, and equipping of utility organizations to operate and maintain Indian sanitation facilities,

"(B) ongoing technical assistance and training in the management of utility organizations, and

"(C) operation and maintenance assistance for and emergency repairs to tribal sanitation facilities when necessary to avoid a health hazard or to protect the Federal investment in sanitation facilities in situations where the community or tribe or family is not financially or technically capable of performing the required emergency repairs with their own resources.

"(2)(A) This section is not intended to diminish the primary responsibilities of the Indian family, community, or tribe to establish, collect, and utilize reasonable user fees, or otherwise set aside funding, for the purpose of operation and maintenance of sanitation facilities.

"(B) The financial and technical capability of an Indian tribe or community to safely operate and maintain a sanitation facility shall not be a precondition for the provision or construction of such facilities and the Secretary may not require a tribe or community to accept a transfer of such facilities where he has determined the tribe or community does not have, or may not be reasonably expected to achieve, such capability.

"(e) Programs administered by Indian tribes or tribal organizations under the authority of the Indian Self-Determination and Education Assistance Act shall be eligible for—

"(1) funds appropriated pursuant to subsection (f), and

"(2) funds appropriated for the purpose of providing water supply or sewage disposal services,

on an equal basis with programs that are administered directly by the Indian Health Service.

"(f)(1) There are authorized to be appropriated for each of the fiscal years 1985, 1986, 1987, and 1988, $5,000,000 for the purpose of providing funds necessary to implement the expanded responsibilities of the Service under subsection (d).

"(2) In addition to the amount authorized under paragraph (1), there are authorized to be appropriated for each of the fiscal years 1985, 1986, 1987, and 1988, $850,000 for the purpose of providing 30 new full-time equivalents for the Service which shall be used to carry out the expanded responsibilities of the Service under subsection (d).".

USE OF NON-SERVICE FUNDS FOR RENOVATION

SEC. 303. Section 305 (25 U.S.C. 1634) is amended to read as follows:

"EXPENDITURE OF NON-SERVICE FUNDS FOR RENOVATION

"SEC. 305. (a) Notwithstanding any other provision of law, an Indian tribe is authorized to expend—

"(1) any funds of such tribe which are not held in trust by the Secretary of the Interior,

"(2) upon approval of the Secretary of the Interior, any funds held in trust by the Secretary of the Interior for the benefit of such tribe, and

"(3) any funds appropriated under Federal law which are not appropriated to the Secretary for expenditure through the Service,

for the purpose of making any major renovation or modernization of any Service facility or of any other Indian health facility operated pursuant to a contract entered into under the Indian Self-Determination and Education Assistance Act (including an expenditure for the planning or designing of such renovation or modernization) if the requirements of subsection (b) are met.

"(b) The requirements of this subsection are met with respect to any renovation or modernization if the renovation or modernization—

"(1) does not require or obligate the Secretary to provide any additional employees or equipment,

"(2) is approved by the appropriate area director of the Service, and

"(3) is administered by the Indian tribe in accordance with the rules and regulations prescribed by the Secretary with respect to construction or renovation of Service facilities.

"(c) A renovation or modernization shall not be authorized by this section if such renovation or modernization would require the diversion of funds appropriated to the Service from any project which has a higher priority under the health facility priority system of the Service.".

BETHEL, ALASKA HOSPITAL

SEC. 304. Title III is amended by adding at the end thereof the following new section:

"BETHEL, ALASKA HOSPITAL

"SEC. 306. (a) If a final administrative ruling by the Department of the Interior holds that the Bethel Native Corporation is entitled to conveyance of the title to the real property described in subsection (d)(1) under the Alaska Native Claims Settlement Act, such ruling shall not be subject to judicial review and title to such property shall be conveyed to the Bethel Native Corporation.

"(b) The Secretary is authorized, notwithstanding any other provision of law, to enter into an agreement with Bethel Native Corporation for an exchange of the real property described in subsection (d)(1) for—

"(1) the lands described in subsection (d)(2), or

"(2) any other Federal property which Bethel Native Corporation would have been able to select under the Alaska Native Claims Settlement Act.

"(c)(1) If an agreement for the exchange of land is not entered into under subsection (b) by the date that is 90 days after the date of a ruling described in subsection (a), the Secretary shall negotiate the terms of an agreement (which shall be entered into by the Secretary only in accordance with paragraph (3)) under which—

"(A) the hospital and housing facilities of the Indian Health Service located on the land described in subsection (d)(1) are to be sold to Bethel Native Corporation at a price which enables the Indian Health Service to recover the actual amount expended in the construction of such hospital and housing facilities, and

"(B) such hospital and housing facilities are to be leased at a reasonable rate to the Indian Health Service.

"(2) The Secretary shall submit to the Congress any agreement negotiated under paragraph (1).

"(3) Any agreement negotiated under paragraph (1) shall be entered into by the Secretary on the date that is 90 days after the date on which such agreement is submitted to the Congress. Notwithstanding any other provision of law, the Secretary is authorized to take any action necessary to implement such agreement after the date on which such agreement is entered into by the Secretary.

"(d)(1) The real property referred to in subsection (a) is United States Survey No. 4000 other than the lands described in paragraph (2).

"(2) The lands referred to in subsection (b)(1) are the lands identified as tracts A and B in the determination AA-18959 of the Bureau of Land Management issued on September 30, 1983, pursuant to the Alaska Native Claims Settlement Act.

"(e) Nothing in this section or in any agreement negotiated under subsection (c)(1) shall affect the application of the requirement of section 1905(b) of the Social Security Act that the Federal medical assistance percentage be 100 percent with respect to services received through the hospital.".

TITLE IV—ACCESS TO HEALTH SERVICES

GRANTS AND CONTRACTS WITH TRIBAL ORGANIZATIONS

SEC. 401. (a) Section 404 (25 U.S.C. 1622) is amended—

(1) by striking out "and" at the end of subsection (a)(2) and inserting in lieu thereof "or", and

(2) by striking out "shall include, but are not limited to," in subsection (b) and inserting in lieu thereof "may include, as appropriate,", and

(3) by adding "or" at the end of subsection (b)(3).

(b) Section 404(c) (25 U.S.C. 1622(c)) is amended by striking out "and" after "1983," and by inserting before the period a comma and "$3,000,000 for the fiscal year ending September 30, 1985, $3,500,000 for the fiscal year ending September 30, 1986, $4,000,000 for the fiscal year ending September 30, 1987, and $500,000 for the fiscal year ending September 30, 1988".

MEDICARE PROVISIONS

SEC. 402. (a) Section 1880 of the Social Security Act is amended—

(1) in subsection (a), by striking out "A hospital or skilled nursing facility" and inserting in lieu thereof "A provider of services or a rural health clinic";

(2) in subsection (a), by striking out "hospitals or skilled nursing facilities (as the case may be)" and inserting in lieu thereof "facilities of that type";

(3) in subsection (b), by striking out "a hospital or skilled nursing facility" and in-

serting in lieu thereof "a provider of services or a rural health clinic";

(4) in subsection (b), by striking out "hospitals or skilled nursing facilities (as the case may be)" and inserting in lieu thereof "facilities of that type";

(5) in subsection (c), by striking out "any hospital or skilled nursing facility" and inserting in lieu thereof "any provider of services or rural health clinic";

(6) in subsection (c), by striking out "hospitals and skilled nursing facilities" each place it appears and inserting in lieu thereof in each instance "providers of services and rural health clinics"; and

(7) in subsection (d), by striking out "hospitals and skilled nursing facilities" and "hospitals and facilities", and inserting in lieu thereof in each instance "providers of services and rural health clinics".

(b) Section 1880(c) of the Social Security Act is further amended—

(1) by inserting after the first sentence the following: "In making payments from such fund, the Secretary shall ensure that each service unit of the Indian Health Service receives at least 50 percent of the amounts to which the providers and rural health clinics of the Indian Health Service, for which such service unit makes collections, are entitled by reason of this section, if such amount is necessary for the purpose of making improvements in such providers and rural health clinics in order to achieve compliance with the conditions and requirements of this title."; and

(2) by striking out "The preceding sentence" and inserting in lieu thereof "This subsection".

(c) The amendments made by this section shall apply to services performed on or after the date of the enactment of this Act.

MEDICAID PROVISIONS

SEC. 403. (a) Section 1911 of the Social Security Act is amended by striking out "or skilled nursing facility" each place it appears and inserting in lieu thereof in each instance "skilled nursing facility, or any other type of facility which provides services of a type otherwise covered under the State plan".

(b) Section 1911 of the Social Security Act is amended by adding at the end thereof the following new subsections:

"(c) The Secretary is authorized to enter into agreements with the State agency for the purpose of reimbursing such agency for health care and services provided in Service facilities to Indians who are eligible for medical assistance under the State plan.

"(d) Notwithstanding any other provision of law, payments to which any facility of the Indian Health Service (including a hospital, intermediate care facility, skilled nursing facility, or any other type of facility which provides services of a type otherwise covered under the State plan) is entitled under a State plan approved under this title by reason of this section shall be placed in a special fund to be held by the Secretary and used by him (to such extent or in such amounts as are provided in appropriation Acts) exclusively for the purpose of making any improvements in the facilities of such Service which may be necessary to achieve compliance with the applicable conditions and requirements of this title. In making payments from such fund, the Secretary shall ensure that each service unit of the Indian Health Service receives at least 50 percent of the amounts to which the facilities of the Indian Health Service, for which such service unit makes collections, are entitled by reason of this section, if such amount is necessary for the purpose of making improvements in such facilities in order to achieve compliance with the conditions and requirements of this title. This subsection shall cease to apply when the Secretary determines and certifies that substantially all of the health facilities of such Service in the United States are in compliance with such conditions and requirements.".

(c) Subsections (b) and (c) of section 402 of the Indian Health Care Improvement Act (42 U.S.C. 1396j, note) are repealed.

(d) The amendments made by this section shall apply to services performed on or after the date of the enactment of this Act.

DEMONSTRATION PROGRAM; STUDY

SEC. 404. Title IV is amended by adding at the end thereof the following new sections:

"DEMONSTRATION PROGRAM FOR DIRECT BILLING OF MEDICARE, MEDICAID, AND OTHER THIRD-PARTY PAYORS

"SEC. 405. (a) The Secretary shall establish a demonstration program under which Indian tribes, tribal organizations, and Alaska Native health organizations, which are contracting the entire operation of an entire hospital or clinic of the Indian Health Service under the authority of the Indian Self-Determination and Education Assistance Act, shall directly bill for, and receive payment for, health care services provided by such hospital or clinic for which payment is made under title XVIII of the Social Security Act (medicare), under a State plan for medical assistance approved under title XIX of the Social Security Act (medicaid), or from any other third-party payor. The Federal medical assistance percentage under the medicaid program shall continue to be 100 percent for purposes of the demonstration program.

"(b)(1) Each hospital or clinic participating in the demonstration program described in subsection (a) shall be reimbursed directly under the medicare and medicaid programs for services furnished, without regard to the provisions of sections 1880(c) and 1911(d) of the Social Security Act, but all funds so reimbursed shall first be used by the hospital or clinic for the purpose of making any improvements in the hospital or clinic that may be necessary to achieve or maintain compliance with the conditions and requirements applicable generally to facilities of such type under the medicare or medicaid program. Any funds so reimbursed which are in excess of the amount necessary to achieve or maintain such conditions or requirements shall be used in accordance with the regulations of the Indian Health Service applicable to funds provided by the Indian Health Service under any contract entered into under the Indian Self-Determination Act.

"(2) The amounts paid to the hospitals and clinics participating in the demonstration program described in subsection (a) shall be subject to all auditing requirements applicable to programs administered directly by the Indian Health Service and to facilities participating in the medicare and medicaid programs.

"(3) The Secretary shall monitor the performance of hospitals and clinics participating in the demonstration program described in subsection (a), and shall require such hospitals and clinics to submit reports on the program to the Secretary on a quarterly basis (or more frequently if the Secretary deems it to be necessary).

"(4) Notwithstanding sections 1880(c) and 1911(d) of the Social Security Act, no payment may be made out of the special fund described in sections 1880(c) or 1911(d) of the Social Security Act for the benefit of any hospital or clinic which is participating in the demonstration program described in subsection (a).

"(c)(1) In order to be considered for participation in the demonstration program described in subsection (a), a hospital or clinic must submit an application to the Secretary which establishes to the satisfaction of the Secretary that—

"(A) the Indian tribe or Alaska Native health organization contracts the entire operation of the Indian Health Service facility;

"(B) the facility is eligible to participate in the medicare and medicaid programs under sections 1880 and 1911 of the Social Security Act;

"(C) the facility meets any requirements which apply to programs operated directly by the Indian Health Service; and

"(D) the facility is accredited by the Joint Commission on Accreditation of Hospitals, or has submitted a plan, which has been approved by the Secretary, for achieving such accreditation prior to October 1, 1986.

"(2) From among the qualified applicants, the Secretary shall, prior to October 1, 1985, select no more than 4 facilities to participate in the demonstration program described in subsection (a). The demonstration program described in subsection (a) shall begin by no later than October 1, 1986, and end on September 30, 1988.

"(d)(1) Upon the enactment of the Indian Health Care Amendments of 1984, the Secretary, acting through the Indian Health Service, shall commence an examination of—

"(A) any administrative changes which may be necessary to allow direct billing and reimbursement under the demonstration program described in subsection (a), including any agreements with States which may be necessary to provide for such direct billing under the medicaid program; and

"(B) any changes which may be necessary to enable participants in such demonstration program to provide to the Indian Health Service medical records information on patients served under such demonstration program which is consistent with the medical records information system of the Service.

"(2) Prior to the commencement of the demonstration program described in subsection (a), the Secretary shall implement all changes required as a result of the examinations conducted under paragraph (1).

"(3) Prior to October 1, 1985, the Secretary shall determine any accounting information which a participant in the demonstration program described in subsection (a) would be required to report and shall provide funding for the development of any such accounting system by any facility which has been selected to participate in such demonstration program.

"(e) The Secretary shall submit an interim report to the Congress at the end of fiscal year 1987, and a final report at the end of fiscal year 1988, on the activities carried out under the demonstration program described in subsection (a), and an evaluation of whether such activities have fulfilled the objectives of such program. In the final report the Secretary shall provide a recommendation, based upon the results of such demonstration program, as to whether direct billing of, and reimbursement by, the medicare and medicaid programs and other third-party payors should be authorized for all Indian tribes and Alaska Native health organizations which are contracting the entire operation of a facility of the Indian Health Service.

"(f) The Secretary shall provide for the retrocession of any contract entered into between a participant in the demonstration program described in subsection (a) and the Indian Health Service under the authority of the Indian Self-Determination and Education Assistance Act. All cost accounting and billing authority shall be retroceded to the Secretary upon the Secretary's acceptance of a retroceded contract.

"STUDY OF BARRIERS TO PARTICIPATION

"SEC. 406. (a) The Secretary shall, in consultation with Indian tribes and tribal organizations, conduct a study of any barriers which may exist to the participation of Indians in programs established under title XVIII of the Social Security Act (medicare) or under title XIX of the Social Security Act (medicaid).

"(b) By no later than the date which is 1 year after the date of enactment of the Indian Health Care Amendments of 1984, the Secretary shall submit to the Congress a report on the study conducted under subsection (a). Such report shall include—

"(1) recommendations for legislation which—

"(A) would remove any barriers to participation identified in such study, and

"(B) would encourage participation by Indians in the programs described in subsection (a); and

"(2) estimates by service unit of—

"(A) the potential number of Indians eligible for medicare,

"(B) the potential number of Indians eligible for medicaid,

"(C) the number of Indians participating in the medicare program, and

"(D) the number of Indians participating in the medicaid program.".

TITLE V—URBAN INDIAN HEALTH SERVICES

REVISION OF PROGRAM

SEC. 501. Title V (25 U.S.C. 1651, et seq.) is amended to read as follows:

"TITLE V—HEALTH SERVICES FOR URBAN INDIANS

"PURPOSE

"SEC. 501. The purpose of this title is to encourage the establishment of programs in urban centers to make health services more accessible to urban Indians.

"CONTRACTS WITH URBAN INDIAN ORGANIZATIONS

"SEC. 502. The Secretary, through the Service, shall enter into contracts with urban Indian organizations to assist such organizations to establish and administer, in the urban centers in which such organizations are situated, programs which meet the requirements set forth in this title. The Secretary, through the Service, shall include such conditions as the Secretary considers necessary to effect the purpose of this title in any contract which the Secretary enters into with any urban Indian organization pursuant to this title.

"CONTRACTS FOR THE PROVISION OF HEALTH CARE OR REFERRAL SERVICES

"SEC. 503. (a) The Secretary, through the Service, shall enter into contracts with urban Indian organizations for the provision of health care or referral services for urban Indians residing in the urban centers in which such organizations are situated. Any such contract shall include requirements that the urban Indian organization successfully undertake to—

"(1) determine the population of urban Indians residing in the urban center in which such organization is situated who are or could be recipients of health care or referral services;

"(2) determine the current health status of urban Indians residing in such urban center;

"(3) determine the current health care needs of urban Indians residing in such urban center;

"(4) identify all public and private health services resources within such urban center which are or may be available to urban Indians;

"(5) determine the use of public and private health services resources by the urban Indians residing in such urban center;

"(6) assist such health services resources in providing services to urban Indians;

"(7) assist urban Indians in becoming familiar with and utilizing such health services resources;

"(8) provide basic health education to urban Indians;

"(9) establish and implement manpower training programs to accomplish the referral and education tasks set forth in clauses (6) through (8) of this subsection;

"(10) identify gaps between unmet health needs of urban Indians and the resources available to meet such needs;

"(11) make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improving health service programs to meet the needs of urban Indians; and

"(12) where necessary, provide, or enter into contracts for the provision of, health care services for urban Indians.

"(b) The Secretary, through the Service, shall by regulation prescribe the criteria for selecting urban Indian organizations to enter into contracts under this section. Such criteria shall, among other factors, include—

"(1) the extent of unmet health care needs of urban Indians in the urban center involved;

"(2) the size of the urban Indian population in the urban center involved;

"(3) the accessibility to, and utilization of, health care services (other than services provided under this title) by urban Indians in the urban center involved;

"(4) the extent, if any, to which the activities set forth in subsection (a) would duplicate—

"(A) any previous or current public or private health services project in an urban center that was or is funded in a manner other than pursuant to this title; or

"(B) any project funded under this title;

"(5) the capability of an urban Indian organization to perform the activities set forth in subsection (a) and to enter into a contract with the Secretary under this section;

"(6) the satisfactory performance and successful completion by an urban Indian organization of other contracts with the Secretary under this title;

"(7) the appropriateness and likely effectiveness of conducting the activities set forth in subsection (a) in an urban center; and

"(8) the extent of existing or likely future participation in the activities set forth in subsection (a) by appropriate health and health-related Federal, State, local, and other agencies.

"CONTRACTS FOR THE DETERMINATION OF UNMET HEALTH CARE NEEDS

"SEC. 504. (a) The Secretary, through the Service, may enter into contracts with urban Indian organizations situated in urban centers for which contracts have not been entered into under section 503. The purpose of a contract under this section shall be the determination of the matters described in subsection (b)(1) in order to assist the Secretary in assessing the health status and health care needs of urban Indians in the urban center involved and determining whether the Secretary should enter into a contract under section 503 with the urban Indian organization with which the Secretary has entered into a contract under this section.

"(b) Any contract entered into by the Secretary under this section shall include requirements that—

"(1) the urban Indian organization successfully undertake to—

"(A) document the health care status and unmet health care needs of urban Indians in the urban center involved;

"(B) with respect to urban Indians in the urban center involved, determine the matters described in clauses (2), (3), (4), and (8) of section 503(b); and

"(2) the urban Indian organization complete performance of the contract within one year after the date on which the Secretary and such organization enter into such contract.

"(c) The Secretary may not renew any contract entered into under this section.

"EVALUATIONS; CONTRACT RENEWALS

"SEC. 505. (a) The Secretary, through the Service, shall develop procedures to evaluate compliance with, and performance of, contracts entered into by urban Indian organizations under this title. Such procedures shall include provisions for carrying out the requirements of this section.

"(b) The Secretary, through the Service, shall conduct an annual onsite evaluation of each urban Indian organization which has entered into a contract under section 503 for purposes of determining the compliance of such organization with, and evaluating the performance of such organization under, such contract.

"(c) If, as a result of the evaluations conducted under this section, the Secretary determines that an urban Indian organization has not complied with or satisfactorily performed a contract under section 503, the Secretary shall, prior to renewing such contract, attempt to resolve with such organization the areas of noncompliance or unsatisfactory performance and modify such contract to prevent future occurrences of such noncompliance or unsatisfactory performance. If the Secretary determines that such noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract with such organization and is authorized to enter into a contract under section 503 with another urban Indian organization which is situated in the same urban center as the urban Indian organization whose contract is not renewed under this section.

"(d) In determining whether to renew a contract with an urban Indian organization under section 503, or whether to enter into a contract with an urban Indian organization under section 503 which has completed performance of a contract under section 504, the Secretary shall review the records of the urban Indian organization, the reports submitted under section 507, and, in the case of a renewal of a contract under section 503, shall consider the results of the on-site evaluations conducted under subsection (b).

"OTHER CONTRACT REQUIREMENTS

"SEC. 506. (a) Contracts with urban Indian organizations pursuant to this title shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such con-

tracts may be negotiated without advertising and need not conform to the provisions of the Act of August 24, 1935, as amended.

"(b) Payments under any contracts pursuant to this title may be made in advance or by way of reimbursement and in such installments and on such conditions as the Secretary deems necessary to carry out the purposes of this title.

"(c) Notwithstanding any provision of law to the contrary, the Secretary may, at the request or consent of an urban Indian organization, revise or amend any contract entered into by the Secretary with such organization under this title as necessary to carry out the purposes of this title, except that whenever an urban Indian organization requests retrocession of the Secretary for any contract entered into pursuant to this title, such retrocession shall become effective upon a date specified by the Secretary not more than one hundred and twenty days from the date of the request by the organization or at such later date as may be mutually agreed to by the Secretary and the organization.

"(d) In connection with any contract entered into pursuant to this title, the Secretary may permit an urban Indian organization to utilize, in carrying out such contract, existing facilities owned by the Federal Government within the Secretary's jurisdiction under such terms and conditions as may be agreed upon for the use and maintenance of such facilities.

"(e) Contracts with urban Indian organizations and regulations adopted pursuant to this title shall include provisions to assure the fair and uniform provision to urban Indians of services and assistance under such contracts by such organizations.

"REPORTS AND RECORDS

"SEC. 507. (a) For each fiscal year during which an urban Indian organization receives or expends funds pursuant to a contract under this title, such organization shall submit to the Secretary a quarterly report including—

"(1) in the case of a contract under section 503, information gathered pursuant to clauses (10) and (11) of subsection (a) of such section;

"(2) information on activities conducted by the organization pursuant to the contract;

"(3) an accounting of the amounts and purposes for which Federal funds were expended; and

"(4) such other information as the Secretary may request.

"(b) The reports and records of the urban Indian organization with respect to a contract under this title shall be subject to audit by the Secretary and the Comptroller General of the United States.

"(c) The Secretary shall allow as a cost of any contract entered into under section 503 the cost of an annual private audit conducted by a certified public accountant.

"REPORTS REQUIRED

"SEC. 508. (a) By no later than the date which is 1 year after the date of enactment of the Indian Health Care Amendments of 1984, the Secretary, through the Service, shall submit a report to Congress which assesses the health status and health care needs of urban Indians. The report shall—

"(1) specify the health care needs of urban Indians and, with respect to urban centers for which urban Indian organizations have entered into contracts under section 503, whether additional health care personnel are needed to meet such needs;

"(2) make recommendations for additional programs, technical assistance, funding, and additional health care personnel to meet the health care needs of all urban Indians; and

"(3) contain recommendations for legislation and administrative actions to achieve the national goal of providing the best possible health status for urban Indians.

"(b) By no later than April 1, 1988, the Secretary, through the Service and with the assistance of the urban Indian organizations that have entered into contracts under this title, shall review the program established under this title and submit to the Congress an assessment thereof and recommendations for any further legislative efforts the Secretary deems necessary to meet the purpose of this title.

"LIMITATION ON CONTRACT AUTHORITY

"SEC. 509. The authority of the Secretary to enter into contracts under this title shall be to the extent, and in an amount, provided for in appropriation Acts.

"AUTHORIZATIONS

"SEC. 510. There are authorized to be appropriated for contracts under this title—

"(1) $12,000,000 for fiscal year 1985,

"(2) $13,200,000 for fiscal year 1986,

"(3) $14,400,000 for fiscal year 1987, and

"(4) $15,800,000 for fiscal year 1988.".

TITLE VI—ORGANIZATIONAL IMPROVEMENTS

MANAGEMENT INFORMATION SYSTEM

SEC. 601. (a) Title VI is amended to read as follows:

"TITLE VI—INDIAN HEALTH SERVICE

"MANAGEMENT INFORMATION SYSTEM; ACCESS TO PATIENT'S RECORDS

"SEC. 601. (a)(1) The Secretary shall establish an automated management information system for the Service.

"(2) The information system established under paragraph (1) shall include—

"(A) a cost accounting system,

"(B) a patient care information system for each area served by the Service, and

"(C) a privacy component that protects the privacy of patient information held by, or on behalf of, the Service.

"(3) By no later than September 30, 1985, the Secretary shall submit a report to Congress setting forth—

"(A) the activities which have been undertaken to establish an automated management information system,

"(B) the activities, if any, which remain to be undertaken to complete the implementation of an automated management information system, and

"(C) the amount of funds which will be needed to complete the implementation of a management information system in the succeeding fiscal years.

"(b) Notwithstanding any other provision of law, each patient shall have reasonable access to the medical or health records of such patient which are held by, or on behalf of, the Service.".

(b) The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

INDIAN HEALTH SERVICE PLACED WITHIN PUBLIC HEALTH SERVICE

SEC. 602. (a) Title VI, as amended by section 601 of this Act, is further amended—

(1) by redesignating section 601 as section 602, and

(2) by inserting after the heading of the title, the following new section:

"ESTABLISHMENT OF THE INDIAN HEALTH SERVICE AS AN AGENCY OF THE PUBLIC HEALTH SERVICE

"SEC. 601. (a) In order to more effectively and efficiently carry out the responsibilities, authorities, and functions of the United States to provide health care services to Indians and Indian tribes, as is or may be hereafter provided by Federal statute or treaties, there is established within the Public Health Service of the Department of Health and Human Services the Indian Health Service. The Indian Health Service shall be administered by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director of the Indian Health Service shall report to the Secretary through the Assistant Secretary of Health and Human Services for Health, and shall not report to, or be under the supervision of, any other officer or employee of the Department of Health and Human Services.

"(b) The Indian Health Service shall be an agency within the Public Health Service of the Department of Health and Human Services, and shall not be an office, component, or unit of any other agency of the Department.

"(c) The Secretary shall carry out through the Director of the Indian Health Service—

"(1) all functions which were, on the day before the date of enactment of the Indian Health Care Amendments of 1984, carried out by or under the direction of the individual serving as Director of the Indian Health Service on such day;

"(2) all functions of the Secretary or the Department of Health and Human Services relating to the maintenance and operation of hospital and health facilities for Indians and the planning for, and the provision and utilization of, health services for Indians; and

"(3) all health programs under which health care is provided to Indians based upon their status as Indians which are administered by the Secretary, including (but not limited to) programs under—

"(A) this Act;

"(B) the Act of November 2, 1921 (25 U.S.C. 13);

"(C) the Act of August 5, 1954 (68 Stat. 674);

"(D) the Act of August 16, 1957 (71 Stat. 370);

"(E) the Indian Self-Determination and Education Assistance Act (Public Law 93-638); and

"(F) the Act of December 5, 1979 (93 Stat. 1056).

"(d)(1) Notwithstanding any other provision of law, the Secretary may not reorganize, alter, or discontinue the Indian Health Service or allocate or reallocate any function which this section specifies shall be performed by the Director of the Indian Health Service or by the Secretary of Health and Human Services through the Director of the Indian Health Service.

"(2) Paragraph (1) shall not apply to any action taken by the Director of the Indian Health Service which the Director of the Indian Health Service determines to be appropriate.

"(e)(1) The Director of the Indian Health Service shall have the authority—

"(A) except to the extent provided in paragraph (2), to appoint and compensate employees for the Service in accordance with title 5, United States Code;

"(B) to enter into contracts for the procurement of goods and services to carry out the functions of the Service; and

"(C) to manage, expend, and obligate all funds appropriated for the Service.

"(2) The provisions of section 12 of the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 472), but not the provisions of section 2 of Public

Law 96-135 (25 U.S.C. 472a), shall apply to personnel actions taken with respect to positions within the Service.

"(3) The authority of the Director of the Indian Health Service to enter into contracts under this subsection shall be to such extent or in such amounts as are provided in appropriation Acts.".

(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"DIRECTOR, INDIAN HEALTH SERVICE, DEPARTMENT OF HEALTH AND HUMAN SERVICES.".

(c)(1) All personnel, records, equipment, facilities, and interests in property that are administered by the Indian Health Service on the day before the date on which the amendments made by this section take effect shall be transferred to the Indian Health Service established by the amendment made by subsection (a) of this section.

(2) The requirements of section 601 of the Indian Health Care Improvement Act, as amended by this section, shall be met within 180 days after the date on which the amendments made by this section take effect.

(3) The Secretary of Health and Human Services may waive the application of the Indian preference laws during the 180-day period beginning on the date on which the amendments made by this section take effect on a case-by-case basis for any temporary transfer which is necessary in order to implement the amendment made by subsection (a) of this section.

(d) The amendments made by this section shall take effect in accordance with the following provisions:

(1) If the report submitted to the Congress under section 603(c)(2) of this Act contains a determination by the Commission established under section 603(a) that the amendments made by this section will enhance the ability of the Indian Health Service to provide health services to Indians, the amendments made by this section shall take effect on the date such report is submitted to the Congress.

(2) If the report submitted to the Congress under section 603(c)(2) of this Act contains a determination by the Commission established under section 603(a) that the amendments made by this section will not enhance the ability of the Indian Health Service to provide health services to Indians, the amendments made by this section shall take effect on the date that is 6 months after the date on which such report is submitted to the Congress.

COMMISSION ON THE ORGANIZATIONAL PLACEMENT OF THE INDIAN HEALTH SERVICE

SEC. 603. (a) There is hereby established a commission to be known as the "Commission on the Organizational Placement of the Indian Health Service" (hereafter in this section referred to as the "Commission").

(b)(1)(A) The Commission shall consist of seven members as follows:

(i) three members of the Commission appointed by the President pro tempore of the Senate, upon the recommendations of the Majority Leader and the Minority Leader of the Senate;

(ii) three members of the Commission appointed by the Speaker of the House of Representatives; and

(iii) the Secretary of Health and Human Services or any delegate of the Secretary of Health and Human Services.

(B) The six members described under clauses (i) and (ii) of subparagraph (A) shall be appointed from a list of nominees submitted to the President pro tempore of the Senate and the Speaker of the House of Representatives under subparagraph (C). The appointment of such members of the Commission shall be completed by no later than the date that is 45 days after the date of enactment of this Act.

(C) The President pro tempore of the Senate and the Speaker of the House of Representatives shall request the Comptroller General of the United States and each of the following organizations to submit the names of individuals who are qualified to serve as members of the Commission:

(i) the American Management Association,

(ii) the American College of Hospital Administrators,

(iii) the Joint Commission on Accreditation of Hospitals,

(iv) the Brookings Institute,

(v) the American Academy of Medical Directors,

(vi) the Association of American Indian Physicians,

(vii) the American Academy of Pediatrics,

(viii) the National Association of Colleges of Obstetrics and Gynecology, and

(ix) the American Public Health Association.

(D)(i) The Majority Leader and Minority Leader of the Senate shall make a recommendation under subparagraph (A)(i) only after consulting with the chairmen and the ranking minority members of the Select Committee on Indian Affairs and the Committee on Labor and Human Resources of the Senate.

(ii) The Speaker of the House of Representatives shall make appointments under subparagraph (A)(ii) only after consulting with the chairmen and the ranking minority members of the Committee on Interior and Insular Affairs and the Committee on Energy and Commerce of the House of Representatives.

(2) The members of the Commission shall be individuals who possess the demonstrated capacities to discharge the duties imposed on the Commission and who have expertise in management, health care, health care administration, or Indian health care.

(3) The Speaker of the House of Representatives and the President pro tempore of the Senate jointly may remove a member of the Commission only for neglect of duty or malfeasance in office.

(4) Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(5) The Commission shall elect a Chairman from among the members of the Commission described in clause (i) or (ii) of paragraph (1)(A).

(6) Five members of the Commission shall constitute a quorum for the transaction of business.

(7) Each member of the Commission shall be entitled to one vote which shall be equal to the vote of every other member of the Commission.

(8) The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel.

(c)(1) The Commission shall conduct a study of the effects of the amendments made by section 602 of this Act. Such study should include consideration of—

(A) the effect of such amendments on the ability of the Indian Health Service to provide health services to Indians,

(B) the effect of such amendments on the ability of the Public Health Service to carry out its functions,

(C) the effect of such amendments on the ability of the Indian Health Service to control its personnel and manage the programs for which the Indian Health Service is responsible, and

(D) the effect of such amendments on the ability of the Indian Health Service to control policy development for Indian health programs.

(2) By no later than the date which is 410 days after the date of enactment of this Act, the Commission shall submit to the Congress a report on the study conducted under paragraph (1). Such report shall include a specific determination by the Commission of whether the amendments made by section 602 of this Act will enhance the ability of the Indian Health Service to provide health services to Indians.

(d)(1) Subject to such rules and regulations as may be adopted by the Commission, the Chairman of the Commission shall have the power to—

(A) appoint, terminate, and fix the compensation without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law, relating to the number, classification, and General Schedule rates of such personnel as it deems advisable to assist in the performance of its duties, at rates not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of such title; and

(B) procure, as authorized by section 3109 of title 5, United States Code, temporary and intermittent services to the same extent as is authorized by law for agencies in the executive branch but at rates not to exceed the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-18 of the General Schedule.

(2) Service of an individual as a member of the Commission, or employment of an individual by the Commission as an attorney or expert in any business or professional field, on a part-time or full-time basis, with or without compensation, shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Commission, or as an employee of the Commission, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

(e)(1) Each member of the Commission shall serve on the Commission without compensation.

(2) All members of the Commission shall be reimbursed for travel and per diem in lieu of subsistence expenses during the performance of duties of the Commission in accordance with subchapter I of chapter 57 of title 5, United States Code.

(f) The provisions of the Federal Advisory Committee Act shall not apply to the Commission established under this section.

(g)(1) The Commission is authorized to secure directly from any officer, department, agency, establishment, or instrumentality of the Government such information as the Commission may require for the purpose of

this section, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman of the Commission.

(2) Upon request of the Chairman of the Commission, the head of any Federal agency shall make any of the facilities and services of such agency available to the Commission and detail any of the personnel of such agency (other than personnel of the Indian Health Service or the Health Resources and Services Administration) to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out its duties under this section.

(3) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(h) The Commission shall cease to exist on the date that is 30 days after the date the Commission submits the report required under subsection (c)(2).

(i)(1) The total amount of expenses which may be incurred by the Commission shall not exceed $500,000.

(2) Expenses incurred by the Commission (while the Commission is in compliance with paragraph (1)) shall be paid out of funds appropriated to the Indian Health Service.

TITLE VII—MISCELLANEOUS

LEASING AND OTHER CONTRACTS

SEC. 701. Section 704 (25 U.S.C. 1674) is amended—

(1) by striking out "Notwithstanding", and inserting in lieu thereof "(a) Notwithstanding", and

(2) by adding at the end thereof the following new subsection:

"(b) The Secretary may enter into leases, contracts, and other legal agreements with Indian tribes or tribal organizations which hold—

"(1) title to;

"(2) a leasehold interest in; or

"(3) a beneficial interest in (where title is held by the United States in trust for the benefit of a tribe);

facilities used for the administration and delivery of health services by the Indian Health Service or by programs operated by tribes or tribal organizations to compensate such tribes or tribal organizations for costs associated with the use of such facilities for such purposes. Such costs include rent, depreciation based on the useful life of the building, principal and interest paid or accrued, operation and maintenance expenses, and other expenses determined by regulation to be allowable.".

JUVENILE ALCOHOL AND DRUG ABUSE

SEC. 702. Section 706 (25 U.S.C. 1676) is amended to read as follows:

"JUVENILE ALCOHOL AND DRUG ABUSE

"SEC. 706. (a) Within ninety days of the date of enactment of the Indian Health Care Amendments of 1984, the Secretary shall enter into an agreement with the Secretary of the Interior and the Secretary of Education to coordinate the efforts of their Departments related to alcohol and drug abuse among Indian juveniles. The agreement shall provide for the identification and coordination of available resources and programs to combat Indian juvenile alcohol and drug abuse through prevention, education, counseling, and referral. The Secretary shall publish such agreement in the Federal Register within one hundred and twenty days of the date of enactment of the Indian Health Care Amendments of 1984.

"(b) The Secretary, acting through the Service and in consultation and cooperation with the Secretary of the Interior and the Secretary of Education, shall develop a program to provide training in—

"(1) preventive education;

"(2) the identification of juvenile alcohol and drug abusers; and

"(3) counseling techniques on juvenile alcohol and drug abuse.

Such training shall be provided to elementary and secondary teachers and counselors—

"(A) in schools operated by the Bureau of Indian Affairs;

"(B) in schools operated under contract with the Bureau of Indian Affairs; and

"(C) in public schools on or near Indian reservations (including public schools in Oklahoma and Alaska with significant numbers of Indian students).

The Service may provide such training either directly or through contract with qualified private or public entities.

"(c) The Secretary of the Interior, acting through the Bureau of Indian Affairs and in consultation with the Service, shall review existing literature and reports on juvenile alcohol and drug abuse, including studies and school curricula and any other material relevant to an understanding of the problem of juvenile alcohol and drug abuse, and shall make available the results of such review to the schools described in subsection (b).

"(d) The Secretary shall establish an Office of Alcohol and Drug Abuse within the Service which shall be responsible for the administration of the programs and authorities of the Service in the field of alcohol and drug abuse. The Office shall have assigned to it a number of full-time equivalent positions which shall be not less than eight full-time equivalent positions in the Central Office of the Service and one full-time equivalent position in each Service area and Program Office.

"(e) For the purpose of implementing subsection (b), there is authorized to be appropriated $1,500,000 for each of the fiscal years 1985, 1986, 1987, and 1988.".

NUCLEAR RESOURCE DEVELOPMENT HEALTH HAZARDS

SEC. 703. (a) Subsections (a) and (b) of section 707 (25 U.S.C. 1677) are amended to read as follows:

"(a) The Secretary, acting through the Service, shall enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the health hazards to Indian miners and to Indians living on, or near Indian reservations or in Indian communities which result from development of nuclear resources. Such study shall include—

"(1) an evaluation of the nature and extent of nuclear resource development related health problems currently exhibited among Indians and the causes of such health problems;

"(2) an analysis of the potential effect of ongoing and future nuclear resource development on or near Indian reservations and communities;

"(3) an evaluation of the types and nature of activities, practices, and conditions causing or affecting such health problems, including uranium mining and milling, uranium mine tailing deposits, nuclear powerplant operation and construction, and nuclear waste disposal;

"(4) a summary of any findings and recommendations provided in Federal and State studies, reports, investigations, and inspections during the 10-year period ending on the date of enactment of the Indian Health Care Amendments of 1984 that directly or indirectly relate to the activities, practices, and conditions affecting the health or safety of such Indians; and

"(5) an evaluation of the efforts that have been made by Federal and State agencies and mining and milling companies to effectively carry out an education program for such Indians regarding the health and safety hazards of nuclear resource development.

To assist the Academy in conducting such study, the Secretary and the Secretary of the Interior shall furnish at the request of the Academy any information which the Academy deems necessary for the purpose of conducting the study. In addition, they shall cooperate with the Academy in obtaining information necessary to carry out the intent of the study.

"(b) Upon the completion of the study described in subsection (a), the Secretary, acting through the Service, shall develop, on the basis of the results of such study, a health care plan to address the health problems studied under subsection (a). The plan shall include—

"(1) methods for diagnosing and treating Indians currently exhibiting nuclear resource development related health problems;

"(2) preventive care for Indians who may be exposed to such health hazards as a result of nuclear resource development, including the monitoring of the health of individuals who have or may have been exposed to excessive amounts of radiation, or otherwise affected by nuclear development activities that have had or could have a serious impact upon the health of such individuals; and

"(3) a program of education for Indians who, by reason of their work or geographic proximity to nuclear development activities, may experience health problems.".

(b) Subsection (c) of section 707 is amended by striking out "no later than the date eighteen months after the date of the enactment of this Act" and inserting in lieu thereof "by no later than the date which is 18 months after the date of enactment of the Indian Health Care Amendments of 1984".

(c) Subsection (f) of section 707 (25 U.S.C. 1677(f)) is amended to read as follows:

"(f) There are authorized to be appropriated $750,000 for the purpose of conducting the study described in subsection (a). Such funds shall remain available for expenditure until the date which is 18 months after the date such funds are appropriated.".

ARIZONA AS A CONTRACT HEALTH SERVICE DELIVERY AREA; FORMERLY RECOGNIZED TRIBES IN CALIFORNIA

SEC. 704. (a)(1) Subsection (a) of section 708 (25 U.S.C. 1678(a)) is amended—

(A) by striking out "1984" and inserting in lieu thereof "1988", and

(B) by striking out "Indians in such State" and inserting in lieu thereof "members of federally recognized Indian tribes of Arizona".

(2) Subsection (c) of section 708 (25 U.S.C. 1678(c)) is amended to read as follows:

"(c) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $7,700,000 for fiscal year 1985,

"(2) $8,242,000 for fiscal year 1986,

"(3) $8,819,800 for fiscal year 1987, and

"(4) $9,434,600 for fiscal year 1988.".

ELIGIBILITY OF CALIFORNIA INDIANS

SEC. 705. Section 709 (25 U.S.C. 1679) is amended to read as follows:

"ELIGIBILITY OF CALIFORNIA INDIANS

"SEC. 709. The following California Indians shall be eligible for care from the Service:

"(1) Any Member of a federally recognized Indian tribe.

"(2) Any descendant of an Indian who was residing in California on June 1, 1852, but only if such descendant—

"(A) is living in California,

"(B) is a member of the Indian community served by a local program of the Service, and

"(C) is regarded as an Indian by the community in which such descendant lives.

"(3) Any Indian who holds trust interests in public domain, national forest, or Indian reservation allotments in California.

"(4) Any Indian in California who is listed on the plans for distribution of the assets of California rancherias and reservations under the Act of August 18, 1958 (72 Stat. 619), and any descendant of such an Indian.

Paragraph (4) shall not apply after September 30, 1988.".

CALIFORNIA AS A CONTRACT HEALTH SERVICE DELIVERY AREA

SEC. 706. Section 710 (25 U.S.C. 1680) is amended to read as follows:

"CALIFORNIA AS A CONTRACT HEALTH SERVICE DELIVERY AREA

"SEC. 710. The State of California, excluding the counties of Alameda, Contra Costa, Los Angeles, Marin, Orange, Sacramento, San Francisco, San Mateo, and Santa Clara, shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health services to Indians in such State.".

CONTRACT HEALTH FACILITIES

SEC. 707. (a) Title VII is amended by adding at the end thereof the following new section:

"CONTRACT HEALTH FACILITIES

"SEC. 711. (a) The Indian Health Service shall provide funds for health care programs and facilities operated by tribes and tribal organizations under contracts with the Indian Health Service under the Indian Self-Determination Act—

"(1) for the maintenance and repair of clinics owned or leased by such tribes or tribal organizations,

"(2) for employee training,

"(3) for cost-of-living increases for employees, and

"(4) for any other expenses relating to the provision of health services,

on the same basis as such funds are provided to programs and facilities operated directly by the Indian Health Service.

"(b) In the case of eligible California Indians as defined by section 709 who are not members of Indian tribes or eligible for membership in such tribes, the Secretary may not enter into a contract to provide health services to such Indians under section 103 of the Indian Self-Determination Act if 51 percent of the adult population of such Indians object prior to the award of such contract through any legally established organization of Indians representative of such Indians, in which case the Secretary, acting through the Service, shall make alternate arrangements for the delivery of health care services to such Indians. Nothing in this section shall be construed to restrict or interfere with the right of any Indian tribe to contract for health services on behalf of its own members.".

(b)(1) The Secretary of Health and Human Services shall determine whether the provisions of subsection (b) of section 711 of the Indian Health Care Improvement Act have interfered with the effective administration of contracts entered into under section 103 of the Indian Self Determination Act (25 U.S.C. 450g).

(2) The Secretary of Health and Human Services shall submit to the Congress a report on the determination made under paragraph (1) by not later than the date that is 18 months after the date of enactment of this Act.

NATIONAL HEALTH SERVICE CORPS

SEC. 708. (a) Title VII, as amended by section 707 of this Act, is further amended by adding at the end thereof the following new section:

"NATIONAL HEALTH SERVICE CORPS

"SEC. 712. (a) The Secretary of Health and Human Services shall not—

"(1) remove a member of the National Health Service Corps from a health facility operated by the Indian Health Service or by a tribe or tribal organization under contract with the Indian Health Service under the Indian Self-Determination Act; or

"(2) withdraw funding used to support such member,

unless the Secretary, acting through the Service, has ensured that the Indians receiving services from such member will experience no reduction in services.".

(b) The amendment made by subsection (a) of this section shall take effect as of October 1, 1983.

ADDITIONAL PROVISIONS

SEC. 709. Title VII, as amended by sections 707 and 708 of this Act, is further amended by adding at the end thereof the following new sections:

"SERVICE TO INELIGIBLE PERSONS

"SEC. 713. (a)(1) The Secretary, acting through the Service, may provide or authorize the provision of medical care, treatment, or benefits by the Service to persons who are not otherwise eligible for such services in health facilities maintained by the Service or contracted under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) or through contract health care services, subject to the limitations of this section.

"(2) Persons eighteen years of age or under who are the natural or adopted children (including foster- and step-children), legal wards, or orphans of an eligible Indian person and who are not otherwise eligible for the medical care, treatment, or benefits of the Service shall be eligible for all such services on the same basis and subject to the same rules as apply to eligible Indians until their nineteenth birthday. The existing and potential medical needs of such persons shall be taken into consideration by the Service in determining the need for, or the allocation of, its health resources. Any such person who has been determined to be legally incompetent prior to their nineteenth birthday shall remain eligible for such services until one year after the date such disability has been removed.

"(3) Non-Indian spouses of eligible Indians or spouses of Indian descent who are not otherwise eligible for the medical care, treatment, or benefits of the Service shall not be eligible for such service unless they are made eligible, as a class, by an appropriate resolution of the governing body of the relevant Indian tribe. The medical needs of persons made eligible under this subsection shall not be taken into consideration by the Service in determining the need for, or allocation of, its health resources.

"(b)(1)(A) At the request of the Indian tribe or tribes included within the service area of any service unit of the Service, the Secretary may authorize the medical care and treatment of otherwise ineligible persons residing within such service area in health facilities maintained and operated by the Service.

"(B) Persons receiving medical care and treatment under this subsection shall be liable for the payment for such services under a fee schedule adopted by the Secretary which, in the judgment of the Secretary, shall result in reimbursement in an amount not less than the actual cost of providing the service. Fees collected under this subsection, including medicare or medicaid reimbursements under titles XVIII and XIX of the Social Security Act, shall be credited to the account of the facility providing the service and shall be used solely for the provision of health services within that facility.

"(2)(A) Except as provided in subparagraph (B), where the governing body of an Indian tribe or, in the case of a multi-tribal service area, any Indian tribe revokes its concurrence to the provision of services under paragraph (1)(A), the Secretary's authority to provide such service shall terminate at the end of the fiscal year following the fiscal year in which such revocation was adopted.

"(B) In California, in the case of a multi-tribal service area, unless 51 percent or more of the Indian tribes in the Service area revoke their concurrence to the provision of services under paragraph (1)(A), the authority to provide such service shall not be affected.

"(3)(A) In the case of health facilities operated directly by the Service, such medical care and treatment may be provided under this subsection only where the Secretary and the affected tribe or tribes have jointly determined that—

"(i) the provision of such service will not result in a denial or diminution of services to eligible Indian persons; and

"(ii) there is no reasonable alternative health facility or service, within or without the service unit area, available to meet the medical needs of such persons.

"(B) In the case of health facilities operated under contract under the Indian Self-Determination and Education Assistance Act, the governing body of the Indian tribe or tribal organization providing health services under a contract with the Service under the Indian Self-Determination Act is authorized to determine the eligibility for such services of persons who are not otherwise eligible for such services. Such determination shall be in accordance with the requirements of this section.

"(4) The Service may continue to provide medical care, treatment, and benefits to persons not provided service under subsections (a) or (b) to achieve stability in a medical emergency, to prevent the spread of a communicable disease or otherwise deal with a public health hazard; to provide care to non-Indian women pregnant with an eligible Indian's child for the duration of the pregnancy through post partum, or to immediate family members of an eligible person where such care is directly related to the treatment of the eligible person.

"(5) Hospital privileges in health facilities operated and maintained by the Service or operated under contract under the Indian Self-Determination and Education Assistance Act may be extended to non-Service

health care practitioners under a plan adopted under subsection (d) of this section. Such non-Service health care practitioners shall not be regarded as employees of the Federal Government for purposes of sections 1346(b) and 2671 et seq. of title 28 of the United States Code relating to Federal tort claims even if providing services to eligible persons as a part of the condition under which privileges are extended.

"RESTRICTIONS ON THE USE OF INDIAN HEALTH SERVICE APPROPRIATIONS

"SEC. 714. Unless otherwise specifically provided, any restriction placed on the use of appropriations for Indian health services shall not be interpreted—

"(1) to apply to the use of funds other than such appropriated funds by an entity with a contract with the Indian Health Service;

"(2) to prohibit the support of litigation with such other funds; or

"(3) to prohibit the promotion of public support for or opposition to any legislative proposal with such other funds.

"INFANT AND MATERNAL MORTALITY

"SEC. 715. (a) Not later than January 1, 1985, the Secretary shall develop and begin implementation of a plan to achieve the following objectives by January 1, 1990:

"(1) Reduction of the rate of Indian infant mortality in each Area Office of the Service to twelve deaths per one thousand live births or to that of the United States population, whichever is lower.

"(2) Reduction of the rate of maternal mortality in each Area Office of the Service to five deaths per one hundred thousand live births or to that of the United States population, whichever is lower.

"(b)(1) The Secretary shall report to Congress on January 1 of each year beginning after fiscal year 1985 on the progress that has been made toward achieving the objectives described in subsection (a).

"(2) The President shall include with the budget submitted under section 1105 of title 31, United States Code, for each fiscal year a separate statement which specifies the total amount obligated or expended in the most recently completed fiscal year to achieve each of the objectives described in subsection (a).

"REDUCTION AND CONTROL OF HEPATITIS-B IN ALASKA

"SEC. 716. (a)(1) By no later than the date which is 1 year after the date of enactment of the Indian Health Care Amendments of 1984, the Secretary, through the Service and in conjunction with the State of Alaska and the Center for Disease Control, shall complete the implementation of a program to provide for—

"(A) screening and reporting of cases of,

"(B) vaccinations for the prevention of, and

"(C) control of the incidence of,

hepatitis-B in Alaska.

"(2) By no later than December 30, 1986, the Secretary shall submit to the Congress a report concerning the activities carried out under the program described in paragraph (1). The report shall include—

"(A) a description of any activities which, on the day the report is submitted, need to be carried out to control the incidence of hepatitis-B in Alaska, and

"(B) a schedule for the completion of such activities.

"(b) The Secretary shall include in the budget submitted under section 1105(a) of title 31, United States Code, for each of the fiscal years succeeding the fiscal year in which the Indian Health Care Amendments of 1984 are enacted, a request for budget authority for, and estimates of outlays for, a program to control the incidence of hepatitis-B in Alaska.

"CONTRACT HEALTH SERVICES FOR THE TRENTON SERVICE AREA

"SEC. 717. The Secretary, acting through the Service, is directed to provide contract health services to members of the Turtle Mountain Band of Chippewa Indians that reside in the Trenton Service Area of Divide, McKenzie, and Williams counties of North Dakota and the adjoining counties of Richland, Roosevelt, and Sheridan in the State of Montana. The Secretary is directed to conduct a population survey of Indians residing in the Trenton Service Area for the purpose of determining the basis for the distribution of equity health care funds and the provision of contract health care. Should the results of the population survey indicate that additional eligible members of the Turtle Mountain Band of Chippewa Indians reside outside the boundaries of the named North Dakota and Montana counties, the contract health service delivery area shall be defined to include those additional counties of North Dakota or Montana in which such eligible tribal members reside.

"STUDY OF HEALTH CARE NEEDS OF NATIVE HAWAIIANS AND OTHER NATIVE PACIFIC ISLANDERS

"SEC. 718. (a)(1) The Secretary shall conduct a study of the physical and mental health care needs of Native Hawaiians and other Native American Pacific Islanders.

"(2) In conducting the study required under paragraph (1), the Secretary shall consult with the Commissioner of the Administration for Native Americans, the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, the Director of the Indian Health Service, leaders in the field of health care, and representatives of Native Hawaiians and other Native American Pacific Islanders.

"(b) By no later than the date that is 1 year after the date of enactment of the Indian Health Care Amendments of 1984, the Secretary shall submit to the Congress a report on the study conducted under subsection (a). Such report shall include—

"(1) an assessment of the access of, and barriers to, Native Hawaiians and other Native American Pacific Islanders in receiving physical and mental health care services,

"(2) an assessment of the physical and mental health care needs of Native Hawaiians and other Native American Pacific Islanders, and

"(3) specific recommendations for the development of a national strategy to address such needs.".

DEFINITIONS

SEC. 710. Section 4 (25 U.S.C. 1603) is amended by striking out subsections (i), (j), and (k), and by inserting in lieu thereof the following new subsections:

"(i) 'Area Office' means an administrative entity including a program office, within the Indian Health Service through which services and funds are provided to the service units within a defined geographical area; and

"(j) 'Service unit' means an administrative entity within the Indian Health Service or a tribe or tribal organization operating health care programs or facilities with funds from the Service under the Indian Self-Determination Act through which services are provided, directly and by contract, to the eligible Indian population within a defined geographic area.".

SEVERABILITY

SEC. 711. If any provision of this Act, any amendment made by this Act, or the application of such provision or amendment to any person or circumstances is held to be invalid, the remainder of this Act, the amendments made by this Act, and the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill, and agree to the same.

From the Committee on Interior and Insular Affairs:

MORRIS K. UDALL,
SAMUEL GEJDENSON,
JAMES F. MCNULTY, Jr.,
BILL RICHARDSON,
DON YOUNG,
JOHN MCCAIN,

From the Committee on Energy and Commerce:

JOHN D. DINGELL,
JAMES H. SCHEUER,
HENRY A. WAXMAN,
TOM LUKEN,

Managers on the Part of the House.

From the Select Committee on Indian Affairs:

MARK ANDREWS,
BARRY GOLDWATER,
SLADE GORTON,
FRANK H. MURKOWSKI,
JOHN MELCHER,
DANIEL K. INOUYE,
DENNIS DECONCINI,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2166) to authorize appropriations to carry out the Indian Health Care Improvement Act, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the House bill, the Senate amendment, and substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—INDIAN HEALTH MANPOWER

INDIAN HEALTH PROFESSION SCHOLARSHIPS: PRIVATE PRACTICE OPTION

Section 107(b)(3) of the conference agreement extends authority for the active duty service obligation of an Indian Health Scholarship recipient to be fulfilled in the private practice of his profession if such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians. The Senate recedes to the House on the issue of the private practice option, but Senate conferees wish

to encourage the Secretary of Health and Human Services to more closely monitor those physicians that have elected to meet their active duty service obligation in private practice, in order to assure that such physicians are actually providing health care services to Indian people.

TITLE II—HEALTH SERVICES

INDIAN HEALTH CARE IMPROVEMENT FUND: AUTHORIZATIONS

The conference agreement adopts the authorization levels contained in S. 2166 for activities authorized by Title II of the conference report. The specific authorizations levels are intended to be used for the purpose of raising all service units to a Level II deficiency as defined in section 201(c)(2) of the conference report, and for the updating of tribal specific health plans authorized by section 201(d) of the conference report.

INDIAN HEALTH CARE IMPROVEMENT FUND: RESOURCES REPORT

Section 201(c)(1)(B) directs the Secretary to submit a report to Congress which shall estimate the amount of health service funds appropriated under the authority of the Indian Health Care Improvement Act or any other Act for the preceding fiscal year which is allocated to each service unit or comparable entity. The managers intend that the required estimate will identify and fully document all alternate resources that are in fact available to the Indian Health Service (IHS) for the provision of health care to eligible Indians.

CATASTROPHIC HEALTH EMERGENCY FUND

As passed by the House, H.R. 4567 added a new section 202 to the Indian Health Care Improvement Act establishing an Indian Catastrophic Health Emergency fund. The purpose of the fund is to enable the IHS to meet the extraordinary costs associated with the treatment of catastrophic illnesses or medical disasters. In some cases, the occurrence of a catastrophic illness or sudden medical disaster within the responsibility of an IHS service unit quickly depletes the funds allocated to that service unit for contract health care. The result is that the service unit must further ration the funds available to meet routine health care needs for that fiscal year or IHS must reallocate funds from other service units of IHS programs. In either case, the result is a further reduction in available health care service. In addition, the potential for this kind of occurrence impairs the ability of a service unit to rationally allocate its contract health care funds throughout the year.

The House provision establishes the fund and provides that it shall be used solely to reimburse service units for the costs of treating catastrophic illnesses which are in excess of a certain threshold cost as determined by the Secretary (not less than $10,000 or more than $20,000). Section 202 authorizes the appropriation for $12,000,000 for fiscal year 1985 and such sums as are necessary for fiscal years 1986, 1987, and 1988 to maintain the fund at a $12,000,000 level.

The bill, as passed by the Senate, contained no similar provision. The Senate conferees have agreed to accept the House provision without amendment, except that an authorization for fiscal year 1988 was added to the House provision.

COMPETITIVE PROCUREMENT

Section 203 of the conference agreement authorizes the Secretary to waive any statutory or administrative requirement for competitive procurement of health services if, in the judgment of the Chief Medical Officer having jurisdiction over such health services, such competitive procurement would compromise the accessibility, quality, and continuity of health services, or would not result in any appreciable competition or savings. The managers intend that (1) the ability of the IHS to provide quality health care to Indian people, and (2) the projected impact on the health status of Indian people, be the primary determinants of whether competitive procurement requirements are to be waived by the Secretary.

DEMONSTRATION PROGRAM REGARDING ELIGIBILITY OF CERTAIN INDIANS FOR MEDICAL AND HEALTH SERVICES

The conference agreement provides that, in determining an individual Indian's eligibility for IHS services, the IHS may not take into account an indigent Indian's eligibility for state- or county-provided health care (or financial assistance for such health care) if that health care is funded from taxes on real property, and if the individual indigent Indian resides on trust property which is not subject to such taxation.

The House strongly disagreed with this policy as originally set forth in section 204(a) of the Senate bill, but agreed to substitute language proposed by the Senate that would: (1) limit the application of the provision to the State of Montana; (2) authorize the provision for purposes of a 4-year demonstration program only; and (3) require that a report be submitted to Congress at the end of three years evaluating the impact of the Montana provision.

The conference agreement also excludes the Medicaid program from the scope of this provision. Thus, in determining the eligibility of an Indian residing in Montana for IHS services, the IHS shall take into account such Indian's eligibility, if any, for Medicaid. The conferees wish to emphasize that nothing in this provision is intended to impair in any way the entitlement of an otherwise eligible Indian to participate in Medicaid, even where those benefits are paid for in part by State or local funds derived from revenues raised from real property taxes.

The provision does not preclude an Indian, in his capacity as a citizen of the state in which he resides, from receiving state- or county-provided health care services or financial assistance for health care services that are provided to all state citizens.

The report to be submitted by the Secretary shall include the types of federal or state assistance provided to the State of Montana, or to any political subdivision thereof (or any agency or instrumentality thereof), or to local facilities, for purposes of delivering health care to the local community, particularly where those entities receive assistance to serve the local indigent population for the area served. The evaluation shall also indicate the number of Indian people that are represented in the indigent population for the area served.

TITLE III—HEALTH FACILITIES

SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES

The conference agreement makes a Congressional finding and declaration that sanitation facilities are essential to good health and that the adequacy or inadequacy of sanitation facilities in Indian communities is directly related to increases or reductions in the incidence of many diseases which plague Indian communities. The conference agreement also reaffirms the Congressional mandate of the Act of July 31, 1959 (73 Stat. 267) that the Indian sanitation responsibility lies with the Indian Health Service.

The conferees note that the Office of Management and Budget (OMB) persists in its view that the responsibility to provide sanitation facilities for Indian tribes and communities is merely a public works, construction function, having no relation to the health of the Indian people. In addition, OMB asserts that there are alternative funding sources, particularly in the Department of Housing and Urban Development, and statutory authorization to provide these facilities. The record developed by the committees with jurisdiction over this matter establishes that the IHS is, and properly should be, the only agency with clear statutory authority to meet these needs and that the alternative methods offered by OMB are clearly inadequate to effectively meet the critical needs of Indian communities for sanitation facilities and services.

BETHEL ALASKA HOSPITAL

H.R. 4567, as passed by the House, added a new subsection (f) to section 301 of the Act to resolve a land ownership dispute between the Indian Health Service and the Bethel Native Corporation (BNC) of Bethel, Alaska. No similar provision is contained in the Senate bill.

The Bethel Native Corporation, a profit corporation organized by the Alaska Natives of Bethel, Alaska, pursuant to the Alaska Native Claims Settlement Act (ANCSA), selected certain lands as their entitlement under ANCSA. Subsequently, in 1979, the Indian Health Service (IHS) constructed a hospital on this land without the consent of BNC. In 1983 and, again, in 1984, the Bureau of Land Management (BLM) has determined the BNC, under ANCSA, is entitled to a conveyance of title to this land. This determination of BLM is currently on administrative appeal by the Department of Health and Human Services.

The House provision validates BNC's title to these lands and requires the Secretary of Health and Human Services to sell this hospital facility to the Native Corporation at a price which would recover the actual costs of the United States in constructing the facility and to lease the facility from the corporation to provide health services to the Alaska Natives.

The conferees agreed to a revised provision which conditions the conveyance of title to the land to BNC upon a final administrative ruling that BNC is entitled to that conveyance. If the ruling is that the Corporation has a right to the conveyance, the Secretary and the Corporation have 90 days within which to negotiate a land exchange. If no land exchange can be negotiated, the provision requires the Secretary to enter into the sale-leaseback agreement with the Corporation. This agreement would become effective 90 days after submission of the agreement to the Congress.

It is the intent of the conferees that the operation of the Bethel hospital under a sale-leaseback provision pursuant to this section shall not impair the right of such facility to the one hundred percent Federal reinbursement for the costs of services provided to Medicaid-eligible Alaska Native patients.

TITLE IV—ACCESS TO HEALTH SERVICES

Grants and Contracts With Tribal Organizations

The conference agreement extends for four years the current authority of the Secretary to make grants or enter into contracts with tribal organizations to assist individual Indians to establish eligibility for Medicare or Medicaid and to pay monthly premiums under Medicare Part B in cases of financial need. The conference agreement authorizes $3 million for FY 1985, $3.5 million in FY 1986, $4 million in FY 1987, and $500,000 in FY 1988 for this purpose. The agreement clarifies that tribal organizations may focus their efforts in a manner consistent with local circumstances: on improving Indian participation in the Medicare program, or on improving Indian participation in the Medicaid program, or on paying monthly Medicare Part B premiums on behalf of indigent Indians who are not eligible for Medicaid, or on some combination of these. Tribal organizations need not undertake all three functions in order qualify for a grant or contract.

Medicare Provisions

The conference agreement extends the current authority for participation of IHS facilities in the Medicare program to all IHS hospitals, skilled nursing facilities, home health agencies, and rural health clinics that meet the generally applicable Medicare conditions and requirements for payment. IHS providers and rural health clinics which do not meet all of the Medicare conditions and requirements are deemed to meet these conditions if they submit to the Secretary within 6 months of enactment of this legislation an acceptable plan for achieving compliance. This "deemed" status extends only for 12 months following the submission of an acceptable compliance plan; thereafter, if a facility is not in compliance with Medicare conditions and requirements, it may not receive payments under the program.

The conference agreement modifies the requirement in current law that the Secretary retain Medicare payments made to IHS facilities in a special fund to be used to bring those facilities into compliance with applicable Medicare conditions and requirements. Under the agreement, the Secretary would be required to return from this fund to each IHS service unit no less than 50 percent of the Medicare payments to which IHS facilities in the service unit are entitled, if these payments are necessary to bring the facilities in the service unit into compliance with Medicare conditions and requirements. Once compliance has been achieved in a given service unit, the Secretary would be required to apply the Medicare revenues from the facilities in that service unit to assist non-complying facilities in other service units. The purpose of this amendment is to give IHS facilities, whether operated by the IHS or by tribal contractors, an incentive to assist qualified patients in establishing their eligibility for Medicare benefits and to bill for and collect the Medicare payments to which they are entitled. This provision is effective with respect to payments for services provided on or after enactment.

Medicaid Provisions

The conference agreement extends the current authority for participation of IHS facilities in the Medicaid program to any IHS facility which provides services of a type otherwise covered under a State's Medicaid plan, including health centers, health stations, and home health agencies. As with IHS hospitals and skilled nursing facilities, these other IHS facilities would be required to meet all of the conditions and requirements for participation in the applicable State's Medicaid plan. In cases where the facility has submitted to the Secretary, within 6 months of enactment of this legislation, an acceptable plan for achieving compliance with such conditions and requirements, the facility may participate in the Medicaid program for no more than one year.

The conference agreement modifies the current law requirement that the Secretary place Medicaid payments made to IHS facilities in a special fund to be used to bring those facilities into compliance with the applicable Medicaid conditions and requirements. From the reimbursements collected in this fund, the Secretary would be required to return to each IHS service unit at least 50 percent of the Medicaid payments to which IHS facilities in such service unit are entitled, if these payments are necessary to bring the facilities in the service unit into compliance with applicable Medicaid conditions and requirements. Once compliance has been achieved in a given service unit, the Secretary would be required to apply the Medicaid revenues from the facilities in that unit to the improvement of non-complying facilities in other communities. The purpose of this provision is to give IHS facilities, whether operated by the IHS or by tribal contractors, an incentive to assist qualified patients in establishing their eligibility for Medicaid beneifts and to bill for and collect the Medicaid payments to which they are entitled. This provision is effective with respect to payments for services provided on or after enactment.

Demonstration Program for Direct Billing of Medicare, Medicaid, and Other Third Party Payors

The conference agreement directs the Secretary to establish a demonstration program, to begin no later than October 1, 1986, and to end on September 30, 1988, under which no more than four facilities that are owned by the IHS but are operated in their entirety by Indian tribes, tribal organizations, or Alaska Native health organizations, receive payments directly from the Medicare and Medicaid programs and any other third-party payor. Medicare and Medicaid revenues generated by these demonstration facilities will not be diverted to the special fund administered by the Secretary under sections 1880(c) and 1911(c) of the Social Security Act. The purpose of this demonstration program is to determine, consistent with Indian self-determination policy, whether the financial autonomy made possible by direct billing arrangements will improve the ability of these facilities to carry out their patient care missions.

In order to participate in this demonstration program, a facility must be (1) operated in its entirety by an Indian tribe, tribal organization, or Alaska Native health organization; (2) eligible to participate in the Medicare and Medicaid programs; (3) meet any requirements which apply to programs operated directly by the IHS; and (4) accredited, no later than October 1, 1986, by the Joint Commission on the Accreditation of Hospitals. The facility must apply its Medicare and Medicaid revenues to making any improvements necessary to achieve compliance with Medicare and Medicaid conditions and requirements. The use of any surplus Medicare and Medicaid revenues would be governed by applicable IHS regulations.

Study of Barriers to Participation

The conference agreement directs the Secretary, in consultation with Indian tribes and tribal organizations, to report to the Congress within 12 months of enactment on the barriers to Medicare and Medicaid participation by American Indians and Alaska Natives. Particularly with regard to Medicaid, Indian participation is far lower than would be suggested by the 27% poverty rate among the Indian population. The conferees are concerned that poor Indians who desire Medicaid coverage and who are qualified for Medicaid in the States in which they reside may be unable to establish their entitlement to these critical benefits due to unintended programmatic obstacles. The conference agreement requires the Secretary to estimate the number of Indians in each service unit who are potentially eligible for Medicaid or Medicare, and to provide the number actually participating in these programs in each service unit. The Secretary is to identify any such barriers that may exist at either the State or service unit level. The Secretary shall also provide recommendations for the removal of these barriers and for other measures which would encourage the participation of Indians and Alaska Natives in Medicare and Medicaid. While primary concern of the conferees lies with the barriers to participation by Indians otherwise eligible for these programs, the conferees also intent that the Secretary identify and make recommendations regarding any eligibility requirements or standards that have a particularly or disproportionately exclusionary effect upon indigent Indians.

TITLE V—HEALTH SERVICES FOR URBAN INDIANS

The conference agreement extends authority for the urban Indian health care program through fiscal year 1988. Although the Administration continues to propose the termination of the urban Indian health care program on the grounds that there exist alternative health resources to serve the urban Indian population, the Administration has failed to produce any evidence documenting such resources, despite the repeated requests of congressional committees. Instead, the committees participating in this conference have taken testimony from community health centers, and state and local health care providers which indicates that most providers of their kind have neither the resources nor the capacity to provide health care to the urban Indian population. In the absence of documented evidence of alternative health care providers with adequate resources and sufficient capacities to serve the urban Indian population, the managers strongly support the extention of this important program.

TITLE VI—ORGANIZATIONAL IMPROVEMENTS

Management Information System: Access to Patient's Records

The conference agreement directs the Secretary to establish an automated management information system for the IHS, including a cost accounting system, a patient care information system for each area served by the IHS, and a privacy component that protects the privacy of patient medical and financial information held by the IHS. The conferees intend that, in developing a privacy component, the Secretary limit unauthorized disclosure if identifiable patient

medical information to the maximum possible degree, consistent with the essential needs of law enforcement and public health agencies. A report to Congress setting forth the progress that the Secretary has made in establishing the automated management information system is due no later than September 30, 1985.

It is the intention of the conferees that the management information system be developed only after the IHS has made a thorough evaluation of its own information needs and those of tribal contractors and local service units. It is further the intent of the conferees that the IHS, in developing its management information system, consult closely with tribes and tribal organizations and make every effort to integrate tribal information systems with the IHS system. Finally, the managers intend that the privacy of patient information held by, or on behalf of the IHS, be the foremost consideration in the development of the management information system.

The conference agreement also provides that each patient whose care is provided or paid for by the IHS have reasonable access to his or her medical or health records. Medical or health records include any material that contains information relating to the health, examination, care, or treatment of a patient. The conferees intend that an IHS operated or funded facility allow patients (or their designated representatives) to inspect and copy their own medical or health records where, in the exercise of reasonable medical judgment, the facility determines that disclosure of the records would cause grave mental or physical harm to the patient. The conferees further expect that, in those cases when a facility denies a patient access to his or her records, the facility promptly provide a written explanation of the reasons for denial.

ESTABLISHMENT OF INDIAN HEALTH SERVICE AS AN AGENCY OF THE PUBLIC HEALTH SERVICE

As passed by the House, section 8 of H.R. 4567 strikes obsolete language of the Indian Health Care Improvement Act and inserts a new provision which provides for the removal of the IHS from the Health Resources and Services Administration (HRSA) and for the creation of a new Office of Indian Health Service within the Public Health Service (PHS). In addition, it authorizes the new Office of Indian Health Service to submit its budget estimates directly to the President and OMB and to receive its appropriation directly from the President and OMB.

A similar provision was contained in S. 2166 when it was reported from the Senate Select Committee on Indian Affairs. However, the provision was stricken by an amendment on the Senate floor.

The responsibility for Indian health care was transferred from the Bureau of Indian Affairs in the Department of the Interior to the Department of Health, Education, and Welfare by the Act of August 5, 1954 (68 Stat. 674). After the establishment of the Department of Health and Human Services, the Indian health responsibility was vested in the Indian Health Service as a component Bureau of the Health Resources and Services Administration of the Public Health Service.

The Indian Health Service is the primary agency responsible for carrying out the unique legal, moral, and historical responsibility of the United States to provide health services to Indian tribes. In carrying out this responsibility, IHS administers a comprehensive health care and health service delivery system serving nearly one million Indian people. IHS services cover over 350 Indian tribes, Indian communities, and Alaska Native villages in 31 States. These services are provided, either directly or through contract, through 51 hospitals, 84 major health centers, and over 550 smaller health centers and satellite health clinics. In addition, various referral and direct services are provided to Indians in urban settings through 37 urban Indian health projects. The total authorized obligations of the IHS for fiscal year 1984 was $836,363,000, and the authorized personnel positions for fiscal year 1984 totalled nearly 11,000. Yet, this agency is located at the lowest echelon of the Departmental hierarchy.

In testimony before the House and Senate committees which considered the Indian health legislation, Indian tribes and organizations complained of the low visibility of Indian health concerns within the Department. They noted that there were often long delays in obtaining critical policy decisions and policy implementation which, in some cases, imperiled life and limb. They complained that budget and resources needs for Indian health routinely failed to filter up through the bureaucratic overburden and, therefore, that Congress was often denied adequate information upon which to make informed appropriation or legislative judgments.

In response to this testimony, all three of the committees which considered the Indian health legislation included a provision elevating the Indian Health Service within the Department.

The House Committee on Interior and Insular Affairs, in its report on H.R. 4567, included a provision which provided for the establishment of an Office of Indian Health Service under the direction of an Assistant Secretary of Health and Human Services for Indian Health. The House Committee on Energy and Commerce reported H.R. 4567 with a provision removing IHS from HRSA and placing it within the PHS, and with a provision allowing IHS to submit its budget directly to the President. In developing a compromise of their differing versions of H.R. 4567, these two committees adopted the Energy and Commerce approach which, with amendments, was passed as a part of H.R. 4567.

The Senate Select Committee on Indian Affairs, in reporting S. 2166, also included a provision removing IHS from HRSA and establishing it as a separate agency within the PHS. As noted, this provision was dropped through a Senate floor amendment.

In resolving the differences between the House and Senate bill, the conferees adopted a further compromise on this issue. First, the House receded on the House bill provision for the IHS budget by-pass.

The Senate agreed to accept the House provision establishing the IHS as a new Agency within the PHS. The compromise further provides that the establishment of the IHS as a PHS Agency would be delayed for 410 days after enactment. During this time, a Commission on the Organizational Placement of the Indian Health Service would be constituted. The Commission is to be composed of seven members. Six are to be selected from nominations submitted by named private or public organizations, three to be appointed by the Speaker of the House and three by the President pro tem of the Senate. The chairperson of the Commission shall be elected from among these 6 members. The seventh member would be either the Secretary of Health and Human Services or his delegate. Appointments are to be made within 45 days after enactment.

The Commission is to evaluate whether the proposed elevation of the IHS within the PHS will enhance the ability of the IHS to provide health care to Indian people and to report its findings to the Congress within one year. If the Commission finds that the elevation will enhance the ability of the IHS to deliver health care to Indians, the section will take immediate effect. If the Commission finds that the proposed elevation will not achieve the intended result, implementation would be delayed for an additional six months so that Congress may have sufficient time to repeal the provision.

It is the conferees' intent that the primary focus of the Commission's evaluation is to be the trust responsibility of the United States to provide health care and health services to Indians and Indian tribes and the extent to which the elevation of the IHS to a PHS Agency would enhance or detract from that responsibility.

TITLE VII—MISCELLANEOUS

LEASING AND OTHER CONTRACTS

Section 704 of P.L. 94-437, the Indian Health Care Improvement Act of 1976, authorizes the Secretary of Health and Human Services to lease tribal facilities for health purposes for periods not in excess of 20 years. In addition, it permits the Secretary to reconstruct or renovate the leased facilities with the consent of the tribe. While it was the intent of Congress that this provision be given a liberal construction to further the improvement of Indian health and to provide a greater role for Indian tribes in the delivery of health care, some tribes have reported that they have encountered difficulty with the Department in the use of this authority, particularly in the area of allowable costs which could be included in the lease rentals.

The conference agreement amends section 704 to make clear the intent of the Congress that this provision should be liberally construed with other applicable laws and to make clear the cost elements which may be included in lease rentals.

NUCLEAR RESOURCE DEVELOPMENT HEALTH HAZARDS

The 1980 amendments to P.L. 94-437 authorized the Secretary, in conjuction with other appropriate Federal agencies and in consultation with concerned Indian tribes and organizations, to conduct a study of health hazards to Indian miners and Indians on or near Indian reservations and in Indian communities as a result of nuclear resource development. The study was required to include an evaluation of the nature and extent of nuclear resource development related health problems currently exhibited among Indians and the causes of such health problems; an analysis of the potential effect of ongoing and future nuclear resource development on or near Indian reservations and communities; an evaluation of the types and nature of activities, practices, and conditions causing or affecting such health problems, including uranium mining and milling, uranium mine tailing deposits, nuclear powerplant operation and construction, and nuclear waste disposal; and any efforts that have been made by Federal and State agencies and mining and milling companies to effectively carry out education programs for such Indians regarding the health and safety hazards of such nuclear resource development. Rather than con-

ducting the required study, the Secretary submitted a survey of existing literature on nuclear resource development to the Congress. The conference report reauthorizes the study of nuclear resource development health hazards, directs that the study be conducted by the National Academy of Sciences, and makes available $750,000 for this purpose.

ELIGIBILITY OF CALIFORNIA INDIANS

The conference agreement provides that the following California Indians are eligible for care from the IHS: (1) any member of a Federally-recognized tribe; (2) any descendant of an Indian who was residing in California on June 1, 1852, and who is living in California, belongs to the Indian community served by a local program (including programs that may be established in the future), and is regarded as an Indian by the community in which he or she lives; and (3) any Indian who holds trust interests in public domain, national forest, or Indian reservation allotments in California. The conference agreement further provides that, until September 30, 1988, any Indian in California who is listed on the plans for distribution of the assets of California rancherias and reservations under the Act of August 18, 1958 (72 Stat. 619), and any descendant of such Indian, is eligible for care from the IHS. The purpose of this provision is to codify existing IHS policy and practice with respect to the eligibility of California Indians for IHS services. The California Indian population described in this section is eligible for the same range of services provided to eligible Indians outside of California, including direct and contract care.

CALIFORNIA AS A CONTRACT HEALTH SERVICE DELIVERY AREA

The conference agreement follows the House provision designating the State of California as a contract health service delivery area, with the exception of Alameda, Contra Costa, Los Angeles, Marin, Orange, Sacramento, San Francisco, San Mateo, and Santa Clara counties. A number of counties that are included in the California contract health service delivery area under this provision are also served by urban Indian health projects receiving funds under Title V. These counties include Fresno, Kern, San Diego, and Ventura. It is the intent of the conferees that the urban Indian health projects in these counties continue to serve the urban Indians residing in the urban centers in which the projects are located. This provision is not to be construed as limiting in any way the need for urban Indian health projects.

CONTRACT HEALTH FACILITIES

The conference agreement follows the House provision directing the IHS to treat facilities and programs operated by Indian Self-Determination Act contractors on the same basis as facilities and programs operated directly by the IHS with respect to finding for all expenses relating to the provision of health services, including maintenance and repair, employee training, and cost-of-living increases.

The conference agreement further provides that, with respect to California Indians who are eligible for IHS services but are not members of Indian tribes, the Secretary may not contract under the Indian Self-Determination Act if 51 percent or more of the adult population of such Indians living in the area to be served by the contract have objected prior to the award of the contract. Under current law, the Secretary is authorized to contract for the provision of health services only with "the consent of the Indian people served." The Secretary has implemented this provision in contracts with tribes and tribal organizations, under the authority of the Indian Self-Determination Act, by obtaining resolutions of approval from the governing bodies of those tribes. In California, however, a substantial number of the Indian people served are not members of, or eligible for membership in, Indian tribes, and confusion exists concerning the extent of the Secretary's obligation to obtain consent in these circumstances. It is the purpose of this provision to eliminate this confusion by setting forth a concrete method for the Secretary to meet her obligation to obtain the consent of the non-affiliated Indians in California who receive health services through Indian Self-Determination Act contracts. The conferees are concerned about the impact this consent mechanism may have on the administration of contracting for health services under the Indian Self-Determination Act in California, and the conference agreement accordingly directs the Secretary to report to the Congress on this matter within 18 months of enactment.

NATIONAL HEALTH SERVICE CORPS

The conference agreement follows the House amendment prohibiting the Secretary from (1) removing a member of the National Health Service Corps (NHSC) from an Indian site or (2) withdrawing the funding support for an NHSC member at such a site unless the Secretary has made certain that the Indians served by these NHSC members will experience absolutely no reduction in services. It is the intent of the conferees that, whatever arrangements the Secretary elects to make with regard to the withdrawal of NHSC members or funding at Indian sites, none of the facilities or programs at which NHSC members are currently placed experience any reduction in health care personnel or financial support as a result of such arrangements. Changes in NHSC placement policy do not, in the view of the conferees, justify any reductions in funding or positions for the affected facilities or programs.

RESTRICTIONS ON THE USE OF INDIAN HEALTH SERVICE APPROPRIATIONS

The conference agreement follows the House amendment providing that restrictions on lobbying and litigation applicable to funds appropriated to the IHS are not applicable to the use of private or non-IHS public funds by organizations that contract with the IHS, whether under the Indian Self-Determination Act, Title V of the Indian Health Care Improvement Act, or other authority.

INFANT AND MATERNAL MORTALITY

The conference agreement follows the House amendment directing the Secretary to develop and begin implementation, not later than January 1, 1985, of a plan to reduce (1) the rate of Indian infant mortality in each IHS Area or Program Office to the lower of 12 deaths per 1,000 live births, or that of the U.S. population; and (2) the rate of maternal mortality in each IHS Area or Program Office to the lower of the rate of 5 deaths per 100,000 live births or the U.S. population. The conference agreement does not authorize additional appropriations for this purpose. It is the intent of the conferees that these objectives be achieved through more focussed management of current IHS resources. The Secretary is directed to provide an annual estimate for the expenditures for this purpose for the most recently completed fiscal year.

REDUCTION AND CONTROL OF HEPATITIS B IN ALASKA

The Conference report authorizes a program for the reduction and control of Hepatitis B, which is intended to provide for screening and reporting of cases of, vaccinations for the prevention of, and control of the incidence of Hepatitis B in Alaska. It is the intention of the managers that the authorized activities also be undertaken in areas outside of State of Alaska where a substantial number of Eskimos, Aleuts, and Alaska Natives reside, or in areas outside the State of Alaska where the incidence of Hepatitis B among native people has been found to closely approximate the incidence of Hepatitis B among native populations in the State of Alaska.

CONTRACT HEALTH SERVICES FOR THE TRENTON SERVICE AREA

In order to conform with current IHS practice previously authorized by appropriations acts of Congress, the conference report designates the counties of Divide, McKenzie, and Williams in the State of North Dakota, and the counties of Richland, Roosevelt, and Sheridan in the State of Montana, as a contract health service delivery area for the provisions of services to eligible members of the Turtle Mountain Band of Chippewa Indians.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 2166.

2. Bill title: Indian Health Care Amendments of 1984.

3. Bill status: As agreed to by the Senate Select Committee on Indian Affairs and the House Committees on Energy and Commerce and Interior and Insular Affairs on September 25, 1984.

4. Bill purpose: S. 2166 would revise and extend the Indian Health Care Improvement Act.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1985	1986	1987	1988	1989
Amounts Subject to Appropriations Action					
Estimated authorization levels:					
Health Professions Recruitment Program for Indians	0.6	0.6	0.7	0.7	.....
Health Professions Prep Scholarship Program for Indians	4.0	4.7	5.4	6.1	.....
Indian Health Scholarship Program	6.1	7.0	8.1	9.2	.....
Indian Health Service Extern Program	.3	.4	.4	.5	.....
Continuing Education Allowance	.5	.5	.6	.6	.....
Health Services	28.0	29.0	28.0	46.0	.....
Indian Catastrophic Health Emergency Fund	12.0	12.0	12.0	12.0	.....
Water and Sanitation	5.9	5.9	5.9	5.9	.....
Access to Health Services	3.0	3.5	4.0	.5	.....
Health Services for Urban Indians	12.0	13.2	14.4	15.8	.....
Training of BIA Teachers	1.5	1.5	1.5	.....	.....
Study of Health Hazards to Indians from Nuclear Development	.5	.3	.....	.....	.....
Arizona as a Contract Health Service Delivery Area	7.7	8.2	8.8	9.4	.....
Hepatitis-B Screening and Vaccination in Alaska	.....	1.0	1.1	1.2	1.2
Total estimated authorization levels	82.1	87.8	90.9	107.9	1.2

[By fiscal year, in millions of dollars]

	1985	1986	1987	1988	1989
Estimated outlays:					
Health Professions Recruitment Program for Indians	0.4	0.6	0.6	0.7	0.1
Health Professions Prep Scholarship Program for Indians	3.2	4.4	5.2	5.9	1.2
Indian Health Scholarship Program	4.9	6.6	7.8	9.0	1.8
Indian Health Service Extern Program	.2	.3	.4	.4	.1
Continuing Education Allowance	.4	.5	.6	.6	.1
Health Services	22.5	27.8	28.1	42.5	8.3
Indian Catastrophic Health Emergency Fund	9.7	11.5	12.0	12.0	2.3
Water and Sanitation	1.5	4.3	5.3	5.7	4.4
Access to Health Services	2.4	3.3	3.9	1.2	0.2
Health Services for Urban Indians	9.7	12.5	14.1	15.6	3.0
Training of BIA Teachers	1.2	1.4	1.5	0.3	
Study of Health Hazards to Indians from Nuclear Development	.4	.3			
Arizona as a Contract Health Service Delivery Area	6.2	7.8	8.6	9.3	1.8
Hepatitis-B Screening and Vaccination in Alaska		.8	1.0	1.2	1.2
Total estimated outlays	62.7	82.1	89.1	104.4	24.5
Direct spending provisions:					
Medicare:					
Budget authority	.2	.2	.1	.1	
Estimated outlays	.8	.8	.8	.8	.8
Grand total:					
Budget authority/ authorization levels	82.3	88.0	91.0	108.0	1.2
Estimated outlays	63.5	82.9	89.9	105.2	25.3

The costs of this bill fall within function 550 and 570.

Basis of estimate: This estimate was prepared on the basis of preliminary drafts of the bill and conversations with Committee staff. Final legislative language was unavailable.

Most authorization levels are stated in the bill. CBO assumes that all stated authorized amounts are fully appropriated at the beginning of each fiscal year. Outlays are estimated using spendout rates computed by CBO on the basis of recent program data.

The Indian Health Care Improvement Fund authorization level for fiscal years 1985 through 1987 was determined using figures provided by the Indian Health Service (IHS). They estimate that a total of $70 million is needed to raise 184 Indian tribes to a level where they have a 40 percent deficiency of health resources. These funds would be authorized over a three year period, as stated in the bill.

The bill authorizes such sums as may be necessary for fiscal year 1988 to begin to raise an additional 45 tribes to a 20 percent deficiency level. According to IHS, this would require an additional $138 million. It is the Committee's intent, however, that these funds be authorized over the three-year period of fiscal years 1988 to 1990. Only one third of this amount, $46 million would be authorized in fiscal year 1988.

The bill also authorizes $12 million in fiscal year 1985 for the Indian Catastrophic Health Emergency Fund. It authorizes such sums as may be necessary in fiscal years 1986, 1987 and 1988 to return the Fund to a level of $12 million. CBO assumes that this authorization would not allow repeated draining and refilling of the Fund during any one fiscal year. Rather, the authorization will simply limit aggregate annual appropriations to the Fund to $12 million.

No additional appropriations were authorized in this bill for Hepatitis-B screening and vaccination for Alaska natives, although the bill language provides for these services. This program is currently authorized at $1 million in fiscal year 1985, its third and final year of specific authorization. CBO assumes that additional appropriations would be needed in fiscal years 1986 through 1989 to continue these activities. The amounts were calculated by increasing the 1985 authorization level of $1 million by the appropriate program inflator. This estimate includes the cost of the Hepatitis B screening and vaccinations permitted by this bill because such activities would fall under the permanent, unspecific authorization of the Snyder Act of 1921.

This bill would also expand the types of Indian health facilities eligible for Medicare reimbursement. Medicare facilities would be expanded to include health centers, health stations, and home health agencies. Because most facilities are already covered by Medicare, this legislation would have only a very small cost.

The bill also newly designates California as a contract health service delivery area and provides funding for employee training, cost-of-living adjustments and maintenance and repair in tribally operated IHS programs and facilities. The bill also authorizes the development and implementation of a plan to reduce infant and maternal mortality rates among Indians. The Secretary of HHS is also authorized to establish a management information system for IHS. CBO has not included an estimate for these new activities as it is the Committees' intent that they be funded from current resources.

6. Estimated cost to State and local governments: This bill would set up a four year demonstration project in Montana that would prohibit IHS from considering an indigent Indian's eligibility for state and local health care programs funded by real estate taxes. Since IHS has traditionally been a residual resources for payment for contract care, counties have been paying for these services to indigent Indians residing in their jurisdictions. This new provision would make IHS the primary payor of contract care for this group even if they are eligible for county programs. The provision would have the largest impact on Roosevelt and Hill counties in Montana. Based on these two counties' current level of outstanding medical claims against the IHS, they could save about $100,000 in each of the four years as a result of enactment of this legislation.

7. Estimate comparison: CBO prepared an estimate for H.R. 4567 as ordered reported by the House Committee on Interior and Insular Affairs, on May 9, 1984 and as ordered reported by the House Committee on Energy and Commerce, on May 16, 1984. We also prepared an estimate for H.R. 6039 as introduced and referred to the House Committee on Interior and Insular Affairs and to the House Committee on Energy and Commerce, on July 30, 1984. We prepared an estimate for S. 2166, the Indian Health Care Amendments of 1984, as ordered reported from the Senate Select Committee on Indian Affairs on May 14, 1984. All of these bills revise and extend the Indian Health Care Improvement Act. The cost estimates for all these bills are similiar to each other and to this estimate. However, none are identical because of differences in the individual bills.

8. Previous CBO estimate: None:

9. Estimate prepared by: Carmela Pena.

10. Estimate approved by: C. G. Nuckols, (for James L. Blum, Assistant Director for Budget Analysis).

From the Committee on Interior and Insular Affairs:

MORRIS K. UDALL,
SAMUEL GEJDENSON,
JAMES F. MCNULTY, Jr.,
BILL RICHARDSON,
DON YOUNG,
JOHN MCCAIN,

From the Committee on Energy and Commerce:

JOHN D. DINGELL,
JAMES H. SCHEUER,
HENRY A. WAXMAN,
TOM LUKEN,

Managers on the Part of the House.

From the Select Committee on Indian Affairs:

MARK ANDREWS,
BARRY GOLDWATER,
SLADE GORTON,
FRANK H. MURKOWSKI,
JOHN MELCHER,
DANIEL K. INOUYE,
DENNIS DECONCINI,

Managers on the Part of the Senate.

CONFERENCE REPORT ON S. 2048, ORGAN PROCUREMENT AND TRANSPLANTATION ACT

Mr. WAXMAN submitted the following conference report and statement on the Senate bill (S. 2048), to provide for the establishment of a Task Force on Organ Procurement and Transplantation and an Organ Procurement and Transplantation Registry, and for other purposes:

CONFERENCE REPORT (REPT. No. 98-1127)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2048) to provide for the establishment of a Task Force on Organ Procurement and Transplantation and an Organ Procurement and Transplantation Registry, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment to the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "National Organ Transplant Act".

TITLE I—TASK FORCE ON ORGAN PROCUREMENT AND TRANSPLANTATION

ESTABLISHMENT AND DUTIES OF TASK FORCE

SEC. 101. (a) Not later than ninety days after the date of the enactment of this Act, the Secretary of Health and Human Services (hereinafter in this title referred to as the "Secretary") shall establish a Task Force on Organ Transplantation (hereinafter in this title referred to as the "Task Force").

(b)(1) The Task Force shall—

(A) conduct comprehensive examinations of the medical, legal, ethical, economic, and social issues presented by human organ procurement and transplantation,

(B) prepare the assessment described in paragraph (2) and the report described in paragraph (3), and

(C) advise the Secretary with respect to the development of regulations for grants under section 371 of the Public Health Service Act.

(2) The Task Force shall make an assessment of immunosuppressive medications

used to prevent organ rejection in transplant patients, including—

(A) an analysis of the safety, effectiveness, and costs (including cost-savings from improved success rates of transplantation) of different modalities of treatment;

(B) an analysis of the extent of insurance reimbursement for long-term immunosuppressive drug therapy for organ transplant patients by private insurers and the public sector;

(C) an identification of problems that patients encounter in obtaining immunosuppressive medications; and

(D) an analysis of the comparative advantages of grants, coverage under existing Federal programs, or other means to assure that individuals who need such medications can obtain them.

(3) The Task Force shall prepare a report which shall include—

(A) an assessment of public and private efforts to procure human organs for transplantation and an identification of factors that diminish the number of organs available for transplantation;

(B) an assessment of problems in coordinating the procurement of viable human organs including skin and bone;

(C) recommendations for the education and training of health professionals, including physicians, nurses, and hospital and emergency care personnel, with respect to organ procurement;

(D) recommendations for the education of the general public, the clergy, law enforcement officers, members of local fire departments, and other agencies and individuals that may be instrumental in effecting organ procurement;

(E) recommendations for assuring equitable access by patients to organ transplantation and for assuring the equitable allocation of donated organs among transplant centers and among patients medically qualified for an organ transplant;

(F) an identification of barriers to the donation of organs to patients (with special emphasis upon pediatric patients), including an assessment of—

(i) barriers to the improved identification of organ donors and their families and organ recipients;

(ii) the number of potential organ donors and their geographical distribution;

(iii) current health care services provided for patients who need organ transplantation and organ procurement procedures, systems, and programs which affect such patients;

(iv) cultural factors affecting the family with respect to the donation of the organs; and

(v) ethical and economic issues relating to organ transplantation needed by chronically ill patients;

(G) recommendations for the conduct and coordination of continuing research concerning all aspects of the transplantation of organs;

(H) an analysis of the factors involved in insurance reimbursement for transplant procedures by private insurers and the public sector;

(I) an analysis of the manner in which organ transplantation technology is diffused among and adopted by qualified medical centers, including a specification of the number and geographical distribution of qualified medical centers using such technology and an assessment of whether the number of centers using such technology is sufficient or excessive and of whether the public has sufficient access to medical procedures using such technology; and

(J) an assessment of the feasibility of establishing, and of the likely effectiveness of, a national registry of human organ donors.

MEMBERSHIP

SEC. 102. (a) The Task Force shall be composed of twenty-five members as follows:

(1) Twenty-one members shall be appointed by the Secretary of which:

(A) nine members shall be physicians or scientists who are eminent in the various medical and scientific specialties related to human organ transplantation;

(B) three members shall be individuals who are not physicians and who represent the field of human organ procurement;

(C) four members shall be individuals who are not physicians and who as a group have expertise in the fields of law, theology, ethics, health care financing, and the social and behavioral sciences;

(D) three members shall be individuals who are not physicians or scientists and who are members of the general public; and

(E) two members shall be individuals who represent private health insurers or self-insurers.

(2) The Surgeon General of the United States, the Director of the National Institutes of Health, the Commissioner of the Food and Drug Administration, and the Administrator of the Health Care Financing Administration shall be ex officio members.

(b) No individual who is a full-time officer or employee of the United States may be appointed under subsection (a)(1) to the Task Force. A vacancy in the Task Force shall be filled in the manner in which the original appointment was made. A vacancy in the Task Force shall not affect its powers.

(c) Members shall be appointed for the life of the Task Force.

(d) The Task Force shall select a Chairman from among its members who are appointed under subsection (a)(1).

(e) Thirteen members of the Task Force shall constitute a quorum, but a lesser number may hold hearings.

(f) The Task Force shall hold its first meeting on a date specified by the Secretary which is not later than thirty days after the date on which the Secretary establishes the Task Force under section 101. Thereafter, the Task Force shall meet at the call of the Chairman or a majority of its members, but shall meet at least three times during the life of the Task Force.

(g)(1) Each member of the Task Force who is not an officer or employee of the United States shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) during which such member is engaged in the actual performance of duties as a member of the Task Force. Each member of the Task Force who is an officer or employee of the United States shall receive no additional compensation.

(2) While away from their homes or regular places of business in the performance of duties for the Task Force, all members of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

SUPPORT FOR THE TASK FORCE

SEC. 103. (a) Upon request of the Task Force, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Task Force to assist the Task Force in carrying out its duties under this Act.

(b) The Secretary shall provide the Task Force with such administrative and support services as the Task Force may require to carry out its duties.

REPORT

SEC. 104. (a) The Task Force may transmit to the Secretary, the Committee on Labor and Human Resources of the Senate, and the Committee on Energy and Commerce of the House of Representatives such interim reports as the Task Force considers appropriate.

(b) Not later than 7 months after the date on which the Task Force is established by the Secretary under section 101, the Task Force shall transmit a report to the Secretary, the Committee on Labor and Human Resources of the Senate, and the Committee on Energy and Commerce of the House of Representatives on its assessment under section 101(b)(2) of immunosuppressive medications used to prevent organ rejection.

(c) Not later than twelve months after the date on which the Task Force is established by the Secretary under section 101, the Task Force shall transmit a final report to the Secretary, the Committee on Labor and Human Resources of the Senate, and the Committee on Energy and Commerce of the House of Representatives. The final report of the Task Force shall include—

(1) a description of any findings and conclusions of the Task Force made pursuant to any examination conducted under section 101(b)(1)(A),

(2) the matters specified in section 101(b)(3), and

(3) such recommendations as the Task Force considers appropriate.

TERMINATION

SEC. 105. The Task Force shall terminate three months after the date on which the Task Force transmits the report required by section 104(c).

TITLE II—ORGAN PROCUREMENT ACTIVITIES

SEC. 201. Part H of title III of the Public Health Service Act is amended to read as follows:

"PART H—ORGAN TRANSPLANTS

"ASSISTANCE FOR ORGAN PROCUREMENT ORGANIZATIONS

"SEC. 371. (a)(1) The Secretary may make grants for the planning of qualified organ procurement organizations described in subsection (b).

"(2) The Secretary may make grants for the establishment, initial operation, and expansion of qualified organ procurement organizations described in subsection (b).

"(3) In making grants under paragraphs (1) and (2), the Secretary shall—

"(A) take into consideration any recommendations made by the Task Force on Organ Transplantation established under section 101 of the National Organ Transplant Act, and

"(B) give special consideration to applications which cover geographical areas which are not adequately served by organ procurement organizations.

"(b)(1) A qualified organ procurement organization for which grants may be made under subsection (a) is an organization which, as determined by the Secretary, will carry out the functions described in paragraph (2) and—

"(A) is a nonprofit entity,

"(B) has accounting and other fiscal procedures (as specified by the Secretary) necessary to assure the fiscal stability of the organization,

"(C) has an agreement with the Secretary to be reimbursed under title XVIII of the Social Security Act for the procurement of kidneys,

"(D) has procedures to obtain payment for non-renal organs provided to transplant centers,

"(E) has a defined service area which is a geographical area of sufficient size which (unless the service area comprises an entire State) will include at least fifty potential organ donors each year and which either includes an entire standard metropolitan statistical area (as specified by the Office of Management and Budget) or does not include any part of such an area,

"(F) has a director and such other staff, including the organ donation coordinators and organ procurement specialists necessary to effectively obtain organs from donors in its service area, and

"(G) has a board of directors or an advisory board which—

"(i) is composed of—

"(I) members who represent hospital administrators, intensive care or emergency room personnel, tissue banks, and voluntary health associations in its service area,

"(II) members who represent the public residing in such area,

"(III) a physician with knowledge, experience, or skill in the field of histocompatability,

"(IV) a physician with knowledge or skill in the field of neurology, and

"(V) from each transplant center in its service area which has arrangements described in paragraph (2)(G) with the organization, a member who is a surgeon who has practicing privileges in such center and who performs organ transplant surgery,

"(ii) has the authority to recommend policies for the procurement of organs and the other functions described in paragraph (2), and

"(iii) has no authority over any other activity of the organization.

"(2) An organ procurement organization shall—

"(A) have effective agreements, to identify potential organ donors, with a substantial majority of the hospitals and other health care entities in its service area which have facilities for organ donations,

"(B) conduct and participate in systematic efforts, including professional education, to acquire all useable organs from potential donors,

"(C) arrange for the acquisition and preservation of donated organs and provide quality standards for the acquisition of organs which are consistent with the standards adopted by the Organ Procurement and Transplantation Network under section 372(b)(2)(D),

"(D) arrange for the appropriate tissue typing of donated organs,

"(E) have a system to allocate donated organs among transplant centers and patients according to established medical criteria,

"(F) provide or arrange for the transportation of donated organs to transplant centers,

"(G) have arrangements to coordinate its activities with transplant centers in its service area,

"(H) participate in the Organ Procurement Transplantation Network established under section 372,

"(I) have arrangements to cooperate with tissue banks for the retrieval, processing, preservation, storage, and distribution of tissues as may be appropriate to assure that all useable tissues are obtained from potential donors, and

"(J) evaluate annually the effectiveness of the organization in acquiring potentially available organs.

"(c) For grants under subsection (a) there are authorized to be appropriated $5,000,000 for fiscal year 1985, $8,000,000 for fiscal year 1986, and $12,000,000 for fiscal year 1987.

"ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK

"SEC. 372. (a) The Secretary shall by contract provide for the establishment and operation of an Organ Procurement and Transplantation Network which meets the requirements of subsection (b). The amount provided under such contract in any fiscal year may not exceed $2,000,000. Funds for such contracts shall be made available from funds available to the Public Health Service from appropriations for fiscal years beginning after fiscal year 1984.

"(b)(1) The Organ Procurement and Transplantation Network shall carry out the functions described in paragraph (2) and shall—

"(A) be a private nonprofit entity which is not engaged in any activity unrelated to organ procurement, and

"(B) have a board of directors which includes representatives of organ procurement organizations (including organizations which have received grants under section 371), transplant centers, voluntary health associations, and the general public.

"(2) The Organ Procurement and Transplantation Network shall—

"(A) establish in one location or through regional centers—

"(i) a national list of individuals who need organs, and

"(ii) a national system, through the use of computers and in accordance with established medical criteria, to match organs and individuals included in the list, especially individuals whose immune system makes it difficult for them to receive organs,

"(B) maintain a twenty-four-hour telephone service to facilitate matching organs with individuals included in the list,

"(C) assist organ procurement organizations in the distribution of organs which cannot be placed within the service areas of the organizations,

"(D) adopt and use standards of quality for the acquisition and transportation of donated organs,

"(E) prepare and distribute, on a regionalized basis, samples of blood sera from individuals who are included on the list and whose immune system makes it difficult for them to receive organs, in order to facilitate matching the compatibility of such individuals with organ donors,

"(F) coordinate, as appropriate, the transportation of organs from organ procurement organizations to transplant centers,

"(G) provide information to physicians and other health professionals regarding organ donation, and

"(H) collect, analyze, and publish data concerning organ donation and transplants.

"SCIENTIFIC REGISTRY

"SEC. 373. The Secretary shall, by grant or contract, develop and maintain a scientific registry of the recipients of organ transplants. The registry shall include such information respecting patients and transplant procedures as the Secretary deems necessary to an ongoing evaluation of the scientific and clinical status of organ transplantation. The Secretary shall prepare for inclusion in the report under section 376 an analysis of information derived from the registry.

"GENERAL PROVISIONS RESPECTING GRANTS AND CONTRACTS

"SEC. 374. (a) No grant may be made under section 371 or 373 or contract entered into under section 372 or 373 unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be in such form and shall be submitted in such manner as the Secretary shall by regulation prescribe.

"(b)(1) In considering applications for grants under section 371—

"(A) the Secretary shall give priority to any applicant which has a formal agreement of cooperation with all transplant centers in its proposed service area,

"(B) the Secretary shall give special consideration to organizations which met the requirements of section 371(b) before the date of the enactment of this section, and

"(C) the Secretary shall not discriminate against an applicant solely because it provides health care services other than those related to organ procurement.

The Secretary may not make a grant for more than one organ procurement organization which serves the same service area.

"(2) A grant for planning under section 371 may be made for one year with respect to any organ procurement organization and may not exceed $100,000.

"(3) Grants under section 371 for the establishment, initial operation, or expansion of organ procurement organizations may be made for two years. No such grant may exceed $500,000 for any year and no organ procurement organization may receive more than $800,000 for initial operation or expansion.

"(c)(1) The Secretary shall determine the amount of a grant made under section 371 or 373. Payments under such grants may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(2)(A) Each recipient of a grant under section 371 or 373 shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(B) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of a grant under section 371 or 373 that are pertinent to such grant.

"(d) For purposes of this part:

"(1) The term 'transplant center' means a health care facility in which transplants of organs are performed.

"(2) The term 'organ' means the human kidney, liver, heart, lung, pancreas, and any other human organ (other than corneas and eyes) specified by the Secretary by regulation and for purposes of section 373, such term includes bone marrow.

"ADMINISTRATION

"SEC. 375. The Secretary shall, during fiscal years 1985, 1986, 1987, and 1988, designate and maintain an identifiable adminis-

trative unit in the Public Health Service to—

"(1) administer this part and coordinate with the organ procurement activities under title XVIII of the Social Security Act,

"(2) conduct a program of public information to inform the public of the need for organ donations,

"(3) provide technical assistance to organ procurement organizations receiving funds under section 371, the Organ Procurement and Transplantation Network established under section 372, and other entities in the health care system involved in organ donations, procurement, and transplants, and

"(4) one year after the date on which the Task Force on Organ Transplantation transmits its final report under section 104(c) of the National Organ Transplant Act, and annually thereafter through fiscal year 1988, submit to Congress an annual report on the status of organ donation and coordination services and include in the report an analysis of the efficiency and effectiveness of the procurement and allocation of organs and a description of problems encountered in the procurement and allocation of organs.

"REPORT

"SEC. 376. The Secretary shall annually publish a report on the scientific and clinical status of organ transplantation. The Secretary shall consult with the Director of the National Institutes of Health and the Commissioner of the Food and Drug Administration in the preparation of the report.".

TITLE III—PROHIBITION OF ORGAN PURCHASES

SEC. 301. (a) It shall be unlawful for any person to knowingly acquire, receive, or otherwise transfer any human organ for valuable consideration for use in human transplantation if the transfer affects interstate commerce.

(b) Any person who violates subsection (a) shall be fined not more than $50,000 or imprisoned not more than five years, or both.

(c) For purposes of subsection (a):

(1) The term "human organ" means the human kidney, liver, heart, lung, pancreas, bone marrow, cornea, eye, bone, and skin, and any other human organ specified by the Secretary of Health and Human Services by regulation.

(2) The term "valuable consideration" does not include the reasonable payments associated with the removal, transportation, implantation, processing, preservation, quality control, and storage of a human organ or the expenses of travel, housing, and lost wages incurred by the donor of a human organ in connection with the donation of the organ.

(3) The term "interstate commerce" has the meaning prescribed for it by section 201(b) of the Federal Food, Drug and Cosmetic Act.

TITLE IV—MISCELLANEOUS

BONE MARROW REGISTRY DEMONSTRATION AND STUDY

SEC. 401. (a) Not later than nine months after the date of enactment of this Act, the Secretary of Health and Human Services shall hold a conference on the feasibility of establishing and the effectiveness of a national registry of voluntary bone marrow donors.

(b) If the conference held under subsection (a) finds that it is feasible to establish a national registry of voluntary donors of bone marrow and that such a registry is likely to be effective in matching donors with recipients, the Secretary of Health and Human Services, acting through the Assistant Secretary for Health, shall, for purposes of the study under subsection (c), establish a registry of voluntary donors of bone marrow. The Secretary shall assure that—

(1) donors of bone marrow listed in the registry have given an informed consent to the donation of the bone marrow; and

(2) the names of the donors in the registry are kept confidential and access to the names and any other information in the registry is restricted to personnel who need the information to maintain and implement the registry, except that access to such other information shall be provided for purposes of the study under subsection (c).

If the conference held under subsection (a) makes the finding described in this subsection, the Secretary shall establish the registry not later than six months after the completion of the conference.

(c) The Secretary of Health and Human Services, acting through the Assistant Secretary for Health, shall study the establishment and implementation of the registry under subsection (b) to identify the issues presented by the establishment of such a registry, to evaluate participation of bone marrow donors, to assess the implementation of the informed consent and confidentiality requirements, and to determine if the establishment of a permanent bone marrow registry is needed and appropriate. The Secretary shall report the results of the study to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate not later than two years after the date the registry is established under subsection (b).

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

Amend the title so as to read: "An Act to provide for the establishment of the Task Force on Organ Transplantation and the Organ Procurement and Transplantation Network, to authorize financial assistance for organ procurement organizations, and for other purposes.".

And the House agree to the same.

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HENRY A. WAXMAN,
THOMAS A. LUKEN,
DOUG WALGREN,
BARBARA MIKULSKI,
ALBERT GORE, JR.,
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Managers on the Part of the House.

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EDWARD M. KENNEDY,
CLAIBORNE PELL,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2048) to provide for the establishment of a Task Force on Organ Procurement and Transplantation Registry, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The provisions of the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—TASK FORCE ON ORGAN TRANSPLANTATION

CONFERENCE AGREEMENT

Both the Senate bill and the House amendment included authority for the Secretary of Health and Human Services to establish a task force on organ procurement and transplantation. In both versions, the responsibility of the task force was to advise the Secretary on a broad range of issues related to organ transplantation including medical, legal, ethical, economic and social issues. The conferees were agreed on the desirability of having a task force of experts provide advice and views on a broad-ranging set of issues and have incorporated provisions from both versions of the bill. The conferees concluded that it was not essential that the task force convene a conference to discuss these issues, as provided in the House amendment, but did note that the task force may wish to hold one or more open meetings on various issues to obtain additional views from interested parties.

The conferees were not able to agree on the provision in the House amendment providing for Federal financial support in making immunosuppressive medications available to organ transplant recipients who might not otherwise have access to them. The conferees did, however, recognize that such medications are an important factor in the success of organ transplants and that, at present, some patients may not have access to a full range of immunosuppressive therapy. In order to highlight the importance of obtaining better information on the appropriate public policy regarding this issue, the conferees agree that the task force should treat it as its first priority. The task force would be required to report to the Secretary within 7 months on several issues related to immunosuppressive drugs, including an assessment of the safety, effectiveness, cost, the extent of insurance coverage (public and private), and an analysis of the comparative advantages of grants, coverage under existing federal programs, of other means to assure individuals needing such medications can obtain them. The conferees expect the Task Force Report will include an analysis of current methods for determining coverage of organ transplant procedures by public and private insurance programs. The report should include recommendations, as appropriate, on the desirability of covering specific procedures as well as methods for improving the coverage determination process. The Task Force's report on the other issues specified in the bill would be due 12 months after establishment of the task force.

Composition of the Task Force was amended to broaden participation by including scientists with expertise in fields related to organ transplantation, and ex officio members of the federal government including the Surgeon General, the Director of the National Institutes of Health, the Com-

missioner of the Food and Drug Administration and the Administrator of the Health Care Financing Administration. Ex officio members may designate individuals to participate as their representative at meetings of the Task Force.

TITLE II—ORGAN PROCUREMENT ACTIVITIES

CONFERENCE AGREEMENT

The conference agreement reflects the House provision providing for the (1) establishment of a program of grants for the planning, establishment, initial operation and expansion of organ procurement organizations; (2) establishment and initial operation of an Organ Procurement and Transplantation Network to match donor organs to individuals in need of transplantation; (3) establishment of a scientific registry to facilitate an ongoing evaluation of the scientific and clinical status of organ transplantation; (4) annual publication of a report on the scientific and clinical status of organ transplantation; and (5) designation of an administrative unit within the Public Health Service to oversee and coordinate the Department's organ procurement activities authorized by this title and to conduct a program of public information to inform the public of the need for organ donation.

The conference agreement includes an amendment to the House provision reducing the authorization of the organ procurement grant program from six years to three years and the total authorization of appropriations from $40 million to $25 million. The conference agreement authorizes $5 million in Fiscal Year 1985, $8 million in Fiscal Year 1986, and $12 million in Fiscal Year 1987. In addition, the conferees have reduced from $1 million to $800,000 the maximum grant that an OPO may receive for planning, establishment, operation or expansion. Grants for planning continue to be limited to $100,000.

The conference agreement also provides that in making grants to organ procurement organizations the Secretary should: (1) take into consideration any recommendation made by the Task Force on Organ Transplantation; and (2) give special consideration to applications from organ procurement organizations which cover geographical areas which are not adequately served by organ procurement organizations. The conferees do not intend that implementation of the grant program be delayed pending the deliberations of the Task Force on Organ Procurement. Nor do the conferees intend that the recommendations of the Task Force be binding upon the Secretary. The conferees expect the Secretary to solicit the advice and consultation of a wide range of individuals, including Members of the Task Force, in administering this new program. The conferees intend this grant program to be temporary and that all organ procurement organizations funded under the program will seek to become financially independent.

The conference agreement retains the requirement of the Senate bill and the House amendment that OPOs eligible to receive grants under this authority obtain an agreement from the Secretary to be reimbursed under title XVIII of the Social Security Act for the procurement of kidneys. This provision does not exclude the participation of organizations such as tissue banks or voluntary health organizations that wish to become OPOs by fulfilling the necessary requirements to receive planning or establishment grants.

Federal assistance to OPOs is intended to improve the supply of vital human organs. However, the conferees are concerned about the establishment of effective arrangements to coordinate the activities of organ and tissue retrieval programs. OPOs are required, as a condition for the receipt of grant support, to have arrangements to cooperate with tissue banks for the retrieval, processing, preservation, storage, and distribution of tissues as may be appropriate to assure that all usable tissues are obtained from potential donors.

The conferees intend that existence of separate organ and tissue retrieval systems not result in the public viewing organ and tissue donation as independent of each other. The conferees expect education activities conducted by the OPO to stress the need for donation in general and not differentiate between organs and tissues.

The conference agreement retains the provision of the House amendment which specifies the human organs that OPOs must procure. These organs include the human kidney, liver, heart, lung, and pancreas. The Secretary may require, by regulation, the procurement of other organs as responsibilities of OPOs. If appropriate, additional organs may include bone or tissues such as skin.

The conference agreement eliminates the requirement in the House amendment that OPOs eligible to receive grant support have a board of directors whose participants are specified in statute. The conferees believe that public and professional confidence in the OPO system will be an essential factor if improvements in organ procurement are to be made. Accordingly, each OPO should solicit the active involvement of the community in which it operates in developing operating policies. The conference agreement requires that each OPO establish either an advisory board or board of directors composed of hospital administrators, intensive care or emergency room personnel, tissue banks, and voluntary health associations in its service area; members of the public; physicians with knowledge in the fields of histocompatibility and neurology; and a transplant surgeon from each transplant center affiliated with the OPO.

The conferees are particularly concerned that OPOs adopt medical criteria for the equitable allocation of donated organs among transplant centers and patients. OPOs should, subject to review by the advisory committee, adopt standards of quality for the acquisition of organs which will give transplant surgeons confidence that the organs they receive are suitable for transplantation. The conferees recognize that as nonprofit entities, OPOs will have a board of directors to establish organizational policy. If an OPO's board of directors meets the criteria required, the conferees do not intend that OPOs establish a separate and redundant advisory entity.

The conference agreement revises the provision of the House amendment requiring the Secretary to establish an administrative unit within the Public Health Service. The conference agreement permits the Secretary to designate an existing entity rather than establish a new unit within the Public Health Service to administer the activities required by this title. In so doing the conferees did not believe it necessary to duplicate administrative capability if such capability is already in existence.

The conferees expect the Secretary to assemble within the administrative unit the necessary technical and scientific expertise to help newly established and existing OPOs function more effectively. The conference recognize that this expertise may not currently be found within the Federal government. The administrative unit is authorized through Fiscal Year 1988.

TITLE III—PROHIBITION OF ORGAN PURCHASES

CONFERENCE AGREEMENT

The Senate bill and the House amendment contained provisions prohibiting the sale for valuable consideration of human organs for use in human transplantation if the transfer effects interstate commerce. The conference agreement reflects the House provision with language clarifying this prohibition. This Title intends to make the buying and selling of human organs unlawful with maximum penalties not to exceed $50,000 and/or imprisonment of up to five years for such violation. "Human organ" is defined as the kidney, liver, heart, lung, pancreas, bone marrow, corneas, eyes, bone, and skin, and any other human organ included by the Secretary of Health and Human Services by regulation. The term "human organ" is not intended to include replenishable tissues such as blood or sperm.

The term "valuable consideration" does not include the reasonable payment associated with removal, transportation, implantation, processing, preservation, quality control, and storage of a human organ in connection with the donation of that organ. Reasonable payments to organizations processing human tissues, such as corneas, should not be included in the terms "valuable consideration."

TITLE IV—BONE MARROW REGISTRY DEMONSTRATION AND STUDY

CONFERENCE AGREEMENT

The conference agreement assigns to the Task Force on Organ Transplantation responsibility for assessing the feasibility of establishing an effective registry of voluntary organ donors for all organs. However, the conferees recognized that bone marrow donation differs substantially from the donation of other organs and raises unique issues and concerns which warrant special consideration on a priority basis. Therefore, the conferees have directed the Secretary to convene a conference to examine the feasibility of establishing a registry of voluntary bone marrow donors and to determine whether such registry would be effective in matching donors and recipients. The conference will be convened within nine months after the enactment of the bill and should be open to a broad range of people with an expertise and interest in the issues involved.

If the conference reaches a positive conclusion, then within six months thereafter the Secretary would be required to establish, for demonstration and study purposes, a registry of voluntary donors of bone marrow. Special concerns are raised with respect to live donors, because they are very difficult to match with recipients, they may represent a last resort to potential recipients, and they are asked to assume some risks during the process of donation. Therefore, the Secretary is required to take appropriate measures to assure that potential donors have given informed consent prior to being listed on the registry, that their names are kept confidential, and that access to the registry is restricted.

The Secretary would be required to study a variety of important issues involved in the establishment and implementation of the registry and report on the findings of the study within two years after it is estab-

lished, in order that the Congress could make a determination whether it should be established on a permanent basis.

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CONFERENCE REPORT ON S. 2496

Mr. HAWKINS submitted the following conference report and statement on the bill (S. 2496) to amend the Adult Education Act in order to simplify requirements for States and other recipients participating in Federal adult education programs, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 98-1128)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2496) to amend the Adult Education Act in order to simplify requirements for States and other recipients participating in Federal adult education programs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Education Amendments of 1984".

TITLE I—ADULT EDUCATION ACT AMENDMENTS

STATEMENT OF PURPOSE

SEC. 101. Section 302 of the Adult Education Act (20 U.S.C. 1201 et seq.), hereafter in this title referred to as "the Act", is amended—

(1) by inserting after "basic" in clause (1) the following: "literacy", and

(2) by inserting after "training" in clause (3) the following: "and education".

DEFINITIONS

SEC. 102. (a) Section 303(a) of the Act is amended to read as follows:

"(a) The term 'adult' means an individual who has attained 16 years of age or who is beyond the age of compulsory school attendance under State law, except that for the purpose of section 305(a), the term 'adult' means an individual 16 years of age or older.".

(b) Section 303(b) of the Act is amended to read as follows:

"(b) The term 'adult education' means instruction or services below the college level for adults who do not have—

"(1) the basic skills to enable them to function effectively in society; or

"(2) a certificate of graduation from a school providing secondary education (and who have not achieved an equivalent level of education).".

(c) Section 303(d) of the Act is amended to read as follows:

"(d) The term 'Secretary' means the Secretary of Education.".

(d) Section 303(g) of the Act is amended to read as follows:

"(g) The term 'State' includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.".

(e) Section 303(j) of the Act is amended by striking out "section 801(e) of the Elementary and Secondary Education Act of 1965" and inserting in lieu thereof "section 481 of the Higher Education Act of 1965".

(f) The Act is amended—

(1) by striking out "Commissioner" each time it appears, except the second time it appears in section 311(c), and inserting in lieu thereof "Secretary"; and

(2) by striking out "Commissioners" in section 308(b) and inserting in lieu thereof "Secretary".

STATE GRANTS

SEC. 103. (a) Section 304(a) of the Act is amended—

(1) by striking out "establishment of expansion" each time it appears and inserting in lieu thereof "establishment or expansion"; and

(2) by striking out "nonprofit" each time it appears.

(b) Section 304(a) of the Act is amended—

(1) by inserting (1) after the subsection designation;

(2) by redesignating clauses (1) and (2) as clauses (A) and (B); and

(3) by adding at the end thereof the following new paragraph:

"(2) Grants provided under this section may not be used to carry out programs by a for-profit agency, organization, or institution unless such agency, organization, or institution (A) can make a significant contribution to attaining the objectives of this Act, and (B) can provide substantially equivalent education at a lesser cost or can provide services and equipment not available in public institutions. Whenever the establishment or expansion of programs is carried out by a for-profit agency, organization, or institution, the State educational agency or eligible applicant shall enter into a contract with such agency, organization, or institution, for the establishment or expansion of such programs.".

STATE ALLOTMENTS

SEC. 104. (a) Section 305(a) of the Act is amended—

(1) by striking out "From" and inserting in lieu thereof "Subject to the last sentence of this subsection, from";

(2) by striking out "not more than 1 per centum thereof among" in clause (1) and inserting in lieu thereof "$100,000 each to"; and

(3) by striking out "$150,000" in clause (2) and inserting in lieu thereof "$250,000".

(b) The last sentence of section 305(a) of the Act is amended to read as follows: "No State shall be allotted in any fiscal year beginning after September 30, 1984, an amount less than that State received for fiscal year 1984.".

STATE PLANS

SEC. 105. (a) Section 306(a)(1) of the Act is amended by striking out "section 434" and inserting in lieu thereof "section 435".

(b) Section 306(b) of the Act is amended—

(1) by striking out "and" at the end of clause (13);

(2) by striking out clause (14) and inserting in lieu thereof the following:

"(14) provide such information about the State's adult education students, programs, expenditures, and goals as the Secretary may require, together with information with respect to the age, sex, and race of students in the programs assisted under this Act and whether the students complete such programs; and

"(15) provide such further assurances and information as the Secretary may require.".

PAYMENTS

SEC. 106. Section 307(b) of the Act is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraph:

"(2) The Secretary may waive, for one fiscal year only, the requirements of paragraph (1) of this subsection, if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State educational agency.".

ADMINISTRATION OF STATE PLANS

SEC. 107. Section 308 of the Act is amended to read as follows:

"ADMINISTRATION OF STATE PLANS

"SEC. 308. Whenever the Secretary has reason to believe that, in administering its State plan, a State has failed to comply substantially with any provision of that State plan, the Secretary may take appropriate action under sections 453 and 454 of the General Education Provisions Act.".

NATIONAL PROGRAMS

SEC. 108. Section 309 of the Act is amended to read as follows:

"RESEARCH, DEVELOPMENT, DEMONSTRATION, DISSEMINATION, AND EVALUATION

"SEC. 309. (a)(1) The Secretary shall, with funds set aside under section 314(b), support applied research, development, demonstration, dissemination, evaluation, and related activities which will contribute to the improvement and expansion of adult education in the United States. The activities required by this subsection may include—

"(A) improving adult education opportunities for elderly individuals and adult immigrants,

"(B) evaluating educational technology and computer software suitable for providing instruction to adults, and

"(C) supporting exemplary cooperative adult education programs which combine the resources of businesses, schools and community organizations.

"(2)(A) The Secretary may support such activities directly, or through grants to, or contracts or cooperative agreements with, public or private institutions, agencies, or organizations, or individuals, including business concerns.

"(B) Whenever the Secretary makes a grant or enters into a contract or cooperative agreement with any private for-profit institution, agency, organization, individual, or business concern, the Secretary shall assure that participants in the program assisted under this subsection are not charged for their participation.

"(b) In addition to the responsibilities of the Director under section 405 of the General Education Provisions Act, the Director of the National Institute of Education may, with funds available under that section or

with funds set aside under section 314(b) of this Act, support research on the special needs of individuals requiring adult education. The Director may support such research directly, or through grants to, or contracts or cooperative agreements with, public or private institutions, agencies, or organizations, or individuals.".

REPEALS AND REDESIGNATIONS

SEC. 109. (a)(1) Sections 311 and 318 of the Act are repealed.

(2) Sections 312, 313, 314, 315, and 316 of the Act are redesignated as sections 311, 312, 313, 314, and 315, respectively.

(b) Section 431A of the General Education Provisions Act is repealed.

STATE ADVISORY COUNCILS

SEC. 110. Section 311 of the Act (as redesignated by section 109) is amended to read as follows:

"STATE ADVISORY COUNCILS

"SEC. 311. Any State may use funds granted under section 304 to support a State advisory council which assists the State educational agency to plan, implement, or evaluate programs or activities assisted under this Act.".

NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

SEC. 111. Section 312 of the Act (as redesignated by section 109) is amended by striking out "1984" and inserting in lieu thereof "1988".

AUTHORIZATION OF APPROPRIATIONS

SEC. 112. Section 314 of the Act (as redesignated by section 109) is amended to read as follows:

"APPROPRIATIONS AUTHORIZED

"SEC. 314. (a) For the purpose of carrying out this title there are authorized to be appropriated $140,000,000 for fiscal year 1985 and such sums as may be necessary for each of the three succeeding fiscal years.

"(b)(1) From the amount appropriated pursuant to subsection (a) for any fiscal year the Secretary may set aside not to exceed 5 per centum of that amount for programs under section 309. The remainder of the amount appropriated in each fiscal year shall be available for grants made under section 304.

"(2) No set aside may be made pursuant to paragraph (1) of this subsection in any fiscal year in which the amount appropriated pursuant to subsection (a) of this section is less than $112,000,000.".

TITLE II—REVISION OF THE BILINGUAL EDUCATION ACT

SEC. 201. The Bilingual Education Act (20 U.S.C. 3221 et seq.) is amended to read as follows:

"TITLE VII—BILINGUAL EDUCATION PROGRAMS

"SHORT TITLE

"SEC. 701. This title may be cited as the 'Bilingual Education Act'.

"POLICY; APPROPRIATIONS

"SEC. 702. (a) Recognizing—

"(1) that there are large and growing numbers of children of limited English proficiency;

"(2) that many of such children have a cultural heritage which differs from that of English proficient persons;

"(3) that the Federal Government has a special and continuing obligation to assist in providing equal educational opportunity to limited English proficient children;

"(4) that the Federal Government has a special and continuing obligation to assist language minority students to acquire the English language proficiency that will enable them to become full and productive members of society;

"(5) that a primary means by which a child learns is through the use of such child's native language and cultural heritage;

"(6) that, therefore, large numbers of children of limited English proficiency have educational needs which can be met by the use of bilingual educational methods and techniques;

"(7) that in some school districts establishment of bilingual education programs may be administratively impractical due to the presence of small numbers of students of a particular native language or because personnel who are qualified to provide bilingual instructional services are unavailable;

"(8) that States and local school districts should be encouraged to determine appropriate curricula for limited English proficient students within their jurisdictions and to develop and implement appropriate instructional programs;

"(9) that children of limited English proficiency have a high dropout rate and low median years of education;

"(10) that the segregation of many groups of limited English proficient students remains a serious problem;

"(11) that both limited English proficient children and children whose primary language is English can benefit from bilingual education programs, and that such programs help develop our national linguistic resources;

"(12) that research, evaluation, and data collection capabilities in the field of bilingual education need to be strengthened so as to better identify and promote those programs and instructional practices which result in effective education;

"(13) that parent and community participation in bilingual education programs contributes to program effectiveness; and

"(14) that because of limited English proficiency, many adults are not able to participate fully in national life, and that limited English proficient parents are often not able to participate effectively in their children's education,

the Congress declares it to be the policy of the United States, in order to establish equal educational opportunity for all children and to promote educational excellence (A) to encourage the establishment and operation, where appropriate, of educational programs using bilingual educational practices, techniques, and methods, (B) to encourage the establishment of special alternative instructional programs for students of limited English proficiency in school districts where the establishment of bilingual education programs is not practicable or for other appropriate reasons, and (C) for those purposes, to provide financial assistance to local educational agencies, and, for certain related purposes, to State educational agencies, institutions of higher education, and community organizations. The programs assisted under this title include programs in elementary and secondary schools as well as related preschool and adult programs which are designed to meet the educational needs of individuals of limited English proficiency, with particular attention to children having the greatest need for such programs. Such programs shall be designed to enable students to achieve full competence in English. Such programs may additionally provide for the development of student competence in a second language.

"(b)(1) For the purposes of carrying out the provisions of this title, there are authorized to be appropriated for fiscal year 1985 and each of the three succeeding years such sums as may be necessary, subject to paragraph (7).

"(2) There are further authorized to be appropriated to carry out the provisions of section 732, such sums as may be necessary for fiscal year 1985 and each of the three succeeding fiscal years, subject to paragraph (7).

"(3) From the sums appropriated under paragraph (1) for any fiscal year which do not exceed $140,000,000, the Secretary shall reserve 4 percent for special alternative instructional programs and related activities authorized under this Act. From the sums appropriated under paragraph (1) for any fiscal year in excess of $140,000,000, the Secretary shall reserve 50 percent for special alternative instructional programs and related activities authorized under this Act, except that the amount of funds reserved for special alternative instructional programs and related activities pursuant to this paragraph shall not exceed 10 percent of the funds appropriated under paragraph (1).

"(4) From the sums appropriated under paragraph (1) for any fiscal year, the Secretary shall reserve at least 60 percent for the programs carried out under part A of this Act; and of this amount, at least 75 percent shall be reserved for the programs of transitional bilingual education carried out under section 721(a)(1).

"(5) From the sums appropriated under paragraph (1) for any fiscal year, the Secretary shall reserve at least 25 percent for training activities carried out under part C.

"(6) The Secretary shall reserve from the amount not reserved pursuant to paragraphs (4) and (5) of this subsection such amount as may be necessary, but not in excess of 1 percent thereof, for the purposes of section 752.

"(7) Notwithstanding paragraphs (1) and (2), no amount in excess of $176,000,000 is authorized to be appropriated to carry out the provisions of this title (including section 732) for fiscal year 1985.

"DEFINITIONS; REGULATIONS

"SEC. 703. (a) The following definitions shall apply to the terms used in this title:

"(1) The terms 'limited English proficiency' and 'limited English proficient' when used with reference to individuals means—

"(A) individuals who were not born in the United States or whose native language is a language other than English;

"(B) individuals who come from environments where a language other than English is dominant, as further defined by the Secretary by regulation; and

"(C) individuals who are American Indian and Alaskan Natives and who come from environments where a language other than English has had a significant impact on their level of English language proficiency, subject to such regulations as the Secretary determines to be necessary;

and who, by reason thereof, have sufficient difficulty speaking, reading, writing, or understanding the English language to deny such individuals the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in our society.

"(2) The term 'native language', when used with reference to an individual of limited English proficiency, means the language normally used by such individuals, or in the case of a child, the language normally used by the parents of the child.

"(3) The term 'low-income' when used with respect to a family means an annual income for such a family which does not exceed the poverty level determined pursuant to section 111(c)(2) of title I of the Elementary and Secondary Education Act of 1965.

"(4)(A) The term 'program of transitional bilingual education' means a program of instruction, designed for children of limited English proficiency in elementary or secondary schools, which provides, with respect to the years of study to which such program is applicable, structured English language instruction, and, to the extent necessary to allow a child to achieve competence in the English language, instruction in the child's native language. Such instruction shall incorporate the cultural heritage of such children and of other children in American society. Such instruction shall, to the extent necessary, be in all courses or subjects of study which will allow a child to meet grade-promotion and graduation standards.

"(B) In order to prevent the segregation of children on the basis of national origin in programs of transitional bilingual education, and in order to broaden the understanding of children about languages and cultural heritages other than their own, a program of transitional bilingual education may include the participation of children whose language is English, but in no event shall the percentage of such children exceed 40 percent. The program may provide for centralization of teacher training and curriculum development, but it shall serve such children in the schools which they normally attend.

"(C) In such courses or subjects of study as art, music, and physical education, a program of transitional bilingual education shall make provision for the participation of children of limited English proficiency in regular classes.

"(D) Children enrolled in a program of transitional bilingual education shall, if graded classes are used, be placed, to the extent practicable, in classes with children of approximately the same age and level of educational attainment. If children of significantly varying ages or levels of educational attainment are placed in the same class, the program of transitional bilingual education shall seek to insure that each child is provided with instruction which is appropriate for his or her level of educational attainment.

"(5)(A) The term 'program of developmental bilingual education' means a full-time program of instruction in elementary and secondary schools which provides, with respect to the years of study to which such program is applicable, structured English-language instruction and instruction in a second language. Such programs shall be designed to help children achieve competence in English and a second language, while mastering subject matter skills. Such instruction shall, to the extent necessary, be in all courses or subjects of study which will allow a child to meet grade-promotion and graduation standards.

"(B) Where possible, classes in programs of developmental bilingual education shall be comprised of approximately equal numbers of students whose native language is English and limited English proficient students whose native language is the second language of instruction and study in the program.

"(6) The term 'special alternative instructional programs' means programs of instruction designed for children of limited English proficiency in elementary and secondary schools. Such programs are not transitional or developmental bilingual education programs, but have specially designed curricula and are appropriate for the particular linguistic and instructional needs of the children enrolled. Such programs shall provide, with respect to the years of study to which such program is applicable, structured English language instruction and special instructional services which will allow a child to achieve competence in the English language and to meet grade-promotion and graduation standards.

"(7) The term 'family English literacy program' means a program of instruction designed to help limited English proficient adults and out-of-school youth achieve competence in the English language. Such programs of instruction may be conducted exclusively in English or in English and the student's native language. Where appropriate, such programs may include instruction on how parents and family members can facilitate the educational achievement of limited English proficient children. To the extent feasible, preference for participation in such programs shall be accorded to the parents and immediate family members of children enrolled in programs assisted under this title.

"(8) The term 'programs of academic excellence' means programs of transitional bilingual education, developmental bilingual education, or special alternative instruction which have an established record of providing effective, academically excellent instruction and which are designed to serve as models of exemplary bilingual education programs and to facilitate the dissemination of effective bilingual educational practices.

"(9) The term 'Office' means the Office of Bilingual Education and Minority Language Affairs.

"(10) The term 'Director' means the Director of the Office of Bilingual Education and Minority Languages Affairs.

"(11) The term 'Council' means the National Advisory and Coordinating Council on Bilingual Education.

"(12) The term 'Secretary' means the Secretary of Education.

"(13) The term 'other programs for persons of limited English proficiency' when used in this title means any programs within the Department of Education directly involving bilingual education activities serving persons of limited English proficiency, such as the programs carried out in coordination with the provisions of this title pursuant to part E of title IV of the Carl D. Perkins Vocational Education Act, and section 306(a)(11) of the Adult Education Act, and programs and projects serving areas with high concentrations of persons of limited English proficiency pursuant to section 6(b)(4) of the Library Services and Construction Act.

"(b)(1) In prescribing regulations under this title, the Secretary shall, through the National Advisory and Coordinating Council on Bilingual Education, consult with State and local educational agencies, organizations representing persons of limited English proficiency, and organizations representing teachers and other personnel involved in bilingual education.

"(2) The Secretary shall not prescribe under this title any regulations further defining the terms defined in paragraphs (4), (5), (6), (7), and (8) of subsection (a), or any regulations restricting or expanding the definitions contained in such paragraphs.

"(c) Parents of children participating in programs assisted under this title shall be informed of the instructional goals of the program and the progress of their children in such program.

"PART A—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS

"BILINGUAL EDUCATION PROGRAMS

"SEC. 721. (a) Funds available for grants under this part shall be used for the establishment, operation, and improvement of—

"(1) programs of transitional bilingual education;

"(2) programs of developmental bilingual education;

"(3) special alternative instructional programs for students of limited English proficiency;

"(4) programs of academic excellence;

"(5) family English literacy programs;

"(6) bilingual preschool, special education, and gifted and talented programs preparatory or supplementary to programs such as those assisted under this Act; and

"(7) programs to develop instructional materials in languages for which such materials are commercially unavailable.

"(b)(1) A grant may be made under subsection (a) (1), (2), (3), or (4) of this section only upon application therefore by one or more local educational agencies or by institutions of higher education, including junior or community colleges, applying jointly with one or more local educational agencies.

"(2) A grant may be made under subsection (a) (5) or (6) only upon application therefore by one or more local educational agencies; institutions of higher education, including junior or community colleges; and private nonprofit organizations, applying separately or jointly.

"(c)(1) Any application for a grant authorized under subsection (a) of this section shall be made to the Secretary at such time, and in such manner, as the Secretary deems appropriate.

"(2) Applications for grants authorized under subsections (a)(1), (a)(2), and (a)(3) of this section, shall contain information regarding—

"(A) the number of children enrolled in programs conducted by the local educational agency;

"(B) the number of children residing in the area served by the local educational agency who are enrolled in private schools;

"(C)(i) the number of children enrolled in public and private schools in the area served by the local educational agency who are limited in their English proficiency; (ii) the method used by the applicant to make this determination; and (iii) evidence of the educational condition of the limited English proficient students, such as reading, mathematics, and subject matter test scores, and, where available, data on grade retention rates, rates of referral to or placement in special education programs, and student dropout rates;

"(D) the number of limited English proficient children who are enrolled in instructional programs specifically designed to meet their educational needs, as well as descriptions of such programs;

"(E) the number of limited English proficient children enrolled in public or private schools in the area served by the local educational agency who need or could benefit from education programs such as those assisted under this title;

"(F) the number of children who are to receive instruction through the proposed program and the extent of their educational needs;

"(G) a statement of the applicant's ability to serve children of limited English proficiency, including an assessment of the qualifications of personnel who will participate in the proposed project and of the need for further training of such personnel;

"(H) the resources needed to develop and operate or improve the proposed program;

"(I) the activities which would be undertaken under the grant and how these activities will improve the educational attainment of students and expand the capacity of the applicant to operate programs such as those assisted under this Act when Federal assistance under this section is no longer available; and

"(J) the specific educational goals of the proposed program and how achievement of these goals will be measured.

"(3) Applications for grants authorized under subsection (a)(3) of this section from applicants who desire to obtain priority in the awarding of such grants may contain information regarding (A) the administrative impracticability of establishing a bilingual education program due to the presence of small number of students of a particular native language, (B) the unavailability of personnel qualified to provide bilingual instructional services, or (C) the applicant's current or past efforts to establish a bilingual education program.

"(4) Applications for grants authorized under subsection (a)(4) shall contain information regarding—

"(A) the number of children served by the existing bilingual education program and evidence of their educational condition prior to enrollment in the program;

"(B) a description of the existing program as well as the educational background and linguistic competencies of program personnel;

"(C) the extent to which the program has promoted student academic achievement as indicated by objective evidence, such as improvements in language, mathematics, and subject matter test scores; grade retention rates; rates of referral to or placement in special education programs; student dropout rates; and, where appropriate, postsecondary education and employment experiences of students;

"(D) the extent of parent involvement in and satisfaction with the existing bilingual education program; and

"(E) how the activities carried out under the grant would utilize and promote programs of academic excellence which employ bilingual educational practices, techniques, and methods.

"(5) Applications for grants authorized under subsection (a)(5) shall contain information regarding—

"(A) the number of limited English proficient parents and out-of-school family members of limited English proficient students who would be served by the English literacy program;

"(B) the activities which would be undertaken under the grant and how these activities will promote English literacy and enable parents and family members to assist in the education of limited English proficient children;

"(C) the extent to which the persons to be served by the program have been involved in its development;

"(D) applicant's prior experience and performance in providing educational programs to limited English proficient adults and out-of-school youth;

"(E) with respect to applications by a local educational agency, the extent to which limited English proficient students enrolled in the educational agency are served by programs specifically designed to meet their needs; and

"(F) with respect to other applicants, a description of how the applicant will coordinate its program with a local education agency to ensure that the program will help limited English proficient family members promote the academic progress of limited English proficient children.

"(d)(1)(A) Grants made pursuant to subsections (a)(1), (a)(2), and (a)(3) of this section shall be for three years.

"(B) During the first six months of grants made pursuant to subsections (a)(1), (a)(2), and (a)(3) of this section, an applicant shall engage exclusively in preservice activities. Such activities may include program design, materials development, staff recruitment and training, development of evaluation mechanisms and procedures, and the operation of programs to involve parents in the educational program and to enable parents and family members to assist in the education of limited English proficient children. This subparagraph may be waived by the Secretary upon a determination that an applicant is prepared to operate successfully the proposed instructional program.

"(C) Upon reapplication, grants authorized under subsections (a)(1), (a)(2), and (a)(3) of this section shall be renewed for two additional years unless the Secretary determines that—

"(i) the applicant's program does not comply with the requirements set out in this title;

"(ii) the applicant's program has not made substantial progress in achieving the specific educational goals set out in the original application; or

"(iii) there is no longer a need for the applicant's program.

"(D) Parents or legal guardians of students identified for enrollment in bilingual education programs shall be informed of (i) the reasons for the selection of their child as in need of bilingual education, (ii) the alternative educational programs that are available, and (iii) the nature of the bilingual education program and of the instructional alternatives. Parents shall also be informed that they have the option of declining enrollment of their children in such programs and shall be given an opportunity to do so if they so choose.

"(2) Grants made pursuant to subsections (a)(4) and (a)(5) shall be for three years.

"(3) Grants made pursuant to subsections (a)(6) and (a)(7) shall be for a period of one to three years.

"(e) An application for a grant authorized under subsections (a)(1), (a)(2), and (a)(3) of this section shall—

"(1) be developed in consultation with an advisory council, of which a majority shall be parents and other representatives of the children to be served in such programs, in accordance with criteria prescribed by the Secretary;

"(2) be accompanied by documentation of such consultation and by the comments which the Council makes on the application;

"(3) contain assurances that, after the application has been approved, the applicant will provide for the continuing consultation with, and participation by, the committee of parents, teachers, and other interested individuals which shall be selected by and predominantly composed of parents of children participating in the program, and in the case of programs carried out in secondary schools, representatives of the secondary students to be served; and

"(4) include evidence that the State educational agency has been notified of the application and has been given the opportunity to offer recommendations thereon to the applicant and to the Secretary.

"(f) An application for a grant under subsections (a)(1), (a)(2), and (a)(3) of this section may be approved only if the Secretary determines—

"(1) that the program will use qualified personnel, including only those personnel who are proficient in the language or languages used for instruction;

"(2) that in designing the program for which application is made, the needs of the children in nonprofit private elementary and secondary schools have been taken into account through consultation with appropriate private school officials; and, consistent with the number of such children enrolled in such schools in the area to be served whose educational needs are of the type and whose language and grade levels are of a similar type which the program is intended to address, after consultation with appropriate private school officials, provision has been made for the participation of such children on a basis comparable to that provided for public school children;

"(3) that the program will be evaluated in accordance with a plan that meets the requirements of section 733 of this title;

"(4) that Federal funds made available for the project or activity will be used so as to supplement the level of State and local funds that, in the absence of those Federal funds, would have been expended for special programs for children of limited English proficiency and in no case to supplant such State and local funds, except that nothing in this clause shall—

"(A) preclude a local education agency from using funds under this title for activities carried out under an order of a court of the United States or of any State respecting services to be provided such children, or to carry out a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 with respect to services to be provided such children; or

"(B) authorize any priority or preference to be assigned by the Secretary to the funding of the activities under this title;

"(5) that the assistance provided under the application will contribute toward building the capacity of the applicant to provide a program on a regular basis, similar to that proposed for assistance, which will be of sufficient size, scope, and quality to promise significant improvement in the education of children of limited English proficiency, and that the applicant will have the resources and commitment to continue the program when assistance under this title is reduced or no longer available;

"(6) that the applicant will provide or secure training for personnel participating, or preparing to participate, in the program and that, to the extent possible, college or university credit will be awarded for such training; and

"(7) that the provision of assistance proposed in the application is consistent with criteria established by the Secretary, after consultation with the State educational agency, for the purpose of achieving an equitable distribution of assistance under this part within the State in which the applicant is located, taking into consideration—

"(A) the geographic distribution of children of limited English proficiency;

"(B) the relative need of persons in different geographic areas within the State for the

kinds of services and activities authorized under this title;

"(C) and with respect to grants to carry out programs described in subsections (a)(1), (a)(2), and (a)(3) of this section, the relative ability of particular local educational agencies within the State to provide such services and activities; and

"(D) with respect to such grants, the relative numbers of persons from low-income families sought to be benefited by such programs.

"(g) An application for a grant under subsection (a)(3) of this section may receive priority based upon the information provided by the applicant pursuant to clause (A), (B), or (C) of subsection (c)(3) of this section.

"(h) In the consideration of applications from local educational agencies to carry out programs authorized under this section, the Secretary shall give priority to applications from local educational agencies which are located in various geographical regions of the Nation and which propose to assist children of limited English proficiency who have historically been underserved by programs of bilingual education, taking into consideration the relative numbers of such children in the schools of such local educational agencies and the relative need for such programs. In approving such applications, the Secretary shall, to the extent feasible, allocate funds appropriated in proportion to the geographical distribution of children of limited English proficiency throughout the Nation, with due regard for the relative ability of particular local educational agencies to carry out such programs and the relative numbers of persons from low-income families sought to be benefited by such programs.

"(i) Programs authorized under this title in the Commonwealth of Puerto Rico may, notwithstanding any other provision of this title, include programs of instruction, teacher training, curriculum development, research, evaluation, and testing designed to improve the English proficiency of children, and may also make provision for serving the needs of students of limited proficiency in Spanish.

"(j) If the Secretary determines that an applicant for assistance under this title is unable or unwilling to provide for the participation in the program for which assistance is sought of children of limited English proficiency enrolled in nonprofit, private schools, as required by subsection (f)(2) of this section, the Secretary shall—

"(1) withhold approval of such application until the applicant demonstrates that it is in compliance with those requirements; or

"(2) reduce the amount of the grant to such applicant by the amount which is required for the Secretary to arrange (such as through a contract with a nonprofit, nonsectarian agency, organization, or institution) to assess the needs of the children in the area to be served for programs of the type authorized in this title and to carry out such programs for the children.

"INDIAN CHILDREN IN SCHOOLS

"SEC. 722. (a) For the purpose of carrying out programs under this title for individuals served by elementary, secondary, or postsecondary schools operated predominantly for Indian or Alaskan Native children, an Indian tribe or a tribally sanctioned educational authority may be considered to be a local educational agency as such term is used in this title, subject to the following qualifications:

"(1) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act (85 Stat. 688) which is recognized for the special programs and services provided by the United States to Indians because of their status as Indians.

"(2) The term 'tribally sanctioned educational authority' means any department or division of education operating within the administrative structure of the duly constituted governing body of an Indian tribe, as well as any nonprofit institution or organization which is chartered by the governing body of an Indian tribe to operate any such school or otherwise to oversee delivery of educational services to members of that tribe and which is approved by the Secretary for the purposes of this section.

"(b) From the sums appropriated pursuant to section 702(b), the Secretary is authorized to make payments to the applicants to carry out programs of bilingual education for Indian children on reservations served by elementary and secondary schools operated or funded by the Bureau of Indian Affairs.

"(c) The Assistant Secretary of the Interior for the Bureau of Indian Affairs shall submit to the Congress, the President, and the Secretary by September 30 of each year an annual report which provides—

"(1) an assessment of the needs of the Indian children with respect to the purposes of this title in schools operated or funded by the Department of the Interior, including those tribes and local educational agencies receiving assistance under the Johnson-O'Malley Act (25 U.S.C. 452 et seq.); and

"(2) an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior.

"PART B—DATA COLLECTION, EVALUATION, AND RESEARCH

"USE OF FUNDS

"SEC. 731. Funds available under this part shall be used for (1) collecting data on the number of limited English proficient persons and the educational services available to such persons, (2) evaluating the operation and effectiveness of programs assisted under this title, (3) conducting research to improve the effectiveness of bilingual education programs, and (4) collecting, analyzing, and disseminating data and information on bilingual education.

"GRANTS FOR STATE PROGRAMS

"SEC. 732. (a) Upon an application from a State educational agency, the Secretary shall make provision for the submission and approval of a State program for the collection, aggregation, analysis, and publication of data and information on the State's population of limited English proficient persons and the educational services provided or available to such persons.

"(b) State programs under this part shall provide for the annual submission of a report to the Secretary containing data and information on such matters as the Secretary shall, by regulation, determine necessary and proper to achieve the purposes of this title, including the matters specified in section 721(c)(2). Such reports shall be in such form and shall be submitted on such date as the Secretary shall specify by regulation. State programs shall provide for the dissemination of information regarding these matters to the public, and particularly to persons of limited English proficiency.

"(c) State programs authorized under this section may also provide for—

"(1) the planning and development of educational programs such as those assisted under this title;

"(2) the review and evaluation of programs of bilingual education, including bilingual education programs that are not funded under this title;

"(3) the provision, coordination, or supervision of technical and other forms of nonfinancial assistance to local educational agencies, community organizations, and private elementary and secondary schools that serve limited English proficient persons;

"(4) the development and administration of instruments and procedures for the assessment of the educational needs and competencies of persons of limited English proficiency;

"(5) the training of State and local educational agency staff to carry out the purposes of this title; and

"(6) other activities and services designed to build the capacity of State and local educational agencies to serve the educational needs of persons of limited English proficiency.

"(d) Except as provided in the second sentence of this subparagraph, the Secretary shall pay from the amounts appropriated for the purposes of this section pursuant to section 702(b)(2) for each fiscal year to each State educational agency which has a State program submitted and approved under subsection (a) of this section such sums as may be necessary for the proper and efficient conduct of such State program. The amount paid by the Secretary to any State educational agency under the preceding sentence for any fiscal year shall not be less than $50,000 nor greater than 5 percent of the aggregate of the amounts paid under section 721 for programs within such State in the fiscal year preceding the fiscal year to which this limitation applies.

"(e) Funds made available under this section for any fiscal year shall be used by the State educational agency to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such funds, be made available by the State for the purposes described in this section, and in no case to supplant such funds.

"PROGRAM EVALUATION REQUIREMENTS

"SEC. 733. (a) The Secretary shall issue, within six months of the date of enactment of this section, regulations which set forth a comprehensive design for evaluating the programs assisted under part A of this title. Such regulations shall be developed by the Director in consultation with the National Advisory and Coordinating Council on Bilingual Education. Such regulations shall provide for the collection of information and data including—

"(1) the educational background, needs, and competencies of the limited English proficient persons served by the program;

"(2) the specific educational activities undertaken pursuant to the program; the pedagogical materials, methods, and techniques utilized in the program; and with respect to classroom activities, the relative amount of instructional time spent with students on specified tasks;

"(3) the educational and professional qualifications, including language competencies, of the staff responsible for planning and operating the program; and

"(4) the extent of educational progress achieved through the program measured, as appropriate, by (A) tests of academic achievement in English language arts, and

where appropriate, second language arts; (B) tests of academic achievement in subject matter areas; and (C) changes in the rate of student grade-retention, dropout, absenteeism, referral to or placement in special education classes, placement in programs for the gifted and talented, and enrollment in postsecondary education institutions.

"EVALUATION ASSISTANCE CENTERS

"SEC. 734. The Secretary shall establish, through competitive grants to institutions of higher education, at least two evaluation assistance centers. Such centers shall provide, upon the request of State or local educational agencies, technical assistance regarding methods and techniques for identifying the educational needs and competencies of limited English proficient persons and assessing the educational progress achieved through programs such as those assisted under this title. Grants made pursuant to this section shall be for a period of three years.

"RESEARCH

"SEC. 735. (a) The Secretary shall, through competitive contracts under this section, provide financial assistance for research and development proposals submitted by institutions of higher education, private for-profit and nonprofit organizations, State and local educational agencies, and individuals.

"(b) Research activities authorized to be assisted under this section shall include—

"(1) studies to determine and evaluate effective models for bilingual education programs;

"(2) studies which examine the process by which individuals acquire a second language and master the subject matter skills required for grade-promotion and graduation, and which identify effective methods for teaching English and subject matter skills within the context of a bilingual education program or special alternative instructional program to students who have language proficiencies other than English;

"(3) longitudinal studies to measure the effect of this title on the education of students who have language proficiencies other than English, and the effect of this title on the capacity of local educational agencies to operate bilingual programs following the termination of assistance under this title;

"(4) studies to determine effective and reliable methods for identifying students who are entitled to services under this title and for determining when their English language proficiency is sufficiently well developed to permit them to derive optimal benefits from an all-English instructional program;

"(5) the operation of a clearinghouse which shall collect, analyze, and disseminate information about bilingual education and related programs;

"(6) studies to determine effective methods of teaching English to adults who have language proficiencies other than English;

"(7) studies to determine and evaluate effective methods of instruction for bilingual programs, taking into account language and cultural differences among students; and

"(8) studies to determine effective approaches to preservice and inservice training for teachers, taking into account the language and cultural differences of their students.

"(c) In carrying out the responsibilities of this section, the Secretary may delegate authority to the Director, and in any event, shall consult with the Director, the National Advisory and Coordinating Council on Bilingual Education, representatives of State and local educational agencies, and appropriate groups and organizations involved in bilingual education.

"(d) The Secretary shall publish and disseminate all requests for proposals in research and development assisted under this title.

"COORDINATION OF RESEARCH

"SEC. 736. Notwithstanding section 405(b)(1) of the General Education Provisions Act, the Director of the National Institute of Education shall consult with the Director and the National Advisory and Coordinating Council on Bilingual Education to insure that research activities undertaken pursuant to section 405(b)(2)(C) of the General Education Provisions Act complement and do not duplicate the activities conducted pursuant to this part.

"EDUCATION STATISTICS

"SEC. 737. (a) Notwithstanding section 406 of the General Education Provisions Act, the National Center for Education Statistics shall collect and publish, as part of its annual report on the condition of education, data for States, Puerto Rico, and the Trust Territories with respect to the population of limited English proficient persons, the special educational services and programs available to limited English proficient persons, and the availability of educational personnel qualified to provide special educational services and programs to limited English proficient persons.

"(b) In carrying out its responsibilities under this section, the National Center for Education Statistics shall utilize, to the extent feasible, data submitted to the Department of Education by State and local educational agencies and institutions of higher education pursuant to the provisions of this title.

"PART C—TRAINING AND TECHNICAL ASSISTANCE

"USE OF FUNDS

"SEC. 741. (a) Funds available under this part shall be used for—

"(1) the establishment, operation, and improvement of training programs for educational personnel preparing to participate in, or personnel participating in, the conduct of programs of bilingual education or special alternative instructional programs for limited English proficient students, which shall emphasize opportunities for career development, advancement, and lateral mobility, and may provide training to teachers, administrators, counselors, paraprofessionals, teacher aides, and parents;

"(2) the training of persons to teach and counsel such persons;

"(3) the encouragement of reform, innovation, and improvement in applicable education curricula in graduate education, in the structure of the academic profession, and in recruitment and retention of higher education and graduate school faculties, as related to bilingual education;

"(4) the operation of short-term training institutes designed to improve the skills of participants in programs of bilingual education or special alternative instructional programs for limited English proficient students; which may include summer programs designed to improve the instructional competence of educational personnel in the languages used in the program; and

"(5) the provision of inservice training and technical assistance to parents and educational personnel participating in, or preparing to participate in, bilingual education programs or special alternative instructional programs for limited English proficient students.

"(b)(1) A grant or contract may be made under subsection (a)(1), (a)(2), or (a)(3) of this section upon application of an institution of higher education.

"(2) A grant or contract may be made under subsection (a)(4) of this section upon application of (A) institutions of higher education (including junior colleges and community colleges) and private for-profit or nonprofit organizations which apply, after consultation with, or jointly with, one or more local educational agencies or a State educational agency; (B) local educational agencies; or (C) a State educational agency.

"(3) A grant or contract may be made under subsection (a)(5) of this section upon application of (A) institutions of higher education (including junior colleges and community colleges), (B) private for-profit or nonprofit organizations, or (C) a State educational agency.

"(c) An application for a grant or contract for preservice or inservice training activities described in subsection (a)(1) of this section shall be considered an application for a program of bilingual education for the purposes of section 721(e) of this title.

"(d) In making a grant or contract for preservice training programs described in subsection (a)(1) of this section, the Secretary shall give preference to programs which contain coursework in—

"(1) teaching English as a second language;

"(2) use of a non-English language for instructional purposes;

"(3) linguistics; and

"(4) evaluation and assessment;

and involving parents in the educational process. Preservice training programs shall be designed to ensure that participants become proficient in English and a second language of instruction.

"MULTIFUNCTIONAL RESOURCE CENTERS

"SEC. 742. (a) Pursuant to subsection (a)(5) of section 741, the Secretary shall establish, through competitive grants or contracts, at least 16 multifunctional resource centers (hereafter in this section referred to as 'centers'). Grants and contracts shall be awarded with consideration given to the geographic and linguistic distribution of children of limited English proficiency.

"(b) In addition to providing technical assistance and training to persons participating in or preparing to participate in bilingual education programs or special alternative instructional programs for limited English proficient students, each center shall be responsible for gathering and providing information to other centers on a particular area of bilingual education, including (but not limited to) bilingual special education, bilingual education for gifted and talented limited English proficient students, bilingual vocational education, bilingual adult education, bilingual education program administration, literacy, education technology in bilingual programs, mathematics and science education in bilingual programs, counseling limited English proficient students, and career education programs for limited English proficient students.

"FELLOWSHIPS

"SEC. 743. (a) Pursuant to subsection (a)(2) of section 741, the Secretary is authorized to award fellowships for advanced study of bilingual education or special alternative instructional programs for limited English proficient students in such areas as teacher training, program administration, research and evaluation, and curriculum de-

velopment. For the fiscal year ending September 30, 1985, not less than 500 fellowships leading to a graduate degree shall be awarded under the preceding sentence. Such fellowships shall be awarded, to the extent feasible, in proportion to the needs of various groups of individuals with limited English proficiency. In awarding fellowships, the Secretary shall give preference to individuals intending to study bilingual education or special alternative instructional programs for limited English proficient students in the following specialized areas: vocational education, adult education, gifted and talented education, special education, education technology, literacy, and mathematics and science education. The Secretary shall include information on the operation of the fellowship program in the report required under section 751(c) of this title.

"(b) The Secretary shall undertake an ongoing longitudinal study of the impact of recipients of such fellowships on the field of bilingual education and alternative instructional programs for students of limited English proficiency and shall, through the clearinghouse established pursuant to section 735(b)(5) of this title, disseminate research undertaken by recipients of such fellowships.

"(c) Any person receiving a fellowship under this section shall agree either to repay such assistance or to work for a period equivalent to the period of time during which such person received assistance, and such work shall be in an activity related to programs and activities such as those authorized under this Act. The Secretary may waive this requirement in extraordinary circumstances.

"PRIORITY

"SEC. 744. In making grants or contracts under this part, the Secretary shall give priority to eligible applicants with demonstrated competence and experience in programs and activities such as those authorized under this Act.

"STIPENDS

"SEC. 745. In the terms of any arrangement described in this part, the Secretary shall provide for the payment, to persons participating in training programs so described, of such stipends (including allowances for subsistence and other expenses for such persons and their dependents) as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs.

"PART D—ADMINISTRATION

"OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS

"SEC. 751. (a) There shall be, in the Department of Education, an Office of Bilingual Education and Minority Languages Affairs (hereafter in this section referred to as the 'Office') through which the Secretary shall carry out functions relating to bilingual education.

"(b)(1) The Office shall be headed by a Director of Bilingual Education and Minority Languages Affairs, appointed by the Secretary, to whom the Secretary shall delegate all delegable functions relating to bilingual education. The Director shall also be assigned responsibility for coordinating the bilingual education aspects of other programs administered by the Secretary.

"(2) The Office shall be organized as the Director determines to be appropriate in order to enable the Director to carry out such functions and responsibilities effectively, except that there shall be a division, within the Office, which is exclusively responsible for the collection, aggregation, analysis, and publication of data and information on the operation and effectiveness of programs assisted under this title.

"(c) The Secretary, in consultation with the Council, shall prepare and, not later than February 1 of 1986 and 1988, shall submit to the Congress and the President a report on the condition of bilingual education in the nation and the administration and operation of this title and of other programs for persons of limited English proficiency. Such report shall include—

"(1) a national assessment of the educational needs of children and other persons with limited English proficiency and of the extent to which such needs are being met from Federal, State, and local efforts;

"(2) a plan, including cost estimates, to be carried out during the five-year period beginning on such date, for extending programs of bilingual education and bilingual vocational and adult education programs to all such preschool and elementary school children and other persons of limited English proficiency, including a phased plan for the training of the necessary teachers and other educational personnel necessary for such purpose;

"(3) a report on and evaluation of the activities carried out under this title during the preceding two fiscal years and the extent to which each of such activities achieves the policy set forth in section 702(a);

"(4) a statement of the activities intended to be carried out during the succeeding period, including an estimate of the cost of such activities;

"(5)(A) an assessment of the number of teachers and other educational personnel needed to carry out programs of bilingual education under this title and those carried out under other programs for persons of limited English proficiency;

"(B) a statement describing the activities carried out thereunder designed to prepare teachers and other educational personnel for such programs; and

"(C) the number of other educational personnel needed to carry out programs of bilingual education in the States; and

"(6) an estimate of the number of fellowships in the field of training teachers for bilingual education which will be necessary for the two succeeding fiscal years.

"(d) In order to maximize Federal efforts aimed at serving the educational needs of children of limited English proficiency, the Secretary shall coordinate and closely cooperate with other programs administered by the Department of Education, including such areas as teacher training, program content, research, and curriculum. The Secretary's report under subsection (c) shall include demonstration that such coordination has taken place.

"(e) The Secretary shall ensure that the Office of Bilingual Education and Minority Languages Affairs is staffed with sufficent personnel trained, or with experience in, bilingual education to discharge effectively the provisions of this title.

"NATIONAL ADVISORY AND COORDINATING COUNCIL ON BILINGUAL EDUCATION

"SEC. 752. (a) Subject to part D of the General Education Provisions Act, there shall be a National Advisory and Coordinating Council on Bilingual Education composed of twenty members appointed by the Secretary, one of whom shall be designated by the Secretary as Chairman. Members of the Council shall be persons experienced in dealing with the educational problems of children and other persons who are of limited English proficiency. Five members of the Council shall be State directors of bilingual education programs, at least three of whom shall represent States with large populations of limited English proficient students. Two members of the Council shall be experienced in research on bilingual education or evaluation of bilingual education programs. One member of the Council shall be experienced in research on methods of alternative instruction for language minority students or evaluation of alternative methods of instruction for such students. One member of the Council shall be a classroom teacher of demonstrated teaching abilities using bilingual methods and techniques. One member of the Council shall be a classroom teacher of demonstrated teaching abilities using alternative instructional methods and techniques. One member of the Council shall be experienced in the training of teachers for programs of bilingual education. One member of the Council shall be experienced in the training of teachers for programs of alternative instruction. Two members of the Council shall be parents of students whose language is other than English, and one member of the Council shall be an officer of a professional organization representing bilingual education personnel. The members of the Council shall be appointed in such a way as to be generally representative of the significant segments of the population of persons of limited English proficiency and the geographic areas in which they reside. Subject to section 448(b) of the General Education Provisions Act, the Council shall continue to exist until October 1, 1988.

"(b) The Council shall meet at the call of the Chairman, but, notwithstanding the provisions of section 446(a) of the General Education Provisions Act, not less often than four times in each year.

"(c) The Council shall advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration and operation of this title, including the development of criteria for approval of applications and plans under this title, and in the administration and operation of other programs for persons of limited English proficiency. The Council shall prepare and, not later than March 31 of each year, submit a report to the Congress and the President on the condition of bilingual education in the Nation and on the administration and operation of this title, including those items specified in section 751(c), and the administration and operation of other programs for persons of limited English proficiency.

"(d) The Secretary shall procure temporary and intermittent services of such personnel as are necessary for the conduct of the functions of the Council, in accordance with section 445 of the General Education Provisions Act, and shall make available to the Council such staff, information, and other assistance as it may require to carry out its activities effectively.".

TITLE III—AMENDMENTS TO FEDERAL IMPACT AID LAWS

GENERAL EXTENSIONS OF AUTHORIZATIONS

SEC. 301. (a)(1) The Act of September 30, 1950 (Public Law 874, Eighty-first Congress; 20 U.S.C. 236) is amended by striking out "October 1, 1983" each place it appears in sections 2(a), 3(b), 4(a), and 7(a)(1) and inserting in lieu thereof "October 1, 1988".

(2) Section 3(d)(2)(E) of such Act is amended—

(A) by striking out "fiscal year 1983 or 1984" in division (ii) and inserting in lieu

thereof "any of the fiscal years 1983 through 1988"; and

(B) by striking out division (iii).

(3) Section 3(c)(2)(A) of such Act is amended—

(A) by striking out division (i); and

(B) by redesignating divisions (ii) and (iii) as divisions (i) and (ii), respectively.

(4)(A) Section 504 of the Omnibus Education Reconciliation Act of 1981 is repealed.

(B) Section 505(a)(1) of such Act is amended by striking out the first sentence and inserting in lieu thereof the following: "The total amount of appropriations to make payments under the Act of September 30, 1950 (Public Law 874, 81st Congress) shall not exceed $740,000,000 for fiscal year 1985, $760,000,000 for fiscal year 1986, $780,000,000 for fiscal year 1987, and $800,000,000 for fiscal year 1988.".

(C) Subsections (a)(3) and (b) of section 505 of such Act are each amended by striking out "1982, 1983, 1984, or 1985" and inserting in lieu thereof "1985, 1986, 1987, or 1988".

(b) The Act of September 23, 1950 (Public Law 815, Eighty-first Congress; 20 U.S.C. 631) is amended—

(1) by striking out "September 30, 1983" in section 3 and inserting in lieu thereof "September 30, 1988"; and

(2) by striking out "October 1, 1983" in section 16(a)(1)(A) and inserting in lieu thereof "October 1, 1988".

COLLECTION OF OVERPAYMENTS

SEC. 302. In the case of any local educational agency which the Secretary of Education determines has received, for any fiscal year after fiscal year 1976, an overpayment under section 2 of the Act of September 30, 1950 (20 U.S.C. 237) as a consequence of a recomputation of need based on revised data, the Secretary shall not require more than 10 percent of the amount of the overpayment to be repaid (or deducted from current payments) in any fiscal year.

AMENDMENTS TO IMPACT AID PROGRAM

SEC. 303. (a)(1) Section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by inserting at the end thereof the following new sentence: "In carrying out the provisions of this subparagraph, the Secretary shall not prorate the amounts computed under this subparagraph attributable to the number of children determined under subsection (a) or (b), or both.".

(2)(A) The second sentence of section 3(d)(2)(B) of such Act is amended by striking out "The" and inserting in lieu thereof "Subject to the provisions of subsection (h) of this section, the".

(B) Section 3 of such Act is amended by adding at the end thereof the following new subsection:

"SPECIAL PROVISIONS

"(h) Any local educational agency for which the boundaries of the school district of such agency are coterminous with the boundaries of a military installation and which is not eligible to receive payments under subsection (d)(2)(B) shall receive 100 percent of the amounts to which such agency is entitled under subsection (a) of this section.".

(b)(1) The last two sentences of section 5(c) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) (as added by section 23 of Public Law 98-211 (97 Stat. 1419)) are redesignated as subsection (h) of section 5 of that Act.

(2) The amendment made by paragraph (1) of this subsection shall be effective December 8, 1983.

TITLE IV—WOMEN'S EDUCATIONAL EQUITY

SHORT TITLE; CONFORMING AMENDMENT

SEC. 401. (a) This title may be cited as the "Women's Educational Equity Amendments of 1984".

(b) The Women's Educational Equity Act of 1978 (20 U.S.C. 3341 et seq.), hereafter in this title referred to as "the Act", is amended by striking out "Commissioner" each place it appears and inserting in lieu thereof "Secretary of Education".

FINDINGS AND PURPOSE

SEC. 402. (a) Section 931(b)(1) of the Act is amended by adding at the end thereof the following: "The Congress finds and declares that excellence in education cannot be achieved without equity for women and girls.".

(b) Section 931(b)(2) of the Act is amended by adding at the end thereof the following: "It is also the purpose of this part to provide educational equity for women and girls who suffer multiple discrimination, bias, or stereotyping based on sex and on race, ethnic origin, disability, or age.".

GRANT AND CONTRACT AUTHORITY

SEC. 403. (a) Section 932(a) of the Act is amended by adding at the end thereof the following: "The Secretary shall ensure that at least 1 grant or contract is available during each fiscal year for the performance of each of the activities described in paragraph (1) of this subsection.".

(b) Section 932(b) of the Act is amended—

(1) by striking out "$15,000,000" each place it appears and inserting in lieu thereof "$6,000,000";

(2) by striking out "shall be used" and all that follows in the second sentence and inserting in lieu thereof "may be used to support new activities described in paragraph (1) or to support activities described in paragraph (2), or both.".

CHALLENGE GRANTS

SEC. 404. Section 934 of the Act is amended to read as follows:

"CHALLENGE GRANTS

"SEC. 934. (a) In addition to the authority of the Secretary under section 932, the Secretary shall carry out a program of challenge grants (as part of the grant program administered under section 932(a)(1)), not to exceed $40,000 each, in order to support projects to develop—

"(1) comprehensive plans for implementation of equity programs at every educational level;

"(2) innovative approaches to school-community partnerships;

"(3) new dissemination and replication strategies; and

"(4) other innovative approaches to achieving the purposes of this part.

"(b) For the purposes described in clauses (1) through (4) of subsection (a), the Secretary is authorized to make grants to public and private nonprofit agencies and to individuals.".

CRITERIA AND PRIORITIES

SEC. 405. Section 935 of the Act is amended—

(1) by inserting "separate" after "Secretary shall establish"; and

(2) by inserting "under sections 932(a)(1) and 932(a)(2)" after "priorities for awards".

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

SEC. 406. Section 936 of the Act is amended—

(1) by striking out "Office of Education" in subsection (a) and inserting in lieu thereof "Department of Education";

(2) by striking out paragraph (1) of such subsection and inserting in lieu thereof the following:

"(1) seventeen individuals, some of whom shall be students, and who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals, broadly representative of the general public and including (A) individuals who are experts in a wide range of issues of educational equity for women at all levels of education, including preschool, elementary and secondary education, higher education, and vocational and adult education; (B) individuals who are representative of and expert in the educational needs of racial and ethnic minority women, older women, and disabled women; (C) both women and men who have demonstrated commitment to and expertise in the purposes of this part; and (D) individuals who are representative of and expert in student financial assistance programs authorized under title IV of the Higher Education Act of 1965;";

(3) by striking out "advise" and all that follows through "on matters" in subsection (c)(1) and inserting in lieu thereof "advise the Secretary and the Congress on matters";

(4) by inserting "selection of funding priorities and" before "allocation of any funds" in subsection (c)(2); and

(5) by striking out subsection (c)(3) and inserting in lieu thereof the following:

"(3) advise all Federal agencies which have education programs concerning those aspects of the programs which relate to the educational needs and opportunities of women;".

REPORT OF THE SECRETARY

SEC. 407. Section 937 of the Act is amended—

(1) by striking out the heading of such section and inserting in lieu thereof the following:

"REPORTS, EVALUATION, AND DISSEMINATION";

(2) by striking out ", 1980, 1982, and 1984" and inserting in lieu thereof "of each of the years 1985 through 1989";

(3) by striking out "shall evaluate" in the last sentence and inserting in lieu thereof "shall oversee the evaluation of";

(4) by striking out "include such evaluation" in such sentence and inserting in lieu thereof "report on such evaluation"; and

(5) by inserting "(a)" after "SEC. 937." and by adding at the end thereof the following new subsection:

"(b) The Office of Women's Educational Equity shall evaluate and disseminate (at low cost) all materials and programs developed under this part.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 408. Section 938 of the Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 938. For the purpose of carrying out this part there are authorized to be appropriated $10,000,000 for fiscal year 1985, $12,000,000 for fiscal year 1986, $14,000,000 for fiscal year 1987, $16,000,000 for fiscal year 1988, and $20,000,000 for fiscal year 1989.".

TITLE V—AMENDMENTS TO TITLE XI OF THE EDUCATION AMENDMENTS OF 1978

SHORT TITLE; REFERENCE

SEC. 501. (a) This title may be cited as the "Indian Education Amendments of 1984".

(b) Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other pro-

vision, the reference shall be considered to be made to a section or other provision of title XI of the Education Amendments of 1978 (25 U.S.C. 2001 et seq.).

STANDARDS

SEC. 502. (a) Section 1121(b)(2) is amended by adding at the end thereof the following: "Such standards shall include a requirement, developed in coordination with Indian tribes, the affected local school boards, the Indian Health Service of the Department of Health and Human Services, the State health departments, and the Federal Center for Disease Control, on immunization for childhood diseases, including provisions for in-school immunization, where necessary.".

(b) The first sentence of section 1121(d) is amended by striking out everything after "ill-conceived" and inserting in lieu thereof a period and the following: "The tribal governing body or designated school board shall thereafter submit to the Secretary a proposal for alternative standards that takes into account the specific needs of the tribe's children.".

(c) Section 1121(e) is amended—

(1) by inserting "(1)" after "(e)";

(2) by striking out the second sentence thereof; and

(3) by adding at the end thereof the following new paragraphs:

"(2) Within two years of the initial contract for the provision of educational services under Indian Self-Determination and Education Assistance Act each such school shall (A) be in compliance with the standards prescribed under subsection (a), or (B) have obtained accreditation, or be a candidate for accreditation, with one of the accrediting agencies recognized by the Secretary of Education or the State in which it is found.

"(3) Within one year of the date of enactment of this paragraph, the Bureau shall, through contract with a national Indian organization, establish uniform fiscal control and fund accounting procedures for all contract schools. Such procedures shall yield data results comparable to those used by Bureau schools.".

(d) Section 1121(f) is amended by adding at the end thereof the following: "Failure to implement or meet such standards shall not serve as the basis for taking any personnel action against any individual if (1) the failure is related to inadequate resources (as determined under sections 1128 and 1129 of this title), and (2) the Secretary has not submitted the information required by this subsection and has not requested sufficient funds to cover the cost (as determined under such sections) of meeting such standards at the school concerned.".

(e) Section 1121 is further amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g)(1) Except as specifically required by statute, no school operated by the Bureau of Indian Affairs on January 1, 1984, may be closed or its program curtailed unless done according to the requirements of this subsection, except that, in those cases where the tribal governing body, or the local school board concerned (if so designated by the tribal governing body), requests closure or consolidation, the requirements of this subsection shall not apply.

"(2) The Secretary shall, by regulation, promulgate standards and procedures for the closing or consolidation of Bureau schools in accordance with the requirements of this subsection.

"(3) Such standards and procedures shall require that, whenever closure or consolidation of a school is under consideration or review by any division of the Bureau or the Department of the Interior, the affected tribe, tribal governing body, designated local school board, and parents will be notified as soon as such consideration or review begins and kept fully and currently informed with respect to such consideration or review. Copies of any such notices and information shall be transmitted promptly to the Congress and published in the Federal Register.

"(4) Prior to ordering any such school closing or consolidation, the Secretary shall insure that a study is made of each Indian child's educational and (where applicable) social needs and that adequate alternative services are guaranteed. Such a study shall include a description of the consultation conducted between the potential service provider, current service provider, parents, tribal representative of the tribe involved, and the Director of the Bureau of Indian Affairs, Office of Indian Education Programs, with regard to such child.

"(5) Prior to taking any action to close or consolidate any such school, the Secretary shall make a full report to Congress describing the plans made (including schedules and plans for follow-up studies on the students affected), and the study and consultations undertaken pursuant to paragraph (4) of this subsection. No action may be taken in furtherance of any such proposed school closing or consolidation (including any action which would prejudice the personnel or programs of such school) until the end of the academic year following the academic year in which such report is made.".

SCHOOL BOUNDARIES

SEC. 503. Section 1124 is amended to read as follows:

"SCHOOL BOUNDARIES

"SEC. 1124. (a) The Secretary shall, in accordance with this section, establish separate geographical attendance areas for each Bureau school.

"(b) No attendance area shall be established with respect to any such school unless the tribal governing body or the local school board concerned (if so designated by the tribal governing body) has been given one year from the date of enactment of the Indian Education Amendments of 1984 to propose such boundaries. Such proposed boundaries shall be accepted unless the Secretary finds, after consultation with such body or board, that such boundaries do not reflect the needs of the Indian students to be served or do not provide adequate stability to all of the programs affected.

"(c) In any case where there is only one Bureau operated program located on an Indian reservation, the attendance area for the program shall be the boundaries of the reservation served, and those students residing near the reservation shall also receive services from such program.

"(d) The Bureau of Indian Affairs shall include in the final rules the requirement that each superintendent for education coordinate and consult with the affected tribes and relevant school boards in the establishment of such geographic boundaries.".

BUREAU OF INDIAN AFFAIRS EDUCATION FUNCTIONS

SEC. 504. (a) Section 1126(b) is amended by striking the second sentence and inserting in lieu thereof the following: "All contract functions relating to education (including those pursuant to the Indian Self-Determination and Education Assistance Act) shall be supervised by the Director of the Office.".

(b) Section 1126(b) is further amended by striking out "Nothing" in the last sentence and inserting in lieu thereof "Subject to the provisions in subsection (c), nothing".

(c) Section 1126(c) is amended by striking out "and" at the end of paragraph (1), and by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) provide all services and support functions for education programs with respect to personnel matters involving staffing actions and functions, and

"(3) provide technical and coordinating assistance in areas such as procurement, contracting, budgeting, personnel, and curriculum.".

(d) Section 1126 is further amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d)(1) The Assistant Secretary shall submit in the annual Budget a plan—

"(A) for school facilities to be constructed under the system required by section 1125(c); and

"(B) for establishing priorities among projects and for the improvement and repair of education facilities, which together shall form the basis for the distribution of appropriated funds.

"(2) The Assistant Secretary shall establish a program, including the distribution of appropriated funds, for the operation and maintenance of education facilities. Such program shall be implemented by the Director of the Office. Such program shall include, but not be limited to—

"(A) a method of computing the amount necessary for each education facility;

"(B) similar treatment of all Bureau and contract schools; and

"(C) the allocation of appropriated funds from the Director of the Office directly to the agency superintendents for education, or to the area education program administrators in the case of multitribal boarding schools located off reservation.

The agency superintendents for education, or the area education program administrator in the case of multitribal boarding schools located off reservation, shall make arrangements for the maintenance of education facilities with the local supervisors of the Bureau maintenance personnel who are under the authority of the agency superintendent or area directors, respectively. The local supervisors of Bureau maintenance personnel shall take appropriate action to implement the decisions made in this regard by the agency superintendents for education and by the area education program administrators, except that no funds from this program may be expended or transferred by an agency superintendent for education or by an area education program administrator unless such superintendent or administrator is assured that the necessary maintenance has been, or will be, provided in a reasonable manner. Subject to the requirements of subsection (b) of this section, nothing in this Act shall be construed to require the provision of separate operations and maintenance personnel for the Office.

"(3) The Director of the Office shall supervise all Bureau education facilities, including local Bureau housing constructed for the purpose of housing Bureau personnel at the school site.

"(4) The requirements of this subsection shall be implemented within 270 days fol-

lowing the date of enactment of the Indian Education Amendments of 1984.".

ALLOTMENT FORMULA

SEC. 505. (a) Section 1128(a)(2) is amended—

(1) by striking out subparagraph (D);

(2) by redesignating subparagraph (E) as subparagraph (D); and

(3) by adding at the end thereof the following new subparagraphs:

"(E) special transportation and other costs of isolated and small schools;

"(F) the costs of boarding arrangements, where determined necessary by a tribal governing body or designated local school board;

"(G) costs associated with greater lengths of service by educational personnel;

"(H) special programs for gifted and talented students; and

"(I) costs associated with operating education and recreational programs on a 12-month basis;".

(b) Section 1128(c) is amended by inserting "(1)" after "(c)", redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively, and by adding at the end thereof the following:

"(2) All Bureau and contract schools receiving funds under this section shall receive an equal amount as an allowance for local school board training and activities including, notwithstanding any other provision of law, meeting expenses and the cost of membership in or support of organizations engaged in activities on behalf of Indian education.

"(3) The Secretary shall, subject to appropriations, provide to all contract schools an amount for administrative and indirect costs which is at least equal to the amount which would be expended by the Secretary if such school were directly operated by the Secretary. The Secretary shall take such actions as are necessary to provide contract schools with the full amount as determined by this paragraph without reducing funds available under subsection (a) of this section.".

(c) Section 1128 is further amended by adding at the end thereof the following new subsection:

"(e) The Director of the Office shall establish a separate fund from which monetary awards and quality step increases for employees shall be paid. Such payments shall not affect school allotments under this section.".

UNIFORM DIRECT FUNDING

SEC. 506. (a) Section 1129(a) is amended—

(1) by striking out "section 1128," and all that follows in the second sentence and inserting in lieu thereof "section 1128."; and

(2) by inserting "(1)" after "(a)" and adding at the end thereof the following:

"(2)(A) For the purpose of affording adequate notice of funding available pursuant to the allotments made by this section, amounts appropriated in an appropriation Act for any fiscal year shall become available for obligation by the affected schools on July 1 of the fiscal year in which they are appropriated without further action by the Secretary, and shall remain available for obligation through the succeeding fiscal year. In order to effect a transition to the forward funding method of distribution described in the preceding sentence, there are authorized to be appropriated, in an appropriation Act or Acts for the same fiscal year, two separate appropriations for such allotments, the first of which shall not be subject to the preceding sentence.

"(B) The Secretary shall, on the basis of the amount appropriated in accordance with this paragraph—

"(i) publish, on July 1 preceding the fiscal year for which the funds are appropriated, allotments to each affected school made under this section of 85 percent of such appropriation; and

"(ii) publish, no later than September 30 of such preceding fiscal year, the allotments to be made under this section of the remaining 15 percent of such appropriation, adjusted to reflect actual student attendance.

"(3) Notwithstanding any law or regulation governing procurement by Federal agencies, the supervisor of each school receiving funds under this section shall, subject to school board approval, have the authority to expend no more than 10 percent of the funds allotted by this section to procure supplies and equipment, with or without competitive bidding.".

(b) Section 1129(c) is amended by inserting at the end thereof the following: "The Secretary shall institute a program for funding tribal divisions of education and the development of tribal codes of education.".

APPEALS FROM ACTIONS OF SCHOOL BOARDS

SEC. 507. (a) Section 1129(b) is amended by striking out the last sentence and inserting in lieu thereof the following: "The supervisor of the school may appeal any such action of the local school board to the superintendent for education of the Bureau agency by filing a written statement describing the action and the reasons the supervisor believes such action should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the superintendent may, for good cause, overturn the action of the local school board. The superintendent shall transmit the determination of such appeal in the form of a written opinion to such board and to such supervisor identifying the reasons for overturning such action.".

(b) Section 1131(d) is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2)(A) The supervisor of a school may appeal to the appropriate agency superintendent for education any determination by the local school board for the school that an individual be employed, or not be employed, in an education position in the school (other than that of supervisor) by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the superintendent may, for good cause, overturn the determination of the local school board. The superintendent shall transmit the determination of such appeal in the form of a written opinion to such board and to such supervisor identifying the reasons for overturning such determination.

"(B) The superintendent for education of an agency office of the Bureau may appeal to the Director of the Office any determination by the local school board for the school that an individual be employed, or not be employed, as the supervisor of a school by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the Director may, for good cause, overturn the determination of the local school board. The Director shall transmit the determination of such appeal in the form of a written opinion to such board and to such superintendent identifying the reasons for overturning such determination.

"(3) The superintendent for education of an agency office of the Bureau may appeal to the Director of the Office any determination by the agency school board that an individual be employed, or not be employed, in an education position in such agency office by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the agency school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the Director may, for good cause, overturn the determination of the agency school board. The Director shall transmit the determination of such appeal in the form of a written opinion to such board and to such superintendent identifying the reasons for overturning such determination.".

MANAGEMENT INFORMATION SYSTEM

SEC. 508. Section 1132 is amended—

(1) by striking out "the Bureau," and inserting in lieu thereof "the Office,";

(2) by striking out "this Act" and inserting in lieu thereof "the Indian Education Amendments of 1984"; and

(3) by striking out "to all agency and area offices of the Bureau and".

AUDITS

SEC. 509. Section 1136 is amended by inserting "(a)" after "SEC. 1136." and by adding at the end thereof the following new subsection:

"(b) The Inspector General of the Department of the Interior shall establish a system to ensure that financial and compliance audits are conducted of the Bureau, the Office, and each Bureau school at least once in every three years. Audits of Bureau schools shall be based upon the extent to which such school has complied with its local financial plan under section 1129.".

REGULATIONS

SEC. 510. Section 1138 is amended by adding at the end thereof the following: "Such regulations shall contain, immediately following each substantive provision of such regulations, citations to the particular section or sections of statutory law or other legal authority upon which such provision is based.".

VOLUNTARY SERVICES

SEC. 511. Title XI of the Education Amendments of 1978 is further amended by adding after section 1139 the following new section:

"VOLUNTARY SERVICES

"SEC. 1140. Notwithstanding section 1342 of title 31, United States Code, an officer or employee of the Bureau or the Office may, subject to the approval of the local school board concerned, accept voluntary services on behalf of Bureau and contract schools. Nothing in this title shall be construed to require Federal employees to work without compensation or to allow the use of volunteer services to displace or replace Federal employees.".

EMPLOYEE BENEFITS

SEC. 512. Title XI of the Education Amendments of 1978 is further amended by adding after section 1140 the following new sections:

"PRORATION OF PAY

"SEC. 1141. (a) Notwithstanding any other provision of law, the Secretary, at the election of the employee, shall prorate the salary of an employee employed in an education position for the academic school-year over the entire twelve month period. Each educator employed for the academic school-year shall annually elect to be paid on a twelve month basis or for those months while school is in session. No educator shall suffer a loss of pay or benefits because of such election.

"(b) During the course of such year the employee may change election once.

"(c) That portion of the employee's pay which would be paid between academic school years may be paid in lump sum at the election of the employee.

"(d) For the purposes of this section the terms 'educator' and 'education position' have the meaning contained in section 1131(n)(1) and (n)(2) of this title. This section applies to those individuals employed under the provisions of section 1131 of this title or title 5, United States Code.

"EXTRACURRICULAR ACTIVITIES

"SEC. 1142. (a) Notwithstanding any other provision of law, the Secretary shall provide a stipend in lieu of overtime premium pay or compensatory time off. Any employee of the Bureau who performs additional activities to provide services to students or otherwise support the school's academic and social programs may elect to be compensated for all such work on the basis of the stipend. Such stipend shall be paid as a supplement to the employee's base pay.

"(b) The amount of such stipends shall be determined at the area level.

"(c) If an employee elects not to be compensated through the stipend established by this section, the appropriate provisions of title 5, United States Code, shall apply.

"(d) This section applies to all Bureau employees, whether employed under section 1131 of this title or title 5, United States Code.

"HOUSING

"SEC. 1143. (a) The Secretary shall continue to apply rental rates for employee housing in accordance with all applicable laws and regulations. Proceeds from rental receipts shall be used for the improvement and repair of employee quarters.

"(b) Notwithstanding any other provision of law, the agency superintendent for education, or (for boarding schools located off-reservation) the area education program administrator, shall have the authority to waive up to 90 percent of the rental rate for educators on school-wide basis to aid the school in recruiting and retaining educators. Decisions on rent waivers will be made after consultation with the appropriate level school board and the employees. Such superintendent's or administrator's decision (as the case may be) on the need for this assistance in recruitment and retention is final and not reviewable.

"(c) During periods when schools are not in session and educators have been placed in non-pay status, all rents payable by those educators shall be waived.

"(d) For the purposes of this section the term 'educator' has the meaning contained in section 1131(n)(1) of this title. This section applies to those individuals employed under both the provisions of section 1131 of this title and title 5, United States Code.".

EXTENSIONS OF AUTHORIZATION OF OTHER INDIAN EDUCATION PROGRAMS

SEC. 513. (a)(1) Section 303(a)(1) of the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241bb(a)(1)) is amended by striking out "For the purpose of computing the amount to which a local educational agency is entitled under this title for any fiscal year ending prior to October 1, 1983," and inserting in lieu thereof "For any fiscal year for which appropriations are authorized under section 307 of this Act,".

(2) Section 303(a)(2)(A) of such Act is amended to read as follows:

"(2)(A) From the sums appropriated under section 307(a) for any fiscal year, the Secretary shall allocate to each local educational agency which has an application approved under this title an amount which bears the same ratio to such sums as the product of (i) the number of eligible Indian children (as determined under paragraph (1)), multiplied by (ii) the average per pupil expenditure per agency (as determined under subparagraph (c)), bears to the sum of such products for all such local educational agencies.".

(3) Section 303 of such Act is further amended—

(A) by inserting "(1)" after "(b)" in subsection (b); and

(B) by striking out all after "financial assistance" in subsection (b) and inserting in lieu thereof the following:

"in accordance with the provisions of this title to schools which—

"(A) are located on or near reservations; and

"(B)(i) are not local educational agencies; or

"(ii) have not been local educational agencies for more than three years.

"(2) The requirements of clause (A) of paragraph (1) shall not apply to any school serving Indian children in California, Oklahoma or Alaska.".

(4) Section 305(b)(2)(B)(ii) of such Act is amended by inserting "written" before "approval of a committee".

(5) Section 307 of such Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS; ADJUSTMENTS

"SEC. 307. (a) For the purpose of making payments under this title, there are authorized to be appropriated (1) for each of the fiscal years ending prior to October 1, 1986, such sums as may be necessary, and (2) for each of the fiscal years 1987, 1988, and 1989, an amount not to exceed the amount appropriated for such purpose for fiscal year 1986.

"(b) The Secretary may reallocate, in such manner as will best assist in advancing the purposes of this title, any amount which the Secretary determines, based upon estimates made by local educational agencies, will not be needed by any such agency to carry out its approved project.".

(8) Such Act is further amended by striking out "Commissioner" each place it appears and inserting in lieu thereof "Secretary".

(b)(1) Section 422(c) of the Indian Education Act (20 U.S.C. 3385a(c)) is amended by striking out "October 1, 1983" and inserting in lieu thereof "October 1, 1986".

(2) Section 422(c) of such Act is further amended by adding at the end thereof the following: "There is also authorized to be appropriated to carry out the provisions of this section for each of the fiscal years 1987, 1988, and 1989, an amount not to exceed the amount appropriated for such purpose for fiscal year 1986.".

(3) Section 423(a) of such Act is amended—

(A) by striking out "1983" and inserting in lieu thereof "1989";

(B) by striking out "not to exceed two hundred" in the first sentence;

(C) by inserting "psychology," after "medicine," in the second sentence; and

(D) by striking out the last sentence and inserting in lieu thereof the following: "The Commissioner may, if a fellowship is vacated prior to the end of the period for which it was awarded, award an additional fellowship for the remainder of such period.".

(4) Section 423 of such Act is further amended by adding at the end thereof the following new subsection:

"(d) The amount that is authorized to be appropriated to carry out the provisions of this section for each of the fiscal years 1987, 1988, and 1989, is the amount appropriated for such purpose for fiscal year 1986.".

(5) Section 442(a) of such Act is amended by striking out "October 1, 1983" and inserting in lieu thereof "October 1, 1989".

(c) Section 1005(g) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3385(g)) is amended—

(1) by striking out "October 1, 1983" each place it appears and inserting in lieu thereof "October 1, 1989"; and

(2) by adding at the end thereof the following new paragraph:

"(3) Notwithstanding paragraph (1) and (2), the amount that is authorized to be appropriated to under this subsection for each of the fiscal years 1987, 1988, and 1989, is the amount appropriated for such purpose for fiscal year 1986.".

(d) Section 316(e) of the Adult Education Act (20 U.S.C. 1211a(e)) is amended—

(1) by striking out "October 1, 1983" and inserting in lieu thereof "October 1, 1986"; and

(2) by adding at the end thereof the following new sentence: "There is also authorized to be appropriated for such purpose for each of the fiscal years 1987, 1988, and 1989, an amount not to exceed the amount appropriated for such purpose for fiscal year 1986.".

(e) Notwithstanding the provisions of any authorization of appropriations amended by this section, the total amount which may be appropriated pursuant to all such authorizations (amended by this section) shall not exceed $100,000,000 for fiscal year 1985.

TITLE VI—EMERGENCY IMMIGRANT EDUCATION ASSISTANCE

SHORT TITLE

SEC. 601. This title may be cited as the "Emergency Immigrant Education Act of 1984".

DEFINITIONS

SEC. 602. As used in this title—

(1) The term "immigrant children" means children who were not born in any State and who have been attending schools in any one or more States for less than three complete academic years.

(2) The terms "elementary school", "local educational agency", "secondary school", "State", and "State educational agency" have the meanings given such terms under section 198(a) of the Elementary and Secondary Education Act of 1965.

(3) The term "elementary or secondary nonpublic schools" means schools which comply with the applicable compulsory attendance laws of the State and which are exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954.

(4) The term "Secretary" means the Secretary of Education.

AUTHORIZATIONS AND ALLOCATION OF APPROPRIATIONS

SEC. 603. (a) There are authorized to be appropriated to make payments to which State educational agencies are entitled under this title and payments for administration under section 604 $30,000,000 for fiscal year 1985, and $40,000,000 for fiscal year 1986 and for each of the three succeeding fiscal years.

(b)(1) If the sums appropriated for any fiscal year to make payments to States under this title are not sufficient to pay in full the sum of the amounts which State educational agencies are entitled to receive under this title for such year, the allocations to State educational agencies shall be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amounts so appropriated.

(2) In the event that funds become available for making payments under this title for any period after allocations have been made under paragraph (1) of this subsection for such period, the amounts reduced under such paragraph shall be increased on the same basis as they were reduced.

STATE ADMINISTRATIVE COSTS

SEC. 604. The Secretary is authorized to pay to each State educational agency amounts equal to the amounts expended by it for the proper and efficient administration of its functions under this title, except that the total of such payments for any period shall not exceed 1.5 per centum of the amounts which that State educational agency is entitled to receive for that period under this title.

WITHHOLDING

SEC. 605. Whenever the Secretary, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirements of any provision of this title, the Secretary shall notify that agency that further payments will not be made to the agency under this title, or in the discretion of the Secretary, that the State educational agency shall not make further payments under this title to specified local educational agencies whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under this title, or payments by the State educational agency under this title shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

STATE ENTITLEMENTS

SEC. 606. (a) The Secretary shall, in accordance with the provisions of this section, make payments to State educational agencies for each of the fiscal years 1985, 1986, 1987, 1988, and 1989 for the purpose set forth in section 607.

(b)(1) Except as provided in paragraph (3) and in subsections (c) and (d) of this section, the amount of the grant to which a State educational agency is entitled under this title shall be equal to the product of (A) the number of immigrant children enrolled during such fiscal year in elementary and secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, and in any elementary or secondary nonpublic school within the district served by each such local educational agency, multiplied by (B) $500.

(2) The local educational agencies referred to in paragraph (1) are those local educational agencies in which the sum of the number of immigrant children who are enrolled in elementary or secondary public schools under the jurisdiction of such agencies, and in elementary or secondary nonpublic schools within the districts served by such agencies, during the fiscal year for which the payments are to be made under this title, is equal to—

(A) at least five hundred; or

(B) at least 3 per centum of the total number of students enrolled in such public or nonpublic schools during such fiscal year; whichever number is less.

(3)(A) The amount of the grant of any State educational agency for any fiscal year as determined under paragraph (1) shall be reduced by the amounts made available for such fiscal year under any other Federal law for expenditure within the State for the same purpose as those for which funds are available under this title, but such reduction shall be made only to the extent that (i) such amounts are made available for such purpose specifically because of the refugee, parollee, asylee, or other immigrant status of the individuals served by such funds, and (ii) such amounts are made available to provide assistance to individuals eligible for services under this title.

(B) No reduction of a grant under this title shall be made under subparagraph (A) for any fiscal year if a reduction is made, pursuant to a comparable provision in any such other Federal law, in the amount made available for expenditure in the State for such fiscal year under such other Federal law, based on the amount assumed to be available under this title.

(c)(1) Determinations by the Secretary under this section for any period with respect to the number of immigrant children shall be made on the basis of data or estimates provided to the Secretary by each State educational agency in accordance with criteria established by the Secretary, unless the Secretary determines, after notice and opportunity for a hearing to the affected State educational agency, that such data or estimates are clearly erroneous.

(2) No such determination with respect to the number of immigrant children shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this section to which such agency would be entitled had such determination been made on the basis of accurate data.

(d) Whenever the Secretary determines that any amount of a payment made to a State under this title for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to one or more other States to the extent the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this title, be regarded as part of such State's payment (as determined under subsection (b)) for such year, but shall remain available until the end of the succeeding fiscal year.

USES OF FUNDS

SEC. 607. (a) Payments made under this title to any State may be used in accordance with applications approved under section 608 for supplementary educational services and costs, as described under subsection (b) of this section, for immigrant children enrolled in the elementary and secondary public schools under the jurisdiction of the local educational agencies of the State described in section 606(b)(2) and in elementary and secondary nonpublic schools of that State within the districts served by such agencies.

(b) Financial assistance provided under this title shall be available to meet the costs of providing immigrant children supplementary educational services, including but not limited to—

(1) supplementary educational services necessary to enable those children to achieve a satisfactory level of performance, including—

(A) English language instruction;

(B) other bilingual educational services; and

(C) special materials and supplies;

(2) additional basic instructional services which are directly attributable to the presence in the school district of immigrant children, including the costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services; and

(3) essential inservice training for personnel who will be providing instruction described in either paragraph (1) or (2) of this subsection.

APPLICATIONS

SEC. 608. (a) No State educational agency shall be entitled to any payment under this title for any period unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that the educational programs, services, and activities for which payments under this title are made will be administered by or under the supervision of the agency;

(2) provide assurances that payments under this title will be used for purposes set forth in section 607;

(3) provide assurances that such payments will be distributed among local educational agencies within that State on the basis of the number of children counted with respect to such local educational agency under section 606(b)(1), adjusted to reflect any reductions imposed pursuant to section 606(b)(3) which are attributable to such local educational agency;

(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this title without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

(5) provide for making such reports as the Secretary may reasonably require to perform the functions under this title; and

(6) provide assurances—

(A) that to the extent consistent with the number of immigrant children enrolled in the elementary or secondary nonpublic schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of these children secular, neutral, and nonideologi-

cal services, materials, and equipment necessary for the education of such children;

(B) that the control of funds provided under this title and the title to any materials, equipment, and property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer such funds and property; and

(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such elementary or secondary nonpublic school and of any religious organization; and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds.

(b) The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

PAYMENTS

SEC. 609. (a) Except as provided in section 603(b), the Secretary shall pay to each State educational agency having an application approved under section 608 the amount which that State is entitled to receive under this title.

(b) If by reason of any provision of law a local educational agency is prohibited from providing educational services for children enrolled in elementary and secondary nonpublic schools, as required by section 608(a)(6), or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this title. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with section 557(b) (3) and (4) of the Education Consolidation and Improvement Act of 1981.

TITLE VII—GENERAL ADMINISTRATION AND ORGANIZATION

AMENDMENTS TO THE DEPARTMENT OF EDUCATION ORGANIZATION ACT

SEC. 701. (a) Section 204 of the Department of Education Organization Act (20 U.S.C. 3418) is amended by adding at the end thereof the following new sentence: "There shall be within the Office of Elementary and Secondary Education and directly under the supervision of the Assistant Secretary for Elementary and Secondary Education, an Office of Migrant Education, which shall be responsible for the administration of programs established by subpart 1 of part B of title I of the Elementary and Secondary Education Act of 1965 and by subpart 5 of part A of title IV of the Higher Education Act of 1965.".

(b) For the purposes of section 413(a) of the Department of Education Organization Act (20 U.S.C. 3473), the Office of Migrant Education shall be considered to be an organizational entity established by such Act and shall not be subject to the reorganizational authority of the Secretary of Education under that section or any other provision of law.

EXTENSION OF AUTHORIZATIONS UNDER THE GENERAL EDUCATION PROVISIONS ACT

SEC. 702. (a) Section 405(k)(7) of the General Education Provisions Act (20 U.S.C. 1221e(k)(7)) is amended by striking out "$10,500,000 for each fiscal year ending prior to October 1, 1983" and inserting in lieu thereof "$8,000,000 for fiscal year 1985, and $10,800,000 for each succeeding fiscal year ending prior to October 1, 1989".

(b) Section 406(g) of such Act (20 U.S.C. 1221-1(g)) is amended—

(1) by striking out "October 1, 1983" in paragraph (1) and inserting in lieu thereof "October 1, 1989"; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) The amount available for grants and contracts by the Assistant Secretary under subsection (e) shall not exceed $10,000,000 for fiscal year 1985, $12,000,000 for fiscal year 1986, $14,000,000 for fiscal year 1987, $16,000,000 for fiscal year 1988, and $18,000,000 for fiscal year 1989.".

NATIONAL INSTITUTE OF EDUCATION

SEC. 703. (a) Section 405(k)(1) of the General Education Provisions Act (20 U.S.C. 1221e(k)(1)) is amended by striking out "and" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof "; and", and by inserting after such subparagraph the following:

"(E) with respect to each State which voluntarily participates in accordance with paragraph (5), provide for a statement of information collected by the National Assessment for each such State.".

(b) Section 405(k)(3) of such Act is amended by adding at the end thereof the following: "The appropriateness of all cognitive, background, and attitude items developed as part of the National Assessment shall be the responsibility of the Assessment Policy Committee. Such items shall be subject to review by the Department of Education and the Office of Management and Budget for a single period of not more than 60 days.".

COLLECTION OF DATA

SEC. 704. (a) Section 405 of the General Education Provisions Act (20 U.S.C. 1221e) is further amended by adding at the end thereof the following new subsection:

"(l) For purposes of this section, the terms 'United States' and 'State' include the District of Columbia and Puerto Rico.".

(b) Section 406 of such Act (20 U.S.C. 1221-1) is amended—

(1) by redesignating subsection (i) as subsection (h); and

(2) by adding at the end thereof the following new subsection:

"(i) For purposes of this section, the terms 'United States' and 'State' include the District of Columbia and Puerto Rico.".

ANNUAL EVALUATION REPORTS

SEC. 705. Section 417(a) of the General Education Provisions Act (20 U.S.C. 1226c(a)) is amended by striking out "November 1" and inserting in lieu thereof "December 31".

CONFLICT-OF-INTEREST

SEC. 706. (a) Section 435(b) of the General Education Provisions Act (20 U.S.C. 1232d(b)) is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(3) by inserting after such paragraph the following new paragraph:

"(8) that none of the funds expended under any applicable program will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such an organization.".

(b) Section 436(b) of the General Education Provisions Act (20 U.S.C. 1232e(b)) is amended—

(1) by striking out "and" at the end of paragraph (7);

(2) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(3) by inserting after such paragraph the following new paragraph:

"(9) that none of the funds expended under any applicable program will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such an organization.".

STUDENT FINANCIAL ASSISTANCE TECHNICAL AMENDMENTS ACT OF 1982

SEC. 707. The Student Financial Assistance Technical Amendments Act of 1982 is amended—

(1) in section 3(a), by striking out "and 1984–1985" and inserting in lieu thereof ", 1984–1985, 1985–1986, and 1986-1987";

(2) in section 3(b), by striking out "year 1984–1985" and inserting in lieu thereof "years 1984–1985, 1985–1986, and 1986-1987";

(3) by striking out "and 1985–1986" each place it appears in sections 4, 5(a), 5(b)(1), 5(c), and 6 and inserting in lieu thereof ", 1985–1986, and 1986–1987";

(4) in section 5(b)(2), by striking out "and" at the end of clause (A), by striking out the period at the end of clause (B) and inserting in lieu thereof "; and", and by inserting after clause (B) the following new clause:

"(C) for the period from October 1, 1983, through September 30, 1984, and the arithmetic mean of such index for the period from October 1, 1984, through September 30, 1985, in the case of academic year 1986–1987.";

(5) in section 5(b)(3), by striking out "and immediately" and inserting in lieu thereof ", immediately" and by inserting before the period at the end thereof a comma and the following: "and immediately after such publication for September 1985 (with respect to academic year 1986–1987)";

(6) in section 5(d), by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and", and by inserting after such paragraph the following new paragraph:

"(3) not later than April 1, 1985, for academic year 1986–1987.";

(7) in section 9(a), by inserting "and from July 1, 1986, through June 30, 1987," after "June 30, 1986,"; and

(8) in section 9(c), by striking out "and" at the end of paragraph (2), by striking out the comma at the end of paragraph (3) and inserting in lieu thereof "; and", and by inserting after such paragraph the following new paragraph:

"(4) April 1, 1986, for the period of instruction from July 1, 1986, through June 30, 1987,".

EFFECTIVE DATE AMENDMENT

SEC. 708. Section 25(b) of Public Law 98-211 (97 Stat. 1419) is amended by striking

out "June 30, 1983" and inserting in lieu thereof "June 30, 1984".

EDUCATION AMENDMENTS OF 1978: ASSISTANCE TO TERRITORIES

SEC. 709. (a) Sections 1524 and 1525 of the Education Amendments of 1978 are each amended by striking out "1979" and inserting in lieu thereof "1985".

(b) No funds in excess of $5,000,000 are authorized to be appropriated for fiscal year 1985 to carry out the provision of such sections.

CONTRACT AUTHORITY

SEC. 710. Any authority to make payments or to enter into contracts under this Act shall be available only to such extent or in such amounts as are provided in advance in appropriation Acts.

EFFECTIVE DATE

SEC. 711. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of enactment of this Act or October 1, 1984, whichever occurs later.

(b) The amendments made by title I of this Act shall take effect on July 1, 1985.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

Amend the title so as to read: "An Act to extend the authorization of appropriations for certain education programs, and for other purposes.".

And the House agree to the same.

GUS HAWKINS,
WILLIAM D. FORD,
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CLAIBORNE PELL,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2496) to amend the Adult Education Act in order to simplify requirements for State and other recipients participating in Federal adult education programs, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

1. The Senate bill is entitled "Adult Education Act Amendments of 1984"; the House amendment is entitled "Education Amendments of 1984."

Senate recedes.

2. The Senate bill amends the statement of purpose of the Adult Education Act to emphasize that one purpose is to enable all adults to acquire basic *literacy* skills and another purpose is make available to adults the means to secure training *and education* to help them become more productive citizens (new words emphasized). The House amendment extends current law.

House recedes.

In making these minor modifications in the statement of purpose, the managers still intend that the primary purpose of the Act remains the teaching of basic literacy skills to the most educationally disadvantaged adults.

3. The Senate bill adds to the definition of adult the phrase "or who is beyond the age of compulsory school attendance under State law." The House amendment extends current law, defining adult as an individual who has attained the age of 16.

House recedes with a technical amendment to clarify that for purposes of making allotments to States, the definition of adult shall be an individual 16 or older.

4. The Senate bill revises the definition of adult education to delete two provisions in current law: (1) allowing the Secretary of Education to define what the term "services or instruction below the college level" means and (2) defining the participants as those adults who are not currently required to be enrolled in schools. The House amendment extends current law.

House recedes.

5. The Senate bill deletes the definition of Commissioner in current law and replaces it with the definition of Secretary. The House amendment extends current law.

House recedes.

6. The Senate bill makes a conforming amendment to the definition of "State" and a technical amendment to the definition of "institution of higher education" and replaces the term "Commissioner" in the Act with the term "Secretary" everywhere it appears. The House amendment extends current law.

House recedes.

7. The Senate bill corrects a technical error in current law relating to establishment or expansion of programs and amends the law to allow adult education programs to be carried out by private, for-profit agencies, organizations, and institutions, by contract with a State educational agency or eligible applicant. The House amendment extends current law, which does not provide for funding of for-profit agencies.

House recedes with an amendment that the for-profit agencies can be funded "where such institutions can make a significant contribution to attaining the objectives of the Act and to provide substantially equivalent preparation at a lesser cost or can provide services and equipment not available in public institutions."

8. The Senate bill revises the allocation formula in current law to (1) raise the State minimum amount from $150,000 to $250,000; (2) allot to the territories $100,000 each, instead of the 1 percent of the total appropriation that is currently reserved for all territories; and (3) ensure that no State receives less in any fiscal year after September 30, 1984 than it received for fiscal year 1984. The House amendment extends current law.

House recedes.

9. The Senate bill amends the State planning section of the Act to (1) correct a section reference and (2) direct States to submit such information about adult education students, programs, expenditures, and goals as the Secretary may require and information about students' completion of the programs and their race, age, and sex. The House amendment extends current law.

House recedes.

10. The Senate bill amends the maintenance of effort requirement in current law to permit the Secretary to waive this requirement due to exceptional or uncontrollable circumstances. The House amendment extends current law.

House recedes.

11. The Senate bill deletes the provisions in current law relating to hearings and judicial review where there has been a finding of noncompliance and replaces them with cross references to the section of the General Education Provisions Act relating to withholding of funds and cease and desist orders. The House amendment extends current law.

House recedes.

12. The Senate bill rewrites the research and development provisions of current law to (1) make individuals and private, for-profit agencies, institutions, and organizations, including business concerns, eligible for funding for research, development, demonstration, and dissemination projects; (2) specify types of projects that may be funded, including projects to improve opportunities for the elderly and adult immigrants, to evaluate educational technology and computer software, and to support exemplary cooperative programs involving business, schools, and community organizations; and (3) assure that participants in these national programs are not charged for their participation. The Senate bill also adds to current law a provision that these national programs may be carried out by cooperative agreements between the Secretary and eligible recipients, in addition to grants and contracts. The House amendment extends current law.

House recedes.

13. The Senate bill amends the provisions of current law relating to research conducted by the National Institute of Education to provide funds for these projects from either NIE funds or from the 5% reserved for the Secretary, instead of from a separate authorization as in current law. The House amendment extends current law.

House recedes.

14. The Senate bill repeals the sections in current law authorizing special projects for the elderly and programs for adult immigrants and instead allows such activities to be funded from the national programs (see comment 12). The Senate bill renumbers the remaining sections. The House amendment extends these authorization through fiscal year 1986.

House recedes.

15. The Senate bill repeals section 431A of the General Education Provisions Act,

which requires maintenance of effort to be computed on a per pupil or an aggregate basis for Title IV of the Elementary and Secondary Act (since repealed) and the Adult Education Act and spells out the conditions for a waiver of such requirement for such programs. No comparable House provision.

House recedes.

16. The Senate bill shortens the State advisory council provisions of current law to simply declare that any State may use its State grant to support a State advisory council which assists the State educational agency to plan, implement, or evaluate adult education programs. The current law, which is continued by the House bill, specifies in detail the membership of the council, its duties, and the procedures for its establishment and meetings. Neither bill requires States to establish these councils.

House recedes.

17. The Senate bill extends the authority for the National Advisory Council for five years, through fiscal year 1989, while the House amendment extends it for two years.

House recedes with an amendment to extend the council for four years, through FY 1988.

18. The Senate bill authorizes $140 million for fiscal year 1985 and such sums as necessary for each of the four succeeding fiscal years. The House bill extends the authorization for two years, setting the level at $140 million for fiscal year 1985 (see section 901) and such sums as necessary for fiscal year 1986. The Senate bill, but not the House amendment, reserves up to 5% of the total appropriation for national programs, but only in years in which the appropriation is $112 million or more.

House recedes on 5%, and recedes with an amendment to extend the program for four years, through FY 1988.

19. The House amendment extends the Bilingual Education Act through fiscal year 1989 with authorization levels of $176 million for fiscal year 1985 (see section 901) and such sums as necessary for the four succeeding fiscal years. The House amendment also revises the program to allow funding of alternative instructional methods that need not have a native language component, with 4% of all funds up to $140 million, 50% of new funds over $140 million, but not to exceed 10% of the total funds reserved for these alternative programs. Other changes made by the House amendment include: (1) new grant programs for integrated education projects involving both limited-English-proficient and English-speaking children, for family literacy programs, and for rewarding academically excellent programs; (2) improvement of evaluation criteria; and (3) conducting research and making information more readily available on effective techniques in bilingual education. No comparable Senate provision.

Senate recedes with an amendment regarding the Secretary's regulations and with an amendment to limit the period of reauthorization to four years, through FY 1988.

20. The House amendment extends the impact aid maintenance and operations (P.L. 81-874) and construction (P.L. 81-815) programs through fiscal year 1989, with a total authorization of $780 million for fiscal year 1985 and such sums as necessary, as limited by the formula in the legislation, for the four succeeding fiscal years. From the above amounts, $21 million is reserved for section 2 (payments to school districts affected by the Federal acquisition of real property). Category "B" payments are extended with the current provision limiting payments to one-third of maximum entitlement. Other amendments: (1) ensure full funding for school districts that qualify under section 3(d)(2)(B) and those that are coterminous with the boundaries of a military installation; (2) eliminate the minimum number of 10 children to qualify for section 3 (payments based on numbers of Federally-connected children, the section of the law with the greatest funding); and (3) provide that in cases of a section 2 overpayment due to Departmental error, a school district cannot be required to repay more than 10% per year. No comparable Senate provision.

Senate recedes with an amendment to reduce the length of the reauthorization to four years and to set the levels as follows: $740 million for FY 1985, $760 million for FY 1986, $780 million for FY 1987, $800 million for FY 1988. Senate recedes on remaining items, except House recedes on section 2 cap.

21. The House amendment extends the Women's Education Equity Act through fiscal year 1989, authorizing $28 million for fiscal year 1985 (section 901) and $50 million for the four succeeding fiscal years. Various amendments to the law: (1) increase the amount for small grants from $25,000 to $40,000; (2) specify the membership and responsibilities of the National Advisory Council on Women's Educational Programs; and (3) specify the Secretary's reporting duties, the funding criteria for "Tier I" and "Tier II" grants, and the types of developmental grants that must be supported. No comparable Senate provision.

Senate recedes with an amendment to set the authorizations at $10 million for FY 85, $12 million for FY 86, $14 million for FY 87, $16 million for FY 88, and $20 million for FY 89, and to lower the "trigger" for Tier II projects to $6 million, with flexibility to fund local and national projects above that amount. Senate amendment also requires the National Advisory Council on Women's Educational Programs to include persons expert in student financial assistance.

22. The House amendment extends the Indian Education Act programs through fiscal year 1989, authorizing such sums as necessary for these years. The House amendment also amends Title XI of the Education Amendments of 1978 (P.L. 95-561) to clarify the administrative responsibilities of the Bureau of Indian Affairs with respect to standards for Indian schools, attendance, facilities, the allotment formula to BIA schools, and personnel. No comparable Senate provision.

The Senate recedes, with an amendment. The Senate amendment deletes the House provisions on attendance boundaries relating to procedure, criteria and off-reservation boarding schools and substitutes language to guarantee tribal and community imput into the establishment of these areas by the Bureau.

The Senate amendment also deletes the provision in the House bill clarifying the line authority of the Director of the Office of Indian Education Programs, due to a concern that this provision may be misconstrued as elevation the Director to the position of a Deputy Assistant Secretary. Such was never the intent of the House. The Managers are in agreement that the current statutory provisions of P.L. 95-561 require that the Director report directly to the Assistant Secretary.

The Senate amendment also makes several changes to clarify that the responsibility and authority for the statutory directives resides with the Assistant Secretary. The Director supervises the carrying out of these functions under Assistant Secretary direction. The Senate amendment also deletes the House provision vesting procurement authority for purchases under $25,000 within education personnel. The Managers are aware that the Bureau has directed that education personnel be certified at this level for the purposes of procurement. The managers encourage the Bureau to complete this process as quickly as possible.

The Senate amendment requires that the Assistant Secretary submit a plan for school facilities construction, the prioritization of projects and improvement and repair of education facilities in conjunction with his annual Budget Submission, beginning with Fiscal Year 1986.

The Senate amendment deletes the House sections which delete the terms "entitle" and "entitlements" from the current Indian Education Act legislation. The House amendment altering the authorization level would remain. A cap on the program appropriations will be located elsewhere in this measure, so that problems with authorized budget levels do not arise. The Senate amendment alters the authorization period for Title IV, Indian Education Act programs to two years, with three years of contingent funding being provided to guarantee program stability.

This is done in recognition of the fact that the Senate Select Committee on Indian Affairs intends to hold hearings on the Indian Education Act programs during the next Congress. During these hearings, the Committee will take testimony from Indian Educators, parents, and state education agency personnel in order to determine what changes, if any, are necessary to the legislation if it is to continue to address the educational needs of Indian people. These hearings will set the stage for a five year reauthorization of the Indian Education Act programs.

The Senate amendment alters the House restriction on the distribution of funds relative to the presence of a school on reservation property so that the provision will not apply to Alaska, which does not have a reservation land-base, in the way in which that term is normally used. Definition of eligibility for this group of tribes leaves unchanged the House clarification of this section.

The Managers are concerned that the removal of the limitation on the number of fellowships eligible for funding may lead to the erronenous conclusion that the intent behind the removal on the limitation is to reduce individual fellowships. The intent is to continue to provide each individual fellowship recipient with adequate funding to pursue his/her education without encountering financial difficulties. The amendment simply will allow the Secretary to fund as many fellows as possible to the extent of the appropriated level in any one fiscal year.

23. The House amendment extends the Asbestos School Hazard Detection and Control Act, of 1980, P.L. 96-270, for five years. The amendment authorizes to the Department of Education such sums as may be necessary for fiscal year 1985 for this program (section 901). For each of the fiscal years 1986 through 1989, the amendment authorizes $22.5 million for detection activities and $75 million for interest-free loans for abatement activities.

House recedes.

24. The House amendment authorizes the Emergency Immigrant Education Assistance

program through fiscal year 1989 at levels of $70 million for fiscal year 1985 (section 901) and such sums as necessary for the four succeeding fiscal years. The program would be similar to current law except the threshold for eligibility for school districts enrolling immigrant children would be lowered from 5% immigrant children to 3%. No comparable Senate provision.

Senate recedes with an amendment authorizing $30 million for this program for fiscal year 1985 and $40 million for each of the four succeeding fiscal years.

25. The House amendment, but not the Senate bill, contains a provision establishing an Office of Migrant Education and an Office of Equity Training and Technical Assistance within the Office of Elementary and Secondary Education of the Department of Education and an Office of Women's Education Equity within the Office of Educational Research and Improvement. These Offices shall not be subject to reorganization.

Senate recedes with an amendment to retain the provision affecting the Office of Migrant Education and to delete the other provisions.

26. The House amendment extends the authorization for the National Assessment of Educational Progress (NAEP) for five years, at levels of $8 million for fiscal year 1985 (section 901) and $10.8 million for the four succeeding fiscal years. The House amendment also extends the authorization for the National Center for Education Statistics (NCES) for five years. For fiscal year 1985, the bill authorizes $12 million for all NCES activities. For each of the four succeeding fiscal years, the bill authorizes $14 million for salaries and expenses and $30 million for grants and contracts for NCES. No comparable Senate provision.

Senate recedes on NAEP; Senate recedes on NCES with an amendment to authorize $8 million for FY 85, $12 million for FY 86, $14 million for FY 87, $16 million for FY 88, and $18 million for FY 89 for grants and contracts only.

27. The House amendment would allow the National Assessment of Educational Progress to contract with States to make available State comparisons and would prohibit the Department of Education and the Office of Management and Budget from reviewing and approving the NAEP testing items. No comparable Senate provision.

Senate recedes with an amendment to limit both Department and OMB clearance to 60 days.

28. The House amendment, but not the Senate bill, would require NAEP and NCES to collect data for the District of Columbia and Puerto Rico.

Senate recedes.

29. The House amendment but not the Senate bill, changes the date by which the Secretary must submit his annual evaluation report from November 1 to December 31.

Senate recedes.

30. The House amendment but not the Senate bill, amends the General Education Provisions Act (GEPA) to provide that no State or local educational agency shall deny individuals in public schools the opportunity to participate in moments of silent prayer, nor shall the U.S. nor any State or local educational agency require any person to participate in prayer or influence the form or content of any prayer in such public schools.

House recedes.

31. The House amendment but not the Senate bill, amends the State and local applications sections of the General Education Provisions Act (GEPA) to require State and local educational agencies to assure that none of the funds expended under programs covered by GEPA will be used to acquire equipment when such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees.

Senate recedes.

32. The House amendment revises the audit determination procedures in GEPA to: (1) allow the Secretary to seek recovery of funds only if the disputed expenditures do not comply substantially with the law; (2) set deadlines for submission of applications for review by the Education Appeal Board and conditions under which final audit determinations shall be returned to the Secretary by the Board; (3) place the burden of proof to sustain an audit case upon the Secretary; (4) grant legal discovery to all parties in audit cases before the Board; (5) make subgrantees party to actions involving their disputed expenditures; (6) clarify the applicability of certain provisions of Title I of the Elementary and Secondary Education Act to expenditures relating to pending audit cases; (7) allow the Secretary to enter into compliance agreements with State or local educational agencies from whom funds are being withheld under Chapter 1 of the Education Consolidation and Improvement Act; (8) require the Secretary to grant back at least 75% of repaid funds to a grantee following a final audit determination, if no fraud is involved (current law permits the granting back of up to 75%); and (9) allow State educational agencies to enter into compliance agreements with local school districts. No comparable Senate provision.

House recedes.

The managers recognize that State and local educational agencies have legitimate and long-standing complaints with respect to the fairness and due process of the education auditing process. It is our intention to hold joint Senate and House hearings on the auditing process at an early date in the next Congress and to move an appropriate legislative remedy.

33. The House amendment, but not the Senate bill, provides legislative authority to continue the current Pell grant family contribution schedule for the 1986–87 academic year, to maintain the current regulatory definition for "independent student" through the 1986–87 year, and retain the current cost of attendance criteria for the 1985–86 school year.

Senate recedes with a technical amendment inserting 1986–87 in paragraphs (1) and (2).

34. The House amendment, but not the Senate bill, amends the effective date of the technical amendments to the Education Consolidation and Improvement Act (P.L. 98–211) to provide that until June 30, 1984, recipients of ECIA funds can expend these funds in accordance with either the Act as in effect prior to the technical amendments or the Act as amended by the technical amendments. The current provision of law is effective only through June 30, 1983.

Senate recedes.

35. The House amendment extends for five years two territorial assistance programs, General Assistance to the Virgin Islands and the Territorial Teacher Training program. The authorization for the combined programs are set at $5 million for fiscal year 1985; for the four succeeding fiscal years, separate authorizations of $5 million for the Virgin Islands and $2 million for territorial training are provided for each fiscal year. No comparable Senate provision.

Senate recedes.

36. The House amendment, but not the Senate bill, states that any authority to make payments or to enter into contracts under this Act shall be available only to such extent or in such amounts as are provided in advance in appropriations Acts.

Senate recedes.

37. The Senate bill sets the effective date for this legislation as July 1, 1985. The House amendment sets the effective date for this legislation as the date of enactment or October 1, 1984, whichever occurs later.

Senate recedes with an amendment specifying that the effective date is the date of enactment except in the case of the Adult Education Act, which is July 1, 1985.

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CONFERENCE REPORT ON H.R. 4164

Mr. HAWKINS submitted the following conference report and statement on the bill (H.R. 4164) to amend the Vocational Education Act of 1963 to strengthen and expand the economic base of the Nation, develop human resources, reduce structural unemployment, increase productivity, and strengthen the Nation's defense capabilities by assisting the States to expand, improve, and update high-quality programs of vocational-technical education, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 98–1129)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4164) to amend the Vocational Education Act of 1963 to strengthen and expand the economic base of the Nation, develop human resources, reduce structural unemployment, increase productivity, and strengthen the Nation's defense capabilities by assisting the States to expand, improve, and update high-quality programs of vocational-technical education, and for other purposes, having met after full and free conference, have agreed to recommend and

to recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That the Act of December 18, 1963 (Public Law 88-210) is amended by striking out all after the enacting clause and inserting in lieu thereof the following:

"SHORT TITLE; TABLE OF CONTENTS

"SECTION 1. This Act may be cited as the 'Carl D. Perkins Vocational Education Act'.

"TABLE OF CONTENTS

"Sec. 1. Short title.
"Sec. 2. Statement of purpose.
"Sec. 3. Authorization of appropriations.

"TITLE I—VOCATIONAL EDUCATION ASSISTANCE TO THE STATES

"PART A—ALLOTMENT AND ALLOCATION

"Sec. 101. Allotment.
"Sec. 102. Within State allocation.
"Sec. 103. Indian and Hawaiian native programs.

"PART B—STATE ORGANIZATIONAL AND PLANNING RESPONSIBILITIES

"Sec. 111. State administration.
"Sec. 112. State council on vocational education.
"Sec. 113. State plans.
"Sec. 114. Approval.
"Sec. 115. Local application.

"TITLE II—BASIC STATE GRANTS FOR VOCATIONAL EDUCATION

"PART A—VOCATIONAL EDUCATION OPPORTUNITIES

"Sec. 201. Uses of funds.
"Sec. 202. Distribution of assistance.
"Sec. 203. Within State allocation.
"Sec. 204. Criteria for services and activities for the handicapped and for the disadvantaged.

"PART B—VOCATIONAL EDUCATION PROGRAM IMPROVEMENT, INNOVATION, AND EXPANSION

"Sec. 251. Uses of funds.
"Sec. 252. Criteria for program improvement, innovation, and expansion.

"TITLE III—SPECIAL PROGRAMS

"PART A—STATE ASSISTANCE FOR VOCATIONAL EDUCATION SUPPORT PROGRAMS BY COMMUNITY-BASED ORGANIZATIONS

"Sec. 301. Applications.
"Sec. 302. Uses of funds.

"PART B—CONSUMER AND HOMEMAKER EDUCATION

"Sec. 311. Consumer and homemaker education grants.
"Sec. 312. Use of funds from consumer and homemaker education grants.
"Sec. 313. Information dissemination and leadership.

"PART C—ADULT TRAINING, RETRAINING, AND EMPLOYMENT DEVELOPMENT

"Sec. 321. Findings and purpose.
"Sec. 322. Authorization of grants and uses of funds.
"Sec. 323. Coordination with the Job Training Partnership Act.

"PART D—COMPREHENSIVE CAREER GUIDANCE AND COUNSELING PROGRAMS

"Sec. 331. Grants for career guidance and counseling.
"Sec. 332. Use of funds from career guidance and counseling grants.
"Sec. 333. Information dissemination and leadership.

"PART E—INDUSTRY-EDUCATION PARTNERSHIP FOR TRAINING IN HIGH-TECHNOLOGY OCCUPATIONS

"Sec. 341. Findings and purpose.
"Sec. 342. Authorization of grants.
"Sec. 343. Use of funds.

"TITLE IV—NATIONAL PROGRAMS

"PART A—RESEARCH

"Sec. 401. Research objectives.
"Sec. 402. Research activities.
"Sec. 403. National assessment of vocational education programs assisted under this Act.
"Sec. 404. National Center for Research in Vocational Education.

"PART B—DEMONSTRATION PROGRAMS

"Subpart 1—Cooperative Demonstration Education Programs

"Sec. 411. Program authorized.

"Subpart 2—State Equipment Pools

"Sec. 413. Program authorized.

"Subpart 3—Demonstration Centers for the Retraining of Dislocated Workers

"Sec. 415. Program authorized.

"Subpart 4—Model Centers for Vocational Education for Older Individuals

"Sec. 417. Program authorized.

"PART C—VOCATIONAL EDUCATION AND OCCUPATIONAL INFORMATION DATA SYSTEMS

"Sec. 421. Data systems authorized.
"Sec. 422. Occupational information system.
"Sec. 423. Information base for vocational education data system.

"PART D—NATIONAL COUNCIL ON VOCATIONAL EDUCATION

"Sec. 431. Council established.

"PART E—BILINGUAL VOCATIONAL TRAINING

"Sec. 441. Program authorized.

"PART F—GENERAL PROVISIONS

"Sec. 451. Distribution of assistance.

"TITLE V—GENERAL PROVISIONS

"PART A—FEDERAL ADMINISTRATIVE PROVISIONS

"Sec. 501. Payments.
"Sec. 502. Federal share.
"Sec. 503. Maintenance of effort.
"Sec. 504. Withholding; judicial review.
"Sec. 505. Audits.
"Sec. 506. Authority to make payments.

"PART B—DEFINITIONS

"Sec. 521. Definitions.

"STATEMENT OF PURPOSE

"SEC. 2. It is the purpose of this Act to—

"(1) assist the States to expand, improve, modernize, and develop quality vocational education programs in order to meet the needs of the Nation's existing and future work force for marketable skills and to improve productivity and promote economic growth;

"(2) assure that individuals who are inadequately served under vocational education programs are assured access to quality vocational education programs, especially individuals who are disadvantaged, who are handicapped, men and women who are entering nontraditional occupations, adults who are in need of training and retraining, individuals who are single parents or homemakers, individuals with limited English proficiency, and individuals who are incarcerated in correctional institutions;

"(3) promote greater cooperation between public agencies and the private sector in preparing individuals for employment, in promoting the quality of vocational education in the States, and in making the vocational system more responsive to the labor market in the States;

"(4) improve the academic foundations of vocational students and to aid in the application of newer technologies (including the use of computers) in terms of employment or occupational goals;

"(5) provide vocational education services to train, retrain, and upgrade employed and unemployed workers in new skills for which there is a demand in that State or employment market;

"(6) assist the most economically depressed areas of a State to raise employment and occupational competencies of its citizens;

"(7) to assist the State to utilize a full range of supportive services, special programs, and guidance counseling and placement to achieve the basic purposes of this Act

"(8) improve the effectiveness of consumer and homemaking education and to reduce the limiting effects of sex-role stereotyping on occupations, job skills, levels of competency, and careers; and

"(9) authorize national programs designed to meet designated vocational education needs and to strengthen the vocational education research process.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 3. (a) There are authorized to be appropriated $835,300,000 for the fiscal year 1985 and such sums as may be necessary for each of the fiscal years 1986 through 1989 to carry out the provisions of titles I (other than section 112), II, and IV (other than part E) of this Act.

"(b)(1) There are authorized to be appropriated $15,000,000 for the fiscal year 1985 and such sums as may be necessary for each of the fiscal years 1986 through 1989 to carry out part A of title III, relating to State assistance for vocational education support programs by community-based organizations.

"(2) There are authorized to be appropriated $32,000,000 for the fiscal year 1985 and such sums as may be necessary for each of the fiscal years 1986 through 1989 to carry out part B of title III relating to consumer and homemaking education.

"(3)(A) There are authorized to be appropriated $35,000,000 for the fiscal year 1985 and such sums as may be necessary for each of the fiscal years 1986 through 1989 to carry out part C of title III, relating to adult training, retraining, and employment development.

"(B) Of the amount appropriated in each fiscal year pursuant to subparagraph (A) 50 percent shall be available in each fiscal year for the purpose described in section 201(b)(4), except that the amount made available by this subparagraph for fiscal years 1986 through 1989 shall not exceed $30,000,000 in any fiscal year.

"(4) There are authorized to be appropriated $1,000,000 for the fiscal year 1985 and such sums as may be necessary for each of the fiscal years 1986 through 1989 to carry out part D of title III, relating to career guidance and counseling.

"(5) There are authorized to be appropriated $20,000,000 for the fiscal year 1985 and such sums as may be necessary for fiscal years 1986 through 1989 to carry out part E of title III, relating to industry-education partnerships for training in high-technology occupations.

"(c) There are authorized to be appropriated $8,000,000 for the fiscal year 1985 and such sums as may be necessary for each of the fiscal years 1986 through 1989 for section 112 of title I, relating to State councils on vocational education.

"(d) There are authorized to be appropriated $3,700,000 for the fiscal year 1985 and such sums as may be necessary for the fiscal years 1986 through 1989 to carry out part E of title IV, relating to bilingual vocational training programs.

"(e) From the funds appropriated pursuant to subsection (a) for each fiscal year, 2 percent shall be available to carry out the provisions of title IV (other than part E), relating to national programs.

"TITLE I—VOCATIONAL EDUCATION ASSISTANCE TO THE STATES

"PART A—ALLOTMENT AND ALLOCATION

"ALLOTMENT

"SEC. 101. (a)(1) From the sums appropriated pursuant to section 3(a), the Secretary shall reserve—

"(A) 2 percent for the activities described in title IV (other than part E); and

"(B) 1½ percent for the purpose of carrying out section 103 of which (i) 1¼ percent shall be for the purposes of section 103(b) and (ii) ¼ percent shall be for the purposes of section 103(c).

"(2) Subject to the provisions of paragraph (3), from the remainder of the sums appropriated pursuant to sections 3(a) and 3(b), the Secretary shall allot to each State for each fiscal year—

"(A) an amount which bears the same ratio to 50 percent of the sums being allotted as the product of the population aged fifteen to nineteen inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

"(B) an amount which bears the same ratio to 20 percent of the sums being allotted as the product of the population aged twenty to twenty-four, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

"(C) an amount which bears the same ratio to 15 percent of the sums being allotted as the product of the population aged twenty-five to sixty-five, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States; and

"(D) an amount which bears the same ratio to 15 percent of the sums being allotted as the amounts allotted to the State under clauses (A), (B), and (C) for such years bears to the sum of the amounts allotted to all the States under clauses (A), (B), and (C) for such year.

"(3)(A) No State shall receive in any fiscal year less than the total amount of payments made to the State under allotments determined under the Vocational Education Act of 1963 for fiscal year 1984. Any amounts necessary for increasing the sum of the allotments of certain States to comply with the preceding sentence shall be obtained by ratably reducing the sums of the allotments of the other States, but no such sum shall be thereby reduced to an amount which is less than the total amount of payments made to the State under allotments determined under that Act for fiscal year 1984.

"(B) In any fiscal year in which the amounts appropriated and available for allotments under this section exceeds the amounts so available for fiscal year 1984, and subject to the application of subparagraph (A), no State shall receive less than one-half of one percent of the amount available under this subsection for each such fiscal year except that in the case of the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands the minimum allotment shall be $200,000.

"(C) No State shall, by reason of the application of the provisions of subparagraph (B) of this paragraph, be allotted more than 150 percent of the allotment of that State in the fiscal year preceding the fiscal year for which the determination is made.

"(D) For the purpose of this paragraph, the term 'State' does not include the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(b) If the Secretary determines that any amount of any State's allotment under subsection (a) for any fiscal year will not be required for such fiscal year for carrying out the program for which such amount has been allotted, the Secretary shall make such amount available for reallotment. Any such reallotment among other States shall occur on such dates during the same year as the Secretary shall fix, and shall be made on the basis of criteria established by regulation. No funds may be reallotted for any use other than the use for which they were appropriated. Any amount reallotted to a State under this subsection for any fiscal year shall remain available for obligation during the succeeding fiscal year and shall be deemed to be part of its allotment for the year in which it is obligated.

"(c)(1) The allotment ratio for any State shall be 1.00 less the product of—

"(A) 0.50; and

"(B) the quotient obtained by dividing the per capita income for the State by the per capita income for all the States (exclusive of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands), except that (i) the allotment ratio in no case shall be more than 0.60 or less than 0.40 and (ii) the allotment ratio for Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands shall be 0.60.

"(2) The allotment ratios shall be promulgated by the Secretary for each fiscal year between October 1 and December 31 of the fiscal year preceding the fiscal year for which the determination is made. Allotment ratios shall be computed on the basis of the average of the appropriate per capita incomes for the three most recent consecutive fiscal years for which satisfactory data are available.

"(3) The term 'per capita income' means, with respect to a fiscal year, the total personal income in the calendar year ending in such year, divided by the population of the area concerned in such year.

"(4) For the purposes of this section, population shall be determined by the Secretary on the basis of the latest estimates available to the Department.

"WITHIN STATE ALLOCATION

"SEC. 102. (a) Each State shall allocate from its allotment in each fiscal year—

"(1) 57 percent for activities described in part A of title II, and

"(2) 43 percent for activities described in part B of title II.

"(b) Each State, from the portion of its allotment available for statewide activities under section 113(b), shall allocate not to exceed 7 percent of the allotment of the State for administrative expenses or if the cost of carrying out the provision of section 113(b)(1) exceeds 1 percent of the allotment, the limitation under this subsection shall be 7 percent plus the excess costs.

"INDIAN AND HAWAIIAN NATIVES PROGRAMS

"SEC. 103. (a)(1) For the purpose of this section—

"(A) the term 'Act of April 16, 1934' means the Act entitled 'An Act authorizing the Secretary of the Interior to arrange with States or territories for the education, medical attention, relief of distress, and social welfare of Indians, and for other purposes', enacted April 16, 1934 (48 Stat. 596; 25 U.S.C. 452-457); and

"(B) the term 'Hawaiian native' means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

"(2) From the funds reserved pursuant to section 101(a)(1)(B), the Secretary shall enter into contracts for Indian and Hawaiian native programs in accordance with the provisions of this section.

"(b)(1) From the funds reserved pursuant to section 101(a)(1)(B)(i), the Secretary is directed, upon the request of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934, to enter into grants or contracts with any tribal organization of any such Indian tribe to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the purposes of this Act, except that such grants or contracts shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act and shall be conducted in accordance with the provisions of sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this sentence. From any remaining funds reserved pursuant to section 101(a)(1)(B) and available for this subsection, the Secretary is authorized to enter into an agreement with the Assistant Secretary of the Interior for Indian Affairs for the operation of vocational education programs authorized by this Act in institutions serving Indians eligible to receive educational benefits as Indians from the Bureau of Indian Affairs, and the Secretary of the Interior is authorized to receive the funds for the purposes described in this paragraph.

"(2) The Bureau of Indian Affairs shall expend an amount equal to the amount made available under this subsection, relating to programs for Indians, to pay a part of the costs of programs funded under this subsection. During each fiscal year the Bureau of Indian Affairs shall expend no less than the amount expended during the prior fiscal year on vocational education programs, services, and activities administered either directly by, or under contract with, the Bureau of Indian Affairs. The Secretary and the Assistant Secretary of the Interior for Indian Affairs shall jointly prepare a plan for the expenditure of funds made available and for the evaluation of programs assisted under this subsection. Upon the completion of a joint plan for the expenditure of these funds and the evaluation of the programs, the Secretary shall assume responsibility for the administration of the program, with the

assistance and consultation of the Bureau of Indian Affairs.

"(3) Programs funded under this subsection shall be in addition to such other programs, services, and activities as are made available to eligible Indians under other provisions of this Act.

"(4) For the purposes of this Act, the Bureau of Indian Affairs shall be deemed to be a State board; and all the provisions of this Act shall be applicable to the Bureau as if it were a State board.

"(c) From the funds reserved pursuant to section 101(a)(1)(B)(ii), the Secretary is directed, to enter into contracts with organizations primarily serving and representing Hawaiian natives which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the provisions of this section for the benefit of Hawaiian natives.

"PART B—STATE ORGANIZATIONAL AND PLANNING RESPONSIBILITIES

"STATE ADMINISTRATION

"SEC. 111. (a)(1) Any State desiring to participate in the vocational education program authorized by this Act shall, consistent with State law, designate or establish a State board of vocational education which shall be the sole State agency responsible for the administration or the supervision of the State vocational education program. The responsibilities of the State board shall include—

"(A) coordination of the development, submission, and implementation of the State plan, and the evaluation of the program, services, and activities assisted under this Act pursuant to section 113(b)(9); and

"(B) the development, in consultation with the State council on vocational education, and the submission to the Secretary, of the State plan required by section 113 and by section 114;

"(C) consultation with the State council established pursuant to section 112, and other appropriate agencies, groups, and individuals involved in the planning, administration, evaluation, and coordination of programs funded under this Act;

"(D) convening and meeting as a State board (consistent with State law and procedure for the conduct of such meetings) at such time as the State board determines necessary to carry out its functions under this Act, but not less than four times annually; and

"(E) the adoption of such procedures as the State board considers necessary to implement State level coordination with the State job training coordinating council to encourage cooperation in the conduct of their respective programs.

Except with respect to the functions set forth in the preceding sentence, the State board may delegate any of its other responsibilities involving administration, operation, or supervision, in whole or in part, to one or more appropriate State agencies.

"(2) Each State shall include a description of any delegation of its functions under paragraph (1) in its State plan, or amendments to such plan, submitted to the Secretary.

"(b)(1) Any State desiring to participate in the programs authorized by this Act shall assign one individual within the appropriate agency established or designated by the State board under the last sentence of subsection (a)(1) to administer vocational education programs within the State, to work full time to assist the State board to fulfill the purposes of this Act by—

"(A) administering the program of vocational education for single parents and homemakers described in section 201(f) and the sex equity program described in section 201(g);

"(B) gathering, analyzing, and disseminating data on the adequacy and effectiveness of vocational education programs in the State in meeting the education and employment needs of women (including preparation for employment in technical occupations, new and emerging occupational fields, and occupations regarded as nontraditional for women), and on the status of men and women students and employees in such programs;

"(C) reviewing vocational education programs (including career guidance and counseling) for sex stereotyping and sex bias, with particular attention to practices which tend to inhibit the entry of women in high technology occupations, and submitting (i) recommendations for inclusion in the State plan of programs and policies to overcome sex bias and sex stereotyping in such programs, and (ii) an assessment of the State's progress in meeting the purposes of this Act with regard to overcoming sex discrimination and sex stereotyping;

"(D) reviewing proposed actions on grants, contracts, and the policies of the State board to ensure that the needs of women are addressed in the administration of this Act;

"(E) developing recommendations for programs of information and outreach to women concerning vocational education and employment opportunities for women (including opportunities for careers as technicians and skilled workers in technical fields and new and emerging occupational fields);

"(F) providing technical assistance and advice to local educational agencies, postsecondary institutions, and other interested parties in the State, in expanding vocational opportunities for women; and

"(G) assisting administrators, instructors, and counselors in implementing programs and activities to increase access for women (including displaced homemakers and single heads of households) to vocational education and to increase male and female students' enrollment in nontraditional programs.

"(2) For the purpose of this subsection, the term 'State' means any one of the fifty States and the District of Columbia.

"(3) Each State shall expend not less than $60,000 in each fiscal year to carry out the provisions of this subsection.

"(c) The State board shall make available to each private industry council established under section 102 of the Job Training Partnership Act within the State a listing of all programs assisted under this Act.

"(d) Each State board, in consultation with the State council, shall establish a limited number of technical committees to advise the council and the board on the development of model curricula to address State labor market needs. Technical committees shall develop an inventory of skills that may be used by the State board to define state-of-the-art model curricula. Such inventory will provide the type and level of knowledge and skills needed for entry, retention, and advancement in occupational areas taught in the State. The State board shall establish procedures for membership, operation, and duration of such committees consistent with the purposes of this Act. The membership shall be representatives of (1) employers from any relevant industry or occupation for which the committee is established; (2) trade or professional organizations representing any relevant occupations; and (3) organized labor, where appropriate.

"(e) The imposition of any State rule or policy relating to the administration and operation of programs funded by this Act (including any rule or policy based on State interpretation of any Federal law, regulation, or guideline) shall be identified as a State imposed requirement.

"STATE COUNCIL ON VOCATIONAL EDUCATION

"SEC. 112. (a) Each State which desires to participate in vocational education programs authorized by this Act for any fiscal year shall establish a State council, which shall be appointed by the Governor or, in the case of States in which the members of the State board of education are elected (including election by the State legislature), by such board. Each State council shall be composed of 13 individuals, and shall be broadly representative of citizens and groups within the State having an interest in vocational education. Each State council shall consist of—

"(1) seven individuals who are representative of the private sector in the State who shall constitute a majority of the membership—

"(A) five of whom shall be representative of business, industry, and agriculture including—

"(i) one member who is representative of small business concerns; and

"(ii) one member who is a private sector member of the State job training coordinating council (established pursuant to section 122 of the Job Training Partnership Act), and

"(B) two of whom shall be representatives of labor organizations;

"(2) six individuals who are representative of secondary and postsecondary vocational institutions (equitably distributed among such institutions), career guidance and counseling organizations within the State, individuals who have special knowledge and qualifications with respect to the special educational and career development needs of special populations (including women, the disadvantaged, the handicapped, individuals with limited English proficiency, and minorities) and of whom one member shall be representative of special education.

In selecting individuals under subsection (a) to serve on the State council, due consideration shall be given to the appointment of individuals who serve on a private industry council under the Job Training Partnership Act, or on State councils established under other related Federal Acts.

"(b) The State shall certify the establishment and membership of the State council at least 90 days prior to the beginning of each planning period described in section 113(a)(1).

"(c) Each State council shall meet as soon as practical after certification has been accepted by the Secretary and shall select from among its membership a chairperson who shall be representative of the private sector. The time, place, and manner of meeting, as well as council operating procedures and staffing, shall be as provided by the rules of the State council, except that such rules must provide for not less than one public meeting each year at which the public is given an opportunity to express views concerning the vocational education program of the State.

"(d) Each State council shall—

"(1) meet with the State board or its representatives during the planning year to advise on the development of the State plan;

"(2) advise the State board and make reports to the Governor, the business community, and general public of the State, concerning—

"(A) policies the State should pursue to strengthen vocational education (with particular attention to programs for the handicapped); and

"(B) initiatives and methods the private sector could undertake to assist in the modernization of vocational education programs;

"(3) analyze and report on the distribution of spending for vocational education in the State and on the availability of vocational education activities and services within the State;

"(4) furnish consultation to the State board on the establishment of evaluation criteria for vocational education programs within the State;

"(5) submit recommendations to the State board on the conduct of vocational education programs conducted in the State which emphasize the use of business concerns and labor organizations;

"(6) assess the distribution of financial assistance furnished under this Act, particularly with the analysis of the distribution of financial assistance between secondary vocational education programs and postsecondary vocational education programs;

"(7) recommend procedures to the State board to ensure and enhance the participation of the public in the provision of vocational education at the local level within the State, particularly the participation of local employers and local labor organizations;

"(8) report to the State board on the extent to which the individuals described in section 201(b) are provided with equal access to quality vocational education programs; and

"(9)(A) evaluate at least once every two years (i) the vocational education program delivery systems assisted under this Act, and under the Job Training Partnership Act, in terms of their adequacy and effectiveness in achieving the purposes of each of the two Acts and (ii) make recommendations to the State board on the adequacy and effectiveness of the coordination that takes place between vocational education and the Job Training Partnership Act and (B) advise the Governor, the State board, the State job training coordinating council, the Secretary, and the Secretary of Labor of these findings and recommendations.

"(e) Each State council is authorized to obtain the services of such professional, technical, and clerical, personnel as may be necessary to enable it to carry out its functions under this Act and to contract for such services as may be necessary to enable the Council to carry out its evaluation functions, independent of programmatic and administrative control by other State boards, agencies, and individuals.

"(f)(1)(A) From the amounts appropriated pursuant to section 3(c) the Secretary shall make grants to State councils from amounts allotted to State councils in accordance with the method for allotment contained in section 101(a)(2), without regard to paragraph (3), except that no State council shall be allotted less than $120,000 nor more than $225,000 for each fiscal year.

"(B) For the purpose of subparagraph (A), the term 'State' shall not include the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(2) The expenditure of the funds paid pursuant to this subsection is to be determined solely by the State council for carrying out its functions under this Act, and may not be diverted or reprogramed for any other purpose by any State board, agency, or individual. Each State council shall designate an appropriate State agency or other public agency, eligible to receive funds under this Act, to act as its fiscal agent for purposes of disbursement, accounting, and auditing.

"STATE PLANS

"SEC. 113. (a)(1)(A) Any State desiring to receive funds from its allotment for any fiscal year shall submit to the Secretary a State plan for a three-year period in the case of the initial plan and a 2-year period thereafter, together with such annual revisions as the State board determines to be necessary.

"(B) The planning periods required by paragraph (1) of this subsection shall be coterminous with the planning program periods required under section 104(a) of the Job Training Partnership Act.

"(2)(A) In formulating the State plan (and amendments thereto) the State board shall meet with and utilize the State council, established pursuant to section 112 of this Act.

"(B) The State board shall conduct public hearings in the State, after appropriate and sufficient notice, for the purpose of affording all segments of the public and interested organizations and groups an opportunity to present their views and make recommendations regarding the State plan. A summary of such recommendations and the State board's response shall be included with the State plan.

"(3) In developing the State plan, the State shall—

"(A) assess the current and projected occupational needs and the current and projected demand for general occupational skills within the State;

"(B) examine the needs of students, including adults, in order to determine how best to improve student skill levels in light of the State's occupational and skill requirements;

"(C) assess the special needs of groups of individuals specified in section 201(b) for access to vocational education and vocational services in terms of labor market needs;

"(D) assess the quality of vocational education in terms of—

"(i) the pertinence of programs to the workplace and to new and emerging technologies,

"(ii) the responsiveness of programs to the current and projected occupational needs in the State,

"(iii) the capacity of programs to facilitate entry into, and participation in, vocational education and to ease the school-to-work and secondary-to-postsecondary transition,

"(iv) the technological and educational quality of vocational curricula, equipment, and instructional materials to enable vocational students and instructors to meet the challenges of increased technological demands of the workplace; and

"(v) the capability of vocational education programs to meet the needs for general occupational skills and improvement of academic foundations in order to address the changing content of jobs;

"(E) determine the capacity of local educational agencies, with respect to secondary education and postsecondary educational institutions, to deliver the vocational education services necessary to meet the needs identified through the assessments required by clauses (A) through (D) of this paragraph; and

"(F) determine, for each fiscal year, how the services and activities supported by funds furnished under this Act may be expected to assist the State in meeting the needs identified through the assessments required by clauses (A) through (D) of this paragraph.

"(b) Each such plan shall—

"(1) provide assurances that, and where necessary a description of the manner in which, the State board will comply with the requirements of titles I, II, III, and V of this Act, including—

"(A) a description of the manner in which the State will comply with the criteria required for programs for the handicapped and for the disadvantaged prescribed by section 204;

"(B) assurances that the State will comply with the distribution of assistance requirements contained in section 203; and

"(C) assurances that, to the extent consistent with the number and location of individuals described in clauses (1) and (2) of section 201(b) in the State who are enrolled in private elementary and secondary schools, provision is made for the participation of such individuals in the vocational education program assisted under part A of title II of this Act;

"(2) set forth the planned uses of Federal funds available for vocational education for each fiscal year for which the plan is submitted and describe how the State did carry out the provisions of section 113(a)(3);

"(3) describe progress the State has made in achieving the goals set forth in each State plan subsequent to the initial State plan;

"(4) provide assurances that the State will distribute at least 80 percent of the funds made available for parts A and B of title II to eligible recipients, or combination of eligible recipients, except that the State will distribute 100 percent of the funds available for clauses (1) and (2) of section 202, relating to the disadvantaged and the handicapped, to eligible recipients in accordance with section 203(a);

"(5) set forth the criteria the State board will use in approving applications of eligible recipients and allocating funds made available under this Act to such recipients, which shall ensure that States will allocate more Federal funds to eligible recipients in units of local government which are economically depressed (including both urban and rural units) or which have high unemployment, as determined by the State;

"(6) provide such methods of administration as are necessary for the proper and efficient administration of the Act;

"(7) provide assurances that, in the use of funds available for single parents and homemakers under section 201(b)(3), that the State will emphasize assisting individuals with the greatest financial need, and that in serving homemakers the State will give special consideration to homemakers who because of divorce, separation, or the death or disability of a spouse must prepare for paid employment;

"(8) provide assurances that the State will furnish relevant training and vocational education activities to men and women who desire to enter occupations that are not traditionally associated with their sex;

"(9)(A) provide assurances that the State will develop measures for the effectiveness of programs assisted under this Act in meeting the needs identified in the State plan, including evaluative measurements such as—

"(i) the occupations to be trained for, which will reflect a realistic assessment of the labor market needs of the State;

"(ii) the levels of skills to be achieved in particular occupations, which will reflect the hiring needs of employers; and

"(iii) the basic employment competencies to be used in performance outcomes, which will reflect the hiring needs of employers;

"(B) the State will, as a component of the measures under subclause (A) of this clause, establish appropriate measures for evaluating the effectiveness of programs for the handicapped assisted under this Act; and

"(C) provide assurances that the State will evaluate not less than 20 percent of the eligible recipients assisted within the State in each fiscal year;

"(10) describe the methods proposed for the joint planning and coordination of programs carried out under this Act with programs conducted under the Job Training Partnership Act, the Adult Education Act, title I of the Elementary and Secondary Education Act of 1965 as modified by chapter 1 of the Education Consolidation and Improvement Act, the Education of the Handicapped Act, and the Rehabilitation Act of 1973, and with apprenticeship training programs;

"(11) that programs of personnel development, and curriculum development shall be funded to further the goals identified in the State plan;

"(12) provide assurances that the vocational education needs of those identifiable segments of the population in the State that have the highest rates of unemployment have been thoroughly assessed, and that such needs are reflected in and addressed by the State plan;

"(13) provide assurances that the State board will cooperate with the State council on vocational education in carrying out its duties under this part;

"(14) provide assurance that none of the funds expended under this Act will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such an organization;

"(15) provide assurances that for each fiscal year, expenditures for career guidance and counseling from allotments for title II and part D of title III will not be less than the expenditures for such guidance and counseling in the State for the fiscal year 1984 assisted under section 134(a) of the Vocational Education Act of 1963;

"(16) provide assurances that Federal funds made available under this Act will be used so as to supplement, and to the extent practicable increase the amount of State and local funds that would in the absence of such Federal funds be made available for the uses specified in the State plan, and in no case supplant such State or local funds; and

"(17) provide assurances that the State will provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to eligible recipients under this Act).

"(c)(1) When changes in program conditions, labor market conditions, funding, or other factors require substantial amendment to an approved State plan, the State board, in consultation with the State council, shall submit amendments to such State plan to the Secretary. Any such amendments shall be subject to review by the State job training coordinating council, and the State council.

"(2) The Secretary shall approve, within sixty days of submission, the State plan amendments which meet the requirements of this section, unless such amendments propose changes that are inconsistent with the requirements and purposes of this Act. The Secretary shall not finally disapprove such amendments except after giving reasonable notice and an opportunity for a hearing to the State board.

"APPROVAL

"SEC. 114. (a)(1) Each State plan shall, not less than 60 days before the plan is to be submitted to the Secretary, be furnished to the State legislature and the State job training coordinating council of the State under section 122 of the Job Training Partnership Act for review and comment. If the matters covered by the comments of the State legislature and the State job training coordinating council are not covered by the State plan, the State shall submit the comments with the State plan to the Secretary.

"(2) If the State legislature is not in session during the period described in paragraph (1), the State board shall submit the plan for review and comment to the next meeting of the State legislature and forward the comments of the State legislature to the Secretary when the comments are received.

"(b)(1) Each State plan shall be submitted to the State council on vocational education for review and comment not later than 60 days prior to the submission of the plan to the Secretary.

"(2) If the State council finds that the final State plan is objectionable for any reason, including that it does not meet the labor market needs of the State, the State council shall file its objections with the State board. The State board shall respond to any objections of the State council in submitting such plan to the Secretary. The Secretary shall consider such comments in reviewing the State plan.

"(c)(1) The Secretary shall provide technical assistance and guidance to the States in order to assist the States to fulfill the requirements of section 113(a)(3).

"(2)(A) Each State plan shall be submitted to the Secretary by May 1 preceding the beginning of the first fiscal year for which such plan is to be in effect. The Secretary shall approve, within sixty days, each such plan which meets the requirements of section 113, and shall not finally disapprove a State plan except after giving reasonable notice and an opportunity for a hearing to the State board.

"(B) The document submitted under subparagraph (A) shall be considered to be the general application required to be submitted by the State for funds received under this Act for purposes of the provisions of section 435 of the General Education Provisions Act.

"LOCAL APPLICATION

"SEC. 115. (a) Except as provided in subsection (c), any eligible recipient desiring to receive assistance under this Act shall, according to requirements established by the State board, submit to the State board an application, covering the same period as the State plan, for the use of such assistance. The State board shall determine requirements for local applications (and amendments thereto), except that each such application shall—

"(1) set forth the vocational education programs, services, and activities proposed to be funded; and

"(2) describe the coordination with relevant programs conducted under the Job Training Partnership Act and the Adult Education Act, to avoid duplication.

"(b) Each such local application shall be available for review and comment by interested parties, including the appropriate administrative entity under the Job Training Partnership Act.

"(c)(1) Eligible recipients providing relatively few vocational education programs, services, and activities funded with limited total Federal and State funds may, as determined by the State board, be exempt from the requirements of subsection (a) or (b) or both.

"(2) Each State board shall identify in its State plan the appropriate criteria for determining such exemptions.

"TITLE II—BASIC STATE GRANTS FOR VOCATIONAL EDUCATION

"PART A—VOCATIONAL EDUCATION OPPORTUNITIES

"USES OF FUNDS

"SEC. 201. (a) From the portion of the allotment of each State under section 101 available for this part, each State shall provide vocational education services and activities designed to meet the special needs of groups of individuals specified in subsection (b).

"(b) To meet the needs identified in the State plan, each State shall use the portion of its allotment available for this part in any fiscal year to provide vocational education services and activities designed to meet the special needs of, and to enhance the participation of—

"(1) handicapped individuals;

"(2) disadvantaged individuals;

"(3) adults who are in need of training and retraining;

"(4) individuals who are single parents or homemakers; and

"(5) individuals who participate in programs designed to eliminate sex bias and stereotyping in vocational education;

"(6) criminal offenders who are serving in a correctional institution.

"(c)(1) Each State shall use the portion of its allotment available for this part in any fiscal year for handicapped individuals only for the Federal share of expenditures limited to supplemental or additional staff, equipment, materials, and services not provided to other individuals in vocational education that are essential for handicapped individuals to participate in vocational education. If the conditions of handicapped students require a separate program, each State may use such funds for the Federal share of the costs of the services and activities in separate vocational education programs for handicapped individuals which exceed the average per-pupil expenditures for regular services and activities of the eligible recipient.

"(2) Each State shall use the portion of its allotment available for this part in any fiscal year for disadvantaged individuals only for the Federal share of expenditures limited to supplemental or additional staff, equipment, materials, and services not provided to other individuals in vocational education that are essential for disadvantaged individuals to participate in vocational education. If the conditions of disadvantaged individuals require a separate program, each State may use such funds for the Federal share of the costs of the services and activities in separate vocational education programs for disadvantaged individuals which exceed the average per-pupil expenditures for regular services and activities of the eligible recipient.

"(d)(1) Each State may use the portion of its allotment available for this part for any fiscal year for the improvement of vocational education services and activities designed to provide equal access to quality vocational education to disadvantaged individuals, the costs of services and activities which apply the latest technological advances to courses of instruction, and, subject to the provisions of paragraph (2), the acquisition of modern machinery and tools.

"(2) Funds available to each recipient under this part for the disadvantaged may be expended for the acquisition of modern machinery and tools in schools at which at least 75 percent of the students enrolled are economically disadvantaged.

"(e)(1) Each State shall use the portion of its allotment available for this part to provide, improve, and expand adult and postsecondary vocational education services and activities to train and retrain adults.

"(2) Funds used for the purpose described in subsection (a) may be used for services and activities developed in coordination with the State agency administering title III of the Job Training Partnership Act.

"(3) Funds for services and activities under this section may be used for—

"(A) additional training under title III of the Job Training Partnership Act;

"(B) vocational education programs for training or retraining adults, including programs for older individuals and displaced homemakers;

"(C) the costs of serving adults in other vocational education programs, including paying the costs of instruction or the costs of keeping school facilities open longer;

"(D) individuals who have completed or left high school and who are enrolled in organized programs of study for which credit is given toward an associate or other degree, but which programs are not designed as baccalaureate or higher degree programs; and

"(E) individuals who have already entered the labor market, or have completed or left high school, and who are not described in clause (D).

"(f) Each State may only use the portion of its allotment available for this part to—

"(1) provide, subsidize, reimburse or pay for vocational education and training activities, including basic literacy instruction and necessary educational materials, that will furnish single parents and homemakers with marketable skills;

"(2) make grants to eligible recipients for expanding vocational education services when this expansion directly increases the eligible recipients' capacity for providing single parents and homemakers with marketable skills;

"(3) make grants to community-based organizations for the provision of vocational education services to single parents and homemakers, if the State determines that the community-based organization has demonstrated effectiveness in providing comparable or related services to single parents and homemakers, taking into account the demonstrated performance of such an organization in terms of cost, the quality of training and the characteristics of the participants;

"(4) make vocational education and training more accessible to single parents and homemakers by assisting them with child care or transportation services or by organizing and scheduling the programs so that such programs are more accessible; or

"(5) provide information to single parents and homemakers to inform them of vocational education programs and related support services.

"(g) That portion of the allotment described in section 202(5) shall be available for—

"(1) programs, services, and activities to eliminate sex bias and stereotyping in secondary and postsecondary vocational education;

"(2) vocational education programs, services, and activities for girls and women, aged 14 through 25, designed to enable the participants to support themselves and their families; and

"(3) support services for individuals participating in vocational education programs, services, and activities described in clauses (1) and (2) including dependent-care services and transportation.

The requirement with respect to age limitations contained in clause (2) of subsection (a) may be waived whenever the individual described in section 111(b)(1) determines that the waiver is essential to meet the objectives of this section.

"(h)(1) Each State may use the portion of its allotment available for this part in any fiscal year for basic skills instruction for vocational education students and related to their instructional program whenever the State board determines that such instruction is necessary to carry out the purposes described in subsection (b) of this section.

"(2) Each State may use the portion of its allotment available for this part in any fiscal year for the provision of educational training through arrangements with private vocational training institutions, private postsecondary educational institutions, and employers whenever such institutions or employers can make a significant contribution to obtaining the objectives of the State plan and can provide substantially equivalent training at a lesser cost, or can provide equipment or services not available in public institutions.

"(i)(1) Vocational education services and activities described in subsection (b) shall, to the extent practicable, include work-site programs such as cooperative vocational education, work-study, and apprenticeship programs.

"(2) Vocational education services and activities described in subsection (b) may include placement services for students who have successfully completed vocational education programs.

"DISTRIBUTION OF ASSISTANCE

"SEC. 202. From the portion of the allotment of each State available for this part for each fiscal year—

"(1) 10 percent of the funds available for this title shall be available for handicapped individuals;

"(2) 22 percent of such funds shall be available for disadvantaged individuals;

"(3) 12 percent of such funds shall be available for adults who are in need of training and retraining;

"(4) 8.5 percent of such funds shall be available for individuals who are single parents and homemakers;

"(5) 3.5 percent of such funds shall be available for individuals who are participants in programs designed to eliminate sex bias and stereotyping in vocational education; and

"(6) 1 percent of such funds shall be made available for criminal offenders who are in correctional institutions.

"WITHIN STATE ALLOCATION

"SEC. 203. (a)(1)(A) The State board shall allocate the 10 percent of the amount allotted to the State and available for this title for vocational education services and activities for the handicapped to eligible recipients in accordance with the provisions of this paragraph.

"(B) Of the amount allocated under this paragraph—

"(i) 50 percent of such amount shall be allocated to eligible recipients on the basis of the relative number of economically disadvantaged individuals enrolled in each eligible recipient in the fiscal year preceding the fiscal year in which the determination is made to the total number of such individuals enrolled in all eligible recipients within the State in such year; and

"(ii) 50 percent shall be allocated on the basis of the relative number of handicapped students served in vocational education programs by each eligible recipient within the State in the fiscal year preceding the fiscal year for which the determination is made as compared to the total number of such individuals served by all eligible recipients within the State in such year.

"(2)(A) The State board shall allocate the 22 percent of the amount allotted to the State and available for this title for vocational education services and activities for the disadvantaged to eligible recipients in accordance with the provisions of this paragraph.

"(B) Of the amount allocated under this paragraph—

"(i) 50 percent of such amount shall be allocated to eligible recipients on the basis of the relative number of economically disadvantaged individuals enrolled in each eligible recipient in the fiscal year preceding the fiscal year in which the determination is made compared to the total number of such individuals enrolled in all eligible recipients within the State in such year; and

"(ii) 50 percent shall be allocated on the basis of the relative number of disadvantaged individuals and individuals with limited English proficiency served in vocational education programs by each eligible recipient within the State in the fiscal year preceding the fiscal year for which the determination is made as compared to the total number of such individuals served by all eligible recipients within the State in such year.

"(3) The State Board shall assure that sums allocated among eligible recipients pursuant to this subsection shall be used by an eligible recipient for vocational education services and activities for individuals with limited English proficiency in the same proportion as the number of individuals with limited English proficiency served by each eligible recipient within the State in the fiscal year preceding the fiscal year for which the determination is made bears to the population of the State in that year.

"(4) Each local educational agency shall use, to the extent feasible, community-based organizations of demonstrated effectiveness, in addition to other eligible recipients, for the use of funds available under this part in areas of the State in which there is an absence of sufficient vocational education facilities or in which the vocational education programs do not adequately address the needs of disadvantaged students, or in which the local educational agency determines that the community-based organization can better serve disadvantaged students.

"(5) Each local educational agency is authorized to use funds allocated under paragraph (1) of this subsection for joint projects with one or more other local educational agencies.

"(b) The State board may encourage any eligible recipient within the State which is

eligible to receive a grant under this part which is $1,000 or less in any fiscal year to operate programs jointly with another eligible recipient.

"(c) The State board shall establish criteria for the distribution of the remaining amount of the allotment of the State available for this part to eligible recipients and to community-based organizations pursuant to section 201(c)(3) within the State for the purposes described in clauses (3), (4), (5), and (6) of section 202.

"CRITERIA FOR SERVICES AND ACTIVITIES FOR THE HANDICAPPED AND FOR THE DISADVANTAGED

"SEC. 204. (a) The State board shall, with respect to that portion of the allotment distributed in accordance with section 203(a) for vocational education services and activities for handicapped individuals and disadvantaged individuals, provide assurances that—

"(1) equal access will be provided to handicapped and disadvantaged individuals in recruitment, enrollment, and placement activities;

"(2) equal access will be provided to handicapped and disadvantaged individuals to the full range of vocational programs available to nonhandicapped and nondisadvantaged individuals, including occupationally specific courses of study, cooperative education, and apprenticeship programs; and

"(3)(A) vocational education programs and activities for handicapped individuals will be provided in the least restrictive environment in accordance with section 612(5)(B) of the Education of the Handicapped Act and will, whenever appropriate, be included as a component of the individualized education plan required under section 612(4) and section 614(a)(5) of such Act; and

"(B) vocational education planning for handicapped individuals will be coordinated between appropriate representatives of vocational education and special education.

"(b) Each local educational agency shall, with respect to that portion of the allotment distributed in accordance with section 203(a) for vocational education services and activities for handicapped individuals and disadvantaged individuals, provide information to handicapped and disadvantaged students and parents of such students concerning the opportunities available in vocational education at least one year before the students enter the grade level in which vocational education programs are first generally available in the State, but in no event later than the beginning of the ninth grade, together with the requirements for eligibility for enrollment in such vocational education programs.

"(c) Each student who enrolls in vocational education programs and to whom subsection (b) applies shall receive—

"(1) assessment of the interests, abilities, and special needs of such student with respect to completing successfully the vocational education program;

"(2) special services, including adaptation of curriculum, instruction, equipment, and facilities, designed to meet the needs described in clause (1);

"(3) guidance, counseling, and career development activities conducted by professionally trained counselors who are associated with the provision of such special services; and

"(4) counseling services designed to facilitate the transition from school to postschool employment and career opportunities.

"PART B—VOCATIONAL EDUCATION PROGRAM IMPROVEMENT, INNOVATION, AND EXPANSION

"USES OF FUNDS

"SEC. 251. (a) From the portion of the allotment of each State under section 101 available for this part from amounts appropriated pursuant to section 3(a) for each fiscal year, each State may use funds so available to meet the needs identified in the State plan for—

"(1) the improvement of vocational education programs within the State designed to improve the quality of vocational education, including high-technology programs involving an industry-education partnership as described in part D of title III, apprenticeship training programs, and the provision of technical assistance;

"(2) the expansion of vocational education activities necessary to meet student needs and the introduction of new vocational education programs, particularly in economically depressed urban and rural areas of the State;

"(3) the introduction of new vocational education programs, particularly in economically depressed urban and rural areas;

"(4) the creation or expansion of programs to train workers in skilled occupations needed to revitalize businesses and industries or to promote the entry of new businesses and industries into a State or community;

"(5) exemplary and innovative programs which stress new and emerging technologies and which are designed to strengthen vocational education services and activities;

"(6) the improvement and expansion of postsecondary and adult vocational education programs and related services for out-of-school youth and adults, which may include upgrading the skills of (A) employed workers, (B) workers who are unemployed or threatened with unemployment as a result of technological change or industrial dislocation, (C) workers with limited English proficiency, and (D) displaced homemakers and single heads of households;

"(7) the improvement and expansion of career counseling and guidance authorized by part D of title III;

"(8) programs relating to curriculum development in vocational education within the State, including the application of basic skills training;

"(9) the expansion and improvement of programs at area vocational education schools;

"(10) the acquisition of equipment and the renovation of facilities necessary to improve or expand vocational education programs within the State;

"(11) the conduct of special courses and teaching strategies designed to teach the fundamental principles of mathematics and science through practical applications which are an integral part of the student's occupational program;

"(12) the assignment of personnel to work with employers and eligible recipients in a region to coordinate efforts to ensure that vocational programs are responsive to the labor market and supportive of apprenticeship training programs;

"(13) the activities of vocational student organizations carried out as an integral part of the secondary and postsecondary instructional program;

"(14) prevocational programs;

"(15) programs of modern industrial and agricultural arts;

"(16) support for full-time personnel to carry out section 111(b) which shall be paid for from administrative expenses of the State available under section 102(b);

"(17) the provision of stipends, which shall not exceed reasonable amounts as prescribed by the Secretary by regulation, for students entering or already enrolled in vocational education programs who have acute economic needs which cannot be met under work-study programs;

"(18) placement services for students who have successfully completed vocational education programs (including special services for the handicapped and cooperative efforts with rehabilitation programs);

"(19) day care services for children of students in secondary and postsecondary vocational education programs;

"(20) the construction of area vocational education school facilities in areas having a demonstrated need for such facilities;

"(21) the acquisition of high-technology equipment for vocational education programs;

"(22) the provision of vocational education through arrangements with private vocational education institutions, private postsecondary educational institutions, and employers whenever such private institutions or employers can make a significant contribution to attaining the objectives of this Act and can provide substantially equivalent preparation at a lesser cost, or can provide equipment or services not available in public institutions;

"(23) the acquisition and operation of communications and telecommunications equipment for vocational education programs; and

"(24) the improvement or expansion of any other vocational education activities authorized under part A.

"(b) From the portion of the allotment of each State under section 101 available for this part from amounts appropriated pursuant to section 3(a) for each fiscal year, each State shall use grants for the provision of in-service and preservice training designed to increase the competence of vocational education teachers, counselors, and administrators, including special emphasis on the integration of handicapped and disadvantaged students in regular courses of vocational education.

"CRITERIA FOR PROGRAM IMPROVEMENT, INNOVATION, AND EXPANSION

"SEC. 252. (a) Subject to the provisions of this part, each State may expend funds available under this part in the manner best suited to carry out the purposes of this Act within the State.

"(b) Each State may make use of community-based organizations of demonstrated effectiveness, in addition to eligible recipients, for the use of funds available under this part in areas of the State in which there is an absence of sufficient vocational education facilities or in which the vocational education programs do not adequately address the needs of disadvantaged students or wherever the community-based organization can better serve disadvantaged students.

"(c) Any project assisted with funds made available under this part shall be of sufficient size, scope, and quality to give reasonable promise of meeting the vocational education needs of the students involved in the project.

"TITLE III—SPECIAL PROGRAMS

"PART A—STATE ASSISTANCE FOR VOCATIONAL EDUCATION SUPPORT PROGRAMS BY COMMUNITY-BASED ORGANIZATIONS

"APPLICATIONS

"SEC. 301. (a) Each community-based organization which desires to receive assist-

ance under this part shall prepare jointly with the appropriate eligible recipient and submit an application to the State board at such time, in such manner, and containing or accompanied by such information as the State board may require. Each such application shall—

"(1) contain an agreement between the community-based organization and the eligible recipients in the area to be served, which includes the designation of fiscal agents established for the program;

"(2) provide a description of the uses for which assistance is sought pursuant to section 302(b) together with evaluation criteria to be applied to the program;

"(3) provide assurances that the community-based organization will give special consideration to the needs of severely economically and educationally disadvantaged youth ages sixteen through twenty-one, inclusive;

"(4) provide assurances that business concerns will be involved, as appropriate, in services and activities for which assistance is sought;

"(5) describe the collaborative efforts with the eligible recipients and the manner in which the services and activities for which assistance is sought will serve to enhance the enrollment of severely economically and educationally disadvantaged youth into the vocational education programs; and

"(6) provide assurances that the programs conducted by the community-based organization will conform to the applicable standards of performance and measures of effectiveness required of vocational education programs in the State.

"USES OF FUNDS

"SEC. 302. (a) From the portion of the allotment of each State under section 101 available for this part, each State shall provide financial assistance to joint programs of eligible recipients and community-based organizations within the State for the conduct of special vocational education services and activities described in subsection (b).

"(b) Funds provided under this section may be used in accordance with State plans for—

"(1) outreach programs to facilitate the entrance of youth into a program of transitional services and subsequent entrance into vocational education, employment or other education and training;

"(2) transitional services such as attitudinal and motivational prevocational training programs;

"(3) prevocational educational preparation and basic skills development conducted in cooperation with business concerns;

"(4) special prevocational preparations programs targeted to inner-city youth, non-English speaking youth, Appalachian youth, and the youth of other urban and rural areas having a high density of poverty who need special prevocational education programs;

"(5) career intern programs;

"(6) assessment of students needs in relation to vocational education and jobs; and

"(7) guidance and counseling to assist students with occupational choices and with the selection of a vocational education program.

"PART B—CONSUMER AND HOMEMAKER EDUCATION

"CONSUMER AND HOMEMAKER EDUCATION GRANTS

"SEC. 311. From the portion of the allotment of each State under section 101 available for this part, the Secretary is authorized to make grants to States to assist them in conducting consumer and homemaker education programs. Such programs may include (1) instructional programs, services, and activities that prepare youth and adults for the occupation of homemaking, and (2) instruction in the areas of food and nutrition, consumer education, family living and parenthood education, child development and guidance, housing, home management (including resource management), and clothing and textiles.

"USE OF FUNDS FROM CONSUMER AND HOMEMAKER EDUCATION GRANTS

"SEC. 312. (a) Grants to any State under this part shall be used, in accordance with State plans approved under section 114—

"(1) to conduct programs in economically depressed areas;

"(2) to encourage participation of traditionally underserved populations;

"(3) to encourage the elimination of sex bias and sex stereotyping;

"(4) to improve, expand, and update programs with an emphasis on those which specifically address needs described under clauses (1), (2), and (3); and

"(5) to address priorities and emerging concerns at the local, State, and national levels.

"(b) Grants for the purposes set forth in subsection (a) may be used for—

"(1) program development and improvement of instruction and curricula relating to managing individual and family resources, making consumer choices, managing home and work responsibilities, improving responses to individual and family crises, strengthening parenting skills, assisting aged and handicapped individuals, improving nutrition, conserving limited resources, understanding the impact of new technology on life and work, applying consumer and homemaker education skills to jobs and careers, and other needs as determined by the State; and

"(2) support services and activities designed to ensure the quality and effectiveness of programs, including demonstration of innovative and exemplary projects, community outreach to underserved populations, application of academic skills (such as reading, writing, mathematics, and science) through consumer and homemaker education programs, curriculum development, research, program evaluation, development of instructional materials, teacher education, upgrading of equipment, teacher supervision, and State administration and leadership, including activities of the student organization.

"(c) Not less than one-third of the Federal funds made available to any State under this section shall be expended in economically depressed areas or areas with high rates of unemployment for programs designed to assist consumers and to help improve home environments and the quality of family life.

"INFORMATION DISSEMINATION AND LEADERSHIP

"SEC. 313. (a) The State board shall ensure that the experience and information gained through carrying out programs assisted under this part is shared with administrators for the purpose of program planning. Funds available under this part shall be used to assist in providing State leadership qualified by experience and preparation in home economics education.

"(b) Not more than 6 percent of the funds available under this part may be used to carry out leadership activities under this section.

"PART C—ADULT TRAINING, RETRAINING, AND EMPLOYMENT DEVELOPMENT

"FINDINGS AND PURPOSE

"SEC. 321. (a) The Congress finds that—

"(1) technological change, international competition, and the demographics of the Nation's work force have resulted in increases in the numbers of adult workers who are unemployed, who have been dislocated, or who require training, retraining, or upgrading of skills,

"(2) many women entering and reentering the paid labor market are disproportionately employed in low-wage occupations and require additional training,

"(3) many adults cannot gain access to or benefit fully from vocational education due to limited English proficiency, and

"(4) these needs can be met by vocational education programs that are responsive to the needs of individuals and the demands of the labor market.

"(b) It is the purpose of this part (1) to provide financial assistance to the States to enable them to expand and improve vocational education programs designed to meet urgent needs for training, retraining, and employment development of adults who have completed or left high school and are preparing to enter or have entered the labor market, in order to equip adults with the competencies and skills required for productive employment, and (2) to ensure that such programs are relevant to the labor market needs and accessible to all segments of the population, including women, minorities, the handicapped, individuals with limited English proficiency, workers fifty-five and older, and the economically disadvantaged.

"AUTHORIZATION OF GRANTS AND USES OF FUNDS

"SEC. 322. (a) From the portion of the allotment of each State under section 101 available for this part, the Secretary shall make grants to the States for programs, services, and activities authorized by this part.

"(b)(1) Grants to States under this part may be used, in accordance with State plans, for—

"(A) vocational education programs, services, activities, and employment development authorized by title II which are designed to meet the needs of—

"(i) individuals who have graduated from or left high school and who need additional vocational education for entry into the labor force;

"(ii) unemployed individuals who require training to obtain employment or increase their employability;

"(iii) employed individuals who require retraining to retain their jobs, or who need training to upgrade their skills to qualify for higher paid or more dependable employment;

"(iv) displaced homemakers and single heads of households who are entering or reentering the labor force;

"(v) employers who require assistance in training individuals for new employment opportunities or in retraining employees in new skills required by changes in technology, products, or processes; and

"(vi) workers fifty-five and older;

"(B) short-term programs of retraining designed to upgrade or update skills in accordance with changed work requirements;

"(C) education and training programs designed cooperatively with employers, such as—

"(i) institutional and worksite programs, including apprenticeship training programs (or combinations of such programs) especially tailored to the needs of an industry or

group of industries for skilled workers, technicians, or managers, or to assist their existing work force to adjust to changes in technology or work requirements; and

"(ii) quick-start, customized training for workers in new and expanding industries, or for workers for placement in jobs that are difficult to fill because of a shortage of workers with the requisite skills,

"(D) building more effective linkages between vocational education programs and private sector employers (through a variety of programs including programs where secondary school students are employed on a part-time basis as registered apprentices with transition to full-time apprenticeships upon graduation), and between eligible recipients of assistance under this Act and economic development agencies and other public and private agencies providing job training and employment services, in order to more effectively reach out to and serve individuals described in subparagraph (A);

"(E) cooperative education programs with public and private sector employers and economic development agencies, including seminars in institutional or worksite settings, designed to improve management and increase productivity;

"(F) entrepreneurship training programs which assist individuals in the establishment, management, and operation of small business enterprises;

"(G) recruitment, job search assistance, counseling, remedial services, and information and outreach programs designed to encourage and assist males and females to take advantage of vocational education programs and services, with particular attention to reaching women, older workers, individuals with limited English proficiency, the handicapped, and the disadvantaged;

"(H) curriculum development, acquisition of instructional equipment and materials, personnel training, pilot projects, and related and additional services and activities required to effectively carry out the purposes of this part;

"(I) the costs of serving adults in other vocational education programs, including paying the costs of instruction or the costs of keeping school facilities open longer; and

"(J) related instruction for apprentices in apprenticeship training programs.

"(2) In making grants under this part, the Secretary shall require each State, in its State plan (or an amendment thereto), to assure that programs—

"(A) are designed with the active participation of the State council established pursuant to section 112;

"(B) make maximum effective use of existing institutions, are planned to avoid duplication of programs or institutional capabilities, and to the fullest extent practicable are designed to strengthen institutional capacity to meet the education and training needs addressed by this part;

"(C) involve close cooperation with and participation by public and private sector employers and public and private agencies working with problems of employment and training and economic development; and

"(D) where appropriate, involve coordination with programs under the Rehabilitation Act of 1973 and the Education of the Handicapped Act.

"COORDINATION WITH THE JOB TRAINING PARTNERSHIP ACT

"SEC. 323. (a) Each State receiving grants under this part shall include in the State plan methods and procedures for coordinating vocational education programs, services, and activities funded under this part to provide programs of assistance for dislocated workers funded under title III of the Job Training Partnership Act.

"(b)(1) The State board shall consult with the State job training coordinating council (established under section 122 of the Job Training Partnership Act) in order that programs assisted under this part may be taken into account by such council in formulating recommendations to the Governor for the Governor's coordination and special services plan required by section 121 of such Act.

"(2) The State board shall also adopt such procedures as it considers necessary to encourage coordination between eligible recipients receiving funds under this part and the appropriate administrative entity established under the Job Training Partnership Act in the conduct of their respective programs, in order to achieve the most effective use of all Federal funds through programs that complement and supplement each other, and, to the extent feasible, provide an ongoing and integrated program of training and services for workers in need of such assistance.

"PART D—COMPREHENSIVE CAREER GUIDANCE AND COUNSELING PROGRAMS

"GRANTS FOR CAREER GUIDANCE AND COUNSELING

"SEC. 331. From the portion of the allotment of each State under section 101 available for this part, the Secretary is authorized to make grants to States to assist them in conducting career guidance and counseling programs authorized by this part.

"USE OF FUNDS FROM CAREER GUIDANCE AND COUNSELING GRANTS

"SEC. 332. (a) Grants to any State under this part shall be used, in accordance with State plans (and amendments thereto), for programs (organized and administered by certified counselors) designed to improve, expand, and extend career guidance and counseling programs to meet the career development, vocational education, and employment needs of vocational education students and potential students. Such programs shall be designed to assist individuals—

"(1) to acquire self-assessment, career planning, career decisionmaking, and employability skills;

"(2) to make the transition from education and training to work;

"(3) to maintain marketability of current job skills in established occupations;

"(4) to develop new skills to move away from declining occupational fields and enter new and emerging fields in high-technology areas and fields experiencing skill shortages;

"(5) to develop midcareer job search skills and to clarify career goals; and

"(6) to obtain and use information on financial assistance for postsecondary and vocational education, and job training.

"(b) Programs of career guidance and counseling under this part shall encourage the elimination of sex, age, handicapping condition, and race bias and stereotyping, provide for community outreach, enlist the collaboration of the family, the community, business, industry, and labor and be accessible to all segments of the population, including women, minorities, the handicapped, and the economically disadvantaged. The programs authorized by this part shall consist of—

"(1) instructional activities and other services at all educational levels to help students with the skills described in clauses (1) through (6) of subsection (a); and

"(2) services and activities designed to ensure the quality and effectiveness of career guidance and counseling programs and projects assisted under this part, such as counselor education (including education of counselors working with individuals with limited English proficiency), training of support personnel, curriculum development, research and demonstration projects, experimental programs, instructional materials development, equipment acquisition, and State and local leadership and supervision; and

"(3) projects which provide opportunities for counselors to obtain firsthand experience in business and industry, and projects which provide opportunities to acquaint students with business, industry, the labor market, and training opportunities (including secondary educational programs that have at least one characteristic of an apprenticeable occupation as recognized by the Department of Labor or the State Apprenticeship Agency in accordance with the Act of August 16, 1937, known as the National Apprenticeship Act, in concert with local business, industry, labor, and other appropriate apprenticeship training entities, designed to prepare participants for an apprenticeable occupation or provide information concerning apprenticeable occupations and their prerequisites).

"(c) Not less than 20 percent of the sums made available to a State under this part shall be used for programs designed to eliminate sex, age, and race bias and stereotyping under subsection (b) and for activities to ensure that programs under this part are accessible to all segments of the population, including women, the disadvantaged, the handicapped, individuals with limited English proficiency, and minorities.

"INFORMATION DISSEMINATION AND LEADERSHIP

"SEC. 333. (a) The State board shall ensure that the experience and information gained through programs assisted under this part is shared with administrators for the purpose of program planning. Funds available under this part shall be used to assist in providing State leadership qualified by experience and knowledge in guidance and counseling.

"(b) Not more than 6 percent of the funds available under this part may be used to carry out leadership activities under this section.

"PART E—INDUSTRY-EDUCATION PARTNERSHIP FOR TRAINING IN HIGH-TECHNOLOGY OCCUPATIONS

"FINDINGS AND PURPOSE

"SEC. 341. (a) The Congress finds that—

"(1) shortages of technicians in high-technology fields are adversely affecting the Nation's productivity, its competitiveness in world markets, defense capability, and economic health; and

"(2) the Nation's vocational education system can make a major contribution in meeting the need for trained technicians and skilled workers in these fields, particularly through partnerships between vocational agencies and institutions and private business and industry.

"(b) It is therefore the purpose of this part—

"(1) to provide incentives for business and industry and the vocational education community to develop programs to train the skilled workers needed to produce, install, operate, and maintain high-technology equipment, systems, and processes; and

"(2) to ensure that such programs are relevant to the labor market and accessible to all segments of the population, including women, minorities, the handicapped, and the economically disadvantaged.

"AUTHORIZATION OF GRANTS

"SEC. 342. From the portion of the allotment of each State under section 101 available for this part, the Secretary shall make grants to the States to carry out industry-education partnership training programs in high-technology occupations in accordance with this part.

"(b) Grants to any State under this part shall be used, in accordance with State plans which contain assurances to the Secretary that—

"(1) funds received under this part will be used solely for vocational education programs designed to train skilled workers and technicians in high-technology occupations (including programs providing related instruction to apprentices) and projects to train skilled workers needed to produce, install, operate, and maintain high technology equipment, systems, and processes;

"(2) to the maximum extent practicable, funds received under this part will be utilized in coordination with the Job Training Partnership Act to avoid duplication of effort and to ensure maximum effective utilization of funds under this Act and the Job Training Partnership Act;

"(3) except as provided in subsection (c), not less than 50 per centum of the aggregate costs of programs and projects assisted under this part will be provided from non-Federal sources, and not less than 50 per centum of such non-Federal share of aggregate costs in the State will be provided by participating business and industrial firms;

"(4) programs and projects assisted under this part will be coordinated with those assisted under title II, and to the maximum extent practicable (consistent with the purposes of programs assisted under title II), supportive services will be so organized as to serve programs under both titles; and

"(5) programs and projects assisted under this part will be developed with the active participation of the State council established pursuant to section 112.

"(c)(1) The business and industrial share of the costs required by subsection (b)(2) may be in the form of cash or of in-kind contributions (such as facilities, overhead, personnel, and equipment) fairly valued.

"(2) The Federal share of such costs shall be available equally from funds available to the States under this part and from funds allotted to the States under title II.

"(3) If an eligible recipient demonstrates to the satisfaction of the State that it is incapable of providing all or part of the non-Federal portion of such costs as required by subsection (b)(2), the State may designate funds available under part B of this title or funds available from State sources in lieu of such non-Federal portion.

"USE OF FUNDS

"SEC. 343. (a) Funds made available to the States by grants under this part may be used solely for the establishment and operation of programs and projects described by section 342(b) and for—

"(1) necessary administrative costs of the State board and of eligible recipients associated with the establishment and operation of programs authorized by this part;

"(2) training and retraining of instructional and guidance personnel;

"(3) curriculum development and the development or acquisition of instructional and guidance equipment and materials;

"(4) acquisition and operation of communications and telecommunications equipment and other high-technology equipment for programs authorized by this part; and

"(5) such other activities authorized by this title as may be essential to the successful establishment and operation of programs and projects authorized by this part, including activities and related services to ensure access of women, minorities, the handicapped, and the economically disadvantaged.

"(b) In approving programs and projects assisted under this part, the State board shall give special consideration to—

"(1) the level and degree of business and industry participation in the development and operation of the program;

"(2) the current and projected demand within the State or relevant labor market area for workers with the level and type of skills the program is designed to produce;

"(3) the overall quality of the proposal, with particular emphasis on the probability of successful completion of the program by prospective trainees and the capability of the eligible recipient (with assistance from participating business or industry) to provide high quality training for skilled workers and technicians in high technology; and

"(4) the commitment to serve all segments of the population, including women, minorities, the handicapped, and the economically disadvantaged (as demonstrated by special efforts to provide outreach, information, and counseling, and by the provision of remedial instruction and other assistance).

"(c) Expenditures for administrative costs pursuant to subsection (a)(1) may not exceed 10 per centum of the State's allotment for this part in the first year and 5 per centum of such allotment in each subsequent year.

"TITLE IV—NATIONAL PROGRAMS

"PART A—RESEARCH

"RESEARCH OBJECTIVES

"SEC. 401. It is the purpose of this part—

"(1) to authorize research activities which contribute to improving the access to vocational education programs of individuals who are disadvantaged, who are handicapped, women who are entering nontraditional occupations, adults who are in need of retraining, individuals who are single parents or homemakers, individuals with limited English proficiency, and individuals who are incarcerated in correctional institutions;

"(2) to improve the competitive process by which research projects are awarded;

"(3) to encourage the dissemination of findings of research projects assisted under this Act to all States; and

"(4) to authorize research activities which are readily applicable to the vocational education setting and are of practical application to vocational education administrators, counselors, and instructors and others involved in vocational education.

"RESEARCH ACTIVITIES

"SEC. 402. (a) In order to carry out the objectives set forth in section 401, the Secretary shall conduct applied research on aspects of vocational education specifically related to this Act. Such research may be conducted through the National Institute of Education or any other division of the Department of Education which the Secretary determines to be appropriate. Such research shall include—

"(1) effective methods for providing quality vocational education to handicapped individuals, disadvantaged individuals, men and women in nontraditional fields, adults, individuals who are single parents or homemakers, individuals with limited English proficiency, and individuals who are incarcerated in correctional institutions;

"(2) strategies for coordinating local, State, and Federal vocational education, employment training, and economic development programs to maximize their efficacy and for improving worker training and retraining;

"(3) the constructive involvement of the private sector in public vocational education;

"(4) successful methods of reinforcing and enhancing basic academic skills in vocational settings;

"(5) the development of curriculum materials and instructional methods relating to new and emerging technologies, and assessments of the nature of change in the workplace and its effect on individual jobs;

"(6) the identification of institutional characteristics which improve the preparation of youth and adults for employment; and

"(7) the development of effective methods for providing quality vocational education to individuals of limited English proficiency, including research related to bilingual vocational training.

"(b) In addition, the Secretary shall—

"(1) initiate leadership development and inservice education activities for State and local vocational education instructors, counselors, and administrators; and

"(2) support meritorious, unsolicited research proposals from individual researchers community colleges, State advisory councils, and State and local educators relating to the goals of this Act.

"(c) The Secretary shall give preference in carrying out the provisions of this part to public and private postsecondary institutions in conducting vocational education research.

"(d)(1) The Secretary shall institute measures designed to ensure that program improvement activities carried out under this section represent a coordinated effort to improve the quality of vocational education.

"(2) The Secretary shall include in the annual report of the Secretary a summary of activities funded under this section, together with an appraisal of their contributions to the improvement and expansion of vocational education.

"NATIONAL ASSESSMENT OF VOCATIONAL EDUCATION PROGRAMS ASSISTED UNDER THIS ACT

"SEC. 403. (a) The Secretary shall conduct a national assessment of vocational education assisted under this Act, through independent studies and analysis by the National Institute of Education. The assessment shall include descriptions and evaluations of—

"(1) the vocational education activities and services delivered to the individuals who benefit from vocational education activities and services assisted under this Act, including the expansion of access to quality vocational education for individuals described in section 201(b) and adults;

"(2) the impact of this Act in modernizing the Nation's vocational education system and expanding its capacity to meet the changing needs of the workplace;

"(3) the resources needed to meet adequately the Nation's job training needs;

"(4) the coordination of vocational education programs with employment training and economic development among the States;

"(5) the impact of vocational education programs on the achievement of academic skills and employment opportunities of students;

"(6) the coordination of vocational education and postsecondary programing for

handicapped and disadvantaged individuals;

"(7) the skill and competency levels developed by States pursuant to section 113(b);

"(8) the effectiveness of vocational education programs and services for individuals of limited English proficiency; and

"(9) the effectiveness of bilingual vocational training, including bilingual vocational instructor training, to address the unmet needs of individuals of limited English proficiency.

The National Institute of Education shall consult with the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives in the design and implementation of the assessment required by this section. The National Institute of Education shall report to Congress the preliminary results of the assessment required by this section in January and July of 1988, and a final report shall be prepared and submitted to the Congress not later than January 1, 1989.

"(b) The Secretary shall conduct an analysis of State plans and of the findings of evaluations conducted pursuant to section 113(b) and make suggestions to State boards for improvements in planning or program operation.

"(c) Notwithstanding any other provision of law or regulation, such reports shall not be subject to any review outside of the National Institute of Education before their transmittal to the Congress, but the President and the Secretary may make such additional recommendations to the Congress with respect to the assessment as they deem appropriate.

"(d) Not more than 20 percent of the amounts available under this part in any fiscal year may be expended to carry out the assessment authorized by this section.

"NATIONAL CENTER FOR RESEARCH IN VOCATIONAL EDUCATION

"SEC. 404. (a)(1) The National Center for Research in Vocational Education established pursuant to this Act (hereinafter in this section referred to as the 'National Center') shall continue to be operated with funds made available under this Act.

"(2) The Secretary shall provide support for the National Center through an annual grant for its operation. The National Center shall be a nonprofit entity associated with a public or private nonprofit university which is prepared to make a substantial financial contribution toward its establishment. The Secretary shall, on the basis of solicited applications, designate the entity to be the National Center once every five years, acting with the advice of a panel composed of individuals appointed by the Secretary who are not Federal employees and who are recognized nationally as experts in vocational education administration and research.

"(3) The National Center shall have a Director, appointed by the university with which it is associated, and shall be assisted by the advisory committee under subsection (c).

"(b) The National Center shall have as its primary purposes the design and conduct of research and developmental projects and programs, including longitudinal studies, which extend over a period of years (with such supplementary and short-term activities through other grants and contracts as the Director may choose to undertake consistent with the purpose of this Act). Such projects, programs, and activities shall be conducted by the National Center directly and through subcontracts (subject to the availability of appropriations therefor) with other public agencies and public or private institutions of higher education. The National Center shall—

"(1) conduct applied research and development on—

"(A) effective methods for providing quality vocational education to handicapped individuals, disadvantaged individuals, men and women in nontraditional fields, adults, individuals who are single parents or homemakers, individuals with limited English proficiency, and individuals who are incarcerated in correctional institutions;

"(B) the constructive involvement of the private sector in public vocational education;

"(C) successful methods of reinforcing and enhancing basic academic skills in vocational settings;

"(D) the development of curriculum materials and instructional methods relating to new and emerging technologies, and assessments of the nature of change in the workplace and its effect on individual jobs; and

"(E) the identification of institutional characteristics which improve the preparation of youth and adults for employment;

"(2) provide leadership development through an advanced study center and in-service education activities for State and local leaders in vocational education;

"(3) disseminate the results of the research and development projects funded by the Center;

"(4) develop and provide information to facilitate national planning and policy development in vocational education;

"(5) provide technical assistance to programs serving special populations, including the handicapped and individuals with limited English proficiency;

"(6) act as a clearinghouse for information on contracts or grants made by the States to carry out research, curriculum, and personnel development activities and on contracts or grants made by the Secretary pursuant to this title;

"(7) work with States, local educational agencies, and other public agencies in developing methods of planning and evaluating programs, including the followup studies of individuals who complete the program so that such agencies can offer vocational education programs which are more closely related to the types of jobs available in their communities, States, and regions; and

"(8) after consultation with the National Commission for Employment Policy, report annually to the Congress, the Secretary of Education, and the Secretary of Labor on the extent, efficiency, and effectiveness of joint planning and coordination under this Act and the Job Training Partnership Act.

"(c) The Secretary shall appoint an advisory committee which shall advise the Secretary and the Director with respect to policy issues in the administration of the National Center and in the selection and conduct of major research and demonstration projects and activities of the National Center. The advisory committee shall meet at the call of the Secretary at least three times annually at the site of the National Center. The advisory committee shall consist of not more than twelve members, who shall not be employees of the Federal Government, who shall include—

"(1) two members designated by the university with which the National Center is associated;

"(2) at least one member selected from individuals nominated by national organizations representing State and local education administrators and teachers;

"(3) one member who is an individual recognized nationally for work in the field of vocational education research;

"(4) one member who is the owner, chief executive officer, or senior manager of a private business or industry which employs skilled workers and technicians in high-technology occupations;

"(5) one member who is an individual recognized nationally for work in the field of labor market economics;

"(6) one member who is recognized nationally for work in curriculum in vocational education;

"(7) one member who represents organized labor;

"(8) one member who is an individual recognized nationally for work with individuals with limited English proficiency in the field of vocational education;

"(9) one member who is an individual recognized nationally for work in guidance and counseling in the field of vocational education; and

"(10) one member who is an individual recognized nationally for work with the handicapped in the field of vocational education.

"PART B—DEMONSTRATION PROGRAMS

"Subpart 1—Cooperative Demonstration Education Programs

"PROGRAM AUTHORIZED

"SEC. 411. (a) From the amounts available for this part under section 451 for each fiscal year, the Secretary is authorized to carry out, directly or through grants to or contracts with State and local educational agencies, postsecondary educational institutions, institutions of higher education, and other public and private agencies, organizations, and institutions, programs and projects which support—

"(1) model programs providing improved access to quality vocational education programs for those individuals described in section 201(b) of this Act and for men and women seeking nontraditional occupations;

"(2) examples of successful cooperation between the private sector and public agencies in vocational education, involving employers or consortia of employers or labor organizations and building trade councils, and State boards or eligible recipients designed to demonstrate ways in which vocational education and the private sector of the economy can work together effectively to assist vocational education students to attain the advanced level of skills needed to make the transition from school to productive employment, including—

"(A) work experience and apprenticeship programs;

"(B) transitional worksite job training for vocational education students which is related to their occupational goals and closely linked to classroom and laboratory instruction provided by an eligible recipient;

"(C) placement services in occupations which the students are preparing to enter; and

"(D) where practical, projects (such as the rehabilitation of public schools or housing in inner cities or economically depressed rural areas) that will benefit the public;

"(3) programs to overcome national skill shortages, as designated by the Secretary in cooperation with the Secretary of Labor, Secretary of Defense, and Secretary of Commerce; and

"(4) such other activities which the Secretary may designate which are related to the purposes of this Act.

"(b)(1) Projects described in clause (2) of subsection (a) may include institutional and on-the-job training, supportive services authorized by this Act, and such other necessary assistance as the Secretary determines to be necessary for the successful completion of the project.

"(2) Not less than 25 percent of the cost of the demonstration programs authorized by this subpart shall be provided by the recipient of the grant or contract, and such share may be in the form of cash or in-kind contributions, including facilities, overhead, personnel, and equipment fairly valued.

"(c) All programs assisted under this section shall be—

"(1) of direct service to individuals enrolled in such programs; and

"(2) capable of wide replication by service providers.

"(d) The Secretary shall disseminate the results of the programs and projects assisted under this section in a manner designed to improve the training of teachers, other instructional personnel, counselors, and administrators who are needed to carry out the purposes of this Act.

"(e) Not later than one year after the date of enactment of the Carl D. Perkins Vocational Education Act, the Secretary of Labor and the Secretary of Education shall develop and implement a plan for greater coordination between vocational education programs and apprenticeship training programs. Linkages between such programs shall be established relating to apprenticeship programs, and preapprenticeship programs, and program evaluation and performance standards (particularly with respect to apprenticeship training and programs of related instruction). The Secretaries shall establish such other collaborative and cooperative efforts as are considered feasible and appropriate.

"Subpart 2—State Equipment Pools

"PROGRAM AUTHORIZED

"SEC. 413. From funds made available to carry out this subpart, the Secretary shall develop and implement a program of competitive grants to State boards for the operation of State programs involving the loan of high-technology, state-of-the-art equipment to eligible recipients for use in local vocational education programs. The Secretary shall determine the appropriate amount of any grant. No State may qualify for more than two consecutive years for a grant under this subpart.

"Subpart 3—Demonstration Centers for the Retraining of Dislocated Workers

"PROGRAM AUTHORIZED

"SEC. 415. The Secretary shall establish one or more demonstration centers for the retraining of dislocated workers in order to demonstrate the application of general theories of vocational education to the specific problems of retraining displaced workers.

"Subpart 4—Model Centers for Vocational Education for Older Individuals

"PROGRAM AUTHORIZED

"SEC. 417. (a) The Secretary shall establish a grant program to establish and operate model centers to focus greater attention on the special vocational education needs of older individuals and to promote employment opportunities for older individuals in accordance with this subpart.

"(b) Any center established and operated by an eligible recipient under this subpart—

"(1) provide training or retraining to update older individuals' skills, prepare such individuals for new careers when their skills have been rendered obsolete by technological advances, and promote employment through training or retraining in areas of job potential in growth industries utilizing new technologies;

"(2) provide assistance for later-life career changes, with special emphasis on the needs of older individuals who are displaced homemakers;

"(3) provide information, counseling, and support services to assist older individuals in obtaining employment;

"(4) encourage providers of vocational education, including community colleges and technical schools, to offer more job training opportunities targeted to or easily accessible to older individuals; and

"(5) promote training of paraprofessionals in gerontology and geriatrics.

"(c) The Secretary shall establish and operate a national clearinghouse within the Department of Education to provide State and local governments, and interested organizations and individuals with information concerning centers established under this subpart and their programs.

"(d) For purposes of this subpart, the term 'older individual' means an individual fifty-five years of age or older.

"PART C—VOCATIONAL EDUCATION AND OCCUPATIONAL INFORMATION DATA SYSTEMS

"DATA SYSTEMS AUTHORIZED

"SEC. 421. (a)(1) The Secretary shall develop, within the National Center for Education Statistics, a national vocational education data reporting and accounting system using uniform definitions. The system required by this section shall include information on vocational education—

"(A) students (including information concerning race, sex, and handicapping condition),

"(B) programs,

"(C) program completers and leavers,

"(D) placement and followup,

"(E) staff,

"(F) facilities, and

"(G) expenditures in relation to the principal purposes of this Act.

Such information shall include the participation of special populations, including women, the disadvantaged, the handicapped, individuals of limited English proficiency, and minorities.

"(2) The Secretary, in consultation with the Congress, shall determine the number and types of vocational education institutions to be sampled, the methodology to be used, group sample sizes, appropriate breakdown analyses of such groups, and the frequency with which such studies under this section are to be conducted.

"(b)(1) In maintaining and updating such system, the Secretary shall endeavor to the fullest extent feasible to make the system compatible with the occupational information system (established pursuant to section 422), with the vocational education data system authorized under section 161(a) of the Vocational Education Act of 1963, and with other systems developed or assisted under the Job Training Partnership Act and with information collected pursuant to the Education of the Handicapped Act.

"(2) Any State receiving assistance under this Act shall cooperate with the Secretary in supplying the information required to be submitted by the Secretary and shall comply in its reports with the vocational education data system developed by the Secretary pursuant to subsection (a). Each State shall submit the data required to carry out this subsection to the Secretary in whatever form the Secretary requires.

"(3) The Secretary shall every 2 years update the national vocational education information and accounting system and prepare acquisition plans of data for operating the system. In carrying out the requirements under this paragraph, the Secretary shall use scientific sample surveys for the information required, except that the information required with respect to handicapped students shall be furnished in accordance with section 423 of this Act.

"(4) The Secretary may conduct special studies on enrollment of disadvantaged students in vocational education programs, on the participation of handicapped students in vocational education programs, and any other similar subjects which the Secretary deems appropriate.

"(c) In carrying out the responsibilities imposed by this section, the Secretary shall cooperate with the Secretary of Labor in implementing section 463 of the Job Training Partnership Act to ensure that the data system operated under this section is compatible with and complementary to other occupational supply and demand information systems developed or maintained with Federal assistance.

"OCCUPATIONAL INFORMATION SYSTEM

"SEC. 422. (a) There is established a National Occupational Information Coordinating Committee which shall consist of the Assistant Secretary for Vocational and Adult Education, the Commissioner of the Rehabilitative Services Administration, the Director of the Office of Bilingual Education and Minority Language Affairs, and the Administrator of the National Center for Education Statistics of the Department of Education, the Commissioner of Labor Statistics and the Assistant Secretary for Employment and Training of the Department of Labor, the Undersecretary for Small Community and Rural Development of the Department of Agriculture, the Assistant Secretary for Economic Development of the Department of Commerce, and the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics). The Committee, with funds available to it under section 451, shall provide funds, on an annual basis, to State occupational information coordinating committees and to eligible recipients and shall—

"(1) in the use of program data and employment data, improve coordination and communication among administrators and planners of programs authorized by this Act and by the Job Training Partnership Act, employment security agency administrators, research personnel, and personnel of employment and training planning and administering agencies (including apprenticeship training agencies) at the Federal, State, and local levels;

"(2) develop and implement, in cooperation with State and local agencies, an occupational information system to meet the common occupational information needs of vocational education programs and employment and training programs at the national, State, and local levels, which system shall include data on occupational demand and supply based on uniform definitions, standardized estimating procedures, and standardized occupational classifications;

"(3) conduct studies on the effects of technological change on new and existing occupational areas and the required changes in knowledge and job skills; and

"(4) assist State occupational information coordinating committees established pursuant to subsection (b).

"(b) Each State receiving assistance under this Act shall establish a State occupational

information coordinating committee composed of representatives of the State board, the State employment security agency, the State economic development agency, the State job training coordinating council, and the agency administering the vocational rehabilitation program. Such committee shall, with funds available to it from the National Occupational Information Coordinating Committee established pursuant to subsection (a)—

"(A) implement an occupational information system in the State which will meet the common needs for the planning for, and the operation of, programs of the State board assisted under this Act and of the administering agencies under the Job Training Partnership Act; and

"(B) use the occupational information system to implement a career information delivery system.

"INFORMATION BASE FOR VOCATIONAL EDUCATION DATA SYSTEM

"SEC. 423. The Secretary shall assure that adequate information on the access to vocational education programs by handicapped secondary school students be included in the national vocational education data system, required by section 161 of the Vocational Education Act of 1963 and by this part, for the biennial survey. The information base for the biennial survey for the handicapped shall be in 4-digit detail as defined in A Classification of Instructional Programs published by the National Center for Educational Statistics. The survey shall include information with respect to total handicapped enrollment by program, by type of instructional setting, and by type of handicapping condition.

"PART D—NATIONAL COUNCIL ON VOCATIONAL EDUCATION

"COUNCIL ESTABLISHED

"SEC. 431. (a)(1) There is established the National Council on Vocational Education. The Council shall consist of 17 members appointed by the President of whom 9 shall be representative of the private sector.

"(2) The members of the Council shall serve for such terms as the President may prescribe. Members of the Council shall be individuals who are owners, chief executives or chief operating officers of private business concerns, private for profit and nonprofit health and educational institutions and executives of business concerns and business associations who have substantial management and policy responsibility including agriculture, small business, and organized labor, except that at least one member shall be a non-public member appointed from among members of the National Commission for Employment Policy established under the Job Training Partnership Act, and at least 3 members shall be individuals with broad experience in education and human resources development.

"(3) The Chairperson of the Council shall be selected by the President. The Council shall meet not fewer than 4 times each year at the call of the Chairperson. A majority of the members of the Council shall constitute a quorum (but a lesser number may conduct hearings on behalf of the Council), and recommendations may be made, or other actions taken, only by a majority of the members present.

"(b) The Council shall advise the President, Congress, and the Secretary on—

"(1) the effectiveness of this Act or its implementation in achieving the stated purposes of this Act and in providing students with skills that meet needs of employers;

"(2) strategies for increasing cooperation between business and vocational education so that training is available for new technologies for which there is a demand;

"(3) practical approaches to retraining adult workers, and to enhancing education, business, and labor cooperation in retraining efforts;

"(4) effective ways of providing access to information regarding the market demand for skills that will enable State and local personnel to develop responsive vocational education curricula;

"(5) the vocational education needs of the handicapped and the level of participation of the handicapped in vocational education programs; and

"(6) the implementation of this Act and the Job Training Partnership Act, and policies needed to expand and improve vocational-technical education programs (and apprenticeship programs) in order to build a coordinated capacity to adequately prepare America's work force for employment.

"(c) Subject to such rules and regulations as may be adopted by the Council, the Chairperson is authorized to—

"(1) prescribe such rules and regulations as may be necessary for conducting the business of the Council;

"(2) appoint and fix the compensation of such personnel as the Chairperson considers necessary (including not to exceed five professional personnel), and appoint (with the approval of the Council) a Director, who shall be the chief executive officer of the Council and perform such duties as are prescribed by the Chairperson;

"(3) procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code;

"(4) accept voluntary and uncompensated services of professional personnel, consultants, and experts, notwithstanding any other provision of the law;

"(5) accept in the name of the United States and employ or dispose of gifts or bequests to carry out the functions of the Council under this section;

"(6) enter into contracts and grants and make such other arrangements and modifications, as may be necessary;

"(7) conduct such hearings, studies, and research activities as the Council deems necessary to enable it to carry out its functions under this section;

"(8) use the services, personnel, facilities, and information of any department, agency, or instrumentality of the executive branch of the Federal Government and the services, personnel, facilities, and information of State and local public agencies and private agencies and organizations, with the consent of such agencies, with or without reimbursement therefor; and

"(9) make advance, progress, and other payments necessary under this section without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529).

"(d) Upon request made by the Chairperson of the Council, each department, agency, and instrumentality of the executive branch of the Federal Government is authorized and directed to make its services, personnel, facilities, and information available to the greatest practicable extent to the Council in the performance of its functions under this section.

"(e) The Council may establish working groups on occupational competencies to provide the Secretary, the President, the Congress, and the States with current information on the types and levels of occupational competencies necessary for entry and sustained productive employment in given jobs or industries, including levels of skills required, and equipment, methods, and facilities needed for the occupation. The Council may establish working groups for the occupations the Council considers important or necessary and may reconstitute such groups as occupational priorities are revised. Members of the working groups shall be appointed by the Council on the advice of national trade and professional associations and labor organizations. Working group members shall be individuals with specific knowledge in the technology and practice of the occupations relevant to the task of the group. The Council may provide the results and recommendations of the working groups to each State council on vocational education and other appropriate State agencies.

"(f) The Council may use funds available for this part to obtain the services of staff specialists for working groups who have demonstrated technical skills and instructional ability in the occupations in question.

"(g) The Council shall make a report of its findings and recommendations to the President, the Congress, and the Secretary every second year, and may make such interim reports and recommendations as the Council may consider desirable. The Council shall include in such reports the manner in which the competency statements provided by the Council have been used by the States. The Council may include in such reports its evaluation of the status, progress, and needs of vocational education (including recommendations for Federal legislation and appropriations). Each such report shall include any minority, dissenting, or supplementary view submitted by any member of the Council.

"PART E—BILINGUAL VOCATIONAL TRAINING

"PROGRAM AUTHORIZED

"SEC. 441. (a)(1) From the sums made available to carry out this section in each fiscal year under section 3(d), the Secretary is authorized to make grants to and to enter into contracts with appropriate State agencies, local educational agencies, postsecondary educational institutions, private nonprofit vocational training institutions, and other nonprofit organizations specially created to serve individuals who normally use a language other than English, for bilingual vocational education and training for individuals with limited English proficiency to prepare such individuals for jobs in recognized occupations and new and emerging occupations. Such training shall include instruction in the English language to ensure that participants in such training will be equipped to pursue such occupations in an English language environment. The Secretary may also enter into contracts with private for-profit agencies and organizations for bilingual vocational education and training programs.

"(2) Grants and contracts under this subsection may be used for—

"(A) bilingual vocational training programs for individuals who have completed or left elementary or secondary school and who are available for education in a postsecondary educational institution;

"(B) bilingual vocational education and training programs for individuals who have already entered the labor market and who desire or need training or retraining to achieve year-round employment, adjust to changing manpower needs, expand their

range of skills, or advance in employment; and

"(C) training allowances for participants in bilingual vocational training programs.

"(b)(1) From the sums made available to carry out this section, the Secretary is authorized to make grants to and to enter into contracts with State agencies and public and private nonprofit educational institutions and to enter into contracts with private for-profit educational institutions to assist such entities in conducting training for instructors of bilingual vocational education and training programs.

"(2) Grants and contracts under this subsection may be used for—

"(A) preservice and inservice training for instructors, aides, counselors, or other ancillary personnel participating or preparing to participate in bilingual vocational training programs; and

"(B) fellowships and traineeships for individuals participating in preservice or inservice training.

"(3) The Secretary may not make a grant or enter into a contract under this subsection unless the Secretary determines that the applicant has an ongoing vocational training program in the field in which participants will be trained and can provide instructors with adequate language capabilities in the language other than English to be used in the program.

"(c)(1) From the sums made available to carry out this section, the Secretary is authorized to make grants to and to enter into contracts with State agencies, educational institutions, and appropriate nonprofit organizations, and to enter into contracts with private for-profit organizations and individuals, to assist in the development of instructional and curriculum materials, methods, or techniques for bilingual vocational training.

"(2) Grants and contracts under this subsection may be used for—

"(A) research in bilingual vocational training;

"(B) training programs to familiarize State agencies and training institutions with research findings and with successful pilot and demonstration projects in bilingual vocational education and training; and

"(C) experimental, developmental, pilot, and demonstration projects.

"(d)(1) Any eligible entity which desires to receive a grant from the Secretary under subsections (a), (b), or (c) shall submit an application to the Secretary in such form, at such times, and accompanied by such information as the Secretary may require. Such application shall provide that the activities and services for which assistance is sought will be administered by or under the supervision of the applicant.

"(2) An application pursuant to subsection (a) shall (A) set forth a program of such size, scope, and design as will make a substantial contribution toward carrying out the purposes of this section, and (B) be submitted to the State board or agency under section 111 for review and comment. Any such comments shall be included for submission to the Secretary.

"(3) An application pursuant to subsection (c) shall set forth the qualifications of staff responsible for any such program.

"(4) An application pursuant to subsection (b) shall—

"(A) describe the capabilities of the applicant, (including vocational training or education courses offered by the applicant, accreditation, and any certification of courses by appropriate State agencies);

"(B) describe the qualifications of principal staff responsible for any program under subsection (b); and

"(C) describe minimum qualifications for individuals participating or to participate in any program, describe the selection process for such individuals, and the projected amount of the fellowships or traineeships, if any.

"(5) Prior to making grants or contracts under subsection (a) or (b), the Secretary shall consult with the State board under section 111 to ensure an equitable distribution of assistance among populations of individuals with limited English proficiency within the State.

"(6) The Secretary may approve an application for assistance under this section only if the application meets the requirements set forth under this section. An amendment to an application shall, except as the Secretary may otherwise provide, be subject to approval in the same manner as the initial application.

"(e)(1) The Secretary shall administer programs under this section in consultation with the Secretary of Labor.

"(2) Programs of bilingual vocational education and training under this section in the Commonwealth of Puerto Rico may provide for the needs of students of limited Spanish proficiency.

"(3) The Secretary of Education, in consultation with the Secretary of Labor, shall gather and disseminate information concerning the status of bilingual vocational education in all geographic regions and shall evaluate the impact of bilingual vocational education on occupational shortages of skilled workers, the unemployment or underemployment of individuals with limited English proficiency, and the ability of such individuals to acquire sufficient job skills and English language skills to fully contribute to the economy. The Secretary of Education and the Secretary of Labor shall annually report their findings to the President and the Congress.

"(f)(1) For each fiscal year, not less than 75 per centum of sums appropriated for the purposes of this section shall be available only for grants and contracts under subsection (a).

"(2) For each fiscal year, not less than 15 per centum of the sums appropriated for the purposes of this section shall be available only for grants and contracts under subsection (b).

"(3) For each fiscal year, not less than 10 per centum of sums appropriated for the purposes of this section shall be available only for grants and contracts under subsection (c).

"PART F—GENERAL PROVISIONS

"DISTRIBUTION OF ASSISTANCE

"SEC. 451. (a) Subject to the provisions of subsection (b), of the amounts available pursuant to section 3(e) for any fiscal year for this title—

"(1) 35 percent shall be available for part A, relating to research,

"(2) 35 percent shall be available for part B, relating to demonstration projects; and

"(3) 30 percent shall be available for part C, relating to vocational education in occupational information data systems.

"(b) Notwithstanding the provisions of subsection (a)—

"(1) there shall be available in each fiscal year not less than $6,000,000 to carry out the provisions of section 404, relating to the National Center for Research;

"(2) there shall be available for each fiscal year not less than $3,500,000 for the purpose of carrying out section 422, relating to the occupational information system; and

"(3) there shall be available in each fiscal year $500,000 for the purpose of carrying out part D, relating to the National Council.

"TITLE V—GENERAL PROVISIONS

"PART A—FEDERAL ADMINISTRATIVE PROVISIONS

"PAYMENTS

"SEC. 501. (a) The Secretary shall pay from its allotment under section 101 to each State for any fiscal year for which the State has a State plan approved in accordance with section 114 (including any amendment to such plan) the Federal share of the costs of carrying out the State plan.

"(b) The Secretary shall pay to each State council of a State which has a State plan approved in accordance with section 114, from its allotment under section 112(f), an amount equal to the reasonable amounts expended by the State council in carrying out its functions under this Act in such fiscal year.

"FEDERAL SHARE

"SEC. 502. (a) The Federal share for each fiscal year shall be—

"(1) 50 percent of the costs of administration of the State plan;

"(2) not to exceed 50 percent of the costs of administration of vocational education services and activities of eligible recipients;

"(3)(A) 50 percent of the costs of vocational education services and activities under part A of title II for individuals described in clauses (1), (2), and (3) of section 201(b);

"(B) 100 percent of the costs of vocational education programs, services, and activities under part A of title II for individuals described in clauses (4), (5), and (6) of section 201(b);

"(4) 50 percent of the costs of vocational education improvement, innovation, and expansion programs under part B of title II;

"(5) 100 percent of the costs of the State council under section 112;

"(6) 100 percent of the costs to carry out the provisions of section 111(b)(3); and

"(7) except as otherwise provided, 100 percent of the costs of programs under title III.

"(b) The non-Federal contribution for the costs of vocational education programs, services, and activities for the handicapped and the disadvantaged under part A of title II shall be furnished equitably by the State from State and local sources, except that the non-Federal contributions of such costs shall be furnished by the State from State sources if the State board determines that an eligible recipient cannot reasonably be expected to provide such costs from local sources.

"MAINTENANCE OF EFFORT

"SEC. 503. (a) No payments shall be made under this Act for any fiscal year to a State unless the Secretary determines that the fiscal effort per student or the aggregate expenditures of such State for vocational education for the fiscal year preceding the fiscal year for which the determination is made, equaled or exceeded such effort or expenditures for vocational education for the second preceding fiscal year.

"(b) The Secretary may waive the requirements of this section for one fiscal year only, upon making a determination that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the applicant to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources. No level of funding permitted

under such a waiver may be used as the basis for computing the fiscal effort required under this section for years subsequent to the year covered by such waiver; such fiscal effort shall be computed on the basis of the level of funding which would, but for such waiver, have been required.

"WITHHOLDING; JUDICIAL REVIEW

"SEC. 504. (a) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State board, finds that—

"(1) the State plan approved under section 114 has been so changed that it no longer complies with the provisions of this Act; or

"(2) in the administration of the State plan or of programs conducted pursuant to it there is a failure to comply substantially with any such provision,

the Secretary shall notify such State board that no further payments will be made to the State under this Act (or, further payments to the State will be limited to programs under or portions of the State plan not affected by such failure) until satisfied that there will no longer be any failure to comply. Until so satisfied, the Secretary shall make no further payments to such State under this Act (or shall limit payments to programs under, or portions of, the State plan not affected by such failure).

"(b) A State board which is dissatisfied with a final action of the Secretary under this section may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which action is based, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set aside such action, in whole or in part, temporarily or permanently, but until the filing of the record, the Secretary may modify or set aside his action. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall, unless specifically ordered otherwise by the court, operate as a stay of the Secretary's action.

"(c)(1) If any eligible recipient is dissatisfied with the final action of the State board or other appropriate State administering agency with respect to approval of its local application, such eligible recipient may, within sixty days after such final action or notice thereof, whichever is later, file with the United States court of appeals for the circuit in which the State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the State board or other appropriate State administering agency. The State board or such other agency thereupon shall file in the court the record of the proceeding on which the State board or such other agency based its action, as provided in section 2112 of title 28, United States Code.

"(2) The findings of fact by the State board or other appropriate administering agency, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the State board or such other agency to take further evidence, and the State board or such other agency may thereupon make new or modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings.

"(3) The court shall have jurisdiction to affirm the action of the State board or other appropriate administering agency or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari certification as provided in section 1254 of title 28, United States Code.

"(d)(1) The Secretary shall prescribe and implement rules to assure that any hearing conducted under section 434(c) of the General Education Provisions Act in connection with funds made available from appropriations under this Act shall be held within the State of the affected unit of local government or geographic area within the State.

"(2) For the purposes of paragraph (1)—

"(A) the term 'unit of local government' means a county, municipality, town, township, village, or other unit of general government below the State level; and

"(B) the term 'geographic area within a State' means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

"AUDITS

"SEC. 505. Each State shall obtain financial and compliance audits of any funds which the State receives under this Act. Such audits shall be made public within the State on a timely basis. Audits shall be conducted at least every two years and shall be conducted in accordance with the Comptroller General's Standard for Audit of Governmental Organizations, Programs, Activities, and Functions.

"AUTHORITY TO MAKE PAYMENTS

"SEC. 506. Any authority to make payments or to enter into contracts under this Act shall be available only to such extent or in such amounts as are provided in advance appropriation Acts.

"PART B—DEFINITIONS

"DEFINITIONS

"SEC. 521. As used in this Act:

"(1) The term 'administration' means activities of a State necessary for the proper and efficient performance of its duties under this Act, including supervision, but does not include curriculum development activities, personnel development, technical assistance, or research activities.

"(2) The term 'apprenticeship training program' means a program registered with the Department of Labor or the State apprenticeship agency in accordance with the Act of August 16, 1937, known as the National Apprenticeship Act, which is conducted or sponsored by an employer, a group of employers, or a joint apprenticeship committee representing both employers and a union, and which contains all terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices.

"(3) The term 'area vocational education school' means—

"(A) a specialized high school used exclusively or principally for the provision of vocational education to individuals who are available for study in preparation for entering the labor market;

"(B) the department of a high school exclusively or principally used for providing vocational education in no less than five different occupational fields to individuals who are available for study in preparation for entering the labor market;

"(C) a technical institute or vocational school used exclusively or principally for the provision of vocational education to individuals who have completed or left high school and who are available for study in preparation for entering the labor market; or

"(D) the department or division of a junior college or community college or university operating under the policies of the State board and which provides vocational education in no less than five different occupational fields leading to immediate employment but not necessarily leading to a baccalaureate degree, if, in the case of a school, department, or division described in subparagraph (C) or this subparagraph, it admits as regular students both individuals who have completed high school and individuals who have left high school.

"(4) The term 'career guidance and counseling' means those programs (A) which pertain to the body of subject matter and related techniques and methods organized for the development in individuals of career awareness, career planning, career decisionmaking, placement skills, and knowledge and understanding of local, State, and national occupational, educational, and labor market needs, trends, and opportunities, and (B) which assist them in making and implementing informed educational and occupational choices.

"(5) The term 'community-based organization' means any such organization of demonstrated effectiveness described in section 4(5) of the Job Training Partnership Act.

"(6) The term 'construction' includes construction of new buildings and acquisition, and expansion, remodeling, and alteration of existing buildings, and includes site grading and improvement and architect fees.

"(7) The term 'cooperative education' means a method of instruction of vocational education for individuals who, through written cooperative arrangments between the school and employers, receive instruction, including required academic courses and related vocational instruction by alternation of study in school with a job in any occupational field, but the two experiences must be planned and supervised by the school and employers so that each contributes to the student's education and to his or her employability. Work periods and school attendance may be on alternate half days, full days, weeks, or other periods of time in fulfilling the cooperative program.

"(8) The term 'criminal offender' means any individual who is charged with or convicted of any criminal offense, including a youth offender or a juvenile offender.

"(9) The term 'correctional institution' means any—

"(A) prison,

"(B) jail,

"(C) reformatory,

"(D) work farm,

"(E) detention center, or

"(F) halfway house, community-based rehabilitation center, or any other similar in-

stitution designed for the confinement or rehabilitation of criminal offenders.

"(10) The term 'Council' means the National Council on Vocational Education.

"(11) The term 'curriculum materials' means instructional and related or supportive material, including materials using advanced learning technology, in any occupational field which is designed to strengthen the academic foundation and prepare individuals for employment at the entry level or to upgrade occupational competencies of those previously or presently employed in any occupational field, and appropriate counseling and guidance material.

"(12) The term 'disadvantaged' means individuals (other than handicapped individuals) who have economic or academic disadvantages and who require special services and assistance in order to enable them to succeed in vocational education programs. Such term includes individuals who are members of economically disadvantaged families, migrants, individuals who have limited English proficiency and individuals who are dropouts from, or who are identified as potential dropouts from, secondary school.

"(13) The term 'economically depressed area' means an economically integrated area within any State in which a chronically low level of economic activity or a deteriorating economic base has caused such adverse effects as (A) a rate of unemployment which has exceeded by 50 per centum or more the average rate of unemployment in the State, or in the Nation, for each of the three years preceding the year for which such designation is made, or (B) a large concentration of low-income families, and for which such designation for the purposes of this Act is approved by the Secretary as consistent with these and such other criteria as may be prescribed, and with the purposes of this Act.

"(14) The term 'eligible recipient' means a local educational agency or a postsecondary educational institution.

"(15) The term 'handicapped', when applied to individuals, means individuals who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired persons, or persons with specific learning disabilities, who by reason thereof require special education and related services, and who, because of their handicapping condition, cannot succeed in the regular vocational education program without special education assistance.

"(16) The term 'high technology' means state-of-the-art computer, microelectronic, hydraulic, pneumatic, laser, nuclear, chemical, telecommunication, and other technologies being used to enhance productivity in manufacturing, communication, transportation, agriculture, mining, energy, commercial, and similar economic activity, and to improve the provision of health care.

"(17) The term 'homemaker' means an individual who—

"(A) is an adult, and

"(B) has worked as an adult primarily without remuneration to care for the home and family, and for that reason has diminished marketable skills.

The Secretary may not prescribe the manner in which the States will comply with the application of the definition contained in this paragraph.

"(18) The term 'limited English proficiency' has the meaning given such term in section 703(a)(1) of the Elementary and Secondary Education Act of 1965.

"(19) The term 'local educational agency' means a board of education or other legally constituted local school authority having administrative control and direction of public elementary or secondary schools in a city, county, township, school district, or political subdivision in a State, or any other public educational institution or agency having administrative control and direction of a vocational education program.

"(20) The term 'economically disadvantaged family or individual' means such families or individuals who are determined by the Secretary to be low-income according to the latest available data from the Department of Commerce.

"(21) The term 'postsecondary educational institution' means an institution legally authorized to provide postsecondary education within a State, or any postsecondary educational institution operated by or on behalf of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934.

"(22) The term 'private vocational training institution' means a business or trade school, or technical institution or other technical or vocational school, in any State, which (A) admits as regular students only persons who have completed or left elementary or secondary school and who have the ability to benefit from the training offered by such institution; (B) is legally authorized to provide, and provides within that State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations; (C) has been in existence for two years or has been specially accredited by the Secretary as an institution meeting the other requirements of this subsection; and (D) is accredited (i) by a nationally recognized accrediting agency or association listed by the Secretary pursuant to this clause, or (ii) if the Secretary determines that there is no nationally recognized accrediting agency or association qualified to accredit schools of a particular category, by a State agency listed by the Secretary pursuant to this clause, or (iii) if the Secretary determines that there is no nationally recognized or State agency or association qualified to accredit schools of a particular category, by an advisory committee appointed by the Secretary and composed of persons specially qualified to evaluate training provided by schools of that category, which committee shall prescribe the standards of content, scope, and quality which must be met by those schools and shall also determine whether particular schools meet those standards. For the purpose of this paragraph, the Secretary shall publish a list of nationally recognized accrediting agencies or associations and State agencies which the Secretary determines to be reliable authority as to the quality of education or training afforded.

"(23) The term 'school facilities' means classrooms and related facilities (including initial equipment) and interests in lands on which such facilities are constructed. Such term shall not include any facility intended primarily for events for which admission is to be charged to the general public.

"(24) The term 'Secretary' means the Secretary of Education.

"(25) The term 'single parent' means an individual who—

"(A) is unmarried or legally separated from a spouse, and

"(B) has a minor child or children for which the parent has either custody or joint custody.

"(26) The term 'small business' means for-profit enterprises employing five hundred or fewer employees.

"(27) The term 'State' includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(28) The term 'State board' means a State board designated or created by State law as the sole State agency responsible for the administration of vocational education, or for supervision of the administration of vocational education in the State.

"(29) The term 'State council' means the State council on vocational education established in accordance with section 112.

"(30) The term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary or secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

"(31) The term 'vocational education' means organized educational programs which are directly related to the preparation of individuals in paid or unpaid employment in such fields as agriculture, business occupations, home economics, health occupations, marketing and distributive occupations, technical and emerging occupations, modern industrial and agriculture arts, and trades and industrial occupations, or for additional preparation for a career in such fields, and in other occupations, requiring other than a baccalaureate or advanced degree and vocational student organization activities as an integral part of the program; and for purposes of this paragraph, the term 'organized education program' means only (A) instruction (including career guidance and counseling) related to the occupation or occupations for which the students are in training or instruction necessary for students to benefit from such training, and (B) the acquisition (including leasing), maintenance, and repair of instructional equipment, supplies, and teaching aids; but the terms do not mean the construction, acquisition, or initial equipment of buildings, or the acquisition or rental of land.'.

"(32) The term 'vocational student organizations' means those organizations for individuals enrolled in vocational education programs which engage in activities as an integral part of the instructional program. Such organizations may have State and national units which aggregate the work and purposes of instruction in vocational education at the local level.".

EFFECTIVE DATE

SEC. 2. (a) This Act shall take effect for fiscal years beginning on or after October 1, 1984, except that the authority of the Secretary to prescribe regulations under this Act and the responsibility of States to submit State plans are effective upon the date of enactment of this Act.

(b) Not later than 90 days after the date of the enactment of this Act, the Secretary shall prescribe regulations for carrying out the provisions of this Act.

TRANSITION PROVISIONS

SEC. 3. (a) Each State and eligible recipient of financial assistance under the Carl D. Perkins Vocational Education Act, or under the Vocational Education Act of 1963, may

expend funds received under the Carl D. Perkins Vocational Education Act or under the Vocational Education Act of 1963 to—

(1) conduct planning for any program or activity authorized under the Carl D. Perkins Vocational Education Act; and

(2) conduct any other activity deemed necessary by the recipient to provide for an orderly transition to the operation of programs under the Carl D. Perkins Vocational Education Act.

(b)(1) On the effective date of the Carl D. Perkins Vocational Education Act, the personnel, property, and records of the National Occupational Information Coordinating Committee established under section 161(b) of the Vocational Education Act of 1963 shall be transferred to the National Occupational Information Coordinating Committee established pursuant to section 422 of this Act.

(2) On the effective date of this Act, the personnel, property, and records of the National Advisory Council on Vocational Education shall be transferred to the National Council on Vocational Education established under section [431] of this Act.

CONFORMING AMENDMENTS

SEC. 4. (a)(1) Section 4 of the Job Training Partnership Act (29 U.S.C. 1501 et seq.) is amended—

(A) by striking out "section 195(10) of the Vocational Education Act of 1963" in paragraph (14) and inserting in lieu thereof "section 4(15) of the Carl D. Perkins Vocational Education Act";

(B) by striking out "section 195(11) of the Vocational Education Act of 1963" in paragraph (23) and inserting in lieu thereof "section 1201(h) of the Higher Education Act of 1965"; and

(C) by striking out "section 195(1) of the Vocational Education Act of 1963" in paragraph (28) and inserting in lieu thereof "section 521(31) of the Carl D. Perkins Vocational Education Act".

(2) Section 122 of such Act is amended—

(A) by striking out paragraph (8) of subsection (a); and

(B) by striking out 'reports required pursuant to section 105(d)(3) of the Vocational Education Act of 1963' in subsection (b)(7)(B) and inserting in lieu thereof 'the measures taken pursuant to section 113(b)(9) of the Carl D. Perkins Vocational Education Act'.

(3) Section 125(b)(1) of such Act is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Carl D. Perkins Vocational Education Act".

(4) Section 427(a)(1) of such Act is amended by striking out "section 104(a)(1) of the Vocational Education Act of 1963" and inserting in lieu thereof "section 111(a)(1) of the Carl D. Perkins Vocational Education Act".

(5) Section 461(c) of such Act is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Carl D. Perkins Vocational Education Act".

(6)(A) Section 463(a) of such Act is amended by striking out "section 161(b) of the Vocational Education Act of 1963" and inserting in lieu thereof "section 422 of the Carl D. Perkins Vocational Education Act".

(B) Section 464(a)(1) of such Act is amended by striking out "section 161(b) of the Vocational Education Act of 1963" and inserting in lieu thereof "section 422 of the Carl D. Perkins Vocational Education Act".

(C) Section 464(c) of such Act is amended by striking out "section 161(b) of the Vocational Education Act of 1963" and inserting in lieu thereof "section 422 of the Carl D. Perkins Vocational Education Act".

(D) Section 463(a) of such Act is amended by striking out "section 161(b) of the Vocational Education Act of 1963" and inserting in lieu thereof "section 422 of the Carl D. Perkins Vocational Education Act".

(E) Section 464(b) of such Act is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Carl D. Perkins Vocational Education Act".

(7) Section 472 of such Act is amended by striking out "National Advisory Council on Vocational Education (established under section 162 of the Vocational Education Act of 1963)" in subsection (a) and inserting in lieu thereof "National Council on Vocational Education (established under section 431 of the Carl D. Perkins Vocational Education Act)".

(8) Section 473 of such Act is amended—

(A) by striking out "National Advisory Council on Vocational Education" in paragraph (7)(A) and each place it appears in paragraph (7)(B) and inserting in lieu thereof "National Council on Vocational Education"; and

(B) by striking out "section 162 of the Vocational Education Act of 1963" and inserting in lieu thereof "part D of title IV of the Carl D. Perkins Vocational Education Act".

(b) Section 703(a)(8) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3223(a)(8)) is amended by striking out "section 122(a)(4) and part J of the Vocational Education Act of 1963" and inserting in lieu thereof "the Carl D. Perkins Vocational Education Act".

(c)(1) Section 113(d) of the Higher Education Act of 1965 (20 U.S.C. 1013(d)) is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Carl D. Perkins Vocational Education Act".

(2) Section 114(b) of such Act is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Carl D. Perkins Vocational Education Act".

(3) Section 1022(a) of such Act is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Carl D. Perkins Vocational Education Act".

(d)(1) Section 306(b)(11) of the Adult Education Act (20 U.S.C. 1205(b)(11)) is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Carl D. Perkins Vocational Education Act".

(2) Section 318(a)(4) of such Act is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Carl D. Perkins Vocational Education Act".

(e)(1) Section 113(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking out "the Vocational Education Act of 1963 (77 Stat. 403)" and inserting in lieu thereof "the Carl D. Perkins Vocational Education Act".

(2) Section 114(c) of such Act is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Carl D. Perkins Vocational Education Act".

(f) Section 101(a)(11) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)(11)) is amended by striking out "the Vocational Education Act" and inserting in lieu thereof "the Carl D. Perkins Vocational Education Act".

(g) Section 104 of the Vocational Education Amendments of 1968 is amended by striking out "section 102(a) of this Act (as such Act will be in effect on October 1, 1977)" and inserting in lieu thereof "section 3 of the Carl D. Perkins Vocational Education Act".

NATIONAL SUMMIT CONFERENCE ON EDUCATION

SEC. 5. (a) This section may be cited as the "National Summit Conference on Education Act of 1984".

(b)(1) The Congress finds that—

(A) increased economic competition requires the development of a better trained and educated workforce which our educational institutions must provide;

(B) problems and deficiencies in American elementary and secondary education require consideration of possible new directions in setting national education policy; and

(C) there should be a National Summit Conference on Education authorized by law by Congress to provide directions for such policy, and any conference established by the Department of Education should be complementary to the National Summit Conference on Education.

(2) For the purpose of this section, the term 'Conference' means the National Summit Conference on Education established by this title.

(c) There are authorized to be appropriated to the Department of Education $500,000 for the purpose of conducting a National Summit Conference on Education, in accordance with the provisions of this section.

(d) The participants in the Conference shall consist of not more than two hundred individuals. The participants in the Conference shall be representative of teachers, parents, school administrators, school board members, State education officials, State legislators, Governors, students, business, labor, and special populations, including females, racial and ethnic minorities, and the disabled. The participants in the Conference shall be selected so as to provide racial, political, and geographic balance.

(e) The participants in the Conference shall be chosen from among nominees submitted to the Executive Committee (established pursuant to section 605) by organizations representing public and private elementary and secondary education, vocational education, adult education, teacher training, women, racial and ethnic minorities, and the handicapped, as well as from among nominees supplied by organizations representing business, organized labor, parents, libraries, and all levels of government.

(f)(1) There shall be an Executive Committee of the Conference consisting of—

(A) two individuals appointed by the President,

(B) two individuals appointed by the Speaker of the House of Representatives,

(C) two individuals appointed by the Majority Leader of the Senate, and

(D) six individuals appointed by the Governors of the States acting as a group.

The six individuals appointed by the Governors shall be appointed from individuals representing chief State school officers, local and State school boards, State legislatures, and Governors.

(2) The Executive Committee shall be responsible for selecting a presiding officer and for selecting the organizations (described in section 604) to supply a list of nominees for selection as participants in the Conference. Not less than 30 organizations shall be so selected by the Executive Committee. Each organization selected shall nominate at least the number of individuals

specified by the Executive Committee for that organization in order to provide the representation required by sections 603 and 604. The Executive Committee shall determine the total number of individuals to be selected for participation, consistent with the requirements of this title.

(3) The Executive Committee shall serve without compensation.

(g) The Executive Committee shall appoint and fix the compensation of such staff as may be necessary, not to exceed the equivalent of four full-time employees. The staff shall assist the Executive Committee in planning, conducting, and completing the work of the Conference. The administrative support for the staff and the Executive Committee shall be the responsibility of the Department of Education in conjunction with the Speaker of the House of Representatives and the Majority Leader of the Senate. The staff and the Executive Committee shall report, through properly established lines of authority, to the Congress.

(h)(1) A majority of participants of the Conference shall constitute a quorum if votes are required. If task forces are created, the majority of task force participants shall constitute a quorum if a vote is required.

(2)(A) The Executive Committee shall select the conference site and shall determine the duration of the Conference. The duration of the Conference shall not exceed six days. Neither the regional meetings (described in section 608(a)) nor the Conference shall meet before January 1, 1985.

(B) The Conference shall prepare and transmit a written record of its recommendations to the President, to the Congress, and to the States not later than four months after the last meeting of the Conference.

(i)(1) The Executive Committee, using data concerning education supplied by the Secretary of Education and by the States, shall develop an agenda for the Conference prior to the Conference. The data will include information furnished to the Secretary from statewide and regional summit conferences devoted to obtaining citizen views about education. The purpose of this agenda shall be to facilitate the development of recommendations on various issues raised by such recently issued education reports as the report of the National Commission on Excellence in Education, the Carnegie Report on American High Schools, the National Science Boards' Report on Mathematics, Science and Technology Education, and others.

(2) The agenda so developed shall take into account that it shall be the purpose of the Conference to create national bipartisan support for education at all levels of government, and to make recommendations for the development of viable local, State, and national intergovernmental and intragovernmental cooperation in education to make the most efficient use of funds from all levels of government.

(3) The agenda shall also provide for procedures for determining national consensus regarding types of strategies to be used and the appropriate levels of government to have primary responsibility for implementing educational policy.

VOCATIONAL EDUCATION POLICY

SEC. 6. It is the sense of the Congress that effective vocational education programs are essential to our future as a free and democratic society; that such programs are best administered by local communities, and community colleges school boards, where the primacy of parental control can be emphasized with a minimum of Federal interference; and that as a means to strengthening vocational education and training programs, nongovernmental alternatives promoting links between public school needs and private sector sources of support should be encouraged and implemented.

JOB TRAINING REGULATIONS

SEC. 7. Notwithstanding section 629.38(e)(2)(iii) of title 20 of the Code of Federal Regulations, relating to allowable training costs under the Job Training Partnership Act, payment for training packages purchased competitively pursuant to section 141(d)(3) of such Act in the case of youth shall include payment for the full unit price if the training results in either placement in unsubsidized employment or the attainment of an outcome specified in section 106(b)(2) of such Act.

And the Senate agree to the same.

GUS HAWKINS,
WILLIAM D. FORD,
MARIO BIAGGI,
IKE ANDREWS,
GEORGE MILLER,
BALTAZAR CORRADA,
DALE E. KILDEE,
PAT WILLIAMS,
FREDERICK C. BOUCHER,
GARY ACKERMAN,
SALA BURTON,
CHARLES A. HAYES,
JOHN H. ERLENBORN,
BILL GOODLING,
MARGE ROUKEMA,
STEVE GUNDERSON,
STEVE BARTLETT,
RON PACKARD,
HOWARD C. NIELSON,
Managers of the Part of the House.

ORRIN HATCH,
ROBERT STAFFORD,
DAN QUAYLE,
JEREMIAH DENTON,
LOWELL P. WEICKER, Jr.,
JOHN P. EAST,
CLAIBORNE PELL,
EDWARD M. KENNEDY,
JENNINGS RANDOLPH,
TOM EAGLETON,
CHRIS DODD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the Bill (H.R. 4164) to amend the Vocational Education Act of 1963 to strengthen and expand the economic base of the Nation, develop human resources, reduce structural unemployment, increase productivity, and strengthen the Nation's defense capabilities by assisting the States to expand, improve, and update high-quality programs of vocational-technical education, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

1. The House bill is entitled the "Vocational-Technical Education Amendments of 1984"; the Senate amendment is entitled the "Carl Perkins Vocational Education Act of 1984."

House recedes with an amendment to rename the 1963 Act the "Carl D. Perkins Vocational Education Act"

2. The House bill is in the form of an amendment to P.L. 88-210, the Vocational Education Act of 1963. The Senate amendment is proposed as a separate, free-standing Act.

Senate recedes.

3. With slightly different wording, the House bill and the Senate amendment share many of the same provisions in the Statements of Purpose, specifically that the purposes are to expand and improve vocational education, to develop new programs, to relate programs to the labor market, to expand access to quality programs, and to cooperate with the private sector. The House bill and the Senate amendment list individuals who should be provided with special services in order to promote access. The House bill lists women, while the Senate amendment lists men and women entering non-traditional occupations and single parents and homemakers. The Senate amendment, but not the House bill, lists individuals who are incarcerated in correctional institutions and individuals with limited English proficiency.

House recedes.

4. The House bill, but not the Senate amendment, specifies the various institutions which could be provided with assistance.

House recedes.

5. The Senate amendment, but not the House bill, includes the national programs and the strengthening of vocational education research.

House recedes.

6. The House bill also provides for programs to improve the academic foundations of vocational students whereas the Senate bill does not.

Senate recedes with an amendment to shorten the language.

7. The House bill, but not the Senate amendment, mentions the provision of assistance to the most economically depressed areas of a State, the improvement of consumer and homemaking education, and the provision of a full range of supportive services, including guidance and counseling.

Senate recedes with an amendment to shorten the language.

8. The House bill authorizes "such sums as may be necessary" for fiscal year 1985 through fiscal year 1989 for its various titles and parts. The Senate amendment authorizes specific funding levels for fiscal year 1985 and "such sums" for the succeeding four fiscal years. These authorizations are described as follows:

HOUSE

Program	*Level—FYs 1985-89*
Basic grants	such sums
Consumer and homemaking	such sums
Guidance and counseling	such sums
Industry-Education partnership	such sums
Adult training	such sums
President's council	such sums
Cooperative ed-Employer	such sums
Older Americans centers	such sums
Bilingual vocational education	such sums
State advisory councils	such sums

State planning, data evaluation	such sums
Dislocated worker centers	such sums

SENATE

Program	Level—FY 1985 (millions)
State and national programs	$880.0
Consumer and homemaking	20.0
Community-based organizational projects	20.0
Bilingual vocational education	3.7
Total	923.7

House recedes on separate authorizations for the National Council, planning, Cooperative Education-Employer, Older American centers, and dislocated worker centers. House recedes on the community-based organization authorization but setting the level at $15 million. House recedes on bilingual vocational training. Senate recedes on the following authorizations with the following amendments: Basic grants—$835.3 million; Consumer and homemaking—$32 million; Guidance—$1 million; Industry Education Partnership—$20 million; Adult Training—$35 million, with 50% set aside for single parent and homemaker programs, but not to exceed $30 million in the subsequent fiscal years; State advisory councils—$8 million.

9. The Senate amendment, stipulates that 2 percent of the funds made available for Title I, II, III, and IV, with certain exceptions, be used for specified national programs.

The House bill, in Section 104(c), requires a 5% setaside for this purpose from basic grant and national program funds.

(See comment 14.)

House recedes.

10. The House bill restates that, in order to receive its allotment, a State must comply with the requirements contained elsewhere in the bill relating to the designation of the State board, the filing of a plan, and evaluation. The Senate amendment contains no such restatement.

House recedes.

11. The House bill stipulates that no State shall receive less the $200,000 as the sum of its allotments. The Senate amendment requires that no State receive less than one/half of one percent of the amount available under this section, except that no State which had its allocation increased as a result of the application of this provision would receive more than 150 percent of that which it received in the previous fiscal year.

House recedes.

12. The Senate amendment stipulates that the minimum allotment for the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands shall be $200,000, and, therefore, does not define these territories as a State for purposes of this provision.

House recedes.

13. The House bill, but not the Senate amendment, provides that any funds realloted must be used for the purpose for which they were first alloted.

Senate recedes.

14. The House bill provides that the Secretary shall reserve 5 percent of the funds appropriated under Title II, Part A (Basic Grants), and Title III (National programs). The Senate amendment stipulates that 2 percent of the funds appropriated for the programs described in Title I (State Administration), Title II (Vocational Opportunities) Title III (Program Improvement) and Title IV (National Programs) shall be reserved by the Secretary for Title IV.

House recedes.

15. The House bill makes the following available under National Programs:

Function	Allotment
NOICC	Not less than $3,560,000 but not more than $5,000,000.
NCRVE	Not less than $6,000,000.
Equipment pools.	Not less than $3,000,000.
Other programs.	The remainder.

The Senate amendment allocates the funds available for National Programs as follows:

Program	Allotment (percent)
Research	30
Cooperative employer programs	33
Vocational data and occupational information	30
National employers council	7

Both the Senate and House recede. The House recedes on setting percentages within the national program money with an amendment to revise those percentages as follows: research—35%, cooperative demonstration programs—35%, and vocational education data and occupational information—30%. The Senate recedes on the minimum amounts with an amendment that notwithstanding the above percentages, the following minimum amounts shall be made available: NOICC—$3.5 million, National Center for Research in Vocational Education—$6 million. For the National Council, $500,000 is reserved. House recedes on the minimum amount for State equipment pools.

16. Under the House bill, the Secretary is authorized to reserve from the funds appropriated for Title II, Part A and Title III for any fiscal year 1% or an amount approximately equal to an amount which bears the same ratio to the sum appropriated for the Titles as the population aged fifteen to twenty-four, inclusive, of eligible Indians bears to the total population of all States aged fifteen to twenty-four, inclusive. These funds are to be used for vocational programs to eligible Indians.

Under the Senate amendment, 2 percent of the funds appropriated for Titles I, II, III and IV is reserved by the Secretary for vocational programs serving Indians and Native Hawaiians.

The House recedes with an amendment providing a set-aside of 1.25 percent for Indian tribes and services from the Secretary of the Interior, and a set-aside of 0.25 percent for Hawaiian Natives. The conferees wish to make clear that the Bureau of Indian Affairs will be required to match only the 1.25 percent funds for federally recognized Indian tribes, which are the BIA's traditional service population.

17. The House bill provides that the Secretary is authorized to enter into an agreement with the Assistant Secretary of the Interior for Indian Affairs. The Senate amendment states that such agreement shall be with the Commissioner of the Bureau of Indian Affairs.

Senate recedes.

18. The Senate amendment, but not the House bill, provides that, for the purposes of the Act, the Bureau of Indian Affairs shall be deemed to be a State board.

House recedes.

19. The House bill, but not the Senate amendment, requires that the Bureau of Indian Affairs spend an amount equal to the amount made available to Indians by this provision and that it spend no less than the amount expended in the prior fiscal year.

The House bill, but not the Senate amendment, requires the Secretary and the Assistant Secretary of the Interior for Indian Affairs to prepare a joint plan for the expenditure of these funds, with the Secretary of Education assuming responsibility for the administration of these programs.

Senate recedes with an amendment stipulating that the BIA will not have to match Native Hawaiian program funds.

20. The House bill, but not the Senate amendment, stipulates that the funds made available under this part be in addition to those funds made available to Indians under other provisions of the Act.

Senate recedes.

21. The Senate amendment, but not the House bill, directs the Secretary to enter into contracts with eligible recipients and nonprofit private organizations for the provision of vocational programs for Hawaiian Natives.

House recedes with an amendment to revise the language so that contracts will be made with organizations primarily serving and representing Native Hawaiians that are recognized by the Governor of Hawaii.

22. The Senate amendment, but not the House bill, defines "Hawaiian native."

House recedes.

23. The House bill, but not the Senate amendment, provides that the sum of a State's allotments shall not be less than the total amount of payments made to the State under allotments determined for fiscal year 1984.

Senate recedes.

24. The House bill, but not the Senate amendment, provides that authority to make payments or to enter into contracts under this Act shall be available only as provided in advance in appropriations Acts.

Senate recedes.

25. The Senate amendment, but not the House bill, restricts State administrative expenses to no more that 6 percent of the State allotment.

House recedes with an amendment increasing the limit to 7 percent and specifying that this amount comes out of the State's 20 percent share.

26. The Senate amendment, but not the House bill, provides that, after deductions are made from the State allotment for administration and the State Council on Vocational Education, 50 percent of the remainder shall be available for Title II (Vocational Opportunities) and 50 percent shall be available for Title III (Program Improvement).

House recedes with an amendment dividing the State grant into Part A and Part B, setting aside 57 percent for special purposes in Part A, and leaving the remainder for Part B.

27. The House bill establishes a separate Basic Grant for vocational education services. The Senate amendment establishes a separate title for program improvement, innovation, and expansion.

House recedes.

28. The House bill provides that Basic Grant funds may be used to initiate, improve and expand vocational programs and to sustain existing programs of proven effectiveness. The Senate amendment restricts its Title III funds to program improvement, innovation and expansion. The Senate amendment, but not the House bill,

provides that funds for the expansion of vocational education be directed particularly to economically depressed urban and rural areas of the State in which there are inadequate programs.

House recedes on sustaining programs of proven effectiveness. House recedes on the remainder with an amendment deleting the language "in which there are inadequate vocational education programs."

The managers intend that the use of funds to improve and expand programs under Part B includes the improvement and expansion of existing programs.

29. The House bill, but not the Senate amendment, permits basic grant funds to be used for high technology programs involving industry-education partnerships.

Senate recedes.

30. The Senate amendment, but not the House bill, provides funds for the introduction of new vocational education programs, particularly in economically depressed urban and rural regions of the State.

House recedes.

31. The Senate amendment, but not the House bill, provides for the creation or expansion of programs for skilled occupations needed to revitalize business or to promote new businesses in a State or community.

House recedes.

32. The House bill and the Senate amendment both provide for professional development. The House bill limits professional development to instructors, using in-service training and industry experience. The Senate amendment provides for both in-service and pre-service training for vocational education teachers, counselors and administrators and emphasizes the integration of handicapped and disadvantaged into regular courses.

House recedes.

33. The House bill, but not the Senate amendment, provides for vocational education programs and services for special needs out of the Basic Grant.

House recedes.

34. The House bill, but not the Senate amendment, permits basic grant funds to be used for postsecondary and adult vocational education programs and related services for out-of-school youth and adults.

Senate recedes.

35. The Senate amendment, but not the House bill, makes specific mention of expansion and improvement of program at area vocational schools.

House recedes.

36. The House bill provides for strengthening the institutional base of vocational education by curriculum modernization, purchase of instructional equipment and materials, improving state and local planning and updating instructional and guidance skills. The Senate bill provides for equipment purchase and renovation.

House recedes.

37. The House bill, but not the Senate amendment, provides for:

a. planned sequential programs;

b. reinforcement of mathematics and science in occupational programs;

c. personnel to coordinate efforts between employers and eligible recipients;

d. student organizations;

e. prevocational programs; and

f. data collection and dissemination.

(a) House recedes. (b) Senate recedes. (c) Senate recedes. (d) Senate recedes. (e) Senate recedes. (f) House recedes.

In adopting provisions allowing the support of pre-vocational education, vocational agriculture, and industrial arts programs, the conferees are particularly concerned that these programs be directed, to the extent possible, toward those activities that are modern and incorporate the latest advances in technology. These would include, but not be limited to, programs that are designed to provide students with awareness and basic skills in expanding and new technology areas such as robotics, lasers, computers, electronics, industrial power systems, fluidities, hydraulics, pneumatics, telecommunications, and biotechnology.

The program activities listed are not intended by the conferees to discourage or disallow traditional and existing vocational agriculture and industrial arts activities at the pre-vocational level.

38. The House bill, but not the Senate amendment, provides for special programs and services including:

a. work-study;

b. cooperative and on-site learning;

c. programs linking apprenticeship and related instruction for apprentices;

d. technical education;

e. research programs;

f. personnel training;

g. overcoming sex bias and stereotyping;

h. construction and equipment for and operation of residential vocational schools;

i. innovative programs for limited-English proficient;

j. activities to involve the handicapped, including the elimination of barriers and adaptation of equipment; and

k. other support activities.

House recedes.

In listing the authorized activities under the State grant, the managers note that this list is intended to be general and illustrative, not limiting. States may fund activities that are not specifically listed but are in compliance with the purposes of the legislation.

39. Both the House bill and the Senate amendment provide for curriculum development, except the Senate includes the application of basic skills training.

House recedes.

40. Both the House bill and the Senate amendment provide for exemplary programs except the Senate stresses new and emerging technologies.

House recedes.

41. The House bill allows basic grant funds to be used for career counseling and guidance in addition to funds authorzed under the new separate Part C. Under the Senate amendment funds for guidance and counseling and career development must come from the Title III program improvement money and must be used for activities conducted by professionally trained counselors. (The House bill similarly requires activities under Part C to be organized and administered by certified counselors.)

Senate recedes.

42. The House bill, but not the Senate amendment, allows for the construction of area vocational school facilities.

Senate recedes with an amendment that funds can be used for construction only where there is a demonstrated need.

43. The House bill, but not the Senate amendment, provides for basic grant funding for full-time personnel to work on sex bias activities. The Senate amendment authorized funds for this purpose from Title II.

Senate recedes with an amendment requiring these funds to come from the 7% for State administration.

44. Unlike the Senate amendment, the House bill, in the basic grant, provides for:

a. stipends to students with economic need;

b. placement services for program completers, including the handicapped (authorized by section 201(g)(1) of the Senate amendment);

c. industrial arts;

d. day care services for children of secondary and postsecondary students (see section 201(e)(4) of the Senate amendment).

e. reimbursement of costs of administration and surpervision by eligible recipients and state administration;

f. cost of the local plan;

g. entrepreneurship programs;

h. encouraging and developing consortia;

i. acquisition and servicing of high technology equipment;

j. communications and telecommunications equipment;

k. activities to keep students in school, especially economically depressed areas; and

l. magnet vocational school programs.

House recedes on all except (a), (b), (d), (i) and (j). Senate recedes on (c) with an amendment to revise the language to permit funding of modern industrial and agriculture arts.

45. The House bill permits basic grant funds to be used to provide vocational education through private vocational education institutions, employers and community based organizations where such institutions can make a significant contribution to attaining the objectives of the Act and to provide substantially equivalent preparation at a lesser cost or can provide services and equipment not available in public institutions. The Senate amendment, in Section 201(f)(2), contains similar restrictions (applicable to Title II only) requiring arrangements with private vocational education institutions. As regards community-based organizations, the Senate amendment, in Section 121, authorizes these organizations to apply jointly with eligible recipients to the State board for special programs described in that section. Community-based organizations are also eligible for assistance under Title III and under single parent set-aside in Title II within certain limitations [Section 201(e)(3) and Section 303(b)].

Senate recedes.

When deciding which institutions can deliver services in a cost effective manner, consideration should be given to expenses, such as the depreciation or rental cost of buildings and administrative expenses for all institutions so that comparisons on the ability to provide services on a competitive basis is an equitable one.

46. The House bill, but not the Senate amendment, requires the State board to make a finding that funds for stipends are necessary.

Senate recedes.

47 The Senate amendment, but not the House bill, sets forth criteria for program improvement, innovation, and expansion. These criteria:

a. allow utilization of community-based organizations; and

b. require that any project assisted must be of sufficient size, scope and quality.

House recedes.

48. Both the House bill and the Senate amendment contain an authorization for consumer and homemaking education. The Senate amendment contains only the instruction that "each State shall conduct consumer and homemaking programs." The House provision authorizes a separate appropriation for this purpose and contains in-

structions on how consumer and homemaking monies shall be used.

Senate recedes.

49. The House bill, but not the Senate amendment, requires that not less than one-third of federal funds made available for consumer and homemaking eduation be expended in economically-depressed areas or areas with high rates of unemployment.

Senate recedes.

50. The House bill, but not the Senate amendment, requires dissemination of information and requires that such funds be used to provide State leadership in home economics education.

Senate recedes with an amendment limiting State administration to 6%.

51. The House bill, but not the Senate amendment, establishes a separate authorization for comprehensive career guidance and counseling programs to be organized and administered by certified counselors. The House bill contains requirements for programs to improve, expand, and extend guidance and counseling programs.

Senate recedes.

The conference managers intend that the one million authorization for the part entitled "Comprehensive Career Guidance and Counseling Programs" should not indicate a lesser importance for those programs or a lesser need of federal funds for that purpose. Rather, the separate authorization is a preliminary step toward providing additional funds to augment the hold-harmless of state expenditures from the basic grant for this purpose.

52. The House bill, but not the Senate amendment, requires that 20 percent of the monies made available for guidance and counseling be used to eliminate sex, age, and race bias and stereotyping.

Senate recedes.

53. The House bill, but not the Senate amendment, requires dissemination of information and that monies be spent to provide State leadership in guidance and counseling.

Senate recedes with an amendment limiting State administration to 6%.

54. The House bill, but not the Senate amendment, states findings and purposes for Industry-Education Partnership for Training in High-Technology Occupations.

Senate recedes.

55. The House bill provides a separate authorization for grants for industry-education partnership programs. The Senate amendment establishes a separate setaside of 10 percent of the monies each State has available under Title III (Program Improvement).

Senate recedes.

56. The House bill, but not the Senate amendment, includes programs providing related instruction to apprentices and requires, to the maximum extent practicable, coordination with the Job Training Partnership Act.

The Senate amendment, but not the House bill, requires an emphasis on skilled workers needed to produce, install, operate, and maintain high technology equipment, systems and processes.

Both House and Senate recede.

57. The House bill requires that 50 percent of the non-federal share be provided by participating businesses and industrial firms while the Senate amendment requires that it be provided by participating business concerns.

Senate recedes.

58. The House bill requires that the industry-education partnerships be coordinated with the Basic Grant and that support services be organized to assist both programs. The Senate amendment requires that they be coordinated with Title II (Vocational Opportunities).

Senate recedes.

59. The House bill refers to the "business and industrial share." The Senate amendment refers to the "non-Federal contribution."

The House and the Senate use different examples of in-kind contributions.

Senate recedes.

60. The House bill, but not the Senate amendment, requires funds from the Basic State Grant to pay for an equal part of the Federal share of the costs of this program.

Senate recedes.

61. The House bill, but not the Senate amendment, allows the State to use federal funds provided under section 305 (State Equipment Pools and Program Improvement) to be used as part of all of the non-business share of the non-federal share.

House recedes.

62. The House bill, but not the Senate amendment, allows the State to use Basic Grant federal funds or State funds to provide the non-federal share if an eligible recipient can demonstrate it is unable to provide that portion.

Senate recedes.

63. The House bill, but not the Senate amendment, lists uses of Part D funds, such as administrative expenses of the State, personnel training, curriculum development, equipment acquisition and related services.

Senate recedes.

64. The House bill, but not the Senate amendment, lists several requirements the State board must give special consideration to in approving programs and projects under this section.

Senate recedes.

65. The House bill, but not the Senate amendment, places a ceiling on administrative costs for part D and 10 percent the first year and 5 percent each subsequent year.

Senate recedes.

66. The House bill, but not the Senate amendment, prohibits the use of any funds from this program for job placement or stipends.

House recedes.

67. Section 413 of the House bill requires each State to use at least 15% of its basic grant for vocational education programs, services, and activities for adults, as defined in paragraphs (A) and (B). The Senate amendment requires States to use not less than 30% of their Title III (Program Improvement) funds for vocational education services and activities to train and retrain adults. However, the Senate amendment, unlike the House bill, specifies that these adult services and activities may be conducted at the secondary and post-secondary level. In addition to this 15% setaside, the House bill also authorizes a new, separate Part E for adult training and retraining.

Senate recedes with an amendment to set aside 20.5% for adult programs within Part A, of which 12% will be for general adult training and 8.5% for single parents and homemakers. Senate recedes on secondary and postsecondary level language.

68. The Senate amendment, but not the House bill, permits those programs conducted under the industry-education partnership program which serve adults to count toward the 30 percent setaside for adults.

Senate recedes.

69. The House bill and the Senate amendment cite similar target populations for these adult setaside programs. However, the Senate amendment lists the following additional uses of funds:

a. additional training under JTPA Title III;

b. vocational education for training and retraining adults, including older Americans and displaced homemakers; and

c. cost of serving adults, including instruction and leeping facilities open longer.

House recedes.

70. The Senate amendment, but not the House bill, specifically permit these adult setaside funds to be used for services and activities developed in coordination with the State agency administering Title III of the Job Training Partnership Act. The House bill has JTPA coordinating provisions in Part E.

House recedes.

71. The House bill establishes a new separate authorization for adult training and retraining (Part E).

Senate recedes.

72. The House bill, not the Senate amendment, sets forth findings and purposes for its Part E programs.

Senate recedes.

The House bill provides that Part E funds will be used for vocational education services, activities and employment development for:

a. individuals who have graduated from or left high school;

b. unemployed individuals;

c. employed individuals who need additional training;

d. displaced homemakers and single heads of household;

e. employer; and

f. workers fifty-five and older.

Senate recedes.

74. The House bill, but not the Senate amendment also lists the following purposes for Part E:

a. short-term programs;

b. programs designed cooperatively with employers, including institutional and worksite programs, apprenticeships, quick-start, customized training in new and expanding industries;

c. Building linkages with private sector and economic development agencies;

d. cooperative programs to improve management;

e. entrepreneurship training;

f. recruitment, job search, counseling and other services for males and females, with particular attention to women, older workers, limited-English proficient, handicapped and disadvantaged;

g. curriculum development, equipment purchase, personnel training, pilot projects; and

h. related instruction for apprentices.

Senate recedes.

75. The House bill, but not the Senate amendment, requires each State to assure that programs:

a. are designed in cooperation with the State council;

b. use existing institutions and avoid duplication;

c. involve close cooperation with public and private sector employers and agencies; and

d. involve coordination with the Rehabilitation Act of 1973 and the Education of the Handicapped Act, where appropriate.

Senate recedes.

76. The House bill, but not the Senate amendment, requires that the State plan indicate how the Part E program for adults is coordinated with programs funded under Title II of JTPA (dislocated workers).

Senate recedes.

77. The House bill, but not the Senate amendment, requires the State board to consult with the State job training coordinating council regarding Part E program.

Senate recedes.

78. The House bill, but not the Senate amendment, requires the State board to adopt procedures to encourage cooperation between eligible recipients and the appropriate JTPA entity in the provision of adult services.

Senate recedes.

79. The Senate amendment, but not the House bill, authorizes a separate program of State assistance for vocational support programs by community-based organizations. Programs must be designed to give special consideration to the needs of severely economically and educationally disadvantaged youth between the ages of sixteen and twenty-one. To receive funding, a joint application must be made by the organization and the appropriate eligible recipient, specifying certain assurances and responsibilities. Funds may be used for various support activities, including outreach programs; prevocational and basic skills programs; preparation programs targeted for especially disadvantaged youth; and assessment, guidance, and counseling programs.

[Under the House bill, States may fund community-based organizations under certain conditions, but there is no requirement to do so.]

House recedes with an amendment also mentioning CBO use under the State grant.

80. The Senate amendment provides a separate title for groups with special needs, specified as the handicapped, the disadvantaged, single parents or homemakers, and offenders in correctional institutions. Various activities are authorized for all groups, and additional activities and requirements are specified for particular groups. The House bill requires States to set aside percentages of the basic grants for programs for the handicapped and disadvantaged and for sex equity activities.

House recedes with an amendment to create a new Part A within the basic State grant for the special needs groups listed and for postsecondary education set-aside programs.

In using the term "special needs" in section 201(a) and 201(b) the conferees do not intend to suggest that federal funds to meet the needs of single parents, homemakers and criminal offenders and for sex equity will be subject to excess cost requirements. Excess cost requirements, found elsewhere in the legislation, are to be applied to set-aside funds for the handicapped and disadvantaged.

81. Under the Senate amendment, funds for the disadvantaged are authorized to be used to provide equal access to quality instruction, and courses with the latest technological advances. The House bill authorizes similar provisions for all students from basic grants funds. [Sec. 202(a)(1, 3, 25–28)].

House recedes with an amendment that funds may be used to purchase equipment only in schools with 75% or more economically disadvantaged enrollment.

By including section 201(d)(1), the conferees intend to emphasize the improvement of services designed to meet the special needs of the disadvantaged. The conferees do not intend to indicate that funds for the disadvantaged should be used for programs, services, or activities not directly benefitting the disadvantaged.

82. The Senate amendment authorizes funds to be used for various activities designed for single parents and homemakers. The House bill authorizes many of these same activities as parts of other programs, and authorizes a setaside for sex equity activities. [Sec. 202(a)(3, 4, 19), 252(b)(1), 413(14)]

House recedes with an amendment to revise language.

83. The Senate amendment authorizes the use of funds for the special groups for basic skills instruction. No comparable House provision.

House recedes.

84. The Senate amendment authorizes the use of funds for the special groups for arrangements with private vocational educational institutions where such institutions can make significant contribution to obtaining the objectives of the State plan and can provide substantially equal training at a lower cost or can provide equipment or services not available in public institutions. The House bill authorizes similar arrangements for all student participating in basic grant programs.

House recedes.

85. The Senate amendment authorizes the use of funds for the special groups for programs involving cooperative vocational education, work-study, and apprenticeship programs. The House bill authorizes similar activities for all students participating in basic State grant programs.

House recedes.

86. The Senate amendment authorizes the use of funds for the special groups for placement services. The House bill authorizes similar activities for all studnets participating in basic State grant programs.

House recedes.

87. The House bill requires that at least 10 percent of the basic State grant be used to fund services for the handicapped and that Federal funds cannot be used to pay for more than 50 percent of the cost. The Senate amendment requires that 25 percent of title II funds be so spent, and that federal funds can be used to pay for 100 percent of the cost, except that there is a limit of 50 percent whenever services are provided through spearate programs. [Sec. 502]

Senate recedes with an amendment that 10 percent will be set aside from the basic grant and be included in Part A.

88. The House bill authorizes use of Federal funds for the handicapped only for expenditures in excess of per pupil expenditures for regular services and activities. The Senate bill requires the use of Federal funds only for expenditures for supplemental activities not provided to others and needed for participation in programs, except that these funds may be used for separate programs for handicapped students if the handicapping condition of the students so require.

House recedes with an amendment to apply the Senate supplemental cost language to both disadvantaged and handicapped set-asides, except that the use of Federal funds for separate programs for either population shall only be for expenditures in excess of per pupil expenditures.

89. The House bill requires funds for the handicapped to be distributed to eligible recipients pursuant to an approved plan and in proportion to the number of such persons served in vocational education programs in the previous year. The Senate bill requires the use of a 3-part formula for the joint distribution of funds for the handicapped and the disadvantaged.

(See comment 95.)

Senate recedes with an amendment to distribute handicapped funds based upon the following formula: 50 percent according to the number of economically disadvantaged students in the eligible recipient and 50 percent according to the number of handicapped students served in vocational education in the previous year.

House recedes.

90. The House bill requires that at least 20 percent of the basic State grant be used to fund services for the disadvantaged, and that Federal funds cannot be used to pay for more than 50 percent of the cost. The Senate amendment requires that 50 percent of title II funds be so spent, and that Federal funds can be used to pay for 100 percent of the cost, except that there is a limit of 50 percent whenever services are provided through separate programs. [Sec. 502]

Senate recedes with an amendment to set percentage for disadvantaged within the basic State grant at 22%.

91. The House bill authorizes use of Federal funds for the disadvantaged only for expenditures in excess of per pupil expenditures for regular services and activities. No comparable Senate provision.

House recedes with the amendment discussed in item No. 88.

The conferees wish to clarify that although a distinction is made between the excess cost requirements for handicapped and disadvantaged students in regular, or mainstream, classes and those in separate programs, it is not the conferees' intent in any way to encourage the creation of separate programs for handicapped or disadvantaged students. Rather, it is intended that the limitation of the federal share for non mainstreamed classes to 50 percent of the costs above any average per pupil expenditure will eliminate any financial incentive to place students in such classes.

92. The House bill requires funds for the disadvantaged to be distributed to eligible recipients pursuant to an approved plan and in proportion to the number of disadvantaged students and students of limited-English proficiency serviced in vocational education programs in the previous year. The Senate bill requires the use of a 3-part formula for the joint distribution of funds for the handicapped and the disadvantaged.

(See comment 95.)

Senate recedes with an amendment to distribute disadvantaged funds based upon the following formula: 50% according to the number of economically disadvantaged in the eligible recipient and 50% according to the number of disadvantaged and limited English proficient students served in vocational education in the previous year.

93. The House bill requires that at least 5 percent of the basic State grant be used to fund services administered by the sex equity coordinator and designed to eliminate sex bias and stereotyping and support services such as dependent-care services and transportation. The Senate amendment requires that 23 percent of title II funds must be spent on various activities for single parents and homemakers, [Sec. 201(e)] to be administered by the sex equity coordinator. [Sec.111(b)(1)(A)]

Senate recedes on the first sentence with an amendment to set percentage for sex bias activities at 3½%. House recedes on second sentence with an amendment to set percentage at 8.5% of basic State grant. It is the conferees' intent that vocational education programs services and activities for girls and women provided under section 201(g)(2) will be supplemental and designed to meet the special needs of girls and women desiring to enter nontraditional oc-

cupations or other fields enhancing their career opportunities.

94. The Senate amendment requires that 2 percent of title II funds be spent on programs for criminal offenders who are in correctional institutions. The House bill requires State plans to address the needs for vocational education programs at State correctional facilities, but does not require a specified percentage of funds to be spent on such activities. [Sec. 412(10)]

House recedes with an amendment to set percentage at 1% of basic State grant.

95. (a) The Senate amendment requires that the 75 percent of title II funds reserved for the handicapped and disadvantaged be allocated within States to eligible recipients according to a formula: one-third of the funds are to be distributed according to the number of economically disadvantaged enrolled, one-third by the number of disadvantaged and handicapped served in the previous year, and one-third by State criteria related to increases in the numbers or percentages of handicapped and disadvantaged proposed to be served. The House bill does not contain a formula for the joint distribution of such funds. (b) The Senate amendment, but not the House bill, permits local educational agencies receiving disadvantaged and handicapped funds to operate joint projects with other local educational agencies. In addition, the Senate amendment, but not the House bill, allows States boards to not allocate funds to eligible recipients which would receive $1,000 or less under the disadvantaged and handicapped setasides when such distribution would result in ineffective programming and to allocate those funds to other eligible recipients.

(a) The Senate recedes. (b) The House recedes with an amendment to revise the provision to authorize the State board to encourage LEAs receiving less than $1,000 to enter into consortia with other LEAs to operate projects.

96. The Senate amendment authorizes reductions in funds for those failing to comply with the State criteria related to proposed increases. No comparable House provision.

Senate recedes.

97. The Senate amendment requires the use of community-based organizations, to the extent feasible, for carrying out title II programs. The House bill, in section 202(a)(20), contains restrictions on the use of basic grant funds for community-based organizations.

House recedes.

98. The Senate amendment requires the State board to establish criteria for the distribution to eligible recipients and community-based organizations of the 25 percent of title II funds reserved for single parents and homemakers and criminal offenders. No comparable House provision.

House recedes.

99. The Senate amendment authorizes the commingling of expenditures for the handicapped and disadvantaged by eligible recipients. No comparable House provision.

Senate recedes.

100. The Senate amendment establishes criteria for services and activities for the handicapped and the disadvantaged, including: equal access for these students in recruitment, enrollment, placement, and program offerings; programs in the least restrictive environment; programs to be included as a component of the individualized education plan; planning coordinated with special education representatives for handicapped students; the provision of information and enrollment requirements to students and parents at least a year prior to the earliest grade offering vocational programs; special support services for these students; and the joint or common provision of services for these students; and the joint or common provision of services when appropriate. No comparable House provision.

House recedes except for the paragraph permitting services to disadvantaged and handicapped to be furnished jointly or in common.

In requiring that certain services utilize professionally trained counselors, the conferees want to underscore both the importance of guidance and counseling and the need that individuals who are counselors have the benefit of systematic and extensive training in counseling-oriented activities.

101. The House bill requires the Secretary to maintain a national vocational education data system. The Senate amendment requires the Secretary to develop, within the National Center for Education Statistics, a national vocational education data and accounting.

House recedes.

102. Both the House bill and the Senate amendment require States to cooperate and comply with the data needed for the system. The Senate amendment also requires, whenever possible, that data be reported by labor market areas with the State.

Senate recedes.

103. The House bill requires the Secretary, in "maintaining and updating" the system, to "endeavor to the fullest extent feasible . . ." The Senate amendment requires the Secretary, in "developing" the system "to endeavor . . ."

Senate recedes.

104. The House bill, but not the Senate amendment, requires compatibility with the current vocational education data system (VEDS), and with systems developed under part E of Title IV of JTPA. The Senate amendment, but not the House bill, requires compatibility with data systems under JTPA in general, and with information collected under the Education of the Handicapped Act.

Both House and Senate recede.

105. The House bill requires annual updating of the data system. The Senate amendment requires an updating of the system every two years.

House recedes.

106. The House bill requires the Secretary to cooperate with the Secretary of Labor in obtaining compatibility with the JTPA (section 463) data system. No comparable House provision.

Senate recedes.

107. The House bill, but not the Senate amendment, requires the collection of data "at reasonable cost."

Senate recedes.

108. The Senate amendment, but not the House bill, requires the collection of data on facilities. The House bill, but not the Senate amendment, requires the collection of data on the participation of special populations.

Both House and Senate recede to each other.

109. The House bill, but not the Senate amendment, specifices administrative details for the Secretary to follow, including consultation with the Congress.

Senate recedes.

110. The House bill requires the use of appropriate sampling techniques. The Senate amendment requires the use of scientific sample surveys, except for the requirements of section 422 of the amendment relating to adequate information on handicapped secondary students participating in programs.

House recedes.

111. The Senate amendment, but not the House bill, authorizes the Secretary to conduct studies on such topics as the enrollment of the disadvandaged and the participation of the handicapped in vocational education programs.

House recedes.

112. The Senate amendment, but not the House bill, requires one-third of available funds for data systems to be spent for the vocational education data system, and two-thirds to be spent for activities related to the National Occupational Information Coordinating Committee. In Section 104(c) the House bill requires the Secretary to reserve between $3.56 million and $5 million for the National Occupational Information Coordianting Committee, but specifies no minimum amount for the Vocational Education Data System.

House recedes with an amendment requiring the House minimum for NOICC, specifying no minimum for VEDS, and clarifying that the funds for VEDS are for grants to States and local eligible recipients, not Federal operation.

113. A somewhat different membership list is specified for the NOICC. The House bill, but not the Senate amendment, includes the Assistant Secretary for Vocational and Adult Education, the Commissioner of the Rehabilitative Services Administration, and the Director of the Office of Bilingual Education and Minority Language Affairs. The Senate amendment, but not the House bill, includes the Secretary of Education and the Assistant Secretary of Health and Human Services for Vocational Rehabilitation.

Senate recedes.

114. The House bill, but not the Senate amendment, requires NOICCs to provide funds to State occupational information coordinating committees on an annual basis.

Senate recedes.

115. The House bill, but not the Senate amendment, requires NOICC data coordination to include apprenticeship training agencies.

Senate recedes.

116. The House bill, but not the Senate amendment, requires that the development and implementation of an occupational data system be done "in cooperation with State and local agencies."

Senate recedes.

117. The House bill requires a State occupational information coordinating committee to be established in States receiving assistance under this Act. The Senate amendment requires establishment only in States receiving funds from both this Act and JTPA.

Senate recedes.

118. SOICC membership is not quite identical. The House bill requires the inclusion of a representative of the "agency administering programs under Rehabilitation Act of 1973"; the Senate amendment specifies the "agency administering the vocational rehabilitation program.

House recedes.

119. The duties of SOICCs are written differently, but the meaning is essentially identical, except that under the Senate amendment, but not the House bill, the occupational data system must be used to implement a career information delivery system.

House recedes.

120. The Senate amendment requires the Vocational Education Data System and the biennial survey to include information on the access of handicapped secondary students to vocational education programs. This information base shall be in six digit detail as defined by the National Center for Education Statistics and shall include information on handicapped enrollments by program, instructional setting and type of handicapping condition. The House bill in Section 301(c)(2) requires the Vocational Education Data System to include information on participation of handicapped and other special populations by sampling techniques without specifying further detail. In addition, Section 413(7) of the House bill requires States to collect information on participation of handicapped and other special populations.

House recedes with an amendment to go to four digits.

121. The House bill establishes a President's Council on Vocational-Technical Education. The Senate amendment established a National Employers Council on Vocational Education.

House recedes with an amendment naming the council, the National Council on Vocational Education.

122. The House bill requires at least 15 members, serving at the pleasure of the President, with staggered terms. The Senate amendment requires 21 members, serving for such terms as the President may prescribe.

The House bill requires the members to be nationally prominent, with the majority to be representatives of the private sector, including persons engaged in industry, agriculture, business, organized labor, and high-technology fields. The remainder must be from education and economic and human resource development, with at least one member of JTPA's National Commission for Employment Policy and one a member of the Federal Committee on Apprenticeship. The Senate amendment requires the members to be owners, chief executives or chief operating officers of private, for profit business concerns, including health and educational institutions, as well as other executive officers of business concerns or associations, except that at least one shall be a non-public member of JTPA's National Commission for Employment Policy, and not more than 3 shall be representative of labor organizations.

Senate recedes on the first difference with an amendment that there shall be 17 members, of whom at least 9 will represent the private sector.

On the second difference, the House recedes with an amendment to revise the Senate language to read: The members of the Council shall serve for such terms as the President may prescribe. Members of the Council shall be individuals who are owners, chief executives or chief operating officers of private business concerns, private for profit and non-profit health and educational institutions, and executives of business concerns and business associations who have substantial management or policy responsibility, including agriculture, small business and organized labor, except that at least one member shall be a non-public member appointed from among members of the National Commission for Employment Policy established under the Job Training Partnership Act, and at least three members shall be individuals with broad experience in education and human resources development.

123. The House bill, but not the Senate amendment, specifies various administrative operations of the Council.

Senate recedes with an amendment requiring no fewer than four meetings a year.

124. The House bill requires the Council to: assess the occupational needs of the Nation, encourage private sector cooperation, evaluate programs with respect to needs of the workplace, assess the needs and participation of the handicapped, make recommendations, and advise the President, the Congress, and the Secretary on this Act and on JTPA. The Senate amendment requires the Council to advise the President, the Congress, and the Secretary on: the effectiveness of this Act on meeting the needs of employers, strategies to encourage private sector cooperation, practical aproaches to retraining adult workers, and effective ways to provide access to information on labor market demands for skills.

House recedes with two amendments to retain the House language to assess the needs of the handicapped and to advise on the implementation of JTPA.

125. The House bill, but not the Senate amendment, requires that the Council have a Chairperson, appointed by the President, and authorized to: prescribe rules, fix compensation, procure experts, accept voluntary services, accept and dispose of gifts, make grants and contracts, conduct hearings, use available Federal, State, and local personnel and services, and make advance payments.

Senate recedes.

126. The Senate amendment, but not the House bill, authorizes the Council to establish working groups on occupational competencies, with members appointed by the Council on the advice of national trade and professional associations and labor organizations, and authorizes funds to be used to hire experts for the working groups. The House bill has no comparable provision, but Section 401(d) requires States to establish technical committees to advise on model curricula including occupational skills.

House recedes.

127. The House bill, but not the Senate amendment, requires Federal agencies to assist the Council.

Senate recedes.

128. The House bill requires a report of its various findings and recommendations every two years, with optional interim reports, and requires minority views to be included in such reports. The Senate amendment requires an annual survey and report on the use by States of the Council's occupational competency statements.

Senate recedes with an amendment requiring the report to include information on states' use of the council's occupational competency statements.

129. The House bill, but not the Senate amendment, requires the continuation of the National Center for Research in Vocational Education (established under the existing VEA). In Section 402 the Senate amendment authorizes research to be conducted through the National Institute of Education or other divisions of the Department of Education and prohibits more than 20% of the national research funds from being awarded to a single recipient.

Senate recedes.

130. The House bill, but not the Senate amendment, requires the Center to be a nonprofit entity associated with a university, funded from annual grants from the Secretary, and designated by the Secretary once every five years with the advice of a panel of experts.

Senate recedes with an amendment deleting the provision in the House bill that the university designated as the National Center "has made" a substantial financial contribution.

131. The House bill, but not the Senate amendment, requires the Center to have a Director who shall be appointed by the university associated with the Center.

Senate recedes.

132. The House bill, but not the Senate amendment, specifies the primary purposes of the Center to be the conduct of research and development; the Center shall also provide leadership development, disseminate results, facilitate national planning, provide technical assistance, act as a clearinghouse, develop methods of planning and development, and report annually to the Congress, the Secretary of Education, and the Secretary of Labor.

Senate recedes.

133. The House bill, but not the Senate amendment, requires the Secretary to appoint an advisory committee, which shall advise with respect to the administrative policy and conduct of research at the Center.

Senate recedes.

134. The House bill, but not the Senate amendment, requires the Center's advisory committee be composed of at least 12 members, and specifies the types of individuals that shall be included.

Senate recedes.

135. The House bill, but not the Senate amendment, authorizes the Secretary to make grants for State equipment pools to provide loans of high-technology, state-of-the-art equipment to eligible recipients.

Senate recedes with an amendment deleting the separate authorization and requiring the Secretary to fund these equipment pools from his national money.

136. The Senate amendment, but not the House bill, specifies that the purpose of the authorization for research is to: improve access for special populations, improve the competitive research process, encourage dissemination of findings, and encourage the applicability and usefulness of research products.

House recedes.

137. The House bill authorizes the Secretary to use national program funds for program improvement activities, including research and development, curriculum development, guidance and counseling, personnel training, and other activities related to the purposes of this Act. Grants and contracts may be made to a specified list of recipients. The Senate amendment requires the Secretary, through the National Institute of Education or other division of the Department of Education, to use funds for applied research on aspects related to this Act, including effectiveness of programs for special populations, coordination of Federal, State and local efforts, private sector involvement, basic skills training, curriculum materials, institutional improvement, and bilingual vocational training. The Secretary is also required to operate a clearinghouse, compile a bibliography, and initiate leadership development activities.

House recedes with an amendment to incorporate certain of these provisions into the language regarding the duties of the National Center and to leave certain other activities for the Secretary's other research projects.

138. The House bill authorizes the Secretary to award grants and contracts, which shall include a program of small grants, re-

quests for proposals, and the funding of proposals initiated in the field. The Senate amendment requires the Secretary to support meritorious, unsolicited research proposals from State and local educators.

Senate recedes with an amendment to combine the House and Senate provisions.

139. The Senate amendment, but not the House bill, requires the Secretary to give preference to research projects at postsecondary institutions with demonstrated competencies.

House recedes with an amendment to delete the language, "which have demonstrated competencies".

140. The Senate amendment, but not the House bill, requires that no more than 20 percent of the funds available for research shall be awarded to any single recipient.

Senate recedes.

141. The House bill, but not the Senate amendment, requires the Secretary, to the extent feasible, to require recipients of awards for (1) national program improvement activities and (2) solicited and unsolicited grants and contracts to contribute a minimum of 10 percent of the cost of the project.

House recedes.

142. The House bill, but not the Senate amendment, requires the Secretary to coordinate program improvement activities in order to improve the quality of vocational education.

Senate recedes.

143. The House bill, but not the Senate amendment, requires the Secretary, in making the report to Congress on the status of vocational education, to include a summary of funding activities under State equipment pools and program improvement activities.

Senate recedes with an amendment folding this report into the Secretary's annual report.

144. The House bill authorizes "Cooperative Employer-Education Demonstration Programs." The Senate amendment authorizes "Cooperative Employer Education Programs.

Senate recedes with an amendment to entitle this program, "Cooperative Demonstration Programs".

145. The House bill authorizes the Secretary, through grants and contracts, to develop and implement innovative models that link vocational education with employment, including models, which: are operated by employers or labor organizations in cooperation with States and eligible recipients in at least two States, demonstrate effective methods of private sector cooperation, provide transitional worksite job training, provide placement services, involve projects that benefit the public, and provide access for special populations. The Senate amendment authorizes the Secretary, through grants and contracts with a specified list of recipients, to carry out programs and projects which support: model programs that provide improved access for special populations examples of successful private sector cooperation, programs to overcome national skill shortages, and other purposes related to this Act.

House recedes with an amendment to merge the House language into paragraph (a)(2) of the Senate language.

146. The House bill, but not the Senate amendment, authorizes the use of funds for institutional and on-the-job-training, supportive services and technical assistance, and authorizes the Secretary to determine the duration of assistance. The recipient is required to contribute at least 25 percent of the program cost.

House recedes with an amendment to merge this provision into Senate paragraph (a)(2) and have it apply only to the particular type of demonstration program in the House bill.

147. The Senate amendment, but not the House bill, requires programs to be of direct service to participants and to be capable of wide replication, and requires the Secretary to make the results useful in improving the training of teachers and others.

House recedes.

148. The House bill, but not the Senate amendment, requires the Secretary of Labor and the Secretary of Education, to implement a plan to improve the coordination between vocational education and apprenticeship programs.

Senate recedes.

149. The House bill, but not the Senate amendment, requires the Secretary to make grants to operate model centers addressing the vocational needs of older persons.

Senate recedes with an amendment to specify that the Secretary shall fund these centers from the National Program money and to shorten the language.

150. The House bill requires eligible recipients desiring funds for model centers to submit an application with required information. Such centers must provide training and retraining opportunities, promote employment, provide assistance for later-life career changes, provide counseling, encourage local providers of vocational education to increase access for older persons, and promote training of paraprofessionals in gerontology and geriatrics. Such centers must give priority to older persons with special retraining needs. Grants for centers may not exceed $400,000. The Secretary shall operate a clearinghouse on information concerning such centers. "Older person" is defined as a person 55 years or older. No comparable Senate provisions.

Senate recedes with an amendment to shorten the language.

151. The House bill authorizes a bilingual vocational training program; the Senate amendment requires the program.

Senate recedes. The conferees intend that this program be administered by the Office of Vocational and Adult Education within the Departments.

152. The House bill, but not the Senate amendment, includes appropriate State agencies, postsecondary educational institutions, private nonprofit vocational training institutions, other non-profit organizations specially created to serve indivduals of limited-English proficiency, and private for-profit agencies and organizations. The Senate amendment, but not the House bill, includes State educational agencies, postsecondary vocational institutions, institutions of higher education, and other public or private agencies, organizations, and institutions.

Senate recedes.

153. The House bill requires training to include instruction in the English language, to ensure that participants will be equipped to pursue occupations in an English-language environment. The Senate amendment requires training to enable participants to obtain the full benefits of training programs while they learn the English language.

Senate recedes.

154. The House bill authorizes the use of funds for programs for persons available for postsecondary education, for programs for persons who have entered the labor market, and for training allowances. The Senate amendment limits this program to adults and out-of-school youth and authorizes the use of funds for training allowances only.

Senate recedes.

155. Both the House bill and the Senate amendment, using slightly different language, authorize training of instructors of bilingual vocational education; however, the House bill also specifies a new list of entities eligible to receive funds, authorizes inservice teacher training, fellowships, traineeships, and training for instructors of bilingual training programs, and requires applicants to have adequate language capabilities in the language other than English to be used in the program.

Senate recedes.

156. The House bill authorizes a program for the development of instructional and curriculum materials, methods or techniques for bilingual vocational training. The Senate amendment authorizes a program for the development of instructional materials, methods, and techniques for bilingual vocational education.

Senate recedes.

157. The House bill, but not the Senate amendment, specifies a new list of eligible entities.

Senate recedes.

158. The House bill, but not the Senate amendment, also authorizes the use of these funds for research, training programs, and experimental projects.

Senate recedes.

159. The House bill, but not the Senate amendment, specifies an application process that contains separate requirements for those seeking grants for (a) training programs, (b) teacher training programs, and (c) instructional materials programs.

Senate recedes.

160. The House bill, but not the Senate amendment, requires the Secretary to consult with the State board before making grants for bilingual vocational training and teacher training programs to ensure an equitable distribution within State.

Senate recedes.

161. The House bill, but not the Senate amendment, requires the Secretary to administer the bilingual vocational training programs in consultation with the Secretary of Labor.

Senate recedes.

162. The House bill, but not the Senate amendment, authorizes the use of funds in the Commonwealth of Puerto Rico to serve the needs of students of limited Spanish ability.

Senate recedes.

163. The House bill requires the Secretary, in consultation with the Secretary of Labor, to gather and disseminate information on the status of bilingual vocational education and evaluate these programs. The Senate amendment authorizes the use of funds for programs to familiarize appropriate State agencies and training institutions with the results of successful programs.

Senate recedes.

164. The House bill, but not the Senate amendment, requires the information to include all geographic regions, the impact on shortages of skilled workers, unemployment of those with limited English proficiency, and their ability to contribute to the economy, and requires an annual report on the findings to the President and the Congress.

Senate recedes.

165. The House bill, but not the Senate amendment, requires that (a) 65 percent of bilingual vocational training funds be spent

for training programs, (b) 25 percent for teacher training programs, and (c) 10 percent for instructional materials programs.

Senate recedes with an amendment to require 75% for training programs, 15% for teacher training, and 10% for materials.

166. The House bill, but not the Senate amendment, authorizes the Secretary to establish one or more demonstration centers for the training of dislocated workers. Centers would provide retraining programs and counseling services, seek resources, promulgate information, act as liaison among various entities, and assist in the establishment of additional centers.

Senate recedes with an amendment to make this an activity the Secretary must fund from his national program money.

167. In addition to the function cited in both bills, the House bill also requires the State board to coordinate implementation of the State plan.

Senate recedes.

168. The House bill calls for consultation with groups involved in the administration and evaluation of the State plan, in addition to the groups listed in the Senate bill.

Senate recedes.

169. The House bill, unlike the Senate amendment, requires the State board to meet at least four times annually.

Senate recedes.

170. The Senate amendment, unlike the House bill, requires the board to adopt procedures to implement coordination with the State job training coordinating council.

House recedes.

171. In addition to the delegatory authority listed in the House bill, the Senate amendment gives the state board authority to delegate its operation and supervisory functions and permit delegation of functions in whole or in part.

House recedes.

172. The House bill, but not the Senate amendment, requires States to provide such personnel as necessary for State administration of these programs, in accordance with State law.

House recedes.

173. The Senate amendment, unlike the House bill, specifies that the sex equity coordinator shall work within the appropriate agency established or designated by the State board, within its delegating authority, to administer vocational education programs. The Senate amendment, unlike the House bill, charges the coordinator with administering the program of vocational education for single parents and homemakers.

House recedes.

174. The House bill requires each State to spend at least $75,000 annually from the basic grants for the activities of the sex equity coordinator. The Senate amendment requires States to spend at least $60,000 per year for this purpose, from the percentage of title II funds set aside for single parents and homemakers.

House recedes with an amendment to specify that the $60,000 per year will come from the State administrative percentage.

175. The House bill requires States to establish technical committees to advise the State board and council on the development of model curricula addressing State labor market needs and to develop inventories of skills (including types and levels of skills) used in defining such curricula. The State board shall establish procedures for setting up these committees, which shall be representative of employers, labor, and trade organizations. The Senate bill has no comparable provision, except that in section 431(c), the National Employers Council on Vocational Education is permitted to establish working groups on occupational competencies to provide the Congress, the Administration, and the States with information on occupational competencies, including necessary skill levels.

Senate recedes.

176. The House bill, but not the Senate amendment, requires States to identify State rules or policies relating to programs under this Act as State-imposed requirements.

Senate recedes.

177. The Senate amendment, but not the House bill, mandates that the State board make available to each private industry council within the State a description of programs assisted under this Act to be operated by recipients within service delivery areas.

House recedes with two amendments (1) eliminating the language after "Act" regarding recipients in service delivery areas and (2) changing "description" to "listing".

178. Unlike the Senate amendment, the House bill uses the word "advisory" in the name of the State council. The Senate amendment provides for appointment of council members by the State board of education (where such board is elected), whereas the House bill provides for appointment by the State board of vocational education in that situation.

House recedes.

179. The House bill requires the council to have at least fifteen members, while the Senate amendment requires eleven members.

Senate recedes with an amendment to have 13 members and to use the House language requiring the Council to be broadly representative of citizens and groups.

180. Both bills require a majority of members to be representatives of private sector employment (the Senate amendment uses the term "business and industry"). The House bill details three types of private sector representatives that must be included (business, industry, and agriculture; labor organization or building trades representatives; and other private sector personnel), whereas the Senate amendment specifies only a representative of labor organizations. The House bill further states in the last sentence of subsection (a) that no more than half of the private sector representatives may come from any one of the three groups listed.

Senate recedes with an amendment requiring 7 private sector members of whom 5 shall be representatives of business, industry and agriculture (including one small business representative and one representative of the State Job Training Coordinating Council) and 2 shall be labor representatives.

181. The House bill specifies several types of individuals knowledgeable about the needs of special populations that must be included (women, those knowledgeable about the needs of the handicapped, poor, and disadvantaged, and representatives of the general public), while the Senate amendment requires inclusion only of a representative of special education.

Senate recedes with an amendment requiring six members of the council representative of secondary and postsecondary vocational education (equitably represented), career guidance and counseling, and special populations (including women, the disadvantaged, the handicapped, individuals with limited-English proficiency, and minorities) with one member representing special education.

182. The House bill mandates inclusion of the following members not listed in the Senate bill: those representing public agencies and institutions and State economic development agencies; vocational guidance and counseling; State apprenticeship training councils; and the vocational rehabilitation administering agency.

House recedes.

183. Both bills include a representative of the State job training coordinating council, but the Senate amendment specifies that this individual must actually be a member of such council and will be counted as a business and industry representative in determining the majority.

House recedes.

184. Both bills require representation of secondary and postsecondary education; the House bill requires "equitable" representation of the two levels, while the Senate bill requires "equal" representation. The House bill specifies these representatives must be from educational agencies and institutions, whereas the Senate amendment states they must be from vocational education. The House bill, unlike the Senate amendment, requires representatives of private nonprofit and proprietary institutions and, where appropriate, community, technical, and junior colleges that conduct vocational education.

Senate recedes with an amendment described in item No. 181.

185. The Senate amendment, but not the House bill requires inclusion of two members of the State legislature, to be appointed by the State legislature.

Senate recedes.

186. The House bill requires due consideration to be given to members of private industry councils or the State job training coordinating council in selecting the private sector, special needs and public agency representatives.

Senate recedes with an amendment requiring due consideration to be given to individuals who serve on private industry councils or on State councils established under other related Federal Acts.

187. The House bill mandates that the business, industry, and agriculture representatives include small business and minority firms and be appointed after consultation with a general purpose business organization and other business, trade, and professional organizations.

House recedes.

188. The House bill mandates appropriate representation of women, the handicapped, racial and ethnic minorities and major geographic regions of the State. The Senate amendment does not.

House recedes.

189. The House bill requires States to certify their council membership prior to the beginning of each fiscal year; the Senate amendment requires this certification at least 90 days prior to the beginning of each planning period (3 years for initial plan, every 2 years thereafter).

House recedes.

190. The Senate amendment, unlike the House bill, requires the council to meet as soon as practical after certification.

House recedes.

191. Under the House bill, the council chair must represent the private sector, while under the Senate amendment, the chair must be a nongovernmental representative.

Senate recedes.

192. The House bill, unlike the Senate amendment, requires the council to meet with the State board or its representatives during the planning year.

Senate recedes.

193. Under the Senate amendment, the State council must consult with and make recommendations to the State board on policy matters affecting programs under this Act; under the House bill, the council must advise the State board and make reports to the Governor, the business community, and the general public about policies to strengthen vocational education in the State and initiatives the private sector could undertake to assist in modernization of vocational education.

Senate recedes.

194. The Senate amendment specifies the following functions for the council not specified in the House bill: (1) analyzing and reporting on the distribution of funds for vocational education and the availability of vocational services within the State; (2) submitting recommendations to the State board on programs emphasizing use of business and labor; (3) assessing the distribution of Federal vocational funds, particularly between secondary and postsecondary programs; (4) recommending procedures to enhance the participation of the public at the local level, particularly of local employers and labor organizations; and (5) reporting on the equal access of individuals with special needs to quality programs.

House recedes with an amendment retaining the House language in (e)(2) regarding advising the State about policies to strengthen vocational education and involve the private sector.

195. The House bill requires the council to evaluate at least once every two years the vocational education delivery systems under this Act and under the Job Training Partnership Act and the effectiveness of Federal, State, local, and private efforts to improve vocational education. Under the House bill, the council must also advise the Governor, the State board, the State job training coordinating council, the Secretaries of Education and Labor, and the public of its findings and recommendations pursuant to this evaluation. The Senate amendment requires the council only to assess the effectiveness of the coordination between vocational education and JTPA, make recommendations to the State board on evaluation criteria for vocational education programs.

Senate recedes with an amendment requiring the Council to make recommendations to the State board on JTPA coordination.

196. The House bill, unlike the Senate amendment states that the council shall comment on reports of the State job training coordinating council and provide technical assistance to local advisory councils as requested.

House recedes.

197. The Senate amendment, unlike the House bill, provides that the council seek and obtain the advice of experts in the special education needs of individuals to be served under the Act, including handicapped, disadvantaged, women, adults, and the incarcerated.

Senate recedes.

198. The House bill requires each State to pay the council an amount equal to the reasonable amounts expended by it in carrying out its functions, except that no council can receive less than $125,000 or more than $225,000. The Senate amendment requires each State to reserve one percent of its allotment for the council, with a minimum of $120,000 and a maximum of $225,000.

House recedes on Senate minimum of $120,000. Senate recedes on House allotment method and on separate authorization for councils instead of a percentage.

199. The House bill, but not the Senate amendment, allows the Secretary to reduce the minimum amount for the outlaying areas if he determines the council can perform its functions with a lesser amount.

House recedes.

200. The Senate amendment, not the House bill, stipulates that the clause allocating funds to the State Councils on Vocational Education shall not apply to the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

House recedes. The conferees intend that no Councils are required for the outlaying areas.

201. The House bill, unlike the Senate amendment, states that the expenditure of these funds is to be determined solely by the council and may not be diverted or reprogrammed for any other purpose, and requires each council to designate an appropriate public agency to act as its fiscal agent.

Senate recedes.

202. The House bill requires states to submit, during fiscal year 1985 and each second fiscal year thereafter, a State plan and application in one document. The Senate amendment requires a State plan only, to be submitted for a three-year period for the initial plan and a two-year period thereafter, with such annual revisions as necessary.

House recedes with an amendment to include the application in the State plan.

203. The Senate amendment calls for these planning periods to be coterminous with those under JTPA; the House bill directs the Secretary of Education, in consulting with the Secretary of Labor, to synchronize planning activities under the two Acts at the earliest possible date.

House recedes.

204. The House bill is more specific than the Senate regarding timeliness for submission of the plan; it requires the plan to be submitted by May 1 preceding the beginning of the first fiscal year under the plan and requires the Secretary to approve such plan within 60 days.

Senate recedes.

205. The House bill, unlike the Senate amendment, specifies that the plan and application shall be considered to be the general State application for purposes of section 435 of the General Education Provisions Act, relating to general assurances for education programs.

Senate recedes.

206. The House bill, but not the Senate amendment, requires the State board to meet with and utilize the State council in formulating the State plan.

Senate recedes.

207. The House bill, but not the Senate amendment, requires the State board to conduct public hearings on the State plan and to include a summary of recommendations made at such meetings and the State's response in the plan.

Senate recedes.

208. The Senate amendment, but not the House bill, requires the plan to be submitted to the State legislature for review and comment and specifies the timetable for doing so if the legislature is not in session.

House recedes.

209. Under the Senate amendment, the plan must be submitted to the State job training coordinating council 60 days before it is to be submitted to the Secretary, whereas under the House bill, this shall occur not less than 60 days before such submission.

Senate recedes.

210. Both bills require the plan to be submitted to the State advisory council The House bill provides that the council may file objections to the plan if it determines the plan does not meet the labor market needs of the State and requires the State board to respond to these objections in the plan. The Senate amendment requires the State plan to include all recommendations of the council that are not incorporated in the plan and the State's reasons for not incorporating them in the final version submitted to the Secretary. The Senate amendment also requires the council to append to the plan its comments on the State's reason for not incorporating its initial recommendations, if the council disagrees with those reasons.

Senate recedes with an amendment to broaden the reasons for objection beyond those in Senate language.

211. The House bill, but not the Senate amendment, explicitly mandates that the Secretary consider the training council's and the vocational education advisory council's comments in reviewing the plan.

Senate recedes.

212. The Senate amendment, unlike the House bill, directs the Secretary to provide technical assistance to the States to help them make the assessments of occupational needs and program quality required by section 113(a)(3).

House recedes.

213. Both bills mandate States to conduct certrain assessments in developing the plan, but with different requirements. The House bill adds that the assessment of occupational needs must include *general and specific* occupational skills and that the assessment of student needs must include needs of *adults*. The Senate amendment, but not the House bill, states that the assessment of student needs must include (1) a determination of how best to improve skill levels to relate to occupational requirements and (2) an assessment of the special needs of handicapped and disadvantaged individuals, single parents, homemakers, and criminal offenders in correctional institutions.

House recedes with an amendment to add a purpose regarding general occupational skills and to add adults to the list of individuals whose needs must be assessed.

In assessing the capability of programs for special needs groups and the general vocational student population in meeting general occupational skills and improvement of academic foundations, States shall assess whether the programs use problem-solving and basic skills (including mathematics, reading, writing, science, and social studies) in a vocational setting. It is the intent to give a student experience in and understanding of all aspects of the industry in which the student is preparing to enter.

214. The House bill, but not the Senate amendment, requires the plan to be based upon the above assessments, to define the role and expected outcomes of vocational education, and to include information on positive terminations, (but not implying Federal control of curriculum as prohibited by section 432 of the General Education Provision Act).

House recedes.

215. Under House bill, the plan must set forth goals to be achieved during the period of the plan and address a list of requirements. Under the Senate amendment, the plan must assess the quality of vocational education in terms of a list of characteristics. The list in the House bill includes requirements that the programs are designed with assistance of employers and address job market demands; meet students needs for vocational guidance; are up-to-date in terms of curriculum, equipment, materials, instructional personnel and relevance to the workplace; are designed to improve students foundations in math and science; address retraining needs of workers; help economically depressed areas; are accessible to special populations; strengthen the institutional capability of vocational education; and are consistent with other purposes of the Act. The Senate amendment lists the following characteristics that must be assessed in qualitative terms in the plan: pertinence of programs to the workplace, responsiveness to occupational needs, the quality of curricula, equipment, and materials, and the capacity of programs to facilitate the school-to-work and secondary-post-secondary transitions. Unlike the House bill, the Senate amendment also requires the State plan to determine the capacity of eligible recipients to deliver the vocational services necessary to meet the needs identified in the above assessments and to determine how the Federally-funded services can assist in meeting those needs.

House recedes.

216. According to the Senate amendment but not the House bill, the plan must describe how the State will comply with the criteria for programs for the disadvantaged and handicapped, assure that the State will comply with the requirements for funds distribution, and assure that provision is made for participation of students in private elementary and secondary schools in programs assisted under Title II for vocational education opportunities.

House recedes with an amendment to delete the description of the criteria for assistance.

217. Under the House bill, the plan must describe the progress of the State in achieving the goals set forth in previous State plans, the progress the State expects to make in the next two years, the methods it will employ to reach those goals, and the types of vocation education programs, projects, and services it intends to assist (which must include support for State efforts in research, personnel development, teacher education, and curriculum development). Under the Senate amendment, the plan must set forth the planned uses of Federal funds and describe how the required needs assessments were carried out.

House recedes with an amendment to require the plan to describe the progress the State has made in achieving the goals set forth in the plans subsequent to the initial one.

218. Both bills require States to describe in the plan the criteria for allocating funds among eligible recipients. The House bill requires States to allocate more funds to recipients in economically depressed urban and rural areas, whereas the Senate amendment (in section 302) requires States to give special emphasis to such depressed areas in allocating Title III funds.

Senate recedes.

In requiring States to allocate more funds to recipients in economically depressed areas, the intent of the managers is to see that eligible recipients in economically depressed areas annually receive more total funds than the total amount of funding awarded to eligible recipients in areas which are not economically depressed. Yet, for the purpose of program improvement, this does not mean that every eligible recipient must receive funds in every year. In fact, the conferees feel that, in order to make optimal use of program improvement and modernization funding, resources may need to be concentrated in some, not all, eligible recipients.

219. The House bill, unlike the Senate amendment, directs the State plan to set forth criteria the State will use in approving local plans (which are not required in the Senate bill).

Senate recedes.

220. The House bill mandates that the plan include the following items not in the Senate bill: descriptions of the methods for joint planning with JTPA programs, for coordination with apprenticeship training programs, for ensuring that the programs are responsive to the mandated evaluations, for coordination with Adult Education Act programs, for coordination with Chapter 1, ECIA programs for addressing the vocational needs of State correctional facilities, and for bringing about better articulation of and eliminating duplication of programs at different levels of education and different types of institutions.

House recedes with an amendment requiring the plan to describe methods for coordination with JTPA, the Adult Education Act, Chapter 1, Education of the Handicapped, the Rehabilitation Act, and apprenticeship training.

221. The House bill enumerates the assurances to be included in the application, some of which are included in the Senate State plan. The House bill requires the board to cooperate with the council in the planning process, whereas the Senate amendment requires such cooperation in all duties of the council.

House recedes.

222. The Senate "supplement not supplant" requirement is more detailed than the House, requiring the Federal funds to be used to the extent practicable to increase the amount of State and local funds that would be available in the absence of Federal funds.

House recedes.

223. The Senate amendment, but not the House bill, requires the plan to assure that the amount expended for handicapped individuals from State and local sources will equal or exceed the amount expended in fiscal year 1984 for such individuals.

Senate recedes.

224. The House bill, unlike the Senate amendment requires the application to assure that the basic grant will be used to expand or improve the quality for vocational education programs and to initiate new programs of high quality.

House recedes.

225. The House application must include the following assurances not required of the Senate plan: that the State will make copies of the plan and general policy rules, regulations, and procedures available to the public; that the State will use nationally uniform definition and information elements developed under the vocational education data system and that such data will include information on enrollments, retention, completions, and placement of certain special groups and will be collected by sampling techniques; that programs for handicapped persons are consistent with the State plans under the Rehabilitation Act and the Education of the Handicapped Act; that research, personnel development, and curriculum development will be funded; that expenditures for guidance and counseling from basic grants and part c grants will not be less than expenditures for such activities for the last year funded under Vocational Education Act of 1963; that funds will not be used to acquire equipment that will directly benefit any organization representing the purchasing entity or its employees; and that the needs of unemployed persons have been assessed and reflected in the State plan.

Senate recedes with an amendment 1) deleting the assurances in the House bill related to the availability of rules and nationally uniform definitions; 2) accepting the House language related to coordination with other programs described in item 220; 3) deleting research from the list of programs that must be funded; and 4) making a technical amendment to the provision regarding unemployment in the State.

226. The House bill requires 80% of basic grant funds to be allotted to local recipients; the Senate amendment requires the same percentage of Title II and III funds to be allotted to the local level, except 100% of the funds for disadvantaged and handicapped must be allotted to eligible recipients.

House recedes.

The managers note that in those States where vocational schools are administered by the State, such schools may be considered eligible recipients for purposes of this provision and funds allotted to these schools may count in the 80% local share, not the 20% State share.

227. The Senate amendment provides that the following assurances be in the State plan that are not in the House application: that in using the funds for single parents and homemakers, the State will emphasize assisting individuals with the greatest financial needs and special consideration will be given to displaced homemakers; that relevant training will be provided to persons desiring to enter occupations non-traditional for their sex; and that local recipients will equitably serve the special needs of individuals with limited English proficiency.

House recedes.

228. The House bill requires eligible recipients (except those providing relatively limited vocational programs, as determined by the State) to submit two-year local plans formulated with participation of a local advisory council. The House bill lists the contents of such plans and requires the plans to be submitted to the appropriate administrative entities under the JTPA. The House bill also permits States to use funds under this Act to encourage regional planning. The Senate amendment requires States to assure in their plan that funds will be distributed to local recipients on the basis of annual applications, that the State will set forth procedures for approving these applications, and that dissatisfied recipients will be given notice and opportunity for a hearing.

House recedes with an amendment incorporating certain provisions into the local application.

229. Unlike the Senate amendment, the House bill requires local recipients to appoint a local council consisting of representatives of the private sector (a majority), public employers and other providers of job training, and groups with special needs. Recipients providing relatively few vocational

programs may be exempt from this requirement, as determined by the State board.

House recedes.

230. The House bill, but not the Senate amendment, specifies that States shall submit amendments to their plans when program or labor market conditions or other factors have changed.

Senate recedes.

231. The House bill requires the State to each year conduct an evaluation of at least 20 percent of the local programs within the State. These program reviews are to be conducted by teams including individuals in relevant occupations and shall cover the planning and content of the program, the curriculum and teacher qualifications, the effect on graduates, the effectiveness in meeting the needs of the handicapped, and other relevant factors. The Senate amendment requires States to assure in their plans that they will develop measures for the effectiveness of programs, including such measures as the level of skills to be achieved, the occupations to be trained for, and the basic employment competencies to be used in performance outcomes. These must also include measures for evaluating the effectiveness of handicapped programs.

House recedes with an amendment to evaluate 20 percent of the programs per year.

The managers intend through this provision that by the end of the five year period, every local program will have been evaluated.

232. The House bill, unlike the Senate amendment, directs States to gather and analyze data (1) to determine the extent to which vocational programs are accomplishing the goals in the State plan and (2) to assess programs outcomes, including whether programs completers find jobs using the skills acquired in vocational education, participate in further education, demonstrate general occupational skills, and are considered by their employers to be well-trained. This data may be collected by sampling.

House recedes.

233. The House bill mandates that the Secretary help States evaluate the progress of vocational education by analyzing State plans and making suggestions for improvement, setting up an information network on the results of vocational research and exemplary programs, and conducting a series of longitudinal studies every five years. The Secretary must submit a report to Congress every two years on the status of vocational education, including a summary of the aforementioned evaluations. The Senate amendment requires the Secretary to conduct a national assessment of vocational education through independent studies by the National Institute of Education. This assessment shall evaluate: the services provided special populations, audits, and others; the impact of the Act in modernization; the resources needed to adequately meet national job training needs; the coordination with employment training and economic development programs and with postsecondary programs for handicapped and disadvantaged; the impact of programs on academic skills; the cooperation of the State board with the State councils; and the effectiveness of bilingual vocational training and other programs for individuals with limited English proficiency. The NIE must consult with the relevant Congressional Committees in designing this assessment and submit interim reports to Congress in January and July of 1988 and a final report by January 1, 1989. These reports shall not be reviewed outside the Department of Education before transmittal. This assessment is to be funded from the setaside for national programs, but not more than 20% of the national program money may be used.

House recedes (1) with an amendment to accept the NIE study but allow no review outside the NIE and (2) with an amendment to have the Secretary analyze State plans and suggest improvements as required in the House bill.

234. The Senate amendment, but not the House bill, requires the Secretary, through the NIE, to identify vocational students, as part of the National Assessment of Educational Progress, and make certain comparisons about their educational achievement.

Senate recedes.

235. The House bill, but not the Senate amendment, provides for amendments to the mandated local plan when certain conditions have changed.

House recedes.

236. The House eliminates the general matching requirement in current law, but does require 50% matching of Federal funds for the costs of both State and local administration. However, section 413 of the House bill provides that funds from the disadvantaged and handicapped setasides can be used only for 50% of the costs in excess of cost of regular services. The Senate amendment establishes a 50% matching requirement for State administration and for improvement, innovation, and expansion programs under Title III. For Title II, the bill establishes a 100% Federal share for programs for single parents and homemakers and persons in correctional institutions. For disadvantaged and handicapped programs, the Federal share is 100%, except that separate programs for such individuals must be matched 50%. The Senate amendment notes that the non-Federal contribution may be in cash or in kind.

Senate recedes on local administration, disadvantaged and handicapped, and in kind matching. House recedes on 50% match for program improvement (Part B). House recedes with an amendment to set Federal share at 100% for programs for single parents and homemakers, persons in correctional institutions, and sex equity programs.

237. The House bill requires States to maintain their fiscal effort at 100% of the second perceeding year's level or lose all Federal vocational funding, with a waiver for one fiscal year where there are exceptional or uncontrollable circumstances. The Senate amendment requires States to maintain effort at 95% of the second preceding year, but instructs the Secretary to reduce a State's payment by the proportion by which it failed to meet the 95% level. This reduced amount, however, cannot be used to compute the levels for subsequent years. The Senate amendment contains the identical waiver provision.

Senate recedes.

238. The House bill states that findings of fact by the Secretary in judicial proceedings shall be conclusive if supported by "substantial evidence." The Senate amendment uses the term, "the weight of evidence."

Senate recedes.

239. The Senate amendment provides that States shall obtain financial and compliance audits of funds under the Act, and that these audits shall be conducted by an independent auditor at least every two years in accordance with the Comptroller General's standards and be made public on a timely basis. The House bill has no comparable provision but does require the State, in section 422, to conduct program evaluations according to a regular schedule.

House recedes with an amendment eliminating independent auditors.

240. The House definition of "administration" excludes curriculum development, personnel development, technical assistance, and research; the Senate amendment excludes technical assistance and ancillary services.

Senate recedes.

241. The House bill defines the following terms not used in the Senate amendment: apprenticeship training program, economically depressed area, general purpose business organization, high technology, industrial arts education program, limited English proficiency, small business, State council, and vocational student organizations. The Senate amendment defines the following terms not used in the House bill: community based organization, criminal offender, correctional institution, Council, homemaker, single parent, and State educational agency.

Senate recedes on "economically depressed area". House recedes on "State educational agency". Senate recedes on "low income family or individual" definition with an amendment that uses the same definition, but calls the term "econimically disadvantaged. Both House and Senate recede on other definitions used in bill.

242. Unlike the House definition, the Senate definition of "area vocational school" specifies that for a department or division of a junior college, community college, or university to be so defined, it must be available to all residents of the State or an area of the State designated and approved by the State board.

Senate recedes.

243. The House bill includes a definition of "career guidance and counseling," emphasizing knowledge of occupational, educational, and labor market needs; the Senate amendment defines "guidance and counseling," emphasizing the types of services provided through such activities.

Senate recedes.

244. The Senate definition of "cooperative education," unlike the House one, adds a reference to students receiving required academic courses and notes that the alternated school and work periods may include half days.

House recedes with an amendment using the term "method of instruction" instead of "program".

245. The House definition of "curriculum materials" includes references to strengthening the academic foundations of education and to guidance and counseling materials, which are not in the Senate amendment. The Senate definition, unlike the House, refers to advanced learning technology.

Senate recedes with an amendment incorporating advanced learning technology.

246. The Senate definition of "disadvantaged," unlike the House, includes migrants and individuals who are from low-income families, have limited English proficiency, or are dropouts or potential dropouts. The Senate definition also requires the Secretary to develop criteria for defining disadvantaged, based on objective standards and the most recent available data.

House recedes with an amendment to change "low income" to "economically disadvantaged" and to delete the authority for the Secretary to develop criteria.

While this legislation requires the provision of services to academically disadvantaged individuals, in addition to other popu-

lations, no specific definition has been included. The conferees are particularly concerned about the imprecision with which the term "academically disadvantaged" has been, is, and may be interpreted.

Therefore, the conferees ask the Secretary to promulgate standards that eligible recipients must use in determining academic disadvantagement. Such standards could include:

1. A percentile threshold based on standardized achievement or aptitude test scores. (For example, anyone below the 25th percentile could be termed academically disadvantaged.);

2. High school grades, using a threshold of below 2.0 on a 4.0 scale where A equals 4.0; and

3. The failure to attain minimal academic competencies.

The conferees feel that the Secretary should allow the States to select from among these standards, depending on the best means for determining this measure in their respective State. The conferees are opposed to the inclusion of individuals with learning disabilities in this measure.

247. The House defines "eligible recipient" to include postsecondary *vocational* educational institutions whereas the Senate includes postsecondary educational institutions.

House recedes.

248. Unlike the Senate, the House definition of "handicapped" includes individuals who require a modified education program.

House recedes.

It is the managers' intent that handicapped individuals in secondary institutions fall under the definition of handicapped individual contained in the Education of the Handicapped Act, and therefore are enrolled in special education and have an individualized education program. Handicapped individuals enrolled in postsecondary institutions, who fall under the definition contained in section 521 of this Act, need not meet the criteria of being enrolled in special education.

249. The House definition of "postsecondary educational institution" refers to an accredited institution, whereas the Senate refers to a nonprofit institution. The Senate definition further specifies that this institution is for persons 16 or older who have graduated from or left elementary or secondary school. Unlike the Senate, the House definition specifically includes postsecondary institutions operated by or on behalf of Indian tribes.

House recedes on accredited, Senate recedes on the rest of the definition.

250. The Senate definition of "private vocational training institution," unlike the House, specifically refers to technical institutions and specifies that the advisory committee established to evaluate these schools is to be appointed *by the Secretary.*

House recedes.

251. The House definition for "State board" refers to a board *established,* whereas the Senate uses the term "created by State law as the sole State agency"; the Senate definition also includes a board responsible "for the supervision of the administration of vocational education in the State."

House recedes.

252. The House bill defines the terms "vocational-technical education" and "vocational education" in the same way; the Senate amendment defines only "vocational education," with the House and Senate definitions differing in the following ways: The House definition incorporates 8 instructional areas, such as agriculture, business occupation, etc. The House refers to career guidance and counseling whereas the Senate uses counseling. The House bill includes vocational student organization activities when they are an integral part of the program, whereas the Senate states that such activities must be directly related to vocational education. The Senate amendment refers to advanced learning technologies in connection with acquisition of materials. The House bill specifically permits leasing of equipment.

Senate recedes with an amendment to delete "vocational-technical education."

253. The Senate amendment, but not the House bill, repeals the Vocational Educational Act of 1963.

Senate recedes.

254. The House bill transfers the property of the National Advisary Council on Vocational Education in current law to the President's Council on Vocational-Technical Education on the effective date of this Act. The Senate amendment has no such provision, but instead transfers the property of the National Occupational Information Coordinating Committee in a similar manner.

Both Senate and House recede to each other.

The managers wish to emphasize that the effective date of October 1, 1984 will not apply to money already appropriated for use in fiscal year 1985, and that in practical application, States and eligible recipients could not be expected to implement the new legislation until school year 1985-1986.

255. The House bill, unlike the Senate amendment, contains a statement of the sense of Congress that vocational education programs are best administered by local communities, with emphasis on parental control and links with the private sector.

Senate recedes.

256. The Senate amendment, in a separate title, authorizes $500,000 for a national summit conference on education, to take place after January 1, 1985 and to report by October 15, 1985. The conference will include up to 200 participants representing all areas of education and other segments of the public. An executive committee appointed by the President, Congressional leaders, and the Governors will select the participants from nominees submitted by various organizations. The conference shall address and make recommendations regarding educational quality and the roles of various levels of government. No comparable House provision.

House recedes with an amendment setting the due date for the report four months after the end of the conference.

257. The Senate amendment extends the Women's Educational Equity Act for five years, with authorizations of $6.2 million for fiscal year 1985 and such sums as necessary for each of the succeeding fiscal years through October 1, 1989. No comparable House provision.

Senate recedes.

258. The Senate amendment modifies provisions of the Department of Labor regulations for the Job Training Partnership Act, relating to full payment for training. No comparable House provision.

House recedes with an amendment to revise the language but maintain the intent.

GUS HAWKINS,
WILLIAM D. FORD,
MARIO BIAGGI,
IKE ANDREWS,
GEO. MILLER,
BALTASAR CORRADA,
DALE E. KILDEE,
PAT WILLIAMS,
FREDERICK C. BOUCHER,
GARY ACKERMAN,
SALA BURTON,
CHARLES A. HAYES,
JOHN N. ERLENBORN,
BILL GOODLING,
MARGE ROUKEMA,
STEVE GUNDERSON,
STEVE BARTLETT,
RON PACKARD,
HOWARD C. NIELSON,
Managers on the Part of the House.

ORRIN HATCH,
ROBERT STAFFORD,
DAN QUAYLE,
JEREMIAH DENTON,
LOWELL P. WEICKER, JR.,
JOHN P. EAST,
CLAIBORNE PELL,
EDWARD M. KENNEDY,
JENNINGS RANDOLPH,
TOM EAGLETON,
CHRIS DODD,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MCGRATH (at the request of Mr. MICHEL), for October 1 and the balance of the session, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DENNY SMITH) to revise and extend their remarks and include extraneous material:)

Mr. HYDE, for 10 minutes, on October 2.

Mr. WEBER, for 60 minutes, on October 2.

Mr. WALKER, for 60 minutes, on October 2.

Mr. GINGRICH, for 60 minutes, on October 2.

Mr. MOORE, for 5 minutes, today.

(The following Members (at the request of Mr. GLICKMAN) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PANETA, for 5 minutes, today.

Mrs. COLLINS, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

Mr. BOLAND, for 60 minutes, on October 3.

Mr. DONNELLY, for 60 minutes, on October 3.

Mr. GAYDOS, for 60 minutes, on October 3.

Mr. BROOKS, for 60 minutes, on October 4.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MARLENEE, to revise and extend his remarks just prior to passage of S. 1967 in the House today.

Mr. WOLPE, to revise and extend his remarks prior to the vote on H.R. 6228.

Mr. HYDE, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,698.

(The following Members (at the request of Mr. DENNY SMITH) and to include extraneous matter:)

Mr. RITTER.
Mr. ROBERT F. SMITH.
Mr. BROOMFIELD.
Mr. BURTON of Indiana.
Mr. KEMP in two instances.
Mr. WEBER.
Mr. CONTE.
Mr. COURTER.
Mr. MICHEL in two instances.
Ms. FIEDLER.
Mr. LEWIS of Florida.
Mr. BEREUTER in two instances.
Mr. SHUMWAY in two instances.
Mr. PURSELL.
Mr. WHITTAKER in two instances.
Mr. WOLF in two instances.
Mr. GREEN.
Mr. MCGRATH.
Mr. DUNCAN in two instances.
Mr. LAGOMARSINO.
Mr. DAUB.
Mr. PORTER in three instances.
Mr. ROBINSON in two instances.
Mr. YOUNG of Florida.

(The following Members (at the request of Mr. GLICKMAN) and to include extraneous matter:)

Mr. MONTGOMERY.
Mr. WON PAT.
Mr. COELHO.
Mr. MARKEY.
Mrs. LLOYD.
Mr. DE LA GARZA in two instances.
Mr. SIKORSKI.
Mr. FASCELL in three instances.
Mr. AUCOIN.
Mr. ROE in two instances.
Mr. HEFTEL of Hawaii.
Mr. ADDABBO.
Mr. LUNDINE.
Mr. VENTO.
Mr. BARNES in five instances.
Mr. FRANK.
Mr. HUBBARD.
Mr. BONIOR of Michigan.
Mr. FORD of Michigan.
Mr. LANTOS.
Mr. SCHUMER.
Mr. BERMAN.
Mr. VANDERGRIFF.
Mr. RODINO in two instances.
Mr. MAZZOLI.
Mr. MATSUI.
Mr. EDWARDS of California.
Mr. LEVINE of California.
Mr. GUARINI.
Mr. HOYER.
Mr. SWIFT.
Mr. FEIGHAN.
Mr. GARCIA.
Mr. PANETTA.
Mr. FORD of Tennessee.
Mr. DICKS.
Mr. BEILENSON.
Mr. CONYERS.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3130. An act to authorize amendments to a certain repayment and water service contract for the Frenchman Unit of the Pick-Sloan Missouri River Basin Program;

H.R. 5164. An act to amend the National Security Act of 1947 to regulate public disclosure of information held by the Central Intelligence Agency, and for other purposes; and

H.J. Res. 653. Joint resolution making continuing appropriations for the fiscal year 1985, and for other purposes.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following title:

S. 197. An act to direct the Secretary of the Department of Transportation to conduct an independent study to determine the adequacy of certain industry practices and Federal Aviation Administration rules and regulations, and for other purposes; and

S. 1841. An act to promote research and development, encourage innovation, stimulate trade, and make necessary and appropraite modifications in the operation of the antitrust laws.

BILLS AND A JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills and a joint resolution of the House of the following titles:

H.R. 1904. An act to extend and improve provisions of laws relating to child abuse and neglect and adoption, and for other purposes;

H.R. 4968. An act to provide for the conveyance by the Secretary of Energy of surface rights to certain parcels of land located on Naval Petroleum Reserve Numbered 2 in the State of California on which private residences are located;

H.R. 3979. An act to establish a national program to increase the availability of information on the health consequences of smoking, to amend the Federal Cigarette Labeling and Advertising Act to change the label requirements for cigarettes, and for other purposes; and

H.J. Res. 653. Joint resolution making continuing appropriations for the fiscal year 1985, and for other purposes.

ADJOURNMENT

Mr. GLICKMAN. Mr. Speaker, I move that the house do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 29 minutes p.m.) under its previous order, the House adjourned until Wednesday, October 3, 1984, at 11 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4102. A letter from the Chief Immigration Judge, Executive Office for Immigration Review, Department of Justice, transmitting a report on aliens whose deportation has been suspended, pursuant to INA, section 244(c) (66 Stat. 214, 76 Stat. 1247); to the Committee on the Judiciary.

4103. A letter from the Administrator, Panama Canal Commission, transmitting a report on claim from the owners of the *SS Washington Trader* for damages that are said to have incurred when the vessel struck the southeast approach wall of Gatun Locks in the Panama Canal, purusant to Public Law 96-70, section 1415(b); to the Committee on the Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XXIV, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. Report on improprieties in the award and management of the Social Security Administration contract with Paradyne Corp. (Rept. No. 98-1125). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee of conference. Conference report on S. 2166 (Rept. No. 98-1126). Ordered to be printed.

Mr. WAXMAN: Committee of conference. Conference report on S. 2048 (Rept. No. 98-1127). Ordered to be printed.

Mr. HAWKINS: Committee of conference. Conference report on S. 2496 (Rept. No. 98-1128). Ordered to be printed.

Mr. HAWKINS: Committee of conference. Conference report on H.R. 4164 (Rept. No. 98-1129). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ASPIN:

H.R. 6355. A bill to provide cities with industrial development action grants to improve the industrial competitiveness of the United States, and for other purposes; to

the Committee on Banking, Finance and Urban Affairs.

H.R. 6356. A bill to amend the Internal Revenue Code of 1954 to impose an excise tax on oil, natural gas, and coal and to limit the amount of severance taxes which may be imposed by States on such natural resources; jointly, to the Committees on Ways and Means and the Judiciary.

By Mr. BURTON of Indiana:

H.R. 6357. A bill to amend title XVIII of the Social Security Act to permit flexible billing and payment arrangements where a physician substitutes on an occasional basis for another physician in solo practice; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. EVANS of Illinois:

H.R. 6358. A bill to establish the Hennepin Canal National Heritage Corridor in the State of Illinois, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. GONZALEZ:

H.R. 6359. A bill to establish a Congressional Advisory Commission on Amateur Boxing, and to amend title 18, United States Code, chapter 89, to prohibit the participation in or promotion of professional boxing; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Mr. LaFALCE:

H.R. 6360. A bill to amend the Internal Revenue Code of 1954 to repeal the tax credit for political contributions made to political action committees; to the Committee on Ways and Means.

By Mr. LEWIS of California:

H.R. 6361. A bill to make available for health and other humanitarian services to the needy a surplus vessel of the United States; to the Committee on Merchant Marine and Fisheries.

By Mr. MONTGOMERY (for himself and Mr. COELHO):

H.R. 6362. A bill to direct the Administrator of Veterans' Affairs to establish a national cemetery in Merced County, CA; to the Committee on Veterans' Affairs.

By Mr. PARRIS:

H.R. 6363. A bill to provide for centralized management and disposal of seized and forfeited property, and for other purposes; to the Committee on Government Operations.

By Mr. MOORE:

H.R. 6364. A bill to reduce individual income tax rates, to increase savings of individuals, to broaden the income tax base, and for other purposes; to the Committee on Ways and Means.

By Mr. PURSELL:

H.R. 6365. A bill to encourage the rendering of in-flight emergency care aboard aircraft by requiring the placement of emergency first aid medical supplies and equipment aboard aircraft and by relieving appropriate persons of liability for the provision and use of such equipment and supplies; to the Committee on Public Works and Transportation.

By Mr. RAHALL:

H.R. 6366. A bill to extend the Appalachian Regional Development Act to provide transitional assistance to the Appalachian region; to the Committee on Public Works and Transportation.

By Mr. SIKORSKI:

H.R. 6367. A bill to amend titles XVIII and XIX of the Social Security Act with respect to requirements that hospitals must meet in order to provide swing-bed services under the medicare and medicaid programs; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. SIMON:

H.R. 6368. A bill to amend title II of the Social Security Act to provide that the adopted child of an individual shall be treated the same as a natural child of such individual for purposes of determining his or her eligibility for benefits based on such individual's wage record, regardless of the time the adoption occurred; to the Committee on Ways and Means.

By Mr. THOMAS of California:

H.R. 6369. A bill to establish a defense petroleum reserve designed to meet emergency fuel needs for national defense purposes, to authorize continued production of petroleum from the naval petroleum reserves, and for other purposes; to the Committee on Armed Services.

By Mr. WEAVER (for himself, Mr. HOWARD, Mr. MATSUI, Mr. HEFTEL of Hawaii, Mr. FISH, and Mr. MRAZEK):

H.R. 6370. A bill to ensure the responsible and effective use of antibiotics in farm animal husbandry, and for other purposes; to the Committee on Agriculture.

By Mr. ASPIN:

H.R. 6371. A bill to establish a revolving fund to make loans to employee groups to fund studies to investigate a reorganization or new incorporation of an existing business enterprise as an employee owned business enterprise, and to fund professional services to implement a feasibility study and to develop and insure the success of an employee owned business enterprise; to the Committee on Banking, Finance and Urban Affairs.

H.R. 6372. A bill to amend the trade laws of the United states to improve and expedite trade relief procedures, to make trade relief more accessible to small businesses, and for other purposes; to the Committee on Ways and Means.

H.R. 6373. A bill to provide tax incentives for enterprise zones, and for other purposes; jointly, to the Committees on Ways and Means; the Judiciary; and Banking, Finance and Urban Affairs.

By Mr. BLILEY:

H.R. 6374. A bill to ensure fairness and provide assistance to children and families; jointly, to the Committees on Education and Labor, Energy and Commerce, Foreign Affairs, Ways and Means, and the Judiciary.

By Mr. HEFTEL of Hawaii:

H. Con. Res. 368. Concurrent resolution calling for a 1-year freeze in real Federal spending, and for other purposes; to the Committee on Rules.

By Mr. MITCHELL:

H. Res. 599. Resolution to amend the Senate amendment to the text of the bill H.R. 4209; rules suspended; considered and agreed to.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mrs. JOHNSON introduced a bill (H.R. 6375) for the relief of John Jaramillo and Rosa Maria Jaramillo, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2454: Mr. BEDELL.

H.R. 3016: Mr. MCKINNEY, Mr. RATCHFORD, Mr. BREAUX, Mrs. KENNELLY, Mr. WALGREN, Mr. KOLTER, Mr. DURBIN, and Mr. GILMAN.

H.R. 3487: Mr. BARNARD, Mr. BEREUTER, Mr. BRITT, Mr. LEATH of Texas, Mr. LOEFFLER, Mr. NEAL, Mr. PACKARD, and Mr. SHUSTER.

H.R. 3821: Mr. KOLTER, Mr. MINISH, Mr. MCCAIN, Mr. SIMON, Mr. DAUB, Mr. GREGG, Mr. WAXMAN, Mr. BURTON of Indiana, and Mrs. COLLINS.

H.R. 4300: Mr. PACKARD.

H.R. 4457: Mr. BIAGGI.

H.R. 4458: Mr. TALLON.

H.R. 5237: Mr. MITCHELL and Mr. WILLIAMS of Montana.

H.R. 5254: Mr. MAVROULES.

H.R. 5305: Mr. JACOBS and Mr. WEAVER.

H.R. 5307: Mr. BARNES, Mr. COELHO, Mr. CONYERS, Mr. FOGLIETTA, Mr. GEPHARDT, Mr. JEFFORDS, Mr. MURPHY, Mr. ROSE, Mr. SABO, Mr. SHARP, and Mr. SMITH of Florida.

H.R. 5423: Mr. DERRICK.

H.R. 5446: Mr. VALENTINE, Mr. WYDEN, and Mr. COUGHLIN.

H.R. 5948: Mr. DE LUGO.

H.R. 5971: Mr. LUKEN, Mr. STOKES, Mr. FRANK, Mr. MITCHELL, Mrs. BOXER, Mr. WALGREN, Mr. KILDEE, Mr. EDWARDS of California, Mr. CONYERS, Mr. BERMAN, Mr. SIMON, Mr. MRAZEK, Mr. BATES, Mr. LEVIN of Michigan, Mr. WAXMAN, Mr. VENTO, Mr. MARTINEZ, Mr. ECKART, Mr. HUGHES, and Mr. MARKEY.

H.R. 6021: Mr. GILMAN, Mr. GUNDERSON, Mr. MAZZOLI, Mr. GOODLING, and Mr. ROSE.

H.R. 6053: Mr. GINGRICH, Mr. HOWARD, Mr. YOUNG of Florida, Mr. MCCAIN, Mr. LOWRY of Washington, Mrs. BURTON of California, Mr. DURBIN, Mr. DANIEL, Mr. CONTE, Mr. ROWLAND, Mr. KOLTER, Mr. VALENTINE, and Mr. WEAVER.

H.R. 6062: Mr. DYMALLY.

H.R. 6066: Mr. ROYBAL.

H.R. 6078: Mr. ACKERMAN.

H.R. 6079: Mr. MINISH, Mr. LaFALCE, and Mr. FAUNTROY.

H.R. 6080: Mr. BATES.

H.R. 6082: Mrs. KENNELLY.

H.R. 6117: Mr. ANDERSON, Mr. GEJDENSON, Mr. LAGOMARSINO, Mr. LEVIN of Michigan, and Mr. MAVROULES.

H.R. 6162: Mrs. BOXER, Mrs. MARTIN of Illinois, and Mr. RITTER.

H.R. 6172: Mr. MAZZOLI.

H.R. 6187: Mr. CLAY.

H.R. 6207: Mr. MARTINEZ, Mr. SIMON, and Mr. FROST.

H.R. 6210: Mr. WILLIAMS of Montana and Mr. LaFALCE.

H.R. 6231: Mr. CHANDLER.

H.R. 6239: Mr. EVANS of Illinois, Mr. ALBOSTA, Mr. OWENS, Ms. Kaptur, Mr. HUGHES, and Mr. HAMILTON.

H.R. 6244: Mr. RATCHFORD, Mr. MCNULTY, Mr. DELLUMS, Mr. MCHUGH, Mr. WOLPE, Mr. RANGEL, Mr. GLICKMAN, Mr. CROCKETT, Mr. LEVINE of California, Mr. D'AMOURS, Mr. OWENS, Ms. KAPTUR, Mr. MARTINEZ, and Mr. BEDELL.

H.R. 6300: Mr. LEVITAS, Mr. ROYBAL, Mr. SLATTERY, Mr. BRITT, and Mr. PANETTA.

H.R. 6307: Mr. MATSUI, Mr. BEVILL, Mr. SCHUMER, Mr. YATES, Mr. BERMAN, Mr. HERTEL of Michigan, and Mr. LEHMAN of Florida.

H.J. Res. 441: Mr. MINETA and Mr. FOGLIETTA.

H.J. Res. 507: Mr. MCDADE, Mr. TOWNS, Mr. BREAUX, Mr. BILIRAKIS, Mr. RALPH M. HALL, Mr. PRICE, Mr. CONTE, Mr. MOODY, Mr. FUQUA, Mr. STRATTON, Mr. FORD of Tennessee, Mr. MURTHA, Mr. SIKORSKI, Mr. WALGREN, Mr. ACKERMAN, Mr. SOLOMON, Mr. ANTHONY, Mr. LOEFFLER, Mr. HUTTO, Mr. GILMAN, Mr. COYNE, Mr. HEFNER, Mr. YATRON, Mr. SABO, Mr. IRELAND, Mr.

MARKEY, Mr. ROEMER, Mr. MCCLOSKEY, Mr. MORRISON of Connecticut, Mr. LUNDINE, Mr. LOWRY of Washington, Mr. HARKIN, Mr. OTTINGER, Mr. SHELBY, Mr. BROOKS, Mr. D'AMOURS, and Mr. MONTGOMERY.

H.J. Res. 525: Mr. JONES of North Carolina, Mr. BROYHILL, Mr. FEIGHAN, Mr. MCCURDY, Mr. ENGLISH, Mr. DICKS, Mr. LEVITAS, Mr. LOWERY of California, Mr. MATSUI, Mr. HUTTO, Mr. KEMP, Mr. COELHO, Mr. ARCHER, Mr. DONNELLY, Mr. HANSEN of Idaho, Mr. SABO, Mr. SCHUMER, Mr. MITCHELL, Mr. YOUNG of Florida, Mr. VALENTINE, Mr. MURPHY, Mr. PRITCHARD, Mr. LOTT, Mr. WISE, Mr. ROSE, Mr. ST GERMAIN, Mr. WALGREN, Mr. GRAY, Mr. PRICE, Mr. SAWYER, Mr. JEFFORDS, Mr. SILJANDER, Mr. STANGELAND, Mr. DANIEL, Mr. STARK, Mr. TAUKE, Mr. WEAVER, Mr. WILLIAMS of Ohio, Mr. YOUNG of Alaska, Mr. LUNDINE, Mr. ROGERS, Mr. MARTIN of North Carolina, Ms. MIKULSKI, Mr. MINETA, Mr. FLIPPO, Mr. QUILLEN, Mr. TRAXLER, Mr. SYNAR, Mr. DYMALLY, Mr. BENNETT, Mr. BORSKI, Mr. LONG of Maryland, Mr. KOLTER, Mr. BOEHLERT, Mr. DURBIN, Mr. ROYBAL, Mrs. KENNELLY, Mr. KASICH, Mr. BREAUX, Mr. BONER of Tennessee, Mr. YOUNG of Missouri, Mr. MORRISON of Connecticut, Mr. RAHALL, Mr. HARRISON, Mr. VANDER JAGT, Mr. ERDREICH, Mr. BEILENSON, Mr. MILLER of Ohio, Mr. AKAKA, Mr. SCHEUER, Mr. LUKEN, Mr. MINISH, Mr. BADHAM, Mr. HILER, Mr. FORD of Tennessee, Mr. YATRON, Mr. HAYES, Mr. WYDEN, Mr. BROOKS, Mr. BROWN of California, Mr. BOSCO, Mr. MARTINEZ, Mr. AUCOIN, Mr. RODINO, Mr. HAWKINS, Mr. BROWN of Colorado, Mr. KRAMER, Mr. CLAY, Mr. LOWRY of Washington, and Mr. BRYANT.

H.J. Res. 528: Mr. SIMON, Mr. MATSUI, and Mr. LOWERY of California.

H.J. Res. 556: Mr. SEIBERLING, Mr. FOGLIETTA, Mr. MCDADE, Mr. MRAZEK, Mr. DANIEL B. CRANE, Mr. PHILIP M. CRANE, Mr. MICA, Ms. FIEDLER, Mrs. JOHNSON, Mr. LEVITAS, Mr. TAYLOR, Mr. WALKER, Mr. HAMMERSCHMIDT, Mr. BURTON of Indiana, Mr. ANNUNZIO, Mrs. MARTIN of Illinois, Mr. SCHEUER, Mr. MONTGOMERY, Mr. EDWARDS of Oklahoma, Mr. GINGRICH, Mr. PASHAYAN, Mr. UDALL, Mr. CLINGER, Mr. FASCELL, Mr. FEIGHAN, Mr. FISH, Mr. FROST, Mr. SAWYER, Mr. HYDE, Mr. YOUNG of Alaska, Mr. KOSTMAYER, Mr. MARTIN of New York, Mr. MARTINEZ, Mr. WILSON, Mr. TORRES, Mr. THOMAS of Georgia, Mr. SIKORSKI, Mr. SHANNON, Mr. ROWLAND, Mr. MCNULTY, Mr. RAHALL, Mr. REGULA, Mrs. ROUKEMA, Mr. ROBERT F. SMITH, Mr. SUNIA, Mr. WON PAT, Mr. WORTLEY, Mr. DYMALLY, Mr. ROTH, Mr. STANGELAND, Mr. MITCHELL, Mr. AKAKA, Mr. GRAY, Mr. HARKIN, Mr. HUGHES, Mr. JACOBS, Mr. KASTENMEIER, Mr. LEHMAN of Florida, Mrs. LLOYD, Mr. MCCURDY, Mr. MATSUI, Mr. MOAKLEY, Mr. MURPHY, Mr. NEAL, Mr. PORTER, Mr. ROYBAL, Mr. SAVAGE, Mr. TALLON, Mr. TRAXLER, Mr. WALGREN, Mrs. SCHNEIDER, Mr. WOLF, Mr. FLORIO, Mr. HEFTEL of Hawaii, Mr. MACK, Mr. HUBBARD, Mr. MORRISON of Connecticut, Mr. DICKS, Mr. TOWNS, Mr. WIRTH, Mr. LOWRY of Washington, Mr. YOUNG of Florida, Mr. HAWKINS, Mr. D'AMOURS, Mr. DARDEN, Mr. COYNE, and Mr. DOWNEY of New York.

H.J. Res. 565: Mr. GARCIA, Mr. SHUSTER, Mr. HALL of Ohio, Mr. PHILIP M. CRANE, Mr. MCHUGH, Mr. ACKERMAN, Mr. BATES, Mr. BERMAN, Mr. BOLAND, Mr. AKAKA, Mr. CONYERS, Mr. SAWYER, Mrs. JOHNSON, Mr. PURSELL, Mr. COURTER, Mr. HOPKINS, Mr. MOORHEAD, Mr. WOLPE, Mr. LIVINGSTON, Mr. STRATTON, Mr. DOWNEY of New York, Mr. FRANK, Mr. PEPPER, Mr. REID, Mr. PASHAYAN, Mr. WILLIAMS of Ohio, Mr. MAZZOLI, Mr. IRELAND, Mr. BARTLETT, and Mr. LEHMAN of Florida.

H.J. Res. 591: Mr. BETHUNE.

H.J. Res. 609: Mr. BETHUNE.

H.J. Res. 623: Mr. HUGHES, Mr. OWENS, Mr. WATKINS, Mr. DWYER of New Jersey, and Mr. ENGLISH.

H.J. Res. 636: Mr. SISISKY and Mr. WEAVER.

H.J. Res. 638: Mr. ANTHONY.

H. Con. Res. 21: Mr. LAFALCE.

H. Con. Res. 105: Mr. SHUSTER, and Mr. BEDELL.

H. Con Res. 200: Mr. ADDABBO, Mr. BARNES, Mr. BERMAN, Mrs. BOGGS, Mr. BOLAND, Mrs. BOXER, Mr. CARPER, Mr. COLEMAN of Texas, Mr. CROCKETT, Mr. DINGELL, Mr. DURBIN, Mr. DYSON, Mr. EVANS of Illinois, Mr. FASCELL, Mr. FAUNTROY, Mr. FOWLER, Mr. FRANK, Mr. FROST, Mr. GEJDENSON, Mr. GLICKMAN, Mr. GONZALEZ, Mrs. HALL of Indiana, Mr. HAWKINS, Mr. HAYES, Mr. HORTON, Mr. HOYER, Ms. KAPTUR, Mrs. KENNELLY, Mr. KILDEE, Mr. LANTOS, Mr. LEHMAN of Florida, Mr. LELAND, Mr. LEVIN of Michigan, Mr. LUKEN, Mr. LUNDINE, Mr. MCNULTY, Mr. MATSUI, Ms. MIKULSKI, Mr. MINETA, Mr. MITCHELL, Mr. MOODY, Mr. MORRISON of Connecticut, Mr. PANETTA, Mr. PATTERSON, Mr. RANGEL, Mr. RATCHFORD, Mr. RICHARDSON, Mr. ROE, Mr. ROYBAL, Mr. SMITH of Florida, Mr. STARK, Mr. STOKES, Mr. STUDDS, Mr. TOWNS, Mr. UDALL, Mr. WEAVER, Mr. WIRTH, Mr. WON PAT, Mr. MCCLOSKEY, Mr. BEDELL, Mr. JEFFORDS, Mr. VENTO, and Mr. BRITT.

H. Con. Res. 260: Mr. LEACH of Iowa and Mr. MURPHY.

H. Con. Res. 302: Mr. LEACH of Iowa.

H. Con. Res. 306: Mr. MCCOLLUM, Mr. BARTLETT, Mr. MCCANDLESS, Mr. PORTER, and Mr. COATS.

H. Con. Res. 350: Mr. BLILEY and Mr. WORTLEY.

H. Res. 518: Mrs. HOLT.

H. Res. 590: Mr. PENNY, Mr. GEPHARDT, Mr. KASICH, Mr. MARTIN of North Carolina, Mr. YOUNG of Florida, Ms. KAPTUR, and Mr. MACKAY.

H. Res. 593: Mr. WON PAT, Mr. DASCHLE, Mr. SAVAGE, Mr. MADIGAN, Mr. PRITCHARD, Mr. ANNUNZIO, Mr. ROE, Mr. LELAND, Mr. RINALDO, Mr. BORSKI, Mr. CHAPPELL, Mr. EVANS of Iowa, Mr. HYDE, Mr. PHILIP M. CRANE, Mr. EVANS of Illinois, Mr. CORCORAN, Mr. COATS, Mr. MACKAY, Mr. MOLINARI, Mrs. COLLINS, Mr. ROSTENKOWSKI, Mr. ERLENBORN, Mr. CARNEY, Mr. SIMON, Mr. MCCAIN, Mr. RUSSO, Mr. MATSUI, Mr. BRYANT, Mr. DANIEL B. CRANE, Mr. HILLIS, Mr. O'BRIEN, Mr. PORTER, Mrs. MARTIN of Illinois, Mr. CHENEY, Mr. SHAW, Mrs. JOHNSON, Mr. SUNIA, Mr. GEKAS, Mr. TAUKE, Mrs. BOXER, Mr. PRICE, and Mr. HAYES.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

[*Omitted from the Record of October 1, 1984*]

H.R. 2729: Mr. STUDDS.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

S. 607

By Mr. FRENZEL:

(Amendment to Oxley amendment)

—Page 2, beginning on line 21, strike out "$186,000,000 for fiscal year 1987, $214,000,000 for fiscal year 1988, and $246,000,000 for fiscal year 1989" and insert in lieu thereof "$134,550,000 for fiscal year 1987, $139,260,000 for fiscal year 1988, and $144,130,000 for fiscal year 1989".

—Page 2, beginning on line 10, strike out "$14,000,000 for fiscal year 1985, $16,000,000 for fiscal year 1986, and $18,000,000 for fiscal year 1987," and insert in lieu thereof "$12,213,000 for fiscal year 1985, $12,640,000 for fiscal year 1986, and $13,080,000 for fiscal year 1987,".

—Strike out "$200,000,000 for fiscal year 1987, $225,000,000 for fiscal year 1988, and $250,000,000 for fiscal year 1989" and insert in lieu thereof "$134,000,000 for fiscal year 1987, $139,000,000 for fiscal year 1988, and $144,130,000 for fiscal year 1989".

—Strike out "$25,000,000 for fiscal year 1985, $35,000,000 for fiscal year 1986, and $40,000,000 for fiscal year 1987," and insert in lieu thereof "$12,213,000 for fiscal year 1985, $12,640,000 for fiscal year 1986, and $13,080,000 for fiscal year 1987".

By Mr. OXLEY:

—Page 2, after line 20, insert the following:

(c) Amounts appropriated for purposes of such section 391(k) for fiscal year 1987, 1988, or 1989 may not be obligated or expended to the Public Broadcasting Fund in excess of the amount specifically authorized by the amendment made by subsection (a)(3) for such fiscal year.

—Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Public Broadcasting Amendments Act of 1984".

AUTHORIZATION OF APPROPRIATIONS FOR PUBLIC TELECOMMUNICATIONS FACILITIES

SEC. 2. (a) Section 391 of the Communications Act of 1934 (47 U.S.C. 391) is amended—

(1) by striking out "and" after "1983," and

(2) by inserting after "1984," the following: "$14,000,000 for fiscal year 1985, $16,000,000 for fiscal year 1986, and $18,000,000 for fiscal year 1987,".

(b) Amounts appropriated for purposes of such section 391 for fiscal year 1985, 1986, or 1987 may not be obligated or expended in excess of the amount specifically authorized by the amendment made by subsection (a)(2) for such year.

AUTHORIZATION OF APPROPRIATION FOR PUBLIC BROADCASTING

SEC. 3. (a) Section 396(k)(1)(C) of the Communications Act of 1934 (47 U.S.C. 396(k)(1)(C)) is amended—

(1) by striking out "and 1986" and inserting in lieu thereof "1986, 1987, 1988, and 1989";

(2) by striking out "and" after 1985,"; and

(3) by inserting before the period at the end thereof the following: ". $186,000,000 for fiscal year 1987, $214,000,000 for fiscal year 1988, and $246,000,000 for fiscal year 1989".

(b) Section 396(k)(3)(A)(i)(II) of such act (47 U.S.C 396(k)(3)(A)(i)(II)) is amended by striking out "research, training, technical assistance, engineering, instructional support, payment of interest on indebtedness,".

(c) Amounts appropriated for purposes of such section 391(k) for fiscal year 1987, 1988, or 1989 may not be obligated or ex-

pended to the Public Broadcasting Fund in excess of the amount specifically authorized by the amendment made by subsection (a)(3) for such fiscal year.

CRITERIA FOR APPROVAL AND EXPENDITURES BY SECRETARY OF COMMERCE

SEC. 4. Section 393 of the Communications Act of 1934 (47 U.S.C. 393) is amended by striking out subsection (c) and by redesignating subsection (d) as subsection (c).

REPEAL OF THE UNRELATED BUSINESS INCOME TAX PENALTY

SEC. 5. Section 396(k) of the Commuinications Act of 1934 (47 U.S.C. 396(k)) is amended by striking out paragraph (8) and by redesignating paragraphs (9) and (10) as paragraphs (8) and (9), respectively.

—Page 1, line 7, insert "(a)" after "SEC. 2.".

Page 2, after line 4, insert the following:

(b) Amounts appropriated for purposes of such section 391 for fiscal year 1985, 1986, or 1987 may not be obligated or expended in excess of the amount specifically authorized by the amendment made by subsection (a)(2) for such year.

EXTENSIONS OF REMARKS

ANNIVERSARY OF KAL FLIGHT 007

HON. DON RITTER
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. RITTER. Mr. Speaker, I observed with increasing dismay media reaction to the first anniversary of the shooting down of the Korean Air Lines flight 007. Many commentators, rather than condemning this Soviet barbarism, attempted to excuse and justify it as a justification reaction to the American provocation of using KAL 007 for a spy mission.

A few weeks ago, the New York Tribune published an article by Bruce E. Herbert, a former professional staff member of one of the committees of this body. It presents the theory that the Soviets could have caused KAL 007 to unknowingly fly into their airspace and thus be tracked and destroyed. We may never know if Mr. Herbert's theory is correct but it is one of the theories which could explain the inexplicable.

Mr. Herbert has flown thousands of hours in the Naval Air Reserve as a transport aircraft commander and knows navigation subjects well. I recommend his article to my colleagues.

[From the New York Tribune, Aug. 31, 1984]

TERROR ANNIVERSARY: KAL SLAUGHTER WAS PLANNED

(By Bruce Herbert)

It is now a year since the Soviets shot down Korean Air Lines Flight 007 over the Sea of Japan. What little world interest now remains continues to focus on the Soviet regime's motivation for such a barbarous act. The questions that should have been tenaciously explored, however, are: Why did the airliner fly so deeply into Soviet airspace, and why did this gross navigational error apparently go unnoticed by the crew?

The Soviets' violent reaction to intrusion of their airspace is so well established that no professional airman knowingly flies into even its fringes. Since 1950 there have been more than a score of attacks on Western Aircraft—military and civilian—by the Soviet fighters. Some of these intrusions have been deliberate spy missions (e.g., Gary Powers flying the U-2 in 1960), but most have been due to faulty navigation. Several attacks took place over international waters abutting Soviet or satellite territories. The lesson is clear: Stay away from even the appearance of approaching Soviet airspace without prior clearance.

FATEFUL NIGHT

And yet on the night of Aug. 31-Sept. 1, 1983, Korean Air Lines 007 entered the airspace over Kamchatka Penninsula, continued through the Soviet Sea of Okhotsk, passed over Sakhalin Island and was shot down by an Su-15 fighter shortly after it passed Kholmsk.

Recorded voice transmissions from the airliner show clearly that the crew did not know that the aircraft was north of the correct course. In all, KAL 007 was in Soviet airspace for more than two hours and was within minutes of the safety of international airspace near the Japanese island of Hokkaido when it was destroyed.

Information available for a year should also have raised a host of subordinate but nonetheless intriguing questions. Since there are several fighter bases on the southern end of Kamchatka, why was the airliner not intercepted and shot down shortly after entering Soviet airspace? That failing, why weren't aircraft scrambled from any of the airfields on the Kuril'skiye Ostrova chain of islands between Kamchatka and Hokkaido or from the east coast of Sakhalin?

Unless one subscribes to the thoroughly unlikely theory that Soviet air defenses are a disaster and that it took two hours to detect, track, intercept and destroy as huge target flying a straight course at subsonic speed on a clear night, there is only one possible explanation for the delay in attacking KAL 007. Given the past history of furious and immediate reaction to penetrations of their airspace, the Soviets must have known in advance that the airliner would enter their airspace northwest of the Aleutians and that they chose the time and place of its destruction.

The only way the Soviets could have known the aircraft would intrude is if they had arranged that it do so.

COMPUTER-NAVIGATED

Practically all Western international air carriers navigate primarily by means of the inertial navigation systems (INS) manufactured by Litton Industries. Unlike military aircraft long-range systems (such as NAVSTAR), which navigate by means of satellites and key heavenly bodies, INS relies upon the inputting of data independent of geographical or celestial masses. The INS is basically a computer, and like all computers, Garbage In—Garbage Out.

INS is programmed by inputting latitude and longitude coordinates for the proposed flight plan. These are punched into the system by the aircraft commander. The operation is monitored by the copilot and, on some airlines, the flight engineer as well. Most Boeing 747s have three INS on board for purposes of reliability and safety ("redundancy" as it is called in military jargon). Should one INS fail, the other two would take over.

Most important, however, the three INS act as checks on each other but only insofar as to the sameness of the input data. As long as the latitude and longitude waypoints punched into the computer are the same, regardless of whether or not they are correct for the flight plan, there will be no indication of malfunction.

On the flight from Anchorage to Seoul, there would have been about a dozen of these waypoints programmed into the INS system to carry it on Airway Route R-20 safely south of Soviet airspace. Even so, to a pilot it is an onerous task to manually program the system three times. For this reason, the airline industry uses pre-recorded magnetic strip cards to program on-board computers and navigation systems rapidly and error-free.

The "Route Cards" are commercially produced and are individually keyed for specific routes (New York-London, San Francisco-Tokyo, Miami-Caracas, etc.). Anchorage-Seoul is one of the routes available on a route card and may have been used by Korean Air Lines.

SUBSTITUTED CARDS?

Did the Soviets substitute KAL 007's Anchorage-Seoul route card with another containing incorrect coordinates, thus taking the airliner north of the proper flight path? Could they have done it?

We may never know the answer to the first question, but the answer to the second is "yes." The route cards are stored on board the 747 aft of the co-pilot's seat in a bulk-head together with the air navigation charts, En Route Supplements, Airman's Guide, etc. They are clearly labeled and are readily accessible to anyone on the flight deck. While the airliner is on the ground, maintenance personnel pass freely in and out of the cockpit. Anyone wearing coveralls and Mickey Mouse ears (noise suppression headphones) around his neck would be unchallenged.

The track of the doomed aircraft certainly indicates a peculiar deviation from the normal flight plan. The first quarter of the flight—all within American radar control where any error in navigation immediately would have been noted—was precisely on course. KAL 007 then very gradually began veering north above Amchitka Island in the Aleutian chain—just out of Federal Aviation Administration radar range.

The drift north slowly increased and, had the flight continued, would have taken the airliner over Vladivostok and into China at Harbin. Japanese radar first picked up KAL 007 north-northeast of Hokkaido when Capt. Chon radioed to request an altitude change from flight level 320. Before the Japanese could react to the radar information and warn the aircraft of its danger, it was shot down during its climb to 35,000 feet. Thus, for 2½ hours, the only radar "painting" of the off-course airliner was Soviet.

But wouldn't Chon have had other cockpit indications that he was off course? Probably; with KAL 007's slow drift to the north, his two gyro and one standby compasses would have shown consistently that he was three to five degrees right of course. This would have been considered an acceptable deviation, however, in light of the extraordinary accuracy and reliability of his three on-board INS.

Although the crew wouldn't have been able to see the Earth's surface since shortly after clearing the Alaska Peninsula (there were stratus and cirrus cloud decks from 6,000 to 14,000 feet all along the aircraft's track), the two on-board weather radars

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

should briefly have shown a land mass when KAL 007 overflew Kamchatka.

If Chon was using his weather radars to identify the landfall of northern Japan and Hokkaido, he apparently though he saw it in the very similar radar signature of Soviet Sakhalin. One of his very last reports gave his position as 113 nautical miles south of Hokkaido. Japanese radar showed KAL 007 more than 100 miles north of the island.

If the destruction of KAL 007 was planned by the Soviets before the aircraft even taxied out from the terminal at Anchorage, why did they do it? The answer may lie partly in the unusual opportunity offered by a combination of circumstances the night of Aug. 31–Sept. 1 in Alaska.

KAL 015 from Los Angeles landed at Anchorage shortly before KAL 007 arrived from New York. The two aircraft were on the ground side by side for more than an hour. The fueling, other servicing and loading of two huge 747s simultaneously would have added to the normal activity surrounding the departure of a single long over-water flight. In the nighttime preflight confusion, the presence of an unauthorized person on the flight deck would not have been noticed.

KAL 015 took off for Seoul 14 minutes after its doomed sister aircraft. It is now common knowledge that three staunchly anti-communist members of Congress were on board: Sen. Jesse Helms, Sen. Steven Symms and Rep. Carroll Hubbard, Jr.

Another passenger item, however, has been almost totally ignored by the media. By telex on Friday, Aug. 26, Korean Air Lines in New York advised Seoul that in addition to McDonald, these White House, State Department and Department of Defense VIPs were to be on board Wednesday's flight: Donald Mann, associate director, Presidential National Security affairs; Dr. Donald Stims, deputy undersecretary of Defense, Policy—Nuclear Targeting; William Scheider Jr., undersecretary of State—Security; and Robert McCormick, assistant secretary of State—Security. In actuality, all four left New York for Korea earlier and made the trip on Sunday's flight instead. Although their original reservations had been cancelled for the later flight, Korean Air Lines did not send another telex correcting Wednesday's manifest.

KAL 007, as we know, actually carried Lawrence P. McDonald, the most vehement and vocal critic of the Soviet regime in the House of Representatives.

If the increasingly strong circumstantial as well as direct evidence of Bulgarian complicity in the attempted assassination of the pope is correct, it hardly seems likely the Soviets would hesitate to shoot down a civilian airliner in order to brutally reaffirm their power and contempt for the Free World, while at the same time eliminating avowed enemies of the Soviet state.●

THE PRAIRIE WIND

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. DE LA GARZA. Mr. Speaker, Time magazine of September 10 has an editorial by Hugh Sidey entitled "Pay Heed to the Prairie," which I think is worthy to share with my colleagues:

PAY HEED TO THE PRAIRIE

(The Presidency by Hugh Sidey)

Hear the language of the prairie wind. The muffled groan of a forgotten and rusted windmill. The taut, thin cry of a young hawk at a thousand feet poised on invisible thermal crests. The worried whispers of hundreds of millions of stalks of corn, ear to fat ear, leaf on leaf. It all says more in ten minutes about beginnings and endings, about hopes and disappointments than Ronald Reagan and Walter Mondale have said in a year—a loud, loud year.

Angry shouts from Washington and Moscow, arguments between Republicans and Democrats, thunderous political conventions, ear-splitting Olympic extravaganzas, mines and missile attacks, noise and people and people making noise. The beaches are filled and the forests infiltrated, and even the high mountain passes have traffic jams of mobile homes. So come to the prairie and listen. Nobody goes there in August—except grasshoppers and God.

Strange how the pressures of the world seem to have cropped out in the center of the country. The fecund fields of Adair County, Iowa, yield more corn than anyone can sensibly conceive (5,308,000 bu. made up of at least 400 billion individual kernels, any one of which makes a good chew for a boy doing nothing but hiking in the sun and tasting the earth's power). That is corn coveted by the adversary, the Soviet Union. Corn that would feed the hungry of Bangladesh if they could only get it. Corn that is so abundant that much of it is packed away and stored and sometimes rots. Corn that is crushing the very genius that produced it.

But beneath those miracle plants the precious mantle of topsoil is washing away, some 13 tons per acre every year. The experts say a tolerable limit is a five-ton loss. So if nothing more is done, in less than 50 years the great resource on which rests our national strength and confidence will begin to ebb. And we could lose more than that, says Lester Brown of the Worldwatch Institute in Washington. A thousand years ago, the Mayan civilization in the Guatemalan lowlands disappeared in a few decades after 17 centuries of development. Modern analysis found that this agriculture-intensive society collapsed when the topsoil ran out.

Pay heed, Reagan. High interest rates, which these folks link to the huge federal deficits, have brought bankruptcy to more farmers than at any other time since the Great Depression. Families, after generations on the same land, have given up and drifted off to the melancholy ranks of the rootless. Pay heed, Mondale. The last thing they need is another tax increase on top of real estate taxes, sales taxes, income taxes, Social Security taxes. And stores that long ago lost their merchants have filled up with Government offices where the personnel never seems to diminish, and their pay always seems to go up, never down like those who try to create the wealth and risk all they have and never go out on strike.

Out here on the prairies, they still communicate with the Soviets about growing food, and they wonder what is wrong with the big politicians that they cannot manage to talk about preventing nuclear disaster. International trade is for the moment a lot more important than school prayer and the ERA. The Pentagon's excesses and all the saber rattling around the world are a curse in a place whose whole reason for being is to enrich life every year with plowshares, whose profound joy is to bring sun and earth together and to nurture a golden bounty for all people, without which there can be no peace.

Listen to the prairie wind. Sometimes angry, but more often not. Mostly the harbinger of gentle though inevitable change, a soothing companion, a bearer of wisdom in the last days of August when God does his work alone.

Mr. Speaker, my colleagues: We need to help God—He should not have to do it alone.●

THE FERES DOCTRINE

HON. JAMES F. McNULTY, JR.

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. McNULTY. Mr. Speaker, as Members of this distinguished body know, I have been encouraging attention to the problem of medical malpractice in the institutions maintained by the Department of Defense for the care of the men and women of the Armed Forces. It is the case that the great majority of physicians and hospital technicians are dedicated and competent people who are doing their best to see to it that the men and women under their care are cared for well.

But no system of medical care is free of error and so it is the case that due process of law is available for virtually every person in our Nation in the event there is believed to be a less than satisfactory level of medical care. Tragically this is not available to the men and women of our Armed Forces on account of a judicial determination best known as "the Feres Doctrine."

In March 1983 I introduced H.R. 1942 which would extend the right of due process of law under carefully defined circumstances for men and women of our Armed Forces where there is reason to believe a medical malpractice has occurred. I urge my colleagues to consider becoming cosponsors of this needed legislation and help to advance it in the legislative process.

A valuable account of the problems of people affected by the Feres Doctrine has been published by Richmond Times-Dispatch. Mr. Speaker, I ask that it is inserted into the RECORD at this point. (There follows a dispatch from the Richmond Times-Dispatch, September 16, 1984.)

FRUSTRATED SURVIVORS OF SERVICE PEOPLE BAND TOGETHER

(By Jean McNair)

HAMPTON.—Ruth Savala sat at her dining room table, turning the pages of a thick, loose-leaf notebook filled with letters about servicemen who mysteriously died during peacetime duty.

An Arkansas mother wrote that the Army sent her the body of her 18-year-old son "heavily made up to cover the battering and bruises he had sustained."

A California woman wrote that her daughter, an Army cook, died during a field training exercise and "there are a lot of unanswered questions."

A 17-year-old Army private was ordered to rake the grounds at Fort Benning, Ga., even after he suffered dizziness and vomiting. He died later that day in a hospital, his mother wrote.

A Minnesota woman wrote that her family had never received a full explanation of her 19-year-old brother's death in 1966 at the hands of a hit-and-run driver at the Norfolk Naval Base.

"There are so many cases like this that we come across," said Mrs. Savala, who with her husband, Frank, runs a chapter of Citizens Against Military Injustice, covering Virginia, West Virginia, Maryland and the District of Columbia.

The Savalas can empathize with families who lost a loved one during peacetime service.

Their 23-year-old son, Air Force Lt. Frank M. Savala Jr., died aboard a C-130 plane that crashed in Turkey in April 1982.

Their frustrated efforts to find the reason for the crash and have their son buried with his uniform led them to join CAMI.

Lacking a typewriter, Mrs. Savala writes letter's in longhand to Pentagon officials and members of Congress seeking help for service men and women and their families. Some cases involve unexplained deaths, others medical malpractice at military hospitals, others physical or mental abuse.

Savala, who gave 30 years to the Army and Air Force and fought in three wars, has visited servicemen in trouble and traveled to Washington to seek help.

"We're doing it in memory of our son," Mrs. Savala said.

After repeated efforts to get the Air Force report on the crash, the Savalas learned that one of the plane's engines fell apart because a bolt had not been checked during a maintenance inspection.

Despite his anger, Savala still believes in the military.

"I have no animosity toward the military. I'm going to hound them until they get their stuff together," he said. "Somebody needs to be held accountable. This is all we're asking."

The Savalas have had some success. The Air Force has changed its policy to require that uniforms be buried with deceased service men and women.

Now they are devoting their efforts to helping other families and trying to get legislation passed to protect the civil rights of those in the service.

Savala is national vice president of CAMI, which has about 3,000 members in 33 chapters in 23 states. He is in line to become president when Frank B. Lockwood Sr. of Ridgecrest, Calif., steps down in a few months.

Lockwood, a 26-year Navy veteran, and his wife, Audrey, formed CAMI after their son Michael, 23, died while stationed aboard the USS Norton Sound in 1981. The Navy reported that he was lost overboard, but the Lockwoods say their own investigation showed that their son was beaten by a gang for being a drug informant and thrown overboard. His body was not recovered.

After much pressure, the Navy turned the case over to the FBI, which is still investigating, Lockwood said.

Lockwood said the organization has influenced the military to revise its policies for handling families of deceased service people. "They are dealing with the families with more sensitivity."

A telephone hot line has been established at the Pentagon to answer families' questions about casualties and a new policy requires that families be told the circumstances of a death, the CAMI leaders said.

Bill Caldwell, a Department of Defense spokesman, said military officials have met several times with CAMI representatives and tried to be responsive to families' concerns.

"Investigations are lengthy at times in the death of a serviceman or woman," he said. "The families have always been told the circumstances as much as possible."

CAMI's major push now is for legislation to repeal the Feres Doctrine, which is based on a 1950 Supreme Court decision barring military personnel from suing the government.

"Federal prisoners can sue but the service men and women, they don't have the same rights as the prisoners," Mrs. Savala said.

A bill before a House subcommittee would allow armed forces members to sue the United States for damages caused by improper medical care in military hospitals.

Rep. James F. McNulty, Jr., D-Ariz., sponsored the bill after learning about Jerry Meagher, a seaman who went to a Navy hospital nine years ago to have a cyst removed from his shoulder. He suffered two heart attacks during the procedure and wound up with brain damage and confined to a wheelchair. His parents' lawsuit was dismissed because of the Feres Doctrine.

But McNulty's bill would not help Meagher and others like him because it is not retroactive.

The Department of Defense has vigorously opposed the bill, arguing that allowing military personnel to sue the country would undermine discipline. The department says service people already are compensated through disability and retirement benefits.

If the bill passes, CAMI hopes additional legislation could allow other types of lawsuits.

"We are making headway. It's slow and it's tedious," Savala said. "It's going to take some pushing."●

VERNICE FERGUSON: VA'S CHIEF NURSE GAINS INTERNATIONAL RECOGNITION

HON. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. MONTGOMERY. Mr. Speaker, frequently I come before this great body to commend the standards, practices, innovation, leadership, and general excellence of the world's greatest health care delivery system, that of the Veterans' Administration.

The VA has consistently set the pace for the rest of the world's medical community through its scientific research and high quality medical care. The success of VA health care can be attributed largely to its nursing programs and service, headed for the past 4 years by Vernice Ferguson.

Today, I am pleased to inform you that on September 12, 1984, Vernice Ferguson received the prestigious Royal College of Nursing fellowship. She was one of only four nurses worldwide, and the only non-British national, to receive this greatly deserved honor.

Mr. Speaker, Vernice Ferguson's achievements have focused international attention on not only one person's exceptional ability to distinguish herself, but on the dedication and expertise that is prominent throughout the VA's Department of Medicine and Surgery.

I ask my colleagues to join with me in tribute to this great lady and to her remarkable contributions to the nursing profession and the well-being of mankind, veteran and nonveteran alike.

I submit for the RECORD a statement, as it was delivered in London, England, on September 12, admitting Vernice Ferguson to fellowship of the Royal College of Nursing of the United Kingdom.

The statement follows:

VERNICE DORIS FERGUSON ELECTED HONORARY FELLOW OF THE ROYAL COLLEGE OF NURSING

Vernice Ferguson is an American nurse whose innovative leadership and outstanding professional achievements have given nurses both in her own country and in many others, a standard worthy of emulation. She was Chief of the Nursing Department at the Clinical Centre of the National Institutes of Health from 1973 until she assumed her present post in July 1980 as Deputy Assistant Chief Medical Director for Nursing Programmes and Director of the Nursing Service of the Veterans Administration of the United States. In this role Vernice Ferguson heads America's largest nursing service, comprising some 60,000 staff, of whom 31,000 are qualified nurses.

She is both a science and nursing graduate of New York University and holds a Masters Degree in Health Education from Columbia University, as well as having pursued graduate studies at the Universities of Yale, Chicago and Maryland. American colleages and universities have recognized Vernice Ferguson's achievements by conferring on her Honorary Degrees of Doctor of Laws and Doctor of Science. She has also been the recipient of two fellowships, in Alcohol Studies and Physics, from the Universities of Yale and Maryland respectively.

A Fellow of the American Academy of Nursing, and its President from 1981 to 1983, Vernice Ferguson has also been the recipient of the coveted R. Louise McManus Award for Distinguished Service to Nursing, conferred in 1983 by Columbia University, and also the Luther Christman Award for Outstanding Leadership conferred by the American Assembly for Men in Nursing the previous year.

In addition to her considerable managerial responsibilities with the Veterans Administration, Vernice Ferguson has undertaken from 1984 to serve in the honorary office of Vice-President of the International Society of Nurses in Cancer Care. She has been and continues to be an active teacher of nursing, and also the sciences, at the National Institutes of Health, the Johns Hopkins University Hospital School of Nursing, and the University of Wisconsin. She is presently a Faculty Associate of the School of Nursing at the University of Maryland and an Adjunct Professor at the Georgetown Universi-

ty School of Nursing in Washington, D.C. Her talents and her gift of wisdom are widely known outside of the United States. She made the keynote addresses at the Fifth National Conference of the College of Nursing of Australia and the International Conference "Focus on the Elderly" sponsored by the RCN in London, both in 1983.

Vernice Ferguson takes a positive and balanced approach to her career as nurse, educator, researcher, author and administrator, as well as in her own life, in which she strives for professional excellence combined with public service. Her achievements testify to the message that nursing is a struggle to be grasped eagerly, in which hard work, enthusiasm and compassion can bring great goals within an individual's grasp. It would be invidious to seek to identify the most significant of Vernice Ferguson's achievements. She is a nursing professional "all rounder", complex and wise yet approachable, and an example to others around the world for it.

The Council, therefore has great pleasure in conferring on Vernice Doris Ferguson, Honorary Fellowship of the Royal College of Nursing.●

WESTLANDS RESPONDS

HON. CHARLES PASHAYAN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. PASHAYAN. Mr. Speaker, no one more than I believes in the freedom of the press, guaranteed by the first amendment of the Constitution. And yet there are times when it appears that the freedom is bent too far. I should like to put into the RECORD a letter responding to excessive zeal in journalism about many of my constituents in regard to the use of water in California.

For years water users in the San Joaquin Valley, including the Westlands Water District, have been calling for the construction of a drain to prevent excess concentration of waste materials in used agricultural water. Many have worked hard to bring this about, but so far without success. I should like to put into the RECORD a letter from the Westlands Water District to Mr. Max McCrohon of United Press International, in response to a nationwide series of articles UPI ran concerning the problem. I hope it becomes apparent that the attitude of the water users in California is for responsible use and management of freshwater and proper disposal of waste.

The letter follows:

WESTLANDS WATER DISTRICT,
Fresno, CA, September 20, 1984.

Mr. MAX MCCROHON,
Managing Editor, United Press International, Washington, DC.

DEAR MR. MCCROHON: Westlands Water District, as a general rule, tries to avoid criticism of the news media, preferring to cooperate and work with reporters in the firm belief that a well-informed media should be able to achieve balanced reporting, which alleviates any need for criticism. Sometimes, our best efforts fail. We have no alternative but to strongly protest the series written by two of your reporters, Lloyd G. Carter in Fresno and Gregory Gordon in Washington, DC.

We are particularly disappointed and chagrined because we devoted a great deal of time and effort to answering the questions of Messrs. Carter and Gordon and, we thought, meeting their needs for information. Despite that effort, they saw fit to accept as fact the allegations of long-time critics of federal reclamation projects (which, in large part, have long since been discredited) and ignore the information we provided them. As a result, the series was extremely one-sided and seriously distorted a number of issues.

We do not dispute the fact that very serious problems must be faced and overcome in order to find a solution to the drainage problem which is both environmentally acceptable and economically feasible. But, as we told your reporters, Westlands Water District is committed to finding such a solution, difficult though it may be. In that light, we deplore the negative tone of the entire series, which seemed to be saying (1) that there is no solution possible, short of eliminating agriculture on the west side of the San Joaquin Valley, and (2) that the farmers do not care what happens to the environment.

The series also seemed to be trying to find a scapegoat, some person, group, or agency to blame for all the problems. The reality is that various individuals in various agencies, over the years, had isolated pieces of puzzles, but no one person or agency had all of the facts or any means of determining the significance of those facts. For example, although the existence of selenium in west side soils had been know for some time, the discovery of dead and deformed embryos at Kesterson in 1983 was the first time there was concrete evidence that high concentrations of any material in the soils or drainage effluent would pose a serious problem for waterfowl.

The history of selenium problems at Kesterson Reservoir, as related in the second part of the series, was woefully incomplete and, consequently, very misleading. For example, the Bureau found relatively high levels of selenium in 1981 and reported those findings to the Fish and Wildlife Service—a fact readily available but ignored by the authors. Fish and Wildlife collected water and fish samples the following July, but did not report the results to the Bureau until December of 1982 (another fact omitted).

In regard to the 1983 discovery of dead and deformed bird embryos, Fish and Wildlife made preliminary results available in June and provided additional analysis in September. In December, 1983, the Bureau sponsored (in cooperation with the Fish and Wildlife and the U.S. Geological Survey) a conference of about 30 scientists from eight universities and seven governmental agencies to explore the available information related to selenium and its potential effects on wildlife. At that same time, the Bureau asked the Geological Survey to review its sampling and testing techniques to find out why the Bureau's figures on selenium content were lower than those reported by Fish and Wildlife and the Geological Survey. (The main problem turned out to be that while the Bureau's contracting laboratory was using long-accepted industry testing techniques, both the other agencies had adopted a newly-discovered technique which allowed accurate measurements of all four forms of selenium rather than only the organic forms.)

If all of these facts had been reported, it would be difficult to give any credence to the self-serving allegations of some individuals that the Bureau has been dragging its feet or has been involved in some kind of "cover up."

In one of our earliest sessions with your reporters, they asked (quite properly) who would benefit from drainage. We explained that the prime beneficiaries would be the people who own the land, because a perched saline water table affects the value of the land. We suggested they check with local bankers to verify that fact. Our engineers prepared a special map for their use, showing the area of the District which is ultimately expected to need subsurface drainage. We also set up a special computer program to give them a printout of all the landowners in this drainage service area. This list contains nearly 1,500 names of landowners whose holdings range from a fraction of an acre to many thousands of acres. All of this was totally ignored. Instead the reporters chose to list only a handful of the largest farmers and their acreages (at least one of which was in error). In addition, they made the unwarranted statement that the drainage issue "pits big farmers against small farmers."

In regard to compliance with reclamation law, your reporters brought up the residency issue, insisting that landowners in Westlands had failed to comply with this "requirement." We explained that the Bureau of Reclamation had not considered residency a requirement of the law for at least 50 years and that a court ruling and an opinion by former Solicitor Leo Krulitz to the contrary had been thrown out by an appellate court and the Congress, respectively. They chose to ignore this aspect of the now-dead controversy and, instead, implied that somehow there was wrong-doing by all the parties involved.

On the issue of enforcement of acreage limitation, we pointed out that even one of the severest critics, former Interior Secretary Cecil Andrus, was forced to admit under oath in a Congressional hearing that the landowners and farmers in Westlands had complied with the law. We also pointed out to them that the large landholdings in Westlands (corporate or otherwise) existed long before the San Luis project was authorized. We offered to provide them with detailed information if they wanted it. They did not seem to be interested, at that point, but then began their series with the statement that the project "spawned a corporate farming empire." The truth is that the San Luis project did *not* "spawn" a corporate farming empire. The corporate holdings (as well as large noncorporate holdings) existed long before the project was authorized and project water began to be delivered. Further, as Westlands staff pointed out to the authors: the land owned in these large holdings either is under recordable contract to be sold or does not receive project water; about 135,000 acres of the large holdings had been sold to 160-acre owners prior to the court-imposed moratorium; and, the remainder of the large holdings receiving project water remain under recordable contract to be sold under the provisions of reclamation law. The sale of the 135,000 acres, incidentally, included the disposal of more than 40,000 acres by Giffen, Inc., and some 30,000 acres by Anderson, Clayton, to a total of 607 individuals. This resulted in 77 farms

where only two had existed previously. Contrary to what the authors state, this land was not simply taken over by relatives and friends. For example, out of 43,500 acres sold by Giffen only about 1,800 acres went to members of his family and about 4,100 acres to nine former employees and their families. The remaining 37,000 acres went to outsiders.

Since we have never known a wire service to print a detailed retraction or clarification of a series, there is no need to pursue this explanation further, although there are many other similar points. It's a sad situation, however, when reporters can do a hatchet job out of either ignorance or prejudice and not be held accountable either to the victim or anyone else.

We will, of course, continue to work with all media interested in the topic of drainage or any other in which we are involved.

Sincerely,

JERALD R. BUTCHERT,
Manager.●

WILDERNESS LEGISLATION IS NEEDED NOW

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. MARKEY. Mr. Speaker, a number of bills are before the House which will put roadless land into the wilderness preservation system. We have before us legislation on Arkansas Wilderness, Idaho Wilderness, and Sleeping Bear Dunes, among others.

This legislation is needed now. The Reagan administration has gone on record frequently as opposed to new wilderness designations and even opposed to preservation of land which has been protected with wilderness status for the past 20 years. Timely congressional action is the only hope we have of preserving this part of our precious natural heritage.

Land which has de facto wilderness status today, over which there are no roads and on which there has been no permanent construction, has almost no other commercial value. We see repeated evidence that there is no appreciable mineral resource under these lands. Although mineral exploration was permitted in wilderness until this year, virtually no workable mining claims were found on wilderness lands during that 20-year-long exploration period.

There is timber on some of these wilderness lands which has possible commercial value. However, building the logging roads to these steep or otherwise inaccessible areas, and harvesting the timber, would be so costly that any profit would be erased. We must remember that the most productive timberland is all privately owned anyway. When the U.S. Forest Service was formed under the direction of Gifford Pinchot, only the least productive land remained under Forest Service jurisdiction for timber sale leasing.

The Forest Service has, by and large, managed its timber lands for their productivity. Indeed, there is considerable opinion that the Forest Service is overly zealous in selling timber. The small amount of virgin timber and old second growth which remains on roadless lands located on steep slopes or other locations which are without ready access, and is difficult and expensive to reach and remove. Maintenance of water quality standards and State watershed protection obviate timber harvest in some cases. Commerical harvesting of timber in the areas under consideration for proposed wilderness would have to be federally subsidized and subsidized rather heavily. It is worth remembering that the majority of timber sales made by the Forest Service in the past 4 years have resulted in a net loss to the Federal Government.

Despite the Reagan administration's propaganda, the only activities prohibited on wilderness land are those which result in permanent construction or involve the use of motorized vehicles or motor-powered tools. Livestock grazing, hunting, and fishing have always been part of wilderness management.

Wilderness serves three functions in our society, and cost the Government very little. The first of these is the most important: Preserving natural land in its present state so that it remains for future generations to enjoy. This act of preservation, and the provision of adequate habitat for many terrestrial and aquatic species, cost nothing.

The third function is wilderness use by hunters, fishermen and fisherwomen, hikers, backpackers, birders, and other nature enthusiasts. Today, a very large number of Americans have the leisure to enjoy the out of doors. Hunters and sports fishermen have long recognized that wilderness is necessary for preservation of the species which they hunt and fish.

The existence of wilderness has made the tourist industry the leading industry in some States, and this industry ranks among the top three in almost half of the States in the United States. Wilderness use has increased by a factor of 10 in the past decade—enough to require careful and aggressive management. The increase in wilderness use alone demands that we enact this wilderness legislation.

The legislation before us is largely the result of the review and evaluation of roadless areas done by the Forest Service, RARE I and RARE II. The land involved is Federal land already, and has undergone recent scrutiny to determine its suitability for wilderness status. As legislation is passed in one State after another preserving wilderness, the plan envisioned in the Wilderness Act of 1964 is being completed. Well before the end of this century, the American wilderness system will stand as a model of ecological preservation for the world.●

THE MINERALS PRODUCTION SECTOR AND ITS IMPORTANCE TO OUR NATION

HON. JAMES F. McNULTY, JR.

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. McNULTY. Mr. Speaker, last week I was honored to address a working session of the American Mining Congress in Phoenix, AZ. The AMC represents all sectors of the mining industry in our country. As many Members of this distinguished House know, there is much economic dislocation and hardship for the men and women of our domestic mining industry today. In its sessions through the better part of a week, AMC members worked to produce new approaches to the challenge facing copper producers and other producers of basic metals which are so vital to our well-being as an industrial nation and as leader of the free world.

In my view, Mr. Speaker, it is critical that Congress and the administration work together to recognize the importance of a minerals production sector in our economy. The sad decision of the administration in the copper case before the ITC, announced on September 6, indicates that such recognition has not yet occurred in the executive department of our Government. I can emphatically say on behalf of the men and women of the copper industry that in their view and mine, it is long past due for such recognition to be announced.

Mr. Speaker, I believe it would be helpful for the RECORD to contain my remarks to the AMC and I ask that a copy of my remarks be inserted at this point in the RECORD.

COMMUNICATIONS AND A STRICKEN COPPER INDUSTRY

(Remarks of Hon. James F. McNulty, Jr., Member of Congress)

Good friends we meet in sobering times for the men and women of the American copper industry. On a number of occasions in the year past many of you will have shared with me a sense that we are through the worst and that today, we can get on with the business of operating and producing copper.

I'm not sure but I would like to think we can now say we have seen the worst and it is now time to get on with the business of getting our great mining and mineral companies back onto the path of profitability, exploring new sources for future supplies, and finding new products and new uses for the mineral resources of our country. That is what the people who built these companies understood and it is that vision that we have to recall in these very tough times.

I have been asked to comment on communications and the need for communication

in helping the stricken American metals industry back on its feet.

I have had some experience in the past two years as a freshman member of the House. We have communicated at length, even if the results are far from satisfactory. From this experience I think these lessons can be taken—

First to have our facts straight and in a form that can be understood. Much ignorance exists in our country about the mining and minerals base of our national wealth.

The habit of the media of all forms is to emphasize the new and the novel, and much fascination attends job growth in the services sector. But I am unconvinced that this growth is all that sound or will in the future secure a level of wealth and security of our society that the American people have enjoyed throughout their history. The use of natural resources is for this nation fundamental not only to our national wealth but also to our national security. We cannot maintain our wealth by selling soybeans, wheat, corn and cotton to Japan while we buy Japanese television sets, recorders and cars. We don't improve national security by doing accounting services for OPEC in return for purchases of their petroleum.

By all means let American society evolve and develop the technical and the service areas of a changing way of getting work done.

But let us not forget the natural resources base on which our way of life has evolved.

One of the great strengths of our free market system is that no one person or company determines the future. It is, instead, determined by the exchanges of buyers and consumers. Logically that implies we will add wealth as we find goods and services that people want and we will not, as a first premise, decide to abandon blue collar forms of wealth or invest excessive resources in pre-determined new forms of endeavor.

I have tried to communicate this philosophy in Washington, sometimes to officials who seem determined to not understand the points being made. One incident that comes to mind is an unnamed official in the Office of the Trade Representative who told the press the problem with the copper industry is that it didn't belong in this country. That individual is mistaken in his specific conclusion and in the premise of his thinking—if I can find him, and get him down before our Mining Subcommittee for some oversight questions, I promise you I will do what I can by way of educating him into free market economics and the proper role of government in making an economy work.

But it is not enough to have a command of the facts about how efficient and productive American enterprise is, even when faced with adverse market conditions. Having the facts straight and clear is the foundation for persuasion.

For example, I am glad to pass on the information that ASARCO has managed to bring down the cost of operating its Mission Mine in my district. I was proud that the men and women of management and labor at Mission had brought down costs some 22.7 cents a pound in three years. That is management in the best American tradition and deserves to be recognized. And as many of you know, the Mission story is not uncommon in the major copper producing companies of America.

Thus I read on August 20 with disbelief an editorial in America's most influential newspaper which spoke of a "hopelessly inefficient American copper industry". This editorial error would not have been so destructive but for the fact their whole appeal to the Administration to ignore the ITC recommendations, was based on this erroneous impression. Unfortunately the newspaper allowed but one response, not mine, in refutation. Here is a case where the truth will never catch up with their mistake. And America is the loser for it.

We cannot in my view afford to quite and I entreat you not to. We have seen hard times and we have seen much better times. We didn't get where we are as a people, or as an industry, by sitting back and passively taking what people do out of error in Washington or out of aggressiveness in Santiago.

It is going to be on the shoulders of the people in the industry to find more efficient ways of getting the job done, of finding lower cost paths for production of copper and its smelting and refining. We can't legislate that in Washington and without your creative application to the tasks of modernizing and making more efficient your enterprise, little that we can do in Washington is going to matter.

In Washington we have to continue to communicate and to press, in Congress, for passage of laws that are responsive to this, the greatest challenge in the history of the industry. We are attempting to enact into law the ITC recommendations in the House and upon my return to Washington this afternoon that effort will continue.

A number of bills have opened up the prospect of using copper containment vessels in our nuclear waste storage program. Through appropriations we have secured a more realistic purchase program for the national defense strategic stockpile. The idea of an equalization tax for imported copper that is tied to the cost of environmental controls which within the U.S. market add some 10 cents a pound is a sound idea that will be reintroduced in the 99th Congress.

A new measure I have recently introduced can be helpful in the near term: that is in the area of controlling the IMF. H.R. 6120 would bring into the International Monetary Fund new and needed policies in the use of IMF by commodity producing nations. As you may know, the practice has been to come to the IMF for help when foreign exchange earnings are too low on account of a depressed commodity price on which the nation depends. All this has been done at great cost to the funding sources of IMF, the people of the industrialized nations of the north, including the United States of America. As a national policy this could bring relief even in the relatively short run because copper producing nations would not be able to count on the IMF for relief from their unwise production practices.

So I submit we need to continue to tell the story of the importance of copper to our people and to our way of life. The New York Times needs to hear that story before it editorializes again and to learn the facts of the contemporary market place.

In the House men and women representing districts were copper is mined and processed can work together more effectively and on a more formal basis. There is a Copper Caucus in the Senate and through the leadership of Dennis DeConini, Pete Domenici, and Max Baucus that Caucus has been effective. In the 98th Congress there has been no equivalent group in the House of Representatives.

In the 99th Congress, if I have the honor of being re-elected, I will cooperate in the formation of such a caucus. We can build on what we have learned over the past two years and I fully intend to do so.

We have the facts on our side and we have the capacity to share those facts with others.

I would hope we will leave this meeting determined to come back and re-establish through our hard work and cooperation this once mighty part of the American economy. It was that courage and that attitude that established this industry as an efficient and effective vital part of our industrial world. We have not lost that and we aren't going to.

Working together is how we are going to get out of this and to that I pledge you my full effort.

Thank you.●

THE FAIRNESS ISSUE: THE FACTS

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. MICHEL. Mr. Speaker, the Reagan tax cut clearly benefited middle- and lower-income taxpayers. And that's an important reason why President Reagan and his 1981 tax cut continue to be so popular today.

That's the conclusion of the analysis made by Martin Feldstein and Kathleen Feldstein. Mr. Feldstein, when he was the President's chairman of the Council of Economic Advisers was famous for speaking out, no matter what the political consequences. He continues to do so and critics of the President should pay attention.

At this point, I wish to insert in the RECORD, "Don't Blame the Reagan Tax Cuts" by Martin Feldstein and Kathleen Feldstein, in the Washington Post, Sunday, September 2, 1984.

DON'T BLAME THE REAGAN TAX CUTS

They didn't shift the burden from rich to poor.

As long as there are taxes there will be debates about the fair distribution of the tax burden. In principle, a national political campaign offers a forum for achieving a national consensus on the issue. In practice, though, campaign rhetoric may frustrate that goal by obscuring the facts. We think that's been happening already in this political year in the discussions of the fairness of the 1981 Reagan tax cuts.

Four years ago candidate Reagan repeatedly pledged that he would seek an across-the-board 30 percent reduction in all income tax rates. Such a proportional reduction in tax rates would leave the distribution of tax liabilities unchanged. If the Jones family would pay twice as much tax as the Smiths without the proposed across-the-board tax cut, the Joneses would still pay twice as much tax as the Smiths after the proposed tax cut. If all taxpayers with income over $50,000 would pay 33 percent of the total tax payments with no change in tax rates, they would still pay 33 percent with the proposed across-the-board tax cut.

Candidate Reagan's assumption in the 1980 campaign was that the American public viewed an equal percentage tax cut

for everyone as a fair and desirable way to reduce taxes. Reagan's election and the subsequent overwhelming congressional vote for his tax legislation reflected the very widespread popular support for the idea of an across-the-board tax cut.

But now the Mondale campaign and many of its supporters are attacking the Reagan tax reductions for being "unfair." The essence of their argument seems to be that somehow the tax cut favored the wealthy and shifted the tax burden toward lower- and middle-income taxpayers.

This vote-seeking attack simply isn't backed up by the facts. As everyone knows, the centerpiece of the 1981 tax legislation was a gradually phased-in 23 percent cut in all tax rates, which in itself left the distribution of taxes unchanged. Some additional complexities in the 1981 tax legislation meant that the net effect of the tax cut was a smaller tax reduction for high earners and a bigger proportional tax cut for familes around the middle of the income distribution.

High earners at the top of the income distribution benefited relatively less from the tax cut because of a special feature of the tax law that had been enacted in 1969. To reduce the adverse incentive effects of high marginal tax rates, Congress had then voted to limit the maximum marginal tax rate on wages and salaries to 50 percent, even if the individual's income put him into the highest 70 percent tax bracket. When the 1981 tax bill lowered the top rate from 70 percent to 50 percent, it did nothing to reduce the marginal tax rate of these very high earning individuals.

Someone with the good fortune to earn a taxable income of $250,000 would have paid about $115,000 in taxes before the Reagan tax cut. Although a full 23 percent cut would reduce this tax bill by $26,000, the previously enacted 50 percent maximum limited the impact of the rate cut for such an individual to about $8,300, or just 7 percent. Indeed, the tax cut for someone who earned a million dollars would also be limited to $8,300, a tax reduction of just 2 percent.

Two of the special features of the 1981 tax act substantially increased the proportional tax cut for middle-income families. That legislation improved the overall equity of the tax system by reducing the so-called "marriage penalty" feature that causes a working couple to pay more in taxes than two unmarried individuals with the same incomes. The law also extended the availability of Individual Retirement Accounts to every employee who was previously ineligible and raised the amount that low-income and middle-income employees could contribute. For a middle-income working couple with $25,000 in earning, the cumulative effect of the cut in tax rates, the IRA extension and the reduced marriage penalty could easily add up a tax cut of over 35 percent. Although the changes in the IRA rules and marriage penalty also benefit high-income taxpayers, those extra benefits represent a much smaller percentage tax cut at high incomes.

All of this means that the tax cut left higher income groups with a larger share of the total tax burden, even before taking account of the way in which the tax cut reduced the use of tax shelters by high-income individuals and increased their pretax earnings. But it's also true that an important group didn't benefit directly from the tax cut. The tax bill couldn't cut taxes for those whose income are too low to pay income tax at all. However, contrary to the implications of Mondale's critique, no one was made worse off by the Reagan tax bill.

But what about the claim that statistics show that the federal income taxes paid by some low-income families have actually increased during the past three years? That is true, but it is easily misunderstood. It's crucial to note that changes in the tax law have not the been responsible for those increased tax facilities. Instead, rising real incomes and inflation combined to bring some families onto the tax rolls and to push others into higher tax brackets. Without the Reagan tax reduction, those low-income individuals would be paying even more tax. To assess the impact of the Reagan tax act, the effect of the changes in the tax law must be separated from the effects of rising incomes, and that's just what Reagan's critics have failed to do.

Much of the increase in the number of taxpayers and in the tax paid by lower-income individuals would have been avoided if the tax brackets had been indexed for inflation. It's ironic, therefore, that Mondale criticizes the Reagan administration for the consequences of an unindexed tax system at the same time Mondale proposes that tax indexing should not start as scheduled in January 1985.

In addition to the federal income tax, individuals also pay a Social Security payroll tax and state income taxes. From some families, increases in these other taxes during the past three years have outweighed the Reagan tax cuts. The Mondale campaign sometimes lumps these other tax increases together with the Reagan tax cuts in an attempt to criticize Reagan tax policy. But the Social Security tax hikes had already been enacted during the Carter administration and were advanced in time by Congress at the recommendation of the bipartisan National Commission on Social Security Reform—with the explicit endorsement of Tip O'Neill as well as Ronald Reagan. And those with a complaint about higher state tax rates should look to their state capitals and not to Washington.

In light of all of these facts, what's left of the fairness critique? There may be some who feel that, to be fair, any change in tax rates must achieve a substantial narrowing of the distribution of after-tax income. But no one should claim that the Reagan tax legislation shifted the burden of taxation away from high-income earners and toward those with lower incomes.

When all of the pieces are added together the Reagan tax cut clearly benefits middle- and lower-income taxpayers. And that's an important reason why President Reagan and his 1981 tax cut continue to be so popular today.●

AN INDUSTRY PERSPECTIVE ON INDUSTRIAL POLICY

HON. STAN LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. LUNDINE. Mr. Speaker, Laymon Hunt, president of SKF Mounted Bearings Division of SKF Industries, in Hornell, NY, recently wrote the following open letter to America's leaders on the subject of America's industrial competitiveness. This letter advocates the development of an industrial policy as an essential ingredient in our economic and human progress. I commend it to your attention.

Open Letter to America's Leaders: We need an industrial policy to preserve the future of the American way of life by ensuring an environment for continued technological development and a broad and powerful industrial base by which to reap the harvest of these efforts. We have heard a lot in the last several years about the success story of Japanese industry. But even the Japanese success story is missing something. We have a fantastic success story in American agriculture which is at least comparable if not better than the Japanese industrial success. What is missing however, and American management has been criticized around the world for it, is a lack of long range strategy. Long range planning is not just missing in American industry, it is missing in government. It is also, at least on the longer range basis, missing in the Japanese story. Why does this matter? Consider briefly the Chinese history thousands of years ago: they were caught up in the current application of existing technology and ignored, for the most part, continuing development of new technology. What happened to probably the greatest civilization on earth at that time? It became stagnant and declined.

In a comparison of the American agricultural business to the Japanese industrial effort, consider some of the obvious attributes of both programs. The Japanese, by necessity, have considered their industrial effort as a segment for which they will apply immense resources. In the U.S., we consider our industries in the vernacular of Portfolio Strategic Management Concepts, to be a segment of the American economy from which we take resources for other purposes. In other words, a "cash cow" to be milked.

Some of the specific qualities given to the Japanese success story are intensive application of the team approach. This is thoroughly prevelant in Japanese industry, unusual in U.S. industry, but when you consider the U.S. agricultural effort, there is no stronger team than the American family unit.

Other attributes are that human dignity gets a high degree of consideration in the work place in Japan. In the U.S. agricultural industry, you can give no higher dignity than you do to a member of your own family. Long range commitment by manager and worker alike is often heralded in the Japanese story. This is equally true of the American family farmer who commits a lifetime dedicated to farming.

Education is considered to be strongly vocational in Japan. This is equally true in the American agricultural effort. "Hard work" ethic is also considered to be Japanese attribute, but has long existed for the family members who are working for the welfare of their own family in the U.S. agricultural effort.

There is a high degree of entrepreneurship even in the government agencies involved with industry in Japan. This is one area where we have at least strongly attempted to develop cooperative efforts in our various farm related programs. So there is a direct analogy simply put in the two greatest success stories since World War II.

While this is a very incomplete and simplistic analogy, it does prove that a cooperative effort, along with intense application of

resources, can lead to successes at least to the extent of current applications of existing technology.

Neither of these success stories, however, ensure the continuing development of new technologies. In the American agricultural effort however, we do attempt to develop new technology through experimental farming efforts supported by our institutions of higher learning and indirectly, through state, local, and federal government funding. How many private experimental farmers would continue to develop new hybrids, new processing technologies, and develop new strains and new crops without outside funding if they knew they were never going to get the chance to cultivate, harvest and market, thereby realizing the benefits of their earlier investment of resources?

There, because we recognize the necessity to feed our people, and part of the world at least, we do consider to preserve an environment for future technological development as well as the application of new technology. Why not then consider this same element as being vital in our industrial base, both for the sake of new technological development and for its application. If we do not protect a broad, strong industrial base in this country, we will then have no place in our own economy for the application of new technologies. The applications are, in fact, the rewards for their development.

The Japenese success stories is one of the application of existing technology; not one of continuing development of new technologies. To this extent, even the Japan success story is deficient. Worse, however, is that the Japanese are currently being rewarded for application of technologies developed largely by others, with a significant contribution by U.S. industries who are not being rewarded now, particularly in the case of machine tool industry, and other consumer protection industries.

This brings up the question now, again considering history, could we do ten years from now a Manhattan project, or a lend-lease act for the allies? Obviously a future Manhattan project would require new technologies by then. And a future Lend-Lease Act would require a great and broad industrial base. The applied technology of the future must be acquired now through basic research and development, with confidence that the future environment will be one of beneficial application of these developments.

We need an industrial policy. Not one that protects us from ourselves as in the past through various anti-trust legislation which has prevented us from developing cartels and monopolies which can garner huge market shares and control the economics of a few products or a few vital human needs. Ironically, the purpose here was to keep a competitive free economy which was desirable in the domestic sense but leaves us fragmented, weak, and dilute when competing with the large and unified resources of an entire country such as Japan.

While we have done a good job of protecting us from ourselves, we have not done a good job of protecting us from others, and ensuring the future. We need an industrial policy: not one of regulation, direct assistance, and control; but, one that ensures a future environment which in itself will be an incentive for basic research and development today.

We need an industrial policy which transcends election periods, and transcends our current short range thinking which treats American industry as a segment from which resources can be taken to be applied elsewhere. We need to consider American industry as a place in which to apply resources and to ensure a future vehicle for the application of new technologies which we must continue to develop.

Industry, of course, has a responsibility for its own futurity within the scope and range of their respective business segments but cannot alone, while sensitive to it, create the future environment conducive to its futurity. However, a cooperative effort with a long range policy can achieve this end.

This environment must allow for entrepreneural efforts; must permit rewards for entrepreneural successes; must permit rewards for basic technology developments, and provide the capabilities for preservation of the American way of life.

This is economic warfare. There have been casualties. There will be more. We have the ingredients for victory. We must recognize the necessity to act in unity.

Respectfully yours,

LAYMON A. HUNT.●

A REAL JOBS PROGRAM

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. SHUMWAY. Mr. Speaker, 1 year ago yesterday the Job Training Partnership Act [JTPA] became fully implemented. As my colleagues are all well aware, the JTPA program relies on a private/public partnership, operating within a block grant framework, to provide job training for disadvantaged youth, aid to families with dependent children [AFDC] recipients, and dislocated workers.

Enactment of the JTPA was significant for it represented a radical departure from the Government's previous reliance on employment programs which essentially provided dead-end public sector jobs that did little to move the disadvantaged into the economic mainstream. The 1973 Comprehensive Employment Act [CETA], the most ambitious, and controversial, of these public service employment programs, came to symbolize wasteful Government spending as the jobs which were created were expensive and did not develop employability skills; moreover, the CETA program, which was given over $53 billion during its 9-year existence, was subject to problems of waste, fraud, and abuse.

Upon assuming office, President Reagan made clear his determination to let CETA expire when its authorization ended in September 1982. Reassessing the appropriate role of the Federal Government in employment and training activities, the President concluded that the Federal Government's efforts should be focused on stimulating economic growth as the way to create job opportunities, rather than depending on Federal employment programs. An important part of his plan was to place greater reliance on State and local governments, the private sector, and individuals to render the services the Federal Government has been providing. The JTPA represents this strong effort on the part of the administration to examine carefully the training needs of the labor force and to structure a program to meet those needs while avoiding the major defects of the CETA program.

Mr. Speaker, today approximately 1 million individuals are participating in programs of training and employment under the JTPA. While the program has only been in effect for 1 year, it appears, with the strong involvement of the States and private sector, to be living up to our highest expectations. As Secretary of Labor Raymond J. Donovan announced this summer, over 70 percent of those who participated in the JTPA secured employment after leaving the program. In addition, Secretary Donovan stated, "we are getting tremendous value for each training dollar, with 73 percent of the JTPA funds being spent for training," whereas under CETA less than 20 percent of the funds went for training.

In my view, Mr. Speaker, it appears clear that the JTPA is succeeding in achieving its primary goal—to prepare its participants for long-term positions in the private sector. By providing the necessary training to prepare the program's participants for existing employment opportunities, the JTPA is succeeding where CETA clearly failed—in improving the employability of our Nation's disadvantaged.

As promising as the JTPA training program appears to be, it alone cannot resolve the unemployment problem. Rather, the most effective way to reduce unemployment is to stimulate economic growth so that permanent employment opportunities can be provided by the private sector. In my view, the greatest contribution that Congress can make to reducing unemployment is not through legislating costly public works programs, which do little to prepare individuals to compete in the labor market, but through supporting policies which encourage savings and investment, cut wasteful and unnecessary Federal spending, and slow the growth of Government generally. A strong economic recovery is underway; a healthy economy, in conjunction with an effective training program such as the JTPA which is geared to place individuals in self-sustaining jobs, is what is needed if we are to return our Nation's unemployed to the workforce.

Mr. Speaker, I would like to call to the attention of my colleagues a editorial which recently appeared in the Wall Street Journal which highlights the dramatic successes of the Job

Training Partnership Act. The article follows:

A REAL JOBS PROGRAM

"It has been remarkable." "A success story." "A dream come true." Those heartening words were used by people in Nashville, Tenn., to describe the Reagan administration's program to train the "hard core" unemployed. According to a recent UPI story, of the 397 adults who completed the program in Nashville, 272 are now working—a 69% placement record. Statewide, more than 5,000 economically disadvantaged Tennesseans completed the program during the past year and 66% of those found jobs.

The high placement rate in Tennessee is no fluke. It's part of a nation-wide trend that owes its success to administration reforms of the federal jobs-training program that now relies heavily on private-sector involvement and scraps the failed notion of subsidizing make-work government jobs.

Labor Secretary Raymond Donovan recently reported that of the people who graduated from the training program nationwide during the six months ended last March, some 70%, or 115,000 people, found jobs after leaving. Currently, about half a million "economically disadvantaged" people are enrolled in the Job Training Partnership Act (JTPA) program, including 65,000 "dislocated workers" who lost their jobs due to plant closings or relocation.

The record of the JTPA, which went into full swing last October, stands in sharp contrast to its much more costly and ineffective predecessor, the Comprehensive Employment and Training Act, commonly known as CETA. During its nine-year run, the CETA program spent some $60 billion—nearly $10 billion in 1979 alone—but only managed to get 30% of its participants into private-sector jobs. Indeed, the CETA program was more of a jobs subsidy program, offering money to state and local governments to create make-work job slots; only 18 cents of every CETA dollar actually was spent on training people for jobs in the private sector.

By dropping the make-work job scheme, the Reagan administration was able to reduce the cost of the program to $3.6 billion per annum, 70% of which is used for training. These federal funds provide seed money for state and local governments to set up, with the help of industry, local training centers that provide skills to meet the available jobs in those communities. The program has established nearly 600 Private Industry Councils, involving 11,000 business volunteers, who advise the training centers about which job skills are most in demand in their areas.

The Job Training Partnership Act program is indeed a success. Tens of thousands of hard-core unemployed today have the skills to find and keep a job. The cost of the federal bureaucracy has been reduced. State and local officials have the autonomy to shape training programs to meet the economic and social needs of their communities. And businesses and industry are getting a new influx of skilled labor to help their companies, and the economy as a whole, to grow.●

TOMORROW'S HEALTH CARE

HON. ROBERT F. (BOB) SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. ROBERT F. SMITH. Mr. Speaker, no area of public policy has undergone more rapid change in the last few years than health care. The American College of Hospital Administrators, a professional society of 19,000 health care executives, recently completed an important study that offers some insights into what these changes could mean for health care in the 1990's.

The association, which prepared the report with Arthur Andersen & Co., surveyed 1,000 experts throughout the health care field, including hospital leaders, physicians, other providers, legislators, regulators, suppliers and those who pay the health costs. The aim of the study, entitled "Health Care in the 1990's," was to see what consensus there is about changes that could occur in the next 15 to 20 years.

One result of the study was that hospitals and their medical staffs, while still competing to try to control costs, also will cooperate to resolve common problems. Another conclusion is that the shortage of physicians—which has been pronounced in some rural areas of my Second Congressional District in Oregon—should diminish. In fact, the study said physicians, in general practice, will be abundant, and the shortage of today will not be present by 1990. If, indeed, this occurs, it will be beneficial to the Nation.

Mr. Speaker, I insert a summary of this study in the CONGRESSIONAL RECORD.

The summary follows:

HUMAN RESOURCES

The cornerstone of health care has always been people—the health care professionals and support who have taken pride in providing quality patient care.

The economic realities of the 1980s and 1990s dictate that it will be an era requiring considerable managerial ability to harness the talent and skill of the human resources in health care. The major challenges to hospital executives will be to recruit and develop governing board members, to nurture cooperative arrangements with and assure the continued competence of the medical staff, to develop compensation programs to attract and retain competent managerial and ancillary staffs, and to achieve greater employee productivity. In addition, CEOs will need to hone their own skills, particularly as they move from managing single entity corporations to managing more complex enterprise.

Employees will play an increasingly prominent role in the success of their hospitals as the importance of productivity increases in response to price-based competition. The supply, preparation and dedication of a competent staff is a top priority for all health care organizations in the next ten years.

CAPABLE AND ACTIVE GOVERNING BOARDS ARE NEEDED

The study panels predicts greater involvement for hospital boards in the coming decade, particularly for not-for-profit institutions. The hospital and physician panels forecast substantially greater involvement for boards of not-for-profit hospitals in controlling hospital operating and planning decisions by 1990. According to nine out of ten respondents, strategic planning, capital expenditures and decisions to add or delete services will be areas closely governed by the board. In addition, the hospital panel predicts greater board involvement in finance and marketing, and in establishing patient acceptance criteria.

Nearly all panelists expect the hospital board to exercise its accountability by evaluating the CEO based on mutually agreed upon criteria and by determining the format and content of the data they desire for decisionmaking. The vast majority also see boards utilizing annual planning retreats.

TRUSTEES WILL BE COMPENSATED

Trustees will be able to carry out their functions more effectively, say the panels, because boards will require formal training for new trustees, minimum attendance requirements will be in effect, boards will utilize working committees, and formal board evaluation processes will be routine. Three-fourths of the panelists agree that board members will receive monetary compensation for their services. Trustees themselves, however, are in less agreement with this prediction.

Wide differences in the current qualifications of boards are perceived by the hospital panel. They believe that boards of investor-owned hospitals are the best qualified, with eight out of ten rating them as adequately qualified or better. The perception by the panelists of not-for-profit hospital boards is not quite as strong; three-quarters consider boards of not-for-profit and urban hospitals to be adequately qualified, while two-thirds deem rural hospital boards to be poorly qualified. This assessment is shared by panelists from rural hospitals who rate their board's qualifications as follows: 8% believe they are adequately qualified, 33% are uncertain and 59% believe they are poorly qualified.

The study participants' ranking of governing board appointment criteria are similar for all institutions. Business management experience is considered the most important selection criterion for all boards except those of rural facilities, where community involvement and stature are given the most weight. Financial knowledge is considered more important for boards of investor-owned facilities than for not-for-profit hospitals. Knowledge of the health care industry and political influence are important considerations, but less emphasis is given to specific talents such as fund raising ability, medical knowledge or marketing skills.

Almost nine out of ten panelists believe that, in the future, boards will rotate members after specific terms but they are divided on whether or not senior managers, such as nursing directors and associate administrators, will become "inside directors."

HOSPITALS AND MEDICAL STAFFS WILL COOPERATE WHILE COMPETING

Panelists perceive that hospitals and their medical staffs will experience conflict and competition in the 1990s but that they also will cooperate to resolve common problems.

Of the physician, hospital and other provider panels, the hospital panel is most inclined to predict collaborative strategies.

Virtually all of the combined panels, and particularly physicians themselves, believe conflict between the two groups will result as hospitals try to control and/or influence physicians. Similarly, panelists agree that physicians will attempt to influence and/or control hospitals. Evidence of this is the panelists' consensus that staff physicians will attempt to restrict the appointment of new medical staff members.

A SHIFT IS REQUIRED IN CEO SKILLS

The hospital panel envisions a shift in the priority ranking of GEO skills.

PRIORITY RANKING OF CEO SKILLS

	1995	Now
Strategic planning	1	4
Medical staff relations	2	1
Financial planning	3	5
Interpersonal skills	4	3
Governing board relations	5	2

Of the 14 executive skills considered, the physician panelists identified the same five as the hospital panelists as being most important today. By 1995, the physicians see financial planning as the most important skill and consider government relations as one of the top five skills.

NO SHORTAGE OF PHYSICIANS OR OTHER HEALTH PROFESSIONALS

While certain panelists appear to be more sensitive to the supply of the professionals with whom they work most closely, there is general agreement in certain areas. Almost all panelists agree that physician specialists will be in oversupply by 1990. Physicians in general practice also will be abundant.

Hospital executives, in the opinion of the respondents, also will be in plentiful supply, with 80% of the panelists predicting a surplus.

Shortages are expected in relatively few health care professions. Sixty percent of the study participants see computer operators, programmers and analysts in short supply relative to anticipated demand and over one-third project shortages of financial directors and medical records personnel. The panels are divided on the projected surplus or deficit of physicians' assistants, registered nurses, vocational nurses, nurses' aides and allied health personnel.

COMPENSATION IS KEY TO ATTRACTING HOSPITAL EXECUTIVES

The hospital and physician panels were asked to identify the key factors which will attract competent hospital executives in the future and they are in agreement in four out of five areas. Compensation, say these panelists, will be of most importance, with opportunities for professional advancement ranked second. The hospital's financial viability and managerial leadership are considered to be other influential factors. The hospital panel considers corporate structure to be critical while the physicians rate institutional reputation to be of greater importance.

Within the area of compensation, panelists are near unanimity in their belief that incentive compensation arrangements hold greatest promise when utilized for management personnel. The combined opinions of the hospital and physician panels strongly support the belief that incentive compensation will be effective for executive and mid-level management. About one-third see it as viable with support services staff and approximately one-half believe it to be effective for other categories, such as nurses and ancillary services staff.

QUALITY OF MEDICAL STAFF ATTRACTS NEW PHYSICIANS

The most important factor in the recruitment of new medical staff members is the competence of the existing medical staff, according to both physician and hospital panel responses. This is followed by the reputation of the institution and the quality of patient care.

They also agree that geographic location of the hospital comes next. The hospital panel, however, sees state-of-the-art equipment as an important attraction for physicians while doctors themselves identify their compensation, including fringe benefits, as an important factor.

CONTRACT SERVICES WILL GROW

The panels envision that fewer functions will be performed by the hospital itself in the future and that these services will be provided by outside concerns under various financial arrangements. Areas for outside contracting, according to the majority of participants, include dietary, emergency room, housekeeping, laboratory, laundry, management and physician services.●

ARMS CONTROL: A NEW IMPETUS?

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. BEREUTER. Mr. Speaker, the time is ripe for arms control talks. This is the message that President Reagan was giving the American public, Soviet Foreign Minister Gromyko and the world during his speech at the United Nations. A thoughtful editorial in the Omaha World Herald of September 29, 1984, points out that, with this offer of a new negotiation, President Reagan and a large part of the nuclear freeze movement may, ironically, be walking down the same road.

The editorial further argues that a prodefense, conservative President can deliver an agreement acceptable to almost all Americans. This is an ironic but interesting point. Only Richard Nixon could travel to China and only Menachem Begin could return Sinai to Egypt. I personally applaud and commend the President for his decision to attempt to restart the stalled arms negotiations. I hope the President will pursue this policy and that the Soviets will respond accordingly and responsibly. It is far too important an issue to allow to remain frozen in the chilly climate between the two superpowers.

The article follows:

REAGAN'S EMPHASIS ON TALKS A SHIFT FROM 1980 CAMPAIGN

When President Reagan spoke at the United Nations, he may have taken the arms control issue away from the Democrats.

Reagan's conciliatory comments toward the Soviet Union undercut Walter Mondale's "warmonger" issue. About the only criticism the former vice president had of the president's speech was that Mondale thought it came three years too late.

Even though the Soviet response to Reagan's offer of a "new beginning" in arms control was generally negative, the president's speech could affect the presidential campaign. In contrast to 1980, when Reagan advocated a defense buildup, opposed the SALT II Treaty and urged a tougher policy toward the Russians, the president is now in effect saying the country is strong enough to negotiate on equal terms with the Russians.

The speech could mean a new emphasis in American arms policy—an emphasis with which people in the peace movement should be able to agree. The president's remarks are compatible with assumptions shared by some people in the peace movement: that negotiations with the Soviets are desirable, that coexistence is essential and that cooperation between the United States and the Soviet Union is the best way to ensure a more stable world.

As a conservative, pro-defense president, Reagan could become the catalyst to produce an arms agreement acceptable to most Americans. Few could rightly accuse Reagan of being soft on the Russians; a treaty he signed probably would not be attacked for selling out to the Soviets.

The Soviets willing, the time is right for fruitful arms negotiatons. NATO is united, having resisted Soviet blackmail by deploying Pershing and cruise missiles. The United States is improving its defenses; development of the MX missile and the B-1 bomber give the Soviets added incentives to talk. And, partly through the efforts of the freeze movement, the public wants a lessening of the danger of nuclear war.

Reagan won't sign a freeze petition, nor will some freeze activists support his re-election. But the two sides are marching on the same road.●

OUR NO. 1 PROBLEM—THE DEFICIT

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. HUBBARD. Mr. Speaker, I have received an excellent letter from my friend, Marlin M. "Hap" Volz, Jr., vice president of the Trust Department of Davenport Bank and Trust Co., Davenport, IA.

I am certain my colleagues in the U.S. House of Representatives will be interested to read Hap Volz's comments about the need for congressional action to reduce our Nation's No. 1 problem—the Federal deficit. Indeed, the writer's thoughts about the attendant interest costs of excessive budget deficits are timely. The letter follows:

DAVENPORT BANK AND TRUST CO.,
DAVENPORT, IA,
September 5, 1984.

Congressman CARROLL HUBBARD,
Rayburn Office Building,
Washington, DC.

DEAR CARROLL: Your Report for September, 1984 states that the federal deficit is our number one problem. I agree with that conclusion.

One reason the unprecedented deficits of recent years are such a problem is the attendant interest cost. This cost, like a cancer, continues to grow every year devouring federal funds that could be spent for more useful programs or not spent at all. In less than four years it has doubled as a percent of GNP. In that time, the growth in interest alone approximately equals the whole federal budget when John Kennedy ran for President. Also, unlike other federal spending programs, the interest cost cannot be reduced. Once incurred, it becomes a virtually permanent expense. Thus, if for no other reason, the federal budget must be brought back into balance to eliminate the increase in interest cost.

In this regard, you are to be congratulated for your opposition to the Falmouth Dam project. Balancing the budget requires first that spending be controlled and that can be accomplished only if wasteful public works projects are eliminated. Also, the federal government should stop financing the irrigation of virgin land for farming while at the same time spending substantial sums for surplus crops. Federally generated power should be sold at commercial rates. The defense budget must be brought under control. An adequate defense does not require the purchase of every weapon system the military can envision. Finally, the growth in entitlement programs needs to be restrained. I question, therefore, granting a social security increase not authorized by statute.

It would be nice if the budget could be balanced by reducing spending, but it cannot be done. Taxes were reduced so substantially by the Economic Recovery Tax Act that the budget cannot be balanced by spending cuts or economic expansion. Mondale is correct that a tax increase of some kind is a necessity. Some tax breaks in ERTA such as accelerated cost recovery are too generous. Indexing should be repealed. The holding period for capital gains should be left at one year. The scheduled increase in the unified credit for 1987 should be dropped. Finally a surtax of some kind may have to be imposed. Whatever is done, it is essential that taxes be structured so that the federal budget is at least balanced when the economy is operating at full employment.

One way not to cure the deficit is with a balanced budget amendment. This cure could be worse than the disease. Federal spending and revenues move inversely as economic activity expands or contracts. In this way the federal budget acts as an automatic stabilizer to business cycles. A balanced budget amendment would attempt to overrule these economic laws with perhaps disastrous consequences.

Getting the budget back in balance will not be easy. The current administration refuses to acknowledge the problems created by its fiscal policies. It apparently, therefore, will be up to Congress to make the difficult decisions.

Respectfully,

MARLIN M. VOLZ, Jr.,
Vice President.●

LOU OLSEN—1984 JESSE L. HAUGH AWARD RECIPIENT

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. VENTO. Mr. Speaker, I wish to bring to my colleagues' attention the current meeting of the American Public Transit Association.

At a breakfast meeting today, Louis Olsen, chief administrator and general manager of the Metropolitan Transit Commission [MTC] in Minneapolis/St. Paul, MN, was awarded the 1984 Jesse L. Haugh Transit Manager of the Year Award. Olsen was chosen because of his many contributions to the transit industry during his years in public transit service.

As both a State legislator and the Fourth District Congressman, I have had the opportunity and pleasure to work with Lou Olsen. He has been a force in the high level of competence and quality service of the MTC.

Lou Olsen has been associated with the MTC for over 14 years. His career in transit began with the MTC in 1970, when he was appointed director of marketing under a management contract with ATE Management & Service Co., Inc. [ATE]. He was appointed assistant general manager under Harry Springer in 1971. Olsen left MTC in 1976 to serve as a corporate executive in ATE and returned to the MTC in 1979 when he was appointed general manager. Olsen was given the added responsibilities of chief administrator by MTC Commissioners in December of 1981.

Lou directed several major improvements at the MTC in the 1970's. He implemented an advanced marketing program based on route and schedule improvements, new public information systems and an innovative advertising campaign. He developed an Equal Employment Opportunity/Personnel Development Program to help minority employees advance to management positions.

In the past 5 years, Olsen has overseen the completion of a major capital developments program, including modernization of all operating and maintenance facilities and fleet acquisition and rehabilitation. In addition, Lou has been instrumental in continued funding on the State and local level, bonding authority and authority to provide special services, such as ridesharing and metro mobility for the elderly and handicapped.

Olsen's primary emphasis in transit operations has been on efforts to improve quality and efficiency. In the area of service reliability, the MTC has surpassed its goal of achieving 99.5 percent reliability for buses departing on schedule. His concern with maintenance performance measured by average monthly miles per maintenance failure resulted in an improved performance of 52 percent for 1983 over the 1980 average, with performance over 4,000 miles per road call throughout 1983.

The MTC worker has been very important to Lou Olsen. Programs to improve employee skills and opportunities and the national Bus Roadeo competition are just a few of the plans he carried out.

Mr. Speaker, I want to commend Lou Olsen on his outstanding accomplishments and on his recognition as the APTA 1984 recipient of the prestigious Jesse L. Haugh Memorial Award.●

THE ADMINISTRATION'S REDUCTIONS IN HOUSING AID

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. COYNE. Mr. Speaker, since the Reagan administration took office, the amount committed to aiding the poor in securing adequate shelter has been reduced sharply. In an excellent article, the Wall Street Journal notes this action as "one of the biggest but least noticed cuts in domestic spending."

There are, of course, thousands of people who could not fail but notice the withdrawal of the Federal commitment. Those who now pay a greater portion of their income for federally backed housing have felt the cuts. The thousands turned away from local public agencies due to a shortage of housing feel the reductions even more deeply. The Wall Street Journal article, which I now submit for the RECORD, provides a good description of where we are, and where we may find ourselves, when it comes to our national housing needs.

SHRINKING SHELTER—DECLINING HOUSING AID WORSENS THE STRUGGLE FOR MANY POOR PEOPLE

(By Joann S. Lublin)

NEW YORK.—In the sultry air of a public-housing project office in Manhattan, Tessie Russo, a 58-year-old resident in a sleeveless housedress, is seething. Sweat beads dot her upper lip and ring her short gray hair.

Despite the heat, Miss Russo tells the project manager she must give up her window air conditioner. She no longer can afford the $7 monthly extra utility charge, because her monthly apartment rent went up $10 Aug. 1, to $102.75. The former waitress, disabled by cancer, receives $374 in monthly Social Security payments, her only income.

"I'll just have to learn to live without the air conditioner," she says. "I'm laughing, but you know, inside I'm busting," she adds, her dark eyes, magnified by thick glasses, flashing angrily. "When I drop dead, they can put on my grave, 'Blame it on Ronald Reagan.'"

Miss Russo's rent has risen twice in the last two years because of President Reagan's belief, accepted by Congress, that the poor should pay a bigger share of their income for subsidized housing. It's one of several ways that U.S. housing aid for the poor has shrunk sharply during the past three years.

TOUGHER RULES

Tightened eligibility rules exclude more of the working poor from public housing; a new emphasis on housing the neediest makes these projects more expensive and troublesome to manage and maintain, since public-housing officials find poorer families put more wear and tear on their apartments and tend to engage in vandalism and other petty crimes. The most radical shift in policy is a scheduled end to most subsidized construction and rehabilitation of low-rent apartments, largely in favor of government vouchers good toward rental of existing units.

In the past three years, annual budget authority for housing assistance, the nation's third biggest welfare program, has plummeted to $9.9 billion from $27 billion—one of the biggest but least-noticed cuts in domestic spending. The number of new households slated for this aid fell to 69,000 in fiscal 1983, ended last September, from 192,000 in fiscal 1980 and a peak of 393,000 three years before that.

The Reagan administration insists that its reduced, revamped housing program still serves the truly needy. Eventually, officials add, vouchers will serve more poor Americans at lower cost and with fewer inequities than now.

Critics contend, however, that the administration seeks to abandon a nearly 50-year-old federal commitment to help shelter the poor through public housing and subsidies for private developers and owners of rental units. Top Reagan aides "have made it quite clear to me that they don't think the federal government has a role to play in housing," says Carl Williams, executive director of San Francisco's Housing Authority. "But for congressional support (for subsidized housing), this administration would have withdrawn entirely."

GROWING SHORTAGE

The slower growth of subsidized housing, recent increases in the U.S. poverty population and continued conversions of rental apartments to condominiums are worsening a national shortage of housing for the poor, critics also claim. They cite the growing legions of homeless and doubled-up families and the waiting lists for housing aid that last many years in some cities. Of 66 cities polled last spring by the U.S. Conference of Mayors, 51 reported that demand for housing assistance grew during 1983, but reduced supplies left few able to meet their low-income residents' needs.

Many people seeking housing help have "no place to stay," Mr. Williams says. "They're sleeping in doorways, flophouses, dilapidated houses." Michael Stone, an associate community-planning professor at the University of Massachusetts, says, "We're going back to Depression-like conditions in this country." Housing advocates estimate that between nine million and 13 million poor U.S. families need shelter assistance because they pay a burdensome chunk of their income for rent or live in substandard dwellings.

But the brunt of the Reagan shift in housing policy has yet to hit the poor. In fact, the number of households receiving subsidies through the Department of Housing and Urban Development is still rising—to 3.8 million this fall, from 3.2 million three years ago. The gain primarily reflects completion of projects committed by the Carter administration. The construction pipeline is scheduled to run dry in another two years or so.

ADMINISTRATION'S STANCE

Reagan officials take credit for the continued increase. "In this administration, we have been supplying more (low-income) housing than ever has been supplied in the past," HUD Secretary Samuel Pierce boasted recently. Adds HUD Undersecretary Philip Abrams, "We try to take care of people whose problems are the worst first" because the nation can't afford to subsidize housing for every low-income family. At the same time, Secretary Pierce has noted, the government's housing debt is dropping from its 1982 peak of $245 billion, thanks to the elimination of most new construction subsidies.

The deficit-wary Reagan administration believes rental vouchers could help house 10 times as many poor families as would the same amount spent on construction subsidies—and with fewer inequities. Under a pilot project approved by Congress last year, HUD officials began this July 30 to distribute 15,000 of the new allowances to those most in need; another 38,500 vouchers will be handed out in fiscal 1985. The vouchers make up the difference between 30% of a family's monthly income and "reasonable" rent levels in an area. Families can pay more rent out of their own pockets if they wish.

The rationale for vouchers is that the basic housing problem is affordability, not an actual shortage of rental units. "On balance, we think there is enough existing housing out there," explains Maurice Barksdale, an assistant HUD secretary. Reagan aides expect that a modest construction and rehabilitation program, passed over the White House's initial objections, will meet the worst shortages of rental housing.

Many cities' long waiting lists for housing aid lead critics to scoff at the administration's approach and to urge a much larger subsidized construction and rehabilitation effort. "Vouchers only work if you have the houses," observes William Ratzlaff, the public housing authority's executive director in Denver, where families must wait up to three years for assisted housing, and the citywide apartment vacancy rate is less than 2½%. New York, Boston and San Francisco have closed or soon may close some waiting lists.

Poor people seeking housing help often fume in frustration over the long waits. "It's crazy," complains 27-year-old Gerri Greene, as she stands in the reception area of New York's City Housing Authority headquarters in Manhattan, waving at passers-by copies of protest letters she has written. The tall willowy black woman has waited for three years to get into a housing project; she lives in a cramped one-bedroom apartment with her two children. "I took the train all the way from the Bronx. If they (staff members) don't give my interview today," she warns, "I might get violent."

A security guard sitting outside the locked screening offices nearby says applicants often make threats. "They start yelling at me, 'How come I been waiting for five years and I still don't have an apartment?' " says the guard, Christine Leacy. "They're just so angry, they don't know what to do." The city's public-housing waiting list of 175,000 families would quickly double in number "if people thought there was any chance of getting in," says the Housing Authority's general manager, John Simon.

Because of New York's extreme housing shortage, an estimated 17,000 to 20,000 families, or 10% to 12% of all public-housing households, double up in the projects, in violation of the law. Such arrangements were "an insignificant factor" before Mr. Reagan took office, Mr. Simon says, adding that the problem recently has also cropped up in other cities.

DOUBLING UP

One who is unhappily doubled up is Lillie Nettles, a 34-year-old welfare recipient in Washington, D.C., evicted from her $115-a-month apartment last April. Two older children stay with relatives while she and two daughters sleep on a double bed in the sparsely furnished apartment of an elderly friend. The rundown building, with plaster peeling and garbage reeking, is in a predominantly black neighborhood dotted with boarded-up homes and Pentecostal churches a mile from the White House.

"I've been looking every week, four to five times every day some days," Miss Nettles says with a sigh. She folds and refolds a neatly handwritten list of apartment vacancies. "Sometimes I feel like I should just give up, but I know I gotta move."

Landlords let her complete applications. "Then they say, 'I'm sorry, you can't get the apartment. You have too many kids or not enough money on your (welfare) check.' " She gets $329 monthly in public assistance, plus $242 in food stamps. The cheapest vacancy on her list, a one-bedroom unit, rents for $268 a month. Spending more than $200, she says, would force her children to go without new clothes needed for school.

Reagan officials maintain a rent voucher would help people like Miss Nettles find an apartment. Low-income housing proponents disagree. They point to studies showing that large, minority families on welfare frequently encounter housing bias. And such families, "just don't have that extra money" to pay more than 30% of their income for rent, says Marjorie Shuman, a counselor with Housing Counseling Services Inc., a nonprofit agency in Washington.

Housing-aid recipients used to pay 25% of their income for rent. But as the result of one Reagan budget cut, the required share has climbed to 30%, and dollar rent ceilings that in many cities apply to each apartment have been scrapped. While many families are allowed to stay in public housing after their incomes have risen above the standards for admission, income ceilings still apply. A family of seven, for example, would have to leave public housing if its income rose above $34,500.

At the same time, public-housing administrators must admit more of the extremely needy, disturbing the mix of welfare recipients and working poor that has kept projects in some cities, such as New York, stable and comparatively free of crime and other social problems.

In certain New York projects, these changes have led to tenant turnover rates twice the citywide average of 3.4% a year, as moderate-income families move out rather than pay higher rents. At one Staten Island project, about 30 moderate-income families have left in the past year, up from the usual dozen. Others fear coming rent increases will force them out.

"How am I supposed to live?" asks Virginia Thow. She, her teletype-operator husband and two youngsters expect they will

have to move in a few years. But she likes the 560-unit, low-rise complex, "a haven in the city, grass, trees and no graffiti . . . I don't want to move out of here."

THE CHANGING MIX

Yet some working-poor tenants who can't afford to leave public housing worry about staying. Typical is Renee Sherbington, a Staten Island teacher's aide and single parent who earns $10,000 a year. Her building's loss of moderate-income families, replaced by welfare recipients, makes her afraid to let her two youngsters outside for long. "Drugs are being dealt out in front of my children while they're playing" and garbage litters the formerly clean hallways, she says.

Tenant activists such as Ms. Sherbington and Ms. Thow are pushing a bill that would allow authorities to reinstate rent ceilings in public housing. "What's happening here is sinful; we're destroying valuable projects," contends Rep. Guy Molinari, the Staten Island Republican who introduced the measure. He thinks the altered family mix in housing projects will sharply drive up crime, vandalism and abandonment, requiring more subsidies.

"That's the crazy thing," he says. "The final result (of this budget cut) is that it's going to cost the federal government more money."●

CONTINUE TO MOVE FORWARD ON SPARE PARTS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. BEREUTER. Mr. Speaker, almost every day the American public learns of another spare part horror story at the Pentagon. Congress has often reacted vehemently at the appearance of $1,000 hammers and $8,000 coffeepots. The Defense Department [DOD] must continue to feel congressional pressure in order to bring its purchasing practices under control.

A recent editorial in the Omaha World Herald reveals the hopeful glimmer of steps in the right direction. Audits by the Defense Department's Inspector General have resulted in savings of over $2.8 billion in the last 2 years. Given the magnitude of the stories to come out of DOD, the Inspector General's job is, as the editorial states, "not an enviable one." This is, however, the only course to take.

I commend the article to the attention of my colleagues:

[From the Omaha World-Herald, Sept. 29, 1984]

THE SPARE PARTS STRUGGLE

Joseph H. Sherick has one of the nation's most unenviable jobs. He is the man at whom some of the criticism is directed when Congress focuses on the cost of spare parts for the armed forces.

As the Defense Department's inspector general, he is in charge of the fight against fraud and waste in military procurement.

Despite the intermittent disclosures of items such as $7,622 coffeepots, Sherick has said some progress was being made by his 1,000-member staff.

He said Defense Department audits have resulted in savings of $2.8 billion in 2½ years. General Accounting Office audits have accounted for $3.6 billion.

But it's only the tip of the iceberg. "I keep turning over rocks, and every rock I turn over, I find new things," Sherick said. And he said he still is unable to determine precisely how much money is lost to fraud and waste.

Given the size of the defense budget, Sherick's task is bound to be difficult. But the only reasonable course is to keep trying.

Wasting tax money by paying exorbitant prices for parts and equipment is not only morally offensive. It also weakens the national defense by consuming funds that could have been applied to other badly needed military projects.●

A BIRTHDAY TRIBUTE

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. COELHO. Mr. Speaker, 14 years ago, the Honorable Edward J. Patten rose in this Chamber to commemorate the 82d birthday of Milton S. Kronheim, Sr., of Washington. Today, Mr. Kronheim will again celebrate his birthday and I rise to pay tribute to him as he marks this special day. As he celebrates his 96th birthday, I would like to take this opportunity to recall Mr. Patten's tribute to his friend, Milton Kronheim, Sr.:

Mr. PATTEN. Mr. Speaker, when Milton S. Kronheim, Sr., of Washington, D.C., celebrated a recent birthday, his friend and columnist, Art Buchwald, wrote a parody on the classic, "Casey at the Bat," by Ernest Lawrence Thayer.

Mr. Kronheim is one of those exceptional Americans who has practiced brotherhood all his life. Those who are privileged to know him not only respect him; they love him. He is a real inspiration to his many friends—a man of great ability, leadership, and compassion—a living legend.

Despite his 82 years, he is in remarkable physical condition and was—and is—quite an athlete. I was, therefore, rather disappointed in the last line of Art's verse. Instead of depicting Milton Kronheim as the "villain" of the game, he should have made him a hero, because Milton Kronheim has been a hero for many, many years by helping people—thousands of them. But I still enjoyed the parody, and I am sure Milton Kronheim did, too.

Art Buchwald's parody, "Kronheim at the Bat," follows:

KRONHEIM AT THE BAT

It looked extremely rocky for the D.C. nine that day.
The score stood two to four, but an inning left to play.
So, when Goldberg died at second and Wagman did the same
Judge Bazelon got up to go, leaving there the rest
With that hope which springs eternal within the human breast.
For they thought, "If only Kronheim could get a whack at that
They'd put even money now with Kronheim at the bat."
But Levine preceded Kronheim and so did Rosenbloom
The former was a duffer, the latter used a broom.
So on that stricken multitude, a deathlike silence sat
There seemed but little chance of Kronheim getting at the bat.
But Levine let drive a single to the wonderment of all
And Rosenbloom got lucky and tore the cover off the ball.
And when the dust had lifted and they saw what had occurred
There was Rosenbloom at second and Levine a-hugging third.
Then from the gladdened multitude went up a joyous yell
It rumbled in the White House, it shook the Capitol.
It struck upon the monuments and rebounded up at State
For Kronheim, mighty Kronheim, was coming to the plate.
There was ease in Kronheim's manner as he stepped into his place
There was pride in Kronheim's bearing and a smile on Kronheim's face.
When responding to the cheers, he lightly doffed his hat.
No stranger in Washington could doubt Kronheim was at bat.
Ten thousand eyes were on him as he rubbed his hands with dirt.
Five thousands tongues applauded when he wiped them on his shirt.
Then when the writhing pitcher ground the ball into his hip
Defiance glanced in Kronheim's eye, a sneer curled Kronheim's lip.
And now the feather-covered sphere came hurtling through the air,
And Kronheim stood a-watching it in haughty grandeur there.
Close by the sturdy batsman the ball unheeded sped.
"That ain't my style," said Kronheim. "Strike one," the umpire said.
From the benches filled with relatives, went up a mighty yell
His grandchildren were screaming, but what I can not tell.
"Kill him, kill the umpire," shouted son, Junior, from the stand
And it's likely they'd have killed him had not Kronheim raised his hand.
With a smile of Jewish charity, great Kronheim's visage shone
He stilled the rising tumult, he made the game go on.
He signaled to the pitcher and once more the spheroid flew.
But Kronheim just ignored it and the umpire said, "Strike two."
"Fraud," cried the maddened relatives and the echo answered "Fraud!"
But one scornful look from Kronheim and the audience was awed.
They saw his face grow stern and cold, they saw his muscles strain.
And they knew that Kronheim wouldn't let the ball go by again.
The sneer is gone from Kronheim's lips, his teeth are clenched in hate.
He pounds with cruel vengeance, his bat upon the plate.
And now the pitcher holds the ball, and now he lets it go.

And now the air is shattered by the force of
Kronheim's blow.
Oh, somewhere in this favored land, the sun
is shining bright
The band is playing somewhere and some-
where hearts are light.
And somewhere men are laughing and
somewhere children chat.
But there is no joy in D.C.; Kronheim hit
the umpire with his bat.

Happy Birthday.●

NUTRITION MONITORING: THE NEED IS GREAT

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. DOWNEY of New York. Mr. Speaker, last December, Presidential Counselor Edwin Meese III stated that allegations of hunger "have been unsubstantiated" and that "people go to soup kitchens because the food is free." Together with a number of people engaged in public policy work on hunger, I invited Mr. Meese to visit with us the Bethany Women's Center, right here in the District of Columbia, so that he could see for himself the evidence that there is hunger in the United States. Mr. Meese chose not to attend.

Because of the persistence of such attitudes of disbelief, I strongly support the passage of H.R. 4684, the National Nutrition Monitoring and Related Reseach Act of 1984. H.R. 4684 is a long time in coming. We should have been voting on a bill like this many years ago. For over a decade, numerous official and professional recommendations, reports and studies have pointed to the need for a better nutrition monitoring system in the United States, but Government has dragged its feet on making the needed improvements.

More recently we have heard from many National, State, and local policymakers that they need up-to-date information on hunger and on the populations and geographic areas in our country that are at greatest risk of malnutrition.

Yet, our data is so out of date that even the President's Task Force on Food Assistance concluded in their report last January that " * * * lack of up-to-date data has made it impossible to assess whether the current nutritional status of the population has worsened over the last few years * * *."

Every year, every month, even every day we keep track of many important statistics; the unemployment rate, the mortality rate, the inflation rate, the stock exchange closing averages. Surely we can do better as a Nation at keeping track of the nutritional problems of our citizens. We need an earlier warning system than we have now.

I would like to cite another part of the Report of the Presidential Task Force on Food Assistance. The report recommends the development of a nutrition surveillance system which "encourages the involvement and support of all levels of government as well as private industry, private organizations in the food assistance area and researchers." H.R. 4684 does exactly that and I would like to commend Representatives BROWN, MACKAY, and WALGREN for introducing this legislation. I urge all my colleagues to vote for its passage.●

A BILL TO CORRECT MEDICARE AND MEDICAID ABUSE

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. SIKORSKI. Mr. Speaker, today, I am introducing legislation to correct an abuse in the medicare and medicaid hospital Swing Bed Programs. This abuse derives from administrative action by the Health Care Financing Administration that exceeds the authority granted by Congress, and consequently affects the health and welfare of many elderly Americans.

The bill I am introducing attempts to insure that an elderly patient receiving long-term nursing care in a hospital setting under the Swing Bed Program will receive the same level of high quality care that is normally available in a nursing home. It also attempts to guarantee equivalent rates of long-term care cost reimbursement regardless of the setting in which the care is provided.

In the Omnibus Budget Reconciliation Act of 1980, Congress established the hospital Swing Bed Program. Under the Swing Bed Program, the Secretary of Health and Human Services may allow rural hospitals having fewer than 50 beds to "swing" use of their beds from the acute care for which they were originally intended to long-term care that is more traditionally provided by nursing homes. Furthermore, the Swing Bed Program allows hospitals to receive reimbursement from medicare and medicaid for swing bed patient costs at a rate that is higher than what a nursing home would receive.

One of the original purposes of the Swing Bed Program was to provide nursing home beds in rural communities where a shortage of beds exists. I believe in the swing bed concept. However, I am concerned that the original congressional intent of the program is not being followed in several respects.

Current law restricts eligibility to rural hospitals of less than 50 beds. In March 1983, the Health Care Financing Administration of the Department of Health and Human Services reinterpreted the law to allow swing bed participation by hospitals licensed and/or certified for more than 50 beds, if the hospitals "staff and operate" fewer than 50 beds. I believe that there is no basis in either law or regulation for this expansion of the Swing Bed Program to larger hospitals. Additionally, I am concerned that in some areas of the country the reinterpretation is being used to allow hospitals to place nursing home patients in swing beds while nursing home beds in the community remain unoccupied. My bill tightens current law to preclude HCFA's reinterpretation.

I am also concerned that hospitals might use the Swing Bed Program as one way to solve financial ills brought on by the new medicare diagnosis related groups [DRG] system of reimbursement. Under the DRG plan, instead of reimbursing hospitals for all expenses incurred in treating medicare patients, the government will now pay only a predetermined fixed rate for some 467 treatment categories. This new system of payment has created strong incentives for hospital to cut back on costs, move patients out more quickly, and to become generally more efficient in their operation.

For the first time since medicare began 20 years ago, full-time hospital employment has actually declined and many hospitals are finding themselves in financial difficulty. Understandably, hospitals need to attract additional patients. The Swing Bed Program offers one means of filling vacant hospital beds with patients whose costs are not currently reimbursed under the DRG program. Swing bed patients, therefore, increase a hospital's flexibility in fiscal management.

Congress did not intend for the Swing Bed Program to be used as a financial rescue package for troubled rural hospitals, but as a means of meeting shortages of nursing home beds in rural areas. To help assure that swing beds will only be used as Congress intended, my bill requires the State health planning and development agency to verify that a shortage of nursing home beds exists in a geographic area before swing beds are approved.

My bill also requires swing bed hospitals to meet the same standards for long-care certification, staff training, and licensure as apply to nursing homes. Recipients in need of long-term care could reside in a hospital swing bed or a nursing home. Yet hospitals are not required to meet the same conditions for participation in the medicare long-term care program as those imposed upon nursing homes. Furthermore, hospitals are designed to provide short-term, high intensity

treatment to acutely ill patients. Patient care is bed centered. Yet most persons needing long-term care suffer from chronic physical or mental disease brought on by natural processes of aging. Long-term care patients require less medically intensive care which continues over a longer period of time. They need to spend much of their time out of bed to promote emotional, psychological, and physical well-being. In a hospital setting, the care of the elderly long-term care patient may be entrusted to a staff aide who is not required to have any specialized geriatric training.

Swing bed patients should have the right to enjoy the same protections and benefits that Congress and the States have seen fit to mandate for them in nursing homes. They should be able to take advantage of a broad range of integrated medical and social services and activities available in nursing homes. And, they should be served by staff who understand the particular needs of a geriatric patient. My bill provides these opportunities and safeguards.

Finally, my bill assures equity in reimbursement. it requires that the rate of medicare and medicaid reimbursement be the same for similar services rendered, regardless of the type of facility in which they are offered. At the present time, the level of reimbursement a hospital can receive for providing long-term care in swing beds is higher than the reimbursement a nursing home can receive for the same kind of care. I believe providers of long-term care services, whether they are nursing homes or swing bed hospitals, should operate under the same financial incentives.

Mr. Speaker, again I reiterate my support for the Swing Bed Program. However, I believe the changes outlined in my bill will assure consistency between the Swing Bed Program as currently implemented and the Swing Bed Program as originally authorized by Congress. Additionally I feel my bill helps guarantee that elderly Americans in swing beds receive the high quality care they deserve. I urge the Congress to give this measure serious attention.●

FAMILY VIOLENCE

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. AuCOIN. Mr. Speaker, family violence is a shockingly widespread problem in the United States, cutting across every segment of society. Each year 6 million wives are abused by their spouses; and each year 2,000 to 4,000 of these women die. Police officers across the Nation spend one-third of their workday responding to domestic violence calls.

These statistics provide only a rough outline of the problem. Because victims of domestic violence bear an extra burden of fear and shame, domestic violence is too often an invisible crime.

It is vital that the Federal Government work more closely with States and local agencies to combat this problem. Congress made a long overdue start last week by passing H.R. 1904, legislation to establish a new program for the prevention and treatment of family violence.

H.R. 1904 sets up a 3-year program to provide matching grants to States to provide shelter and other services for the victims of domestic violence and for programs to prevent such abuse. The bulk of the funds will be used to provide emergency services to victims of domestic violence, but will also be used to help train police forces to handle cases of domestic violence.

H.R. 1904 does not set up a grandiose new Federal program. In my opinion, the bill provides the absolute minimum—in recognition of our pressing budget needs—to meet this very real problem.

Last year, in my State of Oregon, programs set up to help victims of domestic violence were overwhelmed. Social service agencies and private groups provided shelter to 4,500 women and children for a total of 27,000 bed nights and handled over 50,000 crisis calls.

In addition to providing direct services these agencies were able to reach an additional 30,000 people through educational outreach programs aimed at prevention—programs made possible by the help of over 900 volunteers who put in 80,000 hours of their time.

The experience of these agencies was that each time a new shelter home or crisis line opened in a community, the demand for services was suddenly there. How many more people would have been helped if Federal resources were available?

But at a time of increased need, the Federal Government has turned its back. Cuts in title XX, CETA, VISTA, and LEAA, coupled with cutbacks at the State and local level, have resulted in 76 percent of the existing shelters reducing their services.

The private sector has been trying desperately to keep up with the demand for services, but has been unable to do so given the increased pressures and decreased public funding.

As the recently released report by the Attorney General's Task Force on Family Violence stated: "As important as our families are to us individually and to the health of the Nation, it is crucial that public policy support and strengthen family values and family well-being."

Being "pro-family" means more than providing lip service to the needs of those who are crying out for help. Being "pro-family" means helping families work through difficult and serious situations.

By passing this measure we are saying that the U.S. Congress believes in helping those who are being destroyed by violence within their own homes, and we will not sit idly by and ignore the necessity for domestic violence shelter services.

I commend my colleagues for their support of this legislation.●

IN-FLIGHT MEDICAL EMERGENCY ACT

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. PURSELL. Mr. Speaker, today, I am introducing the "In-Flight Medical Emergencies Act." While I have introduced similar measures in the past—I feel this bill has the best chance of passing in both Chambers. Furthermore, because of the recent tragic loss of our colleague, Mr. Perkins. The need for this bill is even more urgent.

As we all know, Mr. Perkins suffered a heart attack while on board a plane flying from Washington to his home State, Kentucky. According to the airlines regulations today, planes are not required to carry medical supplies to assist heart attack victims. Furthermore, there is no legislation to protect flight attendants, pilots, or doctors and nurses who are aboard from civil suits if they try to help someone in Mr. Perkin's condition.

The bill I am introducing today, has been approved by the Senate Commerce, Science and Transportation Committee. It seeks to do two things: First, provide appropriate medical kits to be carried aboard commercial aircraft for the treatment of in-flight medical emergencies; and second, relieve appropriate persons from liability related to the use of the kits.

There is a need for this bill. And the quicker we act on it, the sooner we can save lives.●

THE MOST SERIOUS THREAT TO FREEDOM OF CHOICE

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. SCHUMER. Mr. Speaker, when we vote for the President of the United States, we tend to think in terms of electing that person to office for 4 years. Unfortunately, we fre-

quently forget that whomever we elect as President is likely to have the opportunity to influence the philosophy of the Supreme Court for as long as half a century. In essence, voters do not simply elect a President for just 4 years. We elect the President for as many as 40 years.

The next President's views on abortion and the views of his judicial appointees will be crucial to maintain the right to choose.

The National Abortion Rights Action League recently published an analysis of this year's election and its implications for the protection of the right to choose. Will the future Supreme Court continue to guarantee this fundamental right? The paper includes an analysis of Justice Sandra Day O'Connor's dissent in the 1983 Akron against Akron Center for Reproductive Health decision and how it plants the seeds for a reversal of Roe against Wade.

I would like to suggest to my colleagues that they read the NARAL analysis and I insert it in the CONGRESSIONAL RECORD:

THE MOST SERIOUS THREAT TO FREEDOM OF CHOICE

For more than 10 years, millions of American women have relied on the assurance that the U.S. Constitution protects every woman's right to choose whether or not to have an abortion. In the landmark 1973 case, known as Roe against Wade, the U.S. Supreme Court declared that early in a pregnancy the constitutional right of privacy prohibits State interference in a woman's abortion decision. To analyze the conflicting interests of the individual and the State, the Court divided the pregnancy into trimesters, holding that no State may regulate or interfere in any way in the woman's right to choose during the first trimester, that only after the first trimester may a State regulate abortion procedures to protect the life of the woman, and that a State may not interfere with the right to choose until the third trimester, when it may prohibit abortions except when they are necessary to protect the life or health of the woman.

Roe against Wade is the foundation of freedom of choice. Since the decision was issued, women have been able to make their own decisions about their bodies and their lives. And, after years of back alleys and unsafe procedures, abortion has become a safe and relatively simple medical procedure.

Today, however, the Supreme Court's decision in Roe against Wade, and the right of freedom of choice, are seriously threatened. Sandra Day O'Connor, President Reagan's recent appointment to the Supreme Court, has challenged Roe in a dissenting opinion, in which she argued that "the Roe framework is clearly on a collision course with itself."

While prochoice supporters hailed the 1983 Supreme Court decision in City of Akron against Akron Center for Reproductive Health, Inc., in fact, given the age and views of the Justices on the Supreme Court, that case may have signaled the beginning of the end for the woman's right to choose. The case itself reaffirmed the principles that had been established in Roe against Wade and struck down several attempts to restrict freedom of choice, but O'Connor's dissent and the opinions in the companion cases contain the seeds of a reversal of Roe.

DEMOGRAPHICS OF THE COURT

There are nine Justices on the U.S. Supreme Court. While the vote in the 1983 Akron decision was 6 to 3 in favor of freedom of choice, the vote in a companion case decided the same day, Planned Parenthood Association of Kansas City, Missouri, Inc. against Ashcroft, was 5 to 4 restricting abortion rights. The Planned Parenthood decision upheld a Missouri parental consent requirement, as well as a requirement that a second physician be present during an abortion of a potentially viable fetus.

Reading the Missouri and Akron cases together shows that there are only four firm votes on the Court for the prochoice position. They come from Justices Brennan, Marshall, Blackmun, and Stevens. Those Justices are 78, 75, 75, and 64 years old, respectively. The swing votes, those who voted prochoice in the Akron case, but antichoice in the Missouri case, are Justices Powell and Burger. Both are 76 years old. The President who is elected in 1984 will almost certainly replace several of those Justices.

The three solid antichoice votes, Justices White, Rehnquist, and O'Connor, are 66, 59, and 54. All will probably be on the Court for quite a while

The President who is elected in 1984 will probably appoint at least two, or as many as four, relatively young Justices to the Supreme Court. If the President is prochoice, the new appointments would probably strengthen the prochoice position on the Court and would protect freedom of choice for the next several decades. On the other hand, if the President is antichoice and appoints more Justices like Justice O'Connor, the prochoice majority may well be lost, and there will be a firm antichoice majority of 6 to 3 or worse for many years to come.

THE O'CONNOR DISSENT

The critical difference between O'Connor and the majority in Akron and Roe against Wade is that she rejects the Roe framework under which the point of viability was the watershed marking the time at which the woman's privacy interests become secondary to the interests of the State. Instead of focusing upon viability, she focuses upon the "potentiality" of life throughout pregnancy. As the following portion of her opinion demonstrates, she would go back as far as conception to protect potential life:

> The Court (in Roe) chose the point of viability—when the fetus is capable of life independent of its mother—to permit the complete proscription of abortion. The choice of viability as the point at which the state interest in potential life becomes compelling is no less arbitrary than choosing any point before viability or any point afterward. Accordingly, I believe that the State's interest in protecting potential human life exists throughout the pregnancy.

O'Connor's view that the States have a compelling interest in protecting fetal life throughout pregnancy, if adopted by the court, would change the way a court looks at abortion statutes. Today, if a case involves a State attempt to restrict fundamental constitutional rights such as freedom of speech or freedom of choice, the Court will apply what is known as "strict scrutiny." Under that standard, the Court will strike down the restriction unless the State can demonstate a "compelling State interest" to justify it. This is a very difficult standard for States to meet, and most restrictions on the freedom to choose have failed to meet it.

O'Connor, on the other hand, would look to the compelling interest in protecting "potential" life and uphold a State restriction on freedom of choice unless the woman could show that the restriction "unduly burdens" the right to obtain an abortion. Thus, the obligation would be the woman's to show the State is wrong, rather than that of the State to show that it is right.

If the O'Connor dissent is adopted by a new majority, therefore, the States would be able to establish significant obstacles to abortion before the Justices would hold that the states had unduly burdened the woman's right to choose. For example, they would probably uphold requirements that burden the abortion decision with substantial cost, delay and/or emotional suffering.

O'Connor relies upon advances in medical technology during the last decade to justify abandoning both the Roe trimester framework and the principle that the woman has the right to choose up to the point of viability.[1] Jumping from the actual small increments of medical progress in the last decade, O'Connor theorizes that:

> The Roe framework, then, is clearly on a collision course with itself. (She speculates

[1] The facts do not support her position. Scientific progress may suggest that various interests and rights arising during a pregnancy should be fit into stages which are slightly different than trimesters (for example, later term abortions are safer than they were ten years ago when Roe was decided). These medical developments do not require, or even suggest, that the pregnancy should be treated as indivisible and that the concept of "potential" life should be substituted for viability.

that) as the medical risks of various abortion procedures decrease, the point at which the State may regulate for reasons of maternal health is moved further forward to actual childbirth. As medical science becomes better able to provide for the separate existence of the fetus, the point of viability is move further back toward conception.

Thinking she has demolished the factual bases for Roe against Wade, she feels free to suggest that the Court ignore the principle of stare decisis under which the Court must follow the rulings that it has made in earlier cases. Although Roe against Wade was decided a decade ago, O'Connor would overturn it in favor of views that have consistently been rejected by the Court. The proposal to reverse Roe is particularly radical in light of the Supreme Court's introduction to the Akron decision: "The doctrine of stare decisis * * * is a doctrine that demands respect in a society governed by the rule of law. We respect it today and reaffirm Roe against Wade."

The potential for overturning Roe against Wade has not been lost on the antichoice forces. They are modeling their campaign on the one designed by the NAACP to overturn Plessy against Ferguson, the then 50-year-old Supreme Court precedent that was used to justify the doctrine of "separate but equal" facilities for different races. At least one national conference has been held and legal strategy sessions are continuing in an effort to draft restrictive statutes that will withstand Supreme Court review and to identify a series of seemingly "outrageous" cases that can be litigated to whittle away abortion rights.

In light of the foregoing review of the demographics of the Supreme Court and the analysis of the O'Connor dissent, if an antichoice President appoints several new antichoice Justices, the stage would be set for a reversal of Roe against Wade.●

TRIBUTE TO CONGRESSMAN JOHN ERLENBORN

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. HYDE. Mr. Speaker, one of the less happy occurrences around here is when a good friend and a superb public servant decides to retire and move into another occupation. Such is the case with my Illinois colleague, JOHN ERLENBORN, who has decided after 20 years of outstanding service in Congress that the private practice of law holds new and interesting challenges to which he must respond.

I first knew JOHN when we were law school classmates at Loyola University School of Law in Chicago, a time when I'm sure neither of us contemplated a political career. He was an excellent student then, and has since brought his keen intellect and high principles to bear on his important legislative work. JOHN has been a tough-minded, courageous, and fair legislator who has earned the respect of both Republicans and Democrats alike. He did his homework, and has been influential in shaping some of the most important and complicated Labor and Education legislation to emerge in the past two decades.

We Republicans, and especially those of us from Illinois, will miss his strength and leadership in Congress. We also wish him every success in his future endeavors, and hope to call on him from time to time for advice and counsel.●

NATIONAL HISPANIC HERITAGE WEEK—1984

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. GARCIA. Mr. Speaker, the week of September 10 through September 16 comprised National Hispanic Heritage Week. This occasion, officially designated as such by Congress in 1968, commemorates the rich experience of Hispanics in America and their numerous contributions to the development of our Nation.

In the spirit of this celebration, the Honorable Richard M. Urbina, associate judge for the Superior Court of the District of Columbia, delivered an address that outlines the common challenges facing not only Hispanic but all Americans, and which characterizes the American blessings that enable Hispanics to be both good citizens and proud descendants of the Spanish heritage. I have included this insightful speech for my colleagues review.

HISPANIC HERITAGE WEEK, 1984

Each year, this annual celebration marks, among other things, the progress made by Hispanics and non-Hispanics in their individual and concerted efforts to understand one another. Although progress can be measured to one extent or another, the visibility of an enlarging Hispanic presence requires renewed and creative efforts to enhance understanding that will give rise to improved communication and identity of purpose.

As I pondered a way to make my point, I recalled the words of an old Jesuit instructor: "If you wish to invite someone to reason with you, always start with a basic premise of common understanding." So please bear with me as I think aloud.

This growing presence of an enlarging Hispanic presence causes some non-Hispanics to recoil at the vision of an advancing onslaught of Spanish speaking strangers forcing their language, culture and ideas of foreign extraction on us "Americans".

As those persons seek to protect what they have from adulteration, they forget that what they protect—democracy—is the political ideology which created the open arms that embraced the waves of immigrants of which this country was made.

Democracy—ladies and gentlemen—let us return to the basics just briefly—for what I am about to say is that Hispanics epitomize the American ideal!

As Americans we are deeply committed to the theory and practice of democracy. Democracy, in America, was born of frustration—the justifiable frustration felt by the colonists in being ruled without representation. The voice of the people was, however, finally heard.

The founders established a country whose government embodied the fundamental democratic principle that the people are the government. When coupled with the principle of representation, the foundation of our representative democratic system of government was laid.

All the trappings of our present-day Government grew from this deep and abiding belief in the inherent dignity of the individual and his or her "inalienable" right of self-government; that is, that each of us, in conjunction with our fellow citizens, has a God-given right to participate in the decision-making process by which we determine the "common good" and how to best achieve it.

The theory of democracy demands, in practice, a participatory form of government. The bedrock tenet of democracy is that the greater the number of points of view that are taken into account in determining policy and translating such policy into laws, the more likely will be the result that governmental actions will reflect and further the good of the whole.

Conversely, if any segment is left without a meaningful role, society, as a whole, suffers the loss. Individually and collectively we are the poorer if any segment of our country is denied participation in government.

The quality of a democratic system of government can be measured by the treatment that minorities receive under it. Governmental decision-making by majority rule is the keystone of any democratic system; yet, the interests of the minority must always be taken into account since they add an indispensable perspective and sensitivity to the majority's view.

We Hispanics are increasingly recognizing our right and responsibility to take our place alongside of the rest of our fellow citizens. All Americans share the obligation to participate and thereby enrich the societal milieu.

The Hispanic can and will share the tremendous resource of his or her cultural heritage with the rest of the country. We will share—if we are allowed to do so. We are a diverse and yet culturally and philosophically similar ethnic category.

The term "Hispanic" originated with the Federal Government during the early 1970's. It was a term of convenience used to identify and treat an emerging minority group. In reality, Hispanics are made up of many subgroups and races. We are white, black, brown, red, yellow and all mixtures thereof.

We include Mexicans, who at 60% constitute the largest Hispanic presence. Puerto Ricans, at 14% constitute the next largest subgroup. Cubans constitute 6% and other Latin-based derivations from the Caribbean

and Central and South America constitute the remaining 20%.

Nevertheless, we are all Hispanic. We are drawn together by several common characteristics, among these are: (1) Strong extended family ties; (2) enduring religious beliefs; (3) the Spanish language; and (4) the desire to be one as a people.

We are drawn together by common cultural mores—in effect, how we perceive the world and ourselves. In the words of the Treasurer of the United States, Katherine Ortega: "[Hispanics share a] commitment to earning a living by hard work, patience, determination and perserverance."

American history tells the story of Hispanic participation. The Hispanic presence in this country is not a recent phenomenon. Indeed, Hispanics have helped shape the History of America since Columbus "discovered" America in 1492. Hispanic "conquistadores" led the way in exploring and charting the "New World." Hispanics settled vast expanses of this country from Florida to California. Many of the original settlements have become the thriving "Sun Belt" cities of today.

Before this Nation was able to declare its independence in 1776, it had to go through a long period of historical gestation. Meanwhile, the Spanish contributed to the growth of the "New World" by introducing such crops as: wheat, sugar cane, olives, rye, barley and lemons. In addition, the Spanish brought horses, cattle, sheep, goats, pigs, donkeys and even the chicken. [Where would Colonel Sanders be today if it were not for Hispancis?]

Hispanics also made contributions to the rebellious colonies seeking their independence from England. Bernardo deGalvez, Governor of New Orleans, lent active support to the colonies. He went as far as refusing port to British ships. Additionally, Cuba sent financial aid to the colonies and opened lines of credit which helped General Washington launch important battles toward the end of war.

In short, Hispanics are an integral part of American history. We have been here for centuries and have paid our dues.

Today, Hispanics continue to serve their country. Two of the hostages held in Iran, during the 1980 crisis, were Hispanic. One of them, Jimmy Lopez, boldly and proudly wrote, in Spanish, of his love for "la roja, blanca y azul." [The "red, white and blue" of the American flag]. His bilingualism allowed him to defy his captors and proclaim his patriotism.

More recently, approximately fifteen of the marines killed in Lebanon were Hispanic. The Hispanic Americans' patriotism is evidenced by the fact that Hispanics have been awarded more Congressional Medals of Honor than any other American racial or ethnic group.

Lieutenant Commander Everett Alvarez is a striking example of the depth of Hispanic patriotism. LCDR Alvarez endured imprisonment in North Vietnam for eight and one-half years; he was the longest-held POW in Vietnam. After his release, he remained in the Navy, earned both a masters and JD degree, and was subsequently named Deputy Director of the Peace Corps.

Additionally, LCDR Alvarez established a scholarship at the University of Santa Clara to, in his words, "foster feelings of pride in being an American."

No, Hispanics are not a new phenomenon in America. We are part of the warp and weft of this country—the very fabric of America.

All too often, however, our accomplishments have been relegated to the "invisible" American past. Although our contributions have rarely been recognized, we have done our share.

We can be found at all levels of American society. Unfortunately, Hispanics have traditionally been over-represented in low-level positions involving manual labor. But we are on the move. The Hispanic professional is emerging. We are becoming teachers, doctors, lawyers—yes, even judges.

The pervasive presence of Hispanics in contemporary American life was brought home to me as I watched the Summer Olympic Games. Hispanic Americans were among the participants and medal winners who so nobly represented our country.

Hispanics have embraced American ideals yet have retained their cultural identity. Some see this as a refusal to assimilate and as potentially divisive. The similarity in fundamental values held by Hispanic and non-Hispanic Americans belie such fears. A recent study by Yankelovich, Skelly and White concluded that "The majority of [Hispanics] showed 'traditional' American values regarding a belief in upward mobility, emphasis on materialism and the accumulation of wealth, etc."

Indeed: "[Hispanics] are more likely than Americans as a whole to express 'the American dream'." In contrast, the national news media recently reported that the majority of Americans for the first time in our history, think that their children will not have a better life than they had. In an era in which non-Hispanics have become pessimistic, the Hispanic American has wholeheartedly endorsed the American dream. Hispanics, as a culture, still believe that hard work by the parents will result in a better life for future generations.

The "American dream" is an amorphous concept that has historically taken a variety of forms. Each form, however, was grounded in a fundamental hope for the future. Such hope implies the idea of progress and faith in the face of change. The American Hispanic stands ready to reacquaint our dispirited fellow citizens with traditional American values.

In this way, the Hispanic American personifies the American "pioneer spirit." Hispanics are the pioneers of this generation. We are optimistic about improved standards of living and the likelihood of upward mobility.

Rather than refusing to assimilate, modern Hispanics are living the American dream. We have drawn from the parallel values and beliefs inherent in Hispanic and Anglo culture. This synthesis—cultural pluralism, if you will—has always been the true strength of American society. We are a nation of immigrants. And each addition, each cultural exchange, benefits us all. It renews us and reinforces our belief in the value of full participation by all segments of society in the decision making process that is government. Cultural pluralism is the essence of democracy.

The belief held by modern Hispanic Americans in the "American dream" is remarkable in light of the temptation to despair and the significantly lower income levels of Hispanics and the slow gains in educational attainment and occupational status.

Hispanics comprise the poorest of our citizens. Between 1981-82, the number of Hispanics living below the poverty level grew by an unprecedented 6.8%. During the same period, the increase for whites was 1.4% and for blacks the increase was 3.4%.

Puerto Ricans, in particular, earn far less than any other ethnic group. Concomitantly, Puerto Ricans in New York City have an astounding high school drop out rate of 85%. The cycle has become self-perpetuating.

The cumulative effect of this cycle of unfinished education, low-level employment and poverty is a destructive self-image of worthlessness. Unfortunately, this negative image is reinforced by the national media.

A recent study of prime-time television programing for the three major networks revealed that out of a total of 3,546 characters, only 37—approximately 1%—were Hispanic. Furthermore, only 11 out of the 37 Hispanics had speaking roles. Of these 11, 63% were negative criminal roles.

The result is cultural defamation. The effects are subtle but devastating, pervasive and undeniable. Studies have proven that television shapes people's perception of reality. The American public's view of the world around us is negated or confirmed by what appears on television. Studies have indicated that even eyewitnesses to news events do not perceive the event as fully "real" until they see it reported on television. The power of the media is awesome. And what the media are telling young Hispanics is that Hispanics are not valuable to society.

As a society, we must strive to reverse this growing negative self-image among Hispanics. Otherwise, we are choking off our hope for the future.

If today's most ardent believers in the "American Dream"—American Hispanics—fall victim to negative self-perception, then every American will be the loser.

Despite economic and social disadvantages, American Hispanics have made significant gains in recent years.

The vast potential of the Hispanic consumer market has only recently been recognized. The Hispanic consumer market was just over $900 million in 1950. It more than doubled to almost $2 billion by 1960 and surged to over $15½ billion by 1970. At present, the Hispanic consumer market represents almost $55 billion in annual buying power. This translates into a gross national product equivalent that is the 23rd largest in the world. It is right behind those of Saudi Arabia and Switzerland and ahead of those of Austria and South Africa.

Moreover, the Hispanic consumer market is young, growing and upwardly mobile. This contrasts with the economically "mature" American Anglo market.

The median age of the Hispanic population is 21.3 years while the median for whites is 30 years. Additionally, the growth rate of Hispanics far exceeds that of non-Hispanics.

These few statistics portend much in the way of social, economic and political change in the coming years. For example, as more whites reach social security age, their support will depend on social security taxes paid by an increasingly Hispanic work force.

The political education of this ever increasing Hispanic community is a particularly timely topic this election year. It is noteworthy that both major political parties have targeted Hispanics as a decisional force in the coming Presidential elections.

Such political acculturation of Hispanics has proceeded apace. We have learned the value of coalitions.

The election of Mayor Washington in Chicago is testimony to this fact. In New York City a coalition of blacks and Hispanics successfully challenged an inequitable redis-

tricting plan. Consequently, the elections were delayed until a more representative plan was approved.

Hispanic officials are being elected in ever increasing numbers to all levels of our Government. Hispanic mayors govern the cities of Miami, San Antonio, Santa Fe and Denver.

The Governor of New Mexico is a Hispanic. The congressional Hispanic caucus has grown from three founders to include eleven Congressmen. Congressman Garcia, of New York City, projects that by 1990 membership will exceed twenty congressional representatives. Twenty-five congressional districts already have a Hispanic population greater than 25%.

In short, Hispanics are recognizing their obligation to participate in our democratic form of government. If our democracy is to remain viable Hispanics must take up the gauntlet of freedom. The right of individual liberty entails the corresponding duty to participate. This infusion of cultural plurality into mainstream America be welcomed by all Americans who truly believe in the principles of our democracy.

Hispanics offer America their proud and distinguished cultural heritage. We all can draw strength from our ethnic differences because we share a fundamental philosophical vision. The "American dream" is the vision and the promise of today's Hispanic American. Together we are better than we could ever be individually.

In closing, I would like to quote from a recent book on the subject of interpersonal understanding by David Keirsey and Marilyn Bates, which may hold a lesson for all of us:

If I do not want what you want, please try not to tell me that my want is wrong.

Or if I believe other than you, at least pause before you correct my view.

Of if my emotion is less than yours, or more, given the same circumstances, try not to ask me to feel more strongly or weakly.

Or yet if I act, or fail to act, in the manner of your design for action, let me be.

I do not, for the moment at least, ask you to understand me. That will come only when you are willing to give up changing me into a copy of you.

* * * To [accept me as I am] is the first step to understanding me.

* * * And in understanding me you might come to prize my differences from you and, far from seeking to change me, preserve and even nurture those differences.

Understanding and utilizing the positive differences of which I have spoken may hold the key to what we all cherish so deeply—the future of our beloved country.

God bless you and thank you for your attention.●

TRIBUTE TO HON. TOM CORCORAN

HON. CHARLES PASHAYAN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. PASHAYAN. Mr. Speaker, among the many fine Members of Congress leaving the Congress this year is our colleague from Illinois, TOM CORCORAN. During his 8 years in this body he has distinguished himself with his knowledge and practice of the rules of the House and as a defender of the principles of free enterprise that have built this Nation.

As a member of the Energy and Commerce, and the Post Office and Civil Service Committees, he has worked to apply the principles of the free market and to protect the interests of the people of his district.

Mr. Speaker, it has been an honor to serve in this House with men and women of the high caliber of TOM CORCORAN, and I wish him the very best in his future endeavors.●

BOB GIBSON TO RECEIVE FERNANDO AWARD

HON. BOBBI FIEDLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Ms. FIEDLER. Mr. Speaker, I rise today on behalf of myself and my colleagues Mr. BERMAN and Mr. BEILENSON to announce to the Members that next month the San Fernando Valley's highest honor—the Fernando Award—will be presented to an old friend, Bob Gibson.

The Fernando Award is presented annually to the citizen of the valley who has given the most service to our community and Bob certainly fills that requirement.

Since 1956, he has been with Valley Federal Savings, serving since 1982 as its chairman of the board and chief executive officer. He has also been active in the industry serving in various capacities with both the California League of Savings Institutions and the United States League of Savings Institutions.

However, Mr. Speaker, it is difficult to see how Bob finds time to do his work because his civic involvement is so prolific. He has served, in one way or another, with the Valley Industry and Commerce Association, the Los Angeles Headquarters City Association, the Van Nuys Chamber of Commerce, the Los Angeles Council of Presidents, the Policy Advisory Board of the Southern California Earthquake Preparedness Project, Vitalize Van Nuys, the United Way, the Juvenile Justice Connection Project, Valley Presbyterian Hospital, the Mid-Valley Family YMCA, the Van Nuys Rotary Club, Casa Montessori, the San Fernando Valley Cultural Society Foundation, the Grand Peoples Company and the Automobile Club of Southern California.

This year's award is not the first time Bob has been honored by his community. In 1975 he was Man of the Year for the Van Nuys Chamber of Commerce and just this year he was given the Charles A. & Margaret W. Pollak Award from the United Way.

Mr. Speaker, my colleagues and I join with Bob's many friends in saluting him for the honor of being this year's Fernando Award recipient. We wish him, his wife Norma, and his three children the best in the years ahead.●

TERRORISM AND DRUGS: GAMES BULGARIANS PLAY

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. BROOMFIELD. Mr. Speaker, now is the time for the Bulgarians to stop playing their illegal games. Unfortunately, the Bulgarian Government continues to involve itself in international terrorism, narcotics, and arms smuggling. In spite of what that government says about its innocence in the matter, the facts reveal that behind the scenes, the Bulgarians are actively involved in a variety of sordid activities.

The House Foreign Affairs Committee recently adopted House Concurrent Resolution 337 concerning Bulgaria's abuses of the Customs Convention on the International Transport of Goods. According to available evidence, the Bulgarians transport illicit narcotics, and smuggle arms and terrorists under the cover of TIR Carnets in closed trucks.

Under the 1975 Customs Convention on the International Transport of Goods under cover of TIR Carnets, the transport of legitimate goods is facilitated by exempting sealed vehicles from normal customs inspection at national border checkpoints. U.S. Government-acquired information shows that the Bulgarian Government has established a policy of encouraging and facilitating trafficking in illicit narcotics through its official import-export agency, Kintex. The Bulgarians have illegally used the TIR Convention in carrying out this illegal practice. The Bulgarians have also assisted the illicit flow of arms and ammunition to insurgent groups. Bulgarian involvement in such activities, in light of the growing menace of international terrorism, must be stopped. The committee's efforts are a step in the right direction.

Fortunately, the TIR Convention also allows countries to take certain steps in order to prevent abuses, including the examination of vehicles by customs officials when irregularity is suspected.

The House Foreign Affairs Committee wisely resolved that our Government should request that the Secretary General of the United Nations convene a review conference. Hopefully, such a conference could determine what steps should be taken to end these flagrant abuses on this important international agreement. I en-

courage our Government to follow this sense of Congress and end this unfortunate abuse of the Convention. The specter of narcotics threatens this generation of Americans along with other young people around the world. As part of the worldwide effort to end this horrible burden, the Congress must do its part in the administration's war against narcotics.●

TAIWAN: SEVENTY-THIRD ANNIVERSARY

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. SHUMWAY. Mr. Speaker, October 10 will mark the 73d anniversary of the founding of the Republic of China, or Taiwan. Our Nation has been privileged to enjoy a very special friendship and successful cooperative relationship with the Taiwanese, and it is with great pleasure that I ask my colleagues to join with me in paying tribute to Taiwan today.

"Double Ten" marks the day in 1911 when the Chinese Republican revolutionaries successfully cast off the reign of the Manchu provincial government, triggering the downfall of the last imperial dynasty in China. We have much in common with the people of the Republic of China. Both nations are committed to political and economic freedom, enabling individual choice and the free marketplace to prevail. I have been privileged to visit the ROC, and my belief that its inhabitants are as dedicated to liberty as we are was confirmed and enhanced. Taiwan understands, as we do, that only in a free society can the greatest number of people reap the greatest personal reward. The system of government we mutually revere provides for maximum personal and economic advancement, increasing both personal and national pride.

In truth, the short history of the ROC is profoundly indicative of the success which can be achieved under free conditions. Since 1949, Taiwan has truly become an example to be emulated in its economic development, achievement, and modernization.

I believe it is essential for us to assure our friends and long standing allies in Taiwan that we have not forgotten them, nor will we turn our backs on them. It is equally imperative for us to take all possible steps to encourage continued healthy relations with the Taiwanese.

Congratulations to Taiwan on "Double Ten" number 73! I extend every best wish for continued prosperity, progress, and pride, as well as the reminder that the people of Taiwan have a host of admiring friends in the United States.●

THANK YOU ALL

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. WON PAT. Mr. Speaker, tomorrow I shall leave Washington to return to the rigors of the campaign trail.

I could not depart, however, without thanking the leadership for their support. Speaker TIP O'NEILL and majority leader JIM WRIGHT have been especially helpful as has countless others here in the House and in the U.S. Senate.

Several days ago Congress sent to the President my latest omnibus territories bill. This measure will provide a number of needed benefits to the residents of the territories.

While I take great pride in being the main author of this and similar bills in my capacity as chairman of the Insular Affairs Subcommittee I cannot assume sole responsibility for the success of these proposals.

The members of my subcommittee deserve particular praise for their strong and unwavering support. Never could a chairman ask for better colleagues than those I have been fortunate to serve with in this Congress.

I want to take special note of the wonderful support I received in this Congress from my good friend, Representative MO UDALL, chairman of the Interior Committee. A special note of thanks is also overdue to Representative BOB LAGAMORSINO, the ranking Republican on the committee and Representative MANUEL LUJAN for their bipartisan approach to the often complex problems facing these islands.

Nor could I have achieved my goals for the territories without some invaluable friends in the Senate. Senator JAMES MCCLURE, chairman of the Senate Energy Committee and Senator LOWELL WEICKER have done so much for Guam and the other territories over the past 2 years. So too has my good friend Senator BENNETT JOHNSTON who remains a stalwart of advice and friendship even on the most trying days and who has been a leader in the advancement of legislation benefiting our territories.

Without these men and many others there is no doubt in my mind that the many benefits this Congress approved for Guam and other territories would have remained only dreams rather than reality.

I also want to thank my counterparts in the Senate who have shown a similar bipartisan approach to my legislation. As one of our colleagues recently remarked if we could achieve the same bipartisan approach to other matters as we have done for territorial affairs there might be far fewer late night sessions.

You have all made the 98th Congress a historic one for the territories and for me. I thank you and look forward toward serving with you in the 99th Congress.●

SAN MATEO COUNTY CHAPTER OF THE RED CROSS OPENS ITS NEW HEADQUARTERS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. LANTOS. Mr. Speaker, on the occasion of the grand opening of the new Red Cross Headquarters for San Mateo County, I would like to take a moment to reflect on this great humanitarian organizations' early years in our country. There are many landmark activities and events which have contributed to making this organization the valuable asset that it is today in San Mateo County.

Red Cross began its service to San Mateo County in early 1898 with the establishment of the Red Cross Society of Redwood City. It was quickly pressed into service by the Spanish-American War. Activities revolved around aiding the "Boys in Blue" with fundraisers in order to purchase bandages, towels, and other items sorely needed by our troops. During and following the war, this society was also able to contribute greatly to the care of the convalescent soldiers. Red Cross societies throughout the State raised enough money to build a convalescent home at the Presidio. The Redwood City Society provided one ward of two beds.

The society next displayed its commitment by providing for the needy in April 1906 by giving aid to the victims of the San Francisco earthquake. Invaluable contributions at that time comprised the essentials: 18 boxes of clothing, 8 sacks of bedding, and 1 box of shoes which were all forwarded to the stricken city.

When the country entered World War I in 1917, the Red Cross formulated plans to enlarge its membership and to aid in equipping the Red Cross at the Navy and Army base hospitals in San Francisco. It was on July 10, 1917, that the San Mateo County Chapter of the American Red Cross was actually granted its charter from national headquarters.

The ensuing period of 1917 to 1919 proved to be among the most active and productive in the history of this organization. The response to the war was a local production corps established to sew and knit garments, as well as to make thousands of bandages. Next, the resources of the local Red Cross, when faced with the Spanish influenza epidemic of 1918, provide a clear example of the vitality and

commitment of those associated with this organization. Because so many nurses were in wartime service, it was almost impossible to obtain adequate nursing services at home. Mrs. J.C. Casserly offered her home in San Mateo as an emergency influenza hospital. The greater part of the work was done by volunteers with the help of a small staff of trained nurses using donated or loaned equipment. Food was prepared in private homes and delivered to the hospital. Pneumonia jackets were secured and transportation provided for ambulatory patients.

This is but one example of the energy and dedication to community service which typifies this organization. Its renowned first aid program and water safety program have touched the lives of almost all of us in some way. The Red Cross was the first organization to provide a visiting school nurse, the Visiting Nursing Association for San Mateo County, and many more programs which are now integral parts of its supportive services network.

Mr. Speaker, I wish to express my appreciation for the humanitarian efforts of this fine organization. Please join me in wishing them every success in their relocation to a new site. I feel we are all more confident in the knowledge that the Red Cross continues to "prevent and alleviate human suffering wherever it may be found."●

TRIBUTE TO HON. JOHN ERLENBORN

HON. CHARLES PASHAYAN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. PASHAYAN. Mr. Speaker, it has been an honor to serve in the House with men of the caliber of JOHN ERLENBORN during the past 6 years. His presence, his counsel, and his leadership shall be missed.

During the 20 years JOHN has served in this House, he has left his mark on major legislative efforts, looking out for the interests of the American taxpayer. His efforts have included opposition to the Department of Education, fighting to reduce abuses in entitlement and student loan programs, and working against unrealistic increases in the Federal minimum wage.

Millions of American taxpayers today take advantage of an innovation for which JOHN ERLENBORN deserves much of the credit: the "Individual Retirement Account."

In his efforts, JOHN has worked with his colleagues of both parties on the Government Operations and Education and Labor Committees to fashion legislation reflecting the broad diversity of interests in this great Nation.

Mr. Speaker, I am proud to be able to join with my colleagues in recognizing the distinguished service of the Honorable JOHN ERLENBORN of Illinois.●

JEWISH BIG BROTHER AND BIG SISTER ASSOCIATION OF GREATER BOSTON MARKS 65TH YEAR

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. FRANK. Mr. Speaker, this November 4 marks an important anniversary for all Americans who care about what the future holds for our young people. On that date 65 years ago, the Jewish Big Brother and Big Sister Association of Greater Boston was born. Though small in resources, the founders of this community service organization possessed great commitment and dedication to bringing disadvantaged, parentless young people into the mainstream of society.

The program began by focusing on the challenges faced by delinquent boys. Today, it provides a variety of vital services including family advocacy, crisis intervention, college scholarships, as well as discussion groups for Big Brothers and Sisters, parents, and children. The Jewish Big Brother and Big Sister Association has helped literally thousands of boys and girls reach their full potential as responsible adult citizens.

Mr. Speaker, I believe it is important to take this opportunity to recognize the founding of this organization because of the inspirational effect its record of success can have on other communities. I commend all those associated with the Big Brother and Big Sister Association of Greater Boston for their fine work and their worthy contribution to the community.●

TRIBUTE TO COL. GEORGE B. GREEN

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. WOLF. Mr. Speaker, I would like to pay tribute to Col. George Benjamin Green, a man who devoted his life to serving his Government, and met his death at the hands of a drunk driver.

I know all my colleagues join in expressing sympathy to Colonel Green's wife, Janet, and the rest of his family. They can be proud of the life he lived, of the service he provided his country, and the example he left to those who knew him.

I would like to share with my colleagues the eulogy delivered by Col. Timothy R. Johnson, USAF, retired, at the funeral services for George B. Green at Fort Meyer Chapel on September 3, 1984. I insert it at this point in the RECORD:

EULOGY

Thank you Janet for this privilege.

I am honored to stand here today and salute this fine man—my friend and your friend—George Benjamin Green—Married Janet Nov. 19, 1942.

He was: Colonel, USAF, Doctor, M.D., Flight Surgeon, Humanitarian Lover of Nature, Quality Sportsman with class.

Colonel, USAF—George graduated from South Dakota University 1934 and was the Cadet Colonel of his ROTC class.

Entered Active duty 1940 as a 1st Lt.—was promoted to Colonel in 1949 (1st to Colonel 9 years).

During WW2 he spent 3 years dodging bombs in England.

George was taken into the regular army in 1946.

General Malcolm C. Grow the Air Surgeon said this: "Your record shows you to be a man of character, skilled in qualities of leadership and willing to accept responsibility."

General Grow and George grew to be the best of friends with many mutual interests—hunting being one. George spoke of him often.

George was our first United States Air Force Medical Intelligence Attache. His duty assignment was U.S. Embassy—Paris, France with diplomatic accreditation to several countries—I know one country was Yugoslavia because he inspected our Embassy in 1952. He holds many decorations—one of which he was very proud. He was the first USAF medical officer to receive the medal of honor of the French Air Force Medical Service plus French Air Force Flight Surgeon's wings.

George retired from the USAF In 1961 (He loved every minute of his military service and was an outstanding officer). When he retired he gave me these eagles. George had many military friends.

Doctor, M.D.—George never complained—he was never sick. George received his medical degree in 1938 from Rush Medical College, Chicago, Illinois. George was proud of Rush. A few years ago we were discussing medical schools due to my son's interests—George mentioned his alma mater—I said, "Who has ever heard of Rush? He looked at me as only George could—you all know that look. He said, "My school was named after the only medical doctor to sign the Declaration of Independence." From that day, I, too have been proud of Rush. Doctor Green used his medical skills after his air force retirement to further medical intelligence and aerospace medicine. He held memberships in numerous medical associations. George was a member in good standing of the AMA for the year 1984. He believed in the medical ethics—they were inscribed in his heart—not on his sleeve. George had many medical friends.

Flight Surgeon-Pilot—George received his private pilot's license in 1930. George, as a flight surgeon, had flying hour requirements. He and I flew thousands of hours together—we both loved the gooney bird. We always respected and loved our flight surgeons since they administered our annual physicals—if we didn't pass—we didn't fly and we didn't get paid. Many memories. George had many aeronautical friends.

Humanitarian—George gave many hours to the Red Cross Blood Bank. He helped

young people make important decisions. I know a young lawyer here today who loved George and who sought his advice and help. When George was killed, he wasn't thinking of himself—his concern was the other fellow. George had many friends around the world.

Lover of Nature—George loved animals—birds—green grass—ramps. He was a ramp man of world fame—his ramp maps and ramp articles are well known.

I'll always remember George driving his Volkswagen convertible with his dog, the black retriever—ph, how they loved each other. You all remember that dog. George gave him a longer life because of his love—the dog had cancer and you all know the story. Presently, his cat is suffering—the cat knows something is wrong and is not happy. George even loved crows and called them by name. They were the best fed crows in Riverwood. Incidentally, he was president of the Riverwood Association and he loved the area's natural beauty. George loved nature—nature loved George.

Quality sportsman with class—How many hunters have had a triple, hunting Canadian Geese? George did. Those of you who have hunted with George know of his hunting skills—he loved to hunt. He went by the sportsman's code and was a crack shot. He must have been because Janet told me one of the ribbons he wore on his Air Force uniform—one he was very proud of was the skilled marksmanship ribbon.

George always shared his game with his friends. For years we had a goose. One time I mentioned to George I would like 12 doves for a Thursday night party. Wednesday night he drove up with 12 doves—tired but with a smile I'll never forget. You hunter friends know that smile. George had many hunter friends.

George was doing what he loved most the day he was killed—driving home from HUNTING with his friends.

George will be pleased with the resting place Janet picked for him. We all have our happy memories of George—Air Force memories—medical memories—flying memories—cultural memories—gourmet memories—hunting memories.

I am thankful we all have these memories to share. Let's take a minute to remember our special times with George.

We all love you, George.●

NOBLE WORK

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. BARNES. Mr. Speaker, the Inter-American Commission on Human Rights is 25 years old this year. This important anniversary was noted by Stephen S. Rosenfeld last week in the Washington Post. As chairman of the Subcommittee on Western Hemisphere Affairs, I have been able to observe the work of this fine organization first hand. There is no question in my mind that the Commission continues to make a very significant contribution to the cause of human rights in our hemisphere. I am very pleased to insert Stephen Rosenfeld's tribute at this point, and I know all my colleagues join me in congratulating the Inter-American Commission on Human Rights for its fine work and in extending to its our best wishes and our firm support in the years ahead.

NOBLE WORK

(By Stephen S. Rosenfeld)

"During the cold days of September 1979 in Buenos Aires," an Argentine woman wrote not long ago to the Inter-American Commission on Human Rights, "an entire family disappeared while the Inter-American Commission was visiting. The disappeared family was mine—my husband, my daughters and myself. . . . There was an intercession by the Commission for me and my daughters. For that reason alone, we are alive."

Today, Argentina has an elected democratic government which is seized of the consequences of the thousands of deaths and "disappearances" attributed to the former military regime. I met President Raul Alfonsin in New York this week and came away feeling he was coping valiantly with 1) heartbreaking grass-roots demands for a full factual and judicial accounting, 2) a still-powerful military's resistance to such an accounting and 3) his government's and the public's many distractions.

Alfonsin's strategy has been to get massive amounts of information about past atrocities out to the public, and meanwhile to give the military a first crack at self-policing before bringing in the civil courts. "If people see justice being done," he told me, "we'll achieve reconciliation. No one wants revenge. But we can't pretend that nothing happened."

Back in 1979, however, that pretense was very much alive. The Argentine government of the day was not striving in difficult circumstances to seek justice and reconciliation. In the name of fighting terrorism, it was itself responsible for terrible injustice and social division. Too often in Latin America, this has been the case. People looking to lighten the resulting cruelties have had to look outside for relief.

That's where the Inter-American Commission on Human Rights, whose 25th anniversary was yesterday, comes in.

For the Argentine woman who wrote the recent letter, the commission's intercession in Buenos Aires was a matter of life and death. Otherwise, the commission is increasingly effective—to a degree that startles many who are familiar with the lumbering ways of its parent, the Organization of American States—as a source of protest, investigation, counsel and rescue for victims of human rights abuse.

Thanks mainly to the quality of people nominated by member states to serve on it, the commission has managed to avoid most symptoms of ideological blindness. It has condemned human rights violations by governments of both the left and the right and spared itself the controversy and ineffectiveness that have overtaken, for instance, so many agencies of the United Nations.

On the right, the Inter-American commission raised the first international cry against the tortures and disappearances in Chile under Gen. Pinochet. In Argentina, its on-site visit in 1979 broke the junta-imposed barrier of silence and generated the first widespread public information on the official apparatus of repression.

On the left, having documented the killings and torture by Somoza's national guard in Nicaragua, the commission went on to investigate the Sandinistas' gross mistreatment of the Miskitos and took up a conciliator's role. It has been a balanced source of criticism of Cuban human rights violations, too hot a potato for any other international organization to handle.

Meanwhile, the commission has quietly transmitted international human rights concerns to wayward governments—casework resulting sometimes in the release of prisoners and the reduction of torture. It circulates its reports and recommendations to governments prior to publication, giving the government the chance to make remedies and to have those remedies made public in the report.

The Carter people are justly proud of their contribution of making the Inter-American Commission an agency of stature. It was well suited to dealing with the dominant hemispheric human rights problems in that period, the thousands of disappearances in Argentina, Chile and Uruguay.

In the Reagan period, the political and geographical focus has tended to shift to Central America, where things are more complicated. For instance, the responsibility of the government of El Salvador for the death squads is not so clear. Necessarily working through established structures, the commission can better address governments that control their military than those that do not.

In Argentina, said ambassador Lucio Garcia Del Solar recently, the Inter-American Commission on Human Rights did "noble work." It deserves to be recognized and it needs to be strengthened so that it can do more.●

LEGISLATION TO BENEFIT PHYSICIANS IN SOLO PRACTICE

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. BURTON of Indiana. I am introducing a bill which will benefit physicians in solo practice.

The medicare program allows doctors in partnerships and corporate groups to bill for the services of any physician in the group. The solo physician who asks a second doctor to treat one of his patients cannot submit a bill for this.

My legislation will allow the personal physician to maintain billing authority. This will eliminate confusion, and help both the doctor and the patient.

I hope the members of the House will consider cosponsoring this bill.●

INGEBORG SCHNEIDER DAY

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. WOLF. Mr. Speaker, Friday, September 28, 1984, was "Ingeborg Schneider Day" at Heritage Hall Health Care V, a nursing home in Leesburg, VA.

In celebration of Nursing Week, special events were carried out all week to honor the nursing personnel. At the culmination of this week the entire staff surprised Ingeborg Schneider, the director of nursing, with her own special day.

Mrs. Schneider has worked at Heritage Hall for 4 years and has been the director of nursing for 1 year. Her care and concern for all those around her, residents and staff alike, is apparent in everything she does. Her attitude sets the tone for all the staff and she has become a part of the intrinsic identity of Heritage Hall, Leesburg.

In the way of background, Mrs. Schneider was born in Berlin, Germany, 49 years ago and has been in nursing for 29 years. She came to this country in 1963. Since then, she has served in all kinds of nursing capacities over the years, including intensive care, coronary care, and surgical nursing. At present she is pursuing her interest in Alzheimer's disease and hopes to see Heritage Hall become one of the first nursing homes to specialize in that disease.

It is an honor for me to pay tribute to Ingeborg Schneider and to recognize her dedication and service to the nursing profession. On behalf of a grateful community, our thanks for your commitment and example. You are an inspiration to us all.●

FRIENDS OF IYO HONOR CAROLYN THOMPSON-WALLACE

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. RODINO. Mr. Speaker, it is with great pride that I rise today in recognition of an outstanding woman from my district—Carolyn Thompson-Wallace, who will be honored with an appreciation dinner on October 21.

Ms. Wallace has been the administrator of the International Youth Organization for 14 years. It was founded in 1970 as the Brick Towers Youth Association, a small counseling agency for teenagers in the basement of Brick Towers. Under the leadership of Ms. Wallace and her husband James, the International Youth Organization has grown into a tremendously successful agency offering counseling and support services for thousands of young people.

The organization helps teenagers realize their potential, encouraging a sense of self-worth and emphasizing the importance of education. It has grown continually over the years, meeting new challenges as the needs of the community have changed. The success of the International Youth Organization stems from the firm belief of the Wallaces in what they were trying to do, and against tremendous odds, they built the IYO into the outstanding agency it is today.

Carolyn Thompson-Wallace has been a resident of Newark since she was 5 years old. Her skills as an administrator, fundraiser, public relations representative, and counselor are extraordinary. Most important, however, she has unbelievable dedication to the goals of the IYO and enormous commitment to the youth of our community. She is an inspiration to the people who work for IYO, to the young people she counsels, and to all of us who have been so impressed with her over the years.

Mr. Speaker, the appreciation dinner in her honor is a fitting tribute to this remarkable woman. She has given of herself unselfishly, and it is only right that we in the community she serves, should recognize her as "A Woman for All Seasons."●

HONORING MR. DONALD W. HATCH, SEPTEMBER 27, 1984

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. CONTE. Mr. Speaker, colleagues, I'd like to take this opportunity to commend one of my constituents, and an extremely hard working, dedicated man from the first district of Massachusetts. Mr. Donald W. Hatch retired as the principal of the Westfield Middle School in June 1984, after 24 years of committed service. Mr. Hatch's departure was a heartfelt loss to his coworkers, the students at the middle school, and the school system in Westfield.

Donald Hatch's career began as a math teacher at Westfield High School. From there he went to Springfield Classical High School, and eventually became the assistant principal. Following his time in Springfield, Mr. Hatch returned to Westfield to become the principal of what was then Westfield Junior High School. In 24 years he took the school through two major changes. From a junior high school, it became the South Middle School then finally Westfield Middle School. Mr. Hatch made smooth transitions possible through his exceptional organization. Many education groups over the years have observed and emulated his outstanding example.

In 1977, the Massachusetts Association of Secondary School Principals awarded Donald Hatch "Educator of the Year," for his dedication to the education of his students. Mr. Hatch also served on the board of the National Association of Secondary School Principals.

To his colleagues he was a supportive, respected leader. A long-time friend used the word "outstanding" to describe his relationship with his colleagues. His relationship with his students was excellent, "his door was always open," said one student.

The educational system in our country depends on men like Donald Hatch. Teaching is a tireless and demanding job. Mr. Hatch's work involved so much more than administrating for his school. It has meant being sensitive and responsive to the needs of every student, every teacher, every other coworker. Very few give as much to so many as Mr. Hatch has. What he has done for a lucky group of people over 24 years is invaluable. He has my deep admiration, and I wish him happy travels.●

A TRIBUTE TO TOM CORCORAN

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. BROYHILL. Mr. Speaker, I wish to join my colleagues who have paid tribute to TOM CORCORAN. TOM, unfortunately, will be leaving at the end of the 98th Congress. As the ranking minority member of the Energy and Commerce Committee, I've relied heavily on TOM's hard work and intelligence.

In his position as the ranking minority member of the Fossil and Synthetic Fuels Subcommittee, TOM has fought for natural gas legislation which would help consumers. He has been a leader in an effort to achieve a productive synthetic fuels program for this country. And, he has been at the forefront of efforts to enhance the energy security of this Nation.

TOM CORCORAN has done all this, and more, during his tenure on the Energy and Commerce Committee. He has never shrunk from a fight for the policies in which he believed, but he has always remained a gentleman. It has been my pleasure to work with him and my privilege to know him. I only hope that he will continue to use his broad knowledge of our energy resources and their potential for the benefit of the public good.

Thank you, TOM, for your dedicated service to this House. I wish you and your family the best in the years ahead.●

SALUTE TO LAW ENFORCEMENT OFFICERS

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. McGRATH. Mr. Speaker, I am pleased that the House has considered

House Joint Resolution 482, to establish the National Law Enforcement Heroes Memorial. As an original cosponsor of that resolution, I believe recognition of fallen police officers in our Nation's Capital is long overdue.

The unending battle against criminal elements in our society is often given great attention in the media. That type of attention, however, is generally focused on the sensational aspects of a criminal act or a police investigation. Those who have lost their lives in various Federal, State, and local law enforcement agencies often receive no more than fleeting notice.

I commend the various law enforcement organizations which have worked diligently for the establishment of the law enforcement officers fund and the memorial. Their efforts will preserve the memories of those who have been killed in the line of duty while protecting the lives and property of our citizens.

It is unfortunate that we who live in a society which offers so much should have to memorialize those who lost their lives in defense of ourselves and our neighbors. Yet we are lucky indeed to have thousands of brave men and women willing to assume this important responsibility. Over 300 of their fellow officers have been killed over the last 2 years—many as the result of wanton criminal acts.

I look forward to the construction of the heroes memorial as a permanent tribute to fallen law enforcement officers. I also commend my colleague from New York, MARIO BIAGGI, for his leadership in obtaining passage of House Joint Resolution 482.●

CLARENCE MITCHELL, JR. AND THE LEGACY OF EQUAL OPPORTUNITY

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. BARNES. Mr. Speaker, I would like to call my colleagues' attention to a resolution which was passed by the City Council of Takoma Park, MD. This resolution designates December 1, 1984, as International Day in Takoma Park to celebrate the city's development into an international community which welcomes individuals from many areas of the world, including Cambodian refugees and others fleeing economic, racial, or religious repression.

The resolution attributes this atmosphere of tolerance to the civil rights and fair housing laws of the sixties, which were enacted with the leadership and guidance of Clarance Mitchell, Jr., the Maryland civil rights activist who died last March. This resolution memorializes both the work of Clarence Mitchell and the spirit of harmony that exists among the citizens of Takoma Park.

The text of the resolution follows:

RESOLUTION

Whereas, on March 18, 1984, the nation suffered the loss of Clarence M. Mitchell, Jr., whose positive leadership and guidance influenced not only those who were closely associated with him, but our community, the nation and the world at large; and

Whereas, the late Clarence M. Mitchell, Jr., a giant among public and political figures, was a native and life-long resident of Maryland; and

Whereas, Mr. Mitchell is known for numerous accomplishments, and through his outstanding leadership, was instrumental in persuading Congress to enact the Federal Fair Housing Law in 1968, and other Civil Rights legislation in 1957, 1960, 1964 and 1965; and

Whereas, prior to enactment of the Federal Fair Housing Law of 1968, for which Clarence M. Mitchell so vigorously fought for blacks and other minorities were often refused housing in certain areas of Takoma Park. Even as late as 1960, blacks represented only four percent of the population; by 1970, they numbered thirteen percent; and in 1980, the percentage had increased almost three-fold, reflecting a decline in discriminatory practices which is directly attributable to the Fair Housing Law of 1968; and

Whereas, it is evident that the Federal Fair Housing Law of 1968 has helped create a true melting pot in Takoma Park. Its citizens are native of many areas of the world, many having fled or moved from their native countries because of poor educational and employment opportunities, religious and racial bigotry, or persecution. For example, Cambodians have found acceptance and tolerance in Takoma Park after fleeing their homeland, where two to three million of their countrymen were lost in a holocaust between 1975 and 1979. Many others have found a similar haven in Takoma Park; and

Whereas, through the leadership of Clarence M. Mitchell, Jr. and the instrumentality of the Fair Housing Law, Takoma Park, together with other formerly predominantly all white communities, has become a place where people from many nations with varied religious and racial backgrounds live together in peace and harmony; and

Whereas, in 1975, President Ford recognized the talents and abilities of Clarence M. Mitchell, Jr., whose crowning achievement was passage of the Federal Fair Housing Law of 1968, by appointing him as delegate to the United Nations General Assembly; and

Whereas, President Carter, recognizing Clarence M. Mitchell, Jr.'s achievements, awarded him the Medal of Freedom on June 9, 1980; and

Whereas, the Mayor and Council of the City of Takoma Park, Maryland wish to memorialize the late Clarence M. Mitchell, Jr. and to take recognition of the fact that Mr. Mitchell's work to create equal opportunity in housing has produced a community which welcomes people from around the globe as citizens.

Now, therefore, be it resolved by the Mayor and Council of the City of Takoma Park, Maryland that Saturday, December 1, 1984, be designated International Day in the City; and

Be it further resolved that in furtherance of this designation, the Mayor and Council shall appoint two citizens to work with them to seek appropriate ways of celebrating Internationl Day and honoring Clarence M. Mitchell, Jr.

September 10, 1984, passed by Takoma Park City Council at September 10, 1984, meeting.●

THE 40TH ANNIVERSARY OF THE INVASION OF LEYTE

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. HEFTEL of Hawaii. Mr. Speaker, on the occasion of the 40th anniversary of the 1944 D-day invasion of Normandy, the attention of the American public focused upon the great trial of men and arms that we remember as the turning point of the war in Europe. This memorial evoked a mixed sense of pride and loss as we remembered the sacrifices made there. Yet, while this struggle captured the imagination of the people, we must not overlook the other battles, great and small, that were waged in the name of freedom and self-determination during this worldwide conflagration.

On October 20, we mark the anniversary of one such great battle. It is appropriate to reflect upon the contribution of those responsible for the successful amphibious assault on the Philippine Island of Leyte in the year 1944. This monumental invasion is paralleled in history only by the D-day assault. Over 200,000 American fighting men, more than 100,000 tons of material, thousands of ships and over 100 aircraft were committed to this effort. The invasion was the most extensive ever in the Pacific Theater, and is acknowledged as the battle that turned the tide in the Pacific war.

Often, the center of our attention with regard to this battle is the return of Gen. Douglas MacArthur to the Philippines as he so auspiciously promised. But I bring your attention to the unheralded efforts of the men of the 6th Army who bravely bore the brunt of the struggle, and local Filipino resistance groups who paved the way for the assault in the face of invasion, occupation, and reprisals. It is to these simple soldiers and freedom fighters that we are grateful.

The Island of Leyte was, at the time of the invasion, a virtual fortress, honeycombed with well-camouflaged defenses and laced with airstrips. The personal triumphs of American soldiers were painfully won, and there are many examples of their extraordinary courage. In the final analysis, the staggering amount of resources brought to bear and the fighting skill of the American forces allowed U.S. casualties to be held to a minimum.

Japanese forces were forced into retreat, and a foothold was secured.

Mr. Speaker, the Leyte landing and role it played in hastening the end of this savage conflict, rarely receives the prominence it warrants. It was, by all measures, a success story. Many soldiers of the 6th Army and the resistance forces are alive today. They have earned our gratitude, our honor and a place in our memories for their efforts. As we preserve the memory of those who fought to save the free world a half century ago, let us not neglect the role of the participants in the Leyte invasion of October 20, 1944. Thank you.●

DARBY RATHMAN: THE AGELESS WARRIOR

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. LEWIS of Florida. Mr. Speaker, I am pleased to have this forum to pay tribute to Mr. Darby Rathman, an energetic and spirited gentleman from Riviera Beach FL, whose untiring dedication to Florida seniors and veterans is indeed an inspiration to us all.

The founder of the Palm Beach County American Federation of Senior Citizens, Mr. Rathman's involvement and leadership on issues of concern to senior citizens has been exemplary. Many believed his ability to pursue those causes would be severely limited after Mr. Rathman suffered a stroke several years ago, but he continues to do this voluntary work as energetically as ever and to live independently at the young age of 86.

Darby recently told me he remains involved in senior citizens' issues because he wants to do everything possible to make life easier and better for senior citizens—both financially and spiritually.

Mr. Rathman also is a long-time member of American Legion Post No. 628 and World War I Vets, Barracks No. 3130. Through those two Riviera Beach veterans groups, particularly those who served so courageously in WWI, they receive their much-needed earned benefits and rights.

Those who know and love Darby Rathman believe his dedication and undiminished level of interest in helping others is matched only by the encouragement and inspiration he extends to everyone with whom he comes in contact. We all know that Darby's tenacity, his love for his fellow man, and his enthusiasm for life are the qualities that keep him going and endear him to us.

Mr. Speaker, Darby Rathman has more than earned our respect and recognition for his many accomplishments. I am proud to have the honor to thank him before this distinguished body for all he has done to touch the lives of so many people.●

ELEANOR ROOSEVELT—FIRST LADY OF THE WORLD

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. FASCELL. Mr. Speaker, October 11, 1984, marks the 100th anniversary of Eleanor Roosevelt's birth. Before this House adjourns, it is fitting for us to acknowledge this great American lady. Not only was she the wife of a great American President, Franklin Roosevelt, but in her own right she made a significant contribution to all Americans and all the world. President Truman recognized this and called her the first lady of the world.

Mr. Truman appointed Mrs. Roosevelt to be a U.S. Representative to the U.N. General Assembly. She served in that capacity from 1946 through 1952 in the U.N. General Assembly's Third Committee on Social and Humanitarian Affairs where she dealt with many refugee and human rights issues. President Truman also appointed her U.S. Representative to the Commission on Human Rights. Eleanor Roosevelt was the first American to serve on the Commission and the only American to chair it from 1947 to 1951.

During her public service at the United Nations and on the Commission, Mrs. Roosevelt, on behalf of the United States, helped negotiate the two parts of the International Bill of Rights: the Universal Declaration on Human Rights and the draft of the International Covenant on Civil and Political Rights. Her contribution to internationally recognized human rights has been significant and lasting. She lobbied for completing the universal declaration which did not require Senate ratification before preparing the draft of the International Covenant on Civil and Political Rights that did require such ratification. The U.N. General Assembly adopted the declaration on December 10, 1948, by a vote of 48 (United States)-0-8 (the Soviet bloc, Saudi Arabia and South Africa). In Eleanor Roosevelt's view, the declaration represented a common standard of achievement for all peoples and all nations. The declaration is the most frequently cited international measure in human rights resolutions adopted by this House. The Final Act of the Conference on Security and Cooperation in Europe incorporates its provisions as do other regional human rights instruments—for example the Inter-American and European Conventions. More than 50 new nations refer to, or incorporate, provisions of the declaration in their national constitutions. It is not surprising, then, that the universal declaration is considered by international lawyers to have the status of customary international law.

Mr. Speaker, we know that not all governments live up to this standard and that human rights are not universally enjoyed. But we agree, I think, on the enduring importance of human rights and fundamental freedoms. We owe to Mrs. Roosevelt and to the universal declaration adopted in 1948 a large measure of the widespread, international recognition given to basic rights and freedoms today. Eleanor Roosevelt truly deserved the magnificent description given her by President Truman—first lady of the world.●

TRIBUTE TO CONGRESSMAN TOM CORCORAN

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. HYDE. Mr. Speaker, the end of this session will see the retirement from Congress of our colleague TOM CORCORAN of Illinois. He brought to this demanding office a high sense of duty and a splendid intellect which, combined with his energy and enthusiasm, produced a political leader in whom we can all take pride.

TOM was not—nor could he have been—defeated in a bid for re-election. His constituency both respected and admired him. But TOM sought to serve in the other body and undertook the challenge of running against an entrenched incumbent in the primary, where he did not prevail.

TOM proved he had the courage of his convictions and was not awed nor dismayed by the odds against his winning. This willingness to take risks for what he believes in is but one of TOM's exceptional traits of character.

TOM was an effective and influential leader in Congress, particularly on energy and transportation issues. I certainly was influenced by TOM on almost every vote which involved these complex issues, and many other of my colleagues relied on his expert judgment as well.

Our country and our State was fortunate to enjoy the services of TOM CORCORAN in Congress. I know in his new career he will continue to strive—and succeed—in attaining those goals that he has set for himself. And, somehow, I am confident we have not heard the last of TOM CORCORAN in public service. At least I hope not.●

AN EDUCATED ELECTORATE WILL BRING AN END TO THE ARMS RACE

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. ADDABBO. Mr. Speaker, I would like to call to the attention of my colleagues and all Americans, a message of peace that Rabbi Lee Friedlander, of the Reconstructionist Synagogue, delivered last week to his congregation.

Rabbi Friedlander urged his congregants to assert their rights as educated voters on arms control issues. He called for each individual to render a sane judgment based on the facts. While this administration would like the American public to believe that these issues are too complicated to understand, Rabbi Friedlander correctly refutes this by pointing out that when an issue is politically unpopular, this leadership claims that it is too complex for the electorate. However, when the administration is ready to talk about an issue, which rarely occurs, it attempts to educate the electorate.

There is no great or more pressing issue than the nuclear threat which faces us. Today, Americans must not be overpowered by an administration that seeks to keep them in the dark. As chairman of the Defense Appropriations Subcommittee, I know too well why young men and women sometimes have nightmares about a nuclear holocaust. We know the dangers, the world knows the dangers, our children know the dangers. We must make some choices in order to resolve this tension.

Rabbi Friedlander's message is a sensible call to action. Americans are vested with the right to vote. In this election year, no one must refer to our electorate as incapable of handling arms control issues. For those who seek to suppress are often the ones that have divested themselves from the public's interest.●

CONGRESSIONAL SALUTE TO THE HONORABLE ENRICO J. CIPOLARO OF POMPTON LAKES, NJ, ESTEEMED EDUCATOR, COMMUNITY LEADER AND GREAT AMERICAN

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. ROE. Mr. Speaker, on Friday, October 12 the residents of Pompton Lakes, my congressional district and State of New Jersey will join together at a testimonial dinner honoring a most esteemed educator and good friend, Hon. Enrico J. Cipolaro, who is retiring from his high office of public trust as superintendent of schools of the Borough of Pompton Lakes, NJ. I know that you and our colleagues here in the Congress will want to join with me in extending our deepest of appreciation to Dr. Cipolaro and share the pride of his good wife Marianne and their children Claire, Laura, Mark, and Lisa upon this milestone of achievement in their family endeavors.

Mr. Speaker, when you reflect upon the fact that the cultural, historical, and economic achievements—even the basic health, well being, and longevity—of a State and Nation depend in large measure upon how well we educate each generation charged with the trust of carrying out its responsibilities and traditions, we can indeed be proud of Enrico Cipolaro's outstanding contribution to the quality of life and way of life for all of our people.

Dr. Cipolaro has indeed earned the deepest respect and esteem of all of us for his leadership and highest standards of excellence in seeking to improve the quality of education for our people. His personal commitment and endeavors as an educator over close to four decades have endeared him to all of us. As we commemorate his retirement as superintendent of schools for the Borough of Pompton Lakes where he served with distinction for over 16 years, we applaud his lifetime of service to our people, and particularly his 37 years of teaching our young people.

Mr. Speaker, in his professional career, Enrico Cipolaro has served in many areas in the field of education. Upon his graduation from Yale University in 1947, he taught at three private schools, earned a master's degree, and in 1956 became vice principal of Wayne Junior High School. He moved up in the Wayne, NJ Public School System until he was appointed Pompton Lakes superintendent in January 1968.

"Cip," as he is affectionately called by many of us, was highly effective in establishing outstanding courses of study for his students. A central legacy of his tenure was his sincerity of purpose and achievement in his endeavors to broaden the school's curriculum. Under his direction the educational system added an alternative class for high school students considered likely to drop out, a year-round day care center, a program for handicapped preschoolers before it was required by law, a tuition-free summer school that offered more than makeup classes, and an adult school that enrolls 3,000 students per year.

Mr. Speaker, Dr. Cipolaro has served our people and our country with honor and distinction. He is an outstanding educator and good friend whose richness of wisdom and expertise in his daily pursuits have touched the lives of many, many people in my congressional district. I appreciate the opportunity to publicly acclaim all of his good works and share the pride of his family in his accomplishments and lifetime of dedicated public service which have truly enriched our community, State, and Nation. We do indeed salute a beloved teacher, community leader, and great American—Hon. Enrico J. Cipolaro of New Jersey.●

NANCY C. AVERY RETIRES

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. BERMAN. Mr. Speaker, I rise to pay tribute to a well-respected and much loved member of our community. Nancy C. Avery retired last Friday, September 28 from her job as postmaster of Pacoima. Appointed by President Kennedy in 1961, Nancy became the first black to head a major urban post office. By her enthusiasm and example she used this breakthrough in conjunction with her work at the NAACP to creat dynamic new opportunities for members of the black community in the San Fernando Valley.

In addition to her efforts as past president of the San Fernando branch of the NAACP, Nancy has worked for the San Fernando Fair Housing Council, the PTA, has been past commissioner of the Los Angeles City Animal Regulation Department and has been on the board of directors of the Boys Club and the Chamber of Commerce.

What is more important is that Nancy is a dear and valued friend. I know about her remarkable professional success and I know about the esteem in which she is held by her community. On this occasion of her retirement, I ask the Members to join me in acclaiming her for her many achievements, and celebrating her contributions to her community and her country.●

A FAIR SHOT AT COMPETING

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. WYDEN. Mr. Speaker, during the course of business yesterday, the House took a very important step to help give our high technology and electronics companies a fair shot at competing with their counterparts overseas.

That step was the approval of the conference report on S. 1841, a bill to clarify our antitrust laws so as to promote joint research and development by American companies. As an original

sponsor of one of the first pieces of legislation on this subject in the 98th Congress (H.R. 1952), I am very pleased with the adoption of this measure and look forward to its being signed into law.

The need for this legislation is clear. Because of confusion over law our antitrust laws might be interpreted, American companies often have been reluctant to engage in joint research and development ventures, even when it would have been more advantageous to both them and the general economy to do so.

A case in point is the development of the catalytic converter by the automobile industry. When the Federal Government instructed the industry to reduce automobile emissions, each company embarked separately on a massive and very expensive R&D effort to meet the requirement. After many months—and many millions of dollars—a commercially feasible catalytic converter was developed.

As far as I'm concerned, there was absolutely no sound reason why the automobile industry could not have cooperated on this research. The catalytic converter could have been developed faster and at a much lower cost—to the companies and to the American public. The reason they did not is because our antitrust laws said they could not.

American firms don't need any more obstacles to their ability to compete in the growing world marketplace. Already they are facing a trade imbalance. Already they are dealing with an overvalued dollar. Already, they are competing with cheaper costs overseas. If their hands are tied so that they cannot effectively conduct research and development ventures—the lifeblood of innovation and competition—they will be placed at still greater risk of losing out to overseas competitors.

S. 1841, which is the end product of conference committee deliberations on H.R. 5041 and S. 1841, will not singlehandedly solve all the problems facing American companies trying to compete in the world marketplace. But by clarifying our antitrust laws so as to promote increased joint research and development, it will help begin the process of leveling the playing field. This measure will be particularly beneficial to smaller businesses, which historically have lead the way in innovation and job creation, but which often don't have the resources to conduct independent research and development. By pooling their money with other interested companies, however, these companies can continue to stay on the cutting edge of innovation, and continue to contribute to the economic health of this Nation.

Mr. Speaker, I would particularly like to congratulate the distinguished chairman of the Committee on the Judiciary, Representative PETER RODINO, Representative MIKE SYNAR, the primary sponsor of H.R. 1952, and Representative DICK GEPHARDT and Representative ED ZSCHAU, original cosponsors of that bill, for their leadership in this area. Passage of S. 1841 is an important step to even the worldwide economic odds for American businesses, and without the good work of these colleagues, it could not have made it through the legislative hoops.●

TRIBUTE TO LOUIS B. DEMATTEIS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. LANTOS. Mr. Speaker, I welcome this opportunity to honor one of the outstanding citizens of my district who has been active in many aspects of community life in San Mateo. On October 6 the Italian American Federation of San Mateo County will recognize Louis B. Dematteis for over 70 years of selfless public service.

Judge Louis Dematteis was born on September 6, 1911 in Redwood City and has lived all of his life in the bay area. He was educated in San Francisco, and after being admitted to the California bar in 1932 entered private practice. In 1935 he was appointed deputy district attorney, and in 1949 became district attorney. During the Second World War Louis Dematteis joined the Naval Reserve, and in the early 1950's Governor Earl Warren appointed him to the superior court. He was returned to that office in subsequent elections, and retired from the bench in January 1, 1974.

In addition to this distinguished legal career, Judge Dematteis has been active in a number of community organizations. From 1950 to 1957 he served as chairman of the San Mateo County Coordinating Committee on Youth, and in 1965 he undertook with great success the presidency of the United Fund for San Mateo County. In addition, he has given generously of his time and expertise to such groups as the Sierra Club, the American Association of Retired Persons, the American Legion, the Order of the Sons of Italy, and the Italian Catholic Federation of California.

Mr. Speaker, no tribute to Louis Dematteis would be complete without mention of Lillian, his wife and partner of over 40 years. They are the parents of five children. Judge Dematteis and his wife have never hesitated to give help and assistance whenever they could. I am proud to represent such people in Congress.●

ESSEX COUNTY PBA CONFERENCE BREAKFAST

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. RODINO. Mr. Speaker, this Sunday, October 7th, the Essex County PBA Conference will hold its Third Annual Valor Awards Breakfast. The breakfast will honor those law enforcement officers who have excelled in the performance of their duties.

I am very proud to take these moments today to recognize the brave men and women who risk their lives on a daily basis to protect our citizens. They are truly the first line of defense in our fight against crime.

As chairman of the House Judiciary Committee, I strongly believe in the need to listen to the concerns of our Nation's police officers, who know firsthand about the needs of our law enforcement system.

One of the highest priorities of our law enforcement officers is legislation to ban the sale, manufacture, and importation of armor-piercing bullets—the so-called "cop killer" bullets—which have but one purpose: To penetrate the protective armor worn by law enforcement officers. I pledge my continued support of this measure, and am very hopeful that when the 99th Congress commences, we will see prompt action on this important measure.

The law enforcement officers of this country deserve our full support, and that is why organizations such as the PBA are so vital. I know that in Essex County, PBA Chairman Richard O'Malley is extremely dedicated to his fellow officers and to our community. I am pleased to have this opportunity to salute him, as well as the many individuals who will be honored with valor awards on Sunday, and pledge to continue to do what I can to assist our men and women in blue.●

HON. DON RITTER

COMPREHENSIVE SMOKING EDUCATION ACT, H.R. 3979

HON. BOB WHITTAKER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. WHITTAKER. Mr. Speaker, last week the House and Senate passed and sent to the President H.R. 3979, the Smoking Education Act of 1984. As an original cosponsor of the legislation, I want to commend all of the Members of the House and Senate who worked so diligently to ensure that this legislation was enacted prior to our adjournment. The enactment of

this legislation truly represents a bipartisan effort. I particularly want to commend the chairman of the Energy and Commerce Committee, Mr. DINGELL and the chairman of the Subcommittee on Health and the Environment, Mr. WAXMAN for their leadership and willingness to work with a multitude of parties, many of whom had obvious opposing views.

In reading the debate in the Senate, I was somewhat confused by statements made by two Senators who felt that the enforcement authorities for implementation of the rotational warning label system should be vested in the Department of Justice rather than in the Federal Trade Commission. I believe that both the statutory language and the committee report (H. Rept. 98-805), which I understand was adopted by the Senate, are very clear on this issue. I note in particular page 19 of the report which states:

Nothing in this bill is intended to vest any jurisdiction in the FTC beyond their traditional jurisdiction except as a consequence of their authority to approve and enforce a rotational plan in conformity with the requirements of section 4 of the FCLAA. Enforcement of the plan is intended to assure compliance with sections 4(a), 4(b), and 4(c) of this act; and violations of the plan and those sections will also constitute a deceptive act or practice in violation of section 5 of the Federal Trade Commission Act.

I hope that this report language will clear up any misunderstanding that Members of the Senate may have had.●

MALIGNANT MELANOMA AND SKIN CANCERS

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. WYDEN. Mr. Speaker, I would like to bring to the attention of my colleagues a recent newspaper article about the increasing occurrence of malignant melanoma, a serious and, in some cases, life-threatening skin cancer, among Americans.

This skin cancer, along with many other skin cancers, can have a very high rate of cure if detected early. The American Academy of Dermatology, along with nearly 100 local dermatological organizations, will participate early next year in free malignant melanoma/skin cancer screening clinics, in cooperation with national health fairs across the country.

The key to reducing deaths and disfiguration from this group of diseases is prevention and early detection. A large number of dermatology physicians will volunteer their services for these screening programs. This very worthwhile effort should be supported by all of us who will have health fairs in our districts.

I submit the article by Patrick Young, of the Newhouse News Service, about malignant melanoma and other skin cancers for your consideration.

DOCTORS SWIM AGAINST RISING TIDE OF SKIN CANCER

(By Patrick Young)

WASHINGTON.—Cure ratess are up for malignant melanoma, a sometimes fatal skin cancer, as more doctors are diagnosing it earlier and pinpointing several high-risk groups.

But the incidence of the disease is doubling every 10 to 15 years in many parts of the world. In this country, only the incidence of lung cancer in women is rising faster than that of melanoma.

Malignant melanoma is a cancer of the pigment cells. An estimated 17,700 new cases will be diagnosed in the United States in 1984, and it will take some 5,500 lives, up from 14,100 new cases and 4,600 deaths in 1980.

Experts blame melanoma's increase largely on greater exposure to the sun, although one controversial theory suggests fluorescent lights may be partly to blame.

And while conceding it will be hard to get outdoor lovers to shun the sun and deep tans, these experts say melanoma's death toll could be cut if people examined their skins regularly for early signs of the disease.

"The earlier you catch it, the better," says Dr. Calvin L. Day Jr., a clinical professor of dermatology at the University of Texas Health Science Center at San Antonio.

Ultraviolet light from the sun is believed to be the major cause of melanoma. Experts say the cancer's increase has tracked the trends toward more outdoor leisure activity. "More people are getting more exposure to the sun, bathing suits are smaller," says Dr. Perry Robins, president of the nonprofit Skin Cancer Foundation. "When skirts went up, malignant melanoma on the backs of women's legs went up."

Studies in Sydney, Australia, and New York City have suggested that people who work in offices under the ultraviolet rays of fluorescent lights for a number of years have a significantly higher risk of melanoma.

But Dr. Darrell S. Rigel of New York University School of Medicine and his associates found fluorescent lights emit only one three-thousandth the ultraviolet light in the noon-day sun on a fall day in New York. And they found the office workers who developed melanoma tended to spend far more time outdoors than those who didn't.

Melanoma strikes about one in every 150 white Americans. The incidence of the disease in blacks is about one-tenth that rate.

People who have suffered one melanoma have long been known to be at high risk of developing another. In recent years researchers have identified other high-risk groups.

People with large birthmarks, especially marks eight inches or more across, have a 5 percent to 20 percent chance of developing a melanoma in their lifetime.

Another group—estimated to total perhaps 30,000 in the United States—have a family history of melanoma and large numbers of abnormal moles on their skin called dysplastic nevi. Their risk of melanoma is roughly 400 times higher than usual.

Finally, an estimated 4 million or more Americans have abnormal moles, but no family history of melanoma.

"People without a family history of melanoma, but with dysplastic nevi, have a much lesser risk," says Dr. Kenneth Kraemer of the federal government's National Cancer Institute. "The challenge now is to sort out the various risks of people with dysplastic nevi."

Anyone in these high-risk categories should be seen regularly by a physician experienced in treating melanomas, experts say, so changing moles can be removed before they become full-blown cancers.

Melanomas aren't confined to high-risk groups, and cancer specialists urge everyone to do a regular, careful self-examination of their skin including the scalp within folds and other hard to see places. People should know what their moles and birthmarks look like so they will notice even subtle changes.

"We're very fortunate melanomas are on the surface of the skin." Robins says "We can see early change in color, texture, size and shape."

A change should neither cause panic for not all changes signify cancer, nor should it be dismissed as meaningless.

"I encourage self-examination. I don't encourage self-diagnosis." Day says.

Surgical removal is the prime treatment for melanomas. Neither radiation nor chemotherapy has proved very useful, but drugs may help in cases where the cancer has spread and some new drugs are now being tested. Immunotherapy, or stimulating the body's own defenses against cancer, has shown some promise.

Forty years ago, the five-year survival rate for melanoma was around 40 percent. Today, the National Cancer Institutes puts the five-year survival rate for all cases at 79 percent, but far higher if the melanoma is less than one millimeter (four-hundredths of an inch) deep.

"The thickness of melanomas are an indication of prognosis," Kraemer says. "The deeper they are, the worse they are."●

COLUMBUS DAY: WHAT IT MEANS

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. MORRISON of Connecticut. Mr. Speaker, in a few days the people of New Haven, CT, will be celebrating Columbus Day. Today I want to share with my colleagues my constituents' pride in the traditions and values to which we will be paying tribute on that day.

The story of our Nation is the story of immigrants, a story of journeys from the old to the new, from the past to the future. Christopher Columbus led the way for the millions who followed, and in celebrating his journey we celebrate the American dream.

And of all the sources to which our Nation traces its roots, none is more important than Italy which gave birth to Christopher Columbus and so many others whose contributions have enriched our American history and culture.

Let me single out four of my colleagues and friends to whom I would like to pay a special honor on this Co-

lumbus Day: The chairman of the House Judiciary Committee, on which I am proud to serve, PETER RODINO; the distinguished mayor of the city of New Haven, Biagio DiLieto; GERALDINE FERRARO, who is making history as the first woman candidate for national office; and John Speziale, who is retiring after distinguished service as the chief justice of the Connecticut Supreme Court, and who will be honored at this year's festivities in New Haven. I consider myself privileged to have known and worked with these four outstanding leaders.

On Columbus Day, I know that all my colleagues will join me in saluting the first Italian-American, Christopher Columbus, and all the sons and daughters of Italy who came after him to help make our Nation great.●

THE 100TH BIRTHDAY OF ELEANOR ROOSEVELT

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. GREEN. Mr. Speaker, I rise today to pay tribute to Eleanor Roosevelt, who was born in my district on October 11, 1884.

As a member of the FDR Memorial Commission, I am particularly aware of the tremendous contribution Mrs. Roosevelt made to her husband's career. When polio left his lower limbs useless, he was urged to retire. With the support of Eleanor, however, F.D.R. continued his exceptional service in government.

Far beyond this supporting role, Mrs. Roosevelt was an outstanding individual in her own right. Mrs. Roosevelt believed in virtuous ideals. Her passion for justice in the Nation and peace in the world was well known. It was her active pursuit of these ideals which made her such an extraordinary person.

Mrs. Roosevelt worked boldly and relentlessly at her humanitarian ventures. As First Lady, through her lectures, newspaper columns, radio broadcasts, and nationwide fact-finding missions, she championed the rights of all people—particularly the underprivileged and oppressed. During World War II, she made frequent trips to European areas in order to inspect facilities and boost troop morale. After her husband's death, she was very active in the United Nations. Appointed a delegate by Presidents Truman and Kennedy, she was the chairman of the group that framed the charter of human rights to be ratified by member nations.

The accomplishments I have mentioned are but a fraction of what Mrs. Roosevelt achieved in her life. A nonpartisan in the truest sense, she was willing to represent any group she thought was working toward commendable goals. She possessed levels of tolerance, compassion, and dedication that we should all strive for. May her legacy continue to be an example to us all.●

FRANK PERRUCCI AWARDED BOY SCOUTS' DISTINGUISHED CITIZEN AWARD

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. GUARINI. Mr. Speaker, on Sunday, October 28, the Bayonne Council of the Boy Scouts of America will honor Frank P. Perrucci as the recipient of its 1984 Distinguished Citizen Award. Frank has always been one of my district's most concerned and involved citizens, and I wanted to share with you some of this gentleman's many achievements.

Frank Perrucci has lived in Bayonne for some 40 years, arriving from Brooklyn as a teenager with his mother and younger brother Vinnie. Bayonne is a charming snapshot of America, with its tree-lined streets, well-kept homes, and a strong sense of civic commitment from its citizens. Frank Perrucci has contributed much to making Bayonne the thriving community it is.

Professionally, Frank is the secretary to the warden of the Hudson County Jail. He is also the business manager of the International Union of North American Laborers, Local 202. Frank formerly served as the director of community development for Bayonne, working with Mayor Dennis Collins and Hudson County Executive Ed Clark to implement projects to help the city progress. I was pleased to work with Frank in obtaining Federal funds to finance some of these projects, and I have been consistently impressed with his thoroughness and foresight.

Frank's efforts to expand opportunities in Bayonne never ended at the close of business. He is a member of the executive board of the National Conference of Christians and Jews and is the standard bearer of the Concerned Citizens of Bayonne. He has led community efforts to reduce the threat of toxic waste in the area as spokesman for the Bayonne Organizations Against Toxic Sites. Frank has brought the power of voting to hundreds of citizens when he recently headed the voter registration drive in Bayonne.

Just this summer, Frank helped form the Bayonne chapter of the Sons of Italy; he serves the group as a trustee. The Bayonne chapter is named after the late Reverend Dominic J. Del Monte, who is fondly remembered as the pastor of Bayonne's Our Lady of the Assumption Church. The new chapter has met with great success, as it already has over 100 members.

An Army veteran of the European campaign in World War II, Frank has been involved in a wide range of veterans' programs. He is a former chairman of the Bayonne Memorial Day Parade Committee, honoring the men and women who sacrificed so much so that we can live free. With the Catholic War Veterans, Frank has organized community visits and Christmas parties for veterans confined to hospitals, lifting spirits and giving encouragement to these brave people. He is a former chairman of the Columbus Day Parade Committee and organized the fundraising drive to erect a bust of America's discoverer at the Bayonne Community Library.

Frank's selfless involvement with the young people of Bayonne bodes well for the community's future. He has been tireless in his efforts for the Bayonne Council of the Boy Scouts of America, notes John Hughes, the council president. More than 700 local youths belong to the Bayonne Scouts, and over 200 adults lend their time and expertise in Scouting events. Many adults who join the leadership of the local Scouting units when their children have joined remain on after their children have grown up. The strong rewards and excitement of adult involvement in Scouting are just too much fun to give up.

Bayonne has Scouting at all levels, from the 7-year-old Tiger Cubs, through Cub Scouts, Boy Scouts, and Explorers, for young men and women 14 to 21 years old. For 2 years now, the Bayonne Boy Scouts have broken new ground with a program which brings Scouting to the handicapped. The program is part of the special education curriculum at school, and over 50 handicapped youths participate. The teachers are the unit leaders, and the Scouting activities help sharpen motivation and allow the young men and women to experience the joy and pride of fuller lives. Last spring, the handicapped Scouts spent 3 days at Camp Lewis, the Bayonne Council's camp in Marcella, NJ. The vent was a terrific success and a moving experience for Scouts and Scout leaders alike.

For the greater part of this century, Boy Scouting has given millions of youths worldwide the opportunity to understand and explore the great outdoors. More than this, however, Scouting's tradition of clean living, dedication to community affairs, volunteering, pride in country, and the development of maturity and self-sufficiency has given us stronger and better young men and women. Next year, the Boy Scouts of America celebrates its 75th anniversary. The Bayonne Council is

looking forward to attending the national jamboree at Fort A.P. Hill in Virginia in 1985.

The Bayonne Council enjoys strong community support. I would like to mention New Jersey State assemblyman Joseph V. Doria, the honorary chairman of the Distinguished Citizen Award Committee, Mickey Sweeney, the ever-active general chairman of the committee, and Frank Dolce and Ludo Nolfo, the committee journal cochairmen. John Baccarella, Ben Costanza, and Diana De Russo are ticket cochairmen. They are joined in preparing this event by 21 outstanding community leaders who serve as committee members.

The council itself is headed by president John Hughes, with John Doolan as commissioner and Mrs. Elizabeth Bredehoft as treasurer. Gregory Boyle, William Downey, and Daniel Pintauro are vice presidents, and Joseph Milutinovic is the Scout executive.

I know my colleagues in the House will join me in offering a hearty congratulations to these men and women, and to Frank Perrucci, the deserving recipient of the 1984 Distinguished Citizen Award of the Bayonne Council of the Boy Scouts of America. So often men and women of Frank's caliber work without recognition. It is good that we take time to say "Thanks for a job well done." Thank you, Frank, for all you've done for this community. It is the work of Americans like you that has made this country the great Nation it is.●

CONGRESSMAN JOHN ERLENBORN

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. PICKLE. Mr. Speaker, in recent, years JOHN ERLENBORN has become the authority on pension programs in this body. He has taken the lead on this issue in the Education and Labor Committee and the House floor. Indeed, I believe he is recognized by Congress and people in the pension field as the acknowledged authority on these programs. ERISA is a direct testimony of JOHN ERLENBORN's work in this area. JOHN ERLENBORN is "Mr. Pension" in this Congress.

In addition, for nearly 20 years, JOHN ERLENBORN has advanced progressive education programs. He has demonstrated his concern for working conditions and retirement benefits for our citizens. Clearly, his voice has been one of reason and effectiveness. I have become a close friend of this able legislator. His services will be sorely missed.●

CONCERN AND KINDNESS IS RECRUITER'S BARTER

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. KEMP. Mr. Speaker, volunteerism has always been a strong thread in this country's fiber. America has a proud history of people who give selflessly of themselves to neighbors, the community, or even total strangers. I would like to call my colleagues' attention to one such person: Bill Rogers, of Odessa, Texas.

As a supporter and recruiter for the Odessa College track program, Bill Rogers embodies the spirit of caring and involvement from which we all hope our children will benefit when they leave home for the first time. Many of the young adults whose lives Bill touches come from improverished or troubled families. Bill not only helps them become first-rate athletes, he also helps them develp a sense of self-worth and purpose. Bill and his wife, Lorraine, have opened their home and their hearts to these athletes. Odessa College and its students—indeed, all of us—are a little bit richer because of people like Bill Rogers.

Bill's accomplishments have been brought to my attention by his nephew, Joe O. Rogers, who ably served for more than 3 years as international economics counselor and, later, as executive director of the House Republican Conference, before leaving to accept the nomination as U.S. ambassador to the Asian Development Bank. We will miss Joe, but our loss is our Nation's gain.

I commend the following article to my colleagues from The Odessa American on Bill Rogers' many contributions.

CONCERN AND KINDNESS IS RECRUITER'S BARTER

Welcome to Mister Rogers' neighborhood.

But this is not television's Mister Rogers. Odessa just happens to be Bill Rogers' territory.

The sports buff has proclaimed himself the patron saint of Odessa College track. But his contributions to the community go beyond mere athletic endeavors.

Although Rogers has no official capacity with the college, he's freely given of his time and money to help Coach James Segrest win eight straight national championships.

The strongest suit of this jovial volunteer seems to be recruiting. He's perfectly willing to jet off to some distant state to talk some promising high school athlete into casting his lot with the OC Wranglers

Through their recruiting efforts, Rogers and Segrest rank at the top of the list of roving ambassadors singing the praises of Odessa. But you have to give Rogers an extra gold star since he's not getting paid to do his job. In fact, he's paying for the pleasure.

Selling Odessa as a place to be educated for two years is no easy task.

But those four years of dominance on the track are testimony to the abilities of Segrest and Rogers. They convince not only athletes, but parents, that our community is a good place to stay for a while.

Perhaps this is a commentary on our society, but some skeptical rival coaches have accused Rogers of buying athletes because he is so successful. In a sense that's true. Bill Rogers buys athletes not with money, but with kindness and true concern.

And anyone who knows Rogers realizes his friendship toward those athletes and their families doesn't end when the two years of representing Odessa College are finished. The number of former Wranglers who stop by to see Rogers and his wife, Lorraine, at track meets proves his continuing allegiance to the athletes and the respect he has gained from them.

Rogers keeps in close contact with many of those exes, reacting like a proud father when they accomplish a goal—whether athletic, academic or otherwise.

People like Bill Rogers are Odessa's best asset. He's a shining example of West Texas hospitality and friendliness.

He got involved in something that interested him. Plenty of other people in Odessa could do well by following his lead in areas that interest them.●

TRIBUTE TO REPRESENTATIVE JOHN ERLENBORN

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. BROYHILL. Mr. Speaker, over the years, I have seen a lot of people come and go here in the House and, frankly, you look back and many of the names you barely remember. But there is one name that will always stand out with me as a person who has made a significant contribution to the legislative process and to the Nation—JOHN ERLENBORN. JOHN is a leader in every sense of the word. He has common sense and, what I call, the legislative touch of a master. He knows how to deal with very complex and controversial issues and he has the temperament to negotiate with people on varying sides of an issue while keeping his cool. We are going to miss you here, JOHN, and hope you will keep in touch with those of us who have chosen to stay around for a little while longer.●

WEAPONS THAT WORK

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. LEVINE of California. Mr. Speaker, in its lead editorial today, the New York Times asks a question which I have been asking ever since I came to Congress: "Why don't people

in authority at the Pentagon care more passionately about building weapons that will actually work in combat?"

It uses the Sergeant York, or DIVAD, antiaircraft gun to illustrate just how poorly the Pentagon is handling efforts to provide for our national defense.

In recent months, news reports have surfaced about the problems which plague the Sergeant York or DIVAD antiaircraft gun the Army wishes to buy to protect ground troops against attack from the air.

Among the Sergeant York's problems are shoddy workmanship, poor performance during testing, and cost overruns and program mismanagement by the Pentagon.

Despite all of its well documented shortcomings, the Pentagon denies that the Sergeant York is a fundamentally flawed weapon and continues to lobby Congress for continued funding of the program.

The time has come for the Pentagon to level with Congress and admit that the Sergeant York is a turkey.

Congress has significant responsibilities, also. We must stand up to the Pentagon and make it clear that we will no longer continue to provide funds for weapons that either don't work or which have not been adequately tested. In addition, major reforms of the way in which we procure weapons are long overdue. Our soldiers and sailors deserve no less.

I comment the Times' editorial to my colleagues and I urge them to support efforts which will help eliminate waste fraud and abuse in the military budget.

A LEMON THE SIZE OF THE PENTAGON

The saga of the Sergeant York air-defense gun illustrates nearly everything that's wrong with the way the Pentagon buys weapons. Though each gun costs $6.3 million, the weapon is so ineffective that even Congress, which can usually swallow any major weapon system, has finally choked.

The Sergeant York is a pair of radar-guided guns mounted on a tank chassis. Its purpose is to protect against low-flying aircraft and helicopters.

The Army got the idea from the Shilka, an ineffective Russian gun captured by the Israelis in 1973. Like all radar-guided guns, the Shilka has a fatal flaw. To shoot down a plane, you must aim ahead of it in the direction it's about to turn. But no computer can predict the random course of a maneuvering attack aircraft.

One system that can, and does so effectively, is the human eye. Gunners may know the attack path, and have visual cues denied to radar. They can see a plane banking before it turns. Optically aimed guns shot down more than 4,000 jets in the Koreans, Vietnam and Arab-Israeli wars.

But the Army wasn't interested in a cheap system of proven combat effectiveness, not when the Russians were fielding a radar-guided, computer-controlled, high-technology mobile gun. It copied the Shilka and, after a decade of struggle, now possesses a radar-guided, computer-controlled, armor-plated lemon all its own.

The Sergeant York is no run-of-the-mill lemon. It can't shoot down maneuvering planes, but what about helicopters? Almost anything can shoot down a helicopter—the Army lost 4,643 in Vietnam, mostly to rifles and machine guns—but not the Sergeant York. In its most recent tests it had great difficulty spotting a helicopter target, until radar reflectors were attached to it.

These egregious design faults were followed by outstanding incompetence in procurement. The Army held a competition for the $4.5 billion program, between General Dynamics and Ford. Yet though the Ford gun "did far worse," according to The Atlantic Monthly, Ford got the contract. So lax was the Army's supervision that it failed to notice that after the contract had been signed, Ford negotiated price reductions with its subcontractors. That resulted in "unfair, unreasonable and invalid prices," in the opinion of the Pentagon's Inspector General, Joseph Sherick.

By awarding the contract to a single source instead of arranging for competing suppliers, the Army put itself at Ford's mercy. Thus it shares blame for the failures and delays that caused it to complain to Ford Aerospace last March of "totally unacceptable contract performance."

More disquieting still was the Army's misrepresentation of test data to the Pentagon review board that decided to go ahead with production. Charts attesting to a high level of effectiveness in field trials, Mr. Sherick told Congress last week, "were oversimplified and, therefore, misleading and based on a selective analysis of the results."

How can so bad a weapon get so far into production? Why should Congress have to second-guess the Pentagon at so detailed a level? How many other weapons have slipped through with disabling but less glaring faults? Why does the Pentagon so strenuously resist an independent testing office when the need for impartial evaluation of what procurement officers produce is so achingly clear?

The most puzzling question of all raised by the Sergeant York saga: Why don't people in authority at the Pentagon care more passionately about building weapons that will actually work in combat?●

THE 50TH ANNIVERSARY SEASON OF THE SAN JOSE CIVIC LIGHT OPERA

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. EDWARDS of California. Mr. Speaker, on behalf of my colleague from California, Mr. MINETA, and myself, it is with great pleasure I bring to the attention of this Congress the 50th anniversary season of the San Jose Civic Light Opera. We are happy to share with our colleagues the many and important contributions this fine theater company has made to the community.

The San Jose Civic Light Opera was organized in 1934 for the purpose of providing quality musical theater at affordable prices to the residents of the Santa Clara Valley. This tradition has been maintained over the years, and their performances are enjoyed by an appreciative audience of over 80,000 annually.

The Civic Light Opera's productions are among the finest offered in the greater bay area. The company is comprised of brilliant local talent working in tandem with experienced professionals. This combination of creative efforts has earned the Civic Light Opera company numerous awards for set design, costuming and choreography. Their resident orchestra ensures a lively evening of theater as well.

For 20 years, the San Jose Civic Light Opera has offered workshop and performing opportunities to the young people of our community. Children of all ages participate in this innovative program, which reaches into all neighborhoods with scholarships provided for the economically disadvantaged.

This season, the Civic Light Opera is enjoying the largest number of subscribers in their 50 year history. An outstanding season is planned with four major musicals to be offered to the delight of theatergoers, young and old alike. Mr. MINETA and I speak for the entire community when we say "Thank you" to all those involved with the San Jose Civic Light Opera for the music and entertainment they have given to so many. We look forward to enjoying their work for years to come.●

THE PLIGHT OF SOVIET JEWS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. LAGOMARSINO. Mr. Speaker, while the human rights of all people in the Soviet Union concern us, today we give special attention to the plight of Soviet Jews, whose rights of religious and political freedom and free emigration are being effectively squelched.

We in this country are specially privileged, having assured rights such as freedom of religion, freedom of expression, and freedom of travel. The Soviets, however, are mounting a vigorous attack on Soviet Jews and denying them the freedoms and rights we take for granted.

For example, last year only 1,315 Jews were granted permission to leave the U.S.S.R. This was 50 percent fewer than the previous year and 97 percent fewer than 1979, when 51,000 were permitted to emigrate. These unfortunate soviet citizens are discriminated against simply because they are of the Jewish faith and wish to practice their religious rights. This blatant disregard of basic human rights cannot be left unnoticed.

Curtailing emigration is not the only method the Soviet Government em-

ploys to attack innocent Jewish citizens. Last year, a Soviet anti-Zionist committee was formed to harass and persecute Jews. This committee along with the notorious KGB fabricates incidents and creates crude events in an attempt to justify the denial of emigration, internal exiling, and imprisonment of Jews. These cruel forces are also trying to instill an anti-Semitic feeling among the non-Jewish citizens. For example, the committee has even circulated the preposterous allegations that Jews promoted Nazism during the Second World War—an insult to the memory of the 6 million Jews and countless other victims of Nazi terror. This example is only one of the many great injustices found in the U.S.S.R.

It is obvious that conditions within the Soviet Union concerning Jews' human rights are totally unacceptable. The Soviets have again shown their complete disregard for the rights of the individual, subverting these rights to the whim of Communist party officials who are disinterested in human growth and human awarness. It is totally reprehensible that a country which has signed the Helsinki accords, the U.N. Charter, the International Covenant on Civil and Political Rights, and the universal declaration on human rights could continue its blatant disregard for the rights of its own citizens. It makes one wonder just how committed the Soviets are to the treaties and declarations they sign. Of course, there should be no surprise in this, for these actions represent the true nature of the Soviet Government.

I urge my colleagues to join me in the 1984 congressional call to conscience vigil for Soviet Jews. This vigil brings to light the unjustified oppression under which the authoritarian Communist government forces these innocent, religious people to live.●

SUPPORT NEEDED FOR SOUTH AFRICA

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. FORD of Tennessee. Mr. Speaker, as you know, the United States has a national policy of opposing human rights violations on the part of foreign governments; yet, the current administration has an apparent problem with applying that policy to its relations with South Africa. It rightfully points out violations in the Soviet Union's treatment of its dissenters, or in Iran, but ignores the excessive abuse that the Botha regime has heaped upon the vast majority of the South African population.

At last count, over 70 black South Africans had died at the hands of South African police and security forces during the past several weeks. Concurrently, the police have been decimating the ranks of the largest black mass organization—most especially the United Democratic Front and the National Forum—by detaining most of their leadership and many of their members. The husband of Mahatma Gandhi's granddaughter and five of his associates have sought refuge in the British Consulate in Durban, to avoid arrest.

Black miners have gone on strike at South Africa's gold mines and they have been brutally assaulted by South African police. The police also have been raiding and attacking black communities, destroying homes, assaulting the residents, and threatening to remove them to desolate reservations.

South Africa has just implemented new, controversial constitutional arrangements which delegate vast executive powers to former Prime Minister P.W. Botha and has inaugurated him as President. The new constitution established a racially divided tricameral parliament with separate houses for so-called "Coloreds," Indians and whites; it absolutely excludes the black South Africans, who represent the vast majority of the country's population—24 million people.

South African blacks launched a massive, successful boycott of the recently-held first elections under the new constitutional arrangement. Despite the effectiveness of the boycott, the South African regime has proceeded with setting up its new parliament—attempting to maintain a facade of credibility. And, despite the nonviolent nature of the blacks' protests—the boycott and the strike—the South African Government is fighting back with the savagely indecent, inhumane attacks which I have just described to you.

Aside from the human rights issue, which is quite important, President Reagan's actions and inaction are a slap in the face to black Americans. Implicit in his policies is a philosophy which says that it is all right to murder, detain, deport and otherwise abuse 24 million blacks, but the suppression of a lone European dissenter is worth fighting over.

I, along with other of our colleagues, have registered with the President my outrage on this matter and I sincerely hope that the administration will reconsider its policies on South Africa.●

EARL KALAR—A GREAT SAN LUIS OBISPO COUNTY PUBLIC SERVANT RETIRES

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. PANETTA. Mr. Speaker, I would like to bring to the attention of my colleagues the impending retirement of Earl R. Kalar, who serves as agricultural commissioner, sealer of weights and measures, and air pollution control officer of San Luis Obispo County. A retirement dinner will be held in Mr. Kalar's honor this Sunday, October 7, and it is my hope that this well-deserved tribute will be read at that time.

Earl Kalar has had a long and distinguished career in public service. After attending California State Polytechnic University at Pomona, the University of California at Santa Barbara, and Concord State Teachers College in West Virginia, and after 9 years of service in the U.S. Army Air Force and the U.S. Air Force, he went to work in 1952 for the Kern County Department of Agriculture as an agricultural inspector. He moved on in 1956 to Ventura County and then to Contra Costa County and Lake County. In Lake County, he served from 1960 to 1963 as agricultural commissioner, sealer of weights and measures, and animal control officer.

All of these jobs prepared Mr. Kalar for his final destination, San Luis Obispo County, where he has served since 1963, more than 20 years, as an invaluable public official in a county where agriculture is an extremely important industry.

Earl Kalar has many accomplishments he can list to his credit, but among the most prominent are his development of a workable and environmentally safe program of aircraft application of ground squirrel toxic bait; his initiation of a baseline data system for air contaminants in the county; his development of a test purchase program, later adopted statewide, for weights and measures enforcement; his contribution to the establishment of a restructured and streamlined Division of Measurement Standards for the State of California; and his design and construction of an improved cattle scale test truck.

In addition to his work, Mr. Kalar has been active in community and professional organizations. He is a past member of the board of directors of Boy Scouts of America, a past president of the California Association of Weights and Measures Officials, a past president of the Department Heads Association of San Luis Obispo County, and one of the original directors and organizers of California's Measurement Science Conference.

Mr. Speaker, as my colleagues can see, Earl Kalar is a man of dedication, commitment, and action. His retirement is a great loss to the people of San Luis Obispo County. I know the entire House joins me in congratulating Mr. Kalar on a job well done and wishing him the best of luck in the future.●

TRIBUTE TO HON. BARBER CONABLE

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. BROYHILL. Mr. Speaker, with BARBER CONABLE leaving the House, we're losing one of the giants of the legislative body. I have greatly admired BARBER'S intellect and his strong grasp of the issues before his committee and the Congress, his knowledge of the economic facts of life, and his tremendous ability to articulate all of these. The House of Representatives has been a more effective body because of BARBER and his decision to leave is a great loss to all of us here as well as to people throughout our Nation. It has been my privilege to serve with you, BARBER, and I'll miss your leadership. However, Louise and I want to wish for you and Charlotte the very best, and please stay in touch with us often.●

NEWMAN REELECTED CAB CHAIRPERSON

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. BROWN of California. Mr. Speaker, I would like to congratulate Venny H. Newman on her reelection as chairperson of the San Bernardino County Community Services Department Community Action Board [CAB].

Mrs. Newman has a long and distinguished track record of community service. Her extensive experience will contribute to the success of San Bernardino County's Anti-Poverty Program. Venny is part of a very distinguished group of community leaders who have served as CAB chairpersons over the past two decades.

The following is an article from a newspaper in my district that discusses Mrs. Newman's reelection, recognizes past CAB chairpersons, and identifies the current community action board.

[From the San Bernardino (CA) American, June 21, 1984]

MS. NEWMAN REELECTED CAB CHAIRPERSON

Venny H. Newman has been re-elected to serve as the Chairperson of the Community Services Department Community Action Board.

Ms. Newman has been a CAB member since January 25, 1977 and will serve an additional one year term. Rodolfo H. Castro, CSD Executive Director, stated that Ms. Newman is the senior member of the board and her extensive experience will contribute to the effectiveness of the Department. Mr. Castro further stated that the chairperson's responsibility has been carried out by some very distinguished community leaders including: Paul A. Treadway, John Jimenez, Frank A. Cabral, Naomi Saylor, Richard Strong, Eloisa Zermeno, Robert Carbajal, O. E. Brown, W. R. "Bob" Holcomb, George Ashton, Salvador Rios, Francis T. Riley and Harry C. Smith.

The Community Services Department is the "War on Poverty" agency for San Bernardino County and the Community Action Board is the policy making body for the Department. The current board members are: Wanda Bethel, Paul A. Treadway, Nancy Ruth White, Belva Holder, Mabel M. Jones, Josephine Knopf, Dolores Kossman, Eloisa Zermeno, Dorothy Grant, Carolanne C. Hollister, Geraldine Bratton and James Hall.●

ICC SHOULD EXAMINE ISSUE OF PRIVATE CAR USE

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. FLORIO. Mr. Speaker, rail transportation is an important part of our national economy. Many of our industries rely heavily on railroads to move their products or raw materials. Because of the importance of rail transportation and the need to coordinate the activities of shippers and railroads, we have the Interstate Commerce Commission. The ICC resolves disputes in many areas between railroads and shippers.

There is now an issue of importance before the ICC which involves the right of shippers to use private rail cars in lieu of railroad supplied cars.

Several years ago, certain types of cars, such as covered hoppers, were in short supply. Some railroads encouraged shippers to purchase their own cars to ensure an adequate car supply. However, now that there is a surplus of certain types of cars, certain railroads are discouraging the use of the shipper-owned cars.

The shippers believe they purchased their cars in reliance on the encouragement of railroads and, because of this reliance, they should be allowed to continue to use these cars. The railroads believe they have a right to require use of their own cars first. Obviously, each side believes it is correct.

This is a good example of the difficult questions the ICC must answer. There are arguments on both sides, but the outcome will have a significant impact on rail transportation. It is up to the ICC to make the decision.●

TRIBUTE TO HON. JOHN ERLENBORN

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. DUNCAN. Mr. Speaker, I am pleased to join my colleagues in paying tribute to JOHN ERLENBORN. He has been a leader, legislator, and legend in this House, and we will all miss him.

JOHN and I were members of the freshmen class in the 89th Congress. Over the past 20 years I have watched with admiration his skill in crafting our Nation's laws. He has left his imprint on the pension reforms and education programs which have come out of the Education and Labor Committee. Despite the difficulties of working from the minority position, he has been able to bring moderation to the legislation and laws which Congress has adopted.

JOHN was never afraid to challenge the majority, and test its proposals against his own. He was also willing, however, to work with his colleagues for the common good, and seek a consensus when it was needed. He was able to accomplish so much because he was never one to accept or assume defeat. He used reason and persuasion to make his points, and in many cases won these points.

The Erlenborn substitute became a catch phrase for JOHN'S "never-say-die" attitude. It also became a symbol of moderation to overly ambitious proposals. In this way he was able to shape ERISA, and curb the abuses of the student loan program. In all of this he faithfully represented the interests of the people of Illinois' 13th District.

Like the Members of this House, they will miss JOHN. He has been a good and faithful servant, and it is reflected in margin of his victories over the last 20 years. I would like to offer my appreciation for his efforts here, and wish him well in his future endeavors.●

CIVIL RIGHTS ACT OF 1984

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. SIMON. Mr. Speaker, a recent editorial in the Southern Illinoisan compellingly makes the point that so many opponents of the Civil Rights Act of 1984 have forgotten: This legislation will restore the laws prohibiting the use of Federal aid, in any form, to subsidize discrimination because of race, sex, age, or handicap. The Civil Rights Act of 1984 makes that point as clearly as possible without breaking new ground. Several of the primary opponents of this bill in the Senate have misquoted and misrepresented the purpose and the effects of the Civil Rights Act. This is an unfair and foolish tactic to use in an attempt to defeat this vital legislation; legislation which this body has already passed with an overwhelming margin. I will

take this opportunity to address several of these arguments.

Opponents of the Civil Rights Act have discussed at great length and have described the parade of horrors about the effect of this bill on the coverage of State and political subdivisions and institutions of higher education. I am puzzled by this concern since there is virtually no political subdivision and certainly no State or institution of higher education that does not receive Federal financial assistance. Because of this point, opponents of the bill have argued that an expansion of the law has occurred, yet I suggest that it is the role of Federal funding that has been altered. Since Federal money is now everywhere, it is difficult to find entities which receive no Federal financial assistance. Consequently, the argument the opponents of this bill make concerning the extent of coverage is specious.

In recent floor debate on the Civil Rights Act, statements have been taken out of context and false conclusions have been drawn. On a variety of issues, the House floor debate has been specifically or implicitly misstated. I am compelled to respond and set the record straight. Opponents of the bill in the Senate have selected illustrations and maintained that the House floor managers, Mr. EDWARDS and myself, of H.R. 5490 provided misinformation to our colleagues regarding the law prior to the Grove City College versus Bell case and the effect of the Civil Rights Act. This is simply not true. On several important issues Senate opponents have incorrectly stated the law prior to the Grove City case. The result is the appearance of an expansion of the law if the Civil Rights Act is enacted. Several examples of this distortion of the law prior to the Supreme Court decision occur with respect to the coverage of drug stores filling medicare or medicaid prescriptions, farmers receiving USDA crop subsidies and corporations which conduct vocational education programs and also receive grants for defense related research. In each of these cases the question was asked: "Was the entity covered prior to Grove City and will it be covered after the passage of the Civil Rights Act?" In each case, the response is that the entity was not covered prior to Grove City but will be covered under the new law. Yet in each case, the entity was covered prior to the Supreme Court's decision.

Drug stores that fill medicare and medicaid prescriptions have always been covered. Medicare and medicaid are forms of Federal financial assistance. The individual patient is not covered because she/he is the ultimate beneficiary. The farmer who receives a USDA crop subsidy is also the ultimate beneficiary and therefore not covered. The USDA regulations specifically exclude ultimate beneficiaries as does the Civil Rights Act. The corporation which conducts vocational education programs and also receive a grant for defense related research was covered and is still covered under title IX of the Education Amendment of 1972. The corporation is covered to the extent of all of its facilities that receive the assistance and all of its education activities are covered. The corporation would be covered to the same extent after enactment of the Civil Rights Act of 1984. These three specifics are just a few examples of the misstatement of the law as it was applied pre-Grove City College and as it will be applied after the Civil Right Act.

Mr. Speaker, some of my Senate colleagues have suggested that only title IX be amended. The rationale is that only title IX was the subject of the Supreme Court case and it is an unnecessary expansion to amend all four statutes. The need to amend all four statutes exists because of their historic interrelationship. As the House noted in their committee report:

Title IX is modeled after Title VI of the 1964 Civil Rights Act (prohibiting discrimination on the basis of race, color, or national origin). Title VI was also the legislative model for Sec. 504 of the Rehabilitation Act of 1973 (prohibiting discrimination on the basis disability) and the Age Discrimination Act of 1975. Together, all four statutes prohibit discrimination in "programs or activities which receive federal financial assistance." The Supreme Court's narrow construction of the operative phrase "program or activity" conflicts with Executive Branch enforcement of the provisions for the past twenty years.

Although the Grove City College decision only addresses Title IX, it is appropriate and necessary to clarify each of the Civil Rights provisions now because their legislative and judicial histories are closely related. Also, it is anticipated that the application of these provisions will be similarly narrowed as a result of potential changes in the enforcement practices of federal agencies and subsequent judicial interpretations.

To preserve civil rights for minorities, women, seniors, and the handicapped, all four statutes must be amended by the Civil Rights Act of 1984.

Mr. Speaker, these laws have made a significant contribution to this country's sense of national pride. One dramatic example of how effective title IX has been is the enormous number of gold medals our women athletes won in the Los Angeles Olympics. The key reason Cheryl Miller led our women's basketball team to one victory after another and that Tracy Caulkins has broken swimming records for this country is that they, like so many of their teammates, benefited from title IX of the Education Amendments of 1972. That law forced the American educational system to broaden women's athletic programs. The results have been impressive: in 12 years the number of women in intercollegiate athletic programs has increased 1,000 percent. Not only has the quantity increased but the quality of their achievements has been equally dramatic. Yet these gains may be fleeting. This Olympic season may be the last to celebrate such victories for women. This dramatic increase in women's athletic achievement is threatened by the U.S. Supreme Court's ruling in the Grove City case. Unless the Senate joins the House in clarifying the intent of Congress, 1984 will have been the high point in gold medals for women athletes.

Let me add one personal note before I close. My daughter Sheila is one of those who benefited directly from title IX. She was the AIAW, division III high jump champion in 1982.

The record was clear after 6 days of hearings and 43 witnesses on the House side, and the other body has heard 5 days of hearings and 51 witnesses; the House was certain that it had sufficient evidence and information to draw its conclusions and vote. It did so on June 26, 1984, with a 375 to 32 vote for passage of the Civil Rights Act of 1984.

I urge my colleagues in the Senate to follow the lead of the House and quickly pass the measure.

[From the Southern Illinoisan, Sept. 17, 1984]

TITLE IX FIASCO MUST BE CORRECTED

Okay, all of you ERA opponents out there, it's time to prove your point. You fed the Illinois legislators that line about how laws would adequately protect women against discrimination, and they bought it. A constitutional amendment wasn't necessary, you said, and they believed you. Please explain all that now to the United States Senate.

Title IX of the 1972 Education Amendments was one of the most important of those anti-sex discrimination laws which you used to defeat ERA. But the U.S. Supreme Court tore its guts out last February, and, in the opinion of some civil rights lawyers, threatened the protections of blacks, the disabled and the elderly at the same time.

In the Grove City College v. Bell case, the court ruled that Title IX's anti-discrimination requirements only apply to a specific program that receives federal funds, not, as had been the practice, to the whole institution of which that program is a part. In other words, if Southern Illinois University-Carbondale is getting federal coal research money, that no longer carries an obligation to treat women fairly in athletics. The ruling has bad implications for the tremendous women's athletics renaissance of the past decade that was based on Title IX, not to mention women's employment opportunities.

Since Title IX was written with much the same language as other civil rights laws, lawyers say, those laws too are now in jeopardy. The House agreed, and quickly amended Title IX and other laws this spring to include what the Supreme Court said wasn't there.

Now, however, it looks as though the corrective action will not get through the Senate this fall. Sen. Orrin G. Hatch, R-

Utah, chairman of the Senate Labor Committee, wants to amend only Title IX, and to simply change the phrase "program or activity" to "institution". Civil rights lawyers say "institution" will not cover school districts and other broad entities.

Hatch, and the Reagan administration, claim that a broader definition will increase federal powers on local affairs. A grocer, Hatch says, would be subject to the law just for accepting food stamps.

So, what's wrong with that? The grocer should be forbidden to discriminate against groups of people. So should everyone else. Civil rights activists aren't asking for a huge new federal bureaucracy to go around snooping for discrimination, but every citizen should have the legal right to sue when he or she feels she has suffered from it. Racial and sex discrimination are wrongs, and conservative smoke screens about state's rights don't make them any better.

But if Hatch is going to block a corrective bill that doesn't include his language, the civil rights lobby should take half a loaf and accept at least that much for now, to protect Title IX in most cases. Some other time, it can go back to the Hill and seek further improvements.

Passage of ERA wouldn't have made anti-sex discrimination laws unnecessary, but it would have given women more authority in demanding that those laws conform with their consitutional rights. Without ERA, anti-sex discrimination is just another gift which the Supreme Court, the Senate and the Reagan administration can magnanimously grant, or imperiously take away.●

A CONGRESSIONAL SALUTE TO LARRY KOOIMAN, 1984 PRESIDENT OF THE DOWNEY BOARD OF REALTORS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. ANDERSON. Mr. Speaker, on November 3rd, the 38th annual installation of officers and directors for the Downey Board of Realtors will be held at the Hyatt Regency in Long Beach. I would like to take just a moment and congratulate the board's 1984 president, Mr. Larry Kooiman, on a job well done.

A resident of California for nearly 20 years, Larry is a 1969 graduate of California State University, Long Beach. Larry officially began his career in the real estate industry in August, 1974 when he received his sales license. About 2½ years later, he received his broker's license. Today, Larry is part owner of two Century 21/Southeast real estate offices in Downey and Southgate.

In addition to his professional career, Larry has become quite active in local issues important to the city of Downey and its residents. He had generously devoted valuable time in numerous civic projects with the intent of making Downey a better place to live and work. In a nutshell, its been individuals such as Larry who have helped make America great.

My wife, Lee, joins me in commending Larry on this special occasion and we hope that he and his wife, Barbara, and their two children, Jim and Jennifer, are successful in all their future endeavors.●

DEMOCRACY'S MOST IMPORTANT RIGHT, TO VOTE

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. SWIFT. Mr. Speaker, in a free and democratic society the act of voting is undoubtedly the single most important act that any citizen undertakes. And yet, over the last several years especially, fewer and fewer Americans are exercising their right to vote. As chairman of the House Task Force on Elections I have taken a strong interest in identifying and eliminating barriers to voting. The other half of the battle is getting people out to vote.

I've been encouraged by the programs undertaken lately by many broadcast stations around the country—programs designed to increase awareness of voting and encourage people to register and vote. Trade associations and the networks have each taken a role—an important role—in this as well. While I've had my differences with the networks over the early projection of election results because I believe that premature projections discourage voter turnout, I know that these same networks are doing their part and are very active in working with those of us that would encourage voting. Leonard Goldenson, chairman of the ABC network, recently gave a speech to the International Radio and Television Society, in which he highlighted many of these concerns and I would like to include in the RECORD a portion of his speech on this matter.

[The speech follows:]

REMARKS OF SPEECH BY LEONARD GOLDENSON

I remember back in 1960 discussing the possibility of election-year debates with Frank Stanton and others. Later that year, television and radio for the first time brought presidential debates into living rooms across America, and I was very excited about prospects for the Republic and the contribution that we could make to its welfare. After all, voting turnout in that election hit nearly 63 percent, the highest in years. It struck me that with the help of modern broadcasting, America could restore the extraordinary voting patterns we enjoyed in the late 19th century and create an even more vibrant democracy.

But what has happened since has been a national embarrassment. Voting turnouts have steadily declined, falling by over 10 percentage points to a low of under 53 percent in 1980. Our current President came into office with the votes of only one-fourth of our citizenry. For every voter who pulled the lever in his favor, two stayed home. Among the 24 major industrial democracies in the world, the United States sank next to the bottom in voter participation.

People ask: what difference does it make? And indeed, some studies indicate that if all of our eligible voters had come out in 1980, most of the same men and women would have been elected. But that's not the point.

The point is that the right to vote represents one of our most cherished institutions, "the crown jewel of our democracy," as President Reagan has said. A vote cast freely and in private is an expression of the people's will—a convenant between the governed and those who exercise power in their name. When a person casts a ballot, he makes an investment of faith and trust in a candidate; in return, he expects the candidate to live up to a high standard of responsibility. A bond is formed that can sustain those who govern through bad times as well as good. Moreover, voting is a part of the discipline—the responsibility, if you will—of maintaining a democracy. As much as anything else we do, it symbolizes our commitment to our system of Government.

But when people refuse to vote—when they refuse to make that pledge of support—our candidates enter public office with little more than a victory built on a house of cards. They have neither a bond nor a mandate for governing. It is no coincidence that during this past quarter century, when voting sharply declined, there was a marked increase in people's dissatisfaction with their Government.

The mystery that surrounds these past 25 years is why voter turnout has dropped so much. Logic would say it should have increased. The higher the income and education, for example, the more likely a person is to vote. Both have gone up, but it hasn't affected the number of people who vote. The Nation has also dismantled many of the highest legal barriers to voting identified by a presidential commission 2 decades ago. Literacy tests and poll taxes, for example, have become relics of the past. And during this same time, the commercial networks have more than doubled their time for public affairs programming, while the number of all-news and talk shows has exploded on radio and television. So, where have all the voters gone?

In December, 1982, I made a trip to the John F. Kennedy School of Government at Harvard to pose that question and to talk about ways to address it. I proposed that in order to ensure gavel-to-gavel coverage of party conventions, the three commercial networks each pay for a third of the cost for the Public Broadcasting Service to carry the full proceedings. We would each continue our coverage of major convention news, but PBS would keep its cameras rolling from beginning to end. Though that idea did not come to fruition, I'm happy to say that both Cable News Network and C-Span did carry the full convention schedules. What concerns me, however, is that full proceedings were still not available to the 60 percent of American viewers who do not have cable or cannot afford it. I think the three networks need to reassess the situation in 1988, and reconsider the idea of funding full coverage by PBS.

Another proposition we discussed at Harvard was for ABC and Harvard to jointly sponsor a conference on the subject of voting. That symposium was held in Washington a year ago, attended by a distinguished panel of statesman, public leaders, political experts, scholars and journalists. Among the most active participants were Gerald Ford and Jimmy Carter.

Our symposium identified two major causes of nonvoting and agreed that action should promptly be taken on both. The second is of particular relevance to broadcasting, but for a moment, let me describe the first—something we called "structural" barriers to voting.

In examining voting patterns across the world, it turns out that despite recent reforms, the United States continues to make voting registration significantly more difficult than any other democratic country. In Canada, for example, special registrars periodically go door-to-door signing up eligible voters. In the United Kingdom, registration forms are mailed every year to households. And once people are registered, they stay on the rolls, even through they may move somewhere else.

The United States is the only Nation where the entire burden of registration is placed on the individual and not shared by the State. Our hodgepodge of voting laws makes is difficult for many people, especially the poor and uneducated, to understand what they must do to become properly qualified. Registration books usually close 30 days before elections, long before campaigns reach their peak in the media. Hours of registration can be inconvenient. And the myriad of registration deadlines is confusing, as well. For example, how many of us here today know our specific registration deadlines? For most of us, it falls on October 9 or 16. (And incidentally, we'll make it easy for you—you can do it just outside these doors.)

And we've also found that those who change addresses are especially likely to fall out of the voting net. Professor Raymond Wolfinger of Berkeley has discovered that about a third of all Americans move during every 2-year cycle—and on average, their registration rate takes about 5 years to catch up with those who haven't moved.

What would happen if registration laws were simplified and reformed? The best answer probably comes from the five States in the country that now allow election-day registration or require no registration at all—Minnesota, Wisconsin, North Dakota, Maine and Oregon. In those States, the turnout in 1980 ranged from nearly 10 to 20 points above the national average.

It is abundantly clear from experience that when Americans are registered, they are much more likely to vote. In 1980, fully 86 percent of those who were registered in this country then voted for President. That's a higher turnout, I might add, than in countries like the United Kingdom, Japan, Canada and Israel. The answer is clear: We must lower every conceivable barrier between the potential voter and the ballot box.

Personally, I favor an overhaul of registration laws, the adoption of Sunday voting, keeping polls open for 24 hours, and closing all the polls at the same hour. There is no good reason why polls can't open on a Sunday after church services. It's simply a better day for most of our citizens to vote, and especially our young married couples, where both partners frequently work and juggle babysitting responsibilities. Just look at the Sunday voting experience in France, Spain, and West Germany—turnouts there are well over 80 percent.

Now let me turn to the second problem we identified in our symposium last year and this one, as I said, is more directly tied to the concerns of this audience: the problem of motivating our voters.

The evidence here is not as hard, but there seems little doubt that interest in voting has been dulled in recent years. As most presidential candidates acknowledge, our campaigns have become so long and tedious that boredom is a national disease. One need look no further than the ratings from the conventions this summer: viewing during the conventions set two new records—record lows. For the commercial networks, the convention weeks this summer were the two lowest rated weeks of the year, and the conventions themselves drew the lowest ratings of any conventions in television history.

Many citizens apparently believe it doesn't make any difference whether they go to the polls. They feel neither an obligation to vote nor a stake in the outcome. And many of those who would like to vote wake up near election day and realize for the first time that they haven't cleared the registration hurdles.

Clearly, there is much to be done. The candidates bear an obligations to run more inspiring campaigns than we have seen in the past. There's too much packaging and not enough substance to excite many voters. Viewing campaign ads as a whole, it's hard to tell whether you're supposed to go out and vote or buy a diet soda.

Our political parties also bear responsibility for the time devoted to campaigns: they are insufferably long. Our schools must also instill in young people the belief that voting is the first obligation of citizenship. High schools now teach driver's education; why shouldn't they teach voter education, too?

But surely, we in the broadcasting industry have a towering responsibility as well. Part of that lies in our news divisions. I have been pleased to learn in recent days that initial surveys of campaign 1984 coverage find the networks are devoting a good deal more attention this year to the issues—to substance—and less to what is called "horserace" stories. One of our foremost jobs is to clarify the issues and the choices before the country. Never has the thorough and objective reporting been more important, or the recognition that we serve a broad and pluralistic society.

In my judgment, the networks have also taken a responsible approach to the touchy question of exit polls. At ABC, we will not project the winner in any State until the voting booths, in that State have been closed. I understand that CBS and NBC are following a similar course.

Beyond that, the networks offered to host debates between the candidates, feeling the debates could be free-wheeling exchanges that would greatly benefit voters. I want to congratulate the League of Women Voters and its president Dorothy Ridings, who is with us today, for once again taking on the responsibility of organizing the debates. The League, as you know, has long contributed to voter awareness, and we look forward to working with our friends there in the coming weeks.

The other part of our responsibility as broadcasters lies in our sense of civic obligation—the degree to which we voluntarily take it upon ourselves to impress upon people the importance of voting and how to register. In my view, we should spare no effort in this regard. Nothing we do will ever be too much.

This kind of programming does not fit easily into a newcast, of course, because it falls outside the realm of day-to-day news coverage. We must invent new formats outside regular news coverage.

NBC, for example, has produced an excellent half-hour educational program on the electoral process. CBS is running a very effective series of public service announcements. And Group W and many other broadcasters represented here today are pursuing their own public service efforts, which, I am happy to say, are too numerous to mention individually.

At my own company, drawing on the recommendations of the ABC/Harvard Symposium, we are undertaking the most ambitious voter education project in our history.

ABC's public affairs effort encompasses our radio, television, and publishing operations, as well as our owned and affiliated stations. It includes public service announcements by celebrities like Dinah Shore and Reggie Jackson urging all Americans to register and vote, and spots with the same message by prominent Americans like Coretta Scott King and Henry Kissinger. We are also highlighting this issue with special segments on "Good Morning America" editorials, public affairs programs, a community relations campaign, a rebroadcast of our documentary on the symposium, and special PSA's for children on Saturday mornings.

I tell you all this not only because I am proud—and I am—but because those of us who have had the privilege of serving in this industry for so long—men like Dr. Stanton, Bill Paley, Grant Tinker, the distinguished leaders of the broadcasting groups and many others—all believe so deeply that broadcasting should serve large and noble purposes. It is especially important that as we emerge from an age of Government regulation, we set new standards of excellence and accept broadened responsibilities.

Ladies and gentlemen, let me close on this note. There will always be those, of course, who scoff and insist we can't turn around anything so fundamental as voting. They think we're embarked on Mission Impossible. But let me say that I can't imagine any of them followed the Olympic games this summer in Los Angeles.

What we saw there almost defied gravity. A city unwilling to accept liability for the games suddenly caught the Olympic spirit, and the games became a runaway success. Over 50,000 citizens transformed themselves into hard-working volunteers. Businesses large and small pitched in. Fans flocked into the stadiums. And just a few days ago, the Los Angeles Organizing Committee announced that contrary to all expectations, the first private Olympics in history had made a stunning profit of $150 million—money that can be plowed back into athletic competition. Peter Ueberroth, a man who deserves a lot of credit, put it well: "The organizing committee is just part of an outpouring of the American spirit."

Surely that is what we have seen emerge in these past months across the land—an Olympic spirit, a new patriotism, a new American spirit. Call it what you will, but it is there, it is real, it is powerful. And in the days ahead, we ought to hitch it to some important goals in our national life.

One of the highest of these goals, I submit, is a vigorous democracy where every American takes pride in casting a vote. I ask you, leaders in the communications field, to take it upon yourselves to do all you can to help us fulfill that dream.

Thank you very much.●

TRIBUTE TO RALPH GERVASIO

HON. DAVID E. BONIOR
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. BONIOR of Michigan. Mr. Speaker, Ralph Gervasio has been a member of my Washington office staff for the past 2½ years. He is married to the former Cathleen Anne Hartig and is the proud father of two boys, Joseph, 4 years and Justin, 3 months. Ralph is also a Vietnam veteran.

Since his discharge from active military duty, Ralph has been active in programs geared toward helping other Vietnam veterans with problems of rehabilitation and readjustment. Currently, Ralph is participating in a program called, the Vietnam Combat Therapy Group, a special extension of the Outreach Program designed to assist in the rehabilitation of disadvantaged and traumatized veterans.

As a result of his Vietnam experience and association with other Vietnam veterans, he felt compelled to write, "Our Twenty Minutes" which appeared in the September 27 issue of Stars and Stripes. He wrote it to dramatize the intense and personal feelings shared by many Vietnam veterans, yet expressed by too few. For exactly the same reason, I would like to share his article with you.

OUR TWENTY MINUTES
(By Ralph Gervasio)

That Sunday had been a particularly trying day. It was one of those days that works against your every effort to accomplish anything. Either I was short a tool for a house project, or I was too late to have the car serviced. The neighbors and the neighbors' kids all got on my nerves.

Then constant interruptions. This would have been a good time for my wife to deliver the child we were expecting. Past mid-morning, my motivation stifled, I resigned from sanity and concentrated my efforts on disciplining our occasionally obnoxious, occasionally spiteful four year-old.

That evening I suffered a sneezing attack, brought on by a array of wind-swept irritants, and hosted by an unusual touch of late May humidity. The seed of a horrific migraine then burst inside my skull. It was time to isolate myself.

There are only so many ways a six foot man can turn on a six foot couch. No position helped, and the pain continued its relentless assault on my head. The day had depressed me, and now, I felt helpless; afraid that if my wife started her labor, I wouldn't be able to help her.

As each minute ticked from the living room clock, I let paranoia creep inside me. The pain, and the lateness, and the stillness, and the loneliness pushed me into another dark moment—one in which I fixated on failure. All I needed was twenty minutes. Twenty minutes of concentrated, uninterrupted sleep would do it. But where, and how could I get it? I started hallucinating; stepping in and out of the weird dreams we all have when we're sick.

The night air was still and dark. I looked across to the clock: five minutes to three. Christ, it's no use. Rising from the couch, I stared through one of the screens to the foyer windows. My temples pounded. I sank back into the couch, deciding to repose corpse-like, with my arm across my chest. Maybe self-pity would trigger some subtle chemical reaction and allow me to sleep.

Somehow I stepped into a dream. Place and time were the same—the living room, the couch, the windows, and the darkness. Like the sequence of negatives accompanying original photos. In this dream, I remember someone tapping me on the shoulder:

"Hey man." I don't respond to the tapping. "I said hey there, sleepy head. You have some kinda' problem or something?" Still mummified, I cracked open my eyes. "Ron, is that you?" I asked. "Damn, it is you." Now I straightened up slowly. "Ron, what the hell are you doing here?" Then I noticed the others: some seated on the floor, leaning against the wall where the clock hung. A few more stood leaning against the foyer railing. Ron loomed over me, his hairy chest exposed through an opened blue work shirt.

"I mean really, Ralph," his eyes widened for emphasis, "is there some kinda' problem, like ah," he pondered, seating himself on the coffee table, "like maybe you can't sleep or something?" He smiled at the others, and I felt silly, as if my problem was really insignificant and easily remedied.

"Yeah," I groaned. "Yeah, that's it exactly. Hey, how did you guys . . . where did you guys . . ."

"Questions, questions, questions" Ron explained. "Who cares anyway? Hey that's a question."

The others seemed amused by Ron's animated antics. He chomped on, then methodically started chewing the white end of his ever-present tiparillo.

"We're here to give you your time," he said seriously. "It's your time, you know."

I sat up, running fingers through my scalp. "You're right," I said "I need twenty minutes to get rid of this goddam headache." I heard some commotion outside. "What's that noise?"

Ron leered in mock surprise. "Oh, oh you mean outside there," he pointed to the window, "Well why don't you get off your dead a-- and take a look," he said.

"Alright, okay, okay. I'll look." I stumbled to my right off the couch, past the coffee table, to the two screened windows. My head bumped the wind chimes. Looking into the darkness, I saw a line of men, all seated on the curb of the road, all at arm's length. I knew them all, because they were members from the Monday night combat group. I recognized them, even the ones I had met only once, or ones that I had not liked.

"I don't believe this." I looked down the street. They were all in different stages of conversation or argumentation. Each displaying a symbolic characteristic of his personality: Ken twirled his long hair with his index finger, intently arguing his point against society. Ward nodded slowly while earnestly listening to another's monologue of grief and discontent.

The others on the curb waved as they caught me peering at them. Some had guns strapped onto fatigue jackets. Others wore cammies. Most had grenades, knives, and light armaments typical of our experience any memory. Some were eating skewered monkey meat that had been cooked over a sterno flame.

At the road's bend, which led to a main artery, Bob stood waving signal flags. That's right, signal flags: overhead, then criss-crossed, then at ninety degree angles. Somehow I knew that he was signaling the eighteenth century frigate, *Constellation*, docked some fifteen miles away in Baltimore. Ludicrous, but as I said, I had stepped into this dream. Bob waved to me with his signal flags.

When I eased back on the couch, I was surprised to see someone sitting in the recliner chair. I sensed that he had been there all along, but had been inconspicuous until now. It was Doc Fowler, our group leader and therapist—and one of us. "Doc," I said. "You're here too, huh." He sat cross-legged, with his notepad propped against his knee. He wore khaki slacks and a dress white shirt bearing some huge red insignia on the left shoulder. I realized that he had been taking notes on the proceedings. A chamber .45 pistol rested atop one of the armrests. "Doc, is this it? Is this for me?"

He looked up from his writing and replied matter-of-factly, "Well what do you think we're all here for?"

All the men were entrenched in conversations, and I could sense their attitude of cautious relaxation. I remembered that unique contradiction of feelings.

"Should I do anything, Doc? I mean, should I say something? I should do something."

Doc dropped his book and pen on the floor in front of him. Placing his hands on his knees, he drew close to me, as if to give instructions. "I want you to understand that this is your time," he stressed firmly. "You deserve it, and you earned it. This is all you need to know now."

I nodded mutely, trying to digest the meaning of it all. "But if you want," Doc smiled wryly, "you can break out the rest of that beer."

"Sure," I said.

"No . . . not you," Doc explained quickly. "Tell someone else to do it. Some of these guys have had their time, and they know how to assist."

I panned the room and motioned to a stocky, bearded man named Steve. He apparently had heard the tail-end of our conversation, and motioned for me to stay down.

"Yeah, yeah, I'll get the beer," he bellowed in resigned compliance.

I layed back down, propping a pillow under my neck. The air was thick with cigarette smoke and noise. I wondered how my wife and son could sleep through the ruckus, but I was never worried for them. Somehow I knew that everything would be fine; that no power on earth could stop me from getting what Doc and the others called "your time."

I fell asleep listening to their voices: voices from men whom I had briefly known, yet had shared the most passionate victories one man can experience with another—the victory over death, and the ascent from a private abyss.

As I slipped into unconsciousness within this dream, I started to experience the lifting, then the sheer joy of complete release. I had not relaxed like this in over a decade. I had lost touch with the feeling of contentment.

As I faded ever deeper, I could barely hear beer cans popping open in the house, and through the ranks, all the way down the street. "Welcome home," someone said.

When I awoke into reality, I had no pain. I felt renewed. The cumulative effects of all the analgesics must have finally worked. From the couch everything was still dark, and I read the clock at ten minutes to five.

Of course there was no group in the room with me; no smoke and no empty beer cans. My dog popped her head up from the recliner chair when she noticed me stirring. I slowly uncoiled to a sitting position.

Then it hit me, with such absured simplicity. The cumulative effect of another pain reliever of a different sort had worked. This peculiar time-released medicine had been psychologically implanted in me ten months ago, by Doc Fowler.

It's released when I'm under stress, and it helps me sort out the chaos. It's been helping me recover from Vietnam, emotionally. Often I have felt the growing pains associated with calculated, increased doses of emotional maturity. And all those guys—some like me, some worse, some better; all being guided in different directions, yet all away from the war. Ron, the first man in my dream, had at one time been both homicidal and suicidal. And this man was helping me up the ladder.

I wanted to remember the dream and its significance, so I could relate to Doc and the group. It might help someone else.

As I looked through the window that morning, alone and confident, I wished I could tell them while the memory was fresh. I gazed at the pre-dawn mist as it drifted eerily down and hung close to the street.

Christ, it was Memorial Day. I almost expected to see them there—to see them wave. Perhaps they'll hear me now, in some strange channel of expressive energy—like creatures sensing the energy of an impending storm. "Thanks guys."

Ready for another day.●

NICARAGUA'S UNTOLD STORIES

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. HYDE. Mr. Speaker, worthy of special admiration are those pundits who have the intellectual honesty to admit that they may have called one wrong. Such an individual is Robert S. Leiken, senior associate at the Carnegie Endowment and the editor of "Central America: Anatomy of Conflict." Admittedly, once sympathetic to the Sandinistas, he now has become disenchanted with the way things have turned out in Nicaragua.

Mr. Leiken has traveled to Nicaragua six times since the revolution. His last visit was in August of this year when he spent 10 days there with his brother, Sam, a trade unionist and labor activist studying at the Kennedy School of Government at Harvard. In illuminating articles that appeared in the October issue of New Republic, both brothers graphically describe the findings of their August trip to the Sandinista "nirvana." What they discovered makes for timely reading as Congress continues its debate of United States-Central American policy. I therefore, am inserting these articles in today's RECORD for my colleagues perusal.

NICARAGUA'S UNTOLD STORIES

SANDINISTA CORRUPTION AND VIOLENCE BREED BITTER OPPOSITION

(By Robert S. Leiken)

The 72-year-old Señora lives in a solid stone house constructed by the Sandinista government. Her son, German Pomares, was a founder of the Sandinista National Liberation Front (F.S.L.N.) who perished leading the final offensive against Somoza in 1979. Set off by a well-kept garden from the shacks of the cotton field workers of El Viejo, Mrs. Pomares's home appears confortable. But inside, the mother of the nationally revered martyr sleeps on a cot covered with rags, and she hobbles through bare, unfurnished rooms. She lives on a pension equivalent to $10 a month. She has made four trips to the local hospital, but has yet to succeed in getting a doctor's appointment. Three times she has requested an audience with Comandante Tomas Borge, now the sole surviving founder of the F.S.L.N. Each time, her son's old comrade has refused to receive her.

For one who has sympathized with the Sandinistas, it is painful to look into the house they are building, but it is unwise not to. I spent ten days in Nicaragua in August, accompanied by my brother, a trade unionist from Boston. It was my sixth visit since the revolution, and my longest since 1981. I have testified in Congress against aid to the contras and have supported (and continue to support) negotiations to end the civil war in El Salvador. Yet each succeeding trip to Nicaragua drains my initial reservoir of sympathy for the Sandinistas. Last year I wrote in my introduction to a book treated by the press as the "Democratic alternative to the Kissinger Report" that the Sandinistas' "failure to preserve the revolutionary alliance with the middle class and small producers as well as sectarian political and cultural policies [had] polarized the country, led to disinvestment, falling productivity and wages, labor discontent, and an agrarian crisis." This visit convinced me that the situation is far worse than I had thought and disabused me of some of the remaining myths about the Sandinista revolution.

Everywhere we went we confronted the disparity between these myths and the unpleasant truth. The Sandinistas blame Nicaragua's economic crisis on the contra war and U.S. economic sanctions. Yet the standard of living in Nicaragua was deteriorating well before the U.S.-backed contras turned to economic sabotage in the spring of 1983. A December 1981 internal staff memorandum of the International Monetary Fund found that real wages had fallen 71 percent since July 1979. They have continued to decline in succeeding years. And even with the U.S. "economic boycott," over 25 percent of Nicaragua's exports still go to the United States, not much less than under Somoza. Nicaragua can no longer sell sugar at subsidized prices to the United States, but what it has lost in this market it has sold to Iran at prices above those of the world market. The war and U.S. sanctions have compounded a mess created by the Sandinistas themselves.

Nicaraguans themselves do not seem to accept Sandinista claims that Yanqui aggression is responsible for the general scarcity of consumer goods. Peasants are obligated to sell their goods to the Ministry of Commerce and Industry, and contend that its prices are too low to enable them to make ends meet. A large portion of the peasantry is now producing only for its own consumption, and the resulting shortages have dramatically driven up prices. The marketplace, once the bustling center of Nicaraguan life, is now a daumting experience for buyers and sellers alike. As shoppers make the rounds looking for rice, beans, milk, toilet paper, soap, or light bulbs, the shopkeepers' constant reply is "No hay" (There isn't any). For anyone unable to afford the inflated prices or without the foreign exchange to shop at the new foreign currency stores, Eastern European-style queuing is now routine.

One of the most depressing aspects of our trip was to hear from so many that their lives are worse today than they were at the time of Somoza. Before the revolution Nicaraguans ate well by Central American standards. Thanks to the country's fertile soil and its small population, even poor Nicaraguans were accustomed to beef and chicken. Now consumer goods available to the masses in other Central American countries are no longer obtainable. Barefoot children are hardly uncommon in the region, but I had never seen so many completely naked. As we encountered them, their distended stomachs displaying the telltale signs of malnutrition, Nicaraguans would bitterly recall the government slogan, "Los ninos son los mimados de la revolucion" ("Children are the spoiled ones of the revolution").

The shortage of basic necessities is also breeding pervasive corruption. When we asked a rural storekeeper why he was able to sell Coca-Cola while many restaurants in Managua were not, he said that he had obtained the soft drink with a bribe. We later met Ramiro, a Coca-Cola deliveryman in León and a former member of the F.S.L.N., hitchhiking home from the city of Chinandega. He was returning from his five-hour weekly excursion after work to procure the three bottles of milk his children need. The milk cost him 150 cordobas, 30 percent of his weekly wages. (The official exchange rate is 28 cordobas to the dollar; the real, or black market, exchange rate is 250 to 1.) To get the money, he told us, he accepts bribes from some of his customers for extra cases of Coke. "This system is corrupting me against my will," he said.

Ramiro's desperate measures hardly merit censure. But others, especially high-ranking Sandinistas, are turning big profits from the scarcity. Members of a leather workers cooperative in Masaya told us that they are officially allotted 10,000 meters of leather a month; they receive between 5,000 and 7,000 meters. The cooperatives' Sandinista directors sell the remainder in Managua's Eastern Market and pocket the money. It is now a general practice for coordinators of the neighborhood Sandinista Defense Committees (C.D.S.) to sell part of the provisions allotted to them by the government on the private market. The people are then informed that provisions have run out.

In the village of El Transito, two hours northwest of Managua, most of the people belonged to the C.D.S. at the outset of the revolution. Now there is but one member, the coordinator, formerly the village's leading Somocista. (The transformation of Somocistas into Sandinistas and of Sandinistas into oppositionists is very common. In every town we visited we were told that former Somoza officials are now running C.D.S.'s.) The coordinator enriches himself by selling C.D.S. foodstuffs and supplies in the Eastern Market. As we passed his house, we were able to peer through the window and see him standing there in his dark glasses, isolated and reviled.

The life-styles of the new rich contrast vividly with that of the rest of the country, and with official rhetoric. A Sandinista *nomenklatura* as emerged. Party members shop at hard-currency stores, dine at luxury restaurants restricted to party officials, and vacation in the mansions of the Somoza dynasty, labeled "protocol houses." Vans pull up daily at government and party offices, to deliver ham, lobster, and other delicacies unavailable elsewhere. In a private state dining room, I ate a sumptuous meal with a commandante at a long table, attended by five servants. The image of the protruding stomachs of the "spoiled ones of the revolution" intruded while we consumed our lemon meringue pie.

Intellectuals and former officals claim that decadence is endemic in upper government and party echelons. A former Sandinista diplomat recounted tales of high jinks and extravagence by Sandinista officals on foreign junkets, and women state employees complained of the same sexual harassment and blackmail that is common elsewhere in Central America. The swinging Sandinista leadership cynically presents and image of revolutionary asceticism to the outside world while being addicted to the very vices that is routinely denounces in "degenerate bourgeois society."

The widespread corruption from the lowest to the highest levels of government makes it hard for Nicaraguans to accept the notion that their problems originate from abroad, or that they should endure further sacrifices "to confront the imperialist enemy." A jobless worker in the Indian town of Monimbo complained, "The C.D.S. insists that we unscrew the street lights to conserve energy in the fight against imperialism. People are falling in holes which the Sandinistas get rich on our misery. What are their sacifices?"

Those Sandinistas who have refused to be corrupted recognize that their dreams have turned into a nightmare. One government official, a good friend, told me, "We have given birth to a freak. But we must keep him alive." Yet what is to be done when the freak becomes a menace to its people and neighbors? There is a general impression among those in the United States properly aghast at the C.I.A. mining of ports and U.S. support for the professional torturers among the contras that the Sandinistas are the victims, not the victimizers. Inside Nicaragua, however, the image is reversed.

The word Nicaraguans employ the most frequently to describe the Sandinista government is engaño (hoax or trick). In the city of Chinandega, we talked with transport workers from an opposition union who on their own time and with their union dues had painted road signs to make the city safer for driving. The Sandinista government took credit for the improvement. The national literacy campaign is one of the most vaunted achievements of the revolution, praised even by many of the government's critics. Yet two "graduates" of the literacy program in a peasant village told us they could not read their diplomas. We couldn't find one student from the campaign there or in the neighboring village who had learned to read. The campaign did somewhat better in the larger cities such as Leon, where, we were told, some had learned to read in follow-up courses. But most had forgotten the little they had learned, and at best could now only sign their name for election registration.

The most outrageous engaño occurred during Pope John Paul II's visit to Managua in March 1983. According to Sandinista accounts, the Pope's mass had been "spontaneously" interrupted by the crowd, offended by the Pope's failure to heed the request of mourning mothers who wanted him to pray for their sons killed in the battle against the contras. Two former government officials, who are still Sandinista supporters, told us a different story. They had been appalled at the interruptions made by cadre from the Sandinista women's organization, furnished with microphones and loudspeakers. After the Pope left, the crowd departed in disgust and the Sandinista leadership was left awkwardly standing on the platform. The two officials, depressed by the spectacle, retired to a bar located next to the offices of the F.S.L.N. radio station. They overheard a group of Sandinista radio employees at an adjoining table bragging about how they had played pre-recorded tapes of crowds chanting Sandinista slogans into the sound system.

The Sandinista engaño has been most successful among the resident foreign press. Journalists familiar with the atrocities of the right-wing tyrannies of Central America wish to believe, quite understandably, that the Sandinistas present an alternative. In today's Nicaragua it is easy to confuse desire with reality. The resident press also frequently merges with the larger population of "internationalists," a term which embraces all those foreigners expressing solidarity with the Sandinistas, from Bulgarian and Cuban apparatchiks to idealistic North Americans and West Europeans. It is the general feeling among Nicaraguans that the foreign press in Managua strongly sympathizes with the government, and that it is dangerous to speak openly with them. Disaffected Sandinista intellectuals, friends of friends, who poured their hearts out to me in Managua were afraid to meet with reporters from the U.S. press. We spoke with a resident of Monimbo, where a spontaneous insurrection had ignited the revolution against Somoza in February 1978. We had spent an evening together a year before with a mutual friend, yet initially he as still distrustful. He told us that the revolution had produced "many advances for the people"; two hours later, he was saying, "Monimbo appears to be sleeping, the way it was during the time of Somoza, but the people are united. One day soon they will stand up again."

One of the most common means of sustaining the myth of popular support is the Sandinistas' use of the rationing system as a lever. In numerous villages and cities, we learned that ration cards are confiscated for nonattendance at Sandinista meetings. In Masaya we were told that before one of the "Face-the-People" meetings (in which comandantes meet with local residents) the ration cards of the members of cooperatives were collected; their return was made conditional on attendance. At one such meeting in Chinandega, Ortega branded talk of inflation "a counterrevolutionary plot." A pound of beans could still be purchased for five cordobas, he claimed. A man in the audience stood up and shouted, "Comandante, here's ten cordobas. Please get me a pound of beans." According to his neighbors, he was imprisoned later that day.

Although Nicaraguans still for the most part bow to government pressure, they do so sullenly and without conviction. We witnessed two Sandinista demonstrations, one in Masaya and the other in Chinandega, two historically pro-Sandinista cities. The Chinandega rally, held at 10 on a Wednesday morning, celebrated the fifth anniversary of the literacy campaign. It was attended entirely by students obligated to go by school authorities. As they marched through the street chanting slogans distributed to them on small pieces of paper by their Sandinista instructors, pedestrians did not so much as turn their heads. None of the presumably grateful, presumably literate, people came to greet the comandante sent from Managua.

In Masaya the demonstration did not even benefit from student participation. As we approached the gathering in the fading afternoon, a large group of students stood on the steps of the Catholic school. They had refused to join the demonstration because the Sandinistas had removed several of their Catholic teachers. The small group of demonstrators had glazed looks in their eyes as the last speeches wound down. I asked a campesino in attendance whether any of the comandantes had come. He answered, "I don't know. I slept through it."

The Nicaraguan populace has been saturated with Sandinista bombast which issues from radio, television, newspapers, local and national political meetings, and block committees, and which is propagated in the schools, the factories, and the cooperatives. The people resist in different ways: with the indifference and boredom we saw in Chinandega and Masaya; with a resurgence in religious feelings which has filled churches and Catholic schools; with suspiciousness and bitter humor.

Jokes and wisecracks against the Sandinistas are proliferating. The two pro-Sandinista newspapers Barricada and Nuevo Diaro, are referred to as Burricada (as in bore) and Nuevo Diablo. The F.S.L.N. is "the Somocista National Liberation Front." "Why do people prefer Tona [one of the two Nicaraguan beers]? Because the other, La Victoria, is bitter." Suspicions of the government are so deep that families of the war dead no longer believe that the government coffins shipped back from the front contain the bodies of their sons. (The coffins are sealed as a matter of policy.) People believe, improbably, that the coffins hold rocks or banana tree trunks. In Monimbo we were told that when a family and friends tried to open a coffin with a hammer and chisel, they were carried off by the police.

Nor is popular discontent restricted to these forms of passive resistance. Sympathy with the contras is becoming more open and more pervasive. I was stunned to hear peasants refer to the contras as "Los Muchachos," the boys—the admiring term used to describe the Sandinistas when they were battling the National Guard. It was apparent that many Nicaraguans are listening to the "Fifteenth of September," the contra radio station. It must be noted, however, that the contras do not operate in the areas we visited, and sympathy toward them may well be proportionate to absence of direct contact.

Draft resistance has become a mass movement in Nicaragua. The government passed legislation last September under which Nicaraguan men between the ages of 16 and 40 can be drafted for two years. When we were in Nicaragua, four hundred women gathered outside the draft board in La Paz Centro, a trading town thirty-five miles northwest of Managua, to protest forced recuritment of thier sons. The demonstration was the latest in a string of anti-draft demonstrations in cities and towns throughout Nicaragua. New York Times correspondent Stephen Kinzer, one of the few resident report-

ers to sniff out the engaño of Sandinista policies, reported on June 26 that "draft evasion is widespread," and found that high school attendance in six major provincial capitals had declined by as much as 40 percent. A student in León said that his high school class of forty-five had fallen to fourteen during the past year. Honduran researchers say Nicaraguan draft evaders pay 25,000 cordobas to be transported across the border, part of the money going to Nicarguan Army officials in bribes. The demand is so great that border smugglers are now requiring groups no smaller than five. Draft resistance strikes a powerful blow at the myth of widespread popular support for the government. Young people have historically been the mainstay of Sandinista support.

Perhaps the most illuminating political event in the five years of Sandinista rule was a rally held for opposition presidential candidate Arturo Cruz in Chinandega on August 5. On that Sunday morning, Sandinista chicanery, censored domestic and lackadaisical international press coverage, and the growing vigor of the opposition converged.

Chinandega, a city of approximately 60,000, was historically th heart of Sandinista organizing efforts and support. These efforts radiated out to the surrounding cotton and sugar fields, to the country's two largest sugar refineries nearby to the stevedores at Corinto, Nicaragua's largest port, and down to León, another center of anti-Somoza resistance. One would have expected that here the opposition would be weakest, the government strongest.

The Chinandega demonstration was the last series of six held in support of Cruz. Each rally had been larger than the last. The organizers were denied access to Sandinista-controlled TV stations. They were able to place an ad on the one local non-Sandinista radio station, but they relied chiefly on two vehicles with loudspeakers, and on word-of-mouth. Two days before the rally three "angels," as members of the state security are commonly known, called on the organizers of the demonstration and accused them of being C.I.A. agents. The turbas divinas, "divine mobs" of Sandinista supporters, circled their houses at night beating sticks against cans and chanting until the small hours of the morning. (Somoza's version of the turbas—the Nicolasa—used to employ the very same method against the opposition.) Meanwhile, Sandinista newspapers and television branded the opposition as consisting of contras and agents of American imperialism, and announced that further "aggressions" by them would not be permitted. Local authorities implied that the demonstration would be declared illegal. The day before the rally, Daniel Ortega, the head of the Sandinista government and the Sandinista presidential candidate, spoke to two hundred youths in El Viejo, a village three miles away. El Viejo's residents later claimed that the youths had been incited against the demonstration's leaders.

Fearing an attack by the turbas, organizers did not put up the banners or placards until early on the morning of the demonstration. But as they were working, fifty turbas burst into the soccer field, tearing down the banners and dispersing the organizers. They returned later during the day to try to repair the damage.

We spoke with two organizers—middle-class professional women who had belonged to the F.S.L.N. before the revolution. (According to one, "the F.S.L.N. says that the opposition is Somocista. But most of the old Somocistas are working with the govenment. The opposition has remained the same. It is the F.S.L.N. that has changed.") They told us that after the turbas' nighttime serenading, they went to complain to the offices of the party representative, the chief of police, and the chief of state security, and to the Sandinistas. They were assured that the turbas would be controlled and that the demonstration would not be obstructed. After the early-morning attack, the two women went to the house of the local party leader. The door was open, and they entered. In the next room they heard the turbas informing him of the success of their mission.

There is no question that many who wished to go to the Cruz rally stayed at home. On the day of the rally, local authorities impeded traffic from outlying areas into Chinandega. As Cruz marched through the city, many people opened their doors, gave him the "V" for victory sign, and then ducked back into their homes to avoid the everpresent eyes of the C.D.S. One woman said she did not go to the demonstration because she lived too close to the Sandinista youth office. She told of others who received threatening phone calls. Two weeks after the demonstration, a gas station attendant in Managua told us he had gone to the rally and that three friends who had accompanied him were in jail.

As might be expected, estimates of the turnout vary. Opposition figures soared as high as 20,000; local newsmen said 7,000. Given Sandinista efforts to reduce attendance, even 7,000 seems an impressive number, especially since three months before, the F.S.L.N. only managed to get 2,500 to Chinandega for the country's principal May Day rally. NBC taped the entire Cruz demonstration. Should this tape ever be shown publicly, experts will be able to make an accurate judgment about the number of demonstrators. When I viewed the tape it was evident that these thousands of demonstrators were hardly "bourgeoisie," as the Sandinistas claimed. They were overwhelmingly workers, peasants, and young people. I learned later that workers had hired their own trucks to come from the San Antonio Refinery and from the port of Corinto. They chanted slogans like "El frente y Somoza son la misma cosa." ("The Sandinistas and Somoza are the same thing.")

When Cruz began to speak, dozens of turbas armed with sticks, stones, and machetes surrounded the field. They came in on what appeared to be army trucks chanting, "Power to the people." They proceeded to break the windows and puncture the tires of demonstrators' cars. The police seemed to make no serious effort to restrain them.

When the turbas attacked the demonstrators themselves, opposition youths dispersed, only to return wielding their own sticks and stones. Out-numbered, the turbas were routed.

The almost complete absence of foreign and domestic press coverage enabled Sandinista officials to characterize the demonstration their own way. We encountered a Sandinista offical drunk at midday on the streets of El Viejo. He told us that the demonstration had taken place at the private home of a bourgeoisie and was attended only by a handful of plutocrats. In Managua, the Sandinistas told us that there had been several hundred demonstrators. The following day the Nicaraguan press carried no mention of the events except for one photograph in the offical newspaper Barricada which purported to show the tubas attacked by "fascist" demonstrators. La Prensa had devoted several articles and photographs to the demonstration and the clashes, but these were all censored, and the paper did not appear. This was the very day that Daniel Ortega had announced the lifting of press censorship.

The demonstrations for Cruz's candidacy tested the popular mood and the prospects for "the first free elections in Nicaragua," as the Sandinistas' slogan puts it. Among the conditions that Cruz and his supporters have laid down as indispensable for participation are guarantees of freedom of movement, assembly, and equal access to the press and television; sufficient time to campaign; international observers; and, most importantly, guarantees that if he won the election he would be allowed to take office. What happened at Chinandega strongly suggests that neither a genuine election nor a genuine campaign can take place.

Chinandega also exposed the Sandinistas' electoral stratagem. Their decision to hold elections in November was based on a rudimentary political calculation. They judged that the external legitimacy provided by elections would more than compensate for their internal cost. They knew that power does not often change hands in Central America through elections. Somoza's elections had proven that, and the Sandinistas are in a far better position to control elections than Somoza ever was.

Yet their calculations were wrong on two counts. First, they failed to account for the Nicaragua people. High-level Sandinista officials to whom I have spoken seem to live, along with their international supporters, in a dream world. They deem that the "anti-imperialist sentiments" of the Nicaragua people allow them to bear any sacrifice even when their "anti-imperialist" leaders bear none. They receive favorable reports from lower-level cadre whose jobs depends on the perception of success. The Sandinistas knew that after five years of enforced political paralysis, the opposition was poorly organized, divided, and amateurish. The spontaneous popular reception for Cruz took them by surprise. Second, they failed to recognize the degree to which they have alienated progressive opinion in Latin America and Western Europe. Cruzs' recent highly successful trip to Costa Rica, Venezuela, and Colombia, and his support from European Social Democrats like Spanish Socialist Prime Minister Felipe Gonzalez, has confounded the F.S.L.N.'s electoral plans.

Thus the Sandinistas find themselves in a quandary. Will they back down and permit Cruz to run under reasonable conditions, or will they go ahead with a discredited election? Thus far at least, the Sandinistas seem unwilling to pay the price of submitting their rule to a popular test. One Sandinista official, whom I have always considered a moderate, told me privately that they would prefer a U.S. intervention because it would "vastly accelerate the Latin American revolution against U.S. imperialism." He told me that the Nicaraguan Army would immediately invade Honduras and Costa Rica and be greeted as "liberators" by the people.

One can only hope that cooler Sandinista heads will prevail. Authentic elections may be the last chance to avert full-scale civil war. If democratic channels cannot be opened, the civilian opposition will be forced to link up with the armed opposition—which is exactly what happened in the 1970s in El Salvador after fraudulent elec-

tions. The United States, which has a monstrous record in Nicaragua, can do something to help. What is needed now most urgently is a bipartisan effort in support of authentic elections in Nicaragua.

As we pulled out of Managua in the fading light of a Sunday afternoon, we found ourselves directly behind an army convoy made up of about twenty vehicles. But unlike the army convoys I have seen in El Salvador, Honduras, and elsewhere, it would not permit traffic to pass. A large vehicle with a blinking light occupied the left lane, forcing vehicles coming toward us off the road. A soldier with a machine gun was poised on the rear truck. It took us four hours to cover the fifty miles to León. It was a grueling microcosm of Nicaragua today: the Sandinistas in the "vanguard" preventing the normal flow of traffic, whether out of real fear, paranoia, or bullying. Behind them the rest of the population followed, inconvenienced, irritated, and enduring another pointless "sacrifice" for the Sandinistas' militarism. Our inconvenience was only four hours: the Nicaraguan people experience this twenty-four hours a day. Their patience has worn thin.

Robert S. Leiken is a senior associate at the Carnegie Endowment and the editor of "Central America: Anatomy of Conflict." (Pergamon-Carnegie).

LABOR UNDER SIEGE

(By Sam Leiken)

In the last several years, a number of union friends of mine have returned from Sandinista-sponsored tours of Nicaragua with enthusiastic reports of the achievements of the revolution. I visited Nicaragua myself this summer, meeting with members of both official Sandinista labor federation and the independent unions. I didn't expect to discover a workers' paradise in this underdeveloped and crisis-ridden region, or to see workers running the factories. But I did hope to find signs of progress toward empowering the workers and peasants. Instead, I saw a labor movement battling a "Socialist" government which resists worker demands with tactics ranging from state-controlled unions to spurious arrests and violent goon squads.

In the 1970s labor was united against the Somoza regime, and workers expected that it would remain united to rebuild the country in the aftermath of Somoza's fall. But after assuming power, the Sandinistas sought a large measure of control over the workers by enrolling all Nicaraguan unions in the *Central Sandinista de Trabajadores* (C.S.T.). In 1980 the C.S.T. joined the World Federation of Trade Unions, headquartered in Prague. "The F.S.L.N. wanted to impose a central union, not build one." one opposition labor leader told me.

When centralizing efforts failed, the Sandinistas used state power to penalize unions unwilling to affiliate with them, to organize disruptive factions, and ultimately to jail opposition union leaders. I was told of death threats, beatings, police raids on union headquarters, military concription of union dissidents, and blacklisting. Opposition leaders are now reluctant to use the recently restored right to strike for fear of being charged with "economic sabotage" and "abetting imperialism."

I talked with truckers from the port city of Corinto who had voted to disaffiliate their local from C.S.T. and to join the independent C.U.S., which is associated with the A.F.L.-C.I.O. through the International Confederation of Free Trade Unions. Soon thereafter, the local's office was attacked by police and turbas. Later some had their drivers' licenses revoked, and a half-dozen union leaders were jailed. In another incident a leader of the other independent union, the C.T.N., said he had been beaten and his nose broken by turbas at the Managua airport in full view of military and civil police.

The Sandinistas have also alienated workers in their own unions, which has led to increasing numbers of wildcat strikes. Several years ago, when the Sandinistas nationalized the German Pomares sugar works, they ousted the independent union. Then, to ensure a docile new leadership, they stacked the vote by trucking in illiterate cane cutters. This summer workers at the refinery defied their leaders: They struck after the union allowed management to cut back worker access to the company store's superior goods and low prices.

While we were in Managua there was a wildcat sit-in at the government-owned Victoria Brewery. Truck drivers there earn 3,000 cordobas a month. Rents average 1,000 a month, and a pair of pants cost 1,000. One deliveryman told me, "We've had the same salaries for the last five years and hunger has made us explode," The Victoria workers knew that to return to work without a contract can spell defeat. Forced to go back on the job, they effected a slowdown as a way to sustain their leverage.

The official F.S.L.N. newspaper, Barricada, carried a single article on the Victoria "labor dispute." It quoted Sandinista union leaders as saying that they offered "full support to the workers," but also said that they were urging them to return to work immediately. In contrast, La Prensa carried a front-page picture of 200 Coca-Cola drivers parading their trucks in solidarity with the Victoria workers. I was able to confirm La Prensa's report that solidarity brigades were sent by the competing brewery Tona, La Milca fruit punch, Pepsi-Cola, and Standard Steel. Several of these unions also have announced impending strikes.

The dissident labor leaders I met were plainspoken, accustomed to dealing with concrete facts. The C.S.T. official I spoke with talked grandly about how the Sandinistas reorganized Nicaragua's tiny, undeveloped labor unions "by industrial branch." Yet he was at a loss to explain why they had abolished the Nicaraguan equivalent of the U.S. National Labor Relations Board (Tri-bunales de Trabajo).

He often contradicted what the workers had told me. The workers at the San Antonio sugar refinery said that they had launched a wildcat strike last February to uphold a wage agreement reached between workers and management. According to the workers, the labor minister, backed by the C.S.T. leadership, disallowed the labor contract because its wages exceeded government guidelines. The C.S.T. official claimed that the labor minister had rejected the contract because its wages were too low, and even credited the C.S.T. with leading the strike to raise wages. He went on to dismiss the Victoria wildcatters as "backward" and "disobedient." He saw his role not as a representative of the workers, but as their "intermediary" with the employer.

Numerous dissident union leaders described their situation as closely resembling that of the Solidarity movement. One leader, comparing Nicaragua to Poland, told me: "We are both small countries and have suffered many invasions. We both experience long lines and scarcity while many of our products are shipped off to the Soviet bloc. We are Catholic countries with close ties between the unions and the church. We live under regimes where citizens can be jailed at will. And both governments brand independent unions 'anti-Socialist agents of imperialism.'" Listening, I found myself wishing that some of my fellow union activists had come with me to Nicaragua. They would have been as shocked and disappointed at the repressiveness of this "government of workers and peasants" as I was.

Sam Leiken, who has spent the last decade as a machinist and labor activist, is studying at the Kennedy School of Government at Harvard.●

MR. MONDALE'S TAX INCREASE IS GUARANTEED TO SLOW THE ECONOMY AND INCREASE THE DEFICIT

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. KEMP. Mr. Speaker, The credit for offering one of the most reactionary fiscal proposals in recent history goes to the Presidential candidate of the Democratic Party. He promises to impose on America's working families an additional $85 billion in new taxes just when we began to crawl out from under the tax burden the Carter-Mondale administration had bequeathed.

Among the most insidious aspects of the Mondale tax plan is that it proposes to restore the inflationary spiral and rollback inflation indexing in order to achieve its objectives. Never before has any major Presidential candidate openly said he will inflate the economy in order to balance the Federal Government's books. Herbert Hoover himself, no slouch at tolerating austerity, would have recoiled at Mr. Mondale's unruffled suggestion that inflation become America's budget balancing policy. It seems Mr. Carter's Vice President not only wants to be elected, but he also intends to punish Americans for having repudiated the administration in which he played such a prominent policy-setting role.

Alan Reynolds has unmasked this astonishing proposal in the following article, and I urge my colleagues on both sides of the aisle to study it carefully. It demonstrates the cul-de-sac the once unchallenged majority party finds itself in this year.

[Exerpts from Reynolds article follow]

MR. MONDALE'S INFLATION TAX

Although the next Presidental term ends in 1988, Walter Mondale has offered a budget plan for 1989. Half of the plan consists of higher tax rates; most of the rest is all the good things that higher tax rates and loose money are supposed to do for the economy, like raise farm prices and real GNP. Any spending cuts are strictly "blue smoke and mirrors.," like an "overall spending limit" for health care, or getting Congress to reverse itself on the B1 bomber and MX missile.

In January, a Mondale fact sheet estimated that the 10% surtax on couples earning over $60,000 would generate only $6 billion in 1989; the 20% surtax above $100,000 would supposedly yield $5 billion. As President Mitterrand of France recently discovered, however, such punitive marginal tax rates only succeed in "stifling initiative and output." By discouraging the not-so-easy task of raising family income above $60-100,000, there would be fewer high incomes left to tax. More of the tax burden would then fall on lower incomes.

Nearly half of Mondale's tax increase ($35 billion) is expected from "bracket creep"—allowing families with gross incomes above $25,000 to be inflated into ever-higher tax brackets, for an indefinite period, at the rate of 4% a year. Although $25,000 is near the 1984 median income for one-earner families of four, most families have two or more workers. By 1989, average two-earner families will probably earn $50-60,000, and the $25,000 cut-off for complete tax indexing would mean that "bracket creep" would affect families with incomes that are well below average. Since those earning $60-100,000 today would soon be in the top 55% tax bracket, Mondale's limit on indexing would mainly affect those whose incomes are average or below.

Attempting to use inflation to reduce the deficits means that Mondale dare not let inflation slip below 4% a year. This is somewhat ironic, since a 1% inflation rate would cut the 1989 deficit by $44-52 billion, which is more than the hoped-for yield from perpetual bracket creep.[1]

In reality, every attempt to raise tax rates through bracket creep has had the same effect as Mitterrand's ill-fated surtaxes—rising marginal tax rates always suffocated initiative, effort and entrepreneurship. Periods in which inflation *seemed* to raise Federal revenue, like 1974 and 1979, actually widened the deficit by collapsing real economic growth.

Mondale claims that "average income families . . . got no relief from Mr. Reagan's tax cuts." This is not true, even for median *one-earner* familes. Previously legislated increases in Social Security taxes did offset half of the cut in average income taxes, but the marginal rate on future pay increases was significantly reduced (from 24% to 22%) and protected against inflation. Individual Retirement Accounts also help middle-income families accumulate wealth, and new tax credits offsetting the "marriage penalty" are particularly helpful for two-earner households. Together with stopping inflation, these marginal tax incentives have helped to raise real after-tax income of median families by 5.6% since 1981. The median family's living standards fell every year with Carter-Mondale "bracket creep," and would do so again under Mondale's proposed revival of the same policy mix.

The Mondale plan would sharply increase the steep climb through rising tax brackets, penalizing the added output and income that constitute economic growth. As young couples progressed to more demanding jobs, they would face three demoralizing hurdles: loss of protection against bracket creep at $25,000, and two 10% surtaxes at $60,000 and $100,000. These marginal disincentives to added effort and personal investment would resemble a staircase, where taking the next step results in the tax collector grabbing a much larger share of any added earnings. The inevitable result would be reduced motivation, mobility, risk-taking, learning, wealth accumulation and business formation. the economy would stagnate.

Mondale's revenue estimates from higher tax rates depend critically on the hidden assumption that higher tax rates have no adverse effects at all on real GNP, interest rates or inflation. Indeed, Mondale somehow forecasts that real GNP will grow *faster* if the government keeps a much larger share of that added production.

Even within orthodox econometric models, higher tax rates have negative "feedback effects" that reduce the static revenue estimates by shrinking taxable earnings.[2] Steeper marginal tax rates obviously reduce the after-tax interest paid to personal savers, which would raise interest rates. The gap between yields on taxable and tax-exempt securities would widen, indicating a larger premium to compensate for higher taxes. In "Keynesian" econometric models, Mondale's tax proposals could only reduce interest rates by reducing investment and economic growth.[3] Clearly, the dilution of accelerated depreciation, by renewed inflation and the "minimum tax," would reduce business fixed investment, but that is a perverse method of lowering interest rates.

From a supply-side perspective, the Mondale tax proposals are inherently inflationary, because they contract production and productivity. The Swedish economist Assar Lindbeck explained this process as follows:

Higher marginal tax rates create disincentives for the intensity of work, the ambition to strive for promotion, the willingness to shift from one job or geographical region to another, the desire to invest in human capital (if taxes are progressive), etc. Both households and firms may also be increasingly induced to substitute productive effort in the "underground economy" for work in official markets—as well as to participate increasingly in zero sum games of search for tax loopholes and profitable financial speculation. The ensuing slowdown of productivity growth in official markets is likely to result in higher inflation. . . .[4]

Mondale has also been quite candid about his intent to sink the dollar by 30%, which would raise broad price indexes by at least 6%. The devalued dollar is the explicit way Mondale expects to reduce farm subsidies—by inflating food prices. Mondale's advisors know perfectly well that the value of the dollar depends on the Federal Reserve. They are not really deluded by Feldsteinite nonsense about the need for tight money to bribe foreigners to finance the deficits (foreigners now hold only 13.6% of the national debt, down from 17.5% in 1980.[5]

As *The New York Times* reported on September 11, "Mr. Mondale and some of his advisors have talked of a specific 'accord' with the Federal Reserve to guarantee the decline of interest rates. . . . Mondale economists say that without an easing by the Federal Reserve, the increases in taxes proposed . . . could throw the economy into recession." Actually, these taxes could throw the economy into recession with or without Fed easing. The "supply shock" of the tax hike plus the "demand stimulus" of a significantly weakened dollar adds up to falling output and accelerating inflation.

The Mondale taxes alone would sink the dollar by making the tax-cutting nations (Japan, Britain, Germany and France) relatively more attractive places to invest. Market knowledge of Mondale's intent to reach an accord for loose Fed policy would provoke an immediate flight from dollar-denominated assets. As in 1978-79, monetarist rules would stall the necessary tightening, because the problem would be from the falling world demand for outstanding stocks of U.S. money, not from the new flow of "money supply." Some weakening of the dollar's foreign exchange value is currently prudent and desirable, but it would quickly get out of hand under the Mondale policy mix.

In short, by giving the government budget priority over the budgets of families and firms, Mondale's tax and monetary proposals would collapse real production, stimulate "demand" (spending), and revive acute stagflation. These results are not conjectural because the "new" Mondale package is essentially the same one tried in the U.S. in 1978-80, and more recently in France.

The starting point for Mondale's calculations is the August budget forecast from the Congressional Budget Office (CBO). The CBO is often said to be "nonpartisan," but that does not mean the organization is either nonideological or accurate. The CBO is evidently pleased that "the Federal Reserve is likely to contribute to slowing [real GNP] to a sustainable pace." That sustainable pace turns out to be "2.8 percent next year." Slow growth is desirable, in the CBO model, because an unemployment rate below 6.3% is considered inherently inflationary. Inflation rises to 4.8% for the rest of the decade "because unemployment is assumed to decline to a range in which most economists believe wage growth will show no further deceleration." The CBO's maniacal attachment to this obsolete "Phillips Curve" view is the reason that they assume that interest rates and unemployment must remain high in order to prevent higher inflation. The CBO's large budget deficits are a result of its recommended monetary policy.

Suppose the following minor revisions in the CBO's "assumptions":

Raise real growth by 1% per year.

Lower unemployment by 0.5%.

Lower inflation rates by 1%.

Lower interest rates by two percentage points.

Reduce estimated growth of spending by 1%.

These are not massive changes, yet they have enormous cumulative effects on deficits and debt. By the CBO's own rules-of-thumb, the budget would be essentially balanced by 1988. The Mondale Budget Program, however, claims "the CBO projections rest on relatively optimistic assumptions." That is, a permanent inflation rate of 4.8% and unemployment of 6.3% is the best we can do.

A key question, then, is whether or not the revised economic assumptions could be achieved if Phillips Curve ideology did not stand in the way. At first glance, the assumption of 4.2% average real GNP growth

[1] Congressional Budget Office, Baseline Budget Projections for Fiscal years 1985-89 (February 1984) p. 56.

[2] Congressional Budget Office, How Changes in Fiscal Policy Affect the Budget: The Feedback Issue (June 1982).

[3] Richard Kopcke, "Will Big Deficits Spoil The Recovery?" in The Economics of Large Government Deficits Federal Reserve Bank of Boston (1983).

[4] Assar Lindbeck, "Budget Expansion and Cost Inflation," American Economic Review (May 1983) p. 286.

[5] The inflow of foreign capital fell in 1983-84—it just did not fall as much as did U.S. lending to LDCS: Federal Reserve Bank of St. Louis, *International Conditions* (August 1984).

may appear wildly optimistic. However, such a growth rate merely required that real GNP in this decade expand at about the same depressed rate as it did in the 1970's. Between the first quarters of 1979 and 1984, real GNP growth averaged only 1.9% a year—far below the 3.9% average from 1948 to 1968. The CBO forecast assumes that the economy never gets back to a normal trend, and never recovers from the 1980–82 contraction. Indeed, the real economy expanded more rapidly from 1931 to 1940 than the CBO projects for 1980 to 1989, or 1985 to 1989.

Assume that the CBO is underestimating long-term real growth by $20 billion a year (only six months ago, the CBO underestimated real GNP in the coming quarter by $65 billion). The path may not be smooth, of course, averaging much more or less than 4.2% in some years. But a 4.2% trend is a quite modest objective through 1989, far below the 5-6% potential estimated by Pierre Rinfret.[6]

A decline in unemployment of one-half percentage point per year is possibly ambitious for 1985, but pessimistic for later years. Aside from the CBO, even Phillips Curve theorists now argue that the reduced influx of women and teenage job seekers (who change jobs often) makes an uemployment goal of 4.5–5% quite feasible.[7] With the CBO's "sustainable" growth of 3.1%, however, unemployment would increase unless productivity gains virtually stopped. Productivity has been rising at a 3.9% rate in the recovery, and the labor force at 1.9%. Even if productivity slowed to 2% and the labor force growth to 1.5%, then 3.5% growth of real GNP would not be enough to reduce unemployment. The CBO is "unrealistic."

Reducing the CBO's estimated inflation by only 1% seems a modest objective in view of falling producer prices and the still punishingly-high real interest rates. The CBO predicts that inflation will remain at around 5%, with interest rates 4–7 percentage points higher. In the long-run, that is not a feasible combination. The real return on borrowed capital would decline with diminishing returns (and more so with the Mondale taxes), so that maintaining such high real rates would be deflationary. The revised forecast therefore drops the real interest rate by one percentage point, to 3.1%. Mondale's forecast implies a lower real rate (2.7%)—actually much lower because of his inflationary tax and exchange rate policies.

Also assume that federal spending grows at a 1% slower rate than CBO estimates, regardless of the economic forecast. This may be regarded as an extremely modest policy objective, achieved through such devices as the line-item veto and a few Grace Commission reforms. Alternatively, it could be regarded as sheer skepticism that federal spending will otherwise rise as rapidly as the CBO projects—namely, by 9–10% a year.

In the first 10 months of the current fiscal year, revenues rose at an 11.5% rate, spending by 5.2%. If that trend were to continue, the deficit would be $134 billion next year, with a surplus in 1988.

In order to claim that deficits will instead *increase*, the CBO has to *reverse* the existing trends and get spending to increase more rapidly than revenues. Dismal economic assumptions are not enough to generate such a dramatic turnaround.

It is commonly reported that differences in budget projections merely reflect different assumptions about the economy, particularly about interest rates. There are other sources of error. Only six months ago, the CBO projected that spending—aside from interest—would rise by 5.5% this year. That now looks like an error of $11-16 billion in a very short period, and the CBO attributes *none* of that change to revised economic conditions.

The CBO now "projects" that the actual rate of increase in federal spending will nearly double next year—an increase of 10%, followed by 9% increases through 1989. Although spending has fallen from 24.9% of GNP in 1982 to 23.5% this year, the CBO projects spending growing faster than GNP from here to eternity. I merely assume that the 1985 increase in spending is $9 billion less than the CBO now expects, either by accident or design.

Finally, the net effect of these minor adjustments is that the 1989 national debt is $715 billion (29%) smaller than the CBO estimate. I estimate the savings in interest payments on that smaller debt, assuming 9% average interest rate on bonds and bills. These savings would be larger at a higher interest rate, though lower in the interest rate column. I also assume, conservatively, that lower inflation and higher growth do not reduce off-budget deficits.

In early 1983, the CBO described its current 3.1% growth forecast as the "low-growth alternative." Yet the national debt was then expected to hit 49.5% of GNP by 1988, compared with the current "low-growth" estimate of 43.2%. In the same period, the OMB's infamous $306 billion "structural deficit" for 1988—a deficit that could not be reduced without a contingency tax—has been quietly cut in half. With "technical re-estimates" of this magnitude after only 18 months, how can anyone propose to base current policies on a budget forecast for 1989?

The alternative approach is to continue the recent policy of keeping tax revenues growing more rapidly than spending. This involves a more symmetrical monetary policy than that proposed by either the CBO or Mondale—that is, the Fed must be equally intolerant of both falling and rising commodity prices, rather than keeping interest rates artificially high or low. A growth-oriented approach must also keep marginal tax rates as low as possible, given the average tax rate, in order to maintain growth of reported earnings.

There is nothing inherently impossible about strong economic growth, a stable currency and low unemployment. Japan has accomplished those results for several years, yet Japanese investors are now betting that the potential is even greater in the U.S. That potential cannot be realized under a Fed-CBO policy of deliberately keeping the economy underemployed. Nor can it be realized under a Mondale policy of penalizing added output, and relying on a substantially weakened dollar to generate tax revenue through permanent inflation. A weak-dollar and high-tax policy would revive the inflationary suffocation of economic incentives experienced in 1978–81, at least doubling the deficit by 1986.●

[6]Pierre A. Rinfret, "The U.S. Could Be in for Incredible Growth," Business Week (September 24, 1984) p. 22.

[7]Some Economists Call for lowering Natural Jobless Rate to Cut Deficit," the Wall Street Journal (September 11, 1984).

PRESIDENT REAGAN SUPPORTED FOR BACKING GENOCIDE TREATY

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. PORTER. Mr. Speaker, I would like to commend the administration for supporting the ratification of the Convention on the Prevention and Punishment of the Crime of Genocide. This treaty simply condemns "the intentional destruction of any national, ethnic, racial or religious group * * * by killing its members * * * imposing conditions of life intended to bring about their physical destruction, imposing measures intending to prevent birth" and other measures pioneered by the Nazis.

Despite the support of Presidents Truman, Kennedy, Johnson, Nixon, Ford, Carter, and now Reagan, this treaty has languished in the Senate, opposed by a few people who may have felt that genocide was a thing of the past. Over the last 39 years, this assumption has been proved terribly naive. In Kampuchea, Uganda, East Timor, Iran and many other places, governments have ruthlessly exterminated groups of their own citizens with a brutality that rivals their Hitlerian mentors.

Mr. Speaker, the United States can no longer dither over a document so basic to civilization. I trust that my colleagues will join with me in the hope that the United States will put itself squarely behind the treaty against genocide.●

TRIBUTE TO JIM HARTUNG, OLYMPIC GOLD MEDALIST

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. DAUB. Mr. Speaker, in Omaha, NE, we take great pride in the accomplishments of Jim Hartung who joined with five other young Americans earlier this summer in the pursuit of an Olympic gold medal. As the Nation now knows, Jim returned from the 1984 Olympics and brought the gold home with him.

If international recognition is new to Jim, national prominence certainly isn't, and Nebraskans have, for a long time, appreciated this young man's hard-earned skills. Since his days at Omaha South High School, Jim's impressive accomplishments have become very familiar to us. As a member of the Nebraska NCAA gymnastics championship team and a former member of the U.S. junior

gymnastics team, Jim—time and again—demonstrated that intense practice, dedication, and determination leads to bigger and better goals and achievements.

We who count ourselves among Jim's friends and neighbors are proud of his contribution to gymnastics and to the American team's victory in Los Angeles. I know that my colleagues will want to join me in congratulating Jim on this prestigious recognition of his superior talent and his dedication to excellence.●

PROTECT ANATOLY SHCHARANSKY AND JOSEF BEGUN

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. PORTER. Mr. Speaker, I would like to call my colleagues' attention to a petition signed by 48 former Soviet refuseniks, all of whom have served a prison sentence as a result of their quest for freedom. This petition is addressed to Members of the U.S. Congress and Canadian Parliament and describes the prison conditions for Anatoly Shcharansky and Josef Begun and a recently adopted law granting prison officials authority to extend the length of time prisoners must serve.

Both Shcharansky and Begun are serving prison terms for so-called "criminal acts," but we, in the West, know that they are really being persecuted solely for their commitment to their religious faith, and for their desire to emigrate from the U.S.S.R. Recently reports from the Soviet Union indicate that both of these men are in need of medical attention which the prison authorities have not adequately provided them. Equally distressing is the adoption of the law to give prison officials additional responsibilities in administering punishments to their prisoners. I am greatly concerned that this new law will be used against Prisoners-of-Conscience who have in the past been singled out for harassment by prison authorities.

I urge my colleagues to join me in raising their voices to urge Soviet officials to reexamine their policy of mistreating prisoners of conscience and to take the necessary steps to provide adequate medical care for Anatoly Shcharansky and Joseph Begun.

AUGUST 14, 1984.

To the U.S. and Canadian Congresses and to the Governments of all European Countries:

SIRS: The Soviet authorities continue to exacerbate their policy towards all Soviet Jews. As usual, the first victims of this worsening situation are the Prisoners of Zion and the Jewish movement's activists. Anatoly Shcharansky's health has been damaged by the 100-day hunger strike which he undertook to protest his illegal isolation from the outside world. Now, authorities threaten to add three more years of strict regime imprisonment to his sentence. Iosef Begun, who began a hunger strike in May to protest the illegal worsening of his prison conditions, was taken to the prison hospital in serious condition and is also under threat of cruel punishment.

A new law which has been passed by the USSR allows prison authorities to add up to three years of imprisonment after a prisoner has completed his term and this can, in effect, condemn any political prisoner to life imprisonment without any legal investigation. A law like this, which was enforced only in Stalin's day, goes beyond all democratic norms.

Today it is still not too late to prevent the execution of judgment on the national Jewish movement. We, the Jewish activists, former Soviet citizens, ask you to intervene immediately because only such intervention can save the lives of the two sick prisoners, Anatoly Shcharansky and Iosef Begun, and can stop the process of this law. The political and social pressures of the free world have in many cases stopped the tyrannical behavior of Soviet authorities.

FORMER REFUSENIKS

Dr. Lazar Lubarsky, Hillel Butman, Anatoly Altman, Yosef Mendelevich, Sylva Zalmanson, Boris Penson, Ruth Alexandrovich, Arieh Khnokh, Raisa Polatnik, Natan Malkin, Lev Roitburd, Dina Voitevskaya, Sender Levenson, Mark Dymshitz, Yakov Suslensky, and Dr. Meyer Gelfand.

Dr. Avram Salamonik, Dr. Mila Finkelman, Dr. Chaim Margolies, Dr. Dan Roginsky, Dr. Alexander Blank, Dr. Yosef Ahs, Dr. Yuri Shtern, Dr. Lev Utevsky, Dr. Tsvi Medarek, Dr. Yuri Kolker, Prof. Emil Lyoboshets, Prof. Yitzhak Goikhberg, Prof. Alexander Voronel, Shmuel Azarkh, Channa Yelinson, and Prof. Israel Piatetsky-Shapiro.

Dina Beilina, Vladimir Gluzman, Inessa Rubin, Natasha Markova, Vladimir Levin, Boris Moshkozitch, Mikhael Nudler, Valery Sorin, Shimon Schvartzband, Marina Kanyevskaya, Lev Genin, Eli Silverman, Silva Gottrab, Avigdor Lieberman, Alexander Shipov, and Edward Ussaskin.●

TRIBUTE TO TOM CORCORAN

HON. J. KENNETH ROBINSON

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. ROBINSON. Mr. Speaker, I have never had the pleasure of serving with our colleague, TOM CORCORAN of Illinois, on a standing or select committee here in the House of Representatives.

But we have shared a common commitment to conservative principles with regard to a number of the great issues that have been before this body during our mutual service in the Congress, including mutual opposition to the Panama Canal giveaway, and mutual support for many elements of President Reagan's program.

So I rise to join in expressing appreciation for the leadership that he has rendered to his country in addressing such issues so straightforwardly, as well as to thank him for his service on the House Energy and Commerce Committee and on the House Post Office and Civil Service Committee.

It is regretted that he will not be returning to this body in the next Congress. One way or another, however, I'm confident that his voice will continue to be heard in support of commonsense policies of benefit to the Nation.●

NONDISCLOSURE OF HEALTH AND SAFETY INFORMATION: A CRIMINAL ACT

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. CONYERS. Mr. Speaker, today, I introduced H.R. 6350, the Corporate Criminal Liability Act of 1984. If enacted, H.R. 6350 would create criminal liability on, and financial sanctions against corporate managers who knowingly fail to disclose health and safety information relating to any business practice, process or product. I welcome all cosponsors.

In the 97th Congress, the Subcommittee on Crime, which I chaired, held extensive hearings on a similar bill introduced by my friend and colleague, Congressman GEORGE MILLER of California. These hearings recounted a litany of instances in which the willful suppression, distortion and manipulation of health and safety information resulted in disease and death of literally tens of thousands of workers exposed to toxic chemicals, of residents living in environmentally polluted communities, and of consumers subjected to tainted consumer products. In short, the hearings documented that the time honored democratic right to informed consent, in the area of health and safety, has been persistently subverted.

Indeed, known instances of suppression, distortion and manipulation of health and safety information are legion. The dangers of asbestos, for instance, were well known to the asbestos industry by the 1930's but were intentionally suppressed by that industry until the 1970's. This willful act of nondisclosure meant the death and permanent disability of tens of thousands of victims previously exposed to asbestos. Similarly, in the 1960's the manufacturers of the pesticide kepone discovered its toxic and carcinogenic properties, but failed to reveal these dangers until the mid-1970's once hundreds of workers had developed debilitating neurological and reproductive disorders. These instances are illustrative of a wide range of other examples including the failure by the particular manufacturers to disclose the potential and often fatal dangers of DBCP,

chlordane/heptachlor, benzene, flame-retardant carcinogenic children's sleepwear, and hazardous automobile defects, just to name a few.

The frequency of these practices preclude their dismissal as aberrations. And as we begin to realize the paucity of information on a wide range of chemicals and substances being used today in commerce, the issue begins to assume even larger dimensions. For instance, while there are more than 60,000 chemicals and substances currently in commerce, there is public information on less than 5 percent of these substances. In the meantime, there is no assurance that particular short-term economic interests of a firm who seeks to market a product with one or many of these substances will not supplant the health and safety interests of workers, consumers and the public at large. It is the realization of the extent of the information which the public is still not privy to which is a main impetus behind the introduction of the legislation at this time.

This bill is not intended as an antagonistic indictment against the business community. Rather, it is an attempt to codify respect and responsibility for human life at every level of business management, and to remove the glaring legal disparities between crime in the suites and crime in the streets. It offers business the timely opportunity to explicitly reassert its highest ethical standards and, by policing itself, to preclude or limit the need for further regulatory action. The bill imposes no unreasonable restraints on commerce or on technological innovation, but merely seeks to encourage honest disclosure of lethal defects and to deter and punish those who commit criminal acts of nondisclosure. In doing so, the legislation will discourage the introduction into commerce of products with lethal defects, with attendant major economic dislocation following their subsequent withdrawal once these defects become belatedly recognized. The bill is an attempt to make the system work. The bill follows.

H.R. 6350

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That chapter 89 of title 18 of the United States Code is amended by adding at the end the following new section:

"§ 1822. Nondisclosure of serious concealed dangers by certain business entities and personnel

"(a) Whoever—

"(1) is a manager with respect to a product or business practice;

"(2) discovers a serious concealed danger that is subject to the regulatory authority of an appropriate Federal agency and is associated with such product (or a component of that product) or business practice; and

"(3) knowingly fails during the period ending fifteen days after such discovery is made (or if there is iminent risk of serious bodily injury or death, immediately)—

"(A) to inform an appropriate Federal agency in writing, unless such manager has actual knowledge that such an agency has been so informed; and

"(B) to warn affected employees in writing, unless such manager has actual knowledge that such employees have been so warned;

shall be fined not more that $250,000 or imprisoned not more than ten years, or both, but if the convicted defendant is a corporation, such fine shall be not more than $1,000,000.

"(b) Whoever knowlingly discriminates against any person in the terms or conditions of employment or in retention in employment or in hiring because of such person's having informed a Federal agency or warned employees of a serious concealed danger associated with a product or business practice shall be fined not more than $50,000, or imprisoned not more than three years or both.

"(c) If a fine is imposed on an individual under this section, such fine shall not be paid, directly or indirectly, out of the assets of any business entity on behalf of that individual.

"(d) As used in this section—

"(1) the term 'manager' means a person having—

"(A) management authority in or as a business entity; and

"(B) significant responsibility for the safety of a product or business practice or for the conduct of research or testing in connection with a product or business practice;

"(2) the term 'product' includes services;

"(3) The term 'discovers', used with respect to a serious concealed danger, means obtains information that would convince a reasonable person in the circumstances in which the discoverer is situated that the serious concealed danger exists;

"(4) the term 'serious concealed danger', used with respect to a product or business practice, means that the normal or reasonably foreseeable use of, or the exposure of a human being to, such product or business practice is likely to cause death or serious bodily injury to human life (including human fetal life) and the danger is not readily apparent to the average person;

"(5) the term 'serious bodily injury' means an impairment of physical condition, including physical pain, that—

"(A) creates a substantial risk of death; or

"(B) causes—

"(i) serious permanent disfigurement;

"(ii) unconsciousness;

"(iii) extreme pain;

"(iv) genetic or chromasonal damage of any kind; or

"(v) permanent or protracted loss or impairment of the function of any bodily member, organ, or mental faculty;

"(6) the term 'warn affected employees' means give sufficient description of the serious concealed danger to all individuals working for or in the business entity who are likely to be subject to the serious concealed danger in the course of that work to make those individuals aware of that danger; and

"(7) the term 'appropriate Federal agency' means the Federal agency on the following list which has regulatory authority with respect to the product or business practice and serious concealed dangers of the sort discovered:

"(A) The Food and Drug Administration.

"(B) The Environmental Protection Agency.

"(C) The National Highway Traffic Safety Administration.

"(D) The Occupational Safety and Health Administration.

"(E) The Nuclear Regulatory Commission.

"(F) The Consumer Product Safety Commission.

"(G) The Federal Aviation Administration.

"(H) The Federal Mine Safety and Health Review Commission.".

SEC. 2. The table of sections for chapter 89 of title 18 of the United States Code is amended by adding at the end the following new item:

"1822. Nondisclosure of serious concealed dangers by certain business entities and personnel.".●

DAILY HERALD URGES AIR SAFETY, HIRING MORE CONTROLLERS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. PORTER. Mr. Speaker, safety is a major concern to those of us who fly. A newspaper in my district, the Arlington Heights Daily Herald, ran an excellent series this summer on O'Hare International Airport's crowded skies and the need for more air traffic controllers.

The Herald said that fewer air traffic controllers today handle at least as many flights as were handled before the 1981 strike, in which 11,400 controllers were fired. The Federal Aviation Administration has approved a 12-percent increase in traffic at O'Hare for 1984, bringing the year's total to 1.8 million flights in the Chicago area.

While I staunchly supported President Reagan's decision to fire those striking controllers who were working against the public interest, I think the time has come to rehire experienced controllers. Those who stayed in the towers during and after the strike did a commendable job. But we must be realistic that the system is flirting with disaster and punishing the present controllers as long as the system remains understaffed and the number of flights increases. The FAA has proceeded carefully in rebuilding the controller force, but it takes time to train new people.

A valuable resource to the flying public is sitting idle as long as the striking controllers are barred from being rehired. Enough time has passed. Protect the safety of the skies.●

BROOKLYN'S FULTON STREET MALL OPENS WITH SPEECHES, SONG, AND WACKY HATS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. TOWNS. Mr. Speaker, after 7½ years of construction costing an estimated $25 million, Brooklyn's Fulton Street Mall was officially opened on Thursday, September 13, at ceremonies marking the occasion at Fulton Street and DeKalb Avenue on the Mall.

At the event, attended by Mr. Richard Nasti, Regional Administrator of the Urban Mass Transit Administration, Department of Transportation, along with New York State Lt. Gov. Alfred Del Bello, Brooklyn Borough President Howard Golden, New York City Comptroller Harrison Goldin, and other city, State, and Federal officials, Michael Strasser, executive director of the 220-member Fulton Mall Improvement Association said:

America's sixth largest shopping district, Brooklyn's first shopping street, is looking fresh again. The Fulton Street Mall shows what can happen when public and private sectors join in true partnership. The Mall has done more than revitalize Brooklyn's main shopping district; it has spurred the reinvestment in the entire downtown Brooklyn area.

Mr. Strasser cited, during his remarks, the Department of Transportation, which had given the initial $8 million urban mass transit capital improvement grant in 1977 that began the project.

The ribbon cutting ceremonies, which followed an eight-block tour of the mall, included entertainment from performers from the Broadway shows "42nd Street," "Chorus Line," and "Dream Girls."

Prior to the ribbon cutting, guest and dignitaries heard speeches from Curt Champlin, A&S senior vice president and general manager, and president of the Fulton Mall Improvement Association Board, Brooklyn Borough President Howard Golden, Lt. Gov. Alfred Del Bello, Deputy Mayor Kenneth Lipper, Comptroller Harrison Goldin, and Mr. Nasti, representing the administration.

Wearing whimisical "Wacky Hats" created for the occasion by Brooklyn artisan Wendy Brackman, Strasser, Champlin, Golden, Nasti, and other officials stepped to a ribbon strung across Fulton Street and cutting the ribbon, symbolically opening the new Fulton Street Mall.

This was, indeed, a glorious occasion, Mr. Speaker, and one in which all of us in Brooklyn take great pride.●

TRIBUTE TO HON. JOHN ERLENBORN

HON. J. KENNETH ROBINSON

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. ROBINSON. Mr. Speaker, I rise to join in paying tribute to the 20 years of distinguished service of our friend and colleague, Congressman JOHN ERLENBORN of Illinois, who will be retiring from this body at the end of the current Congress.

During all the time that I've served here, JOHN has been regarded as one of the leading experts on our side of the aisle in the complicated fields of education and labor law, by virtue of his conscientious work as a member of the House Education and Labor Committee.

He has played a strong role in shaping key educational and pension reform programs of benefits to millions of citizens. His leadership, as top-ranking minority member on that panel, will be sorely missed, without question.

His departure will also leave the minority with a large void to fill on the House Government Operations Committee, where JOHN has also served with dedication and energy.

Nevertheless, as one especially mindful of the mounting stresses imposed by prolonged public service, and as one also preparing to retire at year's end, I'm delighted to salute JOHN for his solid record of legislative accomplishment in this hallowed institution. I share the hope that he and his family will enjoy every happiness over the years ahead.●

CONGRESSMAN BILIRAKIS ADDRESSES TAMPA COLLEGE

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. YOUNG of Florida. Mr. Speaker, earlier this year, my colleague from Florida, MICHAEL BILIRAKIS, addressed the 700 graduates of Tampa College at that institution's 95th commencement exercises. While in his first term, Mr. BILIRAKIS has displayed a keen interest in education, and Tampa College, realizing Mr. BILIRAKIS' commitment to higher education, conferred upon him the honorary doctor of humane letters degree. Because of his insights and understanding of the personal challenges faced by students and their families in the pursuit of higher education, I recommend to my colleagues Mr. BILLIRAKIS' address to the graduates of Tampa College.

The address follows:

REMARKS OF THE HONORABLE MICHAEL BILIRAKIS, COMMENCEMENT ADDRESS, TAMPA COLLEGE, JUNE 30, 1984

Thank you, President Jones. You know it is an honor for me to be here this morning. Your gracious invitation asking me to address the class of 1984 ranks high among the many duties I have taken on since becoming a Member of Congress.

And I say that in all sincerity, because as I stand here, I am privileged to see the next leaders of America and American Business, ready and willing to accept their responsibilities, capable of sustaining and expanding our social and economic recovery right into the next century.

So, President Jones, Dean Lima, Dean Crawford, Father George, let me congratulate all of you and your fine faculty for preparing this class for their individual and mutual challenges. Their successes will be yours as well, and I know you are proud of all of them.

Now I'd like to ask the class to rise and give a heartfelt round of applause to the men and women on this dais who have brought you to this moment in your lives. You and I know that the true leader is the one who inspires the heart and the mind to achieve the difficult goal.

Your teachers, your counselors, and your administrators have that quality and have devoted their lives to passing it on to the future through you. And I join with you in acknowledging that selfless contribution.

And of course, there is one more very special group that is the most deserving of your tribute, both for what they gave you, and for what they gave up for you. If this were a commencement exercise of 20 or even 10 years ago, I'd say let's give a hand to your parents.

But the 1980's are a time of renewed pride in, and respect for, education, and it is a time for students of all ages to reap the benefits of collegiate disciplines. In this class of 1984, there are mothers and fathers whose children are bursting with pride over their parents' accomplishments.

They are proving that one is never too old to learn, that it is never too late to seek knowledge. But there is a cost for schooling. I don't mean tuition either, or books, or room and board.

For the families of students there are trips not taken, cars in need of repair, houses in need of paint, overtime at work, luxuries never considered, necessities barely afforded. I know. I have seen it. I was once the student and I am also the parent of students.

But that is the reality. Our parents—and also our children who have student parents—accept those inconveniences because they believe in education. They know in their hearts that knowledge is the key to the future and that without knowledge we are destined to fail.

So now I ask you to join me in applauding those who have given so much so that you could be here today, your parents, your children, your families.

After today—after all the shouting and celebrations begin to fade—you will have some decisions to make that will set your lives on courses beyond the control of those who have so far supported you. They have done all they can, now you must steer your own boats.

You now have the basic instruments to do that. Your challenge is to go beyond the familiar shores and apply your experience here to the rest of the world. It would be

nice before you set out if you knew that there were safe harbors conveniently located along your route.

Well, I'm not going to say that there are, because in my lifetime I've seen too many "sure things" go down overnight. Small businesses run by inexperienced entrepreneurs and major banks run by large boards have failed in both good and bad economic times.

One week the stock market will rise on bad news and fall on good. And the next week will reverse itself for no apparent reason. The so-called leading economic indicators generally lead only momentarily blips—they have yet to successfully predict long-term recoveries or declines.

All in all, then, I am telling you that there are no guarantees that a predicted landfall will occur in the real world of business. You are going to have to deal with the future on your terms, not those of pollsters, analysts, or other experts.

More than 40 years ago, when the United States was attempting to set up airfields across Northern Africa—particularly the Sahara Desert—many so-called experts said it could not be done. They thought there was no way to move the necessary materials across the wastelands where there was no water, there were no roads, where there was no fuel.

But a dedicated group of engineers devised a very simple, very efficient method of conquering the environment, using little more than small convoys of jeeps.

The first jeep set out with sufficient gas for a round trip plus a barrel of fuel to leave at the far end of the trip. The next jeep added some of the barrel to its tank—proceeded to a more distant point—and left its extra drum of fuel even further than the first.

Every succeeding jeep managed to trek a little deeper into the desert, dropping off a drum of gas, some needed supplies, something, to form a chain of waypoints that would later serve the construction teams who did, successfully, build vital emergency landing strips to support the American Air Force during World War II.

Just as a sidenote: The team of engineers and analysts who directed the project, later became the core of one of this country's leading "think tanks,"—companies that consider the impossible as possible.

I would encourage you to consider this example of ingenuity as a means toward your ends. Tampa College has equipped you for the first leg of the journey, your degrees will get you out into the market, into the real, often harsh world, beyond the limits of those who do not value education as you do.

Those are your critics. They will be the ones on the magazine covers and the editorial pages who say that today's graduates have little to gain with their new degrees. They say you will just add to the glutted market and that you will be frustrated in your search for employment and advancement.

They are wrong on at least two counts.

A degree will always be valuable because it says you are an individual capable of disciplining yourself and achieving a goal through that discipline.

And the job market will, in bad times, look for a measure of a candidate against all other applicants. Your degree is that measure.

In good times, and this is where the critics are wrong again, because we are on the leading edge of a nation going back to work.

In good times, your education gives you access to an expanding list of opportunities, options to consider that would not be available had you not completed your studies here.

Recall that I said your degree was fuel for the first leg of your journey. With that degree you gained something even more valuable: the ability to question the impossible and make it the possible.

As an example, those of you who have benefitted from the fine computer-sciences department of this school know the tremendous changes that have occurred in the high-tech field, both in hardware and applications.

Just a few years ago processing small amounts of data required cumbersome equipment and complex routines. Today you can bring a 5-year plan spreadsheet right into the boardroom in a briefcase-size computer and plot out critical path projects while in the foreman's trailer on a construction site.

I'm sure you can tell me more about this technology than I can tell you, but we can all agree that it is symbolic of the options that are now waiting for you when you leave this ceremony and set out on your own journeys.

Quite frankly, I admire you and I envy you. The classes ahead of you, the men and women who have set some of the links in place, are to be commended for persisting in what have been difficult economic times.

Many suffered, no part of this country was isolated from unemployment, high interest rates, high consumer prices. Your mothers and fathers, older sisters and brothers, relatives, friends, neighbors all felt the pressure and the restrictions.

But they stuck to their jobs and their faith in our ability to dig out and recover and they bought you some time to finish here and join them. Now it is your turn to complete that chain for yourselves and for the classes of '85 and beyond.

Many of this class have been out forging those links before coming here as first-time students or former students. Veterans, housewives, businessmen, blue-collar workers, office secretaries, they differ in many ways but they stand together with the rest of you in one:

They wanted to be better and they have what it takes to achieve that goal. I believe you are all going to make life better for the rest of us, and for those yet to come. The world is waiting for you. Go out and be great.

Thank you.●